

## United States, The Taguba Report

**N.B. As per the disclaimer, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents.** Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

## Background

[Source: Executive summary of Article 15-6 investigation of the 800<sup>th</sup> Military Police Brigade by Maj. Gen. Antonio M. Taguba, available on <http://www.msnbc.msn.com/id/4894001>]

### ARTICLE 15-6 INVESTIGATION OF THE 800<sup>th</sup> MILITARY POLICE BRIGADE

#### BACKGROUND

1. (U) On 19 January 2004, Lieutenant General (LTG) Ricardo S. Sanchez, Commander, Combined Joint Task Force Seven (CJTF-7) requested that the Commander, US Central Command, appoint an Investigating Officer (IO) in the grade of Major General (MG) or above to investigate the conduct of operations within the 800<sup>th</sup> Military Police (MP) Brigade. LTG Sanchez requested an investigation of detention and internment operations by the Brigade from 1 November 2003 to present. LTG Sanchez cited recent reports of detainee abuse, escapes from confinement facilities, and accountability lapses, which indicated systemic problems within the brigade and suggested a lack of clear standards, proficiency, and leadership. LTG Sanchez requested a comprehensive and all-encompassing inquiry to make findings and recommendations concerning the fitness and performance of the 800<sup>th</sup> MP Brigade. [...]
2. (U) On 31 January 2004, the Commander, CFLCC [Coalition Forces Land Component Command], appointed MG Antonio M. Taguba, Deputy Commanding General Support, CFLCC, to conduct this investigation. MG Taguba was directed to conduct an informal investigation under AR [Army Regulation] 15-6 into the 800<sup>th</sup> MP Brigade's detention and internment operations. Specifically, MG Taguba was tasked to:
  - a. (U) Inquire into all the facts and circumstances surrounding recent allegations of detainee abuse, specifically allegations of maltreatment at the Abu Ghraib Prison (Baghdad Central Confinement

Facility (BCCF));

- b. (U) Inquire into detainee escapes and accountability lapses as reported by CJTF-7, specifically allegations concerning these events at the Abu Ghraib Prison;
- c. (U) Investigate the training, standards, employment, command policies, internal procedures, and command climate in the 800<sup>th</sup> MP Brigade, as appropriate;
- d. (U) Make specific findings of fact concerning all aspects of the investigation, and make any recommendations for corrective action, as appropriate. [...]

## **Part One**

### **FINDINGS AND RECOMMENDATIONS**

#### **(PART ONE)**

**(U) The investigation should inquire into all of the facts and circumstances surrounding recent allegations of detainee abuse, specifically, allegations of maltreatment at the Abu Ghraib Prison (Baghdad Central Confinement Facility).**

1. (U) The US Army Criminal Investigation Command (CID), led by COL [Colonel] Jerry Mocello, and a team of highly trained professional agents have done a superb job of investigating several complex and extremely disturbing incidents of detainee abuse at the Abu Ghraib Prison. They conducted over 50 interviews of witnesses, potential criminal suspects, and detainees. They also uncovered numerous photos and videos portraying in graphic detail detainee abuse by Military Police personnel on numerous occasions from October to December 2003. Several potential suspects rendered full and complete confessions regarding their personal involvement and the involvement of fellow Soldiers in this abuse. Several potential suspects invoked their rights under Article 31 of the Uniform Code of Military Justice (UCMJ) and the 5<sup>th</sup> Amendment of the U.S. Constitution. [...]

