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SUBJECT: Alleged Impropriety by MG Walter Wojdakowski, Deputy Commanding General (DCG), Combined Joint Task Force (CJTF) - 7, Baghdad, Iraq (DIG 04-80044) (UPDATE)

1. On 12 October 2004, The Inspector General of the Army (TIG) directed an inquiry into the allegation that MG Wojdakowski was derelict in the performance of his duty pertaining to detention and interrogation operations in Iraq during Operation IRAQI FREEDOM (OIF). (EXHIBIT A)

2. Background: MG Wojdakowski was assigned as the DCG, V Corps, Heidelberg, Germany, on 3 September 2002, and deployed to Iraq in February 2003. On 15 June 2003, V Corps was designated CJTF-7, and MG Wojdakowski became the DCG, CJTF-7, until 1 February 2004. MG Wojdakowski was rated by LTG Ricardo Sanchez, CG, CJTF-7.

3. Reports Reviewed:

a. On 9 September 2003, MG Geoffrey Miller, Commander (CDR), Joint Task Force (JTF) Guantanamo Bay (GTMO), completed a Department of Defense (DOD) assessment of counterterrorism interrogation and detention operations in Iraq. The assessment discussed the theater's ability to rapidly exploit internees for intelligence, and focused on three areas: intelligence integration, synchronization, and fusion; interrogation operations; and, detention operations. This assessment was commonly referred to as the Miller Report.

b. On 6 November 2003, MG Donald Ryder, Provost Marshal (PM) General, completed an assessment of detention and corrections operations in Iraq. The report made assessments and specific recommendations concerning detention and correction operations in Iraq to assist in resolving the management and administration of detainee operations. This assessment was commonly referred to as the Ryder Report.

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c. On 26 February 2004, MG Antonio Taguba, Deputy CDR, Coalition Forces Land Component Command (CFLCC), completed an Army Regulation (AR) 15-6 investigation that inquired into the facts and circumstances surrounding allegations of detainee abuse at the Abu Ghraib Prison (AGP), Baghdad, Iraq. This report of investigation (ROI) was commonly referred to as the Taguba Report.

d. Based on recommendations in the Taguba Report, a further investigation was initiated on 15 April 2004, under the provisions of Procedure 15, AR 381-10, US Army Intelligence Activities, dated 1 July 1984. MG George Fay, Deputy G-2, US Army, investigated the relevant facts and circumstances surrounding the alleged misconduct on the part of personnel assigned and/or attached to the 205th Military Intelligence (MI) Brigade (BDE) at AGP (commonly referred to as the Fay Report). LTG Anthony Jones, Deputy CDR, Training and Doctrine Command (TRADOC), focused on whether organizations or personnel higher than the 205th MI BDE were involved, directly or indirectly, in activities regarding the alleged detainee abuse at AGP (commonly referred to as the Jones Report). GEN Paul Kern, CDR, US Army Materiel Command, was the appointing authority.

e. On 25 May 2004, the IG, US Navy, was directed to lead a DOD joint team for the purposes of identifying and reporting on all DOD interrogation techniques related to operations in GTMO, Afghanistan, Iraq, the Central Command (CENTCOM) area of operations (AOR), and the Iraqi Survey Group (ISG). Specifically, the assessment would ensure that all areas of concern to the DOD regarding detention operations were being addressed adequately and expeditiously, and would report any gaps or seams among those reviews and investigations. This assessment was commonly referred to as the Church Report. The Church Report was released on 10 March 2005, and was reviewed by DAIG. Although the Church Report included numerous references to MG Wojdakowski, DAIG's review of the Church Report revealed no new information relevant to this inquiry not already considered in other evidence.

f. On 24 June 2004, DAIG initiated DIG 04-80044 to identify any potential involvement, the level of that involvement, and any allegations of impropriety related to US Army detainee operations in Afghanistan, Iraq, and GTMO regarding MG Wojdakowski.

g. On 21 July 2004, the Inspections Division, DAIG, completed a "Detainee Operations Inspection" report that included Iraq. This report responded to the Acting Secretary of the Army's directive to conduct a functional analysis of the Army's conduct of detainee and interrogation operations to identify any capability shortfalls with respect to internment, enemy prisoner of war detention operations and interrogation procedures and to recommend appropriate resolutions or changes if required.

h. On 23 August 2004, the Kern Report was released. The Kern Report consisted of the classified Kern Report; an unclassified Executive Summary (EXSUM) of the Kern Report, and the two unclassified Jones and Fay reports.

i. On 24 August 2004, a DOD independent panel completed its Final Report of the Independent Panel to Review DOD Detention Operations. The DOD panel members provided independent professional advice on detainee abuses in the CENTCOM AOR, what caused them, and what actions should be taken to preclude their repetition. The panel reviewed various criminal investigations, and a number of command and other investigations. The Honorable James R. Schlesinger was the panel chairman. This assessment was commonly referred to as the Schlesinger Report.

j. The senior leader focus of this DAIG inquiry differed from that of the Taguba, Kern, Jones, Fay, and Schlesinger reports. Although there were instances where DAIG's conclusions differed from the Kern, Jones, Fay, and Schlesinger reports, the differences were attributed to DAIG having fewer time constraints and the opportunity to review additional evidence not available at the time these reports were finalized. In certain instances, the supporting evidence in the reports did not meet DAIG's preponderance of the evidence standard and DAIG was unable to reach the same conclusions. Differing findings in this DAIG inquiry and the cited reports should not be misinterpreted to mean that DAIG found the reports to be inaccurate. Each report must be considered in light of its focus, the evidence available at the time, the personal observations of the investigative team, and the documentation supporting the findings.

#### 4. Operational Environment:

a. On 20 March 2003, coalition forces, which included V Corps, began combat operations to disarm Iraq of its weapons of mass destruction (WMD) and to remove the Iraqi regime from power. Military operations continued after the end of major combat operations on 1 May 2003. Initially, the Office of Reconstruction and Humanitarian Assistance (ORHA) was established under CFLCC (3d US Army) to help rebuild Iraq. ORHA was followed in May 2003 by the Coalition Provisional Authority (CPA), under the direction of Ambassador L. Paul Bremer, Presidential Envoy to Iraq, who reported to the Secretary of Defense (SECDEF). The establishment of the CPA marked a deliberate transition from military primacy and civil subordination, to the CPA with civilian lead and the military element in a supporting role.

b. US Army Forces, US Central Command (ARCENT), was previously designated as the CFLCC conducting operations in support of Operation Enduring Freedom (OEF) in Afghanistan, and was forward deployed in Kuwait. CFLCC also had responsibility for all coalition land combat forces in the Iraqi Theater of Operations (ITO). As a warfighting HQs, CFLCC prosecuted Phases I-III (thru major combat operations) of the CENTCOM Operations Plan (OPLAN) for the liberation of Iraq at the operational level of

war. During OIF, the descending chain of command and corresponding lines of authority and responsibility were from CENTCOM to CFLCC to V Corps.

c. As a result of CFLCC's focus on campaigns in Afghanistan and Iraq over a two-year period, CENTCOM determined that CFLCC needed to return to its AOR-wide focus, and that a dedicated headquarters was required for Phase IV operations in Iraq. On 15 June 2003, V Corps transitioned into CJTF-7. At the direction of CENTCOM, CJTF-7 began Phase IV (Stability and Support Operations (SASO)) of the CENTCOM OPLAN.

d. CFLCC ceased to be a coalition warfighting HQs at the operational level of war in the ITO and ceased to be CJTF-Iraq, a role assumed three weeks prior. CFLCC reestablished its principal role as the Army Service Component Command (ASCC) of CENTCOM. As such, CFLCC became a strategic force provider while providing essential logistics, communications, engineer, and medical support to all deployed Services in the CENTCOM AOR. Elements of the CFLCC staff, some of whom had been in the AOR since June 2001, redeployed to Fort McPherson, GA. Other CFLCC staff members were assigned in support of CJTF-7.

e. CJTF-7 assumed CFLCC's roles, missions and responsibilities as the senior tactical and operational HQs in the ITO. CJTF-7 was also responsible to provide direct support to the CPA. MG Sanchez, the former CDR, 1st Armored Division (AD), was promoted to LTG, and assumed command of V Corps on 14 June 2003 and of CJTF-7 on 15 June 2003. LTG Sanchez transitioned from commanding approximately 15,000 Soldiers in a division to over 180,000 people in a coalition. In a short period, V Corps transitioned from a tactical warfighting Army component HQs to a multinational JTF whose missions and responsibilities extended across the entire spectrum of conflict and included joint, coalition and civilian agencies. Its support to the CPA added a strategic and Political/Military (POLMIL) dimension to its responsibilities.

f. A Joint Manning Document (JMD) was developed to delineate the specific skill sets of personnel needed to perform the increased roles and functions of the new HQs. After multiple reviews, the JMD was formally approved for 1400 personnel. The JMD included personnel needed to support the CPA, staff the functional elements needed to focus at the joint operational and strategic levels, and specifically augment areas such as intelligence, operations, and logistics. The V Corps staff transitioned to only 495 personnel within the new manning requirement. The new JMD also required that key staff positions be manned by general officers (GOs) rather than the normal colonel level positions on a Corps staff. The CJTF-7 staff began with a strength below 40% and achieved no more than a 60% fill through December 2003.

g. In July 2003, shortly after the stand-up of CJTF-7, LTG Sanchez and the Vice Chief of Staff, Army (VCSA) discussed the lack of intelligence capacity and GO

manning in CJTF-7. The VCSA committed to providing additional GOs in support of CJTF-7.

h. During this time, CJTF-7 was in a direct support role to the CPA. CPA and CJTF-7 worked in concert in recognition that political and military operations in Iraq could not be separate and distinct from one another. The CPA had manning challenges similar to CJTF-7, and little capability outside of Baghdad. CENTCOM and CJTF-7, by both design and necessity, contributed military staff in support of CPA. There was a belief that a Corps, with augmentation, was capable of executing a JTF SASO in a permissive environment. This decision also anticipated a growth in Iraqi capabilities and institutions to assist in that effort.

i. Plans for Phase IV (SASO) anticipated a relatively permissive environment. In reality, following the conclusion of major combat operations in May 2003, the conflict transitioned to a terrorist/insurgency environment in August/September 2003. Coalition forces began capturing and interrogating larger numbers of alleged insurgents. AGP, re-opened initially by Ambassador Bremer as the only available facility to hold criminals pending restoration of the Iraqi national justice and corrections systems, was used to detain and interrogate insurgents and other persons of intelligence interest.

j. The unit with command responsibility for detention operations at AGP was the 800th Military Police (MP) BDE, a US Army Reserve (USAR) unit assigned to CFLCC to conduct internment/resettlement (I/R) operations in theater. The 800th MP BDE was commanded by BG Janis Karpinski, who assumed command on 29 June 2003, following the end of Phase III operations. On 15 June 2003, the 800th MP BDE was placed under the Tactical Control (TACON) of CJTF-7.

k. The unit with command responsibility for interrogation operations at AGP was the 205th MI BDE, commanded by COL Thomas M. Pappas since 1 July 2003. The 205th MI BDE was an assigned V Corps unit. COL Pappas, as the senior MI CDR in the ITO, was responsible for effectively employing intelligence assets in the accomplishment of assigned missions.

l. From approximately 5 October to 3 December 2003, a team of subject matter experts from GTMO, under the operational control (OPCON) of the 205th MI BDE, assisted in the implementation of the recommendations identified by the Miller Report. The GTMO Team included three interrogators and three analysts, organized into three teams, with one interrogator and one analyst on each, which was the GTMO "Tiger Team" concept. The GTMO Team was tasked with the mission of assisting the building of a robust and effective Joint Interrogation and Debriefing Center (JIDC), and identifying solutions and providing recommendations for the JIDC. This was a deliberate effort in support of the realization by Ambassador Bremer and LTG Sanchez

that the CPA and CJTF-7 required a higher degree of operational intelligence in order to define and combat the growing insurgency.

m. From 7 to 21 October 2003, a five person Interrogation Support to Counterterrorism (ISCT) Mobile Training Team (MTT) from the US Army Intelligence Center conducted an overall assessment of interrogation operations, presented training, and provided advice and assistance at the AGP JIDC. This course was initially developed in response to requirements that surfaced during interrogation operations at GTMO, and specifically to prepare reserve interrogators and order of battle analysts for deployment to GTMO. This was an additional effort to strengthen intelligence gathering skills and effectiveness within the ITO.

n. In September and October 2003, CJTF-7 published Interrogation and Counter Resistance Policy (ICRP). This ICRP was prepared at the recommendation of subject matter experts who visited Iraq, and based on LTG Sanchez' awareness of various DOD policies for other theaters, his own awareness of the applicability of the Geneva Conventions (GCs) in the ITO, and his concerns over the variety of interrogator experience from other theaters. The policy was intended to clarify allowable approaches, ensure safeguards, and facilitate training and execution by CDRs.

o. As a GO, MG Wojdakowski executed responsibilities at the operational and strategic levels. As the Deputy CG, V Corps, MG Wojdakowski supervised nine separate (SEP) BDEs, and had no direct staff-supervision responsibilities. As the DCG, CJTF-7, MG Wojdakowski supervised 15 BDEs assigned, OPCON, or TACON to CJTF-7. These SEP BDEs included the 205th MI BDE and the 800th MP BDE. He was the rater for COL Pappas. Because CJTF-7's Chief of Staff (CofS) was assigned as full-time support to the CPA, MG Wojdakowski became the de facto CofS for the portion of the staff that remained at Camp Victory in Baghdad. As such, MG Wojdakowski was the rater for the C-2, MG Barbara Fast, and the C-3, MG Thomas Miller, as well as for the C-1, C-4, C-6, C-7, C-8, and C-9. He also supervised two Coalition deputy chiefs of staff, from the Australian Army and the Polish Army. Additionally, he supervised the Chaplain, CJTF-7, and the CDR, 3d Corps Support Command (COSCOM).

5. Allegation: MG Wojdakowski was derelict in the performance of his duties with respect to detention and interrogations operations.

a. The allegation was derived from information contained in the Kern, Jones, and Schlesinger Reports.

b. The Kern Report reflected that there was a lack of clear command and control of detainee operations at the CJTF-7 level, and there was neither a defined procedure nor specific responsibility within the CJTF-7 for dealing with International Committee of the Red Cross (ICRC) visits.

c. The Jones Report reflected that:

(1) The DCG, CJTF-7, failed to ensure proper staff oversight of detention and interrogation operations.

(2) CJTF-7 staff elements reacted inadequately to earlier warnings and indications that problems existed at AGP. Indications and warnings, such as the investigation of an incident at a detention facility at Camp Cropper, the ICRC reports on handling detainees, ICRC reports on detainee conditions at AGP, Criminal Investigations Command (CIC) investigations, the death of an Other Governmental Agency (OGA) detainee at AGP, and the lack of an adequate system for identification and accountability of detainees, surfaced at the CJTF-7 level that additional oversight and corrective actions were needed in handling detainees from point of capture through the central collection facilities, to include AGP.

(3) CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and the limits of authority on interrogation techniques was dispersed among the CJTF-7 staff. The lack of one person on the staff to oversee detention operations and facilities complicated the coordination among the staff.

(4) The TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff, lower priority for resources needed for detention operations, and a lack of intrusive, aggressive oversight by the CJTF-7 leadership.

d. The Schlesinger Report reflected:

(1) MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations.

(2) MG Wojdakowski failed to initiate action to request additional MPs for detention operations after it became clear that there were insufficient assets in Iraq. MG Wojdakowski and the staff should have seen that urgent demands were placed to HQs for additional assets.

(3) Commanding officers and their staffs at various levels failed in their duties and such failures contributed directly or indirectly to detainee abuse. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations.

(4) LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski. Intelligence personnel at AGP reported through the

C-2. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP.

(5) If CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders, to include the DCG, CJTF-7, could have set in motion the development of a more effective alternative course of action.

6. Synopsis:

a. Article 92 of the Uniform Code of Military Justice (UCMJ) stated dereliction in the performance of one's duties consisted of three elements: a person had certain duties; the person knew or reasonably should have known of those duties; and the person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Willfully meant intentionally. Negligently meant an act or omission which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse.

b. A review of the information relevant to this allegation revealed the following:

(1) MG Wojdakowski had duties with respect to detention and interrogation operations. As the DCG, CJTF-7, MG Wojdakowski supervised 15 SEP BDEs that were assigned, OPCON, or TACON to CJTF-7, which included the 205th MI BDE and 800th MP BDE. MG Wojdakowski resourced the detention and interrogation missions in terms of equipment, personnel, and contracting services. He was also the de facto CofS, and exercised staff supervision of interrogation and detention operations through the C-2 and C-3, respectively. MG Wojdakowski was the rater for COL Pappas, the C-2, and the C-3, and was responsible for supervising their duty performance. MG Wodjakowski's duties concerning detention and interrogation inherently included a responsibility to respond to identified shortcomings in these areas. The evidence established that MG Wojdakowski knew and accepted his duties and responsibilities regarding detention and interrogation operations, and he held a myriad of other duties as well.

(2) Testimony indicated MG Wojdakowski provided frequent guidance and mentoring to the CDRs of both the 205th MI BDE and 800th MP BDE. MG Wojdakowski testified that he met with all new BDE CDRs, to include COL Pappas and BG Karpinski, shortly after they took command, and counseled them. He gave COL Pappas guidance concerning his broad range of responsibilities as the senior MI CDR in the ITO, the need to develop a disciplined organization, and the need to closely supervise because of the BDE's high-risk operations. Additionally, MG Wojdakowski

regularly mentored BG Karpinski. He and LTG Sanchez met with her and the out-going CDR of the 800th MP BDE in June 2003, prior to her assumption of command. At that time, BG Karpinski indicated that she was the single CDR responsible for detention operations in the ITO. Later, MG Wojdakowski provided her substantial guidance on contracting, logistics, personnel, and force protection issues, and provided assistance within CJTF-7's authority and resourcing level while holding her responsible for matters within her control.

(3) MG Wojdakowski provided routine oversight of the SEP BDEs through a variety of mechanisms. He held thrice-weekly updates with the SEP BDE CDRs, which kept him abreast of the BDEs and provided the CDRs an opportunity to raise issues and receive guidance on a regular basis. Monthly Logistics Readiness Reviews (LRRs) were held in which all the SEP BDE CDRs provided him updates on their materiel readiness, resource, and life support issues. As CDRs planned and executed missions, MG Wojdakowski required that they rehearse and outline their plans to him.

(4) MG Wojdakowski held two detention summits in the fall of 2003 that pulled together elements of the CPA, the Iraqi Provisional Government, the CJTF-7 staff (to include the SJA, C-2 and C-3), and representatives from the divisions, the 205th MI BDE, and the 800th MP BDE. The purpose of the summits was to coordinate and plan for detention and interrogation operations in Iraq, provide guidance, identify resourcing issues, and ensure unity of effort. He visited AGP three times to observe ongoing construction projects, life support, and force protection efforts, and directed corrective action as necessary. He synchronized the daily staff updates to LTG Sanchez, which included intelligence and operations briefings. While he was not personally involved in the execution of interrogation operations, he provided resources in terms of equipment, supplies, and contracting to the interrogation mission, and received regular updates from the C-2 and COL Pappas regarding intelligence operations. Liaisons from the 800th MP BDE were assigned to the PM office that provided a direct line of coordination between the MP BDE and the CJTF-7 staff. The C2X conducted weekly visits to the JIDC that assisted the C-2 in staff oversight of interrogations. Detainee population numbers and MP strength were regularly briefed to MG Wojdakowski so that he could make management decisions regarding detention facilities. Testimony indicated several CJTF-7 fragmentary orders (FRAGOs) were published that addressed detention operations and the treatment of detainees.

(5) When asked what additional oversight and corrective action should have been provided by MG Wojdakowski, LTG Jones and GEN Kern provided their opinion that, in the absence of a CofS, there should have been one person in charge of detention and interrogation facilities. However, several witnesses testified that a single POC was considered by LTG Sanchez as early as the fall of 2003, but, through no fault of CJTF-7's, the position did not materialize until MG G. Miller's arrival in March 2004 as the DCG, Detainee Operations. While LTG Sanchez' establishment of a single GO

responsible for both missions did not occur until January 2004 with the designation of the C-3 as the staff proponent, MG Wojdakowski was actively and appropriately involved in providing oversight of detention and interrogation operations until his departure in February 2004.

(6) Command included the authority and responsibility for effectively using available resources for the employment of military forces for the accomplishment of assigned missions. CDRs subdivided responsibility and authority and assigned portions of both to subordinate CDRs and staff members. The evidence established that command responsibility for detention and interrogation operations was executed through the CDRs of the 800th MP BDE and 205th MI BDE, respectively. As the de facto CofS, MG Wojdakowski was LTG Sanchez' principal assistant with executive management authority for directing and supervising the CJTF-7 staff. In accordance with Army doctrine, the C-2 was the principal staff officer responsible for MI operations; and the C-3, through the PM, was responsible for detention operations. The evidence established that staff oversight of detention and interrogation operations was appropriately executed through the C-3 and C-2, respectively.

(7) It was GEN Kern's opinion that MG Wojdakowski should have gone back to LTG Sanchez for a restated mission for CJTF-7, which may have identified a need for a new structure in which the MP BDE and MI BDE fell under the same command with a single person in charge. However, doctrine was silent as to who should have overall responsibility for detention operations. There was no joint or Army doctrine that suggested a single staff officer or CDR oversee a combined MI and MP operation. While the requirement for a GO in charge of both operations may have been desirable in hindsight, this approach was not doctrinal. CJTF-7 did not have the resources to create an additional GO position, and the JMD process could not support such a position in a timely manner. As such, the initial lack of such a position was not indicative of an impropriety on the part of MG Wojdakowski.

(8) LTG Sanchez designated the C-3 as the single POC on the staff overall responsible for all aspects of detention operations in January 2004. Shortly thereafter, CJTF-7 sent a request for detention operations specialists and a detention operations command cell to CENTCOM. By March 2004, MG G. Miller arrived and became the DCG solely responsible for detention and interrogation operations, with no additional assigned duties. By contrast, the evidence established that MG Wojdakowski had a myriad of duties in addition to oversight of detention and interrogation operations. While LTG Sanchez was focused on supporting and enabling the CPA mission, MG Wojdakowski was focused on the coalition's counter-insurgency fight, running the CJTF-7 staff, establishing the Logistics Capability for the ITO, and managing all the security and battle space associated with the ITO and the borders. From June 2003 to January 2004, MG Wojdakowski individually exercised a scope of responsibility that was eventually held by three GOs: DCG, CJTF-7; CofS; and DCG, Detainee

Operations. His ability to provide oversight of detention and interrogation operations was likely affected by this extremely broad scope of responsibility; however, the oversight he did provide was appropriate and doctrinal.

(9) As a two-star DCG of a combined joint task force, MG Wojdakowski properly exercised his responsibilities at the strategic level of leadership. He supervised subordinates at the COL through MG ranks. The senior level of leadership included leaders at the BDE through corps level, and the core responsibility of senior level leaders was the need to develop, motivate, and coach subordinate leaders. MG Wojdakowski expected COL Pappas and BG Karpinski, as senior leaders, to exercise aggressive supervision of their units at AGP through their subordinate staffs and CDRs who, in turn, were required to execute their supervisory responsibilities at the direct level of leadership. As such, MG Wojdakowski, as a strategic leader, was not responsible for the direct supervision of Soldiers operating at AGP. Direct supervision of the MP Soldiers at AGP was the responsibility of the assigned MP BN CDR and his subordinate leaders. Direct supervision of the MI Soldiers at AGP was the responsibility of the JIDC Director and subordinate MI leaders. Leaders at the direct level affected values and behavior by establishing day-to-day procedures, practices, and working norms, and by building discipline. The evidence established that the abuses at AGP, most of which were clearly criminal acts, were committed by morally corrupt and unsupervised Soldiers and civilians whose actions went undetected for weeks, and were the result of supervisory failures below the strategic level of leadership. The abuses were not attributable to a lack of oversight by MG Wojdakowski.

(10) The evidence established that MG Wojdakowski's ability to provide more oversight was hampered by the staff's lack of preparation and training as a CJTF; the low manning level and lack of joint experience on the CJTF-7 staff, to include an initial lack of GO staff officers; CJTF-7's significant support to the CPA; and the demands of the growing insurgency. Both testimony and reports revealed that CJTF-7 was never fully resourced in terms of personnel, both in numbers and grade-level. The CJTF-7 staff did not undergo a Battle Command Training Program (BCTP) normally afforded to new corps-level staffs prior to assuming the CJTF mission. The JMD reached no more than a 60% fill, and much of the available staff's effort was directed towards support of the CPA. CJTF-7's challenges were exacerbated by the slow fill and short personnel rotations at the CPA. As a result, a significant portion of the already under strength staff was devoted to assisting the CPA with the reconstruction of Iraq's infrastructure and internal security forces.

(11) The evidence established that MG Wojdakowski and CJTF-7 provided significant resources and took corrective action, within their capability and authority, to improve security and living conditions at AGP. CJTF-7 operated in an austere environment from May-December 2003. Sustaining the force was difficult and dangerous, as all supplies were brought in from outside Iraq and convoys were routinely

attacked. In addition, much of Iraq's infrastructure, such as water treatments plants, electrical plants, and government buildings were severely damaged and looted. As a direct result, Soldiers' and detainees' living conditions were austere throughout Iraq, to include at AGP. When AGP was declared an enduring base in October 2003, MG Wojdakowski directed that additional funds and engineering effort be applied towards AGP to improve the facilities, and conditions at AGP slowly improved throughout November-December 2003. Testimony indicated that the 800th MP BDE received support in a manner not dissimilar to that of assigned or OPCON units, and the TACON relationship with CJTF-7 did not materially affect their resourcing or oversight by CJTF-7.

(12) The Reserve Component (RC) had no replacement system for individual losses, and the 800th MP BDE was eroded in personnel strength. The shortages were systemic RC issues, and not due to lack of oversight on the part of CJTF-7. Although the Ryder report identified that the 800th MP BDE was under strength, it also stated that the BDE had a "clear and logical plan" to realign its remaining units to meet its mission requirements. In November 2003, MG Ryder told LTG Sanchez that BG Karpinski had not properly allocated her MP resources, but she could accomplish the mission with the force structure she had. Testimony indicated the bulk of the Army's MP assets were already in Iraq, additional MP companies were not available, and some replacement companies for the BDE would be non-MP, In Lieu Of (ILO) companies. Upon becoming aware of BG Karpinski's personnel concerns, multiple leaders, to include MG Wojdakowski, attempted to influence BG Karpinski to make internal unit redistribution of her own resources between detention facilities. MG Wojdakowski testified that BG Karpinski had reasonable concerns about her personnel strength, but he could not help her with replacements due to the lack of a replacement system for reservists and the lack of an Army stop loss policy at the time. He had a number of conversations with her about reallocating her Soldiers, but she was reluctant to move her units. He was aware that there were no active or reserve MP units remaining in the Army that were available for deployment to Iraq, and in December 2004, he moved MPs from the 1st AD to AGP to relieve some of the pressure. His actions were appropriate in light of the limited resources available.

(13) The evidence indicated that when force protection issues concerning AGP arose, MG Wojdakowski took appropriate action. MG Wojdakowski testified that the C-3 published several FRAGOs regarding force protection at AGP, to include FRAGO 1108 that designated COL Pappas as the FOB CDR responsible for the force protection and security of AGP. MG Wojdakowski and the C-3 were heavily involved in coordinating the force protection responsibilities of other units with respect to AGP. Although the Taguba Report indicated that FRAGO 1108 exacerbated an already ambiguous relationship between the 800th MP BDE and the 205th MI BDE, the CDRs at AGP understood their responsibilities under the FRAGO. In fact, by making COL Pappas the FOB CDR, FRAGO 1108 fixed responsibility for force protection at

AGP with the senior CDR present at the prison. FRAGO 1108 did not relieve the 800th MP BDE of its detention operations responsibilities, nor did it place MP Soldiers under the command of the MI BDE. The Kern Report stated that it appeared that BG Karpinski was the only person among the Army leadership involved who misunderstood the FRAGO.

(14) The evidence indicated MG Wojdakowski was not made aware of abuse allegations within the November 2003 ICRC Working Paper that reflected allegations of detainee abuse. The few staff members and CDRs who were made aware of the Working Paper's allegations testified they considered many of the allegations to be non-credible, and did not report them further to either MG Wojdakowski or LTG Sanchez. When made aware of elements of ICRC reports indicating resourcing issues for which he was responsible, MG Wojdakowski took appropriate action. On one occasion, he directed the purchase of jumpsuits and discussed quality of life issues raised by the ICRC with BG Karpinski. MG Wojdakowski testified the feedback he received indicated the ICRC was pleased with improvements being made to AGP.

(15) The evidence established that MG Wojdakowski took appropriate action with respect to developing courses of action and procedures for detention operations. In the summer of 2003, LTG Sanchez anticipated shortcomings in CJTF-7's ability to execute detention operations of the magnitude that was required, and recognized that expert assistance was needed. Subsequently, several assistance teams, to include the Miller and Ryder teams, arrived in the ITO to provide guidance on both detention and interrogation operations. These teams provided on-site training to units involved in the detention and interrogation mission, and provided examples of applicable standard operating procedures (SOPs) and policies. Furthermore, the 800th MP BDE was directed to move its HQs to Iraq in order to supervise more closely the detention mission for which it was responsible. MG Wojdakowski held regular detention summits in order to assess the on-going mission, during which issues were raised and corrective action was directed. The detainee population was tracked regularly, and as capacities were reached, MG Wojdakowski directed that detainees be cross-leveled. The detention mission was conducted with the benefit of on-going analysis, periodic assessment, and modification as the mission required and as limited resources allowed. MG Wojdakowski's actions with respect to developing alternative courses of action as the detention and interrogation mission evolved were appropriate.

(16) The standard required that to prove dereliction of duty, the person, who had a duty and was knowledgeable of such duty, was required to be derelict in the performance of the duty through willfulness, neglect, or culpable inefficiency. The preponderance of the evidence indicated that MG Wojdakowski was not willfully derelict, negligent, or culpably inefficient with respect to his duties regarding detention and interrogation operations. On the contrary, the evidence established that MG Wojdakowski consistently took appropriate action at the strategic level of leadership

regarding the oversight, resourcing, and planning for both missions. While certain alternative actions, in hindsight, might have been more effective or beneficial, MG Wojdakowski's actions, in the context of the environment in which they occurred, were not culpably inefficient. Senior leaders interviewed, to include GEN Kern, indicated that MG Wojdakowski performed admirably given the challenges and resources with which he was faced, and that although he held himself accountable, he was not derelict. The austere environment, lack of staff, and growth of responsibilities all created obstacles that MG Wojdakowski successfully overcame through, by all accounts, heroic efforts. As such, his actions regarding detention and interrogation operations were not indicative of an impropriety. Instead, MG Wojdakowski's efforts to provide appropriate oversight of detention and interrogation operations were pro-active, continuous, doctrinal, and properly within the scope of responsibility attributed to a strategic level leader.

c. The preponderance of the evidence indicated that MG Wojdakowski was not derelict in the performance of his duties.

7. Conclusion: The allegation that MG Wojdakowski was derelict in the performance of his duties with respect to detention and interrogation operations was not substantiated.

8. Recommendations:

a. Record the allegation against MG Wojdakowski in the IN database as not substantiated.

b. File this report as DIG 04-80044 UPDATE.

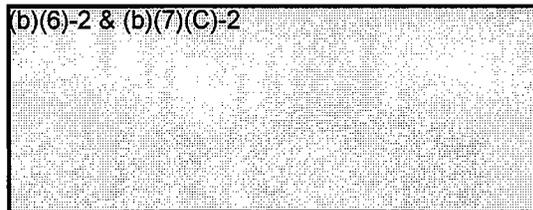
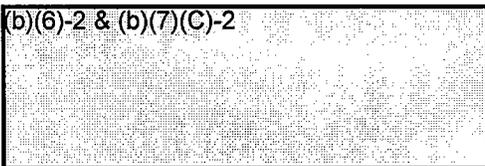


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D-1	(b)(7)(C) Dated 15 February 2004	FOIA: No
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D-5	(b)(7)(C) dated 21 October 2004	FOIA: No
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D-8	(b)(7)(C) dated 26 October 2004	FOIA: No
D-9	(b)(7)(C) dated 27 October 2004	FOIA: No
D-10	(b)(7)(C) dated 29 October 2004	FOIA: No
D-11	(b)(7)(C) dated 9 November 2004	FOIA: No
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D-13	(b)(7)(C) dated 29 October 2004	FOIA: No

X

Annex I

# **TAB 2**

SAIG-IN (20-1b) ANNEX 2 (DOCUMENTS) to DIG 04-80044 (UPDATE)

1. AR 600-100, Army Leadership, dated 17 September 1993, stated:

a. In paragraph 1-6, each organizational level of the Army required a different mix of leadership skills. Leadership at the lower levels was direct, face-to-face, and relatively short term in its outlook. As leaders ascended the organizational ladder, leadership tasks became more complex. Senior leaders had responsibility for large organizations or systems. They exercised leadership indirectly through staffs and subordinate leaders. As leaders moved into the most complex and highest levels of the Army, or became involved in the strategic arena, the ability to conceptualize and integrate became increasingly important. Leaders at that level focused on establishing the fundamental conditions to fight wars or conduct operations other than war.

b. In paragraph 1-7, total Army leadership policy recognized three levels of leadership requirements: direct, senior and strategic. The direct level was the front-line or first level of leadership. It included leaders from the squad through battalion levels of tactical units. The senior level existed in more complex organizations, from the BDE through corps levels in tactical units. Senior leaders shaped organizational structure, directed operations of complex systems, and tailored resources to organizations and programs. The strategic level of leadership existed at the highest levels throughout the Army. It included leaders from the Field Army through national levels. Strategic leaders established structure, allocated resources, and articulated strategic vision. Skills required for effective leadership at this level included technical competence on force structure and integration, unified, joint, combined, and interagency operations, and management of complex systems.

c. In paragraph 2-1, all leaders were responsible for anticipating, managing, and exploiting change; anticipating and solving problems; acting decisively under pressure; and evaluating and accepting risk to exploit opportunity. GOs at the strategic level were responsible for creating policies, structures and programs and for ensuring that procedures developed at lower levels further supported Army policy and values. At the core of the responsibility of senior level leaders was the need to develop, motivate, and coach subordinate leaders. Leaders at the direct level affected values and behavior by establishing day-to-day procedures, practices, and working norms, by their personal example, and by building discipline, cohesion, and motivation. (EXHIBIT C-1)

2. Field Manual (FM) 101-5, Staff Organizations and Operations, dated 31 May 1997, stated:

a. On page 1-1, command was the authority a CDR in military service lawfully exercised over subordinates by virtue of rank and assignment. Command included the authority and responsibility for effectively using available resources and for planning the

SAIG-IN (20-1b) ANNEX 2 (DOCUMENTS) to DIG 04-80044 (UPDATE)

employment of, organizing, directing, coordinating, and controlling military forces for the accomplishment of assigned missions.

b. On page 4-1, when the CDR assigned a staff member a mission, he also delegated authority for the staff member to accomplish the mission. Having delegated the authority, the CDR had to provide the staff member with the guidance, resources, and support necessary to accomplish the mission.

c. On page 4-2, the CofS was the CDR's principal assistant for directing, coordinating, supervising, and training the staff, except in the areas the CDR reserves. The CDR delegated executive management authority to the CofS.

d. On page 4-10, the G-2 was the principal staff officer for all matters concerning MI, counter-intelligence, security operations, and MI training. MI involved collecting, processing, producing, and disseminating intelligence.

[IO Note: The C-2 was the equivalent of the G-2 at the CJTF-level.]

e. On pages 4-12 through 4-14, the G-3 was the principal staff officer for all matters concerning training, operations and plans, and force development and modernization. The G-3 was responsible for staff planning and supervision of the PM. On page 4-27, the PM was the special staff officer responsible for coordinating MP assets and operations. The PM planned and supervised internment and resettlement operations, to include collection, detention and internment, protection, sustainment, and evacuation of enemy prisoners of war and civilian internees. (EXHIBIT C-2)

[IO Note: The C-3 was the equivalent of the G-3 at the CJTF-level.]

3. AR 600-20, Army Command Policy, dated 13 May 2002, stated:

a. In paragraph 2-1, the chain of command assisted CDRs at all levels to achieve their primary function of accomplishing the unit's assigned mission. CDRs were responsible for everything their command did or failed to do. However, CDRs subdivided responsibility and authority and assigned portions of both to various subordinate CDRs and staff members. In this way, a proper degree of responsibility became inherent in each command echelon. CDRs delegated sufficient authority to Soldiers in the chain of command to accomplish their assigned duties, and CDRs could hold these Soldiers responsible for their actions. The need for a CDR or staff officer to observe proper channels in issuing instructions or orders had to be recognized.

b. In paragraph 2-4, staff or technical channels could be used for sending reports, information, or instructions not involving variations from command policy and directives. (EXHIBIT C-3)

4. The Ryder Report, dated 5 November 2003, stated:

a. Coalition Forces were detaining enemy prisoners of war (EPWs) and civilian internees (both security and criminal detainees) in accordance with DOD Directives and accepted US and international practices. Generally, conditions in existing prisons, detention facilities and jails met minimal standards of health, sanitation, security, and human rights established by the GCs. There was "room for continued improvement" in all areas.

b. The major themes of the assessment were consolidation, separation, standardization, enable the CPA Ministry of Justice Prisons Department, and enable decentralized execution/initiative. The management of multiple disparate groups of detained persons in a single location by members of the same unit invited confusion about handling, processing, and treatment, and typically facilitated the transfer of information between different categories of detainees.

c. There was wide variance in standards and approaches at the various detention facilities. Several had flawed or insufficiently detailed use of force and other SOPs or policies (improper restraint techniques). "However, it should also be noted that the assessment team members did not identify any [MP] units purposely applying inappropriate confinement practices." There was a "significant paradigm shift" in standard EPW/detainee operations doctrine, as applied to post-hostilities detention of security internees, let alone the reconstruction of the Iraqi prison system.

d. Since the transfer of authority on 15 June 2003, between CFLCC and CJTF-7, the 800th MP BDE, a theater asset, was tasked to expand from its previous standard EPW operations, to add detention of security internees, high-value detainees, criminal detainees, and support the establishment of Iraqi jails and prisons throughout Iraq. The 800th MP BDE units were generally under-strength, since RC units did not have an individual replacement system to mitigate medical losses or the departure of Soldiers who reached 22 months of Federal active duty. The 800th MP BDE had a "clear and logical plan" to realign its remaining battalion and company-sized units to meet its mission requirements. (EXHIBIT C-4)

(b)(2)-3 & (b)(5)-1

[IO Note: The

(b)(6)-2 & (b)(7)(C)-2

(b)(6)-2 & (b)(7)(C)-2

(b)(5) & (b)(7)(C)-2



6. CJTF-7 FRAGO 1108, dated 19 November 2003, indicated that the CDR, 205th MI BDE, assumed responsibility for the Baghdad Central Confinement Facility (AGP) and was appointed as the Forward Operating Base (FOB) CDR. Units at AGP were TACON to the CDR, 205th MI BDE, for security of detainees and for force protection. (EXHIBIT C-6)

7. In a letter, dated 24 December 2003, subject: ICRC Visits to Camp Cropper and AGP in October 2003, BG Karpinski stated:

(b)(2)-3 & (b)(5)-1



(b)(2)-3 & (b)(2)-4

8. In a statement for the Taguba Report, dated 11 February 2004, COL Pappas stated:

a. He was interviewed by MG Taguba on 9 February 2004 concerning detainee operations and allegations of detainee abuse at AGP.

b. Command and control at the Abu Ghraib FOB was a "complex intermingling" of four distinct tasks under the command of the 205th MI BDE and the 800th MP BDE. The tasks included detention operations, operational and strategic interrogation operations, providing assistance to the Iraqi Bureau of Prisons, and enhancing force protection for the occupants of the FOB. The 320th MP BN was charged with executing detention operations. The SJA, CJTF-7, had the lead in facilitating ICRC visits. The JIDC, through the 205th MI BDE, was charged with executing interrogations.

[IO Note: The 320th MP BN was assigned to the 800th MP BDE, and was commanded by (b)(6)-2 & (b)(7)(C)-2. The director of the (b)(6)-2 & (b)(7)(C)-2 was (b)(6)-2 & (b)(7)(C)-2 who was assigned to AGP by the Deputy C-2, CJTF-7.]

c. The three basic components of detainee operations were detention, interrogation, and release. Staff supervision of these three functions was provided by the PM, the C-2, and the SJA, respectively. This split responsibility for detainee operations increased the pressure at lower levels and "blurred lines of responsibility."

d. The basic rules for interrogations were contained in FM 34-52, Interrogation Operations. The standards for conduct of interrogations were outlined in CJTF-7 policy memorandums.

e. Despite the articulation of clear rules, two instances of violations of these standards occurred and were brought to his attention prior to him assuming command of the FOB. He directed punitive action in one case, and removed the interrogator from interrogations in the second case. After these incidents, the leadership at the JIDC implemented a more aggressive policy of ensuring personnel understood the limitations of the interrogation process.

f. In the future, he recommended that if detainee operations were put under the purview of one CDR at AGP, that person should have training in detention operations, interrogation operations, and detainee release procedures. The level of responsibility probably necessitated a GO. (EXHIBIT C-8)

9. The Taguba Report, dated 26 February 2004, stated:

a. The CG, CJTF-7's request to investigate the 800th MP BDE followed the initiation of a criminal investigation by the US Army CIC (USCIC) into specific allegations of detainee abuse committed by members of the 372d MP Company, 320th MP BN.

b. CJTF-7 had several reports of detainee escapes from coalition confinement facilities over several months in 2003. These included Camp Bucca, Camp Ashraf, AGP, and the High Value Detainee (HVD) Complex/Camp Cropper. The 800th MP BDE operated these facilities. In addition, four Soldiers from the 320th MP BN were charged under the Uniform Code of Military Justice (UCMJ) with detainee abuse at Camp Bucca in May 2003.

c. A single CDR in CJTF-7 should be responsible for overall detainee operations throughout the ITO. The C-3, CJTF7, should be appointed as the staff proponent for detainee operations in the ITO.

d. There was a general lack of knowledge, implementation, and emphasis on basic legal, regulatory, doctrinal, and command requirements in the 800th MP BDE and its units.

e. The 800th MP BDE was under-strength for the mission for which it was tasked. BG Karpinski did a poor job allocating resources throughout Iraq. AGP normally housed between 6000 and 7000 detainees, yet was operated by one BN. On the other hand, the HVD facility maintained only 100 detainees, yet was also run by an entire BN. The 800th MP BDE suffered from personnel shortages due to releases from active duty (REFRADs), medical evacuation, and demobilization. In addition, the quality of life for the Soldiers was extremely poor. There were numerous mortar attacks and random rifle and rocket propelled grenade (RPG) attacks, which were a serious threat to Soldiers and detainees at the facility. AGP was severely over crowded, and the BDE lacked adequate resources and personnel to resolve serious logistics problems.

f. There was clear friction and lack of communication between COL Pappas and BG Karpinski. COL Pappas controlled the FOB at AGP after 19 November 2003, and BG Karpinski controlled detainee operations inside the prison. "There was no clear delineation of responsibility between commands, little coordination at the command level, and no integration of the two functions." Coordination occurred at the lowest levels with little oversight by the CDRs.

