



# At What Cost, Intelligence?

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

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

—Major General Martin Dempsey, commander, 1st Armored Division, 30 October 2003, email to his brigade commanders<sup>1</sup>

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

—unidentified interrogator, Forward Operating Base Tiger, in response to a military policeman's concern about enhanced interrogation techniques<sup>2</sup>

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PHOTO: Two U.S. Army military policemen escort a detainee to a cell at Camp X-Ray, Guantanamo Bay Navy Base, Cuba, 11 January 2002. (U.S. Navy PH1 Shane T. McCoy)

**T**HE SUMMER OF 2003 was a hot, frustrating time for coalition forces in Iraq. In Baghdad, Soldiers experienced temperatures over 100° F for 91 consecutive days.<sup>3</sup> Far worse, contrary to the expectations of most Soldiers and their military and political leaders, the Iraqi insurgency was not only active but growing rapidly in size and lethality across the country. In July, coalition forces experienced twice the number of attacks they had experienced in June.<sup>4</sup> And in August, the country witnessed the rise of “vehicle-borne explosive device” attacks, including a suicide car bombing on 11 August 2003 in Baghdad that killed 11 people and closed the Jordanian Embassy. U.S. Soldiers’ hopes for returning home by Christmas had evaporated in Iraq’s summer heat.

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

This email evoked strongly worded, antithetical responses from the two ideological “camps” of CJTF-7’s HUMINT sections. One camp (to which the CJ2X captain clearly belonged) included Chief Warrant Officer 3 Lewis Welshofer, Jr., of the 3d Armored Cavalry Regiment, and an unidentified

HUMINT leader of the 4th Infantry Division.<sup>9</sup> The other camp was represented by Major Nathan Hoepner, the operations officer of the 501st MI Battalion Task Force, 1st Armored Division. The units of all three of these officers operated in the “Sunni Triangle,” the most dangerous part of Iraq during Operation Iraqi Freedom (OIF) I.

In his reply to the CJ2X captain’s email, Welshofer wrote that “a baseline interrogation technique” should include “open handed facial slaps from a distance of no more than about two feet and back handed blows to the midsection from a distance of about 18 inches.”<sup>10</sup> He also added: “Close confinement quarters, sleep deprivation, white noise, and a litany [sic] of harsher fear-up approaches . . . fear of dogs and snakes appear to work nicely. I firmly agree that the gloves need to come off.”<sup>11</sup> The unidentified 4th Infantry Division HUMINT leader submitted a “wish list” that included some of the same techniques, but added “stimulus deprivation,” “pressure point manipulation,” “close-fist strikes,” “muscle fatigue inducement,” and “low voltage electrocution.”<sup>12</sup>

In his returning salvo from the other camp, Major Hoepner replied:

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

We Americans, Hoepner was clearly saying, adhere to moral standards that are more important to us than simply winning one battle: to forfeit these standards is to lose our identity as American Soldiers.

## The Two Rival Camps: Background

The “intelligence at any cost” mindset of the first camp above has enjoyed a much longer (and more potent) life in U.S. military history than is commonly understood. For example, during the Philippine-American War, the 1902 Senate Committee on the Philippines documented U.S. troops’ systematic use of the “water cure,” a harsher, often fatal version of what we today know as “waterboarding.”<sup>14</sup> More recently, many CIA and U.S. military advisors in the U.S.’s controversial “Phoenix Program” during the Vietnam War did not attempt to stop, and in a few cases even encouraged, the use of torture (including electric shock) by South Vietnamese intelligence officials.<sup>15</sup> In both instances, U.S. Soldiers rationalized that the need for actionable intelligence justified torture.

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

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

Forty years later, CJTF-7, 3d Armored Cavalry Regiment, and 4th Infantry Division HUMINT leaders similarly argued that, to save lives, the “gloves” were “coming off” with regard to interrogation techniques.

However, this camp does not represent the dominant tradition within U.S. military history. When Major Hoepner argued that Americans are governed by moral standards, he was speaking from this dominant tradition, a tradition as old as the establishment of America’s first colony. In a 1630 sermon, John Winthrop told Puritan colonists (who were soon to disembark from the *Arbella* and found the Massachusetts Bay Colony) that they should “do justly” and “love mercy” and that their new colony should be “as a city upon a hill” for the rest of the world to watch



Helen C. Stikkel

Donald H. Rumsfeld (foreground, right), U.S. secretary of defense, receives a briefing on detainee operations at Camp X-Ray, Guantanamo Bay, Cuba, 27 January 2002. Twelve days earlier, Rumsfeld had signed a memo that stated that commanders need not treat certain detainees in accordance with the Geneva Conventions in the event of “military necessity.”

and emulate.<sup>17</sup> Similarly, during the Revolutionary War, leaders of the Continental Army and Congress judged that it was not enough to win the war; they had “to win in a way that was consistent with the values of their society and the principles of their cause.”<sup>18</sup> General George Washington applied this ideal to the treatment of British and Hessian prisoners, adopting an uncommon policy of humanity. In one written order, for example, he directed that 211 British captives be treated “with humanity” and be given “no reason to Complain of our Copying the brutal example of the British army in their Treatment of our unfortunate brethren.”<sup>19</sup> During the more than two centuries that have passed since the Revolutionary War, the U.S. Army's treatment of its enemies has been largely consistent with this tradition of humanity, with such wars as the Philippine-American War and various Indian wars representing racially motivated exceptions to this rule.<sup>20</sup>

## Case Study Hypothesis

The decision that may be most critical to the ultimate effectiveness of U.S. leaders in combat is will we let our ideals govern us and reside in the “city upon the hill?” Or, will we attempt to live hidden from view in the “end-justifies-the-means camp?” (Leaders may try to stand in the middle, but they must beware this hill’s slippery slope and watch their footing carefully.) This critical decision may take place downrange, or it may occur months, years, or even decades before deployment. Ultimately, no decision may be more important to a U.S. combat leader than this choice.

This essay uses the case study methodology to explore the hypothesis that the essential ethical position assumed by leaders is the most important determinant of the level of detainee abuse in interrogation units and these units’ strategic effectiveness on today’s battlefield. Perhaps, investigations

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that attributed interrogation abuse to over-crowded detention facilities, untrained guards, immature interrogators, or any of the plethora of other reasons often cited got it wrong. The fundamental reason why interrogation abuse in Iraq occurred may have been a failure in ethical leadership. It may have been that simple.

Continuing the storylines begun with the email exchange above will prove (or disprove) the essay's hypothesis. If the hypothesis is correct, then interrogation facilities influenced by the CJTF-7, 3d Armored Cavalry Regiment, and 4th Infantry Division HUMINT leaders who decided that the "gloves" were "coming off" should have escalated to serious detainee abuse, and conversely, the Task Force 1st Armored Division (TF 1AD) detention facility should have remained relatively free of allegations of abuse. Once this hypothesis is validated, it is applied to the present to indicate what steps our Army still needs to take to prevent future interrogation abuse and the strategic defeat such abuse may create.

