

US military pre-trial hearings end in Haditha civilian massacre case

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Preliminary military court proceedings against Marines implicated in the 2005 killing of 24 Iraqi civilians came to a close last week, with the decision pending review by the presiding judge in the case. After two years, of eight Marines facing court-martial for war crimes in Haditha, charges have been dropped against three. None have been sentenced.

On November 19, 2005, Marines from the 3rd Battalion went on a rampage in Haditha, a small city in al-Anbar province, after a roadside bomb killed a member in their convoy. Five civilians, including a taxi driver and four teenage students, were shot dead in the street. Nineteen more civilians, including unarmed women, elders, and children, were massacred over the next few hours in three nearby houses.

Immediately after the killings, the Marine Corps issued a communiqué reporting that 15 of the dead civilians were victims of the roadside bomb and that eight were insurgents engaging the convoy with gunfire.

The entire chain of command was involved in covering up the massacre, suppressing photographs and other evidence inconsistent with the official version of events. Investigations by media and human rights organizations produced video and witness accounts establishing that the victims, all unarmed, were shot deliberately and execution-style while trying to surrender.

The Haditha case is only one of three involving war crimes charges involving Marines from Camp Pendleton, California in the past year.

On August 20, a 3rd Battalion Marine was charged with murdering an Iraqi detainee during the brutal 2004 siege on Fallujah. His squad leader was arraigned in mid-August on charges of voluntary manslaughter for shooting two Fallujah prisoners and ordering the killing of other captives. A third Marine implicated in the killings has not been named or charged.

In another case, seven 3rd Battalion Marines along with a Navy corpsman kidnapped and executed a disabled man April 2006, in Hamdania, Iraq, then arranging the scene so as to make the victim look like an armed insurgent. Five of the defendants accepted plea bargains and were given maximum 15 months sentences in the brig, two others were released from prison at the end of their recent courts-martial, and one received a 15-year sentence.

In similar fashion, the military is dragging the Haditha hearings along slowly, with the final preliminary testimony concluded last week. Like other military probes, the Haditha hearings have been dominated by contradictions and reversals in testimony and

dropped charges.

Staff Sergeant Frank Wuterich, charged with 13 counts of unpremeditated murder, was the senior Marine present during the massacre and the last to receive an Article 32 hearing, the military equivalent to a grand jury hearing.

In an unsworn statement read aloud to the court at Camp Pendleton on September 6, Wuterich defended the conduct of his squad and maintained that the civilian deaths were unavoidable. Because his testimony was unsworn, the prosecution could not cross-examine him.

He maintained that all of the deaths occurred in the midst of a battle with insurgents. "Engaging was the only choice," Wuterich told the court. "The threat had to be neutralized."

Of the men killed in the street he said, "They were not complying and, in fact, they were starting to run." Under combat regulations at the time, he said, the squad was allowed to engage anyone fleeing the scene of an attack.

However, Wuterich's defense has no evidence to support the claim the men were attempting to flee, and a government forensic expert testified that victims' wounds suggested they were not in motion when they were shot. Moreover, no weapons were found on any of the dead.

Wuterich was obligated to address testimony given by Sergeant Sanick Dela Cruz, who was granted immunity in April in exchange for government cooperation. Dela Cruz, who admitted to giving at least two false statements to investigators, testified that Wuterich was responsible for killing the majority of the Haditha victims.

Dela Cruz had testified in May that a week before the Haditha massacre, Wuterich told the squad to "kill everybody in that vicinity" so as to "teach them a lesson." In his statement last week Wuterich denied saying this.

Wuterich also told the court that after killing the five taxi occupants on the street, the unit came under fire from the houses. He said he then ordered his unit to "shoot first before asking questions." No evidence has been unearthed to substantiate this version of events.

In addition to Wuterich, Lance Corporal Stephen Tatum faces two counts of murder. On August 23, the investigating officer overseeing the hearings, Lieutenant Colonel Paul Ware, recommended these charges be dismissed.

Ware found that while Tatum shot and killed innocent civilians, "he did so because of his training and the circumstances he was placed in, not to exact revenge and commit murder." Ware wrote,

"I believe Tatum's real life experience and training on how to clear a room took over and his body instinctively began firing while his head tried to grasp at what and why he was firing. By the time he could recognize that he was shooting at children, his body had already acted."

