

Introduction

War is by no means a new invention. Whether for land, resources, or power, people fight, maim, and kill. The history of war is the history of humanity. Over the years many people have debated, “What makes a war just?” Although this question is important, it is not the one that this work will examine. Instead, this work will ask, “How should we fight a war?” This might actually be the more important of the two questions. A society may only be able to determine if a conflict was truly just only after it is over; however, it can determine how to fight before the conflict begins. This ability to come to some relative agreement on the standards of how a war should be fought means the question of “how we should fight”, though not necessarily more important, has much more practical value.

Of course, the question of “how we should fight” is complicated in its own right. To attempt to answer this question as a whole would be an enormous endeavor. Such questions range from what kinds of weapons and munitions are allowed to what steps should be taken to protect holy sites. Instead, this work will focus on two specific topics, the treatment of civilians during war and the treatment of prisoners of war.

The first question that will be considered will be the treatment of civilian populations during warfare. There are clear rules laid out by the Geneva Conventions for the treatment of civilians. Despite these protections, civilian casualties do occur. However, they are euphemized so the blow is softened. Civilian casualties become “collateral damage” and are said to be the unfortunate “cost of war.” An incident will be used as a case study – the My Lai massacre in Vietnam. There is little doubt about the facts. In 1968, American soldiers entered the village of My Lai and killed approximately

500 civilians. By examining the facts available, it may be possible to determine whether or not that event was excusable or even justifiable.

The second question to be considered is the treatment of prisoners of war. Once again, there are clear rules and regulations laid out by the Geneva conventions. In life, very little is ever black and white, and the treatment of prisoners of war is no different. In several ways the rules are lacking. Furthermore, the question of whether or not the breaking of these rules could either be excused or justified must also be addressed, especially if some greater good could be achieved. This question is a timely one, given the prisoner abuse scandal at Abu Ghraib. Many people saw the piles of naked detainees and knew in their souls that it was wrong. Others saw these same pictures and asked, "What's the big deal?" Abu Ghraib will be used as a case study to look at the treatment of POW's. Once again, by examining the facts available, it may be possible to determine whether or not these events were excusable or even justifiable.

As a closer look is taken at these examples, many similarities might appear, and these similarities will be addressed. However, the point of this work is not to directly compare Abu Ghraib and My Lai. On the surface these two events may seem similar, but they are fundamentally different, one dealing with the treatment of civilians and the other the treatment of prisoners. A set of standards for one cannot be applied directly for the other, which explains the separate sections of the Geneva Conventions dealing with these issues.

Why are these questions important? Everyone has heard the old adage that war is hell, and it is true. War IS hell. People are asked to do terrible things during war that they would not dream of doing during their normal lives. In such a barbaric environment,

should it be surprising if tragedies like Abu Ghraib and My Lai occur? However, this issue is one that must be addressed. One cannot be complacent when it comes to torture and mass murder, especially if the US is going to set itself apart from people like the Nazis. It is one thing to sit back and call the Nazis' actions criminal at the Nuremberg war crimes trials. However, it is much more difficult to apply the same standards to ourselves.

One cannot argue with the fact that there are a lot of grey areas when it comes to war. However, it is in these grey areas that the most guidance is needed. The one thing that cannot be done is to ignore this problem. Ignoring atrocities will not make them go away. On the contrary, committers of atrocities will mistake indifference for approval, which will only encourage them to commit more atrocities. It may be the case that people do not consider their actions to be an atrocity. It is easy to sit at home on the couch and say, "Well, if I was in that situation, I would have let those villagers go." It is far different for the soldier in the field, who has lost good friends to an enemy that will not show themselves, who is guarding a group of villagers whom the company commander considers the enemies, or whom the platoon commander ordered him to kill. Wherever the moral compass points, it cannot always be trusted to steer in the right direction without some outside help, which will come only if objections are raised to atrocities.

There might be times when breaking the rules will be broken. At that point it is then possible to debate whether or not breaking the rules in that particular case is excusable or justifiable, and thus determine whether or not the action was right or wrong. However, that debate cannot take place without there being rules to begin with. As a

society, we should know where the line is, if only so that we know when we are stepping over it.

The Geneva Conventions

Established rules of warfare already detail how wars should be conducted; the best known of these are the Geneva Conventions. The original Geneva Conventions were signed in 1864 by Belgium, Denmark, France, Italy, the Netherlands, Sweden, Norway, Spain and Switzerland. They dealt with the treatment of the sick and wounded, the return of prisoners, and recognized the symbol of the Red Cross on a white flag as a symbol of neutrality for medical personnel.¹

Over the years, these conventions were modified. The first such modification took place in 1906. They were modified again in 1929 in response to the events of World War One, and codified the treatment and rights of prisoners of war. The failure of several nations to abide by the Conventions during World War Two prompted a third modification in 1949, which detailed provisions for four different groups: the sick and wounded, shipwrecked sailors, prisoners of war, and civilians in territories occupied by an army.² Additional protocols were added to the Conventions in 1977 and deal with the protection of victims of armed conflicts.³

As a signatory, the United States is bound by these Conventions. Of course, it is interesting to note that the United States has not signed the additional protocols of 1977 which deal with the protection of victims of armed conflicts. The United States has signed and ratified the Articles of 1949, though with reservations.⁴ This means that the U.S. is legally bound to uphold these treaties. Of course, Germany signed the Geneva Conventions, but then ignored many of them during World War Two. A nation may find itself condemned by the rest of the world for violating these treaties, but if the leaders of that nation want to break them, and their population tolerates it, then these treaties are not

worth the paper on which they are written. It takes the support of a nation's own public to make these treaties work. Generally though, Nazi Germany is the exception, not the rule. Countries usually find it in their best interest to follow the rules laid out by the Geneva Conventions, in hopes that their enemies will do the same. In theory, the Conventions should provide a bright red line distinguishing right from wrong in that grey area.

Writing the rules for war is difficult, and, on the whole, the Conventions do an admirable job. They detail what should and should not be done during war. However, there is a problem with the Geneva Conventions, one that is especially coming to a head with the recent conflicts in Iraq and Afghanistan. Not everyone plays by the "rules." During the Vietnam War, one of the major problems faced by American troops was distinguishing civilians from enemy combatants. Convention III, Article 4, Section 2 of the Geneva Conventions states that guerilla forces must meet the following conditions in order to be recognized as prisoners of war:

- (a) That of being commanded by a person responsible for his subordinates
- (b) That of having a fixed distinctive sign recognizable at a distance;
- (c) That of carrying arms openly;
- (d) That of conducting their operations in accordance with the laws and customs of war.⁵

Of course, why should a nation with nothing to lose in effect hamstring itself with rules that would make its defeat easier? This is especially important today when the enemy faced on today's battlefields is even less organized and identifiable than the Vietcong. This new enemy is known by many names, such as "unlawful combatants," "enemy combatants," and "terrorists." Whatever the term, they do not obey the rules of war. At least the Vietcong and the North Vietnamese armies were fighting for a particular

country, even if they did not always wear uniforms or carry their arms openly. So what rights should be accorded an enemy who will not reciprocate? Convention III, Part I, Article 2 Paragraph 3 of the Geneva Conventions states:

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.⁶

In essence, a nation that is party to the Conventions must adhere to the Conventions, even if its opponent is not a signatory. Of course, this implies that the other party is an organized nation, and that it will conduct its military operations in the spirit of the Conventions. What does one do though when this is not the situation, when the enemy are terrorists and they will not abide by the Conventions? In that situation, is there any legal reason to abide by the Conventions? Is there a moral reason?

This is an area in which the Geneva Conventions are lacking, and it poses a major problem for soldiers and leaders. The Conventions work beautifully when they deal with two warring nations; however, they seem to break down when it comes to irregular combat. Terrorists definitely do not qualify as civilians for they fail to meet Convention IV, Part I, Article 3, Section 1, Paragraph 1, which defines civilians as being:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.⁷

Furthermore, it can also be argued that they do not fall under the category of “prisoners of war” for they fail to meet the requirements laid out in Convention III, Part I, Article 4 Sections 1-6, which state that for one to be a prisoner of war, he or she must meet one of the following criteria:

(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions: (a) that of being commanded by a person responsible for his subordinates; (b) that of having a fixed distinctive sign recognizable at a distance; (c) that of carrying arms openly; (d) that of conducting their operations in accordance with the laws and customs of war.

(3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.

(4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization, from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.

(5) Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.

(6) Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.⁸

Our government has stated on more than one occasion that it does not recognize many of the enemy combatants captured in Afghanistan as prisoners of war. Consequently, the government argues that the U.S. is not bound by the Geneva Conventions in treating them. The United States government has given orders that prisoners should be treated humanely, in the spirit of the conventions. However, the government decides what “humane” is. It argues that these enemy combatants do not fall

into either category, whether it be civilian or prisoner of war. As long as their treatment is humane, the U.S. claims to have free reign with them.

The International Committee of the Red Cross (ICRC) disagrees with the United States government's argument that these enemy combatants are not prisoners of war. The ICRC holds that naming certain groups of prisoners "unlawful combatants" deprives them of their rights in the Geneva Conventions. It is the opinion of the ICRC that these "enemy combatants" should be placed under one of the two established categories, either as civilian detainees, who should be charged with a crime and then be placed on trial, or enemy combatants who should be released at the end of the conflict as stated in Conventions III and IV.⁹ In addition, the ICRC uses Protocol I of the Geneva Conventions as their reference. Protocol I, Article 45, Sections 1-3 defines prisoners of war as being:

1. A person who takes part in hostilities and falls into the power of an adverse Party shall be presumed to be a prisoner of war, and therefore shall be protected by the Third Convention, if he claims the status of prisoner of war, or if he appears to be entitled to such status, or if the Party on which he depends claims such status on his behalf by notification to the detaining Power or to the Protecting Power. Should any doubt arise as to whether any such person is entitled to the status of prisoner of war, he shall continue to have such status and, therefore, to be protected by the Third Convention and this Protocol until such time as his status has been determined by a competent tribunal.
2. If a person who has fallen into the power of an adverse Party is not held as a prisoner of war and is to be tried by that Party for an offence arising out of the hostilities, he shall have the right to assert his entitlement to prisoner-of-war status before a judicial tribunal and to have that question adjudicated. Whenever possible under the applicable procedure, this adjudication shall occur before the trial for the offence. The representatives of the Protecting Power shall be entitled to attend the proceedings in which that question is adjudicated, unless, exceptionally, the proceedings are held in camera in the interest of State security. In such a case the detaining Power shall advise the Protecting Power accordingly.
3. Any person who has taken part in hostilities, who is not entitled to prisoner-of-war status and who does not benefit from more favourable treatment in

accordance with the Fourth Convention shall have the right at all times to the protection of Article 75 of this Protocol. In occupied territory, any such person, unless he is held as a spy, shall also be entitled, notwithstanding Article 5 of the Fourth Convention, to his rights of communication under that Convention.¹⁰

This disagreement between the United States and the ICRC is nothing new. In fact, as far back as 1986, the United States and the ICRC have “agreed to disagree” on certain protocols of the Conventions when it comes to dealing with terrorists. The United States counters the ICRC’s position by arguing that it is not a signatory to Protocol I, and therefore is not bound by it.¹¹ In their report over the abuses at Abu Ghraib, the Schlesinger panel argues that Protocol I would give protections to terrorists equal to those given to prisoners of war. The panel states, “To do so would undermine the prohibition on terrorists blending in with the civilian population, a situation which makes it impossible to attack terrorists without placing noncombatants at risk. For this and other reasons, the U.S. has specifically rejected this additional protocol.”¹²

So what treatment should be given to these prisoners, especially if valuable information can be gathered from them? One can even see the argument that extreme torture can be allowed in this situation, especially if lives are on the line. The law is ill-defined, and many argue that if the U.S. is not in violation of international law, then there is nothing wrong with using methods of interrogation that would be normally be in violation of it.

Is there a standard, international or not, to which the U.S. should hold? Or is it really the case that anything goes? So, if the prisoner is an unlawful combatant and not subject to the protection of the Geneva Conventions, then can the interrogator remove his clothing as a technique of interrogation? Can the interrogator place dogs in the interrogation room, as long as they are muzzled and kept under control of the handlers, to

“fear up”^{*} a subject? Can the interrogator use physical abuse, as long as no permanent damage is done, to encourage him to talk? Can the interrogator use a bowie knife to cut off his little pinky? After all, it’s just a pinky. It’s not like the prisoner needs it to live. Many would answer “no” to the last question. The question is why stop there? No one would disagree that it is a very slippery slope. Does the U.S. have a moral compass that tells what should and should not be done? Even if the prospect of cutting off a prisoner’s pinky is not so bad, there is hopefully a line that society would not let the interrogator cross. For, if there is no line, is the U.S. any better than its enemies?

Of course, as the seriousness of the situation increases, that line may be pushed back. Certain actions may be justifiable or excusable if ten thousand lives could be saved by torturing a prisoner that would not be justifiable or excusable if only one life could be saved. This is utilitarianism in its purest form, with the good of the many outweighing the good of the few. It is a dilemma that commanders in the field face every day. Furthermore, it is a dilemma complicated by U.S. regulations and procedures that are conflicting and confusing, especially when there are multiple classes of detainees to whom no single set of rules apply.

Human beings are human beings, so why should what they are labeled change their fundamental rights? And yet, it does. Although the rules of war and the rules of morality are similar, they are not the same. This fact must be kept in mind in considering Abu Ghraib and My Lai. It is critical to look past the initial shock and horror at what went on to see if there is some reason for these actions. Some of what took place clearly violates the Geneva Conventions, as well as being clear violations of morality. Still, it is

^{*} To “fear up” a subject is a method of interrogation by which things are done to cause fear or apprehension for the subject before the interrogation begins.

important to see if these actions were in some way excusable or even justifiable. Of course, these actions could be examined and found deplorable. It is not enough just to say that they are deplorable, though. “Deplorable” must be defined. Regardless of what one may think about these actions, it is easy to see that the nature of war is changing. As a result, the laws of war may once again be in need of revision.

My Lai: The History

The facts behind the My Lai Massacre will be examined first. Once the background is established it will be possible to determine if any of these terrible events can either be excused or justified. As mentioned previously, the fundamental facts of this incident are beyond doubt. On March 16th, 1968, the men of Charlie Company entered the village of My Lai and killed approximately five hundred men, women, and children. The Vietnam War was an extremely difficult time for American troops. They faced an enemy that was crafty and did not always play by the rules of war. Though NVA and Vietcong forces did not always follow the rules, it is clear that they fell under the Geneva Conventions.

The people killed at My Lai were not soldiers; rather, they were old men, women, and children. As such, it should be clear that they fell under the protections of the Geneva Conventions. However, there are several issues that can possibly be seen as mitigating factors. The My Lai massacre occurred only months after the Tet Offensive had taken place. American forces were not expecting men, women, and children in My Lai that day. They were expecting a strong enemy force with which they had fought on several occasions.

My Lai can be found in the Son Tinh district of Quang Ngai Province. The name My Lai itself is actually a misnomer. Several hamlets in the Son My area were known as "My Lai." The village where the massacre took place was known to the Americans as My Lai 4, also called "Pinkville," though its local name was Tu Cung. Killings would also take place in Binh Tay, a village which was to the north of Tu Cung.¹³ For years this

area had been a stronghold of resistance activity, whether against the Japanese, French, or Americans.

By 1968 things had changed very little. The South Vietnamese government had begun efforts to secure the province, but had only managed to secure the province's capital, Quang Ngai City. Heavy combat was seen in Quang Ngai during the Tet Offensive of 1968. Government buildings, hospitals, airfields, and military installations were among the locations attacked.¹⁴

Stationed at LZ Dottie, a U.S. base about twelve miles north of Quang Ngai City, was Charlie Company. This company was ordered to move Hill 102 in order to block any Vietcong retreat. From their position they watched as the Vietcong 48th Local Force Battalion crossed in front of their position in their retreat from Quang Ngai City, but were unable to fire upon them for they did not have permission from South Vietnamese authorities. Instead, the 48th Local Force Battalion would escape to My Lai.¹⁵

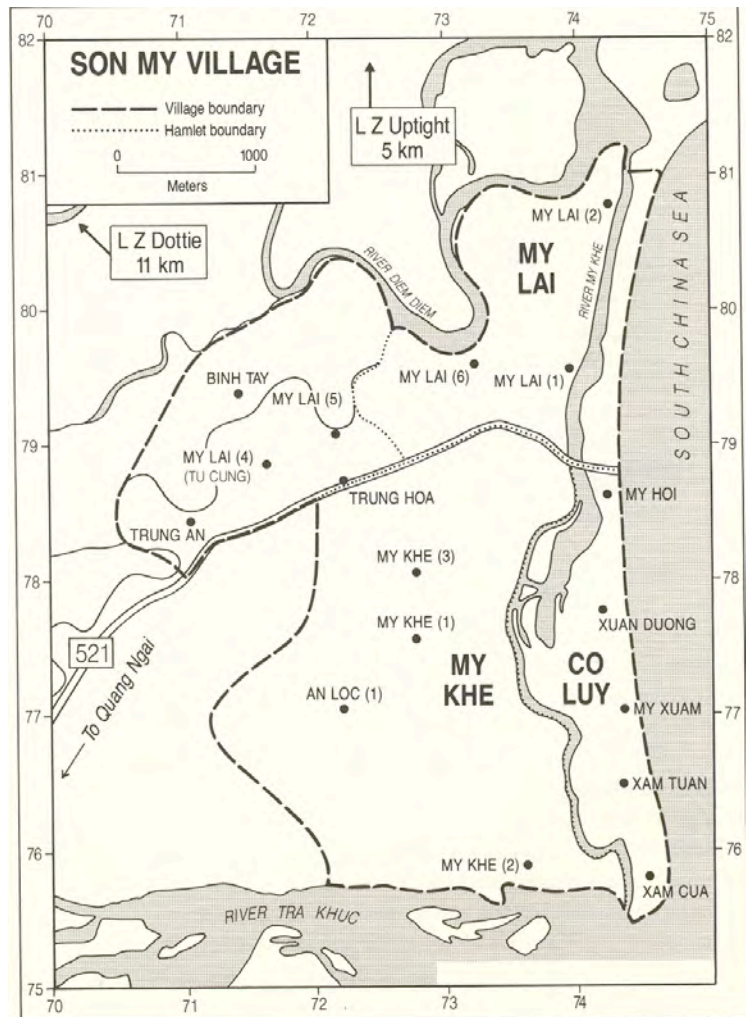
So who was Charlie Company? To understand them and the My Lai massacre better it is essential to first examine the company's history. Charlie Company, or C Company, was part of the 1st Battalion, 20th Infantry. This unit had a storied past dating back to when the regiment served under General Sykes during the American Civil War. The unit would go on to serve in the Indian Wars, the Philippine Insurrection, World War I, World War II, and the Korean War. By 1966, though, this was nothing but history. The unit had been reactivated and was rebuilt from scratch in Hawaii. Captain Ernest Medina joined the unit on December 19th to take over C Company. The company was quickly assembled and was soon the pride of the battalion, taking many awards.¹⁶

The training of C Company was no different from the training received by any U.S. unit. In fact, according to the Peers Commission Report, “the personnel composition of Company C contained no significant deviation from the average and there was little to distinguish it from other rifle companies.”¹⁷ Training for C Company did include segments over the treatment of Vietnamese civilians, about how to recognize an unlawful order, and a minimum of one hour’s worth of instruction on the Geneva Conventions. Of course these segments were only a small portion of C Company’s abbreviated training schedule. The rest of the time was spent transitioning C Company from civilians to soldiers. They were trained to kill with rifle and bayonet, and were told by the veterans not to trust anyone, civilian or not.¹⁸

It was with this mentality that C Company was shipped to Vietnam, where they were attached to the Americal Division. The Americal Division had been established in September 1967. At this time the 11th Infantry Brigade, of which the 1st Battalion, 20th Infantry was a part, was completing its training before it joined the rest of the Americal Division.¹⁹ C Company was attached to a special task force inside of the 11th Brigade, named Task Force Barker after its commander Lieutenant Colonel Frank A. Barker, Jr. This task force was made up of three companies, A/3-1 Inf., B/4-3 Inf., and C/1-20 Inf. These companies were considered to be the best ones from each of the brigade’s battalions.²⁰

The mission of Task Force Barker was to root out enemy activity in the Son My area; however, their operations were costly. The Peers Commission reported that between January 22nd, when the Task Force was established, and March 15th, the day before the My Lai massacre, the Task Force had suffered over one hundred casualties.²¹

On repeated occasions, the soldiers of Task Force Barker had been bruised and bloodied in operations in the My Lai area. A map of the area can be seen in the illustration at right.²² In one such operation on February 13th, 1968, B Company was attacked when it approached My Lai 4. One man would be killed and five others would be wounded before the Company was forced to withdraw. The attack continued the next day by A Company, who encountered heavy resistance from My Lai 1. In a second operation on February 23rd, A Company found itself under heavy attack in the area of My Lai 1, and, as a whole, the Task Force suffered three killed and 28 wounded.²³



During these operations, C Company only played minor roles. Their first major combat role was to be the assault on My Lai 4 on March 16th, but the company had taken a number of casualties during the months leading up to the March 16th operation, with four killed and thirty eight wounded. However, only one of those killed and two of the wounded were a result of direct contact with the enemy. The rest had been caused by

enemy mines and booby traps.²⁴ All of these factors played a role in the events that took place in My Lai 4 on March 16th, 1968.

