DEPARTMENT OF DEFENSE
UNITED STATES SOUTHERN COMMAND
3511 NW 91ST AVENUE
MIAMI, FL 33172-1217

REPLY TO
ATTENTION OF

SCCS

6 August 2002

POLICY MEMORANDUM 8-02

From: Chief of Staff
To: See Distribution

SUBJECT: U.S. Southern Command Confidentiality Policy for Interactions Between Health Care Providers and Enemy Persons Under U.S. Control, Detained in Conjunction with Operation ENDURING FREEDOM

1. References:

a. DoD Directive 5136.1, "Assistant Secretary of Defense for Health Affairs (ASD (HA))," May 27, 1994

b. DoD Directive 2310.1, "DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees," August 18, 1994

c. Third Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949

d. 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

2. Purpose. This policy memorandum provides guidance, consistent with references 1.b. through 1.d. for medical care of enemy detainees under U.S. control.

3. Background. Foreign national persons captured and detained during combat operations in Afghanistan and elsewhere as part of Operation ENDURING FREEDOM ("detainees") have, in some cases, been transported to the Guantanamo Bay Naval Base in Cuba for detention pending interrogation and disposition. Detainees are not "prisoners of war," but instead are "unlawful combatants" who will be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Convention Relative to the Treatment of Prisoners of War. Medical, dental, and mental health care is provided to the detainees by military medical personnel under conditions and for purposes similar to those applicable to military correctional facilities. Communications from detainee to provider are generally for the purpose of treatment, but may also contain information about harm to others or information of intelligence, tactical, or strategic value.

4. Policy. It shall be the policy of the United States Southern Command that:

a. The purpose of medical, dental, and mental health care provided to detainees held at Guantanamo Bay Naval Base is to treat injuries and maintain health; to safeguard the public health as an exclusive Federal responsibility; and to assist in preserving the detention environment and the safety of cadre, staff, other detainees, and the surrounding population.

b. Detainees shall be treated humanely, without adverse distinction based on sex, race, nationality, religion, political opinions, or other similar criteria.

c. Communications between detainees and military medical, dental, and mental health care providers, including but not limited to doctors, dentists, psychiatrists, psychologists, psychotherapists, and persons directed or assigned to assist such persons, are not confidential and are not subject to the assertion of privileges by or on behalf of detainees. Detainees shall not be given cause to have expectations of privacy regarding their communications.

d. Medical personnel shall convey any information concerning the safety and security of military or civilian personnel, military or civilian property, classified information, or the accomplishment of a military or national security mission including homeland defense obtained from detainees in the course of treatment to non-medical military or other United States personnel who have an apparent need to know the information. Such information shall be communicated to other United States personnel with an apparent need to know, whether the exchange of information with the non-medical person is initiated by the provider or by the non-medical person. Medical personnel may not, however, become active participants in the collection of information, and may not be tasked in any way for collection of such information. Medical personnel may seek medical history to include by whom and where previous treatment was rendered.

e. Medical, dental, and mental health care providers, who in the course of treatment receive from a detainee information that constitutes a threat of bodily harm to a specific individual, must take immediate steps to make the target of the threat, the authorities responsible for the security of the threatened individual, and the authorities responsible for counteracting the threat (if different from those responsible for the individual's security), aware of the nature and source of the threat.

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5. Point of Contact. The U.S. Southern Command Surgeon's Office is the point of contact for this policy at commercial (305) 437-1326 and DSN 567-1326

FOR THE COMMANDER IN CHIEF:

R.A. HUCK
Brigadier General, U.S. Marine Corps
Chief of Staff, U.S. Southern Command

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