

Peace Is Not the Absence of Conflict, but the Presence of Justice

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I would first like to thank Chris Kelly and the *Northern Illinois University Law Review* staff for encouraging me to write about my experiences. This staff has done an outstanding job of preparing this piece for publication. But for their efforts this paper would not have been completed.

Several authors whose works are referenced in this paper provided critical insight into the world of Islam and to the factors essential to the rise of Islamists or fanatics who are or become terrorists. These authors, including John Sabini, Brigitte Gabriel, and most especially, Mark Gabriel, provided a basic framework and history of Islam and distinctions identifying the extremists. The knowledge I gained from these authors prepared my way for dealing with the opposition to the Rule of Law initiatives my teams and I pursued. The perspective and courage of Anna Prouse, an Italian, regarding the challenges faced by the Iraqi people and the merit of the cause demonstrates the importance of success in Iraq to the international community. It was my honor to work with Anna while she was a representative of the Ministry of Displacement and Migration. It is impossible to list by name all of the Military Movement Teams who kept us safe every time we left the relative security of the forward operating base. These young men and women are consummate professionals. I was amazed how some of these teams would be up all night fighting battles with terrorist units and would arrive to escort us to court still wearing uniforms displaying evidence of the fight. These teams neither had time to change uniforms nor to eat, but they were committed to seeing the justice system work and the trials of terrorists continue. They volunteered for double duty because they felt most competent to keep us safe.

The senior leadership of the Provincial Reconstruction Team (PRT) was instrumental in the work with the local government representatives to gain local support for this effort. Dr. James Knight and Lt. Col. Mark Brackney were vital components in the effort to communicate the true mission of the traveling judges program, referred to as Task Force Zorro, and to the continued flow of information to appropriate officials. We worked with a collection of incredible officers from the Judge Advocate General's Corps, who took on extra work in addition to their assigned duties to further this special Major Crimes Court. A partial list includes Col. Mark Martins, Lt. Col. Patrick Barnett, Major Chris Martin, Capt. Carol Brewer, Capt. Tony Pottinger, Capt. Scott Hutmacher, and Capt. George Krahe.

Also critical to the creation and operation of this program were my colleagues from the Department of Justice. At the U.S. Embassy in Baghdad was Sherry Muncy, Jim Santell, and Doug Allen. Stationed in PRTs around the country were Andrew Norman, Marlon Cobar, Don Calvert, and Bruce Rhoades. We encouraged each other and shared thoughts by email and an occasional telephone call, and we relished the times we could get together. All of us participated in one form or another in the challenges in each province.

I worked with three teams of Civil Affairs (CA) personnel during my tours of duty. The third team of CA personnel was just becoming operational when I transferred control to Greg Shogren and departed. The second team of CA personnel struggled to maintain the operation of the Major Crimes Court in the face of devious and dishonest opposition seeking to undermine its operation. Their service was as important but less personally re-

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warding due to the massive opposition by the leadership of the Ninewa Bar Association. The members of this team were Capt. Trista Morgan, 1st Sgt. Steve Quick, Sgt. Mark LeChance, Linguists Sara and Kathryn, and Subject Matter Expert Ismet. Late in the tour, we were joined by Jim Adams, who retired as the Acting Special Agent in Charge of the Dallas, Texas office of the FBI. This team was crucial in getting the traveling judges and Task Force Zorro back in operation after subversive efforts limited its function.

But it was the first team that was absolutely instrumental in the formation and operation of Task Force Zorro. The members of this PRT Rule of Law Section included Lt. Cdr. Candace Eckert, Maj. John Hitchcock, Sgt. Eric Radder, and Sara, our translator. Honorary members included Lt. Cdr. Chuck Bowers and JAG Capt. Jason DeLosSantos. Without these dedicated and outstanding individuals there would have been no terrorism trials conducted by the Iraqi judiciary in Mosul. Chuck Bowers, the PRT Engineer, was critical to the creation of the secure space required for the court and insured the Coalition forces were prepared to complete the project should the Iraqis fail. Candace Eckert was vital in the project's management and in communications with higher commands. In addition, she was the best envoy to the Iraqi judges visiting Mosul and was instrumental in incorporating them into the project while keeping them safe. Contributions from these and many others made a dramatic impact on the functioning of a legal system in a war zone and provided confidence in a fledgling government facing many obstacles. Time will tell whether these efforts contributed to stability in a dangerous region.

Finally, I must thank Paul Charlton, the United States Attorney who allowed me to serve in this capacity. He and his office took on extra work to cover for me for nearly two years. My wife Larissa and our children and their spouses—Mike and Kelley Hutta, Ryan and Tasha Pixler, and Ross and April Pixler—were instrumental in support and prayers during my time in Iraq. It was an incredible joy and honor to serve with my sons during this adventure of a lifetime.

I. INTRODUCTION

The purpose of this paper is to give an account of the roughly two years I devoted to the establishment of the Rule of Law in Ninewa Province, Iraq. It must be, of necessity, a brief account of selected events demonstrating the complexity of the tasks involved and the significance of the progress accomplished. This is not merely a summary of what I saw, what I learned, and what my teams and I did with our time.

This was my chance to participate in a historical challenge, for an adventure late in life, and to provide support and insight to a judicial system attempting to function in a war zone. I volunteered for this task for a number of reasons. I have never been in the military, but both of my sons were first lieutenants at the time. My older son, Ryan, is an Apache Longbow attack helicopter pilot. Ryan is a product of the Reserve Officer Training Corp (ROTC) at Arizona State University, and during my tour, Ryan was assigned to Bagram, Afghanistan. During his deployment, Ryan was a Platoon Leader for the 1-285th Attack Helicopter Squadron of the Arizona National Guard, based in Mirana, Arizona, and assigned to the 82nd Airborne Division in Afghanistan. Our youngest son, Ross, was a Rifle Platoon Leader, A Company, 1st Battalion, 15th Infantry, 3rd Infantry Division, and would be assigned to a very difficult area east and south of Baghdad, a place called Salman Pak, which was a hotbed of insurgency activity and which had never been occupied or neutralized. My children were all grown when I left and had already presented my wife and me with three grandchildren. I felt that it was my obligation to accept the invitation of the Department of Justice to take a hardship duty because my unique background in the law, including an extensive experience as the National and International Security Coordinator for the District of Arizona, made me well suited and experienced for the task. I also knew that my wife could easily survive without me. My concern was that younger attorneys with babies and teenagers should not be asked to engage in such activity. Their families really needed them at home. I also was deeply committed to the mission and believed success in this endeavor was absolutely critical. I have never failed on a mission in my life, and Iraq was not going to alter that history.

I am an Assistant United States Attorney in the District of Arizona. It is critical to note that nothing I write reflects the opinions or policies of the Department of Justice or the United States of America. These are my personal observations, accounts, and activities shared with a public that receives little direct information about Iraq that is not edited or spun to promote a hidden agenda. I personally escorted reporters to witness the progress of the programs promoted by the Provincial Reconstruction Team and can say without question that the true story of our activities in Mosul was never accurately reported. This is a small opportunity to describe a portion of my activities during the twenty-three months I spent in the country.

Volunteers for service in Iraq and Afghanistan are recruited through the Office of Overseas Prosecutorial Development and Training (OPDAT) of the Criminal Division of the United States Department of Justice. Service, training, and logistics are coordinated with the Departments of State and Defense. A number of different titles accompanied this duty. Within OPDAT, I was referred to as a Resident Legal Advisor (RLA). I worked at a State Department facility called a Provincial Reconstruction Team (PRT). The PRT Team Leader is a career diplomat, and the Deputy Team Leader is a senior military officer of the rank of at least Lieutenant Colonel or Commander (Navy). Most of the staff at a PRT is composed of military officers and noncommissioned officers (NCOs) assigned to a Civil Affairs (CA) Battalion. Usually, these folks are military reservists essentially devoted to working with representatives of the local government to assist in the stabilization of the community and to ensure that emergencies are properly coordinated with all elements active in the area. The CA staff members were outstanding at their assigned duties and were incredibly motivated to make a significant impact through their performance.

In the PRT I served as the Rule of Law Section Head. My staff consisted of no more than two CA officers, two CA NCOs, and three contract linguists. Nearly all of my linguists were American citizens of Iraqi decent who had returned to Iraq, at much risk, to help an enslaved people, including their families, achieve victory over impossible odds. The PRT also employed Subject Matter Experts (SMEs) in areas such as agriculture, business development, education, health, communications, transportation, government operations, engineering, and budget execution.

Although not directly employed by the PRT, a significant number of civilian police trainers were also based at the Forward Operating Base (FOB). These contracting companies, such as Civilian Police Assistance Training Team (CPATT), DynCorp, Blackwater, MPRI, International Criminal Investigative Training Assistance Program (ICITAP), and others, employed law enforcement professionals to perform intelligence analysis, basic and advanced police training, security or bodyguard duty, corrections officers training, and crime scene investigations. These civilian officers also worked to improve the infrastructure of the evidence-gathering system.

One function I found incredibly important was the need for a modern forensic crime laboratory. It would appear obvious that the development of forensic evidence, coupled with the reliance upon such evidence by the judicial system, was a significant objective to overcome the default police tactic of beating a confession out of a suspect. It was amazing how easy it was to identify this critical need; how excited people became in realizing that there was a professional staff of forensic scientists hungry to perform this vital service with only a modest investment in education, training, and basic equipment; and yet how difficult it was to obtain any funding, equipment, training, or support for the project.

When I arrived in Iraq, the Army was consolidating three FOBs within Mosul. FOBs Marez and Diamondback were essentially one base separated by a public road. FOB Diamondback was the fortified airfield, and Marez was the high ground overlooking Mosul. The city of Mosul curved around our FOB in a crescent from the northwest to the southeast, essentially following the Tigris River. We actually lived on “the land between two rivers,” or Mesopotamia, between the Tigris and Euphrates Rivers. A division of soldiers had been relocated toward the Baghdad area for staging in preparation of the Surge. The remaining force was inadequate to maintain three FOBs. In addition, FOB Courage, an amazing palace of Saddam’s, was becoming indefensible as a result of indirect fire. Terrorists and foreign fighters were close enough in the neighboring community to launch mortars and Rocket-Propelled Grenades (RPGs) at FOB Courage. Due to the proximity of civilian populations, they were aware that our soldiers could not return fire. Our counterbatteries had the technology to identify a point of origin (POO), calculate the launch trajectory, estimate the point of impact, trigger an alarm in the impact area, calculate counterfire trajectory, and return fire effective to within one meter, all before the initial shot struck its target. However, without “eyes on” the target, we could never be certain of the collateral damage. If the POO was on top of a residential apartment building, the fools launching the attack would certainly die, but so would many apparently innocent human beings living in the structure who were powerless to stop the attack. Without visual confirmation of the launch site or confirmation that the fire was coming from open country, the counterbatteries did not fire. We simply came to expect the shelling.

Often, Kiowa helicopters were dispatched as quickly as possible. In addition, Predator drones patrolled the skies and could be directed toward the POO. If the shelling continued for any length of time, the Kiowas and Predators could direct Quick Reaction Forces (QRF) in the area to interdict fleeing forces with amazing success. Toward the end of my tour, a field of remotely triggered rockets was discovered. These homemade weapons were erected on metal stands and were intended to be triggered by remote-controlled timing devices, which had apparently failed. It was obvious that a significant amount of engineering had been devoted to the targeting of the “dumb” rockets and to the more sophisticated timing devices used to dispatch them. All of this effort was undertaken in an attempt to avoid contact with our air assets.

Shortly before I left, I learned what an impact the Kiowas had on the people living in Mosul. Terrorists posing as police had set up a checkpoint on a road traveled by university students coming back from a field trip. They stopped the busload of students and ordered all of the males off the bus at gunpoint, alleging that the males were terrorists. The terrorists made the young men climb into a grey dump truck and then covered them with a tarp to conceal them from observation from the air. Once the young men

were removed and secured in the dump truck, the terrorists admitted to the young women on the bus that they were Muslim jihadists and that they were going to kill the young men. Several reasons were given:

- These Islamic fundamentalists viewed the University of Mosul as not Muslim enough
- These young male students were wasting their time in school when they should be fighting with the terrorists
- The people of Mosul were not supportive enough of the jihad; therefore, the terrorists decided to kill their children to encourage the people of Mosul to be more violent

After the feverish tirade and brandishing of weapons, the terrorists left the young women on the bus to deliver their various messages as justification for the assassination of forty young men. Then, the terrorists followed the dump truck in a minivan. Defying the terrorists, many of the young women used their cell phones to call for help, giving detailed accounts of what happened, a description of the men who assaulted them, and a description of the trucks and the direction of their travel. Within minutes, this information was transmitted to two of our Kiowa helicopters, which were immediately diverted to search for the dump truck and minivan. In short order, a grey dump truck was seen racing away from the area. As the choppers moved in to inspect the truck to see if people were in the bed, the terrified students heard the prop wash, tore the tarp off the racing truck, and made gestures of help to the pilots. The terrorists in the nearby minivan shot at the Kiowas, and a passenger in the cab of the dump truck brandished an AK-47, but he was not able to fire due to the poor condition of the road, the poorer condition of the suspension of the dump truck, and the high rate of travel.

The pilots requested authority to put a few rounds into the engine block of the dump truck. The request was denied on the basis that collateral damage might hurt some of the students. They were authorized to “mess up the road in front to slow ‘em down.” Our Quick Reaction Forces were en route to the site of the engagement, followed by elements of the 2nd Iraqi Army, which was led by General Moutaa, who really did not like terrorists. Soon thereafter, the road before the truck and minivan was rendered useless and the terrorists exited the vehicles with their weapons and ran toward some nearby residential neighborhoods. Those fleeing cowards were caught in the open and rendered DRT (dead right there) by very accurate fire from the Kiowas. What happened next was amazing.

Our QRF arrived and set up a perimeter around the frightened students, some of whom had been injured, and medics began providing them with medical attention. A few students had been injured by sharp objects in the truck, and others were injured either getting into or fleeing from the truck. A few had been pistol whipped because they spoke to and disagreed

with their assailants. The 2nd Iraqi Army units arrived and linked up with Iraqi Police units coming from the opposite direction. With modest support from our units, foot patrols began combing the residential area looking for the fugitives. Some of the braver victims joined the search, and all were telling the story to their fellow Iraqis who had come to see what was going on. Soon the parents of the students arrived and were reunited with their children. Press and television reporters had access to the happy families, and the stunned students told their stories about the day the Kiowas saved their lives.

As word spread through the neighborhoods about what had taken place, more and more tips came in. Before long, all of the terrorists had been recovered and were assembled within the same perimeter. Many of the terrorists loudly denied any involvement. The students who were still present confronted these cowards, assuring the officers that the prisoners were in fact the same men who had forced them into the dump truck and promised to kill them. Many of the fathers of the students begged to borrow weapons from the officers in order to kill the criminals, so that they could be certain that these cowards would not further terrorize the community. I am sure that this may have been the preferred resolution in times past; however, this time, the officers assured the citizens that the traveling judges of the Major Crimes Court would hear the case and that justice would be served. The citizens nodded their heads in agreement and took their children home. We had made a difference.

This story received widespread coverage in the local and Arab press and television stations. Comment was made about the heroism of the female students who risked their lives by reporting the kidnapping of their colleagues. The willingness of the citizens to identify and aid in the apprehension of the terrorists was unique. Most impressive of all was the willingness of the victims to confront the terrorists, condemn them for their actions, and to provide testimony to the authorities so the cases could be presented to the Major Crimes Court. The citizens had confidence in the Iraqi judicial system. Yet, my family and friends heard nothing about this “good news” story in the U.S. media. This is but a small part of the story of the traveling judges program—Task Force Zorro.

II. MOSUL, NINEWA PROVINCE, IRAQ

My colleague Diane E. Crow, Public Diplomacy Officer, Provincial Reconstruction Team Ninewa, provided the following basic information. The Public Diplomacy Officer is one of the State Department employees assigned to PRTs. The information was gathered as part of the duties of the political officers to assess the status of the province. It was gathered from the best sources available and is continually updated and modified. The formal census is taken the seventh day of the seventh month of the seventh

year of each decade. However, due to the danger presented and the competing economic interests, the census was not taken in 2007. This information was as current as possible as of October 2008.

Ninewa is located in northwestern Iraq and shares a border with Syria, the provinces of Anbar and Salah ad Din, and the Kurdish Regional Government. It is Iraq's largest Sunni Arab-majority province by population and home to Iraq's traditional second city, Mosul. There are currently 2.5 to 2.8 million inhabitants of the province, of which 1.8 to 2.1 million live in Mosul, making it the largest city after Baghdad according to some estimates. An ancient city of trade and scholarship, surrounded by Iraq's most bountiful grain farmland, the city "fell" to insurgents in November 2004. The Kurdish Peshmerga militia helped Coalition forces restore order at the time; since then, Iraqi security forces and provincial government have grown to be some of the most effective in Iraq. Ninewa is one of the most diverse provinces in Iraq, with several minority populations:

- Fifty-five to sixty-five percent Sunni Arab, divided geographically and politically between urban and tribal groups with effective political organization, primarily through the Iraqi Islamic Party
- Fifteen to twenty-five percent Sunni Kurd, with the Kurdish Democratic Party having the strongest influence
- Ten to fifteen percent minority, including the Turkmen (split between Shi'a and Sunni), Christians (of various Orthodox and Catholic denominations and political leanings), and the Kurdish-speaking Shabak (primarily Shi'a) and Yezidi (non-Muslim and non-Christian)

Due to a near-total Sunni Arab boycott of the January 2005 provincial elections, the provincial government is controlled by the Kurdish political parties (thirty-one of forty-two seats in the Provincial Council), though the Provincial Governor and Provincial Council Chair are both Sunni Arabs (elected on the Kurdish list). Unlike elsewhere in Iraq, the mid- and lower-level civil service did not undergo an anti-Sunni purge after 2003, which contributes to the working-level functionality of the provincial government. Central government support is weak, slow, and sometimes counterproductive. Continued competition between Kurds and Sunni Arabs over resources and power colors all political and economic issues in the province.

I want to briefly expound upon this basic information in order to highlight the magnitude of the challenge faced by aid workers, government advisers, and contractors who dedicate their time and talent to improving the operation of a system of government that had been dependent upon direct control from a central authority for approximately thirty-five years. Initiative, drive, independent thinking, and competence could get a government worker killed, particularly if his superior felt threatened. Virtually any type of local control or authority had been discouraged. The political class and

educated professionals, particularly doctors, were targeted for assassination by the extremists because the illiterate are easier to control. Free thinking was discouraged and condemned. Community planning and project initiation were unknown. The concept of democracy had never been taught, let alone actually practiced. Provincial leaders had no idea what to expect from the representatives of the central government, while the local people had no standard by which to gauge the performance of their own officials. Many had never met a Governor until the day a Coalition helicopter delivered the Governor and his staff of Directors General into remote corners of the province in order to discuss local needs and the ways the provincial leadership might be able to address those needs. Too often, these adventures into the less-populated areas of the province were required to address massive crimes against humanity, such as the simultaneous targeting of four peaceful Yezidi villages by four huge Vehicular Born Improvised Explosive Devices (VBIEDs).

Similarly, the central government representatives had no basic management or public administrative skills. Rather, they were essentially placed in a position of responsibility by the shadowy figures behind the public political parties and simply directed as pawns in a massive chess match. If the "elected officials" did not perform as their party leadership wished or they did not reflect the party's image or flavor of political dialogue and ideology, the party replaced them with someone who would perform this function.

Many people in the West do not understand the election process in Iraq. There, even in provincial elections the voter merely votes for a political party. The party then selects slates of individuals to serve specific areas. During my time in Mosul, the representative to the Parliament from Mosul was an individual who had never lived in the province. His only connection to Ninewa Province was the few years he attended the University of Mosul. Needless to say that this representative had the respect of neither the Governor nor the Chairman of the Provincial Council, yet he held substantial influence in Baghdad.

The advantage of this system might not be obvious, but the party "bosses" had absolute control over all agenda items, and no deal was done until the parties approved a final draft. Many times after lengthy debate and endless votes, a deal was struck and Parliament adjourned for the night. The next morning frustration set in when new demands were made about the deal struck the night before. The leaders of Iraq recognized that the previous vote was nothing more than the beginning point of new negotiations; the vote had no real value because those conducting the debate and negotiations had no real authority. It was amazing to see the frustration from those who simply could not accept the fact that the parliamentary process in Iraq was seldom much more than a show. The hidden power brokers who con-

trolled the reins of their respective parties did the real work. No deal was ever so good it could not be improved.

These rules apparently applied to the Iraqi provincial leaders as well. Lies, deceit, misinformation, intentional deception, and apparent incompetence were routinely imposed to control progress and to slow provincial advances perceived to be too rapid for a minister to monitor or which were inconsistent with his agenda. It was not uncommon for these provincial leaders to travel to Baghdad, at considerable risk, to conduct business meetings with a slate of ministers regarding critical needs for the province that lasted for days. These meetings were often contentious with elevated voices and sharp retorts. However, the most difficult meetings were those that we from the outside were never allowed to see.

This manner of conducting business face-to-face, as opposed to email or telephone, was required. Initially, the local leaders were in great fear to address the national leaders and were often content to patiently wait until their needs were addressed in Baghdad. The PRT personnel, working with the Departments of State and Defense, were instrumental in reshaping this cultural inertia. It was much more difficult for a minister to ignore the needs of constituents standing in his presence than it was to ignore telephone calls and mail. Initially, these meetings did a great deal to clear the air, demonstrate competence and professionalism on the part of all involved, and develop a clear plan for the future. These meetings could not have happened absent the planning of the PRTs and the execution of the Departments of State and Defense, which provided the resources to accommodate the logistical and transportation needs of the delegations while operating in a war zone.

The first meetings ended with great ceremony, mutual expressions of good will, and the dream of long-standing cooperation. But within days of our return to Mosul, problems in execution would appear, and it was clear that the commitments extended by the minister or groups of ministers were simply exaggerated. Particularly, as related to money due to the province from the central government, the process was needlessly confusing and not transparent. Incompetence and indifference were often used as a mask or excuse to explain away unreasonable delay, which allowed the Minister of Finance to control the money flow for his own purposes.

This fear of the central government, generated from thirty-five years of not calling attention to local problems, was difficult to overcome. Yet, progress would not happen but for the development of the democratic concept of holding the public figures accountable for the operation of the government. This was most commonly manifested in an esoteric concept of budget execution—the process of creating a master plan for a community or province, generating a budget, publishing requests for proposals or bids to do the work, evaluating the submissions, selecting the best alternative, preparing a statement of work, executing contracts, supervising construction, pay-

ing for partial performance based upon the contract, doing the final inspection, approving the project, and rendering final payment. Finance Minister Jabbar was elected to maintain strict control over this process to insure total allegiance to himself and his party. Therefore, the timeline for this process to be completed was the budget year. If the project process described above was not completed within the year, the province would be deemed to have failed to execute its budget, and the remaining unspent funds would be frozen and would become subject to redistribution at the discretion of the Minister of Finance. The funds would be frozen even if projects were performing well and contractors were continuing to work to complete the statements of work. If the money was frozen, the contractors could not be paid and would discontinue their work. Partially completed projects were simply abandoned. Contractors lost confidence that they would be paid by the government and were reluctant to bid on future projects.

The reality regarding the flow of capital was hard to define. However, it was widely reported that Finance Minister Jabbar was a Shi'a who previously lived in Iran. He is a Sadrist, supported by the individual commonly referred to as the "renegade cleric" Muqtada al-Sadr. As a loyal member of al-Sadr's party, he generally refused routine contact with representatives of the Coalition forces. Minister Jabbar was also previously the Minister of the Interior. Jabbar was in charge of the national police, an institution based and controlled in Baghdad and distinguished from the provincial police, which were under the direct control of the Provincial Director of Police (PDOP). By virtually every account, Jabbar was horrible as a leader of the police. He was widely accused of turning the national police into Shi'a death squads, which were used as a political tool to advance the power of his party. During his tenure as Minister of the Interior, an independent investigation regarding a building designated as Jabbar's official residence in Baghdad disclosed that the residence had been converted into a torture chamber. More than eighty Sunni men were found in various stages of abuse inside the residence. Jabbar denied any knowledge of the operation of this torture chamber, despite the fact that he was supposed to live in the house. Jabbar was removed from the Ministry of the Interior, but it is alleged that he never actually gave up his offices in the ministry building. Despite the connection to the abuse of Sunni men, Jabbar was installed as the new Minister of Finance, and by choking progress and development with unreasonable control over the flow of funds, Jabbar became one of the most powerful men in Iraq. The fact that Ninewa Province is comprised of a Sunni majority was not lost on the provincial leadership when these funding issues and problems arose.

