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Abuse Inquiry Opens Question of Army Tactics

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Fort Bliss, TX - In a small courtroom at this vast Army training base, military prosecutors have been moving briskly to dispense with the cases they have filed in the brutal deaths in 2002 of two Afghan prisoners at the American military detention center in Bagram, Afghanistan.

On Thursday, a 24-year-old military intelligence sergeant pleaded guilty to assault and dereliction of duty for abusing one of the prisoners during an interrogation. Another interrogator, accused of tormenting the same detainee, agreed to plead guilty two days before. Military lawyers said that a plea deal was being negotiated with a third interrogator and that two reservist military policemen who received lesser punishments were cooperating with the inquiry.

Military officials said they hoped the prosecutions would send a message that such abuses will not be tolerated, even in the country's fight against terrorism.

But whatever their long-term implications, the cases have so far tended to illustrate how unprepared many soldiers were for their duties at Bagram, how loosely some were supervised and how vaguely the rules under which they operated were often defined.

Along with other information that has emerged, trial testimony has underscored a question long at the core of this case: what is the responsibility of more senior military personnel for the abuses that took place?

Many former Bagram officers have denied knowing about any serious mistreatment of detainees before the two deaths. But others said some of the methods that prosecutors have cited as a basis for criminal charges, including chaining prisoners to the ceilings of isolation cells for long periods, were either standard practice at the

prison or well-known to those who oversaw it.

None of the nine soldiers prosecuted thus far are officers. The 18 others against whom Army investigators have recommended criminal charges include two captains, the military intelligence officer in charge of the interrogation group and the reservist commander of the military police guards.

In the first interview granted by any of the accused soldiers, a former guard charged with maiming and assault said that he and other reservist military policemen were specifically instructed at Bagram how to deliver the type of blows that killed the two detainees, and that the strikes were commonly used when prisoners resisted being hooded or shackled.

"I just don't understand how, if we were given training to do this, you can say that we were wrong and should have known better," said the soldier, Pvt. Willie V. Brand, 26, of Cincinnati, a father of four who volunteered for tours in Afghanistan and Kosovo.

In interviews and statements to investigators, soldiers who served at Bagram have at times echoed the defenses offered unsuccessfully by the soldiers charged with abuses at the Abu Ghraib prison in Iraq, saying they were acting on instructions from military intelligence personnel or on the authority of superior officers.

But documents from the Bagram investigation and interviews with military officials suggest that at least some soldiers implicated in the two deaths may be able to make such arguments more forcefully than their counterparts from Abu Ghraib, who were unable to prove any authorization for their actions.

Witness statements and interviews, for example, indicate that there was a long-running conflict at Bagram between military intelligence and military police units over the interrogators' use of guards to keep awake detainees whom they wanted disoriented for questioning.

The statements are among nearly 2,000 pages of documents from the criminal investigation that the Army began after the two men, a brother of a reputed Taliban commander and a young taxi driver, died six days apart in December 2002. The New York Times obtained a copy of the case file from a person involved in the inquiry who was critical of the military's response to the abuses.

Last October, a final report by the Criminal Investigation Command of the Army recommended charges against 27 soldiers and officers. It said both deaths were primarily caused by severe trauma to the men's legs, which led to a blood clot and a pulmonary embolism in one and heart failure in the other. The report added that

"sleep deprivation at the direction of military intelligence soldiers" was also a "direct contributing factor" in the death of the taxi driver.

Private Brand, the guard who has faced the most serious charges, was perhaps the most open and self-incriminating in his sworn statements to investigators. In three interviews, he said he repeatedly struck the two shackled detainees above the knee with blows intended to incapacitate the leg by hitting the common peroneal nerve.

Private Brand said he struck the first detainee who died, Mullah Habibullah, about four times so he could force a hood over his head. He said he struck the taxi driver, a slight 22-year-old known only as Dilawar, "somewhere in the area of 37 times, less than 40 for sure," after becoming frustrated with his recalcitrance.

In a court hearing in March, one prosecutor noted that Private Brand also told investigators that the guards were also instructed to use the knee strikes for self-defense and "not for mere resistance."

But in an interview at Fort Bliss, where he is awaiting trial later this month, Private Brand insisted that the knee strikes were taught at Bagram as a basic way to gain the compliance of prisoners. Other soldiers have said the blows were also part of training overseen by sergeants in the reserve unit, the 377th Military Police Battalion, before it deployed overseas.

