

**First Place Submission**

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**MacArthur Military Leadership Writing Competition**

**AT WHAT COST, INTELLIGENCE?**

**A Case Study of the Consequences of Ethical (and Unethical) Leadership**

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### **A Case Study of the Consequences of Ethical (and Unethical) Leadership**

We must remember who we are. Our example is what will cause us to prevail in this environment, not our weapons.

Major General Martin Dempsey, 1st Armored Division (1AD) Commander, from 30 October 2003 email to his Brigade Commanders<sup>1</sup>

Tough up, man. This is how the Army does things.

Unidentified interrogator, Forward Operating Base (FOB) Tiger, in response to an MP soldier's concern about harsh interrogation techniques<sup>2</sup>

### **Opening Salvo**

The summer of 2003 was a hot, frustrating time for coalition forces in Iraq. In Baghdad, soldiers experienced temperatures over 100°F for 91 consecutive days.<sup>3</sup> Far worse, contrary to the expectations of most soldiers and their leaders, there was not only an active Iraqi insurgency but an insurgency that was growing rapidly in size and lethality across the country. In July, coalition forces experienced twice the number of attacks they had experienced in June.<sup>4</sup> And, in August, they witnessed the rise of the "vehicle-borne explosive device", to include a suicide car bombing on 11 August 2003 in Baghdad that killed 11 people and closed the Jordanian Embassy. Amidst Iraq's summer heat and many bombs, the hope of many U.S. soldiers for returning home by Christmas had evaporated.

It was in this context that a Military Intelligence (MI) captain working in the CJ2X section of Combined Joint Task Force-7 (CJTF-7) sent a 14 August 2003 email to the Human Intelligence (HUMINT) section leaders of CJTF-7's major subordinate commands.<sup>5</sup> In the opening salvo of what would become a battle for the soul of CJTF-7's HUMINT community, this captain requested a "wish list" from subordinates of interrogation techniques they "felt would be effective."<sup>6</sup> He stated that "the gloves are coming off...regarding these detainees," and he said that the Deputy CJ2 "has made it clear that we want these individuals broken."<sup>7</sup> He concluded that the "casualties are mounting and we need to start gathering info to help protect our fellow soldiers from any further attacks."<sup>8</sup>

This email evoked strongly worded, antithetical responses from the two ideologies (or "camps") of CJTF-7's subordinate HUMINT sections. One camp (to which the CJ2X captain also clearly belonged) included Chief Warrant Officer 3 (CW3) Lewis Welshofer, Jr., of the 3<sup>rd</sup> Armored Cavalry Regiment and an unidentified HUMINT leader of the 4<sup>th</sup> Infantry Division.<sup>9</sup> The other camp was represented by Major (MAJ) Nathan Hoepner, the operations officer of the 501st Military Intelligence (MI) Battalion, Task Force 1st Armored Division. The units of all three of these officers operated in the "Sunni Triangle," the most dangerous part of Iraq during Operation IRAQI FREEDOM I (OIF I).

In his reply to the CJ2X captain's email, CW3 Welshofer wrote that "a baseline interrogation technique" should include "open handed facial slaps from a distance of no more than about two feet and back handed blows to the midsection from a distance of about 18 inches."<sup>10</sup> He also added: "Close confinement quarters, sleep deprivation, white noise, and a litnany [sic] of harsher fear-up approaches...fear of dogs and snakes appear to work nicely. I firmly agree that the gloves need to come off."<sup>11</sup> The unidentified 4<sup>th</sup> Infantry Division HUMINT leader submitted a "wish list" that included some of the same techniques but also added "Stimulus Deprivation," "Pressure Point Manipulation," "Close-Fist Strikes," "Muscle Fatigue Inducement," and "Low Voltage Electrocutation."<sup>12</sup>

In his returning salvo, MAJ Hoepner spoke from a higher vantage point:

As for 'the gloves need to come off...we need to take a deep breath and remember who we are...Those gloves are...based on clearly established standards of international law to which we are signatories and in part the originators...something we cannot just put aside when we find it inconvenient...We have taken casualties in every war we have ever fought--that is part of the very nature of war. We also inflict casualties, generally many more than we take. That in no way justifies letting go of our standards. We have NEVER considered our enemies justified in doing such things to us. Casualties are part of war--if you cannot take casualties then you cannot engage in war. Period. BOTTOM LINE: We are American soldiers, heirs of a long tradition of staying on the high ground. We need to stay there.<sup>13</sup>

We Americans, MAJ Hoepner was saying, adhere to moral standards that are more important to us than simply winning a battle: to forfeit these standards is to lose who we are as American soldiers.

### **The Two Rival Camps: Background**

The "intelligence at any cost" mindset of the first camp has had a much longer (and more potent) life in U.S. military history than is commonly taught or understood in America. For example, during the

Philippine-American War, the 1902 Senate Committee on the Philippines documented the systemic use by U.S. troops of the "water cure," a harsher, often fatal version of what we today know as "water boarding."<sup>14</sup> More recently, CIA and U.S. military advisors allowed South Vietnamese proxies to use various forms of torture (including electric shock) as part of the U.S.'s controversial "Phoenix Program" during the Vietnam War.<sup>15</sup> In each of these historical examples, U.S. soldiers rationalized that the need for actionable intelligence justified harsh interrogation techniques (even torture).

In its purest form, this rationale is referred to as the "ticking time bomb scenario." In a 2001 interview, the French General Paul Aussaresses, who was a senior French intelligence officer during the French-Algerian War, expressed this rationale as follows:

Imagine for an instant that you are opposed to the concept of torture and you arrest someone who is clearly implicated in the preparation of a terrorist attack. The suspect refuses to talk. You do not insist. A particularly murderous attack is launched. What will you say to the parents of the victims, to the parents of an infant, for example, mutilated by the bomb to justify the fact that you did not utilize all means to make the suspect talk?<sup>16</sup>

Forty years later, CJTF-7, 3<sup>rd</sup> Armored Cavalry Regiment, and 4<sup>th</sup> Infantry Division HUMINT leaders would similarly argue that, to save lives, the "gloves" were "coming off" with regard to interrogation techniques.

But, this camp does not represent the dominant tradition within U.S. military history. When MAJ Hoepner argued that we Americans are governed by moral standards, he was speaking from this dominant tradition, a tradition as old as America's first enduring colony. In a 1630 sermon, John Winthrop told Puritan colonists (who were soon to disembark from the *Arbella* and found the Massachusetts Bay Colony) that they should "do justly" and "love mercy" and that their new colony should be "as a city upon a hill" for the rest of the world to watch and emulate.<sup>17</sup> Similarly, during the Revolutionary War leaders of the Continental Army and Congress judged that it was not enough to win the war; they had "to win in a way that was consistent with the values of their society and the principles of their cause."<sup>18</sup> General George Washington applied this ideal to the treatment of British and Hessian

prisoners, adopting an uncommon policy of humanity. In one written order, for example, he directed that 211 British captives be treated "with humanity" and be given "no reason to Complain of our Copying the brutal example of the British army in their Treatment of our unfortunate brethren."<sup>19</sup> During the more than two centuries that have passed since the Revolutionary War, the U.S. Army's treatment of its enemies has been largely consistent with this tradition of humanity, with the Philippine-American War and various Indian wars representing racially motivated exceptions to this rule.<sup>20</sup>

### **Case Study Hypothesis**

The decision that may be most critical to the ultimate effectiveness of U.S. leaders in combat is their choice of an essential ethical position: will they be governed by ideals and reside in the "city upon the hill?" Or, will they attempt to live hidden from view in the shadow-covered valley, in the "end-justifies-the-means camp?" (Leaders may try to stand in the middle, but must beware this hill's slippery slope and watch their footing carefully.) This critical decision may take place downrange, or it may occur months, years, or even decades before deployment. But ultimately, no decision is more important to a U.S. combat leader than this choice.

