NEWSLETTER

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Forensics and Warrant-Based Targeting

Tactics, Techniques, and Procedures

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Foreword

In January 2009 the Army's authority to unilaterally apprehend and detain insurgents in Iraq expired. The Army now operates in Iraq at the invitation of the Government of Iraq (GOI). The change in the Army's authority heightens the guiding principle of working by, with, and through the Iraqi Security Forces (ISF). The Army must work within the Iraqi rule of law when dealing with insurgents who threaten U.S. forces.

It requires the Army to work with the ISF and the Iraqi court system to remove insurgents from the street. The Army must learn how the Iraqi system is structured and how its courts operate. The Army must also help educate the Iraqi courts, particularly the judges, on the science of how Americans collect and process evidence (forensics). Educating the judges on forensics is important to the Army having its day in court and its evidence entered into the proceeding against the insurgents.

The intent of this newsletter is to assist Soldiers, leaders, and commanders in understanding the key aspects of the new landscape as follows:

- Iraqi judges are the law within the Iraqi court system. Commanders must build relationships and trust with the Iraqi judges. Commanders must also help educate judges on internationally accepted techniques used in building a case for prosecution, especially with forensic evidence.
- Commanders and staff judge advocates must actively seek the help of Iraqi local officials to learn how local systems operate because every province and district is unique.
- Soldiers and leaders must be trained in the proper collection and processing of evidence, crime scene documentation, and the identification and handling of witness statements.
- Leaders must understand the local warrant system since the first step in the Iraqi court system is to obtain a warrant issued by an Iraqi judge.
- Commanders that task-organize assets for evidence- or warrant-based targeting will be most successful. Prosecution task forces are also an important tool.
- Advice and practical lessons from subject matter experts in the institutional base and from the forces operating in theater are provided in this newsletter.

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Introduction

When U.S. forces first entered into operations in the Iraqi theater, the coalition operated under a sequential series of United Nations Security Council Resolution (UNSCR) mandates and at the invitation of the Iraqi government. Coalition forces had unilateral authorization to detain any person posing a threat to U.S. forces or to the Iraqi population. The last mandate, UNSCR 1790, expired at the end of December 2008. Prior to the expiration of UNSCR 1790, U.S. forces began a gradual transition to operations by, with, and through the Iraqis and their security forces. On 1 January 2009, a bilateral security agreement between the United States and the Government of the Iraq was implemented.

The coalition currently operates at the invitation of and under the rule of law of the Iraqi government. U.S. forces must adhere to Iraqi laws and the security agreement provisions before arresting or detaining anyone posing a threat in Iraq. The coalition's responsibility is to follow the rules of the Iraqi criminal courts and judges to detain criminals and insurgents.

A significant change to daily operations is the coalition cannot detain persons based on the perception of a threat. Before the security agreement, the coalition detained suspects based on its intelligence assessment of whether a suspect posed a threat to the coalition.

Now the coalition operates using evidence- or warrant-based targeting. It requires cooperation between U.S. forces, Iraqi Security Forces (ISF), and Iraqi judges in the arrest and conviction of terrorists and criminals.

U.S. forces must continue to use targeting methodology (find, fix, finish, exploit, analyze, and disseminate or F3EAD) to identify and convict insurgents and criminals. The coalition must learn techniques to translate collected intelligence into evidence that is acceptable to the Iraqi courts. Forensics is the primary method used by the coalition to develop evidence gathered at the crime scene. Using forensics is new to the Iraqi courts, which traditionally rely on eyewitness testimony as a means of conviction. It is the duty of U.S. forces to educate and to inform their Iraqi partners on the forensics process.

In this newsletter, the reader is introduced to the background and use of forensics in the first two sections, Forensics Background and Battlefield Forensics. The articles in section three, Warrant-Based Targeting, provide a brief education on the Iraqi legal process and how coalition forces are adapting to working within the Iraqi system. This section includes discussions on how units and commanders develop solutions to partner with the ISF to obtain warrants to arrest and detain insurgents. Several examples are provided to demonstrate how commanders work with Iraqi judges, a critical factor in building confidence in the capability to work within the courts. The final section, Evidence Collection, highlights the importance of proper evidence collection and processing. This section offers techniques for conducting searches and evidence handling to minimize the risk of contamination. It also compares the difference between physical and testimonial evidence.

Forensics Background

FORENSICS: From Its Esoteric History To The Streets Of Baghdad

By Mrs. Pamela M. Collins

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> *Before 11 September 2001 and our military involvement in Iraq and Afghanistan, crime scenes and evidence processing were phenomena that most of us only observed on television or in the movies. However, the events of that fateful day piqued our morbid curiosity and, like voyeurs slowly driving past a car accident to observe the carnage, we were enthralled by the human depravity and questionable moral character of the revealed criminal. We were even more fascinated and impressed by the scientific applications used to answer the questions of who, what, where, why, and how.*

Our nation has been exposed to the captivating world of forensics through television shows such as *CSI: Crime Scene Investigation, Forensic Files,* and *Court TV.* We have learned how simple items such as cigarette butts and tire tracks can be used to identify a criminal; place him at the scene of a crime; and in some cases, prove his intent. As Soldiers, though, we didn't expect to be called upon to collect "evidence" at a "crime scene." But as we move through villages, clearing homes in an attempt to glean the "who, what, where, why, and how" from a group of people with whom we have little in common, we are being asked to recognize and secure what is essentially evidence—evidence that will be used to prosecute the worse kind of criminal: a mass murderer.

So how did we shift from Soldier to detective? The transition came about as a result of technology that allows evidence to become a means of exposing and tracking the enemy. We may not be physically present when an enemy plans and conducts an attack against us, but like the crime scene detective, we can examine events that have occurred and identify the enemy through the exploitation of physical evidence.

Evidence is defined as anything that helps us reveal proof of a fact or discover the truth of a matter, such as the identity of a person and the nature of his actions. Fortunately for us, wherever people go, they leave traces of themselves and take traces of their surroundings with them. As a result, criminals leave clues to their identity at crime scenes. This basic principle is not new; it was formulated by Edmond Locard in 1910 and termed Locard's Exchange Principle. And it was developed on the heels of fingerprint ridge identification and classification, which were used in the late 1800s. It was during this time that pioneers such as Sir Francis Galton and Edward Henry contributed to the development of modern fingerprint identification, which became the linchpin of investigations. All other forms of evidence (blood, hair, fibers, and tire and shoe impressions) were considered "class characteristics." While fibers from a suspect's pants might match the color, texture, and consistency of those found at a scene, such a match could not be used to place the suspect at the scene with certainty. For that, a viable fingerprint was needed. Likewise, although a drop of blood or other bodily fluid could be used to include or exclude a suspect by what was called "ABO blood typing," even bodily fluids could not be used for positive identification—at least not until 1986. It was then that a University of Leicester (England) genetics professor, Sir Alec John Jeffreys, was able to identify a serial rapist/murderer through his deoxyribonucleic acid (DNA) "fingerprint" by examining blood samples from every potential suspect in the surrounding area.1 This type of analysis took almost ten years to catch on in the United States, but has since revolutionized forensic science. The method allows a greater degree of confidence in connecting an individual to a crime scene.

The military has been involved in forensic science even longer than this. Since 1971, when the U.S. Army Criminal Investigation Command (commonly referred to as the "CID") first sent an agent to The George Washington University, Washington, D.C., to earn a master's degree in forensic science and become a fellow of the Armed Forces Institute of Pathology, the Army and its sister services have been an active part of the forensic science community. Today, there are only a handful of forensic science officers and uniformed members of the American Academy of Forensic Science that lack the title of "doctor" in front of their names—a small but eclectic group of self-proclaimed "geeks" of which I am proud to be a member.

In the War on Terrorism, the central criminal courts of Iraq are relying on us to provide the evidence necessary to incarcerate captured terrorists and insurgent personnel who have attacked U.S. and coalition forces. The successful collection of physical evidence may mean the difference between a life sentence and the release of someone who has committed an act of terrorism. Fortunately, it doesn't take years of training and field experience to be able to collect material without contaminating it; common sense and a little forethought are all that are required.

As part of the U.S. Army Training and Doctrine Command Improvised Explosive Device (IED) Defeat Integrated Capabilities Development Team, the U.S. Army Military Police School (USAMPS) has developed a Level I training support package on Evidence Awareness. The training support package is posted on the IED Defeat Training Web site at <*https://www.us.army.mil/suite/page/477426*> and is available to all authorized personnel through the Army Knowledge Online (AKO) (<*http://www.us.army.mil*>) and Battle Command Knowledge System (BCKS) (<*http://usacac.army.mil/CAC/bcks.asp*>) Web sites. Additionally, USAMPS developed a Level II Battlefield Evidence Exploitation Course and mobile training teams began teaching it in the fall of 2008. This course supports and augments training currently conducted by the National Ground Intelligence Center and U.S. Army Intelligence Center. These courses are open to select Soldiers in predeployment status. Deploying commanders are encouraged to have a team of three to five Soldiers complete one of these courses prior to deployment. This training will enable U.S. Soldiers to collect evidence at a greater echelon. Finally, military police Soldiers attending the Maneuver Support Center Noncommissioned Officer Academy at Fort Leonard Wood, Missouri, receive additional blocks of instruction on evidence collection, U.S. Army Criminal Investigation Laboratory and deployable laboratory capabilities, and biometrics.

Mrs. Collins is a senior associate of Booz Allen Hamilton. She supports the U.S. Army Maneuver Support Center Improvised Explosive Device Defeat Integrated Capabilities Development Team, Fort Leonard Wood, Missouri, with forensic, biometric, and police intelligence input and analysis. She also serves as the USAMPS action officer for forensics, biometrics, police intelligence operations, and battlefield forensics. Mrs. Collins is a retired U.S. Army CID agent/forensic science officer. She holds master's degrees in criminology from Jacksonville State University, Alabama; forensic science from The George Washington University; and organizational psychology from St. Joseph's University, Pennsylvania.

Endnote:

1. The dramatic true story of the first murder case solved by genetic "fingerprinting" is presented in *The Blooding* by Joseph Wambaugh, Perigord Press/William Morrow and Company, Inc., New York, 1989.

The Forensic Exploitation Battalion

By Lieutenant Colonel Martin Rowe

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Beginning in 2004, the Multinational Corps–Iraq (MNC-I) established several unrelated, standalone, forensic facilities with limited mission sets. The Combined Explosive Exploitation Cell (CEXC) was the first lab established to conduct technical and limited biometric analyses on all materials related to improvised explosive devices and to develop effective countermeasures based on these analyses. Due to a large number of sniper attacks, a counter-sniper lab was established in December 2006 to positively identify insurgents through fingerprint and ballistic comparisons. U.S. Marines in the Multinational Forces–West area also stood up their own forensic lab, which had fingerprint capability only. Based on the success of these programs, the commander of the MNC-I directed the establishment of a system of joint expeditionary forensic facilities (JEFFs) to conduct forensic analysis on all materials not related to improvised explosive devices. One forensic lab was established to directly support each multinational division (MND), and all labs were placed under the administrative control of a U.S. Army Criminal Investigation Command (USACIDC) (commonly referred to as the "CID") battalion. The counter-sniper lab was redesignated as JEFF 3, and the Marine lab was redesignated as JEFF 2. In March 2008, the 733d Military Police Battalion (CID), also known as the Forensic Exploitation Battalion, was deployed to Iraq to assume command and control of the existing labs and to begin standing up three additional labs in support of the commander's intent.

The 733d Military Police Battalion is a CID asset that normally supervises three to six CID detachments conducting general criminal investigations. The mission of overseeing theater forensic assets is new to the Army and to the CID. Based on the needs of the MNC-I commander, the 733d was released from CID command and assigned directly to the MNC-I headquarters under the Corps Provost Marshal's Office. This marked the first time that a CID asset had been released to another command.

The 733d Military Police Battalion—

- Establishes, commands, and controls all JEFF assets in the theater.
- Implements and operates a police intelligence fusion cell that provides real-time intelligence to combatant commanders.
- Establishes a partnership with and serves as a mentor to Iraqi forensic services and the Iraqi Major Crimes Unit.
- Conducts site exploitation, train-the-trainer courses for coalition forces.
- Serves as the executive agent for MNC-I forensic operations staff.

The primary function of the battalion is to establish, command, and control all theater JEFF assets. The 733d currently has administrative control of five geographically dispersed JEFFs in Iraq. The battalion is responsible for ensuring that theater forensic requirements are transmitted to the U.S. Central Command for validation. Once the validation is complete, the 733d executes the administrative and logistical functions necessary to implement the requirements. This includes oversight of all equipment purchases, transportation, and sustainment. In addition, the

battalion tracks the contracting of civilian lab examiner personnel, ensuring that personnel hired possess the appropriate skill sets.

The involvement of the 733d in this mission also marks the first time a military police organization has conducted police intelligence operations in a theater of operations. The 733d police intelligence fusion cell is designed to complement and enhance existing systems—not to serve as a stand-alone system. The 733d ensures that all intelligence derived from forensic analysis at the labs is fused with existing intelligence regarding the insurgent or event. The result is then fully integrated into existing military intelligence systems and processes and transmitted directly to the battlespace owner in a timely manner so that the commander can maximize the use of the information. This intelligence information may also be used to prosecute insurgents through the Iraqi judicial system.

Since arriving in the theater, the 733d Military Police Battalion has produced packets on more than 1,200 insurgents who were involved in attacks on coalition forces and for whom positive identifications were made through forensic analysis. These packets include forensic information fused with other available, relevant intelligence regarding the subject or incident. If the subject is at-large, a targeting packet is prepared and information (including information about the significant activity) is entered into the Combined Information Data Network Exchange and sent to the targeting cell and law enforcement professional (LEP) in the area of responsibility. LEPs recently affected the capture of three insurgents identified in targeting packets. If the subject is in U.S. detention, a prosecution packet is prepared and provided to U.S. attorneys who prosecute cases in the Central Criminal Court of Iraq.

The 733d Military Police Battalion established the Investigative Task Force (ITF) to enhance police intelligence operations. The ITF (which consists of one staff judge advocate from the Central Criminal Court of Iraq, two U.S. Navy master-at-arms investigators, and two 733d CID special agents) is assigned in direct support of an MND. The ITF reviews all insurgent detentions and develops the cases into legally sustainable detentions and prosecutions within the Iraqi judicial system. With the recent implementation of the Security Forces Agreement, all detentions in Iraq must now be legally based and result from a violation of Iraqi law. An arrest warrant from an Iraqi court is also necessary before any detention by U.S. forces. This shift from intelligence- and security-based detentions to legal-based criminal cases requires that the MNC-I further develop the ITF capability. Due to the early success of the ITF, the 733d Military Police Battalion is seeking additional assets to expand the concept to all MNDs in Iraq.

Through a directive from the commanding general of the Multinational Force–Iraq, the 733d was tasked to establish a partnership and mentoring program with the Iraqi Major Crimes Unit. This partnership focuses on sharing information about attacks on coalition forces and other crimes related to insurgent activity. Although this partnership is still in its infancy, it has already yielded positive results. The 733d has further established a partnership with the Iraqi Criminal Evidence Division for assistance in establishing viable forensic facilities. Together, the 733d and the JEFFs have the forensic expertise necessary to provide consultation and oversight support for the Iraqi effort.

As the MNC-I executive agent for forensics, the 733d coordinates and synchronizes the efforts of all players in the forensic arena of Iraq. The JEFF system comprises one of the key players; two others are the CEXC lab and the document and media exploitation cells. The CEXC lab and the document and media exploitation cells routinely submit cases beyond their own capabilities to the JEFFs for analysis. These submissions include deoxyribonucleic acid (DNA) and firearm/tool mark analysis requests. And the 733d assists the CEXC lab by developing prosecution packets for cases in which there is a positive biometric match and the subject is detained. The 733d also hosts quarterly inter lab working group meetings, which are designed to ensure that the forensic assets complement one another.

While in theater, the 733d identified a significant gap in forensic training for coalition forces. Although most forces received some training in evidence collection, tactical concerns were the first priority and much of that valuable training was forgotten. To address this problem, the 733d (in conjunction with the Multinational Forces–West Joint Prosecution and Exploitation Cell) now conducts a five day, site exploitation, train-the-trainer course for coalition forces. The course focuses on the proper way to collect, preserve, and ship forensic materials to the appropriate labs; and it covers the capabilities of the JEFF and CEXC labs. So far, the 733d has trained more than 1,500 Soldiers from over 20 different units. This training has become extremely valuable—especially given the shift from intelligence- and security-based detentions to legal-based detentions.

Since arriving in Iraq, the 733d has seen a 300 percent increase in the number of cases submitted to the JEFF labs for analysis—in spite of the fact that the number of attacks on coalition forces drastically diminished during that same time frame. This increase in the number of cases submitted is due to maneuver commanders being better informed about the capabilities of the labs and to improvements in evidence collection training. LEPs deserve much of the credit, as they have played a huge role in briefing commanders and getting material to the labs for analysis.

With the establishment of a JEFF in each MND area of operation, JEFF caseloads will continue to expand. As the challenges grow, the road ahead will be a busy one for the 733d. As the Iraqi theater of operations evolves toward the rule of law, evidentiary detainments and prosecutions will play an increasingly crucial role in developing a stable future for Iraq. The 733d is in a unique position to positively effect this transition, reduce attacks on coalition forces, and increase Iraqi primacy.

Lieutenant Colonel Rowe is the commander of the 733d Military Police Battalion. He holds a bachelor's degree in political science from the University of Cincinnati and a master's degree in forensic science from The George Washington University, Washington, D.C. Lieutenant Colonel Rowe has also completed a fellowship in forensic medicine through the Armed Forces Institute of Pathology.

EXPEDITIONARY FORENSICS: THE WARRIOR'S SCIENCE REVEALING THE HIDDEN ENEMY

Major Michael A. Johnson

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Forensic science involves the application of a broad spectrum of sciences to establish factual information and answer questions of interest based on forensic material. *Expeditionary forensics* refers to the use of forensics to establish facts that the combatant commander can use to determine sources of insurgent arms, ammunition, and explosives; drive intelligence analysis and subsequent targeting for combat operations; change force protection measures; identify human remains; and prosecute detainees in a court of law. Intelligence operations benefit from the rapid forensic exploitation of information, items, and sensitive sites, enabling U.S. and coalition forces to eliminate threats and capture, prosecute, or kill enemies. The War on Terrorism and associated military operations in Iraq and Afghanistan has produced an operational need to expand the use of forensics beyond the historical judicial, intelligence, and medical realms.

A joint expeditionary forensic facility (JEFF) lab was established in Iraq in December 2006 to address the high number of sniper attacks throughout the Iraqi theater of operations (ITO). At that time, the counter-sniper lab was capable of two things—latent printing and firearm/tool marking. The capability for deoxyribonucleic acid (DNA) analysis existed only in the International Zone, which supported a task force that examined extrajudicial killings. When that task force was disbanded, the DNA analysis capability was moved to the JEFF counter-sniper lab. In late 2007, Lieutenant General Raymond Odierno (then the commander of the Multinational Corps–Iraq) directed the establishment of JEFF forensic labs in each major division area of operation.

The original counter-sniper lab, now known as the JEFF 3 lab, accepted its first piece of evidence—a Dragunov sniper rifle—on 30 December 2006. Since then, the lab has processed more than 1,800 cases, resulting in over 150 biometric identifications. Today, the JEFF 3 mission is to "conduct firearm/tool mark, latent print, and DNA forensic analysis in general support of U.S. and coalition forces in the entire ITO in order to exploit biometric and forensic evidence resulting in the killing, capturing, or prosecution of anti coalition forces."

The JEFF 3 lab, which is under the administrative control of the 733d Military Police Battalion (U.S. Army Criminal Investigation Command [USACIDC] [commonly referred to as the "CID"]/Forensic Exploitation Battalion), provides general support to the Multinational Corps–Iraq, including more than twenty brigade combat teams and various combined joint special operations task force elements. The lab also has close working relationships with weapon intelligence teams, explosive ordnance disposal units, law enforcement professionals, the U.S. Special Operations Command, the CID, theater internment facilities, and detainee holding areas. All of the analysts, examiners, and technicians assigned to the lab are civilians who are specialists in their specific fields and have volunteered for this expeditionary mission.

The JEFF 3 lab processes all evidence related to non-improvised explosive devices, including evidence from sniper attacks, insurgent and terrorist torture houses, various complex attacks on coalition forces, caches, enemy killed-in-action confirmation of high-value individuals on targeted raids, highly sensitive political cases, and select CID cases. In addition, partnerships with the Combined Explosive Exploitation Cell and document and media exploitation labs allow the co-processing of cases where additional laboratory analysis is required.

The processing of material at JEFF 3 consists of several steps, beginning with the collection of evidence following an incident such as a planned site exploitation mission or a response resulting from a routine patrol. The evidence is transported to the lab through a variety of means, normally arriving within hours but can be up to a week after an incident, depending on the urgency of the analysis and the needs of the unit.

The most critical step of the process is triage, which begins when evidence arrives at the lab. Triage is the process used to determine the best method of supporting unit requirements to capture, prosecute, or kill the enemy through forensic analysis. It allows the lab to best prioritize valuable resources by sorting cases into three distinct categories:

- **Expedite.** Expedite cases have resulted in an injury to or death of a coalition soldier.
- **Priority.** Priority cases are time-sensitive in nature and are often associated with the release of a detainee or an at-large individual potentially targeted by a unit.
- **Routine.** Routine submissions are placed into the queue for processing but do not have the same sense of urgency as expedite or priority cases.

Triage is conducted by the evidence custodian or case file manager (alternate evidence custodian). Units that submit evidence for analysis must provide documentation of the incident (a significant activity report or a description of the "who, what, when, where, why, and how"), detailing how forensic analysis of the evidence can be expected to link the item or person to a specific event.

Triage also involves establishing a chain of custody if it has not already been established by the submitting unit. The submitting unit completes a Department of the Army (DA) Form 4137, *Evidence/Property Custody Document;* Department of Defense (DD) Form 2922, *Forensic Laboratory Examination Request;* and lab tracking and unit information sheets. The case file manager establishes a case file, and the evidence is properly secured in the evidence room. A record of the evidence is entered into the evidence ledger, evidence tracker program, and lab matrix.

The ability to provide time-sensitive, actionable intelligence to the combatant commander is the most important aspect of the JEFF 3 lab. The turnaround time for analysis in an expedited latent print and firearm/tool mark case is a couple of hours to a day, depending on the number of items submitted. Expedited DNA processing takes twenty-one to twenty-four hours to complete. These short processing times allow units maximum flexibility for targeting or prosecution. JEFF 3 lab employees are allowed to provide expert testimony in the central criminal courts of Iraq.

The Latent Print Section is very successful at recovering and analyzing prints from a variety of porous and nonporous evidence using items such as 1,8-diazafluoren-9-one (DFO), ninhydrin, physical developer, superglue, powder, Reflected Ultraviolet Imaging Systems, and dye stain lasers. The section has assisted with cases involving theater internment facility detainees, sniper incidents, anti coalition force threat letters, and al-Qaida intelligence documents.

Firearm/tool mark analysis has also proven valuable. State-of-the-art technology enables the Firearm/Tool Mark Section to perform firearm identification and function; ammunition identification and examination; microscopic comparisons of fired bullets, cartridge cases, and tool marks; serial number restoration; physical fracture matching; distance determination; and trajectory analyses. Most notable is the section's ability to match explosively formed projectile cones and liners through tool mark analysis and to link several sniper cases in which coalition members were killed. These capabilities have been used to assist in several high profile

escalation-of-force incidents involving coalition forces and local Iraqis and have also played a critical role in several fratricide cases.

The DNA Section conducts nuclear and y-chromosomal testing. DNA profiles have been recovered from an amazing list of items—many of which are not normally considered viable candidates for DNA analysis. These analyses have proven invaluable in assisting with "duty status, whereabouts unknown" cases in which DNA is obtained from coalition members' personal effects such as shirts, socks, and boots. The DNA analysis capability is used extensively in support of U.S. Special Operations Command units.

The desired end state of any analysis—latent print, DNA, or firearm/tool mark—is the tying of forensic evidence to an individual or incident. In the event of a match, or "hit," the National Ground Intelligence Center case manager immediately notifies the submitting unit. This immediate feedback provides the unit with expedient, actionable intelligence to target or prosecute. If the subject of the analysis is detained, a lab law enforcement professional prepares an evidence/prosecution packet for potential use in the central criminal courts of Iraq. Lab law enforcement professionals also provide a critical link to all maneuver units in the ITO; commanders rely on these evidence experts for guidance.

JEFF 3 defines success by the ability to provide units with expedient answers to target or prosecute the enemy. There has been nearly a 150 percent increase in caseload at the lab over the past six months, and a record number of matches have been achieved in the last two months. One of the most important impacts of forensic analysis on the War on Terrorism is the ability to prevent another incident like that of 9/11. The thousands of matches made in Iraq have allowed us to interdict individuals who want to cause harm to Americans. But, today's mission of saving Soldiers' lives in Iraq is of the greatest significance.

The road ahead will be a busy one for the JEFF 3 lab. As the ITO continues to evolve toward the rule of law, evidentiary detainments and prosecutions will play an increasingly crucial role in developing a stable future for Iraq. There will likely be an increase in exploitable evidence used solely for prosecution as opposed to targeting. The JEFF 3 lab eagerly awaits the challenge.

Major Johnston is the officer in charge of the JEFF 3 lab at Camp Victory, Baghdad, Iraq. He holds a bachelor's degree in criminal justice from Kent State University, Ohio, and a master's degree in organizational and business security management from Webster University.

Training the Force to Identify the Unknown Threat: NGIC's Battlefield Forensic Training

Captain Ryan Campbell

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Introduction

With the beginning of Operations Enduring Freedom (2001) and Iraqi Freedom (2003), the U.S. military faced a new kind of war. Rather than waging conventional battles force-on-force, American Soldiers found themselves fighting an insurgency. Capitalizing on their anonymity, the insurgents effectively engaged U.S. forces with improvised explosive devices (IEDs) and rapidly disappeared back into the crowd, with little chance of being identified. As IEDs swiftly became one of the biggest threats to Coalition forces operating in Iraq and Afghanistan, it became apparent that jammers and other technological safeguards were only a partial answer. To truly counter the threat, it was necessary to attack the root of the problem–the bomb makers and their networks. If Soldiers could target the individuals who were actually acquiring, constructing and emplacing IEDs, they could eliminate the threat before it was employed. Shifting the focus of the counter-IED fight to bomb maker networks became known as shifting to the "left of the boom."

NGIC Forensic Initiatives

In early 2004, recognizing this need to precisely identify and target the individuals responsible for attacks on U.S. troops, the National Ground Intelligence Center (NGIC) pioneered a solution for the Department of Defense (DOD), developing a strategy which incorporated unique collection and forensics exploitation techniques. Building on the role of the Combined Explosives Exploitation Cell (CEXC), whose primary focus at the time was Technical Intelligence, chemical analysis, and dissemination of counter-IED measures, NGIC developed a forensic capability at the CEXC in Iraq. In addition to establishing a forensic laboratory, personnel began deploying outside the wire to collect material of intelligence value from vehicle-borne IEDs, pre/post blast IED sites, and other sites of interest.

NGIC also created the first weapons intelligence teams (WITs) to ensure that as much material of intelligence value as possible was being collected from the battlefield so that CEXC could forensically exploit the items for quick identification and targeting of the insurgent networks. In order to train the WITs, NGIC deployed DOD police officers with experience in detective work, crime scene processing, and SWAT operations. In December of 2004, the first of these hires deployed to Iraq to train the initial iteration of WIT. This training focused on how to quickly assess a scene, prioritize areas of interest, document through photography, collect material of intelligence value, collect known and post mortem prints, and conduct latent print processing using proven "law enforcement concepts" that had been adapted to the battlefield environment.

Although CEXC immediately saw an increase in collection as a result of the newly trained WITs, the fledgling program still posed several challenges that had to be overcome. These issues related not just to forensic/collection training, but also to developing the critical infrastructure elements needed for efficiently transferring data and manpower between CONUS and OCONUS wartime efforts in order to achieve successful and real-time results. However, NGIC consistently adapted its program to meet these challenges, and the WITs it has since trained in both Iraq and Afghanistan have proven instrumental in the fight against the hidden enemy.

As the commanders on the ground began to understand the value of denying anonymity to the enemy, they laboratory, they requested that more units outside of the WITs be trained on the concepts of battlefield forensics and biometrics. NGIC rapidly addressed this need, establishing another training program designed for "door kickers" to augment the WIT capability. The building blocks for the training were already established, but the program needed to be tailored to address the specific obstacles faced by the warfighter. Incorporating lessons learned from the NGIC forensic team's early operations outside the wire and the now seasoned WITs, NGIC refocused the training to recognize several key challenges that Soldiers faced such as:

- Limited time on scene (1 minute to 2 hours.)
- Varying threat of scene (low to very high.)
- Limited number of personnel trained to process scene.
- Limited capacity to carry additional gear.
- Wide variance in type of scene.
- Ability to transmit prints from the forward operating base to CEXC.

Since 2005, NGIC has provided battlefield forensics training to over 1200 service members, resulting in the collection of over 800,000 items. The collections have directly led to the recovery of tens of thousands of latent prints, the identification of hundreds of insurgents on the battlefield, and the capability to provide targeting support, force protection, and stronger homeland security. Furthermore, CEXC forensic cases presented in the Central Criminal Courts of Iraq have a record of 100 percent conviction.

Conclusion

The success of NGIC's endeavor in the battlefield forensics is indicative of the Center's ability to adapt quickly in the face of a complex and constantly evolving threat. NGIC maintains this edge by conducting weekly teleconferences with the CEXC forensic lab, WITs, and counterinsurgency units, so that it can keep abreast of all material (old and new) collected on the battlefield. This constant dialogue with theater, together with NGIC's regular rotation of training personnel in and out of theater, provides the necessary intelligence and technology to stay ahead of the enemy and ultimately save lives.

As the next step in its effort, NGIC will conduct training at the Army combat training centers during Fiscal Year 2009, equipping over 1,000 deploying warfighters and 30 rotational brigade combat teams with the capability to collect forensically relevant material on the battlefield, material which will subsequently be used to target the individuals that pose a threat to our troops. Anonymity is one of the greatest weapons of an insurgent, and in denying this anonymity; battlefield forensics and biometrics have the potential to radically shift the paradigm of today's wars. Through its groundbreaking initiative, NGIC has supplied the critical capability that the warfighter called for, and the Center will continue to refine its program in the future to ensure that the needs of the Soldier on the ground are always met.

Captain Ryan Campbell has been the Deputy Chief of Forensic Operations and Training at NGIC, Charlottesville, West Virginia for a year. During this time he has been involved in the training of over 500 warfighters and over 100 leaders in battlefield forensics, the successful integration of training into the National Training Center, and has worked to establish an effective plan to ensure all units requesting training are supported. Previously, he served as a

battalion intelligence officer within the 3IBCT, 10th Mountain Div (LI), where he spent an extended tour in Afghanistan, and as a company executive officer at Goodfellow AFB, Texas.

USACIL RBOC: Providing Support to the Warfighter and Expeditionary Forensics

By William G. Doyne

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Introduction

Given the demonstrated successes of Weapons Technical Intelligence, Biometrics and the forensic functions performed at the Combined Explosive Exploitation Cell (CEXC) Labs, it is clear that forensics not only has a role on the current battlefield but also is a force multiplier. The need for a non-improvised explosive device (IED) (material which is not associated directly with the device exploitation) forensic capability to augment the CEXC labs IED oriented forensics has generated a requirement for expeditionary forensics.

Forensics is the application of multi-disciplinary scientific processes to establish facts. Expeditionary forensics is currently provided by the Joint Expeditionary Forensic Facilities (JEFFs) and can be used to:

- Establish facts that can be used by commanders to shape force protection measures.
- Drive intelligence analysis and subsequent targeting for combat operations.
- Prosecute detainees in a court of law.
- Determine sources of insurgent arms, ammunition, and explosives.

Expeditionary Forensics and Intelligence Operations combine to degrade the enemy's ability to capitalize on anonymity. Biometric residue, such as latent prints (LPs) and DNA profiles, harvested as a result of forensic processing enable warfighters to specifically identify who handled an item and link that identified individual directly with a certain place or event. The result is often usable intelligence as well as the moral and legal justification needed to target, apprehend, and prosecute terrorists or enemy combatants.

The downside of this success is that it has generated an increase in the amount of potential forensic material collected, resulting in an increased workload at both the CEXC and JEFF labs, the Terrorist Explosive Device Analytical Center (lab providing CONUS support to the CEXC labs), and the Biometric Fusion Center (BFC). As Site Exploitation and Forensic Collection training programs and accompanying tactics, techniques, and procedures are developed and promulgated, there will be more units collecting material further exacerbating the severity of the situation.

Reach Back Operations Center

It is largely unrecognized that the Department of Defense (DOD) possesses one of the most powerful forensics toolsets in the U.S. because the forensics capability is dispersed throughout DOD and is uncoordinated. Forensics has historically been used mainly to support criminal investigations and human remains identification for judicial and medical reasons. In order to leverage these capabilities in the LP, DNA, and firearms/tool marks (FA/TM) areas to support

the warfighter in-theater, the U.S. Army Criminal Investigation Laboratory (USACIL) has established the Reach Back Operations Center (RBOC).

The RBOC mission is to provide support to the warfighter and to expand JEFF forensic capabilities by leveraging DOD's institutional forensic laboratories, accessing national and international forensic databases, and utilizing CONUS expertise without increasing the in-theater footprint or sustainment costs. RBOC will support the warfighter by:

- Providing assistance to DOD and Allied force commanders when triaging specific forensic LP, DNA and FA/TM potentialities.
- Serving as the authoritative resource for advice on the development, purchase, and deployment of technical and scientific LP, DNA, and FA/TM equipment or techniques in forensics.
- Providing forensic analysis interpretation of exploited materials to supported commanders, investigators, and intelligence agents when needed at all stages of examinations.
- Conducting and/or coordinating appropriate forensic research, developing new forensic applications, testing, and evaluating emerging technologies.

RBOC will support the JEFFs, as well as CEXC labs and others upon request, by:

- Providing LP and FA/TM identification verification.
- Assisting in monitoring complex LP case interpretation in collaboration with deployed lab personnel.
- Conducting Integrated Automated Fingerprint Identification/Automated Biometric Identification System (IAFIS/ABIS) database searches and providing reports.
- Receiving material from JEFFs and assisting in the processing of highly difficult, sensitive, and technical cases.
- Conducting Questioned to Known comparisons of latent impressions
- Providing footwear and tire track analysis, examinations, comparisons, and verifications.
- Providing technical advice on DNA data basing capabilities and search results.
- Providing guidance on DNA technical review.
- Providing DNA data interpretation and technical review.
- Providing performance checks on new DNA equipment.
- Providing technical advice on FA/TM data basing capabilities and search results (General Rifling Characteristics (GRC), Headstamp, Firearms Reference Table (FRT), firearms and ammunition reference collection.)
- Assisting with serial number traces and identification of ammunition.

- Assisting in working all firearm case-related evidence including comparison examinations and conclusions.
- Assisting in working TM cases including comparison examinations and conclusions.
- Providing distance determination evaluation and bullet trajectory analysis.
- Providing and supporting Integrated Ballistic Identification Systems operations.

RBOC Composition

USACIL RBOC will become operational in two phases. The Initial Operational Capability (IOC) phase will consist of a Forensic Program Manager (Chief), a Lead Forensic Scientist, an Operations Officer and five Operations Specialists to provide responses, coordinate all Defense Forensic Enterprise System Reach Back elements with all Service personnel and leadership, and coordinate subject matter expertise harmonization for Reach Back capabilities, to include all requests for information (RFI) and requests for action (RFA). The five Watch Operations Specialists will provide a 24/7 capability. Certified USACIL LP examiners will provide 24/7 LP database searches and reports until RBOC LP examiners are certified for direct submission to the BFC. Additional capability, as required, will be provided by the USACIL support and forensic analyses staffs. All personnel will be members of the DOD.

The Full Operational Capability phase will consist of fifteen forensic scientists who will augment the initial IOC force to provide a stand-alone 24/7 full service support capability to DOD operations for each of the required forensic disciplines. Additional capacity in personnel, expertise, and support are still available from USACIL as needed.

The RBOC is a win-win proposition for all individuals and organizations concerned. Initially concern was expressed that this was an effort to take from another “rice bowl”, fix a system that isn’t broken, or just become a “bump” in the road. Currently most forensic faculties are working at or near maximum capacity and have some degree of a case backlog. As indicated earlier, forensic processing and analysis capability is directly proportional to the collection capability. Since forensic examiners, particularly the certified variety, are a limited asset there is a significant lag time where the time the need for additional capacity (i.e., more examiners) is identified and when it becomes available. This is true whether the more expensive route of contractors is taken or the cheaper but longer route of training DOD personnel is selected. Therefore, it makes a great deal of sense to maximize current capabilities with the minimum resources.

RBOC’s Benefits to Expeditionary Forensics

It is important to recognize that in expeditionary forensics, there are certain tasks that can be completed in-theater or in the rear and some tasks that can only be accomplished in-theater. For example, transporting material out of theater for LP processing can be done; however, it is generally not practical because of the transportation time involved. So it makes sense that LP processing should be done in-theater. LPs present or developed on forensic material are normally captured digitally and transmitted to either the BFC for search in the ABIS or the Federal Bureau of Investigation’s Criminal Justice Information Services for search in IAFIS. Transmission of the latents is normally accomplished in one of two methods. In-theater latent print examiners can extract the images using software such as Universal Latent Workstation and submit the extracted images directly to the BFC. The examiner then receives a candidate list which must be compared with the latent to identify or eliminate the candidates. The time required for these actions is time taken away from processing material which is best done in-theater.

