

Memorandum case study examples

[Countries](#), [United States](#)



I. Executive Summary

The present memorandum details an analysis and suggested response strategy to the recently disclosed American military activities within the Abu Ghraib detention center in Iraq. In forming the analysis, I provide a discussion of the major causative factors of the situation and an overview of the authorizing environment in place. The recommended response strategy details a five-step program to address the crisis in a way that acknowledges the issues and provides concrete actions to remedy the damage. Finally, this memorandum closes with a review of the lessons to be taken forward from this situation with the ultimate goal of avoiding future repetition of what is shown to have occurred recently in the Abu Ghraib detention center.

II. Analysis

After the airing to the nation of the highly graphic photographs of prisoner treatment by Army personnel at Abu Ghraib on CBS several days ago, there is no doubt that this situation needs to be addressed quickly and thoroughly. I have appended a brief timeline as Appendix I, to insure you have in one place the dates of the salient events, actions, and publications leading up to the Sixty Minutes II program airing. Within the present section of the memorandum, I will provide the following. First, I will summarize the major factors that have brought this situation to a crisis point with a focus upon my belief of the underlying factors of this state of affairs. Second, I will discuss the authorizing environment of this situation by examining to whom and for what you are most responsible in your function as Secretary of Defense. Both the central factors and authorizing environment are key factors in the proposed strategies and recommendation for response that follows this

analysis.

The current crisis can be attributed to a combination of ill-advised decisions made during the founding of the detention centers in Iraq, a persistent, high command level inconsistency in the legal status of the detainees within those centers, and a lack of effective communication up the chain of command concerning the seriousness of the situation once it was discovered. When the decision was made to establish detention centers within Iraq additional thought should have been given to the precise personnel operating procedures and implementation that should be in place at such a facility. The reason behind the need for care is compelling – a detention center bestows power of one group of human beings over another group of human beings. Experimentally, it has been shown that surrounded by the right conditions, this power will cause even decent human beings to behave more and more indecently to those over whom they have that power (Stannard, 2004). Thus, the Army is in the highly unfortunate position that the actions in Abu Ghraib were scientifically predictable.

The right conditions for this descent into abuse were present in Abu Ghraib because of poor decisions made at the time of the detention center founding. The Taguba Report indicates that the personnel selected to man the centers are Army reservists insufficiently trained in detention/internee operations. There is little to no training about the arguably applicable rules of the Geneva Convention. Furthermore, although claims of training were made to Taguba during his investigation, no records or soldiers recalling such training could be found (DR: 5).

There is also a lack of knowledge, implementation, and emphasis on the

standard operating procedures (SOPs) used within military police (MP) brigades. But the problems are deeper than lack of training. The SOPs themselves prove too general, do not set out implementation measures with specificity required for this type of responsibility, and lack a system of checks and balances needed to compel compliance (DR: 5). So even if the soldiers had been adequately trained for their mission, the procedures needed to ensure its success had not been formulated in the first place at the founding of the detention centers.

Over time, these poorly planned centers have evolved into poorly run centers. The Abu Ghraib facility is characterized by poor living conditions, continuous prisoner escapes and riots, and pervasive accountability lapses such as undocumented “ghost detainees” (DR: 6). These prisoners are present without the MP accounting for them, knowing their identities, or the reason for the detainment. Reportedly, the Army shuffled the ghost detainees from prison to prison in order to avoid detection by the International Red Cross Survey Team. These acts of deception and illegality depersonalize the detainee, further contributing to negative conditions for proper prisoner treatment. An additional significant contributing factor to the prison’s environment is prison crowding. The primary reason for the overcrowding is inefficient use of mechanisms available for release of detainees who are no longer of interest.

In particular, there are three separate release methods: a determination that continued detention is not warranted, a determination that a detainee has no intelligence value and release would not be detrimental to society, and a determination that those accused of “Crimes Against the Coalition” can be

released if they have no intelligence value and no longer pose a threat. However these procedures were misused which significantly contributed to overcrowding (DR: 6). Such a situation is not unexpected, given the seeming uncertainty about many of the prisoners and information about them and the lack of training in obtaining such information. Because of this lack of solid information, it is not unexpected that none of the officers responsible for granting these processes want responsibility for freeing someone who could actually be a threat as information for making the decision is simply lacking. Additionally, the pervasive culture of the prison supports unprofessionalism, lack of discipline, and has minimal leadership oversight. One concrete reflection of these issues are the state of the operational journal entries of the detention center (DR: 7). Taguba recorded that examination of these journals reveals that many Basic Army Doctrines were not utilized but were replaced with procedures made up as needed or the application of inappropriate procedures from civilian correction practices. There are also a significant number of contract employees that are ill-supervised and their presence and attitudes contributes to the chaotic nature of the facility (DR: 7). There also are significant accountability issues in their transfer procedures, misuse of findings of investigations into escapes and other incidents, and confusion in the personnel about the chain of command and exactly where the military intelligence personnel fit into the operations (DR: 8).

