



U.S. SOLDIER PLEADS GUILTY IN IRAQI ABUSE CASE, RECEIVES MAXIMUM SENTENCE

May 19, 2004

The first courts-martial, or military trials, stemming from the abuse of Iraqi prisoners in U.S. custody opened Wednesday in Baghdad, with one soldier pleading guilty and two others appearing in court for the first time.

Army Specialist Jeremy Sivits, one of seven U.S. soldiers accused of abusing Iraqi detainees, pleaded guilty to four charges of abuse during a court appearance Wednesday. The military judge gave him the maximum sentence of one year in prison, a reduction of his military rank and a bad conduct discharge.

Sivits' trial, called a court-martial because it was held in a military rather than a civilian court, was the first that will judge American soldiers on duty in Iraq who abused and allegedly tortured prisoners at the Abu Ghraib prison.

The soldiers' trials could rank among the most infamous of courts-martial in U.S. history. In 1970, more than two dozen American soldiers and officers stood trial for the massacre of villagers during the Vietnam War. The My Lai Massacre, named for the village where it occurred, focused world attention on U.S. action in Vietnam, much like the Abu Ghraib abuse has focused attention on Iraq.

"I can't think of a more important set of courts-martial," Eugene Fidell, president of the National Institute of Military Justice, told The Washington Post. "[Given] the extraordinary volatile climate in which these cases are going to play out domestically and internationally, in political terms, in legal terms and in military justice terms, this is kind of a perfect storm."

Types of courts-martial

But what is a court-martial, and how does it differ from a trial of a civilian accused of a crime?

The three types of courts-martial are summary, special and general, and they differ depending on the severity of the punishment. A summary court-martial is for lower-ranked military personnel (non-commissioned officers) and is usually for minor offenses. The punishment can be no more than 30 days confinement, loss of pay or reduction in rank.

This kind of court-martial is presided over by a single officer acting as judge. The accused is not represented by a military lawyer, but can hire a civilian lawyer at his own cost.

A special court-martial, like the one Sivits just had, is overseen by a judicial panel of at least three officers and a military judge. Any military member of any rank can be brought before a special court-martial and it deals with crimes that would be considered "misdemeanors." The level of punishment can include a year in military jail, loss of pay and a bad conduct discharge.

For more serious charges there is the general court-martial. It's similar to the special court-martial except the panel can have as many as 12 members, selected from a special jury pool of officers. The general court-martial includes an investigation, and evidence of the crime is presented to a military judge, who then decides whether to proceed with the case. This is similar to the civilian world where a grand jury hears evidence then decides if a trial is necessary.

The general court-martial can impose severe penalties, including the death penalty, and a guilty verdict here usually means a felony conviction which can follow the accused throughout his civilian life.

Similarities to civilian trials

There are many similarities between military courts-martial and civilian criminal courts. For example, the accused is presumed innocent and the burden of proof rests with the prosecution -- in courts-martial, the prosecutor would be a member of the Judge Advocate Generals (JAG) corps.

Except for the summary court-martial, the accused also gets a military lawyer and can call witnesses (even senior officers) or request documents to support his case.

Soldiers can also "plea bargain" like in civilian courts. A plea bargain is when the accused admits some guilt, usually to lesser charges, and may agree to help the prosecution in related cases. In exchange, the accused is given a lighter sentence. This is what happened in the Sivits case. He pleaded guilty to four charges against him, including maltreating prisoners and dereliction of duty. He also promised to cooperate with prosecutors in trying his fellow soldiers.

Differences

Of course, there are some differences between courts-martial and civilian cases. In courts-martial, only two-thirds of the members of the panels, or "juries," have to agree on a verdict, unlike in civilian cases where the jury must reach a unanimous verdict.

Also, if the accused is found guilty, sentencing, which is done by the jury panel, is done immediately. In civilian cases, sentencing -- done by the presiding judge -- is passed down weeks or even months later.

Already, two of the soldiers involved in the abuse at Abu Ghraib are scheduled to face the more severe general court-martial. But more could be ordered as the investigation continues.

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