The second method is to transmit the unextracted image to the BFC, where it will be extracted, searched, compared and a match/no match report provided. This method saves the in-theater examiner time, but creates a great deal of work for the BFC that is also receiving thousands of record prints daily that must be entered and searched in ABIS. USACIL RBOC proposes that in theater examiners transmit the latent prints to the RBOC, who will extract, search, compare and provide the match/ no match report as well as provide the required data to the National Ground Intelligence Center so that the Biometric Intelligence Analysis Report can be updated. This method is invisible to the in-theater examiner and assists the BFC by reducing its workload.

Firearms examiners are even more difficult to acquire than LP examiners. The RBOC will be able to facilitate in-theater examinations, searches, and verifications in a similar manner and will be able to provide support for tasks that are nearly impossible in-theater such as searches in databases like GRC, Headstamp, FRT, firearms and ammunition reference collection. Using remote examination technology, RBOC firearms examiners can conduct remote firearms and tool mark examinations and verifications.

RBOC DNA examiners can assist with data interpretation, particularly with DNA mixture interpretation (profiles with multiple contributors) and technical reviews. In those circumstances where material can be sent to CONUS for processing, (i.e., large back log, low priority, not time sensitive) with appropriate coordination with the RBOC chief, USACIL RBOC examiners can receive, process, and render reports to support in-theater labs.

RBOC on AKO and AKO-S

USACIL RBOC has established a page on both AKO and AKO-S so that users can submit RFI/RFA and upload images (both LP and FA/TM) for search or verification. You can request access to the RBOC page by emailing the following information to the USACIL:

RBOC Community Membership Request

Name:

Date:

Organization/Position:

NIPR Email Address:

SIPR Email Address:

DSN Phone Number:

Commercial Phone Number:

VOIP Number:

FAX Number:

Secure Telephone:

Reason for Submitting Request:

Conclusion

As DOD builds on the hard work and vision of those individuals who saw the potential of forensics on the current battlefield to transition to a cost-effective enduring forensic capability, the introduction of the USACIL RBOC will serve as the genesis for that effort. As the JEFF Concept Plan works its way through the system to become a program of record, the RBOC will provide the tools necessary for commanders and current expeditionary forensic facilities to maximize capability and capacity at minimum cost.

William Doyne is currently employed as a DA Civilian at the USACIL and serving as the chief of the RBOC. Prior to becoming the RBOC chief, he was assigned as an LP examiner in the LP Branch. Mr Doyne is certified as an IAI Latent Fingerprint Examiner and Footwear Examiner. He has a BS in engineering from the U.S. Military Academy, an MA in Chemistry from Villanova University, and a Public Education Certification from Wilson College. Mr. Doyne is a retired U.S. Army Colonel with over 30 years service as an Infantry officer.

Battlefield Forensics

Making Battlefield Forensics Work for US: Turning Forensic Evidence into Tactical Intelligence

Lieutenant Colonel Mike Holmes

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Introduction

There doesn't seem to be much crossover between tactical intelligence and the crime scene investigations we watch on the television show *"CSI."* The battlefield is typically not a place where lab-coated technicians can leisurely examine neatly isolated crime-scenes cordoned off with yellow police tape. And as bright and intelligent as our young analysts are, they are not trained scientists with specialized equipment.

But what we see on television is not an accurate reflection of forensic collection, investigation, and analysis. The dramatic emphasis on brilliant police work, scientists, and loads of bright, shiny technical kits hides the fact that there are a number of simple and effective tools we might easily use on today's battlefield. Incorporating some of these tools–especially in this counterinsurgency (COIN) fight–will help we provide our maneuver commanders with more a detailed and accurate intelligence assessment of the environment, and fast, accurate and targetable intelligence.

Forensics Defined

The recently published Department of Defense (DOD) Forensics Concept of Operation defines forensics as "the use of multi-disciplinary scientific procedures to establish fact." This simply means examining evidence or material using the scientific method (critical thinking), and then analyzing it to confirm or deny what actually happened "on the ground." We already use this same thought process to fuse the information we currently gain from our human and technical sources, the overall concept should not be new to us. The goal of DOD forensics is to "individualize, identify, associate, and scientifically link people, places, things, intentions, activities, organizations, and events to each other." We analyze and incorporate forensic material into our intelligence fusion to help round out or complete our intelligence picture. This forensic process may be as simple as using photographs to help reconstruct the site of an attack or ambush, or as complex as uncovering latent fingerprints to make a match in the biometric database with a known individual. In all cases, it adds depth to our holistic intelligence analysis and can help to prove or disprove hypotheses on the enemy's most probable or dangerous course of action.

Forensics should be classed as Measurement and Signature Intelligence (MASINT), because it involves quantitative and qualitative analysis of a wide range of data which we derive from both technical collection (voiceprints, iris scans, etc.) and physical collection (latent fingerprints, DNA, blood spatter, tool marks, etc.) to establish fact. Other than the fact that most of the forensic material we collect is produced by human beings, there is no conceptual difference between the thought processes we use to analyze this material, and that which we collect from machines or technical devices. We are simply measuring the biological signatures produced by the human body.

Forensics Application on the Battlefield

We can apply forensics on the battlefield with a much lower profile than most police departments and crime labs for several reasons. The first is that police are held to a much higher standard of proof in order to gain a conviction in court. This is a major difference between the two functions of Law Enforcement and Military Intelligence, and it drives a lot of legal discussion between what is an appropriate level of proof to target a person in combat and what is appropriate to prosecute a person for a crime in civil society.

Police operating within a civil society and in a constitutional framework must wait for a crime to occur before they can level charges against a person. The basis of police work is to detect, solve and punish crime *after it has occurred,* and must by its very nature be *reactive.* Police dissuade potential criminals by their presence and reputation for effectiveness in solving crimes and prosecuting cases. Once a crime is committed, police restore justice by apprehending the criminals and bringing them before the court for trial. At trial, they must prove guilt *"beyond a reasonable doubt."*

Criminalists working in a crime lab spend a lot of time and energy making sure that their analysis is based on fact and free from errors. Any gaps in procedure, even something as simple a break in the chain of custody or a missed testing procedure, can be used by a defense attorney to cast enough doubt on the case to sway a jury. For this reason, criminalists and forensic scientists are well drilled in documenting everything and showing their work. As a result, law enforcement forensics is precise and usually slow, with lots of back-checks to ensure accuracy and to leave no loopholes a defense attorney might exploit to cast doubt in the minds of the jury. Speed–which is not terribly important if the accused is already in custody–is sacrificed for accuracy and the sure knowledge that society is punishing the right suspect.

Conversely, as Soldiers, our task is to destroy the enemy's capacity to make war. If intelligence can identify and locate the enemy's pressure points–or high value targets–before he has a chance to use them, then so much the better. We are actually expected to be proactive (Nathan Bedford Forrest would have said, *"To get there firstest with the mostest.*") Combat intelligence works on *probabilities*–not established facts. For targeting purposes, accuracy is reduced to determining the highest probability and speed may mean the difference between winning and losing. In this environment, forensic analysis need only provide a best estimate. The only jury that needs convincing is the Targeting Board–the only judge is the maneuver commander.

For forensics to work on the battlefield, the old aphorism that *"The Best is the Enemy of the Good Enough!"* is valid. Police work demands the best in order to protect the constitutional rights of law abiding citizens. Warfighting requires only the *"good enough"* answer to provide us with actionable intelligence and targeting information.

A second point that differentiates us from police is that we are not responsible for enforcing narcotics and drunk-driving laws. More than 75 percent of the evidence evaluated in U.S. crime laboratories is drug related. Accordingly, our domestic crime labs spend significant time and budget on toxicology equipment which is unnecessary for battlefield intelligence. Police have a valid reason to analyze and detect the presence of drugs in various materials, but we don't. Therefore, some of the more technically complicated and delicate pieces of equipment that are commonplace to law enforcement forensics are superfluous to us. Having neither the burden of drug and alcohol testing, nor the need to prove our forensic analysis in court gives us a lot of freedom. It also means that we do not need the same level of education in order to do some of the basic forensics procedures and incorporate them into our intelligence collection and analysis. But it will require some additional training and tools, and perhaps most importantly, critical thinking to make it work and, as always in this era of "emerging doctrine", a good dose of creativity.

The Six Forensic Functions

To effectively incorporate forensics into our intelligence cycle, we must first master basics: recognize, preserve, collect, analyze, store, and share. None of these are radically different than anything we already do. We can adapt already existing processes to fit the needs fairly easily, and there are courses and training resources available for some of the more esoteric skills that are required.

Recognize. The first forensic function is to recognize which items possess potential forensic value. When police investigate a crime scene, they have the leisure of time and security. They can put up the yellow tape and poke around looking for anything useful to help solve the case, and they can keep the scene as isolated and pristine as they like for as long as they need. Our lives are a little more difficult on the battlefield. Assuming we are not actually being shot at or exposed to the threat, we may have only minutes to assess the scene, photograph it, and scoop up what we want before the tactical commander says we must go. In order to make the best of whatever limited time we have, our collectors must go into each situation with a good set of priority information requirements (PIRs) or Forensic Collection Requirements. (You can already see "FCRs" coming down the acronym trail, can't you?)

Forensics collectors must, at a minimum, copiously photograph the entire area that we can use later to help their memories. Eyewitness testimony is a notoriously fickle and fleeting thing, subject to the stresses of sleep deprivation, shock, and Post Traumatic Stress Disorder. Photographs allow us to accurately record the moment, and analyze it later at our leisure. A series of photographs which tell a story can be taken relatively quickly by Soldiers with minimal training, but they have to know what to look for and it is our responsibility to tell them.

Just as with any PIR, we need to direct our Soldiers to look for things that will fill the gaps of our knowledge and allow the commander to make a decision on a course of action. This may be as simple as the trigger mechanism on an improvised explosive device (IED), or as complicated as a latent fingerprint or tool marks linked to a known IED maker. The collectors need to have their collection requirements prioritized so that if the time and conditions do not allow, they can focus on the most important forensic material. And if conditions allow for more time, they can spend the effort needed to collect the more difficult materials such as latent prints (LPs) or hair and fibers. The more time-constrained the environment is, the more important it becomes for the forensics collectors to know what it is that you need in order to complete the intelligence picture.

Preserve. The second forensic function is to preserve, which involves protecting materials and data from the point of collection and for as long as they potentially hold intelligence or evidentiary value. The material we collect may someday wind up as evidence in a criminal court, perhaps even long after we have gone home. Therefore the materials we collect must be protected and preserved by available and reasonable measures to prevent contamination, loss or alteration.

The first step in this process is to establish and maintain a chain of custody for every piece of material we take from a site. In concept, this is not very different from that which we already do with materials from detainees. The Provost Marshal or Judge Advocate officer can provide assistance in writing a standard operating procedure that is functional, and still preserves the evidentiary value for future use. We might also want to consult with the local crime lab and see what procedures it uses as a guide. The lab can provide us with some ideas on how to preserve the material from decay and decomposition as well; important things to know when collecting body parts, fluids and DNA!

Collect. We will need the most help and training with the third forensic function–collect. Just as one might think, this is the recovery of and accounting for any materials from a site, to include the documentation and the recording of contextual information, as conditions allow. This may even include some limited processing of certain items or areas of the site in an effort to detect additional relevant or hidden material or information. This may also include presumptive chemical testing, such as for explosive residue or for blood and body fluids, to confirm or deny the presence of relevant forensic material.

Human nature may drive us to try and control forensic collection ourselves and keep it internal to the S2 section, but common sense and a candid examination of our troops-to-task will show this is not possible. We do not now, nor will we ever, have enough intelligence Soldiers to allow some of them to be spread around the battlefield with our maneuver Soldiers looking for forensic material. The only realistic way to get the "asset coverage" we need is to let our maneuver units do it. We need to train our infantry/armor/cavalry/engineer/artillery (have I left anyone out?) Soldiers on how to correctly collect forensic material, and bring it back to us in a useful, and useable, condition.

Happily, there are significant resources to help us do this. The Army already has a nascent forensic training program, targeted towards training maneuver Soldiers on how to collect forensic material in a combat environment. It is taught by a mobile training team (MTT) that will come to your location, and there is no cost to the unit except to dedicate thirty of its Soldiers for four straight days of uninterrupted training. Currently, the Battlefield Forensic MTT is sponsored by the National Ground Intelligence Center (NGIC), but in 2009 it is transitioning to the U.S. Army Intelligence Center at Fort Huachuca. The current program is forty hours of instruction crammed into 4 (10 hour) days, and focused on IED defeat. It covers tactical site exploitation and scene evaluation, forensic material recognition, photography, documentation, proper handling of materials to preserve biometric data, basic latent fingerprint collecting, and tactical questioning. It also includes training on the Handheld Interagency Identity Detection Equipment (HIIDE) if there are local HIIDE instructors available to leverage.

Alternatively, the U.S. Marine Corps has an excellent set of training support packages (TSPs) on site exploitation. Either of these options is good, obviously hands-on instruction can be effective, but time consuming. A better option might be to supplement the MTT training with the Marine Corps package to allow for follow-on and refresher training.

Another place to go for additional training, and for more in-depth discussions on how to collect, analyze and correctly store your forensic material is the local law enforcement agency (LEA). Most major police activities have some sort of crime lab, and most of them are accredited to national standards so their procedures and processes will be largely uniform. Establishing a good working relationship with these activities would be an excellent place to start any S2 section training or orientation on what forensics is and how it can help us. Additionally, many LEAs employ a corps of civilian crime scene technicians who specialize in forensic material collection and can cross train with the forensic collectors.

Analyze. The fourth forensic function is analysis, which may range from recognizing valuable forensic material on the site to in depth examinations in a lab or forensic facility. Regardless, forensic analysis attempts to scientifically link materials, people, places, things, intentions, activities, and events. It involves scientific instrumentation and equipment to compare known materials and information with unknown or unidentified materials, and the results may require interpretation and further analysis.

To accomplish this task, we should first ensure we have established a system within our intelligence processes to account for the new information and data which forensics will provide,

and a way to incorporate that information into our *Intelligence Fusion.* We should start with ourselves and assess our own abilities to *think critically* about our environment, our enemy, and the clues he leaves behind that give us vital insight into his composition, disposition and intent. This is not necessarily difficult, but we have not been trained especially well (or extensively) on how to think forensically. As a result, there is no uniformity across the force. Critical thinking is already a part of many of the various curricula at Fort Huachuca, but there needs to be much more of it, and it should be taught at lower education levels so our junior Soldiers begin their careers with some guidance and awareness for *how to analyze.*

But until doctrine and training do catch up, there is much that we as leaders can do to fill in some of this gap. First we should create a culture within our intelligence sections where we openly formulate, explore, discuss and evaluate ideas and information. In over eighteen months as the senior Division Analysis and Control Element (ACE) observer/trainer at the Joint Intelligence–Combat Training Center, I was able to observe and explore a variety of styles, methods and tactics, techniques, and procedures for producing intelligence. One of the best indicators I had for whether a group was doing well and "getting it" was simply to observe the activity of the students. If the ACE was quiet and orderly, with everyone's face buried in a computer screen, it was seldom a good sign. Conversely, if the action in the ACE was dominated by a group of people sitting around a table with various chart packs and notepads, looking very much like a scene from the play *"Twelve Angry Men,"* it was usually a VERY good sign!

Computers and mental models are great tools, but they will never replace a fact-based discussion between two sentient beings, at least not in any of our lifetimes. We can get data from computers, and assemble them in ways that are perhaps easy to visualize, but seldom (if ever) will we get a conclusive answer to anything but the simplest of logic problems. And bearing in mind we are ultimately targeting human beings, we are seldom presented with the simplest of logic problems!

If we are going to collect and analyze forensic material from the battlefield, we will be presented with an array of information which often just won't fit with our preconceived ideas. We must be nimble enough in our thought, and rigorous enough in our criticism, to incorporate this information into the whole of the fusion process. We then must constantly evaluate it against all of the other information we receive from our other sources. Perhaps it is not too early to say that at some point, we might even incorporate forensics into a MASINT cell within the ACE.

To use the forensic material we plan on collecting, we need to develop our own tools and think through each problem for ourselves. We will need to progress past the point of *deductive reasoning,* where all of the steps are laid out for us and we can make predictions and test our hypotheses; to *abductive reasoning,* where some of the steps are missing and we are forced to arrive at plausible hypotheses using a fragmented mosaic of sometimes not very-well connected facts mixed with valid assumptions. It is a bit like the difference between simple mathematics, and algebra where we must solve for the unknown.

And as we think through the problem, we should bear in mind that good ideas do not have any military rank attached to them. If we open our process to active discussion and debate, then we must accept that sometimes the E-4 does indeed have a better grasp on the problem than the O-4, the real test of leadership is how well we use the assets (and ideas) we control, not in how often we are "right".

Store. The fifth forensic function is to store. While battlefield forensics allows for a "quick and dirty" approach, at some point our strategic and operational goals will force a transition back to civil authority. As we transition from military to civilian control, we must expect increasing restrictions on our ability to act proactively. Although our analysis will not be held to the

scrutiny of a judge and jury, the forensic material we collect may someday end up as evidence in a court case. Therefore, we will need to ensure that we collect, transport and store this material in such a way that it maintains its value for future civil court cases. This includes keeping an accurate chain of custody, and keeping any biological material from decomposing.

Materials and associated information should be maintained until their disposition has been fully adjudicated or resolved. The policies and procedures we develop in conjunction with the Provost Marshal or Staff Judge Advocate should dictate proper disposition. The effect of this function is that we may find our storage lockers rapidly filling up with a lot of old, and often not very nice, material. Moving this rapidly out of our custody and into the law enforcement community's evidence lockers as soon as we are done with our analysis is the goal here. The less time it spends in our control, the less chance it will be called into question later in court.

Share. The sixth forensic function may be the most important–share. Information and intelligence that never makes it out of the S2 section is worse than worthless. Our commanders and

Soldiers perhaps went to great risk to bring us this material, and we owe it to them to get our analysis back out to the force as rapidly as possible where it will do some good. This includes not only our own commands, but also any others who might have need of it. This has been covered in numerous articles and briefs, but the point cannot be made strongly enough that once we have made our analysis, share it with anyone else who might need to know it.

Forensic Material

The types of forensic material we are likely to encounter varies widely with the enemy and the environment, but there are some commonalities that we should be prepared to analyze and process. Footprints left by the enemy can be photographed, measured, and used later to help identify the operational range for an individual and even isolate the numbers of individuals at any location. In a land where a person is not likely to own more than one pair of shoes or boots, this is an important clue. By using a comparison microscope to examine the tool marks on cartridge cases, we can often isolate which particular weapon they came from, and then over time work out an operating area for that weapon. This is neither as complicated nor as expensive as it sounds. These microscopes are more complex than the ones we may have used in high school Biology, but they are certainly able to be packed in a hard case and set up in austere locations.

Every scene is likely to have some sort of body tissue or fluid left behind. Microscopic examination of hair can be used to help identify people, although it is not conclusive by any means. But a lot of hair has DNA attached to it, especially if it was forcibly pulled out. While we will never be able to process DNA for evidence at the tactical level, there are Joint Expeditionary Force Forensics labs in both Iraq and Afghanistan which can. DNA can positively identify an individual and also tell us a great deal about other things we might not otherwise be able to know without actually interrogating that individual and cross checking with known facts. DNA can also be found in saliva, skin (left behind on a rag or piece of clothing), and even dried sweat.

Before we knew how to use DNA for evidence, Police used blood typing, and often there is a pretty good amount of that lying around. Blood typing does not give us the kind of conclusive evidence we can use in court to positively identify a person, but it does help us narrow down the field considerably, and it is something you can reasonably do yourself with proper training and minimal equipment. DNA is more precise than blood typing, and provides the positive identification needed to make convictions in court. By sticking to the aforementioned rule that, "The Best is the Enemy of the Good Enough", we can use blood typing to screen individuals and

at least exclude them as possible targets. The blood sample doesn't necessarily have to be blood from bullet or combat wounds. People bleed all the time–razors, jagged bits of metal or glass, barbed wire–there are numerous opportunities for all of us to shed a little blood every now and then, and a sharp collector can find these traces and preserve them for analysis.

And of course, there is still perhaps the oldest and most sure way of tying a person to the scene of the crime–fingerprints. An LP is nothing more than a print which isn't seen. It is the residue from the friction ridges on the finger or palm print left behind when a person touches something. The good thing about fingerprints is that they are unique to an individual, unlike DNA. (If you are an identical twin, your sibling will have the exact same DNA as you, but different fingerprints.) They are also an identifying feature likely to be left behind unless the individual is being extremely careful. Having said this, LPs can also be extremely tricky to work with, especially when all you can get are partial prints or smudges. But, again remembering our burden of proof is much less than our police brethren, we don't need to be as picky–after all, we won't be taking these prints before a jury, just to the Targeting Board and the commander. Finding, developing and lifting LPs for later use is something which is taught in the aforementioned Battlefield Forensic Course, and while not terribly easy, it can be taught and learned with a little patience and practice. Using the emerging biometric technologies and Biometrics Automated Toolset (BAT) and HIIDE, we should soon be able to scan in LPs we have lifted from a scene, and check them for matches already in the database, or enter them into the database as an unknown to be matched later. The thing we must keep in mind, and continually remind our law enforcement brethren, is that we are not trying to build an airtight case, just a target package. Our analysis of the match does not have to be perfect, just close enough.

Getting Results!

We have now wandered far from what we can reasonably expect to do for ourselves during S2 section training time. To get the training proposed here, we will need to convince the S3, and probably the commander. To bolster our case, we might point out to them that one MTT can train up to thirty Soldiers and that if each maneuver battalion had thirty Soldiers trained to collect forensic material, then there would be enough to sprinkle around each line company for the tremendous amount of work to be done. Forensic evidence, like any other evidence or information, tends to become more accurate in volume the more collectors we have in the field, the more bad guys we are likely to capture and kill, which should go some ways towards convincing our commanders to support our efforts in this. The payoff is worth it in Coalition lives saved and terrorists caught or killed. Consider the following examples.

In January 2007, in Karbala, Iraq, insurgents dressed as U.S. diplomatic security personnel worked their way through several Iraqi police checkpoints and attacked a U.S. unit attending a meeting at the Karbala Provincial Joint Coordination Center (PJCC). During the attack, they captured five U.S. Soldiers. Pursuing U.S. elements later found three of those Soldiers executed in several of the assault vehicles approximately twenty kilometers from the PJCC. Iraqi police also later found a fourth Soldier's body at separate location. During forensics analysis of the vehicles, numerous sets of fingerprints were collected that went into the DOD LP database. The following July, during efforts to elicit the cooperation of Sunni militias to quell inter-ethnic and Al Qaeda sponsored violence, Soldiers collected the biometrics of members of a local group. Unfortunately, the biometrics collected on the HIIDE remained in the device until 25 October 2007. When the HIIDE was synchronized with the BAT system, they were searched against the Automated Biometric Identification System database and matched to several of the PJCC vehicle prints. Following analysis and target development by NGIC and Multinational Corps-Iraq, the individual was watch listed and loaded to the HIIDEs. The local unit was acquainted with his home area, and through negotiations with the local sheikh, the individual was surrendered to

U.S. custody and his identity and Tier 1 watch list (WL) status verified through biometric matching of his fingerprints to his WL file in the HIIDE.

The identification of IED makers was made possible by piecing together fragments of over 1,500 exploded IEDs as well as disassembling numerous bombs that didn't go off, and gathering signature elements from each of the bombs. In some instances experts reconstructed entire explosive devices including their unique timing mechanism and linked them to individual bombers. The forensic signatures led analysts to suspect that many of the IEDs were constructed by a relatively small number of master bomb makers, such as those whose "how to" videotapes were posted on a terrorist website. Some bomb makers were linked to dozens of explosive devices. Some have been captured as a result of the identification and other terrorist technicians have been identified by name and are being sought. Commenting, FBI Director Robert Mueller said, "Identifying and reconstructing timing devices, explosives and producing an analytical product that is distributed throughout the military or throughout law enforcement in the U.S. may well enable us to prevent the use of those devices in the future."

Daily, as our biometric databases grow and more evidence is collected, the number of success stories showcasing forensic material providing targetable intelligence increases exponentially. Given this increase, and the relative ease with which you can incorporate this capability into your current bag of S-2 tricks, why not explore the opportunity?

Conclusion

Nothing here is meant to suggest that we can create our own miniature crime laboratories, or that intelligence Soldiers will ever magically become forensic scientists. However, some of the simpler tasks of forensic collection and analysis are well within our competency and ability to accomplish with a little extra training, some small amount of equipment, and careful thought. But, we must keep in mind that, unlike the police, we are looking for the highest probabilities, not "proof beyond a reasonable doubt." We should temper the expectations of our commanders accordingly. The additional training which is readily available to our Soldiers is worth the effort if it results in faster mission accomplishment. As someone once described to me, in a COIN fight our job is like finding the right needle in a pile of needles. Forensic Science can be a very helpful tool if we are looking for that kind of a target.

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Computer Forensic Support to DOMEX in the War on Terrorism

David Ferguson

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Introduction

On February 6, 2008, a U.S. Military spokesman for the Multi-National Forces-Iraq revealed a series of videos from captured al-Qa'ida Network (AQN) media. The videos depicted children training to detain, kidnap, and kill innocent Iraqi civilians. U.S. officials said "the video was being released to illustrate al-Qa'ida's increasing willingness to use women and children to carry out its objectives."[1] The disclosure was covered by all of the major news outlets: CNN, Al-Jazeera, the New York Times, and many others. News releases like these are having an effect on al-Qa'ida's ability to recruit. This is one of the powerful ways that captured documents and media are affecting the battlefield today.

Making sense of the papers and media captured in the War on Terrorism is the domain of Document and Media Exploitation (DOMEX/MEDEX). Intelligence Community Directive 302 defines DOMEX as "the processing, translation, analysis and dissemination of collected hard copy documents and electronic media, which are under the U.S. Government's physical control and are not publicly available." The implication of this definition is that these captured documents and media are not open source documents pulled from newspapers or the Internet.

Paper or Plastic?

Paper documents and electronic/digital media require different processes to extract intelligence.

Exploitation of paper documents starts with scanning the documents and presenting them to linguists. Since most of the documents that are captured are not in English, someone has to translate the documents or "gist" them. To gist a document means to summarize and highlight its important and substantive details.

Once this is done, U.S. intelligence personnel review the findings and determine the pertinent information. In general, all of the documents that are gisted and of intelligence value are submitted to the HARMONY database system at the National Ground Intelligence Center. HARMONY processes the submitted documents and makes them available to as many people as possible.

Unlike documents, electronic media isn't immediately "consumable." It isn't possible to pick up electronic or digital material and read it. The extraction of documents, audio, video and photographs requires a methodical approach to get the most from the material with the least amount of resource expenditure. The exploitation of computer based media is the purview of MEDEX, a subset of DOMEX. MEDEX relies heavily on the science of computer forensics to extract this information.

Computer Forensics

To understand where and how the discipline and the science of computer forensics developed, one only has to look in a dictionary. There are two definitions for forensics, one has to do with debating and the other describes "the application of a science to a legal or law enforcement problem." To put it another way, computer forensics has developed into the science of collecting and analyzing digital data in order to present it in court as evidence. Typically, computer forensics is performed by a law enforcement agency or lab, such as the Defense Computer Forensics Lab, to prove or disprove an allegation of a violation of the law. Most of the time, these violations are traditional offenses such as fraud, sexual assault, etc.

A computer forensic examiner must follow a computer forensic process rigorously. This means that whatever is done must be consistent with accepted practices, repeatable, and the examiner must be able to testify in a precise way about what actions he took to preserve and locate any evidence found. The attributes of a true computer forensic process include the following:

1. The media is seized with a legal authority or warrant.
2. Chain of custody is maintained at each step.
3. "Do no harm;" never change the original media.[2]
4. The original media is copied perfectly.
5. The copy is exploited to find evidence to prove or disprove an allegation.
6. The work is usually performed by a trained and certified forensic examiner.
7. The examiner has to take extremely detailed procedural notes.
8. The examiner produces an examination report.
9. The examiner testifies in court about his/her findings.

MEDEX

MEDEX applies computer forensic tools to the DOMEX space at least on the electronic/digital media and provides the intelligence function with information about the formation, organization, personnel, operation, funding, logistics, command structure, intentions, as well as other valuable information. The process modifies the computer forensics model to meet the needs of the combatant commander, mostly to increase the speed of obtaining of the information. As speed is of the essence, so some of the aspects of the rigorous law enforcement approach are dropped or modified to increase the speed.

The two best examples of digital information in the public domain are hosted at the U.S. Military Academy Counter Terrorism Center (CTC). The CTC takes documents released from the War on Terrorism holdings, performs unclassified analysis, and releases the results to the public. Two good examples are *"Cracks in the Foundation: Leadership Schisms in al-Qa'ida 1989-2006"*[3] and *"Al-Qa'ida's Foreign Fighters in Iraq: A First Look at the Sinjar Records."*[4]

The former reviews a number of letters between members of the al-Qa'ida leadership, revealing their weaknesses. This includes letters like the one from Zawahiri to Zarqawi[5], telling Zarqawi to

avoid using violence against the Iraqi civilian population or risk alienating it. It is a more strategic set of documents, whereas the latter is both strategic and tactical.

"Bombers, Bank Accounts, and Bleedout: Al-Qa'ida's Road In and Out of Iraq"[6] is an analysis of a collection of records released to the public through the CTC. The records contain biographical information on around 600 foreign fighters that are believed to have entered Iraq from Syria. The Sinjar Records include a biographical description of each person, and in many cases, photographs. The tactical importance is obvious; one can look for these individuals in detention and can check any new detainees against this list. An additional benefit is that every nation now has access to this information so it is unlikely that the 600 named in the records will be able to board an aircraft for the U.S. or Europe any time soon. Some of them are from Europe; if they ever get home they will not have a warm reception.

The CTC also had access to other bureaucratic information from this collection; here is its synopsis of the Sinjar Organization:

"The Sinjar documents provide a striking insider's view of the management challenges facing al-Qa'ida in Iraq's Islamic State of Iraq (ISI). The documents reveal leaders struggling to balance the control required to achieve their political goals against the security required to survive. The ISI, like any terrorist organization, faces a difficult task in a hostile operational setting. First, it must control the use of violence as a means to achieve their specified political ends. As the organization itself has acknowledged many times, too much violence or inappropriate fundraising efforts can damage the cause as much as doing too little. Second, the ISI must sustain itself with limited funds, placing a premium on financial efficiency and oversight. Third, the ISI must maintain this calibrated use of force in an environment where becoming known to Iraqi or American government forces leads to operational failure.

These three tasks place conflicting demands on the ISI. The more the organization exercises control over its operatives—by using organizational tools such as tracking spreadsheets, expense reports, and standardized policy memoranda—the less secure it becomes. Exercising control in this manner requires additional communications that can be intercepted and creates direct links between senior leaders and operators who are more likely to be identified and captured by government forces. Moreover, because these documents often include names and provide evidence about operational practices, they make ideal raw material for intelligence organizations seeking to target the ISI. The ISI thus faces the same tradeoffs between security and control that have troubled terrorist organizations from the 1890s to the present. The Sinjar documents provide further insight into how al-Qa'ida's ISI is challenged by these tradeoffs."[7]

The CTC report is an enlightening read and starts to crack open the door on what information can be gained with DOMEX.

What Can You Lose?

While the CTC report exemplifies the successful application of a computer forensic approach, all too often it is not used—and at a high cost, as the Colombian government experienced recently. The politically-sensitive raid on a Revolutionary Armed Forces of Colombia (FARC) outpost in Ecuador uncovered a laptop full of documents incriminating President Chavez of Venezuela.[8] Unfamiliar with computer forensics, Colombian government officials turned the laptop on and began reading files, changing access times. As a result, the credibility of the information was significantly damaged. The article, "*Chavez: Interpol Report a 'Clown Show'*"[9], demonstrates the damage of not following good forensic practices. Sadly, Chavez was able to dismiss the files as being planted by the Colombian government because it ignored computer forensic attribute 3. *"Do no harm, never change the original media."*

An Approach

Many operators/intelligence personnel want to excise the "law enforcement centric" requirements of computer forensic procedures. The exploitation process must be fast, but it can't be at the expense of the successful prosecution of the captured terrorists/detainee/war criminal. Over the last few years, almost all of the important material has ended up in a court system (U.S., Guantanamo, the World Court, Iraqi court systems, etc.) Often, the important information is not identified until the media is reviewed, and at times, this process can take several months.

To maintain the value of MEDEX materials for prosecution, one needs to carry forward computer forensic attributes 2, 3, and 4. If computer forensic attributes 2 and 3 are adhered to, one can always repeat the analysis for court if necessary. There are many reasons to retain attribute 4, the most obvious being that it is easier to avoid violating attribute 3. All of this is important when fighting insurgents.

When fighting insurgents, one approach is to work like the police. The police have been fighting organized crime for a long time and have had to seek out the bad guys moving "amongst the people as a fish swims in the sea," to put it in the words of Mao Tse-Tung. Computer forensics is a crime fighting tool developed by the police that military commanders can use to reduce collateral damage.

Using computer forensics on the battlefield, however, presents many challenges. A firm legal frame work does not exist, there are no elements of proof, and the MEDEX technician/examiner generally does not speak the language of the material in question, so linguists and intelligence analysts often have to interpret the results.

The MEDEX process includes the following characteristics:

1. Chain of custody and context of acquisition is maintained at each step.

2. "Do no harm," never change the original media.

3. The original media is copied perfectly.

4. The copy is exploited continuously to find information of intelligence value.

5. The work is performed by personnel with a range of skills.

6. Reports derived from the information serve many purposes.

7. The examiner could testify in court about his/her findings.

Absent from this list above is a warrant, and in all likelihood, elements of proof; however, there may be a detainee that is suspected of some kind of insurgent activity. The MEDEX team needs the context information to do the same kind of focused search that is performed by a forensic examiner in the law enforcement realm. Without the context, it is really difficult to identify things of interest.

The chain of custody information is required to return the property back to the owners if they are released or to present as evidence at trial. In many cases, insurgents captured on the battlefield will face some sort of trial. A trial implies evidence, which necessitates the production of a chain of custody for any evidence presented to the court. "Do no harm" falls right in line with returning the individual's property. If an operator turns on a detainee's computer and begins to review the files, the data will be poised for court. It is best to work from a copy. In fact, having

that perfect copy in more than one place allows parallel exploitation. The chain of custody information can also be used to provide context, it is essential to maintain the link of how something was acquired to the media images so that they maintain their intelligence value. Without context, the data derived from a piece of media is of less value.

In a perfect world, copies of all captured media would be reviewed at a tactical, theater, and National levels. At each level, one would want to sift for different kinds of information. As an example, at the tactical level one is looking for information of immediate value, such as next target, information about the detainee, etc. Also, the span of time that a copy of the data is of interest expands as it moves up the levels. At the National level, all data should be available for as long as the conflict is active. The importance of it changes, and older information has to be revisited from time to time, emphasizing the necessity of a complete, perfect copy for intelligence reasons. What is insignificant now may be relevant within a month or even a year. Whenever any of the levels of exploit find a document or file of intelligence value, it should be uploaded into HARMONY so that it can be shared with the rest of the community.

Conclusion

Applying computer forensics to the battlefield can provide the commander with an information source that has rarely been available in the past. This is particularly important in asymmetrical warfare. The critical information for operators and intelligence personnel to know is that many of the law enforcement procedures that take time add value and can make a big difference in the outcome of a campaign—or even a war.

Endnotes

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Battlefield Forensics at the Brigade Combat Team

MAJ Chad O. Rambo and Special Agent Sherri D. Rhodes

Law enforcement agencies have used forensics for decades to positively tie evidence from a crime scene to the criminal. Today, units in Iraq are using many of these same methods to identify extremists. On the modern battlefield, extremists inadvertently leave behind a myriad of clues during attacks. Since extremists usually do not wear gloves, latent prints are often left on such things as shell casings, documents, rocket rails, and improvised explosive device (IED) materials. Additionally, hair, fiber, and serology can be recovered from an insurgent's clothing, home, or vehicle to help identify him or her at a later date through deoxyribonucleic acid (DNA) testing. Ballistic testing can also be conducted on firearms at the Multi-National Corps–Iraq military laboratory in Baghdad. This becomes extremely useful when attempting to link a weapon to the death of a U.S. service member.

Using forensics to support combat operations is a fairly new capability, only really burgeoning following the Overseas Contingency Operation. With the integration of weapons intelligence teams (WITs) and law enforcement professionals (LEPs) into the brigade combat team (BCT), the collection and analysis of forensic evidence has become an expanding and vital part of the intelligence effort. WITs are usually task organized as part of an explosive ordnance disposal (EOD) team and are responsible for collecting evidence from IEDs and other explosive sites. They conduct technical analysis on found IEDs and collect latent fingerprints recovered from residual materials left at the IED site. These latent fingerprints are then sent to the combined explosive exploitation cell (CEXC) to be entered into a theater database and cross-checked against prints previously entered into the system.

LEPs have brought a much needed level of forensics understanding to the brigade. LEPs typically have ten or more years of law enforcement experience and see the battlefield in a much different perspective than the military. They view target houses and attack locations as crime scenes and are immeasurably helpful during sensitive site exploitation (SSE). Each brigade uses its LEP advisors differently, based on the LEP's background and needs of the brigade, but a few common areas of concentration are SSE training, establishing liaison with other theater law enforcement agencies, and conducting network analysis.

One of the first forensic systems available to combat forces was the Biometric Automated Toolset (BAT). The BAT system consists of a laptop, digital camera, iris scanner, and fingerprint reader. The BAT is most commonly used to record biometric data on detainees and local national employees. The Handheld Interagency Identification Detection Equipment (HIIDE) is a smaller version of the BAT and is used by patrols to enroll members of the local population while conducting cataloging operations (recording the location of houses and family members within a designated area). Data from the BAT and HIIDE is downloaded to a local server that then is synchronized with a theater server. This allows units across Iraq to have access to the files of anyone ever enrolled in the BAT database. For instance, a unit operating in Mosul would be able to see that one of its detainees had been detained and enrolled in the BAT system two years earlier as a suspect of IED emplacement near Iskandariyah. The databases used by the CEXC are synchronized with the BAT database, which enables the CEXC to identify persons previously enrolled in the BAT database to latent prints or DNA recovered from an attack site. This is why having a comprehensive cataloging program at the company/troop level is so important. The more people that are enrolled in the BAT database, the more likely it will be to find the extremists through forensics.