#### **REGARDING PART ONE OF THE INVESTIGATION, I MAKE THE FOLLOWING SPECIFIC FINDINGS OF FACT:**

1. (U) That Forward Operating Base (FOB) Abu Ghraib (BCCF) provides security of both criminal and security detainees at the Baghdad Central Correctional Facility, facilitates the conducting of interrogations for CJTF-7, supports other CPA operations at the prison, and enhances the force protection/quality of life of Soldiers assigned in order to ensure the success of ongoing operations to secure a free Iraq.
2. (U) That the Commander, 205<sup>th</sup> Military Intelligence Brigade, was designated by CJTF-7 as the Commander of FOB Abu Ghraib (BCCF) effective 19 November 2003. That the 205<sup>th</sup> MI Brigade conducts operational and strategic interrogations for CJTF-7. That from 19 November 2003 until Transfer of Authority (TOA) on 6 February 2004, COL [...] was the Commander of the 205<sup>th</sup> MI Brigade and the Commander of FOB Abu Ghraib (BCCF).
3. (U) That the 320<sup>th</sup> Military Police Battalion of the 800<sup>th</sup> MP Brigade is responsible for the Guard Force at Camp Ganci, Camp Vigilant, & Cellblock 1 of FOB Abu Ghraib (BCCF). That from February 2003 to until he was suspended from his duties on 17 January 2004, LTC [...] served as the Battalion Commander of

the 320<sup>th</sup> MP Battalion. That from December 2002 until he was suspended from his duties, on 17 January 2004, CPT [...] served as the Company Commander of the 372<sup>nd</sup> MP Company, which was in charge of guarding detainees at FOB Abu Ghraib. I further find that both the 320<sup>th</sup> MP Battalion and the 372<sup>nd</sup> MP Company were located within the confines of FOB Abu Ghraib.

4. (U) That from July of 2003 to the present, BG [Brigadier General] [...] was the Commander of the 800<sup>th</sup> MP Brigade.
5. (S) That between October and December 2003, at the Abu Ghraib Confinement Facility (BCCF), numerous incidents of sadistic, blatant, and wanton criminal abuses were inflicted on several detainees. This systemic and illegal abuse of detainees was intentionally perpetrated by several members of the military police guard force (372<sup>nd</sup> Military Police Company, 320<sup>th</sup> Military Police Battalion, 800<sup>th</sup> MP Brigade), in Tier (section) 1-A of the Abu Ghraib Prison (BCCF). The allegations of abuse were substantiated by detailed witness statements and the discovery of extremely graphic photographic evidence. Due to the extremely sensitive nature of these photographs and videos, the ongoing CID investigation, and the potential for the criminal prosecution of several suspects, the photographic evidence is not included in the body of my investigation. The pictures and videos are available from the Criminal Investigative Command and the CTJF-7 prosecution team. In addition to the aforementioned crimes, there were also abuses committed by members of the 325<sup>th</sup> MI Battalion, 205<sup>th</sup> MI Brigade, and Joint Interrogation and Debriefing Center (JIDC). Specifically, on 24 November 2003, SPC [Specialist] [...], 205<sup>th</sup> MI Brigade, sought to degrade a detainee by having him strip and returned to cell naked.
6. (S) I find that the intentional abuse of detainees by military police personnel included the following acts:
  - a. (S) Punching, slapping, and kicking detainees; jumping on their naked feet;
  - b. (S) Videotaping and photographing naked male and female detainees;
  - c. (S) Forcibly arranging detainees in various sexually explicit positions for photographing;
  - d. (S) Forcing detainees to remove their clothing and keeping them naked for several days at a time;
  - e. (S) Forcing naked male detainees to wear women's underwear;
  - f. (S) Forcing groups of male detainees to masturbate themselves while being photographed and videotaped;
  - g. (S) Arranging naked male detainees in a pile and then jumping on them;
  - h. (S) Positioning a naked detainee on a MRE Box, with a sandbag on his head, and attaching wires to his fingers, toes, and penis to simulate electric torture;
  - i. (S) Writing "I am a Rapist" [sic] on the leg of a detainee alleged to have forcibly raped a 15-year old fellow detainee, and then photographing him naked;
  - j. (S) Placing a dog chain or strap around a naked detainee's neck and having a female Soldier pose for a picture;
  - k. (S) A male MP guard having sex with a female detainee;
  - l. (S) Using military working dogs (without muzzles) to intimidate and frighten detainees, and in at least one case biting and severely injuring a detainee;
  - m. (S) Taking photographs of dead Iraqi detainees.
7. (U) These findings are amply supported by written confessions provided by several of the suspects, written statements provided by detainees, and witness statements. [...]
8. (U) In addition, several detainees also described the following acts of abuse, which under the circumstances, I find credible based on the clarity of their statements and supporting evidence provided

by other witnesses:

