

# Documents prove Australian complicity in Iraq war crimes

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Documents obtained last week by the Public Interest Advocacy Centre (PIAC), after a six-year legal battle, confirm what was already clear in 2004: that the Australian military was complicit in the torture committed by American forces at Iraq's Abu Ghraib prison in late 2003. The documents, finally released by the Department of Defence to comply with a Freedom of Information request lodged in June 2005, also demonstrate that the Australian government of Prime Minister John Howard concealed information from Senate Estimates hearings into whether Australian personnel were aware that war crimes were being committed.

In January 2004, the US military announced that it was investigating claims of abuse at Abu Ghraib—aware that leaked photos of the sadistic treatment of Iraqi detainees would inevitably become public. The first photos were published in late April 2004 and provoked a storm of international revulsion, further fuelling mass antiwar sentiment.

The Howard government was one of the few in the world that still had forces deployed in the US-led occupation of Iraq when the Abu Ghraib scandal broke. Its immediate response was to deny that either it or the Australian military had prior knowledge of prisoner abuse. Howard declared: "We were not involved."

This claim was soon exposed as a lie. Australian military officers were embedded in US military headquarters in Baghdad and were aware of the allegations surrounding Abu Ghraib and other cases of abuse. They had seen an October 2003 Red Cross report that provided damning details of prisoner mistreatment, and they communicated the allegations to their superiors and the government in Canberra.

Australian Major George O'Kane was working for the main US military legal unit in Iraq. In August 2003 he provided advice on the legality of the interrogation techniques that the 205th Military Intelligence Brigade intended to apply at Abu Ghraib. O'Kane visited the prison on a number of occasions. He drafted replies to two Red Cross reports outlining charges of abuse, in which he argued some Iraqi prisoners were not

entitled to the protections of the Geneva Conventions.

The Howard government responded to this exposure by blaming the Australian military and the defence department for allegedly not passing on relevant information. The claim stretched credibility, particularly as no action was taken against the heads of the armed forces.

The Labor Party opposition and the Greens, seeking to capitalise on the popular outrage over the Iraq war in the months leading up to an Australian general election, used their parliamentary numbers to convene a Senate Estimates committee in May 2004 to probe the extent of Australian involvement in the Abu Ghraib abuse.

The Howard government and the military refused to allow O'Kane to be questioned. Air Commodore Simon Harvey, the director general of Defence Legal Service, appeared instead. In answer to a question by Greens' leader Bob Brown as to whether O'Kane believed that the interrogation techniques at Abu Ghraib complied with the Geneva Conventions, Harvey stated: "I believe that he did."

The documents finally obtained by PIAC prove this was false. They include the transcripts of interviews conducted with O'Kane in mid-2004 by Mike Pezzullo, the public servant appointed by Howard government to head its so-called Iraq Detainee Fact-Finding Team. These documents establish that O'Kane knew of the abuse of Iraqi prisoners and that it violated the Geneva Conventions.

It is unclear whether Harvey deliberately lied at the time, but his false statement was never corrected. Both the Howard government and the Labor Party government elected in 2007 sat on information that the Australian parliament was misled.

The legal advice O'Kane authored in August 2003 specifically noted that the proposed interrogation techniques only "substantially complied" with the Geneva Conventions. He said the absence of any time limits on interrogations meant that the techniques—clinically named by the US military as

“sleep management”, “dietary manipulation” and “sensory deprivation”—would “eventually amount to inhumane treatment”.

Despite his own legal advice, O’Kane upheld the application of torture on the Bush administration’s spurious ground that Iraqi detainees did not qualify for the protections of the Geneva Conventions. The Red Cross uncovered abuses such as threats, protracted hand-cuffing, sleep deprivation and forcing detainees to wear women’s underwear on their heads. O’Kane told Pezzullo that the occupation forces described such abuse as “successful interrogation techniques”.

O’Kane allegedly became aware of the existence of the notorious photos in late 2003, though that remains unconfirmed. What the documents do establish is that O’Kane was assigned on January 4, 2004 to deny the Red Cross access to nine prisoners in Cell Block 1A—where some of the worst mistreatment occurred—on the basis that the men were being interrogated at the time. O’Kane justified the action declaring that “if you break someone down, or persuade them to give up information you don’t need them drawing strength from an ICRC visit.”

The same month, O’Kane was shown evidence that the US occupation forces “hid” a prisoner being held at Camp Cropper in Baghdad. An order dated November 2003, requested by the CIA and authorised by US Secretary of Defense Donald Rumsfeld, instructed that the man, named only “Triple X”, not be placed on a register of detainees—a clear crime under international law.

The prisoner is believed to have been Hiwa Abdul Rahman Rashul, who was subsequently illegally sent from Iraq to Afghanistan for “interrogation”. O’Kane claimed in an interview with Pezzullo that he had raised concerns with his American superior the next day that the rendition could go public. He also reported it to his Australian superior—an unnamed Lieutenant Colonel.

In 2004, the Howard government and the military heads claimed they were “unaware” of the criminality, blaming low-ranking officers such as O’Kane for not insisting on Australian military standards. This has always beggared belief. Not a single Australian military figure has suffered any fall-out, let alone prosecution, for supposedly lying to the government or covering up Abu Ghraib. O’Kane was later promoted to Lieutenant Colonel and is still a serving officer.

It is still not clear how far up the chain of command there was detailed knowledge that gross violations of the Geneva Conventions were taking place and that Australian personnel participated in them.

What is clear is that the crimes committed at Abu Ghraib flowed inexorably from the illegal and neo-colonial nature of the Iraq war itself. The criminality at the prison was only one aspect of the increasingly brutal effort by the US in late 2003 to quell a rapidly growing anti-occupation insurgency. The US occupation, in which the Australian government and military were active participants, was trampling on every precept of international law and human rights.

The actions of individuals such as O’Kane can be assessed only within this context. It is the Bush, Blair and Howard governments that bear ultimate responsibility for every crime committed against the Iraqi people.

Amid mass protests against the 2003 invasion of Iraq, the Labor Party, then in opposition, formally disapproved of a war without UN endorsement. Labor rapidly dropped even this token opposition, declaring that the party now could only hope that “our troops” in Iraq would complete their task “quickly and successfully”.

After it won government in 2007, the Labor Party continued Australian military participation in the occupation of Iraq and suppressed all talk of investigations into the criminal actions of its predecessor—from the detention of Australian citizens at Guantánamo Bay to the invasion of Iraq on false claims of weapons of mass destruction.

Labor has intensified Australian involvement in the equally predatory war in Afghanistan, where violations of international law such as assassinations and attacks on civilian targets are taking place on a daily basis.

As junior partners in the wars of aggression being waged by their US allies, the former Howard government, the current Labor government and the entire Australian ruling elite are no less indictable for every atrocity committed.

*This author also recommends:*

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