Conducting a quality SSE after an attack or during a raid is crucial to gathering the data that will enable future targeting of extremists. It is vital that all Soldiers are trained on how to conduct SSE without erasing or contaminating evidence. One of the most common mistakes is handling cell phones, weapons, or rocket rails without gloves. Not wearing gloves smudges the extremist's prints and creates multiple print sets (including the Soldiers), which makes finding the extremist's print impossible. Local security forces can help secure the site, but they should not go near the evidence if collecting forensics is the objective. They seldom wear gloves and usually pick up the evidence before it can be photographed or dusted for latent prints with forensic powders. If possible, given the tactical situation, weapons and munitions found in caches should be dusted with forensic powders before EOD destroys them. While a latent print from one of these items may not immediately lead to the identification of an extremist, it could be extremely valuable when, if at a later date, that extremist is detained for other reasons and is matched biometrically to the recovered latent print. The latent print recovered from the cache can be used as additional evidence to ensure the extremist is incarcerated for the maximum amount of time.

The recovery of extremist body parts is important after a vehicle-borne IED (VBIED) attack or when an IED emplacer accidentally blows himself up emplacing an IED or, on the rare occasion, when an IED emplacer is shot by a tank main gun round and there is very little of him left to identify. On several occasions, elements of the 4th Brigade (Airborne), 25th Infantry Division, were able to recover the fingers of extremists after such an incident as just described occurred. The 4-25 Airborne was then able to learn the identity of the extremists through processing the latent prints and DNA. Identifying a dead VBIED driver or IED emplacer is another valuable piece of information needed to discern the structure of the extremist network.

Once the evidence is back on the forward operating base (FOB), the brigade focuses on identifying items with forensics evidence and preservation of evidence. The brigade identifies those items containing latent prints, hair, fiber, and blood and then prepares them for shipment to higher headquarters. A brigade can easily establish a mini-forensics lab on the FOB with the assistance of LEPs, WITs, or Criminal Investigation Division (CID) elements. A list of recommended items for the brigade forensics lab follows:

- Digital camera
- Black and white fingerprint powder
- Latent lifters
- Fingerprint brushes
- Magnifiers
- Dust masks
- Gloves (white cotton for evidence handling)
- Paper bags
- Clear plastic bags

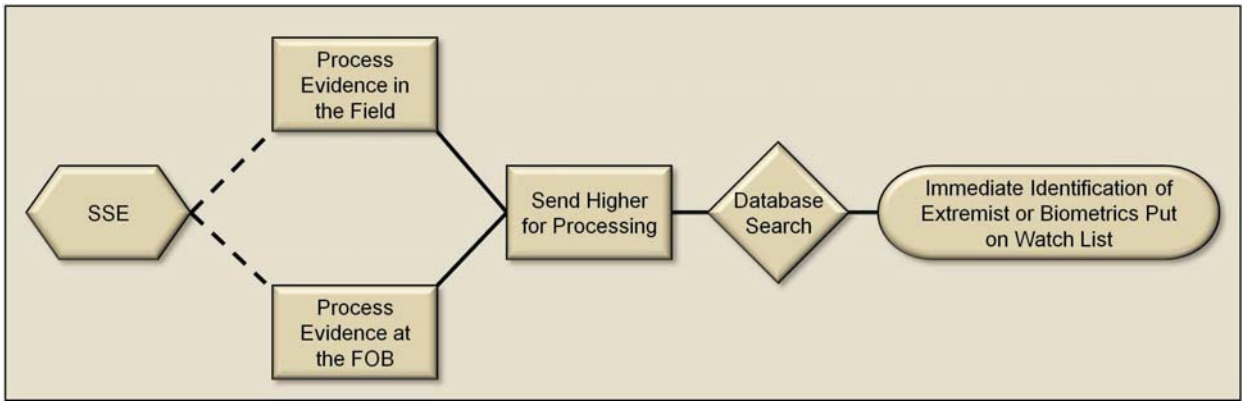

Figure 1. The flow of evidence

When items are transported to higher levels for continued exploitation, there is always the possibility that prints will be erased or contaminated during handling. One way to prevent this is by sealing the latent prints to the item by using cyanoacrylate fuming techniques (using a glue tank). A glue tank can easily be fabricated on the FOB using Plexiglas and wood. The glue tank can be built to virtually any size (the largest glue tank the 4-25 Airborne used would accommodate an 82mm mortar tube). The following instructions show how to seal prints to an item (weapon, cup, etc.):

The following items are needed:

- Superglue (liquid or gel)
- Coffee cup warmer, hot plate, or electric lightbulb
- Water
- Small dish for holding water
- Tinfoil or an aluminum dish
- String, thin wire, clips, clothespins

Fuming techniques include the following:

- Suspend articles in chamber (use clothesline or wooden rod).
- Place warm water in chamber to create humidity.
- Allow coffee cup warmer and aluminum dish to achieve maximum temperature before application of glue.
- Place test prints into chamber.
- Apply small amount of liquid superglue to aluminum dish (approximately the size of a quarter).
- Close and seal chamber.

- Monitor chamber and test print development.
- Suspend heating processing when faint impression is visible.

Once this process is complete, the item is ready for shipment to a higher level for continued exploitation.

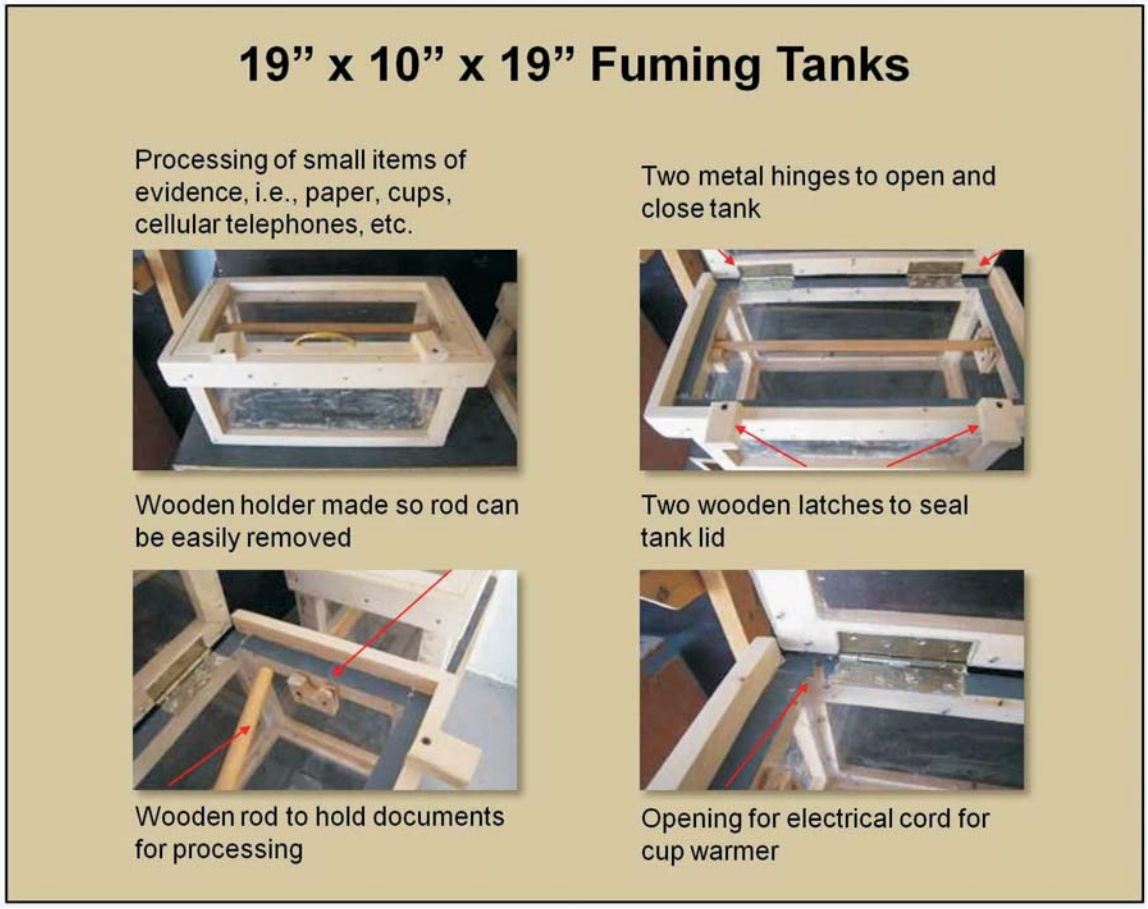

Figure 2. Fuming tanks for latent fingerprint development

Although all detainees are enrolled in BAT system, a major case print (MCP) (all ten fingers, blades of hands and palms) should be taken for anyone believed to have been involved in indirect fire/IED attacks or incidents where prior forensic evidence may have been collected. BAT enrollment does not include collecting prints from the palm or blade of the hand. This poses a problem if the latent print recovered from a prior SSE is only of the palm and not fingers, thus the reason for the MCP. Once the MCP is taken, it can be submitted electronically for enrollment and comparison in the National Ground Intelligence Center database and cross-checked for alerts, indicating a link to extremist activity.

The use of forensics and employment of LEPs/CID becomes a must in the unfortunate event of kidnapped Soldiers. On 20 January 2007, Shia extremists attacked the Karbala provincial joint coordination center where the 4-25 Airborne maintained a small contingent of troopers with Iraqi Police, resulting in four paratroopers from the 4-25 Airborne being taken hostage. These paratroopers were later recovered after being killed in a wooded area near Babil. Evidence collected from the enemy vehicles and other items left behind at the scene enabled the brigade to

identify several members of the extremist cell, and ultimately, this information resulted in the death or capture of several of those responsible. LEPs from the 4-25 Airborne also assisted in the extensive search along the Euphrates River for the kidnapped Soldiers of the 2/10 Mountain in May 2007.

Forensics can play a vital role in catching the target. By applying proven law enforcement techniques and using a little ingenuity, any BCT can successfully find extremists by using forensics and biometrics. The clues are on the battlefield, they just have to be found.

The Role of Forensics in the Iraqi Judicial System – Targeting Insurgents

Erick Berg

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Background

Sadam Hussein and the Ba'ath Party, effectively eliminated Forensic Science from the Iraqi legal system soon after taking power. Fingerprints were used on voting records and other official government documents, but were never accepted as evidence in a criminal proceeding. Ba'ath judges instead expected to hear the testimony of two witnesses to a crime and photographs before they would find a defendant guilty of any criminal offense. Ba'ath Party members were often immune from prosecution, while Shiite and others were routinely imprisoned without evidence by the politically corrupted legal system.

The end result was that ordinary Iraqi citizens did not trust the legal system in Iraq. It's not generally known, but prior to the Ba'ath takeover, Iraq was actually a leader in Middle Eastern Forensic Sciences. Iraqi fingerprint experts were members of the International Association for Identification, an organization that represents the experts in fingerprint identification, shoe print analysis, crime scene reconstruction, photography and other disciplines designed to support criminal investigations around the world. All this history was lost during more than 30 years of Ba'ath rule, but some in Iraq didn't forget, and a few young lawyers were open to learning about a science their country once embraced.

The U.S. military ended the Hussein government and its corrupt legal system when it entered

Baghdad on April 9, 2003. On April 22, 2004 the Coalition Provisional Authority rebuilt the legal system and created a new adjudicating body called the Central Criminal Court of Iraq (CCC-I). The CCC-I consists of two distinct branches–an investigative court and a felony court. It has national jurisdiction over all matters related to terrorism, organized crime, governmental corruption, acts designed to destabilize the government or any case where a defendant is unable to obtain a fair trial in a local court. The CCC-I was given authority to issue both arrest and search warrants, regardless of whether the case falls under the jurisdiction of the CCC-I or a lower court.

The Iraqi Constitution of 2005 created a parliamentary form of government with three separate and independent branches: Legislative, Executive and Judicial. The Judicial branch falls under the authority of the Higher Judicial Council, which has its own budget, appoints judges, investigates judicial misconduct and corruption, and oversees the entire judicial system within Iraq.

The Iraqi judicial system is based upon the Egyptian system, which in turn is modeled after the French judicial system. Unlike Common Law, upon which both the British and U.S. legal systems are based, the Iraqi system does not recognize judicial precedence. Laws are not interpreted from precedent cases as with Common Law, they are applied as written. If the written law does not specifically prohibit the circumstances of the event, it is not a crime. Each judge may act independently and is not restricted by the rulings of other judges. One judge might accept the fact that fingerprints are unique to one individual while another judge does not. Some of the younger Investigative Judges at the CCC-I, with recent training in the capabilities of Forensic Science, readily accept fingerprint testimony and are willing to consider other scientific

evidence such as ballistics and DNA, while the more traditional Judges are skeptical, demanding the sworn testimony of two witnesses who can identify the suspect.

This inconsistency among the judges often leads to the practice of Investigative Judge shopping, when cases being presented are based upon fingerprint identification and lack either a confession or two witnesses to the crime. Truth is determined primarily through questioning of the accused by the Investigative Judge. He has sole discretion over what evidence is accepted for consideration and the rules of evidence are not strict.

The Investigative Judge is the finder of fact under the Iraqi system. Once all the witnesses have been heard and the evidence has been examined, the judge determines if there is sufficient cause to believe the defendant is guilty, and whether or not the case should be tried by the Felony Court. If the Investigative Judge determines the case should go forward, a recommended charge and disposition is included with the case file before it is submitted to the Felony Court. That court can then accept or reject the judge's recommendations, or the court can ask for additional information, or it can dismiss the case altogether. However the Felony Court rarely goes against the Investigative Judge's recommendation.

Trials before the Felony Court are generally swift. The average trial lasts thirty minutes. The three judge panel hears testimony from the victim under oath. The panel then reviews the court file. If the accused denies the charge(s), defense witnesses are heard and any evidence offered by the defense is considered. The victim and prosecutor then offer petitions, followed by the accused who is the last person to speak. The judges then adjourn to deliberate, or they render a verdict and sentence. Deliberations rarely last more than 10 minutes. The verdict is announced publicly. Penalties under the Iraqi Penal Code include:

- Death Penalty.
- Life Imprisonment (20 years.)
- Imprisonment for a specific term (5–15 years.)
- Servitude (put to work for not less than 3 months, or more than 5 years.)
- Detention (not less than 24 hours or more than 1 year.)
- Fine (up to 500 dinars.)
- Confinement in a school for young offenders.

The sentences handed down by the CCC-I normally fall within the first three.

Appeals are heard by the Court of Cassation and must be filed within 30 days of judgment. Death penalty cases are appealed automatically to the Court of Cassation, and must be forwarded to the court within 10 days of judgment.

Grounds for appeal include:

- Breach of the Law.
- Mistake in the application of the Law.
- Fundamental error in standard procedure.

- Fundamental error in the assessment of the evidence.
- Error in sentencing.

The U.S. military began collecting material from the battlefield for forensic exploitation in December 2004 in an effort to identify and track insurgents by using biometric signatures recovered from the collected material. Terrorists began to lose their anonymity and were targeted in military operations. Coalition Soldiers and Iraqi civilians were falling victim to improvised explosive device (IED) attacks in ever increasing numbers, but by the beginning of 2007 things began to change. Effective targeting of the bomb makers reduced the number of incidents, while the exploitation of Forensic Intelligence was reducing the overall effectiveness of the IEDs.

The detention and interrogation facilities throughout Iraq began filling up with terror suspects. The Coalition Forces were holding more than 22,000 detainees. A small portion of those (approximately 1501) had been forensically connected to IED events, while hundreds more had been linked to events by other intelligence methods. Many were captured with bomb making materials in their possession.

Iraq's government was moving quickly to establish civilian control over law enforcement functions, and to re-establish the rule of law within its borders. The CCC-I was taking the lead in Iraq's efforts to hold insurgents accountable for their crimes. Judges at the CCC-I began to receive forensic training from latent print examiners working at the Combined Explosives Exploitation Cell (CEXC). They learned about fingerprints, how they are deposited on various materials, and why a fingerprint can be used to uniquely identify an individual. Even though the Hussein government used fingerprints extensively to sign documents and identify criminals and government officials, many in Iraq still believed it was impossible to determine the identity of a bomb maker from a fingerprint left at the scene of a bombing.

The Investigative Judges at the CCC-I take witness statements and prosecute cases from a variety of sources, but the majority are submitted by U.S. military lawyers working for Task Force (TF)

134. Lawyers search through databases and reports looking for the details of a detainee's arrest, in an effort to determine if an offense was committed that can be submitted to the CCC-I for criminal prosecution. Much of the information found is classified and can't be used as part of an Iraqi prosecution. Other cases lack witnesses, but despite these hurdles, the number of cases submitted for criminal prosecution continues to increase.

First Fingerprint Match Accepted for Charging at the CCC-I

On May 27, 2007 fingerprints recovered from the components of an IED by personnel working in the biometrics laboratory at CEXC were identified to Saif Shaban Affat. Lawyers from TF 134 contacted CEXC and asked for their support to prosecute Affat under the Iraqi Criminal Statute for Terrorism. This was the first time CEXC was asked to deviate from its intelligence mission to provide expert testimony in a criminal proceeding. The request highlighted the challenge of protecting classified techniques and information, but also offered a new tool for removing insurgents from the battlefield.

After much discussion, CEXC agreed to provide unclassified exhibits and testimony. The case was submitted to an Investigative Judge at the CCC-I. During his statement to the Judge, Affat admitted that he had constructed the IED that wounded seven Coalition Soldiers. The Investigative Judge forwarded the case to the Felony Court for trial where Affat was sentenced to life in prison. Affat was transferred from Coalition custody to the Iraqi prison system.

First Conviction Based Upon a Fingerprint Match

On July 23, 2007 a latent fingerprint found on material connected to an exploded IED was matched to the right thumb of Waleed Khalid Allawi Fayadh Dulaimi. As in the first case, CEXC provided unclassified exhibits to TF 134 attorneys and the case was submitted for charging. On September 24, 2007 a latent print examiner from CEXC traveled to the CCC-I to provide testimony to an Investigative Judge. The Judge asked specific questions about the IED, where it was found, where the fingerprint was found and how it was identified to Dulaimi. The Judge then told his clerk how to summarize the testimony and which parts to include in the court record. The witness remained seated on a black leather sofa, which serves as the witness chair, until the clerk had completed the handwritten record. The witness then signed the record, which is written in Arabic, and it was added to the court file as the witness's sworn testimony. The court file contains the statement of all witnesses and the defendant, as well as any photographs or diagrams. The latter two items are nearly as compelling to an Investigative Judge as a signed confession or the sworn testimony of two witnesses to the crime.

First Iraqi Arrest Warrant Issued by the CCC-I for a Master Bomb Maker

Muthana Natham Abdallah was a student in Mosul in January 1996 when he was arrested by Iraqi Police for violation of paragraph 200 of the Iraqi Penal Code (1969), Offense Against the Internal Security of the State. An Investigative Judge took Muthana's statement and those of witnesses, and then referred the case to the Misdemeanor Court. Muthana was convicted of the crime on February 25, 1996 and was sentenced to one year in jail. It is believed that Muthana was studying Electrical Engineering at the time of his arrest.

Muthana didn't turn up again for ten years, when his fingerprints were matched to an IED in the Mosul area. Over the next two years CEXC matched him to a total of eleven IEDs, and there is reason to believe that he has constructed at least 75 others. NGIC designated Muthana as a high value target. Despite numerous attempts to find him, Muthana evaded detection. The only picture of him is at 12 years of age. Analysts know he's from Mosul, and they know Iraq is a tribal-based society where people from one area tend to be known by or related to other people in the same area. Likewise, the Iraqi Police tend to know the people in their towns and villages.

> As the CEXC Biometrics Lab Director at the time, I asked the counter-IED Targeting Program Analyst at CEXC if an Iraqi arrest warrant would be useful in getting the Iraqi Police to take an active role in locating and/or capturing Muthana. The analyst excitedly said, "Yes, how do we get one of those?" I said, "I have no idea, but I'll bet the Iraqis have a procedure for requesting one, so all we have to do is find out what that is." I contacted one of the attorneys at TF 134 that I had worked with on other cases, explained the circumstances and told him I needed an arrest warrant and wondered what the procedure was. His response surprised me. He said, "I have no idea, but I'll find out and get back to you." Ten days later he called back and said it took some doing as even the Judges weren't sure if the Coalition could request a warrant, but after some legal research it was determined that the issuance of an arrest warrant was within the discretion of an Investigative Judge. Further, the basis for granting a warrant was much the same as a referral to the Felony Court. A case would have to be prepared as if the accused were present. The case is then presented to the Investigative Judge along with witnesses and any available evidence. If the Judge determines that the case is sufficient to justify a referral to the Felony Court, an arrest warrant will be issued. In other words, the accused is tried in absentia. The procedure made sense in an odd way. If an arrest warrant was issued and Muthana was arrested, the trial was over except for Muthana's own statement.
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> A thirty-two page exhibit was prepared along with an affidavit stating that I had examined Muthana's 1996 fingerprint record and compared those fingerprints to the

latent prints recovered from IED material, which was collected at several IED events by weapons intelligence team and explosive ordnance detachment units, and that it was determined the latent prints were made by Muthana. The exhibit contained documentation and photographs of three events that had been matched to Muthana, as well as his fingerprint record and a chart showing how his fingerprints had been matched to those found on the IED material.

On January 13, 2008, I took a Blackhawk to the International Zone (IZ) and then travelled by vehicle to a checkpoint where I accompanied the attorneys through the wall and into the Red Zone. We walked swiftly through some trees and then across approximately 100 meters of open ground to a basement entrance to the court house. I sat in the hallway while the attorney tried to find out which Judge was going to hear our case. After about 45 minutes the attorney told me the Chief Investigative Judge was going to hear the case. We walked to the end of the hall and I sat down in a chair in front the Judge's desk. Unlike the other court rooms I'd been in, this Judge had a computer on his desk, a rack of file servers in the corner of his office. There was a large, flat panel TV on the wall opposite his desk, which was used for video teleconferences. There was a large window near the desk that looked out toward the IZ, which was covered with a curtain.

The Judge was very receptive. His interpreter lacked the English skills I had become accustomed to from other interpreters, but the Judge seemed to understand English quite well. I presented the case to the Judge and he commented frequently on how well documented each incident was and shook his head affirmatively when he examined the slides showing how the fingerprints had been identified. Halfway through the exhibit the Judge put the pages down on his desk and said to me in clear English, "I studied Forensics in Belgium," and then he turned in his chair and pulled out a book from a stack piled on the floor behind his desk. He held the book up and said, "This was my text book" as he leafed through the pages, pausing to show me selected passages in Arabic. He put the book down and continued through the rest of the exhibit. When he finished he smiled at me and said, "Good job, very good job." The Judge then said to the attorney, "You have your Commander write a memo and I'll sign the warrant." The attorney asked if the Judge needed any more information, and the Judge said, "No, this is enough, good job." The purpose and content of the memo that was requested by the Judge was never fully explained to me. A memo was prepared by the attorney and signed by the TF 134 Commander.

An arrest warrant for Muthana Natham Abdallah was issued on February 10, 2008 and was distributed to Iraqi police stations throughout Iraq. Muthana was seen three weeks later, inside a former Fedayeen base, which had been taken over by displaced Iraqis and is located less than a kilometer from Camp Victory in Baghdad. This was a long way from Mosul. Had there not been an Iraqi arrest warrant issued, it's doubtful this sighting of Muthana would even have been reported. It was not widely known outside intelligence and special operations units that Muthana was even a target, and it appears Muthana was able to avoid biometric check points. He left the area three days before an infantry unit went out to do Biometrics Automated Toolset enrollments of everyone living in the former base. Muthana is still at large and is still active.

Since this warrant was issued, several other requests for arrest warrants have been submitted to the CCC-I. Multi-national Force-West has become very interested in obtaining arrest warrants issued for insurgents working in the Fallujah area. Iraqi arrest warrants can help to strip away another layer of anonymity and encourage the assistance of the Iraqi Police and citizenry. Removing an insurgent's anonymity is the first step towards removing them from the battlefield.

Iraqi Judges risk their lives every day, just going to work. Many of the Investigative Judges sleep on cots in their court room, and only return to their homes at irregular times and intervals. At the beginning of January 2008, one of the CCC-I's Felony Court Judges and his body guards were assassinated outside the Judge's house on their way to the CCC-I building. In March 2008, simultaneous bomb attacks were made on five Judges. All five avoided injury, but the intended message is clear. My experience with the Iraqi Investigative Judges is that they are deeply concerned about their country and are dedicated to their profession and the Rule of Law in Iraq. They prove it every day by putting their lives on the line just going to work.

CCC–I

The CCC-I building originally housed the Sadam Hussein Gift Museum and Clock Tower. It was chosen to house the CCC-I because it was accessible to the Iraqi people living in the Red Zone, yet it's also close enough to the IZ to be accessible for the attorneys and Coalition witnesses travelling from the U.S. Embassy and beyond. Prisoners facing charges are transported to the CCC-I by U.S. Military Police. In the center of the basement floor is a large fountain that once greeted visitors to the Gift Museum with streams of water which fell from a metal sculpture that rose from a large pool built up from the floor. The stairs wrap around the fountain, rising up to the floor above. Visitors to the CCC-I who look down from the building's lobby now see a metal sculpture sitting alone in a dry pool. Looking up, the ceiling raises high into the base of a clock tower that once told foreign visitors and government officials the time in Baghdad from four different directions. Only the clock faces remain; they no longer tell the passing viewer the time. The hands were shot away in a forgotten battle with a sniper who used the clock tower as a vantage point.

There are a number of young children running around the lobby and hallways of the CCC-I. Many of these children are orphans and are brought to the court house by court employees to keep them safe. Most of the U.S. Soldiers and attorneys working in the court house know these children by name and have worked out ways to communicate with them as they spend their days together. A small, improvised restaurant is located in the basement and serves a notoriously strong Iraqi coffee and a kind of sandwich the Iraqis call falafel.

Those accustomed to testifying on a regular basis in a U.S., or other Common Law court, might find the conditions at the CCC-I a bit surreal and perhaps a little hard to comprehend at first, but the CCC-I is a functioning legal system, with rules, procedures, and a staff of educated lawyers and support personnel who run it. The Senior Investigative Judge received Forensic training in Belgium. Some of the Judges are Christian, but the majority is Muslim. Many understand a surprising amount of English, but all rely on a translator to avoid misunderstandings. However, don't be surprised if a Judge suddenly makes a humorous comment, or asks a clarifying question directly, in English. The fact that you have to wear body armor and a helmet while following variable security procedures in order to get to the building simply serves to remind that this court system is also functioning inside a war zone.

Conclusion

Iraq continues to move toward an independent government, and self-supporting army and criminal justice system. The U.S. Army Criminal Investigation Laboratory (USACIL) is sending added forensic laboratory capacity to Iraq in order to provide more support for DNA, ballistics, chemical analysis as well as biometrics. These laboratories fall under the purview of the Provost Marshal's Office in Iraq and USACIL in Georgia. The Government of Iraq has a Forensic Laboratory in Baghdad and is standing up an additional lab in the North. All of these labs will presumably be producing results that could support criminal prosecutions. These criminal cases would need to be submitted to the CCC-I or one of the local courts for prosecution.

Done right, the Coalition can be seen as an ally and resource to the maturing criminal justice system in Iraq. The Coalition is also in a position to offer training and support to Iraq's Forensic Laboratories. Done arrogantly, and without respect to the Iraqi culture and history, we risk losing an effective tool for removing terrorist from the streets and battlefields of Iraq, and we create an opportunity for those terrorists to practice their tradecraft in the U.S. or elsewhere. Iraq has a legal system and it works for them. We must continue to learn about and understand that system, and support it where we can. We share a common goal: Identifying, capturing and prosecuting terrorists. Biometric Intelligence, like other forms of intelligence, can support many missions. It's good to know who the enemy is, but it's even better when you have a resource like the CCC-I, that is able to act on that intelligence and render the enemy safe.

Endnote

1. The actual number is difficult to establish. Records range between 142 and 158, depending upon the source. Some individuals were identified, but never captured.

Erik Berg is currently working for Harding Security Associates as a latent print examiner and is assigned to the NGIC. His work has been featured on documentary television shows such as The New Detectives, 60 Minutes, and Forensic Files. His expertise includes photography, computer based imaging, latent fingerprint identification and crime scene investigation. He deployed to Iraq in September 2007, after 22 years in law enforcement, to work in the Biometrics Laboratory at the CEXC-I at TF Troy. In December 2007, Erik was promoted to the lab's Director. During February and March 2008, the Biometrics Lab recovered 2,344 latent prints of value from IED related material, and a record number of those (104) were identified during the same period. Erik can be contacted at (434) 951-4730 or via email at eberg@harding-security.com

Iraqi Police, 25th Special Troops Battalion commander tour Joint Expeditionary Forensic Facility 4

Reported by Multi-National Division – North, 145th Mobile Public Affairs Detachment, Contingency Operating Base Speicher, APO AE 09393

Editor's Note: The following press release is provided to illustrate how U.S. Forces are working with the Iraqi Security Forces in developing a shared analytical capability to produce forensic evidence that will aid in the capture and prosecution of insurgent criminals.

7 June 2009

CONTINGENCY OPERATING BASE SPEICHER, TIKRIT, Iraq—Local Iraqi Police station representatives and Lt. Col. Eric J. Angeli, commander 25th Special Troops Battalion, 25th Infantry Division, toured the Joint Expeditionary Forensic Facility 4 located at Contingency Operating Base Speicher, 2 June.

JEFF 4 at COB Speicher is one of five JEFF labs in Iraq. It uses forensic science to analyze crime scene evidence to positively identify criminal perpetrators, which helps disrupt the enemy's ability to stay anonymous, said the JEFF 4 officer-in-charge [Major Donald R. Meeks.] With latent fingerprint technology, fire arms and tool marks analysis, and DNA testing, the lab can determine who is or is not responsible for committing a crime.

The lab is frequently called upon to examine evidence gathered from improvised explosive device incidents. According to JEFF 4 data, about 12 percent of the facility's work involves processing IED evidence. "The IED is the number one killer on the battlefield," said the OIC.

The facility also examines evidence found at weapons caches and sites where Coalition forces have been attacked, as well as evidence found on enemies killed-in-action.

Iraqi Police across the county train at JEFF. The lab is endorsed regularly by Coalition forces and is in the process of being sanctioned by the Iraqi Government, said JEFF 4's OIC. Certification includes calibrating the complex equipment used to analyze crime scene evidence and ensuring the facility follows exact procedures outlined by Iraqi and United States rules of law and Bilateral Security Agreement policy.

Among the tour's guests were Lt. Col. Ghazi, the Al Sequor Iraqi Police Chief and his boss, Col. Imad, the Tikrit District Iraqi Police commander, a 26-year police veteran. Ghazi, who has developed a close working relationship with Angeli and the 25th STB security detachment during the past seven months, was impressed with JEFF 4's capabilities and hopes to see the Iraqis build a similar forensics lab. "Having a lab like this would be a very great help to the community because we would be better able to prove the innocence of one person and the guilt of another," Ghazi said.

Unfortunately, Ghazi fears the lack of money the Iraqi Government allots to the Iraqi Police will prevent a state of the art forensics facility from being built anytime soon. Angeli, who speaks highly of the Al Sequor police force, agrees the lack of resources available to the Iraqi Police is and will continue to be their biggest challenge. "It's been frustrating because the Iraqi Police we've worked with are truly a group of professionals, but the support they receive is not sufficient to maintain and improve their skills," Angeli said. "All the emphasis is on the Iraqi Army, but it's the IP's who secure the local populations."

Angeli said he welcomed the chance for the local Iraqi Police to see what JEFF 4 does. The purpose of the visit, he said, was to show Ghazi the resources and capabilities he and his police force can utilize to collect and process evidence and to offer forensics training for the IP's to process crime scenes. Angeli was pleased the Tikrit District Police commander was able to attend the tour with Ghazi.

With decades of police experience, Imad explained to his officers and JEFF 4 personnel what the Iraqi Police capabilities are. Throughout the tour, Imad shared his knowledge of Iraqi crime scene collection and control procedures, which, surprising to many U.S. military members present for the tour, are almost the same procedures JEFF 4 uses.

Imad hopes the partnership between Iraqi Police and Coalition forces will enable both sides to learn and improve from each other's knowledge. Imad is confident of his police force's capabilities. He said things are continually getting better in his community. "Every day we see improvements in Iraq. You can see from the statistics themselves in the last two years that crime is declining," Imad said. A year ago, there were weekly attacks, but because our police are working hard day and night, the crime rate is almost zero. I attribute this to the presence of our police force."

Like Imad, Angeli is confident with the local Iraqi Police forces continued capabilities to secure the local population. He said he is proud of the work Ghazi and the 25th STB security detachment have done to make an already professional police force more respected within the local community. The 25th STB security detachment commander, Cpt. Jeffrey L. Vargo, said trust has developed between the local community and Iraqi Police, and residents know the local police officers will help them and protect them.

With the security detachment's support and weekly training sessions with Vargo and his team, the Al Sequor police force now readily assumes responsibility for security within its area. "Ghazi has initiated and facilitated town hall meetings and security meetings with local leaders and Sons of Iraq. He has distributed circulations advertising the IP's successes and emergency contact information," Vargo said. "Over the past seven months, he has learned all that he can from me and my team to improve his police station and his relationship with the Sons of Iraq, which reinforces security in his area of operations."

With JEFF 4's capabilities and forensics training, the local IP's will be able to smoothly transition their own forensics facility into one in which the most current technology helps capture the bad guys.

Warrant-Based Targeting

Engaging Judges Effectively in Iraq

LTC C. W. Royer

Nonlethal targeting of the Iraqi judiciary in Operation Iraqi Freedom (OIF) continues to be a force multiplier. Deliberate, strategic engagement of judges is an important part of the nonlethal targeting process and requires time, planning, and resources. During the "Surge" the Commanding General (CG), Multi-National Division–Central (MND–C), emphasized a deliberate engagement strategy of key judges in the operating environment (OE). The MND–C Rule of Law (ROL) Cell developed and executed an engagement strategy with the judiciary in Baghdad's two southern Qadas, their respective Chief Appellate Judges (CAJ) in the Karkh and Rusafa Districts, and CAJs in five central provinces to leverage the CG's key ROL objectives. Engaging the judiciary was an early component of the division's nonlethal targeting process and was discussed at the weekly nonlethal targeting working group and briefed at the CG's nonlethal targeting meeting, where he provided guidance. In April 2007, the CG stated that security improvements in the OE could only be sustained by concurrent nonmilitary capacity-building. Using the window of opportunity created by early security successes typified by Operation Marne Torch (clearing al Qaeda from Arab Jabour), judicial capacity expansion became the ROL line of operation priority. Judicial engagement was the focus of the effort. This article provides guidance for the beginning practitioner to effectively engage Iraqi judges in order to achieve the commanders' intent and illustrates the engagement approach taken by MND–C. Other units can use this guidance as a template.

Importance of Engagement Strategy

The ability of coalition forces (CF) to develop effective ROL objectives starts with the capacity to influence the decisions of the Iraqi judiciary. In most of the current OIF OE, the emphasis is on transition and capacity building. The Iraqis are in the lead in many areas including the judiciary. The independence of the Iraqi judiciary and its growth since 2003 require that CF understand the dynamics of Iraqi relationships and how they affect how Iraq functions. These relationships form the foundation for getting things done with Iraqi judges. Relationships start with respect, dignity, and hospitality. Similar to other Arabs, Iraqi judges expect a level of respect and honor. A failure by CF to engage with the requisite amount of these qualities will result in weaker relationships and limit accomplishments. Conversely, the willingness of CF to be sensitive to Iraqi and Arab cultural mores makes all the difference in developing these relationships. The educated Iraqi judiciary has expectations and assumes the coalition is educated and sophisticated enough to engage them properly. These expectations must be maintained.

A judge's perception that he is being shown respect commensurate with his position is by far the most significant area to leverage. Respect is shown in the consistency of the engagements, their length, and their tone. CF should engage judges monthly. To establish the relationship, CF should consider more frequent engagements in the beginning. Using proper Arabic phrases and acknowledging basic Iraqi culture also shows respect. Addressing judges in honorific terms, in Arabic, shows a judge that members of the CF have made the effort to show respect. Dividends will be substantial. Using terms of respect and actions indicative of respect are compelling to the Arab mind and will invariably result in reciprocal treatment and judicial actions consistent with the goals of the coalition.

While Islamic tradition dominates Iraqi relationships and government structures, most judges are secular in their professional roles. Moreover, they are sophisticated enough to realize that many coalition engagement "blunders" are due to ignorance and mean no offense. Judges may overlook insensitive and disrespectful behavior if they believe the behavior is unintentional. However, if the goal is to build an effective professional relationship, the engager must take the time to learn things the "Iraqi way."

Outside of the International Zone (IZ), where there are institutionalized weekly engagements with senior members of the Higher Juridical Council (HJC) and Department of State /Department of Justice/Multi-National Force-Iraq legal liaisons, judicial engagement is highly varied and largely up to CF. Some jurists have had repeated contact with CF and are accustomed to these interactions. Other courts have never been engaged by CF. Notably, the provincial judiciary does not have directly assigned coalition counterparts to facilitate capacity-building. As a result, the MND–C has tremendous influence on how judicial engagement will occur.

