

USAWC STRATEGY RESEARCH PROJECT

STRATEGIC LESSONS LEARNED FROM ABU GHRAIB

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ABSTRACT

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Numerous lessons learned surfaced from the investigations, inspections, inquiries, and assessments of detainee operations following the Abu Ghraib detainee abuse scandal. Key recommendations from these reports included the establishment of one command with authority over all units supporting detainee operations. Additionally, the reports described an operational environment in which coalition forces faced an adaptive and aggressive enemy that was indistinguishable from the surrounding populace. In its effort to combat its elusive foe, coalition forces apprehended thousands of Arab males, some of whom were not guilty of a crime. The impact of these tactical-level decisions would have a strategic effect on United States' interests in the region as US and coalition forces fought to establish security and stability in Iraq. This research project discusses the decisions that shaped the operational environment preceding the abuse scandal, and the effect of establishing one command to oversee detainee operations and influence the institution of the rule of law within Iraq. Additionally, this paper provides insights into how a commander's decision to detain or release individuals in their custody influences desired and undesired U.S. strategic outcomes in Iraq and the region.

STRATEGIC LESSONS LEARNED FROM ABU GHRAIB

In the wake of the Abu Ghraib prison detainee abuse scandal numerous lessons learned surfaced as a result of the twelve separate Department of Defense, Army, and combatant commander directed investigations, inspections, inquiries, and assessments of detainee operations.¹ Key recommendations from these reports included the establishment of a single headquarters with command authority and responsibility over military police, military intelligence, and medical commands and supporting staffs under the umbrella of detainee operations. Additionally, several of the reports described an operational environment in which coalition forces were facing an adaptive and aggressive enemy that was indistinguishable from the surrounding populace. In its effort to combat its elusive foe, coalition forces apprehended thousands of Arab males, some of whom were not guilty of a crime. The impact of these tactical-level decisions would have a strategic effect on United States' interests in the region as US and coalition forces fought to establish security and stability in Iraq.

This strategy research project discusses the decisions that shaped the operational environment preceding the abuse scandal, and the effect of establishing one command to oversee detainee operations and influence the institution of the rule of law within Iraq. Additionally, this paper provides insights into how a commander's decision to detain or release individuals in their custody influences desired and undesired U.S. strategic outcomes in Iraq and the region.

In response to findings of the investigative reports, Multi-National Force-Iraq established Task Force 134, Detainee Operations in April 2004.² The command oversaw all aspects of the conduct of detainee operations within the theater and served as the executive agent for execution of current, revised or new Department of Defense (DoD) and theater policy as well as military doctrine. Furthermore, the command would serve as an agent for change as lessons of tactical through strategic significance were identified and documented for implementation within the theater and in DoD facilities in Afghanistan and Guantanamo Bay, Cuba. Task Force 134 developed lessons learned from its day-to-day operations and interface with the interagency and tactical commands. Applying lessons learned early nurtured a foundation for the rule of law and respect for human rights within its combined efforts with the Government of Iraq (GOI) to eventually transfer responsibility for detainee operations to the GOI.

The strategy and intent for engagement and to build a sovereign state based on the principles of democracy were found in the United States National Security Strategies of the administrations of Presidents Clinton and Bush. The United States National Security Strategies

from 1999 to present have been consistent in their national interests; specifically, the promotion of human rights, halting violations, supporting democratization and adherence to the rule of law. These are based on the America's core values of democratic government, respect for fundamental human rights, and respect for the rule of law.³ The September 2002 United States National Security Strategy stated one of its goals was to make the world safer for all was the establishment of the basic rights for human dignity. President Bush added that one of the non-negotiable elements was the demand of human dignity including the establishment of the rule of law.⁴ Though the democratization of Iraq was not specified in these strategies, it would have been reasonable to conclude that in building a new state founded upon democratic principles that the US national security interests for the country included the establishment of the basis for respect for basic human rights and the rule of law. Both were relevant to achieving US interests in Iraq and demonstrating US intentions within the region.⁵

Task Force 134 significantly facilitated the accomplishment of these goals. However, it is important to understand the circumstances behind the Task Force's activation by reviewing the key strategic-level decisions that shaped the operational environment and later led to the Abu Ghraib scandal. This paper will not re-address conditions and events at Abu Ghraib that resulted in abuse; rather it will discuss how the operational conditions within Iraq worked against the stated purpose of the United States' engagement there and its promise to build a free and sovereign Iraq. These conditions were predicated upon coalition actions in the field that inadvertently fueled the insurgency while it fought to defeat an aggressive, adaptive, and seemingly transparent foe and build a secure environment in which the Coalition Provisional Government could operate. It is relevant to this paper to appreciate the following issues in combating terrorism and insurgencies: In as much as strategic aims are achieved through tactical actions; tactical actions may result in strategic effect or consequence. In this regard, the coalition's actions in the field would work against it with measurable strategic effect measured by the diminishing popular support for US aims in Iraq and countering the insurgency.

Conditions of the Operational Environment

The conditions for the Abu Ghraib scandal were established in Iraq prior to the commencement of Phase IV, Stability and Support Operations (SASO). In accordance with the initial war plan, US Central Command (CENTCOM) Operations Plan (OPLAN) 1003-V, enemy prisoners of war (EPW) were to be handed over to the Coalition Provisional Authority (CPA) at the completion of Phase III, Decisive Operations. At that time, the responsible unit, CJTF-7, was to transition from combat operations to supporting the CPA in what was predicted to be a

low-threat environment. In this phase, CJTF-7's responsibilities included the transition of control of critical infrastructure functions, such as government agencies and services to facilitate Iraqi self-rule. Included in this transition was the expectation to transfer some 30,000 to 100,000 EPWs and detained persons to CPA control. However, as combat operations progressed, the number of EPWs and detainees initially held by the coalition numbered as few as 600. As a result, previously apportioned Military Police units were demobilized in the United States. The decision to demobilize these forces was a key factor leading to abuses at Abu Ghraib when an undermanned and undertrained force faced an escalating detainee population and unceasing demand for timely and relevant intelligence. The late arriving and poorly resourced units were overwhelmed by the complexity of counterinsurgency warfare.⁶

Although the Iraqi Army and security forces were to be disbanded at the conclusion of decisive operations, the plan was to recall these organizations to service under the CPA in order to restore the security, law, and criminal detention infrastructure essential to the care, processing, release or prosecution of all EPWs and detained persons.⁷ LTG Jones' report on the operational environment states:

The original plan also envisioned that only the prisoners remaining from initial combat operations would require detention facilities, and they would eventually be released or turned over to the Iraqi authorities once justice departments and criminal detention facilities were re-established.⁸

However, this recall did not occur in accordance with the OPLAN because the Coalition Provisional Authority, Ambassador Paul Bremer, issued the following orders: Coalition Authority Order Number 1, De-Ba'athification of Iraqi Society, dated 16 May 2003; and Coalition Order Number 2, Dissolution of Entities, dated 23 May 2003. The effects of these orders were immediate in that they (1) removed key experienced leadership from organizations essential to the provision of government services to the Iraqi people,⁹ and (2) abolished the Iraqi and military security forces and their respective higher headquarters.¹⁰ In sum, the agencies the coalition was counting on to assist in the security and stabilization of Iraq no longer existed.¹¹

Ambassador Bremer's rationale was to demonstrate to the Iraqi people that the old regime would not be represented in the new Iraq. This CPA order was contrary to the approved Iraqi theater strategy and in contravention of General Franks' (Commanding General, United States Central Command) desire to re-build the Iraqi army quickly. Instead, Ambassador Bremer's decision called for the abolishment of the Iraqi military and a methodical from the ground up rebuilding of a new force.¹² Ambassador Bremer stated the new CENTCOM Commander, General Abizaid, informed him in November 2004 that he too was opposed to the CPA's de-Ba'athification and Dissolution of Entities orders as well. Ambassador Bremer defended his

decision using information from previous discussions with Shi'a and Kurdish representatives who indicated to him that the re-emergence of the former regime's army under its Ba'athist leadership would have initiated a civil war within Iraq. He did agree that a select group of senior officers, predominantly colonels, could be re-assessed for integration into the new army. This would serve to strengthen the leadership and experience of the emerging military.¹³