We start this experiment with CJTF-7.

## Strategic Defeat at Abu Ghraib

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

The Abu Ghraib facility had grave problems from the beginning. It was in a dangerous area and regularly received mortar fire, sometimes with catastrophic results: on 16 August 2003, a mortar attack killed five detainees and injured 67 others.<sup>23</sup> On 20 September 2003, a mortar attack killed two U.S. Soldiers and injured 11 others (including the commander of the Joint Interrogation Center).<sup>24</sup> The

facility also rapidly grew overcrowded, holding 7,000 detainees by October 2003.<sup>25</sup> The crowding caused severe undermanning, with just 90 military policemen managing the detainee population—far less than the full battalion that doctrine required for a detainee population of this size.<sup>26</sup>

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

A few weeks after the CJTF-7 J2X had requested a "wish list" of interrogation techniques, CJTF-7 published its first approved techniques. This 14 September 2003 interrogation policy included three harsh techniques that two HUMINT leaders had advocated via email, namely, "sleep management," "presence of military working dogs," and "yelling, loud music, and light control."<sup>31</sup> It also included other enhanced interrogation techniques inspired by military SERE schools.<sup>32</sup> These other techniques were "stress positions," "isolation," "environmental manipulation," "false flag," and "dietary manipulation."<sup>33</sup> The use of three of these techniques required the personal approval of the CJTF-7 commander when employed on enemy prisoners of war.<sup>34</sup> However, since the vast majority of U.S. detainees in Iraq were not enemy prisoners of war (captured enemy soldiers) but civilian internees (suspected insurgents and criminals), there was some confusion as to the applicability of this restriction.

Upon review, Central Command deemed CJTF-7's interrogation policy to be "unacceptably aggressive."<sup>35</sup> Therefore, CJTF-7 published a new policy on 10 October 2003. Unfortunately, some interrogators, most notably at CJTF-7's new "Baghdad Central Correctional Facility" at Abu Ghraib, considered these new guidelines to be nearly as permissive as they had viewed the guidance of the

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September policy memo. This permissive interpretation occurred for many reasons. Although the new policy probably intended to take away blanket approval for interrogators to use enhanced interrogation techniques, it gave Sanchez the option of approving such techniques on a case-by-case basis. Thus, for example, Sanchez would approve 25 requests by interrogators to employ the “isolation” technique on subjects.<sup>36</sup> Also, since Colonel Pappas (the 205th MI Brigade commander) apparently believed that he had been delegated approval authority by Sanchez for his interrogators to use the harsh techniques of “sleep management” and “use of military working dogs,” it remained a simple matter for his interrogators to receive approval to use these two techniques.<sup>37</sup>

Worse still was the confusion the new interrogation policy generated when it quoted a rescinded army field manual. Interrogators, the new policy said, should “control all aspects of the interrogation, to include the lighting, heating, and configuration of the interrogation room, as well as the food, clothing and shelter” given to detainees.<sup>38</sup> It is easy to see how some interrogators may have interpreted this vague instruction as blanket approval to use the enhanced interrogation techniques of “dietary manipulation” and “environmental manipulation.” Worst of all, the reference to controlling subjects’ clothing supported some interrogators’ beliefs that they could employ the “forced nudity” technique at their discretion—an enhanced interrogation technique permissible during their previous deployments to Gitmo or Afghanistan but never approved for use in Iraq.<sup>39</sup>

Inadequate ethical leadership also played a role in key leaders failing to either take seriously or to investigate reports of detainee abuse at Abu Ghraib by the International Committee of the Red Cross.<sup>40</sup> These leaders largely ignored Red Cross reports stemming from two visits to Abu Ghraib in October 2003 (just as the facility’s most serious criminal abuses were beginning).<sup>41</sup> In a summary of these reports, the Red Cross stated that “methods of physical and psychological coercion used

by the interrogators appeared to be part of the standard operating procedures by military intelligence personnel to obtain confessions and extract information.”<sup>42</sup> The Red Cross also described “abuse” (later corroborated by military investigators) that included detainees being held naked for days, yelled at, insulted, threatened, undergoing “sleep deprivation caused by the playing of loud music or constant light,” and held in isolation.<sup>43</sup> However, this “abuse” involved Soldiers implementing enhanced interrogation techniques CJTF-7 Headquarters either formally promulgated or Soldiers believed had been authorized based on their personal experiences in other theaters.

Thus, the decision of key leaders at CJTF-7 Headquarters and at Abu Ghraib to take “the gloves off” set the stage for the “Abu Ghraib Scandal.” This scandal, which erupted after photos of serious criminal misconduct at Abu Ghraib were televised on 28 April 2004, would be intimately entwined with interrogation operations. Investigators concluded that, although enhanced interrogation techniques had not directly caused the most serious criminal abuses at Abu Ghraib, the techniques had perpetuated a climate where such criminal abuse was possible.<sup>44</sup> It is difficult to fathom, for example, how the infamous photographs of naked human pyramids could have occurred if interrogators had not been directing military policemen to employ the “forced nudity” technique as part of “pride and ego-down” approaches.

The Abu Ghraib scandal constituted a strategic defeat for the United States. It severely damaged the credibility of the U.S. within the international community, particularly the world’s Arab community. The Abu Ghraib scandal also energized the Iraqi insurgency: “They used to show events [on television] in Abu Ghurayb,” said one of many mujahedeen inspired to go to Iraq by the horrific images. “The oppression, abuse of women, and fornication, so I acted in the heat of the moment and decided . . . to seek martyrdom in Iraq [*sic*].”<sup>45</sup> Ominously, for a counterinsurgency force trying

to win the support of the people, Coalition Provisional Authority polls showed Iraqi support for the occupation plummeting from 63 percent before the scandal to just nine percent after the photos were published.<sup>46</sup> Most ominously however, the scandal accelerated the decline of U.S. popular support for the war, a decline that eventually caused Congress to try (unsuccessfully) to force U.S. forces from Iraq in 2007.

We move now to the 3d Armored Cavalry Regiment (3ACR).

