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Abu Ghraib: A Few Bad Apples or a Detention System in Distress?

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Abstract

The prison at Abu Ghraib, Iraq was infamous for torture even before the allegations of abuse by American soldiers became public. The photographic evidence of the abuses of the Iraqi prisoners shocked the world and the United States suffered a tremendous blow to its reputation as a champion of human rights. The atrocities were clearly unjustifiable under both American and international law. The failings of the U.S. Army, in particular the dismal leadership, poor command and control relationships, insufficient personnel, lack of training, and confusing interrogation policies, identified in numerous reports and investigations, led to this senseless violence against prisoners at Abu Ghraib.

Now that numerous cause factors have been identified, action must be taken publicly to ensure that all avenues are taken to minimize the risk of this type of occurrence by U.S. forces in future operations. Most importantly, those responsible for the actions of the soldiers should also be held accountable so that the lower ranks are not the only ones held responsible for a system that aided these terrible abuses to occur. The reputation of the United States has suffered greatly as a result of this scandal and it must publicly accept accountability and make take appropriate action at all levels to ensure that the chances of such an occurrence in the future is minimized.

*“So to those Iraqis who were mistreated by members of the U.S.
armed forces, I offer my deepest apology.”*
Donald Rumsfeld, U.S. Secretary of Defense¹

When the investigative journalism television program 60 Minutes II aired on 28 April 2004 showing for the first time the horrendous photos of prisoner abuse in the American held Iraqi prison at Abu Ghraib, the world was shocked. Every media outlet soon covered the story and global outrage was immediate. From the President of the United States (U.S.) downward, every attempt by senior American officials was made to convey the atrocities as the result of a few bad soldiers acting on their own volition. These actions are eerily reminiscent to those that occurred after the My Lai massacre in 1968. In a news conference covering the release of his investigation into Department of Defense detention operations, former Secretary of Defense James Schlesinger, chairman of the four-member advisory panel appointed by Secretary of Defense Donald Rumsfeld in early May to investigate abuse allegations, stated “it was kind of 'Animal House' on the night shift.”² Although he goes deeper into the reasons for the abuses in his report, Schlesinger’s comment appeared to make light of the seriousness of the events.

The attempts to portray the situation as a few soldiers out of control soon backfired. The damage done to the reputation of the United States was immediate and swift. Condemnation came from around the world. Just days after the broadcast by 60 Minutes II, in a belated effort to show that the American government was taking serious action, the Pentagon revealed 35 investigations into allegations of abuse by American

¹ Thom Shanker and Eric Schmitt, “Rumsfeld Accepts Blame and Offers Apology,” *The New York Times*, (8 May 2004): A10; available from <http://www.proquest.umi.com>; Internet; accessed 3 March 2005.

² James Schlesinger, Press Conference, as reported by Dave Moniz and Donna Leinwand, *USA Today*, (24 August 2004), http://www.usatoday.com/news/washington/2004-08-24-abu-ghraib-report_x.htm; Internet; accessed 15 November 2004.

soldiers in Afghanistan and Iraq.³ Indeed, photo evidence, as atrocious as it was, seemed to indicate more serious incidents than previously reported.

The prison at Abu Ghraib was infamous even before the allegations of abuse by American soldiers became public. According to Seymour Hersh, the Pulitzer Prize winning writer for the *New Yorker*, “in the era of Saddam Hussein, it was one of the world’s most notorious prisons, with torture, weekly executions, and vile living conditions.” He further wrote that “as many as fifty thousand men and women ... were jammed into Abu Ghraib at one time, in twelve-by-twelve-foot cells that were little more than human holding pits.”⁴ It was in this horrendous facility that American soldiers soon found themselves guarding and interrogating Iraqi detainees.

Abu Ghraib was chosen by Paul Bremer, the U.S. Ambassador to Iraq, to be a temporary facility for criminal detainees until the new Iraqi government could be established and a new prison built and opened at another site. In Summer 2003, it was decided to use the prison to hold security detainees as well, as it would be dangerous to transport these people to the more remote and secure Camp Bucca, over 150 kilometers away due to improvised explosive devices and other insurgent tactics.⁵ Brigadier General Janis Karpinski, the Commander of the 800th MP Battalion in her sworn statement to the Taguba Report, noted that the choice of this location was extremely controversial because of its notoriety and the fact that the hanging cell and torture chambers were the only areas

³ Dan Rather, “Abuse at Abu Ghraib.” *CBS News.Com*, (5 May 2004); http://www.usatoday.com/news/washington/2004-08-24-abu-ghraib-report_x.htm; Internet; accessed 3 March 2005.

⁴ Seymour M. Hersh, “Torture At Abu Ghraib.” *The New Yorker*, (10 May 2004); http://www.newyorker.com/fact/content/?040510fa_fact; Internet; accessed 5 November 2004.

⁵James R. Schlesinger, “Final Report of the Independent Panel to Review DoD Detention Operations,” in *The Torture Papers: The Road to Abu Ghraib*. Edited by Joshua L. Dratel and Karen J. Greenberg. New York: Cambridge University Press, 2005, pg 944.

still intact.⁶ It is ironic that the prison made so famous for torture under Saddam Hussein would then become the location where further atrocities would be committed by the liberating force.

Several high-level investigations have now been completed with even more forthcoming. Of the 115 abuse investigations concluded, at least 36 court-martials are either completed or ongoing for soldiers indicted for their roles in the scandal. In addition, many other disciplinary sanctions have been handed out, mainly to junior army personnel, and there are still over 130 investigations into abuse continuing.⁷ Factors cited in the major investigations as contributing to the abuse include, but are not limited to, lack of training, poor leadership, confusing policy and insufficient personnel.⁸ The United States Army has acknowledged many of these shortcomings.

As the abuse at Abu Ghraib is very recent, and trials are ongoing, there is very little published material available for research. A literature survey reveals that much of the information comes from investigative news stories which continue to unfold on a daily basis. Other information comes from official reports that have investigated several factions of the detention and interrogation systems. It may take some time for the full story to surface, if it ever does. Research into factors that may affect behaviour will be used to fill the blanks on determining how such an atrocity could occur.

⁶Janis Karpinski, Sworn Statement in Taguba Report, Article 15-6, Investigation Interview, 15 February 2004, 14. www.public-i.org/docs/AbuGhraib/Abu29.pdf; Internet; accessed 12 December 2004.

⁷Vice Admiral Albert T. Church III. "Executive Summary: A Review into Department of Defence Operations, 10 March 2005. <http://www.pentagon.gov/news/Mar2005/d20050310exe.pdf>. Internet; accessed 12 March 2004.

⁸ LTG Anthony R. Jones. AR 15-6 Investigation of the Abu Ghraib Prison and 205th Military Intelligence Brigade" and MG George R. Fay, "AR 15-6 investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade," in *The Torture Papers: The Road to Abu Ghraib*. Edited by Joshua L. Dratel and Karen J. Greenberg. New York: Cambridge University Press, 2005, pgs 1006-1008 and 1005 – 1114.

Some behavioral scientists point out that there may be underlying reasons why good soldiers would participate in the horrendous acts committed in Abu Ghraib. In order to try to understand how individuals could behave in such an inhumane matter, they contend it is necessary to look at the situation in which the soldiers found themselves in working in that prison in war-torn Iraq. Several studies have been completed that may be applied to Abu Ghraib that may shed some light on why these individuals acted as they did. Especially relevant is the 1971 Stanford Prison Experiment, a simulation study of the psychology of imprisonment conducted at Stanford University by Doctor Philip Zimbardo. This experiment and additional research by Doctors Albert Bandera and Stephen Soldz will be considered to provide some insight into reasons they believe this aberrant behavior may have occurred.

The abuses at Abu Ghraib did not just happen on one occasion, nor were only a few individuals involved. Beyond the photographic evidence, many further atrocities had been identified before the horrendous photos became public. The International Committee of the Red Cross (ICRC) visit reports in October 2003 and January, February and March 2004 indicated that there were serious problems in the manner in which the prisoners were treated. The maltreatment was especially emphasized in the report dated February 2004, which outlined incidents of beatings with hard objects, of detainees being paraded naked outside of their cells and of prisoners being held naked in solitary confinement for several days.⁹ In response to the ICRC reports, instead of investigating

⁹ Janis Karpinski, Sworn Statement in Taguba Report, Article 15-6, Investigation Interview, 15 February 2004, 14. www.public-i.org/docs/AbuGhraib/Abu29.pdf; Internet; accessed 12 December 2004.

⁹Vice Admiral Albert T. Church III. "Executive Summary: A Review into Department of Defence Operations, 10 March 2005. <http://www.pentagon.gov/news/Mar2005/d20050310exe.pdf>. Internet; accessed 12 March 2004.

and initiating corrective action of the infractions that had been noted, senior Army officials responsible for the prison instead decided to limit the access of the ICRC to certain areas of the facility.¹⁰ This attempt to control what was seen by authorized visitors to the detention facility is in direct contravention to international law that states “such visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure.”¹¹ An outside observer could be excused for thinking the Americans had something to hide.

To add to an already tenuous environment, there was confusion within the Military Intelligence Branch and the other agencies on what constituted proper methods of interrogation. Since 9/11, the U.S. had been grappling with the best means to gain actionable intelligence and there was pressure being brought to bear on the commanders and interrogators at all detention facilities, including Abu Ghraib, to produce valid and timely information. The U.S. Army Field Manual (FM) 34-52 states that the objective of interrogation is to obtain the maximum amount of information possible in the minimal amount of time. The FM is quite clear that the information must be accurate, reliable and obtained in a lawful manner. It emphatically states that the “use of force, mental torture,

⁹ LTG Anthony R. Jones. AR 15-6 Investigation of the Abu Ghraib Prison and 205th Military Intelligence Brigade” and MG George R. Fay, “AR 15-6 investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade,” in *The Torture Papers: The Road to Abu Ghraib*. Edited by Joshua L. Dratel and Karen J. Greenberg. New York: Cambridge University Press, 2005, pgs 1006-1008 and 1005 – 1114.

¹⁰Jones. AR 15-6 Investigation of the Abu Ghraib Prison and 205th Military Intelligence Brigade” and MG George R. Fay, “AR 15-6 investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade,” in *The Torture Papers: The Road to Abu Ghraib*, 1069 – 1070.

¹¹Geneva Convention IV, Article 143.

threats, insults, or exposure to unpleasant and inhuman treatment of any kind is prohibited by law and is neither authorized, nor condoned by the U.S. Government.”¹²

Although FM 34-52 is unambiguous when discussing the seventeen authorized methods of interrogation, abuse clearly occurred in Abu Ghraib. Jones defined abuse in his report as the treatment of detainees that violated U.S. criminal or international law or treatment that was inhumane or coercive without lawful justification. He divided the abuses at Abu Ghraib into two categories, intentional violence or sexual abuses and those that resulted from misinterpretations of law or policy.¹³ Whichever way the acts are defined, the fact that abuse occurred at all is clearly unconscionable.

