

REDACTED
COPY

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COURT-MARTIAL RECORD

NAME NILES, GLENN A., JR. ILT

SSN [REDACTED]

ACTIONS CODED:

INITIAL _____

ACCA _____

FINAL _____

COMPANION(S):

ASSIGNED TO:

PANEL _____

~~EXAM-DIV.~~

ACCA CLERK OF COURT

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US ARMY JUDICIARY

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JALS-CC FORM 24, 1 OCTOBER 2000

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MAR 8 2005

VERBATIM¹
RECORD OF TRIAL²
(and accompanying papers)

OF

NILES, Glenn A., Jr.
(NAME: Last, First Middle Initial)

(Social Security Number)

First Lieutenant
(Rank)

615th Military
Police Company
(unit/Command Name)

US Army
(Branch of Service)

APO AE 09114
(Station or Ship)

BY

GENERAL COURT-MARTIAL

CONVENED BY COMMANDING GENERAL
(Title of Convening Authority)

Headquarters, Seventh Army Training Comand
(Unit/Command of Convening Authority)

TRIED AT

Wuerzburg and Vilseck, Germany
(Place or Places of Trial)

ON

9 Jun and 1 Jul 04
(Date or Dates of Trial)

COMPANION CASES:

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¹ Insert "verbatim" or summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)

² See inside back cover for instructions as to preparation and arrangement.

CHRONOLOGY SHEET¹

In the case of First Lieutenant Glenn A. Niles, Jr.
(Rank and Name of Accused)

Date of alleged commission of earliest offense tried: 30-Jul 2003
(Enter Date)

Date record forwarded to The Judge Advocate General: ² 22 Feb 2005
(Enter Date)

[Redacted Signature]
(signature and rank of Staff Judge Advocate or Legal Officer)

	ACTION	DATE 2003	CUMULATIVE ELAPSED DAYS³
<p>1 In a case forwarded to The Judge Advocate General, the staff judge advocate or legal officer is responsible for completion of the Chronology Sheet. Trial counsel should report any authorized deductions and reasons for unusual delay in the trial of the case.</p> <p>2 Or officer conducting review under Article 64(a)(MCM, 1984, RCM 1112).</p> <p>3 In computing days between two dates, disregard first day and count last day. The actual number of days in each month will be counted.</p> <p>4 Item 1 is not applicable when accused is not restrained, (see MCM, 1984, RCM 304) or when he/she is in confinement under sentence or court-martial at time charges are preferred. Item 2 will be the zero date if item 1 is not applicable.</p> <p>5 May not be applicable to trial by special court-martial.</p> <p>6 Only this item may be deducted.</p> <p>7 If no further action is required, items 1 to 8 will be completed and chronology signed by such convening authority or his/her representative.</p> <p>8 When further action is required under Article 64 or service directives.</p>	1. Accused placed under restraint by military authority ⁴		
	2. Charges preferred (date of affidavit)	30-Sep-03	
	3. Article 32 investigation (date of report) ⁵	19-May-04	232
	4. Charges received by convening authority	2-Jun-04	246
	5. Charges referred for trial	2-Jun-04	246
	6. Sentence or acquittal	1-Jul-04	275
	Loss days:		
	Accused sick, in hospital, or AWOL	0	
	Delay at request of defense	164	
	Total authorized deduction ⁶	164	
7. Net elapsed days to sentence or acquittal		111	
8. Record received by convening authority	30-Nov-04	263	
Action ⁷	10-Feb-05	335	
9. Record received by officer conducting review under Article 64(a)			
Action ⁸			

REMARKS

Defense Delay: 14 days. (Defense delay from 18 Oct - 1 Nov 04 [Redacted])
 88 days (Defense delay from 1 Nov 03 - 28 Jan 04)
 27 days (Defense delay from 30 Mar - 26 Apr 04 [Redacted])
 24 days (Defense delay from 17 Apr - 11 May 04 [Redacted])
 11 days (Defense delay from 3 May - 14 May 04 [Redacted]) (AR 27-20 para 5-40b(2))

Number of days from initial investigation of most serious arraigned offense to the date of arraignment:
 307 days. (7 Aug 03 - 9 Jun 04) (AR 27-10, Para 5-40b(1))

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IN THE UNITED STATES ARMY
FIFTH JUDICIAL CIRCUIT

UNITED STATES)

v.)

GLENN A. NILES, JR.)

First Lieutenant, U.S. Army)
615th Military Police Company)
APO, AE 09114)

POST-TRIAL AND
APPELLATE RIGHTS

30 June 2004

I, 1LT Glenn A. Niles, Jr, the accused in the above-entitled case, certify that my trial defense counsel has advised me of the following post-trial and appellate rights in the event that I am convicted of a violation of the Uniform Code of Military Justice:

1. In exercising my post-trial rights, or in making any decision to waive them, I am entitled to the advice and assistance of military counsel provided free of charge or civilian counsel provided by me at no expense to the Government.
2. After the record of trial is prepared, the convening authority will act on my case. The convening authority can approve the sentence adjudged (as limited by a pretrial agreement), or he can approve a lesser sentence, or disapprove the sentence entirely. The convening authority cannot increase the sentence. He can also disapprove some or all of the findings of guilty. The convening authority is not required to review the case for legal errors, but may take action to correct legal errors.
3. I have the right to submit any matters I wish the convening authority to consider in deciding what action to take in my case. Before the convening authority takes action, the staff judge advocate will submit a recommendation to him. This recommendation will be sent to me and/or my defense counsel. Any matters that I wish the convening authority to consider, or matters in response to the Staff Judge Advocate's recommendation must be submitted within 10 days after I or my counsel receive the recommendation of the staff judge advocate, whichever occurs later. Upon my request, the convening authority may extend this period, for good cause, for not more than an additional 20 days.
4. If a punitive discharge or confinement for a year or more are adjudged and the convening authority approves the discharge or confinement for a year or more, my case will be reviewed by the Army Court of Criminal Appeals (USACCA). I am entitled to be represented by counsel before such court. If I so request, military counsel will be appointed to represent me at no cost to me. If I so choose, I may also be represented by civilian counsel at no expense to the United States.
5. After the Court of Criminal Appeals completes its review, I may request that my case be reviewed by the Court of Appeals for the Armed Forces. If that Court reviews my

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case, I may request review by the Supreme Court of the United States. I would have the same rights to counsel before those courts as I have before the USACCA.

6. If the Court-Martial does not adjudge or the Convening Authority does not approve either a punitive discharge or confinement for a year or more, my case will be examined by the Office of the Judge Advocate General for any legal errors and to determine if the sentence is appropriate. The Judge Advocate General (TJAG) may take corrective action as appropriate. This mandatory review under Article 69(a), UCMJ, will constitute the final review of my case unless TJAG directs review by the Army Court of Criminal Appeals.

7. I may waive or withdraw review by the appellate courts (subparagraph 4, above) or the Office of The Judge Advocate General (subparagraph 5, above) at any time before such review is completed. I understand that if I waive or withdraw review:

a. My decision is final and I cannot change my mind.

b. My case will then be reviewed by a military lawyer for legal error. It will also be sent to the general court-martial convening authority for final action.

c. Within 2 years after the sentence is approved, I may request the Judge Advocate General to take corrective action on the basis of newly discovered evidence, fraud on the court-martial, lack of jurisdiction over me or the charged offense, any error prejudicial to my substantial rights, or the appropriateness of the sentence.

8. I understand that IAW Article 57(a), U.C.M.J., any forfeiture and/or reduction that was part of my sentence will take effect 14 days from the earlier of either a) the date the sentence was imposed, or b) the date the Convening Authority approves the sentence. I understand that under Article 57(a), I can, through my attorney, request that the application of these adjudged punishments be deferred by the Convening Authority until the date the Convening Authority approves the sentence.

9. I understand that IAW Article 58b, U.C.M.J., if this court-martial sentenced me to either a) any confinement and a punitive discharge, or b) any confinement in excess of six months, I will automatically forfeit all my pay and allowances during my confinement. I understand that under Article 58b, I can, through my attorney, ask that the Convening Authority defer these automatic forfeitures until the convening authority takes action on my sentence. In addition, my attorney may request that the Convening authority waive this automatic forfeiture for a period not to exceed six months, but only if the following two conditions are met:

a. I have dependents; and

b. The Convening Authority directs that the pay and allowances I would otherwise get would be paid not to me, but to my dependents.

10. I understand that if my court-martial sentence included a punitive discharge, I can request an exception to policy to have my family's household goods shipped at Government expense. (Note: Family members residing in USAREUR under command sponsorship will have household good shipped at government expense without the need for an exception to policy.)

11. I understand that if my court-martial sentence included confinement, I can request that the Convening Authority defer (that is, postpone the start of) my confinement. I understand that it is my burden to show that my interests and those of the community in release outweigh the interests of the community in confining me.

12. I have read and had my post-trial rights explained to me by counsel and I acknowledge these rights and make the elections set forth below, as reflected by my initials where appropriate:

SMJ a. I understand my post-trial and appellate review rights.

SMJ b. I request that a copy of the authenticated record of trial be served on myself pursuant to RCM 1104(b); I also request that a separate authenticated copy of the record of trial be served on my military counsel (and civilian counsel, if appropriate) pursuant to RCM 1106(f)(3). I request that individual copies of the Staff Judge Advocate's post trial recommendation be served on by both myself and my defense counsel pursuant to RCM 1106(f).

SMJ c. My defense counsel, [REDACTED], will submit R.C.M. 1105 matters in my case.

SMJ d. I want to be represented before the Army Court of Criminal Appeals by Appellate Defense Counsel appointed by the Judge Advocate General of the Army. I understand that I may contact my Appellate Defense Counsel by writing to Defense Appellate Division, U.S. Army Legal Services Agency (JALS-DA), 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203-1837.

SMJ e. I have been informed that I have the right to retain civilian counsel at my expense. I do not have civilian counsel at this time. Should I later retain civilian counsel, I will furnish the above information to: Clerk of Court, U.S. Army Judiciary (JALS-CC), 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203-1837.

f. If applicable, I (do) SMJ (do not) _____ want my attorney to ask the Convening Authority to defer the application of my adjudged forfeitures and/or reduction in Article 57(a) as described in paragraph 8 above.

g. If applicable, I (do) SMJ (do not) _____ want my attorney to ask the Convening Authority to defer or waive the automatic forfeitures in Article 58b as described in paragraph 9 above.

h. If applicable, I (do) SMJ (do not) _____ want my attorney to ask the Convening Authority for an exception to policy to ship my family's household goods at Government expense, as described in paragraph 10 above.

i. If applicable, I (do) SMJ (do not) _____ want my attorney to ask the Convening Authority to defer my confinement, as described in paragraph 11 above.

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13. I understand that if my sentence included either a Bad Conduct or Dishonorable Discharge but no confinement, I can immediately request to be placed on voluntary excess leave (VEL) until the Convening Authority takes action on my case. I understand that if my sentence included either a Bad Conduct or Dishonorable Discharge and any confinement, I can request to be placed on VEL at the completion of my confinement until the Convening Authority takes action on my case. If my request is granted and I am placed on VEL, I understand that:

- a. My accrued leave will be used until exhausted, and then I will be in a VEL status;
- b. While in a VEL status, I will not receive any pay or allowances, nor will I accrue leave;
- c. While in a VEL status, I will not be entitled to travel on a space available basis; and
- d. I will be completely processed for discharge from the Army and, if requested, will receive a separation physical prior to my departure on VEL. I understand that there is no entitlement to physical disability retired pay should I incur a physical disability while in a VEL.

14. I understand that if my sentence included a Bad Conduct or Dishonorable Discharge, when the Convening Authority takes action on my case, I will be placed on involuntary excess leave (IEL) until the completion of the post-trial and appellate process in my case. If I am placed on IEL, I understand that same restrictions as listed above for VEL apply.

15. Pending appellate action on my case, I can be contacted, or a message may be left for me, at the following address:

Name: _____

Street: _____

City, State, Zip: _____

Area Code & Telephone: _____

E-mail Address (if any) _____

Permanent Address (if different from above)

Name:  _____

Street: _____

City, State, Zip: _____

Area Code & Telephone: _____

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If I cannot be reached at either address above, please contact the following individual(s), who are most likely to have means of contacting me:

Name: _____

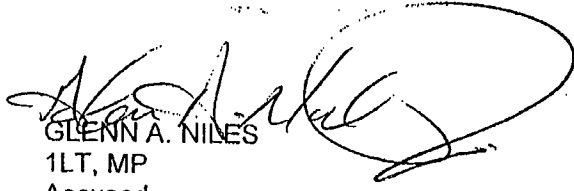
Street: _____

City, State, Zip: _____

Area Code & Telephone: _____




Email Address (if any) _____

DATE:


GLENN A. NILES
1LT, MP
Accused.

I certify that I have advised 1LT Glenn A. Niles, Jr., regarding his post-trial and appellate rights as set forth above, that he has received a copy of this document, and that he made elections concerning appellate counsel. IAW R.C.M. 1106(f)(3), I request a copy of the record of trial.

Date: 30 June 04




Defense Counsel

COURT-MARTIAL DATA SHEET				1. OJAG NUMBER
2. NAME (Last, First, Middle Initial) NILES, Glenn A., Jr.	3. SOCIAL SECURITY NO. 4	4. RANK 1LT	5. UNIT/COMMAND NAME 615 th MP Co, APO AE 09114	

INSTRUCTIONS

When an item is not applicable to the record of trial being reviewed, mark the proper block with a diagonal line similar to the ones which appear in the SPCMCA blocks for items 6a and b.

KEY TO USE

<p>TC - Trial Counsel. This column will be completed in all cases in which a finding of guilty is returned.</p> <p>SPCMCA - Special Court-Martial Convening Authority who is not empowered to convene a general court-martial. This column will be completed in each special court-martial case by the SPCMCA or his/her designated representative.</p>	<p>GCM or JA - General Court-Martial Convening Authority or Judge Advocate. This column will be completed in any case in which the record is forwarded by the commander exercising general court-martial jurisdiction to The Judge Advocate General of the branch of service concerned. If the record is reviewed under Article 64(a), UCMJ, this column will be completed by the judge advocate accomplishing the review</p>	<p>OJAG - Appropriate appellate agency in the Office of The Judge Advocate General of the branch of service concerned. This column will be disregarded if a record of trial was reviewed under Article 64, UCMJ, and in cases where there are no approved findings of guilty.</p> <p>References - All references are to the Uniform Code of Military Justice (UCMJ) and the Manual for Courts Martial, United States (MCM), 1984.</p>
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SECTION A - PRETRIAL AND TRIAL PROCEDURE	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
6. a. If a general court-martial: Was the accused represented in the Article 32 investigation by civilian or military counsel of his/her own selection or by counsel qualified within the meaning of Article 27(b), UCMJ?	X				X			
b. If not: Did the accused waive his/her right to such representation?	N/A	N/A			N/A	N/A		
7. Does the record show place, date, and hour of each Article 39(a) session, the assembly and each opening and closing thereafter?	X				X			
8. a. Are all convening and amending orders of courts to which charges were referred entered in the record?	X				X			
b. Are court members named in the convening orders, detailed military judge (if any), counsel and the accused accounted for as present or absent?	X				X			
c. Was less than a quorum present at any meeting requiring the presence of court members (RCM 805)?		X				X		
d. Does the record show that after each session, adjournment, recess, or closing during the trial, the parties to the trial were accounted for when the court reopened (A13-5)?	X				X			
e. If the military judge or any member present at assembly was thereafter absent, was such absence the result of challenge, physical disability or based on good cause as shown in the record of trial (RCM 505(c)(2)(A))?	N/A	N/A			N/A	N/A		
9. Were the reporter and interpreter, if any, sworn or previously sworn?	X				X			
10. a. Was the military judge properly certified (RCM 502(c))?	X				X			
b. Was the military judge properly detailed (RCM 503(b))?	X				X			
c. Was the military judge present during all open sessions of the court?	X				X			
11. a. Was the accused advised that:								
(1) He/she had the right to be represented free of charge by a military lawyer of his/her own selection, if reasonably available, in which case detailed counsel might be excused (RCM 506(a))?	X				X			

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COURT-MARTIAL DATA SHEET

SECTION A - PRETRIAL AND TRIAL PROCEDURE (CONTINUED)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
(2) He/she had the right to be represented at the trial by a civilian lawyer provided at no expense to the government, in which case detailed counsel would serve as associate counsel or be excused with the accused's consent?	X				X			
(3) If he/she did not exercise any of the rights listed above, he/she would be defended by detailed counsel certified under Article 27(b), UCMJ (RCM 502(d)(1))?	X				X			
b. (1) Was the accused represented by a civilian lawyer?		X				X		
(2) Did the accused request a specific military counsel?		X				X		
(3) (a) If so, was such request complied with?	N/A	N/A			N/A	N/A		
(b) If not, were reasons given why requested counsel was not reasonably available?	N/A	N/A			N/A	N/A		
12. a. Was the detailed defense counsel properly certified (RCM 502(d))?	X				X			
b. Was at least one qualified counsel for each party present during all open sessions of the court (RCM 502(d) and RCM 805(c))?	X				X			
13. a. If the special court-martial adjudged a BCD:								
(1) Was a military judge detailed to the court (RCM 503(b))?	N/A	N/A			N/A	N/A		
(2) If not, did the convening authority submit a statement indicating why a military judge could not be detailed and why trial had to be held at that time and place (Article 19, UCMJ)?	N/A	N/A			N/A	N/A		
(3) Was a verbatim transcript made (Article 19, UCMJ)?	N/A	N/A			N/A	N/A		
14. Did any person who acted as the accuser, investigating officer, military judge, court member, or a member of the defense in the same case, or as counsel for the accused at a pretrial investigation or other proceedings involving the same general matter, subsequently act as a member of the prosecution (RCM 502(d)(4))?		X				X		
15. If any member of the defense had acted as a member of the prosecution in the same case, was he/she excused (RCM 502(d)(4))?	N/A	N/A			N/A	N/A		
16. a. If any member of the defense had acted as the accuser, investigating officer, military judge, or member of the court, were his/her services expressly requested by the accused (RCM 502(d)(4))?	N/A	N/A			N/A	N/A		
b. If not, was he/she excused?	N/A	N/A			N/A	N/A		
17. a. If accused was an enlisted person, did he/she make a request that enlisted persons be included in membership of the court?	N/A	N/A			N/A	N/A		
b. If so, were at least one-third of the members who tried the case enlisted persons, or did the convening authority direct the trial without enlisted persons and provide a detailed written explanation which is appended to the record (RCM 503(a)(2))?	N/A	N/A			N/A	N/A		
c. Did any enlisted member of the court belong to the same unit as the accused?	N/A	N/A			N/A	N/A		
18. If a military judge was detailed to the court, was the accused informed of his/her right to request trial by military judge alone?	X				X			
19. Were the members of the court, military judge (if any) and the personnel of the prosecution and defense sworn or previously sworn?	X				X			
20. a. Was any person sitting as a member of the court, or military judge (if any), the accuser, a witness for the prosecution, the investigating officer, staff judge advocate, counsel, or convening authority, or upon rehearing or new trial was he/she a member of the former trial (RCM 902(b) and RCM 912(f))?		X				X		
b. If so, did the accused waive such disqualification (RCM 912(f)(4) and RCM 902(e))?	N/A	N/A			N/A	N/A		

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COURT-MARTIAL DATA SHEET

SECTION A - PRETRIAL AND TRIAL PROCEDURE (CONTINUED)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
21. a. Was each accused extended the right to challenge military judge (if any), and any member of the court for cause and to exercise one peremptory challenge?	X				X			
b. Was action by court upon challenges proper (RCM 902 and RCM 912)?	X				X			
c. Does the record show that a member excused as a result of a challenge withdrew from the court?	X				X			
22. a. Was the accused properly arraigned (RCM 904)?	X				X			
b. Do the following appear in the record: The charges and specifications, the name, rank and unit/command name of the person signing the charges; the affidavit, and the order of reference for the trial?	X				X			
c. Except in time of war, was the accused brought to trial (which includes an Article 39(a), UCMJ session) by general court-martial within five days (by special court-martial within three days) subsequent to service of charges upon him/her (RCM 602)?		X				X		
d. If so, did the accused object to trial?	N/A	N/A			N/A	N/A		
23. a. Were any charges or specifications affected by the statute of limitations (RCM 907(b))?		X				X		
b. If so, was accused advised of his/her right to assert the statute and was his/her response recorded (RCM 907(b))?	N/A	N/A			N/A	N/A		
24. Did the court take proper action with respect to motions raising defenses and objections (RCM 905-907)?	X				X			
25. a. Were pleas of accused regularly entered (RCM 910(a))?	X				X			
26. Does the record show that all witnesses were sworn?	X				X			
27. Did the military judge or president advise the court concerning the elements of each offense, each lesser included offense reasonably raised by the evidence, and the presumption of innocence, reasonable doubt, and burden of proof, pursuant to Article 51(c), UCMJ (RCM 920(e))?	X				X			
28. a. If trial was by military judge alone, did the military judge announce the findings (RCM 922)?	X				X			
b. If the trial was with members, did the president announce the findings (RCM 922)?	N/A	N/A			N/A	N/A		
c. If special findings were requested, were they made a part of the record?	N/A	N/A			N/A	N/A		
29. Were the findings in proper form (A10)?	X				X			
30. a. Was the evidence, if any, of previous convictions admissible and properly introduced in evidence (RCM 1001(b)(3))?	N/A	N/A			N/A	N/A		
b. Was the information from personnel records of the accused properly admitted (RCM 1001(b)(2))?	X				X			
c. Was the defense permitted to introduce evidence in extenuation and mitigation after the court announced findings of guilty (RCM 1001(c))?	X				X			
31. a. In a trial with members, did the president announce the sentence (RCM 1007)?	X				X			
b. If trial was by military judge alone, did the military judge announce the sentence (RCM 1007)?	N/A	N/A			N/A	N/A		

COURT-MARTIAL DATA SHEET

SECTION A - PRETRIAL AND TRIAL PROCEDURE <i>(CONTINUED)</i>	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
32. Was the sentence in proper form (A11)?	X				X			
33. Is the record properly authenticated (RCM 1104)?	X				X			
34. a. Did all members who participated in proceedings in revision vote on original findings and sentence (RCM 1102(e)(1))?	N/A	N/A			N/A	N/A		
b. At proceedings in revision, were a military judge (if one was present at the trial), the accused, and counsel for the prosecution and defense present (RCM 1102(e)(1))?	N/A	N/A			N/A	N/A		
35. Was each accused furnished a copy of the record or substitute service made on defense counsel (RCM 1104(b))?	X				X			
36. Was clemency recommended by the court or military judge?		X				X		
SECTION B - PROCEDURE AFTER TRIAL	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
37. Was the court convened by proper authority (RCM 504(b))?					X			
38. Did the court have jurisdiction of person and offense (RCM 202 & 203)?					X			
39. Does each specification state an offense under the code (RCM 907(b))?					X			
40. Did the accused have the requisite mental capacity at the time of trial and the requisite mental responsibility at the time of the commission of each offense (RCM 909 and RCM 916(k))?					X			
41. Is the evidence sufficient to support the findings?					X			
42. Is the sentence within legal limits (RCM 1112(d))?					X			
43. Is the action of the convening authority properly entered in the record and signed (RCM 1107(f))?					X			
44. If appropriate, is a proper place of confinement designated (RCM 1107(f)(4)(c))?					N/A	N/A		
45. a. Was the staff judge advocate's post-trial recommendation served on the defense counsel for comment (RCM 1106(f))?					X			
b. If the addendum to the recommendation contained new matters, was it served on the defense counsel for comment (RCM 1105(f)(7))?					N/A	N/A		
c. Did the accused submit matters for the convening authority's consideration in a timely manner (RCM 1105)?					X			
d. If yes, was the convening authority's action subsequent to the submission of the matters?					X			
e. If no, did the accused waive in writing the right to submit matters and was the action taken subsequent to the written waiver or did the time periods provided in RCM 1105(c) expire before the convening authority's action?					N/A	N/A		
46. a. Does the record indicate that the accused was advised of his/her appellate rights (RCM 1010)?					X			
b. Do the allied papers contain a statement indicating the desires of the accused with respect to appellate representation in the event his/her case is referred to a court of military review?					X			
c. Did the accused waive or withdraw appellate review and is the waiver or withdrawal in proper form and attached to the record of trial (RCM 1110, A19 & 20)?						X		

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COURT-MARTIAL DATA SHEET

SECTION C - COURT-MARTIAL ORDERS (CMO)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
47. Does the initial CMO bear the same date as the action of the convening authority who published it?					X			
48. Are all the orders convening the court which tried the case correctly cited in the CMO?					X			
49. Are the accused's name, rank, SSN, unit/command name and branch of service correctly shown in the CMO?					X			
50. Are all the charges and specifications (including amendments) upon which the accused was arraigned correctly shown in the CMO (RCM 1114)?					X			
51. Are the pleas, findings, and sentence correctly shown in the CMO (RCM 1114)?					X			
52. Does the CMO show the date the sentence was adjudged?					X			
53. Is the action of the convening authority correctly shown in the CMO?					X			
54. Is the CMO properly authenticated (RCM 1114)?					X			
55. REMARKS:								

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COURT-MARTIAL DATA SHEET

55. REMARKS (Continued):

56. TRIAL COUNSEL

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
[REDACTED]	[REDACTED]	[REDACTED]	22 Feb 05

57. CONVENING AUTHORITY OR HIS/HER REPRESENTATIVE

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
[REDACTED]	[REDACTED]	[REDACTED]	22 Feb 05

58. STAFF JUDGE ADVOCATE OF GENERAL COURT-MARTIAL CONVENING AUTHORITY OR REVIEWING JUDGE ADVOCATE

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
[REDACTED]	[REDACTED]	[REDACTED]	22 Feb 05

59. ACTION IN THE OFFICE OF THE JUDGE ADVOCATE GENERAL

a. ACTION:

b. INDIVIDUAL COMPLETING DATA SHEET

(1) TYPED NAME (Last, First Middle Initial)	(2) RANK	(3) SIGNATURE	(4) DATE SIGNED

003210

DEPARTMENT OF THE ARMY
Headquarters, Seventh Army Training Command
APO Army Europe 09114

GENERAL COURT-MARTIAL ORDER
NUMBER 9

10 February 2005

First Lieutenant Glenn A. Niles, Jr. [REDACTED] U.S. Army, 615th Military Police Company, APO AE 09114 (currently attached to Headquarters, Seventh Army Training Command due to the deployment of the 1st Infantry Division) was arraigned at Wuerzburg, Germany, on the following offenses at a general court-martial convened by the Commander, Seventh Army Training Command.

Charge I: Article 93: Plea: Not Guilty. Finding: Not Guilty.

Specification 1: At or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist. Plea: Not Guilty. Finding: Not Guilty.

Specification 2: At or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist. Plea: Not Guilty. Finding: Not Guilty.

Specification 3: At or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by kicking him in the shoulder. Plea: Not Guilty. Finding: Not Guilty.

Charge II: Article 133: Plea: Guilty. Finding: Guilty.

Specification: At or near Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, while a platoon leader in the 615th Military Police Company, and in the presence of [REDACTED], [REDACTED], and [REDACTED], wrongfully and dishonorably grab [REDACTED] by the neck and strike him in the stomach with a closed fist, wrongfully and dishonorably strike [REDACTED] in the stomach with a closed fist, and while being detained by [REDACTED]; wrongfully and dishonorably kick [REDACTED] in the shoulder, all to the disgrace of the Officer's Corps, and the Armed Forces. Plea: Guilty. Finding: Guilty.

SENTENCE

Sentence was adjudged on 1 July 2004: To be reprimanded and to forfeit \$1,003.00 pay per month for 12 months.

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GCMO No. 9, DA, HQ, Seventh ATC, APO AE 09114, dtd 10 Feb 05 (continued)

ACTION

The finding of guilty and the sentence is disapproved. The charge is dismissed. The adjudged forfeitures were deferred effective 4 August 2004 until date of convening authority action.

BY COMMAND OF BRIGADIER GENERAL HERTLING:

DISTRIBUTION:

Record Set (1)

Reference Set (1)

Accused (1)

MJ (██████████) (1)

MJ (██████████) (1)

TC (██████████) (1)

ATC (██████████) (1)

DC (██████████) (1)

CDR, 615 MP Co, APO AE 09114 (1)

CDR, 1st ID, APO AE 09036 (1)

CDR, 7th ATC, APO AE 09114-8130 (1)

CDR, DET D, 38th PSB, APO AE 09173 (1)

CDR, DET A, 106th Fin Bn, ATTN: Debt Management

Unit 26210, APO AE 09036 (1)

Clerk of Court, (JALS-CCR), 901 N. Stuart Street, Suite 1200,

Arlington, VA 22203-1837 (10)

CDR, (TAPC-MSP), 200 Stovall Street, Alexandria, VA 22332-0400(1)

Professor of Law, United States Military Academy, West Point,

NY 10996 (2)

003212

DEPARTMENT OF THE ARMY
Headquarters, Seventh Army Training Command
Office of the Staff Judge Advocate
APO Army Europe 09036

AETV-BGJA

10 February 2005

MEMORANDUM FOR Record

SUBJECT: United States v. 1LT Glenn A. Niles, Jr.

On 10 February 2005, Brigadier General Hertling, GCMCA, Seventh Army Training Command, took action in the case of U.S. v. 1LT Glenn A. Niles, Jr. General Hertling considered all matters submitted by the accused and defense counsel pursuant to R.C.M. 1105/1106. In addition to these matters, with defense consent, the convening authority also considered an email sent to him by [REDACTED] on 9 February 2005 after the defense had submitted clemency matters.

[REDACTED]

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[REDACTED] 1ID OSJA-Wuerzburg Law Center ([REDACTED])

From: [REDACTED] 1LT 7ATC HQ ([REDACTED])@us.army.mil
Sent: Thursday, February 17, 2005 2:00 PM
To: [REDACTED] 1ID OSJA-Wuerzburg Law Center ([REDACTED])
Subject: Request for Clemency: 1LT Niles

-----Original Message-----

From: [REDACTED] (709 MP Bn Commanding)
Sent: Wednesday, February 09, 2005 10:29 PM
To: [REDACTED] 7ATC HQ ([REDACTED])@graf.eur.army.mil
Cc: [REDACTED] 7ATC HQ; [REDACTED] CSM (709 MP Bn CSM) ([REDACTED])@us.army.mil
Subject: Request for Clemency: 1LT Niles

Sir-

I believe there is a clemency packet enroute to your office for one of my officers.
I recommend you grant clemency for 1LT Niles.

1LT Niles was assigned as a PL in the 615th MP Co which was assigned to the 709th for OIF I. In July 2003, 1LT Niles assaulted 2 criminals who were being held at the Al Taji IP Station after they destroyed the renovations to the detention cell. I suspended him from his duties, conducted a commander's inquiry, and forwarded my findings to my brigade commander. The JAG grabbed a hold of it and it went forward to CJTF-7 where it was finally determined that the officer should be court-martialed. I believe this was based on the fact that the Abu Ghraib scandal had just broken in the press.

Reagrldless, 1LT Niles was court-martialed last summer and I testified on his behalf.
I do not condone his actions but I do not believe that they were egregious enough to cause this officer to lose his commission.

I realize as the GCMCA you have the responsibility to act in the best interest of the Army and US government as well as consider the officer.

I wish I could tell you that 1LT Glenn Niles is the best MP PL I ever had, that is not the case. He is a good officer, I kept him in Baghdad and had him serve as a battle captain in my TOC throughout our deployment. He learned a lot, grew as an officer, and is a better person for the whole experience.

He has always taken responsibility for his actions - he never once failed to come forward and tell the truth. He understands the seriousness of the offense, accepted his punishment at court-martial, and continues to soldier on.

He is currently the XO of the 615th MP Co at Graf. He is still one of my officers since I have C2 over all the 18th MP Bde units while the brigade is in Iraq.

I trust him to lead Soldiers. I would place him command of one of my units. I know he has learned from his mistake.
I appreciate you taking the time to read this.

I will be at Graf on Thursday 10 February at 1230 as I am escorting BG Johnson, MP Commandant. If it is convenient, I can stop by your office and see you in person concerning this matter. I can break away from escorting my Commandant at any time to see you.

I will call your aide while I am enroute to Graf to see if you want to see me.
Thank you again, sir.

VR,

[REDACTED]

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[REDACTED]
[REDACTED]

COMMANDER
709TH MP BATTALION

[REDACTED]
[REDACTED]
[REDACTED]

WARRIORS
"ALWAYS A WARRIOR...ALWAYS A PROFESSIONAL"

003215

2/17/2005

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DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
OFFICE OF THE STAFF JUDGE ADVOCATE
UNIT #26222
APO AE 09036

REPLY TO THE
ATTENTION OF:

AETV-BGJA

FEB 10 2005

MEMORANDUM FOR Commander, Seventh Army Training Command, APO AE 09114

SUBJECT: Addendum to the Staff Judge Advocate Recommendation in the General Court-Martial of First Lieutenant Glenn A. Niles, Jr. 615th Military Police Company, APO AE 09114

1. The enclosed R.C.M. 1105/1106 request for clemency has been submitted by the accused's defense counsel for your review. In accordance with R.C.M. 1107, you must consider these matters prior to taking action on the case.
2. The accused, through counsel, requests that you disapprove the findings of the court-martial, dismiss the charges and specifications against him, and issue him a General Officer Memorandum of Reprimand. I disagree; no corrective action is required.
3. The following correction is noted to the Staff Judge Advocate's Post-Trial Recommendation (SJAR) dated 25 January 2005: para 6(a) should be changed from "None" to "Effective 4 August 2004, the convening authority deferred the adjudged forfeitures until such time as he takes action on the case." This correction is made after submission of 1105 matters, as it has come to my attention through the defense counsel.
4. In addition, defense counsel also notified the government that despite the approved deferment of adjudged forfeitures, finance has been taking money out of the accused's pay in order to satisfy the adjudged forfeitures. While not required by law, because of this error by finance, I recommend that you approve only so much of the adjudged forfeitures of \$1,003.00 per month for six months.
5. I recommend that you approve only so much of the adjudged findings and sentence as provides for a reprimand and forfeiture of \$1,003.00 per month for six months. The adjudged forfeitures were deferred effective 4 August 2004 until date of convening authority action.

25 Encls

1. Clemency Petition/DC, dtd 8 Feb 05
2. Clemency Petition/ACC, dtd 27 Jan 05
3. OER thru 9 Jul 02

[REDACTED]
[REDACTED]
[REDACTED]
Staff Judge Advocate

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AETV-BGJA

SUBJECT: Addendum to the Staff Judge Advocate Recommendation in the General Court-Martial of First Lieutenant Glenn A. Niles, Jr. , 615th Military Police Company, APO AE 09114

4. OER thru 9 Jul 03
5. Memo [REDACTED]
6. MFR, [REDACTED]
7. MFR, [REDACTED]
8. MFR, [REDACTED]
9. MFR, [REDACTED]
10. Memo [REDACTED]
11. Memo [REDACTED]
12. Memo [REDACTED]
13. Memo [REDACTED]
14. Memo [REDACTED]
15. Memo [REDACTED]
16. Memo [REDACTED]
17. MFR, [REDACTED]
18. MFR, [REDACTED]
19. Family Photos
20. Family Photos
21. Letter [REDACTED]
22. Diploma, Master of Arts – Counseling, Webster Univ, dtd 18 Dec 99
23. "Welcome 615th MP Co" Bavarian-American Monthly, Apr 04
24. OER, through 30 Mar-04
25. Staff Judge Advocate Recommendation

8 February 2005

MEMORANDUM FOR Commander, 7th Army Training Command, APO, AE 09114

SUBJECT: Petition for Clemency UP Rules for Courts-Martial 1105 & 1106 — United States v. 1LT Glenn A. Niles, Jr.

1. These matters are submitted under Rules for Courts-Martial (RCM) 1105 and 1106 in regard to the general court-martial of 1LT Glenn A. Niles, Jr., 615th Military Police Company, Grafenwoehr, Germany. At trial, 1LT Niles pled guilty to one specification of Conduct Unbecoming an Officer and a Gentleman and was sentenced to be reprimanded and to forfeit \$1003 per month for 12 months.

2. 1LT Niles respectfully requests that you disapprove the findings of the court-martial under RCM 1107 (c)(2), dismiss the charges and specifications against him, and issue him a General Officer Memorandum of Reprimand (GOMOR) in their stead. Such a grant of clemency is appropriate for the following reasons:

a. Glenn Niles is an honorable man, an outstanding officer and a great American!! His misconduct on 30 July 2003 in Baghdad, Iraq is a complete anomaly – and it is extremely minor considering the circumstances. 1LT Niles has served his country honorably and with great distinction for more than four years. If a finding of guilty at a General Court Martial is approved in this case, the Army will soon lose an extraordinary asset in that 1LT Niles will have to be administratively separated from the service. With a conviction in his file, 1LT Niles' security clearance will be revoked and he will no longer be able to serve in the Army as an Officer. Such a result would be tragic for the Niles family, would amount to excessive punishment, and would needlessly damage the Army and the Military Police Corps.

b. 1LT Niles has never made any excuses for his conduct. From the moment that it happened, he has accepted full responsibility for his actions and has cooperated fully with government investigators and prosecutors. When a commander's inquiry was conducted, 1LT Niles waived his rights and prepared a sworn statement admitting to his misconduct in striking the three Iraqi prisoners at the Al Taji police station. He never lied or withheld information about his actions or encouraged his subordinates to cover for him. Likewise, at all stages of this case, 1LT Niles has acknowledged that his actions were wrong. He attempted to resign in lieu of GCM in October 2003, but his request was denied. At his Article 32 hearing, he candidly apologized to his NCOs and soldiers for letting them down – and at trial, the accused pled guilty to conduct unbecoming an officer and gentleman in violation of Article 133 of the UCMJ. These facts illustrate that he is an honorable man. As an accused in a court martial, 1LT Niles could have maintained his silence, asserted numerous defenses or forced the government to expend great resources to prove his guilt. However, because he is a man of the highest integrity, Glenn Niles chose none of these courses of action. Quite simply, he knows that he made a mistake and has done nothing other than step forward to accept responsibility.

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c. For the ends of justice to be met, and for good order and discipline to be maintained, punishment in a given case must be fitting to the offense committed. Mitigation and extenuation must also be considered. Here, 1LT Niles' actions amounted to nothing more than simple assault. The "victims" were three Iraqi youths who had been detained for murdering a man and stealing his car.¹ They attempted to escape from detention by knocking a hole in the wall of the latrine at the Al Taji police station. 1LT Niles had been working non-stop for months in the extreme heat and sleep-deprived conditions of Baghdad's non-traditional combat environment. When he discovered that these three murder suspects had caused damage to the detention facility, 1LT Niles simply snapped. He momentarily lost control and struck the detainees. They were not injured; the entire incident lasted no more than five seconds. To receive a federal criminal conviction and administrative discharge from the service would be excessive punishment for this misconduct. A GOMOR is much more appropriate and just.

d. Indeed, a GOMOR or other administrative resolution has been the recommendation of 1LT Niles' leaders throughout this entire case. His company, battalion and brigade commanders at the time of the incident all supported lesser disposition than at a GCM. They all agreed that 1LT Niles' misconduct – and the extenuating circumstances present in Baghdad in July 2003 – simply did not warrant such a severe outcome. Likewise, the Article 32 Investigating Officer in this case, [REDACTED], recommended that 1LT Niles receive nothing more than a GOMOR in his restricted fiche. After reviewing all the facts and circumstances of this incident, LTC Vandersteen felt that it did not warrant disposition as a GCM.²

e. A lesser disposition is appropriate here primarily because of the caliber of 1LT Niles as an officer, a soldier, and as a person. Throughout all phases of his career in the military, he has distinguished himself and demonstrated incredible potential. Prior to deployment, Glenn served as a Platoon Leader within the 615th MP Company in Grafenwoehr. He greatly impressed both Company Commanders who rated him (See Encl 2-3). During this timeframe, 1LT Niles also greatly impressed [REDACTED], the 793rd Military Police Battalion XO who closely observed him during the unit's preparation for deployment to Iraq. [REDACTED], who at the time of trial was just leaving his position as the Provost Marshall for the Vilseck Military Community, actually delayed his PCS travel so that he could provide character testimony at Glenn's trial. He testified about his observations of 1LT Niles during his Platoon "Ex-Eval" prior to deployment for OIF. He found 1LT Niles to be a highly competent and resourceful officer, and a man with "a very high level of character" (ROT, pg. 132). [REDACTED] also stated that he would

¹ See Article 32 testimony of [REDACTED], Investigating Officer for Commander's Inquiry, page 16 of Article 32 summarized transcript, Record of Trial, Volume I.

² The Article 32 Investigating Officer's Report is included in Volume I of the ROT. Please pay special attention to [REDACTED] comments on Continuation Sheet 3 of his report dated 19 May 2004 (specifically, ¶ (6) of Item 21). He states a fundamental fact that is of critical importance in the case before you: "junior leaders make mistakes." He also cites two relevant instances where certain individuals (GEN Powell and BG Freakley) made mistakes early in their careers but were given second chances by their leadership because of their demonstrated potential for success.

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be more than comfortable serving with 1LT Niles in combat, and that he would want Glenn as one of his company commanders under such circumstances.³

f. Similar testimony was received by the court from fellow officers and soldiers who served with 1LT Niles during OIF. Two of his peers – fellow platoon leaders with the 615th MP Company in Iraq – both attested to 1LT Niles' high quality as an officer. [REDACTED] rated Glenn as the best of the platoon leaders in the company and told of his complete confidence in Glenn's technical and tactical competence. He also relayed that 1LT Niles was the type of friend who would put his own needs aside to assist a comrade with even the most trivial matter.⁴ Likewise, [REDACTED] the officer who took over Glenn's platoon in Iraq after the incident – testified to the high state of readiness and discipline he found in the platoon when he arrived at Al Taji. He also told of 1LT Niles mentorship of his fellow platoon leaders who had less experience.⁵

g. Several of 1LT Niles' subordinates also testified at trial. To a man, each of them told of their great respect for their former platoon leader. [REDACTED] called 1LT Niles "a great leader" (ROT, pg. 101) and described his high level of professionalism and "genuine concern" (ROT, pg. 101) for his soldiers.⁶ [REDACTED] described him as a hard, mission-focused leader. [REDACTED] the platoon sergeant, described 1LT Niles as a "strong, high-standard leader ... very tactically proficient ... [whose] best trait is caring for soldiers" (ROT, pg. 120).⁸ And, [REDACTED] one of the platoon's squad leaders submitted a written statement attesting to his similar opinion (Encl 4). Each of these men would gladly serve again under Glenn Niles' leadership.

h. The most notable testimony, however, came from 1LT Niles' battalion leadership in Iraq. His Battalion Commander, [REDACTED], observed Glenn's performance not only as a platoon leader, but also as a member of his battalion staff.⁹ He very clearly summarized his opinion of Glenn by telling the court members that "Lieutenant Niles can work for me anytime, anywhere that I go ... he can certainly command a company in any unit that I'm responsible for" (ROT, pp. 173-74).¹⁰ LTC [REDACTED] also wrote two letters of support for 1LT Niles at various stages of this

³ Summary of [REDACTED] found at ROT, pp. 128-136.

⁴ Summary of [REDACTED] found at ROT, pp. 137-148.

⁵ Summary of [REDACTED] found at ROT, pp. 148-155.

⁶ Summary of [REDACTED] found at ROT, pp. 93-112.

⁷ Summary of [REDACTED] found at ROT, pp. 112-118.

⁸ Summary of [REDACTED] found at ROT, pp. 118-128.

⁹ After the incident at the Al Taji station, 1LT Niles was suspended from his position as Platoon Leader and moved to Battalion Headquarters where he joined the staff of the S-3 as a Night Battle Captain in the Battalion TOC in Baghdad.

¹⁰ [REDACTED] is one of the most highly respected leaders of the MP Corps and brings great credibility to his assessment of 1LT Niles' potential for continued service and advancement. He has over 18 years of service as an MP officer and has held several key positions. He has commanded two companies, including command of an MP company during Operation Desert Storm, and commanded the 793rd MP Battalion throughout that unit's challenging and highly successful service during Operation Iraqi Freedom. He has also served as the Chief of Officer Training at the MP School at Fort Leonard Wood in addition to several varying staff jobs. His opinion of 1LT Niles' potential should be given great credence.

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proceeding which are attached (Encl 5-6). Similarly, Glenn's Company Commander, [REDACTED], wrote two letters in support of 1LT Niles' continued service which are also attached (Encl 7-8). Likewise, many other officers on the battalion staff observed Glenn's performance and submitted powerful letters on his behalf (Encl 9-14). Even the Battalion CSM recognizes that 1LT Niles "should be salvaged" (Encl 15).

i. 1LT Niles' true character is illustrated by the following incident: at the Article 32 hearing, 1LT Niles asked me to arrange for his former Platoon Sergeant and several other subordinates to be present in the courtroom when he made his statement so that he could address them as well as the Investigating Officer. Because of the incident, he had been quickly removed from his position of leadership and had not had the opportunity to speak with his former soldiers because of the pending hearing in which they could be called as witnesses. His first opportunity to speak to them came in the public forum of the Article 32 hearing as he tearfully and humbly thanked them for "showing him what duty honor and courage was all about."¹¹ This example shows what type of leader – and the quality of person – that Glenn Niles is.

j. At the court martial on 1 July 2004, Glenn continued to accept responsibility and step forward to accept his punishment. He demonstrated complete candor with the military judge who accepted his plea of guilty on the charge of conduct unbecoming an officer and a gentleman. After hearing all the evidence in mitigation and extenuation, the military panel of ten officers decided that 1LT Niles should be retained in the service and given a chance to soldier on. They could have sent him to jail for up to a year and/or dismissed him from the service. However, they appropriately chose to adjudge neither of these options, ordering instead that 1LT Niles forfeit some of his pay and that he be reprimanded for his actions.

k. After receiving his sentence, 1LT Niles has continued to live the seven Army values. When he was returned to his unit, he was assigned duties as the Company XO for the 615th MP Company. In this position, Glenn has continued to impress his superiors. Both his Battalion and Company Commanders submitted letters for your consideration which detail his outstanding service since his court martial (Encl 16-17).

l. Through it all, Glenn Niles has remained a committed family man with a wonderful and loving family (Encl 18-19). [REDACTED], rely on him for their support. 1LT Niles wants nothing more than to continue providing for his family by serving in our great Army. Please also consider the attached letter from [REDACTED] (Encl 20) in support of your decision to disapprove the findings in this case.

m. Finally, please consider three additional attachments. I have included a copy of 1LT Niles' diploma showing the awarding of his Masters Degree in Counseling (Encl 21), an article published in the Bavarian-American Monthly magazine detailing the

¹¹ The audio tapes of this hearing are in the possession of the Court Reporter at the Office of the Staff Judge Advocate, 1st Infantry Division, in Wurzburg, Germany.

AETV-BGJA-V-TDS

SUBJECT: Petition for Clemency UP Rules for Courts-Martial 1105 & 1106 — United States v. 1LT Glenn A. Niles, Jr.

challenges and accomplishments of the 615th MP Company during OIF (Encl 22), and 1LT Niles' most recent OER which was closed out before his court martial (Encl 23). This evaluation details 1LT Niles' service on the 793rd MP Battalion staff.

3. For these reasons, 1LT Niles respectfully requests that you grant him clemency in the form of disapproving his finding of guilt, dismissing his charges and issuing him a GOMOR. This course of action meets the ends of justice and keeps a great officer in uniform! It is a win, win situation.

4. Please include a copy of this memorandum in all copies of the Record of Trial. This memorandum was served via personal service on the Office of the Staff Judge Advocate, 1st Infantry Division, Military Justice Section, Wurzburg, Germany. On behalf of 1LT Niles, thank you for considering these matters submitted in clemency.

[REDACTED]
[REDACTED]
[REDACTED]
Trial Defense Counsel

23 Encl

1. Accused's Request for Clemency, dtd 8 Feb 05
2. OER, thru 09 Jul 02
3. OER, thru 09 Jul 03
4. Memo for Members, [REDACTED], dtd 28 Jun 04
5. MFR, [REDACTED], dtd 25 Jan 04
6. MFR, [REDACTED], dtd 30 Oct 03
7. MFR, [REDACTED], dtd 28 Jan 04
8. MFR, [REDACTED], dtd 14 Oct 03
9. Memo for Members, [REDACTED], dtd 25 Jun 04
10. Memo for Members, [REDACTED], dtd 29 Jun 04
11. Memo for Members, [REDACTED], dtd 28 Jun 04
12. Memo for Members, [REDACTED], dtd 28 Jun 04
13. Memo for Members, [REDACTED], dtd 28 Jun 04
14. Memo for Members, [REDACTED], dtd 21 Jun 04
15. Memo for Members, [REDACTED], dtd 24 Jun 04
16. MFR, [REDACTED], dtd 01 Nov 04
17. MFR, [REDACTED], dtd 15 Nov 04
- 18-19. [REDACTED], undtd
20. Letter, [REDACTED], dtd 8 Feb 05
21. Diploma, Master of Arts – Counseling, Webster Univ., dtd 18 Dec 99
22. "Welcome 615th MP CO," Bavarian-American Monthly, Apr 04
23. OER, thru 30 Mar 04

REMOVED BATES PAGES 3223 - 3251
(RECORD OF TRIAL – 1LT GLENN A. NILES, JR.)

(29 TOTAL PAGES)

DOCUMENTS CONSIST OF PERSONAL LETTERS WRITTEN TO THE
CONVENING AUTHORITY BY FAMILY AND FRIENDS ON BEHALF
OF 1LT NILES AND OTHER RECORDS CONTAINING PRIVATE
INFORMATION, WHICH WERE DETERMINED TO BE
NONRESPONSIVE TO PLAINTIFF'S FOIA REQUEST

3222 A

ARTICLE 32 INVESTIGATION

003252

OFFICER EVALUATION REPORT
For use of this form, see AR 623-105; the proponent agency is DDCRPER

SEE PRIVACY ACT STATEMENT
ON DA FORM 67-9-1

PART I - ADMINISTRATIVE DATA

a. NAME (Last, First, Middle Initial) NILES, GLENN C.		b. SSN	c. RANK 1LT	d. DATE OF RANK Year 2002 Month 11 Day 10		e. BRANCH MP	f. GRADE / SPECIALTY / PMSA / PMS 31A
g. UNIT, ORG, STATION, ZIP CODE ON APO, MAJOR COMMAND HHD, 709th Military Police Battalion, APO AE 09165				h. REASON FOR SUBMISSION 03 Change of Rater		i. USAREUR	
l. PERIOD COVERED			j. RATED MONTHS 8	k. NONRATED CODES	l. NO. OF ENCL	m. RATED OFFICER COPY (Check one and date)	
Year	FROM Month	Day	Year	THRU Month	Day		
2003	07	10	2004	03	30		
						n. PSB INITIAL	o. CMD CODE UH
						p. PSB CODE EU17	

PART II - AUTHENTICATION (Rated officer's signature verifies officer has seen completed OER Parts I-VII and that the data is correct)

a. NAME OF RATER (Last, First, MI)	b. SSN	c. RANK	d. POSITION	e. DATE
[REDACTED]	[REDACTED]	[REDACTED]	Battalion S3	[REDACTED]
f. NAME OF INTERMEDIATE RATER (Last, First, MI)	g. SSN	h. RANK	i. POSITION	j. DATE
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
k. NAME OF SENIOR RATER (Last, First, MI)	l. SSN	m. RANK	n. POSITION	o. DATE
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
p. SENIOR RATER'S ORGANIZATION HHD, 709th MP Battalion APO AE 09165		q. BRANCH	r. SENIOR RATER TELEPHONE NUMBER	s. E-MAIL ADDRESS [REDACTED]@us.army.mil
		t. This is a referral report, do you wish to make comments?	u. SIGNATURE OF RATER	
		<input type="checkbox"/> Yes, comments are attached	<input type="checkbox"/> No	

PART III - DUTY DESCRIPTION

a. PRINCIPAL DUTY TITLE **Assistant S3 (Operations)**

b. POSITION ACR/RR **31A/MP**

c. SIGNIFICANT DUTIES AND RESPONSIBILITIES, REFER TO PART IV, DA FORM 67-9-1
Assistant S3 (Operations) for a forward deployed TO&E Military Police Battalion consisting of an HHD and five Military Police Companies stationed in Baghdad, Iraq in support of Operation Iraqi Freedom. Principle duty as Battle Captain, responsible for dissemination of timely and accurate information to and from subordinate units; conducts TOC operations to include directing units during engagements. Also assigned as the Battalion LNO to the Iraqi Police, responsible for coordination of information and equipment for 14 Iraqi Police Stations in Baghdad. Responsible for coordination and set up of two weekly meetings with Military Police leadership and the Iraqi Police leadership.

PART IV - PERFORMANCE EVALUATION - PROFESSIONALISM (Rater)

CHARACTER Disposition of the leader; combination of values, attributes, and skills affecting leader actions

a. ARMY VALUES (Comments mandatory for all "NO" entries. Use PART Vb.)			
1. HONOR: Adherence to the Army's publicly declared code of values	Yes	No	
2. INTEGRITY: Possesses high personal moral standards; honest in word and deed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3. COURAGE: Manifests physical and moral bravery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
4. LOYALTY: Bears true faith and allegiance to the U.S. Constitution, the Army, the unit, and the soldier	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5. RESPECT: Promotes dignity, consideration, fairness, & EO			<input checked="" type="checkbox"/>
6. SELFLESS SERVICE: Places Army priorities before self			<input checked="" type="checkbox"/>
7. DUTY: Fulfills professional, legal, and moral obligations			<input checked="" type="checkbox"/>

b. LEADER ATTRIBUTES / SKILLS / ACTIONS: First, mark "YES" or "NO" for each block. Second, choose a total of six that best describe the rated officer. Select one from ATTRIBUTES, two from SKILLS (Competence), and three from ACTIONS (LEADERSHIP). Place an "X" in the appropriate numbered box with optional comments in PART Vb. Comments are mandatory in Part Vb for all "No" entries.

b.1. ATTRIBUTES (Select 1) Fundamental qualities and characteristics	1. MENTAL Possesses desire, will, initiative, and discipline	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	2. PHYSICAL Maintains appropriate level of physical fitness and military bearing	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	3. EMOTIONAL Displays self-control; calm under pressure	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	b.2. SKILLS (Competence) (Select 2) Skill development is part of self-development; prerequisite to action	1. CONCEPTUAL Demonstrates sound judgment, critical/creative thinking, moral reasoning	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	2. INTERPERSONAL Shows skill with people: coaching, teaching, counseling, motivating and empowering	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	3. TECHNICAL Possesses the necessary expertise to accomplish all tasks and functions
b.3. ACTIONS (LEADERSHIP) (Select 3) Major activities leaders perform: influencing, operating, and improving						
INFLUENCING Method of reaching goals while operating/improving	1. COMMUNICATING Displays good oral, written, and listening skills for individuals / groups	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	2. DECISION-MAKING Employs sound judgment, logical reasoning and uses resources wisely	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	3. MOTIVATING Inspires, motivates, and guides others toward mission accomplishment	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
OPERATING Short-term mission accomplishment	4. PLANNING Develops detailed, executable plans that are feasible, acceptable, and suitable	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	5. EXECUTING Shows tactical proficiency, meets mission standards, and takes care of people/resources	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	6. ASSESSING Uses after-action and evaluation tools to facilitate constant improvement	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
IMPROVING Long-term improvement in the Army its people and organizations	7. DEVELOPING Invests adequate time and effort to develop individual subordinates as leaders	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	8. BUILDING Spends time and resources improving teams, groups and units; fosters ethical climate	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	9. LEARNING Seeks self-improvement and organizational growth; embracing, adapting and leading change	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

c. APFT: **PASS** DATE: **JAN 2003** HEIGHT: **71** WEIGHT: **237** YES

d. JUNIOR OFFICER DEVELOPMENT - MANDATORY YES OR NO ENTRY FOR RATERS OF 1LTs AND WO1s.

WERE DEVELOPMENTAL TASKS RECORDED ON DA FORM 67-9-1a AND QUARTERLY FOLLOW-UP COUNSELINGS CONDUCTED? YES NO

603253

NAME NILES, GLENN C.

PERIOD COVERED 030710 - 20040330

PART V - PERFORMANCE AND POTENTIAL EVALUATION (Rater)

a. EVALUATE THE RATED OFFICER'S PERFORMANCE DURING THE RATING PERIOD AND HIS/HER POTENTIAL FOR PROMOTION

OUTSTANDING PERFORMANCE, MUST PROMOTE

SATISFACTORY PERFORMANCE, PROMOTE

UNSATISFACTORY PERFORMANCE, DO NOT PROMOTE

OTHER (Explain)

b. COMMENT ON SPECIFIC ASPECTS OF THE PERFORMANCE AND POTENTIAL FOR PROMOTION. REFER TO PART III, DA FORM 87-9 AND PART IVa, b, AND c DA FORM 87-9-1.

During this short rating period, LT Glenn Niles performed his duties as a Battle Captain and Iraqi Police LNO in an outstanding manner during Operation Iraqi Freedom in Baghdad, Iraq. Glenn approached the job with great enthusiasm and an eagerness seldom seen in an officer of his rank. He quickly grasped the duties of Battle Captain which resulted in smooth TOC operations under his watch. LT Niles was able to calmly direct combat operations making on the spot decisions without hesitation. He embraced the tough job as LNO to the Iraqi Police and did an outstanding job. He coordinated countless meetings between the Military Police and Iraqi Police leadership, which ensured critical communication, resulting in improved policing across West Baghdad. He was instrumental in outfitting and equipping hundreds of Iraqi Police officers and fourteen Iraqi Police stations, allowing the Iraqi Police to do their jobs in a more professional manner.

LT Niles has great potential and will continue to excel; promote him to Captain and send him to the next Captain's Career Course. Consider for Company Command.

c. IDENTIFY ANY UNIQUE PROFESSIONAL SKILLS OR AREAS OF EXPERTISE OF VALUE TO THE ARMY THAT THIS OFFICER POSSESSES. FOR ARMY COMPETITIVE CATEGORY CPT THROUGH LTC, ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE.

PART VI - INTERMEDIATE RATER

PART VII - SENIOR RATER

a. EVALUATE THE RATED OFFICER'S PROMOTION POTENTIAL TO THE NEXT HIGHER GRADE

BEST QUALIFIED

FULLY QUALIFIED

DO NOT PROMOTE

OTHER (Explain below)

I currently number 10 officer(s) in this grade. A completed DA Form 87-9-1 was received with this report and considered in my evaluation and review. YES NO (Explain below)

b. POTENTIAL COMPARED WITH OFFICERS SENIOR RATED IN SAME GRADE (OVERPRINTED BY DA)

ABOVE CENTER OF MASS (Less than 50% in top box; Center of Mass 11.50% or more in top box)

CENTER OF MASS

BELOW CENTER OF MASS RETAIN

BELOW CENTER OF MASS DO NOT RETAIN

c. COMMENT ON PERFORMANCE/POTENTIAL

1LT Niles is an outstanding leader who distinguished himself during combat operations in support of Operation Iraqi Freedom in Baghdad, Iraq. As a Battle Captain, 1LT Niles excelled in every aspect of a very demanding and stressful position. Glenn is a caring and compassionate warrior leader and an officer of incredible integrity and honor. Promote to Captain, send to the Captain's Career Course, and place him in command. 1LT Niles has excellent potential.

d. LIST 3 FUTURE ASSIGNMENTS FOR WHICH THIS OFFICER IS BEST SUITED. FOR ARMY COMPETITIVE CATEGORY CPT THROUGH LTC, ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE.

Company Commander, Battalion Assistant S3, Battalion S1.



DEPARTMENT OF THE ARMY
HEADQUARTERS, 7th ARMY TRAINING COMMAND
OFFICE OF THE STAFF JUDGE ADVOCATE
 UNIT #28130
 APO AE 09036

REPLY TO THE
ATTENTION OF:

AETV-BGJA

JAN 25 2005

MEMORANDUM FOR Commander, 7th Army Training Command, APO AE 09114-8130

SUBJECT: Staff Judge Advocate's Post-Trial Recommendation in the General Court-Martial of
 First Lieutenant Glenn A. Niles, Jr. 615th Military Police Company, APO AE
 09114

1. PURPOSE: To obtain your decision in the general court-martial case of First Lieutenant
 Glenn A. Niles, Jr., 615th Military Police Company, APO AE 09114

2. SUMMARY OF CHARGES, PLEAS AND FINDINGS:

<u>CHG</u>	<u>ART</u>	<u>SPEC</u>	<u>SUMMARY OF OFFENSES</u>	<u>PLEAS</u>	<u>FINDINGS</u>
I	93	1	At or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist.	NG	NG
		2	At or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist.	NG	NG
		3	At or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by kicking him in the shoulder.	NG	NG

003255

20040683

AETV-BGJA

SUBJECT: Staff Judge Advocate's Post-Trial Recommendation in the General Court-Martial of
First Lieutenant Glenn A. Niles, Jr., , 615th Military Police Company, APO AE
09114

II 133 The At or near Al Taji Police Station, Baghdad, G G
Iraq, on or about 30 July 2003, while a platoon
leader in the 615th Military Police Company,
and in the presence of [REDACTED], [REDACTED],
[REDACTED], and [REDACTED], wrongfully and
dishonorably grab [REDACTED] by the neck and
strike him in the stomach with a closed fist,
wrongfully and dishonorably strike [REDACTED] in
the stomach with a closed fist, and while being
detained by [REDACTED], wrongfully and
dishonorably kick [REDACTED] in the shoulder, all to
the disgrace of the Officer's Corps, and the
Armed Forces.

3. SENTENCE: Sentence was adjudged on 1 July 2004: To be reprimanded and to forfeit \$1,003.00 per month for 12 months.

4. PRETRIAL AGREEMENT: The convening authority agreed to disapprove any confinement adjudged in excess of 45 days. Any other lawful punishment may be approved. You may approve the sentence as adjudged.

5. CLEMENCY RECOMMENDATIONS BY THE SENTENCING AUTHORITY: None.

6. APPROVED DEFERMENT/WAIVER ACTIONS:

a. Forfeitures: None.

b. Reduction in Rank: None.

c. Confinement: None.

7. BACKGROUND OF THE ACCUSED:

a. Time in Service: The accused has been in the U.S. Army for approximately 4 years and 1 month:

7 November 2000 – present, U.S. Army

b. Current Enlistment and Term: 10 May 2001, 3 years, plus an extension of 4 months.

AETV-BGJA

SUBJECT: Staff Judge Advocate's Post-Trial Recommendation in the General Court-Martial of
First Lieutenant Glenn A. Niles, Jr. , 615th Military Police Company, APO AE
09114

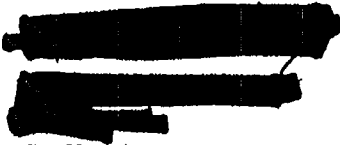
- c. ETS Date: October 2004.
- d. Basic Branch: 31A00/Military Policeman.
- e. Awards: National Defense Service Medal, Global War on Terrorism Expeditionary Service Medal, Global War on Terrorism Service Medal, Army Service Ribbon. The accused is authorized to wear a combat patch on his right sleeve.
- f. Dependents: Married with three children.
- g. Civilian Education: Master of Arts Degree from Webster University, Saint Louis, Missouri and a Bachelor of Psychology Degree from College of Charleston, South Carolina.
- h. Prior Convictions/Article 15s: None.
- i. Restrictions on Liberty: The accused was required to physically check in at the company and subsequently call the company twice a week from 3 February until 1 July 2004. The defense counsel did not determine these to be an Article 13 issue nor restriction tantamount to confinement. (See ROT page 58)
- j. Pretrial Restraint: None.

8. POST-TRIAL MATTERS SUBMITTED BY THE ACCUSED: This recommendation and an authenticated copy of the record of trial will be served upon the accused and his defense counsel. Any matters submitted by or on behalf of the accused pursuant to R.C.M. 1105 or 1106(f) will be provided to you. In accordance with R.C.M. 1107, you must consider all written defense submissions prior to taking action in this case.

9. RECOMMENDATION: I recommend that you approve the sentence as adjudged.

3 Encls

- 1. Report of Result of Trial
- 2. Record of Trial
- 3. Proposed Action


Staff Judge Advocate

003257

20040683

INVESTIGATING OFFICER'S REPORT

(Of Charges Under Article 32, UCMJ and R.C.M. 405, Manual for Courts-Martial)

1a. FROM: (Name of Investigating Officer - Last, First, MI) [REDACTED]	b. GRADE [REDACTED]	c. ORGANIZATION GTA Operations and Plans 100th ASG, APO AE 09114	d. DATE OF REPORT 19 MAY 2004	
2a. TO: (Name of Officer who directed the Investigation - Last, First, MI) [REDACTED]	b. TITLE [REDACTED]	c. ORGANIZATION HQ, 100 th ASG, APO AE 09114		
3a. NAME OF ACCUSED (Last, First, MI) NILES, Glenn A. Jr.	b. GRADE 1LT	c. SSN [REDACTED]	d. ORGANIZATION 615 MP CO APO AE 09114	
			e. DATE OF CHARGES 30 SEP 2003	
(Check appropriate answer)				
4. IN ACCORDANCE WITH ARTICLE 32, UCMJ, AND R.C.M. 405, MANUAL FOR COURTS-MARTIAL, I HAVE INVESTIGATED THE CHARGES APPENDED HERETO (Exhibit 1)			YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
5. THE ACCUSED WAS REPRESENTED BY COUNSEL (If not, see 8 below)			<input checked="" type="checkbox"/>	
6. COUNSEL WHO REPRESENTED THE ACCUSED WAS QUALIFIED UNDER R.C.M. 405(d)(2), 502(d)			<input checked="" type="checkbox"/>	
7a. NAME OF DEFENSE COUNSEL (Last, First, MI) [REDACTED]	b. GRADE [REDACTED]	8a. NAME OF ASSISTANT DEFENSE COUNSEL (If any)	b. GRADE	
c. ORGANIZATION (If appropriate) US Army Trial Defense Service		c. ORGANIZATION (If appropriate)		
d. ADDRESS (If appropriate) Region IX, Trial Defense Service Vilseck Branch Office, APO AE 09112		d. ADDRESS (If appropriate)		
9. (To be signed by accused if accused waives counsel. If accused does not sign, investigating officer will explain in detail in Item 21.)				
a. PLACE		b. DATE		
I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED IN THIS INVESTIGATION BY COUNSEL, INCLUDING MY RIGHT TO CIVILIAN OR MILITARY COUNSEL OF MY CHOICE IF REASONABLY AVAILABLE. I WAIVE MY RIGHT TO COUNSEL IN THIS INVESTIGATION.				
c. SIGNATURE OF ACCUSED [REDACTED]				
10. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF: (Check appropriate answer)				
a. THE CHARGE(S) UNDER INVESTIGATION			YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
b. THE IDENTITY OF THE ACCUSER			<input checked="" type="checkbox"/>	
c. THE RIGHT AGAINST SELF-INCRIMINATION UNDER ARTICLE 31			<input checked="" type="checkbox"/>	
d. THE PURPOSE OF THE INVESTIGATION			<input checked="" type="checkbox"/>	
e. THE RIGHT TO BE PRESENT THROUGHOUT THE TAKING OF EVIDENCE			<input checked="" type="checkbox"/>	
f. THE WITNESSES AND OTHER EVIDENCE KNOWN TO ME WHICH I EXPECT TO PRESENT			<input checked="" type="checkbox"/>	
g. THE RIGHT TO CROSS-EXAMINE WITNESSES			<input checked="" type="checkbox"/>	
h. THE RIGHT TO HAVE AVAILABLE WITNESSES AND EVIDENCE PRESENTED			<input checked="" type="checkbox"/>	
i. THE RIGHT TO PRESENT ANYTHING IN DEFENSE, EXTENUATION, OR MITIGATION			<input checked="" type="checkbox"/>	
j. THE RIGHT TO MAKE A SWORN OR UNSWORN STATEMENT, ORALLY OR IN WRITING			<input checked="" type="checkbox"/>	
11a. THE ACCUSED AND ACCUSED'S COUNSEL WERE PRESENT THROUGHOUT THE PRESENTATION OF EVIDENCE (If the accused or counsel were absent during any part of the presentation of evidence, complete b below.)			<input checked="" type="checkbox"/>	
b. STATE THE CIRCUMSTANCES AND DESCRIBE THE PROCEEDINGS CONDUCTED IN THE ABSENCE OF ACCUSED OR COUNSEL NA				
NOTE: If additional space is required for any item, enter the additional material in Item 21 or on a separate sheet. Identify such material with the proper numerical and, if appropriate, lettered heading (Example: "7c"). Securely attach any additional sheets to the form and add a note in the appropriate item of the form: "See additional sheet."				

DD FORM 457, AUG 84 (EG)

EDITION OF OCT 69 IS OBSOLETE.

