



UNITED STATES MARINE CORPS
1ST MARINE DIVISION (REIN)
UIC 40120
FPO AP 96426-0120

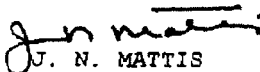
IN REPLY REFER TO:
5830
SJA/ (b)(7)(C)
MAY 14 2004

THIRD ENDORSEMENT on (b)(7)(C) PI of 27 April 2004

From: Commanding General, 1st Marine Division (Rein)
To: File

Subj: RESULTS OF PRELIMINARY INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE
DEATH OF AWAYED WANAS JABAR, DETAINEE 132 ON 19 APRIL 2004

1. Readdressed and forwarded.
2. In the case of the Iraqi detainee's death in our custody, it is clear that his Marine guards repeatedly used minimal force to carry out their mission of holding this enemy fighter prisoner. He refused to remain bound, appeared intent on hurting himself, and refused admonitions to cease his escape attempts. Medical oversight was repeatedly provided by our medical personnel. There is no evidence that his death was the result of any assault, pummeling or any other abuse once he was in our custody. The guards would have been within their authority to shoot him on at least one of the escape attempts. While the changes to guard routines at (b)(7)(C) holding area are appropriate, none of them in themselves would have prevented the death of an enemy intent on dying in our hands.
3. The findings of the investigating officer, as endorsed, are approved. I concur with the Regimental Commander and the case is closed.


J. N. MATTIS

Copy to:

(b)(7)(C)

File



UNITED STATES MARINE CORPS
REGIMENTAL COMBAT TEAM - 7
1ST MARINE DIVISION (REIN) FMF
UIC 415000
FPO AP 96426-1500

SECOND ENDORSEMENT on (b)(7)(C) PI of 27 April 2004

From: Commanding Officer
To: Commanding General, 1st Marine Division (Rein)

Subj: RESULTS OF PRELIMINARY INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE DEATH OF AWAYED WANAS JABAR, DETAINEE 132 ON 19 APRIL 2004

Enclosure: 3d Battalion, 7th Marines Preliminary Inquiry into the death of Awayed Wanas Jabar on 19 April 2004 conducted by (b)(7)(C) (b)(7)(C).

1. On 19 April 2004 the Commanding Officer, (b)(7)(C) initiated a preliminary inquiry (PI) into the death of Awayed Jabar. This PI was completed on 20 April 2004 and was available for review by the RIAT Team during their visit to Camp Al Qaim on 23 April 2004. After a review of both PIs I noted discrepancies in the investigating officers findings and conclusions concerning the amount of time Awayed Jabar was required to stand and whether any of Awayed Jabar's head injuries resulted from the guards attempts to restrain him. In an attempt to resolve the discrepancies I directed (b)(7)(C) to interview all available witnesses. His interviews were completed on 9 May 2004. The sworn witness statements gathered by (b)(7)(C) are on file at RCT-7 and available for review or additional administrative or legal action. This endorsement is based on my review of all the available information concerning this specific incident leavened with my judgment of how this event fits into the larger context of the battle fought in Husaybah, Iraq on 17-19 April 2004.

2. Awayed Jabar was detained at 1000 17 April 2004 in the city of Husaybah, Iraq. He was detained after leaving a building where RPGs, RPKs, and AK-47s were found. Jabar was dressed in black and wearing a red turban, a "uniform" consistent with other anti-coalition forces engaging (b)(7)(C) Marines on 17 April. Jabar's hands were dyed black and he had a prayer bead sewn into his clothing, both symbols indicative of someone expecting to become a martyr. Jabar arrived at the Camp Husaybah Holding Facility at approximately 1330 17 April 2004. Between his arrival and his death at approximately 0300 19 April 2004, Jabar was provided food, water, and shelter, received three examinations by corpsmen and a medical officer, made approximately 20 attempts to escape his bonds, successfully released himself three times and jumped out of a window head-first in an attempt to escape. The Battalion Medical Officer conducted a post-mortem, external, non-invasive, examination of Jabar at approximately 0630 19 April 2004. Based on his physical examination and the history of Jabar's leap from the window causing him to land on his face and head, the Medical Officer opined that the cause of death was an epidural hematoma leading to a catastrophic hemorrhage causing sudden death. However, to specifically determine the cause of death would require a timely autopsy. Awayed Jabar's body was released to ICDC personnel at their request in order to ensure burial by sundown on 19 April 2004. There is no evidence available to me at this time to indicate that any of Jabar's head injuries were caused by guards attempting to restrain him following his escape attempts. Between his arrival at the holding area on 17 April 2004 and his death on 19 April 2004, multiple witnesses observed Jabar sitting or squatting.

3. Camp Husaybah is located at the Husaybah Port of Entry with Syria. The Camp is occupied by (b)(7)(C) Marines with responsibility for conducting security and stability operations in the city of Husaybah, Iraq. (b)(7)(C) assumed this area of responsibility on 20 March 2004 and, from that date until 20 April 2004, was in contact with enemy forces on a daily basis. Camp Husaybah's line of communication with the battalion at Camp Al Qaim requires all convoys and resupply to transit through the city of Husaybah. Routine resupply and other routine convoy movement is conducted at night post-curfew, and is often delayed or cancelled due to enemy activity or combat in the city. Due to the distance from Husaybah to Camp Al Qaim, and the frequent closure to routine traffic of the route from Camp Al Qaim to Camp Husaybah, the Commanding Officer, (b)(7)(C) authorized the establishment of a detainee temporary holding facility at Camp Husaybah. (b)(7)(C) detainees are brought to the holding area, receive an initial interrogation, and are either released from detention or moved to the battalion detention facility at Camp Al Qaim. Detainees are not authorized to be held at Camp Husaybah longer than 24 hours and are normally transported to Camp Al Qaim on the first available convoy after detention. However, cancellation of a convoy has, at times, caused detainees to be held at Camp Husaybah for up to 48 hours. When detainees are present at the Camp, guards are provided by the platoon assigned to Camp Security. This mission rotates every 96 hours. A sergeant of the guard, platoon sergeant and platoon commander supervises the guard. The tactical structure for detainee guard at the Camp is based on the doctrinal use of a company EPW collection point where security is provided by designated members of the company prior to movement to the next higher echelon of detention. To prevent overtasking the guards, and to ensure proper supervision of detainees, the battalion would organize a special convoy whenever 7 or more detainees were present at the Camp. The Company Commander and Company First Sergeant conducted daily inspections of the Holding Facility when detainees were present. The temporary holding facility was not considered an Initial Detention Facility.

4. On the morning of 17 April 2004, three (b)(7)(C) patrols were ambushed simultaneously in the city of Husaybah. This enemy action was the prelude to over 48 hours of urban combat that resulted in 5 FKIA, 29 FWIA, 120 EKIA, and 60 personnel detained or captured. The Commanding Officer of (b)(7)(C) was killed in the first 30 minutes of the battle. His Executive Officer, Company First Sergeant, and Company Gunnery Sergeant sallied from Camp Husaybah, extracted the three ambushed units, reorganized the company command and control, and commenced offensive operations. The senior man remaining at Camp Husaybah was the Platoon Commander of the current security platoon. By 1500 on 17 April 2004 the entire battalion was fully committed to combat operations in Husaybah or to perimeter security at Camp Al Qaim and Camp Husaybah; the battalion remained fully committed until 0900 19 April 2004. The battalion commander had no internal reserve available. The (b)(7)(C) and remaining three battalions were committed to operations in the vicinity of Fallujah and had no forces available to reinforce (b)(7)(C).

5. Camp Husaybah came under direct attack multiple times on 17 and 18 April. At approximately 1300 17 April 2004 the battalion S4A assumed command of an ad hoc platoon of CSS and S4 Marines to allow the security platoon commander to reinforce the perimeter with his full complement of infantry. This ad hoc platoon assumed responsibility for detainee handling and the ECP. Members of the ad hoc platoon were on duty during the detention of Awayed Jabar. They did not receive any detainee handling training.

6. (b)(7)(C) detained 60 individuals during the course of operations. The majority were detained in the eastern part of Husaybah and transported to the Detention Facility at Camp Al Qaim. The approximately 18-20 detainees from the western part of the city were moved to Camp Husaybah. From 17 April through the morning of 19 April, combat operations interdicted the lines of communication between Camp Husaybah and Camp Al Qaim. The battalion was able to transport 8 detainees to Camp Al Qaim on the night of 18 April before the road was again closed to routine convoy traffic. The remainder of the Camp Husaybah detainees were transported to Camp Al Qaim on 19 April 2004.

