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Review of Department of Defense Detention Operations and Detainee Interrogation Techniques (U)

VADM A.T. Church, III, USN

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OSD 75667-05

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DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

IN REPLY REFER TO

March 7, 2005

MEMORANDUM FOR THE SECRETARY OF DEFENSE

SUBJECT: Report on DoD Detention Operations and Detainee Interrogation Techniques

Reference: Secretary of Defense, Detention Operations and Detainee Interrogation Techniques, May 25, 2004

Pursuant to your tasking memorandum, I hereby submit the final results of my investigation of DoD detention operations and detainee interrogation techniques in the Global War on Terror (attached).

A. T. CHURCH III
Vice Admiral, U.S. Navy
Director, Navy Staff

Attachment:
As stated

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Interrogation Policy Development (U)

(U) Overview

(U) An early focus of our investigation was to determine whether DoD had promulgated interrogation policies or guidance that directed, sanctioned or encouraged the abuse of detainees. We found that this was not the case. While no universally accepted definitions of "torture" or "abuse" exist, the theme that runs throughout the Geneva Conventions, international law, and U.S. military doctrine is that detainees must be treated "humanely." Moreover, the President, in his February 7, 2002 memorandum that determined that al Qaeda and the Taliban are not entitled to EPW protections under the Geneva Conventions, reiterated the standard of "humane" treatment. We found, without exception, that the DoD officials and senior military commanders responsible for the formulation of interrogation policy evidenced the intent to treat detainees humanely, which is fundamentally inconsistent with the notion that such officials or commanders ever accepted that detainee abuse would be permissible. Even in the absence of a precise definition of "humane" treatment, it is clear that none of the pictured abuses at Abu Ghraib bear any resemblance to approved policies at any level, in any theater. We note, therefore, that our conclusion is consistent with the findings of the Independent Panel, which in its August 2004 report determined that "[n]o approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities."

(U) Nevertheless, with the clarity of hindsight we consider it a missed opportunity that no specific guidance on interrogation techniques was provided to the commanders responsible for Afghanistan and Iraq, as it was to the U.S. Southern Command (SOUTHCOM) for use at Guantanamo Bay. As the Independent Panel noted, "[w]e cannot be sure how the number and severity of abuses would have been curtailed had there been early and consistent guidance from higher levels."

(U) Another missed opportunity that we identified in the policy development process is that we found no evidence that specific detention or interrogation lessons learned from previous conflicts (such as those from the Balkans, or even those from earlier conflicts such as Vietnam) were incorporated into planning for operations in support of the Global War on Terror. For example, no lessons learned from previous conflicts were referenced in the operation orders (OPORDs) for either Operation ENDURING FREEDOM (OEF) in Afghanistan or Operation IRAQI FREEDOM (OIF). These OPORDs did cite military doctrine and Geneva Convention protections, but they did not evidence any specific awareness of the risk of detainee abuse - or any awareness that U.S. forces had confronted this problem before. Though we

did not find evidence that this failure to highlight the inherent risk led directly to any detainee abuse, we recommend that future planning for detention and interrogation operations in the Global War on Terror take full advantage of prior and ongoing experience in these areas.

(U) Set forth below is a brief discussion of the significant events in the development of interrogation policy for Guantanamo Bay, Afghanistan and Iraq.

(U) Guantanamo Bay, Cuba (GTMO)

(U) Interrogation policy for GTMO has been the subject of extensive debate among both the uniformed services and senior DoD policy makers. At the beginning of interrogation operations at GTMO in January 2002, interrogators relied upon the techniques in FM 34-52. In October 2002, when those techniques had proven ineffective against detainees trained to resist interrogation, Major General Michael E. Dunlavey - the Commander of Joint Task Force (JTF) 170, the intelligence task force at GTMO at the time - requested that the SOUTHCOM Commander, General James T. Hill, approve 19 counter resistance techniques that were not specifically listed in FM 34-52. (This request, and descriptions of the 19 techniques, were declassified and released to the public by the Department of Defense on June 22, 2004.) The techniques were broken down into Categories I, II, and III, with the third category containing the most aggressive techniques. The SOUTHCOM Commander forwarded the request to the Chairman of the Joint Chiefs of Staff, General Richard B. Myers, noting that he was uncertain whether the Category III techniques were legal under U.S. law, and requesting additional legal review. On December 2, 2002, on the advice of the DoD General Counsel, William J. Haynes II, the Secretary of Defense approved the use of Category I and II techniques, but only one of the Category III techniques (which authorized mild, non-injurious physical contact such as grabbing, poking in the chest with a finger, and light pushing). The Secretary's decision thus excluded the most aggressive Category III techniques: use of scenarios designed to convince the detainee that death or painful consequences are imminent for him and/or his family, exposure to cold weather or water, and the use of a wet towel and dripping water to induce the misperception of suffocation. (Notably, our investigation found that even the single Category III technique approved was never put into practice.)

(U) Shortly after the December 2, 2002 approval of these counter resistance techniques, reservations expressed by the General Counsel of the Department of the Navy, Alberto J. Mora, led the Secretary of Defense on January 15, 2003 to rescind his approval of all Category II techniques and the one Category III technique (mild, non-injurious physical contact), leaving only Category I techniques in effect. The same day, the Secretary

Executive Summary (U)

Introduction (U)

(U) On May 25, 2004, Secretary of Defense Donald H. Rumsfeld directed the Naval Inspector General, Vice Admiral Albert T. Church, III, to conduct a comprehensive review of Department of Defense (DoD) interrogation operations. In response to this tasking, Vice Admiral Church assembled a team of experienced investigators and subject matter experts in interrogation and detention operations. The Secretary specified that the team was to have access to all documents, records, personnel and any other information deemed relevant, and that all DoD personnel must cooperate fully with the investigation. Throughout the investigation - which included over 800 interviews with personnel serving or having served in Iraq, Afghanistan and Guantanamo Bay, Cuba, and senior policy makers in Washington, as well as review and analysis of voluminous documentary material - an impressive level of cooperation was evident throughout DoD.

(U) Any discussion of military interrogation must begin with its purpose, which is to gain actionable intelligence in order to safeguard the security of the United States. Interrogation is often an adversarial endeavor. Generally, detainees are not eager to provide information, and they resist interrogation to the extent that their personal character or training permits. Confronting detainees are interrogators, whose mission is to extract useful information as quickly as possible. Military interrogators are trained to use creative means of deception and to play upon detainees' emotions and fears even when conducting interrogations of Enemy Prisoners of War (EPWs), who enjoy the full protections of the Geneva Conventions. Thus, people unfamiliar with military interrogations might view a perfectly legitimate interrogation of an EPW, in full compliance with the Geneva Conventions, as offensive by its very nature.

(U) The natural tension that often exists between detainees and interrogators has been elevated in the post-9/11 world. In the Global War on Terror the circumstances are different than those we have faced in previous conflicts. Human intelligence, or HUMINT - of which interrogation is an indispensable component - has taken on increased importance as we face an enemy that blends in with the civilian population and operates in the shadows. And as interrogation has taken on increased importance, eliciting useful information has become more challenging, as terrorists and insurgents are frequently trained to resist traditional U.S. interrogation methods that are designed for EPWs. Such methods - outlined in Army Field Manual (FM) 34-52, *Intelligence Interrogation*, which was last revised in 1992 – have at times proven inadequate in the Global War on Terror; and this has led commanders, working with policy makers, to search for new interrogation techniques to obtain critical intelligence.

(U) Interrogation is constrained by legal limits. Interrogators are bound by U.S. laws, including U.S. treaty obligations, and Executive (including DoD) policy - all of which are intended to ensure the humane treatment of detainees. The vast majority of detainees held by U.S. forces during the Global War on Terror have been treated humanely. However, as of September 30, 2004, DoD investigators had substantiated 71 cases of detainee abuse, including six deaths. Of note, only 20 of the closed, substantiated abuse cases - less than a third of the total - could in any way be considered related to interrogation, using broad criteria that encompassed any type of questioning (including questioning by non-military-intelligence personnel at the point of capture), or any presence of military-intelligence interrogators. Another 130 cases remained open as of September 30, 2004, with investigations ongoing.

(U) The events at Abu Ghraib have become synonymous with the topic of detainee abuse. We did not directly investigate those events, which have been comprehensively examined by other officials and are the subject of ongoing investigations to determine criminal culpability. Instead, we considered the findings, conclusions and recommendations of previous Abu Ghraib investigations as we examined the larger context of interrogation policy development and implementation in the Global War on Terror. In accordance with our direction from the Secretary of Defense, our investigation focused principally on: (a) the development of approved interrogation policy (specifically, lists of authorized interrogation techniques), (b) the actual employment of interrogation techniques, and (c) what role, if any, these played in the aforementioned detainee abuses. In addition, we investigated DoD's use of civilian contractors in interrogation operations, DoD support to or participation in the interrogation activities of other government agencies (OGAs), and medical issues relating to interrogations. Finally, we summarized and analyzed detention-related reports and working papers submitted to DoD by the International Committee of the Red Cross (ICRC). Our primary observations and findings on these issues are set forth below.

(U) Many of the details underlying our conclusions remain classified, and therefore cannot be presented in this unclassified executive summary. In addition, we have omitted from this summary any discussion of ICRC matters in order to respect ICRC concerns, and comply with DoD policy, regarding limitation of the dissemination of ICRC-provided information. Issues of senior official accountability were addressed by the Independent Panel to Review DoD Detention Operations (hereinafter "Independent Panel") - chaired by the Honorable James R. Schlesinger - with which we worked closely. Finally, we have based our conclusions primarily on the information available to us as of September 30, 2004. Should additional information become available, our conclusions would have to be considered in light of that information.

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directed that a working group be established to assess interrogation techniques in the Global War on Terror, and specified that the group should comprise experts from the Office of General Counsel of the Department of Defense, the Office of the Under Secretary of Defense for Policy, the military services and the Joint Staff.

(U) Following a sometimes contentious debate, this working group - led by U.S. Air Force General Counsel Mary Walker, and reporting to the DoD General Counsel - produced a series of draft reports from January through March 2003, including a March 6, 2003 draft report recommending approval of 36 interrogation techniques. As many as 39 techniques had been considered during the working group's review, including "water boarding" (pouring water on a detainee's toweled face to induce the misperception of suffocation), which did appear among the 36 techniques in the March 6 draft. Four of the 39 techniques were considered unacceptable, however - including water boarding - and were ultimately dropped from the review, leaving 35 techniques that the working group recommended for consideration by the Secretary of Defense. In late March 2003, the Secretary of Defense adopted a more cautious approach, choosing to accept 24 of the proposed techniques, most of which were taken directly from or closely resembled those in FM 34-52. (The 35 techniques considered were reflected in the working group's final report, dated April 3, 2003.) The Secretary's guidance was promulgated to SOUTHCOM for use at GTMO in an April 16, 2003 memorandum (also declassified in June 2004) that remains in effect today.

(U) As this discussion demonstrates, the initial push for interrogation techniques beyond those found in FM 34-52 came in October 2002 from the JTF-170 Commander who, based on experiences to that point, believed that counter resistance techniques were needed in order to obtain actionable intelligence from detainees who were trained to oppose U.S. interrogation methods. In addition, the Secretary of Defense moderated proposed interrogation policies, cutting back on the number and types of techniques that were presented by some commanders and senior advisors for consideration. This was true when the Secretary rejected the three most aggressive Category III techniques that JTF-170 requested, and was later apparent in the promulgation of the April 16, 2003 policy, which included only 24 of the 35 techniques recommended for consideration by the working group, and included none of the most aggressive techniques.

(U) Military department lawyers were provided the opportunity for input during the interrogation policy debate, even if that input was not always adopted. This was evident during the review of JTF-170's initial request for counter resistance techniques in the lead-up to the December 2, 2002 policy, when service lawyer concerns were forwarded to the Joint Staff, and later in the establishment of the working group in January 2003 that led to the April 16, 2003 policy.

In the first case, in November 2002 the services expressed serious reservations about approving the proposed counter resistance techniques without further legal and policy review, and thus they were uncomfortable with the Secretary's adoption of a subset of these techniques on December 2, 2002. However, in the aftermath of 9/11, the perceived urgency of gaining actionable intelligence from particularly resistant detainees - including Mohamed al Kahtani, the "20th hijacker" - that could be used to thwart possible attacks on the United States, argued for swift adoption of an effective interrogation policy. (In August 2001 Kahtani had been refused entry into the U.S. by a suspicious immigration inspector at Florida's Orlando International Airport, where the lead 9/11 hijacker, Mohamed Atta, was waiting for him.) This perception of urgency was demonstrated, for example, by the SOUTHCOM Commander's October 2002 memorandum forwarding the counter resistance techniques for consideration, which stated, "I firmly believe that we must quickly provide Joint Task Force 170 counter-resistance techniques to maximize the value of our intelligence collection mission."

(U) Afghanistan

(U) Rather than being the subject of debate within the Office of the Secretary of Defense, interrogation techniques for use in Afghanistan were approved and promulgated by the senior command in the theater. (Initially, this was Combined Joint Task Force 180, or CJTF-180, subsequently renamed CJTF-76. At present, Combined Forces Command-Afghanistan, or CFC-A, commands operations in Afghanistan, with CJTF-76 as a subordinate command.)

(U) From the beginning of OEF in October 2001 until December 2002, interrogators in Afghanistan relied upon FM 34-52 for guidance. On January 24, 2003, in response to a Joint Staff inquiry via U.S. Central Command (CENTCOM), the CJTF-180 Acting Staff Judge Advocate forwarded to the CENTCOM Staff Judge Advocate a memorandum that listed and described the interrogation techniques then in use in Afghanistan. Many of these techniques were similar to the counter resistance techniques that the Secretary had approved for GTMO on December 2, 2002; however, the CJTF-180 techniques had been developed independently by interrogators in Afghanistan in the context of a broad reading of FM 34-52, and were described using different terminology.

(U) In addition to these locally developed techniques, however, the January 24, 2003 memorandum tacitly confirmed that "migration" of interrogation techniques had occurred separately. During December 2002 and January 2003, according to the memorandum, interrogators had employed some of the techniques approved by the Secretary of Defense for use at GTMO. Use of the Tier II and single Tier III technique ceased, however, upon the Secretary's rescission of their

approval for GTMO on January 15, 2003.

(U) CJTF-180 did not receive any response to its January 24, 2003 memorandum from either CENTCOM or the Joint Staff, and interpreted this silence to mean that the techniques then in use (which, again, no longer included the tiered GTMO techniques) were unobjectionable to higher headquarters and therefore could be considered approved policy.

(U) On February 27, 2003, the CJTF-180 Commander, Lieutenant General Dan K. McNeill, revised the January 24, 2003 techniques by modifying or eliminating five "interrogator tactics" not found in FM 34-52 in response to the investigation of the December 2002 deaths of two detainees at the Bagram Collection Point. While the abuses leading to the Bagram deaths consisted of violent assaults, rather than any authorized techniques, the CJTF-180 Commander modified or eliminated these five tactics as a precaution, out of a general concern for detainee treatment. This revised policy remained in effect until March 2004, when CJTF-180 issued new interrogation guidance.

(U) The March 2004 guidance was not drafted as carefully as it could have or should have been. First, it revived some of the practices that CJTF-180 had modified or eliminated in February 2003, without explanation and without even referencing the February 2003 modifications. Second, some of the techniques in the new guidance were based upon an unsigned draft memorandum from the Secretary of Defense to CENTCOM (prepared by the Joint Staff) that was substantively identical to the Secretary's April 16, 2003 interrogation policy for GTMO. We found no evidence that the Secretary was ever aware of this draft memorandum, which was never approved.

(U) The March 2004 interrogation policy remained in effect until June 2004, when the CENTCOM Commander, General John Abizaid, directed that all interrogations in CENTCOM be standardized under a single policy. The CFC-A Commander, Lieutenant General David W. Barno, then directed that CJTF-76 adopt the existing interrogation policy used in Iraq, which had been developed in May 2004. This policy relies almost exclusively on interrogation techniques specifically outlined in FM 34-52, and remains in effect today.

(U) Iraq

(U) As in Afghanistan, interrogation policy in Iraq was developed and promulgated by the senior command in the theater, then Combined Joint Task Force-7, or CJTF-7. At the inception of OIF on March 19, 2003, interrogators relied upon FM 34-52 for guidance. In August 2003, amid a growing insurgency in Iraq, Captain Carolyn Wood, the commander of Alpha Company, 519th Military Intelligence Battalion (A/519), stationed at Abu Ghraib, submitted a draft interrogation policy directly to the 205th Military Intelligence Brigade and the CJTF-7 staff. This draft policy

was based in part on interrogation techniques being used at the time by units in Afghanistan. On August 18, 2003, the Joint Staff's Director for Operations (J-3) sent a message requesting that the SOUTHCOM Commander provide a team of experts in detention and interrogation operations to provide advice on relevant facilities and operations in Iraq. As a result, from August 31 to September 9, 2003, the Joint Task Force Guantanamo (JTF-GTMO) Commander, Major General Geoffrey Miller, led a team to assess interrogation and detention operations in Iraq. One of his principal observations was that CJTF-7 had "no guidance specifically addressing interrogation policies and authorities disseminated to units" under its command.

(U) To rectify this apparent problem, the CJTF-7 Commander, Lieutenant General Ricardo Sanchez, published the first CJTF-7 interrogation policy on September 14, 2003. This policy was heavily influenced by the April 2003 JTF-GTMO interrogation policy, which MG Miller had provided during his visit, and was also influenced by the A/519 draft policy which, as noted above, contained some interrogation techniques in use in Afghanistan. However, LTG Sanchez and his staff were well aware that the Geneva Conventions applied to all detainees in Iraq, and thoroughly reviewed the CJTF-7 policy for compliance with the Conventions prior to its approval.

(U) After reviewing the September policy once it was issued, CENTCOM's Staff Judge Advocate considered it overly aggressive. As a result, CJTF-7 promulgated a revised policy on October 12, 2003 that explicitly superseded the previous policy. This new policy removed several techniques that had been approved in the September 2003 policy, rendering the October 2003 policy quite similar to the guidance found in FM 34-52. It should be noted that none of the techniques contained in either the September or October 2003 CJTF-7 interrogation policies would have permitted abuses such as those at Abu Ghraib.

(U) On May 13, 2004, CJTF-7 issued another revised interrogation policy, which remains in effect today. The list of approved techniques remained identical to the October 2003 policy; the principal change from the previous policy was to specify that under no circumstances would requests for the use of certain techniques be approved. While this policy is explicit in its prohibition of certain techniques, like the earlier policies it contains several ambiguities, which - although they would not permit abuse - could obscure commanders' oversight of techniques being employed, and therefore warrant review and correction. (The details of these ambiguities remain classified, but are discussed in the main body of this report.) As noted above, in June 2004 this policy was adopted for use in Afghanistan.

(U) Subsequent to the completion of this

report, we were notified that the Commander, Multi-national Forces Iraq (MNF-I), General George W. Casey, Jr., had approved on January 27, 2005 a new interrogation policy for Iraq. This policy approves a more limited set of techniques for use in Iraq, and also provides additional safeguards and prohibitions, rectifies ambiguities, and – significantly – requires commanders to conduct training on and verify implementation of the policy and report compliance to the Commander, MNF-I.

Interrogation Techniques Actually Employed by Interrogators (U)

(U) Guantanamo Bay, Cuba

(U) In GTMO, we found that from the beginning of interrogation operations to the present, interrogation policies were effectively disseminated and interrogators closely adhered to the policies, with minor exceptions. Some of these exceptions arose because interrogation policy did not always list every conceivable technique that an interrogator might use, and interrogators often employed techniques that were not specifically identified by policy, but nevertheless arguably fell within the parameters of FM 34-52. This close compliance with interrogation policy was due to a number of factors, including strict command oversight and effective leadership, adequate detention and interrogation resources, and GTMO's secure location far from any combat zone. And although conditions at GTMO were initially spartan, relying on improvised interrogation booths and pre-existing detention facilities (Camp X-Ray, constructed in the 1990s to house Cuban and Haitian refugees), these conditions continuously improved over time. The most important development was establishment in November 2002 of a command organization that placed detention and intelligence operations under the command of a single entity, JTF-GTMO, superseding the bifurcated organization which had at times impeded intelligence collection due to lack of proper coordination between interrogators and military police. JTF-GTMO, with its well-developed standard operating procedures and clear lines of authority, enabled effective coordination.

(U) In light of military police participation in many of the abuses at Abu Ghraib, the relationship between military police (MP) and military intelligence (MI) personnel has come under scrutiny. Under the GTMO model of MP/MI relations, military police work closely with military intelligence in helping to set the conditions for successful interrogations, both by observing detainees and sharing observations with interrogators, and by assisting in the implementation of interrogation techniques that are employed largely outside the interrogation room (such as the provision of incentives for cooperation). When conducted under controlled conditions, with specific guidance and rigorous command oversight, as at GTMO, this is an effective model that greatly

enhances intelligence collection and does not lead to detainee abuse. In our view, it is a model that should be considered for use in other interrogation operations in the Global War on Terror. Current MP and MI doctrine, however, is vague on the proper relationship between MP and MI units, and accordingly requires revision that spells out the details of the type of coordination between these units that has proven successful at GTMO.

(U) Finally, we determined that during the course of interrogation operations at GTMO, the Secretary of Defense approved specific interrogation plans for two "high-value" detainees who had resisted interrogation for many months, and who were believed to possess actionable intelligence that could be used to prevent attacks against the United States. Both plans employed several of the counter-resistance techniques found in the December 2, 2002 GTMO policy, and both successfully neutralized the two detainees' resistance training and yielded valuable intelligence. We note, however, that these interrogations were sufficiently aggressive that they highlighted the difficult question of precisely defining the boundaries of humane treatment of detainees.

(U) Afghanistan and Iraq

(S) Our findings in Afghanistan and Iraq stand in contrast to our findings in GTMO. Dissemination of interrogation policy was generally poor, and interrogators fell back on their training and experience, often relying on a broad interpretation of FM 34-52. In Iraq, we also found generally poor unit-level compliance with approved policy memoranda even when those units were aware of the relevant memoranda. However, in both Afghanistan and Iraq, there was significant overlap between the techniques contained in approved policy memoranda and the techniques that interrogators employed based solely on their training and experience.

(S) While these problems of policy dissemination and compliance were certainly cause for concern, we found that they did not lead to the employment of illegal or abusive interrogation techniques. According to our investigation, interrogators clearly understood that abusive practices and techniques - such as physical assault, sexual humiliation, terrorizing detainees with unmuzzled dogs, or threats of torture or death - were at all times prohibited, regardless of whether the interrogators were aware of the latest policy memorandum promulgated by higher headquarters. Thus, with limited exceptions (most of which were physical assaults, as described below in our discussion of detainee abuse), interrogators did not employ such techniques, nor did they direct MPs to do so. Significantly, nothing in our investigation of interrogation and detention operations in Afghanistan or Iraq suggested that the chaotic and abusive environment that existed at the Abu

Ghraib prison in the fall of 2003 was repeated elsewhere.

(U) Nevertheless, as previously stated, we consider it a missed opportunity that interrogation policy was never issued to the CJTF commanders in Afghanistan or Iraq, as was done for GTMO. Had this occurred, interrogation policy could have benefited from additional expertise and oversight. In Iraq, by the time the first CJTF-7 interrogation policy was issued in September 2003, two different policies had been thoroughly debated and promulgated for GTMO, and detention and interrogation operations had been conducted in Afghanistan for nearly two years. Yet, CJTF-7 was left to struggle with these issues on its own in the midst of fighting an insurgency. As a result, the September 2003 CJTF-7 interrogation policy was developed, as the CJTF-7 Staff Judge Advocate at the time stated, in an "urgent" fashion. Interrogation policy reflecting the lessons learned to date in the Global War on Terror should have been in place in Iraq long before September 2003.

(U) Finally, there has been much speculation regarding the notion that undue pressure for actionable intelligence contributed to the abuses at Abu Ghraib, and that such pressure also manifested itself throughout Iraq. It is certainly true that "pressure" was applied in Iraq through the chain of command, but a certain amount of pressure is to be expected in a combat environment. As LTG Sanchez has stated, "if I had not been applying intense pressure on the intelligence community to know my enemy I would have been derelict in my duties and I shouldn't have been a commanding general." Our investigation indicated that interrogators in Iraq indeed were under intense pressure for intelligence, but this derived chiefly from a challenging detainee to interrogator (and interpreter) ratio and an inherent desire to help prevent coalition casualties. We agree with MG Fay's observation that pressure for intelligence "should have been expected in such a critical situation," and that it was not properly managed by unit-level leaders at Abu Ghraib. We found no evidence, however, that interrogators in Iraq believed that any pressure for intelligence subverted their obligation to treat detainees humanely in accordance with the Geneva Conventions, or otherwise led them to apply prohibited or abusive interrogation techniques. And although Major General Fay's investigation of the events at Abu Ghraib noted that requests for information were at times forwarded directly from various military commands and DoD agencies to Abu Ghraib, rather than through normal channels, we found no evidence to support the notion that the Office of the Secretary of Defense, the National Security Council staff, CENTCOM, or any other organization applied explicit pressure for intelligence, or gave "back-channel" permission to forces in the field in Iraq (or in Afghanistan) to use more aggressive interrogation techniques than those authorized by either command interrogation policies or FM 34-52.

Detainee Abuse (U)

(U) Overview

(U) We examined the 187 DoD investigations of alleged detainee abuse that had been closed as of September 30, 2004. Of these investigations, 71 (or 38%) had resulted in a finding of substantiated detainee abuse, including six cases involving detainee deaths. Eight of the 71 cases occurred at GTMO, all of which were relatively minor in their physical nature, although two of these involved unauthorized, sexually suggestive behavior by interrogators, which raises problematic issues concerning cultural and religious sensitivities. (As described below, we judged that one other substantiated incident at GTMO was inappropriate but did not constitute abuse. This incident was discarded from our statistical analysis, as reflected in the chart below.) Three of the cases, including one death case, were from Afghanistan, while the remaining 60 cases, including five death cases, occurred in Iraq. Additionally, 100 cases remained open, with investigations ongoing. Finally, our investigation indicated that commanders are making vigorous efforts to investigate every allegation of abuse - regardless of whether the allegations are made by DoD personnel, civilian contractors, detainees, the International Committee of the Red Cross, the local populace, or any other source.

