

all
(b)(2), (7)(C) 2

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 04	c. ORGANIZATION HHD, 95TH MILITARY POLICE BATTALION APO AE 09342	d. DATE OF REPORT 30 APRIL 2004
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2a. TO: (Name of Officer who directed the investigation - Last, First, MI) [REDACTED]	b. TITLE BRIGADE COMMANDER	c. ORGANIZATION HHC, 16TH MILITARY POLICE BRIGADE (ABN) APO AE 09342
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3a. NAME OF ACCUSED (Last, First, MI) GRANER JR., CHARLES A.	b. GRADE E4	c. SSN [REDACTED]	d. ORGANIZATION HHC, 16TH MP BDE (ABN) APO AE 09342	e. DATE OF CHARGES 20 MAR 04
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(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	NO
5. THE ACCUSED WAS REPRESENTED BY COUNSEL (If not, see 9 below)	X	
6. COUNSEL WHO REPRESENTED THE ACCUSED WAS QUALIFIED UNDER R.C.M. 405(d)(2), 502(d)	X	

7a. NAME OF DEFENSE COUNSEL (Last, First, MI) [REDACTED]	b. GRADE O3	8a. NAME OF ASSISTANT DEFENSE COUNSEL (If any)	b. GRADE
c. ORGANIZATION (If appropriate) USTDS REGION IX CAMP ANACONDA FIELD OFFICE, BALAD, IRAQ		c. ORGANIZATION (If appropriate)	
d. ADDRESS (If appropriate)		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
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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

10. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF: (Check appropriate answer)	YES	NO
a. THE CHARGE(S) UNDER INVESTIGATION	X	
b. THE IDENTITY OF THE ACCUSER	X	
c. THE RIGHT AGAINST SELF-INCRIMINATION UNDER ARTICLE 31	X	
d. THE PURPOSE OF THE INVESTIGATION	X	
e. THE RIGHT TO BE PRESENT THROUGHOUT THE TAKING OF EVIDENCE	X	
f. THE WITNESSES AND OTHER EVIDENCE KNOWN TO ME WHICH I EXPECTED TO PRESENT	X	
g. THE RIGHT TO CROSS-EXAMINE WITNESSES	X	
h. THE RIGHT TO HAVE AVAILABLE WITNESSES AND EVIDENCE PRESENTED	X	
i. THE RIGHT TO PRESENT ANYTHING IN DEFENSE, EXTENUATION, OR MITIGATION	X	
j. THE RIGHT TO MAKE A SWORN OR UNSWORN STATEMENT, ORALLY OR IN WRITING	X	
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.)	X	

b. STATE THE CIRCUMSTANCES AND DESCRIBE THE PROCEEDINGS CONDUCTED IN THE ABSENCE OF ACCUSED OR COUNSEL

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."

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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] (b)(6)2;(7)(C)2	05	CJTF-7, C-2 SECTION, BAGHDAD, IRAQ	X	
[REDACTED] (b)(6)2;(7)(C)2	03	372D MILITARY POLICE COMPANY	X	
[REDACTED] (b)(6)4;(7)(C)4	CIVILIAN	UNKNOWN	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)			
Defense request for delay in Art 32 proceedings	With Government		X	
Convening Authority delay approval	With Government		X	
Art 32 Transcript US v. Graner and all exhibits attached.	With Government		X	
Case File and CD	CID		X	
Witness Availability Determination by IO	With Government		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:				
a. TRIAL BY <input type="checkbox"/> SUMMARY <input type="checkbox"/> SPECIAL <input checked="" 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.)				
1) Enclosure 1 - Appointment as Art 32 Investigating Officer - [REDACTED]				
2) Enclosure 2 - Request for delay of Art 32 by Trial Defense - [REDACTED]				
3) Enclosure 3 - Delay request approved memo - COL [REDACTED]				
4) Enclosure 4 - Discovery request by Trial Defense - CPT [REDACTED] (b)(6)2;(7)(C)2				
5) Enclosure 5 - Request for change of venue - CPT [REDACTED]				
6) Enclosure 6 - Supplemental witness request - CPT [REDACTED]				
7) Enclosure 7 - IOs witness determination memo - MAJ [REDACTED]				
8) Enclosure 8 - Transcript of US v. Graner - SFC [REDACTED] Legal Assistant				
9) Enclosure 9 - IOs Article 32 findings, United States v. Graner.				
Response to "no" answers above:				
14. No ground brought forward by defenses, of apparent in the case file that indicate SPC Graner was not mentally responsible for his actions.				
19. I am not aware of any grounds which would disqualify me from acting as an investigating officer IAW R.C.M. 405(d)(1) and met				
22a. TYPED NAME OF INVESTIGATING OFFICER		b. GRADE	c. ORGANIZATION	
[REDACTED] (b)(6)2;(7)(C)2		04	95TH MILITARY POLICE BATTALION APO AE 09342	
d. SIGNATURE OF INVESTIGATING OFFICER			e. DATE	
[REDACTED] (b)(6)2;(7)(C)2			3 May 2004	

USAFPC V1.00

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DEPARTMENT OF THE ARMY
95th MILITARY POLICE BATTALION
VICTORY BASE, IRAQ
APO AE 09342

AFZH-MPP

3 May 2004

MEMORANDUM FOR RECORD

SUBJECT: Article 32 Investigation – Recommendation of Disposition of Charges in U.S. v. Graner

1. On 24 March 2004, I was appointed as the Article 32 Investigating Officer (IO) pursuant to UCMJ, Article 32, to investigate the below charges against Specialist Charles A. Graner Jr., 16th MP BDE (Abn), Victory Base, Iraq, APO AE 09342. The specific charges were:

- a. Violation of Article #81 Conspiracy
- b. Violation of Article # 92 Dereliction of Duty
- c. Violation of Article # 93 Maltreatment of persons subject to the orders of the accused
- d. Violation of Article # 128 Assault
- e. Violation of Article # 134 Adultery; Indecent Acts; Obstruction of Justice

2. After considering the evidence presented to me at the Article 32 Hearing, including the case file and CD given to me by the Government (both reviewed by the defense without objection during the Article 32 hearing), I believe there is enough credible evidence to establish reasonable grounds to believe that SPC (then CPL) Charles A. Graner Jr., committed the following offenses under the UCMJ:

a. Charge I: Art 81: Conspiracy.

