SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY:	Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN)
PRINCIPAL PURPOSE:	To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES:	Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE:	Disclosure of your social security number is voluntary.

1. LOCATION	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
CAMP VICTORY, BAGHDAD, IRAQ	2004/06/18		

5. NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS
[redacted]	[redacted]	COL

8. ORGANIZATION OR ADDRESS
OSJA, MNF-I

9. [redacted] WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

I was interviewed by MG FAY [redacted] on 17 June 2004. I was the senior Legal Advisor to LTG SANCHEZ from 15 June 2003 to 15 May 2004. The first time I remember discussing the need for a CJTF-7 command interrogation policy was after MG MILLER's visit to CJTF-7 in late August and early September 2003. We had questions about interrogations come up before then from subordinate units, but we didn't begin to formulate a CJTF-7 command policy until after MG MILLER's visit. I had some conversations with MG MILLER and the attorney on his team [redacted] during their visit to CJTF-7, and I attended the MG Miller team in-brief in the C2 office. There was dialogue about interrogation methods and approaches, and about the need for CJTF-7 to approach interrogations from the operational versus tactical level. When I sat down with [redacted] we discussed the difference between GTMO and Iraq, including the fact that the Geneva Conventions applied in Iraq. My officers and I felt that we needed to have a command policy on interrogation techniques, and several of my officers discussed GTMO's experience with such a policy with [redacted] length. I believe that MG MILLER's visit was the genesis for the development and drafting of the CJTF-7 interrogation and counter-resistance policy. We started working in concert with officers from the C2 and the 205th MI Brigade on drafting the policy.

While A Company, 519th MI BN may have had its own policy, I do not believe that it was the A/519th policy we used as the basis for our policy. To the extent there was a source document, I believe that it was the DOD memorandum pertaining to GTMO that had been published in the spring of 2003. We used the DOD cover memorandum and modified it as our own. My action officers worked with MI officers to review the approaches and scrubbed them to ensure compliance with the Geneva Conventions. We saw the A/519th document and used it, along with other comparative sources, to develop the CJTF-7 command policy. I remember seeing the A/519th policy and asking where the document had come from and why a company had its own policy. I assume that some of the other interrogation units had their own policies or simply used what was in Field Manual 34-52. This use of various policies was one of the major reasons why the recommendation that CJTF-7 needed one command policy was compelling. My office took input from the Field Manual, various policies, and MI officers and drafted the 14 September 2003 Interrogation and Counter-Resistance Policy. It was later updated in the 12 October 2003 policy, which remained in effect for 7 months. There were drafts that were staffed before the final October policy. As the drafts were reviewed, there were comments concerning how effective certain approaches were and whether our policy should list specific approaches at all. I believe that MI doctrine suggests that use of approved approaches should be left to the imagination of the interrogator, while ensuring that the appropriate controls were in place to stay within the bounds of the Geneva Conventions. I am not sure you can get everyone to agree precisely when otherwise approved and lawful approaches go outside the bounds of the Conventions, but that is why the command has policies and oversight, why there is doctrine, and why there are reviews of interrogation plans. I believe it is possible that the guys at the bottom weren't looking at the policy that we had issued from the top.

We provided the 14 September policy to CENTCOM and received comments through our legal technical channels. We also received input from the MI community. We modified the policy and published the 12 October policy. I am the author of the 12 October Interrogation and Counter-Resistance Policy. I am responsible for the policy document. It came out of my office. We wrote and typed the verbiage and I walked it in for CG signature. The military intelligence expertise came from the Military Intelligence community and I believe they are the ones who provided the input that came from their manuals.

The subject of denying detainees clothing puzzles me. Stripping a detainee to coerce or humiliate him is prohibited. While interrogators must control the environment, this must be done while maintaining the floor, the minimum requirements, of the Conventions. The leadership and those reviewing the interrogation plans should catch anything that violates the Field Manual or the Geneva Conventions. Now I go back and look at our policy and I ask myself if anyone might have misinterpreted or misunderstood what we wrote. The use of dogs is an example. Military working dogs can be used for security. If they were present in the cellblock for security purposes or on the grounds for crowd control or bomb-sniffing, they are not subject to our policy. However, if they are to be part of an interrogation approach, then their use would be restricted by the policy and subject to all of the safeguards and approvals. I doubt that any request to bring dogs into an interrogation booth as part of an interrogation approach would be approved because of issues of coercion and safety. Segregation is keeping a detainee separated from the

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT [redacted]	PAGE 1 OF 3 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE BE INDICATED.

