In November 2005, United States Marines were allegedly involved in the deaths of Iraqi civilians in Haditha, Iraq. Marines involved in the incident, members of the chain of command, and a serving Judge Advocate were later charged with criminal offenses under the US Military’s Uniform Code of Military Justice (UCMJ). This effort is not made as complete or comprehensive reconciliation of the facts or responses to the Haditha incident; the internet and contemporary accounts hold many differing accounts of the facts and responses. Instead, my aim is to present an analysis of what I believe the salient learning points are for those that study the Law of War, and to present lessons learned for Judge Advocates and other practitioners that advise commanders on the Law of Armed Conflict. This analysis will include a quick summary of generally undisputed facts and the known record of the UCMJ cases that followed the Haditha incident followed by a comparison and contraposition of two other, less well known, allegations of war crimes committed by US Soldiers in Iraq and Afghanistan thereby serving to illustrate some of the factors which should be considered when determining the handling and disposition of such incidents.

Haditha

Haditha, Iraq was not a nice or safe place to be assigned as a US Marine in 2005. I served in Ramadi Iraq in 2003 to 2004 in an Army unit, the 82d

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1 The following is my unofficial expression of opinion. The views and opinions expressed here are my own and are not necessarily those of the Department of the Army, the US Army Judge Advocate General’s Corps, the Department of Defense, or any other agency of the US government.

Airborne Division, which was replaced by the 1st US Marine Division. I have traveled the roads from Baghdad, as you follow the highways west along the Euphrates River, through the cities of Fallujah, Ramadi, Haditha and finally to Al Qaim which is at the Syrian border. The flow of foreign fighters and Al-Qaida operatives from the border, along the Euphrates eastward toward Baghdad, was well known throughout this period. The challenge and danger the US Marines faced in 2005 was considerable. For instance, on August 3rd, 2005, the *New York Times* reported: “Fourteen marines were killed today when their troop carrier struck a gigantic roadside bomb in the western town of Haditha, marking one of the single deadliest attacks on American troops since the invasion here in March 2003.” These roadside bombs were often called improvised explosive devices or IEDs for short. Though improvised or homemade, many used military munitions taken from the vast ammunition supply dumps left by Saddam Hussein's Army. As the blast killing fourteen Marines demonstrated, these IEDs, though homemade, were often quite lethal and effective. Their deadly toll was also well known. Their primary target was US and Coalition Forces. However, innocent civilians were frequently caught and killed in their all too routine, and often indiscriminate, use.

Therefore, on November 19, 2005, higher headquarters receiving the first report of an event in Haditha that 1 Marine and 24 civilians (to include eleven women and children) had been killed in an IED event would not have been completely surprised or skeptical. Though false, this was the first report from Marines on the scene through their own channels. How this initial report was received, and the extent to which questions were asked prior to making the event public by means of a press release would become a central issue in later investigations. In fact, the next day, November 20, 2005, in what would later be shown was a false and misleading synopsis, a Marine press release stated:

A US Marine and 15 civilians were killed yesterday from the blast of a roadside bomb in Haditha. Immediately following the bombing, gunmen attacked the convoy with small arms fire. Iraqi army sol-

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