(U) Included among the open cases were several ongoing investigations related to abuse at Abu Ghraib, including the death of a detainee who was brought to Abu Ghraib by a special operations/OGA team in November 2003. Though not included in our abuse analysis, this case was considered in our review of medical issues. Similarly, the open cases include the December 2002 Bagram Collection Point deaths, as those investigations were not completed until October 2004; however, observations on the Bagram deaths are provided in our discussion below.

(U) We also reviewed a July 14, 2004 letter from an FBI official notifying the Army Provost Marshal General of several instances of "aggressive interrogation techniques" reportedly witnessed by FBI personnel at GTMO in October 2002. One of these was already the subject of a criminal investigation, which remains open. The U.S. Southern Command and the current Naval Inspector General are now reviewing all of the FBI documents released to the American Civil Liberties Union (ACLU) - which, other than the letter noted above, were not known to DoD authorities until the ACLU published them in December 2004 - to determine whether they bring to light any abuse allegations that have not yet been investigated.

(U) For the purposes of our analysis, we categorized the substantiated abuse cases as

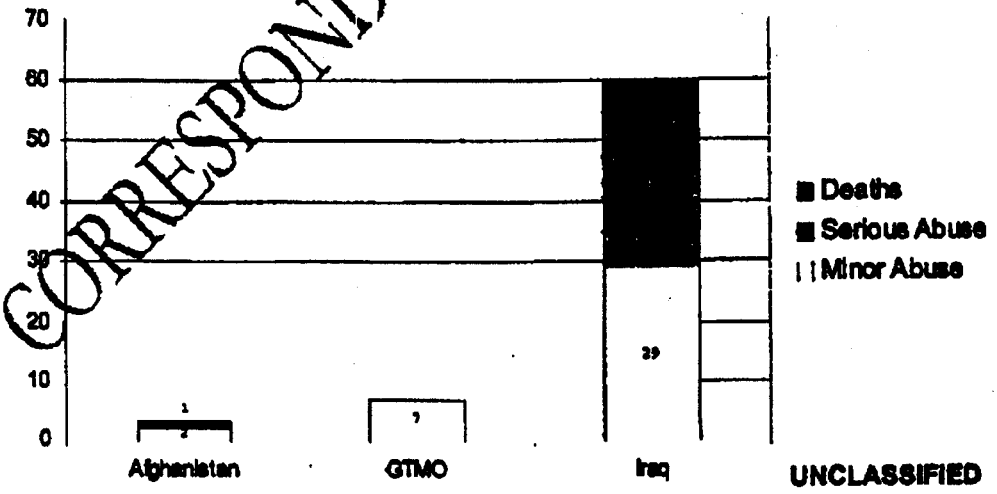
deaths, serious abuse, or minor abuse. We considered serious abuse to be misconduct resulting or having the potential to result in death, or in grievous bodily harm (as defined in the Manual for Courts-Martial, 2002 edition.) In addition, we considered all sexual assaults, threats to inflict death or grievous bodily harm, and maltreatment likely to result in death or grievous bodily harm to be serious abuse. Finally, as noted above, we concluded that one of the 71 cases did not constitute abuse for our purposes: this case involved a soldier at GTMO who dared a detainee to throw a cup of water on him, and after the detainee complied, reciprocated by throwing a cup of water on the detainee. (The soldier was removed from his assignment as a consequence of inappropriate interaction with a detainee.) We discarded this investigation, leaving us 70 substantiated detainee abuse cases to analyze. The chart below reflects the breakdown of these 70 abuse cases.

(U) There are approximately 121 abuse victims in these 70 cases of detainee abuse. As of September 30, 2004, disciplinary action had been taken against 115 service members for this misconduct, including numerous nonjudicial punishments, 15 summary courts-martial, 12 special courts-martial and nine general courts-martial.

(U) No Connection Between Interrogation Policy and Abuse

(U) We found no link between approved interrogation techniques and detainee abuse. Of

Closed Substantiated Abuse Cases (U)



the 70 cases of closed, substantiated abuse, only 20 of these cases, or less than one-third, could be considered "interrogation-related;" the remaining 50 were unassociated with any kind of questioning, interrogation, or the presence of MI personnel. In determining whether a case was interrogation-related, we took an expansive approach: for example, if a soldier slapped a detainee for refusing to answer a question at the point of capture, we categorized that misconduct as interrogation-related abuse - even though it did not occur at a detention facility, the soldier was not an MI interrogator, and there was no indication the soldier was (or should have been) aware of interrogation policy approved for use by MI interrogators.

(U) At GTMO, where there have been over 24,000 interrogation sessions since the beginning of interrogation operations, there are only three cases of closed, substantiated interrogation-related abuse, all consisting of minor assaults in which MI interrogators exceeded the bounds of approved interrogation policy. As noted above, these cases included those of two female interrogators who, on their own initiative, touched and spoke to detainees in a sexually suggestive manner in order to incur stress based on the detainees' religious beliefs. All three cases resulted in disciplinary action against the interrogators.

(U) In Afghanistan, one case of interrogation-related abuse had been substantiated prior to September 30, 2004. On March 18, 2004, when elements of a U.S. infantry battalion conducted a cordon and search operation in the village of Miam Do, the U.S. forces were met with resistance and several Afghans were killed in subsequent fighting. The unit then detained the entire population of the village for four days in order to conduct screening operations. An Army Lieutenant Colonel attached to the Defense Intelligence Agency accompanied the battalion during the screening operations, in which he punched, kicked, grabbed and choked numerous villagers. As a result, he was disciplined and suspended from participating in operations involving detainees.

(U) In addition, there are now two cases of closed, substantiated interrogation-related abuse involving two detainees who died on December 4 and December 10, 2002 at the Bagram Collection Point in Afghanistan. Those investigations were not closed until October 2004, after our data analysis had been completed, and thus are not included in our statistics. We did, however, review the final Army Criminal Investigative Division (CID) Reports of Investigation, which included approximately 200 interviews. We found both investigations to be thorough in addressing the practices and leadership problems that led to the deaths and we note that CID officials have already recommended charges against 15 soldiers (11 MP and four MI) in relation to the December 4 death, and 27 soldiers (20 MP and seven MI) in relation to the

December 10 death. (Some of the same personnel are named in the detention and interrogation of both detainees.) Significantly, our review of the investigations showed that while this abuse occurred during interrogations, it was unrelated to approved interrogation techniques.

(U) In Iraq, there are 16 cases of closed, substantiated interrogation-related abuse. Five of these cases involved MI interrogators. There is no discernible pattern in the 16 cases: the incidents occurred at different locations and were committed by members of different units. The abusive behavior varied significantly among these incidents, although each involved methods of maltreatment that were clearly in violation of U.S. military doctrine and U.S. law of war obligations, as well as U.S. interrogation policy. The most common type of detainee abuse was straightforward physical abuse, such as slapping, pinching and kicking. In addition, threats were made in nine of the 16 incidents.

(U) As the preceding discussion illustrates, there is no link between any authorized interrogation techniques and the actual abuses described in the closed, substantiated interrogation-related abuse cases. First, much of the abuse involved the sort of straightforward physical violence that plainly transgressed the bounds of any interrogation policy in any theater, and also violated any definition of "humane" detainee treatment. Second, much of the abuse is wholly unconnected to any interrogation technique or policy, as it was committed by personnel who were not MI interrogators, and who almost certainly did not know (and had no reason to know) the details of such policy. Nevertheless, these personnel either knew or should have known that their actions were improper because they clearly violated military doctrine and law of war obligations. And third, even when MI interrogators committed the abuse, their actions were unrelated to any approved techniques. Even if interrogators were "confused" by the issuance of multiple interrogation policies within a short span of time, as some have hypothesized regarding Abu Ghraib, it is clear that *none* of the approved policies - no matter which version the interrogators followed - would have permitted the types of abuse that occurred.

(U) Underlying Reasons for Abuse

(U) If approved interrogation policy did not cause detainee abuse, the question remains: what did? While we cannot offer a definitive answer, we studied the DoD investigation reports for all 70 cases of closed, substantiated detainee abuse to see if we could detect any patterns or underlying explanations. Our analysis of these 70 cases showed that they involved abuses perpetrated by a variety of active duty, reserve and national guard personnel from three services on different dates and in different locations throughout Afghanistan and Iraq, as well as a small number of cases at GTMO. While this diversity argues against a single, overarching

reason for abuse, we did identify several factors that may help explain why the abuse occurred.

(U) First, 23 of the abuse cases, roughly one third of the total, occurred at the point of capture in Afghanistan or Iraq - that is, during or shortly after the capture of a detainee. This is the point at which passions often run high, as service members find themselves in dangerous situations, apprehending individuals who may be responsible for the death or serious injury of fellow service members. Because of this potentially volatile situation, this is also the point at which the need for military discipline is paramount in order to guard against the possibility of detainee abuse, and that discipline was lacking in some instances. Additionally, the nature of the enemy, and the tactics it has employed in Iraq (and to a lesser extent, in Afghanistan) may have played a role in this abuse. Our service members may have at times permitted the enemy's treacherous tactics and disregard for the law of war - exemplified by improvised explosive devices and suicide bombings - to erode their own standards of conduct. (Although we do not offer empirical data to support this conclusion, a consideration of past counter-insurgency campaigns – for example, in the Philippines and Vietnam – suggests that this factor may have contributed to abuse.) The highly publicized case involving an Army Lieutenant Colonel in Iraq provides an example. On August 20, 2003, during the questioning of an Iraqi detainee by field artillery soldiers, the Lieutenant Colonel fired his weapon near the detainee's head in an effort to elicit information regarding a plot to assassinate U.S. service members. For his actions, the Lieutenant Colonel was disciplined and relieved of command.

(U) Second, there was a failure to react to early warning signs of abuse. Though we cannot provide details in this unclassified executive summary, it is clear that such warning signs were present - particularly at Abu Ghraib - in the form of communiques to local commanders, that should have prompted those commanders to put in place more specific procedures and direct guidance to prevent further abuse. Instead, these warning signs were not given sufficient attention at the unit level, nor were they relayed to the responsible CJTF commanders in a timely manner.

(U) Finally, a breakdown of good order and discipline in some units could account for other incidents of abuse. This breakdown implies a failure of unit-level leadership to recognize the inherent potential for abuse due to individual misconduct, to detect and mitigate the enormous stress on our troops involved in detention and interrogation operations, and a corresponding failure to provide the requisite oversight. As documented in previous reports (including MG Fay's and MG Taguba's investigations), stronger leadership and greater oversight would have lessened the likelihood of abuse.

Use of Contract Personnel in Interrogation Operations (U)

(U) It is clear that contract interrogators and support personnel are "bridging gaps" in the DoD force structure in GTMO, Afghanistan and Iraq. As a senior intelligence officer at CENTCOM stated: "[s]imply put, interrogation operations in Afghanistan, Iraq and Guantanamo cannot be reasonably accomplished without contractor support." As a result of these shortfalls in critical interrogation-related skills, numerous contracts have been awarded by the services and various DoD agencies. Unfortunately, however, this has been done without central coordination, and in some cases, in an *ad hoc* fashion (as demonstrated, for example, by the highly publicized use of a "Blanket Purchase Agreement" administered by the Department of the Interior to obtain interrogation services in Iraq from CACI Inc.). Nevertheless, we found - with limited exceptions - that contractor compliance with DoD policies, government command and control of contractors, and the level of contractor experience were satisfactory, thanks in large part to the diligence of contracting officers and local commanders.

(U) Overall, we found that contractors made a significant contribution to U.S. intelligence efforts. Contract interrogators were typically former MI or law enforcement personnel, and on average were older and more experienced than military interrogators; many anecdotal reports indicated that this gave contract interrogators additional credibility in the eyes of detainees, thus promoting successful interrogations. In addition, contract personnel often served longer tours than DoD personnel, creating continuity and enhancing corporate knowledge at their commands.

(U) Finally, notwithstanding the highly publicized involvement of some contractors in abuse at Abu Ghraib, we found very few instances of abuse involving contractors. In addition, a comprehensive body of federal law permits the prosecution of U.S. nationals - whether contractor, government civilian, or military - who may be responsible for the inhumane treatment of detainees during U.S. military operations overseas. Thus, contractors are no less legally accountable for their actions than their military counterparts.

DoD Support to Other Government Agencies (U)

(U) For the purposes of our discussion, other government agencies, or OGAs, are federal agencies other than DoD that have specific interrogation and/or detention-related missions in the Global War on Terror. These agencies include the Central Intelligence Agency (CIA), the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), U.S. Customs and Border Protection, and the Secret Service. In conducting our investigation, we con-

sidered DoD support to all of these agencies, but we focused primarily on DoD support to the CIA. (The CIA cooperated with our investigation, but provided information only on activities in Iraq.) It is important to highlight that it was beyond the scope of our tasking to investigate the existence, location or policies governing detention facilities that may be exclusively operated by OGAs, rather than by DoD.

(U) DoD personnel frequently worked together with OGAs to support their common intelligence collection mission in the Global War on Terror, a cooperation encouraged by DoD leadership early in Operation ENDURING FREEDOM. In support of OGA detention and interrogation operations, DoD provided assistance that included detainee transfers, logistical functions, sharing of intelligence gleaned from DoD interrogations, and oversight and support of OGA interrogations at DoD facilities. However, we were unable to locate formal interagency procedures that codified the support roles and processes.

(U) In OEF and OIF, senior military commanders were issued guidance that required notification to the Secretary of Defense prior to the transfer of detainees to or from other federal agencies. This administrative transfer guidance was followed, with the notable exception of occasions when DoD temporarily held detainees for the CIA - including the detainee known as "Triple-X" - without properly registering them and providing notification to the International Committee of the Red Cross. This practice of holding "ghost detainees" for the CIA was guided by oral, *ad hoc* agreements and was the result, in part, of the lack of any specific, coordinated interagency guidance. Our review indicated, however, that this procedure was limited in scope. To the best of our knowledge, there were approximately 30 "ghost detainees," as compared to a total of over 50,000 detainees in the course of the Global War on Terror. The practice of DoD holding "ghost detainees" has now ceased.

(U) Aside from the general requirement to treat detainees humanely, we found no specific DoD-wide direction governing the conduct of OGA interrogations in DoD interrogation facilities. In response to questions and interviews for our report, however, senior officials expressed clear expectations that DoD-authorized interrogation policies would be followed during any interrogation conducted in a DoD facility. For example, the Joint Staff J-2 stated that "[o]ur understanding is that any representative of any other governmental agency, including CIA, if conducting interrogations, debriefings, or interviews at a DoD facility must abide by all DoD guidelines." On many occasions, DoD and OGA personnel did conduct joint interrogations at DoD facilities using DoD-authorized interrogation techniques. However, our interviews with DoD personnel assigned to various detention facilities throughout Afghanistan and Iraq demonstrated that they did

not have a uniform understanding of what rules governed the involvement of OGAs in the interrogation of DoD detainees. Such uncertainty could create confusion regarding the permissibility and limits of various interrogation techniques. We therefore recommend the establishment and wide promulgation of interagency policies governing the involvement of OGAs in the interrogation of DoD detainees.

Medical Issues Related to Interrogation (U)

(U) In reviewing the performance of medical personnel in detention and interrogation-related operations during the Global War on Terror, we were able to draw preliminary insights in four areas: detainee screening and medical treatment; medical involvement in interrogation; interrogator access to medical information; and the role of medical personnel in preventing and reporting detainee abuse. We note that the Office of the Secretary of Defense is currently developing specific policies to address all of the issues raised below.

(U) First, the medical personnel that we interviewed understood their responsibility to provide humane medical care to detainees, in accordance with U.S. military medical doctrine and the Geneva Conventions. The essence of these requirements is captured succinctly in a DoD policy issued by the Assistant Secretary of Defense for Health Affairs on April 10, 2002, "DoD Policy on Medical Care for Enemy Persons Under U.S. Control Detained in Conjunction with Operation Enduring Freedom." The policy states, "[i]n any case in which there is uncertainty about the need, scope, or duration of medical care for a detainee under U.S. control, medical personnel shall be guided by their professional judgments and standards *similar to those that would be used to evaluate medical issues for U.S. personnel*, consistent with security, public health management, and other mission requirements" (emphasis added). Few U.S. personnel, however, had received specific training relevant to detainee screening and medical treatment. As a result, in Afghanistan and Iraq we found inconsistent field-level implementation of specific requirements, such as monthly detainee inspections and weight recordings. Thus there is a need for a focused training program in this area so that our medical personnel are aware of and comply with detainee screening and medical treatment requirements.

(U) Second, it is a growing trend in the Global War on Terror for behavioral science personnel to work with and support interrogators. These personnel observe interrogations, assess detainee behavior and motivations, review interrogation techniques, and offer advice to interrogators. This support can be effective in helping interrogators collect intelligence from detainees; however, it must be done within proper limits. We found that behavioral science personnel were not involved in detainee

medical care (thus avoiding any inherent conflict between caring for detainees and crafting interrogation strategies), nor were they permitted access to detainee medical records for purposes of developing interrogation strategies. However, since neither the Geneva Conventions nor U.S. military medical doctrine specifically address the issue of behavioral science personnel assisting interrogators in developing interrogation strategies, this practice has evolved in an *ad hoc* manner. In our view, DoD policy-level review is needed to ensure that this practice is performed with proper safeguards, as well as to clarify the status of medical personnel (such as behavioral scientists supporting interrogators) who do not participate in patient care.

(U) Another area that deserves DoD policy-level review (and that is unaddressed by the Geneva Conventions or current DoD policy) is interrogator access to detainee medical information. Interrogators often have legitimate reasons for inquiring into detainees' medical status. For example, interrogators need to be able to verify whether detainees are being truthful when they claim that interrogations should be restricted on medical grounds. Granting interrogators unfettered access to detainee medical records, however, raises the problem that detainee medical information could be inappropriately exploited during interrogations. Such access might also discourage detainees from being truthful with medical personnel, or from seeking help with medical issues, if detainees believe that their medical histories will be used against them during interrogation. Although U.S. law provides no absolute confidentiality of medical information for any person, including detainees, DoD policy-level review is necessary in order to balance properly these competing concerns. This is especially true given the substantial variation that we found in field-level practices for maintaining and securing detainee medical records. While access to medical information was carefully controlled at GTMO, we found in Afghanistan and Iraq that interrogators sometimes had easy access to such information. Nevertheless, we found no instances where detainee medical information had been inappropriately used during interrogations, and in most situations interrogators had little interest in detainee medical information even when they had unfettered access to it.

(U) Finally, it was not possible for us to assess comprehensively whether medical personnel serving in the Global War on Terror have adequately discharged their obligation to report (and where possible, prevent) detainee abuse. However, our interviews with medical personnel indicated that they had only infrequently suspected or witnessed abuse, and had in those instances reported it through the chain of command. Separately, we performed a systematic review of investigative notes and autopsy results in order to assess the roles of medical personnel, especially in any case where detainee abuse was suspected. We reviewed 68 detainee deaths: 63 in Iraq and five in Afghanistan:

there were no deaths at GTMO. (These deaths were not all abuse-related, and therefore do not correlate directly to the death cases described in our analysis of abuse.) Of these deaths, we identified three in which it appeared that medical personnel may have attempted to misrepresent the circumstances of death, possibly in an effort to disguise detainee abuse. Two of these were the previously described deaths in Bagram, Afghanistan in December 2002, and one was the aforementioned death at Abu Ghraib in November 2003. The Army Surgeon General is currently reviewing the specific medical handling of these three cases.

Conclusion (U)

(U) Human intelligence in general, and interrogation in particular, are indispensable components of the Global War on Terror. The need for intelligence in the post-9/11 world, and our enemy's ability to resist interrogation, have caused our senior policy makers and military commanders to reevaluate traditional U.S. interrogation methods and search for new and more effective interrogation techniques. According to our investigation, this search has always been conducted within the confines of our armed forces' obligation to treat detainees humanely. In addition, our analysis of 70 substantiated detainee abuse cases found that no approved interrogation techniques caused these criminal abuses; however, two specific interrogation plans approved for use at GTMO did highlight the difficulty of precisely defining the boundaries of humane treatment.

(U) It bears emphasis that the vast majority of detainees held by the U.S. in the Global War on Terror have been treated humanely, and that the overwhelming majority of U.S. personnel have served honorably. For those few who have not, there is no single, overarching explanation. While authorized interrogation techniques have not been a causal factor in detainee abuse, we have nevertheless identified a number of missed opportunities in the policy development process. We cannot say that there would necessarily have been less detainee abuse had these opportunities been acted upon. These are opportunities, however, that should be considered in the development of future interrogation policies.

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Introduction (U)

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

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

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

- (U) Examine all DoD interrogation techniques considered, authorized, prohibited, and employed during the Operations listed above;
- (U) Determine whether (and if so, to what extent) techniques prescribed for use in one command or Operation were adopted for use in another; and
- (U) Inquire into any DoD support to, or participation in, the interrogation operations of non-DoD entities.

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

Scope of the Review (U)

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

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

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

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

Investigative Approach (U)

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

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

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

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

Senior-Level ISFT Interviewees and Respondents (U)

UNCLASSIFIED

Senior Civilians

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

General and Flag Officers

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

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- LTG Keith Alexander, USA, Deputy Chief of Staff of the Army, G-2
- LTG David Barno, USA, Commander, Combined Forces Command, Afghanistan (CFC-A)
- LtGen James Conway, USMC, Director, J-3, Joint Staff, former Commanding General, I MEF
- VADM Lowell Jacoby, USN, Director, Defense Intelligence Agency
- VADM David Nichols, USN, Commander, NAVCENT/Commander, FIFTH Fleet
- MG Geoffrey Miller, USA, DCG Detainee Ops/CG, TF 134 MNF-I, former CJTF-GTMO
- MG Keith Dayton, USA, Director of Strategy, Plans and Policy, G-3; Former Commander, Iraq Survey Group
- MG Thomas Romig, USA, Judge Advocate General of the Army
- MG Eric Olson, USA, CG, CJTF-76, Afghanistan
- MG Peter Chiarelli, USA, Commanding General, 1st Cavalry Division
- MG Walter Wojdakowski, USA, Deputy Commanding General, V Corps
- MG George Fay, USA, Deputy Commander (IMA), USA Intelligence & Security Command
- MG Ronald Burgess, USA, Director J-2, Joint Staff
- MG Stanley McChrystal, USA, CG, Joint Special Operations Command (JSOC)
- MG Barbara Fast, USA, former C-2, MNF-I
- MG Martin Dempsey, USA, CG, 1st Armored Division
- MG Michael Dunlavey (Retired), USAR, former CJTF-170 and CJTF-GTMO
- MajGen Thomas Fisus, USAF, Judge Advocate General of the Air Force
- MajGen James Mattis, USMC, CG, Marine Corps Combat Development Command, former Commanding General, 1st Marine Division
- RADM Michael Lehr, USN, Judge Advocate General of the Navy
- BG Jay Hood, USA, Commander, JTF-GTMO
- BG John Custer, USA, Director for Intelligence, J-2, U.S. Central Command
- BG Charles Jacoby, USA, DCG Support, CJTF-76, Afghanistan
- BGen Michael Ennis, USMC, Deputy Director for Human Intelligence, DIA
- BGen Joseph McMenamin, USMC, Director, Iraq Survey Group
- BGen Kevin Sandkuhler, USMC, SJA to the Commandant of the Marine Corps
- RADM William McRaven, USN, Deputy CG for Operations, JSOC

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

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

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

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

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

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

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

Interrogation: Law and Policy (U)

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

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

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

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

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

(U) Purpose and Scope of the Law of War

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

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

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

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

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

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

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

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

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

(U) DoD Policy

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

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

- (U) It is DoD policy to comply with the principles, spirit and intent of the international law of war, both customary and codified, to include the Geneva Conventions.

- (U) Captured or detained personnel must be accorded an appropriate legal status under international law. In addition, DoD personnel must comply with the law of war during all armed conflicts, however such conflicts are characterized, and with the principles and spirit of the law of war during all other operations.

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

(U) Army Regulation (AR) 190-8, *Enemy Prisoners of War, Retained Personnel, Civilian Internees, and Other Detainees*, implements the detainee program and policies outlined in DoDD 2310.1. AR 190-8 has been adopted by all four Services, and is applicable with regard to treatment of detainees in the custody of the U.S. armed forces. In addition to describing the administration of the DoD detainee program, AR 190-8 establishes standard DoD terminology for detainee categories, derived from the Geneva Conventions (see figure on the next page). (The current edition of AR 190-8 was approved in 1997.)

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

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

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Army Regulation 190-8: Detainee Categories (U)

(U) Detainee Categories:

- **(U) EPW:** Enemy prisoners of war.
- **(U) CI:** Civilian internees.
- **(U) RP:** Retained persons (medical personnel and chaplains).
- **(U) OD:** Other detainees. (AR 190-8 defines ODs as detainees who have not yet been classified as EPW, CI, or RP. ODs are entitled to EPW treatment until such a classification has been made by a competent tribunal.)

(U) Geneva and the War on Terror

(U) In a memo dated February 7, 2002, President George W. Bush determined that Taliban detainees were "unlawful combatants" not legally entitled to prisoner of war status, and al Qaeda members also did not qualify as prisoners of war, for the following reasons:

1. (U) *The Taliban.* Afghanistan is a party to the Geneva Conventions; however, members of the Taliban have not fulfilled the obligations of lawful combatants laid out in GPW.
2. (U) *Al Qaeda.* As a non-state organization, al Qaeda is not–and cannot be–a party to any international treaty, including the Geneva Conventions.

(U) Notwithstanding their legal status, the President determined that al Qaeda and Taliban detainees were to be treated "humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva."

(U) As the foregoing discussion demonstrates, U.S. military operations since September 11, 2001 have taken place within an established legal and policy framework. The Global War on Terror is distinct from traditional conflicts such as the World Wars because of our adversaries' disregard for the law of war; however, U.S. forces continue to be governed by the law of war and by U.S. policy with an emphasis on the humane treatment of all detainees.