In sum, procedures were not set in place from the beginning of the mission but instead were left to be developed ad hoc by those tasked with carrying out the actions. This resulted in highly inappropriate approaches to detainee

treatment. But even if the procedures had been appropriate, the level of leadership within the center is weak and ill focused. Weak and ill-focused procedures are being poorly overseen by weak and ill-focused leaders. The combination of all of these lapses sets the stage for the final catalyst that triggers the abuse: permission to act without oversight or retaliation.

The impetus behind this triggering event may be directly traceable back to the White House. It appears that the visit to Abu Ghraib by Major General Geoffrey Miller, the commander of the US detention center for terrorist in Guantanamo Bay, in September 2003 was ordered by Under Secretary of Defense for Intelligence, Stephen Cambone and that in turn likely leads to the White House. The visit had a stated goal of establishing operational procedures and processes that should have been established at the time of the founding of the detention center. But there was an additional aim of the visit, to determine if the detainees in the Iraqi theater could be exploited for actionable intelligence (DR: 11).

Although 200 pages of operational recommendations resulted from Miller's visit to the prison, the most significant result was the shifting of interrogation activities from solely military intelligence personnel to the MPs, who were tasked with "preparing" the detainees for their interrogations. It was this request for interrogation preparation to untrained, uncomfortable, fearful soldiers and the resulting praise from military personnel for performing their "duties" well (DR: 8) that appears to be the likely trigger and escalation of the abusive treatment within the Abu Ghraib prison. It was this direction from leadership that gave them permission to act in an abusive manner. It was this abuse that was documented in the CBS news show several days

ago.

However, the existence of these orders for co-operative action or even what is the proper role of non-military intelligence personnel in interrogation approaches remains in controversy. This is but the first of many inconsistencies in policy that has plagued this situation. These conflicts in policy positions on central issues surrounding how business is to be conducted at Abu Ghraib is a further underlying factor to the abuse. These inconsistencies are at an extremely high level of command. It is certain that if the leaders cannot settle on a policy, the followers cannot be expected to act consistently (DR: 13).

Other questions where contradictory answers have been obtained from high-ranking defense positions, including frankly, yourself, beyond the “co-operative interrogation” question outlined above include (1) Does the Geneva Convention apply to Iraq? (2) Are the detainees in Iraq classified as terrorists? (3) What interrogation methods are legal to utilize with terrorists? (4) What interrogation methods are legal to utilize with non-terrorists? (5) Is what is defined as “torture” legal to use on terrorists? All of these questions play into the central policy question at any detention center: Where is the boundary line for the soldiers manning the detention center between crime and non-crime?

Although some headway has been made on these topics, it appears that there are still serious inconsistencies with statement policy and policy in practice, as evidenced by the abuses documented by the disclosed pictures. Unfortunately, this crisis means that time has run out on remaining ambiguous or allowing inconsistent implementation of these key legal and

policy positions. As will be more fully expanded on below, it also means that these policies must be firmly in place at the creation of any detention centers in the future. Organic evolution of these policies on site resulted in the crisis that faces the administration today.

The final underlying factor to the crisis surrounding this situation is the unacceptably slow movement of the documentation of this situation up the chain of command. This meant that the serious nature of the activities at Abu Ghraib were not acknowledged or briefed to high level officials that were owed at least a modicum of warning prior to the mass exposure of the situation on nation-wide television. This is an unacceptable result in areas of national security and human rights such as the treatment of detainees.

Given that you read the memorandum of April 2003, there is likely no need to remind you of the potential backlash miscalculating in this area can carry. But for the sake of clarity, some of the potential backlash -- much of which we are experiencing or should expect to experience presently -- include distortion in the media, potential human rights prosecutions, and retaliatory mistreatment of American soldiers around the world (DR: 9).

The documented breakdown in the review and passage up of serious issues that has cost this administration valuable time that could have been used to in at least an attempt to control how the story was presented to the public. As will be also expanded on below, action can be taken now to attempt containment of this backlash, but it will be less effective than action that could've been taken before the CBS airing of the photos. This time was available to the administration and it was squandered by faulty chain of command communication.