The consequences of these orders were immediate and had long standing strategic implications. Rather than having the availability of the Iraqi army to support SASO and bolster the counter-insurgency fight, the coalition was charged with building an army from scratch while combating a developing insurgency which would be resourced by a considerable degree by the more than half a million unemployed Iraqi public officials, teachers, and soldiers who were "fired" under Ambassador Bremer's orders.¹⁴ The time to complete this piecemeal effort would be measured in years, not months, during which an Iraqi army would not be available to support a new government. Additionally, the continued unemployment of an army of 400,000¹⁵ trained but disenfranchised professional soldiers and conscripts added more weight to an already burdened economy and provided a recruiting base for the insurgency. For many Iraqis, who had served their country honorably, the consequences of unemployment were severe.¹⁶

Ambassador Bremer's orders directly affected the lives of more than 2.4 million Iraqis, or approximately 10% of the countries population.¹⁷ In a culture where men were the heads of the household and expected to provide for their families, the inability to care for their families led thousands of Iraqi men to the insurgency. In the employ of insurgent cells their skills would serve to provide a meager income for their loved ones. This was made worse by the coalition's inability to provide reliable services, such as power and water, to the population. This caused many to question the wisdom of toppling Saddam Hussein, whose government provided employment, security and other services to the Iraqi people. This was a significant setback for the coalition and US interests in the region as the insurgency and popular sympathy for the insurgency expanded within Iraq.¹⁸

Strategic Consequences - Fueling Civil Distrust, Chaos, and the Insurgency

In countering the insurgency and supporting the CPA, coalition forces, specifically US forces, initiated measures which would create in significant increases in the detainee population at the theater internment facility established at Abu Ghraib prison. According to author Thomas E. Ricks' book, Fiasco, The American Military Adventure in Iraq: "In the late summer of 2003, senior U.S. commanders tried to counter the insurgency with indiscriminate cordon-and-sweep operations that involved detaining thousands of Iraqis."¹⁹ The result was a dramatic increase in

the number of detained persons in coalition custody as well as an increasingly growing demand from tactical and operational commanders for immediate human intelligence-based support from detained former regime members, suspected insurgents, and insurgent sympathizers. “Human intelligence or HUMINT – of which interrogation is an indispensable component – has taken on increased importance as we face an enemy that blends in with the civilian population and operates in the shadows.”²⁰

This demand for immediate intelligence support and the alarmingly growing number of detainees (now ranging upward to 5,000), in contrast to the limited number of detention and interrogation assets in theater, forced the CPA and CJTF-7 commander to identify a central facility where the growing detainee population could be managed and exploited by the theater’s limited resources. The decision to open the Abu Ghraib prison facility, notorious for the inhumane treatment of prisoners held there under Saddam Hussein’s direction, is credited to the CPA after consultation with the Commanding General, CJTF-7.²¹ Ambassador Bremer corroborated this report in his memoir of service My Year in Iraq. In it he wrote that the decision to open Abu Ghraib came to its fruition only after an extensive CPA review of facilities within Iraq determined that the best facility to meet the urgent need for centrally locating detainees was Abu Ghraib. In spite of his awareness of the prison’s infamy, Ambassador Bremer authorized the reopening of Abu Ghraib to alleviate the filled beyond capacity conditions of the US military detainee holding facilities and established requirements to improve the living conditions at the Former Regime’s maximum security facility.²²

Located in the southeast corner of the Sunni Triangle between Baghdad and Fallujah, Abu Ghraib provided easy access to tactical units to transfer detainees to coalition custody for continued detention and interrogation. Its facilities and more than 280 enclosed acres provided significant potential expansion in response to the continued increases in detained persons received from tactical units. However, to the Iraqi people and those detained or their relatives, the prison was representative of the horrors of the former regime.²³

The regime was internationally known to imprison prominent Iraqi civilians without the benefit of the due-process of law. Many of these victims would subsequently disappear or be publicly executed. Captured video from Iraqi archives bear grim testimony to the atrocities committed by the Iraqi government against its people. The unearthing of mass graves in northern and southern Iraq substantiated the testimony of surviving victims of the regime’s brutality. The regime’s prisons and torture facilities were widely known within Iraq and feared by all. It was at Abu Ghraib that many of Saddam Hussein’s horrific acts against his people took place. The prison was the site of thousands of executions of political prisoners and criminals.²⁴

Now it would become the United States' principle internment and interrogation facility in Iraq.²⁵ It was at Abu Ghraib where the United States, in its efforts to build a sovereign Iraq on democratic principles, blundered in a series of circumstances that would inevitably tarnish its reputation, diminish its support from the Iraqi people and the world, and bolster the cause of anti-coalition insurgent and sectarian groups and terrorist organizations within and outside of Iraq.

Due to the increased pace of combat operations against the insurgency and the implementation of measures which included the rounding up of large numbers of suspected insurgents and innocent Iraqi civilians, the detention camps began to swell beyond the capacity of the two Military Police battalions charged with the responsibility to conduct detention operations.²⁶ This was most evident at Abu Ghraib where the population surged from 600 EPWs to more than 5,000 detainees. In its February 2004 report on the treatment of EPWs and other protected persons in the custody of the coalition forces in Iraq, the International Committee of the Red Cross (ICRC) estimated that 70% to 90% of the detainees were arrested by mistake.²⁷ In his report of investigation into the abuses at Abu Ghraib, MG Fay wrote:

There was general consensus (Reference Annex B, Appendix 1, FAST, CIVILIAN-12, LYONS, WOOD, SOLDIER14, SANCHEZ) that as the pace of operations picked up in late November – early December 2003, it became a common practice for maneuver elements to round up large quantities of Iraqi personnel in the general vicinity of a specified target as a cordon and capture technique.²⁸

In the same report he added:

SGT Jose Garcia, assigned to the Abu Ghraib Detainee Assessment Board, estimated that 85% - 90% of the detainees were of no intelligence value based upon board interviews and debriefings of detainees. The Deputy C2X, CJTF-7, CIVILIAN-12, confirmed these numbers.²⁹

With regard to the overcrowded conditions, MG Fay found:

Large quantities of detainees with little or no intelligence value swelled Abu Ghraib's population and led to a variety of overcrowding difficulties. Already scarce interrogator and analyst resources were pulled from interrogation operations to identify and screen increasing numbers of personnel whose capture documentation was incomplete or missing. Complicated and unresponsive release procedures ensured that these detainees stayed at Abu Ghraib – even though most had no value.³⁰

The strategic effects of these indiscriminant and or unsubstantiated detentions were, in the eyes of the Iraqi people, the apparent absence of coalition compliance with the rule of law, demonstrated by their detention of innocent Iraqis and the subsequent exposure of these men to insurgents held within overcrowded coalition facilities. The conditions at Abu Ghraib were

worsened by recurring insurgent rocket and mortar attacks that yielded numerous detainee and US forces' casualties.³¹ However, the exposure to the threat of enemy indirect and direct fire paled in light of the risks faced by Iraqis within the detention compounds.

Extremist and insurgent ideology was ubiquitous within the detention facilities where extremists and insurgents colluded with their respective groups to continue the struggle against their religious rivals or coalition keepers. Lessons learned were exchanged and training in violence continued in the hope that when detainees were released that they would continue the struggle against coalition forces. Additionally, the compounds bolstered alliances between faction and cell members, and provided fertile recruiting ground from the criminal elements and innocent Iraqis held within their compounds. A product of the volatile mix of hardened insurgents, criminals and innocent men was the emergence of Abu Ghraib as an insurgent training ground.

In its 21 July 2004 report; "Detainee Operations Inspection;" the Department of the Army Inspector General reported that the CJTF-7 Chief Magistrate and command-level review and release board member indicated that some 80% of the detainees in US custody could be released when their cases were reviewed by the board, and that the remaining 20% may be retained as security threats or due to their intelligence value. However, due to the layered bureaucracy for approving the release of a detainee it was possible for an innocent detainee to remain in custody for an unspecified duration before his case was favorably reviewed by the multiple release authorities.³²

The significantly high number of mistakenly detained citizens and the arguably inhumane conditions at Abu Ghraib in the fall of 2003, exacerbated by the woefully slow administration of detainee review boards and inadequate staffing, did little to demonstrate the promise of a sovereign Iraqi government, capable of guaranteeing basic human rights and rule of law. From a strategic viewpoint, all of this damaged the reputation of the coalition and bolstered the strength of an enemy who was opposed to the establishment of a transitional government and the occupation of US and coalition forces.³³

One step to bring order to the emerging chaos at Abu Ghraib, and to build a basis for command oversight of all detention and interrogation operations within Iraq, was to establish one command to which the theater internment and interrogation facilities and their supporting commands would serve and report. The establishment of such an organization was recommended by Generals Jones, Taguba, Ryder, and Fay as well as the DAIG in their respective inspection or investigative reports. The creation of this command did to shape policy and training for detention and interrogation operations in a non-linear battlefield environment.

