



United States Army Criminal Investigation Command

Media contact: CID Public Affairs Office
703-806-0372

FOR IMMEDIATE RELEASE

Army Criminal Investigators Outline 27 Confirmed or Suspected Detainee Homicides for Operation Iraqi Freedom, Operation Enduring Freedom

FORT BELVOIR, Va., March 25, 2005 – In a continuing effort to keep the public informed of developments regarding detainee investigations, the U.S. Army Criminal Investigation Command today released an accounting of the 24 criminal investigations of suspected or confirmed homicides during Operations Iraqi Freedom and Enduring Freedom. The 24 cases involve a total of 27 reported victims.

The U.S. Army Criminal Investigation Command, or CID as it is commonly referred to, is responsible for investigating felony-level crime and turning the findings of their investigations over to appropriate commanders and legal authorities for disposition and or adjudication. For the purpose of this release, information concerning charges, adjudication and general information on subjects of investigations has been included to assist the media and American public in the understanding of this data. However, it is important to note that CID does not charge persons with a crime, that is the responsibility of the appropriate commanders and their legal staffs. Requests for any further information or clarification concerning charges or adjudication should be directed to the appropriate command or the Department of the Army Public Affairs Office at (703) 692-2000.

“We take each and every death very seriously and are committed and sworn to investigating each case with the utmost professionalism and thoroughness,” said Chris Grey, CID’s spokesman. “We are equally determined to get to the truth wherever the evidence may lead us and regardless of how long it takes.”

Seven of the 24 cases occurred in Afghanistan and 17 in Iraq. Twelve were reported to have occurred at the point of capture during raids, at checkpoints, etc. The remaining twelve cases involve detainees in detention facilities. All but two of the cases involve a single victim. Of the two cases involving more than one victim, one case includes two victims and the other case includes three. In some cases, allegations of a possible crime have been discovered or reported long after the alleged abuse took place. This creates unique investigatory obstacles to include the fact that the alleged victim’s body may not be available for autopsy or that the alleged crime occurred during combat operations and returning to the scene in a timely manner was not possible, etc.

Sixteen of the 24 total cases are closed as of March 25, 2005. Five of the 16 closed cases have been referred to other agencies for further investigation due to jurisdictional reasons. Two have been referred to the Naval Criminal Investigation Service (NCIS), one to the

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Department of Justice, and two to foreign law enforcement officials. The remaining 11 of the 16 closed cases have listed 21 Soldiers as subjects of criminal offenses. The offenses include, among other allegations, murder, negligent homicide, and assault.

Eight of the 24 cases are open criminal investigations that are not yet complete and are pending further investigatory leads and action. Five of the eight open cases occurred outside of detainee facilities allegedly at point of capture: during raids, during and after firefights, etc.

“Criminal investigations are conducted to a thoroughness standard not necessarily to a timetable. Although time is a very important consideration, the public needs to understand the dynamics of what our Special Agents are up against in Iraq and Afghanistan,” explained Grey.

Grey said these investigations cannot be compared to criminal investigations conducted in a typical American city. The majority of these death investigations are being conducted in very austere and dangerous environments. There are many risk assessments and legitimate life threatening concerns attending the conduct of criminal investigations in hostile areas such as: force protection; a very mobile military and civilian population; obtaining witness, subject and victim identities in a foreign, austere and chaotic environment; language and cultural barriers; and laboratory support. Investigative leads can and often do lead Special Agents all over the world.

Although detailed information concerning the eight open investigations will not be released at this time to protect the integrity of the investigations, two of the open cases are worth mentioning as some military justice actions have commenced on certain soldiers involved in these cases and the information is public.

One case involves the death of an Iraqi Major General, who died at the 3d Armored Cavalry Regiment Detention Facility in Iraq on November 26, 2003. Four Soldiers from 3rd ACR, two Warrant Officers, a SFC, and a SPC have been charged with Murder and Dereliction of Duty in this case. The action against these Soldiers is presently pending a combined UCMJ Article 32 Pre-Trial Hearing at Ft. Carson, Colorado.