During the transition from major combat operations to Stability and Support Operations (SASO), the Joint Chiefs of Staff felt that the U.S. forces in Iraq were experiencing some challenges, especially in the areas of intelligence, interrogation and detention. The situation was not unfolding as expected, and the rising insurgency was causing great concern to the American leadership. In order to identify means to rectify this situation, Major General (MG) Geoffrey Miller, Commander of Joint Task Force Guantanamo (JTF-GTMO) was tasked to conduct an assistance visit to Iraq to “discuss the theatre ability to rapidly exploit internees for actionable intelligence.”¹⁴ Many recommendations from Miller’s report were actioned in Abu Ghraib soon after it was

¹² Field Manual 34-52, Intelligence Interrogation, HQ, Department of the Army, Washington, DC, 28 September 1992, 1,2.

¹³Jones, “The Jones Report,” pg 993.

¹⁴MG George R. Fay, “AR 15-6 investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade,” in *The Torture Papers: The Road to Abu Ghraib*, pg 1060., AND MG Geoffrey Miller. “Assessment of DoD Counterterrorism Interrogation and Detention Operations in Iraq.” <http://www.publicintegrity.org/docs/AbuGhraib/Abu3.pdf>. Internet: accessed 15 February 2005.

published, but some issues on inappropriate and unauthorized interrogation methods remained outstanding that may have ultimately led to a situation that allowed abuse.

The abuse of prisoners at Abu Ghraib was unjustifiable under both American and international law. Although the United States has taken some action to mitigate the damage done to its reputation, it is not enough. Other than an administrative reprimand given to Karpinski for lack of leadership, much like the My Lai case, no senior person or agency has accepted or been held accountable for these atrocities.¹⁵ To date, with the exception of one major directly implicated in the abuse, only soldiers of the rank of sergeant and below have faced courts-martialed. Individuals of authority may under certain circumstances be held liable, not for their actions, but for the crimes of those under their command. This doctrine of command responsibility, with the exception of one general who received a reprimand, has been ignored. There were more than a few bad cases. The disarray in the U.S. detention and interrogation systems allowed these unspeakable abuses to occur. It will be very difficult for the U.S. to clear its standing concerning human rights and to gain back its reputation as a fair and just society. As a minimum, the U.S. must acknowledge full responsibility, take firm action to punish those who were directly and indirectly responsible for the abuse, and institute new policies and procedures to prevent such cruelty from occurring again.

The failings of the U.S. Army, in particular the dismal leadership, poor command and control relationships, insufficient personnel, lack of training, and confusing interrogation policies, led to senseless violence against prisoners at Abu Ghraib. Actions

¹⁵ Bradley Graham and Josh White. "Senators Question Absence of Blame in Abuse Report.: *The Washington Post*, 17 March 2005, pg A17, <http://www.washingtonpost.com/ac2/wp-dyn/A25203-2005Mar10>; Internet; accessed 21 March 2005.

taken to date by both the U.S. Government and U.S. Army to correct the situation are woefully inadequate. The U.S. must take additional steps to ensure compliance with the Laws of Armed Conflict to eliminate the chances of these atrocities happening again. Only then can the U.S. repair its damaged reputation and regain its status as the world superpower with moral authority on human rights.

PSYCHOLOGICAL CAUSES

The U.S. government's initial responses to the abuse scandal at Abu Ghraib concentrated on convincing the American public and indeed the world, that the sadism perpetrated at that prison was a result of a few bad soldiers. While only a few soldiers may have been caught on photos, there was something terribly wrong within the system that they worked in that would cause these previously normal men and women to force prisoners to masturbate while being photographed, place a dog chain around a prisoners neck and have him paraded around the prison led by a female guard or using dogs without muzzles to intimidate, frighten and even bite prisoners.¹⁶

A study performed in 1971 by Stanford University researchers Philip Zimbardo, Craig Haney, W. Curtis Banks and David Jaffe seems to be relevant to this horrible situation. Zimbardo, now Professor Emeritus at Stanford University, was the lead researcher for what was to become known as the Stanford Prison Experiment, where young university students were hired to participate in a study about what the psychological effects were of becoming a prisoner or prison guard. More than 70 applicants were given diagnostic interviews and personality tests to eliminate candidates

¹⁶ Anthony Taguba, "The Taguba Report, Article 15-6 Investigation of the 800th Military Police Brigade", in *The Torture Papers: The Road to Abu Ghraib*. Edited by Joshua L. Dratel and Karen J. Greenberg. New York: Cambridge University Press, 2005, pg 416.

with psychological problems, medical disabilities, or a history of crime or drug abuse.¹⁷ Once deemed suitable, the students were then chosen to be part of the experiment.

In the next step, the students were randomly chosen to be either a prisoner or a guard. In an effort to effect realism, the selected prisoners were arrested by real police and brought to the basement of the Stanford Psychology Department which had been set up to resemble a real prison. The “prisoners” were stripped searched, showered, deloused, given a gown to wear with no underwear and issued a stocking cap to cover their hair (instead of having it shaved off). Finally, a chain was placed on their ankle, each was given a number and their name was no longer used. These actions were taken in order to humiliate the prisoner to make him feel the degradation and anonymity felt in a real prison.¹⁸ This was much the same as the prisoners in Abu Ghraib who were put into orange jumpsuits and given a prison identification number, thereby losing any sense of their own identity.

The prison guards were issued khaki uniforms with a whistle and billy club, large sunglasses and were not given any formal guard training. Instead, they were instructed to do whatever they thought necessary to maintain law and order in the prison and command the respect of the prisoners. They were warned of the seriousness of their mission and advised of some of the dangers that might occur.

At the beginning of the exercise, there were nine prisoners and nine guards. Three guards worked 8-hour shifts each, while there were three prisoners in each of the cells. Each day, the guards became more and more sadistic as the power of their position

¹⁷ Phillip Zimbardo, *The Stanford Prison Experiment*. ” <http://www.prionexp.org>; Internet; accessed 10 December 2003.

¹⁸ Ibid., 10,11,12.

became part of who they were. The prisoners became increasingly immersed in their roles as well, losing their sense of individuality and absorbing the persona of real prisoners. Some broke down, some became model prisoners and others became increasingly rebellious.¹⁹ Similar circumstances were seen at Abu Ghraib where prison riots and disturbances were common, and a number of prisoners showed signs of mental distress. The ICRC found a high level of depression, stress and frustration among detainees at Abu Ghraib, signs similar to those demonstrated in the Zimbardo experiment.²⁰

The abuse being generated by the guards, particularly during the night shift, was extremely reminiscent of what happened at Abu Ghraib. Prisoners were chained, taken naked around the prison with bags on their heads, forced to clean out toilet bowls with their hands and towards the end, the prisoners were made to simulate sodomy.²¹ The two-week experiment was canceled after 6 days. According to Zimbardo:

We had created an overwhelmingly powerful situation -- a situation in which prisoners were withdrawing and behaving in pathological ways and in which some of the guards were behaving sadistically. Even the "good" guards felt helpless to intervene and none of the guards quit while the study was in progress.²²

Zimbardo has studied the Abu Ghraib abuses in order to compare them with his experiment of 1973. He contends "human behaviour is much more under the control of

¹⁹ Ibid., 36.

²⁰ ICRC Report, pg 12.

²¹ Doctor Phillip Zimbardo, "Heart of Darkness," an interview with Margaret Warner, PBS, OnLineNewsHour. 11 May 2004.

²² Zimbardo, *The Stanford Prison Experiment*, pg 38.

situational forces than most of us recognize or want to acknowledge.”²³ He also goes on to outline what he considers some of the factors that contributed to the abhorrent actions of the soldiers at Abu Ghraib. Included are the diffusion of responsibility, anonymity, dehumanization, peers who model harmful behaviour, bystanders who do not intervene and a setting of power differentials.²⁴ Zimbardo goes on to list additional stressors for the guards; secrecy, no visible chain of command, conflicting demands from other agencies, no punishment for broken rules, encouragement to soften up the detainees and no challenges by the bystanders who did not report the abuses.²⁵ Zimbardo contends that also contributing to the behaviour of the guards was the extreme fear felt by all American soldiers working at Abu Ghraib, due to the constant mortar attacks on the facility that had killed and injured a number of soldiers and detainees.²⁶ While it is true that the circumstances and stressors noted above were present for the soldiers at Abu Ghraib, with the proper training and supervision these factors could have been mitigated. The leadership at Abu Ghraib should have recognized these stressors and taken appropriate action to reduce the fears of the personnel working there.

It is clear that soldiers demonstrated despicable acts against the detainees in Abu Ghraib, and according to Zimbardo, they should be found guilty. Zimbardo stresses, however, that they are not to blame for the situation that existed in the prison that allowed

²³ Zimbardo, “Power Turns Good Soldiers into ‘Bad Apples’,” in *The Boston Globe*, 9 May 2004. http://www.boston.com/news/globe/editorial_opinion/oped/articles/2004/05/09/power_turns_good_soldiers_into_bad_apples/; Internet; accessed 24 February 2005.

²⁴Ibid., .2.

²⁵ Ibid., 2.

²⁶ Doctor Phillip Zimbardo, “You Can’t be a Sweet Cucumber in a Vinegar Barrel, A Talk with Phillip Zimbardo” in *Edge, The Third Culture*, pg 8, 19 January 2005, <http://www.edge.org/archive.html#zimbardo05>; Internet; accessed 3 March 2005.

them to commit the abuses.²⁷ The blame should be placed squarely on the leadership, from the CJTF-7 commander down, who failed to recognize and address the horrific working conditions at the prison.

Other behavioral scientists such as Albert Bandura and Stephen Soldz agree with Zimbardo that ordinary people are capable of terrible acts, dependant upon the situation they find themselves in. Soldz, a faculty member at the Institute for the Study of Violence of the Boston Graduate School of Psychoanalysis, states that regular people are capable of horrendous acts and that the capacity to do evil resides in everyone. He emphasizes that certain circumstances are more likely to present opportunities to express evil including: being one of a group, being able to attribute responsibility to others or to higher goals, being in an alien or dangerous environment and being in an environment with little or no accountability.²⁸ Each of these factors was present at Abu Ghraib: the soldiers were part of a group, lack of supervision allowed a responsibility to be abdicated, and the environment was fraught with danger on a daily bases. While Soldz recognized that the environment might lead to a situation that could foster an abusive atmosphere, he further says, those who created the environment in which the occupying soldiers have so much power with no limits or responsibility bear the ultimate responsibility for the horrors that occurred at Abu Ghraib.²⁹ Like Zimbardo, the recognition of the lack of supervision comes to the forefront. Without proper oversight, conditions at Abu Ghraib

²⁷ Zimbardo, "Power Turns Good Soldiers into 'Bad Apples'," pg 1.