Private Brand said that when his platoon took over the night shift at the detention center, he was told that prisoners would often resist when military intelligence soldiers ordered hoods pulled over their heads.

"So you just give them a common peroneal strike and yank it down and be on your merry way," he said. "It just seemed like the way to control people."

Private Brand, a security guard who dreamed of joining the regular Army, had more experience than many of his fellow reservists. One of his former sergeants testified that he had been regarded as a model soldier.

In recommending the dismissal of an involuntary manslaughter charge that Army prosecutors initially sought against Private Brand, the investigating officer who oversaw his pretrial inquiry, Col. Stephen B. Pence, wrote that there was "no evidence that the accused knew or should have known" that the knee strikes could mortally injure a detainee, or that the blows "would be anything other than temporarily disabling."

A lawyer for another military policeman who has been charged, Specialist Anthony M. Morden, said in a pretrial hearing that

witnesses he hoped to call would testify that the guards were "specifically authorized to use force to gain compliance."

The lawyer for one of the former military intelligence soldiers, Sgt. Selena M. Salcedo, pointed to her lack of preparation as she entered a guilty plea, saying she had no prior training in interrogations and learned that she would be questioning prisoners only after arriving in Afghanistan.

Sergeant Salcedo, 24, said she became frustrated with Mr. Dilawar when he refused to look at her during an interrogation, a problem she said she faced as a woman dealing with Afghan and Arab detainees. She admitted kicking Mr. Dilawar in the knees and thighs, grabbing him by the ears when he looked away, and pulling him up repeatedly when he was unable to hold "stress positions" against a wall because of his injuries.

"She knew that she didn't have the training or experience as an interrogator," said her lawyer, Capt. Mario J. DeRossi. "She never once said, 'I can't do it.' "

The judge in the case, Lt. Col. Mark P. Sposato, appeared to be persuaded by those arguments, along with testimony that Sergeant Salcedo, too, had otherwise been a model soldier, finishing first in her training class, volunteering for duty in Iraq and being recommended for several awards. He brushed aside the prosecution's request that she be imprisoned for eight months and dishonorably discharged, and sentenced her instead to a one-grade demotion, a written reprimand and a \$1,000 fine.

But like Colonel Pence, Colonel Sposato has thus far entertained few questions about the wider responsibility for abuses at Bagram, denying requests by Private Brand's lawyers to call a string of witnesses who they said could shed light on the orders and training the guards received.

The senior military intelligence official at Bagram, Brig. Gen. Theodore C. Nicholas II, who was then a colonel, told investigators last year that the interrogators were restricted to methods codified long before the Sept. 11 attacks in Army Field Manual 34-52.

General Nicholas said he did "not recall" detainees being shackled with their arms overhead to deprive them of sleep, as other officers said was commonly done. General Nicholas said he once saw shackles dangling from the metal bars above a holding cell but was told they were reserved for the temporary punishment of combative detainees.

"I recall saying they better ensure the individual's feet could touch the floor," he told the investigators last year.

An intelligence officer beneath General Nicholas who dealt more directly with the interrogation group, Lt. Col. Ronald R. Stallings, told investigators that he, too, "had no idea" that prisoners were being chained overhead for more than 24 hours at a time. But Lt. Col. John W. Loffert Jr., who took over as the intelligence operations officer shortly before the deaths, said he saw the practice being used as soon as he arrived at the detention center.

"I know they were forced to stand, handcuffed to chains that extended from the ceiling," Colonel Loffert told investigators. "Their hands were approximately chest-level. It was plainly visible and discussed as a technique" during an inquiry ordered by the American military commander at Bagram after the deaths.

In their final report, the investigators recommended that prosecutors charge the junior officer who led the interrogation group, Capt. Carolyn A. Wood, with dereliction of duty, saying "she was clearly informed the techniques documented within F.M. 34-52 were the only approved interrogation techniques to be used at Bagram."

But in a statement given in the commander's inquiry, Captain Wood asked for "additional legal guidance" about techniques like stress positions and sleep deprivation.

In interviews, other former interrogators said she and the staff sergeant who was her deputy had for months been seeking clarification from their superiors about the interrogation methods they could use.

"They asked many, many times," said one former Bagram interrogator who agreed to speak only on condition of anonymity because of the continuing investigation. "The lack of guidance was a source of frustration for them. My own feeling is that it was never given because nobody wanted to put themselves on the line."



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