In this essay, a case study methodology is adopted to examine one aspect of this overarching belief. Specifically, what is explored is the hypothesis that the essential ethical position assumed by leaders is the most important determinant of, one, the level of detainee abuse in interrogation units, and, two, whether these units are strategically effective on today's battlefield. This hypothesis will be validated by continuing the storylines begun with the email exchange above: if this hypothesis is correct, then interrogations at detention facilities influenced by the CJTF-7, 3rd Armored Cavalry Regiment, and 4th Infantry Division leaders above should have escalated to serious detainee abuse, and conversely, the TF 1AD detention facility should have remained relatively free of allegations of detainee abuse since its leaders viewed interrogation operations from a higher ethical vantage point. Qualities shared by these detention facilities (such as theater policy, manning, overcrowding, interrogator experience, etc.) will be discussed before these "control factors" are discarded as largely irrelevant to the final results. Once this

hypothesis is validated, this validated hypothesis is applied to the present to indicate what steps our Army still needs to take to prevent future interrogation abuse and the strategic defeat such abuse creates.

We start this experiment with CJTF-7.

### **Strategic Defeat at Abu Ghraib**

The head of the Coalitional Provisional Authority, Ambassador Paul Bremer, approved coalition use of Abu Ghraib Prison on 3 July 2003.<sup>21</sup> Due to the prison's notoriety as a site of torture and execution during Saddam Hussein's regime, Bremer approved the re-opening with the understanding that the prison would only be used until a new facility could be built.<sup>22</sup> However, the commanding general of CJTF-7, Lieutenant General (LTG) Ricardo Sanchez, directed that CJTF-7 interrogation operations be consolidated at the facility (now deemed an enduring facility) by 1 October 2003. This decision was probably driven by the perishable nature of intelligence and the fact that Camp Bucca, the Theater Internment Facility, was located a full day's drive south of Baghdad on Iraq's border with Kuwait.

The Abu Ghraib facility had grave issues from the very beginning. For one, it was in a dangerous area and regularly received mortar fire, sometimes with catastrophic results: on 16 August 2003, a mortar attack killed five detainees and injured 67 other detainees,<sup>23</sup> and on 20 September 2003, a mortar attack killed two U.S. soldiers and injured 11 other soldiers (including the commander of the Joint Interrogation Center).<sup>24</sup> The facility also grew rapidly overcrowded, holding 7,000 detainees by October 2003.<sup>25</sup> This crowding caused severe undermanning, with just 90 MPs managing the detainee population--far fewer than the full battalion that doctrine required for a detainee population of this size.<sup>26</sup>

Alpha Company, 519th MI Battalion, supplied the first group of interrogators at the facility.<sup>27</sup> Fatefully, this company had served in Afghanistan during the December 2002-January 2003 time period in which harsh interrogation techniques derived from American SERE training had been systematically employed.<sup>28</sup> In fact, Army Criminal Investigation Division (CID) agents were in the process of substantiating charges that two of these interrogators had contributed to the brutal treatment and deaths of two detainees on 4 December and 10 December 2002 at Bagram Air Base.<sup>29</sup> Unsurprisingly, these same two interrogators would sexually assault a female detainee at Abu Ghraib on 7 October 2003.<sup>30</sup>

A few weeks after the CJTF-7 J2X's call for a "wish list" of interrogation techniques, CJTF-7 published its first list of approved techniques. Although this 14 September 2003 interrogation policy did not include all of the techniques emailed by two of the HUMINT leaders above, it did include three of these techniques, which the policy called "Sleep Management," "Presence of Military Working Dogs," and "Yelling, Loud Music, and Light Control."<sup>31</sup> It also included other harsh techniques inspired by military SERE schools,<sup>32</sup> to include "Stress Positions," "Isolation," "Environmental Manipulation," "False Flag," and "Dietary Manipulation."<sup>33</sup> The use of three of these SERE techniques required the personal approval of the CJTF-7 commander, LTG Sanchez when employed on Enemy Prisoners of War (EPWs).<sup>34</sup> However, since the vast majority of U.S. detainees in Iraq were not EPWs (captured enemy soldiers) but rather Civilian Internees (suspected insurgents and criminals), there was some confusion as to the applicability of this restriction.

Upon review, CENTCOM deemed CJTF-7's 14 September 2003 interrogation policy to be "unacceptably aggressive."<sup>35</sup> So, CJTF-7 published a new policy on 10 October 2003. Unfortunately, this new policy was treated almost as permissively as the September policy by some interrogators, most notably at CJTF-7's new "Baghdad Central Correctional Facility" at Abu Ghraib. This permissive treatment occurred for many reasons. For one, although the new policy took away blanket approval for interrogators to use harsh techniques, it gave LTG Sanchez the option of approving harsh techniques on a case-by-case basis. Thus, for example, LTG Sanchez would approve 25 requests by interrogators to employ the "Isolation" technique on subjects.<sup>36</sup> Also, since Colonel Pappas (the 205th MI Brigade Commander) believed that he had been delegated approval authority by LTG Sanchez for his interrogators to use the harsh techniques of "Sleep Management" and "Use of Military Working Dogs," it remained a simple matter for his interrogators to receive approval to use these two techniques.<sup>37</sup>

Worse still was the confusion the new interrogation policy generated when it quoted a rescinded army field manual. Interrogators, the new policy said, should "control all aspects of the interrogation, to include the lighting, heating and configuration of the interrogation room, as well as the food, clothing and shelter" given to detainees.<sup>38</sup> It is easy to see how this vague instruction may have been interpreted by

some interrogators as their receiving blanket approval to use the SERE techniques of "Dietary Manipulation" and "Environmental Manipulation." Worst of all, the reference to controlling subjects' clothing supported the belief of some interrogators that they could employ (at their own discretion) the "Forced Nudity" technique--a SERE technique which had been briefly permissible during their previous deployments to either GTMO or Afghanistan and which had never been approved for use in Iraq.<sup>39</sup>

Inadequate ethical leadership also played a role in key leaders failing to take seriously and to investigate reports of detainee abuse at Abu Ghraib by the International Committee of the Red Cross (ICRC).<sup>40</sup> These leaders largely ignored ICRC reports stemming from two visits to Abu Ghraib in October 2003 (just as the facility's most serious criminal abuses were beginning).<sup>41</sup> In a summary of these reports, the ICRC stated that "methods of physical and psychological coercion used by the interrogators appeared to be part of the standard operating procedures by military intelligence personnel to obtain confessions and extract information."<sup>42</sup> The ICRC also described "abuse" (later corroborated by military investigators) of detainees being held naked for days, being yelled at, insulted, threatened, undergoing "sleep deprivation caused by the playing of loud music or constant light," and held in isolation.<sup>43</sup> This "abuse," though, describes little more than soldiers implementing SERE techniques which had either been formally promulgated by the CJTF-7 Headquarters or which these soldiers believed had been authorized based on their experiences in other theaters.

Thus it was that the decision of key leaders at CJTF-7 Headquarters and at Abu Ghraib to take "the gloves off" set the stage for the "Abu Ghraib Scandal." This scandal, which erupted after photos of serious criminal misconduct at Abu Ghraib were televised on 28 April 2004, would be intimately connected with interrogation operations. While only two of the "Abu Ghraib Nine" were interrogators (seven were military policemen), investigators concluded that, while harsh interrogation techniques had not directly caused the most serious criminal abuses at Abu Ghraib, these techniques had perpetuated a climate where such criminal abuse was possible.<sup>44</sup> It is difficult to fathom, for example, how the infamous photographs of "naked human pyramids" could have occurred if interrogators had not been directing MPs to employ the "Forced Nudity" technique as part of Pride (Ego Down) approaches.