²⁸ Stephen Soldz, "Abuse at Abu Ghraib, the Psychodynamics of Occupation, and the Responsibility of Us All," Znet, 1 May 2004. <http://www.zmag.org/content/showarticle.cfm?SectionID=51&ItemID=5439>; Internet; accessed 22 February 2005.

²⁹ Ibid., 5.

were allowed to develop that led to soldiers not being afraid of the consequences of their action. By allowing themselves to be photographed, the personnel involved in the atrocities showed that they had no remorse or guilty feelings about the actions that they willingly participated in, nor were they afraid of any disciplinary action being taken.

Soldz further explains that a number of “logics” combined to account for the actions of the American soldiers at Abu Ghraib. His “logics” include the logic of war, of occupation, of imprisonment and of revenge, all of which combine to attempt to explain why the guards at Abu Ghraib acted in the atrocious manner that they did.³⁰

The first is the logic of war, which he maintains involves fear, fear that is pervasive and an awareness that death is always near. This fear, Soldz contends, leads to an increased attachment to one’s cultural norms and a rejection and punitive attitude towards those who threaten that worldview. This in turn, is reflected in an assertion of dominance over the occupied.³¹ While fear is not a pleasant emotion, it cannot be used as an excuse to treat prisoners in a malicious manner. Emotions in an environment like Abu Ghraib must be harnessed. Discipline must be strictly maintained by the leadership to ensure that personnel are following outlined procedures specifically promulgated by law to ensure the humane treatment of detainees.

When discussing the logic of occupation, Soldz clarifies it as a continuation of the rejection of those occupied, another step towards portraying the enemy as evil. This perception, Soldz maintains, leads to coping strategy of viewing the prisoners as evil,

³⁰ Steven Soldz, “The Psychodynamics of Occupation and the Abuse at Abu Ghraib: An Interpretation After One Year of Revelations,” in *The Information Clearinghouse*, 06 April 2005, <http://www.informationclearinghouse.info/article8479.htm>; Internet: accessed 10 April 2005.

³¹ Ibid.

thereby justifying any abusive behaviour towards them as necessary in order to control the “bad guys”.³² While this attitude may have been present at Abu Ghraib, where controlling the bad guys led to naked prisoners being forced to wear women’s underwear on their head and being left without clothing in dark wet cells for extended periods of time, it cannot justify the behaviour of the soldiers who participated in the abuses.

The next logic espoused by Stoldz is imprisonment, which supposes that the guards usually assume the prisoners to be guilty, whether they are convicted of an offence or not. Soldz contends that the guards may perceive that if these same prisoners do not divulge information, they must be withholding, thereby increasing their guilt. He goes on to state that the guards, under constant stress and feeling the pressure to assist the MI personnel to extract information, would then begin to dehumanize the detainees, much like the previous two logics. This line of reasoning, that the prisoners were guilty, that they were withholding valuable information and that they were less than human and had to be controlled, Soldz stresses, could lead to the guards believing that it was their duty to keep the detainees under control.³³ The MPs attempts at keeping the prisoners in line at Abu Ghraib consisted of a number of illegal and unethical methods that were under no circumstances justified. Again, lack of leadership, supervision and training on of the Geneva Conventions and Laws of Armed Conflict allowed the guards to act as inhumanely as they did without fear of retribution.

The final logic that Soldz discusses is revenge. Revenge for 9/11, revenge for the humiliation of the American people, revenge for the death of the guards’ fellow soldiers.

³² Ibid.

³³ Ibid.

This desire for revenge, Soldz maintains, “suggested that anything visited upon the Iraqis was acceptable.”³⁴ The idea that revenge could have been motivation for the abuses that occurred in that prison can in no way excuse the behaviour of the soldiers at Abu Ghraib. As with the other logics, emotions must be kept firmly under control in order to preserve discipline and lawful management of the prison.

According to Soldz, these four logics “came together in 2003” and resulted in the tortures in Abu Ghraib. Stolz explains that these “underemphasized aspects of war and occupation contributed to the persuasiveness of abuse.”³⁵ While Stolz’s logics may explain the rationale behind the unacceptable behaviour of the soldiers, they by no means can be accepted as justification for blatant disregard for the laws of war.

Still other researchers have provided confirmation to the hypothesis that evil is resident in all people. Albert Bandura, a noted Stanford University professor, has studied moral disengagement, that is, the gradual disengagement of moral self-sanction that could lead to inhumane actions. According to Bandura, “self-sanctions keep conduct in line with personal standards.... and mark the presence of moral oughts.”³⁶ Bandura lists a number of conditions that can lead to moral disengagement. These include: moral justification, euphemistic language, advantageous comparison displacement of responsibility, diffusion of responsibilities, disregarding or distorting the consequences of actions and dehumanization. Like Stolz’s logics, Bandura’s list of conditions leading to moral disengagement attempts to rationalize why people

³⁴ Ibid.

³⁵ Ibid.

³⁶ Albert Bandura, “Moral Disengagement in the Perpetration of Inhumanities,” in *Personality and Social Psychology Review* 1999, Vol. 3, No. 3, 194.

disassociate themselves from their actions. This disassociation is unacceptable in any military situation, but especially one where the fair treatment of other human is mandated by laws and treaties. Poor living conditions, personal safety concerns or outright fear cannot be allowed to excuse inhumane treatment of other human beings.

The Schlesinger Report also discusses Bandura's moral disengagement theory. Schlesinger outlines the fact that detainee and interrogation operations consist of a unique subset of human interactions, whereby one group has significant power over the other. Without the proper oversight and monitoring, he states, these interactions can carry an elevated risk of moral disengagement of those in power and may lead to abusive behaviours.³⁷

The Schlesinger Report identifies that most American leaders in Iraq were unaware of these known risk factors and therefore were unable to take actions to mitigate the potential for abuse. However, Schlesinger further states, that even though the conditions may have existed in Abu Ghraib that heightened the risks for abuses, such conditions neither excused nor absolved the individuals who engaged in immoral or illegal behaviour.³⁸ Because of the studies such as those by Zimbardo, Stoldz and Bandura, the U.S. Army must recognize the risk factors and ensure that leaders are trained to identify them before proceeding on operations in the future. By training leaders to recognize the conditions under which human behaviour might be negatively

³⁷ Schlesinger, "Final Report of the Independent Panel to Review DoD Detention Operations," pg 973.

³⁸ Ibid., 970.

affected, conditions can be recognized early and appropriate action taken to mitigate the potential for abuses.

Other psychological stresses may have also affected the behaviour of those who committed the abuses at Abu Ghraib. The Taguba Report includes an annex written by Colonel Henry Nelson, a psychiatrist with the United States Air Force that outlines several factors that can interact and contribute to horrific outcomes. The poor quality of life of the soldiers and the extreme dangers that they found themselves in daily, from both inside and outside the prison, he writes, certainly contributed to the stress felt by the soldiers. In addition, dealing with the Islamic culture, many for the first time, with its differences in worship and beliefs, as well as the fear of Muslim terrorists, could have led to fear or devaluation of the detainees as a people. Colonel Nelson further elaborates additional stressors came from lack of training and command and control structures at the prison that were poorly defined with limited supervision being provided. These conditions led to a negative atmosphere in Abu Ghraib, where soldiers had to deal with both hostile and frustrated detainees, most who had been swept up randomly, without discrimination. Military police were tasked with preventing escape of the detainees and Military Intelligence personnel were under pressure to provide new actionable intelligence. Colonel Nelson states that these conditions would “grind down even the most motivated Soldier and lead to anger and possible loss of control.”³⁹ However unmotivated, frustrated and angry the soldier might be working in Abu Ghraib, the vicious actions taken against the prisoners, who are the true victims in this situation was simply unacceptable.

³⁹ Col Henry Nelson, “The Taguba Report, Article 15-6 Investigation of the 800th Military Police Brigade” in *The Torture Papers: The Road to Abu Ghraib*. Edited by Joshua L. Dratel and Karen J. Greenberg. New York: Cambridge University Press, 2005, pgs 448–450.

Conditions inside detention facilities in a theatre of war must be recognized by authorities as dangerous environments fraught with both depressive and anxiety laden elements that require constant oversight to ensure that the soldiers working there remain psychologically sound. Colonel Nelson recommends that as well as the medical and pastoral care available in a detention facility, that mental health care in the form of a psychiatrist or psychologist be employed at the detention centre in order to identify and depressive or anxiety symptoms before it is too late.⁴⁰ While it may be necessary to ensure the mental health of U.S. soldiers while employed in a hazardous and depressing environment, it is equally important to ensure the rules of law and Geneva Conventions are followed to ensure the dignity and humane treatment of the detainees. Having mental and spiritual help available is laudable, but it does not negate the fact that atrocities were committed and the issue of accountability has not been resolved.

ENVIRONMENTAL CAUSES

During many investigations, reports and analysis of the abuses at the Abu Ghraib Detention Facility, a number of factors have been continually identified as instrumental in allowing the atrocities to occur. Dismal leadership and supervision, a deficiency of a clear command and control structure, inadequate personnel in both the MP and MI Bdes in the Iraqi theatre of operations, lack of training, and confusing interrogation policies were all cited as potentially leading to abusive behavior on the part of the soldiers working at the prison. Each of these factors will be dealt with individually to outline their importance in the overall scheme of the abuses.

⁴⁰ Taguba, "The Taguba Report, Article 15-6 Investigation of the 800th Military Police Brigade," pg 450.

Leadership is the critical ingredient in any successful mission. In the situation in which the U.S. soldiers found themselves guarding prisoners in a very unstable environment due to the recent insurgency, strong control from the top became essential. Unfortunately, poor and inadequate leadership was a critical factor in the degradation of the Iraqi detainees in Abu Ghraib. The nature of the leadership at the prison was convoluted between the MP and MI units and this led to the soldiers not being sure who was in charge. When the abuses occurred, the 320th MP Bn of the 800th MP Bde, the 205th MI Bde and the Joint Interrogation Debriefing Center (JIDC) worked out of Abu Ghraib. Iraqi Police, civilian contractor interrogators and translators, as well as OGAs (primarily the Central Intelligence Agency (CIA)) also conducted operations out of the facility. This confusing environment where no one was sure of the chain of command provided ample opportunity to bully prisoners without sanction.