Another one of the open investigations involves three separate incidents with three victims occurring in Sadr City Iraq in August 2004. All three incidents involved Soldiers from the 1st Cavalry Division, who allegedly shot Iraqis during cordon and search operations. While investigation and legal action are still ongoing in this case, two Soldiers have pled guilty at courts-martial and two other Soldiers have been charged and are pending courts-martial for killings that occurred during that operation.

A SSG from 1st Cavalry Division who deliberately shot and killed an injured Iraqi in the operation pled guilty on 10 December 2004 at a General Court Martial in Iraq. He was sentenced by a court martial of officer and enlisted panel members to a Dishonorable Discharge, total forfeiture of pay, reduction to PVT (E-1) and three years confinement.

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Another SSG from 1st Cavalry Division who was also involved in killing the same injured Iraqi pled guilty at a General Court Martial in Iraq on 14 January 2005. He was sentenced by a court martial of officer and enlisted panel members to a Bad-Conduct Discharge, reduction to PVT (E-1), and one-year confinement.

In addition to the two guilty pleas, charges of Murder and Obstruction of Justice have been preferred against another 1st Cavalry Division SGT for the deaths of two different Iraqis killed while they were detained during the same operation in Sadr City. A UCMJ Article 32 Pre-Trial Hearing has been completed on this case and trial by court martial in Iraq is pending. Another 1st Cavalry Division SPC has also been charged with Murder and False statement in connection with one of those killings. Involvement of additional soldiers is still under investigation.

Breakout of the 16 Closed Investigations Involving Deaths of Detainees

(Note: Criminal investigations are subject to change whenever new information becomes available or an investigative determination changes the status of an investigation.)

5 Closed Cases Referred to Other Agencies

(Two to Naval Criminal Investigative Service, one to Department of Justice, and two to other Coalition Governments)

(1) Date of Occurrence: 21 Jun 03.

Unit: Other Government Agency (OGA)

Synopsis: In a detention facility at the Asadabad Fire Base, Afghanistan, an Afghani died while in US Army custody. Investigation revealed that no US Army personnel were involved in the death. Personnel implicated in the deaths were civilians. The CID Investigation was closed and the case was referred to the Department of Justice. The case could be re-opened in the future to follow any remaining leads identified by DOJ. Information can be obtained from the Department of Justice.

(2) Date of Occurrence: 4 Nov 03.

Unit: OGA and Navy SEALs

Synopsis: At Abu Ghraib detention facility, an Iraqi died while in US custody. An autopsy was conducted which revealed that the cause of death was blunt force trauma as complicated by compromised respiration. The manner of death was classified as homicide. Investigation revealed that no US Army personnel were implicated. Seven Navy SEALs confessed to assaulting the detainee. The CID investigation was closed and the case was referred to NCIS. The Navy has preferred court-martial charges against several Navy personnel involved in this case. Information on these cases can be obtained from the Department of the Navy.

(3) Date of Occurrence: 2-5 Apr 04.

Unit: Navy Special Forces (SF)

Synopsis: In Mosul, IZ, an Iraqi was detained by U.S. Naval Special Warfare personnel

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after a struggle. After being interrogated, the detainee was allowed to sleep. He was later found unresponsive. An autopsy indicated blunt force trauma and positional asphyxia. The manner of death has been listed as undetermined. Investigation revealed that no US Army personnel were implicated. The CID investigation was closed and the case was referred to NCIS. Information on this case can be obtained from the Department of the Navy.

(4) Date of Occurrence: 6 Nov 03.