7. Based on interview response and sworn statements, the guards were restrained in their treatment of Jabar following his three escapes from restraint. Guards state that Jabar was either simply led back to position or was moved back to position employing a MCMAF arm-bar. According to witnesses, Jabar attempted to free himself at least 20 times. Review of witness statements reveal an "escalation" of restraint as attempts and escapes increased: Jabar was initially restrained with flex cuffs to a window, then his wrists were flex-cuffed apart, then hands and feet restrained apart combined with a high waist-chest restraint. The reasoning given for the waist-chest restraint was to prevent Jabar from turning his head to chew through the engineering tape used to tie his wrists; guards had previously observed Jabar using his teeth in his attempts to free himself.

8. The lack of training combined with the disruption in unity of command caused by the death of the Company Commander, the employment of an ad hoc platoon, and the guards' lack of familiarity with where HET fits into the command architecture caused some confusion. This confusion resulted in temporary but questionable practices by the guards. At least one guard believed he was required to throw water on Jabar every two hours in order to keep him awake. At least one guard believed he was not to give any detainee food and water for 24 hours. Both of these practices were immediately corrected when brought to the attention of the HET Team or the S4A.

9. The proximate cause of Awayed Wanas Jabar's death cannot be determined in the absence of an autopsy; and in the absence of an autopsy we cannot determine with certainty that Jabar died as a result of his head injury, as a result of the manner in which he was restrained on the morning of 19 April 2004, as a result of potential drug use---common to the "martyrs" and consistent with Jabar's pattern of behavior---or from a combination of two or three of the above. Failure to preserve the body for autopsy was a mistake in judgment on the part of the battalion commander. However, I strongly believe his decision to release the body was a result of his desire to bury Jabar according to Muslim custom and not an attempt to hide evidence.

10. The Temporary Holding Facility at Camp Husaybah was managed within the spirit and intent of the Division Detainee Handling and Detention SOP. The temporary holding facility was managed in general compliance with the direction in Section II, page 7 concerning battalion temporary holding facilities. All of the equipment and supplies listed in paragraph II.B.2.4.a were not available at Camp Husaybah. All other requirements for temporary holding facilities were met. However, the holding area was not structured or managed in complete accordance with the direction contained in Section II.3 of the SOP governing Initial Detention Facilities (IDF). The Commanding Officer (b)(7)(C) manages a very well run and humane IDF at Camp Al Qaim. The holding area at Camp Husaybah, as mentioned earlier, was considered simply that: a place to hold detainees until transportation could be provided to move them to Camp Al Qaim. Given the Commanding General's emphasis on proper and humane detainee handling, and the linkage between the Division ethos and detainee handling, both the RCT-7 Commander and the (b)(7)(C) Marines commander should have ensured all or part of the IDF procedures were applied to the company holding facility, particularly concerning guard personnel. However, given the circumstances in Husaybah on 17-19 April 2004, it is very likely that personnel assigned as permanent guards would have been committed to combat operations and temporary guards assigned to the holding facility. A permanent guard force established with a routine and set procedures may have provided the temporary guard force a better handoff of responsibilities and techniques, to include effective but humane methods of restraint.

11. In my opinion, using the preponderance of evidence standard, Jabar's self-inflicted injury incurred by jumping through a window while trying to escape was the strongest factor contributing to his death.

12. In my opinion, there is not sufficient evidence to support or dispute that the manner in which Jabar was restrained was a casual factor in his death.

Jabar was restrained with the chest/waist strap for 90 minutes and only after other means of restraint had failed to prevent his escape. However, experienced leadership would have immediately made the connection between the waist/chest strap and possible asphyxiation. That experienced leadership disappeared when unity of command was disrupted by the death of the Company Commander, the subsequent actions of the remaining company leadership, and the establishment of an ad hoc platoon led by an individual unfamiliar with detainee handling.

13. There is sufficient evidence to show that Jabar did not stand continuously for 36 hours. However, he may have exhausted himself during repeated escapes and attempted escapes.

14. There is no evidence to support a claim that injuries to the detainee's head resulted from being restrained by guards.

15. I recommend that the (b)(7)(C) (b)(6) to ensure that the elements of Detainee Handling SOP concerning IDF, and applicable to the Commanding General's intent and stated goals, was enforced at the Company Holding Facility at Camp Husaybah.

16. I recommend that the (b)(7)(C) (b)(6) in releasing the body of Awayed Wanas Jabar and (b)(6) to ensure that the elements of Detainee Handling SOP concerning IDF, and applicable to the Commanding General's intent and stated goals, was enforced at the Company Holding Facility at Camp Husaybah.

17. The Commanding Officer, (b)(7)(C) is directed to implement the corrective measures outlined in his endorsement.

18. I recommend this investigation be closed.

(b)(7)(C)



UNITED STATES MARINE CORPS

(b)(7)(C)
1ST MARINE DIVISION (REIN), FAF
CAMP AL QA'IM
UK 41573
FPO AP 96426-1573

IN REPLY REFER TO
5800
XO (b)(7)(C)
9 May 04

ENDORSEMENT on (b)(7)(C) ltr 5800

From: Commanding Officer
To: Commanding Officer, Regimental Combat Team - 7
Subj: PRELIMINARY INQUIRY INTO THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

1. The operational situation between the 17th through the 19th of April needs to be placed into perspective in light of this detainee's death. Coalition Forces were attacked on the morning of the 17th by an estimated 300 plus anti-Iraqi insurgents and foreign fighters from various parts of the area of operations. The City of Husaybah, Marine Forces and the civilian population were engulfed in house to house - block by block high intensity combat.

a. (b)(7)(C) based in Husaybah was the target for destruction of the AIF. The conflict began at 0801 on the 17th and by 0930 had three platoons decisively engaged by enemy ambushes. By 1100 the Company had suffered five killed in action, to include the company commander, and fifteen wounded in action. By 1600 that day the majority of the battalion was engulfed in this conflict with three companies sweeping the city house to house fighting AIF with mortars, rockets, and rotary and fixed wing close air support.

b. Amidst this situation the (b)(7)(C) executive officer reorganized the company and moved forward with the rest of the unit's combat power to initiate the decisive assault against the enemy command and control positions. The company base's defense remained critical as the Battalion's primary resupply point in Husaybah. The service support personnel manned the posts, to include the company holding area.

c. This fighting continued into the night of the 17th and through the afternoon of the 18th. Subsequent sweeps were completed by the following morning of the 19th. The result of this conflict was: five friendly KIAs; twenty-nine WIAs; one hundred and twenty insurgents KIA; and sixty detained or captured.

2. The bottom line is that this foreign fighter did die while in our custody. We were responsible for his well being while in our control. Since this incident we have taken the following measures to prevent this from happening again.

a. The holding area has been improved with engineer support and class IV to better control the detainees before their transfer to the

Subj: PRELIMINARY INQUIRY INTO THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

Al Qa'im Detention Facility.

b. A dedicated SNCOIC has been assigned to manage the company holding area.

c. A dedicated guard force has been assigned and trained by experienced correction custody personnel.

d. There are separate cells for control of detainees.

e. The potential hazards for injury to detainees have been mitigated to the maximum extent possible.

f. A review of the unit's procedures for the Husaybah Holding Area has been completed.

3. I do not concur with portions of the summary of facts and opinions of the investigating officer.

a. Husaybah has a holding area for staging and initial review of suspects, not a detention facility. This is not a mere play on semantics, the procedures for proper detainee handling is adhered to, but the detainees are only in Husaybah until transported to Al Qa'im within twenty-four hours of capture or apprehension. The transportation of the detainee was delayed due to the on going conflict in the city.

b. There is no evidence in any Marine's statement from our investigation that the guard's restraint of the detainee during his escape attempts caused any head injuries. The head injury while in custody was clearly the result of the detainee's attempt to escape and his fall through a window.

c. The detainee was not continuously standing for thirty-six hours, in the holding area. Review of multiple witness statements contained in the Battalion's original preliminary investigation bears this out.

d. The detainee was not restrained in a manner to intentionally cause harm to the detainee. Considering his multiple escape attempts, to include chewing through his bonds, the engineering tape was used to prevent this type of escape again. There was no willful negligence, intentional or malicious act of Coalition Forces during his captivity. The self-discipline exhibited by the Marines and sailors is borne out in their statements and actions. The restraints and procedures used were necessary to provide force protection and preserve the health and control of the detainee.