(1) **Specification 1.** On or about 23 October 2003, CPL Graner did conspire and enter into an agreement with PFC [REDACTED] and SSG [REDACTED] to commit the offense of Art 93, Maltreatment of persons under the orders of the accused and did effect the object of the conspiracy when PFC [REDACTED] was photographed holding a leash wrapped around the neck of a detainee to look as if [REDACTED] was dragging that detainee out of his cell into the prison hallway (See PE 14-17). The detainee was under the care of CPL Graner.

(2) **Specification 2.** On or about 8 November 2003, CPL Graner did conspire and enter into an agreement with PFC [REDACTED] SGT [REDACTED] SPC [REDACTED] SPC [REDACTED] and SPC [REDACTED] to commit the offense of Art 93, Maltreatment of persons under the orders of the accused and did effect the object of the conspiracy when CPL [REDACTED] posing for a photograph with the said SPC [REDACTED] behind the pyramid of naked detainees (See PE 1, 4, 23, 25).

(b)(6), (7)(C), (7)(D)

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AFZH-MPP

SUBJECT: Article 32 Investigation – Recommendation of Disposition of Charges in U.S. v. Graner

b. Charge II: Art 92. Dereliction of Duty.

Specification. On or about 20 October to on or about 1 December 2003, CPL Graner was derelict in the performance of those duties at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, in that he willfully failed to protect detainees from abuse, cruelty and maltreatment, as it was his duty to do (See PE1-8, 10, 11, 23, 25, 29, 30, 31, 33, 34).

c. Charge III: Art 93. Cruelty and Maltreatment.

(1) **Specification 1.** On or about 8 November 2003, CPL Graner was cruel and did maltreat persons subject to his orders at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq. He was cruel to and did maltreat several detainees, persons subject to his orders, by placing naked detainees in a human pyramid and photographing and being photographed with the pyramid of naked detainees (See PE 1-8, 11, 23, 25, 30, 31, 33, 34).

(2) **Specification 2.** On or about 8 November 2003, CPL Graner was cruel and did maltreat persons subject to his orders at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq. He was cruel to and did maltreat several detainees, persons subject to his orders, by ordering the detainees to strip, and then ordering the detainees to masturbate in front of the other detainees and soldiers. In addition, he placed one in a position so that the detainee's face was directly in front of the genitals of the other detainee to simulate fellatio and photographing the detainees during these acts (See PE 1-8, 26, 27, 28).

(3) **Specification 3.** On or about 8 November 2003, CPL Graner was cruel and did maltreat persons subject to his orders at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq. He was cruel to and did maltreat a detainee, a person subject to his orders, by being photographed with one arm cocked-back as if he was going to hit the detainee in the neck or back (See PE 1-8, 29, 30).

(4) **Specification 4.** On or about 23 October 2003, CPL Graner was cruel and did maltreat persons subject to his orders at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq. He was cruel to and did maltreat a detainee, a person subject to his orders, by encouraging Private First Class ██████████ to drag a detainee by a leash wrapped around said detainees neck and photographing said misconduct (See PE 4, 6, 7, 14, 15, 16, 17).

c. Charge IV: Art 128. Assault. (b)(6), (b)(7)(C)

(1) **Specification 1.** On or about 8 November 2003, CPL Graner did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, unlawfully strike several detainees by jumping on and impacting a pile of said detainees with his shoulder or upper part of his body (See PE 1, 2, 3, 4, 5, 7, 29, 30, 31, 33, 34).

AFZH-MPP

SUBJECT: Article 32 Investigation – Recommendation of Disposition of Charges in U.S. v. Graner

(2) **Specification 2.** On or about 8 November 2003, CPL Graner did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, unlawfully stomp on the hands and bare feet of several detainees with his shod feet (See PE 1, 2, 3, 5, 7, 29, 30, 31, 33, 34).

(3) **Specification 3.** On or about 8 November 2003, CPL Graner did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, commit an assault upon a detainee by striking him with a means of force likely to produce death or grievous bodily harm, to wit; punching the detainee with a closed fist in the temple of his head with enough force to cause the detainee to be knocked unconscious and require medical attention (See PE 1, 2, 3, 4, 5, 6, 7, 29, 30, 31, 33, 34).

(4) **Specification 4.** On or about 15 November 2003, CPL Graner did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, commit an assault upon a detainee by striking him with a means or force likely to produce death or grievous bodily harm, to wit; striking the detainee on the previously inflicted lesion with an asp (a metal, expandable baton) that caused pain sufficient to make the detainee cry out, "Mister, Mister, please stop" (See PE 1, 7, 10 and case file and CD).

d. **Charge V: Art 134. Adultery, Indecent Acts and Obstruction of Justice.**

(1) **Specification 1.** On or about 15 October 2003, CPL Graner did commit Adultery, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, by wrongfully having sexual intercourse with Private First Class [REDACTED] a married woman not his wife (See PE 6, 9, 11, 12, 35, 36, 37 and the case file and CD).