- a. (U) Breaking chemical lights and pouring the phosphoric liquid on detainees;
  - b. (U) Threatening detainees with a charged 9mm pistol;
  - c. (U) Pouring cold water on naked detainees;
  - d. (U) Beating detainees with a broom handle and a chair;
  - e. (U) Threatening male detainees with rape;
  - f. (U) Allowing a military police guard to stitch the wound of a detainee who was injured after being slammed against the wall in his cell;
  - g. (U) Sodomizing a detainee with a chemical light and perhaps a broom stick.
  - h. (U) Using military working dogs to frighten and intimidate detainees with threats of attack, and in one instance actually biting a detainee. [...]
9. (U) I find that contrary to the provision of AR 190-8 [...] Military Intelligence (MI) interrogators and Other US Government Agency's (OGA) interrogators actively requested that MP guards set physical and mental conditions for favorable interrogation of witnesses. [...] I find that personnel assigned to the 372<sup>nd</sup> MP Company, 800<sup>th</sup> MP Brigade were directed to change facility procedures to "set the conditions" for MI interrogations. I find no direct evidence that MP personnel actually participated in those MI interrogations.
10. (U) I reach this finding based on the actual proven abuse that I find was inflicted on detainees and by the following witness statements:
- a. (U) **SPC [...], 372<sup>nd</sup> MP Company**, stated in her sworn statement regarding the incident where a detainee was placed on a box with wires attached to his fingers, toes, and penis, "that her job was to keep detainees awake." She stated that MI was talking to CPL [Corporal] [...]. She stated: "**MI wanted to get them to talk. It is [...] and [...]'s job to do things for MI and OGA to get these people to talk.**"
  - b. (U) **SGT [Sergeant] [...], 372<sup>nd</sup> MP Company**, stated in his sworn statement as follows: "**I witnessed prisoners in the MI hold section, wing 1A being made to do various things that I would question morally. In Wing 1A we were told that they had different rules and different SOP [Standing Operating Procedures] for treatment. I never saw a set of rules or SOP for that section just word of mouth. The Soldier in charge of 1A was Corporal [...]. He stated that the Agents and MI Soldiers would ask him to do things, but nothing was ever in writing he would complain [sic].**" When asked why the rules in 1A/B were different than the rest of the wings, SGT [...] stated: "**The rest of the wings are regular prisoners and 1A/B are Military Intelligence (MI) holds.**" When asked why he did not inform his chain of command about this abuse, SGT [...] stated: "**Because I assumed that if they were doing things out of the ordinary or outside the guidelines, someone would have said something. Also the wing belongs to MI and it appeared MI personnel approved of the abuse.**" SGT [...] also stated that he had heard MI insinuate to the guards to abuse the inmates. When asked what MI said he stated: "**Loosen this guy up for us. Make sure he has a bad night. Make sure he gets the treatment.**" He claimed these comments were made to CPL [...] and SSG [Staff Sergeant] [...]. Finally, SGT [...] stated that [sic]: "**the MI staffs to my understanding have been giving [...] compliments on the way he has been handling the MI holds.**" Example being statements like, "**Good job, they're breaking down real fast. They answer every question. They're giving out good information, finally, and keep up the good work. Stuff like that.**"