The "Abu Ghraib Scandal" constituted a strategic defeat for the United States. In its aftermath, the credibility of the U.S. within the international community, particularly the world's Arab community, was severely damaged. Also, the Iraqi insurgency was energized: ""They used to show events [on television] in Abu Ghurayb," said one of many mujahedeen brought to Iraq by the horrific images. "The oppression, abuse of women, and fornication, so I acted in the heat of the moment and decided...to seek martyrdom in Iraq."<sup>45</sup> Ominously, A CNN poll taken one month after the scandal broke indicated that the support of Americans for the war in Iraq had dropped below 50% for the first time, with 27% of the Americans polled saying that the scandal had made them "less supportive" of the war.<sup>46</sup> In turn, lack of popular support for the war at home would eventually cause a newly-elected U.S. Congress to try (unsuccessfully) to force U.S. forces from Iraq in 2007.

We move now to the 3<sup>rd</sup> Armored Cavalry Regiment (3ACR).

### **Brutal Questioning in al Qaim**

In a February 2004 report, the ICRC summarized its major findings concerning the treatment of detainees from March to November 2003 in 14 U.S. facilities in Iraq.<sup>47</sup> This report listed two facilities at the CJTF-7 level (Abu Ghraib and Camp Cropper) that it assessed as "main plain of internment where mistreatment allegedly took place."<sup>48</sup> At the division or brigade level, it assessed three facilities as being centers of alleged detainee abuse: one (and perhaps two) of these three facilities belonged to the 3ACR. The ICRC described the facility that clearly belonged to the 3ACR as located in "a former train station in Al-Khaim, near the Syrian border, turned into a military base."<sup>49</sup> This description matches descriptions in court testimony of "Forward Operating Base Tiger," operated by the 1st Squadron of the 3ACR.<sup>50</sup> The ICRC also described a center of detainee abuse as the "Al-Baghdadi, Heat Base and Habbania Camp in Ramadi governorate"<sup>51</sup> While the 3ACR was responsible for the Ramadi area during the timeframe (July-August 2003) of the ICRC's allegations of abuse at this facility, the CID investigation of this allegation failed to uncover whether conventional Army forces were charged with this alleged abuse.<sup>52</sup>

Unfortunately, the ICRC's allegations regarding the detention facility on FOB Tiger proved all too true. During the same period that SERE techniques were being employed at Abu Ghraib, similar

techniques were being employed at FOB Tiger. A SERE technique peculiar to FOB Tiger, however, was a technique referred to by CW3 Welshofer in his email to the CJ2X captain as "close confinement quarters." This technique involved either placing subjects in lockers or wrapping subjects in a sleeping bag to induce feelings of claustrophobia. On 26 November 2003, CW3 Welshofer employed this technique on a suspected insurgent leader, Iraqi Major General Abed Mowhoush: he placed Mowhoush in a sleeping bag, wrapped the bag tightly with electrical cord, sat on him, and covered his mouth with his hand.<sup>53</sup> Within minutes, the 56-year-old general was dead. Mowhoush's death certificate would list his cause of death as "asphyxia due to smothering and chest compression," and a 2 December 2003 autopsy would state that Mowhoush had, prior to his death, received numerous "contusions and abrasions" along with six fractured ribs.<sup>54</sup> The fractured ribs were due to a group of Iraqis (who allegedly worked for the CIA) severely beating Mowhoush during an interrogation two days before Mowhoush's death.<sup>55</sup>

As a result of the Army CID investigation into the incident, CW3 Welshofer's commanding general issued him a letter of reprimand. In his letter of rebuttal to this reprimand, the unrepentant warrant officer repeated a claim he had made in his earlier email to the CJ2X captain, namely, that Army doctrine--patterned as it is on the Law of War--is insufficient for dealing with unlawful combatants.<sup>56</sup> CW3 Welshofer also referred in his rebuttal to Iraqi Lieutenant Colonel (LTC) Abdul Jameel who, according to another CID investigation, had died as the result of "blunt force injuries and asphyxia" during harsh interrogations on another 3ACR base.<sup>57</sup> Before his own interrogation-related death, LTC Jameel had apparently led soldiers to the location of a large explosives cache. CW3 Welshofer used the example of LTC Jameel to justify his own harsh treatment of MG Mowhoush, saying that the cache had "thousands of potential IEDs" and that the "bottom line is that what interrogators do is a dirty job but saves lives."<sup>58</sup> Despite his reasoning, CW3 Welshofer was still charged with negligent homicide, and in January 2006, he was court martialed at Fort Carson, Colorado.

CW3 Welshofer's court martial was a media sensation. During his court martial, it was revealed that he had been a SERE instructor in Hawaii.<sup>59</sup> CW3 Welshofer also claimed that the only CJTF-7 interrogation policy he had seen had been the September 2003 policy (the policy that had explicitly

authorized certain SERE interrogation techniques). A warrant officer who had observed Mowhoush's homicide testified that, the day prior to Mowhoush's death, CW3 Welshofer had employed what is known today as "water boarding" on Mowhoush as well as hit him repeatedly on his elbow with a stick.<sup>60</sup> CW3 Welshofer's use of a stick to strike Mowhoush, this warrant officer alleged, "was not that extreme when you consider other things that were happening at the facility."<sup>61</sup> Also, the company commander of these two warrant officers testified that she had authorized the "close quarters" or "sleeping bag" technique and that she had seen CW3 Welshofer slap detainees.<sup>62</sup>

In short, the use of SERE interrogation techniques was systemic on FOB Tiger. The decision to use such techniques derived from the core ethical position (the "end justifies the means") adopted by more than one key leader in the 3ACR. The use of these techniques led to the negligent homicide of an Iraqi detainee. The resulting media circus, though not the strategic defeat of the Abu Ghraib scandal, reinforced the U.S. military's loss of moral credibility among Americans.

We turn now to the 4<sup>th</sup> Infantry Division (4ID).

### **Troubles in Tikrit**

In their February 2004 summary of alleged U.S. detainee abuse in Iraq from March to November 2003, the ICRC identified the "Tikrit holding area (former Saddam Hussein Islamic School)" as an alleged center of detainee abuse.<sup>63</sup> While the 4ID was headquartered at this time in Tikrit, it is unclear from this description if this alleged abuse occurred in the 4ID's detention facility on FOB Iron Horse. Also, since this allegation was never investigated, it is unclear exactly what abuse was allegedly committed by whom: as in the case of the "Al-Baghdadi, Heat Base and Habbania Camp," it is possible that the alleged abuse occurred--if it occurred at all--at the hands of unconventional U.S. forces.

Still, the 4ID detention facility at FOB Iron Horse certainly had its troubles. Most significantly, investigators found soldiers at fault in two detainee deaths at the facility. On 11 September 2003, an MP soldier shot and killed a detainee for allegedly placing his hands too-near the concertina wire of his isolation area.<sup>64</sup> The specialist was charged with "manslaughter," and he was chaptered out of the army in lieu of a court martial.<sup>65</sup> Also, on 8 February 2004, another detainee died due to medical inattention.<sup>66</sup>

In addition, precisely relevant to this case study, the 4ID detention facility had a case of substantiated interrogation abuse that derived directly from the decision of HUMINT leaders to take "the gloves off."

