

QUESTIONS PROFORMA FOR ADO PERSONNEL WHO MAY HAVE HAD CONTACT WITH PW AND CIVILIAN DETAINEES IN THE MEAO

Strategic Operations Division (SOD) has been tasked to identify personnel who may have had contact with PWs and civilian detainees in the Middle East Area of Operations (MEAO), predominantly Iraq and Afghanistan, in the period 2003-2004.

SOD is aware that there are a number of ADF personnel who have deployed to the MEAO since the start of Op SLIPPER in 2001 whose activities may have meant that they came into contact with PWs and/or civilian detainees.

The objective of this questionnaire is to ascertain if, during your deployment, you had any contact with PWs or detainees (civil or military) or visited prisons or detention facilities, the nature of your contact and the possible need for a more detailed interview. **This questionnaire is not part of a disciplinary investigation or administrative inquiry.**

If you have information relevant to the aim of this questionnaire, that is of a higher classification than restricted, then you are to inform your chain of command.

Please complete the form as quickly as possible and return to the SOD Watchkeeper via fax on Section 41, or email to Section 41, AIROPS 1 SOD.

DSN - Section 41
DRN - Section 41

I. Personal Details

1.1 Full Name: Section 41

1.2 Rank: SQNLDR

1.3 Service Number: Section 41

1.4 Unit to which you are currently posted: JTF633.3.4

1.5 Unit to which you posted or attached during your deployment to the MEAO: JTF633.3.4

1.6 Work Contact Number: Section 41

II. Potential Contact with PW and civilian detainees.

- 2.1 During your deployment to the MEAO, did you:
- Have any contact with PWs or civilian detainees? Yes, both.
 - Stop any civilian persons who were later passed on to coalition security forces or Iraqi Police Services? No.
 - Conduct/witness interviews/debriefs of detainees or PWs? Yes, witness interviews of PWs and security internees.
 - Escort/guard detainees or PWs? No.

NB – In this context, I take 'contact' to mean personal / verbal interaction or close proximity (eg. being in the same room). During below (and previously) mentioned visits to detention centres, I visually laid eyes on detainees (they were behind wire fences) but in had no interaction with them.

- 2.2 If so, what was the nature of your contact with these personnel ?

I am an embedded legal officer in the office of the Staff Judge Advocate at MNC-I. For approximately 6 weeks between late January to Mid March 2004, I acted as a CJTF-7 liaison with the ICRC. This involved, in part, co-ordinating ICRC inspections of detention facilities where civilian internees and PWs were being held by Coalition forces. My only contact with detainees occurred on 10 Mar 04 when I accompanied a US JAG to Camp Cropper when she provided approximately 40 of the High Value Detainees with written notification of their legal status as either PWs or security internees.

- 2.3 Who were you with ? (If ADO members please provide names)

A US Army JAG (CJTF-7 OSJA, Chief of detention operations) and a US civilian interpreter.

III Detention Centres

- 3.1 Did you visit any coalition PW or detainee detention centres, holding facilities prisons or interrogation cells? Yes.
- 3.2 When and where (dates and locations including the name of the facility or town – the month will suffice if specific dates are not known) ?
- A. Baghdad Central Confinement Facility (BCCF - aka "Abu Ghuraib") on 3-4 Feb 04 - I was tasked to search through files in order to answer a Spanish Government RFI concerning detainees suspected of the murder of 8 Spanish Intelligence Officers on 28 Nov 03.
 - B. MNB-N Temporary Detention Facility - I accompanied the III Corps Inspector-General as an OSJA representative during his inspection of MNB-N detention facilities. I visited the Brigade facility at Mosul Airport and the 5/20th Battalion facility south of Mosul.

- C. BCCF on 4 Mar 04 - I visited BCCF to coordinate for an ICRC inspection of the facility.
- D. Camp Cropper / HVD Facility at BIAP on 7 Mar 04 - I attended a camp orientation brief to the ICRC prior to their inspection.
- E. Camp Cropper / HVD Facility on 9 Mar 04 - I attended a meeting (with OSJA Detention OPS JAG) with the ICRC.
- F. Camp Cropper HVD Facility on 10 Mar 04 - I sat in on the 'out brief' in which the ICRC provided a verbal, interim report concerning their inspection over the previous days.

3.3 What was the nature of the visit ? See above.

3.4 Who were you with ? (If ADF members please provide names)

NB – In this context, I take this to be referring to those who I was travelling with.

- A. Solo trip. I worked in the JAG office at BCCF.
- B. III Corps Inspector General & his assistant, US Medical officer, US MP officer & a US Chaplain.
- C. Staff 41 CJTF-7 OSJA DSJA(OPS), 2 x CJTF-7 C5 US MAJs, and numerous SECDET personnel who drove us in ASLAVs to BCCF.
- D. Solo trip. I met with the MPs at Camp Cropper and, later, ICRC representatives.
- E. Travelled to Camp Cropper with OSJA Detention OPS JAG and met with ICRC representatives.
- F. Travelled to Camp Cropper with OSJA Detention OPS JAG and received 'out-brief' from ICRC representatives in the company of Camp Cropper US MPs and US ISG personnel.

