

DODD 2310.1 DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees

(Short Title: DoD Enemy POW Detainee Program), August 18, 1994 ASD(ISA)

References: (a) DoD Directive 5100.69, "DoD Program for Prisoners of War and Other Detainees," December 27, 1972 (hereby canceled)

(b) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field, August 12, 1949

(c) Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, August 12, 1949

(d) Geneva Convention Relative to the Treatment of Prisoners of War, August 12, 1949

(e) Geneva Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949

(f) DoD Directive 5100.77, "DoD Law of War Program," July 10, 1979

A. REISSUANCE AND PURPOSE

This Directive:

1. Reissues reference (a) to update policy and responsibilities within the Department of Defense for a program to ensure implementation of the international law of war, both customary and codified, about EPOW, to include the enemy sick or wounded, retained personnel, civilian internees (CIs), and other detained personnel (detainees) . Detainees include, but are not limited to, those persons held during operations other than war.

2. Designates the Secretary of the Army as the Executive Agent for the Department of Defense for the administration of the DoD EPOW Detainee Program.

B. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, and the Defense Agencies. The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard when it is operating as a Military Service in the Navy.

C. POLICY

It is DoD policy that:

1. The U.S. Military Services shall comply with the principles, spirit, and intent of the international law of war, both customary and codified, to include the Geneva Conventions (references (b) through (e)).

2. The U.S. Military Services shall be given the necessary training to ensure they have knowledge of their obligations under the Geneva Conventions (references (b) through (e)) and as required by DoD Directive 5100.77 (reference (f)) before an assignment to a foreign area where capture or detention of enemy personnel is possible.

3. Captured or detained personnel shall be accorded an appropriate

legal status under international law. Persons captured or detained may be transferred to or from the care, custody, and control of the U.S. Military Services only on approval of the Assistant Secretary of Defense for International Security Affairs (ASD(ISA)) and as authorized by the Geneva Conventions Relative to the Treatment of Prisoners of War and for the Protection of Civilian Persons in Time of War (references (d) and (e))

4. Persons captured or detained by the U.S. Military Services 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. Detainees may be interviewed for **intelligence** collection purposes at facilities and installations operated by U.S. Army Military Police.

D. RESPONSIBILITIES

1. The Under Secretary of Defense for Policy shall:

a. Have primary staff responsibility for the DoD EPOW Detainee Program.

b. Ensure that the ASD(ISA) shall provide for overall development, coordination, approval, and promulgation of major DoD policies and plans, including final coordination of such proposed plans, policies, and new courses of action with the DoD Components and other Federal Departments and Agencies as necessary.

2. The Secretary of the Army, as the DoD Executive Agent for the administration of the DoD EPOW Detainee Program, shall act on behalf of the Department of Defense in the administration of the DoD EPOW Detainee Program to:

a. Develop and provide policy and planning guidance for the treatment, care, accountability, legal status, and administrative procedures to be followed about personnel captured or detained by, or transferred from the care, custody, and control of, the U.S. Military Services.

b. Provide for an EPOW and CI camp liaison and assistance program on transfer of persons captured or detained by the U.S. Military Services.

c. Plan for and operate a U.S. EPOW and CI Information Center and its branches.

d. Under the Geneva Conventions Relative to the Treatment of Prisoners of War and for the Protection of Civilian Persons in Time of War (references (d) and (e)), on the outbreak of an armed conflict, or when persons are captured or detained by the U.S. Military Services in the course of the full range of military operations, ensure that a national-level information center exists that can fully serve to account for all persons who pass through the care, custody, and control of the U.S. Military Services.

e. Provide, in coordination with the ASD(ISA), appropriate reports to the OSD, the Chairman of the Joint Chiefs of Staff, and information or reports to other U.S. Government Agencies or Components, to include the Congress of the United States, or to the International Committee of the Red Cross.

f. Designate a single point of contact to provide necessary advice and technical assistance to the ASD(ISA), the Military Departments, and the Chairman of the Joint Chiefs of Staff.

g. Ensure that the Judge Advocate General of the Army, in coordination with the Army General Counsel and the General Counsel of the Department of Defense, provides legal guidance within the Department of Defense about the DoD EPOW Detainee Program, to include review of plans and policies developed in connection with the program, and coordination of special legislative proposals and other legal matters with other Federal Departments, Agencies, or Components.

