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5. U.S. Examines Role of C.I.A. and Employees in Iraq Deaths

David Johnston and Neil A. Lewis, New York Times, 6 May 2004, Page A13

WASHINGTON, May 5 -- The Justice Department is examining the involvement of Central Intelligence Agency officers and contract employees in three suspicious deaths of detainees, two in Iraq and one in Afghanistan, federal law enforcement officials said Wednesday.

One of the victims of suspected abuse was an Iraqi major general in the Republican Guard, who died in November 2003, several days after he was questioned at an interrogation center in western Iraq by CIA officers, according to a senior law enforcement official. The official said the Pentagon had identified the Iraqi officer as Abid Hamid Mohush.

On Wednesday, a CIA official outlined the cases in which CIA employees or contractors are involved but declined to identify any of the agency employees. The official would not name the victims or provide details on grounds that the cases were under investigation by the CIA's inspector general, who has shared investigative findings with the Justice Department.

In November 2003, the official said, a detainee at Abu Ghraib prison in Baghdad died, apparently as he was being questioned by a CIA officer and a linguist who was hired by the agency as a contractor. In that case, the detainee had been turned over to intelligence authorities by Navy Seals, whose spokesman on Wednesday denied mistreatment of the prisoner. The CIA official said the detainee was not touched, but "slumped over" during the interrogation. The CIA officers who interviewed General Mohush also denied mistreating him.

In a third case, in June 2003, a detainee in Afghanistan died during questioning by an independent contractor working for the CIA, a case in which the CIA official did not rule out mistreatment.

CIA officials briefed the Senate Intelligence Committee in closed session on Wednesday about the prisoner abuse issue. Senator Pat Roberts, a Kansas Republican and the committee chairman, said in a statement to reporters: "So far there appears to be no evidence of intelligence personnel that directed any of the abuses, but the investigation does continue."

The Justice Department inquiry, which has focused first on what laws may have been violated, means CIA employees or contractors may be prosecuted in civilian courts. Until now, only the military was known to be investigating the deaths and degrading treatment of detainees in Iraq and Afghanistan.

Another area of possible wrongdoing by the CIA disclosed Wednesday relates to requests by CIA personnel to military authorities at Abu Ghraib prison to hold suspects without listing them on the prison's rolls, according to newly available passages of an internal military report on abuses in Iraqi prisons.

The practice was routine, according to a passage in the report by an Army officer, Maj. Gen. Antonio M. Taguba. The passage was included in an unedited version of the report that circulated widely on Wednesday on several Web sites; previous edited versions of the report omitted any reference to withholding names from prison rolls.

Detainees kept off the prisoner roster at Abu Ghraib were referred to as "ghost detainees," the report said. In one instance, the report found, a group of six to eight prisoners "was moved around within the facility to hide them from a visiting International Committee of the Red Cross survey team."

A CIA official said that the agency had discontinued such practices but said that the Geneva

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Conventions allowed a delay in the identification of prisoners to avoid disclosing their whereabouts to an enemy.

The Justice Department's jurisdiction over CIA employees stems from federal statutes, like one cited by law enforcement officials, which make it a crime for Americans acting under government authority to "inflict severe physical or mental pain or suffering upon another person under his custody or control."

Under the torture statute, a person convicted of killing someone by torture could face a sentence of death or life in prison. Federal civil rights law might also be applied, the officials said.

The Justice Department's jurisdiction over independent contractors stems from the Military Extraterritorial Jurisdiction Act, a four-year-old law, untested in court, that gives federal courts jurisdiction over any crimes that may be committed by civilian contractors working with the military abroad.

Contractors are hired under an arrangement that assures them they will not be prosecuted under Iraqi law, he said. They are also, because of Supreme Court rulings, not held accountable to the Uniform Code of Military Justice.

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