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DEFEND OUR MARINES EXCLUSIVE

RUMSFELD CREATED HADITHA GROUP TO COUNTER MURTHA

Led to prosecution of Marines

by Nathaniel R. Helms | September 15, 2008 | pdf

When Pennsylvania Congressmen John Murtha charged eight Marines with “cold blooded murder” and “cover up” at Haditha more than two years ago, former Secretary of Defense Donald Rumsfeld immediately formed a study group to counter the powerful Democrat’s accusations.

The study group’s analysis of the political and legal situation was used to help decide what course of action to take against eight Marines accused of massacre and cover up by Murtha in the deaths of 24 Iraqis at Haditha, Iraq on November 19, 2005.

The group was briefed by high ranking Marine Corps lawyers sent by Brigadier General Kevin Sandkuhler, Staff Judge Advocate to the Commandant of the Marine Corps. Also in the mix was Peter M. Murphy, former General Counsel to the Marine Corps--a civilian who counseled Commandants and their lawyers for 20 years, according to retired Marine defense attorney Lieutenant Colonel Colby Vokey.

Murphy and Sandkuhler have since retired.

Vokey was the Regional Defense Counsel for West Coast Marines at Camp Pendleton, California when the Haditha scandal erupted in early 2006. The job of defending the defamed Marines fell on his tiny clan of appointed Marine Corps defense lawyers.

As soon as the SECDEF study group was formed, Marine Corps lawyers began trooping into Rumsfeld's office at the Pentagon while Commandant General Michael Hagee climbed up Capitol Hill to brief the money lenders on the progress of the investigation, Vokey said.

“The prosecution actually believed – and still believes – it can win a conviction. It oversold that to General Sandkuhler and he believed it,” Vokey said.

The Marine Corps has not responded to a request for comment.

Subsequently the Marines were charged with murder, assault, dereliction of duty, lying to investigators and conspiring to conceal the truth about what happened after a Marine died in a roadside ambush at Haditha.

The four enlisted men charged with pulling the triggers belonged to Kilo Company, 3rd Battalion, 1st Marines. Charged with cover up were Kilo's company commander, the battalion commander, and two staff officers.

Major General Richard A. Huck, formerly Commanding General of the 2nd Marine Division, Colonel Richard G. Sokoloski, former Chief of Staff of the division and later the CoS of Multi-National Forces-West, and Colonel Stephen W. Davis, the former commander of Regimental Combat Team-2, the senior commander at Haditha, all received a "[Secretarial Letter of Censure](#)" from Winter on September 5, 2007 instead of being charged with criminal behavior.

Winter was particularly critical of the three senior Marines' apparent reluctance to respond to multiple requests by *Time* magazine to reveal what happened at Haditha.

The magazine's sensational reports claimed a squad of Marines under Lieutenant Colonel Jeffrey Chessani's command murdered 24 innocent civilians in retaliation for an IED attack that killed one of their numbers and wounded two others. Afterwards Chessani and his officers covered up the action to avoid recrimination, *Time* magazine reporter Tim McGirk and others claimed.

"Even when made aware of the serious allegations raised by the *Time* magazine journalist, your response to higher headquarters was to forward incomplete, inaccurate, and inconsistent materials provided by a subordinate unit, rather than to initiate a thorough inquiry into the incident," Winter rebuked Colonel Davis.

Vokey said he was informed of the study group during briefings he received from Sandkuhler in June 2006.