003258

12a. THE FOLLOWING WITNESSES TESTIFIED UNDER OATH: (Check appropriate answer)				
NAME (Last, First, MI)	GRADE (If any)	ORGANIZATION/ADDRESS (Whichever is appropriate)	YES	NO
[REDACTED]	[REDACTED]	709 th MP Battalion	X	
[REDACTED]	[REDACTED]	Tripler Army Medical Center	X	
[REDACTED]	[REDACTED]	92 nd MP Company	X	
[REDACTED]	[REDACTED]	615 th MP Company	X	
[REDACTED]	[REDACTED]	615 th MP Company	X	
[REDACTED]	[REDACTED]	615 th MP Company	X	
[REDACTED]	[REDACTED]	Grafenwoehr, Germany	X	
b. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED.			X	
13a. THE FOLLOWING STATEMENTS, DOCUMENTS, OR MATTERS WERE CONSIDERED; THE ACCUSED WAS PERMITTED TO EXAMINE EACH.				
DESCRIPTION OF ITEM	LOCATION OF ORIGINAL (If not attached)			
Charge Sheet dated 30 SEP 2003			X	
Commander's Inquiry Results by CPT Searl dated 7 AUG 2003 with Enclosures 1-9			X	
1LT Niles ORB as of 20030828			X	
1LT Niles OER dated 10 JUL 2002			X	
1LT Niles OER dated 9 JUL 2003			X	
b. EACH ITEM CONSIDERED, OR A COPY OR RECITAL OF THE SUBSTANCE OR NATURE THEREOF, IS ATTACHED			X	
14. THERE ARE GROUNDS TO BELIEVE THAT THE ACCUSED WAS NOT MENTALLY RESPONSIBLE FOR THE OFFENSE(S) OR NOT COMPETENT TO PARTICIPATE IN THE DEFENSE. (See R.C.M. 909, 916(k).)				X
15. THE DEFENSE DID REQUEST OBJECTIONS TO BE NOTED IN THIS REPORT (If Yes, specify in Item 21 below.)				X
16. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL			X	
17. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM			X	
18. REASONABLE GROUNDS EXIST TO BELIEVE THAT THE ACCUSED COMMITTED THE OFFENSE(S) ALLEGED			X	
19. I AM NOT AWARE OF ANY GROUNDS WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER. (See R.C.M. 405(d)(1).)			X	
20. I RECOMMEND:			X	
a. TRIAL BY <input type="checkbox"/> SUMMARY <input type="checkbox"/> SPECIAL <input type="checkbox"/> GENERAL COURT-MARTIAL				
b. <input checked="" type="checkbox"/> OTHER (Specify in Item 21 below)				
21. REMARKS (Include, as necessary, explanation for any delays in the investigation, and explanation for any "no" answers above.)				
a. SUMMARY OF FACTS/DISCUSSION OF EVIDENCE				
(1) The facts of the case are not in dispute with respect to the striking of prisoners - not in self-defense - by 1LT Niles, and the evidence presented was sufficient to support the charge. All witnesses present at the alleged incident agree that 1LT Niles wrongfully struck three prisoners that were in custody at Al Taji Police Station in Baghdad. This fact is supported by the sworn statements of the soldiers present at the incident, their sworn testimony at the hearing, and the sworn statement of 1LT Niles.				
(2) The testimony of all individuals questioned at the hearing, with the exception of [REDACTED] ([REDACTED]), testified that 1LT Niles was wrong to strike the prisoners.				
22a. TYPED NAME OF INVESTIGATING OFFICER		b. GRADE	c. ORGANIZATION	
[REDACTED]		[REDACTED]	GTA, Operations and Plans 100th ASG, APO AE 09114	
d. SIGNATURE OF INVESTIGATING OFFICER			e. DATE	
[REDACTED]			18 MAY 2004	

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<u>DESCRIPTION OF ITEM</u>	<u>LOCATION OF ORIGINAL (If not attached)</u>	<u>YES</u>	<u>NO</u>
LOR from [REDACTED] dated 25 JAN 2004			
LOR from [REDACTED] dated 28 JAN 2004			
CVE of [REDACTED]			

Item 21, continued:

(3) The evidence presented by [REDACTED], [REDACTED] ([REDACTED]), and [REDACTED], suggests that 1LT Niles was shocked by his own actions. 1LT Niles was described by his platoon members as a man seldom at a loss for words. Immediately following the incident, 1LT Niles was incapable of speaking or responding to the angry actions of [REDACTED] who had pulled him away from the prisoners. 1LT Niles has repeatedly accepted responsibility and shown remorse following the incident according to the testimony of [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

(4) Witnesses testifying at the hearing stated that 1LT Niles should not be punished by court martial. [REDACTED] (Inquiry Officer), was not asked for a recommendation for disposition of the charges, but stated that 1LT Niles should not command soldiers in the future as a result of his actions.

(5) 1LT Niles' Company Commander and Battalion Commander in Iraq presented Letters of Recommendation for 1LT Niles, and also testified in the hearing that they would gladly serve with him again. [REDACTED], [REDACTED], and [REDACTED] all testified that he was a good platoon leader and would serve with him again. There was no testimony to contradict the fact that 1LT Niles' chain of command and his soldiers thought him to be a good leader and passionate about the welfare of his soldiers.

(6) There was no conflicting evidence presented at the hearing with respect to the two charges 1LT Niles is charged with.

(7) The three prisoners that 1LT Niles allegedly struck were not available for the hearing, and they will likely not be available for any court-martial proceedings.

(8) All witnesses that served with 1LT Niles testified that all soldiers in the platoon were under enormous stress because of environmental conditions and ever present danger.

(9) All witnesses, with the possible exception of [REDACTED], were credible witnesses. [REDACTED] could not form a reasonable judgment with respect to the charge of maltreatment as to whether 1LT Niles was wrong to strike the prisoners. He testified that he was about 25% complete with his study and analysis of 1LT Niles' case.

b. COMPARING EVIDENCE TO CHARGES/RECOMMENDATION OF CHANGES TO CHARGES

(1) There are reasonable grounds and sufficient proof to support violations of Article 93, Cruelty and Maltreatment, and the three specifications of striking prisoners listed in the charge sheet.

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Item 21, continued:

(2) There are reasonable grounds and sufficient proof to support a violation of Article 133, Conduct Unbecoming an Officer and Gentleman.

(3) I do not recommend a change to the charges. Article 93 should not be changed to Assault and Battery because the prisoners were subject to his orders at the time of the incident.

c. DEFENSE-REQUESTED OBJECTIONS None.

d. RECOMMENDATION FOR DISPOSITION OF CHARGES

(1) I recommend that 1LT Niles not be charged by Court-Martial. I further recommend a General Officer Memorandum of Reprimand, but placed in the restrictive fiche of his OMPF.

(2) There was never any question as to whether or not 1LT Niles committed misconduct. 1LT Niles admitted misconduct in his statement, has never denied wrongdoing, and the incident was witnessed by three soldiers under his supervision. It is all supported by sufficient evidence. 1LT Niles should be punished as a result. The question for the hearing officer and the appointing authority is how to dispose of this case when considering matters of extenuation, mitigation, deterrent effect; and also, the best interests of 1LT Niles, his unit, and the United States Army. I did not take into account the reports related to the Abu Ghraib prison scandal. These are two separate events, under different circumstances.

(3) Matters of extenuation. Testimony indicated that all soldiers in 1LT Niles' unit suffered similar environmental and danger related hardships throughout their tour of duty. Few received more than a few hours of sleep each night. 1LT Niles snapped; other soldiers did not. Leaders, nonetheless, also have greater burdens with respect to their responsibility for mission accomplishment and caring for soldiers. By all accounts, 1LT Niles was a passionate leader who cared about both his mission and his soldiers. This was the testimony of 1LT Niles' chain of command and his soldiers. The pressures of mission accomplishment included the administration of Iraq police stations for which 1LT Niles had no experience (MPs receive provost marshal training as captains), and the training of Iraqi police. There are many accounts throughout American history where leaders made mistakes under the pressure of their commands. Gen Sherman had a breakdown prior to Vicksburg; LTG Patton slapped a soldier. The enormous burdens of our leaders in combat cannot be judged by the same standards of a peacetime army.

(4) Matters of mitigation. Up to the point where 1LT Niles struck three prisoners, and since that event, 1LT Niles has been an exemplary lieutenant. His commander described in testimony that although he made many of the usual developmental mistakes that his peers made, he was nonetheless a good officer. 1LT Niles received recommendations for future service from his company commander and battalion commander. Both would gladly serve with 1LT Niles in the future. The soldiers under 1LT Niles who testified at the hearing all were impressed by his high standards and would serve with him again, also. In particular, [REDACTED] was passionate describing his service with 1LT Niles: "I would take Lieutenant Niles with me again, down range again." His OERs indicate that 1LT Niles has unlimited potential as an officer.

(cont.)

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Item 21, continued:

(5) Deterrent Effect. This issue was raised by counsel during the hearing, and the witnesses indicated that striking a prisoner was the end of a career; therefore, this in itself would seem to deter maltreatment of prisoners alone. The evidence indicates that 1LT Niles did not enter the police station with the intent of striking prisoners. The event seemed to surprise everyone involved, including 1LT Niles himself. There was no intent to harm; it was a sudden and unplanned action. The fact that 1LT Niles was removed from his position, subjected to humiliation and shame is a deterrent and reminder to other MPs not to place themselves in that sort of position. This does not require court-martial to achieve deterrent effects.

(6) The interests of 1LT Niles, his soldiers, and the United States Army. According to testimony presented at the hearing, 1LT Niles is a good officer, a good husband and father, and a good man. He already earned a masters degree in counseling prior to receiving his commission, and in particular, he was interested in helping troubled youths. According to his wife who testified at the hearing, 1LT Niles always wanted to be a soldier and a police officer; as an MP he could "have his cake and eat it too." He made one mistake. All of his efforts previous to the striking of prisoners are greatly diminished by his actions. But his chain of command believes in him, his soldiers believe in him, and they think he can overcome this event. He should be given the chance to redeem himself while in uniform, and use this event as an example to other leaders for the future. Throughout my career, I've seen junior leaders make mistakes. But they were given the chance to overcome them, based on their potential to the Army. Gen Powell relates how he was given a second chance after losing his pistol as a young officer. BG Freakley once told me how he committed an error as a 1LT commander by unlawfully restricting a soldier for a weekend under lock and key in his supply room. Gen Powell was his brigade commander at the time, and gave him a second chance, too.

e. ARTICLE 32 HEARING DELAYS

Original date of hearing: 5 April 2004

Defense requested delay dated 30 March 2004 for a hearing NET 26 April 2004 for family reasons - approved by [REDACTED] 9 April 2004

Defense requested delay dated 17 April 2004 for a hearing on 11 May 2004 for psychiatric evaluations related to defense - approved by [REDACTED] 20 April 2004

Defense requested delay dated 3 May 2004 for a hearing on 14 May because of scheduling conflicts related to the defending counsel - approved by [REDACTED] on 3 May 2004.

Article 32 hearing was conducted on 14 May 2004.

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SUMMARY OF THE PROCEEDINGS

The Deposition Testimony of [REDACTED] in the case of U.S. v First Lieutenant Glenn A. Niles was called to order at 0900 hours, 12 May 2004, Grafenwoehr Training Area, Building 621, 100th Area Support Group Conference Room, Grafenwoehr, Germany:

The following persons were present:

Investigating Officer, [REDACTED]

Trial Counsel, [REDACTED]

Assistant Trial Counsel, [REDACTED]

Defense Counsel, [REDACTED];

The Accused, [REDACTED];

The Reporter, [REDACTED];

Assistant Reporter, [REDACTED]

[REDACTED] 709th Military Police Battalion, was called as a witness, was sworn, and testified in substance as follows:

QUESTIONS FROM THE DEFENSE COUNSEL

Lieutenant Niles was a platoon leader in the 615th Military Police Company. The 615th Military Police Company was one of the units that fall under my battalion. I believe it was one

of the sergeants from the 615th Military Police Company that told the Commanding Officer about the incident. I am not certain nor clear of the actual events. [REDACTED] is [REDACTED] informed me of the incident, I agreed to remove Lieutenant Niles from his leadership position. I assigned the Lieutenant in the battalion staff. I appointed [REDACTED] to investigate the allegations against Lieutenant Niles. [REDACTED] started his investigation after consulting with the brigade Judge Advocate. He took sworn statements from the witnesses present at the incident. While Lieutenant Niles was working at the battalion, he performed his duties very well. Even after the incident, he still performed very well. Lieutenant Niles told me what had happened. He took full accountability for his actions and he apologized. I asked him why he did it, and he could not give me a clear justification. I don't know how much stress Lieutenant Niles experienced, but it's clear to me that he snapped and lost control. Lieutenant Niles was performing as Provost Marshall. He was responsible for the administration of an Iraqi Police station that contractors were building. Lieutenant Niles was also responsible for training the Iraqi Police force. The Iraqis have no concept of the law enforcement system and that's one of the reasons why it was hard for the Lieutenant to complete his mission at the Iraqi Police Station. The Iraqi Police station was the northern most of Baghdad. The soldiers traveled about twenty minutes from their quarters to the Iraqi Police station. There were many hostiles that the soldiers had to go through just to get to the station. Lieutenant Niles was responsible for all the administrative process in the station. He was responsible for many things and I believe that his platoon took great pride in the Iraqi Police station because they were rebuilding something that was completely destroyed. They turned stone and rubble into a working police station, and I believe Lieutenant Niles took personal pride in his work. He rebuilt something that would benefit not only the Iraqis, but also his unit. Lieutenant Niles did not receive the actual

Provost Marshal training because it was reserved exclusively to the Captains and above. Therefore, Lieutenant Niles had to work without the actual training of a Provost Marshall. I don't believe that after he was removed from the platoon that the soldiers performed less. I mean, his platoon sergeant took over his position, but Lieutenant Niles' absence did not change the platoon's mission performance. Yes, his platoon sergeant now had additional duty and responsibility, but even with added task, the platoon was still able to operate the police station and train the Iraqis. I cannot say for certain that the morale became an issue when Lieutenant Niles was removed from platoon leadership. I wrote our brigade commander recommending Lieutenant Niles to resign his commission. I don't believe that such action warrants a person's life. I mean a federal conviction would end Lieutenant Niles' career and civilian chance of working at a reasonable job. I consider his past duty performance and his potential to overcome the incident. Yes, what he did was wrong, but he took full accountability for his action. How much punishment he should get depends on the authority imposing the punishment. I would take Lieutenant Niles with me again down range again.

QUESTIONS FROM THE TRIAL COUNSEL

The platoon sergeant and the platoon went through the same long work hours; lack of sleep; and hostile environment as Lieutenant Niles did. Yes, they did not strike the prisoners. Lieutenant Niles' action was not acceptable. He was training the Iraqi Police how to handle and treat the prisoners. The Iraqi Police had little or no training at all. If Lieutenant Niles was training the Iraqi Police and wanted them to follow his example, then it would send the wrong signal to the Iraqi Police if they had seen what Lieutenant Niles did. But to my knowledge, this was an isolated incident. The Lieutenant did a great job administering the police station. The

prisoners where suspected of criminal offense. They were in the station waiting to be transferred to the Iraqi judicial court system. There they would be tried for their offenses. They were still innocent until found guilty in an Iraqi court. I don't know what happened to them after they were transferred. I fully supported the company commander in handling the incident. It was [REDACTED] that made to me the recommendation of removing Lieutenant Niles from the platoon leadership. I believe the incident should be handled with a letter of reprimand.

There being no further questions, the witness was warned not to discuss his testimony with anyone, was permanently excused, and withdrew from the proceedings.

The Deposition Testimony of [REDACTED] in the case of U.S. v First Lieutenant Glenn A. Niles adjourned at 0945 hours, 12 May 2004.

SUMMARY OF THE PROCEEDINGS

The Deposition Testimony of [REDACTED] in the case of U.S. v First Lieutenant Glenn A. Niles was called to order at 1450 hours, 13 May 2004, Grafenwoehr Training Area, Building 621, 100th Area Support Group Conference Room, Grafenwoehr, Germany:

The following persons were present:

Investigating Officer, [REDACTED];

Trial Counsel, [REDACTED];

Assistant Trial Counsel, [REDACTED];

Defense Counsel, [REDACTED];

The Accused, [REDACTED];

The Reporter, [REDACTED];

Assistant Reporter, [REDACTED]

[REDACTED], Tripler Army Medical Center, Honolulu, Hawaii 96859-5000, Currently TDY at the Laundstul Regional Medical Center, was called as a witness, was sworn, and testified in substance as follows:

QUESTIONS FROM THE DEFENSE COUNSEL

I don't mind starting early today. I went to medical school and became a doctor, physician in surgery. I have specialized training in psychiatry from UCLA (University of California, Los Angeles) and USC (University of Southern California). I did a year of internship and three years of psychiatry practice. In 1984, I worked for the Atascadero State Penitentiary for the criminally insane and became certified in forensics. In 1966 to 1969, I was a Special Forces Medic and cross-trained in weapons and demolitions. I got out and went to school to become a doctor. In 1980, I became the battalion surgeon for the 12th Special Forces in Hamilton Field, California. In 1984, I became a psychiatrist for the SERE (Survival, Evasion, Resistant and Escape) School at Camp McCall in Fort Bragg, North Carolina. I have been a board certified psychiatrist for twenty years. I cannot talk about my work in the Army Special Forces.

The Defense Counsel stated that no questions were to be asked about any Classified work the witness conducted in the Army Special Forces.

The Trial Counsel asked the Investigating Officer if he had a copy of the witness' Curriculum Vitea.

The Investigating Officer stated that he had a copy of the witness' Curriculum Vitea.

Atascadero is a state hospital for the criminally insane. It has approximately a thousand beds and houses various types of criminals. I worked with LAPD (Los Angeles Police Department) SWAT (Special Weapons and Tactics) Team 1983-1984. I became their psychiatrist consultant. My experience in psychiatry in the military began in Tripler Army Medical Center as director of in-patient psychiatric unit and later became director of psychiatry department. I moved to Sholfield Barracks, Honolulu, Hawaii and became the Chief of Community Mental Health Center. I am engaged in private practice, military psychiatry, emergency psychiatry, consultation, and psychiatric interviews. I wrote an article in 1997, titled "Stress on the Battlefield." I studied law enforcement stress extensively. I have met Lieutenant Niles on two occasions. I reviewed the case file. I asked Lieutenant Niles if he could give a clear detail of what was going on in the field before the incident took place. I know things are very difficult in the field right now. I wanted to know the level of stress he was experiencing in the field before the incident. Some of the stress factors Lieutenant Niles was experiencing were long work hours, lack of sleep, climatic (hot) environment, and hostile environment. It was very different compared to the law enforcement shifts in the United States. The Lieutenant did not tell me if he had any days off. Lieutenant Niles told me when he heard the prisoners tried to escape; he asked two other MPs (Military Police) go with him. This act indicated to me that the Lieutenant was anticipating problem with the prisoners or he wanted an extra back up. The Lieutenant ordered the prisoners to face the wall where the hole had been made. He asked them if they made the hole in the wall. Lieutenant Niles stated the he got aggressive with them and punched them in the stomach and one of the sergeants pulled him as he kicked the third prisoner. The Lieutenant was very open and straightforward about everything. He did not try to hide or avoid talking about the incident. The Lieutenant was very emotional and sorry about his action.

During and after deployment, performance starts to go down hill. This means that every individual is subject to stress and job performance will be affected. I have seen MPs having a hard time making transition from the garrison to the field. I think the MPs have more stress because of the different rules they have to follow. The MPs are being told one thing and later being told another. I have formed an opinion in the Lieutenant's case. The Lieutenant had no bad past or prior record. It appears that the Lieutenant had been a very good soldier. I know the Lieutenant had a lot of stress. When the Lieutenant was taking control, he was maintaining control of the prisoners and he just snapped in the process. I think the Lieutenant's action should be recorded and be placed in his record for ninety days as a reminder of what not to do. The key to future misconduct is the past history behavior of the Lieutenant. There is no indication that his action would turn into a pattern in the future.

QUESTIONS FROM THE TRIAL COUNSEL

I remembered talking to you and [REDACTED] yesterday and I got in trouble for talking to you both. My boss thought that I was talking to the press. My boss asked if I was talking to the press and I told my boss that I was talking to the prosecutor. There is a difference between a medical training in psychiatry and medical training in body. The basic or initial part of the training is the same, pre-med. Later on during the course, you would go onto your specialized training, internship, residence, and then license. I am trained and licensed in medicine and psychiatry. I can prescribe medicine to mental patients. I went to Loma Linda University for my undergraduate. I went to the Medical School of Guadalajara. I did my fifth year at Pathway Medical Program in the United States. What I meant when I said, "Niles is

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going to have to pay for an outburst of anger” was Lieutenant Niles made a mistake and in the military justice system, his action has consequences. How much he has to pay will depend on the authority over him. He was not criminally impaired. The Lieutenant knew right from wrong. I have not done an extensive background examination on Lieutenant Niles. My evaluation is really not finished yet. I spoke with three sergeants but I don’t know their names. They made statements that are in the packet. I spoke with them on the telephone. I met with Lieutenant Niles twice face-to-face. I reviewed the file Defense Counsel gave me. There is other information that could change my opinion. I do not yet know that information. I have not done a psychological test on the Lieutenant. I would conduct a full psychological test before making an evaluation on Lieutenant Niles. Lieutenant Niles had a diminished capacity during the incident. Did he know right from wrong? Yes, he did. However, diminished capacity and knowing right from wrong are two different things. Yes, Lieutenant Niles knew right from wrong. However, he had a diminished capacity due to the level of stress. His lack of sleep and long work hours would diminish his capacity to perform his duty. But would he know right from wrong after his diminished capacity? Yes, he would. But because I have not done a complete evaluation on Lieutenant Niles, I don’t know where I stand as far as his diminished capacity. What I meant when I said, “Giving them a doughnut was not going to work” was having control by maintaining control. When a police shows a level of authority, the subject responds to that authority. If the subject sees weakness in the authority, the subject would more likely over turn that authority. Showing force is not abuse. It is a way for the subject to comply with authority or authority will use force to make the subject comply with authority. Law enforcements are trained to be aggressive. I don’t know what happened with Lieutenant Niles’ case but I know he was responding from frustration and anger. I am familiar with what I read in the case file. The

prisoners were not presenting a treat. I was doing my police work, I placed an individual up against the wall. I did not strike at the individual. Lieutenant Niles was baffled by his behavior. He could not give me an explanation for his action. He told me he stuck two in the stomach and kicked the third. The Lieutenant said he was frustrated and angry and he just snapped. There was no policy on how to handle the situation. I think there is a policy on not to strike at prisoners. Military Police are trained on when and when not strike at people. There are differences in Basic Military Police training and Combat Military Police environment. There is a stress level difference. Do I agree that what Lieutenant Niles did was wrong? It's a good question. Maybe he did it to make the prisoners from doing it again. Would it be wrong for a police officer to strike at the prisoner? It would depend on the situation. I cannot say that it was wrong for the Lieutenant to beat up the prisoner in a combat situation. All I know about Lieutenant Niles is what I have read in the case file. I need to do a more extensive background evaluation. But from talking to the people around him, he seemed like a pretty nice guy to me. I have not conducted an extensive background evaluation on Lieutenant Niles' background. I am about one quarter away from my evaluation.

QUESTIONS FROM THE DEFENSE COUNSEL

The Defense had not asked me to do a full extensive report. I was just asked to assess and consult with the Defense. I was asked to do a preliminary evaluation on Lieutenant Niles. Diminished capacity and knowing right from wrong are two separate things. Lieutenant Niles knowing right from wrong is not an issue. He knew what he was doing. The issue is the level of diminished capacity. I cannot give an answer to his level of diminished capacity. My opinion on

his diminished capacity is that it should be taken into consideration when imposing punishment. Lieutenant Niles never told me that what he did was okay. He took full accountability for his action.

QUESTIONS FROM THE INVESTIGATING OFFICER

I will use suicide to explain Past History Behavior. When someone tries to kill himself or herself, psychiatrist look at the past history of the individual. The psychiatrist is looking for pattern of behavior that would indicate future or repeated pattern of the same kind of behavior. Basically, if someone tried to commit suicide twice, more likely the person would try to commit suicide again. I was looking for Lieutenant Niles' Past History Behavior to see if he had the same outburst of anger before. I did not find any.

There being no further questions, the witness was warned not to discuss his testimony with anyone, was permanently excused, and withdrew from the proceedings.

The Deposition Testimony of [REDACTED] in the case of U.S. v First Lieutenant Glenn A. Niles adjourned at 1645 hours, 13 May 2004.

SUMMARY OF THE PROCEEDINGS

The Article 32 Investigation was called to order at 0859 hours, 14 May 2004, Rose Barracks Courtroom, Vilseck, Germany:

The following persons were present:

Investigating Officer, [REDACTED]

Trial Counsel, [REDACTED]

Assistant Trial Counsel, [REDACTED]

Defense Counsel, [REDACTED]

The Accused, [REDACTED]

The Reporter, [REDACTED]

The Investigating Officer stated that he was the Investigating Officer detailed in the case and read the rights of the Accused to an Article 32 Investigation and stated that he understood his rights.

The Defense Counsel waived the reading of the charges.

The Investigating Officer declared the three Iraqi prisoners as reasonably unavailable for purposes of testimony.

The Trial Counsel introduces the complete commander's inquiry report done by [REDACTED] [REDACTED] 1LT Niles' sworn statement, 1LT Niles right waiver, two sworn statements from [REDACTED] [REDACTED] sworn statement, [REDACTED] sworn statement, [REDACTED] sworn statement, and [REDACTED] sworn statement.

The Defense Counsel voir dire the Investigation Officer.

QUESTIONS FROM THE DEFENSE COUNSEL

I have not had any conversations with the command concerning this case. I am familiar with the incidents in Iraq right now with the prisons and the MP's. I have heard statements made by government officials that justice would be handed out in these cases. I do not feel any pressure to recommend any certain disposition in this case based on the incidents in Iraq.

[REDACTED] 92nd Military Police Company, was called as a witness, was sworn, and testified in substance as follows:

QUESTIONS FROM THE TRIAL COUNSEL

I was formerly deployed in Iraq. I was involved in the commander's inquiry for 1LT Niles. [REDACTED] appointed me to that duty. I was appointed to look into misconduct at the Al-Taji police station. After I was appointed I went to battalion to speak with [REDACTED] for a legal briefing on how to handle the investigation. Then I went to the Al-Taji police station to interview

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all of the soldiers there to see what they knew. The Al-Taji police station is on the north side of Baghdad. The battalion is on the west side of Baghdad. It's about 20-30 minutes from the battalion to the police station. I brought in all of the soldiers to explain to them what I would be doing. I told them not to discuss the incidents among themselves. I interviewed the soldiers one by one. There was a maltreatment of three detainees at the police station. I took five sworn statements. Three of the detainees tried to escape from the prison. The platoon sergeant informed 1LT Niles of the incident. The next day, 1LT Niles went to inspect the damages done by the prisoners. It was around 24 hours from the time of the attempted break out to the time of the incident. 1LT Niles discovered that the prisoners had attempted to break through the wall with a pipe. He told one of the sergeants to bring the detainees into the latrine where the damage was done. He grabbed one of the detainees and kind of threw him over to where they had attempted to break out. He repeated the same process with the second and the third followed. Then he struck the first detainee in the stomach. He did the same to the second and attempted to strike the third but [REDACTED] pulled him away. 1LT Niles then kicked the third detainee. It was not self-defense. The detainees were being compliant. Afterwards I reviewed all of the statements I had received, and then I interviewed 1LT Niles. I talked with him at the battalion TOC, in [REDACTED] room. I did read him his rights and he did do a rights waiver.

Trial Counsel hands [REDACTED] a copy of the commander's inquiry and [REDACTED] confirms that it is his commander's inquiry for the 1LT Niles incident.

1LT Niles explained everything to me exactly how I just explained the incident to you. 1LT Niles struck them because of what they did the night prior. I can't speculate as to whether he did

it out of anger. One soldier did say that while the unit was in Kuwait that 1LT Niles had pulled a soldier out of the tent because the soldier was not "moving fast enough". That was a previous display of his temper. I don't think that 1LT Niles should command soldiers in the future because of his temper and the position he put his soldiers in that day. The soldiers have a responsibility to report such behavior, so they had to choose between loyalty and duty. [REDACTED]

[REDACTED] came forward about the incident. I am currently a company commander. 1LT Niles was a platoon leader. He was over approximately 30 soldiers. He has to set a good example for these soldiers. Striking these detainees did set a bad example. The MP's also did training with the Iraqi police. One of their missions was to train the IP's in proper police procedures.

Defense Counsel objects on grounds of speculation, to a question about how 1LT Niles' actions affected the Iraqi Police.

If the IP's would have found out about this incident it would have set a bad example for them.

QUESTIONS FROM THE DEFENSE COUNSEL

I think [REDACTED] told me about the incident where 1LT Niles had pulled the soldier out of the tent. It was not [REDACTED] that was pulled out of the tent. They did not mention the circumstances surrounding the event. I didn't hear anything about a fire. I did speak with [REDACTED] [REDACTED] once on the phone and once at the brigade. I did that before I spoke with the witnesses. I contacted him again to let him know the report was complete. I don't remember talking with him about my findings. I did see the damage done by the detainees. It wasn't actually a hole in the

wall. They used a metal pole to damage the wall. The damage was approximately three feet by four feet. If they would have gone all the way through the wall, the detainees could have slipped through it. I understood that the detainees were there because they killed a taxi driver and stole his car. 1LT Niles never dodged the issue. He was very forthcoming with all of the information. It took me about a week to complete my report. Once I turned in my report I did not have any further contact with the command, concerning the incident. I'm not sure why it took two months to prefer charges.

QUESTION FROM THE INVESTIGATING OFFICER

I met 1LT Niles last March when we deployed. We spent 7 months together, but did not have a lot of contact with each other because of our positions. I did not know any of the NCOs prior to the incident.

QUESTIONS FROM THE TRIAL COUNSEL

I believe the detainees were about five foot six to five foot eight and around 150-180 pounds.

There being no further questions, the witness was warned not to discuss his testimony with anyone, was permanently excused, and withdrew from the proceedings.

The Defense Counsel introduced the audiotapes from the VTC's with [REDACTED] and [REDACTED]
[REDACTED]

[REDACTED] 615th Military Police Company was called as a witness, was sworn, and testified in substance as follows:

QUESTIONS FROM THE DEFENSE COUNSEL

I was with the 615th MP Company in Iraq. We deployed in March and I took over the platoon sergeant slot in April. Prior to that, I did not really know 1LT Niles. When the incident occurred I was sitting at the front desk with the IP's. [REDACTED] came down the hallway and told me I needed to get back to where 1LT Niles was. As I came to the doorway to the D-Cell 1LT Niles was coming out. I saw three prisoners on the ground. [REDACTED] came out and was upset as well. I asked 1LT Niles what was going on and he just shook his head. I found out from [REDACTED] that 1LT Niles had struck some prisoners. It was out of character for 1LT Niles to not say anything. He is never at loss for words. I never did talk with him again about the incident. I gave a statement to [REDACTED]. I had been with 1LT Niles for about four months prior to this incident. I have been in the Army and an MP for 16 years now. I've been an NCO for about 12 years. I was a platoon sergeant at Fort Polk for a little over a year. Expectations are greater in a combat zone. 1LT Niles was a stern platoon leader who had high standards. He expected soldiers to toe the line. We did patrols in Iraq before we got the mission to get the police stations up and running. Most of them were looted and burnt, and we basically had to start from scratch. About 20 percent of the IP's were dependable. They had no ethics or police standards. One of the main

stresses was the heat. Force protection was a big issue as well. There was also the threat of IED attacks to and from the battalion and police station. There were no days off. We worked 12-16 hours a day. There were incidents about stations being attacked. I don't think that 1LT Niles should go to jail. A letter of reprimand would be sufficient. That would not send a message of toleration. A letter of reprimand is pretty serious for an officer.

QUESTIONS FROM THE TRIAL COUNSEL/ASSISTANT TRIAL COUNSEL

There were some serious effects because of this incident. I was the one who reported the incident. That was probably the most difficult thing I've ever had to do. I am responsible for helping train the LT and I kind of feel like I failed him. It's still in the back of my mind. 1LT Niles put his soldiers in a bad situation. You have to lead by example. This is something young soldiers would not picture an officer doing. They had to choose between 1LT Niles and the Company. As the platoon sergeant I had to step up. There were already plenty of stress factors. I got five hours of sleep if I was lucky. I did put in as many hours as 1LT Niles and was under the same kind of stress. I never did strike anyone. I found other ways to deal with the stress. The three detainees were accused of crimes, but that doesn't mean they deserve to be struck. Just because they tried to break out the night before does not mean they deserve to be struck. What 1LT Niles did was wrong. It was our duty to get the stations up and running and to train the IP's. IP's had different tactics in dealing with prisoners. It would not be uncommon for them to beat prisoners. We were trying to teach them to only use necessary force. We taught them the proper ways to treat detainees. We tried to lead by example. 1LT Niles did not set a good example.

QUESTIONS FROM THE DEFENSE COUNSEL

I did report the incident. 1LT Niles never told me to keep things between us. I think the day of the incident we had a force protection inspection. 1LT Niles did seem detached during this whole incident. I've never talked with [REDACTED] about this case. I don't recall any weapons being retrieved around the Taji station.

QUESTIONS FROM THE INVESTIGATING OFFICER

1LT Niles never gave me any impression that I wasn't doing my job as a platoon sergeant. He actually complimented me. I do not believe that the IP's knew why 1LT Niles was re-assigned.

QUESTIONS FROM THE DEFENSE COUNSEL

We moved those three detainees to Camp Crawford, and from what I heard, one of them was released due to a lack of evidence. They were not injured or taken to a hospital.

QUESTIONS FROM THE INVESTIGATING OFFICER

I have been with these NCOs for over a year now. They all have very strong character. I do not know of any personal conflicts between the NCOs and 1LT Niles. They may have procedural conflicts. There were complaints about how he wanted to run things, but I did support my platoon leader.

QUESTIONS FROM THE DEFENSE COUNSEL

I never felt that the things 1LT Niles wanted to do were inappropriate. He just had high standards. These were just basic soldier gripes. [REDACTED] does have a tendency to exaggerate things.

There being no further questions, the witness was warned not to discuss his testimony with anyone and was temporarily excused.

The Article 32 investigation recessed at 1000 hours, 14 May 2004

The Article 32 investigation reconvened at 1002 hours, 14 May 2004

All parties present before the proceeding recessed were again present.

[REDACTED], 615th Military Police Company was called as a witness, was sworn, and testified in substance as follows:

QUESTIONS FROM THE DEFENSE COUNSEL

I was in the same platoon down range as 1LT Niles and [REDACTED] I was the first squad leader in first platoon. I did observe what happened. [REDACTED] and [REDACTED] were also in the room with 1LT and myself Niles. I was the closest to 1LT Niles. The incident stopped when I grabbed the LT. Once I nudged him back he turned around and walked out the door. I followed him to the patrol room and I closed the door. I told 1LT Niles that he better not ever put me or my soldiers in that position again. 1LT Niles didn't respond. That was unusual and out of character for him. He seemed zoned out. He just kept looking straight ahead. I was not present for the conversation between 1LT Niles and [REDACTED]. None of us discussed it after that day. 1LT Niles never told me to keep this between us. He hit two of the detainees once each in the gut and kicked the third. I would not say that he used full force. He did not resist as I pulled him away. The detainees were brought in because they killed a taxi driver and stole his car. They tried to escape the same night they had been brought in. One of the other prisoners informed us of their attempt to escape. None of the three denied doing the damage. Had the hole been bored the whole way through, the prisoners could have escaped. I've been in the Army for 13 years. I've been an NCO for about 8 years and an MP all 13 years. 1LT Niles is a great lieutenant. Everything he did was for the platoon and he had high standards. Other than this incident there was nothing inappropriate in his actions. In Kuwait we had a trashcan by our tent that had caught fire. We had to get everyone out of the tent. I didn't see what 1LT Niles did, but I heard that he just grabbed the soldier and pulled him out of the tent. I don't think that 1LT Niles should be court-martialed. I think a letter of reprimand would be strong enough punishment.

QUESTIONS FROM THE TRIAL COUNSEL/ASSISTANT TRIAL COUNSEL

The attempted escape happened the night before the incident. 1LT Niles wanted to talk to the detainees responsible. [REDACTED] is ordered to watch the remaining detainees as the three responsible were taking into the latrine area. It was 1LT Niles, [REDACTED], [REDACTED], and myself. I don't remember what the detainees were wearing. They were about five foot five or six and maybe 150 pounds. They were not a threat to us at that time. They did not make any threatening gestures. 1LT Niles makes first contact. [REDACTED] demonstrates 1LT Niles actions by grabbing [REDACTED] by the back of the neck and kind of pushing him about three feet over. He then demonstrates how 1LT Niles struck the detainees by performing a low punching motion towards [REDACTED] stomach area. [REDACTED] then demonstrates the position of the third detainee by crouching down on the ground with one knee on the ground and one hand in the air shaking, as he says, "no mister, no". He then demonstrates 1LT Niles actions towards this third detainee by showing a kicking motion while acting as if being pulled back at the same time. This kick was said to have landed in the chest area of the third detainee.

The detainees were lined up facing 1LT Niles. He keeps asking them, "Did you do this, did you do this?" in a forceful tone. He then punched one in the gut and I started to walk towards him. Before I got to him he had already punched the second one in the gut. I pulled him back and he kicked the third detainee, then turned around and walked out. [REDACTED] had left the room. None of the detainees attempted to lunge at 1LT Niles. He did not act in self-defense. 1LT Niles may have been stressed out and upset. 1LT Niles did put me in a bad situation. I had to choose between the LT and the Company. He did not put my career in jeopardy. I don't feel that it could come back on my soldiers or me because we had not done anything. I was concerned about the potential effect this could have on my soldiers and me. We did have stressful conditions. We had

no air conditioner. We did work long hours and little sleep. I never struck anyone. The detainees were the worst of the worst; car-jackers, rapists, murderers. This does not give us the right to strike them. "Sending a message" to the prisoners is not justification to strike the prisoners. We were there to show the IP's that abuse and unnecessary force was not the way to handle police situations. 1LT Niles set a bad example.

QUESTIONS FROM THE DEFENSE COUNSEL

Typically, you may get three to four hours of sleep. This did add to the stress level. There were threats of mortar attacks and car bombs as well as other issues. Force protection was very important. There were some mortars found in a well right outside our station. These could have been used to attack our station. Leaders do have additional stresses. I had nine soldiers in my squad. 1LT Niles had about 30 soldiers under him. The detainees did not require medical attention. This incident was reported immediately.

QUESTION FROM THE INVESTIGATING OFFICER

I know the NCOs in my platoon quite well. I am a friend with them. They have good character. The only conflicts they had with 1LT Niles were with some of his ideas on how to run things.

There being no further questions, the witness was warned not to discuss his testimony with anyone and was temporarily excused.

[REDACTED], 615th Military Police Company was called as a witness, was sworn, and testified in substance as follows:

QUESTIONS FROM THE DEFENSE COUNSEL

I was present during this incident. I did observe what happened. 1LT Niles said he wanted to see the prisoners who had attempted to break out. [REDACTED] stayed with the remaining prisoners and we took the other three in to where they had tried to break through the wall. I did see the damage. They had taken a pipe and busted the wall. With more time they could have escaped. 1LT Niles grabbed the first prisoner and put him up to the wall and asked him, "Did you do this?" and then struck him in the stomach. Then he immediately grabbed the second one and struck him in the stomach. Then [REDACTED] pulled him back. I did not discuss the incident with 1LT Niles or anyone else because of the investigation. I was never encouraged to not tell the truth. The prisoners were not injured. I've been active duty for about 6 years now and was in the reserves for about 6 years before that. I've been an MP for about 12 years. I've been an NCO for less than a year now. There were things that 1LT Niles did as a platoon leader that I disagreed with. We butted heads a lot. His heart was always in the right place even if I didn't always agree with him. He did have very high standards. I think things have gone far enough as far as punishment. A letter of reprimand would be a strong enough message. I do see that he is reformed and has repented. I am confident in his leadership and I would deploy with him.

QUESTIONS FROM THE TRIAL COUNSEL/ASSISTANT TRIAL COUNSEL

We were all armed that day. The detainees were 5'5 to 5'10 and approximately 140-160 pounds. They were compliant to the orders they were receiving. There was no translator. I did not feel that they were a risk to us at that moment. 1LT Niles made first contact. He grabbed the first detainee and put him in front of the hole and asked, "Did you do this?" and then struck him in the stomach. He did the same with the second. Then [REDACTED] pulled him away. The third detainee was not a threat. 1LT Niles did not act in self-defense. I don't feel that I was put in a bad situation; maybe the platoon sergeant and the squad leader. I wasn't happy with the position they were put in. Security was not really heightened because of this. We worked 12 hours minimum everyday of the week. I lived in like a partial kitchen area. There were about six inches between my cot and the sink. It got around 140 degrees. I would get maybe four to five hours of sleep a night. I was in Iraq for almost a year. There were a lot of stress factors over there. There were a lot of times I was not in a good mood. I did soldier on. I never struck any detainees. Just because the detainees were in the prison for serious crimes does not make it right to strike them. Striking the detainees was wrong. One of our missions was to train the IP's proper police procedures. The IP's were drunk a lot of times and would beat the prisoners. We were there to try and help bring some reform. We had to lead by example. We tried to train them to use only the necessary force for the situation at hand. 1LT Niles actions that day did not set a good example.

There being no further questions, the witness was warned not to discuss his testimony with anyone and was temporarily excused.

The Article 32 investigation recessed at 1046 hours, 14 May 2004

The Article 32 investigation reconvened at 1053 hours, 14 May 2004

All parties present before the proceeding recessed were again present.

██████████, 1LT Niles ████████, was called as a witness, was sworn, and testified in substance as follows:

QUESTIONS FROM THE DEFENSE COUNSEL

We have been married for almost eight years. We have three children. Glen has been in the Army for almost four years. We got to Grafenwoehr at the end of 2001. His company deployed in March of 2003. He was gone for almost a year. He called me and told me that he was sorry. He was crying and said that he had put the kids and me in a bad situation. He couldn't elaborate but he kept saying he was sorry. It was a little hard in the beginning when he first got back. There was an adjustment time. He has been a little more withdrawn. Before he got in the military he worked with kids. He got his master's degree in counseling. He worked a lot with troubled kids. We went to lunch one day and Glen started talking to an Army recruiter and then a few months later, here we are. He always wanted to be a police officer and a soldier, so here he is having his cake and eating it too. Glen is our family's rock: financially, spiritually, and emotionally. There's nothing he would not do for his family. He has always said God first and then family. When I talked to him about Iraq, he said that he fought for God and country. The

fact that he got up everyday and did his job to his best ability even after knowing that his career was on the line shows what kind of man he is.

There being no further questions, the witness was warned not to discuss his testimony with anyone and was permanently excused.

The accused (1LT Niles) makes an unsworn statement.

The Article 32 investigation recessed at 1106 hours, 14 May 2004

The Article 32 investigation reconvened at 1347 hours, 14 May 2004

All parties present before the proceeding recessed were again present.

The Defense Counsel introduces 1LT Niles Officer Enlisted Records, and two letters of support written by [REDACTED].

[REDACTED], 615th Military Police Company was called as a witness, was sworn, and testified in substance as follows:

QUESTIONS FROM THE DEFENSE COUNSEL

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I am still with 615th MP Company. I have been with them for almost two years. I PCS to Fort Leonard Wood on Monday. I was the company commander and 1LT Niles was one of my platoon leaders. He has grown to be a very good lieutenant. He did make a mistake, which has brought us here. He was a lieutenant that was learning and had challenges to overcome. There was the incident about pulling the soldier out of the tent. He has had developmental issues that all lieutenants go through. I never questioned his integrity. Our mission in Iraq was to train the Iraqi police and to stand up the police stations. Our unit had about seven stations to oversee. I worked as the liaison for the sector commander. Our guys worked as provost marshals and chiefs of police. The lieutenants were also in charge of setting up all force protection measures for the stations. Our platoons were stretched pretty thin. There were attacks on the police stations. It was extremely hot there, between 120 and 140. 1LT Niles accomplished the missions. 1LT Niles was moved out of the platoon pending the commander's inquiry report. He was moved to battalion staff. He worked under the Executive Officer in the S4 and also as a night battle captain. I still talked to him on a regular basis because he was still one of my soldiers. He soldiered through all of this. Soldiers who get in trouble either let it get to them, or they soldier on. I do know who [REDACTED] is and I talked to him on a regular basis. [REDACTED] spoke with him first concerning this incident and then I talked with [REDACTED]. First we wanted to let the commander's inquiry to be done first. Once it was determined that the incident did in fact occur, [REDACTED] and me discussed what to do with the case. [REDACTED] and I disagreed on the basis of this case. He felt that it was a war crime and I did not. I interpreted this as an assault. I would not compare this to the current issues in the news concerning the prison abuse. It was my signature that did prefer charges. I think that he should receive a letter of reprimand or a general officer Article 15. I think that the statement that this will not be tolerated has already been made.

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QUESTIONS FROM THE TRIAL COUNSEL

One of the squad leaders came to me saying that 1LT Niles had placed his hands on one of the soldiers. It turns out that he did not place his hands on the soldier. He did grab the soldier's LBV and pulled them out of the tent. I was briefed that they were looking for a magazine containing 9mm rounds. I don't know the exact reason except that he was trying to clear the room. He told me that he was just trying to get the soldiers out of the room. I had no thought that he was trying to injure the soldier. I do know that JAGs do not make the final decision and that it was me who preferred charges. There was no undo command influence. We did scenario base things but I was free to do as I saw fit. I've been an MP for about nine and a half years. MP's do get trained on when and when not to use force. We are not trained to use force for no reason. MP's are only supposed to use force when necessary. It was not necessary for 1LT Niles to use force. 1LT Niles was responsible for about 26-28 soldiers. As a leader you are set apart to set an example for your platoon or company. The troops knew that what he did was wrong. Part of his mission was to train the IP's. This kind of behavior would not send a good message to the IP's we're trying to train.

QUESTIONS FROM THE DEFENSE COUNSEL

1LT Niles never denied that the incident happened. He has taken full responsibility for everything.

QUESTIONS FROM THE INVESTIGATING OFFICER

Our company was attached to [REDACTED] battalion. Our battalion commander is normally [REDACTED]. [REDACTED] was in Kosovo during the time of the incident. This incident was not included in that particular rating period reflected on the ORB. I had seven platoon leaders in my company. One was rated under [REDACTED], and [REDACTED] rated all the others. I recommended 1LT Niles at center mass. We were responsible for seven police stations. The brigade commander at the time was [REDACTED]. Force protection was the most important thing during his inspections. The next big issue was overall sanitation. He would tell you if your station was not adequate but he wouldn't chew out any junior officers. I do highly recommend 1LT Niles. I do not want to see his career ended. He does need to be held accountable for his actions. Court-martial or dismissal is definitely career ending. An Article 15 is close to a career ender, but it can be overcome with a lot of hard work. I would like to see him continue his career.

There being no further questions, the witness was warned not to discuss his testimony with anyone and was permanently excused.

The Government Representative asked the defense if they wanted any of the other possible witness to be called.

Defense counsel declined the calling of further witnesses.

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The Investigating Officer permanently excused all of the witnesses.

The Article 32 investigation adjourned at 1440 hours, 14 May 2004.



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CURRICULUM VITAE

DATE OF BIRTH: 4 October 1946

PLACE OF BIRTH: Glendale, California

SSN:

PERSONAL DATA: Married

HIGH SCHOOL: San Fernando Valley Academy
San Fernando, CA

COLLEGE: Loma Linda University
09-1964 to 06-1966 Loma Linda, CA
08-1969 to 08-1973 B.S. degree – Major – PreMed
Degree received 14 March 1974

MEDICAL: 09-1973 to 06-04-1977 Universidad Autonoma De Guadalajara
Guadalajara Jalisco, Mexico
M.D. Degree

POSTGRADUATE:

07-01-1977 to 06-30-1978 Pre-clerkship in general medicine in preparation for the
5th Pathway Program – Granada Hills Community Hosp.
Granada Hills, California

07-01-1978 to 06-30-1979 Pre-externship in general medicine in preparation for the
5th Pathway program – Los Angeles County,
Olive View Medical Center-Sylmar, California

07-01-1979 to 06-30-1980 5th Pathway Program
Loma Linda University School of Medicine
Loma Linda, California

INTERNSHIP: General Psychiatry Internship
Los Angeles County-Olive View Medical Center
Sylmar, California

This consisted of an eight months of rotation. One month in the emergency room, three months psychiatric outpatient, four months psychiatric inpatient (locked psychiatric ward).

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Page Two
Curriculum Vitae

09-1980 to 12-1980 Sepulveda Veterans Administration Medical Center-UCLA

This included two months of outpatient with emergency room work, two months of medical wards.

RESIDENCY:

07-01-1980 to 06-30-1984 Psychiatry Residency – Los Angeles County
Olive View Medical Center, UCLA
Sylmar, California

PROFESSIONAL EXPERIENCE:

07-1984 to 02-01-2000 Private Practice – Psychiatry

MILITARY EXPERIENCE:

08-23-1966 to 06-12-1969 CO C –6th Special Forces Group (ABN)
1st Special Forces US CONARC – Fort Bragg, NC

COMMISSIONED:

10-15-1981 to 02-01-2000 United States Army Reserves
Rank – Lieutenant Colonel, 13 Dec 1995
Rank – Major, 14 Dec 1988
Rank – CPT, 15 Dec 1981
Rank – 1LT, 10 Sept 1981

BOARD CERTIFICATION: Eligible, General Psychiatry, June 29, 1984

BCFM - Forensic Medicine
Diplomate of the American Board of Forensic Examiner
Certificate #944 issue date 05-07-1996

BCFE – Forensic Examiner
Diplomate of the American Board of Forensic Examiner
Certificate #2501 issue date 03-15-1996

LICENSURE:

California #A36936, issued 07-01-1981, exp 10-31-04
Alaska #AA2849, issued 08-04-1992, exp. 12-31-04
Hawaii #11166, issued 08-11-00, exp 08-11-04

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Page Three
Curriculum Vitae

ECFMG CERTIFICATE: Passed 1980 – took 5th Pathway Clinical training program to replace this certification.

FLEX – Passed 1980.

WORK EXPERIENCE: As a licensed M.D. from 1981 to Present

1. L.A.P.D. (SWAT Team), Crisis Negotiating Team - Psychiatric consultant
Dealing with personal police problems; barricaded suspects, evaluation of police stress.
2. Granada Hills Community Hosp.-Hospice, Psychiatric consultant
Specific problems dealing with death and dying of terminally ill patients and family members.
3. Granada Hills Medical Center, General practice, outpatient clinic.
Dealing with general medical problems with outpatients and night call.
4. Olive View Medical Center, Ward, on-duty
General medical and psychiatric problems occurring on the wards.
5. Olive View Medical Center- Psychiatric Emergency Room
Acute psychiatric emergencies, evaluations and hospitalizations.
6. 12th Special Forces Group, Battalion Surgeon – Rank, Captain
Function as a general medical officer, dealing with combat injuries, educating Medics.
7. Granada Hills Community Hospital – Hypnosis with pulmonary lab.
8. Atascadero State Hospital – Staff Psychiatrist, Forensic Medical Admissions, documentation of Legal Statutes.
9. S.E.R.E. Committee (Survival, Escape, Resistance and Evasion), Project Officer, Fort Bragg, North Carolina
10. Granada Hills Psychiatric Medical Group, Inc. – Private Practice, General Psychiatry.
11. Learning Skills Laboratory, Medical Psychiatric Director
10515 Balboa Blvd., Granada Hills, CA 91344
12. Community Living Resource Center, Patient Consultant
6740 Kester Avenue, Van Nuys, CA
13. Lakeview Medical Center, Psychiatric Medical Director- inpatient unit
14. Mission Hills Psychiatric Medical Group, Inc. – General Psychiatry, private practice. 11550 Indian Hills Road, Mission Hills, CA 91345 from 1984-1992.
15. Edgemont Hospital – Assistant Medical Director
16. San Fernando Valley Community Hospital, Medical Director, in and outpatient psychiatric unit.

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Curriculum Vitae

17. Pacifica Hospital of the Valley, Psychiatric Medical Director, in and outpatient unit.
18. Center For Living and Learning, Inc., staff psychiatrist and psychiatric Medical Director.
19. Forensic testifying in California courts as an expert witness on mental competence 5150 and 5250 hearings.
20. Coldwater Canyon Hospital, Woodview Calabasas Hospital, Charter Hospital, Thousand Oaks, California- Psychiatric Consultant
21. Active Duty Military –October 1990, rank- Major. Operation Desert Shield Fort Bragg, NC. Interviewed soldiers leaving for Saudi Arabia and also evaluating psychiatric casualties returning from Saudi Arabia. Consultant for Special Forces at the S.E.R.E. School.

Active Duty Military – March 1991, rank –Major. Operation Desert Shield, Fort Irwin, CA. Chief, Mental Health at the National Training Center. Evaluated forces undergoing desert warfare training. Treated dependants and also ran the chemical dependency treatment program.

22. El Dorado Mental Health – outpatient psychiatrist. 03-1991 to 09-1991
23. ██████████, M.D.- private practice 1992 to 08-1998
24. 113th Combat Stress Company, Consultant to Commander 03-27-1991 to 06-27-1992.
25. 176th ARCOM Headquarters, Chief of Psychiatry 01-30-1993 to 02-02-1996
26. National Earthquake Disaster-United States Army Reserves assigned to the American Red Cross 01-27 to 02-10-1994.
27. Holy Cross Hospital, Mission Hills, CA, - Chief of Psychiatry 01-01-1994 to 08-09-1998.
28. Pacifica Hospital of the Valley, Medical Director, Behavioral Health Unit in-patient psychiatric programs 12-01-1994 to 08-09-1998.
29. Henry Mayo Newhall Memorial Hospital, Medical Director, Behavioral Health Unit, partial hospitalization program and inpatient psychiatric program 01-01-1995 to 08-09-1998.
30. Serra Medical Clinic, Psychiatric Consultant, 01-01-1995 to 08-09-1998.
31. United States Army Reserve, 2nd Medical Brigade, San Pablo, CA. Psychiatrist, Mental Health Section 06-1995 to 01-1999.
32. Promoted to Lieutenant Colonel, United States Army Reserve, Medical Corp., 12-13-1995.
33. Charter North Behavioral Health System AKA Charter North Hospital, Anchorage, Alaska – Medical Director outpatient clinics 08-10-1998 to 09-17-1999.

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Curriculum Vitae

34. [REDACTED] – private practice, General Psychiatry, Anchorage, Alaska 08-10-1998 to 02-01-2000.
35. United States Army Reserve – 1984th Army Reserve Hospital 01-1999 to 02-01-2000.
36. Tripler Army Medical Center, Tripler, Hawaii. Active Duty United States Army.
Chief, Inpatient Psychiatric Services 02-04-2000 to 06-2000
Chief, Outpatient Psychiatric Services 06-2000 to 06-2001
Chief, Community Mental Health, Schofield Barracks 06-2001 to 12-01
Chief, Community, Operational Psychiatric Services, 01-2002 to present
37. Uniformed Services University of the Health Sciences- appointed Instructor in Psychiatry, 02-05-2001 to present.

Publications:

- 1). [REDACTED]
P. [REDACTED]
[REDACTED]
- 2). [REDACTED],
[REDACTED]
[REDACTED]
- 3). [REDACTED]
[REDACTED]
- 4). [REDACTED]
[REDACTED]

003298

[REDACTED]

Court cases: Expert Witness Testimony

Appointed as expert in the following cases;

California

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]
14. [REDACTED]
15. [REDACTED]
16. [REDACTED]
17. [REDACTED]
18. [REDACTED]
19. [REDACTED]
20. [REDACTED]
21. [REDACTED]
22. [REDACTED]

ALASKA

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]

MILITARY

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]

003299



DEPARTMENT OF THE ARMY
Headquarters, 100th Area Support Group
APO AE 09114

REPLY TO
ATTENTION OF:

126 MAR 2004

AETTV-SB-CO

MEMORANDUM FOR [REDACTED] Chief, GTA OPS, 100th Area Support Group, APO AE 09114

SUBJECT: Appointment of Article 32(b) Investigating Officer in the case of U.S. v. First Lieutenant Glenn A. Niles, Jr.

1. You are hereby appointed to investigate the enclosed charges against First Lieutenant Glenn A. Niles, Jr., [REDACTED] 615th Military Police Company, APO AE 09114. Article 98, UCMJ, prohibits any unnecessary delay in the processing of court-martial charges. This investigation is your primary duty until completed. It takes precedence over all other assignments, including field duty, as well as scheduled leave and TDY. If you believe you have a compelling reason to be excused from this duty, you must submit your request to me within 24 hours of receiving this notice.
2. Conduct your investigation in accordance with Article 32(b), UCMJ, and RCM 405, Manual for Courts Martial, Edition 2002, and follow the procedural guidance of DA Pam 27-17. Conduct your investigation no later than 7 duty days after receipt of this letter. You are, however, authorized to grant a one-time, seven-day delay at the request of the Defense Counsel, Trial Counsel, or for your convenience. I must approve any delay of greater than 7 days. Document all delays in writing.
3. Upon receipt of this endorsement, immediately contact [REDACTED] at [REDACTED]-6187/7114. Advise [REDACTED] that you have been detailed to conduct this investigation. He will schedule an appointment for you to receive a briefing. [REDACTED] will provide you with legal advice and guidance. Direct all questions relating to the investigation, including the admissibility of evidence, to [REDACTED]. Although you may consult with him about procedural matters outside the presence of the accused and defense counsel, you should notify the trial and defense counsel if you intend to discuss substantive matters of law. Do not contact the trial counsel for assistance in legal matters regarding the investigation of this case.
4. Complete your investigation and forward it to the Office of the Staff Judge Advocate, 1st Infantry Division, ATTN: Military Justice, Grafenwoehr Law Center, APO AE 09114. Upon completion of your investigation, deliver seven copies of DD Form 457 (Appendix 5, MCM), with enclosures and a detailed chronology of your handling of this investigation.
5. [REDACTED] (8436) is currently designated as the trial counsel in this case. While this attorney will attend the hearing and question witnesses, it is your responsibility to conduct the investigation. The Trial Defense Service ([REDACTED] 2191) will detail counsel to represent First Lieutenant Niles.

003300

AETTV-SB-CO

SUBJECT: Appointment of Article 32(b) Investigating Officer in the case of *U.S. v. First Lieutenant Niles*

6. [REDACTED], ([REDACTED] 8429) will record the hearing and provide clerical support to you. Contact [REDACTED] to schedule time and date of the hearing, reserve the hearing room, and notify the witnesses.

7. Conduct a swift, fair, impartial investigation of the alleged offenses. Accordingly, you must coordinate with the trial counsel, defense counsel, and reporter to ensure that all parties and reasonably available witnesses are aware of the time and location of the hearing.

8. The duty uniform will be worn at this hearing to facilitate the witnesses returning to their regularly prescribed duties after they testify.

[REDACTED]
[REDACTED]
[REDACTED]
Commanding

126 MAR 2004

DEPARTMENT OF THE ARMY
18TH MILITARY POLICE BRIGADE
APO AE 09302

AETV-MP

3 October 2003

MEMORANDUM FOR Major [REDACTED] IPS OIC, 18th Military Police Brigade, APO
AE 09302-1322

SUBJECT: Appointment of Article 32(b) Investigating Officer in the Case of U.S. v. 1LT Glenn Niles,
515th Military Police Company, 709th Military Police Battalion, 18th
Military Police Brigade, APO AE 09302

1. You are hereby designated to investigate the attached charges in the case of 1LT Glenn Niles, 615th Military Police Company, APO AE 09302.
2. Your investigation will be conducted IAW Article 32(b), UCMJ, R.C.M. 405; MCM (2000 Edition) and AR 27-10. Procedural guidance is contained in DA Pam 27-17.
3. Promptly upon receipt of this endorsement, you will contact the Administrative Law Section, CJTF7 SJA, [REDACTED]-0709 to have a legal advisor appointed for you. You are directed to contact your legal advisor within 24 hours of receipt of this endorsement to arrange for a legal briefing. Your appointed advisor will assist you in technical legal advice and guidance. All questions concerning the law applicable to this case, as well as questions concerning admissibility of evidence, etc., will be directed to the advisor. You will not contact the government representative ([REDACTED] and [REDACTED]) for assistance or advice in any substantive legal matters regarding the investigation.
4. Your investigation will be completed and forwarded to the 18th Military Police Brigade, Legal Section, not later than ten duty days from receipt of this correspondence. You may approve reasonable defense-requested delays, not to exceed ten duty days in length, occasioned by scheduling conflicts or defense requests for witnesses, and such periods will be excluded from your allotted time. Any requested delays beyond twenty duty days from your receipt of this correspondence will be immediately forwarded through the trial counsel to me for action. Upon completion of your investigation, you will deliver the original Investigating Officer's Report, DD Form 457, with enclosures, and a detailed chronology of the investigation to the Legal Section, 18th Military Police Brigade.
5. [REDACTED]-5110/5112, is the designated government representative in this case. [REDACTED], [REDACTED]-0709, will be assisting with this case. While these officers may attend the hearing, question witnesses, and present the government's case at your discretion, it is your responsibility to conduct the investigation. The accused will be represented by an attorney assigned to or detailed by the Trial Defense Service.

003302

AETV-MP

SUBJECT: Appointment of Article 32(b) Investigating Officer in the Case of U.S. vs. 1LT Glenn Niles, 615th Military Police Company, 709th Military Police Battalion, 18th Military Police Brigade, APO AE 09302

The government representative and the defense counsel play adversarial roles in the proceeding. Avoid talking to either of these parties (and any prospective witnesses) about the merits of the case outside of formal sessions in which all parties have the opportunity to be present.

6. Your clerical support will be provided by the Legal Section, 18th Military Police Brigade, [REDACTED]-5110/5112. The duty uniform should be worn at this hearing to facilitate witnesses returning to regular duties.

7. Article 98, UCMJ, prohibits any unnecessary delay in the processing of court-martial charges. This is your primary duty until completed and it takes precedence over all other assignments, including field duty, and scheduled leave or TDY.

[REDACTED]
Commanding

Encls

003303



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS 18th MILITARY POLICE BRIGADE
BAGHDAD, IRAQ

AETV-MP-S3

S: 1 NOV 03
21 OCT 03

MEMORANDUM FOR 1LT Glenn Niles, 615th MP Company, 709th MP Bn, 18th MP BDE, Baghdad Iraq APO AE 09302

SUBJECT: Postponement of Article 32(b) Investigation

1. The request for delay in the Article 32(b) Hearing for 1LT Niles is granted.
2. The hearing is rescheduled for NOV 1, 2003 at 1000 hrs in Warrior Palace. I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning charges preferred against you by [REDACTED]. The charges are: Charge I: Violation of the UCMJ, Article 93, Cruelty and Maltreatment, and Charge II: Violation of the UCMJ, Article 133, Conducting Unbecoming an Officer and a Gentlemen.
3. The name of witnesses known to me, who will be asked to testify at the hearing are:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Additionally, it is my intention to examine and consider the following evidence:

DA Form 2823, [REDACTED]
DA Form 2823, [REDACTED]
DA Form 2823, [REDACTED]
DA Form 2823, [REDACTED]
DA Form 2823, [REDACTED]
DA Form 2823, [REDACTED]

4. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names and addresses of such witnesses to me by 25 OCT 03. If, at a later time, you identify additional witnesses, inform me of their names and addresses.

5. You may contact me at [REDACTED] 5131/ [REDACTED] -6747.

[REDACTED SIGNATURE]

Investigating Officer

003304

PRETRIAL ALLIED PAPERS

003305



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
7th Army Training Command
Directorate of Simulation-Forward
APO AE 09114-3700

26 MAR 2004

AEAGC-TS-F

MEMORANDUM FOR First Lieutenant Glenn A. Niles, Jr.
Company, APO AE 09114

615th Military Police

SUBJECT: Article 32 Investigation

1. At 1000 hrs 5 APRIL in the Rose Barracks Courtroom, Vilseck, Germany, Building 343, I will conduct an investigation pursuant to Article 32, UCMJ, to investigate the facts and circumstances concerning court-martial charges preferred against you by [REDACTED]. The general nature of the charges are three specifications of cruelty and maltreatment, in violation of Article 93, UCMJ; and one specification of conduct unbecoming an officer and a gentleman, in violation of Article 133, UCMJ. The uniform for this investigation is the Battle Dress Uniform (BDU).

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during this investigation by legally qualified counsel. Such counsel may be a civilian lawyer of your choice, provided at no expense to the United States, or a qualified military lawyer of your selection, if reasonably available, or a qualified military counsel detailed by the Senior Defense Office, U.S. Army Trial Defense Service, Bamberg Field Office, APO AE 09139. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. Additional rights you may reserve include:

- a. The right against self-incrimination under Article 31, UCMJ.
- b. The right to cross-examine any witness presented against you.
- c. The right to present anything in defense, extenuation, or mitigation.
- d. The right to make a sworn or unsworn statement, oral or in writing.

4. The names of witnesses as known to me, who will be asked to testify at the Article 32 investigation, are: [REDACTED] 92nd MP CO, [REDACTED]-7281.

5. Additionally, I intend to examine and consider the following evidence:

Commanders Inquiry into LT Nile's misconduct dated 7 August, 2003 investigated by [REDACTED]
[REDACTED] (Entire Investigation and all enclosures.)

003306

AEAGC-TS-F
SUBJECT: Article 32 Investigation

6. As investigating officer, I will try to arrange for the appearance of any witnesses that you may want to testify at the hearing. Send me the names, addresses, and telephone numbers of any such witnesses by NLT 3 days after the receipt of this notification. If, at a later time, you want additional witnesses, inform me of their names, addresses, and telephone numbers.

7. You may contact me by calling [REDACTED] 7945.

[REDACTED]
[REDACTED]
Investigating Officer



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
Headquarters, 1st Infantry Division
Grafenwoehr Law Center
Unit 21830
APO AE 09114-3700

AETV-BGJA-G (27-10e)

MEMORANDUM FOR Record of Trial

SUBJECT: Receipt of Service of the Article 32b, Investigating Officer Notification Letter

Enclosed is a copy of the notification letter of the Article 32b, Investigating Officer. Please sign and date the acknowledgement below.

[Redacted Signature]

29 March 04

Encls
as

[Redacted Signature]

Military Paralegal

I hereby acknowledge receipt of the above documents on _____

Glenn A. Niles, Jr.

GLENN A. NILES, JR

1LT, U.S. Army

Accused

24 March 2004

003308

DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
BAGHDAD FIELD OFFICE
CAMP VICTORY, IRAQ
APO, AE 09342

REPLY TO
ATTENTION OF:

AETV-THH-TDS

14 October 2003

MEMORANDUM FOR Commander, 18th Military Police Brigade, Baghdad, Iraq, APO AE
09304

SUBJECT: Request for delay – Article 32 Investigation, US v. 1LT Niles

1. The defense requests a delay in the Article 32(b) investigation to pursue alternate resolution of this case. The Article 32 Investigation is currently scheduled for 18 October 2003.
2. I am 1LT Niles' military defense counsel. 1LT Niles wishes to pursue alternate resolution to this case. Delaying the court-martial proceedings while alternate resolution is pursued has several benefits for the command, most importantly time and resources.
3. This delay is premised on the fact that alternate resolution is a real possibility. This is evidenced by the fact that 1LT Niles Company and Battalion Commanders have already given their support to alternate resolution of the case.
4. Defense assumes full responsibility for this delay. Should alternate disposition not work out the defense will be prepared to conduct the Article 32 Investigation 5 days after being notified of such decision.
5. I am the point of contact for this memorandum at [REDACTED]@us.army.mil and [REDACTED]-1135.

// original signed //

[REDACTED]
[REDACTED]
Trial Defense Counsel

003309

From [redacted] <[redacted]@hq.2[redacted].army.mil>

Sent Thursday, October 30, 2003 4:33 pm

To "[redacted]@us.army.mil" <[redacted]@us.army.mil>

Cc

Bcc

Subject U.S. v. Niles

Attachments [Article 32 delay request 2 - Niles.doc](#)

31K

[redacted],
Attached is a delay request in this case. As I stated earlier on the phone, the only outstanding document is a letter of recommendation from his Battalion Commander, [redacted]. Once obtained, his resignation packet is complete.

Thank you and the command for the patience.

[redacted]

003310

DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
BAGHDAD FIELD OFFICE
CAMP VICTORY, IRAQ
APO, AE 09342

REPLY TO
ATTENTION OF:

AETV-THH-TDS

30 October 2003

MEMORANDUM FOR Commander, 18th Military Police Brigade, Baghdad, Iraq, APO AE
09304

SUBJECT: Request for delay – Article 32 Investigation, US v. 1LT Niles

1. The defense requests a delay in the Article 32(b) investigation to pursue alternate resolution of this case. The Article 32 Investigation is currently scheduled for 1 November 2003.
2. I am 1LT Niles' military defense counsel. 1LT Niles submitted a request to resign in lieu of general court-martial on 30 October 2003. One supporting document to this request remains outstanding. 1LT Niles is diligently trying to obtain this document. Delaying the court-martial proceedings while alternate resolution is pursued has several benefits for the command, most importantly time and resources.
3. The timeline of processing this resignation action is out of 1LT Niles hands. Therefore, the defense requests that the Article 32 Investigation be delayed pending resolution of the resignation action.
4. Defense assumes full responsibility for this delay. Should 1LT Niles resignation not be accepted the defense will be prepared to conduct the Article 32 Investigation 5 days after being notified of such decision.
5. I am the point of contact for this memorandum at [REDACTED]@us.army.mil and [REDACTED]-[REDACTED]-1135.

// original signed //

[REDACTED]
[REDACTED]
Trial Defense Counsel

003311

30 March 2004

MEMORANDUM THRU Article 32 (b) Investigating Officer (Attention: [REDACTED])

FOR Commander, 100th Area Support Group (Attention: [REDACTED]), APO, AE 09114

SUBJECT: Request for Article 32 Delay – U.S. v. 1LT Glenn A. Niles

1. I am a U.S. Army Trial Defense Services attorney representing 1LT Niles.
2. On behalf of my client, I request a delay in the pending Article 32 hearing until no earlier than Monday, 26 April 2004. The purpose for this request is to allow 1LT Niles to tend to urgent family matters. Specifically, his wife is scheduled for surgery and will be hospitalized from 1 April until approximately 7 April. She will be in recovery for several days, and has a follow-up procedure scheduled for 20 April. The Niles family has three children; 1LT Niles must be available to tend to the children during Mrs. Niles' hospitalization and recovery period.
3. I understand that this time will be "defense delay" for purposes of "speedy trial" IAW Rule for Court Martial 707.
4. POC is myself at [REDACTED]@cmtymail.100asg.army.mil, or at [REDACTED] 2191.

