

## **MILITARY TRAINING LESSON PLAN: PRIME TIME TORTURE**

### **For More Information:**

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### **PURPOSES:**

**Correct** misperceptions about torture and other prohibited conduct fostered by popular dramatic television shows such as “24,” “Lost,” “Alias” and others.

**Ensure** military personnel are aware that Field Manual (FM) 2-22.3 (Human Intelligence Collector Operations) requires that treatment of detainees in military custody is consistent with U.S. and internationally recognized legal standards.

**Assist** DoD agencies {or military branches – not sure the army, etc are agencies of DoD] (i.e. Army, Navy, Air Force, Marine Corps, Coast Guard) in implementing effective programs to prevent violations of the law of war including law of war training and dissemination as required by the Geneva Conventions, Uniform Code of Military Justice, DoD Directive 2311.01E, "DoD Law of War Program" (2006),,and DoD Directive 2310.01E, "The Department of Defense Detainee Program" (2006).

### **LEGAL BACKGROUND:**

Geneva Conventions I-IV

Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment

International Covenant on Civil and Political Rights

Uniform Code of Military Justice (UCMJ)

War Crimes Act of 1996(18 U.S.C. § 2441)

Anti-Torture Statute (18 U.S.C. §§ 2340-2340A)

Military Extraterritorial Jurisdiction Act of 2000 (Pub. L. No. 106-778) (MEJA)

The Detainee Treatment Act(McCain Amendment), §§ 1002-03, Pub. L. No. 109-163, (2006)

## **DEFINITIONS:**

Cruel, Inhuman or Degrading Treatment (CIDT). Treatment or punishment which is inconsistent with U.S. and international standards related to concepts of dignity, humanity, decency, and fundamental fairness. Conduct amounting to CIDT may often alone, or in combination with other actions, constitute torture as well. Prohibited actions include (but are not limited to) beatings and many other forms of physical pain, forcing detainees to be naked or perform real and/or simulated sexual acts, posing in a sexual manner, beatings, electric shocks, burning, using military working dogs, inducing heat and cold injuries, deprivation of food, water, or medical attention, mock executions, hooding or sacking during interrogation, water-boarding (simulated drowning), and damaging or destroying religious books or other articles. (See also below “torture”)

Detainees & Prisoners. Includes all persons captured or detained by armed forces including civilian detainees, internees, and Enemy Prisoners of War (PW). Prisoners of War are detainees who meet more specific requirements found in the Geneva Convention relative to the Treatment of Prisoners of War. The handling and treatment of all detainees must be consistent with applicable legal standards. No detainee, whatever his status, may be subjected to torture or cruel, inhuman, or degrading treatment.

Interrogation. The systematic process of using interrogation approaches to question a detained or captured person to obtain reliable information to satisfy intelligence requirements consistent with applicable law. Interrogation is an art that can only be effective when practiced by trained and certified personnel.

Law of War. The body of international law that regulates the conduct of armed hostilities. It is often called the “law of armed conflict.” The law of war encompasses all international law for the conduct of hostilities that are legally binding upon the United States, in particular the U.S. armed forces and individual members of those armed forces. The law of war is derived primarily from treaties (such as the Hague and Geneva Conventions) and firmly established customary law recognized by all civilized nations (such as the use of a white flag to signal surrender).



Torture. Any act causing severe pain or suffering, whether physical or mental, that is intentionally inflicted by a person acting in an official capacity.

## **BASIC PRINCIPLES: TREATMENT OF DETAINEES**

The Armed Forces of the United States will comply with the law of war during all armed conflicts (i.e. all combat operations). International and U.S. laws prohibit torture and cruel and inhuman treatment of any and all persons in military custody. These laws prohibit such treatment at all times, whether in peace, war, or any other conflicts.

Federal law mandates that no one in the custody or control of military personnel (or non-military DOD personnel) or in a DOD facility may be subjected to any interrogation technique or treatment that is not specifically authorized by or listed in the United States Army Field Manual (FM 2-22.3). Although this is a regulation developed by the Army, it applies to all the military services, not just the Army.

All persons are protected from torture or abuse whether they are determined to be a prisoner-of-war, protected person, security detainee or so-called “unlawful enemy combatant.” These protections apply anywhere in the world U.S. military personnel (or DOD civilians) have custody or control over detained persons. The use of force, threats, insults, or exposure to unpleasant and inhumane treatment of any kind is prohibited and is neither authorized nor condoned by the U.S. Government.

