



Australian Government

Department of Defence
Strategic Policy Group

Minute

DEPSECS/OUT/2004/ 184

Minister for Defence

For Action By: PM&C has informed us that the Prime Minister will make a statement on 10 May on Australia's knowledge of the allegations concerning the treatment of prisoners at Abu Ghraib prison.

IRAQ – DEFENCE KNOWLEDGE OF ALLEGATIONS OF ABUSE OF PRISONERS AT ABU GHRAIB

RECOMMENDATION

That you note the summary of Defence's knowledge regarding abuse of prisoners at Abu Ghraib prison in Iraq. As more information becomes available as a result of further inquiries, we will provide updates.

OVERVIEW

2. Defence first became aware of allegations of mistreatment of Iraqi prisoners at Abu Ghraib prison in a CNN report of 21 January 2004 (this report, a copy of which is attached, included a statement that a senior Pentagon "official also confirmed that there are 'credible reports' that there may be photographs of the alleged abuse"). I am advised that Defence was not aware of the detailed reports of abuse of Iraqi prisoners until media reporting on this issue emerged in April 2004.
3. All ADF officers deployed to the CPA Office of General Counsel have prepared regular situation reports (generally on a weekly basis) via the unclassified network. These reports were initially sent to the Defence Legal Service, IP Division and DFAT began receiving reports from mid-January 2004. These reports were also forwarded to HQJTF-633 (which may have further distributed them), the Attorney-General's Department and the Australian Representative Office, Baghdad. The reports summarised major issues being worked on by officers and significant meetings undertaken during the reporting period.
4. Defence deployed LTCOL Paul Muggleton to the CPA's Office of General Counsel from mid-December 2003 to mid-February 2004 during which he had some coverage of legal issues relating to detention of Iraqi prisoners. In reporting back to Defence in early February 2004, LTCOL Muggleton advised that the detention system in Iraq was of concern, but these concerns related primarily to process concerns in the legal system. LTCOL Muggleton noted that the US system generally complied with relevant Conventions, but that there were some concerns, which he believed would be addressed in reviews ongoing at that time, including the arbitrary nature of detention, and the fact that detainees were denied visits from family members. LTCOL Muggleton also referred to an ICRC report delivered in February to CPA head Ambassador Paul Bremer, which was highly critical of coalition detention operations.
5. In discussions today with LTCOL Muggleton he advised that he became aware of reports of concerns with US detention operations during his time in Iraq, including the ICRC report on detainee operations. Muggleton stated the ICRC report outlined concerns with deaths of detainees in custody and the use of hooding techniques. He advised today that the report did not contain

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allegations of rape and he could not recall specific allegations of torture. The ICRC report was based on interviews with Iraqi detainees and ICRC observations at Iraqi prisons. Muggleton added that he had had concerns with the arbitrary detention of Iraqis and the lack of access between detainees and their families - he specifically said that these were primarily concerns with processes, not with abuses. The first awareness Muggleton had of abuses such as those recently in the press were CNN reports dated 20 January and 21 January 2004, which outlined allegations that abuses had occurred and that photographs might exist. He advised that he had contact with the 800th MP Battalion liaison officer (US officer) who had talked about serious concerns, but he advised that it was only in hindsight (ie following the recent media coverage) that he believes the LO might have seen or been aware of the abuses and photographs. Muggleton said that he had not seen photographs until the recent press coverage and that he was particularly surprised and disgusted by the abuses detailed in these photographs and in recent press reporting.

6. We have spoken today to COL Mike Kelly, who was our first officer to work in the CPA's Office of General Counsel, from July 2004 to mid-December 2004. He subsequently returned to Iraq with the Office of General Counsel on a short deployment from March to 1 July 2004. He advised that he was not aware of the allegations of abuse against Iraqi detainees in Abu Ghraib prison until his return to Iraq in March 2004 when he became aware of the January CNN reports. He advised that on his first deployment, he held many meetings with the ICRC, Amnesty and Human Rights Watch (HRW), but that these meetings were regarding the treatment of detainees, of apprehension, and their initial treatment in Camp Cropper (at Baghdad International Airport), including acknowledgment of rights as detainees, and conditions under which they were being held. He stated that these were conditions under which prisoners were being held prior to the establishment or transfer to Abu Ghraib prison. At no stage was he made aware of allegations of torture and/or rape, such as detailed in press reports. COL Kelly supported LTCOL Muggleton's understanding that ICRC/Amnesty/HRW concerns were issues such as hooding of prisoners etc. COL Kelly was unaware of the existence of photographs/videos prior to press reporting of the allegations.

7. We are continuing to attempt to contact Section 41 currently deployed to the Office of the General Counsel in Baghdad, and the Temporary Liaison Officer, Section 41 3A1. The latter has previously informed us that the Australian Representative Office was only aware of the issue from LTCOL Muggleton's February reporting. The outcomes from our discussions with these officers will be conveyed to you in subsequent updates as more information becomes available.

8. Strategic Operations Division has been advised by the current and previous commanders of JTF-633 that there was no knowledge of the allegations of mistreatment of Iraqi prisoners prior to the recent media reporting. The current commander advises, however, that rumours of allegations concerning the conditions under which Iraqi prisoners were accommodated had begun to circulate in Baghdad immediately prior to the story breaking. SOD is seeking information through the Australian headquarters in Baghdad and relevant embassies (in relation to third country deployments) to determine whether there has been any Australian involvement with Prisoners of War.

