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From: PJHQ-J2-DACOS-PLANS-S
Sent: Wednesday, September 17, 2003 1:58:54 PM
To: PJHQ-J9-LA2-S; PJHQ-J1-DACOS-S
Cc: PJHQ-J2-J2X-SO2-S; PJHQ-LO(A)-S; PJHQ-CIVSEC-S; PJHQ-J3(OPS
SP)FP-SO1-S; PJHQ-J3(LAND1)SO1-S; PJHQ-J3 DACOS A-S;
PJHQ-DCJO(OPS)-MA-S; PJHQ-J9-HDPOLOPS1-S; PJHQ-J9-POLUOPS4-S;
PJHQ-J9-LA-S; LA2-S; RD49-COMD-LEGAL-GS1
Subject: RE: Hooding of Persons Detained
Importance: Low
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Nick

thanks for this - I recall the 'controversy' in the TIF and went there in May to see the conditions and discuss the (then) conflicting legal advice (did you not miss the flight back ... !). Your note helps in that it provides some clarity. However, as you also identify, the ending of hooding has far reaching implications - a growing diversion of opinion with the US and the adverse impact upon interrogations; UK involvement in US ops where blindfolding is the milder end of the spectrum; current doctrine and teaching at DISC; there are more.

You and I have discussed these during TELIC II and III but wider discussion might well be appropriate and consideration then given as to how we conduct interrogation, a practice that is already limited and so having little effective use on the battlefield.

ERD

-----Original Message-----

From: PJHQ-J9-LA2-S
Sent: 17 September 2003 09:21
To: PJHQ-J1-DACOS-S
Cc: PJHQ-J2-J2X-SO2-S; PJHQ-LO(A)-S; PJHQ-CIVSEC-S; PJHQ-J3(OPS
SP)FP-SO1-S; PJHQ-J3(LAND1)SO1-S; PJHQ-J3 DACOS A-S;
PJHQ-DCJO(OPS)-MA-S; PJHQ-J9-HDPOLOPS1-S; PJHQ-J9-POLUOPS4-S;
PJHQ-J9-LA-S; LA2-S; RD49-COMD-LEGAL-GS1; PJHQ-J2-DACOS-PLANS-S
Subject: Hooding of Persons Detained

Sir,

Following the various discussions that took place in the HQ yesterday regarding hooding I thought it appropriate to offer a written opinion.

Potentially hooding may give rise to various difficulties from discomfort to possible risk of asphyxiation.

As I understand it hoods are used as a means of blindfolding either to prevent the detainee seeing persons (including other detainees) or restricted areas, or alternatively as a means of disorientating (by sensory deprivation) a detainee before and

during breaks in questioning.

The use of blindfolds for the first reason outlined above should be legally sustainable so long as this is necessary (i.e. there is not other way to achieve the result) and the blindfold is worn for no longer than is required. Steps should also be taken to mitigate any resulting discomfort. During the planning of ops consideration should be given to creating conditions which reduce/eliminate the need for blindfolding.

As far as disorientation is concerned this is difficult to justify. Art 17 of Geneva Convention 3 states that 'no physical or mental torture, nor any form of coercion, may be inflicted on PWs to secure from them information of any kind whatsoever'. On a restrictive reading of this provision hooding would not be acceptable when used for the purpose of disorientation. In fact ICRC were critical of our practice of hooding detainees at the TIF during phase 3 and the practice was changed to use blacked-out goggles where it was necessary. Where the persons concerned are not PWs they are entitled to similar standards of respect and humane treatment. As far as law and order questioning is concerned blindfolding would never appropriate under the human rights standards applied in this country and other European countries.

In conclusion it is unlikely that blindfolding can be justified on grounds of disorientation - I realise that this may prove controversial and contrary to standard practice and it may be that this requires further consideration/discussion. As far as the protection of persons or info is concerned blindfolding may be justifiable if the means used is suitable or designed for the purpose. Hoods do not fit this requirement. The actual requirement is to mask the eyes and there is no need for the means used to impair breathing. I recommend that steps be taken to ensure that the practice of hooding is ceased and alternative means be considered where blindfolding is necessary for sustainable reasons.

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