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g. This ambiguous relationship was exacerbated by the CJTF-7 FRAGO 1108, placing the units at AGP TACON to the CDR, 205th MI BDE, for security of detainees and force protection. The FRAGO was not supported by BG Karpinski. The FRAGO effectively made an MI officer responsible for the MPs conducting detainee operations at the facility. This was not doctrinally sound.

h. BG Karpinski was emotional during her testimony with MG Taguba. She was unwilling to either understand or accept that many of the problems inherent in the 800th MP BDE were caused by poor leadership and the refusal of her command to establish and enforce basic standards and principles among its Soldiers. She alleged she received no help from the Civil Affairs command. She blamed much of the abuse at AGP on MI personnel, and stated that MI personnel gave the MPs "ideas" that led to detainee abuse.

i. BG Karpinski should be relieved from command and be given a general officer memorandum of reprimand (GOMOR) for failing to ensure that her Soldiers had appropriate standard operating procedures (SOPs) for dealing with detainees, and for failing to ensure that her Soldiers knew, understood, and adhered to the protections afforded by the GCs relative to the treatment of prisoners of war, among other reasons.

j. COL Pappas should be given a GOMOR and be investigated in accordance with AR 381-10 for failing to ensure his Soldiers were properly trained and followed the interrogation rules of engagement (IROE); failing to ensure his Soldiers knew, understood, and adhered to the protections afforded by the GCs relative to the treatment of prisoners of war; and for failing to properly supervise his Soldiers at AGP.

k. LTC Phillabaum should be relieved from command and be given a GOMOR for failing to properly supervise his Soldiers working at AGP and for failing to properly establish and enforce basic Soldier standards, proficiency, and accountability.

l. LTC Jordan should be relieved from duty and be given a GOMOR for failing to ensure Soldiers under his direct control were properly trained and followed the interrogation rules of engagement. (EXHIBIT C-9)

10. In a statement for the Fay Report, dated 5 May 2004, COL Pappas stated:

a. His rater was MG Wojdakowski, and his senior rater was LTG Sanchez. He provided an Officer Evaluation Report (OER) support form to MG Wojdakowski within the first one or two weeks of his command and they discussed the support form.

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b. The 205th MI BDE had numerous intelligence collection activities ongoing in support of CJTF-7's mission. The BDE's focus was primarily on human intelligence (HUMINT). The BDE was also heavily involved in the Mujahadeen el Kalq (MeK) mission.

c. The BDE no longer had organic interrogation assets; however, they had three BNs task organized to the BDE that had interrogation capability.

d. AGP was a decrepit prison. There were significant force protection concerns and a lack of standards being enforced by the MP BN.

e. Interrogation operations were not as successful as LTG Sanchez hoped. The C-2 informed the 205th MI BDE that LTG Sanchez was not happy with the quality of the reporting.

f. He (COL Pappas) believed there was pressure from DOD to produce actionable intelligence from the security detainees that CJTF-7 was capturing. He based that assessment on the discussions he had with the C-2 staff and the "tremendous amount of interest" that they were receiving.

g. (b)(6)-4 & (b)(7)(C)-4 was the OIC of the JIDC and was his "guy on the ground" at AGP. (b)(6)-4 & (b)(7)(C)-4 was detailed to the BDE by the Deputy C-2, CJTF-7. Although technically the JIDC was a joint operation, its JMD remained unfilled throughout his (COL Pappas') tour in Iraq. The JIDC was essentially an Army-run operation. The decision was made to use civilians as interrogators because the BDE had no more assets to fill the slots. His S-3 and Deputy CDR worked with CJTF-7 HQs in developing the specific requirements for civilian interrogators.

h. In November 2003, LTG Sanchez visited AGP and was not happy with the operations. He (COL Pappas) decided to move to AGP. Shortly thereafter, he was named as the CDR of the AGP FOB, and became responsible for force protection. This meant he was responsible for protecting all personnel from external threats. It meant that the MPs would continue to run confinement and security operations, while the JIDC continued to perform interrogations. The 19 November 2003 FRAGO did nothing to alter the mission of the MPs to maintain control of the detention facilities at AGP. As a result of the 19 November 2003 FRAGO, he became more involved with base operations at AGP.

i. The ICRC visited AGP twice. He received a copy of the report of their visit, and noted the allegations of mistreatment of detainees and detainees wearing women's underwear on their heads. He did not believe the allegations. He thought some of the detainees wanted to get sympathy. He truly believed his Soldiers were not involved.

j. A more rigid inspection of operations, less confidence in civilians working interrogations, and closer attention to the ICRC Working Paper's report of abuse may have enabled earlier detection of the abuse. The difficult conditions at AGP, the lack of established doctrine and training for JIDCs, as well as the Army's decision to move interrogators into the RC after Operation Desert Storm were contributory factors. (EXHIBIT C-10)

[IO Note: On 3 December 2004, COL Pappas declined to answer questions for this inquiry.]

11. In a sworn statement for the Kern Report, dated 17 May 2004, MG Wojdakowski stated:

a. In July 2003, he directed the CG, 800th MP BDE, to move the HQs from Kuwait to Iraq so that the CG, CJTF-7, and CJTF-7 staff could better supervise the BDE and build the BDE into the CJTF-7 team. Since the 800th MP BDE was TACON to CJTF-7, CJTF-7's degree of oversight of the BDE was command authority over forces available for tasking, limited to the detailed and local direction and control of movements necessary to accomplish assigned missions.

b. He kept abreast of all the SEP BDEs in CJTF-7 by holding a Tactical Satellite (TACSAT) update three days per week.

c. As the DCG, CJTF-7, he was responsible for overseeing logistical support for all facilities in Iraq, and he dealt with AGP extensively in that capacity. Since AGP was a key facility, CJTF-7 allocated a lot of resources to the site. BG Karpinski always came to him when she needed support. To assist her, he directed that she work through the C-4, CJTF-7, and the rest of the staff to get the resources she needed. The staff worked through a host of issues with supporting AGP and other facilities.

d. CJTF-7 needed a central facility to hold and screen detainees. In addition, CJTF-7 needed to consolidate its scarce detainee operations resources. Consolidating detainee operations at AGP helped them focus resources on that facility and FOB. Some resources were pulled from other detention camps to support AGP.

e. LTG Sanchez was concerned and had great expectations on interrogation operations, and he (MG Wojdakowski) and the staff all participated in improving this part of the intelligence process. LTG Sanchez gave explicit instructions to treat all detainees humanely.

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f. They were aware they had challenges with the detainee system, and CJTF-7 requested assistance from various places through CENTCOM and the Army. They requested more interrogators, interpreters, and HUMINT support.

g. COL Pappas never came to him (MG Wojdakowski) and told him he (COL Pappas) could not do his job due to personnel shortages, but they continuously worked on using personnel in the best possible way. BG Karpinski did complain to him about personnel shortages, and they redistributed personnel within CJTF-7 to address her concerns.

h. No one in the CJTF-7 Command Group condoned or encouraged the mistreatment of detainees. The Command Group quickly and forcefully investigated any and all suspected violations of detainees' rights. (EXHIBIT C-11)

12. The DAIG Inspections Report, dated 21 July 2004, stated:

a. On 10 February 2004, the Acting SECARMY directed DAIG to conduct an assessment of detainee operations in Afghanistan and Iraq. DAIG inspected internment, EPW, detention operations, and interrogation procedures. The inspection focused on the adequacy of doctrine, organization, training, materiel, leadership, personnel, and facilities. It was a functional analysis of the Army's conduct of detainee and interrogation operations.

b. Two teams conducted inspections at 26 locations in Iraq, Afghanistan, and in the US. They were unable to identify system failures that resulted in incidents of abuse. These incidents resulted from the failure of individuals to follow known standards of discipline and Army values, and in some cases, the failure of a few leaders to enforce those standards of discipline.

c. Of all the facilities inspected, only AGP was determined to be undesirable for housing detainees because it was located near a densely populated urban area, on a dangerous main supply route (MSR), and was under frequent hostile fire, placing Soldiers and detainees at risk.

d. Doctrine did not clearly identify the interdependent, and yet independent, roles, missions, and responsibilities of MP and MI units in the establishment and operation of interrogation facilities. MP doctrine did not address approved and prohibited MI procedures in an MP-operated compound, nor clearly establish the role of MPs in the interrogation process. MI doctrine did not clearly explain MP internment procedures or the role of MI personnel within an internment setting. Contrary to MP doctrine,

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FM 35-52, Intelligence Interrogation, dated 28 September 1992, implied an active role for MPs in the interrogation process. The subordination of the MP custody and control mission to the MI for intelligence could create settings in which unsanctioned behavior, including detainee abuse, could occur.

e. Shortfalls in interrogators and interpreters, and the distribution of these assets, hampered HUMINT collection efforts. Valuable intelligence may have been lost as a result.

f. They were unable to identify system failures that resulted in incidents of abuse. (EXHIBIT C-12)

13. The Kern Report stated:

a. Iraq became a HUMINT-focused environment in support of SASO with interrogation operations becoming increasingly critical. Beginning in July 2003, demands placed on interrogation operations were growing rapidly. The 205th MI BDE was responsible for providing tactical HUMINT teams to forward-deployed combat forces, as well as operating a JIDC. (p. 32)

b. The 205th MI BDE had no organic interrogation capability. The BDE received interrogation sections from many different units across the Army and USAR. As COL Pappas focused his efforts on interrogation operations, all he had were disparate elements of units and individuals, to include civilians that had never trained together. In contrast, the ISG interrogation operations of HVDs had no such shortages. These much needed resources were unavailable for support of critical CJTF-7 mission needs. (p. 32)

c. The CPA made the initial decision to use AGP as a criminal detention facility in May 2003. (p. 33)

d. Overcrowding at AGP was exacerbated by the transfer of detainees from Camp Bucca to AGP. The physical plant was inadequate in size and the construction and renovations that were underway were incomplete. Scarcity of resources, both personnel and equipment, to conduct effective confinement or interrogation operations made the situation worse. (p. 37)

e. Force protection was a major issue at AGP. BG Karpinski recognized AGP's vulnerabilities and raised these concerns frequently to MG Wojdakowski and LTG Sanchez. LTG Sanchez was equally concerned about AGP's vulnerabilities and the lack of progress in establishing "even rudimentary" force protection measures. He directed the CG, 82d Airborne Division, to meet with AGP officers concerning their issues. In an effort to improve force protection, LTG Sanchez appointed COL Pappas

as the FOB CDR. COL Pappas devoted "considerable energy" to improving security.  
(p. 38)

f. On 16 November 2003, COL Pappas took up full time residence at AGP. FRAGO 1108 was pointed to and looked upon by many as a significant change and was a "major factor" in allowing the abuses to occur. It was not. "The abuses and the environment for them began long before FRAGO 1108 was ever issued." "TACON" was interpreted to mean that COL Pappas took over the running of the prison, but COL Pappas never took over those functions. MG Wojdakowski, COL Pappas' rater, stated that COL Pappas was never given responsibility for running the prison, but that the MPs retained that responsibility. It appeared that BG Karpinski was the only person among the Army leadership involved who interpreted the FRAGO differently.  
(pp. 55- 56)

g. The ICRC's allegations of abuse at AGP were not believed, nor were they adequately investigated. During their visits to AGP in October 2003, the ICRC noted some detainees were held naked in their cells, with only Meals, Ready-To-Eat (MRE) packaging being used to cover their nudity. Some detainees alleged to the ICRC that they were subject to sleep deprivation; were forced to walk the corridors handcuffed and naked, wearing female underwear on their head, etc. In November 2003, the Office of the Staff Judge Advocate (OSJA), CJTF-7, received a report from the ICRC regarding these visits. An Australian attorney from the OSJA was sent to AGP to help draft a response. BG Karpinski signed the response letter to the ICRC on 24 December 2003.  
(pp. 64-66)

h. The letter tended to "gloss over, close to the point of denying the inhumane treatment, humiliation, and abuse identified by the ICRC." COL Marc Warren, SJA, CJTF-7, stated when he saw the ICRC Working Paper, "he couldn't believe it." COL Warren regretted not taking the ICRC Working Paper to LTG Sanchez or MG Wojdakowski. (pp. 67-68)

i. The physical and sexual abuses of detainees at AGP were the most serious of the abuses. The abuses spanned from direct physical assault to sexual abuses. Such abuse could not be directly tied to a systemic US approach to torture or approved treatment of detainees. The climate created at AGP provided the opportunity for such abuse to occur and to continue undiscovered by higher authority for a long period of time. What started as undressing and humiliation, stress and physical training, carried over into sexual and physical assaults by a small group of morally corrupt and unsupervised Soldiers and civilians. Twenty-four serious incidents of physical and sexual abuse occurred from 20 September through 13 December 2003. A total of 44 abuse incidents, to include non-violent and non-sexual abuse, were detailed in the report. The report found that the abuses were committed by enlisted MI and MP Soldiers and civilian contractors, and that several officers, NCOs, and Soldiers either

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failed to properly supervise and train their subordinates, or failed to properly report abuse when made aware of such incidents. (pp. 7, 71, 120-135)

j. There was a lack of clear command and control of detainee operations at the CJTF-7 level. Although MG Wojdakowski was COL Pappas' rater, MG Wojdakowski was not directly involved with interrogation operations. Most of COL Pappas' direction came from LTG Sanchez and MG Fast, C-2, CJTF-7. BG Karpinski was rated by the CG, 377th TSC. She testified that she believed her rater was MG Wojdakowski, and she received her direction from him the entire time she was in Iraq. Overall responsibility for detention operations never came together under one person short of LTG Sanchez himself until the assignment of MG G. Miller in April 2004. There should be a single authority designated for command and control of interrogation and detention operations in CJTF-7. (pp. 109-110)

[IO Note: MG G. Miller's assignment to CJTF-7 was as the DCG for Detainee Operations. He was assigned to CJTF-7 in March 2004, and assumed duties as the DCG, Detainee Operations, In April 2004.]

k. Leaders failed to take steps to effectively manage pressure placed upon the JIDC personnel. Leaders within the MI community commented on the intense pressure they felt from higher HQs, to include CENTCOM and the Pentagon, for timelier intelligence. These leaders indicated that this pressure adversely affected their decision making. (pp. 111-112)

l. There was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with ICRC visits. ICRC recommendations were ignored by MI, MP, and CJTF-7 personnel. Neither the leadership (at AGP) nor CJTF-7 made any attempt to verify the ICRC's allegations. (p. 119)

m. COL Pappas failed to properly communicate to higher HQs when his BDE would be unable to accomplish its mission due to lack of manpower and resources. He allowed his Soldiers and civilians at the JIDC to be subjected to inordinate pressure from higher HQs. (p. 120) (EXHIBIT C-13)

14. The Jones Report stated:

a. From the time V Corps transitioned to become CJTF-7, and throughout the period under investigation, it was not resourced properly to accomplish its missions. CJTF-7 HQs lacked adequate personnel and equipment. The MP and MI units at AGP were severely under-resourced. CJTF-7's support to the CPA required greater resources than envisioned in operational plans. Prior operational plans envisioned CJTF-7 conducting SASO and providing support to the CPA in a relatively benign environment. "In fact, opposition was robust and hostilities continued throughout the period under

investigation. CJTF-7 had to conduct tactical counter-insurgency operations while executing its planned missions. These circumstances delayed establishment of an intelligence architecture and degraded the ability of the CJTF-7 to execute its assigned tasks, to include oversight of interrogation and detention operations at AGP. (pp. 3-4)

b. The chain of command immediately above the 205th MI BDE was not directly involved in the abuses at AGP. The DCG, CJTF-7, failed to ensure proper staff oversight of detention and interrogation operations. CJTF-7 staff elements reacted inadequately to earlier warnings and indications that problems existed at AGP. Warnings and indications included: the investigation of an incident at the detention facility at Camp Cropper, the ICRC reports on AGP detainee conditions and treatment, CID investigations, the lack of an adequate system for the identification and accountability of detainees, etc. (pp. 4, 12)

c. CJTF-7 command and staff actions and inaction must be understood in the context of the operational environment. In light of the operational environment and the fact that the CJTF-7 staff and units were under-resourced for their missions, the CDR, CJTF-7 had to prioritize efforts. As such, CJTF-7 devoted its resources to fighting the counter-insurgency and supporting the CPA, "thereby saving Coalition and Iraqi lives and assisting in the transition to Iraqi self-rule." The CG, CJTF-7, and his staff performed above expectations in the overall scheme of OIF. (p. 5)

d. Leaders at AGP failed to supervise their units or provide direct oversight of the interrogation mission. The absence of effective leadership was a factor in not sooner discovering and taking action to prevent the abuse incidents. (p. 5)

e. The TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff, lower priority for resources needed for detention operations, and a lack of intrusive, aggressive oversight by the CJTF-7 leadership. No attempt was made by CJTF-7 or ARCENT to change this relationship. (p. 9)

f. As major counter-insurgency operations began in July 2003, the demands on the CDR, CJTF-7 and his staff; the CPA; subordinate units, and the Iraqi interim government increased dramatically. Decisions were made to keep some units in Iraq to continue fighting the insurgency. Pressure increased to obtain operational intelligence. The complexity of missions conducted by CJTF-7 increased and placed a high demand on leadership at all levels. A rapid increase in the number of detainees due to the apprehension of counter-insurgents (sic) demanded a decision on a detention facility and a need to rapidly expand interrogation operations. (pp. 9-10)

g. The effort to expand the intelligence organization, obtain operational intelligence about the counter-insurgency, and support the CPA "consumed" the CJTF-7 staff. Responsibilities for oversight of tactical interrogation procedures, intelligence analysis,

and reporting at AGP were entrusted to CDRs in the field. (p. 11)

h. Assistance was requested by CJTF-7 to help inform the leadership on proper procedures, techniques, and changes needed for success. (p. 12)

[IO Note: The CJTF-7 requests for assistance resulted in the visits by MG G. Miller, MG Ryder, and other assistance teams.]

i. In retrospect, indications and warnings surfaced at the CJTF-7 level that additional oversight and corrective actions were needed in handling detainees from point of capture through the central collection facilities, to include AGP. (p. 12)

j. It needed to be emphasized that the 180,000 US and coalition forces in CJTF-7 were prosecuting a complex counter-insurgency operation in a "tremendously horrid environment", and were performing above all expectations. Leaders and Soldiers confronted "a faceless enemy whose hatred of the US knew no limits." The actions of a few undisciplined Soldiers at AGP overshadowed the selfless service demonstrated every day by the vast majority of the Soldiers on the battlefield. The Nation owed a debt of gratitude to the Service Members who served in harm's way every day. (p. 12)

k. CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and the limits of authority on interrogation techniques was dispersed among the CJTF-7 staff. Staff responsibility for detention operations was vested in the C-3, CJTF-7, with further delegation to the PM. MG Wojdakowski established priorities of work for the C-4 and logistics support for facilities. He had direct oversight and responsibility for the SEP BDEs assigned or TACON to CJTF-7. Priorities for intelligence collection, analysis, and fusion rested with the C-2. LTG Sanchez used his SJA to advise him on the limits of authority and compliance with the GCs for the published interrogation policy memorandums. The lack of one person on the staff to oversee detention operations and facilities complicated the coordination among the staff. (p. 14)

l. No organization or individual higher than the 205th MI BDE was directly involved in the questionable activities regarding the alleged detainee abuse at AGP. However, CJTF-7 leaders and staff actions contributed indirectly to the questionable activities. (p. 16)

m. Misinterpretation of CJTF-7 policy memorandums led to some of the abuses at AGP, but did not contribute to the violent or sexual abuses. (p. 16)

n. Inaction at the CJTF-7 staff level may have also contributed to the failure to discover and prevent abuses before January 2004. There was sufficient evidence to believe that personnel in the OSJA and C-2X had knowledge of potential abuses and

misconduct in violation of the GCs at AGP, and this knowledge was not presented to the CJTF-7 leadership. Had the pace of combat operations and support to the CPA not been so overwhelming, the CJTF-7 staff may have been able to provide additional oversight to interrogation operations at AGP. LTG Sanchez and MG Wojdakowski relied on BG Karpinski and COL Pappas to run detention and interrogation operations at AGP. In light of all the circumstances, the CJTF-7 staff did everything they could have reasonably been expected to do to successfully complete all their assigned missions. (p. 17)

o. The leaders from the 205th MI BDE and 800th MP BDE at AGP failed to supervise their subordinates, failed to provide mission-specific training to their Soldiers; and failed to properly discipline their Soldiers. (p. 17)

p. COL Pappas did not specifically assign responsibility for interrogation operations to a subordinate MI unit at AGP, and did not ensure that a chain of command for the interrogation operations mission was established at AGP. (p. 17)

q. V Corps personnel, to include CDRs and staff, were not trained to execute a JTF mission. The transition from major combat operations to SASO and support to the CPA was a major transition for which the unit did not have time to train or prepare. (p. 22)

r. The conditions at AGP were representative of the conditions found throughout Iraq during post-Phase III operations. (p. 23) (EXHIBIT C-14)

15. The Schlesinger Report stated:

a. The events of October 2003 through December 2003 on the night shift of Tier 1 at AGP were acts of brutality and "purposeless sadism." They represented deviant behavior and a failure of military leadership and discipline. There was no evidence of a policy of abuse promulgated by senior officials or military authorities. There was both institutional and personal responsibility at higher levels. (p. 5)

b. There was a failure to plan for a major insurgency in Iraq, and a failure to quickly and adequately adapt to the insurgency that followed after major combat operations. The October 2002 CENTCOM War Plan assumed relatively benign SASO would precede the handover to Iraqi authorities. (p. 11)

c. Of the 17 detention facilities in Iraq, the largest was AGP which housed up to 7,000 detainees in October 2003 with a guard force of about 90 personnel from the 800th MP BDE. AGP was seriously overcrowded, under-resourced, and under continual attack. (p. 11)

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d. The 205th MI BDE had insufficient interrogator and interpreter resources to provide the kind of support needed by CJTF-7. Additional units were mobilized to fill the gaps. Unit cohesion was lacking because elements of six different units were assigned to the interrogation mission at AGP. The problems were heightened by friction between MI and MP personnel, to include the BDE CDRs. (p. 12)

e. The DCG, CJTF-7, failed to initiate action to request additional MPs for detention operations after it became clear that there were insufficient assets in Iraq. MG Wojdakowski and the staff should have seen that urgent demands were placed to higher HQs for additional assets. MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations. (p. 15)

f. The 800th MP BDE was among the lowest in priority for deployment and did not have the capability to overcome the shortfalls it confronted. (p. 12)

g. Commanding officers and their staffs at various levels failed in their duties and such failures contributed directly or indirectly to detainee abuse. CDRs were responsible for all their units did or failed to do, and should be held accountable for their action or inaction. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations. The Panel found no evidence that organizations above the 800th MP BDE or 205th MI BDE were directly involved in the incidents at AGP. (p. 43)

h. LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski. Intelligence personnel at AGP reported through the C-2. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP. (p. 45)

i. Once it became clear in July 2003 that a major insurgency was growing in Iraq, senior leaders should have adjusted the plan from SASO. If CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders who could have set in motion the development of a more effective alternative course of action included the DCG, CJTF-7. (p. 47)

j. By October-November 2003, CDRs and staffs from CJTF-7 all the way to CENTCOM and the Joint Chiefs of Staff (JCS) knew the serious deficiencies of the 800th MP BDE, and should have at least considered reinforcing the troops for detention operations. (p. 48)

k. The 800th MP BDE was totally dependent on higher HQs to initiate actions to relieve the personnel crisis. BG Karpinski emphasized personnel shortfalls in personal

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communications with CJTF-7 CDRs and staff as opposed to CFLCC. The response from LTG Sanchez and MG Wojdakowski was that the 800th MP BDE had sufficient personnel to accomplish its mission, and that the BDE needed to reallocate its resources among the other detention facilities. CJTF-7's, CFLCC's, and CENTCOM's failure to request additional forces was an avoidable error. (p. 49)

l. CJTF-7 was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7, and CENTCOM took too long to finalize the JMD. (p. 49)

m. CJTF-7 could have requested a change in command relationships, placing the 800th MP BDE OPCON rather than TACON to CJTF-7. This would have permitted the CG, CJTF-7, to reallocate assets under his control to the detention mission. Non-MP units could have been reassigned to help with detention operations. Additionally, CENTCOM could have assigned other Service's MP and security units to CJTF-7 for the detention operations mission. Mobilization and deployment of additional forces from the US was also a feasible option. (p. 50)

n. Earlier, CJTF-7 had submitted a Request for Forces (RFF) for an additional Judge Advocate organization, but CENTCOM would not forward it to the JCS. Perhaps this experience made CJTF-7 reluctant to submit a RFF for MP units, but there was no evidence that any of the responsible officers considered any option other than the response given to BG Karpinski to "wear her stars" and reallocate personnel among her already over-stretched units. (p. 50-51)

o. It was the responsibility of the combatant CDR to organize his forces in a manner to achieve mission success. Combatant CDRs and their subordinates needed to organize in a manner that afforded unity of command, ensuring that CDRs worked for CDRs and not staff. The fact that detention operations in Iraq were later commanded by a MG who reported directly to the operational CDR, and that 1900 MPs performed the detention mission formerly assigned to a single under-strength, poorly trained, inadequately equipped, and weakly-led BDE, indicated that more robust options should have been considered sooner. (p. 51) (EXHIBIT C-15)

[IO Note: The combatant CDR for the ITO was the CG, CENTCOM.]

# **TAB 3**

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1. On 15 February 2004, BG Karpinski testified to MG Taguba:

a. She got a transfer of authority (TOA) order that directed the move of the 800th MP BDE to Baghdad to be responsible for confinement and corrections operations in Iraq. AGP was selected as an interim site, for not more than three years. BG Paul Hill directed the 320th MP BN move to AGP before she took command. (p. 19)

[IO Note: BG Hill was the previous CDR of the 800th MP BDE.]

b. On 9 September 2003, she was shown a list that was 2 ½ pages long of 800th MP BDE Soldiers that had been removed from theater for medical reasons. (p. 25)

c. After one of MG Wojdakowski's visits to AGP, he directed that AGP become an enduring camp. MG Wojdakowski told the CJTF-7 Engineer, C-3, and C-4 that they had not been able to provide AGP with support because the 800th MP BDE was TACON to CJTF-7, but making AGP an enduring base would "open the doors." (p. 13)

d. In November 2003, COL Pappas got a FRAGO directing that all tenant units at AGP were TACON to him for security of detainees and force protection. She was not informed of the FRAGO before it was issued. She saw MG Fast about the order. She told her it was done, no discussion required. (pp. 10-11)

e. When she told MG Wojdakowski that she did not have the MP resources to cover 15 detention facilities, he told her to "figure it out." (p. 38)

f. There were several incidents at AGP, to include escapes, accidental firearms discharge, etc. The BN CDR looked like he was overwhelmed, so she directed he leave AGP for a few days. The Soldiers at AGP were troubled because of the death of one of their members, the level of activity going on, the expansion of the facility, the extension of their tours, the sharing of the facility with other Soldiers, and that every "bad mission" was coming to them. She temporarily put another BN CDR in for LTC Phillabaum. At the time, LTC Phillabaum did not have an executive officer (XO) or a command sergeant major (CSM). She checked with the 377th TSC and CJTF-7 for replacements for her deputy CDR and CSM. She could not get help. (pp. 40-42, 44)

g. When AGP reached full capacity, the PM's and MG Wojdakowski's solution was to put up more tents at Camp Bucca. That was not consistent with treating prisoners with dignity and respect. (pp. 80-81)

h. She told MG Wojdakowski, MG Fast, and the PM on numerous occasions that they had to treat prisoners IAW certain rules. The standard response was that "these are prisoners" and did not deserve any better treatment than Soldiers. (pp. 81-82)

i. The ICRC Working Paper of their October 2003 visit to AGP stated that detainees in one of the facilities were being stripped of their clothing and made to wear women's underwear. She talked to COL Warren and COL Pappas at CJTF-7 HQs about the report and it was a big joke. They did not believe the report. She brought the report to MG Wojdakowski's attention, and told him that COL Pappas would prepare the response to the ICRC. MG Wojdakowski's guidance to her was to "see what the ICRC response is." (pp. 84-86)

[IO Note: BG Karpinski's testimony did not indicate what aspects of the ICRC Working Paper she brought to MG Wojdakowski's attention, nor did she indicate whether she showed him the report. BG Karpinski declined to be interviewed by DAIG.

(b)(7)(D)



j. The CJTF-7 did not want to be bothered by her or force protection for AGP. They blew her off because she was a Reservist, she was TACON, and "a lot of other reasons." LTG Sanchez did not care until the MI Soldiers were killed at AGP. When the prisoners were killed, MG Wojdakowski told her "but they're prisoners, Janis. Did you lose any Soldiers?" (p. 123) (EXHIBIT D-1)

2. On 18 July 2004, BG Karpinski testified to MG Fay:

a. There were losses in the 800th MP BDE for primarily medical reasons. Some of the BNs were down to 76%-78%. None were higher than 80% strength. There were no replacements. They could not even get MP companies transferred from Kuwait to the 800th MP BDE. (pp. 24-25)

b. It was a conscious decision by the CG, CFLCC, to keep the 800th MP BDE OPCON to CFLCC. He was concerned that CJTF-7 would break up the BDE to supplement other missions besides detention. (p. 26)

c. It was her opinion that LTG Sanchez and MG Wojdakowski wanted her to keep a BN at the HVD detention facility and to run the Corps holding area. (p. 38)

d. She had conversations with MG Wojdakowski about every other night. She talked to him about force protection. They had no "force protection platforms" at AGP and the Soldiers were becoming concerned. She told him they were not getting support from him. She appreciated the funds he provided to help rebuild the compound, but she needed more funds for equipment, water, and food. He told her he was "looking at it." (pp. 68-70)

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e. When six prisoners were killed by a mortar attack on 17 August 2003, she immediately called MG Wojdakowski and told him she had no force protection other than a few High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs). They had only one .50 caliber weapon that they borrowed from the Marines. The next day CJTF-7 sent out two Bradley fighting vehicles, which manned the entry control point. Once the press left, the Bradleys left and did not come back. About two weeks later, another mortar attack killed some MI Soldiers. (pp. 70-71)

f. Neither she nor her staff read the 19 November 2003 FRAGO when it first came out. Both she and COL Pappas had questions about the TACON relationship. It was COL Pappas' understanding that he had "operational control-tactical control" of the prison. That meant he could define the Soldiers' work assignments or use them for force protection. He could not change their work and make them truck drivers. If he thought they needed more MPs out in the prison compound, he could go to LTC Phillabaum and talk to him about it. (p. 146, 150-151)

g. She told MG Wojdakowski that she was scheduled to brief LTG Sanchez on the timeline for restoring the prisons, and that she would mention to him that her number one concern was force protection at AGP. She almost pleaded with MG Wojdakowski to get more force protection platforms. (p. 155)

h. When AGP was declared an enduring camp, MG Wojdakowski told her that the reason CJTF-7 had not been able to give them any resources was because the 800th MP BDE was not OPCON to CJTF-7. (p. 162)

i. In November 2003, the Deputy Commanding Officer, 205th MI BDE, told her about the ICRC visit. She told her (BG Karpinski) that the ICRC observed naked detainees, and that one detainee told a story about being made to wear women's underwear on his head. (p. 181)

j. She asked MG Wojdakowski for a COL to run AGP as the FOB CDR, because that person would have to work with COL Pappas, but MG Wojdakowski told her he didn't have anyone to give her. (p. 150) (EXHIBIT D-2)

3. On 13 September 2004, MG Fay testified to DAIG:

a. There was real confusion as to who was in charge of detention and interrogation operations. There was no one person in charge. It was a shared responsibility among CDRs and staff. MG Wojdakowski had some responsibilities because he supervised both BG Karpinski and COL Pappas. He was more involved with the detention side rather than the interrogations side, and relied heavily on COL Pappas for interrogation operations. MG Wojdakowski was mostly involved with handling the "huge numbers" of logistics issues facing CJTF-7. (pp. 3-4)

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b. Other persons involved were the PM, the C-2, and the SJA. Additionally, MG T. Miller was designated as responsible for detention operations by LTG Sanchez in February 2004. Doctrine was silent as to who had overall responsibility for detention operations. As such, CJTF-7 did not violate Army doctrine by not having a single person in charge of detention and interrogation operations. (p. 4-5)

[IO Note: Other testimony indicated that LTG Sanchez designated MG T. Miller as the single staff POC for detention and interrogation operations in January 2004. Until June 2004, no joint doctrine existed for detainee operations. On 27 July 2004, the Joint Staff directed that the Army would be the lead agent for the development of joint doctrine for detainee operations.]

c. It was not fair to place all the burden on LTG Sanchez for not recognizing there were problems at AGP. As a country, we under-resourced CJTF-7 and under-appreciated what we would face in Iraq. We were optimistic on the amount of resistance we would face. We did not react fast enough to the insurgency. We should have been more pessimistic in our initial plan. This was an under-resourced operation that changed quickly from a combat operation to an insurgency, and they were left with a force that was not put together to fight an insurgency. It was not negligence. (p. 6)

d. Most of BG Karpinski's dealings at CJTF-7 were with MG Wojdakowski, rather than with the PM or C-3. (p. 7)

e. Leaders at the 205th MI BDE level and below failed to effectively manage pressure on JIDC personnel. It was not the job of LTG Sanchez or MG Wojdakowski to protect Soldiers in the JIDC from that pressure. (pp. 7-8)

f. The ICRC Working Paper was ignored by personnel in CJTF-7 SJA, 205th MI BDE, and 800th MP BDE because they found the allegations to be unbelievable. It was a known issue at AGP that clothing for the prisoners was hard to obtain; therefore it was unbelievable that prisoners were wearing women's underwear when the prison couldn't even get regular clothes. It turned out the allegations were true. (pp. 10-11)

g. Regarding the manning of the JIDC, COL Pappas should have asked for a unit to perform that mission. Instead, he used personnel provided to him from all over the Army. A more effective method would have been for him to turn to one of his BNs and give them the mission. Additional organizations like a JIDC should not be created if we have to "pay for them out of hide." (pp. 23-24) (EXHIBIT D-3)

4. On 14 October 2004, LTG Jones testified to DAIG:

a. Most of the CJTF-7 staff was focused towards supporting the CPA and fighting the insurgency. For example, the C-2 spent more than 50% of her time supporting the CPA. She did yeoman's work getting the intelligence priorities out and making it seamless from tactical to strategic. She established the communications for this with little or no resources. Their focus in the October-November 2003 timeframe was taking down Saddam Hussein's support base. (pp. 3-6)

b. The conditions at AGP started to improve later in the fall. As the central location where all the prisoners were to be filtered through, it begged the question, "Are we doing it right?" (p. 6)

c. They (the V Corps staff) had to build the CJTF from scratch. They had to build an organization in which none of them had ever served. They had just fought the tactical fight; now they were focused at the strategic level. The CofS was moved over to support the CPA. Another piece of the staff was split to MG Wojdakowski to fight the war. Because of resourcing and the way they were set up, the staff was pulled in three different directions. All the divisions and SEP BDEs "morphed" from 12 to as many as 18 SEP BDEs. All were waiting for guidance and direction, and it was a challenge. (pp. 14-15)

d. The primary staff officers focused up, and by default, the lower level staff officers worked the other issues. The residual SJA personnel were running the show in the OSJA because the leadership was preoccupied running the war and supporting the CPA. There was limited time to go out and see what was happening. (p. 15)

e. CJTF-7 was given not only CJTF responsibilities, but also ASCC and ARFOR responsibilities. LTG Sanchez was one person, and a brand-new LTG. He did not complete two years as a division CDR. He went from commanding about 15,000 Soldiers in a division to over 180,000 people in a coalition. It overwhelmed him and the CJTF-7 staff. (p. 15)

f. With respect to additional oversight of detention and interrogation operations that could have been provided by LTG Sanchez and MG Wojdakowski, there should have been one person in charge of detention and interrogation facilities. There was no CofS. The C-1 was responsible for personnel and ensuring there were backfills. The C-2 was setting the overall intelligence collection priorities. The C-3 was overall responsible for detention operations with some execution responsibilities with the PM. The C-4 was responsible for logistical support. MG Wojdakowski was establishing priorities not only for the detention facilities, but also for the different base camps and the construction. Finally, there were all the SEP BDEs that fell under MG Wojdakowski. A person would have to go to individual staff sections to talk different issues. There was no CofS to

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synchronize the efforts. (p. 20-21)

g. Initially, AGP was a temporary facility, and MG Wojdakowski gave it very little priority. In the summer of 2003, everyone was living in pretty shoddy conditions. LTG Sanchez visited, and directed that this be fixed. (p. 20)

h. MG Wojdakowski had two new BDE CDRs in COL Pappas and BG Karpinski. These CDRs were not experienced in the theater. COL Pappas came out of the US Army War College, and BG Karpinski came out of the Reserve ranks. MG Wojdakowski could not have known their experience level. They probably demanded more oversight and supervision. (p. 21-22)

i. In MG Wojdakowski's defense, he was trying to get the Logistics Capabilities (LOGCAP) set up, secure the immature lines of communications, and establish contracts to get the supplies moving forward. The units' equipment had just gone through a war, and needed a lot of attention. As a result, he let COL Pappas and BG Karpinski execute their mission in a decentralized way. In retrospect, he probably should have brought them in and given them more specific guidance because he was in their direct chain of command. Those units needed more attention. BG Karpinski probably did not accept any guidance or leadership. COL Pappas was probably "hungry" for it. (pp. 22- 23)

j. In his opinion, BG Karpinski wanted the position of command but did not want to accept the responsibilities that went with it. She had to be told to move her staff to Iraq. She was often found back in Kuwait. She had to be directed to go check on the MeK facility that held the Iranian freedom fighters. LTG Sanchez had a confrontation with her about taking charge. There were indications she was weak. (p. 23)

k. In COL Pappas' case, his inexperience led to the lack of a decision on making someone in charge of the JIDC. He had other BN CDRs, and he could have moved one into AGP and set up a clear chain of command to execute that mission. (p. 24)

l. MG Wojdakowski's failure to recognize this need for additional oversight was a shortcoming, but it was not negligence, primarily because of the magnitude of what he was facing. (p. 24)

m. The failure to effectively manage the pressure for intelligence on JIDC personnel fell at COL Pappas' level and below. The pressure for intelligence was not abnormal, and was appropriate. But as the pressure moved down to the lower levels, the interpretation of the CDR's intent and the establishment of standard procedures were not there. (p. 26)

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n. The Army and the joint community had no system for dealing with the ICRC in this situation. Our doctrine did not deal with a strategic detention facility. There was no specific staff responsibility in CJTF-7 to interface with the ICRC, but that was later fixed. (pp. 29-30)

o. The fault of not re-evaluating the campaign plan was more CENTCOM's fault than LTG Sanchez'. CJTF-7 used FRAGOs to change the plan. They did not have the time or resources to rewrite the campaign plan. Later there was a four-star CDR there, with separate Title 10 ASCC responsibilities from the warfighting responsibilities. (pp. 31-32)

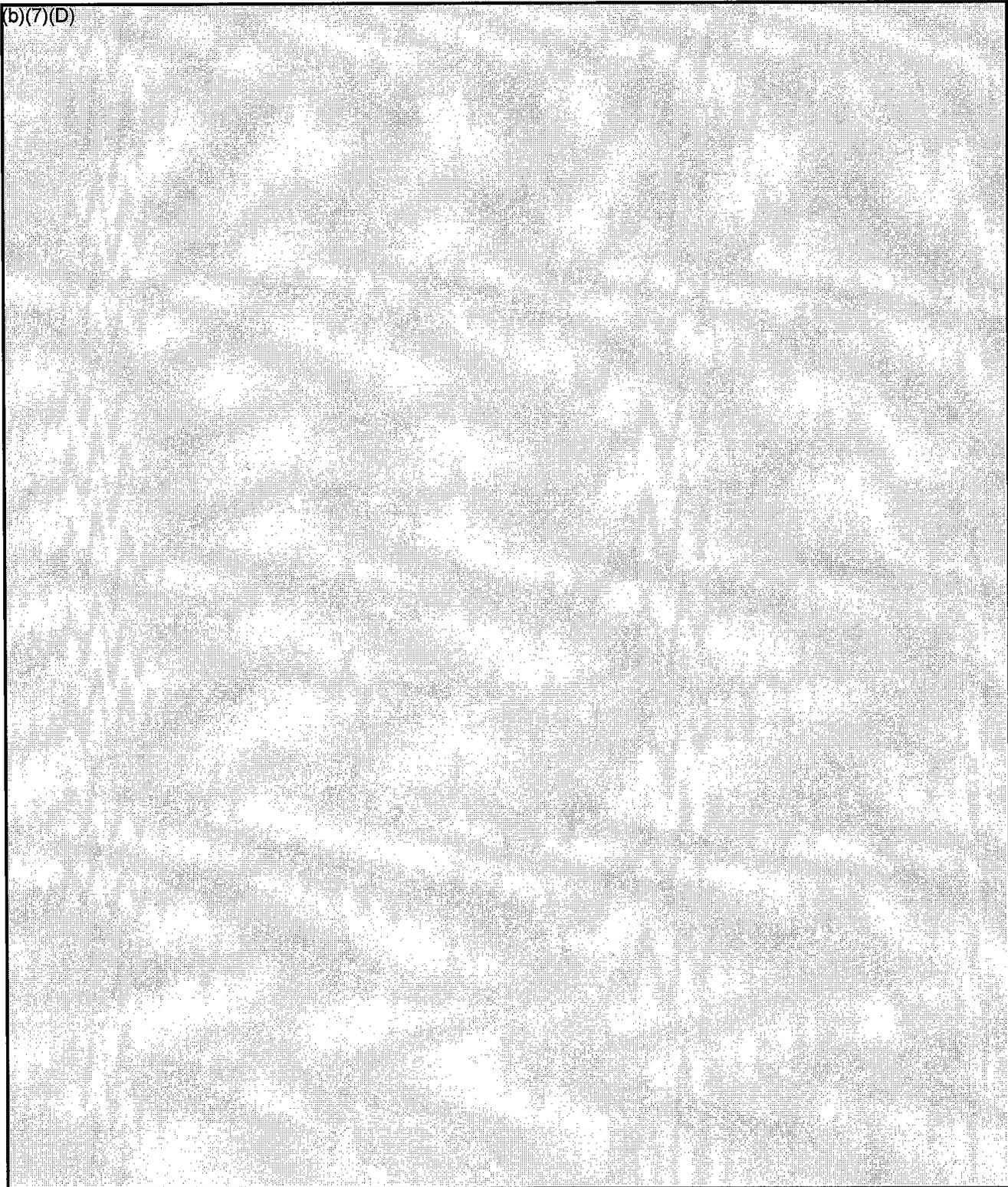
p. BG Karpinski used the TACON relationship both ways. She told CJTF-7 they had to support her. In reality, her support base was the 377th TSC. The 377th TSC did not see any role in supporting the 800th MP BDE. BG Karpinski kept going back to Kuwait to keep that relationship going. She played both sides against the middle, and never accepted ownership of her mission. (p. 33)

q. V Corps was left "holding the bag" when CFLCC left. Although the senior leadership in CJTF-7 was responsible for what did and did not happen, they did tremendous work based on what they were tasked to do. We as an Army did not set CJTF-7 and its leaders up for success, and we're part to blame. A situation was dealt to them for which their level of experience and their resourcing was inadequate. This was a "travesty." As a Nation, as a joint community, we did not step up and help them when we should have, and that was terrible. (pp. 34-35, 37) (EXHIBIT D-4)