C Company was selected to be the lead company in the March 16th operation, while A and B Companies played supporting roles. Various briefings took place on March 15th, including one by Colonel Oran K. Henderson, who had been placed in command of the 11th Infantry Brigade that very day. Henderson emphasized the need to “aggressively pursue the enemy” and is reported to have warned against letting any men, women, or children, or other VC soldiers pick up weapons and get away.²⁵ This was then followed by a briefing by Colonel Frank Barker, who focused on operational matters. Among other things, his briefing emphasized the idea that the majority of the civilians in the village would have gone to market. No plans were made for any civilians who might be left in the village.²⁶

There are conflicting reports as to what were Col. Barker’s exact orders regarding the treatment of the village of My Lai. Captain Eugene Kotouc, who attended Col. Barker’s briefing, stated the following in his testimony to the Peers Commission:

...he (Col. Barker) wanted the area cleaned out, he wanted it neutralized, and he wanted the buildings knocked down. He wanted the hootches burned, and he wanted the tunnels filled in, and then he wanted the livestock and chickens run off, killed, or destroyed.²⁷

There is also debate over what was discussed at the briefing given by Captain Medina to C Company before the operation. Just before Medina’s briefing took place, a memorial service was held for a member of the Company, Sergeant George Cox, who had been killed. Medina reminded the men in his briefing that this would be a chance for the men of C Company to get even with the enemy.²⁸ There are also conflicting reports as to what Medina’s orders were concerning the population of My Lai. In his testimony Medina

claimed that he told his men, “No, you do not kill women and children. You must use common sense. If they have a weapon and are trying to engage you, then you can shoot back, but you must use common sense.”²⁹ However, others differ in their account of the briefing. The impression that Sergeant Hodges, a member of C Company, received was quite a bit different:

The order we were given was to kill and destroy everything that was in the village. It was to kill the pigs, drop them in the wells; pollute the water supply; kill, cut down the banana trees; burn the village; burn the hootches as we went through it. It was clearly explained that there were to be no prisoners. The order that was given was to kill everyone in the village. Someone asked if that meant the women and children. And the order was: everyone in the village. Because those people that were in the village - the women, the kids, the old men-were VC. They were Viet Cong themselves or they were sympathetic to the Viet Cong. They were not sympathetic to the Americans. It was quite clear that no one was to be spared in that village.³⁰

Whether or not Medina actually gave the order, the impression that many of his men had was that anyone left in the village was the enemy who were to be eliminated. It would be a chance for the men of C Company to get even.

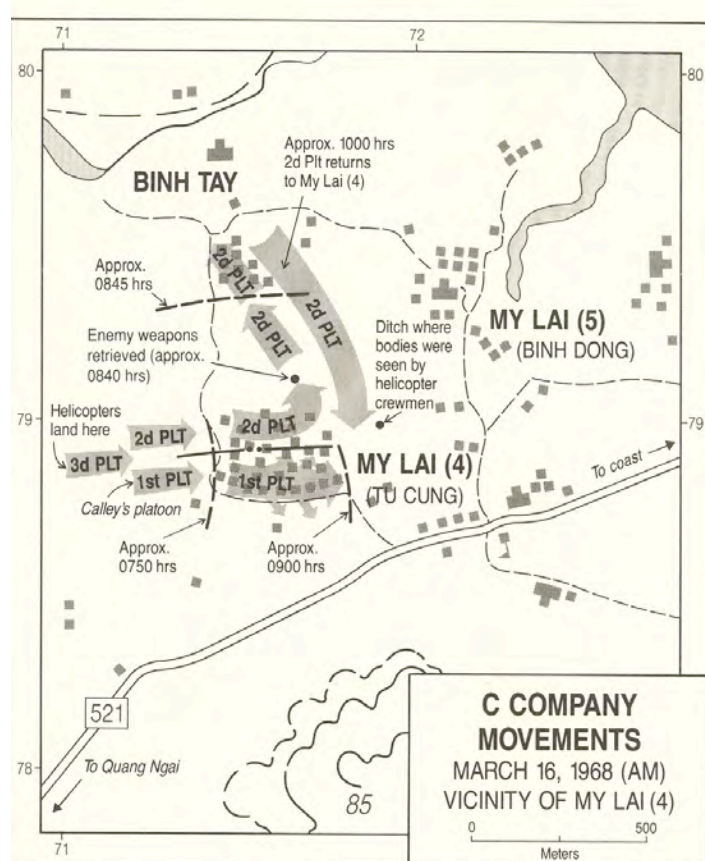
The men of C Company jumped off from their base at LZ Dottie by 7:22 a.m. The attack was carried out in two waves, each carried by transport helicopters known as “Slicks.” “Shark” gunships escorted the “Slicks” and provide suppression fire at the LZ. In addition to the “Slicks” and “Sharks,” “Skeeter,” a scout helicopter, would be in the area scouting for the gunships. Also, *News Boy India Two Zero* a ship of the “Brown Water Navy” would operate off the coast. Before the troops were to land an artillery barrage was carried out on the LZ and the edge of My Lai itself.³¹

This was supposed to be a major operation to destroy the Vietcong forces in the area. My Lai 4 was to be the first step, and American forces were supposed to quickly move through the area and continue on with operations sweeping up toward the coast (for

complete maps of the operations please consult Appendix A). As the helicopters approached My Lai 4, people were spotted fleeing from the village, some of whom had weapons. These personnel were engaged by scout aircraft. Meanwhile, back at the rice paddies northwest of My Lai, the American soldiers disembarked from their helicopters. To their surprise, they found the LZ to be “cold.” Everything they had been told up to that point had led them to believe they would be in for a fight from the moment they landed. The lack of activity did not keep the soldiers from firing blindly into the village. The first soldiers on the ground spotted several villagers, none of whom appeared to be armed, upon whom they fired. This first wave of soldiers secured the LZ for the second wave. Soon all three platoons of Charlie Company were on the ground and were firing their weapons. By 8:00 a.m. Medina would report that fifteen VC had been killed, an obvious lie as there had been no battle.³²

The 1st and 2nd Platoons proceeded into the village, killing any civilians they came across, while 3rd Platoon set up a defensive perimeter at the village’s Western edge. A map of the troop movements from that morning can be seen at right.³³

Various atrocities were



committed that day by American forces. These crimes ranged from rape to murder. There could have been no mistaking these people for the enemy. They were old men, women, and small children. Many of them were killed immediately. Others were gathered up into large groups and then executed. Many of the soldiers of C Company participated in these atrocities, but not all of them. A few watched without participating.

For the purposes of this work, a step-by-step account of the massacre is not necessary. The general movement of C Company can be seen on the maps. At two separate locations, villagers were gathered and shot in large numbers by members of the 1st Platoon of C Company. One of these locations was just south of the village, where at least twenty to twenty five villagers were executed. At an irrigation ditch to the east of the village at least another one hundred to one hundred fifty villagers were killed.³⁴ In addition to these mass killings, other random killings took place throughout the village.

There is no doubt that these mass killings occurred. But, under whose orders were they done? The commander of 1st Platoon, Lieutenant James Calley was the only soldier convicted of any crimes associated with the My Lai massacre. Others were charged, but the most of these charges were dismissed, and the few that did go to trial came back with acquittals. Calley's defense was that he was just following the orders of his superior officer, Captain Medina. In his own testimony Calley admitted to firing into the irrigation ditch, though he denied gathering up groups of civilians to execute them. Instead, he claimed that there were only four or five people in the ditch. Calley also admitted that he ordered Paul Meadlo to kill a group of Vietnamese civilians that he was guarding. Calley claimed, though, that he did this on the orders of Captain Medina who

wanted Calley to “[w]aste the Vietnamese and get (his) people...out in the position they were supposed to be in.”³⁵

This, however, contradicts testimony given by Dennis Conti, who was with Meadlo when Calley ordered them both to kill the group of civilians they were guarding. Conti testified that both Meadlo and Calley shot this group of civilians. Furthermore, Conti also reported that he witnessed Calley and a Sergeant Mitchell firing into the irrigation ditch, and Conti figured that there were around forty civilians in the ditch.³⁶

Another soldier, Herbert Carter, testified that he saw numerous killings taking place as well. He testified that at one point Medina’s command group came upon a group of fifteen Vietnamese civilians, all of whom were killed on the direct order of Captain Medina. Carter even witnessed Medina shooting one man himself. Carter also observed killings by Fred Widmer, Meadlo, and Calley. At one point Widmer asked Carter for his .45 pistol and used it to “finish off” wounded civilians. During this, the pistol jammed, and while Carter tried to clear the jam, the pistol discharged, wounding him in the foot.³⁷

In addition to the killings that occurred in My Lai 4, the 2nd Platoon of C Company also moved north to Bin Thy where they killed even more civilians, as well as rapeing several women and girls. Many of the rape victims were also killed.³⁸ These rapes were not confined to Bin Thy, since many rapes took place in My Lai as well. Varnando Simpson, a member of 3rd Platoon, testified that he witnessed an incident of rape/killing take place:

I saw Wright, Hutto, Hudson, Rucker, and Mower go into a hut and rape a 17 or 18 year old girl. I watched from the door. When they all got done, they all took their weapons, M-60, M16’s, and .45 pistols and fired into the girl until she was dead. Her face was just blown away and her brains were just everywhere.³⁹

Not all of the testimony about My Lai came from American soldiers. Nguyen Hieu, a resident of My Lai, witnessed his mother being raped and killed by American soldiers, who then also shot his sister as she rushed to her mother's aid.⁴⁰ In all, approximately twenty women would be raped at My Lai, many of whom were then killed (for a summary of all these rapes, please consult Appendix B).⁴¹

The 3rd Platoon of C Company was in charge of mop up operations inside of My Lai. This Platoon destroyed the houses, crops, and any livestock that remained. In addition, several members of 3rd Platoon engaged in "mercy killings" of badly wounded civilians since it had become obvious that they would not receive any medical aid.⁴² Many terrible things were done at My Lai that day, very few of which can be excused, much less justified. However, the mercy killings may prove to be a case where when a terrible action can be excused. In his testimony, Private Michael Terry, a member of 3rd Platoon, admitted to carrying out "mercy killings" of wounded civilians. He stated:

Well, a couple of them must not have been dead because they kept whipping around and their heads had been blown off or their brains were sticking out and it was a sickening sight, their limbs were just wiggling, and I remember we shot a couple of those.

When asked why, Terry responded: "Our intent in doing this was - I mean there was no way that they could live and so we just tried to make it faster for them."⁴³ The problem faced with mercy killings like these is that they can only be excused if the intentions of the soldier are sincere.

By 10:45 a.m. Captain Medina received an order from a Major Calhoun to "stop the killing". Furthermore, Captain Medina received an order from Colonel Barker himself to make sure there was no unnecessary killing or burning. Of course by this time the killing spree was already over.⁴⁴ There is conflicting evidence over whether or not

Captain Medina knew of the killings. In his reports of the day's events, Captain Medina stated that twenty to twenty eight civilians had been killed. This was only one of a number of conflicting reports dealing with civilian casualties. In all of these reports, the majority of civilian deaths were blamed on artillery or gunship fire.⁴⁵ However, Captain Medina's report of twenty to twenty eight civilian deaths contradicted the testimony of Lieutenant Alaux, who had been with Medina's command group throughout the day's operations, and had observed a total of sixty to seventy bodies.⁴⁶ In addition to Medina's observations from the ground, both Lt. Colonel Barker and Colonel Henderson flew over My Lai 4 throughout the morning. The piles of bodies were clearly visible from the air, as they had already been spotted by scout aircraft as early as 9:00 a.m.⁴⁷

Out of the terrible events that occurred at My Lai, a few heroes emerged as well. Warrant Officer Hugh C. Thompson, his crew chief SP4 Glenn W. Andreotta, and his gunner SP4 Lawrence M. Colburn were responsible for saving the lives of several Vietnamese civilians. At one point Thompson landed his helicopter to confront a group of American soldiers who were advancing upon a group of Vietnamese civilians hiding in a bunker. Before he approached the American soldiers he instructed his door gunner to cover him with the OH-23's M-60 machine gun. He sought cover not from the threat of the Vietnamese, but from the threat of the American troops. Thompson asked for assistance from the men to help get the Vietnamese out of the bunker and to a safe location, but the response he received was that "the only way to get them out is with a hand grenade." At this point Thompson told the men to stand down, and he proceeded to evacuate the Vietnamese with the help of a gunship helicopter. In a second incident, Thompson flew to the irrigation ditch, where a large number of civilians had been killed,

to try to find any survivors. Once again Thompson landed his helicopter and got out. This time he covered Colburn and Andreotta with an M-60 while they pulled a small child who had been shielded by the body of a young woman out of the ditch. Thompson's crew spotted several other people who were still alive, but the helicopter could only carry the child, who had to sit in the lap of one of the crewmembers. Thompson flew the child to a Vietnamese hospital at Quang Ngai, after which he returned to LZ Dottie to refuel and to report the needless killings he had seen.⁴⁸ Thompson's report was sent up the chain of command, but along the way the incident was whitewashed and his report was swept under the rug.

As stated earlier, My Lai 4 was just the first step in a much larger operation. However, the rest of the operation went relatively normally. No more large-scale killings took place. As a matter of fact, it went very much like any operation during Vietnam. When all was said and done the actions of C Company was forgotten. The South Vietnamese government had long considered the Son My region to be enemy controlled, and all of its inhabitants to be the enemy or enemy sympathizers.⁴⁹

It was not that objections were not raised. Thompson and his crew made a full report to their commanding officer, but, as already noted, this report was swept under the rug. This was not the only example of an investigation being hamstrung. At 3:30 p.m. on the afternoon of the 16th, Medina received an order from brigade headquarters to return his men to My Lai 4 and make a proper body count. They were also to make count of civilian casualties and check exactly how each one died. This posed a major problem for Medina, for by that point a false body count of ninety VC killed had been reported, along with false reports of about twenty to twenty-eight civilians being killed by artillery

fire. Luckily for Medina, the order was rescinded by Major General Koster, who felt that it was too dangerous for C Company to return.⁵⁰

Other investigations were made. Colonel Henderson was asked to investigate allegations of civilian deaths made by WO Thompson. This investigation was defunct from the beginning because Henderson was investigation his own command. Furthermore, very little investigating took place. The majority of it consisted of brief interviews done with a few members of C Company on March 18th. Colonel Henderson's reported that twenty civilians were killed by either artillery or gunship fire, and that WO Thompson's allegations were unsubstantiated. This report was accepted by both Major General Koster and Brigadier General Young.⁵¹ The My Lai cover-up stretched all the way to the top of the Americal Division. As far as the U.S. Army was concerned, the operation at My Lai had been a resounding success. An official Combat Action Report filed by Colonel Barker stated that 128 VC were killed. Furthermore, this report stated that 200 civilian personnel were evacuated from the area by ground units and helicopters (for a complete version of this report, please consult Appendix C).⁵² Both of these things were obviously lies; however, this report reached General Westmoreland, MACV Commander, and prompted him to send a congratulatory message back to the unit.⁵³

The truth was finally exposed by a soldier named Ronald Ridenhour. He heard the story of My Lai 4 from some of the men who had been there and had committed atrocities. He took it upon himself to investigate the claims, and, after returning to the U.S., he sent a letter to thirty important officials in Washington D.C., including President Nixon, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff.⁵⁴ His Congressman, Mo Udall reacted immediately and asked Ridenhour if he could distribute

the letter to the House Armed Services Committee.⁵⁵ In their book, **Four Hours in My**

Lai, Bilton and Sim state:

Although Ridnehour heard nothing official from the Department of the Army for two weeks, his letter had provoked an instant reaction. Within two days congressional staffers from four separate offices on Capitol Hill began calling their contacts at the Pentagon across the Potomac River. Copies of Ridenhour's letter were passed through the congressional liaison section of the Department of the Army. Another copy, sent to the Chairman of the Joint Chiefs, General Earle "Bus" Wheeler, was forwarded to the office of the Army Chief of Staff. Westmoreland found it impossible to believe American soldiers would engage in the mass murder and ordered an immediate inquiry.⁵⁶

This letter had blown the lid off of My Lai, and prompted a thorough investigation of the events, an investigation which culminated in the Peers Commission Report, which has been cited several times in this work.

When the dust finally settled, very little was done. Of all the people implicated by the Peers Report, only one person was convicted, Lieutenant Calley, 1st Platoon, C Company. Other members of 11th Brigade had the charges against them dismissed, while the few who did go to trial were acquitted. Calley was initially sentenced to life in prison at hard labor, but his sentence was eventually reduced by several back and forth legal battles. On November 9th, 1974, Calley was paroled after only serving three years and eight months.⁵⁷

My Lai: What Rules Should Apply

With My Lai, we see a case where the only actions that could possibly be mitigated were the mercy killings that took place of badly wounded civilians. In the aftermath of My Lai, the only person convicted of wrongdoing was Lieutenant Calley. Everyone else was either acquitted or had the charges against them dropped.

These other people were no less guilty than Lieutenant Calley, and yet they were not convicted. How can it be the case that so many people got away with murder? This is what happened in the aftermath of My Lai. In contrast, the trials associated with Abu Ghraib are just beginning, but at least there are trials.

The fact that justice was not truly done does not somehow justify or excuse the actions of the men that day. Their actions can be divided into several categories. First and foremost were the mass killings of the civilian population that took place. These have been discussed in some detail in the previous section. These actions will be looked at again in order to determine if they can somehow be excused or justified. Secondly, many rapes took place. These will be looked at as well. Third, the mercy killings of wounded civilians will also be analyzed.

When asked to explain why they did what they did, soldiers claimed that they were just following orders. Can “I was just following orders” excuse these horrible actions? Furthermore, there was also a revenge factor at play. These soldiers had been suffering casualties from an enemy they had not yet seen. Can this revenge factor perhaps justify these actions?

The soldiers who took part in the massacre thought that it did, especially the idea that they were just following orders. Michael Walzer calls this “[t]he defense of superior

orders.”⁵⁸ It is a radical process to become a soldier. People are trained to do things that they would never do in their normal lives. Following the orders a commanding officer is of utmost importance, and soldiers are trained to obey. So, if it was true that these soldiers were ordered to kill everyone in the village, it would seem that their actions could be excused. It is not that simple, though. American soldiers are also trained that they should not follow orders that are illegal. Walzer argues that this defense of “superior orders” is really two arguments which must be satisfied in order for it to be successful, which are “a claim of ignorance” and a “claim of duress.”⁵⁹ The author believes that the American soldiers at My Lai fail to satisfy either of these arguments. There was very little duress at My Lai, as there was no enemy threat, nor were the soldiers forced to carry out the actions because of threat. Furthermore, the soldiers were not ignorant of the questionable character of their actions. This can be shown by the fact that not everyone took part in the massacre. If they knew, their colleagues knew as well. Even these soldiers who did not participate are not without some responsibility, though, for they should have reported the atrocities they witnessed. If an order to kill civilians was given, it would have been obviously illegal and should not have been followed. “I was just following orders” did not work for the Nazi and Japanese war criminals, and it should not work for U.S. soldiers either.

There is no doubt that some of the men saw My Lai as their chance for revenge. They had been taking casualties from these unseen forces for months, which had been a serious blow to the unit’s morale. They had also been led to believe that they were going to face this same enemy that day in My Lai. Though this cannot justify the atrocities

committed by American soldiers, perhaps they can be excused. Perhaps the actions of the soldiers can be understood given the situation that they faced.

Not to be overlooked in all of this is the element of racism that ran rampant amongst U.S. forces in Vietnam. The Vietnamese were known by many names, the most polite of which was “Charlie”. Other names were “dinks”, “slants”, and “gooks”. This degradation is not that uncommon historically. During World War Two the Germans and Japanese were known as “krauts” and “japs”. World War One saw the Germans personified as the “Hun”. Soldiers do this to separate themselves from their enemy. Soldiers must try to distance themselves from the men they are trying to kill. However, in Vietnam, this racism was not only confined to the NVA and the VC. Every Vietnamese person was known by these names. This goes beyond soldiers distancing themselves from their enemy. Instead, it is more like what the Nazis did to the Slavs and Jews during World War Two. Over time, the effect is a dehumanizing one. This is a very slippery slope. Once a person, or a group of people, is seen as less than human, it becomes much easier to do terrible things to them. As a matter of fact, it is a key component of this process. The Nazis did it during World War Two, the American soldiers did it during Vietnam, and the results were similar.

In addition, another factor was the entire U.S. approach in Vietnam was flawed from the beginning. The emphasis on body count was a wrong way to approach the war. Not only is it an unsound measure of success, but it has serious moral consequences as well. First of all, a body count system is very inefficient. It leads to widespread falsification of numbers by the soldiers on the ground. At best, soldiers just lied outright. At worst soldiers lumped any Vietnamese they killed into their body counts. It really did

not matter if they were men, women, or children. Once they were dead, they all became VC. Col. Barker's false report of 128 VC killed is a perfect example of that. As mentioned earlier, there is also a moral problem with this approach. Deaths will occur in war; however, wars should be fought in such a manner as to limit the number of casualties. A war in which there are fewer casualties is always preferable to a war in which there are more casualties. The appearance of success in a body count approach runs contrary to this for it encourages more and more killing and not on winning the war. This also adds to the dehumanizing effect as the enemy cease to be people, and instead become numbers.

The author, however, feels that all of these factors and incidents cannot excuse the actions of the American soldiers at My Lai. War is a difficult endeavor during which men will be killed and injured. Soldiers have to be able to deal with things like this in order to do their job. Above all, they cannot take out their angst and anger on innocent civilians. There is also little debate over the rapes that occurred. Crimes of this nature can in no way be excused or justified. They do not accomplish some military objective. Instead, they represent nothing but sadistic cruelty.