(2) **Specification 2.** On or about 8 November 2003, CPL Graner did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq wrongfully commit indecent acts with detainees, SSG [REDACTED], SPC [REDACTED] and PFC [REDACTED] by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central Correctional Facility, with other soldiers who photographed or watched the detainees' actions (See PE 1, 2, 3, 4, 5, 6, 7, 22, 23, 24, 25, 26, 27, 28, 35 and the case file and CD). (b)(6)s, (7)(C)s

(3) **Specification 3.** On or about 8 November 2003, CPL Graner did wrongfully obstruct justice by at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, when he told SPC [REDACTED], "You didn't see shit" or words to that effect, referring to the assault and maltreatment of subordinates (See PE 1).

3. Taking the evidence presented to me under consideration, I recommend the charges and specifications on SPC Charles A. Graner Jr., be referred to a General Court Martial.

AFZH-MPP

SUBJECT: Article 32 Investigation – Recommendation of Disposition of Charges in U.S. v. Graner

4. I am the point of contact for this memorandum at DNVT/DSN, 537-



(b)(6);(b)(7)(C)

MAJ, MP
Article 32 Investigating Officer

Article 32 Transcript

U.S. v Graner

The Article 32 Proceedings were called to order at 1000 hours, 26 April 2004, at Victory Base, Iraq.

PERSONS PRESENT

MAJ [REDACTED] ker, Investigating Officer
CPT [REDACTED] Government Counsel
1LT [REDACTED] Assistant Government Counsel
CPT [REDACTED] Defense Counsel
SPC Charles A. Graner Jr, Accused
SFC [REDACTED] Recorder

(b)(6)2; (b)(7)(C)-2

PERSONS ABSENT

(b)(6)4; (b)(7)(C)4
Mr [REDACTED], Civilian Attorney for the Accused

Government and Defense Counsel discuss the review and completeness of the case file.

Defense Counsel submitted a Change of Venue Memo to the Investigating Officer for review and attachment to the record.

Government and Defense Counsel discuss procedure of waiting on decision of the Change of Venue from the Convening Authority versus the possibility of delaying the Article 32.

The Investigation Officer decided to continue with the Article 32.

Change of Venue entered as Defense Exhibit A.

The Defense Counsel conducted a voire dire of the Investigating Officer; and made no objection to the Investigating Officer being detailed to the hearing.

The Defense Counsel renewed his request to have the proceedings moved to BCCF to hear from the detainees.

The Investigating Officer denied this request with objection by the Defense Counsel.

The Investigating officer stated that this was a formal investigation and that he had been detailed as the Article 32 Investigating Officer by order of Colonel [REDACTED] (b)(6) 2; Commander, 16th Military Police Brigade (Airborne). (7)(C) 2

The investigating officer informed the accused that his sole function as the Article 32 investigating officer was to determine thoroughly and impartially all of the relevant facts of the case, to weigh and evaluate those facts, and to determine the truth of the matters stated in the charges.

He further stated that he would also consider the form of the charges and the type of disposition that should be made in the case concerning the charges that have been preferred against the accused. He stated that he would impartially evaluate and weigh all the evidence, examine all available witnesses, and give the accused and counsel full opportunity to cross-examine any available witness.

The Investigating Officer advised the accused of his right to counsel. (b)(6) 4; (7)(C) 4

The Accused stated he would be represented by Mr. [REDACTED] (civilian counsel) and CPT [REDACTED] and was ready to proceed without Mr. [REDACTED] present. (b)(6) 2; (7)(C) 2

The Defense Counsel waived the reading of the charges.

The Investigating Officer notified the accused of his rights during the Article 32 Investigation.

The accused stated he understood his rights.

The Government Counsel made an Opening Statement.

The Defense Counsel did not make an Opening Statement.

The Investigating Officer stated that the following witnesses would be present:

LTC [REDACTED] CA, CJTF-7 C2 (b)(6) 2; (7)(C) 2
CPT [REDACTED], 372d MP CO
[REDACTED] Titan Corp (b)(6) 4; (7)(C) 4

Government Counsel clarified for the Investigating Officer and Defense Counsel, that some witnesses would not be present, and it was up to the Investigating Officer whether to determine witnesses as available or unavailable.

The Investigating Officers Witness Availability Determination Memo was attached to the record as an I.O. exhibit.

(b)(6)2; (b)(7)(C)2 except as noted

Both Counsel agreed to call available witnesses out of sequence, since they would invoke their rights.

LTC [REDACTED] CA, CJTF-7 C2, was called as a witness, sworn, and testified in substance as follows:

The witness stated that he was being represented by CPT [REDACTED] USATDS, and was informed of his rights under Article 31, signed DA Form 3881, and was excused.

CPT [REDACTED] 372d Military Police Company, Abu Ghraib Prison, Iraq, was called as a witness, sworn, and testified in substance as follows:

The witness was informed of his rights under Article 31, signed DA Form 3881, and was excused.

(b)(6)4; (b)(7)(C)4
[REDACTED], Titan Corporation, Baghdad, Iraq, was called as a witness, sworn, and testified in substance as follows:

The witness elected to not participate in the proceedings, and was excused.

The Defense Counsel objected to the non-production of witnesses previously requested.

Government counsel explains to the Investigating Officer and Defense Counsel efforts by the Government to contact and provide each witness.

The Defense Counsel objected to the Government's efforts.

The Investigating Officer's showed the Defense Counsel a signed copy of the Witness Availability Determination Memo.

Defense Counsel offered the I.O.'s Availability Determination Memo into evidence as Defense Exhibit B without objection.

Defense Exhibit B entered into evidence.

The Article 32 proceeding recessed at 1139, 26 April 2004.

The Article 32 proceeding reconvened at 1149, 26 April 2004, with all parties present.