Brigadier General (BG) Janis Karpinski commanded the 800th MP Bde and was therefore ultimately responsible for the actions of the personnel of the 320th MP Bn. A seasoned intelligence officer, while in Iraq BG Karpinski was responsible for three large jails, eight battalions, and thirty-four hundred Army reservists, most of whom, like her, had no training in handling prisoners. Running detention operations is a sub-specialty of the MP Branch in which only a limited number of specified units are trained. Karpinski was tasked to assist in repairing, restoring and refurbishing Iraqi prisons. In addition, her brigade was to assist in developing a training program for Iraqi security personnel and to continue high value prisoner operations and constructing and operating a temporary prison camp at Abu Ghraib.⁴¹ Karpinski states that with the resources allotted to her, the

⁴¹ Janis Karpinski, "What Went Wrong at Abu Ghraib," in the *San Francisco Chronicle*, 7 April 2004; <http://www.sfgate.com/cgi->

soldiers did the best that they could; however, whenever she asked for help from the Coalition Provost Marshall his attitude was that “detention operations are the lowest priority on my list” and little assistance was provided.⁴² In his report, Taguba discusses the leadership of Karpinski and states that he saw no “clear emphasis” that Karpinski made any effort to ensure that her officers and staff were trained to standard in detainee operations and that serious accountability lapses occurring over a long period of time were not corrected. He went on to state that investigations regarding escaped internees were not acted upon or followed up. Brigade and unit Standing Operating Procedures (SOPs) were not in place. Furthermore, Taguba reported, no evidence that Karpinski had ever directed corrective training for her soldiers or ensured that they were aware of the requirements of the Geneva Conventions for the treatment of detainees.⁴³ This lack of training in an essential area of detainee operations demonstrated poor leadership and a lack of professionalism on Karpinski’s part. Taguba so strongly felt that Karpinski was derelict in her Commanding Officer duties that he recommended relieving her of command and issuing her a Memorandum of Reprimand that in effect, would end any career progression on the part of Karpinski.

Taguba was not alone in citing lack of leadership by Karpinski. The Schlesinger Report found that “Karpinski’s leadership failures helped set the conditions at the prison which led to the abuses.”⁴⁴ In addition to failure to ensure the appropriate SOPs were in place and that the Geneva Conventions were understood by all, Schlesinger further states

bin/article.cgi?file=/chronicle/archive/2005/04/07/EDGV5C3MQ61.DTL; Internet; accessed 14 April 2005.

⁴²Ibid.

⁴³ Taguba, “The Taguba Report,” pg 438.

⁴⁴ Schlesinger, “*The Schlesinger Report*,” 929.

that Karpinski failed to “take appropriate actions regarding ineffective commanders and staff officers.”⁴⁵ He found that the incidents in the preceding six months that had occurred “reflected a lack of clear standards, proficiency and leadership within the Brigade.”⁴⁶ Her own Commanding Officer, Lieutenant General Sanchez formally admonished Karpinski in writing in January 2004 and she was relieved of her duties.⁴⁷ However, to date she is the only senior leader to be held accountable for the events that occurred at Abu Ghraib.

Karpinski was far from alone as being recognized for lack of leadership. The Commander of the 205th MI Bde, Colonel Pappas was also specifically mentioned in a number of reports noting his shortcomings as a commander. The Schlesinger Report noted “leadership was also lacking” and that the Commander 205th MI Bde “failed to ensure that the soldiers under his command were properly trained and followed the interrogation rules of engagement.”⁴⁸ Taguba recommended that Colonel Pappas be given a Memorandum of Reprimand for a number of leadership failings including “failing to properly supervise his soldiers working and visiting Tier 1 of the Hard Site at Abu Ghraib.”⁴⁹

Numerous other leaders in the Abu Ghraib chain of command, including the Director of the Joint Interrogation and Debriefing Center were also acknowledged as

⁴⁵ Ibid.

⁴⁶ Taguba, “The Taguba Report,” 439.

⁴⁷ Ibid., 439.

⁴⁸ Schlesinger, “The Schlesinger Report,” 741.

⁴⁹ Taguba, “*The Taguba Report*,” 441.

being poor leaders in the wrong job. Lieutenant Colonel (Lt Col) Jordan, the commanding officer of the JIDC, was found to have “failed to properly train and control his soldiers and failed to ensure prisoners were afforded the protections under the relevant Geneva Conventions.”⁵⁰ In fact, the Jones Report noted: “...there were serious lapses of leadership in both units, from Junior Non-Commissioned Officers to battalion and brigade level. The Commanders of both brigades know or should have known that abuses were taking place and taken measures to prevent them.”⁵¹ Both Pappas and Jordan are still being investigated for their roles in the scandal and are facing possible criminal charges.⁵²

This critical failure of leadership was “a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse and the misinterpretation/confusion incidents.”⁵³ Leadership failed miserably at Abu Ghraib. Short of personnel, those in command took no concrete action to ensure that the proper measures were in place to ensure good order and discipline was maintained at the prison facilities. No efforts were made to ensure that the soldiers working in an austere environment had the tools necessary to conduct proper detention/interrogation operations. The lack of leadership demonstrated by the higher echelon at Abu Ghraib clearly demonstrated negligence and allowed the abuses to occur unreported. Despite this, LGen Sanchez and his key senior staff have recently been exonerated by a comprehensive Army review, headed by the Army Inspector General, of any wrongdoing or leadership

⁵⁰ Schlesinger, “*The Schlesinger Report*,” 928.

⁵¹ Ibid.

⁵² Robert Burns, “Army Clears Senior Commander in Abu Ghraib”, The Associated Press, MSNBC.com; <http://www.msnbc.com/id/7604529>; Internet; accessed 24 April 2005.

⁵³ Jones, “*The Jones Report*,” 994.

failures for their parts in the abuse scandal.⁵⁴ Clearly, the U.S. Army is not taking accountability for the abuses and that senior leadership, faulted in a number of reports for command failings, is not to be held responsible for actions that occur on their watch. Simply put, the doctrine of command responsibility was not upheld and it is mainly the junior ranks taking the punishment for these horrendous abuses.

Leadership alone, however, was not the sole factor responsible for the abuses. The convoluted command and control structure at the prison confused even those who were supposed to be in charge. The brigade commanders themselves were not sure who had responsibility for what functions at the prison and this filtered down to the lowest ranks, who were allowed to run the detention facility as they saw fit.

An explanation of how the prison was organized is in order. Military Police and Military Intelligence personnel have completely different responsibilities; the MPs run the detentions facility (in essence, the wardens and guards) and MI carry out interrogation operations. From the time that Abu Ghraib was opened in August 2003, detainees began to arrive rapidly as the insurgency rose. By October 2003 there were 7000 prisoners and 92 MP guards.⁵⁵ The U.S. forces, slow to recognize and adapt to the insurgency rising in the summer and fall of 2003, were pressured to find and arrest the rebels. As a result, huge sweeps conducted by U.S. soldiers rounded up all suspicious looking persons (often including women and children) that swamped the detention processing system and resulted in overcrowding of the facilities.⁵⁶

⁵⁴Burns, "Army Clears Senior Commander in Abu Ghraib.

⁵⁵ Craig R. Whitney, *The Abu Ghraib Investigations; The Official Reports of the Independent Panel and the Pentagon on the Shocking Prisoner Abuse in Iraq*, ed. Steven Strasser, VII–XXIII (New York, PublicAffairs, 2004), XIV.

Most detainees at Abu Ghraib were classified as Civilian Internees. As defined by the Geneva Conventions, a civilian internee is someone who is interned during armed conflict for security reasons or for protection or because he/she had committed an offence against the detaining power.⁵⁷ A sub-set of the civilian internee is the Security Internee who are civilians interned during conflict for their own protection or because they pose a threat to security of the coalition forces, or its mission, or are of intelligence value. Finally, the M.I. hold was a directive to hold and not release a detainee/internee in the custody of the coalition forces. The orders to hold these detainees were issued by a member or agent of a U.S. Military Intelligence Organization.⁵⁸ Included in the detainee/internee population were men, women and juveniles as well as some mentally ill people. Needless to say, this population was not easily managed, given the diversity and lack of command and control present at the prison.

Most abuses occurred to security detainees who were held in Tiers 1A and 1B of a section of the prison called the Hard Site. The Hard Site was the old detention facility being reconstructed by the Americans. The other seven tiers at the site held criminal detainees who were guarded by Iraqi Police. When Karpinski took over command of the 800th MP Bde on 29 June 2003, she held overall responsibility for the day-to-day running of Abu Ghraib. When stood up in Iraq, the 800th MP Bde was under command of the Coalition Forces Land Component Command (CFLCC). When combat operations ceased, the CFLCC returned to the United States and Combined Joint Task Force 7

⁵⁶Schlesinger, "The Schlesinger Report", 921.

⁵⁷Geneva Convention IV, Article 78.

⁵⁸The types of internees/detainees are identified in MG George R. Fay, "AR 15-6 investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade," pgs 1026-1027.

(CJTF-7) was formed and remained in Iraq. Although still belonging to CFLCC, the 800th MP Bde was placed under Tactical Control (TACON) of the CJTF-7. TACON is described as the “detailed direction and control of movements or maneuvers within the operational area necessary to accomplish assigned missions or tasks.”⁵⁹ While the 800th MP Bde was TACON to the CJTF-7, its real chain of command went back to the U.S. The Jones Report notes that this TACON relationship resulted “in disparate support from the CJTF-7 staff, lower priority in meeting resource needs for detention facilities, and the lack of intrusive, aggressive oversight of the unit by CJTF-7 leadership.”⁶⁰ The Report also states that no attempt was made to change this command relationship so that the 800th MP Bde would come under the Operational Control of the CJTF-7 and therefore have a normal profile within that theatre.⁶¹ Because of the confusion of who reported to whom, Taguba recommended that a single commander in CJTF-7 be responsible for “overall detainee operations throughout the Iraqi Theater of Operations.” This change to the prison from being TACON to under Operational Control of the in-theatre force commander ensured that command and control became centralized and more focused, thereby enabling closer reporting relationships and a direct responsibility of the detention centers by CJTF-7.

Just as Karpinski took command, the insurgency in Iraq erupted, and the Commander of the CJTF-7, Sanchez, became concerned with the ability of the 205th MI Bde to exploit internees for actionable intelligence. As noted earlier, a team headed by

⁵⁹ Joint Publication 0-2, Unified Action Armed Forces (UNAAF), XI, Washington, D.C., 10 July 2001.

⁶⁰ Jones, “*The Jones Report*,” 998.

⁶¹ *Ibid.*

MG Miller, who at the time was the Joint Task Force Commander Guantanamo (JTF-GTMO), was sent to Iraq to conduct an assistance visit to discuss theatre ability to exploit rapidly detainees for actionable intelligence. This team focused on three areas: intelligence integration, synchronization, and fusion, interrogation operations and detentions operations.⁶² As a result of one of the recommendations of this visit, the JIDC was set up at Abu Ghraib to consolidate both the detention and strategic interrogation operations mission at one center under CJTF-7 Command.⁶³ Once the JIDC was operational, the Commander 205th MI Bde, Col Pappas, moved his Headquarters from Baghdad to Abu Ghraib.

