

Mr Army G3/AOC (b)(6)-2

From: [REDACTED] MAJ PMG (b)(6)-2
Sent: Tuesday, August 17, 2004 3:30 PM
To: Ryder, Donald J. MG
Cc: [REDACTED] COL PMG [REDACTED] Mr PMG (b)(6)-2
Subject: Final Info Paper in response to CFLCC role (UNCLASSIFIED)

Attachments: Info Paper DO EA Rolesv3 17 Aug 04.doc

Classification: UNCLASSIFIED

Caveats: NONE

Sir, we also were responsible for incorporating G2 Intel Oversight into our info paper to DAS. This is the final doc that was blessed by OTJAG and G2.

v/ [REDACTED] (b)(6)-2



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Caveats: NONE

INFORMATION PAPER

Detainee Operations

SUBJECT: CFLCC Commander's Role in Detainee and Operations and Intelligence Oversight

BACKGROUND: Commander of CFLCC requested clarification of his role and responsibilities for detainee operations and intelligence oversight. The context of this request was to clarify CFLCC's role, with respect to the Secretary of the Army's role as Executive Agent (EA) for the EPOW and Detainee Program, to provide detainee and interrogation operations in support of the combatant commander. He also requested clarification of his role and responsibilities for intelligence oversight, particularly regarding reporting and investigating allegations of questionable intelligence activity as they relate to detainee operations.

MAJOR POINTS:

1. Detainee Operations:

- As the EA for detainee operations, SA is responsible for developing policy and planning guidance for Detainee Operations in support of Combatant Commands. As it applies to Detainee Operations and, in accordance with Title 10 U.S.C., SA is also responsible for providing organized, trained and equipped forces in support of combatant commanders.
- Combatant commanders are responsible for executing detainee operations within their Area of Responsibility (AOR). The combatant commander can organize forces as necessary to "provide for the proper treatment, classification, administrative processing, and custody of those persons captured or detained by the Military Services under their command and control," in accordance with DOD (DODD) Directive 2310.1 and AR 190-8.
- As a Combatant Command, CENTCOM could organize and give CFLCC responsibility for conducting detainee operations in the CENTCOM AOR. As such, CFLCC's responsibility would be an extension of CENTCOM's operational authority and not an extension of the Army's EA or Title 10 responsibilities. CFLCC's only role, with respect to EA responsibility for Detainee Operations, would be promulgation of Detainee Program policy and planning guidance to ensure that all detainees are accounted for and humanely treated, and that collection, evacuation, internment, transfers, release, and repatriation operations are conducted per AR 190-8.

2. Intelligence Oversight:

- Intelligence oversight responsibility is vested in every DoD entity that has intelligence assets or conducts intelligence operations per DoD 5240.1-R. It obligates all DoD employees to report any conduct, by an individual or an entity, that constitutes—or is related to—an intelligence activity that may violate the law, any executive order or Presidential directive, or any applicable DoD policy. Additionally, CJCSI 5901.01 charges combatant commanders with conducting inquiries or investigations, as warranted, for allegations in units OPCON to the combatant command.
- An allegation of questionable activity must be reported regardless of whether it is substantiated or not. Per a 2 Jun 2004 ATSD-IO memo, all allegations concerning misconduct or

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abuse of detainees by DoD intelligence personnel or assigned contractor personnel will be passed through Inspector General channels immediately to the ATSD-IO. Each report of questionable activity shall be investigated to the extent necessary to determine the facts and assess whether the activity is legal and is consistent with applicable policy.

- Army units OPCON to a combatant command should report allegations through the combatant command chain, with an information copy through the Army chain of command to the HQDA DCS, G2. Army units not OPCON to a combatant command or a subordinate task force, but whose activities may impact upon the combatant command or task force, should report allegations through the Army chain of command to the DAIG, with an information copy to the combatant command/task force J2. This ensures all affected elements are aware of the allegations, and can identify and correct systemic issues that may surface as a result of the inquiry.

SUPPORTING POINTS:

- DODD 2310.1 provides that the SA, as the DoD EA for the administration of the DoD EPOW Detainee Program, shall act on behalf of the Department of Defense to develop and provide policy and planning guidance to the combatant commander for the treatment, care, accountability, legal status, and administrative procedures for all personnel captured or detained by, or transferred from the care, custody, and control of, the U.S. Military Services.
- General Order # 09-03: provides that, effective 26 September 2003, the Provost Marshal General (PMG) will exercise Secretary of the Army's Executive Agent responsibilities for Detainee Operations. The PMG is the proponent for AR 190-8, the Multi-Service Regulation that provides policy for detainee operations and promulgates Geneva Conventions and DODD 2310.1.
- AR 381-10 applies to all Army personnel conducting intelligence activities.

COORDINATION: OTJAG, COL (b)(6)-7, and G2, Ms (b)(6)-Z
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