Moreover, it would serve in a greater strategic context to establish procedures which would represent the United States' and the coalition's sincere interests in establishing the rule of law and respect for basic human rights within Iraq and to aid in guiding the Iraqi government toward achieving self-rule.

Bringing Order to Chaos – The Establishment of Task Force 134

Task Force 134 was established in response to recommendations from assessment teams and AR 15-6 investigative officers to provide single command oversight of detainee operations. It was commanded by a Major General who was dual hatted as the Deputy Commanding General for Detainee Operations, Multi-Force Iraq. Detainee operations provide command and control (OPCON) of Task Force staff, special staff (SJA, Chaplaincy, and Medical), Military Police, Military Intelligence, and Medical units. These units were task organized to provide detention and intelligence exploitation support to the Iraqi theater of war and national agencies and to provide ready and responsive care to the detainee population. This Task Force was the focal point for the administration of detainee operations policy and law and command oversight and quality insurance of all detainee operations within the theater.

The conduct of detainee operations in Iraq played a vital role in the accomplishment of US National Security Strategy objectives in the country and the region. Regrettably, as a result of the rapid pace of the coalition's toppling of Saddam Hussein's regime, the United States found itself ensnarled in the complexities of detainee operations. Making this task more difficult was the relative inexperience of the United States military in the execution of this essential mission, outdated doctrine, an absence of cultural awareness and untimely or non-existent information exchanges with the Iraqi people and global media.

The national security objectives in Iraq encompassed the sovereignty of the Iraqi government and its ability to provide for the needs of its people. Specifically these services included security, food and water, public works, human rights and the rule of law. It was these latter two service elements which joined the strategic objectives of the United States in Iraq with the detainee operations mission of Task Force 134, Multi-National Force Iraq. The mission of Task Force 134 was to command and control the conduct of detainee operations, including theater-level detention facilities and interrogations. It served as the principle interface mechanism between the coalition and the Iraqi government to establish law, policy and protocols pertaining to rule of law and the rights of detained persons. The relationship between the command and its care and management of its detainee population represented the positive consequences of the rule of law and human rights.

Since its establishment, Task Force 134 accomplished a great deal to support the establishment of the rule of law and respect for basic human rights in Iraq. Its success was due by and large to its authority over theater-level detainee operations. In this capacity the Task Force aided in the development of DoD and theater-level policies and directives regarding the lawful and humane conduct of detention and interrogation operations; including the provision of recurring legal reviews of detainee cases and consistent and reliable medical care for all persons in coalition custody. In its efforts to establish similar conditions within the Iraqi government and Ministry of Justice, the Task Force provided training and follow-up assessments of Iraqi detention personnel and facilities. All of this contributed to the accomplishment of US national security objective for Iraq and fostered the conditions for Iraqi self-rule.

The Task Force provided a tremendous source of lessons learned as it progressed in carving its niche in Iraq. It readily addressed and resolved the key findings of the numerous aforementioned investigations into the root cause of the abuses at Abu Ghraib in 2003. Furthermore, it addressed and proactively responded to the need for ways and means to bolster Iraqi and regional trust in coalition interests in Iraq, establish standards and processes for the timely application of the rule of law without hindering intelligence collection operations. Its Joint Interrogation and Debriefing Center provided actionable intelligence to strategic, operational, and tactical leaders, and its counter-intelligence efforts countered extremist and insurgent training and recruiting efforts within the internment facilities. The culmination of its efforts in Iraq will be the eventual transition of all coalition-run detention facilities to the authority and administration of the Iraqi Ministry of Justice. All of this accomplished to support US national interests and to bolster the trust and confidence of the Iraqi people in its sovereign government.

A striking lesson learned from sustained detainee operations at Abu Ghraib was the previously described school of the insurgency. This became a severe concern in the fall of 2005. While the insurgents, former regime members, criminals and innocent Iraqis comprised the detainee population, all were exposed to the influences of representatives of various insurgent or sectarian influencers. The school of the insurgent posed a significant problem for the coalition. If a detained person did not merit continued retention in coalition custody, he would be released and returned to his point of capture. Most commonly the point of capture was his home. However, with the population of detainees now exceeding 10,000 and increasing as counter-insurgency operations continued, Task Force 134 implemented measures to improve its detainee screening capability to rapidly triage incoming detainees. These measures included the addition of intelligence and linguist personnel as well as improved

automated personnel databases and tracking tools. Triage served to identify those detainees who should be retained for intelligence exploitation or criminal prosecution, be withheld due their being a threat to the coalition of GOI, or be released at the earliest opportunity. In the case of the latter, the intent was two-fold; to demonstrate to the GOI and the Iraqi people the proper exercise of due process and to prevent these men from exposure to insurgent influences while in coalition custody.

An additional measure was the Task Force 134 leadership taking to the field to brief combat commanders and their staffs on the legal and intelligence status of detainees forwarded from their commands to Task Force 134 facilities. In these regularly conducted briefings, commanders received assessments of their detainees' intelligence value and the merits of any associated statements or evidence that could be used in criminal prosecution. Also, the Task Force leadership provided a summary evaluation of the contents and completeness of detainee capture packets which was critical to quickly assessing whether or not the detainee should be retained or released by Task Force 134. Additionally, field commanders received intelligence updates regarding their areas of operations. These updates were derived from JIDC intelligence and information reports resultant of detainee interrogations, debriefings and interviews. The Task Force 134 presentations did a great deal to improve the efficiency of detainee processing and reduced the number of Iraqis arriving at the TIF with little or no substantiated evidence supporting their continued retention. This initiative improved tactical and operational commander situational awareness and reduced the number of "innocent" Iraqis entering the TIF. However, the school of the insurgent continued to operate within the camp.

In February of 2006, Thom Shanker of the New York Times published a report entitled; Abu Ghraib: School for Terrorists. In his report, Mr. Shanker described Abu Ghraib as a "breeding ground for extremist leaders and a school for foot soldiers, as the time in confinement allows detainees to forge relationships and exchange lessons of combat against the United States, its allies and the new Iraqi government."³⁴ At the time of this report, the number of detainees held in coalition custody was nearing 15,000, and TIF military intelligence and police resources were pressed to conduct a continuous analysis of the detainee population to identify extremist influencers. They accomplished this mission and in response to the identification of these extremists, the Task Force established procedures within the TIFs to mitigate their influence over other detainees. These measures included segregating detainees based on their ideological and religious beliefs and conducting operations within the TIFs in order to disrupt extremist and insurgent recruiting and training efforts. The return on investment from these initiatives was a reduction in the number of detainee on detainee incidents of violence, riots, and

escape attempts.³⁵ Additionally, commanders in the field reduced the number of detainees they forwarded to the TIF, opting instead to release at their level those they determined did not pose an immediate threat to the coalition and GOI or were of no intelligence value.³⁶ According to an MNF-I Public Affairs release dated December 18, 2006; capturing units were releasing approximately 50% of the Arab males they detained detain at their level. The remainder was forwarded to the TIF.³⁷

In addition to establishing measures to combat extremism in the TIFs, other significant Task Force 134 contributions to US and Iraqi interests included turning over of two detention facilities, Abu Ghraib and Fort Suse, to the Government of Iraq (GOI). Also, the Task Force managed and executed detainee mass release programs in support of the GOI's Unity and Reconciliation Program and it trained more than 1000 Iraqi corrections officers in the lawful and humane conduct of detention operations. As a result of Task Force 134's assistance to the Criminal Courts of Iraq and their extensive combined legal reviews and strict adherence to the rule of law, 86% of the Coalition-apprehended insurgents appearing before Iraqi judges were convicted for their crimes against the people of Iraq and their government.³⁸

Many lessons learned derived from the Abu Ghraib scandal included the decisions and actions of field commanders and their respective commands within the operational environment. The coalition was no longer capturing EPWs; instead, they were detaining combatants (and non-combatants) who may or may not be retained in coalition custody as a security internee. It is important to note that in the case of administering an Enemy Prisoner of War Camp, the prisoners were held for the duration, and with limited exceptions, returned home at the conclusion of hostilities. However, countering an insurgency made it difficult for the commander or soldier on the ground to discern good from bad, and often times an innocent bystander would be taken into custody and processed as if he were a combatant. This posed a significant dilemma for the commander where he had to decide whether it was in the best interest of security to detain all persons on the objective and sort them out later, or accept risk and immediately determine who should be detained or be released, acknowledging that he might release an unidentified insurgent or facilitator.