A. A SUMMARY OF THE DIVISION BETWEEN SUNNI AND SHI'A MUSLIMS¹

This summary is very simplistic and is intended to essentially describe the conflict between the sects; it does not address the numerous wars and acts of aggression inflicted by one side upon the other over the generations. It is intended merely to explain, in the most general terms, the source of the original conflict. The examples also are used to illustrate principles relied upon by terrorists who seek today to enforce Islamic law on the rest of the world, as defined by Mark A. Gabriel in *Islam and Terrorism*.² While these notes outline the historical conflict between the two main branches of the Islamic faith, it is also true that the people of Iraq did not experience much sectarian violence under Saddam Hussein. Sectarian violence in Iraq at either extreme was dealt with harshly as a threat to the stability of the regime. Extremists or radicals acting to challenge the rule of Saddam represented an unacceptable risk, no matter the religious ideology they professed to pursue. People lived together peacefully, more in fear of the "Secret Police" than of violence from their neighbors. In the power vacuum that followed the fall of Saddam and the delay by the Coalition forces in addressing the fabric of government and protection of the Rule of Law, religious fanatics and criminal opportunists expanded in the void to profit from the chaos.

The founder of the Muslim faith, the Prophet Muhammad, was born around AD 570 and died in AD 632. On at least three occasions during his struggle to establish Islam, Muhammad ordered the assassination of people who mocked him and his teachings. Ali ibn Abi Talib assumed the responsibility of defending Muhammad's orders.

*"Principle: Anyone who conflicts with, disagrees with, or does not support Muhammad and his teachings should be killed."*³

Despite his role as prophet, Muhammad left no plan for succession. The Ulama (senior leadership and learned men or elders) disagreed whether the successor of Muhammad should be limited to a member of his blood-

1. See generally BRIGITTE GABRIEL, *BECAUSE THEY HATE* (2006); MARK A. GABRIEL, *ISLAM AND TERRORISM: WHAT THE QURAN REALLY TEACHES ABOUT CHRISTIANITY, VIOLENCE, AND THE GOALS OF THE ISLAMIC JIHAD* (2002); MARK A. GABRIEL, *JESUS AND MOHAMMAD: A LOOK AT THE PROFOUND DIFFERENCES AND SURPRISING SIMILARITIES BETWEEN JESUS AND MUHAMMAD* (2004); MARK A. GABRIEL, *JOURNEY INTO THE MIND OF AN ISLAMIC TERRORIST: UNDERSTANDING WHY THEY HATE US AND HOW WE CAN CHANGE THEIR MINDS* (2006); JOHN SABINI, *ISLAM: A PRIMER* (2001).

2. See generally MARK A. GABRIEL, *ISLAM AND TERRORISM: WHAT THE QURAN REALLY TEACHES ABOUT CHRISTIANITY, VIOLENCE, AND THE GOALS OF THE ISLAMIC JIHAD* (2002).

3. *Id.* at 105.

line, a position strongly urged by Ali ibn Abi Talib, one of the few family members who would have qualified as a successor. Ali, a young cousin of Muhammad, was one of his first followers and had married Muhammad's daughter, Fatima. The first elected caliph was Abu Bakr, the father-in-law of Muhammad and one of his strongest and most tenured supporters. Abu Bakr presented his daughter, Aisha, as a bride to Muhammad when she was very young, probably as young as six-years-old. Islamic history records that Muhammad consummated the marriage when she was nine-years-old. The caliphate of Abu Bakr lasted only until AD 634.

Once again, the question of succession was hotly debated, and once again, Ali was passed over by a leader not of Muhammad's bloodline. Umar ibn Al-Khattib (also shown as Omar) was elected as the second caliph. A brilliant and ruthless leader, Umar was largely responsible for the expansion of the territory controlled by the Muslim faith through force of arms, eventually controlling what is now Egypt, Palestine (including Jerusalem), Syria, Iraq, Iran, and the Arabian Peninsula. He is also reputed to be responsible for reducing the Quran to writing and for formulating one edition while destroying all other copies. A Persian prisoner of war assassinated Umar in AD 644.

The third caliph selected was Uthman bin Affan (also shown as Othman). Uthman was not as focused on expanding the territory controlled by his caliphate. Rather, he was reputed to be corrupt, disorganized, and lacked respect. His tribal elders and friends were the beneficiaries of nepotism. Those who either did not benefit from this conduct or who opposed his policies and practices conspired against Uthman. Eventually, Muslim soldiers from Kharij, a small tribe who felt that they had been persecuted by the policies of Uthman, assassinated him. Ali was finally elected the fourth caliph.

"Principle: It is right to murder a governor or leader who is not in compliance with Islamic law."⁴

The kinsmen of Uthman demanded retribution be exacted upon the entire tribe of those who killed Uthman for violating a fundamental tenant of the Islamic law—a Muslim shall not kill another Muslim. The head of the Umayyad family, Muawiyya ibn Abi Sufyan, the Governor of El-Sham (what is now Syria), became the greatest challenge to Ali. When Ali declined to punish those who brought him to power, Aisha, the last wife of Muhammad, joined Muawiyya and others in what amounted to a civil war from AD 656 to AD 661. The conflict between the two factions, each relying upon Islamic law and the teachings of Muhammad, gave rise to the

4. *Id.* at 106.

Sunni sect led by Muawiyya and the Shi'a sect led by Ali. In AD 660, after four years of battles in the name of Islam with each side seeking to control the empire and the future of the faith, Ali's followers became divided and asked Ali to petition to stop the war. They wanted to seek a negotiated settlement to the conflict. Each side selected a scholar who was considered to be an expert on the Quran. The agreement was to resolve the conflict through debate and reliance upon Islamic law and teachings from the Quran.

Eventually, a proposal was made that if Ali was removed as the fourth caliph, Muawiyya would be removed as the leader of the Sunnis and a new election would be held to elect the fifth caliph. Muslims would be free to elect whomever they believed would be the best leader according to the Quran. The Shi'a kept their promise and removed Ali. When the representative of Muawiyya learned that Ali had been removed, the Sunni scholar declared Muawiyya to be the only leader for the Muslims and installed him as the fifth caliph.

“Principle: Deceit is acceptable if it helps you achieve the goals of Islam.”⁵

This act did little to achieve peace. Of course, peace was not really the objective; control of the empire was the objective. Hostilities continued. A Shi'a splinter group known as El-Karij wanted to return to the practice of Islam just as Muhammad did. They called upon the fellow Muslims to reform. Eventually, the leadership of El-Karij determined that the best way to end the dispute was to kill Ali, Muawiyya, and Muawiyya's representative—the three leaders responsible for the continuing conflict. Once all three were dead, it was reasoned, Muslims would return to one leader and the path of Muhammad. El-Karij succeeded in killing only Ali. However, the spiritual leader of El-Karij justified the murder of Ali in a passage from the Quran.

“Principle: When a government or a leader is found acting not in accordance with the Quran, Muslims have the right to declare them renegade and infidel. Islam's way of dealing with a renegade or infidel is killing.”⁶

This message is relied upon by jihad groups of today and is the basis of the threat of terrorism to every empire, dynasty, society, and nation since.

Muawiyya was the fifth caliph, but the first caliph of the Umayyads—the first hereditary Arab dynasty of Sunni caliphs located in Damascus

5. *Id.* at 107.

6. *Id.* at 108

when the Arab empire was at its height. At his death in AD 680, his son Yazid assumed the role as the sixth caliph. The selection was made based upon heredity and was not an election of the Ulama. The ascension to power was opposed by Ali's son, al-Husayn ibn 'Ali, the leader of the Shi'a. Al-Husayn and his followers believed that he was the only correct man to be declared caliph. Despite the fact that he had a much smaller army and lacked the resources to defeat Yazid, al-Husayn attacked the forces loyal to Yazid in what is now Iraq. The civil war continued until al-Husayn was captured in a battle against impossible odds in what is now Karbala, Iraq.

Al-Husayn was the grandson of Muhammad, born of the union between Ali ibn Abi Talib and Fatima, Muhammad's daughter, and represented a significant connection to the very formation of the Muslim faith. When Yazid captured al-Husayn, he faced a historic choice. Rather than spare al-Husayn's life out of respect for Muhammad, Yazid killed his entire family, beheaded al-Husayn, and placed his head on display in Damascus. This was an example of the merciless tactics that the Umayyad family would use to maintain power for ninety years until the Abbasids, a rebel group loyal to Muhammad's family, ended the rule of the Umayyad dynasty with the assassination of the last Umayyad caliph in southern Egypt. A new principle arose from the needless and brutal death of al-Husayn:

"Principle: Fighting evil is a must; it does not matter if you win or you die. If you win, you will be honored by victory; if you die, you will be honored by God. Fighting evil is an honor either way."⁷

The rule of "The Rightly Guided Caliphs" lasted a mere twenty-nine years. These first four men to serve as caliph are generally credited with attempting to lead Islam as instructed by Muhammad in an effort to protect and extend Islamic culture. The rule of the Umayyad dynasty lasted ninety years. The period was best described as an unrelenting bloodbath. The Abbasid dynasty lasted 508 years until the dynasty was defeated by the Mongols in AD 1258. A powerful Sunni leader came to prominence during the Mongolian invasion of Syria between AD 1299 and AD 1303. Ibn Taymiyah did not consider Mongolian Muslims true Muslims. Ibn Taymiyah taught that all people who submitted to the Mongols, helped them, or dealt in any manner with them were infidels and were to be attacked by his followers. This mindset of no tolerance for the views of others reinforced principles practiced centuries before.

7. *Id.* at 109.

*“Principle: Muslims should resist, fight, and overturn any Islamic government that does not govern the land according to the Islamic law only.”*⁸

*“Principle: Muslims should enforce jihad on anybody whose beliefs differ from Islam, especially Jews and Christians.”*⁹

The fanatical proponents of these principles apply the lessons of history and the teachings of the Quran to the current struggle for world domination. Muslim Fundamentalists or Islamists today seek the submission to Islam of all who inhabit planet Earth as the ultimate objective of Muhammad as set out in the Quran. They seek this objective by acts of force and violence, commonly referred to as *jihad*. Often, these terrorists also seek the re-establishment of the caliphate and the enforcement of Islamic law as the only legal system for the planet. The caliphate was re-established under the Ottoman Empire in AD 1301 and lasted 623 years until Kamil Attaturk of Turkey dismantled it in 1924.

Today, Turkey continues to face conflict between sectarian and secular components of its society and its government. Secular influences in the government and military ensure no movement toward a sectarian rule, in violation of the constitution, by threatening to overthrow popularly elected officials if they embrace or promote Muslim principles tending toward the re-establishment of the caliphate and Islamic law. To defend against such plots, the present government is constantly investigating and arresting those citizens they fear may be plotting such coups. Complicating this tension are the PKK terrorists of the Kurdish Regional Government (KRG), who use violence as a tool to gain independence for Kurds.

Approximately eighty-five percent of the world's Muslims are Sunni and do not recognize the bloodline of Muhammad as a precondition for spiritual leadership. Any devout believer with the necessary qualification and experience, if supported by the community, is qualified to serve as the leader. The remaining fifteen percent of Muslims are associated with various sects of Shi'a or other smaller splinter groups. However, the world's Shi'a population is concentrated in Iran and southern Iraq. The Shi'a sect is essentially royalist, believing the caliph or imams should be direct descendants from Ali and Fatima. Some extreme sects believe that such leaders are divinely inspired. A Shi'a imam who can trace his ancestry to Muhammad may wear a black turban.

8. GABRIEL, *supra* note 2, at 111.

9. *Id.*

The deeply held and historic religious differences, coupled with competition for power and influence in this region of the world, contribute to tension and instability. In addition, the Iranian Shi'a are Persian, not Arab, and speak Farsi, not Arabic. The recent Iran versus Iraq war also festers as an open wound for the Sunni Arabs, who lost much to the conflict. The Shi'a forced to fight fellow Shi'a under Saddam's rule did so in defense of their country. However, today, many may find it more tolerable to join their Iranian brothers who supply weapons, training, and funding to counter the Sunni extremists, and who despise all who see the world differently than they. In an interview with Fox News on October 22, 2008, Ryan Crocker, U.S. Ambassador to Iraq, expressed the view that much of the continued armed aggression by Iran in Iraq, including targeted assassinations of Iraqi government leaders and ministers, may be based upon hostilities remaining from this war. To the extremists of both sects, the events of 1400 years ago are the source of deep concern today, and many continue to talk about retribution for the murder of Uthman, Ali, or al-Husayn as if these were recent events.

Another principle of the Islamic faith, which inevitably leads to armed conflict, holds that if one Muslim group ever acquired land by force from any other lesser group, even if only for a short time, then that land is theirs forever—hence the present-day claim to large areas of Spain and southern Europe by the fanatical Islamic terrorists and the continuing conflict between Muslim Pakistan and Hindu India over the Kashmir region.

During the reign of Saddam, Iraq became secular and much less extreme in religious beliefs than its neighbors. Saddam was not a religious man and offended the devout when he appeared in public carrying the Quran in the forbidden hand. He only turned to religion in an effort to rally support for his failing regime when it was obvious he could not survive. Saddam considered it a victory every time he survived a battle, even if his army was destroyed. There is a well-known throne or commemorative chair near the door of the Al Faw Palace at Camp Victory near Baghdad that celebrates Saddam's victory over Israel. None of us could recall such a victory. If victory is defined as the failure of your enemy to kill you, then Saddam had many victories over many adversaries.

For many years, the strategy of Islamists was to target weak and corrupt governments in Muslim countries, such as Sudan, Afghanistan, and Algeria, to install a true or traditional Islamic government, such as the Taliban in Afghanistan. That approach changed as the teachings of Sayyid Qutb were adopted and embraced by the modern jihad terrorists, particularly Ayman al-Zawahiri and Osama bin Laden, the founders of Al-Qaeda. Qutb's teachings were so dangerous that his books were banned in Egypt; he was arrested, placed on trial, convicted, and put to death in 1965 during the presidency of Gamal Abdel Nasser.

Qutb taught that there should be no government and nothing other than Islamic control of every institution in the world. He specifically rejected all manmade systems of government, including democracy, socialism, dictatorship, and communism, as well as all religions other than the original or fundamental interpretation of the Quran based strictly on the teachings of Muhammad. He convinced his followers that they should not only resist but should also overthrow all human power on Earth and live totally devoted to the word of Allah. Qutb's doctrine requires Muslims to force their will upon all other inhabitants of the world and to kill or enslave all who do not submit to Allah.¹⁰ Ayman al-Zawahiri was a student of Qutb and is a member of the Muslim Brotherhood, the umbrella organization of worldwide terrorism, which also promotes this philosophy and advocates for the destruction of the world as we know it. Ayman al-Zawahiri and his fellow leaders of the Muslim Brotherhood conspired to assassinate Anwar al-Sadat, the President of Egypt, on October 6, 1981. In Egypt, many members of the Muslim Brotherhood were killed or imprisoned. Those who fled, like ripples in a pond radiating from a stone, spread this new doctrine of terrorism.

Despite this history, many of the Iraqis I came to know and work with were married to a member of the opposite sect. I worked with elected Iraqi officials, mid-level functioning engineers and professionals who kept the government working, translators, and other public figures who proudly advised of how well they all lived together—that they were more afraid of Saddam and his secret police than the religious fervor of their neighbors. Shi'a and Sunnis lived in the same neighborhoods with Christians, Jews, and Yezidis.

This is the conflict in Iraq. Terrorists are not only attempting to defeat the West, but are also attempting to impose upon the population of Iraq their evil doctrine of slavery and submission. Regardless of ethnicity, fanatical Muslims today believe that they have been called to spread Islam by *jihad* or holy war. No longer do they target individual leaders and countries in the effort to establish Islamic rule of one country at a time. The Muslim Brotherhood now targets the West, particularly the United States, reasoning that no other country or people will dare to resist once the United States surrenders.

Since I wrote the above summary of the Muslim conflict in Iraq for this paper, Lashkar-E-Taiba, a Pakistani Islamic terrorist group, has carried out a raid on Mumbai, India. Ten specially trained fanatics, bent upon a suicide mission to kill 5000 people, terrorized the financial and tourist centers of a peaceful city solely to prove that they could. Recall that Pakistan and India were partitioned years ago due to the violence between the Muslims and the Hindus. Interrogation of the sole survivor of the ten attackers

10. Islam is the Arabic word for submit.

has uncovered that more than thirty individuals trained for the mission, suggesting one or possibly two other teams are preparing for similar attacks at other locations around the world. Please understand that these apparently blood-thirsty murderers are actually devoted followers of Ibn Taymiyah, Qutb, Ayman al-Zawahiri, or another advocate of jihad who see their actions as legitimate in pursuit of the domination of the world by Islamic forces—the goal set by Allah as reported by Muhammad in the Quran. There is no negotiation, no compromise, and no mediation possible when confronted by fanatics pursuing this goal. The only choices are conflict or submission. Compromise is merely a concession on the road from one to the other. There are precious few antifundamentalist movements proposing alternate interpretations of Islam and the Quran. You will read about one, the Khalq, and the special problems they face later in this paper.

B. CHRISTIAN AREAS OF NINEWA

Both the Jewish and Christian faiths had existed in Ninewa for hundreds of years when the Muslim faith first began to appear in the latter half of the seventh century. In the old part of Mosul, near the ancient walls, a temple stands in memory of Jonah, the prophet of the Bible sent to Ninewa, or Ninewa, by the Lord. Ninewa was regarded then as one of the most dangerous places in the world. Rather than follow God's will, Jonah headed in the opposite direction, his ship sank in a storm, he was swallowed whole by a whale, was taken back toward Ninewa inside the whale, and was deposited on the shore. The Bible story ends there. However, Jonah was known to have completed his journey to what is now Mosul, and he served the Lord for many years, ministering and prophesying to the people. To this day the residents of Mosul revere his memory. His body is reportedly enshrined at the temple Nebi Yunnis, which is located on high ground near the center of town and visible from a great distance. This is but one of many holy places in or near Mosul.

One amazing place I was able to visit often was located less than two miles from the PRT compound. According to the monks of nearby Al Qosh who maintain an oral and written history of Dair Mar Elia, or Saint Elijah's Monastery, construction began on the structure as early as AD 520 by Assyrian Catholic monks. Later, the Chaldean Order assumed control. By AD 599, the compound was functioning as Saint Elijah's Monastery. It is still standing, protected now within the perimeter of FOB Marez, my home for two years. The monastery was a place of contemplative prayer, education, study, sanctuary, charity, medical care, inspiration, and hospitality. The monastery was supported and treasured by the community for more than a thousand years. In approximately AD 1743, armies directed by Persian ruler Tahmaz Nadir Shah, a Muslim invader intent on expanding his territory, demanded that the monks who occupied the facility either convert to Islam,

pay *jizyah* (a tribute or tax) to him as a tax to live in Muslim territory, or leave. However, Nadir Shah gave no assurance that the monks would not be attacked if they left. The story handed down over the ages indicates that the monks prayed about the ultimatum and declined to comply with any of the demands. For their insolence, they were all murdered and the monastery was looted. One account indicates that as many as thirty-six monks were killed. Another account indicates that 150 people died, including many monks.

The stout structure has been used in many different ways for the last 265 years, most recently as a military headquarters for an Iraqi Army unit, and then by the 101st Airborne. A visiting chaplain rediscovered its history, and the site has been secured since. Much of the history is oral, having been handed down through each succeeding generation. The care of the facility, as well as all access to it, has been placed in the capable hands of the Army Division Chaplains, who also collected historical records and compiled the history, which is now available to the public.¹¹

Christian communities continue to exist in Ninewa. Until the fanatical extremists arrived in Ninewa, Christians lived safely within many communities and amongst those of other faiths. The foreign extremists view all who have a faith different than their own peculiar view, even other Muslims, as unworthy of life. All who are “unbelievers” can be killed at any time for no particular reason. These terrorists also see such unbelievers as a revenue source. That is, in order to purchase the right to live, the nonbeliever must pay *jizyah* to any Muslim who demands it. The amount is arbitrary, the length of the term of protection undefined, and no protection from other tribute demands is ever provided. This extortion often involves the kidnapping of a revered religious leader for which an extraordinary ransom is demanded. Failure to timely pay the ransom is all the justification needed to execute the hostage. Even if the ransom is paid, the true believer is not required to deal with an unbeliever in any honorable manner because the infidel has no right to exist. Further, these terrorists are not required to keep their word when it suits them to lie or to alter the rules without warning. Falsehoods and deceit in pursuit of Allah are not only encouraged but also demanded by the Quran. Often, even if the ransom is paid, the victim is returned in pieces, with obvious signs of excruciating torture before death.

Such barbarism is abhorrent to most Iraqis. The brutality and extremist acts in the name of Islam by the Sunni thugs who occupied Al Anbar Province was not solely directed at the Coalition soldiers and contractors. The

11. James Floley, *In Iraq, a Monastery Rediscovered*, SMITHSONIAN.COM, Sept. 16, 2008, <http://www.smithsonianmag.com/history-archaeology/iraq-monastery.html>; Eric Westervelt, *Chaplains Struggle to Protect Monastery in Iraq*, NAT'L PUB. RADIO, Nov. 21, 2007, <http://www.npr.org/templates/story/story.php?storyId=16493810>.

tribal sheiks, who were responsible for the people who lived in their communities, were advised that the fingers of those found smoking tobacco would be cut off, that they would be killed if discovered drinking, and that women would be killed if found in public without the proper clothing, including a veil. The systematic and barbaric enforcement of these edicts is considered the breaking or turning point in the relationship with the Coalition forces. The sheiks advised that they had seen what life would be like under a Taliban-style, fanatical regime, and they wanted no part of it. The promise of a free Iraq to be shaped as the people desired, not as imposed upon them by zealots, was worth the risk of death.

All over Al Anbar, a Sunni awakening spread. Soon, other provinces also joined the movement. The “Sons of Iraq” began to form and participate in a gigantic “Block Watch” program. Sunnis joined with the Coalition forces, providing their own arms and ammunition. Coalition forces provided small stipends for basic living expenses to assist in the creation of a system of community-based protection from the aggression of the Muslim fanatics. Literally, the people of Al Anbar took back their streets and drove out those who sought to enslave them. Given their free choice, the people of Al Anbar rejected the form of totalitarian despotism shaped from the fundamentalist interpretation of Islam.

As Christians became targets of these fanatical monsters, they had no choice but to gather together in fortified neighborhoods and villages. Sadly, the inability to create all-inclusive defenses for the indigenous populations within a community or neighborhood resulted in the destruction of trust between the diverse populations. The result was the isolation of minorities that had existed for generations in a secular society. Please note that this is exactly the objective of the fanatical terrorists—to isolate nonbelievers, remove their humanity, cast them as the cause of all the problems, steal their wealth, and then target their destruction. The end purpose is to kill all who do not share their extreme religious beliefs.

Across the Ninewa Plain, the area between the traditional Arab territory to the south and east and the mountains of the Kurdish Regional Government (KRG and often incorrectly referred to as Kurdistan) to the north and west, these small communities compete for limited resources and survival. Communities such as Al Qosh, Qara Qosh, and Bartalah that have existed for centuries in relative peace are now fortified to defend against acts of violence by terrorists. These communities are divided over the best course of action to insure their future. Many seek the formation of an additional independent region, such as the KRG, where these tiny minorities can form their own government and have more self-determination than would ever be possible within the government of Iraq. Others recognize that they lack the political leverage to establish a separate regional government. They advocate an alliance within the Kurdish territory where they represent a larger percentage of the population and, therefore, where their participation

would have greater weight. The Kurds favor the latter approach and demonstrate this in numerous subtle and not so subtle ways, as outlined below.

C. THE KURDISH AREAS AND INFLUENCE IN NINEWA¹²

Meet a Kurd and sometime during your first conversation he will find a way to repeat the old saying: "The Kurds have no friends but the mountains." Dealing with the Kurds, their history, their slightly transparent agenda, their successes, and their political power, it is apparent that this is a people of a single-minded purpose, intent on re-establishing the ancient boundaries of Kurdistan. It matters not that history may disagree with the Kurds about the significance of their influence over the region; the objective they share today is the creation of a greater Kurdistan from parts of present-day Syria, Turkey, Iraq, and Iran, extending from the mountains to the Mediterranean Sea. Their legend holds that the Kurds once controlled this territory in the sixth century. Their goal and mission in life is to re-establish the Kurdish homeland, despite competing claims to it by other groups.

On the one hand, it is difficult to argue with the success of the KRG. The three provinces of Duhok, Erbil (also Arbil and Irbil), and Suleimani obtained a degree of autonomy as the price of endorsing the Constitution of Iraq. The Regional Assembly governs the territory, while the Kurdish militia, also referred to as the Peshmerga, is recognized as a legitimate army. There is relative prosperity and peace. The region is often held out as an example of what Iraq could become if the foreign fighters and terrorists were expelled and the violence ended. Professional and educated populations, such as doctors and nurses, left their homes in Arab Iraq and relocated to the KRG to be safe from attack and to create new lives in peace.

Because of the migration of medical personnel, Ninewa operated hospitals with ten to fifteen percent of the staff required. Terrorists targeted medical staff and hospitals for destruction to increase the suffering of all who did not join their cause, to bleed the country of resources, discourage those resisting the fundamentalist onslaught, and to remove potential opponents who were educated and would be difficult to lead. Terrorists thrive in illiterate populations. Thugs with a little power but the ability to follow orders could re-establish life as it was under Muhammad without a great deal of difficulty.