IV Other Information

4.1 Were you privy to any official comment or authoritative discussion relating to the mistreatment of PWs or detainees ? Yes

4.2 If so, in what circumstances, where and when ? (the month will suffice if specific dates are not known)

General Outline of ICRC Duties

My primary duty in MNC-I OSJA is Coalition Operations. However, I inherited a 'secondary duty' from my predecessor generally described as 'ICRC Liaison'. This job involved the following:

- acting as a Point of Contact (or 'mailbox') for ICRC requests for information or correspondence; and
- facilitating ICRC inspections of CJTF-7 Detention Centres in Iraq.

While interesting, it was apparent that there was duplication of effort and overlap with the Detention Operations JAG. By about mid March 2004, this overlap became so stark that I handed over the ICRC liaison duties to the Detention OPS JAG. This allowed me to concentrate more on my Coalition OPS duties.

A. Until 22 May 04, the workspace in which many OJSA personnel worked was small and cramped. I worked in close proximity to US JAGs and, from time to time, matters would be discussed in my presence but not directed to my attention (usually because it involved a US-only issue). The MNC-I SJA, Section 41, is responsible for coordinating the prosecution of the suspects involved in the alleged abuses at BCCF. From approximately mid March, I overheard bits and pieces concerning the nature of the allegations that were being vigorously investigated and prosecuted by the OSJA Criminal Law team.

B. I attended a meeting with ICRC representatives 1 Mar 04 at Camp Victory. Those present included the CJTF-7 JAG officers and Sect. 41. This meeting was to address co-ordination for ICRC inspections and to provide feedback to the ICRC concerning the Feb 04 ICRC report to CJTF-7. My interest in this meeting was limited to the inspection co-ordination aspects but I was present for discussions concerning the February ICRC report. I am sure that I had not read the report prior to the meeting but generally understood that it was a compilation of ICRC detention complaints made since the war in Mar/Apr 04.

The ICRC representatives were told that criminal investigations were almost concluded into abuse allegations concerning Abu Ghuraib and that charges were expected to be proffered soon against US soldiers. Details of the abuse alleged were not discussed during this meeting.

C. I attended an ICRC meeting at CPA on 19 Mar 04 with an ICRC Representative. Sect. 41 and US officers were also present. The ICRC made a complaint about PWs and detainees being required to wear prison-type jump suits when in detention. I was asked to pass on a complaint file from a Camp Cropper US MAJ concerning an internee who claimed that he was mistreated by US forces on his way to BCCF.

4.3 If so, what did you do and who, if anyone, did you report this to ?

I did not officially report the above matters to JTF633.

As far as the Abu Ghuraib allegations (Para 4.2 A & B above) are concerned, I had only heard of them only in general terms. I did not see the photos which were subsequently released in the media.

In respect of the matters raised in Para 4.2 C, I passed the information on to the OSJA Chief of Detention Operations (as requested) for further action.

I did not report these matters to JTF633 for the following reasons:

- In the case of the Abu Ghuraib allegations, they appeared to involve relatively straight-forward criminal acts;
- They involved only US military personnel;
- They were being properly investigated and prosecuted by US authorities;
- I either unintentionally overheard them in the office or (in the case of the ICRC meeting) they were matters of concern between US and ICRC representatives;
- Without the benefit of hindsight, they were not self-evidently of interest to Australia (particularly as they did not involve Australians).

- This was not really an OPS LAW issue and did not fall within my purview – the abuse allegations were being addressed adequately and properly by Military Justice part of OSJA.
- The matters being discussed were legally sensitive, being part of US military justice process.
- The ICRC has a general rule of confidentiality and the discussions between the ICRC and the US that I witnessed were between those parties only. It was clear to me that the allegations being discussed between those parties were being properly, indeed vigorously, addressed by the US authorities. In the circumstances I did not consider it appropriate to raise the matter with a third party, namely, JTF633. Naturally, had I any suspicion that the matters were not being addressed or not properly being addressed, or indeed if there was any suggestion of any Australian involvement, I would have informed JTF633 immediately.
- A certain amount of discretion is required when performing the duties of an officer embedded in what is essentially a US Army HQ (with coalition ‘bolt-ons’).
- I did not receive a brief or substantial guidance from JTF633 concerning national reporting criteria. Commonsense obviously dictates that important matters of Australian national importance be reported immediately. The above matters did not, in my opinion, appear to satisfy this criteria.

Section 41 duties involved ICRC liaison for the CPA after his arrival in mid-February 2004. I maintained a close working relationship with Section 41 Section 41 while performing ICRC liaison duties for CJTF-7.

- 4.4 Did you have any knowledge of ICRC or Amnesty International reports published in October 2003 through February 2004 ? Yes
- 4.5 If so, in what context and what did you do and who, if anyone, did you report this to ?

I had knowledge of ICRC reports but not the Amnesty International Report. I received hard copy reports during my handover from MAJ O’Kane. I recall skimming through a couple of these reports (certainly not all of them) when I first arrived in order to develop situational awareness. I recall that these reports contained complaints concerning conditions and general treatment. However, nothing in the reports that I read particularly grabbed my attention as requiring reporting action to JTF633. Responses had been sent to the ICRC regarding these reports before my arrival. During my handover, MAJ O’Kane did not specify that further action was required to be taken in respect of the ICRC reports and I did not take any. I recall receiving a copy of the February ICRC report. I think that I read it some time in early March (after the 1 March meeting). From my recollection, it was essentially a compilation of ICRC complaints dating back to the war in Mar/Apr 03. As the document was essentially a ‘historical’ compilation and most matters appear to have been addressed, I saw no need to officially report it to the JTF633.

- 4.6 Do you have any other information that you consider relevant ? No.