Soon after the arrival of Pappas at Abu Ghraib, the Commander, CJTF-7 issued a Fragmentary Order (FRAGO) on 19 November 2003, which named Pappas as the Forward Operating Base (FOB) Commander at Abu Ghraib. The order also stated “units currently at Abu Ghraib are TACON to 305 MI Bde for security of detainees and FOB protection.”⁶⁴ This order effectively placed an MI Officer, rather than an MP Officer, responsible for the MPs conducting detention operations at Abu Ghraib. The Taguba Report states that this was not doctrinally sound due to the different missions performed by each of those military specialties.⁶⁵ Not only was it not doctrinally sound, it left BG Karpinski confused as to who was now in command of the MP at that facility. As she read it, her MP unit at the FOB now came under control of Col Pappas as the

⁶² MG Geoffrey Miller, *Assessment of DoD Counterterrorism Interrogation and Detention Operations in Iraq*, <http://www.publicintegrity.org/docs/AbuGhraib/Abu3.pdf>; Internet; accessed 14 January 2005.

⁶³Ibid., 4.

⁶⁴ Taguba, “*The Taguba Report*,” 434.

⁶⁵ Ibid.

Commander of that facility. Col Pappas disagreed, interpreting the FRAGO as direction for him to exercise the external force protection and the security of the detainees.⁶⁶

Obviously, the two brigade commanders did not view things in the same manner, and did nothing to attempt to sort out their differences. Karpinski states that she tried to sort out the confusion by looking for clarification within the CJTF-7 headquarters. When she questioned MG Fast, the Senior Intelligence Officer, she was told “it’s done,” and it was left at that.⁶⁷ This confusion was felt all the way down the chain of command. The MP personnel were not sure who they reported to and began to look towards MI personnel for direction. The large number of disparate units working at the prison (MP, MI, civilian contractors, military police and OGA) also caused confusion in command and control which was not recognized by the leadership.

This confusion was recognized in the Taguba Report that further found “no clear delineation of responsibility between commands, little coordination at the command level and no integration of the two functions.”⁶⁸ The report also identified that what little coordination did occur happened at the lower levels with minimum oversight by commanders.⁶⁹ This lack of understanding of the command and control structure at the prison hampered day-to-day operations as was discussed in the Jones Report where it was found that the relationship between the leaders and staff of the 205th MI Bde and 800th

⁶⁶ Fay, *The Fay Report*, 1106.

⁶⁷ Karpinski, Sworn Statement in Taguba Report, Article 15-6, Investigation Interview,

⁶⁸ Ibid.

⁶⁹ Ibid.

MP Bde was ineffective, “as they failed to effect proper coordination of roles and responsibilities for detention and interrogation operations.”⁷⁰

The confusion of the command and control relationships at Abu Ghraib led to uncertainty at the soldier level of what their roles and responsibilities were. The Fay Report notes that MI did not know what the MPs could or could not do in their activities. The same was true as MPs were ignorant of the roles of the MI personnel with whom they shared the facilities. This lack of understanding of each other’s doctrinal and regulatory responsibilities led to confusion and uncertainty.⁷¹ It also led to the MPs being involved in interrogations that they were neither trained nor mandated to conduct.

LTG Jones echoed the same views in his report. He stated that at Abu Ghraib, “the delineation of responsibilities seems to have blurred when MP Soldiers, untrained in interrogation operations, were used to enable operations.”⁷² He went on to specify that problems arose in areas such as the use of dogs in interrogations; sleep deprivation and the use of isolation as interrogation techniques. MPs participated in all of these functions, although they were the wardens of the prison and not authorized to participate in interrogations.⁷³ The personnel working at the prison may not have understood this delineation of responsibilities and the fact that the MP were now under control of a MI officer may have confused the issue further, allowing the MP personnel to think that participating in the interrogations was now an authorized duty for them.

⁷⁰ Jones, *The Jones Report*, 1014.

⁷¹ Fay, *The Fay Report*, 1050.

⁷² Jones, *The Jones Report*, 1002.

⁷³ *Ibid.*

This confusion was increased after the Miller Report was completed. The Commander CJTF-7 put a number of recommendations into place soon after the release of the report. One suggestion was to “dedicate and train a detention guard force subordinate to the JIDC Commander that sets the conditions for the successful interrogations and exploitation of internees/detainees.”⁷⁴ This recommendation, combined with the further proposal that “it is essential that the guard force be actively engaged in setting the conditions for the successful exploitation of the internees” may have led the MP guards at Abu Ghraib to believe it was now their role to “soften up” the detainees prior to their interrogations.⁷⁵ Without the proper chain of command or leadership advising them otherwise, the conditions were set for abuses to occur as the MP personnel were unaware of the proper methods and techniques for interrogations. Without this detailed training, the MP might possibly think that anything goes in an effort to extract information. As can be seen from the photos, it is just a short step from a proper interrogation to abject abuse.

Neither the MP Bde nor the MI Bde had the personnel necessary to maintain and operate properly the prison at Abu Ghraib. The MPs were inadequately staffed from the beginning of the insurgency. MG Taguba reported that the 800th MP Bde as a whole was “under strength for the mission for which it was tasked.”⁷⁶ In particular, he said that the Commander of the 800th MP Bde did a poor job of allocating resources to Abu Ghraib. There was an unbalanced approach within the Iraqi theatre of employment within the

⁷⁴ Miller, *Assessment of DoD Counterterrorism Interrogation and Detention Operations in Iraq*, 5.

⁷⁵ Ibid.

⁷⁶ Taguba, *The Taguba Report*, 433.

various locations and Abu Ghraib was not adequately resourced for the size of the detainee population that came after the rise of the insurgency.⁷⁷ However, personnel were not easily forthcoming.

Mr. Schlesinger noted in his report that the MP Bde was wholly dependant on higher headquarters to initiate action to alleviate the personnel crises. He wrote that although the brigade was continuously reporting shortfalls through the appropriate channels, the commander was told by the CJTF –7 to reallocate the resources that she had in theatre. The Schlesinger Report observed on this lack of response to the Commander of 800th MP Bde and called it an avoidable error⁷⁸. Not only was it an unavoidable error, the shortages of personnel contributed to the lack of oversight and control at the prison. With untrained reservists working the night shift (where most of the abuses occurred) there was no monitoring the performance of the guards. Once they began to get away with the abuse, they continued to further push the envelope until they were certain no repercussions would occur. So confident were the MP on that nightshift that they were not doing anything that was wrong, that they began to photograph their atrocities. Without adequate numbers of supervisors in the prison, there was no one who would correct their actions.

The MP personnel employed at Abu Ghraib were mainly reservists from a variety of units, and there was no plan for replacement of personnel once they were rotated home on completion of their deployment. When the insurgency grew, Schlesinger states that commanders upward to CENTCOM and the Joint Chiefs of Staff knew by then the

⁷⁷ Ibid.

⁷⁸ Schlesinger, *The Schlesinger Report*, 931.

serious deficiencies of the 800th MP Bde and should have at least considered reinforcing the troops for detention operations.⁷⁹ The fact that the replacement for personnel returning home was not strongly followed up also showed a serious lack of planning and leadership. The shortage of personnel led Schlesinger to write, "... the impact of our failure to conduct proper detainee operations in this case has been significant."⁸⁰

Without enough personnel to conduct effectively the detention mission, inhumane treatment of the Iraqi detainees interned in Abu Ghraib occurred without anyone in command being aware. This lack of awareness was unacceptable as the rights of the detainees to be treated humanely and with dignity under Article 27 of the IV Geneva Convention which guarantees that protected persons shall at all times be humanely treated and shall be protected at all times against all acts of violence, or threats thereof and against insults and public curiosity.

assigned to Abu Ghraib and unit cohesion was sorely lacking. The problem of the shortage of personnel, the Report continued, was “heightened by the friction between the MPs and the MI personnel, including the brigade commanders themselves”.⁸²

MG Fay also agreed that there were shortages of MI personnel. He wrote that the JIDC was not provided adequate personnel resources to operate effectively as an interrogation centre. He also observed that even when it was at peak strength, that there were too few interrogators, analysts and linguists to deal with the large number of detainees at the prison.⁸³ Without the proper number of specialists in these areas, the detainees who were not valid prisoners were detained much longer than required, as they were not interrogated in sufficient time to merit their prompt release. As a result, the overcrowded prison became too much for the limited personnel to handle properly in accordance with MI doctrine that states that information must be obtained in the shortest possible time. The overcrowding of the prison combined with the lack of sufficient resources to perform the interrogations resulted in a situation that led to abuse.

These shortages in MI personnel were also identified by MG Miller in his report, which encouraged him to suggest that the CJTF-7 “dedicate and train a detention guard force subordinate to the JIDC Commander that sets the conditions for successful interrogation and exploitation of internees/detainees.”⁸⁴ This same idea is further emphasized in LTG Sanchez’s 12 October 2003 memorandum following MG Miller’s report, that states “interrogation operations are not conducted in a vacuum: they are

⁸² Schlesinger, “The Schlesinger Report”, 931.

⁸³ Fay, *The Fay Report*, 1109.

⁸⁴ Miller, *Assessment of DoD Counterterrorism Interrogation and Detention Operations in Iraq*, 3.

conducted in close cooperation with the detaining units.”⁸⁵ These suggestions, contrary to both MP and MI doctrine, may have begun to allow the MI personnel to believe that they were able to assist in the collection of intelligence and therefore set the stage for the overstepping of authorized policies for enhancing interrogations. From assisting in obtaining information to outright abuse, the soldiers at Abu Ghraib were not properly staffed to monitor the proper methods of this duty by supervisors in the chain of command. This lack of personnel allowed actions to continue that were clearly in violation of laws of armed conflict and treaties. But there were yet further explanations for the abuses.

Training was another factor that significantly affected the deeds of the personnel implicated in the abuses at Abu Ghraib. Training of detention operations, proper detainee handling procedures, a working knowledge of the Laws of Armed Conflict and the Geneva Conventions was essential to ensure that all MP personnel were aware of their duties and responsibilities in the handling of their charges. This lack of training laid the foundation for abuses to occur as a majority of the personnel lacked the skill sets to properly conduct their duties. Unsure of the proper regulations, the opportunity was there for mistreatment of the detainees to occur.

