

Treatment/Interrogation of Irregular Combatant Prisoners

Introduction

Treatment of prisoners taken in time of war is a contentious topic in the social/political arena. This has been especially true since the beginning of the War on Islamic Terror. Political and military opponents have made good use of the propaganda value of the events at Abu Ghraib prison and the incarceration of prisoners in Guantanamo Bay. The result of this has been a hypersensitivity and typical overreaction by the media, US legislators, and some segments of the population that has driven subsequent military policy.

Their reaction has predictably produced unintended consequences in several areas. American leadership has been complicit with our enemies in tarnishing our image by showing a lack of political will and moral fiber. We've undermined the morale of our own military, and have altered the decision-making dynamic on the battlefield for the worse.

Any policy regarding Prisoners of War – indeed, any policy that involves the military at all – should be crafted with an eye towards the question: Does this enhance or inhibit the combat effectiveness of our uniformed forces?

Responsibilities to a POW

The third Geneva Convention, adopted by international signatories in 1929, details the responsibilities that nations have toward enemy prisoners of war. It specifies the humanitarian treatment of enemy prisoners, ensures their health and well-being, notifies international agencies of their status, allows them to send and receive correspondence with relatives and to receive relief parcels, and guarantees their repatriation at the end of hostilities.

Historically, the Geneva Convention article concerning the treatment of prisoners of war is more notable for the violations than the observance. During WWII, neither Russia nor Japan were signatories to the convention, and neither of these countries observed the rules of the convention with regard to their prisoners. In return, Germany did little to observe the convention regarding Russian POW's. Japanese POW's were rare, but the USA did observe the convention with the few who were captured. After the surrender of Germany, General Eisenhower refused to grant POW status to the bulk of the German army that surrendered after the armistice, calling them instead "Disarmed Enemy Forces," giving him a legal pretext to avoid caring for them to the standards called for by the Geneva Convention.

The issue of POW's is complicated when we're engaged in military actions against ideological groups instead of nation-states. The Geneva Convention was specifically aimed at warfare between nations and addressed treatment of uniformed combatants. A non-uniformed combatant is considered a spy by the Geneva Convention and may be executed on sight, without trial. Nevertheless, our political sensibilities have become sensitized in the generations since the Geneva Convention. Americans have generally – and incorrectly – accepted that the Geneva Convention applies to all participants, despite national affiliation or lack thereof or their status as a

uniformed soldier or civilian terrorist (a spy under the Geneva Convention definition). The term POW has a specific legal meaning, and should be avoided when referring to non-uniformed combatants.

It makes sense to treat prisoners humanely and to avoid gratuitous deprivation or abuse. To do otherwise would provide the enemy combatant with an incentive not to be captured. This wouldn't be optimal for our forces. We want the enemy to recognize that, when he's outgunned and in an untenable situation, surrender is an acceptable option. Otherwise he may choose to fight to the death, which would make him a dangerous adversary, increase the risk to our soldiers and deprive us of intelligence gathering opportunities. It's only good practice to use the rules of the Geneva Convention as policy for prisoner treatment, whether those prisoners qualify for it or not.

This does not mean that we are or should be obliged to bend over backwards to accommodate our captives. Current policies that cater to the religious peculiarities of prisoners in the war on terror are ill-considered and counterproductive. Humanitarian treatment should not include providing luxury facilities for prisoners, including soccer fields, cable TV, air-conditioning or special religious accommodations.

In the current war on Islamic terror, the captured irregular combatant is typically a radicalized Muslim. His religious ideology motivates him. Providing accommodation to the very religious belief that placed him on the battlefield is counterproductive and may further radicalize him, making him potentially more dangerous to his guards, and a clear and present danger to US combat personnel if he's repatriated. Giving a radical Islamist a Quran to study during his detention is tantamount to encouraging Ted Bundy to read the Anarchist's Cookbook.

Providing amenities beyond basic necessities to captured irregular combatants is counter-productive in a variety of ways. Doing so makes us look weak in the eyes of the enemy. The moral superiority we try to demonstrate by treating prisoners respectfully does not translate to the culture of the radicalized Islamist. Such behavior is inexplicable in their culture, and they are bewildered by it. While we see such behavior as a demonstration of our might and tolerance, they conclude that Americans are either stupid or weak or both. It further emboldens them. If released, they pass the message that fighting Americans is desirable, because there's no downside to being captured by the stupid, weak Americans. Providing unnecessary accommodation to captured terrorist combatants costs money that should be supporting other important activities.

There's another unintended consequence to catering to the comfort of captured irregular combatants. Here's a scenario: A nineteen year-old Marine is on patrol in Islamistan. He's wearing fully armored combat gear and sweating half a gallon an hour in the 110° heat. His last ten meals have been MRE's. Enemy contact begins with an IED that takes the legs of his best buddy just yards away from him. Heavy small arms fire ensues, and after a fierce firefight the Marines get the upper hand and surround the enemy. An enemy combatant throws down his weapon and raises his hands in front of our Marine. The Marine looks at the gore that used to be his buddy's legs, and thinks of the three hot halal meals, comfortable rack, air-conditioning, religious guidance that the mutt in front of him is going to get because he just surrendered. There's a pretty good chance that Hajji is about to have a really bad day, ending with a face-to-face with Allah, and the Marine will just have to say he thought he saw a grenade. Such decisions undermine the morale and discipline of the front-line military. US policy towards captured irregular combatants should not cause such a calculus in the minds of our troops at the point of the spear.