What of the mercy killings, though? If any of the things done by American troops that day can be excused or justified, it is these mercy killings. They pose a difficult question. Soldiers kill all the time, but they are supposed to be killing the enemy. These people were civilians. The men who participated in these actions justified them by arguing that they were doing the wounded civilians a favor. These terribly wounded civilians were not going to receive any medical attention, and were going to die anyway. The soldiers just lessened their suffering. In essence, it is an argument for

euthanasia. In general, the author believes that it is possible to excuse some of the mercy killings; however, this decision comes with conditions. First, such an action could only be excused if the wounded civilian was actually going to die. If the civilian could have lived with proper medical treatment, then the soldier did not lessen his or her suffering, but instead committed murder. Second, the soldier must be doing it for the right reasons. In other words, the soldier must be really trying to help the wounded person through their actions. If the soldier gets even the slightest bit of enjoyment out of killing that person, then the soldier is doing so for the wrong reasons, and the killing cannot be justified. Whether or not these conditions were met at My Lai is a subject for debate.

Civilian casualties are to be expected in warfare, especially when the warfare is irregular jungle combat faced by American soldiers during Vietnam. However, what happened at My Lai on March 16th, 1968 was not justifiable, excusable, or even understandable. It was outright murder. It was carried out in a systematic manner, and it was premeditated. American troops raped and killed the villagers in the streets and in their homes. They gathered them together and killed them in mass numbers. If no one told who the parties were, or where these events took place, you would think it was something done by the Nazis during World War Two. These crimes were not committed by the Nazis, they were crimes committed by Americans. Despite all this, only one man was punished for the crimes committed that day, and his sentence was a relative slap on the wrist.

Over the preceding paragraphs we have determined which of the actions at My Lai were wrong; however, it is not that easy. To make the statement that these actions

were wrong is not enough, for it must also be shown why these actions were wrong. This is not an easy thing to do. There are questions that first must be answered.

What about My Lai made it so horrible? Was it the concept of murdering civilians? Unfortunately, the U.S. is not above killing civilians and has done so before. As a matter of fact, it has been part of U.S. military strategy. The clearest example of this can be found in the strategic bombing campaign of World War Two. These raids were responsible for the deaths of hundreds of thousands of civilians. Cities like Hamburg, Dresden, and Tokyo were firebombed. Hiroshima and Nagasaki were leveled by the first atomic bombs. One bombing raid during World War Two was capable of killing many more people than were killed at My Lai. Does this make the U.S. actions during World War Two wrong as well?

The author would argue “NO”, although he does not come to this conclusion easily. The conclusion can be drawn, though, for a variety of reasons. It is true that the deaths of civilians are always tragic, and, all things being equal, an action that results in the fewer deaths of civilians is better than an action that results in more. The question still remains, though, why were the civilian deaths suffered during World War Two morally OK, but not those at My Lai? The answer can be found in what purpose these deaths served. The purpose of the bombing raids of World War Two was to destroy the German ability to fight the war. These bombing raids generally tried to target refineries, factories, and industrial plants. However, due to the inaccuracy of these bombing raids, the factories were not always the only thing hit. In his book, Just and Unjust War, Michael Walzer argues that actions which have evil consequences, like these bombing raids, can be permitted if the following four conditions are met:

- 1) The act is good in itself or at least indifferent, which means, for our purposes, that it is a legitimate act of war.
- 2) The direct effect is morally acceptable-the destruction of military supplies, for example, or the killing of enemy soldiers.
- 3) The intention of the actor is good, that is, he aims only at the acceptable effect; the evil effect is not one of his ends, nor is it a means to his ends.
- 4) The good effect is sufficiently good to compensate for allowing the evil effect; it must be justifiable under Sidgwick's proportionality rule.⁶⁰

Walzer uses the bombing of the heavy water factory located at Vemork, in occupied Norway, during World War Two as an example. Allied planners had two options to destroy the plant. The first option was to use commandos to destroy the plant. The commando option was attempted twice. The first time resulted in the deaths of thirty-four British soldiers and was a complete failure. A second attempt was successful and, to the surprise of everyone, incurred no losses. Time passed and the factory was rebuilt, this time with tighter security. The factory had to be destroyed again, but it was decided this time to use a bombing raid. The raid was successful, but cost the lives of twenty-two Norwegian civilians. Walzer argues that the bombing of the factory meets his four criteria. Furthermore, if the Allies had wanted to, Walzer believes that it could have been justified the first time around as well.⁶¹

The author believes that the bombing campaign during World War Two meets Walzer's conditions. It was accepted at the time as an act of war, its goal was morally acceptable as it sought to destroy Germany's ability to fight, the intention of the act was good as it sought to defeat Germany, and finally the positive effects of Germany's defeat outweighed the negative effects of the civilian deaths.

The object of the bombing campaign was not to kill innocent civilians. Instead it was to destroy the enemies' ability to fight. Civilians worked in these factories and thus

faced the consequences. Often times these factories were located in civilian areas, which were then at risk due to the inaccuracy of the bombs. Even the firebomb raids can be seen as a method of “dehousing” the enemies workforce and thus affect production. At the time the actions were carried out, it was a matter of military necessity.

Once again the question arises, why these actions were justifiable, but not the actions of the soldiers at My Lai? Military necessity can be seen as a justification for some civilian deaths in Vietnam. For example, if U.S. forces received fire from one of a village, then they were justified to return fire. If Vietnamese civilians were killed in the ensuing crossfire between enemy and American forces then their deaths were a tragedy, but were excusable. This was not uncommon. VC and NVA forces often used villages as bases of operation.

How about attacking the villages themselves? Many villages wholly supported the VC and NVA efforts. If World War Two is used as a precedent, it is possible to see a possible justification for these attacks. After all, the wholesale bombing of cities during World War Two was a common practice. However, actions of this type can not be justified in this manner. The difference lies with the type of war that was being fought. World War Two was a total war against an industrialized enemy with clear lines marking friend and foe. Vietnam was a guerrilla conflict where the battle to win hearts and minds was as, if not more, important than the battle against the VC and NVA. Furthermore, these Vietnamese villages were far from industrialized cities. There was nothing in these Vietnamese villages to attack in the same sense as the cities attacked during World War Two.

Many have argued that My Lai and its population was a legitimate target for destruction because of its support of the NVA. However, the author has already argued that this alone is not a justification. Once again Walzer's criteria can be used to analyze this event. If one argues that the destruction of My Lai was a legitimate act of war, it is easy to see that it was morally unacceptable, the intention of the actions was not good, and any possible good was far outweighed by the evil that took place.

Nor can the destruction of the village and the civilian deaths be seen as a result of combat action between U.S. and enemy forces. This is because there was no battle! There was no way that these civilians could be seen as the enemy. They were old men, women, and small children. Even if they were VC sympathizers, they posed no threat. There was no need to kill them. As a matter of fact, such actions were counterproductive. As mentioned earlier, the war in Vietnam was not only about defeating the enemy, but was also about winning hearts and minds. It is impossible to win the hearts and minds of civilians when they are dead. If the horrible actions committed at My Lai are set aside, it is still impossible to justify or excuse it as only a military operation.

The truth of the matter was that even the South Vietnamese government considered My Lai and its inhabitants to be enemies in enemy territory. Their death and destruction was ignored by the South Vietnamese government. But the United States must hold itself to a higher standard and take the moral high road. Allied bomber pilots during World War II took many steps to limit the civilian casualties they inflicted, often at great risk to themselves. The moral high road may call for increased risk to the U.S. and its armed forces, but it must be done if the nation wishes to justify its actions. Otherwise, we will be no better than the enemy we are trying to defeat.

So what lessons can be learned from My Lai? The most obvious is not to massacre large numbers of civilians when trying to “win the hearts and minds” of the local population. There are more specific lessons as well, one of which is that the importance of training can not be overlooked. Soldiers must both understand and respect the rules and laws of war. If they do not, then they will never respect these laws when faced with these situations. Men must also be properly led. Even if the commanders in the field did not give the order to kill everyone in the village, they did know what was going on. Instead of stopping it, they allowed it to happen. Instead of taking responsibility and reporting what happened, they engineered a massive cover-up. If things like this ever happen again, then the men or women responsible must be punished to the full extent of the law. Instead, the guilty were allowed to get away with their heinous crimes. These things run counter to everything for which America is supposed to stand. They should not have occurred then, and they should not ever be allowed to happen again.

Abu Ghraib: The History

Much has been written in the news about the events that took place at Abu Ghraib. For a while, the details of what went on there were at the front of America's, as well as the world's, attention. Since then the attention of the nation has been drawn away to other topics and events. However, these incidents are certainly not forgotten. As proof, the United States military has prosecuted several of the soldiers who have been accused of abuse. Some of the most damning evidence has been in the form of photographs taken of detainees showing them naked and performing demeaning acts, often with smiling guards in the background.

Many excuses have been given for what went on at Abu Ghraib. Many soldiers claimed that they were just following orders. Some blame confusing and conflicting policies. Needless to say, the blame rests on many people up and down the chain of command. This section will examine where the blame lies.

Much of what went on at Abu Ghraib was clearly wrong. Photographing naked detainees who were forced to perform mock sexual acts on one another is clearly a violation of not only the Geneva Conventions, but also of decent moral standards. However, what about just removing their clothing as a method of interrogation?

One must keep in mind that the United States has recognized the prisoners in Iraq as being protected by the Geneva Conventions; however, the government is now beginning to waver when it comes to non-Iraqi prisoners captured in Iraq.⁶² Still though, the vast majority of prisoners in Iraq, including those at Abu Ghraib, ARE protected by the Conventions.



The photo pictured left was taken of prisoners at Abu Ghraib, and is one of many taken (for more photos please consult Appendix D).⁶³ The very existence of this photo is an abuse of these prisoners' rights under the Geneva Conventions. Convention III, Part II, Article 13, paragraph 2 states that "...prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity." Furthermore, Convention III, Part II, Article 14, paragraph 1 states that "Prisoners of war are entitled in all circumstances to respect for their persons and their honour."⁶⁴ Obviously, this photo subjects these prisoners to public curiosity and disrespects their honor. The soldiers who took these photos claimed that they had been ordered to "soften up" the prisoners before interrogation. Even if this were true, and the United States government is arguing in prosecuting these soldiers that it is NOT the case, can "we were just following orders" justify actions that were clearly wrong?

The answer to this question requires an investigation into exactly what happened at Abu Ghraib. At the end of major combat actions, Lieutenant General Ricardo Sanchez

was placed in command of Combined Joint Task Force-7 (CJTF-7). The forces under his command numbered around 180,000 and included the 205th MI Brigade and the 800th MP Brigade who would eventually be responsible for Abu Ghraib. It was planned that CJTF-7 under General Sanchez would begin stability and support operations (SASO); however, it soon became apparent that the war had not ended and they were faced with a major counter-insurgency operation.⁶⁵ This caused many logistical problems as General Sanchez had to divide his limited resources to both the SASO operations and to countering the insurgency. As a result, at times units would not be able to get all of the supplies and troops they needed.

In addition, the ad hoc way that CJTF-7 was organized would also lead to problems. For example, though it was under the command of CJTF-7 in Iraq, the parent unit of the 800th MP Brigade, the 377th Theater Support Command, was in Kuwait. According to the Operations Plan for the theatre, the Command Forces Land Component Command (CFLCC), which was in reality the U.S. Third Army (ARCENT), was directly responsible for supplying and supporting the 800th MP Brigade. However, CJTF-7 was the one responsible for CFLCC missions and operations in the Iraqi Theater of Operations (IT O). Due to this arrangement, the 800th MP Brigade retained Tactical Control of its operations.⁶⁶ Due to this ad hoc arrangement, the 800th MP Brigade failed to receive much of the support it needed to complete its mission.

Another major problem faced by CJTF-7 was the very nature of its mission. Initially, it was expected that tens of thousands of enemy prisoners of war would be captured during the major combat operations; however, for several reasons these numbers failed to materialize. As a matter of fact, by May 2003 it was estimated that only 600

detainees were being held, and these were a combination of enemy prisoners and criminals. As a result, many of the additional military police detachments that had been earmarked for deployment were demobilized.⁶⁷ Therefore, once the insurgency began, American forces found themselves unprepared for the large influx of detainees. This situation was complicated further by the fact that American forces had to take on more and more tasks in an effort to not only rebuild Iraq, but also to try to defeat the insurgency.

The interrogation of new detainees swiftly became a massive undertaking, and CJTF-7 recognized the fact that a location was going to be necessary to house this operation. Abu Ghraib was selected by Ambassador Bremer after consulting with LTG Sanchez. It was envisioned as being only a temporary facility to house criminal detainees; however, following operations during summer 2003, it was also selected as the detention facility for security detainees.⁶⁸

The selection of Abu Ghraib as a detention facility was a mistake. Its location, next to an urban area, as well as its large detainee population in relation to number of MP's, made it impossible to provide necessary security for the facility.⁶⁹ The types of interrogation operations that were being carried out at Abu Ghraib would have been much more effective in safely controlled territory, instead of in the middle of hostile territory, as was the case. Because of its location, Abu Ghraib came under constant attack from the outside, causing casualties for the United States forces as well as among the detainees.

In addition, there were problems with command and control at Abu Ghraib itself. The 800th MP Brigade was in overall command, and it initially designated the 320th MP

Battalion as the unit specifically in charge. The 205th MI Brigade was in charge of screening and interrogating detainees.⁷⁰ However, as the needs of the facility were increased, more units would be assigned to Abu Ghraib in an ad hoc fashion. In addition, civilian contractors were used at the facility to plug needed gaps. The whole Abu Ghraib operation was disorganized from a command and control perspective, and a lack of communication and cooperation between these groups caused problems at the facility as well.

Added to all of this was a conflicting policy coming from CJTF-7. This problem has roots as far back as the war in Afghanistan and the detainees at Guantanamo. In a February 7th, 2002 memo the President decided that the Geneva Conventions did not apply to al Qaeda troops captured in Afghanistan.⁷¹ Until that time, all interrogators were using the standard techniques laid out in Army Field Manual 34-52 (see Appendix E for full listing of interrogation techniques and their evolution). However, in December of 2002, Secretary of Defense Donald Rumsfeld authorized sixteen additional interrogation methods above and beyond those laid out in FM 34-52.⁷² These additional techniques included yelling, isolation for up to thirty days, hooding, removal of clothing, exploiting individual phobias (e.g. dogs), mild, noninjurious physical contact, etc.⁷³

These additional techniques were only intended for use on tough al Qaeda prisoners at Guantanamo. However, because of objections and concerns, this policy was rescinded and interrogation guidelines essentially returned to FM 34-52. If any of the harsher methods were deemed necessary, permission for their use could be requested from the Secretary of Defense.

A third revision to the Standard Operating Procedure was made on April 16th, 2003. This policy outlined additional techniques that could be used, four of which required notifying the Secretary of Defense before use. Once again, this policy was intended for use only on the detainees being held at Guantanamo. If any techniques above those approved were needed, they could be requested in writing, along with the reasons why they were needed, as well as a list of recommended safeguards.⁷⁴

In addition, there were conflicting policies in Afghanistan as well. FM 34-52 had been intended as the basis for interrogations since the government claimed that Taliban prisoners fell under the Geneva Conventions; however, it was widely known that other methods not laid out in FM 34-52 were being used. Some of these techniques were even included in a Special Operations Forces Standard Operating Procedure. Various units that would later work in Iraq were exposed to these additional techniques.⁷⁵

Meanwhile, in Iraq, Central Command ordered that the standard FM 34-52 procedures be used since Iraqi forces obviously fell under the protections of the Geneva Conventions. Problems began cropping up almost immediately, however. In August 2003, MG Geoffrey Miller gave to CJTF-7 a copy of the Secretary of Defense's April 16th policy, a policy which was supposed to be used only in Guantanamo, to use as a guideline for creating a command-wide policy. In their report, the Schlesinger panel also noted that "there was also a store of common lore and practice within the interrogator community circulating through Guantanamo, Afghanistan and elsewhere."⁷⁶

All of this came to head in the first theater policy issued by CJTF-7 on September 14th, 2003. This policy included elements from the policies used at Guantanamo and used by Special Operations Forces. In essence, policies that had been approved for use

against prisoners not afforded protection under the Geneva Conventions would be used on prisoners who were protected. Central Command immediately disapproved of this policy, and another was issued by CJTF-7 on October 12th, 2003. This October 12th policy, however, was almost the same as a 1987 version of FM 34-52. In this version, interrogators were authorized to control all aspects of the interrogation, “to include lighting and heating, as well as food, clothing, and shelter”, a statement which had been specifically omitted from the 1992 version in use today.⁷⁷ This confusion over policy made it extremely difficult for the commanders in the field to know what was and was not allowed, and thus left the door open for many abuses.

Many elements played a factor in the abuse at Abu Ghraib; however, these elements alone are not to blame. That guilt still rests in the hands of the individuals who perpetrated the crimes. The vast majority of soldiers in Iraq are doing a fine job given the harsh and stressful environment in which they functioned. Even at Abu Ghraib, the truly horrible crimes were committed by a minority of people.

It is important for us to understand that there were two kinds of abuse being committed at Abu Ghraib, although both violated the Geneva Conventions. The first kind can be called systemic abuse, that is, abuse caused by the system itself. The second can be called sadistic abuse, or abusing the prisoners for the sake of abuse. Both kinds will be examined here.

Systemic abuse at Abu Ghraib was widespread and varied in nature and severity. Multiple reports have come out of Abu Ghraib that prisoners were stripped and placed in isolation, that on occasion dogs were used during interrogations, etc. Many of these incidents seemed related to interrogations that were being carried out by Military

Intelligence. They were used as a direct part of the interrogation or as a means of “fearing up or down” a detainee before the interrogation took place.

For example, in one incident on September 19th, 2003 an interrogation team consisting of three soldiers and one civilian contractor went to the cell of a detainee. The prisoner was naked, except for an empty Meals-Ready-to-Eat (MRE) bag being used to cover his genitals. The prisoner was forced to raise his hands, thus allowing the bag to fall and exposing him to the interrogation team, two of whom were women. The interrogation then proceeded with the incentive of getting his clothes back.⁷⁸ This incident is a clear violation of the prisoner’s rights, though the interrogators believed that they had the authority to use clothing as an incentive. Furthermore, they took no steps to hide their actions in any way. However, even if these techniques had been approved, having the detainee expose himself to the females is humiliation and violates the prisoner’s rights under the Geneva Conventions.

Another incident involved stripping a detainee as a direct method of interrogation. The removal of clothing was in response to the detainee pushing an analyst. It began with the prisoner’s shoes. What followed was described by MG Fay as being “a bizarre tit-for-tat scenario...where SOLDIER-29 (the interrogator) would warn the detainee about touching SOLDIER-10 (the analyst), the detainee would “touch SOLDIER-10, and then had his shirt, blanket, and finally pants removed.”⁷⁹ Though the stripping of the detainee was accepted by the command staff at Abu Ghraib, the escorting of him across the compound wearing only his underwear and carrying his blanket was not. SOLDIER-29 and SOLDIER-10 were both removed from their interrogation duties in response to their walking the prisoner across the camp, and not for stripping the prisoner in the first

place. Once again, this is a clear violation of the prisoner's rights under the Geneva Conventions, even though it was condoned by commanders at Abu Ghraib.

Other incidents took place, but many of them teeter on the border between systemic and sadistic abuse. Prisoners were often forced to wear nothing but women's underwear. Various factors were given as reasons. Some soldiers at Abu Ghraib claimed that there was a shortage of clothing and the women's underwear was the only thing available. It could also be seen as an incentive technique to aid in interrogations. Though these explanations are a stretch of the imagination, they are at least possible. However, when the prisoner is forced to wear his underwear on his head while being



cuffed in a stress position, as is seen in the picture left, very few excuses can be given.⁸⁰

Isolation was also used as a technique used by interrogators at Abu

Ghraib. Isolation was a term that was used to refer to a variety of different settings. Segregation is a valid technique whereby prisoners are placed in separate cells to limit their communications, although this is sometimes incorrectly referred to as "isolation." There were true isolation cells in Tier 1A at Abu Ghraib with solid doors that could be shut, as well as a small room, called the isolation "Hole." At Abu Ghraib, isolation was

not only being used as a method of keeping prisoners separated, but also as a sensory deprivation technique. The use of these rooms should have been strictly controlled, but they were not. As a result, prisoners were often exposed to harsh conditions of extreme heat and cold.⁸¹

One example of the use of isolation took place on November 12th, 2003 in which a detainee had been placed in isolation. Interrogators noted that a detainee “feared the isolation Hole, and it made him upset, but not enough to break,” and in another instance on December 8th, 2003 it was recommended that the detainee be moved to the Hole, and he was told “his sun [sunlight] would be taken away, so he better enjoy it now.”⁸²

On occasion, dogs were also used during interrogations at Abu Ghraib. The presence of dog units at Abu Ghraib was not unusual, as such units are often used for camp security and patrolling. What was unusual was the use of dogs to “fear up” prisoners before or during interrogations. The use of dogs as an interrogation technique is a clear violation of the prisoner’s rights under the Geneva Conventions. The dog teams at Abu Ghraib came from both the Army and Navy. After some disagreement the Navy dog teams were attached to the base’s Internal Reaction Force (IRF), though the Army teams remained under a different command. MG Fay notes in his report that the “...Navy dog teams were properly employed because of good training, excellent leadership, personal moral character, and professionalism exhibited by the Navy Dog Handlers MA1 Kimbro, MA1 Clark, and MA2 Pankratz, and the IRF personnel,” where as “[t]he Army teams apparently agreed to be used in abusive situations by both MPs and MI in contravention to their doctrine, training and values.”⁸³

There are several incidents in which abuse with dogs took place. The first documented incident took place on November 24th, 2003 after an Iraqi Police Guard smuggled a pistol in to a detainee. An MP was shot while trying to confiscate the weapon and, as a result, several interrogators were dispatched to the “Hard Site” (which was the name for the cell block) to interrogate eleven Iraqi Police who had been detained. A Navy dog team was also dispatched to search the Hard Site for additional weapons or explosives, and after completing their search, the dog team left the block. Soon afterwards, though, MA1 Kimbro, USN, was recalled when someone requested a dog. Kimbro reported that he went to the top floor of Tier 1B, and, as he and his dog approached a cell, he could hear yelling which agitated his dog. Inside the cell were three civilian contractors yelling at detainee at the back of the cell. MAI Kimbro’s dog was barking with the commotion and lunged forward, which caused Kimbro to struggle to regain control of the dog. At this point one of the contractors is quoted as to have said, “You see that dog there, if you don’t tell me what I want to know, I’m gonna get that dog on you.” At this point Kimbro and the contractors began to exit the cell, but as they did the dog lunged forward again. Kimbro regained control of the dog and quickly exited. Kimbro left the area with his dog and as he reached the bottom of the Tier’s stairs could hear someone calling for a dog again, but he did not return.⁸⁴ Following this incident the Navy dog teams came to the conclusion that some interrogators might try to misuse their teams. In response to this concern, they inquired into the specific need for the dog. Any time they were told that it was for interrogation, they would refuse the request.⁸⁵

This example was obviously an abuse of the prisoner’s rights, but responsibility for it lies with the civilian interrogators and not the Navy dog team, which was at the

wrong place at the wrong time. In contrast, in other incidents some dog handlers were also responsible.