In summary, the ill-planned set-up of the detention centers and their function which led to a predictable breakdown in operational integrity, the pervasive inconsistencies in policy in this area of terrorism, interrogation, and the applicability of the Geneva Convention to the highest level, and the inability of the chain of command to move information and recommendations up in an efficient manner have conspired together to create the crisis now being faced by the administration regarding the abusive behavior of American soldiers at Abu Ghraib. Due to these factors, the Department of Defense and the Bush Administration are facing serious political and social challenges in the guise of acknowledging, understanding, and remedying abusive soldier behavior.

Finally, no analysis of this situation can be complete with an acknowledgement of the authorization environment surrounding these events. Although I am certain you are aware of these considerations, I will take this opportunity to state them explicitly for emphasis. As alluded to in the above summary of the underlying causes, there is reason to believe that the triggering event or perhaps better said, the direction from leadership that appears to have led to the spiral downward in detainee treatment that occurred at Abu Ghraib came certainly from the Pentagon and most likely from the White House.

Ultimately, it is to these institutions and their leaders, particularly in the more focused context of the current administration, that your next steps must support, uphold, and protect. This situation touches the highest-level personnel in the U. S. government, up to and including President Bush. Furthermore, your mandate is no less than the mission of the Department of

Defense: “ to protect the American people and advance our nation’s interests” (United States Department of Defense, 2010, p. iii). Therefore, the question becomes how to further this mandate given the current crisis.

III. Proposed Strategies and Recommendation

This section of the memorandum will provide possible strategies in dealing with the Abu Ghraib situation. In doing so, I will focus first on the short term goals and objectives of the your proposed response in relation to possible actions. While reviewing the possible response I will also discuss alternative approaches and provide reasoning behind why such approaches are not recommended. I will also bring to your attention one method of discussing the current crisis that could have positive results for the administration.

Next, I will address longer-term goals and objections of the strategy in relation to possible actions in this area. As this will not be the last time the Army will need to inter prisoners for military intelligence reasons, it is essential that policies and procedures be put into place to avoid these types of actions happening again under your leadership.

The immediate pressing needs are to contain the current crisis, minimize the damage to the global reputation of the U. S. Armed forces, and attempt to restore the confidence of the American and global public in the integrity of the American soldier. Granted these are enormous propositions given the current political climate, but an attempt must be made and it must be made as quickly as the strategy can be finalized. As described above, you are already at a severe disadvantage due to the communication inefficiencies of the chain of command, so every effort must be made now and going forward to maximize the benefits of the response strategy while minimizing the costs

to the Department of Defense ethical stance, reputation, and global position.

My proposed immediate strategy can be broken down into five essential steps: (1) look the problem in the eye and get the facts out, (2) as much as possible understand what occurred and confess wrongs to the public, (3) formulate procedures and implement them to avoid a repeat of the activities in current detention centers, (4) legally and quickly move to bring justice under the present facts, and (5) move on.

The first step of looking the problem in the eye has already begun.

Unfortunately, this process from the public's point of view began outside your control but it is still possible to help gather information, shape perceptions, and reduce reputational damage. This process can begin with continuing to gather all information available surrounding the activities at Abu Ghraib. Although perhaps obvious at this point, I will state for completeness that the information gathered should include all forms of media where this evidence exists, with a particular focus on video and visual evidence.

How this material should be strategically used is perhaps best examined through a cost/benefits analysis. Now that the public has been exposed to the situation through the CBS news program, the initial large cost to reputation and trust in the American military has been exacted. Thus, it is the best interest of the department to use this information to try to maximize transparency at this time. This situation appears to be one where the damage was greatest with the first disclosure and further disclosure will have only incrementally smaller negative effects on reputation. In contrast,

the further disclosures at this time will have relatively large positive effects on perceived transparency, and therefore trust by the public, in the actions of American military. Of course, this effect will diminish over time as well but it does not appear that we are close to the point of diminishing returns on the transparency issue. This leads to the slightly counterintuitive conclusion that for the time being, the results of the internal investigations should be made public.

For the next step, understanding what went wrong and confessing those wrongs, I trust the analysis section provided above is helpful. Although there are many causative factors that can be pointed to, one of the most important conclusions drawn from an understanding of the situation is that the actions of the soldiers in Abu Ghraib were scientifically predictable, given known, quantifiable human nature and the documented circumstances. It is this explanation that needs to be provided to the public in regard to whatever wrongs are uncovered in the investigative process, including the ones already known. It should be emphasized during this admission communication that this is merely an explanation and not an excuse.