Cc: [REDACTED], OIC, Grafenwoehr Law Center
[REDACTED], Trial Counsel

[REDACTED]
[REDACTED]
Defense Counsel

003312

DEPARTMENT OF THE ARMY
Headquarters, 100th Area Support Group
APO AE 09114-3700

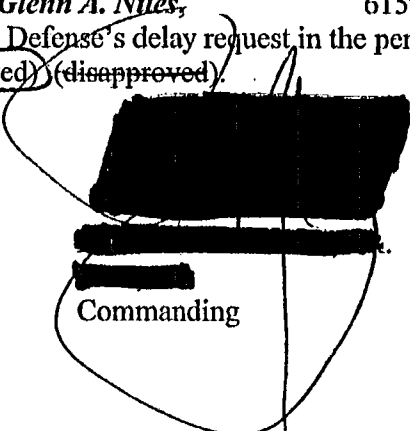
06 APR 2004

SFIM-GU-G-Z

MEMORANDUM FOR Commander, 100th Area Support Group, APO AE 09114-3700

SUBJECT: Article 32b, Investigation, Defense Delay Request

In the case of *U.S. v First Lieutenant Glenn A. Niles*, 615th Military
Police Company, APO AE 09114, the Defense's delay request in the pending Article 32
hearing until 26 April 2004 is (approved) (disapproved).


Commanding

003313

AETV-BGJA-V-TDS

17 April 2004

MEMORANDUM THRU Article 32 (b) Investigating Officer (Attention: [REDACTED])

FOR Commander, 100th Area Support Group (Attention: [REDACTED]), APO, AE 09114

SUBJECT: Request for Article 32 Delay – U.S. v. 1LT Glenn A. Niles

1. I am a U.S. Army Trial Defense Services attorney representing 1LT Niles.
2. On behalf of my client, I request an additional delay in the pending Article 32 hearing until Tuesday, 11 May 2004. The purpose for this request is to allow for the appointment of a military psychiatrist as an expert assistant to the defense team; for 1LT Niles to meet with this doctor; and for the doctor to complete his evaluation report.
3. I understand that this time will be "defense delay" for purposes of "speedy trial" IAW Rule for Court Martial 707.
4. POC is myself at [REDACTED]@cmtymail.100asg.army.mil, or at [REDACTED] 2191.

cc:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
Defense Counsel

003314

[REDACTED]

From: [REDACTED]
Sent: Monday, April 19, 2004 10:14 AM
To: [REDACTED]
Cc: [REDACTED] (Judge Advocate)
Subject: FW: US v. Niles - Req for Add. 32 Delay

-----Original Message-----

From: [REDACTED] (Defense Counsel)
Sent: Saturday, April 17, 2004 10:00 AM
To: [REDACTED]
Cc: [REDACTED] (OIC, Law Center); [REDACTED] (Judge Advocate)
Subject: US v. Niles - Req for Add. 32 Delay

[REDACTED]

As we discussed on the phone on Thursday, we request delay until Tues., 11 May so that [REDACTED] can evaluate the accused and produce a report (in addition to getting appointed). Signed delay request is attached. Thanks,



Att 32 Delay Req
#2.pdf

V/R,
[REDACTED]
Defense Counsel

003315

DEPARTMENT OF THE ARMY
Headquarters, 100th Area Support Group
APO AE 09114-3700

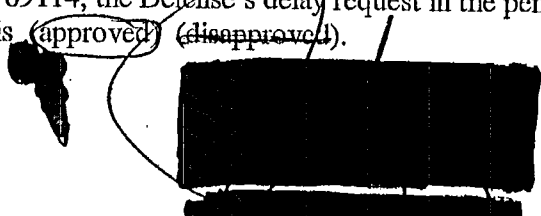
SFIM-GU-G-Z

20 APR 2004

MEMORANDUM FOR Commander, 100th Area Support Group, APO AE 09114-3700

SUBJECT: Article 32b, Investigation, Defense Delay Request

In the case of *U.S. v First Lieutenant Glenn A. Niles*, 615th Military
Police Company, APO AE 09114, the Defense's delay request in the pending Article 32
hearing until 11 May 2004 is approved ~~(disapproved)~~.


Commanding

003316

DEPARTMENT OF THE ARMY
Headquarters, 100th Area Support Group
APO AE 09114-3700

SFIM-GU-G-Z

21 MAY 2004

MEMORANDUM FOR RECORD

SUBJECT: Article 32b, UCMJ, Investigation, Defense Delay Request

In the case of *U.S. v First Lieutenant Glenn A. Niles,* 615th Military
Police Company, APO AE 09114, the Government requests that following Defense
delay requests be approved and ratified:

14 October 2003
30 October 2003
30 March 2003
17 April 2004
03 May 2004

The defense delays listed above are ~~(approved)~~ (disapproved).

Commanding

003317



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, V CORPS
UNIT 91400
APO AE 09302-91400



AETV-CG

10 DEC 2003


MEMORANDUM FOR Commander, PERSCOM (TAPC-PDT-PM), 200 Stovall Street,
Alexandria, Virginia 22332-0478

SUBJECT: Resignation for the Good of the Service in Lieu of General Court-Martial – 1LT
Glenn Niles, Jr., 615th Military Police Company, 709th Military Police Battalion, 18th Military
Police Brigade, APO AE 09302

1. I recommend disapproval of 1LT Niles' resignation from the Army in lieu of general court-martial.
2. 1LT Niles is pending trial by court-martial and is charged with three specifications of a violation of Article 93 and one specification of a violation of Article 133, both charges stemming from cruelty and maltreatment toward three Iraqi prisoners. In accordance with paragraph 3-14, Army Regulation 600-8-24, the charge sheet and allied documents are enclosed.

7 Encls

1. Accused's request
2. Chain of Command Recommendations
3. Defense Counsel Request
4. DA Form 458
5. Commander's inquiry and allied documents
6. OER
7. ORB


Lieutenant General, US Army
Commanding

003318



DEPARTMENT OF THE ARMY
U.S. ARMY HUMAN RESOURCES COMMAND
200 STOVALL STREET
ALEXANDRIA VA 22332-0478

28 JAN 2004

AHRC-PDT-PM

MEMORANDUM FOR Commanding General, Headquarters, V Corps, Unit 91400,
APO AE 09302-91400

SUBJECT: Resignation for the Good of the Service

1. The enclosed resignation for the good of the service tendered by First Lieutenant Glenn A. Niles Jr. USAR, MP, was not accepted by the Deputy Assistant Secretary (Army Review Boards).
2. The Deputy Assistant Secretary has directed that you take action as deemed appropriate.

FOR THE COMMANDER:

[Redacted signature block]

Encls

Chief, Officer Retirements
and Separations Section

003319



DEPARTMENT OF THE ARMY

527th Military Police Company

Baghdad, Iraq

APO AE 09302-1325

REPLY TO
ATTENTION OF

AETV-MPB

7 August 2003

MEMORANDUM THRU [REDACTED], Executive Officer, 709 Military Police Battalion, Baghdad, Iraq APO AE 09302-1324

FOR [REDACTED], Commander, 709 Military Police Battalion, Baghdad, Iraq APO AE 09302-1324

SUBJECT: Commander's Inquiry on 1LT Glenn A. Niles Jr. , 615 Military Police Company

1. BACKGROUND. On 30 JUL 03 it is alleged that 1LT Niles while in the latrine of the Detention Cell at the Al Taji Iraqi Police Station on 301000DJUL03 maltreated several of the detainees.

a. On 29 JUL 03 at the Al Taji Iraqi Police Station in Baghdad Iraq four detainees later identified as [REDACTED] [REDACTED] [REDACTED] and [REDACTED] were being held in the detention cell. Allegedly three of the detainees, [REDACTED], [REDACTED] and [REDACTED] went into the latrine portion of the detention cell. When the three detainees identified above entered the latrine they allegedly broke off one of the shower pipes in the middle shower stall and used the pipe to attempt to break a hole in the wall of the latrine. They broke several of the ceramic tiles out of the wall with the pipe and the hole is about four inches in depth at the deepest point. They were unsuccessful in breaking a hole all the way through the wall.

b. The detention cell in the Al Taji Iraqi Police Station is broken up into two sections; a holding area section and a latrine section. The holding area section is 32.5 feet long by 15.8 feet wide. The latrine section is joined to the holding section by a door. The latrine section of the detention cell is 15.8 feet long by 15.8 feet wide. In the latrine there are three stalls that each contain an Iraqi style toilet and a shower system.

c. The fourth detainee, [REDACTED], told the Military Police at the Al Taji Iraqi Police Station that the three detainees had attempted to escape from the Al Taji Iraqi Police Station by using a pipe from the shower in the second shower stall to punch a hole in the wall of the latrine. [REDACTED] has worked for coalition forces as an interpreter in the past.

e. The MPs removed the three detainees suspected of attempting to escape from the Al Taji Detention Cell and placed them in hand restraints. The prisoners remained in the plastic hand restraints for approximately one hour and then the hand restraints were removed so the detainees could use the latrine.

f. The MPs at the Al Taji Police Station called the 615 Military Police Company Tactical Operations Center (TOC) and informed the TOC of the incident. The TOC then notified the Platoon Leader that was responsible for the station, 1LT Niles, of the incident.

g. On 30 JUL 03 at approximately 0900D, 1LT Niles arrived at the Al Taji Iraqi Police Station. 1LT Niles informed [REDACTED] that he was going to enter the Detention Cell to look at the damage that was done to the detention cell. [REDACTED] gathered several other soldiers, [REDACTED], [REDACTED] and [REDACTED] to guard the detainees while 1LT Niles inspected the damage to the wall in the latrine of the Detention Cell. When the group entered the detention cell the detainees, approximately four detainees were placed against the back wall in the large holding area. [REDACTED] was ordered by 1LT Niles to pull security on the detainees. [REDACTED] stood in the doorway of the latrine keeping eyes on [REDACTED] and [REDACTED] in the latrine. 1LT Niles, [REDACTED] and [REDACTED] entered the latrine. 1LT Niles inspected the portion of the wall of the latrine that had been damaged by the detainees on 29 JUL 03. After conducting a visual inspection 1LT Niles told [REDACTED] to bring in the three

003320

detainees that had allegedly damaged the wall of the latrine. [REDACTED] and [REDACTED] separated the three detainees that had caused the damage. [REDACTED] remained in the large holding area pulling security on the remaining detainee.

h. When the first detainee entered the Detention Cell, 1LT Niles grabbed the detainee around the neck and pulled the detainee toward the wall and asked the detainee several times, "Did you do this?" directing the detainee to look at the hole in the wall of the latrine. He then pushed the detainee toward the back corner of the latrine. He grabbed the second detainee entering the latrine around the back of the neck in a similar fashion as the first and asked the second detainee several times, "Did you do this?" directing the detainee to look at the hole in the wall of the latrine. 1LT Niles then pushed the detainee toward the first detainee in the corner of the latrine near the damage to the wall. The third detainee walked around 1LT Niles and joined the other two detainees in the corner of the latrine near the damage to the wall. The three detainees were in a line against the wall facing 1LT Niles. At this point 1LT Niles struck the first detainee to enter the latrine in the stomach. When [REDACTED], located in the doorway of the latrine, witnessed 1LT Niles strike the first detainee, he went to inform [REDACTED], the platoon sergeant, what had taken place in the latrine. Then 1LT Niles struck the second detainee in the stomach. [REDACTED] located behind 1LT Niles, grabbed 1LT Niles from behind and attempted to pull him away from the detainees. 1LT Niles kicked the third detainee in the neck and shoulder area before [REDACTED] was able to remove 1LT Niles from the latrine. Once [REDACTED] had pulled 1LT Niles from the detainees, 1LT Niles proceeded to the MP Office. [REDACTED] passed 1LT Niles in the hallway on his way to the Detention Cell to try to determine what had transpired. [REDACTED] followed 1LT Niles into the MP Office and closed the door behind him. He told 1LT Niles, "You had better never ever put me or my soldiers in that kind of situation ever again", and [REDACTED] walked out of the office.

2. FINDINGS. After interviewing and gathering sworn statements from 5 soldiers that were at the Al Taji Iraqi Police Station during the incident, I conclude that 1LT Niles did maltreat three detainees in the latrine of the Detention Cell at the Al Taji Police Station. The three soldiers that were eye witnesses to the incident all state that they saw 1LT Niles assault the detainees by striking them with his fist and foot. 1LT Niles stated that he struck the detainees out of anger due to the damage they had caused to the wall of the latrine and the attempted escape from the Detention Cell. 1LT Niles lost control of the situation and his actions. All of the exhibits associated with this investigation reference the incident that occurred on 30 JUL 03.

a. Enclosures 2, 3, 4, 5, 6, 7, and 8 state that [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and 1LT Niles did enter the Detention Cell at the Al-Taji Iraqi Police Station on 30 JUL 03.

b. Enclosure 4, and 6 allege that [REDACTED] and [REDACTED] witnessed 1LT Niles strike three detainees in various locations on their bodies while he was in the latrine of the Detention Cell at the Al Taji Iraqi Police Station.

c. Enclosure 5 alleges that [REDACTED] witnessed 1LT Niles strike one detainee before he ([REDACTED]) exited the latrine in order to inform the [REDACTED] about what had transpired in the latrine of the Detention Facility.

d. In Enclosures 2, 3, 4, and 5 [REDACTED], [REDACTED], and [REDACTED] all state that the detainees that 1LT Niles struck did not require any additional medical treatment nor did they sustain any visible injuries from the assault.

e. In Enclosure 8 1LT Niles states that he was overcome by anger and he was not in control of himself or his actions when he mistreated the detainees in the latrine of the Detention Cell of the Al Taji Police Station on 30 JUL 03.

f. In Enclosures 4, 5, 6, 7, and 8 all soldiers state that they did not feel threatened by any of the detainees while they were in the Detention Cell of Al Taji Police Station on 30 JUL 03.

g. In Enclosures 4, 5, and 6 [REDACTED], [REDACTED] and [REDACTED] state that the unit does not have Standing Operating Procedures to deal with Detainee Misconduct.

3. RECOMMENDATION. I recommend that a formal AR 15-6 Investigation be conducted, and that 1LT Niles be removed from his troop leading position until the completion of the investigation. I recommend that 1LT Niles

003321

AETV-MPB

SUBJECT: Commander's Inquiry on 1LT Glenn A. Niles Jr,

615 Military Police Company.

attend anger management classes. I also recommend that all soldiers in the Battalion, that deal with detainees, get additional training regarding proper detainee handling procedures.

4. POC is the undersigned at [REDACTED]-5231.

[REDACTED]
[REDACTED]
Investigating Officer

003322

TABLE OF CONTENTS

Enclosure 1	Commander's Inquiry Appointment Letter	
Enclosure 2	Sworn Statement [REDACTED]	, on 01 AUG 03
Enclosure 3	Sworn Statement [REDACTED]	, on 04 AUG 03
Enclosure 4	Sworn Statement [REDACTED]	, on 04 AUG 03
Enclosure 5	Sworn Statement [REDACTED],	, on 04 AUG 03
Enclosure 6	Sworn Statement [REDACTED]	, on 04 AUG 03
Enclosure 7	Sworn Statement [REDACTED]	, on 04 AUG 03
Enclosure 8	Sworn Statement [REDACTED],	on 06 AUG 03
Enclosure 9	Rights Warning Procedure/Waiver Certificate from 1LT Niles, on 06 AUG 03	

003323

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2051; E.O. 0397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION BAGHDAD, IRaq	2. DATE (YYYYMMDD) 2003/08/01	3. TIME 1600	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	6. SSN [REDACTED]	7. GRADE/STATUS [REDACTED]	
8. ORGANIZATION OR ADDRESS 1/615 MP Co			

9. I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 30 July 03 AT Approx. 100hrs I was working AT The FRONT DESK OF The AL-TAJI Police station when [REDACTED] Ran out of the D-CELL Telling me that I needed to go in there. I Ran Down The Hallway and entered the D-CELL. 1LT NILES was exiting the D-CELL AS I entered. [REDACTED], [REDACTED], and [REDACTED] were in there. There were three prisoners who were brought in for murder sitting on the ground and they appeared to be upset. I was told that 1LT NILES had struck the Prisoners I don't recall who told me that AND I still Don't know why the LT DID what He DID. I went to the MP Room To speak with The LT. I Asked him what happened and he just shook his head. [REDACTED] was very upset I was trying to Figure out what happened Because I know [REDACTED] will exaggerate the truth. [REDACTED] had Already gone out and told soldiers what had happened Before he talked to me. So I Told them to stop talking about It Because Every time they tell somebody the story will change. I Told him to Let me handle It and stop Talking to soldiers about It. I was very

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]	PAGE 1 OF 3 PAGES.
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF [REDACTED] TAKEN AT [REDACTED] DATED [REDACTED]"
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

C03325

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

[REDACTED]

TAKEN AT

BAGHDAD

DATED

2003/08/01

B. STATEMENT (Continued)

Confused About what had happened. AT The time I DID NOT Know How to deal with It. In Almost 16 years of service I Have Dealt with many soldier Issues but I have never had to deal with officer misconduct. I Know that there is A Dislike For the LT in the platoon and part of the company. I Feel that there are some soldiers in this platoon who would use an opportunity like this one and try and get LT Niles Removed From The Platoon whether he did anything or not. I Do Not agree with nor Am I Trying To cover up what LT Niles may have done in the D-CELL. It was Not Reported immediately Because I was confused and I was trying to Figure out what happened because The LT was very calm and acted like nothing had happened I was Also trying to Figure out the Best course of Action To TAKE. I Also Recently Found out that LT NILES has had A History of anger problems while in Kuwait. Since taking over the platoon It has been very difficult AT Times To Deal with him. He is set in his ways and will Not Listen at times. I have worked very hard to reestablish A working relationship Between the LT and the Platoon. Lastly I ~~was hoping~~ ^{was hoping} the LT would come forward and Clear the air with me on what happened. But That never happened. I continued to work with the platoon Like everything was being handled and taken care of. Because I knew I would have to Inform the chain of command on what happened.

INITIALS OF PERSON MAKING STATEMENT

[REDACTED]

PAGE 2 OF 3 PAGES

STATEMENT OF

[REDACTED]

TAKEN AT

BAGHDAD

DATED

2003/08/01

9. STATEMENT (Continued)

NOT USED

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[REDACTED]

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 2 day of Aug, 2003 at

[REDACTED]

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

[REDACTED]

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

ARC 636 (b)(4)

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

[REDACTED]

PAGE 3 OF 3 PAGES

003327



DEPARTMENT OF THE ARMY

709th Military Police Battalion
615th Military Police Company
Unit 28130
APO AE 09302-1326

REPLY TO
ATTENTION OF

AETV-MPC-K

18 SEP 03

MEMORANDUM THRU

Commander 709th Military Police Battalion
Commander 18th Military Police Brigade

FOR Commanding General, CJTF-7

SUBJECT: Recommendation of UCMJ Action on 1LT Glenn Niles

1. Request 1LT Glenn Niles be allowed to resign his commission with a General Discharge from active service in lieu of General Courts martial. Without question 1LT Niles did conduct himself in an unacceptable manner as an officer. However, his performance prior to and his actions afterward have convinced me that this officer is worthy of this request.
2. 1LT Niles has been assigned to the unit and served as a Platoon Leader for over 2 years. Prior to this incident, I have never questioned his judgment, values or ability to serve with distinction. Prior to this deployment he successfully led his platoon thru 2 company level EXEVALs, numerous field exercises, and community law enforcement throughout USAREUR. During combat operations he successfully led his platoon from the front rendering superb results.
3. 1LT Niles did not try to cover up any misconduct on his part and came forward truthfully disposing all that happened in the incident. His open admissions show that he is willing to accept responsibility for his actions.
4. 1LT Niles needs to be punished for his actions. However, I request that the punishment not be one that will significantly impact on his livelihood for the rest of his life. Prior to entering the Army 1LT Niles served as a counselor for abused children, where he helped over 100 families and was truly an asset to society. A federal conviction from a Courts Martial will ultimately severely impact his ability to perform again as a counselor as well as give back to society.
5. POC for this action is [REDACTED] at [REDACTED]-5321.

[REDACTED]
[REDACTED]
[REDACTED]
Commanding

003328



DEPARTMENT OF THE ARMY
709th Military Police Battalion
Baghdad, Iraq
APO AE 09302-1324

AETV-MPB

23 SEP 03

MEMORANDUM THRU Commander, 18th MP BDE

FOR Commanding General, CJTF-7

SUBJECT: Recommendation of UCMJ Action on 1LT Glenn Niles

1. I request that you allow 1LT Glenn Niles to resign his commission with a General Discharge in lieu of General Court Martial. I do not condone the actions of 1LT Niles but I am compelled to ask for leniency in this case.
2. The actions 1LT Niles took on the day in question were inappropriate and there is no excuse for his conduct. I ask that you consider the circumstances surrounding the incident and 1LT Niles' past performance. 1LT Niles and his platoon put their heart and soul into the Taji Police Station. They personally cleared debris from the police station prior to contract work beginning and supervised every detail of renovation. 1LT Niles committed himself to the mission at hand. His dedication was not for his benefit, it was for the benefit of the Iraqi Police and the Iraqi citizens in general. 1LT Niles got mad because detainees had destroyed part of the renovated detention cell, an area that had extensive contract work completed. He was frustrated because he saw the hard work that he supervised get destroyed.
3. 1LT Niles is a passionate young officer. He made a mistake and he took responsibility for his actions. He has been removed as a platoon leader and moved to a staff position and continues to provide outstanding service to the soldiers he serves.
4. I hope that you will consider these facts and also recognize that the possibility of a Federal conviction will severely impact on this young man's future.
5. The point of contact is the undersigned, [REDACTED]

[REDACTED]
Commanding

003329

DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
OFFICE OF THE STAFF JUDGE ADVOCATE
APO AE 09114

AETV-BGJA

JUN 2 2004

MEMORANDUM FOR Commanding General, Seventh Army Training Command, APO AE 09114

SUBJECT: Pretrial Advice on Disposition of Court-Martial Charges, 1LT Glenn A. Niles Jr.,
515th Military Police Company, APO AE 09114

1. I have reviewed the charge sheet and evidence indicated in the report of investigation in the subject case. The following constitutes my advice in accordance with the provisions of Article 34, Uniform Code of Military Justice, and Rule for Courts-Martial 406, Manual for Courts-Martial, United States, 2002.

2. Legal Conclusions. After a thorough review of the charge sheet and report of investigation, I have reached the following legal conclusions:

a. Each specification alleges an offense under the Uniform Code of Military Justice.

b. The allegation of each offense is warranted by the evidence indicated in the report of investigation conducted in accordance with the provisions of Article 32, Uniform Code of Military Justice, and Rule for Courts-Martial 405, Manual for Courts-Martial, United States, 2002.

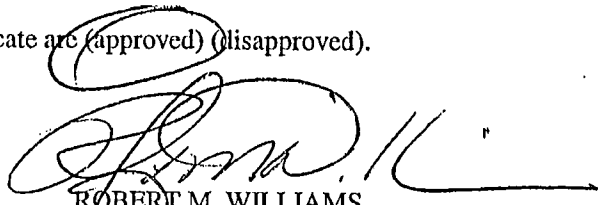
c. There is court-martial jurisdiction over the accused and the charged offenses.

3. Recommendation. The Investigating Officer recommends this case be disposed of with a General Officer Memorandum of Reprimand. I disagree. I recommend the charges and their specifications be referred to the general court-martial convened by Court-Martial Convening Order Number 1, this headquarters, dated 25 February 2004.

[REDACTED]

Staff Judge Advocate

The recommendations of the Staff Judge Advocate are (approved) (disapproved).


ROBERT M. WILLIAMS
Brigadier General, USA
Commanding

JUN 2 2004

003330

DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
UNIT 28130
APO AE 09114-8130

AETT-CG


JUN 2 2004

MEMORANDUM FOR ILT Glenn A. Niles Jr., [REDACTED] 615th Military Police Company, APO AE 09114

SUBJECT: Referral of Court-Martial Charges, ILT Glenn A. Niles Jr.,
Police Company, APO AE 09114

515th Military

The charges and their specifications, preferred on 30 September 2003, are referred to the general court-martial convened by Court-Martial Convening Order Number 1, this headquarters, dated 25 February 2004.


ROBERT M. WILLIAMS
Brigadier General, USA
Commanding

003331

COURT-MARTIAL CHARGES TRANSMITTAL FORM

PART I

TO: FROM: DATE:

Court-Martial charges against the following named individual are forwarded and Enclosed. Witness statements, any evidence of previous misconduct, and the accused's ERB are attached. Soldier is not pending chapter action UP AR 635-200.

NAME: NILES, Glenn A., Jr. RANK: 1LT/O2 SSN'

UNIT: 615th Military Police Company, APO AE 09114-3700

Recommend:

Summary Court-Martial Special Court-Martial
 BCD Special Court-Martial General Court-Martial

NAME OF COMMANDER

SIGNATURE OF COMMANDER

PART II

TO: FROM: DATE:

I have reviewed the attached charges, documents, and Article 32 (if applicable) and (recommend)(direct):

Summary Court-Martial Special Court-Martial
 BCD Special Court-Martial General Court-Martial

NAME OF COMMANDER

SIGNATURE OF COMMANDER

PART III

TO: Commander, 7th Army Training Command, APO AE 09114 FROM: Commander, 100th Area Support Group, APO AE 09114 DATE: 12 1 MAY 2004

I have reviewed the attached charges, documents, and Article 32 (if applicable) and (recommend)(direct):

Summary Court-Martial Special Court-Martial Other: Article 15
 BCD Special Court-Martial General Court-Martial

NAME OF COMMANDER

SIGNATURE OF COMMANDER

Commanding

003332

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: BAGHDAD, IRAQ
2. DATE (YYMMDD): 2003/08/04
3. TIME: 1500
4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME
6. SSN
7. GRADE/STATUS
8. ORGANIZATION OR ADDRESS: 1/615 MP Co

I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
ON 30 July 03 AT APPROXIMATELY 1000 hrs. I WAS WORKING THE FRONT DESK AT THE AL-TAJI POLICE STATION WHEN [REDACTED] RAN OUT OF THE D-CELL AND TOLD ME THAT I NEEDED TO GET IN THERE. I RAN DOWN TO THE D-CELL AND I WAS ENTERING LT NILES WAS EXITING. HE HAD A VERY ANGRY EXPRESSION ON HIS FACE. I ENTERED THE D-CELL AND [REDACTED] AND [REDACTED] WERE ALL STANDING IN THE LATRINE AREA OF THE D-CELL. THERE WERE 3 PRISONERS SITTING ON THE GROUND AND THEY SEEMED VERY UPSET AND SCARED. I ASKED WHAT HAD HAPPENED AND I DON'T RECALL WHO TOLD ME BUT I WAS TOLD THAT THE [REDACTED] HAD STRUCK THE PRISONERS. I STILL DON'T KNOW WHAT PROVOKED THE [REDACTED] HIT THE PRISONERS. THE PRISONERS DID NOT SEEM TO BE INJURED. [REDACTED] LEFT THE D-CELL AND WENT TO THE MP ROOM WHERE LT NILES WAS. I ALSO WENT TO THE MP ROOM WHERE LT NILES WAS SITTING BEHIND THE DESK. I ENTERED AND SHUT THE DOOR. [REDACTED] STOOD IN FRONT LT NILES AND TOLD [REDACTED] THAT HE HAD [REDACTED] NEVER DO THAT AGAIN AND LEFT. I THEN ASKED LT NILES WHAT HAPPENED AND HE JUST SHOOK HIS

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT: [REDACTED]
PAGE 1 OF 5 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT DATED
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

003333

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT BAGHDAD, Iraq DATED 2003/08/04

9. STATEMENT (Continued)

head and did not Respond. A short Time later He was acting as if Nothing had happened. I was hoping he would tell me what really happened But he never did. I Don't know why he took 4 MP's with him into the D-CELL. ALL I KNOW IS THAT he wanted to speak To them about what had happened the day prior. They tried To Escape by chipping away at the wall. Normally we check on the prisoners with no more than 2 MP's. why the LT Took 4 with him is unknown. Also I Don't Recall there Being an Interpreter or IP's in the D-CELL AT THE TIME. AFTER THE INCIDENT Happened I was confused and DIDN'T KNOW how to EXACTLY handle IT. I Have never Delt with any type of officer misconduct before. I continued to work the remainder of the shift like Everything was normal and nothing happened. I DID NOT want the soldiers to Find out ABOUT the incident. The Following morning soldiers were talking ABOUT what had happened and I Found out [REDACTED] had already told several Soldiers of the incident. I spoke with [REDACTED] and Told him to stop talking ABOUT IT Because Everytime a soldier tells his/her side of the story It will change I Told him to let me handle IT [REDACTED] has been known to Exaggerate the truth

003334

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 5 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT BAGHDAD, IRAQ DATED 2003/11/04

9. STATEMENT (Continued)

I DID NOT REPORT IT immediately Because Like I stated I was very confused and I have never been placed in A situation like this one. I was ALSO hoping the LT would come Forward and Clear the Air but he continued to Act like nothing happened. I knew the incident was serious and IT needed to be reported. I donot agree with nor was I trying to cover anything LT NILES DID. Shortly AFTER Entering the platoon I was told that LT Niles has had A History of anger problems. I was told of Two seperate incidents he was involved in while still at Camp New York. It has been difficult For me AT TIMES To work with LT Niles because he is set in his ways and will not listen at times. However he has never gotten angry with me. He has gotten in several arguments with the squad leaders and other leaders of the company when there is A disagreement. Nothing has been physical. I HAVE worked very hard to reestablish A working relationship between him and the platoon but Like I said he is A very difficult individual to work with at times because IT IS very easy for issues to develop into arguments. The names of the Three prisoners who were sitting on the floor and were upset are [REDACTED], [REDACTED] and [REDACTED].

603335

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 3 OF 5 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED]

TAKEN AT BAGHDAD

DATED 2003/08/04

9. STATEMENT (Continued)

The following questions were used to clarify the statements [REDACTED]
Q. WHAT IS THE STANDARD OPERATING PROCEDURES FOR DEALING WITH PRISONER MISCONDUCT? ([REDACTED])

A. WE DO NOT HAVE AN SOP TO DEAL WITH PRISONER MISCONDUCT TO MY KNOWLEDGE. THIS IS THE FIRST CASE OF PRISONER MISCONDUCT THAT I ~~DO~~ HAVE KNOWLEDGE OF. ([REDACTED])

Q. IN THE PAST HAVE YOU EVER WITNESSED 1st NILES USE PHYSICAL FORCE TO DEAL WITH ANGER?

A. NO

Q. WHAT WAS THE DISPOSITION OF THE 3 DETAINees THAT 1st NILES STRUCK WHEN YOU ENTERED THE LATRINE OF THE DETENTION CELL?

A. ALL THREE WERE SITTING ON THE FLOOR Huddled TOGETHER. THEY APPEARED TO BE SCARED. I DID NOT SEE ANY SIGNS OF INJURY ON THE DETAINees.

Q. DID ANY OF THE DETAINees THAT WERE STRUCK BY 1st NILES REQUIRE ADDITIONAL MEDICAL ATTENTION?

A. NO

Q. WHEN AND HOW WERE THE DETAINees TRANSPORTED AND TRANSFERRED TO CAMP CRIPPER?

A. AT APPROXIMATELY 1300 HRS ON 30 JULY 03. THEY WERE TRANSPORTED BY [REDACTED] AND [REDACTED]

Q. IS THERE ANYTHING THAT YOU WOULD LIKE TO ADD TO THIS STATEMENT?

A. NO

003336

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 4 OF 5 PAGES

STATEMENT OF [REDACTED] TAKEN AT BANGOR DATED 2003/08/04

9. STATEMENT (Continued)

Not USED

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 5. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[REDACTED]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 4 day of Aug, 2003 at TALI IRS STATION

ORGANIZATION OR ADDRESS

[REDACTED]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

[REDACTED]
(Typed Name of Person Administering Oath)
Aar 136(b)(4)
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 5 OF 5 PAGES

SWORN STATEMENT

For use of this form, see AR 190-46; the proponent agency is ODCSI/DP

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 1943
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification for filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION AL TATI POLICE STATION 2. DATE (YYYY-MM-DD) 20030804 3. TIME 2345

5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED] 6. SSN [REDACTED] STATUS /ACT

8. ORGANIZATION OR ADDRESS 615TH MP Co

9. I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT: ON 30 JULY 2003 AT APPROXIMATELY 0945 HRS LT NILES WANTED TO SEE THE D-CELL AND THE 3 INDIVIDUALS (PRISONERS) THAT DID THE DAMAGE IN [REDACTED] AND I OPENED THE D-CELL TO ENTER. THE DOOR THE LT WENT BACK INTO THE LATRINE/SHOWER ROOM AND US SEPARATED THE PRISONERS TO GET THE THREE THAT WERE IN THE 4 THAT HAD NOTHING TO DO WITH IT AGAINST THE EAST WALL. YOU ENTER THE D-CELL. I LEFT [REDACTED] IN THE D-CELL TO WATCH AND PROCEEDED WITH THE OTHER 3 INTO THE LATRINE/SHOWER ROOM. INTO THE ROOM THE LT WAS STANDING AT THE EDGE OF THE DOOR AT US, [REDACTED] AND [REDACTED] WERE IN FRONT OF THE PRISONERS IN THE LT STARTED TO BACK UP A LITTLE AND GRABBED [REDACTED] BEHIND HIS HEAD AND STARTED SAYING, "DID YOU DO THIS?" [REDACTED] SWUNG THE PRISONER BY HIS HEAD IN THE DIRECTION OF THE DOOR THEN GRABBED THE SECOND ONE AROUND THE BACK OF HIS HEAD IN THE SAME DIRECTION. THE THIRD PRISONER PICKED UP WHAT [REDACTED] MOVED OVER TO THE FIRST TWO. BY THIS TIME I HAD WALKED [REDACTED] AND WAS INSIDE OF THE ROOM. AS I HAD WALKED [REDACTED] HAD MOVED DOWN TO THE 3 PRISONERS. WHEN I ROUNDED [REDACTED] AND WATCHED THE 4 OF THEM. WITHOUT WARNING THE LT [REDACTED] PUNCHED HIM IN THE BUT CAUSING THE PRISONER TO FALL DOWN. [REDACTED] HE THEN I STARTED TO MOVE FORWARD AND AS I DID THE [REDACTED]

10. EXHIBIT 11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT TAKEN AT [REDACTED] AGE 1 6 PAGES 003338 SER NUMBER

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS STATEMENT.

STATEMENT OF [REDACTED] TAKEN AT 2845 [REDACTED] ATEL 200 [REDACTED]

9. STATEMENT (Continued)

PRISONER AND PUNCHED HIM IN THE GUT ALSO AND THAT PRISONER [REDACTED] DO. THE
THIRD PRISONER WAS VERY AFRAID AND WAS COWERING DOWN SAYING "MISTER,
PLEASE NO." BY THIS TIME I HAD MY ARMS AROUND THE LT AT LAST I
AWAY AND TELLING HIM THAT THAT WAS ENOUGH. AS I WAS PUNTING HIM BACK HE KICKED
THE THIRD PRISONER IN THE SHOULDER AS HE WAS COWERING DOWN I PUNTED THE LT
BACK AND TURNED HIM AROUND. WHEN I TURNED AROUND [REDACTED] WAS THE
ONLY ONE THERE, [REDACTED] HAD GONE TO GET [REDACTED] [REDACTED] TOWARDS
[REDACTED] AND TOLD HIM TO GET THE LT OUT OF THERE. I TURNED AROUND AND
CHECKED TO SEE IF THE PRISONERS WERE OK AND THEN I TURNED AROUND TO GO AND
SPEAK TO THE LT, I WAS VERY MAD. AS I WAS LEAVING [REDACTED] SAW [REDACTED]
[REDACTED] STILL GUARDING THE OTHER 4 PRISONERS AGAINST THE WALL OF THE CELL,
GOING DIRECTLY TO THE MP BREAK ROOM/ARMS ROOM. SSG [REDACTED] WAS
BEHIND ME. AS I ENTERED THE ROOM I SHUT THE DOOR ON MY WAY IN, [REDACTED] RIGHT
RIGHT IN [REDACTED] FACE. I WAS SO MAD AT THE LT THAT I DID NOT THINK
ABOUT DISRESPECTING MY PLATOON [REDACTED], I JUST HAD TO TELL HIM THAT HE
DID WAS WRONG. I TOLD HIM THAT HE BETTER NEVER, EVER SAY OR DO ANYTHING
IN THAT KIND OF [REDACTED] SITUATION EVER AGAIN AND TURNED AROUND, OPENED THE DOOR,
AND WALKED OUT. WHEN I WALKED OUT [REDACTED] WENT IN AND SHUT THE DOOR. [REDACTED]

Question (6) [REDACTED]

Answer (A) [REDACTED]

Q: WHAT IPS STATION DO YOU WORK AT?

A: AL TAJI POLICE STATION [REDACTED]

Q: WHAT DAMAGE DID THE DETAINEES DO TO THE INTERIOR OF THE DETENTION CELL?

A: THEY PULLED A PIPE OFF OF THE SHOWER AND USED THIS TO KNOCK ABOUT 6 TILES OFF AND THEN DUG INTO THE WALL APPROXIMATELY 12 INCHES, [REDACTED]

Q: How did you know which detainees caused the damage to the wall of the latrine?

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INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO THE NEXT PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT 2345th

DATED 20 30801

B. STATEMENT (Continued)

A. AT THE TIME THAT THE DAMAGE OCCURED WE HAD 4 PRISONERS THAT WERE IN FOR MURDER/VEHICLE THEFT AND 1 FOR LOOTING. SUSPECTED LOOTING WORKED FOR COALITION FORCES. DURING CHECKS, THE 1 THAT WORKS FOR US TOLD US WHAT THEY WERE DOING.

THE CELL # 3
AT WIS IN FOR
PRISONER
DURING

Q: WHAT ARE THE NAMES OF THE 4 DETAINEEES THAT WERE IN THE DETENTION CELL ON 30/000 JUL 05?

WERE DOING
WENT TO

A: THEIR NAMES WERE [REDACTED] (SUSPECTED LOOTING), [REDACTED], AND [REDACTED]

MUHSIN ALI MONDI,

Q: WHO IDENTIFIED THAT THE WALL IN THE DETENTION CELL HAD BEEN DAMAGED?

LATER ON OF THE

A: THE PRISONER [REDACTED] SPEAKS A LITTLE ENGLISH AND GOT [REDACTED] TO GO IN TO INSPECT IT.

AND TOLD ME, SO I WENT

Q: WHO DID YOU NOTIFY ABOUT THE DAMAGE TO THE DETENTION CELL AT YOUR IPS STATION?

TO THE WALL OF

A: I CALLED BLOODHOUND BASE TO INFORM THEM OF THE DAMAGE.

PT AND THE DAMAGE

Q: WHAT DAY DID THE DAMAGE OCCUR TO THE DETENTION CELL?

ALL OF THE LATTER

A: THE DAY BEFORE THE INCIDENT, THE 29TH OF JULY.

Q: WHO TOLD YOU THAT HE WAS WITH THE DETAINEEES THAT DID THE DAMAGE TO THE DETENTION CELL?

WAS TO GO WITH
HE WAS WITH

A: HE DIDN'T SAY THAT HE WAS GOING TO DO ANYTHING TO THEM. HE WANTED TO SEE THOSE RESPONSIBLE.

HE JUST SAID THAT

Q: WHEN 1LT NILES TOLD YOU THAT HE WANTED TO GO TO THE DETENTION CELL ALLEGEDLY CAUSED THE DAMAGE TO THE LATTER WALL, WOULD YOU BE GOING TO CAUSE PHYSICAL HARM TO THEM?

HE JUST SAID THAT
HE WANTED TO SEE
THAT HE WAS

A: NO, I DID NOT.

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

003340

PAGE 2 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO THE NEXT PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT 2345 DATED 30804

9. STATEMENT (Continued)

Q: WHAT DID LT NICO DO TO THE FIRST PRISONER AT THE CATRINE

A: HE GRABBED HIM BY THE BACK OF THE HEAD AND SWUNG HIM AROUND, THROWING HIM TOWARDS THE DAMAGED WALL.

Q: DID YOU ATTEMPT TO STOP LT NICO FROM DOING THIS IN THIS MANNER?

A: NO, I DID NOT.

Q: WHY DIDN'T YOU CORRECT LT NICO AGAIN?

A: I THOUGHT THAT HE WAS JUST TRYING TO SCARE THEM SO THEY WOULD TRY TO BREAK OUT AGAIN, I DIDN'T KNOW THAT HE WAS GOING TO ESCALATE.

Q: HOW DO YOU KNOW THAT LT NICO STRUCK THE PRISONER?

A: I WAS STANDING BY THE EDGE OF THE INNER WALL AND HE WAS BETWEEN ME AND THE LT. I SAW HIM PUNCH THE FIRST PRISONER INTO THE FLOOR HOLDING HIS STOMACH.

Q: HOW DO YOU KNOW THAT LT NICO STRUCK THE SECOND PRISONER?

A: I SAW HIM GRAB THE PRISONER THEN I SAW HIS ARM MOVE BACK AND HE THREW A PUNCH TO THE GUT.

Q: WHAT DID YOU DO WHEN LT NICO STRUCK THE PRISONER?

A: I STARTED TO MOVE FORWARD TO PULL THE LT OFF OF THE PRISONER.

Q: WHAT WAS HIS REACTION WHEN YOU APPROACHED TO PULL HIM OFF THE PRISONER?

A: HE STARTED TO BACK UP AND ON THE WAY BACK HE KICKED THE PRISONER'S SHOULDER AREA.

Q: WHAT DID YOU DO TO ASSESS THE EFFECTS OF LT NICO'S STRIKES ON THE PRISONERS' MEDICAL CONDITION?

A: I GAVE THE PRISONER A LOOK TO SEE HOW THEY WERE. THEY WERE STILL CONSCIOUS, NOT BLEEDING, AND ALL WERE CRYING. AT THAT POINT I WENT TO GO AND TALK TO THE LT.

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO THE NEXT PAGE OF THIS FORM.

STATEMENT OF [REDACTED]

TAKEN AT 2345 [REDACTED]

DATED 20030804

9. STATEMENT (Continued)

Q. DID ANY OF THE DETAINEES THAT IKT NICES STRUCK MEDICAL CARE DUE TO HIS ALLEGED ASSAULT?

[REDACTED] REQUIRES ANY

A. NO, THEY DID NOT [REDACTED]

Q. HAVE YOU EVER SEEN IKT NICES PHYSICALLY ABUSE [REDACTED] IN THE PAST?

[REDACTED] IN THE PAST?

A. WHILE IN KUWAIT AT CAMP NEW YORK HE GRABBED ONE OF [REDACTED] AND THREW HIM TOWARDS THE DOOR OF OUR TENT.

[REDACTED] AND BY THE ARM

Q. WHAT IS THE STANDARD OPERATING PROCEDURE FOR DEALING WITH DETAINEES THAT CAUSE DAMAGE TO GOVERNMENT FACILITIES?

[REDACTED] WITH DETAINEES THAT

A. WHEN WE HAVE A PRISONER IN THIS SITUATION WE CAN DEAL WITH THE INDIVIDUAL BY USING ZIP STRIPS, HAND CUFFS, ETC.

[REDACTED] THE INDIVIDUAL

Q. WHAT PUNISHMENT DID THE 3 DETAINEES THAT DAMAGED THE CELL IN THE CORNER OF THE DETENTION CELL RECEIVE?

[REDACTED] IN THE CORNER

A. THEY RECEIVED NO PUNISHMENT BUT WE DID ZIP STRIP THEM TO BEHIND THEIR BACKS FOR APPROXIMATELY 45 MINUTES. AND WE MOVED THEM TO THE OTHER D-CELL FOR FEAR OF RETRIBUTION.

[REDACTED] TO THE OTHER

Q. HOW DID IKT NICES REACT WHEN YOU TOLD HIM TO GET UP AND MOVE AWAY FROM YOU? DID YOU NEED TO RESTRIC

[REDACTED] YOU NEED TO RESTRIC

A. HE HAD NO REACTION. HE JUST SAT THERE, HE DIDN'T SAY OR DO ANYTHING [REDACTED]

[REDACTED] DO ANYTHING [REDACTED]

Q. IS THERE ANY OTHER SUBJECTS THAT I SHOULD TRACK THAT WERE IN THE DETENTION CELL WHEN THIS INCIDENT TOOK PLACE?

[REDACTED] THAT WERE IN THE

A. [REDACTED]

Q. DO YOU HAVE ANYTHING TO ADD TO THIS STATEMENT?

A. NO. [REDACTED]

||| END OF STATEMENT |||

003342

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 5 OF 6 PAGES

STATEMENT OF [REDACTED] TAKEN AT 2845 DA ID 20030804

9. STATEMENT (Continued)

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 6. I FULLY UNDERSTAND THE CONTENT OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[REDACTED]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me; a person authorized by law to administer oaths, this Aug of 2003 at TALL

[REDACTED]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

[REDACTED]
Administer Oath
[REDACTED]
Administer Oath

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

003343

PAGE 6 OF 6 PAGES

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: Al Ta'i Police Station
2. DATE (YYYYMMDD): 20030804
3. TIME: 2300
4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME
6. SSN
7. GRADE/STATUS: E-5/AD
8. ORGANIZATION OR ADDRESS: USMC Baghdad Iraq.

I, [redacted], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
On the morning of July 30, 2003 after shift change procedures had been completed Lt. Niles stated that he wanted to speak to the prisoners about an attempted escape the day prior. At that time I grabbed [redacted] and [redacted] and we followed [redacted] and [redacted] to the D-cell. We did not take any IP's with us. We entered the D-cell separating the 3 prisoners in question from the rest. Leaving [redacted] the main room of the D-cell to guard the remaining prisoners. I stood in the doorway between the main room and the latrine to watch [redacted] back while he guarded the remaining detainees. Lt. Niles, [redacted], [redacted], and the 3 in question were in the latrine. [redacted] and [redacted] were standing side by side just beyond the half wall in front of the stalls. I saw Lt. Niles take the one of the prisoners by the neck, held this by grabbing the back of his neck and take him towards the damaged wall. At this point I looked over [redacted] to see if he was all right and heard a loud thump as if someone was pushed against a wall with Lt. Niles saying "did you do this to my D-cell." at that time I went to where Sgt. Earnest [redacted] was standing and I looked towards the door of the latrine. I saw two of the prisoners pressed against the wall with one covering the front of them. I saw Lt. Niles close pistol pointing the prisoner in the right shoulder, collar bone area, he punched him 3 times, in rapid succession and then immediately started kicking the prisoner in the ribs area. at which time [redacted] went over to get Lt. Niles off the prisoner, but Lt. Niles got in at least 3 good kicks before [redacted] could

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT: [redacted]
PAGE 1 OF 6 PAGES
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT TAKEN AT [redacted]
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING STATEMENT, AND PAGE NUMBER
003344

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

[REDACTED]

TAKEN AT

Taji Police

DATED

4 Aug 03

9. STATEMENT (Continued)

Pull Nimat. Pissed off and disgusted I left the D-cell and went to get [REDACTED] the PLT SGT. I told him he needed to be in the D-cell now because the Lt was hitting one of the prisoners. at that time I went outside, I came back in approx. 5 minutes later to see [REDACTED] come out to a closed door discuss w/ with Lt wifes and the PLT SGT go into cell. I went back outside and manuever the dis mount point with [REDACTED] and [REDACTED] approx. 4 hours later we escorted the 3 that attempted the break out and one other prisoner to Camp Cropper. we returned with one prisoner to be released and [REDACTED] the day finished business as usual. [REDACTED]

The following questions are used to clarify the statement of [REDACTED]

Question [REDACTED]

Answer [REDACTED]

Q. When you entered the Detention Cell is your presence required?

A. As far as I know, NO

Q. How much time elapsed from the time you entered the Detention Cell to the time you exited?

A. 3-to 4 minutes tops

Q. How many detainees do for Nicos Strides?

A. 1

Q. When you entered the Detention Cell did you feel that your well-being was threatened?

A. No

003345

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 6 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT [REDACTED] Police Station DATED 04 Aug 03

9. STATEMENT (Continued)

Q. Did the detainees receive any additional medical care due to the assault by 1st Niles?

A. No.

Q. When you witnessed 1st Niles strike the detainee what was your location in relation to 1st Niles, i.e. east, west, etc.?

A. I was to the left of [REDACTED] and [REDACTED] who were standing adjacent to the [REDACTED] first stall. Lt. Niles was in front of me to the left with his back towards the stalls. So I had a view of his left side.

Q. What is your duty description within 1st Squadron?

A. I am the 1st [REDACTED] Squad Bravo four under [REDACTED] [REDACTED]

Q. Have you ever witnessed 1st Niles use his power?

A. Yes.

Q. By what means did he deal with the detainee?

A. He walked away from the situation.

Q. Have you ever witnessed 1st Niles use physical force to detain a detainee?

A. No.

Q. After you exited the detention cell what are the circumstances around your next interaction with the detainees that 1st Niles struck?

A. We took them out of the cell and by one searched and cuffed them. Then one by one we placed them into the vehicles. Due to crowding, got them out of the vehicles one by one, escorted them into the holding area where MI asked them some questions. Later Rolcross spoke to them.

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 3 OF 6 PAGES 003346

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

[REDACTED]

TAKEN AT

La Pellice Station

DATED

01 Aug 53

9. STATEMENT (Continued)

After Red Cross, they were escorted into the actual detainee camp and turned over to the MPs running the camp.

Q. How long after the incident in the detention cell did you transport the detainees to Camp Cropper?

A. Approx 3 to 4 hours.

Q. Before you transported the detainees to Camp Cropper, did you search them? What were you looking for during your search and what did you find?

A. Control board and tender spots from the assault. I found neither.

Q. Where did you search the detainees?

A. I did a pat down search before I put them in the vehicles.

Q. For clarification, did you find any contraband or tender spots on the detainees' bodies?

A. No I did not.

Q. What did the three detainees do to cause the injuries?

A. The day before they attempted a breakout. They broke a steel pipe out of the shower and attempted to break through the brick wall.

Q. How were the detainees disciplined for their misconduct?

A. They were handcuffed for a couple of hours.

Q. Is there a standard disciplinary procedure in place that dictates the proper disciplinary measures for detainees with detention misconduct?

A. To my knowledge, no.

Q. When you entered the detention cell with [REDACTED] and [REDACTED] what were your intentions/expectations in regard to what was going on there?

A. Provide security for Lt Miles while he talked to the prisoners. I expected him to talk to them.

INITIALS OF PERSON MAKING STATEMENT

[REDACTED]

PAGE 4 OF 6 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

[REDACTED]

TAKEN AT

Tajikistan

DATED

4 APR 03

9. STATEMENT (Continued)

Q. Why didn't you attempt to stop let [REDACTED] from hitting the detainees?

A. because [REDACTED] had already started, and I felt that the issue should be handled by him and the Pst. Sgt. Westland Sgt. [REDACTED] instead.

Q. Do you have anything to add to this statement?

A. No.

/// End of Statement ///

003348

INITIALS OF PERSON MAKING STATEMENT

[REDACTED]

PAGE 5 OF 6 PAGES

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

Not used
[Redacted]

Not used
[Redacted]

AFFIDAVIT

I, [Redacted], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 10. I FULLY UNDERSTAND THE CONTENT OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE OR UNLAWFUL INDUCEMENT.

[Redacted]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 11 day of Aug 2003 at TADI IPS [Redacted]

ORGANIZATION OR ADDRESS

[Redacted]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

[Redacted]
(Typed Name of Person Administering Oath)
Avt 136 (4)
(Authorized to Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT [Redacted]

003349

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: Al Taji Police Station, Iraq
2. DATE: 2008 08 04
3. TIME: 1700
4. FILE NUMBER:
5. LAST NAME, FIRST NAME, MIDDLE NAME:
6. SSN:
7. GRADE/STATUS: E-4/AD
8. ORGANIZATION OR ADDRESS: 615th MPCo

9. I, [redacted], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
On 30 Jul 03, at approx. 1000hrs, I stated that myself and [redacted] were going to get the detainees out of the Taji D-cell for a work detail. Lt Niles told me to wait that he and [redacted] were going with us to the D-cell. Upon entering the cell, Lt Niles asked which 3 detainees had tried to escape the previous day. We pointed out the 3 detainees and the Lt motioned for them to go into the bathroom, where they had tried to escape by knocking a hole through the wall with a pipe. Lt Niles went into the bathroom first followed by [redacted] and then myself. [redacted] stayed in the D-cell guarding the other prisoners. Lt Niles grabbed the first detainee by the back of the neck or his shoulder and moved him over to the hole in the wall and asked him once or twice "Did you do this?". He then struck the man in the stomach and the man fell to the floor. He then grabbed the second man and struck him in the stomach as well. [redacted] was going at the third man. The third man cowered on the floor and the Lt kicked at him as [redacted] was pulling him away. I think the Lt grazed the man's shoulder with the kick. [redacted] showed up somewhere in the middle of all of the confusion. I think Sgt Brian saw the Lt. hit the first and possibly the second prisoner. [redacted] then he went to get SSG Dixon out of the office. [redacted] got out of the D-cell and [redacted] came in to see what all happened. [redacted] secured the office, where I heard one or more of them yelling at him. [redacted]
The following questions are to clarify the statement.

Question: [redacted]
Answer: [redacted]
Q. Is there a SOP for dealing with detainees that you were trained on?
A. Just what we have been trained before. We try to let them leave the D-cell.

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT: [redacted]
PAGE 1 OF 4 PAGES
003350
PAGE NUMBER

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT Taji Police Station on 14 Aug 03

9. STATEMENT (Continued)

Q. WERE THE DETAINEES DISCIPLINED FOR ATTEMPTING TO ESCAPE FROM THE JAIL?

A. [REDACTED] stated that he wanted to bound the detainees behind their back. WE got zip strips for him and showed him how to use them.

Q. HOW MUCH TIME ELAPSED FROM THE TIME THAT YOU ENTERED THE CELL TO THE TIME THAT YOU EXITED?

A. FROM 5-10 MINUTES [REDACTED]

Q. WHAT WAS THE DISTANCE BETWEEN YOU AND THE DETAINEES WHEN HE WAS STRIKING THE DETAINEES?

A. I WAS APPROX. 10 FT BEHIND HIM [REDACTED]

Q. HOW MANY TIMES AND WHERE DID HE STRIKE THE DETAINEES?

A. HE STRUCK THE FIRST 2 ONCE EACH IN THE STOMACH. THE SECOND WAS KICKED IN THE SHOULDER AREA ONCE THAT I COULD SEE [REDACTED]

Q. WHEN YOU ENTERED THE DETENTION CELL AT ANY POINT DID YOU FEEL THREATENED SO THAT YOU WOULD BE REQUIRED TO REPORT THEM?

A. NO, NOT AT ALL [REDACTED]

Q. DID ANY OF THE DETAINEES THAT WERE STRUCK BY THE [REDACTED] RECEIVE ADDITIONAL MEDICAL ATTENTION?

A. NO [REDACTED]

Q. HAVE YOU EVER BEEN IN OR WITNESSED OR KNOWN OF ANY ASSOCIATION WITH ANGLA?

A. NO [REDACTED]

Q. WHAT WAS YOUR INVOLVEMENT IN TRANSFERRING THE DETAINEES WHO WERE STRUCK BY THE [REDACTED] TO CAMP CHOPRA?

A. I WAS A GUARD RIDING IN THE HMVEE AND I GAUGED THEM AT THE [REDACTED] DID NOT NOTICE ANY OF THEM LIMPING OR HAVING INJURIES. [REDACTED]

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

003351

4 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED]

TAKEN AT

Taji Police Station

2/11/03

9. STATEMENT (Continued)

Q. Is there anything that Lt Nicos did from 11-cell that would have led you to believe that to hit the detainees?

... the ...

A. He put flight gloves on, but he is always wearing them other than that, no.

... missions.

Q. How would you characterize the relationship of Lt Nicos.

... you and

A. We do not get along. He is very physical, he does to you game. So I try not to do anything physical. I do not get along with him to begin with.

... bigger than ... since I

Q. Were you in a position to stop Lt Nicos from hitting the detainees?

... the

A. Yes, but [REDACTED] had already moved in to stop [REDACTED]

... [REDACTED]

Q. How much time elapsed between the time that the first and third detainees?

... [REDACTED]

A. 10-20 seconds, it was too fast to really register what was going on until the third detainee was very fast.

... head ... it all

Q. Do you have anything to add to this statement?

A. Not that I can think of.

||END OF STATEMENT||

003352

INITIALS OF PERSON MAKING STATEMENT

[REDACTED]

4 PAGES

STATEMENT OF [REDACTED]

TAKEN AT Taji Police Station

303

9. STATEMENT (Continued)

[REDACTED] AFFIDAVIT
I, [REDACTED], HAVE READ OR HAVE HAD READ
WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 4. I FULLY UNDERSTAND THE CONTENTS
BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED
CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT
THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE OR UNLAWFUL INFLUENCE

STATEMENT
STATEMENT MADE
EACH PAGE
WITHOUT

[REDACTED]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me
administer oaths, this 4
at Taji IPS Station

Authorized by law to
2011

ORGANIZATION OR ADDRESS

[REDACTED]
(Signature of Person Administering Oath)

Oath)

ORGANIZATION OR ADDRESS

[REDACTED]
(Typed Name of Person Administering Oath)
Asst Insp
(Authority)

Oath)

INITIALS OF PERSON MAKING STATEMENT

003353
4 PAGES

SWORN STATEMENT

For use of this form, see AR 190-46; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: TAJI POLICE STATION
2. DATE (YYYYMMDD): 2003 08 04
3. TIME: 2345
4. FILE NUMBER: 0605
5. LAST NAME, FIRST NAME, MIDDLE NAME: [REDACTED]
6. SSN: [REDACTED]
7. GRADE/STATUS: [REDACTED]
8. ORGANIZATION OR ADDRESS: 615TH MP COMPANY

I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH: I WAS ON RADIO GUARD AT THE DESK WHEN I OVER HEARD THAT THE PRISONERS WERE TRYING TO BREAK OUT. WELL AT THE TIME I WANTED TO SEE THE WHOLE THAT WAS TRYING TO BE DUG. BUT I COULDN'T BECAUSE I WAS ON RADIO GUARD. [REDACTED] WAS AVAILABLE TO RELIEVE ME, AT FIRST SHE [REDACTED] BUT SHE WANTED TO SEE IT FIRST. SHE CAME BACK AND RELIEVED ME, SO THAT I TOO MIGHT SEE THE WALL WALKING TO GO TO THE D-CELL I WAS ORDERED TO WATCH THE THREE PRISONERS. SO I DID. THE OTHER THREE PRISONERS WENT TO THE SHOWER/BATH-ROOM PART WHERE THEY TRIED TO ESCAPE. I WAS ORDERED BY THE LT [REDACTED] AND [REDACTED] TO GUARD THE OTHER THREE. WHILE THE LT, [REDACTED], [REDACTED] AND [REDACTED] WENT WITH THE LT. BE ADVISED I DID NOT HAVE EYES ON THE LT, [REDACTED], THE PRISONERS. IF I LEANED BACK I COULD SEE [REDACTED] [REDACTED] WAS THE CLOSEST ONE TO ME. LIKE I SAID I WAS GUARDING THE PRISONERS AND ONLY WATCHED THEM. I TOOK MY EYES OFF OF THEM THREE TIMES. ONCE WAS WHEN I HEARD THE LT SAY, "LOOK AT THIS DID YOU DO THIS" THEN I TURNED LOOKING FOR A SPLIT SECOND I HAD EYES ON [REDACTED] BUT I COULDN'T SEE ANY THING ELSE. I TURNED BACK AND RESUM ED WATCHING THE OTHERS. I HEARD IT AGAIN FOLLOWED BY FOOTSTEPS RIGHT NEXT TO ME. SO OUT OF [REDACTED] HEARD IT AGAIN FOLLOWED BY FOOTSTEPS RIGHT WHO WAS COMING BEHIND ME IT WAS [REDACTED] OUT OF NATURAL INSTINCT I TURNED TO GLANCE AT THE LT ONCE AGAIN, "DID YOU DO THIS?" [REDACTED] LEAVING. I THEN HEARD I DIDNT HEAR ANY CRIES OF DEATH [REDACTED] and heard them talking in ARABIC. A FEW FEW MORE SECONDS THEN THE LT CAME OUT ALL LOOKING LIKE A MAD FATHER. RIGHT AFTER THAT [REDACTED] SAID I WAS RELIEVED SO WE LEFT, AND WENT TO OUR NEXT GUARD SPOT. ALL OF THIS HAPPENED BETWEEN 900 HRS AND 1300 HRS.

The following questions are relevant to carrying the statement of [REDACTED]

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT: [REDACTED]
PAGE 1 OF 3 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT TAKEN AT DATED
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT TALL POLICE STATION DATED 2003 08 04

9. STATEMENT (Continued)

Question: [REDACTED]

Answer: [REDACTED]

Q. WHO ORDERS YOU TO GUARD THE OTHER PRISONERS IN THE DETENTION CELL THAT DAY?

A. LT [REDACTED]

Q. WHEN THE OTHER DETAINERS ENTERED THE CARNAGE PORTION OF THE DETENTION CELL COULD YOU SEE THEIR INTERACTION WITH LT NILES?

A. NO THEY COULD NOT.

Q. AT WHAT POINT DID [REDACTED] EXIT THE DETENTION DETENTION CELL?

A. AFTER LT NILES SAID "LOOK AT THIS, DID YOU DO THIS, DID YOU DO THIS." THATS WHEN HE LEFT.

Q. DO YOU HAVE ANYTHING TO ADD TO THIS STATEMENT?

A. NO

|| END OF STATEMENT ||

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INITIALS OF PERSON MAKING STATEMENT

[REDACTED]

PAGE 2 OF 3 PAGES

STATEMENT OF [REDACTED] TAKEN AT TALI POLICE STATION DATED 2003 08 04

9. STATEMENT (Continued)

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[REDACTED]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 4 day of Aug, 2003 at TALI IPS STATION

[REDACTED]
(Signature of Person Administering Oath)

[REDACTED]
(Typed Name of Person Administering Oath)

Art. 136 (b)(4)
(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

003356

PAGE 3 OF 3 PAGES

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: Baghdad, Iraq
2. DATE (YYYYMMDD): 20030706
3. TIME: 1033L
4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME: Niles, Jr Glenn Anthony
6. SSN
7. GRADE/STATUS: 02/1LT
8. ORGANIZATION OR ADDRESS: 615th MP Company

9. I, Glenn A. Niles, Jr., WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
On 29 July, 2003 I was notified that detainees in the Taji Police station did attempt to escape. On 30 July, 2003 I did go to the Taji Police station and requested to be shown the area in which the detainees attempted to escape. [redacted] did show me the area & change made to the wall. At which time I asked that the detainees in question enter the latrine. It is at this time that I became enraged and struck the detainees. I believe that there were four prisoners that I struck in various parts of their body. I was then removed from this area by a soldier, and then went and sat down in the MP office. At this time [redacted] came in and expressed his dissatisfaction in my behavior. [redacted] then came in and asked what happened. I believe [redacted] explained the situation to [redacted]. No further incidents occurred during the day. Days later I expressed to [redacted] that I was out of line and my behavior was not warranted.
The following questions are used to CLARIFY THIS STATEMENT

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT: [redacted]
PAGE 1 OF 7 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT DATED
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.
003357

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Abbas, Ja Selwan A. TAKEN AT Brighton, Iraq DATED 10 Aug 2003

9. STATEMENT (Continued)

Q. [REDACTED]

A. IUT NILES [REDACTED]

Q. WHAT WAS YOUR REACTION WHEN YOU WERE MADE AWARE OF THE ATTEMPTED BREACHES AT THE DETENTION CELL AT AL TASI POLICE STATION ON 29 JUL 03?

A. I WAS VERY ANGRY AND PISSED OFF. [REDACTED]

Q. WHEN YOU WENT TO AL TASI POLICE STATION ON 30 JUL 03 WHAT TIME DID YOU ENTER THE DETENTION CELL?

A. EXACT TIME UNKNOWN. APPROX. TIME WOULD BE AFTER 0900L [REDACTED]

Q. WHY DID YOU ENTER THE DETENTION CELL AT AL TASI POLICE STATION ON 30 JUL 03?

A. TO ~~SEE~~^{HELP} see the damage that was done to the cell. [REDACTED]

Q. HOW MANY ~~OF~~^{PE} SPOONS ENTERED THE DETENTION CELL WITH YOU AT AL TASI POLICE STATION ON 30 JUL 03?

A. EXACT NUMBER UNKNOWN. [REDACTED]

Q. AT ANY TIME WHILE YOU WERE IN THE DETENTION CELL DID YOU FEEL THAT YOUR SAFETY OR THE SAFETY OF YOUR SPOONS WAS IN JEOPARDY?

A. WHEN I ENTERED THE CELL I DID NOT FEEL THAT MY SAFETY WAS IN JEOPARDY. DURING THE ACTUAL INCIDENT I DO NOT RECALL THINKING ABOUT MY SAFETY. [REDACTED]

Q. HOW MANY DETAINEES WERE IN THE DETENTION CELL WHEN YOU ENTERED ON 30 JUL 03?

A. I BELIEVE IT WAS EIGHT. [REDACTED]

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

003358

PAGE 2 OF 7 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Al. Kos, Jr. Glenn A TAKEN AT Bradley, Iraq DATED 6 Aug 2007

9. STATEMENT (Continued)

Q. WHEN YOU WERE IN THE LATRINE OF THE DETENTION CELL WITH THE DETAINEES THAT ALLEGEDLY ATTEMPTED TO BREAK OUT OF THE DETENTION CELL ON 29 JUL 05 WERE YOU THE REMAINDER OF THE DETAINEES?

A. I believe that they were in the D-cell.

Q. WAS A SOLDIER SECURING THE DETAINEES WHILE YOU WERE IN THE LATRINE PORTION OF THE DETENTION CELL?

A. I would assume that they were.

Q. DO YOU NORMALLY ENTER THE DETENTION CELL?

A. Yes, at times I assist the soldiers in securing prisoners and searching the D-cell.

Q. UNDER WHAT CIRCUMSTANCES DID YOU ENTER THE DETENTION CELL?

A. THE REASON FOR ENTERING THE D-CELL WAS TO SEE WHAT DAMAGES WERE DONE TO THE CELL.

Q. WERE THERE ANY IPS INAAI POLICE SERVICE PRESENT WHEN YOU ENTERED THE DETENTION CELL?

A. NO.

Q. DID YOU HAVE BLACK GLOVES ON WHEN YOU ENTERED THE DETENTION CELL?

A. NO.

Q. DID YOU ENTER THE DETENTION CELL WITH THE INTENTION OF STRIKING ANY OF THE DETAINEES?

A. NO.

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INITIALS OF PERSON MAKING STATEMENT

PAGE 3 OF 7 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Niles, Jr Glenn A TAKEN AT Durham, Iowa DATED 6 Aug 2003

B. STATEMENT (Continued)

Q. WHAT WAS YOUR INTENTION WHEN YOU ENTERED THE DETENTION CELL?

A. MY INTENTION WAS TO SEE THE DAMAGES DONE TO THE CELL.

Q. WHEN YOU SAW THE DAMAGE DONE TO THE CELL WHAT DID YOU DO?

A. I ASKED THAT THE DETAINEES BE BROUGHT INTO THE CELL TO SEE WHAT DAMAGES THEY DID.

Q. WHEN THE DETAINEES THAT ALLEGEDLY CAUSED THE DAMAGE TO THE DETENTION CELL WERE BROUGHT INTO THE CELL WHAT DID YOU DO?

A. I LOST CONTROL AND BEGAN TO STRIKE THEM.

Q. EXPLAIN WHICH DETAINEES YOU STRUCK AND WHERE ON THEIR BODIES YOU STRUCK THEM.

A. I DO NOT REMEMBER WHICH DETAINEE I STRUCK. I REMEMBER STRIKING THEM ON THEIR TORSO.

Q. DID YOU STRIKE MORE THAN ONE DETAINEE?

A. I BELIEVE I DID.

Q. HOW MANY OF THE DETAINEES DID YOU STRIKE?

A. I BELIEVE ALL FOUR.

Q. WHAT IS THE APPROXIMATE HEIGHT AND WEIGHT OF THE DETAINEES THAT YOU STRUCK?

A. UNKNOWN.

Q. DID THE DETAINEES THREATEN YOU IN ANY WAY?

A. NO. NOT IN THE CELL.

003360

INITIALS OF PERSON MAKING STATEMENT

PAGE 4 OF 7 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Niles, Jr. Glenn A TAKEN AT Brighton, Iraq DATED 6 Aug 2003

9. STATEMENT (Continued)

Q. ON THE DAY IN QUESTION WERE THREATENED BY ANY OF THE
DETAINEES

A. NO. SAID

Q. AFTER YOU STRUCK THE DETAINEES UNDER WHAT CIRCUMSTANCES
DID YOU EXIT THE DETENTION CELL?

A. I WAS REMOVED BY A SOLDIER. SAID

Q. DO YOU REMEMBER WHICH SOLDIER REMOVED YOU?

A. NO. SAID

Q. HOW DID THE SOLDIER REMOVE YOU?

A. I WAS GRABBED & PULLED OUT. SAID

Q. WHERE DID YOU GO AFTER YOU WERE REMOVED FROM THE ~~ST~~ DETENTION
CELL?

A. MP OFFICE. SAID

Q. DID YOU EVER CHECK IF THE DETAINEES REQUIRED ANY MEDICAL
ATTENTION AS A RESULT OF YOUR ACTIONS?

A. NO. SAID

Q. ~~ARE~~ WHY DID YOU STRIKE THE DETAINEES IN THE CORRIDOR
OF THE DETENTION CELL ON 30 JUL 03?

A. I WAS ASKED. SAID

Q. DOES YOUR UNIT HAVE AN STANDING OPERATING PROCEDURE
IN PLACE THAT DESCRIBES HOW TO DEAL WITH DETAINEE AND
DETAINEE MISCONDUCT?

A. YES, THE DIVISION POLICY AND THE USE OF FORCE. SAID

003361

INITIALS OF PERSON MAKING STATEMENT

SAID

PAGE 5 OF 7 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Nikus, Jr. Glenn A TAKEN AT Durham, NC DATED 10 Aug 2003

9. STATEMENT (Continued)

Q. WERE YOUR ACTIONS IN THE COBENTON CASE ON 30 JUL 03 WHEN YOU STUCK SOMEONE'S BATTERIES IN ACCORDANCE WITH THOSE INSTRUCTIONS?