5. After being advised of his rights, on 21 October 2004, (b)(7)(D) to DAIG:



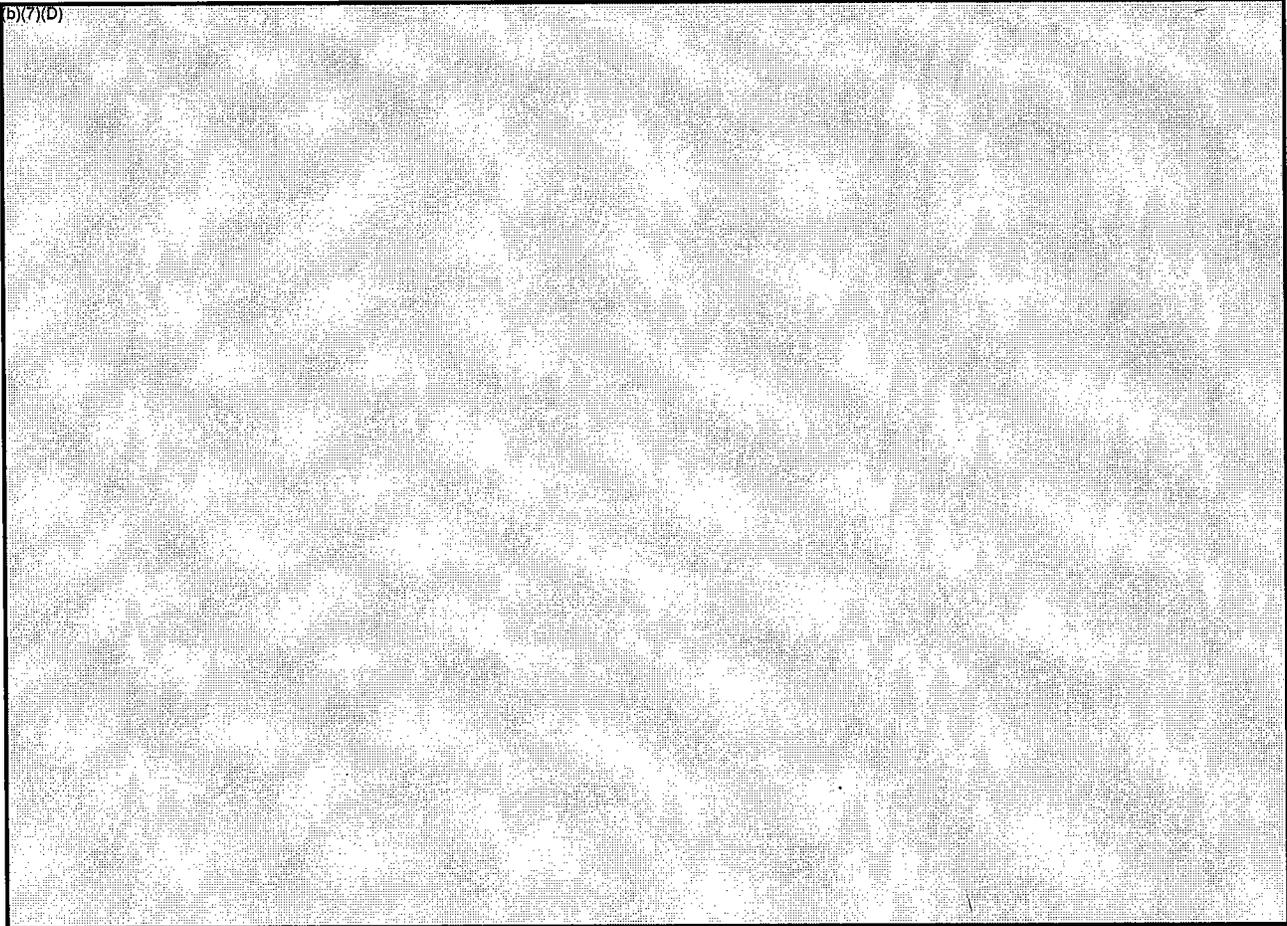
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(b)(7)(D)



6. On 22 October 2004, COL (b)(6)-4 & (b)(7)(C)-4 former Assistant Chief of Staff (ACofS) G5 Plans, 3d Army/CFLCC, testified to DAIG:

a. As the ACofS G5 Plans, he was responsible for directing the development of the supporting ground major operations plan from CFLCC as part of the CENTCOM Plan 1000V. (p. 2)

b. As ARCENT, 3d Army was responsible for administrative control (ADCON) of all Army forces in the theater, mainly combat support and combat service support to the Army and Army support to other Services. (p. 4)

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c. He heard that the RFF process came about directly from the Office of the Secretary of Defense (OSD). The official flow of information went to CENTCOM to Joint Forces Command (JFCOM) to the JCS and down to the Services. OSD approved every single RFF. CFLCC also sent their requests directly to FORSCOM in an effort to keep them informed as this process continued throughout so they would not be surprised. (pp. 5-6)

d. The decision for V Corps to become CJTF-7 occurred very rapidly sometime around 3-4 June 2003. He recalled having only about 3 weeks to work the transfer of authority, battle handover, task organization, how they would man the JMD and how many CFLCC officers would move to reinforce V Corps staff. (p. 14)

e. The CG, CENTCOM, wanted to reestablish its ASCC HQs so that they would revert back to a regional focus, vice being a sole focus on one country. They were not formally relieved of their AOR responsibility, but it was understood they would focus more on their warfighting responsibility and that risk would be taken in other areas of the AOR, such as the Horn of Africa and Afghanistan. It was his personal belief that this decision was a mistake. He believed that they should have continued the force flow and that CFLCC should not have left. (pp. 13-15)

f. Part of the battle handover from CFLCC to V Corps was the establishment of a JMD. They spent long hours looking at the V Corps staff and looking at what augmentation they would need, especially personnel and communications. There were some heated discussions about the numbers of CFLCC people that would go forward. They had a number of augmentees and one of the decisions made was that those augmentees who had not completed their 179-day tours would augment the V Corps staff. Three of his 18 officers in the C5 moved to the V Corps/CJTF staff. (p. 15)

g. The CG, CENTCOM, directed V Corps to assume the CJTF. At the colonel level, he made it known that the recommendation was that CFLCC should stay. One of their courses of action for planning was an insurgency, but none of them saw this as a likely outcome. They were engaged in discussions with the multinational force that would relieve 1st Marine Expeditionary Force (MEF). There were handovers within handovers. That was adding too much to the complexity that was, in his judgment, too much to bear for the V Corps HQs even with reinforcement from CFLCC HQs. The conversation he had with two members of the CENTCOM staff indicated they agreed because they did not know what was going to happen with the enemy. CFLCC never made the assumption that the security environment would be relatively benign when the handover would take place. (pp. 17-18)

h. As it became more apparent they would hand over the Phase IV mission to CJTF-7, they began to work the process by which Army used to augment their HQs as well as the JMD. They began to re-look that and how to sustain it until they learned

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they were going to hand the mission to V Corps on 15 June 2003. Then their focus became how they would transition those billets to V Corps to make them a CJTF staff. (pp. 21-22)

i. He had no idea why CFLCC retained OPCON of 800th MP BDE. Under the doctrinal definition TACON gave the CDR all the authority he needed to specify tactical tasks that the BDE would perform. By retaining OPCON at CFLCC, that would relieve CJTF-7 for providing combat service support. CFLCC did not have a command and control relationship with CJTF-7. They were co-equals with CJTF-7. (pp. 30-32)

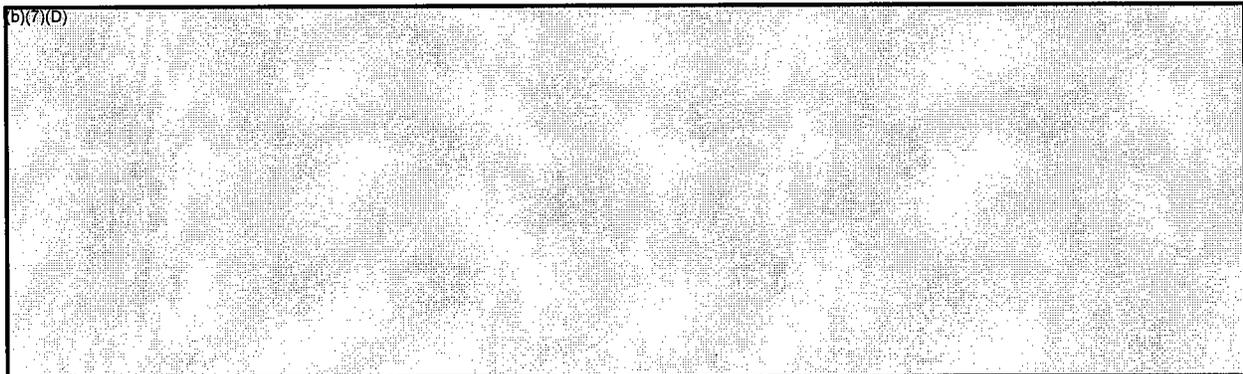
j. The JMD was finalized before he left in July 2003. The problem was the JMD was never filled with personnel. It was not a JMD but an Army manning document. The Navy and Air Force argued they could perform those tasks from within their components. The responsibility fell to CFLCC and the Army to fill the JMD. There was not one voice talking for CENTCOM on this. CENTCOM looked to JFCOM, but JFCOM did nothing. He was unaware if CENTCOM pressed the issue with JFCOM. CFLCC went to the Army. The Army's response was they were adjudicating the rebuttals and would fill them eventually. (pp. 36-38)

k. He disagreed with the Schlesinger report findings that it was clear in July 2003 that there was a major insurgency growing in July. At the time he left theater on 5 July 2003, there had been an increase in incidents, but they appeared isolated as they were spread across the country. (pp. 41-42)

l. CJTF-7 had the adaptive tools to be an effective organization; they just did not have enough personnel because the JMD was not filled. (p. 42)

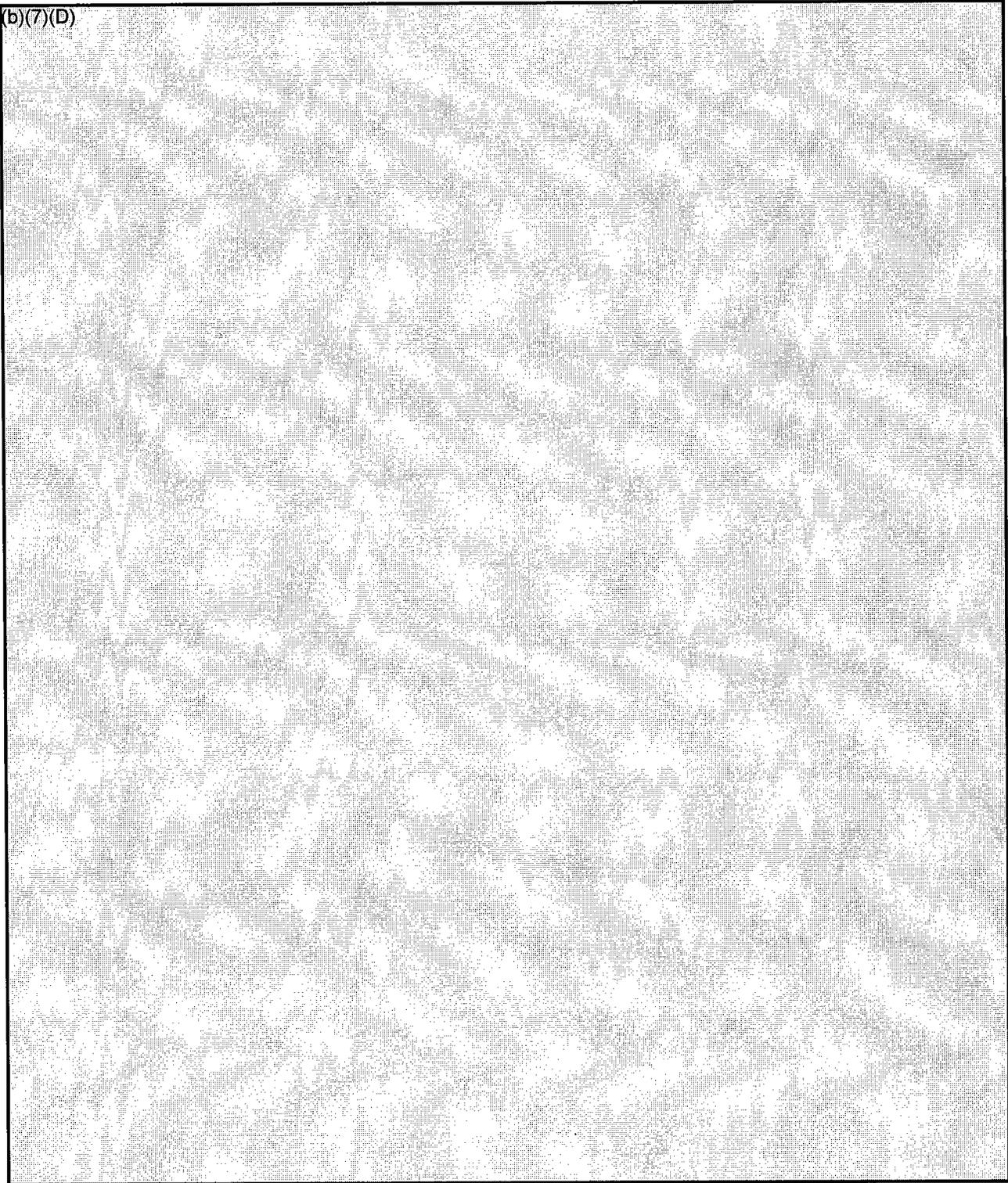
m. As far as he knew and until the time he departed theater, CJTF-7 never requested additional forces. There were none to be had. OSD stopped the force flow and said the 1st Cavalry (CAV) Division was not coming. The assessment was it was not necessary to bring 1st CAV as there was nothing to fight. (p. 45) (EXHIBIT D-6)

7. After being advised of (b)(7)(C) rights, on 22 October 2004, (b)(7)(D) testified to DAIG:



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(b)(7)(D)



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(b)(7)(D)

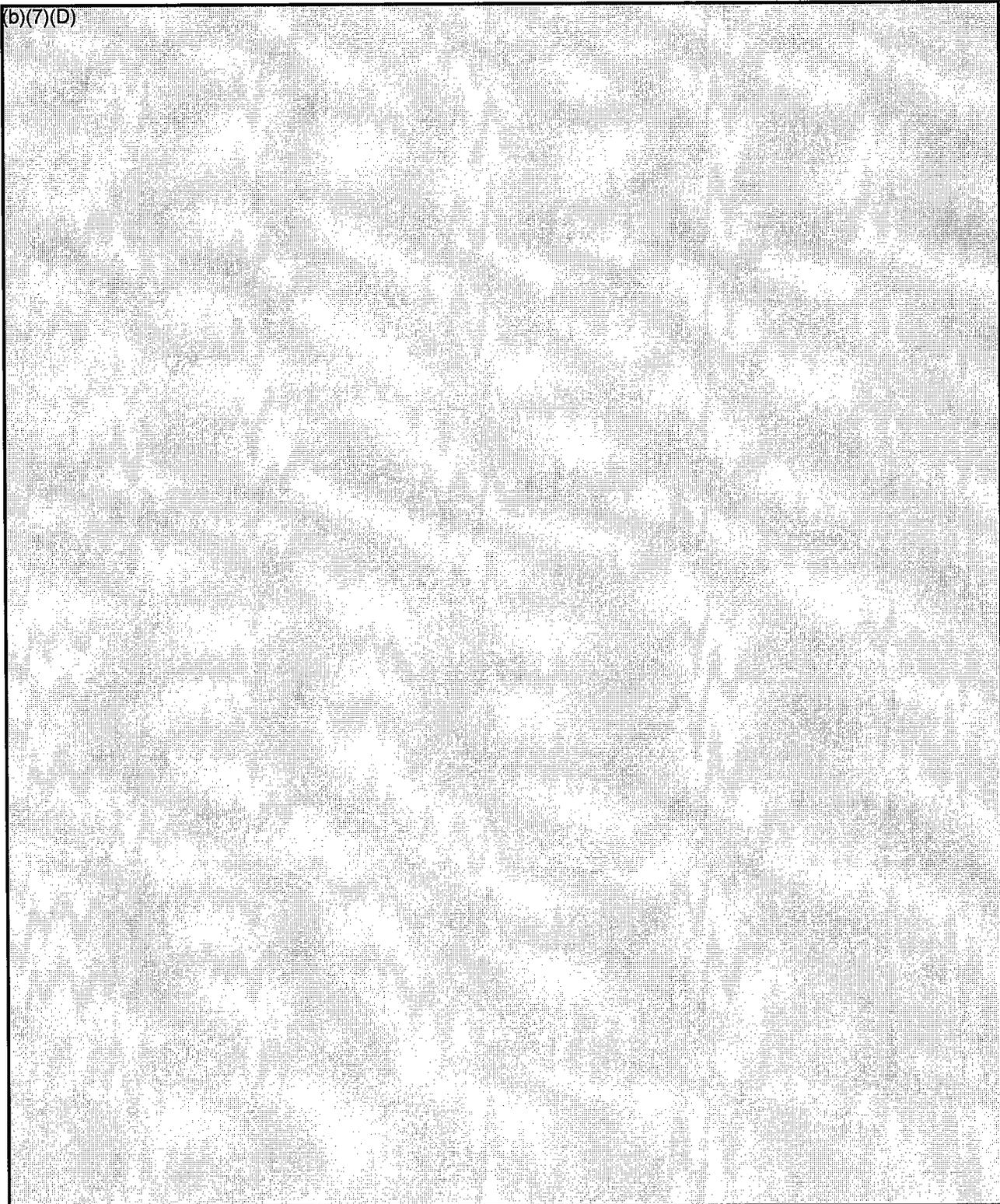


8. After being advised of his rights, on 26 October 2004, (b)(7)(D) testified to DAIG:

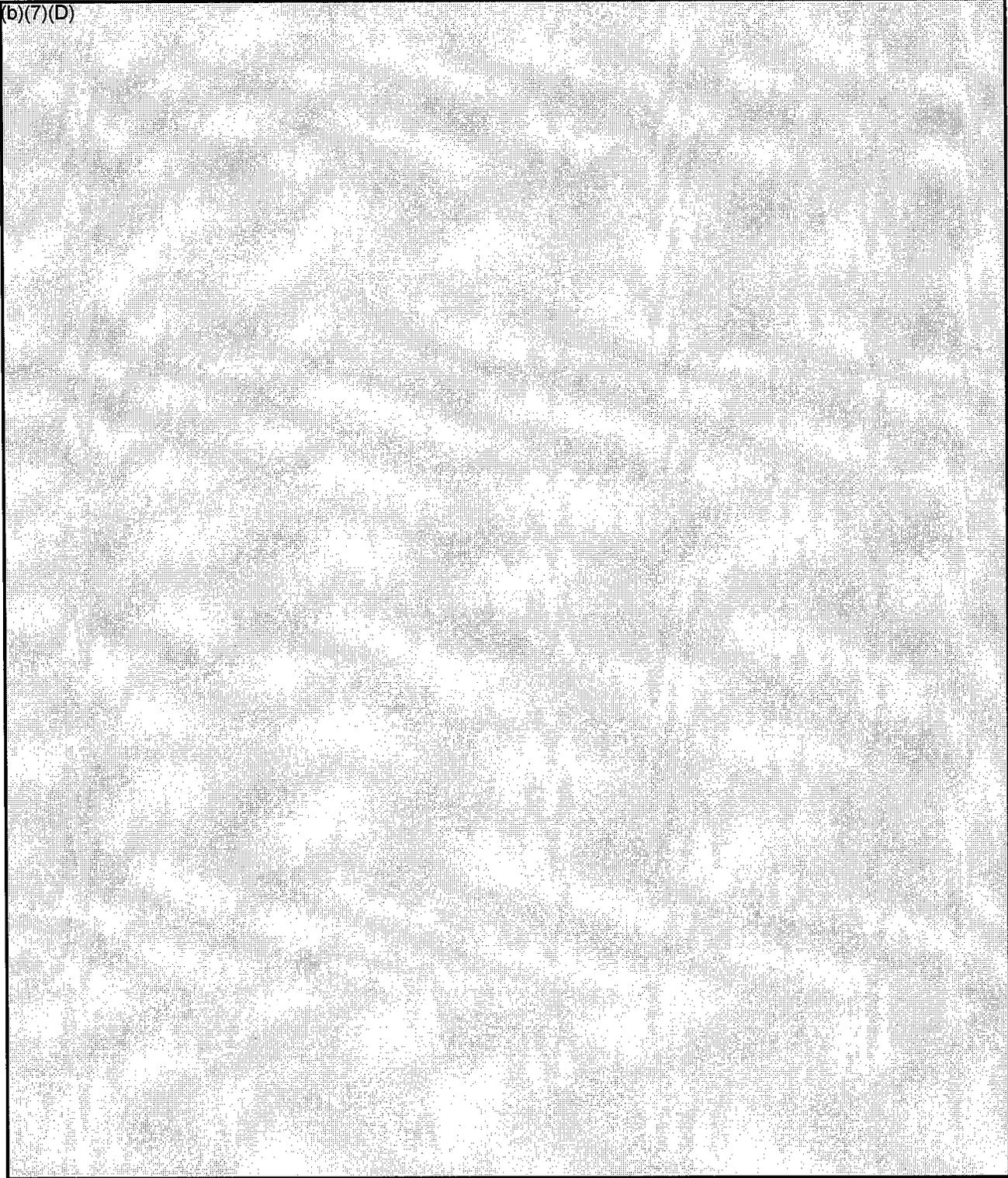
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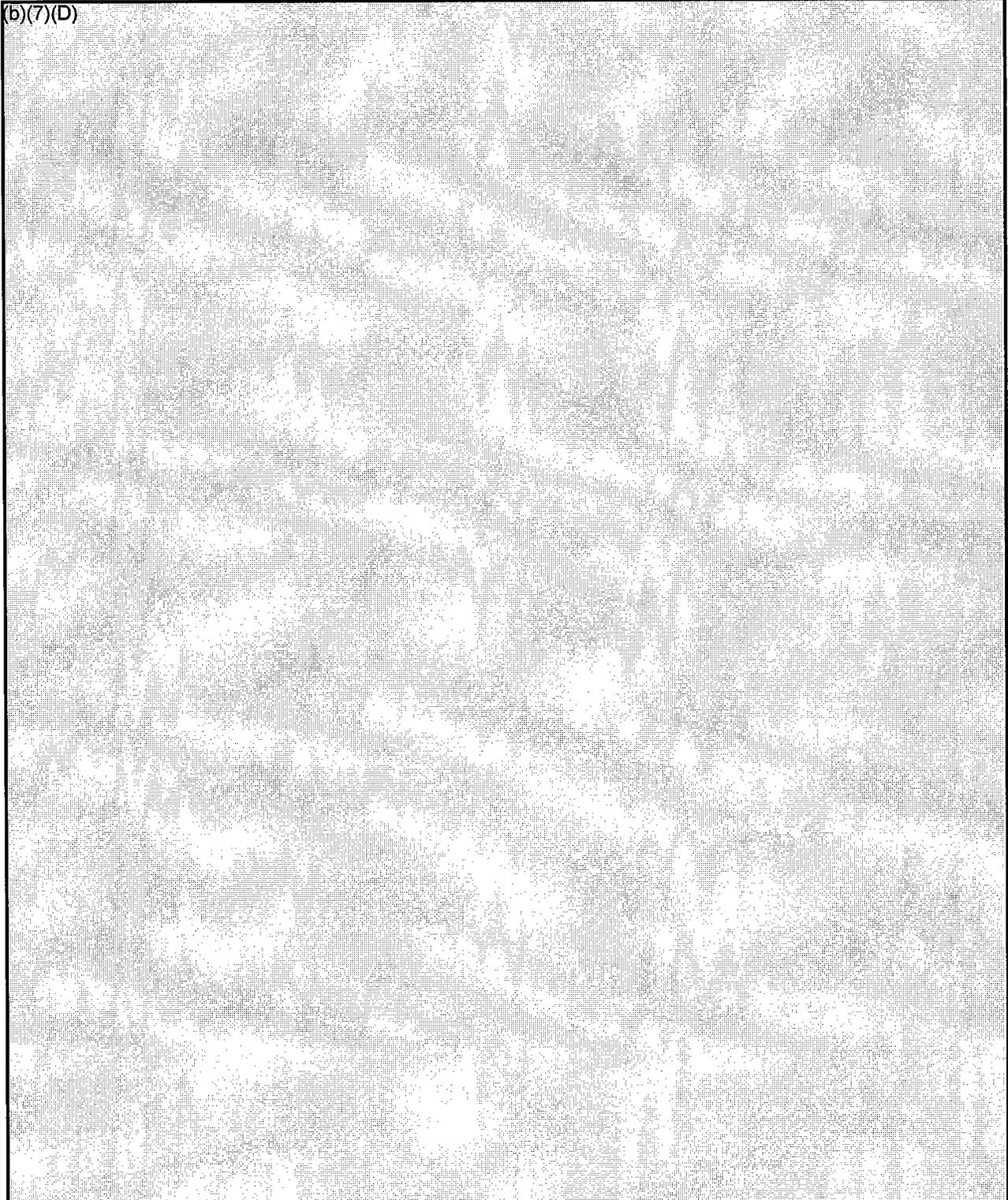
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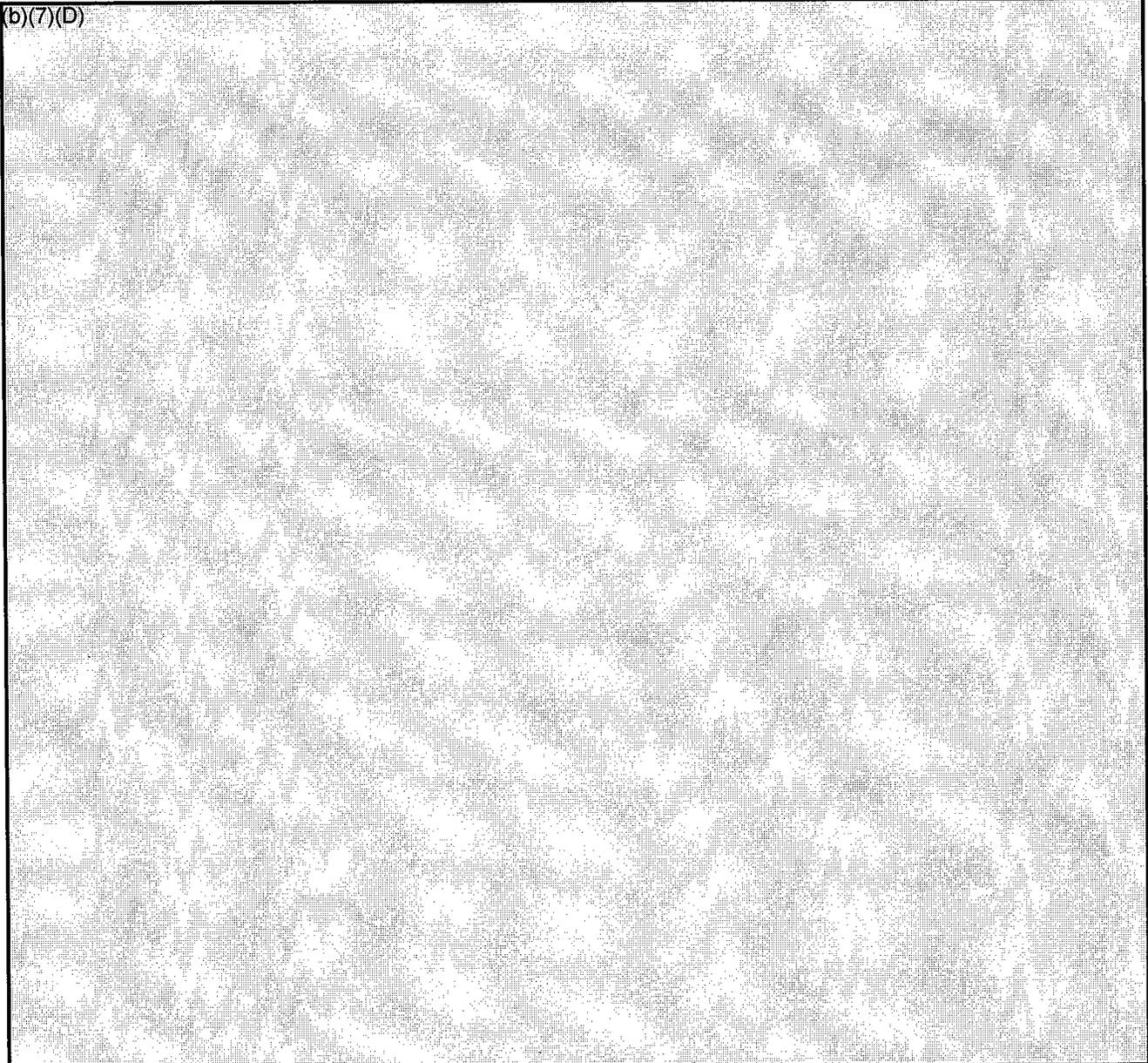
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(b)(7)(D)

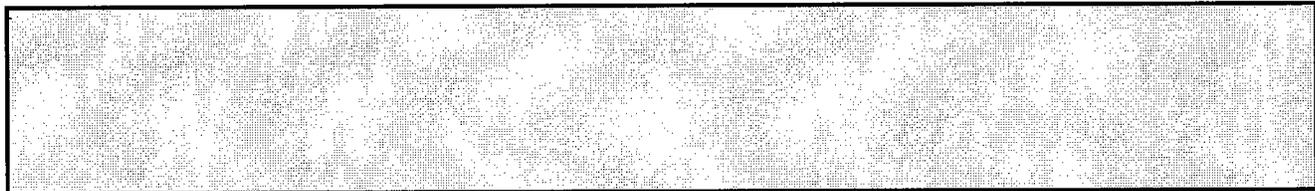


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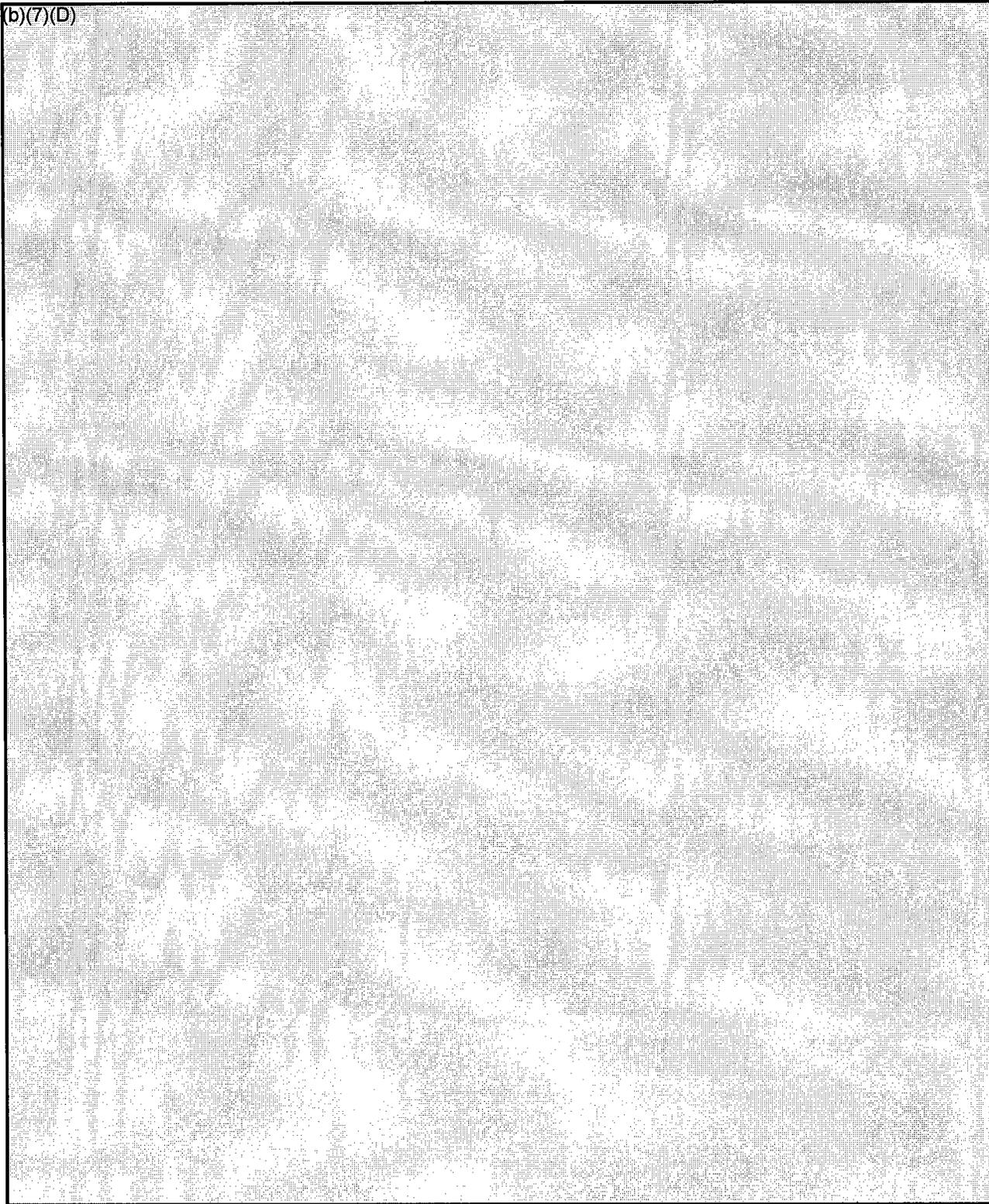
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9. After being advised of his rights, on 27 October 2004,  testified to DAIG:



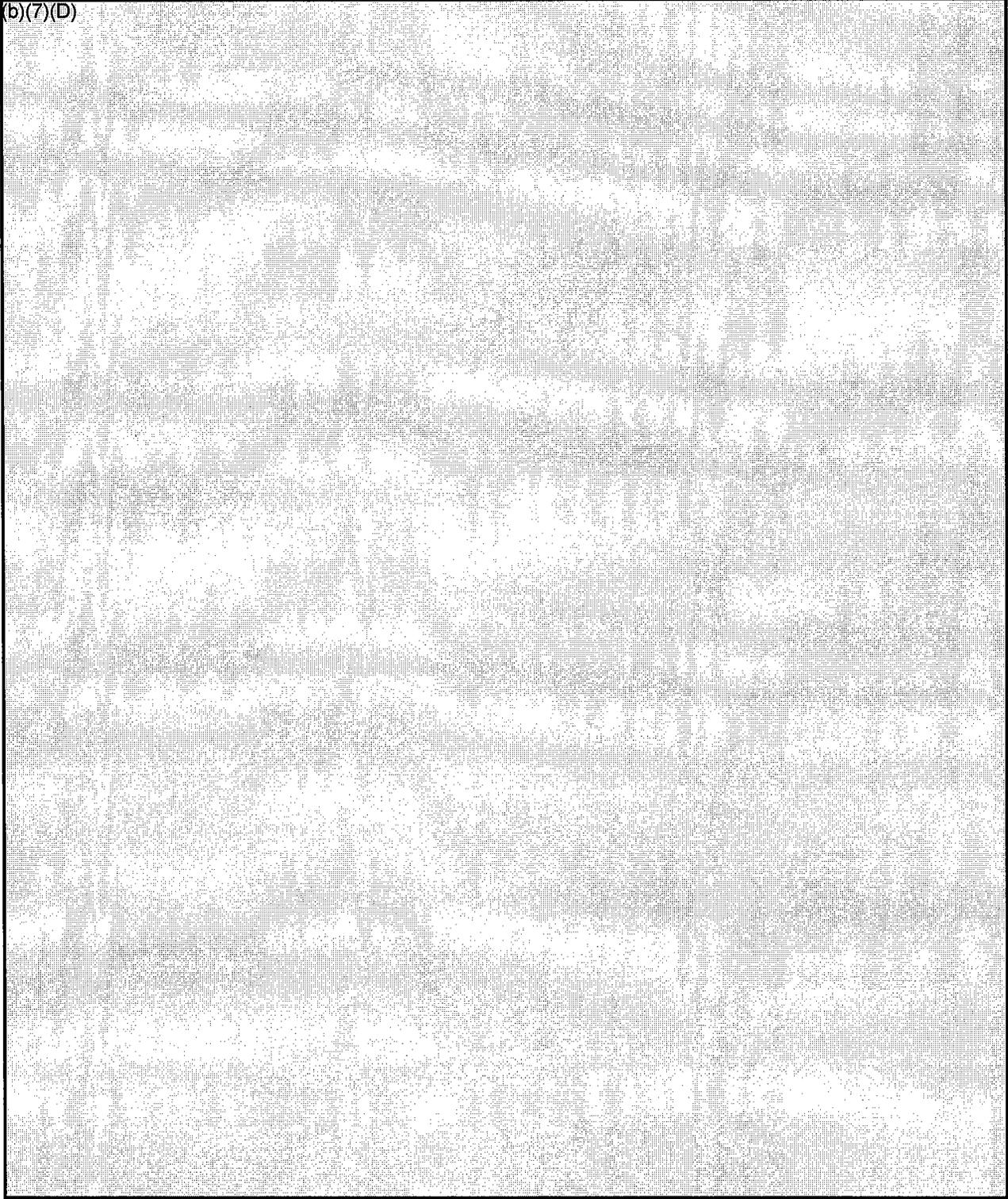
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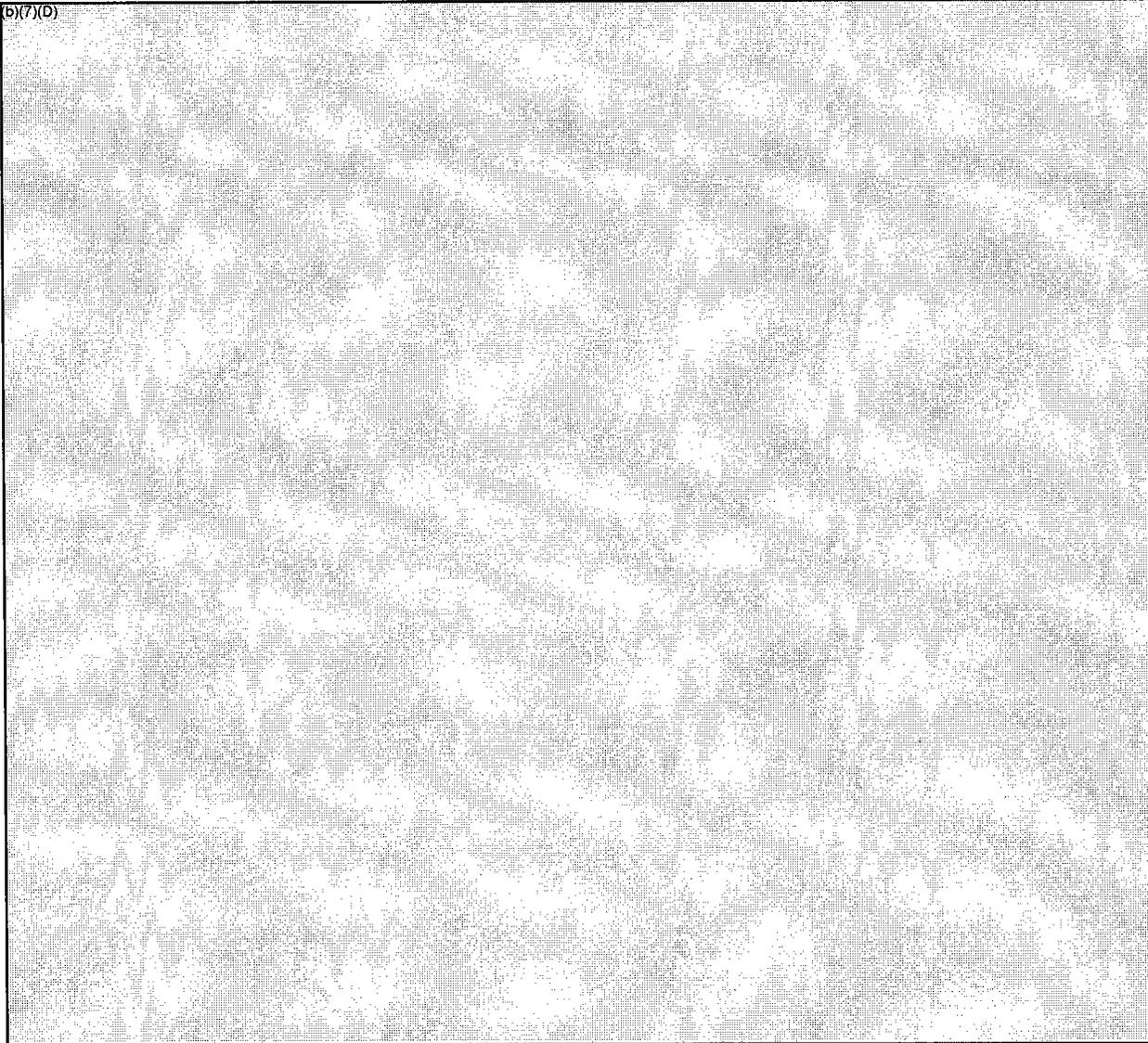
SAIG-IN (20-1b) ANNEX 3 (TESTIMONY) to DIG 04-80044 (UPDATE)

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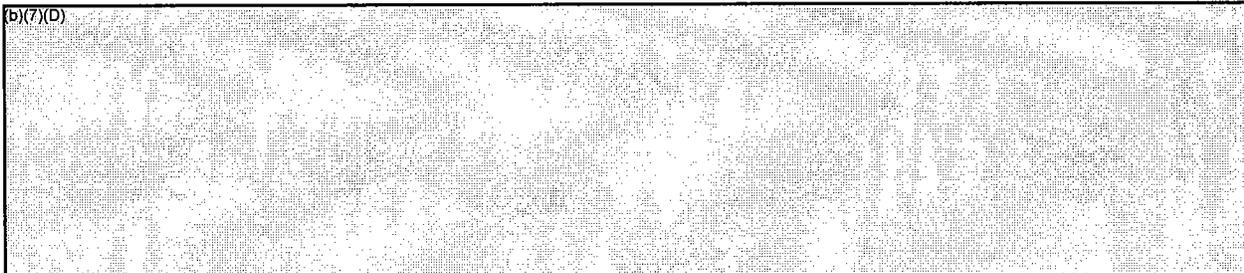


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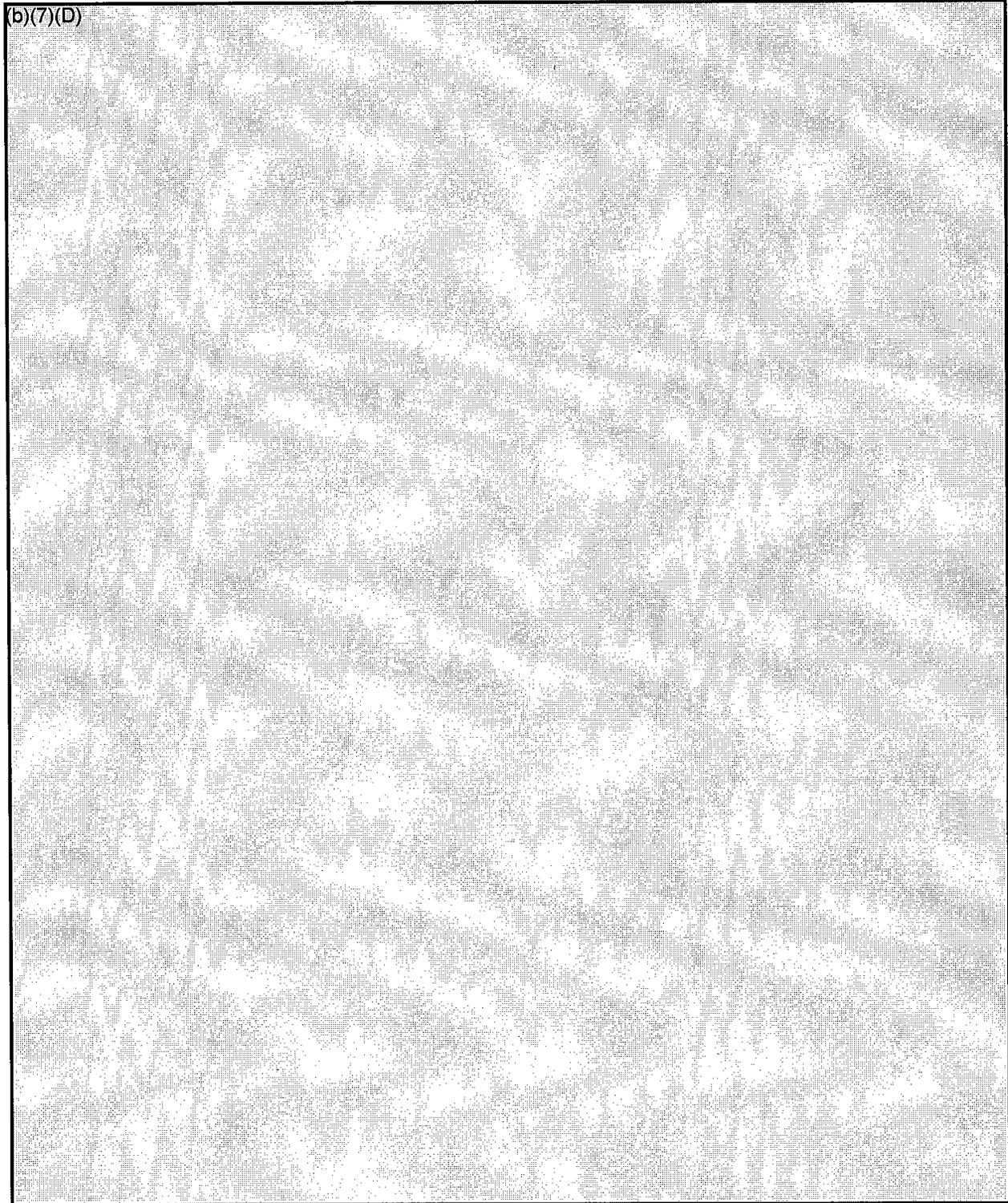
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10. After being advised of rights, on 29 October 2004, (b)(7)(D) testified to DAIG:

