

09 June 2004

MEMORANDUM FOR RECORD:

SUBJECT: Procedure 15 Interview of [REDACTED]  
[REDACTED]

On 09 June 2004, [REDACTED] interviewed [REDACTED]. The following is based on what [REDACTED] answered to a series of questions he was asked. He is currently reviewing his statement.

[REDACTED]  
OSJA, HQCO, MCCDC,  
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I arrived in Kuwait on the 3<sup>rd</sup> week of July 03 and immediately deployed into Baghdad, Iraq. My duty the first three weeks was operations lawyer for LTG SANCHEZ. I worked for [REDACTED]. After three weeks, the Navy lawyer redeployed to Germany and I became the Chief of Operations Law over the Task Force. When [REDACTED] arrived in January 04, he replaced me and I went back to work with [REDACTED] on some issues we had worked on before. The Interrogation Rules of Engagement is a misnomer it is not the correct use of policy when dealing with detainees. The Policies were "Interrogation and Counter Resistant Policy." I first began dealing with interrogation operations when MG MILLER visited Iraq. It was understood that they had a great deal of experience from GTMO and had come to help us gain operational level intelligence. [REDACTED] the GTMO team and I met to discuss policies for use in Iraq. This was a new game and we were discussing the role of lawyers to make policy. We took the Field Manuals, policies and government regulations to find out how they ran operations. The reason we began writing a CJTF-7 Policy was because there were too many units using their own policies. We felt it was a good idea to have a CJTF-7 Policy to regulate interrogation operations. When MG MILLER came, he brought his policies. We gathered all documentation available on Interrogation and Counter Resistant. These are some of the documents I remember we used: FM 34-52, GTMO policies, CJTF-180 policies, Fourth Geneva Convention, International Laws, DOD Directives, FM 27-10, EPW Regulations. I do not remember seeing the power point slide [REDACTED] created. It looks to me that she was doing her best to put some policy together for her folks and being proactive. We saw the policies GTMO had and we felt that we needed to focus on the Fourth Geneva Convention because unlike GTMO, the fourth Geneva Convention did apply in Iraq. We saw memos from other theaters and focused on; what had been done right; what we could task; and what didn't fit in our theater. Our situation was different and had to be desperate and distinct to what we were trying to do. We went through a drafting process where we would look at other policies and studied them to try to find and interpret the law. We also wanted to give the intelligence community the ability to do their job while following the Geneva Convention. We initially sent a draft to CENTCOM in September (DATE). The draft was thematically similar to the policy done

by GTMO. CENTCOM came back and had some concerns with the draft policy we had sent. I agreed with their criticism; Stress management and Sleep management were some of the concern. CENTCOM felt they did not comply with the Geneva Convention and could be subjective. The first problem was the ability to try to place safeguards on each technique wasn't working. (Certain techniques had time limits and we believed it was up to the unit to request implementation of timing which would be different with each detainee). After we received the Draft back from CENTCOM, we decided we would stick to FM 34-52 and instead of writing down techniques, we focused on safeguards. We wanted to focus on the process. We wanted interrogation plans to be comprehensive and approved at the units level by the leadership. We wanted leadership involved in the interrogation plan process. We did not want to come up with a list of techniques written by lawyers which would then become the only legal techniques which did more harm than good. We wanted to allow the interrogator to use the Manual to use the techniques that best suited his detainee. We added segregation on the policy for the effectiveness of interrogations. We believed that a detainee should not go back to his buddies to collaborate and exchange information. If a group came in, we needed to segregate them from one another. The approval had to be approved by C2, SJA and finally the CG. I do not think that segregation is a Geneva Convention term but it is an important concept that is discussed in FM 34-52. We felt it was important for the interrogator to control the movement of a detainee. Once the detainee was returned to his fellow detainees, the interrogator lost control of the environment. We limited this to 30 days and anything that went beyond that had to get approved by higher. Why 30 days? There is no book on time duration of segregation and we thought that anything less than 30 days was humane but anything passed 60 days was inhumane. A person trying to solve a problem probably needs more than one week but less than two months to fix a problem. So we decided one month was probably safe anything beyond that required CG approval. We felt this was a reasonable time for an interrogation to last until it required the CG's involvement and approval. Another word we changed was EPW to security detainees. We made the change because we realized that the number of EPWs were very small and there was already a procedure for EPWs (FM 34-52). We were now had more security and civilian detainees. Our problem was that there was no guidance out there on how to deal with security and civilian detainees. We used the Fourth Geneva Convention because it covered civilian detainees. The Interrogation and Counter Resistant Policy was being staffed to the units and staff. MG FAST reviewed it for the intelligence community and (WHO REVIEWED IT FOR THE UNITS AND OTHER STAFF ELEMENTS?). The policy is still not perfect but I believe it is pretty good. A lot of hard work by a lot of people went into writing the policy letters. The final policy approved by CENTCOM was the 12 October 03 Policy. There was a reduction in the techniques listed in the previous policy. We felt that our attorneys were not expert in telling the interrogators how to do Interrogations. The only way we felt we could manage interrogations was to enforce the Interrogation Plans and have the intelligence community conduct oversight of them. We felt that those that would come to us would be exceptions to policy instead of advocating to interrogators what techniques to use and time limitations. It all had to be focused on the particular detainee they were interrogating. We empowered the Intelligence community to focus on the interrogation plan. Each one would be specific based on the detainee and when they wanted to go outside of the acceptable techniques,

they would submit the request. We understood the combination of techniques would be used and the effect these techniques had on a detainee had to be monitored by the leadership reviewing the interrogation plans. One of the problems I saw coming in as an outsider, was the FRAGO system we had in place. The policies had to get down to the lowest level. We had other services and other countries and we had a problem with distributing the FRAGOs to everyone. The CG always discussed the responsibility of every one to treat detainees with dignity and respect. He would send this out on the FRAGOs that went out. He would get very frustrated because he felt some were not following his request. (I AM NOT SURE IF I CAPTURED THIS RIGHT). The reason for classifying the documents was because we did not want to compromise what we were doing. The second draft (DATE) was never meant to be followed by anyone. It was being staffed. I do not recall the staffing method for the drafts. The normal method was Current Operations' Lawyer would place the document in a folder. The staff would then go to the folder and review it and make comments. The other way was to place a cover sheet on it and send it out hard copy. I might have seen two policies that were signed and I do not know why the CG signed it because it was going to CENTCOM for approval. I was not in on any meeting with LTG SANCHEZ. The only thing I remember is that [REDACTED] told me that the policy only gets implemented if it is approved by CENTCOM. I do not know how the policies went out before they were approved by CENTCOM. I would assume it was leaked out. I was not involved with the ICRC visit or writing the response to their findings [REDACTED] was). I did see one ICRC report in January and I sent it to III Corps for their response. The ICRC report was based on a lot of anecdote and it was hard to understand what was true and what wasn't. I never heard of LTG Sanchez giving any blanket use of techniques not even for the night of the shooting. I do remember him being very upset that we had soldiers going in after a detainee who had a gun and not having a preplanning to respond with the appropriate amount of firepower. LTG SANCHEZ expected the leadership to get involve at every level. I do not recall any approval authority delegated to COL PAPPAS. It is up to the commanders to ensure humane treatment is followed and to oversee the limits of what techniques are being done.

[REDACTED]  
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Investigating Officer

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