STATEMENT OF [redacted] TAKEN AT Camp Victory DATED 2004/06/18

9. STATEMENT *(Continued)*

general population for security or to prevent collusion. Segregation is also used to separate officer and enlisted POWs, males and females, adults and juveniles. Although often used interchangeably and not defined in the policy, it is different than isolation. It is not solitary confinement and cannot be done to be coercive. Segregation in excess of 30 days required CG approval.

If a detainee was placed in a dark, dank room for purposes of setting conditions for interrogation, it should have been laid out in the interrogation plan and all those leaders reviewing the interrogation plans should have said, "wait a minute, this doesn't look right." I agree that both MI and MP should have known what was going on in the facility. COL PAPPAS worked tirelessly trying to get the place running to appropriate standards and I have observed him to be a very conscientious officer. People were on edge and under pressure in the September/October/November time frame. In the Fall of 2003, CJTF-7 was under intense pressure not only as to interrogation operations, but also as to the production of intelligence in general. I cannot recall ever discussing this with LTG SANCHEZ, but I do recall conversations with officers at the Colonel level stating that the boss or the C2 had just received a call from D.C. in reference to intelligence production. I recall everyone being very tired by this time, and a lot of activity was going on. We all seemed to be under a lot of pressure, but that is part of being in combat for a sustained period. I do not recall CENTCOM pressuring us for intelligence.

In the summer and early Fall of 2003, there was an enormous problem in getting supporting documentation when a detainee was captured. CJTF-7 wrote and published orders and policies on how to tag personnel, and how to document the circumstances of capture. In May or June, we produced detailed capture forms and an accompanying training package. Compliance in the field was uneven at best. Between March and November 2003, we would commonly have prisoners with sparse documentation. This was a problem consistently addressed by the command. Eventually, we published orders that said we would not accept detainees without proper documentation, including sworn statements. It is correct that the biggest problem with documents, numbers and pushback was 4ID.

RELEASE BOARD: This Board was called the Review and Appeal Board and began in August 2003. At the beginning, the files coming to the Release Board were thin. They would sometimes include an incomplete capture tag or CPA apprehension form, and sometimes a sworn statement, and sometimes a seemingly random assembly of MI documents. MG FAST was the Board President and expressed great frustration at the lack of documentation available, particularly MI documents. The recorder would put together a Board file for plenary session review by the Board members. Adjunct members from MI, MP and CID would attend so the Board had as complete a picture of the detainee as possible. At first, it was very difficult to assess the detainee files. The Review and Appeal Board looked at security internee files only. There were two Boards and the other one dealt with criminal detainees. BG KARPINSKI chaired the Criminal Detainee Release Board.

The Review and Appeal Board would base its decision on the information on the capture tag or CPA apprehension form, MI documents, sworn statements if available, and on the judgement of its members. Even if a person was no longer of intelligence value, they could still pose a threat to Coalition Forces or security. At the beginning, the Board went through a learning and maturation process on how to manage risk. We had no experience base or historical data/demographics to fall back on. Insofar as I know, this was the first time since WWII, then using customary law and the Hague Regulations, that this type of Board was established. In the Fall of 2003, the insurgency became a real issue, the security situation worsened, and we found ourselves in a more dangerous time. There was an increase in attacks from the Former Regime Elements and they were becoming more organized. Intelligence became more critical, both enemy attacks and our offensive operations increased, and the security internee population mushroomed. The Board was trying to find an appropriate balance between release and security, and we took the side of security. We did not want to take a chance based on what we didn't know. Unfortunately, we didn't know much from an intelligence standpoint, at least early on. At times there were no screening sheets and the only thing we had was a capture tag stating that a detainee was captured during a raid of a former regime cell. We would return the file for more MI input and would request that the interrogator talk to the detainee to obtain more information. Despite the difficulties, the Board system was undergoing constant improvement and reviewed thousands of cases, releasing the majority of detainees considered by the Boards.

After a couple of months of Boards, we created more mechanisms to push cases through this process. In October, the Detainee Assessment Board started sending the Board cases of persons who were deemed of no further intelligence interest. We created pre-screening panels of MI, Judge Advocate and MP officers. We devoted increased resources to the problem, all taken out of hide. In the SJA section alone, we had ten personnel doing detention operations, which is not our task or mission, and for which we are not resourced. By the beginning of November, the Board was meeting more frequently and General Officer members were replaced by field grade officers so that the Board could meet for longer periods of time and more often. By February, the Board was meeting six days a week, all day, with permanent members. By January 2004, I think all of us involved in the detainee area knew that we had to change the Board's philosphy and predisposition from retaining detainees to releasing detainees. I proposed that we take steps to change the Board's release philosophy and the CG agreed, authorizing these changes with the implementation of the full-time Board in February. At the same time, however, we continued to have tremendous push back from some commanders in the field. There would be a huge outcry if the Board released one perceived bad guy among thousands of releases. The CG issued command policy memoranda and orders, and I did a presentation at the commander's conference, concerning the need to treat all persons, including detainees, with dignity and respect. The presentation, as well as our published Rules for Conduct in Combat on which all Soldiers were to be trained, emphasized that Soldiers were to use judgment and discretion in detaining civilians, and were to detain civilians only when necessary and authorized by the ROE. The CG stressed precision, focused raids.