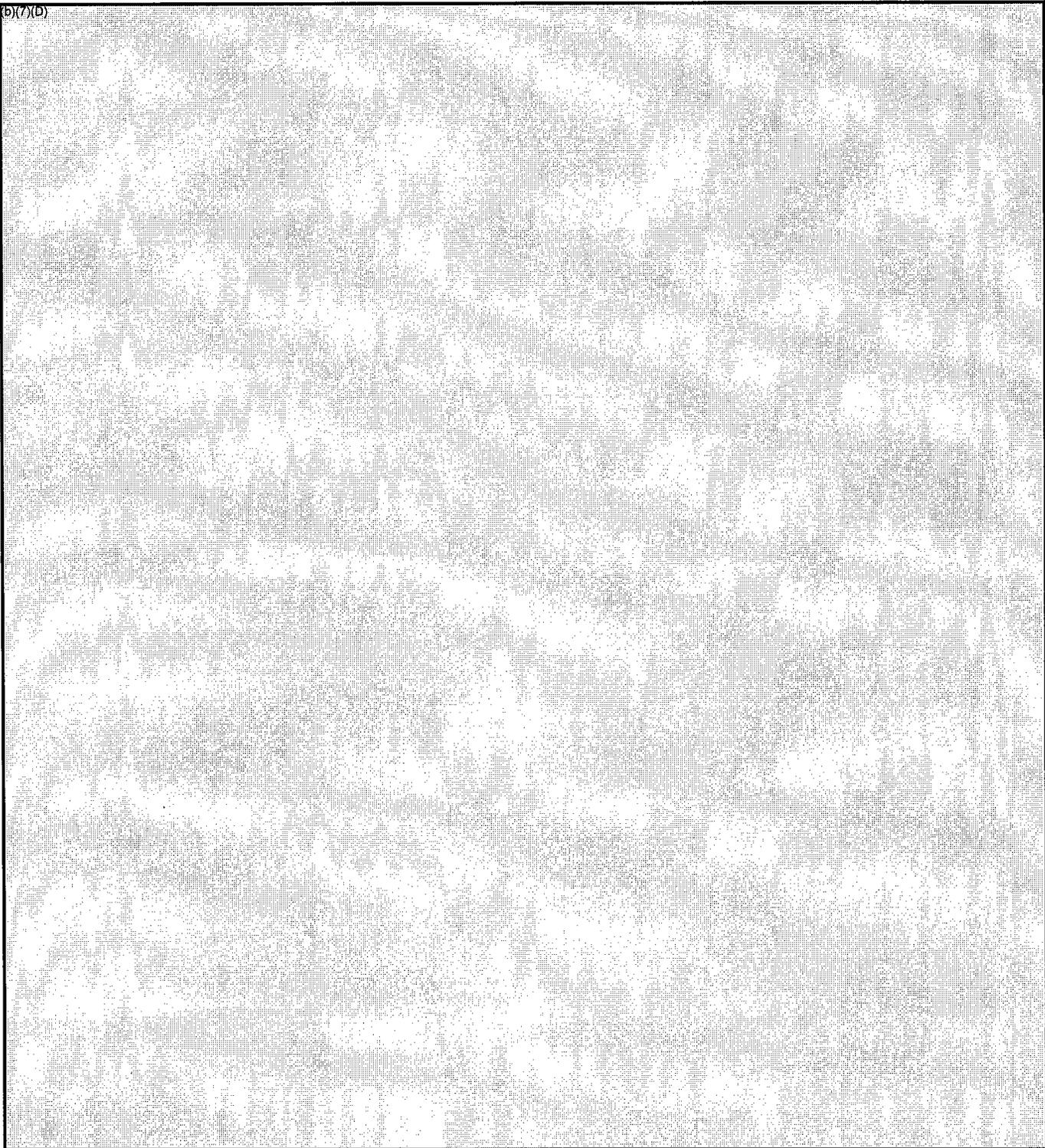


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SAIG-IN (20-1b) ANNEX 3 (TESTIMONY) to DIG 04-80044 (UPDATE)

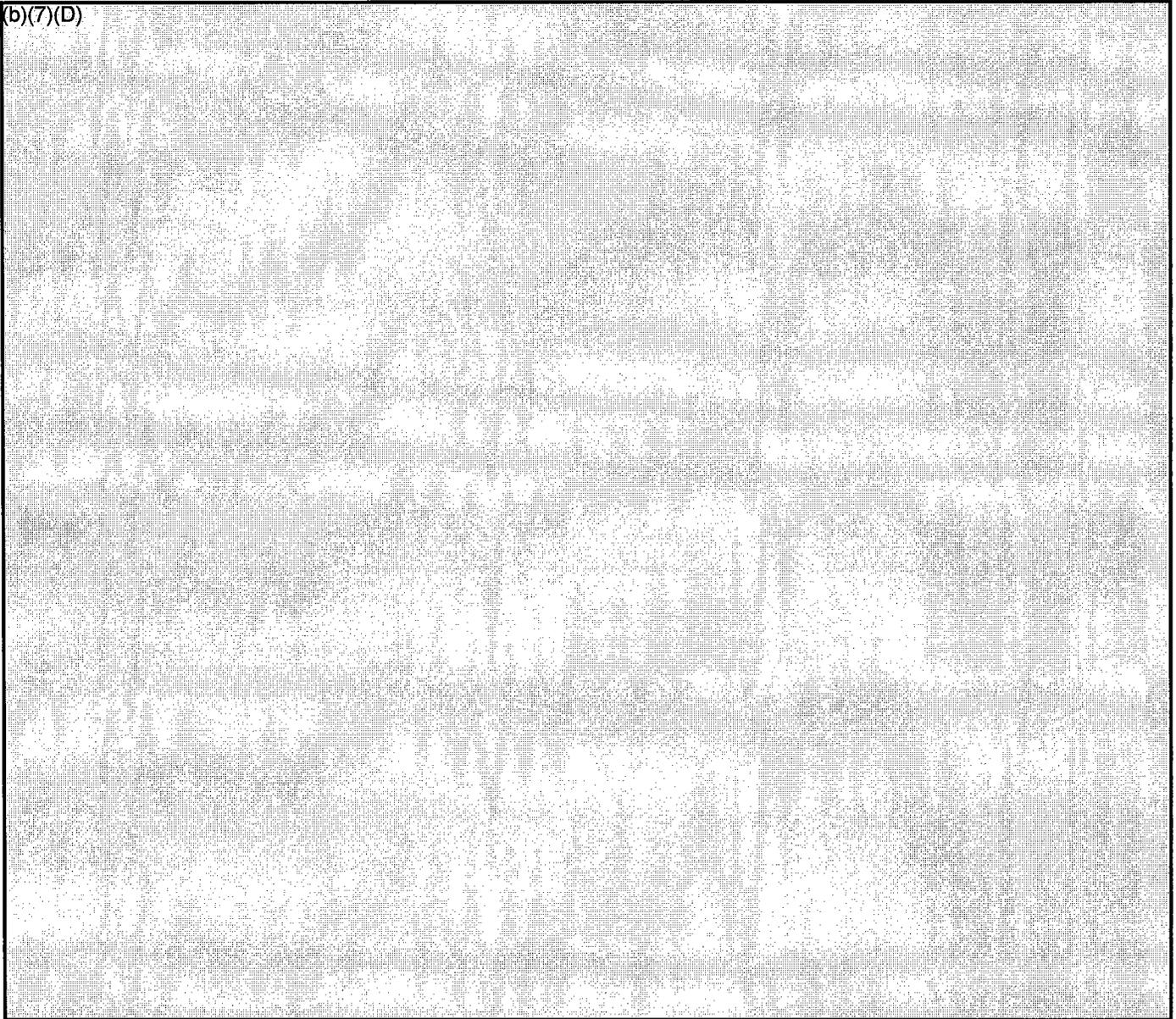
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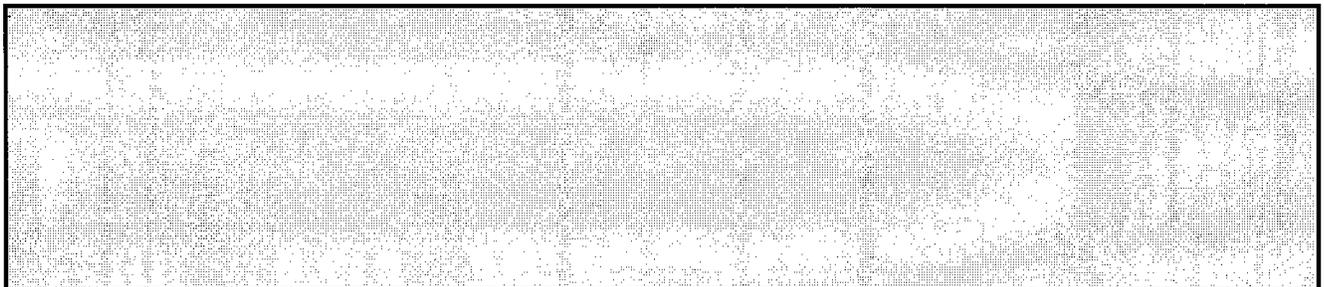
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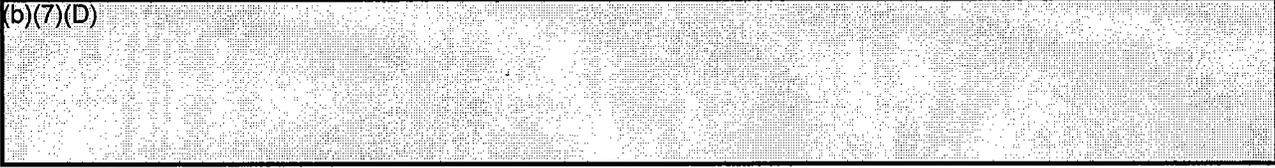
(b)(7)(D)



11. After being advised of his rights, on 9 November 2004, (b)(7)(D) testified to DAIG:



(b)(7)(D)



12. On 24 November 2004, GEN Kern testified to DAIG:

a. The assumptions that went into the planning of Phase IV for SASO turned out to be wrong. There may have been an expectation that it would be like Desert Storm when Phase III was complete. In fact, CJTF-7 was in an insurgency operation which increased in intensity during a period in which troops were being sent home. If LTG Sanchez had been put through a BCTP, the mission and tasks would have been reviewed in detail, rather than taking a Division CDR, throwing him into a Corps CDR HQs, taking away half his staff, and telling him he now had a mission as a CJTF. (p. 4, 13)

b. The CJTF-7 was established without a manning document. MPs were sent home, and the plan did not prepare for the detention of large numbers of detainees. Initially, CJTF-7 was not prepared for intelligence collection operations to determine the leadership and targets of the insurgency. LTG Sanchez performed these tasks as events unfolded, rather than based on the orders he was originally given. (p. 14)

c. While the Kern Report criticized LTG Sanchez and MG Wojdakowski for not doing a rigorous task analysis of the mission, they were not given the time or resources to do it, either. While they were faulted for being the CG and DCG, it was much more the environment we "threw them in." In the end, they were accountable for their command. (p. 4)

d. Regarding what MG Wojdakowski should have done differently for providing oversight, he should have gone back to LTG Sanchez for a restated mission and a re-look of their tasks. Out of that analysis may have come a new command structure where the MP BDE and MI BDE fell under the same command with a single person in charge. Instead, there was a staff running the MI operations, and a CDR running detention operations, and they were not integrated. This was a failure of doctrine and training. (pp. 5-6)

e. There were no orders assigning intelligence operations to a CDR at AGP. CJTF-7 created the JIDC, a staff function that reported up through staffs. The MI BDE CDR was never assigned the task of conducting intelligence operations in terms of interrogation. It was assigned to a JIDC which never really grasped the mission. In his view, the JIDC should have been assigned to an MI BN CDR. The JIDC was an emerging doctrinal organization. COL Pappas felt ownership for all the intelligence interrogation operations, but there were no orders specifically stating such. (pp. 6-8)

SAIG-IN (20-1b) ANNEX 3 (TESTIMONY) to DIG 04-80044 (UPDATE)

f. The C-2 was asked to come in mid-stream and set up the intelligence operation, and this was done with the best of intentions and the best capabilities that could be brought to bear. Where the JIDC came up short was no one established a chain of command for it. (p. 11)

g. There were two things that happened to LTG Sanchez and MG Wojdakowski that were unfortunate. First, they were overwhelmed with things to do and under-resourced to do them. They were trying to divide their attention between supporting the reconstruction of Iraq and conducting military operations. There was not enough time in the day or people to do both. Secondly, time should have been taken to do a thorough mission analysis and perform some mission rehearsals. That did not happen. LTG Sanchez was pushed into command of a CJTF without giving him the preparation given to every other Corps CDR. This mission was far more complex than a Corps command because coalition forces were being brought in. While people were critical of the CG, DCG, and their staff, they were overwhelmed with things to do. (pp. 5-16)

h. LTG Sanchez was paying attention to AGP. He was telling people to treat detainees humanely and abide by the GCs. He worked to improve the security of AGP. (p. 17)

i. There was no evidence that MG Wojdakowski saw the ICRC Working Paper. In his (GEN Kern's) view, however, BG Karpinski had a duty to report the findings in the ICRC Working Paper to LTG Sanchez. She was responsible for detention operations. (p. 19)

j. A lot of the discussion around the matter of the TACON relationship of the 800th MP BDE to CJTF-7 was "smoke." It did not matter what the command relationship was with higher, if things were not going right, CDRs needed to take the issue to the next level of their command regardless of the relationship. This was a command responsibility held by every CDR. The discussion about TACON vs. OPCON was not pertinent to command responsibility. (pp. 20-21)

k. LTG Sanchez and MG Wojdakowski would have responded to BG Karpinski if she came to them for help with resourcing, even though technically her support came from the 377th TSC. She took no opportunity to move people from other detention facilities to AGP. It was a failure on her part to not do everything within her power to reallocate her resources before going to LTG Sanchez for help. If necessary, she could have brought LTG McKiernan in with her to talk to LTG Sanchez. There was no evidence that BG Karpinski went back to the 377th TSC and asked for more personnel resources. (pp. 21-22)

l. MG Wojdakowski had more experience than BG Karpinski, and should have either changed the command relationship or gone directly to CFLCC to fix the problems

SAIG-IN (20-1b) ANNEX 3 (TESTIMONY) to DIG 04-80044 (UPDATE)

that were occurring. But the gravity of the problem was never properly reported to him, so he never saw that it was something he needed to "put on the top of the list and go fix." (p. 24)

m. In retrospect, MG Wojdakowski did not do enough to provide oversight of the 800th MP BDE and the 205th MI BDE, but he did not have enough time. He had up to 18 SEP BDEs, which was an overwhelming responsibility. There were also logistics issues and CPA issues. He acted as both the DCG and the CofS. He (GEN Kern) did not know what issues the other BDE CDRs were bringing to him. He may have prevented other things from happening in the other SEP BDEs because he directed energy going towards those. There was also the Polish multi-national division with which to deal. He had far more to do than was achievable by one person in a 24-hour day. It was unclear if he could have done more. The failure was one of him being inadequately resourced to accomplish all the missions he had, and having staffs and CDRs who did not provide him the right feedback. (pp. 25-26)

n. MG Wojdakowski was not derelict in his duty. He was so over-tasked that he (GEN Kern) saw no evidence that MG Wojdakowski was willfully derelict. He (GEN Kern) did not know how much more efficiency could have been "squeezed out of that turnip." CJTF-7 was doing the very best they could do given the myriad of missions which over-tasked them at the start. They were trying to prioritize what was important. The system failed, rather than dereliction of any individual. They were working seven days a week, up to 20 hour days, jumping between two HQs. Labeling their actions as dereliction was wrong. (pp. 46-49)

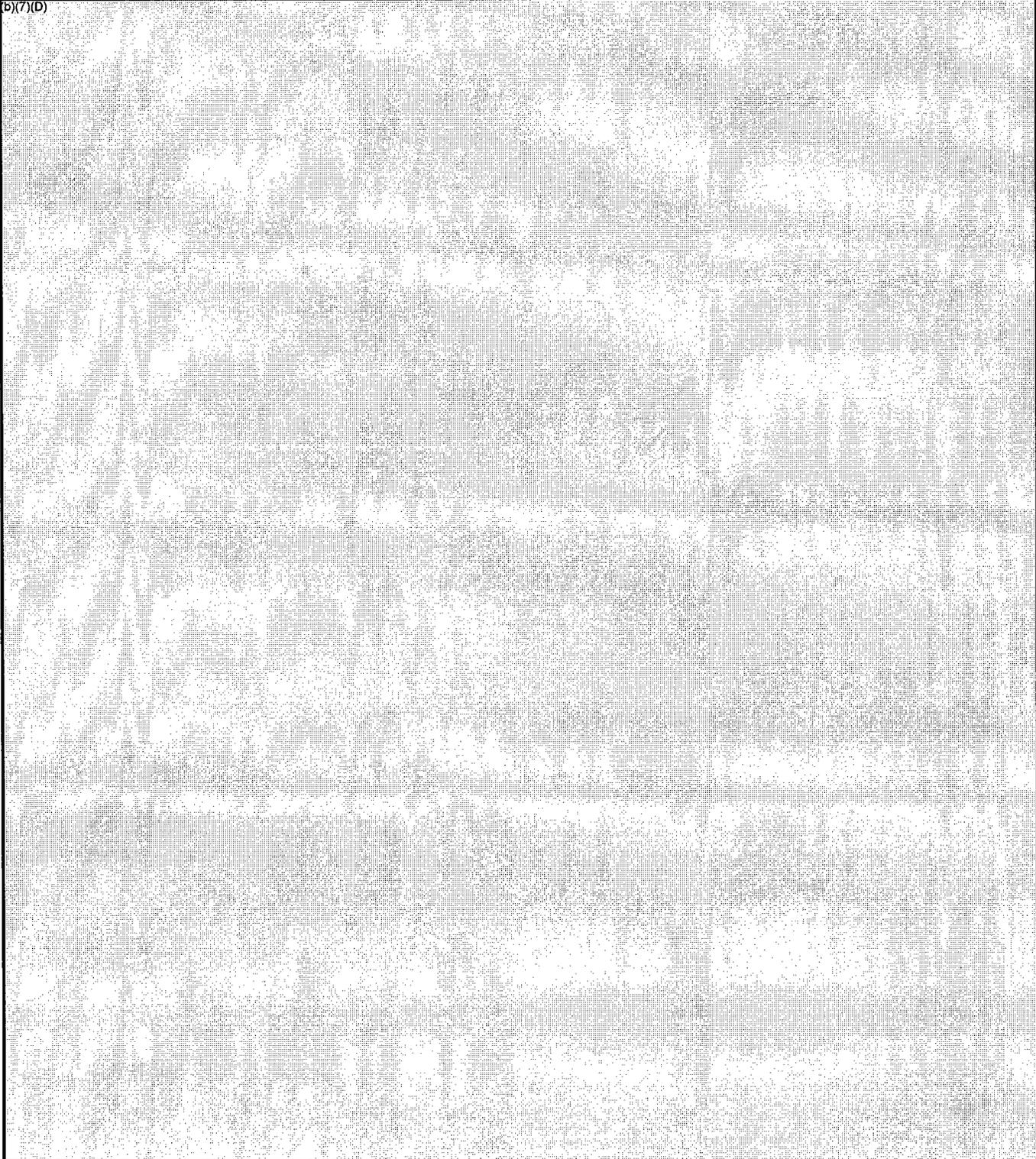
o. "Responsibility" was different than "accountability". CDRs were responsible for everything within their command. CDRs held people in their organizations accountable for their actions. LTG Sanchez' integrity in establishing accountability was very clear, and he held himself personally responsible for what happened. Had he been given the ICRC Working Paper and had a staff that had practiced and functioned together, it might have come to his attention sooner. MG Wojdakowski had more direct responsibility over those BDEs. In retrospect, he should have brought BG Karpinski and COL Pappas in and more clearly defined their relationship. But he was also over-tasked in the number of BDEs he was tasked to supervise. He was not derelict, and held himself accountable for what happened. (pp. 50-51) (EXHIBIT D-12)

13. After being advised of his rights, on 29 October 2004, (b)(7)(D) testified to DAIG:

(b)(7)(D)

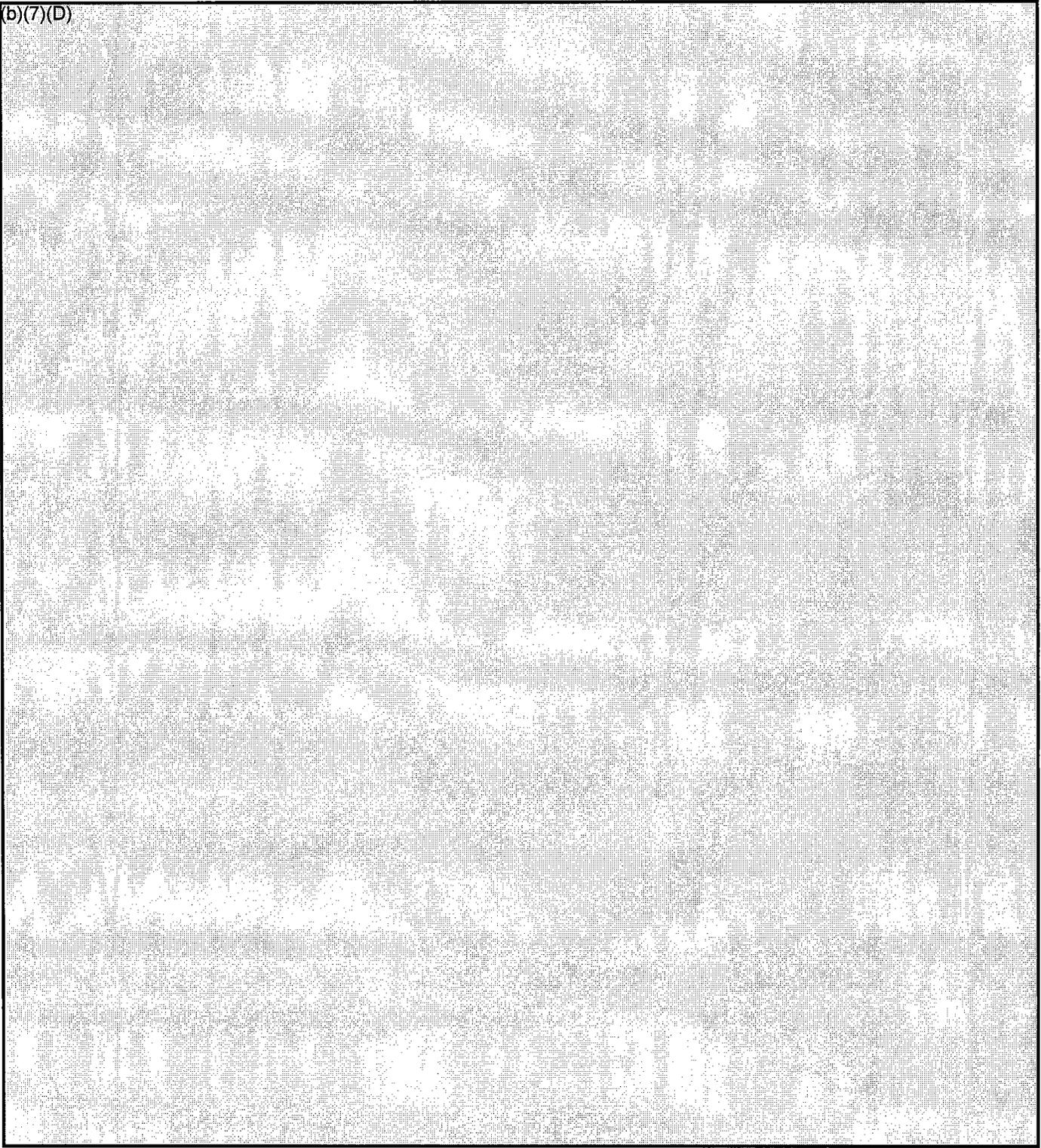
SAIG-IN (20-1b) ANNEX 3 (TESTIMONY) to DIG 04-80044 (UPDATE)

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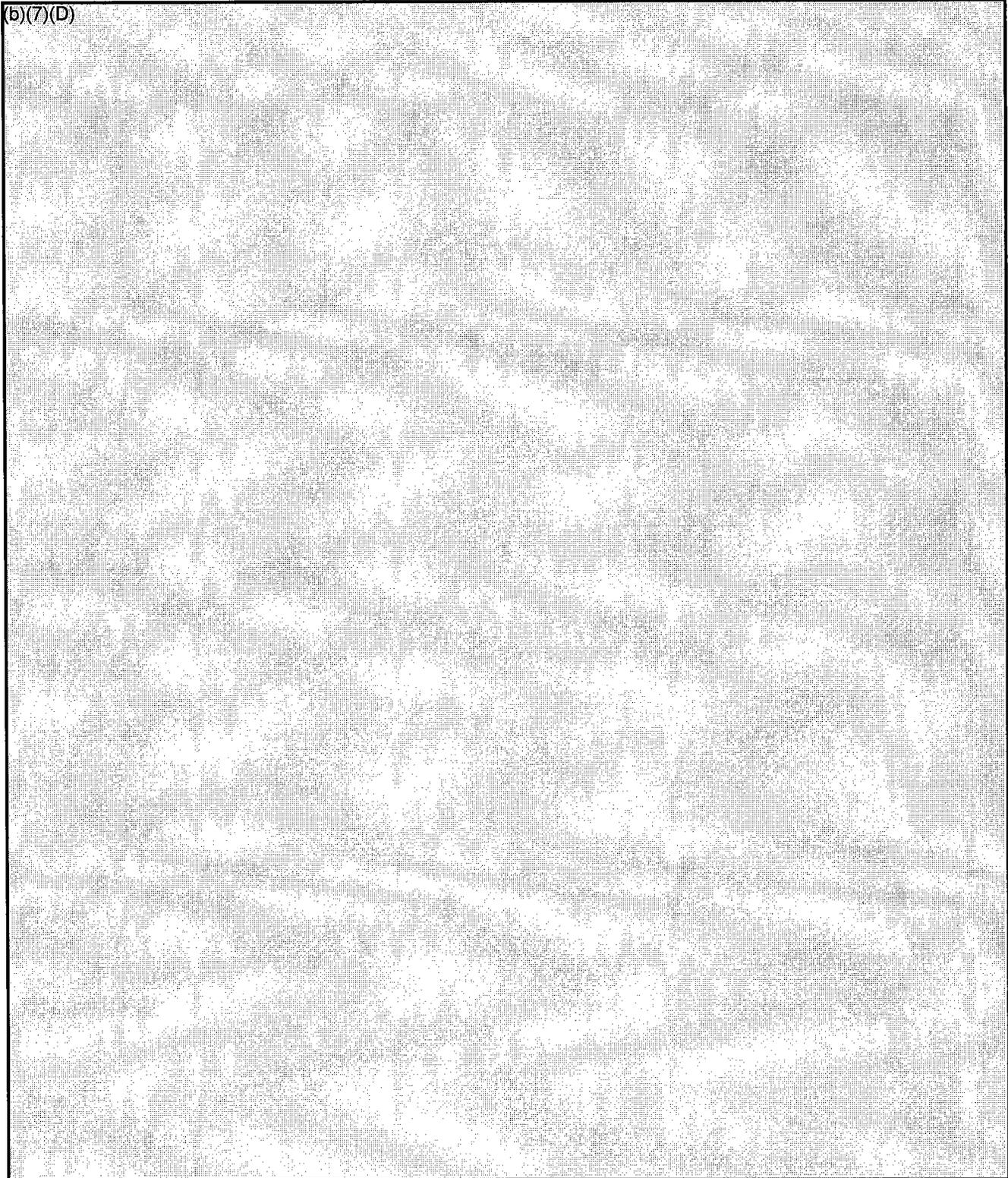
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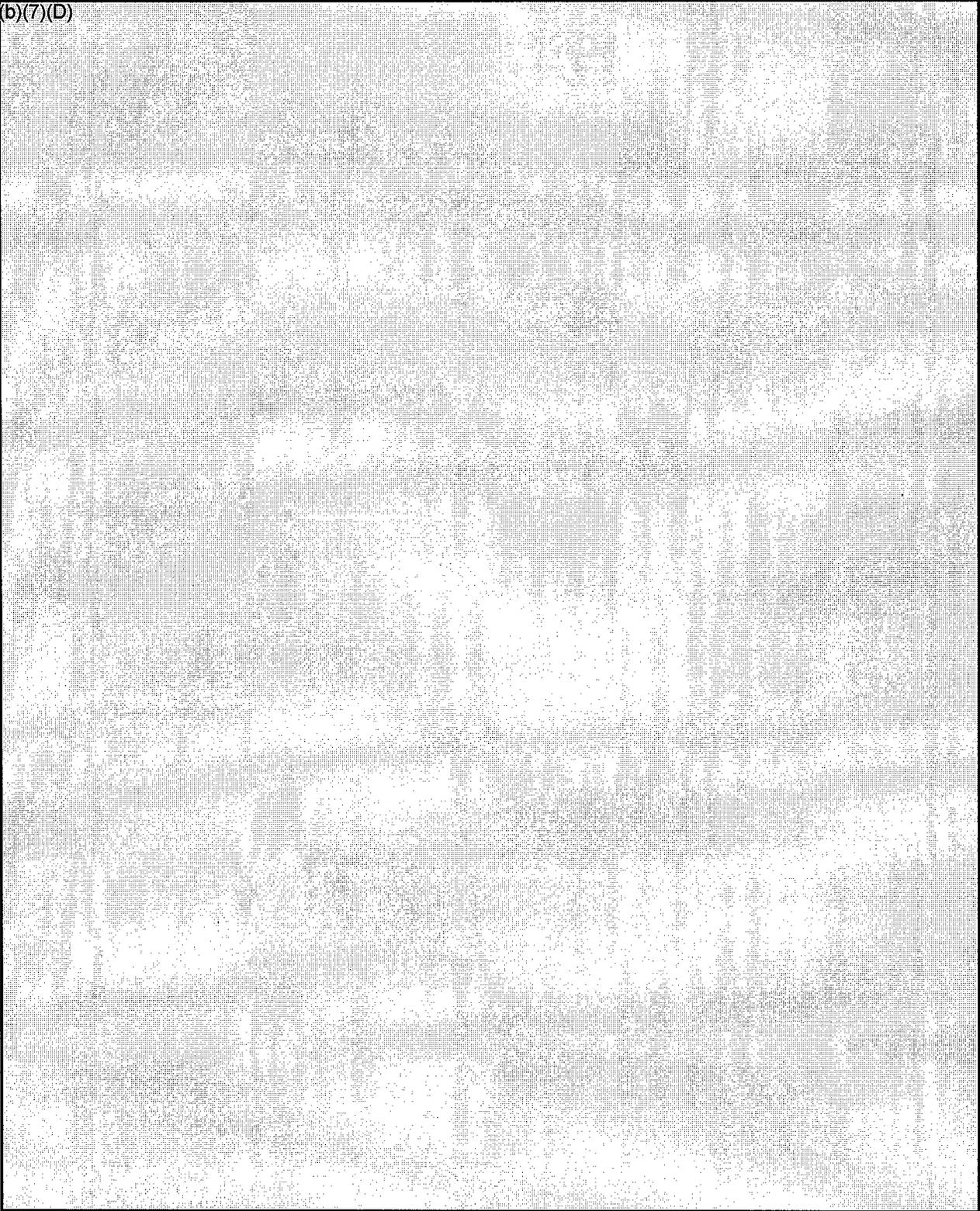
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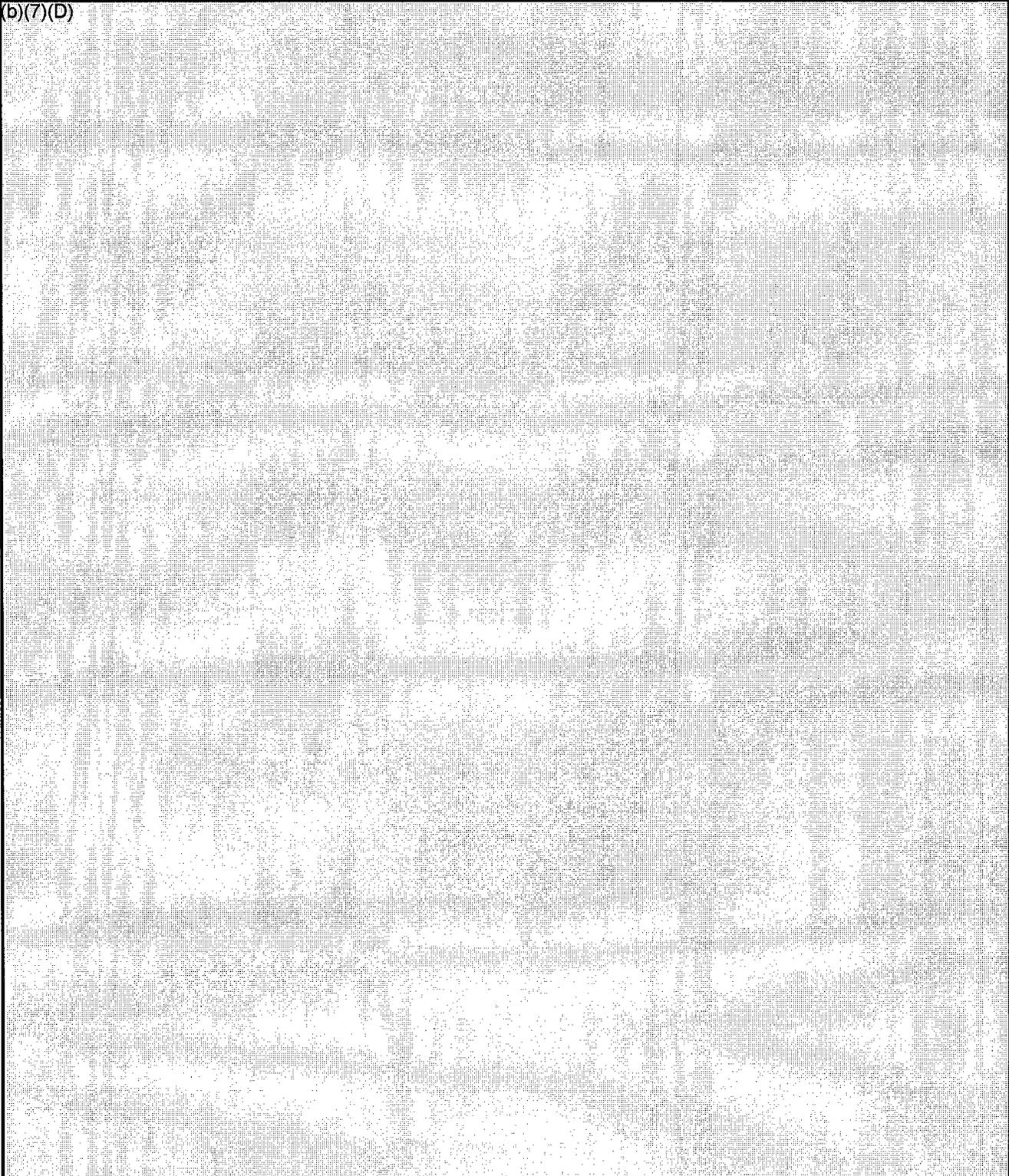
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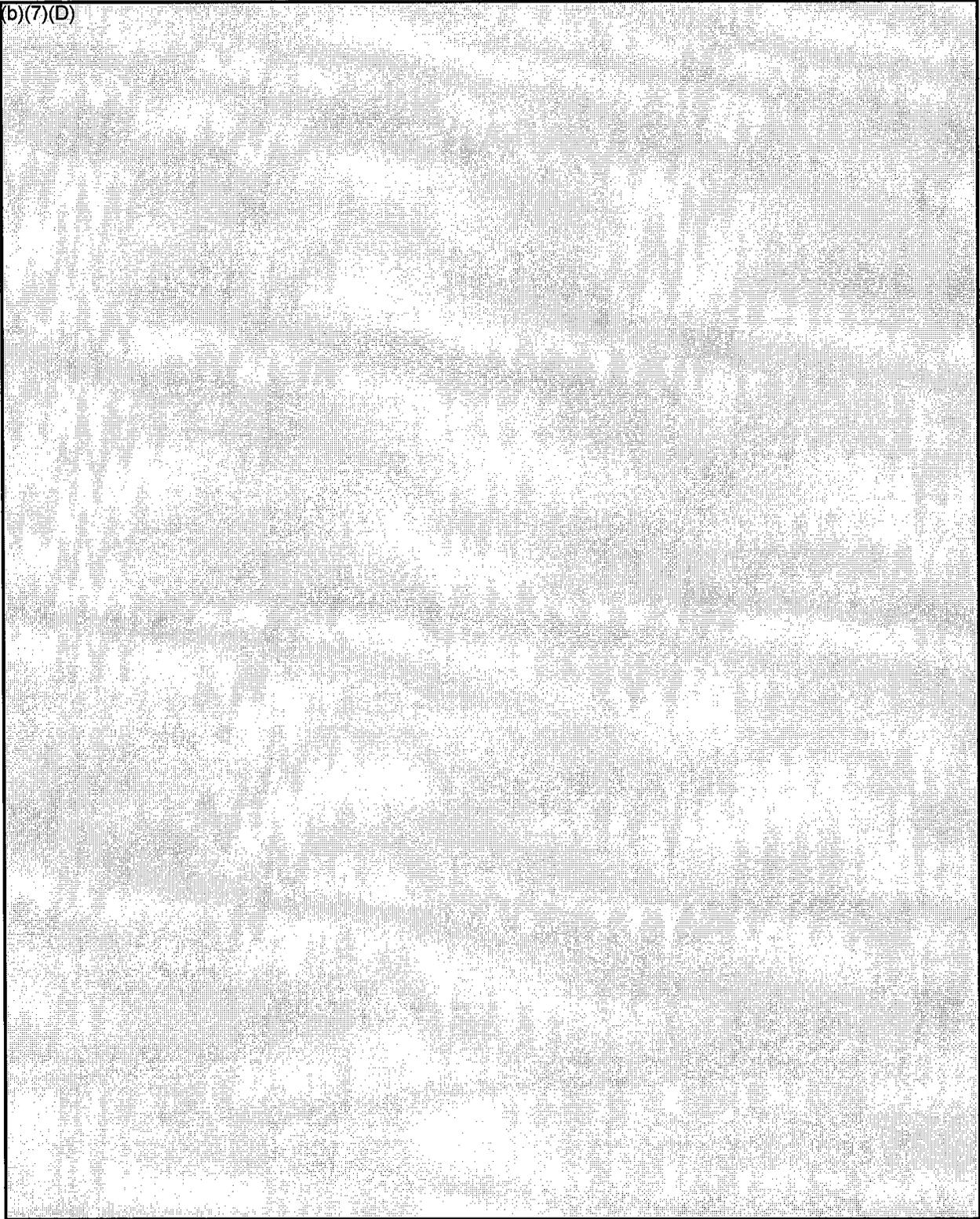
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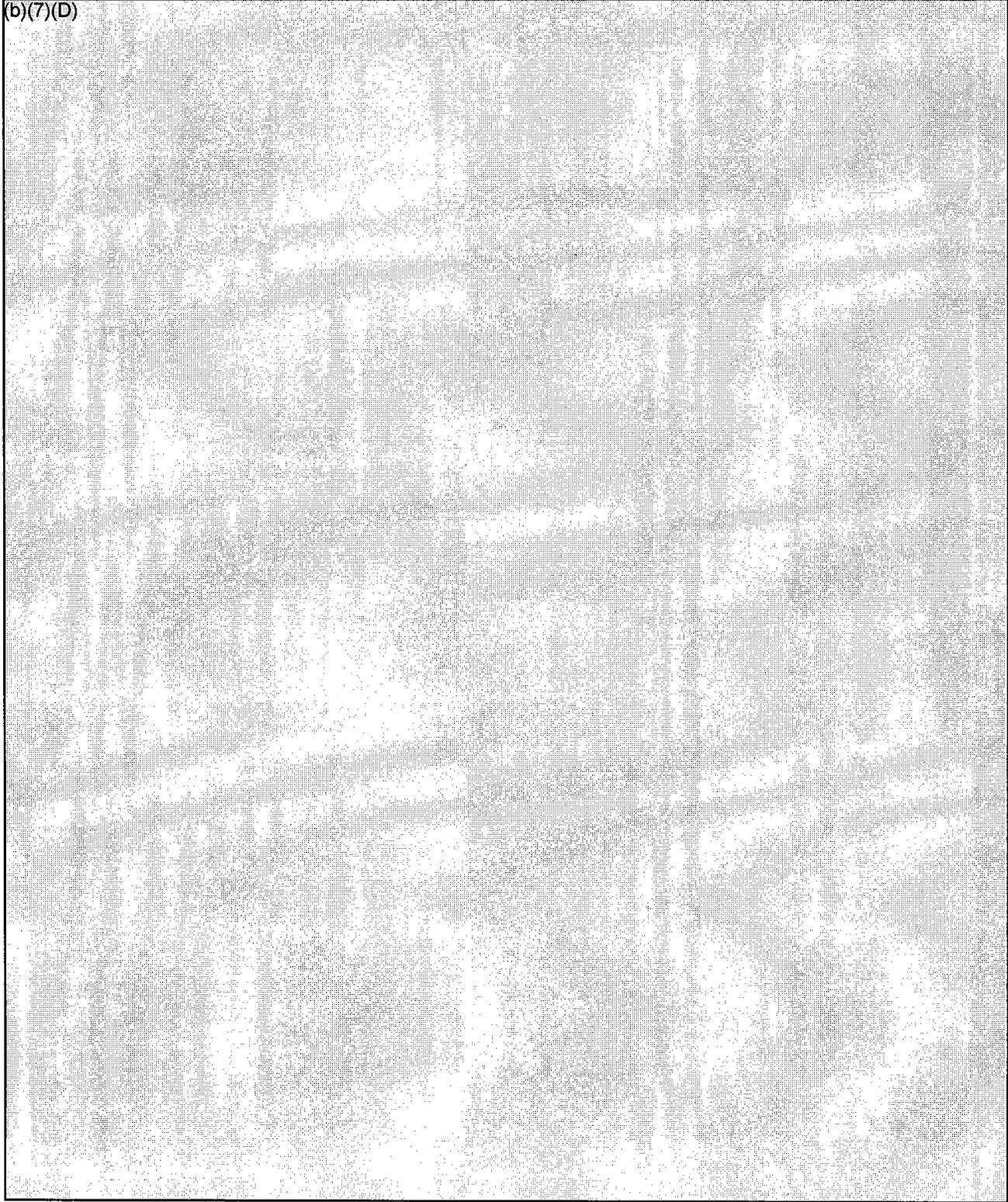
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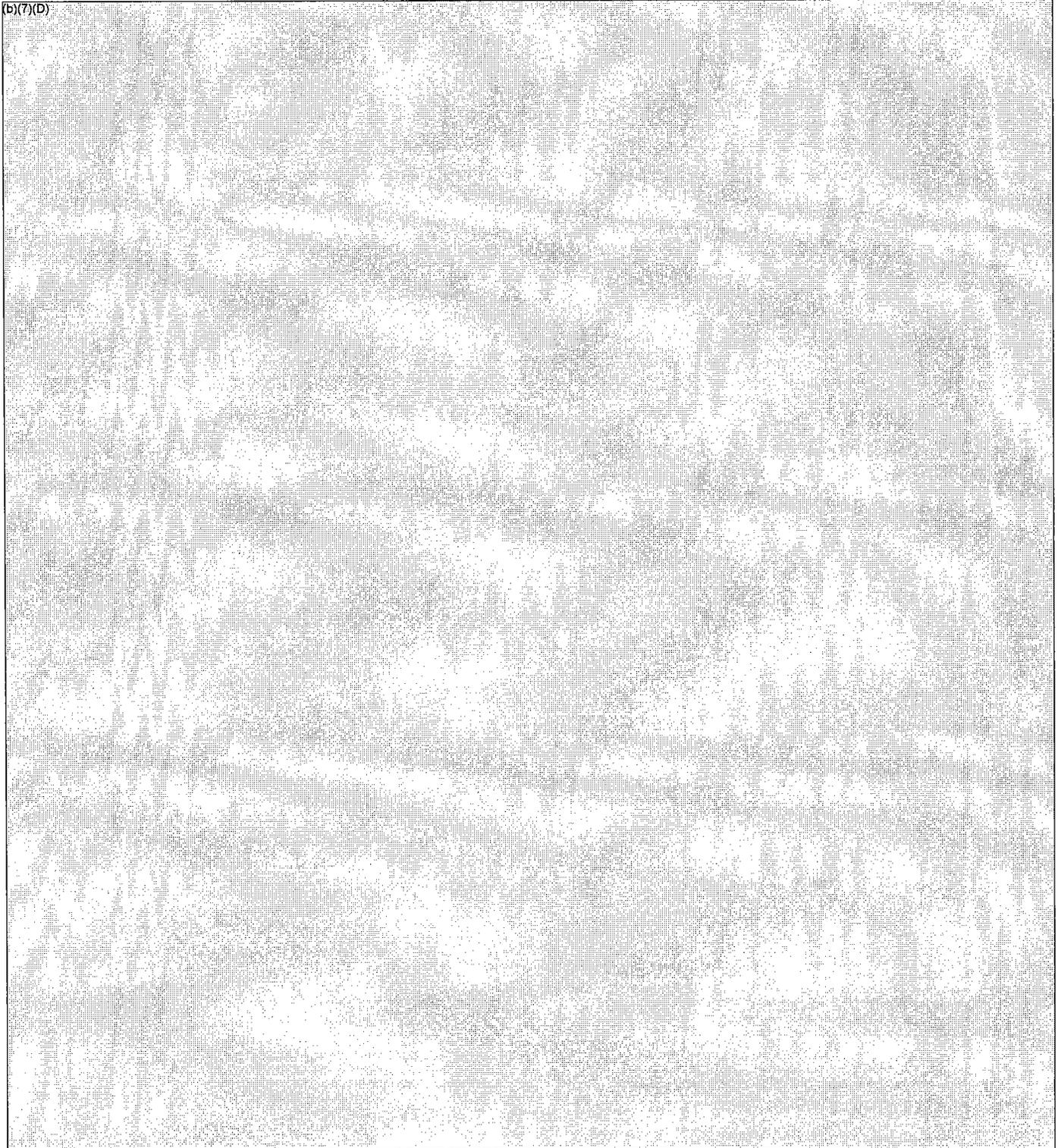
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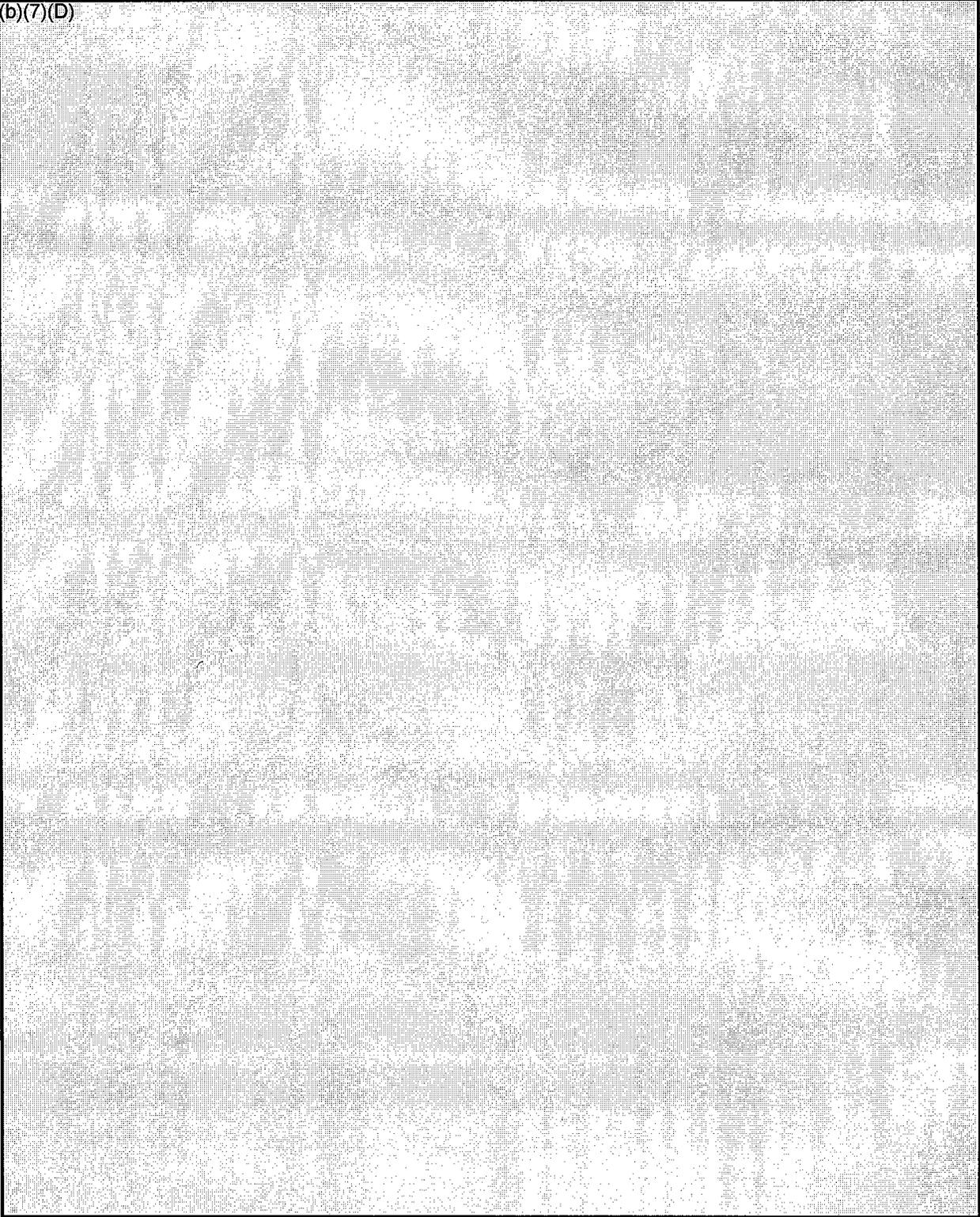
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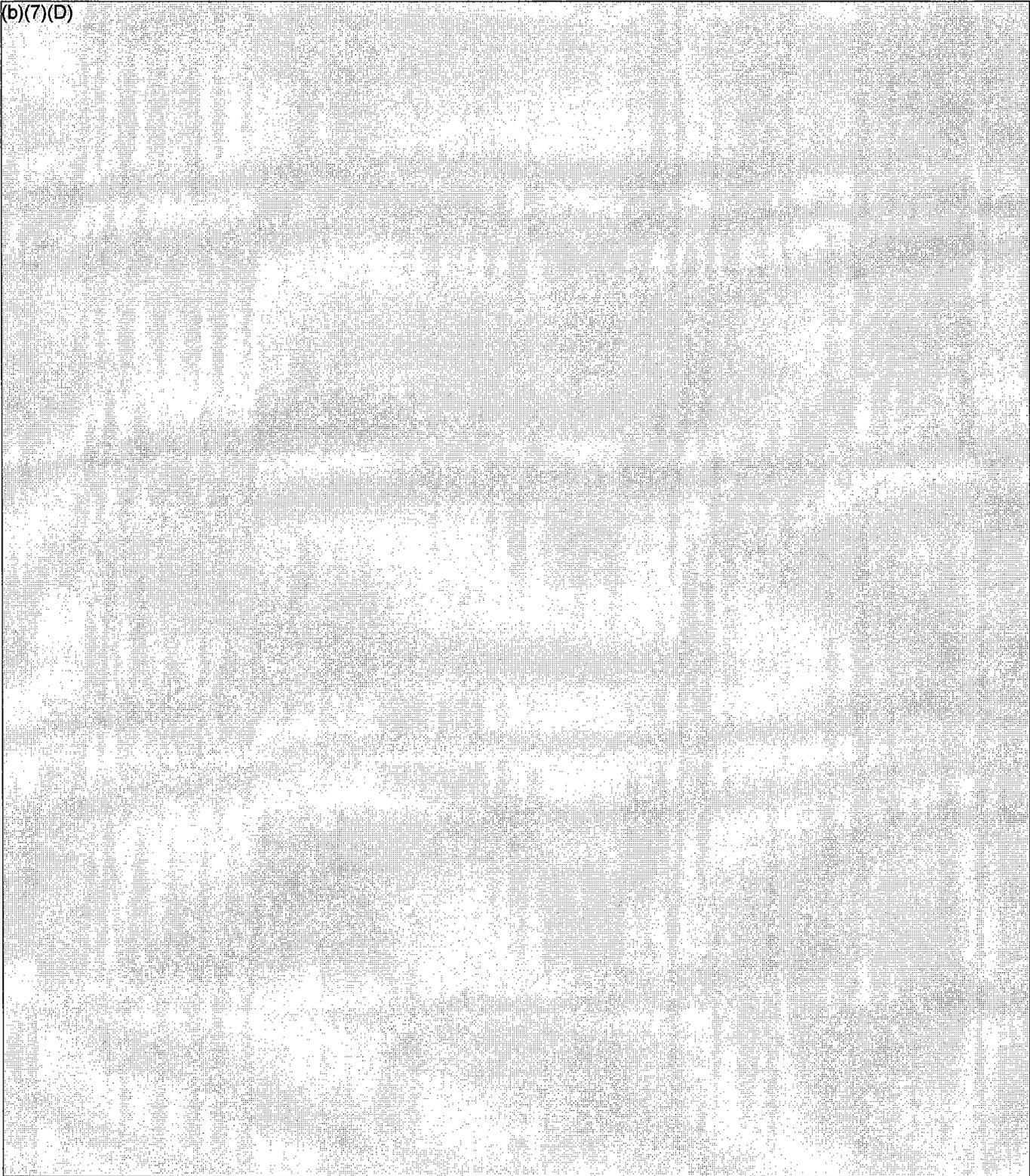
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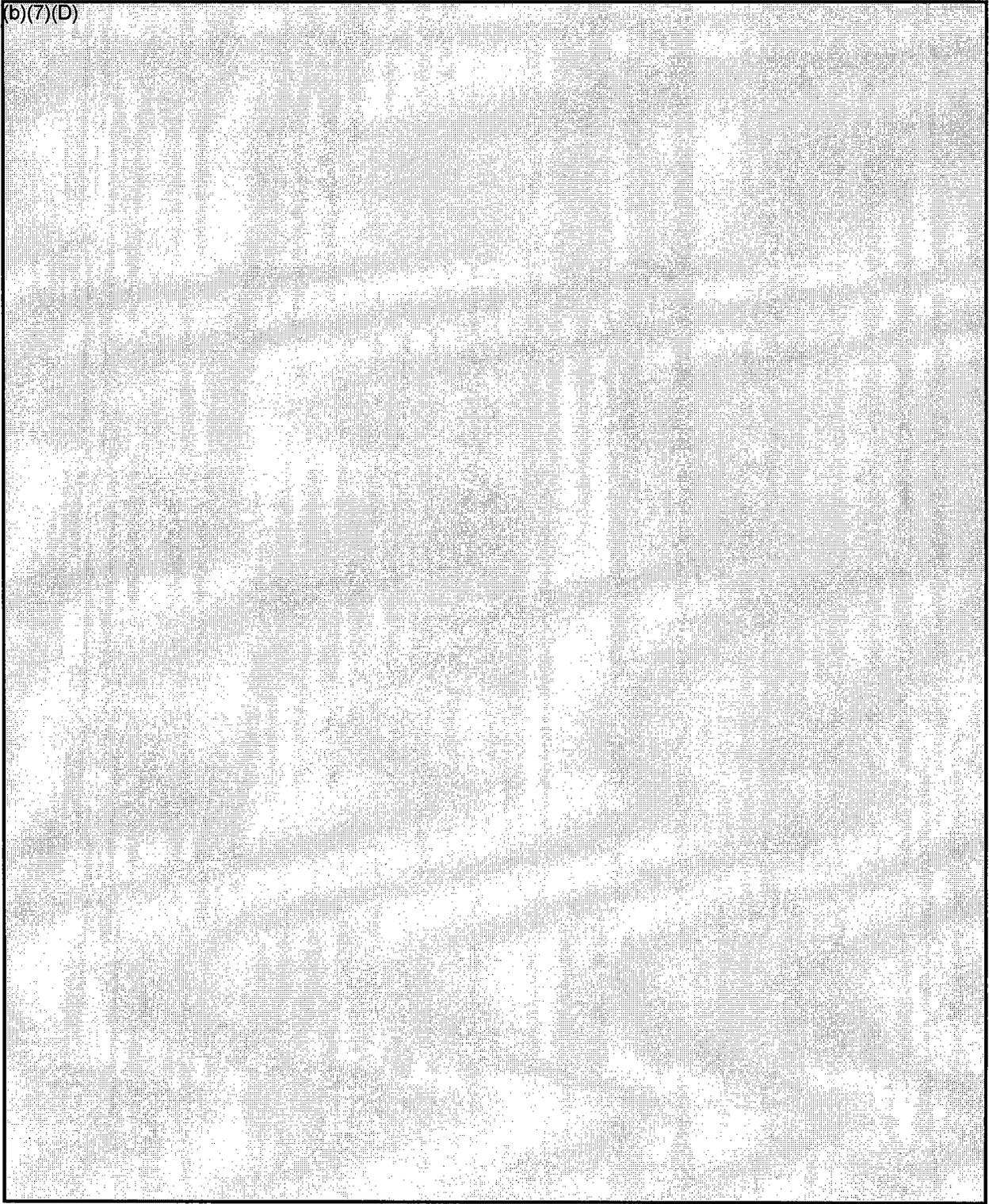