A. NO. SAJ

Q. DID YOU BRING THIS INCIDENT TO THE ATTENTION OF YOUR CHAIN OF COMMAND?

A. NO. SAJ

Q. WHY DIDN'T YOU BRING THIS INCIDENT TO THE ATTENTION OF YOUR CHAIN OF COMMAND?

A. UNKNOWN, DID NOT THINK ABOUT REPORTING THE INCIDENT HIGHER. SAJ

Q. DO YOU HAVE ANYTHING TO ADD TO THIS STATEMENT?

A. NO. SAJ

End of statement
SAJ

003362

INITIALS OF PERSON MAKING STATEMENT
SAJ

PAGE 6 OF 7 PAGES

STATEMENT OF Nick, Jr Glenn A TAKEN AT Basildon, Tex DATED 6 Aug 2003

9. STATEMENT (Continued)

Not Used

AFFIDAVIT

I, Glenn A. Nick, Jr., HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 7. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[Redacted Signature]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 6 day of August, 2003 at Wannier Marine, Brazoria, Tex

[Redacted Signature]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

[Redacted Name]
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

Arthur J. [Redacted] (S)
(Author: To Administer Oaths)

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INITIALS OF PERSON MAKING STATEMENT

PAGE 7 OF 7 PAGES

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY: Title 10, United States Code, Section 3012(g)
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your Social Security Number is voluntary.

1. LOCATION <i>Bashdad, Iraq</i>	2. DATE <i>6 AUG 2003</i>	3. TIME <i>10:18L</i>	4. FILE NO.
5. NAME (Last, First, MI) <i>Niles, Jr Glenn A</i>	8. ORGANIZATION OR ADDRESS <i>615th MP Company APO AF 09302</i>		
6. SSN <i>[REDACTED]</i>	7. GRADE/STATUS <i>O2/1LT</i>		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army *Military Police* and wanted to question me about the following offense(s) of which I am suspected/accused: *ARTICLE 93 CRUELTY AND MALTREATMENT AND LAW OF WAR VIOLATION*

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

- I do not have to answer any question or say anything.
- Anything I say or do can be used as evidence against me in a criminal trial.
- For personnel subject to the UCMJ I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

- If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS *(Continue on reverse side)*

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES <i>(If available)</i>		3. SIGNATURE OF INTERVIEWEE <i>[REDACTED]</i>
1a. NAME <i>(Type or Print)</i>		4. SIGNATURE OF INVESTIGATOR <i>[REDACTED]</i>
b. ORGANIZATION OR ADDRESS AND PHONE		5. TYPED NAME OF INVESTIGATOR <i>[REDACTED]</i>
2a. NAME <i>(Type or Print)</i>		6. ORGANIZATION OF INVESTIGATOR <i>709 Military Police Battalion</i>
b. ORGANIZATION OR ADDRESS AND PHONE		

Section C. Non-waiver

1. I do not want to give up my rights <input type="checkbox"/> I want a lawyer	<input type="checkbox"/> I do not want to be questioned or say anything	003364
2. SIGNATURE OF INTERVIEWEE		

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

Accused Maltreatment of Prisoners

1. WARNING - Inform the suspect/accused of:
 - a. Your official position. *Investigative Officer*
 - b. Nature of offense(s). *for 93 Child Support Maintenance*
 - c. The fact that he/she is a suspect/accused.
2. RIGHTS - Advise the suspect/accused of his/her rights as follows:

"Before I ask you any questions, you must understand your rights."

 - a. "You do not have to answer my questions or say anything."
 - b. "Anything you say or do can be used as evidence against you in a criminal trial."
 - c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer

can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."

- or -

(For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."

- d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"

(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?"

(If the suspect/accused says "yes," find out when and where. If the request was recent (i.e., fewer than 30 days ago), obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

"Do you want a lawyer at this time?"

(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)

"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" (If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)

SPECIAL INSTRUCTIONS

WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.

PRIOR INCRIMINATING STATEMENTS:

1. If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.

2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.

NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")

COMMENTS (Continued)

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OFFICER EVALUATION REPORT <small>For use of this form, see DA FORM 87-9, 1 OCT 97, AND QUARTERLY FOLLOW UP COUNSELINGS CONDUCTED</small>						SEE CONTACT ACT STATEMENT <small>ON DA FORM 87-9</small>	
PART I - ADMINISTRATIVE DATA							
1. NAME (Last, First, Middle Initial) NILES, GLENN A.				2. GRADE 2LT	3. DATE OF BIRTH (Month, Day, Year) 05 10 2001	4. NUMBER MP	5. GRADE / NUMBER 31A
6. UNIT, ORG, STATION, ZIP CODE OR APO, INLAND COMMAND 615TH MILITARY POLICE COMPANY, APO AB 09114				7. USAREUR		8. DESKTOP FILE NUMBER 22 SR Option	
9. PERIOD COVERED		10. GRADE	11. NUMBER OF POINTS	12. DATE OF EVALUATION	13. PERIOD OF SERVICE	14. COMMAND	15. PFC CODE
Year: 2001	Month: 09	Day: 19	Year: 2002	Month: 07	Day: 09	10	19 Jul 02
PART II - AUTHENTICATION (Rated officer's signature and officer's signature must be completed ON PART I AND THE INITIALS IN PART III)							
16. NAME OF RATER (Last, First, MI)		17. GRADE	18. SIGNATURE	19. POSITION	20. DATE	21. SIGNATURE OF RATED OFFICER	
[Redacted]		17A	[Redacted]	Company Commander	19 Jul 02	[Redacted]	
22. NAME OF SUPERVISOR (Last, First, MI)		23. GRADE	24. SIGNATURE	25. POSITION	26. DATE	27. SIGNATURE OF RATED OFFICER	
[Redacted]		23A	[Redacted]	Battalion Commander	10 Jul 02	[Redacted]	
28. NAME OF RATED OFFICER (Last, First, MI) MP				29. GRADE 2LT	30. SIGNATURE	31. POSITION 7245	32. CONTACT INFORMATION @us.army.mil
33. UNIT, ORG, STATION, ZIP CODE OR APO, INLAND COMMAND HQ, 793D MILITARY POLICE BATTALION APO AB 09139				34. GRADE / NUMBER 31A00/MP			
PART III - DUTY DESCRIPTION							
35. PRINCIPAL DUTY TITLE Platoon Leader				36. POSITION AND GRADE 31A00/MP			
37. DETAILED DUTY AND PERFORMANCE STATE (REFER TO PART II, DA FORM 87-9) Platoon Leader of in a Corps Combat Support Military Police Company. Responsible for the health, welfare, and morale of 32 soldiers and their family members. Lead, train, and maintain personnel and equipment valued in excess of \$4,000,000. Conducts realistic training in platoon collective tasks and supervises individual tasks supporting the unit METL. Provides trained and professional military police to conduct law enforcement support for four military communities. Performs major additional duties as the Arms Room, Motor Officer, NBC Officer and Training Officer.							
PART IV - PERFORMANCE EVALUATION - PROFESSIONALISM (Rater)							
CHARACTER (Signifies the leader's comprehension of values, attitudes, and skills affecting leader actions)							
38. ARMY VALUES (Comments mandatory for all "NO" entries. Use PART V.)							
1. INTEGRITY: Adherence to the Army's publicly declared code of values		2. RESPECT: Promotes dignity, consideration, tolerance, and respect		3. COURAGE: Manifests physical and moral bravery		4. DUTY: Fulfills professional, legal, and moral obligations	
For		No		For		No	
<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
39. LEADER ATTRIBUTES / SKILLS / ACTIONS (Rater, mark "YES" or "NO" for each block. Second, choose a total of six that best describe the rated officer. Select one from ATTRIBUTES, two from SKILLS (Comments), and three from ACTIONS (Comments). Place an "X" in the appropriate column but not optional comments in PART V. Comments are mandatory in Part V for all "No" entries.)							
40. ATTRIBUTES (Select 2)		41. SKILLS (Comments) (Select 2)		42. ACTIONS LEADERSHIP (Select 3)		43. LEADERSHIP (Comments) (Select 3)	
40.1. MENTAL (Fundamental qualities and character traits)		40.2. CONCEPTUAL (Demonstrates sound judgment, critical/creative thinking, moral reasoning)		40.3. PHYSICAL (Maintains appropriate level of physical fitness and military bearing)		40.4. EMOTIONAL (Displays self-control, calm under pressure)	
<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
40.5. TECHNICAL (Possesses the necessary expertise in assignment of tasks and functions)		40.6. TACTICAL (Demonstrates proficiency in required professional knowledge, judgment, and understanding)		40.7. INTERPERSONAL (Demonstrates skill with people: coaching, counseling, motivating and supervising)		40.8. COMMUNICATING (Displays good oral, written, and listening skills for individuals / groups)	
<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
40.9. INFLUENCING (Method of motivating people while operating / inspiring)		40.10. PLANNING (Develops detailed, executable plans that are feasible, acceptable, and suitable)		40.11. DECISION-MAKING (Employs sound judgment, logical reasoning, and uses resources wisely)		40.12. MOTIVATING (Inspires, motivates, and guides others toward mission accomplishment)	
<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
40.13. OPERATING (Starts new ideas successfully/efficiently)		40.14. DEVELOPING (Invents adequate time and effort to develop individual subordinates as leaders)		40.15. EXECUTING (Shows tactical proficiency, meets mission standards, and takes care of subordinates)		40.16. ASSESSING (Uses after action and mission tasks to facilitate continuous improvement)	
<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
40.17. APPROVING (Long term improvement in the Army by people and organizations)		40.18. BUILDING (Synthesizes ideas and resources: inspiring teams, groups and units; fosters unity of effort)		40.19. LEARNING (Seeks self improvement and organizes/leads growth, production, and learning change)		40.20. LEARNING (Seeks self improvement and organizes/leads growth, production, and learning change)	
<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
44. APP: PASS				45. DATE: APR 2002			
46. WEIGHT: 71				47. WEIGHT: 235			
48. YES				49. YES			
4. (RATED OFFICER DEVELOPMENT - MANDATORY YES OR NO ENTRY FOR RATERS OF 1A AND 1A1)							
WHERE DEVELOPMENTAL TASKS RECORDED ON DA FORM 87-9-1a AND QUARTERLY FOLLOW UP COUNSELINGS CONDUCTED?							
DA FORM 87-9, OCT 97							

REPLACES DA FORM 87-9, 1 SEP 79, WHICH IS OBSOLETE, 1 OCT 97

USAPA 02.01

15 AUG 2002

003366

PART I - ADMINISTRATIVE DATA

NAME: ILES, GLENN A. SSN: [REDACTED] GRADE: ILT DATE: 2002 11 10 BRANCH: MP DEPARTMENT: 31A

UNIT: 15th Military Police Company, APO AE 09114 USAREUR

PERIOD COVERED: FROM 07 10 2003 TO 07 09 2003

RATED MONTHS: 10 RATED CODES: Q

REASON FOR SUBMISSION: 05 ANNUAL

1. Chain of Office: [] 2. Forwarded to Office: [X]

UIC: UH PSC CODE: EU17

PART II - AUTHENTICATION (Rated officer's signature verifies officer has seen completed OER Parts I-VII and the admin data is correct)

NAME OF RATER: [REDACTED] SSN: [REDACTED] RANK: [REDACTED] POSITION: Company Commander SIGNATURE: [REDACTED] DATE: [REDACTED]

NAME OF INTERMEDIATE RATER: [REDACTED] SSN: [REDACTED] RANK: [REDACTED] POSITION: [REDACTED] SIGNATURE: [REDACTED] DATE: [REDACTED]

NAME OF SENIOR RATER: [REDACTED] SSN: [REDACTED] RANK: [REDACTED] POSITION: Battalion Commander SIGNATURE: [REDACTED] DATE: [REDACTED]

ORGANIZATION: 13th Military Police Battalion PO AE 09139

BRANCH: MP SENIOR RATER TELEPHONE NUMBER: 7243 E-MAIL ADDRESS: [REDACTED]@us.army.mil

1. This is a rotated report, do you wish to make comment? [] Yes, comments are attached [] No

2. SIGNATURE OF RATED OFFICER: [REDACTED] DATE: [REDACTED]

PART III - DUTY DESCRIPTION

MUNICIPAL DUTY TITLE: Platoon Leader

POSITION ACCT: 31A / MP

ESSENTIAL DUTIES AND RESPONSIBILITIES: Leads a forward deployed MTO&E Military Police Platoon capable of deploying anywhere in the world at a moments notice to conduct high intensity conflict or stability and support operations in support of the 793d Military Police Battalion, 18th Military Police Brigade and V Corps. Responsible for the combat readiness, training, health, morale and welfare of 32 soldiers. Plans and executes realistic training as well as providing law enforcement support to 3 different communities. Maintains over 85 weapons, 10 HMMWVs, 2 Armored Security Vehicles, numerous communications equipment and various other MTO&E equipment valued in excess of \$1,000,000. Areas of special emphasis include: unit supply officer, unit budget officer, unit status reporting officer, and DFAC officer.

PART IV - PERFORMANCE EVALUATION - PROFESSIONALISM (Rater)

CHARACTER: Disposition of the leader, combination of values, attributes, and skills affecting leader actions

ARMY VALUES (Comments mandatory for all "NO" entries. Use PART Vb.)

HONOR: Adherence to the Army's publicly declared code of values	Yes	No	5. RESPECT: Promotes dignity, consideration, fairness, & EO	Yes	No
INTEGRITY: Possesses high personal moral standards; honest in word and deed	[X]	[]	6. SELFLESS-SERVICE: Places Army priorities before self	[X]	[]
COURAGE: Manifests physical and moral bravery	[X]	[]	7. DUTY: Fulfills professional, legal, and moral obligations	[X]	[]
LOYALTY: Bears true faith and allegiance to the U.S. Constitution, the Army, the unit, and the soldier	[X]	[]		[X]	[]

LEADER ATTRIBUTES / SKILLS / ACTIONS: First, mark "YES" or "NO" for each block. Second, choose a total of six that best describe the rated officer. Select one from ATTRIBUTES, two from SKILLS (Competence), and three from ACTIONS (Leadership). Place an "X" in the appropriate numbered box with optional comments in PART Vb. Comments are mandatory in Vb for all "No" entries.

ATTRIBUTES (Select 1)

1. MENTAL: Possesses desire, will, initiative, and discipline [X] NO []

2. PHYSICAL: Maintains appropriate level of physical fitness and military bearing [X] NO []

3. EMOTIONAL: Displays self-control; calm under pressure [X] NO []

SKILLS (Competence) (Select 2)

1. CONCEPTUAL: Demonstrates sound judgment, critical/creative thinking, moral reasoning [X] NO []

2. INTERPERSONAL: Shows skill with people; coaching, teaching, counseling, motivating and empowering [X] NO []

3. TECHNICAL: Possesses the necessary expertise to accomplish all tasks and functions [X] NO []

4. TACTICAL: Demonstrates proficiency in required professional knowledge, judgment, and weighting [X] NO []

ACTIONS (LEADERSHIP) (Select 3) Major activities leaders perform: influencing, operating, and improving

1. COMMUNICATING: Displays good oral, written, and listening skills for individuals and groups [X] NO []

2. DECISION-MAKING: Employs sound judgment, logical reasoning and uses resources wisely [X] NO []

3. MOTIVATING: Inspires, motivates, and guides others toward mission accomplishment [X] NO []

4. PLANNING: Develops detailed, executable plans that are feasible, acceptable, and suitable [X] NO []

5. EXECUTING: Shows tactical proficiency, meets mission standards, and takes care of people/resources [X] NO []

6. ASSESSING: Uses after-action and evaluation tools to facilitate consistent improvement [X] NO []

7. DEVELOPING: Invests adequate time and effort to develop individual subordinates as leaders [X] NO []

8. BUILDING: Spends time and resources improving teams, groups and units; fosters ethical climate [X] NO []

9. LEARNING: Seeks self-improvement and organizational growth; envisioning, adapting and leading change [X] NO []

PASS DATE: OCT 2002 HEIGHT: 71 WEIGHT: 237 YES

FOR OFFICER DEVELOPMENT - MANDATORY YES OR NO ENTRY FOR RATERS OF LTs AND WOTE: [X] NO [] NA []

003368

NAME: NILES, GLENN A.		PERIOD COVERED: 20010919 - 20020709	
PART V - PERFORMANCE AND POTENTIAL EVALUATION (Rating)			
a. EVALUATE THE RATED OFFICER'S PERFORMANCE DURING THE RATING PERIOD AND HIS/HER POTENTIAL FOR PROMOTION.			
<input checked="" type="checkbox"/> OUTSTANDING PERFORMANCE, MUST PROMOTE <input type="checkbox"/> SATISFACTORY PERFORMANCE, PROMOTE <input type="checkbox"/> UNSATISFACTORY PERFORMANCE, DO NOT PROMOTE <input type="checkbox"/> OTHER (Specify)			
b. COMMENT ON SPECIFIC ASPECTS OF THE PERFORMANCE AND POTENTIAL FOR PROMOTION. REFER TO PART III OF FORM 87-9 AND PART 4a, b, AND 5-DA FORM 87-9-1.			
2LT Niles performance has been extremely exceptional. As a platoon leader of 32 soldiers platoon, he successfully provided direction and oversight with excellent result. A great leader, he inspired his soldiers to get a first time go during the most recent M4 qualification range. 2LT Niles is an excellent officer with unlimited potential for position of higher responsibilities. 2LT Niles is an aggressive, dedicated, highly motivated and a hard working Platoon Leader who gets the mission accomplished. 2LT Niles coordinated, planned, resourced and executed effective training exercises for his platoon, leading to his platoon's success during the Company EXEVAL. The Observer Controller complemented 2LT Niles for his platoon's performance, and his soldiers level of motivation during the Company EXEVAL. 2LT Niles maintained one hundred percent weapons qualification rate in his platoon, in addition to maintaining complete accountability of his platoon's equipment. He also ensured that his platoon's equipment was always mission capable. He planned and executed M4 qualification ranges. As the unit's NBC Officer and Arms room Officer, he has ensured that all the weapon systems and the NBC equipment are serviceable. Promoted him to First Lieutenant, groom for the Military Police Captain's Career Course and company command.			
c. IDENTIFY ANY TECHNICAL, PROFESSIONAL SKILLS OR AREAS OF EXPERTISE OF VALUE TO THE ARMY THAT THIS OFFICER POSSESSES. FOR ARMY COMPETITIVE CATEGORY (CPT THROUGH LTC) ETC, ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE.			
PART VI - INTERMEDIATE RATER			
PART VII - SENIOR RATER			
a. EVALUATE THE RATED OFFICER'S PROMOTION POTENTIAL TO THE NEXT GRADE.			
<input checked="" type="checkbox"/> BEST QUALIFIED <input type="checkbox"/> FULLY QUALIFIED <input type="checkbox"/> DO NOT PROMOTE <input type="checkbox"/> OTHER (Specify)			
b. POTENTIAL COMPARED WITH OFFICERS SENIOR RATED IN SAME GRADE (COMMENTED BY DA)		c. COMMENT ON PERFORMANCE/POTENTIAL	
1. OODA COMPARISON OF THE SENIOR RATER'S PROFILE AND BOX CHECK AT THE TIME THIS REPORT PROCESSED <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 5px auto;">CENTER OF MASS</div> RO: 2LT NILES GLENN A SR: LTC WARD KENNETH M DATE: 2002 08 15 TOTAL RATINGS: 14 RATINGS THIS OFFICER: 1		2LT Niles performance during this rating period has been nothing short of outstanding. Despite the high OSTEMPO, Glenn Niles has managed to lead, train and care for his soldiers in a totally professional and comprehensive manner. He shored up soldier weaknesses and sustained proficiency through well planned and flawlessly implemented training. He has improved his platoon's morale through leadership and by demonstrating an abiding orientation of care for soldiers. Send to a challenging company command immediately following attendance at the Captains' Career Course. Unlimited potential.	
d. LIST 3 FUTURE ASSIGNMENTS FOR WHICH THIS OFFICER IS BEST QUALIFIED FOR ARMY COMPETITIVE CATEGORY (CPT THROUGH LTC). ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE.			
Company Commander, Battalion Assistant S3, Battalion S1.			

DA FORM 87-9, OCT 97 (Reverse)

USAPA 12201

003367

NILES, GLENN A.

PERIOD COVERED: 020710 - 20030709

PART V - PERFORMANCE AND POTENTIAL EVALUATION (Rater)

a. EVALUATE THE RATED OFFICER'S PERFORMANCE DURING THE RATING PERIOD AND HIS/HER POTENTIAL FOR PROMOTION

OUTSTANDING PERFORMANCE, MUST PROMOTE

SATISFACTORY PERFORMANCE, PROMOTE

UNSATISFACTORY PERFORMANCE, DO NOT PROMOTE

OTHER (Explain)

b. COMMENT ON SPECIFIC ASPECTS OF THE PERFORMANCE AND POTENTIAL FOR PROMOTION. REFER TO PART IV, DA FORM 67-9 AND PART IV, 6, AND c DA FORM 67-9-1.

1LT Niles has aggressively performed his job as a platoon leader and produced good results. Glenn consistently took on every challenge that was set in front of him and accomplished them all with a high degree of success. 1LT Niles is a true motivator of soldiers both by his aggressive nature and rock solid concern for their well-being. Glenn performed such additional duties as the unit supply officer and budget officer. In the performance of these duties he played a critical role in splitting the unit's property book and maintaining accountability of all lateral transfers, additions, orders, and turn-in documents prior to deployment. His platoon spearheaded the units Armored Security Vehicle training which included 3 different training sessions all producing great results. 1LT Niles proved he had a good grasp of the Army training system when he planned and executed a rigorous pre-deployment training cycle that enable his platoon to receive all "T" ratings during their External Evaluation prior to deployment to "Operation Iraqi Freedom". While deployed he successfully planned and conducted over 20 convoy security missions, 7 cordon and searches and performed Maneuver and Mobility Support operations in an area over 100 square kilometers rendering superb results. He also led his platoon through 7 platoon level JUMP TOC operations in less than 40 days. Upon his platoons entry into Baghdad he aggressively took charge of and put into operation 2 Iraqi police stations helping to make the city a more secure place to live.

1LT Niles has unlimited potential. Continue to groom him and upon promotion assign him as the commander of a Corps Support Military Police company

c. IDENTIFY ANY UNIQUE PROFESSIONAL SKILLS OR AREAS OF EXPERTISE OF VALUE TO THE ARMY THAT THIS OFFICER POSSESSES. FOR ARMY COMPETITIVE CATEGORY EPT THROUGH LTC. ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE.

Will serve the Army best in Operational Career Field 31A / MP

PART VI - INTERMEDIATE RATER

PART VII - SENIOR RATER

a. EVALUATE THE RATED OFFICER'S PROMOTION POTENTIAL TO THE NEXT HIGHER GRADE

BEST QUALIFIED

FULLY QUALIFIED

DO NOT PROMOTE

OTHER (Explain below)

I currently serve rate 14 officer(s) in this grade
A completed DA Form 67-9-1 was received with this report and contained in my evaluation and review
 YES NO (Explain in d)

b. POTENTIAL COMPARED WITH OFFICERS REMOVED IN SAME GRADE (OVERPRINTED BY DA)

ABOVE CENTER OF MASS
(Less than 50% in top box; Center of Mass if 50% or more in top box)

CENTER OF MASS

BELOW CENTER OF MASS
RETAIN

BELOW CENTER OF MASS
DO NOT RETAIN

c. COMMENT ON PERFORMANCE/POTENTIAL

1LT Glenn Niles has lead his platoon, under combat conditions, exceptionally well. He has proven himself uniquely competent - both technically and tactically, no doubt the reason his platoon enjoyed enormous success during Operation Iraqi Freedom. Physically and mentally tough, Glenn is absolutely mission oriented and a leader that inspires his troops to perform at their very best. A talented officer who should be promoted to Captain and selected to command a Corps or Division MP Company. Great Potential.

d. LIST 3 FUTURE ASSIGNMENTS FOR WHICH THIS OFFICER IS BEST SUITED. FOR ARMY COMPETITIVE CATEGORY EPT THROUGH LTC. ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE.

Company Command, Asst S-3, Community Provost Marshal

003369



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, 280th PSB

Dear [REDACTED]

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

In or out of the Army, this conviction is going to greatly impede 1LT Niles' future. If the conviction remains on his record, he will likely lose his security clearance. This will prevent him from continuing to serve as a member of the MP Corps. It will also eliminate many other options that he would have within the military. As a civilian, however, this conviction will have even more serious consequences. For instance, 1LT Niles will likely be unable to use his Masters in counseling because he would have a record.

I feel that a criminal conviction is unjust in this case. Of course, 1LT Niles could have pled not guilty and fought this charge. The simple fact is, however, that he did strike the Iraqi prisoners as alleged. He is a man of integrity and could not morally or ethically plead not guilty when he knew he did it. My belief is that 1LT Niles' misconduct should never have been brought to a court martial. My goal is to convince the Commanding General of that with my petition for clemency. 1LT Niles should have been given a reprimand in the beginning; the CG now has the opportunity to correct this and give 1LT Niles a real chance to "soldier back" from this incident and advance.

This is where you can help. RCM 1105 (b)(2)(D) provides that an accused can submit clemency recommendations from any person, including court-martial panel members, and that the defense can ask any person for such a recommendation. That is my purpose for writing you. It is not my intent to pressure you, nor do I desire to get any inside information related to your deliberations. Simply stated, 1LT Niles and I need your help. A letter from you as a panel member that heard all the facts in this case supporting our request will send a strong message that would be helpful in persuading the CG to set aside the conviction.

1LT Niles and I thank you for your consideration of this request. I am available to discuss this matter with you any time if you desire to contact me. I can be reached on [REDACTED] or in the office at [REDACTED]-2191. You can also contact me by email at [REDACTED]@us.army.mil. If you are willing and wish to make a clemency recommendation for 1LT Niles, please let me know and I will coordinate the logistics to make it happen.

Very Respectfully,

[REDACTED]

[REDACTED]
Trial Defense Counsel

CF:
OSJA, 1st Infantry Division

003370



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, Combat Maneuver Training Center

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

In or out of the Army, this conviction is going to greatly impede 1LT Niles' future. If the conviction remains on his record, he will likely lose his security clearance. This will prevent him from continuing to serve as a member of the MP Corps. It will also eliminate many other options that he would have within the military. As a civilian, however, this conviction will have even more serious consequences. For instance, 1LT Niles will likely be unable to use his Masters in counseling because he would have a record.

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1LT Niles and I thank you for your consideration of this request. I am available to discuss this matter with you any time if you desire to contact me. I can be reached on [REDACTED] or in the office at [REDACTED]. You can also contact me by email at [REDACTED]@us.army.mil. If you are willing and wish to make a clemency recommendation for 1LT Niles, please let me know and I will coordinate the logistics to make it happen.

Very Respectfully,

[REDACTED]

[REDACTED]

Trial Defense Counsel

CF:
OSJA, 1st Infantry Division

003371

DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
UNIT 28130
APO AE 09114-8130


AETT-CG

APR 26 2004

MEMORANDUM FOR [REDACTED], U.S. Army Trial Defense Service, Vilseck Branch
Office, APO AE 09114

SUBJECT: Request for Expert Assistance in the Case of United States v. 1LT Glenn A. Niles,
Jr.

Your request for appointment of [REDACTED], Landstuhl
Regional Medical Center, as an expert assistant and member of the defense team in the case of
U.S. v. 1LT Glenn A. Niles, Jr. is approved.


ROBERT M. WILLIAMS
Brigadier General, USA
Commanding

003372



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

REPLY TO
ATTENTION OF:

AETV-BGJA-V-TDS

19 April 2004

MEMORANDUM THRU Staff Judge Advocate, Headquarters, 1st Infantry Division,
APO, AE 09036

FOR Commander, 7th Army Training Command (General Court Martial Convening
Authority), APO, AE 09114

SUBJECT: Request for Expert Assistance – United States v. 1LT Glenn A. Niles, 615th
Military Police Company, APO, AE 09114

1. 1LT Glenn A. Niles, the accused in the above-pending General Court Martial, requests the appointment of [REDACTED], Landstuhl Regional Medical Center, as an expert assistant to the Defense in the above matter. 1LT Niles further requests that [REDACTED] be designated as a member of the Defense team under U.S. v. Toledo, 25 M.J. 270 (C.M.A. 1987).
2. A military accused has, as a matter of Equal Protection and Due Process, a right to expert assistance when necessary to present an adequate defense. U.S. v. Garries, 22 M.J. 288 (C.M.A. 1986); U.S. v. Robinson, 39 M.J. 88 (C.M.A. 1994), citing Britt v. North Carolina, 404 U.S. 226 (1971) and Ake v. Oklahoma, 470 U.S. 68 (1985). "The Equal Protection Clause, the Due Process Clause, and Caldwell v. Mississippi, 470 U.S. 68 (1985); the Code; and the Manual provide that service members are entitled to expert assistance when necessary for an adequate defense. This right extends from the investigative stage through the appellate process." See, U.S. v. Johnson, 39 M.J. 88, 89 (C.M.A. 1994). Failure to employ this expert assistant would effectively deprive 1LT Niles of his ability to present a defense in this case and would deny him a "[m]eaningful access to justice." Ake v. Oklahoma, 470 U.S. 68 (1985).
3. This expert assistance is both relevant and necessary. 1LT Niles is accused of maltreatment of Iraqi prisoners during a brief period in the midst of a highly stressful combat deployment. His mental state at the time of the alleged offenses is critical to determining his degree of culpability. As his defense counsel, my ability to adequately prepare his defense will be compromised without the type of expert assistance requested. Further, the Defense cannot communicate freely with the expert on issues relating to the preparation of 1LT Niles' defense unless he is designated as a member of the Defense team under Toledo.

003373

AETV-BGJA-V-TDS

SUBJECT: Request for Expert Assistance – United States v. ILT Glenn A. Niles, 615th
Military Police Company, APO, AE 09114

4. Thank you for your consideration of this request. POC is the undersigned at [REDACTED]
[REDACTED] 2191 or via email at [REDACTED]@cmtymail.100asg.army.mil.

cc:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

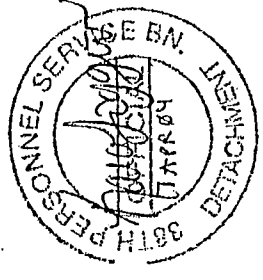
[REDACTED]
[REDACTED]

Trial Defense Counsel

OFFICER RECORD BRIEF

AR600-8-104 CMAAOF-S1

ORB TYPE 2900	BRIEF DATE 20040407	CRFLD DESIGNATION	CRFLD DESIG DATE	CNTL BRANCH BR DTLE/EXPIRES	MP	COMPONENT USAR	AD GRADE - ADOR 1LT/PT 20021*	SSN	NAME NILES GLENN ANTHONY JR	
SECTION I - Assignment Information										
YR/MO RTN	CTRY	MONTH	TCS NUMBER OF TOURS	SHORT	LONG	OVERSEAS DUTY	INVEST	BI	SECTION II - Security Data	
							DTEINV	20040311	DTPSCG	20040330
							CLNC	CLSPD-ACCESS-SUSPD		
SECTION V - Foreign Language										
Language										
Read										
Listen										
SECTION III - Service Data										
BASD										
Current PPN										
U2										
20010510										
Basic Date of Apt										
FY2001										
OCS										
Type of Orig Apt										
USAR										
Date of Proj/Mand Ret										
2LT-WO1										
1LT-CW2										
CPT-CW3										
MAJ-CW4										
PDOR										
20010510										
COL										
BG										
MG										
PDOR										
LTC-CW5										
COL										
BG										
MG										
TDOR										
LTG										
GEN										
SECTION VII - Civilian Education										
LEVEL COMPLETED										
MASTERS										
INSTITUTION MO. WEBSTER UNIV										
MS										
E										
YR										
DISCIPLINE COUNSLNG										
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DISCIPLINE										
SECTION VIII - Awards and Decorations										
NDSM - 1										
ASR - 1										
SECTION IX - Assignment Information										
Date of Availability	FROM	MO	UNIT NO	ORGANIZATION	STATION	LOC	COMD	DUTY TITLE	DMCS	
200410	20010522		0615	MP CO CBT SPT	EAST CAMP GRAFFE	GM	E5	PLATOON LEADER	31A310000	
ASGT										
PROJ										
Current										
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13th Prev										
14th Prev										
15th Prev										
16th Prev										
17th Prev										
18th Prev										
19th Prev										
SECTION X - Remarks										
7 MO PRIOR SERVICE										
DATE LAST PHOTO 200302										



RGMT AFL - MP CORPS

DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
APO AE 09114


AETT-CG

AUG 4 2004

MEMORANDUM FOR First Lieutenant Glenn A. Niles, Jr. [REDACTED] 615th Military Police
Company, 409th Base Support Battalion, APO AE 09114

SUBJECT: Request for Deferment of Forfeitures

Effective today, pursuant to Article 57(a)(2), UCMJ, I defer adjudged forfeitures until such time
as I take action on this case.


ROBERT M. WILLIAMS
Brigadier General, US Army
Commanding

CF: 106th Finance Det.

003376

DEPARTMENT OF THE ARMY REPORT OF RESULT OF TRIAL

For use of this form, see AF 27-10; the proponent agency is OYJAG

TO: Commander
 1st Infantry Division
 Office of the Staff Judge Advocate
 APO AE 09036

M/B

1. Notification under R.C.M. 1101 and AR 27-10, paragraph 5-30 is hereby given in the case of the United States v. First Lieutenant Glenn A. Niles, Junior, 615th Military Police Company, APO AE 09114.

2. Trial by General Court-Martial on 01 July 2004, at Rose Barracks Court Room, Vilseck, Germany convened by Court-Martial Convening Order Number 1, Headquarters, 1st Infantry Division, APO AE 09036.

3. Summary of offenses, pleas and findings:


CH	ART UCMJ	SPEC	BRIEF DESCRIPTION OF OFFENSE(S)	PLEA	FINDING
I	93	1	In that 1LT NILES, at or near Al Taji Police Station, Baghdad, Iraq, on or about 30JUL03, were cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist.	NG	NG
		2	In that 1LT NILES, at or near Al Taji Police Station, Baghdad, Iraq, on or about 30JUL03, were cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist.	NG	NG
		3	In that 1LT NILES, at or near Al Taji Police Station, Baghdad, Iraq, on or about 30JUL03, were cruel toward and did maltreat [REDACTED], a person subject to his orders, by kicking him in the shoulder.	NG	NG
II	133	The	In that 1LT NILES, did, at or near Al Taji Police Station, Baghdad, Iraq, on or about 30JUL03, while a platoon leader in the 615th MP Co., and in the presence of [REDACTED], [REDACTED], wrongfully and dishonorably grab [REDACTED] by the neck and strike him in the stomach with a closed fist, wrongfully and dishonorably strike [REDACTED] in the stomach with a closed fist, and while being detained by [REDACTED] wrongfully and dishonorably kick [REDACTED] in the shoulder, all to the disgrace of the Officer's Corps, and the Armed Forces.	G	G

033378

CONTINUATION SHEET OF DA Form 4430, SEP 2002, Pertaining to U.S. v First Lieutenant Glenn A. Niles Junior, 615th Military Police Company, APO AE 09114

4. SENTENCE: To be reprimanded and to forfeit \$1003.00 pay per month for 12 months.
5. Date sentence adjudged and effective date of any forfeiture or reduction in grade (YYYYMMDD): 20040701 (See UCMJ Articles 57-58b and R.C.M. 1101.)
6. Contents of pretrial agreement concerning sentence, if any: The accused offer to plead guilty to the Charges and Specifications as stated in the Offer to Plead Guilty, and offer to abide by the other terms and conditions set forth in the Offer to Plead Guilty, provided the Convening Authority agrees to disapprove any confinement adjudged in excess of 45 days.
7. Number of days of presentence confinement, if any: None
8. Number of days of judge-order administrative credit for presentence confinement or restriction found tantamount to confinement, if any: None
9. Total pre-sentence confinement credit toward post-trial confinement: None
10. Names(s) and SSN(s) of companion accused or co-accused if any: None
11. DNA processing IAW 10 U.S.C. 1565 *is not* required.
12. Conviction(s) *does not* require sex offender registration IAW 42 U.S.C. 14071.

CF:
Cdr. 615th MP Co.
Cdr, Det B, 106th Finance
Trial Counsel
Defense Counsel


Trial Counsel

DA FORM 4430, SEP 2002

DA FORM 4430-R, MAY 87, IS OBSOLETE

003379



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilsack Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, 11th Aviation Regiment

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

In or out of the Army, this conviction is going to greatly impede 1LT Niles' future. If the conviction remains on his record, he will likely lose his security clearance. This will prevent him from continuing to serve as a member of the MP Corps. It will also eliminate many other options that he would have within the military. As a civilian, however, this conviction will have even more serious consequences. For instance, 1LT Niles will likely be unable to use his Masters in counseling because he would have a record.

I feel that a criminal conviction is unjust in this case. Of course, 1LT Niles could have pled not guilty and fought this charge. The simple fact is, however, that he did strike the Iraqi prisoners as alleged. He is a man of integrity and could not morally or ethically plead not guilty when he knew he did it. My belief is that 1LT Niles' misconduct should never have been brought to a court martial. My goal is to convince the Commanding General of that with my petition for clemency. 1LT Niles should have been given a reprimand in the beginning; the CG now has the opportunity to correct this and give 1LT Niles a real chance to "soldier back" from this incident and advance.

This is where you can help. RCM 1105 (b)(2)(D) provides that an accused can submit clemency recommendations from any person, including court-martial panel members, and that the defense can ask any person for such a recommendation. That is my purpose for writing you. It is not my intent to pressure you, nor do I desire to get any inside information related to your deliberations. Simply stated, 1LT Niles and I need your help. A letter from you as a panel member that heard all the facts in this case supporting our request will send a strong message that would be helpful in persuading the CG to set aside the conviction.

1LT Niles and I thank you for your consideration of this request. I am available to discuss this matter with you any time if you desire to contact me. I can be reached on [REDACTED] or in the office at [REDACTED]-2191. You can also contact me by email at [REDACTED]@us.army.mil. If you are willing and wish to make a clemency recommendation for 1LT Niles, please let me know and I will coordinate the logistics to make it happen.

Very Respectfully,

[REDACTED]

[REDACTED]
Trial Defense Counsel

CF:
OSJA, 1st Infantry Division

003380



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, Combat Maneuver Training Center

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

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Very Respectfully,

[REDACTED]

[REDACTED]
Trial Defense Counsel

CF:
OSJA, 1st Infantry Division

003381



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, 7th Army Training Command

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of ILT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, ILT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

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CF:
OSJA, 1st Infantry Division

[REDACTED],
[REDACTED]
[REDACTED]
[REDACTED]
Trial Defense Counsel

003382



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, 98th ASG

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

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Very Respectfully,

[REDACTED]

[REDACTED]
[REDACTED]
Trial Defense Counsel

CF:
OSJA, 1st Infantry Division

003383



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, 98th ASG

Dear [REDACTED]:

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This is where you can help. RCM 1105 (b)(2)(D) provides that an accused can submit clemency recommendations from any person, including court-martial panel members, and that the defense can ask any person for such a recommendation. That is my purpose for writing you. It is not my intent to pressure you, nor do I desire to get any inside information related to your deliberations. Simply stated, 1LT Niles and I need your help. A letter from you as a panel member that heard all the facts in this case supporting our request will send a strong message that would be helpful in persuading the CG to set aside the conviction.

1LT Niles and I thank you for your consideration of this request. I am available to discuss this matter with you any time if you desire to contact me. I can be reached on my [REDACTED] or in the office at [REDACTED] 2191. You can also contact me by email at [REDACTED]@us.army.mil. If you are willing and wish to make a clemency recommendation for 1LT Niles, please let me know and I will coordinate the logistics to make it happen.

Very Respectfully,

[REDACTED]

[REDACTED]
[REDACTED]
Trial Defense Counsel

CF:
OSJA, 1st Infantry Division

003384



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
U.S. Army Medical Activity

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

In or out of the Army, this conviction is going to greatly impede 1LT Niles' future. If the conviction remains on his record, he will likely lose his security clearance. This will prevent him from continuing to serve as a member of the MP Corps. It will also eliminate many other options that he would have within the military. As a civilian, however, this conviction will have even more serious consequences. For instance, 1LT Niles will likely be unable to use his Masters in counseling because he would have a record.

I feel that a criminal conviction is unjust in this case. Of course, 1LT Niles could have pled not guilty and fought this charge. The simple fact is, however, that he did strike the Iraqi prisoners as alleged. He is a man of integrity and could not morally or ethically plead not guilty when he knew he did it. My belief is that 1LT Niles' misconduct should never have been brought to a court martial. My goal is to convince the Commanding General of that with my petition for clemency. 1LT Niles should have been given a reprimand in the beginning; the CG now has the opportunity to correct this and give 1LT Niles a real chance to "soldier back" from this incident and advance.

This is where you can help. RCM 1105 (b)(2)(D) provides that an accused can submit clemency recommendations from any person, including court-martial panel members, and that the defense can ask any person for such a recommendation. That is my purpose for writing you. It is not my intent to pressure you, nor do I desire to get any inside information related to your deliberations. Simply stated, 1LT Niles and I need your help. A letter from you as a panel member that heard all the facts in this case supporting our request will send a strong message that would be helpful in persuading the CG to set aside the conviction.

1LT Niles and I thank you for your consideration of this request. I am available to discuss this matter with you any time if you desire to contact me. I can be reached on my [REDACTED] or in the office at [REDACTED] 2191. You can also contact me by email at [REDACTED]@us.army.mil. If you are willing and wish to make a clemency recommendation for 1LT Niles, please let me know and I will coordinate the logistics to make it happen.

Very Respectfully,

[REDACTED]

[REDACTED]
[REDACTED]
Trial Defense Counsel

CF:
OSJA, 1st Infantry Division

003385

RECORD OF PROCEEDINGS

003386

DEPARTMENT OF THE ARMY
Headquarters, Seventh Army Training Command
Office of the Staff Judge Advocate
APO Army Europe 09036

AETV-BGJA-CLD

MEMORANDUM FOR Record of Trial

SUBJECT: Receipt for Staff Judge Advocates Recommendation and Record of Trial

1. Enclosed is a copy of the Staff Judge Advocate's Recommendation and Record of Trial in your case. Please sign and date the acknowledgement below and fax receipt to our office at [REDACTED] 6757.
2. 1105 matters are due to this office ten calendar days from the date this receipt of service is delivered to your defense counsel.

[REDACTED]

25 Jan 05

NCOIC, Military Justice

I hereby acknowledge receipt of the above documents on

Glenn A. Niles, Jr.
28 Jan 05

GLENN A. NILES, JR.
1LT, USA

003387

DEPARTMENT OF THE ARMY
Seventh Army Training Command
Office of the Staff Judge Advocate
APO Army Europe 09036

AETV-BGJA

MEMORANDUM FOR Record

SUBJECT: Receipt for Staff Judge Advocate's Recommendation

1. Enclosed is a copy of the Staff Judge Advocate Post Trial Recommendation and Record of Trial in the General Court-Martial of U.S. v. 1LT Glenn A. Niles, Jr..
2. Please sign and date the acknowledgment and fax the receipt to our office at [REDACTED]-6757.

Encls
as

[REDACTED]
NCOIC, Military Justice

25 Jan 05

I hereby acknowledge receipt of the above named documents on 27 Jan 2005

[REDACTED]
[REDACTED]
[REDACTED]
Defense Counsel

003388

ERRATA SHEET (Fassler)

CASE NAME: U.S. V. Niles, Glenn A. Jr.		UNIT: 615th MP Company	TYPE: GCM	DATES: 9 Jun and 1 Jul 04
TC: [REDACTED]	DC: [REDACTED]	MJ:		MJ: NA
To TC: 22 Oct 04	To DC: 22 Oct 04	To MJ:		To 2nd MJ: NA
Returned: 12 Dec 04	Returned:	Returned:		Authenticated:

CORRECTIONS:

Page	Line	Change From:	Change To:	Remarks:
58	13	[REDACTED]	[REDACTED]	N/A
63	6	You	Your	N/A
208	13	egine	equal	N/A
209	13	plague	play	N/A
209	17	plague	play	N/A
<div style="position: relative; width: 100%; height: 100%;"> <div style="position: absolute; top: 0; left: 0; right: 0; bottom: 0; border: 1px solid black; transform: rotate(-45deg); opacity: 0.5;"></div> <div style="position: absolute; top: 10%; left: 20%; transform: rotate(-45deg); font-size: 2em; font-weight: bold;">No other changes</div> </div>				

Page: 1 of 1 Reviewers Initials: [REDACTED]

003392

ERRATA SHEET (Fassler)

CASE NAME: U.S. V. Niles, Glenn A. Jr.		UNIT: 615th MP Company	TYPE: GCM	DATES: 9 Jun and 1 Jul 04
TC: [REDACTED]	DC: [REDACTED]	MJ: [REDACTED]		MJ: NA
To TC: 22 Oct 04	To DC: 22 Oct 04	To MJ:		To 2nd MJ: NA
Returned:	Returned:	Returned:		Authenticated:

CORRECTIONS:

Page	Line	Change From:	Change To:	Remarks:
5	17	[REDACTED]	[REDACTED]	
26	18	there	they	
93	14	negative	positive	Answer was to the previous question – Can they all see?
101	18	Go on	Going	
130	19	X-Eval	Ex-Eval	Reference to an "Exercise Evaluation"
148	18	your.	you.	
202	6	unauthorized	authorized	
208	13	equine	akin	
209	13, 17	plague	play	
212	20	"what do they?"	"what do they do?"	
217	23	mixed	middle	
219	13	relieve for cause	"Relief-for-Cause"	
220	21	tracked	tragic	
222	13	will not describe,	will describe,	
<div style="display: flex; justify-content: center; align-items: center;"> 30/000/04 </div>				

RECORD OF TRIAL

Of

NILES, Glenn A. Jr.
(Name: Last, First, Middle Initial)

(Social Security Number)

First Lieutenant
(Rank)

615th MP Co
(Unit/Command Name)

U.S. Army
(Branch of Service)

APO AE 09114
(Station or Ship)

BY

GENERAL

COURT-MARTIAL

Convened by COMMANDER

(Title of Convening Authority)

Headquarters, 7th Army Training Command
(Unit/Command of Convening Authority)

Tried at

Wuerzburg and Vilseck, Germany

ON

9 Jun and 1 Jul 04

(Place or Places of Trial)

(Date or Dates of Trial)

INDEX	RECORD
Article 39(a) Sessions:	
On 9 Jun 04	R- 1
On 1 Jul 04	R- 14, 81, 157, 205, 232, 239, 243
Introduction of Counsel	R- 2, 4
Challenges	--
Arraignment	R- 7
Motions	--
Pleas	R- 15
Prosecution evidence	R- 18
Defense evidence	--
Instructions on findings	--
Findings	R- 48
Prosecution evidence	R- 92
Defense evidence	R- 93
Sentence	R- 241
Appellate rights advisement	R- 244
Proceedings in revision	--

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TESTIMONY

Name of Witness (Last, First, Middle Initial)	Direct and Redirect	Cross and Recross	Court
Prosecution N/A			
Defense			
[REDACTED]	92, 110	102	--
[REDACTED]	112, 116	115	--
[REDACTED]	118	123	127
[REDACTED]	128, 134	133, 135	--
[REDACTED]	137, 146	144, 147	--
[REDACTED]	148, 154	152	
[REDACTED]	162, 186	174, 182	178
[REDACTED]	187	189	--
[REDACTED]	190	193	--
[REDACTED]	195	--	--
Accused Unsworn	203	--	--
Court N/A			

EXHIBITS ADMITTED IN EVIDENCE

Number or Letter	Description	Page Where -	
		Offered	Admitted
PE 1	Stipulation of Fact	18	21
PE 2	Accused's ORB	55	55
PE 3	Accused's OER	55	55
DE A	Good soldier book	55	56
DE B	Audiocassette tape of Accused's unsworn at 32 hearing	157	158
DE C	Letter from [REDACTED]	158	159
AE I	OTP with Quantum	35	--
AE II	Notice of Forum and Plea	15	--
AE III	Flyer	53	--
AE IV	Sentencing worksheet	53	--
AE V	Question [REDACTED]	127	--
AE VI	Question [REDACTED]	178	--
AE VII	Question [REDACTED]	178	--
AE VIII	Question [REDACTED]	180	--
AE VIX	Post trial and appellate rights	244	--

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COPIES OF RECORD 1

_____ copy of record furnished the accused or defense counsel as per attached certificate or receipt.

_____ copy(ies) of record forwarded herewith.

RECEIPT FOR COPY OF RECORD 2

I hereby acknowledge receipt of a copy of the record of trial in the case of Unites States v. _____,

Delivered to me at _____ this _____ day of _____, 20____,

(Signature of accused)

I hereby acknowledge receipt of a copy of the record of trial in the case of Unites States v. _____,

Delivered to me at _____ this _____ day of _____, 20____,

(Signature of accused)

1 For instructions as to preparation of copies of record, see back cover or appendices 13 and 14, MCM, 2000.

2 If copy of record prepared for accused contains matters requiring security protection, see RCM 1104(b)(1)(D), MCM 2000

DD Form 490, Oct 84, Page 2

003395

PROCEEDINGS OF A GENERAL COURT-MARTIAL

1
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11

The military judge called the Article 39(a) session to order at 1215, 9 June 2004, at Leighton Barracks, Wuerzburg, Germany, pursuant to the following orders:
Court-Martial Convening Order Number 1, Headquarters, Seventh Army Training Command, APO Army Europe, dated 25 February 2004, as amended by Court-Martial Convening Order Number 8, same headquarters, dated 23 June 2004.

[END OF PAGE]

There were no Court-Martial Convening Orders for the year 2003.

CORRECTED COPY

**DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
UNIT 28130
APO AE 09114-8130**

**COURT-MARTIAL CONVENING ORDER
NUMBER 1**

25 February 2004

A general court-martial is convened with the following members:

[REDACTED], HHC, 11th Avn Regt
[REDACTED], Spt Co, 7th Army CATC
[REDACTED], 6-52 ADA
[REDACTED], 7th ATC
[REDACTED], HHC, 98th ASG
[REDACTED], Rear Det, 280th PSB
[REDACTED], HHC, 12th Avn Bde
[REDACTED], CMTC
[REDACTED], HHC, 98th ASG
[REDACTED], Co B, 17th Sig Bn
[REDACTED], HHB, 1-6 FA
[REDACTED], HHC, 100th ASG

If the accused submits a request pursuant to Article 25(c), UCMJ, that enlisted members serve on the court-martial, the above named officer members not named below are excused, and the members will be as follows:

[REDACTED], HHC, 11th Avn Regt
[REDACTED], Spt Co, 7th Army CATC
[REDACTED], HB, 6-52 ADA
[REDACTED], HHC, 7th ATC
[REDACTED], HHC, 98th ASG
[REDACTED], HHC, CMTC
[REDACTED], HHC, 11th Avn Regt
[REDACTED], HHC, 1-63 AR
[REDACTED], 7th ATC NCO ACADEMY
[REDACTED], Spt Co, 7th Army CATC
[REDACTED], HHC, 100th ASG
[REDACTED], HHC, 100th ASG

BY COMMAND OF BRIGADIER GENERAL WILLIAMS:

DISTRIBUTION:

Each Individual Concerned (1)
CDR, 7th ATC, ATTN: AETV-BGJA-CLD (1)
Record of Trial (1)
Reference Set (1)
Reference Set (1)

[REDACTED]
[REDACTED]
[REDACTED]
Chief, Military Justice

003397

DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
UNIT 28130
APO AE 09114-8130

COURT-MARTIAL CONVENING ORDER
NUMBER 8

23 June 2004

The following members are detailed to the general court-martial convened by Court-Martial Convening Order Number 1, same headquarters, dated 25 February 2004:

[REDACTED], 7th ATC
[REDACTED], HHC, CMTC
[REDACTED], HHC, 7th CSG
[REDACTED], CMTC

VICE:

[REDACTED], HHC, 12th Avn Bde
[REDACTED], HHC, CMTC
[REDACTED], HHC, 1-6 FA
[REDACTED], HHC, 100th ASG

For the trial of United States v. 1LT Glenn A. Niles, Jr., 615th Military Police Company, APO AE 09114.

BY COMMAND OF BRIGADIER GENERAL WILLIAMS:

[REDACTED SIGNATURE]

Chief, Military Justice

DISTRIBUTION:

Each Individual Concerned (1)
Record of Trial (1)
Record Set (1)
Reference Set (1)

003398

1 MJ: Please be seated. This Article 39(a) session is called to
2 order.

3 TC: This court-martial is convened by Court-Martial Convening
4 Order Number 1, Headquarters, Seventh Army Training Command, dated 25
5 February 2004, copies of which have been furnished to the military
6 judge, counsel, and the accused and which will be inserted at this
7 point in the record.

8 The charges have been properly referred to this court for
9 trial and were served on the accused on 2 June 2004.

10 The prosecution is ready to proceed with the arraignment in
11 this case of United States versus First Lieutenant Glenn A Niles.

12 The accused and the following persons detailed to this
13 court are present:

14 [REDACTED], MILITARY JUDGE;

15 [REDACTED], TRIAL COUNSEL;

16 [REDACTED], ASSISTANT TRIAL COUNSEL; and

17 [REDACTED], DEFENSE COUNSEL.

18 The members are absent.

19 [REDACTED] has been detailed as the reporter for
20 this court and has previously been sworn.

21 All members of the prosecution have been detailed to this
22 court-martial by the acting staff judge advocate [REDACTED].

23 All members of the prosecution are qualified and certified under

1 Article 27(bravo) and sworn under Article 42(alpha), Uniform Code of
2 Military Justice. No member of the prosecution has acted in any
3 manner that might tend to disqualify us in this court-martial.

4 MJ: Thank you.

5 Good afternoon, Lieutenant Niles.

6 ACC: Good afternoon.

7 MJ: You are represented, currently, by [REDACTED]. He is
8 your detailed military defense counsel, and he is provided to
9 represent you free of charge at this court-martial. You also have
10 the right to request a different military lawyer to represent you,
11 and if that person were reasonably available, then he or she would be
12 also detailed to your case to represent you free of charge. If your
13 request for another military lawyer were granted, however, you would
14 not normally have the right to keep the services of [REDACTED]
15 because you're normally entitled to only one military lawyer. You
16 could ask [REDACTED] boss to allow you to keep him on the case
17 with the other military lawyer, but your request would not have to be
18 granted.

19 In addition, you, of course, have the right to hire a
20 civilian attorney. A civilian lawyer would have to be provided by
21 you at no expense to the government. If you were represented by a
22 civilian lawyer, you could keep [REDACTED] on your case to assist

1 your civilian lawyer, or you could release [REDACTED] and be
2 represented solely by your civilian attorney.

3 Those are basically your rights to counsel. Do you
4 understand all of those?

5 ACC: Yes, Your Honor.

6 MJ: Do you have any questions about them?

7 ACC: Not at this time, Your Honor.

8 MJ: By whom do you wish to be represented?

9 ACC: By [REDACTED] at this time, Your Honor.

10 MJ: By [REDACTED] alone then?

11 ACC: At this time, Your Honor.

12 MJ: All right.

13 [REDACTED], please indicate your detailing and
14 qualifications for the record.

15 DC: Yes, Ma'am.

16 I've been detailed to this court-martial by [REDACTED]
17 [REDACTED] the senior defense counsel. I am qualified and certified
18 under Article 27(bravo), sworn under Article 42(alpha) of the Uniform
19 Code of Military Justice. I have not acted in any manner, which
20 might tend to disqualify me from this court-martial.

21 MJ: Thank you, and let me just tell you, Lieutenant Niles,
22 given those rights that I've just told you, if you do choose to
23 request another individual military counsel or to hire a civilian

1 attorney, then just please notify the court at some point so that I
2 can understand who will be at the court-martial. All right?

3 ACC: Yes, Your Honor.

4 MJ: Thanks.

5 All right, I too have been properly certified, sworn, and
6 detailed to this court-martial. Counsel for both sides appear to
7 have the requisite qualifications and all personnel required to be
8 sworn have been sworn.

9 Trial Counsel, please announce the general nature of the
10 charges in this case.

11 TC: Your Honor, the general nature of the charges in this case
12 are one charge and three specifications of a violation of Article 93
13 for cruelty and maltreatment; one charge and one specification of a
14 violation of Article 133, conduct unbecoming an officer and a
15 gentlemen. The charges were preferred by [REDACTED]
16 [REDACTED] forwarded with recommendations as to disposition by [REDACTED]
17 [REDACTED], and investigated by [REDACTED]
18 [REDACTED].

19 MJ: So there was an Article 32 investigation held in this case?

20 TC: Yes, Your Honor.

21 MJ: All right, I'm not aware of any matter that may be a ground
22 for challenge against me. Does either side desire either to question
23 me or challenge me?

1 TC: No, Ma'am.

2 DC: No, Ma'am.

3 MJ: All right. What I want to do now, Lieutenant Niles, is go
4 over with you your rights as to how you can be tried at this court-
5 martial. You have the right to be tried by a court consisting of at
6 least five officer members. None of those officers would come from
7 your company and none of them would be junior in rank to you.

8 Do you understand what I've said?

9 ACC: Yes, Your Honor.

10 MJ: All right. If you were tried by a court with members, the
11 members will vote by secret written ballot and two-thirds of the
12 members must agree before you could be found guilty of any offense.
13 If you were found guilty, -then two-thirds must also agree in voting
14 on a sentence, and if that sentence included confinement for more
15 than 10 years, then three-fourths would have to agree.

16 You also have the right to request a trial by military
17 judge alone, and if approved, there will be no court members and the
18 judge alone will decide whether you are guilty or not guilty, and if
19 you are found guilty, the judge alone will determine your sentence.

20 Do you understand the difference between trial before
21 members and trial before a military judge alone?

22 ACC: Yes, Your Honor.

1 MJ: ██████████, are you prepared to enter a choice of forum
2 today?

3 DC: No, Your Honor, we ask that we be allowed to defer that
4 until a later date.

5 MJ: All right, your request to defer choice of forum is
6 granted. What that means, Lieutenant Niles, is I'll allow you to
7 continue to talk with your counsel, but at sometime prior to the date
8 that we set for trial, I'll expect that your counsel will notify the
9 court and the government of your choice as to how you want to be
10 tried. All right?

11 ACC: Yes, Your Honor.

12 MJ: The accused will now be arraigned.

13 TC: All parties to the trial have been furnished with a copy of
14 the charges. Does the accused want them read?

15 DC: Your Honor, the accused waives reading of the charges.

16 MJ: The reading may be omitted.

17 **[THE CHARGE SHEET FOLLOWS AND IS NOT A NUMBERED PAGE.]**

18 **[END OF PAGE]**

19

I. PERSONAL DATA			
1. NAME OF ACCUSED (Last, First, MI) NILES, Glenn A., Jr.		2. SSN	3. GRADE OR RANK ILT
5. UNIT OR ORGANIZATION 615th Military Police Company, APO AE 09302		4. PAY GRADE O-2	
		6. CURRENT SERVICE	
		a. INITIAL DATE 10 May 01	b. TERM 4 yrs
7. PAY PER MONTH		8. NATURE OF RESTRAINT OF ACCUSED	
a. BASIC	b. SEA/FOREIGN DUTY	9. DATE(S) IMPOSED	
\$ 3421.30	\$ 225	N/A	
c. TOTAL \$ 3421.30		N/A	

25 MAY 04 2064 3421.30

09114 dmc 25 MAY 04

2009 dmc 25 MAY 04

II. CHARGES AND SPECIFICATIONS	
10. CHARGE I: VIOLATION OF THE UCMJ, ARTICLE 93	
<p>SPECIFICATION 1: In that 1LT Glenn A. Niles, Jr., U.S. Army, at or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist.</p> <p>SPECIFICATION 2: In that 1LT Glenn A. Niles, Jr., U.S. Army, at or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist.</p> <p>SPECIFICATION 3: In that 1LT Glenn A. Niles, Jr., U.S. Army, at or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by kicking him in the shoulder.</p>	
CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 133	
<p>THE SPECIFICATION: In that 1LT Glenn A. Niles, Jr., U.S. Army, did, at or near Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, while a platoon leader in the 615th Military Police Company, and in the presence of [REDACTED], [REDACTED], and [REDACTED], wrongfully and dishonorably grab [REDACTED] by the neck and strike him in the stomach with a closed fist, wrongfully and dishonorably strike [REDACTED] in the stomach with a closed fist, and while being detained by [REDACTED], wrongfully and dishonorably kick [REDACTED] in the shoulder, all to the disgrace of the Officer's Corps, and the Armed Forces.</p>	

III. PREFERRAL		
11a. NAME OF ACCUSER (Last, First, MI) [REDACTED]	b. GRADE [REDACTED]	c. ORGANIZATION OF ACCUSER 615th Military Police Company
d. SIGNATURE OF ACCUSER [REDACTED]		e. DATE 30 SEP 03

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 30th day of September, 2003, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[REDACTED] <i>Typed Name of Officer</i>	18th Military Police Brigade <i>Organization of Officer</i>
[REDACTED] <i>Grade</i>	Article 136(a), UCMJ - Trial Counsel <i>Official Capacity to Administer Oath</i> <i>(See R.C.M. 307(b) - must be a commissioned officer)</i>
[REDACTED] <i>Signature</i>	

003405

12.

On 30 September, 2003, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

[Redacted]
Typed Name of Immediate Commander

615th Military Police Company
Organization of Immediate Commander

[Redacted]
Grade
[Redacted]
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1245 hours, 30 September, 2003 at

Warrior Palace, 709th Military
Designation of Command or

Police Battalion, Baghdad, Iraq, APO AE 09302
Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE: 1

[Redacted]
Typed Name of Officer

Battalion Commander
Official Capacity of Officer Signing

[Redacted]
Grade
[Redacted]
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY
Headquarters, 7th Army Training Command

b. PLACE
Grafenwoehr, Germany

c. DATE
2 June 2004

Referred for trial to the General court-martial convened by Court-Martial Convening Order Number 1

dated 25 February 20 04, subject to the following instructions: 2 none

By COMMAND of BRIGADIER GENERAL ROBERT M. WILLIAMS:
Command or Order

[Redacted]
Typed Name of Officer

Chief, Military Justice
Official Capacity of Officer Signing

[Redacted]
Grade
[Redacted]
Signature

15.

On 2 JUNE, 20 2004, I (caused to be) served a copy hereof on (each of) the above named accused.

[Redacted]
Typed Name of Trial Counsel
[Redacted]
Signature

[Redacted]
Grade or Rank of Trial Counsel

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

003406

1 TC: The charges are signed by [REDACTED] a
2 person subject to the Code as accuser and are properly sworn to
3 before a commissioned officer of the armed forces authorized to
4 administer oaths and are properly referred to this court-martial by--
5 for trial by Brigadier General Robert Williams, the convening
6 authority.

7 MJ: Very well. Before I ask for motions and plea, let me put
8 on the record the substance of an 802 held in chambers just a few
9 minutes ago. Present were all three counsel and myself.

10 We discussed potential trial dates in this case, and I was
11 told by the defense that they intend, today, to file a speedy trial
12 motion.

13 DC: That's correct, Your Honor.

14 MJ: Right, and government and defense know my policy on a
15 speedy trial motion is to hold a hearing as quickly as possible since
16 we don't want the court to be responsible for the delay. Given that,
17 I will be on leave starting Monday, therefore, the judge that will
18 hear the speedy trial motion will be [REDACTED].
19 She will hear your speedy trial motion on Monday at 1000 hours in
20 Vilseck.

21 We also discussed setting a potential trial date in the
22 event that that motion is denied, and agreed on 1 July as the trial
23 date. Given that [REDACTED] will be the judge for purposes of

1 the pretrial motion, she will also be the judge for trial on the 1st
2 of July.

3 I was told by counsel that the three Iraqis are not likely
4 to be produced for trial, but that the government hopes to prove the
5 case with other eyewitnesses, and I was told by both counsel that
6 there is an issue with regard to multiplicity given United States
7 versus Cherukuri in that either the Charge I specifications will
8 merge into the 133 offense or vice versa.

9 That's all my notes show as to what we discussed. Do
10 counsel have anything to add?

11 TC: Just one point, Your Honor. We are still looking for the
12 three Iraqi alleged victims of this crime. I just--most likely they
13 will not be found, but we are still making attempts to locate them.

14 MJ: Got it.

15 DC: Nothing to add, Your Honor, based on your synopsis.

16 MJ: All right.

17 Lieutenant Niles, Counsel, please rise.

18 [The accused and his counsel did as directed.]

19 MJ: First Lieutenant Glenn A. Niles, Jr., how do you plead?
20 Before receiving your plea, I advise you that any motions to dismiss
21 or to grant any other appropriate relief should be made at this time.
22 Your defense counsel will speak for you.

1 DC: Thank you, Your Honor. We've already discussed the issue
2 with the motion we plan to present later on this afternoon, and we
3 ask that we be allowed to defer entrance of pleas until a later date
4 as well.

5 MJ: Very well. Please be seated.

6 [The accused and his counsel did as directed.]

7 MJ: Your request is granted. So the way I see it, there are
8 two potential motions. Certainly there will be a speedy trial motion
9 litigated on Monday, but there may also be a multiplicity argument if
10 you and the government cannot agree on action, correct?

11 DC: That's correct, Your Honor.

12 MJ: All right, so those are the two dates you all are working
13 with, 14 June, Monday, in Vilseck beginning at 1000 will be the
14 speedy trial motion. Defense I'll hold you to your word to get it
15 to--to get the motion to--better get it to me and Colonel Browne
16 tonight.

17 DC: Yes, Ma'am.

18 MJ: Government, get your response as quickly as possible. I
19 know she'll be in over the weekend, so even if it's Saturday get it
20 to her, okay?

21 TC: Yes, Ma'am.

22 DC: And I'll file that electronically, Your Honor, is that the
23 best way?

1 MJ: Yes, and include with it, please, a time line.
2 DC: Yes, Ma'am.
3 MJ: All right?
4 DC: Absolutely.
5 MJ: And then on the 1st of July, we're setting it for 0900
6 given that I think I was told by counsel that it may be a panel case,
7 so go ahead and start early in the morning. All right?
8 DC: Yes, Your Honor.
9 TC: Yes, Ma'am.
10 MJ: All right.
11 All right, Lieutenant Niles, what we've done here today is
12 called an arraignment, that's the legal term for the first pretrial
13 session of any court-martial. As the accused in a court-martial, you
14 have an absolute right to be present at every session of your court
15 and that's whether it's a pretrial session, like we held this
16 morning, or the trial itself, which we've set for the 1st of July or
17 even any post trial sessions. The one exception to your right to be
18 present is if you were to absent yourself without leave, that is, go
19 AWOL between now and the dates that we've set for trial, then the
20 government could go ahead and opt to try the case even though you are
21 absent. That'd be a very bad situation for Captain Stelle. He'd be
22 defending an empty chair. I would enter a plea of not guilty for you

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PAGE

003411

REDACTED
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003412

COURT-MARTIAL RECORD

NAME NILES, GLENN A., JR. ILT

SSN _____

ACTIONS CODED:
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ACCA _____
FINAL _____

ASSIGNED TO:
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ARMY 20040683

20040683

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VOL II of II
ORIGINAL COPY

VERBATIM¹
RECORD OF TRIAL²
(and accompanying papers)

OF

NILES, Glenn A., Jr.
(NAME: Last, First Middle Initial)

(Social Security Number)

First Lieutenant
(Rank)

615th Military
Police Company
(unit/Command Name)

US Army
(Branch of Service)

APO AE 09114
(Station or Ship)

BY

GENERAL COURT-MARTIAL

CONVENED BY COMMANDING GENERAL
(Title of Convening Authority)

Headquarters, Seventh Army Training Comand
(Unit/Command of Convening Authority)

TRIED AT

Wuerzburg and Vilseck, Germany
(Place or Places of Trial)

ON

9 Jun and 1 Jul 04
(Date or Dates of Trial)

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¹ Insert "verbatim" or summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records only.)

² See inside back cover for instructions as to preparation and arrangement.

DD FORM 490, MAY 2000

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FRONT COVER

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1 to all the charges and specifications, and we would hold a trial even
2 in your absence.

3 Do you understand all that?

4 ACC: Yes, Your Honor.

5 MJ: All right. I don't expect that you're going to go AWOL, in
6 fact, quite the contrary. I tell that to everyone who has been
7 arraigned because I want you to understand that you're kind of in the
8 final stretch now. It's critical that you stay in close contact with
9 Captain Stelle between now and the date we set for trial so that you
10 can be here to assist in your defense. All right?

11 ACC: Yes, Your Honor.

12 MJ: Now, I note from the charge sheet that Lieutenant Niles is
13 not under any form of restraint. Is that right, Captain Stelle?

14 DC: That's correct, Your Honor.

15 MJ: All right. Is there anything else we can take up here
16 today?

17 TC: Your Honor, just the--I understand we've handled the
18 motions part, but the date plea and forum will be due?

19 MJ: Oh okay. Let's figure that out. All right, if your
20 hearing is on the 14th of June, she's in trial the next 2 days. I
21 expect you'll have an answer at least by the 17th, so let's make
22 close of business Friday the 18th when plea and forum can be given.
23 All right?

1 DC: Yes, Your Honor.

2 TC: Yes, Ma'am.

3 MJ: Clearly though, that is already within the 2 week window,
4 Captain [REDACTED], so to the extent that there are any overseas
5 witnesses that [REDACTED] desires to call on his behalf, please
6 get that information to the government now. All right?

7 DC: Absolutely, Ma'am, thank you.

8 MJ: Thanks. And obviously, Government, to the extent that you
9 intend to deny any of those witnesses and you all need a 39(a) to
10 litigate, then you just get back in touch with Colonel [REDACTED] and
11 she'll set a date, all right?

12 TC: Understood, Ma'am.

13 DC: Yes, Ma'am.

14 MJ: Court is in recess.

15 [The session recessed at 1230, 9 June 2004.]

16 [END OF PAGE]

17

003416

1 [The court-martial was called to order at 1004, 1 July 2004 in
2 Vilseck, Germany pursuant to the orders previously inserted in the
3 record and Court-Martial Convening Order Number 8 dated 23 June 2004
4 Headquarters, 7th Army Training Command, APO Army Europe.]