Interrogation: Doctrine (U)

(U) There is no master DoD interrogation doctrine; however, the U.S. Army tactical interro-

gation doctrine forms the *de facto* basis for interrogations conducted by DoD intelligence personnel. This doctrine is currently codified in the 1992 Army Field Manual 34-52, *Intelligence Interrogation*, and consists of seventeen interrogation techniques - called "approaches" in the manual - which may be used singly or in combination in order to elicit information from detainees. FM 34-52 specifies that these techniques, listed in the figure on the next page, are not intended to constitute an all-inclusive list; rather, they constitute a compilation of methods and procedures that have proven successful over time. Additionally, the techniques are described in broad terms, and leave room for creativity in their implementation. However, FM 34-52 explicitly requires that all interrogations be conducted in accordance with the detainee protections guaranteed by the laws and policies described above: "The approach techniques are not new nor are all the possible or acceptable techniques discussed below. Everything the interrogator says and does must be in concert with the [Geneva Conventions] and [the Uniform Code of Military Justice]."

(U) Although they have not officially adopted FM 34-52 as doctrine, other DoD components remain bound to work within the legal and policy limits associated with the law of war during interrogations. (FM 34-52 also notes that within any military unit that includes interrogators, the senior intelligence officer is assigned the responsibility of ensuring that all interrogations are performed in accordance with the Geneva Conventions and U.S. policies. FM 34-52 suggests that this may be effected through the review of oral or written interrogation plans by senior interrogators "when possible;" however, review of interrogation plans is not mandatory.) Within these bounds, interrogators may employ "psychological ploys, verbal trickery, or other nonviolent [and] non-coercive ruses...in the interrogation of hesitant or uncooperative sources."

(U) Prior to its approval in 1992, FM 34-52 was reviewed for legal sufficiency by the Office of the Judge Advocate General of the Army. Though FM 34-52's 17 techniques are not inherently legal or illegal, the stipulation that interrogators must adhere at all times to the Geneva Conventions and the Uniform Code of Military Justice (UCMJ) provides the backstop intended to prevent abuse.

(U) As previously noted, there is no official DoD-wide interrogation doctrine. Though the Joint Staff is developing a Joint interrogation doctrine, at present FM 34-52 constitutes the standard guide for conducting interrogations.

(U) Questioning and Interrogation: From Capture to Internment

(U) Recognizing that the value of intelligence information may decrease with time, U.S. military doctrine states that detainees may be

Interrogation Techniques (U)

(U) Source: U.S. Army Field Manual 34-52, *Intelligence Interrogation*

1. (U) **Direct.** The interrogator asks questions directly related to information sought, making no effort to conceal the interrogation's purpose. Always the first approach to be attempted, and reportedly highly effective during past conflicts (*e.g.*, Operation DESERT STORM).

2. (U) **Incentive.** The interrogator uses luxury items (*e.g.*, cigarettes) above and beyond those required by Geneva to reward the detainee for cooperation, with the implication that such items will be withheld for failure to cooperate. FM 34-52 cautions that any withholding of items must not amount to a denial of basic human needs - thus food, medicine, *etc.* may not be withheld.

3. (U) **Emotional Love.** The interrogator plays on the detainee's existing emotional tendencies to create a psychological "burden" which may be eased by cooperation with the interrogator. An "Emotional Love" technique might involve telling a detainee with apparent high regard for his fellow soldiers that cooperation will help shorten the conflict and ease their suffering.

4. (U) **Emotional Hate.** An "Emotional Hate" technique might involve telling a detainee with apparent contempt for his fellow soldiers that cooperation with the interrogator will allow allied forces to destroy the detainee's old unit, thus affording him a measure of revenge.

5. (U) **Fear Up (Harsh).** The "Fear Up" technique takes advantage of a detainee's pre-existing fears to promote cooperation. For example, an interrogator might exploit a detainee's fear of being prosecuted for war crimes. "Fear Up (Harsh)" involves the interrogator behaving in an overpowering manner with a loud and threatening voice, perhaps even throwing objects around the interrogation room. The intent is to convince the detainee that he does in fact have something to fear, but that the interrogator offers a possible way out of the "trap." FM 34-52 notes that of the 17 doctrinal approaches, "Fear Up"

approaches have the greatest potential to violate the law of war, and that interrogators must take great care to avoid threatening or coercing a detainee in violation of the Geneva Convention. In addition, "Fear Up (Harsh)" is generally recommended only as a last resort, because other approaches may not be effective in generating rapport with the detainee once it has been used.

6. (U) **Fear Up (Mild).** "Fear Up (Mild)" uses a calm, rational approach to take advantage of the detainee's pre-existing fears, again in an attempt to convince the detainee that cooperation with the interrogator will have positive consequences.

7. (U) **Fear-Down.** The detainee is soothed and calmed in order to build rapport and a sense of security regarding the interrogator.

8. (U) **Pride and Ego-Up.** The detainee is flattered by the interrogator, prompting him to provide information in order to gain further praise (*e.g.*, by demonstrating how important he was to his country's war effort).

9. (U) **Pride and Ego-Down.** The interrogator goads the detainee by challenging his loyalty, intelligence, *etc.*; the detainee may then reveal information in an attempt to demonstrate that the interrogator is wrong.

10. (U) **Futility.** The interrogator rationally persuades the detainee that it is futile to resist questioning, because (for example) the U.S. will inevitably win the conflict; everyone talks eventually; *etc.* This technique is not used by itself; rather, it is used to paint a bleak picture for the detainee, which can be exploited using other techniques (*e.g.*, Emotional Love).

11. (U) **We Know All.** The interrogator employs test questions to which answers are already known in order to convince the detainee that the interrogator is all-knowing and resistance to questioning is therefore pointless.

12. (U) **File and Dossier.** The interrogator prepares a dossier with complete information on the detainee's background, possibly padding the file with additional paper to increase its bulk. If this technique is successful, the detainee will be intimidated by the size of the file, and conclude that everything is already known and that resistance is pointless.

13. (U) **Establish Your Identity.** The interrogator insists that the detainee is not who he says he is, but rather an infamous person wanted on serious charges by higher authorities. The detainee may divulge information in an attempt to clear his name.

14. (U) **Repetition.** The interrogator repeats each question and answer multiple times until, in order to satisfy the interrogator and break the monotony, the detainee answers questions fully and candidly.

15. (U) **Rapid Fire.** The interrogator asks questions in rapid succession so that the detainee does not have time to answer fully. This may confuse and annoy the detainee, leading to contradictory answers; ultimately, the detainee may begin to speak more freely in order to make himself heard and explain inconsistencies pointed out by the interrogator.

16. (U) **Silent.** The interrogator silently looks the detainee squarely in the eye for an extended period, until the detainee becomes nervous or agitated. The interrogator breaks the silence when the detainee appears ready to talk.

17. (U) **Change of Scene.** The interrogator engages the detainee in an environment other than an interrogation room in order to ease the detainee's apprehension, or catch him with his guard down. For example, an interrogator might invite the detainee to another setting for coffee and pleasant conversation; alternatively, an interrogator might pose as a guard in the detention area and engage the detainee in conversation there.

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interrogated prior to their arrival at detention facilities, as noted in AR 190-8: "Prisoners may be interrogated in the combat zone. The use of physical or mental torture or any coercion to compel prisoners to provide information is prohibited...Interrogations will normally be performed by intelligence or counterintelligence personnel." Additionally, non-MI personnel may doctrinally conduct "tactical questioning" of detainees in the field prior to their delivery to short- or long-term detainee holding facilities.

(U) Detainees may be captured or collected in the field by any U.S. service member. Therefore, doctrine provides for basic, direct questioning of detainees by capturing forces to ascertain information of immediate tactical value. The figure on the following page provides an example of two memory aids created for U.S. Army soldiers for these purposes.

(U) After capture and tactical questioning by MI personnel (collectively termed "field processing"), detainees are normally transferred to Army MP units trained and organized to operate detention or internment/resettlement (I/R) facilities. (Though the Army has the primary responsibility for detention operations within DoD, other services may operate detention facilities as long as all of the provisions of the Geneva Conventions and AR 190-8 are fulfilled.) Detention and I/R doctrine is contained in Army Field Manual 3-19.40, *Military Police Detention and Internment/Resettlement Operations.*

(U) By doctrine, there are three broad categories of detention facility: collecting points (normally operated by MP companies attached to Army divisions), holding areas (normally operated by MP companies attached to Army corps), and I/R facilities (normally operated by specially trained MP I/R battalions under MP brigades reporting to the theater commander). Division collecting points (CPs) and corps holding areas (CHAs) are intended to provide for the immediate safety and well-being of detainees, while preventing them from impeding combat operations on the battlefield. CP size may vary depending on the detainee capture rate, and facilities may range from simple concertina wire enclosures to existing structures such as abandoned schools or warehouses. CHAs may hold up to 2,000 detainees, and are established in existing structures or specially constructed camps. Internment/resettlement (I/R) facilities are intended to provide for long-term detention away from the combat zone, and normally consist of semi-permanent structures capable of holding up to 4,000 detainees.

(U) Division collecting points are further classified as either forward or central CPs. Closest to the battlefield, forward CPs are typically the most austere detention facilities, and by doctrine, should not house detainees for more than 12 hours

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Basic Detainee Capture and Questioning Procedures (U)

(U) Source: U.S. Army Special Text 2-91.6, *Small Unit Support to Intelligence*.

(U) Handling of Enemy Prisoners of War and Detainees: "The Five S's"

- **(U) Search** - A thorough search of the person for weapons and documents.
- **(U) Silence** - Do not allow the EPWs/detainees to communicate with one another, either verbally or with gestures. Keep an eye open for potential troublemakers and be prepared to separate them.
- **(U) Segregate** - Keep civilians and military separate and then further divide them by rank, gender, nationality, ethnicity, and religion.
- **(U) Safeguard** - Provide security for and protect the EPWs/detainees. Get them out of immediate danger and allow them to keep their personal chemical protective gear, if they have any, and their identification cards.
- **(U) Speed** - Information is time sensitive. It is very important to move personnel to the rear as quickly as possible. An EPW/detainee's resistance to questioning grows as time goes on. The initial shock of being captured or detained wears off and they begin to think of escape. HUMINT soldiers who are trained in detailed exploitation, who have the appropriate time and means, will be waiting to talk to these individuals.

(U) Tactical Questioning: "JUMPS"

- **(U) J - Job:** What is your job? What do you do? If military: what is your rank? If civilian: what is your position title?
- **(U) U - Unit:** What is your unit or the name of the company you work for? Ask about chain of command and command structure.
- **(U) M - Mission:** What is the mission of your unit or element? What is the mission of the next higher unit or element? What mission or job were you performing when you were captured or detained?
- **(U) P - Priority Questions:** Ask questions based on small unit's tasking as briefed before patrol, roadblock, etc. Ensure questions are asked during natural conversation so unit's mission is not disclosed.
- **(U) S - Supporting Information:** Anything not covered above.

prior to their transfer to a central CP. Central CPs are located further from the battlefield, and are intended to house detainees for up to 24 hours prior to their transfer to CHAs.

(U) Corps holding areas normally retain detainees for up to 72 hours, but may retain detainees for the duration of hostilities if required. Typically, one CHA is to be established per division conducting combat operations. Detainees in CHAs may be transferred to I/R facilities, where they remain until hostilities end or they are otherwise released.

(U) In sum, a detainee captured on the battlefield would typically be processed as follows: tactical questioning at the point of capture, followed by detention and possible interrogation at a forward CP for up to 12 hours, a central CP for up to 24 hours, a CHA for up to 72 hours (or longer as required), and finally an I/R facility (or CHA) until hostilities end or the detainee is approved for release. Detainees may also be turned over to facilities at any higher echelon immediately following capture. By doctrine, detainees are not to be released until they have been fully processed for control and accounting purposes by I/R-trained MP units.

(U) As noted in AR 190-8 and FM 34-52, interrogation by properly trained intelligence personnel may be conducted at any stage of the capture and detention process. In addition, AR 190-8 specifies that commanders of I/R facilities must provide an area for intelligence collection efforts (*i.e.*, interrogation).

(U) Doctrinal Relationship Between Military Police and Military Intelligence

(U) *Doctrine does not clearly and distinctly address the relationship between the Military Police (MP) operating [internment/resettlement] facilities and the Military Intelligence (MI) personnel conducting intelligence exploitation at those facilities.*

- from the Detainee Operations Inspection Report, Department of the Army Inspector General, July 21, 2004

(U) *The [Geneva Conventions] and US policy expressly prohibit acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or aid to interrogation.*

- from Field Manual 34-52, *Intelligence Interrogation*

(U) *Coercion is not inflicted upon captives and detainees to obtain information...Inhumane treatment, even if committed under stress of combat and with deep provocation, is a serious and punishable violation under national law and international law...*

— from Field Manual 3-19.40, *Military Police Internment/Resettlement Operations*

(U) Previous investigations of detainee abuse, such as the Department of the Army Inspector General report quoted above, have correctly pointed out that MP and MI doctrine do not completely describe the functional relationship between detention and interrogation operations. Existing guidance regarding the direct involvement of MPs in the interrogation mission - as opposed to external support for interrogation - is vague (see figure on the next page), and non-existent with regard to the implementation of techniques that are employed outside the interrogation room. (Examples of such techniques include environmental and dietary manipulation, as described in the declassified April 16, 2003 Secretary of Defense memorandum approving interrogation techniques for use at Guantanamo Bay.) However, the second and third excerpts cited above - one drawn from an MI manual, the other from an MP manual - demonstrate that doctrine clearly and specifically forbids the inhumane treatment of detainees.

(U) As previously described, MPs are responsible for establishing and operating detention facilities, which are typically found at the division, corps and theater levels (collecting points, corps holding areas and internment/resettlement facilities respectively). Within these facilities, MPs are responsible for the security, discipline, health, welfare, and humane treatment of detainees. In addition, MPs must maintain complete accountability for all detainees, assigning each an internment serial number (ISN) and forwarding it to the National Detainee Reporting Center (NDRC), as mandated by Army Regulation 190-8.

(U) As the subsequent figure illustrates, MPs are also responsible for coordinating with MI personnel to facilitate the collection of intelligence from detainees. The most extensive discussion of this responsibility is contained in FM 3-19.40, *Military Police Internment/Resettlement Operations*. MP responsibilities related to detainee intelligence collection, including interrogation, drawn from FM 3-19.40 are summarized in the subsequent figure.

(U) The figure demonstrates that MP administrative procedures pertaining to interrogation operations are well defined, and stress accountability for detainees at every stage of the detention and interrogation process. (FM 3-19.40 goes so far as to specify that if a detainee is removed from the receiving/processing line at a detention facility by MI personnel, the detainee and his or her possessions must first be accounted for on DD Form 2708 - *Receipt for Inmate or Detained Person* - and Department of the Army (DA) Form 4137, *Evidence/Property Custody Document*.) In directing MPs to "assist MI personnel by identifying detainees who may have useful information," doctrine clearly permits MPs to conduct passive intelligence collection within deten-

MP, MI and Detainee Intelligence Collection: Existing Doctrine (U)

(U) From Army Regulation 190-8, *Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees*

"The [enemy prisoner of war/civilian internee] facility commander will provide an area for intelligence collection efforts."

(U) From Field Manual 3-19.1, *Military Police Operations*

"The MP perform their...function of collecting, evacuating, and securing EPWs throughout the [area of operations]. In this process, the MP coordinate with MI to collect information that may be used in current or future operations."

(U) From Field Manual 3-19.40, *Military Police Internment/Resettlement Operations*

"The MP work closely with military intelligence interrogation teams...to determine if captives, their equipment, and their weapons have intelligence value."

(U) From Field Manual 34-52, *Intelligence Interrogation*

"Screeners coordinate with MP holding area guards on their role in the screening process. The guards are told where the screening will take place, how EPWs and detainees are to be brought from the holding area, and what types of behavior on their part will facilitate the screenings." (NOTE: FM 34-52 defines screening as "the selection of sources for interrogation." Screening is not interrogation.)

tion facilities. In addition, both MI and MP doctrine repeatedly emphasize the requirement for humane treatment of all detainees.

(U) However, there is a lack of doctrine regarding MP and MI roles in the application of the "outside-the-interrogation-room" interrogation techniques approved by DoD and service authorities in the course of the Global War on Terror. The techniques set forth in FM 34-52, such as direct questioning and fear up, are generally described in the context of an "interrogation site." In contrast, many of the "new" techniques - such as the substitution of Meals-Ready-to-Eat (MREs) for hot meals, or reversing a detainee's sleep cycle from night to day - are applied outside the interrogation area in an effort to render the detainee more cooperative during subsequent interrogations. Neither MP nor MI doctrine prescribes specific responsibilities for the employment of techniques requiring

MP Responsibilities Related to Detainee Intelligence Collection (U)

(U) Source: Field Manual 3-19.40, *Military Police Internment/Resettlement Operations*

(U) Facilitate collection of enemy tactical information by allowing MI to station interrogation teams at detention facilities. MI personnel may be permitted to observe arriving detainees in order to expedite the collection process.

(U) Work closely with MI interrogators to determine whether detainees have intelligence value.

(U) Coordinate with MI to establish operating procedures that ensure accountability for detainees and their equipment and documents. (Before MI conduct interrogations, detainees must be provided with DoD (DD) Form 2745, *EPW Capture Tag*, and documented on DD Form 2708, *Receipt for Inmate or Detained Person.*)

(U) Assist MI personnel by identifying detainees who may have useful information.

(U) Conduct personal searches of detainees when requested by MI. (Within detention facilities, FM 3-19.40 specifies that this must be done out of sight of other detainees, by guards of the same gender as the detainee being searched.)

(U) Plan "MI screening sites" including interrogation areas. Interrogation areas should accommodate an interrogator, a captive, a guard and an interpreter.

(U) Escort captives to and from the interrogation area.

(U) Establish procedures to inform MI which detainees will be moved to, from or within the facility, and when the movement is to take place.

coordination outside the interrogation room. For example, it is not clear under existing doctrine whether MP or MI personnel should effect an altered detainee sleep cycle. In the absence of a clear doctrinal division of labor, commanders must develop local policies for the employment of such techniques. A particular hazard of this arrangement is that if MPs are not adequately trained on approved interrogation techniques and their limits, they may make inappropriate individual judgments regarding the appropriateness of techniques ordered or implied by MI personnel.

(U) Similarly, doctrine appears to permit the presence of MP guards during interrogations (see FM 3-19.40's requirement that interrogation areas accommodate guards in addition to intelligence personnel), but does not describe what role they should play or prohibit any particular roles. This could also lead to inappropriate behavior if the limitations of interrogation techniques and requirements related to detainee treatment are not well understood by all parties involved.

(U) Two additional areas of MP doctrine that warrant discussion are the employment of military working dogs (MWD) and strip searches. Though MP doctrine prescribe these for security purposes only, their misuse could lead to abuse, as we have seen at Abu Ghraib.

(U) Military Working Dogs

(U) Existing MWD doctrine pertaining to detainee operations (codified in Army Regulation 190-12, *Military Working Dogs*, and Department of the Army Pamphlet 190-12, *Military Working Dog Program*) notes that patrol dogs may be used to secure the perimeter of EPW detention facilities, and to deter escape. The presence of dogs during interrogation is neither specifically authorized nor specifically prohibited. As with other interrogation techniques that are not described in FM 34-52, the presence of dogs - even if approved by appropriate authorities - could becomes problematic in the absence of additional, specific training.

(U) Strip Searches

(U) FM 3-19.40 not only permits, but actually prescribes the strip-searching of both EPWs and CIs during in-processing into detention or internment facilities. No particular cautions are listed; however, the manual does state that MPs of the same gender as the detainee should perform the searches.

(U) Finally, doctrine does not address the variety of detainee classifications that have arisen in the course of the Global War on Terror. Terms such as "unlawful combatant," "security internee," "high-value detainee," *etc.*, are not always easily paired with the Geneva Convention categories. Without specific instruction by commanders, this could cause confusion regarding whether and which Geneva Convention protec-

tions apply to individual detainees.

(U) Despite the concerns noted above, however, MP and MI doctrine clearly states the requirement that, at a minimum, all detainees must be treated humanely. The excerpts that introduce this section illustrate that it leaves no doubt that abusive behavior is prohibited.

Interrogation Facilities: Joint, Interagency, and Coalition Policy (U)

(U) Though U.S. military doctrine permits (and in fact requires) the provision of intelligence collection areas at I/R facilities, and also permits interrogations at any point in the capture-internment continuum, there is no DoD policy or doctrine that specifically addresses the establishment and operation of Joint, interagency, or coalition interrogation facilities. The Army Inspector

Doctrine Related to Joint/Interagency Interrogation Facilities (U)

(U) **From Field Manual 34-52, *Intelligence Interrogation*:**

(U) **Theater Interrogation Facility**: Established above the corps level (*e.g.*, at an I/R facility); may support a Joint or Unified Combatant Command. Staffed by multiple Services and national agencies as required; may include interrogators from allied nations. Interrogates prisoners of war, high-level political and military personnel, civilian internees, defectors, refugees, and displaced persons.

(U) **From Field Manual 3-31, *Joint Force Land Component Commander Handbook:***

(U) **Joint Interrogation Facility**: Conducts initial screening and interrogation of prisoners of war. Forwards key reports to the Joint Interrogation and Debriefing Center.

(U) **Joint Interrogation and Debriefing Center**: Conducts follow-on exploitation of prisoners of war in support of Joint Task Force and higher requirements. May also interrogate civilian detainees, refugees, and other non-prisoner sources.

General's report of 21 July 2004, *Detainee Operation Inspection*, found that the two relevant doctrinal publications - FM 34-52, *Intelligence Interrogation*, and FM 3-31, *Joint Force Land Component Commander Handbook* (also adopted by the Marine Corps), contain inconsistent guidance on the structure and function of facilities variously termed Theater Interrogation Facilities (TIFs), Joint Interrogation Facilities (JIFs) and Joint Interrogation and Debriefing Centers (JIDCs). Outside of the described Army and Marine Corps doctrine (summarized in the figure above), there are no standard DoD policies governing the interaction of the military Services within interrogation facilities, nor are there policies governing the interaction of DoD interrogators and CIA, FBI, or other U.S. Government law enforcement and intelligence personnel. (There are, however, various directives issued since the inception of the Global War on Terror that govern specific, unique interrogation-related DoD organizations such as the Criminal Investigative Task Force, or CITF) As the figure shows, the limited existing doctrine pertaining to joint or interagency interrogation facilities is not specific or consistent, and makes implicit distinctions between categories of detainees that do not correspond to international law or DoD policy. The Department of Defense is now developing doctrine for the establishment and manning of joint, interagency, and coalition interrogation facilities.

DoD Interrogators: Force Structure and Training (U)

(U) Department of Defense intelligence interrogators are found in each military service, and in the Defense HUMINT Service (DIA/DH), a component of the Defense Intelligence Agency (DIA). Though we did not conduct a detailed review of DoD interrogator force structure, our interviews with MI leaders and interrogators firmly supported the conclusions of previous reports - namely, that there are not enough interrogators and linguists to meet the demands of the Global War on Terror. We are aware, however, that significant efforts are underway within DoD to address and rectify the shortfall of interrogators and associated support personnel, particularly linguists.

(U) Within the military services, enlisted personnel are the primary interrogators, with warrant officer interrogators in technical supervisory positions. Commissioned MI officers charged with overall command of intelligence units typically receive overviews of interrogation techniques during their training. Our interviews confirmed that warrant officers were typically the senior service members directly involved in interrogations. As the reader will learn in later

sections of this report, individual interrogators' compliance with approved interrogation policies was often proportional to the "fidelity of transmission" from higher headquarters to the unit level, and then to the interrogators via warrant officer and senior enlisted leadership. Our interviews indicated that the details of approved theater interrogation policies were often lost during this process, frequently during the latter stage (though many units never received the approved policies at all). In these cases, interrogators generally fell back on schoolhouse training, which focused on FM 34-52 and the law of war. Nevertheless, to a significant degree this left implementation of interrogation techniques up to individual interrogators' judgment. (This will be described at length later in the report.)

(U) In contrast with military interrogators, Defense HUMINT Service (DH) personnel are trained as "strategic debriefers" - focusing on strategic intelligence, rather than the tactical intelligence that forms the focus of service interrogation training, and using primarily the Direct Questioning technique - but are generally familiar with FM 34-52. In some cases, DH personnel have received service interrogation training prior to details assigning them to support MI operations.

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Summary of Previous Reports Relating to Interrogation or Detainee Abuse (U)

(U) There have been a number of previous reports—some completed before the misconduct at Abu Ghraib came to light, or otherwise unrelated to Abu Ghraib, and others in response to Abu Ghraib—that provide the backdrop to our report. Several of these reports were concerned with detainee operations in a broad sense, and none addressed interrogation techniques or detainee abuse at a level of detail similar to this report. These reports do inform our analysis, however, as they often contain observations and recommendations that bear directly on interrogation operations or detainee abuse. Furthermore, in order to avoid duplication of effort, we have where possible leveraged the interviews and witness statements collected by others. These previous reports are listed below, followed by a summary of their major conclusions, with an emphasis on those aspects that shed light upon our investigation of interrogation techniques and detainee abuse.

(U) There have been three previous reports concerning interrogation operations at GTMO.

- (U) First, Stuart Herrington, a retired Army colonel with a military intelligence background, visited GTMO on March 16-21, 2002, and on March 22, 2002 provided MG Michael Dunlavey, USA, the Commander of JTF-170 at GTMO, an assessment of the intelligence collection efforts of JTF-170 (hereinafter "Herrington GTMO Report"). COL Herrington also provided a copy of this report to MG Gary Speer, USA, then the Acting Commander, U.S. Southern Command (SOUTHCOM).

- (U) Second, COL John Custer, USA, led a Joint Staff team from August 14 through September 4, 2002, in reviewing intelligence collection operations at GTMO, and on September 10, 2002 issued a report to the Chairman of the Joint Chiefs of Staff, Gen. Richard Myers (hereinafter "Custer Report"). The Custer Report was originally requested by MG Speer at SOUTHCOM.

