

**STATEMENT BY**

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**BEFORE THE**

**ARMED SERVICES COMMITTEE**

**UNITED STATES SENATE**

**ON THE INVESTIGATION OF THE 205<sup>TH</sup> MILITARY INTELLIGENCE  
BRIGADE AT ABU GHRAIB PRISON, IRAQ**

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Mr. Chairman, Senator Levin and Members of the Committee, on behalf of LTG Jones, MG Fay, and MG Taguba, I appreciate the opportunity to appear before you today and report to you the findings of our investigations concerning the events surrounding the allegations of detainee abuse at Abu Ghraib.

I am General Paul Kern, the Commander of the United States Army Materiel Command at Fort Belvoir, Virginia. On June 16th of this year, acting at the direction of the Secretary of the Defense, the Acting Secretary of the Army designated me as the new appointing authority for the investigation that LTG Sanchez began back on March 31<sup>st</sup> of 2004. This investigation, or "Procedure 15"'s specific purpose was to look into the alleged misconduct by certain personnel assigned or attached to the 205<sup>th</sup> Military Intelligence Brigade at Abu Ghraib Detention Facility. As you know from prior hearings, MG Taguba's investigation focused on the 800<sup>th</sup> Military Police Brigade. I have spent 41 years wearing an Army uniform, and was taught to live by standards - duty, honor, country, the Code of Conduct, the Army values, the Soldiers' Creed.

Over the years of my career, I have been led by and inspired by incredibly talented and dedicated individuals - soldiers like SPC Patrick Miller, an Ordnance Soldier who

fought bravely and courageously until he was captured in An Nasiriya - to senior officers such as Generals McArthur and Patton. These people, and thousands like them, dedicate their lives to their country quietly, with honor.

Our report, however, discusses the failure of a relatively small number of soldiers who served at Abu Ghraib prison. The teams conducted an investigation that focused on the 205<sup>th</sup> Military Intelligence Brigade and its chain of command; however, we went where the facts led us. Our final report from this investigation is complete. In the course of this investigation, we discovered serious misconduct and a loss of moral values. We set our course to find truth, not to "whitewash" nor to convict those who are not incriminated. We found the pictures you have seen were not the result of any doctrine, training or policy, but violations of law.

We learned there were leaders in Abu Ghraib who knew about this misconduct - knew better and did nothing. Some Soldiers behaved improperly because they were confused by their experiences and direction. And we violated our own regulations by allowing "ghost detainees" in detention facilities.

All this was happening as thousands of Soldiers, Sailors, Airmen, Marines, civilians and contractors fought

bravely to restore an elected government in Iraq and Afghanistan. We are very proud of their service, commitment, courage and values. They and their families can stand tall and proud. I regret, however, that we must report on those who failed.

Our investigation team brings a depth of knowledge and experience necessary to the task of investigating the activities regarding alleged detainee abuse at Abu Ghraib.

LTG Jones has over 34 years military service, commanding at all levels up through major general. He is currently the deputy commander of one of our Army major commands. He has served in the operational Army, both conventional and special operations, leading Soldiers in war, contingency operations, and in peace. He is a great trainer, and was the commander of Fort Rucker, Ala., where he was charged with initial military training, doctrine, leader development and creating the vision for the future. His has served in assignments overseas include duties in Europe, Korea, Bosnia and Southwest Asia. His experience also includes being the chief of staff for the 24<sup>th</sup> Infantry Division and the US Army Europe. His depth and breadth of operational assignments, experience at the tactical through strategic levels, and knowledge of training and doctrine

have been invaluable to the scope of our investigation. He is a Soldier's Soldier who knows what is right.

MG Fay served on active duty for four years, followed by 27 years in the Army Reserve. He was mobilized immediately after 9/11 and has been on active duty for almost two and one-half years since then. The vast majority of both his Active and Reserve experience has been in Military Intelligence. In civilian life, MG Fay is a managing director of a major global property/casualty insurance company. He has nearly 30 years' experience investigating and overseeing complex claims and litigation.

The investigative teams conducted a comprehensive review of all available background documents and statements pertaining to Abu Ghraib from a wide variety of sources. These sources included the reports written by MG Geoffrey Miller, MG Donald Ryder, MG Antonio Taguba and the Department of Army Inspector General. LTG Jones did extensive review of previous reports, operations plans, policy memorandums, and sworn statements collected by the MG Fay team. He also personally interviewed LTG Richardo Sanchez and MG Barbara Fast, the CJTF-7 Senior Intelligence Staff Officer. MG Fay's team conducted over 170 interviews concerning the interviewees' knowledge of interrogation and detention operations at Abu Ghraib and/or their knowledge

of and involvement in detainee abuse. MG Fay's interviews included interviews with MG Fast, MG Walter Wojdakowski, MG Geoffrey Miller, MG Thomas Miller, and BG Janis Karpinski. Over 9,000 documents were collected, catalogued and archived into a database. My review team consisted of 12 people, including general officers, subject matter experts and legal advisors. The investigative teams traveled to Iraq eight times, including a visit by the appointing authority and investigating officers in early August 2004.

The events at Abu Ghraib cannot be understood in a vacuum. Three interrelated aspects of the operational environment played important roles in the abuses that occurred at Abu Ghraib. First, from the time V Corps transitioned to become Combined Joint Task Force-7 (CJTF-7), and throughout the period under investigation, it was not resourced adequately to accomplish the missions of the Combined Joint Task Force. Those missions were stability and support operations (SASO) and support to the Coalition Provisional Authority (CPA). The CJTF-7 headquarters lacked adequate personnel and equipment. In addition, the military police and military intelligence units at Abu Ghraib were severely under-resourced. Second, providing support to the Coalition Provisional Authority (CPA) required greater resources than envisioned in operational plans. Third,

operational plans envisioned that CJTF-7 would execute SASO and provide support to the CPA in a relatively nonhostile environment. In fact, opposition was robust and hostilities continued throughout the period under investigation.

Therefore, CJTF-7 had to conduct tactical counter-insurgency operations, while also executing its planned missions. That is the operational context in which the abuses at Abu Ghraib took place.

### Abuses

We found that abuses—on the part of military intelligence and military police personnel-- clearly occurred at the prison at Abu Ghraib. For purposes of this report, abuse is defined as treatment of detainees that violated U.S. criminal law or international law or treatment that was inhumane or coercive without lawful justification. Whether the Soldier or contractor knew, at the time of the acts, that the conduct violated any law or standard, is not an element of the definition.

There is no single, simple explanation for why this abuse at Abu Ghraib happened. The primary causes are misconduct (ranging from inhumane to sadistic) by a relatively small group of soldiers and civilians, a lack of discipline on the part of the leaders and Soldiers of the 205<sup>th</sup> MI BDE and a failure or lack of leadership by multiple

echelons within CJTF-7. Contributing factors can be traced to issues affecting command and control, doctrine, training, and the experience of the Soldiers we asked to perform this vital mission.

The abuses at Abu Ghraib primarily fall into two categories: a) intentionally violent or sexual abuse and, b) abusive actions taken based on misinterpretations or confusion regarding law or policy.

LTC Jones found that while senior level officers did not commit the abuses at Abu Ghraib, they did bear responsibility for lack of oversight of the facility, failing to respond in a timely manner to the indications and warnings provided by reports of incidents within the command and as reported by agencies such as reports from the International Committee of the Red Cross, and for issuing policy memos that failed to provide clear, consistent guidance for execution at the tactical level.

MG Fay found that from 25 July 2003 to 6 February 2004, twenty-seven 205th MI BDE Personnel allegedly requested, encouraged, condoned or solicited Military Police (MP) personnel to abuse detainees and/or participated in detainee abuse and/or violated established interrogation procedures and applicable laws and regulations during interrogation operations at Abu Ghraib.