## Enhanced Interrogation in Al Anbar

In a February 2004 report, the Red Cross summarized its major findings concerning the treatment of detainees from March to November 2003 in 14 U.S. facilities in Iraq.<sup>47</sup> This report assessed two facilities at the CJTF-7 level (Abu Ghraib and Camp Cropper) as “main places of internment where mistreatment allegedly took place.”<sup>48</sup> At the division or brigade level, it assessed three facilities as centers of alleged detainee abuse: one (and perhaps two) belonged to the 3ACR. The Red Cross described the facility that clearly belonged to the 3ACR as located in “a former train station in Al-Khaim, near the Syrian border, turned into a military base.”<sup>49</sup> This description matches descriptions in court testimony of Forward Operating Base (FOB) Tiger, which the 1st Squadron of 3ACR operated.<sup>50</sup> The Red Cross also described a center of detainee abuse as the “Al-Baghdadi, Heat Base and Habbania Camp in Ramadi governorate.”<sup>51</sup> While units of the 3ACR operated in the Al Habbaniyah area at the time (July-August 2003) of the Red Cross’s allegations of abuse at this facility, a cursory U.S. Army criminal investigation into this allegation failed to uncover whether a conventional Army or Special Forces unit had committed the alleged abuse.<sup>52</sup> The Red Cross report was disturbing, though. Twenty-five detainees at Abu Ghraib alleged that, during their previous internments at Al Habbaniyah, they had undergone such mistreatment as painful stress positions, forced nudity, beatings, dog attacks, and sleep deprivation—all allegations consistent with the use of enhanced interrogation techniques.<sup>53</sup>

There is no question, however, that the 3ACR operated the detention facility on Forward Operating Base Tiger. Human Rights Watch interviewed

a military police sergeant who had served as a guard at the facility from May 2003 to September 2003.<sup>54</sup> This guard’s testimony corroborated the Red Cross’s 2004 allegations of abuse at this facility. According to this military policeman, he routinely witnessed interrogation abuse at the facility. He alleged that guards were regularly ordered to subject detainees to sleep deprivation, dangerously high temperatures, hunger and thirst, and prolonged standing (up to 24 hours) while facing a wall.<sup>55</sup> He also alleged that he witnessed interrogators beating detainees, threatening them with loaded weapons, and subjecting them to bright strobe lights and loud music.<sup>56</sup> According to this sergeant, both Army (including Special Forces Soldiers) and CIA interrogators conducted these abusive interrogations.<sup>57</sup>

Since this guard was describing enhanced interrogation techniques common to those facilities that employed such techniques, it seems unlikely that he fabricated these allegations. Moreover, the described techniques are consistent with specific techniques (such as “wall standing”) described in recently declassified CIA memoranda.<sup>58</sup>

Unfortunately, the use of enhanced interrogation techniques was not limited to the squadron detention facility at FOB Tiger; these techniques were also employed at FOB Rifles (the 3ACR Regimental Holding Area at Al Asad Air Field) as



PFC Lynndie England, 372d Military Police Company, is escorted by guards and her defense counsels, CPT Jonathan Crisp and CPT Katherine Krul, from Fort Hood’s Williams Judicial Center on 27 September 2005, after she was sentenced to three years for prisoner abuse at Abu Ghraib.

SPC L.B. Edgar

well as at a temporary detention facility that the regiment established east of Al Qaim for an operation called “Operation Rifles Blitz.”<sup>59</sup> Like the FOB Tiger facility, this temporary facility was located at a train station.<sup>60</sup> The nickname of this facility was “Blacksmith Hotel.”<sup>61</sup> The senior interrogator in charge of interrogation operations at these two regimental facilities was Chief Warrant Officer 3 Lewis Welshofer.

As described in the email exchange above, Welshofer’s response to the request for a “wish list” of interrogation techniques was to request the use of techniques resembling those used by SERE instructors.<sup>62</sup> CJTF-7’s permissive interrogation policy of 14 September 2003 seemed to permit some SERE techniques, so Welshofer apparently felt he had permission to use all of the techniques he had previously learned as a SERE instructor. Welshofer applied one of these techniques, “close confinement quarters,” in a particularly brutal manner, often wrapping detainees in a sleeping bag to induce feelings of claustrophobia.

This “interrogation technique” had tragic results. On 26 November 2003, Welshofer interrogated Iraqi Major General Abed Mowhoush at “Blacksmith Hotel.”<sup>63</sup> At the end of this interrogation, Welshofer placed Mowhoush in a sleeping bag, wrapped the bag tightly with electrical cord, sat on the officer, and covered his mouth with his hand.<sup>64</sup> Within minutes, the 56-year-old general was dead. Mowhoush’s death certificate later listed his cause of death as “asphyxia due to smothering and chest compression,” and a 2 December 2003 autopsy stated that, prior to his death, Mowhoush had received numerous “contusions and abrasions along with six fractured ribs.”<sup>65</sup> The fractured ribs were apparently due to a group of Iraqis (who allegedly worked for the CIA) severely beating Mowhoush during an interrogation two days before his death.<sup>66</sup>

This was not the only interrogation-related death in the 3ACR. Five weeks after Operation Rifles Blitz, 47-year-old Lieutenant Colonel Abdul Jameel died during an interrogation at FOB Rifles

on Al Asad Airfield. According to a *Denver Post* article, Jameel had been kept in an isolation cell with his arms chained to a pipe in the ceiling.<sup>67</sup> When released from these chains, he reportedly lunged at a Special Forces Soldier, causing three Special Forces Soldiers to allegedly punch and kick him “for approximately one to two minutes.”<sup>68</sup> This article states that Jameel later escaped and was recaptured.<sup>69</sup> Upon recapture, his hands were allegedly tied to the top of his cell door, and at some point, he was gagged.<sup>70</sup> Five minutes later, a Soldier noticed he was dead.<sup>71</sup> Another article in the *New York Times* is more specific about Jameel’s gagging, alleging that a “senior Army legal official acknowledged that the Iraqi colonel had at one point been lifted to his feet by a baton held to his throat, and that that action had caused a throat injury that contributed to his death.”<sup>72</sup>

The coroner who performed Jameel’s autopsy identified the cause of death as “homicide,” describing Jameel’s body as showing signs of “multiple blunt force injuries” and a “history of asphyxia.”<sup>73</sup> An Army criminal investigation recommended charging Soldiers from both the 5th Special Forces Group and the 3ACR with crimes related to Jameel’s homicide.<sup>74</sup> The report recommended charging two Soldiers with negligent homicide and nine others with crimes ranging from assault to making a false official statement.<sup>75</sup> The commanders of these Soldiers, however, ignored these recommendations and determined that the detainee died as “a result of a series of lawful applications of force in response to repeated aggression and misconduct by the detainee.”<sup>76</sup>

Because of the Army criminal investigation into Mowhoush’s death, Welshofer’s commanding general issued Welshofer a letter of reprimand. In his letter of rebuttal to this reprimand, the unrepentant warrant officer repeated a claim he had made in the email to the CJTF-7 captain, namely, that Army doctrine—patterned as it is on the Law of War—is insufficient for dealing with unlawful combatants.<sup>77</sup> Welshofer also referred to Jameel, saying that, before Jameel’s death, Jameel had led Soldiers to the location of a large explosives cache.<sup>78</sup> Welshofer used this example to justify his own harsh treatment of Mowhoush, saying that this cache had contained “thousands of potential IEDs [Improvised Explosive Devices]” and that

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the “bottom line is that what interrogators do is a dirty job but saves lives.”<sup>79</sup> Despite his specious reasoning here (after all, just because Jameel knew where IED caches were does not mean that Mowhoush did), Welshofer was still charged with negligent homicide, and in January 2006, he was court martialed at Fort Carson, Colorado.