- c. (U) SPC [...], 372<sup>nd</sup> MP Company, was asked if he were present when any detainees were abused. He stated: **“I saw them nude, but MI would tell us to take away their mattresses, sheets, and clothes.”** He could not recall who in MI had instructed him to do this, but commented that, “if they wanted me to do that they needed to give me paperwork.” He was later informed that “we could not do anything to embarrass the prisoners.”
  - d. (U) Mr. [...], a US civilian contract translator was questioned about several detainees accused of rape. He observed [sic]: **“They (detainees) were all naked, a bunch of people from MI, the MP were there that night and the inmates were ordered by SGT [...] and SGT [...] ordered the guys while questioning them to admit what they did. They made them do strange exercises by sliding on their stomach, jump up and down, throw water on them and made them some wet, called them all kinds of names such as “gays” do they like to make love to guys, then they handcuffed their hands together and their legs with shackles and started to stack them on top of each other by insuring that the bottom guys penis will touch the guy on tops butt.”**
  - e. (U) SPC [...], 109<sup>th</sup> Area Support Medical Battalion, a medic testified that: **“Cell 1A was used to house high priority detainees and cell 1B was used to house the high risk or trouble making detainees. During my tour at the prison I observed that when the male detainees were first brought to the facility, some of them were made to wear female underwear, which I think was to somehow break them down.”**
11. (U) **I find that prior to its deployment to Iraq for Operation Iraqi Freedom, the 320<sup>th</sup> MP Battalion and the 372<sup>nd</sup> MP Company had received no training in detention/internee operations.** I also find that very little instruction or training was provided to MP personnel on the applicable rules of the Geneva Convention Relative to the Treatment of Prisoners of War, FM [Field Manual] 27-10, AR 190-8, or FM 3-19.40. Moreover, I find that few, if any, copies of the Geneva Conventions were ever made available to MP personnel or detainees.
  12. (U) Another obvious example of the Brigade Leadership not communicating with its Soldiers or ensuring their tactical proficiency concerns the incident of detainee abuse that occurred at Camp Bucca, Iraq, on May 12, 2003. Soldiers from the 223<sup>rd</sup> MP Company reported to the 800<sup>th</sup> MP Brigade Command at Camp Bucca, that four Military Police Soldiers from the 320<sup>th</sup> MP Battalion had abused a number of detainees during inprocessing at Camp Bucca. An extensive CID investigation determined that four soldiers from the 320<sup>th</sup> MP Battalion had kicked and beaten these detainees following a transport mission from Talil Air Base.
  13. (U) Formal charges under the UCMJ [Uniform Code of Military Justice] were preferred against these Soldiers and an Article-32 Investigation conducted by LTC Gentry. He recommended a general court martial for the four accused, which BG [...] supported. Despite this documented abuse, there is no evidence that BG [...] ever attempted to remind 800<sup>th</sup> MP Soldiers of the requirements of the Geneva Conventions regarding detainee treatment or took any steps to ensure that such abuse was not repeated. Nor is there any evidence that LTC(P) [...], the commander of the Soldiers involved in the Camp Bucca abuse incident, took any initiative to ensure his Soldiers were properly trained regarding detainee treatment.

## **RECOMMENDATIONS AS TO PART ONE OF THE INVESTIGATION:**

1. (U) Immediately deploy to the Iraq Theater an integrated multi-discipline Mobile Training Team (MTT)

comprised of subject matter experts in internment/resettlement operations, international and operational law, information technology, facility management, interrogation and intelligence gathering techniques, chaplains, Arab cultural awareness, and medical practices as it pertains to I/R activities. This team needs to oversee and conduct comprehensive training in all aspects of detainee and confinement operations.

2. (U) That all military police and military intelligence personnel involved in any aspect of detainee operations or interrogation operations in CJTF-7, and subordinate units, be immediately provided with training by an international/operational law attorney on the specific provisions of The Law of Land Warfare FM 27-10, specifically the Geneva Convention Relative to the Treatment of Prisoners of War, Enemy Prisoners of War, Retained Personnel, Civilian Internees, and Other Detainees, and AR 190-8.
3. (U) **That a single commander in CJTF-7 be responsible for overall detainee operations throughout the Iraq Theater of Operations.** I also recommend that the Provost Marshal General of the Army assign a minimum of two (2) subject matter experts, one officer and one NCO [Non-Commissioned Officer], to assist CJTF-7 in coordinating detainee operations.
4. (U) That detention facility commanders and interrogation facility commanders ensure that appropriate copies of the Geneva Convention Relative to the Treatment of Prisoners of War and notice of protections be made available in both English and the detainees' language and be prominently displayed in all detention facilities. Detainees with questions regarding their treatment should be given the full opportunity to read the Convention.
5. (U) That each detention facility commander and interrogation facility commander publish a complete and comprehensive set of Standing Operating Procedures (SOPs) regarding treatment of detainees, and that all personnel be required to read the SOPs and sign a document indicating that they have read and understand the SOPs.
6. (U) That in accordance with the recommendations of MG Ryder's Assessment Report, and my findings and recommendations in this investigation, all units in the Iraq Theater of Operations conducting internment/confinement/detainment operations in support of Operation Iraqi Freedom be OPCON [Operational Control] for all purposes, to include action under the UCMJ, to CJTF-7.
7. (U) Appoint the C3, CJTF as the staff proponent for detainee operations in the Iraq Joint Operations Area (JOA). (MG Tom Miller, C3, CJTF-7, has been appointed by COMCJTF-7).
8. (U) That an inquiry UP AR 381-10, Procedure 15 be conducted to determine the extent of culpability of Military Intelligence personnel, assigned to the 205<sup>th</sup> MI Brigade and the Joint Interrogation and Debriefing Center (JIDC) regarding abuse of detainees at Abu Ghraib (BCCF).
9. (U) That it is critical that the proponent for detainee operations is assigned a dedicated Senior Judge Advocate, with specialized training and knowledge of international and operational law, to assist and advise on matters of detainee operations.