Experience indicates that the use of force is not necessary for interrogation. Therefore, the use of force is a poor technique, as it yields unreliable results, may damage subsequent collection efforts, and can induce the source to say whatever he thinks the interrogator wants to hear.

Persons captured or detained by the U.S. Military shall normally be handed over for safeguarding to U.S. Army Military Police, or to detainee collecting points or other holding facilities and installations operated by U.S. Army Military Police as soon as practical.

Suspected or alleged violations of the law of war must be promptly reported to the appropriate authorities and investigated.

Torture or cruel, inhuman, or degrading treatment of detainees may result in administrative punishment or criminal prosecution under the UCMJ and/or other U.S. criminal statutes.

### **SUGGESTED INSTRUCTOR SEQUENCE PRIME TIME TORTURE**

STEP 1: Discuss purposes of the film, Prime Time Torture in context of Iraq War, Afghanistan, War on Terror, etc.

STEP 2: Discuss/Review general obligations of military personnel under laws of war (LOW)/law of armed conflict (LOAC) with respect to detainees and other prisoners. Discuss FM 2-22.3.

STEP 3: Present Human Rights First, “Prime Time Torture” film

STEP 4: Utilize discussion questions below to develop further understanding and appreciation for the legal and moral obligations of military personnel to avoid cruel treatment, torture, or other abuse of detainees.

STEP 5: Review/Summarize

**SUGGESTED POINTS OF DISCUSSION**

(See PowerPoint Slides)

**DISCUSSION #1**

In the film, *Prime Time Torture*, experienced interrogators pointed out the fallacy of the so-called “ticking time bomb” scenario. If a terrorist knows he only has to keep the location of the bomb secret for a short time until it explodes, which scenario seems more likely?

Scenario A: Terrorist provides false information until bomb explodes.

Scenario B: Terrorist reveals location of bomb.

Is it surprising to you that none of the experienced professionals has ever encountered such a scenario over the course of their careers?

**DISCUSSION #1: (\*alternative)**

In the film, *Prime Time Torture*, experienced military interrogators repeated several times that torture or abuse simply does not work and, in fact, is just as likely to yield false or rehearsed intelligence.

A. Can you give potential reasons why this may be true?

B. What about the ticking time bomb scenario?

**DISCUSSION #2**

Your squad breaches the door of a suspected insurgent safe-house. After securing the building and flex-cuffing six people found inside, one of your team-members finds materials typically used in making IEDs (bombs) under some floor tiles. There is reliable intelligence that IEDs are also being assembled in another location nearby. Unfortunately, this other location has not yet been specifically identified. Finding this other “bomb factory” is a very high priority.

A. How should you treat these detained persons?

B. What are some potential long and short-term repercussions if any of these detainees are mistreated?

### **DISCUSSION #3**

A. Can the use of torture or other illegal abuse of detainees by U.S. military personnel bring discredit upon America?

B. Could the use of torture or other abuse of detainees by U.S. military personnel have a negative overall impact on the mission?

C. Could the use of torture or other abuse of detainees by U.S. military personnel undermine domestic and international support?

### **DISCUSSION #4**

A. Why isn't Law of War a "two-way street?"

B. What is the linkage between our American legal and moral values and our military objectives on the battlefield

### **DISCUSSION #5**

A. Would information gained through torture be worth the price paid in American lives or national honor, or in our capacity to persuade other nations to follow our lead?

If you believe the answer is "YES," can you provide any actual evidence or corroborated historical example of an instance when such critical information was gained by military personnel in a combat interrogation using torture or other cruel or abusive treatment?

(Show me the money).

### **DISCUSSION #6**

A. Is it worth your personal honor to take the outside chance that you might gain actionable intelligence by abusing a detainee?

B. Is it worth criminal prosecution (court-martial)?

### **DISCUSSION #7**

A. Why should we not use torture? Our enemies do not hesitate to use it? Why does our country expect us to strictly obey laws and regulations that our enemies often simply ignore?

B. If the police are trying to arrest criminals, should we let the police become criminals themselves in order to find and arrest them?

C. Should we allow ourselves to become the enemy we fight?

### **REVIEW/SUMMARY**

Law of War/UCMJ/Geneva Conventions

FM 2-22.3 (Application all Military Services)

NO Torture (or Cruel/Abusive Interrogation Methods)

Specific Prohibitions

Sick, Wounded, Injured Detainees

Command Responsibility

Duty to Report Violations

When in Doubt?

Why We Don't Abuse

Ticking Time Bomb Scenario?

Television vs. Reality