THE GOVERNMENT'S CASE

The following exhibits were admitted into evidence with objection by the defense unless otherwise noted:

- Prosecution Exhibit 1 (Statements of SPC [REDACTED])
- Prosecution Exhibit 2 (Statements of SGT [REDACTED])
- Prosecution Exhibit 3 (Statements of SPC [REDACTED])
- Prosecution Exhibit 4 (Statements of PFC [REDACTED])

- Prosecution Exhibit 5 (Statements of [REDACTED]); with no objection (b)(6)4, (7)(C)4
- Prosecution Exhibit 6 (Statements of [REDACTED]); additional objection to the witness not being included on the I.O.'s non-availability determination memo (b)(6)2, (7)(C)2
- Prosecution Exhibit 7 (Statements of Detainees)
- Prosecution Exhibit 8 (Statements of SPC [REDACTED])
- Prosecution Exhibit 9 (Statement of SPC [REDACTED]) (b)(6)2, (7)(C)2
- Prosecution Exhibit 10 (Statement of SSG [REDACTED])
- Prosecution Exhibit 11 (Article 15 (DA Fm 2627 w/encls) of SPC [REDACTED] with no objection (b)(6)5, (7)(C)5
- Prosecution Exhibit 12 (BAH Document (DA Fm 5960 of PFC [REDACTED]); with no objection
- Prosecution Exhibit 13 (CD Rom from the CID Case File containing pictures and videos); with no objection
- Prosecution Exhibit 14 (color photo)
- Prosecution Exhibit 15 (color photo)
- Prosecution Exhibit 16 (color photo)
- Prosecution Exhibit 17 (color photo)
- Prosecution Exhibit 18 (color photo)
- Prosecution Exhibit 19 (color photo)
- Prosecution Exhibit 20 (color photo)
- Prosecution Exhibit 21 (color photo)
- Prosecution Exhibit 22 (color photo)
- Prosecution Exhibit 23 (color photo)
- Prosecution Exhibit 24 (color photo)
- Prosecution Exhibit 25 (color photo)
- Prosecution Exhibit 26 (color photo)
- Prosecution Exhibit 27 (color photo)
- Prosecution Exhibit 28 (color photo)
- Prosecution Exhibit 29 (color photo)
- Prosecution Exhibit 30 (color photo)
- Prosecution Exhibit 31 (color photo)
- Prosecution Exhibit 32 (color photo)
- Prosecution Exhibit 33 (color photo)
- Prosecution Exhibit 34 (color photo)
- Prosecution Exhibit 35 (color photo)
- Prosecution Exhibit 36 (Air Evacuation Memo for PFC [REDACTED]) (b)(6)5, (7)(C)5

Prosecution Exhibit 37 (Marriage Certificate for PFC [REDACTED])

(b)(6)5, (7)5

THE GOVERNMENT RESTS

THE DEFENSE'S CASE

Defense Counsel introduced the ICRC Working Paper contained in the CID case file, as Defense Exhibit C.

Defense Exhibit C admitted into evidence without objection.

Defense Counsel argued on discovery items not provided by the Government.

The Article 32 proceeding recessed at 1215, 26 April 2004.

The Article 32 proceeding reconvened at 1220, 26 April 2004, with all parties present.

The Investigating Officer ruled that SPC [REDACTED] was unavailable; with objection by the Defense Counsel.

(b)(6)2, (7)(C)2

The Government Counsel made a Closing Statement.

The Article 32 proceeding recessed at 1249, 26 April 2004.

The Article 32 proceeding reconvened at 1255, 26 April 2004, with all parties present.

The Defense Counsel made a Closing Statement.

Defense Counsel introduced the Sworn Statement of CPT [REDACTED] contained in the CID case file, as Defense Exhibit D.

(b)(6)2, (7)(C)2

Defense Exhibit D admitted into evidence without objection.

The Defense Counsel motioned for a verbatim transcript of the Article 32 Proceedings.

The Government Counsel objected and stated the I.O. could not decide on the verbatim transcript request.

The Article 32 proceeding recessed at 1330, 26 April 2004.

The Article 32 proceeding reconvened at 1420, 26 April 2004, with all parties present.

Defense Counsel stated that he was satisfied with the contents of the Investigating Officer's Case File and Evidence submitted today.

The Article 32 proceeding adjourned at 1423, 26 April 2004.

U.S. v. CPL GRANER

Art. 32 Hearing

26 April 2004

026932

Charge I, Specification 1

026933

- PFC ██████████ ^{(b)(6), (7)(C)} STATEMENT 14 Jan 04

– “CPL Graner had suggested he take pictures of me with ██████████ ^{(b)(6), (7)(C)} pretending to drag him on a leash type thing. CPL Graner then got out a tie down strap and went downstairs to solitaire. He opened the door and got ██████████ out... ██████████ was naked. CPL Graner had ██████████ lay down on the floor and he made a big loop in the tie down strap. He then placed the strap loosely around ██████████ head and neck. He gave me the end of the strap and took a picture.

^{(b)(6), (7)(C)}

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

The Record of Trial has been reviewed for release under the provisions of the Freedom of Information Act. The documents described as follows have been removed from this copy of the record because the release would be in violation of the DOD Freedom of Information Act Program, DOD 5400.7-R. Exemption 6,7(C), and 7(F):

Bates Pages 26934-26937 Photographic Exhibits

14 Jan 04 – Summary of Statement by PFC [REDACTED]

*all
(b)(6),
(7)(C)*

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DOD-052434

- “SSG [REDACTED]...had brought two prisoners from another block to 1A/1B.”
- “CPL Graner and SSG [REDACTED] asked me to throw down some handcuffs, I did. They started to cuff the two rapists together in odd positions/ways. Once the two were handcuffed together, the third guy was brought over and handcuffed between the other two.”
- “CPL Graner and SSG [REDACTED] then asked me to start taking pictures with the camera.”