- (U) Third, VADM Church led a review on May 4-7, 2004 into the treatment of enemy combatants detained at GTMO (and at the Naval Consolidated Brig in Charleston, South Carolina), and on May 11, 2004, briefed Secretary Rumsfeld with his findings (hereinafter "Church Review").

(U) There have been eight previous reports on interrogation or detainee operations focusing on Iraq that are relevant to our investigation.

- (U) First, MG Geoffrey Miller, the Commander, JTF-GTMO, led a team to Iraq from August 31 to September 9, 2003 and issued a report that assessed the ability of military intelligence forces in Iraq "to rapidly exploit internees for actionable intelligence" (hereinafter "Miller Report"). The appointing

authority for the Miller Report is not clear from the report itself, but it was apparently commissioned at the request of the Commander of CJTF-7, LTG Ricardo Sanchez, USA.

- (U) Second, MG Donald Ryder, USA, the Army Provost Marshal General, conducted an assessment from October 13 to November 6, 2003 of detainee operations in Iraq, and on November 6, 2003 issued a report to LTG Sanchez (hereinafter "Ryder Report").

- (U) Third, COL Herrington visited Iraq on December 2-9, 2003 to evaluate intelligence operations, and on December 12, 2003, provided his report to MG Barbara Fast, the senior intelligence officer for CJTF-7 (hereinafter "Herrington Iraq Report").

- (U) Fourth, LTC Natalie Lee, USA investigated from January 23 to February 23, 2004 reports of detainee abuse that had allegedly occurred in the summer of 2003 at the Joint Interrogation and Debriefing Center (JIDC) facility at Camp Cropper, Iraq. On February 23, 2004 LTC Lee issued her report, pursuant to the procedures of AR 15-6, to the Deputy Commanding General, CJTF-7, MG Walter Wojdakowski (hereinafter "Lee Report").

- (U) Fifth, MG Antonio Taguba, USA, Deputy Commanding General for Support, Coalition Forces Land Component Command (CFLCC), led an investigation from January 31 to February 28, 2004 into the detention operations of the 800th Military Police Brigade, with particular emphasis on operations at the Abu Ghraib detention facility, and provided his report on March 9, 2004 to the Commander, CFLCC, LTG David McKiernan (hereinafter "Taguba Report"). The Taguba Report was originally requested by the Commander of CJTF-7, LTG Sanchez.

- (U) Sixth, the Army Inspector General, LTG Paul T. Mikolashek, conducted an inspection from February to June 2004 of detainee operations in Iraq and Afghanistan. LTG Mikolashek issued his report on July 21, 2004 to Acting Secretary of the Army R.L. Brownlee (hereinafter "Mikolashek Report").

- (U) Seventh, the Assistant Deputy Chief of Staff, Army, G2, MG George Fay, USA, was appointed by LTG Sanchez on March 31, 2004 to investigate potential misconduct by 205th Military Intelligence Brigade personnel at Abu Ghraib between August 15, 2003 and February 1, 2004. MG Fay's report was released in August 2004 (hereinafter "Fay Report").

- (U) Eighth, in June 2004, as a result of the evidence MG Fay had gathered to that point, LTG Sanchez, the Commander, CJTF-7,

requested that a more senior investigating officer be appointed to examine whether actions of the commander and staff of CJTF-7 contributed to any misconduct related to interrogation operations at Abu Ghraib. The Acting Secretary of the Army selected GEN Paul Kern, USA, the Commander of Army Material Command, to act as the new appointing authority. LTG Anthony Jones, USA, the Deputy Commanding General of the U.S. Army Training and Doctrine Command, was appointed as an additional investigating officer. LTG Jones' report was released in August 2004 (hereinafter "Jones Report").

(U) In addition to the Mikolashek Report, which addressed detainee operations in both Iraq and Afghanistan, one other report focused on detainee operations and facilities in Afghanistan. BG Charles Jacoby, USA, the Combined Joint Task Force 76 (CJTF-76) Deputy Commanding General, was appointed on May 19, 2004 by the Commander, CJTF-76, MG Eric Olson, USA, to conduct a "top to bottom review of ... detainee operations" in the Combined Forces Command Afghanistan Area of Responsibility. BG Jacoby's assessment was completed in August 2004 (hereinafter "Jacoby Report").

(U) Finally, in May 2004, the Secretary of Defense appointed former Secretaries of Defense James Schlesinger and Harold Brown, former Congresswoman Tillie Fowler, and retired Air Force Gen. Charles Horner to an Independent Panel "to provide independent professional advice on detainee abuses, what caused them and what actions should be taken to preclude their repetition." The Independent Panel was charged with examining detention and interrogation operations worldwide. The Independent Panel's report was released on August 24, 2004 (hereinafter "Independent Panel" or "Independent Panel Report").

GTMO Reports (U)

(U) Herrington GTMO Report

(U) The JTF-170 Commander at GTMO, MG Dunlavey, USAR, invited COL Herrington to GTMO in March 2002 to assess the status of JTF-170's intelligence collection effort. This short, nine-page report was prepared only a few months after interrogation operations at GTMO began, and thus it offers some general observations about the strengths and weaknesses of JTF-170, as well as recommendations for the future.

(U) The most important aspect of this report is that it came out strongly in favor of subordinating the security function (*i.e.*, military police, represented by JTF-160) to the intelligence collection function (*i.e.*, military intelligence, represented by JTF-170). More specifically, the report stated that "to effectively carry out its intelligence exploitation mission, JTF-170 and its interagency collaborators *need to be in full control of the*

detainees' environment. Treatment, rewards, punishment, and anything else associated with a detainee should be centrally orchestrated by the debriefing team responsible for obtaining information from that detainee" (emphasis added). For example, the report explained, "[i]f a security guard wants to adopt a hard line with a detainee, single him out for a shakedown, or take any measures . . . that impact on that detainee's state of mind, the authority to either approve, disapprove, or postpone the planned action should be the call of the intelligence entity."

(U) Moreover, the report stated broadly that "[t]here is unanimity among all military and interagency participants in JTF-170 that *the security mission is sometimes the tail wagging the intelligence dog (i.e., impacting negatively)*" (emphasis added). The report took pains to explain that this was not a criticism of JTF-160 personnel, but instead *"a basic principle of human intelligence exploitation"* (emphasis added). COL Herrington drew upon his own experience in both Panama and the Persian Gulf, noting that "one day, we might instruct the guards to be particularly warm and cheerful toward a given detainee - because that approach would work on that day to the advantage of the debriefer. On another day, with a different detainee, a cold, firm demeanor by the guards might be more suitable - again, depending upon where the debriefer might be in his efforts to unlock the information possessed by the detainee." In contrast to these examples, JTF-170 was "currently caught between two separate efforts, security and exploitation," and only by "deconflicting" these efforts could the intelligence exploitation effort achieve success.

(U) The other significant conclusion of the Herrington GTMO Report was that the youth and inexperience of the Defense HUMINT Service (DH) and Army interrogators, and their lack of foreign language training, inhibited their ability to extract intelligence from the detainees. The report noted that "a young debriefer normally will have a problem establishing the kind of controlling relationship required with an older, trained, and savvy detainee," and recommended that the JTF Commander put out a request for "senior, older debriefers with experience and refined language skills." In this regard, COL Herrington pointed out that the U.S. Army INSCOM "contract linguist augmentees on site are one of the brightest stars on the ground," and that the interrogators "could not function without them."

(U) Custer Report

(S) The Acting Commander of SOUTHCOM, MG Gary Speer, in June 2002 requested through the Chairman of the Joint Chiefs of Staff, Gen. Richard Myers, an external review [redacted] (b)(1)

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(U) Church Review

(U) In the wake of revelations of prisoner abuse at Abu Ghraib, the Secretary of Defense commissioned this brief "review" of detainee operations at GTMO (and the Naval Consolidated Brig in Charleston, SC). The review culminated in a series of slides briefed to Secretary Rumsfeld on May 11, 2004, and was not accompanied by a separate, written report.

(U) The Church Review described itself as a "snapshot" of existing conditions at GTMO, and not a comprehensive historical review. The review found that detainees at GTMO were being treated properly and humanely. The review found "no evidence, or even suspicion, of serious or systemic problems," and no evidence of non-compliance with DoD orders. More specifically, there was no indication that unauthorized interrogation techniques were being used on the detainees.

(U) The Church Review concluded that appropriate procedures were in place at GTMO to detain, interrogate and report information, supported by effective SOPs and a strong chain of command. GTMO also had an effective training program, including instruction on the principles of the Geneva Conventions, and a positive command climate in which personnel appeared willing to report any concerns. In addition, the review noted that the roles of military police and military intelligence were separate and well-defined, yet still coordinated.

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(U) While the Church Review was primarily a snapshot of current conditions, it also summarized the reported instances of detainee abuse, whether as a result of inappropriate interrogation techniques or otherwise, since the initiation of intelligence operations at GTMO in January 2002. The review cited three instances of inappropriate interrogation techniques that led to abuse.

- (U) First, a female interrogator sexually assaulted a detainee on April 17, 2003, by running her fingers through a detainee's hair, and made sexually suggestive comments and body movements, including sitting on the detainee's lap, during an interrogation. The female interrogator was given a written admonishment for her actions.

- (U) Second, on April 22, 2003, an interrogator, using the fear-up harsh technique, assaulted a detainee by having MPs repeatedly bring the detainee from standing to a prone position and back. A review of medical records indicated superficial bruising to the detainee's knees. The interrogator was issued a letter of reprimand; furthermore, MG Miller, the Commander of JTF-GTMO, prohibited further use of the fear-up harsh technique, and also specifically prohibited MPs from direct involvement in interrogations.

- (U) Third, a female interrogator at an unknown date, in response to being spat upon by a detainee, assaulted the detainee by wiping dye from a red magic marker on the detainee's shirt and telling the detainee that the red stain was blood. The female interrogator received a verbal reprimand for her actions.

(U) The Church Review also summarized three incidents of alleged misconduct by MPs, two of which resulted in substantiated abuse.

- (U) First, an MP assaulted a detainee on September 17, 2002, by attempting to spray him with a hose after the detainee had thrown an unidentified, foul-smelling liquid on the MP. The MP received non-judicial punishment in the form of seven days restriction and reduction in rate from E-4 to E-3.

- (U) Second, on March 23, 2003, an MP sprayed pepper spray on a detainee who was preparing to throw an unidentified liquid on another MP. The MP who had used the pepper spray requested a court martial in lieu of non-judicial punishment and was acquitted at a special court martial.

- (U) Finally, on April 10, 2003, after a detainee had struck an MP in the face (causing the MP to lose a tooth) and bitten another MP, the MP who was bitten had struck the detainee with a handheld radio. This

MP was given non-judicial punishment in the form of 45 days extra duty and reduced in rate from E-4 to E-3.

(U) The Church Review noted that the MP force generally operated under significant stress, as assaults against MPs were common, averaging fourteen per week. Detainees, for example, routinely physically assaulted MPs, spat upon them, and threw liquid, foods, or bodily fluids.

(U) In addition to the above incidents, the Church Review also identified two minor infractions.

- (U) First, on February 10, 2004, an MP inappropriately joked with a detainee, dared the detainee to throw water on him, and engaged in inappropriate casual conversations with the detainee. The MP was removed from duty.
- (U) Second, on February 15, 2004, a barber intentionally gave two detainees unusual haircuts, including an "inverse Mohawk," in an effort to frustrate the detainees' requests for similar haircuts as a sign of unity. The barber and his company commander were both counseled as a result of this incident.

Iraq Reports (U)

(U) Miller Report

(U) From August 31 to September 9, 2003, the JTF GTMO commander, MG Geoffrey Miller, led a team to assess interrogation and detention operations in Iraq. (MG Miller's visit was the result of an August 18, 2003 message from the Joint Staff's Director for Operations [J-3], requesting that the SOUTHCOM commander provide a team of experts in detention and interrogation operations to provide advice on relevant facilities and operations in Iraq. The need for such assistance in light of the growing insurgency had originally been expressed by CJTF-7 and CENTCOM, and the Joint Staff tasking message was generated following discussions with both CENTCOM and SOUTHCOM.)

(U) The overarching theme of the Miller Report was that "[t]actical interrogation operations differ greatly from strategic interrogation operations." While CJTF-7 had proven itself effective in accomplishing the tactical mission, it was now necessary to transition to strategic interrogation operations as CJTF-7 entered a new, counter-insurgency phase in the conflict in Iraq. This new phase involved a different "category of internees to interrogate," and required new "analytical backstopping," as well as a "clear strategy for implementing a long-term approach and clearly defined interrogation policies and authorities." In this regard, the report observed that CJTF-7 had not

disseminated to its units any "written guidance specifically addressing interrogation policies and authorities." The Miller Report cautioned that such guidance should be accompanied by a legal review, as the "application of emerging strategic interrogation strategies and techniques contain new approaches and operational art." Therefore, "[l]egal review and recommendations of internee interrogation operations by a dedicated command staff judge advocate is required to maximize interrogation effectiveness."

(U) The Miller Report's most significant recommendation for making the transition from tactical to strategic interrogation was that "the detention operations function must act as an enabler for interrogation," by helping to "set conditions for successful interrogations." Significantly, the report did not offer any specifics on what MPs should or should not do in their role as "enablers," but it did state that "[i]t is essential that the guard force be actively engaged in setting the conditions for successful exploitation of the internees," and that "[j]oint strategic interrogation operations are hampered by lack of active control of the internees within the detention environment" (emphasis added). In sum, the report observed, "[d]etention operations must be structured to ensure [the] detention environment focuses the internee's confidence and attention on their interrogators," and the "MP detention staff should be an integrated element supporting the interrogation functions."

(U) The Miller Report made several other recommendations that drew upon lessons learned at GTMO. For example, the report recommended that CJTF-7 establish and train "Interrogation Tiger Teams comprised of [sic] one interrogator and one analyst, both with SCI access." The report also recommended the establishment of a Behavioral Science Consultation Team (BSCT), composed of behavioral psychologists and psychiatrists who could help develop "integrated interrogation strategies and assess interrogation intelligence production." In addition, MG Miller recommended the interrogation mission be consolidated at "one Joint Interrogation Debriefing Center (JIDC)/strategic interrogation facility under CJTF-7 command," and noted that "[t]his action has been initiated." Finally, the report offered a number of training recommendations, to include training the "MP detention staff [on] training programs utilized by JTF-GTMO."

(U) Ryder Report

(S) LTG Sanchez commissioned the Ryder Report in August 2003, to assess detention and corrections operations in Iraq. The Ryder Report, like the Miller Report, was an outgrowth of LTG Sanchez' interest in identifying and implementing improvements in detention and interrogation operations in August 2003, when these operations were taking on increased importance in light of the insurgency in Iraq and the need to rebuild Iraq's prison system. The Ryder Report, which was com-

pleted on November 6, 2003, just two months after the Miller Report, was a detailed review of detention and corrections operations in Iraq. A key objective of the report was "developing recommendations on how to bridge from current operations to an Iraqi-run prison system," and thus much of the information in the report was not directly relevant to interrogation operations. Nevertheless, the report did address several detention issues that bear at least indirectly on interrogations or potential detainee abuse, which are summarized below.

(S) One of the most significant, and certainly the most surprising, aspects of this report is that the assessment team members did not identify any military police units purposely applying inappropriate confinement practices. The Ryder team conducted its assessment from October 13 to November 6, 2003, and as MG Taguba pointed out in his report on military police operations at Abu Ghraib, the most serious abuses at Abu Ghraib occurred in late October and early November 2003. It should be noted, however, that the team's visit to Abu Ghraib was an announced, escorted walk-through.

(S) The Ryder Report did, however, identify several problem areas within detention operations in Iraq. For example, the 800th MP Brigade - which was tasked to secure the detainee population throughout Iraq, and was at that time supporting 15 separate detention facilities, including Abu Ghraib - was struggling to adapt its organizational structure, training and equipment resources from a unit designed to conduct standard EPW operations, to its current mission of essentially running an entire country's prison system. Making matters worse was that the Brigade did not receive Internment/Resettlement (I/R) and corrections specific training during its mobilization period. This problem was further exacerbated by the fact that the Battalions within the Brigade were generally undermanned. Moreover, the report observed, "[s]everal Division/Brigade collection points and US monitored Iraqi prisons had flawed or insufficiently detailed use of force and other standing operating procedures or policies."

(S) The Ryder Report also weighed in on the debate about the proper relationship between military intelligence and military police units, concluding that military police should not be subordinate to military intelligence. The report explained that according to Army doctrine, "AR 190-8 requires military police to provide an area for intelligence collection efforts within EPW facilities. Military police, though adept at passive collection of intelligence within a facility, do not participate in Military Intelligence supervised interrogation sessions." While not mentioning the Miller Report by name, the Ryder Report nonetheless rejected the Miller Report's central recommendation, stating that "[r]ecent intelligence collection in support of Operation

ENDURING FREEDOM has posited a template whereby military police actively set favorable conditions for subsequent interviews. Such actions generally run counter to the smooth operation of a detention facility, attempting to maintain its population in a compliant and docile state." MG Ryder therefore recommended that procedures be established "that define the role of military police soldiers securing the compound, *clearly separating the actions of the guards from those of the military intelligence personnel*" (emphasis added). Significantly, the report concluded that the 800th MP Brigade had not been asked to change its procedures "to set the conditions for MI interviews, nor participate in those interviews."

(S) An additional, interrogation-related problem that the report identified was that Iraqi criminal detainees were sometimes co-located with other types of detainees, including security internees and EPWs. This was generally due to the lack of prison facilities and ongoing consolidation efforts at Abu Ghraib. The report noted that this was in violation of the Geneva Convention, and as a practical matter, "the management of multiple disparate groups of detained persons in a single location by members of the same unit invites confusion about handling, processing, and treatment, and typically facilitates the transfer of information between different categories of detainees." The report stated flatly that "[d]etainees must be segregated and managed by their designation," and pointed out that doing so would establish "better control over the [detainees'] environment," which should "increase their intelligence yield."

(U) Herrington Iraq Report

(U) The highest ranking intelligence officer in Iraq at the time, then-BG Barbara Fast, the C2 for CJTF-7, requested COL Herrington's assistance via the Army G-2 to evaluate human intelligence operations in Iraq. In his 14-page report, COL Herrington, the author of the first GTMO report, provided a summary of his site-specific impressions gained from a week-long visit to Iraq in December 2003. The most significant aspect of the report was the observations about the lack of resources and poor conditions at Abu Ghraib. The prison overcrowding and lack of MP personnel sometimes forced "MI soldiers with inadequate training and equipment" to assume the MP mission. Adding to the tension at the prison complex were "dangerous and difficult conditions," including frequent mortar attacks. Security at the facility was also compromised by the presence of Iraqi police, some of whom were apparently inadequately vetted and had on one occasion smuggled a weapon to a detainee. The situation was so dire that COL Thomas Pappas, the 205th MI Brigade Commander (and forward operating base commander for Abu Ghraib), LTC Steven Jordan, the Deputy Director of the Joint Interrogation and Debriefing Center (JIDC), and MAJ Michael Sheridan of the 800th MP Brigade expressed the

view that if the overcrowding – which they referred to as a "pressure cooker" that could lead to a prisoner uprising – was not alleviatated, "bad things" were likely to result, to include death, injury, or hostage situations involving U.S. personnel. COL Herrington recommended that CJTF-7 "urgently devote more resources to the Abu Ghraib challenge."

(U) The report credited JIDC personnel with doing the best they could under difficult conditions, and obtaining and reporting "significant information from detainees." And despite the conditions at Abu Ghraib, COL Herrington nonetheless stated that, "we neither saw nor learned of any evidence that detainees are being illegally or improperly treated at Abu Ghraib." The report acknowledged, however, that "on occasion," JIDC personnel had at the request of OGA personnel held "ghost detainees" (those without any ISN number assigned to them) at Abu Ghraib. COL Herrington warned that this practice "carries with it certain risks, not the least of which is that it may be technically illegal or in violation of C2 policy," and recommended that C2 staff address the issue.

(U) The report commented on the relationship between MP and MI units at various facilities, and consistent with his observations in his GTMO report, COL Herrington argued that military intelligence should be directing military police. For example, he complimented the "organized, clean, well-run, and impressive" Division Interrogation Facility of the 1st Armor Division, where the "MP/MI interface was as it should be, with the MI people in the lead." In contrast, he was unimpressed with the Iraq Survey Group (ISG) JIDC, which "fell far short of what we expected to see," and where the MPs were "the visible masters (versus the interrogators)" and the detainees were permitted too much communication with one another.

(S) The report referenced allegations that prisoners arriving at the [redacted] who had been captured by [redacted] showed signs of being beaten by their captors. Medical personnel had documented these signs of abuse, and the Officer-in-Charge of the [redacted] at Camp Cropper stated that he had not reported the alleged abuse up the chain of command because "[e]verybody knows about it." [redacted]

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(U) Finally, the report made two recommendations of note. First, high-ranking and senior Iraqi detainees held by the ISG (such as general officers, or ministerial-level officers) should be housed in better facilities, commensurate with their status. This was not only required by the Geneva Convention, but also made sense from an intelligence exploitation perspective. Second, the

report suggested that the Army "build a corps of strategic interrogators/debriefers who are officers or senior civilians." This would help to eliminate the incongruity of capturing enemy leadership and archives, and then relying for intelligence on "tactical interrogator [non-commissioned officers] who are too young and inexperienced" for such a mission.

(U) Lee Report

(S) The Deputy Commanding General of CJTF-7, MG Wojdakowski, appointed LTC Lee on February 23, 2004 to investigate allegations of detainee abuse at Camp Cropper in Iraq. This extremely brief, three-page report found no evidence to substantiate allegations that [redacted] personnel had in the summer of 2003 abused detainees in its custody before bringing them to the [redacted] at Camp Cropper. These were essentially the same allegations that COL Herrington addressed in his report, which noted that medical personnel had documented the signs of abuse, and that the Officer-in-Charge of the [redacted] had considered the abuse common knowledge. The allegations were originally brought to light by [redacted] who worked in the [redacted] at Camp Cropper for approximately five weeks, beginning in June 2003. The [redacted] had not witnessed any abuse (or signs of abuse) first hand, but based his allegations on a handful of reports that he had heard from others working at Camp Cropper.

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(U) The Lee Report "did not find information that would lead to a finding that there was a systematic problem." LTC Lee stated that she "was sure that there were isolated incidents where detainees arrived in less than pristine conditions," but she "would attribute some of these to the results of combative detentions at the time of capture." In any event, she could "find no proof to substantiate the allegations against the [special operations forces] or Army community." Nor could she find any evidence to suggest a "lack of knowledge of Geneva Convention requirements."

(S) The Lee Report itself was extremely brief and cursory, and there were obvious gaps in the investigation methodology. For example, LTC Lee noted that she had been unable to find contact information for certain key personnel (and in one case had not received responses to her questions), yet did not describe her efforts to procure the information. In fairness, the passage of time between the principal allegations (summer 2003) and the assignment of the investigation (January 23, 2004) made LTC Lee's work more difficult. This passage of time is unexplained, and represents a lost opportunity to address potential detainee abuse in Iraq early on.

(U) Taguba Report

(U) On January 31, 2004, the Commander of the Combined Forces Land Component

Command (CFLCC), LTG McKiernan, appointed MG Taguba, the CFLCC Deputy Commanding General for Support, to investigate the 800th Military Police Brigade's "detention and internment operations" since November 1, 2003. LTG Sanchez, the Commander, CJTF-7, requested the investigation based upon the accumulation of a wide range of incidents and prior investigations, culminating in an Army Criminal Investigation Command investigation "into specific allegations of detainee abuse committed by members of the 372d MP Company" at Abu Ghraib. The 372d MP Company was then a subordinate unit of the 320th Military Police Battalion and the 800th Military Police Brigade. While portions of the Taguba Report remain classified, the bulk of the report, and almost all of its annexes, have become available to the public through unauthorized disclosure to several major media organizations (as well as official release of a redacted version of the report and many of its annexes). MG Taguba and other officials associated with the investigation have also provided public testimony before Congress on the matters contained in the report.

(U) MG Taguba's overall conclusion was that "several U.S. Army Soldiers have committed egregious acts and grave breaches of international law at Abu Ghraib/BCCF [Baghdad Central Confinement Facility] and Camp Bucca, Iraq. Furthermore, key leaders in both the 800th MP Brigade and the 205th MI Brigade failed to comply with established regulations, policies and command directives in preventing detainee abuses at Abu Ghraib (BCCF) and at Camp Bucca during the period August 2003 to February 2004." Although MG Taguba endorsed the team's psychiatrist's determination that "there was evidence that the horrific abuses suffered by the detainees at Abu Ghraib (BCCF) were wanton acts of select soldiers in an unsupervised and dangerous setting," and were from a behavioral perspective the product of "a complex interplay of many psychological factors and command insufficiencies," he also found that there was "sufficient credible information to warrant an inquiry" to "determine the extent of culpability" of military intelligence personnel.

(U) MG Taguba made a number of preliminary observations on the Miller Report and the Ryder Report, including the comment that "the recommendations of MG Miller's team that the 'guard force' be actively engaged in setting the conditions for successful exploitation of the internees would appear to be in conflict with the recommendations of MG Ryder's Team and AR 190-8 that the military police 'do not participate in military intelligence supervised interrogation sessions.'" MG Taguba cited with approval the Ryder Report's conclusion "that the OEF template whereby military police actively set the favorable conditions for subsequent interviews runs counter to the smooth operation of a detention facility."

(U) As a reflection of his tasking, MG

Taguba divided his specific findings and recommendations into three sections. First, he examined "all the facts and circumstances surrounding ... allegations of detainee abuse," with particular emphasis on "maltreatment at Abu Ghraib." Second, he examined "detainee escapes and accountability lapses," again with particular emphasis on "events at Abu Ghraib." Third, he investigated "the training, standards, employment, command policies, internal procedures, and command climate of the 800th MP Brigade."

(U) With regard to the allegations of detainee abuse, MG Taguba found "that between October and December 2003" the military police guard force at Tier 1A of Abu Ghraib "inflicted ... numerous incidents of sadistic, blatant, and wanton criminal abuses ... on several detainees." While MG Taguba did not set out deliberate definition of conduct that he considered to be "abuse," he referred exclusively to "intentional" acts of "criminal" misconduct.