(b)(7)(C)

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Legal Files



UNITED STATES MARINE CORPS
1ST MARINE DIVISION (REIN)
UIC 40120
FPO AP 96426-0120

IN REPLY REFER TO:

5830

SJA/ (b)(7)(C)

MAY 01 2004

From: (b)(7)(C) (b)(6)
To: Commanding General, 1st Marine Division
Via: Staff Judge Advocate, 1st Marine Division

Subj: RESULTS OF PRELIMINARY INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE
DEATH OF DETAINEE 0132 AT FOB HUSAYBAH, IRAQ, ON OR ABOUT 19 APRIL
2004

1. On 22 April 2004, the 1st Marine Division was made aware of the death of a detainee in U.S. custody at FOB Husaybah, Iraq. The incident was reported to have taken place on or about 19 April, 2004. Upon learning of the report, the Commanding General, 1st Marine Division tasked the Division's Rapid Incident Assessment Team (RIAT) with investigating the circumstances surrounding the reported death. On the morning of 23 April, 2004, the RIAT was transported from Blue Diamond Headquarters to FOB Al Qaim, and from there to FOB Husaybah to conduct the investigation. Upon arriving at FOB Husaybah, the RIAT interviewed several members of (b)(7)(C)

2. On 17 April 2004, a lengthy firefight erupted in the town of Husaybah between Marines and AIF. The firefight resulted in several U.S. casualties, and also led to the capture of numerous detainees. Detainee 0132 was among those detained on 17 April 2004. He was caught retreating from a building from which the enemy had actively engaged Marines. Numerous weapons were seized from the building detainee 0132 was fleeing at the time of his capture. Detainee 0132 was delivered to the (b)(7)(C) holding facility at FOB Husaybah at approximately 1330 on 17 April 2004.

3. The Humint Exploitation Team 1 (HET1) personnel who processed and interrogated detainee 0132 at or around 1330 on 17 April 2004, noted that at the time he was processed into the detention facility, detainee 0132 appeared disheveled and had some bruising around his face, but seemed to be in relatively good health. After being processed, detainee 0132 was interrogated by members of HET1. During the course of the interrogation, HET1 was able to determine that detainee 0132 was probably a dedicated Mujahadeen fighter, who was expecting to martyr himself. HET1 was able to support this theory for two primary reasons, first, the detainee's hands had been dyed in accordance with a ritual in which an imam blesses and dyes the hands of fighters preparing to go into battle, and second, detainee 0132 had a prayer bead sown into his clothing, which is indicative of a Muslim fighter who is planning on martyring himself in battle. HET1 felt that detainee 0132 would be a valuable source of information, and was desirous of further interrogation. During the course of the initial interrogation with detainee 0132, FOB Husaybah came under direct enemy attack and the HET members were forced to terminate the interrogation so they could take up a position, and contribute to the defense of the camp. Detainee 0132 was secured to the metal bars on one of the windows at the detention facility. The detention facility guards were advised of detainee 0132's suspected Mujahadeen affiliation. No further interrogation of detainee 0132 was conducted on 17 April.

Subj: RESULTS OF THE PRELIMINARY INQUIRY INTO THE CIRCUMSTANCES SURROUNDING DEATH OF DETAINEE 0132 AT FOB HUSAYBAH, IRAQ, ON OR ABOUT 19 APRIL 2004

4. No interrogations were possible on 18 April because the HET personnel were on a patrol in Husaybah, from approximately 0900 until 2230. HET personnel checked on the detainees' status, before going on the patrol at approximately 0800, on 18 April 2004 without incident.

5. The detention facility at FOB Husaybah lacks any permanent OIC or guards. The duty of managing and manning the facility rotates from one platoon within (b)(7)(C) to another, approximately every 4 days. The frequent rotation of facility staff is a result of personnel challenges and staffing shortages in (b)(7)(C). HET1 personnel have brought the staffing challenges to attention of the leadership of (b)(7)(C), but, due to the Company's demanding mission in Husaybah, they were unable to dedicate any permanent personnel to the facility. The leadership of (b)(7)(C) was aware of the staffing issues at FOB Husaybah, but faced staffing shortages and were unable to dedicate any additional resources to the detention facility at FOB Husaybah. On approximately 6 occasions, HET1 personnel discussed the possibility of assigning permanent staff to the detention facility with (b)(7)(C) leadership.

6. On 18-19 April the platoon that had the duty was commanded by (b)(7)(C) (b)(7)(C). Three of his Marines, (b)(7)(C) (b)(7)(C) (b)(7)(C) were posted as guards at the facility when detainee 0132 died. (b)(7)(C) was the senior Marine on duty on 18-19 April. None of the Marines who were tasked with manning the facility during the period from 17-19 April had any training in detention facility management, or detainee handling procedures.

7. On 18 April, at approximately 1730-1800 (b)(7)(C) examined detainee 0132 and found him to be in fair condition, with no significant injuries.

8. All personnel concerned characterized detainee 0132 as a "problem" detainee. The detainee was frequently able to escape from his bindings during the period from 18-19 April. Detainee 0132 needed to be watched closely because he frequently managed to untie himself. Every time detainee 0132 escaped from his bonds, he was subdued by one or more of the guards. According to the guards, the force they used to subdue detainee 0132 ranged from simply grabbing him by the arm, and leading him back to where he was tied up, to grappling with the detainee, and using an "arm bar" to force the detainee to submit. Due to his ability to untie himself, they nicknamed detainee 0132 "Houdini." At no time did the guards admit to beating the detainee. The guards indicated that detainee 0132 was not combative with them, and simply kept untying himself. They further indicated that they were frustrated with detainee 0132 because of his repeated escape attempts. The situation in the detention facility was exasperated by the fact that there were no locking rooms to put the detainees in if they were problematic. The facility has no locking cells or doors. To secure a detainee, the guards have only two choices: place them in one of the open rooms, and stand there, physically watching the detainee; or, tie the detainee to some fixture in the facility. To control detainee 0132, the guards chose the latter of these two options. As a result of being continuously tied to a window, detainee 0132 had been standing or leaning against a wall continuously since he was in-processed into the detention facility.

9. At approximately 2100 on the evening of 18 April 2004, (b)(7)(C) (b)(7)(C) arrived at the detention facility to examine some of the detainees. The duty OIC, (b)(7)(C) noticed a significant amount of blood coming from

Subj: RESULTS OF THE PRELIMINARY INQUIRY INTO THE CIRCUMSTANCES SURROUNDING
DEATH OF DETAINEE 0132 AT FOB HUSAYBAH, IRAQ, ON OR ABOUT 19 APRIL
2004

detainee 0132, and ordered (b)(7)(C) to examine detainee 0132 and treat his injuries. (b)(7)(C) found detainee 0132 standing, tied to a window frame in the courtyard of the detention facility. At approximately 2130, (b)(7)(C) (b)(7)(C) examined detainee 0132 and treated him for a 1-inch laceration on the top of his scalp with no bleeding, a broken nose with significant bleeding, a black-eye, a laceration to the inner right thigh with moderate bleeding, and another laceration to the right arm with moderate bleeding. (b)(7)(C) did not examine detainee 0132 on the previous day when he was in-processed, had no knowledge of when the detainee was brought to the facility, and assumed that the injuries he was treating were incurred during capture. (b)(7)(C) finished treating detainee 0132 at approximately 2215 on 18 April.

10. (b)(7)(C) then attended to another detainee in a different room. He treated that individual until approximately 2245. After finishing with treating the other detainee, (b)(7)(C) returned to the area where detainee 0132 was tied. Upon walking out into the area where detainee 0132 was restrained, (b)(7)(C) saw detainee 0132 free himself from his restraints, and attempt to climb through a broken window, while attempting to do so, the detainee fell and hit his head. The fall was approximately 2 feet, onto hard concrete. Immediately, the guards restrained detainee 0132 and tied him to the window again. (b)(7)(C) then went to attend to other duties in another part of the facility. He returned to the area where detainee 0132 was held at approximately 2315, and again, (b)(7)(C) witnessed detainee 0132 free himself, however this time, there was a guard immediately next to the detainee and he was able to restrain him. As a result of this attempted escape, the guards decided to move the detainee to another part of the facility, and tie him there. They moved the detainee to the corner of the facility and tied him to a barred window. This window was rectangular, approximately 6-7 feet high, and approximately 4 feet wide. The window had bars that covered the entire length of the window, and there was no glass. The guards tied detainee 0132's hands to the bars of the window. At this point, detainee 0132 was facing the window.

11. At approximately 0010 on 19 April, the Battalion Medical Officer, (b)(7)(C) examined detainee 0132. His examination substantially mirrored the one conducted by (b)(7)(C) at 2130 on 18 April, with the exception of finding that the detainee was alert, and had a "good pulse" and that the bleeding had been controlled.