## Part Two

### FINDINGS AND RECOMMENDATIONS

#### (PART TWO)

**(U) The Investigation inquire into detainee escapes and accountability lapses as reported by CJTF-7, specifically allegations concerning these events at the Abu Ghraib Prison:**

## **REGARDING PART TWO OF THE INVESTIGATION, I MAKE THE FOLLOWING SPECIFIC FINDINGS OF FACT: [...]**

1. (U) Detainee operations include accountability, care, and well being of Enemy Prisoners of War, Retained Person, Civilian Detainees, and Other Detainees, as well as Iraqi criminal prisoners. [...]
2. (U) There is a general lack of knowledge, implementation, and emphasis of basic legal, regulatory, doctrinal, and command requirements within the 800<sup>th</sup> MP Brigade and its subordinate units.
3. (U) The handling of detainees and criminal prisoners after in-processing was inconsistent from detention facility to detention facility, compound to compound, encampment to encampment, and even shift to shift throughout the 800<sup>th</sup> MP Brigade AOR [Area of Responsibility]. [...]
4. (U) The Abu Ghraib and Camp Bucca detention facilities are significantly over their intended maximum capacity while the guard force is under-manned and under-resourced. This imbalance has contributed to the poor living conditions, escapes, and accountability lapses at the various facilities. The overcrowding of the facilities also limits the ability to identify and segregate leaders in the detainee population who may be organizing escapes and riots within the facility.
5. (U) The screening, processing, and release of detainees who should not be in custody takes too long and contributes to the overcrowding and unrest in the detention facilities. [...]
6. (U) Neither the camp rules nor the provisions of the Geneva Conventions are posted in English or in the language of the detainees at any of the detention facilities in the 800<sup>th</sup> MP Brigade's AOR, even after several investigations had annotated the lack of this critical requirement. [...]
7. (S/NF) The various detention facilities operated by the 800<sup>th</sup> MP Brigade have routinely held persons brought to them by Other Government Agencies (OGAs) without accounting for them, knowing their identities, or even the reason for their detention. The Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib called these detainees "ghost detainees." On at least one occasion, the 320<sup>th</sup> MP Battalion at Abu Ghraib held a handful of "ghost detainees" (6-8) for OGAs that they moved around within the facility to hide them from a visiting International Committee of the Red Cross (ICRC) survey team. This maneuver was deceptive, contrary to Army Doctrine, and in violation of international law. [...]

## **RECOMMENDATIONS REGARDING PART TWO OF THE INVESTIGATION:**

[...] (U) Develop, staff, and implement comprehensive and detailed SOPs utilizing the lessons learned from this investigation as well as any previous findings, recommendations, and reports. (U) SOPs must be written, disseminated, trained on, and understood at the lowest level. (U) Iraqi criminal prisoners must be held in separate facilities from any other category of detainee. [...] (U) Detention Rules of Engagement (DROE), Interrogation Rules of Engagement (IROE), and the principles of the Geneva Conventions need to be briefed at every shift change and guard mount. [...] (U) The Geneva Conventions and the facility rules must be prominently displayed in English and the language of the detainees at each compound and encampment at every detention facility [...].