The KRG is a model of an approach based on excluding the population from which terrorists arise. That is, peace and prosperity have been attained in the KRG by excluding nearly all Arabs. Only those Arabs who have pro-

12. See generally Kurdistan, The Other Iraq, <http://www.theotheriraq.com> (last visited Jan. 22, 2009).

fessional skills required in the KRG, power, wealth, influence, and are willing to commit to support the long-term agenda of the KRG are welcome. Ordinary unescorted Arabs, for example, a family with a sick or injured child, are not welcome. To pass the Peshmerga checkpoints, the family had to have a sponsor escort them into and back out of the KRG. Often, children required medical attention that was not available in Ninewa. Ninewa doctors with assistance from Non-Governmental Organizations (NGOs) arranged to pay for medical treatment, living expenses, and travel expenses for children to be treated in the KRG. The doctors in the KRG were willing to treat the children if the family brought them to a Kurdish hospital. However, even with the assistance of the Ninewa Chairwoman of the Human Rights Committee of the Ninewa Provincial Council, Kawther Mustafa Salah, a Sunni Kurd, Arab families could not gain admittance into the KRG. Security issues trumped humanitarian concerns, even if economic realities were addressed.

Even wealthy terrorists who were willing to behave while in the KRG were tolerated as long as no acts of violence occurred as the result of their presence. In one sense, the KRG became a rest and recuperation haven from the fires of war. However, the KRG also hosts, or at least tolerates, local terrorists, the PKK. Although not officially sanctioned by the regional government, the PKK are very popular with the citizens of the KRG and represent the continuing struggle with Turkey to regain territory that once belonged to the greater Kurdistan. The relationship between the KRG and the PKK, a U.S.-designated terrorist organization, is duplicitous at best. While acknowledging that the group is on the U.S. list of terrorist organizations, the Kurds explain the PKK offices, which dot the countryside, are merely "offices for a political party." The Kurds have taken no official action that restricts the operation of the PKK within the KRG. However, when Turkey recently responded to attacks by the PKK fighters with retaliatory incursions and shelling within the KRG, the Kurds insisted that both the Iraqi Army and Coalition forces defend them. Turkey retreated voluntarily when the mission was deemed completed. The PKK was dealt a decisive blow but has not as of yet been marginalized.

During the time I was in Ninewa, Coalition forces acting on superb intelligence captured high-level members of the Iranian Republican Guard in the KRG in the act of negotiating arms purchases from Iran. The Kurdish leaders threatened a rift with the United States and other members of the Coalition if their "guests," described as legitimate businessmen, were not immediately freed. Within the month, it became readily apparent that the captured officers were well known to the intelligence community. The Kurds had maintained close business and military relationships with the Iranian military during the rule of Saddam. The Kurds needed a ready source for weapons in the event that their western friends once again left them to deal with Saddam on their own. Apparently, the Kurds wanted to

maintain a line of trade to insure that weapons remained available regardless of the outcome of the presidential elections in the United States.

The Kurds historically were aligned with three main tribes: the Barzani, the Talabani, and the Herki. All three struggled and fought for dominance and control of the region, politics, commerce, economic means of generation of wealth, and most important of all, the contacts required to ensure security for the Kurds. Under the despotic rule of Saddam Hussein, the Kurds were terribly oppressed. Lands were taken from the Kurds and redistributed to Arabs in "Saddam's Arabization of Iraq" campaign, which was designed to stabilize his control of Iraq and render useless all opposition to his rule. The Herki Kurds felt substantially disadvantaged by a temporary allegiance between the Barzani and Talabani tribes. In an effort to gain dominance over both tribes and to gain favor with Saddam, the Herki struck an allegiance with the Arabs and provided vital information about the Kurdish population centers and defenses. This information was used by Saddam's forces in gas attacks against the Kurdish tribal areas occupied by the Barzani and Talabani loyalists. The Herkis expected their allegiance to Saddam would bring them to power over their rivals, but it did not work out that way.

Neither Saddam nor the Herkis expected that Saddam would first be prevented from controlling the Kurdish portion of Iraq in the 1980s and then would be removed from power. The majority-Kurdish population reviled the Herki Kurds. They were driven from their tribal lands, ostracized by the community, and could no longer rely on support from Saddam. In essence, they became a band of about 15,000 nomads with no real home. Virtually no one in the West has heard of the plight of the Herki Kurds nearly two generations after their ancestors betrayed their fellow Kurds in a transparent political maneuver. The Herkis now live in deserted desert forts in the most primitive of existence and receive no assistance from the KRG. The descendants live a subsistent existence with no support, no resources, and no power, while a Barzani is the Prime Minister of the National Assembly of the KRG and a Talabani is the Vice President of Iraq. The only power shifting that takes place today is when the terms expire and the Barzani and Talabani tribes exchange portfolios and titles.

The big political issue of interest to the Kurds in Ninewa involved an election to settle the boundary between the KRG and the rest of Iraq. The Kurds dominated the provincial government due to the ill-advised boycott of the provincial election by the Sunni majority. An election to reverse the "Arabization of Ninewa" was a requirement for the Kurds to approve the final draft of the constitution. Essentially, a green line was drawn on a map setting a temporary boundary until an election could be held. This was a priority for the Kurds and not particularly important to the Arabs, that is until they saw reality played out on the ground. The election was supposed to involve only the "traditionally disputed territory," a vague term exploited

by the Kurds, as there was no real time limit as to when the territory was disputed.

As the violence in Ninewa Province generated by terrorists and organized gangs of criminals increased, the Kurds took the opportunity to extend their influence over traditionally Arab land with their very disciplined and professional Peshmerga. Smaller groups, such as the Shabak, Turkmen, Yezidi, and Christians, fell under the influence and protection of the Kurds. Those who continued to seek independence on the Ninewa Plain, essentially seeking a governing opportunity similar to that of the KRG, continued to be the target of terrorists' attacks. Those who accepted the protection of the Peshmerga experienced a dramatic decline in the violence directed toward their population centers and cultural icons. It was impossible to determine whether the Peshmerga protection was effective or whether an element of Kurdish imperialism also included targeted acts of violence to simulate Al-Qaeda operations.

With this process of assimilation, the Kurdish march toward the Mediterranean was steady, if not transparent. In preparation for the election, the Kurds developed voter registration offices funded by the government of the KRG. These offices developed voter registration lists that indicated the families eligible to vote based upon the census of July 7, 1957. These records were computerized and made available to the registration offices. The key aspect of the process is the preauthorization of voters who are qualified to vote in the coming election. If a family name is not on the list, the descendants will not vote.

To ensure the success of the vote, the Kurds also engaged in their own version of the relocation of constituents. One example is the effort to construct a "refugee" center along the green line with funding from Kurdish-controlled sources, including the Ninewa Provincial Council. It was rather apparent that the only real benefit would be to relocated Kurds who would certainly vote in the election. To one extent, the election has been won by the Kurds before it even has been scheduled.

The green line constantly moved to the south and to the west, encroaching on the traditionally Arab lands. There was little the Arabs could do to stop this march. Even the powerful Shamar tribe was limited in what it could do to limit the Kurdish advances. The importance of an early election was lost on the Sunni members of Parliament, who struggled to remain relevant in the face of a Shi'a-Kurdish confederacy designed to limit the influence of the Sunnis, who dominated the political circles in Iraq for so long. The most the Sunni political bloc could do was attempt to delay progress and engage in counterproductive actions to work the angles to gain small victories. At least in Ninewa, the Kurds took advantage of delay, promoting their agenda and advancing the green line.

The date mandated in the constitution for this election was before January 1, 2008. Failure to hold the election prior to that date provided the

Kurds the option of withdrawing from the government of Iraq, tossing it into chaos. The fact that the Kurds agreed to delay the election is proof that the delay worked to their advantage. It gives more time to move the green line even further. Along with this delay came a delay in new provincial elections. It is not in the best interest of either the Shi'a or Kurdish political parties to hold early elections in the part of Iraq that boycotted the last elections. The ethnic and religious minorities hold a greater degree of power than would be typically expected due to the boycotts. It would also be expected that the Sunnis would gain a substantial amount of control over these areas if new elections were held.

To one extent, the delay is good because it gives more time to the well trained, and now experienced, civic leaders to insure progress for their communities. However, it is also true that the overwhelming consequence of the domination of the local government by minority parties has led to the location of new construction projects in areas where only the minority population will benefit. The Sunni majority is aware of this exploitation. The frustration generated from an inability to rectify the abuse continued to contribute to the destabilization of the province, despite incredible contributions of resources. To the extent the Sunni terrorists attack such projects in the minority areas, they feel justified because equivalent progress is not being made in their areas. Yet, construction projects in Sunni-controlled areas are also targeted for destruction because the terrorists want to reject everything provided by non-Muslims. The reality is that if the organized mobsters who control the construction projects, particularly through the concrete business, are not paid the required bribe, the project will be destroyed anyway. Several mob-style rackets were discovered that required a kickback or bribe be paid as protection money to the local imir of the terrorist cell. When the courier for the imir was captured with the money, it was often difficult to discover if an imir was involved or if the fellow was merely a freelance opportunist or a member of a criminal gang masquerading as a terrorist.

D. YEZIDI OR IYZIDIS (NON-MUSLIM AND NON-CHRISTIAN) AREAS IN NINEWA¹³

I knew nothing about these people or their faith before I arrived in Mosul. I asked Diane Crow and Genny Youkhana to provide a historical perspective for this paper. Youkhana, an outstanding linguist with the PRT, contributed much to my understanding of the Yezidis (also spelled Yazidi).

13. See generally JOHN S. GUEST, *THE YEZIDIS: A STUDY IN SURVIVAL* (1987); MERHARD R. IZADY, *THE KURDS: A CONCISE HANDBOOK* (1992); PHILIP KREVENBROCK, *YEZIDISM: ITS BACKGROUND, OBSERVANCE AND TEXTUAL TRADITION* (1995); Tore Kjelen, *Yazdanizm*, in LOOKLEX ENCYCLOPEDIA, <http://looklex.com/e.o/yazdanism.htm> (last visited Jan. 22, 2009).

Genny is an American citizen who has strong ties to the people of Iraq. She works every day to strengthen the resolve and competence of the Iraqis working in the provincial government. These notes are an attempt to explain why fanatical Muslim terrorists regularly and historically have attempted to exterminate these people. The following is a result of their contributions.

Lazgin Khider Al-Barany, *Iyqidism: A "Cult of Angels"*¹⁴

Yazdanism is a term introduced by Mehrdad Izady to denote a group of native Kurdish monotheistic religions descended from an ancient religion known as the "Cult of Angels." This "Cult," he states, is "fundamentally a non-Semitic religion, with an Aryan superstructure overlaying a religious foundation indigenous to the Zagros." Only three branches of this cult have survived from ancient times: Alevism, Yarsan, and Yazidism. Izady claims that the Yazdâni faiths were the primary religion of the Kurds until their Islamization in the tenth century. The three religions of Yazdanism are primarily practiced in relatively isolated communities. The adherents of Alevism, Ahl-e Haqq, and Yezidi are estimated to constitute about one-third of the Kurdish population. This paper deals with Yazidism as one of the main branches of the "Cult of Angels," which still exists in spite of the fact that adherents have been persecuted throughout its long history.

The Iyqidis (also spelled Yezidis by some researchers) are a specific subset of the Kurdish people who have kept their original and ancient religion. They live in parts of traditionally Kurdish areas currently located in northern Iraq, northeast Syria, and southeast Turkey, as well as in the ex-Soviet states, mostly in the Caucasus (Armenia and Georgia). A few reside in the Ukraine and the Russian Federation. A large number of the Iyqidis have migrated to European countries, mainly to Germany and Sweden. According to unofficial estimates, the number of the Iyqidis in the world varies between 1.5 and 2 million. Iyqidis speak the northern dialect of Kurdish (Kurmanji).

Throughout history, Iyqidis have been the target of many massacres and mass killings, and only a small number of the Iyqidi population remains. Religious persecution of the Iyqidis has often taken the form of either massacre or deportation. Under Ottoman rule, massacres were common during the seventeenth and eighteenth centuries and during the middle of the nineteenth century. The most recent massacre of Iyqidis took place dur-

14. Lazgin Khider Al-Barany, *Iyqidism: A "Cult of Angels"* (2008) (unpublished manuscript, on file with author) (reprinted with permission). Lazgin Khider Al-Barany is a professor at the University of Dohuk and may be reached at albarany@yahoo.com.

ing the summer of 2007 in Sinjar.¹⁵ Despite all of the troubles encountered in the past, the Iyzidis and their religion have survived.

Izady states that at the time of Saladin's conquest of Antioch, the Iyzidis were dominant in the neighboring valleys in the Amanus coastal mountains. By the thirteenth and fourteenth centuries, Iyzidis had expanded into Urimia and from Sivas to Kirkuk. Iyzidis also mustered a good deal of political and military power. During this period, the emirs of the Jazira region (upper Mesopotamia) were Iyzidis, as was one of the emirs of Damascus. A Iyzidi preacher, Zayn al-Din Yusuf, established communities of converts in Damascus and Cairo, where he died in 1297. His imposing tomb in Cairo remains to this day. Of thirty major tribal confederacies enumerated by the Kurdish historian Sharaf al-Din Bitlisi in *Sharafnama* (1596), Bitlisi contends that seven were historically Iyzidi, including the historic and populous Buhtan tribe, the Bokhtanoi of Herodotus.

Iyzidism is an old and historic religion, born and developed in Mesopotamia, which has survived for thousands of years. In terms of history and culture, it represents a synthesis of Mithraism, Mazdaism, and Zoroastrianism. It has its own philosophy and faith system. As a branch of the Cult of Angels, Iyzidism places a special emphasis on the angels. Accordingly, the name *Yezidi* is derived from the Old and Middle Iranian term *yazata* or *yezad*, for "angel," rendering it to mean "angelicans." On the other hand, it is believed that the word *Iyzidi* is from Sumerian language and means the "ones who are in true path," that is, people who follow God. The idea that Iyzidism is very old and the historical details of its foundation are lost in the mists of antiquity are favored by Iyzidis. According to this theory, the faith was able to survive over the centuries because its devotees would allow themselves to be nominally converted to newer religions, such as Christianity or Islam, while retaining their ancient beliefs.

The Iyzidis believe in one God—the God who is without companions—whom they address by the Kurdish name *Khuda* and worship as the first cause and prime source of the universe. The task of creation and the establishment of plant and animal life on Earth were assigned to seven angels who are active in the world affairs. These are: Ezrail, Cibrail, Mikail, Dirdail, Simkail, Azazil, and Esrafil. Cibrail was considered the most powerful by most; however, some believe that Azazil was superior. God himself created man. The Iyzidis employ the title *Malek Taus*, or the Peacock Angel, and use a representation of the peacock as the emblem of their faith.

Fasting requirements in this religion are limited to three days. Prayers are required only on certain occasions, but Iyzidis typically pray three times per day—at sunrise, noon, and sunset. They face the sun each time they pray. Prayers are given individually, except on special days when they

15. Four massive coordinated explosions decimated four peaceful villages.

gather in Lalish¹⁶ or in temples in their villages. During their prayers, Iyzidis bless the Sun because it spreads light.

The Iyzidi religion incorporates the universal principles of ethics and morality—right and wrong, justice, truth, loyalty, mercy, and love. The Day of Judgment, when the Iyzidis will be rewarded for their trust in Malek Taus, is quite remote; meanwhile, souls live on through transmigration. Evil is recognized as a fact of life; it is not considered the work of any supernatural being. Good and evil are believed to be equally important and fundamental to the creation and continuation of the material world. Good would cease to exist if evil ceased to balance its existence. “Knowledge” and “awareness” in man exist only because good and evil exist in equal force to be used as points of reference by man to comprehend and balance his being. The story of Adam and Eve is part of the Iyzidi tradition. But far from encouraging Adam’s fall, the angel is shown as a provider of practical advice on the biological function of the body.

To explain the originality and natural roots of the religion, some basic myths should be interpreted. The myth that expresses the Iyzidi system of faith and philosophy in a more extended and detailed way is the myth of creation. The importance of the sun and the moon, main elements of the universe, seven days of a week, the value of mankind, and divine beings are all hidden in this myth.

Iyzidis have some direct approaches to nature and obtain significant symbolism from nature. They believe that humans have the duty to repair plants and cultivate the world that *Azda* (God) entrusted to them. Respecting nature and protecting the environment are important values in Iyzidism. The sun, fire, water, air, and moon are sacred elements. Iyzidi tradition links holy beings with these elements. The original purpose for a number of taboos may have been to protect the elements from pollution. For instance, it is forbidden to beat or spit on the earth, to spit into water or fire, to drink water in such a way that it makes a gurgling noise, or to throw impure matter into fire.

Fire has a very special role in Iyzidi tradition. Iyzidis light pitch pine candles in Lalish on Wednesdays. On that day, in sheykhs’ and pîrs’ homes, the fire is set as an old custom. This custom came to Mesopotamia before Zoroastrianism.

There are some animals that have special meanings in Iyzidi mythology. The picture of these animals can be seen on the walls of Shikhadi Shrine and some other temples in Lalish. The cock, the peacock, the bull, and the snake are considered to be the most important animals to Iyzidis. It is believed that the cock gives the good news of sunrise and resembles Me-

16. Lalish is a sacred site in northern Ninewa Province. It is the location of a unique temple where the leader of the faith resides.

lekê Tawûs. The peacock represents Melekê Tawûs, and, thus, it is sacred. The Iyzidis sacrifice a bull in the fall feast of the Assembly (Jema) for humanity, brotherhood, and a world without wars and murders. With this sacrificing, people hope the new year is to be rainy, snowy, and full of plants and trees. In Iyzidism, the black snake is sacred and represents good men and wisdom. It is believed that the veneration and respect of these animals by the Iyzidis comes from the influence of Mithraism on the faith, or it could be the other way round. Mithras sacrificed a bull and used its meat for souls to be immortal. The snake in Mithraism represents the orbit of the sun and the moon.

Iyzidis also maintain that every man and woman from their community must possess the following qualities:

- *Rasti* (truth): Every Iyzidi should be truthful and should protect him or herself from lies. He or she should stand by his or her word and decision and should always see the truth, say the truth, and defend the truth
- *Nasin* (knowledge): This implies that every Iyzidi should know him or herself, his or her environment, and should have a strong and positively motivated belief
- *Shermi* (shame): This is designed to help people stay away from wrongdoing. A person who has the sense of shame and shyness will never do anything that could later be discredited

The founder of the religion is unknown, but the great prophet of Iyzidism, who links faith and reality with the last 800 years of recorded history, is Sheikh Adi. His tomb is located in Lalish, north of Iraq, and is the most sacred shrine for the Iyzidis. Sheikh Adi is the most important avatar of the Universal Spirit of the epochs following the first epoch. Adi's role in Iyzidism is similar to those played by Sahak in Yarsanism and Ali in Alevism.

Like other branches of the Cult of Angels, Iyzidism lacks a holy book of divine origin. However, Iyzidis have two sacred books: the *Kitab el-Jelwa* (the book of Revelation), and the most sacred book in the Yezidi religion, the *Meshef Resh* (Kurdish words meaning "The Black Book"). The *Meshef Resh* contains the Iyzidi account of the creation of the world, the origin of man, and the story of Adam and Eve. The authors of these books are not known, and it is an ongoing debate whether these books are scripture or orally based texts. These books can be found in written form and are also recited like other texts. However, the *Meshef Resh* has been credited to Shaykh Hasa ibn Adi, who was born around AD 1195, and the *Jilwa* "Revelation" is ascribed to Shaykh Adi himself.

The sacred triangle in Iyzidism is Iyzid (Ezid), Tawus Malek, and Sheikh Adi. Iyzid is one of the names of God. As far as Tawus Malek is concerned, he is the head of the angels and is identified as Azazil. Accord-

ing to the Yezidi belief, Sheik Adi worked miracles and carried secrets from Tawus Malek and God.

One important aspect of the Iyzidi society is the oral character of the transmission of faith and traditions. Most points in Iyzidism are hidden in their orally based texts and prayers. The oral character of transmission has brought a nonliteral understanding of the religion. Iyzidism is an original religion that maintains that every religion reflects a truth. Therefore, everyone should respect their own religion and should be free to exercise their own beliefs. According to the Iyzidis, a person who does not respect his own religion will never respect other religions. It is for this reason that the Iyzidis do not accept converts from other religions and have no missionary intentions to bring new followers into the faith. The Iyzidis respect all religions and expect the same from the others.

The great staging points of human life are solemnized in Iyzidi families with the blend of tribal customs and religious code. At birth, an infant is baptized by the sheikh and the *pîr* using water from the White Fountain at Lalish. Male circumcision is an important rite in the Iyzidi religion. Another relationship limited to Iyzidis is established at puberty when the bride and bridegroom select a “brother/sister of the hereafter” from a family of sheikhs. Marriage has customarily been arranged by the parents of the bride and groom. Traditionally, Iyzidis have not been permitted to marry outside of their faith. Although the religion permits men to have more than one wife, this practice is uncommon. Divorce is permitted, but is very rare.

There are official festivals in the Iyzidi religious year, which begins on the first Wednesday in April in the Seleucid calendar (mid-April by the Gregorian calendar). The feast of Sarisal (the New Year) is celebrated in every village where Iyzidis live. The second feast, celebrated only at Lalish, lasts for three days—from the evening of July 18 to the morning of July 21 (Seleucid). It is called the Feast of Forty Days. The principle feast of the year is the seven-day Feast of the Assembly (*Jami Mazen*), held at Lalish. The feast lasts from the evening of September 23 to the morning of September 30. It coincides with the great ancient feast of Mithrakan (Zoroastrian Mithragan), customarily held around the middle of October. Ancient Mithrakan celebrated the act of world creation by the sun god Mithras. After killing the bull of heaven, Mithras used its dismembered body to create the material world. On the occasion of the feast of Lalish, riding men pretend to capture a bull with which they then circumambulate the Lalish shrine of Shams al-Din (the “Sun of Faith”), before sacrificing the bull and distributing its flesh to the pilgrims. The fourth official festival in the Iyzidi calendar is preceded by three days of general fasting. It occurs on the first Friday in December (Seleucide). This is called for the birth of Iyzid (Yezid) and coincides, within a few days discrepancy, with the birth and emergence of the god Mithras on December 25.

Finally, although Iyzidis are a small group with a religion opposing the other religions present in the Middle East in many aspects, they have survived until now mainly because of the shelter provided by the mountains, which they use to defend themselves from attacks. Iyzidis usually prefer mountainous places to live and to build their shrines and temples. The natural environment provides them with a unique defense mechanism. Iyzidis have arranged their relationships with the others in such a way that they could protect their faith from other religions and minimize the hatred against them. As mentioned above, the Iyzidis always followed a peaceful attitude toward others and respected all the other religions. They adopted some special festivals and ceremonies from other religions into their traditions. Iyzidis have a prohibition against marrying members of other religions and also avoid entering other religious temples. Iyzidis have developed a special relationship with other communities in the region, especially Muslim Kurds, which provides a far reaching and life-long obligation of mutual assistance and support.

The Yazidi men of faith wear a red turban to distinguish themselves from other faiths. While the term *Yazidism* probably comes from the Persian word *īzed*, or “angel,” the name *Yazidism* is also connected to the sixth caliph, Yazid (AD 680–683). From the Shi’a point of view, Yazid is one of the most hated men in history because he chose to murder the grandson of Muhammad, Al-Husayan. This event contributed greatly to the split between the Sunni and Shi’a. Due to the brutal rule of Yazid and the Umayyad dynasty, many Sunnis have an unfavorable opinion of Yazidi as well. There is little evidence to show what, if any, role Yazid may have played in the founding or development of Yazidism; however, fanatical Muslims believe that this is a faith dedicated to the worship of Satan. The reason for the Yazidi reputation as devil worshipers is connected to another name, Shaytan, which Muslims associate with Malek Taus. Shaytan is also the name used in the Quran for Satan. There is little evidence to suggest the Yazidis worship Malek Taus as if he were the devil of the Quran or the Bible. Muslims have never regarded the Yazidis as Ahlul-Kitab, or people of the book. However, as a result of this impression, these peaceful and respectful people have suffered much hardship from a few of their Muslim neighbors.

III. ROLE OF THE UNITED NATIONS IN NINEWA

Many people have asked about the role of the United Nations in Ninewa. In short, there was no role. I have included a short discussion of the three primary contacts that I had with representatives of the UN while I served in Mosul. The UN had a greatly reduced footprint in Iraq in general after August 19, 2003, at 4:40 p.m. local time, when a suicide bomber

rammed a VBIED into the courtyard of the Canal Hotel and detonated a huge bomb right under the second story office window of Sergio Viera de Mello, the UN Special Envoy. This was the Baghdad-based headquarters of the United Nations, and the bomb killed or wounded most of the senior UN leadership. Two months later, coordinated attacks in Baghdad made it clear that the strategy of the terrorists had changed. Iraq was to become a battlefield to carry out the agenda of the fanatics who wished to enslave the people of Iraq. At dawn on October 26, 2003, twenty-nine antitank rockets were fired into the Al Rasheed Hotel, where Deputy Secretary of Defense Paul Wolfowitz was staying. The devastation was enormous. The next day, the first day of the holy month of Ramadan, within two hours, five coordinated attacks were conducted, four at police stations and one at the headquarters of the International Red Cross, or Red Crescent in Muslim countries. Later that afternoon, a massive bomb detonated in the center of Baghdad. The attacks on these large international institutions with only humanitarian purposes in Iraq essentially resulted in a withdrawal by both institutions.