Unit: Afghan Militia

Synopsis: An Afghani detainee was found dead in his cell at Forward Operating Base (FOB) Gereshk, Afghanistan. The detainee was interrogated for an unknown period of time by the Afghan militia before being released to US authorities. Approximately 48 hrs later, the detainee died of injuries received prior to transfer to U.S. forces. An autopsy revealed multiple blunt force injuries complicated by rhabdomyolysis (tissue death); the manner of death was listed as homicide. Investigation revealed no U.S. forces implicated in this death. The CID Investigation has been closed and the Afghanistan law enforcement authorities have been notified.

(5) Date of Occurrence: 13 Sep 03. Extracted from International Committee of the Red Cross (ICRC) report and initiated by CID.

Unit: Coalition Forces

Synopsis: According to ICRC reports, nine detainees were arrested by Coalition Forces in Basrah, Iraq and allegedly abused. The detainees were then transported to a former Iraqi police headquarters, where they were allegedly abused further. During this time, one of the detainees died. An international death certificate mentioned "cardio-respiratory arrest – asphyxia" as the condition leading to the death. Further investigation determined other (non US) coalition forces were the identified subjects of the incident. The CID investigation was closed and referred to coalition authorities.

Remaining Closed Cases

(6) Date of Occurrence: 28 Aug 02.

Unit: 2/3rd SF Group

Synopsis: Near Lwara, Afghanistan, investigation revealed that Soldiers detained an Afghani then shot him when he allegedly lunged toward a weapon. Subsequent investigation identified five Soldiers who were listed as subjects for the offenses of Conspiracy, Murder, Dereliction of Duty and Obstruction of Justice. The case and evidence was referred to the US Army Special Forces Command, Ft. Bragg, NC. The command reviewed the case and with advice of command legal counsel determined that a lack of evidence stemming from the inability to conduct an autopsy because of the family's refusal, as well as inconsistent statements from some witnesses involved prevented prosecution. One of the subjects received a General Officer Letter of Reprimand and no action was taken on the remaining subjects. Should additional information surface that enables prosecution, the case can be reevaluated.

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(7) Date of Occurrence: 28 Feb 04.

Unit: 1/27th Infantry Battalion (25th Infantry Division)

Synopsis: A SGT attempted to detain an Iraqi near Taal Al Jal, Kirkuk. The Iraqi resisted when the SGT attempted to place flexi-cuffs on him. A PFC raised his weapon to allegedly protect the SGT. The detainee allegedly lunged toward the SGT, at which time the PFC shot the detainee. Further investigation revealed the PFC admitted to lying about the detainee lunging toward the SGT. On 5 Aug 04, the PFC was tried at a contested General Court-Martial consisting of officer and enlisted panel members in Tikrit, Iraq and was found not guilty of Murder but guilty of a lesser charge of Voluntary Manslaughter. He was sentenced to a Dishonorable Discharge and three years of confinement.

(8) Date of Occurrence: 3 Jan 04.

Unit: 1/8th Infantry Battalion (4th Infantry Division)

Synopsis: In Samarra, Iraq, an Iraqi national allegedly drowned after U.S. Soldiers from the 4th ID allegedly forced him off a bridge. Four Soldiers were listed in the CID report for the offense of Manslaughter. Four actions under the UCMJ have been completed concerning this incident. Two courts-martial and two nonjudicial punishments have resulted. A 4th Infantry Division Lieutenant pled guilty on 14 Mar 04 at a General Court Martial at Ft Carson, Colorado to Aggravated Assault (the Manslaughter charge was dropped), Obstruction of Justice, and Dereliction of Duty. He was sentenced by a Military Judge to confinement for 45 days and forfeiture of \$2,000 pay for six months. In addition a 4th Infantry Division SFC was found guilty at a contested General Court-Martial on 14 January 2005 at Ft. Carson of three counts of Assault (one battery, two aggravated) and Obstruction of Justice. He was found not guilty of false statement and manslaughter. He was sentenced to six months confinement, Reduction to SSG, and forfeiture of \$2,004 for one month. A SGT and a SPC also involved received non-judicial punishment under UCMJ, Article 15 for their involvement.