(U) MG Taguba found that "the intentional abuse of detainees by military police personnel included:"

- (U) "punching, slapping, kicking ...;"
- (U) "videotaping and photographing naked male and female detainees;"
- (U) "forcibly arranging detainees in ... sexually explicit positions ...;"
- (U) "forcing detainees to remove their clothing and keeping them naked for several days at a time;"
- (U) "forcing naked male detainees to wear women's underwear;"
- (U) "forcing groups of male detainees to masturbate ...;"
- (U) "arranging naked male detainees in a pile and then jumping on them;"
- (U) "positioning a naked male detainee on an MRE Box, with a sandbag on his head, and attaching wires to his fingers, toes, and penis to simulate electric torture;"
- (U) "writing 'I am a rapest' (sic) on the leg of a detainee alleged to have forcibly raped a 15-year old fellow detainee, and then photographing him naked;"
- (U) "placing a dog chain or strap around a naked detainee's neck and having a female Soldier pose for a picture" with the prisoner;"
- (U) "a male MP guard having sex with a female detainee;"
- (U) "using military working dogs (without muzzles) to intimidate and frighten detainees, and in at least one case biting and severely injuring a detainee;" and
- (U) "taking photographs of dead Iraqi detainees" for other than official purposes."

MG Taguba did not provide a precise count of the number of incidents of abuse, or of the numbers of soldiers, contractors or detainees involved.

(U) MG Taguba found that a contributing factor in the abuses was the failure of the 800th

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Military Police Brigade leadership to communicate clear standards to their soldiers, or to ensure their tactical proficiency. MG Taguba cited as an example the fact that although "an extensive CID investigation determined that four soldiers from the 320th Military Police Battalion had abused a number of detainees during inprocessing at Camp Bucca" well before the battalion assumed responsibility for detention operations at Abu Ghraib, neither the battalion nor the brigade leadership took "any steps to ensure that such abuse was not repeated."

(U) MG Taguba made nine recommendations regarding detainee abuse. The first was that the appropriate headquarters "immediately deploy to the Iraq Theater an integrated multi-discipline Mobile Training Team (MTT) comprising subject matter experts in internment/resettlement operations, international and operational law ..., interrogation and intelligence gathering techniques ..." and others "to oversee and conduct comprehensive training in all aspects of detainee and confinement operations." MG Taguba also recommended that "a single commander ... be responsible for overall detainee operations throughout ... Iraq ...." His remaining recommendations related to deficiencies in training, manning, resourcing, and leadership.

(U) With regard to detainee escapes and accountability lapses, MG Taguba found that there was "a general lack of knowledge, implementation and emphasis of basic legal regulatory, doctrinal, and command requirements within the 800th MP Brigade and its subordinate units." By and large, accountability standard operating procedures "were not fully developed and ... were widely ignored." At Abu Ghraib in particular, "there was a severe lapse in the accountability of detainees." This lack of accountability made it impossible for the 800th Military Police Brigade to determine how many detainees had escaped from the facility.

(U) MG Taguba found that "the Abu Ghraib and Camp Bucca detention facilities" were "significantly over their intended maximum capacity while the guard force" was "undermanned and under resourced." Although these conditions contributed to poor accountability and increased escapes, MG Taguba also found that "no lessons learned" from previous incidents and escapes "seem to have been disseminated ... to enable corrective action." In MG Taguba's evaluation, "had the findings and recommendations contained within" the Brigade's "own investigations been analyzed and actually implemented ... many of the subsequent escapes, accountability lapses and causes of abuse may have been prevented."

(U) MG Taguba observed that "the various detention facilities operated by the 800th MP Brigade have routinely held persons brought to them by Other Government Agencies (OGAs)," referring to the Central Intelligence Agency, "without accounting for" the detainees, "knowing their identities, or even the reason for their detention." MG Taguba reported that "the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib called

these detainees 'ghost detainees.'" MG Taguba noted that "on at least one occasion, the 320th MP Battalion at Abu Ghraib held a handful of 'ghost detainees' (6-8) ... that they moved around within the facility to hide them from a visiting International Committee of the Red Cross (ICRC) survey team." MG Taguba characterized "this maneuver" as "deceptive, contrary to Army doctrine, and in violation of international law."

(U) MG Taguba made 17 recommendations regarding accountability lapses and escapes, generally related to leadership, training and resourcing. He also observed that units conducting detainee operations "must know of, train on, and constantly reference the applicable Army doctrine and ... command policies," noting that "the references provided in [his] report cover nearly every deficiency ... enumerated." "Although," MG Taguba offered, the references "do not, and cannot, make up for ... leadership shortfalls, all soldiers, at all levels, can use them to maintain standardized operating procedures and efficient accountability practices."

(U) With regard to the "the training, standards, employment, command policies, internal procedures, and command climate of the 800th MP Brigade," MG Taguba found a host of deficiencies. "Morale suffered" in the brigade, apparently as a result of the widespread but erroneous belief that the unit would be redeployed from Iraq once the Iraqi armed forces had been defeated. However, he observed, "there did not appear to have been any attempt by the Command to mitigate this problem." MG Taguba found that in general, "the 800th MP Brigade was not adequately trained." "Soldiers throughout the 800th MP Brigade were not proficient in their basic [Military Occupational Specialty] skills," yet there was "no evidence that the Command, although aware of these deficiencies, attempted to correct them in any systematic manner." "Almost every individual witness we interviewed," he noted, "had no familiarity with the provisions of AR 190-8 or FM 3-19.40," the Army regulation and field manual that describe and govern detention operations. Despite these obvious shortfalls, no "Mission-Essential Task List (METL) based on their ... missions was ever developed, nor was a training plan implemented throughout the Brigade."

(U) MG Taguba found that "without adequate training for a civilian internee detention mission, Brigade personnel relied heavily upon individuals within the Brigade who had civilian corrections experience." Further, "because of past associations and familiarity of soldiers within the Brigade, it appears that friendship often took precedence over appropriate leader and subordinate relationships."

(U) MG Taguba found that these internal shortcomings were exacerbated by the fact that "the 800th MP Brigade as a whole was understrength for the mission for which it was tasked," a

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problem that grew progressively worse as the units suffered attrition through casualties, statutorily mandated demobilizations, and other separations. These losses could not be replaced because "Reserve Component units do not have an individual replacement system to mitigate ... losses." What is more, "the quality of life for soldiers assigned to Abu Ghraib (BCCF) was extremely poor." A "severely undermanned" unit staffed a "severely overcrowded prison," with no dining facility, exchange, barbershop, or recreational facilities. "There were numerous mortar attacks, random rifle and RPG attacks, and a serious threat to soldiers and detainees in the facility."

(U) "With respect to the 800th MP Brigade mission at Abu Ghraib," MG Taguba found, "there was clear friction and a lack of effective communication between the Commander, 205th MI Brigade, who controlled" Forward Operating Base (FOB) "Abu Ghraib ... after 19 November 2003, and the Commander, 800th MP Brigade, who controlled detainee operations inside the FOB." "There was no clear delineation of responsibility between commands, little coordination at the command level, and no integration of the two functions." MG Taguba observed that "coordination occurred at the lowest possible levels with little oversight by commanders." Further, in his view, the decision to place the Military Intelligence Brigade in control of the security of detainees and force protection at Abu Ghraib was "not doctrinally sound due to the different missions and agendas assigned to each of these respective specialties."

(U) MG Taguba also cited an extensive list of disciplinary actions involving leaders within the 800th Military Police Brigade as further evidence of the dysfunctional nature of the command. MG Taguba made numerous recommendations regarding disciplinary actions to be taken against members of the 800th Military Police Brigade and the military intelligence personnel assigned to duties at Abu Ghraib, up to and including the commander of the 205th Military Intelligence Brigade, COL Thomas Pappas, and the commander of the 800th Military Police Brigade, BG Janis Karpinski.

(U) MG Taguba noted that he "found particularly disturbing" BG Karpinski's "complete unwillingness to either understand or accept that many of the problems inherent in the 800th MP Brigade were caused or exacerbated by poor leadership and the refusal of her command to both establish and enforce basic standards and principles among its soldiers." MG Taguba recounted, discussed, and refuted a number BG Karpinski's assignments of blame to her subordinates, the military intelligence leadership, the Civil Affairs Command, and the court-martial convening authority of the soldiers involved in the Camp Bucca incidents for the shortcomings of her command. For the failures discussed above, as well as "material representations to the Investigation Team," MG Taguba recommended BG Karpinski be relieved for cause.

(U) Mikolashek Report

(U) On February 10, 2004, Acting Secretary of the Army Brownlee ordered the Army Inspector General, LTG Mikolashek, to assess "detainee operations in Afghanistan and Iraq." This inspection was not intended to be "an investigation of any specific incidents or units, but rather a comprehensive review of how the Army conducts detainee operations in Afghanistan and Iraq." The assessment did not extend to "Central Intelligence Agency (CIA) or Defense HUMINT Services (DHS) [sic] operations," nor did it include "operations at Guantanamo Bay Naval Base."

(U) The Acting Secretary of the Army approved the Mikolashek Report on July 21, 2004, releasing the unclassified bulk of the report to the public, withholding only Appendix G, which is classified due to discussion of current operations and sensitive intelligence. LTG Mikolashek and other officials associated with the investigation have also provided public testimony before Congress on the matters contained in the report.

(U) In the course of their inspection, LTG Mikolashek's team "conducted interviews, sensing sessions, and a survey," inspected units involved in detention and interrogation operations, and examined "policies, plans, records ... and other related documents." A "sensing session" is a moderated, guided discussion of a designated topic by moderately-sized groups of designated soldiers. While the "inspection tools," the blank interview questionnaires, sensing prompts, survey questions, *etc.*, are included in the report, the soldiers' and leaders' statements are not. The report also does not indicate how many soldiers and leaders were interviewed, sensed, and surveyed, or precisely who they were. The report did indicate, however, that "all interviewed and observed commanders, leaders and soldiers treated detainees humanely and emphasized the importance of humane treatment."

(U) LTG Mikolashek's team "reviewed 103 summaries of Criminal Investigative Division (CID) reports of investigation and 22 unit investigation summaries ... involving detainee death or alleged abuse." Of those 125 investigations, 71 had been completed as of the time of LTG Mikolashek's analysis. Abuse, defined by LTG Mikolashek as "wrongful death, assault, battery, sexual assault, sexual battery, or theft," was substantiated in 40 of the 71 completed investigations. "No abuse was determined to have occurred in 31 cases," and 54 cases remained "open or undetermined" at the time of the report. "Based upon" his team's "review and analysis and case summaries of investigations" from all 125 investigations, founded, unfounded, and pending, LTG Mikolashek "could not identify a systemic cause for the abuse incidents."

(U) In a foreword to the report, LTG Mikolashek urged that "these abuses ... be viewed as what they are - unauthorized actions taken by a few individuals," actions that "in a few cases" were "coupled with the failure of a few leaders to provide

adequate supervision and leadership." Further, in LTG Mikolashek's estimation, "the abuses that occurred" were "not representative of policy, doctrine, or soldier training."

(U) Despite his conclusion that he was "unable to identify system failures that resulted in incidents of abuse," LTG Mikolashek recounted numerous "system failures" in his detailed findings that echo problems previously described by MG Taguba as significant contributing factors in the abuse of detainees. Specifically, LTG Mikolashek found that:

(U) Policy

- (U) theater interrogation policies "generally met legal obligations under ... law, treaty ... and policy, if executed carefully, by trained soldiers, under the full range of safeguards," yet acknowledged that the interrogation policies "were not clear and contained ambiguities" and "implementation, training and oversight of these polices was inconsistent;"
- (U) "some ... units were unaware of the correct command policy;"
- (U) "commanders ... published high-risk policies that presented a significant risk of misapplication if not trained [to] and executed carefully."

(U) Training

- (U) "The potential for abuse increases when interrogations are conducted in an emotionally charged environment by untrained personnel who are unfamiliar with the approved interrogation techniques;"
- (U) "Not all interrogators were trained;"
- (U) "To satisfy the need to acquire intelligence as soon as possible, some officers and noncommissioned officers ... with no training in interrogation techniques began conducting their own interrogation sessions;"
- (U) "Military Intelligence officers are not adequately trained on ... human intelligence."

(U) Doctrine

- (U) "detainee ... policy and doctrine do not address ... operations conducted in the current operating environment;"
- (U) current "doctrine does not clearly specify the interdependent ... roles, missions, and responsibilities of Military Police and Military Intelligence units in the ... operation of interrogation facilities;"
- (U) "failure of MP and MI personnel to understand each other's specific missions and duties could undermine the effectiveness of safeguards associated with interrogation techniques and procedures;"
- (U) "tactical ... leaders ... held detainees

longer than doctrinally recommended" at Forward Operating Bases because the leaders believed the intelligence infrastructure was failing to provide "timely tactical intelligence," despite the fact that such locations lacked the "infrastructure, medical care, ... trained personnel, logistics and security" required to hold detainees for more than a brief period of time and that the "personnel at these locations ... were unaware of or unable to comply with ... detainee processing ... and interrogation" policies and legal standards;

(U) Resources

- (U) "Military Intelligence units are not resourced with sufficient interrogators and interpreters."

(U) With regard to broader issues related to detention and interrogation operations, LTG Mikolashek recommended that:

- (U) the U.S. Army Training and Doctrine Command, in coordination with the Deputy Chief of Staff for Intelligence and The Judge Advocate General of the Army, "revise doctrine to identify interrogation ... techniques that are acceptable, effective and legal for non-compliant detainees;"

- (U) the U.S. Army Training and Doctrine Command and the Deputy Chief of Staff for Operations "update the Military Intelligence force structure at the division level and below" to ensure adequately trained personnel are available in sufficient numbers to accomplish the mission;

- (U) the U.S. Army Training and Doctrine Command and the Provost Marshal General revise doctrine and policy "for the administrative processing of detainees to improve accountability, movement, and disposition in a non-linear battlespace;"

- (U) the U.S. Army Training and Doctrine Command "establish and identify resource requirements for a standardized 'Detainee Field Processing Kit' that will enable capturing units to properly secure and process detainees quickly, efficiently, and safely;"

- (U) the Deputy Chief of Staff for Operations "integrate a prescribed detainee operations training program into unit training," and

- (U) the Deputy Chief of Staff for Operations, "in coordination with the Office of the Judge Advocate General, mandate that ... Law of War training have specific learning objectives, be conducted by an instructor/evaluator in a structured manner, and be presented and evaluated annually using the established training conditions and performance standards."

(U) Fay Report

(U) As a result of MG Taguba's findings, the Commander, CJTF-7, LTG Sanchez, appointed the Assistant Deputy Chief of Staff, Army, G2, MG Fay, on March 31, 2004 to investigate potential misconduct by 205th Military Intelligence Brigade personnel at Abu Ghraib between August 15, 2003 and February 1, 2004. LTG Sanchez specifically tasked MG Fay to examine whether 205th Military Intelligence Brigade personnel "requested, encouraged, condoned, or solicited Military Police" to abuse detainees, and whether 205th Military Intelligence Brigade personnel "comported with established interrogation procedures and applicable laws and regulations" during interrogation operations at Abu Ghraib.

(U) While portions of the Fay Report remain classified, a redacted version of the bulk of the report has been released to the public. MG Fay and other officials associated with the investigation have also provided public testimony before Congress on the matters contained in the report.

(U) In his report, MG Fay found military intelligence personnel "not to have fully comported with established interrogation procedures and applicable laws and regulations." He identified 44 "alleged instances or events of detainee abuse" by soldiers and contractors at Abu Ghraib during the period under investigation. In 16 of those 44 instances, MG Fay found the alleged abuse was "requested, encouraged, condoned or solicited" by military intelligence personnel, although "the abuse ... was directed on an individual basis and never officially sanctioned." In 11 of those 16 instances, MG Fay found military intelligence personnel were "directly involved" in the alleged abuse.

(U) MG Fay defined abuse to include not only clearly criminal acts, such as the various forms of assault that occurred, but also the application of certain "non-doctrinal interrogation techniques" that he deemed to be unlawful: the use of military working dogs, nudity, and isolation. While the purposeless terrorization of minors by two particular Military Working Dog handlers, described in Incident 26, was grossly abusive by any measure, MG Fay also termed the mere presence of a silent, muzzled Military Working Dog during an interrogation, described in Incident 29, "abuse."

(U) In his findings, MG Fay provided a brief description of each of the 44 alleged instances of abuse, identifying a total of 50 individual soldiers and 4 individual contractors as either "responsible" or criminally "culpable" for each of the events. Of the 54 named as responsible or culpable, 10 soldiers had already been referred for disciplinary action under the Uniform Code of Military Justice. Of the remaining 44 soldiers and contractors, MG Fay believed 27 to be "culpable" in one or more instance of abuse, while he assessed 17 soldiers and contractors to have become involved in abuse as a result of "misunderstanding of policy, regulation or law." MG Fay found that responsibility for the abuse extended up to the commanders of the 205th

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Military Intelligence Brigade and the 800th Military Police Brigade.

(U) MG Fay also found that "systemic problems ... also contributed to the volatile environment in which the abuse occurred." By MG Fay's count, he made 24 additional findings and two observations regarding "systemic failures." The major contributing factors "included inadequate interrogation doctrine and training," a "lack of a clear interrogation policy for the Iraq Campaign," "acute" shortages of military police and military intelligence personnel, a "lack of clear lines of responsibility" between military police and military intelligence, in doctrine, training, and operations, and "intense pressure felt by personnel on the ground to produce actionable intelligence from detainees."

(U) MG Fay found that "inadequacy of doctrine for detention ... and interrogation operations was a contributing factor to the situations that occurred at Abu Ghraib." Noting that existing Army interrogation doctrine, published in the 1992 Field Manual 34-52, "Intelligence Interrogation," is designed for the tactical interrogation of Enemy Prisoners of War in a conventional conflict, MG Fay observed that various "non-doctrinal approaches, techniques and practices were developed and approved" for the strategic interrogation of unlawful combatants "in the Global War on Terrorism." According to MG Fay, the soldiers and contractors at Abu Ghraib "were not trained on non-doctrinal interrogation techniques" used in Afghanistan and Guantanamo, yet "the non-doctrinal, non-field manual approaches and practices" approved for limited use in those other theaters of operation were introduced into Abu Ghraib by the transfer of both "documents and personnel" from Afghanistan and Guantanamo. "These techniques became confused at Abu Ghraib and were implemented without proper authorities or safeguards," contributing both directly and indirectly to the conduct defined by MG Fay as abuse.

(U) MG Fay also found that what he called "theater Interrogation and Counter-Resistance Policies (ICRP)," the interrogation policies promulgated by CJTF-7, were "poorly defined, and changed several times," and that "as a result, interrogation activities sometimes crossed into abusive activity." He observed that "by October 2003," just prior to the most egregious abuses at Abu Ghraib, the Combined Joint Task Force 7 "interrogation policies in Iraq had changed three times in less than thirty days and it became very confusing as to what techniques could be employed and at what level non-doctrinal approaches had to be approved."

(U) MG Fay found that "acute" shortages of both military intelligence and military police personnel also contributed to abuses at Abu Ghraib. By his count, 6 different military intelligence battalions and groups were called upon to provide the 160 military intelligence personnel conducting and

supporting interrogation operations in the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib by December 2003. These soldiers were supported at various times by a Mobile Training Team from Fort Huachuca, Arizona, three Tiger Teams from Guantanamo Bay, contract interrogators from CACI International, and contract linguists from the Titan Corporation. Because "the JIDC was created in a very short period of time with parts and pieces," MG Fay found, "it lacked unit integrity, and this lack was a fatal flaw."

(U) MG Fay found that clear conflicts between military police and military intelligence doctrine, training and guidance caused "predictable tension and confusion" which "contributed to abusive interrogation practices at Abu Ghraib." "The military police," he noted, "referenced DoD-wide regulatory and procedural guidance that clashed with the theater interrogation and counter-resistance policies that the military intelligence interrogators followed." "Further," MG Fay concluded, "it appeared that neither group knew or understood the limits of the other group's authority. He also found that the "lack of clear lines of responsibility" between military police and military intelligence, combined with "the leadership's failure to monitor operations adequately," caused the systemic "safeguards to ensure compliance and to protect against abuse" to fail.

(U) MG Fay found that "intense pressure felt by personnel on the ground to produce actionable intelligence from detainees" was a "contributing factor to the environment that resulted in abuses." He found that the "pressure for better results" manifested itself at least in part in "directed guidance and prioritization from 'higher' ... to pursue specific lines of questioning with specific detainees, and high priority 'VFR Direct' taskings to the lowest levels in the JIDC." Although "this pressure should have been expected in such a critical situation," MG Fay concluded that it "was not managed by the leadership."

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(U) Jones Report

(U) In June 2004, as a result of the evidence he had gathered to that point, MG Fay requested that a more senior investigating officer be appointed to examine whether actions of the commander and staff of CJTF-7 contributed to any misconduct related to the interrogation operations at Abu Ghraib. MG Fay's request was passed by LTG Sanchez to the Commander, U.S. Central Command, who in turn forwarded the request to the Secretary of Defense. The Secretary of Defense directed the Acting Secretary of the Army to designate a new appointing authority and a new or additional investigating officer, senior to LTG Sanchez. The Acting Secretary of the Army selected GEN Paul Kern, the Commander of U.S. Army Materiel Command, to act as the new appointing authority. LTG Anthony Jones, the Deputy Commanding General of the U.S. Army Training and Doctrine Command, was appointed as an additional investigating officer. MG Fay continued to serve as an investigating officer until completion of the action. MG Fay and LTG Jones produced separate reports, each with separate but related series of findings and recommendations. While portions of the Jones Report remain classified, a redacted version of the bulk of the report has been released to the public. LTG Jones and other officials associated with the investigation have also provided public testimony before Congress on the matters contained in the report.

(U) GEN Kern appointed LTG Jones "specifically ... to focus on whether organizations or personnel higher than the 205th Military Intelligence Brigade were involved, directly or indirectly, in the ... detainee abuse at Abu Ghraib" on June 25, 2004. LTG Jones reviewed the material developed by MG Fay, as well as the majority of the reports discussed above. He then interviewed LTG Sanchez and MG Barbara Fast, the Commander and Deputy Chief of Staff for Intelligence, respectively, of CJTF-7 at the time of the alleged abuse.

(U) Noting in his report that the "events at Abu Ghraib cannot be understood in a vacuum," LTG Jones made several preliminary findings related to the "background and operational environment" in Iraq at the time of the abuses. First, LTG Jones found that "throughout the period

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under investigation," the CJTF-7 headquarters "was not resourced adequately to accomplish the missions," lacking "adequate personnel and equipment." Second, the mission of "providing operational support to the Coalition Provisional Authority ... required greater resources than envisioned." Third, "operational plans envisioned ... a relatively non-hostile environment," when, "in fact, opposition was robust," a circumstance which required that Combined Joint Task Force 7 conduct "tactical counter-insurgency operations, while also executing ... planned missions" in support of the Coalition Provisional Authority and general stabilization.

(U) LTG Jones found that "no organization or individual higher than the chain of command of the 205th MI Brigade was directly involved in the questionable activities regarding alleged detainee abuse at Abu Ghraib." Further, in LTG Jones' assessment, "no policy, directive or doctrine directly or indirectly caused violent or sexual abuse," the most egregious misconduct. Rather, "the primary causes of these actions were relatively straight-forward - individual criminal misconduct."

(U) LTG Jones did find, however, that CJTF-7 "leaders and staff actions ... contributed indirectly to ... detainee abuse." Specifically, "policy memoranda promulgated by the ... Commander led indirectly to some of the non-violent and non-sexual abuses;" the CJTF-7 "Commander and Deputy Commander failed to ensure proper staff oversight of detention and interrogation operations," and; some "staff elements reacted inadequately to earlier indications and warnings that problems existed at Abu Ghraib."

(U) LTG Jones found that "the existence of confusing and inconsistent interrogation techniques contributed to the belief that additional interrogation techniques were condoned in order to gain intelligence." This was compounded by "Soldier knowledge of interrogation techniques permitted in GTMO and Afghanistan," "the availability of information on Counter-Resistance Techniques used in other theaters," and interactions with "non-DoD agencies" where "there was at least the perception, and perhaps the reality, that non-DoD agencies had different rules."

(U) LTG Jones' finding that the failure of the CJTF-7 "Commander and Deputy Commander ... to ensure proper staff oversight of detention and interrogation operations" was manifested by "the lack of a single ... staff proponent for detention and interrogation operations" and dispersion of "staff responsibility ... among the Deputy Commanding General, the C2, C3, C4 and SJA." This dispersion of staff responsibility "resulted in no individual staff member focusing on these operations."

(U) LTG Jones' finding that some "staff elements reacted inadequately to earlier indications and warnings that problems existed at Abu Ghraib" is related to the dispersion of staff respon-

sibility. As examples, LTG Jones cited "the investigation of an incident at Camp Cropper," presumably referring to the subject of the Lee Report, discussed above; "the International Committee of the Red Cross .. reports on ... subordinate units" and "Abu Ghraib;" criminal investigations; "disciplinary actions being taken by commanders;" the death of a detainee under the control of an OGA at Abu Ghraib; "the lack of ... accountability of detainees," and; "continual concerns that intelligence information was not returning to the tactical level."

(U) LTG Jones tempered his finding that CJTF-7 "leaders and staff actions ... contributed indirectly to ... detainee abuse" with the caution that "command and staff actions and inaction must be understood in ... context." "In light of the operational environment," the "under-resourcing" of the CJTF-7 "staff and subordinate units, and increased missions," LTG Jones determined that the "Commander had to prioritize efforts." As a matter of "professional judgment," LTG Jones concluded that CJTF-7 appropriately "devoted its resources to fighting the counter-insurgency and supporting the CPA." "In the over-all scheme of OIF," LTG Jones concluded, "the CJTF-7 Commander and staff performed above expectations."