The commander's decision to retain or release a prisoner might have been made easier by the evidence collected at the objective by his soldiers. Evidence collection on the objective by combat arms soldiers, not criminal investigators, became a critical task as coalition forces found themselves not only combating insurgents but enforcing the law as well. In Iraq, participating in the insurgency against the GOI was an illegal act. However, if a detainee was processed to the CCCI for prosecution, he might have been released before trial due to a lack of

evidence. In the time between his capture and release, the detainee, innocent or not, would be exposed to a number of extremist influences, possibly resulting in his developing sympathy for the insurgency or extremist sectarian organizations.

The Commander's Role in Effecting Desirable Strategic Outcomes

The intent of this section is to provide insight into the field commander's³⁹ decision cycle and its potential for influencing outcomes in the conduct of detainee operations and implementing the rule of law and due process within Iraq.⁴⁰ The field commander and his subordinates played a critical role in demonstrating to the Iraqi people the United States' resolve to imbed the rule of law within the Iraqi government and culture. The nature of the insurgency is rife with ambiguity. It cultivates an environment where commanders at all levels routinely decide right from wrong and act accordingly. In the case of detainee operations at any level, commanders face a constant dilemma as they decide who to detain or who to release. They clearly wish to avoid endangering their force in future engagements with insurgents while they must also avoid sending innocent men to the Theater Internment Facility and thereby adding fighters to future insurgent and or sectarian activities. This is a leader's dilemma with serious second and third order effects on the Coalition, the sovereignty of Iraq, and the US security interests in the region. However, a commander's understanding of how they can shape the strategic consequences of their decisions will aid him in his decision making process from the point of capture through the determination to retain or release a detainee.

Point of Capture – Tactical and Operational Decisions with Strategic Consequences

The division and brigades, like all combat units, had a tough job. Fighting and winning against an insurgency presented a dilemma to the commander. He had to determine who among the insurgents and alleged insurgents were transferred to the Theater Internment Facility. If the commander determined to retain a detainee, the capturing unit had to provide some tangible proof that the detained person was either an insurgent, had incriminating ties to the insurgency, possessed intelligence of great value, or was a threat to the security of coalition forces or the GOI.⁴¹ If such evidence existed then the detainee would be processed to the TIF. However, if there was no substantiated cause to retain a detainee, then he should have been released by the capturing unit. If a detainee who did not merit retention in custody was sent to a TIF then an otherwise "neutral party" would be exposed to an insurgent influence inside the facility. The commander had to give serious consideration for the potential second and third order effects of his action. The strategic implications of this decision might have included local and regional anger directed at coalition forces for the unsubstantiated incarceration of an

innocent man and popular distrust in the GOI for enabling the coalition to direct such activities against the Iraqi people.

Making a determination to either release or send a detainee to the TIF depended on why he was targeted for apprehension and what documentation or evidence enclosed within the capture packet supported the assumption that he was an insurgent or security risk. For detainee screening personnel at the TIF, the capture package was essential to identifying insurgents, criminals, security threats to the GOI and Iraqi people, and innocent citizens. It was critical to prioritizing detainees for expedited intelligence exploitation and legal processing. This packet accompanied the detainee as he is transferred from the capturing unit, to the Division Internment Facility (DIF) and then to the TIF. The expectation at the TIF was that the packet would contain as much information about the detainee as possible. Good packets included any targeting data, including classified information, references to sensitive information not included in the packet as well as the identity of a security representative to contact to obtain access to any information not included but referenced in the packet. Other relevant materials included evidence collected at the site, personal property⁴² and related property exploitation reports, and photographs of the site of capture and preferably of the detainee with the evidence. Statements from the capturing unit placing the detainee at the site of capture and unit level reports of interrogation prior to his arrival at the TIF were a great benefit as well. Especially the latter when the interrogation reports served to aid in maintaining the momentum of previously established lines of questioning applied against the detainee.

It was always beneficial to intelligence exploitation and to building a case for prosecution by the Iraqi courts to capture a detainee in the act. This was always more favorable than rousing him out of bed for being suspected of his role in insurgent activity. "The latter case is rarely, if ever, prosecutable in court."⁴³ The tactical situation often dictated the method or venue of detention. How and where the apprehension took place often influenced an outcome of potential strategic significance. Either the successful prosecution of a suspected insurgent leader or his acquittal and release could have measured this significance. Given the importance of the capture package, the capturing unit and the intelligence and or legal representatives processing the detainee were expected to cover the following essentials in building and updating the capture package: assumption of knowledge, the target folder, evidence for Priority Intelligence Requirements, evidence for prosecution, property exploitation reports, and sworn statements. A standardized format aided in the expeditious review of the packet when the TIF's screening cell was processing large numbers of detainees on a daily basis.

Assumption of Knowledge

One of the trends identified in processing capture packages from the divisions was an assumption of knowledge.⁴⁴ The unit responsible for building the package had to understand that they were telling a story about the detainee to a stranger. The TIF's intelligence and legal agencies knew almost nothing else about the detainee unless he was a high value target or a coordinated transfer of interrogation responsibility (battle handover) from the DIF to the TIF. Capturing units had to be cautious when referring to a detainee as a battalion or brigade high value target without explaining why the detainee was of such high value to the capturing unit. For example, was the detainee a suspected insurgent leader, financier, or bomb maker? The failure to provide these details would have contributed to a lost opportunity to rapidly exploit the individual for intelligence vital to answering a strategic, operational, or tactical requirement.

This was a difficult task to accomplish when building a case for continued detention at the TIF versus the potential of initiating an expedited release. Soldiers are not police officers, but combating the insurgency required them to learn the basic principles of evidence collection and providing witness statements. Combating an enemy who was difficult to differentiate from the civilian population made it imperative that the capturing unit communicate why the detainee was apprehended and forwarded to the TIF. If the unit is unable to account for the continued detention, it was likely the detainee would return home within the next six weeks to six months. However, in his time at the TIF the detainee would have been exposed to the school of the insurgent. This presented a lesson in negative consequences with potential strategic effect.

In the beginning of the war in Iraq, field units were not taught the importance of this triage need, resulting in flooding the internment facilities with persons who did not belong there. Since 2005, and with Task Force 134 feedback to commanders, capturing units made great strides in improving their triage of detained persons resulting in a greater number of releases from their custody. Additionally, Task Force 134 implemented procedures that often resulted in a detainee determined not a security risk to be released from the TIF within six weeks of his arrival.⁴⁵ This was a significant improvement over previous years as the coalition continued its efforts to bolster popular faith in the Iraqi government and the rule of law.

Target Folder

Target folders were vital to laying out why the detainee was a priority to the capturing unit. The folder provided a step-by-step breakdown of why the detainee was targeted and might have served to outline the basis for the assumption of knowledge. It assisted the reader in understanding and assessing the detainee. A multitude of intelligence sources were used to

build a target folder on individuals. These reports were critical enclosures or references for the capture package. This information aided in the screening and interrogation processes and served to distinguish between those who should be retained for security purposes and those who should be released. The latter case occurred most frequently when targeted individuals were captured in group settings, such as community meetings or family meals, where persons attending the event were detained under the suspicion of affiliation with the target. Units developed one form of a target package or another prior to the conduction an operation against a specified person of place.

As the need for information taken from these folders became more widely known units began to tailor target packets to improve the overall processing of specified persons seized on the objective. As the target folder process evolved so did the classification of evidence used to bolster the prioritization of the target and that of the evidence collected on the objective and during tactical level interrogations. These were added to the detainees capture packet and processed along with the detainee to the TIF. Evidence included two categories: evidence for Priority Intelligence Requirements and evidence used for prosecution.