This case began on 17 August 2003 when the Non-Commissioned Officer-in-Charge (NCOIC) of the 4ID's Interrogation Control Element (ICE) submitted the requested "wish list" of more effective interrogation techniques.<sup>67</sup> After this submission, he saved this file onto his desktop, where it was read by a new interrogator.<sup>68</sup> Soon after, the staff sergeant NCOIC spoke to his new interrogator about these techniques.<sup>69</sup> They later disagreed in sworn statements about the nature of this discussion: the junior interrogator alleged that his NCOIC had given him permission to use these techniques (asking him if he "could handle" implementing such harsh techniques); his NCOIC stated that they had discussed the techniques in general and that he had never given this interrogator permission to use these techniques.<sup>70</sup>

With the arrival of a detainee at the facility who had been accused of killing three Americans, the stage was set for abusive interrogations. The new interrogator was physically imposing (standing six foot, six inches tall). So, "to extract time-sensitive intelligence information that could save lives," the ICE NCOIC assigned him to interrogate this detainee while approving a "Fear Up (Harsh)" approach.<sup>71</sup> During the first abusive interrogation on 23 September 2003, the new interrogator forced the detainee to assume various stress positions, yelled at him, threatened him, and struck him 10-30 times on his feet, buttocks, and possibly his lower back with a police baton.<sup>72</sup> Six days later, a different interrogator with the same interpreter forced the detainee to circle a table on his knees until his knees were bloody.<sup>73</sup> Ironically, just two days before the first harsh interrogation, the 4ID Commander had published policy that prohibited "assaults, insults, public curiosity, bodily injury, and reprisals of any kind."<sup>74</sup> The junior interrogator said he would have reconsidered his techniques if he had seen this policy.<sup>75</sup>

The officer who investigated the incidents recommended a letter of reprimand for the ICE NCOIC and a field grade Article 15 for both interrogators.<sup>76</sup> The ICE NCOIC's letter of reprimand admonished the staff sergeant for his failure "to set the proper leadership climate" and for his "inadvertently" leading at least one interrogator to believe he "condoned certain practices that were outside the established regulations."<sup>77</sup> In his rebuttal, however, the staff sergeant boldly alleged it was

not he who had failed to set the proper leadership climate for his subordinates but rather the problem was "the command climate of the division as a whole."<sup>78</sup> In support of his claim, he referred to an illegal practice where certain 4ID units would seize the family members of targeted individuals in an effort to coerce these individuals into turning themselves in.<sup>79</sup> The staff sergeant also quoted an unidentified "senior leader" as saying that detainees "are terrorists and will be treated as such."<sup>80</sup>

Although it may not be especially likely that LTC Allen West was the 4ID "senior leader" that made this remark, LTC West is still worth mentioning in this context. LTC West, a battalion commander within the 4ID's 2nd Brigade, was relieved from command for an incident that occurred one month before the abusive interrogations on FOB Iron Horse: to coerce intelligence from an unwilling detainee, LTC West had watched five of his soldiers beat a detainee on the head and body, then he had taken the detainee outside, placed the detainee near a clearing barrel, and fired two shots into the clearing barrel.<sup>81</sup> As a result of this incident, not only media pundits but also U.S. senators hotly debated the morality of LTC West's actions. Ultimately, in the midst of rancorous public debate, LTC West was allowed to retire rather than face a court martial.

In short, although the interrogation element at FOB Iron Horse flirted with the use of harsh interrogation techniques, the actual use of these techniques was never systemic at FOB Iron Horse as it was at Abu Ghraib or FOB Tiger. In fact, when such techniques were implemented during two abusive interrogations, a 4ID command policy coupled with decisive punishment seems to have eradicated any confusion these interrogators had regarding acceptable interrogation methods. Thus, in the 4ID the media circus evolving from abusive interrogation techniques and an intelligence-at-any-cost mindset would not involve interrogators at FOB Iron Horse: this particular media circus would engulf LTC West.

We are now ready to examine the 1<sup>st</sup> Armored Division.

### **Out Front!**

Soon after assuming command of the 1AD on 16 July 2003,<sup>82</sup> BG Martin Dempsey directed that the 1AD be called "Task Force 1st Armored Division" (TF 1AD). This was a nod to the division's many attachments, which had more than doubled the size of the division to 39,000 soldiers.<sup>83</sup> To this date, TF

1AD during OIF I remains the largest force controlled by a division headquarters in U.S. Army history.<sup>84</sup> Throughout OIF I, TF 1AD operated in Baghdad, an environment as complex and dangerous as any in Iraq. The lives of 133 TF 1AD soldiers lost and 1,111 soldiers wounded in combat serve as profound, poignant testimony to this fact.<sup>85</sup>

The 501st MI Battalion (now inactivated) was 1AD's organic MI battalion. During OIF I, the unit ran the TF 1AD detention facility and provided HUMINT and other intelligence support to the giant task force. The motto of the battalion was "Out Front!", and its leaders clearly intended the unit to serve as an ethical role model. In the first sentence of his command philosophy, LTC Laurence Mixon, who commanded the battalion for most of OIF I, matter of factly asserted that the battalion was a "values-based organization." Then, in the very next sentence he borrowed the shining "city upon the hill" metaphor by presenting key moral principles as "guideposts, lighting our way ahead."<sup>86</sup>

The TF 1AD detention facility (which MI personnel called the Division Interrogation Facility, or DIF) was located at the Baghdad International Airport. This facility struggled with the same basic issues that the 3ACR and 4ID facilities struggled with during OIF I. Most notably, it had too few (and too inexperienced) interrogators operating amidst mounting U.S. casualties and a growing pressure for intelligence.<sup>87</sup> Nonetheless, the facility not only incurred zero substantiated cases of detainee abuse, but it did not even have any cases of alleged serious abuse.<sup>88</sup> The only three instances of abuse at the facility seem to have been extremely minor--two cases of military policemen (MPs) counseled for yelling at detainees and one instance of a contract interrogator who was fired for threatening a detainee.<sup>89</sup>

In addition to the absence of serious abuse, there were none of the potential indicators of abuse at the TF 1AD detention facility that had occurred at a few other facilities in Iraq. There was not, for example, a single riot, detainee shooting, detainee death, or escape attempt at the facility.<sup>90</sup> Also, the facility passed all ICRC inspections with no significant deficiencies or allegations of detainee abuse noted.<sup>91</sup> Considering these facts, it is perhaps no wonder, then, that when Stuart Herrington (a retired colonel and one of America's foremost experts on interrogation operations) inspected CJTF-7

interrogation operations in December 2003, he singled out TF 1AD's detention facility as "organized, clean, well-run, and impressive."<sup>92</sup>

Importantly, interrogators at the facility never employed SERE techniques, even during the brief period in which CJTF-7 explicitly approved SERE techniques.<sup>93</sup> In fact, across Baghdad, Brigade S2s and 501st MI Battalion leaders refused to allow their interrogators to employ such harsh techniques.<sup>94</sup> CW3 John Groseclose, who was in charge of HUMINT operations at TF 1AD's 3rd Brigade before taking charge of interrogation operations at the TF 1AD detention facility, said the following:

When that memo [CJTF-7's 14 September 2003 interrogation policy] first came out, I went to MAJ Crisman, the S2 at the brigade, and showed the memo to him. I told him that I thought this memo was a very bad idea. It just didn't look right to me. He agreed. So, we never used those techniques. I didn't see any purpose for them.<sup>95</sup>

CW3 Kenneth Kilbourne, who was Groseclose's counterpart at TF 1AD's 1st Brigade, echoed Groseclose's comments. "This memo was idiotic," Kilbourne said, "It was like providing a new, dangerous piece of equipment to a soldier and telling them that they are authorized to use it, but you don't have an instruction manual to give them to show them how to operate it."<sup>96</sup>

These experienced HUMINT leaders believed that it was not only wrong for American soldiers to employ SERE techniques on real world enemies, they believed that such techniques were largely ineffective. "For an interrogator to resort to techniques like that [SERE techniques] is for that interrogator to admit that they don't know how to interrogate," said Groseclose, who was awarded the U.S. Defense Department's HUMINT Collector of the Year Award for 2003.<sup>97</sup> He added: "Our interrogations produced results."<sup>98</sup>

MAJ Hoepner (now LTC Hoepner) credited not just the battalion's HUMINT warrant officers but also command climate for the battalion's stand on the moral high ground.<sup>99</sup> His judgment is no doubt correct. Four days after assuming command, BG Dempsey criminalized detainee mistreatment in a fragmentary mission order.<sup>100</sup> This criminalization included the use of any interrogation technique that could be construed as "maltreatment."<sup>101</sup> What is more, BG Dempsey consistently reiterated to his Brigade Commanders the need to ensure their troops treated Iraqis with respect and humanity--a reminder

his Brigade Commanders hardly needed. As Colonel Pete Mansoor, the commander of TF 1AD's 1st Brigade, has eloquently written:

Whether or not mock executions, naked pyramids, beatings, and other forms of abuse succeed in extracting information, such behavior often slides down a slippery slope to more severe forms of mistreatment, perhaps leading eventually to injury and death. Prisoner abuse degrades the abuser as well as the abused; as Americans we should stay on a higher moral plane...We had to remain constantly vigilant in this regard, lest we lose our soul in the name of mission accomplishment.<sup>102</sup>

Still, despite the best efforts of senior leaders throughout TF 1AD, allegations of serious detainee abuse did occur in TF 1AD, and some of these allegations were substantiated.<sup>103</sup> Thus, what was truly unique for a unit of its size was that none of TF 1AD's cases of detainee abuse involved school-trained interrogators. The principal reason for this was that each interrogator in the TF 1AD had a chain-of-command, from their commanding general to their immediate warrant officer supervisor, who understood the ground their interrogators needed to stand upon. This ground was the moral high ground.