In one such incident, circa January 8th, 2004, an interrogator witnessed an Army dog handler enter a cell in which two juveniles were housed with his leashed, but unmuzzled, dog. The dog was allowed to “go nuts on the kids” by barking and scaring them. Afterward, the interrogator overheard the Army handler report that he had a competition with another handler, more than likely the second Army handler, to see if they could scare any of the detainees so badly that they would defecate. It seemed that they had already made some prisoners urinate and that they were taking the competition to the next level.⁸⁶

In another incident a Syrian detainee of high intelligence value was interrogated using a leashed, but unmuzzled dog.⁸⁷ In addition to reports of this incident, there is also photographic evidence, a photo of which can be seen at right.⁸⁸ The dog can be seen a few feet



away from the prisoner, who is kneeling on the floor and appears to be recoiling in fear with his wrists bound behind his back. The dog handler in the picture is identified as

SOLDIER-27 in MG Fay's report. SOLDIER-27 also happens to be the handler involved in the incident with the two juveniles mentioned previously.

In addition to these abuses that took place, another disturbing situation existed at Abu Ghraib. This situation was the presence of "Other Government Agencies", or "OGA's", at Abu Ghraib. The vast majority of the "OGA" personnel were CIA agents. The CIA was allowed to run their own interrogations at Abu Ghraib using policies which often ran contrary to the operating procedures at Abu Ghraib.⁸⁹ Many of these interrogations involved "ghost detainees" who were not accounted for by the authorities at Abu Ghraib.⁹⁰

In one incident, involving the CIA, a detainee was brought to Abu Ghraib on November 4th, 2004 after being captured by a Navy Seal Team. The detainee was placed in a shower room on Tier 1B, where he was left. The authorities at Abu Ghraib had not been informed of the detainee's arrival, due to an arrangement they had with the CIA about such prisoners. The prisoner died from a blood clot in the head, likely due to injuries received during capture. If the detainee had gone through the proper channels he would have been medically screened upon arrival and his injury might have been caught.⁹¹

Another form of abuse also took place at Abu Ghraib. As mentioned earlier, this abuse was far more sadistic in nature. The abuses that were mentioned in the previous paragraphs often displayed some of these sadistic tendencies, but arguably have roots in the breakdown of the system itself. But in addition to these, there are incidents that were purely sadistic. While one can argue that the stripping of detainees came from a misunderstanding of orders, one cannot blame the "dogpiling" of naked detainees and

then photographing it, as can be seen in the photo to the right, on a misunderstanding, even though the accused soldiers have tried to claim that very thing.⁹² They attempt to explain their actions by saying that they were only fulfilling the requests of Military



Intelligence to “soften-up” these detainees before they were interrogated. Even if this were true, these soldiers should have known that these actions violated the prisoners’ rights.

In a sworn statement taken on January 20th, 2004 a detainee by the name of Hiadar Sabar Abed Miktub Al-Aboodi testified that the following events took place (for more sworn statements, please consult Appendix F):

When first I went to the hard site the Americans soldiers took me, there were two soldiers, a translator named Abu Hamed. We stood in the hallway before the hard site and they started taking off our clothes one after another. After they took off my clothes the American soldier removed who was wearing glasses, night guard, and I saw an American female soldier which they call her Ms. Maya, in front of me they told me to stroke my penis in front of her. And then they covered my head again, and as I was doing whatever they asked me to do, they removed the bag off my head, and I saw my friend, he was the one in front of me on the floor. And then they told me to sit on the floor facing the wall. They brought another prisoner on my back and he was also naked. Then they ordered me to bend onto my knees and hands on the ground. And then they placed three others on our backs, naked. And after that they order me to sleep on my stomach and they ordered the other guy to sleep on top of me in the same position and the same way to all of us. And there were six of us. They were laughing, taking picture, and they wrote on our bodies in English. I don’t know what they wrote, but they were taking pictures after that. Then, after that they forced us to walk like dogs on our hands and knees. And we had to bark like a dog and if we didn’t do that, the start hitting us hard on our face and chest with no mercy. After that, they took us to

our cells, took the mattresses out and dropped water on the floor and they made us sleep on our stomachs on the floor with the bags on our head and they took pictures of everything. Mr. Joyner shows up in the morning and give us our mattresses, tie our hands, hit us and don't give us food. All that lasted for 10 days...⁹³

This sworn testimony details several different ways in which the prisoners' rights under the Geneva Conventions were violated. The stripping of clothing demeans the prisoner. Furthermore, the forced masturbation before the female guard is not only demeaning, but also is sexual exploitation. The photographs that were taken also humiliate and demean the prisoner, and several instances of physical abuse were mentioned. It is also important to remember the fact that the removal of the mattresses and the food deprivation violate prisoners' rights as well.

In addition to incidents of stripping, high cuffing, and beatings, one prisoner reports several incidents of sexual abuse. At one point in his sworn statement, the prisoner reports the one of the guards "put...part of his stick that he always carries inside (the prisoners) ass and (the prisoner) felt going inside (him) about 2 centimeters..."⁹⁴ After this the prisoner reports that "two American girls that were there when they were beating me, they were hitting me with a ball made of sponge on my dick. And when I was tied up, one of the girls...was playing with my dick."⁹⁵ These incidents mark clear sexual assault against the prisoner. Nothing about this incident can be blamed on a misunderstanding of orders. There are no conflicting policies or regulations concerning the proper way to sexually abuse a prisoner. It just marks clear savagery on the part of the MP's.

It is interesting to note that the majority of the sadistic incidents appear to be committed by a minority of the night shift at Abu Ghraib. Many of the sworn statements

refer to the same people repeatedly as the ones who committed these crimes. It is important to note that these crimes have not gone unpunished. To date, several convictions have been made by military courts. It is ironic that the very photos these individuals took, which were in themselves a violation of the prisoners' rights, have often been the most damning evidence.

Abu Ghraib: What Rules Should Apply

As a whole, the soldiers in Iraq are doing an excellent job, but instances of systemic and sadistic abuse have occurred. The scope and intensity of the insurgency at the end of major combat took American generals and political leaders by surprise. The soldiers in the field had not been prepared for such circumstances, and the commanders found themselves with resources insufficient to counter the new threats and rebuild Iraq at the same time. In this environment Abu Ghraib was established. In retrospect, the rules are clear. The prisoners at Abu Ghraib fell under the protection of the Geneva Conventions, and their rights were clearly violated. So, who is to blame for these incidents? Does the responsibility lie with the soldiers who were the violators, or does the responsibility lie with the commanders who failed to prepare the men and pushed forward a conflicting policy that laid the groundwork for the abuse? The men in the field knew what the Geneva Conventions were, and they should have known that what they were doing violated them. However, the commanders should have taken greater steps to prepare and train the men and should have put forth a clear policy for interrogations. The answer to these questions of responsibility that Fay, Jones, and Schlesinger reached in their reports was “both” and is a position that this author holds as well. As for the institutional abuse at Abu Ghraib, both the individual soldiers and the commanders share responsibility.

Can one either excuse or justify the setting aside of the Geneva Conventions for any reason? This is the question that must be answered, and it is certainly not an easy one. Philosophically, it can be seen as a question of utilitarianism. If this is the case,

then the breaking of the rules can be justified if more good would come of it than would happen otherwise, especially if minor rules are being violated, such as the stripping of detainees or the use of dogs as a technique to “fear-up” a detainee. These techniques are not really all that harsh. In fact, when the interrogation policies were rewritten for the prisoners at Guantanamo these were part of them. They cause no permanent damage and when used properly can often lead to good results. Utilitarianism would suggest that these techniques could be justified if it is likely that a greater good could come of it. This conclusion might even be easy to accept given the circumstances.

What if the stakes are higher, though? What if valuable information that could save countless lives could only be extracted through the severe torture of a prisoner, such as severe physical and psychological abuse and long periods of being locked in isolation, as well as the more mundane stripings and sleep deprivation. All of these tactics were used at Abu Ghraib. Once again, utilitarianism states that such actions could be justified if a greater good was the result.

Many would argue that this is a slippery slope, which goes from minor infractions, to serious torture, to the killing of prisoners. After all, if a greater good could be achieved by the killing of a prisoner, then why not? In this situation, not only would such an action be excusable, but it would be justified.

It is the opinion of the author that this question is not so simple. As a philosophy, utilitarianism has many problems, the largest of which is how to determine the value of a good or evil, which is a key component of the math of utilitarianism. The author also believes that utilitarianism overlooks another intangible component when it does its math, which is the value of peoples’ humanity. The Geneva Conventions are based on the idea

that everyone has certain intangible rights as human beings, which must be protected. Therefore, the author argues that, as a general rule, the institutional abuse by the soldiers at Abu Ghraib cannot be justified, although some of the incidents can be excused because of the harsh environment and confusing policies. Many of the soldiers truly believed that what they were doing was not wrong. If that is the case, then it is hard to punish them for these actions. This is not to say that what they did is right. Instead, it says that steps should be taken to change the system and ensure that such incidents do not happen again. This can be done by meeting the needs of the soldiers in the field in terms of manpower and supplies, as well as providing them with the proper training and preparation before placing them in such situations. There is a need for unit specific training so that these soldiers are prepared for situations like these. In addition regular refresher courses in the Geneva Conventions, especially before overseas deployment, would ensure that these soldiers were aware of the rules. Mistakes will always be made in war, but policy makers must ensure they do not happen again.

Of course, the author does admit that in certain extenuating circumstances the rules could be bent or broken. However, those breaking the rules must be willing to face the consequences of their actions. The problem is when the exceptions become the rule. This is what happened at Abu Ghraib. Exceptions to the rules filtered in from Guantanamo and Afghanistan and became part of the standard operating procedures in Iraq, a situation that must be avoided.

Sadistic abuse poses a different question. Utilitarianism argues that violent and degrading tactics can be justified at times when greater good could be achieved from using them. However, one can argue that many of these incidents were not done to

achieve some greater good, and instead were just done for the sake of abuse. If that is truly the case, then the utilitarian argument for torture is irrelevant to these issues.

Take, for example, the use of dogs. The use of dogs at Abu Ghraib was a common interrogation technique, even though it was in violation of the rights of the prisoners. One could possibly see situations where the use of dogs to “fear up” detainees could prove a valuable tool. However, the competition between the Army dog handlers to see who could get a prisoner to defecate first oversteps all bounds. The same thing can be said for the stripping of the detainees. Nor can the author think of a justification or excuse for the taking of photographs of the prisoners while forcing them to perform mock sexual acts.

It is clearly wrong when someone carries out these actions for personal enjoyment. In fact, it would even be difficult to justify these actions if some greater good was at stake. It should be evident to any values-based society that the events at Abu Ghraib were inexcusable. To condone them would open up the door for similar actions in the future. Such actions can be prevented through proper training, screening, and commanding of soldiers in the field.

The events that took place at Abu Ghraib were wrong. That is clear. It is also clear that war on terror marks a major shift in how wars will be fought. The difficulties that have resulted from this shift have already been detailed, as have what changes need to occur. What has not been discussed is how these changes will be made. Michael Ignatieff also recognizes the problem that the war on terrorism poses for the U.S.

As a democracy, the U.S. believes that there are certain rights that should be protected. However, when there is a “state of emergency”, as Ignatieff calls it, these

rights become threatened.⁹⁶ Generally speaking, the rights threatened are those of the democracy, but these rights extend to all people, not just U.S. citizens. In addition, there are the Geneva Conventions that protect the rights of those that would oppose the U.S. There are those that would argue that in a war on terror the rights of the enemy should be set aside.

Ignatieff feels that all rights should not be thrown out, but that at times compromises must be made. He calls it a “lesser evil position” which he defines thusly:

...necessity may require us to take actions in defense of democracy which will stray from democracy’s own foundational commitments to dignity. While we cannot avoid this, the best way to minimize harms is to maintain a clear distinction in our minds between what necessity can justify and what the morality of dignity can justify, and never to allow the justifications of necessity—risk, threat, imminent danger—to dissolve the morally problematic character of necessary measures. Because the measures are morally problematic, they must be strictly targeted, applied to the smallest possible number of people, used as a last resort, and kept under the adversarial scrutiny of an open democratic system.⁹⁷

One key component of this is the idea of adversarial scrutiny in an open democratic system. In this situation it is less important for the general public to review these issues, for often the general public is ignorant of them. Instead, the review needs to be done, by those that have the independence and relevant knowledge to do so. For example, when the U.S. government created its policy for the tribunal system used at Guantanamo, it would have been helpful to consult its own JAG lawyers, which it did not do. As a result, this policy has been very ineffective and has been hotly contested.⁹⁸

Another key component is the idea of compromising on the rights usually guaranteed democratic rights. Ignatieff feels that, when it is necessary, such an action can be justified and rights can be compromised that would normally be fundamental.

This is a tough issue for Ignatieff, but he feels that it can be done, if done in a thoughtful manner which limits the rights violations.

Much like the war in Vietnam, the war on terror fought not only on the battlefields, but also in the hearts and minds of the people. By compromising on the rights accorded terrorists, the U.S. can more effectively win the war on the battlefield, but in doing so may lose the war for hearts and minds. A balance must be found in order to ensure a victory in both.

This, unfortunately, puts the democracy at a disadvantage. An example of this was when the reports of Abu Ghraib first came out. Many people tried to downplay them by claiming that the U.S. actions there were minor in comparison to the actions of Saddam or other terrorists. This is true. It is also not the point. If the U.S. wishes to win the hearts and minds of the world, it must retain as spotless a reputation as possible. The country cannot be seen as bending on these points. Terrorists, on the other hand, do not have such limitations. Ignatieff points out several groups that have used terrorism as either a tactic or strategy with mixed results. These include Lenin's Bolshevik putsch, the Tamil Tigers of Sri Lanka, the Palestinians, the FARC of Colombia, and the Sendero Luminoso of Peru.⁹⁹ An example that the author would like to use is the Iraqi insurgents and their policy of beheading hostages.

These insurgents do not have to worry about the "blowback" from their actions. They are not in the business of winning popular public support. Instead, they are in the business of gaining recognition of their cause through any means necessary. Honestly, negative reaction is just as good as positive reaction. The important part is the reaction. Whatever their goals, they use terror as a tactic to achieve them. The Iraqi insurgents

cannot defeat the U.S. on the battlefield. Their strategy must instead be to inflict as many casualties as they can while they attempt to poison the reputation of their opponent. They use the ambushes, kidnappings, and beheadings as a means of goading the U.S. in hopes that the U.S. will take more drastic measures to crack down. At which point the insurgents can use the stiffer measures against the U.S. in the court of public opinion.

The author feels that there are several problems with Ignatieff's position. To begin with is the idea of adversarial review. Though an important component, the author wonders about its impact on policy formulation. If the interrogation policies at Abu Ghraib had faced intensive public review before they were implemented, the author doubts that the result would have been much different. When one looks at the policies that were used at Abu Ghraib, they do not appear to be that harsh. In fact, they were virtually identical to the standard FM 34-52 policy. Whatever flaws that were in the policies were magnified by the use of unauthorized practices from Guantanamo and Afghanistan, and real changes to the practices at Abu Ghraib were only effected after the public uproar occurred. The adversarial review needs to catch as many of these issues as possible; however, many things may not become visible until after the policy is implemented and thus will not be caught in this adversarial review process. This is not to say that the adversarial review is not important, just that it alone cannot catch every flawed policy and thus other checks need to be in place as well. There are a variety of reasons why a perceived good policy can wind up resulting in tragedy. One reason may be unseen flaws in the policy itself that only come to light when the policy is implemented. A second reason could be when the policy is good, but it is incorrectly implemented and enforced. At Abu Ghraib, the author feels that both of these factors were the case.

Public review is important but it is not an absolute necessity. There are times where a public review is not even desirable. At times it may be in the best interest of the nation to keep a policy as secret as possible. However, the author feels that secret policy formation should be the exception, and not the rule. Policies formulated in secret are at greater risk of being a failure. This is because they do not benefit from the outside opinions that a public review would offer.

Despite the best intentions of the policy makers, policies will fail. Therefore, it is also important that any policy created, whether it be through a public or secret process, be a living document which can be modified. The nature of the war on terror is such that a policy developed for one set of circumstances may find itself inapplicable when these circumstances change. Even if this policy had passed public review, if it cannot change with a changing environment it is just as much of a failure as a policy that did not face public review in the first place. Policies must be fluid. For the author, this idea of “policy reaction” is just as, if not more, important as how the policy was created in the first place. The worst thing that can happen is if a policy is a failure, but nothing is done about it. All steps must be taken to ensure that this does not happen.

A second issue is the idea of compromising on the rights. The author feels that everyone has basic human rights which must be upheld. Some things just cannot be compromised. The rights of prisoners are clear. The rights of civilians are clear. They are both protected by the Geneva Conventions. The author also agrees with the idea that terrorists do not fall under either previously established category, but that they should be granted the basic human rights granted to everyone else. With no set laws established though, it opens the door for people to “compromise” their rights. It is the author’s

opinion that these rights should not be compromised. This is not an easy issue to deal with. At times it can be tempting to violate these rights, especially if some good can be achieved by doing so. However, the cost may be too high. The U.S. must maintain as spotless a reputation as possible. This is not an easy road to take, and it will take sacrifice on the part of the U.S. in terms of increased risk, money spent, and lives lost; however, it is necessary if the U.S. wants to succeed in its war on terror.

Just like Walzer has a set of criteria for justifying military actions, perhaps a set of criteria can be created for policy formation as well. The author suggests that such criteria would need to include the following elements:

- (1) All things being equal, a policy that has more public review is better than a policy that has less, unless such public review would seriously compromise national security and thus have a negative overall effect.
- (2) Any policy created must face a continuing process of review to ensure that it stays current with the changing environment in which it was created.
- (3) Any policy, public or otherwise, that results in failure must be immediately changed or replaced totally with a new policy that better fits the situation.
- (4) Any policy, public or otherwise, must respect the fundamental rights of all human beings. Such rights, for all categories (civilians, prisoners of war, AND terrorists), should not be compromised. If a policy does violate them, then the policy is a failure.

These incidents will continue to occur until the rights of these terrorists are codified in some way preferably in the form of a third category under the Geneva Conventions. Not only will this protect the humanity of the terrorists, but it will also

make the conduct of the war on terror much easier for American soldiers will finally have a set of rules on which they can base their actions. It will be invaluable in the America's efforts to maintain the moral high ground, which is of utmost importance in the war on terror.

Conclusion

This work has looked at two very difficult chapters in American history. There are no easy explanations for the events at My Lai and Abu Ghraib. Similar elements can be seen in both events. Vietnam and Iraq are both very difficult environments in which to conduct war. In such environments, it is difficult to separate innocent civilians from the enemy. Mistakes will happen. In the case of My Lai and Abu Ghraib, though, things were allowed to go too far. In both cases a lack of training was evident. The Geneva Conventions applied in both of these situations. In both cases soldiers did not receive adequate training in these rules. Command and control was lacking in both situations, which led to confusing orders and improper supervision.

All of these elements played a factor in what happened at My Lai and Abu Ghraib. Perhaps if these problems had been corrected, these events would not have taken place. It is an interesting question that can be debated; however, at the end of the day the answer to it is not really that important. These events DID happen and there is nothing that can be done to change that. What is really important is to learn the lessons from Abu Ghraib and My Lai. These lessons must then be applied to ensure that such events never happen again.

These questions will never completely go away. If anything, they will only get more difficult. As stated before, the nature of warfare is changing. The Geneva Conventions have stood up well over the years, but they now face new challenges. As it becomes more difficult to separate civilians from combatants and to distinguish soldiers from terrorists, the Conventions will be bent and broken in new and different ways.