Judicial Engagement Tactics, Techniques, and Procedures

Engage the right personnel. The Iraqi legal system is stove-piped; the local investigative judge answers to his court's chief judge. The chief judge answers to the chief provincial judge (CPJ). That judge alone has entree′ to the HJC. The Iraqis adhere to this chain of command. Not following it is a sign not just of ignorance, but of disrespect. MND–C focuses engagements primarily on CPJs and CAJs. Local judges cannot make important administrative or logistical decisions without the concurrence of CPJs and CAJs, regardless of their seeming agreement or enthusiasm. Focus on selling issues to the CPJ. Explain this dynamic to the brigade combat team (BCT). At MND–C, BCT ROL personnel were included in engagements with the CAJ/CPJ involving their local courts. This inclusion enhanced their credibility with their respective local court judges.

Who should engage? Iraqis are status-conscious; the more senior the engager from the coalition, the better. However, it is impractical to have BCT commanders consistently engage with the courts. At MND–C, judge advocates were the primary engagers. In areas where there were fewer forces, the servicing provincial reconstruction team ROL coordinator would take the lead. More important than seniority is the repeated involvement of the same personnel. Soldier paralegals also serve an important function in the division's engagement strategy. At MND–C, paralegals accompanied ROL officers on most engagements and assisted by simultaneously engaging court administrators and other support staff. For example, during engagements involving computer training, the paralegal interacted one-on-one with Iraqi judges.

Figure 11-1. MND–C paralegal at engagement for computer training of North Babil judges.

Lower court judges are required to report to their CPJs/CAJs, often in writing. The Iraqi court system has tremendous documentation and scrupulous record-keeping. Lower court Iraqi judges fully brief all contact with CF to their superiors. It is respectful and advisable for the coalition engager to request permission of the CAJ/CPJ before setting an engagement with a lower court in his jurisdiction. MND–C found this procedure to be very helpful in showing judges the engagers understood and followed the system. If this courtesy is ignored, the CAJ/CPJ will eventually find out about the engagement, and the engager's failure to inform will cause unneeded strain on the relationship.

Iraqi judges are smart and educated. Many speak formal Arabic in addition to their Iraqi dialect. They know their law, which has substantively changed little since 2003. CF may have a tendency to assume the Iraqi justice system is non-functional and its judges untrained. However, the experience in the MND–C OE is the opposite. The wise coalition engager should not suggest anything except respect for the tradition and competence of the judiciary. When the CF need help working on issues, they must be careful not to suggest what judges may construe as accusations of error, lack of diligence, or incompetence. The judge will typically protect and defend his and the court's honor at all costs. Judges take criticisms very seriously, and they can cause unintended consequences.

Iraqi judges are proud of their legal heritage and will routinely have prints or tapestries of Hammurabi on their walls. They may also have a framed Qur'anic verse relating to a judge's duty to be fair and impartial. Respectfully acknowledging the same is a small but important aspect of the initial engagement. The Qur'an is typically on the judge's desk and covered to keep it dust-free. Do not ask to peruse it; the request would probably be granted out of politeness but would likely be inappropriate.

Historically, judges in Iraq have not had significant relationships with the military (Iraqi Army [IA] and Iraqi National Police [INP]). Similar to Western judges, Iraqi judges are comfortable interacting with the police. The need for security in post-war Iraq requires judges to form new relationships with the IA and INP. Both entities have varying levels of trust of the judiciary and vice versa. This, however, remains problematic. Coalition engagers need to be sensitive to this dynamic and realize that issues with Iraqi security forces (ISF) (IA and INP) will typically require more finesse. Do not expect rapid trust from a judge.

Figure 11-2. MND–C facilitated engagement of a local NP commander and judges to discuss court security in Mada'in Qada.

Agree to meet judges at their courts. This practice shows respect and demonstrates the capability of CF to move around the OE. The ability to leverage a convoy of trucks and Soldiers around the OE is significant because it is symbolic of power and authority, both qualities Iraqis respect, and it also supports the perception of security. One of the recurring themes for judges is lack of adequate personal security. Coalition presence at the courthouse suggests adequate and improving security and is the best way to gauge the status of the court.

While coalition forces have become a normal fixture in Iraq, courts may still be uncomfortable with the presence of Soldiers and weapons. If the security situation is permissive, remove all protective gear as soon as practicable and conduct the engagement without holding weapons. Keep personal security detachments out of the meeting room, if possible. Civilians involved in the engagement should wear appropriate attire. Ties and sport coats show respect to the judge. Women should wear a head scarf, at least at the initial visit. Remove sunglasses and gloves as soon as possible and before shaking hands. Be sensitive to the fact that you are in a court.

Spend plenty of time greeting. Always greet the senior person first. Work your way around and shake hands with each person as practicable. Putting one's hand over the heart connotes respect and sincerity. After taking one's place, be prepared to spend plenty of time on extended greetings and initial discussion. It is contrary to the Iraqi way to go right into business. Spend

time asking the judge about current events and his opinion of CF and/or ISF. Most judges will avoid controversial issues. Do not expect to engage on such issues until your relationship is well-developed. Similarly, expect the first meetings to be more cordial than substantive. As the relationship develops, judges will gradually engage on more substantive issues and work toward resolving coalition issues of interest.

Do not ask questions about a judge's female family members including his spouse. CF openness and friendliness, while sincere, may offend. Showing sensitivity to this Muslim tradition shows respect. Maintain eye contact. Similar to Westerners, not looking at someone suggests they are unimportant.

Engage in friendly discussion and do it leisurely. Engagements with judges should typically last one to three hours. "Drive bys" are discouraged and suggest lack of respect. Judges will not rush and will make a great effort to be hospitable, attempting to show respect. An Arabic word, *karamah*, partially captures the approach; *karamah* suggests granting others respect, honor, and dignity and treating others with generosity. Doing so is part of the "righteous path" and consistent with the Careen's teachings. Judges may take phone calls during the engagement. This is not a sign of disrespect. Also, interruptions by other court personnel may occur.

Use the same coalition interpreter or advisor whenever possible. The judge will form a concurrent relationship with this person. A savvy and motivated advisor can make a tremendous difference in the growth of the relationship with the judge. Uneducated or otherwise unsophisticated interpreters hamper engagements. As relationships mature, the level of privacy and trust accorded the engager will increase. Having the same Arabic speaker at each engagement will hasten this process. Furthermore, much of the contact with the judge will occur over the phone. If the judge trusts and likes the interpreter, he will be more willing to engage remotely. Recognize ethnic and tribal affiliations. Work in advance with your interpreters to prepare them for engagements. The judges will be able to quickly discern if the interpreters are "plugged in." Preparing for the meeting is another indicator of respect.

Strive to avoid uncertainty. The strict rules and laws in Iraqi culture reduce the tolerance for ambiguity. Judges will seek to avoid risk and the chance of the unexpected occurring. They will invariably become uncomfortable and resistant if the engager advocates situations with uncertain outcomes. In general, they will not accept risk. Decisions are typically made gradually. The dynamic changes that occur with shifting personnel and issues, operational environment boundaries, and Government of Iraq (GOI) development are all contrary to traditional Iraqi thought. Be sensitive to questions that may force an "I don't know" response; this is distasteful for Arabs. Be careful to avoid even constructive criticism; this may be viewed as an insult.

Build your relationship by following through on "promises." Be careful what you agree to do. If you agree or promise to do something and fail to follow through, you risk reinforcing the common Arabic perception that "America never keeps its promises." Iraqi judges are very conscious of coalition efforts, whether they are sustained engagement efforts or tangible ROL initiatives. Do not risk a loss of credibility early on by promising the unobtainable. Rather, indicate you will "look into it."

MND–C Judicial Engagement Strategy

The MND–C CG viewed the OE judiciary as an untapped engagement resource, capable of cementing security gains and hastening local nationals' perception of normalcy. In early April 2007, he directed the division ROL cell to develop an engagement strategy focused on increasing ROL capacity in the maneuver brigade OE. After analysis, the division decided to focus initial efforts on Baghdad's two appellate judges and local judges in two areas where ROL was

characterized as a priority: the Mahmudiyah and Mada'in Courts. These spheres of influence became the ROL cell's primary focus for the next six months.

Figure 11-3. MND–C engagement of Karkh Chief Appellate Judge.

In conjunction with the land-owning BCT, MND–C applied a deliberate long-term engagement strategy approach to the CAJ of Rusafa, who had direct authority over the Mada'in Court, a court within the OE of a maneuver brigade. At the beginning of the deployment, the Qada court was collocated with the Karada court in the heart of Baghdad. Moving the court back to the Qada was the CG's first task, with a long-term goal of moving it to its historical site in Salman Pak, approximately twenty miles southeast of the IZ. Engaging the Rusafa CAJ and the Mada'in Court occurred concurrently and repeatedly.

Over the summer and fall of 2007, the existing and empty courthouse in Salman Pak was completely renovated using MND–C Commander's Emergency Response Program (CERP) funds. This use of CERP funds in coordination with the CAJ's direction on the project further enhanced the relationship. Additional leverage was created when the Iraqis felt obliged to occupy the renovated site. Simultaneous, concurrent, and consistent engagements took a variety of shapes. Some included the lower court's chief judge and the CAJ at the appellate courthouse. Some engagements were with lower court judges at the Karada courthouse where they were sharing space. Some of the meetings involved the chief judge of the Karada Court, who was also the deputy to the CAJ for the Rusafa Appellate District. After familiarity was achieved, a larger engagement including key ISF, the Qada Mayor, and senior BCT leadership occurred at a nearby coalition forward operating base.

After six months of engagement and improvement in the security of northern Mada'in Qada, the CAJ ordered the court out of downtown Baghdad and back to Jisr Diyala. The restoration of legal services to the Qada citizens was a notable achievement and a highlight of the BCT's first six months. Thereafter, the additional goal of resetting the court in Salman Pak became the focus of continued engagements. By May 2008, the CAJ had become the division's trusted partner. Engagements were marked by hospitality and friendliness. Repeated visits had also familiarized court security and staff with CF. In the end, the CAJ and CF worked as a team to influence higher to direct the court's move to Salman Pak.

The division used a similar approach to get the Mahmudiyah Court fully functional and manned. With a strained relationship with its ISF, a decrepit facility, and a location far from downtown, the court was arguably the least desirable assignment in Baghdad. CF first engaged the Karkh CAJ and with his assistance developed a strategy to assist the troubled court. As part of the plan developed over multiple engagements, CF agreed to substantially renovate the court, thereby boosting its image to the local citizenry. CF also agreed to leverage the leadership of the ISF to improve its respect for the court and its rulings. With the CAJ's concurrence, CF met with and leveraged the Karkh Central Criminal Court of Iraq to reduce the backlog of terror suspects awaiting trial at the overcrowded IA detention facilities. In four months, the population went from 800 to 60 and eventually stabilized in the 35-60 range. The CAJ then added two additional judges and support staff. The OE-owning BCT continued to facilitate IA and Iraqi police cooperation by issuing checkpoint passes signed by the local IA brigade commander to each judge. The court remains fully functional and is a bright spot of the Qada governance resurgence.

MND–C Command Emphasis

The deputy commanding general-support (DCG-S) was the senior engager at MND–C for judiciary. The DCG-S hosted a meeting of five CPJs in September 2007 at the Regional Embassy Office in Hilla, Babil Province. The meeting established MND–C's commitment to ROL and provided referential credibility to MND–C ROL personnel conducting engagements around the OE. The DCG-S also authored "star" notes to key judges and had ROL personnel give them the MND–C coffee table book, "Building Iraq Together." These gestures had a positive influence on judicial relationships throughout the OE and helped create the perception that MND–C believed the judges merited general officer-level engagement, a great relationship-builder.

Figure 11-4. MND–C DCG-S BG Edward Cardon (L.) engages Karbala Chief Provincial Judge (R.) on plan for appellate courthouse expansion.

Operation Marne Fortitude II drove the second half of MND–C's "Surge" deployment and focused on governance and economic capacity building. Part of the ROL tasks required each maneuver BCT to regularly engage its key courts. The institutionalization of judicial engagement into the division operation order ensured BCT-level command attention to this important area. In conjunction with their embedded provincial reconstruction teams or OE provincial reconstruction teams, the BCT ROL cells developed their own engagement strategies. For added emphasis, the DCG-S hosted an MND–C ROL dinner focused on engagement strategy and cultural awareness. A former IA senior general officer was the guest speaker. The tactics, techniques, and procedures in this article formed the basis of the instruction.

By the end of the deployment, mature relationships with ROL spheres of influence paid off repeatedly. Relationships built on respect and trust, assembled brick-by-brick in earlier engagements with the head of the incident command system (an urgent detainee issue) and the CPJ of Wasit Province (involving twenty impounded fuel trucks), resulted in quick late wins for the division. Good will and familiarity resolved two complex problems. One problem took one day of coordination and a short engagement by the DCG-S. The other was handled by a few phone calls from the ROL officer in charge to the CPJ. Early in the deployment when there was no dividend of trust to cash, both situations would have issues requiring significant coordination and negotiation to resolve. The results of the long-term relationship-building paid off and required no "heavy-lifting" by MND–C. The situations also deepened the cooperation between CF and GOI in the task force OE. The desired results for CF were achieved, and it was done the Iraqi way.

Conclusion

In the MND–C OE, the "Surge" has seen nonlethal efforts progressively solidify security gains made from successful lethal operations. The window of opportunity created by dramatic reductions in attacks was exploited by an aggressive ROL capacity-building engagement strategy. The engagement of key judiciary was the most significant of MND–C's ROL initiatives. The dividend includes security solidification, an increased capacity, and the growing confidence of court personnel and citizens in the OE. Investing time and effort in judicial relationships will continue to be the most critical part of solving ROL problems in Iraq.

Best Practices for Warrant Targeting Under the Bilateral Security Agreement

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Analyst note: This article is based on an April 2009 Asymmetric Warfare Group (AWG) after action review (AAR) and the corresponding PowerPoint presentation and speaker notes.

The observations and comments reported in this AAR are those of the legal personnel who deployed with the designated units. They are unfiltered and fall contextually into the area of operations and the command in which these legal professionals served. Consequently, do not view these recommendations as transferable or applicable to all legal operations. The issues, decisions, and recommendations presented in this document do not necessarily represent the views of the Center for Law and Military Operations (CLAMO) or the judge advocate general corps. This document simply records the results of the AAR process. The CLAMO provides these results for review, consideration, and possible implementation as determined to be beneficial.

In late 2008 the AWG Iraq Troop requested an AWG team to evaluate and propose best practices for targeting and operations conducted pursuant to the bilateral security agreement. The three-person team (an operational specialist, intelligence analyst, and judge advocate [JA]) deployed in November 2008 and consisted of AWG members with law enforcement, intelligence, and prosecution backgrounds, respectively.

Upon arrival in Iraq, the AWG team met with Multi-National Corps–Iraq (MNC–I) to discuss its AWG mission and obtain further guidance, including a basic overview of the anticipated environment. The team examined the draft of the bilateral security agreement, including MNC–I's fragmentary orders (FRAGOs), unclassified training briefs, and leader's guide, then, decided which elements required incorporation into unit training and targeting operations.

The resulting best practices cover potential legal issues that may affect operations. Many of the concepts such as "by, with, and through" are not new, but the situation in Iraq presents some unique elements. U.S. forces in Iraq have authority to participate directly with Iraqis in some quasi-law enforcement tasks and operations such as tactical call outs and obtaining witness statements.

In addition to meeting with MNC–I, the AWG JA met with representatives from the following organizations:

- Task Force 134 (TF134), the magistrates' cell, which is now called the jurisdiction task cell.
- The Central Criminal Court of Iraq (CCCI).
- The law and order task force.
- Baghdad operational command advisory team JA.
- 733d Military Police (MP) Battalion Criminal Intelligence Division (CID).
- MNC–I investigative task force (TF).
- MNC–I intelligence and human intelligence (HUMINT) sections.

- Division and brigade combat team (BCT) JAs.
- Combined joint special operations TF (CJSOTF) central JAs.
- Iraqi counterterrorism force.
- Two military transition teams (MiTTs)—the incoming and outgoing conducting a relief in place.
- Military intelligence (MI) battalions.
- Provincial reconstruction teams (PRTs).
- Two Iraqi judges and legal officers.

The meetings took place in Baghdad and other cities including Mosul, Taji, and Balad. In some cases, one or more team members accompanied the AWG JA. In other cases, team members met with other individuals in the same organizations.

Following these meetings, the AWG team sequestered themselves in a room at Iraq troop headquarters to work on the briefing. Deployed AWG personnel normally conduct a roundtable discussion every Saturday involving those interested in a particular issue. The mid-December 2008 roundtable discussion focused on the security agreement including a review of the draft best practices briefing. The roundtable brought some additional points of contact into play.

Participants included the following:

- The joint interagency task force.
- Division-level provost marshal (PM) offices and improvised explosive device sections.
- Corps-level MP battalions.
- Brigade-level MI battalions.
- TF134.
- The MNC–I intelligence (J2) and document and media exploitation sections.
- Defense intelligence agency liaison officers (LNOs).
- Multi-National Force—West.
- Several BCT JAs.

The AWG JA team returned to the United States in late December 2008. The team observed some units were making more efforts than other units were in preparation for post-United Nations Security Council Resolution operations. Recognizing there would be significant changes after 1 January 2009 when MNC–I issued additional guidance, the AWG sent their JA back to Iraq in January 2009. The AWG JA evaluated friendly tactics in terms of the new legal framework and assessed whether hostile forces were using the new requirements to undermine U.S. forces. Two other team members were pulled from their jobs to make the initial trip, but did not accompany the AWG JA's return to Iraq in January.

Upon arrival, the AWG JA again conducted meetings with many of the organizations previously listed. In March 2009 the AWG JA presented an updated draft best practices briefing at a second roundtable. The roundtable participants included those who attended the December 2008 roundtable as well as representatives from TF134 CCCI and PRT Baghdad.

The product of these visits is this review of best practices for warrant-based targeting currently used by the coalition in Operation Iraqi Freedom. Each issue is discussed below using the issue-discussion-recommendation format.

Issue: Information sharing in relation to warrants obtained by or with the assistance of U.S. forces.
Discussion: U.S. forces must pool information and coordinate efforts. There is no Iraqi national warrant database. MNC–I maintains an Excel spreadsheet for U.S. forces to input warrant information; however, different units may have obtained warrants for the same individual without being aware of the duplication. Similarly, U.S. forces may be unaware that one of the joint expeditionary forensic facilities (JEFFs) also has data on an individual for whom they have obtained a warrant.
Recommendation: Improve. JAs should prepare a contact list prior to deployment. The office of the judge advocate general international and operational law division predeployment preparation program/CLAMO should continue to assist unit JAs in establishing and maintaining mechanisms for information sharing and coordination.
Issue: Creation of fusion cells on U.S. forward operating bases (FOBs) to coordinate targeting and intelligence efforts.
Discussion: U.S. forces are establishing fusion cells on FOBs. The BCT commanders (CDRs) or operations and training officers (S-3s) are taking the lead and BCT JAs are playing a major role. Some fusion cells involve all U.S. elements on a particular FOB—from conventional to special forces elements and intelligence assets. The fusion cell combines these elements and assets efficiently to target a network rather than each element targeting in response to its own priority intelligence requirements. The fusion cell ensures U.S. assets do not duplicate efforts. Ideally, it integrates U.S. forces with Iraqi elements for additional coordination and cooperation. Integration can occur at the level of an operations command (i.e., Baghdad operations command [BOC] or Ninewah operations command), but is better achieved at a lower level. This is because the BOC, for example, concerns itself with the highest-level targets rather than the details of other cases unless requested. If it is necessary to work with the BOC, the moment for targeting an individual may well have passed. As a result, FOB Justice has established a fusion cell including a CCCI investigative judge (IJ) to assist with obtaining warrants, detention orders, and preparing a case for an investigative hearing.
Recommendation: Sustain.

Issue: MNC–I's establishment of a criminal investigation TF (CITF).
Discussion: MNC–I established the CITF, which is managed by the 733d MP Battalion CID. The CITF includes legal, intelligence, and other law enforcement representatives such as the office of the staff judge advocate, law enforcement professionals (LEPs), JEFFs, and the combined explosives exploitation cell. The CITF develops targets for warrants and supports the resulting prosecution. It also supports the prosecution of legacy detainees and individuals arrested in self-defense. The CITF sends CID agents to assist units to carry out these tasks, reviews the evidence, and forwards it to the appropriate review authority such as the CCCI or TF134, in the case of legacy detainees. A lower level unit interested in a specific individual may also ask for assistance in developing the material necessary to obtain a warrant or, if the individual is already in custody, the material to obtain a detention order to strengthen a prosecution file. However, most CITF work involves legacy detainees. The CITF's role and procedures are still evolving.
Recommendation: Sustain.
Issue: Establishment of prosecution TFs (PTFs) at division and brigade levels.
Discussion: Divisions and brigades are establishing PTFs. Divisions originally initiated the concept, but more BCTs are following suit. A PTF is composed of a representative from each landowning battalion and from the various staff branches including JA (taking the lead in some cases), PM, LEP, S2X [human intelligence officer], assistant S-3, fire support coordinators, targeting officers, and the Iraqi Security Forces (ISF) LNO (if any). PTFs categorize cases as those requiring warrants, those requiring detention orders (or where U.S. forces ensure the ISF attempt to obtain one to allow continued custody), and those requiring support to a prosecution. PTFs are usually more concerned about current threats than about threats arising from legacy detention cases. If requested, they will investigate legacy detention cases. One BCT has developed a draft PTF standard operating procedure. BCTs are increasingly taking responsibility by going directly to a CCCI IJ and working with the TF134 JAs assigned to the CCCI. Although BCTs inform division headquarters when contacting the CCCI, they have explicit approval for this process since the target list is already pre-approved. However, after a BCT obtains a warrant, it must send the information to the CITF, the division PTF, and through targeting channels to include it in databases.
Recommendation: Sustain.

Issue: Establishment of CP2CXC at division and brigade levels.

Discussion: The CP2CXC is a material concept for the PTF and is still under development. A CP2CXC is similar to a combined (Iraq and United States) BCT joint operations center. It allows prestaging in the event of a time-sensitive target (when obtaining or executing a warrant) to make plans and gather personnel. It also provides a central location for personnel to return for witness interviews, document and media exploitation, and IJ access. A CP2CXC includes U.S. forces and ISF counterparts (either Iraqi Army [IA] or Iraqi Police [IP]). Units have successfully established physical facilities for initiating CP2CXCs in two locations. The buy-in of the Iraqis who accompany U.S. forces on a mission is a vital aspect of the CP2CXC concept. Ideally, each CP2CXC includes an IJ who carries out witness interviews immediately after the arrest or detention of a suspect to ensure anonymity and facilitate turn-around on detention orders. However, U.S. or IA personnel who have received interrogation training may be reluctant to assign priority to an IJ. If an IJ is not available, it is helpful for an IA interrogator, an IP investigator, or a judicial investigator to carry out the initial interview. When this occurs, a U.S. representative must be present to ensure the interview occurs according to established rules. Use of a combined U.S. and Iraqi facility accomplishes the following:

- Ensures U.S. forces comply with the security agreement requirement to hand over a detainee to a competent Iraqi authority (CIZA) within 24 hours.
- Facilitates U.S. and Iraqi forces obtaining a detention order.
- Makes it easier to track the detainee and potentially secure a legitimate confession due to the shock of capture.

Most divisions have closed down their division holding areas. Units are reluctant to detain insurgents on FOBs or to transfer them to the theater internment facility (TIF) because of the new requirements.

Recommendation: Improve. The CP2CXC concept should be refined and implemented in additional locations.

Issue: Front-loading of U.S. support to Iraqi prosecutions.

Discussion: As a best practice, U.S. forces should "front-load" witness statements. Since few barriers exist between the phases of an Iraqi prosecution, a strong statement used to obtain a warrant is also useful for other purposes. The same statement may be sufficient to obtain a detention order and to use during the investigative hearing and trial (which may simply involve the trial panel cross-examining the accused on all material in the case file). The result is U.S. forces should not detain an individual unless the unit is willing to do the work at the outset to facilitate a successful prosecution. U.S. forces must be aware that a warrant request based on insufficient evidence may ruin their credibility with an IJ and the local populace if the insurgent is eventually released back in the neighborhood.

Recommendation: Improve. JAs must educate CDRs and Soldiers on the new requirements and the consequences of failing to adapt.

Issue: Involvement of U.S. forces in obtaining Iraqi warrants.
Discussion: U.S. forces are working "by, with, and through" ISF counterparts as much as possible to obtain warrants. These efforts are more successful in some locations than in others. Sometimes a witness accuses ISF personnel or is uncomfortable going to them. A witness may even refuse to testify if the ISF are involved in the proceeding in any way. If this occurs, U.S. forces interview and handle the witness as an intelligence source. The witness may be taken to the local IJ or directly to a CCCI IJ. Some non-CCCI local IJs do not want U.S. forces in their courthouses, but this is location-specific such as in Baghdad.
Recommendation: Sustain.
Issue: Interaction of U.S. forces with the CCCI.
Discussion: U.S. forces obtaining warrants directly from IJs rather than through ISF counterparts tend to do so through CCCI IJs, whether in Baghdad or a provincial CCCI. There are three separate CCCI organizations in Baghdad—Karkh (handles coalition cases), Rusafa (handles Iraqi cases), and FOB Justice. The Baghdad and other PRTs strongly suggest U.S. forces deal only with the CCCI and not with local courts. For example, U.S. forces should request warrants from CCCI IJs rather than from local IJs. According to the Baghdad PRT rule of law (ROL) advisors, asking local IJs to issue warrants impacts daily functioning of local courts. The basis appears to be an increase in workload plus the possible security concerns resulting from an IJ's involvement in terrorist cases. Indeed, one local IJ has asked some U.S. units not to return to his courthouse. In Ninewah, the visiting judges staying on the FOB are moving into the city and may feel more constrained by security concerns. U.S. units with embedded IJs do not normally need to resort to CCCI IJs, unless a witness does not trust that IJ.
Recommendation: Sustain. U.S. forces must develop procedures for obtaining warrants. This will be location-dependent and reflect the needs and desires of the IJs in that location. U.S. forces may also wish to monitor judge performance for possible bias (i.e., due to intimidation).
Issue: Establishment of U.S. forces witness-handling teams.
Discussion: Units will find it helpful to establish witness-handling teams (i.e., when a witness is reluctant to deal with Iraqi officials). Witness-handling teams are composed exclusively of U.S. forces. Identifying a potential witness is merely the first step. The team then determines what testimony the witness can provide, and how to protect the witness without bringing him or her onto a FOB. Units can assign witness-handling responsibilities to anyone with the ability to meet with host nation (HN) personnel outside of a FOB and who is comfortable in doing so. For example, members of a MiTT or police transition team (PTT) handling witnesses must have the temperament to deal with Iraqis, probably in conjunction with a skilled interpreter. While units can assign witness-handling duties to a HUMINT collection team (HCT), it is not always appropriate. Use of an HCT runs the risk of revealing its identity or its connection with U.S. forces. Alternately, units can assign responsibility for witness handling to a special forces HUMINT team. Ensuring the witness-handling team has the appropriate skill set is more important than assigning the responsibility to a particular organization.
Recommendation: Sustain. Units should consider assigning witness-handling responsibilities to appropriate personnel

Issue: Establishment of Iraqi witness-handling procedures.
Discussion: Establishing procedures to identify, handle, observe, protect, and prepare witnesses (ideally "by, with, and through" the ISF) is significant to assisting U.S. units to implement Security Agreement legal processes in relation to warrants and detention. Most information available in theater suggests a witness can testify confidentially before an IJ. The witness can be masked or disguised upon entering the room, but must show his or her face to the IJ and produce two to four forms of identification. The witness makes a sworn statement, which the IJ assigns a number. The IJ enters the witness name and number in a "secret witness book." The book helps witnesses to understand what they are getting into and perhaps to feel more secure. Whether the trial panel has a right to demand the appearance of the secret witness is unclear, but a trial panel may throw out a case when there is a question about the secret witness's statement.
Recommendation: Sustain. When appropriate, units should consider establishing procedures to facilitate the appearance of secret witnesses before an IJ.
Issue: Development of ISF law enforcement skills.
Discussion: ISF personnel can network effectively to obtain warrants, but may not be capable of carrying out the steps required to achieve prosecution. When U.S. forces attempt to work "by, with, and through" ISF to obtain warrants, the ISF has not necessarily learned or applied site exploitation skills. Some investigators have received training (either IP investigators, who take the lead until a case has been opened, or judicial investigators, who are responsible for investigating once an IJ has taken charge), but an insufficient number possess the required skills. Although IA or junior IP personnel can obtain a warrant in some cases such as knowing the local IJ, the judge may subsequently dismiss the case based upon insufficient evidence.
Recommendation: Improve. U.S. forces must work with ISF counterparts to teach site exploitation skills.

Issue: Use of forensic evidence by Iraqi judges.
Discussion: JAs should be aware of the many forensic initiatives already in Iraq such as the British Embassy forensic team and JEFFs. Those involved in one area are not always aware of efforts in other areas. Many judges are willing to rely on forensic evidence. Increased enthusiasm of forensics was observed even during the period from January to March 2009. In fact, a trial court convicted one individual on fingerprint evidence alone, although the appeal court may not sustain this verdict. An Iraqi expert introduced the fingerprints into evidence. The court treated him as one of the witnesses required by the law on criminal proceedings. Some judges require a standard forensic evidence form filled out. If this does not occur, the evidence may be excluded or its weight reduced. The presenter must fill out the form in the manner preferred by the judge, and ideally, an Iraqi witness introduces the evidence. Otherwise, the judge may seize upon an error as a reason for ignoring a piece of evidence. Defense attorneys also may question how the evidence was found, and emphasize the lack of documentation regarding its provenance. The issue of forensic evidence reinforces the requirement for units to develop personal relationships with the local IJs. Some JAs in Ninewah and other locations are doing a very good job of this. They act as their unit's gatekeeper, determining whether a matter should go before an IJ and ensuring it meets the IJ's requirements. If possible, one JA should act as the IJ point of contact. The BCT CDR may assist by meeting the IJ initially, then introducing the JA as his legal advisor. This leverages the CDR's authority—"This is my legal advisor, and he represents my interests."
Recommendation: Improve. JAs should maintain awareness of various forensic initiatives to supplement and support the efforts of other agencies.
Issue: Training and education for MI personnel.
Discussion: MI battalions are seeking AWG assistance, particularly before deployment. MI personnel need to understand and be aware of the new techniques and limitations. MI personnel cannot share classified information with Iraqi officials. U.S. units may use HUMINT sources as witnesses, but a better method is to use the source to identify someone else who can testify. In this way, the witness learns U.S. forces are only interested in obtaining his or her testimony, not the identity of the original source. The CP2CXC also may help to coordinate and control this aspect by allowing US intelligence personnel to work closely with ISF counterparts.
Recommendation: Improve. JAs must work with MI personnel before deployment to ensure sufficient understanding of the new legal framework and its impact on operations.

Issue: Interrogation of witnesses and suspects by U.S. forces.
Discussion: U.S. forces may assist in the questioning of suspects such as when an operation involves only U.S. forces and IJs are reluctant to travel to the objective. However, U.S. forces must be aware of the limitations upon any statement obtained by U.S. forces or ISF personnel. An IJ may use the information provided in response to questioning, but it does not carry the same weight as a statement made directly to an IJ. Where it is not feasible to bring a suspect before an IJ immediately, U.S. forces may assist ISF counterparts in segregating a detainee and constructing an interrogation plan. As a practical matter, intelligence personnel are likely to prevail in the event of a contest with an IJ over first access to a detainee. However, intelligence personnel must be aware an admission made to them may not be given significant weight in a court proceeding. Nonetheless, they may be able to use an admission to obtain additional investigative or intelligence leads.
Recommendation: Improve. JAs should work with CDRs and staff to ensure sufficient understanding of relevant aspects of the Iraqi legal system.
Issue: Interpretation of security agreement terms, such as "combat operations," and CIZA.
Discussion: CDRs understand there has been a fundamental shift in legal framework, but there is still confusion about basic security agreement concepts such as "combat operations." The AWG briefing uses the term "self-defense" rather than "combat operations" to describe the basis for one of the warrantless exceptions. This diverges slightly from the terminology used by Multi-National Force—Iraq and was chosen because of incidents where Soldiers under attack felt they could not respond with lethal force. With respect to warrants, the CIZA is an IJ. With respect to detention, a new MNC–I FRAGO may define the identity of the CIZA, but it varies by location.
Recommendation: Improve. Deployed JAs should develop a common understanding of Security Agreement terms and be prepared to educate CDRs.
Issue: Development of personal relationships with Iraqi officials.
Discussion: Personal relationships with key Iraqi officials are essential to the successful conduct of operations in Iraq.
Recommendation: Improve. CDRs and JAs must be aware developing a personal relationship involves more than occasionally inviting an Iraqi official to a U.S. meeting and handing over the portion of the document below the tear line. Reaching the type of relationship required for successful cooperation involves going to each other's offices on a routine basis and chatting about family matters, etc.

Issue: Interaction between the IA and IP.
Discussion: In some cases, IA personnel can exercise certain law enforcement powers such as the authority to arrest (i.e., through PM Directive 90/S, establishing the BOC). However, in practice, IA personnel exercise much broader authority. For example, IA personnel sometimes arrest IP personnel for setting up a roadblock without prior coordination with the IA, although this will not occur if a U.S. PTT accompanies the IP.
Recommendation: Improve. U.S. forces should encourage IA counterparts to remain within the scope of their authority and improve cooperation with IP personnel.
Issue: Resistance to involvement in law enforcement functions.
Discussion: The AWG team observed significant unit reluctance to implement law enforcement techniques during the initial phase of Security Agreement operations. Units were more likely to embrace new roles if characterized as counterinsurgency (COIN) functions. In fact, a COIN mission requires units to work within a ROL framework when the HN has a functioning judicial system. Nonetheless, Iraq-bound units need to embrace law enforcement skills or the personnel who possess them such as LEPs, and the MP. JAs prefer to assemble the evidence and then detain; but command traditionally focuses on removing an insurgent off the street, even for a short time, rather than on obtaining a conviction (i.e., "rolling up" an insurgent paymaster a day or two before he is due to pay group members). JAs find it difficult to challenge this reasoning. It requires demonstrating the Iraqi legal system works as it is suppose to. Demonstrating the system works means JAs must master and navigate it skillfully with Iraqi legal counterparts. It is a very cutting-edge COIN strategy for JAs. However, the reality is an individual detained on even slim auspices may remain in custody for a considerable time. IA personnel tend to favor widespread roll-ups. They demonstrate the IA's ability to carry out a large and coordinated effort. The creation of this perception is often more valuable than the actual operational gains. While a roll-up is the least effective method in COIN and law enforcement terms, it may be a psychological success in a particular neighborhood. Despite such short-term advantages, the tactic also puts a strain on judicial resources. IJs must review each detainee's circumstances to determine whether to grant a detention order. However, the IA views the interests of the judiciary as coming a distant second to its own.
Recommendation: Improve. JAs must persuade CDRs and staffs of the benefits of detaining individuals based on a well-substantiated warrant that may provide the basis for a detention order and a conviction.

Issue: Warrant requirements for ISF operations.
Discussion: Before 1 January 2009, neither U.S. nor ISF personnel were required to obtain a warrant to detain. U.S. forces simply informed ISF counterparts they intended to detain a suspect. The requirement for U.S. forces to work within the Iraqi legal systems is also affecting ISF practices. At a briefing attended by U.S. personnel, ISF legal advisors briefed ISF personnel on warrant requirements. As an example, they discussed a scenario where the ISF wanted to use a house as a sniper observation point, but could not obtain the consent of its occupant to enter the house. The ISF legal advisor concluded the ISF, even in possession of an arrest warrant, could not enter the house without consent. This resulted in a heated discussion among the ISF personnel. However, ISF personnel participated enthusiastically once the meeting organized by U.S. forces and held in a U.S. training conference room was underway.
Recommendation: Sustain. U.S. forces should encourage ISF counterparts to adopt practices that respect Iraqi law.
Issue: U.S. forces staffing for ROL responsibilities.
Discussion: The CJSOTF requested additional reserve component JAs for deployment. Higher JA authorities initially approved the request, but the positions went unfilled (for reasons unknown). CJSOTF JA personnel may have a requirement to visit advanced operating bases (AOBs) to assist with highly important ROL issues. This necessarily degrades legal support to the command element due to the length of travel time within theater if the command lacks augmented legal support. Cooperation with ISF personnel is a major part of the CJSOTF mission in Iraq. It is consistent with the doctrinal assignment of the foreign internal defense function to special operations forces. As U.S. combat forces withdraw from Iraq over the next two years, the CJSOTF mission may well expand. If so, the CJSOTF may be expected to take the lead, requiring additional JAs to support its AOBs. Some units requested and obtained additional CID agents from 733d MP Battalion for operational support such as investigating potential CCCI cases. While some CDRs use LEPs for additional support, some LEPs do not have the required skills (i.e., may have experience only in U.S. white-collar crime). However, after 1 January 2009, deployed units began to scrub rosters to determine whether reserve augmenters employed in other military capacities also had civilian law enforcement skills.
Recommendation: Additional legal support to CJSOTF is crucial for continued success of this COIN mission. Before deployment, CDRs must consider the impacts to the legal framework and amend their organization or assignment of responsibilities. The office of the judge advocate general personnel, plans, and training office must maintain a list of JAs with a background in Special Forces operations that are willing to deploy rapidly in cases of legal support shortages or intensive legal operations (i.e., witness rehearsal, IJ interaction, and CCCI case preparation).