### **Case Study Findings**

The Abu Ghraib detention facility had, in some ways, a different tactical problem than the division and regimental facilities at FOB Tiger, FOB Iron Horse, and the Baghdad Airport. Abu Ghraib was overcrowded, its MP unit was undermanned, and it operated under near-constant harassing mortar fires--fires that frightened, and in some cases traumatized, the troops working there. But in important ways, the tactical problem was the same. This common tactical problem was as follows: "How do we interrogate effectively, when casualties are mounting, higher interrogation policy is permissive, resources are limited, and our interrogators are young and inexperienced?" Tragically, interrogators at Abu Ghraib, FOB Tiger, and FOB Iron Horse had HUMINT leaders who felt morally justified in sanctioning SERE interrogation techniques, and this belief led their interrogators to use these techniques--use that slipped into truly serious abuse at Abu Ghraib and FOB Tiger. Furthermore, due to personalities unique to Abu Ghraib, abuse descended further still into the sadistic, sexualized violence that shamed our nation--and nearly led to our defeat in Iraq. In retrospect, it is ironic that, while these leaders had meant to save lives

via harsh interrogation techniques, their actions helped to destabilize Iraq. This destabilization, in turn, created thousands more casualties than these leaders could ever have prevented through tactical methods.

The detention facility run by the 501st MI Battalion, however, was a shining example of another type of facility, the type of facility to which most U.S. detention facilities belonged during OIF I. By using doctrinal interrogation methods, leaders at these facilities managed to solve their basic tactical problem without their interrogators incurring investigations, letters of reprimand, UCMJ actions, or being court martialed. Also, of strategic importance, their interrogators stayed out of the news.

Of course, those who believe in the efficacy of harsh interrogation techniques will argue that the 501st MI Battalion was not as successful tactically as it would have been if it had employed such techniques. Although this may be true, it is unlikely to be true. The 501st MI Battalion's experienced HUMINT warrant officers certainly did not accept such an argument. To a man, they believed that they would have been less successful if they had employed harsh techniques, often saying "torture is for amateurs, professionals don't need it."<sup>104</sup> These leaders believed that Army doctrine was right when it stated that the "use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear."<sup>105</sup> Their judgment here is corroborated by other sources. In "How to Break a Terrorist," for example, Matthew Alexander (one of the interrogators who led U.S. forces to Musab al Zarqawi), convincingly argues that interrogators who build rapport with subjects and then intelligently apply doctrinal approaches are more successful than those who unthinkingly rely on brutal methods.<sup>106</sup>

Nonetheless, although harsh interrogation techniques are decidedly inferior to more intelligent methods, it is probable that harsh techniques may, in very specific circumstances, extract useful intelligence. But, this possibility does not mean that it is ever wise for the citizens of a western democracy to employ such techniques: as experienced by America at Abu Ghraib (and by France in Algeria), the risk of strategic defeat is too great to ever justify the use of harsh interrogation techniques by a western democracy on today's media-saturated battlefield.

It should now be clear that the hypothesis posited by this case study is valid. As illustrated above, when HUMINT leaders in Iraq chose ethically different solutions to what was essentially a common tactical problem, the level of interrogation abuse that then occurred within their units was also dramatically different--as was these units' strategic results.

Surprisingly, the "Independent Panel to Review Detention Operations" has been the only major investigator of OIF I interrogation abuse to emphasize the role played by poor ethical decision-making.

Chaired by James Schlesinger, a retired Secretary of Defense, the five-member panel had this finding:

For the U.S., most cases for permitting harsh treatment of detainees on moral grounds begins with variants of the "ticking time bomb" scenario...Such cases raise a perplexing moral problem: Is it permissible to employ inhumane treatment when it is believed to be the only way to prevent loss of lives? In periods of emergency, and especially in combat, there will always be a temptation to override legal and moral norms for morally good ends. Many in Operations Enduring Freedom and Iraqi Freedom were not well prepared by their experience, education, and training to resolve such ethical problems.<sup>107</sup>

The panel concluded that "major service programs, such as the Army's 'core values'...are grounded in organizational efficacy rather than the moral good" and that these values "do not address humane treatment of the enemy and noncombatants, leaving military leaders and educators an incomplete tool box with which to deal with 'real-world' ethical problems."<sup>108</sup> The panel recommended a "review of military ethics education" and said that a "professional ethics program" is needed to equip military leaders "with a sharper moral compass for guidance in situations often riven with conflicting moral obligations."<sup>109</sup>

Why was the Schlesinger Panel unimpressed with our Army's basic tool for ethical decision-making, our "Army Values" paradigm? It was probably because the six "values" of this paradigm ("Loyalty, Duty, Respect, Selfless Service, Honor, Integrity, and Personal Courage") are broad ideals, not definitive guidelines or a practical methodology for solving specific ethical problems. In fact, these values can actually be used to support an interrogator's use of "the ticking time bomb" rationale. One can argue, for example, that Abu Ghraib interrogators displayed their "loyalty" to their Army, unit, and other troops by using harsh techniques to save the lives of these troops; they did their "duty" by working hard and displaying initiative; they treated detainees with the "respect" they deserved (which was with no respect, since these detainees were suspected terrorists and criminals); they exercised "selfless service" by

doing hard, dirty work for good ends; they showcased "honor" by living up to the other Army values; they demonstrated "integrity" by using only those harsh techniques which they believed to be approved for use; and they exhibited "personal courage" by deliberately agitating dangerous detainees. Thus, what seems patently obvious to most Americans--that, say, leaving an untried suspect naked, alone, and shivering in a brightly lit, air-conditioned cell for days at a time is behavior that is inconsistent with our nation's values--is easily lost when leaders apply our Army's basic tool for ethical decision-making.

This is not to say that this tool actually condones harsh interrogation techniques. After all, this same tool could also be used to argue that certain interrogators at Abu Ghraib were disloyal to the U.S. Constitution when they punished detainees without "due process of law"; that they failed in their duty to enforce the prohibition of Common Article 3 of the Geneva Convention's against committing "outrages upon personal dignity, in particular humiliating and degrading treatment" of captives;<sup>110</sup> and that they violated their integrity by thus breaking the law. But, this argument can truly only be made in the light of later U.S. Supreme Court decisions. During OIF I, the legal limits of interrogation techniques were hotly debated by the U.S.'s most senior civilian and military lawyers and were not at all clear to politicians, military leaders, or interrogators. Thus, what the Army needs is a different tool, or at least a sharper tool, to more usefully guide ethical decision-making when laws are ambiguous (as they often are).

Clearly, our Army's most important challenge before OIF I was ensuring our troops would behave ethically on today's battlefield. As an Army, we should have placed great emphasis on, one, developing solid ethical tools, and two, growing ethical leaders who could immediately recognize if an action "looked right." Unfortunately, this challenge was not fully recognized. Consequently, despite our many post-invasion tactical successes, our strategic errors were sometimes grave indeed.

And just as clearly, our Army faces the same challenge today.