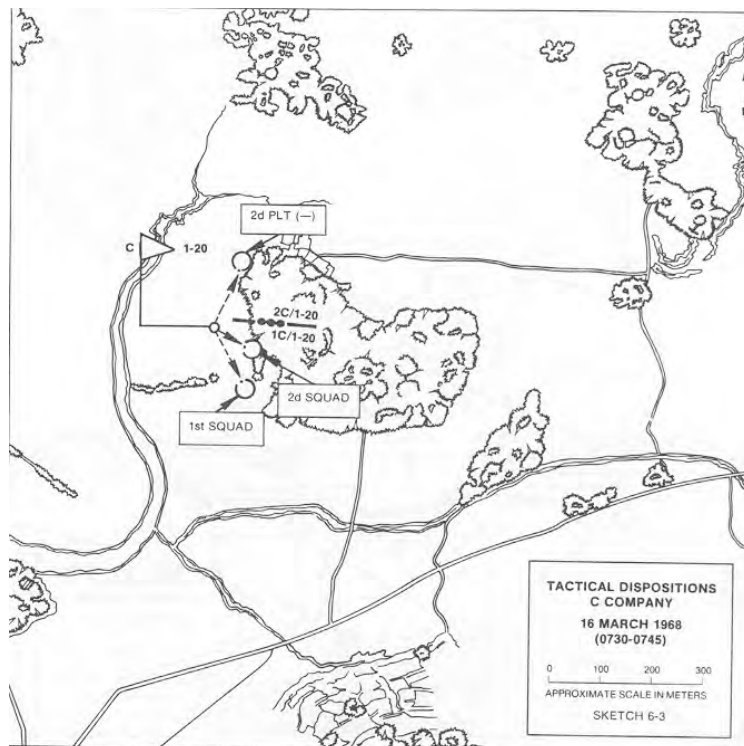
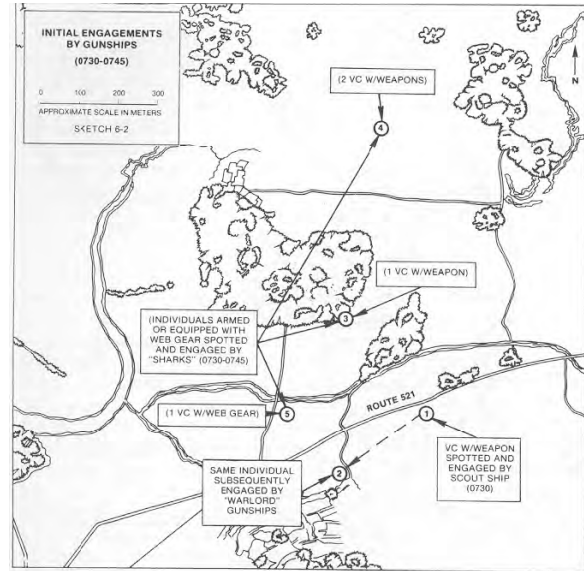
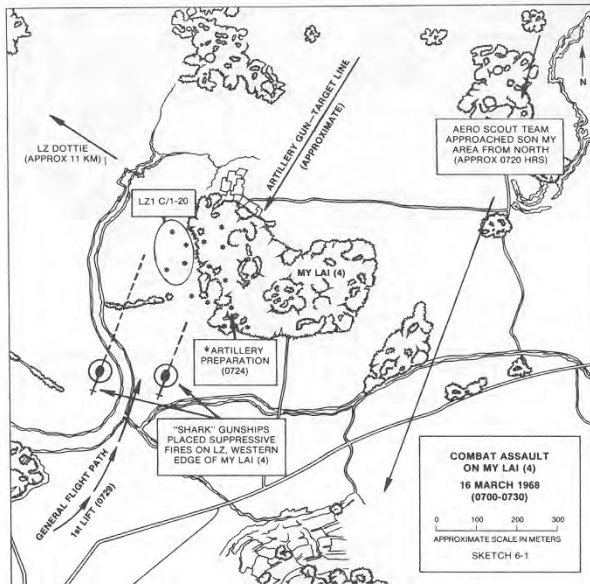
Over the years the Geneva Conventions have evolved to recognize the changing nature of war. This situation is no different. Once again the Conventions are in need of revision. There is no doubt that terrorists are evil men, but they need protection too. Few would argue that terrorists should get the same rights granted to either civilians or prisoners of war. The general form of the solution to this problem is easy to state. A third category of protected persons must be added. We must write a set of rules laying out basic protections for these “unlawful combatants.” However, the author has no doubt that writing, implementing, and enforcing these new rules would be a difficult task.

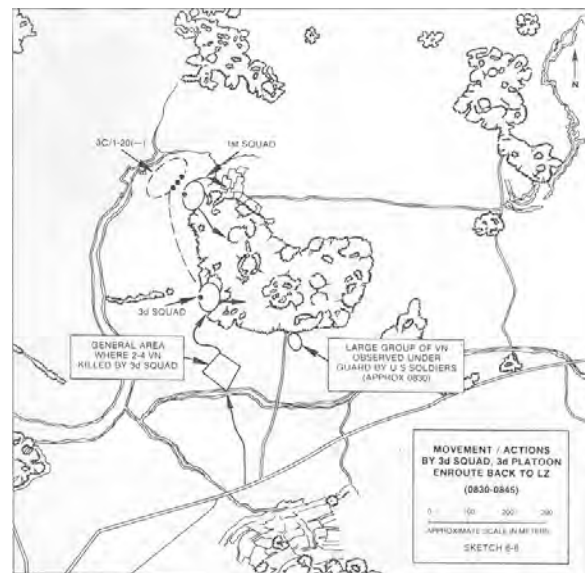
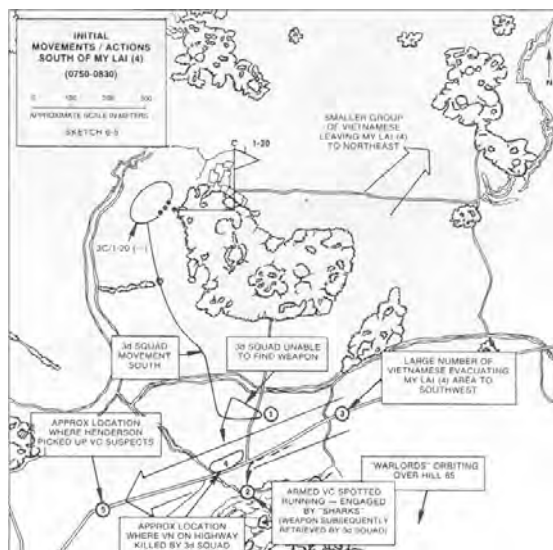
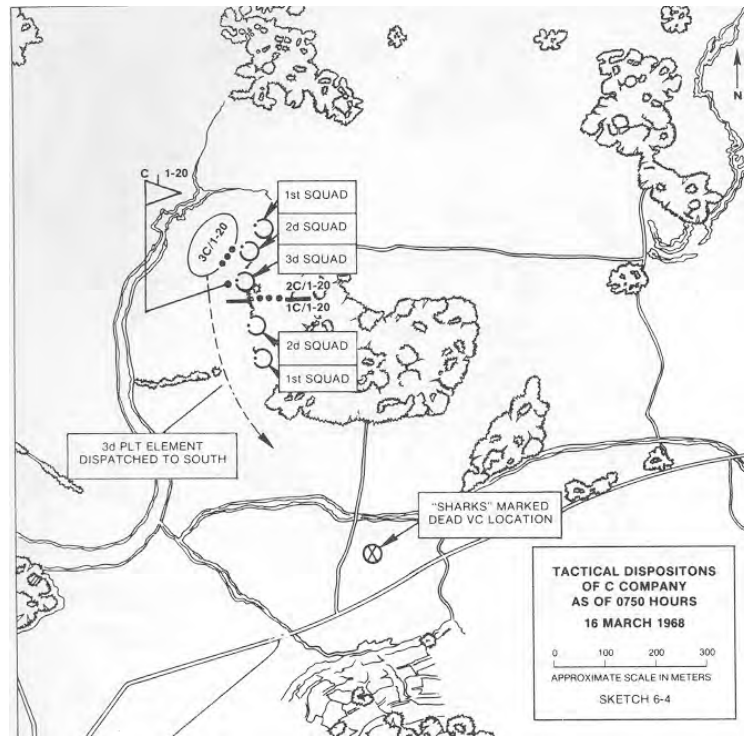
Rules can be made that both safeguard the basic rights of these prisoners and also protect the nation that is detaining them. For instance, implement provisions for humane treatment; implement a trial system so they can be brought to justice; and implement punishments where these men will be locked away forever, where they cannot pose a threat again. Above all, do not do it in secret. Involve the experts and write a policy that is useful and makes sense. If this is done, then not only would the prisoners be protected, but the state would be protected as well. Changes to the Geneva Conventions will not be easy. What is clear, though, is that if something is not done, tragedies like Abu Ghraib and My Lai will continue to occur.

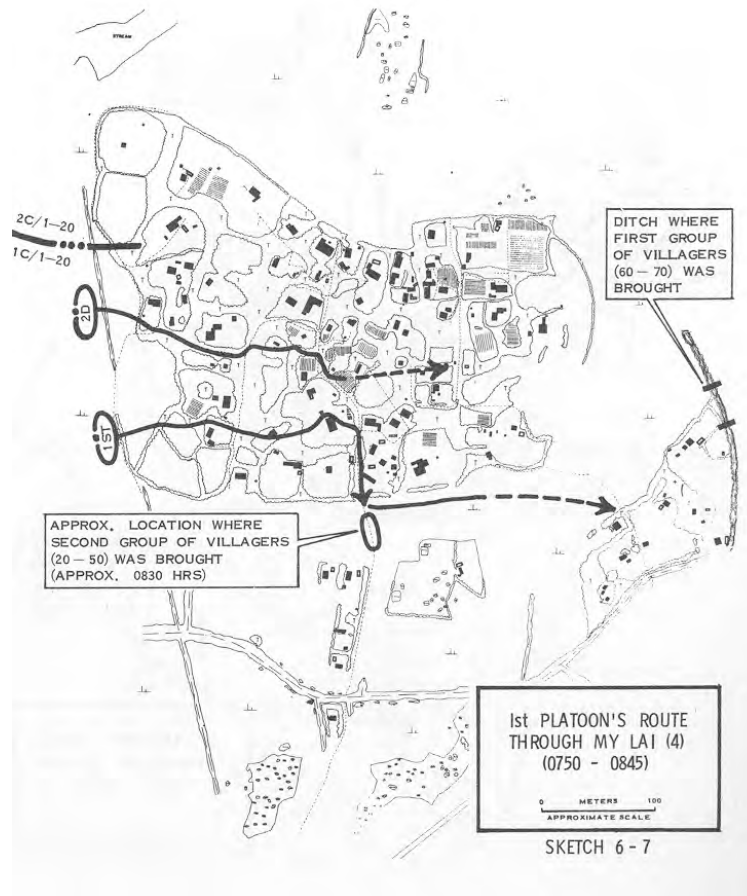
Appendix A

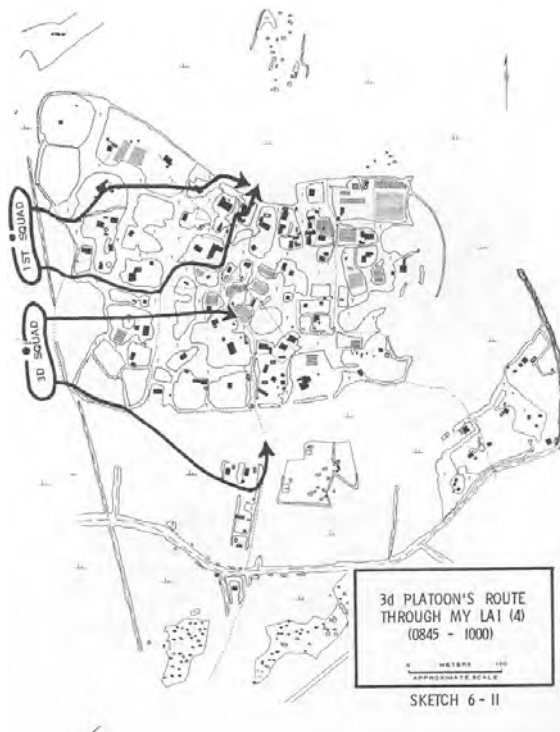
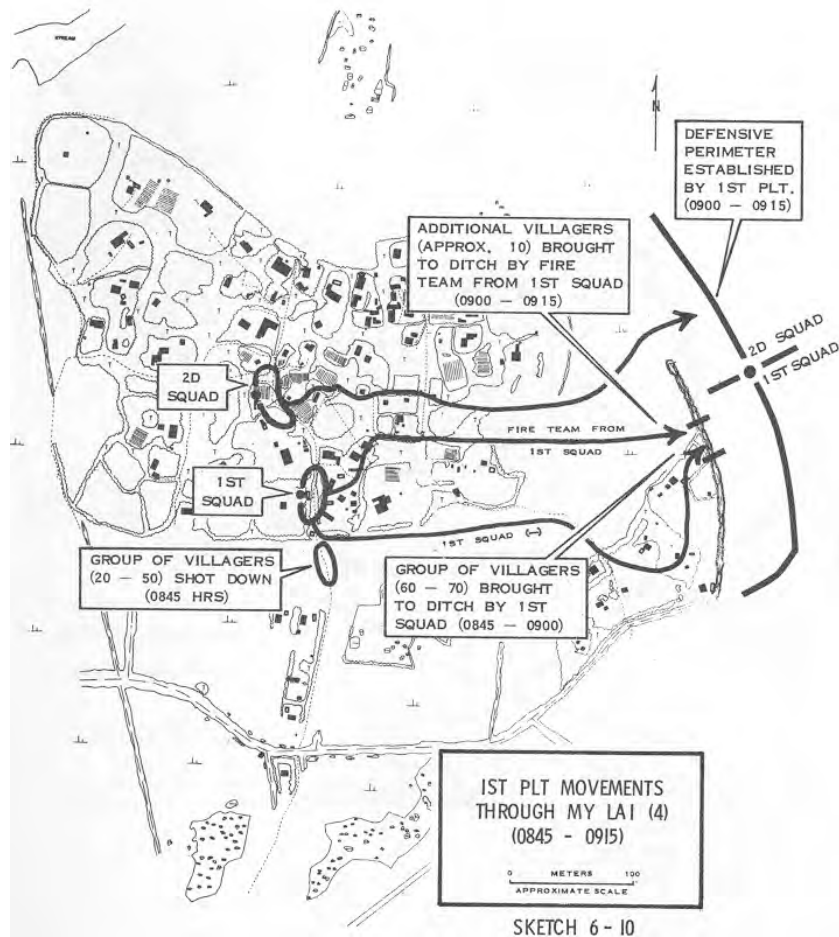
My Lai Maps

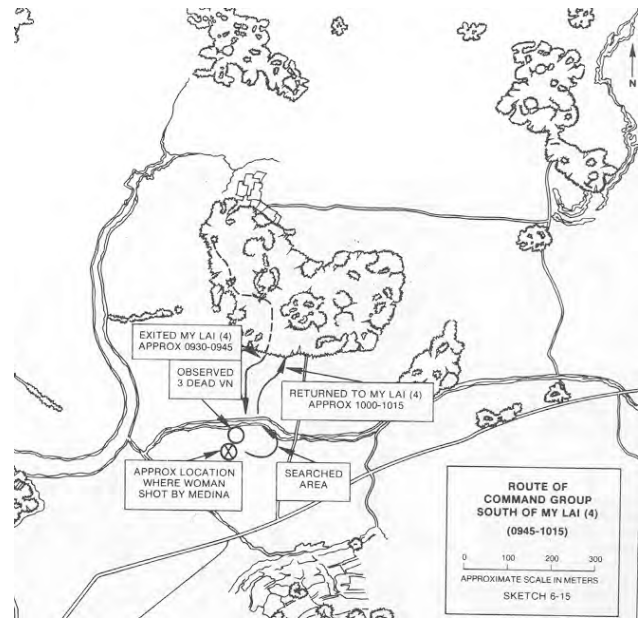
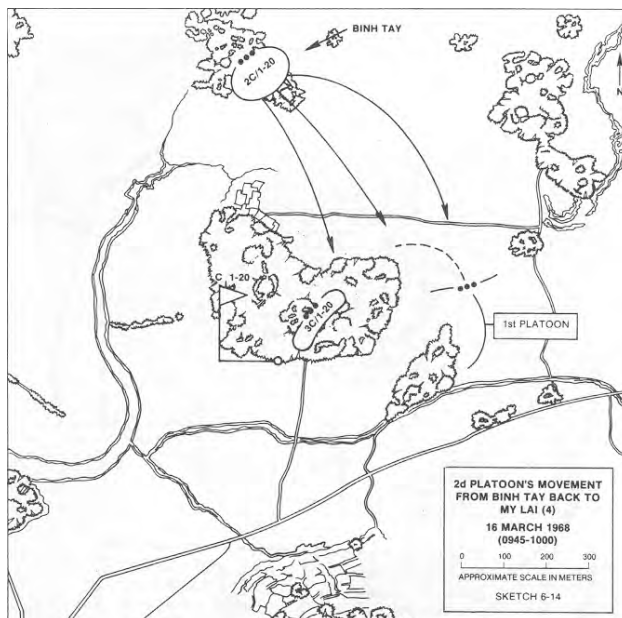
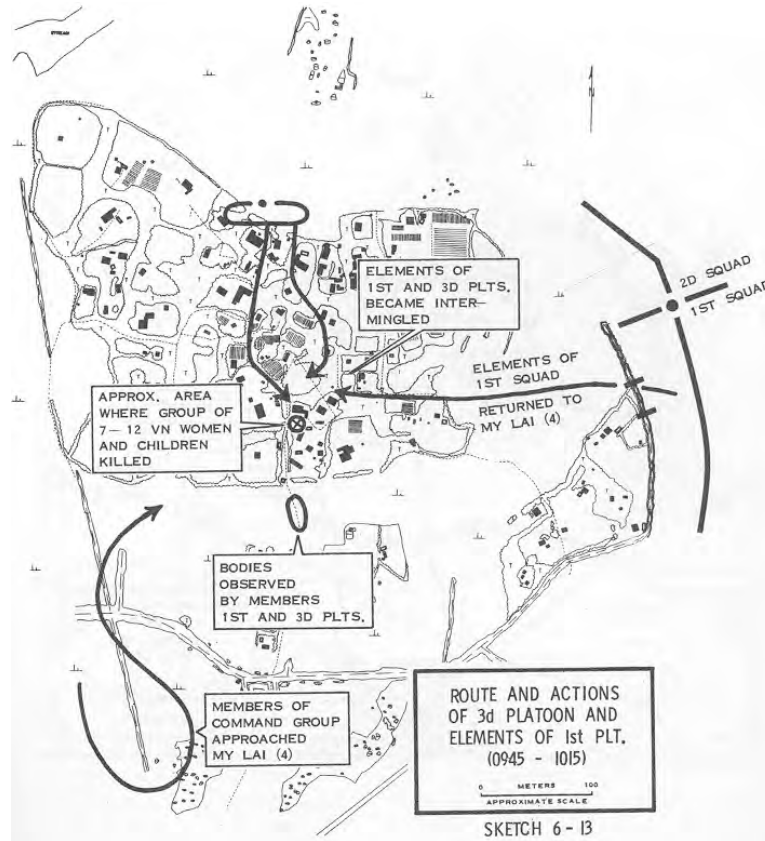
The following maps detail the movements of C Company during the My Lai operation on March 16th and March 17th 1968.¹⁰⁰

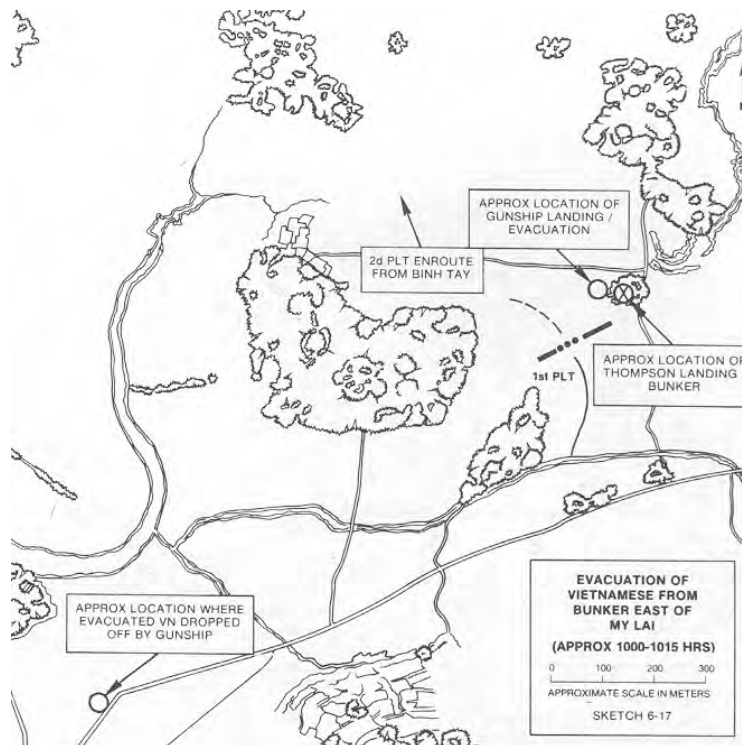
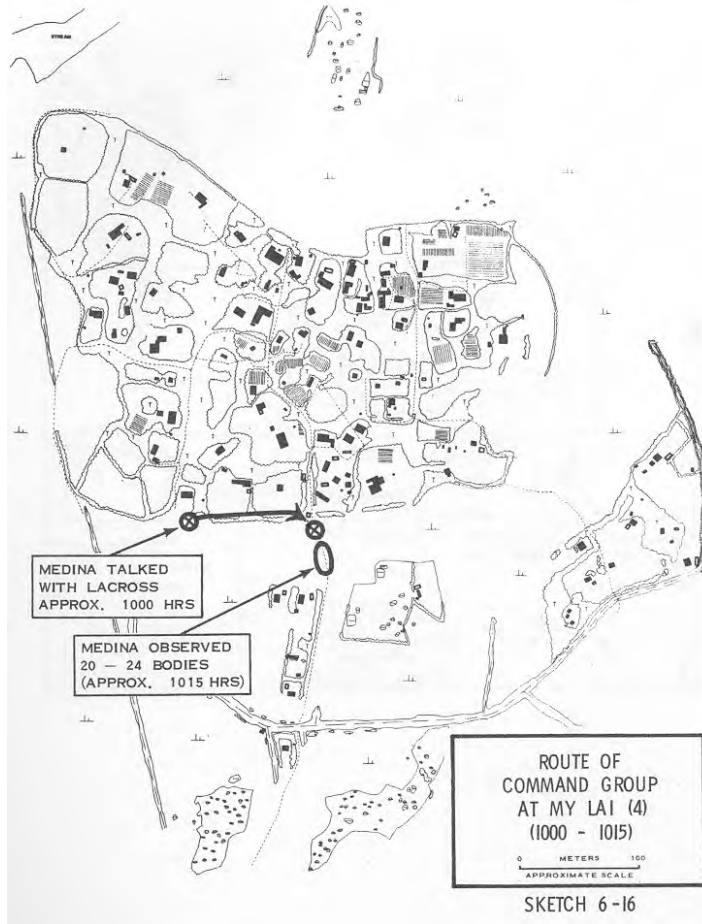