## **Part Three**

### **FINDINGS AND RECOMMENDATIONS**

## **(PART THREE)**

**(U) Investigate the training, standards, employment, command policies, internal procedures, and command climate in the 800<sup>th</sup> MP Brigade, as appropriate:**

**(Names deleted)**

### **REGARDING PART THREE OF THE INVESTIGATION, I MAKE THE FOLLOWING SPECIFIC FINDINGS OF FACT:**

1. (U) I find that BG [...] took command of the 800<sup>th</sup> MP Brigade on 30 June 2003 from BG [...]. BG [...] has remained in command since that date. The 800<sup>th</sup> MP Brigade is comprised of eight MP battalions in the Iraqi TOR: 115<sup>th</sup> MP Battalion, 310<sup>th</sup> MP Battalion, 320<sup>th</sup> MP Battalion, 324<sup>th</sup> MP Battalion, 400<sup>th</sup> MP Battalion, 530<sup>th</sup> MP Battalion, 724<sup>th</sup> MP Battalion, and 744<sup>th</sup> MP Battalion.
2. (U) Prior to BG [...] taking command, members of the 800<sup>th</sup> MP Brigade believed they would be allowed to go home when all the detainees were released from the Camp Bucca Theater Internment Facility following the cessation of major ground combat on 1 May 2003. At one point, approximately 7,000 to 8,000 detainees were held at Camp Bucca. Through Article-5 Tribunals and a screening process, several thousand detainees were released. Many in the command believed they would go home when the detainees were released. In late May-early June 2003 the 800<sup>th</sup> MP Brigade was given a new mission to manage the Iraqi penal system and several detention centers. This new mission meant Soldiers would not redeploy to CONUS [Continental United States] when anticipated. Morale suffered, and over the next few months there did not appear to have been any attempt by the Command to mitigate this morale problem. [...]
3. (U) I find that the 800<sup>th</sup> MP Brigade was not adequately trained for a mission that included operating a prison or penal institution at Abu Ghraib Prison Complex. As the Ryder Assessment found, I also concur that units of the 800<sup>th</sup> MP Brigade did not receive corrections-specific training during their mobilization period. [...] I found no evidence that the Command, although aware of this deficiency, ever requested specific corrections training from the Commandant of the Military Police School, the US Army Confinement Facility at Mannheim, Germany, the Provost Marshal General of the Army, or the US Army Disciplinary Barracks at Fort Leavenworth, Kansas. [...]
4. (U) With respect to the 320<sup>th</sup> MP Battalion, I find that the Battalion Commander, LTC (P) [...], was an extremely ineffective commander and leader. [...] The 320<sup>th</sup> MP Battalion was stigmatized as a unit due to previous detainee abuse which occurred in May 2003 at the Bucca Theater Internment Facility (TIF), while under the command of LTC (P) [...]. Despite his proven deficiencies as both a commander and leader, BG [...] allowed LTC (P) [...] to remain in command of her most troubled battalion guarding, by far, the largest number of detainees in the 800<sup>th</sup> MP Brigade. LTC (P) [...] was suspended from his duties by LTG Sanchez, CJTF-7 Commander on 17 January 2004.
5. (U) During the course of this investigation I conducted a lengthy interview with BG [...] that lasted over four hours, and is included verbatim in the investigation Annexes. BG [...] was extremely emotional during much of her testimony. What I found particularly disturbing in her testimony was her complete unwillingness to either understand or accept that many of the problems inherent in the 800<sup>th</sup> MP Brigade



were caused or exacerbated by poor leadership and the refusal of her command to both establish and enforce basic standards and principles among its soldiers.