It may be appealing at this point to attribute the situation to a few bad actors with an assertion that such activity could only have occurred if something was intrinsically wrong with the soldiers portrayed in the pictures.

Statements such as these do provide the common public policy strategy of disassociation. However, I urge you to fight the appeal of this approach, as it flies in the face of scientific fact. Furthermore, allowing a “bad apple” position to stand will do more harm in the long run than good in the short term.

It must be conceded that it is much more difficult to find and remove the “bad apples” from the military than it is to take control of operational, leadership, and living conditions in military detention centers. A “bad apple” position provides a means of not fully facing what occurred in Abu Ghraib, thus stunting the ability to put in place measures to effectively deal with it long term. Rejecting a “bad apple” approach is not to say that the actors should not be held accountable for their actions, and this need will be addressed below. Instead, I submit that you should attribute the actions to the collective bad situation, and assert that all steps are being taken to make sure this bad situation will not happen again.

However, the “bad apple” approach does have real applicability to the presently recommended response strategy, but in the preventative, rather than causative way. Rather than focusing on the alleged “bad apples” in the group, I suggest that focus should be directed to the one assuredly “good apple,” specifically Army Specialist Joseph M. Darby. He is the soldier who bravely brought the abuses to the attention of both his superiors and then ultimately, the press. Utilizing this good will in communications will be tapping into the heroic nature of his acts and functions as a psychological reputational cure to the bad actions of his fellow soldiers (Israni, 2011).

There is nothing to be gained and much to be lost in directing even a hint of negativity at this soldier, either internally or in public. Instead, the heroism of his acts in the face of what he was surrounded with should be focused upon. Additionally, it can be noted that only in the American military and in the American media would Darby be free to take such action, without fear of retaliation, and have the ability to single-handedly stop what he perceived as

wrong.

Alternatively, of course, it could be that Darby recognized that these activities could not continue undetected forever and he wanted to be well free of the blame when they were discovered and the best way to do this would be to be the whistleblower. But whatever the true motivations of his actions, the positive aspects of the act can be utilized in your attempt to recover the reputation of those who serve in the American military.

A final question in this second step is the one of confession and apology. The lead up to this crisis including the highly public manner of disclosure and the graphic content of the pictures themselves have stolen, in my view, any leeway that may have existed in choosing whether a public confession of wrongs and, in addition, a public apology should occur. Ideally, this would come from the highest leadership level possible and would be directly to the Iraqi people. It is interesting to note that if the communication should utilize Iraqi television, there may be less publicity of these disclosures in the United States than what would occur to in a speech globally televised. There is also likelihood that such a communication may be more effective in reducing Iraqi backlash on American personnel and civilians than a global-directed speech. You will need to speak with the President and his advisors about whether they agree with this suggested approach on how the Iraqi specific response should be handled.

But the performance of an Iraqi response does not alleviate the need for an additional American-directed confession and apology. One suggested component of the confession and apology when delivered to the American public is the idea of a noble-cause violation. However, I would caution using

the idea of noble cause as an excuse, but instead focus on it as part of the explanation. The wounds of the attacks of September 11, 2001 are still raw within the minds of the American public and the American soldier. Memories of past war policies, particularly those pre-Vietnam, in relation to prisoners on both sides are still strong within the American public memory. These undeniable contributors to the present situation could have fostered the adoption of an “ends justifying the means” mentality for the soldiers involved and there is likely benefit in acknowledging this connection.

Catching the bad guy motivates soldiers. But we cannot overly rely on noble cause as an excuse for their actions. We cannot let patriotism and emotions get in the way of effective military intelligence collection, the current stakes are simply too high. What is clear from the Abu Ghraib crisis is that the enemies of tomorrow cannot be handled like the enemies of yesterday and these new procedures need to be in place as soon as possible.

With the third step, formulating procedures and implementing them to avoid a repeat of the activities in current detention centers, I am providing what will be among the most challenging aspect of this response strategy. In my opinion, the current system needs to be completely overhauled to ensure that the highly negative conditions of Abu Ghraib are not present in other ongoing detention center locations. I urge you to utilize the extensive expertise available to you in these areas to come up with a set of policies that can be consistently applied from the top of command downward. Accomplishing this goal is extremely complex and will require the involvement of legal counsel, personnel management, and leadership selection, training, and fostering.