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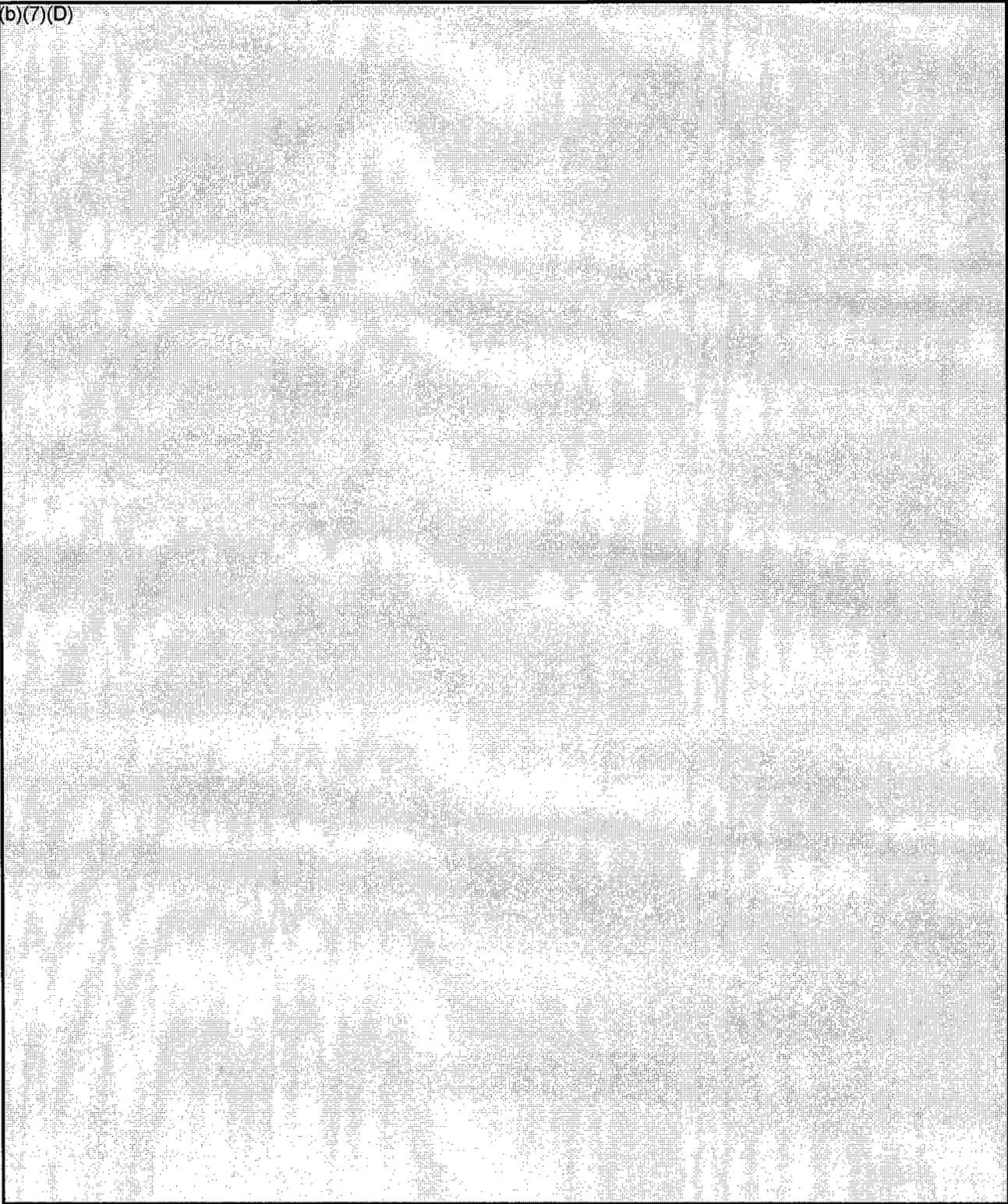


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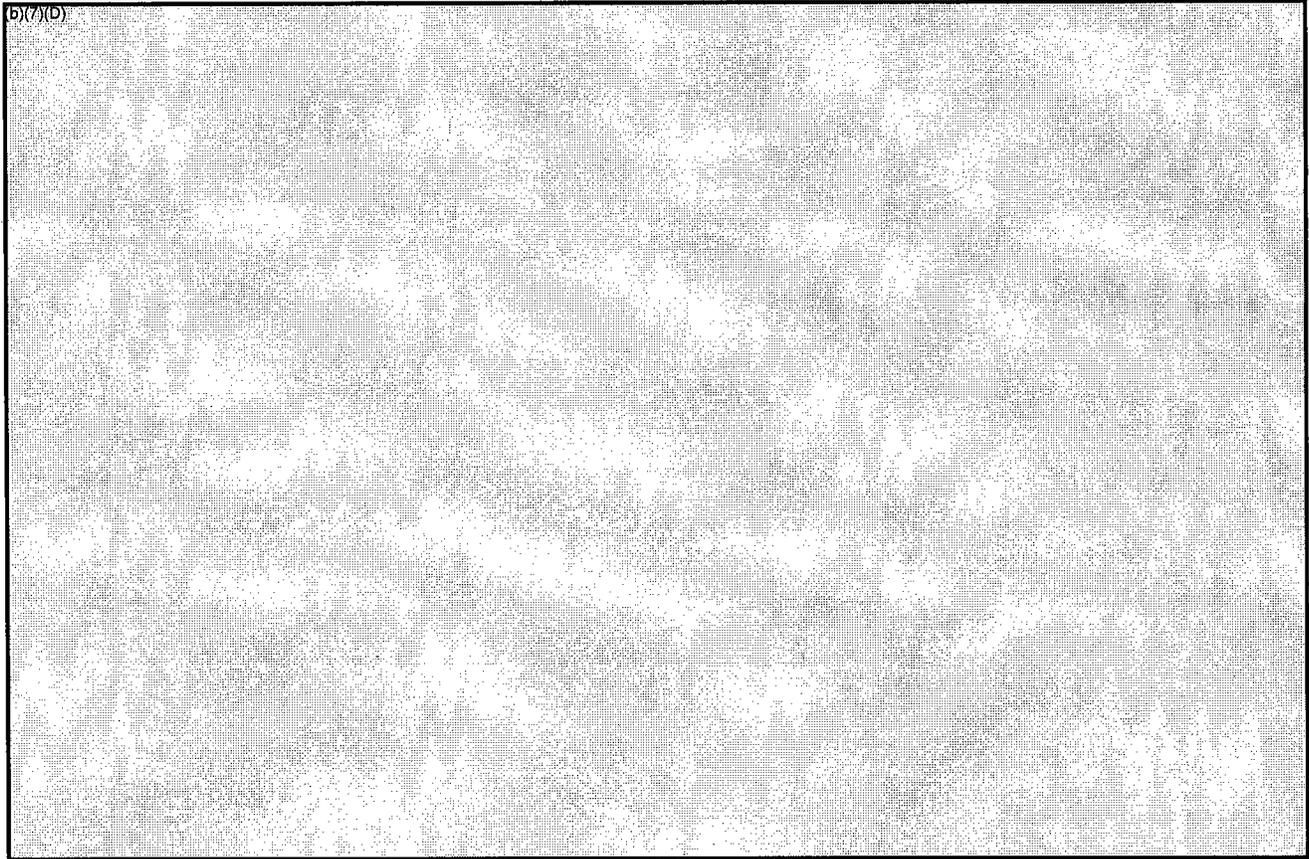
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**TAB 4**

SAIG-IN (20-1b) ANNEX 4 (DISCUSSION) to DIG 04-80044 (UPDATE)

1. Article 92 of the UCMJ stated dereliction in the performance of one's duties consisted of three elements: a person had certain duties; the person knew or reasonably should have known of those duties; and the person was derelict in the performance of those duties through willfulness, negligence, or culpable inefficiency. Actual knowledge of the duties could be shown by regulation, customs of the service, or testimony of persons who held similar or superior positions. Willfully meant intentionally. Negligently meant an act or omission which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse.

2. Did MG Wojdakowski have a duty with respect to detention and interrogation operations? **Yes.**

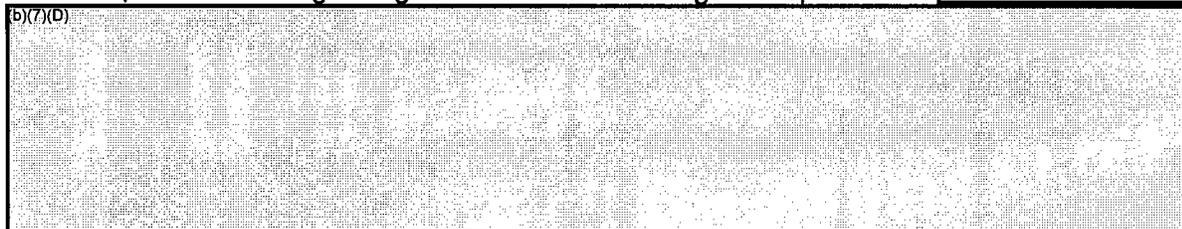
a. AR 600-100 stated GOs were responsible for creating policies, structures and programs and for ensuring that procedures developed at lower levels further supported Army policy and values. As such, MG Wojdakowski had a duty to provide a structure for oversight of the staff sections and commands that fell under him, and as a GO, he executed those responsibilities at the strategic level of leadership.

b. As the DCG, CJTF-7, MG Wojdakowski supervised as many as 15 SEP BDEs that were assigned, OPCON, or TACON to CJTF-7. These BDEs included the 205th MI BDE, which had command responsibility for interrogation operations, and the 800th MP BDE, which had command responsibility for detention operations. MG Wojdakowski also resourced the detention and interrogation missions, both in terms of equipment, personnel, and contracting services. Additionally, MG Wojdakowski was the de facto CofS, CJTF-7, and exercised staff supervision of interrogation and detention operations through the C-2 and C-3, respectively. MG Wojdakowski was the rater for COL Pappas, MG Fast, and MG T. Miller, and as such was responsible for supervising their duty performance. MG Wodjakowski's duties concerning detention and interrogation inherently included a responsibility to respond to identified shortcomings in these areas.

3. Did MG Wojdakowski know or should he have reasonably known of this duty? **Yes.**

a. The evidence established that MG Wojdakowski knew and accepted his duties and responsibilities regarding detention and interrogation operations. (b)(7)(D)

(b)(7)(D)



b)(7)(D)

b. Testimony was consistent among other witnesses as to MG Wojdakowski's duties and responsibilities with respect to detention and interrogation operations.

4. Was MG Wojdakowski derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency? **No.**

**a. With respect to MG Wojdakowski's oversight of detention and interrogation operations:**

(1) Both the Jones and Schlesinger Reports stated that MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations. The Jones Report stated CJTF-7 staff elements reacted inadequately to earlier warnings and indications that problems existed at AGP. The Kern Report stated there was a lack of clear command and control at the CJTF-7 level. The Schlesinger Report stated that commanding officers and their staffs at various levels failed in their duties and such failures contributed directly or indirectly to detainee abuse. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations.

(2) The evidence indicated that that MG Wojdakowski established regular procedures by which he provided oversight of the SEP BDEs and staff in CJTF-7 with responsibilities for detention and interrogation operations.

(a) Testimony indicated MG Wojdakowski provided frequent guidance and mentoring to the CDRs of both the 205th MI BDE and 800th MP BDE.

b)(7)(D)

b)(7)(D)

(b) MG Wojdakowski provided routine oversight of the SEP BDEs through a variety of mechanisms. He held thrice-weekly TACSAT updates with the SEP BDE

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CDRs, which kept him abreast of the BDEs and provided the CDRs an opportunity to raise issues and receive guidance on a regular basis. Monthly LRRs were held in which the CDRs provided him updates on their materiel readiness, resource, and life support issues. As CDRs planned and executed missions, MG Wojdakowski required that they rehearse and outline their plans to him.

(c) Additionally, MG Wojdakowski provided oversight specifically of detention and interrogation operations by several means. Command responsibility for detention operations was exercised through BG Karpinski, and command responsibility for interrogation operations was exercised through COL Pappas. Similarly, staff responsibility for detention and interrogation operations was exercised through the C-2 and C-3, respectively. MG Wojdakowski held two detention summits in the fall of 2003 that pulled together elements of the CPA, the Iraqi Provisional Government, the CJTF-7 staff (to include the SJA, C-2 and C-3), and representatives from the Divisions, the 205th MI BDE, and the 800th MP BDE. The purpose of the summits was to coordinate and plan for detention and interrogation operations in Iraq, provide guidance, identify resourcing issues, and ensure unity of effort. He visited AGP three times and walked through the facility to observe ongoing construction projects, life support, and force protection efforts, and directed corrective action as necessary. He synchronized the daily staff updates to LTG Sanchez, which included intelligence and operations briefings. While he was not personally involved in the execution of interrogation operations, he provided resources in terms of equipment, supplies, and contracting for the interrogation mission, and received regular updates from MG Fast and COL Pappas regarding intelligence operations. LNOs from the 800th MP BDE were assigned to the PM office that provided a direct line of coordination between the MP BDE and the CJTF-7 staff. The C2X conducted weekly visits to the JIDC that assisted the C-2 in staff oversight of interrogations. Detainee population numbers and MP strength were regularly briefed to MG Wojdakowski so that he could make management decisions regarding detention facilities. Testimony indicated several CJTF-7 FRAGOs were published that addressed detention operations and the treatment of detainees.

(d) The Jones Report stated CJTF-7 staff elements reacted inadequately to earlier warnings and indications that problems existed at AGP, and that warnings, such as the ICRC Working Paper, should have indicated that additional oversight and corrective actions were needed. When asked what additional oversight and corrective action should have been provided by MG Wojdakowski, LTG Jones and GEN Kern provided their opinion that, in the absence of a CofS, there should have been one person in charge of detention and interrogation facilities. However, several witnesses testified that a single POC was considered by LTG Sanchez as early as the fall of 2003, but, through no fault of CJTF-7's, the position did not materialize until MG G. Miller's arrival in March 2004. While LTG Sanchez' establishment of a single GO staff POC responsible for both missions did not occur until January 2004 with the designation of the C-3 as the staff proponent, MG Wojdakowski was actively and appropriately

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involved in providing oversight of detention and interrogation operations until his departure in February 2004.

(3) Furthermore, the evidence established that MG Wojdakowski exercised oversight of detention and interrogation operations IAW Army doctrine and regulation.

(a) FM 101-5 stated that command included the authority and responsibility for effectively using available resources for the employment of military forces for the accomplishment of assigned missions. AR 600-20 stated that CDRs subdivided responsibility and authority and assigned portions of both to subordinate CDRs and staff members. The evidence established that command responsibility for detention and interrogation operations was executed through the CDRs of the 800th MP BDE and 205th MI BDE, respectively. FM 101-5 also stated that CDRs delegated authority to staff members to accomplish their missions. As the de facto CofS, MG Wojdakowski was LTG Sanchez' principal assistant with executive management authority for directing and supervising the CJTF-7 staff at Camp Victory. IAW Army doctrine, the C-2 was the principal staff officer responsible for MI operations; and the C-3, through the PM, was responsible for detention operations. The evidence established that staff oversight of detention and interrogation operations was appropriately executed through the C-3 and C-2.

(b) It was GEN Kern's opinion that MG Wojdakowski should have gone back to LTG Sanchez for a restated mission for CJTF-7, which may have identified a need for a new structure in which the MP BDE and MI BDE fell under the same command with a single person in charge. However, doctrine was silent as to who should have overall responsibility for detention operations. There was no joint or Army doctrine that suggested a single staff officer or CDR oversee a combined MI and MP operation. While the requirement for a GO in charge of both operations may have been desirable in hindsight, this approach was not doctrinal; CJTF-7 did not have the resources to create an additional GO position; and the JMD process could not support such a position in a timely manner. As such, the initial lack of such a position was not indicative of an impropriety on the part of MG Wojdakowski.

(c) LTG Sanchez designated the C-3 as the single POC on the staff overall responsible for all aspects of detention operations in January 2004. Shortly thereafter, CJTF-7 sent a request for detention operations specialists and a detention operations command cell to CENTCOM. By April 2004, MG G. Miller arrived and became the DCG solely responsible for detention and interrogation operations, with no additional assigned duties. By contrast, the evidence established that MG Wojdakowski had a myriad of duties in addition to oversight of detention and interrogation operations. While LTG Sanchez was focused on supporting and enabling the CPA mission, MG Wojdakowski was focused on the coalition's counter-insurgency fight. He was also the de facto CofS. Additionally, he was engaged with establishing the LOGCAP for the

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ITO and moving CJTF-7 out of an "expeditionary" logistics posture. He was involved with all the security associated with the ITO and the borders, and for battle space management on the ground, ports, ocean-going vessels, LOCs, and the entire air space over Iraq and in the surrounding area. From June 2003 to January 2004, MG Wojdakowski individually exercised a scope of responsibility that was eventually held by three GOs: DCG, CJTF-7; CofS; and DCG, Detainee Operations. His ability to provide oversight of detention and interrogation operations was likely affected by this extremely broad scope of responsibility; however, the oversight he did provide was appropriate and doctrinal.

(4) AR 600-100 stated that strategic leaders established structure, allocated resources, and articulated strategic vision. As a two-star DCG of a combined joint task force, MG Wojdakowski properly exercised his responsibilities at the strategic level of leadership.

(a) MG Wojdakowski focused on fighting the coalition's counter-insurgency fight, resourcing CJTF-7's operations, and providing strategic-level oversight of detention and interrogation operations. He supervised subordinates at the COL through MG ranks. AR 600-100 further stated that the senior level of leadership included leaders at the BDE through corps level, and the core responsibility of senior level leaders was the need to develop, motivate, and coach subordinate leaders. MG Wojdakowski expected COL Pappas and BG Karpinski, as senior leaders, to exercise aggressive and appropriate supervision of their units at AGP through their subordinate staffs and CDRs who, in turn, were required to execute their supervisory responsibilities at the direct level of leadership. As such, MG Wojdakowski, as a strategic leader, was not responsible for the direct supervision of Soldiers operating at AGP.

(b) Direct supervision of the MP Soldiers at AGP was the responsibility of the MP BN CDR, LTC Phillabaum, and his subordinate leaders. Direct supervision of the MI Soldiers at AGP was the responsibility of LTC Jordan and subordinate MI leaders in the JIDC. AR 600-100 stated that leaders at the direct level affected values and behavior by establishing day-to-day procedures, practices, and working norms, by their personal example, and by building discipline. The evidence established that the abuses at AGP, most of which were clearly criminal acts, were committed by morally corrupt and unsupervised Soldiers and civilians whose actions went undetected for weeks, and were the result of supervisory failures below the strategic level of leadership. The abuses were not attributable to a lack of oversight by MG Wojdakowski.

(5) The evidence established that MG Wojdakowski's ability to provide more oversight was hampered by the staff's lack of preparation and training as a CJTF; the low manning level of the CJTF-7 staff, to include an initial lack of GO staff officers; CJTF-7's significant support to the CPA; and the demands of the growing insurgency. Both testimony and reports revealed that CJTF-7 was never fully resourced in terms of

personnel, both in numbers and grade-level. The CJTF-7 staff did not undergo a BCTP normally afforded to new corps-level staffs prior to assuming the CJTF mission. The JMD reached no more than a 60% fill, and much of the available staff's effort was directed towards support of the CPA. A portion of the staff, to include the CofS, moved from the Main HQs CP to co-locate with the CPA. CJTF-7's challenges were exacerbated by the slow fill and short personnel rotations at the CPA. As a result, a significant portion of the already under-strength staff was devoted to assisting the CPA with the reconstruction of Iraq's infrastructure and internal security forces.

(6) In conclusion, the preponderance of the evidence indicated that MG Wojdakowski provided proper oversight of detention and interrogation operations IAW Army doctrine and regulation, in a manner that could reasonably be expected given the broad range of his responsibilities. In spite of multiple responsibilities and despite significant resource challenges, numerous witnesses testified to efforts made by MG Wojdakowski to inform, mentor, direct, resource and supervise his subordinates through a variety of mechanisms. The evidence also established that MG Wojdakowski held his staff and subordinate CDRs accountable for their responsibilities, and expected them to fully employ their own leadership and internal resources prior to asking for additional resources in a constrained environment. Finally, the evidence established that, while a single GO for detention and interrogation operations was desirable, MG Wojdakowski provided appropriate strategic level oversight of detention and interrogation operations IAW Army doctrine and regulation.

**b. With respect to resourcing and providing corrective action of detention and interrogation operations:**

(1) The Jones report stated the TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff and lower priority for resources needed for detention operations. The Schlesinger report stated that MG Wojdakowski failed to initiate action to request additional MPs for detention operations after it became clear that there were insufficient assets in Iraq; MG Wojdakowski and the staff should have seen that urgent demands were placed to higher HQs for additional assets; and that CJTF-7's failure to request additional forces was an avoidable error.

(2) The evidence established that MG Wojdakowski and CJTF-7 provided significant resources and took corrective action, within their capability and authority, to improve security and living conditions at AGP.

(a) CJTF-7 operated in an austere environment from May-December 2003. Sustaining the force was difficult and dangerous, as all supplies were brought in from outside Iraq and convoys were routinely attacked. In addition, much of Iraq's infrastructure, such as water treatments plants, electrical plants, and government

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buildings were severely damaged and looted. As a direct result, Soldiers' and detainees' living conditions were difficult and austere throughout Iraq, to include at AGP.

(b) When AGP was declared an enduring base in October 2003, MG Wojdakowski directed that additional funds and engineering effort be applied towards AGP to improve the facilities, and conditions at AGP slowly improved throughout November-December 2003. Testimony indicated that the 800th MP BDE received support in a manner not dissimilar to that of assigned or OPCON units, and the TACON relationship with CJTF-7 did not materially affect their resourcing by CJTF-7.

(3) The evidence further established that MG Wojdakowski acted appropriately when apprised of personnel shortfalls in the 800th MP BDE.

(a) The RC had no replacement system for individual losses, and the 800th MP BDE, as well as other RC units, was eroded in personnel strength due to losses by illness, injury, or demobilization requirements. The shortages were systemic RC issues, and not due to lack of oversight on the part of CJTF-7. While CJTF-7 recognized these personnel shortages, there was no mechanism to alleviate them. The theater rotation plan was the only means to significantly affect MP unit strength.

(b) Although the Ryder report identified that the 800th MP BDE was under-strength, it also stated that the BDE had a "clear and logical plan" to realign its remaining BN and company sized units to meet its mission requirements. (b)(7)(D)

(b)(7)(D)

(c) Testimony indicated that the bulk of the Army's MP assets were already in Iraq. Additional MP companies were not available, and some replacement companies for the 800th MP BDE would be ILO companies. The most feasible solution for the immediate shortage of MPs was the internal redistribution of the 800th MP BDE's units. The evidence indicated that upon becoming aware of BG Karpinski's personnel concerns and the lack of theater replacements, multiple leaders, to include MG Wojdakowski, attempted to influence BG Karpinski to make internal unit redistribution of her own resources between detention facilities. (b)(7)(D)

(b)(7)(D)

pressure. His actions were appropriate in light of the limited resources available.

(4) The evidence indicated that when force protection issues concerning AGP arose, MG Wojdakowski took appropriate action.

(a) (b)(7)(D)

(b)(7)(D)

(b) Although the Taguba Report indicated that FRAGO 1108 exacerbated an already ambiguous relationship between the 800th MP BDE and the 205th MI BDE, COL Pappas indicated that he understood his responsibilities with respect to force protection of the FOB, and that LTC Phillabaum understood that he still had the responsibility to run the detention operation. In fact, by making COL Pappas the FOB CDR, FRAGO 1108 fixed responsibility for force protection at AGP with the senior CDR present at the prison. FRAGO 1108 did not relieve the 800th MP BDE of its detention operations responsibilities, nor did it place MP Soldiers under the command of the MI BDE. The Kern Report stated that it appeared that BG Karpinski was the only person among the Army leadership involved who misunderstood the FRAGO.

(5) Regarding MG Wojdakowski's response to ICRC reports, the evidence indicated he was not made aware of abuse allegations within the ICRC Working Paper. The few staff members and CDRs who were made aware of the Working Paper's allegations testified they considered many of the allegations to be non-credible, and did not report them further. When made aware of elements of ICRC reports indicating resourcing issues for which he was responsible, MG Wojdakowski took appropriate action. On one occasion, he directed the purchase of jumpsuits and discussed quality of life issues raised by the ICRC with BG Karpinski. MG Wojdakowski testified the feedback he received indicated the ICRC was pleased with improvements being made to AGP.

(6) In conclusion, the evidence indicated that when legitimate resource shortcomings were brought to his attention, MG Wojdakowski took appropriate corrective action within his authority to resolve them.

**c. With respect to developing alternative courses of action pertaining to detention operations:**

(1) The Schlesinger Report stated if CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders, to include the DCG, CJTF-7, could have set in motion the development of a more effective alternative course of action. AR 600-100 stated that leaders were responsible for anticipating, managing, and exploiting change; anticipating and solving problems; acting decisively under pressure; and evaluating and accepting risk to exploit opportunity. GOs at the strategic level were responsible for creating structures and programs for ensuring that procedures developed at lower levels further supported Army policies and values.

(2) The evidence established that MG Wojdakowski took appropriate action with respect to developing courses of action and procedures for detention operations. Testimony indicated that in the summer of 2003, LTG Sanchez anticipated shortcomings in CJTF-7's ability to execute detention operations of the magnitude that was required, and recognized that expert assistance was needed. LTG Sanchez raised his concerns to higher HQs. Subsequently, several assistance teams, to include the Miller and Ryder teams, arrived in the ITO to provide guidance on both detention and interrogation operations. These assistance teams provided on-site training to units involved in the detention and interrogation mission, and provided examples of applicable SOPs and policies. MG Wojdakowski was briefed on and considered the teams' findings.

(3) Furthermore, the 800th MP BDE was directed to move its HQs to Iraq in order to more closely supervise the detention mission for which it was responsible. Testimony indicated that the C-3 published several FRAGOs providing detention operations guidance and direction. MG Wojdakowski held regular detention summits in order to assess the on-going mission, during which issues were raised and corrective action was directed. When AGP was declared an enduring base in November 2003, MG Wojdakowski directed additional resources towards the improvement of AGP's facilities. The detainee population was tracked regularly, and as capacities were reached, MG Wojdakowski directed that detainees be cross-leveled between detention facilities. MG Wojdakowski was aware that additional MP units were not available, and the Army was using ILO units to replace MP companies in the ITO. As such, his decision to not initiate a request to higher HQs for additional MP forces was reasonable, and instead, he encouraged BG Karpinski to internally redistribute her own resources. Additionally, in December 2003, he directed the movement of MPs from the 1st AD to AGP.

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(4) In conclusion, the evidence established that the detention mission in Iraq was conducted with the benefit of on-going analysis, periodic assessment, and modification as the mission required and as limited resources allowed. MG Wojdakowski's actions with respect to anticipating and developing alternative courses of action as the detention and interrogation mission evolved were appropriate.

5. The standard required that to prove dereliction of duty, the person, who had a duty and was knowledgeable of such duty, was required to be derelict in the performance of the duty through willfulness, neglect, or culpable inefficiency. The preponderance of the evidence indicated that MG Wojdakowski was not willfully derelict, negligent, or culpably inefficient with respect to his duties regarding detention and interrogation operations.

a. Multiple senior leaders, either in MG Wojdakowski's chain of command or in positions to make such judgments, unanimously testified to the overwhelming responsibilities placed on MG Wojdakowski, and to his admirable performance of duty in a resource constrained and hazardous combat theater. GEN Kern testified that MG Wojdakowski was overwhelmed with things to do and was under-resourced to do them.



b. There was no evidence that MG Wojdakowski was derelict in his duties with respect to detention and interrogation operations through willfulness, neglect, or culpable inefficiency. On the contrary, the evidence established that MG Wojdakowski consistently took appropriate action at the strategic level of leadership regarding the oversight, resourcing, and planning for both missions. While certain alternative actions, in hindsight, might have been more effective or beneficial, MG Wojdakowski's actions, in the context of the environment in which they occurred, were not culpably inefficient. Rather, the austere environment, lack of staff, and growth of responsibilities all created obstacles that MG Wojdakowski successfully overcame through, by all accounts, heroic efforts. As such, his actions regarding detention and interrogation operations were not indicative of an impropriety. Instead, MG Wojdakowski's efforts to provide appropriate oversight of detention and interrogation operations were pro-active, continuous, doctrinal, and properly within the scope of responsibility attributed to a strategic level leader.

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Testimony of **MAJOR GENERAL GEORGE R. FAY**

Was taken on 13 September, 2004 at the Pentagon, Washington, DC between the hours of 1310 and 1415

By (b)(6)-2 & (b)(7)(C)-2  
Department of the Army Inspector General Agency, Crystal City, Virginia,

[U] (b)(6)-2 & (b)(7)(C)-2 The time is 1310. This inquiry is directed by The Inspector General of the Army.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may be directed by proper authority.

[U] Upon completion of this interview, I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to FOIA. Since I'll ask you to provide your Social Security Number to help identify you as the persons testifying I've previously provided you with an explanation of the Privacy Act.

[U] Did you understand it, Sir?