Anna Prouse¹⁷ traveled to Iraq as an Italian volunteer for the International Red Cross. She subsequently served in many capacities. I worked briefly with Anna when she came to Mosul as an advisor to the new Iraqi Ministry of Displacement and Migration (MODM), which was set up to study and assist what would usually be called “refugees” who were displaced by sectarian brutality in other locations, such as Baghdad and Basra. Because these poor people were brutalized, robbed, displaced by force from their homes, and often attacked in their own communities, the survivors headed north to the Sunni-majority provinces. Similarly, Christians and Jews also sought out the relative safety of the communities in Ninewa, which absorbed the new arrivals. The resources of these small communities were incredibly strained, but space was somehow made available. Shi’a were also abused and driven from their homes, but smaller numbers were found relocating to Ninewa. They tended to move toward Shi’a neighborhoods in Baghdad, such as Sadr City or to the south toward Basra. The central government simply had no concept of the number of people displaced in Iraq and no reasonable idea of how to safely restore them to their homes and property. Because these people did not leave Iraq, they were not technically considered refugees, merely internally displaced persons. The MODM was created to gather data on the problem and to communicate directly with the provincial officials who were dealing with the displaced persons. It was my pleasure to introduce Anna to the Iraqi colleagues with whom my team

17. For more detail about life in Baghdad and the resulting conditions and developments, please read ANNA PROUSE, *TWO BIRTHDAYS IN BAGHDAD: FINDING THE HEART OF IRAQ* (2005).

and I had worked. When I left Mosul, Anna was serving as the Team Leader for the Italian Provincial Reconstruction Team in Dhi Qar Province.

Eventually, the MODM created local offices that employed local Iraqis to distribute funds and food coupons to the displaced people. Despite the humanitarian purposes of these offices, our local MODM office was linked to terrorist financing. I had an opportunity to discuss with the head of the local office how his computer system had been abused by his staff to divert funds intended to benefit displaced persons into the hands of terrorists. Some of his staff had been arrested and the computers and cash had been seized from the office.

Intelligence analysts confirmed that the computer had been used to communicate directly with financiers for the local terrorists. I volunteered to return the computer to the office manager at a neutral site because my colleague feared adverse consequences should the Coalition forces return to his office. The man was either sympathetic to the terrorists or a true believer in the integrity of his staff because he challenged the findings of the investigation conducted by a specialized unit of computer experts. He explained in detail the checks and balances put in place to assure that the government money could only be distributed to appropriate residents who had been confirmed as displaced from their home community by government representatives, a confirmation that was subsequently authenticated and authorized by the ministry in Baghdad. He did have to agree with me that two possibilities existed: (1) the entire process had been corrupted, or (2) nongovernmental money had been laundered through the accounts of the ministries. Either way I assured him that his staff knew with whom they were dealing and would not be soon released from custody. He thanked me for returning the computer, despite the fact that the outer cover was missing, because it was part of the official inventory of the office for which he was responsible. I have often wondered if the procedures in that office changed after our conversation.

The UN representatives after the Baghdad blast of August 2003 had to operate within a war zone with one overarching requirement: do not get killed or injured. The problem comes with the definition of standards of safety. For example, co-locating an office for the UN within our PRT compound at FOB Marez was considered too dangerous. Therefore, the nearest presence of the UN was a fortified compound in Erbil. Although State Department rules did not authorize what I am about to admit, when I found myself in Erbil, I felt as safe and at home as I would have in a typical American city. There were random acts of violence, but terrorists were not free to conduct business in the community, and it was very rare that VBIEDs detonated in the KRG. In Erbil, wearing body armor and traveling with security details just did not fit the circumstances. However, such conduct did attract all sorts of negative attention. Whenever I could, I found a

way to avoid these restrictive conditions. As a result, I saw historic sites, such as the Citadel in the center of Erbil.

The Kurds claim that the Citadel is the oldest continuously occupied city in the history of the planet. Despite relocating a number of its inhabitants to make way for archeological study, people still live in this ancient and rather primitive structure. A French team of archeologists, using sonar technology, estimates that the mesa in the center of the river valley is actually more than forty civilizations, built one upon the next. I was able to walk the abandoned streets of a portion of this community that were set aside for study and was reminded of the ruins of Mesa Verde in southwest Colorado. A visit to a fabric museum and incredible shops, which were still operating at the very highest point in the Citadel, overlooking the new shopping mall, provided stark contrasts that my State Department brethren could never experience.

A colleague and I were invited to the home of a respected research scientist from the local university for a typical Kurdish dinner. We could not take an armored escort to their home, and our host could not exactly pick us up in front of the State Department compound. We arranged a clandestine meeting, similar to those you see on television. Our fellow conspirator, in an armored Suburban, dropped us at an intersection of two major highways under a street lamp. We were to wait for a Nissan Pajero to approach, flash its lights, and pull over. Our back-up plan, if nobody came, was to walk back to the compound in the dark; neither of us was certain of the way. About five minutes later, our host arrived and apologized for his delay.

Traffic was much worse than usual. I could not help but marvel at this experience as we drove. Two Americans in the Kurdish region were riding with an Iraqi Kurd in a Japanese truck bearing a Spanish name. I asked our host if the name had any significance. It did not. Our host unaware that "*pájero*" is Spanish for bird. About every third car we saw had a Ford Mustang emblem on it even if it was not a Ford. The Kurds love horses, and the emblem had significance other than brand loyalty. The dinner that evening was remarkable. We heard the dreams of well educated and professional Kurds who had made a career in the world of science and education in Britain and the United States. We learned why they had abandoned that safe life to return to help their people. We spoke with children who were world travelers and well adjusted to life changes at tender ages. One daughter learned to speak English and French by watching children's television programs. The meal of typically Kurdish dishes was expertly prepared, stunning in presentation, and another of my fond memories of Iraq.

Contrast this experience with what the UN personnel had to deal with in Erbil. They lived in a fortified and well-guarded compound at the edge of town. Travel was not allowed outside of this compound without body armor and armed escorts, usually traveling in armored Land Rovers. On the rare occasions when they desired to visit Mosul, travel had to be arranged by

either air assets or one of our armored convoys. They would not take their lightly armored vehicles into Ninewa. Yet, this staff was to monitor and report on the status of human rights issues, particularly as they related to the operation of Badoush Prison, southwest of FOB Marez. Simply stated, the UN staff could not even get to the prison to conduct inspections or visits.

A. BADOUSH PRISON

The Department of Justice had International Criminal Investigative Training Assistance Program (ICITAP) advisors assigned on a permanent basis inside of the prison to ensure the prison operated effectively and the basic rights of the prisoners were protected. Substantial efforts had been undertaken to ensure that any high-value prisoner either remained in the prison or was transferred to a facility with a greater degree of security, such as those prisons operating in the KRG. Despite the best efforts of all those concerned, prisoners still escaped. Often a convoy headed to the hospital with an apparently sick prisoner or headed to a criminal court with prisoners was attacked en route, and the prisoners were freed. Many times the attack was delayed until the prisoner was actually delivered to the hospital where security provisions were not as well staffed. But on one occasion, what had been established as Iranian Special Units attacked the Badoush Prison and released more than sixty prisoners, including a nephew of Saddam Hussein, without firing a single shot. Departing Badoush, the terrorist convoy of Suburbans and pickup trucks turned east toward Iran, not west toward Syria.

Colonel Ra'ad, who ran the prison, eventually was arrested and placed within his own institution. Ra'ad's conduct became so brazen that it was impossible to excuse his corruption and to ignore the extent of the influence exerted upon him. However, the Ministry of Justice, which ran the prisons, was reluctant to appoint a strong administrator. Finally, a Kurd with substantial credentials for running difficult corrections institutions was transferred in to run the facility at the insistence of the ICITAP.

Despite the best efforts of our advisors, operations within the prison were terribly difficult to monitor. One shakedown of the cells resulted in the removal of 500 truckloads of contraband articles, including weapons and communications devices, which allowed the terrorist leaders inside Badoush to continue to command forces outside the prison. The worst of the terrorists, the Wahhabi imams from Saudi Arabia, essentially controlled the prison and rearranged the cellblocks to facilitate the Wahhabi control and security. Even the prison guards feared or respected the Wahhabis. During the shake down of the cells described above, Chuck Ryan from the ICITAP first controlled the leader of the Wahhabis and then relocated his followers to a lock-down facility away from the cellblocks. This man was so powerful within the prison that he had disabled the locks on the cells and had created

a separate wing for the Wahhabis where they had their own cooks, servants, and a kitchen. He had established a message courier system to the outside through links with local Iraqis who baked bread for the prison. It was readily apparent that the Wahhabis had to be transferred to a high-security prison. The only available high-security prisons were in the KRG, and movement by ground of such a large contingent of really dangerous prisoners was impossible.

To move these Wahhabis, the ICITAP brought in two Chinook helicopters with Peshmerga Special Forces correction officers, who tolerate no insolence from any prisoner. The Wahhabis have a well-deserved reputation for taking vengeance upon even the families of those who inconvenience them. As a matter of security for the Peshmerga members and their families, the Wahhabis were ordered to keep their heads down and to not look at the faces of the guards. The best defense for the Peshmerga was to deny any opportunity for identification. The Wahhabis were individually manacled, chained together, and were led out of the prison, single file, to the waiting Chinooks through a cordon of guards, Peshmerga on one side and Iraqi corrections officers on the other.

All went well until the last prisoner stepped into the cordon. This was the leader of the Wahhabis, a physically large, strong, and proud man, defiant toward the guards and particularly outraged that he was about to be delivered to the Kurds. Rather than follow the clear directions, with his first step into the cordon he glared directly into the face of the initial Peshmerga he encountered. Warned to lower his eyes, he glared at the next. Peshmerga are not known for giving a second warning. For his insolence and before the ICITAP advisors could intervene, the imam received a modest encouragement to comply with the reasonable instructions from a Peshmerga corrections officer in the form of a friendly butt stroke from an AK-47 to the back of his head, accompanied with a leg sweep, which introduced his face to the tough Iraqi soil. The carefully moderated stroke was intended to insure compliance but not to achieve unconsciousness, as that would have required carrying the big Wahhabi to the waiting chopper. However, the introduction to the Iraqi dirt was all it took, and the fight was on, but not with the Wahhabi, who wisely remained prone during most of the conflict. The Iraqi corrections officers took exception to the treatment of the imam at the hands of the Peshmerga and engaged with their weapons. At least one shot discharged inside the sally port while the ICITAP advisors and Peshmerga sought to control and disarm their Iraqi colleagues. Such is the reality of life within the walls of Badoush. Eventually, to maintain security at this facility, elements of the 2nd Iraqi Army and a platoon of our military police had to be stationed just outside the perimeter to insure that no further attacks or escapes occurred.

In this context I was required to periodically communicate with a UN representative who only heard complaints from unhappy family members

who found it difficult or inconvenient to visit prisoners. During major security issues, including shakedowns and the relocation of troublesome prisoners, visitation rights were suspended. The security situation was simply too fragile to allow another variable to be introduced. In addition, travel from Marez became far more dangerous when IEDs were planted in the roadway with vertical posthole diggers, huge IEDs were buried in culverts under the roadway, suicide-car bombers targeted convoys, and massive bombs were planted under bridges. Simply stated, routine visits to Badoush became too dangerous to perform by ground. Visits were limited to times when we could hitch a ride on Blackhawks headed that way.

The UN representative had been terribly critical of all of the prisons operated by the Iraqis, essentially asserting that basic human rights required the treatment of prisoners by the same standards employed in European or U.S. prisons. The best Iraq had to offer was never good enough. Even the Iraqi human rights representatives from Ninewa did not expect the enforcement of such standards. I found the young Iraqi attorney with whom I shared notes about the status of jails and prisons far more tolerant than I was. He found positive things to report while diplomatically suggesting areas for improvement. No sense of moderation or an ability to calibrate progress was ever encountered with the UN representative, who was universally negative, critical, and strident. She never understood her constant harping was counterproductive. At the very least, in order not to destroy our good working relationship with the prison staff, we simply could never escort the UN delegation for fear that we would be held accountable for the consequences of her negative reviews. Due to the lack of available movement assists and the typically short notice she provided, we could not comply with our mandatory scheduling requirements regarding movement requests. The immediate impact on the UN representative was that she simply could never visit the prison facilities.

However, the lack of direct access did not stop her critical reports. For example, she read a rumor reported in a Kurdish newspaper that as many as a dozen Shi'a prisoners had been released from Badoush and were required to return to Baghdad without escort. Such a consequence could have meant certain death if Al-Qaeda or Wahhabi foreign fighters had found them. The rumor alleged that all twelve had been found shot execution style in a ditch. I was directed to research this claim and report to her. The PRT Team Leader was not amused when I shared with him the instructions I had received. I was reminded that I did not work for or report to the UN. Rather than ignore her, it was agreed that I should look into the rumor and seek to confirm or deny it.

My first effort was to speak with the ICITAP advisors at Badoush to determine what their procedures were regarding releasing Shi'a prisoners and whether twelve Shi'a prisoners had been released at one time. Immediately they knew that my call related to the falsely published account. They

correctly pointed out that the Shi'a prisoners essentially looked exactly the same as the Sunni prisoners. They had not ever released twelve prisoners at one time. Further, they were aware of the risks regarding travel by people from outside of the area, particularly if they had no money and no method to move to their home province. In fact, due to these risks, the advisers continued to hold prisoners after they had become eligible for release, with the blessing of the prisoners and their families, until travel to Baghdad or another destination could be arranged. The ICITAP advisers actually expected a negative comment on their inability to transport prisoners and were surprised that they were being accused of neglect in allowing timely releases.

Next, I spoke with our intelligence officers to see if they were aware of a report of twelve bodies that appeared to have been executed. There were no reports of anything remotely matching the newspaper's account. I consulted Major General Wathiq, the Provincial Director of Police (PDOP). He had not heard of the discovery of dead Shi'a prisoners who were released from Badoush, and he wondered how anyone would know that they were either Shi'a or that they had been released from Badoush. I received a similar reaction from General Moutaa of the 2nd Division of the Iraqi Army. In short, all of the most reliable sources available to me confirmed that the rumor was false. I even checked with my human rights colleague from Mosul. Although he heard many rumors and received many complaints from citizens, he had heard nothing about such a discovery. Simply put, there was no truth to the rumor.

The UN representative did not receive my report well. In fact, she continued for months to accuse me of participating in a cover up. She continued to direct me to get to the bottom of the charge. Despite my objective, thorough, and verifiable report, I was advised that the UN representative continued to present objectively false, baseless, and increasingly strident reports of this event, along with other equally baseless rumors as proof of endemic human rights violations at Badoush. She eventually lost all credibility.

Sadly, Badoush was immaculate as compared to the two provincial jails run by the local PDOP by default. Iraqi law required the Ministry of Justice to run all prisons, while the Ministry of the Interior was responsible for the national and provincial police as well as the local jails. In an effort to consolidate all corrections officers under one command, the Parliament directed the Ministry of the Interior to deliver control of the jails to the Ministry of Justice. However, no budget increase for the Ministry of Justice to accommodate this extra duty was provided, and the Ministry of the Interior was not required to transfer any funds. The reality was that the PDOP was left to run the jails at One West and Trans Jail. All funding requests to improve the terrible overcrowding and poor living and medical conditions directed to the Ministry of the Interior were ignored.

Trans Jail was actually an abandoned “L” shaped elementary school that had been pressed into service as a jail. The location of Trans Jail had no utility or tactical advantage and was essentially indefensible. The Ministry of Education demanded its return. Two terrorists’ VBIED attacks on the facility resolved this conflict in ownership versus use. The terrorists apparently reasoned that if they knocked the walls down, the prisoners could escape—structural engineers they were not. The walls held up huge concrete beams and slabs that were the floors for the second story of the building. If the walls were displaced far enough, the beams above would act like a zipper and the slabs would crush the prisoners below. Few would survive such an attack. I took photos of the displaced beams and the cracks in the wall through which daylight could be seen. The building was found to be unsafe for children but fine to continue to hold terrorists. The jail reasonably might be expected to house 200 to 300 prisoners, but it was routinely required to hold over 750. Often, there was not enough space on the floor for all of the prisoners to lie down. Many were required to stand around the perimeter of the room or in showers while others slept.

The jail at One West was in similar shape. The facility was better structurally, but it was very small. It was used to hold prisoners during the investigative phase of a criminal proceeding. After a case was referred for trial, the prisoner was required to be moved to Trans Jail, where he would remain until he was either released or moved to a prison. One West might hold 90 to 120 prisoners comfortably, but it was often required to hold 450. Sleep space was at a premium. The food in both jails was excellent, and prisoners never complained. Both jails had problems with scabies; however, the UN representative was never interested in inspecting either of these facilities.

B. MAKHMUR REFUGEE CAMP

The United Nations High Commission on Human Rights operated the Makhmur Camp for more than twenty years before hostilities began in Iraq in 2003. The camp is located within Ninewa Province, south and east of Mosul, but very close to the border with Erbil Province in the KRG. The Ninewa Provincial Council provided nothing to benefit this population. The KRG contributed the only support other than that provided by the UN. The camp was much closer to centers of employment and commerce in the relatively more peaceful and prosperous Erbil than any location within Ninewa. Culturally, the Makhmur refugees have much more in common with the Kurds of the KRG than the Arabs of Ninewa. This is one of the few places in Iraq where they were safe and more or less at home.

The refugees living in this camp were supposed to be Turkish-speaking Kurds who had fled the violence in southeastern Turkey twenty-five years before. According to their spokespersons, Turkey had waged a

war of genocide, driving the Kurds from their ancestral homes and relocating more peaceable citizens onto the vacant land. The Kurds in Makhmur had no home, could not return to Turkey, and were not accepted as Iraqis. They lived in this camp provided by the UN and protected by the KRG with no plan for the future.

Dr. James Knight, the Ninewa PRT Team Leader, described this camp as one of the worst he had ever seen. I visited the camp in June 2007, and I have never seen another refugee camp. With no basis for comparison, several things I noticed amazed me. The residents had formed a government to run the camp and to hold the residents accountable. They also routinely presented lists of demands for necessary improvements to the UN representatives in order to improve the quality of life in the camp. This council had regular meetings, and the residents universally supported a very democratic form of government. There were no military-aged males living in the camp, despite the presence of young women with babies. The conflict that generated the need for the refugee camp ended more than twenty-five years earlier, yet the population of the camp continued to rise as more refugees arrived and reported as residents. The children followed us everywhere and were incredibly happy and playful, despite their very limited possessions. The camp had paved roadways and alleys, but the sewer system was composed of well-constructed ditches that flowed downhill and out of the camp. Electric power was provided, but the water system depended on a water tower perched precariously on a hill directly above the camp. The lower portion of the tank appeared to be rusted and in very poor condition. The structure holding the tank off the ground to generate water pressure appeared to be failing as the tank leaned significantly downhill and toward the residences. It certainly appeared to be a hazard worthy of immediate consideration.

There were no external security features around the camp in the form of a fence or wall. For years there was nothing but a dirt berm with some sort of a trench in front of it that had been bulldozed around three sides of the camp as a defensive effort to prevent car bombs or IEDs from attacking the camp. My team and I saw two signs advertising Internet access in small business establishments within the compound. A large common room had become a "Women's Center" where older women were helping younger women and girls learn the finer points of their culture. Specifically, it appeared that this area was being used to manufacture items of clothing and trinkets for sale. However, activities such as cooking, sewing, personal care, and other forms of education were also visible. In short, this small community appeared to be vibrant, very motivated, and working toward self-sufficiency with reasonable diligence despite significant obstacles.

All of these observations presented significant challenges for the UN representatives. The rules imposed on the residents of the camp prohibited any of the residents from seeking employment outside of the camp and also

prohibited any type of commerce within the camp. The residents were supposed to stay in the camp and could not come and go as they pleased. The camp director had actually gone to some great effort to obtain identification papers from the KRG that allowed the young men to seek work, students to travel to universities in the KRG, and residents to travel to Erbil for shopping trips or medical needs. A sign-in procedure had been created that allowed workers to be absent from the compound for extended periods and then report in when they returned from their jobs at remote locations within the KRG. The KRG had provided scholarships to some of the best students coming from the basic education centers within the camp. The evidence of a thriving community seeking self-determination and sustainability was exactly the opposite of what the UN wanted for the camp. Simply stated, the United Nations High Commission on Human Rights had determined that it was time to close the Makhmur Camp, and June 2007 was when the ultimatum would be delivered. The camp was never intended to flourish. Rather, it was supposed to expire as the occupants aged. It was not acceptable to the UN for the camp to become a village. I was present during these exchanges.

Turkey objected to the very existence of this camp and demanded that the camp be dismantled, stone by stone, and the people disbursed. Turkey contended the absence of military-aged males, but the presence of their wives and children was proof that this camp was in fact a rest and recuperation center for the PKK terrorists who continued to strike targets in south-east Turkey. The lack of any meaningful security system around the camp would allow fighters to come and go undetected. The residents of the camp were openly hostile to the government of Turkey, which Turkey claimed contributed to the instability of the Kurdish population still living within the borders of Turkey. The “work and travel” program, which allowed free movement from the camp, provided the perfect cover for the PKK terrorists and was inconsistent with the original edicts that the residents live on welfare and never leave the camp. Turkey demanded that the UN either disburse the residents of the camp throughout Iraq, not allowing them to live together in large groups, or require the refugees to return to Turkey. However, Turkey would provide no immunity from criminal prosecution for terrorist acts to any of those who voluntarily returned to Turkey and no remuneration would be provided for lost property and possessions. It was a very clear message that Turkey did not want the refugees back. It was also clear that Turkey wanted the PKK destroyed or disbanded.

After the UN representatives made their best presentation for the reasons they had adopted the demands of Turkey, they essentially asked the leaders of the camp which option they would be willing to select because the UN was going to close the camp. The camp leaders were incredibly well prepared, patient, and persuasive. They pointed out that Turkey had made no meaningful offer for the residents to return. The residents were certain that criminal cases would be filed against all who applied to return, and

there was no economic incentive to assist their return. The residents had a home and were in the process of creating a good life in the camp, and they would not leave to become homeless, jobless, and, once again, subject to abuse from Turkey. The camp leaders then focused on the prospect of disbursing Turkish-speaking Kurds into small groups of less than 500 people anywhere in the Arabic portions of Iraq. They would never be assimilated into the local culture, and every reason existed to believe that they would be the targets of bitter aggression and extermination. The only possibility was to relocate the Kurdish citizens into the KRG, essentially moving the population closer to the border with Turkey. The leadership of the KRG had balked at such a proposal because it would likely generate more conflict with Turkey over the acts of the PKK terrorists. Very politely, the leadership declined both alternatives.

To my delight, the spokesperson for the camp leaders proposed a third alternative that previously was not considered. The leader asked that the member countries of the United Nations High Commission on Human Rights relocate the residents of the camp to their home countries. These were primarily European countries, including France, England, Germany, and Belgium. The residents of the camp would agree to move in small groups to neutral countries if the host countries provided basic living conditions and opportunities, and if the refugees had a reasonable opportunity to flourish. This alternative stopped the UN representatives cold. The UN clearly had no authority to agree to such terms and had no leverage to force Turkey to soften its position.

Although I was neither called upon to express the position of the United States nor had I been briefed on an official position, it was not hard to see where the lines were drawn. Turkey is a NATO ally with a large army, not only on the border with Iraq but in some locations actually within Iraq. The violent acts of the PKK within Turkey are a legitimate concern. The United States has condemned the PKK as an illegitimate terrorist organization. In an attempt to address the concerns of Turkey, elements of our forces in the area had placed a cordon around Makhmur and searched the compound for any evidence of military weapons or stores. Nothing was found. However, the absence of weapons in the camp does not prove that these families are not supportive of the "freedom fighters," who are openly revered by the young boys living in Makhmur. The residents of the camp do not agree that the PKK are terrorists. Rather, the camp residents see the PKK acts as armed resistance to an oppressive government. The Makhmur Refugee Camp is, most of all, a United Nations problem, and the United States most certainly would not seek to influence its future. Therefore, my team and I sat quietly and waited.

When it was clear that the UN representatives could not respond to the new proposal involving the distribution of refugees outside of the Middle East, the leadership of the camp presented their list of requirements. First

on the list was addressing the deteriorating water tank, which appeared to be poised to destroy the camp. When it was time for us to depart, the UN representatives had considered cost estimates, engineering proposals, and site studies, all of which were well prepared by the local government. They were in the process of considering a rather lengthy agenda of items presented by the governing council. Control of the meeting was firmly in the hands of the leaders of the refugee camp, and I was confident that democracy had taken root. When I left Mosul ten months later, the camp had not closed and the political dance had not been resolved.