5 [All parties present when the court recessed were again present with
6 the exception of the military judge Lieutenant Colonel [REDACTED] who
7 was replaced by Colonel [REDACTED] and the court reporter Mrs.
8 [REDACTED] who was replaced by Mr. [REDACTED].]

9 MJ: This Article 39(a) session is called to order. You may be
10 seated.

11 TC: Your Honor, the accused has already been arraigned.

12 MJ: All right, and at the last hearing in this trial,
13 Lieutenant Niles, you were advised that you could be represented by
14 Captain [REDACTED]. Do you recall that?

15 ACC: Yes, Ma'am.

16 MJ: Are you still happy to be represented by him?

17 ACC: Yes, Ma'am.

18 MJ: All right and also at the last hearing in this case, which
19 I believe was on 9 June, Colonel [REDACTED] told you about your forum
20 rights. Do recall that discussion?

21 ACC: Yes, Ma'am.

22 MJ: Are you ready to tell me what forum you choose?

23 DC: Yes--yes, Your Honor.

1 MJ: All right.

2 DC: The accused requests a trial by officer panel for
3 sentencing only, and we have a written request.

4 MJ: All right then, if you've submitted that, I guess we'll
5 make that an appellate exhibit whatever the next one is.

6 [The CR marked the notice of forum and plea as AE II.]

7 MJ: All right, that's Appellate Exhibit II.

8 At this time, will the accused and defense counsel please
9 rise?

10 [The accused and his counsel did as directed.]

11 MJ: Lieutenant Niles, how do you plead, before receiving your
12 plea, I advise you that any motions to dismiss or grant other
13 appropriate relief should be made at this time. Your defense counsel
14 will speak for you.

15 DC: Thank you, Your Honor. The motion previously filed on 9
16 June for dismissal in violation of Rule 707 lack of speedy trial the
17 defense withdraws that motion. Formally I would withdraw that
18 motion, and as far as pleas, Your Honor, the accused pleads as
19 follows:

20	To Specification 1, 2 and 3, of	
21	Charge I the accused pleads:	Not Guilty.
22	To Charge I:	Not Guilty.
23		
24	To The Specification and	
25	Charge II the accused pleads:	Guilty.

1 MJ: Thank you, you may be seated.

2 [The accused and his counsel did as directed.]

3 MJ: All right, we should note for the record that all parties
4 present at the last session are again present in court with the
5 exception of Lieutenant Colonel [REDACTED] who was the military judge at
6 the prior hearing and [REDACTED] the court reporter. Instead we
7 have Mr. [REDACTED] present as the court reporter who's previously been
8 sworn, and I'm Colonel [REDACTED] as military judge. I am not
9 aware of any matter, which might be a ground for challenge against
10 me. Does either side desire to question or challenge me?

11 TC: No, Ma'am.

12 DC: No, Ma'am.

13 MJ: All right, Lieutenant Niles, your counsel has entered a
14 plea of guilty for you to one of the charges and its specification.
15 Your plea of guilty will not be accepted unless you understand its
16 meaning and effect. I'm going to discuss with you your plea of
17 guilty. You may wish to consult with your defense counsel prior to
18 answering any of my questions. If at anytime you have questions,
19 feel free to ask them. If at anytime you need to consult with
20 Captain [REDACTED], you tell me and I'll let you do that.

21 Do you understand?

22 ACC: Yes, Ma'am.

1 MJ: Now a plea of guilty is equivalent to a conviction and is
2 the strongest form of proof known to the law. On your plea alone and
3 without receiving any evidence, this court can find you guilty of the
4 offense to which you pled guilty. Your plea will not be accepted
5 unless you realize that by your plea you admit every act or omission
6 and the element of the offenses [sic] to which you have pled guilty
7 and that you are pleading guilty because you actually are, in fact,
8 guilty. If you do not believe that you are guilty, then you should
9 not for any reason plead guilty.

10 Do you understand what I've said so far?

11 ACC: Yes, Ma'am.

12 MJ: By your plea of guilty, you give up three important rights,
13 but you give up these rights only as to that offense to which you've
14 pled guilty:

15 First, the right against self-incrimination, that is, the
16 right to say nothing at all;

17 Second, the right to a trial of the facts by this court,
18 that is, your right to have this court-martial decide whether or not
19 you are guilty based upon the evidence the prosecution would present
20 and on any evidence you may introduce;

21 Third, the right to be confronted by and to cross-examine
22 any witness called against you.

23 Do you have any questions about any of those rights?

1 ACC: No, Ma'am.

2 MJ: Do you understand that by pleading guilty, you no longer
3 have these rights?

4 ACC: Yes, Ma'am.

5 MJ: If you continue with your guilty plea, you will be placed
6 under oath, and I will question you to determine whether you are, in
7 fact, guilty. Anything you tell me may be used against you in the
8 sentencing portion of the trial.

9 Do you understand that?

10 ACC: Yes, Ma'am.

11 MJ: If you tell me anything that is untrue, your statements may
12 be used against you later for charges of perjury or making false
13 statements.

14 Do you understand that?

15 ACC: Yes, Ma'am.

16 MJ: At this time, I want you to stand and face trial counsel,
17 and Trial Counsel, will you please place the accused under oath.

18 [The accused was sworn.]

19 MJ: Now do we have a stipulation of fact?

20 TC: Yes, Your Honor. It's been previously marked.

21 [The CR handed PE 1 for ID to the MJ.]

22 [END OF PAGE]

23

1 MJ: All right, Lieutenant, I have a stipulation of fact, which
2 has been marked as Prosecution Exhibit 1 for identification, in front
3 of me. Do you have a copy of that in front of you?

4 ACC: Yes, Ma'am.

5 MJ: I'd like you to take a look at the second page. Is that
6 your signature on the page?

7 ACC: Yes, Ma'am.

8 MJ: Did you read this document thoroughly before you signed it?

9 ACC: Yes, Ma'am.

10 MJ: Do both counsel agree to the stipulation and that your
11 signatures appear on the document?

12 TC: Yes, Ma'am.

13 DC: Yes, Your Honor.

14 MJ: Now, Lieutenant Niles, a stipulation of fact is an
15 agreement among the trial counsel, your defense counsel, and you that
16 the contents of the stipulation are true, and if entered into
17 evidence, are the uncontradicted facts in this case. No one can be
18 forced to enter into a stipulation, so you should enter into it only
19 if you truly want to do so.

20 Do you understand this?

21 ACC: Yes, Ma'am.

22 MJ: Are you voluntarily entering into this stipulation because
23 you believe it is in your best interest to do so?

1 ACC: Yes, Ma'am.

2 MJ: Now if I admit this stipulation into evidence, it will be
3 used in two ways:

4 First, I will use it to determine if you are, in fact,
5 guilty of the offense to which you pled guilty;

6 Second, the trial counsel may read it to the court members
7 and they will have it with them when they decide upon your sentence.

8 Do you understand and agree to these uses of the
9 stipulation?

10 ACC: Yes, Ma'am.

11 MJ: Do both counsel also agree?

12 TC: Yes, Ma'am.

13 DC: Yes, Your Honor.

14 MJ: Now, Lieutenant Niles, a stipulation of fact ordinarily
15 cannot be contradicted. If it should be contradicted after I've
16 accepted your guilty plea, I will reopen this inquiry. You should,
17 therefore, let me know if there's anything whatsoever you disagree
18 with or feel is untrue.

19 Do you understand that?

20 ACC: Yes, Ma'am.

21 MJ: At this time, I want you to read your copy of the
22 stipulation silently to yourself as I read it to myself. When you're
23 finished reading it, please look up at me.

1 ACC: Yes, Ma'am.

2 [The MJ and ACC read PE 1 for ID.]

3 [Long pause.]

4 MJ: Lieutenant Niles, have you finished reading it?

5 ACC: Yes, Ma'am.

6 MJ: Is everything in that stipulation true?

7 ACC: Yes, Ma'am.

8 MJ: Is there anything in the stipulation that you do not wish
9 to admit is true?

10 ACC: No, Ma'am.

11 MJ: Do you agree, under oath, that the matters contained in the
12 stipulation are true and correct to the best of your knowledge and
13 belief?

14 ACC: Yes, Ma'am.

15 MJ: Defense Counsel, do you have any objections to Prosecution
16 Exhibit 1 for identification?

17 DC: No objection, Your Honor.

18 MJ: All right, then, Prosecution Exhibit 1 for identification
19 is admitted into evidence subject to my acceptance of the accused's
20 guilty plea.

21 Now, Lieutenant Niles, I'm going to explain the elements of
22 the offense to which you've pled guilty. By "elements", I mean those
23 facts, which the prosecution would have to prove beyond a reasonable

1 doubt before you could be found guilty if you had pled not guilty.

2 When I state each element, ask yourself two things:

3 First, is the element true; and

4 Second, whether you wish to admit that it's true.

5 After I list the elements for you, be prepared to talk to
6 me about the facts regarding the offense.

7 First of all, though, I'd like to get a little background
8 on you. When did you first come into the service?

9 ACC: November 2000--2001, no 2000, correction.

10 MJ: All right, do you remember the day?

11 ACC: No, I just remember that it was November 2000 when I left
12 or arrived at Fort Benning for basic training.

13 MJ: Okay let's see the stipulation says 7 November 2000.

14 ACC: That would be correct, Your Honor.

15 MJ: Okay.

16 DC: The initial----

17 MJ: Captain [REDACTED]

18 DC: I'm sorry. The initial date on the charge sheet is May--10
19 May 2001, that reflects his commissioning date.

20 MJ: All right.

21 DC: Because he enlisted and went to OCS. That time does not
22 reflect on the charge sheet.

1 MJ: Since 7 November 2000 and today, have you been continuously
2 on active duty?

3 ACC: Yes, Ma'am.

4 MJ: Have you had any breaks in service at all?

5 ACC: Negative, Ma'am.

6 MJ: All right. When did you come to Germany?

7 ACC: October of 2001. I believe it was October 5th.

8 MJ: And what unit were you assigned to when you got here?

9 ACC: 615th Military Police Company.

10 MJ: Is that the unit you're assigned to today?

11 ACC: Yes, Ma'am.

12 MJ: All right. All right, I want you to take a look at The
13 Specification of Charge II. There you are charged with the offense
14 of conduct unbecoming an officer due to cruelty and maltreatment of
15 prisoners and that would be a violation of Article 133 of the Uniform
16 Code of Military Justice. The elements of that offense are:

17 One, that [REDACTED] and [REDACTED]
18 [REDACTED] were subject to your orders;

19 Two, that on or about 30 July 2003, at or near Al Taji
20 Police Station, Baghdad, Iraq, you maltreated [REDACTED]
21 [REDACTED] and [REDACTED] by striking and kicking them; and

22 Three, that under the circumstances, your conduct was
23 unbecoming an officer and a gentleman.

1 Subject to the orders of includes persons under the direct
2 or immediate command of the accused. Cruel and maltreatment refers
3 to treatment that when viewed objectively under all the circumstances
4 is abusive or otherwise unwarranted, unjustified, and unnecessary for
5 any lawful purpose and that results in physical or mental harm or
6 suffering or reasonably could have caused physical or mental harm or
7 suffering. Assault or improper punishment may constitute this
8 offense.

9 "Conduct unbecoming an officer and a gentleman" means
10 behavior in an official capacity, which in dishonoring or disgracing
11 the individual as a commissioned officer. "Unbecoming conduct" means
12 misbehavior more serious than slight and of a material and pronounced
13 character. It means conduct morally unfitting and unworthy rather
14 than merely inappropriate or unsuitable misbehavior, which is more
15 than opposed to good taste or propriety.

16 Now do you understand the elements and definitions as I've
17 read them to you?

18 ACC: Yes, Ma'am.

19 MJ: Do you have any questions about any of them?

20 ACC: No, Ma'am.

21 MJ: Do you understand that your plea of guilty admits that
22 these elements accurately describe what you did?

23 ACC: Yes, Ma'am.

1 MJ: Do you believe and admit that the elements and definitions
2 taken together correctly describe what you did?

3 ACC: Yes, Ma'am.

4 MJ: In your own words, I'd like you to tell me why you're
5 guilty of this offense.

6 ACC: Ma'am, I'm guilty of this offense because I did behave in a
7 manner unbecoming an officer. I did strike these personnel.

8 MJ: Well I need you to tell me a little bit more. First of all
9 this was on 30 July 2003?

10 ACC: Yes, Ma'am.

11 MJ: Where were you?

12 ACC: At the [REDACTED] Police Station in Baghdad, Iraq.

13 MJ: Okay and what was your position at that time?

14 ACC: At that time, I was the platoon leader for 1st Platoon.

15 MJ: And what was your position with regard to any of the
16 prisoners there?

17 ACC: At that time, I was the supervisor for both the soldiers
18 and the police station.

19 MJ: And so what were your duties as they applied to any of the
20 prisoners at the police station?

21 ACC: The duties there were to provide oversight for prisoners in
22 the police station provide them with security, clothing, and food.

23 MJ: Okay and who were the three individuals that I named?

1 ACC: I believe they were personnel arrested by the Iraqi police
2 and placed into the detention cell there.

3 MJ: Well do you have any reason to think that those weren't
4 prisoners at the [REDACTED] Police Station on 30 July 2003?

5 ACC: Can you repeat that, Ma'am?

6 MJ: Do you have any reason to think that those three named
7 individuals were not prisoners at the [REDACTED] Police Station on 30
8 July 2003?

9 ACC: No, Ma'am. At the time, I didn't know their names, if
10 that's what you're asking.

11 MJ: All right. Have you since seen information that told you
12 what their names were?

13 ACC: Just in the statements given by the soldiers in the charge
14 sheet.

15 MJ: Okay do you have any reason to doubt that those are the
16 names of the men who were prisoners at [REDACTED] Police Station on that
17 day?

18 ACC: No, Sir [sic], if my soldiers say they were the men, they
19 were the men.

20 MJ: All right, now what was your contact with each of those
21 individuals? First of all, let's talk about what happened to [REDACTED]
22 [REDACTED], and you can refer to the stipulation of fact if you wish,

1 but I want you to tell me what exactly you did, if anything, to that
2 individual, and I assume that's a man.

3 ACC: Ma'am, as stated in the statements given by the soldiers in
4 the charge sheet, that's the gentleman that I struck in the D-Cell.

5 MJ: Okay tell me how you struck him.

6 ACC: With a closed fist, I believe I hit him in the stomach.

7 MJ: Why?

8 ACC: That's a question I've been asking myself for the last year
9 and a half. Out of anger, Ma'am.

10 MJ: Okay had he attacked you?

11 ACC: No, Ma'am.

12 MJ: So there was--you weren't defending yourself?

13 ACC: No, Ma'am.

14 MJ: Were you defending another soldier?

15 ACC: No, Ma'am.

16 MJ: As to [REDACTED], tell me what happened with him.

17 ACC: Once again, Ma'am, I struck him with a closed fist in the
18 stomach.

19 MJ: And tell me why.

20 ACC: It would be the same as before, Ma'am, I believe out of
21 anger.

22 MJ: All right. Had he attacked you?

23 ACC: No, Ma'am.

1 MJ: Had he given you any sense that he was going to attack you?
2 ACC: No, Ma'am.
3 MJ: Had he attacked any of your soldiers?
4 ACC: No, Ma'am.
5 MJ: Had he attacked another prisoner?
6 ACC: I don't know that, Ma'am.
7 MJ: Okay, but I mean to your knowledge---
8 ACC: To my knowledge----
9 MJ: ----had he attacked another prisoner?
10 ACC: ----no, I received no reports on that.
11 MJ: Okay. Would that be true of the first gentleman, [REDACTED]
12 [REDACTED]
13 ACC: To my knowledge, I received no reports that he attacked
14 anyone.
15 MJ: All right. How about [REDACTED]
16 ACC: That's the gentleman that I struck by kicking him, Ma'am.
17 MJ: And where did you kick him?
18 ACC: In the shoulder.
19 MJ: And why did you kick him in the shoulder that day?
20 ACC: Out of anger, Ma'am.
21 MJ: Again, had he attacked you?
22 ACC: No, Ma'am.
23 MJ: Had he sought to attack you?

1 ACC: No, Ma'am.

2 MJ: To your knowledge, had he attacked any of your soldiers?

3 ACC: No, Ma'am.

4 MJ: Had he tried to?

5 ACC: No, Ma'am.

6 MJ: Had he tried to attack any other prisoner?

7 ACC: I received no reports of that, Ma'am.

8 MJ: Okay. To your knowledge had he tried to attack any other
9 prisoner?

10 ACC: No, Ma'am.

11 MJ: Now as an MP officer, do you receive training as to how to
12 deal with prisoners or detainees?

13 ACC: Yes, Ma'am.

14 MJ: Is striking them with a closed fist in either the stomach
15 or kicking them in the shoulder, is that----

16 ACC: No, Ma'am, that is not part of the training.

17 MJ: Okay, so that's not appropriate behavior for an MP officer
18 when dealing with prisoners?

19 ACC: No, Ma'am.

20 MJ: Now you're charged with doing these things and that these
21 things amounted to conduct unbecoming an officer and a gentleman. Do
22 you remember the definition I gave you of conduct unbecoming an
23 officer and a gentleman?

1 ACC: I believe so, Ma'am.

2 MJ: Okay tell me why this conduct was conduct unbecoming an
3 officer and a gentleman.

4 ACC: As stated, Ma'am, it's because it disgraces the individual,
5 um, it disgraced the individual personally, distracted from the
6 conduct of my fellow--of my soldiers at the time, and it's conduct
7 morally unfitting or worthy and it's inappropriate and unsuitable.

8 MJ: Okay. Did these actions by you with respect to any of the
9 prisoners, were there other United States soldiers present when you
10 did this?

11 ACC: Yes, Ma'am.

12 MJ: Were they your subordinates?

13 ACC: Yes, Ma'am.

14 MJ: So was this appropriate behavior by you in front of
15 subordinates?

16 ACC: No, Ma'am.

17 MJ: How do you think that that made your subordinates feel
18 about you in particular as an officer?

19 ACC: [No response.]

20 MJ: At least your behavior that day.

21 ACC: I believe they felt I was a disgrace.

22 [END OF PAGE]

23

1 MJ: If members of the public, either American or Iraqi, learned
2 of your behavior that day, how do you think they'd feel about an
3 officer in the United States Army behaving that way?

4 ACC: The same.

5 MJ: In your mind, did you have any legitimate reason for
6 striking any of these individuals?

7 ACC: No, Ma'am.

8 MJ: I'm sorry, say again.

9 ACC: No, Ma'am.

10 MJ: I think you said earlier that you were angry. Is that
11 right?

12 ACC: Yes, Ma'am.

13 MJ: Can you tell me why you were angry?

14 ACC: Um, just--just the events, Ma'am, just----

15 MJ: Tell me what the events were.

16 ACC: Just--I'd received reports that they attempted to break out
17 of the detention cell.

18 MJ: Go ahead.

19 ACC: I received reports that they attempted to break out of the
20 detention cell.

21 MJ: Had you gotten those reports that day?

22 ACC: No, Ma'am.

23 MJ: When did you get them?

1 ACC: The night before.

2 MJ: Okay, and did you have some reason to think that any of
3 these three individuals had anything to do with that?

4 ACC: Um, I believe that I was told that these were the three
5 that attempted to break out.

6 MJ: Okay. Did that have anything to do with why you struck any
7 of them?

8 ACC: Ma'am, all I can say is that I was angry. Just the fact
9 that they tried to break out it----

10 [Long pause.]

11 MJ: Since you were the platoon leader and supervisor for the
12 police station, were you responsible for the health and safety of any
13 detainees or prisoners that were held there?

14 ACC: Yes, Ma'am.

15 MJ: How many folks could the police station hold as far as
16 prisoners or detainees?

17 ACC: Ah, we tried to keep a minimum, if I recall, we tried to
18 keep it under 20. We were under orders to maybe the second or third
19 day try to empty out our D-Cells by sending them to a higher
20 detention facility by doing the paperwork. Sometimes that did not
21 occur because you know of transportation or logistics means, so I
22 mean we tried to keep the number fairly low for their safety and our
23 safety, Ma'am.

1 MJ: Okay is it fair to say, then, that you were a short-term
2 holding facility?

3 ACC: Yes, Ma'am.

4 MJ: Okay. All right do you admit that [REDACTED],
5 [REDACTED], and [REDACTED] were subject to your orders?

6 ACC: They were subject to my care. I didn't give them orders,
7 Ma'am. I gave my soldiers orders for the care and the treatment of
8 them.

9 MJ: Well were they under your jurisdiction?

10 ACC: Yes, Ma'am.

11 MJ: If you walked into their cell and told them to do
12 something, did you expect that they would do it?

13 ACC: Yes, Ma'am.

14 MJ: So were they subject to your orders?

15 ACC: Yes, Ma'am.

16 MJ: All right. Do you admit that on or about 30 July 2003, at
17 or near [REDACTED] Police Station in Baghdad, Iraq, you maltreated
18 [REDACTED], [REDACTED] and [REDACTED] by
19 striking and kicking them?

20 ACC: Yes, Ma'am.

21 MJ: Do you admit that under the circumstances, your conduct was
22 unbecoming an officer and a gentleman?

23 ACC: Yes, Ma'am.

1 MJ: Does either counsel believe that any further inquiry is
2 required?

3 TC: No, Ma'am.

4 DC: No, Ma'am.

5 MJ: Trial Counsel, what do you calculate to be the maximum
6 punishment authorized in this case based solely on the accused's
7 guilty plea?

8 TC: Your Honor, a dismissal, 1-year confinement, total
9 forfeiture, and a fine.

10 MJ: Defense?

11 DC: Defense agrees, Your Honor.

12 MJ: All right. Lieutenant Niles, the maximum punishment
13 authorized in this case based solely on your guilty plea is dismissal
14 from the service, total forfeitures, confinement for 12 months, and a
15 fine may also be adjudged. On your plea of guilty alone, this court
16 could sentence you to the maximum punishment, which I've just stated.
17 Do you understand this?

18 ACC: Yes, Ma'am.

19 MJ: Do you have any questions as to the sentence that could be
20 imposed as a result of your guilty plea?

21 ACC: No, Ma'am.

22 MJ: Do we have a pretrial agreement in this case?

1 TC: Yes, Ma'am, it's been given to the court reporter and has
2 been previously marked.

3 [The CR handed AE I to the MJ.]

4 MJ: All right. Lieutenant Niles, do you have a copy of your
5 plea agreement in front of you?

6 ACC: Yes, Ma'am.

7 MJ: All right, that's been marked as Appellate Exhibit I, and
8 that includes both the offer portion and the quantum portion of your
9 plea agreement. Now I want you to look at each of these, that would
10 be page two of the quantum portion and page one of the quantum, I'm
11 sorry, page two of the offer.

12 Did you sign each of these documents?

13 ACC: Yes, Ma'am.

14 MJ: Did you read them thoroughly before you signed them?

15 ACC: Yes, Ma'am.

16 MJ: Do you understand the contents of your pretrial agreement?

17 ACC: Yes, Ma'am.

18 MJ: Now Lieutenant Niles, did anyone force you in anyway to
19 enter into this agreement?

20 ACC: No, Ma'am.

21 MJ: Does this agreement contain all of the understandings or
22 agreements that you have in this case?

23 ACC: Yes, Ma'am.

1 MJ: Has anyone made any promises to you that are not written
2 into this agreement in an attempt to get you to plead guilty?

3 ACC: No, Ma'am.

4 MJ: Counsel, is Appellate Exhibit I the full and complete
5 agreement in this case, and are you satisfied that there are no other
6 agreements?

7 TC: Yes, Ma'am.

8 DC: Yes, Your Honor.

9 MJ: Now Lieutenant Niles, basically a pretrial agreement means
10 that you agree to plead guilty, and in return, the convening
11 authority agrees to take some favorable action in your case usually
12 in the form of a limitation on your sentence.

13 Do you understand that?

14 ACC: Yes, Ma'am.

15 MJ: Now the law requires that I discuss the conditions of your
16 agreement with you, so let's look at the offer portion, that is, the
17 first two pages.

18 Now paragraph 1a says first of all that you've gotten the
19 benefit and advice of your defense counsel and you've--you know that
20 you have a legal and a moral right to plead not guilty, but that you
21 offer to plead ~~guilty~~ to the specifications of Charge I and Charge I,
22 Not Guilty, and to The Specification of Charge II and Charge II,
23 Guilty, and you've done that.

1 Do you have any questions about your agreement as it
2 concerns how you're going to plead?

3 ACC: No questions, Ma'am.

4 MJ: Okay. In 1b, you've agreed to enter into a written
5 stipulation of fact with the trial counsel as to the circumstances of
6 the offenses to which you're pleading guilty, and you've done that as
7 well.

8 Do you have any questions at all about what the stipulation
9 means or your agreement to enter into it?

10 ACC: No, Ma'am.

11 MJ: 1c says, you waive the right to request personal appearance
12 of overseas witnesses to testify on your behalf at trial. Now first
13 of all, did you understand that you could have asked the convening
14 authority, that is, the government to produce witnesses at this trial
15 for you today?

16 ACC: Yes, Ma'am.

17 MJ: And if the convening authority had said no, that you could
18 have then come to the Court, and if the Court had found that the
19 witnesses were relevant and material and necessary, the Court could
20 have said those witnesses should be here.

21 Did you understand that?

22 ACC: Yes, Ma'am.

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1 MJ: And absent this agreement, you didn't have to give up that
2 right.

3 ACC: Understood, Ma'am.

4 MJ: Now are there actually any witnesses that you wanted here
5 today that aren't going to be here today because of this provision?

6 ACC: No, Ma'am.

7 MJ: Okay. Did you also know that there are other ways to get
8 witness information in front of the court, for example, by telephone
9 or by what we call stipulations of expected testimony or just
10 letters?

11 ACC: Yes, Ma'am.

12 MJ: Are you satisfied that whatever means you and Captain
13 [REDACTED] have chosen that will get the appropriate information in front
14 of the panel for them to make an appropriate decision as to your
15 sentence?

16 ACC: Yes, Ma'am.

17 MJ: Now in 1d, you waive the right to make a motion to dismiss
18 all the charges for a violation of Rule for Court-Martial 707, that
19 is, the speedy trial act and withdraw that motion, which was filed on
20 9 June 2004. Now first of all, again, absent this agreement, you're
21 entitled to file any kind of motions you want to file.

22 Do you understand that?

23 ACC: Yes, Ma'am.

1 MJ: Some of the motions you gave up automatically when you
2 didn't make them prior to entering your plea of guilty. Do you
3 remember me saying that?

4 ACC: Yes, Ma'am.

5 MJ: Okay, some motions, however, such as motions to dismiss for
6 lack of jurisdiction or failure to state an offense, can never be
7 given up.

8 Do you understand that this term of your pretrial agreement
9 means that you give up the right to make this particular motion, that
10 is, the one for speedy trial when you pled guilty?

11 ACC: Yes, Ma'am.

12 MJ: In particular, do you understand that this term of your
13 pretrial agreement precludes this court, or any appellate court, from
14 having the opportunity to determine if you're entitled to any relief
15 based upon this particular motion?

16 ACC: Yes, Ma'am.

17 MJ: Now when you elected to give up the right to litigate this
18 motion, did your defense counsel explain this term of your pretrial
19 agreement and the consequences to you?

20 ACC: Yes, Ma'am.

21 MJ: Did anyone force you to enter into this term of your
22 pretrial agreement?

23 ACC: No, Ma'am.

1 MJ: Captain [REDACTED] which side originated the waiver of this
2 motion provision?

3 DC: I--Your Honor, it was part of discussions with the
4 government. Honestly, I truthfully cannot recall which side
5 mentioned it first as far as the waiver goes.

6 MJ: All right.

7 TC: I concur on that, Your Honor. We had discussed the issue
8 for weeks prior to that. I'm not sure which one actually brought it
9 up first, Your Honor.

10 MJ: All right. Lieutenant Niles, do you freely and voluntarily
11 agree to this term of your pretrial agreement in order to receive
12 what you believe to be a beneficial pretrial agreement?

13 ACC: Yes, Ma'am.

14 MJ: Captain [REDACTED] what do you believe to be the factual basis
15 of the motion covered by this term of the pretrial agreement?

16 DC: Yes, Your Honor, as the motion that was previously filed
17 indicated, the passage of time from the original referral of
18 charges, my evaluation of my research has indicated, however, that
19 there were some significant defense delays that accounted for many of
20 those days, which subtracting those days brought the clock to less
21 than 120 days.

22 MJ: So are you, in effect, telling me that you no longer think
23 that there was a legitimate basis for a speedy trial motion?

1 DC: Yes, Your Honor. I believe it would not have been a
2 frivolous motion, but I believe that our chances of prevailing, as I
3 have explained to Lieutenant Niles, were very, very minor.

4 MJ: All right.

5 DC: Based on the research and the facts that I have been able
6 to collect.

7 MJ: All right, Lieutenant Niles, do you understand that if this
8 motion were made and granted by me then a possible ruling could have
9 been that all the charges against you would have been dismissed, and
10 did you discuss that with Captain [REDACTED]?

11 ACC: Yes, Ma'am.

12 MJ: Now knowing what your defense counsel and I've told you, do
13 you want to give up making this motion in order to get the benefit of
14 your pretrial agreement?

15 ACC: Yes, Ma'am.

16 MJ: All right, do you have any questions about this particular
17 provision of your pretrial agreement?

18 ACC: No, Ma'am.

19 MJ: Now paragraph 2 says in exchange for what we've just talked
20 about, the things that are covered in paragraph 1, the convening
21 authority will take the actions specified in the enclosure, that is,
22 the quantum portion.

1 Paragraph 3 says the offer to plead guilty will not be
2 affected if the military judge amends any specification or charge
3 based upon a motion of the defense, the government, or sua sponte by
4 the military judge. That means if for some reason I modify any of
5 the specifications, this agreement between you and the convening
6 authority is still good.

7 Do you understand that?

8 ACC: Yes, Ma'am.

9 MJ: Do you have any questions?

10 ACC: No, Ma'am.

11 MJ: Paragraph 4 says that there are no promises, conditions, or
12 understandings regarding your proposed plea of guilty that are not
13 contained within these three pages, that is, the offer portion and
14 the quantum portion.

15 Any questions?

16 ACC: No, Ma'am.

17 MJ: Paragraph 5 says you're satisfied with the advice that
18 you've gotten from your defense counsel, that he's advised you of the
19 meaning and effect of your guilty plea, and you fully understand that
20 meaning and effect.

21 Now we've also talked about the meaning and effect of your
22 guilty plea. Do you have any questions at all?

23 ACC: No, Ma'am.

1 MJ: Paragraph 6 says you understand that you may request to
2 withdraw your plea of guilty at any time before it's accepted, but if
3 you do, this agreement's cancelled. This agreement may also be
4 cancelled if:

5 A) You fail to plead guilty;

6 B) You fail to arrive at an agreement with the government
7 on the contents of the stipulation of fact or if that stipulation
8 were modified without your consent; or

9 C) The military judge either refused to accept your guilty
10 plea or changed your guilty plea at some point during the trial.

11 Now none of those things has happened, but if any one of
12 them were to happen, this agreement would be cancelled. It would be
13 gone.

14 Do you understand that?

15 ACC: Yes, Ma'am.

16 MJ: Do you have any questions about any of it?

17 ACC: No, Ma'am.

18 MJ: And paragraph 7 says if before or during trial any
19 specification is amended, consolidated, or dismissed with your
20 consent, this agreement will remain in effect.

21 Any questions about that?

22 ACC: No, Ma'am.

1 MJ: All right. Now the last page of Appellate Exhibit I is the
2 quantum portion of your pretrial agreement, and it states that the
3 convening authority agrees to disapprove any confinement adjudged in
4 excess of 45 days, but he may approve any other lawful punishment.


5 Is that a correct statement of what you and the convening
6 authority agreed to?

7 ACC: Yes, Ma'am.

8 MJ: Now, Lieutenant Niles, you get the benefit of whichever is
9 less each element of the sentence of the court or that contained in
10 your pretrial agreement. If the sentence adjudged by this court is
11 greater than the one provided in the pretrial agreement, the
12 convening authority must reduce the sentence to one no more severe
13 than the one in your pretrial agreement. On the other hand, if the
14 sentence of this court is less than the one in your agreement, the
15 convening authority cannot increase the sentence that he adjudges
16 [sic].

17 Do you understand that?

18 ACC: Yes, Ma'am.

19 MJ: Now if your ETS date arrives while you are serving 
20 confinement as part of your sentence, then all of your military pay
21 and allowances will stop on your ETS date. Do you understand that?

22 ACC: Yes, Ma'am.

1 MJ: I'm not sure that that actually would apply here given the
2 quantum provision, but I just wanted to make sure you're aware of
3 that. All right? —

4 ACC: Yes, Ma'am.

5 MJ: Now, Lieutenant Niles, have you had enough time to discuss
6 this agreement with your defense counsel?

7 ACC: Yes, Ma'am.

8 MJ: Are you satisfied with your defense counsel's advice
9 concerning this pretrial agreement?

10 ACC: Yes, Ma'am.

11 MJ: Did you enter into the agreement of your own free will?

12 ACC: Yes, Ma'am.

13 MJ: Has anyone tried to force you to make this pretrial
14 agreement?

15 ACC: No, Ma'am.

16 MJ: Do you have any questions about your pretrial agreement?

17 ACC: No, Ma'am.

18 MJ: Do you fully understand all the terms of the pretrial
19 agreement and how they affect your case?

20 ACC: Yes, Ma'am.

21 MJ: Lieutenant Niles, are you pleading guilty not only because
22 you hope to receive a lighter sentence, but because you are convinced
23 that you are, in fact, guilty?

1 ACC: Yes, Ma'am.

2 MJ: Do counsel for both sides agree with the Court's
3 interpretation of the pretrial agreement?

4 TC: Yes, Ma'am.

5 DC: Yes, Your Honor.

6 MJ: Defense Counsel, have you had enough time and opportunity
7 to discuss this case with Lieutenant Niles?

8 DC: I have, Your Honor.

9 MJ: And Lieutenant Niles, have you had enough time and
10 opportunity to discuss this case with your defense counsel?

11 ACC: Yes, Ma'am.

12 MJ: Have you, in fact, consulted fully with your defense
13 counsel and received the full benefit of his advice?

14 ACC: Yes, Ma'am.

15 MJ: Are you satisfied that your defense counsel's advice is in
16 your best interest?

17 ACC: Yes, Ma'am.

18 MJ: And are you satisfied with your defense counsel?

19 ACC: Yes, Ma'am.

20 MJ: Are you pleading guilty voluntarily and of your own free
21 will?

22 ACC: Yes, Ma'am.

1 MJ: Has anyone made any threat or tried in anyway to force you
2 to plead guilty?

3 ACC: No, Ma'am.

4 MJ: Do you have any questions as to the meaning and effect of a
5 plea of guilty?

6 ACC: No, Ma'am.

7 MJ: Do you fully understand the meaning and effect of your plea
8 of guilty?

9 ACC: Yes, Ma'am.

10 MJ: Do you understand that even though you believe you are
11 guilty, you have the legal and moral right to plead not guilty and to
12 place upon the government of proving [sic] your guilt beyond a
13 reasonable doubt?

14 ACC: Yes, Ma'am.

15 MJ: I want you to take a moment now and consult with your
16 defense counsel and then tell me whether you still want to plead
17 guilty.

18 [The accused did as directed.]

19 ACC: Yes, Ma'am.

20 MJ: So you still want to plead guilty?

21 ACC: Yes, Ma'am.

22 MJ: All right. Lieutenant Niles, I find that your plea of
23 guilty is made voluntarily and will full knowledge of its meaning and

1 effect. I further find that you have knowingly, intelligently, and
2 consciously waived your rights against self-incrimination, to a trial
3 of the facts by a court-martial, and to be confronted by the
4 witnesses against you. Accordingly, your plea of guilty is provident
5 and is accepted. However, I advise you that you may request to
6 withdraw your guilty plea at anytime before the sentence is
7 announced, and if you have a good reason for your request, I will
8 grant it.

9 Will the accused and counsel please rise.

10 [The accused and his counsel did as directed.]

11 MJ: Lieutenant Niles, in accordance with your plea of guilty,
12 this court finds you:

13	Of Specification 1 of Charge I:	Not Guilty.
14	Of Specification 2 of Charge I:	Not Guilty.
15	Of Specification 3 of Charge I:	Not Guilty.
16	Of Charge I:	Not Guilty.
17		
18	Of The Specification of Charge II:	Guilty.
19	Of Charge II:	Guilty.

20 You may be seated.

21 [The accused and his counsel did as directed.]

22 MJ: Now Lieutenant Niles, we enter into the sentencing phase of
23 the trial where you have the right to present matters in extenuation
24 and mitigation, that is, matters about the offense or yourself, which
25 you want the court to consider in deciding your sentence. In
26 addition to the testimony of witnesses and the offering of

1 documentary evidence, you may yourself testify under oath as to these
2 matters, or you may remain silent in which case, the court members
3 may not draw any adverse inference from your silence.

4 On the other hand, if you desire, you may make an unsworn
5 statement. Because the statement is unsworn, you cannot be cross-
6 examined on it. However, the government may offer evidence to rebut
7 any statement of fact contained in any unsworn statement. An unsworn
8 statement may be made orally, in writing, or both. It may be made by
9 you, by your counsel on your behalf, or by both.

10 Do you understand these rights?

11 ACC: Yes, Ma'am. ~~****~~

12 MJ: Now counsel, is the personal data on the front page of the
13 charge sheet correct?

14 DC: Your Honor, the only issue is with the pay. These charges
15 were preferred before the first of the year. Since----

16 MJ: All right. What's the pay?

17 DC: The pay, Ma'am, the basic pay is \$3,421.50.

18 MJ: All right.

19 DC: And there is no longer any sea or foreign pay because he's
20 been redeployed back to Germany.

21 MJ: Okay, it would appear to me, at least the copy that I have,
22 that those changes were made.

23 DC: Okay, Ma'am.

1 MJ: Have they been made on the original?

2 TC: They should have been, Your Honor, yes.

3 MJ: All right. Is there anything else that needs to be
4 corrected on the front page of the charge sheet?

5 DC: Yes, Your Honor. The only other issue is with the term in
6 block 6bravo. Lieutenant Niles--his service obligation after OCS was
7 3 years not 4 years; however, when he arrived in Germany, he was
8 extended for several months so that he would have a 3 year term of
9 service from his arrival in Germany, so his ETS is in October of this
10 year 2004. So his original--his term of service is 3 years plus a
11 extension of about 4 months.

12 MJ: Okay, so 3 years 4 months, is-----

13 DC: Yes, Your Honor.

14 MJ: -----what you're saying?

15 DC: Yes, Your Honor.

16 MJ: Okay why don't we change it so it reads 3 years 4 months,
17 so anything else?

18 DC: That's all the inaccuracies there, Your Honor.

19 MJ: Okay.

20 DC: Everything else is accurate.

21 TC: And that was, \$3,421.50 for basic and total correct?

22 DC: That's correct.

1 MJ: All right. Now Captain [REDACTED] has the accused been
2 punished in anyway prior to trial that would constitute illegal
3 pretrial punishment under Article 13?

4 DC: He has not, Your Honor.

5 MJ: Lieutenant Niles, have you spoken with Captain [REDACTED] about
6 Article 13?

7 ACC: Yes, Ma'am.

8 MJ: Do you understand what Article 13 prohibits?

9 ACC: Yes, Ma'am.

10 MJ: Do agree that you've not been punished prior to trial in
11 violation of Article 13?

12 ACC: Yes, Ma'am.

13 MJ: Has your freedom of movement been limited in anyway prior
14 to trial?

15 ACC: No, Ma'am.

16 MJ: Have your pass privileges been withdrawn?

17 ACC: No, Ma'am.

18 MJ: Have you been subject to any sort of sign in requirement?

19 ACC: No, Ma'am.

20 MJ: Captain [REDACTED] are you aware of any limitations placed on
21 Lieutenant Niles' liberty that raise the issue of restriction
22 tantamount to confinement?

1 DC: No, Your Honor. One point before you ask the next question
2 is there was a call in requirement where he called in and checked in
3 with his unit, but that doesn't rise to the level of Article 13
4 violation.

5 MJ: All right.

6 DC: It was not a personal, physical requirement. It was a call
7 in requirement.

8 MJ: Okay and when--when was that call in?

9 ACC: Ever since I've redeployed back to the unit.

10 MJ: Okay and how often do you have to call in?

11 ACC: Ah the previous commander required me to actually stop by
12 the company just to check in, and the current commander asks that I
13 call twice a week.

14 MJ: Okay twice a week?

15 ACC: Yes, Ma'am.

16 MJ: All right, now have, Lieutenant Niles, have you spoken to
17 Captain [REDACTED] about restriction tantamount to confinement?

18 ACC: Yes, Ma'am.

19 MJ: Do you understand the concept of restriction tantamount to
20 confinement?

21 ACC: Yes, Ma'am.

22 MJ: Do you believe that you've been restricted tantamount to
23 confinement?

1 ACC: No, Ma'am.

2 MJ: Now we've already discussed what the maximum punishment in
3 this case is, and that is, dismissal, total forfeitures, confinement
4 for 12 months, and a fine may also be adjudged. Looking at the
5 charge sheet, it does not appear that the accused has been in any
6 sort of pretrial confinement, and so I don't believe that any days of
7 pretrial confinement credit are due. Is that correct?

8 DC: I'm sorry, Your Honor. Yes, that is correct.

9 TC: Yes, Ma'am.

10 MJ: Has the sentence worksheet been marked as an appellate
11 exhibit?

12 TC: It should have been previously marked, Your Honor.

13 [The CR handed the flyer and sentence worksheet to the MJ.]

14 MJ: All right, the flyer has been marked as Appellate Exhibit
15 III. Have both counsel had an opportunity to review the flyer?

16 DC: Yes, Your Honor.

17 MJ: ~~Any~~ objections?

18 DC: No objection to the flyer, Your Honor.

19 MJ: All right, the sentencing worksheet has been marked as
20 Appellate Exhibit IV. Again, have both counsel had an opportunity to
21 review that?

22 TC: Yes, Your Honor.

23 MJ: Any objections?

1 DC: No objection, Your Honor, although I believe it may not
2 include the language about the fine, which you just read, the
3 possibility or the applicability of a fine.

4 MJ: Oh, you're right.

5 DC: We could add that on a recess before we mark it.

6 MJ: Well does either side believe that a fine is actually
7 appropriate in this case?

8 TC: The government----

9 DC: No, Your Honor. We certainly don't believe that a fine is
10 appropriate.

11 TC: The government does not, Your Honor.

12 MJ: All right, then, I will not instruct on a fine.

13 TC: Yes, Your Honor.

14 Your Honor, one point, if asked to read the maximum
15 sentence in front of the panel, should it just be dismissal, one year
16 of confinement, and don't mention the fine?

17 MJ: Correct.

18 TC: Yes, Your Honor.

19 MJ: All right, does either side have documentary evidence on
20 sentencing, which can be marked, if it hasn't been, and offered at
21 this time?

22 [The CR handed PE 2 and 3 for ID to the MJ.]

23

1 TC: The government has previously marked the ORB and the OER
2 from the timeframe of the crime, and those two documents we wish to
3 be admitted.

4 MJ: Okay. Have you had an opportunity, Captain [REDACTED] to
5 review these?

6 DC: Yes, Your Honor.

7 MJ: Any objections?

8 DC: No, Your Honor, not at all.

9 MJ: All right, so Exhibit 2, which is the ORB is admitted, and
10 Exhibit 3, which is an OER for the period 10 July 2003 through 30
11 March 2004, is also admitted.

12 Defense, do you have any?

13 DC: Your Honor, we have Defense Exhibit Alpha, which is a good
14 soldier packet, essentially, divided in four sections. I believe the
15 court has been previously shown a copy of this during an 802 session.
16 [The CR handed DE A for ID to the MJ.]

17 MJ: All right, any objection?

18 TC: Your Honor, just previously based on our 802 sessions we
19 had with you, if witnesses testify in person or via phone, then I ask
20 that the letters would be cumulative regarding Colonel [REDACTED] and
21 some of the letters that may be attached in there.

22 DC: Yes, Your Honor, before you even respond, if I may, defense
23 will withdraw those letters assuming--the only witness who is going

1 to present live testimony who has a statement in there is Lieutenant
2 [REDACTED] He will be a telephonic witness. If we make
3 contact and present the evidence, as we will seek to do, then we'll
4 withdraw those letters from the packet. [REDACTED]

5 MJ: All right.

6 DC: Otherwise, no other letters in there come from a witness
7 who will be present.

8 MJ: All right, with that proviso, Captain [REDACTED] any
9 objection?

10 TC: No, Your Honor.

11 MJ: All right then Defense Exhibit A for identification is
12 admitted.

13 Are those all of the exhibits for sentencing?

14 DC: Yes, Your Honor, I may just--if I may one question just a
15 request that we just be allowed to substitute into the record a black
16 and white copy. There are some original colored photographs in that
17 book, and for the record we have made black and white copies that we
18 would ask just that those personal items--photos be--you know we be
19 able to get those back so the accused does not lose those.

20 MJ: I have no problem with you submitting copies, but I'd
21 prefer you get colored copies made.

22 DC: Yes, Ma'am, we can do that.

1 MJ: All right, but do you want a copy of the entire book made
2 of the exhibit? That's all right, you may do that, but anything
3 that's in there in color needs to be copied in color.

4 DC: Yes, Ma'am, and that's fine. We'll just copy the colored
5 photographs. My only concern is that the accused and his family get
6 those photographs back----

7 MJ: That's fine.

8 DC: ----because those are personal items.

9 MJ: Any objection, Government?

10 TC: No, Your Honor.

11 MJ: Okay, no there's no problem doing that. Just make sure you
12 get colored copies----

13 DC: Thank you.

14 MJ: ----of the photos made.

15 DC: We'll provide those to Mr. [REDACTED]

16 MJ: All right. Any other--anything else we need to do before
17 we call the members?

18 TC: No, Ma'am.

19 DC: Nothing from the defense, Your Honor.

20 MJ: Okay Bailiff, would you call the members, please.

21 [The bailiff did as directed.]

22 [The session recessed at 1058, 1 July 2004.]

23

1 [The court-martial was called to order at 1100, 1 July 2004, pursuant
2 to the orders previously inserted in the record and the following
3 orders: Court-Martial Convening Order Number 8 dated 23 June 2004,
4 Headquarters, 7th Army Training Command, APO Army Europe.]

5 MJ: You may be seated. Court is now called to order.

6 TC: The court is convened by Court-Martial Convening Order
7 Number 1, Headquarters, 7th Army Training Command dated 25 February
8 2004, copies of which have been furnished to each court member.

9 The accused and the following persons detailed to this
10 court-martial are present.

11 COLONEL [REDACTED] MILITARY JUDGE;

12 CAPTAIN [REDACTED] TRIAL COUNSEL;

13 LIEUTENANT [REDACTED] ASSISTANT TRIAL COUNSEL;

14 CAPTAIN [REDACTED] DEFENSE COUNSEL; and the court

15 members who are:

16 COLONEL [REDACTED]

17 COLONEL [REDACTED]

18 LIEUTENANT [REDACTED];

19 LIEUTENANT COLONEL [REDACTED];

20 LIEUTENANT COLONEL [REDACTED];

21 LIEUTENANT COLONEL [REDACTED]

22 LIEUTENANT COLONEL [REDACTED]

23 MAJOR [REDACTED]

1 MAJOR [REDACTED]
2 MAJOR [REDACTED]
3 CAPTAIN [REDACTED]
4 CAPTAIN [REDACTED] [sic] [REDACTED] who are the court
5 members.

6 The following persons are absent and have been properly
7 excused:

8 MAJOR [REDACTED]
9 CAPTAIN [REDACTED]
10 CAPTAIN [REDACTED];
11 CAPTAIN [REDACTED] and
12 CW4 [REDACTED]

13 The prosecution is ready to proceed with the trial in the
14 case of United States versus First Lieutenant Glenn A. Niles.

15 MJ: Thank you. The members of the court will now be sworn.

16 All persons in the courtroom please rise.

17 [All persons did as directed and the members were sworn.]

18 MJ: Please be seated.

19 [All persons did as directed.]

20 MJ: The court is now assembled.

21 Members of the court, it is appropriate that I give you
22 some preliminary instructions. My duty as military judge is to
23 ensure that this trial in conducted in a fair, orderly, and impartial

1 manner in accordance with the law. I preside over open sessions,
2 rule upon objections, and instruct you on the law applicable in this
3 case. You are required to follow my instructions on the law and may
4 not consult any other source as to the law pertaining to this case
5 unless it's been admitted into evidence. This rule applies
6 throughout the trial including closed sessions and periods of recess
7 and adjournment. Any questions you have of me should be asked in
8 open court.

9 At a session held earlier, the accused pled guilty to The
10 Charge and Specification, which you have before you. I accepted that
11 plea and entered findings of guilty. Therefore, you will not have to
12 determine whether the accused is guilty or not guilty as that has
13 been determined by his plea. Your duty is to determine an
14 appropriate sentence.

15 That duty is a grave responsibility requiring the exercise
16 of wise discretion. Your determination must be based upon all the
17 evidence presented and the instructions I will give you as to the
18 applicable law. Since you cannot properly reach your determination
19 until all the evidence has been presented and you have been
20 instructed, it is of vital importance that you keep an open mind
21 until all the evidence and instructions have been presented to you.

22 Counsel soon will be given an opportunity to ask you
23 questions and exercise challenges. With regard to challenges, if you

1 know of any matter that you feel might affect your impartiality to
2 sit as a court member, you must disclose that matter when asked to do
3 so. Bear in mind that any statement you make should be made in
4 general terms so as not to disqualify other members who hear the
5 statement.

6 Some of the grounds for challenge would be if you were an
7 accuser in the case, if you have investigated any offense charged, if
8 you formed a fixed opinion as to what an appropriate sentence or
9 punishment would be for this accused. To determine if any grounds
10 for challenge exist, counsel for both sides are given an opportunity
11 to question you. These questions are not intended to embarrass you.
12 They are not an attack upon your integrity. They are asked merely to
13 determine whether a basis for challenge exists. It is no adverse
14 reflection upon a court member to be excused from a particular case.

15 You may be questioned either individually or collectively,
16 but in either event, you should indicate an individual response to
17 the question asked. Unless I indicate otherwise, you are required to
18 answer all questions.

19 You must keep an open mind throughout the trial. You must
20 impartially hear the evidence, the instructions on the law, and only
21 when you are in your closed session deliberations may you properly
22 make a determination as to an appropriate sentence after considering
23 all the alternative punishments of which I will advise you later.

1 You may not have a preconceived idea or formula as to either the type
2 or the amount of punishment, which should be imposed if any.

3 Counsel are given an opportunity to question all witnesses.
4 When counsel have finished, if you feel that there are substantial
5 questions that should be asked, you will be given an opportunity to
6 do so. The way we handle that is you're required to write out the
7 question and sign legibly at the bottom. This method gives counsel
8 for both sides and me an opportunity to review the questions before
9 they're asked since your questions, like the questions of counsel,
10 are subject to objection, and I believe that there are forms provided
11 for your use there if you desire to question any witness. I will
12 conduct any needed examination.

13 There are a couple of things you need to keep in mind with
14 regard to questioning:

15 First, you cannot attempt to help either the government or
16 the defense;

17 Second, counsel have interviewed the witnesses and know
18 more about the case than we do. Very often they do not ask what may
19 appear to us to be an obvious question because they are aware this
20 particular witness has no knowledge on the subject.

21 Rules of evidence control what can be received into
22 evidence. As I indicated, questions of witnesses are subject to
23 objection. During the trial, when I sustain an objection, disregard

1 the question and answer. If I overrule an objection, you may
2 consider both the question and answer.

3 During any recess or adjournment, you may not discuss the
4 case with anyone, not even among yourselves. You must not listen to
5 or read any account of the trial or consult any source written or
6 otherwise as to matters involved in this case. You must hold your
7 discussion of the case until you are all together in your closed-
8 session deliberations so that all members have the benefit of your
9 discussion. Do not purposely visit the scene of any incident alleged
10 in The Specification or involved in the trial. You must also avoid
11 contact with witnesses or potential witnesses in this case. If
12 anyone attempts to discuss this case in your presence during any
13 recess or adjournment, you must immediately tell them to stop and
14 report the occurrence to me at the next session. I may not repeat
15 these matters to you before every break or recess, but please keep
16 them in mind throughout the trial.

17 We will try and estimate the time needed for recesses or
18 hearings out of your presence. Frequently, your--the duration of
19 those hearings is extended by consideration of new issues that arise
20 during those hearings. Your patience and understanding regarding
21 these matters will contribute greatly to an atmosphere consistent
22 with the fair administration of justice.

1 While you are in your closed-session deliberations, only
2 the members will be present. You must remain together, and you may
3 not allow any unauthorized intrusion into your deliberations.

4 Each of you has an equal voice and vote with the other
5 members in discussing and deciding all issues submitted to you.
6 However, in addition to the duties of the other members, the senior
7 member will act as your presiding officer during your closed-session
8 deliberations and will speak for the court in announcing the results.

9 This general order of events can be expected in this court-
10 martial:

11 Questioning of court members;

12 Challenges and excusals;

13 Presentation of evidence;

14 Closing argument by counsel;

15 Instructions on the law;

16 Your deliberations; and

17 Announcement of the sentence.

18 The appearance and demeanor of all parties to the trial
19 should reflect the seriousness with which the trial is viewed.

20 Careful attention to all that occurs during the trial is required of
21 all parties. If it becomes too hot or too cold in the courtroom or
22 if you need a break because of drowsiness or for comfort reasons,
23 please tell me so that we can attend to your needs and avoid

1 potential problems that might otherwise result. Frankly, I'm not
2 sure how much control we have over the temperature in the courtroom,
3 but if there is a problem, let me know and we'll see what we can do.

4 Each of you may take notes, if you desire, and use them to
5 refresh your memory during deliberations, but they may not be read or
6 shown to other members. At the time of any recess or adjournment,
7 you should take your notes with you for safe keeping until the next
8 session.

9 If at anytime during the trial it is necessary that you
10 make any sort of statement, you need to preface that with your name
11 so that it's clear on the record who is speaking.

12 Now are there any questions?

13 [All members indicated a negative response.]

14 MJ: Apparently not.

15 Please take a moment and read The Charge on the flyer
16 provided to you and to ensure that your name is correctly reflected
17 on a convening order. If not, please let me know.

18 [All members did as directed.]

19 [A member indicated a change.]

20 MJ: Yes.

21 MEMBER [LTC ██████████]: Lieutenant ██████████ It
22 reflects Major ██████████ I've since been promoted.

1 MJ: All right that will be noted on the record, and
2 congratulations.

3 All right it appears that the only question was the one
4 noted by Lieutenant [REDACTED]

5 Trial Counsel, you may announce the general nature of The
6 Charge.

7 TC: The general nature of The Charge in this case is one charge
8 and one specification of a violation of Article 133, Uniform Code of
9 Military Justice for conduct unbecoming a United States Army officer.

10 The charges [sic] were preferred by Captain [REDACTED]
11 forwarded with recommendations as to its disposition by Colonel

12 [REDACTED] and investigated by Lieutenant Colonel [REDACTED]

13 [REDACTED] The records of this case disclose no grounds for
14 challenges. If any member of the court is aware of any matter, which
15 he or she believe may be a ground for challenge by either side, such
16 matter should now be stated.

17 Let the record--one person we've got a positive response from

18 Lieutenant [REDACTED], Your Honor. Besides Lieutenant [REDACTED]

19 [REDACTED] I think it was a negative response from the other panel
20 members, Your Honor.

21 MJ: Now remember, please state whatever you're going to say in
22 general terms so as to not infect, if you will, any of the other
23 potential panel members.

1 MEMBER [LTC ██████████] Lieutenant ██████████ the
2 investigating officer, and I work in the same organization. We were
3 doing separate Article 32 investigations at the same time, and at one
4 point a few weeks ago I asked him the status of his because he's
5 PCSing in the next few days. He said he'd completed----

6 MJ: All right, don't go any further as to what he told you.

7 MEMBER [LTC ██████████]: Okay.

8 MJ: Your conversation with him, did that--do you believe that
9 that will affect how you can hear the evidence in this courtroom and
10 determine a fair sentence for Lieutenant ██████████

11 MEMBER [LTC ██████████]: No, Ma'am, we did not discuss any
12 details.

13 MJ: All right. That may lead to some more questions further
14 down the road for you specifically, but I'll let that go at that at
15 the moment.

16 Other than that, does any member--is any member aware of
17 any matter, which he or she believes might be a ground for challenge
18 by other side?

19 Negative response.

20 Now before counsel ask you questions, I'm going to ask you
21 a few preliminary questions. If any member has an affirmative
22 response to any question, please raise your hand.

23 Does anyone know the accused in this case?

1 Negative response from all members.

2 Does anyone know any person named in The Specification?

3 Again, a negative response.

4 Having seen the accused and read The Charge and The
5 Specification, does anyone feel that you cannot give the accused a
6 fair trial for any reason?

7 Negative response.

8 Does anyone have any prior knowledge of the facts or events
9 in this case?

10 Negative response.

11 Has anyone or any member of your family ever been charged
12 with an offense similar to that charged in this case?

13 Negative response.

14 Has anyone or any member of your family or anyone close to
15 you personally ever been a victim of an offense similar to that
16 charged in this case?

17 Negative response.

18 How many of you are serving as court members for the first
19 time?

20 All right, we have two Captain----

21 MEMBER [CPT ██████████ : ██████████ Ma'am.

22 MJ: ----█████████ and----

23 MEMBER [MAJ ██████████ : Major ██████████

1 MJ: All right, as to the remaining members, can each of you who
2 has previously served as a court member put aside anything you might
3 have heard in a previous proceeding and decide this case solely on
4 the basis of the evidence and my instructions as to the applicable
5 law?

6 Affirmative response from all remaining court members.

7 Now has anyone had any specialized law enforcement training
8 or experience to include duties as a military police officer, off
9 duty security guard, civilian police officer, or comparable duties
10 other than the general law enforcement duties common to military
11 personnel of your rank and position?

12 Negative response.

13 Now is any member of the court in the rating chain,
14 supervisory chain, or chain of command of any other member of the
15 court?

16 Negative response.

17 Now has anyone had any dealings with any members, I'm
18 sorry, any parties to the trial to include me and counsel, which
19 might affect your performance of duty as a court member in anyway?

20 Negative response.

21 Does anyone know of anything of either a personal or
22 professional nature, which would cause you to be unable to give your
23 full attention to these proceedings throughout the trial?

1 Negative response.

2 Now it is a ground for challenge that you have an inelastic
3 predisposition toward the imposition of a particular punishment based
4 solely on the nature of the crime for which the accused is to be
5 sentenced. Does any member, having read The Charge and The
6 Specification, believe that you would be compelled to vote for any
7 particular punishment solely because of the nature of The Charge?

8 Negative response.

9 You will be instructed in detail before you begin your
10 deliberations. I will instruct you on the full range of punishments
11 from no punishment up to the maximum punishment. You should consider
12 all forms of punishment within that range. Consider doesn't
13 necessarily mean that you would vote for that particular punishment.
14 Consider means that you think about and make a choice in your mind
15 one way or the other as to whether that's an appropriate punishment.
16 Each member must keep an open mind and not make a choice nor
17 foreclose from consideration any possible sentence until the closed
18 session for deliberations and voting on the sentence. Can each of
19 you follow this instruction?

20 Affirmative response.

21 Can each of you be fair, impartial, and open minded in your
22 consideration of an appropriate sentence in this case?

23 Affirmative response.

1 Can each of you reach a decision on a sentence on an
2 individual basis in this particular case and not solely upon the
3 nature of the offense of which the accused has been convicted?

4 Affirmative response.

5 Is any member aware of any matter, which might raise a
6 substantial question concerning your participation in this trial as a
7 court member?

8 Negative response.

9 Now do counsel for either side desire to question the court
10 members?

11 TC: Yes, Your Honor, the government does.

12 DC: Yes, Your Honor, the defense does as well.

13 MJ: All right, Government, you can go first.

14 TC: Sir, members of the panel. My name is Captain [REDACTED]
15 [REDACTED], that's Lieutenant [REDACTED] We're the prosecutor or
16 the trial counsel in this case. I'm going to ask you a few questions
17 before we start.

18 Now you're going to hear from some witnesses today, and I'm
19 going to start by reading the names of the witnesses and if you know
20 that person, please give us an affirmative response. Okay.

21 Do any members of the panel know a Lieutenant [REDACTED]
22 [REDACTED] Lieutenant [REDACTED]

23 Negative response from the panel members, Your Honor.

1 Do any of the members know a Major [REDACTED] a Major

2 [REDACTED]

3 Negative response from the panel members, Your Honor.

4 Do any of the members know a Major [REDACTED], Major

5 [REDACTED]?

6 Positive response from----

7 MEMBER [LTC [REDACTED]: Lieutenant [REDACTED]

8 TC: ----Lieutenant [REDACTED] and from Lieutenant [REDACTED]

9 [REDACTED]

10 Let me start with Lieutenant [REDACTED] how do you

11 know [REDACTED] Sir?

12 MEMBER [LTC [REDACTED]: If it's the same Major [REDACTED],

13 he's the 409th BSB [REDACTED]

14 TC: Okay, have you discussed any aspects of the case with him?

15 MEMBER [LTC [REDACTED]: No, no, no.

16 TC: Okay. Anything on--based on your relationship that would

17 make you give more or less weight to what Major [REDACTED] might say?

18 MEMBER [LTC [REDACTED]: No.

19 TC: Okay. Same questions of you, Sir, how do you know Major

20 [REDACTED]

21 MEMBER [LTC [REDACTED]: He was my next-door neighbor in Bamberg,

22 and a personal friend.

1 TC: Okay and based on that type of relationship--first of all,
2 have you discussed the case with him?

3 MEMBER [LTC [REDACTED] No.

4 TC: Okay. And based on your relationship, would you give any
5 more or less weight to what he testified to?

6 Negative response from the panel member, Your Honor.

7 Does anybody else know Major Hunt?

8 Negative response, Your Honor.

9 Does anybody know a Captain [REDACTED] a Captain [REDACTED]

10 Negative response from the panel members, Your Honor.

11 Does anybody know a Captain [REDACTED] Captain [REDACTED]

12 [REDACTED]

13 Again, Your Honor, negative response from the panel
14 members.

15 Do any of the panel members know a First Lieutenant [REDACTED]

16 [REDACTED]

17 Affirmative response from Lieutenant [REDACTED]

18 negative response from the other panel members.

19 How do you know Colonel, excuse me, Lieutenant [REDACTED]

20 MEMBER [LTC [REDACTED] He was recently assigned to my
21 organization at range control. He's the range safety officer so it's
22 about 1 month.

23 TC: Okay, so he's worked for you for about 1 month?

1 MEMBER [LTC ██████████]: Yes.

2 TC: Are you a supervisor of his?

3 MEMBER [LTC ██████████]: Yes.

4 TC: Are you in his rating chain?

5 MEMBER [LTC ██████████]: Yes.

6 TC: What's your relationship in that rating chain?

7 MEMBER [LTC ██████████]: I'm his senior rater.

8 TC: Now based on your--first of all have you discussed the case

9 with him?

10 MEMBER [LTC ██████████]: No.

11 TC: Based--that's a negative response. Based on your

12 relationship with the lieutenant, is there anything that would make

13 you give more or less weight to what he said?

14 MEMBER [LTC ██████████]: No.

15 TC: Negative response from the panel member, Your Honor.

16 Does anyone know a First Lieutenant ██████████

17 Negative response from the panel members, Your Honor.

18 Does anybody know a Staff Sergeant ██████████ Staff

19 Sergeant ██████████

20 Again, Your Honor, negative response from the panel

21 members.

22 Do any of the members of the panel know a Staff Sergeant

23 ██████████, Staff Sergeant ██████████

1 Again, Your Honor, negative response from the panel
2 members.

3 Do any of the members of the panel know a Sergeant [REDACTED]
4 [REDACTED]

5 Negative response from the panel members.

6 And does anybody know a [REDACTED]

7 Again, negative response from the panel members.

8 Next I'm going to read you a list of officers that have
9 been previously or have had some type of involvement in the case, and
10 please let us know--let the Court know if you know these people.

11 A Captain [REDACTED] ^{LSB} does anybody know a Captain
12 [REDACTED] ^{LSB}

13 Negative response from all the panel members, Your Honor.

14 Now the next one is regarding Colonel [REDACTED] and just
15 for the record, Colonel [REDACTED] already addressed how he knows
16 Colonel [REDACTED] Do any of the rest of the members of the panel
17 know a Lieutenant [REDACTED]

18 That's a positive response from Colonel [REDACTED]

19 Sir, how do you know Colonel [REDACTED]

20 MEMBER [REDACTED]: He and I have conducted multiple briefings
21 at the--for visitors to Grafenwoehr.

22 TC: Okay, has he actually discussed any particulars of this
23 case with you?

1 MEMBER [REDACTED] No, he has not.

2 TC: Okay is there anything based, on your relationship with
3 Lieutenant [REDACTED] that will make you give more or less
4 weight to anything----

5 MEMBER [REDACTED] No.

6 TC: Does anybody here know a Colonel [REDACTED] Colonel [REDACTED]
7 [REDACTED]

8 Affirmative response from Colonel----

9 MEMBER [COL [REDACTED]: [REDACTED]

10 TC: ----Bilafer. Sir, how do you know Colonel [REDACTED]

11 MEMBER [COL [REDACTED]: We worked together at V Corps and now
12 we're deployed in Iraq together [sic].

13 TC: Okay....Did he ever discuss this case with you?

14 MEMBER [COL [REDACTED]: No.

15 TC: Anything, based on your relationship with him, that would
16 affect your ability to be fair and impartial in this case?

17 MEMBER [COL [REDACTED]: NO.

18 TC: Lastly, has anyone from the military police corps or any
19 military police officers approached you about this case?

20 That's a negative response from all the panel members, Your
21 Honor.

22 That's all the questions I have. Thank you.

1 MJ: All right, Captain [REDACTED]

2 DC: Thank you, Your Honor.

3 [REDACTED] Sir, Gentlemen, Ma'am, good morning. My
4 name is Captain [REDACTED] and I'm with the trial defense services
5 office here at Vilseck, and I'd like to introduce to you Lieutenant
6 [REDACTED], he's the accused in this case. I just have a couple
7 of questions briefly to ask--ask you as a group.

8 First of all, I would just like to ask as a general
9 proposition, would all of you agree that when determining an
10 appropriate punishment for any given offense, that it would be
11 necessary to consider the surrounding circumstances in which that
12 offense was committed? Would all of you agree to that proposition?

13 Your Honor, an affirmative response from all panel members.

14 For instance, an incident, which occurs in the midst of
15 combat operations, might be evaluated differently than one committed
16 in the everyday garrison environment. Would all of you agree to that
17 general proposition?

18 Affirmative response from all members, Your Honor.

19 Again, as a general proposition, would all of you agree
20 that combat--the combat environment can be an extremely stressful
21 situation? Would all of you agree to that general proposition?

22 Again, Your Honor, affirmative response from all members.

1 In that same light, would all of you agree that the combat
2 stresses or the stresses that one feels in combat could affect one's
3 judgment and decision making?

4 Affirmative--again affirmative response from all members,
5 Your Honor.

6 As the judge had briefly instructed, so you've already
7 heard this before, but I want to just, again, make sure that everyone
8 understands. You all do understand that one option for this court to
9 consider in granting or deciding a sentence for Lieutenant [REDACTED]
10 would be to consider no punishment. Does everyone understand that
11 that is--the law allows that action by the court?

12 Affirmative response from all members, Your Honor.

13 And also does each of you understand that based on
14 Lieutenant [REDACTED] plea of guilty at a previous session, which the
15 judge had mentioned, that Lieutenant [REDACTED] now has a federal
16 conviction on his record as a result of that plea of guilty? Does
17 everyone understand that as a matter of law?

18 Again, Your Honor, an affirmative response from all.

19 But does each of you also understand that the mere presence
20 of a conviction on one's record does not mean that a person cannot
21 continue to serve in the Army? Does everyone also understand that as
22 a proposition of law?

1 Okay, again, Your Honor, an affirmative response from all
2 members.

3 Finally, a last series of questions. I would assume that
4 all of the members are familiar with the investigation of misconduct
5 at the ██████████ prison in Iraq. Is that a fair----

6 Affirmative response from all the members, Your Honor.

7 I would further assume, as officers, that all of you are
8 familiar about comments that have been made by President Bush,
9 Secretary of Defense Rumsfeld, and Chairmen of the Joint Chiefs of
10 Staff General Meyers that those who committed offenses at Abu Ghurayb
11 prison will be "brought to justice" or words to that effect. Have
12 all of you heard in the media or in some forum comments like that?

13 An affirmative response from all the members, Your Honor.

14 Now because of these comments from President Bush, the
15 Commander in Chief, and other senior--the most senior military
16 leaders, do any of you feel any pressure to render any certain type
17 of punishment in this case based on those comments?

18 Your Honor, there's a negative response from all members.

19 And finally one last question, and that is, would each of
20 you agree that a single isolated incident of prisoner maltreatment
21 that was committed wholly separate from ██████████ prison should be
22 evaluated independently from that which we've been made aware of
23 through the media? Does everyone agree with that?

1 [The session was called to order at 1130, 1 July 2004.]

2 MJ: All right all the members are absent, all other parties are
3 present. You may be seated.

4 Trial Counsel, do you request individual voir dire, and if
5 so, please state the name of the member and the reason.

6 TC: Your Honor, only--based on Colonel [REDACTED] response
7 we'd like individual voir dire with Colonel [REDACTED]

8 MJ: Okay you're going to have to be more specific----

9 TC: Based on----

10 MJ: ----⁹then "based on his response".

11 TC: Based on the question--the answers about Lieutenant
12 [REDACTED], excuse me, First Lieutenant [REDACTED] that he's his
13 supervisor and senior rater, based on his comment about knowing Major
14 Hunt, based on his conversations he's had with Colonel [REDACTED]
15 about the case.

16 DC: Your Honor, if I may, I believe that Captain [REDACTED]
17 already asked questions and elicited sufficient responses from
18 Colonel [REDACTED] with regards to him being able to set aside those
19 things.