6. (U) BG [...] alleged that she received no help from the Civil Affairs Command, specifically, no assistance from either BG [...] or COL [...]. She blames much of the abuse that occurred in Abu Ghraib (BCCF) on MI personnel and stated that MI personnel had given the MPs "ideas" that led to detainee abuse. [...]
7. (U) I find that individual Soldiers within the 800<sup>th</sup> MP Brigade and the 320<sup>th</sup> Battalion stationed throughout Iraq had very little contact during their tour of duty with either LTC (P) [...] or BG [...]. BG [...] claimed, during her testimony, that she paid regular visits to the various detention facilities where her Soldiers were stationed. However, the detailed calendar provided by her Aide-de-Camp, 1LT [First Lieutenant] [...], does not support her contention. Moreover, numerous witnesses stated that they rarely saw BG [...] or LTC (P) [...].
8. (U) In addition I find that psychological factors, such as the difference in culture, the Soldiers' quality of life, the real presence of mortal danger over an extended time period, and the failure of commanders to recognize these pressures contributed to the pervasive atmosphere that existed at Abu Ghraib (BCCF) Detention Facility and throughout the 800<sup>th</sup> MP Brigade.
9. [...] Brigade and unit SOPs for dealing with detainees if they existed at all, were not read or understood by MP Soldiers assigned the difficult mission of detainee operations. Following the abuse of several detainees at Camp Bucca in May 2003, I could find no evidence that BG [...] ever directed corrective training for her soldiers or ensured that MP Soldiers throughout Iraq clearly understood the requirements of the Geneva Conventions relating to the treatment of detainees.
10. On 17 January 2004 BG [...] was formally admonished in writing by LTG Sanchez regarding the serious deficiencies in her Brigade. LTG Sanchez found that the performance of the 800<sup>th</sup> MP Brigade had not met the standards set by the Army or by CJTF-7. He found that incidents in the preceding six months had occurred that reflected a lack of clear standards, proficiency and leadership within the Brigade. LTG Sanchez also cited the recent detainee abuse at Abu Ghraib (BCCF) as the most recent example of a poor leadership climate that "permeates the Brigade." I totally concur with LTG Sanchez' opinion regarding the performance of BG [...] and the 800<sup>th</sup> MP Brigade.

## **RECOMMENDATIONS AS TO PART THREE OF THE INVESTIGATION:**

1. (U) That BG [...], Commander, 800<sup>th</sup> MP Brigade be Relieved from Command and given a General Officer Memorandum of Reprimand for the following acts which have been previously referred to in the aforementioned findings:
  - Failing to ensure that MP Soldiers at theater-level detention facilities throughout Iraq had appropriate SOPs for dealing with detainees and that Commanders and Soldiers had read, understood, and would adhere to these SOPs.
  - Failing to ensure that MP Soldiers in the 800<sup>th</sup> MP Brigade knew, understood, and adhered to the protections afforded to detainees in the Geneva Convention Relative to the Treatment of Prisoners of War.
  - Making material misrepresentations to the Investigation Team as to the frequency of her visits to her subordinate commands.
  - Failing to obey an order from the CFLCC Commander, LTG [...], regarding the withholding of disciplinary authority for Officer and Senior Non-commissioned Officer misconduct.

- Failing to take appropriate action regarding the ineffectiveness of a subordinate Commander, LTC (P) [...].
  - Failing to take appropriate action regarding the ineffectiveness of numerous members of her Brigade Staff [...].
  - Failing to ensure that numerous and reported accountability lapses at detention facilities throughout Iraq were corrected.
2. (U) That COL [...], Commander, 205<sup>th</sup> MI Brigade, be given a General Officer Memorandum of Reprimand and Investigated UP Procedure 15, AR 381-10, US Army Intelligence Activities for the following acts which have been previously referred to in the aforementioned findings: [...]
- Failing to ensure that Soldiers under his direct command knew, understood, and followed the protections afforded to detainees in the Geneva Convention Relative to the Treatment of Prisoners of War.
  - Failing to properly supervise his soldiers working and “visiting” Tier 1 of the Hard-Site at Abu Ghraib (BCCF).
3. (U) That LTC (P) [...], Commander, 320<sup>th</sup> MP Battalion, be Relieved from Command, be given a General Officer Memorandum of Reprimand, and be removed from the Colonel/O-6 Promotion List for the following acts which have been previously referred to in the aforementioned findings: [...]
- Failing to ensure that Soldiers under his direct command were properly trained in Internment and Resettlement Operations.
  - Failing to ensure that Soldiers under his direct command knew and understood the protections afforded to detainees in the Geneva Convention Relative to the Treatment of Prisoners of War.
  - Failing to properly supervise his soldiers working and “visiting” Tier 1 of the Hard-Site at Abu Ghraib (BCCF).
  - Failing to properly establish and enforce basic soldier standards, proficiency, and accountability. [...]
4. (U) I find that there is sufficient credible information to warrant an Inquiry UP Procedure 15, AR 381-10, US Army Intelligence Activities, be conducted to determine the extent of culpability of MI personnel, assigned to the 205<sup>th</sup> MI Brigade and the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib (BCCF). [...]

