

# DETAINEE INFORMATION

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## Detainee Abuse Q&A:

Q: Why is it taking so long to complete the Bag ram death investigations?

- Consistent progress in the investigation of both deaths at Bag ram in Dec 02
- Case was returned after a thorough review – standard practice in serious cases
- Circumstances and acts, which resulted in the deaths of both men, have been established and efforts are underway to prepare to prosecute individuals.

Q: Has it been established that any US forces raped prisoners (male or female) in their custody?

- CID is investigating two reports of "Indecent Assault", which is not Rape, nor Sodomy.
- Neither case involved penetration.
- Involve incidents where female detainees were touched inappropriately or photographed.

Q: Why weren't medico-legal autopsies completed on all deaths in US custody? Why do some cases have autopsies and others don't?

- Autopsies are always preferred.
- Provide an unbiased assessment to determine if the case facts fit the injury or mechanism of death.
- Commanders may have released based on cultural customs of burial within 24-hours.
- In some deaths while in our custody, where an autopsy was not conducted, we are in close contact with our field elements to determine the rationale and where necessary, seek corrective actions.

Q: Who makes the final decision on the manner of death in CID investigations?

- Determination for reporting crimes is based on the concept of "credible information" which is a USACIDC evaluation.
- Consider source and nature of the information and totality of the circumstances, the information is sufficiently believable to indicate criminal activity has occurred.
- Cause a reasonable investigator under similar circumstances to pursue further the facts of the case to determine whether or not a crime occurred.
- Decision made only after careful assessment of all information and source credibility.
- A thorough preliminary inquiry should be conducted prior to a determination of whether or not the credible information standard has been met.

Q: Can CID make a specific determination as to the manner of death absent an autopsy?

- No, CID Agents are not qualified to make determinations on cause or manner of death without consulting an examination by a qualified pathologist.

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Q: Can CID close a case if they did not figure out what happened and who is responsible? Who makes the final decision to close/finalize an investigation?

- Any decision to terminate investigative leads will be made entirely within USACIDC channels.
- Decisions are not based upon directions or pressures from person(s) outside of the USACIDC.
- When making a decision, CID supervisors will ensure that all significant leads have been developed and that valuable investigative resources and time are not needlessly expended.
- CID supervisors consider the following points and exercise careful consideration to bring the investigation to a logical and practical conclusion:
  - Available resources.
  - Potential impact of the investigation on the Army.
  - Number of subjects developed in the investigation.
  - Nature of the allegation and the seriousness of the incident or crimes involved.
  - Severity of injury to the victim(s) involved.
  - Dollar amount of loss to the victim.
  - Whether continued development of existing leads would be likely to produce only cumulative evidence.
  - Relevancy of leads remaining to be developed with respect to the crime.
  - The potential for solution or recovery of property.

Q: What training do CID agents receive to conduct death investigations?

- CID investigators are as qualified as any other Federal Agency Investigators.
- Basic procedures for investigating reports of death are outlined in Army Field Manual 19-20 Law Enforcement Investigations.
- CID Special Agents receive training on the processing of crime scenes, death investigations, photography, collection of evidence and preparation of a laboratory request during that 16-week course.
- Some agents attend a two-week training course on advanced forensic techniques and procedures.
- Limited number of CID Agents also attended a Forensic Medicine Fellowship with AFIP and have obtained a Masters in Forensic Science (2 in Iraq

Q: Who conducted the autopsies of the deceased Iraqis in these investigations? Where were the autopsies performed?

- Autopsies conducted by Forensic Pathologists from the Office of the Armed Forces Medical Examiner, Armed Forces Institute of Pathology.
- OAFME pathologists/photographers respond to Iraq and Afghanistan as needed to conduct medico-legal autopsies in the closest suitable medical facility.
- The location of autopsies has varied with the movement of coalition forces and bases.

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Q: Who released the bodies of detainees who died while in custody at Abu Ghraib?