[U] MG FAY: Yes, I did,

[U] (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] (b)(6)-2 & (b)(7)(C)-2 Do you have any questions before we begin, Sir?

[U] MG FAY: I do not.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, please raise your right hand so I may administer the oath.

[U] [Major General George R. Fay was sworn and testified under oath as follows:]

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[U] A. Okay.

[U] Q. Okay. Sir, one of the findings that you made in the report was that there was a lack of clear command and control of detainee operations at the CJTF-7 level. And by the way, Sir, I have brought the report with me so that if at any report we need to refer to it we can.

Sir, in your view who in CJTF-7 at that time was responsible overall for detainee operations prior to the assignment of Major General Geoff Miller?

[U] A. That was the problem.

[U] Q. Yes, Sir.

[U] A. Is that there was a real confusion as to who was in charge of detainee operation and that was our finding is that there was no clearly one person in charge. It was a shared responsibility amongst a number of staff elements and staff persons and commanders. And because it was so shared because everybody owned it nobody owned it.

[U] Q. Can you cite some of the folks that had a shared responsibility?

[U] A. Yes, well obviously first starting with the overall responsibility being, , Lieutenant General Sanchez as the CJTF-7 Commander, but below him there was the—, Deputy Commander who was—, Major General Wojdakowski, , and he had some responsibilities because he had both the 800<sup>th</sup> MP Brigade Commander and the Army Military Intelligence Brigade the 203<sup>rd</sup>?

[U] Q. Fifth.

[U] A. The 205<sup>th</sup> MI Brigade Commander both reporting to him. , but quite frankly Major General Wojdakowski was mostly involved with the logistics questions and running the huge numbers of logistics issues that concerned CJTF-7 at that time. And although he was somewhat involved with the detainee operations, I wouldn't say that he was focused on that. At least not based on my investigation.

[U] Q. Yes, Sir.

[U] A. And he was—and from that aspect he was even more involved with the MP Detention portions than he was the interrogation

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portion. I think when it came to the interrogation area he just relied very heavily on Colonel Pappas as the Commander of the 205<sup>th</sup> MI Brigade.

[U] Q. Who he rated as well?

[U] A. Who he rated as well. He did not rate General Karpinski who was the Commander of the 800<sup>th</sup> MP Brigade. Although she thought that he was going to be rating her. But anyway, that—and I cover all that in the report.

[U] Q. Right.

[U] A. It's very—it was very confusing.

[U] Q. Yes, Sir.

[U] A. Additionally you had the Provost Marshal of CJTF-7 who had some responsibilities, but where they began and where they ended no one was quite sure. You had the CJTF-7 C-2 Staff, that would have been [REDACTED] in the beginning and then it shifted to Major—well first it was Brigadier General and then Major General Fast, after [REDACTED] So—and they had some responsibility relative to the interrogation operations and also the release boards, and then you had the Staff Judge Advocate that was providing legal advice and assistance not only to General Sanchez but each of those staff elements that I mentioned.

[U] So they were all involved. And the reality was because there were so many people involved it wasn't clear. It wasn't a focused issue, until General Miller was named and he did bring it under focus.

[U] How about Major General Tom Miller, Sir, the C-3, did he have a role that you saw?

[U] Well actually, when I was doing my investigation that General Fast informed me that at one point in time General Sanchez at a meeting became so frustrated with the whole detention operations issues, interrogations included with that, that he said, "Who here is responsible for this?" referring to his whole staff. And he then—General Sanchez—turned to General Tom Miller and said, "You're the three. You're responsible." Now, General Fast had first believed at that meeting that occurred in October. General Miller when I interviewed him said, no, no, that did occur but it occurred much latter and in a time period that he thought, as I recall, was some time around February of 2004 when that meeting occurred.

[U] Subsequently General Fast and General Miller talked on the subject and both concurred that the original discussion by General Fast was inaccurate.

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That in fact it did occur but it didn't happen until the January-February timeframe rather than the earlier timeframe.

[U] In your view, Sir, should a single person have been overall in charge at that time? Was that something doctrinally that they should have done?

[U] It's not doctrine and of course that's another one of the issues that we had identified. That the doctrine is silent as to who has responsibilities with regard to detainee operations. My opinion is that we should doctrinally address that issue and it is a shortcoming. And to this day we do not have a doctrinal answer. In other words, when General Miller leaves, you know, when he rotates out of Iraq, what's what the next solution? Show me a doctrine where his position exists. It does not exist in doctrine.

[U] All right, Sir. So in your view, Sir, did the method by which CJTF-7 control detainee operations prior to Geoff Miller's arrival violate any Army standard or doctrine? Perhaps not since there was no doctrine?

[U] There wasn't. There was no violation of Army doctrine in that regard I am aware of.

[U] Then given that there was no doctrine, apparently not any Army standard regarding detainee operations in the CJTF environment, what do you think General Sanchez should have done? Should he have recognized that he had a shortfall there? What are your thoughts on that, Sir?

[U] Yeah, I believe that there should have been an earlier recognition of the problems that existed. That the issues that came up at Abu Ghraib had some predecessors to it. This was not the first time that issues relative to detainee operations had arisen at the CJTF-7 level. It was known that these were issues. There were in my opinion enough issues early on. Earlier on during this process it was identified that it should have been recognized earlier and should have received more focused attention earlier than it did. It's easy now to second-guess and I'm not—I understand all of the pressures and the war fighting issues that he was facing, which is why I think we were very careful not to be—at least we tried not to be—too criticizing in our opinions because you've got to go back to the fact that the CJTF-7 operation was, in my opinion, a pick-up team. We put that together. 'We' the United States put that together in a very short time period and it was never fully staffed and never fully organized and we eventually recognized the shortfalls of doing it that way, which now why we now have a Four Star Command there.

[U] Q. Right.

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[U] A. With the Operational Three Star Command under that. This is only one of the reasons why we did this, but to place all the burden on General Sanchez I do not believe it is fair. I believe that it goes higher than General Sanchez. That 'we' as a country under resourced and under appreciated what we were going to be facing when we arrived in Iraq. And we were optimistic, in our opinion of the amount of resistance we were going to face. And when it turned into an insurgency we didn't react fast enough but even if we had reacted with lightning speed it still would have been too late. Which you know we should have been more pessimistic in our initial analysis of what Phase IV of the operation was going to present to us.

[U] Q. So let me ask you the tough question here, Sir, and you've sort of laid it out already but was General Sanchez's or for that matter General Wojdakowski failure to initially recognize that there was a lack of clear command and control in detainee operations at the CJTF-7 level. Was his failure to recognize this in your view in anyway improper or negligent?

[U] A. No.

[U] Q. —obviously in these circumstances?

[U] A. No, I think that it wasn't improper. It wasn't negligent. It was a fact that occurred. But given the view of the entire situation, the fact that this was an under resourced operation that it changed very quickly from a combat operation to an insurgency and they were left with a force that was not put together to fight an insurgency. They were reacting to the situation as they saw it. I don't believe it's negligence.

[U] Q. Okay, Sir, going back to General Miller, Tom Miller.

[U] A. Yes.

[U] Q. As when he raised his hand at some point saying that he was in charge. Do you recall during your look whether General Karpinski received any guidance concerning detention operations from General Miller?

[U] A. I don't ever remember—I interviewed General Karpinski for seven and a half hours. She never to my recollection mentioned General Tom Miller.

[U] Q. Right.

[U] A. Mentioned frequently General Geoff Miller.

[U] Q. Right.

[U] A. And his visits but never mentioned Tom Miller.

[U] Q. Right.

[U] A. So if there was an interaction there, it wasn't very significant.

[U] Q. Okay.

[U] A. Most of her interactions were with General Wojdakowski. And she did tell me about a lot of her interactions and General Wojdakowski told me about a lot of interactions with General Karpinski.

[U] Q. Right. Okay, Sir. And then Colonel Sannwaldt I believe was the PMO at the time. Any indication that she received much guidance from him?

[U] A. No.

[U] Q. Or the same thing?

[U] A. The same thing. No—no indications that she received much guidance from him, and I did not interview that Colonel.

[U] Q. I noted that.

[U] A. But you know the information that I can recall was that he was not a very involved player in detainee operations. He was doing the other traditional Provost Marshal stuff and I believe that Command looked to General Karpinski to be the detainee operations person.

[U] Q. All right, Sir. Another finding that was in your report was leaders failed to take steps to effectively manage pressure placed upon JIDC personnel. Sir, do you recall to which leaders specifically failed to take steps to effectively manage that pressure?

[U] A. Yeah, there I'm talking about the 205<sup>th</sup> and the JIDC management. So we're talking about Colonel Pappas, we're talking about Lieutenant Colonel Jordan; talking about Captain [b)(6)-2 & (b)(7)(C)-2] We're talking about Major [b)(6)-2 & (b)(7)(C)-2] and there's another Major who was also an operations officer----

[U] Q. [b)(6)-2 & (b)(7)(C)-2]

[U] A. Huh? [b)(6)-2 & (b)(7)(C)-2] No [b)(6)-2 & (b)(7)(C)-2] was on the—

[U] Q. The 800<sup>th</sup>?

[U] A. No, he was on the staff of Colonel Pappas. But he wasn't involved with—well to some extent involved but he was running the operations for the whole Brigade.

[U] Q. [REDACTED]

[U] A. [REDACTED] That was the one, yeah.

[U] Q. One of those common names?

[U] A. That's right. That's right. It was Major [REDACTED] that I was referring to. So that's the leadership that we were—that I was referring to when I made those comments.

[U] Q. So you weren't referring to General Sanchez or Fast or Wojdakowski?

[U] A. No, because it wasn't their jobs to protect those Soldiers at that level from that pressure. It was in my opinion the job of that unit and that unit Command structure.

[U] Q. Given that, Sir, in your view, what pressures did General Sanchez, if any, place on the intelligence community----

[U] A. Oh significant and he testified to General Jones that he did that. I mean General Sanchez was rightly frustrated by the situation. I mean, the situation quickly turned into a insurgency and we didn't have an adequate amount of information to find out who the insurgents were or where they operating, how they were operating, all the things that we need out of a unit, Human Intelligence structure, which of course we don't have a very robust unit intelligence structure. The Army took down most of that in the 1990s.

[U] Q. Okay, Sir.

[U] A. So we had limited assets to get him the information he needed but he was expressing those frustrations and putting that degree of pressure on Colonel Pappas and the other members of the 205<sup>th</sup> and his entire intelligence community. I don't think that was misplaced. I don't think it was wrong to do that. That's what 'we' in the Intel Community should and do expect from our Commanders. It's how that pressure is managed that's the important issue.

[U] Q. And you placed the responsibility for that management at Colonel Pappas' level and then down at that point?

[U] A. Yes.

[U] A. I know that General Fast definitely was not until after the fact, because I specifically remember my conversations with her on that subject. I also know that General Sanchez did not know because Colonel Warren told me he didn't bring him—he did not bring these issues to his attention. And I'm sorry what was the other name that you asked about?

[U] Q. Wojdakowski, Sir. Major General Wojdakowski.

[U] A. I can't answer that. I don't remember whether General Wojdakowski knew or didn't know so I don't know.

[U] Q. Sir, did you come across anyone on the CJ-2 staff that was made aware of the ICRC? I mean you mentioned Colonel Pappas, you mentioned Colonel Jordan. They were in the 205<sup>th</sup>.

[U] A. Yeah.

[U] Q. Colonel Jordan of course was murky. Did anyone on the CJ-2 staff, Colonel Boltz, perhaps or----

[U] A. No. I do not remember. That—I know that General Fast didn't know about it. Whether or not Boltz did because he then became her Deputy when she showed up. I don't know whether he saw them or he didn't see them.

[U] Q. You don't recall that, Sir. Sir, do you recall with whom General Karpinski's response to the ICRC report was staffed? I know that the Major, the Australian Major, on the SJA staff was the primary drafter of the response. Do you recall who he routed that through?

[U] A. Well, I know that Colonel Warren knew about the response.

[U] Q. Right.

[U] A. I'm not sure at what stage he saw the response but at some point, he saw the response. I don't know if he saw the final draft or what, but I know that he at some point in time saw some part of the response. I do not know who else besides the Australian Major, Colonel Warren, and would have been whoever the SJA person was on Karpinski's staff.

[U] Q. Lieutenant Colonel (b)(6)-2 &  
(b)(7)(C)-2 maybe was his name?

[U] A. I believe he was mentioned by Colonel—by General Karpinski to me as being a person she had a discussion with.

[U] Q. Yes. All right, Sir. We discussed the folks that ignored the ICRC recommendations. To what do you attribute this? Why did they ignore them?

[U] A. It was so unbelievable, as many people told me that they were laughable and in fact they did receive a lot—, you know, humorous comments about them. When it was read by people no one could believe that they were true. The stories that were in there which ultimately did turn out to be true, no one that saw them that had direct knowledge about what was going on in that specific cell block could believe that American Soldiers would have been doing that—especially the woman's underwear issue because it was well known, especially at Abu Ghraib, that the clothing was unobtainable. That they were really jumping through hoops to get any type of clothing for the detainees at Abu Ghraib at that period in time. And so for this statement to say not only were they wearing—forced to wear underwear but they were forced to wear women's underwear. It was like well how could you get women's underwear. We can't even get regular clothes let alone women's underwear. But as it turned out, it was true but nobody believed it. Because it just was an unbelievable story.

[U] Q. And as a result, the allegations were not investigated by anyone?

[U] A. Correct.

[U] Q. And, Sir, was this failure to investigate— who would you place blame on? Who do you think should have investigated?

[U] A. I believe that we should—we, all of us that are involved with the International Committee of the Red Cross should give them more credence than we have traditionally given them. They are an independent fact-finding neutral party. So when they are presenting to us allegations, even if we believe those allegations to be false, I believe that we have a duty to look into them. It would be the same thing as what we do with the IG. I mean I know the IG looks into all allegations no matter how outrageous they would seem at first.

[U] Q. Right.

[U] A. We should have that same attitude towards the International Committee of the Red Cross.

[U] Q. And to the best of your knowledge the Army, does not have a standard that would indicate such?

[U] A. Correct, in fact, I would say the prevailing attitude is of the Red Cross. It's, those guys are always looking at the opposition side in protecting the human rights. And things that we are leery or—well, not leery but that we believe are questionable when they present them to us. Because they look upon as advocates for

the Army as we did with the JIDC, you lose that familiarity that the unit has. You lose the ability for the NCOs to make the determinations as to who has the ability to do which jobs. Who needs to be watched? Who doesn't need to be watched? How much influence does one Soldier have over another? Who's trained well; who isn't trained well? Who really knows their job; who doesn't know their job? NCOs do all of that. That couldn't happen at Abu Ghraib because nobody knew anybody. People were just sent there to do 'a job', it wasn't a unit. They created their own organization as best they could given the circumstances, but they never trained together. It's common and we hear it all the time in the Army you train as you fight. Well these people never trained together. They didn't know each other.

[U] Q. Right.

[U] A. So how do we expect them to fight together?

[U] Q. Given the shortage of personnel and other resources that you cited in your report, Sir, what else could CJTF-7 have done?

[U] A. They should have asked for a unit. Send me a unit. Send a Military Intelligence trained unit. Don't send me parts and pieces. I want a battalion and I want a company whatever the right number is. Two companies. Whatever the requirements. The right requirements are, but send me a unit and let me give the unit the mission to do this.

[U] Q. And whose responsibility, Sir, would it have been to ask for that unit?

[U] A. I believe that the person that should have brought to General Sanchez's attention would have been Colonel Pappas. He's the one that should have identified that as a requirement, and---

[U] Q. Do you have any idea why he didn't or did he and it was just not acted upon?

[U] A. I believe that his solution was that he was going to get enough assets from the Army to perform his mission, so he put out a request for forces, to the Army which the Army responded to by sending him Soldiers from MI units all over the world to fill his void. I don't think that was the right way to do it. I think a more effective method would have been for Colonel Pappas to turn to one of his battalions. Remember he had nine battalions assigned to him.

[U] Q. Yes, Sir.

[U] A. To turn to one of his battalions and said this is now your job. Figure this out. You're the one that has responsibility for this. The battalion already

has its staff elements, its NCOs that know each other. And leave it to that battalion to build the structure that they needed. But you could have had that battalion staff available for the leadership that would have been required.

[U] Q. So, you would place this responsibility for ensuring unit integrity of the JIDC on Colonel Pappas?

[U] A. In this instance.

[U] Q. Yes, Sir.

[U] A. Now broader than that we as a Nation if we need JIDCs then we should state so and staff them. And say where specifically we're supposed to get the bodies for these. We create all these joint organizations and then pay for them out of hide because nobody wants to increase end strength. Well then, we shouldn't create these additional things.

[U] Q. All right, Sir. Okay, Sir, moving on to the next finding, Major General Geoffrey Miller, it says, did not introduce harsh techniques into Abu Ghraib interrogation operations. In the follow-on, JTF GTMO Training Team had a positive impact on the operational management of the JIDC. However, the report also found a disconnect between the strategic orientation of the JTF GTMO Team and Abu Ghraib orientation on tactical operations. Can you comment, Sir, on the difference between the strategic and tactical orientations?

[U] A. Yeah, at GTMO their focus was on the detainees that had been captured in Afghanistan. Their perspective was to develop strategic long term information from those detainees. Their tactical information had long since perished.

[U] Q. Right.

[U] A. It had been a long time since they had any tactical operational intelligence of any value. Generally, operational intelligence value perishes within 72-hours or so. The further you get away from 72-hours, the less valuable information you're going to get from a detainee. That's of operational use. You know we talk about 'actionable intelligence'?

[U] Q. Right.

[U] A. Well, actionable intelligence is perishable. So where is the Army's cache? You know where is the leadership of the insurgency? Where were they living? What's their address? That stuff perishes very quickly. Especially in an insurgency. So, you need to get that stuff very quickly and that should have been the focus and was the focus at Abu Ghraib. Whereas in GTMO it was well, , what <sup>were</sup> ~~was~~ the

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[U] Your testimony is part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] MG FAY: Yes.

[U] [b)(6)-2 & (b)(7)(C)-2] Sir, do you have any questions?

[U] MG FAY: No, I do not. Thank you.

[U] [b)(6)-2 & (b)(7)(C)-2] All right, Sir, the time is 1415 and the tape-recorded portion of this interview is concluded.

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Testimony of **MAJOR GENERAL GEORGE R. FAY**

Was transcribed and certified by [b)(6)-2 & (b)(7)(C)-2]  
Certified Court Reporter, Department of the Army Inspector  
General Agency, Washington, D.C.

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Testimony of **LIEUTENANT GENERAL ANTHONY R. JONES**  
Was taken on 14 October, 2004 at Fort Monroe, Virginia,  
Between the hours of 1600 and 1745

By (b)(6)-2 & (b)(7)(C)-2  
Department of the Army Inspector General Agency, Crystal City,  
Virginia,

[U] (b)(6)-2 & (b)(7)(C)-2 The time is 1600. This tape-recorded  
interview is being conducted on 14 September, 2004----

[U] (b)(6)-2 & (b)(7)(C)-2 October.

[U] (b)(6)-2 & (b)(7)(C)-2 What did I say? September. 14 October, 2004  
at Fort Monroe, Virginia.

[U] Persons present are the witness Lieutenant General Jones  
and the Inquiry Officers (b)(6)-2 & (b)(7)(C)-2

[U] This inquiry is directed by the Inspector General of the Army  
concerning allegations against senior officials.

[U] An Inspector General is an impartial fact-finder for the  
Directing Authority. Testimony taken by an IG and reports based upon that  
testimony may be used for official purposes. Access is normally restricted  
to persons who clearly need the information to perform their official duties.  
In some cases, disclosure to other persons may be required by law or  
regulation or may directed by proper authority.

[U] Upon completion of this interview, I will ask you whether you  
consent to the release of your testimony if requested by members of the  
public pursuant to the Freedom of Information Act. Since I will ask you to  
provide your Social Security Number to help identify you as the person  
testifying I've previously provided you with an explanation of the Privacy  
Act.

[U] Do you understand it, Sir?

[U] LTG JONES: I do.

[U] (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense  
and are not the subject of any unfavorable information, Before we  
continue I want to remind you of the importance of presenting truthful  
testimony. It is a violation of Federal Law to knowingly make a false  
statement under oath.

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[U] The first finding is: There is sufficient evidence to reasonably believe that the personnel on the CJTF-7 staff, principally in the OSJA and CJ2X, had knowledge of potential abuses and misconduct in violation of the Geneva Convention at Abu Ghraib. This knowledge was not presented to the CJTF-7 leadership.

[U] Sir, do you recall who specifically in the Office of the Staff Judge Advocate and in the CJ2X had this knowledge of potential abuses? Do you recall them by name?

[U] A. First of all in the SJA, Colonel Warren and his people, due to the fact that the investigations and the reports- ICRC that they saw, had sufficient evidence to determine that there were— abuses going on.

[U] Q. Uh, huh.

[U] A. In Colonel Warren's statement I think he concludes one of the things that he failed to do was to inform the Commander. The C2X people were people who habitually went to Abu Ghraib. I concluded by association and the numerous trips they did to working with the interrogators, that there were abuses on-going. They should have gained knowledge of them and reported accordingly. I didn't get further down into that, but I concluded that after reading the numerous witness statements and the interface that they had with the prison systems.

[U] Q. Okay, Sir. Did you have any indication that General Fast as the CJ2 was one of the folks that was aware of these potential abuses?

[U] A. No, I didn't. I had indications that when she was aware, then she reported to Sanchez. Again I found that— in her position and what she did, based on the environment she was in, she was so tied up during that period of when she came in the country through January with establishing the intelligence operations and trying to pull the Coalition and the Agencies-interagency-together, that she didn't focus on interior—on the interrogations.

[U] Q. Uh, huh.

[U] A. I know some people find that hard to believe, but she spent more than 50% of her time supporting CPA.

[U] Q. Yes, Sir.

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[U] A. And, and she did yeoman work in trying to get— the intelligence and the priority of the intelligence requirements out and make it seamless from tactical to strategic. Establish the communications, with little or no resources.

[U] Q. Right.

[U] A. And, and I think that's somewhat true of most of the staff. I think their focus was not down—I think it was towards the CPA and fighting the counter insurgency.

[U] Q. Yes, Sir.

[U] A. That's basically, what I found.

[U] Q. Sir, you mentioned that when General Fast was apprised of abuses that she reported it immediately. Which circumstances were those?

[U] A. One of the first ones I saw was the 4 November case where the— it was also classified as 'Ghost Detainee' where they— the detainee was brought to Abu Ghraib by OG8 personnel, early morning hours. Subsequently died there at Abu Ghraib. That was reported to her by Pappas by phone. She reported to Sanchez. Sanchez directed her to contact the Chief of Station and to ensure an investigation is being done, and that's what she did. The CID—and not only the Agency then started an investigation, but also did— the CID because of their death.

[U] Q. Is there any other instances, Sir, that you're aware of?

[U] A. There was another case I believe it— at Cropper.

[U] Q. Uh, huh.

[U] A. I don't know the specific details reported. And in that case, she also reported it and that was passed up to CENTCOM because the Iraqi Survey Group did not come under the CJFT-7. So that was reported back up to CENTCOM to investigate and was subsequently investigated.

[U] Q. Okay.

[U] A. That's two specific I know of in that timeframe.

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[U] Q. Yes, Sir. Okay. Okay, you cleared up the question that I had. And specifically the knowledge of potential abuse and misconduct that they had, you mentioned the ICRC report and the allegations that were in that report of the nudity and the women's underwear and that kind of thing. Was there other misconduct that they were aware of that you believed that they had?

[U] A. If— when you look at the magnitude of incidents in these reports—have you see the list of CID investigations?

[U] Q. Yes, Sir, all of them.

[U] A. If you go back and look at that, and the compilation of all those incidents at Bucca, Cropper, Abu Ghraib, point of the spear, the relative magnitude of those would tell a person that probably we've got more than— more than a disciplined Army should have.

[U] Q. Uh, huh.

[U] A. And that was my basis of saying there were sufficient indications of warning due to the magnitude. The one instance where the—you know there is a Ghost Detainee thing where they finally found the three Saudis in Abu Ghraib. Well that's not normal. And, so it tells you that, it-it begs the question who's paying attention. For that number of abuses and the number of investigations on-going. You know there is also other deaths that happened. And how they were reported. Got to come up through somewhat the JAG channels. And I can't believe that that was accepted as a norm.

[U] Q. Uh, huh.

[U] A. And so to me I—I know there has to be something that led to the Sanchez memos of October and December about the treatment of civilians with dignity and respect. I know there was a lot of focus on the loss of US Soldiers and who was killing them and who—and what the support base was and so forth. And that's kind of troublesome. Now you also have to put that into context. There was a lot of pressure at the time to find Saddam Hussein. So, the two sons were killed in July up in—up north. But then up to about six weeks before Saddam Hussein was captured plus the advent of Ramadan coming in there which expected increased attacks on US Forces and so forth, kind of focused their attention on that and then immediately after the capture of Saddam Hussein, then there was a lot of work done to take the information they found and actually resulted taking down 50% of his support base. So that's where their focus was at the same time all of this was going on at

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Abu Ghraib, October-November. So, but having said that, I think that the magnitude and the conditions at Abu Ghraib starting to improve later in the fall. And if that was to be the central location which all prisoners were filtered through, it begs a lot of the questions, are we doing it right.

[U] Q. Yes, Sir.

[U] A. And that's where was very little leadership there and direction. But I think there's people and I think in those two particular offices of the staff— maybe not at the senior staff level, but the people within those staffs had to see the reports. They may not have had the experience or maybe by the fact like in the SJA you had the UK guy, Australian guy, and they have a different perspective than a US person. But that led me to believe after reading all the statements, that— there was probably information there that they knew. Either accepted it as being the norm or they actually knew that something was gonna happen and they'd discipline the commander.

[U] Q. Yes, Sir, was General Sanchez aware of the CID cases and—

[U] A. I don't know. I know he was in certain cases. You know of the deaths to ensure that they were being investigated. And then I—and two, I don't know if in case—he was reviewing—a number of cases outstanding and so forth that based on the number of deaths that were in custody.

[U] Q. Right.

[U] A. Because there were several.

[U] Q. Yeah. Yes, Sir, okay. And, Sir, you indicated in the finding that this knowledge was not presented to the CJTF-7 leadership. What evidence caused you to come to that conclusion?

[U] A. Mostly Colonel Warren's statement. He said he didn't tell the Commander.

[U] Q. Okay, you're in particular referring to Colonel Warren's statement. Okay.

[U] A. That and the fact that I interviewed Fast she didn't know about it.

[U] Q. Okay, Sir.

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[U] (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2 Sir?

[U] A. Garner. Was it?

[U] (b)(7)(C) I think so.

[U] A. So when (b)(6)-2 & (b)(7)(C)-2 got—things weren't moving, weren't going right so they sent Bremer up there and— they created the CJTF-7. (b)(6)-2 & (b)(7)(C)-2 you know he got in there and he said I don't have the people. I don't have telephones. I don't have contact with anybody. I got nobody to work for me. And—there's nothing here. So Bremer then gets appointed and gets sent there and some of the issues was let's make him successful because we're gonna turn this back over. Bremer came in with a direction to, do certain things. And so, now Sanchez will tell you he didn't work for Bremer. And if there was any conflict of what he was trying to do, of course then he raised it to CENTCOM to Abizaid. And said you need to—this is against what we need to do, and they'd work it out. Similarly with the inter-agency folks that were there. From G8. One team was pulled together to get things going. So there are a lot of things that had to be established because there were no— Directives, MOUs, how its all gonna work together. So they had to—they had to build from scratch. So, they had to set the foundation. Build an organization which none of them had ever been-a CJTF-7- before. They had fought the tactical fight, now they're focus is at the strategic level. And that blurring in an insurgency between tactical and strategic— was very tough. And, and a lot of them could not see the differences. And some of the things that may appeared to be tactical actually were strategic.

[U] And, they were faced with that day in and day out. Several—you know it took the Chief of Staff who would have had an oversight and directed responsibilities we know of in an Army or a Corps or whatever, kind of moved—moved over to support directly and they moved what was the Corps TAC and that element from the C2, C3, over to support the CPA. They split another piece over here with the DCG to fight the war. And then you see—okay, Sanchez and his guys, what does he got? He's also got a preliminary staff here to try to work all these policy and all these other issues. So they're—they're—because of resourcing and the way they were set up and the missions that they were given, they torn in three different direction. And oh by the way, you know, all the Division guys and Separate Brigades went —morphed from twelve to eighteen separate Brigades. All these people are waiting for guidance, direction, and so forth. So it was really a— a challenge. And so, the primary guys across —across the subordinate staff starting to focusing up here and by default the lower level guys and—had to work all these other things. That's why I say the lower level C2x, which was created by the

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way, there's just a couple of those folks left, came from the V Corps things that had to built up. The residual SJA guys kind of running the show because the leadership is pretty occupied fighting the war, supporting the CPA, trying to figure out—try to get the Coalition guys to come on to establish a customs capability. You know border protection. Border Police. Training the Iraqi Army. Trying to, partner with the Iraqis that were left to work an intelligence system. Trying to figure out how to morph this so that eventually they can appoint a interim— Prime Minister or whatever to Iraq. And so that's what ate them up. And so what limited time they were able to get out and see what was happening they couldn't see it because, it wasn't there at the time. Okay. Jones is coming down to visit not a problem. So he was up there with them. You know you go back to decisions made Abu Ghraib, which sit right on the seam between two units. So who's in charge of physical security? It's not the 3<sup>rd</sup> ACR on this side or the 82<sup>nd</sup> on this side. You know, because it's a seam right there and seams in military doctrine means we have no—we don't own that piece of dirt. We have what's outside it, but I only come around 50% of my side and fifty—and that's why— initially and then also in that period they put in it a sector which you know Abu Ghraib has a history. That's where Saddam Hussein tortured and killed all the people. No control outside. No engagement with the community through Civil Affairs or other people. Nobody focused outside the wire because I'm inside the wire. This is my piece of dirt. So it was not set up for success in the selection either. Which we also looked at..

[U] So those are some of the things when— you know when Casey went in, we saw early on and he started fixing when he went in. When Abizaid went in, he said, you know, it's another thing. You gave the CJTF-7— not only JTF responsibilities but also ASCC, Army Service Component Command and ARFOR responsibilities. And it's one person and he's a Three Star. By the way, he is a brand new Three Star. He didn't complete two years in command as a Division Commander. So, it said in my report he went from commanding about a fifteen thousand person Division to a Coalition of a hundred and eighty thousand people. With all the different countries, to pull that together. It overwhelmed him. Overwhelmed the staff.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, you've fairly thoroughly laid out the context in the environment they were operating in. Given that, but at the same time giving folks duties based on their position or their rank or whatever, did General Fast's action or inaction regarding these interrogation policy memos in your view rise to the level of negligence or inefficiency?

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BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Yes, Sir. Sir, going on to the next finding. Lieutenant General Sanchez and Major General Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations. Sir, can you tell us what specifically you feel that they failed to do to provide proper staff oversight? And if you would like you can take them one at a time.

[U] A. As I said in there, in hindsight what I would have done because when you lose your Chief of Staff and now— you've got the C1 responsible for people and ensuring they've got backfills, MP shortages and other things. The C2 is setting the intelligence requirement collection priorities. You've got the C3 overall in charge of detention operations with some execution responsibilities with the Provost Marshal. You've got the C4, responsible for the support—logistics and so forth. You've got the DCG establishing priorities not only for the detention facilities but for different base camps and getting the LOGCAP in and construction and so forth as working with the C4. And so, there's the separate Brigades under the—when Wojdakowski come up.

[U] You know they could talk to him but then there's no Chief of Staff running around. So then, they have to go to individual staff sections and talk different issues. Not one person to come to. So in hindsight my perspective was—Sanchez should have made one person in charge of detention and interrogation facilities—operations for the Go To Person directly working for him. Because you had Bucca, you had Abu Ghraib, you had Cropper, you had the MEK facility, you had the holding areas of divisions. You've got a number of these things going on. Different oversight levels. Which the staff responsibilities then were separated and no Chief of Staff to help direct that. And you've got Wojdakowski over here prioritizing. And initially Abu Ghraib was a temporary facility. So he gave it very little priority. And quite frankly in the summer everybody was living in pretty shoddy conditions. But seeing it as a temporary he was not going to invest long term in LOGCAP and other things. Then Sanchez visited and he said I'm not gonna have my Soldiers living like that. Let's get some thing in there to fix it.

[U] There were some equipment issues with different MP units coming in, in terms of normally different types of MP units have crew served weapons and so forth and different things. These guys moved about. Some of them had their equipment linking up with them, so they needed more mobility and crew served weapons to set up. So some of those things had to be fixed. And so—but it—it did not fall upon somebody, one person, to oversee those things and get things moving. It

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fell upon different—from my opinion different elements of the staff to do different things, so it did not become, without the Chief of Staff, a synchronized effort, to fix things. A lot of it was defaulted to subordinate commanders, Karpinski and Pappas, because they were Commanders; and Karpinski had the detention operation. Pappas had the interrogation/intelligence collection mission through out the theater. So, they by default, that become decentralized. Okay? And as they got visibility obviously the hindsight says I probably would have done it different and with the one person of compatible rank based on the magnitude of the effort I think I said, the direct—the Pappas's and the Karpinski's and so forth of the world to get things right. And it—otherwise it just got sporadic attention because of their focus other ways.

[U] So I found that looking back once they made a decision to make a strategic collection point of that magnitude, they should have put one person as the Go to Person in charge.

[U] Q. Uh, huh.

[U] A. We kind of got at that for Abu Ghraib when he appointed Pappas for the—actually appointed him for Force Protection kind of reasons and the MPs still had the inside the wire security of the prisoners. The Intelligence guys still had the interrogation piece but he was looking then at the base camp security.

[U] Q. Uh, huh.

[U] A. Probably the genesis of that issue was putting it on the seam of two units.

[U] Q. How about General Wojdakowski, Sir, and which staff did he fail to provide proper oversight for and what should he have done?

[U] A. See, I think he was partisan to that because without the Chief of Staff the DCG has gotta do some things. Again in hindsight what I would have done, you had two new Brigade Commanders. They both swapped out the end of June, the first part of July. He made some—first of all he never really accepted the command relationship of the 800<sup>th</sup> that TACON, TACON relationship. But in fact, it did not matter as much is because those people worked for him. They're separate Brigades although it went from twelve to eighteen. That formed a subset of separate Brigades worked for the DCG. So, what he had was two new commanders who were not experienced in the theater. Of which, he could not have known their level of experience. One came out of the War

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College and one came out of the RC ranks. They probably demanded more oversight and direction.

[U] Q. Uh, huh.

[U] A. Than they were given. Now on his behalf he was again trying to get the LOGCAP set up. All the logistics, which fell so far behind the rapid advance to Baghdad, the immature lines of communications and securing those lines of communications and establishing the contracts to get the supplies moved forward. Our equipment having just gone through the war needed a lot of attention, getting the parts in. So he was, you know he—he let those Commanders execute their mission in a decentralized way. Whereas I think in retrospect, he probably should have brought those two and gave them guidance that is more specific because he was in their direct chain of command.

[U] Q. So when I look at those perimeters of responsibility for execution of the mission direct or indirect, the clear and consistent guidance and resourcing to do their mission, I found that in retrospect those two units needed more attention.

[U] Q. Yes, Sir.

[U] A. And you had other MP Brigades and other people—because I don't think that the two commanders as they showed up at the same spot at the same time neither had the experience or leadership to execute the mission.

[U] Q. And should General Wojdakowski have recognized that given the circumstances?

[U] A. I think he should have.

[U] Q. And---

[U] A. I mean if you think about it, he had just fought the war, gone through the prep, the training, now I've got two new Commanders. Didn't go through go the fight with me. I've got a lot of things on my table. But—they were probably—one probably didn't accept any guidance or leadership. The other was probably hungry for it.

[U] Q. Uh, huh.

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[U] A. And how he recognized that, I'd have to put myself in his head to try to figure it out, but it appeared to me that those were issues.

[U] Q. Yes, Sir.

[U] A. He had two new Commanders in theater.

[U] Q. And the one that didn't want guidance was General Karpinski and the one that was hungry was Colonel Pappas.

[U] A. Karpinski— from my experience and opinion is one who wanted the position of command but did not want to go accept the responsibilities that go with it.

[U] Q. Uh, huh.

[U] A. And you'll see very many times in her statements and I don't know if you've read those or not.

[U] Q. I have, Sir.

[U] A. You find her sometimes back in Kuwait. She left some of her staff back there. She had to be told to move her staff into Iraq. Different times she had to be told to go check on like the MEK facility up at—you know you had those Iranian freedom fighters and so forth. And that gives you—and then Sanchez had a confrontation with her about stepping up and taking charge. You're in charge. You've got this mission. How can you let the Soldiers be like this? And so there were indications there that she was weak.

[U] Q. Okay.

[U] A. And it was obvious that (b)(7)(C) was weak and she didn't do anything about that. But she—you know she sent him back for two week R&R in October. Brought a Colonel—

[U] Q. (b)(6)-2 & (b)(7)(C)-2

[U] A. (b)(6)-2 & (b)(7)(C)-2 in from Cropper who's obviously fat, dumb, and happy up there because he's got a mixture of detainees at the MP Battalion. So it's pretty easy for him. He comes in and just sets up shop for a couple of week and then brings Phillabaum back.

[U] Q. Uh, huh.

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[U] A. Probably not the right thing to do.

[U] Q. Sir—oh, go ahead.

[U] A. In Pappas' case, his experience led to the lack of making a decision to making somebody in charge at Abu Ghraib. You know he had other Battalion Commanders and so he could have moved in there and set up a clear chain of command to execute that mission.

[U] Q. Uh, huh.

[U] A. Especially as it grew to the number of people there. Overwhelming the intelligence.

[U] Q. Sir, was General Wojdakowski's failure to recognize this need for perhaps additional oversight, in your view, did that rise to the level of negligence or culpable inefficiency?

[U] A. I think it was a shortcoming on his part. I don't think it was negligence.

[U] Q. Uh, huh.

[U] A. Primarily because of the magnitude that he was faced with. Overall faced with.

[U] Q. Okay.

[U] A. Your span of control if you had 12 Brigades or 18 Brigades that you had just moved up to, plus he was now running another set of the staff to fight the war. So, again it became another issue with him of the responsibility and no time to do it.

[U] Q. Yes, Sir, did you run across any evidence that a request was ever sent up for another Flag Officer to come in and serve as the Chief of Staff?

[U] A. Okay, well another Flag Officer came in. Oh, you mean—for the JMD you had a Two Star Marine Chief of Staff.

[U] Q. Uh, huh.

[U] A. That was—he came in, in August.

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[U] A. I think Fay saw that down at Pappas' level and below. The pressure was in my opinion, and as General Kern and I look at it, was not abnormal. But as it morphed down to the lower levels, the interpretation of what the commander's intent was of what is it you need to do in establishing a battle rhythm and the standardized procedures was not there. So it had become as you went from CJTF-7 staff to the 205<sup>th</sup> Brigade staff down to a multitude of interpreters they were getting a magnitude of I need to know this, this, this and this, and nobody is stepping up for them in saying—and Jordan certainly didn't. Stepping up and say this is what—these are our priorities. You find that in any professional line of command but when you got to Abu Ghraib there was nobody there.

[U] Q. Okay, Sir.

[U] A. And that's where the pressure point manifests itself the most.

[U] Q. Is the emphasis that General Sanchez placed on the intelligence community, did you feel that was appropriate given the circumstances?

[U] A. I did.

[U] Q. Okay.

[U] A. And it—because it goes back to – his mission was to build and support operations. He's in a war. Gone now from managing a division to a coalition of a hundred and eighty thousand. Trying to find out who are these people? What is their support base? Who are their leaders? You know where are they going to come at me next? What's their tactics and so forth and as those changed daily he was getting Soldiers killed. He put a lot of emphasis on intelligence. And rightfully so because in an insurgency intelligence becomes probably more important than operations. And, you know that's why I say Fast stepped up after assessments and said well we have our hands full. We've got have these things here and she requested back to CENTCOM to get communications since they didn't have—to get, fusion capability to appease the intelligence effort. To establish a joint interagency task force to start to pull that together and get the equipment so they could reach back to the—what do you call it? The Intelligence Exploitation Center when they had something said what are you getting back there and send me—who is this guy? What you see is happening from all the sources as they tried to fuse the intelligence. So there were a lot of other things going at the same time.

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[U] A. The problem with—and you heard this a while ago. The problem with the procedures with dealing with ICRC which Abazaid also said in his testimony in May, the system is screwed up. We have no system for dealing with the ICRC in this environment as we went into it.

[U] Q. Uh, huh.

[U] A. So there was—I understand what was said as far as—a lawyer escorts the ICRC people. But our doctrine heretofore doesn't deal with a strategic detention facility.

[U] Q. Right.

[U] A. We talk about in the linear doctrine, the holding areas as you know, battalion, brigade, division and evacuation back. And so when we created a centralized detention facility, in Guantánamo and now in—Abu Ghraib we did not—address access by ICRC. We know it happens and so forth. But there is no given staff responsibility to interface with them. If you—up in Baghdad if you talk to the people, the International Red Cross person, the relationship with the CJTF-7 staff was all good and worked with them and so forth. But when you got to the lower people running around the country they work and—down to give that to the brigade level. Sometimes it didn't come up. That was later fixed. At the time as you established a facility, they didn't give specific responsibility to interface at the lower levels. Okay? And it was probably not handled well.

[U] Q. Uh, huh.

[U] A. And some of that is the culture of—even in the international community, we saw it in the Balkans, I appreciate what you're telling me but this is what my rules say and so forth.

[U] Q. Uh, huh.

[U] A. Or whatever and then the access piece is not always clear. So we probably as a Nation need to address that better and I think that's already being worked with the Secretary of Defense establishment, the Assistant Secretary for— what is it? Policy and so forth of which now deals directly with the International Red Cross and going towards setting how we as a Nation would deal with the International Red Cross.

[U] Q. Yes, Sir.

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[U] A. But that led us to also say though, that—as you get—if you use that as another indication of warning that should trigger something with somebody on the staff. Gets out and takes a look and advises the Commander. Because where there is some smoke there may be some flames there and we didn't see the Inspector General doing anything. Going out there and checking on that. It was left to the legal review. And the comments back down, they went down and said what do you guys say, ah, it's not true. You know? Well, okay. But some of it probably was.

[U] Q. Do you recall who the IG was then, Sir?

[U] A. No, I don't.

[U] Q. That's fine. Did you have any indication that General Fast or General Wojdakowski were aware of the ICRC reports?

[U] A. Fast first saw it in December of 2003 or got—became knowledgeable of it about the same time Sanchez did.

[U] Q. Okay.

[U] A. I don't know if Wojdakowski did.

[U] Q. Okay. But you—

[U] A. But I think it was passed back down to Karpinski to sign and respond to.

[U] Q. So General Sanchez was made aware of the ICRC reports. Was that before or after the pictures came forth?

[U] A. It was right before.

[U] Q. And what was his reaction?

[U] A. He didn't have a big reaction because you'll remember that Warren had advised him it wasn't true. It was not substantiated. Based on what his guys had told him, this couldn't be true. So based on that advice, and at the same time they had just captured Saddam Hussein so they were spinning in a different direction. So he said okay I got it.

[U] Q. Okay, Sir. Was his failure to take action, did that rise to the level of negligence or culpable inefficiency?

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[U] A. I don't think so because so because that was—he had trust and confidence in those guys who advised him and they said it couldn't be true. Or it was not significant in terms of what they— was claimed. And so he moved on to other things.

[U] Q. Yes, Sir. Okay. All right, the report talked at length about the operational environment contributing to the problem, between the V Corps transition to CJTF-7 without being fully resourced; the support to the CPA exceeded the going-in operational plans. And of course the operational plans themselves envisioned a SASO, support and permissive environment. Given that, how does this relate to the actions that were taken by senior leaders in the theater at this time? It kind goes back to this negligence and culpable inefficiency standard that I keep harping on.

[U] A. Yeah.