Summary of Statements by [REDACTED]

[REDACTED]

(b)(6)4/(b)(7)(C)4

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DOD-052435

- Graner and [REDACTED] interrogated 3 detainees.
(b)(6)5/(b)(7)(C)5
- Participated in interrogation of 3 detainees at the same time, handcuffed and nude on the floor.
- Interpreted statements to detainees “are you gay, do you like what is happening to you,...you must like that position.”

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

The Record of Trial has been reviewed for release under the provisions of the Freedom of Information Act. The documents described as follows have been removed from this copy of the record because the release would be in violation of the DOD Freedom of Information Act Program, DOD 5400.7-R. Exemption 6,7(C), and 7(F):

Bates Pages 26940-26945 Photographic Exhibits

Charge II, The Specification

- PFC ^{(b)(6), (b)(7)(C)} [REDACTED] STATEMENT 14 Jan 04
 - Graner was NCO of nightshift for 1A wing.

026946

DOD-052437

Charge III, Specification 1

- SPC [REDACTED] STATEMENT 14 Jan 04
 - Graner present when detainees placed in naked human pyramid. “CPL Graner was placing them into position.” “I then took about two pictures of the naked prisoners in the human pyramid with CPL Graner and [REDACTED] in the photos.”
- PFC [REDACTED] STATEMENT 14 Jan 04
 - “they started to have prisoners get in a pyramid.”

all (b)(6), (b)(7)(C)

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

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Bates Pages 26948-26950 Photographic Exhibits

Charge III, Specification 2

- add (b)(6), (7)(C) 5*
- 14 Jan 04 – Statement by SPC [REDACTED]
 - “Graner and [REDACTED] had the detainees strip.”
 - [REDACTED] and Graner then tried to get several of the inmates to masturbate themselves.”
 - “SSG [REDACTED] would take the hand of the detainee and place it on the detainees penis, and make the detainee’s hand go back and forth, as if masturbating.”
 - 14 Jan 04 – Statement by SPC [REDACTED]
 - Graner present when detainees placed on knees naked and simulating fellatio.

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

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Bates Pages 26952-26954 Photographic Exhibits

Charge III, Specification 3

- SPC [REDACTED] STATEMENT 14 Jan 04
 - “I know I took a photograph of CPL Graner either his right or left arm back (cocked) like he was going to hit one of the prisoners on the floor. The prisoner was laying on the floor, fully clothed (with all the other prisoners) and CPL Graner was holding one down with his hand and had his other arm back like he was going to hit the prisoner.”
- PFC [REDACTED] STATEMENT 14 Jan 04
 - “CPL Graner and SSG [REDACTED] told me to grab the camera and get some picture of them pretending to hit the prisoners”

all (b)(6)s, (b)(7)(C)s

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

The Record of Trial has been reviewed for release under the provisions of the Freedom of Information Act. The documents described as follows have been removed from this copy of the record because the release would be in violation of the DOD Freedom of Information Act Program, DOD 5400.7-R. Exemption 6,7(C), and 7(F):

Bates Pages 26956-26957 Photographic Exhibits

Charge III, Specification 4

- PFC [REDACTED] STATEMENT 14 Jan 04

- “CPL Graner had suggested he take pictures of me with [REDACTED] pretending to drag him on a leash type thing. CPL Graner then got out a tie down strap and went downstairs to solitaire. He opened the door and got [REDACTED] out. [REDACTED] was naked. CPL Graner had [REDACTED] lay down on the floor and he made a big loop in the tie down strap. He then placed the strap loosely around [REDACTED] head and neck. He gave me the end of the strap and took a picture.

b6-4

(b)(6);(b)(7)(C)

026958

DOD-052444

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

The Record of Trial has been reviewed for release under the provisions of the Freedom of Information Act. The documents described as follows have been removed from this copy of the record because the release would be in violation of the DOD Freedom of Information Act Program, DOD 5400.7-R. Exemption 6,7(C), and 7(F):

Bates Pages 26959-26962 Photographic Exhibits

Charge IV, Specification 1

026963

DOD-052446

- 15 Jan 04 – Statement by PFC England
 - Q: “Do you recall if anyone ran and jumped on top of them while they were lying on the floor?”
 - A: “Yes, I remember Davis, Graner, and Frederick did.”
 - “they would be standing beside them and they would just jump in the air to put their body over the top of the pile so when they came down they would fall on top of the detainees.”
 - “They would grunt as soon as the guys would land on them. I do not think it injured the detainees, just caused them pain.”

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

The Record of Trial has been reviewed for release under the provisions of the Freedom of Information Act. The documents described as follows have been removed from this copy of the record because the release would be in violation of the DOD Freedom of Information Act Program, DOD 5400.7-R. Exemption 6,7(C), and 7(F):

Bates Pages 26964-26966 Photographic Exhibits

Charge IV, Specification 2

026967
026967, 021615

- 15 Jan 04 – Statement by SGT [REDACTED]
 - “I saw SSG [REDACTED] jump on inmates, hit them.” “These same people [REDACTED] Graner, [REDACTED] & [REDACTED] are the ones who stepped on the prisoners hands and feet.”
- 15 Jan 04 – Statement by [REDACTED] (S)(6)4, (7)(C)4
 - “they were stepping on our hands with their feet.”

