

# IRAQ:

## *The First and Last Chapters of the U.S. Legal Mission*

### *Launching the Legal Mission in Iraq*

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**O**n April 9, 2003, as the world watched ecstatic Iraqis tear down the statue of Saddam Hussein in Baghdad's Firdos Square, I got word that my flight into Baghdad was set for that night. At that time I was serving as the staff judge advocate for a Special Operations Task Force that was supporting the initial phases of *Operation Iraqi Freedom*. The Task Force had already conducted numerous missions into Iraq from our forward staging base, weathered the "mother of all sandstorms," and just hours earlier, had established a command-and-control node in Baghdad. Now we were moving the enablers into a better position to support what was expected to be a series of direct action missions against strategic targets in and around Baghdad.

The nighttime approach into Baghdad International Airport was disorienting. To minimize the risk of enemy rocket attacks, the airfield was completely dark. I felt a curious sense of anxiety and helplessness as I realized that, despite the sophisticated helmet, top-of-the-line body armor, and the M-4 slung across my chest, my fate was in the hands of an



Air Force flight crew, whom I had never met. I heaved a tremendous sigh of relief when that crew landed safely, only to be further disoriented moments later when my comrades and I were hustled into the back of a windowless box-truck and quickly whisked to an unknown destination. Only after we disembarked at an abandoned hangar was I able to acquire any sense of spatial awareness.

The conditions at Baghdad International Airport were spartan, to say the least. During the first three weeks of the campaign we had become accustomed to the lack of running water, showers, and hot food. However, the abandoned hangar added another unplanned challenge: pigeon droppings. We lined the floor with row upon row of Army green cots, did our best to keep the pigeon droppings out of our gear, and were thankful for a quick move to the relative luxury of Baghdad International Airport's main terminal. There, I worked in the baggage claim area – which had been converted into the Joint Operations Center – and made Gate 23 my home. The hours were long, the missions were frequent, my sleep schedule was irregular, and the legal issues were plentiful. Questions regarding the rules of engagement, detention and interrogation, fiscal law,

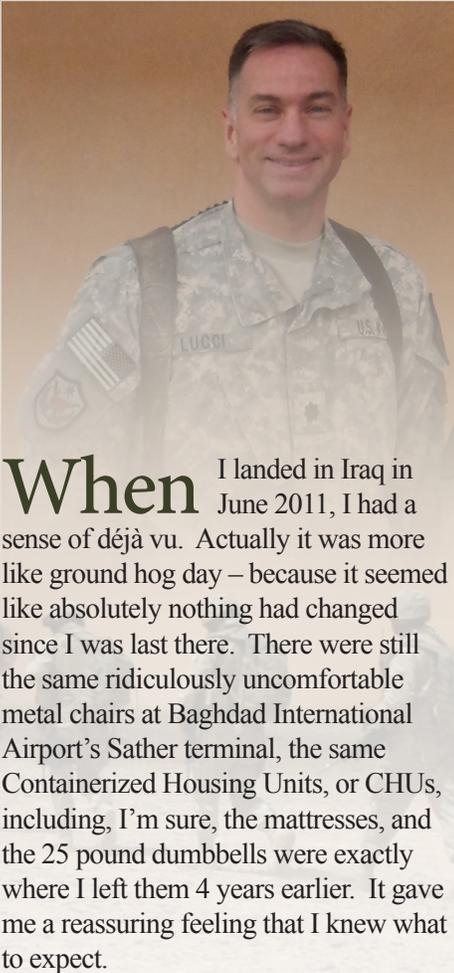
and the role of civilians and contractors on the battlefield served as welcome distractions from the fact that none of us had showered in weeks! Despite the austerity, our morale remained high.

My fondest memory of Iraq remains the hopeful eyes of a child. One of our operations damaged civilian property and resulted in detainees who required repatriation. Due to the uncertain operational and legal environment, the team wanted me along to ensure the repatriation and humanitarian support were effectuated within the appropriate legal authorities. We arrived in daylight in a quiet Baghdad neighborhood, dismounted our Humvees, and proceeded cautiously down a street lined with modest homes. Soon several young children appeared in the doorways and bravely approached the heavily armed men patrolling their street. A young girl, perhaps 8 years old, approached me with a purple flower in her hand. She looked up at me with a look of trust and optimism, and offered me the flower. We had been assured we would be "greeted as liberators," and at that moment, it seemed as though that promise might be realized.