20 MJ: Well I--I think we probably ought to get a little more on
21 the record as far as what he's--at least what he's heard from
22 Lieutenant Colonel [REDACTED] the 32 officer, just to make clear

1 since I told him, "don't go into anymore details," so we'll bring him
2 back for that if nothing else.

3 Is that--is there anyone else you want, Captain [REDACTED]

4 TC: Just Colonel [REDACTED] Ma'am.

5 MJ: All right. Captain [REDACTED] who would you like, if anyone
6 and why?

7 DC: Your Honor, I believe that we have, no--no requests for any
8 individual voir dire.

9 MJ: All right, Bailiff, would you ask Lieutenant [REDACTED]
10 [REDACTED] to come back out, please?

11 BAILIFF: Yes, Ma'am.

12 MJ: Thank you.

13 [LTC [REDACTED] entered the courtroom and was seated.]

14 MJ: All right, Captain [REDACTED], did you have any questions
15 that you wanted to ask Lieutenant Colonel [REDACTED]

16 TC: Just briefly.

17 **INDIVIDUAL VOIR DIRE OF LIEUTENANT COLONEL [REDACTED]**

18 **Questions by the trial counsel:**

19 Q. Sir, you mentioned that you--yourself and Colonel
20 [REDACTED] about the same time were doing Article 32 investigations?

21 A. Yes.

22 Q. And do you guys know each other pretty well?

23 A. Yes.

1 Q. Okay. Did you discuss your 32 investigations and what was
2 going on?

3 A. Not as to what was going on, no.

4 Q. What did he tell you about this case?

5 A. I asked him, because [REDACTED] due to PCS in a few days, I
6 asked him what the progress or status of his investigation was, if he
7 was going to complete it on time, and he informed me that he had
8 turned it in, but when he said that he said also that he had been
9 informed the recommendation that he had made on it was not the one
10 adopted by whoever the appointing authority was.

11 Q. Did he tell you what the recommendation was?

12 A. No, he did not.

13 Q. Okay, but you realize that we're at a court-martial now,
14 right? [REDACTED]

15 A. Yes.

16 Q. Right and Colonel--Lieutenant Colonel [REDACTED] said that
17 he had made a different recommendation then? [REDACTED]

18 A. Yes, I inferred that.

19 TC: Thank you.

20 [REDACTED] No further questions, Your Honor.

21 MJ: All right.

22 Captain [REDACTED] would you like to ask Lieutenant Colonel
23 [REDACTED] any questions?

1 DC: If I may, Ma'am.

2 MJ: Of course.

3 DC: Just briefly.

4 **Questions by the defense counsel:**

5 Q. Sir, good day. Sir, the conversation that you've had with
6 Colonel [REDACTED] in addition to your relationship with him, as had
7 been asked previously in the group setting, do you feel anyway
8 predisposed to come to any certain decision about punishment versus
9 any other decision based on that?

10 A. No, not at all. No.

11 Q. Okay, Sir, and would it be--do you feel as though--I mean
12 you said that you were able to infer, I think that was your word--the
13 word that you used, I guess what Colonel [REDACTED] recommendation
14 had been?

15 A. I mean----

16 Q. The question that Captain [REDACTED] had asked you was well,
17 "we're here at a court-martial" I believe you said that you were
18 able--had been able to infer that the recommendation had been for
19 something else?

20 A. No, not at all because in the Article 32 forum it has many
21 different forms of court-martial that you can recommend, so I didn't
22 know if it was another form of court-martial or something lower. He
23 just said it was different.

1 Q. Okay great. Now having had that specific conversation, and
2 maybe just one or two exchanges, does that in anyway affect your
3 ability to come to a fair and impartial decision here?

4 A. No, no, not at all.

5 Q. And are you, in fact, confident that you would be able to
6 come to a fair and impartial decision----

7 A. Yes.

8 Q. ----in this case?

9 A. Yes.

10 DC: Okay thank you, Sir.

11 MEMBER [LTC ██████████]: Yes.

12 MJ: All right. Thank you, Lieutenant Colonel ██████████ you
13 can return to the deliberation room.

14 [LTC ██████████ withdrew from the courtroom.]

15 MJ: Captain ██████████ who else did you want or----

16 TC: Your Honor, I--I did not ask questions--I was mostly
17 concerned about the relationship with Colonel ██████████ and Colonel

18 ██████████

19 MJ: Okay are you satisfied now?

20 TC: Yes, Your Honor.

21 MJ: All right, then do you have any challenges for cause?

22 TC: Yes, Your Honor, we challenge Colonel ██████████ for cause
23 based on his relationship and discussions previously about the case.

1 MJ: I'm sorry with his relationship with whom?

2 TC: Colonel [REDACTED] the 32 officer, and his discussions on
3 the case, Ma'am.

4 MJ: Well he said he doesn't know anything about the case. His
5 only discussion was in a basically are you doing a 32, what's the
6 status of it, and are you going to finish it before you PCS.

7 TC: I believe Colonel [REDACTED] response to one of my
8 questions was that he had sent it up to--that his recommendations to
9 the convening authority had not been approved, and I think based on--
10 --

11 MJ: Well yeah but he--he--what he said was there are a number
12 of choices on the form. All he knows is some recommendation that
13 Lieutenant Colonel [REDACTED] made wasn't followed. He's,
14 Evidently, under the misapprehension that the Lieutenant maybe could
15 have gone to a special court-martial and that--that's okay. He just
16 doesn't know--he doesn't know whether the investigating officer
17 recommended no trial, a different level of trial, he just knows that
18 some recommendation wasn't followed.

19 TC: Well that also gets into what we talked about in the 802
20 session, Ma'am, with regards to Colonel [REDACTED] possible MFR
21 that he might do, and obviously all that Colonel [REDACTED] ---

22 MJ: Well but I've already discussed with you that whatever
23 Lieutenant Colonel [REDACTED] might say, he may not discuss what his

1 recommendations were as a 32 officer as far as how this case should
2 have been disposed of because that's irrelevant for our purposes, so
3 you're going to have to tell me again--I don't see how what
4 Lieutenant Colonel [REDACTED] has said about his discussions with
5 Lieutenant Colonel [REDACTED] makes him something other than
6 impartial and willing to follow the instructions of the court, which
7 is what's required of him.

8 TC: Understood, Your Honor, but the government's position is
9 this is that he's previously discussed the case that through the
10 evidence or through the discussions he's had with Colonel [REDACTED]
11 it's clear that Colonel [REDACTED] and the General Court-Martial
12 Convening Authority disagreed, and we think that's going to affect
13 how he views the case.

14 MJ: Well Captain [REDACTED] what's your view?

15 DC: Your Honor, if I may respond to that. The rule certainly
16 does not preclude anyone from serving on a panel that has had a
17 discussion. The issue--the question is can they set aside any prior
18 knowledge or any issues, anything outside the process can they set
19 that aside and make a fair and impartial decision in the best
20 interest of justice. I think Colonel [REDACTED] very clearly said on
21 a couple of occasions that he could--could do that. He had not gone
22 into any detail with Colonel [REDACTED], and you yourself, Your
23 Honor, just noted, he is not someone--he's not a lawyer, he's not a

1 JAG officer, he's not aware of some of the intricacies, and as he
2 said, he had no idea what the recommendation from Colonel [REDACTED]
3 was. He simply knew that the convening authority had done something
4 different to that, and I asked him pointedly would that affect his--
5 would that knowledge affect his ability, he said no, Your Honor. I'm
6 confident in his response that that's true.

7 MJ: All right. There's no information on the record that
8 Lieutenant Colonel [REDACTED] knows anything about the events that
9 have brought Lieutenant [REDACTED] here today, that he discussed the nuts
10 and bolts of the case with Lieutenant Colonel [REDACTED] that he
11 discussed anything with him other than the fact that they were each
12 doing Article 32 investigations at the same time, and what the
13 general status of the 32 investigation was in relationship to
14 Lieutenant Colonel [REDACTED] getting ready to PCS, that is, had
15 he gotten it done and had he sent it forward, and that he learned
16 from Lieutenant Colonel [REDACTED] yes it had been finished and
17 that the convening authority hadn't followed his recommendation. He
18 didn't even know what the recommendation was, so I'm going to deny
19 your request to excuse him for cause.

20 TC: Understood, Your Honor.

21 MJ: Defense Counsel----

22 TC: Just note the government objection for the record.

23 MJ: Well it's on the record, so----

1 TC: Yes, Ma'am.

2 MJ: ----you don't need to ask me to note it.

3 TC: Yes, Your Honor.

4 MJ: It's already there.

5 Defense Counsel, do you have any excusals for cause or

6 challenges for cause I should say?

7 DC: Your Honor, may I have just a moment to consult with the

8 accused----

9 MJ: Yes.

10 DC: ----and members of my staff?

11 [The DC, ACC, and a summer intern conferred.]

12 DC: Your Honor, no casual challenges.

13 MJ: All right, Trial Counsel, peremptory?

14 TC: Same one, Your Honor; Lieutenant Colonel [REDACTED] [sic].

15 MJ: All right. I don't think you really mean that. He's the

16 investigating officer. He's not a member of our panel.

17 TC: Oh pardon me. Colonel [REDACTED] Your Honor.

18 MJ: All right. And Defense Counsel?

19 DC: Your Honor, Colonel [REDACTED] is our peremptory challenge.

20 MJ: All right. So that will leave our panel then of--with ten

21 members. Is that correct?

22 DC: That's my count, Your Honor.

23 TC: That's my count as well, Your Honor.

1 MJ: You can be seated.
2 All right, has the bailiff been instructed on how to
3 reorder?
4 TC: Your Honor, if--we'll have my legal clerk, Specialist
5 [REDACTED] reorder if that's okay, Your Honor.
6 MJ: That's fine. He and the bailiff can go back and tell
7 Colonel [REDACTED] and Lieutenant Colonel [REDACTED] they're excused.
8 TC: Yes, Your Honor.
9 MJ: And reorder the panel.
10 TC: We'll do, Your Honor.
11 MJ: And how long is that going to take?
12 TC: I would guess 5 to 10 minutes, Your Honor.
13 MJ: All right then we'll be in recess while that's done.

14 [The session recessed at 1141, 1 July 2004.]

15 [END OF PAGE]

16

1 [The court-martial was called to order at 1156, 1 July 2004.]

2 MJ: Court is called to order. You may be seated. Call the
3 members.

4 [All the members, except Colonel [REDACTED] and Lieutenant Colonel
5 [REDACTED] who were excused, entered the courtroom and were seated.]

6 MJ: You may be seated.

7 TC: The following data is reflected on the charge sheet:

8 NAME OF THE ACCUSED-----

9 MJ: No, no. All parties are present as before now to include
10 the court members with the exception of Colonel [REDACTED] and Lieutenant
11 Colonel [REDACTED] who were each excused.

12 Court members, at this time we will begin the sentencing
13 phase of this court-martial. Trial Counsel, would you please read
14 the personal data concerning the accused as shown on the first page
15 of the charge sheet?

16 TC: Yes, Your Honor.

17 THE NAME OF THE ACCUSED IS: [REDACTED]

18 SOCIAL SECURITY NUMBER:

19 GRADE OR RANK IS: First Lieutenant.

20 PAY GRADE IS: O2.

21 HIS UNIT ORGANIZATION IS: 615th Military Police Company,
22 APO AE 09302.

23 HIS INITIAL DATE IS: 10 May 01.

1 HIS TERM IS: 3 years and 4 months.
2 AND HIS BASIC AND TOTAL PAY IS: \$3,421.50, Your Honor.
3 MJ: Thank you.
4 Now members of the court, I have previously admitted into
5 evidence Prosecution Exhibits 1, 2, and 3, which are a stipulation of
6 fact in this case, the accused's ORB, and an OER for him, and Defense
7 Exhibit A, which is a series of certificates, awards, and letters on
8 his behalf. You will have these exhibits available for you during
9 your deliberations.

10 Trial Counsel, you may read the stipulation of fact into
11 evidence.

12 TC: Yes, Your Honor.
13 [The TC published PE 1 to the members.]

14 MJ: Thank you. Do you have anything else to present at this
15 time, Captain [REDACTED]

16 TC: No, Ma'am.

17 MJ: All right. Defense Counsel, you may precede then.

18 DC: Thank you, Your Honor.

19 Members of the court, the defense calls Staff Sergeant
20 [REDACTED] as our first witness.

21 [END OF PAGE]

22

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1 STAFF SERGEANT [REDACTED] U.S. Army, was called as a witness
2 for the defense, was sworn, and testified as follows:

3 DIRECT EXAMINATION

4 Questions by the assistant trial counsel:

5 Q. Would you please state your name, rank, and your unit of
6 assignment, please?

7 [REDACTED] staff sergeant, 615th MP, Company,
8 Sir.

9 ATC: Thank you, Sergeant, Captain [REDACTED] has a couple of
10 questions for you.

11 Questions by the defense counsel:

12 DC: Good day, Sergeant [REDACTED] before I begin, can all the
13 panel members see the witness? Am I blocking your view, Sir?

14 [All panel members indicated a positive response.]

15 Q. Good day, [REDACTED] Do you know the accused,
16 Lieutenant [REDACTED]

17 A. Yes, Sir.

18 Q. How do you know Lieutenant [REDACTED]

19 A. He was my lieutenant while--before we went to Iraq and
20 during part of the time that I was in Iraq, Sir.

21 Q. Okay what was your position then?

22 A. Squad leader in 1st Platoon.

1 Q. Okay so he was your platoon leader and you were one of his
2 squad leaders?

3 A. Yes, Sir.

4 Q. Okay. And we heard a stipulation of fact just read. It's
5 true that you were present at the [REDACTED] Police Station and
6 witnessed the incident in question. Is that correct?

7 A. Yes, Sir.

8 Q. Okay. I would, if you can, please just ask you to tell the
9 court members from your recollection what happened.

10 A. There were three prisoners that were there. They were
11 apprehended the night before, and they had tried to escape during the
12 night by digging a hole through one of the walls with one of the
13 pipes from the shower, and the Lieutenant found out about it when we
14 went out there, and he wanted to go check it out, so myself, Sergeant
15 [REDACTED], Sergeant [REDACTED] and Private [REDACTED] went into the D-Cell and we
16 separated the three that--that were in question, and told Private
17 [REDACTED] to watch the other individual prisoners.

18 And we walked into the room in question, and as we were
19 walking, Lieutenant [REDACTED] was asking the prisoners if they're the
20 ones that did, you know, did the digging of the hole trying to dig
21 out. And as we walked in, the prisoners were in front of us and then
22 Lieutenant [REDACTED], then me, and then Sergeant [REDACTED] which was
23 Specialist [REDACTED] at the time, and then Sergeant [REDACTED] behind him.

1 The prisoners stopped right as soon as we got inside the room, and
2 the hole in the wall was towards the backside of the room, and
3 Lieutenant [REDACTED] was asking still if they had--if they're the ones
4 that had done this, and of course, they didn't understand. So
5 Lieutenant [REDACTED] looked over that way towards the wall and kind of
6 put his hand around the neck of the first prisoner and kind of shoved
7 him over in that direction.

8 Q. Let me ask--sorry to interrupt, but let me just ask you.
9 You said "put his hand around his neck" you mean in a choking manner
10 or from behind?

11 A. No, he was looking at him kind of like I'm looking at you,
12 Sir, and just put his hand like right here and pushed him over that
13 way, Sir.

14 Q. Toward the hole that he was asking about?

15 A. Yes, Sir.

16 Q. Okay please continue.

17 A. Once he did that, the other two individuals realized that
18 he wanted them over in that direction, so the three [sic] went over
19 by the hole in the wall, and Lieutenant [REDACTED] walked in, started
20 walking over towards them. Myself and Sergeant [REDACTED] and Sergeant
21 [REDACTED] kind of stood back because we didn't know that the--what's in
22 question was going to happen, and Lieutenant [REDACTED] was still asking,

1 "Did you do this?" "Did you do this?" And of course, they didn't
2 understand still, so they didn't say anything.

3 And when Lieutenant [REDACTED] walked up, he--he--the three
4 individuals were in a row kind of like in a row looking at him, and
5 he went up to the right individual first, and he punched the
6 individual in the gut, and then he moved to the next one and punched
7 the second individual in the gut. By this time, I was already
8 starting to move over into him to try to stop him from doing it, and--
9 --and the third guy was kind of afraid of getting hit, so he kind of
10 was kind of getting down on the ground saying, "No, no." And by that
11 time, I was already over there, and put my arms around Lieutenant
12 [REDACTED] and was starting to pull him back, and then he kind of kicked
13 at the third guy that was on the floor, Sir.

14 Q. Okay. What would you say would be a fair estimate of the
15 amount of time that passed from when he struck the first guy to when
16 you pulled him off, and he struck the third guy?

17 A. Just a few seconds, Sir. Long enough--long enough for me
18 to walk from--not even from the distance from me to you away, Sir,
19 because I was there before he even got to the third guy.

20 Q. So 4 or 5 seconds?

21 A. Yes, Sir.

22 [END OF PAGE] [REDACTED]

23

1 Q. Okay. Had you ever, in your time knowing Lieutenant [REDACTED]
2 ever seen him do anything like that before?

3 A. No, Sir.

4 Q. Had there been any discussion before hand about, "Hey,
5 we're going to go in here and rough these guys up"?

6 A. No, Sir.

7 Q. Okay. In fact, were you shocked to see what happened?

8 A. Yes, Sir.

9 Q. Okay, and why is it that you were shocked?

10 A. Because it's not something that normally that--that first
11 of all should be done, and I've never seen anybody in our platoon
12 that I worked with that have ever done it, and nobody's ever
13 discussed it, and he's--he was always professional, always, Sir, up
14 until that point, and I just wish--didn't think that it would happen,
15 Sir.

16 Q. Okay, so it's fair to say, then, that that act--that act on
17 his part was completely out of character from the Lieutenant [REDACTED]
18 that you knew?

19 A. Yes, Sir.

20 Q. Okay. You mentioned previously, just I want to follow up
21 with one point, that is that these three Iraqis had been brought in--
22 had been apprehended the night before?

23 A. Yes, Sir.

1 Q. What is it that they had been apprehended for, if you know?

2 A. They were under suspicion of car theft and murdering the
3 owner of the car, Sir.

4 Q. Okay. Thanks. Now I want to ask you a little bit of a
5 bigger picture question now, and that is, the [REDACTED] Police Station,
6 describe for me, if you will, the platoon's mission at the station at
7 the time.

8 A. Our mission, Sir, was to instruct and teach the IPs, the
9 Iraqi Police, that were there to teach them in the different classes
10 on anything from how to respond to traffic accidents all the way up
11 to responding to a rape or a murder and anything in between there,
12 Sir. Also we were pulling force protection. Our soldiers were
13 actually on the roof pulling force protection on the station the
14 entire time we were there, Sir.

15 Q. Okay what were the shifts? How much--how many hours a day
16 were you working typically or was Lieutenant [REDACTED] working typically?

17 A. At least 12, Sir, 12 to 14 sometimes 16 hours a day.

18 Q. Okay and was that 7 days a week?

19 A. Yes, Sir.

20 [END OF PAGE]

21

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1 Q. Okay and how long had you been at that station conducting
2 those types of operations prior to this incident at the end of July?

3 A. It had been a couple of months, Sir. I'm not exactly sure
4 how many at that station because we had been at numerous stations. I
5 would say at least 2 months at that individual station, Sir.

6 Q. So then at least 2 months--a few months of everyday 14, 16
7 hour days. That's a fair----

8 A. Yes, Sir.

9 Q. -----estimate of the mission and the requirements before
10 that?

11 A. Yes, Sir.

12 Q. Okay. What was the--some of the environmental factors like
13 the heat, was that a very particularly hot time?

14 A. Yes, Sir.

15 Q. And what about force protection and the threat that you all
16 were facing, what was that like at that time?

17 A. The--it was pretty bad, Sir. Each individual day we had to
18 travel to and from the station, so we were always worried about IEDs
19 on the way to and on the way from, and also getting ambushed on the
20 way in and on the way back. Also there--different stations were also
21 always getting either mortared or RPGd at all times, Sir, as well.

22 [END OF PAGE]

23

1 Q. Would it be fair to say, then, that based on the threat,
2 the heat, the hours, that it was an extremely stressful time?

3 A. Yes, Sir.

4 Q. Would it also be fair to say that as a leader, as a squad
5 leader yourself, as Lieutenant [REDACTED] being a platoon leader, that the
6 additional stresses of leadership and taking care of your soldiers
7 was also or added more--even more stress to that?

8 A. Yes, Sir.

9 Q. Is that fair to say? Did you, in fact, yourself feel
10 extremely stressed?

11 A. Yes, Sir.

12 Q. Okay. Now you had mentioned that Lieutenant [REDACTED] had been
13 your platoon leader for a pretty significant period of time. Is that
14 right?

15 A. Yes, Sir.

16 Q. Okay how often, as one of his squad leaders, did you
17 interact with him? Was it on a daily basis?

18 A. Yes, Sir.

19 Q. Okay and how long of a period of time was it that you were
20 one of his squad leaders if you can tell the court?

21 A. About a year and a half, Sir.

22 [END OF PAGE]

23

1 Q. Okay, so for a year and a half you interacted with him on
2 roughly a daily basis?

3 A. Yes, Sir.

4 Q. Did you have a--in that year and a half, did you have
5 sufficient time to form an opinion about him as a leader?

6 A. Yes, Sir.

7 Q. And did you, in fact, form an opinion?

8 A. Yes, Sir.

9 Q. What is that opinion?

10 A. He was always professional, Sir, always would take care of
11 his platoon. Had a genuine concern for everybody in the platoon, and
12 just--I always thought he was professional. He knew his job well,
13 Sir. He was a great leader.

14 Q. Okay, tactically--as far as the combat tactics, proficiency
15 in the combat operations were you confident with him as your platoon
16 leader?

17 A. Yes, Sir.

18 Q. Going to war with him----

19 A. Yes, Sir.

20 Q. ---as your leader? Okay. Having been present for the
21 incident and knowing what you know about the incident, if you were
22 tasked to go to war yet again with Lieutenant [REDACTED] or maybe Captain

1 [REDACTED] as your company commander, would you be comfortable and
2 confident with him?

3 A. Definitely, Sir.

4 DC: Okay thanks.

5 Your Honor, I pass the witness to the government.

6 MJ: All right, cross?

7 ATC: Thank you, Your Honor.

8 **CROSS-EXAMINATION**

9 **Questions by the assistant trial counsel:**

10 Q. Sergeant [REDACTED] in order to get a better understanding of
11 what happened in Cellblock D in Baghdad, will you please step down
12 from the witness chair?

13 A. [The witness did as requested.]

14 Q. Now you described for the record that once you were in the-
15 -once the three detainees were separated that Lieutenant [REDACTED] made
16 first contact with the detainees, correct?

17 A. Yes, Sir.

18 Q. Would you, please, demonstrate for the panel members, and
19 for the court, the first contact with the three detainees, please?

20 A. Yes, Sir, so you're the detainee?

21 Q. Correct there's three detainees.

22 A. And I'll be Lieutenant [REDACTED] He walked up and there's a
23 wall right there and on the other side of the wall is a--the room

1 . opens up and the hole that was dug in the wall on the other side over
2 there, and he walked up asking the question, "Did you do this?" "Did
3 you do this?" And he just put his hand on the person like this and
4 then shoved him over like that.

5 Q. Okay and then what?

6 A. And----

7 MJ: Okay we--we need to get a description of this that the
8 record can understand, so----

9 ATC: Yes, Ma'am.

10 MJ: ----the witness indicated that a wall was on his left.

11 WIT: Yes, Ma'am.

12 MJ: And then he placed his right hand at what is approximately
13 the junction of Lieutenant [REDACTED] neck and shoulder and then with
14 his right hand and then pushed Lieutenant [REDACTED] to the left.

15 ATC: Correct, Ma'am.

16 MJ: Go ahead.

17 Q. Then what happened, Sergeant?

18 A. Once that happened, the other two realized that he wanted
19 them over there so----

20 Q. And at that point, where were the other two detainees, to
21 his right or to his left?

22 A. The other two at that time were still right there because
23 he threw the first one over to that direction like that.

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1 Q. Okay.

2 A. And then as soon as he started--he shoved the other one
3 over that way, they started moving over that way because they
4 realized that----

5 Q. Okay.

6 A. ----he wanted them over there.

7 Q. Did he grab the second detainee----

8 A. Negative.

9 Q. ----by the neck?

10 A. Negative, Sir.

11 Q. Okay so one detainee is over by the wall, and the second
12 two----

13 A. Immediately started ~~moving~~ moving over to that direction, Sir.

14 Q. To his left?

15 A. Yes, Sir.

16 Q. Okay and then what happened?

17 A. Then he walks over like--enters the room like this and
18 myself, the wall would be right here so myself and----

19 ATC: Okay let the record reflect that Sergeant [REDACTED] has
20 pointed to his left that there was a wall to his left, correct?

21 WIT: Yes, Sir.

22 [END OF PAGE]

23

1 Q. Okay and then what happened?

2 A. At that time, that's when myself and Sergeant [REDACTED] and
3 Sergeant [REDACTED] walked around to just the entrance of the room.

4 Q. Okay.

5 A. And Lieutenant [REDACTED] walked over towards the three
6 individuals.

7 Q. Were--were they facing him?

8 A. Yes.

9 Q. Okay and then what happened.

10 A. Asking them, you know, if they had done this, if they had
11 done this, and he walked up to the first one like this.

12 ATC: Okay and just for the record, let the record reflect that
13 Sergeant [REDACTED] is grabbing me, Lieutenant [REDACTED] by the right
14 shoulder, correct?

15 WIT: Yes.

16 ATC: And is making a motion, a swinging motion to my midsection,
17 correct?

18 WIT: Yes.

19 Q. And then what happened?

20 A. At that time, he was already done with that individual.

21 Q. Okay and what--what did he do? What did the first detainee
22 do?

23 A. He just kind of doubled over and kind of backed off.

1 ATC: Okay and let the record reflect that Sergeant [REDACTED] is
2 crouched over demonstrating how the first detainee acted.

3 Q. Okay and then what happened to the second detainee?

4 A. Then the second one was still just standing there and he
5 kind of moved over and did the same thing to the second one.

6 ATC: Okay and let the record reflect, once again, that Sergeant
7 [REDACTED] s grabbing Lieutenant [REDACTED] by the shoulder and doing a
8 swinging motion to my midsection, Lieutenant [REDACTED] midsection,
9 demonstrating how Lieutenant [REDACTED] struck the second detainee,
10 correct?

11 WIT: Yes, Sir.

12 Q. And how did the second detainee act?

13 A. He just doubled over the same as the first one and moved
14 over to the corner section.

15 Q. Okay and will you face the panel and describe how the third
16 detainee reacted?

17 A. By that time, the third detainee was afraid so he kind of
18 was hid down like this and then----

19 ATC: And let the record reflect that Sergeant [REDACTED] has
20 crouched to the floor kind of demonstrating how the third detainee
21 reacted to Sergeant, forgive me, Lieutenant [REDACTED] correct?

22 WIT: Yes.

23

1 Q. And what did you say [sic]?
2 A. He said, no, Sir. "No, mister. No, mister."
3 Q. Okay.
4 MJ: Okay when you crouched, you crouched down, you used your
5 right hand on the ground, and you held your left hand up in the air
6 as though to ward off someone. Is that a fair description?
7 WIT: Yes, Ma'am.
8 MJ: All right.
9 ATC: You can take a seat.
10 [The witness returned to the witness stand.]
11 Q. Now at that point, you had to grab Lieutenant [REDACTED]
12 correct?
13 A. Yes, Sir.
14 Q. I mean Lieutenant [REDACTED] didn't stop himself, correct?
15 A. No, Sir.
16 Q. And I mean even when you held Lieutenant [REDACTED] I mean he
17 didn't stop, right?
18 A. As--as I was putting my hands around his waist to pull him
19 back, he was already in the process of kicking at the individual
20 because he was down----
21 Q. Okay.
22 A. ----instead of up, so as I pulled him away, he kind of
23 struck him in the--in the chest.

1 Q. Did he make contact as you pulled him back?

2 A. Yes, Sir.

3 Q. What--let's kind of talk about the detainees. Can you
4 describe what they were about 5, 5, 160 pounds? Is that a fair
5 description of---

6 A. Yes, Sir.

7 Q. ----all three detainees? In that cellblock when Lieutenant
8 [REDACTED] made contact with those three detainees, they weren't a
9 physical threat to him, were they?

10 A. No, Sir.

11 Q. These three detainees weren't a physical threat to the
12 soldiers in that cellblock, right?

13 A. No, Sir.

14 Q. As a matter of fact, Lieutenant [REDACTED] did not act out of
15 self defense for himself or for any of the other soldiers, is that
16 fair?

17 A. Yes, Sir.

18 Q. Okay. I know on direct you mentioned that these three
19 detainees were accused of crimes, and that's why they were there,
20 correct?

21 A. Yes, Sir.

22 [END OF PAGE]

23

1 Q. But the fact that they were accused of crimes doesn't
2 justify striking them, does it?

3 A. No, Sir.

4 Q. The fact that they attempted to escape doesn't make it
5 right that they were struck, does it?

6 A. No, sir.

7 Q. As a matter of fact, striking those detainees was wrong?

8 A. Yes, Sir.

9 Q. Now I know you discussed some of the stress factors.
10 Everyone was working long hours, correct?

11 A. Yes, Sir.

12 Q. I think at times you mentioned 12 to 14 hour days?

13 A. Yes, Sir.

14 Q. Seven days a week?

15 A. Yes, Sir.

16 Q. In heat of a hundred plus?

17 A. Yes, Sir.

18 Q. You weren't given any special privileges from those fact--
19 those stress factors, were you?

20 A. No, Sir.

21 Q. You didn't work any less than anyone else, did you?

22 A. No, Sir.

1 Q. You didn't have air-conditioned quarters or work in an air-
2 conditioned compound?

3 A. No, Sir, not at that time.

4 Q. And as far as like, you mentioned the transportation and a
5 lot of the dangers, IEDs, the ambushes, you faced those on a daily
6 basis also?

7 A. Yes, Sir.

8 Q. I mean you stressed--you faced not only the stresses of the
9 desert and the dangers, but I mean you also had a leadership
10 position, right?

11 A. Yes, Sir.

12 Q. And so, I mean you faced the same stresses that everybody
13 else who was there, the same stresses that Lieutenant [REDACTED] faced?

14 A. Yes, Sir.

15 Q. You never struck any of those detainees did you?

16 A. No, Sir.

17 ATC: I have nothing further, Your Honor.

18 MJ: All right, redirect?

19 DC: Yes, Your Honor, very briefly.

20 **REDIRECT EXAMINATION**

21 **Questions by the defense counsel:**

22 Q. Were those three guys hurt?

23 A. No, Sir.

1 Q. In fact they were--there were no injuries at all, right?

2 A. No, Sir.

3 Q. Okay now when you pulled Lieutenant [REDACTED] off, did you--the
4 next couple events after that is you escorted him out of the room,
5 right?

6 A. Yes, Sir.

7 Q. What happened after that?

8 A. I--we have an actual room that was just ours for the
9 military police. When I--I pulled him off, he walked in front of me,
10 and I basically followed him into that room, Sir.

11 Q. And did you have a discussion at all?

12 A. Yes, Sir. I shut the door behind me, and I told him not to
13 ever put myself or my soldiers into that kind of position, ever again,
14 Sir.

15 Q. Okay was a--what was his response to you?

16 A. There was no response, Sir. He didn't say anything, which
17 was really out of character for him because he normally is--was never
18 at a loss for words, and he just kind of was looking forward to--just
19 kind of a blank stare.

20 Q. Was it fair to say that he was kind of zoning out of it a
21 little bit?

22 A. Yes, Sir.

23 DC: Okay. No further questions.

1 MJ: Recross?
2 ATC: Nothing further, Your Honor.
3 MJ: All right, do any of the panel members have any questions
4 they'd like to ask of this witness?
5 Negative response.
6 Temporary or permanent excusal?
7 DC: Permanent excusal is fine, Your Honor.
8 ATC: Permanent as well, Your Honor.
9 [The witness was duly warned, permanently excused, and withdrew from
10 the courtroom.]
11 MJ: Next witness?
12 DC: Your Honor, the defense now calls Sergeant [REDACTED]
13 [REDACTED]
14 **SERGEANT [REDACTED], U.S. Army, was called as a witness for the**
15 **defense, was sworn, and testified as follows:**
16 **DIRECT EXAMINATION**
17 **Questions by the assistant trial counsel:**
18 Q. Would you please state your name, rank, and unit of
19 assignment for the record, please?
20 A. [REDACTED] Sergeant, 615th MP Company, Sir.
21 ATC: Thank you. Captain [REDACTED] has a couple of questions for
22 you.
23

1 **Questions by the defense counsel:**

2 Q. Good day, Sergeant [REDACTED] I just want to ask you a few
3 questions. First of all, tell us a little bit about this junction in
4 your career. How long have you been an MP and how long have you been
5 an NCO?

6 A. I've been an NCO since November of 2003, Sir.

7 Q. Okay and how long have you been in the MP Corps?

8 A. I've been in the MP Corps now for 7 years active duty, Sir.

9 Q. Okay and do you know the Lieutenant here, Lieutenant [REDACTED]

10 A. Yes, Sir.

11 Q. How is that you know him?

12 A. He was my platoon leader in first platoon. I knew him
13 before we went to Iraq and during Iraq.

14 Q. Okay how long was he your platoon leader? How long did you
15 serve under him in his platoon?

16 A. Approximately a year, Sir.

17 Q. Okay how often did you interact with him as your platoon
18 leader, daily, weekly?

19 A. Daily, Sir.

20 Q. Okay. What type of a leader was Lieutenant [REDACTED]

21 A. He was a hard leader, Sir. He didn't--he wasn't too
22 concerned with what the soldiers thought about him personally. He
23 was concerned about the soldiers and their welfare mainly.

1 Q. Okay how did he feel about mission accomplishment and those
2 kinds of tasks?

3 A. It was--he was always mission first. He was all about
4 taking care of the soldiers and ensuring that they got back from Iraq
5 and preparing to go to Iraq, so he knew that if it was hard on them
6 before we went to Iraq and while we initially got to Iraq that they
7 would all be okay.

8 Q. Okay, in fact, was your platoon all okay?

9 A. Yes, Sir. Everybody come back.

10 Q. Okay. Now you were present also at the [REDACTED] Police
11 Station on 30 July and witnessed this incident. Is that correct?

12 A. Yes, Sir.

13 Q. Okay, I'm not going to ask you to go into a lot of detail.
14 We just heard that from a prior witness, but I would ask you this.
15 Having seen what you seen, did it shock you, were you surprised, and
16 was that out of character for Lieutenant [REDACTED] to do something like
17 that?

18 A. It was out of character for Lieutenant [REDACTED] to do that,
19 Sir.

20 Q. Okay. At any time after this incident, was there ever--did
21 Lieutenant [REDACTED] ever ask you or come to you and ask you not to
22 report it or----

23 A. No, Sir.

003517

1 Q. ---or to cover up for it at all?

2 A. No, Sir, never.

3 Q. Okay, so there was never any effort to cover it up, it was-
4 -everyone was always forthright?

5 A. No, Sir, there was no effort to cover it up.

6 Q. Okay and to your knowledge, were these three individuals
7 injured at all, the three Iraqis?

8 A. To my knowledge, no, Sir, there were no injuries. There
9 were no visible injuries at all. All of them seemed to be okay.

10 DC: Okay. All right, thanks.

11 MJ: Cross?

12 **CROSS-EXAMINATION**

13 **Questions by the assistant trial counsel:**

14 Q. Sergeant [REDACTED] the MP mission in Iraq, was a large part
15 of that basically to train up Iraqi police?

16 A. Yes, Sir.

17 Q. And some of the old Iraqi police tactics that you were
18 trying to change were over aggressive police force, correct?

19 A. Yes, Sir.

20 Q. Police--Iraqi police who reported to duty drunk?

21 A. Quite often, Sir.

22 Q. Iraqi police who whipped prisoners?

23 A. Yes, Sir.

1 Q. Who beat prisoners, and one of the ways the MPs were trying
2 to retrain these police officers was basically to teach them proper
3 arrest methods?

4 A. Correct, Sir.

5 Q. Proper treatment of offenders----

6 A. Yes, Sir.

7 Q. ----detainees. Basically the MPs were there to lead by
8 example, correct?

9 A. Correct, Sir.

10 Q. Did Lieutenant [REDACTED] set a bad example?

11 A. No, Sir--yes, Sir, he did, Sir, that is correct.

12 ATC: Nothing further, Your Honor.

13 MJ: Redirect?

14 DC: Yes, Your Honor, briefly.

15 **REDIRECT EXAMINATION**

16 **Questions by the defense counsel:**

17 Q. The bad example he set was just that one occasion, right?

18 A. Yes, Sir.

19 Q. In fact, no Iraqi police witnessed that incident, did they?

20 A. No, Sir.

21 Q. And----

22 A. No Iraqi police, no Iraqis, no interpreters, nothing.

1 Q. Okay and there was--was there ever anything else, ever,
2 done by Lieutenant [REDACTED] to set a bad example?

3 A. No, Sir, he was always a good example.

4 Q. Okay now a hypothetical question. If you were promoted,
5 Lieutenant [REDACTED] gets promoted as well; he's a company commander.
6 You get attached to his unit to deploy to war again. Would you be
7 comfortable and confident in him as your leader----

8 A. I would have----

9 Q. ----if you go to war again?

10 A. ----absolute and total confidence in him as a company
11 commander, Sir.

12 Q. Okay thank you, Sergeant [REDACTED]

13 A. I'd gladly serve under him.

14 DC: Hooah, thank you, Sergeant [REDACTED]

15 MJ: Recross?

16 ATC: Nothing further, Your Honor.

17 MJ: All right, any members have any questions for this witness?

18 Negative response.

19 Temporary or permanent excusal?

20 DC: Permanent excusal is fine, Your Honor.

21 ATC: No objection, Your Honor.

22 [The witness was duly warned, permanently excused, and withdrew from
23 the courtroom.]

1 MJ: Next witness?

2 DC: Yes, Your Honor, the defense now calls Staff Sergeant
3 Dixon.

4 STAFF SERGEANT [REDACTED], U.S. Army, was called as a witness for
5 the defense, was sworn, and testified as follows:

6 DIRECT EXAMINATION

7 Questions by the assistant trial counsel:

8 Q. Please state your name, rank, and unit of assignment for
9 the record, please?

10 A. [REDACTED] staff sergeant, 615th MP Company.

11 ATC: Thank you, Captain [REDACTED] has a couple of questions for
12 you.

13 Questions by the defense counsel:

14 Q. Good day, Sergeant [REDACTED]

15 A. Sir.

16 Q. Do you know Lieutenant [REDACTED]

17 A. Yes, Sir.

18 Q. How do you know him?

19 A. He was my platoon leader in Iraq, Sir.

20 Q. And what was your position?

21 A. Platoon sergeant, Sir

22 [END OF PAGE]

23

1 Q. How long did you work under Lieutenant [REDACTED] as his platoon
2 sergeant?

3 A. About 3 months, Sir.

4 Q. Okay and all that time was in the deployed setting, is that
5 correct?

6 A. Yes, Sir.

7 Q. Okay tell us a little bit about the mission of your unit
8 and your platoon, specifically, during those 3 months leading up to
9 this event that we're here today for.

10 A. Sir, our mission was to reestablish the Iraqi police force,
11 get the stations up and running. At that time, we were--we were
12 starting our fourth station reestablishing the force.

13 Q. Okay. What did that mission entail, when you say
14 "reestablishing the Iraqi police force" what did that all entail?

15 A. Training, Sir, force protection on the station, patrolling
16 with them, helping them process cases, all kinds of--all aspects of
17 police operations.

18 Q. What kind of a state were they in as far as--were they in
19 shambles as a force----

20 A. Yes, sir.

21 Q. ----when you guys began that mission?

22 A. Yes, sir.

1 Q. Okay. Now during that 3 month period, did you get to know
2 Lieutenant [REDACTED] pretty well?

3 A. Yes, Sir.

4 Q. How often did you interact with him----

5 A. Every----

6 Q. ----as his platoon sergeant?

7 A. Everyday, Sir.

8 Q. Okay. Many times a day perhaps also?

9 A. Yes, Sir.

10 Q. Okay did you come to form an opinion about him as a leader,
11 as a platoon leader?

12 A. Yes, Sir.

13 Q. And what is that opinion, if you could please share it with
14 the court?

15 A. A very high standard, stern leader, strong leader. I mean
16 that's basically--he's a very strong, high standard leader.

17 Q. Okay what about proficiency, tactically and technically
18 proficient?

19 A. Very tactically proficient.

20 Q. Okay what about his feelings about his soldiers care for
21 soldiers, taking care of soldiers, those kinds of things? How was he
22 in that regard?

23 A. That's probably his best trait is caring for soldiers.

1 Q. How so?

2 A. Well, even with Red Cross messages, Sir, he--he wanted to
3 issue the Red Cross message. The first sergeant wanted to do that,
4 but he took it personal and he felt that was his job to give his
5 soldiers the Red Cross message. That's how deeply he cared for them.

6 Q. Okay now you weren't present in the room to witness this
7 incident, right?

8 A. No, Sir.

9 Q. But you were in the same station down the hall essentially,
10 right?

11 A. Yes, Sir.

12 Q. Did you come into the room or when did you first encounter
13 Lieutenant [REDACTED] after the incident, let me ask it that way?

14 A. As he was exiting the D-Cell, Sir.

15 Q. Okay and now did you, then, go on to have a conversation
16 with Lieutenant [REDACTED] after that?

17 A. I attempted, Sir, but I got no response from Lieutenant
18 [REDACTED]

19 Q. Why is that, I mean was he--did he hear your question?

20 A. Yes, Sir, he heard and I just--he just shook his head no.
21 He--obviously he did not want us to talk about the incident inside
22 the D-Cell.

1 Q. Okay did he seem kind of out of it, would that be a fair---

2 -

3 A. I would say so. He was never really at a loss for words.

4 If you asked him a question, he would always give you an answer.

5 Q. So this was an extremely extraordinary state of mind for
6 him?

7 A. Yes, Sir.

8 Q. Did he ever--did anyone ever, especially Lieutenant [REDACTED]
9 did he ever ask you not to report this?

10 A. No, Sir.

11 Q. Was there ever any action to cover it up?

12 A. No, Sir.

13 Q. Any action to discourage soldiers from speaking about what
14 happened?

15 A. No, Sir.

16 Q. Okay, in fact, Lieutenant [REDACTED] himself fully cooperated
17 from your knowledge right?

18 A. Yes, Sir.

19 Q. Never denied what happened?

20 A. Never.

21 Q. Were you present here in this courtroom about 15 May for an
22 Article 32----

23 A. Yes, Sir.

1 Q. ----hearing? And do you recall a statement being made to
2 you by Lieutenant [REDACTED] at that hearing?

3 A. Yes, Sir.

4 Q. Okay where he essentially stood up and talked to you?

5 A. Yes, Sir.

6 Q. Do you remember that?

7 A. Um-hmm [indicated an affirmative response].

8 Q. Okay I just wanted to ask you that. The court will hear
9 more about that later, but I just wanted to ask you about that.

10 One last question and that is, if you were to be put under
11 Lieutenant [REDACTED] leadership again, if you were to be asked to go to
12 war maybe he's promoted to a company commander position, you're a
13 first sergeant, would you be comfortable with him as your company
14 commander in a deployed combat environment once again?

15 A. Very much so, Sir.

16 DC: Okay thank you very much, Sergeant [REDACTED]

17 MJ: Cross?

18 **CROSS-EXAMINATION**

19 **Questions by the assistant trial counsel:**

20 Q. Sergeant [REDACTED], Lieutenant Niles was the platoón leader,
21 correct?

22 A. Yes, Sir.

1 Q. After this incident occurred, I mean he should have
2 reported it, correct?

3 A. [No response.]

4 Q. Lieutenant [REDACTED] should have reported this, not you?

5 A. Yes, Sir.

6 Q. But instead that burden fell upon you, correct?

7 A. Yes, Sir.

8 Q. And that put you in a very compromising position?

9 A. Yes, Sir.

10 Q. Because basically you had to choose between the platoon or
11 Lieutenant [REDACTED] correct?

12 A. Yes, Sir.

13 Q. I mean you had, I mean, you had Lieutenant [REDACTED] who you
14 were training up, correct, I think you described trying to guide him
15 in his career?

16 A. Yes, Sir. [REDACTED]

17 Q. Also--and that's just looking out for him?

18 A. Yes, Sir.

19 Q. And I think you described, at the Article 32 hearing, that
20 the incident still to this day bothers you?

21 A. Yes, Sir, I still think about it, yes, Sir.

22 [END OF PAGE]

23

1 Q. That's because, I mean, you feel like you carried this
2 burden with you, I mean, you felt I think you described guilt?

3 A. Yes, Sir.

4 Q. A sense of failure?

5 A. Yes, Sir.

6 Q. And you did nothing, I mean, you didn't partake in that
7 incident but you still carried these feelings because the burden was
8 placed upon you, and as a result, you know, things have happened,
9 correct?

10 A. Yes, Sir.

11 Q. After Lieutenant [REDACTED] as relieved of duty, who took over
12 as platoon leader?

13 A. I had to, Sir.

14 Q. And you were still acting platoon sergeant?

15 A. Yes, Sir.

16 Q. Counsel--there's been testimony as far as the stressors in
17 Iraq. After you were acting platoon sergeant and platoon leader, you
18 didn't work any less hours did you?

19 A. No, Sir.

20 Q. You were still working those 12 to 14 hours a day?

21 A. Yes, Sir.

22 [END OF PAGE]

23

1 Q. You--they didn't cut your days in half as far as only
2 working 3 or 4 days a week did they?

3 A. No, Sir.

4 Q. You weren't given any special quarters to combat the heat,
5 were you?

6 A. No, Sir.

7 Q. Basically you took on the stresses just like everybody
8 else?

9 A. Yes, Sir.

10 Q. Were you given special transportation to give you extra
11 protection from the additional dangers in Iraq?

12 A. No, Sir.

13 Q. You faced them just like everyone else?

14 A. Yes, Sir.

15 Q. But you were pulling double duty because Lieutenant [REDACTED]
16 no longer was there?

17 A. Yes, Sir.

18 Q. With everything going on and with these additional duties
19 you were facing, Sergeant [REDACTED] did you ever strike any of the
20 detainees?

21 A. No, Sir.

22 ATC: I have nothing further, Your Honor.

23 MJ: Redirect.

1 DC: No redirect, Your Honor.

2 MJ: Do any members of the panel have any questions for the
3 witness?

4 Bailiff will you retrieve that from Lieutenant Colonel, I'm
5 sorry I can't read the nametag from here.

6 MEMBER [LTC ██████████]: ██████████ Ma'am.

7 MJ: Thank you. Take it to trial counsel and then defense
8 counsel and back to me.

9 [The bailiff did as directed.]

10 [The CR marked a question by LTC ██████████ as AE V.]

11 **EXAMINATION BY THE COURT-MARTIAL**

12 **Questions by the military judge:**

13 Q. All right, do you know how long it was between the time
14 First Lieutenant ██████████ was notified of the escape attempt and the
15 incident?

16 A. Ma'am, I believe it was the day before he went out to the
17 station. It happened the day--it happened one day and the very next
18 morning, he went out to the station.

19 MJ: All right, any further questions?

20 [All members indicated a negative response.]

21 MJ: Evidently not.

22 Does either side have any questions based upon the member's
23 question?

1 ATC: No, Your Honor.

2 DC: None from the defense, Your Honor.

3 MJ: All right. Permanent or temporary excusal?

4 DC: Permanent excusal is fine, Your Honor.

5 ATC: Permanent, Your Honor.

6 [The witness was duly warned, permanently excused, and withdrew from
7 the courtroom.]

8 MJ: Next witness.

9 DC: Your Honor, the defense now calls Major [REDACTED]

10 MAJOR [REDACTED] U.S. Army, was called as a witness for the
11 defense, was sworn, and testified as follows:

12 **DIRECT EXAMINATION**

13 **Questions by the trial counsel:**

14 Q. Can you please state your name for the record?

15 A. [REDACTED].

16 Q. And what is your rank, Sir?

17 A. Major.

18 Q. And what is your current unit of assignment?

19 A. Currently I'm on casual. I was in the 409th here. I'm in
20 route to Korea.

21 TC: The defense has some questions for you, Sir.

22 WIT: Thank you.

23

1 **Questions by the defense counsel:**

2 Q. Good day, Sir.

3 A. How are you?

4 Q. Now you mentioned you are presently on casual, what job did
5 you just recently finish?

6 A. [REDACTED] here for the 409th Base Support Battalion.

7 Q. Here in Vilseck, Sir?

8 A. Yes.

9 Q. Now before that position what was--what was your job?

10 A. I was the XO for the 793rd MP Battalion in Bamberg,
11 Germany.

12 Q. Thank you, Sir, and did the 615th MP Company fall under
13 that battalion?

14 A. Yes.

15 Q. So, Sir, do you know Lieutenant [REDACTED]

16 A. Yes.

17 Q. And do you know him from that previous position with 793rd?

18 A. Yes.

19 Q. Thank you, Sir. Tell us a little bit about, if you will,

20 Sir, your relationship with Lieutenant [REDACTED] how well did you get to
21 know him?

22 A. I would say from an XO to a platoon leader stand point
23 better than most platoon leaders because he was the maintenance

1 officer and supply officer among other positions and USR officer
2 among all the other "hey you" jobs that lieutenants are given.

3 Q. Yes, Sir. And in the interactions that you had with him,
4 did you have an opportunity to form an opinion? Did you meet with
5 him sufficiently so that you could form an opinion about him as an
6 officer?

7 A. Yes.

8 Q. And, Sir, what is your opinion of him as an officer?

9 A. Very high. I thought very highly of Lieutenant [REDACTED]

10 Q. Thank you, Sir. In addition to the relationship that you
11 just mentioned, was there also some field exercises when you were
12 involved in evaluating, if I may--if I'm correct, Lieutenant [REDACTED]
13 performance?

14 A. Yes, the--I was the battalion XO but the battalion proper
15 deployed to Kosovo for about 9 months, and I was also the rear
16 detachment commander. One of the additional missions that we had was
17 to prepare the 615th MP Company for a short notice deployment to
18 Iraq, and we had limited staff in which to do that, so we threw
19 together a Ex-Eval for the 615th MP Company that took place up here
20 in Grafenwoehr in February of '03.

21 [END OF PAGE]

1 Q. Yes, Sir, and that was just right be--immediately before
2 the deployment to Iraq?

3 A. Yes, that's correct. Yeah I was the senior--I was
4 responsible for the exercise and basically the senior observer
5 controller for the company headquarters and the--and the platoons.

6 Q. Okay, Sir. As that observer controller, did you personally
7 supervise Lieutenant [REDACTED] platoon going through the exercise?

8 A. I--I did on--it was kind of set up as a lane training
9 event, and I--I purposely was involved--closely involved with the
10 platoon leaders particularly Lieutenant [REDACTED] platoon.

11 It's a side note; I personally wanted to work those guys
12 hard because I knew they were going into a--they were going to war,
13 and I wanted to make sure that, you know, they had the best
14 opportunity to excel in a wartime environment. I wanted to make
15 their training very, very hard, so I personally spent a lot of time
16 stressing the platoon leaders.

17 Q. Yes, Sir. And what was your evaluation of Lieutenant [REDACTED]
18 during that exercise? How did he--how did he do?

19 A. I--I thought he did very well. He was--he was very--always
20 very calm, very collected in his--in his actions. They--that he
21 thought through them very well. Never--never saw him fly off the
22 handle on anything like, you know, like young lieutenants sometimes
23 have a tendency to do, or you know, misjudge something or be

1 indecisive. I never saw that. He was always--he always thought
2 through the problem and never let it stress him. He just--he
3 accomplished the mission.

4 Q. Yes, Sir. Now would it be fair to say, based on that
5 experience during the X-Eval and also your time as battalion XO you
6 said before that you thought very highly of him as an officer, it's
7 all based on that experience?

8 A. Yes.

9 Q. Thank you, Sir. And what other--what criteria do you use
10 to make a personal opinion about an officer? What do you base it on?

11 A. I would have to say I fall back to primarily to character,
12 and I once had a senior general officer tell me once he said, you
13 know you can train anyone to be an officer, but he said, if you
14 really, really wanted to judge your success what he would do is he'd
15 like to be able to plug you in a wall like a wall socket, plug you in
16 and check your character meter to see how high you'd read, and then
17 he knew if you would be truly successful based upon how high your
18 character meter came out.

19 I think that's appropriate. I think that, in my opinion,
20 Lieutenant [REDACTED] has a very high level of character.

21 Q. Sir, in your time supervising him, did he ever do anything
22 at all to cause you to question that--that opinion, that feeling?

23 A. No.

1 Q. Sir, one last question and that is; if you were made a
2 battalion commander given the opportunity to go to combat with an MP
3 battalion, would you be comfortable with [REDACTED] as one of your
4 company commanders?

5 A. I would use the--I use the foxhole test of measurement.
6 You know would I want [REDACTED] in my fighting position with me
7 when the enemy was coming, and the answer is absolutely yes.

8 Q. Yes, Sir.

9 A. And to answer your question, is yes, I'd want him to be one
10 of my company commanders.

11 DC: Thank you, Sir, the defense or the government may have some
12 questions.

13 MJ: Cross?

14 **CROSS-EXAMINATION**

15 **Questions by the trial counsel:**

16 Q. Sir, were you actually in Iraq when the incident happened?

17 A. No.

18 Q. Were you a supervisor or do you have any knowledge of the
19 facts of the actual crime that Lieutenant [REDACTED] committed?

20 A. I do not. Not specifics.

21 Q. Okay. So you weren't there when the crime occurred and you
22 don't know the specifics of the crime, correct?

23 A. No, I do not.

1 Q. And yet when you're making your measurement of a person at
2 a sentencing phase at a court-martial, don't you think it's important
3 to have somewhat of a grasp of what happened?

4 A. Yes.

5 Q. But you don't have a good grasp of the facts of what
6 happened, do you?

7 A. Not of the incident in question, no.

8 TC: Thank you.

9 MJ: Redirect?

10

REDIRECT EXAMINATION

11 **Questions by the defense counsel:**

12 Q. Sir, if I were to tell you that Lieutenant [REDACTED] had--had
13 an incident during a 5 second period where he struck two Iraqi
14 detainees, civilians, in the stomach and kicked a third person as he
15 was being pulled away all within a span of about 5 seconds, that they
16 weren't injured, that he readily admitted that he had made a mistake,
17 never denied it, fully cooperated with the investigation, would that
18 change your opinion that you have previously given a few minutes ago?

19 A. I would initially be very surprised that that occurred--
20 that that would have occurred with him, but I would consider it an
21 isolated incident that--that was just that.

22

[END OF PAGE]

23

1 Q. Yes, Sir. Would it be fair to say that good people make
2 mistakes sometimes?

3 A. Yes.

4 Q. And good officers sometimes make mistakes?

5 A. Yes.

6 DC: Thank you, Sir.

7 MJ: Redirect, recross I mean.

8 TC: Just briefly, Your Honor.

9

RECROSS-EXAMINATION

10 **Questions by the trial counsel:**

11 Q. You ^{take it ^{SB}} ~~talked~~ you were surprised this happened, right?

12 A. Yes.

13 Q. That you never saw it coming, did you?

14 A. I was--I was surprised when I was informed about that--that
15 he was involved in the incident.

16 Q. Okay but when you were--knew him previously before he went
17 to Iraq if someone had come to tell you that this was going to happen
18 when he was downrange in Iraq, what would you have told them?

19 A. I wouldn't have believed them. I would have told them it
20 was BS.

21

[END OF PAGE]

22

1 Q. So if you didn't see it coming the first time, can you be
2 sure it won't happen again?

3 A. I--I think that he will be a much better officer for--for
4 what has occurred. I think humility definitely is an attribute.

5 Q. But can you be sure it won't happen again?

6 A. Nothing's for certain.

7 TC: Thank you.

8 MJ: Do any of the panel members have questions for this
9 witness?

10 Negative response.

11 Temporary or permanent excusal?

12 DC: Your Honor, permanent excusal is fine.

13 MJ: All right.

14 TC: No objection, Your Honor.

15 [The witness was duly warned, permanently excused, and withdrew from
16 the courtroom.]

17 MJ: Next witness.

18 DC: Your Honor, the government or I'm sorry, the defense calls
19 Lieutenant [REDACTED].

20 [END OF PAGE]

21

1 **FIRST LIEUTENANT [REDACTED] U.S. Army, was called as a**
2 **witness for the defense, was sworn, and testified as follows:**

3 **DIRECT EXAMINATION**

4 **Questions by the trial counsel:**

5 Q. For the record, can you please state your full name?

6 A. [REDACTED]

7 Q. And what is your rank?

8 A. First Lieutenant.

9 Q. And what's your current unit of assignment?

10 A. 7th ATC.

11 TC: Defense has some questions for you.

12 WIT: Yes, Sir.

13 **Questions by the defense counsel:**

14 Q. Good day, Lieutenant [REDACTED]

15 A. Sir.

16 Q. Before being assigned to 7th ATC, what was your job?

17 A. Platoon leader with the 615th MP Company.

18 Q. Okay what timeframe did you serve as a platoon leader?

19 A. From December of 2001 until this past April.

20 Q. Okay now during that time, was Lieutenant [REDACTED] for a
21 period of time, one of your fellow platoon leaders?

22 A. Yes, Sir, from the time I got to Germany until the time of
23 the incident he was a platoon leader.

1 Q. So that was about a 2-year period roughly?

2 A. Yes, Sir.

3 Q. Okay how often, during those 2 years, did you, you know,
4 have communication dealings with Lieutenant [REDACTED]

5 A. Pretty much daily, Sir, during the workweek and
6 occasionally on the weekends.

7 Q. Did you know him also away from work on a personal level?

8 A. Yes, Sir, I do to a small extent. Before the deployment, I
9 would go over to his house for barbeques and things like that just
10 every once in a while.

11 Q. Okay. Now how many platoon leaders were there in your
12 company or how many other fellow platoon leaders have you worked
13 with?

14 A. Sir, there were four at a time, and I was a platoon leader
15 for about 2 and a half years, and during that time, there were about
16 seven or eight other platoon leaders that I worked with pretty
17 closely in the company.

18 Q. Okay. Now did your platoon have any kind of special
19 relationship with Lieutenant [REDACTED] platoon as far as did you--did
20 your platoons work together more often?

21 A. Yes, our platoons were co-located together in Grafenwoehr.
22 The other platoons were in Vilseck and Hohenfels, and also when we
23 went to Iraq, our platoons were co-located together down in southern

1 Iraq about 3 hours away from the company headquarters, and we were
2 the first maneuver units on the ground in the area, so we were pretty
3 much just on our own. We had to rely on each other.

4 Q. Okay. I'm going to ask you, briefly, to articulate a
5 little bit about the mission. Now you said you went to Iraq or when
6 did you first go to Iraq? Let me ask you that first.

7 A. We deployed in--around March 10th, Sir, and we actually
8 went into Iraq about 10 days after the war started.

9 Q. Okay what was the mission that your platoon and Lieutenant
10 [REDACTED] platoon was conducting during those initial stages?

11 A. It was area security and reconnaissance operations, Sir,
12 and we were staged in the city called Al Hamza between the UN and As
13 Samawah, and we had the entire area in between those two cities.

14 Q. How big was that area?

15 A. I'm not sure exactly, Sir. We--the company had the largest
16 operational area of any company-sized element in the war, and the
17 area that we had was the biggest portion of our company's area.

18 Q. Okay and essentially it was you and Lieutenant [REDACTED], like
19 you said, your platoons are out there on their own?

20 A. Yes, Sir.

21 Q. Okay now you said you had to rely on each other. Did you
22 feel comfortable relying on Lieutenant [REDACTED]

23 A. Yes, Sir, completely.

1 Q. Please describe or tell us why it is--why do you feel that
2 way?

3 A. Sir, when you're in that situation, you just want to make
4 sure that the guy that might have to come and bail you out is, you
5 know, completely confident and completely trustworthy, and at the
6 time I was actually very happy that I was co-located with his platoon
7 rather than one of the other ones because, you know, I knew that he
8 would get the job done, and I'm pretty sure all my soldiers felt the
9 same way, and you know, there were just never any issues.

10 When we were to have to call him for something he was
11 always there, and he just always got the job done. And I kind of
12 felt that way, wanted him to be co-located with me, because prior to
13 the deployment he was just always the go to guy in the company not
14 just for myself, but he was kind of the guy all the lieutenants went
15 to even before the commander just if we had a question or problem,
16 and you know, he was the guy. He'd set all his work aside and help
17 you out until--until you really got it, so that was kind of what led
18 me into wanting him to--to be there with me in Iraq.

19 Q. Okay now you said you had worked with other fellow platoon
20 leaders, right?

21 A. Yes, Sir.

22 [END OF PAGE]

23

1 Q. How would you rate Lieutenant Niles with his peers, his
2 other fellow platoon leaders? How would you rate him compared to
3 them?

4 A. Sir, as far as the ones I worked with in the company, he
5 was definitely the best of them, Sir.

6 Q. Okay now after he was removed from his platoon because of
7 the incident, you're aware of that right?

8 A. Yes, Sir.

9 Q. What job did he get after that?

10 A. Night battle captain for the battalion, Sir.

11 Q. Okay now, you being out there as a platoon leader, what did
12 the night battle captain do for you?

13 A. Sir, it was pretty important to me. During that time, we
14 had two platoons in the battalion that were patrolling at night, and
15 at that time in West Baghdad there were no maneuver units out there,
16 so we were the only ones out in West Baghdad, so as the night battle
17 captain, he was the one that, you know, we answered to, we took
18 directives from him, everything had to be funneled through him, and
19 just being on the ground out there was just never something I thought
20 about or questioned. It was just never an issue. It was never
21 brought out among any of the squad leaders saying, "hey what's he
22 doing there" since because of the incident or anything like that. We

1 just all had complete faith and confidence in him. There was just
2 never any problems or anything like that.

3 Q. He never let you down? He never disappointed you?

4 A. No, I mean, absolutely not, Sir, and it wasn't even
5 something that crossed my mind to think, you know, I can't believe
6 he's there or anything like that, and as far as the night battle
7 captain in a battalion, in an MP battalion in that type of situation,
8 that's not a position where you want a--there are positions on a
9 battalion staff where you can hide an officer, and that's just not
10 one of them. You need someone that you trust completely and who is
11 completely competent, you have all your faith in, so obviously the
12 higher ups in the battalion and the people on the ground had that
13 faith and confidence in him as well.

14 Q. Okay now you also, correct me if I'm wrong, but you were
15 his roommate down in Iraq too as well, you shared quarters if you
16 want to call them that?

17 A. Yes, Sir, when we were down in the south we lived together
18 first in an old chicken coop and then in a school, but the main part
19 of our time was in Baghdad, and the commander wanted the lieutenants
20 to live separate from the soldiers to give them some free space. The
21 two other lieutenants lived in one shack, and Lieutenant [REDACTED] and I
22 lived in a separate one, and then after the incident when Lieutenant
23 [REDACTED] got there, he came and lived with us as well.

1 Q. Okay during that time that you lived together, I'm sure you
2 spent a lot of your off duty time with Lieutenant [REDACTED] right?

3 A. Yes, Sir.

4 Q. Did you come to know him on a personal level as well even
5 more so than you had in Grafenwoehr?

6 A. Yes, Sir.

7 Q. What is your overall opinion, then, as an officer and as a
8 person of [REDACTED]

9 A. Sir, I just think he's a great guy. I mean when we were in
10 the shack, he would spend a lot of his time talking about his family,
11 how proud he was of his children, how much he loved his wife. He
12 would tell me about just how they met, some of his hopes and dreams
13 for the future, and you know, down there most of the people weren't
14 talking about those kind of things. So I've always just had the
15 impression that he was just a good guy, Sir.

16 Q. Okay if you were to deploy again, would you have confidence
17 in Lieutenant [REDACTED] on a battalion staff officer or as a fellow
18 company commander if you were to deploy again?

19 A. Absolutely, Sir, yes.

20 DC: Okay thanks.

21 MJ: Cross?

22 [END OF PAGE]

23

CROSS-EXAMINATION

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Questions by the trial counsel:

Q. Now you said you were in Iraq with Lieutenant [REDACTED] as well, correct?

A. Yes, Sir.

Q. You were a platoon leader there?

A. Yes, Sir.

Q. It was hot?

A. Yes, Sir.

Q. It was dangerous?

A. Yes, Sir.

Q. Stressful?

A. Yes, Sir.

Q. How many--how many men or how many soldiers did you lead?

A. Around 30, Sir, 25 to 30.

Q. Around 30, and who--who is--when it comes down to it, who is responsible for that entire platoon?

A. Platoon leader, Sir.

Q. Okay and as a platoon leader is it your job to set the example for your soldiers?

A. Yes, Sir.

[END OF PAGE]

1 Q. So if you're committing misconduct and abusing and beating
2 Iraqis in front of your soldiers, you're not setting a good example,
3 are you?

4 A. No, Sir.

5 Q. Okay with your platoon, did you deal with detainees?

6 A. Yes, Sir.

7 Q. With Iraqis, local nationals?

8 A. Yes, Sir.

9 Q. Did you ever loose your temper and punch or beat an Iraqi?

10 A. No, Sir.

11 Q. To your knowledge, did anyone in your platoon do that?

12 A. No, Sir.

13 Q. Okay, so you're under the same stress as Lieutenant [REDACTED]
14 was, but you never did those things, did you?

15 A. No, Sir.

16 Q. And you said you were also--we had talked previously last
17 week, you said that you were surprised that this happened with
18 Lieutenant [REDACTED] correct?

19 A. Yes, Sir.

20 Q. Didn't see it coming?

21 A. No, Sir, not with him.

22 [END OF PAGE]

23

1 Q. If you didn't see it coming the first time, how can you be
2 sure that it's not going to happen again?

3 A. I'm sure it's not going to happen again, Sir.

4 Q. But you were sure the first time too, weren't you?

5 A. I didn't say I was sure, Sir, I was just surprised that it
6 happened.

7 Q. Okay.

8 A. It never even crossed my mind that something like that
9 would happen.

10 Q. But it surprised you?

11 A. It surprised me, Sir.

12 TC: No further questions.

13 MJ: Redirect?

14 DC: Yes, Ma'am, thanks.

15 **REDIRECT EXAMINATION**

16 **Questions by the defense counsel:**

17 Q. You're confident that it would never happen again because
18 he--this has had a serious impact on him, right? He's learned a lot--
19 --

20 A. Yes, Sir, that was one of the things he talked about in
21 that small shack there, I mean, he was very remorseful for it. He
22 fully understood that he let his soldiers down, and his actions--he
23 let his family down, and he got emotional about it on more than--more

1 than a few times, and he was--I can say he was very remorseful and
2 there's absolutely no doubt in my mind that he would never do
3 something like that again.

4 DC: Okay thanks, Lieutenant [REDACTED]

5 MJ: Recross?

6 TC: Just briefly.

7 **RECROSS-EXAMINATION**

8 **Questions by the trial counsel:**

9 Q. You said he was remorseful about what happened and the
10 position he put his troops in and for his family, correct?

11 A. Yes, Sir, he was remorseful about the example he set for
12 his soldiers and letting his family down.

13 Q. Anything else he was remorseful for that he expressed to
14 you?

15 A. He was remorseful about his actions, Sir, in general.

16 Q. Was he remorseful for the victims he beat; did he express
17 that to you?

18 A. He said he felt that he did wrong--what he did was wrong.

19 Q. Okay did he express remorse for the victims he beat?

20 A. Not--not in those words, Sir, no.

21 TC: Thank you.

22 MJ: Any questions by the panel members?

23 [All members indicated a negative response.]

1 MJ: All right permanent or temporary excusal?

2 DC: Permanent excusal is fine, Your Honor.

3 [The witness was duly warned, permanently excused, and withdrew from
4 the courtroom.]

5 MJ: Next witness?

6 DC: Your Honor, the defense now calls Lieutenant [REDACTED]
7 FIRST LIEUTENANT [REDACTED] U.S. Army, was called as a
8 witness for the defense, was sworn, and testified as follows:

9 DIRECT EXAMINATION

10 Questions by the trial counsel:

11 Q. Please state your full name for the record.

12 A. My name is First Lieutenant [REDACTED]

13 Q. Okay and for the record what is your full rank?

14 A. First Lieutenant.

15 Q. And what is your unit of assignment?

16 A. Sir, currently I'm assigned to 793rd MP Battalion with
17 duties to the 279th BSB [REDACTED]

18 TC: Thank you, defense has some questions for you.

19 Questions by the defense counsel:

20 Q. Good afternoon.

21 A. Good afternoon, Sir.

22 [END OF PAGE]

1 Q. Before your present duty assignment or present position you
2 were with the [REDACTED] office in Bamberg, right?

3 A. Correct, Sir.

4 Q. In Bamberg, what was your job?

5 A. Sir, I was assigned to 1st Platoon, platoon leader for the
6 615th MP Company forward deployed to Iraq.

7 Q. Okay, do you know Lieutenant [REDACTED] here?

8 A. Yes, I do, Sir.

9 Q. How is that you know him?

10 A. Sir, I known Lieutenant [REDACTED] personally when we first
11 arrived to the battalion socially and personally through many of the
12 functions that we did. We were sister platoon leaders within the
13 battalion. We knew each other from numerous exercises that we did
14 very competitive within each other and then even more personally as
15 my roommate down in Iraq.

16 Q. Okay now, correct me if I'm wrong, but you took over his
17 platoon, right----

18 A. That's correct, Sir.

19 Q. ----after this incident that happened at Al Taji?

20 A. Yes, Sir.

21 [END OF PAGE]

22

1 Q. Tell us, if you will, the state that you found the platoon.
2 What readiness; caliber of the soldiers, what kind of state did you
3 find this platoon in?

4 A. Well, Sir, I found the platoon very well disciplined and
5 prepared to do its mission. Initially when I deployed to Iraq, I was
6 told that the platoon was very shaken, very fragile, and I needed to
7 concentrate a lot of my efforts on the reestablishment of the
8 platoon. But counter to that belief, that platoon was very well
9 trained, very well prepared.