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

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Bates Pages 26968-26969 Photographic Exhibits

Charge IV, Specification 3

026970

DOD-052450

- Statement by SPC [REDACTED] 14 Jan 04
 - “Graner punched the detainee with a lot of force in the temple. Graner punched the detainee with a closed fist so hard in the temple that it knocked the detainee unconscious.”
- Statement by SPC [REDACTED] 5 Jan 04 *026970, 026970*
 - “I saw all the detainees in a pile on the ground, I then saw CPL Graner pull one detainees’ hood up slightly and he punched the detainee in the jaw. CPL Graner then punched different detainees in either the head or chest. I don’t know if he hit every single one, but pretty close because he hit a lot of people. During the time he was hitting the detainees he posed for a photograph in which he looked like he was going to hit the detainees. After the photo was taken he continued to hit the detainees.”

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

The Record of Trial has been reviewed for release under the provisions of the Freedom of Information Act. The documents described as follows have been removed from this copy of the record because the release would be in violation of the DOD Freedom of Information Act Program, DOD 5400.7-R. Exemption 6,7(C), and 7(F):

Bates Pages 26971-26972 Photographic Exhibits

Charge IV, Specification 4

026973

(b)(5), (7)(C)

- Statement by SPC [REDACTED] 14 Jan 04
 - “Graner hit wounded detainee with asp, no doubt it hurt detainee because he would scream.” “The detainee would beg Graner to stop by saying “mister, mister please stop.” “I saw Graner strike him twice.”

Charge V, Specification 1

(b)(6) 2, (b)(7)(C) 2

- Summary of Statement by CPL [REDACTED] 17 Jan 04
 - PFC [REDACTED] ^{(b)(6) 5, (b)(7)(C) 5} was under restriction from seeing Graner for inappropriate relationship
 - Graner showed [REDACTED] a CD ^{(b)(6) 2, (b)(7)(C) 2}
 - CD contained images of Graner and a female having sex.

026974

DOD-052453

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

The Record of Trial has been reviewed for release under the provisions of the Freedom of Information Act. The documents described as follows have been removed from this copy of the record because the release would be in violation of the DOD Freedom of Information Act Program, DOD 5400.7-R. Exemption 6,7(C), and 7(F):

Bates Page 26975 Photographic Exhibits

Charge V, Specification 2

all (b)(6)5; (7)(C)5

- 14 Jan 04 – Statement by SPC [REDACTED]
 - “Graner and [REDACTED] had the detainees strip.”
 - “[REDACTED] and Graner then tried to get several of the inmates to masturbate themselves.”
 - “SSG [REDACTED] would take the hand of the detainee and place it on the detainees penis, and make the detainee’s hand go back and forth, as if masturbating.”

026976

DOD-052455

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

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Bates Page 26977 Photographic Exhibits

Charge V, Specification 3

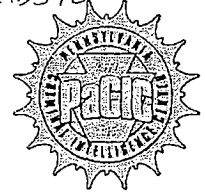
026978

- Statement by SPC [REDACTED] 14 Jan 04
 - Graner stated to [REDACTED] “You did not see shit.”

(b)(5), (b)(7)(C)



-Pennsylvania Criminal Intelligence Center Subject Bio Sheet



Disclaimer: This report may contain information obtained from public records and commercially available data sources that might be erroneous. Recipients of this report should attempt to update and verify the information before taking any enforcement action.

Sources Checked

Memex	<input type="checkbox"/>	CLEAN	<input checked="" type="checkbox"/>	MAGLOCLEN	<input checked="" type="checkbox"/>	JNET	<input checked="" type="checkbox"/>	JRIES	<input checked="" type="checkbox"/>
HIDTA	<input checked="" type="checkbox"/>	NABI	<input checked="" type="checkbox"/>	FinCEN	<input type="checkbox"/>	EPIC	<input checked="" type="checkbox"/>	NWCCC	<input checked="" type="checkbox"/>
ACCURINT	<input checked="" type="checkbox"/>	CPIN	<input checked="" type="checkbox"/>	Transunion	<input type="checkbox"/>	Lexis	<input checked="" type="checkbox"/>	CARATS	<input checked="" type="checkbox"/>
Other						MATRIX	<input checked="" type="checkbox"/>	Interpol	<input checked="" type="checkbox"/>



JNET Photo 12/21/00



JNET Photo 3/25/97

Charles GRANER JR

DOB: 10/3/68

OLN: 21695484

SSN: [REDACTED]

(b)(6)2 ; (b)(7)(C)-2

Address (es): [REDACTED]

Phone No.(s):

Criminal History: No record found

Assigned: [REDACTED]

Reviewed: _____

(b)(6)3 ; (7)(C)3

026979

EXHIBIT 12L

Law Enforcement Sensitive

0011-04-CID342

CRIMINAL HISTORY INFORMATION

No record found

026960

EXHIBIT 120

Version 12/10/2003

UNITED STATES)
)
 v.)
)
 CHARLES A. GRANER, JR.)
 SPC, US Army)
 HHC, 16th MP Brigade (Airborne))
 III Corps)
 APO AE 09342)

**INITIAL REQUEST
FOR DISCOVERY**

22 May 2004

SPC Charles A. Graner, Jr., by and through his detailed defense attorney, hereby requests that the Government provide the following information within seven days of receipt:

1. A written response to this request,
2. Production of the requested matters, and/or
3. Notice of any inability or intent not to comply.

The requested evidence is material to the preparation of the defense and/or is exculpatory. The accused cannot receive effective assistance of counsel nor prepare for trial without production of the documents and items requested. The requested information is known, or should be known, with the exercise of due diligence, to the United States or its agents.

If the government does intend to provide defense with copies of documents or tangible objects the defense requests a reasonable opportunity to inspect, photograph and photocopy such documents or objects.

PRETRIAL CONFINEMENT/RESTRICTION TANTAMOUNT TO CONFINEMENT

1. The decision memorandum prepared by the military magistrate as well as all documents considered in making the decision. R.C.M. 305(1)(6), United States v. McCants, 39 M.J. 91,93 (C.M.A. 1994).
2. The scope of any condition on liberty or restriction imposed on the accused.