[U] Q. But in particular how does that relate to the actions of General Sanchez and General Wojdakowski and General Fast?

[U] A. They were still operating off the base plan.

[U] Q. Uh, huh.

[U] A. The base plan obviously was given to them by CENTCOM as a subordinate element. So—I think the—not as much with Sanchez and his team trying to execute the mission given to them—when the CENTCOM Staff and CFLCCC went away, there was no reevaluation of the campaign plan. Or the assumptions went into it. I think that's fault more of CENTCOM than it is Sanchez. Now he—what they did, was they used FRAGOs to adjust and so they did take—obviously, this is not a true change made, they rewrote—mission orders using—still using the sequence of fragmentation orders, which was kind of normal because they still had the CJTF-7 staff there. So—and quite frankly they didn't have time or the resources to sit down and rewrite the campaign plan. So they did the best they could with what they had to work with.

[U] Q. Uh, huh.

[U] A. Subsequent to that now that you've got a Four Star in there and separated—the kind of Title 10 ASCC responsibilities from the warfighting responsibilities, because you've got MEFs now executing the war fight in the subordinate units and direct oversight and now you've taken the burden of doing that away from them and giving that to Casey and working with the Coalition in doing that. So that was probably the

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right thing to do. So that changed. Abizaid recognized quite quickly you know. He stopped—last summer he stopped losing people because now you gotta redeploy all these people. We've got a fight on our hands. So it was recognized and he started taking some action. He said I need a Four Star in there. I need two Headquarters. I need somebody in charge of detention and interrogation operations and so fixes then become pretty clear. He saw some of the same things we saw as we started looking at it. And he implemented them. So that's good. And I think you see the results today and the progress than they were from Abu Ghraib to—the division of responsibilities. And the level of responsibilities again a Four Star with experience.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, did you want to ask any overarching questions before we—we're sort running out of time.

[U] (b)(6)-2 & (b)(7)(C)-2 I have a few, Sir.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Could you give us a sense of CFLCCC's involvement down in Kuwait? I mean we have—we have Karpinski's brigade which is TACON to CJTF-7 but owned by the—I believe the 377<sup>th</sup> TSC in Kuwait at that time under ARCENT General Taguba and General McKiernan. I understand the—the confusion, or not the confusion, but the support difficulties, the TACON relationship established. That's pretty clear in the report. Are there any specific responsibilities that the Commander of the 377<sup>th</sup> had as General Karpinski's direct boss or CFLCCC that contributed to some of these failures?

[U] A Yeah. If you read the order, and I don't know if you have or not. The relationship—well when you established CJTF-7 CFLCC disbanded. So CFLCC the Combined Forces Land Component Commander went away. Okay? But CJTF-7 becomes the supported Commander in the Iraqi Theater of Operations. That also was true for ISG which I didn't recognize. There was the Theater Support Command and the relationship as the plan was, the detention facilities were never planned to be the magnitude they were and so they retained that TACON responsibility—because eventually there would be a term employment to hand back over to the Iraqis. And so okay I'm done with that. Envisioned to be no more than about six hundred people—detainees—after the end of hostilities. And that Brigadier General Hill also said that in the May timeframe. Other than the MEK guys up to about three thousand in one compound. And so it was never envisioned to that magnitude. So what they wanted to do was retain—the 800<sup>th</sup> intact so that when it went theater they wouldn't take their assets and move them here to Kuwait, which they

could if they're being intrusive if they're TACON. So they kind of re-held that TACON relationship based on the previous plan. And for a lot of the other forces, the SOF forces the TACON relationship, keep the Commander informed, execute your mission, worked out okay. But with this Commander who reluctantly moved her staff up there, still saw—envisioned that—responsibility for the detention facilities but still working for the 377<sup>th</sup>, so she used that kind of both ways. In turn she says, CJTF-7 you gotta support me. I need this, this, and this and so forth. But in reality her support base by a TACON relationship is the 377<sup>th</sup>. Because the logistics support of units that are TACON still rely upon the parent unit. That didn't happen. And then the 377<sup>th</sup> changed out commanders and so forth. They didn't see any role in supporting the 800<sup>th</sup>. They—that's a CJ—that's in theater. So that's where the confusion and it really convoluted relationships that came into being.

[U] And I asked Sanchez about that. I said, you know you had so much problems here, why didn't you go back up for change in relationships? He said, well I didn't see it to be a need because I've a General Officer, they've got a mission to do. I expect her to do it. And—I didn't have any other problems with other people who were TACON to me. But in this case Karpinski played both sides against the middle. You know, ran around the country. Whatever she wanted to do. Because I think that's why she kept going back to Kuwait, to keep that relationship going. And then it really manifests itself at the end with who does my efficiency report.

[U] Q. Would it be fair to characterize General Sanchez's perception of this problem with General Karpinski then as a leadership problem with his Commander versus a Command relationship with the TACON versus OPCON?

[U] A. I think so. Accepting ownership of the mission and doing the things she has to do to execute that mission. I don't think she ever accepted ownership.

[U] Q. One of the reports we read basically stated that there were failures on the part of CFLCC—in planning for insurgency. From the information you've given us today they were clearly out of that picture in about the June 2003 timeframe.

[U] A. They diverted back to Doha for the responsibility for Kuwait and Saudi Arabia and/or of the RSO.

[U] Q. So in that instance they had no planning responsibility for anything going on in Iraq post about the June 2003 timeframe?

[U] A. It was something like 14 June I think. You gotta remember the relationships between those two staffs soured a little bit. Because V Corps guys, seemed they were left holding the bag. No resources. No—now—now I'm the CJTF-7 and nobody is giving me the resources. In the meantime some of those guys who were at Doha left. You know? If you look about the CFLCC staff they were pretty well equipped. You had J.D. Thurman there. You had a lot of good horses to help McKiernan be the CFLCC Commander over Wallace and/or the MEF, the Marine guys. And so they were staffed accordingly to do that. When they diverted and went back to Doha a lot of those people left. At the same time the guys in Qatar said our mission is kind of done now. We're into a stability and support operation. We're out of here. All those Air Force guys and other people. So—the appearance was the only people you had left was Abizaid and McKiernan and Sanchez and his staff. Everybody else could come new.

[U] (b)(7)(C) do you have any other questions?

[U] (b)(7)(C) Just one last quick question, Sir, and it has to do with Major General Geoffrey Miller's visit.

BY (b)(7)(C)

[U] Q. In the September timeframe.

[U] A. Yes.

[U] Q. When he came over and the finding in the report was that his visit, his team, did not introduce any harsh techniques into the theater.

[U] A. Uh, huh.

[U] Q. But that some of his team members—inadvertently validated some techniques that may be in violation of the Geneva Convention. Specifically use of nudity, and the presence of dogs. Did you see any failure on Major General Geoff Miller's part to ensure that that inadvertent validation of interrogation techniques, that that not happen? Did he have any role?

[U] A. No. In fact I think it was done only—it wasn't—and I think Fay's report found somebody from the GTMO team was not reporting.

[U] (b)(7)(C) Thank you for that.

[U] LTC JONES: Trying to remember it all but more I tried to forget.

[ ] (b)(7)(C) Sir, you described a complex, violent and horrid environment where CJTF-7 Soldiers, units, and leaders prosecuted a counter-insurgency operation and performed above all expectations. As part of that your investigation laid out numerous facts and made findings pertaining to activities regarding alleged detainee abuse. Sir, in your opinion as a senior leader, did the actions of any senior leader we discussed today or others you may know of, in your investigation, constitute a failure to take appropriate action, a dereliction of duty, or potentially criminal misconduct?

[U] A. Not above the Brigade. With the exception of--I'm--I was looking at the Chain of Command, focus. Now if some of the staff in terms--okay, and I looked at and elaborated what Barb Fast and Sanchez--but this is an intelligence issue. In my opinion, although great officers I think there was--Colonel Warren--probably was negligent in terms of keeping the Commander informed based on what I saw and the counsel he provided. A tough thing to say based on what they were doing, what they were trying to do, but I think he--his Staff gave him bad advice and I think he accepted it, and his level of experience having been in-country, and his knowledge of the Geneva Convention and things could have led him down a different road.

[U] I think there's bad decisions and bad acceptance of the missions and how they executed the mission by both Pappas and Karpinski. But I feel that the senior leadership that was the chain of command albeit responsible as we see in the Army for things that happen and do not happen, in terms of what they're responsible for in hindsight they could have done some other things, but I think they did tremendous work based on what they were tasked to do.

[U] (b)(7)(C) Thank you, Sir.

BY (b)(7)(C)

[U] Q. All right, Sir, do you have anything else you wish to add?

[U] A. I think the comment we just talked about having visited there and been in Afghanistan, I think we owe a debt and gratitude to a lot

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of Soldiers who are doing the right thing. Even in Abu Ghraib there were NCOs on the dayshift who were doing the right thing. There were Soldiers within the 320<sup>th</sup> MP Battalion--they all worked right there in Ward 1a, 2a, and 1b and 2b. There were others there that were doing great work. Trying to do what was right. I think the incidents of misconduct should be taken as that and let justice do its right course for those people that revealed that they have done clearly criminal acts in what they did. I think our Army has learned about this. I think we'll move forward. We've already implemented a lot of changes that will make things better. But I think we as a Nation have got to wrestle with some of the issues out of this. It's not solely Army. It's how we get into theater and a culture such as this and how we learn from it, and, how we grow leaders to adapt to it. And, we have to look at our leaderships in all components in what we prepare them to do as they get into an environment like this. But, you know I think our values are still sacred. I think our focus on leadership and getting competent and confident leaders is still critical. Presence of leaders at critical points and times is still important and I think that marked discipline is doing what's right when nobody is there. And that clearly didn't happen at Abu Ghraib.

[U] I think there was some--decisions in hindsight which could have been done better. But when you put it in perspective-- and the counsel that the leadership is receiving, I think they had to make some tough calls and they made the tough calls and that's the way it is. And we move on. The two things that bothered me the most, we didn't set this unit and these leaders up for success and we're part to blame. Because we dealt them a situation of which their level of experience-- their level of resourcing was inadequate for us as a Nation to put them in harm's way. And not give them appropriate resources that they needed. And that's a travesty. And so the fall out of all that is people are trying to point fingers. What people did or didn't do is we have to look at ourselves because we're part of this also. We as a Army. We as a Nation, a joint community, didn't step up and help them when we should have and that's terrible.

[U] MS Wright: Yes, Sir.

[U] LTG JONES: And we can't forget the impact that this has had on Soldiers, families, not only the General Officers that are still left out there hanging to dry, but look at all the other folks of different echelons. Those kids I talked about in the 320th-- some of the others in the 519th-- the 800th MP Brigade-- they talked about taking the flag down because we kind of stood in the Brigade because it's got a rich history and people have served in that, so this has impacted a lot of people and the unit-- I think the coin now in Abu Ghraib and those who are serving there have something that said, something about recovering their honor.

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~~SECRET~~

[U] (b)(7)(C): I'll go ahead and start the read-out then.

[U] LTC JONES: Okay.

[U] (b)(7)(C) We are required to protect the confidentiality of IG inquiries and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone except your attorney, if you choose to consult one, without permission of the Investigating Officers.

[U] Your testimony is part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] LTG JONES: Testimony yes. Social Security Number and my address no.

[U] (b)(7)(C) That is normally redacted, Sir.

[U] LTG JONES: Because that's--we get more credit cards coming in that we want now.

[U] (b)(7)(C) Right. Okay, Sir. Do you have any questions?

[U] LTG JONES: No, I hope I've answered your--what you needed.

[U] (b)(7)(C) Yes, Sir.

[U] LTG JONES: And you know if you need me--to see me again just holler.

[U] (b)(7)(C) All right, Sir, will do.

[U] LTG JONES: I'll be glad to do it. I've lived this now for three or four months and--, I think we did a reputable job in trying to get--based on the time that we had to try to figure out--, ascertain the--the facts and now we just gotta move on.

~~SECRET~~

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[ U ] (b)(7)(C): Yes, Sir. All right, Sir, the time is 1745 and the tape-recorded portion of this interview is concluded.

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Testimony of **LIEUTENANT GENERAL ANTHONY R. JONES**  
Was transcribed and certified by (b)(7)(C)  
Certified Court Reporter, Department of the Army Inspector  
General Agency, Washington, D.C.

~~SECRET~~

EXHIBIT

43

[JONES]

D6

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Interview of Colonel Kevin Charles [b)(6)-2 & (b)(7)(C)-2] Director, School of Advanced Military Studies, Fort Leavenworth, Kansas taken between Presidential Towers, Crystal City, Virginia, and Fort Leavenworth, Kansas, on 22 October 2004 between 0919 and 1603 hours, Colonel [b)(6)-4 & (b)(7)(C)-4] and Colonel [b)(6)-4 & (b)(7)(C)-4]

Persons present are the witness, Colonel [b)(6)-2 & (b)(7)(C)-2] and the investigating officers, Colonels [b)(6)-4 & (b)(7)(C)-4] and [b)(7)(C)-4]

This investigation was directed by the Inspector General of the Army concerning allegations of impropriety against senior officials assigned to the Department of the Army.

An Inspector General is an impartial fact-finder for the directing authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases disclosure to other persons may be required by law or regulation or may be directed by proper authority.

Upon completion of this interview I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your social security account number to help identify you as the person testifying, you have been previously provided with an explanation of the Privacy Act. Do you understand it?

[b)(6)-4 & (b)(7)(C)-4] Yes.

COL [b)(6)-4 & (b)(7)(C)-4] You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue I want to remind of you the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Do you have any questions before we begin?

COL [b)(6)-2 & (b)(7)(C)-2] No.

COL [b)(6)-4 & (b)(7)(C)-4] Please raise your right hand so that I may administer the oath.

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[The witness complied, was sworn, and testified as follows:]

Q. For the record, please state your full name.

A. My name is [b)(6)-4 & (b)(7)(C)-4]

Q. Social security number if you want to provide it?

A. My social security number is [b)(6)-4 & (b)(7)(C)-4]

Q. Your rank and grade?

A. My rank and grade is Colonel/0-6.

Q. Position and title?

A. I currently have the position of Director, School of Advanced Military Studies, Fort Leavenworth, Kansas.

Q. Address?

A. [b)(6)-4 & (b)(7)(C)-4]  
[b)(6)-4 & (b)(7)(C)-4]

Q. And a phone number?

A. Phone number is [b)(6)-4 & (b)(7)(C)-4] The defense switch network prefix is [b)(6)-4 & (b)(7)(C)-4]

Q. Okay great, thanks Kevin. I'm going to turn it back over to [b)(6)-4 & (b)(7)(C)-4]

[b)(6)-4 & (b)(7)(C)-4]

Q. Okay there, Colonel [b)(6)-4 & (b)(7)(C)-4] could you please describe your duties and responsibilities when you were assigned to 3d U.S. Army?

A. I was assigned to 3d United States Army Coalition Force Land Component Command in July of 2002 and I was assigned as the Assistant Chief of Staff, C-5/Plans. As such I was responsible for directing the development of the supporting ground major operations plan from the CFLCC in support of the Central Command Campaign Plan 1003V.

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A. V Corps -- well as best I can recall, V Corps was under the operational control of 3d Army as CFLCC when the Corps Headquarters arrived in theater. Prior to its arrival in theater, in the theater of operation and by that I mean when it arrived in Kuwait -- prior to that, V U.S. - - the relationship between V Corps and CFLCC was direct liaison authorized as they were -- as they, V Corps, or it, V Corps was apportioned to Central Command and 3d U.S. Army under previously existing war plans for contingencies in the region in Southwest Asia.

Q. Okay so when did V Corps then arrive and become operational, if you will, under CFLCC?

A. January 2003 although they had a small element that remained in country of Kuwait. Prior to that, the Corps Commander arrived to stay in January, pardon me, of 2003.

Q. Okay, now bear with me if you will as I try to put this in perspective here. I want to talk about a distinction between ARCENT and CFLCC.

A. Okay.

Q. Is there a distinction between the two?

A. There is only in doctrine and in doctrinal roles. We were one in the same headquarters and one in the same staff.

Q. How did those doctrinal roles differ?

A. As ARCENT, 3d U.S. Army was responsible for what is called the doctrine administrative control or ADCON of all Army forces in the theater mainly providing combat support and combat service support functions for all Army forces and Army support to other services as was outlined in standing memorandas of understanding and standing directives within the Central Command that are an outgrowth of the Army's Title 10 responsibilities. For example, as ARCENT we were responsible for -- as the Army force we're responsible for providing all veterinary support to Army units and other services in theater just as an example, as the ARCENT role.

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Q. Okay, did those doctrinal responsibilities change or were moved to, say, Forces Command, when you became, I'll call it, a war fighting headquarters?

A. No. All those responsibilities remained with 3d U.S. Army in its multiple roles when operations actually began. We retained the role of the CFLCC, the Land Component Commander as a war fighting headquarters and as ARCENT or as the Army Service Component Command responsible for sustaining all Army forces and providing all Army support to other services.

Q. I guess I'm going to ask the next question; were you resources to adequately and properly perform both missions or was it not significant?

A. I will say, yes we were and of course that is -- my only caveat is that as always, relied upon the ingenuity of both individual soldiers and officers.

Q. Okay. Let's go on a tangent for just a little bit but directly related to this; how would typical requests like RFF, Requests For Forces, and those type of things move through the chain-of-command? For example, you're getting ready to move and to become on the ground in January of '03. You're identifying subordinate tasks and recognizing the need for additional resources and so are your units that are now subordinate to you such as V Corps. How did those RFFs move and what was the lines of authority/responsibility for those to be worked?

A. The request for forces process came about, to my understanding, as a -- directly from the Office of the Secretary of Defense. I was informed by friends that instead of taking one decision to execute a time phased force deployment list developed for time phased force deployment data, that the people within the Office of the Secretary of Defense wanted to exert more control over the flow of forces into theater. Therefore we would continue with a request for forces process. So all of the forces that were apportioned to us had to be packaged, if I may use that word and presented as requests for forces. The process began with my headquarters for Army ground forces. It was the responsibility of MARCENT to package and send forward Marine forces although we had a role in that since once the Marines became on the ground they were under our tactical control as the land component command.

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As far as Army forces; between my headquarters and V U.S. Corps and the various divisional planners, it would go back through the time phased force deployment data, then we would in essence task organize divisions or regiments for other force packages in terms of combat, combat support, and combat service support forces. We would cross-check what was needed with the tasks that we expected the division or that force package to accomplish for us. We applied all of our best experience in education and logic to the development of each force package. When we at the CFLCC were in our role now as the ARCENT, developed the RFFs for all Army forces, officially that information left our headquarters to Central Command from Central Command that RFF went to Joint Forces Command. From Joint Forces Command it would go up to the joint staff and down to the service components underneath the Combatant Command of Joint Forces Command, specifically, U.S. Army Forces Command. Now we also, of course, sent our requests directly to Forces Command in an effort to keep them informed because there was a great deal of planner-to-planner cross talk as this process continued throughout operations so forces command would never be surprised and that was what you would expect. We also informally kept the members of the Army staff informed so there would be no surprise there but the official flow of the request for forces would go from the Army Component at Central Command, ARCENT, 3d U.S. Army; to Central Command; to Joint Forces Command; from Joint Forces Command as a total staff package, to the Joint Staff into the Office of the Secretary of Defense and where in the Office of the Secretary of Defense, himself, approved every single RFF.

Q. Got it. Let's move forward. Let's talk about the OP plan, your OP plan specifically and here's where I'm a little bit concerned and if you think I'm drifting too close to stuff that may be on the end here, shut me up.

A. Sure.

Q. We talked about the phases of the operation.

A. Okay.

Q. Clearly Phase III of the plan was major combat operations. There were conditions that basically -- where you would identify when transitions would occur between

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A. As best as I could find, again in all of the notes that I kept that decision was taken sometime in June because it was very, very rapid. We had, as best I can recall, about 3 weeks to work -- the transfer of authority [unintelligible word, counter 542] was on the 15th of June and as I leaf through the notes that I kept, we began working with the V Corps on this task organization at how we would man the joint manning document and how many officers from our headquarters we'd move up to reinforce theirs, 3 or 4 June as best I can recall. We'd received indications prior to that but nothing official.

Q. Okay.

A. I mean official in terms of, 'here's a central command order.' I don't remember actually ever seeing one of those. I'm pretty sure there was one because -- but all those would come through the C-3.

Q. Well why V Corps?

A. They were the only -- the only headquarters we had.

Q. Okay so ----

A. First MEF was going to be relieved and withdrawn because the Marines felt the need to reestablish the MEU afloat -- MEU, Marine Expeditionary Units afloat and get their Marines out of Iraq as quickly as they could. Eighteen Corps was engaged in Afghanistan. I Corps -- there was not enough -- since I Corps was dependent on -- mostly on reserve components to the completion of their headquarters and there was some reluctance at that time to continue the call-up of multiple reservists. 3d Corps was apportioned to other places as I'm sure you know. So there was no other Corps headquarters to hand over.

Q. I guess my question then is, why a Corps headquarters for the standing joint force headquarters?

A. What was explained to me was the headquarters was there, it understood the situation, it was established in country and the regional combatant commander wanted to reestablish his Army component command headquarters so that we would revert back to a regional focus and continue to

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provide support to all of the -- to the theater vice just being a sole focus on one country.

Q. Okay let me argue with that for a second, if you will.

A. Sure.

Q. You indicated earlier that you never lost your responsibility for being the AOR force provider/sustainer but it sounds like ----

A. Not force provider.

Q. Okay well -- roger but in other words you never lost your AOR view?

A. We weren't formally relieved of the responsibility but it was understood that we would focus more on being the war fighting headquarters, CFLCC, and risk was taken knowingly in terms of looking at joint task force for the Horn of Africa and CJTF-180 in Afghanistan. That was a deliberate decision taken at the Combatant Command level. Those two other joint task forces understood they were a supporting effort and did not have to worry about -- well, we were not going to have to worry about them and actually European Command picked up some of those ARFOR responsibilities for Afghanistan.

Q. Okay.

A. And JTF [unintelligible word, counter 605] since it was [unintelligible word, counter 604] I beg your pardon, HOA -- primarily a Marine operation and so MARCENT picked up the responsibility of the support -- ADCON, if you will, of Joint Task Force HOA.

Q. Let's talk a little bit more about V Corps, basically along this same line, okay. Why not have the CFLCC become the JTF?

A. We were for a short period of time.

Q. And what caused that to change? Was there a ----

A. To the best of my understanding it was a desire on the part of the regional combatant commander to

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reestablish his theater so that his components were looking at the totality of his theater and that one of his components, specifically the ARCENT, 3d Army, was not tied down into just one country.

Q. Okay.

A. Now I will tell you that it is my personal belief that that was a mistake. The argument that I was making as the C-5 was that we should continue on with our additional estimate that phase 3-like conditions were going to last for 125 days and that we should continue the force flow and that our headquarters, as the CFLCC, should not leave.

Q. Okay.

A. Obviously that didn't -- obviously what the C-5 and CFLCC had to say was listened to and 'thank you very much but we have to take the decision in another direction.' I think it was a mistake.

Q. Now how did -- if you were involved in this, what was to be the means and method for standing up V Corps as the CJTF? Who -- was this a CENTCOM help kind of thing or was it kind of left up to V Corps or how did CFLCC get involved or, you know, what -- describe the game?

A. Part of the battle handover -- part of the battle handover of the responsibility of being CJTF-7 from 3d Army CJTF-7 -- 3d Army CFLCC and V U.S. Corps was the establishment of a joint manning document.

Q. Okay.

A. And we spent long hours looking at the V Corps staff and looking at what augmentation the staff would need both in terms of personnel and in terms of adjudication systems and all that. There were some rather heated discussions about the number of people that would go from our headquarters. Our headquarters made up the 3d U.S. Army CFLCC Headquarters had received a number of augmentees and so one of the decisions that was taken was that those officers who were on temporary duty orders of 180 days or 179 days whose time was not up, whose role -- whose functions were not needed were solely JTF responsibilities would transfer; either remain in Baghdad or move to Baghdad to augment the V Corps staff. Now I was not involved in

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British method of basically going to soft caps. Is that correct?

A. That is correct.

Q. To confirm [Tape 1, side A abruptly ended mid-question].

[Tape 1, side B picks up mid-question.]

Q. ---- CJTF role?

A. That decision was taken at the Central Command level.

Q. Central Command level. Okay now did CFLCC agree with that because you had talked about some staff interaction about missions and your Op plan and joint manning and stuff like that? I just wanted to see how that kind of process worked. In other words was it top down driven or was there significant dialogue and --

A. I do not know about commander-to-commander dialogue. I know that colonel-to-colonel -- the colonels with whom I spoke on the Central Command staff within the J-5 and the J-3, I made it know that my recommendation was -- and that which I delivered to my boss was that we're leaving too soon and as tough as it was going to be we needed to stay. Now, again, I do not know what took place commander-to-commander but I do know that subsequently we were directed to begin the handover process that would culminate on the 15th of June.

Q. Was that your assessment -- your assessment, was that based on kind of what you had seen in terms of when you were writing the op plan, Eclipse II, I believe you called it and you saw this, I think the way you described it was a bunch of responsibilities and tasks?

A. It was Eclipse.

Q. Oh Eclipse.

A. Lunar Eclipse.

Q. Okay.

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A. Eclipse II and yes, because as we war gamed potential enemy courses of action, one of them was an insurgency. Now although none of us, I hasten to add, thought that was very likely, it was one of the potential outcomes and we felt that given the depth in our headquarters and it's understanding was that was -- that was the recommended command and control course of action [unintelligible word, counter 735] given the complexity of what we knew is also -- I mean at the same time we were also engaged in discussions with the establishment of the multi-national division that would relieve First Marine Expeditionary Force and so there was handover within handover within handover and that was adding to a level of complexity that I thought was just you know, based on my own personal judgment was just a little too much to bear for the Corps Headquarters even reinforced with folks that were coming out of ours. Again, I don't know of anything about the commander-to-commander decisions and I'm sure there were absolutely great reasons for why the decision was taken to do the handover.

(b)(6)-2 & (b)(7)(C)-2

Do you know the reasons?

A. No I do not but I'm sure there must have been some because we did it.

Q. At the colonel-to-colonel level or at the staff level to staff level-to staff level what -- did you ever gain any impressions from what CENTCOM felt about your feelings or your staff's feelings or at the planning level feelings regarding this?

A. I can't tell you across the entire CENTCOM. I can tell you that the conversations I had with two guys in particular, we were all in violent agreement because we just didn't know what was going to happen as far as the enemy was concerned.

Q. Now it ended up being an assumption, I guess, that the security environment would be relatively benign. Was that, in fact, an assumption that was a conscious assumption that was placed as part of a transition of phase 4?

A. No, we would never have made that assumption.

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starting conditions for their planning and so our war gamed end state conditions became assumptions for them upon which they began their planning for Phase IV(b) and (c), part of the CENTCOM campaign plans. They were doing an awful lot of work. Now were some guys and gals working harder than others? Sure, but no one was -- none of those folks were slacking.

Q. No, no.

A. As far as the duration of their stay, my understanding and again this could be flawed, was they were on orders in accord with service policies. I cannot confirm that. I remember someone telling me that.

Q. And what happened to that organization once the CJTF stood up then?

A. They were formally disestablished prior to the stand-up of the JTF and their officers were incorporated into CFLCC and ORHA. After -- upon handover of the JTF role from the CFLCC to V Corps, those Army officers who were still in theater, who had been extended for a year rolled over and augmented the V Corps staff.

Q. One last question on this particular -- was their a viable construct for a standing joint force headquarters? In other words, an organization on paper that would have transitioned from CFLCC to CJTF? In other words, with, you know, a three-star general/two-star general, a chief of staff, various organizations? In other words what I'm describing is the honeycomb of organization that would actually be this headquarters or was it something that was just going to evolve or mutate out of either CFLCC's organization or out of, in this case, V Corps?

A. I will tell you I never saw a proposed table or organization save those that we at CFLCC developed. Was there another existing headquarters? At one point in time at the beginning of our planning effort and I would put that at the beginning of phase IV planning for me was June and July of '02. We assumed there would be a headquarters that would follow on. As it became more and more clear to us that we were going to hand over the phase IV mission to ourselves as JTF-7, that realization kind of sank in and we began to change the Outlook within our headquarters that it was going to be us and we began the work of looking at who

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was our -- and I'm going to use an acronym now and I can't remember what it stands for but it was WWIAS. I'm sorry I can't remember what it stands for but essentially that was the process by which the Army used to augment our headquarters, our headquarters in 3d U.S. Army that made up CFLCC as well as the joint manning document that gave us our Marines and our Air Force guys and we began to relook that and how we can sustain it until we learned that we were then going to hand over the JTF-7 mission to V U.S. Corps on the 15th of June and then the focus of effort became how can we transition those billets over to V Corps to augment their staff to make then a joint task force staff. As the multi-national divisions developed, how would those multi-national divisions embed staff officers into the joint task force staff and how would they establish liaison officers, which were also pretty much staff augmentation from the joint task force.

Q. Okay, I have a quote that I would like to get your comment on here. "They went into phase IV with the perspective that the Corps would augment the JTF and it would function effectively. The CTF-7 structure on 14 June would have been adequate for stability and support operations and for drawing down the force." Is that a fair assessment?

A. Who said that?

Q. I don't know.

b(6)-2 & (b)(7)(C)-2

It's in a report ----

Q. It's in a report and I don't particularly have the quote. It was from a high-level official.

A. Could you read that one more time please?

Q. Sure. "They went into phase IV with the perspective that the Corps would augment the JTF and it would function effectively. The CTF-7 structure on 14 June would have been adequate for stability and support operations and for drawing down the force." It might have been the Schlesinger Report.

A. No I've got the Schlesinger Report open and I haven't found that.

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Q. Okay I have another quote here that I'd like for you to comment on from the Jones Report. "In accordance with the CENTCOM Oplan, CFLCC would have had to provide operational logistic support to Army forces from Kuwait. No attempt was made by CJTF-7 to coordinate a change in this command relationship." Why did CFLCC retain OPCON of units, such as 800th MP Brigade, after the 15th of June?

A. I have no idea.

Q. Okay.

A. My understanding was that we would perform those tasks that were related to combat service support. Why would we retain command of 800th MPs? I have no idea. The Kuwaitis would not let us establish a PW holding area in their country. So as I recall the 800th operated inside Kuwait until we crossed into Iraq and then as we set up holding areas, they moved forward into those areas.

Q. Yeah the relationships for a lot of the units were either OPCON or TACON.

A. Check.

Q. And 800th was one of those units and they were TACON -- they became TACON to CJTF-7 upon 15 June let's say but that still implied that all the administrative, logistic, and all those other types of support tails stretched back to the 377th Theater Support Command and -- which was under your -- let's say you're under CFLCC control.

A. That's true.

Q. Is that good or is that something that ----

A. The discussions that we had as best I recall was that TACON, under the doctrinal definition of TACON, that gave JTF-7 all the authority it needed to specify directive directed tactical tasks that the brigade would perform and that by retaining operational control, that's ultimately at CFLCC, that would relieve JTF-7 of the responsibility for providing CSS.

Q. Okay.

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A. It made sense at the time because JTF-7's zone of control was the country of Iraq and CFLCC had responsibility for Kuwait and the only port that we were using, CPORT, was in Kuwait. So it made sense at the time to do it that way. We had a similar arrangement if we'd have conducted operations out of Turkey between Central Command, European Command and CFLCC that there would be units that were providing combat service support in the north under -- and the European Command would retain operational control and as those units would come into Iraq, and again this was all war gaming conjecture because obviously we didn't operate out of Turkey into Northern Iraq, but those units when they came into a zone of CFLCC would come under the TACON of CFLCC or a CFLCC designated force [unintelligible word, counter 088] so that would have been the 4th Division. So we applied this similar construct to relieve JTF-7 of the burden of providing combat service support and TACON in our estimation give the Commander, JTF-7 all the authority he needed to direct tactical tasks.

Q. Okay we'll come back to that in a little bit and talk about that a little bit later down the road here. Just to set me straight as we move into this next phase of questions and discussion here, if I were to draw a task organizational chart depicting theater C-2 during phase III it would be from CENTCOM to CFLCC to V Corps?

A. Correct.

Q. Now what about after 15 June when V Corps became CJTF-7; could you describe it how that chart would look?

A. Yeah it went from CENTCOM to JTF-7.

Q. Where would CFLCC be?

A. On the same command line.

Q. On the same command line as?

A. Because we did not have a command and control relationship with the JTF-7.

Q. You had a coordinating ----

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A. We were coequals. We were coordinating.

Q. You were co-equals?

A. [Affirmative response.]

Q. And so you were ----

A. Just like the relationship with JTF 180 in Afghanistan.

Q. Okay.

A. Under Central Command's command and control on the 15th of June it went from Central Command to CFACC, CFLCC, CFMECC, CFSOC, JTF-7, JTF-180, JTF-HOA.

Q. Okay and like you said, CFLCC and the Air Force are all off on the side?

A. Check.

Q. Okay. Now moving on here; in June of 2003 when CTF ORD was established a vast increase in responsibilities began. CJTF-7 grew to 180,000 and was charged with phase IV task and direct support to the CPA. What planning assumptions did CENTCOM provide for the direct support to the CPA to either you or through you or during the standup of V Corps as the CJTF?

A. I do not recall any specific planning assumptions that I took from Central Command. I can tell what the assumptions that we made were because I've got them right in front of me.

Q. Okay.

A. They were: policy guidance and end state will evolve over time; Asymmetric strength to CFLCC forces will exist in phase IV; non-DOD agencies, e.g., Department of Energy, Justice and State will contribute to Iraq recovery operation; some essential infrastructure (rail, airports, power generation, bridges) will be damaged due to combat operations; national organization, non-governmental organizations will request CFLCC support with at least force protection CSS in humanitarian assistance, supply distribution; coalition forces will participate in phase

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officially left theater and came home. He would just -- he did leave theater and came home for, you know, 2 or 3 weeks then he would go back forward for 2 or 3 weeks and he would continue like that.

Q. Okay. I'm going to run through a series of quotes here. I'll ask you just to comment on all of them kind of we're somewhat starting to wrap up a little bit with some follow-on questions here. This -- I quote "The level of authorities and responsibilities of a command of this magnitude, i.e., the CJTF-7, is normally vested in a four-star level Army Service Component Command under a COCOM."

A. I disagree.

Q. Okay.

A. A JTF can be any level of command by our doctrine. It doesn't necessarily have to be a four-star. As a matter of fact I would offer that it's only on rare occasions that it happens to be a four-star. Look at Korea; that was a result of the end of the war and in that case the Army component in Pacific Command is a three-star. In the Central Command AOR, the JTF was a three-star because that was the headquarters that we had. It can be a four but I wouldn't say that's routine.

Q. Okay. Second quote, "We note however, in terms of its responsibilities CJTF-7 was never fully resourced to meet its -- to meet the size and complexity of its mission. The joint staff, CJTF-7, and CENTCOM took too long to finalize the JMD," and what they're pointing to is that the JMD was never finalized until December of 2003.

A. I would offer that it wasn't filled until about that time. It was finalized ----

Q. Okay.

A. ---- when I left Baghdad on the 15th of June, I don't remember now but I know what the JMD said. We all -- we and let me be more precise; officers on the V Corps staff, officers on the 3d Army CFLCC staff, we all knew what was supposed to be there. We also knew that all those guys and gals couldn't come out of 3d Army headquarters and

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rotate into V Corps headquarters so hence the joint manning document.

Q. Was it really a joint manning document or was it an Army manning document?

A. It was an Army manning document.

Q. Okay.

A. The argument that the Navy component and the Air component made was that JTF-7 didn't need to have a Naval or an Air component because their headquarters; the Air Force and Navy respectively, could do those tasks for JTF-7 and JTF-7 wouldn't have to worry about it. JTF-7 was primarily a land operation; therefore it was primarily going to be Army. Even our Marine brothers were dragging their feet on filling billets that we thought were going to be Marine.

Q. So then the responsibility for vetting the document and putting it all together fell to CFLCC and fell to the Army guys to make it happen?

A. Yeah.

Q. Okay.

(b)(6)-2 & (b)(7)(C)-2 What did CENTCOM say about all of this?

A. CENTCOM -- there wasn't one voice talking for CENTCOM on this. The understanding became that, 'Look there's a joint manning document and JFCOM, you're supposed to be the joint force provider, you've got to fill it.'

Q. And so JFCOM did nothing?

A. To what I saw that is an accurate statement. The only folks that I saw reinforce V U.S. Corps were folks that came out of the CFLCC staff and those primarily had come from the original gang from JTF-4. We did have other officers and NCOs and soldiers who were on our staff who stayed with V Corps on a volunteer basis to fill joint manning document billets.

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Q. Okay somewhat of a hypothetical; given the fact that serving on a joint staff or a joint organization such as a combatant commander, you have a variety of officers from different services that interplay with each other and it doesn't matter about what the level of support is coming from where but the staff expertise that they bring to the fight, whether it be a CB from the Navy, ALO from the Air Force, an Air Force engineer for base security and stuff like that; why do you feel or can you provide a perspective as to why CENTCOM didn't force this -- was not more forceful in trying to get the proper joint staff on board for this organization?

A. I don't know that they weren't more forceful, I really don't.

Q. Okay.

A. They could have been out there beating the bushes and beating up everybody on the joint staff of Washington. I just -- I don't know.

Q. Did CFLCC try to beat up Army or go to CENTCOM with their concerns or did they --

A. Yes ----

Q. Okay.

A. ---- both Central Command and to the Army staff.

Q. And what blow back did you all receive from that?

A. On individual levels was, 'Guy, don't you realize that the Army is real busy and we have other headquarters we've got to fill,' and official responses were, 'We've tasked out to units and we're in the process of adjudicating the requirements and all that's going to take time but we will fill you.'

Q. Okay, got it.

A. But see the Army staff, quite rightly, is sticking only to billets that were tagged Army on the joint manning document and I don't blame the guys and gals on the Army staff for doing that.

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A. In all honesty, guys, I don't want to go into that. That's outside of my realm.

Q. Okay.

A. I'm not going to comment on political stuff.

Q. Okay. You do have an opinion though obviously.

A. Not one that I care to share under oath.

Q. Okay. Let me move to two quotes from the Schlesinger Report, if I could.

A. Okay.

Q. First quote is, "Once it became clear in July 2003 there was a major insurgency growing in Iraq and the relatively benign environment projected for Iraq was not materializing, senior leaders should have adjusted the plan from what had been assumed to be a stability operation and a handoff of detention operations to the Iraqis. If commanders and staff at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003 as difficulties with the plan were readily apparent at that time." Can you provide any comment or perspective on that?

A. I'm trying to find -- what page is ----

Q. That's page 47.

A. Okay. I scrolled past it. I need just a second. I want to read it. [Pause] I disagree with the first line. I do not believe it was clear in July 2003 that there was a major insurgency growing.

Q. Okay.

A. At the time -- when I -- I mean I left on the 5th of July. There was an increase that was -- it was a significant -- yeah because there had been none for a while. Now was there an increase in incidents across the country? Yes. An insurgency implies there was a controlling headquarters or a controlling hand somewhere.

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At that time, and I'd like to think that I'm a pretty savvy and educated officer, it was not apparent to me that there was a major insurgency growing. There was an increase in incidents that appeared on one level of analysis as isolated because they were distributed all around the country. The relatively benign environment projected for Iraq was not materializing. Sure, okay. Adjust the plan to what? It was still going to be a stability operation. Stability operations involve elements of offense and defense as well as stability operations in terms of reconstruction and support to NCO's.

Q. You're talking about the phases of peacemaking and peace keeping and their inner-correlation?

A. Absolutely.

Q. What about this; "If commanders and staffs at the operational level had been more adaptive," was the CJTF an adaptive organization the way it was put together?

A. Now we're talking about V Corps ----

Q. Yes.

A. And the V Corps Commander and honestly, I don't know. When I completed the handover of my tasks [unintelligible words, counter 381] I'm not waffling here but I was shifted to other tasks. The major task I had from about the 16th or 17th of June, because in all candor when I got back to Camp Doha, I slept for about 20 hours, was to develop -- first was to develop a briefing for the Kuwaiti General Staff or Joint Staff on what happened and what our projections for the future were in terms of theater engagement strategy and to engage with the [unintelligible word, counter 386] J-5 on theater engagement strategy in a post-Saddam region or era as well as the continued monitoring of the arrivals multinational division forces.

Q. Do you think that the V Corps had sufficient tools to be adaptive?

A. Sure they did.

Q. Okay.

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was onboard and I didn't want to appear to be the nosey former guy interfering with the guy who relieved me so ----

Q. Sure.

A. ---- and he didn't call me so I mean I -- you know, it's just that courtesy thing.

(b)(6)-2 & (b)(7)(C)-2 Hey (b)(7)(C) I want to go back just a little bit while you were still downrange. Did you guys are JTF-7 ever request any additional forces?

A. We never requested more forces than that were already apportioned.

Q. Okay. Was there any request that came up from V Corps or the CJTF after it stood up right before your departure requesting for more forces?

A. Not to my knowledge, no.

Q. Okay.

(b)(6)-2 & (b)(7)(C)-2 Do you know if CJTF-7 ever requested any after they stood up?

A. We didn't when 3d Army was JTF-7. I know that for a fact because that was -- part of my job was force flow. As far as I know until I left, V Corps did not request anymore forces. Frankly guys there were none to be had once OSD stopped the force flow and said 1st CAV wasn't coming that was it.

(b)(6)-2 & (b)(7)(C)-2 Was that kind of like the directive from Washington that you're not going to get any so don't ask for any?

A. No the direction was we're going to stop the force flow because the assessment was, and this was agreed upon by Central Command, that it wasn't necessary to bring the 1st Cavalry Division into the fight because there wasn't a fight.

Q. Got it. So to wrap up this 2-hour conversation, do you have any closing thoughts or comments given everything that we've talked about today?

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privacy and reputations of all people involved in them. We ask people not to discuss or reveal matters under investigation. Accordingly, we ask that you not discuss this matter with anyone except an attorney, if you choose to consult one, without permission of the investigating officers.

Your testimony is made part of an official Inspector General record. Earlier I advised that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of these records to include your testimony but not your personal identifying information such as your name, phone number, social security number, and things of that sort under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

A. I am happy to have my testimony released save my personal identifying information.

Q. So when your answer would be yes, is that correct?

A. That is correct.

(b)(6)-2 & (b)(7)(C)-2

Do you have any questions?

A. Well since I just named a guy you might want to talk to, can I give him a heads up that you want to talk to him?

Q. No.

A. Okay.

Q. But you can tell us off tape where he's located and how we can get a hold of him.

A. Okay.

D/2

Testimony of GENERAL PAUL J. KERN  
Taken at Fort Belvoir, Virginia,  
Between the hours of 1030 and 1245,  
24 November, 2004, by (b)(6)-2 & (b)(7)(C)-2 and  
(b)(6)-2 & (b)(7)(C)-2,  
Department of the Army Inspector General Agency,  
Washington, D.C.

[U] (b)(7)(C): Sir, the time is 1030. This tape-recorded interview is being conducted on 24 November, 2004, at Fort Belvoir, Virginia.

[U] Persons present are the witness General Kern and the Inquiring officers, (b)(6)-2 & (b)(7)(C)-2

[U] This inquiry is directed by the Inspector General of the Army concerning allegations against senior officials in CJTF-7.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may be directed by proper authority.

[U] Upon completion of this interview I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your Social Security Number to help identify you as the person testifying I've previously provided you with an explanation of the Privacy Act.

[U] Do you understand it, Sir?

[U] GENERAL KERN: Yes, I do.

[U] (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, Sir, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] Do you have any questions before we begin?

[U] GENERAL KERN: No, I don't.

Staffs to get the responses that you need. And third, and this truly isn't a lack of the--of responsibility it's the--it does pertain more to the conditions. But the mission that he was given in retrospect, it was the wrong mission and it was never challenged. I was reminded of that in-- when General Abrams, Senior, Creighton Abrams, took over the command of--in Viet Nam, he asked the question what was his mission. He was never given one. So Westmoreland was operating as the Commander of the United States Army-Viet Nam, without a Mission Statement. The first question that Abrams asked when he took over was, "What's my mission?" And it really changed the perspective of it. So that has flavored I guess my thinking in this from what is the Commander's responsibility.