One of the articles of the Geneva Convention regards the repatriation of POWs at the end of a conflict. Even given that a captured irregular combatant isn't legally subject to the Geneva Convention, we face with the problem of defining the end to the War on Terror. This conflict transcends borders. The enemy is ephemeral, dispersed and not subordinate to a central command that can direct a cessation of hostilities. Even if we could somehow announce the end of the War on Terror, releasing radicalized captured irregular combatants to their native lands could reignite the conflict. US legislators and policymakers should recognize the long-term nature of the present conflict and recognize that these may be prisoners for life.

Interrogation

The public discourse on the use of mischaracterized “enhanced” interrogation techniques on captured combatants has yielded a gold mine of propaganda for our enemies. The debate has centered on two issues: the effectiveness and the appropriateness of such techniques.

The argument against the effectiveness of interrogation techniques states that no reliable information can be obtained, that a prisoner will say anything to get the interrogation to stop—even make up what the interrogators seem to want to hear. Critics further state that the nature of this sort of interrogation is time-sensitive, and after a short period of incarceration, a prisoner has no intelligence current enough to be actionable.

The idea that interrogation yields questionable results is a common criticism among those who have no experience in intelligence gathering or interrogation. The argument is that an interrogator cannot trust any information extracted from a prisoner under duress. If we were to assume that such interrogations occurred in an intelligence vacuum, this would have some validity. But these activities are never as simple or straightforward as the dissenters would have you believe. Interrogators normally have at least part of the intelligence picture, and are skilled at getting prisoners to open up and help them fill in the puzzle without realizing they're giving up any actionable intelligence. Innocuous things that prisoners say, thinking there's no intelligence value to any particular piece of information, can be put together to develop an overall picture and confirm what intelligence specialists already suspected. The information extracted through interrogation can be compared to what is gathered from other prisoners. Our interrogators are expert at knowing the difference between solid intel and when a prisoner is just shining them on. Deciphering actionable intelligence from enhanced interrogation techniques can involve detecting what a prisoner is not telling you, is avoiding telling you, as much as what they do tell you. The problem with answering the question of whether interrogations are effective is that such intelligence would lose its value if the military were to publicize the yield to silence the critics. Publicizing the results of a successful interrogation would tell our enemy exactly how much has been compromised, and would reveal other sources of intelligence that have no connection to interrogations, but confirm or are confirmed by the information extracted through interrogations.

The question of how timely intelligence must be depends greatly on the nature of the prisoner. The average trigger-pulling combatant is low on the information chain and has little intelligence value other than immediate local operations. Such information is time-sensitive, and such a prisoner has little or no intelligence value after enough time has passed for his information to become stale. If, however, you have a high-ranking member of the organization, his information has a far longer shelf-life. Details of financial structures, organizations, previous and

planned operations, and terrorist infrastructure are not easily changed, and can be relevant for years after the capture of the prisoner. What the media doesn't seem to understand about intelligence gathering is that the problem is not getting actionable information from the subjects. The problem is getting anything at all. Once a prisoner starts talking, what he says can be vetted, and interrogators can come at him repeatedly, trying different approaches, different questions, testing his intel to see where it lacks cohesion. We know the prisoner is trying to fool his captors, and we take that into account. But everyone knows the best lie contains a good deal of truth, and the more insight we get in any form, the better we can see the big picture. We didn't waterboard key 9-11 planner Khalid Sheik Muhammad to get him to tell us the truth about Al Qaida's organization. He was waterboarded to get him to start talking about anything. Up to then, he had been silent, recognizing that we can't learn anything if he doesn't say anything.

This leads us to the appropriateness of enhanced interrogation techniques. John McCain, a prominent victim of barbaric torture during his captivity in Vietnam, came out forcefully against any form of modern interrogation techniques by the US government. With due respect to the sacrifices that the Senator made for our country, there's no comparison between the gratuitous sadism he experienced and the systematic application of relatively harmless methods designed to break a prisoner's will to resist interrogation. The US military correctly abhors the use of physical violence as an interrogation method. Cruelty for the sake of revenge or to humiliate a prisoner with no intelligence application, such as what happened at Abu Ghraib, is counterproductive for a number of reasons. A prisoner in US custody can be fairly confident that they will not be physically maimed as Senator McCain was, or killed as, for example, Capt. Lance Sijan was. Humiliation, sleep deprivation, disorientation and waterboarding are extremely uncomfortable and psychologically effective techniques that wouldn't be unfamiliar to anyone who's undergone a typical college hazing ritual. US military aviators are subjected to waterboarding as part of their escape and evasion survival training. How can this be defined as torture, when we do it to our own servicemen as part of their training?