## Other and Conclusion

### OTHER FINDINGS/OBSERVATIONS

1. (U) Due to the nature and scope of this investigation, I acquired the assistance of Col (Dr.) Henry Nelson, a USAF Psychiatrist, to analyze the investigation materials from a psychological perspective. He determined that there was evidence that the horrific abuses suffered by the detainees at Abu Ghraib (BCCF) were wanton acts of select soldiers in an unsupervised and dangerous setting. There was a complex interplay of many psychological factors and command insufficiencies. [...]

### CONCLUSION

1. (U) Several US Army Soldiers have committed egregious acts and grave breaches of international law at Abu Ghraib/BCCF and Camp Bucca, Iraq. Furthermore, key senior leaders in both the 800<sup>th</sup> MP

Brigade and the 205<sup>th</sup> MI Brigade failed to comply with established regulations, policies, and command directives in preventing detainee abuses at Abu Ghraib (BCCF) and at Camp Bucca during the period August 2003 to February 2004.

2. (U) Approval and implementation of the recommendations of this AR 15-6 Investigation and those highlighted in previous assessments are essential to establish the conditions with the resources and personnel required to prevent future occurrences of detainee abuse.

## Discussion

1.
  - a. How would you qualify the conflict in Iraq at the time of the alleged abuses? Is the international humanitarian law (IHL) of international armed conflicts applicable to all detainees mentioned in the Taguba report?
  - b. Does the report make a difference as to the treatment of the prisoners of war and that of the other detainees? Does it make a legal distinction? What is the status of those not considered as prisoners of war? Are they necessarily protected civilians? Civilian internees? What if they are detained for reasons not linked to the conflict? (GC III, Arts 4 and 5; GC IV, Arts 4, 76, 78 and 79)
  - c. Does the question whether the detainees were prisoners of war, civilians accused of offences or civilian internees, matter when evaluating whether the reported treatment violated IHL?
2. Qualify each of the “abuse” cases mentioned in the Taguba report in terms of IHL (*Part One, paras 6-8*). Which cases described in the report amount to torture? To ill-treatment? Is the distinction between torture and ill-treatment relevant for IHL? (GC III, Arts 17 and 130; GC IV, Arts 31, 32 and 147) Does this report qualify some violations as war crimes? In what circumstances does the report mention IHL or the Geneva Conventions?
3.
  - a. According to the Taguba report, were the reported abuses cases of individual misbehaviour? The result of a lack of training and discipline tolerated by authorities and commanders? Standard interrogation procedure?
  - b. Could the treatment of individuals during interrogation as described be justified under Art. 5 of Convention IV?
  - c. When “interrogators actively requested that MP guards set physical and mental conditions for favourable interrogation of witnesses” (*Part One, para. 10*), is it an incitement to commit abuses? Is the incitement to commit a crime a violation of IHL or of other bodies of law? How does the report deal with the interrogators’ (from Military Intelligence or other agencies) behaviour?
  - d. What are the conditions and procedure of the ICRC for visiting detainees? Do they have a legal basis in IHL? Were they respected by the Coalition? Is the practice of “ghost detainees” (*Part Two, para. 33, Findings and Recommendations*) a violation of IHL? (GC III, Art. 126; GC IV, Art. 143)
4. What do you think about the recommendations made by MG Taguba in his report, following the specific findings he made? Do you think that measures such as the training of guards, displaying the Geneva Conventions in detention facilities, establishing sets of procedures, etc. are adequate and sufficient? What about the sanctions recommended in the report? Do you find them proportionate to the crimes committed? Who should be sanctioned for these abuses? Only the perpetrators? Also the commanders if they knew but did not act on this knowledge? Other higher-ranking officials? People who incited the commission of these abuses?