Issue: Combat Training Center (CTC) training on warranted targeting.
Discussion: It is difficult to provide appropriate training in an evolving area. The joint readiness training center offered education on obtaining warrants, but the condensed nature of the training made it appear easy (i.e., walk over to the judge and ask for one). The training downplays the logistics and other issues discussed throughout this report such as witness preparation.
Recommendation: CTCs should ensure CDRs and staffs are aware of the hurdles to overcome in obtaining warrants and the possible workarounds such as working through ISF counterparts or the CCCI.
Issue: Lack of awareness regarding CCCI's existence and role.
Discussion: Some U.S. forces are unaware of the existence and role of the CCCI. During previous deployments, U.S. forces detained and transferred individuals up the chain of command to the TF134-run TIF. Relatively few Soldiers were aware of the subsequent transfer of detainees to the Iraqi judicial system for trial before the CCCI. The TF134 provides LNOs to division-level units and briefs BCT personnel on the CCCI and its role. However, such briefings are not yet updated with information about the changes resulting from the security agreement legal framework.
Recommendation: JAs should assist CDRs and staffs to educate Soldiers about CCCI's existence and role to improve understanding of the changes to detention procedures. Assigning Army JAs to TF134 CCCI support positions provides other CCCI personnel with improved understanding of the capabilities and limitations of U.S. Army units. Those JAs can ensure such units receive timely feedback about their support to the CCCI.

The Iraqi Criminal Justice Process and Warrant-Based Targeting

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Analyst note: This article is based on a July 2009 Asymmetric Warfare Group after action review and the corresponding PowerPoint presentation and speaker notes.

When U.S. forces first entered into operations in the Iraqi theater, the coalition operated under a sequential series of United Nations Security Council Resolution (UNSCR) mandates and at the invitation of the Iraqi government. Under these mandates, coalition forces were unilaterally authorized to detain any person posing a threat to those forces or the Iraqi population.

UNSCR 1790, the last of these mandates, expired at the end of December 2008. In its place is a bilateral security agreement between the United States and the sovereign Government of Iraq. Under this agreement, U.S. forces no longer operate unilaterally (without Iraqi coordination or approval). Now the guiding principle of operations is working by, with, and through the Iraqis. One immediate effect is coalition forces can no longer detain persons based on the perception of a threat. The arrest and detention of anyone in Iraq must follow Iraqi law and the provisions of the bilateral security agreement. This is commonly known as evidence- or warrant-based targeting. It requires cooperation between U.S. forces, Iraqi Security Forces (ISF), and Iraqi judges in the arrest and conviction of terrorists and criminals.

This article looks at the Army's efforts applying warrant-based targeting in the early stages operating under the security agreement. It explains and explores new and best practices given the legal constraints placed on unilateral operations by the security agreement. The intended audience includes leaders involved in operations, intelligence, and targeting and liaisons with Iraqi counterparts. This article provides a brief summary of the lessons learned and tactics, techniques, and procedures (TTP) gathered from units currently in the field. The desired end state is a more clear understanding of the new operational environment (OE) by discussing observations of successful TTP used by ground units and proposed courses of action for the future.

The overall concept of targeting has not changed dramatically. The principles of find, fix, finish, exploit, analyze, disseminate (F3EAD) remain valid. Specific TTP under each of these steps, however, will transform. Units continually need to evolve TTP as threat groups try to take advantage of perceived coalition weaknesses. The methodology is the same when targeting insurgents, al-Qaeda in Iraq terrorists, insurgents, or common criminals. The noticeable change occurs in the standards needed to move from one threshold to the next (in other words, find [investigate], fix [arrest], and finish [neutralize or convict] the enemy). This article explains the new, higher standards for conducting missions resulting in arrest or detention and explores how others have accomplished each step in the process.

Included in the bilateral security agreement are certain provisions U.S. forces may act on unilaterally to detain suspected insurgents. The Iraqi law on criminal proceedings (with amendments) describes these limited exceptions. For example, temporary detention is authorized in emergency situations where individuals directly impede mission accomplishment. Other situations may be agreed upon by Iraqi and U.S. authorities, which may frequently change. The staff judge advocate (SJA) or rule of law (ROL) advisor should be consulted for more information.

What Are the Security Agreement's Constraints?

Under the old/standard intelligence, the evidence and authority to neutralize or capture and detain rested solely with the coalition. Insurgents were targeted and detained based on information available only to the coalition.

The new standard under the security agreement demands a certain amount of respect for Iraq law and criminal procedure. An Iraqi investigative judge (IJ) or another competent Iraqi authority (CIZA) is now the only authority to determine whether the coalition may arrest or detain criminals. When the coalition and/or CIZA identify an insurgent that should be targeted for elimination rather than arrested for interrogation, the discussion about criminal procedure is moot. Here, the "old standard" may still be used in special, limited circumstances (such as self-defense). However, most brigade combat team (BCT) targets require using the warrant-based targeting method to prepare for an insurgent's eventual prosecution.

To foreshadow a bit of the Iraqi judicial system, the type of evidence relied on by Iraqi judges to convict suspects is almost entirely eyewitness testimony. Physical evidence can bolster a case, but only when combined with reliable eyewitness testimony. CIZAs can coordinate and approve combat operations to neutralize or detain enemy forces. Suspected insurgents that are detained rather than neutralized will eventually reach the Iraqi judicial system. An Iraqi judge will need to hear eyewitness testimony to convict a suspected insurgent. Coalition intelligence can help to secure the eyewitness' testimony or, at the very least, determine whether it is reliable and sufficient to convince a judge to convict.

Transitioning From Security-Based to Evidentiary-Based Targeting and Detention

Based on the security agreement's mandate, Multi-National Corps–Iraq (MNC–I) has transitioned from security-based detentions to evidence-based incarcerations for eventual prosecution. The coalition's task is to evolve new Iraq-specific targeting skill sets and procedures including obtaining warrants and developing criminal cases according to the Iraqi legal system.

This transition created some new paradigms as follows:

- Targeting identification/evidence gathering. Missions are based on intelligence and evidence gathering at the ground level. Higher echelons track case progress, relapses, and best practices.
- Exploit. Anecdotal data from many BCT OEs indicate wanted posters and fugitive-oriented flyers are extremely effective. Likewise, units should broadcast successful convictions achieved through the Iraqi criminal justice system. This method may raise the prestige of IJs while increasing the ROL legitimacy. Publicly posting local insurgent convictions may suppress anti-coalition and anti-ISF activities by other threatening individuals.
- Analyze.
    - As targeting operations under security agreement conditions mature, units at all echelons must develop tracking mechanisms to help identify the following:
        - Judge-specific trends such as warrants denied or same-ethnicity detainees convicted.

        - Conviction rates for each type of charge.
        - Demographics of both recanting and successful witnesses.
    - These tracking categories shape influencing actions by BCT commanders (CDRs). For instance, CDRs may ask the following questions:
        - What factors are involved when an IJ is targeted for assassination by an improvised explosive device (IED) or small arms fire?
        - Is the targeted assassination due to high conviction rates or conviction of a certain individual?
        - Should the Iraqi Army (IA)/Iraqi Police (IP) focus security on the IJ's home, work, or periodically leverage other assets such as military working dogs to prevent IEDs?

- Disseminate. Hypothetically, the following sequence of events occurs:
    - A BCT temporarily detains three individuals during a tactical callout of an objective.
    - Subsequent actions on the objective spur the coalition to detain the individuals for 24 hours for tactical questioning (TQ).
    - After 24 hours, for lack of evidence, the coalition prepares to release the three detainees.
    - One detainee, however, is an individual for which another BCT in an adjacent OE has secured a warrant.
    - The individual was never biometrically registered so using handheld identity detection equipment will not trigger any action.

So what can be done to prevent this from happening? Higher echelon prosecution task forces (PTFs) must master and constantly monitor the cross-referencing of warranted individual targets.

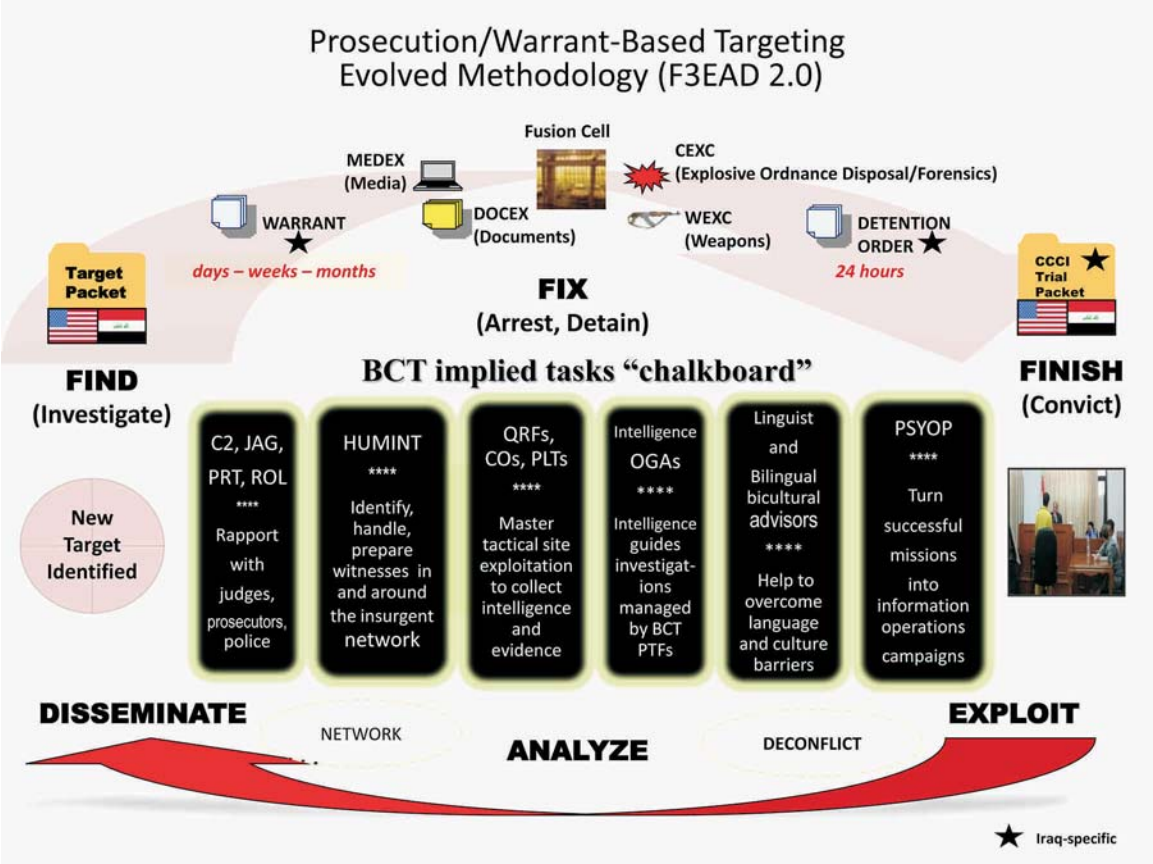
An Overview of the Warrant-Based Targeting Process

The standard targeting model of F3EAD can be applied to the warrant-based system of targeting and convicting terrorists through the Iraqi legal system. Figure 13-1 depicts the process as follows:

- Starting at the lower left side of Figure 13-1 with "new target identified," a new target packet is prepared and managed by the PTF.
- With sufficient evidence, a warrant is requested from an IJ.
- Using intelligence and exploitation methods, the target is fixed or detained and taken to an Iraqi designated holding facility or a combined pre-/post-capture exploitation center. Under the security agreement, U.S. forces and the ISF may only detain for the target for 24 hours, then the suspect is released to a CIZA. To maintain custody, U.S.

forces and/or the ISF must obtain a detention order from an IJ by presenting evidence in the same manner as obtaining a warrant.

- After a detention order is approved, U.S. forces and/or the ISF may continue to investigate and exploit the suspect until there is sufficient evidence to present the case to an Iraqi criminal court.
- The PTF maintains a certain amount of oversight when the process is managed by ISF counterparts.



Legend:	
MEDEX: Media exploitation	PRT: Provincial reconstruction team
DOCEX: Document exploitation	HUMINT: Human intelligence
CEXC: Combined explosive exploitation cell	QRF: Quick reaction force
WEXC: Weapons exploitation cell	COs: Companies
CCCI: Central Criminal Court of Iraq	PLTs: Platoons
C2: Command and control	OGAs: Other government agencies
JAG: Judge advocate general	PSYOP: Psychological operations

Figure 13-1

Who Comprises the Iraqi Justice System?

Many of the positions in the Iraqi legal system sound similar to positions in the U.S. legal system. However, the authority allocated to positions in the Iraqi system is very different from what Americans watch on the television show *Law and Order.* The basic hierarchy of the Iraqi justice system is explained below.

The position most unfamiliar to Americans is the Iraqi IJ. The IJ is part detective, part interrogator, part prosecutor, and part defense lawyer. Nothing like this position exists in the American civilian criminal legal system, but it is similar to an Article 32 investigating officer under the Uniform Code of Military Justice (UCMJ). IJ recommendations are highly influential on the trial judge's findings and at sentencing.

Another key position is the judicial investigator who works directly for the IJ. There is no equivalent to this position in the U.S. legal system, so CDRs, JAGs, and units are unfamiliar with this role. Due to this unfamiliarity, CDRs and JAGs are slow to reach out to these individuals and even slower to realize the power judicial investigators exert in the Iraqi Legal System.

Note: The Government of Iraq has specifically granted temporary authority to conduct arrests (similar to the IP) to the Iraq military forces. The Iraqi counterterrorism force falls under the counterterrorism bureau, a quasi-ministry-level entity along with the Ministry of Interior and the Ministry of Defense.

How the Iraqi Criminal Justice System Works

A crime is either witnessed by or reported to the IP. An IJ is contacted and depending on the circumstances, the IP responds to the scene of the crime to begin the investigation, gather evidence, and identify eyewitnesses. If arrested, the suspect is detained at an IP station. If the suspect is not arrested, the IP must obtain a warrant from the IJ. Whether arrested pursuant to a warrant or not, once detained, the IP advises the suspect of the right to remain silent, the right to an attorney, and the charges. After the suspect is in custody, the IP contacts the IJ and arranges for a review of the detention.

The IP create a log of the suspect that contains the following (at a minimum):

- Suspect's name.
- Date of the detention.
- Charges against the accused.
- Date of the IJ review of the case.

After the evidence is collected, the IJ arranges for an investigative hearing. The hearing is held in the judge's chambers where formal questioning of the witnesses takes place. If the judge determines there is sufficient evidence to go forward, the case moves to the felony, misdemeanor, or juvenile court.

The IJ may decide to treat the crime as an infraction if it is minor in nature. The IJ may rule on the infraction offense and decide the guilt or innocence and the sentence. If there is insufficient evidence, the IJ releases the suspect with the same effect as an acquittal.

The coalition must work within the Iraqi criminal law system for the arrest and detention of insurgents committing crimes against U.S. forces. A simplified step-by-step process for attaining the arrest, detention, and conviction of a target includes the following:

- A complaint is filed either by the victim (such as the BCT CDR) or the IP/National Police (NP) in written or oral form and within 90 days of the crime.
- The IJ takes the case and performs the following tasks:
    - Reviews the complaint for case merit.
    - Approves the sworn testimony.
    - Issues arrest or search warrants.
- An IJ-directed investigation begins when an arrest warrant is issued. In an IJ-directed investigation, tasks are as follows:
    - Record all aspects of the investigation in written form.
    - Interview witnesses. **Note:** The IJ may request to interview witnesses (or sources) personally to determine their veracity through questioning.
    - Examine the crime site.
- Suspects(s) arrested.
    - A suspect appears before the IJ within 24 hours of the arrest and is advised of the right to counsel (appointed if necessary). It is not likely the suspect will meet with a lawyer during the entire investigation.
    - The suspect is interviewed (often repeatedly) and may be detained or released until the next appearance:
        - If detained on charges with a maximum penalty of less than 3 years, the IJ may order the suspect held for no more than 15 days.
        - If detained on charges punishable by death, the IJ may order the suspect to be detained indefinitely.
    - Detention extensions may be granted by the IJ.

Differences Between the Iraqi and U.S. Justice Systems

U.S.	Iraq
Common law (**Note:** Other countries with a common law legal system include England, Australia, and Pakistan)	Civil law (**Note:** The world's predominate legal system)
Judges follow law and precedent	Judges interpret penal code as written
Adversarial	Inquisitorial
Grand jury or Article 32 hearing under the UCMJ	Investigative hearing
Trial: prosecution versus the defense	Judge controls/leads inquisition
Judge serves as the referee	Judge serves as a "human lie detector"
Verbatim written record of oral testimony and physical evidence	No written record of the trial and no precedent
Physical evidence used	Eyewitness-centric
Viewed as a crime against the state	Viewed as a crime committed against the individual
"State charges Mr. Smith . . .."	Victim files a complaint
Retribution (punishment) by the state	Restitution to the individual

Table 1. The U.S. justice system versus the Iraqi justice system

Table 1 provides a comparison of the U.S. and the Iraqi legal systems. It is important to understand the key differences to achieve successful criminal convictions. Key distinctions in the Iraqi legal system include the following:

- There are no rules of evidence. Iraqi judges consider any evidence of the crime if presented as corroborating a fact of the crime.
- Hearsay is permissible. Witnesses in an Iraqi court can describe any out-of-court statements that corroborate a fact implicating the detainee.
- There is no verbatim record of the court proceedings. Instead, judges or scribes take notes based on information gathered during the investigative hearing (similar to a grand jury or a military Article 32 hearing).
- Most convictions arise after the detainee confesses to the IJ. Iraqi judges typically cross examine a suspect until a confession is obtained. IJs are extremely skilled interrogators.

- Differences in Iraqi court rules include the following:
    - The judge has discretion to accept or decline all evidence since there are no rules of evidence. This is why personal relationships with the IJs are so important.
    - There is no case law precedent. How the judge rules on a particular matter has no bearing on future cases.
    - There is no pretrial or prehearing discovery process. The prosecution does not have to disclose evidence until it rests. This is to the coalition's advantage because it better protects sources and methods of information gathering.

The Warrant Process

The first step toward convicting a terrorist is to obtain a warrant for the arrest and detention of the suspect. The sequence of attaining an arrest warrant and detention is outlined below.

Target identified

An event occurs or the Multi-National Division (MND) intelligence officer (G2) identifies the target on the high-value target (HVT) list and prepares a warrant packet for IJ review. The investigative team starts developing a case using available intelligence and forensic analysis. Division- or corp-level intelligence develops leads and a collection plan for investigators. The corps police intelligence cell provides forensic analysis from a joint expeditionary forensic facility (JEFF) or a CEXC. It also provides link analysis and other relevant data included in the prosecution packet.

Obtain the arrest warrant

Once enough criminal data is obtained, the investigative team coordinates with its Iraqi counterparts to obtain a warrant. If witnesses or informants refuse to work with the ISF, the alternate procedure is to work with the SJA (Task Force 134 [TF 134] Legal, BCT, or local PRT) to obtain the arrest warrant. The investigator and the SJA present the case to the Iraqi IJ. The IJ issues the arrest warrant, which is provided to the maneuver unit targeting cell to detain the suspect. The criminal interview begins immediately upon detention.

The detention order

The IJ arranges for an investigative hearing after sufficient evidence is collected. The hearing is held in the judge's chambers where the witnesses are formally questioned. If there is sufficient evidence, the case moves to the felony, misdemeanor, or juvenile court. If the offense is minor in nature, the IJ may decide to treat the crime as an infraction. The IJ can rule on an infraction offense and decide guilt or innocence and a sentence. If there is insufficient evidence, the IJ releases the suspect, which is the same as an acquittal.

Checklist for obtaining a warrant

The specific contents of a warrant packet are definitely judge dependent. The following checklist should be used as a guideline and tailored to specific IJs.

Minimum documentation for a warrant (arrest):

- Multi-National Force–Iraq coalition apprehension form
- Witness statement (in Arabic)

Minimum documentation for a detention order (hold):

- Statement of local national witness (in Arabic)
- Photographs (mug shot, crime scene, and detainee)
- Diagrams (objective/scene and surrounding area)
- Weapons inventory (English/Arabic)
- Evidence/Property custody (Department of the Army [DA] Form 4137, *Evidence/Property Custody Document*)

For an investigative hearing, include the following:

- Complaint (by CDR or his appointee)
- Medical screening report (demonstrating health at the time of intake)
- Forensic documents (for example, results and lab technician affidavit)

The coalition member fills out a *Sworn Statement,* DA Form 2823. It does not matter if the form is sworn or witnessed as the form is for informational purposes only. The completed form preserves the memory of the event for the witness and is available for review by the witness prior to the hearing or trial. Coalition members with first-hand knowledge complete Form 2823. At least two individuals, but not every member of the unit should complete a *Sworn Statement.* These individuals must include their name, unit, telephone number, e-mail address (Army Knowledge Online account), and month scheduled for redeployment.

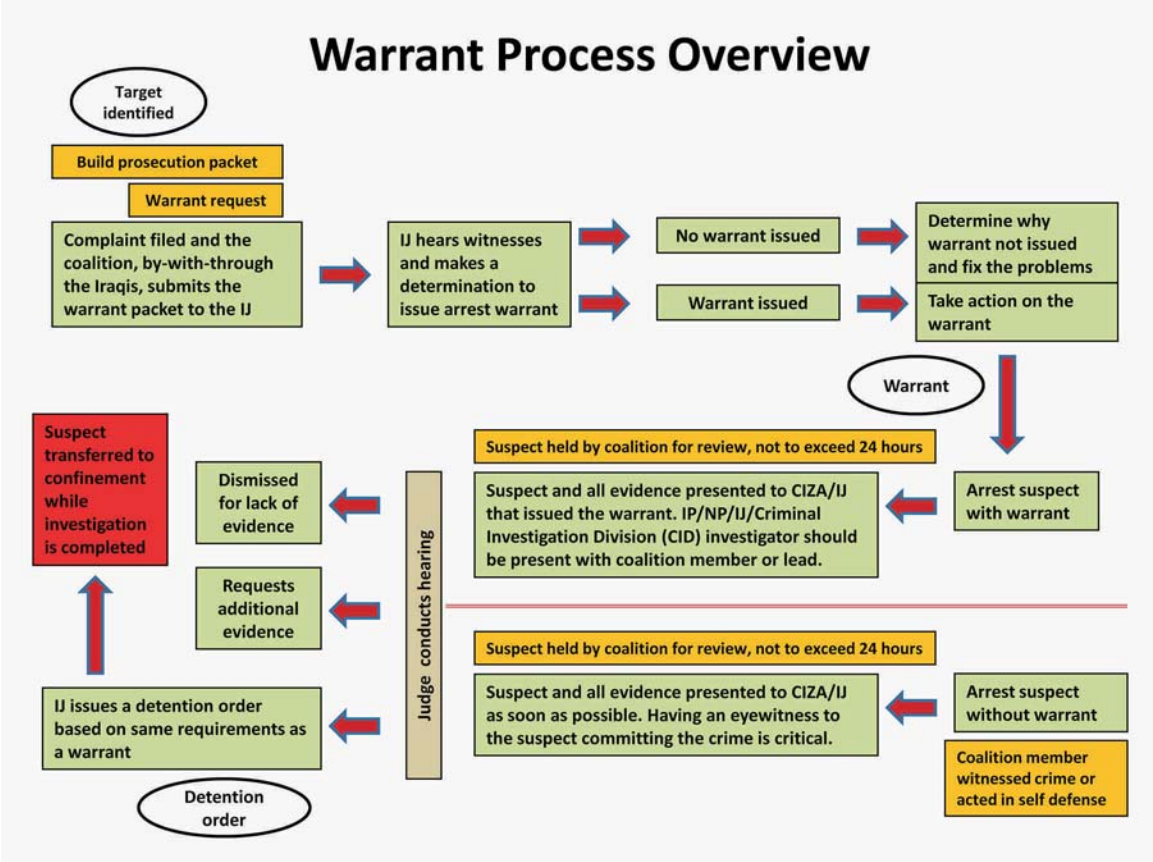
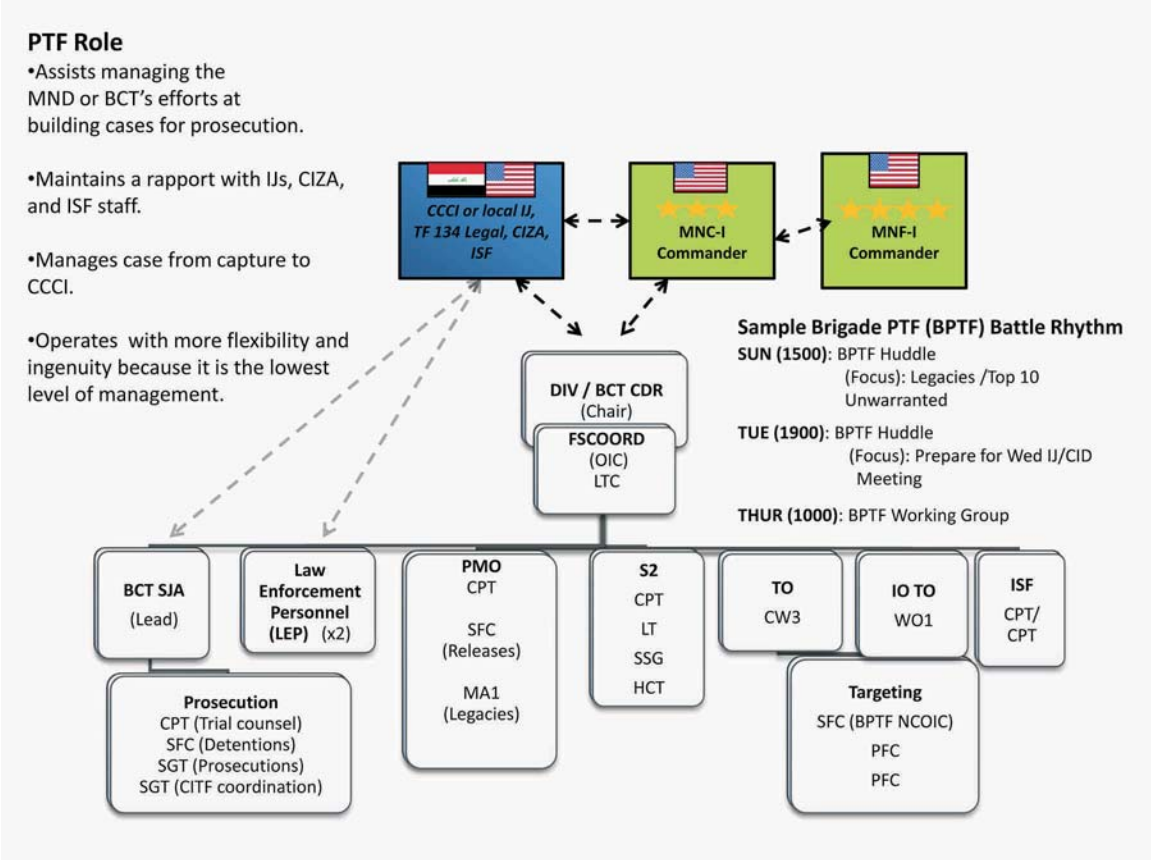


Figure 13-2

Prosecution Task Forces



Legend:	
FSCOORD: Fire support coordinator	S-2: Intelligence officer
OIC: Officer in charge	LT: Lieutenant
LTC: Lieutenant colonel	SSG: Staff sergeant
CPT: Captain	HCT: Human intelligence collection team
SFC: Sergeant first class	TO: Targeting officer
SGT: Sergeant	CW3: Chief warrant officer 3
CITF: Criminal investigation task force	WO1: Warrant officer 1
PMO: Provost Marshal Officer	NCOIC: Noncommissioned officer in charge
MA1: Master at arms 1	PFC: Private first class

Figure 13-3. PTF task organization

Each MND and most BCTs create a PTF to facilitate combined U.S. and Iraqi criminal case file development, priority influence, evidence maintenance, and detainee tracking through the Iraqi criminal court system.

The brigade PTF also provides quick response to handle unique detention situations when a CIZA does not accept a detainee or a unit is unable to obtain a warrant or detention order. While the ISF has the primary lead in obtaining warrants and detention orders, the brigade PTF oversees the process and tracks cases through to prosecution. When ISF cannot or will not assist

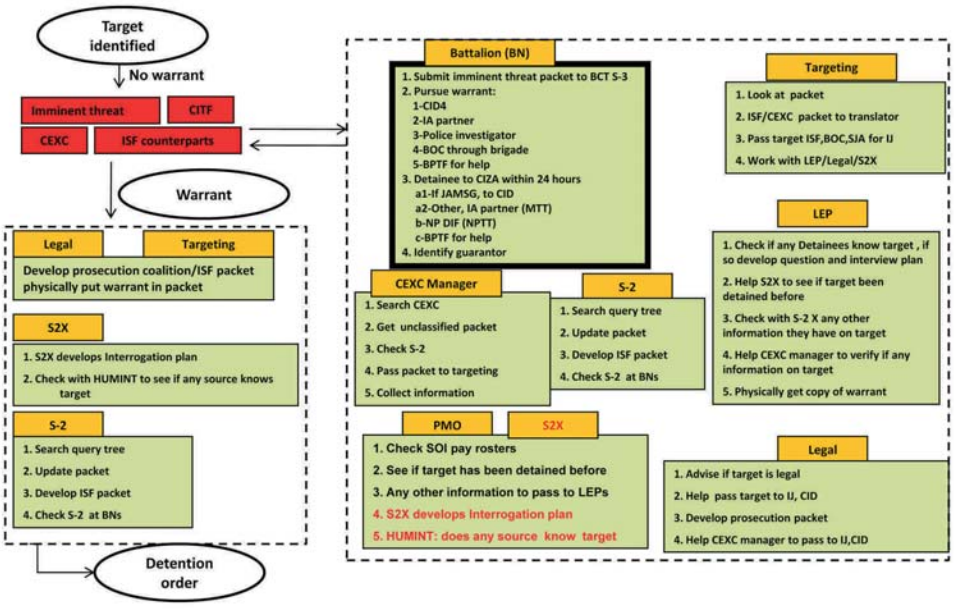
in obtaining warrants, the BCT can still target. The PTF should work directly with the IJs nearest to the brigade OE.

Representatives of the PTF include the brigade SJA, a law enforcement professional (LEP), a PMO, an S-2, a TO, an information operations TO, and the ISF liaison. The role of the PTF is as follows:

- Assist in managing the MND/BCT efforts to build cases for prosecution.
- Establish rapport with the key people in the Iraqi legal system including the IJs, CIZAs, and ISF staff.
- Manage individual cases from capturing to passing suspects to the CCCI.
- Stay at the lowest level of management to provide flexibility and ingenuity.

TF 134 Legal has assigned JAG attorneys as liaison officers (LNOs) to each MND. The LNOs assist each BCT with case prosecution.

Figure 13-4 depicts the responsibilities of each member of the PTF from the battalion through the brigade to the MND.



Legend:	
S2X: Human intelligence officer	NPDIF: National Police district internment facility
S-3: Operations and training officer	NPTT: National Police training team
BOC: Baghdad operations command	SOI: Sons of Iraq
JAMSG: Jaysh al-Mahdi Special Group	
MTT: Mobile training team	

Figure 13-4

MNC–I enhanced its existing criminal investigative capabilities and established a CITF to assist the PTF. The task force has three investigative teams (one in direct support to each of the MNDs).

Each investigative team has six counterintelligence specialists, one criminal investigation special agent, and one U.S. Navy master at arms agent.

The CITF oversees, analyzes, and assists each level of command's criminal case development toward prosecution, detention, or release of suspects. The CITF integrates the efforts of the investigative team with the JEFF (there are four in Iraq) and other agencies such as the CEXC and Federal Bureau of Investigation.

Investigation

The coalition's first step in obtaining a conviction is to assist the ISF and IJ with the conduct of the investigation. Proving terrorism should not be the sole focus to find targets. The investigation (targeting) should also focus on gathering evidence to obtain a conviction and long sentence.

Other terrorism-related crimes commonly associated with insurgents should be considered. It is important to remember the coalition must make its case to the Iraqi judge and the judge must accept the proof of a crime.

Iraqi crimes

The following are examples of Iraqi crimes, the punishment available, and the evidentiary requirements:

Terrorism (Antiterrorism Law Number 13 [2005], Article 4)

- The sentence for terrorism is death.
- Evidence required against a suspected terrorist includes the following:
    - Witnesses (usually two) including:
        - Eyewitnesses
        - One witness able to corroborate
    - Testimony must include:
        - Observing acts or preparations firsthand.
        - Overhearing orders to commit an act/preparation.
        - Detailing a specific event tied to the suspect.
    - Proof of terrorist aim may be proven by the following:
        - Inferred.
        - Propaganda in the suspect's possession.

        - Forensic or circumstantial evidence may be used.

Murder (Iraq Penal Code [IPC] 405, 406 and the Antiterrorism law)

- The sentence for murder is either 30 years or death.
- Evidence required against a suspected murderer includes the following:
    - Witnesses (usually two) including:
        - Eyewitnesses
        - Complainant (the victim, the victim's relative, or a coalition CDR)
    - Death certificate for deceased victims.
    - Forensic or circumstantial evidence may be used.

Note: Murder can also be charged as terrorism.

Kidnapping (IPC 421, 424, and 425 and the Antiterrorism law)

- The sentence for kidnapping is either 30 years or death.
- Evidence required against a suspected kidnapper includes the following:
    - Witnesses (usually two) including:
        - Eyewitnesses
        - Complainant (the victim, the victim's relative, or a coalition CDR)
    - Forensic or circumstantial evidence may be used.

Note: Kidnapping can also be charged as terrorism.

Iraqi criminal offenses

The following are examples of Iraqi criminal offenses, the punishment available, and the evidentiary requirements:

Weapons offense (Weapons Law Number 13 [1992]; CPA Order 3 [31 Dec 03])

- The sentence for a weapons offense can be up to 30 years.
- Evidence required for a weapons offense includes the following:
    - Witnesses (usually two) including:
        - Eyewitnesses
        - Complainant

        - The person who discovered the weapons.
    - Photographs such as:
        - "Money shot."
        - Weapons located in proximity to a house, school, or children.
    - Diagrams/Sketches including:
        - Location of weapons in relation to the house
        - Walls around home and proximity to others
    - Weapons list.
    - Forensic evidence must include a test for explosive residue, even when its presence is obvious.

False identification (ID) (IPC 292-299)

- The sentence is two to seven years (more if a foreigner).
- Evidence required includes the following:
    - Witnesses (usually two) including:
        - Eyewitnesses
        - Complainant
    - All physical evidence to include false IDs and/or equipment to manufacture false IDs.

Border Crossing (CPA Orders 16, 26, 54, and 70 and Iraqi Customs Law Number 23 [1984])

- The sentence is up to 15 years (more if a foreigner).
- Evidence required includes the following:
    - Witnesses (usually two) including:
        - Eyewitnesses
        - Complainant
    - All physical evidence such as passports, visas, and plane/bus tickets.
    - IJ may determine status by the suspect's accent, ethnicity, or purpose of the visit.

Below is a hypothetical example showing how to apply other criminal offenses to a suspected enemy target:

A U.S. infantry company, with the IA, conducts a time-sensitive targeting (TST) raid to capture an IED facilitator. Tactical site exploration (TSE) of the suspect's house reveals no electronic or incriminating IED components other than a few dozen bags of urea nitrate fertilizer (legal to possess and use in Iraq).

However, TSE does reveal the suspect has three separate personal Iraqi IDs with three different names. A harmless document written in Arabic is also found. An interpreter passes on information that the suspect (target) does not sound like an Iraqi.

The coalition can try to prosecute for terrorism-related charges, but in the meantime, a false ID charge provides a solid backup.

Exploitation of the harmless document reveals a truck rental agreement from Damascus to Tal Afar (implies a Syrian border crossing) during any given month. There is no valid border crossing stamp on any ID for that same month. There is now a second charge of illegal border crossing.

At the trial, the judge determines the suspect has a foreign accent and is not an Iraqi. The court is provided with the additional evidence for the crimes of false ID and illegal border crossing. The IA personnel that accompanied the coalition on the search provide witness statements attesting to the events of the house search and finding of the multiple IDs. A border guard then testifies there are no valid stamps on the multiple passports.

Iraqi judges typically detest foreigners who have entered Iraq illegally. Even if acquitted of terrorism, the suspect will most likely receive an extremely harsh sentence for illegal border crossing due to his foreign status.

Essential Practices

Based on conversations with units and leaders (MNDs, combined joint special operations task force, military police, military transition teams [MiTTs], and PRTs) about how they worked the warrant-based process, the following tasks were universally emphasized:

- Developing a personal relationship with the CIZA (all Iraqi judges and IP/IA/NP counterparts) is mandatory because coordination for combat missions is a legal requirement in the security agreement. PRT ROL advisors work with local courts to build capacity with local crimes not involving terrorism. Brigade CDRs and the SJA should personally meet with every judge on a routine basis. This not only helps to build rapport, but also gives a certain prestige or status to the judge(s).

- C2 should understand units need to tailor operations to the OE and task organize accordingly. There is no one-size-fits-all with regard to PTFs or TST. PRT ROL advisors are sent by the Department of State to each BCT. The advisors interface directly with the local judiciary (provincial and lower) to improve ROL at the local level with local crimes and investigations not involving U.S. forces.

- Witness testimony is the cultural norm. It is universally accepted evidence as long as it is firsthand knowledge. HUMINT teams including MiTTs, police training teams, NPTTs, and border patrol training teams have prime access to local nationals that

could serve as witnesses. Teams have established standing operating procedures to facilitate witness testimony.

- TSE is a term all COs and PLTs must become familiar with. U.S. success in global irregular war endeavors depends on it. If intelligence is not gathered from an objective, U.S. forces give up valuable information to target the next enemy. Similarly, the same intelligence and other information or items on an objective can be used as evidence against the insurgent to attain a conviction, which removes them from the asymmetric battlefield.

- Use intelligence to guide investigations. Coalition forces cannot share sources and methods with the host nation. They can use intelligence information and sources from OGAs to guide operations and share the releasable intelligence or evidence identified during the process.

- Interpreters were most useful when the coalition could act unilaterally before the security agreement. They explained the coalition's intent or orders to counterparts or enemies. Now the situation is different because authorities have changed. Coordination with Iraqis is mandatory and requires a better understanding of their culture. Linguists and bilingual, bicultural advisors help the coalition to explain its position as well as understand the position of the Iraqis in an effort to arrive at decisions and a consensus. The coalition's bargaining position is strong—never underestimate its partner's desire (or need) for coalition support.