### **Where We Are Today**

The challenge of improving the quality of our leaders' ethical tools and decision-making belongs not just to the Army's MI community but to the entire U.S. military. As the military's lead service for

interrogation operations,<sup>111</sup> the U.S. Army has made some progress in this regard. But, our Army still has far to go. Consider the following:

- Even today, some SERE interrogation techniques are not explicitly prohibited in MI doctrine.<sup>112</sup> This would be a serious oversight if it were not for the Detainee Treatment Act of 2005, which made it illegal for any military interrogator to use approaches or techniques other than those included in FM 2-22.3, *Human Intelligence Collector Operation*. Nonetheless, MI doctrine should be updated so as to prevent future misunderstanding here.
- Thankfully, U.S. Army doctrine published post-OIF I is far superior with regard to promoting ethical leadership and adherence to the Law of War than doctrine published before OIF I. However, some current doctrine was published before OIF I. Worse, as noted earlier, Army doctrine has failed to sharpen or expand our basic tool kit for ethical decision-making.
- More interrogation units are being stood up, which promises to reduce the risk that non-HUMINT troops with an incomplete knowledge of the Law of War will conduct interrogations.<sup>113</sup> This process is not nearly finished, though: at present in Iraq, few interrogation teams are assigned at the division-level.<sup>114</sup> More critical still is the lack of experienced, professionally educated, senior warrant officers who can properly guide our Army's growing body of junior interrogators.<sup>115</sup>
- Our Army has neither conducted a systematic "review of military ethics education" nor stood up its own "professional ethics program."
- Ethical training in Army units today looks much as it did ten years ago. In general, this training consists of uncertified instructors giving a non-standard "Army Values" brief once a year. Commonly, this brief includes a review of the doctrinal definitions that pertain to each Army Value as well as examples of leaders who exemplified (or did not exemplify) these values. Seldom does such training employ practical exercises to help troops reason through complex moral problems for themselves, and seldom does someone conduct this training who has received the professional education necessary to usefully guide troops toward ethical solutions.

- School curriculum that makes a serious attempt at improving the ethical decision-making skills of Army leaders is rare. Nearly all Army officers, for example, attend Command and General Staff College, but the school provides few blocks of instruction related to improving ethical decision-making. This lack of attention is not the fault of any one college department, for all departments have subject matter in which they can introduce ethical vignettes. Instead, it is symptomatic of a lack of emphasis that still exists across our Army.

### **Our Climb Ahead**

Our Army has come a long way with regard to HUMINT doctrine and force structure since our strategic errors of OIF I. But, we cannot rest now. We must continue to improve our doctrine as well as the number and quality of our HUMINT soldiers. Most urgently, since sound doctrine and force structure is ineffective without sound training, we need to turn our attention to getting ethical training and professional education right across the Army. At stake is not just our preventing future strategic defeat, which is important enough, but our permanently solving what briefly became an existential crisis for our Army. This crisis arose when the "end justifies the means" camp grew far more influential than it should have grown during OIF I. Although this camp will always have adherents, this camp is not who we are, and it is definitely not who we should become.

American soldiers belong in the city upon the hill.

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<sup>1</sup> Peter R. Mansoor, *Baghdad at Sunrise*, New Haven & London: Yale University Press, 2008, 178.

<sup>2</sup> Human Rights Watch, "No Blood, No Foul." *Human Rights Watch*. July 2006, <http://www.hrw.org/en/reports/2006/07/22/no-blood-no-foul-0> (accessed February 17, 2009), 34.

<sup>3</sup> Kenneth W. Estes, *US Army soldier Baghdad 2003-04*, Oxford: Osprey Publishing, Ltd., 2007, 6

<sup>4</sup> Anthony H. Cordsman, "Iraq's Evolving Insurgency: the Nature of Attacks and Patterns and Cycles in the Conflict," *Center for Strategic & International Studies*, [http://www.csis.org/media/csis/pubs/060203\\_iraqicombattrends.pdf](http://www.csis.org/media/csis/pubs/060203_iraqicombattrends.pdf) (accessed 4 December 2008), 32.

<sup>5</sup> Thomas E. Ricks, *Fiasco: The American Military Adventure in Iraq*, New York: The Penguin Press, 2006, 197.

<sup>6</sup> 4th Infantry Division Headquarters, "AR 15-6 Investigation," *American Civil Liberties Union: Torture FOIA*, August 24, 2003, [http://www.aclu.org/torturefoia/released/041905/6570\\_6668.pdf](http://www.aclu.org/torturefoia/released/041905/6570_6668.pdf) (accessed February 20, 2009), 55.

<sup>7</sup> Ricks, *Fiasco*, 197.

<sup>8</sup> *Ibid.*

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<sup>9</sup> CW3 Welshofer is identified as the writer of this email in online court documents and various news stories.

<sup>10</sup> 4th Infantry Division 15-6 Investigation, "Exhibit A (Email Correspondences)." *American Civil Liberties Union: Torture FOIA*, October 6, 2003.

[http://www.aclu.org/torturefoia/released/041905/6570\\_6668.pdf](http://www.aclu.org/torturefoia/released/041905/6570_6668.pdf) (accessed March 15, 2009), 54.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*, 59.

<sup>13</sup> 4th Infantry Division 15-6 Investigation, "Exhibit A (Email Correspondences)", 53. MAJ Hoepner's name is redacted in the published version of this document.

<sup>14</sup> Henry Graf, ed., *American Imperialism and the Phillipine insurrection; testimony taken from hearings on affairs in the Phillipine Islands before the Senate Committee on the Phillipines, 1902*, Boston: Little, Brown and Company, 1969.

<sup>15</sup> Mark Moyer, *Phoenix and the Birds of Prey*, Lincoln: University of Nebraska Press, 2007.

<sup>16</sup> Martin Brass, *Torture to Prevent Terrorism? Interview with a French Master Torturer*, 2004, [http://www.military.com/NewContent/0,13190,SOF\\_0704\\_Torture,00.html](http://www.military.com/NewContent/0,13190,SOF_0704_Torture,00.html) (accessed March 20, 2009).

<sup>17</sup> "John Winthrop: 1630," In *Speeches that Changed the World*, edited by Owen Collins, Westminster: John Knox Press, 1999, 65.

<sup>18</sup> David Hackett Fisher, *Washington's Crossing*. New York: Oxford University Press, 2004, 375.

<sup>19</sup> *Ibid.*, 379.

<sup>20</sup> Numerous historical studies have highlighted the role racism has played in creating exceptions to this rule. See, for example, Wayne E. Lee's essay, "From Gentility to Atrocity: The Continental Army's Way of War," which contrasts the restraint shown by the Continental Army when fighting the British Army versus its brutality when fighting the Iroquois in 1779.

<sup>21</sup> Colonel Robert Hipwell, "800th MP BDE Inaugural Jails/Justice/Jails Meeting with CPA 1000 hrs Thursday," *Email Forwarded to Author from V Corps Historian*, Camp Victory, Baghdad, July 3, 2003, 1.

<sup>22</sup> Lieutenant General Anthony R. Jones, "AR 15-6 Investigation of the Abu Ghraib Prison and 205th Military Intelligence Brigade," *United States Department of Defense[Hereafter USDOD] Detainees Investigations*, August 25, 2004, <http://www.defenselink.mil/news/Aug2004/d20040825fay.pdf> (accessed March 20, 2009), 10.

<sup>23</sup> International Committee of the Red Cross, "Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq During Arrest, Internment and Interrogation, 10 May 2004," *GlobalSecurity.org: Military*. [http://www.globalsecurity.org/military/library/report/2004/icrc\\_report\\_iraq\\_feb2004.htm](http://www.globalsecurity.org/military/library/report/2004/icrc_report_iraq_feb2004.htm) (accessed January 16, 2009), 23.