Training of both MP and MI personnel was indicated in a number of investigations and reports as badly lacking. Taguba noted in his report that the 800th MP Bde was not adequately trained for a mission that included operating a prison at Abu Ghraib. He also stated that the unit did not receive corrections specific training during its

⁸⁵LTG Ricardo S. Sanchez, CJTF-7 – CG 12 October 2003, in *The Torture Papers: The Road to Abu Ghraib*. Edited by Joshua L. Dratel and Karen J. Greenberg. New York: Cambridge University Press, 2005, 464.

mobilization period. The units relied instead on a few personnel who had worked in corrections facilities in their civilian jobs.⁸⁶

Schlesinger also found that military police were not trained, organized or equipped to meet the challenging mission in Iraq. He stated that the lack of detention-specific training was a critical deficiency. His report also noted that training related to the Iraqi theatre was not conducted. Without this training, personnel would not be aware of the situation they would be working in, the conditions that they would be facing or the expectations that would be placed upon them. In addition, once the units arrived in Iraq, they had no access to the necessary documentation required on tactics, techniques and procedures to train their personnel on the MP essential tasks of their new mission. The Army manuals and publications that would have provided some of the lacking information were only available on line, but personnel at Abu Ghraib did not have access to computers or the Internet, thereby limiting their access to proper procedures and directions.⁸⁷ This lack of information, which may have helped individual soldiers perform their duties in accordance with authorized procedures, could only have hindered operations.

MG Fay stressed that soldiers at Abu Ghraib were uncertain about what interrogation procedures were allowed and what proper reporting procedures were required. This uncertainty indicated that initial entry training for interrogators was insufficient or not reinforced properly by additional unit training.⁸⁸ Fay continued by

⁸⁶ Taguba, *The Taguba Report*, 433.

⁸⁷ Schlesinger, *The Schlesinger Report*, 934.

⁸⁸ Fay, *The Fay Report*, 1109.

emphasizing that both soldiers and leaders must be taught to integrate Army values and ethical decision making to deal with interrogation issues that are not clearly prohibited or allowed.⁸⁹ Only by providing this training will all personnel involved in interrogations be able to make the right decisions when trying to gain accurate intelligence.

Many reports noted the serious lack of training by both MP and MI units. This lack grievously hindered the operations within the theatre by not allowing the personnel to perform their duties in accordance with approved standards. This dearth of knowledge allowed the abuses to be initiated by personnel who did not know or understand what proper procedures were. Training is a vital component to any deployment and it is crucial that personnel employed in detention operations be aware of the laws and treaties that govern their employment. Without the proper training, abuses are bound to occur as soldiers, unaware that there may be more effective methods, use brute force to gain information.

The final situational cause was the inconsistency in interrogation policy that has occurred within the U.S. Army since 9/11. This discrepancy in policy may account for the fact that some personnel working in Abu Ghraib believed that it was permissible to go further than the authorized methods outlined in their doctrine, Field Manual (FM) 34-52, which carefully limits the techniques that can be utilized for obtaining information. FM 34-52 sets restrictive rules concerning physical torture, including prohibiting pain induced by chemicals and bondage, forcing an individual to stand, sit or kneel in abnormal positions for prolonged periods of time and food deprivation. When discussing mental torture, the Army prohibits mock executions, sleep deprivation and chemically

⁸⁹ Ibid., 1110.

induced psychosis.⁹⁰ All MI personnel are trained to these standards. However, a number of factors may have changed the way personnel viewed their own regulations and which may have caused them to overstep the bounds of legality.

The first factor, which may have confused personnel working in MI, came into effect soon after the tragic events of 9/11, when the U.S. began to fight the Global War on Terrorism. Following a legal review by the Department of Justice, President Bush made determination that the Third Geneva Convention relative to the treatment of prisoners of war did not apply in Afghanistan to members of Al-Qaeda or the Taliban who were deemed by the President to be unlawful combatants. As a result, he released a memorandum to that effect. That document, dated 7 February 2002 did state, however, that even though the Taliban and Al-Qaeda members were not lawful combatants, that if they were taken prisoner they should be treated humanely.⁹¹ Even though he stated that they should be treated humanely, the fact that he determined that the Taliban and Al-Qaeda personnel were not entitled to the protections of the Geneva Convention left the door open for abuses to happen by interrogators on the ground who may have read the memorandum to mean that all rules were out the window. Indeed the fact that the memorandum also stated that the detainees were to be treated humanely “to the extent appropriate and consistent with military necessity” also may be seen as open to interpretation.

⁹⁰ Field Manual 34-52, Intelligence Interrogation, HQ, Department of the Army, Washington, DC, 28 September 1992, 1-8.

⁹¹ President of the United States Memorandum Regarding the Humane Treatment of al Qaeda and Taliban Detainees, 7 February 2004, <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB127/02.02.07.pdf>; Internet; accessed 12 December 2004.

Previous to the memorandum being released, Secretary of State Colin Powell reviewed it, among others. Powell noted in his response to the draft that its release “will reverse over a century of U.S policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our troops, both in this specific conflict and in general.” He was certain that the memorandum would “have a high cost in terms of negative international reaction,” and that it would “undermine public support among critical allies making military action more difficult to sustain.” Powell’s final argument was that “it may provoke some individual foreign prosecutors to investigate and prosecute our officials and troops.”⁹² Unfortunately, the memorandum was released and a chain of events started that infected the interrogation process used by U.S. soldiers in a number of theatres of war. These events started with additional interrogation methods being approved for interrogation of Taliban and Al-Qaeda personnel housed in Guantanamo, Cuba. This interpretation of the Presidential Memorandum and frequent changes to the interrogation methods had the potential to allow for abuse.

In October 2002, authorities at Guantanamo decided that stronger interrogation techniques than the seventeen methods authorized by the doctrine manual, FM 34-52, were needed to counter the tenacious resistance of some detainees and they forwarded a request up the chain of command. The Secretary of Defense, Donald Rumsfeld, authorized the use of 16 additional techniques. On 2 December 2002, however, concerns raised by the Naval General Counsel concerning the harshness of the new methods convinced Rumsfeld to rescind the majority of the approved measures outlined in his

⁹² Colin Powell, United States Department of State Memorandum, Draft Decision Memorandum for the President on the Applicability of the Geneva Convention to the Conflict in Afghanistan, Washington, D.C. 26 January 2002, <http://www2.gwu.edu/nsachiv/NSAEBB/NSAEBB127/02.01.26.pdf>, Internet; accessed 12 December 2004.

December directive. For those techniques that remained, they could only be used with his concurrence.⁹³ At the same time, a Working Group was established, headed by Air Force General Counsel Mary Walker, with the mandate to study interrogation techniques. The Working Group reviewed 35 techniques, of which 24 were ultimately approved in April 2003 for use at Guantanamo alone, arranged in a three-tiered system including dietary and environmental manipulation and isolation.⁹⁴ This study resulted in three changes to the policy in three months, a situation that may have caused some confusion to the personnel conducting the intelligence mission as to what methods were actually authorized. The constant changes to the types of interrogation methods allowed could have made decision making difficult for those working hard to find actionable intelligence in a timely manner.

In Afghanistan, FM 34-52 was the standard for conducting interrogations. However, Schlesinger's independent panel found that more aggressive interrogations of detainees appear to have been happening there. The Commander of CJTF-180 (Afghanistan) had forwarded a list of techniques used by his units to the Working Group to facilitate their efforts. This list of methods included several techniques not specified in FM 34-52. The noted interrogation methods had already been incorporated into the SOPs of the Special Operating Forces (SOF) operating in the Afghan theatre. The 519th MI Bn, a company of which was later sent to Iraq, had assisted the SOF with interrogations and seemed to have imported the additional techniques learned in Afghanistan with them

⁹³ Schlesinger, *The Schlesinger Report*, 911.

⁹⁴ Donald Rumsfeld, Secretary of Defense, Memorandum for the Commander US Southern Command, Counter-Resistance Techniques in the War on Terrorism, 16 April 2003, in *Torture and Truth: America, Abu Ghraib and the War on Terror*, Mark Danner, The New York Review of Books, New York, November 2004, 199.

when they were sent to Operation Iraqi Freedom.⁹⁵ These imported methods, not authorized for use in Iraq were harsher methods than authorized by FM 34-52. Used in Iraq by understaffed and under trained personnel, these newly imported techniques were then employed without sanction at Abu Ghraib.

When the MI personnel arrived in Iraq, no guidance other than FM 34-52 existed. The Officer in Charge of Interrogations, who had been posted to Iraq, drafted a set of SOPs in July 2003, which mirrored those used in Afghanistan by the SOF. According to Schlesinger, it is important to realize that the techniques allowed under carefully controlled conditions at Guantanamo (where the guard to prisoner ratio is 1 to 1) became much more problematic when they migrated to Iraq where they were not adequately safeguarded because of insufficient supervision and training.⁹⁶ Therefore, the interrogation techniques, specifically assigned only to Guantanamo for dealing with detainees who, for the most part, were not considered to have all the rights of the Geneva Convention, migrated from Guantanamo to Afghanistan and finally to Iraq where they were employed and enhanced to include the illegal treatment of the detainees.

When MG Miller conducted his assessment of the interrogation and detention operations in Abu Ghraib, he brought with him a copy of the April 2003 Secretary of Defense's policy for Guantanamo which outlined the additional techniques authorized only for that Task Force. He left the document with the Commander of CJTF-7 to use as a possible model for the interrogation facilities in Iraq. As a result, not realizing that these interrogation methods were only approved for the Guantanamo Task Force, the

⁹⁵ Ibid.

⁹⁶ Ibid.

CJTF-7 signed a policy statement for his own units on 14 September 2003 that authorized 12 additional techniques for his interrogation forces to employ. When the Commander Central Command (CENTCOM) reviewed the CJTF-7 policy he found it too aggressive and ordered it rescinded.⁹⁷ The CJTF-7 then issued a directive that cancelled his previous direction and issued another that still allowed methods stronger than those allowed in FM 34-52. These methods followed the 1988 FM 34-52 which had been superseded in 1992 and included techniques such as controlling lighting and heating, as well as food, clothing and shelter of the detainees, methods no longer authorized in the current doctrine. The existence of confusing and inconsistent interrogation technique policies contributed to the belief of personnel working the detention centre at Abu Ghraib that the additional stronger techniques were condoned. From this error followed abuses including nakedness, sleep deprivation, beatings and humiliation. According to the Schlesinger Report, these conflicting policies clearly led to confusion as to what practices were acceptable among personnel at Abu Ghraib and to the potential for harsher treatment of prisoners than authorized.⁹⁸ This abusive treatment, found prevalent throughout the facility, can be determined to be as a result of inconsistent, confusing policy that combined with a lack of training and improper supervision allowed guards and interrogators too much leeway for interpretation.

Due to the shortages of MI personnel and as a result of the MG Miller report recommending that MP and MI soldiers work in concert to gain actionable intelligence, it is now believed that the MPs involved in committing the atrocities were coached by MI personnel on which techniques to use to “soften up” detainees. Because MPs are not

⁹⁷ Ibid, 912.