Welshofer’s court martial was a media sensation. During his court martial, Welshofer claimed that the only CJTF-7 interrogation policy he had seen in Iraq had been the September 2003 policy (the policy that explicitly authorized certain enhanced interrogation techniques). A warrant officer who had observed parts of Mowhoush’s interrogation testified that Welshofer had used a technique that was essentially “waterboarding” on Mowhoush the day before his death.<sup>80</sup> According to this warrant officer, Welshofer also hit Mowhoush repeatedly on his elbow with a stick.<sup>81</sup> Welshofer’s use of a stick to strike Mowhoush, this warrant officer alleged, “was not that extreme when you consider other things that were happening at the facility.”<sup>82</sup> Also, the company commander of these two warrant officers testified that she had authorized the “close quarters” or “sleeping bag” technique and that she had seen Welshofer slap detainees.<sup>83</sup> Despite evidence that Welshofer had used enhanced interrogation techniques not approved for use by U.S. Soldiers in Iraq and which had clearly contributed to Mowhoush’s death, Welshofer received an extremely controversial light sentence—a letter of reprimand, restriction to his house and place of worship for two months, and a fine of \$6,000.<sup>84</sup> Ultimately, the media controversy resulting from Welshofer’s light sentence, though not a strategic defeat of the magnitude of Abu Ghraib, reinforced the U.S. military’s loss of moral standing among Americans.

We turn now to the 4th Infantry Division (4ID).

## Troubles in Tikrit

In their February 2004 summary of alleged detainee abuse in Iraq from March to November 2003, the Red Cross identified the “Tikrit holding area (former Saddam Hussein Islamic School)” as an alleged center of detainee abuse.<sup>85</sup> While the 4ID was headquartered at this time in Tikrit, it is unclear from this description if the Red Cross’ alleged abuse occurred in the 4ID’s detention facility on FOB Iron Horse. Also, since this allegation was appar-

ently never investigated, it is unclear exactly what abuse was allegedly committed by whom. As in the case of the Al-Baghdadi, Heat Base, and Habbania Camp, it is just as possible that the alleged abuse occurred—if it occurred at all—at the hands of unconventional rather than conventional forces.

Still, the 4ID detention facility at FOB Iron Horse certainly had its troubles. Most significantly, investigators found Soldiers at fault in two detainee deaths at the facility. On 11 September 2003, a guard shot and killed a detainee for allegedly placing his hands too near the concertina wire of his isolation area.<sup>86</sup> The guard was charged with manslaughter, and he was chaptered out of the Army in lieu of a court martial.<sup>87</sup> Also, on 8 February 2004, another detainee died due to medical inattention.<sup>88</sup> In addition, and precisely relevant to this case study, the 4ID detention facility had a case of substantiated interrogation abuse that derived directly from the decision of certain HUMINT leaders to take “the gloves off.”

This case began on 17 August 2003 when the staff sergeant in charge of the 4ID’s interrogation control element submitted the requested “wish list” of more effective interrogation techniques.<sup>89</sup> After this submission, he saved this file onto his desktop, where a new interrogator read it.<sup>90</sup> Soon after, he spoke to the new interrogator about these techniques.<sup>91</sup> They later disagreed in sworn statements about the nature of this discussion. The junior interrogator alleged that his supervisor had given him tacit permission to use the techniques (asking him if he “could handle” implementing them). His superior stated they had discussed the techniques in general and that he had never given this interrogator permission to use these techniques.<sup>92</sup>

The arrival at the facility of a detainee accused of killing three Americans set the stage for two abusive interrogations. The new interrogator was physically imposing (standing six foot, six inches tall). So “to extract time-sensitive intelligence information that could save lives,” the staff sergeant assigned him to conduct this detainee’s interrogation while approving a “fear up” (harsh) interrogation approach.<sup>93</sup> During the first abusive interrogation on 23 September 2003, the new interrogator forced the detainee to assume various stress positions, shouted at him, threatened him, and struck him with a police baton 10 to 30 times on his feet, buttocks, and possibly



his lower back.<sup>94</sup> Six days later, the same interpreter and a different interrogator forced the detainee to circle around a table on his knees until his knees were bloody.<sup>95</sup> Ironically, just two days before the first harsh interrogation, the 4ID Commander had published a command policy prohibiting “assaults, insults, public curiosity, bodily injury, and reprisals of any kind.”<sup>96</sup> In his statement, the junior interrogator said he would have reconsidered his techniques if he had seen this policy.<sup>97</sup>

The officer who investigated the incidents recommended a letter of reprimand for the staff sergeant and a field grade Article 15 for both interrogators.<sup>98</sup> The staff sergeant’s letter of reprimand admonished him for his failure “to set the proper leadership climate” and for his “inadvertently” leading at least one interrogator to believe he “condoned certain practices that were outside the established regulations.”<sup>99</sup> In his rebuttal, the staff sergeant boldly alleged it was not he who had failed to set the proper leadership climate for his subordinates and blamed the problem on “the command climate of the division as a whole.”<sup>100</sup> In support of his claim, he referred to an illegal practice in which certain 4ID units seized family members of targeted individuals in an effort to coerce them into turning themselves in.<sup>101</sup> The staff sergeant also quoted an unidentified “senior leader” as saying that detainees “are terrorists and will be treated as such.”<sup>102</sup>

Although Lieutenant Colonel Allen West may not have been the “senior leader” who made this remark, West is still worth mentioning in this context. A battalion commander within the 4ID’s 2d Brigade, West was relieved from command for an incident that occurred one month before the abusive interrogations on FOB Iron Horse. To coerce intelligence from a detainee, West had watched five of his Soldiers beat a detainee on the head and body, then had them take the detainee outside and place the detainee near a clearing barrel, where he fired two shots into the clearing barrel.<sup>103</sup> Later, media pundits and even U.S. senators rancorously debated the morality of West’s actions, a debate that sent mixed signals to Soldiers in the field about permissible behavior. West ultimately retired rather than face a court martial.

In short, although the interrogation element at FOB Iron Horse flirted with the use of enhanced interrogation techniques, the actual use of these

techniques was never systemic there like it was at Abu Ghraib or three facilities within the 3ACR. In fact, when such techniques were implemented during two abusive interrogations, a 4ID command policy, coupled with a thorough investigation (and decisive punishment), seem to have eradicated any confusion the interrogators had regarding acceptable interrogation methods. Thus, the media circus about abusive interrogation techniques did not involve the 4ID’s detention facility: this controversy rightly engulfed Lieutenant Colonel West.

We are now ready to examine the 1st Armored Division.