Any prisoner should be concerned about what will happen to them. The irregular combatant is an ideologically driven volunteer, fighting in his home turf, and is unlikely to surrender. A prisoner in the custody of insurgents can expect physical abuse, including sexual abuse, starvation, deprivation, then a gruesome death if such an execution is considered more valuable than keeping the prisoner. This is how they treat prisoners and how they expect to be treated when captured. Many Islamic prisoners are bewildered at the fine treatment they receive, until they're read in by their comrades and start working the system, complaining about the slightest little things to sap our resources and win propaganda coups. To this end, instead of catering to the cultural sensibilities of these criminals and thereby giving them leverage to resist, the cultural weaknesses should be exploited, such as non-halal foods and the use of dogs to intimidate prisoners (Dogs are considered unclean in most of the Islamic world, and few prisoners have any practical experience with dogs). However care must be taken to ensure that the enemy doesn't fear captivity enough to fight to the death on the battlefield.

Field interrogations

Most of the public discourse on interrogation techniques has concentrated on established prisoners in the hands of trained interrogation specialists. Real-time intelligence may also be critically useful right in the heat of battle. The combat unit leadership may need information immediately. His troops are under fire and men are dying or in

extreme danger. The intelligence he can get from a prisoner may save the life of American soldiers and help achieve the mission. An American commander should not be placed in the position of weighing the damage to his career against the lives and safety of his men. Allowance should be given for him to act as he sees fit to extract necessary information from a freshly captured prisoner.

In such a situation, the commander should be able to reasonably convince a prisoner that a failure to talk or giving false information may well get him killed. Immediately after capture is an ideal time to obtain tactical information from a prisoner. All the soldiers are worked up from combat, and undoubtedly angry with the prisoner. The prisoner is in shock from his capture, and not sure he's safe, as bullets are still flying.

On August 21, 2003, LtC Allen West of the 4th Infantry Division allowed two soldiers to assault an Iraqi Police officer, and then fired his sidearm twice near the man's head to get information about an impending ambush. The gunshots broke the man's will, and he divulged details of the ambush that allowed West's men to defeat the ambush and secure the sector. LtC West was charged with assault and faced a variety of legal actions. Such an outcome is unconscionable after placing commanders in a conflict with a non-uniformed enemy embedded in the native civilian population where using enhanced interrogation techniques seem reasonable. While military commanders should not be encouraged to assault random civilians, neither should they be punished when the judicious use of force is necessary to get crucial information. The current policy causes commanders to be timid, and encourages US soldiers to shoot surrendering enemies rather than take prisoners.

Correction toward the ideal

The obstacles to a realistic approach to deal with irregular combatants all relate to public relations and public image. To date the United States has tried to demonstrate its compassion, reserve, and sensitivity when incarcerating irregular combatants. This is a failed policy, and a failed approach to the treatment of this class of prisoner that saps our resources, contributes nothing towards enhancing the combat effectiveness of our armed forces, and lends aid and comfort to the enemy.

The solution to this needs to come from the National Command Authority – the President of the United States – and be supported at all levels of the civilian and military command structure and the congressional leadership. The message must be clear and contain the following points:

- The United States will not be a slave to political correctness in fighting a war against a savage enemy.
- War is by its very nature politically incorrect. It involves doing bad things to bad people, breaking things and killing people. There is no nice way to conduct a war.
- Enemy combatants will be treated within the bounds of basic humanity – they will not be abused gratuitously, they will not be maimed.
- They will receive basic medical care, basic sustenance, and adequate shelter.
- They will be subjected to interrogation for intelligence gathering using non-lethal means designed to discomfort but not maim.

- The United States has no responsibility towards the comfort or religious requirements of its prisoners.

Adopting this policy will send a clear message that the USA is prepared to fight an all-out war and win by breaking the enemy's will to fight.

MilitaryValues.org Principles and Mission

The content of these topical white papers from MilitaryValues.org is aligned with the organization's principles and mission statement. At the core is the protection of America and the founding principles—mainly summarized by freedom and liberty for citizens and a federal government with limited and enumerated powers. All of this is made abundantly clear in our Constitution and the founder's many writings. The US military's role to protect this is made very clear by the oath that is taken by military officers today:

"I, [name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter. So help me God."

For details on the MilitaryValues.org principles and mission statement go to www.MilitaryValues.org.

About MilitaryValues.org

The effectiveness of the United States military has been significantly compromised over the last 20 years by social engineering and politically driven decisions. This is especially true and serious with military units that face front line combat duties. In stark terms, this problem has unnecessarily cost the lives of our front line men and women—while many more suffer various combat-related physical and mental traumas. And there are untold tangents of pain and loss suffered by families, fellow soldiers, and others.

Combat units, and those that support them, greatly benefit from a culture in which there is a focus of effectively prosecuting missions and wars—and rejects unnecessary risk to the military personnel. This culture creates trust and increases effectiveness and loyalty—which is truly critical for the best shot at success in the complex and dangerous endeavor called combat. However on the other hand, if a military is constantly beat down by forces that do not care about its well-being—then a culture of distrust, failure, and despair will increasingly result. This second culture is what we have today in America's military.

MilitaryValues.org exists to educate millions of citizens on what has gone wrong and how it can be reversed. We hope you will continue to our website and learn more!