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Abu Ghraib was the tip of the iceberg.

Sadly, just as the My Lai massacre was a larger scale example of widespread war atrocities by American soldiers in Vietnam, the Abu Ghraib atrocities by American soldiers is but a sample of gross violations of wartime detainees being held by the American military. This week, the FBI turned over documents to the ACLU, pursuant to the Freedom of Information Act, detailing widespread atrocities against prisoners at Guantanamo. Here is the FBI's Guantanamo Bay Inquiry page. Documents attached to the inquiry page are here, and include an account of the duct-taping of a bearded detainee. Such duct taping would make the removal of a bandage from a hairy arm seem like child's play. However, such an atrocity is just the tip of the iceberg in this FBI report. The Bush Administration wants to operate in the dark as best it can in dealing with suspected terrorists. This FBI report, alone, shows why the opposite should be taking place. How does this story relate to my criminal defense practice? It is another example of how power is at risk for abuse by anyone -- including police -- and at greater risk of abuse the greater is the power. Too many judges too often accept police at their word in suppression hearings and bench trials; too many jurors accept police at their word at trials. That is wrong and contravenes the oath of judges and juries to decide cases fairly and impartially. Hopefully, judges and jury members will recognize that police abuse and police brutality are not aberrations but are activities that are too ingrained in too many police and in police peer pressure and arising from systemic dysfunctions for decades, and that such activities even happen to police who enter the academy with the intention of being as clean as clean can be. Jon Katz.

Posted by Jon Katz in Constitutional Law at 06:00