Evidence for Priority Intelligence Requirements

From an interrogation perspective, detainees specifically linked to Priority Intelligence Requirements (PIR) were a top priority. PIR encompassed the needs of the National-level agencies, Multi-National Force-Iraq, the Multi-National Corps-Iraq, and its subordinate commands. In short, the detainee possessed knowledge, or knew of someone in possession of knowledge, that was relevant to answering questions that are vital to identifying enemy leadership or intentions, enemy stockpiles of weapons and munitions, or specified threats to the GOI or coalition forces. From an intelligence perspective, the target folder, evidence collected, and property exploitation reports aid in determining where the detainee fits into the grand scheme of things, specifically, where in the insurgent or criminal hierarchy he is associated and what specific purpose he served in the same organization. Given the large number of detainees who were processed at the TIF, there was little more than forty-five minutes to screen the packet and interview the detainee to make an initial assessment of his intelligence value. Insuring the right detainee was retained and forwarded to the TIF with a complete capture packet was critical to making the decision to allocate resources. It was imperative to the accomplishment of US National Security objectives in Iraq that the dedication of these resources supported countering the insurgency and bolstering the government rather than contributing to the insurgent cause by detaining otherwise innocent men.

Evidence for Prosecution

Criminal evidence was not necessarily exclusive of evidence for priority intelligence requirements but was important to the effort to retain insurgents at the TIF. While the evidence might not have answered intelligence requirements, it may very well have put the detainee in front of the Central Criminal Court of Iraq. Regardless of the nature of the case, eyewitness statements were vital in all cases, and statements by Iraqi nationals carried the most weight before the Iraqi judges. Photographs put things in context, were very useful to criminal investigators, and assisted the Iraqi Investigative Judge's review of the case. A photo depicting a detainee with a large weapons cache found in his residence was direct, indisputable evidence that could lead to a conviction.

The following examples put this into context. It was generally easy to convict foreign fighters because they lacked passports and were convicted for illegal border crossing. Iraqi nationals could be the most difficult to prosecute if they were not caught and/or photographed in the act, with weapons and explosives, or while fighting Coalition forces. IED manufacturers caught in the factory or IED emplacements caught in the act were easier to prosecute if the capture package was complete. Regardless of the circumstance of capture, evidence was critical to the conviction of a detainee appearing before the Iraqi courts. Without a live confession before an Iraqi Investigative Judge or hard evidence proving the detainee committed a crime or was at the very least complicit there was great potential for his case to be dismissed by the Iraqi prosecutor.

Property Exploitation Reports

Any property that was exploited by the capturing unit including phones, media and documents - was invaluable to intelligence and legal personnel in assessing a detainee. This was difficult evidence for the detainee to dispute and could be used later in court. It was imperative that the capturing unit include all exploitation reports with the capture packet and forward the property to the TIF for further exploitation. The impact of not including the exploitation reports was a detainee whose value was not clear during screening and possibly not processed for intelligence exploitation. The result was the loss of intelligence potentially vital to strategic and operational interests. Additionally, without the reports, any property that arrived with the detainee had to be re-exploited at the TIF resulting in precious resources being employed to prosecute a redundant and avoidable requirement. Typically, re-exploiting property could take up to 72 hours. Also, the likelihood of not recognizing the prosecutorial potential of

the case being lost was great. This oversight had could have impacted the security of the Iraqi people and Coalition forces.

Sworn Statements

Sworn statements should have answered the Who, Where, What, Why, When and How as they related to the detainee and any evidentiary materials accompanying him or residing elsewhere for continued exploitation. Good sworn statements explained why the detainee was captured, not merely the circumstances of capture. Explaining why the detainee was a high value target avoided critical information gaps in the screening process. A commander's review of the statements was critical to a detention determination. If a statement simply stated that a detainee was captured because a weapons cache was found near his residence the commander needed to delve into the details for a clear understanding of the circumstances of capture. What must be made clear is how close the cache was to his residence; was it in the house, in the yard, or in his neighborhood? In the latter case, men might have been apprehended because their home was closest to the cache. Proximity did not necessarily make him a suspect so it was important that the commander assessed the circumstances of capture and collected evidence before recommending release or further detention of the individual. It was important to assure the community that Coalition forces had not, for any apparent reason, detained an innocent man.

Standardized Format

TIF packet screeners only spent between ten and forty-five minutes reviewing a detainee's capture package. In June of 2005, they averaged 320 packets a week and had grown quite efficient in their processing of detainees. However, the more standardized and complete the packets were, the quicker a packet screener could find the information he required to make the right recommendation regarding the suspected intelligence value, guilt, or innocence of a detained person. In 2006, the Joint Interrogation and Debriefing Center, Task Force 134, created a standardized capture packet format for the theater in order to make the detainee screening process more efficient and to contribute to greater effectiveness in intelligence collection and expedited legal processing of detainees.

The theater had taken many steps to improve the collection of evidence essential to processing suspected insurgents for intelligence exploitation and subsequent appearance before the Iraqi courts. These included guides for investigations and evidence collection. The central authority for Detainee Operations in the Iraqi theater maintained these guides and related presentations on its homepage to assist units conducting counter-insurgency operations

within the theater. The development of a theater-wide understanding of the processes had a great strategic effect in that it contributed to the collection of the data and evidence, at the tactical level, necessary to sending the right people to the TIF. Subsequently the understanding contributed to insuring the detainees were either held for exploitation and subsequent prosecution or released and returned home in the most expeditious manner. It was imperative to the security of Iraq and the safety of its people that Coalition forces implemented procedures to identify and detain offenders of the government's well-being as well as those members of criminal society that pose the greatest threat to the sovereignty of Iraq and to the success of the Coalition's mission in the region.

Interrogation Operations

Interrogation operations might not have been the most sensitive intelligence collection mission in Iraq; however, in the aftermath of the Abu Ghraib scandal it certainly became the most scrutinized intelligence mission in Iraq. While many interrogation-related materials, including the United States Army Field Manual on interrogation operations, were exposed to public scrutiny the nature of how interrogations were conducted remained a topic of public concern with regard to the lawfulness of how they were being conducted in the theater of war. In his report to the Secretary of Defense, Vice Admiral Church said:

Military interrogators are trained to use creative means of deception and play upon detainees' emotions and fears even when conducting interrogations of Enemy Prisoners of War (EPWs), who enjoy the full protections of the Geneva Conventions. Thus, people unfamiliar with military interrogations might view a perfectly legitimate interrogation of an EPW, in full compliance with the Geneva Conventions, offensive by its very nature.⁴⁶

To many not informed of doctrine and inexperienced in the ways of interrogations, a perfectly legally prepared and conducted in interrogation may appear contrary to their own basic standard of human decency; it was in all aspects the antithesis of how they would wish to be treated if captured and interrogated. However, in the execution of a proper interrogation, no laws were broken and no detainees or EPWs were subjected to inhumane treatment by their captors.

Admiral Church added in his report that human intelligence, specifically, interrogations had become increasingly important in a war in which the enemy was indistinguishable from an ordinary citizen.⁴⁷ Interrogations in Iraq were intended to glean detailed information from a subject as quickly as possible and were not limited to one event. It may take a number of engagements to achieve an outcome; that outcome being the collection of the information or the determination that the subject was not relevant to the collection requirement. Interrogators are

bound by US and international law as well as Executive-level and DoD policies to insure the success of the interrogation mission as well as the safety of the detainee and the interrogator.⁴⁸

The absence of supervision, cogent policy and doctrine, and the very real conflict of priorities presented by the disparate commands and agencies at Abu Ghraib in 2003 contributed significantly to the strategic setback experienced by the United States government and the coalition when the photos of abuses at Abu Ghraib were publicized. The reputation of the United States was discredited in the eyes of the international community and most importantly to those of the Iraqi people and its regional neighbors. "Remember Abu Ghraib" became a battle cry for the insurgency and bolstered foreign fighter recruiting efforts abroad. Much would have to be rapidly achieved to overcome the effects of the scandal on US interests in Iraq and the region.

Improvements in the conduct of detainee operations, including interrogations, continued at Abu Ghraib until its transfer to the GOI in late 2006. New detainee operations-related DoD and theater policies, as well as new or revised doctrine shaped the Military Police, Medical, and Military Intelligence command relationships as well as their distinct and collaborative roles and responsibilities. In addition to the direction provided by these policies and doctrine, practical experience and the resultant lessons learned continued to influence events. Chief among these lessons learned were the roles of joint service and interagency relations and the benefit of their respective contributions. Additional lessons learned included the added value of attaching JIDC liaison officers to divisional units, the concept of the battle handover of detainees from field commands to the JIDC, the formulation of a sensor to shooter relationship between the JIDC and operational units, and the termination of former Cold War era intelligence stovepipes. All of these lessons learned contributed to cultivating a joint and combined environment of operational and strategic unity and collaboration in the prosecution of the war on terror.