DOCUMENTS/TANGIBLE

3. All papers which accompanied the charges at preferral and referral, specifically to include, but not be limited to: the charge sheet, Article 32 investigation report, and all allied papers, transmittal documents accompanying the charges from one headquarters to another, all law enforcement reports whether prepared by military or civilian law enforcement personnel, all

026981

laboratory reports, copies of all requests for laboratory reports not yet completed or the request has been withdrawn, statement of the accused or witnesses, convening orders and the written advice, pretrial advice, or guidance given by any judge advocate to the convening authority or any intermediate commander during the referral process. R.C.M. 701(a)(1)(A).

4. Audible copies of all Article 32 audio tapes (add video tapes if the hearing was video taped).

5. Any books, papers, documents, photographs, or copies or portions thereof and the opportunity to inspect tangible objects, buildings, or places which are in the possession, custody, or control of military authorities, and which are material to the preparation of the defense or are intended for use by the trial counsel as evidence in the prosecution case in chief, or were obtained from or belong to the accused. R.C.M. 701(a)(2)(A) (this may trigger reciprocal discovery if TC fully complies and so requests).

6. Any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of military authorities at all levels, the existence of which is known, or by the exercise of due diligence may become known, to the trial counsel, and which are material to the preparation of the defense or are intended for use by the trial counsel as evidence in the prosecution case in chief at trial. R.C.M. 701(a)(2)(B) (this may trigger reciprocal discovery if TC fully complies and so requests).

7. All written material that will be presented by the government as evidence at the presentencing proceedings, to include the accused's personnel records. R.C.M. 701(a)(5)(A).

8. All writings or documents used by a witness to prepare for trial, to include any writings or documents used by any witness to refresh memory for the purpose of testifying, either while testifying or prior to testifying. M.R.E. 612.

9. Access to inspect and to obtain a photocopy of the entire CID or other investigative file, to include all case notes, case agent summaries, interim, final and supplemental CID reports, photographs, slides, diagrams, sketches, drawings, electronic recordings, handwritten notes, interview worksheets, and any other information in the CID case file or associated with this case. Additionally, defense requests the names, addresses, and telephone numbers of all government and civilian, investigators who have participated in the investigation.

STATEMENT/WITNESSES

10. All hand written, to include summary of conversations, typed, or recorded statements concerning the offenses which are in the possession of the government. This includes all statements of any person, not just the accused or potential government witnesses, taken by or given to any person or agency including all civilian or military law enforcement agencies, inspector general investigations, AR 15-6 investigations, and all formal or informal commander's inquiries or investigations. R.C.M. 701(a)(1)(C).

026982

11. All oral and written statements made by government witnesses relating to this case, R.C.M. 914(a)(4), 18 U.S.C. 3500 et.seq.

12. The names, addresses, and telephone numbers (commercial and DSN, if applicable) of all witnesses the government intends to call in its case in chief, R.C.M. 701(a)(3)(A).

13. The names, addresses and telephone numbers (commercial and DSN, if applicable) of all witnesses the government intends to call to rebut a defense of alibi, innocent ingestion, or lack of mental responsibility, R.C.M. 701(a)(3)(B). (Only if defense has notified the government of an intent to offer there defenses under R.C.M. 701(b)(2).)

14. The names, addresses, and telephone numbers (commercial and DSN, if applicable) of all witnesses the government intends to call during presentencing, R.C.M. 701(a)(5)(B).

15. All hearsay statements, oral or written, intended to be offered at trial under M.R.E. 803(24), the particulars of the statements and the name, address, and telephone number of the declarants, M.R.E. 803(24).

16. All hearsay statements, oral or written, intended to be offered at trial under M.R.E. 804(b)(5), the particulars of the statement and the name, address and telephone number of the declarants, M.R.E. 804(b)(5).

17. Notice of any hearsay statements, oral or written, intended to be offered at trial under M.R.E. 803(24), the particulars of the statements and the name, address, and telephone number of the declarants, M.R.E. 803(24).

18. Any immunity or leniency granted or promised by any government witness in exchange for testimony, M.R.E. 301(c)(2); United States v. Webster, 1 M.J. 216 (C.M.A. 1975).

19. Disclosure of the identity, including name, address, and telephone number, of all informants and/or notice of a governmental exercise of privilege, M.R.E. 507. **Specifically, the current location of and point of contact for the following Iraqi detainees:**

all
(b)(6)4;
(7)(c)4
a. [REDACTED], last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;

b. [REDACTED] Detainee [REDACTED] last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;

c. [REDACTED] (Detainee # [REDACTED]), last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;

d. [REDACTED] (Detainee # [REDACTED]) last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;

026983

all (b)(6) 4; (7)(c) 4

e. [REDACTED] (Detainee # [REDACTED]) last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;

f. [REDACTED] detainee # [REDACTED], last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;

g. [REDACTED] (Detainee # [REDACTED]) last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;

h. [REDACTED] Detainee # [REDACTED] last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;

i. [REDACTED] (Detainee # [REDACTED]), last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335; and

j. [REDACTED] Detainee # [REDACTED] last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335.