Indeed, the brutal and illegal nature of the invasion and colonial-style occupation, necessitating the suppression of popular resistance, makes such horrific situations all but inevitable. The methods of operations embody the outlook of the political and military leadership, who see Iraqi civilian casualties as the cost of doing business and who demonize the Iraqi population at large.

US soldiers, immersed in this desensitizing and dehumanizing attitude and terrified for their own safety, are given orders to do "whatever it takes" to contain resistance. In this respect, the collective punishment inflicted on the residents of Haditha bears similarity to the atrocities committed by US troops against Iraqi civilians on a daily basis. Internal military figures leaked in July indicate that civilians are shot at by US forces somewhere in Iraq at least every three hours. (See "US forces kill Iraqi civilians every day")

Over the past year, the number of military personnel facing charges in relation to the Haditha massacre has been whittled down significantly. Besides Dela Cruz, seven other Marines involved in the killings and cover-up have also been granted immunity.

On August 9, the presiding judge at Camp Pendleton, Lieutenant General James Mattis, dropped all charges against Lance Corporal Justin Sharrat, the fourth Marine involved in the shootings. Charges against Captain Randy Stone for failing to investigate were also dropped August 9.

Three other Marines were censured for dereliction of duty in connection to their handling of investigations into the killings. A letter of censure is an uncommon form of administrative sanction that enters into an officer's military records.

Censured were former commanding general of the 2nd Marine Division, Major General Richard Huck; Huck's former chief of staff, Robert Sokoloski; and Stephen Davis, who acted as a superior officer over the infantry battalion involved in the massacre. These officers, who destroyed evidence and quashed investigations, will not face criminal charges.

However, a lower ranking intelligence officer also charged with obstructing justice, making a false official statement, and dereliction of duty will likely face an Article 32 hearing. On September 10, First Lieutenant Andrew Grayson rejected a plea deal from military prosecutors that would have dropped charges in exchange for an admission of guilt.

Grayson is accused of ordering photographic evidence destroyed to keep it out of a military report. He rejected the plea offer, he told the Associated Press, because "I was asked by the prosecution to fall on my sword for the greater good of the Marine Corps. The prosecution wanted me to distort the truth to fit their end goal."

The Haditha prosecution is the largest involving civilian deaths in Iraq, yet the military court proceedings are in one sense a continuation of the whitewashing effort begun in 2005. The trials themselves may set the precedent for the way in which war crimes committed against civilians are handled disciplinarily by the

military.

As with the Abu Ghraib abuse trials, the aim of the Bush administration and military is to pin all responsibility for a criminal occupation on lowest-ranking personnel, who are charged with physically carrying out the dirty work. Ultimate responsibility for war crimes, however, lies at the very top.

On August 28, a military jury acquitted the only officer to face criminal charges in connection with the atrocities committed at Abu Ghraib. The acquittal of Lieutenant Colonel Steven Jordan, the final defendant in the case, came three-and-a-half years after photos documenting monstrous abuse at the prison were published. Testimony suggested that Jordan was an active participant in abusing prisoners.

Eleven low-ranking soldiers also implicated in the Abu Ghraib case were convicted on charges of prisoner maltreatment, assault, human rights violations, making false statements, and other crimes between 2004 and 2006; most served sentences ranging from 90 days to a year in prison and are still serving in the military.

Far from pursuing justice, the military was eager simply to put the Abu Ghraib case behind it. Illustrating this, the prosecution voluntarily weakened its case against the officer. For instance, at the outset of the trial, the military abruptly decided that most incriminating statements made by Jordan on his involvement in prisoner interrogations were inadmissible.

After the jury delivered a not-guilty verdict on three counts of prisoner abuse and a guilty verdict on one count of disobeying an order to refrain from discussing the investigation, prosecutors recommended that Jordan be reprimanded and fined one month's pay, the lightest sentence the jury could have recommended.

Officials in the military and the Bush administration, whose efforts throughout the investigations and hearings have been aimed at covering up their role in authorizing and ordering torture and other crimes against humanity, see such trials as a means of damage control and as legal dressing for ongoing crimes.



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