12. Soon thereafter, detainee 0132 was able to free himself. Again, the detainee was restrained, and this time the guards tied both his hands and feet to the bars, facing the window. Again he freed himself. He was restrained, and this time the guards tied him to the window with his back to the window, his arms stretched apart, with his legs tied to the bars of the window. The guards also tied a strap of engineer tape to the detainee's midsection, to further restrain him. His position resembled that of a person who had been crucified. Detainee 0132 did not free himself from this position. He was secured to the window in this fashion at approximately 0100 19 April.

13. The detainee stayed in this position until approximately 0230, 19 April, when a HET1 member visited the detention facility. He noted that the detainee appeared to be exhausted, with his entire bodyweight appearing to be supported by the strap around his midsection. The HET member indicated that the strap was "pushing back, almost touching his spine." The HET1 member

Subj: RESULTS OF THE PRELIMINARY INQUIRY INTO THE CIRCUMSTANCES SURROUNDING
DEATH OF DETAINEE 0132 AT FOB HUSAYBAH, IRAQ, ON OR ABOUT 19 APRIL
2004

instructed the guards to cut the waist strap. When the guards cut the strap the detainee immediately fell limp, with only his arm straps supporting his weight. The detainee appeared to be unconscious. The HET1 member gave the detainee a light tap to the face to see if he was awake and detainee 0132 mumbled incoherently. The HET1 member instructed the guards to get a corpsman to examine the detainee. He then left the facility.

14. Approximately 15 minutes later, one of the guards witnessed detainee 0132 take several deep breaths, exhale deeply, and cease breathing. A corpsman was summoned, detainee 0132 was cut down, examined by the corpsman, and appeared to be dead. The corpsman then went to the HET team and reported the death of the detainee. The HET1 members instructed the corpsman to go tell the watch-officer. The corpsman then reported the death up the chain.

15. The exact cause of the death of the detainee is unknown. The RIAT was unable to facilitate an examination of the body of the deceased detainee because members of (b)(7)(C) turned the detainee's corpse over to the local Iraqi Civil Defense Corps (ICDC) before an autopsy could be performed.

16. It is my opinion that

(b)(5)

(b)(5)

(b)(7)(C)



UNITED STATES MARINE CORPS

1ST MARINE DIVISION (REIN), FMF
CAMP AL QA'IM
UIC 41373
FPO AP 9426-1573

IN REPLY REFER TO
5800
XO/ (b)(7)(C)
2 May 04

FIRST ENDORSEMENT on (b)(7)(C) ltr 5800 of 20 Apr 04

From: Commanding Officer
To: Commanding Officer RCT-7

Subj: PRELIMINARY INQUIRY INTO THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

1. I concur with the summary of findings, facts, recommendations, and conclusions of the investigating officer.

2. The operational situation between the 17th through the 19th of April need to be placed into perspective in light of this detainee's death. Coalition Forces were attacked on the morning of the 17th by an estimated 300 plus anti-Iraqi insurgents and foreign fighters from various parts of the area of operations. The City of Husaybah, Marine Forces and the civilian population were engulfed in high intensity house to house - block by block high intensity combat.

a. (b)(7)(C) based in Husaybah was the target for destruction of the AIF. The conflict began at 0801 on the 17th and by 0930 had three platoons decisively engaged by enemy ambushes. By 1100 the Company had suffered five killed in action, to include the company commander, and fifteen wounded in action. By 1600 that day the majority of the battalion was engulfed in this conflict with three companies sweeping the city house to house fighting AIF with mortars, rockets, and rotary and fixed wing close air support.

b. Amidst this situation the (b)(7)(C) executive officer reorganized the company and moved forward with the rest of the unit's combat power to initiate the decisive assault against the enemy command and control positions. The company base's defense remained critical as the Battalion's primary resupply point in Husaybah. The service support personnel manned the posts, to include the company holding area.

c. This fighting continued into the night of the 17th and through the afternoon of the 18th. Subsequent sweeps were completed by the following morning of the 19th.

d. The Husaybah Holding Area is necessitated by the tactical situation in the Al Qa'im area of operation. The unit was and remains in compliance with all applicable rules and procedures for detainee handling.

3. Recommendation (d) was completed once the engineer support and

Subj: PRELIMINARY INQUIRY INTO THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

class IV became available to improve the control of detainees before their transfer to the Al Qa'im Detention Facility.

- a. There are separate cells for control of detainees.
 - b. The potential hazards for injury to detainees have been mitigated to the maximum extent possible.
4. A review of the unit's procedures for the Husaybah Holding Area has been complete.
- a. A dedicated SNCOIC has been assigned to manage the company holding area.
 - b. A dedicated guard force has been assigned and trained by experienced correction custody personnel.
5. The bottom line is that this foreign fighter did die while in our custody. We were responsible for his well being while in our control. However, the IO is correct - there was no willful negligence, intentional or malicious act of Coalition Forces during his captivity. The restraint exhibited by the Marines and sailors is borne out in their statements and actions. The restraints and procedures used were necessary to preserve his health and control his resistance to captivity.
6. Pursuant to the above, recommend closure of this investigation.

(b)(7)(C)

Copy to:
Legal Files
CO, (b)(7)(C)



UNITED STATES MARINE CORPS

(b)(7)(C)
1st MARINE DIVISION (REMO, FMP)
IAC 43878
FPO AP #0426-3876

IN REPLY REFER TO:
5800
IO
20 Apr 04

From: Investigating Officer
To: Commanding Officer

Subj: PRELIMINARY INQUIRY INTO THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

Ref: (a) JAGMAN Section 0204
(b) First Marine Division Detainee Handling and Detention Facility
SOP dtd 17 Feb 04
(c) RCT-7 Detainee Handling and Detention Facility SOP
dtd 29 Feb 04
(d) 3d Battalion, 7th Marines Detainee Handling and Detention
Facility SOP dtd 16 Mar 04

Encl: (1) Appointment Ltr dtd 19 Apr 04

(2) CPA Forces Apprehension Form

(3) CPA Sworn Statement Form of (b)(7)(C)

(b)(7)(C)

(4) CPA Sworn Statement Form of (b)(7)(C)

(b)(7)(C)

(5) Statement of (b)(7)(C)

Battalion

Surgeon, (b)(7)(C)

(6) Statement of (b)(7)(C)

(b)(7)(C)

(7) Statement of (b)(7)(C)

MHG, II MEF

(8) Statement of (b)(7)(C)

MHG, II MEF

(9) Statement of (b)(7)(C)

(b)(7)(C) MHG, II MEF

(9) Statement of (b)(7)(C)

(b)(7)(C) I MEF

1. This preliminary inquiry report was conducted in accordance with the reference and regards the circumstances surrounding the death of Awayed Wanas Jabar, Detainee 132 in the Camp Husaybah Holding Area on August 19, 2004. Enclosures (1) through (4) are provided as supporting documentation.

2. Personnel contacted:

(b)(7)(C)

(b)(7)(C)

(b)(7)(C)

Battalion Surgeon, (b)(7)(C)

SUBJECT: PRELIMINARY INQUIRY INTO THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

(b)(7)(C)

(b)(7)(C)

(b)(7)(C)

(b)(7)(C)

(b)(7)(C)

(b)(7)(C)

(b)(7)(C)

(b)(7)(C)

CSSB 7

, CSSB 7

CSSB 7

, I MEF

3. Materials reviewed: I reviewed the above enclosures, references and statements. I also inspected the Husaybah Holding Area and the location where the detainee died.

4. Summary of findings.

a. On 19 April 2004, at approximately 0300 the Camp Husaybah Holding Area reported to the (b)(7)(C) Watch Officer that Detainee 132 Awayed Wanas Jabar had died while in custody.

b. At approximately 0230, (b)(7)(C) observed 132 hyperventilating while standing in the Company Holding Area. Soon after, (b)(7)(C) observed the individual collapse and fall to the ground.

c. Upon 132 collapsing a corpsman was summoned. (b)(7)(C) arrived on the scene to assess the vital signs of the collapsed detainee. (b)(7)(C) assessed that the detainee did not have a pulse and all vital signs were negative.

d. Detainee 132 was taken in to custody on 17 April 2004, in the area of the former Ba'ath Party Headquarters along Market Street in the city of Husaybah.

e. Detainee 132 was held due to suspicious behavior. He was discovered fleeing the scene of a firefight with blood on his hands and feet.

f. Once detainee 132 was taken into custody he was interrogated by the Battalion's Human Intelligence Exploitation Team (HET). During the course of HET's interview, black ash was discovered on his hands as well as prayer beads wrapped around his waist. Both the prayer beads and ash on the hands are signs of extremist Jihadist affiliation. In addition, detainee 132 expressed to HET his desire to be a martyr for Allah.

g. Between 17 and 18 April 2004, 132 made several escape attempts from the company Holding Area.

h. While in the course of one of his escape attempts, the detainee fell and sustained a number of injuries to his face and head, to include lacerations to the cheek, forehead, and a broken nose.