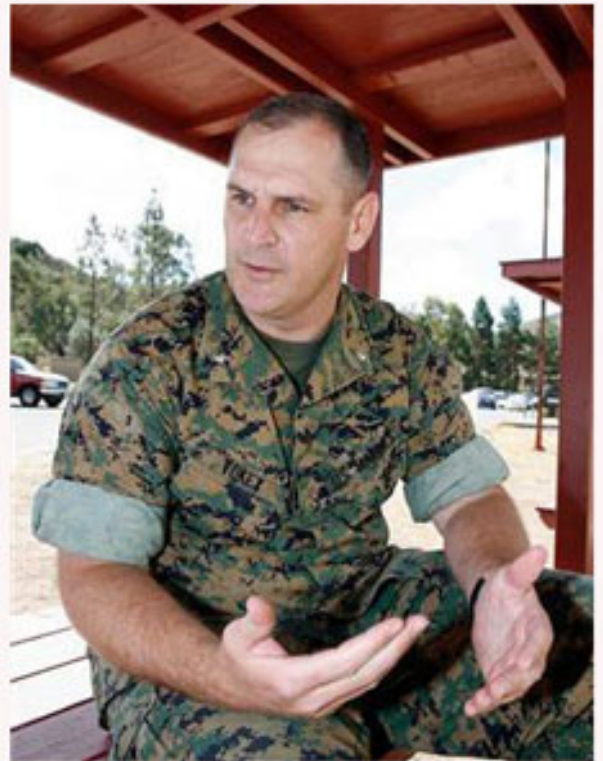
"Sandkuhler believed they were all guilty and the case was going to quickly be over. I tried to tell him I didn't think so. I said, 'General, I don't believe that is correct,' but he thought that the prosecutors were going to win, that everybody was going to roll over on each other. It didn't happen that way."

Sandkuhler's appreciations of the situation were the basis of Rumsfeld's apparent acquiescence to the Pentagon's decision to publicly crucifying the Marines in both word and deed, Vokey surmised.

"I was briefed by my boss [Col. Rose Favors], who was briefed by Sandkuhler on Hagee's presentation to Murtha, Senator Carl Levin and the other Congressional leaders who control the money."

There was nothing in his [Hagee] remarks about cold blooded murder or massacre or anything like that."

With Rumsfeld's endorsement, Secretary Winter launched the biggest and presumably most expensive criminal investigation in US Naval history from Naval Criminal Investigative Service headquarters in



LtCol Colby Vokey

Congressman John Murtha
Press conference: May 17, 2006



Washington, D.C.

“It was unusual from the start,” Vokey said.

The NCIS maintained both a field investigation and an oversight committee in Washington that kept tabs on the progress of the investigation. NCIS officials acknowledged during the preliminary investigation that at least 65 special agents were occupied with the case at its zenith in the summer of 2006.

Caught between Murtha’s scandalous charges and the Pentagon’s burning desire to protect its yawning purse from vengeful Democrats controlling the purse strings, Marine Corps prosecutors sincerely believed the Haditha defendants trying to duck the cross-fire didn’t stand a chance, Vokey said.

“In the summer of 2006 we had two major war crimes trials going on at once (Hamandiyah and Haditha) and it was straining our resources. The Marine Corps wanted to get them over with. Sandkuhler told me he thought it [Hamandiyah] would be over in three or four months and then we could get on with Haditha.”

“Tens years to life, roll over on the other Marines, and get it done,” Vokey said.

When it didn’t happen the way Sandkuhler anticipated [Vokey was fired](#) for assigning “too many defense attorneys” to the Haditha and Hamandiyah defendants.

Vokey was canned in September 2007 by Colonel Rose M. Favors, the Command Defense Counsel of the Marine Corps. She reported to Sandkuhler.

The prosecution called in reservists, brought in support staff, and created a task force to convict the Marines. The Marine Corps spent millions more building a media center staffed by recalled reservists at Camp Pendleton for the court-martials that never were.

Favors reportedly told Vokey that assigning more the one Marine Corps lawyer defense lawyer was unnecessary for them to receive adequate representation.

“We had to literally beg for everything we got,” Vokey said. “The prosecution had all the resources.”

Vokey was quietly reinstated after prominent Marine lawyers both inside and outside the Corps cried foul.



It's much worse than reported in Time magazine. There was no fire fight. There was no IED that killed these innocent people. Our troops overreacted because of the pressure on them and they killed innocent civilians in cold blood. And that's what the report is going to tell.

Murtha on ABC May 30, 2006



MURTHA: I can only tell you this, Charles. This is what the Marine Corps told me at the highest level. The Commandant of the Marine Corps was in my office just last week, so you know, I know there was a cover-up someplace. They knew about this a few days afterwards and there’s no question the

Retired Marine Corps Brigadier General David M. Brahms was among the lawyers enmeshed in the Haditha murder investigation who exploded into anger over Vokey's firing.