The strategic effect of joint service and interagency cooperation was a significant lesson learned in interrogation operations. At Abu Ghraib in the 2003 and early 2004 time period there existed great concern regarding conflicting policies and rules of engagement for interrogation practices. This was no longer the case. In any interrogation facility be it in Iraq, Afghanistan, or Guantanamo Bay, the rules of engagement and approved approaches are the same for any organization. At Abu Ghraib, the JIDC Commander was responsible for insuring the lawful and safe application of approved interrogation, debriefing, and interview approaches and techniques including the approval of all interrogation plans prior to the commencement of any session. Representatives of all services and agencies responded very well to this requirement and the subsequent positive effects of these cooperative relations benefited not only the agency

conducting the interrogation but the entire intelligence community as well. The greater benefit was derived by the information and intelligence sharing between the services and agencies conducting exploitation functions at the JIDC. In effect, the JIDC emerged as the theater center piece for cooperative and collaborative joint service and interagency intelligence collection and dissemination.

Another lesson learned while collecting and reporting interrogation derived intelligence the added value of the JIDC's attachment of liaison officers (LNOs) to the intelligence and operations staff of divisional units in theater. This action served to bridge pre-existing information gaps between these staffs and the JIDC. The LNO assisted the prioritization of interrogation requirements and reporting exchanges between the commands resulting in the development of a near real time situational awareness of combat operations and their respective intelligence requirements. This in turn set the stage for the rapid dissemination of vital interrogation information reports tailored to answer those requirements. Often times, exchanges between the JIDC and the divisions continued through the LNO in addition to standard intelligence tasking and reporting channels following the arrival of a detainee from the divisional unit to the TIF.

The JIDC LNOs did a great deal to assuage division-level concerns that the exploitation momentum gained with the detainee while in their custody would be lost once he arrived at Abu Ghraib. For detainees considered a high-priority by the divisions, the JIDC LNO would coordinate for his reception at the TIF where the JIDC would initiate the theater-level interrogation mission from the termination point of the division-level interrogation. When required, the JIDC sent an interrogation team forward to observe the division's interrogation of the detainee and return to Abu Ghraib with the detainee to continue the interrogation process. This battle-handover of interrogation responsibility insured that the momentum gained in interrogating a high-value detainee was sustained and that the operational and strategic value of the detainee's information was not lost over time.

Strategic and operational payoffs specifically tied to interrogations were not always apparent to the support command or agency, nor were they always visible to the interrogation team. However, because strategic requirements, operational plans and tactical maneuver were more often inclusive of one-another, theater-level interrogations played multiple roles in supporting all three levels of need to achieve a desired end state. Interrogation information supported the capture of high-value former regime or insurgent leadership and the disruption of terrorist and insurgent cells. Also, interrogations provided information on "foreign fighter tactics, terrorist safe houses, and terrorist tactics to include financing, organizational structure and

weapons caches.”⁴⁹ Additionally they aided in the planning and execution of raids to free hostages, secure enemy training and meeting sites, and to seize Improvised Explosive Device manufacturing plants. A majority of these events, while executed at the tactical level, contributed to the accomplishment of operational and strategic objectives. This in turn demonstrated to the strategic and theater-level operations and intelligence staffs and agencies how the theater interrogation facility could provide intelligence suitable to all levels of need.

Interrogation operations conducted at the JIDC breached former Cold War-era barriers in intelligence collection and dissemination. During the Cold War there was often a large distinction between strategic, operational, and tactical intelligence requirements as well as reporting and dissemination channels. These barriers often resulted in a linear reporting chain, or stovepipe, by which an agency or unit outside the reporting chain might not have benefited from the intelligence or information until a report was from the agency originating the requirement disseminated its own report to the intelligence community. In Iraq there were no stovepipes in measuring the value, or importance, of interrogation information reporting. This was a product of the maturity and the continued national and DoD intelligence community investment in the evolution of the theater intelligence architecture established by CJTF-7 in 2004.⁵⁰ At the same time, the nature of warfare and the intelligence required to support decision making processes at national and theater level resulted in more than 80% of the JIDC’s interrogation information reports simultaneously answering strategic, operational, and tactical intelligence requirements.⁵¹ This high percentage provided testimony to the transparency of intelligence requirements supporting leadership at all levels engaged in combating terrorism, and building a sovereign, stable and secure Iraq.

Rule of Law and Due Process Afforded to Detained Persons

Since the establishment of the Coalition Provisional Authority and its replacement by an elected Iraqi government, much had been accomplished to emplace the rule of law within Iraqi society. However, to adequately defend the sovereignty of Iraq, protect the rights of the Iraqi people, and bolster the security of Coalition forces, it was imperative that lessons learned from the early stages of the insurgency be applied throughout the theater. Specifically, Coalition forces must not engage in practices which result in the detention of large numbers of innocent Iraqi citizens and foreign nationals lawfully residing within Iraq’s borders. This would only serve to discredit the policies and intentions of the Iraqi and United States governments and fuel the insurgency.

The area where tactical and operational-level leaders may influence the process begins with the capturing unit and its higher headquarters. It was their shared responsibility to provide the oversight and quality assurance necessary to mitigate the number of men processed to the Theater Internment Facility who might have been released at lower echelons. Any failure to apply these mitigation measures might have contributed to the threat against the Iraqi government and the Coalition in the long term.

To support the establishment of the rule of law and respect for human rights and dignity, MNF-I established procedures within the requirements of international law and United Nations security resolutions to detain persons who were a threat to security. While MNF-I had the authority to detain individuals it did not have the authority to determine the guilt or innocence of the individual. The responsibility for imposing the law belonged to the Iraqi judiciary and its Central Criminal Court of Iraq under the authority of the elected GOI.

In the beginning of the war, there was great confusion regarding the true status of persons held in US and coalition custody under the Geneva conventions. United Nations Security Council Resolutions 1546, 1637, and 1723 prescribed measures necessary for establishing a secure and stable country including the authority for MNF-I to detain persons who presented a threat to security.⁵² These procedures were geared towards protecting the sovereignty of the Iraqi government, and the security of the Iraqi people and Coalition forces, and were representative of the democratic principle of the rule of law. The result of these processes was the identification of (1) innocent citizens who could be released (2) security risks, or those who posed a threat to the security of the Iraqi people or Coalition forces (3) persons who were of intelligence value and (4) members of the criminal element.

Since the establishment of Task Force 134 and added support from US department of Justice and DoD Staff Judge Advocate Offices (read joint services) with essential legal and investigative personnel, all detained persons began to receive the benefit of several thorough case reviews in accordance with legal due process. Due process of the law began with the capturing unit where the brigade commander, with counsel from his SJA, provided the first level of due process. It was followed by another legal review at the Theater Internment Facility by the Task Force 134 Magistrate Office. In the concluding his review, the Magistrate recommended a detainee's continued detention as a security threat or he might have recommended to the Task Force 134 Commanding General a detainee's immediate release. In the process of its review, the Magistrate Office also determined if the detainee's case merited a review for possible prosecution by the Central Criminal Court of Iraq.⁵³

In considering a case for prosecution, the detainee's file was subjected to additional legal reviews and a hearing before an Iraqi investigative judge who was empowered to recommend a dismissal of the case or continued processing before the CCCI. In the event of a recommendation for release, the coalition, including the MNF-I intelligence staff and the capturing unit were entitled to present their argument for the detainee's continued retention. The Commanding General, Task Force 134, had the authority to retain or release the detainee subject to the arguments before him. This opportunity for a coalition force rebuttal applied to all detainee releases.⁵⁴ In the event that a case was referred to the Iraqi courts, Task Force 134 would not relinquish its authority or responsibility for the detainee unless the detainee was convicted and sentenced. In the event of the latter, the Commanding General, Task Force 134 might have transferred the detainee to Iraqi custody.⁵⁵

All detainees held in coalition custody, regardless of their status, had their cases reviewed at least twice a year by the Combined Review and Release Board (CRRB). The CRRB was comprised of Iraqi and MNF-I representatives and provided the detainee with additional rights under the Geneva Conventions and the rule of law. A detainee could be held for up to 18 months as a threat to the Iraqi government, the Iraqi people, or the Coalition. At 18 months the detainee's case was reviewed by the Joint Detainee Review Committee (JDRC). Upon completion of its review of the case, the JDRC recommended to the Joint Detainee Committee (JDC) whether or not the detainee should be retained. A recommendation for retention would address the duration of the continued internment at the TIF. The JDC was co-chaired by the Commanding General, MNF-I and the Iraqi Prime Minister. They had to agree to the continued detention or the detainee would have been released from custody. If, however, the JDC concurred with a recommendation for continued detention, the detainee could have been retained for up to an additional 18 months.⁵⁶ During this period, the detainee's case would be continuously reviewed at no more than six-month intervals to insure that justice would be served to the detainee, the Iraqi government, and the people of Iraq.