[U] The assumptions that went into Phase IV, that you would be in stability and support and the mission to send people home turned out to be wrong. And in fact he was in an insurgency operation which increased in intensity during that entire peak period and the people that were being sent home needed to stay. Military Police, check points, who were responsible for detention facilities in this particular case and then the Military Intelligence organizations necessary to build the intelligence picture, that was theirs. So that's sort of an overarching statement of the conditions in which he was operating. And then clearly if we had put him through a BCTP type, Battle Command Training Program type exercise I think this would have all come out. The mission and task would have been reviewed in some detail rather than taking a Division Commander, throwing him into a Corps Commander Headquarters, taking away half his staff; and saying you now have a mission as a Combined Joint Task Force Headquarters.

[U] And so the conditions made it extremely difficult to go back and do that kind of a BCTP type analysis. A rigorous task analysis of the missions that would have resulted in answer--asking the questions, should I expect that the number of detainees is going to increase or decrease? Should I have the right--do I have the right command structure? Do I have the right missions assigned to CFLCC and CJTF where we had the 800th Military Police Brigade assigned to one Headquarters and the Military Intelligence Brigade assigned to a second Headquarters with the responsibility delegated to a Deputy. Were those subordinate Brigades?

[U] And that part was not done. Now, while we criticize both General Sanchez and General Wojdakowski on that process, we didn't give them the time or the resources to do it either. And so while we fault them as being the Commander and Deputy Commander, it was much more the environment that we threw

them in. But in the end they're accountable for their command and you cannot take that away.

[U] Q. Yes, Sir. You said earlier in your statement that CJTF-7 was given the wrong mission. What was that wrong mission and who in your view gave it to them? Was it difficult to state it or did it--

[U] A. If you go back and look at General Jones' report and he went back and looked at all the orders and FRAG Orders that were given. It was the basic order that was prepared for Operation Iraqi Freedom which was a phased operation. General Sanchez was given the mission of assuming command of first V Corps. Then within a few days, V Corps being disestablished and reestablished as a Combined Joint Task Force, without a new mission statement and without a new order being given. And so the Phase IV operation of the original mission said that he was to conduct stability and support operations. Support the Coalition Provisional Authority, Ambassador Bremer, and return forces. And that mission statement was not reviewed at that time or asked whether or not it was still current.

[U] Now, implicitly the actions that General Sanchez took it was clear that he understood that he was not in stability and support. That he was in an insurgency and his actions reflected his understanding of that; and his actions to build an intelligence picture so that he knew the appropriate missions to assign to his subordinate commands were in accordance with that. So he behaved as if his mission were stated differently but in fact the mission that he was given was not ever revised.

[U] Q. All right, Sir, can you think of anything specifically that he should have done differently? Either he or General Wojdakowski?

[U] A. I think he should have gone back to originally General Franks and then later General Abizaid and said we ought to restate our mission. And in that staffing function he also should have said, and I think General Abizaid saw this, in the command structure that is created now that he needed to establish a different command structure to conduct the missions both with CFLCC and in support of Ambassador Bremer and the CPA. And what we found is that the mission statement telling him to do both stability and support what became in fact conduct insurgency operations or counterinsurgency operations and the mission to support Ambassador Bremer were unresourced. He did not have adequate resources to conduct both of those missions.

[U] Q. Did General Sanchez----

[U] A. I shouldn't say unresourced. Under resourced.

[U] Q. Yes, Sir, did General Sanchez recognize this and make attempts to fix the shortfalls? In your view did he do that adequately?

[U] A. Yeah, I think he did. I mean he clearly recognized it based on both his statements and the discussions I've had pursuing that with both he and General Abizaid in terms of what they saw happening and then listening to his staff. And the actions he was taking. I don't think he was perhaps adamant enough about really forcing the senior Commanders to restate his mission though and then relook the resourcing of that, with the real mission in front of him as opposed to the assumed mission that in the Phase IV part of the operation.

[U] Q. Yes, Sir. A similar question then for General Wojdakowski. Can you think of what specifically he should have done differently given that he had the responsibility of direct oversight of those two Separate Brigades?

[U] A. And this is very easy to say retrospectively and very hard to do, because I met with him a number of times on other issues during that period. He was overwhelmed with things to do. He should have done, one, the same thing I just suggested as to General Sanchez. As his Deputy he should have got back to General Sanchez and say we need to restate our mission and relook these. These tasks that we've assigned. And I think out of that would have come a new command structure where the MP Brigade and the MI Brigade would have fallen under the same command structure and a single person would have been put in charge of both. In particular when you take it one notch down and--and if you look at where General Wojdakowski was focused we had a staff running Military Intelligence Operations and we had a Commander, MP Brigade, running Detention Operations and they weren't integrated. And that was--that's both a failure of our own doctrine and training I think to bring those pieces together as well as the command relationship that was established there. Not challenging what they had in front of them saying this is not effective.

[U] Q. Sir, you said that they had a staff running intelligence operations whereas they---

[U] A. Well you--if you can find a set of orders that assigns intelligence to a commander at Abu Ghraib I will be amazed. They created a JDIC. That was a staff function. They reported back up through staffs through the intelligence operations. And so the MI Brigade Commander was never assigned a

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task or a Battalion subordinate commander of conducting intelligence operations in terms of interrogations. It was assigned to a JDIC which never really grasped the mission. And that was one of our issues with Lieutenant Colonel Jordan, who never acknowledged the fact that he was given the mission. There was no command structure underneath that where you have Company Commanders and First Sergeants overseeing their personnel. And that's really the nature of the way we have done our military intelligence operations almost historically. Where we break them down into Teams and task organize them and they lose that command structure. It was very clear on the Military Police side that you had a MP Brigade which was responsible for detention. It was less clear then on Military Intelligence side who was in charge of interrogations. And it became a staff function rather than a command function. In my view it should have been assigned to a Military Intelligence Battalion Commander.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, let me follow up on that. The answer can be one of two. Who do you believe the JDIC worked for? It sounds like you believe they worked for the CJ-2. Is that correct or did they work for the 205th?

[U] A. Well, I mean we kind of drilled that. They really worked for the Three. Operations are--come under the Three, but it was never clarified that way. Miller was never given that real task of pulling those as an operational consideration to give that mission until they sent General Miller back over there and said you're in charge of detention and interrogation. That was not done.

[U] Q. But at the time--at the time of your investigation, Sir, --

[U] A. It's unclear who was in charge of Military interrogations.

[U] Q. Unclear.

[U] A. Because it was done as a staffing function with information it collected--now they created a JDIC but find an order that says who does the JDIC report to. Where is a Commander involved in that? In that chain of authority. There isn't one. Its reports that are provided through a staffing function.

[U] Q. Sir, if I were to make the statement, the JDIC worked for Colonel Pappas and it was a command function. How would you respond to that?

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[U] A. I would--I would have said that that would have been a correct way to do it. I would have rather seen rather than Colonel Pappas that there'd a Lieutenant Colonel Battalion Commander as opposed to a--the JDIC staffing function. And we were creating an organization, the JDIC, which is an emerging doctrinal organization. Not one of which you can go pull out a manual and say here's how you do it. Here's how it's staffed. Here's how it reports. And then we put a Lieutenant Colonel in charge of it who never acknowledged. Who hasn't at least to my knowledge has never acknowledged the fact that he was in charge. The staff, anyone on the staff, we talked to never thought he was. Now--and then Pappas, was given--still had authority and responsibility across the entire Country or Iraq for the Military Intelligence activities. Not specifically for interrogation activities And so I--I never found any order unless you could show me something that said that you know the JDIC reports to the MI Brigade.

[U] Q. Did you have the opportunity to discuss that with Colonel Pappas, Sir?

[U] A. I did not. No.

[U] Q. So you don't have any insight as to what he might have believed as far as his ownership or responsibility?

[U] A. I think he felt ownership for all the intelligence interrogation operations. The JDIC being one of them. But there are no orders specifically that I know of that directly say that. I mean the MI Brigade was assigned a number of missions but they covered the entire operation and then he specifically then was given a second in the FRAG Order that directed him to be in charge of the security. Not interrogation at Abu Ghraib. So you have kind of an overarching order where you would--you would assume that there's an implied mission that all interrogations are to come through him as a tasking. But there's no specific order that says once we created the JDIC that it reports to him.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, the interrogation policy letters that we'll talk about in more detail a little bit later, included language that indicated that the 205th MI Brigade Commander would ensure that the interrogators were trained for those specific techniques. That he was responsible for interrogation plans; that he was responsible for certain levels of approval for certain techniques and insuring that the various controls were in place.

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EXHIBIT-

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[U] Q. Well one of the challenges we have obviously is a lot of decisions and a lot of events converge around this whole JDIC situation.

[U] A. Right. Yes.

[U] Q. And that's--obviously that's one of the places where we're trying to get greater clarity.

[U] A. Right.

[U] Q. I think we have a pretty thorough understanding of what people did. And what people believed they should have done, but what we're trying to get some assistance on is what folks should have done.

[U] A. The 'should have' one becomes one of interpretation because there is no doctrinal organization processes to deal with the JDIC, and so we were creating that as we were going. I say 'we' the CJTF was doing that. And I think the abilities that General Fast brought into it when she was asked mid-stream to come in and set this kind of an operation up were all done with the best of intentions and the best capabilities that could be brought to bear in there. Where we came up short is since nobody had an established organization or chains of command is how that the pieces were to fit together. And we further complicate that when you bring in the CIA and other organizations who would intervene in this process periodically who were not in that chain of command either with the ISG piece completely set aside reporting to CENTCOM.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, what responsibility in your view did General Fast have to establish that chain of command or chain of authority at the JDIC?

[U] A. In my view she had a staff function to provide military intelligence, analysis, and advice to the Commander. And the Commander then has to--a staff officer of any rank cannot write an order unless it's delegated to them and it was never delegated to the C-2 that you can sign an order to do that. C-3 normally is the person who is issuing orders. Not the C-2. So she was doing the staff analysis, building the structures, making the recommendations and doing it. And I think as you've reported and found reported that there was a distinct distinction between the two. They never really did come together where the C-3 picked up any staff integration requirements. So, okay, the C-2 says they need X number of people to man the JDIC

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what officials such as General Sanchez and General Wojdakowski knew at the time?

[U] A. That's a difficult question. And if I could just put a footnote on it. I just had, yesterday, spent briefing the Abu Ghraib findings to a group out in the West Coast. And the former Secretary of Defense Bill Perry was there. And he asked me the question. He said, "Did anybody highlight what would happen after the Baath Regime was taken down and the Iraqi Army was defeated in terms of insurgencies and potential for detainees et cetera?" And I said, "Not to my knowledge." I wasn't part of the early staff planning so I don't know what occurred in all of those discussions nor did I find any of that in our investigation. And his comment was, "Going into the Balkans when we sent the 1st Armored Division in we spent an awful lot of time discussing that that was going to be the outcome, insurgencies, detention operations, et cetera." Which raised another set of questions to me did that occur. And I don't know that it did. And I think our focus had been on--and this is an assumption I'm making. That we looked at defeating the Iraqi Army as clearly the primary task at hand when Iraqi Freedom was initiated. And so the CENTCOM focus was on Phases I, II, and III. I think there was an expectation and since I wasn't part of it nor did I see any evidence of it, this is an assumption on my part. That it was going to be much like Desert Storm when Phase III was completed. And that you're going to have a large number of EPWs not detainees. And that you would decide what to do with them and then they would go back into the general population after some agreements were made. And we would have peace, stability, and support. Not an insurgency. And so I have to believe that based the way that order was written that's the way the thinking went and that's the way the discussions were promulgated. Not around the fact that there was a highly--high probably that an insurgency would occur and that there would be a large number of detainees who we would have to deal with after the defeat of the Iraqi Army.

[U] I also gave the Kermit Roosevelt Lectures in England this past spring. And I was challenged by the--this was April before I was given this mission. I was challenged by some of the students there. Their War College is the equivalent National Defense Universities. Why weren't we prepared for the insurgency? Why didn't we know this was going to happen? And in the British planning, documents, they had those assumptions. I don't believe they were in ours. At least I don't--I saw no evidence of that. Both by the orders that were written and by the actions that were taken. And so I had in two cases I've been questioned since then why weren't we more prepared for these types of insurgency operations and detention capabilities, and I have to believe based on what I know, that we did not adequately

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assess that part of the situation. And so the organizations that ensued were not adequately structured to take into account what happened.

[U] We didn't--we established the CJTF but we didn't have a Manning Document for a CJTF. The orders that sent Military Police home and not prepare for future detention of larger numbers. We did not go out and prepare for intelligence collection operations to determine the leadership and targets of the insurgency. All of which were things that General Sanchez did. But he did it based on events that were unfolding and implied tasks that he had rather than on orders that were given either originally or subsequently.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Yes, Sir, when you speak of planning for this potential insurgency, can you differentiate between CJTF-7, CFLCC, or CENTCOM responsibility in regard to recognizing that potentiality?

[U] A. The way we established the borders between CFLCC and CJTF-7, which nobody I think was terribly comfortable with retrospectively, where CFLCC was responsible for everything south of the Kuwaiti borders and CJTF-7 everything north, and then you had an MP Brigade that was split between them, suggests that CFLCC was sort of cut out of the operational side of it during that period. They were part of it up till the Phase II, Phase III, and in Phase IV were cut out of it. And so the players then are not CFLCC. They're the CJTF-7, the CPA, and CENTCOM. And I don't know--understate that because I think Ambassador Bremer and the CPA played a large role in direction given to General Sanchez. And the amount of time and resources he spent responding to that. In his Mission Statement, going back to Phase IV Operations, said support CPA.

[U] Now, where you start getting into, now okay let's back off to say we're a CENTCOM's role. Now, CENTCOM then had an integrating responsibility across that, but they also had to deal with the Horn of Africa, they also had to deal with Afghanistan, their Headquarters. But between Qatar and Tampa, not being in the Baghdad area, ended up defaulting many of the assessments and decisions directly back then to General Sanchez and Ambassador Bremer working together. Could have and should have CENTCOM played a stronger role? Yes, I think they should have.

[U] The ISG reported to them, not to Sanchez. And so you had a split there of intelligence activities as you suggested with a focus on WMD and other fifty-two high priority targets. It was a great frustration in talking--and I did not

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talk with General Franks, but talking with General Abizaid of the lack of cooperation with the ISG in supporting his operations. They had--they were far better resourced at the proper level with the ISG than they were at Abu Ghraib with the CJTF-7 efforts and so that was a frustration that he displayed or he reflected.

[U] And then you had--so you have in the middle of it, Bremer and Sanchez almost co-equals in terms of it, but by the way we operate, we look at the Ambassador role that Bremer was playing as being the "Senior Country Team Leader." And so there's almost an implied role there of subordinating the CJTF to the CPA. I say 'implied' not 'stated' because it said support. It didn't say you're subordinate. And so CENTCOM therefore should have been the integrating Headquarters to play a stronger role in that. But again, we had a change of command and a change of structure taking place there with General Franks departing and General Abizaid coming in. So that--you had lots of transitions. I mean one of the things you might want to do is, is just stack up the number of transitions and changes that were taking place--

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, we've done that----

[U] A. --through out that whole process. And look when these things--when these events occurred and it's all during this period of transitions of Headquarters and lack of clarity as to who was responsible between CJTF-7, CFLCC, CENTCOM, CTF. And so there's a lot of confusion. Now, and that was one of our conclusions. Who is in charge? Not clear. Particularly the interrogations side of it.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Sir, some have argued that in retrospect, General Sanchez and perhaps General Wojdakowski should have--and I don't really want to say "seen this coming" but should have seen these indications and warnings that surfaced at the CJTF-7 level that indicated there were problems at Abu Ghraib. And the incidents that were cited in your report included the incident at Camp Cropper, the ICRC Reports at Abu Ghraib, the CID Investigations that were going on; specifically at the point of capture types of abuses.

[U] A. Right.

[U] Q. That were happening then. The death of the OGA detainee at Abu Ghraib and so on. How would you characterize that, Sir? Should--should General Sanchez have----

[U] A. Retrospectively there were lots of warnings. That's what we said. Retrospect is wonderful for all us, right?

[U] Q. Right.

[U] A. My view is that the staff did--there's two things that happened to General Sanchez and General Wojdakowski that were unfortunate. Retrospectively. One, they were overwhelmed with things to do, and under resourced to do them. And so they were trying to divide their attention between supporting the reconstruction of Iraq and support of the CPA and the building of the Government, and conducting military operations. And there were not enough--there was not enough time in the day or people to do both. I'm not even, I think today, with finally with two Headquarters there, we're probably structured to do that. But clearly we were not during this period.

[U] Secondly, we should have taken the time to do a thorough mission analysis and do some rehearsals for General Sanchez taking command of the CJTF. That didn't happen. It would have even been worse if we hadn't saw that in order for General Sanchez to take over the CJTF he had to be relieved by Harold Dempsey. General Dempsey was working for me at the time in Saudi Arabia. And had just been attacked. He just had thirty people killed in the terrorist attacks that took place against his contractor support for MELCO Corporation.

[U] Q. Which corporation, Sir?

[U] A. In Saudi Arabia. This is OPM-SANG that's where General Dempsey was assigned. He was conducting a NEO.

[U] Q. Right.

[U] A. I called up Franks and said, "Hey, time out." He can't pull Dempsey out of here now to go change command with Sanchez. He's got a military operation he's conducting. And Franks said, "Yeah. Okay. I agree." So that was delayed. But we were in a--we trying to push the change of command of getting Rick Sanchez into command of the CJTF without giving him all the preparation that we give every other Corps Commander. And this more, far more complex, than a Corps Command because we were also bringing in the Coalition Forces under the Polish Multi-National Division. So as the CJTF Commander he had to reorganize a Staff; build that command structure; and he did it without the benefit of doing the rehearsals and mission analysis that we would do prior to that type of operation. And perhaps that's a process problem that we have to do in-stride changes, and to really keep all that in focus on how much you're asking one person to do. One staff. Who had just fought a war and half of them had gone home. Wojdakowski happened to be one of the few that remained. He had a Chief of Staff of the CJTF who I never met because he spent his whole time with Ambassador Bremer--a Marine. And you had people .

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who were coming into organizations like a CJTF without a Manning Document, a JDIC without a Manning Document. And the pace of operations during the entire period is increasing.

[U] The tempo just keeps building and building and building. So instead of detainees going away, detainees are increasing. Attacks are increasing. Who's causing the attacks? Unknown. Have to build the intelligence picture. So while we're critical of the Commander and the Deputy Commander and the staff, they were overwhelmed with things to do. I mean absolutely. I mean I saw that every time I visited. Every time I visited Rick Sanchez before the investigation he was just more and more tired. Okay? And he was just burning the candle at both ends.

[U] Q. Yes, Sir.

[U] A. And he in retrospect--and you look at the documents and he wasn't--it's not that he wasn't paying attention to Abu Ghraib. He was telling people treat prisoners, detainees, humanely. Abide by the Geneva Conventions. Improve the security at Abu Ghraib. So he personally was doing things and seeing things. But what failed to happen is; now the simple fact that the ICRC reports had been put on his desk, I think by an IG independent of the rest of the staffs who might feel some responsibility for not properly resourcing for doing it and say you've got a problem. Well and we need to do something. Never happened. Not until after we had the young Specialist report that there were abuses taking place.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. And of course that wasn't their procedure at the time, the ICRC Reports were being handled at lower levels.

[U] A. Right. And I just think that's flat wrong.

[U] Q. And I believe that General Sanchez changed that process after this?

[U] A. After. Right. He did. And you know we ought to view--and you know I view IGs, my IR organizations, all of our independent review we have as a Commander's benefit. A plus not as a minus. And we should be using organizations like that and also you have another independent organization the Red Cross. We don't always agree with the Red Cross. I mean sometimes they make crazy recommendations that we ought to be feeding people you know filet mignon and living in air conditioning et cetera when our Soldiers are living in the dirt and eating MREs. That's a little bit of an overstatement but sometimes their recommendations are pretty wild. But they ought to be viewed as by the Commander as

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General Sanchez' ability to take the right action not giving him that report and say, "God, look at this."

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, whose responsibility would it have been to change that process so that reports did come to General Sanchez?

[U] A. All of our staff's processes are generally under the supervision of the Chief of Staff.

[U] Q. Yes, Sir.

[ ] A. Where they run the staff functions with change processes like that, but in this particular case, as I said, the Chief of Staff was supporting Ambassador Bremer so you end up then with Wojdakowski almost becoming a de facto Deputy and Chief of Staff for the Military Operations. And so you could say that the Chief of Staff should have done that, but the Chief of Staff was assigned something else to do. And so it defaults itself back to the Deputy.

[U] Q. And did you note any evidence where General Wojdakowski was involved at all in reviewing Red Cross Reports?

[U] A. I did not see where he ever got the Red Cross Reports, no.

[U] Q. Yes, Sir.

[U] A. As far as we could determine is the most senior person that ever saw the Red Cross Report before all the abuses became apparent was General Karpinski.

[U] Q. Did she have a duty to notify General Sanchez in your view?

[U] A. She should have. Absolutely. And she had the responsibility for running the detention operations. That was clear. Her Commander, the Lieutenant Colonel, who was relieved, understood and all the Colonels who were in the Military Police, not just the Colonels but all the Military Police, understood that they were responsible for the care, feeding, welfare of the detainees. And when that report came to her, she should have, in my view, taken it directly to Sanchez, Commander to Commander and say, hey, we have a problem.

[U] Q. All right, Sir. Sir, changing tacks a little bit here. One of the findings in the report was "Leaders failed

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to take steps to effectively manage pressure placed upon JDIC personnel. Leaders within the MI Community commented upon the intense pressure they felt from higher Headquarters for timelier actionable intelligence. And these leaders stated that this pressure adversely affected their decision making." From our discussions with some other witnesses, the prevailing opinion is those leaders had failed to effectively manage this pressure were pretty much at the 205th MI Brigade level on down. Do you share that view or--

[U] A. Yes. And it has two parts to go with it I mean because there--as I said there was no chain of command there in the MI Brigade. So normally you would expect a Battalion Commander to protect his Company Commanders, and his Company Commanders to protect their Platoon Leaders; and the First Sergeants. Et cetera in the same chain of command. But that's not the way the MI Brigade is organized. You know, they--and I said in one of the earlier discussions we had they never assigned a mission of interrogations to a Battalion Commander and said you're responsible for all interrogations. And so the Brigade Commander who had responsibility for the whole country then became the only one there who had that mission. And that became just a mission far greater than any one person could handle. So the, , you know I just think the way we were structured there failed us.

[U] Q. Sir, whose responsibility should it have been to place a Battalion Commander in charge of the JIDIC?

[U] A. Pappas.

[U] Q. Yes, Sir. Okay. Sir, let's talk a little bit about the TACON relationship between the 800th MP Brigade and CJTF-7. That's generated a lot of discussion amongst folks on whether or not that was a proper relationship and whether it was dysfunctional and did that dysfunction somehow contribute directly or indirectly to the abuses. Would you like to comment on that?

[U] A. I think a lot of the discussion is smoke. I mean if--whether you're TACON, OPCON, or attached or whatever, your command relationship is with a higher, if things aren't going right Commanders need to take it to the next level of their command for action regardless of the relationship. And so, you know, we have this all the time. When you--when it's habitual and you're use to it. Where you have FSB Commanders that are in support of, direct support, but not attached to Brigade Commander. And they take mission statements every single day from a Brigade Commander. If it really gets out of hand, they go back up to the DISCOM Commander. The same thing is true with our Air

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Defense Battalions or MI Battalions. We have all these people broken out and the command relationship are TACON or some other, OPCON or attached but not very infrequently attached directly.

[U] In every case my experience has always been if things aren't going right the Commanders go back to their Senior Commander who can implement a change and say, fix it. That's a command responsibility that we all have. And so this thing about TACONS and OERS and all that to me is while from a direct authority and perhaps a legal standpoint correct, from a Command responsibility standpoint I don't believe is pertinent. I just--that's the way I've operated as a Commander through my career. Is hey, if I get some Battalion Commander, for which I have an element working for me, who may have no command relationship, but he happens to be in my area and it's not right, I'll pay attention when he comes in. And says, hey this is not right.

[U] Q. In your view would General Wojdakowski and General Sanchez have responded to General Karpinski if she came to them for help with resourcing even though technically her chain for support actually went back to the 377th?

[U] A. Yes. I think. And clearly----

[U] Q. They argued that they did.

[U] A. And there's a couple of--there is a couple of cases there where Sanchez would say, she should have been standing on my desk saying, "Hey, you dummy, you know we've got some problems going on down here and you need to do something." And that's--I don't think that was very comfortable for her to do that. You know, and so you could fall back, well I really belong to CFLCC. She wasn't getting orders from CFLCC. That the detention facilities weren't in CFLCC's area of responsibility. Nothing that was relevant was in the CFLCC area of responsibility. It was in the CJTF. And so she really didn't, in my view, have a choice but to go to Sanchez and say, "Look you've given me these missions. You have not resourced me to do these missions, and so I've got to change something or you're going to have to move..." She also took no opportunity to move people. She could have moved some of the people who were at the detention facilities up north or down in Bucca to Abu Ghraib.

[U] Q. Why didn't she do that, Sir?

[U] A. I just--that's a wonderful question. It's a failure I believe on her part to say okay, if you're going to go to the Commander, and say, all right, Sanchez, you've given me a mission. It's a mission which I can't accomplish. Here's what

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I've done. I've taken every resource that I own and I've given-- I've reallocated them so that I have given Abu Ghraib absolutely the most resources of any place I can. The only place left is the Camp Cropper of the ISG and I can't touch them because they've been directed there by CENTCOM. I need your help. We cannot conduct this mission. He couldn't, I mean he couldn't have ignored that, if she did that. But first you have to do your part say okay what are the resources I have at hand? How can I best reallocate my resources? And then how do I then want when I'm out what do I do next? Only one choice. She could have taken McKiernan with her. Said, okay, Boss, you and I need to go talk to Sanchez. I mean there's lots of ways you could do that. But you can't just sit there and not do anything.

[U] Q. Is that what it appears she did, Sir?

[U] A. In my view.

[U] Q. Did you come across any evidence, Sir, where she went back to the 377th? Her immediate higher Headquarters and asked for help, asked for resources?

[U] A. I couldn't find any. But the 377th is another story. Now I didn't investigate that.

[U] Q. Right.

[U] A. But, no, I dealt with them all the time in my role as the AMC Commander in terms of--that's where all my people were attached.

[U] Q. Right.

[U] A. And they were overwhelmed by their mission of just trying to provide the logistics support into the theater and that was just overwhelming for them.

[U] Q. In your view did they 'fail', and that might be a harsh word, to provide their doctrinally required support of the 800th MP Brigade in terms of logistics and personnel and administrative support?

[U] A. I did not look at that. So--but my judgment probably is yes, they didn't provide it. But I don't know that they were ever asked either. I saw no evidence that Karpinski went back to the 377th, either to the Commander or the Deputy, whoever was there at the time and said, hey, you know give me some truck drivers to go secure this prison. I don't have enough people. I saw no evidence of that, but I didn't investigate that

go back to McKiernan, Wojdakowski, or Sanchez or all three and say this is broken. Fix it.

[U] Q. So in your view was either----

[U] A. And I just don't think she had the wherewithal to understand that.

[U] Q. Yes, Sir, and that sort of leads to my next question, in your view, did General Sanchez or General Wojdakowski, did any of their actions contribute to the dysfunctionality, if that's even a word, or--it sounds like the brunt of that rested with General Karpinski. Her failure to understand what a TACON relationship meant, her failure to have the wherewithal to address the problems?

[U] A. In my view, the brunt of it did. On the other side, we--what we said--I think it was in General Jones' report was that General Wojdakowski having more experience than she did, being senior, should have changed either the relationship or just gone directly to the tasking through CFLCC or some other way, to fix the problems that were occurring. In my view, General Wojdakowski had so many other things that he was being asked to do, it was just one of the many tasks. And since he never got reported through him the gravity of what was going on, he never saw really why it was something I needed to put on the top of the list and go fix.

[U] [b(7)(C)] All right, Sir. Sir, do you have questions along the same line before we talk about policy letters?

BY [b(6)-2 & (b)(7)(C)-2]

[U] Q. I do have a question related to --Sir, you brought up some comments about General Sanchez being moved into a position of Corps Commander and then CJTF-7; didn't have the traditional training and familiarization we give our Corps Commanders as part of that process. And the numerous transitions that went on during that period between leaders. I do want to ask you with respect to General Wojdakowski and Colonel Pappas. We've heard similar comments that General Karpinski was a new commander. Colonel Pappas was a new commander.

[U] A. A new commander, right.

[U] Q. Given this big mission not only in Iraq but at this particular facility. In General Wojdakowski's position, I think at the time he was just the DCG of the Corps. He had about nine separate Brigades----

[U] A. Right.

[U] Q. --reporting to him. And I think some people tell us as many as about eighteen under CJTF-7.

[U] A. Right.

[U] Q. Some of the people we've talked to believe that given the situation where General Wojdakowski understands he has two new, Brigade Commanders, one who needs guidance. The other who would be more receptive of it and is seeking it. Both are new to Brigades. Both are new to this combat situation. Both are in this difficult situation at this prison. One with detention. One with interrogation. And with regard to General Wojdakowski's responsibilities as the direct supervisor and Commander of those organizations, did he do enough to recognize he had these two new commanders in this particular situation they were in to provide proper oversight?

[U] A. I mean retrospectively I would say, no, he didn't do enough. But I also don't know if he had enough time to do enough. I don't believe he did. With 18 Brigades, up to 18 Brigades, depending upon when and where you count them. He had somewhat of an overwhelming responsibility. And I can throw in LOGCAP issues, and I could throw in CPA issues, and I can throw in things that are not command but are delegated to him. He was acting both as the DCG and the de facto Chief of Staff within that organization. And I don't know what the other 16 Commanders were throwing at him. That were coming at him from all the different perspectives. The Polish Multi-National Division. What new dimensions that brought into it. You know so we asked him to do an awful lot. Far more I believe then was achievable by one person in a 24-hour day. So should he have done more? To answer that question is blatantly yes. Could he have done more? That's a different question. I know his personality. I don't know Karpinski's personality. But I'm going to guess that a Two Star six foot three male General who had just been through a war and a One Star Female, Brigadier, who just showed up are going to be a little bit different in personalities in how they behave and react.

[U] No, so I know if you want to get Wojdakowski's attention you know you had better cuss at him a few time, stomp on his foot, and stare him right in the eye and say, "Do it." I don't think--you know, Karpinski wasn't ready to do that. You know that's an Infantry Commander who is put in that mission and has just gotten six thousand things to do, and everyday the priorities on them are changing. Whether it Bremer. Whether it's the Poles. Whether it's logistics. Whether it's

operations. Or whether it's detention operations. And so he was trying to balance all those things. And that is, you know it was an almost an inhuman task to try to do all that.

[U] Q. And again the reason I asked we looked--we keep coming back to this Brigade level problem at the prison. And we're not trying to reinvestigate Abu Ghraib. We're trying to get a much broader look at what happened across Iraq and across CJTF-7. But when you get back reconstructing this whole thing and you can find a number of reasons why this occurred now with the 205th and the interrogation problems; and we looked to leadership and failures in leadership. That's why we get to General Wojdakowski. Because he was directly tasked with supervising those Brigades.

[U] A. Right.

[U] Q. Understanding what he was resourced to do. Understanding what he was charged to do, the question comes, did he fail in anyway in his responsibilities regarding, the supervision of those Brigades?

[U] A. In my view the answer is it's a matter of degree. He had, I don't know how many tasks he had on his plate. I was only investigating one Brigade. One aspect of it. So when you add it all up, it's a different question than when you just look at did he fail in the supervision of that Brigade. Those two Brigades.

[U] And--and in my view the answer to that is in the end, yes, he did. Otherwise these things would have been fixed. That's what people are paid to do. But when you put on top of that, the 16 other Brigades that he was asked to supervise and the twenty other missions that he was trying to accomplish, then the question is if I put the same lens on everyone of those other ones, I probably would have found other failures too. We put the lens on these two Brigades. Because that's where the abuses took place. He may have prevented ten other things from happening under those other Brigades and missions because his energy was going towards those. And failed to do it over there. So I believe that the failure is the one of his being adequately resourced to accomplish all the missions that he had, and having the staffs not providing him the right--and the Commanders not providing him the right feedback that says we need help. This is not going right.

BY

[b](6)-2 & (b)(7)(C)-2

[U] Q. Sir, was there anything that General Wojdakowski could have done to get help? To help him to handle

here's the facts of what we found. The same thing I presented to the press and to the Senate. He was very, very strong on what he thought General Sanchez had tried to get done. And that was just his background for you.

[U] [b)(6)-2 & (b)(7)(C)-2]: Right. Okay, Sir. We'll check with your Aide afterwards and get his name.

[U] GENERAL KERN: Yeah.

[U] [b)(6)-2 & (b)(7)(C)-2] All right, Sir, we're going to ask you for your legal opinion now. On several things.

[U] GENERAL KERN: Okay.

BY [b)(6)-2 & (b)(7)(C)-2]

[U] Q. I just want to real quickly review what Article 92 of the UCMJ says regarding dereliction of duty, and that is dereliction in the performance of one's duties consisted of three elements: First, a person had certain duties. Secondly, that that person knew or reasonably should have known of those duties; and three, was derelict in the performance of those duties through willfulness, negligence, or culpable inefficiency. So three elements of proof for Article 92 of the UCMJ, Dereliction of Duty. I know you're not a lawyer, Sir, but given those three elements, and given that the report found that General Sanchez and General Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations, and given the complex and violent environment in which CJTF-7 was operating in an under resourced manner as the report pointed out, and I think most people know and understand, would you, in your opinion, say that General Sanchez was derelict in the performance of his duties as it pertain to----

[U] A. No, I would not.

[U] Q. And can you elaborate on why?

[U] A. Yeah, I think that you could find some proof that the first two elements may have been supportable but not the third.

[U] Q. Yes, Sir.

[U] A. There was clearly in my view absolutely no willfulness, negligence, or inefficiency on his part to commit dereliction of duty violation.

[U] Q. All right, Sir, the same question for General Wojdakowski.

[U] A. And I would say the same thing.

[U] Q. Yes, Sir. He of course had the more specific direct oversight of those people----

[U] A. He had the more specific oversight so there is more evidence of the first elements of being supportable. But he was so over tasked by the number of things that he had to do, that I saw no evidence of anything either--clearly not willful. You know, I don't know how much more efficiency you could have squeezed out of that turnip.

[U] Q. Right. All right, Sir, and then the same question for Major General Fast?

[U] A. No. I think General Fast, one, in part because of her absence during a critical period of this, and two by her tasking to build an intelligence picture to all those elements that we discussed earlier; never really saw that her mission was oversight of the interrogations. Establish of the JDIC was her mission and she had done that. Establish of what happened with the information that came out of it, but not the conduct of the interrogations. So I think, you would have in my view, she accomplished the first two very admirably of establishing the right processes and of doing the intelligence fusion, and I don't see that conduct was something that she felt nor would--did anyone else believe was in her bailiwick. The conduct of that went back to the Commander. And that's the problem I felt the whole Military Intelligence organization where you--when you don't assign a task to a Commander you end up with staff in-between.

[U] Q. Right. And so even though there was no formal assignment, it does appear that Colonel Pappas at least attempted to wrap his arms around it and accept responsibility, but that responsibility was never formalized by an order as you've gone through.

[U] A. That's right.

[U] Q. Yes, Sir.

[U] A. The order encompassed all of Iraq not specific to Abu Ghraib.

[U] Q. Yes, Sir, and of course it's a little murky with General Fast because of the doctrinal responsibilities that

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[U] A. And I don't think he's derelict in that. I think it's--and part of the whole problem I would argue is that a CJTF is a Joint Organization.

[U] Q. Yes, Sir.

[U] A. Albeit we're talking about our Army. So where is the J? Where is the doctrine and the training for how this organization is going to--and the only Joint person we had there was the Marine Chief of Staff who was working for Bremer.

[U] Q. Right.

[U] A. And we had an Australian Lawyer and a couple of other people who were parts of the staff. But we really lack a training organizational process. A BCTP-like effort for Combined Joint Task Forces that are created out of whole cloth when you're in the middle of an operation. You know we always write an order. Send people off. Put them through the training. Do the AARs, retraining them where they fail; and keep doing it. None of that happened. So when you go down and you say were these people derelict? They were doing, I believe, the very best they could do given a myriad of missions which over tasked them to begin with. So they were trying to sweat through the priorities of what was important. And that's where the system failed, I believe rather than dereliction of any individual to provide that. I mean were those folks sitting there just kind of twiddling their thumbs and going out to the bar at night drinking? Hell no. They were working seven days a week, eighteen, nineteen, twenty hour days. Jumping between two Headquarters. Between the CPA and the CJTF trying to pull all those pieces together. And I think we need to remember that our report is focused on specific narrow areas. That had lots of complicity of where it broke down. But to put it back at a senior staff level who had these other things to do and label it dereliction I believe was wrong.

[U] Q. Yes, Sir.

[U] A. Were they perfect? No. Did they miss something? Yeah. Were they derelict? No.

[U] Q. All right, Sir.

[U] A. That's my opinion.

[U] [b)(6)-2 & (b)(7)(C)-2] Okay, Sir. Sir, do you have any other questions?

[U] [b)(6)-2 & (b)(7)(C)-2] Sir, I do. And again this is where we're seeking some senior leader perspective. Realizing that

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you're, number one, the General, two you've investigated the situation; three you've testified to Members of Congress. Obviously, these reports will become part of the Army Record, and they're going to have a very long life. They will be requested for official purposes and read by any number of people. Potentially even, you know, Members of Congress I would expect. So, there's a lot of concern about holding senior leaders accountable or responsible in these matters. Obviously we have to make a finding based on the facts as far as allegations go.

[U] A. Right.

[U] Q. But outside of that, how do you interpret or describe holding people accountable? How would you describe that process or what that charter is for the kind of folks we've talked about today? Understanding, how the Army is going to be looked at, how these individuals will be looked at of for what they did; what they may have failed to do. Potentially through no fault of their own. What is holding them accountable mean to you?

[U] A. I think it goes back to my original statement that when we accept command, we accept responsibility for all the people that are in that command. And I use the word 'responsibility' as opposed to 'accountability'. You hold everybody inside your command accountable for their actions. In General Sanchez's case, I believe he accepted the responsibility for what happened, and he directed investigations to find the accountable person where it failed.

[U] When it became a question that perhaps he might be involved, he asked to be recused from it and asked for another Appointing Authority. So I believe his integrity in trying to define accountability is very clear. And in doing that and saying that okay maybe I had some responsibility. Maybe I had some accountability as well. We found and I personally believe that he holds himself personally responsible and has said that publicly for what happened. And had he been given that Red Cross report and the staff provided him some of the investigative CID actions at the tactical sites and put all that together; had he had an organization, a Four Organization... A staff that was practiced and functioning together that would come to his attention. But it didn't until after the atrocities, abuses, were reported. So I believe he took responsibility to fix accountability and did the right things. And he personally from an accountability standpoint did the right things both in what he tried to do previous to that and what he was doing after the fact once he found out that something in fact had gone awry.

[U] I believe General Wojdakowski, has more direct responsibility over those Brigades. And in retrospect,

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should have taken those two Brigade Commanders in and sat them down and defined more clearly and changed the command relationship if necessary. I also believe he was over tasked in the number of Brigades he was asked to supervise and the kinds of things that he was asked beyond just command relationships to solve problems on. So I don't believe that he was derelict and was and held himself accountable for what did happen. And just didn't see this other piece of it developing; and again he didn't get the Red Cross report until after the fact. Which to me keeps coming back as one of those key points.

[U] If I were to fix the whole problem to begin with, and one I believe doctrinally and organizationally we need to fix the Military Intelligence community so that there is clear accountability and responsibility and a line of authority. That is the case in the Military Police Units. Not in the case of the Military Intelligence Units.

[U] The second thing that I believe for accountability when you're conducting detention operations and you have mixed organizations. Military Police, Military Intelligence, OGAs, you need to clearly define someone in charge of all aspect of it. Now that has been done retrospectively. And it probably ought to be in a multi-Corps type operation. It ought to be a General Officer not a Staff Officer and not a Colonel who has other General Officers who have pieces of the organization. You need to put a senior General Officer in charge. And that will fix the accountability and responsibility chain. So that things that became unclear are no longer a question.

[U] And third I believe that detention operations historically have created problems. We saw it Viet Nam. We saw it here. We see it in our own prisons here in the United States. Penitentiaries and state prisons. And so there ought to be warning flags and independent assessments as long as we have detention operations going on. That we have an independent method for commanders to get report to go outside of that chain of command. Somebody who is an IG, an ombudsman, however you want to describe that function and it will be joint function so it may not fit precisely into Army terms. But the Commander needs that feedback directly or we will see these kinds of events happen again I believe.

[U] And finally I personally believe that the Geneva Convention ought to be held almost sacrosanct in how we conduct operations. Both because it represents the values that "we" expect of our Soldiers but it also represents how we would like our Soldiers be treated or anybody else. It might be contractors. It might be Department of the Army, Department of Defense Civilians, by other countries if they are held as

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[U] (b)(6)-2 & (b)(7)(C)-2 Right.

[U] GENERAL KERN: Much more than you know the MP Sergeants who are being prosecuted right now.

[ ] (b)(6)-2 & (b)(7)(C)-2 Right. Yes, Sir. All right. Unless you have anything else to add then, Sir, I'll go ahead and go into the formal read-out.

[U] GENERAL KERN: Okay.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir. We are required to protect the confidentiality of IG inquiries, and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone, except an attorney if you choose to consult one, without permission of the Investigating Officers.

[U] Your testimony is part of an official Inspector General Record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties your testimony may be released outside official channels. Individual members of the public who do not have an official need to know, may request a copy of the record to include your testimony under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] GENERAL KERN: I think the answer is yes. But I guess the question is, I--how about all the people whom we name in this? Do they get to see it before somebody else does? That's always troubled me.

[U] (b)(6)-2 & (b)(7)(C)-2 Not necessarily, Sir.

[U] GENERAL KERN: So if Jim Smith asked for a copy of my testimony he gets to read it and Sanchez and Wojdakowski and Fast and Pappas and Jordan don't?

[U] (b)(6)-2 & (b)(7)(C)-2 May not, necessarily no.

[U] (b)(6)-2 & (b)(7)(C)-2 Your testimony, Sir, is normally redacted before it's sent out. If you put--if you say FOIA no that is the highest restriction and it generally will not be shared. If you say FOIA yes, then it can be shared for unofficial purposes and there will be some redaction to protect the confidentiality.

~~SECRET~~

[U] GENERAL KERN: I have mixed feeling on this one. Do you have any----

[U] (b)(6)-2 & (b)(7)(C)-2 No, Sir. We--we make no judgment on it. It is absolutely your decision. And I would do whatever just feels right for you, Sir.

[U] GENERAL KERN: I'll say yes.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: Because I think as you suggested earlier we're going to have to study and use this in the future to--

[U] (b)(6)-2 & (b)(7)(C)-2 One question we didn't ask, Sir, is there anything we discussed today that you think was classified?

[U] GENERAL KERN: I'd go back and look at the discussion around the CIA. General Fay and I have had this discussion a couple of times, and he believes that what we've got is not classified. The CIA has challenged that.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: Now, I don't know if they've challenged it just because they don't want it discussed or not.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir. Okay, do you have any questions, Sir?

[U] GENERAL KERN: No.

[U] (b)(6)-2 & (b)(7)(C)-2 All right.

[U] GENERAL KERN: I appreciate what you're doing. I know this is a tough one.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir. The time is 1245 and this interview is concluded.

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[Testimony of GENERAL PAUL J. KERN  
was recorded by means of magnetic tape, and transcribed and  
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