SUBJECT: PRELIMINARY INQUIRY INTO THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

i. In response to his escape attempts the guards bound the detainee by his hands and feet to window fixtures within the holding area. Engineering tape was used to secure the detainee.

j. At approximately 0630 on 18 April 2004, (b)(7)(C) Battalion Surgeon assigned to Camp Husaybah, examined the body of the detainee.

k. All facial and head wounds, which he observed, were consistent with the wounds that were previously observed before the detainee's death.

l. (b)(7)(C) officially pronounced the detainee dead at 0630.

m. It is the on-scene physician's opinion that the cause of death was a Cranial Hemorrhage, which the detainee sustained while attempting to conduct his escape.

n. The body of 132 was turned over to the local ICDC on 19 April for burial in accordance with Arab customs.

5. Facts.

a. The Detainee was apprehended and held for questioning by the company during combat operations in Husaybah.

b. All company personnel normally assigned to the Holding Area were involved in direct assaults and engagements in the City of Husaybah.

c. Detainee 132 continuously resisted his captivity, which resulted in his injuries on the 17th and 18th of April.

d. Detainee 132 was observed by medical personnel and several holding area guards throughout his detention at Camp Husaybah.

e. The restraints and procedures for handling 132 had to be increased with each escape attempt.

6. Recommendations and Conclusion.

(b)(5)

SUBJECT: PRELIMINARY INQUIRY INTO THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

(b)(5)

g. I recommend that no further investigation is warranted and that
this investigation be closed.

(b)(7)(C)



UNITED STATES MARINE CORPS

3D BATTALION, 7TH MARINES, RCT-7
1ST MARINE DIVISION (REIN), FMF
CAMP AL QA'IM
UC 41570
FPO-AP 98426 - 1570

IN REPLY REFER TO
5800
LEGAL
19 Apr 04

From: Commanding Officer

To: (b)(7)(C) (b)(6) USMC

Subj: PRELIMINARY INQUIRY INTO THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

Ref: (a) JAGMAN

1. This appoints you, per chapter II of the reference, to inquire into the facts and circumstances surrounding the death of said named detainee.

2. Investigate the cause of the incident, and determine any fault, neglect, or responsibility. Recommend appropriate administrative or disciplinary action. Report your findings of fact, opinions, and recommendations in letter form by 20 April 2004, unless an extension of time is granted.

(b)(7)(C)

Copy to:
Legal Files

ENCLOSURE (1

COALITION PROVISIONAL AUTHORITY FORCES APPREHENSION FORM
 YELLOW FIELDS MUST BE FILLED IN, IF APPLICABLE, UPON APPREHENSION

| | | | |
|--|---|--|---|
| <input type="checkbox"/> Offense against CPA/CPA (P.C. 2001) (P.C. 2002) (P.C. 2003) (P.C. 2004) (P.C. 2005) (P.C. 2006) (P.C. 2007) (P.C. 2008) (P.C. 2009) (P.C. 2010) (P.C. 2011) (P.C. 2012) (P.C. 2013) (P.C. 2014) (P.C. 2015) (P.C. 2016) (P.C. 2017) (P.C. 2018) (P.C. 2019) (P.C. 2020) (P.C. 2021) (P.C. 2022) (P.C. 2023) (P.C. 2024) (P.C. 2025) (P.C. 2026) (P.C. 2027) (P.C. 2028) (P.C. 2029) (P.C. 2030) (P.C. 2031) (P.C. 2032) (P.C. 2033) (P.C. 2034) (P.C. 2035) (P.C. 2036) (P.C. 2037) (P.C. 2038) (P.C. 2039) (P.C. 2040) (P.C. 2041) (P.C. 2042) (P.C. 2043) (P.C. 2044) (P.C. 2045) (P.C. 2046) (P.C. 2047) (P.C. 2048) (P.C. 2049) (P.C. 2050) (P.C. 2051) (P.C. 2052) (P.C. 2053) (P.C. 2054) (P.C. 2055) (P.C. 2056) (P.C. 2057) (P.C. 2058) (P.C. 2059) (P.C. 2060) (P.C. 2061) (P.C. 2062) (P.C. 2063) (P.C. 2064) (P.C. 2065) (P.C. 2066) (P.C. 2067) (P.C. 2068) (P.C. 2069) (P.C. 2070) (P.C. 2071) (P.C. 2072) (P.C. 2073) (P.C. 2074) (P.C. 2075) (P.C. 2076) (P.C. 2077) (P.C. 2078) (P.C. 2079) (P.C. 2080) (P.C. 2081) (P.C. 2082) (P.C. 2083) (P.C. 2084) (P.C. 2085) (P.C. 2086) (P.C. 2087) (P.C. 2088) (P.C. 2089) (P.C. 2090) (P.C. 2091) (P.C. 2092) (P.C. 2093) (P.C. 2094) (P.C. 2095) (P.C. 2096) (P.C. 2097) (P.C. 2098) (P.C. 2099) (P.C. 2100) | | <input type="checkbox"/> Offense against CPA/CPA (P.C. 2001) (P.C. 2002) (P.C. 2003) (P.C. 2004) (P.C. 2005) (P.C. 2006) (P.C. 2007) (P.C. 2008) (P.C. 2009) (P.C. 2010) (P.C. 2011) (P.C. 2012) (P.C. 2013) (P.C. 2014) (P.C. 2015) (P.C. 2016) (P.C. 2017) (P.C. 2018) (P.C. 2019) (P.C. 2020) (P.C. 2021) (P.C. 2022) (P.C. 2023) (P.C. 2024) (P.C. 2025) (P.C. 2026) (P.C. 2027) (P.C. 2028) (P.C. 2029) (P.C. 2030) (P.C. 2031) (P.C. 2032) (P.C. 2033) (P.C. 2034) (P.C. 2035) (P.C. 2036) (P.C. 2037) (P.C. 2038) (P.C. 2039) (P.C. 2040) (P.C. 2041) (P.C. 2042) (P.C. 2043) (P.C. 2044) (P.C. 2045) (P.C. 2046) (P.C. 2047) (P.C. 2048) (P.C. 2049) (P.C. 2050) (P.C. 2051) (P.C. 2052) (P.C. 2053) (P.C. 2054) (P.C. 2055) (P.C. 2056) (P.C. 2057) (P.C. 2058) (P.C. 2059) (P.C. 2060) (P.C. 2061) (P.C. 2062) (P.C. 2063) (P.C. 2064) (P.C. 2065) (P.C. 2066) (P.C. 2067) (P.C. 2068) (P.C. 2069) (P.C. 2070) (P.C. 2071) (P.C. 2072) (P.C. 2073) (P.C. 2074) (P.C. 2075) (P.C. 2076) (P.C. 2077) (P.C. 2078) (P.C. 2079) (P.C. 2080) (P.C. 2081) (P.C. 2082) (P.C. 2083) (P.C. 2084) (P.C. 2085) (P.C. 2086) (P.C. 2087) (P.C. 2088) (P.C. 2089) (P.C. 2090) (P.C. 2091) (P.C. 2092) (P.C. 2093) (P.C. 2094) (P.C. 2095) (P.C. 2096) (P.C. 2097) (P.C. 2098) (P.C. 2099) (P.C. 2100) | |
| Date of Incident (D/M/Y) 17 / 10 / 104 | | Date of Report (D/M/Y) / / | |
| Time of Report hrs | | Time of Report hrs | |
| Hair Color: | | Scars/Tattoos/Deformities: | |
| Eye-Color: | | Weight: lb Height: in | |
| Address: | | Address: | |
| Place of Birth: | | Place of Birth: | |
| Ethn/Tribel/Sect | Sex <input type="checkbox"/> M <input type="checkbox"/> F | Phone#: DOB D/M/Y: <input type="checkbox"/> Mobile <input type="checkbox"/> Regular | Phone#: DOB D/M/Y: <input type="checkbox"/> Mobile <input type="checkbox"/> Regular |
| <input type="checkbox"/> Passport | <input type="checkbox"/> Dr. license | <input type="checkbox"/> Other (specify) | <input type="checkbox"/> Passport <input type="checkbox"/> Dr. license <input type="checkbox"/> Other (specify) |
| Document #: | | Document #: | |
| Total Number of Flocks in Vehicle: _____ (If vehicle is a motor vehicle, please provide the following information) | | | |
| Vehicle Information: Make _____ Model _____ Year _____ | | | |
| Color/Caliber: _____ | | | |
| Receipt Provided to Owner: Yes/No | | | |
| Owner: _____ | | | |
| Where Found: _____ | | | |
| Name of Suspect: _____ | | | |
| Signature: _____ | | | |
| Unit Phone: _____ | | | |