Section 33(i) (a) (iii)
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Section 33(1) (b)

Section 33 (1)(a)(iii)
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11. [Sect 4A] now commanding the prisons in Iraq, visited Iraq in August 2003 and among other calls, advised the ISG on the detention and handling of Iraqi detainees at Camp Cropper. [Sect 41] has the discretion to release 'Blacklist' detainees below number 55 on the list of 255. A number have been released. It is likely that the ISG will again be the subject of further inquiries by US authorities.

12. In the course of their duties a number of Australian members of the ISG have come into contact with Iraqi nationals who have been detained by the Coalition. Many of the detainees are senior scientists and officials held at Camp Cropper. Many are also cooperating with the ISG. This contact has been confined to Subject Matter Experts (SME) preparing questions for interrogators at Camp Cropper. No Australian member of the ISG has been involved in the conduct of an interrogation of an Iraqi national. No Australian member of the ISG has been to Abu Ghraib prison.

13. Australian members of the ISG have questioned Iraqi nationals at sites of interest to the ISG - usually former WMD related or scientific research facilities. The Iraqis are usually plant managers, technocrats and support staff. The interviews have taken place with the consent of the Iraqi participant.

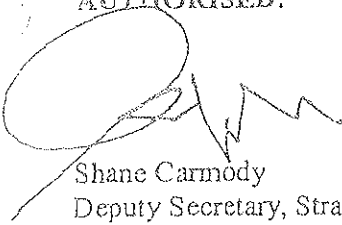
14. A small number of ADF members of the ISG are employed as debriefers and assigned to the ISG JIDC. They are responsible for the debriefing of Iraqi nationals and do not conduct interrogations. The debriefings were conducted by trained personnel and the Iraqis debriefed were not under any form of detention. They were willing participants. In some cases they were so-called 'walk-ins' offering information.

Sensitivity: Yes. Reports of abuse of Iraqi prisoners continues to be of considerable media and public concern.

Consultation: Strategic Operations Division and the Defence Intelligence Organisation were consulted in the drafting of this document.

AUTHORISED:

NOTED


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/ /

10 May, 2004

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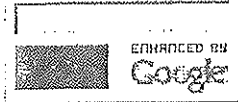
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THE NEW IRAQ SPECIAL REPORT

Details of Army's abuse investigation surface

Pentagon source: Photos may show soldiers, Iraqi detainees

From Barbara Starr
CNN Washington Bureau
Wednesday, January 21, 2004 Posted: 7:37 AM EST (1237 GMT)

WASHINGTON (CNN) – Sources have revealed new details from the Army's criminal investigation into reports of abuse of Iraqi detainees, including the location of the suspected crimes and evidence that is being sought.

U.S. soldiers reportedly posed for photographs with partially unclothed Iraqi prisoners, a Pentagon official told CNN on Tuesday.

A second source confirmed that the Army's Criminal Investigation Division has focused on these pictures, which may depict male and female soldiers.

Investigators have not determined whether any photographs had been taken or had been seen by anyone, but several military police have been removed from duty until the matter is resolved, the source said.

In addition, a senior Pentagon official said the investigation is focused on Abu Ghraib prison in Baghdad, which had been notorious for torture of Iraqis during the regime of captured Iraqi dictator Saddam Hussein.

"If it happened, it's criminal activity," the official said. It is not clear, he said, if there were witnesses to the alleged events.


The official also confirmed there are "credible reports" that there may be photographs of the alleged abuse.

The official said it is not believed that the

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reports indicate widespread criminal abuse, but that the "nature" of the reports have caused concern in the Pentagon and at U.S. Central Command.

"There is zero tolerance" for abuse, he said. "One case is one too many."

Prisoners held by the United States in Iraq are held in accordance with guidelines established by the Geneva Conventions.

Those guidelines include the right of dignity and to be kept from public ridicule.

One source indicated that taking pictures of the prisoners would be considered criminal activity unless it could be demonstrated they were taken for official reasons related to the processing and handling of detainees.

The Pentagon official said computer hard drives have been seized by the Criminal Investigation Division in its search for photographs and additional evidence of abuse.

The official underscored what others in the Pentagon and Baghdad have said in recent days, which is that the matter is considered serious.

The official said the Army is deeply concerned about possible problems of "poor discipline, poor leadership, and a need for re-training," in the military police community.

Several officials say they cannot come to any conclusion about the matter until the investigation is complete but reiterate that Lt. Gen. Ricardo Sanchez, head of coalition forces in Iraq, is taking the matter seriously and is concerned.

The investigation has drawn attention in the military since it came to light January 16.

Defense Secretary Donald Rumsfeld has been briefed on the investigation, officials said.

Sanchez ordered the Army's Criminal Investigation Division to probe the matter as soon as he was told about the reports, sources said.

The official described Sanchez as "plunging in" when he learned of the matter.

The criminal investigations commander, Maj. Gen. Donald Ryder, also serves as the provost marshal general of the Army. That position makes him the most senior Army military police officer.

Ryder may have to investigate those police as part of the probe.

Ryder traveled to Baghdad late last year, according to aides, to review the treatment of detainees.

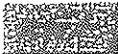
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

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