

## Appropriate medical monitoring?

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“If nothing can protect a nation against itself, neither its traditions, nor its loyalties nor its laws . . . then its behavior is no more than a matter of opportunity and occasion. Anybody, at any time, may equally find himself victim or executioner” — Jean-Paul Sartre

*The prisoner lay very still with his eyes closed, feigning unconsciousness. He had a large gash over his left eye and his knuckles were torn and bloodied—the result of a previous attempt to resist arrest. The prisoner’s x-rays had excluded a skull fracture and the medic was assigned to suture the laceration.*

*As the medic sutured, the sergeant explained that the prisoner had killed six of his colleagues in the past 4 weeks. Pushing the pistol further into the prisoner’s neck, the sergeant spoke softly with a strange expression on his face: “On the count of three, I will knock you over and then he gets it. We’ll say he tried to escape. OK?” The medic froze. At that moment, the cell door swung open and a nurse entered: “Need any help with the suturing?” The medic jumped at the offer and the tense situation evaporated.*



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This was not Baghdad in 2004 — it was Belfast in 1970. One of the authors (RL) was that medic and still has no idea what he would have done, but for the unknowing intervention of that nurse.

For that author, 30 years of service as a military medic brought other moments of ethical dilemmas and self-doubt. Mostly, he was saved either by wiser superiors or by just good luck. Therefore, it was with considerable interest that he watched the 2004 Congressional hearings on Abu Ghraib prison torture unfold. War is dehumanising, and otherwise good people are capable of brutality and committing unspeakable acts. Certainly, great damage has been done to the reputation of the United States military. The legal process of unrelenting and incisive questioning has demonstrated that the US retains a robust process:

“America always does the right thing, but only after it has explored every alternative” — Winston Churchill.<sup>1</sup>

As the subsequent fallout spread to involve Afghanistan and Guantanamo Bay, details emerged of more widespread “coercive interrogation practices”.<sup>2</sup> The Pentagon had apparently authorised a limited number of these techniques, including sleep deprivation, sensory deprivation and enforced prolonged positioning, as part of interrogation. In some cases, this required the consent of the Defense Secretary, and in every case the permission of a senior Pentagon official was to be obtained. “Once approved, the harsher treatment must be accompanied by appropriate medical monitoring.” Alarmed at the implications of this expression, we were keen to determine who and what was involved in *appropriate medical monitoring*.

In particular, two questions were important:

- Did those servicemen and women at Abu Ghraib act without authority?
- Does “coercive interrogation practice” constitute torture?

### Did the military police act alone?

During the trial of US Army Specialist (MP) Charles Graner, 372nd Military Police Company, who was sentenced to 10 years imprisonment for beating and sexually abusing prisoners at Abu Ghraib prison, claims were made that he repeatedly complained to his superiors but was instructed to continue the rough treatment.<sup>3</sup> In

October 2003, Major General Donald Ryder (Provost Marshal of the US Army) was commissioned by General Ricardo Sanchez (the senior commander in Iraq) to review the prison system in Iraq and recommend ways of improving it.

Ryder's report in November 2003 concluded that there were potential human rights, training and manpower issues that needed immediate attention.<sup>3</sup> Ryder stated that there was evidence, dating back to the Afghanistan war, that US military police had worked with intelligence operatives to "set favorable conditions for subsequent interviews" — a means of breaking the will of prisoners to resist interrogation. However, Ryder claimed that there were "no military police units purposefully applying inappropriate confinement practices".

In late February 2004, Major General Antonio M Taguba was appointed to do a second investigation. He was the deputy commanding general for support of the Coalition Forces Land Component Command in Kuwait. Taguba produced a report on the Army's prison system in which he detailed "sadistic, blatant and wanton criminal abuses" at Abu Ghraib by members of the 372nd Military Police Company and by members of the US intelligence community between October and December 2003. Six US Army members have been charged, including Graner. General Taguba stated:

... contrary to the findings of M G Ryder's report, I find that personnel assigned to the 372nd Military Police Company, 800th MP Brigade, were directed to change facility procedures to 'set the conditions' for Military Intelligence interrogations.<sup>4,5</sup>

Taguba recommended that the commander of one of the military intelligence brigades and the former director of the Joint Interrogation and Debriefing Centre be reprimanded and the latter relieved of his duty. Taguba also recommended sanctions against two employees of Consolidated Analysis Centers Incorporated (CACI) — a civilian private intelligence contractor with about 9500 employees worldwide and an annual revenue of \$1.15 billion in 2004 — for "... allowing or ordering military policemen... to facilitate interrogations by 'setting conditions' which were not... in accordance with Army regulations". In January 2004, the commander of the 800th Military Police Brigade was formally admonished and suspended.<sup>4</sup>