## Out Front!

Soon after assuming command of the 1st Armored Division (1AD) on 16 July 2003, Brigadier General Martin Dempsey directed that the division be called “Task Force 1st Armored Division” (TF 1AD).<sup>104</sup> This was a nod to the division’s many attachments, which had more than doubled the size of the division to 39,000 Soldiers.<sup>105</sup> To this date, TF 1AD remains the largest force controlled by a division headquarters in U.S. Army history.<sup>106</sup> Throughout Operation Iraqi Freedom I, TF 1AD operated in Baghdad, an environment as complex and dangerous as any other in Iraq. The lives of 133 TF 1AD Soldiers lost and 1,111 Soldiers wounded in combat serve as profound, poignant testimony to this fact.<sup>107</sup>

The 501st MI Battalion (now inactivated) was 1AD’s organic MI battalion. During Operation Iraqi Freedom I, the unit ran the TF 1AD detention facility and provided HUMINT and other intelligence support to the giant task force. The motto of the battalion was “Out Front!” Its leaders clearly intended the unit to serve as an ethical role model. In the first sentence of his command philosophy, Lieutenant Colonel Laurence Mixon, who commanded the battalion for most of OIF I, calmly asserted that the battalion was a “values-based organization.” Then, in the very next sentence he borrowed the shining “city upon the hill” metaphor by presenting key moral principles as “guideposts, lighting our way ahead.”<sup>108</sup>

The TF 1AD detention facility (which MI personnel called the division interrogation facility or “DIF”) was located at the Baghdad International Airport. This facility struggled with the same basic issues that the 3ACR and 4ID facilities had



CPT Mikki Gillboon

**1st Armored Division commander, BG Martin E. Dempsey, speaks during a bridge reopening in Baghdad, Iraq, 25 October 2003.**

struggled with during OIF I. Most notably, it had too few (and too inexperienced) interrogators operating amid mounting U.S. casualties and a growing pressure for intelligence.<sup>109</sup> Nonetheless, the facility had zero substantiated cases of detainee abuse and no cases of alleged serious abuse.<sup>110</sup> The only three instances of abuse at the facility seem to have been extremely minor—two cases of MPs counseled for yelling at detainees and one instance of a contract interrogator fired for verbally threatening a detainee.<sup>111</sup>

In addition, there were none of the potential indicators of abuse at the TF 1AD detention facility that had occurred at some other facilities in Iraq. There was not a single riot, detainee shooting, detainee death, or escape attempt at the facility.<sup>112</sup> Also, the facility passed all Red Cross inspections with no significant deficiencies or allegations of detainee abuse noted.<sup>113</sup> When Stuart Herrington (a retired colonel and one of America's foremost experts on interrogation operations) inspected CJTF-7 interrogation operations in December 2003, he singled out TF 1AD's detention facility as “organized, clean, well-run, and impressive.”<sup>114</sup>

Importantly, interrogators at the facility never employed enhanced interrogation techniques, even during the brief period in which CJTF-7 explicitly approved such techniques.<sup>115</sup> In fact, across Baghdad, Brigade S2s and 501st MI Battalion leaders refused to allow their interrogators to employ these techniques.<sup>116</sup> Chief Warrant Officer 3 John Groseclose, who was in charge of HUMINT operations at TF 1AD's 3d Brigade before taking charge of interrogation operations at the TF 1AD detention facility, said the following:

When that memo [CJTF-7's 14 September 2003, interrogation policy] first came out, I went to Major Crisman, the S2 at the brigade, and showed the memo to him. I told him that I thought this memo was a very bad idea. It just didn't look right to me. He agreed. So, we never used those techniques. I didn't see any purpose for them.<sup>117</sup>

Groseclose's counterpart at TF 1AD's 1st Brigade, Chief Warrant Officer 3 Kenneth Kilbourne, echoed Groseclose's comments. “This memo was idiotic,” Kilbourne said. “It was like providing a new, dangerous piece of equipment to a Soldier

and telling him that he is authorized to use it, but you don't have an instruction manual to give him to show him how to operate it."<sup>118</sup>

These experienced HUMINT leaders believed that it was not only wrong for American Soldiers to employ enhanced interrogation techniques on real world enemies, but that such techniques were largely ineffective. "For an interrogator to resort to techniques like that [techniques derived from SERE schools] is for that interrogator to admit that they don't know how to interrogate," said Groseclose, who was awarded the U.S. Defense Department's HUMINT Collector of the Year Award for 2003.<sup>119</sup> He added, "Our interrogations produced results."<sup>120</sup>

Then-Major (now Lieutenant Colonel) Hoepner has credited the battalion's HUMINT warrant officers and the command climate for the battalion's stand on the moral high ground.<sup>121</sup> His judgment is no doubt correct. In a fragmentary mission order issued four days after assuming command, Dempsey criminalized detainee mistreatment.<sup>122</sup> The criminalization included the use of any interrogation technique that could be construed as "maltreatment."<sup>123</sup> What is more, Dempsey consistently reiterated the need for troops to treat Iraqis with respect and humanity to his brigade commanders, a reminder they hardly needed. As Colonel Pete Mansoor, the commander of TF 1AD's 1st Brigade, noted:

Whether or not mock executions, naked pyramids, beatings, and other forms of abuse succeed in extracting information, such behavior often slides down a slippery slope to more severe forms of mistreatment, perhaps leading eventually to injury and death. Prisoner abuse degrades the abuser as well as the abused; as Americans we should stay on a higher moral plane . . . We had to remain constantly vigilant in this regard, lest we lose our soul in the name of mission accomplishment.<sup>124</sup>

Still, despite the best efforts of senior leaders throughout TF 1AD, allegations of serious detainee abuse did occur in TF 1AD, and some of these allegations were substantiated.<sup>125</sup> Thus, what was truly unique for a unit of its size was that none of TF 1AD's cases of detainee abuse involved school-trained interrogators. The principal reason for this was that everyone in these interrogators' chain of

command (from their commanding general to their warrant officer supervisors) knew they should be standing on the moral high ground.

## Case Study Findings

In some ways, the Abu Ghraib detention facility had a different tactical problem than the division and regimental facilities in Al Anbar Province, Tikrit, and Baghdad Airport. Abu Ghraib was overcrowded, its military police unit was undermanned, and it operated under nearly constant harassing mortar fires that frightened and sometimes traumatized the troops working there.

Nevertheless, in important ways, the tactical problem was the same: How do we interrogate effectively, when casualties are mounting, higher interrogation policy is permissive, resources are limited, and our interrogators are young and inexperienced?

Tragically, interrogators at Abu Ghraib, in the 3ACR, and at FOB Iron Horse had HUMINT leaders who felt morally justified in sanctioning enhanced interrogation techniques, and this belief led their interrogators to use techniques that slipped into truly serious abuse at Abu Ghraib and in the 3ACR. Furthermore, due to personalities unique to Abu Ghraib, abuse descended further still into the sadistic, sexualized violence that shamed our Nation and nearly led to our defeat in Iraq. In retrospect, it is ironic that, while these leaders had meant to save lives via enhanced interrogation techniques, their actions helped to destabilize Iraq. This destabilization, in turn, created thousands more casualties than these leaders could ever have prevented through tactical methods.