<sup>24</sup> Major General George R. Fay, "AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade," *USDOD Detainees Investigations* August 25, 2004, <http://www.defenselink.mil/news/Aug2004/d20040825fay.pdf> (accessed March 20, 2009), 72

<sup>25</sup> Department of the Navy Inspector General, "Review of Department of Defense Detention Operations and Detainee Interrogation Techniques," *The Office of the Secretary of Defense and Joint Staff Reading Room, Detainee Related Documents*, March 7, 2005, [http://www.dod.mil/pubs/foi/detainees/church\\_report\\_1.pdf](http://www.dod.mil/pubs/foi/detainees/church_report_1.pdf) (accessed February 10, 2009), 80.

<sup>26</sup> *Ibid.*

<sup>27</sup> Donald P. Wright and Timothy R. Reese, *On Point II, Transition to the New Campaign: the United States Army in Operation IRAQI FREEDOM, May 2003 - January 2005*, Fort Leavenworth: Combat Studies Institute Press, 2008, 207.

<sup>28</sup> Department of the Navy Inspector General, "Review," 6-7.

<sup>29</sup> Fay, *AR 15-6 Investigation*, 119. According to news reports, these homicide cases involved two detainees being tethered to ceilings and beaten over the course of several days.

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<sup>30</sup> Department of the Navy Inspector General, "Review of Department of Defense Detention Operations and Detainee Interrogation Techniques," 297.

<sup>31</sup> CJTF-7 Headquarters, "Interrogation and Counter-Resistance Policy Memorandum, 14 September 2003," *American Civil Liberties Union: Torture FOIA*. <http://www.aclu.org/FilesPDFs/september%20sanchez%20memo.pdf> (accessed November 2, 2008), 4-5.

<sup>32</sup> The U.S. military's Survival, Escape, Resistance, and Evasion (SERE) schools are designed to teach U.S. military personnel, most commonly pilots and special operations personnel, how to survive interrogations conducted by an enemy who is not bound by the Geneva Conventions. Specifically, the interrogation techniques used at these schools derive from methods used by the Chinese Communist Army during the Korean War to extract false confessions from prisoners for their propaganda value. The "Senate Armed Services Committee Inquiry into the Treatment of Detainees in U.S. Custody," posted on Senator Carl Levin's website, is perhaps the best open source account of the migration of SERE interrogation techniques to GTMO and Afghanistan, and from these theaters, to Iraq.

<sup>33</sup> CJTF-7 Headquarters, "Interrogation and Counter-Resistance Policy Memorandum, 14 September 2003," 4-5. For "False Flag," an interrogator pretended to be from another country. "Stress Positions" were defined as the use "of physical postures (sitting, standing, kneeling, prone, etc.)."

<sup>34</sup> *Ibid.*

<sup>35</sup> James R. Schlesinger, Harold Brown, Tillie K. Fowler, and General Charles A. Horner, "Final Report of the Independent Panel to Review DoD Detention Operations, 23 August 2004," *USDOD Detainees Investigations*, <http://www.defenselink.mil/news/Aug2004/d20040824finalreport.pdf> (accessed November 2, 2008), 12.

<sup>36</sup> Fay, *AR 15-6 Investigation*, 92.

<sup>37</sup> See Captain Carolyn Wood's sworn statement regarding COL Pappas' belief that he could approve "sleep deprivation" and possibly "stress positions" (Wood, 7). See Major General (MG) Fay's investigation for COL Pappas' belief that he could approve "use of military working dogs" (Fay, 83). LTG Sanchez has denied delegating this approval authority to COL Pappas.

<sup>38</sup> CJTF-7 Headquarters, "Interrogation and Counter-Resistance Policy Memorandum, 12 October 2003," *American Civil Liberties Union: Torture FOIA*. <http://www.aclu.org/FilesPDFs/october%20sanchez%20memo.pdf> (accessed December 12, 2008), 1.

<sup>39</sup> MG Fay, "AR 15-6 Investigation," 87-88.

<sup>40</sup> *Ibid.*, 64. LTG Anthony Jones shares this observation (Jones, 7).

<sup>41</sup> *Ibid.*

<sup>42</sup> ICRC, "Report of the International Committee of the Red Cross", 13.

<sup>43</sup> *Ibid.*

<sup>44</sup> See, for example, LTG Jones' comment that, "The use of clothing as an incentive (nudity) is significant in that it likely contributed to an escalating 'de-humanization' of the detainees and set the stage for additional and more severe abuses to occur." (Jones, 10).

<sup>45</sup> *Ibid.*, 144.

<sup>46</sup> Keating Holland, *CNN, Poll: Support for Bush, Iraq war dropping*, May 22, 2004, <http://www.cnn.com/2004/ALLPOLITICS/05/14/bush.kerry/index.html> (accessed December 12, 2008).

<sup>47</sup> ICRC, "Report of the International Committee of the Red Cross," 3, 6.

<sup>48</sup> *Ibid.*, 7.

<sup>49</sup> *Ibid.*

<sup>50</sup> Article 32 Hearing, "United States v. CW2 Williams, SFC Sommer and SPC Loper," *Washington Post*, December 2, 2004, [http://www.washingtonpost.com/wp-srv/nation/documents/mowhoush\\_court\\_document.pdf](http://www.washingtonpost.com/wp-srv/nation/documents/mowhoush_court_document.pdf) (accessed March 21, 2009), 20, 33.

<sup>51</sup> *Ibid.*

<sup>52</sup> United States Army Criminal Investigation Command, "CID Report of Investigation," *American Civil Liberties Union: Torture FOIA*. August 3, 2004, <http://www.aclu.org/projects/foiasearch/pdf/>

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DODDOACID004133.pdf (accessed March 22, 2009), 12, 14.

<sup>53</sup> Josh White, "Documents Tell of Brutal Improvisation by GIs," *Washington Post*, August 3, 2005, [http://www.washingtonpost.com/wp-dyn/content/article/2005/08/02/AR2005080201941\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2005/08/02/AR2005080201941_pf.html) (accessed March 22, 2009).

<sup>54</sup> Human Rights Watch, "No Blood, No Foul," *Human Rights Watch*, July 2006, <http://www.hrw.org/en/reports/2006/07/22/no-blood-no-foul-0> (accessed February 17, 2009), 39.

<sup>55</sup> *Ibid.*, 38.

<sup>56</sup> CW3 Lewis Welshofer, "MEMORANDUM FOR Commander 82d ABN DIV," *American Torture*, February 11, 2004, <http://www.americantorture.com/documents/iraq/10.pdf> (accessed March 20, 2009), 2.

<sup>57</sup> Hina Shamsi, "Command's Responsibility: Detainee Deaths in U.S. Custody in Iraq and Afghanistan," *Human Rights First*, Edited by Deborah Pearlstein, February 2006, <http://www.humanrightsfirst.info/pdf/06221-etn-hrf-dic-rep-web.pdf> (accessed March 20, 2009), 13. Army CID recommended prosecuting 11 soldiers, including a few members of the 3ACR, for Jameel's death.

<sup>58</sup> Welshofer, "MEMORANDUM," 2.

<sup>59</sup> Marc Kusnetz, "Torture on Trial -- HRF Observes Court Martial of Army Officer Accused in Death of Iraqi Major General," *Human Rights First*, January 13-17, 2006, [http://www.humanrightsfirst.org/us\\_law/etn/trial/welshofer-011706.asp](http://www.humanrightsfirst.org/us_law/etn/trial/welshofer-011706.asp) (accessed March 20, 2009). This fact is at the "Welshofer in his own Words" hyperlink.

<sup>60</sup> *Ibid.* At "In Their Own Words" hyperlink.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

<sup>63</sup> ICRC, "Report of the International Committee of the Red Cross," 7.

<sup>64</sup> 4ID Staff Judge Advocate, "Documents provided by the 4th Infantry Division SJA," *American Civil Liberties Union: Torture FOIA*, May 12, 2004, <http://www.aclu.org/projects/foiasearch/pdf/DOD043552.pdf> (accessed March 22, 2009), 2. Of note here is that "Isolation" is a SERE technique.