10 I attribute a lot to the NCOs as far as their stamina to
11 endure. However, the preparation for it, I heavily attribute it to

12 [REDACTED]

13 Q. Okay now when you became his roommate after you'd taken
14 over the platoon, did you continue to have a friendship, a personal
15 relationship with Lieutenant [REDACTED]

16 A. Yes, I did, Sir.

17 Q. Did you have sufficient opportunity to work with him and be
18 around him to form an opinion about him as a person and as an
19 officer?

20 A. Yes, Sir. Yes, Sir.

21 Q. What is your opinion of him as a person and as an officer?

22 A. Sir, as a person, I find him an incredibly approachable
23 individual, very well liked, very friendly. He was always very

1 considerate of his roommates through his different operations that he
2 had. Mostly he worked a lot of the night operations and we were
3 going back and forth, and he was very considerate and everything.

4 I--when I first deployed, being a single officer, I did not
5 receive much packages or mail or anything, and he'd always share
6 different items for comforts of the soldiers. And even with that,
7 we'd always have nightly discussions on tactics and best ways to
8 administer the platoon, so very considerate and very--very passionate
9 about his profession and his desire to remain in the military.

10 Q. How do you feel about him confidence wise, I mean, would
11 you have confidence serving with him----

12 A. Yes, Sir, without a doubt.

13 Q. ----again---

14 A. Yes, Sir.

15 Q. ----based on a combat environment?

16 A. Yes, Sir. Without a doubt through our relationship in the
17 battalion and the preparation of the platoons both being fellow MP
18 officers, I have no doubt that he would excel in this craft.

19 DC: Okay great. Thank you very much.

20 MJ: Cross?

21 [END OF PAGE]

22

1 **CROSS-EXAMINATION**

2 **Questions by the trial counsel:**

3 Q. When did you go to Iraq?

4 A. Sir, deployed in--the actual date we were preparing to--
5 that I prepared to leave was the 11th of September. I knew it
6 because it was the same date as the attacks on the World Trade
7 Center.

8 Q. Of 2003?

9 A. Of 2003, but it was the exact same date when I flew.

10 Q. Okay and what'd you do in Iraq?

11 A. Sir, I was the platoon leader for 1st Platoon.

12 Q. Okay and was that formerly Lieutenant [REDACTED] platoon?

13 A. Correct, Sir.

14 Q. Okay, you said that you had heard that it was "shaky". Who
15 did you hear that it was shaky from?

16 A. We heard--I heard it initially from my S3, my boss, Major
17 [REDACTED] saying that there was a situation involving Lieutenant [REDACTED]
18 not sure of all the facts, but that the platoon was not in great
19 states because of the fact that the platoon leader was relieved.

20 Q. When you took over the platoon, who was your platoon
21 sergeant?

22 A. It was Staff Sergeant [REDACTED]

23

1 Q. Was Staff Sergeant [REDACTED] a good platoon sergeant?

2 A. Yes, Sir.

3 Q. Now from--how long from when Lieutenant [REDACTED] was removed
4 until you took over, how long of a gap was there?

5 A. I don't know per say specifically because I don't know
6 exactly the exact date, but I would say roughly around a month and a
7 half, 2 months around timeframe.

8 Q. So for that time Staff Sergeant [REDACTED] was platoon leader
9 and platoon sergeant, correct?

10 A. That's correct, Sir.

11 Q. Do you attribute a lot of the fact that that platoon was
12 held together, is much of that due to Staff Sergeant [REDACTED]

13 A. Without a doubt, Sir.

14 Q. Now the government's interviewed you prior to this, and you
15 stated before that you--you weren't clear on the facts of the actual
16 assault, were you?

17 A. Correct, Sir.

18 Q. Okay we've also discussed that in your opinion that
19 Lieutenant [REDACTED] has a temper. Is that correct?

20 A. Can't really--I never witnessed it or any of it, but I
21 would infer it due to the fact that he's a very passionate
22 individual, but I would say that you could--you could infer, you can

1 reference that he is very passionate and when he does attack any
2 task, he's very aggressive on it.

3 Q. So on previous occasions, you have stated Lieutenant [REDACTED]
4 has a temper?

5 A. Not--not specifically, Sir, I mean I never witnessed
6 anything specific, but I would infer, yes, Sir.

7 TC: All right, thank you.

8 **REDIRECT EXAMINATION**

9 **Questions by the defense counsel:**

10 Q. Just to clarify one point on redirect. This rumor, if you
11 will, that the platoon was shaky, that was not true when you got down
12 there and found the platoon, was it?

13 A. No, not at all, Sir.

14 Q. In fact they were tight and squared away, right?

15 A. Yes, Sir.

16 DC: Okay thanks.

17 MJ: Recross?

18 TC: No, Ma'am.

19 MJ: Any questions from any of the panel members?

20 [All members indicated a negative response.]

21 MJ: Evidently not. Temporary or permanent excusal?

22 DC: Permanent excusal is fine, Your Honor.

23 MJ: All right any objection?

1 TC: No, Your Honor.

2 [The witness was duly warned, permanently excused, and withdrew from
3 the courtroom.]

4 MJ: Next witness.

5 DC: Ma'am, before we call the next witness, we've been going
6 for a while, it's after 1300, do we want--do the members want to take
7 a break or we can drive on. It's really up to the court.

8 MJ: Well members, would you like to take a lunch break?

9 PRES: How many more witnesses, Your Honor.

10 MJ: That's a good question.

11 How many more witnesses, Captain [REDACTED]

12 DC: Your Honor and members, we have two more officers that are
13 present. Lieutenant [REDACTED] the battalion commander, is
14 stateside on leave, we're going to connect with him via the
15 telephone, at roughly 1400, and you're going to hear from the
16 accused's wife and the accused and then that would be it.

17 PRES: Would like to take a break, Your Honor.

18 MJ: Okay why don't we take a break for whatever reason until
19 1400, then we can put Lieutenant [REDACTED] on the phone,
20 because that's when he's ready to talk to us, and then we'll hear the
21 other remaining witnesses.

22 [END OF PAGE]

23

1 DC: Thank you, Your Honor.

2 MJ: So we'll be in recess until then.

3 [The court-martial recessed at 1307, 1 July 2004.

4 **[END OF PAGE]**

5

1 [The session was called to order at 1404, 1 July 2004.]

2 MJ: Court is called to order. You may be seated. Let the
3 record reflect that all parties present at the time of the recess are
4 again present with the exception of the members.

5 Now I understand that there were a couple more exhibits,
6 Captain [REDACTED] that you needed to mark.

7 DC: Yes, Your Honor, they've been previously marked. There's
8 an audiocassette tape that we discussed previously in an 802 session.
9 It's a tape recording of the unsworn statement made by the accused at
10 the Article 32 hearing in this case. We'd like to offer that as--
11 previously marked as Defense Exhibit Bravo [for identification] as
12 discussed during the 802, we plan to play his unsworn statement to
13 the members as an unsworn statement through counsel at this hearing.

14 MJ: All right, any objection?

15 TC: No, Your Honor, just per our 802 my understanding that the
16 sequence will be short explanation, play the tape, and then
17 Lieutenant [REDACTED] will do his unsworn in person to the court.
18 Correct, Your Honor?

19 DC: That's my understanding as well, that's why I asked the
20 foundational question earlier of one of the witnesses who was
21 present.

22 MJ: Right, okay. That's fine, then----

23 DC: I'll just introduce it very briefly.

1 MJ: Defense Exhibit B for ID is admitted.
2 TC: No objection, Your Honor.
3 MJ: And is it cued up to the----
4 DC: It is, Your Honor.
5 MJ: ----appropriate place?
6 DC: It is, yes, Your Honor.
7 MJ: All right, and you said you had another one?
8 DC: Yes, Your Honor, there's a document previously marked as
9 Defense Exhibit Charlie for identification. It's a letter--character
10 support letter from Lieutenant [REDACTED] Again, as
11 discussed during the 802 session this morning and just off the record
12 previously during this recess, the appropriate portions have been
13 redacted, and we would offer that as Defense [Exhibit] [REDACTED]
14 MJ: Any objection?
15 TC: Your Honor, we--the government does object, based on the
16 fact that the panel's already heard from the script and from voir
17 dire that Colonel [REDACTED] the 32 officer, and in that memo
18 he's making a recommendation basically a code in there for, you know,
19 no dismissal in there, and he'd like to continue further service, so
20 the government does object, Your Honor. We do not think the 32
21 officer's opinion on the sentence in this case, he didn't know
22 Lieutenant [REDACTED] at the time of the incident, he never knew him
23 before the 32, we think this MFR is irrelevant, Your Honor.

1 DC: Just in response, Your Honor, we've redacted those portions
2 that suggest a certain sentence. The rest is very similar to what
3 we've previously discussed and other witnesses have testified to,
4 their willingness to serve with this officer in the future. That is
5 essentially his point there, and there were several--several names
6 mentioned earlier during voir dire, and I--you know apart from
7 Lieutenant Colonel [REDACTED] who has been excused, I doubt any of the
8 other members are going to recall Colonel [REDACTED] name among
9 the many of them.

10 MJ: Well and, Government, you're welcome, in rebuttal, to put
11 on evidence that shows that Lieutenant Colonel [REDACTED] or any
12 other witness that's testified on the accused's behalf, doesn't
13 really know him very well, so I'm going to admit the document.

14 Any other evidence we can premark?

15 DC: None from the defense, Your Honor.

16 TC: No, Your Honor.

17 MJ: All right. All right, now as I understand it, we're going
18 to have some telephonic testimony. Is that true?

19 DC: Yes, Your Honor, that's correct. One witness Lieutenant
20 Colonel [REDACTED] the battalion commander for 709th MP Battalion.

21 MJ: All right now----

22 DC: He is standing by.

003561

1 MJ: Lieutenant [REDACTED] this court has a speaker telephone
2 capability, which allows the counsel's questions and the witness's
3 answers from the other end of the telephone to be heard by yourself
4 and all the parties. This witness will be sworn over the telephone,
5 and the witness will testify as if he were physically present in the
6 courtroom. Now I advise you that if I had found this witness to be
7 relevant and necessary for your defense and the other requirements
8 under rules for court-martial were met, then you would be entitled to
9 have the personal presence of this witness at this hearing.

10 Do you understand that?

11 ACC: Yes, Ma'am.

12 MJ: Do you expressly consent to proceeding with the witness's
13 testimony over the telephone rather than having him physically
14 present?

15 ACC: Yes, Ma'am.

16 MJ: Has anybody forced you to give your consent?

17 ACC: No, Ma'am.

18 MJ: All right, would you bring the panel in please?

19 DC: Your Honor, if I may before he does that, I'm sorry. If we
20 could just get him on the phone first that way we won't have to be
21 fumbling around----

22 MJ: All right that's fine.

1 DC: ----with the equipment. Just in case it's busy or
2 something crazy like that.
3 [The DC made sure the next witness was on the phone and ready to
4 testify.]

5 MJ: Call the members.

6 [The session recessed at 1409, 1 July 2004.]

7 [END OF PAGE]

8

1 [The court-martial was called to order at 1410, 1 July 2004.]

2 MJ: You may be seated.

3 [All parties present when the court recessed were again present to
4 include the panel members.]

5 MJ: All right, Captain [REDACTED] would you swear the witness,
6 please? Members of the panel, we have Lieutenant Colonel----

7 DC: [REDACTED] Ma'am.

8 MJ: ----Garrity on the telephone.

9 **LIEUTENANT COLONEL [REDACTED] U.S. Army, was called as a**
10 **witness for the defense, was sworn, and testified telephonically as**
11 **follows:**

12 **DIRECT EXAMINATION**

13 **Questions by the trial counsel:**

14 Q. Sir, can you please state your full name for the record?

15 A. My name is Lieutenant Colonel [REDACTED]

16 Q. And, again, Sir, what's your full rank for the record?

17 A. Lieutenant Colonel.

18 Q. And what's your current unit of assignment, Sir?

19 A. I'm currently assigned to the 709th Military Police
20 Battalion.

21 TC: Okay, defense is going to ask you some questions, Sir, and
22 just for the record, this is an open court. We have the judge here,
23 the court reporter, defense, the accused, myself and assistant

1 prosecutor, the members, and some people in the gallery here.

2 Defense will have some questions for you, Sir.

3 WIT: Thank you.

4 DC: Members is the volume adequate, can everyone hear Colonel

5 [REDACTED]

6 [All members indicated an affirmative response.]

7 **Questions by the defense counsel:**

8 Q. Good afternoon, Sir, or should I say good morning, Sir.

9 A. Good morning.

10 Q. I just wanted to ask you a few questions. As Captain
11 [REDACTED] as just said, we're here before the court-martial panel
12 members. I'd like to first of all, by means of introduction, I'd
13 like to ask what your present duty position is. You said you're with
14 the 709th, Sir, what is your duty position there?

15 A. I am currently the battalion commander of the 709th
16 Military Police Battalion.

17 Q. Sir, and how long have you held that position?

18 A. It is now 1 year as of June 26th.

19 Q. Yes, Sir. And, Sir, do you know Lieutenant [REDACTED]

20 A. Yes, I do. Lieutenant [REDACTED] served as the platoon leader
21 for me during Operation Iraqi Freedom and also as a member of my
22 battle staff while we were in Baghdad, Iraq.

1 Q. Yes, Sir. Before we get into a lot of details about your
2 relationship with Lieutenant [REDACTED], I want to ask you some background
3 questions first. Tell us, Sir, briefly about your military career.
4 First of all, how long have you been on active duty in the Army?

5 A. I've been on active duty for 18 years. I was commissioned
6 in 1986.

7 Q. Sir, what are some of the previous duty assignments that
8 you filled prior to your battalion command?

9 A. Prior to battalion command, I served as the chief of
10 officer training at the U. S. Army Military Police School at Fort
11 Leonardwood, and that was for about 2 years. Previous to that, I
12 served as the Deputy Brigade Commander of the 89th MP Brigade,
13 Brigade S3 for the 89th MP Brigade headquartered at Fort Hood, Texas,
14 and also as the S3 and XO of the 720th Military Police Battalion also
15 at Fort Hood, Texas. Prior to that, I attended the College of Naval
16 Command and Staff at the Naval War College in Newport, Rhode Island,
17 and previous to that, I served as the Aide de Camp to the commanding
18 general of ^{P 50} personnel ^{C 43} command.

19 I've commanded two military police companies one at Fort
20 Meyer, Virginia for 2 years, and then one, the 984th headquartered at
21 Fort Carson, Colorado where I took command in Desert Storm and
22 commanded that unit during Operation Desert Storm.

1 Q. So you were a company commander during Desert Storm and a
2 battalion commander during Iraqi Freedom, right, Sir?

3 A. That is correct.

4 Q. Okay, Sir. Now in your 18 years of service in the
5 military, I assume that it would be a fair statement to say that you
6 dealt with a lot of officers, had a lot of junior officers work for
7 you?

8 A. That is a fair statement. That is correct. Also as the
9 Chief of Officer Training for the Military Police School, I was
10 responsible for the Officer Basic Course and Captain's Career Course
11 for all military police officers for 2 years, so I got to see a good
12 portion of the MP Corps Regiment go through their training----

13 Q. Thank you, Sir.

14 A. ----on the officer side.

15 Q. Yes, Sir, and now during the year that Lieutenant [REDACTED]
16 worked for you when he was a member of your battalion or attached to
17 your battalion, did you--what was the nature of your relationship?
18 How often did you interact with him?

19 A. Well once he served as a--as the nighttime battle captain
20 on my battle staff, I dealt with him quite frequently. He would
21 routinely brief me on actions that took place in the sector. He was
22 responsible for updating the SIG-X boards and briefing me on
23 information at night and early in the morning before we went out into

1 the cities, so I mean I saw him daily once he served on the battle
2 staff.

3 Previous to that when he was a platoon leader, he was one
4 of probably about 27 platoon leaders that I had at that time in July,
5 and I saw him maybe once or twice before he moved to the battle
6 staff.

7 Q. Yes, Sir, now you mentioned 27 platoon leaders. That
8 sounds like a lot for a typical battalion. Was your battalion
9 reorganized for deployment?

10 A. My battalion, yes, it was. We had--at one point, I had
11 eight military police companies task organized under the battalion,
12 and normally we operate between six and seven corps MP companies
13 under the battalion headquarters. You know with four--between--
14 normally four platoons task organized under each of the company
15 headquarters, so between 24 and 27, I think at one point we had like
16 28 or 29 platoon leaders actually operating inside the 709th MP
17 Battalion.

18 Q. Sir, now the 615th MP Company specifically, can you tell
19 the members what their mission was, Sir?

20 A. The 615th MP Company, which is assigned to the 793rd MP
21 Battalion a sister battalion of mine in Germany, the company was
22 attached over to me for Operation Iraqi Freedom. They were
23 responsible for training the Iraqi police and also patrolling,

1 providing law and order, and area security patrols in different
2 sectors in Baghdad.

3 They spent most of their time in the Con la Mia District of
4 Baghdad although they were also responsible for the Monsieur District
5 at certain points during the operation.

6 Q. Yes, Sir.

7 A. When I talk about training Iraqi police, they would occupy
8 Iraqi police stations with--with a platoon of military police and
9 then the platoon leader would serve as the counterpart to the station
10 commander. One of the squad leaders, platoon sergeant would serve as
11 the counterparts to the shift supervisors for the Iraqi police and
12 then they would show them how to administer the station, how to keep
13 paperwork and records, and then train--specifically train the Iraqi
14 police on how to conduct law and order operations, how to patrol, how
15 to conduct interviews, things like that.

16 Q. Yes, Sir. Now Lieutenant [REDACTED] as a--when he was a platoon
17 leader, he served in that role as essentially the liaison, the chief
18 of that police station that he was in charge of at any given time.
19 Is that correct?

20 A. That's correct. Now that's a--that's a job that military
21 police lieutenants are not normally trained to do. Military police
22 lieutenants are trained to serve as duty officers for law
23 enforcement, but not as provost marshals and really in the role that

1 my platoon leaders were serving in in Baghdad, they were more provost
2 marshals because they had--they were responsible for the
3 administration of desk operations, they were responsible for the
4 physical security and force protection of the stations, as well as
5 the training and payment of the Iraqi police, so it was pretty--
6 pretty extensive as far as what I required of the platoon leaders, as
7 well as the platoon sergeants and the squad leaders. I mean it was--
8 they're certainly working in areas that they didn't have a great deal
9 of experience in although, you know, most of them with law
10 enforcement experience understood the basics of law enforcement.
11 That's pretty much the same in any country.

12 Q. Yes, Sir, and as you said, though, the Lieutenants, the
13 platoon leaders acting as a provost marshal, they really had not
14 specific or specialized training prior to getting that task, I mean
15 they were just put into the job, and they had to learn on the job.
16 Is that correct?

17 A. Well that's correct, and certainly platoon leaders from
18 Germany are at a disadvantage from their counterparts in the United
19 States in that officers--military police officers in CONUS normally,
20 on most federal installations, serve as military police duty
21 officers. That's not done in Germany, not in the 18th MP Brigade, so
22 his experience with law enforcement for the time that he served in
23 Germany, would be, you know, seeing his military police working on

1 patrol and if he'd stopped in at one of the MP stations to check on
2 them, but I don't know if he has any law enforcement experience as
3 far as working as a military police duty officer or as an assistant
4 [REDACTED] see that's not the way it's done in Germany. There
5 is one [REDACTED] assigned, normally a captain, either prior to
6 or just after company command, so.

7 Q. Yes, Sir.

8 A. Now that's not to say that we didn't take the time to train
9 and that the company commanders, myself we were out there helping
10 them because, of course, you know after 4 or 5 years in the Army as
11 an MP, you do have some law enforcement experience, so Captain
12 [REDACTED] the commander of 615th; myself; my S3; my command
13 sergeant major; you know, we spent time out at those police stations
14 helping the platoon leaders and platoon sergeants work through some
15 of the issues with the Iraqi police.

16 Q. Yes, Sir. Now, obviously, Sir, you're familiar with the
17 incident that Lieutenant [REDACTED] has been charged with. Is that
18 correct?

19 A. I am. I directed an inquiry officer to conduct a
20 commander's inquiry after I heard the allegations. I suspended
21 Lieutenant [REDACTED] from his platoon leader duties as soon as Captain
22 [REDACTED] came and told me what the allegations were, and then
23 from the time of the inquiry until the inquiry closed out, I had

1 Lieutenant [REDACTED] moved from the 615th MP Company to work on the 709th
2 MP Battalion staff, and then following the outcome of the inquiry, I
3 kept him on the battle staff.

4 Q. Yes, Sir.

5 A. So I just moved him as a change of duty from suspended as
6 platoon leader to serving as the nighttime battle captain on the
7 709th Staff.

8 Q. Yes, Sir. I want to ask you a few questions, in a moment,
9 about the battle staff--the time on the battle staff, but before we
10 get to that, Sir, back, you know, at the Al Taji station and the
11 other stations that Lieutenant [REDACTED] worked at, apart from this one
12 incident that we're here today to deal with, did you ever have any
13 reason or any issues, problems with Lieutenant [REDACTED] any reason to
14 doubt his ability to conduct the mission?

15 A. No, I did not, not at all. Prior to the incident, and
16 quite frankly after the incident, Lieutenant [REDACTED] you know,
17 performed admirably. I mean there--it is a one-time incident. It as
18 an anomaly for him certain--now, you know, in fairness as the
19 battalion commander, I didn't have daily contact with him like his
20 company commander did, but certainly if there was a problem with one
21 of the officers in a company, any one of my company commanders would
22 have notified me, but no, there is no reason for me to doubt

1 Lieutenant [REDACTED] ability to perform his duties and to lead his
2 platoon.

3 Q. Yes, Sir, thank you. Now when he moved to the battalion
4 staff, you said, please correct me if I'm misquoting you, but you
5 said that you dealt with him on a more regular basis at that point?

6 A. That's correct, I mean, you know, as a member of the battle
7 staff, he served inside the Tactical Operations Center, which is
8 located in the Vice Presidential Palace in downtown Baghdad, well
9 that was my headquarters, so I was there everyday for briefings. I
10 was there for meetings. My battle update brief was conducted there
11 every single day, and when I went into and out of the sector, I
12 always checked in with the Tactical Operations Center, so especially
13 at night when I came in off patrol after checking the police stations
14 and checking with the Iraqi police, you know, I had contact because
15 the nighttime battle captain's primary function when I came into the
16 TOC was to brief me on all actions going on inside the battalion's
17 area of operation, so you know, I saw Lieutenant [REDACTED] quite
18 frequently especially, you know, late at night, early in the morning
19 before I racked out.

20 I mean, I would talk to him, and you know, just get an
21 update on what was going on. I mean he and the battle staff NCOs
22 would show me anything that had happened or any reports that were
23 coming in from any of the other battalions because I had pretty good

1 situational awareness of what was going on inside my sector just by
2 listening to the command net, but as far as what was going on in
3 other battalion's sections or what brigade was monitoring the Corps,
4 that's, you know, the battle captain's also responsible for tracking
5 that.

6 He did an exceptional job. I mean great, you know,
7 briefing skills, and you know, very calm and collected. There's, you
8 know, a lot of stuff going on in Baghdad. I mean you've got to
9 consider the time--times we're talking about are July through--I mean
10 we left Baghdad in February. There's some--there's some pretty rough
11 times especially in August/September timeframe that we were involved
12 in, so he did a great job.

13 Q. Thank you, Sir. Now were you also able to, Sir, to form an
14 opinion of him as an officer in general other than just his duty
15 performance, other characteristics, the seven Army values, loyalty,
16 honor, integrity, those kinds of things, have you been able to form
17 an opinion about Lieutenant [REDACTED] in that area?

18 A. I have. Certainly from the time he served as a--as a
19 battle captain he--you know over time, you know, obviously you get to
20 spend more and more time with your officers, you know, as the
21 situation sort of develops, you know the tactical situation, so as
22 things started to quiet down in Baghdad, I could spend more time
23 inside the TOC, spend more time with my officers as opposed to being

1 out at all the stations, so I was impressed with Lieutenant [REDACTED]
2 foremost because of his sense of duty and his integrity.

3 He, you know, he was accused of doing something wrong at
4 the Al Taji police station, and he, you know, he accepted
5 responsibility for his actions. He cooperated with the investigating
6 officer. At no time did he, you know--you know, try to hide from or
7 not take responsibility from--from what he did. You know, I was
8 impressed by that especially, you know, I mean I've seen in 18 years
9 of service, a lot of times that, you know, people will, you know, not
10 take responsibility for their actions or try to blame it on someone
11 else. Lieutenant [REDACTED] at no time did he blame anyone else for what
12 took place in the Al Taji station. He took full responsibility
13 exactly what I would expect.

14 I don't condone his behavior or the actions he took, but I
15 certainly applaud the fact that he took responsibility and didn't,
16 you know, hide behind, you know, invoking his--I mean he has the
17 right to invoke his rights and not make a statement. He chose to
18 waive his rights and make a statement. He chose to cooperate with
19 the investigating officer. He chose to cooperate with everyone
20 involved in this investigation, so you know I was--I was very
21 impressed with that, and continue to be impressed with that.

22 Lieutenant [REDACTED] can work for me anytime, anywhere that I
23 go, and certainly as a promotable first lieutenant right now, when he

1 gets promoted to captain if he's--if he's going to command a company,
2 he can certainly command a company in any unit that I'm responsible
3 for.

4 DC: Hooah, Sir. Thank you very much. I believe the government
5 may have some questions for you. Please stand by, Sir.

6 MJ: Cross?

7 TC: Yes, Ma'am.

8

CROSS-EXAMINATION

9 **Questions by the trial counsel:**

10 Q. Sir, can you hear me?

11 A. I can.

12 Q. Would it be fair to say, you said that you only talked to
13 him once or twice as a platoon leader, would that be correct?

14 A. That's correct. I took command on June 26th and then
15 within the first week or so saw every one of my police stations,
16 every one of my platoon leaders, and then Al Taji was, you know, kind
17 of a backwater area of Baghdad as far as--as far as insurgent
18 activity. It was a very dangerous place don't get me wrong. There's
19 no safe place in Baghdad, but I was more concerned with areas on the
20 Western edge of the Al Monsieur District and then the--especially the
21 area in Kadamia near the Kadamia Shrine, so I mean I went to the
22 locations where I felt they needed the most amount of leadership.

1 Taji was, you know, a police station. It was the Northern
2 most police station in our area, so I would guess you know, before I
3 suspended him I probably saw him two times maybe three at the Taji
4 police station.

5 Q. So it's fair to say, Sir, you're basing your opinion on
6 knowing Lieutenant [REDACTED] after the incident. Would that be correct?

7 A. Oh, that's correct. That is correct.

8 Q. And it would be fair to say that his company commander was
9 his supervisor and he would know him better than you would. Is that
10 correct, Sir?

11 A. That's a fair statement, but I would argue that any company
12 commander should know his platoon leaders better than the battalion
13 commander given the level and the scope of responsibility of the
14 company commander compared to the battalion commander, but yes,
15 you're correct.

16 Q. Do you know Staff Sergeant [REDACTED] Sir?

17 A. I do. Staff Sergeant [REDACTED] serves as a, I believe, well I
18 know he's the platoon sergeant, and I think he still is the platoon
19 sergeant of 615th MP Company.

20 Q. Okay how would you rate Staff Sergeant [REDACTED] as a platoon
21 sergeant?

22 A. Well first of all he's a staff sergeant in a sergeant first
23 class position, so he's certainly the best of the staff sergeants in

1 the company. I would rate him at the high end of the platoon
2 sergeants that I was responsible for in my battalion, so you're
3 talking probably, you know, at the high end 27, 28 platoons that I
4 had in the battalion and he would be--I would put him in the top five
5 or six within my battalion.

6 Q. And when--after Lieutenant [REDACTED] was removed from platoon
7 leader until the new platoon leader, Staff Sergeant [REDACTED] was both
8 the platoon sergeant and the platoon leader for a time, correct?

9 A. That's correct. Now that's not unusual in any tactical
10 operation. If the platoon leader, for any reason's, not available,
11 then the platoon sergeant steps in and takes over as the platoon
12 leader.

13 Q. But you would say he did a good job at that, correct, Sir?

14 A. I would say he did a good job of it. I don't--I don't
15 recall any issues with the platoon while they were in Taji after
16 Lieutenant [REDACTED] was moved.

17 Q. So that's, "yes", Sir?

18 A. What's that?

19 Q. Was that a "yes", Sir?

20 A. Yes.

21

[END OF PAGE]

22

1 Q. Now you said that while you were down in Iraq you were
2 supervising or had under your command somewhere between 27 and 29
3 platoon leaders, would that be correct?

4 A. At the high end that's correct. Normally--I think the most
5 I ever had was 29 and I had four, five, usually about 20 for the
6 majority of the time that I was in command. The task organization
7 changed from--sometimes from week to week but normally month-to-
8 month, so but yes, I think the most I ever had was 29 platoon leaders
9 that I was responsible for.

10 Q. And out of those 29 platoon leaders, how many of those
11 platoon leaders got in trouble for beating up Iraqis?

12 A. There--none that I know of that were--got in trouble for
13 beating up Iraqis.

14 Q. So Lieutenant [REDACTED] would be the only one, right, Sir?

15 A. Lieutenant [REDACTED] was accused of striking a criminal
16 detainee inside the Taji Police Station's jail.

17 Q. But he's the only one, right, Sir?

18 A. He's the only one that was accused of that, that's correct.

19 Q. And in fact he's pled guilty of doing that here today,
20 correct, Sir?

21 A. That's correct.

22 TC: Thank you.

23 MJ: Redirect.

1 DC: No redirect, Your Honor.

2 MJ: All right, do any members of the panel have any questions?

3 [Several members indicated an affirmative response.]

4 MJ: All right looks like we have a couple. If the bailiff
5 would collect those.

6 Just stand by, please, Lieutenant [REDACTED]

7 DC: Sir, were you able to hear the military judge just then?

8 WIT: I only heard--I only heard stand by Lieutenant [REDACTED]
9 [REDACTED]

10 DC: Yes, Sir, there will be----

11 MJ: That's close enough.

12 DC: ----a few questions from the panel members.

13 [The CR marked questions from COL [REDACTED] and MAJ [REDACTED] as AEs
14 VI and VII respectfully.]

15 **EXAMINATION BY THE COURT-MARTIAL**

16 **Questions by the military judge:**

17 Q. All right, Lieutenant [REDACTED], can you hear me?

18 A. I can.

19 Q. All right, how was the incident reported to you?

20 A. The incident was reported to me first by the company
21 commander. Captain [REDACTED] notified me at first I think by
22 radio and asked to see me, and then I met him at the battalion
23 headquarters. It was followed up, I believe, by command--I'm pretty

1 sure that a commander's incident report was sent up immediately, but
2 certainly if not immediately it was followed up with a commander's
3 incident report up to brigade.

4 Once notified by Captain [REDACTED] then I notified my
5 brigade commander.

6 Q. Do you know how long after the incident occurred that you
7 got your report?

8 A. I don't recall the exact time. I know it--I believe that
9 the incident was reported to Captain [REDACTED] within I want to
10 say, and I'd be guessing, but I'd say within 24 hours, and then
11 Captain [REDACTED] notified me right afterwards. I think that's
12 how I remember it, and then once--once I--once I got the report, I
13 had Captain [REDACTED] first collect the details that he had, so I
14 could send up a commander's incident report to brigade, and then
15 after speaking with Captain [REDACTED] I directed a commander's
16 inquiry.

17 Q. Now did Lieutenant [REDACTED] receive a Relief for Cause OER
18 when you moved him to the battalion staff?

19 A. No he did not. I did not direct, at any time, the relief
20 of Lieutenant [REDACTED]. I suspended him from his platoon leader duties,
21 and then I directed a change of rater OER, which he--which it would
22 have been Captain [REDACTED] as his--the rating chain is a little
23 convoluted. It was Captain [REDACTED] as his rater, and I believe

1 Lieutenant Colonel [REDACTED] as his senior rater for the time period
2 up through July, and then I had him fall into the rating chain of my
3 S3, Major [REDACTED] as his rater, then me as his senior rater, which I
4 carried him through, I want to say, the end of this February or early
5 March. But I did never--I never--neither Captain [REDACTED]
6 myself, or Colonel [REDACTED] ever directed his relief.

7 MJ: All right, any other panel questions?

8 [A member indicated an affirmative response.]

9 MJ: We've got at least one more, so hold tight there.

10 [The CR marked a question from LTC [REDACTED] as AE VIII.]

11 Q. Was the change of rater OER a referred report?

12 A. The change of rater report was not a referred report. I do
13 not believe any derogatory information was placed in either the rater
14 or the senior rater's portion. I don't know that a hundred percent
15 for sure, but I'm almost positive it was a standard change of rater
16 report. Now I do know for sure that my--that my change of rater
17 report where I served as senior rater was not a derogatory report and
18 was not referred, and I carried him from the time of suspension
19 through either February or March 2004 where he served--that was the
20 rating he received as the--as one of the members of the battle staff.

21 Q. All right just so I'm clear, neither OER that you just
22 mentioned refers to this incident?

23 A. I'm sorry, Ma'am.

1 Q. Do--does the OER that ended with his--at the time he
2 stopped being a platoon leader, does that refer to the incident?

3 A. I do not believe that--I mean his time as platoon leader
4 ended upon suspension based on the incident, correct, but I do not
5 believe, and I'd have to see the OER in front of me, I do not believe
6 there is any mention of the incident in the OER because it was under
7 investigation, and the thought that I--and certainly what I thought
8 was at least in accordance with the OER regulation if you find
9 derogatory information later that's substantiated, you can go back
10 and put that into the report, you know as a--or you can put it in a
11 subsequent report, so there was no mention of it in the report that
12 carried him from the time that he was a platoon leader up until his
13 suspension, and I know that I didn't place anything in my portion as
14 the senior rater in the--his time as a battle staff officer.

15 MJ: All right. Any more members' questions?

16 [All members indicated a negative response.]

17 MJ: No. Does either side have any questions based upon mine---

18 -

19 TC: Just quickly, Your Honor.

20 MJ: ----or the members?

21 TC: Just quickly.

22 MJ: Captain [REDACTED]

23

1 **REXCROSS-EXAMINATION**

2 **Questions by the trial counsel:**

3 Q. Sir, can you hear me?

4 A. I can.

5 Q. So just to be clear, there's no record, no comments on any
6 of Lieutenant [REDACTED] OERs regarding this incident?

7 A. That's correct.

8 Q. There was never----

9 A. To the best of my knowledge, there is no--there is no
10 comment in his OERs.

11 Q. Okay and once the incident happened, he never returned to
12 be a platoon leader, did he?

13 A. That is correct.

14 Q. And he went to battle staff and never went back to the
15 platoon, right?

16 A. Correct.

17 Q. Okay and there was never a relief for cause one done?

18 A. There was never a relief for cause.

19 Q. Why?

20 A. What's that?

21 Q. Why was it not a relief for cause NCOER or OER done?

22 A. I never directed his relief.

23

1 Q. But it was a serious incident, right?

2 A. It was--it was a serious incident not which I felt required
3 the relief of an officer.

4 Q. You moved him to battle staff and never moved him back, but
5 that's not a relief for cause?

6 A. That is not. Not in accordance with the regulation, I
7 mean, if I relieve him of his duties, then I'm required to direct an
8 OER stating such, which makes the referred report.

9 Q. Why--why was he moved to battle staff?

10 A. He was moved to battle staff because he was the subject of
11 an investigation.

12 Q. Okay and the commander's inquiry was done shortly
13 thereafter, wasn't it?

14 A. It certainly was.

15 Q. So the investigation was completed shortly thereafter,
16 correct?

17 A. That--you know, the battalion level of the investigation
18 was completed very quickly, that's correct, and then it was sent from
19 Brigade to Corps with recommendations on actions, and nothing
20 happened, and so I waited and after consulting with my brigade
21 commander I told--my concern was that I didn't want, you know,
22 certainly something like this where either an Article 32 or anything

1 really coming up later on if I put him back into the platoon, and
2 there was no action taken by the Corps SJA for a number of months.

3 Q. Okay, so----

4 A. So as time went on, I continued to keep him in the battle
5 staff and then it was--by this point, I had already requested and
6 received a platoon leader from Germany to fill the position.
7 Lieutenant [REDACTED] (sic) had moved down from Germany and taken over
8 the platoon. I had no other position in the 615th MP Company, and so
9 I kept Lieutenant [REDACTED] on the battle staff. It was the function of
10 timing.

11 You know if the question is would I have put him back in
12 the platoon leader position, I probably would have if it had been
13 cleaned up and closed up and there was a final action. But it never
14 got finalized.

15 Q. Okay so was there an OER done aft--right after the incident
16 happened?

17 A. There is an OER done I want to say, I'm pretty sure that
18 the OER--I think Lieutenant [REDACTED] annual OER took place. I want to
19 say it would have been like mid, maybe the end, of June, so his
20 annual report took place right before this incident or within 30 days
21 of the incident I think. I'm not sure of the exact dates, which
22 means there could be no comment on that OER anyway because it was
23 outside the rating period.

1 Q. So, Sir, if I've talked to the G1, and his name is Major
2 [REDACTED] and he stated that based on the facts as this then you
3 should have given him a relief for cause NCOER [sic], G1 would be
4 wrong?

5 A. Did--I don't think that--I mean I would have to check the
6 regulation. I'm not sure that any staff officer can say whether an
7 officer can be relieved or not. I'm pretty sure that's reserved to
8 only commanders.

9 Q. Okay.

10 A. As a commanding officer, I did not direct his relief. Now
11 my commander and his commander and his commander can direct the
12 relief, but the last time I checked, staff officers can only
13 recommend, they can't direct.

14 Q. Okay, but the G1's telling me, based on the facts of this
15 incident, that there should have been a relief for cause NCOE--OER
16 done, he must be wrong or he's correct or he's wrong?

17 A. I don't know.

18 TC: All right, thank you, Sir.

19 MJ: Redirect.

20 DC: Just one question, Your Honor.

21 [END OF PAGE]

22

1 **REDIRECT EXAMINATION**

2 **Questions by the defense counsel:**

3 Q. Sir, the fact is--this is Captain [REDACTED] again.

4 A. Yes.

5 Q. The fact is he never got a relief for cause OER because you
6 didn't think that was necessary, right, Sir?

7 A. That's exactly correct. I never relieved Lieutenant [REDACTED]
8 of duty, ever.

9 DC: Thank you, Sir. Please stand by.

10 MJ: Anything further from the members?

11 [All members indicated a negative response.]

12 MJ: All right temporary or permanent excusal?

13 DC: Permanent excusal is fine, Your Honor.

14 TC: No objection, Ma'am.

15 [The witness was duly warned, permanently excused, and hung up the
16 phone.]

17 MJ: All right, Defense, what else have you got?

18 DC: Yes, Your Honor, the defense next calls Captain [REDACTED]
19 [REDACTED]

20 MJ: All right.

21 **[END OF PAGE]**

22

1 CAPTAIN [REDACTED] U.S. Army, was called as a witness for the
2 defense, was sworn, and testified as follows:

3 DIRECT EXAMINATION

4 Questions by the trial counsel:

5 Q. Can you please state your full name for the record?

6 A. [REDACTED]

7 Q. And your rank?

8 A. Captain.

9 Q. And what's your current unit of assignment?

10 A. 709th MP Battalion.

11 TC: Defense has some questions for you.

12 MJ: Captain, you need to speak up.

13 WIT: Yes, Ma'am.

14 Questions by the defense counsel:

15 Q. Good afternoon, Captain [REDACTED] I just want to ask you a
16 few brief questions. First of all, do you know Lieutenant [REDACTED]
17 here?

18 A. Yes, I do.

19 Q. How is it that you know him?

20 A. I met Lieutenant [REDACTED] last year in November in Iraq.

21 [END OF PAGE]

22

1 Q. Okay. What was the context of that meeting? What was your
2 position, what was his position?

3 A. I was coming in and he was the night battle captain, and he
4 was the first officer I met in our battalion in Iraq.

5 Q. So he worked in the S3 shop?

6 A. Yes, he did.

7 Q. And now you're presently still with the S3 shop?

8 A. Yes, I am.

9 Q. Okay what was your job as part of the S3 team when he was
10 the night battle captain?

11 A. I was the incoming night battle captain. He was
12 transitioning to the liaison for the battalion.

13 Q. Okay. If you will, please, tell us how well you got to
14 know Lieutenant [REDACTED] I mean how often did you interact with him
15 and how well did you get to know him?

16 A. Well I interacted with him on a daily basis, well a nightly
17 basis for about 2 weeks, so I got to know him a lot, talked to him a
18 lot, talked to him about, you know, somewhat about his issue or the
19 action that was pending against him.

20 Q. Okay, now did he essentially train you on the job as night
21 battle captain?

22 A. Yes, you could say that.

23

1 Q. You said you were coming in to take that job, right?

2 A. Yes, I was.

3 Q. Okay how, as far as like tactical proficiency, technical
4 knowledge, those kinds of things how did you--what was your
5 evaluation of Lieutenant [REDACTED] Were you confident in him?

6 A. Yes, I was. Outstanding officer. Always gave a hundred
7 percent.

8 Q. Okay what about--if you were just--a hypothetical question.
9 If you were to be deployed, put into a combat situation again and
10 knowing Lieutenant [REDACTED] as you do, would you be comfortable with him
11 as another member of your staff or as a commander?

12 A. Yes, I would, I would take him under my command in a
13 heartbeat.

14 DC: Okay thank you very much. The government may ask you some
15 questions.

16 MJ: Cross?

17 TC: Yes, Ma'am.

18 **CROSS-EXAMINATION**

19 **Questions by the trial counsel:**

20 Q. Now when the government talked to you previously, you
21 stated that you weren't actually at the incident, correct?

22 A. No, I wasn't.

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1 Q. And you said, "You had no idea what happened at the
2 incident," correct?

3 A. No, I had no idea.

4 TC: Thank you.

5 MJ: Redirect?

6 DC: No redirect, Your Honor.

7 MJ: Questions by any of the panel members?

8 [All members indicated a negative response.]

9 MJ: Apparently not.

10 Temporary or permanent excusal?

11 DC: Permanent excusal is fine, Your Honor.

12 TC: No objection, Ma'am.

13 [The witness was duly warned, permanently excused, and withdrew from
14 the courtroom.]

15 MJ: Captain [REDACTED] what else have you got?

16 DC: Yes, Your Honor, our last military witness is Captain [REDACTED]

17 [REDACTED]

18 **CAPTAIN [REDACTED] U.S. Army, was called as a witness for the**
19 **defense, was sworn, and testified as follows:**

20 **DIRECT EXAMINATION**

21 **Questions by the trial counsel:**

22 Q. For the record, could you please state your full name?

23 A. My full name is [REDACTED]

1 Q. And your rank?

2 A. My rank is Captain.

3 Q. And what is your current unit of assignment?

4 A. 709th Military Police Battalion.

5 TC: Thank you. Defense has some questions for you.

6 **Questions by the defense counsel:**

7 Q. Good afternoon, [REDACTED]

8 A. Good afternoon, Captain.

9 Q. First question is, do you know Lieutenant [REDACTED] here?

10 A. Yes, I do.

11 Q. How is it that you know him?

12 A. I worked with him downrange at Iraq during the deployment

13 as a battle staff, the battle captain.

14 Q. Okay what was your job during that time?

15 A. My job was the day battle captain he was the night battle

16 captain. He was my counterpart.

17 Q. Okay.

18 A. We basically interacted every 12 hours.

19 Q. You would pass onto him when you went off shift----

20 A. Correct.

21 Q. ----and then he would do the same when----

22 A. Correct.

23

1 Q. -----you came on shift, right?
2 A. Correct.
3 Q. How long did that relationship go on? How long were you
4 two doing that?
5 A. Roughly 5 to 6 months.
6 Q. Okay.
7 A. I can't give a precise date, but----
8 Q. Of course.
9 A. -----roughly in that ballpark.
10 Q. But about 5 or 6 months?
11 A. Correct.
12 Q. Okay during that time, did you get to know Lieutenant [REDACTED]
13 pretty well?
14 A. Professionally, yes.
15 Q. Right.
16 A. Personally not so well, correct.
17 Q. But professionally you did?
18 A. Yes.
19 Q. Okay did you get to know him well enough professionally to
20 form an opinion about him as an officer?
21 A. Absolutely.

22 [END OF PAGE]

23

1 Q. And what is that opinion?

2 A. My professional opinion of Lieutenant [REDACTED] is that he is a
3 great outstanding military officer. He embodies the Army values
4 based off of what I know of him. I couldn't think of anyone more
5 that I would rather serve with, go to war with, protect my life, and
6 who I would rather count on than Lieutenant [REDACTED]

7 Q. Okay now are you aware of the incident that we're here
8 about today?

9 A. I have been made aware of it, yes, correct.

10 Q. Okay so you--you weren't there, but you know what happened
11 essentially?

12 A. Correct.

13 Q. Now the fact that that happened does that change your
14 opinion about what you just said about him?

15 A. None whatsoever.

16 DC: Okay great. Thank you.

17 MJ: Cross?

18 TC: Just quickly, Your Honor.

19 **CROSS-EXAMINATION**

20 **Questions by the trial counsel:**

21 Q. So let's be clear, you weren't ever actually at the
22 incident, correct?

23 A. No.

1 Q. Lieutenant [REDACTED] never talked to you about the incident?

2 A. Never. The entire time during our deployment downrange, he
3 only told me that he was under review and that was all.

4 Q. Okay and basically you're basing your opinion, your
5 testimony, solely on your observations as Lieutenant [REDACTED] as a
6 battle captain?

7 A. Correct our interaction between the two.

8 Q. As a battle captain?

9 A. Correct.

10 TC: Thank you.

11 MJ: Redirect?

12 DC: No redirect, Your Honor.

13 MJ: Any of the panel members have questions?

14 [All members indicated a negative response.]

15 MJ: Evidently not. Permanent or temporary excusal?

16 DC: Permanent, Your Honor, is fine.

17 MJ: Any objection?

18 TC: No objection, Your Honor.

19 [The witness was duly warned, permanently excused, and withdrew from
20 the courtroom.]

21 DC: Thank you, Your Honor. Next the defense calls Mrs. [REDACTED]

22 [REDACTED]

23 MJ: All right.

1 DC: The accused's wife.

2 MRS. [REDACTED], civilian, was called as a witness for the
3 defense, was sworn, and testified as follows:

4 DIRECT EXAMINATION

5 Questions by the trial counsel:

6 Q. Would you please state your name for record?

7 A. [REDACTED]

8 Q. Okay and you're the wife of the accused in this case?

9 A. Yes, I am.

10 TC: Thank you very much.

11 Questions by the defense counsel:

12 Q. Good afternoon [REDACTED]

13 A. Hello.

14 Q. Thank you for your testimony today. I just want to ask you
15 a few questions, and I want to give you the opportunity to tell the
16 panel members a little bit about [REDACTED] the man, the husband,
17 and the father apart from all the testimony we've heard about him as
18 the officer up to this point.

19 A. Um-hmm [indicated an affirmative response].

20 [END OF PAGE]

21

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1 Q. First of all I'd just ask you to tell us a little bit about
2 your family. How many children do you have?

3 A. We have three children.

4 Q. And what are their names and ages?

5 A. [REDACTED] is 7, [REDACTED] is 4, and [REDACTED] is 2.

6 Q. Okay.

7 A. Turned 2 in February.

8 Q. And how long have you and [REDACTED] been married?

9 A. We'll be married 8 years September 29th of this year.
10 We've been together for 10 years.

11 Q. Okay. Now before the Army, tell us a little bit about the
12 places that you lived and the things that you did with your family.

13 A. I met my husband in 1994 at the College of Charleston, and
14 I was a freshman, he was an upper classman, and well anyway, we got
15 married. We dated for about 2 years, we got married, started a
16 family. I completed my degree. He went on to the master's course.
17 He graduated with a degree in psychology, went onto Webster
18 University to get his Masters in Counseling.

19 After getting his counseling degree, he worked with--he was
20 a treatment coordinator who worked with foster children who obviously
21 had a lot of problems. His job there was to pretty much plan or
22 coordinate their treatment, meaning if there were problems in school,

1 he was there. If there was a problem at home, he was there, all the
2 stuff that goes along with a counselor.

3 Once he got his--I'm sorry he did that while he was getting
4 his master's degree. Once he got his degree in counseling, he did
5 his internship with drug and alcohol abuse. After completing that
6 and getting his degree, he went on to be a counselor for sexual--
7 juvenile sexual offenders. He worked with, of course, juvenile
8 delinquents that had a lot of problems there, and it was one of those
9 things when we were in college, he always said he was going to be in
10 the military, "I'm going to be in the military." "Okay. We are
11 going to travel the world. Okay." We were young, and once we
12 started having kids, that kind of was put on the back burner for a
13 little while, and one day when I was at home with post partum
14 depression blues after I had my second child, he came and said, "I'm
15 going to take you out to lunch." "Okay." And we ran into the Army
16 recruiter, got to love them, and a few months later, he was in the
17 military.

18 Q. Okay.

19 A. He left November 7th of 2000. I remember that day because
20 it was an election year, and he left to go to basic training. At
21 that time, it was just [REDACTED] and [REDACTED] at that time, all of the
22 things that he did up until that point before in the civilian world,
23 as you can see, my husband's a large man, but he was a lot larger in

1 the civilian world. He got healthy, and he was at one time 317
2 pounds and a lot of people can't believe that, but he did a lot of
3 exercise, he lost the weight, and joined the military lost even more
4 weight. I was like, "Oh my gosh, what happened to my husband?" And
5 he made a lot of sacrifices along the road for us.

6 The reason why he joined the military was because he wanted
7 to secure our financial status--our financial state as a family, and
8 we thought that--he thought the best way to do that would be to join
9 the military, and the military does have it's benefits, and I can
10 definitely say that. I have reaped the benefits of Uncle Sam. I
11 have, but at the same time, a lot of sacrifices on all of our part
12 have also come into play.

13 For the 3 years that my husband has been in the service, we
14 might have had him at home in the house for maybe 18 months, so a lot
15 of time was spent away from the kids, and when he came home from
16 Iraq, it was the first time that my 4 year old had his dad home for a
17 birthday party because he was always training or in the field or TDY
18 or whatever, and as a family we accepted that. We did.

19 There is nothing more than--there is nothing more that my
20 husband loves than waking up in the morning and putting on his
21 uniform. He walks taller, he loves the military, he's always wanted
22 to be a police officer, and being an MP officer and in the military
23 is like having his cake and eating it too.

1 I can't think of anything else that he would rather do, and
2 I love my husband very much. I want him to come home with me
3 tonight, and say good night to our children, and our family has been
4 through a lot because of this whole situation.

5 Before he deployed to Iraq, he was--there was a field
6 training for at least the month of January. He came home and I
7 thought for sure that they were going to have 30 days leave before
8 they deployed, but in that situation it didn't happen. They
9 continued to train up until the time that they left. My husband
10 probably has not had a decent night's rest since a year and a half.

11 After the incident occurred, he called me and he apologized
12 to me, and I said, "Honey, what's wrong? What's wrong?" And he
13 said, "I'm so sorry. I'm so sorry, Honey. I messed up, and I'm
14 sorry, and I put my soldiers in a bad position, and I put our family
15 in a bad position." And I told him no matter what we're in this
16 together, and I love him very much, and that I said, "well can you
17 give me--can you let me know what happened?" And if I was in my
18 husband's position, I would have done the same thing if not worst,
19 and I told him that I admired him and that I have so much respect for
20 him and I think that he's so much of a better person than what I was.

21 I thought for sure that after the incident occurred that he
22 would be sent home, and I didn't know everything that had gone on.
23 He just said that something bad happened, and he was sorry for that.

1 I thought that he would come home, we would PCS, go to South
2 Carolina, and that would be the end of it, but instead, my husband
3 completed the entire 11 months of the deployment before he returned
4 home, and for him to get up everyday and go to work and put on a
5 smiling face, and I asked him why, you know. "You're under charges
6 and obviously the military doesn't want you. I don't understand, why
7 do you keep doing it?" And he said, "Because it's not about me, but
8 it's about the soldiers that depend on me, and I have a job to do,
9 and I have a responsibility to them."

10 And I love my husband very much. He is so much of a better
11 person than what I am because I don't think I would have done the
12 same thing. I really wouldn't have. I know I wouldn't have.

13 We've been through a lot, and even after he came home in
14 February, he doesn't sleep quite the same. He gets up two, three
15 times a night. He gets up early in the morning, he goes to the gym,
16 he comes home for lunch, he goes back to the gym, at night he goes to
17 spinning class just to stay busy, and I think that's just the way
18 that he deals with the frustration and the stress, but I've had so
19 many people come up to me and say, "Oh, is your husband still on
20 leave?" "Oh, is he working at battalion?" And not exactly, and why
21 what's going on? Why is it still--it's been a year, and everyday--
22 not a day goes by that he doesn't think about his actions and the
23 things that he has seen and been through.

1 DC: Thank you, Ma'am, very much.

2 That's all if have. No further questions. Captain
3 [REDACTED] may have some questions.

4 TC: No questions from the government.

5 MJ: Any of the panel members have questions?

6 [All members indicated a negative response.]

7 MJ: No. Temporary or permanent excusal?

8 DC: Permanent is fine, Your Honor.

9 TC: No objection.

10 [The witness was duly warned, permanently excused, and withdrew to
11 the rear of the courtroom.]

12 MJ: Are you prepared to go forward, Captain [REDACTED], or do you
13 need a few minutes.

14 DC: May I just have--Your Honor, we'll go forward.

15 MJ: Okay.

16 DC: The last thing--the next to last thing we'd like to present
17 is the accused would like to make an unsworn statement. He has some
18 things to say to the court.

19 MJ: All right.

20 DC: If it's acceptable to you, Your Honor, and the members if
21 he could just stay--he'll--but if he can just stay here instead of
22 taking the witness chair.

1 MJ: That's fine. Let me tell the panel members a few things
2 first.

3 Now the accused is going to make what we call an unsworn
4 statement, and the court will not draw any adverse inference from the
5 fact that he's elected to make this statement, which is not under
6 oath. An unsworn statement is an authorized means for an accused to
7 bring information to the attention of the court and must be given
8 appropriate consideration. The accused cannot be cross-examined by
9 the prosecution or interrogated by court members or me upon an
10 unsworn statement, but the prosecution may offer evidence to rebut
11 statements of fact contained in it.

12 The weight and significance to be attached to an unsworn
13 statement rests within the sound discretion of each court member.
14 You may consider that the statement is not under oath; it's inherent
15 probability or improbability, whether it is supported or contradicted
16 by evidence in the case, as well as any other matter that may have a
17 bearing upon its credibility. In weighing an unsworn statement, you
18 are expected to use your common sense and your knowledge of human
19 nature and the ways of the world.

20 Captain [REDACTED] you may proceed.

21 DC: Your Honor, at this time, we'd like to present an unsworn
22 statement from the accused, Lieutenant [REDACTED]

23 MJ: All right, Lieutenant [REDACTED] go right ahead.

1 **UNSWORN STATEMENT**

2 **LIEUTENANT [REDACTED], the accused, stood at the defense**
3 **table and made the following unsworn statement:**

4 ACC: Gentlemen, Ma'am, I just want you to know that I'm hearing
5 a lot today, but what I would like to convey is that I did not plan
6 for this incident to happen. I have come to love the Army and the
7 job that I was given to do. If I can't have that, I ask that you
8 leave me in a position where I can support my family and care for
9 them the best way I can. What in essence I'm asking you is that I'm
10 allowed to go home tonight and put my children to bed and wake up and
11 show them that I'm still there. I'm asking you to leave me in a
12 position where I can complete and fulfill my obligations to my wife,
13 to fulfill promises I made to her.

14 I wish it never happened, but that goes without saying.

15 That's all I have, thank you.

16 MJ: Anything else, Captain [REDACTED]

17 DC: Yes, Your Honor, one last thing and that is that I'd like
18 to play a tape for the members. It's been previously introduced as
19 Defense Exhibit Bravo, and this is a tape recording of the unsworn
20 statement made by the accused at the Article 32 hearing on 15 May.

21 MJ: And what I advised you, of prior to the statement that
22 Lieutenant [REDACTED] has just made concerning it being an unsworn
23 statement is true of this statement as well.

1 [The DC published DE B to the members.]

2 DC: Your Honor, with that, the defense rests.

3 MJ: All right, any rebuttal?

4 TC: No, Your Honor.

5 MJ: All right, I'm going to take, well I'm going to ask the
6 panel to excuse us for actually it should be about 3 minutes tops.

7 The rest of us are going to stay in the courtroom, so if you'd excuse
8 us, I've got to talk to counsel.

9 [The court-martial recessed at 1505, 1 July 2004.]

10

[END OF PAGE]

11

1 [The session was called to order at 1506, 1 July 2004.]

2 MJ: All right, you may be seated. Let the record reflect that
3 the members are absent, but everyone else is still present.

4 Now Captain [REDACTED] based on what Lieutenant [REDACTED] said in
5 his unsworn here in court today, are you going to be arguing for a
6 dismissal rather than jail time?

7 DC: No, Your Honor, not going to argue for a dismissal.

8 MJ: Okay because essentially that's what he asked for in his
9 unsworn.

10 DC: Your Honor, my understanding of essentially what he was
11 saying was that he certainly does not want confinement. I think my
12 take of it was--what I heard him say was that at least no
13 confinement.

14 MJ: Well in my notes he says, "If I can't have the Army, I ask
15 to be left in a position to care for my family, I be allowed to go
16 home tonight."

17 DC: Yes, Your Honor.

18 MJ: Which to me says, "I'd rather have a discharge than go to
19 jail." I just want to make sure.

20 Is that what you're asking for, Lieutenant [REDACTED] is--is do
21 you want your counsel to argue for a discharge or do you want him to
22 argue no discharge no jail?

23 ACC: No discharge no jail.

1 MJ: Okay that's fine because if you're going to argue for a
2 discharge, there's certain warnings I need to give you.

3 ACC: Roger, Ma'am.

4 MJ: And I wanted to make sure you weren't going there without
5 me giving you the proper warnings that's all. Okay. Mighty fine.
6 Sit down.

7 [The DC did as directed.]

8 MJ: Then in that case, bring the panel back in. Both sides
9 ready for argument?

10 TC: Yes, Your Honor.

11 DC: Yes, Your Honor. We'll argue before the instructions?

12 MJ: I'll give them a little bit but not much.

13 DC: Yes, Your Honor.

14 MJ: Basically that they're going to hear argument.

15 DC: Yes, Ma'am.

16 [The session recessed at 1507, 1 July 2004.]

17 [END OF PAGE]

18

1 [The court-martial was called to order at 1508, 1 July 2004.]

2 MJ: You may be seated. Let the record reflect that the members
3 have rejoined us; so all parties are once again present in court.

4 Members, at this point in time what you're going to hear
5 are the arguments of either side. Arguments are just that,
6 arguments; they are not facts. They are each sides attempt to sway
7 you as to which way you should go concerning the sentence in this
8 case. The government will go first.

9 TC: Sir, members of the panel, this is a tough case. It's a
10 sad case. My job as government counsel is to represent the United
11 States Government, and make no mistake about it, the United States
12 Government and the United States Army is a victim in this case.

13 Your job, as panel members, is to craft the appropriate
14 punishment for what Lieutenant ██████ did. Let's take a moment and
15 talk about what Lieutenant ██████ did.

16 You've heard that he was a platoon leader in Iraq. Part of
17 his job was running a police station and coaching and mentoring the
18 IPs, the Iraqi Police, who we heard had a lot of problems.

19 One day, three Iraqi detainees try to break out. They are
20 stopped, and take note, it's not until the next day, the next morning
21 after Lieutenant ██████ had time to stew about this all night, to
22 think about it that he comes into the police station the next
23 morning, and he goes and grabs his subordinates. He doesn't do it

1 himself. He goes and gets his subordinates and says, "Bring those
2 Iraqis in here."

3 They bring them in, and you heard what happens in front of
4 his subordinates. He takes a guy by the back of the neck, throws him
5 towards the hole, "Did you do this?" and bam [slamming his fist into
6 the palm of his other hand], hits the first one, bam [slamming his
7 fist into the palm of his other hand] hits the second one, and even
8 as one of his NCOs is trying to pull him off, he kicks a third one.

9 He treated those Iraqis like dogs, as if your dog had
10 crapped on your living room floor and you're probably in your family
11 room and said bring that dog in here, and you took that dog and you
12 slapped it around [slapping his hands together] and you took his nose
13 and you rubbed his face in the dog crap. That's equal to what
14 Lieutenant [REDACTED] did. He treated those Iraqis like dogs.

15 Now defense is going to get up here, and they're going to
16 want you to consider Lieutenant [REDACTED], and the government agrees.
17 You have to consider Lieutenant [REDACTED] what his is, what he did, the
18 type of officer he is, and the crime he committed. The fact that
19 he's an officer, a police officer, an MP who in front of his
20 subordinates beats Iraqis, beats prisoners. An MP who had a special
21 trust, a special job to care take detainees, to care take prisoners,
22 and to take care of them not to beat them.

1 himself. He goes and gets his subordinates and says, "Bring those
2 Iraqis in here."

3 They bring them in, and you heard what happens in front of
4 his subordinates. He takes a guy by the back of the neck, throws him
5 towards the hole, "Did you do this?" and bam [slamming his fist into
6 the palm of his other hand], hits the first one, bam [slamming his
7 fist into the palm of his other hand] hits the second one, and even
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10 crapped on your living room floor and you're probably in your family
11 room and said bring that dog in here, and you took that dog and you
12 slapped it around [slapping his hands together] and you took his nose
13 and you rubbed his face in the dog crap. That's akin to what
14 Lieutenant [REDACTED] did. He treated those Iraqis like dogs.

15 Now defense is going to get up here, and they're going to
16 want you to consider Lieutenant [REDACTED] and the government agrees.
17 You have to consider Lieutenant [REDACTED] what his is, what he did, the
18 type of officer he is, and the crime he committed. The fact that
19 he's an officer, a police officer, an MP who in front of his
20 subordinates beats Iraqis, beats prisoners. An MP who had a special
21 trust, a special job to care take detainees, to care take prisoners,
22 and to take care of them not to beat them.

1 But this case is bigger than Lieutenant [REDACTED] It's bigger
2 than a simple assault--an assault case. It's bigger than
3 maltreatment of prisoners. It's bigger than that. It's bigger than
4 the impact it had on the platoon, the company, the greater unit.

5 Do you want to know why that unit stayed together? You've
6 heard it. It wasn't because of Lieutenant [REDACTED] He committed a
7 crime; he was gone. It was because of the NCOs, the platoon sergeant
8 who did double duty to keep that unit together. That's why that unit
9 kept going, not because of Lieutenant [REDACTED] He let his family down,
10 and he let his unit down, and it's bigger than that. It's bigger
11 than the MP mission in Iraq. It's going to affect that. It's going
12 to affect our mission in Iraq.

13 How do you think this is going to play when the Iraqis hear
14 about this? Are they more likely to be waving at us now or shooting
15 at our convoys? This is not good for winning the hearts and minds of
16 Iraqis.

17 How is this going to play on the folks back home? What are
18 they going to think about United States Army officers, of the
19 military police officers? What are they going to think? What are
20 people around the world going to think of military police officers,
21 of U. S. Army officers, of what we're doing in Iraq? What are they
22 going to think?

1 And beyond that, beyond all the factors the government's
2 just mentioned, the government wants you to think about one factor
3 above everything else. Consider all the factors we've just mentioned
4 including Lieutenant ██████ his crimes, everything, but think about
5 deterrence. When you craft your punishment, take deterrence into
6 your mind. What's it going to take to send a message to Lieutenant
7 ██████ to all the MPs in this room that his type of conduct is not
8 tolerated, because of right now, the message that's being sent from
9 the MPs outwards is that this is not a big deal. This is a slap on
10 the wrist [slapping his wrist with his open hand].

11 When you get a chance, look at his OERs including the one
12 from the timeframe of the offense. Look on there how they handled
13 this, but there's one problem. In none of the OERs nothing is
14 mentioned about this. It's as if the MPs just want to sweep it away,
15 make it go away, but it hasn't gone away. It's in front of you.

16 What Lieutenant ██████ did has to have consequences. What
17 MPs do has to have consequences. What we do has to have
18 consequences. What you do here today, it will have consequences not
19 only on Lieutenant ██████ on all the MPs in this room, but on the MPs
20 outside this courtroom, outside these doors, the ones in Iraq, the
21 ones downrange.

22 The government's asking you for two things. The
23 government's asking you for a dismissal, the government's asking you

1 for confinement time. The confinement time, whatever time the panel
2 thinks is sufficient, in combination with a dismissal sending a
3 message to the Lieutenant [REDACTED] the MPs in this room, and beyond
4 these doors, beyond this courtroom that this type of conduct is not
5 tolerated. We don't treat detainees, Iraqis, like dogs.

6 Sir, members of the panel, unfortunately rightly or wrongly
7 anything less than a dismissal and confinement time, unfortunately
8 it's going to send the wrong message. It's going to send a message
9 that hey, it's okay to do this. It's just a slap on the wrist, but
10 if you do give a dismissal and the proper time of confinement, you
11 will show Lieutenant [REDACTED] all the MPs in this room and beyond this
12 courtroom that this type of conduct is not tolerated.

13 Thank you.

14 MJ: Captain [REDACTED]

15 DC: Colonel [REDACTED] Sir, Gentlemen, Ma'am, duty, honor, and
16 courage. Duty, honor, and courage three of the fundamental values
17 part of the seven Army values along with integrity, sacrifice or I'm
18 sorry selfless service. Fundamental Corps principles that we want
19 not only our officers but our soldiers to have, to live, to embody,
20 duty, honor, and courage. Those three words I--I highlight because
21 the tape I just played before I sat down, Lieutenant [REDACTED] thanked
22 his men, his men, the first time he had gotten to talk to them and it
23 was kind of just hard to understand at the beginning of the tape, he

1 was saying that, "I haven't had a chance to talk to you because I've
2 been pulled from the platoon and there's been an investigation. I
3 haven't had a chance to talk to you." That 32 was his first chance
4 to talk to his men after all those months, Sergeant [REDACTED] Sergeant
5 [REDACTED] Sergeant [REDACTED] were sitting in the back of this very room,
6 he thanked them for their duty, honor, and courage. He told them
7 that they showed him what duty, honor, and courage was all about. I
8 submit to you that that is, in fact, true, but Glenn [REDACTED] represents
9 those same values, duty, honor, and courage.

10 He went to Iraq, did his duty, deployed in difficult, very
11 difficult circumstances. We heard significant evidence from both
12 platoon leaders, Colonel [REDACTED] talked at length about the mission,
13 we heard about the impact it had on his family, you know, being
14 deployed being away from home. He went and he did his mission. He
15 made a mistake. He made a mistake.

16 All of you are officers; you've been commanders or have
17 been around soldiers at least. How many soldiers do you see that
18 make a mistake and they just go, you know, someplace bad. They don't
19 come back from it. They make a mistake, they know they're in
20 trouble, they know they're facing charges, what do they do? They
21 just become a bad soldier. They give up. Lieutenant [REDACTED] got a new
22 job and soldiered on. He soldiered on. He made a mistake. He made
23 a mistake.

1 Talk about honor and courage. In today's environment in
2 the military in the Officer Corps especially, words like--terms like
3 zero defect, zero tolerance are thrown around. We're human beings.
4 All of--each of you are a human being. ██████████ is a human being.

5 Baghdad Iraq in July 2003 was hell. I don't know if John
6 Wayne said it first or somebody else, but war is hell. It is bad.
7 It's hard. It's stressful. Human beings are just that. They're
8 human beings. We're not robots. Stressors, lack of sleep, it's not
9 an excuse. Please, I don't want you to couch my statements in those
10 terms. Glenn ██████████ has never made an excuse, and I don't offer these
11 things to you today as an excuse. In fact, he pled guilty. He's
12 here today--the first thing we did this morning was he pled guilty.
13 He pled guilty to conduct unbecoming an officer, that's what he did.
14 It happened. He has never denied that this happened. Never asked
15 any of his subordinates to cover it up, and in fact, on that tape,
16 that's what he was doing. He was thanking them, thanking them for
17 doing the right thing. That speaks volumes about the character of
18 this man. So I don't offer these stressors, I don't make these
19 arguments as an excuse because there is no excuse. There is no
20 excuse. That's why this was a guilty plea, and that's why you're
21 here for sentencing only not to find out whether he's guilty or not.
22 But those stressors still should be considered.

1 I asked each of you at the beginning today if you would--if
2 it was a fair question, fair to expect you to consider those
3 extraneous factors, those stressors. What did we hear? Fourteen,
4 16-hour days everyday, 7 days a week, 30, 31 days a month. For
5 months this had gone on.

6 The constant threat of attack, force protection issues,
7 different police stations had been mortared, just us your own
8 knowledge. We've all watched TV, we've all read the paper, we've all
9 been following what's been going on. Police stations are very
10 commonly attacked. There weren't maneuver units out in that area at
11 that time. It was these guys. It was the MPs in their armored
12 HMMWV, no tanks, no Bradleys. They were out there in the middle of
13... Baghdad doing the mission, doing the job.

14 In a 5 second period on 30 July 2003, [REDACTED] made a
15 mistake. He made a mistake. He never hid from that. He never
16 denied that. He never ran from that, but it is a fundamental
17 principle of our law, of our society that punishment should fit a
18 crime. Punishment should fit a crime.

19 Captain [REDACTED] the government representative, today
20 argues that we've got to send a message. What is everybody going to
21 think? What is everybody going to think? I believe he said that
22 many times. What is everybody going to think if we don't hammer this
23 guy? What is everybody going to think? What are Iraqis going to

1 think? What are Americans going to think? What are MPs going to
2 think?

3 They're going to think exactly what is true, and that is
4 that we have a man who made a mistake, he's been punished, and he's
5 being allowed to recover from that. They're going to look at this
6 exactly the way that it should be looked at. That he got his day in
7 court, that a fair and impartial panel of officers reviewed the
8 evidence, they reviewed the mitigating and extenuating circumstances,
9 and they gave him a punishment which was deserved, and that
10 punishment, which is deserved, Gentlemen, Ma'am, is not to go to
11 jail.