However, the detention facility run by the 501st MI Battalion was a shining example of the type of facility to which most U.S. detention facilities belonged. By using doctrinally sound interrogation methods, leaders at these facilities managed to solve their tactical problem without their interrogators incurring investigations, letters of reprimand, or being court martialed. In addition, their interrogators stayed out of the news.

Of course, those who believe in the efficacy of enhanced interrogation techniques will argue that the 501st MI Battalion was not as successful tactically as it would have been had it employed such techniques. Although this could be true, it is unlikely.

The 501st MI Battalion's experienced HUMINT warrant officers certainly did not accept such an argument. To a man, they believed that they would have been less successful if they had employed such harsh techniques, and they often said, "Torture is for amateurs, professionals don't need it."<sup>126</sup> These leaders insisted that Army doctrine is correct in stating that the "use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear."<sup>127</sup> Other sources corroborate their judgment. Matthew Alexander (one of the interrogators who led U.S. forces to Musab al Zarqawi) convincingly argues that interrogators who build rapport with subjects and then intelligently apply doctrinal approaches are more successful than those who unthinkingly rely on brutal methods.<sup>128</sup>

While enhanced interrogation techniques are decidedly inferior to more intelligent methods, they may extract useful intelligence in very limited circumstances. This does not mean, however, that it is ever wise for the citizens of a Western democracy to employ such techniques. The risk of strategic defeat (as experienced by America at Abu Ghraib and by France in Algeria) is too great on today's media-saturated battlefield. More importantly, the use of such techniques is simply un-American.

This case study began with the hypothesis that the essential ethical position chosen by leaders is the most important determinant of the level of detainee abuse in interrogation units and, ultimately, the strategic effectiveness of these units on today's battlefield. Clearly, this hypothesis is valid. As illustrated above, when HUMINT leaders in Iraq chose ethically different solutions to a common tactical problem, the level of interrogation abuse that then occurred within their units was also dramatically different—as were the strategic results.

Surprisingly, the Independent Panel to Review Detention Operations has been the only major investigator of OIF I interrogation operations that emphasized the role that poor ethical decision making played in interrogation abuse. Chaired by former Secretary of Defense James Schlesinger, the five-member panel found that—

For the U.S., most cases for permitting harsh treatment of detainees on moral grounds begins with variants of the "ticking

time bomb" scenario . . . Such cases raise a perplexing moral problem: Is it permissible to employ inhumane treatment when it is believed to be the only way to prevent loss of lives? In periods of emergency, and especially in combat, there will always be a temptation to override legal and moral norms for morally good ends. Many in Operations Enduring Freedom and Iraqi Freedom were not well prepared by their experience, education, and training to resolve such ethical problems.<sup>129</sup>

The panel concluded that "major service programs, such as the Army's 'core values' . . . are grounded in organizational efficacy rather than the moral good" and that these values "do not address humane treatment of the enemy and noncombatants, leaving military leaders and educators an incomplete tool box with which to deal with 'real-world' ethical problems."<sup>130</sup> The panel recommended a "review of military ethics education" and said that a "professional ethics program" is needed to equip military leaders "with a sharper moral compass for guidance in situations often riven with conflicting moral obligations."<sup>131</sup>

Why was the Schlesinger Panel unimpressed with our Army's basic tool for ethical decision making, the Army Values paradigm? It was probably because the seven values of this paradigm ("loyalty, duty, respect, selfless service, honor, integrity, and personal courage") are broad ideals, not definitive guidelines or a practical methodology for solving specific ethical problems. In fact, these values can actually support an interrogator's use of "the ticking time bomb" rationale. One could argue that, during OIF I, the harshest interrogators—

- Displayed their "loyalty" to their Army, unit, and other troops by using enhanced techniques to save Soldiers' lives.
- Did their "duty" by working hard and displaying initiative.
- Treated detainees with the "respect" they deserved (which was no respect, because they were alleged terrorists and criminals).
- Exercised "selfless service" by doing hard, dirty work for good ends.
- Demonstrated "integrity" by using only those harsh techniques they believed were approved for use.





Secretary of Defense Donald H. Rumsfeld testifies before the Senate Armed Services Committee on 7 May 2004. Rumsfeld, Chairman of the Joint Chiefs of Staff GEN Richard B. Myers, Acting Army Secretary Les Brownlee, and Army Chief of Staff GEN Peter Schoomaker are testifying on the mistreatment of detainees in Iraq.

- Showcased “honor” by living up to the other Army values.
- Exhibited “personal courage” by deliberately agitating dangerous detainees.

Thus, what seems patently obvious to most Americans—that, say, leaving an untried suspect naked, alone, and shivering in a brightly lit, air-conditioned cell for days at a time is behavior that is inconsistent with our nation’s core values—is not so clear when leaders apply the basic Army tool for ethical decision making.

This is not to say that this tool condones enhanced interrogation techniques. After all, we can use this same tool to argue that the harshest interrogators—

- Were disloyal to the U.S. Constitution when they punished detainees without “due process of law.”
- Failed in their duty to enforce the prohibition of Common Article 3 of the Geneva Convention against committing “outrages upon personal dignity, in particular humiliating and degrading treatment” of captives.<sup>132</sup>
- Violated their integrity by breaking the law.

However, this argument can truly only be made in the light of recent U.S. Supreme Court decisions. During OIF I, the legal limits of interrogation techniques were hotly debated by America’s most senior civilian and military lawyers and were not at all clear to politicians, military leaders, or inter-

rogators. Thus, what the Army needs is a different, sharper tool to guide ethical decision making when laws are ambiguous.

Clearly, our Army’s most important challenge before OIF I was ensuring our troops would behave ethically on today’s battlefield. As an Army, we should have placed great emphasis on developing solid ethical tools and growing ethical leaders. Unfortunately, this challenge was not fully recognized, and despite our many post-invasion tactical successes, our strategic errors were sometimes grave indeed.

## Where We Are Today

The challenge of improving the quality of our leaders’ ethical tools and decision making belongs not just to the Army’s MI community but also to the entire U.S. military. As the lead service for interrogation operations, the U.S. Army has made some progress in this regard.<sup>133</sup> Nonetheless, our Army still has far to go. Consider the following—

- Even today, some enhanced interrogation techniques are not explicitly prohibited in MI doctrine. This would be a serious oversight if it were not for the Detainee Treatment Act of 2005, which made it illegal for any military interrogator to use approaches or techniques other than those included in FM 2-22.3, *Human Intelligence*

*Collector Operations*. Nonetheless, MI doctrine should be updated to prevent future misunderstandings here.