ICRC: I was not present at Abu Ghraib during the ICRC visit in October 2003 and, insofar as I know, nobody from the CJTF-7 headquarters or my office was present at the ICRC out-brief. Usually, one of my officers or I would attend the out-brief on ICRC

STATEMENT OF [redacted] TAKEN AT Camp Victory DATED 2004/06/18

9. STATEMENT (Continued)

camp visits. We met with the ICRC periodically at their Baghdad headquarters until it was bombed and then the meetings were sporadic, often occurring at CPA. Attendees would include officers from my office, 800th MP Brigade, PMO and the CPA Office of General Counsel. We tried to have an MI officer attend as well, although this was not always possible. Throughout 2003, all ICRC reports were addressed to the commander or subordinate commanders of the 800th MP Brigade. SJA received a copy of reports. Letters on specific topics addressed to LTG SANCHEZ were given to me and I would prepare the response for him. Many of the ICRC reports, called "working papers," were responded to orally and the ICRC did not desire or expect a written response from the camp commanders. The ICRC report of the October visit to Abu Ghraib was transmitted by cover letter dated 12 November 2003 and was addressed to Brigadier General KARPINSKI. I believe that it was given to one of my officers by the ICRC Protection Delegate [redacted], at the meeting with the ICRC held on 16 November. I was on leave from 12 through 30 November and one of my officers, [redacted] prepared an analysis of the report on 25 November. Two days later, my office sent the analysis and the report out to the CJTF-7 C-2 and the 800th MP Brigade for review. On 4 December, a meeting was held at Abu Ghraib attended by MP, MI and legal personnel in order to discuss the report. I did not attend the meeting. I believe that [redacted] attended the meeting. In mid-December, the draft response was sent by my office to the 800th MP Brigade for review and coordination. The Brigade has its own SJA and legal section, and is, of course, commanded by a Brigadier General. I recall seeing drafts of the response in December, but I don't know if the Brigade made changes to the final product. General KARPINSKI signed the response, which was dated 24 December 2003. I couldn't believe it. I spoke to Judge Advocates and MI officers who were familiar with the conditions at Abu Ghraib and the uniform reaction was that these reports could not be credible. I recall talking with [redacted] the Deputy Commander of the 205th MI Brigade [redacted] and [redacted] the Command Judge Advocate of the 205th MI Brigade, all of whom I know to be [redacted]. [redacted] and I discussing that the report had to be exaggerated. I remember a conversation in which the statement was made that the allegations were crazy, because the [redacted] report to LTG SANCHEZ or MG WOJDAKOWSKI. While this would not [redacted] In hindsight, I regret not having take[n] [redacted] In hindsight, I regret not having taken [redacted] report to LTG SANCHEZ or MG WOJDAKOWSKI. While this would not have prevented the abuse we subsequently discovered because it had taken place in November, we would have notified CID a month earlier than we did. The ICRC next visited Abu Ghraib during the period 4 through 8 January 2004 and, compared to October, it was a good visit. The ICRC positively commented on improvements. Invoking Article 143 of the Fourth Geneva Convention, we did not allow the ICRC to have private interviews with 8 internees who were undergoing active interrogation, but did allow the ICRC delegate to see the detainees, observe the conditions of their detention, and obtain their names and Internee Serial Numbers. We informed the ICRC that they could have private interviews in future visits, and this was done. The night before the ICRC visit, I went to the Hard Site with [redacted] and we found females and criminal detainees commingled with security internees on the 1A side. The MPs stated that they had moved the detainees there for ease of security and observation. [redacted] and I told them that this violated the Geneva Convention and that the detainees had to be moved that night. This [redacted] Q. Is there anything else you would like to add to this statement? A. No.

//End of Statement//

AFFIDAVIT

[redacted] HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[redacted]
(Signature of Person Making Statement)

WITNESSES

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 20 day of June, 2004 at Baghdad, Iraq

[redacted]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

[redacted]
(Typed Name of Person Administering Oath)

UCMJ, ARTICLE 136 10 U.S.C. § 1044a
(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT