

# The Secrets of Abu Ghraib Revealed: American Soldiers on Trial<sup>1</sup>

Reviewed by Major Eric J. Lawless\*

“We’re going to find out what kind of monster I am today.”<sup>2</sup>

## I. Introduction

Over six years ago, CBS News anchor Dan Rather introduced to the world the notorious Abu Ghraib photos—to include photos of naked Iraqi prisoners stacked in a pile, a naked Iraqi being led about with a dog leash around his neck, and a hooded prisoner with wires connected to his fingers.<sup>3</sup> Even more alarming to many viewers was the sight of American Soldiers in each photo proudly taunting their victims.<sup>4</sup> Despite widespread familiarity with the photos, the name “Abu Ghraib” still evokes strong feelings of anger among the military and the public. In *The Secrets of Abu Ghraib Revealed: American Soldiers on Trial*, Christopher Graveline and Michael Clemens write a personal, first-hand account of the crimes at Abu Ghraib to answer the question on everyone’s mind: *Who is to blame for this detainee abuse?*

Two prevailing theories exist about the Abu Ghraib abuses. One theory blames senior leaders in the Government for ordering the abusive actions, while another theory concludes that seven “bad apples” abused detainees for their own entertainment.<sup>5</sup> After a thorough examination of the evidence, the authors conclude that the truth falls somewhere in the middle.<sup>6</sup> While the authors identify and explain failures at all levels of leadership, they ultimately conclude that “criminal culpability falls closer on the continuum to the enlisted [S]oldiers working the night shift.”<sup>7</sup>

While all may not agree with the authors’ ultimate conclusion, the book does thoroughly investigate all possible sources of fault, scrutinizing actions from the White House all the way down to the individual prison guards. The book also provides a factual framework on which readers can make their own personal assessments. *The Secrets of Abu*

*Ghraib Revealed* is an engrossing story with the readability of a John Grisham novel and should be on the reading list of judge advocates, military leaders, and those interested in an accurate recitation of the events at Abu Ghraib in the fall of 2003.

## II. Background

On 7 November 2003, seven prison guards from the 372d Military Police (MP) Company<sup>8</sup> viciously abused seven Iraqi prisoners, outraging the international community,<sup>9</sup> destroying their own military careers,<sup>10</sup> threatening the mission in Iraq,<sup>11</sup> and “gave the [U.S.] Army a black eye.”<sup>12</sup> Based on their personal experience with the scandal, the authors describe the inner workings of the adjudication of the cases in detail. One book reviewer noted that “[o]nly six people have complete knowledge of the Abu Ghraib investigation and prosecutions; Graveline and Clemens are two of them.”<sup>13</sup> Christopher Graveline, a prosecutor in the Abu Ghraib cases and the lead prosecutor in *United States v. PFC Lynndie England*, conducted extensive research and investigation in preparing seven courts-martial against the military prison guards.<sup>14</sup> Michael

\* Judge Advocate, U.S. Army. Student, 59th Judge Advocate Officer Graduate Course, The Judge Advocate General’s Legal Center and School, U.S. Army, Charlottesville, Virginia.

<sup>1</sup> GRAVELINE & MICHAEL CLEMENS, *THE SECRETS OF ABU GHRAIB REVEALED: AMERICAN SOLDIERS ON TRIAL* (2010).

<sup>2</sup> *Id.* at 213 (quoting Corporal (CPL) Charles Graner’s statement to the media as he entered the courthouse the day of his general court-martial).

<sup>3</sup> *Id.* at ix.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 299.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> The 372d Military Police Company is an Army Reserve unit headquartered in Cumberland, Maryland.

<sup>9</sup> GRAVELINE & CLEMENS, *supra* note 1, at 9–11, 28.

<sup>10</sup> *Id.* at 305–07. Staff Sergeant (SSG) Ivan Frederick was found guilty of assault and maltreatment of detainees at a general court-martial on 20 October 2004 and was sentenced to eight years confinement and a dishonorable discharge. Specialist (SPC) Megan Ambuhl was found guilty of dereliction of duty at a summary court-martial on 30 October 2004 and was sentenced to a reduction in rank. She was subsequently administratively discharged from the Army. Corporal Charles Graner was found guilty of assault and maltreatment of detainees at a general court-martial on 14 January 2005 and was sentenced to ten years confinement and a dishonorable discharge. Sergeant (SGT) Javal Davis was found guilty of assault and dereliction of duty at a general court-martial on 1 February 2005 and was sentenced to six months confinement and a bad-conduct discharge. Specialist Sabrina Harmon was found guilty of maltreatment of detainees at a special-court martial on 17 May 2005 and was sentenced to six months confinement and a bad-conduct discharge. Specialist Jeremy Sivits was found guilty of maltreatment of detainees at a special court-martial on 19 May 2005 and was sentenced to one year confinement and a bad-conduct discharge. Private First Class (PFC) Lynndie England was found guilty of maltreatment of detainees at a general court-martial on 26 September 2005 and was sentenced to three years confinement and a dishonorable discharge.

<sup>11</sup> *Id.* at 9–11.

<sup>12</sup> *Id.* at 199.

<sup>13</sup> *Id.* inside front dust cover.

<sup>14</sup> *Id.* at 321. Christopher Graveline (then Captain (CPT) Graveline) was an Army prosecutor in the Abu Ghraib abuses courts-martial. He previously

Clemens, a military policeman assigned to the Abu Ghraib prosecution team as a special investigator, performed the majority of the work behind the scenes, including his travels back to the States to interview Soldiers, Family members, and civilian co-workers of the accused, allowing government prosecutors to focus on case preparation.<sup>15</sup> With Master Sergeant (MSG) Clemens assigned as the investigator, the prosecution team could then analyze the case in detail at points where the Criminal Investigation Division (CID) was either unable or unwilling to do the same.<sup>16</sup>

### III. Analysis

In their preface, Graveline and Clemens explain that the book provides an unbiased factual account of the Abu Ghraib detainee abuse to allow the reader to make an informed decision about what actually happened at the detention facility.<sup>17</sup> In presenting the facts, the co-authors analyze three categories of evidence: the official policy on detainee treatment; leadership failures; and military intelligence operations.<sup>18</sup> The authors do a commendable job of presenting evidence to support two main contentions: whether it was the chain of command or the individual Soldiers who are to blame for this scandal. In their epilogue, however, Graveline and Clemens subsequently break from their stated intent to present an unbiased story and expressly conclude while the chain of command made several mistakes, the ultimate blame falls squarely on the enlisted Soldiers who carried out the abuses.<sup>19</sup> Although a reasonable conclusion, the authors' opinion comes across as a self-serving effort to justify their prosecutorial decisions.

#### A. Official Policy Did Not Authorize Detainee Abuse

Initially, the authors cite to standing U.S. policies in effect in Iraq regarding detainee handling and interrogation.<sup>20</sup> In a memorandum from the White House, President Bush states that Al Qaeda is not a "High Contracting Party" and therefore, not eligible for the

protections granted under the Geneva Convention.<sup>21</sup> Nevertheless, the memo goes further, stating that "the United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva."<sup>22</sup> Although many critics claim that this memorandum opened the door for the abuses at Abu Ghraib, their argument is unpersuasive for several reasons. First, the memorandum is grounded in international law because the Geneva Convention is a contract between "High Contracting Parties" and those that are not members do not enjoy its protections.<sup>23</sup> Second, despite Al Qaeda's status as a non-party, the President gave a military order to treat all detainees humanely.<sup>24</sup> Third, there was never evidence of an order to the contrary despite thorough investigations conducted by the military and the media.

Next, the authors introduce a policy memorandum dated 16 April 2003 from Secretary of Defense Donald Rumsfeld directed to the Commander at the military prison in Guantanamo, Cuba. The authors point out that the Secretary of Defense organized a working group to develop recommendations and provide a legal review in support of their assertion that the Secretary of Defense had not authorized the Abu Ghraib abuse. According to Graveline, within this framework, many of the legal opinions actually went too far and found certain harsher interrogation techniques, such as threatening a detainee with death, were legal.<sup>25</sup> Despite this legal analysis, the memorandum went through several revisions before final publication, and ultimately ended up being even more restrictive than was originally endorsed by the legal advisers. In response, Secretary Rumsfeld limited his authorization to twenty-four interrogation techniques.<sup>26</sup> Most of the techniques were directly from Army Field Manual 34-52,<sup>27</sup> but he also approved five additional techniques.<sup>28</sup> When authorizing these techniques, Secretary Rumsfeld reinforced the President's directive that all detainees be treated humanely and consistent with the Geneva Conventions.<sup>29</sup> Additionally, to clarify that there was no miscommunication, the authors note that the Department of Defense working

---

had served as a prosecutor in the 101st Airborne Division at Fort Campbell, Kentucky; the Government Appellate Division in Washington D.C.; and V Corps in Heidelberg, Germany. He has since left the Army and currently works for the U.S. Department of Justice as an Assistant U.S. Attorney. *Id.*

<sup>15</sup> *See id.* at 145-47, 321. Master Sergeant (MSG) Michael Clemens (Ret.) was a military policeman and investigator in the Army Reserve for twenty-two years. He deployed and conducted investigations in Bosnia, Croatia, Hungary, Kuwait, and Iraq. In his civilian capacity, he works as deputy federal agent. *Id.* at 321.

<sup>16</sup> *See id.* at 114-15.

<sup>17</sup> *Id.* at x.

<sup>18</sup> *See id.* at 299-300.

<sup>19</sup> *See id.* at 299-302.

<sup>20</sup> *Id.* at 95, 106-08, 111-12.

---

<sup>21</sup> *Id.* at 95.

<sup>22</sup> *Id.* (quoting a presidential memorandum dated 7 February 2002).

<sup>23</sup> *Id.*

<sup>24</sup> *See id.* at 106-07.

<sup>25</sup> *Id.* at 98-101, 104-05.

<sup>26</sup> *Id.* at 106-07.

<sup>27</sup> U.S. DEP'T OF ARMY, FIELD MANUAL 34-52, INTELLIGENCE INTERROGATION para. 3 (28 Sept. 1992).

<sup>28</sup> GRAVELINE & CLEMENS, *supra* note 1, at 106 (in addition to techniques authorized by FM 34-52, the memorandum authorized the following techniques: dietary manipulation, environmental manipulation, sleep adjustment, false flag, and isolation).

<sup>29</sup> *Id.*

group memorandum and the Department of Justice memorandum relied upon by the President were never introduced to the lower levels of the command.<sup>30</sup>

Finally, the authors discuss the *Iraq Rules of Engagement* (ROE) published by Lieutenant General (LTG) Ricardo Sanchez, Commanding General of Combined Joint Task Force-7 (CJTF-7). Lieutenant General Sanchez's policy, signed on 12 October 2003, was even more restrictive than that of the Secretary of Defense.<sup>31</sup> In the ROE, LTG Sanchez only authorized the interrogation techniques contained in Army Field Manual 34-52.<sup>32</sup> The ROE did leave open the possibility of an exception to policy, but only with his direct authorization.<sup>33</sup> An exception to policy was never requested.<sup>34</sup>

The authors present each of the documents as credible evidence that government and military senior level leadership provided specific guidance on interrogation techniques in Iraq in order to prevent abuses like those committed at Abu Ghraib. Specifically, the memorandum from the President requiring all detainees be treated humanely in accordance with the Geneva Convention, the Secretary of Defense directive that authorized only specified interrogation techniques were to be used, and the Iraq ROE limiting interrogation techniques to those listed in the Army field manual each support the conclusion that official policy did not authorize detainee abuse. This evidence becomes more persuasive when compared to the lack of substantive evidence to the contrary, which would likely have surfaced during the subsequent prosecutions stemming from the scandal.