As I left the neighborhood that sunny April day and departed Baghdad some weeks later, there was widespread confidence that our Task Force had accomplished its mission, and that the rest of our forces would soon follow with a similar sense of optimism and achievement. I sometimes wonder what became of that young girl – whether she endured the years of insurgency and sectarian conflict – and how premature my sense of optimism was. That purple flower retains its flourish today, and I hope the sacrifices of so many of our comrades and shipmates helped that girl hold on to her spirit during the difficult months that followed.

# Ending the Legal Mission in Iraq

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**When** I landed in Iraq in June 2011, I had a sense of déjà vu. Actually it was more like ground hog day – because it seemed like absolutely nothing had changed since I was last there. There were still the same ridiculously uncomfortable metal chairs at Baghdad International Airport’s Sather terminal, the same Containerized Housing Units, or CHUs, including, I’m sure, the mattresses, and the 25 pound dumbbells were exactly where I left them 4 years earlier. It gave me a reassuring feeling that I knew what to expect.

It didn’t take long though to realize that while everything looked the same, much had changed. The last time I was in Iraq was 2007-2008. It was the height of the surge and we were operating under various United Nations Security Council Resolutions that gave us broad authorities. Now, from a legal perspective, things were very different. U.S. Forces were now operating under the Security Agreement as the legal basis for our presence, which was a much narrower authority than the United Nations Security Council Resolutions. We had to ask permission from the Government of Iraq to do many of the

things that we once routinely did.

An example of this significant change involved detention operations. In 2008, we had 25,000 detainees held in the large internment facility in Camp Bucca. A huge majority of the detainees were “security internees” that Coalition Forces had captured on the battlefield during unilaterally conducted operations and who were being held for security reasons. However, now Camp Bucca was gone, there were only 206 detainees, all of whom were being held at the request of the Government of Iraq pursuant to Iraqi arrest warrants. Operations to capture insurgents required the consent of the Government of Iraq and usually required joint U.S. and Iraqi forces. These constraints proved challenging, especially when attacks increased in the fall of 2011. Due to the tremendous efforts from the legal office, U.S. Forces had the requisite authorities they needed to ultimately transfer responsibility for all the detainees to the Government of Iraq or to release them within the terms of the Security Agreement.

On October 21, when President Obama announced that the US Military would completely withdraw from Iraq by the year’s end, we still had over 41,000 troops in country, including 17 lawyers on the USF-I staff. We were still a fully functioning legal staff providing legal support across the spectrum. We had to quickly downsize our own office while, at the same time, continuing to provide legal support to ongoing operations, end of mission ceremonies, and to one of the biggest operational maneuvers in the history of the military. Our Rule of Law section was handed over to the DoJ, who continued the mission of engaging Iraqis. Military justice matters were sent to US Army Central Command, and many of the non-mission specific ethics and administrative law issues went

back CONUS with the respective units. We also set up a rear command post in Kuwait with two army lawyers who provided legal support to force protection operations that continued until all troops were safely out of Iraq. By December 2011, there were just three attorneys left on staff, Col. Kevan “Jake” Jacobson, the USF-I staff judge advocate, me as the deputy and one detainee operations attorney who was working on the final transfer of our remaining detainees to the Government of Iraq. At the end, Col. Jacobson and I focused mainly on the disposing of all the excess property under the Foreign Excess Personal Property rules, or FEPP, and the administrative law requirements associated with disestablishing a Combatant Command created Task Force.

Serving as a deputy staff judge advocate at the end of *Operation New Dawn* had some very distinct advantages. I had the good fortune to inherit the corporate knowledge and processes that had been built up over the years from the numerous JAGs who had come before me. However, most importantly, it gave me the opportunity to serve with some tremendous judge advocates and to be able to see how other services viewed the Navy JAG Corps’ contributions to the mission. Whether supporting operations, establishing the rule of law in Iraq, or ensuring that our forces had the administrative law support they needed, so many Navy judge advocates toiled countless hours for months on end to help make Iraq a better place. And in that regard I can proudly say well done to every Navy judge advocate who served in Iraq.

I am honored that I was one of the last representatives of the Navy JAG Corps to serve in Iraq. In the end, as we turned over the last of the detainees, the last of the equipment through FEPP, and even the last of the bases, to the Government of Iraq, it was clear to me that, thanks to the many contributions of the judge advocates who had served there over the years, the legal mission was complete. The only thing left to do was fly home. 🇺🇸