The involvement of medical personnel in the Abu Ghraib torture was alleged by Professor Steven Miles, a bioethicist from the University of Minnesota, in an article published in the *Lancet*.<sup>6</sup> He described:

... falsification of medical records to conceal injuries incurred during interrogation, improper death certificates where death resulted from torture, reviving a prisoner to face further torture, collaborating in the

### The Interrogation Rules of Engagement for Abu Ghraib prison

## INTERROGATION RULES OF ENGAGEMENT

<p><u>Approved approaches for All detainees:</u></p> <ul style="list-style-type: none"> <li>Direct</li> <li>Incentive</li> <li>Incentive Removal</li> <li>Emotional Love / Hate</li> <li>Fear Up Harsh</li> <li>Fear Up Mild</li> <li>Reduced Fear</li> <li>Pride &amp; Ego Up</li> <li>Futility</li> <li>We Know All</li> <li>Establish Your Identity</li> <li>Repetition</li> <li>File &amp; Dossier</li> <li>Rapid Fire</li> <li>Silence</li> </ul>	<p><u>Require CG's Approval:</u> Requests must be submitted in writing</p> <ul style="list-style-type: none"> <li>Change of scenery down</li> <li>Dietary Manip (monitored by med)</li> <li>Environmental Manipulation</li> <li>Sleep Adjustment (reverse sched)</li> <li>Isolation for longer than 30 days</li> <li>Presence of Mill Working Dogs</li> <li>Sleep Management (72 hrs max)</li> <li>Sensory Deprivation (72 hrs max)</li> <li>Stress Positions (no longer than 45 min)</li> </ul>
<p><b>Safeguards:</b></p> <ul style="list-style-type: none"> <li>~ Techniques must be annotated in questioning strategy</li> <li>~ Approaches must always be humane and lawful</li> <li>~ Detainees will NEVER be touched in a malicious or unwanted manner</li> <li>~ Wounded or medically burdened detainees must be medically cleared prior to interrogation</li> <li>~ The Geneva Conventions apply within CJTF-7</li> </ul>	
<p>EVERYONE IS RESPONSIBLE FOR ENSURING COMPLIANCE TO THE IROE. VIOLATIONS MUST BE REPORTED IMMEDIATELY TO THE OIC.</p>	
<p><small>The use of the techniques are subjects to the general safeguards as provided as well as specific guidelines implemented by the 205th MI Cdr, FM 34-52, and the Commanding General, CJTF-7</small></p>	

design and implementation of interrogation techniques.

Part of the source for this material included the US congressional hearings, statements from detainees and soldiers, medical journal accounts, and media reports.

### Did the treatment to prisoners constitute torture?

According to the 1984 *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*,<sup>7</sup> an agreement ratified by 136 nations, including the US, the term *torture*:

... means any act by which severe pain or suffering — whether physical or emotional — is intentionally inflicted on a person for such purposes as:

- obtaining a confession
- punishment for an act committed or suspected as having been committed
- intimidation.

For the purposes of the definition, the act of torture must be "inflicted by, at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".<sup>7</sup> In the case of Abu Ghraib, the Pentagon's version and that of General Taguba is that the mistreatment fell short of torture.<sup>3</sup> The Red Cross had less doubt in its report to coalition authorities in February 2004,<sup>8,9</sup> and the US Department of State acknowledges that the following practices constitute torture or ill treatment:<sup>10,11</sup>

- sleep deprivation
- forced/prolonged positioning

- forced nakedness, sexual threats and humiliations
- blindfolding or hooding
- isolation
- loud music
- witnessing or hearing torture
- mock executions
- threats to family
- insults.

The recent decision by the senior military commander in Iraq to ban all forms of harsh treatment of prisoners suggests that the Pentagon shares serious concerns regarding the interpretation of the Geneva Conventions by US military personnel.

## Medical involvement in torture

Although there have been no charges or convictions against US military medical personnel (as at 16 January 2005), it is clear that health care professionals (either military or civilian contractors) have been complicit in “coercive interrogation practices”, as evidenced by the official US statement on appropriate medical monitoring in relation to the techniques of interrogation approved by the Pentagon for use at Guantanamo Bay in April 2003.<sup>2</sup> These guidelines:

... were the product of three months of discussion between military lawyers, medical personnel and psychologists and followed several incidents of abuse of prisoners at Guantanamo.

The Interrogation Rules of Engagement at Abu Ghraib prison (Box) stated in part that “wounded or medically burdened detainees must be medically cleared prior to interrogation” and “dietary manip (monitored by med)”.<sup>12</sup>

Doctors have had a long association with torture, usually but not exclusively in the assessment of physical suitability for interrogation and in the treatment of prisoners after torture.<sup>13,14</sup>

Is such involvement by health care professionals in the interrogation of prisoners always wrong? Is it at least permissible to advise or train others in “safe” interrogation techniques? Two authorities have asserted that any such involvement is unethical.