> Example:
>
> The ISF needs the coalition to explain how to use jammers when the ISF maneuvers on its own. Previously, the ISF would rely on the coalition to set up and run the equipment. Now, the ISF must learn to operate and employ jammers.
>
> Who wants to roll out on a mission uncertain whether jamming devices are functioning?

- PSYOP teams are essential to advertise coalition successes at the ground level and to the neighborhoods where U.S. and Iraqi forces operate.

- Advise, exchange, and train with the IP and judiciary on essentials used in conducting investigations:

    - TSE skills including taking photographs, drawing diagrams, and collecting other physical evidence.

    - TQ including obtaining confessions and taking victim and witness statements.

    - Forensic evidence including fingerprints, deoxyribonucleic acid (DNA), tool markings, and chemical sprays.

    - Intelligence cycle including releasable information ("baseball cards") and network information.

    - Targeting process including judicial knowledge of what operators need to neutralize or capture HVTs.

- IJs are the lynchpin for convictions. The following are successes and failures they typically see during court proceedings:
    - Successes
        - Use of the combination of witnesses, photos, and diagrams
        - Assistance from HCTs with witnesses or informants
        - LEPs obtaining warrants and the SJA/JAGs working the detention order/investigative hearing
        - Iraqis leading and conducting quality site exploitation
        - Suspects/detainees being presented to the IJ earlier in the process
        - Acceptance of forensic evidence by judges
    - Recurring failures (lack of training, guidance, and initiative)
        - Faulty site exploitation
        - Unprepared witnesses
        - Failure to check the facts

Conclusion

U.S. forces transitioning from unilateral operations to working by, with, and through the Iraqis requires a mindset change for conventional Soldiers. Leaders must embrace this change to succeed within the Iraqi legal system to remove insurgents from the streets.

Coalition targeting methodology does not change dramatically, but the execution does. The noticeable change is in the standards required to attain the arrest and conviction of enemy insurgents. The field expedient PTF is a clear manifestation of the type of change required. The new focus of targeting is the collection, processing, and preparation of evidence and witnesses to win a conviction in the Iraqi courts.

Iraqi Warrants: How to Obtain and Execute Them

CPT Ron Alcala and CPT Ron Haberland, Staff Judge Advocate Section, 10th Mountain Division

Analyst's note: The following information is taken from a training presentation conducted by the 10th Mountain Division Staff Judge Advocate (SJA) for members of the division.

Iraqi Warrants: Why Do I Need a Warrant?

On 31 December 2008, United Nations Security Council Resolution (UNSCR) 1790 expired. UNSCR 1790 was the authority under which the coalition, including U.S. forces, could act unilaterally in detaining and holding personnel in Iraq. It allowed coalition and U.S. forces to conduct searches and detain individuals perceived as a threat and to hold them for an unspecified period.

As of 1 January 2009, all detention operations are conducted according to Iraqi law and according to a bilateral security agreement. The coalition is not allowed to search or seize property without a warrant and in coordination with Iraqi authorities.

Sources for arrest and seizure in Iraq include the following:

- Iraqi Constitution (2005).
- Law on Criminal Proceeding with Amendments (Number 23 of 1971).
- Law Number 111 of 1969—Penal Code.
- Prime Minister Executive Order 207 (2007).
- Antiterrorism Law of 2005.
- Coalition provisional authority regulations, memorandums, and orders not superseded by Iraqi law.

Arrest Warrants

Absent exigent circumstances, arrest warrants are required for any arrest or detention carried out by the coalition or the Iraqi Security Forces (ISF).

An arrest warrant is not necessary when the following circumstances occur:

- The suspect commits a crime in front of an Iraqi judge.
- The suspect commits a crime in front of a witness.
- The suspect was sentenced in absentia to a penalty restricting his freedom.
- The suspect is carrying arms, either openly or concealed, in violation of Iraqi law.

- Reasonable grounds exist to believe the suspect deliberately committed a felony and has no particular place of residence.
- The suspect impedes a member of the court or a public official from carrying out duties. **Note:** members of the coalition are not considered Iraqi public officials.

Obtaining the warrant

Judicial requirements for arrest warrants are always local and judge specific. It is best to coordinate judicial requirements with the brigade's rule of law/detainee operations attorneys. The brigade and battalion leadership and the SJA must maintain close working relationships with the local investigative judges (IJs).

The following information about the accused must be presented to an Iraqi IJ:

- Full name.
- Personal information such as the suspect's *ginsea* (common form of identification) card number or other identifying information.
- A physical description of the accused (provide a photo if possible).
- Place of residence.
- Profession.
- Alleged offense committed by the accused.
- All applicable legal provisions.
- Evidence of the offense can include:
    - º Proof of the suspect's identity.
    - º Witness affidavit taken by an Iraqi investigator (not a coalition member) and/or sworn testimony to an Iraqi IJ.
    - º Physical and documentary evidence of the crime.
    - º Testimony from the Iraqi Police (IP) and/or a coalition investigator.
    - º Expert testimony.

Executing the warrant

A warrant can be executed outside the jurisdiction of the issuing judge but first requires the approval of a local judge with jurisdiction, unless exigent circumstances apply. The use of force in executing the warrant is authorized if a suspect is unwilling to surrender voluntarily. Once detained, the coalition must deliver the suspect to a competent Iraqi authority (CIZA) within 24 hours of the arrest. A qualified CIZA can vary between provinces so the coalition must be aware of any local interpretation. The preliminary investigative documents must be submitted to the IJ within 24 hours of the arrest. An Iraqi judge can grant an extension of an additional 24 hours upon request of the coalition.

The arrest process

The following steps comprise the arrest process:

- Identify two eyewitnesses to the crime committed by the accused.
- Coordinate with ISF partners to develop a warrant file.
- Coordinate with the Iraqi judge for a time to present the evidence.
- Coordinate with the witnesses to present their testimony to the IJ.
- Present the witnesses to the judge. A witness can testify in secret to avoid intimidation; however, the IJ must record the witness's identity in his private records.
- Coordinate with the ISF for detention of the accused.

Witnesses statements

Initial interviews of the witnesses should be conducted in conjunction with the IP. The witness must be willing to testify freely. Ensure witnesses have firsthand knowledge of the event pertaining to the crime and the accused. Corroborating evidence to support eyewitness statements such as physical evidence (for example, fingerprints, cellular phones, currency, etc.), and documentary evidence (for example, photographs, passports, diagrams, etc.) should be obtained to support the statements.

Ensure each witness has a *ginsea* card or other form of identification to present to the judge (identification is required even if the witness testifies in secret). A witness may request a head covering to hide his identity until arrival in the judge's chambers.

Coalition representatives may be asked to leave the judge's chambers when a witness testifies in secret. The coalition should request a copy of the witness's statement from the judge.

Search Warrants

The search of a suspect's home or business requires an order from an Iraqi IJ. The IJ can order a search of the suspect's person and home or any other place owned by the suspect. To authorize a search warrant, the IJ must believe the search may reveal documents, weapons, or tools related to the crime, a person who had a part in the offense, or a person held against his will.

The authority to search is limited to items that formed the basis of the search; however, any other contraband found during the search may be seized.

The intent of the following three vignettes is to test understanding on the application of warrant-based targeting.

Vignette 1

Part 1:

Your unit receives intelligence from several sources linking the provincial governor to Jaysh al-Mahdi Special Groups. The commander indicates that he wants to "roll him up."

Question: Can you detain the governor?

Answer: No. The governor cannot be arrested without first obtaining an arrest warrant issued by an Iraqi judge.

Part 2:

You have convinced one of your sources to give a statement regarding the insurgent activities of the governor. The source writes down what he knows on a piece of paper and gives it to you.

Question: Is this enough evidence to obtain an arrest warrant from the IJ?

Answer: Probably not. Most Iraqi judges will not accept statements given to the ISF or the coalition as the basis of a warrant. The judge is more likely to issue an arrest warrant if the source makes a statement directly to the judge.

Vignette 2

Part 1:

Your squad is conducting a joint operation with the Iraqi Army (IA). While patrolling the street you take small arms fire (SAF). You identify a nearby house as the source of the SAF, but you cannot identify the individual firing at you.

Question: Is a search warrant needed to legally enter the house?

Answer: No. In this situation, a exception from the requirement to attain a search warrant applies as the coalition retains the right to self defense. Article 22 of the security agreement states the coalition may search a home during actual combat operations conducted in coordination with Iraqi authorities.

Part 2:

Your squad enters the house and finds one man and no one else. Your team is guarding the only entrance to the house. The man is holding an AK-47 rifle and sweating profusely. You check his weapon and find one 40-round magazine with only 5 rounds left. One additional round is chambered in the rifle. One of the Iraqi soldiers with your patrol identifies the man as the shooter.

Question: Is an arrest warrant needed to take him into custody?

Answer: No. A person accused of a felony may be arrested without a warrant in cases where an eyewitness observed the offense.

Question: What should you do before the squad leaves the scene?

Answer: Gather all available evidence before leaving the scene. Using gloves, gather up the physical evidence including the weapon, spent shell casings, rifle magazines, and any other evidence of the crime. Place each item in a separate bag and seal the bag. Interview any potential witnesses and obtain contact information. If available, assign an IP investigator to take statements. Draw a diagram of the location and site of the incident and take pictures.

Vignette 3

Part 1:

An Iraqi contractor tells you another contractor has been stealing copper pipe and taking it off the forward operating base. You know the contractor has a nearby yard where he keeps construction materials.

Question: What should you bring to the Iraqi judge to obtain a search warrant?

Answer:

- Full name of the suspect
- Identity card details of the suspect
- Physical description (photo if possible)
- Place of residence and place to be searched
- Applicable legal provision
- Witnesses and/or witness statements
- Physical evidence such as fingerprints or weapons

Part 2:

You obtain the search warrant from the IJ. In conjunction with the local IP, your squad executes the search. You find the stolen copper pipe.

Question: What should be done with the pipe?

Answer: Secure the scene. Take pictures and draw diagrams depicting the location of the stolen items and other evidence found. Interview the suspect and take photographs of the suspect with the stolen items.

Vignette 4

Your squad responds to a vehicle-borne improvised explosive device (VBIED). When you arrive, two Iraqis tell you they saw their neighbor, Ali, park his car at the scene of the explosion an hour earlier. They give you a physical description of Ali and one witness shows you a picture of Ali taken with the witness's cell phone. Later, explosive ordnance disposal recovers a fingerprint from the bumper of the VBIED. You run the fingerprint through the Biometric Automated Toolset System and discover it belongs to Ali. The theater internment facility at Bucca just released Ali.

Question: Is any other evidence needed to obtain an arrest warrant for Ali?

Answer: The fingerprint alone may be enough to obtain an arrest warrant for Ali; however, additional evidence is required for prosecution. Take witness statements and obtain contact information including *ginsea* numbers. If available, assign an IP investigator to take the witness statements. Obtain a copy of the one witness' cell phone picture of Ali. Photograph and diagram the scene of the VBEID. Wearing gloves to protect evidence from contamination, collect and bag any physical evidence found at the scene. Contact the local vehicle registration office to determine the owner of the vehicle.

Conclusion

The information in this article will help with the essentials of obtaining warrants and the right evidence to secure convictions through the Iraqi courts. The vignettes should leave Soldiers with an understanding of how to apply these requirements in tactical operations.

Information Paper: Operation Blue Star

MAJ Jeremy Robinson, Brigade Judge Advocate and Mr. Wayne Millen, Law Enforcement Professional

Information Paper

SUBJECT: Operation Blue Star

AFVA-BCT 1 September 2009

1. Purpose. To provide information on Operation Blue Star in the Provinces of Muthanna, Dhi Qar, and Maysan, Iraq.

2. Discussion.

a. Operation Blue Star defined.

(1) Operation Blue Star is a two-pronged approach that was developed in Maysan Province by the 4th Brigade Combat Team (BCT), 1st Cavalry Division in 2008. Operation Blue Star begins with the development of a case review committee (CRC) that is attended weekly by U.S. forces and the Iraqi Security Forces (ISF). The information that is discussed and shared in the CRC is inputted into an automated case management system that was developed on Microsoft Access. The system was developed to track information on a subject's initial identification through the collection of evidence, law enforcement obtaining an arrest warrant, detention order, trial, and incarceration. It is a one-stop shop for law enforcement and the judiciary.

b. Purpose. The purpose of Operation Blue Star is to share information, streamline the investigative process, and coordinate investigations between the Iraqi Police (IP), the Iraqi Army (IA), U.S. forces, and the Iraqi judicial system.

c. Case Review Committee. The CRC consists of members of ISF and U.S. forces, whose goal is to improve the quality of products produced by ISF investigators, share information and cooperate on investigations, and increase the level of confidence of ISF investigators. The purpose of the CRC is to improve case management, refine evidence processing, and insure compliance with the Iraqi rule of law. The CRC meetings should be held once a week. The meetings should be held in central, convenient, and safe locations. The dates, times, and locations of the meetings should alternate on a frequent basis.

(1) Chairperson. A chairperson will run the CRC. This person must be respected by all agencies represented. The chairperson will serve as the facilitator, set the agenda, and encourage other agencies to send representatives. The chairperson will insure that all information discussed during the meetings is collected, entered into the case management system, and distributed to all parties. Because of the shift in paradigm from the IA to the IP, the provincial chief of police (PCOP) should initiate the first meeting and the PCOP can appoint the chairperson for the next meeting.

(2) Attendees. Any investigator from the ISF should be allowed to present a case to the CRC. This can be done by proxy on paper or in person. The PCOP should

invite all of the primary law enforcement agencies. The PCOP should be the one making the final decision on attendees. The audience should be limited to a senior supervisor and one assistant for each agency.

(3) Agenda. (See enclosure for a sample meeting agenda.)

(a) The meeting should focus primarily on developing evidence on individuals to produce cases that can be prosecuted. The chairman should start the meeting by identifying what evidence is needed for each case and investigative options to obtain the evidence. The focus of the meeting should be to develop evidence that will not only obtain an arrest warrant, but also a conviction. Another important topic that can be covered is training. A portion of the meeting should be focused on professional development. This could include training on case files, interview techniques, investigative techniques, and evidence collection.

(b) Other areas the CRC can focus on are: 1) locating historical sources and attempting to convert them into witnesses by offering the Confidential Witness Program in which witnesses testify in from of only the investigative judge and 2) locating any historical evidence that was collected and see if it was submitted to document exploitation (DOMEX), combined explosive exploitation cell (CEXC), or joint expeditionary forensics facility (JEFF) laboratories.

d. Case management system. The automated case management system is the keystone of Operation Blue Star. The system is designed to share information and evidence, which will allow the ISF to secure arrest warrants and detention orders. The case management system is a simple database that allows the ISF to track open investigations, arrests, detentions, case status, and case dispositions. The system is written in Arabic and English.

(1) Software and hardware. The actual program is a Microsoft Access program designed by 2d Battalion, 7th Cavalry Regiment, 4th Brigade Combat Team, 1st Cavalry Division. The unit should use ISF funds to purchase eight to ten computers. One computer will be located at the PCOP's office. The others should be located at the confidential intelligence unit (CIU), tactical security unit (TSU), IP headquarters (HQ), and district IP stations.

(2) Inputting Data into Database. The PCOP should select and identify two to three officers to input data at each computer. These officers should receive training on computers and Microsoft Access prior to being assigned these duties.

e. Hurdles.

(1) Database input is dependent on ISF capabilities. In Maysan Province, only two IA officers are allowed to input data into one stand-alone computer. Once the data is inputted, the data is then shared by compact disc or thumb drive.

(2) There are some security concerns with using compact discs or external hard drives to transfer data. The system would be better is the database was located on an intranet or server that all members could access.

(3) The ISF are also concerned that attendees' names and information could be leaked to subversive groups. The S-2 should attempt to run background checks on all members prior to their attendance at CRCs.

f. Developing Operation Blue Star in a province.

(1) The police training teams (PTTs) should informally discuss the program with the PCOP and other law enforcement agency chiefs. Once the subject has been broached by the provincial reconstruction teams (PRTs), the task force commander in coordination with the PTT and their law enforcement professional (LEP) should request a key leader engagement (KLE) to discuss Operation Blue Star with the PCOP. The agenda of this first meeting should be: 1) explanation of Blue Star; 2) four components of Blue Star: management, investigations, training, and relationships; and 3) questions. The underlying purpose of the initial meeting with the PCOP is to sell Operation Blue Star to him and have him be the driving force for the implementation of the program throughout the province. This is a critical "way ahead" approach for the ISF to continue with Operation Blue Star after the departure of U.S. forces.

(2) The agenda for the second KLE between the task force commander and the PCOP should be: 1) benefits of Blue Star; 2) overview of Blue Star; 3) discussion of how Blue Star works, to include a demonstration of how data is inputted and how to maneuver through the database; 4) overview of the CRC; 5) explain how the system can identify weaknesses in ISF investigations and aid in correcting these problems; 6) how the program can be implemented in the province; and 7) questions.

(3) In between the KLEs, the PTT should be identifying the needs of the PCOP for the program. The PTT should determine how many computers the PCOP will need and the officer's that will be selected to input the data into the system. The PTT should start working, if necessary, a packet requesting ISF funds to purchase the equipment for the program.

(4) The task force commander must tie the CRC with the case management system. The PCOP must be receptive to not only the case management system, but also demonstrate a willingness and long-term commitment to having weekly CRCs.

g. Issues.

(1) In Maysan, the task force commander was forced to hold separate CRCs for the IA and the IP because they refused to cooperate with each other. Although successful, it would be better if the IA and IP could attend the same meetings.

(2) In the past, task force commanders have invited Iraqi judges to attend the CRCs. This request became problematic with the Iraqi judges because they were concerned that they should not be providing advisory opinions on active cases and felt that it would be a conflict of interest to do so. The judges should be invited to provide training at the CRCs but should not become weekly participants. Approaching judges to train ISF personnel on evidence collection and case preparation has met with positive results and appears to be a way to increase the professionalism and quality of cases brought before the judiciary.

Enclosure: Sample Meeting Agenda

1. Call to Order
    - Introductions
    - Present agenda
2. Case Assessments
    - Discussion
    - Description of case and offender
    - Identify evidence weaknesses
    - Determine investigative options
    - Identify effective interagency cooperation opportunities
3. Area of Operations Assessments
    - Discussion
    - Types of problems
    - Identify hot spots
    - Trade intelligence
    - Warrant notifications
4. Determine Lines of Effort
    - Break down larger issues into smaller categories
    - Identify options to focus on smaller categories
5. Performance Evaluations
    - Identify training requirements
6. Administrative
    - Operational strengths and weaknesses
    - Policy changes/suggestions
    - Set next meeting date, time, location, and agenda

Information Paper: Brigade Combat Team Perceptions on Rule of Law in the Iraqi Provinces of Maysan, Dhi Qar, and Muthanna

MAJ Jeremy Robinson, Brigade Judge Advocate

Information Paper

SUBJECT: Brigade Combat Team Perceptions on rule of law in the Iraqi Provinces of Maysan, Dhi Qar, and Muthanna

AFVA-BCT 8 September 2009

1. Purpose. To provide information on 4th Brigade Combat Team (BCT), 1st Armored Division approach to rule of law in three Iraqi provinces.

2. Discussion.

a. Key Players in rule of law for the BCT

(1) Provincial reconstruction team. Each provincial reconstruction team (PRT) has a rule of law advisor. This person's sole mission in a province is to support and enhance the rule of law effort throughout the province. This person has direct access to the judges and the judicial process. The BCT's access to the judiciary should be by, with, and through the PRT.

(2) Brigade judge advocate. The brigade judge advocate (BJA) is the BCT's primary advisor on rule of law. The resources of the BJA are minimal, but one of the BJA's main responsibilities for the BCT should be the rule of law coordinator for the BCT.

(3) Iraqi Security Forces coordinator. The BCT and each task force (TF) must have an Iraqi Security Forces (ISF) coordinator. The ISF coordinator is responsible for insuring that the BCT and TFs are teaching, training, and mentoring the ISF.

(4) Civilian police assistance training team. The civilian police assistance training team (CPATT) is responsible for the day-to-day training of the Iraqi Police (IP). Integration with this unit is a key for the BCT to develop the actual training for the ISF.

(5) Police training teams. The police training teams (PTTs) are located with the provincial chief of police (PCOP) office and the district chief of police offices. The PTTs have direct access to the IP leadership in the province and will be able to assist with the training agenda and key leader engagements (KLEs) with the IP.

(6) Law enforcement professionals. The law enforcement professionals (LEPs) are assigned to the BCT and provide valuable experience in reviewing case files, examining evidence, and assist in developing training for the ISF.

b. Setting up rule of law at the BCT.

(1) Rule of law working group. When the BCT arrived in Iraq, the PRTs were engaged in rule of law; however, the previous BCT had not developed a strategy or common plan with the PRTs regarding the rule of law. The first thing our BCT did was establish a rule of law working group that met twice a month.

(a) Purpose. The purpose of the rule of law working group was to facilitate ideas between the BCT and the PRTs. The working group discussed a unified common plan for each province, potential projects for the judiciary and ISF, case-management systems for the ISF and judiciary, and training the ISF.

(b) BCT rule of law coordinator. The BJA was the BCT rule of law coordinator and was in charge of running the working group. The BJA served as the facilitator and set the agenda and encouraged other agencies to send representatives. The BJA insured that all information discussed was collected and placed into a document.

(c) Attendees. Attendees included: PRT rule of law advisors, brigade legal services team members, LEP, CPATT, ISF coordinators, BCT intelligence officer (S-2), BCT operations and training officer (S-3), and information operations (IO)/public affairs officer (PAO).

(2) Agenda.

(a) Initial meeting. The agenda for each working group varied according to the intent of the PRT and the BCT. The BCT initially focused on developing a unified common plan for each province. This allowed the members to become familiar with each other and allowed the PRTs a forum to share lessons learned and good common practices. The working group reviewed the BCT's mission statement, the commander's intent, the BCT's line of effort (LOE), and the BCT commander's guidance on the rule of law. The BJA also had a member from the BCT's operations, research, and systems analyst (ORSA) discuss polling data from each province on: 1) Iraqi confidence in judicial systems, 2) Iraqi belief on whether judicial system was fair, 3) Iraqi perception when they see Iraqi Army (IA) and IP, and 4) Iraqi confidence that the Iraqi judicial system will protect them and their family. The ORSA also discussed the population of the detention facilities in the provinces.

(b) Subsequent meetings. Subsequent meetings discussed an array of topics that included: the status of the current rule of law Commander's Emergency Response Program (CERP) projects; future rule of law CERP projects; Iraqi Security Forces funds (ISFF) projects; having investigative judges review ISF training materials that are being used by the BCT; inviting investigative judges to train the ISF on forensic evidence, Iraqi law and investigations; setting up case review committees (CRCs) and a case management system (Operation Blue Star); developing a case management tracker for the judiciary (MIZAN); and setting up a conference where Arabic judges come and speak to the Iraqi judges.

c. Hurdles

(1) Iraqi judiciary.

(a) The BJA must always remember that the PRT Rule of Law Advisors have the lead on Rule of Law in the province, especially with the judiciary. The BJA must form an alliance with the PRT and insure that the BCTs dealings with the Iraqi judiciary are by, with, and through the PRT. The Iraqi judges are concerned with any perceptions of undue influence by the Government of Iraq or U.S. forces and want to remain impartial. The BJA should always attempt to use the PRT to interact with Iraqi judges to allow them to maintain the appearance of impartiality.

(b) The BCT has had contact with Iraqi judges in all three of their provinces. Only once, did the BCT not go through the PRT. In hindsight, the BCT should have coordinated with the PRT. The PRT Rule of Law Advisor has the ear of the Chief Judge in the province and the BCT should schedule KLEs through the PRT.

(c) The Iraqi judiciary is very hierarchical and initial discussions should always be addressed with the Chief Judge of the province. Once the Chief Judge is aware of a request from the BCT or PRT, he will decide whether he will allow his judges to support the request.

(d) Success Stories. The BCT has many successes in the area of Rule of Law during the first quarter of their deployment. The greatest success was successfully petitioning an Iraqi judge so that four individuals that were being detained by the investigative judge were charged with murdering a Soldier during an attack on a convoy with an improvised explosive device (IED). The BCT was also successful in engaging the Iraqi Judiciary and having them review the training materials we were using to teach ISF as well as having the Iraqi Judiciary participate in the training of the ISF.

i. Sergeant (SGT) Joshua Kiel. The first time the BCT engaged the Iraqi Judiciary was in response to the death of SGT Joshua Kiel, who was killed by an IED during a convoy patrol eleven days after the BCT's transfer of authority (TOA).

a. Facts

1. On 16 June 2009, SGT Joshua Kiel was travelling in a convoy that was being escorted by the IP in the province of Muthanna. SGT Kiel was in the passenger side of a high-mobility, multipurpose wheeled vehicle (HMMWV) when the right side of the vehicle was struck by an IED. SGT Kiel was mortally wounded. IP and U.S. forces identified the triggerman and opened fire. The IP captured the triggerman while U.S. forces provided cover support. The IP ended up detaining four Iraqi civilians who were involved in detonating the IED. U.S. forces were able to positively identify the triggerman from a photograph they were shown a few hours after the incident.

2. The TF commander and company commander engaged the provincial governor, PCOP, and chief of the Criminal Investigative Unit (CIU). The TF commander was instructed by these individuals that U.S. forces needed to hire an Iraqi attorney so that the attorney could file a murder complaint against the four detained Iraqis.

3. On 23 June 2009, the chief investigative judge in Muthanna requested that U.S. forces send a legal advisor to meet with the judge regarding the IED incident. The BCT sent a judge advocate to meet with the investigative judge on 28 June 2009.

4. The judge advocate complied with the chief investigative judge's request. Prior to meeting with the chief investigative judge, the judge advocate sat down with the PCOP and received a rudimentary lesson on criminal justice and procedure in the province. A few days after meeting with the PCOP, the judge advocate met with the chief investigative judge. The chief investigative judge explained what the judge advocate needed to do to petition the court and gave the judge advocate an overview of the criminal justice process in Muthanna. The chief investigative judge told the judge advocate what he needed to do and what he needed to bring to file a complaint against the four individuals. The chief investigative judge also told the judge advocate to file the complaint with an investigator from CIU and not an investigative judge.

5. A few days after the meeting with the investigative judge, the judge advocate provided an investigator from the CIU with a complaint that included the names of the U.S. Soldiers who were present when the attack occurred, the U.S. Soldier's sworn statements, photographs, sketches, and the autopsy report. All of the documents were translated into Arabic and each document was notarized by a judge advocate and a notary seal was placed on each document. All documents were reviewed by a foreign disclosure officer prior to translation and release.

6. The investigative judge accepted all documents and the four individuals have been charged with the murder of SGT Kiel. The trial is currently pending and the judge has requested the presence of the U.S. forces soldiers to be witnesses.

b. Lessons Learned from SGT Kiel's case

1. The BCT failed to coordinate with the rule of law advisor for the PRT assigned to Muthanna. The PRT had a relationship with the judiciary and may have made it easier for the BCT to engage the judiciary. The failure to coordinate with the PRT could have alienated the PRT from the BCT and undercut the relationships the PRT had with the Iraqi judiciary.

2. The judge advocate did not pretend to understand Iraqi law or procedure and allowed the investigative judge to explain the entire process to the judge advocate. The judge advocate treated the investigative judge with respect and allowed the investigative judge to explain the Iraqi criminal process and he followed up with specific questions regarding SGT Kiel's case.

3. The judge advocate met with the PCOP prior to meeting with the chief investigative judge and sought the PCOP's permission to engage the chief investigative judge. The PCOP was impressed that the judge advocate met with him. The PCOP was also impressed that the judge advocate requested permission from the PCOP to meet with the chief investigative judge.

4. The engagement was successful because the judge advocate requested to meet with the chief investigative judge rather than one of his subordinate judges. In Iraqi culture, it is disrespectful to engage a subordinate prior to meeting the chief. Even if the engagement is successful, it is short lived because the judge's superior will object to whatever was agreed to since he was not engaged and did not give permission for anyone to engage his subordinate.

(2) Requesting the Iraqi judiciary assist in training the ISF. The BCT has been successful in having the Iraqi judiciary assist U.S. forces in training the ISF in two of their three provinces.

(a) Dhi Qar. In Dhi Qar province, the BCT requested that the PRT engage the chief judge on assisting the U.S. forces in reviewing the ISF training materials and requesting that the Iraqi judges assist in training the ISF. The PRT brought this request up to the chief judge. The PRT then scheduled a key leader engagement between the BJA and the chief judge and the chief investigative judge. The meeting was held at the PRT compound outside the U.S. forces gate, but inside the U.S. forces wire.

i. The BJA explained to the Iraqi judges the type of training U.S. forces were currently providing to the ISF. The BJA

provided the judges with examples of the training that was being conducted; to include the sensitive site exploitation training being conducted by the CPATTs. The BJA explained that the training focused on the collection of evidence, forensic evidence, and investigations. The purpose of the training was to teach the ISF how to collect and exploit evidence without expensive technology. The BJA explained that the training could assist the Iraqi judges in doing their job by insuring the ISF received proper training that followed Iraqi law.

ii. The Iraqi judges stated that they agreed that some IP officers needed additional training in investigations and evidence collection. The Iraqi judge stated that a problem with the training is that U.S. forces do not understand the Iraqi legal system and Iraqi procedures. The Iraqi judges explained that there are differences between U.S. law and Iraqi law. The Iraqi judge also stated that U.S. forces do not always translate the Iraqi law correctly when they teach classes to the ISF. Another problem mentioned by Iraqi judges is that the IP officers are generalists and do not have a specialty.

iii. The Iraqi judges agreed to teach the ISF in future classes conducted by U.S. forces and the Iraqi judges agreed to assist the U.S. forces in the creation, development, and review of the future training materials that were going to be used to train the ISF. The Iraqi judges agreed that an indirect benefit to their assistance would be the improvement of professional relationships between the Iraqi judges and the IP.

iv. The Iraqi judge did state that it would be better if U.S. forces would train an individual Iraqi Police officer to prioritize and collect all evidence at a crime scene since the IP rarely send more than one Iraqi Police officer to a crime scene.

v. The Iraqi judges requested that they be provided with at least seven days notice of any training that the U.S. forces would like them to participate in. The Iraqi judges suggested that all training happen at a PRT or Iraqi compound rather than on a U.S. forces base. The judges requested to be provided with the date, time, location, number of participants, and the audience for the training. The judges were particularly interested in who would be attending the training.

vi. The judges stated that they would be able to teach classes on Iraqi law and criminal investigations. Specifically they would like to discuss how to deal with crime and collect evidence. The judges requested that U.S. forces provide them with a compact disc (CD) that contains the training they would be teaching the ISF. The judges

stated they would review the materials and provide input to the U.S. forces.

(b) Maysan. The TF commander requested the PRT engage the chief judge and request that an investigative judge teach classes to ISF regarding sensitive site exploitation. The chief judge agreed and sent two judges to teach the ISF on evidence collection and Iraqi Law. The TF commander has requested that the judges continue to teach the ISF.

d. Issues.

(1) The PRTs were not familiar with Money as a Weapon System (MAAWS), yet they were attempting to nominate CERP and ISFF projects. Many times the PRT would suggest projects that could not be funded with CERP and ISFF funds. Initially, the PRTs were frustrated that they had not been told what the rule and guidelines were for these pots of money. The BCT provided MAAWS to the PRTs and spent time educating them on the types of projects that the military could pay for.

(2) The Maysan PRT did not have a Rule of Law Advisor when the BCT arrived in theater and had not had a Rule of Law Advisor since the PRT had been established a few years prior. This absence negatively affected the BCT's ability to perform its mission in enabling the Iraqi government since no one person was consistently focused on the rule of law in this province. Although the PRT and the TF commander attempted to focus on the rule of law mission, the province was impacted by this deficiency. The BJA continued to submit requests and reports to their division headquarters requesting a rule of law advisor for Maysan for months. Maysan eventually received a rule of law advisor from the Department of State.

Information Paper: The Criminal Justice Process in the City of Samawah in the Province of Muthanna

Captain Grayson, SJA, 4th Brigade, 1st Armored Division Trial Counsel

Information Paper

Subject: The Criminal Justice Process in the City of Samawah in the Province of Muthanna

AFVA-BCT 11 July 2009

1. Purpose. To provide information on the Iraqi criminal justice process as practiced in Muthanna, Iraq.

2. Background. On 16 June 2009, the 3rd Platoon of Delta Company, 1-77 Armor Battalion (1-77 AR BN) was escorting Captain (CPT) Brown to Rumiyitha, Iraq for a scheduled meeting with the Iraqi Police (IP) Chief. Just outside of Samawah, Iraq, insurgents attacked the patrol by detonating an improvised explosive device (IED). Sergeant (SGT) Kiel was killed as a result of this IED. Patrol members identified the triggerman and opened fire on him. However, the patrol did not maneuver on the triggerman since the platoon medic assessed Sergeant Kiel to be an urgent casualty. Later that same day, the IP captured the triggerman and two other suspects. Lieutenant Colonel (LTC) James (the 1-77 AR BN Commander) and CPT Brown engaged the provincial governor, the provincial chief of police (PCOP), and the chief of the Criminal Investigative Unit (CIU) for Samawah. The IP had the three men in custody in connection with the IED attack. However, LTC James and CPT Brandon were given conflicting instructions as to whether the responsible parties were in custody and whether coalition forces could have access to the detainees. LTC James and CPT Brandon were also instructed that they had to hire an Iraqi lawyer to file a murder complaint against the men being detained. On 28 June 2009, I engaged Investigative Judge (IJ) Abdul Amir Shiman in Samawah to gather more information on the Iraqi criminal justice process and to determine how it would apply in SGT Kiel's case. I did this at the request of the judicial authorities in Samawah, Muthanna Province (see Enclosure 1).

3. Criminal procedure. The following is a general description of how the criminal justice process is practiced in Muthanna.

a. A criminal complaint can be filed by anyone as long as the complaint is drafted by an attorney. There is no standardized complaint form. A complainant need only state that he would like a certain person charged with a particular offense. The complaint should be filed with a criminal investigator before an Iraqi IJ at the courthouse in order for the IJ to swear the complainant to the complaint.

b. The chief IJ will assign an IJ to determine if the case has merit. The IJ can issue a search and/or arrest warrants. If the suspect was "caught in the act" of committing an offense, he would appear before an IJ within 24 hours. This is true even if a formal complaint had not yet been filed. The IJ will decide if sufficient evidence exists to detain the suspect. If the IJ finds that sufficient evidence does exist, he will issue a detention order. The length of the detention order varies on the severity of the alleged crime committed. The IJ's investigation will typically start with the suspect, as he is usually interrogated within 24 hours of being detained. If the suspect confesses to committing the crime to the IJ, this confession cannot be retracted and the IJ will look for witnesses to corroborate this confession. If witnesses verify that the suspect was involved in a crime, the IJ will not look for forensic evidence. Forensic evidence is only sought if the suspect denies involvement and there are no eyewitnesses to a crime.

c. The IJ's investigation, to include witness interviews, is done in secret. When the IJ completes his investigation, he prepares a report. This report is sent to the three-judge criminal court in Samawah. The criminal court will review the IJ's report. Should the court feel the need to do so, it may call witnesses. The criminal court will hold the trial, which is open to the public. The accused has the right to be represented by an attorney at this trial but not before then. Trials are very short, comparatively speaking; The criminal court makes a finding on whether the accused is guilty or innocent. If the court rules guilty, the court will also sentence the accused. If he is found guilty, the accused has the right to appeal the case. If the accused confesses to committing the crime before the IJ and there are no corroborating witnesses, it typically takes 2–4 mouths from arrest or detention to trial. Any appeals are normally decided within one month.

4. With the knowledge I had on the criminal process, I drafted a complaint against the individuals responsible for SGT Kiel's murder (see Enclosure 2). Included on the complaint was a list of the Soldiers who we present when the attack occurred, the Soldiers' sworn statements, along with supporting evidence (photographs, sketches, and the hospital autopsy report showing that SGT Kiel was deceased). All documents were translated into Arabic, notarized by the Brigade Judge Advocate, and reviewed by a foreign disclosure officer prior to release. The IJ accepted all the documents and the suspects were charged with the murder of SGT Kiel. A trial is pending.

5. Lessons learned. Several valuable lessons were learned as a result of this engagement.

a. First, I failed to coordinate with the rule of law advisor for the Provincial Reconstruction Team (PRT) assigned to Muthanna. The PRT should have more established relations with all government leaders throughout a given province, to include the judiciary. The PRT has additional insight and resources that can be brought to the table and leveraged. The failure to coordinate with the PRT could have alienated the PRT (with the local government officials) and undercut the relations that the PRT has built to date.

b. Second, in approaching and engaging the IJ, I consciously avoided acting as an "ugly American." I did not pretend to know Iraqi law or procedure, nor did I advise the IJ on what the investigation and prosecution should look like. I simply asked the IJ to lay out the Iraqi criminal process and followed up with specific questions as they related to SGT Kiel. I believe the meeting was successful simply because I treated the IJ as a superior with fifteen years of judicial experience. The key was to ask many questions and listen, as opposed to lecturing the IJ on the American criminal justice system.

c. Third, 1-77 AR BN sought permission for me to engage the IJ instead of simply demanding that action be taken. Judicial authorities within Samawah invited a legal representative from the Coalition Forces to meet with the IJ to coordinate the filing of a murder compliant. In the days leading to the meeting with the IJ, I met with the provincial chief of police (PCOP) to attain his permission to engage the IJ. The PCOP was very impressed that an attorney came to see him and sought his permission to meet with the IJ. This meeting undoubtedly led to the successful engagement that I had with the IJ. (I drew this conclusion partly on the fact that the meeting on 28 June 2009 occurred in the PCOP's office.) The engagement may not have been as successful if I did not have the blessing of the provincial political leadership.

d. Fourth, it is always best to engage the chief IJ before meeting with any of his subordinates. In Iraqi culture, it is disrespectful to engage a subordinate before meeting with the person in charge. Even if the engagement is successful with the subordinate, any success would be short lived because of the fact that the judge's superior would probably

object to whatever has been agreed to since he was not a party to the engagement and did not give permission for the subordinate to enter a binding agreement.