⁹⁸ Ibid., 915.

trained in interrogation techniques, Karpinski, the only senior officer to date who has been held responsible for the atrocities that occurred in Abu Ghraib, contends that these methods must have been passed on to the MPs from the MI personnel. She states that the MP personnel who would have been unaware previously of the methods that they eventually employed, “were taking instructions” from MI staff in the prison.⁹⁹ These instructions may have led to an abuse scandal unknown to the American population since the My Lia massacre during the Vietnam War.

MAKING REPARATIONS

So far this paper has looked at a number of causes that led to the indignities and grossly inappropriate actions taken against the detainees held at Abu Ghraib. The origins of the abhorrent behaviour have ranged from the physiological state of the personnel committing the brutality to the systematic shortfalls and inadequacies that allowed the abuses to proceed unchecked. Now, the mitigating actions that must take place to ensure that the abuses shown in those horrendous photos become a bad memory, hopefully never to happen again, will be discussed.

The soldiers who are deployed to Iraq must be considered first and foremost when taking into account what actions must be taken to ensure the safe and humane treatment of detainees in a situation like that faced in Abu Ghraib. Dave Grossman, a former psychology professor at West Point, states: “ research shows that one of the surest paths to psychological self-destruction is to commit an atrocity, to break the law, to do

⁹⁹ Janis Karpinski, “What Went Wrong at Abu Ghraib”.

something other than the code.”¹⁰⁰ In order to prevent a soldier from committing such an act of violence, mental health professionals must be deployed into interrogation/detention facilities to recognize the signs of mental health breakdown of the soldiers. According to Air Force psychiatrist, Col Henry Nelson, the “new psychological battlefield requires a new support system.”¹⁰¹ In addition to the support that could be provided to individual soldiers, Nelson’s recommendation that a psychiatrist or psychologist posted to these facilities could provide education and support to prevent any negative conditioning that could impair job performance is important to consider and put into place. Indeed, the soldiers working in abject conditions such as those seen at Abu Ghraib deserve no less from their government than to care for their physical and mental well-being.

A focus must also be placed on correcting the leadership issues identified in the many reports as lacking and insufficient. The recommendation made in the Jones Report that a single point of contact for detainee and interrogation operations in Iraq be established was critical to the overall mending of the dysfunctional command and control system within CJTF-7.¹⁰² Appointing MG Geoffrey Miller, the former Commander of Guantanamo, to the position of Deputy Commander for Detainee Operations, a clear chain of command for the detention/interrogation facilities in the Iraqi theatre now pertains. He now reports directly to the Commander CJTF –7, no longer a TACON relationship, as had been the case in the past, thereby ensuring that a direct chain to the theatre leadership exists and that important issues can be rectified immediately in the area

¹⁰⁰ Dave Grossman, Interviewed by Margaret Warner on the Online News Hour – The Heart of Darkness, PBS, 11 May 2004. http://www.pbs.org/newshour/bb/middle_east/jan-jun04/prisoners_5-11.html; Internet; accessed 2 February 2005.

¹⁰¹ Col Henry Nelson, “The Taguba Report, Article 15-6 Investigation of the 800th Military Police Brigade”, 450.

¹⁰² Jones, “The Jones Report”, 1014.

of operations. This single office of responsibility also alleviates the difficulties earlier encountered when there were two separate chains of commands for personnel working in one detention/interrogation facility. Finally, there should no longer be any questions as to who is in command.

Both the leadership and those at lower rank levels require additional training in detention and interrogation operations prior to and while employed in an operational theatre so that they can perform their duties in a lawful and humane manner. On 10 February 2004, the Acting Secretary of the Army tasked Lt Gen. Paul T. Mikolashek, the Army Inspector General, to provide a functional analysis of detainee and interrogation operations to identify any capability shortfalls with respect to interments, enemy prisoner of war, detention operations, and interrogation procedures. His report made a number of recommendations, several specifically dealing with training. The first of these is that Training and Doctrine Command (TRADOC) integrate training into all Professional Military Education (PME) that strongly emphasizes leader's responsibilities to have adequate supervision and control processes in place to ensure proper treatment of and to prevent abuses of detainees.¹⁰³ Although this training requirement seems obvious, it clearly has not been provided to the leadership at Abu Ghraib, where the oversight was not present to prevent the abuses from occurring.

Other reports and investigations also found a need for additional training. As well as recommending that rigorous leadership training in schools, home stations and at Army Training Centers continue, the Jones Report specifically addressed the need for collective training in order to replicate the complex environment in Iraq and in likely future areas of

¹⁰³ Lt Gen Paul T. Mikolashek, "The Mikolashek Report", in *The Torture Papers: The Road to Abu Ghraib*, 729.

conflict.¹⁰⁴ The Fay Report further emphasized the necessity for training by strongly suggesting that TRADOC initiate an effort to develop a cross branch-training program in detention and interrogation operations. It further recommends that annual exercises between MP and MI units that have been cut due to financial restrictions be reinstated so that personnel can gain the valuable experience of working together before they are actually deployed.¹⁰⁵ This combined training would prepare the two branches to work together and understand each other's roles in detention operations, thereby reducing any misconceptions there might be.

In a press conference on 10 March 2005, army officials discussed the additional training that has been implemented as a result of the Abu Ghraib scandal. According to Colonel Peter Champagne, the Army Deputy Provost Marshal, over 16,000 soldiers have been trained in the last year on the lessons learned in Iraq. This training has been done in a number of ways, through Mobile Training Teams (MTT) that have gone across the services including into theatre, as well as embedding the material into basic training, non-commissioned officer leadership courses and PME for the officers. Stressed in this training are the five core basic functions, values, ethics, leadership, the Law of War and the Geneva Conventions.¹⁰⁶ Schlesinger echoes values and leadership when he states in his report "all personnel involved in detention operations should participate in a

¹⁰⁴Jones, "The Jones Report", 1016.

¹⁰⁵Fay, "The Fay Report", 1110.

¹⁰⁶ Col Peter Champagne, U.S. Department of Defense, Office of the Assistant Secretary of Defense (Public Affairs) News Transcript, Department of Defense Briefing on Detention Operations and Interrogation Techniques, 10 March 2005, <http://www.defenselink.mil/transcripts/2005/tr20050313-2262.html>; Internet; accessed 5 April 2005.

professional ethics program to equip them with a sharp moral compass.”¹⁰⁷ This training can only be an improvement to what has not happened in the past and may reinforce the ideals normally espoused by the U.S. Army, allowing personnel the capability to make the proper decisions.

Tom Gandy, the Army G-2 Director of Human Intelligence (HUMINT), also discusses training specifically for interrogations operations at the Press Conference noted above. He stresses that interrogation training at the soldier, non-commissioned officer and officer levels, including senior officers, has improved significantly since Abu Ghraib. Especially significant is the senior officer training, required so those in command can understand their responsibilities in terms of oversight in the conduct of interrogation operations.¹⁰⁸ This new training must improve the command and control relationships when operating in dangerous and stressful theaters of conflict where these relationships are critical to the overall success of the mission.

The renovation of doctrine for interrogation and detention operations is also extremely important in order to negate the chances of the evil and illegal behaviour happening again. Doctrine has been recognized as severely damaged in the myriad of reports and investigations written about the abuses and in fact, by the U.S. Army itself. That organization defines doctrine as the “fundamental principles by which the military forces or elements thereof guide their actions in support of national objectives.”¹⁰⁹ In

¹⁰⁷ Schlesinger, “The Schlesinger Report”, 953.

¹⁰⁸ Tom Gandy, U.S. Department of Defense, Office of the Assistant Secretary of Defense (Public Affairs) News Transcript, Department of Defense Briefing on Detention Operations and Interrogation Techniques, 10 March 2005, <http://www.defenselink.mil/transcripts/2005/tr20050313-2262.html>; Internet; accessed 5 April 2005

addressing the need for doctrine that encompasses all facets of detention operations, the Mikolashek Report, recommends “TRADOC must develop a single document for detainee operations that identifies the interdependent and independent roles of the MP custody mission and the MI interrogation mission.”¹¹⁰ Lt Gen Mikolashek goes on to further insist that it is important for TRADOC to establish the appropriate doctrine to define the organizational structures, command relationships and roles and responsibilities of personnel operating interrogation facilities.¹¹¹ It is important that both MP and MI personnel are aware of these distinctions so that they can work cooperatively together to ensure the highest level of detention and interrogation operations. These thoughts are also strongly argued in a paper by Major (Retired) James Gebhardt, a historian at the Combat Studies Institute at Fort Leavenworth, who writes that having acknowledged the conflict between guarding and protecting the rights of detainees by the MPs and

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publishing more focused guidelines the potential for further abuses will be minimized.

The importance of doctrine is reiterated in the Jones Report that is emphatic when discussing the need for updating of joint and single service publications that clearly address the concepts, organization and operations of a JIDC in future joint operations environment. The report also contends that there is a need for the Army to update interrogation operations doctrine to clarify responsibilities for interrogation techniques.¹¹⁴ The reports are unanimous in their suggestions concerning the updating of doctrine.

The Army has reacted to some of the recommendations made in the reports and investigations regarding the updating of doctrine by conducting a major review of the publications concerning detention operations and interrogations with a view to clarifying and amplifying procedures. Col Champagne stated that the Army has recognized that the doctrine is not suited to the current roles it finds itself in and that a comprehensive review of MP doctrine is being done. That doctrine is being expanded from two publications to eight, taking into consideration how the enemy is adapting to U.S. Army techniques, tactics and procedures.¹¹⁵ These new procedures should be published shortly.

At the same time, the Army MI doctrine contained in FM 34-52 is being revised and according to Gandy, will also be released in the very near future. The new interrogation manual will specifically prohibit the harsh practices that were used at Abu Ghraib and will highlight international treaties and the humane treatment of detainees. The new doctrine will also highlight the requirement international treaties on humane

¹¹⁴ Jones, "The Jones Report", 1015

¹¹⁵ Champagne, U.S. Department of Defense, Office of the Assistant Secretary of Defense (Public Affairs) News Transcript, Department of Defense Briefing on Detention Operations and Interrogation Techniques, 3.

treatment of detainees and will outline the requirement for more oversight by commanders in the interrogation process by enforcing the discipline of interrogation planning and the monitoring of interrogations.¹¹⁶ Given the leeway that the interrogators at Abu Ghraib had in the past, these changes to policies and procedures are necessary in order to provide the necessary controls over the entire process.

Yet another issue to be addressed by the U.S. Army in order to prevent the chance of further abuses is that of personnel. Numbers of people in the Army dropped dramatically during the 1990s, with great losses in both the MP and MI specialties. Since then, shortages of personnel have resulted in the call up of both Reserve and National Guard personnel to fight the war in Iraq, often serving much longer than the period that they expected to be there. Karpinski recognized this impact as major on the morale of her troops, who felt that they had been misled and betrayed by the system when they were forced to stay because there was no one to replace them.¹¹⁷ In response to his finding concerning the shortage of MP personnel available for detainee missions, Schlesinger further recommends that the future force design of the Army be such that an active component company is always ready to deploy immediately.¹¹⁸ This high readiness unit would ensure that a sufficient number of fully trained personnel are ready to begin detention operations at any given moment.