C. MUJAHEDIN-E KHALQ ORGANIZATION (MKO), ALSO KNOWN AS THE PEOPLE'S MUJHAHEDIN ORGANIZATION OF IRAN (PMOI)

Known in Iraq as the Khalq, little has been reported about them in the United States. The Khalq is a military unit placed on a list of terrorist organizations by the United States. My contact with members of this organization came about only due to the actions of the same representatives of the United Nations High Commission on Human Rights mentioned above. To understand the situation, it is necessary to address the history of the Khalq.

Iranian university students who wanted a new democratic government—one that respected human rights—formed the organization in 1965. The secret police of the Shah of Iran suppressed the group. However, after the Shah was driven from power and the regime of Khomeini was not responsive to their ideas, the Khalq joined forces with Saddam Hussein in the war between Iraq and Iran. Saddam encouraged the Khalq, providing them with bases in Iraq and a large arsenal of heavy weapons, including tanks. When the Iraq-Iran war ended, the Khalq had to return to Iraq in the face of continuing attacks by the pro-Khomeini army. The Khalq is unique in that it is a Muslim organization dedicated to countering the fundamentalist influence on the Muslim faith. The Khalq encourage a modern interpretation of Islam and propose the formation of a democratic state in Iran where women are not considered to be second-class humans. In fact, many of the *mujahedin* (“freedom fighters” in Farsi) are women. The leaders of the combatants also are primarily women. The political leaders, who are mostly men, somehow have been able to relocate to European countries where they lobby for immigrant status for their people. Many of the women have taken a vow of celibacy because they do not want to raise children in captivity. Approximately 3400 of the Khalq live in Camp Ashraf, which is about 100 kilometers northeast of Baghdad. After the war with Iran, Saddam allowed the Khalq to maintain their heavy weapons and camps and encouraged them to disrupt operations in Iran.

In 2003, when the Coalition forces entered Iraq and were driving toward Baghdad, the Khalq mobilized their armor columns and moved directly toward our advancing units. Recall that the armor once was Sad-

dam's, so it looked exactly like it was his. The Khalq commanders claimed after the fact that they wished to join the Coalition and to offer their services, but they simply did not know how to communicate with our troops. The advancing armor column appeared hostile and between one-third and one-half of the battle strength was destroyed by air assaults before they could even surrender. The units were disarmed, at least of the heavy weapons, and returned to Ashraf, where they remain today under the protection of the Multi-National Forces. They are Iranian and are generally not welcome in Iraq. They are a professional military unit that has actively challenged not only the political authority but also the religious authority of the mullahs who control Iran. Without question most, if not all, who returned to Iran would be killed. Many second generation young women between the ages of late teens and early thirties continue the opposition to the Tehran regime due to the atrocities committed upon their families by the regime of Khomeini and the other mullahs who followed him. However, they are clearly too young to have been active participants in the actual terrorist activities.

The Khalq are also the largest and most vocal antifundamentalist Muslim group in the Middle East. However, they are not a free people. They live in Camp Ashraf, but they cannot travel far from the camp, hence the reference to captivity by the young women who serve as leaders. Their identification cards are old and establish that they are Iranian, usually a sign of trouble in Iraq, particularly in the Sunni areas. The designation as members of a terrorist organization prevents international travel or any hope of an ability to establish a new life in an independent country. The UN has tried on a number of occasions to obtain visas and waivers to allow them to leave Iraq, but no country has agreed to accept any of the Khalq.

In late 2007, I received a call at the PRT requesting assistance from the UN representatives in Erbil. I was asked to learn if there were any Khalq members in police custody in Mosul. The UN told me that they had lost track of a few, maybe three or four, who were traveling in Ninewa and headed to the KRG. The initial concern was that if Iranians were discovered and the local police reported the arrest to the Ministry of the Interior in Baghdad, most likely the prisoners would be ordered moved to Baghdad and would never be heard from again. The Minister of the Interior was a Shi'a who preferred to live in Iran and would have no patience for the Khalq terrorists who oppose Tehran. It was urgent that we find these people and try to get them back into UN custody.

The next morning I learned PDOP Wathiq al-Hamdani was out for the day but that his deputy would meet with me. After a cup of chai and discussions about a few other topics, I asked him if he had any Khalq members in his jail. Like Wathiq, the deputy was a former army officer. He laughed aloud and said in English something to the effect of: "Why would we hold Khalq? They are our terrorists. We love them! I would not have them in my

jail.” I explained the circumstance of the UN call and that I wondered if his staff had heard anything about the lost Khalq members. The deputy summoned an aide and gave him a few quick instructions. The aide was gone briefly and returned with a note. The Deputy PDOP was very perplexed as he announced that he did indeed have Khalqs, not three but twelve. However, his men did not want to put the very good looking young women in the overcrowded jail for fear of what might happen. Several of his guards were now playing a game of soccer with them in a courtyard between the buildings. I suggested that it would not be a good idea to report their presence to the Ministry of Justice. He quickly agreed, saying that it would be a certain death sentence. However, he really did not know what to do with them. It was agreed that I would contact the UN representatives and would develop a plan and advise him as soon as possible.

Later that day, armed with the information about our collection of Khalqs, I learned the rest of the story. The UN had failed to find a way to relocate this population of skilled combatants who were not above terrorism. Morale had sunk to a new low at Ashraf, and many individuals wanted to renounce their cause and silently slip away. Sadly, there was no place to go. The UN representatives devised a unique plan but did not bother to share it with anyone. They issued UN travel documents authorizing travel in Iraq to small groups of Khalqs and then let them leave Ashraf with the express hope that they could find their way into other countries illegally. The breadth of this admission stunned me into silence. The UN representatives, knowing full well that the Khalqs had no visas, passports, or other documentation that would ever allow them to travel internationally, turned them loose in a war zone with funny looking UN documents and Iranian identification cards.

At least as often as every twenty kilometers on any major road, Iraqis had checkpoints where identification cards were carefully inspected. It would be impossible to avoid the checkpoints in a vehicle, but the Khalqs were walking. They had traveled nearly two hundred kilometers on foot when they were taken into custody in the most southern part of Ninewa. At least from there, the Khalq had been given a ride to Mosul. There was no possible destination other than Turkey for this UN initiative. Syria would not be a destination. Iran funds terrorist activity there, and the Khalqs would not survive the experience. Jordan was too long of a walk, and the Khalqs were headed in the wrong direction. Turkey had to be the destination.

The UN representative eventually admitted that the goal was to get the Khalqs into the KRG where they could assemble them in a refugee camp that the UN hoped to build in the future. That was an obvious lie, which I confronted. There was no plan to build a UN refugee camp for Khalqs in the KRG because that circumstance would be worse than the situation at Ashraf. It was alleged that I misunderstood the plan. The plan was not for

the UN to build the camp, but that the KRG would build the camp if enough Khalqs arrived to justify it. The UN actually believed their phony travel documents would require the KRG representatives to allow the Khalqs to enter and remain within the KRG pending an unknown resolution of their presence. I could come up with only three possible outcomes for this goofy idea, none of which was good: (1) once the Khalqs got close to the border with Turkey they could simply slip into the country, avoid detection and arrest, and migrate until they found a comfortable home; (2) once the Khalqs were accepted by the Kurds, they could earn a living as mercenaries with the PKK by attacking Turkey; or (3) the Kurds could use the relatively captive Khalqs as a bargaining chip with the Iranian Republican Guard during their munitions negotiations.

Once it became apparent that the UN had nothing waiting for these refugees, my linguist and I had another conversation with the Deputy PDOP, who agreed to explain the circumstances to his Khalqi guests. At the end of this conversation, the deputy agreed to arrange the return of his guests safely to Ashraf through his personal contacts to ensure that they were not detained again. I never heard what finally happened, but to my knowledge, Camp Ashraf remains a beautiful home for the Khalq—a true stateless people with no hope and no future. The irony is that the antifundamentalist, progressive, and cooperative Islamic doctrine of the Khalq is a message the West should hope takes root in the Middle East. However, due to its inability to gain any international publicity, this group has no voice in the communities where it is most needed.

A Fox News special report on December 29, 2008, underscored the continuing problem of the Khalq. Since 2003, U.S. forces have protected the Khalq from Shi'a Iranian death squads. With the execution of the new Iraq–U.S. security agreement, the control of “detainees” will be transferred to Iraqi forces. The Shi'a leadership of Iraq announced that the government would not protect the Khalq once this transfer takes place and has demanded that all members of the Khalq leave Iraq. No country has agreed to accept any of the Khalq population. Iran has indicated that members of the Khalq returning to Iran will be placed on trial for treason, despite the fact that many of the remaining members are too young to have participated in the attacks on Iran sponsored by Saddam. The spokeswomen for the Khalq have stated repeatedly for international news agencies that they have long since renounced acts of violence and terrorism as a means to achieve their objectives and that they strive for a “political solution.” Like so many similar problems in Iraq, this one becomes only more deadly with the withdrawal of our forces.

IV. THE IRAQI JUDICIAL SYSTEM

The basic judicial system somewhat stagnated under Saddam's tenure as he did not allow international travel and communication regarding advances in jurisprudence. I am advised that the basic legal system was equivalent to the system used by Egypt in the 1950s. The criminal trial system is based upon the Napoleonic Code and is inquisitorial, as opposed to adversarial, in nature.

With a few exceptions, Saddam had essentially left the judicial system to function on its own. He exerted nominal control over the attorneys and judges in the system by requiring all to be members of the Ba'ath Party in order to serve. Saddam created special or revolutionary courts where he exerted total control. All cases of specific interest to his control over Iraq were funneled into these special courts where the results were predetermined. The judicial system for the citizens was left to function somewhat independently. All of the Iraqi attorneys with whom I consulted assured me that the basic civil judicial system and the minor criminal system were functioning perfectly well. However, all agreed that the most serious crimes could not be prosecuted in Mosul. Only my most trusted Iraqi colleagues shared with me the reason. Comparing notes with my PRT colleagues from other provinces, it soon became clear that terrorism cases and the courts that try them were not functioning outside of Baghdad. One small court occasionally heard terrorism cases in Babil Province, but no other court in the country of Iraq tried what we would consider terrorism cases.

In June 2006, the status of the security of the population and stability of the Ninewa provincial government was in substantial doubt. The political leadership of the Sunni majority was aware that it had made a colossal blunder when they chose to boycott the election process. The Shi'a and Kurdish political interest in the country did not include any sharing of power with the Sunni majority. Despite promises of a reconciliation law, the creation of a Provincial Powers Act defining the extent of power and responsibility for the various forms of provincial government, and new provincial elections, the constitutional mandate of January 1, 2008 looms near on the time horizon. The agreement that formed the Constitution required an election to permanently locate the boundaries between the Arab and Kurdish portions of Iraq: the "Green Line" between the KRG and the rest of Iraq. The political consequences of any significant action were perceived by the population as potentially catastrophic. All political parties saw the political process as a zero-sum outcome where any gain by an ethnic group, community, or religion was the result of a loss by all the others. There was little sense of unity, cohesion, or community benefit or planning. In fact, community planning and the surveying that accompanied such an activity was suspect and, therefore, often opposed. The one institution that appeared to function reasonably well was the provincial judicial system. There was

one main courthouse on each side of the river dividing Mosul and smaller courts scattered in districts throughout the province.

In preparation for a meeting regarding the status of the criminal justice system on July 23, 2006, I interviewed all of the interested parties that actively participated in the Ninewa criminal justice system to learn what they thought was wrong with the system and could be done to improve its operation. The most critical issue was the need to have the prisoners who were held as terrorists receive a local trial. Since the fall of Saddam there had been no terrorism trials in Ninewa. Five years later, cases were still not moving. What I learned was complex and substantially mutually exclusive. There appeared to be no possible solution. The army and police representatives were very critical of the judges who they claimed simply let terrorists go. The judges condemned the law enforcement representatives for not following Iraqi law and for doing a terrible job in the preparation of cases. The representatives of the Provincial Council and bar association pointed out that the judges lived in the community with virtually no security and were at the mercy of the terrorists. The situation was so grim for the police that it was incredibly difficult to make good cases, particularly if the investigative judges (IJs) did not take charge of the investigation, as the law required. In short, the system had so many flaws that it could not function locally, and all cases worthy of any substantial action were sent to the Central Criminal Court of Iraq (CCCI) in Baghdad. However, in reality, relocating cases without the assistance of the Coalition forces was the same as a dismissal. The evidence would never be received by the CCCI, and Sunni witnesses would never attend a trial in Baghdad when they had to pass through Shi'a-controlled areas to get there. The criminal justice system in Ninewa appeared to be broken beyond repair.

A few of the more memorable moments during these interviews are noteworthy. Major General Jamaal was the commanding general of the 2nd Iraqi Army when I arrived in Mosul. He was a Kurd and barely educated. He was a brutish, thug of a man, with little imagination and a terrible reputation for corruption. Not long after our conversation, he refused a direct order to move a portion of his forces to Baghdad to help control the outbreak of violence, and he was relieved of command. When I asked Jamaal what he thought was wrong with the criminal justice system, he had a profound response. He said, "There are too many lawyers! The first thing we need to do is kill all the lawyers!" I laughed and commented that I had heard that quote from Shakespeare many times, but I added that one needed to consider the entire quote. I was surprised to learn that this thug had actually read Shakespeare. The reply from Jamaal was chilling.

Who is Shakespeare? I do not care about his quote! We need to kill the lawyers. If all you guys would just go away for two or three weeks, my intelligence unit would sweep

the streets and kill all of those causing problems. There would be peace in Mosul. You lawyers are the reason there is so much violence. You protect the terrorists. What we need is a strong leader who tells the rest of us what to do.

From Provincial Chief Judge Faisal, I learned that the provincial courthouse had been destroyed by an angry mob celebrating the fall of Saddam. The 101st Airborne had rebuilt his courthouse, and he was not going to get it attacked or any of his people hurt. Therefore, he was happy to send terrorism cases away. He did not want such cases, or even terrorists in his building, for fear that it would attract attention and cause an attack on the courthouse. If a terrorism court was formed in Mosul, it had to be at some place other than his building.

During these interviews, I discussed with each of my contacts the idea of creating a court to try terrorism cases in a facility away from the provincial courthouse that was staffed with judges from outside of the province. Essentially, nobody ever criticized the concept, but no one took ownership of the idea either. My sense was that it appeared to be an impossible task. The Iraqis would embrace this idea as long as nothing was required from them. That was all it took to place this topic on the first written agenda ever presented to the Provincial Criminal Justice Committee (PCJC), the brain-child of Douglas Allen, my predecessor in Mosul. The PCJC unanimously endorsed this project on July 23, 2006.

A. COMMENCEMENT OF AN INVESTIGATION AND INVESTIGATIVE JUDGES

A criminal investigation is begun by elements of a police force or a properly authorized army unit. In some portions of the Ninewa Province, the police have such a limited presence that specialized elements of the 2nd and 3rd Iraqi Armies are designated to perform a police function as well. However, funding restrictions imposed by the U.S. Congress prohibited the Iraqi Army officers from receiving much-needed training in the law enforcement techniques required to collect evidence that would be accepted by an Iraqi court. Absent this basic training, the arrest of terrorists nearly always resulted in their release due to errors in the preparation and presentation of the case. My team and I found ways around these silly rules that I cannot confess here. Suffice it to say that we purchased a lot of books and materials with our own funds.

When working in a war zone, a few lessons become readily apparent. The crime scene cannot be maintained for very long. Continued presence in a static location for a lengthy period invites attack. Collection of forensic evidence has to be quick and is seldom done with the precision and expertise expected in western courts. The most compelling evidence is a statement from an eyewitness. Actually, there has to be two witnesses for a

crime to be charged. Both witnesses do not have to be eyewitnesses, but a single-witness case must fail. Because of this rule, untrained police and army officers tended to round up everyone at the scene, figuring that someone in the crowd saw something and that others may have done something. However, due to actual and alleged abuse of such prisoners, the judges would not accept statements or confessions given to police officers. Such a declaration is legitimate and admissible if given either to an investigative judge (or at the direction of an IJ) or to a judicial investigator (JI) approved and authorized by the IJ to take statements. Under Iraqi law, an IJ was supposed to attend the scene of the crime and direct the investigation. In practice, in a war zone, the IJs had no interest in going to the crime scene, but they would dispatch others to conduct the investigation. The law also prohibits IJs from working at night. IJs work with a team of other IJs and have a staff that includes JIs and clerks or aides. IJs have separate facilities and offices, but they prefer to work as a team.

The role of the investigative judge most resembles that of a prosecutor in the U.S. system, but with a great deal more respect. The IJs work closely with the police and interrogate both witnesses and suspects. Suspects may request an attorney and are not represented at this stage of the proceeding unless they make such a request. The evidence collected is in the form of a summary statement dictated by the IJ after questioning the witness. It is not a transcript of the engagement. The head of the police unit leading the investigation maintains one official file. All the original evidence is placed into this file, and if it is removed or lost, it often cannot be replaced. Copies are generally not acceptable, and the loss of a critical document or piece of evidence can be fatal to a case. Throughout the course of the investigation and the subsequent trial, many people have access to this file of original documents, including investigators, defense counsel, investigative judges, judicial investigators, court staff and aides, as well as trial judges and their staffs. Security of the file appeared to be a nearly impossible task. The IJ can write specific instructions to the police in this file, often using a distinctive colored pen to highlight his investigative concerns. If the investigators fail to respond to these directions, the lack of performance is held against the investigation. The investigation can take months. At the conclusion of the investigation, the IJ determines the charges filed and makes a referral of the case to the trial court if appropriate.

Early on we identified many problems with this procedure. Often, the actual eyewitnesses to an event were held in custody in the same overcrowded jails with those who committed the crime. The longer these witnesses were held, the less likely they were to provide any evidence or statement. There were many more events requiring investigation than there were IJs available to devote time to witness interviews. We worked with our trainers to focus the police investigators on screening and questioning citizens without arresting them. Then it became critical to get the witnesses

to an authorized judicial investigator who could take their statements. My team worked with the IJs to get them to designate more IJs to take statements as a way to reduce the backlog of work and to reduce jail overcrowding. Eventually, a few of the very best senior police officers with good reputations were designated as IJs for this purpose. Efforts were also made to encourage the Higher Juridical Council to provide more IJs to handle the increasing number of major crimes cases in the many provinces. By avoiding holding witnesses in police custody, there was a substantial reduction in claims of abuse and torture. Eventually, some of our special forces found documents, in the form of an Al-Qaeda instruction manual that suggested a prisoner immediately confess something related to the event and then allege that the statement was only obtained by torture. If such allegations could be supported, the evidence would not be admitted into evidence, and often the case would have to be dismissed as a result of the limited nature of the investigation. Simply stated, the investigation usually did not continue after a confession was obtained. Once in a great while investigators discovered two defendants in different cases made this type of allegation during trial and demonstrated evidence of a recent assault as justification for their statements given months before. The court quickly found that the two defendants had beaten each other in jail just before the trial to convince the judges of their mistreatment. It became clear that those actually involved in terrorist activities had been well prepared to exploit the finer points of Iraqi jurisprudence in order to escape justice.

General Ali, one particularly effective head of the antiterrorism unit in Mosul, invited the entire panel of IJs to his office for chai once or twice a month. During this visit, General Ali would bring in one or two significant prisoners who were blindfolded and clearly mobile. He would ask each prisoner about the treatment under his command and whether there had been any abuse or torture. The answer was always "No." Then he would ask the prisoner why he was in custody and what he knew about major crimes committed in the community. I was simply amazed at the openness of the recitation of horrible and brutal crimes that each defendant knew about and participated in. Of course, the prisoner had no idea that I was present or that the entire panel of IJs also witnessed his performance. The IJs would have a new appreciation for the context and credibility of the claims by the same prisoner a few days later when he appeared before them, complaining that he had been tortured before giving his statement.

The account I will never forget involved the detonation of an estimated 30,000 pounds of high explosives used to vaporize an entire apartment building and which decimated all the structures and living things within a three-block radius in the heart of an undefended residential area devoid of any military value. This site was not far from our compound. The concussion from the detonation knocked the clock off the outside wall of my office in the PRT. I watched from high ground in horror as the plume of smoke

rose from the scene and slowly changed color as the red particles of bricks from the apartment building separated from the greys, blacks, and tans of the other structures and components of the bomb. The next day, as had become our custom, all of the leaders of the various components gathered at the scene to assess the situation and to arrange the flow of emergency supplies and services for the unfortunate victims of this mindless act. The first to arrive was Iraqi Police Brigadier General Salah and his bodyguards. Close behind were Colonel Stephen Twitty, General Thomas, and the PRT Team Leader, Jason Hyland. Salah was my friend and had been appointed the new PDOP to replace Major General Wathiq less than a month before. Wathiq had been promoted to a new job in Baghdad he did not want, and nobody knew why. This major bombing was the first crisis Salah was to face as the new PDOP, and while Wathiq hovered nearby. It was important to Salah to appear less aloof than Wathiq and to reconnect with his people. He wanted them to feel that he was part of the solution. Salah refused to wear his body armor that day. A crowd of citizens had gathered at the scene and Salah moved toward them to reassure his constituents. A man wearing an Iraqi Police uniform stepped from behind the chanting people and swung an AK-47 into firing position. An alert lieutenant from the team of bodyguards stepped between Salah and engaged the attacker with his sidearm, but he was no match for the AK. The bullets tore through the front of his body armor, then his body, then the back of his armor, and then small fragments ripped into Salah's torso. The bodyguard and the attacker were dead right there. Despite the proximity to our combat surgical hospital and the prospect of Medevac helicopters, Salah insisted on going to an Iraqi hospital. My friend, General Salah, bled to death en route.

On this day, I heard from one witness in person and saw two others on videotape giving statements about the planning that went into this attack. It was essentially just a media event. Terrorists had obtained Iraqi Army uniforms and videoed themselves in the army uniforms constructing the bomb. Then, from a safe distance, they waited for the real Iraqi Army units to arrive at the scene. They knew that the army would come because they had prepared an informant to give them this information. The story was that this building was being used as a location for the manufacture of IEDs. As the unwitting informant led the real army units toward the building, the terrorists detonated the huge bomb, killing those brave soldiers, the informant, and all of the inhabitants within a three-block radius. It was all captured on video and would soon be exploited on the Internet with the false claim that the army was behind the explosion. Of course there would be no explanation as to how the terrorists just happened to catch this alleged misconduct of the army on video.

The chilling plan was to wait for the arrival of the emergency assessment teams the next day and to attempt targeted assassinations. The prisoner even alleged that the crowd of bystanders had actually been recruited

to provide cover for the assassination attempts. There was no way to validate that claim. But for the staggered arrival of dignitaries and the passion of Salah to connect with his people, there would have been many more targets for assassination available that day—all staged for a media opportunity.

One of my PRT colleagues, with tears in his eyes, later told me of ministering to the wounded Iraqis who were just outside the three-block radius. Those who could be moved were airlifted to other trauma centers because all of the local facilities were overwhelmed. The human suffering and injury was staggering and mind-numbing. Rodney Hunter encountered a tiny Iraqi child with grievous injuries, accompanied by her obviously worried father. The child had not been able to move for hours, her bandages had soaked through, and she had wet herself. Night had fallen, it was really cold, she was wet and shivering, and her father could do nothing to help. Rodney found her a fresh blanket and wrapped it around her. She could not speak, but she gave Rodney a tear-stained smile of gratitude that he will never forget. We hope she survived.

To protect some witnesses critical to the presentation of the police, IJs are authorized to take a sworn statement from a person, but they cannot disclose their name. The IJ issues the witness a secret number that only he, the lead investigator, and the witness know. The number is used in place of the name and is valid as an investigative tool. The name will have to be disclosed if the case proceeds to trial; however, as a limited investigative tool, the evidence collected can be used to further the investigation, and if the resulting work develops hard evidence, the person who provided the information might not have to testify. Although this process was legitimate in the Iraqi criminal justice system, it was virtually impossible to utilize in practice. The first obstacle is getting the IJ, the recording clerk who takes the statement, and the witness all together. If the IJ requires the witness to come to the court building, it is very likely that those working in the facility can identify the witness. Rarely would the IJ agree to meet a witness at another location due to security concerns. We offered to drive the IJ to a remote location, but that only served to elevate the attention drawn to the witness who still has to meet the people inside the vehicle. However, the most significant problem with the process was that it required absolute integrity and trust in the IJ and his staff.

The Chief Investigative Judge for Ninewa Province, IJ Aamer al-Rabie, was introduced to me in June 2006 as one of the most influential judges in the province. His English was very good, so a linguist was not really required to communicate with him. He had received significant praise from those who worked with him because of his willingness to provide outstanding lectures to the police on how to perform their investigations to the standards required in Iraq. Aamer worked with the police and our civilian police trainers to find solutions to problem cases, often proposing a lesser

charge for which conviction was possible when defects were discovered in the principal case. He was seen as a young protégé of Chief Judge Faisal. He displayed an aura of a rising star in the judicial system and exerted control over other judges, even more senior judges, who perceived him as connected and, therefore, powerful. I worked hard to build a good relationship with both Aamer and Faisal. The closer I worked with Aamer, the more suspicious of him I became. Three events began to reshape my thinking about Aamer.