(9) Date of Occurrence: 1–31 Jan 03. Basic allegation discovered during the conduct of another CID investigation and case opened Sep 04.

Unit: 20th SF Group

Synopsis: During the conduct of operations in Wazi village, Afghanistan, three detained Afghan nationals were being questioned when a detainee, who reportedly did not understand the questions, attempted to stand up. A Soldier subsequently shot and killed the detainee. The investigation was closed, and one Soldier was listed for the offense of Murder and another for Dereliction of Duty for not reporting the incident. The case was recently forwarded to the US Army Special Forces Command, Ft. Bragg, NC and is being reviewed with advice from command legal counsel. All options under the UCMJ are under consideration by the command.

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(10) Date of Occurrence: 21 May 04.

Unit: 2/37th Armor Battalion (1st Armor Division [AD])

Synopsis: After Soldiers of a 1st AD unit lawfully and successfully engaged a civilian sedan in An-Najaf, two wounded Iraqis were captured. One of the detainee's injuries was determined to be terminal by the military medic and no further efforts to resuscitate were continued. However, a 1st Armored Division Captain, involved in the firefight, then shot the detainee and killed him. The investigation has been closed. The Captain has been charged with Murder and Dereliction of Duty. A Pre-Trial Hearing under UCMJ, Article 32 was completed on 7 December 2004. The case was referred to General Court-Martial on 17 December 2004 and is presently scheduled for trial on 28 March 2005 at Hanau, Germany.

(11) Date of Occurrence: 11 Nov 04.

Unit: 3/21st Infantry Battalion

Synopsis: At a location, near Mosul Iraq, a unit was engaged under small arms fire with insurgents. As a result of the firefight, one Iraqi was injured. Unit medics captured and detained the injured Iraqi; however, during treatment, he became limp and unresponsive. Shortly thereafter, the unit came under attack a second time. The unit made a decision to leave the detainee behind and, as they were pulling away, a sergeant allegedly fired two rounds into the detainee. The investigation was closed. A 25th Infantry Division SGT has been charged with Attempted Murder and False Statement. A Pre-Trial Hearing under UCMJ, Article 32 was completed in Mosul Iraq on 18 January 2005. The case is awaiting recommendation from the Article 32 investigating Officer.

(12) Date of Occurrence: 11 Sep 03.

Unit: 4th Forward Support Battalion (4th Infantry Division)

Synopsis: At the Forward Operating Base Packhorse detention facility, an Iraqi detainee died while in US custody. An enlisted Soldier on guard duty, failed to follow the Rules of Engagement (ROE) and allegedly shot the detainee who was standing close to the perimeter wire. The investigation has been closed. The Soldier was charged with Murder. The command reviewed the evidence on the case and determined that due to the fact that the Soldier was ill informed on the ROE concerning prisoners approaching the perimeter wire, the Soldier was reduced to PVT (E-1) and administratively discharged in lieu of trial by court-martial.

(13) Date of Occurrence: 4 Dec 02.

Unit: 377th Military Police Company/519th Military Intelligence Battalion

Synopsis: At the Bagram Detention Facility, Afghanistan, a detainee died while in US custody. An autopsy was conducted and determined the detainee had suffered blunt force trauma. The Office of the Armed Forces Medical Examiner (OAFME) classified the manner of death as a homicide. Investigation identified active duty enlisted MI soldiers and US Army Reserve MP Soldiers were involved at various times in assaulting and

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mistreating the detainee. 15 soldiers have been listed as subjects for Assault and Dereliction of Duty. Investigation has been closed. A Reserve MP SSG has been recalled to Active Duty and is pending possible preferral of charges at Ft. Bliss, Texas. Charges against additional Soldiers involved in the incident are also pending at Ft. Bliss. (This case involves subjects from case 14 below.)

(14) Date of Occurrence: 10 Dec 02.