- Currently working with CID Field Elements to ID why/how and who released the bodies of the 7 "Undetermined" death cases before an autopsy was performed.

Q: How many photos were confiscated at Abu Ghraib?

Q: Why didn't CID share photos sooner?

- For the same reasons we do not share extremely graphic photos of deaths scenes, autopsies and injuries in assault cases.
- No legitimate investigative purpose is served by exposing obscene, graphic or disturbing materials unnecessarily.
- Must balance legitimate use of items of evidence against the interest of those without a need for such material.
- Photography itself is unlawful, but its distribution or public exposure is potentially humiliating and embarrassing for the persons involved.
- The place for those photos to be shown is inside a courtroom to a jury.

Q: Is CID confident that they know about all the abuses that were committed by US forces at Abu Ghraib and elsewhere in Iraq?

- Field of Investigations is an inherently reactive job, especially in a war zone. We cannot predict crime.
- I can tell you that upon receiving a report, CID Agents immediately and aggressively investigates all allegations.
- Since media coverage of misconduct at Abu Ghraib, CID has seen an increase in reports from soldiers who observed things while deployed that they may not have viewed as abusive at the time, but which bother them now.
- We are looking into all allegations to determine circumstances and whenever criminal conduct is discovered, it will either be referred to soldiers' command or investigated by CID.

Q: Did CID Agents commit abuses against detainees during interrogations?

- There have been allegations of misconduct leveled against a couple of CID Agents alleged to have been present when K9 was used in a facility.
- Those allegations were unfounded.
- Also, let me say that any allegation will be examined thoroughly against potential improprieties, and if founded, handled appropriately.
- Just as any other police agency, we receive complaints about the conduct of our officers. The motivation for reports against agents range from retribution to legitimate complaints.

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Q: What has the Army learned from this incident?

- We are actually still learning lessons from this incident.
- Detainee population in Iraq presents significant challenges in the detention setting.
- The Acting Secretary of the Army has directed the Army Inspector General to conduct a comprehensive functional analysis of the Department's detention policies, practices, and procedures.

Q: What kind of standards do MP maintain in terms of training and discipline in detainee operations?

- Absolutely highest standards based on AR 190-8 and FM 3-19.40.
- MP TNG emphasizes safeguarding detainees, custody and control, and strict adherence to the "General Protection Policy."
- Additionally, MP have a long tradition of adhering to the Law of War and safeguarding the EPWs in our custody.
- In those few cases of abuse, Commanders have responsibility to take appropriate legal/administrative action to ensure the discipline of soldiers conducting mission.

Q: What measures is the Army taking to prevent future incidents of detainee abuse?

- First, the vast majority of leaders and Soldiers need to continue to do exactly what they are doing, because they are doing it right.
- Taking appropriate action against the individual Soldiers and leaders based upon the facts of the investigation.
- New unit leadership with 16<sup>th</sup> MP BDE at internment facilities has heightened their vigilance to prevent any possible mistreatment of Iraqi detainees.
- Additional training on the Geneva Conventions and the ROE.
- A team of Corrections and legal experts are conducting additional training on confinement operations—emphasis on treating detainees with dignity and respect.
- MG Geoffrey Miller was recently reassigned from JTF-GTMO to Iraq to supervise detention operations.
- Army has approved new MP (31E) force structure to increase detention expertise into the warfight.

Q: How could such an incident occur in the first place?

- We will need to wait for the final results of the investigation.
- Since the beginning of hostilities, Coalition Forces have detained close to 45,000 personnel, of which almost 10,000 are still in custody.
- Absolute magnitude of the detention operation and extremely harsh conditions, coupled with the vast number of Soldiers involved should add perspective to the fact that this is an aberration.

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Q: How many Iraqi detainees are under the control of Coalition Forces?