- Thankfully, U.S. Army doctrine published post-OIF I is far superior with regard to promoting ethical leadership and adherence to the Law of War than doctrine published before OIF I. However, some current doctrine was published before OIF I. Additionally, as noted earlier, Army doctrine has failed to sharpen or expand its basic tool kit for ethical decision making. Just as harmfully, current doctrine contains one severe over-correction that greatly handicaps interrogators. According to Appendix M of FM 2-22.3, interrogators cannot keep subjects separated from other detainees without the approval of a general officer. However, such separation is not the enhanced interrogation technique of isolation, which involves sensory deprivation, but rather it is a manner of housing detainees that is almost always a precondition for their then being successfully interrogated. Unless separated from a detention facility's general population, subjects are prepped for their upcoming interrogations by other detainees. Also, subjects are far less inclined to cooperate with interrogators when they are afraid that other detainees will observe their having long, regular meetings with interrogators. Since potentially cooperative subjects often become firmly noncooperative during the time it takes an interrogator to obtain general officer approval to separate them, the requirement to obtain this approval needs to be rescinded while maintaining current doctrinal assurances that separated subjects are to be housed humanely without sensory deprivation.

- Our Army is standing up more interrogation units, an action which promises to reduce the risk that non-HUMINT troops with little knowledge of the Law of War will conduct interrogations.<sup>134</sup> However, this process is not nearly complete. At present, few interrogation teams have assignments at the division level in Iraq.<sup>135</sup> More critical still is the lack of experienced, professionally educated, senior warrant officers who can properly guide our Army's growing body of junior interrogators.<sup>136</sup>

- Ethical training in Army units today looks much as it did ten years ago. The training consists of uncertified instructors giving a nonstandard "Army Values" brief once a year. Commonly,

this brief includes a review of the doctrinal definitions that pertain to each Army Value as well as examples of leaders who exemplified (or did not exemplify) these values. Seldom does such training employ practical exercises to help troops reason through complex moral problems for themselves, and seldom does someone conduct this training who has received the professional education necessary to usefully guide troops toward ethical solutions.

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

## Our Climb Ahead

Our Army has come a long way with regard to HUMINT doctrine and force structure since our tragic ethical blunders of OIF I. However, now is not the time to rest. We must upgrade our ethical toolkit, to include an ambiguous "Army Values" paradigm that may be used to justify just about any solution to a tactical problem. We must improve still more doctrine (such as Appendix M to our interrogation manual), and we must continue to increase the number and quality of our HUMINT Soldiers. Most critically, since sound doctrine and a robust force structure are ineffective without sound training, we need to turn our attention to getting ethical training and professional education right across the Army. At stake is not just our preventing future strategic defeat, which is important enough, but also our permanently solving what briefly became an existential crisis for our Army. This crisis arose when the "end justifies the means" camp grew far more influential than it should have grown during OIF I. Although this camp will always have adherents, this camp is not who American Soldiers are, and it is definitely not who they should become.

American Soldiers belong in the city upon the hill.

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71. *Ibid.*
72. Douglas Jehl, "Pentagon Will Not Try 17 G.I.'s Implicated in Prisoners' Deaths," 26 March 2005, <[www.nytimes.com/2005/03/26/politics/26abuse.html?\\_r=1](http://www.nytimes.com/2005/03/26/politics/26abuse.html?_r=1)> (24 August 2009).
73. "Final Autopsy Report," *American Civil Liberties Union: Torture FOIA*, <[www.aclu.org/torturefoia/released/041905/m001\\_203.pdf](http://www.aclu.org/torturefoia/released/041905/m001_203.pdf)> (22 August 2009), 108.
74. United States Army Criminal Investigation Command, "Army Criminal Investigators Outline 27 Confirmed or Suspected Detainee Homicides for Operation Iraqi Freedom, Operation Enduring Freedom," *United States Army Criminal Investigation Command*, <[www.globalsecurity.org/military/news/2005/03/cid\\_oif-oeof\\_homicides\\_25mar2005.pdf](http://www.globalsecurity.org/military/news/2005/03/cid_oif-oeof_homicides_25mar2005.pdf)> (23 August 2009) 7.
75. *Ibid.*