Most, though not all, of the violent or sexual abuses occurred separately from scheduled interrogations and did not focus on persons held for intelligence purposes. No policy, directive or doctrine directly or indirectly caused violent or sexual abuse. In these cases, Soldiers knew they were violating the approved techniques and procedures.

Confusion about what interrogation techniques were authorized resulted from the proliferation of guidance and information from other theaters of operation; individual interrogator experiences in other theaters; and, the failure to distinguish between interrogation operations in other theaters and Iraq. This confusion contributed to the occurrence of some of the nonviolent and nonsexual abuses but did not contribute to the abuse that you have seen in the photographs

Alleged incidents of abuse by military personnel have been referred to the CID for criminal investigation and the chain of command for disciplinary action. Alleged incidents of abuse by civilian contractors have been referred through the Department of Defense to the Department of Justice.

#### Discipline and Leadership

Military Intelligence and Military Police units had missions throughout the Iraqi Theater of Operations (ITO);

however, 205th MI Brigade and 800th Military Police Brigade leaders at Abu Ghraib failed to execute their assigned responsibilities. The leaders from units located at Abu Ghraib or with supervision over Soldiers and units at Abu Ghraib, failed to supervise subordinates or provide direct oversight of this important mission. These leaders failed to properly discipline their Soldiers. These leaders failed to learn from prior mistakes and failed to provide continued mission-specific training. The 205th MI Brigade commander did not assign a specific subordinate unit to be responsible for interrogations at Abu Ghraib and did not ensure that a Military Intelligence chain of command at Abu Ghraib was established. The absence of effective leadership was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents.

Neither Department of Defense nor Army doctrine caused any abuses. Abuses would not have occurred had doctrine been followed and mission training conducted. Nonetheless, certain facets of interrogation and detention operations doctrine need to be updated, refined or expanded, including, the concept, organization, and operations of a Joint Interrogation and Debriefing Center (JIDC); guidance for interrogation techniques at both tactical and strategic

levels; the roles, responsibilities and relationships between Military Police and Military Intelligence personnel at detention facilities; and, the establishment and organization of a Joint Task Force structure and, in particular, its intelligence architecture.

#### Other Contributing Factors

Demands on the Human Intelligence (HUMINT) capabilities in a counterinsurgency and in the future joint operational environment will continue to tax tactical and strategic assets. The Army needs trained and experienced tactical HUMINT personnel.

Working alongside non-DOD organizations/agencies in detention facilities proved complex and demanding. The perception that non-DOD agencies had different rules regarding interrogation and detention operations was evident. Interrogation and detention policies and limits of authority should apply equally to all agencies in the Iraqi Theater of Operations.

#### "Ghost Detainees"

My investigation resulted in specific findings regarding the issue of "ghost detainees" within Abu Ghraib. It is clear that the interrogation practices of other government agencies led to a loss of accountability at Abu Ghraib. DOD must document and enforce adherence by other

government agencies with established DOD practices and procedures while conducting detainee interrogation operations at DOD facilities. This matter requires further investigation and, in accordance with the provisions of AR 381-10, Part 15, is being referred to the DOD Inspector General, as the DOD liaison with other government agencies for appropriate investigation and evaluation.

Soldiers/Sailors/Airmen/Marines should never be put in a position that potentially puts them at risk for non-compliance with the Geneva Convention or Laws of Land Warfare.

#### Conclusion

Leaders and Soldiers throughout Operation Iraqi Freedom were confronted with a complex and dangerous operational environment. Although a clear breakdown in discipline and leadership, the events at Abu Ghraib should not blind us from the noble conduct of the vast majority of our Soldiers. We are a values based profession in which the clear majority of our Soldiers and leaders take great pride.

A clear vote of confidence should be extended to the leaders and Soldiers who continue to perform extraordinarily in supporting our Nation's wartime mission. Many of our Soldiers have paid the ultimate sacrifice to

preserve the freedoms and liberties that America and our Army represent throughout the world. The events of this report stand in stark contrast to the values and honor of all these Americans. With that, we look forward to answering your questions.