(b)(7)(C)

ENCLOSURE (2)

SWORN STATEMENT

For use with this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

| | | | |
|--|----------------------------------|------------------------------|------------------------------|
| 1. LOCATION Husaybah, IZ | 2. DATE (YYYYMMDD) 2004/04/17 | 3. TIME 1000 | 4. FILE NUMBER [REDACTED] |
| 5. LAST NAME FIRST NAME MIDDLE NAME (b)(7)(C) | 6. SSN (b)(6) | 7. GRADE/STATUS (b)(7)(C) | |
| 8. ORGANIZATION OR ADDRESS USMC (b)(7)(C) | | | |

I, (b)(7)(C), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
ON 17 APRIL 2004 AT 1000 AT GRID ^{FU} 8347 0797 I DETAINED/WITNESSED THE
DETAINMENT OF _____ FOR THE FOLLOWING OFFENSES/

REASONS: THIS SUSPECT WAS DETAINED SHORTLY AFTER A FIREFIGHT BETWEEN MARINE FORCES AND MUJAHIDEEN INSURGENTS NEAR THE BA'ATH PARTY HEADQUARTERS IN HUSAYBAH. HE WAS DISCOVERED WITH IRREALISTIC BLOOD ON HIS HANDS KNOWN TO BE A HARBOR OF MUJAHIDEEN WAGING JIHAD. HE WAS FOUND MOVING AWAY FROM A BUILDING CONTAINING MULTIPLE RPG ROCKETS, FOUR RPG LAUNCHERS, RPK MACHINE GUNS AND AK-47S.

| | | |
|-------------|--|-------------------|
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT (b)(7)(C) | PAGE 1 OF 2 PAGES |
|-------------|--|-------------------|

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT _____ TAKEN AT _____ DATED _____"
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

ENCLOSURE (3)

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (CONTINUED)

AFFIDAVIT

I, **(b)(7)(C)**, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE _____. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(b)(7)(C)

WITNESSES:

Subscribed and sworn before me, a person authorized by law to administer oaths, this _____ day of _____,

at _____

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

ENCLOSURE (3)

SWORN STATEMENT

For use with this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

| | | | |
|---|--|------------------------------|------------------------------|
| 1. LOCATION Husaybah, IZ | 2. DATE (YYYYMMDD) 2004/04/17 | 3. TIME 1000 | 4. FILE NUMBER [REDACTED] |
| 5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(7)(C) | 6. SSN (b)(6) | 7. GRADE/STATUS (b)(7)(C) | |
| 8. ORGANIZATION OR ADDRESS USMC (b)(7)(C) | | | |
| 9. I, (b)(7)(C), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH: ON 17, APRIL 2004 AT 1000 AT GRID FU 8347 0797 I DETAINED/WITNESSED THE DETAINMENT OF _____ FOR THE FOLLOWING OFFENSES/ REASONS: SUSPECT WAS DETAINED WALKING DOWN MARKET ST. SHORTLY AFTER A FIRE FIGHT. WE DETAINED HIM BECAUSE THE WHOLE CITY WAS PRETTY MUCH IN THEIR HOMES AND HE WAS OUT - HE WAS WEARING ALL BLACK WITH A RED TURBAN AND BLOOD ON HIS HANDS. HE HAD FACIAL FEATURES THAT DIDN'T LOOK IRAQI AND HAD NO ID. | | | |
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT (b)(7)(C) | | PAGE 1 OF 2 PAGES |
| ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT _____ TAKEN AT _____ DATED _____" THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED. | | | |

ENCLOSURE (4)

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (CONTINUED)

AFFIDAVIT

I, (b)(7)(C), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE _____. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(b)(7)(C)

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn before me, a person authorized by law to administer oaths, this _____ day of _____,

at _____

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

ENCLOSURE (4)

19 Apr 2004

To: (b)(7)(C) BN Commader
From: (b)(7)(C) BN Medical Officer
Subj: Statement of Death of Detainee

1. At 0645, after examination, I declared a detainee dead.

I was awoken at 0630 and notified that a detainee had "died" 3 hours ago. This was a detainee that was called to my attention yesterday evening. This detainee had tried to escape several hours earlier in the day and jumped out of a one-story window. I sent (b)(7)(C) to examine him. He returned reporting that he had a number of superficial lacerations on his face and scalp and had no life threatening injuries.

The detainee was called to my attention again at around 0010 this morning. (b)(7)(C) described the same injuries as before but stated that he was concerned because his face was "full of blood." At that time I went to HET to do my own examination. On examination the patient was alert, breathing, talking within a good pulse. I had no interpreter so I could not ascertain if his speaking was coherent. He had a one-inch laceration at the top of his scalp, a one inch laceration below his right eye, a .5 inch laceration on his forehead and a small cut along his left eyebrow. There was good control of bleeding of every wound. His nose appeared broken and his pupils were reactive to light. A cursory head-to-toe examination did not reveal any other significant injuries. At that time I gave my good-to-go and returned to the CP.

At 0645, after declaration of death, another head-to-toe examination was conducted. No changes were observed compared to my previous examination except for a squashed nose caused by his face lying down on the floor facedown for the past three hours.

Based on the history and physical examination, my best educated guess is that he died of brain hemorrhage caused by his fall out of the window. To specifically determine his cause of death would require a timely autopsy performed by a forensic pathologist.

Very Respectfully,

(b)(7)(C)

Battalion Medical Officer

ENCLOSURE (5)

TO: Higher Authority (b)(7)(C)

From: (b)(7)(C) (b)(6)

Subj: condition of detainee 132 before his death

Approximately 1500 on the 19 of April, the Medical Officer (b)(7)(C) informed me that there was some concern as to the conditions of several detainees and that I should go check them out. At about 1730 to 1800 I arrived at the detainee facility and began my assessment of the prisoners. All of them were in fair health and had swelling of the feet due to constant standing. Detainee 132 was tied to the iron window frame with 550 cords and like the rest had a sand bag over his head for a blinder. He was squatting and mumbling something some thing about "You are not my brothers, my duty is to die." This translation was received from one of the other detainees who spoke some English. Detainee 132 was in fair condition and responded to physical motions of the body, i.e. lifting him up caused him to attempt to stand and when lifting pressure was removed he returned to the squatting position. My exam was minimal looking for life threatening injuries only. He had minor scrapes on his body and swollen feet and hands. He responded to sound and basic direction. His blinder was not lifted, and I found no life threatening injuries on him.

(b)(7)(C)

ENCLOSURE (6)

WITNESS'S STATEMENT

(b)(7)(C) (b)(7)(C) (b)(6)
Name Rank/Rate Social Security Number
(b)(7)(C) 1st Marine Division
Command Division

I came on watch at 1900 on the 18th of April 2004. The detainee had been put back outside because he was trying to untie his restraints. Around 1930-2000 (b)(7)(C) came by and told me to put the detainee back inside after the doc finished cleaning him up. I was informed that the detainee had already gotten his hands free and had jumped out of the window. This occurred about 1800-1900. After the detainee was inside he worked his way out of at least 4 sets of restraints. One of these times he got totally free and started moving towards the door but was intercepted by (b)(7)(C) who restrained him. At about 0230 HET came by with two (2) more detainees and also talked to the detainee for no more than five (5) minutes. Shortly after the HET left I was watching the detainee. He was breathing really hard and took in about 10 deep breaths. After he quit breathing hard I walked over to him and just as I got there he took one (1) more breath in and then collapsed. This took place no later than 0240.

I swear (or affirm) that the information in the statement above is true to the best of my knowledge or belief.

(b)(7)(C)
(Members Signature)

040506
(Date)

0006
(Time)

(Witness' Signature)

(Date)

(Time)

Sworn to me before this date.