76. *Ibid.*
77. Lewis Welshofer, "Memorandum for Commander 82d ABN DIV," *American Torture*, 11 February 2004, <[www.americantorture.com/documents/iraq/10.pdf](http://www.americantorture.com/documents/iraq/10.pdf)> (20 March 2009), 2.
78. *Ibid.*
79. *Ibid.*
80. Marc Kusnetz, "Torture on Trial—HRF Observes Court Martial of Army Officer Accused in Death of Iraqi Major General," *Human Rights First*, January 13-17, 2006, [http://www.humanrightsfirst.org/us\\_law/etn/trial/welshofer-011706.asp](http://www.humanrightsfirst.org/us_law/etn/trial/welshofer-011706.asp) (March 20, 2009). This testimony is at the "In Their Own Words" hyperlink. Also, Steven G. Bradbury, *Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency*, 30 May 2005, 15. During Welshofer's court martial, this warrant officer testified under oath, "We basically held him [Mowhoush] down on his back and poured water on his face." The CIA memorandum cited here says that when waterboarded, "the detainee is placed face-up on a gurney with his head inclined downward" and "a cloth is placed over his face on which cold water is then poured for periods of at most 40 seconds." Other than the use of a cloth specified in the SERE-derived CIA technique, there is no apparent difference between the tactic employed here by Welshofer on Mowhoush and the CIA technique known as waterboarding.
81. Kusnetz, at "In Their Own Words" hyperlink.
82. *Ibid.*
83. *Ibid.*
84. *Ibid.* At "Case Closed?" hyperlink.
85. International Committee of the Red Cross, "Report of the International Committee of the Red Cross," 7.
86. 4ID Staff Judge Advocate, "Documents provided by the 4th Infantry Division SJA," *American Civil Liberties Union: Torture FOIA*, 12 May 2004, <[www.aclu.org/files/projects/foiasearch/pdf/DOD04352.pdf](http://www.aclu.org/files/projects/foiasearch/pdf/DOD04352.pdf)> (22 March 2009), 2. Of note here is that "isolation" is an enhanced interrogation technique.
87. *Ibid.*
88. Unidentified Investigating Officer, "Memo for Record—Evidence," *American Civil Liberties Union: Torture FOIA*, 4 February 2004, <[www.aclu.org/files/projects/foiasearch/pdf/DOD043571.pdf](http://www.aclu.org/files/projects/foiasearch/pdf/DOD043571.pdf)> (accessed 22 March 2009), 1.
89. 4th Infantry Division Headquarters, "AR 15-6 Investigation," 43.
90. *Ibid.*, 74.
91. *Ibid.*, 73-74.
92. *Ibid.*, 26, 73-74.
93. *Ibid.*, 56.
94. *Ibid.*, 46-47.
95. *Ibid.*, 47, 62.
96. MG Raymond Odierno, "Treatment of Detainees in the Custody of U.S. Forces," *American Civil Liberties Union: Torture FOIA*, 21 September 2003, <[www.aclu.org/files/projects/foiasearch/pdf/DOD043596.pdf](http://www.aclu.org/files/projects/foiasearch/pdf/DOD043596.pdf)> (22 March 2009), 1-2.
97. 4th Infantry Division Headquarters, "AR 15-6 Investigation," 48.
98. *Ibid.*, 49.
99. *Ibid.*, 24.
100. *Ibid.*, 28.
101. *Ibid.* This practice violates Common Article 3 of the 1949 Geneva Conventions, an article the U.S. Supreme Court has since upheld as applying even to "unlawful combatants." For alleged use of this technique by 4ID units, see Ricks, 236, 256, 260, 283, 357.
102. *Ibid.*
103. Department of the Navy Inspector General, "Review," 299-300.
104. Estes, *US Army Soldier Baghdad 2003-04*, 32.
105. *Ibid.*, 22.
106. *Ibid.*
107. *Ibid.* 1AD's deployment was extended in Iraq for Operation Iron Saber, April to July 2003.
108. LTC Laurence Mixon, "501st MI Battalion Command Philosophy," 1 July 2003.
109. MAJ Douglas A. Pryer, "Interview with LTC Nathan Hoepner," *Operational Leadership Experiences in the Global War on Terrorism*, 19 December 2008, <[cgsc.cdmhost.com/cdm4/item\\_viewer.php?CISOROOT=/p4013coll13&CISOPTR=1441&CISOBX=1&REC=6](http://cgsc.cdmhost.com/cdm4/item_viewer.php?CISOROOT=/p4013coll13&CISOPTR=1441&CISOBX=1&REC=6)> (24 March 2009), 11, 17.
110. *Ibid.*, 16, 18.
111. *Ibid.*, 16; 501st MP Platoon Leader, "Collection Point & Internment Facility Interview Questions," *American Civil Liberties Union: Torture FOIA*, 23 March 2004, <[www.aclu.org/files/projects/foiasearch/pdf/DOD018576.pdf](http://www.aclu.org/files/projects/foiasearch/pdf/DOD018576.pdf)> (23 March 2009), 17.
112. LTC Nathan Hoepner, *Email to Major Douglas A. Pryer: Re: Interview!* 25 March 2009.
113. LTC Nathan Hoepner, *Email to Major Douglas A. Pryer: Re: Interview!* 28 March 2009.
114. Department of the Navy Inspector General, "Review," 60.
115. Pryer, "Interview with LTC Nathan Hoepner," 10-11.
116. Although the TF 1AD did not employ enhanced interrogation techniques, guards and/or interrogators at a few TF 1AD facilities temporarily allowed the use of light "stress positions" as a means of controlling unruly detainees (not to coerce intelligence from detainees). At the time, MP but not MI doctrine specifically prohibited this practice. MI doctrine now clearly prohibits this practice as well.
117. MAJ Douglas A. Pryer, "Interview with CW3 John Groseclose," *Operational Leadership Experiences in the Global War on Terrorism*, 7 January 2009, <[cgsc.cdmhost.com/cgi-bin/showfile.exe?CISOROOT=/p4013coll13&CISOPTR=1429&filenumber=1431.pdf#search=%22Pryer%22](http://cgsc.cdmhost.com/cgi-bin/showfile.exe?CISOROOT=/p4013coll13&CISOPTR=1429&filenumber=1431.pdf#search=%22Pryer%22)> (25 March 2009), 12.
118. MAJ Douglas A. Pryer, "Interview with CW3 Kenneth Kilbourne," *Operational Leadership Experiences in the Global War on Terrorism*, 21 December 2008, <[cgsc.cdmhost.com/cdm4/item\\_viewer.php?CISOROOT=/p4013coll13&CISOPTR=1440&CISOBX=1&REC=2](http://cgsc.cdmhost.com/cdm4/item_viewer.php?CISOROOT=/p4013coll13&CISOPTR=1440&CISOBX=1&REC=2)> (31 March 2009), 7.
119. Pryer, "Interview with CW3 John Groseclose," 2, 11.
120. *Ibid.*, 13.
121. Pryer, "Interview with LTC Nathan Hoepner," 11.
122. 1AD Headquarters, "FRAGO 383A [General Order—Civilian or Detainee Mal-treatment] to OPORD 03-215 (Iron Stability)," *American Civil Liberties Union: Torture FOIA*, 21 July 2003, <[www.aclu.org/files/projects/foiasearch/pdf/DODDOA027333.pdf](http://www.aclu.org/files/projects/foiasearch/pdf/DODDOA027333.pdf)> (4 March 2009), 58-60.
123. *Ibid.*
124. Mansoor, 178-79.
125. Department of the Navy Inspector General, "Review," 298-302. The Church Report identifies five substantiated cases of interrogation abuse by Soldiers (not school-trained interrogators) of TF 1AD. Two of these cases occurred at the point of capture; three occurred in temporary holding facilities.
126. Pryer, "Interview with LTC Nathan Hoepner," 11.
127. U.S. Army Field Manual 34-52, *Intelligence Interrogation* (Washington, DC: U.S. Government Printing Office, September 1992), 1-8.
128. Matthew Alexander and John R. Bruning, *How to Break a Terrorist: The U.S. Interrogators Who Used Brains, Not Brutality, To Take Down the Deadliest Man in Iraq* (New York: Free Press, 2008).
129. Schlesinger, Brown, Fowler, and Horner, Appendix H, 1-4.
130. *Ibid.*, Appendix H, 3-4.
131. *Ibid.*, Appendix H, 4.
132. International Committee of the Red Cross, "Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva," *International Humanitarian Law—Treaties & Documents*, 12 August 1949, <[www.icrc.org/ihi.nsf/7c4d08d9b287a42141256739003e636b/6756482d86146898c125641e004aa3c5](http://www.icrc.org/ihi.nsf/7c4d08d9b287a42141256739003e636b/6756482d86146898c125641e004aa3c5)> (25 March 2009). The U.S. Supreme Court held that Common Article 3 applies even to unlawful combatants in its 29 June 2006 decision, "Hamdan vs. Rumsfeld."
133. Army interrogation doctrine and regulations are binding for all military services.
134. Department of the Navy Inspector General, "Review," 294-302. Of 16 substantiated cases of interrogation abuse in Iraq that had been closed as of 30 September 2004, only six cases involved trained interrogators.
135. LTC Russell Godsil, *Email to Major Douglas A. Pryer: Re: Interview!* 19 February 2009. According to LTC Godsil, the recently redeployed Deputy G-2 for the 1AD, one HUMINT Battalion supported theater-wide HUMINT operations, thus leaving few HUMINT Collection Teams to support divisions. This is little different from the situation during OIF I.
136. *Ibid.* Of most concern, while the typical maneuver brigade was assigned two HUMINT warrant officers for seven-man HUMINT sections during OIF I, only one HUMINT warrant officer typically manages much larger 16-man sections within the Special Troops Battalions of such brigades today.