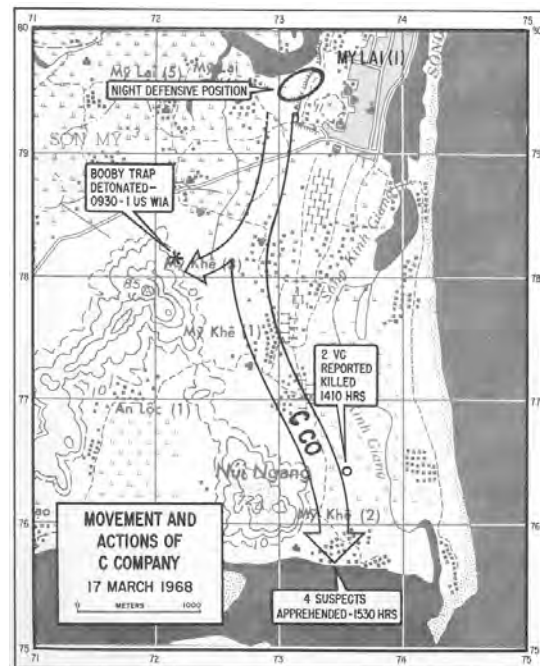
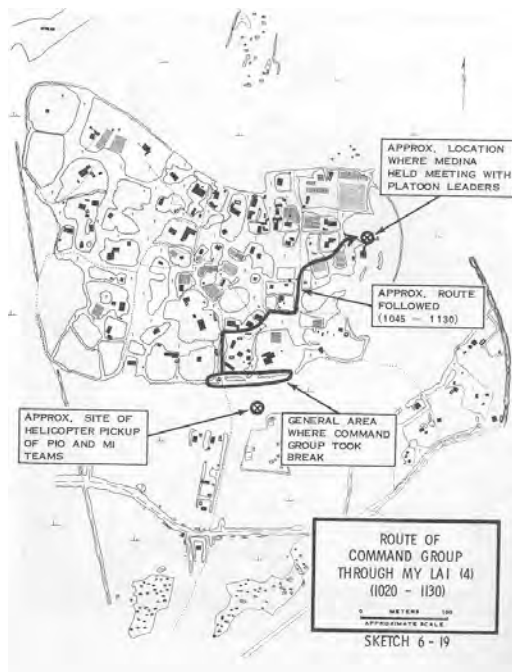
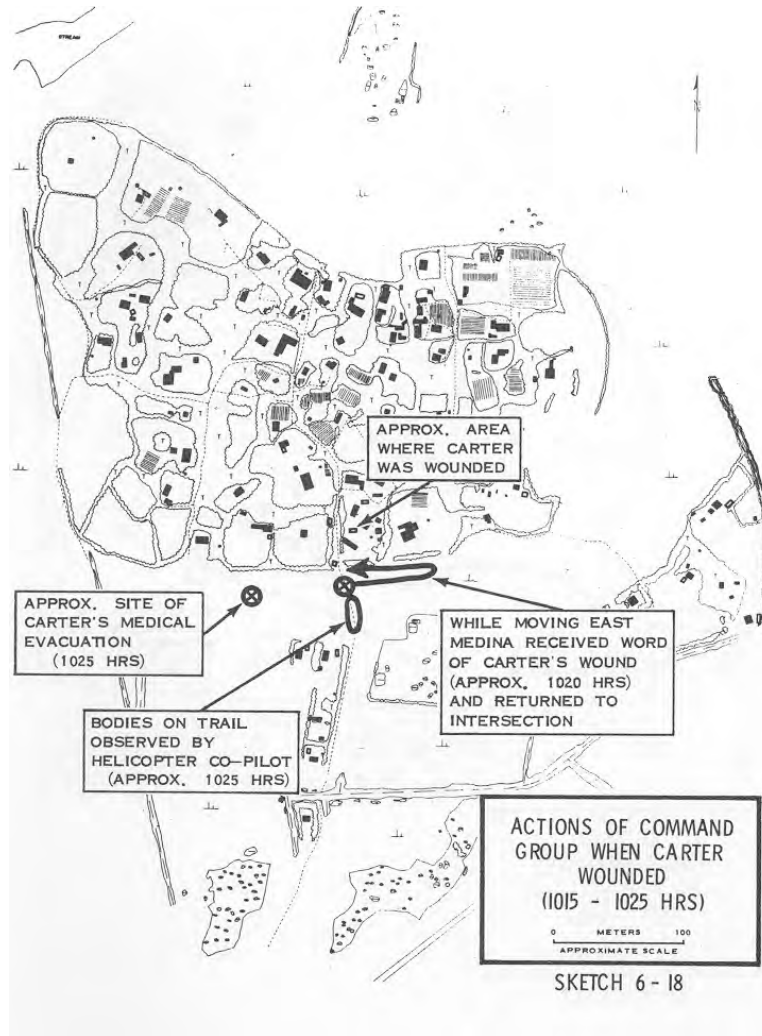












Appendix B

Rape Summaries from My Lai

Approximately twenty rapes occurred during the assault on the My Lai area.

These statements were taken as part of the U.S. government's investigation into My Lai

A summary of these incidents follows:

Rape Victims	Source of Information
1. Nguyet, Nguyen Thi, Age 15	Tha Do Thi, CID 29 Dec 69 "Unknown farmers told her that a girl Nguyen Thi Nguyet, 15, had been raped by American soldiers and then shot and killed.
2. Nguyet, Nguyen, Age 12	Hoaa, Nguyen Thi, CID, 30 Dec 69 "She stated that she had heard that Miss Nguyen Nguyet, 12, was raped and then killed by Americans. She stated that Nguyet's mother, Mrs. Bu, told her this."
3. Nho, Pham Thi, Age 22	Quy (Qui), Troung, CID,
4. Man, Do Thi, Age 12	3 Jan 70
5. Muoi, Pham Thi, Age 11	"While going through the village he saw three dead girls at three separate houses, which he stated looked as though they had been raped. They were Pham Thi Nho, 22, Do Thi Man, 12 and Pham Thi Muoi, 11. All had been inside heir homes, hich were burned and all had been naked. Qui stated that the vagina of each girl had been ripped and they looked as if they had sexual intercourse." Nho shot in stomach.
6. Nho, Phong Thi, Age 18	Hgu, Troung, CID, 4 Jan 70

7. Muoi, Phong Thi, Age 13
 “He heard that Phong Thi Nho, female, age 18, was raped and killed by the soldiers in her home and Phong Thi Muoi, age 13, was also raped. He did not know if the soldiers killed her.”
 Khoa, Nguyen, CID, 25 Dec 70
8. Nguyet, Do Thi, Age 14
 9. Nho, Pham Thi, Age 19
 “Khoa heard from someone that Do Thi Nguyet, age 14, was raped by some soldiers and later found dead. He did not know how she died, but was told she did not have any bullet wounds on her body when she was found. He also heard that Pham Thi Nho was raped and later shot by soldiers. He thinks she was about 19 years old.”
 Do Thiet, CID, 24 Dec 69
 “He further heard that Mrs. Nho had been raped, shot and her body left in her burning house.
10. Hno, Mrs. (NFI)
 Tro, Pham Thi, CID, 27 Dec 69
 “She did not witness any women being raped or molested, but did hear that Do Thi Nguyet, age 14, was raped by the American soldiers and later died.
11. Nguyet, Do Thi
 Tri, Hguyen, CID, 3 Jan 70
 “...Lieu’s daughter Pham Thi Nho, 28 (not married) Pham Lieu’s daughter Pham Thi Mui, 13 and a girl that stayed with Ba Lieu, Do Thi Nguyet, 13. All were dead shot by the Americans in their house. Nguyet, Mui and Nh were in Tri’s opinion raped before being shot. Tri based this opinion on the fact
12. Nho, Pham Thi, Age 28
 13. Mui, Phm Thi, Age 13
 14. Nguyet, Do Thi, Age 13

- that the other bodies were clothed while the three were nude. Also the vaginas of these here women were ripped.”
15. Nguyet, Do Thi, Age 10
 Vien, Do, CID, 4 Jan 70
 “Nguyet was raped by the Americans. Vien based this opinion on the fact that he found the body in Ba Xam’s house and he saw clothes had been torn off and her vagina had been ripped and blood all over that area. Examination by him determined that there were no bullet wounds in the body. He could not see any bruises on the body.”
16. Hoa, Do Thi, Age 18
 Thu, Nguyen, CID, 28 Dec 69
17. Nho, do Thi, Age 26
18. Sam, Nguyen Thi, Age 45
 “He heard from Nguyen Thi Gan and Thi Ho, who now live in Son My, that Do Thi Hoa, 18, Do Thi Hno, 26, and Nguyen Thi Sam, 45, had been found dead with no clothes on and the soldiers had raped them and shot all dead.”
19. Nho, Pham Thi, Age 22
 Co, Hguyen, CID, 15 Jan 70
 “He heard that Pham Thi Nho, 22, and an unknown girl, 12, had been raped and killed.”
20. Hoa , Tran Thi, Age 20
 Ba, Co, CID, 23 Dec 69
 “He stated that he did not see anyone raped but heard that Tran Thi Hoa, 20, was raped and now lives at an unknown address in Saigon.”¹⁰¹

Appendix C

Combat Action Report from My Lai

This was the official report filed by Colonel Frank Barker twelve days after the attack on My Lai. The discrepancy between what is reported by Barker, and what actually happened is clear and vast.

TO: Commanding Officer
11th Infantry Brigade
ATTN: XIOP
APO 96217

1. *Type of Operation:* Helicopter Assault.
2. *Dates of Operation:* 160730 to 161800 Mar 68.¹
3. *Location:* My Lai, RVN, BS 728795.
4. *Command Headquarters:* Task Force Barker 11th Infantry Brigade.
5. *Reporting Officers:*
LTC Frank A. Barker, Jr., CO, Task Force Barker
CPT Ernest Medina, CO, Co C, 1/20 Inf
CPT Earl Nichols, CO, Co B, 4/3 Inf
CPT William Rigg, CO, Co A, 3/1 Inf
6. *Task Organizations:*
Headquarters, Task Force Barker
Company A, 2d Battalion, 1st Infantry
Company B, 4th Battalion, 3d Infantry
Company C, 1st Battalion, 20th Infantry
7. *Supporting Forces:*
Btry D, 6th Battalion, 11th Arty (105 How).
174th Avro Co (Recon Acft and gunships), timely and effective. Costal Surveillance Force, USN (Swift Boat) timely and effective.
8. *Intelligence:* Enemy forces in the area of operation were estimated to be one local force battalion located in the vicinity of My Lai, BS 728795 as shown in Inclosure 1. This information was based upon previous combat operations in

¹ 7:30 A.M. to 6:00 P.M., March 16, 1968.

this area, visual reconnaissance, and PW and agent reports. During the operation it was estimated that only two local force companies supported by two to three local guerrilla platoons opposed the friendly forces. The area of operation consisted of six hamlets to varying degree of ruin, each separated by rice paddies which were bounded by a series of hedge rows and tree lines. The area was also honeycombed with tunnels and bunkers. The many hedge rows offered the enemy considerable cover and concealment from the attacking friendly forces. However, the clear weather permitted maximum Utilization of reconnaissance aircraft and helicopter gunships to seek out and destroy enemy defensive positions.

9. *Mission:* To destroy enemy forces and fortifications in a VC Base camp and to capture enemy personnel, weapons and supplies.

10. *Concept of Operation:* Task Force Barker conducts a helicopter assault on 160730 Mar 68 on a VC base camp vicinity BS 728795 with Company C, 1st Battalion, 20th Infantry landing to the west and Company B, 4th Battalion, 3d Infantry landing to the southeast of the VC base camp. Company A, 3d Battalion, 1st Infantry moves by foot to blocking positions north of the base camp prior to the helicopter assault. USN Swift Boats screen the coastal area to the east of the base camp and Company B (Aero Scout) 123d Avn. Bn. Screens to the south to block or destroy enemy forces attempting to withdraw. See Incl 1. An artillery preparation and gunship suppressive fires are planned for both landing zones. Artillery blocking fires are planned on all paths of escape which the enemy might use. Upon landing, the two rifle companies assault enemy positions making a detailed search of all buildings, bunkers and tunnels as they move.

11. *Execution:* The order was issued on 14 March 1968. Coordination with supporting arms reconnaissance and positioning of forces was conducted on 15 Mar 68. On 160726 Mar 68 a three minute artillery preparation began on the first landing zone and at 0730 hours the first lift for Co C touched down while helicopter gunships provided suppressive fires. At 0747 hours the last lift of Co C was completed. The initial preparation resulted in 68 VC KIA's in the enemy's combat positions. Co C then immediately attacked to the east receiving enemy small arms fire as they pressed forward. At 0809H a three minute artillery preparation on the second landing zone began and the first lift for Co B touched down at 0815 hours. At 0827 the last lift of Co B was completed and Co B moved to the north and east receiving only light enemy resistance initially. As Co B approached the area of the VC base camp, enemy defensive fires increased. One platoon from Co B flanked the enemy positions and engaged one enemy platoon resulting in 30 enemy KIA. Throughout the day Co B and Co C received sporadic sniper fire and encountered numerous enemy booby traps. Co A in blocking positions to the north had only light contact against small enemy elements attempting to withdraw to the north. Attempts of the enemy to escape along the beach or to

the south were successfully countered by the Swift Boats and the Aero Scout Company. By 1630 hours the surviving enemy elements had broken all contact with friendly forces by infiltrating with civilians leaving the area, or by going down into the extensive tunnel systems throughout the area. At 1715 hours Co C linked-up with Co B and both units went into a perimeter defense for the night in preparation for conducting search and destroy operations the next day. With the establishment of the night defensive position at 161800 March 1968 the operation was terminated.

12. *Results:*

a. Enemy losses:

(1) Personnel:

128 KIA

11 VCS CIA

(2) Equipment captured:

1 M-1 rifle

2 M-1 carbines

10 Chicom hand grenades

8 US M-26 hand grenades

410 rounds small arms ammo

4 US steel helmets with liners

5 US canteens with covers

7 US pistol belts

9 sets US web equipment

2 short wave transistor radios

3 boxes of medical supplies

(3) Equipment and facilities destroyed:

16 booby traps

1 large tunnel complex

14 small tunnel complexes

8 bunkers

b. Friendly losses:

2 US KHA

11 US WHA

13. *Administrative Matters:*

a. Supply. Units moved with basic loads of ammunition and three C-ration meals per man. Resupply was planned and effected by helicopter. No problem existed in resupply.

b. Maintenance. No problems encountered.

c. Medical treatment and evacuation. All casualties requiring evacuation were removed from the area by helicopters including wounded BC and some of their civilian supporters. All other casualties were treated by company aidmen.

d. Transportation. Helicopters were the primary means of transportation. No problems encountered.

e. Communications. No problems encountered.

14. *Special Equipment and Techniques:*

- a. Aero Scout Company. This unit was used effectively as a reconnaissance and supporting force along the southern portion of the area of operation.
- b. US Navy Swift Boats. Effective use of these craft was made to provide surveillance of the beach area and to detect enemy personnel attempting to escape in boats or along the beach.

15. *Commander Analysis:* This operation was well planned, well executed and successful. Friendly casualties were light and the enemy suffered heavily. On this operation the civilian population supporting the VC in the area numbered approximately 200. This created a problem in population control and medical care of those civilians caught in fires of the opposing forces. However, the infantry unit on the ground and helicopters were able to assist civilians in leaving the area and in caring for and/or evacuating the wounded.

16. *Recommendations:* Operations conducted in an area where large numbers of refugees might be generated should provide for civil affairs, psyops, medical, intelligence and police teams to be brought to the area as early as practicable after the arrival of combat troops. This would facilitate population control and medical care, and would permit the sorting out of VC which have mingled among the population for cover. The presence of these teams would free infantry personnel for combat operations.

FRANK A. BARKER, JR.
Lt Colonel, Infantry
Commanding¹⁰²

Appendix D

Abu Ghraib Prison Photos

The following photos are a selection of the many taken at Abu Ghraib and display various forms of abuse. These photos display various forms of torture and abuse that were ongoing at Abu Ghraib.¹⁰³











Appendix E

Evolution of Interrogation Techniques

The following two pages are excerpts from the Schlesinger report on Abu Ghraib. They outline the different interrogation techniques that were used at Guantanamo, Afghanistan, and Iraq.

Interrogation Policies in Guantanamo, Afghanistan and Iraq

Number of Authorized Techniques		Policy		Date		Notes		Number of Authorized Techniques		Policy		Date		Notes	
17	FM 34-52 (1992)	Jan 02 - 01 Dec 02		17	FM 34-52 (1992)	27 Oct 01 - 24 Jan 03		17	FM 34-52 (1992)						
33	Secretary of Defense Approved Tiered System	02 Dec 02 - 15 Jan 03	1	33	CJTF 180 Response to Director, Joint Staff	24-Jan-03	1, 3, 6	29	CJTF-7 Signed Policy			14-Sep-03		1	
20	FM 34-52 (1992) with 3 Cat I Techniques	16 Jan 03 - 15 Apr 03		32	CJTF 180 Detainee SOP	27-Mar-04		19	CJTF-7 Signed Policy			12-Oct-03		4	
24	Secretary of Defense Memo	16 Apr 03 - Present	1,2	19	CJTF-A Rev 2 Guidance	Jun-04		19	CJTF-7 Signed Policy			13-May-04		4	

- 1 Some techniques specifically delineated in this memo are inherent to techniques contained in FM 34-52, e.g. Yelling as a component of Fear Up
- 2 Five Approved Techniques require SOUTHCOM approval and SECDEF notification.
- 3 Figure includes techniques that were not in current use but requested for future use.
- 4 Figure includes one technique which requires CG approval.
- 5 Memorandum cited for Afghanistan and Iraq are classified.
- 6 Figure includes the 17 techniques of FM-34-52, although they are not specified in the Memo.

Evolution of Interrogation Techniques - GTMO

Interrogation Techniques	FM 34-52 (1992)		Secretary of Defense Approved Tiered System		FM 34-52 (1992) with some Cat I		Secretary of Defense Memo
	Jan 02 - 01 Dec 02	02 Dec 02 - 15 Jan 03	16 Jan 03 - 15 Apr 03	16 Apr 03 - Present			
Direct questioning	X				X		X
Incentive/removal of incentive	X				X		X
Emotional love	X				X		X
Emotional hate	X				X		X
Fear up harsh	X				X		X
Fear up mild	X				X		X
Reduced fear	X				X		X
Pride and ego up	X				X		X
Pride and ego down	X				X		X
Futility	X				X		X
We know all	X				X		X
Establish your identity	X				X		X
Repetition approach	X				X		X
File and dossier	X				X		X
Mutt and Jeff	X				X		X
Rapid Fire	X				X		X*
Silence	X				X		X
Change of Scene	X				X		X
Yelling					X (Cat I)		X
Deception					X (Cat I)		X
Multiple interrogators					X (Cat I)		X
Interrogator identity					X (Cat I)		X
Stress positions, like standing					X (Cat II)		X
False documents/reports					X (Cat II)		X*
Isolation for up to 30 days					X (Cat II)		X*
Deprivation of light/auditory stimuli					X (Cat II)		X*
Hooding (transportation & questioning)					X (Cat II)		X*
2D-interrogations					X (Cat II)		X*
Removal of ALL comfort items, including religious items					X (Cat II)		X*
MRE-only diet					X (Cat II)		X*
Removal of clothing					X (Cat II)		X*
Forced grooming					X (Cat II)		X*
Exploiting individual phobias, e.g. dogs					X (Cat II)		X*
Mild, non-injurious physical contact, e.g. grabbing, poking or light pushing					X (Cat II)		X*
Environmental manipulation					X (Cat III)		X
Sleep adjustment							X
False flag							X

*Techniques require SOUTHCOM approval and SECDEF notification.