Summary

The USG and DoD implemented a series of timely and relevant responses to the recommendations provided by the numerous investigating officers and commissions. Included among these were the promulgation of new or revised policies pertaining to US compliance with the Geneva Conventions and international law; new or revised doctrine specifying the roles and functions of military organizations and personnel supporting detainee operations, new organizational construct such as Task Force 134 to provide unity of command as well as the

design and resourcing of intelligence and military police units task organized to serve detainee operations functions, and specified training for leaders and their personnel in the nuances of detainee apprehension and processing for theater internment, intelligence exploitation, and possible retention for prosecution or release from custody.⁵⁷ While Multi-National Force-Iraq, Multi-National Corps-Iraq, and Task Force 134 accomplished a great deal in their combined efforts with the GOI to build a government founded upon democratic principles, it is the tactical commander who decisions influenced strategic outcomes within the realm of detainee operations.

The commander's authority to detain citizens with his area of operations was of great consequence to achieving US and GOI interests in Iraq. It was imperative that the commander balanced his decision between what was best for his area operation; specifically the community and its populace, and his command. It was a dual edged sword in terms of consequence assessment which demanded grave consideration as it might have resulted in either an investment in the community or an investment in the insurgency. To weight his decision for optimum desired effect for near term tactical and operational objectives and long term strategic ends, the commander had to invest significant time in his command's pre-deployment training and then follow-up in the field to insure his subordinate leaders were adhering to his intent and direction.

The commander and his staff's review of the detainee's capture packet and intelligence reports would aid in making this determination. The completeness of the capture packet was critical to rendering a lasting decision. It presented why the detainee was apprehended and under what circumstances, provided a summary of intelligence collected, and what matters of evidence were available to justify the detainee's continued retention or a recommendation for release. The commander, in coordination with his SJA and intelligence officer, had to insure that his command's processes mitigated the potential for an innocent man to be processed beyond the DIF and potentially result in an otherwise uncommitted citizen becoming sympathetic to insurgent and or sectarian causes. In the event of the detainee being processed to the TIF, the JIDC LNO served as an invaluable asset to the division and capturing unit to insure the latter's link with the detainee was not lost when the detainee arrived at the TIF. For high-value detainees, the LNO provided a vital link between the capturing unit, its higher command, and the JIDC to insure any desired chains of communication for information and intelligence obtained from the detainee were not broken.

Conclusion

The strategic lessons learned from Abu Ghraib manifest themselves in how they shaped US and DoD policy in the conduct of the war and its administration of detainee operations and the rule of law. In the March 2006 National Security Strategy human dignity and the rule of law rein supreme where a US led international coalition fighting alongside Iraqis to build a united and stable democratic Iraq. The strategy communicated the US's intent to advocate freedom and condemn violations of human rights and its pledge to allocate the resources necessary to support its actions. In addition to upholding human rights, the rule of law would emerge as a specified goal in promoting an effective democracy in Iraq.⁵⁸ Task Force 134 was the result of lessons learned from Abu Ghraib. Since it was activated, the command's interaction with the GOI and the Central Criminal Courts of Iraq role achieved a great deal to bolster US and GOI interests for democratization as well as local and regional stability. However, the tactical-level commander role continued to contribute to the realization of stated US interest in the Iraq to a great degree.

In the global war on terror, strategic objectives were often achieved through tactical means. Therefore, it was reasonable to conclude that tactical-level decisions and actions had strategic effect. It was imperative that decisions to detain an individual resulted in an investment in the Iraqi community rather than an investment in the insurgency. In the beginning of the summer of 2006, the Joint Interrogation and Debriefing Center screening personnel at Abu Ghraib were reviewing more than 300 capture packets a week.⁵⁹ By the end of the same year, MNF-I reported that capturing units forwarded approximately 50% of their detained persons to the TIF. As of February 2007, more than 400 detainees were screened weekly by the JIDC.⁶⁰ Using the 50% measure one might have concluded that US forces were detaining some 800 Arab males weekly, 400 of whom they released shortly after capture. If this was so, then there might have been cause for concern that US actions were cultivating Iraqi disdain and distrust for US and coalition intentions while bolstering popular support of insurgent or sectarian anti-coalition diatribe and physical violence.

Not all solutions to a tactical problem had a kinetic solution and the outcomes were not always limited to the confines of the engagement area. They often had effects well beyond the battlefield. All leaders engaged in combating terrorism had to concern themselves with the consequences of their decisions on the establishment of a free and sovereign Iraq governed under the basic democratic principles human rights and dignity and the rule of law. To do otherwise might have resulted in constructing environmental conditions that would endanger the

security of coalition forces and the Iraqi people, the stability of the Government of Iraq and the achievement of US national security interests in Iraq and the region.

Endnotes

¹ U.S. Army, Office of the Chief of Public Affairs, Communications Guidance, Subject: Detainee Operations, email attachment from Task Force 134 Public Affairs Officer, LTC Keir Kevin Curry, MNF-I TF 134 to the author, 15 February 2007.

² U.S. Department of the Army, Information Paper, "Army Detainee Operations and Detainee-Interrogation Improvements," 25 August 2006, provided by LTC John G. Vorhees, Office of the Provost Marshall General, Headquarters, Department of the Army, in an email to the author, 27 February 2007.

³ William J. Clinton, *A National Security Strategy for a New Century* (Washington, D.C.: The White House, December 1999), 2, 25.

⁴ George W. Bush, *The National Security Strategy of the United States of America* (Washington, D.C.: The White House, September 2002), 3, 4.

⁵ A review of the United States National Security Strategies for years 1999, 2000, 2002, and 2006 identify establishing a basis for respect for human dignity and the rule of law as U.S. interests. However, a review of these documents indicates that the 2006 strategy is the one strategy that specifically pledges the allocation of the resources necessary to satisfy those interests. I do not suggest the U.S. does not imply the same pledge in its previous strategies; however, it is possible that U.S. experiences in Iraq shaped the formulation of future U.S. strategy to specify this pledge up front to diminish any potential ambiguity with regard to communicating U.S. responsibilities in bringing its interests to their fruition.

⁶ LTG Anthony R. Jones, *AR 15-6 Investigation of the Abu Ghraib Prison and 205th Military Intelligence Brigade* (Washington, D.C.: U.S. Department of the Army, 23 August 2004), 3, 8, 9; available from www.defenselink.mil/news/Aug2004/d20040825fay.pdf; Internet; accessed 17 December 2006.

⁷ *Ibid.*, 9.

⁸ *Ibid.*

⁹ L. Paul Bremer, III, *Coalition Provisional Authority Order Number 1* (Baghdad, Iraq: Coalition Provisional Authority, 16 May 2003).

¹⁰ L. Paul Bremer, III, *Coalition Provisional Authority Order Number 2* (Baghdad, Iraq: Coalition Provisional Authority, 23 May 2003).

¹¹ For further discussion regarding the effects of Ambassador Bremer's Orders 1 and 2, see David L. Phillips, *Losing Iraq, Inside the Postwar Reconstruction Fiasco* (New York: Basic Books, 2006). In that work Mr. Phillips states that approximately 120,000 Iraqis (p. 145), including teachers and doctors were removed from the positions under Order Number 1, and approximately 400,000 soldiers (p. 149) were relieved from service under Order Number 2.

¹² Michael Gordon, "Interviews with *New York Times* Michael Gordon and Yale President Richard Levin," interview by Charlie Rose, *The Charlie Rose Show*, 22 October 2004. Transcript of Interview with Michael Gordon and Richard Levin, 22 October 2004, 7; available from <http://web.lexis-nexis.com/universe/printdoc>; Internet; accessed 17 January 2007.

¹³ L. Paul Bremer, III, with Malcolm McConnell, *My Year in Iraq* (New York: Simon & Schuster, 2005), 223-224.

¹⁴ David L. Phillips, *Losing Iraq, Inside the Postwar Reconstruction Fiasco* (New York: Basic Books, 2006), 145, 149.

