

MOWHOUSH AND AL-JAMADI

In an article reporting the former DCIs' attempt to shut down the torture investigation, the WaPo provides a few more details on the direction of that investigation. It reports that John Durham will be reviewing just a few cases, including the deaths of Iraqis Abed Hamed Mowhoush and Manadel al-Jamadi.

Two other detainee cases were among those that drew significant law enforcement attention: the death by suffocation of Iraqi Gen. Abed Hamed Mowhoush in November 2003, after which an Army officer was convicted; and the death the same month of Manadel al-Jamadi at Abu Ghraib prison, in the custody of the CIA, where he was placed after being beaten by Navy SEALs. One SEAL was charged with a crime, and he later won an acquittal.

It also describes one of the reasons these cases are being investigated again—because there was some disagreement over whether to indict the cases.

The Justice Department review in the Eastern District of Virginia decision several years ago was conducted by some of the office's top prosecutors.

One official involved in the review said there was "absolutely no pressure from DOJ" to decide the cases in a certain direction. "There was absolutely none of that, and if I had seen that I would have been very offended by it," the official said.

[snip]

The [Office of Public Responsibility] report, which is undergoing

declassification review, does not point to problems with attorneys in the Eastern District of Virginia, two sources said, but it does explore differences of opinion within the working group that examined the detainee allegations over how to proceed on the few cases that were “close calls.” In a small number of instances, career lawyers disagreed about whether the evidence was sufficient to seek indictment and ultimately win in court. Some of those issues were assessed – as is normally the case – by political appointees, including Paul J. McNulty, the U.S. Attorney in the Eastern District of Virginia who was nominated to serve as deputy attorney general in October 2005. There are no allegations that cases were rejected for improper political reasons.

As it happens, the CIA released some of its own internal discussions on the Mowhoush and al-Janabi killings in response to earlier FOIAs. This set of documents, for example, includes a number of emailed public reports of the investigations. Note, for example, the several reports in the wake of the Abu Ghraib scandal (and though the reports don’t say it, the completion of the CIA IG Report) citing CIA referrals of these two, as well as the Salt Pit death (which the WaPo says will also be reviewed), as well as several reports from the trial of a soldier in Mowhoush’s killing.

In addition there is:

- An email from September 16, 2004 warning that the military prosecutor in the Mowhoush case was preparing to charge military personnel and stating that the OGC lawyer “was interested in

certain issues related to the case”

- Discussions about a CIA person retaining counsel for the Mowhoush IG investigation
- An April 2006 email giving someone an opportunity to review the OIG’s report on Mowhoush’s death
- The memo accompanying the IG Report on al-Jamadi’s death sent to the head of the criminal division in the US Attorney’s office that conducted the investigation; this notes that the decision not to prosecute that case was made orally (February 9, 2005) and in written form (February 22, 2005)

This document includes an entirely redacted review of three criminal investigations being conducted by OIG, including Mowhoush and al-Jamadi (the third may be Hiwa Abdul Rahman Rashul, which William Ockham posted on here and here).

This document includes requests from HPSCI and SSCI in May 2005 for an immediate briefing on the investigation into Mowhoush’s death.

This document includes the letters accompanying the IG Report on al-Jamadi’s death—sent on November 21, 2005—to the Jane Harman and John Rockefeller.

This document includes the formal declassification—on April 1, 2005—of really basic information relating to CIA’s role in al-Jamadi’s death.

None of those documents explain the back story to the review, but then declination to prosecute, of these deaths (though a few relating to the CIA person involved with Mowhoush's death suggest that person refused to deal with his role). But they're useful in showing how both of these deaths first came to attention via the Abu Ghraib story and scrutiny on DOD abuse, followed by the declination to prosecute, and only then followed by the CIA's own detailed investigation of the deaths.