First, we were receiving troubling reports that Aamer was actually sympathetic to the cause of those who wanted the Republic of Iraq to fail. The most troubling and numerous reports were that Aamer released terrorists who “confessed” that they had attacked only Coalition forces but never Iraqi soldiers or people. The accounts were always the same and were impossible to verify. Upon the unsupported assertion of attacks on only our soldiers, which often conflicted with the submitted evidence, it was reported that Aamer would kiss the terrorist on the head and praise his conduct before ordering him released. The problem was that on these occasions, only three people were present: Aamer, his trusted aide who recorded the statements, and the prisoner. Iraqi law prevented any other person from attending the proceeding, except for a prosecutor, on the basis that the presence of an observer or representative of the police would tend to intimidate or threaten the witness/prisoner. There were never enough prosecutors, and they were as hard to evaluate as the judges. The entire proceeding was essentially sealed. All we had was “substantial” proof offered by the police that their “best” cases against individuals they “knew” were terrorists resulted in an order releasing the terrorist. This “evidence” had to be tempered with a universal Iraqi trait frequently utilized to remove opposition. The obstacle could be removed simply by claiming that the individual was actually a terrorist. That is, if Aamer was a good judge, doing his job well, and the police or army wanted to remove him because he followed the law, the way to get him removed was to simply allege that he was a terrorist.

Eventually, one of our patrols brought in a terrorist who had been previously captured. The records we were able to monitor disclosed that he had been released upon the order of IJ Aamer. However, the story he told was amazing. He actually bragged to the Iraqi Police that he could not be held; all he had to do was see Aamer, tell Aamer that he wanted to kill only Americans, and he would be set free. As proof, he described his last arrest and produced his mobile phone on which Aamer’s phone number had been saved. At the time of his last arrest, Aamer came into the room alone, and they discussed what actions the prisoner had taken against Americans. Aamer handed the prisoner a note with the name of the secret witness who had given testimony that led to his arrest. Then, Aamer handed the prisoner his personal mobile phone and said words to the effect, “I am certain that you have not had an opportunity to advise your family you are safe and

well. Please call them and let them know you will be home soon.” Then Aamer left the room. In about ninety minutes, Aamer returned with an order releasing the prisoner. It seems that the secret witness had been murdered, and the police no longer had a case against him. Aamer dropped the charges and released the prisoner. Research of the previous case absolutely confirmed everything the prisoner said. He was demanding to be taken to the judge so that he could be released and get on with murdering American soldiers. This time the prisoner was transferred to U.S. custody and processed for appearance in the Central Criminal Court of Iraq in Baghdad. However, one provable event such as that outlined above was not enough to arrest a judge. He was seen as very pro-American by the judiciary and many of the elected or public officials. Aamer was very visible and acted as if he supported our efforts to improve the quality of the cases prepared by the law enforcement representatives. Arresting him would have been counterproductive.

Second, in May 2006, just weeks before I arrived in Mosul, Aamer’s brother had been arrested by Coalition forces and had been removed from the area. I looked into the details of his arrest and was stunned to learn that Aamer’s brother was a Wahhabi and had been arrested for his role in recruiting, training, financing, and operating sniper and terrorist cells. It was impossible for Aamer not to know about the activities of his brother, who was considered a significant capture. Arabs are very family oriented, and they get together often. The appearance of a Wahhabi is unmistakable. If his brother saw Aamer as working with and supporting a free Iraq, his brother would have killed him. In our conversations Aamer always demanded that I do something to obtain the release of his brother, alleging that his arrest was caused by his close ties to the Coalition and was nothing more than a way to discredit him in public. This logic escaped me. Americans arrested and detained the brother, and we would not be motivated to discredit Aamer if he was so valuable to our efforts. The only way this logic worked was to assume that Aamer was actually an enemy of the Coalition and that we wanted him removed. Only then might the arrest of his brother be seen as an effort to discredit him.

My team and I decided that the best thing to do was to work more closely with Aamer and to make it obvious that we were watching him and monitoring his cases. We arranged regular meetings where the Iraqi Police investigators and our civilian and military advisors could present cases for an explanation of the problems identified by Aamer. The advisors could then focus the efforts of the police investigators on addressing the problems Aamer claimed were exhibited in each case. The meetings were arranged in advance by personal communication to avoid the possibility that our calls could be monitored. The concept was rather basic. We wanted to use specific cases as an educational tool to improve the presentation of cases to the IJ while forcing the IJ to take command of the investigation and to direct

the law enforcement officers as required by law. Through this approach I saw critical notes written in the file by Aamer in green ink, which distinguished his comments from all the others. Aamer clearly gave specific directions to the police. Aamer declared that if these notes were not followed after a reasonable period of time, he had to dismiss the charges and free the prisoner. Often, it was apparent that the directions had not been followed. From the files we reviewed it appeared that IJ Aamer had behaved properly. Many other cases were also reviewed, and a new investigative strategy was formed. Case preparation actually improved. The police officers worked harder and were more focused, yet cases still experienced trouble.

It finally became obvious that Aamer continually set the bar just a little higher than the investigators could reach. Someday, Aamer may be a brilliant jurist and a credit to his country, but it was becoming clear that he was a major obstacle to the operation of justice and was contributing to its failure. He was indeed a brilliant Iraqi lawyer and judge, but Aamer did not want these cases to succeed. His presentations always described a perfect case—one that simply could never be achieved in a war zone with the reality of violence lurking in the darkness, waiting for those who tried to see justice function in Ninewa. A little progress was made, but the day Colonel Abid and his unit captured a team of snipers, the progress ended.

This investigation started because of concerned citizens calling the police. It was August 25, 2006, and oppressively hot. Yet, two men sat in a parked car with the engine off in a neighborhood where they did not belong. Police were dispatched, but before they arrived, the two men had moved on to another neighborhood. Once again, concerned citizens called in to report two men sitting in a parked car on a very hot day. This time they were very near a hospital. The back end of the car had an unobstructed view of the emergency room of the hospital, and neither man could explain why they were there. Colonel Abid, head of the Major Crimes Unit (MCU), the provincial police unit in charge of terrorism investigations, had both men brought to One West police headquarters along with their vehicle. His men began to study the car while he talked with the younger prisoner.

Soon the investigators discovered that the car had been set up as a sniper platform, modeled after the Washington, D.C. sniper, John Malvo. The back seat of the car folded forward, providing a large, flat area for the shooter to lie diagonally across the trunk and storage space. The driver's side tail light assembly could be easily removed, leaving two holes for the shooter to fire his sniper rifle through. The rifle could be fired out of the bottom hole of the tail light assembly once the shooter found his target through the rifle's scope, which pointed easily through the larger top hole of the assembly. Once a shot was fired, the tail light assembly would be replaced and the shooter could slip back into the car, pull up the seat, and quietly leave the area.

With this information, Colonel Abid focused his questions, and soon the young man was bragging. He freely admitted that he had been hunting Americans and that he had been arrested before, but the cases had always failed because no weapon was found. Abid was aware that Aamer had released this same team at least once before when they were involved in an attempted assassination of one of his fellow police officers. That time the issue was identification—Aamer did not believe that the officers had properly identified the team and let them go. With the shooter in a talkative mood, and with the admission and the discovery of the sniper platform in the car, Abid was certain that Aamer would allow this investigation to continue. He was wrong. Aamer once again found that there was no weapon and, therefore, no crime, and he ordered the two prisoners released immediately. The police were now convinced that Aamer was protecting the sniper cells of his brother.

Returning to the MCU with the prisoners, Abid learned that his investigators had found an unserved warrant for the younger man, who was believed to be the shooter. Rather than deal with Aamer again, Abid refused to release his prisoner and ordered the team to study the car in greater detail. Sometime in the early hours of the next morning, my friends in the MCU finally found the Russian-made Dragunov sniper rifle and scope with one round in the chamber and two full clips of ammunition concealed under a flap of metal mounted to the support for the rear seat. When the prisoner saw the weapon, he happily admitted that it was his rifle and gave details about his training. He even offered to pose for photos to show how his system worked; it was apparent that he had been well trained as a sniper. He admitted that he and his driver parked near the hospital emergency room to await casualties from attacks in other parts of Mosul. The sniper team had coordinated with these attackers, who intended to carry out attacks on civilians, so that the sniper would have an opportunity to fire on the emergency responders who were bringing the wounded to the hospital. They hoped to disrupt the hospital's operation and to kill more people who were dedicated to saving lives.

American soldiers were not their targets, as our wounded were taken to the combat surgical hospital at FOB Marez. His lies about killing only Americans had been clearly exposed. Finally, he confessed to shooting thirty-seven American soldiers in the head. He said that he would only fire on soldiers if he had a clear head shot as he had been trained that killing one soldier among many was more devastating to morale than merely wounding one. In the photos, it was also apparent that he had not been abused and that he was very proud of his operation. Many of the investigators thought that the prisoner expected praise and support for his conduct, and he was sincerely surprised when his interrogators began to beat him because of the crimes he confessed, not in order to make him confess.

Our regular meeting with Aamer was scheduled for August 27, 2006, a Saturday, and the morning after the discovery of the hidden compartment and rifle. Our work was interrupted when an obviously very angry Major General Wathiq entered Abid's office, where Aamer met us, and roundly condemned Aamer for ordering the prisoner released in the face of substantial evidence. Wathiq had no interest in hearing an explanation from Aamer. Rather, Wathiq condemned Aamer as a terrorist and as being unfit to serve Iraq because he was a coward and a traitor. As Wathiq left, he motioned for me to join him outside the office where he advised me that Aamer was a bad man who was protected by terrorists and that I should be very careful in dealing with him because he was dangerous. In my two years in Mosul, this was my only private conversation with Wathiq.

After Wathiq departed, Aamer was clearly distracted and embarrassed, but he was not ashamed. It was clear that our efforts to build a rapport by working together on improving the quality of cases had been dealt a serious blow. Aamer tried to be more instructive and helpful as the meeting continued, but it was clear that the Iraqi Police investigators had serious reservations regarding working with him after witnessing such a tirade from their commanding officer. Many could not hide their contempt. Later, I had to attend a meeting in Baghdad, and this development was included in my agenda. To prepare for the meeting, I requested a security briefing regarding what had been discovered about Aamer. He lived in a neighborhood and on a street that it was very dangerous to visit. From the Iraqi side, there was a general agreement that the home of Aamer was surrounded entirely by terrorists and those actively opposing the new government of Iraq. The Mosul police were certain that Aamer could not live in this area if terrorists did not protect him. A briefing by my special forces friends confirmed the truth of the Iraqi report.

Based upon experience, my team and I expected that things would return to normal rather quickly as the various parties realized that they still had to work together. However, Aamer appeared to gain strength from the realization that Wathiq could do nothing to challenge how Aamer performed his duties. While I was in Baghdad late one afternoon, the PRT received word that Aamer would order the sniper released that night. Our military police (MPs) could not allow a confessed killer of thirty-seven American soldiers to disappear pursuant to an order of Aamer or any other Ninewa IJ and after they already had obtained the rifle. Later that night, the sniper was transferred to the custody of the Multi-National Forces. I never learned of what happened to him.

Third, when I was back in Mosul for my next scheduled meeting with Aamer, there was an elevated level of violence, including armed attacks and bombings. The regular Military Movement Team that escorted me to meetings was restricted to the FOB. I was able to arrange an alternative ride with some special forces friends, and I arrived at the meeting nearly two hours

early. It should not have mattered because Aamer worked in the courthouse area every day. However, he had not come to work that day, and he had not called our mobile phone to cancel the meeting. This was strange as it was routine to place a call when a meeting had to be canceled.

Upon our arrival at One West police compound, we received a briefing indicating that the compound might come under attack. To enter One West, convoys pass through a main gate. Inside the compound there are several locations to park Humvees where occupants can then dismount. Body armor is required while walking between buildings, but there is a rather significant amount of foot traffic down the main entry roadway leading to the building where Aamer would have met us. A vest bomber on this road could seriously wound or kill many people, even if the targets used body armor. On this day there was increasing evidence of terrorist activities developing and unconfirmed reports that attacks would be directed at One West and the provincial courthouse, which was located directly across the heavily guarded street. This area, the seat of the government in central Mosul, was the most heavily fortified area guarded by Iraqi Police in all of Ninewa. None of the reports regarding increased terrorist activity had been made public, nor was the threat obvious early in the day. Aamer did not receive a warning from the police, yet he knew not to come to work on this particular day. My special forces friends and I had traveled to our meeting place in a single Humvee by tagging along on a convoy going in the desired direction, and we needed to follow the same procedure to get back to our base. That day we had to hitch another "tag along" with a convoy departing about an hour earlier than our original estimated arrival time. It was the last convoy for many hours going in the right direction, and because the meeting was not going to happen anyway, we departed early.

At the time our convoy would have been expected to arrive at the One West compound, another unrelated convoy was passing by. It did not enter the compound, but it turned to the east and drove past the provincial courthouse. One vehicle from that convoy broke off and drove through the main gate at One West, just as we had done two hours earlier. A young man tried to follow the Humvee through the gate. If he was able to enter the compound, as other Iraqis who worked there did, he could have walked to the parking area and detonated his vest as personnel exited the Humvee. Alert Iraqi guards challenged the young man, but he kept coming. The guards opened fire as he detonated his vest. I saw photos of him later. All that was recognizable as human from the scene was his head, which was located more than fifty yards from the point of detonation. My colleagues were convinced that our mission that day was the target of the attack. It troubled me that IJ Aamer was not at work on our scheduled meeting day and that he had not called to cancel.

B. TRIAL COURTS

The provincial trial courts sat only in Mosul. A trial panel consists of three judges. There is no jury. The trial court system is the same for any court in Iraq. The most senior judge is located in the middle and presides over the panel. The next most senior judge is located to one side and can serve as the presiding judge if necessary. The last judge, or the most junior, is not yet qualified to serve as the presiding judge. The prosecutor judge is of equivalent stature and seniority. His duty is to review all of the evidence, procedures, and rulings of the court and to certify that the three judges have properly applied Iraqi law. He does not act as an advocate for the government but as more of an independent check on the system to ensure that the process was proper. An attorney must represent the defendant, and if the prisoner can not afford one, the government must pay for an attorney. All submission of evidence is by written document or declaration. The night before a trial day, the four judges review all of the evidence and make findings of fact. I have observed judges working well into the night to prepare for trial the next day, and it is serious work with lots of emotion, which is not displayed in public.

The trial is a relatively brief affair by comparison to the preparation for the trial. In the courtroom, the chief judge addresses the defendant, who stands before the court by himself in a dock—a small wooden pen in the center of the room. The chief judge announces the findings of fact and related conclusions of law and then asks the defendant specific questions to address the concerns of the panel. The defense counsel may not participate at this point. The defendant must address the facts as found by the court and attempt to convince the three judges that the facts are different or that there is another explanation for the facts. At the end of the proceeding, the defense counsel may make an argument and point out other conflicting evidence as long as the evidence is documented in the file. The prosecutor judge makes a statement essentially confirming that the court has followed the law and the facts documented in the file. The three judges then take a break and return in a matter of minutes with a judgment and with a sentence, when appropriate. The trial process might take an hour, but I have seen twenty-minute trials. However, this does not account for the hours of preparation required to get the case to trial. All matters and all procedural events are automatically appealed to the Court of Cassation. All defendants remain in custody until the appeal is resolved, often even those found not guilty.

Because of the catastrophic failure of confidence in Amer, my team and I determined that we needed to press on with our mission to establish a terrorist court to try cases in Mosul that was staffed with judges from outside the province. The immediate attention and press coverage of terrorism trials in Mosul would be objective evidence that the government was indeed

active and operating. Seeing justice work might well increase the amount of cooperation and support for the police and the courts from the citizens, who had little evidence that their government even knew about them. It was also critical to by-pass the conflict between the judges and the police. When judges arrived from outside the sphere of influence and corruption and began trying cases, the law enforcement efforts of the police and army would gain the attention of the local media, providing objective proof of the progress in combating terrorists and organized gangs attacking citizens under the guise of terrorists. Ninewa and the other provinces in conflict could not be allowed to simply withdraw from the criminal justice system of Iraq. Critical to the success of this program was the Ninewa Bar Association.

I consulted with a number of Iraqi lawyers who would speak with me only if I agreed to never divulge their names and the nature of their advice. Their views were consistent. The Ninewa Bar Association had been one of the last public institutions packed with Saddam loyalists. These unrepentant Ba'athists, who actively resisted all efforts of the new government, controlled the leadership of the Ninewa Bar Association. I spoke with many of the members about their position regarding the trial of terrorist cases in Mosul. Universally, the leadership of the local bar opposed the trial of terrorists. They preferred the transfer of local cases to Baghdad because they knew the success rate of such cases was incredibly low. They opposed the new Central Criminal Court of Iraq because they claimed it was unconstitutional and reminiscent of the special courts Saddam used to oppress his opposition. The irony of this inconsistent argument was lost on these supposedly intelligent people. They did not want trials locally if the result was to bring justice to terrorists who were opposing the new Shi'a dominated government. Exactly the same arguments existed on Arabic web pages sponsored by terrorists who condemned all advances and proposals pursued by the elected government, the same elections boycotted by the Sunnis. Eventually, Chief IJ Aamer presented these same arguments to me, which confirmed that Aamer had never truly supported the effort to improve the quality of the investigative work of the police and was not interested in enforcing the law. I feared Aamer that was an enemy and would resist all efforts to protect judges on the basis that they did not need such protection.

Very few of the attorneys interested in the future of the judiciary in Ninewa shared with me their thoughts about the impossibility of holding court in Mosul, at least one staffed with local judges. The truth was that many of the local judges were corrupt and had previously been dismissed or disciplined for accepting bribes and other self-dealing with cases. In a war zone, it was also virtually impossible to protect the lives of the judges and their families when they lived in the community. There was no real way to ensure the security of a judge and his family from threats, intimidation, or bribery. It became readily apparent that local judges, including investigative judges, could not function in a local court.

To protect the lives of the judges, we were going to have to move them around so that they would try cases for a few days of temporary duty in a court located a great distance from their homes and families. After a few weeks, they would either return home or travel to the next court. Initially, we also considered requiring the local judges to travel to Baghdad to fill the vacant slots created by the traveling judges. We thought that by spreading the local judges around at the CCCI, they could not vote as a bloc and would eventually accept the responsibility of leadership in forming a new Iraqi judicial system. It would also give them a sense of the challenges faced by judges in other parts of the country. For example, the judges in Mosul had a substantial fear of service in Baghdad. A few resigned rather than accept a transfer to a new job in Baghdad. I tended to agree with them. I did not like going to Baghdad either. On the other hand, the judges in Baghdad were convinced that it was far more dangerous in Mosul, and at least one was seen saying his “last farewells” to his colleagues when he was advised that he would return to Mosul with me. Nothing I could say would convince the Baghdad judges of the relative safety of Mosul.

C. THE CENTRAL CRIMINAL COURT OF IRAQ (CCCI), ALSO KNOWN AS THE TRIPLE CI

With one small exception, the only court trying terrorism cases, referred to by the Iraqis as major crimes, was the Central Criminal Court of Iraq (CCCI), which was housed in a building previously dedicated as a museum to the life of Saddam Hussein. This court building is a unique landmark in Baghdad due to the huge clock tower rising from its roof. This clock had been the target of many gunners during the fall of Saddam. Only specially designated provincial courts, called Major Crimes Courts, could hear the cases related to terrorism based upon charges like murder, kidnapping, and weapons violations. One small court in Babil Province occasionally heard cases, but all other terrorism cases were transferred to the Baghdad court.

The CCCI actually housed both trial courts and investigative courts. The CCCI investigative courts had multiple panels or sets of judges. Approximately sixty percent of these judges prepared only cases presented through the Iraqi system. About forty percent of the IJs dealt with cases actually prepared and presented by Coalition forces attorneys through Task Force 134. I asked around about the source of the name, but nobody knew. I discovered the answer when we visited the headquarters of the operation. Task Force 134 received its name from the number of its office building at Camp Victory. I was disappointed that there was no greater significance to the name.

Military attorneys brought these cases in the Iraqi system based upon detentions and investigations conducted by our military operations. The

cases were more polished and prepared at a level of professionalism consistent with the fine work done by the members of the Judge Advocate General's (JAGs) Corps. Once the investigative phase concluded and the CCCI IJs referred a case to the trial court, the Iraqi trial system controlled the disposition of the case without further input from the JAGs.

The Task Force 134 attorneys played no role in the final presentation of the case to the trial court. At this stage, the investigative work was completed and the trial judges simply reviewed the file to determine whether the evidence reported in the file justified the charges. The trial judges were free to raise or lower offense levels, return the case for further investigation, or proceed to trial. The defense had to produce evidence in writing that tended to prove the innocence of the defendant. There was no equivalent to a Fifth Amendment right against self-incrimination. Once a court found that there was sufficient evidence against a prisoner, it became incumbent upon that defendant to prove his innocence. The defendant could decline to testify, but the judges, when weighing the strength of the evidence required for conviction, considered whether the defendant refused to refute the evidence presented in support of the charge.

The numbers of cases presented and the referrals for prosecution percentages of Task Force 134 were impressive. However, it was troubling that this operation did nothing to build the capacity of the Iraqi system. It was obvious that the Task Force 134 process was critical to the processing of a large number of prisoners held by our forces. It was also critical to reducing the number of detainees who had not yet seen a judge. From my perspective, the near-total exclusion of Iraqis from the process meant that the procedure was a stopgap operation that would have no long lasting, positive impact on the Iraqi criminal justice system. The solution we proposed was to recruit some of the best judges from the CCCI for temporary duty in Mosul and to introduce the disciplines of file management, case organization, and case presentation to the Iraqi Police MCU unit charged with submission of cases to the investigative judges. This was the definitive solution to the source of the problems in Ninewa. If the presentations by the police failed to satisfy impartial, unbiased, uncorrupted, and unintimidated IJs, then the problem clearly was the police. However, if these Baghdad judges found a way to make cases and to refer matters to the trial judges, then clearly the problem was not the police. If the trial judges from the CCCI convicted terrorists in Mosul, then the local trial judges were the problem. Such an approach was essential to invigorate the stagnant Ninewa criminal justice system, which appeared to only protect the terrorists and endanger the people.

D. FORMATION OF TASK FORCE ZORRO

The basic idea had begun to form as the result of working closely with the investigative judges, including Aamer, and the Iraqi Police in Mosul. It was critical to end the destructive accusations of incompetence and corruption, and the related accusation of dysfunction that plagued the criminal justice system in Ninewa. The basic premise was that if it was possible to establish some credibility for the police function with Iraqi judges who were safely beyond corruption, intimidation, and assassination, then the system would function and justice would take root. Two things were necessary to make Task Force Zorro a reality. First, a secure location away from the provincial courthouse but that was still protected by the police was required. That facility had to meet the standards of an Iraqi court. Such an effort required funding. Second, we needed an order from the Higher Juridical Council of Iraq, which was led by Chief Judge Medhat Mahmood. The Higher Juridical Council is the third pillar of the Iraqi government, equivalent to the executive and legislative branches in the United States. In conversations with colleagues of the Rule of Law community in the U.S. Embassy in Baghdad, including the Department of Justice, the Department of Defense, and the Bureau of International Narcotics and Law Enforcement Affairs (INL) of the Department of State, I learned that funding from several sources could probably be found if Judge Medhat accepted the proposal. However, substantial disagreement arose regarding what was required for a presentation to Judge Medhat.

The generally accepted approach required a very formal written document with substantial detail. This kind of document takes months to draft, and it then forms the basis for formal negotiation that last for weeks, if not months. This is exactly the type of work not suited to a PRT with limited staff. Unless the embassy staff adopted the project, Task Force Zorro would never be accomplished during my tour. But if the embassy staff took on the task of drafting a proposal, there was a significant probability that it would not resemble the concept we sought. At least that was my experience in Ninewa. I insisted on meeting with Judge Medhat to discuss whether the proposal was worthy of formal consideration by the Higher Juridical Council. The crisis in Ninewa required more action and less formality.

To the amazement of all, Judge Medhat was openly receptive and excited about the proposal. He preferred the less formal document due to the greater flexibility the outline provided him. His only question was if the process worked in Mosul could it be replicated in other provinces? A more formal approval process was necessary, but he did not want a long, drawn out study. Medhat wanted nothing more than an outline, and we would work out details as we proceeded.

One component of the original proposal was scrapped immediately, however. I hoped that by concealing the identity of the judges we could

reduce the risks and protect their lives. The Iraqi judges, advised Judge Medhat, would not consider the Colombian approach of concealing the faces and real names of the judges. It was inconsistent with Iraqi law, and Medhat was not inclined to seek to amend the law, which would tend to expose the fear of his judges. Medhat and his two closest advisors agreed to our experiment. They agreed to issue an order establishing Major Crimes Court Number 15 in Mosul to try the CCCI cases from Ninewa and the surrounding areas.