"I am pissed," [Brahms said in September 2007](#). "The danger here is not malevolence; it is the appearance of evil and the effect upon those in the defense bar."

Brahms is a Harvard Law School graduate who became the Director of the Judge Advocate Division for three years prior to his retirement in 1988.

Adding to Vokey's burdens were copious leaks of sensitive NCIS documents that washed ashore at the *Washington Post* and *New York Times*.

Despite a defense demand for an investigation to plug the leaks they never stopped until the well ran dry after 14,000 pages of documents reached reporter's hands, Vokey said.

Vokey's defense team suspected the information was flowing from Rep. Murtha's executive assistant Gabrielle Carruth, a former career NCIS special agent married to an NCIS special agent on duty in Washington. Nothing ever came of their suspicions.

"The [civilian] defense attorneys complained the newspapers were getting the NCIS reports evidence before they were receiving discovery information," Vokey said.

Despite the huge volume of evidence revealed in the news accounts and the long laundry list of heinous charges against the defendants, Sandkuhler told Vokey he expected the cases to be completed by the end of 2007 at the latest, Vokey said.

Staff Sergeant Frank Wuterich, the squad leader and last enlisted trigger-puller facing general court-martial, on reduced charges of manslaughter, is mired in pre-trial disputes between a television network and government prosecutors.

The prosecution claims the 60 Minutes television show has unaired footage of Wuterich implicating himself on a thrice-aired *60 Minutes* interview.

Another hearing on the matter is scheduled for Wednesday in Washington.

Wuterich is represented by veteran military defense attorney Neal Puckett and his Washington, D.C. based team of experts. Puckett calls the government's ploy a "fishing expedition" that merely delays the inevitable exoneration of his client.

afterwards and there's no question the chain of command tried to stifle the story. I can understand why, but that doesn't excuse it. Something like this has to be brought out to the public, and the people have to be punished.

GIBSON: The commandant told you that this was a case of murder?

MURTHA: Charlie, don't mince words here. The commandant said it was a very serious incident. He was not going to tell me it was murder, but everything looked to him just like it looks to me.



He didn't say that in so many words, but he told me exactly what happened. What he saw happen. A taxi pulled up, they killed them in cold blood. They went into the houses and killed... He didn't say it was murder... but what is it, Charles?

Recently, Haytham Faraj, a former Marine major, joined Puckett, Mark Zaid, and Marine Corps Captain Nute Bonner (just transferred to Marine Barracks 8th and "I" in Washington) as Wuterich's defense team.

Faraj worked for Vokey and was a defense team star during the summer long pre-trial investigations in 2007.

Since being charged in December 2006, six other defendants have been cleared during pre-trial maneuvering and a seventh was acquitted following his court martial at Camp Pendleton.

The government is also appealing the dismissal of all charges against former battalion commander Lieutenant Colonel Jeffrey Chessani, cleared early last summer when evidence of improper command influence was revealed during pretrial procedures.

The impact of Murtha's unrestrained remarks, coupled with media's specious, sensationalized accounts of the incident, was recently underscored by Iraqi negotiators discussing the future of the Status of Forces Agreement (SOFA) between Iraq and the US.

The negotiations reportedly came to a screeching halt last week when the Iraqis refused to budge over demands that US service members be denied immunity from Iraqi prosecution for alleged war crimes in Iraq.

US and Iraqi officials reportedly reached the impasse because most of the US Marines accused of massacring civilians at Haditha have been exonerated.

The specious Haditha incident was identified by name during the delicate negotiations in Baghdad to determine whether the United States intends to give up its traditional legal sovereignty over American service members, numerous news reports said.

The Iraqis want assurances they can exact their own brand of justice on American service members trapped in similar situations.

The US has SOFA agreements in 80 countries that give the US autonomy over disciplining American troops.

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Note: *Nat Helms is a Contributing Editor to **Defend Our Marines**. He is a Vietnam veteran, former police officer, war correspondent, and, most recently, author of [My Men Are My Heroes: The Brad Kasal Story](#) (Meredith Books, 2007).*

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