Unit: 377th Military Police Company/519th Military Intelligence Battalion

Synopsis: At the Bagram Detention Facility, a detainee died while in US custody. An autopsy was conducted and determined the detainee had suffered blunt force trauma. The OAFME classified the manner of death as a homicide. Six enlisted MP Soldiers are listed as subjects of committing the offense of Involuntary Manslaughter. The supporting SJA opined that there existed probable cause to believe four Soldiers committed the offense of Involuntary Manslaughter. A total of 27 soldiers (both MP and MI) have been listed as subjects in the investigation for other offenses, including Assault, Cruelty and Maltreatment. The investigation has been closed. A Reserve MP SPC has been recalled to Active Duty and has been charged with Involuntary Manslaughter, Assault, Maltreatment, and False Statement and is presently undergoing a Pre-Trial Hearing under UCMJ, Article 32 at Ft. Bliss, Texas. Charges against additional Soldiers for the incident are pending at Ft. Bliss. (This case involves subjects from case 13 above.)

(15) Date of Occurrence: 9 Jan 04.

Unit: 5th SF Group and 1/3rd Armor Cavalry Regiment

Synopsis: At FOB Rifles, Al Asad, IZ, CID was notified of the death of an Iraqi detainee, a former Iraqi Army Lieutenant Colonel. On 11 Jan 04, an autopsy conducted by OAFME indicated the cause of death as blunt force injuries and asphyxia, with the manner of death listed as homicide. Investigation listed two Soldiers as Subjects for the offense of Negligent Homicide and nine other Soldiers for various offenses ranging from Assault to False Official Statement. The investigation was closed. The command, with the assistance of advice of command legal counsel, determined that the detainee died as a result of a series of lawful applications of force in response to repeated aggression and misconduct by the detainee.

(16) Date of Occurrence: 25 Oct 04.

Unit: 1/77th Armor Battalion

Synopsis: During a cordon and search of an Iraqi citizen's residence in Balad, Iraq, a Soldier allegedly shot a detainee. CID was notified two days after the incident. Investigation determined the Soldier lied about the circumstances surrounding the detainee's death. The detainee was flexi-cuffed when he allegedly lunged towards the Soldier and was shot. Another Soldier who witnessed the incident was also listed as a subject for False Official Statement. Investigation has been closed. A 1st Infantry Division Sergeant First Class has been charged with Premeditated Murder, Maltreatment, and Assault. A UCMJ Article 32 Hearing was conducted on 2 Jan 2005. The case was referred to General Court-Martial on 23 January 2005. Pre-trial motions will be heard on 5 May 2005.

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Background Information

On Homicide

Homicide is defined as "Death resulting from the intentional (explicit or implied) or grossly reckless behavior of another person or persons."

Murder is a legal term, defined differently and in different degrees by the individual States and Federal Government. For instance, under Title 18, USC, Murder is defined as "the unlawful killing of a human being with malice aforethought." It is the *malice aforethought* that separates murder from homicide and a judge or jury determines the malice aforethought. While murder is one type homicide, other types of homicide include justifiable killings, self-defense, and judicial executions. These all fit the definition of a homicide, but are not considered murders.

On Subjects of Investigation

As a matter of policy the U.S. Army Criminal Investigation Command (CID) does not confirm when someone is "titled" (same as "indexed" or "listed") as the subject/suspect of an ongoing criminal investigation due to the person's Constitutional due process and Privacy Act rights.

Indexing or "titing" an individual is an operational rather than a legal decision. The indexing of a person into the subject block of a criminal investigation simply means a determination has been made via a preliminary investigation by CID that enough credible information exists to indicate the subject may have committed a criminal offense and is worthy of further investigation.

CID investigates allegations of wrongdoing and once an investigation is completed, turns those findings over to the appropriate command and legal authority for disposition and adjudication. Information related to criminal charges may become part of the public record in the context of an Article 32 Hearing, Courts-Martial etc.

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For more information about CID visit www.cid.army.mil