Higher Judicial Council **Number** / 846
Presidency of Muthanna Federal Court of Appeal **Date** /June, 23rd 2009
Samawah Court of inquiry

To / The Joint Coordination Center in Muthanna
Subject - Legal Representative

This court presents to you its greetings

Please send a legal representative of the Coalition Forces (U.S. Forces) to this Court to take his statements, regarding the human and material damages caused to them because of the IED explosion at the entrance of Samawah city near the tunnel on 06/16/2009, and as soon as possible with appreciation...

Signature & stamp of

(Unreadable)

The Judge

6/23/2009 Stamp of Higher Judicial Council of Samawah

Enclosure 1

MEMORANDUM FOR the Judicial Office of Samawah in the Province of Muthanna, Iraq

SUBJECT: Complaint on behalf of Sergeant [name redacted]

1. I, _____, respectfully request that murder charges be filed against the following individuals under Articles 405 and 406 of the Iraqi Penal Code:

Haider Karim Jasa, al Zeadi

Kazam Mana Rkhaila al Barki

Amad Hassan Yrail al Absawi Haider

2. I understand that all three of the above individuals are currently detained under Article 4 of the Iraqi Anti-Terrorism Law. I request that murder charges be filed in conjunction with the terrorism charges they currently face. I certify that Sergeant [name redacted] of the United States Army is dead and that I believe his death was caused by the actions of individuals named above. Attached to this complaint is the hospital report on Sergeant [name redacted], which contains the signature of the doctor who pronounced Sergeant [name redacted] deceased. In addition, I request that I be notified if any other individuals are detained as a result of Sergeant [name redacted] murder.

3. Further, I also respectfully request that a complaint for civil damages be filed concurrently with this criminal complaint. If the three individuals named above are found criminally responsible for Sergeant [name redacted] murder. I would respectfully ask for all money, property, or personal belongings that are owned by them or their families. I respectfully seek this compensation on behalf of Sergeant [name redacted] wife and one-year-old son.

4. The following United States Army Soldiers witnesses Sergeant [name redacted] murder on 16 June 2009:

[15 Soldiers listed, rank of Captain to Private]

5. I certify that all of the statements above are true to the best of my knowledge and belief. I certify that this statement was filed with judicial authorities in Samawah, Iraq on the ____ day of July 2009. I thank you in advance for your attention to this felony murder.

THORN R. BROWN

CPT, AR

Commanding

Enclosure 2

Analyst note: This article was derived from an information paper written by CPT Mathew.

Center for Army Lessons Learned Lesson of the Day

LTC Mark Leahey, Theater Observation Detachment Officer at 2/1 Cavalry Division

Subject: Review of and lessons learned from a trial in an Iraqi court involving an Iraqi juvenile charged with killing an U.S. Soldier.

Location: Iraq

Date: 6 November 2009

1. Observation. In early June a U.S. Soldier performing duties as a mine-resistant ambush-protected vehicle (MRAP) gunner was killed by shrapnel from a RKG-3 grenade thrown by an Iraqi juvenile. The juvenile was later acquitted after a trial in a local Iraqi court.

2. Discussion.

a. The attack

(1) While on patrol in Kirkuk City, vehicle number four of a four-MRAP convoy was attacked by a juvenile RKG-3 thrower who emerged suddenly from a crowd.

(2) Gunners from vehicles number two and number three engaged the thrower with personal weapons, but did not hit the thrower.

(3) The gunner of MRAP number four was hit in the neck with shrapnel and later died from his wounds.

(4). The U.S. convoy immediately returned to the base in an effort to save the wounded Soldier's life. The convoy reported a description of the thrower and the location of the attack to the local Iraqi Police (IP) and other coalition forces.

(5) One hour later the IP arrested a juvenile who matched the description in the general vicinity of the attack.

(6) The two MRAP gunners who witnessed the attack returned to the scene and identified the thrower from the back of an IP vehicle.

(7) At the local IP station, a U.S. Soldier conducted the Sherlock explosive residue test on the identified juvenile. The juvenile tested positive for royal demolition explosive, also known as RDX and high-melting explosives.

b. The Iraqi court system

(1) The status of forces agreement dictates that local nationals charged with crimes against Americans are to be tried in the local Iraqi courts.

(2) The investigating police officer conducts the initial investigation and presents the findings to an investigating judge (IJ). The IJ examines the information and may issue a detention order against the individual until the trial.

(3) The Iraqi juvenile court system conducts investigations and trials for juveniles up to the age of 18.

(4) The Iraqi judicial system, based on civil law, allows prosecutors, defense lawyers, and judges to ask questions. The judges determine innocence or guilt.

(5) All witnesses swear to "say only the truth" on a Bible or covered Koran.

(6) Normally, the family of a murdered individual must make the complaint. The brigade judge advocate (BJA) issued the complaint on behalf of the deceased service member's Family and the U.S. government.

(7) In this particular case, the BJA also acted as the assistant prosecutor through the rapport she established with the local Iraqi judiciary.

(8) The accused must testify because under Iraqi law there is no right against self-incrimination. In this case, the juvenile stated that he was at work. In Iraq, time cards and other forms of daily employment record keeping are almost nonexistent.

c. The trial

(1) U.S. Soldiers and a representative from the Sherlock manufacturer testified about the attack and the explosive test.

(2) The defense added to the testimony already presented by stating the gunners were distant to the individual and moving away while the thrower had his back to the gunners and running away in the opposite direction.

(3) The Iraqi judges allowed U.S. Soldiers, explosive ordnance disposal, and Iraqi ordinance disposal explosive experts to present the Sherlock test system during the pretrial conference. However, the judges did not place much weight on this evidence as it was deemed biased because the U.S. explosive experts were associated with a party in the case. During cross examination, the IP stated they were not experts on the Sherlock system as they did not have one at their station. Additionally, the IP provided noncommittal answers, possibly afraid of a reprisal. The Iraqi court system found it difficult to believe that chemicals (explosives) contained in an enclosed object could be detected on a person's hand.

(4) In the acquittal decision, the Iraqi judges referenced that the witness identification process was not conducted properly; the U.S. Soldiers identified the thrower from the back seat of an IP vehicle. A correct Iraqi line up procedure calls for 10 to 15 similar individuals that must change their clothes and positions at least 3 or 4 times.

(5) The staff judge advocate (SJA) mentioned there were significant translation issues in judicial wording and phrases that may have been misinterpreted.

3. Lessons learned.

a. It is a best practice for BCT and higher units to hire a local lawyer to help them navigate the Iraqi judicial system.

b. Units should appoint an officer to act as the unit representative with the investigating police officer and IJ to ensure all the required paperwork such as witness statements, death certificates, and photos are provided before a trial packet is forwarded to a judge. Once the packet goes forward, nothing can be added. The appointed officer needs to call the investigating police officer daily and make personal visits to ensure the investigation is progressing forward.

c. Units should meet with their police transition teams to ensure the local IP are using standardized checklists when processing crimes. Any mistakes may cause an acquittal.

4. Recommendation: The Iraqi judicial system is very different from the American legal system. Hiring a local lawyer is highly recommended to help a unit navigate the complexities of the local judicial system. The local lawyer can also work with the U.S. SJAs to ensure proper phrases are used and to ensure proper translation of testimony.

5. Related Center for Army Lessons Learned products: None.

6. Theater Observation Detachment Officer: LTC Mark Leahey, Theater Observation Detachment Officer at 2/1 Cavalry Division.

7. Acknowledgment: CPT Katherine Gowel, 2/1 Cavalry Division Staff Judge Advocate.

Warrant-Based Targeting Best Practices Models

3-4 Cavalry and 3/25 Infantry Division

August 2009

Recent experiences by 3-4 Cavalry (Raiders) shows a change in mindset is needed for shared targeting operations in the post-Iraqi security environment. The ability of U.S. forces to hold and convict suspects in the Iraqi judicial system is degraded by a primary focus on attaining warrants to target the enemy. With a better understanding of the Iraqi penal code and the importance of the investigative judge in the process, the Raiders believe a focus on the crime and witnesses best ensures the effective use of limited time and resources to remove violent extremists from the population. Ultimately, the goal is prosecution.

The Raiders' initial model provided the holistic anatomy of an Iraqi criminal case encompassing the steps required to gain effective convictions. This model enabled the Raiders to analyze the process and identify the critical steps. It also provided key factors to attain arrests, convictions, and detentions of criminal suspects. The analysis identified opportunities for the Raiders to work closer with Iraqi Security Forces (ISF) partners to align targeting priorities. The resulting cooperation was critical in obtaining Iraqi buy-in to accept criminal complaints and evidence from the Raiders as the ISF assume full security responsibilities.

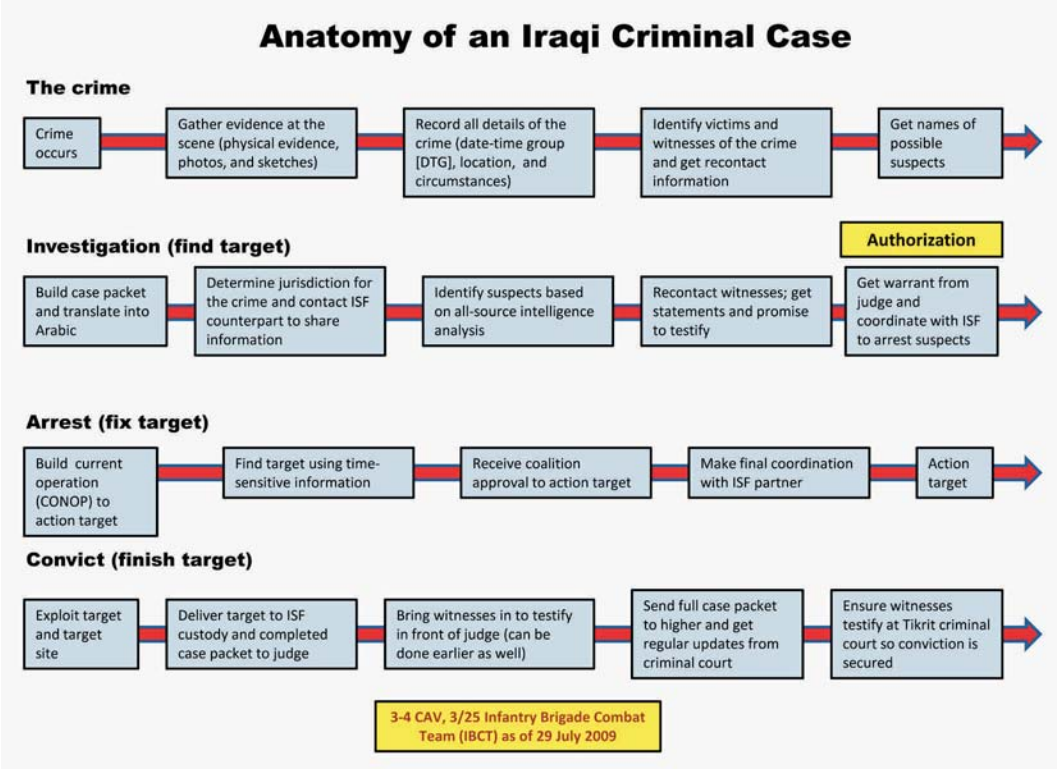


Figure 19-1

The Raiders produced two more models as a guide when building packets for a criminal case. The first is the cold case model and used when the criminal activity occurred long ago (in most cases prior to the implementation of the bilateral security agreement).

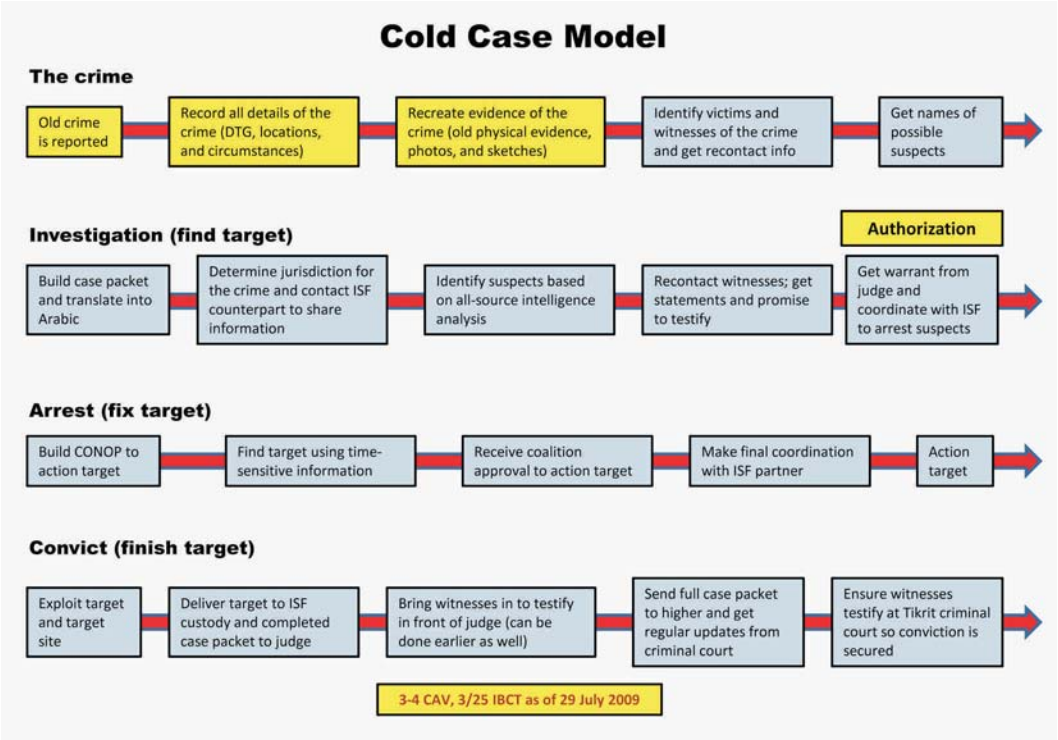


Figure 19-2

The last is the intelligence model and applies to most of the present criminal cases. U.S. forces use it to develop intelligence on a suspect. This intelligence helps to build the evidence and witnesses as part of the prosecution package presented to the Iraqi judge.

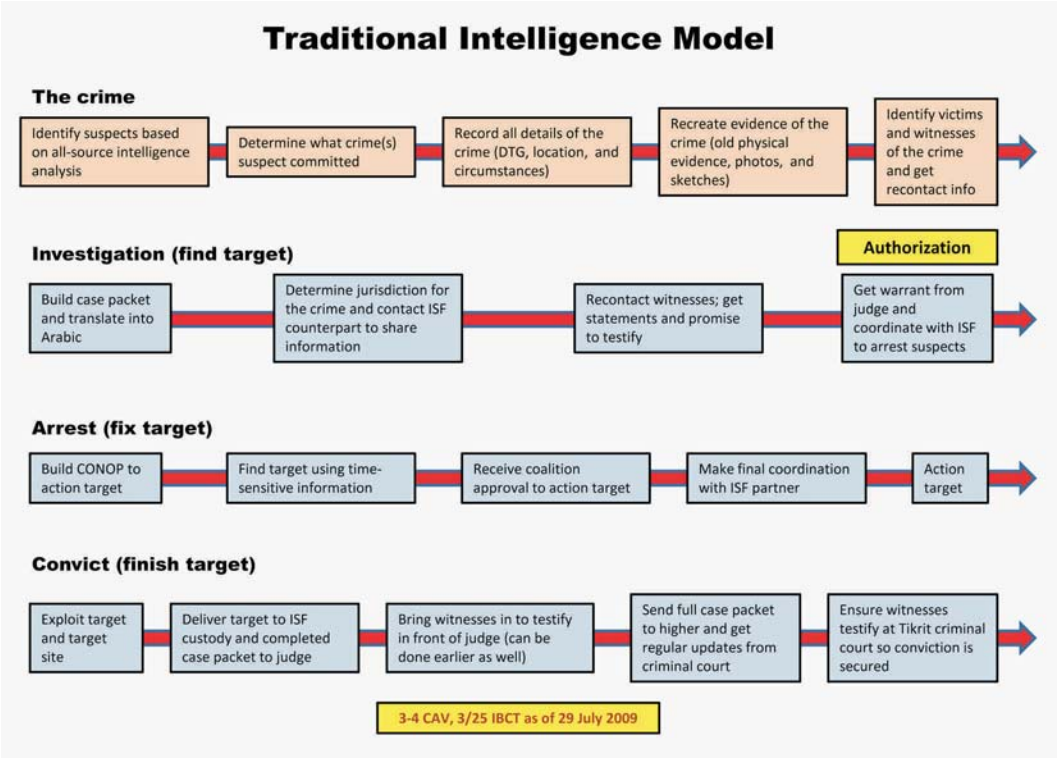


Figure 19-3

These models serve as checklists to track cases through the Iraqi criminal system with reminders to continue interaction with the Iraqi judges and courts to obtain convictions.

Note: For the ability to identify weaknesses in the Iraqi judicial system and find a method to counter them, the 3-4 Cavalry/3rd Stryker BCT/25th Infantry Division was recognized as the division's lightning innovative unit of the week for the week of 10–16 August 2009.

Fighting the War on Terrorism through the Science of Evidence

Special Agent Pamela M. Collins (Ret), U.S. Army Military Police School, Fort Leonard Wood, MO

Evidence is becoming a means of infiltrating the enemy's network and tracking down insurgents and terrorists. Gone are the days of infiltrating the enemy through traditional means. Today, friendly forces must look for new and innovative ways to identify, capture, and detain terrorists and insurgents. Friendly forces may not be physically present when enemy forces plan and conduct attacks against the U.S. and the coalition; however, it is feasible to review past events and identify enemies through the exploitation of physical evidence.

Wherever people go, they leave clues to their identity. This is known as Locard's exchange principle. Every contact leaves evidence—when a terrorist or insurgent enters a site, he will bring something into the site and leave with something from the site.

Physical evidence adds to the overall intelligence picture. In the past, battlefield intelligence developed through the interpretation of captured documents, interviews and interrogations of captured personnel, and exploitation of captured weapons and equipment. Today science provides the ability to go a step further and exploit unseen clues. Items such as fingerprints and deoxyribonucleic acid (DNA) identify who handled certain items and if the individual was at a certain place. Physical evidence is a force multiplier for identifying enemies and adds another layer to the intelligence picture.

Physical evidence is necessary to prosecute terrorists and insurgents successfully in the courts of Iraq. Evidence accepted by the Iraqi courts must be provided to prosecute and detain terrorists and insurgents. Physical evidence proves which terrorists and insurgents have plotted and carried out attacks against the U.S. and coalition. The successful collection of physical evidence may mean the difference between a life sentence and the release of someone known to be guilty and who will attack again.

Initial Crime Scene Responsibilities: Identify, Preserve, and Collect

Identify evidence

U. S. Soldiers operating with the Iraqi Security Forces (ISF) undoubtedly conduct searches of personnel, buildings, and vehicles. Soldiers must rapidly learn to identify items that provide valuable physical evidence to build battlefield intelligence and a successful prosecution. Not every item found while conducting a search can be taken and carried. Soldiers must quickly identify items that possess the most value. For example, items such as computer equipment, weapons, maps, radios, cellular telephones, Global Positioning Systems (GPSs), radios, and beverage containers all have the ability to yield some type of physical evidence such as fingerprints and DNA. Experts can also exploit these items for other information such as emails and plans. It is important to understand what items to collect and why certain items are collected.

Do not just grab items to return with evidence. Instead, take what will be meaningful. For example, a Soldier is in a house where it is believed suspected insurgents met for planning. A cigarette butt is taken as evidence. The evidence is processed and identifies an insurgent who previously confessed and is now being held by the Iraqi Police (IP). The insurgent's DNA connects him to the person that owns the house. This information can be passed to the Iraqi investigator, so when the owner of the house is interrogated, it is already known he has had contact with the confessed insurgent. The investigator also can further question the confessed

insurgent about his association with the owner of the house. The cigarette butt provides a picture about a previously unknown association.

Preserve evidence

Fingerprints, blood, hair, saliva, skin cells, clothing fibers, and other unseen forms of physical evidence are easily transferred when a person touches objects. It is also very easy for investigators to transfer this matter to the objects they touch, which removes or destroys the physical evidence someone else has left. Investigators must take great care to not destroy or contaminate potentially valuable physical evidence. Investigators must handle and package collected evidence carefully so as not to remove or degrade the evidence by contaminating it with their own fingerprints, blood, and hair fibers. The less an object is touched, the more likely it is to retain its original evidence.

A good rule of thumb to follow: If you are not personally responsible for collecting it, do not touch it. If you are responsible for collecting it, touch it as little as possible and do not allow anyone else to touch it.

Collect evidence

Collecting physical evidence is very important. This is the point where investigators take possession of any item that may help identify criminals and save lives. As a reminder, an investigator must be very careful how an item is collected so that it remains as useful as it was when found. To collect evidence properly, investigators must do the following:

- Memorialize it. Take photographs of the evidence and sketch where the evidence was found.
- Place the evidence in an appropriate container. Once an item is identified as potential evidence, do not allow it to be contaminated or destroyed; place it in a container. In most cases, use a sealable, plastic bag. Items containing fluids, such as blood or saliva, should be handed over to an expert as soon as possible to remove it from the plastic bag and allow it to air dry. Fluids will spoil if not allowed to dry, making them unusable.
- Mark the exterior of each bag with the date and time the item was collected; the location of the site (grid coordinate); and the rank, name, and unit of the person who collected the items.

Investigators should protect the evidence until it is delivered to the proper authority. Deciding who will take control of the evidence after the investigators have returned to their forward operating base (FOB) should be established with standing operating procedures (SOPs). Evidence collected may be turned over to an evidence repository, a laboratory, law enforcement, or intelligence personnel. In any case, the evidence must be turned over to someone and accounted for at all times.

When a detained terrorist or insurgent goes to court, U.S. forces must account for where the evidence has been from the time it was seized until it reached the court. If evidence is lost, misplaced, or not accounted for correctly, the integrity of the evidence comes into question. If the Iraqi courts do not believe the U.S. forces handled evidence correctly, they will most likely acquit the captured person. If released, U.S. and coalition forces will have to deal with the same terrorist or insurgent again.

Remember: Do not lose, misplace, or mishandle evidence; handle it with care. Collectors are the first person in the evidence chain of custody. The collector is the first and most responsible person for ensuring evidence is identified, preserved, and collected correctly. If you do not get it right in the beginning, the whole case against a terrorist or insurgent may be thrown out.

What Is Evidence?

Evidence tells a story otherwise not known. It is anything that helps to find the truth of a matter, gives proof of a fact, or identifies people.

All tangible items at a site contain potential physical evidence. Items such as blood, saliva, sweat, skin cells, hair, or fibers, may transfer from a person to any object in a room, including documents, weapons, drink containers, eating utensils, toothbrushes, hair brushes, clothing, weapons, GPS units, radios, cell phones, computer components, documents, and improvised explosive device (IED) components.

Evidence comes in two forms, physical and testimonial. Physical evidence consists of items that can be physically seen, touched, or examined, and even items that are not seen, but observed with other senses such as hearing sounds or smelling odors. Testimonial evidence is spoken and/or written words. If a person verbally tells something to an investigator or writes it down, the oral or written testimony is classified as testimonial evidence.

Examples of forms of evidence:

- Physical. If a weapon with a terrorist's fingerprints is found in a house, the weapon and fingerprints are considered physical evidence.
- Testimonial. If the same terrorist tells an investigator who writes down that the weapon captured is his, it is considered testimonial evidence.

Moveable and fixed physical evidence

Physical evidence connects a person to objects, events, other people, places, times, actions, and identity. However, not all evidence can be removed from a site. Physical evidence is identified as moveable or fixed. Moveable evidence is any item easily removed and taken such as computers, documents, GPS units, radios, cellular telephones, and clothing. It is easy to photograph, seize, and package these items, then take them back to the FOB to turn in and later forward to the court. Items of fixed evidence are too large to move or permanently fixed to a location. For example, a building where IEDs are made is physical evidence because it shows where a particular illegal activity took place, but it cannot be moved. Although the building is fixed, it is still valuable evidence. In this instance, the fixed item is photographed, sketched, and a grid coordinate is obtained. Photographs are also taken of the exterior of the building to establish its location in relation to other surrounding landmarks.

An investigator should advise higher headquarters and ask for additional support if the evidence is believed to be of great importance to the investigation.

There is a third physical evidence category, retrievable evidence, but this category requires specific training and special tools. For example, foot or tire impressions are collected through the process of casting. Foot impressions left in dirt are collected with a special piece of equipment. Since these tools are not available to Soldiers, this type of evidence should be photographed with a measuring device, which is discussed later.

Example of how a person is physically connected to a crime:

If a terrorist's fingerprints are found at a particular location, he was at that location. If the same terrorist's fingerprints are found on maps, tools, and IED components, the terrorist was likely building an IED. If the same terrorist's fingerprints are found on a glass containing a hot cup of tea, this establishes the approximate time he was at the location. Just mentioning the tea was hot in the sketch description could help establish a timeline. This may be invaluable in determining a person's connection to a crime (his identity at the time and place of the crime).

Evidence can corroborate witness statements about acts committed by an insurgent or a network. If a witness provides information about an insurgent or a captured person confesses to an activity, the testimonial evidence can be scrutinized and perhaps dismissed as unreliable or false. However, if collected physical evidence establishes a person participated in a particular activity or was at a particular location, the combination of both the physical and testimonial evidence can work to support each other.

The collection of positive physical evidence can provide intelligence for future targets. For example, if a collection of physical evidence identifies a particular person is building IEDs, the individual may become a person of interest and allow U.S. forces to begin an active pursuit. Through collection of intelligence and physical evidence, patterns of behavior or modus operandi (think of it as a particular way of operating) are established preventing future attacks against U.S. forces. The evidence is analyzed to create intelligence that may stop a future attack or IED.

Successful prosecution is the most effective means of eliminating a person as a threat to U.S. and coalition forces. The proper identification, preservation, and collection of physical evidence help in prosecuting suspects and validating witness statements.

The following can be gained from evidence collection:

- Fingerprints (found on nearly any item or paper and are unique to each individual making identification a certainty).
- DNA (found in blood, saliva, hairs, skin cells, etc. and is unique enough to make identification of individuals a certainty).
- Trace evidence (hair and clothing fibers).
- Ballistics (weapons, shell casings, and unique markings on spent bullets).
- Past and future attack plans (maps, documents, computer files, and GPS waypoints).
- Contact information (names, phone numbers, addresses, and aliases found in documents, computers, personal digital assistants [PDAs], and cellular telephones).
- Blast information (IED instructions/schematics and components, explosives, tools, and photos/videos of past tests or attacks).
- Links to events (similar items found at previous attacks or blast sites).
- Links to networks (establishes association with organizations or people such as computers, cellular telephones, documents, maps, and money).

All of these pieces of evidence paint a picture to help find terrorists and insurgents.

Examples of Evidence

Bomb-making material

Through the course of conducting searches of houses, buildings, offices, people, vehicles, and attack sites, investigators may come across many different items with the potential of containing physical evidence.

Bomb-making material can contain DNA, fingerprints, trace fibers, residue from explosives, specific tool marks used repeatedly in making IEDs, and similar components from IEDs detonated in other attacks. IEDs are often built the same way with the same components each time. It is very common for many of the IED components and physical evidence to survive a detonation. This information can even identify where the person was trained and who trained them. Never dismiss the evidence value of an IED component or part after it has been detonated. IED evidence should be identified, collected, and preserved like any other piece of physical evidence. All have the capability of containing some form of physical evidence. In all cases, when dealing with IED components and/or detonation sites, follow the current SOP and tactics, techniques, and procedures (TTP) to notify explosive ordnance disposal (EOD) personnel and actions on the objective. Below is a list of the types of items that may be found either in IED building locations or at detonation sites:

- Wiring
- Circuit boards
- Blasting caps
- Plastic explosives
- Artillery shells
- Copper (thick wire; melting capabilities or forms)
- Batteries
- Car alarms/key fobs
- Cell/cordless phones
- Garage door openers
- Timers and clocks
- Tools for intricate work
- Tape

Note: IED makers buy in bulk. They will use the same type of components for each IED prepared. The mere collection of the same type of component from IED building sites, unexploded IEDs, and IED detonations may link all of the IEDs back to a particular IED maker, training, or organization.

Weapons

Weapons and scopes with fingerprints, DNA, and ballistic and tool mark information can positively connect a spent cartridge or bullet collected at another site back to a specific weapon and possibly the shooter. **Note:** Tool mark information is the marks made on the bullet by the lands and grooves in the barrel and the specific marks made by the firing pin and the weapon's extractor on the spent cartridge.

Additionally, serial numbers can lead back to a specific individual or incident. For example, a Marine Corps sniper rifle taken from 2d Battalion, 4th Marine Snipers during an attack was recovered after an insurgent sniper was killed by a sniper from 3d Battalion, 5th Marines.

Ammunition can contain fingerprints and DNA or connect to ammunition used in other attacks and possibly be linked to a particular weapon and person.

Spent cartridges also can have the shooter's fingerprints and DNA. Firing pin marks and extractor marks left on the cartridge after firing can be matched to a specific weapon and possibly the shooter.

Cellular telephones are a plethora of information and may have the user's fingerprints and DNA. Stored in the phones are address books with contact names and numbers, recently received and placed phone calls, and in some cases, the locations of terrorist and insurgents. Electronic pagers also may reveal fingerprints, DNA, phone numbers, and messages.

Documents

Documents: In addition to the written intelligence and evidence contained in documents, physical evidence such as fingerprints and DNA can be obtained. Some examples of document evidence are:

- Manuals (IED, weapons, communications, tactics, and training).
- Propaganda (radical, organizational, and anti-coalition/U.S.).
- Wire diagrams (IED building and organizational).
- Lists of people (associates, superiors, financiers, people targeted, people killed, people friendly to coalition forces).
- Phone numbers/call logs (associates, superiors, financiers, times, and locations).
- Coded writing (exploited for names, future attacks, evidence of past attacks, targets, evidence of enemy TTP, intelligence gathered on U.S. and coalition forces, and other intelligence). Code can be numbers, alphabet, or combination of both. A code used by the Germans in World War II to pass messages was centered on a particular book known by the spies and used three numbers for each word. The first number was the page number in the book, the second number was the sentence on that line on the page, and the third number corresponded to the number of the word in that sentence. This code as simple as it was, took two years to break and only after recovering one of the books from a suspected spy.
- Maps/Coordinates (U.S. sites, safe houses, IED building sites, future attacks, past attacks, routes, and caches).

- List of dates, times, and places (U.S. sites, insurgent meetings, future attacks, past attacks, and payday or recruiting day for the ISF).
- Photographs (insurgent personnel, associates, future attack sites, past attack sites, and surveillance on U.S. personnel and locations).
- Forms of identification (government issued identification, organizational identification, passports, foreign identification, U.S. FOB access, and work passes).

DNA and fingerprints

Item	Fingerprints	DNA	Other
Cups and drinking glasses	X	X	
Soda cans	X	X	
Eating utensils	X	X	
Cigarette butts		X	
Clothing		X (skin cells, blood, hair, etc.)	**Note:** Clothing could be connected to existing evidence such as pictures or video.
Video tapes	X		Videos of people, training, attacks, surveillance, and U.S. sites
Computer central processing units (CPUs)	X	X	Computer files, e-mails, Web sites visited or posted to, address books, and plans
Removable hard drives	X	X	Computer files, e-mails, Web sites visited or posted to, address books, and plans
Compact disks (CDs)/thumb drives	X	X	Computer files
PDAs	X	X	Computer files, contacts, calendars, phone numbers, and pictures
GPSs	X	X	Waypoints for safe houses, associates, superiors, IEDs, caches, future attacks, past attacks, and U.S. and coalition forces sites
Fake identification and passports	X		Photographs of terrorist and insurgent personnel, places traveled, and aliases used

Table 20-1

Collection and Preservation of Evidence

To maximize the value of physical evidence, its preservation is crucial. Remember, unit security is first and foremost.

Understand the site

To preserve the evidence at a site, investigators must understand the nature of the objective.

The objective may be a post-bomb blast site, an IED-building warehouse, or a person seen running into a house with a weapon after shots are heard. After securing the site, each of these objectives have relevant evidence which may lead to more intelligence and a prosecution. Based on the information provided, leadership assesses the site and determines the course of action. If the site contains valuable evidence, there are two courses of action:

- One course of action requires support from another team or unit such as EOD, weapons inspection teams, or military police. The team requiring support provides perimeter security until the other team or unit arrives and may be required to continue to provide security as evidence is processed.

- The second course of action requires collection, but there is no other team available or the time on the objective is limited and the evidence or intelligence has to be collected quickly. In either case, the team is responsible for proper collection of evidence or intelligence from the site. In this case, knowing the basics of evidence collection is essential. The decision on what actions are taken will be based on the assessment of the site.

The layout of the site, whether indoors or outdoors or part of a larger building or a stand-alone residence, will help to determine possible threats and how much time it will take to document and collect potential evidence. For instance, if it is a large building with several rooms and each room has to be searched, leadership may decide to conduct each step more hastily than searching a single room structure.

The condition of a site may make it difficult to process. In the event the site contains an extraordinary amount of debris and trash, time must be taken to collect various obvious pieces of evidence or intelligence with perhaps a sampling of the other pieces. An outdoor site may be processed quicker than an indoor site because of the vulnerability of exposure. Fortunately, the evidence at an outdoor site is usually easier to see. Additional threats may include the presence of enemy insurgents or secondary devices in a post-bomb blast site. The more area there is to search or the more rooms there are to enter, the higher the likelihood of engaging a threat.

Once the general layout is determined, a single route of travel for members of a team to enter and exit should be established. This will ensure the safety of the team as well as preserve evidence by limiting its exposure to foot traffic. A single line of travel or egress should be established so those moving into the site can do so on that line and not from other entry points. This is especially important in an outdoor site. In addition, an egress for exiting should be established and communicated to all team members in the event the team comes under enemy fire.

Establish a boundary

This may well be the most important step taken to preserve the integrity of potential evidence. Evidence integrity is simply verifying an object presented in court is the same object collected from a site. Whatever the follow-up is, boundaries must be established to secure the evidence that exists within the objective. After boundaries are established, the location of evidence within

the objective must be determined. In most cases, there is a smaller area in the perimeter containing the most important and valuable evidence. In the case of an outdoor site, this may be where the search should begin.

Establishing boundaries keeps out unnecessary foot traffic. Minimizing movement within the site helps to preserve evidence, especially foot or tire impressions. It cuts down on the touching and movement of objects inside the site, therefore, avoiding the loss of fragile evidence.

Establishing a boundary inside a building is fairly easy. In most cases, the walls provide natural boundaries to contain the action and evidence. An outdoor site, however, is a bit more challenging. There really is no defined method to determine the perimeter of an outdoor site. Several things aid in determining the extent of an outdoor site. First, evidence that is more relevant is likely to be discovered closer to the victim or location of the action. If under a time constraint, the identification, preservation, and collection of evidence closest to the action (i.e., the victim, ground zero of an IED, or the greatest amount of bloodletting if the victim has been moved) is where the most relevant evidence will be located. A circular search from that area out will help to determine how far out to establish boundaries. Keep in mind anything outside of those boundaries is accessible to the public. A site also can be established and its area narrowed later as information permits; however, it can never be successfully expanded.

Limit access

It is important to keep out nonessential personnel, even senior personnel who want to get a closer look. Minimal exposure and disturbance inside a perimeter reduces the risk of contamination and loss of evidence from a site. Movement inside the perimeter should be limited to the investigative team. If reinforcements are expected, the first team should remain outside the cleared site and provide security until the additional team's arrival. Only a team responsible for processing the site should move around inside of it beyond the initial assessment and clearing. Other people that may need to get inside the site are medical personnel, EOD, intelligence personnel, and law enforcement personnel.

One of the steps in limiting access is to remove those individuals that do not belong inside the area. In the case of evidence preservation, fewer is better. With a six-man fire team or a 12-man squad, only three of the team members should actually enter and remain inside the perimeter of the objective depending on the situation. The fewer people there are inside the area, the better the chance of maintaining the evidence in its original condition.

Entry and exit points are self-explanatory when the objective is inside; however, when it is outside, Soldiers tend to move in and out through the area. This is also part of access control. If a team establishes one point for people to enter and exit, it keeps only those authorized inside the perimeter and limits the movement in and around the objective.

Why should the number of people inside the perimeter be limited? There are many reasons. The fewer people inside the perimeter, the easier it is for the team leader or squad leader to control and watch what everyone is doing. An objective containing evidence is fragile and cannot be recovered if lost. If someone steps into an existing footwear impression, knocks over a glass, or brushes up against a piece of furniture, it can damage, alter, or in some cases, destroy evidence. However, these incidents are bound to happen. Therefore, it is not the fewer people moving around, the less likely it is to lose evidence; instead it is the fewer people moving around, the less evidence it is likely to lose.

Evidence collection

Once a team establishes security at the objective and determines the nature of the site is such that no one else is coming to assist in the collection of evidence, the team must move on to its main task.

Physical evidence, including what types of physical evidence one would expect to find in this type of environment, has already been discussed. Some of the evidence is obvious and visible immediately when a team walks into a site. Weapons, money, and bomb-making material are all obvious forms of evidence. A search of the area for items not as obvious must be conducted to find other evidence. It is important to understand how to search an area or site to prevent or minimize overlooking anything of importance. All evidence taken from the site must be documented. Documentation includes photographing and sketching the area to verify the layout of the site as well as the location of evidence within the site.

