

Chapter 1

Introduction

Background to the inquiry

1.1 Toward the end of April 2004, reports began to emerge worldwide about the mistreatment of Iraqi detainees by US personnel. During the first week of May, the publication of graphic photographs purporting to show the abuse of prisoners gave substance to the reports as did media accounts of mistreatment drawn largely from a leaked Pentagon report by Major General Antonio Taguba.¹ The photographs and the leaked report indicated that systematic and illegal abuse of Iraqi detainees had occurred between October and December 2003 including numerous instances of 'sadistic, blatant, and wanton criminal abuses'.²

1.2 On 7 May 2004, Amnesty International issued a statement that it had 'presented consistent allegations of brutality and cruelty by US agents against detainees at the highest levels of the US Government, including the White House, the Department of Defense, and the State Department for the past two years'.³ At about the same time, it became widely known that the International Committee of the Red Cross (ICRC) had been investigating the detainment of Iraqi prisoners and had complained in a report to US authorities about their ill-treatment. Such reports generated much speculation about US authorities and their awareness of, and response to, the allegations.

1.3 In Australia similar questions were being raised about whether government officials had known of the allegations and, if so, what actions had been taken.⁴ On 11 May 2004, the Minister for Defence told the Senate that the Department of Defence had become aware of:

- allegations of abuse about 20 or 21 January 2004 through a CNN Report that made reference to an investigation being carried out by the Pentagon;
- the ICRC report on detainment practices in Iraq in February 2004; and
- the photographs of prisoners when they were made public in late April/early May 2004.⁵

1 See for example, *Sydney Morning Herald*, 1 May 2004, p. 17, 3 May 2004, p. 8; *The Australian*, 3 May 2004, p. 11, the *New Yorker*, 4 May 2004, p. 1A and 10 May 2004.

2 See for example, Amnesty International Australia, Media release, 7–8 May 2004; *CQ Weekly*, 8 May 2004, pp. 1060–1066; the *New Yorker*, 4 May and 9 May 2004.

3 Amnesty International Australia, Media Release, 7–8 May 2004.

4 *Courier Mail*, 11 May 2004, p. 1; Transcript, *AM*, 11 May 2004.

5 Questions without notice, Senate *Hansard*, 11 May 2004, p. 22767.

1.4 On 27 May 2004, however, the Australian media carried reports that an Australian military officer stationed in Baghdad, Major George O'Kane, had been aware of allegations of prisoner abuse as early as October 2003 and that he had passed on details to Australian officials in regular reports.⁶ These revelations sparked another round of questions seeking clarification about who knew about the allegations of mistreatment of Iraqi prisoners, when they knew and whether they reported them.

1.5 The Senate Foreign Affairs, Defence and Trade Legislation Committee devoted much of its examination during the budget estimates hearings in May 2004 to the matter of the duties of Australian personnel in Iraq particularly with regard to the treatment of Iraqi detainees.

1.6 Since then, the matter of the treatment of Iraqi prisoners has not been far from public notice and one likely to ignite lively public debate. Indeed, on 14 February 2005, the matter once again became headline news when Mr Rod Barton, an Australian senior specialist advisor to the head of the Iraqi Survey Group, stated on national television that he had interrogated Iraqi detainees. This assertion appeared to contradict a statement by the Minister for Defence that Australians did not interrogate prisoners.⁷ He also expressed concern about the objectivity of the work he was engaged to do in Iraq with the Iraq Survey Group (ISG) that was to report on WMDs in Iraq.

1.7 The Senate Foreign Affairs, Defence and Trade Legislation Committee examined the matters raised by Mr Barton during its public hearings on additional estimates on 16 and 17 February 2005. Detailed questions were put to Defence and the Minister about the work of the ISG and the duties of Australians working with this group, the various meetings that officials had with Mr Barton on his return to Australia and the survey conducted by Defence of personnel who had information about the treatment of Iraqi detainees.

Establishment of the inquiry

1.8 To pursue the matter further, the Senate, on 8 March 2005, referred the following matters to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 21 June 2005:

- (a) whether any Australian personnel (including employees, contractors and consultants) were present, or had duties which included being present, during any interrogations or interviews (however defined) of persons detained in relation to the war in Iraq, and in particular those persons suspected of having knowledge of Iraq's weapons of mass destruction;

6 See for example, *Sydney Morning Herald*, 27 May 2004, pp. 1 and 7; Transcript, 7:30 report, 27 May 2004 and Transcript, *Lateline*, 27 May 2004; Transcript, *PM*, 27 May 2004.

7 Question without notice (speech): Iraq: treatment of Prisoners, Senate *Hansard*, 16 June 2004, p. 23939.

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- (b) whether any knowledge of, or concerns regarding, the treatment of those Iraqi detainees was provided to Australian Government departments, agencies and ministers, and what actions resulted from the provision of this information;
 - (c) whether the Iraq Survey Group (ISG) were able to report frankly and fearlessly on what they had found, or whether attempts were made to censor or otherwise distort their findings; and
 - (d) whether any Australian personnel provided information or concerns to any part of the Australian Government relating to concerns about the functions or reports of the ISG, and what actions resulted from the provision of this information.

On 21 June 2005, the Senate granted an extension to the inquiry's reporting date to 9 August and then on that day granted a further extension to 18 August 2005.

Conduct of the inquiry

1.9 The committee advertised the inquiry in the *Canberra Times* on 12 March, in *The Australian* on 16 and 30 March 2005 and on its website. It took evidence from Mr Rod Barton at a public hearing on 29 March in Parliament House, Canberra. The transcript of evidence is available on the web site.

Structure of the report

1.10 The report comprises four chapters—an introduction and three chapters that directly address the terms of reference.

Acknowledgment

1.11 The committee is grateful to, and wishes to thank, all those who assisted with its inquiry.