(Investigator's Signature)

(Date)

(Time)

ENCLOSURE (7)

(b)(7)(C)

(b)(6)

I came on watch at 1900 on the 14th of April. The Detainee had been put back outside because he was trying to untie his restraints. Around 1930-2000 (b)(7)(C) came by and told me to put the detainee back inside after the DOC cleaned him up. I was informed that the detainee had already gotten his hands free and had jumped out of the window this occurred at about 1800-1900. After the detainee was inside he worked his way out of at least 4 sets of restraints, one of these times he got totally free and started moving towards the door but was intercepted by (b)(7)(C) who put him back in his restraints. About 0230 HET came by with two (2) more detainees and also talked to the detainee for no more than five (5) minutes. Shortly after the HET left I was watching the detainee. He was breathing very hard and took in about ten (10) deep breaths. After he quit breathing hard I walked over to him and just as I got there he took one more breath in, and then collapsed. This took place at no later than 0240.

(b)(7)(C)

ENCLOSURE (7)

(b)(7)(C)

On the 17th of April at 1300 I took over detainee watch. I was briefed by a member of Het Pit about the detainee we had apprehended. The detainee was tied to a window frame, and was instructed to pour water on the detainee every two hours or so to keep him awake. On the 18th of April at 1400 I found that someone had brought the detainee inside. Around that time the detainee had broke free from his hand restraints. So being I was the NCOIC I decided to tie him back up outside. Around 1800-1900 the detainee broke free once again broke free, myself & another marine ran toward him that's when he dove through the window and basted his head on the floor. We then restrained him to another window this was around 2130. I wasn't there to see him die but this is all the information that I know about this detainee

ENCLOSURE (8)

WITNESS'S STATEMENT

(b)(7)(C) (b)(7)(C) _____
Name Rank/Rate Social Security Number
(b)(7)(C) _____ 1st Marine Division
Command Division

On the start off shift the detainee was given water and was fed by myself and (b)(7)(C) (b)(7)(C) and then we allowed him to sit at about 0900. The detainee was in good health. At about 1830 the detainee got his hands and feet free. (b)(7)(C) started walking toward the detainee. Then the detainee jumped through the window hitting his head and face. At 1900 (b)(7)(C) cleaned him up and looked at the detainee and said he was good. The detainee got free three (3) times and then we moved him inside with his back to the window and his hands tied apart. HET showed up at 0230 saw the detainee and then left. At 0240 the detainee went limp and I had (b)(7)(C) go get the Doc. The Doc showed up and said the detainee was gone.

I swear (or affirm) that the information in the statement above is true to the best of my knowledge or belief.

(b)(7)(C) _____ 040506 0006
(Witness's Signature) (Date) (Time)

(Witness' Signature) (Date) (Time)

Sworn to me before this date.

(Investigator's Signature) (Date) (Time)

ENCLOSURE (9)

(b)(7)(C)

(b)(6)

On start off shift detainee was watered & feed by (b)(7)(C) & (b)(7)(C) and allowed to sit about 0900. The detainee good health. About 1830 detainee got his hands & feet free (b)(7)(C) started walking over detainee jumped through window hitting head & face. 1900 (b)(7)(C) cleaned up and looked detainee said he's good. Detainee got free 3 times we moved him inside with back to window hands tied apart. HET showed up at 0230 seen detainee left 0240 detainee went limp had (b)(7)(C) get doc. Doc showed up said detainee was gone.

(b)(7)(C)

ENCLOSURE (9)

MEMORANDUM FOR THE RECORD

(b)(7)(C)

MFR (b)(7)(C) -0006-04
19 APRIL 2004

FROM: (b)(7)(C)
TO: COMMANDING OFFICER, (b)(7)(C)

SUB: SWORN STATEMENT ON DETAINEE AWAYED WANAS JABAR ((AL-JARAIYE))

1. DETAINEE WAS DELIVERED TO FOB HUSAYBAH ON 17 APRIL 2004 AROUND 1330 BY (b)(7)(C) QUICK REACTION FORCE (QRF). ACCORDING TO THE CORPORAL OF THE GUARD (COG, NAME UNKNOWN), QRF WAS DISPATCHED TO PICK UP TWO DETAINEES FROM AN UNKNOWN UNIT FROM (b)(7)(C). COG THOUGHT THE CAPTURING UNIT WAS KILO COMPANY BUT HE COULD NOT BE SURE. REPORTING OFFICER, RO, (b)(7)(C) ESCORTED THE TWO DETAINEES TO THE HOLDING FACILITY ABOARD FOB HUSAYBAH AND PUT THEM IN SEPARATE ROOMS PENDING DEBRIEFING. RO NOTICED BOTH DETAINEES APPEARED TO HAVE BEEN ROUGHED UP BY THE APPEARANCE OF THEIR CLOTHES BEING TORN AND BRUISES AND MINOR SCRATCHES. RO LEFT FACILITY WITH INSTRUCTING THE MARINE GUARDS NOT TO LET ANY DETAINEE SPEAK TO ANOTHER (b)(7)(E) (b)(7)(E).
2. APPROXIMATELY 1430, RO RETURNED WITH INTERPRETER (b)(7)(E) (b)(7)(E). THE SUBSEQUENT SEARCH PRODUCED A WALLET WITH NO IDENTIFICATION, A SMALL PHONE BOOK, AND 550 IRAQI DINAR. THE DETAINEE'S HANDS WERE BLACK FOR NO KNOWN REASON. THE DETAINEE ALSO HAD AN ELASTIC STRING, WITH A SMALL PLASTIC PRAYER BEAD SEWN TO IT, WRAPPED AROUND HIS WAIST (RO COMMENT: THE DETAINEE WAS SHOWN TO TWO OTHER DETAINEES WHO DESCRIBED THE BEAD AS A GOOD LUCK CHARM FOR SOMEONE WHO IS EXPECTING TO MARTYR THEMSELVES. THE OTHER DETAINEES FURTHER STATED THE DYED HANDS WERE DONE AT A MOSQUE AS A PRAYER RITUAL TO HELP A FIGHTER FIGHT WELL AND SHOOT A WEAPON STRAIGHT).
3. (b)(7)(E) DETENTION. DETAINEE STATED OVER AND OVER AGAIN, "I SWEAR TO GOD, I AM A SHEEP HERDER FROM THE DESERT. I DON'T KNOW ANYTHING." RO EXPLAINED DETAINEE WAS NOT BEING ACCUSED OF ANYTHING AND THE DETAINEE FINALLY STATED HE WAS FROM BA'AGE WHICH WAS APPROXIMATELY FOUR HOURS AWAY. DETAINEE STATED HE LEFT HIS HOME AROUND 0900 AND DROVE FOUR HOURS, ARRIVING AT 1000 IN HUSAYBAH. RO ATTEMPTED TO CLARIFY THE DISCREPANCY BUT DETAINEE WOULD NOT CHANGE HIS STORY. HE STATED HE CAME TO HUSAYBAH FOR SUGAR AND FLOUR. RO ASKED WHO HE CAME TO HUSAYBAH WITH AND DETAINEE REPLIED HE RENTED A CAR. RO ASKED AGAIN AND DETAINEE RESPONDED "I WAS KIDNAPPED TO COME HERE BUT I WILL NOT 'SNITCH' ON THE MEN WHO BROUGHT ME HERE." (b)(7)(E) (b)(7)(C)
4. (b)(7)(E) (b)(7)(E) AT THIS POINT, THE DETAINEE'S Demeanor

ENCLOSURE (10)

CHANGED. HE WENT VERY STILL AND LICKED HIS LIPS AND SMILED. DETAINEE BECAME VERY AGGRESSIVE AND CONTINUED TO SMILE AND SAY "THANK YOU" TO EVERYTHING RO ASKED. RO CONTINUED TO QUESTION DETAINEE BUT HE STOPPED MAKING ANY SENSE WHATSOEVER. DETAINEE THEN STARTED ACTING LIKE HE DID NOT UNDERSTAND THE INTERPRETER AND THAT HE COULD NOT HEAR. RO ASSUMED THE DETAINEE HAD RESISTANCE TO INTERROGATION TRAINING. (b)(7)(E)

(b)(7)(E) RO ASKED AGAIN ABOUT MUJAHEDDEEN BUT DETAINEE SWORE HE KNEW NOTHING. THE DEBRIEF LASTED ONLY APPROXIMATELY 15 MINUTES AND WAS STOPPED WHEN FOB HUSAYBAH STARTED RECEIVING SMALL ARMS FIRE. ALL AVAILABLE PERSONNEL WENT TO THE ROOFS AND TOOK A DEFENSIVE POSTURE. (b)(7)(E)

(b)(7)(E)

GUARDS ASKED FOR SPECIFIC INSTRUCTIONS ON DETAINEES AND RO TOLD THEM TO KEEP THEM SEPARATE, QUIET AND NOT TO HIT THE DETAINEES. RO WAS VERY SPECIFIC ABOUT WARNING ALL GUARD PERSONAL AGAINST STRIKING DETAINEES. RO ENCOURAGED MARINES TO USE LOUD VOICES AND PHYSICALLY ASSISTING DETAINEES TO STAND BUT, AGAIN, WARNED AGAINST INJURING.