## B. The Environment at Abu Ghraib Contributed to the Abuses

In addition to the policy memoranda, the authors critically examine how the Abu Ghraib environment led to the detainee abuse. According to the Staff Judge Advocate for CJTF-7, the Soldiers of the 372d MP Company found themselves in the middle of a "detention mess" when they arrived in the fall of 2003.<sup>35</sup> They were under-trained, under-staffed, and under-resourced.<sup>36</sup> The Army and the Military Police Corps were not prepared to conduct large scale detainee operations in Iraq.<sup>37</sup> Moreover, the increasing

level of violence in Iraq created an instant need for actionable intelligence.<sup>38</sup>

In addition to the physical challenges of living and working in a prison located in a combat zone with few creature comforts, the unit had internal problems that contributed to the scandal. Immediately upon learning of photographs depicting detainee abuse, LTG Sanchez ordered Major General (MG) Antonio Taguba, the Deputy Commanding General for Support of Coalition Forces Land Component Command, to conduct an investigation into the detainee abuses at Abu Ghraib.<sup>39</sup> Major General Taguba's report made several findings, but most significant was that poor command climate, inept unit leadership, lack of training, and low Soldier morale were the primary factors that led to the detainee abuses.<sup>40</sup>

When Staff Sergeant (SSG) Frederick testified at his court-martial, his testimony supported MG Taguba's findings that the unit did not receive any training necessary to run a prison.<sup>41</sup> SSG Frederick also testified that he never received the requested guidance from his chain of command.<sup>42</sup> After the court-martial, SSG Frederick confirmed that LTC Jordan, the Military Intelligence Battalion Commander for Abu Ghraib, had been to the prison a few times, and that he had specifically asked LTC Jordan for rules and regulations during these visits.<sup>43</sup> However, LTC Jordan never gave SSG Frederick any guidance.<sup>44</sup> Staff Sergeant Frederick also confirmed that he "rarely" saw his company commander or platoon leader in the prison.<sup>45</sup> While SSG Frederick may blame the lack of leadership and the primitive working conditions at Abu Ghraib as two reasons for the detainee abuse, he does concede that the abuses captured in the infamous photographs were nothing more than "pure entertainment for the military police."<sup>46</sup>

---

<sup>30</sup> *Id.* at 111.

<sup>31</sup> *Id.* at 112.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 109.

<sup>36</sup> *Id.* at 109–110.

<sup>37</sup> *Id.*

---

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 54.

<sup>40</sup> *Id.* at 55–56. Major General Taguba found the 800th MP Brigade Commander, Brigadier General (BG) Janis Karpinski, to have failed in her responsibilities. *Id.* at 56. He went further and described the 320th MP Battalion Commander, LTC Jerry Phillabaum as an "extremely ineffective commander and leader." *Id.*

<sup>41</sup> *Id.* at 171.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 191.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 186.

### C. Military Intelligence Did Not Order the Abuses Identified in the Photographs

Finally, the most persuasive argument presented by Graveline and Clemens, despite theories to the contrary that the military intelligence community at Abu Ghraib ordered the abuse as an interrogation technique to “soften up” the detainees,<sup>47</sup> is that the abused detainees were never interrogated and had zero military intelligence value.<sup>48</sup> The detainees targeted for abuse were common criminals being held for crimes such as burglary, larceny, rape, and assault.<sup>49</sup> Additional evidence also refuted the “military intelligence ordered us to do it” defense at courts-martial, including contradictory testimony that the military police dog handlers were using the dogs to scare the detainees in a contest to see if the prisoners would “shit themselves.”<sup>50</sup> The fact that day shift guards never engaged in detainee abuse further supports the authors’ conclusion that the “bad apple” military prison guards working the night shift came up with these abusive ideas solely for their own amusement.<sup>51</sup>

### IV. Additional Considerations

While Graveline and Clemens successfully provide facts surrounding the prisoner abuse at Abu Ghraib, an underlying theme throughout the book is the media’s interest in the case, the widespread international attention, and the general magnitude of the criminal cases.<sup>52</sup> The authors portray the Abu Ghraib scandal as a major event in the Global War on Terror that was closely watched by the global community for America’s reaction and response.<sup>53</sup> Repeated references to this global scrutiny were unnecessary and unduly distracting from the main point of the book. The reader is left feeling that the authors are attempting to build their credibility by augmenting the heightened media scrutiny. Certainly, Abu Ghraib was a big case, but not necessarily one of “the biggest cases in military history” as alleged by the authors.<sup>54</sup>

While the book offers a new perspective on the scandal at Abu Ghraib, the title of the book, *The Secrets of Abu Ghraib Revealed*, is misleading because the subject matter is dated. Of particular note is a book previously written in 2006 by Brigadier General (BG) Janis Karpinski, the Commanding General of the 800th Military Police Brigade responsible for prison operations during the Abu Ghraib detainee abuse.<sup>55</sup> Many other books previously published on the subject leave few secrets to reveal.<sup>56</sup> In contrast, this book, written in 2010, comes six years after the abuses hit the news and five years after the last court-martial. Comparatively, while *The Secrets of Abu Ghraib Revealed* presents a predominantly unbiased factual account of the detainee abuses, it may have come a little too late.