Appendix F

Sworn Statements from Abu Ghraib Prisoners

Pages 80-102 contain the sworn statements of 13 prisoners that had been held at Abu Ghraib prison. These prisoners faced various kinds of abuse which are detailed in their statements. The author feels that it is important to include the original statements so the reader may see for his or her self what was going on at Abu Ghraib.¹⁰⁴

Name Withheld

0003-04-C1E110-03130

TRANSLATION OF SWORN STATEMENT PROVIDED BY [REDACTED]
Detainee # [REDACTED], 1430/21 JAN 04:

"I am the person named above. I entered Abu Ghraib prison on 10 Jul 2003, that was after they brought me from Baghdadi area. They put me in the tent area and then they brought me to Hard Site. The first day they put me in a dark room and started hitting me in the head and stomach and legs.

They made me raise my hands and sit on my knees. I was like that for four hours. Then the Interrogator came and he was looking at me while they were beating me. Then I stayed in this room for 5 days, naked with no clothes. They then took me to another cell on the upper floor. On 15 Oct 2003 they replaced the Army with the Iraqi Police and after that time they started punishing me in all sorts of ways. And the first punishment was bringing me to Room #1, and they put handcuffs on my hand and they cuffed me high for 7 or 8 hours. And that caused a rupture to my right hand and I had a cut that was bleeding and had pus coming from it. They kept me this way on 24, 25 and 26 October. And in the following days, they also put a bag over my head, and of course, this whole time I was without clothes and without anything to sleep on. And one day in November, they started different type of punishment, where an American Police came in my room and put the bag over my head and cuffed my hands and he took me out of the room into the hallway. He started beating me, him, and 5 other American Police. I could see their feet, only, from under the bag. A couple of those police they were female because I heard their voices and I saw two of the police that were hitting me before they put the bag over my head. One of them was wearing glasses. I couldn't read his name because he put tape over his name. Some of the things they did was make me sit down like a dog, and they would hold the string from the bag and they made me bark like a dog and they were laughing at me. And that policeman was a tan color, because he hit my head to the wall. When he did that, the bag came off my head and one of the police was telling me to crawl in Arabic, so I crawled on my stomach and the police were spitting on me when I was crawling and hitting me on my back, my head and my feet. It kept going on until their shift ended at 4 o'clock in the morning. The same thing would happen in the following days.

And I remember also one of the police hit me on my ear, before the usual beating, cuffing, bagging, dog position and crawling until 6 people gathered. And one of them was an Iraqi translator named Shaheen, he is a tan color, he has a mustache. Then the police started beating me on my kidneys and then they hit me on my right ear and it started bleeding and I lost consciousness. Then the Iraqi translator picked me up and told me "You are going to sleep". Then when I went into the room, I woke up again. I was unconscious for about two minutes. The policeman dragged me into the room where he washed my ear and they called the doctor. The Iraqi doctor came and told me he couldn't take me to the clinic, so he fixed me in the hallway. When I woke up, I saw 6 of the American Police.

A few days before they hit me on my ear, the American police, the guy who wears glasses, he put red woman's underwear over my head. And then he tied me to the window

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TRANSLATION OF SWORN STATEMENT PROVIDED BY [REDACTED]
 Detainee # [REDACTED] 1430/21 JAN 04: (CONTINUED)

that is in the cell with my hands behind my back until I lost consciousness. And also when I was in Room #1 they told me to lay down on my stomach and they were jumping from the bed onto my back and my legs. And the other two were spitting on me and calling me names, and they held my hands and legs. After the guy with the glasses got tired, two of the American soldiers brought me to the ground and tied my hands to the door while laying down on my stomach. One of the police was pissing on me and laughing on me. He then released my hands and I went and washed, and then the soldier came back into the room, and the soldier and his friend told me in a loud voice to lie down, so I did that. And then the policeman was opening my legs, with a bag over my head, and he sat down between my legs on his knees and I was looking at him from under the bag and they wanted to do me because I saw him and he was opening his pants, so I started screaming loudly and the other police starting hitting me with his feet on my neck and he put his feet on my head so I couldn't scream. Then they left and the guy with the glasses comes back with another person and he took me out of the room and they put me inside the dark room again and they started beating me with the broom that was there. And then they put the loudspeaker inside the room and they closed the door and he was yelling in the microphone. Then they broke the glowing finger and spread it on me until I was glowing and they were laughing. They took me to the room and they signaled me to get on to the floor. And one of the police he put a part of his stick that he always carries inside my ass and I felt it going inside me about 2 centimeters, approximately. And I started screaming, and he pulled it out and he washed it with water inside the room. And the two American girls that were there when they were beating me, they were hitting me with a ball made of sponge on my dick. And when I was tied up in my room, one of the girls, with blonde hair, she is white, she was playing with my dick. I saw inside this facility a lot of punishment just like what they did to me and more. And they were taking pictures of me during all these instances."

TRANSLATED BY:

Johnson I SHO

Mr. Johnson ISHO
 Translator, Category II
 Titan Corporation

Assigned to:

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
 10TH Military Police Battalion (CID)(ABN)(FWD)
 3RD Military Police Group (CID), USAC/DC
 Abu Ghraib Prison Complex (ABPC)
 Abu Ghraib, Iraq APO AE 09335

VERIFIED BY:

Abdelilah A LAZADI

Mr. Abdelilah A LAZADI
 Translator, Category II
 Titan Corporation

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 EXHIBIT 98

SWORN STATEMENT

For use of this form, see AF 190-45; the proponent agency is CUCCSOPS.

LOCATION Baghdad Correctional Facility	DATE 17 JAN 04	TIME 1731	FILE NUMBER 0003-04-CID149-83130
LAST-NAME, FIRST NAME, MIDDLE NAME AL-YASSERI, Nori Samir Gunbar	SOCIAL SECURITY NUMBER ISN #7787	GRADE/STATUS CIV/INTERNEE	
ORGANIZATION OR ADDRESS Prison 2A, Baghdad Correction Facility, Abu Ghurib, APO AE 09335			

I, Nori Samir Gunbar AL-YASSERI, want to make the following Statement under oath:
 One day in Ramadan, I don't know the exact date; we were involved in a fight in Compound 2, so they transferred us to the hardsite. As soon as we arrived, they put sandbags over our heads and they kept beating us and called us bad names. After they removed the sandbags they stripped us naked as a newborn baby. Then they ordered us to hold our penises and stroke it and this was only during the night. They started to take photographs as if it was a porn movie. And they treated us like animals not humans. They kept doing this for a long time. No one showed us mercy. Nothing but cursing and beating. Then they started to write words on our buttocks, which we didn't know what it means. After that they left us for the next two days naked with no clothes, with no mattresses, as if we were dogs. And every single night this military guy comes over and beat us and handcuffed us until the end of his shift at 0400. This was for three days and he didn't serve us dinner except for bread and tea. If we had chicken, he would throw it away. The first night when they stripped us naked they made us get on our hands and knees and they started to pile us one on top of the other. They started to take pictures from the front and from the back. And if anyone want to know the details of this, take the negative from the night guard and you will find everything I said was true. The next day the day shift gave us clothes and when the night shift started, the same guard who tortured us the night before came and took the clothes and left us naked and handcuffed to the bed. At the end of his shift he uncuffed us and then he punch us in the stomach and hit us on the head and face. Then he goes home. I kept thinking what is he going to do to us the next night, this white man with the white glasses. When I see him I'm scared to death. Again, watch the pictures in his belongings. He and the two short female soldiers and the black soldier during this dark night. When we were naked he ordered us to stroke, acting like we're masturbating and when we start to do that he would bring another inmate and sit him down on his knees in front of the penis and take photos which looked like this inmate was putting the penis in his mouth. Before that, I felt that someone was playing with my penis with a pen. After this they make Hashim (NFI) stand in front of me and they forced me to slap him on the face, but I refused cause he is my friend. After this they asked Hashim to hit me, so he punched my stomach. I asked him to do that, so they don't beat him like they had beaten me when I refused to hit Hashim. Nori Samir, Hussein, Mustafa Mahadi Saleh, Hashim, Hidar, Hithem, Ahmed Sabri; those are the names of the people who were there at this night which we felt like 1000 nights.

Q: IEM

A: Nori Samir Gunbar AL-YASSERI

Q: How many soldiers were there that night?

A: 3 men and 2 women.

Q: Do you know the names of the soldiers?

A: I don't know the soldiers names, but I know what one of them looks like and this was their supervisor. The reason why I know him because I saw him every single night I spent there.

Q: What did the supervisor look like?

A: He's white, muscular, wearing clear medical glasses. He had a big tattoo on one of his shoulders. I don't know which shoulder and I don't know what tattoo it resembled. And he works every night from 4 pm to 4 am. //End of Statement//

EXHIBIT	INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 2 PAGES
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____ CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE _____ OF _____ PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.		

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EXHIBIT 11

///NOT USED///

Translated By:

Gawdat HUSSEIN
Interpreter, Category II
Titan Corporation Inc.
Camp Doha, Kuwait
Date: 17 Jan 04

AFFIDAVIT

I, Nori Samir Gunbar AL-YASSERI, HAVE READ OR HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OR BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Original signed

(Signature of Person Making Statement)

WITNESSES:
Gawdat Hussein

Subscribed and sworn to before me, a person authorized by Law to administer oaths, this 19th day of January, 2004 at Prisoner Interrogation Team (PIT)(CID)(FWD), Baghdad Correctional Facility, Abu Ghraib, 09335

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

SA. MANORA IEM

(Typed Name of Person Administering Oath)

Article 136, UCMJ or 5-USA 303

(Authority to Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

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EXHIBIT 40

LOCATION Rusafa II Prison Compound, Baghdad	DATE 20 Jan 04	Time 1520	FILE NUMBER 0003-04-CID149-83130
LAST NAME, FIRST NAME, MIDDLE NAME AL-ABOODI, Hiadar Sabar Abed Mikhtub	SOCIAL SECURITY NUMBER ISN #13077		GRADE/STATUS CIV/DETAINEE
ORGANIZATION OR ADDRESS Rusafa II Prison Compound, Baghdad, Iraq			
<p>I, Hiadar Sabar Abed Mikhtub AL-ABOODI, want to make the following Statement under oath: When first I went to the hard site, the Americans soldiers took me, there were two soldiers, a translator named Abu Hamed. We stood in the hallway before the hard site and they started taking off our clothes one after another. After they took off my clothes the American soldier removed who was wearing glasses, night guard, and I saw an American female soldier which they call her Ms. Maya, in front of me they told me to stroke my penis in front of her. And then they covered my head again, and as I was doing whatever they asked me to do, they removed the bag off my head, and I saw my friend, he was the one in front of me on the floor. And then they told me to sit on the floor facing the wall. They brought another prisoner on my back and he was also naked. Then they ordered me to bend onto my knees and hands on the ground. And then they placed three others on our backs, naked. And after that they order me to sleep on my stomach and they ordered the other guy to sleep on top of me in the same position and the same way to all of us. And there were six of us. They were laughing, taking pictures, and they were stepping on our hands with their feet. And they started taking one after another and they wrote on our bodies in English. I don't know what they wrote, but they were taking pictures after that. Then, after that they forced us to walk like dogs on our hands and knees. And we had to bark like a dog and if we didn't do that, they start hitting us hard on our face and chest with no mercy. After that, they took us to our cells, took the mattresses out and dropped water on the floor and they made us sleep on our stomachs on the floor with the bags on our head and they took pictures of everything. Mr. Joyner shows up in the morning and give us our mattresses, blankets and food, but the second guy who wears the glasses was the opposite; he takes the mattresses, tie our hands, hit us and don't give us food. All that lasted for 10 days and the translator Abu Hamed was there. I only saw him when I arrived, but after that I knew he was there because I heard his voice during all of that. //End of Statement///</p>			
EXHIBIT	INITIALS OF PERSON MAKING STATEMENT		PAGE 1 OF 2 PAGES
ADDITIONAL PAGES MUST CONTAIN THE HEADING: "STATEMENT OF ___ TAKEN AT ___ DATED ___ CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE ___ OF ___ PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.			

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EXHIBIT 4

////NOT USED////

Translated By:

Verified By:

Lauriene H. DICE

Lauriene H. DICE
Interpreter, Category II
Titan Corporation Inc.
Camp Doha, Kuwait

Johnson ISHO

Johnson ISHO
Interpreter, Category II
Titan Corporation Inc.
Camp Doha, Kuwait

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
Baghdad Correctional Facility
Abu Ghraib, IZ APO AE 09335

AFFIDAVIT

I, Hiadar Saber Abed Miktub AL-ABOODI, HAVE READ OR HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OR BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES.

Johnson ISHO
Lauriene H. DICE

(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by Law to administer oaths, this 20 day of January, 2003 at Rusafa II Prison Compound, Baghdad, IZ APD AE 09336.

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

SA MANORA IEM

(Typed Name of Person Administering Oath)

Article 136, UCMJ or 5 USC 303

(Authority to Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

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EXHIBIT 103
Pg

TRANSLATION OF STATEMENT PROVIDED BY Abdou Hussain Saad FALEH,
Detainee # 18470, 1610/16 JAN 04:

"On the third day, after five o'clock, Mr. Grainer came and took me to Room #37, which is the shower room, and he started punishing me. Then he brought a box of food and he made me stand on it with no clothing, except a blanket. Then a tall black soldier came and put electrical wires on my fingers and toes and on my penis, and I had a bag over my head. Then he was saying "which switch is on for electricity." And he came with a loudspeaker and he was shouting near my ear and then he brought the camera and he took some pictures of me, which I knew because of the flash of the camera. And he took the hood off and he was describing some poses he wanted me to do, and the I was tired and I fell down. And then Mr. Grainer came and made me stand up on the stairs and made me carry a box of food. I was so tired and I dropped it. He started screaming at me in English. He made me lift a white chair high in the air. Then the chair came down and then Mr. Joyner took the hood off my head and took me to my room. And I slept after that for about an hour and then I woke up at the headcount time. I couldn't go to sleep after that because I was very scared."

TRANSLATED BY:



Mr. Abdelilah ALAZADI
Translator, Category II
Titan Corporation

Assigned to:

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
10TH Military Police Battalion (CID)(ABN)(FWD)
3rd Military Police Group (CID), USACIDC
Abu Ghraib Prison Complex (ABPC)
Abu Ghraib, Iraq APO AE 09335

VERIFIED BY:



Mr. Johnson ISHO
Translator, Category II
Titan Corporation

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EXHIBIT 34

TRANSLATION OF STATEMENT PROVIDED BY Hussein Mohssein Mata AL-ZAYIADI, Detainee # 19446, 1242/18 JAN 04:

"I was in the solitary confinement, me and my friends. We were treated badly. They took our clothes off, even the underwear and they beat us very hard, and they put a hood over my head. And when I told them I am sick they laughed at me and beat me. And one of them brought my friend and told him "stand here" and they brought me and had me kneel in front of my friend. They told my friend to masturbate and told me to masturbate also, while they were taking pictures. After that they brought my friends, Hajdar, Ahmed, Nouri, Ahzem, Hashiem, Mustafa, and I, and they put us 2 on the bottom, 2 on top of them, and 2 on top of those and one on top. They took pictures of us and we were naked. After the end of the beating, they took us to our separate cells and they opened the water in the cell and told us to lay face down in the water and we stayed like that until the morning, in the water, naked, without clothes. Then one of the other shift gave us clothes, but the second shift took the clothes away at night and handcuffed us to the beds.

The number of the guards was 4. Two of them male, and one of them had a chain tattoo on his arm and wearing eyeglasses. The other one had a tattoo on his back like a dragon. The female wearing eyeglasses was short and had short hair. The second female hair was yellow and she was medium height.

Q: IEM

A: Hussein Mohssein Mata AL-ZAYIADI

Q: How did you feel when the guards were treating you this way?

A: I was trying to kill myself but I didn't have any way of doing it.

Q: Did the guards force you to crawl on your hands and knees on the ground?

A: Yes. They forced us to do this thing.

Q: What were the guards doing while you were crawling on your hands and knees?

A: They were sitting on our backs like riding animals.

Q: When you were on each other, what were the guards doing?

A: They were taking pictures and writing on our asses.

Q: How many times did the guards treat you this way?

A: The first time, when I just go in, and the second day they put us in the water and handcuffed us.

Q: Did you see the guards treat the other inmates this way?

A: I didn't see, but I heard screams and sprints in another area."

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EXHIBIT 71

TRANSLATION OF STATEMENT PROVIDED BY Hussein Mohssein Mata AL-ZAYIADI, Detainee # 19446, 1242/18 JAN 04 (Continued):

TRANSLATED BY:



Mr. Abdellilah ALAZADI
Translator, Category II
Titan Corporation

Assigned to:

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
10TH Military Police Battalion (CID)(ABN)(FWD)
3rd Military Police Group (CID), USACIDC
Abu Ghraib Prison Complex (ABPC)
Abu Ghraib, Iraq APO AE 09335

VERIFIED BY:



Mr. Johnson ISHO
Translator, Category II
Titan Corporation

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EXHIBIT 71

TRANSLATION OF STATEMENT PROVIDED BY Shalan Said ALSHARONI,
Detainee # 150422, 1630/17 JAN 04:

"One of those days the guards tortured the prisoners. Those guards are Grainer, Davis and another man. First they tortured the man whose name is Atmjid Iraqi. They stripped him of his clothes and beat him until he passed out and they cursed him and when they took off of his head I saw blood running from his head. They took him to solitary confinement and they were beating him every night.

The evening shift was sad for the prisoners. They brought three prisoners handcuffed to each other and they pushed the first one on top of the others to look like they are gay and when they refused, Grainer beat them up until they put them on top of each other and they took pictures of them. And after that they beat up an Iraqi whose name is Asaad whom they ordered to stand on a food carton and they were pouring water on him and it was the coldest of times. When they torture him they took gloves and they beat his dick and testicles with the gloves and they handcuffed him to the cell door for half a day without food or water. After that they brought young Iraqi prisoners and Grainer tortured them by pouring water on them from the second floor until one of them started crying and screaming and started saying "my heart". They brought the doctors to treat him and they thought he was going to die. After they brought six people and they beat them up until they dropped on the floor and one of them his nose was cut and the blood was running from his nose and he was screaming but no one was responding and all this beating from Grainer and Davis and another man, whom I don't know the name. The Doctor came to stitch the nose and the Grainer asked the doctor to learn how to stitch and it's true, the guard learned how to stitch. He took the string and the needle and he sat down to finish the stitching until the operation succeeded. And then the other man came to take pictures of the injured person who was laying on the ground. And after that they beat up the rest of the group until they fall to the ground. Every time one of them fell on the ground they drag them up to stand on his feet. Grainer beat up a man whose name is Ali the Syrian and he was beating him until he gotten almost crazy. And he was telling him go up to the second floor as he was naked. And they opened the prisoners cells to see him running naked. And after they put him in his cell for four days they were pouring water on him and he couldn't sleep. Before that he was in cell number 4. They hanged him and he was screaming but no one helped him.

There was a translator named Abu Adell the Egyptian. He was helping Grainer and Davis and others whom I don't know, like they were watching a live movie of three young guys being put up by Abu Adell on top of each other. And everyone was taking pictures of this whole thing with cameras. This is what I saw and what I remember to be true."

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EXHIBIT 5

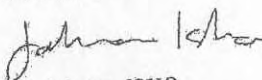
TRANSLATION OF STATEMENT PROVIDED BY Shalan Said ALSHARONI,
Detainee # 150422, 1630/17 JAN 04: (CONTINUED)

TRANSLATED BY:



Mr. Abdellah ALAZADI
Translator, Category II
Titan Corporation
Assigned to: "

VERIFIED BY:



Mr. Johnson ISHO
Translator, Category II
Titan Corporation

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
10TH Military Police Battalion (CID)(ABN)(FWD)
3rd Military Police Group (CID), USACIDC
Abu Ghraib Prison Complex (ABPC)
Abu Ghraib, Iraq APO AE 09335

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EXT

Only

TRANSLATION OF STATEMENT PROVIDED BY Abd Alwhab YOUSSE, Detainee #
150425, 1445/17 JAN 04:

"One day while in the prison the guard came and found a broken toothbrush, and they said that I was going to attack the American Police; I said that the toothbrush wasn't mine. They said we are taking away your clothes and mattress for 6 days, and we are not going to beat you. But the next day the guard came and cuffed me to the cell door for 2 hours, after that they took me to a closed room and more than five guards poured cold water on me, and forced me to put my head in someone's urine that was already in that room. After that they beat me with a broom and stepped on my head with their feet while it was still in the urine. They pressed my ass with a broom and spit on it. Also a female soldier, whom I don't know the name was standing on my legs. They used a loudspeaker to shout at me for 3 hours, it was cold. But to tell the truth in daytime Joiner gave me my clothes and at night Grainer took them away. The truth is they gave me my clothes after 3 days, they didn't finish the 6 days and thank you."

TRANSLATED BY:



Mr. Abdelilah ALAZADI
Translator, Category II
Titan Corporation

VERIFIED BY:



Mr. Johnson ISHO
Translator, Category II
Titan Corporation

Assigned to:

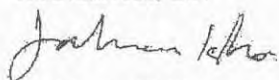
Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
10TH Military Police Battalion (CID)(ABN)(FWD)
3rd Military Police Group (CID), USACIDC
Abu Ghraib Prison Complex (ABPC)
Abu Ghraib, Iraq APO AE 09335

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EXHIBIT 51

TRANSLATION OF STATEMENT PROVIDED BY Thaar Salman DAWOD, Detainee
150427, 1440/17 JAN 04:

"I went to the Solitary Confinement on the Sep/10/2003. I was there for 67 days of suffering and little to eat and the torture I saw myself. When I asked the guard Joyner about the time and he cuffed my hand to the door then when his duty ended the second guard came, his name is Grainer, he released my hand from the door and he cuffed my hand in the back. Then I told him I did not do anything to get punished this way so when I said that he hit me hard on my chest and he cuffed me to the window of the room about 5 hours and did not give me any food that day and I stayed without food for 24 hours. I saw lots of people getting naked for a few days getting punished in the first days of Ramadan. They came with two boys naked and they were cuffed together face to face and Grainer was beating them and a group of guards were watching and taking pictures from top and bottom and there was three female soldiers laughing at the prisoners. The prisoners, two of them, were young. I don't know their names."