The World Medical Association (WMA) was set up after World War II, following the medical atrocities committed by Nazi doctors. In its Declaration of Tokyo in 1975, the following basic precepts were established:

- The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures.

- The doctor shall not provide premises, instruments, substances or knowledge to facilitate the practice of torture.
- The doctor shall not be present during any procedure involving torture.

The WMA asserted that the fundamental role of a doctor is to alleviate the suffering of his fellow man, and no motive, whether personal, collective or political, should prevail against that higher purpose. More recently, the WMA has established an online self-administered course for doctors on medical management of prisoners.<sup>15</sup>

The United Nations has stated that:

It is a contravention of medical ethics, as well as an offence under applicable instruments, to engage, actively or passively in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment and punishment.<sup>16</sup>

Participation is defined as including evaluating an individual’s capacity to withstand ill treatment, being present at acts of torture, resuscitating individuals for the purpose of further maltreatment, or providing medical treatment immediately before, during or after torture on the instructions of those likely to be responsible for that torture. It further prohibits the release of personal medical information about prisoners to their torturers and the deliberate falsification of autopsy reports and death certificates of tortured prisoners.

The motivation of health care professionals to become involved in torture may include obedience to superiors or protection of prisoners from extreme torture. Neither justifies complicity, as evidenced by the WMA and UN statements. The expression “appropriate medical monitoring” implies that medical scrutiny and approval can result in a safer or humane form of torture. To describe any torture as humane is clearly contradictory.

In our experience, deliberate involvement by medical staff in ill treatment of prisoners is rare and born from poor education: a poor awareness of the rights of prisoners or their own responsibilities. The ethical dilemma of (say) complicity with comrades versus championing the rights of an alleged dangerous terrorist is not an easy one.

There is no doubt that any “medical monitoring” of US military torture will be rightly condemned. Such involvement should cease immediately and the Pentagon should repudiate any such medical involvement. A detailed investigation of medical involvement in “coercive interrogation” and other abuses of US military prisoners is warranted.

We suggest that the training of military health care professionals on the Geneva Conventions should be improved. We who have practised and taught these Conventions unambiguously over many years should reclaim them emphatically as the quintessence of military medical practice.

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## George Bass: navy surgeon and explorer

George Bass was born in Lincolnshire in 1771, and in his early teens was apprenticed to a Boston surgeon. He obtained Membership of the Company of Surgeons (the highest surgical qualification then available) at the age of eighteen.

The ruling passion of his life was the sea, and so 2 months later, he again appeared before the Court of Examiners and qualified as a Surgeon's Mate, intending to become a Naval Surgeon.

During the next 4 years, he served on several ships and then volunteered for a posting on *Reliance*, which was fitting out for a voyage to New South Wales. On *Reliance*, he met Lieutenant Matthew Flinders, beginning a long friendship that contributed significantly to the exploration of Australia.

Within weeks of their arrival in the colony in 1795, Bass and Flinders began exploring the coast south of Port Jackson.

During their first 9-day voyage on *Tom Thumb* (a sailboat just 2.5m long), they explored Botany Bay and the Georges River. The following year they discovered Port Hacking.

Bass is best known for the whale-boat voyage that he undertook with six other men, which indicated that Van Dieman's land was separated from the mainland by the strait that now bears his name. During that epic voyage, he spent 12 days in Western Port, and his charts show that he



landed on Sandy Point, now part of HMAS *Cerberus*.

With that in mind, Commodore MH Dowsett, then Director-General Naval Health Services, suggested that the members of the Naval Health Services serving in Victoria should recognise that feat, and an enthusiastic group took up the challenge. In 2002, they presented a silver statuette of George Bass to the Chief of Naval Staff — this now forms part of the silver collection of the Wardroom Mess at HMAS *Cerberus*. Sculpted by Damian Park, the likeness of Bass was derived from the only painting of him known to exist.

Thirty-five bronze statuettes were produced from the original model. Each statuette is 30 cm high, on a mahogany gum base, is numbered, and comes with a certificate. They were made by the "lost wax cast" method. One was presented to the Royal Navy in recognition both of the achievements of Bass, and of the contribution by the Royal Navy to the health services of the Royal Australian Navy.

Five of the 35 statuettes are still available for sale. The cost is \$750, with a rebate of about \$100 when all have been sold. Contact Commander Doug McKenzie, RANR, Health Centre, HMAS *Cerberus*, VIC 3920 [dwmckenzie@optusnet.com](mailto:dwmckenzie@optusnet.com)