The shortfall in MP personnel to work detainee operations has been acknowledged by the Army. There is ongoing work to generate more units with this

¹¹⁶ Thomas A. Gandy, quoted by Tom Bowman, "New Manual Prohibits Harsh Interrogation," in the Baltimore Sun 16 March 2005, <http://www.baltimoresun.com/news/nationworld/iraq/bal-te.manual16mar16,0,7894575.story?coll=bal-home-headlines>; Internet; accessed 26 March 2005.

¹¹⁷ Karpinski, "What Went Wrong at Abu Ghraib", 1.

¹¹⁸ Schlesinger, "The Schlesinger Report", 935.

specialty in both the active and reserve components. The Army has begun to respond to the necessity for additional detention specialists and has recently announced that a further 35 military police units will be added to the force structure between now and 2008.¹¹⁹

In addition, a lack of linguists and interrogators in the U.S. Army has led to hiring of contracted personnel to assist in the MI functions, an issue not without problems. In some cases, contracted personnel did not have the correct security clearances or qualifications to be working in interrogation operations. The Army Inspector General found that 35% of contractor interrogators lacked formal training in military interrogation policies and techniques. He further stated that this lack of specific training has the potential of placing these interrogators at risk of violating Army policies and decreasing the intelligence yield.¹²⁰ The Army has responded by more carefully screening their contracted employees. Additionally, when the contractor first arrives in theatre, before he begins work he must watch an interrogation being conducted by an experienced soldier in order to view the proper procedures. Later, when he first begins his own interrogations, he is closely monitored to ensure that all policies and procedures are completely followed.¹²¹ These new practices will ensure that the contractors are trained to the same level as their military counterparts

The addition of contractors does not negate the fact that there are insufficient army personnel to conduct the MI mission. The Fay Report noted that the Army must increase the numbers of HUMINT units and find adequate linguist capabilities in order to

¹¹⁹ Champagne, Department of Defense Briefing on Detention Operations and Interrogation Techniques, 3.

¹²⁰ Mikolashek, "The Mikolashek Report," 723.

¹²¹ Ellen McCarthy, "Changes Behind the Barbed Wire", in *The Washington Post*, 13 December 2004, E1.

address current and future HUMINT requirements.¹²² The Army is also planning to add 9,000 MI personnel, including 3,000 interrogators. Until the Army brings these specialists on line, there will remain a need for contracted support and the issues that must be dealt with concerning the proper employment and supervision of the contractors. The contractors must be subject to the same rules and regulations of followed by the military and must be made fully accountable.

A major problem identified when the abuses began to be publicized was the lack of coordination with outside agencies such as the ICRC. Reports submitted by that organization are confidential and are not made public. But the ICRC can exert public pressure when abuses are identified and it works quietly behind the scenes to ensure that all interned personnel are treated humanely in accordance with the applicable conventions and treaties. At Abu Ghraib, the ICRC made a number of visits and noted numerous observations of obvious problems. Once the reports were received at CJTF-7 there was no specific office that received them or followed up with the corrective action necessary to attend to the concerns raised by that organization. The Independent Panel led by Schlesinger noted that there is value in the relationship with the ICRC that the Department of Defense has traditionally had because once informed of any issues proper corrective action could be taken, and that the ICRC should be used as an early warning indicator of possible abuse. The report further states that commanders should be alert to the ICRC observations and take corrective action as appropriate.¹²³ It went on to recommend that the Department of Defense should open an office for detainee affairs and

¹²² Fay, "The Fay Report", 1109.

¹²³ Schlesinger, "The Schlesinger Report", 951.

that ICRC relations should be included in this office.¹²⁴ The Army has taken this recommendation into consideration and Matthew Waxman; the Deputy Assistant Secretary of the new office of Defense for Detainee Affairs affirmed that the Department of Defence has instituted new procedures for handling the reports from the ICRC.¹²⁵ Additionally, when MG Miller took over as the CJTF-7 Deputy Commander for Detainee Operations, Lt Gen Sanchez made his office the central point responsible for ICRC in the Iraqi theatre. All reports go to him and are moved by him to the Commander CJTF-7 and the command leadership as rapidly as possible.¹²⁶ It is extremely important that the unbiased ICRC maintain the independence accorded to it by international law and that the U.S. seriously consider their reports and recommendations and take appropriate action in a timely manner.

It is also important that the detainees in any internee facility be aware of their rights under international law. Copies of the applicable Geneva Conventions must be given to all prisoners in their language. As well, they should be posted on the walls of the facilities so that they are readily available for anyone to read at any time. The Taguba Report noted this absence and the fact that no remedial action had been taken even after several investigations had noted the lack of this critical requirement.¹²⁷ This is a simple issue to correct that would not only be beneficial to the detainees to ensure that they are

¹²⁴ Ibid., 953.

¹²⁵ Matthew Waxman, U.S. Department of Defense, Office of the Assistant Secretary of Defense (Public Affairs) News Transcript, Department of Defense Briefing on Detention Operations and Interrogation Techniques, 10 March 2005, <http://www.defenselink.mil/transcripts/2005/tr20050313-2262.html>; Internet; accessed 5 April 2005.

¹²⁶ MG Geoffrey Miller, Transcript, Senate Hearing on Iraq Prison Abuse, 19 May 2004. Published by the Washington Post; <http://www.washingtonpost.com/wp-dyn/articles/A39851-2004May19.html>; Internet; accessed 4 April 2005.

¹²⁷ Taguba, "The Taguba Report", 425.

aware of their rights as well as serve as a reminder to soldiers working at any detention facility of the applicable conventions.

The recommendations noted above are essential to ensure that the abuses that took place at Abu Ghraib are not allowed to happen again. They are the minimum required and although not easy to implement in some cases, it is essential that the reports where they have been identified not be ignored because of the expense or trouble it would take to implement. The rebuilding of the reputation of the U.S. depends on action being taken for the world community to see that it is serious about ensuring that abuses such as those committed at Abu Ghraib do not happen again.

CONCLUSION

Abu Ghraib is a name now familiar across the world for two reasons; the abuses that occurred there under Saddam Hussein and more recently for the atrocities committed by American soldiers against their Iraqi detainees. The U.S. had its credibility questioned as a result of this horrible scandal and the reputation of the entire coalition in Iraq was shaken. America's reputation came under scrutiny immediately after the atrocities at Abu Ghraib were discovered, and made it more difficult to garner support for its policies in Iraq that were already being questioned by most of the world. The Foreign Service Journal reported in December 2004 that the Abu Ghraib scandal "hardly fit the American self-image as a peerless leader in the promotion of human rights world-wide."¹²⁸ Lorne Craner, head of the State Departments Human Rights Bureau until August 2004, wondered how the U.S. could withstand the scandal. He said the "Abu Ghraib scandal

¹²⁸ George Gedda, "After Abu Ghraib: The U.S. Human Rights Agenda", in The Foreign Service Journal, December 2004, 48.

was a cloud obscuring what we try to do.”¹²⁹ It will be difficult for the U.S. to gain back its credibility without justice being taken against all those responsible for the abuses.

Governments are not alone in questioning the reputation of the United States. The New York based Human Rights Watch noted the damage in their annual human rights report issued in January 2005 when it stated:

When most governments breach international human rights and humanitarian law, they commit a violation. But when a government as dominant and influential as the United States openly defies that law and seeks to justify its defiance, it also undermines the law itself and invites other to do the same.¹³⁰

When discussing the failure of the U.S. to take responsibility for the scandal, the same report notes that the U.S. “sought to blame the scandal on the young soldiers they sent to fight in Iraq and Afghanistan”.¹³¹ It is difficult to argue this assessment when there still has been no responsibility taken at the higher levels for these abuses

A year after the photo evidence showing the horrible abuses, the credibility of the U.S. is still under suspicion. When the State Department released its 2004 Human Rights Report, which did not mention the Abu Ghraib abuses, China accused the U.S. of using a double standard to judge human rights in other countries. In a statement from Premier Wen Jiabao’s cabinet, the U.S. record was questioned, “no country should exclude itself from the international human rights development process or view itself as the incarnation of human rights that can reign over other countries and give orders to the

¹²⁹ Ibid.

¹³⁰ “Human Rights Watchdog Slams U.S.”, in *CBSNEWS.COM*, Washinton, 13 January 2005, <http://www.cbsnews.com/stories/2005/01/13/world/printable666676.shtml>; Internet ; accessed 5 March 2005.

¹³¹ Ibid.

others.”¹³² Although China regularly disputes the U.S. annual report, the fact that the comments came directly from the Chinese cabinet and used more direct diplomatic language than usual gave the comment more weight than an Foreign Ministry comment or editorial.¹³³ As a result of the U.S. not reporting on its own human rights problems in the State Department Document is that a country that clearly does have a poor reputation for human rights can claim the moral high ground.¹³⁴ The U.S. also received scathing reviews on the report, which did not mention the Abu Ghraib abuses, from Russia, Mexico and South Africa.

To date, despite the many reports and investigations, only low-ranking soldiers have been convicted and sentenced. But they are not the only ones to blame. Numerous investigations and reports identified that there were not enough soldiers to do the job properly and they were not well trained or supervised. But most importantly, lack of firm leadership resulted in these atrocities. Yet, the Pentagon has released their final official report by the Army Inspector General on the prison abuse scandal that exonerates all senior officers but BG Karpinski.¹³⁵ That is simply a cover-up. Senior leadership in Iraq was made aware of the suspected abuses in ICRC reports and did nothing to investigate. Under the doctrine of command responsibility, the senior army officers

¹³² Edward Cody, “China, Others Criticize U.S. Report on Human Rights”, in *The Washington Post*, 4 March 2005, A14; <http://www.washingtonpost.com/ac2/wp-dyn/A3840-2005Mar3?language=printer>; Internet; accessed 10 March 2005.

¹³³ Ibid.

¹³⁴ Tom Reagan, “Is U.S. losing Moral Authority on Human Rights?” in the *Christian Science Monitor*, 7 March 2005, <http://www.csmonitor.com/2005/0307/dailyUpdate.html>; Internet; accessed 10 March 2005.

¹³⁵ Josh White, “Top Army Officers Are Cleared in Abuse Cases”, in the *Washington Post*, 23 April 2005, A10. <http://www.washingtonpost.com/wp-dyn/articles/A10546-2005Apr22.html>; Internet; accessed 24 April 2005.

involved should be held responsible and accountable for the abuses. The soldiers at the lowest levels must be punished. But to not recognize the culpability of the leadership and take the appropriate action against them as well is to simply ignore what happened and to set the stage for further atrocities in future theatres of operation.

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