<sup>65</sup> *Ibid.*

<sup>66</sup> Unidentified Investigating Officer, "Memo for Record -- Evidence," *American Civil Liberties Union: Torture FOIA*. February 4, 2004, <http://www.aclu.org/projects/foiasearch/pdf/DOD043571.pdf> (accessed March 22, 2009), 1.

<sup>67</sup> 4th Infantry Division Headquarters, "AR 15-6 Investigation," 43.

<sup>68</sup> *Ibid.*, 74.

<sup>69</sup> *Ibid.*, 73-74.

<sup>70</sup> *Ibid.*, 26, 73-74.

<sup>71</sup> *Ibid.*, 56.

<sup>72</sup> *Ibid.*, 5.

<sup>73</sup> *Ibid.*, 47, 62.

<sup>74</sup> Major General Raymond Odierno, "Treatment of Detainees in the Custody of U.S. Forces," *American Civil Liberties Union: Torture FOIA*, September 21, 2003, <http://www.aclu.org/projects/foiasearch/pdf/DOD043596.pdf> (accessed March 22, 2009), 1-2.

<sup>75</sup> 4th Infantry Division Headquarters, "AR 15-6 Investigation," 48.

<sup>76</sup> *Ibid.*, 49.

<sup>77</sup> *Ibid.*, 24.

<sup>78</sup> *Ibid.*, 28.

<sup>79</sup> *Ibid.* This practice violates Common Article 3 of the 1949 Geneva Conventions, an article the U.S. Supreme Court has upheld as applying even to "unlawful combatants." For alleged use of this technique by 4ID units, see Ricks' *Fiasco*, pgs. 236, 256, 260, 283, 357.

<sup>80</sup> *Ibid.*

<sup>81</sup> Department of the Navy Inspector General, "Review," 299.

<sup>82</sup> Estes, *US Army soldier Baghdad 2003-04*, 32.

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- <sup>83</sup> Ibid., 22.
- <sup>84</sup> Ibid.
- <sup>85</sup> Ibid. 1AD's deployment was extended in Iraq for Operation IRON SABER, April to July 2003.
- <sup>86</sup> Lieutenant Colonel Laurence Mixon, "501st MI Battalion Command Philosophy," July 1, 2003.
- <sup>87</sup> Combat Studies Institute, "Interview with LTC Nathan Hoepner," *Operational Leadership Experiences in the Global War on Terrorism*, December 19, 2008, [http://cgsc.cdmhost.com/cdm4/item\\_viewer.php?CISOROOT=/p4013coll13&CISOPTR=1441&CISOBX=1&REC=6](http://cgsc.cdmhost.com/cdm4/item_viewer.php?CISOROOT=/p4013coll13&CISOPTR=1441&CISOBX=1&REC=6) (accessed March 24, 2009), 11, 17.
- <sup>88</sup> Ibid., 16, 18.
- <sup>89</sup> Ibid., 16; 501st MP Platoon Leader, "Collection Point & Internment Facility Interview Questions," *American Civil Liberties Union: Torture FOIA*, March 23, 2004, <http://www.aclu.org/projects/foiasearch/pdf/DOD018576.pdf> (accessed March 23, 2009), 17.
- <sup>90</sup> LTC Nathan Hoepner, *Email to Author, "Re: Interview!"*, March 25, 2009.
- <sup>91</sup> LTC Nathan Hoepner, *Email to Author: Re: Interview!*, March 28, 2009.
- <sup>92</sup> Department of the Navy Inspector General, "Review," 60.
- <sup>93</sup> Combat Studies Institute, "Interview with LTC Nathan Hoepner, 10-11.
- <sup>94</sup> Guards and interrogators at a few TF 1AD facilities may have employed light "stress positions" as a means of controlling unruly detainees (not to coerce intelligence from detainees). At the time, MP but not MI doctrine prohibited this practice. MI doctrine now prohibits this practice as well.
- <sup>95</sup> Combat Studies Institute, "Interview with CW3 John Groeclose," *Operational Leadership Experiences in the Global War on Terrorism*, January 7, 2009, <http://cgsc.cdmhost.com/cgi-bin/showfile.exe?CISOROOT=/p4013coll13&CISOPTR=1429&filename=1431.pdf#search=%22Pryer%22> (accessed March 25, 2009), 12.
- <sup>96</sup> Combat Studies Institute, "Interview with CW3 Kenneth Kilbourne," *Operational Leadership Experiences in the Global War on Terrorism*, December 21, 2008, [http://cgsc.cdmhost.com/cdm4/item\\_viewer.php?CISOROOT=/p4013coll13&CISOPTR=1440&CISOBX=1&REC=2](http://cgsc.cdmhost.com/cdm4/item_viewer.php?CISOROOT=/p4013coll13&CISOPTR=1440&CISOBX=1&REC=2) (accessed March 31, 2009), 7.
- <sup>97</sup> Combat Studies Institute, "Interview with CW3 John Groeclose," 2, 11.
- <sup>98</sup> Ibid., 13.
- <sup>99</sup> Combat Studies Institute, "Interview with LTC Nathan Hoepner," 11.
- <sup>100</sup> 1AD Headquarters, "FRAGO 383A [General Order - Civilian or Detainee Maltreatment] to OPOD 03-215 (Iron Stability)," *American Civil Liberties Union: Torture FOIA*, July 21, 2003, <http://www.aclu.org/projects/foiasearch/pdf/DODDOA027333.pdf> (accessed March 4, 2009), 58-60.
- <sup>101</sup> Ibid.
- <sup>102</sup> Peter R. Mansoor, *Baghdad at Sunrise*, 178-179.
- <sup>103</sup> Department of the Navy Inspector General, "Review," 298-302. The Church Report identifies five substantiated cases of interrogation abuse by soldiers (not school-trained interrogators) of TF 1AD. Two of these cases occurred at the point of capture; three occurred in temporary holding facilities.
- <sup>104</sup> Ibid.
- <sup>105</sup> Department of the Army, *Field Manual 34-52, Intelligence Interrogation*, Washington, D.C.: U.S. Department of the Army, September 1992, 1-8.
- <sup>106</sup> Matthew Alexander and John R. Bruning, *How to Break a Terrorist: The U.S. Interrogators Who Used Brains, Not Brutality, To Take Down the Deadliest Man in Iraq*, New York: Free Press, 2008.
- <sup>107</sup> James R. Schlesinger, Harold Brown, Tillie K. Fowler, and General Charles A. Horner, "Final Report of the Independent Panel to Review DoD Detention Operations, 23 August 2004," *United States Department of Defense Detainees Investigation*, <http://www.defenselink.mil/news/Aug2004/d20040824finalreport.pdf> (accessed November 2, 2008), 123.
- <sup>108</sup> Ibid., 125-126.
- <sup>109</sup> Ibid., 126.

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<sup>110</sup> International Committee of the Red Cross, "Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva," *International Humanitarian Law - Treaties & Documents*, August 12, 1949, <http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/6756482d86146898c125641e004aa3c5> (accessed March 25, 2009). The U.S. Supreme Court held that Common Article 3 applies even to unlawful combatants in its 29 June 2006 decision, "Hamdan vs. Rumsfeld.

<sup>111</sup> Army interrogation doctrine and regulations are binding for all military services.

<sup>112</sup> Department of the Army, *Field Manual 2-22.3, Human Intelligence Collector Operations*, Washington, D.C.: U.S. Department of the Army, September 2006.

<sup>113</sup> Department of the Navy Inspector General, "Review," 294-302. Of 16 substantiated cases of interrogation abuse in Iraq, that had been closed as of 30 September 2004, only six cases involved trained interrogators.

<sup>114</sup> LTC Russell Godsil. *Email: Re: Re: Interview!* February 19, 2009. According to LTC Godsil, the recently redeployed Deputy G-2 for the 1AD, one HUMINT Battalion supported theater-wide HUMINT operations, thus leaving few HUMINT Collection Teams to support divisions. This is little different than the situation during OIF I.

<sup>115</sup> *Ibid.*