(U) In contrast, LTG Jones found that although the "205th MI Brigade and 800th Military Police Brigade," like their higher headquarters, "also had missions throughout the Iraqi Theater of Operations," the operational environment did not excuse the fact that their "leaders at Abu Ghraib failed to execute their assigned responsibilities." LTG Jones found that "leaders from these units located at Abu Ghraib or with supervision over Soldiers and units at Abu Ghraib failed to supervise subordinates or provide direct oversight of this important mission." Specifically, "these leaders failed to properly discipline their soldiers, ... failed to learn from prior mistakes and failed to provide continued mission-specific training." "The absence of effective leadership" specifically "at the brigade level and below," in LTG Jones' judgment, "was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents."

(U) In findings similar to those of MG Fay, LTG Jones had also found that "facilities at Abu Ghraib ... created a poor climate to conduct interrogation and detention operations to standard" and that "force protection" was a major concern; that the intelligence units were "undermanned, under-equipped, and inappropriately organized" to complete the mission, with shortages "specifically in the interrogator, analyst and linguist fields," and the 800th Military Police Brigade suffered from "under-resourcing of personnel," and; that both the military intelligence and military police missions were significantly different from those

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originally planned.

(U) Given these observations, the finding that the leadership of the 205th Military Intelligence Brigade and the 800th Military Police Brigade should be held responsible because they contributed to "both the violent/sexual abuse incidents and the misinterpretation/confusion incidents" through their inaction, regardless of "operational circumstances," while the leadership of CJTF-7, who "contributed indirectly to the questionable activities regarding alleged detainee abuse" through their "actions and inaction," should be excused as a result of "operational circumstances" is difficult to reconcile. It also appears that significant aspects of the operational circumstances of the military intelligence and military police brigades that contributed to the incidents at Abu Ghraib, such as the selection of Abu Ghraib as the interrogation operations site and the underresourcing of the interrogation center, were within the direct control of their higher headquarters, CJTF-7.

(U) Like MG Fay, LTG Jones concluded that "interaction with ... other agency interrogators who did not follow the same rules" as the Military Intelligence interrogators was among the "contributing factors" that led to the abuse of detainees. "There was at least the perception, and perhaps the reality, that non-DOD agencies had different rules regarding interrogation and detention operations." LTG Jones found that "such a perception encouraged soldiers to deviate from prescribed techniques."

Afghanistan Reports (U)

(U) Jacoby Report

(U) On May 19, 2004, the Commander of Combined Joint Task Force 76 (CJTF-76), MG Eric Olson, appointed BG Charles Jacoby, the CJTF-76 Deputy Commanding General, to conduct a "top to bottom review of ... detainee operations" in the Combined Forces Command Afghanistan (CFC-A) Area of Responsibility. Specifically, BG Jacoby was directed to identify "best practices," make "recommendations, both specific and general, for ... changes," list "corrective actions," and provide "suggestions with regard to future command ... initiatives ... to ensure adherence to operational and regulatory guidance."

(U) BG Jacoby found that "while theater forces understood the need for humane treatment and unit processes ... consistent with the spirit of extant doctrine, there was otherwise a consistent lack of knowledge regarding theater detention operations guidance." This "lack of thoroughly authorized, disseminated, and understood guidance and procedures," in BG Jacoby's assessment, "created opportunities for detainee abuse and the loss of intelligence value throughout the process."

(S) BG Jacoby noted that he was not directed to investigate "detainee abuse allegations," a task that is the province of military law enforcement, but rather to inspect "current detainee operations." Nonetheless, acknowledging that "allegations of detainee abuse have been substantiated," many of his findings examine the relationship of areas of concern to the potential abuse of detainees. [redacted]

(b)(1)

(U) "Very significantly," BG Jacoby found, there was "inadequate authority for the interrogation techniques and approaches authorized by the Detainee Operations SOP" in effect at the time of his investigation. The impact of the lack of authority for some of the measures authorized by the policy, however, was mitigated by the fact that "only one-third of the bases had the SOP" and "it was generally not ... known or relied upon in the field." Most interrogators, BG Jacoby found, looked to their training rather than the command policy for guidance. He cautioned that the "inconsistent and unevenly applied standards" that result from such circumstances "increase the possibility of the abuse of detainees, especially in the forward battle area."

(S) [redacted]

(b)(1)

He recommended the establishment of clear criteria and procedures for the transfer of detainees.

(S) [redacted]

(b)(1)

His recommendations included modification of interrogation and detention procedures, increases in manning and resourcing detention operations, and structural changes with the task force. BG Jacoby concluded with the observation that while his inspection had "revealed no systematic or widespread mistreatment of detainees, 'opportunities for mistreatment, ... ongoing investigations, and a maturing battlefield argue for modifications to the

current detainee operations process" in Afghanistan.

Independent Panel Report (U)

(U) In May 2004, the Secretary of Defense appointed an Independent Panel to Review Detention Operations "to provide independent professional advice on detainee abuses, what caused them and what actions should be taken to preclude their repetition." Unlike the Taguba, Fay and Jones Reports, the Independent Panel was charged with examining detention and interrogation operations worldwide. The members of the Independent Panel were former Secretaries of Defense James Schlesinger and Harold Brown, former Congresswoman Tillie Fowler, and retired Air Force Gen. Charles Horner. During the course of their investigation, the members of the Independent Panel reviewed the reports of investigations completed prior to the Panel's report, the statements, documents and other evidence gathered by the Fay/Jones investigations and our inquiry, and conducted a series of interviews of senior officers and defense officials, up to and including the Secretary of Defense. The Independent Panel Report, dated August 24, 2004, is unclassified and has been released to the public.

(U) The Independent Panel found that "the pictured abuses" at Abu Ghraib, "unacceptable even in wartime, were not part of authorized interrogations nor were they even directed at intelligence targets." In the Panel's evaluation, the abuse photographed at Abu Ghraib represented "deviant behavior and a failure of military leadership and discipline." However, the Panel also found that there were other abuses that "were not photographed" that "did occur during interrogation," at Abu Ghraib and at other locations.

(U) The panel estimated that as of the date of their report our forces had detained approximately 50,000 individuals during operations in Afghanistan and Iraq. Of the approximately 300 abuse allegations lodged against our forces in that time, the Panel reported that commanders and law enforcement agents had completed investigations into 155 of the allegations, and had substantiated 66 of the allegations. The Panel noted that of the substantiated cases, "approximately one-third ... occurred at the point of capture or tactical collection point, frequently under uncertain, dangerous and violent circumstances." Nonetheless, the Panel emphasized that despite the fact that the abuses were "inflicted on only a small percentage of those detained," were "of varying severity," and "occurred at differing locations and in differing circumstances and context," the abuses "were serious in both number and effect."

(U) Although the Independent Panel found that "there is no evidence of a policy of abuse promulgated by senior officials or military authorities,"

and "no approved procedures called for or allowed the kinds of abuse that in fact occurred," the Panel nonetheless concluded that "the abuses were not just the failure of some individuals to follow known standards, and they are more than the failure of a few leaders to enforce proper discipline." In the Panel's view, "there is both institutional and personal responsibility at higher levels."

(U) The Independent Panel prefaced their discussion of interrogation operations with the observation that "any discussion of interrogation techniques must begin with the simple reality that their purpose is to gain intelligence that will help protect the United States, its forces and interests abroad." Recounting the development of the policies that have framed the Global War on Terror at the national level and within the Department of Defense, the Panel observed that with "the events of September 11, 2001, the President, Congress and the American people recognized we were at war with a different kind of enemy." The nature and "severity of the post-September 11, 2001 terrorist threat and the escalating insurgency in Iraq," threats which are essentially different from an enemy force composed of massed troops, tanks, artillery, ships, and aircraft, made "information gleaned from interrogations especially important." The panel noted, "interrogations are inherently unpleasant, and many people find them objectionable by their very nature." Yet, in the Panel's assessment, "when lives are at stake, all legal and moral means of eliciting information must be considered." Further, the Independent Panel warned, "the conditions of war and the dynamics of detainee operations carry inherent risks for human mistreatment and must be approached with caution and careful planning and training."

(U) The Panel concluded that "in the initial development" of the Interrogation and Counter-Resistance Policies promulgated by the Secretary of Defense for the interrogation of unlawful combatants held at Guantanamo Bay, "the legal resources of the Services' Judge Advocates General and General Counsels were not used to their full potential." In the Panel's view, "had the Secretary of Defense had a wider range of legal opinions and a more robust debate regarding detainee policies and operations," the fluctuations in policy that occurred between December 2002 and April 2003 might well have been avoided.

(U) The Independent Panel found "it is clear that pressures for additional intelligence ... resulted in stronger interrogation techniques that were believed to be needed and appropriate in the treatment of detainees defined as 'unlawful combatants,'" some of whom were presenting a "tenacious resistance" to doctrinal interrogation methods. "At Guantanamo," the Panel observed, "interrogators used those additional techniques with only two detainees, gaining important and time-urgent information in the process." While a limited application of those more aggressive techniques proved successful in Guantanamo, the

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Panel cautioned that "it is important to note that techniques effective under carefully controlled conditions in Guantanamo became far more problematic when they migrated and were not adequately safeguarded."

(U) Inevitably, the Panel found, "interrogators and lists of techniques circulated from Guantanamo and Afghanistan to Iraq." In Afghanistan, the Panel noted, "more aggressive interrogation of detainees appears to have been ongoing" independent of the Guantanamo Counter-Resistance Policies. Standard Operating Procedures containing techniques adopted by Special Operations Forces and conventional Military Intelligence units in Afghanistan migrated to Iraq. Many interrogators served in both operations. In Iraq, the combined knowledge and experience of the interrogators and their leaders, which encompassed operations in both Afghanistan and Guantanamo, were brought together. Combined Joint Task Force 7 promulgated a series of inconsistent policies that "allowed for interpretation in several areas and did not adequately set forth the limits of the interrogation techniques." In the Panel's assessment, "the existence of confusing and inconsistent interrogation ... policies contributed to the belief that additional interrogation techniques were condoned."

(U) Addressing the integration of detention and interrogation operations, the Independent Panel contrasted the operations at Guantanamo to those at Abu Ghraib. At Guantanamo, a system was eventually established where the Military Police and Military Intelligence worked "cooperatively, with the Military Police 'setting the conditions' for interrogations" conducted by Military Intelligence. In concept, the Panel noted, 'setting the conditions' for interrogations "included passive collection on detainees as well as supporting incentives recommended by the military interrogators." In the Panel's assessment, "these collaborative procedures worked well at Guantanamo," where the ratio of Military Police to detainees was "approximately 1 to 1," but failed Abu Ghraib, where the ratio was "at one point 1 to about 75," with the Military Police challenged "even to keep track of prisoners."

(U) The Independent Panel found that "in Iraq, there was not only a failure to plan for a major insurgency, but also to quickly and adequately adapt to the insurgency that followed ... major combat operations." As the insurgency grew, so did the population of the detention facilities. "The largest, Abu Ghraib, housed up to 7,000 detainees in October 2003," when the major abuses began at the facility, yet had "a guard force of only about 90 personnel from the 800th Military Police Brigade." The Panel, like MG Fay and LTG Jones, concluded that "Abu Ghraib was seriously overcrowded, under-resourced, and under continual attack."

(U) The Independent Panel noted that

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"problems at Abu Ghraib" could be traced "in part to the nature and recent history of the military police and military intelligence units" that staffed the operations at the prison. The 800th Military Police Brigade (Enemy Prisoner of War), a Reserve Component unit whose subordinate elements are spread across several states in peacetime, was designed to run prisoners of war facilities. The panel found that as a result of widespread military police mobilizations after September 11, 2001, however, the brigade had been unable to conduct any major training in its primary mission due to "disruption in soldier and unit availability." Further, many of the brigade's soldiers who had been activated "shortly after September 11, 2001, began reaching" the limit of their "two-year mobilization commitment, which, by law, mandated their redeployment and deactivation." In the panel's judgment, the resulting "deterioration in the readiness condition of the brigade should have been recognized by CFLCC and CENTCOM by late summer 2003," and that by "October and November" of 2003, "commanders and staffs all the way to CENTCOM and the Joint Chiefs of Staff knew ... the serious deficiencies of the 800th MP Brigade." "This led the Panel to conclude that the CJTF-7, CFLCC and CENTCOM failure to request additional forces was an avoidable error."

(U) The Independent Panel also found that the 205th Military Intelligence Brigade, an Active Component unit, "was insufficient to provide the kind of support needed .... especially with regard to interrogators and interpreters." Although "some additional units were mobilized" from the reserves, other Active Component units deployed, and contract interpreters and interrogators hired, a large portion of the effort fell to the soldiers of A Company, 519th Military Intelligence Battalion (Airborne), who had only just returned from an extended deployment to Afghanistan where they had conducted interrogation operations at the primary detention facility in that theater. The hodgepodge of "elements of as many as six different units" that were tossed into the interrogation mission at Abu Ghraib lacked "unit cohesion," a flaw that was exacerbated "by friction between military intelligence and military police personnel, including the brigade commanders themselves."

(U) Regarding policy and command responsibilities, the Independent Panel found that "interrogation policies with respect to Iraq, where the majority of the abuses occurred, were inadequate or deficient in some respects at three levels: Department of Defense, CENTCOM/CJTF-7, and Abu Ghraib." Overall, the Panel found, "policies to guide the demands for actionable intelligence lagged behind battlefield needs." Fluctuations in the Counter-Resistance Policy for Guantanamo approved by the Secretary of Defense, "although specifically limited ... to Guantanamo," were in the Panel's view "an element contributing to uncertainties in the field as to which techniques were authorized." The Panel found that "in the absence of specific guidance from CENTCOM, interroga-

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tors in Iraq relied upon" the field manual "and unauthorized techniques that had migrated from Afghanistan." These conditions, followed by a series of short-lived and poorly drafted CJTF-7 policies "clearly led to confusion on what practices were acceptable." Although "we cannot be sure how much the number and severity of abuses would have been curtailed had there been early and consistent guidance from higher levels," the Independent Panel concluded that "nonetheless such guidance was needed and likely would have had a limiting effect."

(U) Other factors that contributed to the leadership failures at Abu Ghraib included an "unclear Military Intelligence chain of command," the "confusing and unusual assignment of MI and MP responsibilities at Abu Ghraib," and the placement of the 800th Military Police Brigade under the tactical control of CJTF-7 while maintaining the brigade under the CFLCC for all other purposes. Finally, in the view of the Panel, "the failure to react appropriately to the October 2003 ICRC report," which described a number of the abuses that would remain uninvestigated until a soldier reported later incidents to his chain of command, was "indicative of the weakness of the leadership at Abu Ghraib."

(U) The Independent Panel made the following recommendations, among others:

- (U) "The United States should further define its policy ... on the categorization and status of all detainees;"
- (U) "The Department of Defense needs to ... develop joint doctrine to define the appropriate collaboration between Military Intelligence and Military Police in a detention facility;"
- (U) The nation must acquire "more specialists for detention/interrogation operations, including linguists, interrogators," and others;
- (U) "Joint Forces Command should ... develop" a new operational concept for detention operations," including preparation "for conditions in which normal law enforcement has broken down in an occupied or failed state;"
- (U) Although "clearly, the force structure in both MP and MI" in the Army "is inadequate to support the armed forces in this new form of warfare," there are "other forces besides the Army in need of force structure improvements" to accomplish the detention and interrogation missions. Accordingly, the Panel recommended "that the Secretaries of the Navy and Air Force undertake force structure reviews of their own;"

- (U) Because "well-documented policy and procedures on approved interrogation techniques are imperative to counteract the current chilling effect the reaction to the abuses have had on the collection of valuable intelligence through interrogations," such policies must be promulgated;
- (U) A "professional ethics program" must be developed for all who participate in detention and interrogation operations;
- (U) "Clearer guidelines for the interaction of CIA with the Department of Defense in detention and interrogation operations must be defined;"
- (U) "The United States needs to redefine its approach to customary and treaty international humanitarian law, which must be adapted to the realities of the nature of the conflict," and
- (U) "The Department of Defense should continue to foster its operational relationship with the International Committee of the Red Cross."

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Examination of Detainee Abuse (U)

Overview (U)

(U) During our inquiry, we examined individual cases of detainee abuse in order to discern any relationship to detainee operations in general, and to interrogation in particular. We detail some of these cases in the sections covering GTMO, Afghanistan, and Iraq; however, in this section, we will provide an overview of our analytic method, and a high-level summary of DoD abuse investigations.

(U) As of September 30, 2004, the military services and DoD agencies had initiated 317 investigations in response to allegations of detainee abuse by DoD personnel and contractors in GTMO, Afghanistan, and Iraq. (In order to complete our analysis in a timely fashion, we chose September 30 as the cutoff date for the incorporation of investigations in this report. All of the following information is current as of September 30, except where otherwise noted.) For the purposes of our analysis, we define "abuse" as conduct that constitutes Uniform Code of Military Justice (UCMJ) offenses against persons (or would constitute such an offense if the perpetrator were subject to the UCMJ, in the case of contractors). These offenses include murder, manslaughter, negligent homicide, assault, rape, indecent assault, cruelty and maltreatment, reckless endangerment, and communicating a threat. We did not treat thefts from detainees as abuse, unless such misconduct was combined with an assault or other form of maltreatment.

(U) In general, the Army Criminal Investigation Division (CID) and Naval Criminal Investigation Service (NCIS) investigated serious abuse allegations (*i.e.*, misconduct resulting - or potentially resulting - in death or grievous bodily harm), while individual commands investigated lesser allegations. Many of the investigations have multiple victims and multiple suspects; consequently, there is no direct correlation between the number of cases and the numbers of suspects and victims. For example, the primary CID investigation of the abuses at Abu Ghraib (which remains open) has identified 15 suspects and 35 victims.

(U) The status of the 317 investigations is depicted on the chart on the next page.

(U) As the chart demonstrates, 187 investigations have been closed (38 death investigations and 149 for other abuse), of which six have substantiated that death resulted from abuse (five in Iraq and one in Afghanistan), and 65 have substantiated that other abuse occurred. These findings will be discussed in more detail below.

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DOD Detainee-Related Investigations Summary (U)

CASES	AFGHANISTAN	IRAQ	GTMO	TOTAL	TOTAL SUBSTANTIATED
DETAINEE DEATHS	4 / 0 / 0	15 / 2 / 0	0 / 0 / 0	23	N/A
OPEN					
DETAINEE ABUSE	5 / 2 / 0	92 / 1 / 1* (* Contractor)	2 / 2 / 0	107	N/A
DETAINEE DEATHS	1 / 0 / 0	32 / 0 / 0 (Note: Does not include 22 Abu Ghraib mortar attack deaths.)	0 / 0 / 0	38	6
CLOSED					
DETAINEE ABUSE	12 / 0 / 0	101 / 3 / 3* (* Contractor)	12 / 0 / 0	149	65
TOTAL	27	274	16	317	71

Army Related Cases / Navy Related Cases / USMC Related Cases / Other Related Cases

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(U) The status of the 317 open and closed investigations is again depicted in the following two charts on the next page, which break the investigations into death-related (in the first chart) and non-death related investigations (in the second chart).

(U) As the first chart demonstrates, of the 61 detainee death investigations, 38 have been closed; and in six cases it was determined that the deaths resulted from abuse. The remaining 32 closed death investigations resulted in determinations that the fatalities resulted from either natural causes or justifiable homicides, or that the allegations of wrongdoing were unsubstantiated or unfounded. As the second chart shows, detainee abuse not resulting in death was substantiated in 65 of 149 closed investigations.

(U) Because information provided by open cases may not be reliable, and may ultimately be proven unfounded, we focused our analysis primarily on the 71 closed investigations that substantiated abuse. Of these, eight concerned incidents at

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Detainee Death Investigations (U)

CASES	AFGHANISTAN	IRAQ	GTMO	TOTAL	TOTAL SUB-STANTIATED
OPEN					
DETAINEE DEATHS	4 / 0 / 0	15 / 2 / 0	0 / 0 / 0	23	N/A
CLOSED					
DETAINEE DEATHS	1 / 0 / 0	32 / 0 / 0	0 / 0 / 0	38	6
TOTAL	5	56	0	61	6

Note: Does not include 22 Abu Ghraib mortar attack deaths.

Army Related Cases | Navy Related Cases | All data as of 30 Sep 2004.
USMC Related Cases | Other Related Cases

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Detainee Non-Death Abuse Investigations (U)

CASES	AFGHANISTAN	IRAQ	GTMO	TOTAL	TOTAL SUB-STANTIATED
OPEN					
DETAINEE ABUSES	5 / 2 / 0	92 / 1 / 1*	2 / 2 / 0	107	N/A
CLOSED					
DETAINEE ABUSES	12 / 0 / 0	101 / 3 / 3*	12 / 0 / 0	149	65
TOTAL	22	218	16	256	65

* Contractor

Army Related Cases | Navy Related Cases | All data as of 30 Sep 2004.
USMC Related Cases | Other Related Cases

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GTMO, three concerned incidents in Afghanistan, and 60 concerned incidents in Iraq. These 71 cases involve at least 122 victims, and so far, disciplinary or administrative action has been taken against 115 service members for misconduct. (This action includes numerous non-judicial punishments, 15 summary courts-martial, 12 special courts-martial, and 9 general courts-martial.) Criminal investigation of detainee abuse at Abu Ghraib, which has already resulted in the preferral of court-martial charges against seven service members and a guilty plea from three of those members, remains open.

(U) In addition, we concluded that one closed, substantiated investigation did not constitute abuse for our purposes. This case involved a soldier at GTMO who dared a detainee to throw a cup of water on him, and after the detainee complied, reciprocated by throwing a cup of water on the detainee. The soldier was removed from that camp as a consequence of inappropriate interaction with a detainee. We discarded this investigation, leaving us 70 detainee abuse cases to analyze.

(U) A comparison of our detainee abuse analysis with those of the Jones, Fay, and Taguba reports is provided later, in our section discussing Iraq. Unlike those reports, however, we did not investigate specific allegations of misconduct. Rather, our examination consisted of a broad review of investigative reports, focusing on factors that may have played a role in these incidents of abuse. Our review was intended neither as a legal assessment of specific cases, nor as a recommendation for commanders in the independent exercise of their responsibilities under the Uniform Code of Military Justice (UCMJ) or other administrative procedures.

Categorizing Abuse Cases (U)

(U) As an initial matter, we examined the abuse cases for any trends related to geographic areas or individual units within Afghanistan and Iraq; however, we found no such trends.

(U) We next analyzed the 70 closed, substantiated abuse cases by grouping them by severity and location, and then by whether they were related to interrogation. We also categorized the cases by service and component (*e.g.*, U.S. Army Reserve) of the personnel involved. Our results are described below.

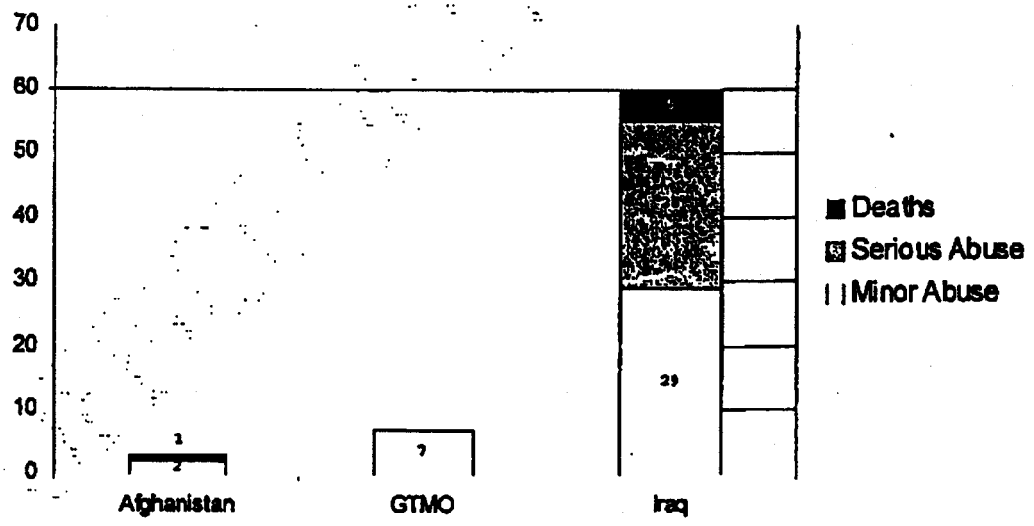
(U) Severity of Abuse

(U) As noted previously, we considered serious abuse to be misconduct resulting, or having the potential to result, in death or grievous bodily harm. We used the definition of "grievous bodily harm" contained in the Manual for Courts-Martial (2002 edition): "'Grievous bodily harm' means serious bodily injury. It does not include minor injuries such as a black eye or bloody nose, but does include

fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other serious bodily injuries." In addition, we considered all sexual assaults (in the Manual for Courts-Martial termed "Indecent Assault"), threats to inflict death or grievous bodily harm, and maltreatment likely to result in death or grievous bodily harm to be serious abuse.

(U) As reflected in the chart below, there were a total of six substantiated deaths (one in Afghanistan and five in Iraq), 26 serious abuse incidents that did not result in death (all in Iraq), and 38 minor abuse incidents (two in Afghanistan, seven in GTMO, and 29 in Iraq). (We should note that the cases involving the two Bagram PUC deaths were substantiated and closed on October 8, 2004, after the majority of our analysis had been completed. These cases, therefore, are not included in the data that we analyzed.) Of the 64 non-death abuse cases analyzed, two were sexual assaults. The majority of

Closed Substantiated Abuse Cases (U)



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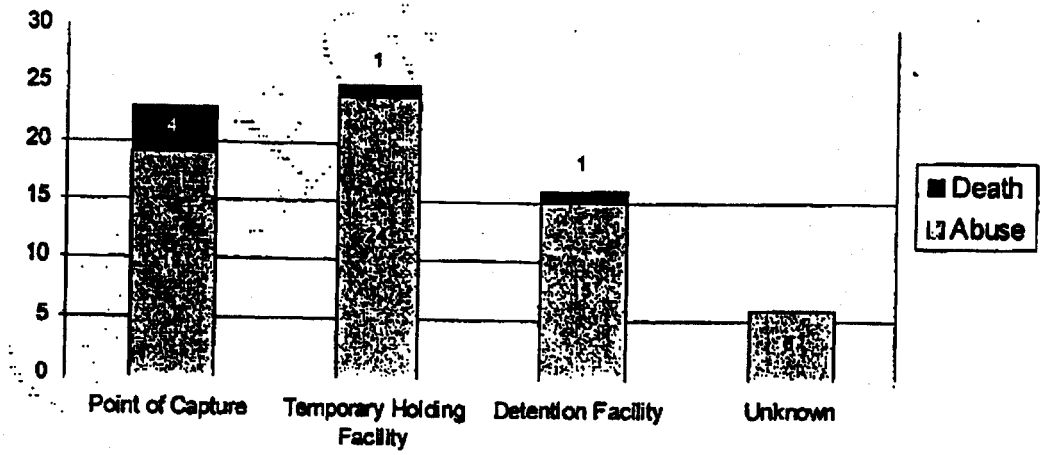
the remaining cases were assaults and other forms of physical abuse.