In early August 2006, the concept was presented to the Rule of Law Working Group¹⁸ at the U.S. Embassy in Baghdad. Two critical representatives attended this meeting. Major General Gardner supervised Task Force 134 and all detainee operations. There was no question that the efficiency of Task Force 134 could potentially be impaired if the CCCI judges were assigned to the traveling judges program proposed as Task Force Zorro. I privately briefed General Gardner at the OPDAT meeting room at the embassy. After a frank exchange regarding the potential benefits and consequences, the general stated that he felt that this was the way forward and that we had his support. A navy captain (equivalent to a colonel) responsible for the operation of Task Force 134 did not agree and fought Task Force Zorro every step of the way. However, at the Rule of Law Working Group, those who worked for Major General Gardner approved the concept. Without his support and confidence, progress would have been much more difficult.

The most influential representative at this meeting was Colonel Mark Martins. Colonel Martins was the Staff Judge Advocate for General Casey, Commander of the Multi-National Forces–Iraq (MNF-I). When General David Patreus assumed command at the end of 2006, Patreus asked the brilliant attorney to serve with him once again. I was privileged to serve with Colonel Martins for nearly all of my two tours in Mosul. Colonel Martins saw immediately that the Task Force Zorro program was an important approach to building the capacity and responsibility needed for the Iraqi judiciary located in the remote provinces to become part of the terrorist solution. Particularly in the Sunni areas, these judges did very little to deserve their pay. Because the major crimes courts were not functioning, they had little work and could avoid any engagement with the terrorists and those opposed to the new form of government in Iraq. In essence, they could sit out the conflict and wait to see which side prevailed.

18. The Rule of Law Working Group was a committee in Baghdad headed by the Rule of Law Coordinator. The committee sat on a regular basis to review the progress of all the provinces and to attempt to facilitate resources and information about projects that were working. Essentially, this was a committee that advised the U.S. Ambassador to Iraq about all the relevant developments in the Rule of Law.

The CCCI in Baghdad was overwhelmed with important, difficult, and dangerous cases. The survival of the country depended largely on obtaining public confidence in the Iraqi domestic institutions. Where terrorism or organized criminal activity was not challenged and the local bar representatives and local judges were complicit in preventing terrorism cases from even being presented, there was no reason for the citizens to believe anything would ever change. It was critical to get the judges in the provinces to commit to the future of Iraq and to get them involved in solving the security problems in Iraq. As long as everything was resolved at the CCCI in Baghdad, where the Multi-National Forces were required to guard the court, the terrorists could drive a propaganda wedge between the Iraqi judicial system and the Coalition forces.

As a relatively new arrival in Iraq with virtually no power, I was limited to the use of the power of persuasion and logic. After the Task Force Zorro presentation and numerous critical comments and discussions, it became clear that a decision was required. A leader had to emerge with the power to cause others to follow. Colonel Martins, who had been listening intently but not participating in the debate, was that leader. He addressed, in a succinct manner, the strengths and challenges of the plan and then announced that MNF-I would be issuing a Fragmentary Order, or FRAGO, to make Task Force Zorro happen. Then, Colonel Martins announced that he wanted the “traveling judges” program operational by November 1, 2006. He directed all subordinate commands to contribute drafts of their requirements to be considered for the FRAGO. Contrary to so many other examples of delay caused by drafting proposals and seeking funding, this project was moving at light speed and would be operational in weeks, not months or years. From the initial approval of the concept by the Ninewa Provincial Criminal Justice Committee on July 23, 2006, the proposed schedule contemplated having the court operational in approximately three months.

Work started immediately to gather the lessons learned from Task Force 134 for inclusion in the proposal for what we called Task Force Zorro. My team and I traveled to one forensic science laboratory in Al Anbar Province to see how it was utilized in a very successful co-located processing center that prepared cases for presentation to Task Force 134. We found that the problem once again was the domination of the process by our soldiers and attorneys, to the near exclusion of Iraqis. For this new court to function in Mosul, or any other province outside Baghdad, it would require much more access and control by the Iraqi Major Crimes Unit.

Captain Jason DeLosSantos, the JAG officer from FOB Marez, absorbed all of the details and acquired copies of all the necessary forms. Jason became our liaison with the MCU at One West, and he directed file organization and content training. Navy Lieutenant Commander Candace Eckert (equivalent to a major) was my deputy in the PRT Rule of Law Section. She worked with Lieutenant Commander Chuck Bowers, the PRT

engineer, to inspect locations for the courtroom, described the requirements, motivated the Iraqis to create the facility where this court could be established, monitored construction progress, and coordinated with the division headquarters. All of us involved in Task Force Zorro felt that it was critical for the Iraqis to demonstrate the importance of this project. If the Multi-National Forces simply did the construction, we feared there would be no ownership. For an Iraqi court to be created, we needed to reduce the Multi-National Forces “fingerprints” on the project. Yet, in the background was that wonderful FRAGO requiring the facility to be up and running. We could not let the Iraqis fail, but we had to be prepared to finish the project if the task was beyond the capacity of the Mosul engineers.

The Governor of the province became heavily involved in the establishment of this court as a direct result of the briefings he received from the Governance Section of the PRT. The Governor clearly endorsed the criticism of the police and army, who worked closely with him on security issues, and found the local judges to be cowards, terrorists, or both. The Governor had lost over twenty members of his family to assassinations, and not a single case resulted in a trial. He much preferred killing the suspects while they were engaged in the attacks because that way the province did not have to feed prisoners and they would never escape. The Governor offered to provide secure housing within his own home and protection from his personal bodyguards provided that the court was located at an abandoned hospital complex, referred to as “Blickenstaff,” adjacent to his compound. Sergeant Blickenstaff lived in this compound with the 101st Airborne when his Humvee left the nearby bridge and he drowned. The area was named after him and had been used by the local police for a number of purposes. These police functions had to be relocated to accommodate the new court facility.

The compound was secure, adjoining the Governor’s residential complex to the north, the provincial courthouse to the west, the Tigris River to the east, and secure housing to the south. Although it was not clear which ministry actually owned the complex, the provincial police had occupied the space and used it well. This was a perfect location for the court facility. One of the most elite and loyal police units in the province lived in the old barracks near the only building suitable for the court. Many buildings needed renovation, but the Governor undertook to provide the construction as a provincial obligation. Ultimately, MNF-I contributed less than \$20,000 to get this facility up and running, but many more resources were contributed in logistical support.

In the space of this article I cannot detail all of the efforts made to stop this project. However, it became clear that Judge Aamer and his mentor, Judge Faisal, fought the arrival of judges from Baghdad in every way they possibly could, even offering to resign. Both were stunned when Task Force Zorro pressed ahead, but neither resigned. Just days before the first panel of judges arrived with me, Judge Faisal assured the construction crews and the

Governor that there would never be judges from Baghdad hearing cases in Mosul. He was attempting to discourage the workers and to delay the construction project. To Judge Medhat, he complained that the construction project was way behind schedule and was of such poor quality that it was an insult to the court. Judge Medhat confided in me that he had more confidence in our team than he had in Judge Faisal. In addition, MNF-I and the embassy kept Judge Medhat well informed about the progress.

One of my linguists discovered the arguments made by Judge Aamer against the legitimacy of the Central Criminal Court of Iraq on a terrorist's web site. The article also condemned the formation of the court in Mosul in such detail that it was obvious that the author was an insider who knew the operations of the new court. The article also advised local attorneys not to appear in the new major crimes court. They were aware that the criminal investigation and trial procedures required the defendant to be represented by counsel, and if counsel was not available, the proceeding could not be conducted until counsel became available.

The bar representatives with whom I worked became enraged when they learned that I had met with the president of the Iraqi Bar Association and obtained assurances from him that if no local attorneys would represent the prisoners and defendants the bar association would provide attorneys from other provinces who would represent the defendants. The elected bar representative attempted to convince me that any agreement made by the president of the bar association without consultation with him was invalid. I assured him that the president of the bar did not feel constrained in the least and was quite prepared to execute his end of the bargain. The local bar representative then explained that such trials would be a farce because the attorneys who were brought in from outside the province would be Shi'a, and they could not reasonably be considered willing to represent Sunni defendants. My response was that I did not know anything about the religious nature of the attorneys who would appear before the court and that it was not a concern at the CCCI in Baghdad. All attorneys were treated equally there. However, if the Sunni attorneys in Mosul handled the cases of the local prisoners, then there would be no need for out-of-province attorneys for the court to function. The consequences were clearly the result of his leadership and the determination of the local bar.

The bar representative then claimed that the CCCI was unconstitutional and should not be allowed to function. I assured him that I was aware that the Iraqi appellate court system had found the formation of the CCCI to be constitutional and that the court would function despite his opposition. At this last response, the bar representative exploded, announcing that the issue was not final because the opponents of the Iraqi judiciary were appealing to the "Arab League." This last allegation was hurled at me with what I suspect was rather impolite language, which was not fully interpreted, accompanied with wild gesticulation of the arms, great animation

such that the man could not sit still, and such rapid-fire delivery that little bubbles of spittle were launched from his mouth. The concept of the Arab League having any jurisdiction in Iraq made me laugh aloud. I assured him that the opinion of the Arab League did not matter; he and the local bar were either to be part of the solution or part of the problem regarding the formation of the new court in Mosul. However, the court would function and terrorism cases would be heard in Mosul.

The original proposal called for a team of investigative judges and their staffs to travel with me to Mosul to begin to reduce the backlog of cases in the court system. Judge Faisal and Judge Aamer objected to Judge Medhat, claiming that the local investigative judges were prepared to handle all the cases. This was an amazingly false claim. Colonel Abid, the first head of the Major Crimes Unit, estimated that his unit had made over five thousand arrests in the previous three years, but less than two hundred cases had ever been submitted for trial at the CCCI in Baghdad. Abid insisted that the IJs were the problem. Having Baghdad trial judges would not increase the number of cases prepared by the local investigative judges.

Judge Medhat is a very patient man. He gave the local judges an opportunity to prove their value. As an "experiment," he allowed the local investigative judges to continue the preparation of cases for the trial court. However, he sent several very knowledgeable investigative judges, including Judge Diah, a new CCCI trial judge who had previously served as the chief investigative judge for the CCCI, to supervise the work of the local IJs. Each of these supervisors advised my team that the local IJs were not following the law and were obstructing justice. One judge told me, "These local investigative judges are really good defense attorneys, but they are not following the law." These reports were also made to Judge Medhat. Medhat quickly determined that Aamer had to be removed, but he lacked the power to fire Aamer. To get him out of the way, Chief Judge Medhat Mahmood sent Aamer to Great Britain to study for a masters in law.

Approximately one year later, Aamer returned to the same court, but with a different assignment as a civil judge, and he was not involved in criminal investigations. When I left Mosul on April 18, 2008, Judge Faisal was still the chief judge of the Ninewa Provincial Appellate Court, and he continued his passive-aggressive behavior toward the court. Aamer continued to influence and control lesser judges to impair the function of justice. Finally, Judge Medhat ordered Faisal to retire or to move to another province and brought in a new chief judge. The Medhat "experiment" of using local investigative judges became impossible as the combat tempo increased in Ninewa. The "last stand of Al-Qaeda in Iraq" brought much more aggressive interdiction efforts, increasing the number of detainees, including more significant prisoners. The security of Iraq required impartial judges from outside of the province. A more secure compound was created for investigative judges within the operating base of the Iraqi Army adja-

cent to FOB Marez. The volume of cases increased dramatically, and the trial judges continued to convict terrorists. The initial low-budget operation in Mosul was duplicated in Kirkuk, At-Ta'mim Province; Tikrit, Salah ad-Din Province; Ba'qubah, Diyala Province; Ar-Ramadi, Al Anbar Province; and a much larger project, called "Law And Order Task Force," or LAOTF, was built in Sadr City to handle the huge number of detainees captured as part of the "Surge." All of these programs, while similar in approach and concept, had to be adjusted for the circumstances of each community. All of the subsequent programs cost substantially more to create than our initial "proof of concept," as Colonel Martins called Task Force Zorro. Time will tell how long these initiatives will last and what changes may be required in the future. However, absent the substantial efforts to introduce concepts of an independent and transparent judiciary, very little lasting progress would have been made in the Rule of Law. As a result of the efforts of so many people, Iraqis had an opportunity to shape the Rule of Law as they wished it to be, not as it was imposed upon them. Sectarian bias and corrupt political influence was limited, and justice was given an opportunity to take root. As a summary of the impact of this first court, I offer the following.

The first terrorism trials of Major Crimes Court #15 (MCC #15) began in late December 2006. The Iraqis overcame a boycott of the MCC by defense attorneys, led by the local bar leadership. The governor provided bodyguard protection for two attorneys, who were also elected Provincial Council members. One was an older man and the other a young female, who proved to be very effective in defending some of the older cases. The local judges and much of the local staff who had been assigned to MCC #15 resigned as a result of threats made publicly in writing and delivered to the courthouse and the mosques. The Higher Juridical Council replaced the local judges with more judges from Baghdad and allowed PDOP Wathiq to provide staff to support the court. The resulting publicity regarding the operation of MCC #15 was astounding. Within three months of the first trials, polling of the citizens of Mosul established that public confidence in the government in Mosul exceeded the confidence the U.S. public had in Congress. As General Casey prepared to transfer his command to General Patreus, he asked Ambassador Murphy, the outgoing Rule of Law Advisor,¹⁹ to let Task Force Zorro know that he had underestimated the impact of the project. General Casey viewed Task Force Zorro and MCC #15 as the most significant accomplishment in Iraq during 2006, despite the fact that it was only operational for a few weeks. I am advised that the State

19. When Ryan Crocker became the U.S. Ambassador to Iraq, he changed the reporting structure of the Rule of Law Working Group and the title of the head of the Rule of Law Working Group from the Rule of Law Coordinator to the Rule of Law Advisor. The Rule of Law Advisor reported directly to the Ambassador under this new scheme.

Department leadership, including the Ambassador, shared that view and continued to make such comments as the court continued to operate.

Despite new obstacles, MCC #15 continues to function. Medhat bowed to pressure from the local bar and directed Faisal to appoint two successive panels of local trial judges. The local judges provided only excuses for declining to consider significant cases. Medhat removed Faisal and instituted traveling investigative judges as well as the return of traveling trial judges. The best summary I can provide is the report I prepared for Judge Medhat as I contemplated my return to Phoenix. Jason Hyland, the PRT Team Leader, saw this report as inappropriate for presentation to Judge Medhat because it advocated solutions to the problems identified. I thought my job included advocacy. The report had been circulated among the Rule of Law community. I do not know whether its details were shared with Medhat, but the advice outlined in this report was eventually followed.

Draft of a Letter from Reid Pixler, Rule of Law Section Head,
Ninewa Provincial Reconstruction Team, to Honorable Medhat Al-
Mahmood, Chief Justice of the Federal Supreme Court of Iraq²⁰

Honorable Medhat Al-Mahmood
Chief Justice of Federal Supreme Court
President of Higher Juridical Council—Iraq
10 April 2008

Re: Status of Panel of Local Judges
Major Crimes Court #15
Mosul, Ninewa Province, Iraq

Status Quo Ante: Prior to December 2006, no trial court in Ninewa was prosecuting major crimes due to the threat of attacks on judges and their families. The presence of corrupt influences, both economic and political, assured the citizens of Ninewa that regardless of the successes in capturing murderers, kidnappers, rapists, extortionists, and terrorists, justice could not be found in their local courts. Evil and dangerous men were released to continue their brutal assaults by a system that was supposed to protect the citizens.

Solution: In December 2006, Major Crimes Court #15 (MCC) was formed and continued to serve through August 3, 2007. This court was staffed by

20. Draft of a Letter from Reid C. Pixler, Rule of Law Section Head, Ninewa Provincial Reconstruction Team, to the Honorable Medhat Al-Mahmood, Chief Justice of Fed. Supreme Court of Iraq (Apr. 10, 2008) (on file with author).

judges from outside of the province who lived for a few weeks in secure quarters while trying cases prepared by local investigative judges. Every trial panel during this period discovered improper actions by the local investigative judges intended to release the most dangerous of those detained. Supervision of local investigative judges by a panel of Baghdad judges was critical to the successful performance of the MCC. Absent this immediate and regular supervision, the improper influence upon the investigative judges would not have been discovered. The diligent work of the brave Baghdad judges was rewarded with growth in the confidence of the citizens of Mosul in their government as media coverage of the Governor and Provincial Director of Police announced the successful operation of this new court, which was dedicated to only the most serious cases. Apart from terrorists, criminal gangs, and Ba'ath Party members, the only organized public group that opposed the formation and continued operation of the Mosul branch of the Central Criminal Court of Iraq (CCCI) was the local attorneys. Boycotts were arranged, threats were made, and flyers posted, all of which were dedicated to defeating this historic court. The success of the MCC prompted the formation of many similar courts, which have recently begun to operate. Justice has been extended to the provinces by recognizing threats to the security and integrity of the courts, moving provincial judges out of their communities where influences are too great, and relocating them to secure courthouses where they can be both impartial and independent, dispensing justice as an Iraqi judge is sworn to do. The MCC experiment provided an opportunity for Iraqi Security Forces to gain control over those who seek the destruction of Iraq. The citizens finally began to hope for peace after years of violence directed at the public as a political tool by men seeking to destroy the government.

Modification: In September 2007, an order was issued to end staffing of the MCC with judges from outside Ninewa. A panel of local judges was appointed. The impact of this order placed total control of the MCC trial panel and investigative judges within reach of the same corrupting influences that had previously created the chaos. This order was not issued as the result of changes in the security situation or the availability of secure housing, but as the result of suggestions made by the same attorneys who had previously conspired to prevent a branch of the CCCI from operating in Ninewa. This same organization claimed that the entire CCCI was a special court and, therefore, illegal and unconstitutional. The argument was rejected by the Higher Juridical Council and the Bar Association of Iraq. A similar argument was recently made in a letter to the Higher Juridical Council by the members of MCC #15. (Ex. B).

Analysis: The basis for the modification to MCC #15 was a letter of July 28, 2007, delivered to Judge Faisal Sadeeq Hadeed, who forwarded it to the

Higher Juridical Council Judges Affairs Department by cover letter of August 29, 2007. Two complaints were identified by the fifty-seven attorneys who signed the letter. First, they complained about the time between a referral from the investigative court to consideration before the trial panel. Second, they complained that the Baghdad judges from the CCCI acted unprofessionally because they tried cases too quickly and did not consider witnesses' statements relevant to the trials. (Ex. A).

1. From December 2006 to May 2007, the trial panels were available to continuously try cases, and they substantially reduced the backlog of cases despite the obstacles and objections to the functioning of the MCC raised by the local attorneys. Processing the cases would have been more rapid but for the organized opposition of the attorneys, which needlessly delayed the dispositions of the cases. In April, an order was issued by the Higher Juridical Council requiring all IJs to place as a priority seeing detainees within twenty-four hours of their arrest. The MCC IJ staff was inadequate both to continue the rapid production of cases for trial and to immediately see all detainees. The number of the investigative judges was inadequate, and the lack of outside supervision provided an opportunity to misdirect cases and to flout procedural requirements. The trial panel, which arrived in July 2007, authored a report strongly criticizing the performance of the MCC investigative judges that led to the replacement of the entire panel in September 2007. In short, the question of logistics, delivery of the visiting judges, and staffing of the MCC IJs is entirely within the sound discretion of the Higher Juridical Council. The panel of local judges has not increased the speed by which cases have been tried. Rather, trials have virtually stopped.

2. The second issue is problematic. It can be presumed that the Baghdad judges have engaged in exactly the same conduct and procedures in trying cases in Mosul as they use when presiding at the CCCI in Baghdad. The statistics reflect that the number of trials per day is only slightly greater in Mosul than in Baghdad. This circumstance is explained by the fact that the logistics of presenting prisoners in Mosul are far less involved than those in Baghdad. Simply stated, for its size, MCC #15 is more efficient as the result of its judicial organization, proximity to the jails, and court security than is the much larger CCCI in Baghdad, which relies on a more complex logistical system. The criticism of the Mosul attorneys can be seen as a condemnation of the entire Central Criminal Court of Iraq trial procedure as "too hasty" and a claim that Mosul judges would provide a better model for the trial of major crimes in Iraq than the model demonstrated in Baghdad. This is a rather arrogant assertion from attorneys who have consistently argued that the formation of the CCCI is illegal and unconstitutional, actively resisted the trial of cases in Mosul, and contributed nothing to either the secu-

rity of Mosul or the formation and operation of the court. Because the security for the judges and their families has admittedly not increased in the past year, the effort by the Mosul attorneys can be seen as a transparent effort to once again extend a corrupt influence over local judges in order to control the outcome of cases. Such influence was not possible with judges from outside of the province.

3. More recently, the criticism directed at the traveling judges by both Judge Faisal Sadeeq Hadeed and Judge Salim Mohammed Noori is directed at the judges who travel from Baghdad. The claim is made that these judges are in a hurry to return to Baghdad and do a very poor job hearing cases because they really do not know what they are doing. They allege that between 70% and 80% of the cases handled by the Baghdad judges are reversed by the Court of Cassation and that the Mosul judges should be teaching the Baghdad judges how to try cases. However, the case statistics provided by Judge Salim Mohammed Noori actually prove that the local judges have tried virtually no cases during their service. (Ex. C). When the case statistics for the Baghdad judges are removed, it is apparent that the local judges have done nothing of consequence, essentially returning all cases to the IJs for disposition. There is virtually no judicial activity in Mosul as the result of the experiment with the local judges, yet the local attorneys, who control the justice system through illegal and improper means, are very pleased with the changes they made happen.

Local Needs: One of the first acts undertaken by the panel of local judges was to issue a list of needs associated with the continued operation of MCC #15. (Ex. B). Many of these items reverse all of the security precautions required to try terrorism and major crimes cases while adversely affecting the security of the public in the provincial courthouse. The unstated purpose is to end the existence of the Baghdad CCCI model of a separate facility for major crimes cases. Each of the numbered paragraphs contained in the letter will be addressed and evaluated in the same order.

1. The local panel complained that the secure compound immediately behind the provincial courthouse where the MCC is located is also the location of an Iraqi Police Emergency Response Battalion. There are many police vehicles within the compound, a weapons firing range is located outside of the compound near the river, and representatives of the Coalition forces are frequently in the vicinity. These statements are true and are part of the reason that this compound was selected by the senior Iraqi leadership of Ninewa as each of these components adds to the security of the MCC. All of these conditions are also immediately adjacent to the provincial courthouse. No complaint has been previously made by any panel of Baghdad judges nor has any complaint about these security conditions been

made by any judge of the provincial court. Conversely, these factors would equally impact the existing courthouse. For example, the visit of the PRT Rule of Law Section to the provincial courthouse requires several CF Humvees to sit in the courtyard. This circumstance is a much more obvious and significant risk to the facility than the visit of the same Humvees to the less visible judicial compound and, therefore, substantially reduces the risk to all the Iraqis frequenting the courthouse. As noted in the first paragraph of the letter, the Iraqi Police headquarters is just across the street. IP and CF vehicles move past the front of the courthouse frequently every day. The fact that the MCC buildings are in a facility or compound separate from the regular provincial courthouse in a building dedicated only to the trial of major crimes cases, is consistent with the CCCI courthouse in Baghdad and the new facilities in Kirkuk, Tikrit, Ramadi, Rasafa, and the facility under construction in Ba'Qubah. Despite the fact that this MCC has functioned exceptionally well since December 2006, the local judges want to abandon a separate and secure facility and increase the risk associated with the operation of the provincial courthouse, contrary to the direction and guidance provided by the senior Iraqi officials, including the chief provincial judge. The only obstacles to employees and attorneys entering the secure judicial compound are the security requirements designed and intended to prevent attackers from gaining access to the court. Soon, the security checkpoints for the entire court area will be improved. If there are any objections after the security upgrade, the PRT Rule of Law Section will receive those objections from either the MCC judges or the attorneys and will work toward a resolution of such issues. However, it has to be agreed that the security for the courts must be the paramount concern.

2. This paragraph refers to the location of the investigative judges and their staff, including the judicial investigators. The basis of this complaint is alleged harassment and intervention by the Iraqi Police. Based upon direct communication with the trial judges, it is understood that the basis of this complaint is the security checkpoints required to safely maintain the compound. This issue can be revisited once the security upgrade is provided to the judicial compound. Preliminary contact with Provincial Chief Judge Faisal Sadeeq Hadeed indicated that the relocation of the MCC IJ court into the judicial apartment near the courthouse was an unacceptable increase in risk to the courthouse and that the IP would still be involved in controlling access to the facility in order to maintain security. An effort is being made to provide additional office space to the MCC IJs and to repair damage at the MCC trial building.