3. The Secretaries of the Military Departments shall:

a. Develop internal policies and procedures consistent with this Directive in support of the DoD EPOW Detainee Program.

b. Ensure that appropriate training, as required, under DoD Directive 5100.77 (reference (f)), is provided so that the principles of the Geneva Conventions (references (b) through (e)), and obligations under them, are known by members of their departments.

c. Ensure that suspected or alleged violations of references (b) through (e) and other violations of the international law of war are promptly reported to the appropriate authorities and investigated in accordance with DoD Directive 5100.77 (reference (f)).

4. The Commanders of the Unified Combatant Commands shall:

a. Issue and review appropriate plans, policies, and directives as necessary in consonance with this Directive.

b. 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.

c. Ensure that suspected or alleged violations of references (b) through (e) and other violations of the international law of war are promptly reported to the appropriate authorities and investigated in accordance with reference (f)

d. Ensure that personnel deployed in support of the range of military operations are cognizant of their obligations under references (b) through (e), and, more generally, the law of war.

5. The Chairman of the Joint Chiefs of Staff shall:

a. Provide a review of plans, policies, and programs of Commanders of Combatant Commands to ensure conformance with this Directive.

b. Ensure that appropriate planning documents provide for and use **intelligence** estimates of numbers and rate of capture of EPOW, CIs, or other detainees.

c. Ensure that operational exercises routinely test capabilities to provide care, custody, and control of EPOW, CIs, and other detainees.

d. Ensure that a single point of contact is designated within the Chairman's organization to act on the policy, politico-military, and other issues involved in the execution of this Directive, and provide necessary liaison with OSD and the Department of State, the Services, and the Combatant Commands.

6. The Assistant to the Secretary of Defense for Public Affairs shall

monitor the public affairs aspects of the DoD EPOW Detainee Program, provide public affairs policy guidance as appropriate, and provide coordination of public affairs matters with other Federal Departments, Agencies, or Components.

7. The Assistant Secretary of Defense for Command, Control, Communications, and **Intelligence** shall ensure that the Director of the Defense **Intelligence** Agency shall:

a. Provide **intelligence** staff assistance in the review and development of operational and contingency plans for military use in foreign military or related operations, and support the effort to estimate the capture and rate of EPOW, CIs, or other detainees.

b. Provide appropriate and timely information from the **intelligence** community on policies and activities of foreign powers about their nationals or others in the custody of U.S. or allied forces.

c. Develop and provide evaluated analysis of enemy organization and policies designed to disrupt EPOW camp organizations through acts of sedition or other attempts for disorder by EPOW or CIs interned or otherwise in the custody of U.S. or allied forces.

d. Coordinate all **intelligence** and counterintelligence aspects of the DoD EPOW Detainee Program with other DoD Components and Federal Departments and Agencies as necessary.

E. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the Under Secretary of Defense for Policy within 120 days; forward two copies of changes to existing implementing documents within 90 days.

PROGRAM OBJECTIVES

A. To ensure obligations and responsibilities of the U.S. Government are observed and enforced by the U.S. Military Services about EPOW, CIs, and other detainees, throughout the range of military operations.

B. To ensure continuing policy development and planning for administration of activities in time of peace and war and the formulation of special legislative proposals where appropriate.

C. To provide for necessary liaison and technical advice or assistance to allied detaining powers to monitor and report on the treatment of EPOW, CIs, and others captured or detained by the U.S. Military Services, including those who were transferred to the care, custody, and control of the U.S. Military Services, and who are subsequently transferred to another power in accordance with international law and the Geneva Convention for Protection of Civilian Persons in Time of War or the Geneva Convention Relative to the Treatment of Prisoners of War (references (e) and (d)).

D. To ensure humane and efficient care and full accountability for all persons captured or detained by the U.S. Military Services throughout the range of military operations.