

# Charges dismissed against another officer in Haditha war crimes case

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On Tuesday, a US military court dismissed charges against a Marine officer implicated in the whitewashing of the 2005 Haditha massacre. Two years on, only three of the eight original defendants in the Camp Pendleton pre-trial proceedings face possible court martial.

The officer, Marine Captain Lucas McConnell, had been charged with two counts of dereliction of duty for not investigating the killing of 24 Iraqi civilians, and for not reporting it up his chain of command. Lieutenant General James Mattis, commanding officer at Camp Pendleton and the presiding judge in the Haditha hearings, granted McConnell immunity from prosecution before he had even been subjected to a preliminary Article 32 hearing. In exchange for what amounts to exoneration, McConnell has agreed to testify at trial.

The Haditha case is the largest involving war crimes charges yet brought against US forces operating in Iraq, and its outcome may set the precedent for the handling of future investigations and disciplinary actions. Its course so far suggests the military prosecution will serve not only as a continuation of the cover-up that began immediately after the event, but ultimately as a justification for the atrocity.

On November 19, 2005, Marines from the 3rd Battalion went on a rampage after a squad member was killed by a roadside bomb, stopping a taxi and gunning down its five occupants in the street. The squad then stormed three houses nearby, shooting dead 19 more unarmed civilians, including children, women and elders.

Immediately afterward, the Marine Corps reported 15 of the dead civilians as victims of the roadside bomb and eight as insurgents that had initiated a gun battle with the squad. Investigations conducted by human rights groups and the media established that the victims were shot execution-style, unarmed and while trying to surrender. The entire chain of command sought to lay the matter to rest by destroying photographic evidence, fabricating a

story about hostile fire, and by not investigating.

In addition to the Haditha case, there have been two other war crimes cases involving Marines from Camp Pendleton, California, in the past year. A month ago, a 3rd Battalion Marine was charged in the murder of an Iraqi detainee during the 2004 storming of Fallujah. Earlier in August, his squad leader was arraigned on charges of voluntary manslaughter for ordering the killing of Fallujah captives and for shooting two.

Separately, seven 3rd Battalion Marines along with a Navy corpsman were charged in the kidnapping and murder of a disabled Iraqi man in April 2006 in Hamdania. After executing the man, the seven arranged the scene to make the victim appear to be an armed insurgent planting a roadside bomb. Five of the defendants accepted plea agreements and were handed maximum sentences of 15 months in the brig, two others were released at the conclusion of their courts-martial, and one received a 15-year sentence.

As with other military trials, the number of military personnel charged in the Haditha killings and subsequent whitewash has decreased over the past year. Of the twelve Marines involved in the shooting, only two—Staff Sergeant Frank Wuterich and Lance Corporal Stephen Tatum—currently face the possibility of court martial. Last month, the investigating officer overseeing the Article 32 hearings recommended charges be dismissed against Tatum, who faces two counts of murder.

Of four Marine officers charged for failing to investigate, only Lieutenant Colonel Jeffrey Chessani faces possible court martial. Along with McConnell, a dismissal of charges was granted for another officer, Captain Randy Stone. Stone had been charged for failing to determine why so many civilians had been killed in the aftermath of the massacre. Another officer charged in the cover-up, Andrew Grayson, rejected a plea deal and has argued that the military cannot prosecute him because he

was discharged from the Marine Corps.

Three of McConnell's superior officers, who were found to have scuttled investigations and buried evidence, received letters of censure as a form of administrative punishment earlier this month and will not be criminally prosecuted.

As for McConnell, even if he were convicted on charges of dereliction of duty, he would have faced only six months in the military brig and dismissal from service. Instead, any of the "errors or omissions" the captain made following the massacre will be handled through an administrative process ranging from verbal counseling to a letter in his personnel file.

Clearly, the dismissals and administrative rebukes in no way correspond to the gravity of the crimes. To a great extent, the very framework of internal investigations and internal trials for military misconduct serves to condone the crimes of war and evade real accountability.

A career overview of the judge presiding over all three Camp Pendleton cases, James Mattis, is a case study in the inherent conflicts of interest within the military justice system. As a lieutenant colonel, he commanded an assault battalion in the first Gulf War. As a general, Mattis led the 1st Marine Expeditionary Brigade and Task Force 58 during the invasion of Afghanistan, then commanded the 1st Marines during the initial attack on Iraq.

In 2004, General Mattis led the slaughter in Fallujah. He therefore bears some of the responsibility for crimes he is entrusted with adjudicating. Last week, President Bush nominated Mattis for promotion to the rank of general and commander of Joint Forces Command as well as Supreme Allied Commander Transformation, while retaining command over Marine Corps Forces Central Command.

Mattis possesses the swaggering and swinish attitude typical of the war's chief architects. At a forum in San Diego in 2005, he bragged, "You go into Afghanistan, you got guys who slap women around for five years because they didn't wear a veil. You know, guys like that ain't got no manhood left anyway. So it's a hell of a lot of fun to shoot them. Actually, it's a lot of fun to fight. You know, it's a hell of a hoot," he said. "It's fun to shoot some people. I'll be right upfront with you, I like brawling."

With this outlook predominating in the military and political leadership, atrocities are all but inevitable. The colonial occupation of the country entails the most brutal suppression of resistance, and Iraqi civilian deaths are consequently seen by the military as part of the cost of doing business.

Indeed, measures were taken by the Bush administration and the Coalition Provisional Authority early in the occupation to explicitly allow the US military and private contractors to commit acts that qualify as war crimes—including the killing of civilians, extra-legal detention, and torture—without prosecution by the Iraqi government. This regulation, known as Order 17, exempts military and private mercenaries from "local criminal, civil and administrative jurisdiction and from any form of arrest or detention other than by persons acting on behalf of their parent states."

For cases in which military personnel are involved in war crimes, the military justice system has functioned more as a mechanism by which to close the door on investigations and protect officials at the top.

When photographs of detainee torture at Abu Ghraib prison surfaced in 2004, several investigations were initiated. Yet hearings centered on the lowest ranking military personnel involved, not on those in the highest positions in the Bush administration responsible for drafting and authorizing the policies carried out at the prison.

After three years, 11 soldiers were convicted on charges of prisoner maltreatment, human rights violations, and numerous other crimes. Most were sentenced to several months in prison and community service, and continue to serve in the military. Last month, a military jury acquitted the single officer facing criminal charges in connection with the atrocities.



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