3. The local judges request more secure housing near the court at the expense of the Higher Juridical Council. Based upon direct conversations, it is apparent that no improvement in the security situation in Mosul with re-

spect to the lives of the judges and their families has been made in the past year that would warrant the formation of a local panel of judges. Simply stated, it is no safer this year than it was in 2006 for the judges engaged in trying major crimes cases in Mosul. It can be presumed that the same factors of threats, intimidation, corruption, and control that required the formation of the visiting judges program one year ago still exist today. The local judges request that they be allowed to occupy property owned by the HJC located in neighborhoods close to the court. It is understood that other judges presently occupy these homes. These judges would be required to vacate the properties in order to supply a secure residence for the MCC panel. In the alternative, acceptable judicial housing can be located near the courthouse, which can be rented by the HJC and provided to the local judges. The expressly noted factor that makes housing safe is its proximity to other provincial officials, specifically the Iraqi Police and Iraqi Security Forces. The irony of this request is obvious. The local judges wish to live in an area secured by the IP and ISF but do not wish to work in an area secured by the most elite units of these same forces. From direct conversations with the panel of local judges, it is understood that they also request that the assignment to the MCC be rotated between all judges of the provincial court every ninety days. Another alternative proposed by the local judges was an opportunity to travel to other provinces to serve MCC duty where the identity of the judges would be unknown. This issue was not addressed in the letter but was discussed as relevant to the issues contained in the letter.

It is agreed that security for judges associated with the MCC is of critical importance. One of the greatest risks facing a local judge is the commute to work. All judicial projects that followed the Mosul model included secure housing for judges, and many contemplated living space for families. The present judicial compound does not have secure housing for the families of the judges. Time would be required for the construction of such facilities. It is unknown whether the operation of a strong and truly independent court that is free from corruption and threats will establish a stable security situation more rapidly than the time required for construction of new judicial housing in a secure location guarded by the ISF. The choice facing the HJC is to locate sufficient secure housing that is marginally better than the housing occupied by the present local judges while constructing secure housing or continuing a version of the "visiting judges" program, which moves judges to other provinces where they reside in secure housing while trying major crimes cases. The only logical choice is to engage in an expansion of the visiting judges program and to create a circuit court staffed by judges from outside of the area who try cases while living in the secure housing provided in each location. It would be critical to have trial panels composed

of judges from different provinces to increase transparency and prevent further targeting.

4. The local judges requested additional bodyguards for themselves and their families, along with weapons, training, and anything else required to properly function as a security detail. The judges request that the bodyguards be members of their families to insure the loyalty and confidence of the bodyguards. It is noted that one year ago when this subject was discussed the judges consulted indicated that personal security would not be increased even with a large number of bodyguards. Rather, it was expressed that such an entourage only served to increase the risk of attack. Based upon this advice, the visiting judges program was constructed as a better alternative. This request for more bodyguards is inconsistent with the position of the local judges one year ago. However, it is clear that these local judges feel that the security situation in Mosul requires greater security. It is agreed that security for the trial judges of the MCC must be a paramount concern. How to obtain the greatest security is the issue.

Concerns: After our first two engagements with the first panel of local judges, they advised that they would be handling cases in a very different manner than the previous five panels. Despite the work done by the previous panels, the current judges rejected the results as not supported by evidence. It was not at all clear why these local judges would be familiar with the cases handled by the previous CCCI panels from Baghdad, which included some of the most senior and experienced judges in Iraq. Extensive discussions were held regarding the components lacking in the cases presented to this panel, yet when identification of specific cases was requested, no examples were forthcoming. Sweeping statements and generalities regarding the failures and incompetence of the Iraqi Police were presented as justification for the dismissal of cases, but yet again, no examples could be provided. Rather, this appeared to be justification for returning cases to the investigative judges for further work. This approach is exactly the justification for the failed judicial system provided by the local judges one year ago, which led to the creation of the visiting judges program. It was apparent then that such allegations merely represent a rationalization to justify inaction and dismissal. Yet, judges from outside the province, who are not subject to threats and influence, found the cases adequately prepared and praised the performance of the Major Terrorism Unit for its fine preparation and presentation of the cases.

Of grave concern is the apparent justification for the release of prisoners, including expressions of sympathy for acts of terrorism that are based upon political disagreements and the suspicion of corruption. The local judges expressed their collective opinion after two weeks in the MCC that only

25% of the cases they see involve real terrorists. The rest, according to the local judges, are citizens merely expressing political opinions and seeking revenue due to the lack of jobs and the ineffective actions of the government. Such acts, in their view, are not criminal but are political expressions and have no place in their court. These judges have expressed their view that the new terrorism law is invalid, and they will not follow it.

I disagree. Unless such violent acts of terrorism promoting chaos and lack of confidence in the Rule of Law are punished, there will be no opportunity to establish a secure environment where investments will be made to create job opportunities, schools, businesses, health centers, and where citizens can feel safe in their communities. Further, these local judges have consistently expressed the same positions as the local attorneys regarding the formation of the court, the location of the court, and the actions of the court. In no respect have they appeared to support the MCC or the CCCI and have reduced the production of cases considered by MCC #15 to a trickle. (Ex. C). In fact, they have refused to provide data tracking forms that have been previously approved and issued by all the previous trial panels. Without these forms it is not possible to accurately compare past results. However, it is safe to conclude that the local attorneys are pleased that the cases are not being handled in a "hasty" way and are no longer concerned about the length of delay between arrest and disposition. More than six months after the creation of panels composed of local judges to serve in this court, the records supplied by Judge Salim Mohammed Noori indicate that there have been 24 cases tried and only 3 convictions obtained, which demonstrates a 12.5% conviction rate. With the same type of cases during a similar period of time, the Baghdad judges tried more than 200 cases with a conviction rate of 68%.

Recommendations: Left as MCC #15 is presently constituted and without substantial and direct supervision from an outside judicial authority, the positive relationship between those engaged in the capture of terrorists and organized criminals and the judicial system that has been developed and proven over the last eighteen months will be impaired, if not destroyed. Despite the recognition of substantial success and the obvious public approval of a functioning major crimes court in Mosul, the apparent purpose of the panel of local judges is to reverse and remove every crucial component purposefully constructed to create a safe environment within which to establish a beachhead in the war against terrorism in Ninewa and to replace that system with one focused on increased personal security for the judges and their families. The local judges have embraced and recited every argument repeated by those who oppose the independent Central Criminal Court of Iraq and discredit the performance of the six panels of CCCI judges who

have created this historic major crimes court and proven that independent judges, if adequately protected, can dispense true justice in Ninewa.

Conclusion: The continued reliance upon the local judges to staff MCC #15 will most certainly cause the state of the justice system to revert to where it was prior to December 2006. In order to protect the Rule of Law and the progress recorded to date, it is essential to reinvigorate the traveling judges program and to empanel truly independent judges who are beyond the reach of the influence of the local terrorists, criminal gangs, Ba'athists, and other local AIF sympathy. In order to build the capacity of the various CCCI courts that will soon be operating and to expose local judges to national problems, it would be infinitely preferable to assign panels of provincial judges to the Baghdad CCCI where they should be assigned to different CCCI panels to experience trial procedures at the CCCI level and to provide traveling judges to Mosul and other MCC courts comprised of at least one experienced CCCI Baghdad judge in combination with side judges from other provinces. Temporary quarters for Baghdad judges can be provided at FOB Marez with a court located at adjacent COP Spear where access can be readily provided to the public while a modern Rule of Law compound is constructed as a joint project funded together by components of the government of Iraq and Coalition forces.

Respectfully submitted,

Reid C. Pixler
Section Head–Rule of Law
Ninewa PRT

EXHIBIT A

By the name of God

To: The Honorable Ninewa Lawyers Boardroom
Subject: Forming MCC in Ninewa

Peace be upon you

Since forming the above court, we're seeing that our defendants rights are abused, some of them are staying for a long time after referring their cases until the Panel's arrival to look into their cases and some others cases they were are looked into their cases in a hasty way even most of those trials were done with out listening to witnesses statements related to the case which resulted to reject some of these cases.

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So, due to above and because there are professional judges in Ninewa Courts, we would like to ask you to submit this letter to the Chief of Court of Appeal in Ninewa to look into it in order to form a Committee from Judges of the Court of Appeal in Ninewa.

Appreciated

Signed by:

- 1-Lawyer Isam Al-Adwani
- 2-Ali Husein Al-Wakae
- 3-Ahmed Ali Al-Jiboury
- 4-Basim Hasan Al-Jiboury
- 5-Ali Rajab Mohamad
- 6-Abdul-Salam Abdul-Qadir Mahmoud
- 7-Ausama Al-Abasi
- 8-Hasan Al-Zuhairy
- 9-Salim Al-Jumaily
- 10-Zhra Rajab
- 11-Younis Rajab
- 12-Mohamad Taha Kashmoula
- 13-Aubaid Hammod Al-Shammary
- 14-Amer Mahmoud Salih
- 15-Ahmed Yaseen
- 16- Ahmed Husein Ibrahim
- 17-Ahmed Hasan
- 18-Ahmed Ilyas Rajab
- 19-Nathim Al-Talib
- 20-Nizar Fawzi
- 21-Luey Al-Ibady
- 22-Adul-Alrahman Aziz
- 23-Abdul-Rahman Abdula
- 24-Ali Saeed

EXHIBIT B (English)

Translation of Letter from MCC 15 CJ Usama to HJC CJ Medhat
Requesting relocation of MCC Court, IJ's and pay rent for MCC Panel homes.

To the Supreme Court Council

Subject/ Request

Due to resumption of MCC chair and member coordinated to a memo supported by declaration number 108-Q-A in Sep 20th 2007, the purpose is that the court to conduct its duty in a proper way to achieve the goals that has been formed for in the right role according to the Iraq's law. In order for the court to do the job correctly to have success we conclude we have the following needs:

1. The mentioned court above had been formed and provided in a compound near a building of the Emergency Response Battalion/5 (ERB/5) close to Nineveh Federal Appeals Court. Because of the security precautions from the ERB/5, there are continuous movements of Iraqi Police (IP) vehicles and a firing range by the compound close to the court house, it gives the court the appearance of a military or special court where citizens are excluded, which results in discouraging the employees from their duties and also many of lawyers do not want to appear before the court. In addition, due to the regular visits by the Coalition Forces (CF) to the ERB/5, there is an appearance the MCC is a military court even though the MCC does not consider military issues. The court is formed according to the order from Ninewa Appellate Court which is linked to Higher Juridical Council, there for we request to move the MCC to the courthouse, the place that was occupied by the Nineveh Criminal Court. This building has high security because it is surrounded in all directions by IP stations and it is located opposite to the One West IP Headquarters, which has blocked all the nearby roads. Because of that, they have been provided the necessary protections for all the directions. As well, the Nineveh CC has its back entrance of the courthouse and closing this back entrance, which leads to reception areas, will completely separate the mentioned court, and the entrance and exist will be from the back door. Therefore, the court will be safe and secure more than from the present location and it will be marked with its judicial style in a way which will allow it to perform its duty as other courts which belong to the judicial system and it will earn the people's trust. The major crimes court will be transferred to the building which was provided to the Second Criminal Court, at which no essential efforts or money will be required because the building presently has all of the requirements.

2. Concerning the location of the building of the MCC Investigative Judges, it is also placed near the ERB/5 mentioned above, the Investigative Judges and judicial investigators are constantly facing harassment and intervention by the Iraqi Police (IP), and we recommend transferring investigation court to the residential building next to the courthouse. For security, the main entrance is placed in opposite of One West, which had all the security precautions. The back entrance leads to the Criminal Court mentioned above and is more secure to escort the detainees into the building.

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The building contains several rooms and a parking lot for IP vehicles, which requires a little renovation.

3. Due to the sensitivity of the court and the cases the members handle, it is required to provide reasonable and secure residential housing for the court's members not only due dangers which the court members face but also to avoid all kinds of pressures and affections they might be face while traveling from work to home or vise versa. We suggest alternatives which could be provided in this case, vacate the houses which belong to supreme council located in Al-Faisalyyia neighborhood which is a secure area and is surrounded by local key officials. As well, the road to the court is also secure because it is used by the IP and ISF members. If it is not possible to provide these houses, then it will be essential to provide government's houses with the coordination of the governor who can provide housing for governmental officials with security conditions, or to rent houses near the courthouse house in Danadan neighborhood or in Al-Faisalyyia neighborhood.

4. In order for the court members to practice correctly their normal duties, it is required to provide numbers of personal security bodyguards to them and to their families in the homes of the members, preferring that the bodyguards to be family members with no restrictions in order to secure their presence. As well, the bodyguards should conduct their duties professionally and to provide the members and the bodyguards with weapons and necessary needs.

We hope that these needs attract your attention for the seek of the public interest and for the success of the court.

Signed by the

MCC, Nineveh Chief

EXHIBIT C (English)

In the name of Allah, the Compassionate, the Merciful

Republic of Iraq
High Juridical Council
Presidency of the Ninewa Federal Appeal Court

No./772
Date/ March 16, 2008

To / High[er] Ju[ri]dic[ial] Council / Office of the President
Subject / Statistics of the work of Central Criminal Court in Mosul

Referring to the phone conversation with the President of Higher Juridical Council on the morning of March 16, 2008. We listed below a statistical table of the work of the Central Criminal Court in Ninewa, since its formation on 12/12/2006 until 3/16/2008.

Please review . . . with appreciation,

Attachment:

- Statistical Table.

Judge

Faisal Sadeeq Hadeed

President of the Ninewa Federal Appeal Court

Details	Year 2007	Year 2008	Total	Notes
Total	483	60	543	
Conviction	120	24	144	
Acquittal (release)	105	24	129	
Other Cases (Returned to IJ)	258	12	270	Pending
Under Trial		85		65 cases referred to the Amnesty Commission, the rest (20) cases under trial

Judge/ Salim Mohammed Noori

The table below was prepared by separately accounting for the performance of the 6th Panel of Visiting Judges. Each panel of the Traveling Judges provided their statistical performance, and we simply subtracted the known figures from the summary figures provided by the Local Judges, who intended to conceal their lack of performance by reporting all of the trial figures for all panels.

Cases done by Visiting Panel #6		Done by 2 Local Panels 2008		
Total	Days in Ser 8	31	17	Days in Service 68
Conviction		21	3	
Acquittal		10	14	
Returned to IJ			12	
		31	29	

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An evaluation of the performance of both local trial panels through March 16, 2008, a period of 68 days of service, reveals they handled roughly 1/2 the number of cases as the visiting judges did in 8 days of service. The local panel has convicted 3 persons of something, we don't know what, and found 14 not guilty. The conviction percentage for the Traveling Judges is 21/31 or 67.74% as compared to the conviction rate of the Local Panels of 3/17 or 17.65%. This statistic demonstrates the local judges will not try cases as efficiently as the visiting judges and they have a substantial bias against conviction. This opinion is, based upon the assumption that over time the cases heard by traveling judges are essentially the same quality as cases heard by local judges and the local judges routinely refuse to convict, electing to either dismiss the case or refer the cases to the IJs for disposition. The Traveling Judges spent 83 days in Mosul trying cases from December 20, 2006, through August 2, 2007. The trials resulted in 120 convictions in 218 cases, for a conviction percentage of 55.05%. By subtracting these results from the above table, it appears that seven cases were tried and all were acquitted, resulting in a conviction rate of 0%.

Cases done by Visiting Panels #1-5 Done by 1 Local Panel since
30Sep07

Total	Days in Ser 83	218	7	Days in Service 92
Conviction		120	0	
Acquittal		98	7	
Returned to IJ			258	
			10	Unknown Disposition

It is apparent the local trial panels have been and continue to be an abject failure. Now, as the result of allegations regarding death threats, the MCC IJs are not attending court. The focus on the formation of the Amnesty Committees has created the illusion of removal from the conflict. It appears the Judges feel the problem has been addressed and nothing further needs to happen. As a result they are no longer focused on preparing the cases which have been developed after the date the Amnesty no longer applies, which we understand to be February 23, 2008. Cases of criminal acts committed after that date are not subject to Amnesty and should continue to be prepared. Based upon the observation of the MPs operating in the Blickenstaff area, there is no activity at the MCC IJ facility.

Absent a Tiger Team (Traveling Judges for the IJ Court), as well as Traveling Trial Panels, and based upon 17 cases tried in a quarter; we can expect approximately 68 cases to be tried by the local panel all year. In other words, it will take approximately 6 months to try the 29 pending cases if the Local Panel is not motivated by adequate supervision and encouragement from Baghdad.

V. CONCLUSION

Was it worth it? Was the separation from a loving family, an interesting job, a comfortable and relatively safe life for two years to work in a war zone worth the contribution to a region full of people who hate us? Was it worth risking the lives of three men in one family to try to make a difference? Did anything good come from the experience? Will anything change? Is it not true that all of the people in Iraq hate us and that we should either kill all of them or pull out and let them kill each other? These are some of the questions I have been most frequently asked since my return, and they are part of the reason I took time I did not have to write this paper. Yes, absolutely it was worth it, and I am only sorry I did not see many of the projects I worked to develop come to fruition before I was required to leave. God only knows if I will ever return to Iraq and see the many wonderful people I worked with in Mosul.

In this article I have spent a great deal of effort establishing the fact that there are many different cultures, religions, and world views of the people just in Ninewa Province. It is impossible to describe all Iraqis in any generalized way. There are millions of these people who desire nothing more than to live in peace with an opportunity to raise a family in a comfortable life. Yes, some candidates for terror may come from these populations, but the prospect is more likely to occur if terrorists are unchallenged in their efforts to recruit victims with their vile propaganda. Many Iraqis cannot imagine another life. Shack Shackelford, one of my colleagues in the Ninewa PRT, said that we are planting seeds that may take twenty years to germinate. Most of these people want to be on the side that eventually wins. In the words of Saddam: "They admire the man with the strongest horse." Until someone wins, the general population will continue to be the target of terrorism, organized crime, abusive and corrupt police and army officers seeking advantages, and political parties holding onto or expanding their power at all costs. In my opinion, the fact that an unbiased court was able to function in Mosul and actually try major crimes cases related to terrorism was critical to beginning to build the confidence of the citizens in the community. This effort was duplicated in other provinces, including Al Anbar. The fact that the citizens all became aware that Iraqi law was being enforced by Iraqi judges in an Iraqi court, despite the concerted efforts to block that institution from functioning by terrorists and Ba'athists, was critical to establishing public confidence in the government. Terrorists and criminals became aware that they could no longer hide in the community. A procedure was in place for citizens to cooperate with investigators and a court that would administer justice. When it was impossible to bribe, intimidate, or influence the courts, and judgment day in the form of the Rule

of Law approached, terrorists had no choice but to flee or die in the effort. Make no mistake, I do not propose that these few courts are alone responsible for the growth of peace, but our courageous military personnel would have had a far harder time accomplishing their amazing feats without this fundamental change in the criminal justice system as it relates to the most significant crimes impacting the people of Ninewa.

Much to my surprise, I came away from the experience with a much deeper appreciation for our own society. I have been an attorney all of my adult life. I have engaged in rigorous and challenging litigation while experiencing emotions vaguely similar to combat. No matter the depths of the legal conflicts and hostility encountered between bench and bar during these experiences, I never found evidence that either the judge or my adversaries attempted to kill me. I found such evidence numerous times in Iraq. The former and current members of the Ba'ath Party, which controlled the judiciary and bar association in Ninewa, not only targeted me but their own people who supported the establishment and operation of an independent and unbiased major crimes court in Mosul. The nominal reason was alleged to be either the Sunni versus Shi'a conflict or the principled opposition to terrorism courts created only to enforce special laws addressing major crimes. Neither was the real reason. The Ba'athists sought to regain power and dominance over all others. To the extent that terrorism, organized crime, and sectarian violence continued, it was in the interest of the Ba'athists because it demonstrated a failure of the new government to gain widespread support and to achieve peace.

I learned that "peace is not the absence of conflict, but the presence of justice." I believe I saw this quote on a bulletin board at the U.S. Embassy in Baghdad on May 23, 2006, my first day in Iraq. It struck me as a divinely inspired message. I tried to find the little sign later that same day to identify the author, but it was gone. The presence of justice in Mosul, in the form of the operational Major Crimes Court #15, exposed the duplicity of the Ba'athists while providing Iraqis the opportunity to believe in their own system of laws, not one imposed upon them. The military leaders with whom I worked, including Colonel Twitty and Brigadier General Thomas, commented on the increased cooperation from members of the community regarding the reporting of weapons caches and safe houses for terrorists once the court began to return verdicts. The overall confidence of the people that the government of Iraq would succeed increased astronomically once the court began to function. Absent this unique opportunity to encourage democracy and justice to flourish, the people of Iraq could not imagine life in freedom with courts and a government that actually sought to protect them. If the concepts of justice and democracy could not overcome the manipulation, control, influence, and attacks of the old Saddam-era institutions, like the Ba'ath Party, then democracy and justice would be perceived as weak, ineffective, and bad. There would be little, if any, chance that such

institutions would ever spontaneously arise from the ashes of such a massive failure. Providing an opportunity to participate in the process was critical for the future of the people of Iraq and, ultimately, the region. Time is required for the citizens to experience the benefits of freedom and for the concepts of justice to take root.

I also came away from Iraq with a much more refined appreciation of the separation of church and state. Most of the significant litigation regarding this topic currently involves a manger scene on public property and whether there is a conspiracy by the state to impose religion on the masses as a result. Headlines today relate to an effort by an angry self-indulgent attorney who seeks to prevent Chief Justice John Roberts from using the words "So help me God" in the traditional oath of office as he swears in Barack Obama as the forty-fourth President of the United States. Based upon my experience in Iraq, such litigation is both boring and irrelevant. The much more critical issue is whether "freedom of religion" under our Constitution requires a legal system imposed by a religion that seeks to render meaningless the laws and constitution of the country. The establishment of Islamic law in western countries as at least equal to "man-made law" is the objective of Muslim fundamentalists or Islamists.

To a great extent, Turkey today is facing the threat of a coup over such basic issues. For example, Islamic law requires that a female rape victim be killed by her family because she has disgraced the honor of her family. Her murder is required even if her brothers committed the rape and the female did nothing to encourage or cause the attack. Should this requirement of faith constitute a defense to the murder of the victim under the secular laws of the state? A more fundamental and frightening concern regards who has the authority to pass judgment under Islamic law. The sheiks of Al Anbar learned that any Al-Qaeda nut with a gun and a few followers could interpret the Quran any way he wished. The abuses of the Sunni population by such zealots led to the rejection of Al-Qaeda and the "Awakening." This is exactly the type of sectarian agenda that must never be tolerated in a free society or soon the society will not be free. Again, Turkey is a great example. Women are not allowed to wear a Muslim headscarf while attending a public university. A substantial debate has been undertaken about removing this ban to allow women to wear a scarf if they wish to. The same progression happened at universities in Iraq. Allowing Muslim women to wear a scarf soon translated into a situation where women who did not wear the scarves were threatened. Finally, all women had to wear the Muslim scarf, even if they were not Muslim or if they did not want to, simply to avoid attack and death threats. Which society is more free, the one with or without the scarf?

The Iraqi Constitution contains an internal conflict on this very point. The religious political parties required that Islamic law must always be supreme to all other laws and must be consulted when the law of the country

conflicts with the views of top religious leaders. In another section of the constitution, language in direct contradiction to this passage was inserted by secular leaders concerned with abuse and control of the judiciary by nonelected clerics. To the best of my knowledge, this issue has yet to be resolved.

On August 16, 2006, at our largest conference hall at FOB Marez, I was witness to an incredible press conference. A major outbreak of violence plagued Mosul. The police, in an effort to stop the free movement of terrorists, without warning, blocked bridges, snarled traffic all over the city, and began patrols that resulted in running gun battles with terrorists attempting to blow up the same bridges. In the middle of all of this excitement, Deputy Prime Minister Al-Zoubaei arrived on an Iraqi C-130 aircraft with an entourage and many Baghdad media types for a surprise meeting with political figures in Ninewa. The government in Baghdad was embroiled in a constant battle between Shi'a, Sunni, and Kurdish political blocs pursuing individual agendas and was not the least bit interested in finding solutions for a better Iraq. Zoubaei had come on a fact-finding mission and learned that the information he had been provided by members of his political party was not accurate. This man learned some lessons and brought hope to a distressed people. After public press conferences, private meetings, and public updates on the status of the battles in the streets just outside the FOB, this elected official of the Iraqi Islamic Party (Sunni) made an impassioned plea to the people of Ninewa Province and the people of Iraq. He pleaded with them to ask their leaders to set aside their competing agendas for the good of the country and to reject another dictator, even if the dictator is a religious leader. In a room full of Iraqis, standing with my translators, I heard this final statement and watched the Iraqis in attendance nod vigorously in agreement: "Evil is still evil, even if it comes from Mecca!" This one sentence summarizes the future of Iraq and the challenges still faced. For success, peace, and stability to spread, the leadership of Iraq must distinguish between good and evil as they refine their ability to lead their citizens and learn the art of governing. The more protection these brave men and women receive while they improve their skills and the more educated and aware the population becomes, the greater the likelihood that Iraq will stand on its own.