(U) Location of Abuse

(U) For the purposes of our analysis, we considered "point of capture" (POC) incidents to include any deaths or abuse occurring outside of holding facilities, including those that occurred during detainee transportation. Facilities at the division level and below were considered Temporary Holding Facilities (THF) (*e.g.*, Corps Holding Areas or Division Collection Points), and internment/resettlement facilities were considered Detention Facilities (DF) (*e.g.*, Abu Ghraib). These terms are functional in nature rather than doctrinal and are used here only for the purpose of our analysis.

(U) The chart below depicts abuses by detention locations. Of the 70 cases analyzed, 23

Reported Abuse by Site Type (U)



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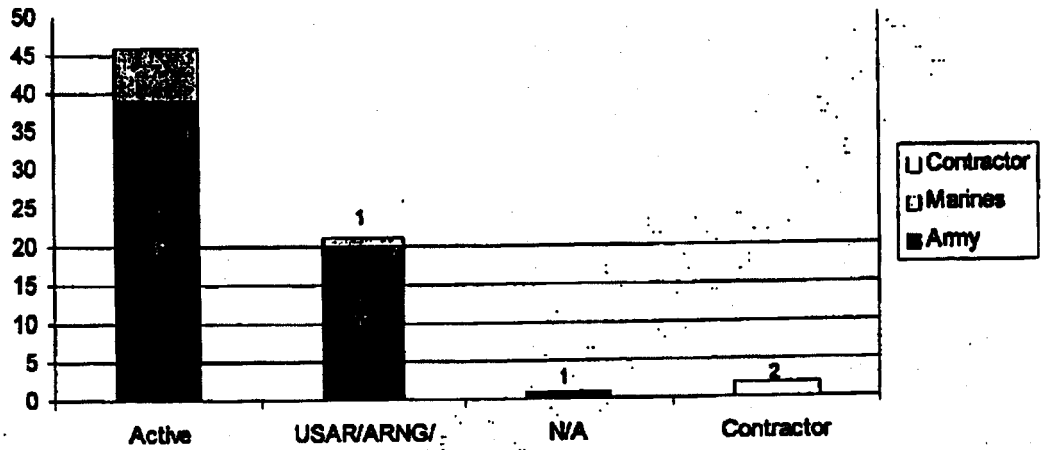
Closed Substantiated Cases by Service Component of Personnel Involved (U)



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occurred at POC, 25 at THFs, 16 at DFs, and six at unidentified locations. Included in those figures are the six death cases: four at POC, one at a THF, and one at a DF.

(U) Service and Component

(U) There were 46 Active Component investigations, 21 Reserve/National Guard (nine Reserve, eight National Guard, and four mixed), one from an unknown unit, and two contractor-related cases. The data are displayed in the chart above.

(U) Relationship of Abuse to Interrogation

(U) We categorized abuses arising from questioning of detainees by any DoD personnel, not just MI interrogators, as interrogation-related. In categorizing abuse as "interrogation-related," we took an expansive approach. For example, if a soldier slapped a detainee for failing to answer a question at the point of capture, we treated that misconduct as interrogation-related abuse. Of the 70 investigations analyzed, 20 met this criteria. Closed substantiated interrogation related abuse cases are further categorized by theater of operations and type of site in the chart on the next page.

Analysis of Abuse Investigations (U)

(U) Methodology

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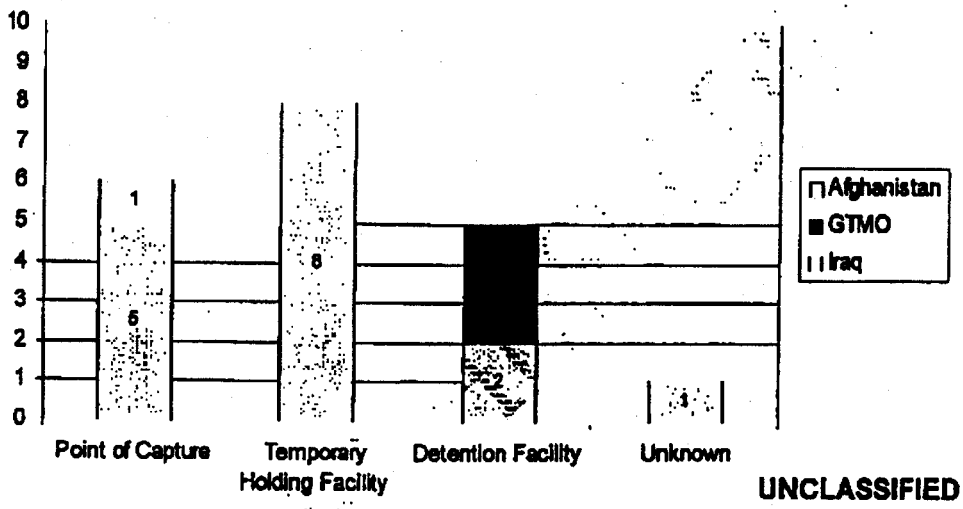
Closed Substantiated Interrogation Related Abuse Case by Type of Facility at which the Incident Occurred (U)



(U) After categorizing the substantiated abuse cases, we reviewed each investigation report to identify possible explanations for the abuse. For abuses investigated by a service criminal investigative agency (CID or NCIS), we reviewed the complete investigative reports. These investigations generally contained statements from eyewitnesses and, in some cases, statements from suspects and purported victims. For investigations conducted by individual commands, which generally addressed the less serious incidents, we reviewed summaries or reports of the substantiated abuse.

(U) Findings

(U) Our review suggested that there is no single explanation for why abuses occurred; rather, a combination of factors played a role. After hundreds of interviews, however, one point is clear - we found no direct (or even indirect) link between interrogation policy and detainee abuse. We note that our conclusion is consistent with the findings of the Independent Panel to Review DoD Detention Operations, chaired by the Honorable James R. Schlesinger, which in its August 2004 report determined that "[n]o approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities." In fact, interviews that we conducted at point of capture and temporary holding facilities in Iraq and Afghanistan showed that a large majority

of interrogators and most field officers interviewed at those locations were unaware of the specific guidance promulgated and relied solely on their respective training and experience. This point will be reiterated and discussed in more detail in later report sections focused on interrogation operations in Guantanamo Bay, Afghanistan and Iraq.

(U) If approved interrogation policy did not cause detainee abuse, the question remains: what did? While we cannot offer a definitive answer, we studied the DoD investigation reports for all 70 cases of closed, substantiated detainee abuse to see if we could detect any patterns or underlying explanations. Our analysis of these 70 cases showed that they involved abuses perpetrated by a variety of active duty, reserve and national guard personnel from three services at varying dates and in varying locations throughout Afghanistan and Iraq, as well as a small number of cases at GTMO. While this lack of a pattern argues against a single, overarching reason for abuse, we did identify several factors that may help explain why the abuse occurred.

(U) First, 23 of the abuse cases, roughly one third of the total, occurred at the point of capture in Afghanistan or Iraq - that is, during or shortly after the capture of a detainee. This is the point at which passions often run high, as service members find themselves in dangerous situations, apprehending individuals who may be responsible for the death or serious injury of fellow service members. Because of this potentially volatile situation, this is also the point at which the need for military discipline is paramount in order to guard against the possibility of detainee abuse, and that discipline was lacking in some instances.

(U) Second, the nature of the enemy in Iraq (and to a lesser extent, in Afghanistan) may have played a role in the abuse. Our service members may have at times permitted our enemy's treacherous tactics and disregard for the law of war – exemplified by improvised explosive devices and suicide bombings – to erode their own standards of conduct. (Although we do not offer empirical data to support this conclusion, a consideration of past counterinsurgency campaigns – for example, during the Philippine and Vietnam wars – suggests that this factor may have contributed to abuse.) The highly-publicized case involving an Army Lieutenant Colonel in Iraq provides an example. On August 20, 2003, during the questioning of an Iraqi detainee by field artillery soldiers, the Lieutenant Colonel fired his weapon near the detainee's head in an effort to elicit information regarding a plot to assassinate U.S. service members. For his actions, the Lieutenant Colonel was disciplined and relieved of command.

(U) Finally, a breakdown of good order and

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discipline in some units could account for other incidents of abuse. This breakdown implies a failure of unit-level leadership to recognize the potential for abuse in detention and interrogation operations, to detect and mitigate the enormous stress on our troops in detention and interrogation operations, and a corresponding failure to provide the requisite oversight to prevent such abuse. As documented in previous reports (including MG Fay's and MG Taguba's investigations), stronger leadership and greater oversight would have lessened the likelihood of abuse.

Chronological Analysis of Abuse Cases (U)

(U) Overview

(U) We also conducted a chronological analysis to determine whether there was any correlation between particular events and the rate of detainee abuse. Specifically, we considered the relationship between the rate of abuse and the issuance of new interrogation-related policy directives to U.S. forces in each theater, and whether intensified combat operations or enemy resistance might help explain increases or decreases in detainee abuses. To determine whether abuse rates could be correlated to such events, we examined abuse cases on a month-to-month basis.

(U) The total number of cases considered in this portion of our analysis is larger than in earlier sections, because we examined not only closed cases, but also certain open cases. In the chronological analysis we considered 189 cases, including 69 of the 71 closed, substantiated cases - one case was omitted because it did not identify the date of abuse, and we again omitted the GTMO water-throwing case - and 120 of 130 open cases (10 did not contain dates or were thefts). We recognize that many of the open cases may be eventually proved unsubstantiated or unfounded; however, we felt that including the open cases in chronological analysis might help identify potential trends.

(U) Results

(U) GTMO

(U) Relatively few abuses have occurred at GTMO. As we will describe at further length in the GTMO section, we believe that this is attributable to, among other things, effective leadership, aggressive oversight, and a highly structured environment. While three of the abuse cases at GTMO occurred in April 2003, the same month that the Secretary of Defense approved a new interrogation policy for use there, the new interrogation policy did not cause those abuses to occur: as the GTMO section will describe, those abuses were completely unrelated to interrogation policy. We also found no correlation with other interrogation policies, issued in December 2002 and January 2003. (In

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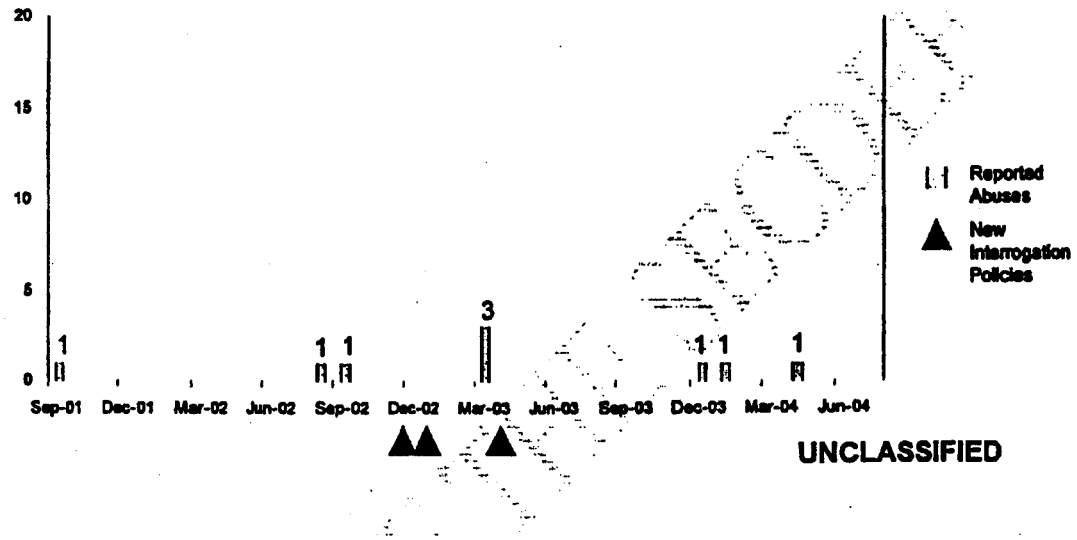
GTMO (U)



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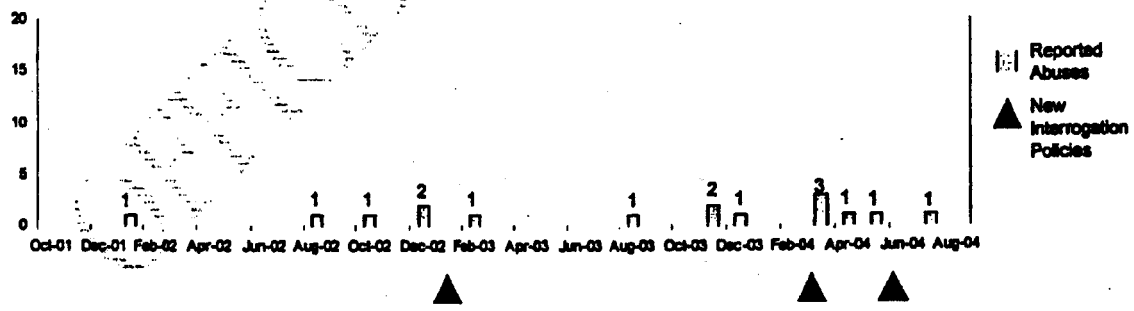
Afghanistan (U)



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the following charts, issuance of new interrogation policies is indicated by red triangles.)

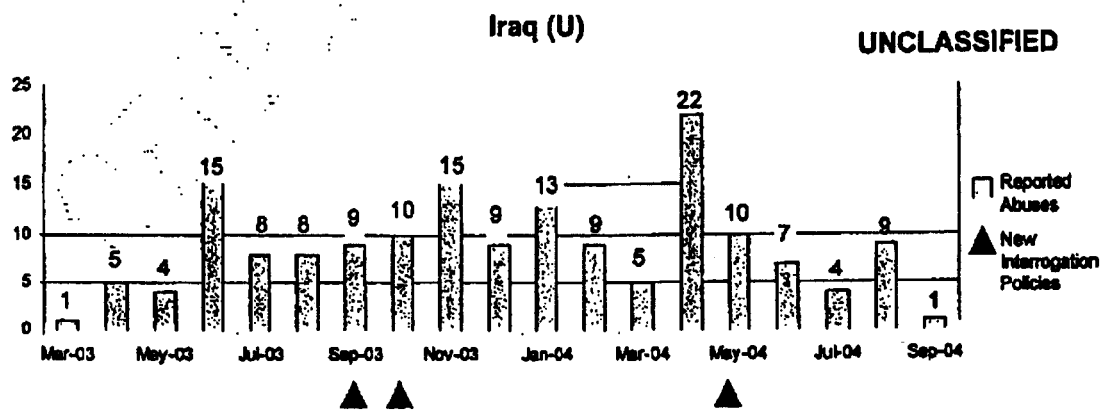
(U) *Afghanistan*

(U) Since Operation ENDURING FREEDOM began in October 2001, in no single month were there more than three cases of alleged abuse. With the limited numbers of reported abuse cases spread over many months, there is no discernable correlation of those abuses to CJTF 180's detention and interrogation policies (issued in January 2003, March 2004, and June 2004), combat operations, or other events.

(U) *Iraq*

(U) The total number of abuses in Iraq far exceeds those in GTMO and Afghanistan, which is not surprising based on the scale of combat operations and the ensuing insurgency. From the beginning of Operation IRAQI FREEDOM in March 2003 through August 2004, the number of abuse cases per month remained relatively close to the average rate of nine per month, with the fewest number of reported abuses in March 2003 (one), July 2004 (four), and September 2004 (one). The issuance of interrogation policy memoranda in September 2003, October 2003, and May 2004, and MG Miller's visit to assess detention operations during August to September 2003 (all of which are described in our section on Iraq) do not appear to be correlated to the rate of detainee abuse, whether interrogation-related or not.

(U) We did observe spikes in abuse allegations in June 2003 (15), November 2003 (15) , and April 2004 (22). While not necessarily statistically significant, it is possible that the June 2003 and April 2004 increases are attributable to the following events:



(U) June 2003. Baghdad fell to Coalition Forces in May 2003. Almost immediately thereafter, Iraqis engaged in widespread looting and destruction. In this month, we observed a moderate increase in *alleged* detainee abuse cases; however, we found no evidence that this increase was interrogation-related or associated with U.S. policy changes. Rather, two thirds of the abuse cases in June 2003 involved point of capture abuses: the aggressive efforts of U.S. forces to stop looting and secure the peace appear to be a likely explanation for the increased number of alleged abuse cases that month.

(U) April 2004. This month saw an increase in combat operations, particularly in response to recent kidnappings, roadside bombings, and other attacks by insurgents against coalition forces. The number of U.S. service members killed in April 2004 increased to more than 150, almost a three-fold increase from only one month earlier in March 2004. During April 2004, alleged detainee abuse cases rose from five (all non-interrogation related) in March 2004 to 22 in April 2004 (with 8 of those cases being interrogation-related). It is possible, therefore, that increased combat operating tempo and efforts to stem the tide of the insurgency led to increases in abuses.

Detainee Abuse: Summary (U)

(U) In sum, we found no evidence that detainee abuse was related to any interrogation policies. This explanation is supported by the more detailed descriptions of interrogation-related abuse cases that appear in the following sections on GTMO, Afghanistan and Iraq. Therefore, although interrogation policy has not been a causal factor in detainee abuse, we found several factors that may have contributed to the abuse. For example, much of it occurred at the point of capture in Afghanistan and Iraq, and in many instances our service members clearly lacked the discipline necessary at the point of capture to ensure that detainees were treated appropriately. Another factor may be the nature of the insurgency that we have encountered - one in which our enemy's disregard for the law of war may have at times led to an erosion of our own standards of conduct. Finally, a breakdown in good order and discipline, which may be attributable to the absence of strong leadership or oversight, may have contributed to setting the conditions for abuse.

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Guantanamo Bay, Cuba (U)

(U) This section examines the interrogation techniques approved and those actually employed at the U.S. Naval Base at Guantanamo Bay, Cuba (GTMO), and the relationship between those techniques and any detainee abuse. The section begins with a brief, background discussion below.

Background (U)

(U) GTMO and Operation ENDURING FREEDOM

(U) The first planeload of twenty detainees from Afghanistan arrived at the U.S. Naval Base at Guantanamo Bay, Cuba on January 11, 2002. They had been captured by U.S. forces on the battlefield during Operation ENDURING FREEDOM, which followed closely on the heels of 9/11 and was designed to flush out members of al Qaeda and their Taliban protectors from the hills and caves of Afghanistan. As suspected terrorists, these first detainees were transferred to the base for interrogation. By the summer of 2002, the detainee population at GTMO had quickly grown to nearly 600, a number that has remained fairly steady up until the present.

(U) GTMO was a logical place for the interrogation of al Qaeda and Taliban fighters. It had existing holding facilities at Camp X-Ray, which had originally been built to house Cuban and Haitian refugees who attempted illegally to enter the United States by sea in the mid 1990s. It was close to the United States and under United States control, pursuant to a lease agreement with Cuba dating to 1903. Yet GTMO was in a remote and secure location, far from the battlefields of Afghanistan. And perhaps most importantly, GTMO was considered a place where these benefits could be realized without the detainees having the opportunity to contest their detention in the U.S. courts. This final consideration was negated, however, by the recent U.S. Supreme Court decision in Rasul v. Bush, __ S.Ct. __ (2004), which held that the U.S. courts have jurisdiction to consider challenges to the detention of foreign nationals held at GTMO. At the same time, the Supreme Court held in Hamdi v. Rumsfeld, __ S.Ct. __ (2004), that any U.S. citizens held in the U.S. as enemy combatants have a due process right to have a meaningful opportunity to contest their detention before a neutral decisionmaker.

(U) The combatants captured in Afghanistan during Operation ENDURING FREEDOM did not wear military uniforms or fall into any traditional military hierarchy. This presented the challenge, therefore, of determining which of them possessed (or were likely to possess) the most intelligence or law enforcement value and thus merited transfer to GTMO. Upon capture, a detainee was initially questioned on the battlefield to ascertain his level of participation in the conflict and to determine if he might possess valuable intelligence or be a continuing security threat to U.S. forces. The detainee was then sent from the front

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lines to a central holding facility, where he would undergo further screening and interrogation. If this screening indicated that the detainee might meet Secretary of Defense criteria for transfer to GTMO, a screening team of U.S. government officials - consisting of military lawyers, intelligence officers, and federal law enforcement officials - would review the detainee's relevant information, including the facts surrounding capture and detention, the threat posed by the individual, and the intelligence and law enforcement value of the detainee. The screening team, after reviewing all available information, then made a recommendation to retain the captured fighter in-country or transfer him to GTMO. Next, a general officer, designated by the Commander of U.S. Central Command (CENTCOM), reviewed the screening team's recommendation and made a final recommendation to Department of Defense officials in Washington, D.C.

(U) A Department of Defense review panel, including legal advisors and representatives from the Joint Staff and the Office of the Under Secretary of Defense for Policy, assessed this final recommendation and, if necessary, made additional inquiries regarding the detainee. Upon the review panel's recommendation and final authorization by the Secretary of Defense, the individual either remained detained in Afghanistan or was airlifted to GTMO. Since the beginning of Operation ENDURING FREEDOM to the present, more than 10,000 suspected members of al Qaeda or the Taliban have been captured and processed through this screening process. Less than eight percent of these detainees (a total of 752 as of October 28, 2004) were ultimately transferred to GTMO. The most recent transfers occurred in September 2004, as DoD announced on September 22, 2004 that that it had transferred 10 detainees from Afghanistan to GTMO. These were the first transfers since November 2003.

~~(S/NF)~~ As of October 2004, there were 550 detainees at GTMO. Of the detainees sent to GTMO during Operation ENDURING FREEDOM, 202 have departed the base: 146 of these were transferred to other countries for release, and 56 were transferred to the control of other governments [redacted] (seven to Russia, five to Morocco, five to Great Britain, four to France, four to Saudi Arabia, one to Spain, 29 to Pakistan and one to Sweden). In response to the U.S. Supreme Court decision in Rasul, the Secretary of the Navy, the Honorable Gordon England, is currently supervising Combatant Status Review Tribunals and Administrative Review Boards. Each detainee at GTMO will have the opportunity, with the help of a military representative, to contest the enemy combatant designation before a tribunal of three military officers. The detainees at GTMO will also have the opportunity to present information to an Administrative Review Board concerning why the detainee no longer poses a threat to the U.S. or its

allies and should be released or transferred.

(U) It is U.S. policy not to release any detainees that still pose a threat to our country, but recent events have demonstrated the difficulty of making that assessment, and the difficulty now facing the Administrative Review Boards. On September 26, 2004, Afghanistan officials announced that Abdul Ghaffar, a senior Taliban commander who had been released from GTMO over one year ago, was killed on September 25th while apparently leading an ambush on U.S. forces, in which three American soldiers were wounded, one critically. According to Afghan officials, after his release Ghaffar had carried out several attacks on American Special Forces soldiers, as well as an attack on a district chief in Helmand, Afghanistan in which three Afghan soldiers were killed.

(U) Another former Taliban fighter who was held at GTMO for approximately two years and then released in March 2004, Abdullah Mehsud, has reportedly forged ties with al Qaeda and is leading a militant band that is opposing Pakistani forces hunting al Qaeda fighters along the Afghanistan-Pakistan border. In early October 2004, Mehsud's men kidnapped two Chinese engineers who were helping Pakistan to construct a dam near the border. The kidnappers, who were surrounded by Pakistani security forces, strapped explosives to the hostages and threatened to kill them if they were not allowed safe passage to where Mehsud was hiding in the nearby mountains. The crisis ended on October 14th when Pakistani forces moved in and killed five of the kidnappers, but one of the hostages also died, and Mehsud is still at large. Moreover, since his release, Mehsud has bragged to reporters that he tricked his interrogators into believing that he was someone else, and has stated that he will fight America "until the very end."

(U) In addition to Ghaffar and Mehsud, Afghan officials have stated that at least five other Afghan detainees released from GTMO have returned to Afghanistan and again become Taliban commanders or fighters. The number may be higher, as there are uncorroborated reports that an additional seven have participated in attacks or provided support to anti-coalition forces in Afghanistan.

(U) Detention and Interrogation Facilities

(U) The first detainees to arrive at GTMO were held at Camp X-Ray, which had the advantage of being an existing facility. Camp X-Ray, however, had a limited capacity (it could hold only approximately 300 detainees after rapidly expanding from its initial capacity of 40), and also was somewhat primitive. Upon their arrival, the detainees were housed in temporary, eight by eight feet units with a concrete slab floor, a combination wood and metal roof, and open air sides composed of chain link fencing. The detainees slept on the floor, with mats and blankets.

(S) The interrogation facilities at Camp X-Ray were also spartan. The interrogation rooms were simple, plywood structures, but they did have air conditioning. These rooms were approximately fifteen by fifteen feet, and commonly referred to as "boxes." The rooms were equipped for audio monitoring only.

(S/NF) Due to Camp X-Ray's limited capacity and primitive conditions, plans were put into motion almost immediately after the arrival of the first detainees in GTMO to build a new detention facility, which became known as Camp Delta. This new facility had an initial capacity of 612 detention units, with room to expand as needed. In late April 2002, the detainee population, numbering just over 300 individuals, moved from Camp X-Ray to Camp Delta, whereupon Camp X-Ray was closed. Camp Delta has since expanded to 816 detention units, 84 of which are maximum security.