- Two categories of detainees:
  - Criminal detainees who are alleged to have committed violations of the Iraqi Penal Code.
  - Security Internees who are in detention based on their ongoing potential to disrupt Coalition efforts to maintain Iraqi security and reconstruction efforts.
- As of 13 March 2004, there are approximately 9,500, the bulk of which are classified as Security Internees.
  - Additionally, there are approx 4000 members of MEK held at Camp Ashraf.

Q: What are the criminal charges against the Soldiers in question?

- Criminal charges differ for each individual.
- Charges include Articles 93 (cruelty and maltreatment of detainees), 81 (conspiracy), 134 (indecent acts), 128 (assault), and 92 (dereliction of duty).
- Currently, there are no charges of rape.

Q: Is the unit where four Camp Bucca Soldiers were discharged for allegations of detainee abuse last March part of this unit?

- The 320<sup>th</sup> MP BN/800<sup>th</sup> MP BDE was involved in both incidents.

Q: In reference to your visit as the PMG, is there a conflict of interest with the investigative process since the PMG is dual-hatted as the Commander of CID?

- No. The PMG is not the "operational commander" of the Army's military police.
- As PMG, I am the "technical expert" advising senior Army and DoD leadership on matters dealing with Army Law Enforcement.
- In this case, officers in charge of detention facilities work for the CJTF-7 Commander.
- As the PMG, I provide functional expertise and technical assistance, but do not "direct" operations of any facility.
- I do not "own" if you will, or command military police units other than the Army's Criminal Investigation Command.
- In my capacity as the Commander of the Criminal Investigation Command, I am responsible to ensure my Special Agents who investigate felony-level crime, are independent and are free from command influence or even the appearance of command influence.

Q: If the PMG is the DoD Executive Agent for the Detainee/POW Program, then how can you direct investigations into allegations of abuse of detainees or POWs? Does that mean you are basically investigating yourself?

- As the PMG, I provide oversight for Army, which is the Executive Agent for the DoD Detention program.
- I am not an operational commander of detainee facilities and, therefore, I am not investigating myself.
- As the executive agent lead, I oversee policy at the Department of the Army and DoD levels.

- The only connection between hats is that investigations may uncover noncompliance with Army/DoD policy regarding detainee operations.

Q: Can you give me an idea of your case load -- number of investigations you have going on average over the year and general idea of the types?

- CID conducts felony-level investigations whenever and wherever the Army has a bona fide interest.
- CID currently has Special Agents deployed worldwide to include Operation Enduring Freedom and Operation Iraqi Freedom.
- We investigate thousands of felony crime allegations (approximately 10,000) annually all over the world to include:
  - General Crimes (crimes against persons or property).
  - Economic Crime.
  - Counter Drug Operations.

Q: Does the Army have policies and procedures in place to prevent such abuse?

- Policy includes:
  - DoDD 2310.1 (DoD EPoW and Detainee Program) and 5100.77 (DoD Law of War Program).
  - Army 190-8 (EPW/CI/RP/Other Detainees).
  - Additional local unit policies and procedures in Theater.
- Army takes very seriously its responsibilities to uphold the principles, spirit, and intent of the international law of armed conflict, both customary and codified, to include the Geneva Conventions.

Q: As the Army's lead for EPW/Detainee operations, did you follow up on the recommendations made in your report to improve detainee operations?

- I'm responsible for planning and policy, not operations. My report provided recommendations to LTG Sanchez as the CJTF-7 CDR.
- As the PMG, I continue to focus primarily on providing the Chief of Staff of the Army advice on our Title 10 responsibilities to provide trained and ready forces to Commanders.
- The CJTF-7 CDR has to take those recommendations and work through them along with all other issues he has in a very fluid and hostile environment.

Q: Are there doctrine problems with the new I/R Structure & Mission?

- Current detainee population in Iraq presents significant challenges in the detention setting; we did observe a paradigm shift in I/R operations.
  - MP doctrine calls upon MP units to operate camps of generally self-disciplining uniformed EPWs.
  - Iraqi detention operations involve inherently violent and less disciplined detainees.
  - MP support the reconstruction of the Iraqi National Penal System.

