



SECRETARY OF DEFENSE
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WASHINGTON, DC 20301-1000

JUN 9 2004

**MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
UNDER SECRETARIES OF DEFENSE
COMMANDERS OF THE COMBATANT COMMANDS
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
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DIRECTOR, NET ASSESSMENT
DIRECTOR, FORCE TRANSFORMATION
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES**

**SUBJECT: Procedures for Investigation into Deaths of Detainees in the Custody of
the Armed Forces of the United States**

- References:**
- (a) DoD Directive 2310.1, "DoD Program for Enemy Prisoners of War (EPOW) and other Detainees," August 18, 1994
 - (b) DoD Directive 5100.77, "DoD Law of War Program," December 9, 1998
 - (c) AR 190-8, OPNAVINST 3461.6, AFJI 31-304, MCO 3461.1, "Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees," 1 October 1997
 - (d) 10 U.S.C. 1471, Forensic pathology investigations
 - (e) DoD Directive 5154.24, "Armed Forces Institute of Pathology," October 3, 2001
 - (f) DoD Instruction 5154.30, "Armed Forces Institute of Pathology Operations," March 18, 2003

This memorandum reiterates and clarifies procedures for investigating deaths of detainees in the custody of the Armed Forces, including the requirement for an autopsy.

References (a), (b) and (c) establish policy and procedure for investigations of possible violations of protections afforded enemy prisoners of war, retained personnel, civilian internees, and other detainees, including procedures in cases of deaths of such



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persons. References (d), (e), and (f) provide that the Office of the Armed Forces Medical Examiner has primary jurisdiction and authority within DoD to determine the cause and manner of death in any DoD death investigation. This jurisdiction may be exercised as part of DoD death investigations of enemy prisoners of war, retained personnel, civilian internees, and other detainees in the custody of the Armed Forces of the United States.

In the case of a death of such an individual, the commander of the facility (or if the death did not occur in a facility, the commander of the unit that exercised custody over the individual) shall immediately report the death to the responsible investigative agency; Army Criminal Investigation Division, Navy Criminal Investigative Service, or Air Force Office of Special Investigations. This investigative agency shall contact the Office of the Armed Forces Medical Examiner (AFME). The AFME will determine whether an autopsy will be performed. The regional combatant commander shall notify the Secretary of Defense, through the Chairman, Joint Chiefs of Staff, of all deaths occurring in US armed forces custody.

Upon declaration of death, the remains will be placed in a clean body bag and secured awaiting instructions from the appropriate investigating agency. The remains will not be washed and all items on or in the body will be left undisturbed except for weapons, ammunition, and other items that pose a threat to the living. The body will not be released from United States custody without written authorization from the investigative agency concerned or the Armed Forces Medical Examiner.

In summary, in the case of death of any individual described above, while in custody of the Armed Forces of the United States, it is presumed that an autopsy shall be performed, unless an alternative determination is made by the Armed Forces Medical Examiner. Determination of the cause and manner of death in these cases will be the sole responsibility of the AFME or other physician designated by the AFME.

Points of contact for procedures under this memorandum are: AFME, CDR Mallak, (301) 319-0000, DSN 285-0000, Mallak@AFIP.OSD.Mil; ARMY CID, SA Birt, (703) 806-0299, DSN 656-0299, Angela.Birt@Belvoir.Army.Mil; NCIS, SA Carruth, (202) 433-9254, DSN 288-9254, TCCarruth@NCIS.Navy.Mil; OSI, SA Poorman (240) 875-1073, DSN 858-1073 James.Poorman@ogn.af.mil.

This memorandum is effective immediately.

A handwritten signature in black ink, appearing to be "James Poorman", written over a horizontal line.

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