

The New York Times

G.I. Crime Photos May Be Evidence

August 5, 2006

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On March 13, a group of American soldiers sitting at a checkpoint south of Baghdad were asked to look into a horrible crime: a 14-year-old Iraqi girl had been raped, then killed along with her family in their house nearby in Mahmudiya.

The soldiers knew the house. They had been there only the day before, military prosecutors now say, committing the crime.

Those soldiers, along with others from their checkpoint, walked over and took detailed forensic photographs of the charred and bullet-riddled bodies, as if it were a routine investigation of an insurgent attack, according to a defense official who spoke on condition of anonymity.

Now, those photographs are likely to serve as evidence in the military's prosecution of the case, which opens a new chapter tomorrow when an Article 32 hearing, the rough equivalent of a grand jury proceeding, begins in Baghdad for five soldiers accused in the crime.

The case, which was first widely reported in June, raised alarm about the military's conduct, infuriating Iraqis and setting off a public bout of shame and soul-searching for the American command. And as details trickle out, a troubling picture is emerging of an Army unit numbed by months of extreme combat stress and left at one of the deadliest security checkpoints in Iraq without experienced leaders — a point that will be central in building a legal defense, lawyers in the case say.

Many questions persist about the crime in Mahmudiya. Prosecutors initially said that only two of the accused soldiers had raped the girl, and that Steven D. Green, a private who was discharged in May after a psychiatric evaluation, was the ringleader. It now appears that at least three soldiers, including Mr. Green, raped her, according to a legal memo filed by a military magistrate. Prosecutors now believe the other two soldiers raped her first and later set fire to her dead body, two lawyers involved in the case said.

At the time, the men's squad leader and the overseeing platoon commander — both highly respected leaders — were on leave, said a sergeant in the same company as the men. He provided some details through e-mail on condition of anonymity.

"I know none of that would have happened if he was around," the sergeant said of the squad leader. At least one staff sergeant in the unit repeatedly complained that checkpoints were under-manned, said David P. Sheldon and Capt. James D. Culp, lawyers who represent Specialist James P. Barker, one of the accused men. He and Pfc. Jesse V. Spielman, Pfc. Bryan L. Howard and Sgt. Paul E. Cortez have been accused of rape, murder and arson. The fifth soldier in the hearing, Sgt. Anthony W. Yribe, is accused of dereliction of duty for not reporting the crime, but he is not thought to have been at the house. Mr. Green is being tried in civilian criminal court.

Even relatives back home knew the men were stretched. Pfc. Shane Hoeck, a soldier in the unit, shared his worries with his brother Cody, 16, in frequent e-mail messages.

"They lost so many guys they don't have enough manpower to cover things," Cody Hoeck said in a telephone interview.

<http://www.nytimes.com/2006/08/05/world/middleeast/05abuse.html?ref=world&pagewanted...>
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The military is still trying to determine whether the rape and killings in March have any connection to the torture and murder of three soldiers from the same platoon in June. Insurgents posted a video on the Internet last month showing images of two soldiers who had been kidnapped and castrated, one of them headless, and called it revenge for the rape.

In both episodes, soldiers appear to have been left on their own in violation of standard military procedures — a act that has led to an investigation into possible lapses of supervision in the broader company that the men's platoon is part of: Company B of the First Battalion, 502nd Infantry, with the 101st Airborne Division.

The men's unit had already gained a reputation as the "hard luck platoon" among the soldiers stationed in the area around Mahmudiya, one of the most violent towns at the heart of the Sunni Arab insurgency.

"You have to understand, the civilians here do not like us," the sergeant said. "They had a good life before we came here. It is 100-percent Sunni. They all work against us even when they act like our best friends."

Specialist Barker's lawyers have made it clear that they will argue that commanders had exacerbated an already stressful environment by stationing him, and other soldiers, at the same dangerous checkpoint for weeks at a time.

In February, soldiers were ordered to spend up to 30 days at a time at the checkpoint — eating and sleeping there — instead of the routine three- to five-day rotation, several lawyers familiar with the case said.

At the same time, the commander of Company B, Capt. John Goodwin, was on the verge of nervous collapse and was sent to Baghdad for several days of "environmental recuperation," Mr. Sheldon said.

The checkpoints south of Baghdad are deadly, and the one the accused men were at was among the worst.

On Dec. 10, about three months before the rape, an Iraqi man in civilian clothing walked up to it, greeting and shaking hands with one of the soldiers on duty, according to relatives and lawyers of men in the unit. The Iraqi then raised a pistol and shot two sergeants in the head, fatally wounding them. Seconds later, Private Spielman shot and killed the attacker. Mr. Green, who was also at the scene, threw one of the wounded sergeants onto the hood of a Humvee and struggled to keep him alive during a frantic ride to the base.

All told, between September and June, at least 17 members of the battalion were killed, 8 of them from Company B, and dozens were seriously wounded. In February, morale took another hit when a fire broke out in the abandoned factory being used as makeshift barracks. No one was injured, but the fire destroyed most soldiers' personal items, including clothes, toiletries, journals, music players and family photographs.

"We thought, 'What else can go wrong?' " Captain Goodwin told the military publication Stars and Stripes after the fire. "But then I thought, 'I don't really want to ask that question.' "

The battalion commander, Lt. Col. Thomas Kunk, concerned about battle fatigue, stress and the resiliency of his men, began sending soldiers home in December for several weeks of leave. Even Colonel Kunk, 48-year-old decorated combat leader, was beginning to feel the weight of the losses. He recently admitted to his brother, Peter, that the last 10 months had been his hardest tour in Iraq, Peter Kunk said.

Such stresses have become a common feature of the war in Iraq. Still, cases where soldiers have been suspected of snapping under the pressure have been extremely rare.

Alcohol may also have been a factor in the Mahmudiya rape and killings. According to the charging documents, on the day of the crime, at least some of the accused soldiers were drinking at their checkpoint before they went to the house.

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While military rules prohibit the use of alcohol on base, and certainly in combat, soldiers can easily obtain it in Iraq, either through disguised packages from abroad (often plastic bottles of mouthwash), civilians who visit bases or Iraqis.

Last year an Army private was shot and killed by a fellow soldier in Iraq, and witnesses in that case have said the shooting was preceded by an evening of heavy drinking. The most recent Pentagon survey, in 2002, found that after years of decline, alcohol abuse was on the rise.

“The military is very much aware that they have an alcohol problem,” said Dr. Genevieve Ames, a senior research scientist at the Pacific Institute for Research and Evaluation whose work has been financed by the Defense Department.

Whatever the outcome of the coming hearings for the accused soldiers, the Iraqi outrage at the Mahmudiya case and other recent accusations of abuses has become a political problem for the Pentagon. Prosecutors are expected to highlight that problem, calling Iraqi witnesses to show the crime’s effect on the town. Several Iraqis are scheduled to testify at the hearing, and military officials have ordered that those portions be closed to the public, citing the Iraqis’ concern that any publicity would endanger them.

Specialist Barker’s lawyers have filed a motion contesting that decision. They have also accused government investigators of forcing a misleading confession from him.

If the Article 32 hearing proceeds to courts-martial, as expected, the trial would most likely be held at Fort Campbell, Ky. The misconduct cases are rarely discussed among family and friends who are awaiting the return of the soldiers, due home as early as September.