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Also within Camp Delta is the detainee hospital, which is dedicated to providing

Aerial Photograph of GTMO (S)

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medical care to the detainees and has a twenty bed capacity. Additionally, in April 2004 a maximum-security facility, designated as Camp 5, was opened approximately one-half mile from Camp Delta. Camp 5 holds the most uncooperative individuals. The detainees at Camp 5 are housed in a modern, two-story, multi-winged complex that has the capacity to hold approximately 100 detainees. The aerial photograph below shows the relative locations of Camp Delta (which contains Camps 1-4 and the detainee hospital), Camp 5 and Camp X-Ray.

[redacted]

(S) [redacted]

Camp Iguana is a lower-security detention facility that at one point held three juvenile combatants, aged 13 to 15 years, who had been captured in Afghanistan. These juveniles were repatriated to their home countries in early 2004.

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(U) Evolution of the Command Organization

(U) The command organization at GTMO has evolved significantly over time. Simply stated, the most significant aspect of the current organization is that it places both intelligence and detention operations under the command of a single entity, designated Joint Task Force GTMO (JTF-GTMO), whereas the original organization had separate chains of command for intelligence and detention operations. This new structure has permitted greater cooperation among the military intelligence (MI) units that are responsible for interrogation and the military police (MP) units

that are responsible for detention. In essence, this organization recognizes the primacy of the human intelligence collection mission at GTMO in support of the Global War on Terror, by ensuring a unity of effort between MI and MP units. This unity of effort between MI and MP units has been the subject of recent controversy, in light of MP participation in many of the abuses perpetrated at Abu Ghraib prison in Iraq. The details of the respective MI and MP roles (as well as a discussion of what those roles should be) are addressed elsewhere in the report; the purpose of the discussion here is merely to trace the evolution of the command organization at GTMO.

(U) Just prior to the arrival of the first detainees on January 11, 2002, U.S. Southern Command (SOUTHCOM) established Joint Task Force 160 (JTF-160) to be responsible for the security and detention of the detainees arriving at GTMO. This joint task force was essentially an MP organization. BGen Michael Lehnert, USMC, originally commanded this task force, but was quickly succeeded by BG Rick Baccus, who took command on March 28, 2002.

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(U) The existence of two, separate joint task forces created a bifurcated chain of command that impeded cooperation between the MI units in JTF-170 and the MP units in JTF-160 and did not establish priorities for their competing interrogation and detention missions. Two external reviews of intelligence operations at GTMO, the Herrington GTMO Report in March 2002 and the Custer Report in September 2002, were critical of this command structure. COL Herrington's Report, which was provided to MG Dunlavey as well as the Acting Commander of SOUTHCOM, MG Gary Speer, USA, was particularly pointed in its remarks. For example, the report called it a "basic principle of human intelligence exploitation" that the intelligence function must be supported by the security function, and observed that in GTMO, "the security mission is sometimes the tail wagging the intelligence dog."

(U) In an effort to address this situation and improve the intelligence collection effort at GTMO, the SOUTHCOM Commander, General James T. Hill, USA, placed MG Dunlavey in charge of both JTF-170 and JTF-160 in October 2002. Shortly thereafter, on November 4, 2002, the two joint task

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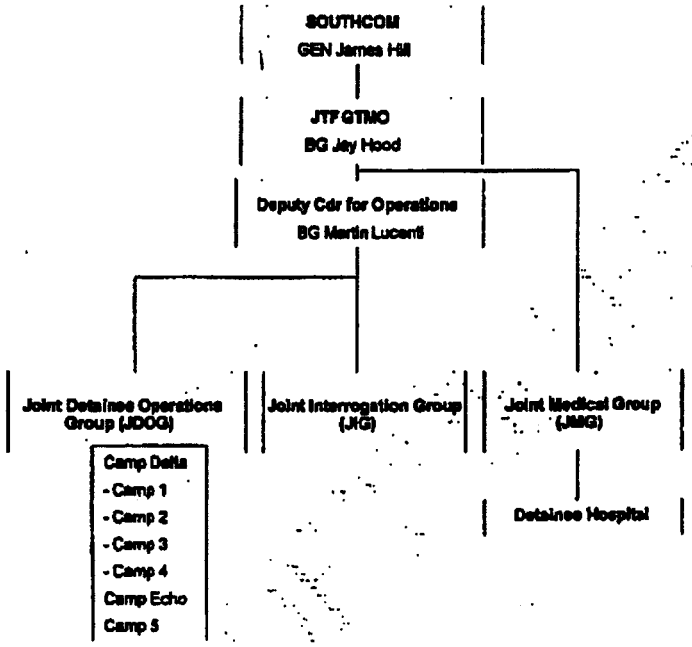
JTF-GTMO Organization (U)



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forces were combined and renamed Joint Task Force GTMO. MG Geoffrey Miller, USA was appointed to lead this new joint task force. MG Miller was succeeded by BG Jay Hood on March 24, 2004, when MG Miller was transferred to Iraq to be Deputy Commander for Detainee Operations, Multinational Force-Iraq. The structure of JTF-GTMO and its current leadership is depicted in the figure above.

(U) As illustrated above, both the Joint Interrogation Group (JIG), which is responsible for intelligence collection, and the Joint Detention Operations Group (JDOG), which is responsible for detainee security and handling, report to the JTF-GTMO Commander, who in turn reports to SOUTHCOM. The JDOG is composed of six MP companies. The centerpiece of the JIG is the Interrogation Control Element (ICE), which coordinates and supervises the efforts of MI interrogators, analysts and linguists (as well as civilian contract personnel who augment the military interrogation effort), in support of human intelligence exploitation. From the initiation of interrogation and detention

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operations at GTMO to the present, MPs have outnumbered the detainees by a relatively constant ratio of approximately 1.5 to 1. MI and contract interrogators, on the other hand, have been in more limited supply, with each interrogator assigned to approximately 20 to 25 detainees at any one time.

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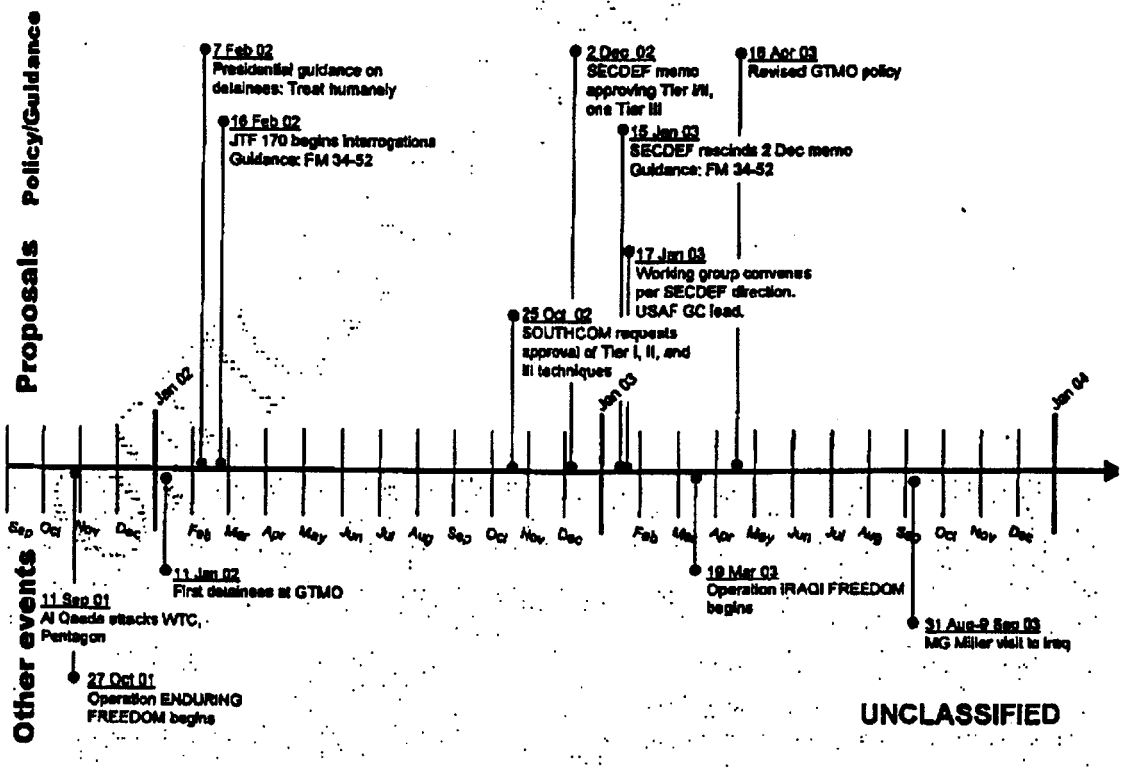
GTMO Counter-Resistance Policy Development (U)



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Evolution of Approved Interrogation Techniques at GTMO (U)

(U) The interrogation techniques approved for use at GTMO have evolved significantly over time, and been the subject of much study and debate within the senior echelons of both the uniformed military and the Office of the Secretary of Defense. The highlights of this evolution are depicted in the figure on the previous page, and described briefly below. This is followed by a detailed, chronological examination of the major events and points of debate that have shaped the development of approved interrogation techniques at GTMO.

(U) When JTF-170 was established at GTMO on February 16, 2002, the military interrogators assigned to the task force relied upon existing interrogation doctrine, found in Army Field Manual 34-52, *Intelligence Interrogation*, when questioning detainees. Over the next several months, however, it became clear that many of the detainees were familiar with these techniques and had been trained to resist them. This eventually led SOUTHCOM on October 25, 2002, to seek Secretary of Defense approval to use additional techniques beyond those specifically listed in FM 34-52, or what we will call "counter resistance" techniques.

(U) On December 2, 2002, the Secretary of Defense approved a limited number of the counter resistance techniques that SOUTHCOM had requested, but rescinded his approval on January 15, 2003. The Secretary then directed the DoD General Counsel to form a working group. The DoD General Counsel requested that the General Council of the Department of the Air Force, Mary Walker, chair the group, to assess the legal, policy and operational issues relating to interrogation of detainees in the Global War on Terror and to make recommendations on the use of specific interrogation techniques.

(U) This working group issued its final report on April 4, 2003, and recommended 35 interrogation techniques to be used against "unlawful combatants outside the United States" subject to limitations described later in this section. In an April 16, 2003 memorandum, however, the Secretary of Defense accepted for use in GTMO only 24 of the proposed techniques,

which included the 17 techniques already found in FM 34-52. This memorandum has remained in effect to the present.

(U) The Initial Development of "Counter Resistance" Techniques

(U) Within the first few months of interrogation operations at GTMO, it became apparent that many of the detainees were skilled at resisting the 17 interrogation techniques enumerated in FM 34-52, and likely had been trained on U.S. interrogation methods. COL John Custer, USA, who led a Joint Staff team from August 14 to September 10, 2002 in reviewing intelligence collection operations at GTMO, reflected this concern in his final report, which observed that "JTF-170 has experienced limited success in extracting information from many of the detainees at GTMO," because "traditional [interrogation] techniques have proven themselves to be ineffective in many cases." The report noted that "[m]any of the detainees have undoubtedly received vigorous resistance to interrogation training," and that the detainees appeared to understand the Geneva Convention rules, as well as the traditional "US rules of engagement (limitations) regarding interrogations."

(U) Members of al Qaeda, in particular, were likely to be schooled in resistance to interrogation. British forces, for example, had recovered an al Qaeda training manual from the apartment of an al Qaeda operative in Manchester, England on May 10, 2000. Now commonly referred to as the Manchester Document, this manual contained detailed information on interrogation resistance, including instructions that an al Qaeda "brother" must:

- (U) "plan for his interrogation by discussing it with his commander"
- (U) maintain his cover story by "saying only the things that you agreed upon with your commander," and "executing the security plan that was agreed upon prior to execution of the operation and not deviating from it"
- (U) "pretend that the pain is severe by bending over and crying loudly" in the event that an interrogator applies physical coercion
- (U) "disobey the interrogator's orders as much as he can by raising his voice [and] cursing the interrogator back"
- (U) "disobey the interrogator's orders and take his time in executing them"
- (U) "proudly take a firm and opposing position against the enemy and not obey the orders"
- (U) "refuse to supply any information and deny his knowledge of the subject in question"
- (U) "not disclose any information, no matter how insignificant he might think it is, in order not to open a door that cannot be closed until he incriminates himself or exposes his Organization"

- (U) "remember the basic rule: even a little disclosure of information would increase your amount of torture and result in additional information for the questioning apparatus," and
- (U) remain "patient, steadfast, and silent about any information whatsoever"

(U) Another difficulty that hampered interrogations at GTMO was that interrogators did not have a clear understanding of the legal limits under which they were operating. While they did have FM 34-52 as a guide, this field manual was intended to guide interrogations of EPWs and therefore arguably was designed for a more restrictive environment than the one at GTMO. The danger, then, was twofold. On the one hand, interrogators might believe that their hands were essentially tied by FM 34-52, and adopt an overly conservative approach that would fail to extract intelligence from resistant detainees. On the other hand, interrogators who believed that they were unconstrained by the dictates of FM 34-52 might adopt overly aggressive strategies that could lead to detainee abuse. Again, the Custer Report acknowledged this problem by observing that interrogators did not "have a clear, delineated understanding of all the tools that are at their disposal when interrogating detainees." COL Custer recommended that SOUTHCOM "produce a 'White Paper' on 'Metrics for Interrogators' delineating what tools and measures are available and permissible to leverage control over the detainees while providing acceptable guidelines for questioning." Such a paper, COL Custer suggested, "could be used as a 'rule of thumb' or 'Rules of Engagement' eliminating interrogator confusion."

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(U) [redacted]

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(U) JTF-170's Request for Counter Resistance Techniques

(S) The concerns described above led the JTF-170 Commander, MG Michael Dunlavey, to forward a request on October 11, 2002 to SOUTHCOM, seeking approval of 19 interrogation techniques not explicitly described in FM 34-52.

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[redacted] The October 11, 2002 memorandum was declassified and released to the public on June 22, 2004. In the memorandum, MG Dunlavey noted that although the techniques then employed by interrogators in the Global War on Terror had "resulted in significant actionable intelligence, the same methods had become less effective over time."

(U) MG Dunlavey's request divided these additional, counter resistance interrogation techniques into three categories, based upon the perceived severity of the techniques. Category I techniques could be employed by an interrogator as part of a normal interrogation plan, vetted by the interrogator's immediate supervisors. Each use of Category II techniques would require the approval of the Interrogation Section Officer in Charge (OIC). Category III techniques, the most aggressive, could only be used after obtaining approval from the JTF-170 Commander. Each use of Category III techniques would also require a legal review by the Command Judge Advocate and notification to the SOUTHCOM Commander. All of these techniques are listed in the figure on the following page.

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JTF-170 Proposed Counter Resistance Techniques - October 11, 2002 (U)

(U) Category I techniques

- (U) Yelling at the detainee, but expressly excluding yelling that would cause pain or damage the detainee's hearing
- (U) The use of multiple interrogators
- (U) Deceiving the detainee by having the interrogator present a false identity. The assumption of a false identity would be intended to paint the interrogator as either a citizen of a foreign nation, or as an interrogator from a country with a reputation for harsh treatment of detainees

(U) Category II techniques

- (U) The use of stress positions (like standing), for a maximum of four hours
- (U) The use of falsified documents or reports
- (U) The use of an isolation facility for up to 30 days, with any extensions beyond the 30 days requiring approval from the JTF-170 Commander
- (U) Interrogation of the detainee in an environment other than the standard interrogation booth
- (U) Deprivation of light and auditory stimuli
- (U) The use of a hood placed over the detainee's head during transportation and questioning (the hood should not restrict breathing in any way and the detainee should be under direct observation when hooded)
- (U) The use of 20-hour interrogations
- (U) The removal of all comfort items (including religious items)
- (U) Switching the detainee's diet from hot meals to Meals, Ready-to-Eat (American military field rations)
- (U) Removal of clothing
- (U) Forced grooming (shaving of facial hair, *etc.*)
- (U) The use of a detainee's individual phobias (such as fear of dogs) to induce stress

(U) Category III techniques

- (U) The use of scenarios designed to convince the detainee that death or severely painful consequences are imminent for him and/or his family
- (U) Exposure to cold weather or water (with appropriate medical monitoring)
- (U) The use of a wet towel and dripping water to induce the misperception of suffocation
- (U) The use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing

(U) MG Dunlavey indicated that the Category III techniques were "required for a very small percentage of the most uncooperative detainees," which he estimated to be "less than three percent" of those held at GTMO. Under the proposed policy, any of the most aggressive techniques that would "require more than light grabbing, poking or pushing" were to "be administered only by individuals specifically trained in their safe application."

(U) The JTF-170 Staff Judge Advocate, [redacted] wrote an extensive legal review of the interrogation and counter resistance policy proposed by MG Dunlavey. This legal review was declassified and released to the public by the Office of the Secretary of Defense on June 22, 2004. As a result of her legal review, which examined the proposed policy in light of domestic criminal law, the Uniform Code of Military Justice, treaties, customary international law, and decisions of the European Court of Human Rights, [redacted] recommended that Category I techniques be approved for general use. She recommended that whenever "interrogations involving Category II and III methods" were planned, however, that the interrogations "undergo a legal review prior to their commencement."

(U) The SOUTHCOM Commander, GEN Hill, forwarded JTF-170's request for approval of counter resistance techniques to the Chairman of the Joint Chiefs of Staff on October 25, 2002. GEN Hill noted that JTF-170 had "yielded critical intelligence support for forces . . . prosecuting the War on Terrorism," but that "despite our best efforts, some detainees have tenaciously resisted our current interrogation methods." He stated that he believed "the first two categories of techniques are legal and humane," but was uncertain whether all the techniques in the third category were "legal under U.S. law, given the absence of judicial interpretation of the U.S. torture statute." GEN Hill was particularly troubled by the use of implied or expressed threats of death against the detainee or his family. He requested, therefore, that the Department of Defense and the Department of Justice review the third category of techniques. Finally, GEN Hill urged quick action on JTF-170's request for counter resistance techniques in view of the pressing need for actionable intelligence.

(U) On October 29, 2002, the Director of the Joint Staff, then-Lieutenant General John P. Abizaid, instructed the J-5 section of the Joint Staff, the Strategic Plans and Policy Directorate, to "take the lead in pulling this together quickly." On October 30, the J-5 section circulated MG Dunlavey's proposed techniques to the Joint Staff Office of Legal Counsel, J-2, J-3 and the service planners for comment, establishing a deadline of

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(U) The Debate Surrounding the Request for Counter Resistance Techniques

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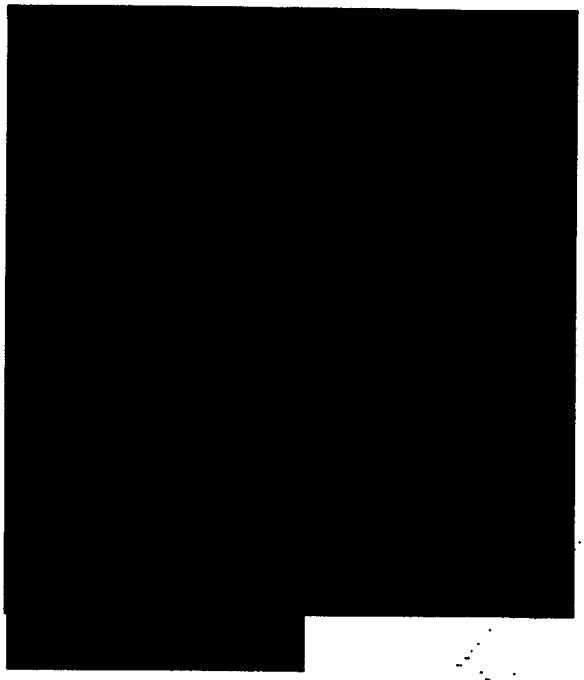
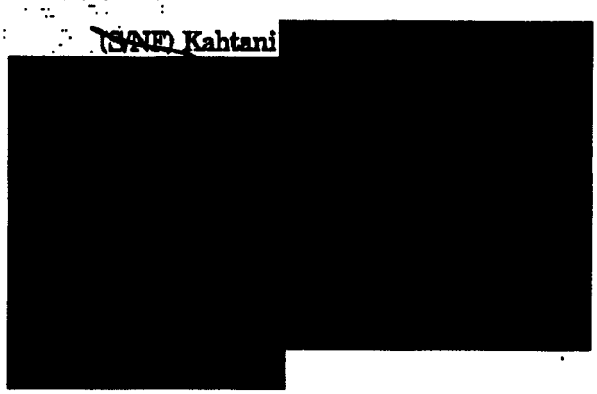


(U) The Interrogation Plan for Mohamed al Kahtani

(U) As discussion of JTF-170's request progressed, intelligence gathered from a variety of sources indicated that an al Qaeda operation against targets in the United States was likely or even imminent. Intelligence also indicated that Mohamed al Kahtani, a Saudi citizen and al Qaeda operative held at GTMO, possessed information that could facilitate United States action against that threat. As the 9/11 Commission Report observed, Kahtani was the operative who likely would have rounded out the team that hijacked United Airlines Flight 93, which crashed into an empty field in Shanksville, PA after the passengers had revolted against the four hijackers before they could maneuver the plane into either the White House or the U.S. Capitol. In August 2001, Kahtani had been refused entry by a suspicious immigration inspector at Florida's Orlando International Airport, where the 9/11 lead hijacker, Mohamed Atta, was waiting for him. Thus, Kahtani is commonly referred to as the "20th hijacker." (We note for clarification that some news reports have also referred to Zacarias Moussaoui, who was arrested in connection with the 9/11 attacks, as the "20th hijacker"; however, it is more accurate to use this description with Kahtani.)

~~(S//NF)~~ Kahtani



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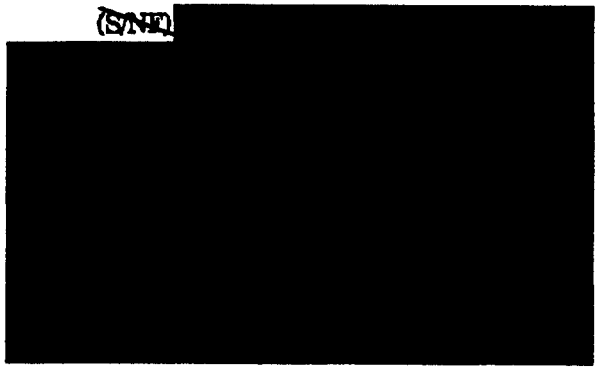

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(U) Secretary of Defense Approval of a Limited Number of Counter Resistance Techniques

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[redacted]

(b)(5)

In an action memorandum dated November 27, 2002, Mr. Haynes recommended to the Secretary of Defense that he approve for use all of the Category I and II techniques, but only the last of the Category III techniques, authorizing mild, non-injurious physical contact such as grabbing, poking in the chest with a finger, and light pushing. This recommendation therefore excluded the most aggressive Category III techniques - use of scenarios designed to convince the detainee that death or severely painful consequences are imminent for him and/or his family, exposure to cold weather or water, and the use of a wet towel and dripping water to induce the misperception of suffocation - that had particularly concerned both GEN Hill and representatives on the Joint Staff. Mr. Haynes noted in his forwarding memorandum that "[w]hile all Category III techniques may be legally available, we believe that, as a matter of policy, a blanket approval of Category III techniques is not warranted at this time." This reflected Mr. Haynes' view that "[o]ur Armed Forces are trained to a standard of interrogation that reflects a tradition of restraint."

(U) The Secretary of Defense accepted this recommendation on December 2, 2002 by noting his approval on Mr. Haynes' November 27, 2002 memorandum. Below his signature, the Secretary questioned why standing (which was listed as an

example under Category II stress positions) would be limited to 4 hours when he "stand[s] for 8-10 hours a day." This memorandum, with the Secretary's approval, was declassified and released to the public on June 22, 2004. For ease of reference, the counter resistance techniques approved by the Secretary on December 2, 2002 are listed in the figure below.

December 2, 2002 Approved Counter Resistance Interrogation Techniques (U)

(U) Category I:

1. (U) Yelling
2. (U) Use of multiple interrogators
3. (U) Deceiving the detainee by having the interrogator present a false identity

(U) Category II:

4. (U) Stress positions (like standing), for a maximum of four hours
5. (U) The use of falsified documents or reports
6. (U) Isolation for up to 30 days, with any extensions beyond the 30 days requiring approval from the JTF-GTMO Commander
7. (U) Interrogation of the detainee in an environment other than the standard interrogation booth
8. (U) Deprivation of light and auditory stimuli
9. (U) The use of a hood placed over the detainee's head during transportation and questioning
10. (U) The use of 20-hour interrogations
11. (U) The removal of all comfort items (including religious items)
12. (U) Switching the detainee's diet from hot meals to Meals, Ready-to-Eat (American military field rations)
13. (U) Removal of clothing
14. (U) Forced grooming (shaving of facial hair, *etc.*)
15. (U) The use of a detainee's individual phobias (such as fear of dogs) to induce stress

(U) Category III:

16. (U) The use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing

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(U) We note for clarification purposes that the Independent Panel apparently was under the impression that the above techniques could only be employed with advance notice to the Secretary and his personal approval, which the Panel believed was "given in only two cases." The December 2, 2002 memorandum, however, approved these techniques for general use and did not require that the Secretary receive advance notice or grant specific approval before the techniques could be employed. Nevertheless, as a practical matter, the Independent Panel was correct that the use of Category II and III techniques was largely limited to Kahtani and one other high-value detainee, as discussed later in this section.

[redacted]

(b)(5)

(U) Rescission of the Counter Resistance Techniques

(U) Shortly after the December 2, 2002 approval of these counter resistance techniques, reservations expressed by the General Council of the Department of the Navy, Alberto J. Mora, led the Secretary of Defense on January 15, 2003 to rescind his approval of all Category II techniques and the one Category III technique (mild, non-injurious physical contact), leaving only Category I techniques in effect.

(U) Concerns Raised by the General Counsel of the Department of the Navy

(U) [redacted]

(b)(5)

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