12 This event, this incident doesn't warrant jail time. If he
13 was an enlisted soldier, he would have gotten an Article 15 for this.
14 It doesn't deserve dismissal from the service either. Who among us,
15 and obviously I don't know all of your backgrounds we haven't talked
16 in detail, but I bet each and everyone of you, because you're human
17 too, you've made mistakes at different times in your life. You've
18 made mistakes. Maybe not to the same extent as this, maybe not of
19 the same nature, or the same magnitude, but you've made mistakes, and
20 while I don't ask you to excuse them, I would never ask you to excuse
21 what Lieutenant [REDACTED] did, all I would ask for you to do is to try to
22 understand, try to understand how it could have happened and why it
23 happened.

1 Lieutenant [REDACTED] said to you a few minutes ago he never
2 planned for this to happen. It just happened. It just happened.
3 It was a mistake. It was a mistake.

4 But the other thing that I ask you to consider in coming to
5 a fair and appropriate sentence here is everything else that you
6 heard today after Captain [REDACTED] read the stipulation of fact to
7 you, after it was explained to you what happened. You heard from a
8 great number of witnesses all across the spectrum. You heard from
9 some of his NCOs, his subordinates, Sergeant [REDACTED] and Sergeant
10 [REDACTED] who witnessed the incident. These guys weren't hurt. The
11 Iraqis weren't injured; again, that doesn't excuse it. That doesn't
12 make it okay, but it shows that it was not an aggravated incident.
13 It was a simple assault. He crossed the line, made a mistake, and
14 they both would go to war with him again, complete confidence in him.

15 His platoon sergeant, Sergeant [REDACTED] same thing,
16 absolutely has complete confidence. Said he was a great officer.
17 Would go to war with him again as well.

18 Then we heard from some of the officers. Major [REDACTED] who
19 worked with--was the battalion XO, worked with Lieutenant [REDACTED]
20 during a platoon exercise out at Grafenwoehr before the deployment.
21 Supervised him as the battalion maintenance officer long before the
22 deployment a significant period of time where as the XO he supervised
23 that platoon leader nothing but great things to say about this man.

1 Fellow platoon leaders, Lieutenant [REDACTED], Lieutenant
2 [REDACTED] great things to say about this officer. Captain [REDACTED]
3 [REDACTED] and Captain John [REDACTED], two fellow staff officers in the S3
4 shop for 709th. Great things to say about this officer, but most
5 notable, most notable is Colonel--Lieutenant Colonel [REDACTED]
6 the battalion commander. Granted the period of time while Lieutenant
7 [REDACTED] was a platoon leader working for him was not that long of a
8 period of time, but he did have a chance to observe and evaluate the
9 work that that platoon was doing. He said that there was no problem
10 with it.

11 He had 27 platoons, roughly, that he was dealing with. A
12 battalion the size of a typical brigade with so many companies and so
13 many missions and issues going on, so he, of course, is not going to
14 have a lot of specific information about each individual platoon
15 leader out there. He was only in command for a month before this
16 incident. But he knew enough; he had been able to gather enough to
17 say that he was doing a good job. There certainly wasn't any--
18 weren't any reports of any--any problems besides this one incident.

19 But he did get to know him very well when he became a
20 member of his battalion battle staff nothing but glowing remarks from
21 Colonel [REDACTED] about Lieutenant [REDACTED]. Lieutenant Colonel, Military
22 Police Corps Officer, 18 years of service, company commander in
23 Dessert Storm, battalion commander in Iraqi Freedom, and in the

1 middle years worked at the school house at Fort Leonardwood training
2 MP officers, this guy is one of the leaders of the Military Police
3 Corps. He said, "Anywhere anytime I would go with this man."
4 Anywhere, anytime.

5 Lieutenant Colonel [REDACTED] knows this man. He's worked
6 with him. He's been in Iraq. He's been in Baghdad. He talked about
7 the battalion TOC, that's where he worked. He's been in that
8 situation. Gentlemen, Ma'am, that is what the Army is all about.
9 That is what the Army is all about.

10 [REDACTED] is a warrior. He's a soldier and officer who
11 represents the seven Army Values. He lives them. In a time, when I
12 mentioned before, zero defect, zero tolerance, those words are thrown
13 around, he had the moral, personal courage, and integrity to stand up
14 and say, "Hey, I did it. I made a mistake." I hope when I look in
15 the mirror at night, I hope that I would have the same moral courage
16 and integrity to do that same thing. I certainly hope that I would,
17 and I'm sure each of you, hopefully none of us will ever be put in
18 that situation, but this man has been put in that situation, and he
19 did the right thing. He did what he was supposed to do. He made a
20 mistake, didn't run from it, didn't hide from it, didn't deny it.

21 There's all sorts of things in that red book over there
22 [indicating the MCM] on my desk, games we could have played, motions
23 we could have filed, arguments we could have made to try to make this

1 thing go away, but we didn't do that. He pled guilty, and he's here
2 before you today seeking an appropriate punishment.

3 Lastly, just want to highlight what we heard about [REDACTED]
4 [REDACTED] as a man. You heard from his wife. Mrs. [REDACTED]
5 testified. Clearly this has been a terrible, traumatic event on that
6 family--on the [REDACTED] family. It's affected him immensely. It's
7 affected her. It's been a difficult time for them.

8 When I ask you or when you consider punishment, please
9 consider the personal difficulties. It's not on his record, you
10 know, the punishment that he's, you know, the difficulties. You
11 can't put that on paper and put that in somebody's file. Okay but
12 that is punishment. It's been a terrible, terrible time for them.
13 He was relieved, although it wasn't a "Relieve-for-Cause" NCOER
14 [sic], he was suspended, essentially stripped of his leadership
15 position, taken away from his men, men that he had sweated and fought
16 and bleed with before the deployment and during the initial phases of
17 combat operations. He was taken from them and put into a battalion
18 staff job. That right there, being stripped of your men in that
19 position, you all have held positions of leadership, that's--you care
20 about your people, and we know he does. We've heard significant
21 evidence that he really cares and has always cared, and that has been
22 of the utmost importance to him. That's also a form of punishment.

1 The judge is going to instruct you. In a few moments,
2 Colonel [REDACTED] will instruct you of the different options that you
3 have when you go back into the deliberation room. One of the things
4 she's going to tell you is that you have the option to give him no
5 punishment whatsoever. As someone--I certainly would submit to you
6 that that is something to seriously consider. Seriously consider
7 giving him no punishment. He's been through enough.

8 Captain [REDACTED] talked about this as an aside, sweeping
9 this thing under the rug. We're at a court-martial. We're at a
10 court-martial. I don't think anything has been swept under the rug
11 here. It may not be on his OER, but he has a federal conviction
12 because he was court-martialed, he pled guilty. He's got a federal
13 conviction. Nothing has been swept under the rug, and a conviction
14 also is punishment.

15 He--his--the rest of his life is impacted because of this
16 5-second incident in the heat, in the stress, in the midst of combat
17 operations when he crossed the line. The rest of his life is marked.
18 He'll never, in or out of the Army, never go before a promotion board
19 or a civilian employer without having to deal with this. Never, and
20 that's if you give him no punishment. He's already got that. Never
21 will he be able to walk away from that, and that truly is tragic, but
22 that also is a punishment. That also is a punishment.

1 Now if you don't feel comfortable or whatever--you're not
2 comfortable with the option of no punishment, you also can give, and
3 the sentence instructions will demonstrate this when the judge
4 provides that to you a little bit later, you can also just order that
5 he get a reprimand.

6 There's no requirement, there is no mandatory minimum in
7 the military, and that's a good thing because it allows you to
8 consider all those, extenuating and mitigating factors that must be
9 considered about performance about, you know, outside factors,
10 personal life, the impact on the family, the impact on the Army, and
11 I submit to you, Gentlemen, that the Army is worse off--we're worse
12 off without ██████████ in our Officer Corps. I submit to you that
13 we are worse off.

14 So please consider, if not no punishment, at worst a letter
15 of reprimand. Let Lieutenant ██████████ go home tonight and tuck his kids
16 in and be there when they wake up in the morning, and let him put
17 that uniform back on tomorrow and go back to work.

18 Gentlemen, thank you, Ma'am.

19 MJ: All right, members of the court, you're about to deliberate
20 and vote on the sentence in this case. It is the duty of each member
21 to vote for a proper sentence for the offense of which the accused
22 has been found guilty. Your determination of the kind and amount of
23 punishment, if any, is a grave responsibility requiring the exercise

1 of wise discretion. Although you must give due consideration to all
2 matters in extenuation and mitigation as well as those in
3 aggravation, you must bear in mind that the accused is to be
4 sentenced only for the offense of which he has been found guilty.
5 You must not adjudge an excessive sentence in reliance upon possible
6 mitigating action by the convening or higher authority.

7 Now the maximum punishment that may be adjudged in this
8 case is forfeiture of all pay and allowances, confinement for 12
9 months, and a dismissal from the service. This maximum punishment is
10 a ceiling on your discretion. You are at liberty to arrive at any
11 lesser sentence.

12 In adjudging a sentence, you are restricted to the kinds of
13 punishment, which I will describe, or you may adjudge no punishment.
14 There are several matters, which you should consider in determining
15 an appropriate sentence. You should bear in mind that our society
16 recognizes five principle reasons for the sentence of those who
17 violate the law. They are:

18 Rehabilitation of the wrongdoer;
19 Punishment of the wrongdoer;
20 Protection of society from the wrongdoer;
21 Preservation of good order and discipline in the military;
22 and

1 Deterrence of the wrongdoer and of those who know of his
2 crimes and his sentence from committing the same or similar offenses.

3 The weight to be given any or all of these reasons along
4 with all other sentencing matters in this case rests solely within
5 your discretion.

6 Now this court may adjudge a reprimand being in the nature
7 of a censure. The court shall not specify the terms or wording of
8 any adjudged reprimand.

9 This court may adjudge restriction to limits for a maximum
10 period not to exceed 2 months. For such a penalty, it is necessary
11 for the court to specify the limits of the restriction and the period
12 it is to run. Restriction to limits will not exempt an accused from
13 any assigned military duty.

14 As I've already indicated, this court may sentence the
15 accused to confinement for a maximum of 12 months. A sentence to
16 confinement should be adjudged in either full days or full months, or
17 in this case a full year. Fractions such as one-half or one-third
18 should not be employed, so for example, if you adjudge confinement,
19 confinement for a month and a half should instead be expressed as
20 confinement for 45 days. This example should not be taken as a
21 suggestion, only as an illustration of how to properly announce your
22 sentence.

1 This court may sentence the accused to forfeit all pay and
2 allowances. A forfeiture is a financial penalty, which deprives an
3 accused of military pay as it accrues. In determining the amount of
4 forfeiture, if any, the court should consider the implication to the
5 accused and his family of such a loss of income. Unless a total
6 forfeiture is adjudged, a sentence to a forfeiture should include an
7 express statement of a whole dollar amount to be forfeited each month
8 and the number of months the forfeiture is to continue. The accused
9 is in pay grade O2 with over 2 years of service, thus, his total
10 basic pay is \$3,421.50 per month. This court may adjudge any
11 forfeiture up to and included forfeiture of all pay and allowances.

12 Now, any sentence, which includes either confinement for
13 more than 6 months or any confinement and a dismissal will require
14 the accused, by operation of law, to forfeit all pay and allowances
15 during the period of confinement. However, if the court wishes to
16 adjudge any forfeiture of pay and/or allowances, the court should
17 explicitly state the forfeiture as a separate element of the offense.

18 Now there's been some reference, through the testimony of
19 the accused's wife, of him being the, essentially, the breadwinner
20 for the family. When an accused has dependents, the convening
21 authority may direct that any or all of the forfeited--forfeiture of
22 pay, which the accused otherwise by law would be required to forfeit
23 be paid to the accused's dependents for a period not to exceed 6

1 months. This action by the convening authority is purely
2 discretionary. You should not rely upon the convening authority
3 taking this action when considering an appropriate sentence in this
4 case.

5 You are advised that the stigma of a punitive discharge is
6 commonly recognized by our society. A punitive discharge will place
7 limitations on employment opportunities, and will deny the accused
8 other advantages, which are enjoyed by those, I'm sorry, by one whose
9 discharge characterization indicates that he has served honorably.
10 A punitive discharge will affect an accused's future with regard to
11 his legal rights, economic opportunities, and social acceptability.

12 This court may adjudge a dismissal. You are advised that a
13 sentence of a dismissal of a commissioned officer is in general the
14 equivalent of a dishonorable discharge of a noncommissioned officer,
15 a warrant officer who is not commissioned, or an enlisted soldier. A
16 dismissal deprives one of substantially all benefits registered, I
17 mean sorry, administered by the Veteran's Administration and the Army
18 establishment. It should be reserved for those who, in the opinion
19 of the court, should be separated under conditions of dishonor after
20 conviction of serious offenses of a civil or military nature
21 warranting such severe punishment. Dismissal, however, is the only
22 type of discharge the court is authorized to adjudge in this case.

1 Finally, if you wish, this court may sentence the accused
2 to no punishment.

3 In selecting a sentence, you should consider all matters in
4 extenuation and mitigation as well as those in aggravation. You
5 should consider evidence admitted as to the nature of the offense of
6 which the accused stands convicted, plus the evidence you heard
7 concerning his good military character; his record for good conduct
8 and efficiency; the fact that he was in combat; his education, which
9 includes the Masters Degree in Counseling; and the character
10 testimony that you heard from the various witnesses. You should also
11 consider that a plea of guilty is a matter in mitigation, which must
12 be considered along with all other facts and circumstances of the
13 case. Time, effort, and expense to the government usually are saved
14 by a plea of guilty. Such a plea may be the first step toward
15 rehabilitation.

16 During argument, trial counsel and defense counsel
17 recommended that you consider a specific sentence in this case. You
18 are advised that the arguments of counsel and their recommendations
19 are only their individual suggestions and may not be considered as
20 the recommendation or opinion of anyone other than such counsel.

21 Now when you close to deliberate and vote, only the members
22 will be present. I remind you that you all must remain together in
23 the deliberation room during deliberations. I also remind you that

1 you may not allow any unauthorized intrusion into your deliberations.
2 You may not make any communications to or receive communications from
3 anyone outside the deliberation room by telephone or otherwise.
4 Should you need to take a recess or have a question or when you've
5 reached a decision, you may notify the bailiff who will then notify
6 me of your desire to return to open court to make your desires or
7 decision known.

8 Your deliberations should begin with a full and free
9 discussion on the subject of sentencing. The influence of
10 superiority in rank shall not be employed in any manner to control
11 the independence of members in the exercise of their judgment.

12 When you have completed your discussion, then any member
13 who desires to do so may propose a sentence. You do that by writing
14 out on a slip of paper a complete sentence. The junior member
15 collects the proposed sentences and submits them to the president who
16 will arrange them in order of their severity. You then vote on the
17 proposed sentences by secret written ballot. All must vote. You may
18 not abstain. Vote on each proposed sentence in its entirety
19 beginning with the lightest until you arrive at the required
20 concurrence, which is two-thirds, or in this case, seven members.

21 The junior member will collect and count the votes. The
22 count is then checked by the president who shall announce the result
23 of the ballot to the members. If you vote on all of the proposed

1 sentences without arriving at the required concurrence, you may then
2 repeat the process of discussion, proposal of sentences, and voting,
3 but once a proposal has been agreed to by the required concurrence,
4 then that is your sentence.

5 You may reconsider your sentence at any time prior to its
6 being announced in open court. If after you determine your sentence
7 any member suggests you reconsider the sentence, open the court and
8 the president should announce that reconsideration has been proposed
9 without reference to whether the proposed rebalot concerns
10 increasing or decreasing the sentence. I will then give you specific
11 instructions on the procedure for reconsideration.

12 Now as an aid in putting the sentence into proper form the
13 court may use the sentence worksheet, which has been marked as
14 Appellate Exhibit IV, and you will have that to take back into the
15 deliberation room with you.

16 In fact, Bailiff, would you please hand that to the
17 president, Colonel [REDACTED] No, wrong Colonel.

18 [The bailiff did as directed.]

19 MJ: Now extreme care should be exercised in using this
20 worksheet and in selecting the sentence form, which properly reflects
21 the sentence of the court. If you have any questions concerning
22 sentencing matters, you should request further instructions in open
23 court in the presence of all parties to the trial. In this

1 connection, you are again reminded that you may not consult the
2 Manual for Courts-Martial or any other publication or writing not
3 properly admitted or received during this trial. These instructions
4 must not be interpreted as indicating any opinion as to the sentence,
5 which should be adjudged for you alone are responsible for
6 determining an appropriate sentence in this case.

7 Now in arriving at your determination, you should select
8 the sentence which will best serve the ends of good order and
9 discipline, the needs of the accused, and the welfare of society.
10 When the court has determined a sentence, the inapplicable portions
11 of the sentence worksheet should be lined through. When the court
12 returns, I will examine the sentence worksheet. The president will
13 then announce the sentence.

14 Now do counsel for either side object to the instructions
15 as given or request other instructions?

16 TC: No, Ma'am.

17 DC: No, Your Honor. One issue, though, before the exhibits are
18 passed to the members. Because we were able to make phone contact,
19 we do need to make modification to Defense [Exhibit] Alpha before
20 that gets given to the members.

21 MJ: All right, Bailiff, why don't you hand Defense Exhibit A to
22 Captain [REDACTED] so he can make that modification.

1 [The bailiff did as directed and the DC made the modification to DE
2 A.]

3 TC: The other issue, Ma'am, is that we requested copies of the
4 stip of fact and the OER be given to the panel members as well.

5 MJ: Well those are exhibits. They'll go back.

6 TC: Yes, Ma'am.

7 MJ: Now while they're doing that administrative thing, do any
8 of the panel members have any questions based on the sentencing
9 instructions that I've given you?

10 [All members indicated a negative response.]

11 MJ: All right. Now----

12 PRES: Your Honor, I have one. Are we authorized to make any
13 additional recommendations above and beyond what is listed here?

14 MJ: No.

15 PRES: Okay.

16 MJ: Those for good or ill are your choices as far as
17 sentencing. Now you will have the exhibits, I'm sorry if you want to
18 take a recess during your deliberation for any reason, we have to
19 formally reconvene the court and then recess. Now you do have
20 latrine facilities right off your deliberation room and no one else
21 will be going back there. Now knowing that, do you wish, at this
22 time, to take a recess before you begin deliberation or would you
23 like to begin immediately?

1 PRES: Begin immediately, Ma'am.

2 MJ: All right, now Bailiff, would you please give the president
3 of the panel Prosecution Exhibits 1, 2, and 3 and Defense Exhibits A,
4 B, and C.

5 [The bailiff did as directed.]

6 MJ: Oh, I'm sorry. Not B, that's the tape that was played, so
7 you've already heard that.

8 Now please don't mark on any of the exhibits except for
9 that sentence worksheet, and when you do come back after--when you've
10 completed your deliberations, please bring all the exhibits with you.

11 Do you have any questions?

12 [All members indicated a negative response.]

13 MJ: Apparently not. Please go back and begin your
14 deliberations.

15 [The court-martial closed at 1543, 1 July 2004.]

16 [END OF PAGE]

17

1 [The session was called to order at 1544, 1 July 2004.]

2 [All parties present when the court recessed were again present in
3 court with the exception of the panel members.]

4 MJ: All right, you may be seated. Is there anything else we
5 need to deal with while the panel is deliberating?

6 DC: Your Honor, the only thing I can think of would be the post
7 trial and appellate rights. The accused has already signed this. I
8 can have it marked by the court reporter.

9 MJ: Yeah, have it marked, but I'll actually go over those with
10 him when they've--after they've given us our sentence and I have sent
11 them on their way.

12 DC: Thank you, Your Honor.

13 MJ: Anything else?

14 TC: No, Ma'am.

15 DC: Nothing from the defense, Your Honor.

16 MJ: All right, then the court will be closed.

17 [The session recessed at 1545, 1 July 2004.]

18 [The session was called to order at 1730, 1 July 2004.]

19 MJ: Court is called to order. You may be seated. Let the
20 record reflect that all parties present with the exception of the
21 members are present.

22 I've been informed that the members have a question.

23 Essentially, I guess, they're asking for written instructions, which

1 [The court-martial opened at 1732, 1 July 2004.]

2 MJ: You may be seated. Let the record reflect that the members
3 have now joined us.

4 Colonel [REDACTED] I've been informed that there's some
5 question that the members have.

6 PRES: Yes, Your Honor, if you could reread your instructions to
7 the members.

8 MJ: All of them or is there some specific question that you
9 have?

10 PRES: All of them, please, Ma'am.

11 MJ: All of them?

12 PRES: Yes, Ma'am, and then we will ask a specific question if
13 it's not answered.

14 MJ: Well----

15 PRES: And if at anytime, could I--if you've answered our
16 question I could just say, "Okay, we understand."

17 MJ: Well I suppose I can, it's just that if you've got a
18 question about a specific form of a punishment or how you're supposed
19 to vote, it would be easier to do that. It's not the norm for us to
20 completely reread instructions. Can you point me at something a
21 little more specific than just all of the instructions?

22 PRES: Yes, Your Honor, okay. Your Honor, could you discuss the
23 types of punishment and their impact?

1 MJ: Yes, that I would be happy to go over with you.

2 The types of punishment this court can impose are as
3 follows:

4 The court may adjudge a reprimand being in the nature of a
5 censure. The court shall not specify the terms or wording of any
6 adjudged reprimand.

7 This court may adjudge restriction to limits for a maximum
8 period not exceeding 2 months. For such a penalty, it is necessary
9 for the court to specify the limits of the restriction and the period
10 it is to run. Restriction to limits will not exempt an accused from
11 any assigned military duty.

12 As I've already indicated, this court may sentence the
13 accused to confinement for a maximum of 12 months. A sentence to
14 confinement should be adjudged in either full days or full months, or
15 in this case one year. Fractions such as one-half or one-third
16 should not be employed, so for example, if you do adjudge
17 confinement, confinement for a month and a half should instead be
18 expressed as confinement for 45 days. This example should not be
19 taken as a suggestion, only as an illustration of how to properly
20 announce your sentence.

21 This court may sentence the accused to forfeit all pay and
22 allowances. A forfeiture is a financial penalty, which deprives an
23 accused of military pay as it accrues. In determining the amount of

1 forfeiture, if any, the court should consider the implications to the
2 accused and his family of such a loss of income. Unless a total
3 forfeiture is adjudged, a sentence to a forfeiture should include an
4 express statement of a whole dollar amount to be forfeited each month
5 and the number of months the forfeiture is to continue. The accused
6 is in pay grade O2 with over 2 years of service, thus, his total
7 basic pay is \$3,421.50 per month. This court may adjudge any
8 forfeiture up to and including forfeiture of all pay and allowances.

9 Any sentence, which includes either confinement for more
10 than 6 months or any confinement and a dismissal will require the
11 accused, by operation of law, to forfeit all pay and allowances
12 during the period of confinement. However, if the court wishes to
13 adjudge any forfeitures of pay and/or pay and allowances, the court
14 should explicitly state the forfeiture as a separate element of the
15 sentence.

16 Now when the accused has dependents, the convening
17 authority may direct that any or all of the forfeiture of pay, which
18 the accused otherwise by law should be or would be required to
19 forfeit be paid to the accused's dependents for a period not to
20 exceed 6 months. This action by the convening authority is purely
21 discretionary. You should not rely upon the convening authority
22 taking this action when considering an appropriate sentence in this
23 case.

1 You are advised that the stigma of a punitive discharge is
2 commonly recognized by our society. A punitive discharge will place
3 limitations on employment opportunities, and will deny the accused
4 other advantages, which are enjoyed by one whose discharge
5 characterization indicates that he has served honorably. A punitive
6 discharge will affect an accused's future with regard to his legal
7 rights, economic opportunities, and social acceptability.

8 This court may adjudge a dismissal. You are advised that a
9 sentence to a dismissal of a commissioned officer is in general the
10 equivalent of a dishonorable discharge of a noncommissioned officer,
11 a warrant officer who is not commissioned, or an enlisted soldier. A
12 dismissal deprives one of substantially all benefits administered by
13 the Veteran's Administration and the Army establishment. It should
14 be reserved for those who, in the opinion of the court, should be
15 separated under conditions of dishonor after conviction of serious
16 offenses of a civil or military nature warranting such severe
17 punishment. Dismissal, however, is the only type of discharge the
18 court is authorized to adjudge in this case.

19 Finally, if you wish, this court may sentence the accused
20 to no punishment.

21 Does that answer your questions, then?

22 PRES: Yes, Ma'am, it does.

23

1 MJ: All right, then, please return to your deliberations.

2 [The court-martial closed at 1738, 1 July 2004.]

3 [END OF PAGE]

4

1 [The session was called to order at 1739, 1 July 2004.]

2 MJ: Let the record reflect that the panel has left us. You may
3 be seated.

4 Do either counsel have any objections to the rereading of
5 the different types of punishment as I've just done it?

6 TC: No, Ma'am.

7 DC: No, Your Honor.

8 MJ: All right, then the court will be closed.

9 [The session recessed at 1740, 1 July 2004.]

10

[END OF PAGE]

11

1 [The court-martial opened at 1822, 1 July 2004.]

2 MJ: Court is called to order. You may be seated. Let the
3 record reflect that all parties present at the time of the recess are
4 again present with the exception of the members.

5 I've been informed that the members have reached a verdict
6 [sic]. Bailiff, would you ask them to come in, please?

7 [The bailiff did as directed and the members entered the courtroom.]

8 MJ: You may be seated. Colonel [REDACTED] have you reached a
9 verdict [sic]?

10 PRES: Yes, Your Honor, we have.

11 MJ: All right is it reflected on the sentence worksheet?

12 PRES: Yes, Ma'am, it is.

13 MJ: Would you fold that in half, and Bailiff, would you
14 retrieve that, please, and give that to me.

15 [The bailiff did as directed.]

16 MJ: Thank you.

17 All right, I've reviewed the sentence worksheet and it
18 appears to be in proper form.

19 Bailiff, would you return that to Colonel [REDACTED], please?

20 [The bailiff did as directed.]

21 MJ: Defense Counsel and Accused, please rise.

22 [The accused and his counsel did as directed.]

23 MJ: Colonel [REDACTED], would you please announce the sentence?

1 PRES: Yes, Ma'am. Your Honor, first we'd like to thank the
2 court for their professionalism today. We'd like to thank you
3 personally for your guidance and instruction. We'd like to thank
4 counsel both prosecution and defense for their elegance of
5 presentation. To the military witnesses, we thank you for your
6 service, and we thank you for your sacrifice. To [REDACTED] we
7 thank you for your strength and testimony. We know this was an
8 extremely difficult time for you.

9 First Lieutenant [REDACTED], Jr. this court-martial
10 sentences you:

11 **To be reprimanded;**
12 **To forfeit \$1,003.00 per month for 12 months.**

13 Your Honor, that concludes our sentence.

14 MJ: Thank you. You may be seated.

15 [The accused and his counsel did as directed.]

16 MJ: All right, Bailiff, would you retrieve the exhibits from
17 Colonel [REDACTED] including the worksheet?

18 [The bailiff did as directed.]

19 MJ: Now members of the court, before I excuse you, please let
20 me advise you of one matter. If you are asked about your service on
21 this court-martial, I remind you of the oath that you took.

22 Essentially, that oath prevents you from discussing your

23 deliberations with anyone to include stating any members' opinion or

1 vote unless ordered to do so by a court. You may, of course, discuss
2 your personal observations in the courtroom and the process of how a
3 court-martial functions, but not what was discussed during your
4 deliberations.

5 Thank you for your attendance and service. You are excused
6 now. The counsel and the accused will remain.

7 [All the members withdrew from the courtroom.]

8 [The court recessed at 1825, 1 July 2004.]

9 [END OF PAGE]

10

1 [The session was called to order at 1826, 1 July 2004.]

2 MJ: You may be seated. All right, Lieutenant [REDACTED] we're
3 going to discuss the operation of your pretrial agreement on the
4 sentence of the court. As we discussed earlier today, the pretrial
5 agreement provides that the convening authority would disapprove any
6 confinement adjudged in excess of 45 days, but could approve any
7 other lawful punishment. My understanding of the affect of the
8 pretrial agreement on the sentence, then, is that the convening
9 authority may approve the sentence that the panel just read, that is,
10 he may approve the reprimand, and he may approve the forfeitures of
11 \$1,003.00 per month for 12 months. Do you agree with that
12 interpretation?

13 DC: Yes, Your Honor, the defense agrees with that
14 interpretation.

15 MJ: Well I need to know specifically----

16 DC: Oh.

17 MJ: ----if Lieutenant [REDACTED] agrees.

18 ACC: Yes, Ma'am.

19 DC: I'm sorry.

20 MJ: All right, do counsel also agree?

21 TC: Yes, Ma'am.

22 DC: Yes, Your Honor.

1 MJ: All right, now Captain [REDACTED] have you advised the accused
2 orally and in writing of his post trial and appellate rights?

3 DC: Yes, Your Honor, I have, and I ask your forgiveness. I
4 left the copies on my desk in the counsel office. If could have a 20
5 second break in place, I'll go retrieve those.

6 MJ: Okay.

7 DC: Thank you, Ma'am.

8 [The DC exited the courtroom.]

9 [The DC reentered the courtroom.]

10 DC: Thank you, Your Honor.

11 MJ: All right, Lieutenant [REDACTED] I have what's been marked as
12 Appellate Exhibit IX in front of me the post trial and appellate
13 rights. Do you have a copy there in front of you?

14 ACC: Yes, Ma'am.

15 MJ: And I want you to take a look at page five. That's the
16 last page.

17 ACC: Yes, Ma'am.

18 MJ: Did you sign that page?

19 ACC: Yes, Ma'am.

20 MJ: And Captain [REDACTED] is that your signature there also?

21 DC: It is, Your Honor.

22 MJ: Lieutenant [REDACTED] did your defense counsel explain your
23 post trial and appellate rights to you?

1 ACC: Yes, Ma'am.
2 MJ: Do you have any questions about your post trial and
3 appellate rights?
4 ACC: No, Ma'am.
5 MJ: Are there any other matters to be taken up before this
6 court adjourns?
7 TC: No, Ma'am.
8 DC: Nothing from the defense, Your Honor.
9 MJ: All right, then, court is adjourned.
10 [The court-martial adjourned at 1828, 1 July 2004.

11

[END OF PAGE]

AUTHENTICATION OF RECORD OF TRIAL

in the case of

[REDACTED], First Lieutenant,
615th Military Police Company, APO AE 09114

I received the completed record of trial for review and authentication on 28 December 2004.

Pages 1 - 13

[REDACTED]
LTC, JA
Military Judge

30 December 2004

I received the completed record of trial for review and authentication on 30 Dec 2004.

Pages 14 - 245

[REDACTED]
COL, JA
Military Judge

24 Jan 2004⁵

I have examined the record of trial in the foregoing case.

[REDACTED]
CPT, JA
Defense Counsel

_____ 2004

AUTHENTICATION OF RECORD OF TRIAL

in the case of

First Lieutenant [REDACTED] U.S. Army, 615th
Military Police Company, APO AE 09114

I received the completed record of trial for review and authentication
on _____ 2004.

[REDACTED]
COL, JA
Military Judge

_____, 2004

ACKNOWLEDGEMENT OF RECEIPT AND EXAMINATION

I received the record of trial for review in the foregoing case on 22
October 2004 2004.

[REDACTED]
CPT, JA
Defense Counsel

30 November, 2004

The record of trial was served on defense counsel on _____
_____ 2004. After verifying receipt with defense counsel on
_____ 2004 and conferring with the military judge on review
by defense counsel on _____, 2004 the record was
forwarded for authentication without completion of the defense
counsel's review.

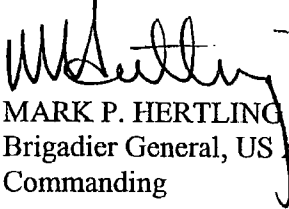
[REDACTED]
MAJ, JA
Chief, Military Justice

C03650

ACTION

DEPARTMENT OF THE ARMY
Headquarters, Seventh Army Training Command
Unit 28130
APO AE 09114-8130

In the case of First Lieutenant [REDACTED] U.S. Army, 615th Military
Police Company, APO AE 09114, (currently attached to Headquarters, Seventh Army Training
Command due to the deployment of the 1st Infantry Division to Iraq) the finding of guilty and
the sentence is disapproved. The charge is dismissed. The adjudged forfeitures were deferred
effective 4 August 2004 until date of convening authority action.


MARK P. HERTLING
Brigadier General, US Army
Commanding

10 Feb 05

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PROSECUTION EXHIBITS ADMITTED

003652

United States of America)

v.)

[REDACTED])

First Lieutenant, U.S. Army)
615th Military Police Company)
APO AE 09114-3700)

Stipulation of Fact

17 June 2004

It is hereby agreed by and between Trial Counsel and Defense Counsel with the express consent of the accused that the following facts are true; that these facts are admissible despite any evidentiary rule or Rule for Courts-Martial that might otherwise make them inadmissible; that these facts may be used for the determination of guilt or innocence or any other purpose; that these facts may be considered by the sentencing authority in determining an appropriate sentence even if otherwise inadmissible; and that the accused waives any objection he may have to the admission into evidence of these facts.

1. The accused joined the United States Army on 7 November 2000. He completed Basic Training and Officer Candidate School at Fort Benning, Georgia. He was commissioned into the Military Police Corps on 10 May 2001. He is on active duty in the Army and was on active duty at the time of the charged offenses.
2. In July 2003, the 615th Military Police Company was deployed to Iraq. The accused was responsible for the administration of the Al-Taji Police Station in Baghdad, Iraq, and for the training of the Iraqi Police force.
3. On 29 July 2003, several detainees at the Al-Taji Police Station attempted to escape from the Al-Taji Police Station by knocking a hole through the latrine wall with a pipe. On 30 July 2003, the accused went to the Al-Taji Police Station and requested to see the damage and the prisoners who committed the damage. The accused went to the detention section of the jail and was accompanied by SSG [REDACTED], SGT [REDACTED], SGT [REDACTED] and SPC [REDACTED] sh. The three prisoners who attempted to escape were identified and separated from the other prisoners. SPC [REDACTED] stayed with the other prisoners as SSG [REDACTED], SGT [REDACTED] and SGT [REDACTED] accompanied the accused as he escorted the three prisoners who attempted to escape into the latrine/shower room.
4. As the three prisoners were escorted into the latrine/shower room, the accused grabbed the first prisoner from behind his head and started yelling, "did you do this?" He swung the prisoner by his head in the direction of the damaged wall, throwing him towards the damaged wall. The accused then grabbed the second prisoner from behind his head and threw him in the same direction. The third prisoner suddenly realized what was happening and moved towards the other prisoners. The accused suddenly stepped towards the prisoners, grabbed one of them, and punched him in the stomach, causing the prisoner to fall down holding his stomach. The accused then grabbed the second prisoner and

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PE 1 For ID
33

BS
Signed
[Signature]

punched him in the stomach and caused him to fall. The third prisoner appeared to be afraid and fell to the ground saying "no mister, please no." SSG [REDACTED] grabbed the accused and attempted to pull him back, however, the accused kicked the third prisoner in the shoulder as he sat on the ground begging the accused not to strike him.

5. The accused did not immediately report the incident. However, the incident was immediately reported by the Platoon Sergeant, SSG [REDACTED]

6. The accused did not have a legal reason for striking the three prisoners. He stated that at the time of the incident he did not feel that his, SSG [REDACTED] SGT [REDACTED] or SGT [REDACTED]'s safety was in jeopardy. The prisoners were unarmed and were never perceived as a threat. Therefore, he did not act in self-defense.

7. Finally, and in summary, the accused admits the following facts are true:

a. On or about 30 July 2003, the accused, at or near the Al-Taji Police Station, Baghdad, Iraq, was cruel toward and did maltreat [REDACTED] and [REDACTED] persons subject to his orders, by striking them in the stomach with a closed fist. The accused was cruel towards and did maltreat [REDACTED] a person subject to his order, by kicking him in the shoulder.

b. On or about 30 July 2003, the accused did, at or near Al-Taji Police Station, Baghdad, Iraq, while a platoon leader in the 615th Military Police Company, and in the presence of SSG [REDACTED], SGT [REDACTED], and SGT [REDACTED] wrongfully and dishonorably grab [REDACTED] by the neck and strike him in the stomach with a closed fist, wrongfully and dishonorably strike [REDACTED] in the stomach with a closed fist, and while being detained by [REDACTED], wrongfully and dishonorably kick [REDACTED] in the shoulder, all to the disgrace of the Officer's Corps, and the Armed Forces.

[REDACTED]
CPT, JA
Defense Counsel

[REDACTED]
1LT, MP
Accused

[REDACTED]
CPT, JA
Trial Counsel

17 June 04

Encl
Sworn Statement on 6 August 03

003654

*865
S. H. [unclear]
CPT*

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: Baghdad, Iraq
2. DATE (YYYYMMDD): 20030706
3. TIME: 1033L
4. FILE NUMBER:
5. LAST NAME, FIRST NAME, MIDDLE NAME:
6. SSN:
7. GRADE/STATUS: 02/1LT
8. ORGANIZATION OR ADDRESS: 615th MP Company

9. I, Glenn A. Hicks, Jr., WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 29 July, 2003 I was notified that detainees in the Taji Police Station did attempt to escape. On 30 July, 2003 I did go to the Taji Police Station and requested to be shown the area in which the detainees attempted to escape. SSG [redacted] did show me the area & damage made to the wall. At which time I asked that the detainees in question enter the latrine. It is at this time that I became engaged and struck the detainees. I believe that there were four prisoners that I struck in various parts of their body. I was then removed from this area by a soldier, and then went and sat down in the MP office. At this time SSG [redacted] came in and expressed his dissatisfaction in my behavior. SSG [redacted] then came in and asked what happened. I believe SSG [redacted] explained the situation to SSG [redacted]. No further incidents occurred during the day. Days later I expressed to SSG [redacted] that I was out of line and my behavior was not warranted.

The following questions are used to clarify this statement

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT: [redacted]
PAGE 1 OF 023655

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT DATED
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

TAKEN AT

Brekslad, Iraq

DATED

16 Aug 2003

9. STATEMENT (Continued)

Q. CAP [REDACTED]

A. ILT Niles ~~AND~~

Q. WHAT WAS YOUR REACTION WHEN YOU WERE MADE AWARE OF THE ASSAULTED BREKSLAD AT THE DETENTION CELL AT AL TASI POLICE STATION ON 29 JUL 03?

A. I WAS VERY ANGRY AND PISSED OFF. ~~AND~~

Q. WHEN YOU WENT TO AL TASI POLICE STATION ON 30 JUL 03 WHAT TIME DO YOU ENTER THE DETENTION CELL?

A. EXACT TIME UNKNOWN. APPROX. TIME WOULD BE AFTER 0900 L ~~AND~~

Q. WHY DID YOU ENTER THE DETENTION CELL AT AL TASI POLICE STATION ON 30 JUL 03?

A. TO ~~SEE~~ ^{GO} SEE THE DAMAGE THAT WAS DONE TO THE CELL. ~~AND~~

Q. HOW MANY ~~OF~~ ^{THE} SAUVAGES ENTERED THE DETENTION CELL WITH YOU AT AL TASI POLICE STATION ON 30 JUL 03?

A. EXACT NUMBER UNKNOWN. ~~AND~~

Q. AT ANY TIME WHILE YOU WERE IN THE DETENTION CELL DO YOU FEEL THAT YOUR SAFETY OR THE SAFETY OF YOUR SAUVAGES WAS IN JEOPARDY?

A. WHEN I ENTERED THE CELL I DID NOT FEEL THAT MY SAFETY WAS IN JEOPARDY. DURING THE ACTUAL INCIDENT I DO NOT RECALL THINKING ABOUT MY SAFETY. ~~AND~~

Q. HOW MANY PRISONERS WERE IN THE DETENTION CELL WHEN YOU ENTERED ON 30 JUL 03?

A. I BELIEVE IT WAS EIGHT. ~~AND~~

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INITIALS OF PERSON MAKING STATEMENT

~~AND~~

PAGE 2 OF 7 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

[REDACTED]

TAKEN AT

Bojardo, Iraq

DATED

6 Aug 2007

B. STATEMENT (Continued)

Q When you were in the LATRINE of the Detention Cell with the Detainees that Allegedly Attempted to Swam out of the Detention Cell on 29 Jul 05 where were the Remains of the Detainees?

A. I believe that they were in the D-cell. *YAH*

Q Was a Soldier Searching the Detainees while you were in the LATRINE portion of the Detention Cell?

A. I would assume that they were. *YAH*

Q Do you normally enter the Detention Cell?

A. Yes, at times I assist the soldiers in securing prisoners and searching the D-cell. *YAH*

Q Under what Circumstances did you enter the Detention Cell?

A. The reason for entering the D-cell was to see what damages were done to the cell. *YAH*

Q Were there Any IPS Iraq Police Service Present when you entered the Detention Cell?

A. NO. *YAH*

Q Did you Have Black Gloves on when you entered the Detention Cell?

A. NO. *YAH*

Q Did you enter the Detention Cell with the intention of striking any of the Detainees?

A. NO. *YAH*

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INITIALS OF PERSON MAKING STATEMENT

YAH

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

[REDACTED]

TAKEN AT

Oshtemo, Iowa

DATED

6 Aug 2003

9. STATEMENT (Continued)

Q WHAT WAS YOUR INTENTION WHEN YOU ENTERED THE DETENTION CELL?

A. MY INTENTION WAS TO SEE THE DAMAGES DONE TO THE CELL. ~~XXXX~~

Q. WHEN YOU SAW THE DAMAGE DONE TO THE CELL WHAT DID YOU DO?

A. I ASKED THAT THE DETAINERS BE BROUGHT INTO THE LATRINE TO SEE WHAT DAMAGES THEY DID. ~~XXXX~~

Q. WHEN THE DETAINERS THAT ALLEGEDLY CAUSED THE DAMAGE TO THE DETENTION CELL WERE BROUGHT INTO THE LATRINE WHAT DID YOU DO?

A. I LOST CONTROL AND BEGAN TO STRIKE THEM. ~~XXXX~~

Q. EXPLAIN WHICH DETAINERS YOU STRUCK AND WHERE ON THEIR BODIES YOU STRUCK THEM.

A. I DO NOT REMEMBER WHICH DETAINERS I STRUCK. I REMEMBER STRIKING THEM ON THEIR TORSO. ~~XXXX~~

Q. DO YOU STRIKE MORE THAN ONE DETAINERS?

A. I BELIEVE I DID. ~~XXXX~~

Q. HOW MANY OF THE DETAINERS DID YOU STRIKE?

A. I BELIEVE ALL FOUR. ~~XXXX~~

Q. WHAT IS THE APPROXIMATE HEIGHT AND WEIGHT OF THE DETAINERS THAT YOU STRUCK?

A. UNKNOWN. ~~XXXX~~

Q. DID THE DETAINERS THREATEN YOU IN ANY WAY?

A. NO. NOT IN THE CELL. ~~XXXX~~

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INITIALS OF PERSON MAKING STATEMENT

~~XXXX~~

PAGE 4 OF 7 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

TAKEN AT

Brighton, Iraq

DATED

6 Aug 2003

9. STATEMENT (Continued)

Q. ON THE DAY IN QUESTION WERE THREATENED BY ANY OF THE DETAINEES

A. NO. YAD

Q. AFTER YOU STRUCK THE DETAINEES UNDER WHAT CIRCUMSTANCES DID YOU EXIT THE DETENTION CELL?

A. I WAS REMOVED BY A SOLDIER. YAD

Q. DO YOU REMEMBER WHICH SOLDIER REMOVED YOU?

A. NO. YAD

Q. HOW DID THE SOLDIER REMOVE YOU?

A. I WAS GRABBED & PULLED OUT. YAD

Q. WHERE DID YOU GO AFTER YOU WERE REMOVED FROM THE DETENTION CELL?

A. MP OFFICE. YAD

Q. DID YOU EVER CHECK IF THE DETAINEES REQUIRED ANY MEDICAL ATTENTION AS A RESULT OF YOUR ACTIONS?

A. NO. YAD

Q. ~~HOW~~ WHY DID YOU STRIKE THE DETAINEES IN THE CORRIDOR OF THE DETENTION CELL ON 30 JUL 03?

A. I WAS ASKED. YAD

Q. DOES YOUR UNIT HAVE AN STANDING OPERATIONAL PROCEDURE IN PLACE THAT DESCRIBES HOW TO DEAL WITH DETAINEE AND DETAINEE MISCONDUCT?

A. YES, THE DIVISION POLICY AND THE USE OF FORCE. YAD

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INITIALS OF PERSON MAKING STATEMENT

YAD

PAGE 5 OF 7 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT Oshtemo, Iowa DATED 10 Aug 2003

9. STATEMENT (Continued)

Q. WERE YOUR ACTIONS IN THE CONVENTION CELL ON 30 JUL 03 WHEN YOU STRUCK SEVERAL DETAINees IN ACCORDANCE WITH THOSE POLICIES?

A. NO. ~~NO~~

Q. DID YOU BRING THIS INCIDENT TO THE ATTENTION OF YOUR CHAIN OF COMMAND?

A. NO. ~~NO~~

Q. WHY DIDN'T YOU BRING THIS INCIDENT TO THE ATTENTION OF YOUR CHAIN OF COMMAND?

A. UNKNOWN, DID NOT THINK ABOUT REPORTING THE INCIDENT HIGHER.

Q. DO YOU HAVE ANYTHING TO ADD TO THIS STATEMENT ~~NO~~

A. NO. ~~NO~~

End of statement
~~NO~~

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INITIALS OF PERSON MAKING STATEMENT
~~NO~~

PAGE 6 OF 7 PAGES

STATEMENT OF [REDACTED] TAKEN AT Bethesda, MD DATED 6 Aug 2003

9. STATEMENT (Continued)

Not used

AFFIDAVIT

I, Steven A. Niles, Jr., HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 7. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Steven A. Niles, Jr.
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 6 day of August, 2003 at Walter Reed Army Medical Center

ORGANIZATION OR ADDRESS

[REDACTED]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

[REDACTED]
(Typed Name of Person Administering Oath)
Antonia 136 (b) (8)
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

003661
PAGE 7 OF 7 PAGES

glenn.nites@us.army.mil

OFFICER RECORD BRIEF AR600-8-104 CMAAOF-S1

ORB TYPE 2900		BRIEF DATE 20040525		CRFLD DESIGNATION		CRFLD DESIG DATE		CNTL BRANCH MP		COMPONENT USAR		AD GRADE/ADOR 1LT/TP		SSN 20021110		NAME NILES GLENN ANTHONY JR		
SECTION I - Assignment Information																		
YR/MO RTN		CTRY	MONTH	TCS	NUMBER OF TOURS	INVEST BI		SECTION II - Security Data		SECTION III - Service Data		SECTION IV - Personal/Family Data						
2004	02	03	11	N	SHORT 1	LONG	DTEINV	20040311	DTPSCG	20040330	BASD	2000	107	U2	20010510	Date of Birth	20010510	
DEROS		NA	20041004	DEROS		20041004	CLINC		CLSFD-ACCESS-SUSPD	Basic Yr Go		OC	2001	047	USAR	Country of Cit	US	
Date Dependents Arrived OS		Conus departure date		SECTION V - Foreign Language		SECTION VI - Military Education		SECTION VII - Civilian Education		SECTION VIII - Awards and Decorations		SECTION IX - Assignment Information		SECTION X - Remarks				
Career Field Information - Commissioned/AM/EDD/Warrant		Funct Area/Med/Mos/2/Smos		Language		DLAT		M P OFFICER BASIC		NDSM		Date of Last PCS		Date of Last OER				
BR Code/Med/Mos/1/Pmos		Funct Area/Med/Mos/2/Smos		Read		Course		M P OFFICER BASIC		GWOOTE		20010522		20020705				
BRAOC/Med/Mos/3/Pmos Sq		Funct Area/Med/Mos/2/Smos		Listen		M P OFFICER BASIC		M P OFFICER BASIC		GWOTS								
Skills		Funct Area/Med/Mos/2/Smos		Year		M P OFFICER BASIC		M P OFFICER BASIC		ASR								
Basic Branch/PMOS		MIL POLICE		2001		M P OFFICER BASIC		M P OFFICER BASIC		1								
Functional Area SMOS		Dual				M P OFFICER BASIC		M P OFFICER BASIC		1								
Career Track		X Single				M P OFFICER BASIC		M P OFFICER BASIC		1								
Primacy		X Branch				M P OFFICER BASIC		M P OFFICER BASIC		1								
Prev Branch/MOS						M P OFFICER BASIC		M P OFFICER BASIC		1								
Prev Functional Area						M P OFFICER BASIC		M P OFFICER BASIC		1								
Control Career Management Field		31Z				M P OFFICER BASIC		M P OFFICER BASIC		1								
Projected Career Management Field		31Z00				M P OFFICER BASIC		M P OFFICER BASIC		1								
Geographic Orientation						M P OFFICER BASIC		M P OFFICER BASIC		1								
AVIATOR QUALIFICATIONS						M P OFFICER BASIC		M P OFFICER BASIC		1								
ASED						M P OFFICER BASIC		M P OFFICER BASIC		1								
Pilot Status						M P OFFICER BASIC		M P OFFICER BASIC		1								
Rating Date						M P OFFICER BASIC		M P OFFICER BASIC		1								
Date of Availability		Date of Last PCS		Date of Last OER		Date of Last OER		Date of Last OER		Date of Last OER		Date of Last OER		Date of Last OER		Date of Last OER		
2004	10	2001	05	22	2001	05	22	2001	05	22	2001	05	22	2001	05	22	2001	05
ASGT		FROM	MG	UNIT NO	ORGANIZATION	STATION		LOC		CCMD		DUTY TITLE		Org Zip Code		DMOS		
PROJ		20040203	0615		MP CO CBT SPT	EAST CAMP GRAFFE		GM		E5		PLATOON LEADER		31A000000		31A000000		
1st Prev		20030310	11	0615	MP CO FORWARD	BAGHDAD		IZ		E5		PLATOON LEADER		31A000000		31A000000		
2nd Prev		20011009	17	0615	MP CO CBT SPT	GRAFENWOCH		GM		E5		PLATOON LEADER		31A000000		31A000000		
3rd Prev																		
4th Prev																		
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18th Prev																		
19th Prev																		

DA FORM 4037

RECSTA: G

PPA: 1D

CURUFC: ADKAA

MPCAD: G

PSC-CODE: EU17

PE 2 For Ad

OFFICE EVALUATION REPORT
For use of the Army, Air Force, Navy, Marine Corps, and Coast Guard

PART I - ADMINISTRATIVE DATA

NAME: **NILES, GLENN** GRADE: **1LT** DATE: **2002 11 10** BRANCH: **MP** REPORTING PERIOD: **31A**

REPORTING OFFICER: **HHD, 709th Military Police Battalion, APO AE 09165** USARBUR

REASON FOR REPORT: **03 Change of Rate**

PERIOD: **2003 07 10** TO: **2004 03 30** GRADE: **9**

DATE OF REPORT: **JUN 07 2004** REPORTING OFFICER: **UH** GRADE: **BU17**

PART II - AUTHENTICATION

REPORTING OFFICER: **MAJ [Redacted] Battalion S3** DATE: **JUN 07 2004**

REPORTING OFFICER: **LTC [Redacted] Battalion Commander** DATE: **JUN 07 2004**

REPORTING OFFICER: **MP [Redacted] 322-7573** DATE: **JUN 07 2004**

PART III - DUTY DESCRIPTION

POSITION: **Assistant S3 (Operations)** POST: **31A/MP**

Assistant S3 (Operations) for a forward deployed TO&E Military Police Battalion consisting of an HHD and five Battle Companies stationed in Baghdad, Iraq in support of Operation Iraqi Freedom. Principle duty as responsible for dissemination of timely and accurate information to and from subordinate units; conducts TOC operations to include directing units during engagements. Also assigned as the Battalion LNO to the Iraq Police responsible for coordination of information and equipment for 14 Iraqi Police Stations in Baghdad. Responsible for coordination and set up of two weekly meetings with Military Police leadership and the Iraqi Police leadership.

PART IV - PERFORMANCE EVALUATION - CHARACTER (Qualities)

CHARACTER Description of the leader's contribution of values, attitudes, and skills affecting leader actions

1. ARMY VALUES (Characteristics for all "WO" ratings. See PART VI.)

1. HONOR: Adherence to the Army's military traditional code of values	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
2. INTEGRITY: Promotes high personal moral standards; honest in word and deed	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
3. COURAGE: Shows physical and moral bravery	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
4. LOYALTY: Shows the faith and allegiance to the U.S. Constitution, the Army, the unit, and the soldier	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
5. RESPECT: Promotes dignity, consideration, tolerance, & CS	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
6. SELFLESS SERVICE: Places Army ahead of personal self	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
7. DUTY: Fulfills professional, legal, and moral obligations	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

8. LEADER ATTRIBUTES / SKILLS / ACTIONS: First, mark "YES" or "NO" for each block. Overall, choose a level of fit that best describes the rated officer. Select one from ATTRIBUTES, two from SKILLS (Conceptual and Moral from ACTIONS)

9.1. ATTRIBUTES (Select 1)

1. MENTAL: Promotes clarity, wit, initiative, and discipline	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2. PHYSICAL: Maintains appropriate level of physical fitness and military bearing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3. EMOTIONAL: Displays self-control; calm under pressure	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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9.2. SKILLS (Select 2)

1. CONCEPTUAL: Demonstrates sound judgment, effective decision-making, sound reasoning	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2. INTERPERSONAL: Shows skill with people; excellent listening, counseling, motivating and influencing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3. TECHNICAL: Possesses the necessary expertise to accomplish all tasks and functions	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. TACTICAL: Demonstrates proficiency in required professional knowledge, judgment, and working	<input checked="" type="checkbox"/>	<input type="checkbox"/>					<input checked="" type="checkbox"/>	<input type="checkbox"/>

9.3. ACTIONS (Select 2) Major activities leaders perform: influencing, operating, and improving

1. COMMUNICATING: Displays good oral, written, and listening skills for individuals & groups	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2. DECISION-MAKING: Displays sound judgment, logical reasoning and uses resources wisely	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3. MOTIVATING: Inspires, motivates, and guides others toward common accomplishment	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. PLANNING: Develops detailed, measurable plans that are feasible, executable, and suitable	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5. EXECUTING: Shows tactical proficiency, meets critical standards, and takes care of responsibilities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6. ASSESSING: Uses observation and evaluation tools to facilitate continuous improvement	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. DEVELOPING: Devotes adequate time and effort to develop individual subordinates as leaders	<input checked="" type="checkbox"/>	<input type="checkbox"/>	8. BUILDING: Builds trust and increases improving team, morale and unit's performance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	9. LEARNING: Seeks self-improvement and organizational growth; solicits, retains and holds change	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WEIGHT: **71** WEIGHT: **237** YES

10. DEVELOPMENTAL: MANDATORY YES OR NO ENTRY FOR RATES OF 1LT AND HQ1A.

WERE DEVELOPMENTAL TABLE RECORDED ON DA FORM 07-10 AND QUARTERLY FOLLOW-UP COMPLETIONS CONDUCTED? YES NO

DA FORM 07-10, OCT 03

REPLACES DA FORM 07-10, 1 SEP 78, WHICH IS OBSOLETE, 1 OCT 01

USARPA V2.01

PE 3 For [Redacted] 003663

PART V - PERFORMANCE AND POTENTIAL EVALUATION (Name) 20030710 20040330	
a. EVALUATE THE RATED OFFICER'S PERFORMANCE DURING THE RATING PERIOD AND INDICATE POTENTIAL FOR PROMOTION <input checked="" type="checkbox"/> OUTSTANDING PERFORMANCE, MUST PROMOTE <input type="checkbox"/> SATISFACTORY PERFORMANCE, PROMOTE <input type="checkbox"/> UNSATISFACTORY PERFORMANCE, DO NOT PROMOTE <input type="checkbox"/> OTHER (Specify)	
b. COMMENT ON SPECIFIC ASPECTS OF THE PERFORMANCE AND POTENTIAL FOR PROMOTION. REFER TO PART IV, DA FORM 67-9 AND PART IV, A AND 1 OF DA FORM 67-9-1. During this short rating period, LT Glenn Niles performed his duties as a Battle Captain and Iraqi Police LNO in an outstanding manner during Operation Iraqi Freedom in Baghdad, Iraq. Glenn approached the job with great enthusiasm and an eagerness seldom seen in an officer of his rank. He quickly grasped the duties of Battle Captain which resulted in smooth TOC operations under his watch. LT Niles was able to calmly direct combat operations making on the spot decisions without hesitation. He embraced the tough job as LNO to the Iraqi Police and did an outstanding job. He coordinated countless meetings between the Military Police and Iraqi Police leadership, which ensured critical communication, resulting in improved policing across West Baghdad. He was instrumental in outfitting and equipping hundreds of Iraqi Police officers and fourteen Iraqi Police stations, allowing the Iraqi Police to do their jobs in a more professional manner. Soldier was unable to take the APFT during this period due to deployment for Combat Operations/Contingency Operations. LT Niles has great potential and will continue to excel; promote him to Captain and send him to the next Captain's Career Course. Consider for Company Command.	
c. IDENTIFY AND DESCRIBE PROFESSIONAL SKILLS OR AREAS OF KNOWLEDGE OF VALUE TO THE ARMY THAT THIS OFFICER POSSESSES. FOR ARMY COMPETITIVE CATEGORY CPT THROUGH LTC, ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE.	
PART VI - INTERMEDIATE RATES	
d. EVALUATE THE RATED OFFICER'S PROMOTION POTENTIAL TO THE NEXT HIGHER GRADE <input checked="" type="checkbox"/> BEST QUALIFIED <input type="checkbox"/> FULLY QUALIFIED <input type="checkbox"/> DO NOT PROMOTE <input type="checkbox"/> OTHER (Specify below)	
e. INDICATE THE RATED OFFICER'S PROMOTION POTENTIAL TO THE NEXT HIGHER GRADE <input type="checkbox"/> ABOVE CENTER OF MASS (When 50% in top box, Center of Mass is 50% in top box) <input checked="" type="checkbox"/> CENTER OF MASS <input type="checkbox"/> BELOW CENTER OF MASS RETAIN <input type="checkbox"/> BELOW CENTER OF MASS DO NOT RETAIN +	f. COMMENT ON PERFORMANCE/POTENTIAL. 1LT Niles is an outstanding leader who distinguished himself during combat operations in support of Operation Iraqi Freedom in Baghdad, Iraq. As a Battle Captain, 1LT Niles excelled in every aspect of a very demanding and stressful position. Glenn is a caring and compassionate warrior leader and an officer of incredible integrity and honor. Promote to Captain, send to the Captain's Career Course, and place him in command. 1LT Niles has excellent potential.
g. LIST 3 FUTURE ASSIGNMENTS FOR WHICH THIS OFFICER IS BEST SUITED. FOR ARMY COMPETITIVE CATEGORY CPT THROUGH LTC, ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE. Company Commander, Battalion Assistant S3, Battalion S1.	

FORM 67-9, OCT 97 (Reverse)

USAPA V2.00

003664

DEFENSE EXHIBITS ADMITTED

003665

**First Lieutenant
Glenn A. Niles, Jr.**

**615th Military Police Company
Grafenwoehr, Germany**

003666

DE A

OER's

**LETTERS OF
SUPPORT**

**ACCOMPLISHMENTS/
FAMILY PHOTOS**

615th MP CO in OIF

003667

REMOVED BATES PAGES 3668 - 3697
(RECORD OF TRIAL – 1LT GLENN A. NILES, JR.)

(30 TOTAL PAGES)

DOCUMENTS CONSIST OF PERSONAL LETTERS WRITTEN TO THE
CONVENING AUTHORITY BY FAMILY AND FRIENDS ON BEHALF
OF 1LT NILES AND OTHER RECORDS CONTAINING PRIVATE
INFORMATION, WHICH WERE DETERMINED TO BE
NONRESPONSIVE TO PLAINTIFF'S FOIA REQUEST

3667A

APPELLATE EXHIBITS

003698

IN THE UNITED STATES ARMY
FIFTH JUDICIAL CIRCUIT

UNITED STATES)

v.)

GLENN A. NILES, JR.)

First Lieutenant, U.S. Army)
615th Military Police Company)
APO, AE 09114)

OFFER TO PLEAD GUILTY

10 June 2004

1. I, First Lieutenant Glenn A. Niles, Jr., SSN [REDACTED], 615th Military Police Company, Grafenwoehr, Germany, the accused in the court-martial now pending, having examined the evidence relating to the Charges and Specifications against me, having received the benefit of the advice and counsel of my defense counsel, and understanding that I have a legal and moral right to plead not guilty, hereby offer to:

a. Plead as follows:

To Specification 1 of Charge I: Not Guilty.
To Specification 2 of Charge I: Not Guilty.
To Specification 3 of Charge I: Not Guilty.
To Charge I: Not Guilty.

To The Specification of Charge II: Guilty.
To Charge II: Guilty.

b. Enter into a written stipulation of fact with the trial counsel as to the circumstances of the offenses to which I am pleading guilty.

c. Waive the right to request personal appearances of overseas witnesses to testify on my behalf at trial.

d. Waive the right to make a motion at trial to dismiss all charges for a violation of R.C.M. 707 (Speedy Trial), and to withdraw the motion to dismiss filed on 9 June 2004.

2. In exchange for my actions as stated in paragraph 1, above, the convening authority will take the actions specified in the enclosure to this offer.

3. This offer to plead guilty will not be affected if the military judge amends any specifications or charges based upon a motion by the defense, government or *sua sponte* by the military judge.

4. There are no other promises, conditions, or understandings regarding my proposed plea of guilty that are not contained in this offer and the enclosure.

AE I

003699

Jun 10 04 05:13p

Vilseck Trial Defense

4/05/04

P. 2

- 5. I am satisfied with the advice of the defense counsel detailed to me. He has advised me of the meaning and effect of this guilty plea, and I fully understand the meaning and effect thereof.
- 6. I understand that I may request to withdraw this plea of guilty at any time before my plea is accepted and that if I do so, this agreement is canceled. This agreement may also be canceled if:
 - a. I fail to plead guilty as agreed above.
 - b. My failure to arrive at an agreement with the government on the contents of the stipulation of fact, or any modifications to the stipulation fact without my consent.
 - c. The Military Judge either refuses to accept my plea of guilty or changes my plea of guilty during the trial.
- 7. If before or during the trial, any specification is amended, consolidated, or dismissed with my consent for any reason, this agreement will remain in effect.

Glenn A. Niles, Jr.
 GLENN A. NILES, JR.
 1LT, MP
 Accused

[Redacted Signature]
 [Redacted Name]
 Trial Defense Counsel

DEPARTMENT OF THE ARMY, Headquarters, 7th Army Training Command, APO AE 09114

DATE: JUN 11 2004

The foregoing offer is (accepted) (not accepted)

[Redacted Signature]
 [Redacted Name]
 Brigadier General, USA
 Commanding

003700

IN THE UNITED STATES ARMY
FIFTH JUDICIAL CIRCUIT

UNITED STATES

v.

GLENN A. NILES, JR.

First Lieutenant, U.S. Army
615th Military Police Company
APO, AE 09114

OFFER TO PLEAD GUILTY
(QUANTUM PORTION)

10 June 2004

1. I, First Lieutenant Glenn A. Niles, Jr., SSN [REDACTED] 615th Military Police Company, Grafenwoehr, Germany, the accused in the court-martial now pending, offer to plead guilty to the Charges and Specifications as stated in the Offer to Plead Guilty, and offer to abide by the other terms and conditions set forth in the Offer to Plead Guilty, provided the Convening Authority agrees to disapprove any confinement adjudged in excess of 45 days.

2. Any other lawful punishment may be approved.

Glenn A. Niles, Jr.
GLENN A. NILES, JR.
1LT, MP
Accused

[REDACTED]
[REDACTED]
CPT, JA
Trial Defense Counsel

The foregoing offer is (accepted) (not accepted).

[REDACTED]
[REDACTED]
Brigadier General, USA
Commanding

JUN 11 2004

003701

IN THE UNITED STATES ARMY
FIFTH JUDICIAL CIRCUIT

UNITED STATES)

v.)

GLENN A. NILES, JR.)

First Lieutenant, U.S. Army)
615th Military Police Company)
APO, AE 09114)

NOTICE OF PLEA AND
FORUM SELECTION

14 June 2004

COMES NOW THE ACCUSED, 1LT Glenn A. Niles, Jr., by and through defense counsel, providing government counsel and this Honorable Court notice of forum selection and pleas.

1. *Forum Selection.* The accused requests trial before members.
2. *Notice of Pleas.* At trial, the accused will enter the following pleas to the charges, and each of their specifications:

To Specification 1 of Charge I: Not Guilty.
To Specification 2 of Charge I: Not Guilty.
To Specification 3 of Charge I: Not Guilty.
To Charge I: Not Guilty.

To The Specification of Charge II: Guilty.
To Charge II: Guilty.

3. I certify that a copy of this notice was served on COL [REDACTED], Military Judge and CPT [REDACTED], Trial Counsel, by electronic mail on 14 June 2004.

[REDACTED]
[REDACTED]
CPT, JA
Trial Defense Counsel

003702

AE II

UNITED STATES)

v.)

1LT NILES, Glenn A., Jr.)

FLYER

615th Military Police Company)
APO Army Europe 09114-3700)

CHARGE: VIOLATION OF THE UCMJ, ARTICLE 133.

Specification: In that First Lieutenant Glenn A. Niles, Junior, U.S. Army, at or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, while a platoon leader in the 615th Military Police Company, and in the presence of Staff Sergeant [REDACTED], Sergeant [REDACTED], and Specialist [REDACTED], wrongfully and dishonorably grab [REDACTED] by the neck and strike him in the stomach with a closed fist, wrongfully and dishonorably strike [REDACTED] in the stomach with a closed fist, and while being detained by Staff [REDACTED], wrongfully and dishonorably kick [REDACTED] in the shoulder, all to the disgrace of the Officer's Corps, and the Armed Forces.

003703

AE III

UNITED STATES)

v.)

GLENN A. NILES, JR.)

First Lieutenant, U.S. Army)
615th Military Police Company)
APO, AE 09114)

SENTENCE WORKSHEET

1 July 2004

[NOTE: After the court members have agreed on a sentence, the President shall strike out all inapplicable language. After the Military Judge has reviewed the worksheet, the President will announce the findings by reading the remaining language.]

• First Lieutenant Glenn A. Niles, Jr, this court-martial sentences you:

~~To No Punishment. (Strike all remaining language).~~

~~Or~~

~~(Select all those that apply and strike the remainder).~~

To be reprimanded.

~~To be confined for _____ (days) (months) (1 year).~~

~~(To Forfeit all pay and allowances)~~ or (To Forfeit \$ 1003 per month for 12 months).

~~To be dismissed from the United States Army.~~


(Signature of the President)

AE IV

003704

COURT MEMBER QUESTION FORM

I. MY QUESTION IS FOR [REDACTED]
(NAME OF WITNESS)

II. MEMBER'S QUESTION(S):

① Do you know how long between 1LT Niles being notified of the escape attempt and the incident?

[REDACTED]
(NAME OF COURT MEMBER)

COUNSEL REVIEW

OBJECTION/MRE BASIS

NO OBJECTION

TRIAL COUNSEL:

() _____

(X) [REDACTED]

COMMENTS: _____

I request an Article 39a session: YES / NO.

DEFENSE COUNSEL:

() _____

(X) [REDACTED]

COMMENTS: _____

I request an Article 39a session: YES / NO.

APPELLATE EXHIBIT

V

003705

COURT MEMBER QUESTION FORM

I. MY QUESTION IS FOR [REDACTED]
(NAME OF WITNESS)

II. MEMBER'S QUESTION(S):

HOW WAS THE INCIDENT REPORTED TO
YOU?

Follow on

HOW LONG AFTER THE INCIDENT OCCURED DID
IT TAKE TO GET REPORTED?

[REDACTED]
(NAME OF COURT MEMBER)

COUNSEL REVIEW

OBJECTION/MRE BASIS

NO OBJECTION

TRIAL COUNSEL:

() _____

() _____

COMMENTS: _____

I request an Article 39a session: YES / NO.

DEFENSE COUNSEL:

() _____

COMMENTS: _____

I request an Article 39a session: YES / NO.

APPELLATE EXHIBIT

VI
003706

COURT MEMBER QUESTION FORM

I. MY QUESTION IS FOR [REDACTED]
(NAME OF WITNESS)

II. MEMBER'S QUESTION(S):

• Did LT Niles receive a relief for cause OER when you moved him to the battalion staff?

[REDACTED]
(NAME OF COURT MEMBER)

COUNSEL REVIEW

OBJECTION/MRE BASIS

NO OBJECTION

TRIAL COUNSEL: () _____

COMMENTS: _____

(X) [REDACTED]

I request an Article 39a session: YES / NO.

DEFENSE COUNSEL: () _____

COMMENTS: _____

(X) [REDACTED]

I request an Article 39a session: YES / NO.

APPELLATE EXHIBIT

VII

003707

COURT MEMBER QUESTION FORM

I. MY QUESTION IS FOR [REDACTED]
(NAME OF WITNESS)

II. MEMBER'S QUESTION(S):

WAS THE CHANGE OF RATER OER A
REFERED REPORT

[REDACTED]
(NAME OF COURT MEMBER)

COUNSEL REVIEW

OBJECTION/MRE BASIS

NO OBJECTION

TRIAL COUNSEL:

() _____

COMMENTS: _____

I request an Article 39a session: YES / NO.

DEFENSE COUNSEL:

() _____

COMMENTS: _____

I request an Article 39a session: YES / NO.

APPELLATE EXHIBIT

VIII

003708

APPELLATE EXHIBIT IX
THE POST TRIAL AND APPELLATE RIGHTS
ARE LOCATED IN THE FRONT OF THE ROT IN THE
APPROPRIATE PLACE

APPELLATE EXHIBIT IX

003709

BLANK
PAGE

003710

BATES PAGES 3711 – 5918

(PFC LYNNDIE R. ENGLAND COURTS-
MARTIAL RECORD OF TRIAL)

HAVE BEEN WITHHELD PURSUANT
TO FOIA EXEMPTION B(7)(A)