- ASA directed Army Inspector General to conduct a functional analysis of DA's internment, EPW, and detention policies, practices, and procedures.
- In near term, we reassigned Corrections Specialists from Army Prisons and the MP School to train/augment Soldiers conducting detention operations.

Q: Can you explain the definitions of Detainees, EPWs, etc?

- Currently there are less than 100 EPWs still being held in Iraq.
- Vast majority of those under our control in Iraq are more appropriately titled as Civilian Internees.
  - Some Civilian Internees are being held due to security concerns and overt actions against coalition forces, for example, insurgents that attack our forces.
  - Others are Internees that have violated Iraqi law – conducted criminal acts against the Iraqi people. Majority of criminals are already under the custody and control of the Iraqi prison system.
  - Coalition forces continue to provide training and assistance to the Coalition Provisional Authority Ministry of Justice.

Q: What is the number of detainees currently in custody, number released to date?

- US is holding over 9000, but have processed more than 45,000 EPW/Detainees since beginning OIF.

Q: What was the purpose of your report on Iraq Detention operations?

- MG Taguba stated in his report that “many of the findings and recommendations of MG Ryder’s team are beyond the scope of this investigation.” Here is why:
- LTG Sanchez requested a team of SMEs to assess detention and correction operations in Iraq (Aug 03).
  - Verify detainees are held and processed IAW US and international law.
  - ID problems, propose solutions and recommend resources necessary to implement the solutions.
- Restated PMG mission:
  - Assumed an assistance role, not an investigation.
  - Emphasize overall Program issues, not specific facility operations.
  - ID bridging mechanism from current operations to Iraqi-run National Prison System synched with CPA.
- Methodology:
  - Extensive interviews of senior staff.
  - 32 Detention/Prison facility site surveys.
  - Final report: 67-page report with 90 observations and 160 recommendations.

- Provided assistance package and train-the-trainer program.

Q: According to the New Yorker article, by Seymour M. Hersh, a report last November by Maj. Gen. Donald J. Ryder, concluded that military intelligence did not order military police to put pressure on prisoners to prepare them for interrogations. MG Taguba, the article states, disagreed.

- I have concerns regarding confluence of MP/MI roles in detainee operations.
- I found no indications of MPs being ordered to set conditions for interrogations; I saw now written, specified or implied orders changing mission intent.
- Not looking at operational level like MG Taguba, but at a strategic level to assess/recommend on handoff between US and CPA for a National Prison System.
- MG Taguba, later, had additional, more-timely information garnered from professional criminal investigators when he conducted his formal investigation.

Q: In an earlier statement you said you noticed tension between Military Police and Military Interrogators, can you explain that?

- In my recommendations I cited a tension between military police and the interrogators
- MP in a correctional environment, provide custody and control and a safe and secure environment for both guards and detainees. No other mission/no other agency can or will be allowed to influence that critical mission.
- In my opinion and assessment and IAW Army regulations, MPs should only cooperate with passive information collection while not allowing anyone to jeopardize their first mission "safe and secure."

Q: Why were clerks and mechanics working in an MP run prison with access to prisoners? PFC ENGLAND is a 71L.

- While I cannot comment on the duties of a particular soldier, I will say that, in general, leaders must balance their priorities between critical duties and availability of most-qualified soldiers/assets.

Q: After MP were identified as abusers, they were allowed to return to their duties within Abu Ghraib, why?

- I cannot comment as to whether that is correct or not, I don't have any details regarding the CDR's decision on the ground.

Q: What are the rules for using military working dogs in a prison setting?

- MWDs can be used in a detention facility IAW FM 3-19.40.
  - Demonstration of MWDs capabilities to stop fleeing or escaping detainees in full view of house detainees but from a non-threatening distance.
  - Perimeter security to support detection and deterrence.
  - Inspections of living area to search for contraband.

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- Work details by providing a visual barrier between working detainees and most probable-avenue of escape.