¹⁵ *Ibid.*

¹⁶ For further discussion regarding the effects of Ambassador Bremer's Orders 1 and 2, see Thomas E. Ricks, *Fiasco, The Military Adventure in Iraq*, (New York: The Penguin Press, 2006). In pages 158 through 168 Mr. Ricks outlines Ambassador Bremer's intentions behind Coalition Provisional Authority Orders 1 and 2, how they contradicted the plan of his predecessor, Retired Army Lieutenant General Jay Garner, and the resultant strategic effects of the orders. Among these effects were the creation of several hundred thousand unemployed administrators, law enforcement, and military personnel and the related cost of their absence to national reconstruction and security initiatives. Mr. Ricks' discussion describes how these orders contributed to destabilizing Iraq and bolstering the insurgency rather than investing in the stability and security of the state.

¹⁷ *Ibid.*, 152.

¹⁸ COL John Agoglia, United States Army; Director, Peacekeeping and Stability Operations Institute, Center for Strategic Leadership, U.S. Army War College, Carlisle, Barracks, Carlisle, PA; former Deputy Chief of Operations and Plans, J5 USCENTCOM for OIF-1, personal interview by author, 15 January 2007.

¹⁹ Thomas E. Ricks, *Fiasco, The American Military Adventure in Iraq* (New York: The Penguin Press, 2006), 195.

²⁰ VADM Albert T. Church, III, *Executive Summary of the Results of the Department of Defense Review of Detention Operations and Interrogation Techniques* (Washington, D.C.: U.S. Department of Defense, March 2005), 1; available from <http://www.defenselink.mil/news/Mar2005/d20050310exe.pdf>; Internet; accessed 19 January 2007.

²¹ Jones, 10.

²² Bremer, 133-34.

²³ U.S. Department of the Army, The Inspector General, *Detainee Operations Inspection* (Washington, D.C.: U.S. Department of the Army, 21 July 2004), 23.

²⁴ The White House, "Life Under Saddam Hussein: Past Repression and Atrocities by Saddam Hussein's Regime," News Release, 4 April 2003, available from <http://www.whitehouse.gov/news/releases/2003/04/20030404-1.html>; Internet; accessed 26 March 2007.

²⁵ Jones, 10.

²⁶ MG George R. Fay, *AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade*, (Washington, D.C.: U.S. Department of the Army, 23 August 2004) 37; available from www.defenselink.mil/news/Aug2004/d20040825fay.pdf; Internet; accessed 17 December 2006.

²⁷ International Committee of the Red Cross, "Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq During Arrest, Internment and Interrogation, February 2004," 8; available from http://www.globalsecurity.org/military/library/report/2004/icrc_report_iraq_feb2004.htm; Internet; accessed 7 February 2007.

²⁸ Fay, 37.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² U.S. Department of the Army, The Inspector General, *Detainee Operations Inspection*, 45-46.

³³ Jones, 8.

³⁴ Thom Shanker, "Abu Ghraib: School for Terrorists," *New York Times*, 15 February 2006, presented within *The International Herald Tribune*, 15 February 2006 [newspaper online]; available from <http://www.iht.com/articles/2006/02/14/news/detain.php>; Internet; accessed 19 January 2007.

³⁵ Task Force 134 Public Affairs Release, "TF 134, Detainee Operations, 2006 Year in Review Bullets," provided by LTC Keir Kevin Curry, MNF-I TF 134 Chief PAO, in an email to the author, 13 February 2007.

³⁶ Shanker, 19.

³⁷ MNF-I Public Affairs Release, "Multi-National Forces Detention Operations in Iraq, Dec. 18 2006." provided by LTC Keir Kevin Curry, MNF-I TF 134 Chief PAO, in an email to the author, 13 February 2007.

³⁸ Task Force 134 Public Affairs Release, "TF 134, Detainee Operations, 2006 Year in Review Bullets."

³⁹ The term field commander refers specifically to the commander at the site of a detainee's site of capture, the battalion commander, and brigade commander. However, in the case of making a determination to release or retain a detainee at division-level, the term commander may be the division commander or another person to whom he delegated the authority to release or retain a detainee. In the case of a decision to do the latter, the result is processing to the TIF.

⁴⁰ Author's personal notes from Iraq as Commander of the Joint Interrogation and Debriefing Center, Forward Operating Base Abu Ghraib, August 2005 through June 2006. Many notes are derived from personal observations and experiences, and contain unclassified summaries of meetings with the Task Force 134 and Joint Interrogation and Debriefing Center (JIDC) leadership and staff members. JIDC subordinate leadership and staff were key contributors to the author's notes and his communications with supporting and supported commands.

⁴¹ Intelligence may play an essential role in the development of this proof.

⁴² Seized personal property included diaries, documents, cell phones, computers, computer disks, thumb drives, and cameras. It was not uncommon for capturing units to withhold documents, cell phones, and thumb drives at their location for continued exploitation. This was understandable but done at some cost when the loss of the property or its delay in arriving at the TIF resulted in incomplete screening assessments. Also, it contributed to interrogation plans being developed without the benefit of a completed intelligence assessment of the detainee's associations or first-person knowledge. The rapid and continued exploitation of a detainee's property could be of great strategic value as much as it is of tactical value. The temptation to withhold property for continued exploitation at the lowest level was great and when done it was often to the detriment to all participants in the operations and intelligence exploitation field. Much could be accomplished to everyone's benefit if the entire exploitation capabilities within the theater were brought to bear on captured materials. The established intelligence reporting chains and LNOs would have served to bridge information sharing gaps between the capturing unit and the intelligence and exploitation offices engaged in the detainee and property exploitation process.

⁴³ LT Brent Troyan, USN, Joint Interrogation and Debriefing Center Staff Legal Advisor, email message to author, 4 February 2007.

⁴⁴ Assumption of Knowledge is a term used to describe what information a person might possess given his access to persons or places, proximity to events or series of activities within an area, subject matter expertise relative to the number of other persons in an area who possess similar expertise; and family, friends, religious or social relationships. An example would be a school guidance counselor with several years' service in a high school. It would be assumed that he would possess knowledge of the personalities of the school's administrators and student council, as well as the general career interests and intentions of the school's senior class.

⁴⁵ LT Brent Troyan, USN, Joint Interrogation and Debriefing Center Staff Legal Advisor, email message to author, 12 February 2007.

⁴⁶ Church, 1.

⁴⁷ Ibid., 2.

⁴⁸ Ibid.

⁴⁹ MNF-I Public Affairs Release, "Multi-National Forces Detention Operations in Iraq, Dec. 18, 2006."

⁵⁰ Jones, 11.

⁵¹ 80% was the average number of JIDC reports simultaneously answering or partially answering strategic, operational, and intelligence requirements. This estimate was still relatively accurate per a communication with the current JIDC Commander, Colonel Martin Urquhart, in an email to the author dated 26 February 2007.

⁵² MNF-I Public Affairs Release, "Multi-National Forces Detention Operations in Iraq, Dec. 18, 2006."

⁵³ Ibid.

⁵⁴ LT Brent Troyan, USN, Joint Interrogation and Debriefing Center Staff Legal Advisor, email message to author, 6 December 2006.

⁵⁵ MNF-I Public Affairs Release, "Multi-National Forces Detention Operations in Iraq, Dec. 18, 2006."

⁵⁶ LT Brent Troyan, USN, Joint Interrogation and Debriefing Center Staff Legal Advisor, email message to author, 6 December 2006.

⁵⁷ U.S. Department of the Army, Information Paper, "Army Detainee Operations and Detainee-Interrogation Improvements."

⁵⁸ George W. Bush, *The National Security Strategy of the United States of America* (Washington, D.C.: The White House, March 2006), 2, 3, 4, 11, 13, 16, 38.

⁵⁹ Author's personal notes from Iraq as Commander of the Joint Interrogation and Debriefing Center, Forward Operating Base Abu Ghraib, August 2005 through June 2006. Many notes are derived from personal observations and experiences, and contain unclassified summaries of meetings with the Task Force 134 and Joint Interrogation and Debriefing Center (JIDC) leadership and staff members. JIDC leadership and staff were key contributors to the author's notes and his communications with supporting and supported commands.

⁶⁰ COL Martin Urquhart, United States Army, Commander, Joint Interrogation and Debriefing Center, Task Force 134, Multi-National Force – Iraq, email message to author, 26 February 2007.