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May 6, 2004
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J. William Leonard, Director
Information Security Oversight Office (ISOO)
National Archives and Records Administration
Seventh and Pennsylvania Avenue, N.W.
Washington, D.C. 20408

Dear Mr. Leonard:

I am writing to request that ISOO investigate the decision to classify a U.S. Army report finding that various abuses had been committed by U.S. military and other personnel against Iraqi prisoners in Abu Ghraib prison.

For the reasons specified below, I believe the classification of this document may have been contrary to national security classification policy.

I turn to you pursuant to executive order 12958, as amended, section 5.2(b)(6), which authorizes and directs you to "consider and take action on complaints and suggestions from persons within or outside the Government...."

The U.S. Army Report

The U.S. Army report in question is entitled "Article 15-6 Investigation of the 800th Military Police Brigade" and it was authored by Maj. Gen. Antonio M. Taguba. It is classified "Secret / No Foreign Dissemination."

As the result of an unauthorized disclosure of classified information, the report has become publicly available.

A copy is posted here:

<http://www.fas.org/irp/agency/dod/taguba.pdf>

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Basis for the Request to ISOO

1. The document appears to have been improperly classified.

An inspection of the classified portions of the document, as portion-marked, suggests that the decision to classify does not meet the requirements of the executive order. So, for example, paragraph 5 on page 16 states:

"That between October and December 2003, at the Abu Ghraib Confinement Facility (BCCF), numerous incidents of sadistic, blatant, and wanton criminal abuses were inflicted on several detainees."

That paragraph is classified Secret (S), as are subsequent passages detailing the nature of the alleged criminal offenses.

As far as I can tell, this does not constitute National Security Information that is eligible for classification under the executive order.

To the contrary, EO 12958, as amended, appears to prohibit the classification of such information. Thus, Section 1.7 states, under "Classification Prohibitions and Limitations":

"In no case shall information be classified in order to: (1) conceal violations of law...."

2. Senior Officials Were Unable to Justify the Classification Decision

Doubts about the propriety of the classification of this report are underscored by the fact that senior officials of the Department of Defense, when questioned, were unable to explain the rationale for classification of the report.

In response to a reporter's question on May 4, Gen. Peter Pace, Vice Chairman of the Joint Chiefs of Staff, stated:

"I do not know specifically why it was labeled secret...."

See the full exchange here: <http://www.fas.org/sgp/news/2004/05/dod050404.html>

Likewise, Secretary of Defense Donald Rumsfeld was also at a loss to explain why the document was classified:

"No, you'd have to ask the classifier."

We are not in a position to "ask the classifier." But I believe that your Office could effectively do so and then render an appropriate judgment.

3. **The Integrity of the Classification System is at Stake.**

It is disappointing to realize that in this case the national security classification system functioned, intentionally or not, to "cover up" an egregious set of crimes.

In fact, the Taguba report is evidently still classified and the human rights abuses that it documents came to public knowledge only through an unauthorized "leak" of classified information.

The disclosure of the Taguba report is, among other things, a challenge to the integrity of the national security classification system:

Can classification legitimately be used to conceal criminal activity, as it did in this case?

Or was the Taguba report classified in violation of the executive order? If so, what corrective measures are needed to uncover and prevent similar violations?

A lot depends on the answers to these questions.

* * *

I appreciate your attention to this difficult matter.

If your Office is unable for any reason to pursue it and to provide a substantive response, please let me know so that I may seek other ways to address the issue.

Respectfully,

Steven Aftergood
Director
Project on Government Secrecy
Federation of American Scientists