TRANSLATED BY:



Mr. Johnson ISHO
Translator, Category II
Titan Corporation

Assigned to:

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
10TH Military Police Battalion (CID)(ABN)(FWD)
3rd Military Police Group (CID), USACIDC
Abu Ghraib Prison Complex (ABPC)
Abu Ghraib, Iraq APO AE 09335

VERIFIED BY:



Mr. Abdelilah ALAZADI
Translator, Category II
Titan Corporation

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EXHIBIT 53

TRANSLATION OF STATEMENT PROVIDED BY Mustafa Jassim MUSTAFA,
Detainee # 150542, 1610/17 JAN 04

"Two days before Ramadan Grainer the guards came with the other guards, they brought two prisoners and they made them take off all their clothes down to naked by the two guards Grainer and Davis and then they were beating them a lot. One of the prisoners was bleeding from a cut he got over his eye. Then they called the doctor who came and fixed him. After that they started beating him again.

They removed all my clothes down to naked for seven days and they were bringing a group of people to watch me naked.

They brought a prisoner with a civil case, his name is [redacted]. He was brought by Grainer the guard and Davis and there was a third guard, I don't know his name. They beat him a lot then they removed all his clothing then they put wire up his ass and they started taking pictures of him.

Grainer used to hang the prisoners by hand to the doors and windows in a way that was very painful for several hours and we heard them screaming.

One day Grainer and Davis brought 6 generals and they stripped them down to naked. They started torturing them and taking pictures and they were enjoying that. When the doctor came to fix the injured person, Grainer took the needle from the doctor and started stitching the cut on the injured person.

A few days before Ramadan, Grainer and Davis, and another person that came with them used beat up a man named "Amjed" who was in room number one. They were beating him very hard with a stick and Grainer was peeing on him and beating him for about a week until they injured his eye and the doctor came.

Grainer and Davis, and a third man, used to beat up a prisoner who was from Syria and strip him all night. We heard him screaming all night.

Every time a new prisoner came Grainer and Davis stripped them, beat them and took pictures. I remember one prisoner named "Wessam".

Important Point:

All the guards excluding Grainer and Davis are very good with the prisoners and the prisoners like them and respect them and are very happy with them. They give a good image of the United States and they prove by their good treatment the big difference between the Baath Party and the United States.

0003-04-CID149-...

TRANSLATION OF STATEMENT PROVIDED BY Mustafa Jassim MUSTAFA,
Detainee # 150542, 1610/17 JAN 04: (Continued)

TRANSLATED BY:

Johnson Isho

Mr. Johnson ISHO
Translator, Category II
Titan Corporation
Assigned to:

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
10TH Military Police Battalion (CID)(ABN)(FWD)
3rd Military Police Group (CID), USACIDC
Abu Ghraib Prison Complex (ABPC)
Abu Ghraib, Iraq APO AE 09335

VERIFIED BY:

[Signature]

Mr. Abdellah ALAZADI
Translator, Category II
Titan Corporation

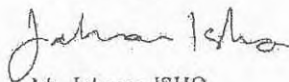
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EXHIBIT

TRANSLATION OF STATEMENT PROVIDED BY Mustafa Jassim MUSTAFA,
Detainee # 150542, 1140/18 JAN 04:

"Before Ramadan, Grainer started covering all the rooms with bed sheets. Then I heard screams coming from Room #1, at that time I was in Room #50 and it's right below me so I looked into the room. I saw [redacted] in Room #1, who was naked and Grainer was putting the phosphoric light up his ass. [redacted] was screaming for help. There was another tall white man who was with Grainer, he was helping him. There was also a white female soldier, short, she was taking pictures of [redacted] [redacted] is now in cell #50."

TRANSLATED BY:



Mr. Johnson ISHO
Translator, Category II
Titan Corporation

VERIFIED BY:



Mr. Abdelilah ALAZADI
Translator, Category II
Titan Corporation

Assigned to:

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
10TH Military Police Battalion (CID)(ABN)(FWD)
3rd Military Police Group (CID), USACIDC
Abu Ghraib Prison Complex (ABPC)
Abu Ghraib, Iraq APO AE 09335

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EXHIBIT u3

TRANSLATION OF STATEMENT PROVIDED BY Kasim Mehaddi HILAS, Detainee # 151108, 1300/18 JAN 04:

"In the name of God, I swear to God that everything I witnessed everything I am talking about. I am not saying this to gain any material thing, and I was not pressured to do this by any forces. First, I am going to talk only about what happened to me in Abu Ghraib Jail. I will not talk about what happened when I was in jail before, because they did not ask me about that, but it was very bad.

1. They stripped me of all my clothes, even my underwear. They gave me woman's underwear, that was rose color with flowers in it and they put the bag over my face. One of them whispered in my ear, "today I am going to fuck you", and he said this in Arabic. Whoever was with me experienced the same thing. That's what the American soldiers did, and they had a translator with them, named Abu Hamid and a female soldier, who's skin was olive colored and this was on October 3 or 4, 2003 around 3 or 4 in the afternoon. When they took me to the cell, the translator Abu Hamid came with an American soldier and his rank was sergeant (I believe). And he called told me "faggot" because I was wearing the woman's underwear, and my answer was "no". Then he told me "why are you wearing this underwear", then I told them "because you make me wear it". The transfer from Camp B to the Isolation was full of beatings, but the bags were over our heads, so we couldn't see their faces. And they forced me to wear this underwear all the time, for 51 days. And most of the days I was wearing nothing else.

2. I faced more harsh punishment from Grainer. He cuffed my hands with irons behind my back to the metal of the window, to the point my feet were off the ground and I was hanging there, for about 5 hours just because I asked about the time, because I wanted to pray. And then they took all my clothes and he took the female underwear and he put it over my head. After he released me from the window, he tied me to my bed until before dawn. He took me to the shower room. After he took me to the shower room, he brought me to my room again. He prohibited me from eating food that night, even though I was fasting that day. Grainer and the other two soldiers were taking pictures of every thing they did to me. I don't know if they took a picture of me because they beat me so bad I lost consciousness after an hour or so.

3. They didn't give us food for a whole day and a night, while we were fasting for Ramadan. And the food was only one package of emergency food.

Now I am talking about what I saw:

1. They brought three prisoners completely naked and they tied them together with cuffs and they stuck one to another. I saw the American soldiers hitting them with a football and they were taking pictures. I saw Grainer punching one of the prisoners right in his face very hard when he refused to take off his underwear and I heard them begging for help. And also the American soldiers told to do like homosexuals (fucking). And there was one of the American soldiers they called Sergeant (black skin) there was 7 to 8 soldiers there also. Also female soldiers were taking pictures and that was in the first day

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EXHIBIT 47 ⁹²

TRANSLATION OF STATEMENT PROVIDED BY Kasim Mehaddi HILAS, Detainee # 151108, 1300/18 JAN 04: (Continued)

of Ramadan. And they repeated the same thing the second day of Ramadan. And they were ordering them to crawl while they were cuffed together naked.

2. I saw [REDACTED] fucking a kid, his age would be about 15 - 18 years. The kid was hurting very bad and they covered all the doors with sheets. Then when I heard the screaming I climbed the door because on top it wasn't covered and I saw [REDACTED], who was wearing the military uniform putting his dick in the little kid's ass. I couldn't see the face of the kid because his face wasn't in front of the door. And the female soldier was taking pictures. [REDACTED], I think he is [REDACTED] because of his accent, and he was not skinny or short, and he acted like a homosexual (gay). And that was in cell #23 as best as I remember.

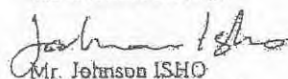
3. In the cell that is almost under it, on the North side, and I was right across from it on the other side. They put the sheets again on the doors. Grainer and his helper they cuffed one prisoner in Room #1, named [REDACTED], he was Iraqi citizen. They tied him to the bed and they were inserted the phosphoric light in his ass and he was yelling for God's help. [REDACTED] used to get hit and punished a lot because I heard him screaming and they prohibited us from standing near the door when they do that. That was Ramadan, around 12 midnight approximately when I saw them putting the stick in his ass. The female soldier was taking pictures.

4. I saw more than once men standing on a water bucket that was upside down and they were totally naked. And carrying chairs over their heads standing under the fan of the hallway behind the wooden partition and also in the shower.

Not one night for all the time I was there passed without me seeing, hearing or feeling what was happening to me

And I am repeating the oath / I swear on Allah almighty on the truth of what I said. Allah is my witness."

TRANSLATED BY:



Mr. Johnson ISHO
Translator, Category II
Titan Corporation

Assigned to:

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
10TH Military Police Battalion (CID)(ABN)(FWD)
3RD Military Police Group (CID), USACIDC
Abu Ghraib Prison Complex (ABPC)
Abu Ghraib, Iraq APO AE 09335

VERIFIED BY:



Mr. Abdelilah ALAZADI
Translator, Category II
Titan Corporation

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03
EXHIBIT 67

SWORN STATEMENT

For use of this form, see AR 180-45; this proponent agency is OLC/SOPS

LOCATION TIRE 1A, Baghdad Correctional Facility	DATE 16 Jan 04	Time 1722	FILE NUMBER 0003-04-CD149-83130
LAST NAME, FIRST NAME, MIDDLE NAME AL-SHEIKH, Ameen Sa'eed	SOCIAL SECURITY NUMBER NDRS #151362		GRADE/STATUS CIV/DETAINEE
ORGANIZATION OR ADDRESS Baghdad Correctional Facility, Abu Ghraib, Iraq APO AE 09335			
<p>I, Ameen Sa'eed AL-SHEIKH, want to make the following Statement under oath: I am Ameen Sa'eed AL-SHEIKH. I was arrested on the 7 Oct 2003. They brought me over to Abu Ghraib Prison they put me in a tent for one night. During this night the guards every one or two hours and threaten me with torture and punishment. The second day they transferred me to the hard site. Before I got in, a soldier put a sand bag over my head. I didn't see anything after that. They took me inside the building and started to scream at me. The stripped me naked, they asked me, "Do you pray to Allah?" I said, "Yes." They said, "Fuck you" and "Fuck him." One of them said, "You are not getting out of here health, you are getting out of here handicap." And he said to me, "Are you married?" I said, "Yes." They said, "If your wife saw you like this, she will be disappointed." One of them said, "But if I saw her now, she would not be disappointed now because I would rape her." Then one of them took me to the shower, removed the sand bag, and I saw him; a black man, he told me to take a shower and he said he would come inside and rape me and I was very scared. Then they put the sand bag over my head and took me to cell #5. And for the next five days I didn't sleep because they use to come to my cell, asking me to stand up for hours and hours. And they slammed the outer door, which made a loud scary noise inside the cell. And this black soldier took me once more to the showers, stood there staring at my body. And he threaten he was going to rape me again. After that, they started to interrogate me. I lied to them so they threaten me with hard punishment. Then other interrogators came over and told me, "If you tell the truth, we will let you go as soon as possible before Ramadan," so I confessed and said the truth. Four days after that, they took me to the camp and I didn't see those interrogators anymore. New interrogators came and re-interrogated me. After I told them the truth they accused me of being lying to them. After 18 days in the camp, they sent me to the hard site. I asked the interrogators why? They said they did not know. Two days before Ied (End of Ramadan), an interrogator came to me with a women and an interpreter. He said I'm one step away from being in prison forever. He started the interrogation with this statement and end it with this statement. The first day of Ied, the incident of "Firing" happened, I got shot with several bullets in my body and got transferred to the hospital. And there, the interrogator "Steve" came to me and threaten me with the hardest torture when I go back to the prison. I said to him, "I'm sorry about what happened." He said to me, "Don't be sorry now, because you will be sorry later." After several days he came back and said to me, "If I put you under torture, do you think this would be fair?" I said to him, "Why?" He said he needed more information from me. I told him, "I already told you everything I know." He said, "We'll see when you come back to the prison." After 17 or 18 days, I was released from the hospital, went back to Abu Ghraib, he took me somewhere and the guard put a pistol to my head. He said, "I wish I can kill you right now." I spend the night at this place and next morning they took me to the hard site. They received me there with screaming, shoving, pushing and pulling. They forced me to walk from the main gate to my cell. Otherwise they would beat my broken leg. I was in a very bad shape. When I went to the cell, they took my crutches and I didn't see it since. Inside the cell, they asked me to strip naked; they didn't give me blanket or clothes or anything. Every hour or two, soldiers came, threatening me they were going to kill me and torture me and I'm going to be in prison forever and they might transfer me to Guantanamo Bay. One of them came and told me that he failed to shoot me the first time, but he will make sure he will succeed next time. And he said to me they were going to throw a pistol or a knife in my cell, then</p>			
EXHIBIT	INITIALS OF PERSON MAKING STATEMENT		PAGE 1 OF 3 PAGES
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF ___ TAKEN AT ___ DATED ___ CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE ___ OF ___ PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.			

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EXHIBIT 3E

shoot me. Sometime they said, "We will make you wish to die and it will not happen." The night guard came over, his name is GRANER, open the cell door, came in with a number of soldiers. They forced me to eat pork and they put liquor in my mouth. They put this substance on my nose and forehead and it was very hot. The guards started to hit me on my broken leg several times with a solid plastic stick. He told me he got shot in his leg and he showed me the scars and he would retaliate from me for this. They stripped me naked. One of them told me he would rape me. He drew a picture of a woman to my back and makes me stand in shameful position holding my buttocks. Someone else asked me, "Do you believe in anything?" I said to him, "I believe in Allah." So he said, "But I believe in torture and I will torture you." When I go home to my country, I will ask whoever comes after me to torture you. Then they handcuffed me and hung me to the bed. They ordered me to curse Islam and because they started to hit my broken leg, I cursed my religion. They ordered me to thank Jesus that I'm alive. And I did what they ordered me. This is against my belief. They left me hang from the bed and after a little while I lost consciousness. When I woke up, I found myself still hang between the bed and the floor. Until now, I lost feeling in three fingers in my right hand. I sat on the bed, one of them stood by the door and pee'd on me. And he said, "GRANER, your prisoner pee'd on himself." And then GRANER came and laughed. After several hours GRANER came and uncuffed me, then I slept. In the morning until now, people I don't know come over and humiliate me and threaten that they will torture me. The second night, GRANER came hand hung me to the cell door. I told him, "I have a broken shoulder, I'm afraid it will break again, cause the doctor told me 'don't put your arms behind your back.'" He said, "I don't care." Then he hung me to the door for more than eight hours. I was screaming from pain the whole night. GRANER and others use to come and ask me, "does it hurt." I said, "Yes." They said, "Good." And they smack me on the back of the head. After that, a soldier came and uncuffed me. My right shoulder and my wrist was in bad shape and great pain. (When I was hung to the door, I lost consciousness several times) Then I slept. In the morning I told the doctor that I think my shoulder is broken because I can't my hand. I feel sever pain. He checked my shoulder and told me, "I will bring another doctor to see you tomorrow." The next day, the other doctor checked my shoulder and said to me, he's taking me to the hospital the next day for X-rays. And the next day he took me to the hospital and X-rayed my shoulder and the doctor told me, "Your shoulder is not broke, but your shoulder is badly hurt." Then they took me back to the hard site. Every time I leave and come back. I have to crawl back to my cell because I can't walk. The next day, other soldiers came at night and took photos of me while I'm naked. They humiliated me and made of me and threaten me. After that, the interrogators came over and identify the person who gave me the pistols between some pictures. And this guy wasn't in the pictures. When I told them that, they said they will torture me and they will come every single night to ask me the same question accompanied with soldiers having weapons and they point a weapon to my head and threaten that they will kill me; sometime with dogs and they hang me to the door allowing the dogs to try to bite me. This happened for a full week or more.

Q: IEM

A: Ameen Sa'eed AL-SHEIKH

Q: Have you ever seen GRANER beating a prisoner?

A: No.

Q: Have you ever seen GRANER/any guards pile naked prisoners over each other?

A: No.

Q: Have you ever seen GRANER/any guards taking photographs of prisoners?

A: No.

Q: Have you ever seen GRANER/any guards taking photographs during punishment time?

A: No.

Q: Have you ever seen GRANER/any soldiers taking photographs while beating prisoners?

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 3 PAGES

U.S. Government Printing Office: 1993 - 342-027/80494

STATEMENT OF Hidar Sabar Abed Mikrub AL-ABOODI TAKEN AT BAGHDAD CORRECTIONAL FACILITY, IRAQ DATED 20 JAN 04 CONTINUED

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EXHIBIT 38

A: NO.

Q: Have you ever seen any soldier positioning naked prisoners on top of each other?

A: No.

Q: Have you ever seen any guard/American soldier position naked prisoners in sexual positions?

A: No. ///End of Statement///

Translated By:

Gawdat HUSSEIN
Interpreter, Category II
Titan Corporation Inc
Camp Doha, Kuwait

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
Baghdad Correctional Facility
Abu Ghraib, IZ APO AE 09335

#FFIGAVIT

I, Hiadar Saber Abed Miktub AL-ABOODI, HAVE READ OR HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OR BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

Gawdat Hussein

(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by Law to administer oaths, this 20 day of January, 2003 at Baghdad Correctional Facility, Abu Ghraib, IZ APO AE 09335

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

SA MANORA IEM

(Typed Name of Person Administering Oath)

Article 135, UCMJ or 5 USC 303

(Authority to Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 3 OF 3 PAGES

U.S. Government Printing Office: 1993 - 342-027/80494

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EXHIBIT 38

TRANSLATION OF STATEMENT PROVIDED BY Mohanded Juma JUMA, Detainee
152307, 1200/18 JAN 04:

"I am going to start from the first day I went into A1. They stripped me from my clothes and all the stuff that they gave me and I spent 6 days in that situation. And then they gave me a blanket only. 3 days after that, they gave me a mattress, and after a short period of time, approximately at 2 at night, the door opened and Grainer was there. He cuffed my hands behind my back and he cuffed my feet and he took me to the shower room. When they finished interrogating me, the female interrogator left. And then Grainer and another man, who looked like Grainer but doesn't have glasses, and has a thin mustache, and he was young and tall, came into the room. They threw pepper on my face and the beating started. This went on for a half hour. And then he started beating me with the chair until the chair was broken. After that they started choking me. At that time I thought I was going to die, but it's a miracle I lived. And then they started beating me again. They concentrated on beating me in my heart until they got tired from beating me. They took a little break and then they started kicking me very hard with their feet until I passed out.

In the second scene at the night shift, I saw a new guard that wears glasses and has a red face. He charged his pistol and pointed it at a lot of the prisoners to threaten them with it. I saw things no one would see, they are amazing. They come in the morning shift with two prisoners and they were father and son. They were both naked. They put them in front of each other and they counted 1, 2, 3, and then removed the bags from their heads. When the son saw his father naked he was crying. He was crying because of seeing his father. And then at night, Grainer used to throw the food into the toilet and said "go take it and eat it". And I saw also in Room #5 they brought the dogs. Grainer brought the dogs and they bit him in the right and left leg. He was from Iran and they started beating him up in the main hallway of the prison."

TRANSLATED BY:



Mr. Johnson ISHO
Translator, Category II
Titan Corporation

Assigned to:

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
10TH Military Police Battalion (CID)(ABN)(FWD)
3rd Military Police Group (CID), USACIDC
Abu Ghraib Prison Complex (ABPC)
Abu Ghraib, Iraq APO AE 09335

VERIFIED BY:



Mr. Abdelilah ALAZADI
Translator, Category II
Titan Corporation

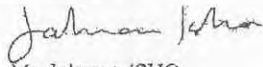
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EXHIBIT 45

TRANSLATION OF VERBAL STATEMENT PROVIDED BY Asad Hamza
HANFOSH, Detainee # 152529, 1605/17 JAN 04:

"One the date of November 5, 2003, when the US forces transferred to Isolation, when they took me out of the car, an American soldier hit me with his hand on my face. And then they stripped me naked and they took me under the water and then he made me crawl the hallway until I was bleeding from my chest to my knees and my hands. And after that he put me back into the cell and an hour later he took me out from the cell the second time to the shower room under cold water and then he made me get up on a box, naked, and he hit me on my manhood. I don't know with what, then I fell down on the ground. He made me crawl on the ground. And then he tied my hands in my cell naked until morning time until Joyner showed up and released my hands and took me back to my room and gave me my clothes back. About two days later my interrogation came up, when it was done a white soldier wearing glasses picked me from the room I was in. He grabbed my head and hit it against the wall and then tied my hand to the bed until noon the next day and then two days later the same soldier and he took all my clothes and my mattress and he didn't give me anything so I can sleep on except my jump suit for 3 days. Then Joyner came and gave me a blanket and my clothes a second time."

TRANSLATED BY:



Mr. Johnson ISHO
Translator, Category II
Titan Corporation
Assigned to:

Prisoner Interview/Interrogation Team (PIT)(CID)(FWD)
10TH Military Police Battalion (CID)(ABN)(FWD)
3rd Military Police Group (CID), USACIDC
Abu Ghraib Prison Complex (ABPC)
Abu Ghraib, Iraq APO AE 09335

VERIFIED BY:



Mr. Abdelilah ALAZADI
Translator, Category II
Titan Corporation

... Only

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