5. AROUND APPROXIMATELY 2200, THE DETAINEE CALLED OUT TO RO, WHO WAS CHECKING IN ON DETAINEE WHO WAS SECURED STANDING UP TO A WINDOW FRAME, "PLEASE JUST KILL ME." RO REPLIED, VIA INTERPRETER, THE DETAINEE WAS RO'S FRIEND AND THEY WERE GOING TO SPEND LONG HOURS TALKING ABOUT THINGS. RO LEFT DETAINEE, AND ALTHOUGH HE CHECKED IN ON HIM UNTIL APPROXIMATELY MIDNIGHT, HE DID NOT SPEAK WITH DETAINEE AGAIN. THROUGHOUT THE TIME RO SPOKE WITH DETAINEE, THE DETAINEE CONTINUOUSLY DISPLAYED INTERROGATION RESISTANCE TRAINING. ALONG WITH THE PRAYER BEAD WRAPPED AROUND DETAINEE WHICH IS COMMON FOR ISLAMIC EXTREMIST ABOUT TO COMMIT MARTYRDOM, AND THE DETAINEES HANDS BEING DIED FROM AN ISLAMIC RITUAL PRIOR TO FIGHTING, DETAINEE WAS ASSESSED AS FOREIGN FIGHTER WHOM WAS IN HUSAYBAH, IRAQ PARTICIPATING IN ANTI-COALITION ACTIVITIES.
6. ON 18 APRIL 2004 AT 0800, HET1 CHIEF (b)(7)(C) CHECKED IN ON THE DETAINEES CURRENTLY HELD. (b)(7)(C) INSTRUCTED THE GUARDS TO ENSURE EACH DETAINEE WAS GIVEN WATER AND CHOW. AT 0915 ALL HET1 PERSONNEL AT FOB HUSAYBAH DEPARTED FOR A PATROL WITH (b)(7)(C). (b)(7)(C) HET1 PERSONNEL RETURNED FROM THE PATROL AROUND 2230. AT 0400 ON 19 APRIL 2004 RO WAS INFORMED THE DETAINEE DIED AT THE FACILITY. A MEDICAL CORPSMAN CAME IN TO WHERE HET1 PERSONNEL RESIDE AND ASKED WHAT TO DO WITH THE BODY. HET PERSONNEL RECOMMENDED MOVING THE BODY TO AN APPROPRIATE PLACE. (b)(7)(C) THEN INFORMED THE WATCH OFFICER OF THE DAY WITHIN THE (b)(7)(C) COMBAT OPERATIONS CENTER OF THE DETAINEES FATE.

NO RIGHTS AND WARNING STATEMENT READ.

(b)(7)(C)

(b)(7)(C)

ENCLOSURE (10)



UNITED STATES MARINE CORPS

3D BATTALION, 7TH MARINES
1st MARINE DIVISION (MCD), FMC
UC 41576
PFC AP 06420-1576

IN REPLY REFER TO:
5800
s3
19 Apr 04

From: (b)(7)(C)
To: Commanding Officer

Subj: STATEMENT CONCERNING THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

1. Having been informed of my rights under Article 31 of the UCMJ, I voluntarily choose to make the following statement:

I spent the entire period from 132300DAPR04 until 221000DAPR04. On 14 Apr (b)(7)(C) toured Camp Husaybah to include the holding area that (b)(7)(C) established to conduct field interrogations and to hold detained personnel until they could be transported to the detainee facility at Camp Al Qa'im. On 14 Apr there were detainees in four rooms of the facility. All of the detainees in the north two rooms were made to stand. Some of the detainees in the south two rooms were permitted to sit. (b)(7)(C) inspected the log of visitors to the holding area and made comments to the guard about the importance of being able to document the timing and frequency of interviews conducted by the Human Intelligence Exploitation Team (HET). He then toured the holding area, stopping at each detainee to inspect their physical appearance, and assess their well-being. The area was well policed and not crowded. We departed after about 20 minutes.

The next time that I returned to the holding area was the morning of 18 Apr after 24 hours of fighting in which (b)(7)(C) lost five Marines killed in action and about three times that number wounded. (b)(7)(C) signed me into the facility accompanied me during my inspection of the guards and the detainees. The Marines guarding the facility were tired but professional in receiving me for an inspection. They had responded to what appeared to be imminent attacks on Camp Husaybah several times on 17 Apr. The holding area was crowded compared to my previous visit. Several known and suspected Mujahedin fighters were captured on 17 Apr and brought to the holding area while the battalion continued to conduct combat operations. All of the detainees were cuffed with plastic flex-cuffs or 550 cord and were made to stand, and all but one was blindfolded. Some of the detainees showed signs of fighting on the previous day. These consisted of minor cuts, scratches, and

ENCLOSURE (11)

Subject: STATEMENT CONCERNING THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

bruises. All but one detainee was quiet and compliant to the orders of the guards, who did not harass or attempt to intimidate the detainees during my inspection. I asked (b)(7)(C) (b)(7)(C) to remove the blindfolds of several detainees to inspect them for injuries, which he did, revealing the cuts, scratches, and bruises noted above.

Detainee 132 was conspicuous among the group because he sat outside of the facility with his hands tied to the window frame by 550 cord. He rocked back and forth while mumbling to himself and constantly attempted to untie his bonds. I noticed a one-inch to two-inch cut on the top of his head that attracted a large number of flies. The guard stated that detainee 132 would not allow anyone to treat the wound and that he would not stop trying to untie his bonds. As a result of this activity, his bonds needed to be continually re-tightened. I directed that a corpsman and the battalion surgeon on hand inspect 132 and clean his wound. He refused this medical treatment, but medical personnel were able to determine that 132 had no major injuries.

I conducted a subsequent inspection of the holding area later in the evening of 18 Apr. During this inspection I noticed that 132 looked much worse with what appeared to be a broken nose, swollen eyebrows, and cuts on his face. He was now sitting inside and his wrists were bound to a window frame with engineer tape, which he again constantly tried to remove. When asked how he became so beat up, the guard related the circumstances surrounding 132's attempted escape. 132 was reported to have escaped from his bonds and attempted to leave the facility through a window. He fell from the window and landed on his face on the concrete sidewalk surrounding the building. Given 132's actions each time that I saw him this seemed entirely feasible. He always appeared too weak to be able to run or jump and wavered on his feet. This did not stop the constant wriggling and attempts to free his hands and feet. Excessive force was not necessary to control 132 as the guards turned him around several times so that I could observe him and he moved where they directed him.

After my inspection I visited the battalion surgeon attached to (b)(7)(C) and directed him to examine 132 immediately due to the broken nose and swollen brow. After the examination, (b)(7)(C) reported that none of 132's injuries were life threatening and that he would be fine until he could be transported to Camp Al Qa'im on 19 Apr.

At approximately 0530 on 19 Apr the watch officer awakened me to report that 132 died at about 0330. I woke the surgeon and directed him to examine the corpse. I also woke (b)(7)(C) and directed him to begin a preliminary inquiry into the events surrounding 132's death. Both officers departed for the holding

Subject: STATEMENT CONCERNING THE DEATH OF AWAYED WANAS JABAR,
DETAINEE 132 ON 19 APRIL 2004

area at 0630. (b)(7)(C) reported that 132 probably died from a brain hemorrhage caused by the impact with the sidewalk that could not have been diagnosed without a CT scan. 132's body was placed in a body bag and moved to the Company Aid Station until the Combined Anti-Armor Team delivered it to the ICDC.

During the period of 132's detention and death (b)(7)(C) and the rest of (b)(7)(C) fought a 48-hour battle in the city of Husaybah. Camp Husaybah itself was directly threatened on 17 Apr. The number of detainees in the holding area doubled at the same time that the number of available guards decreased due to the requirements of combat operations. Despite this, the detainees were protected from direct and indirect fire, received food and water every day, were escorted to the head and given adequate time to use it, and, based on my three inspections of the facility, were treated extremely gently by the guards and the HET. As soon as the main body of the company returned to Camp Husaybah on 19 Apr the Company XO arranged the transfer of detainees to Camp Al Qa'im and cleared the area of the detritus of two days of combat operations.

2. Contact information for the (b)(7)(C)
follows: (b)(3)

(b)(3)

(b)(7)(C)