Q: What training does the military provide on the provisions of the Geneva Convention and how often does it get reinforced?

- All soldiers receive TNG on the Geneva Convention and it is enforced as a part of unit and leader/soldier discipline.
  - Provided for all soldiers as a part of their basic and Advanced Individual TNG.
    - Additionally, soldiers undergo comprehensive performance-based testing on I/R tasks during the 96-hour field TNG exercise as part of the Initial Military TNG Program of Instruction.
  - MP receive:
    - Soldiers holding a 31B MOS receive 8.4 academic hours of I/R instruction and 2.5 hours of instruction on Law of War.
    - Soldiers with a 31E MOS receive 114.6 academic hours of I/R instruction and 2.5 hours of instruction on Law of War.
    - NCOES for 31B/E additional reinforcement TNG.
  - Provided to officers at their Basic and Career Courses.
  - As an outcome of on-going investigations it is now provided as part of an on-going MTT that started 9 Apr 04.

Q: What punishments have been meted out for those cases, which are completed and have been adjudicated?

- I will defer that question to the TJAG.

Q: As the CID CDR you had about 17 /18 cases involving detainee death or assaults prior to being asked by CJTF-7 to conduct an assessment of the Iraqi Prison System? As the PMG, how did this shape or affect your assessment?

- It didn't influence me.
- Again, my assessment was based on a specific charter that focused on a strategic review and recommendation on the transfer of the National Correction System from US to CPA.

Q: With respect to the number of ongoing investigations, why hasn't CID taken purview of the additional 22 15-6 cases?

- 15-6 investigation is a CDR's investigation into allegations ranging from small disciplinary infractions to crime.
- CID would only get involved if it is determined that a felony crime occurred or the case was referred to us by the CDR.

Q: How could you have spent 3 weeks on the ground with a team of 13 "Subject Matter Experts" and not seen any indication of detainee abuse?

- Again if you review my charter you will see we focused on strategic level detainee operations across 32 separate sites.
- We interviewed senior staff both from CPA and CJTF-7 units/agencies.
- My focus was not at the operational level or at a specific unit (800 MP BDE) as was the focus of MG Taguba's investigation.
- Neither my team nor I saw any detainee abuse or any indication of detainee abuse.

Q: From viewing the photos, what, in general, is your take on what you see?

- While I cannot elaborate on the details of on-going investigations, what I can generally comment on is that I saw:
  - Noncompliance with Army Policy (AR 190-8). By the simple fact that there are pictures of detainees outside of ID and Administrative requirements, we have a clear violation.
  - Soldier discipline issues.

Q: Who's in charge of detainee custody and control procedures, Military Intelligence or Military Police?

- MP are unequivocally in charge of Detention Facilities.
- By regulation, we provide MI with a separate location and access to detainees for gathering intelligence.

Q: Did you meet with General Karpinski while in Iraq and what was your assessment of her command and detainee facility?

- From a strategic perspective we clearly ID'ed and documented in my report that, the "800<sup>th</sup> MP BDE experienced challenges adapting its structure, TNG, and equipment resources to its current mission set."

#### Unanswered Questions:

Q: When LTG Sanchez requested your help in August to conduct an assessment, did you speak to him personally and, if so, did either of you discuss allegations of detainee abuse or have any indication that might have led you to believe that there was a problem regarding detainee abuse?

- 314 photos total. Need an explanation between 314 and the 1026 on the CD submitted this morning.

Q: How many total photos (including all categories [sex, abuse, normal activities]); how many involving just soldier on soldier; how many involving alleged abuse? How many videos — please describe the basic contents/theme of those videos.

Q: When did we get the photos and when did we notify HQDA? Why did it take so long?

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Q: Why weren't autopsies performed on 7 of the "Undetermined Deaths"? In particular, why wasn't an autopsy performed in one death involving obvious signs of trauma?

4. Is CID currently actively examining the MG Taguba Report for alleged crimes documented as part of the 15-6? What are their recommendations/findings?