However, *The Secrets of Abu Ghraib Revealed* does offer particularly useful insights for military leaders and judge advocates. In exploring the abuses, the authors’ rendition clearly highlights the pervasive lack of leadership presence at the prison.<sup>57</sup> For example, the reader is left asking a couple of key questions: first, how is it possible that a staff sergeant was the most senior Soldier present; and second, where were the officers? After reading this book, military leaders will much better appreciate the eighth troop leading procedure: supervise.<sup>58</sup> For judge advocates in particular, the book also demonstrates how a military police investigator specifically detailed to the trial team is a combat multiplier because they can dig deep into the investigation allowing the attorneys to focus on trial preparation and procedure.

### V. Conclusion

Despite its shortcomings, *The Secrets of Abu Ghraib Revealed* accomplishes its mission and sets the facts straight on what happened, how it happened, and who is to blame. Graveline and Clemens present both an informative and enlightening story of the Abu Ghraib detainee abuses and their preparation for the criminal trials of the seven accused

<sup>47</sup> SEYMOUR M. HERSH, CHAIN OF COMMAND: THE ROAD FROM 9/11 TO ABU GHRAIB 29–30 (2004).

<sup>48</sup> *Id.* at 121–22, 155–56, 230–31.

<sup>49</sup> GRAVELINE & CLEMENS, *supra* note 1, at 122.

<sup>50</sup> *Id.* at 289.

<sup>51</sup> *Id.* at 300. Sergeant Hydrue Joyner was in charge of the prison tier during the day shift. He performed his duties well despite the same conditions as the night shift. He was reputed to be friendly with and respected by the detainees. *Id.* at 79–80.

<sup>52</sup> *Id.* at ix, 8–9, 13, 15, 28, 30, 37, 40, 93, 113, 124, 128, 144, 146, 165, 171, 212–13, 242, 244, 259, 265, 283, 295.

<sup>53</sup> *Id.* at 9.

<sup>54</sup> *Id.* at 125.

<sup>55</sup> JANIS KARPINSKI, ONE WOMAN’S ARMY: THE COMMANDING GENERAL OF ABU GHRAIB TELLS HER STORY 208, 236 (2006) (Brigadier General Karpinski denies responsibility for the Abu Ghraib abuses. Additionally, she refuses to believe that her subordinate Military Police Soldiers performed the abuses for their own entertainment, but rather believes that they were ordered to “soften up” the detainees by the military intelligence officers).

<sup>56</sup> See, e.g., HERSH, *supra* note 47; STEVEN STRASSER, THE ABU GHRAIB INVESTIGATIONS: THE OFFICIAL INDEPENDENT PANEL AND PENTAGON REPORTS ON THE SHOCKING PRISONER ABUSE IN IRAQ (2005); KAREN J. GREENBERG, THE TORTURE PAPERS: THE ROAD TO ABU GHRAIB (2005); S.G. MESTROVIC, THE TRIALS OF ABU GHRAIB: AN EXPERT WITNESS ACCOUNT OF SHAME AND HONOR (2005); GARY S. WINKLER, TORTURED: LYNDIE ENGLAND, ABU GHRAIB AND THE PHOTOGRAPHS THAT SHOCKED THE WORLD (2009).

<sup>57</sup> GRAVELINE & CLEMENS, *supra* note 1, at 191.

<sup>58</sup> U.S. DEP’T OF ARMY, FIELD MANUAL 3-21.8, INFANTRY RIFLE PLATOON AND SQUAD para. 5-46 (28 Mar. 2007).

Soldiers. I recommend this book to those who are interested in learning more about the circumstances of the Abu Ghraib detainee abuse, the mechanics of criminal justice, and in becoming better military leaders.