After evidence is documented, it is collected and transported to the proper authority. Preserving, documenting, collecting, and transporting are done to maintain the integrity of the evidence. The loss of integrity of a particular piece of evidence is disputable in court. As previously discussed, evidence is defined as physical and testimonial. Part of evidence collection includes the testimony or statements of witnesses, victims, and persons of interest. Statements from occupants, passers-by, or persons of interest may help in determining how important the collected evidence is and whom it may belong to.

Statements

The most important statement is the one team members write concerning their own activities. A statement must support the photographs and evidence taken at the site. A minimum of two statements are required from each site. Basic field statements should include who, what, when, where, why, and how. As time permits, statements should be taken from all parties involved including statements from detainees and witnesses. Witnesses are defined as coalition forces personnel (U.S. personnel, Iraqi Army [IA], IP, Australian and/or British personnel, etc). Witnesses also include personnel who actually witnessed the event or actively participated at the site. Corroborating statements from two local nationals usually holds up for prosecution in court if supported by coalition forces statements, photographs, and evidence. An interpreter should write a statement, especially in the case of a confession.

The most trusted evidence in the Iraqi courts is first-hand witnesses, so the more statements obtained, the more credible the case. Statements should not only match the events, but also with a few minor details, match each other. Not everyone will see an event exactly the same way; however, major differences may become an issue and should be addressed and clarified before a site is cleared. Statements should be completed as soon as possible after the incident while the details are still fresh in the witnesses' minds. Investigators must make certain all statements are closed out with the witnesses' signature.

All of these witnesses may be called to testify before the Iraqi trial judge, so investigators must ensure they have identifying information (name, rank unit, FOB, city, province, etc.) to locate witnesses when detainees go to trial.

Evidence Collection

The collection of evidence involves searching for relevant evidence and documenting the evidence with photographs and/or sketches. It also requires using an evidence kit in conjunction with proper collection procedures to minimize contamination and preserve the integrity of the evidence.

Search methods

As previously stated, once a site is secured, a team begins looking for evidence. Some evidence is obvious and may be in plain view. Other evidence must be searched for under desks or chairs. If an objective is suspected of being booby-trapped, open drawers or cupboards must not be disturbed. Only items that can be moved and removed after a quick examination to ensure they are not connected to anything should be taken.

Besides pieces of evidence in plain view and those hidden, there is a third category. An item may be identified and contain evidence that is not visible. For example, cigarette butts and drinking glasses do not have any visible evidence, but likely contain DNA and fingerprints. That is why it is so important not to touch anything in the room without gloves!

There are various methods for searching. The grid method is similar to how brass is collected on a range. If a person looks for brass, the individual moves back and forth and then left to right to catch items missed the first time. This circular method can be done in two ways—starting from the inside and working out in a circular motion or starting on the outside and working in. Finally, section methods are searching an area in smaller, more manageable pieces.

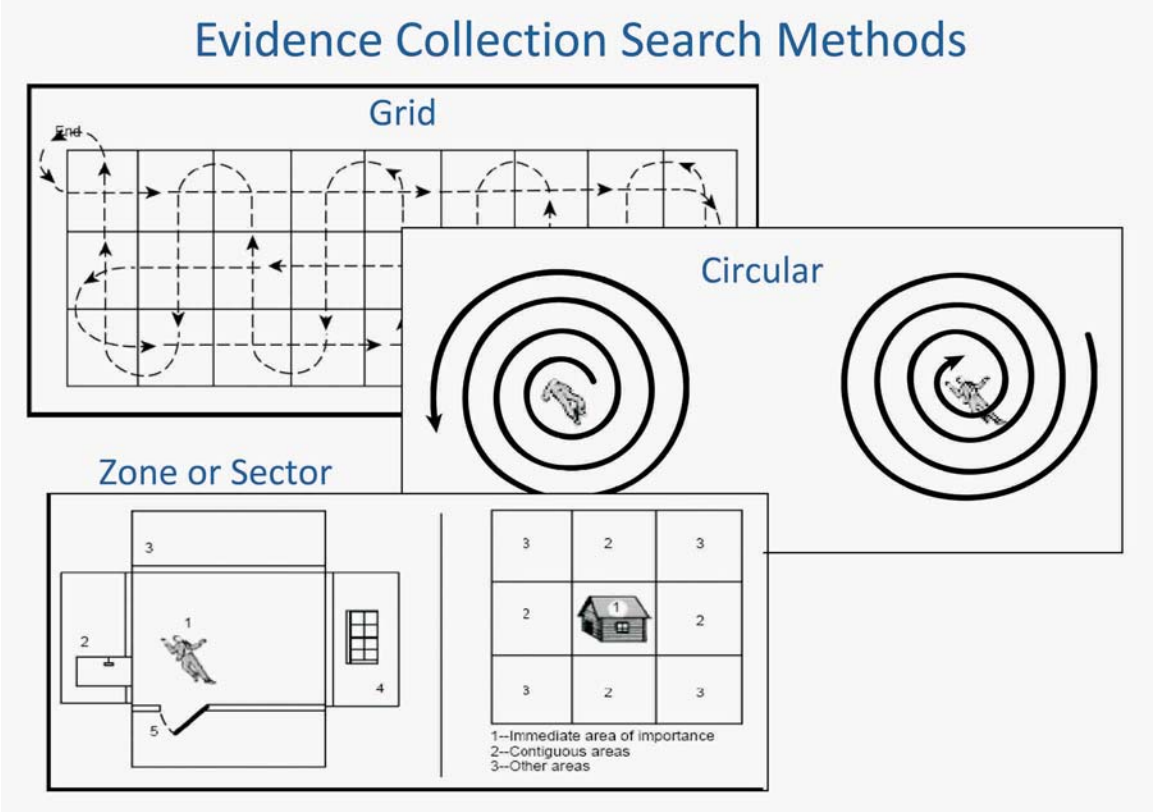


Figure 20-1

These methods are all acceptable; however, some are more applicable to certain sites. For example, a circular search conducted from the point where the most evidence is located and moving in an outward pattern provides the most useful evidence. Section searches work better in large areas and with more people available. Either type of search is acceptable if is methodical and systematic.

Documentation: Photography

One of the most important aspects of maintaining evidence integrity is photography. A photograph is worth a thousand words—take as many as time allows.

Photographing evidence at a site shows the evidence exists, what it looked like when found, and where and when it was found. Sometimes evidence can change between the time collected and the time it is presented in court. Changes can result from mishandling, but time and environment often cause the most changes. Since evidence can change, it is important to take a photograph of the evidence when it was found.

It is also important to photograph the evidence before it is moved. Evidence is thought of as an object or a piece of something, but one reason evidence can be so damning is not only because of what it is, but also where it is found. If evidence is removed and then photographed, its value is taken away. For example, during a search of a residence, several weapons hidden in various locations are discovered. All of the weapons are collected and stacked in the front of the house so they can be photographed. A valuable step was missed because each weapon should have been photographed before it was moved. Additionally, the photograph in the front of the house should be taken with the occupant in the photograph. Hiding something shows intent, which in many cases is a big piece of why it is considered relevant.

For this reason, the first set of photographs on an objective must be a 360-degree exposure of the entire area or room. This is done by standing in the middle of the area and photographing, turning slightly, photographing again, and turning slightly until the entire site is captured. In some cases, a four-corner exposure will work. This is done by standing in a corner and taking a photograph. This is done from all four corners until the entire room is captured. This works really well in a room with four corners and no hidden areas or obstacles such as weight bearing beams in the center. It also works well for outdoor sites as most of the evidence captured is in the center of a site When photographing an area, it is imperative not to capture coalition forces in the shot because the photograph will not be usable in court.

Each piece of evidence found needs to be photographed with and without a measuring device. If time is limited, the evidence can be photographed without a measuring device at the site and then photographed later in a secure area with a measuring device, but before releasing it.

If something of evidentiary value is found but cannot be collected, such as a foot impression in the dirt or a pool of blood, it should be photographed with and without a measuring device at a 90-degree angle (from overhead) to provide the most true dimension. The objective is to capture the evidence in a photograph so it is placed back at the site when in court.

Figure 20-2

As stated earlier, in a case where a site is occupied and evidence is found, the occupant(s) will need to be photographed with the evidence in such a way that both are identifiable. This is an important evidence item when detainees go to trial. In seeking a conviction in an Iraqi court, this is the "money shot." Again, a photograph should not capture any portion of coalition forces personnel (including boots or shadows). Crowds, passers-by, and curious onlookers all should be photographed as time permits. There have been many cases where the same local has been identified at various sites, which is an indicator that he may be involved in the activity in question. Biometrics should be used when possible.

The last photographs taken are establishing views—photographs of the site, building, or area. Under normal circumstances, an establishing view photo is taken upon arrival; however, since it may not be known until a site is entered whether it contains anything of value, it does not make sense to photograph it and then enter. In addition, as the last Soldier out, the photographer is less likely to photograph other Soldiers when capturing establishing views. Soldiers in a unit should be aware that photographs may be taken and practice staying out of the view of the camera. Further, depending on the nature of the site, the establishing view may be established by more than one photograph. The photograph should establish the location of the site including how it relates to a building next door or up and down both ends of the street.

The team must ensure the pictures are downloaded and left with the person who is consolidating the evidence for processing.

Documentation: Sketches

A sketch is the quickest and easiest way to document and exhibit the layout of a site. For speed and simplicity, a sketch of the entire area including all pieces of evidence, should be prepared. If time allows, separate sketches of different rooms with more detailed information can be prepared, but are not necessary.

A sketch should be made before the evidence is collected and used to reaffirm the location of evidence and a site. Pieces of evidence should be drawn in the site sketch showing approximate locations along with furniture and other items. None of the items in the sketch will be to scale

but should be appropriately sized. For example, a handgun found at a site should not be drawn the same size as a desk.

Some items are too small to draw legibly into the site sketch or there may be too much evidence crowding the sketch making it confusing. In these cases, a letter can be assigned to each item and a legend added to the sketch.

Each sketch should contain the direction of north as well as the grid for a site.

Minimize contamination

It is important for selected leads or members of a designated evidence team from a unit minimize their own movements when moving through an objective documenting and collecting evidence. It is not enough to keep unnecessary personnel out; the evidence team must also be careful how its members move around the objective.

Minimizing contamination is repeatedly mentioned because it is so important. It is not just a step; it requires constant focus throughout the process. After establishing the perimeter and limited access, the next step is to conduct a more thorough search or sweep of the site. Whether conducting an elaborate search, or simply walking through quickly retrieving evidence, minimizing contamination is necessary. This is done by removing and keeping out nonessential personnel and avoiding any type of habits that destroy evidence.

A list of simple acts by evidence team members that compromise the integrity of evidence at a site include the following:

- Smoking
- Spitting
- Littering
- Eating
- Drinking (unless out of a closed backpack system)
- Using equipment found in the area such as cell phones or bathrooms
- Moving items (unless necessary for safety)
- Opening or closing windows or doors
- Touching anything unnecessarily
- Turning items upright or shuffling objects around in the site

Items or objects at the site that are not brought into the site by team members must not be touched, moved, or handled with bare hands. The use of any type of barrier such as gloves, a piece of cloth, or a bag is much better than touching anything of evidentiary value with bare hands.

Remember: We do not want your fingerprints; we only want the bad guy's fingerprints!

Collection procedures

Evidence should be photographed at least once before being touched or moved.

Gloves must be worn before touching or moving anything. Wearing suitable gloves is necessary. Potential evidence should not be touched if wearing fingerless gloves or those modified in such a way that possibly leave prints on evidence (for example, trigger finger on the glove has been cut out). If a team member does not have suitable gloves, a cloth or even the evidence bag should be used to touch and pick up the evidence. A method is to put one hand on the bottom of the bag and push the bottom through (turning the bag inside out), pick up the evidence and then return the bag to normal. It is important not to contaminate the inside of the bag with fingerprints, sweat, or any other foreign object that may degrade the quality of the collection.

Each piece of evidence must be placed in its own bag. The only exception to this is if there is a collection of something. For example, an ashtray full of cigarette butts or a pile of shell casings can be placed in one bag. Otherwise, the evidence should be separate.

Team members should not handle a part of the evidence that is normally touched by the user. For example, an investigator should not grab a weapon by the grip and touch the trigger, even with gloves on. This may cause degradation of the possible prints or DNA. The same goes for a glass, a phone, or an identification card. Any smear of the print could lead to its degradation and will be unusable. The smoother parts of evidence have the best prints for recovery, so those areas should be avoided.

Evidence should not be marked with anything; mark the bag only. Each bag should be marked with time, date, rank, name, unit, and location by grid. The print must be large enough to read legibly. This is very important.

Although each piece of evidence should be collected separately, once bagged, evidence from the same site should be kept together and placed in one location such as contained in a box.

Evidence integrity

The biggest part of maintaining evidence integrity is keeping the chain of custody intact. This means the person who collects the evidence needs to retain personal control and pass it on directly to the proper authority (the evidence repository, intelligence personnel, law enforcement personnel, or laboratory personnel) according to SOP.

The designated person of authority will be responsible for completing an evidence property/custody document. This form helps the Army keep track of evidence from the time it is introduced into the system until it is presented in court for prosecution and later disposed of. It contains a detailed description of the evidence, where it was taken from, and where it will be kept. When releasing this evidence, the number of items must be accurately annotated on the form. The investigator must also sign the form before departing the area. The investigator should provide contact information (name, rank, unit, and FOB) to be located in the future. Corresponding pictures of the site and evidence should be downloaded and left with the person taking the evidence from the investigator.

Finally, although not required to complete the Army's evidence document, the investigator is required to complete the Evidence Inventory Form. This form needs to be completed before the investigator departs from the objective. When possible, the detainee also needs to sign the form. A signature can be viewed by the courts as an acceptance or acknowledgment that the items collected belonged to or was controlled by the detainee.

Evidence collection kit

Each Soldier/team should be issued an evidence kit. Complete information on evidence kits is provided to deploying units. These kits contain the basic tools needed to properly identify, preserve, document, collect, and transport evidence. The items included in the evidence kit should not be discarded because someone feels they are not necessary or too cumbersome. They are included in the evidence collection kit for a reason as follows:

- Gloves help maintain the integrity of the evidence and help Soldiers avoid placing fingerprints or contaminates from their fingers on the evidence. Ideally, the gloves used should be latex surgical gloves which do not allow fluids and contaminates to flow through the gloves onto fingers or evidence. If the only gloves available are the Soldier's personal protective equipment (PPE), they will be fine. Evidence should just not be touched with bare hands.

- Sketch paper/pad with a mechanical pencil is used for sketching and documenting the site and taking notes if necessary.

- Digital camera used only for taking photographs of the search site, evidence, detained personnel, and suspect personnel around a search site. It is not to be used to take pictures of friends or fellow Soldiers. Taking unnecessary photographs could result in the camera's batteries being dead or memory cards being full when the camera is needed. Additionally, if a personal photograph is inadvertently submitted with official photographs from a site, it can cause all the photographs to be inadmissible in court. It is important to remember to download the pictures before turning over the evidence.

- A flashlight (a good flashlight such as a Surefire) should not only be a part of every Soldier's PPE, but it should also be available for conducting searches. A flashlight used to conduct searches (even during the day or in well-lit areas) helps to identify obscure items of evidence when looking in shadowed and enclosed areas. The flashlight can also be used to brighten items or areas that need to be photographed.

- A measuring device/scale can be a small ruler on a smart card, a land navigation protractor, or a measuring tape. A measuring device or scale is essential in establishing the size of the evidence items, especially if the item cannot be removed from the site (such as tire impressions, shoe impressions, etc.).

- Evidence collection bags are plastic bags (such as a Drypak® from Fitzco, Inc.) or paper bags and are necessary as containers to preserve collected physical evidence. These bags should be used to keep items of evidence from being placed loosely in a vehicle or cargo pocket. If items are not in a proper container, it is almost certain the evidence will be contaminated and rendered useless.

- A permanent marker such as a Sharpie® should be used to mark the outside of the evidence bags with the time, date, and location (grid coordinate) the items were collected and the name, rank, and unit of the person who collected the items.

- Tape can be actual evidence tape or some other type of tape like duct tape (also known as 100-mile-per-hour or riggers' tape). It is used to seal the containers holding the items of evidence. Tape should be placed across all openings.

Center for Army Lessons Learned Handbook 07-26, *Tactical Site Exploitation*

Chapter 4

Intelligence and Evidence Collection and Processing

The source of the information contained in this chapter is a Soldier's guide developed by the Central Criminal Court of Iraq (CCCI) coalition advisors. While the procedures and guidelines listed in this handbook are based on experiences in Iraq, they can be easily adapted for any theater of operation and set the foundation for sound intelligence and evidence collection procedures at the scene of a sensitive site.

Evidence Collection

Combat units in the field conducting combat operations are not trained law enforcement investigators. However, the more evidence collected on the objective, the better the chance of detaining insurgents for extended periods of time. More than anything else, the amount of evidence collected determines if the detainee will be sent to CCCI, where, if convicted, the detainee can face up to 20 years imprisonment. If the detainee is sent to the Combined Review and Release Board, they are eligible for release in six months or less.

Take reasonable steps that will not compromise your safety when collecting evidence in the field. If the evidence relates to the reason you are detaining the individual, then seize it or photograph it.

Evidentiary Necessities

There are three types of evidence that are necessary to ensure a successful CCCI prosecution: photographs, sworn statements, and diagrams, normally referred to as PSD.

Photographs

Take as many photographs as possible, of as much as possible. The pictures are used to show the judges what happened and where it happened and will aid the witnesses when testifying. Remember, a picture is worth a thousand words.

- Photograph anything that may be considered evidence (weapons, ammunition, money, detonators, etc.).
- Make sure to photograph detainees with the evidence. This is a must!
- Photographs should establish the location of the crime scene by including landmarks and/or reference points.
- If ever in doubt, photograph it; more is better than less.

- Make sure to include the date, time, and location when photographs were taken.
- If you have a digital camera, set it up so the pictures will have the date and time on them. (**Note**: Make sure it is the correct date and time; the wrong date and time hurts the case and the capture date difference will have to be explained.) Sample photos can be found in Appendix B, figures B-7 through B-16 [Appendix B is contained in Center for Army Lessons Learned (CALL) Handbook 07-26].

Sworn statements/witness testimony

Be as thorough and detailed as possible. In order to be a witness, you must actually have been there.

- Statement should contain the five Ws (who, what, when, where, why) and how.
    - Who?
        - List the names of all the detainees captured and their respective capture tag numbers.
        - List at least five Soldiers who actually witnessed the event or actively participated in the raid, if possible.
    - What? Explain what happened. (For example: The detainees shot at coalition forces or a weapons cache was found in the detainee's home.)
    - How? Describe how the events leading up to the detainee's capture occurred.
    - Why? If known, state why the events occurred. Did the detainees admit why they acted or what their motives were?
    - When? Record the date and time.
    - Where?
        - Note the nearest town and province and the street name in the town.
        - Be specific. Do not just use the grid coordinates. (For example: On 23 November 2005, at approximately 0400 hours, near the city of Al' Fullajah, which is located in Al' Anbar province…). The judges do not understand grid coordinates.
- Make sure to get statements from at least three coalition force witnesses, if possible. Do not confuse these statements with the five Soldiers described in the "Who" section above. Also get a statement from the detainee if he or she is willing to provide one.

- Written statements should be obtained from the witnesses as soon as possible while the facts and circumstances are still fresh in their memories.
    - Statements should include a question-and-answer section after the narrative if the who, what, when, where, why, and how have **not** been completely answered.
    - All statements need to be closed out and signed by the witness and/or detainee.
- Print on the forms and take the time to write legibly. A lot of different people will be relying on that statement in the future.
- Take the time to address the details of the event so that the people reading the statement will have a better understanding of what happened.
- List all the detainees by name and capture tag. If there are two target houses, make sure to explain which detainees were captured at which target.

Diagrams/Sketches

Draw a detailed diagram of the crime scene. This could be a house, field, or vehicle.

- Reference where the detainees were found in relation to the crime scene.
- Reference landmarks, cities, villages, and key points of interest.
- Show where the evidence was found.
- Estimate distances in meters.
- The diagram should support your photographs.
- The diagram or sketch can be hand drawn.
- Use simple words and phrases; for example, “road” instead of “MSR Tampa.”
- This is your chance to show the investigative hearing judge what happened.
- Refer to the example in Appendix B, figures B-5 and B-6 [Appendix B is contained in CALL Handbook 07-26].

Other Forms and Documents

Apprehension form

- Correct contact information for the unit is a must! Provide the following:
    - Contact information for all witnesses.
    - Capture tag numbers, dates, grids, name of closest town or city, name of province, and any other pertinent information on the detainee.
    - Disposition and location of all detainees being transferred.
    - When the unit will be redeploying and new contact information.
- Refer to examples in Appendix B, figures B-1 and B-2 [Appendix B is contained in CALL Handbook 07-26].

Evidence/Property Custody Document (DA [Department of the Army] Form 4137)

- All blocks must be filled out—no exceptions!
- Be specific when describing the evidence: include model, serial numbers, and any other identifying marks.
- Maintain a proper chain of custody. Everyone who handles the evidence must be listed on DA Form 4137.
- The person who collected the evidence should be the first name in the "Released by" block on the form.
- Use only block style lettering except in the signature block.
- Refer to the example in Appendix B, figure B-3 [Appendix B is contained in CALL Handbook 07-26].

Evidence inventory form

- The Arabic/English inventory document should indicate exactly what has been seized from each detainee's vehicle/house/property/person AND contain a section for the detainee's acknowledging signature OR refusal to sign.
- Units should complete the inventory document as soon as possible and have the detainee sign immediately, preferably at the scene. Get photographs of the detainee signing the document, if possible.
- Refer to the example in Appendix B, figure B-4 [Appendix B is contained in CALL Handbook 07-26]..

Other Important Points

- Seize all weapons, computers, cell phones, money, and documents. Remember to take all forms of identification; for example, ID cards, visas, passports, etc.
    - º Secure the material in a sealed container (e.g., a plastic bag) marked with the date, time, name, rank, and unit of the person who seized it.
    - º Handle all material in a forensically correct manner (i.e., minimal handling, with gloves, by the edges).
- All explosives should be destroyed by EOD {explosive ordnance disposal].
- Remember to photograph the detainee with the evidence seized. Photographs of the detainee with the evidence on the objective is preferred, but they can be taken at the forward operations base (FOB).
- Remember to conduct explosives testing on the detainees. The testing may be conducted on or off the objective. Photograph the testing, if possible. Vapor Trace is the preferred method of explosives testing by the Iraqi Court System and by the Combined Review and Release Board.
- Computers, CDs [compact discs], media—do not attempt to boot up computers; remove all CDs and storage devices; do not take the monitor; annotate whether the computer was hooked up to a land line; bring the power cord with you; crushed CDs or severely damaged CDs can still be read.

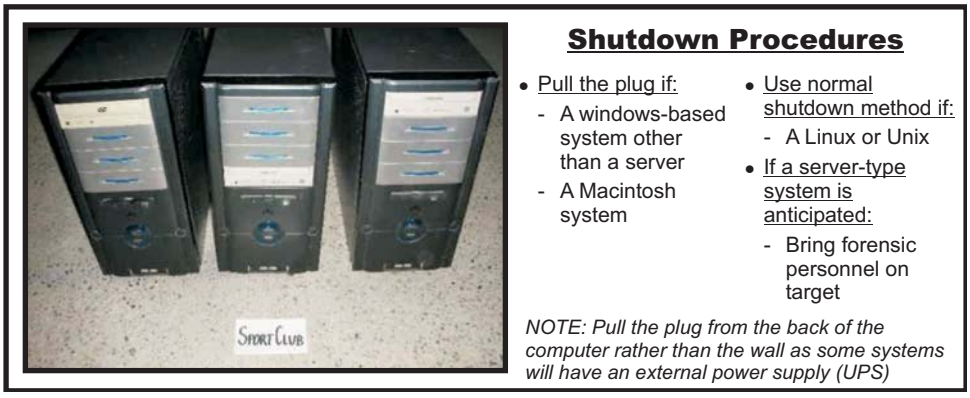


Figure 21-1

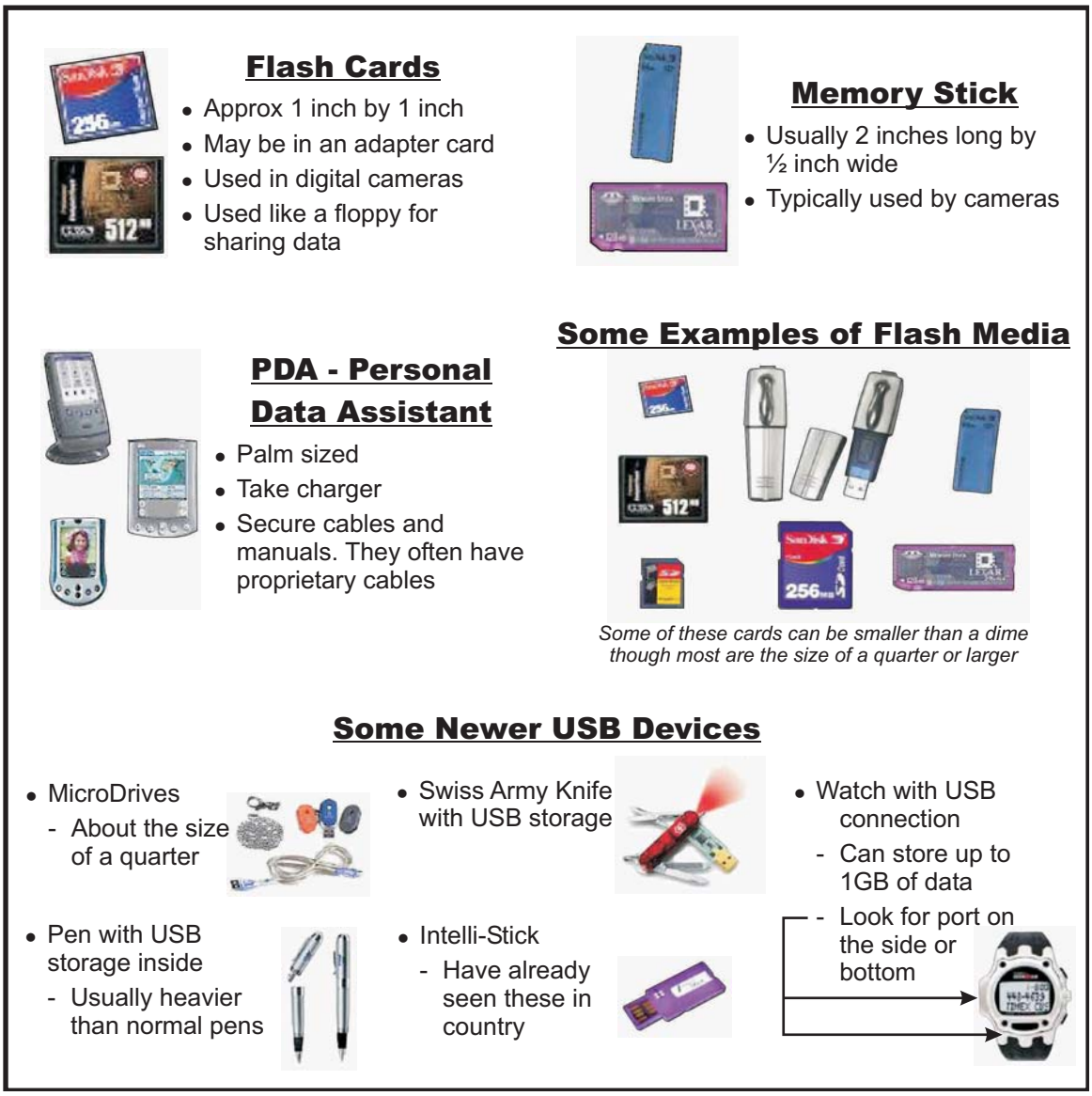


Figure 21-2

Dealing with Money

Money keeps the insurgents in business. Taking away the money reduces or eliminates insurgent activity.

- Seize and bag all cash, checks, checkbooks, money ledgers, pocket litter, and all sensitive items. The noncurrency items (money ledgers or bankbooks) may help the S2 shop find out how insurgents obtain their weapons or explosives (what looks like trash to you may be solid gold to the intelligence folks).

- Make sure you accurately document and account for the recovered currency. For example, write down the serial numbers of United States currency. There is no need to do this for Iraqi currency, but remember to photograph it.

Proper Evidence Handling Procedures and Fundamentals

Below are the proper methods, techniques, and procedures for handling evidence. If unsure of procedures, ask the following law enforcement agencies for help: military police, security forces, Criminal Investigation Division agents, master of arms (Navy), Office of Special Investigations, or your legal office, if these resources are located at your FOB. Ensure detainees stay behind bars if they are a security threat.

- Chain of custody begins when an item of evidence is collected by any coalition force member. Evidence will no doubt be passed from person to person and even unit to unit during the course of an investigation, intelligence exploitation, and subsequent trial. The written, chronological record of transactions of this type is the chain of custody. Each person who takes physical control over evidence must be identified as a part of the evidence chain.

- Correct identification of evidence is accomplished when the coalition force member who initially takes custody of the evidence promptly marks and tags the item(s) of evidence.

- Evidence should be inscribed with the initials of the collector and military date and time. Place the marking so as not to:

    - Destroy any latent (hidden) characteristics.

    - Reduce the function of the object.

    - Devalue it.

- Common sense and an understanding of how the evidence relates to the commission of the crime will dictate where and how to mark the evidence.

- When an item of evidence cannot be marked without marring or destroying evidentiary characteristics, it is placed in a suitable container, sealed, and marked for identification. An evidence tag further serves to identify the evidence.

- Evidence should be packaged and wrapped to minimize friction and to prevent shifting, breaking, leaking, or contact with other evidence.

- Items such as ammunition, bullets, cartridge cases, tablets, and capsules that are particularly susceptible to breaking, marring, or other destructive changes should be packed in cotton or soft paper.

- Items that contain stains, such as clothing with stains of blood or other body fluids, should not be placed in airtight plastic containers. “Sweating” and moisture accumulation may occur within such containers, contaminating the evidence. Such items must be dry before packaging. This caution also applies to fingerprint evidence.

- When evidence is to be examined for fingerprints, each item of evidence should be packed in a manner that prevents damage to the fingerprints. This is accomplished by fastening the object in the container so that it will not shift and so that other objects will not come in contact with the areas of the object suspected of containing fingerprints.

- With the exception of explosives (oils and gasoline), liquid evidence should be packed in sterile, all-glass bottles or other containers and sealed with wax or other suitable materials.
- In general, small, solid items such as fibers, hairs, paint scrapings, powder, powder patterns, and threads should be placed on separate pieces of plain paper. Fold each piece of paper and pack it in a pill or powder box, paper container, or druggist fold. Seal the container with adhesive tape, wax, or other suitable material.
- Documents, exemplars, standards, strings, twine, and rope should be placed in an inner cellophane envelope and an outer manila envelope. Cellophane is not suitable for packing any item that will rust or corrode.
- Packages containing items of evidence such as acids, ammunition, guns, medicines, chemicals, drugs, and paints that require careful or selective handling while in transit should be labeled "Corrosive," "Fragile," "Keep Away From Fire," or "Keep Cool," as appropriate.
- Photographing everything will shorten the time on the objective, allowing time to process things later.
- Minimize the handling of items or weapons that could be fingerprinted or forensically analyzed. (Don't smear fingerprints.)
- Photograph the detainee at the objective with the evidence, if possible, especially with the weapons, explosives, or contraband found.
- Place the evidence found in separate vehicles or containers that are seized on the objective, so that it can be easily sorted later.
- Proper chain of custody documents and storage of items seized can be accomplished upon returning to the safety of the FOB.

Determining the Detainee's Identity

Remember to seize all identification cards and passports. These documents will be used to determine the individual's identity at trial and to determine whether the individual is a juvenile. Take close-up photographs of both the front and back of these documents in case the ones seized at the objective are lost. This information, used in conjunction with the Biometrics Automated Toolset and Handheld Interagency Identity Detection Equipment technology described in Chapter 6 [of CALL Handbook 07-26] assists the unit in quickly identifying detainees and matching them against watch/detain lists.

Evidence Collection in The OIF Detention Operations Environment

Captain Kevil L. Weise

This article was featured in the January-March 2009 volume of the *Military Intelligence Professional Bulletin* and is reprinted with permission from the *Military Intelligence Professional Bulletin.*

Introduction

Although most of the detainees in the various theater internment facilities (TIFs) in Iraq are already charged with the commission of crime, the fact of the matter is that some of them will commit additional crimes while detained. It is possible to have an attempted escape, a detainee-on-detainee assault, a conspiracy, an assault on a guard, or even a murder. All of these are crimes punishable under Iraqi law. The collector of evidence in the Operation Iraqi Freedom Detention Operations environment should focus on one thing: Getting a conviction at the Central Criminal Court of Iraq (CCCI).

The CCCI was created on 13 July 2003 by CPA Order #13. It serves as the only Iraqi court with federal jurisdiction over any crime committed in Iraq. The Court's jurisdiction relies on the 1969 Iraqi Penal Code, the 2005 Anti-Terrorism Law, and the 1971 Iraqi Criminal Procedures Code. The Court is based on a civil law system, much like what one would find in France, rather than a common law system that we have here in the U.S. To the lay person, this means that instead of a grand jury indictment and a trial by a judge and a jury of your peers, the Iraqi suspect defendant goes before an Iraqi investigative law judge. The judge can then either dismiss the charges or refer the case to trial in front of a panel of three Iraqi judges who hear the case without a jury and either dismiss the case or render a conviction and a sentence.

Evidence Collection

The key then is to present a rock-solid case to the investigative law judge who drafts the report which hopefully refers the case to trial. Thus, the investigator must tailor his evidence collection procedures to assist the prosecutor in presenting a case that is compatible with what the Iraqi judges are expecting to see in order to refer a case to trial and then for the trial court to issue a conviction.

In Iraq, one thing is certain: More evidence means a longer sentence. This is very different than what we know about American jurisprudence. In application, a simple formula has been devised to obtain referral to trial with resultant convictions and longer sentences. In addition to physical evidence, the judges expect photos, video, diagrams of the crime scene, witness statements, and more photos.

Regarding photographs, the best ones are those that include the detainee. In other words, take a picture of the detainee at the scene of the crime. Included in that photo should be any other relevant evidence. For example, in the case of a detainee-on-detainee assault, take a picture of the suspect detainee next to any blood splatters or other evidence of the assault. If the detainee has blood on his person or his clothing, pictures should be taken of him wearing the bloody clothes before he has been cleaned and sanitized. Video of this scenario, in addition to the pictures, is encouraged.

The more pictures that are taken, the better! In the case of an attempted escape, take pictures of the detainee next to the hole in the fence or in the tunnel. Get pictures of him holding the wire

cutters or the shovel. Take a picture of him at his recapture covered in dirt from digging. Take a picture of anything that will make the scene more understandable to the Iraqi judges.

Iraqi judges are also very interested in scene diagrams. In a detention environment, I recommend that units pre-print basic diagrams of the various compounds under their jurisdiction for handy, immediate use by investigators. More detailed scene sketches and diagrams can be fashioned at the scene to drill down on specifics. Include things like locations of weapons, instruments of the crime, victims, witnesses, and guards in the diagram. Remember that Iraq is on the metric system, so make things easy for the judges to understand, use meters and centimeters on the diagram instead of feet and inches.

Among the most important pieces of evidence are the statements. As military practitioners, we are accustomed to the standard "sworn statement" that all of the U.S. Armed Forces use in one form or another. For the CCCI, this is not good enough. The statements are good enough to refresh a witness' memory, but the CCCI requires live witness testimony. However, the statements are still part of the record, so get good ones. Ideally, your statements should be from Iraqi nationals. Get the standard sworn statement from the guards, but get Arabic statements from the Iraqi correctional officers (ICOs) and from the suspect's fellow detainees and the detainee victim, if there is one. Culturally, these statements will go far with the judges.

Most importantly, get a written statement from the detainee suspect. Iraqi detention facilities are not in America and the detainees are not Americans. They don't have a right against self incrimination. If the suspect will not write a statement, write it for him based on the facts that your investigation uncovered and ask him to sign it. If he refuses to sign the statement, write "Refused to Sign" on the document and make it part of the record. If he agrees to sign the statement, ***take a picture of him signing it.*** Although such statements are generally not admissible in court unless taken in front of an Iraqi police officer or judge, they can be used to impeach the suspect's testimony at the investigative hearing or the trial. If you have an ICO at the scene, have him witness the suspect's statement and then get a statement from him too. All statements, at a minimum, should include the five Ws (Who, What, Where, When, and Why.)

The Crime Scene

You may have noticed that I haven't spoken very much about physical evidence. I don't want to give the reader the impression that physical evidence is not as important as what we have discussed so far, but in a TIF many factors will conspire against the intrepid investigator to taint or destroy your physical evidence. The previously mentioned floor plan diagram will get you a referral to trial and a conviction. The actual physical evidence will go very far toward getting a longer sentence for the defendant.

But there are a lot of "ifs" in a TIF. By the time the investigator gets to the scene, it is often more than several minutes old and any number of other detainees has contaminated it and any number of guards has responded to quell the situation. The well trained guards will protect the scene as best they can, but they are often not the military occupational specialty (MOS) qualified Military Police who are trained in crime scene protection. They are Soldiers, sailors, and airmen of other MOSs and are trained in maintaining the good order and discipline of the facility and treating detainees with dignity and respect.

The investigator must also remember that the crime scene is usually in a section of the compound that must be put back into service in relatively short order. By this I mean that crimes in the TIF will usually occur in one of the detainee living spaces necessary to maintain the detainee population such as the detainee sleeping area or the detainee latrine. Thus, evidence must be collected quickly at the scene and you will usually only get one shot at it.

Conclusion

The final word in this basic primer on evidence in the detainee environment is to think outside the box. Don't feel confined to thinking like an American when you are gathering evidence in a TIF in Iraq. Take lots of pictures, draw diagrams, get lots of statements, gather and protect what physical evidence you can, and your suspect will get a nice long sentence at trial.

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