In particular for the consulted international law legal specialists, it is necessary for them to answer the questions provided in the analysis section above in regard to the classification of locations falling under the Geneva Convention, the classification of prisoners as terrorists or non-terrorists, and the classification of various interrogation techniques as recommended or not allowed. Although it may be tempting to build in flexibility on these classifications in order to address future, unforeseen factual situations, the military is better served with issues of fitting a factual pattern into a strong policy framework, rather than bending the framework in response to every factual pattern that arises.

For personnel management, it is an absolute requirement that military personnel put into positions of power over other human beings have training in relation to how detainees are properly treated and where the line is drawn between allowed and not allowed behavior. This training obviously flows from the legal determinations made using the international law counsel. The need for these guidelines flows from the previously discussed knowledge about the invariable effect of providing such power to people under bad conditions. Despite efforts to avoid the development of such bad conditions in any facility run by the American military, it remains that detention centers are prisons, the detainees will never be friendly to America and its military, and conditions will deteriorate within those unchanging factors. Thus, proper training of those given power is a requirement to avoid actions like those documented in Abu Ghraib.

In regard to leadership, it is imperative that those put in charge of detention centers have solid training in the area and the formulated policies discussed

above. But just as importantly, the leadership needs an understanding of what deteriorating conditions can bring about in their reporting personnel, and a resulting strong sense of responsibility from the point of view of oversight to avoid such conditions. If leadership of detention centers is approached with a clearer view of the ramifications of lack of accountability, inconsistently applied procedures, and weak direction moral direction about treatment of detainees, situations such as the crises of today will be avoided. For example, lack of decision-making or, perhaps, the lack of ability to take on the responsibility that comes with decision-making, which resulted in the prison over-crowding present in Abu Ghraib, would not be an issue with a properly trained and confident leader in the command position.

The fourth step of this process, providing justice, has already begun, with the dismissal of two soldiers and letters of reprimand for six others and this is a key part of the response strategy. However, I recommend that the judicial actions not stop here, but move upward within the leadership as the analysis has shown that culpability was not individual nor solely within the lower ranks but resided in many involved in the situation including leadership positions.

For the “ move on” step of the strategy, the long term goal is simple to state and has been provided previously above – take the necessary steps to ensure that this never happens again under your leadership. A key aspect of achieving this is to enter into the development of any detention center with absolutely clear policies and implementations of those policies in place. Of course the exact nature and boundaries of those policies will vary from conflict to conflict, but the upfront presence of these policies and directives

at the time of the detention centers founding, in combination with appropriate personnel and leadership appointments, should go a long way to avoid a repeat of the Abu Ghraib political crisis. There also needs to be attention addressed to the sluggishness of the chain of command communication in these areas. Although it may prove ineffective, investigation into the root cause of the communication breakdown in this case could serve an illustration of how the process needs to be streamlined or altered when passaging information on incidents with potential relationship to terrorism and interrogation.

IV. Lessons and Conclusion

There are many lessons to be learned from this situation. But a few key points stand out from the complex factual situation. First, it is absolutely necessary to formulate a consistent policy surrounding terrorism, interrogation techniques, and their boundaries. Second, during the formation of detention centers, these policies must be built into the operational procedures of the center from the onset, trained personal should perform these procedures, and leadership must provide strong accountability. Finally, all possible steps must be taken to avoid these types of actions happening again and the suggested response plan makes pains do what is necessary to implement this lesson.

Appendix I – Timeline of Events, Actions, and Publications

- March 20, 2003 : War in Iraq begins
- September 2003 : Major General Geoffrey Miller, commander of US detention center for terrorist in Guantanamo Bay, is sent to Abu Ghraib
- November 5, 2003 : Major General Donald Ryder submits his report

detailing operational problems, but stating military police are not asked to help prepare prisoners for interrogations

- November 6, 2003 : International Committee of the Red Cross (ICRC) submits report with serious allegations of abuse to Brigadier General Janis Karpinski, the prison commander, and staff officers of General Ricardo Sanchez, top US commander in Baghdad
- February 2004 : ICRC submits second report to Sanchez and L. Paul Bremer, head of the US Coalition Provisional Authority
- March 3, 2004: Taguba submits his report finding numerous incidents of “ sadistic, blatant, and wanton” criminal abuses on several detainees
- March 20, 2004: General Mark Kimmitt holds press briefing about investigation and the charging of six military personnel with criminal offenses
- April 6, 2004 : General David McKiernan approves the Taguba report findings, leading to discharge of two soldiers from 800th MP Unit and letters of reprimand to six others
- April 28, 2004: CBS airs extremely graphic pictures of treatment of prisoners

(Ricchiaridi, 2004; Cirillo & Ricchiaridi, 2004; Swann, 2007; DR: 1, 2, 11-13).

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