20. Disclosure of all evidence affecting the credibility of all government witnesses to include, but not limited to:

a. Prior civilian and court-martial conviction and all arrests, apprehension of, or titling of government witnesses. Request a check with the National Crime Information Center (NCIC), National Records Center (NRC), and all local military criminal investigatory organizations be made. United States v. Jenkins, 18 M.J. 583, 584-585 (A.C.M.R. 1984). Specifically request the "face sheets" (i.e. the single page documents listing who the detainee is, what his background is, and a brief description of why the detainee is held generated and maintained by the Military Police at Wing 1A/1B of the hard site at Abu Ghraib prison), interrogation files, and criminal records (maintained by/sent to the Iraqi Central Criminal Court) on the detainees listed in paragraph 19(a) through (j).

b. Records of nonjudicial punishment, or adverse administrative actions (pending and completed), whether filed in official files of local unit files, to include discharge prior to expiration of term of service for any reason, relief for cause actions, letters or reprimand or admonition and negative counseling relating to adverse or disciplinary actions concerning any government

026984

c. Disclosure of all investigations of any type or description, pending initiated, ongoing or recently completed which pertain to alleged misconduct of any type or description committed by a government witness United States v. Stone, 40 M.J. 420 (C.M.A. 1994).

Specifically request the full report (to include all annexes) of the 15-6 Investigation conducted by MG Antonio Taguba in February 2003 into the 800th MP Brigade.

d. All evidence in control of or known to the United States concerning the mental status of the accused or any government witness. United States v. Green, 37 M.J. 88 (C.M.A. 1993). Material sought specifically includes medical records reflecting psychiatric diagnosis or treatment or head injury of any type and drug and/or alcohol addiction diagnosis or rehabilitation records. United States v. Brakefield, 43 C.M.R. 828 (A.C.M.R. 1971), United States v. Brickey, 8 M.J. 757 (A.C.M.R. 1980) affirmed 16 M.J. 258 (C.M.A. 1983), United States v. Eschalomi, 23 M.J. 12 (C.M.A. 1985).

e. All evidence of character or conduct or bias bearing on the credibility of government witnesses in the control of or known to the United States. Giglio v. United States, 405 U.S. 15, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972). This is specifically meant to include information relating to any past, present, or potential future plea agreements, immunity grants, payments of any kind and in any form, assistance to or favorable treatment with respect to any pending civil, criminal, or administrative dispute between the government and the witness, and any other matters which could arguably create an interest or bias in the witness in favor of the government or against the defense or act as an inducement to testify to color or shape testimony.

f. The military status of all witnesses. As to those recently in civilian status, the date of separation, the discharge status and a summary of the circumstances explaining any discharge. Copies of the DA Form 2-1 or ORB and DA Form 2A for each government military witness.

g. Copies of the official civilian personnel file of each government witness that is a civilian employee of the United States.

h. The results of any polygraph examinations, including the Polygraph Examiner Report (DA Form 2802-E) and related polygraph records, the Polygraph Consent Form, the Polygraph Examination Authorization Request, the Polygraph Examination Quality Control Review and any rights certificate (DA Form 3881) executed by the examiner and the subject. United States v. Mouganel, 6 M.J. 589 (A.F.C.M.R. 1978), United States v. Simmons, 38 M.J. 376 (C.M.A. 1993).

i. Pursuant to M.R.E. 612, any writing or document used by a witness to prepare for trial.

j. The contents of all CID accreditation files for all CID investigators who have participated in the investigation. **Specifically, request the current location and point of contact for the following CID agents who worked on this case:**

a. Special Agent [REDACTED] (S) 1; (C) 1

026985

b. Special Agent [REDACTED] (b)(6), (b)(7)(C) 1

21. Notice of whether the government intends to impeach any witness with a conviction older than ten years. M.R.E. 609(b).

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EVIDENCE REGARDING ACCUSED

22. The contents of all statements, oral or written, made by the accused that are relevant to the case, known to the trial counsel and within control of the armed forces, regardless whether the government intends to use the statements at trial. M.R.E. 304(d)(1); United States v. Dancy, 38 M.J. 1,4 (C.M.A. 1993).

23. The contents of all statements, oral or written, made by the accused that was not disclosed prior to arraignment. M.R.E. 304(d)(2)(B).

24. All affidavits supporting requests, which pertain to this case, whether or not granted, for authorization to search and seize or apprehend. This includes all DA Forms 3745-R.

25. Notice of all evidence seized from the person or property of the accused or believed to be owned by the accused which is intended to be offered at trial. M.R.E. 311(d)(1).

26. Notice of the government's intent to offer evidence seized from the person or property of the accused that was not disclosed prior to arraignment. M.R.E. 311(d)(2)(B).

27. All evidence of a prior identification of the accused at a traditional line up, photo line up, show up, voice identification or other identification process which the government intends to offer against the accused at trial. M.R.E. 321(c)(1).

28. Notice of government intent to offer identification evidence that was not disclosed prior to arraignment. M.R.E. 321(c)(1)(B).

29. Any prior civilian or military convictions of the accused which may be offered by the government during the trial on the merits or presentencing phase for any purpose, including impeachment. R.C.M. 701(a)(4).

30. Notice of the general nature of evidence of other crimes, wrongs, or other misconduct, as well as the government's theory of admissibility in this case. M.R.E. 404(b), 413, and 414.

EVIDENCE MATERIAL TO THE PREPARATION OF THE DEFENSE

31. All exculpatory, extenuating, or mitigating evidence known, or, with reasonable diligence should be known, to the trial counsel which reasonably tends to negate the guilt of the accused of any offense charged, reduce the guilt of the accused of an offense charged, or reduce the punishment. R.C.M. 701(a)(6), Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), United States v. Agurs, 427 U.S. 97, 93 S.Ct. 2392, 40 L/Ed/2d 342 (1976), United States v. Bagley, 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985), United States v. Simmons, 38 M.J. 376, 381 (C.M.A. 1993), United States v. Kinzer, 39 M.J. 559 (A.C.M.R.. 1994), United States v. Sebring, 44 M.J. 805 (N.M. Ct. Crim App. 1996).

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Specifically, request names and contact information for any military intelligence personnel and other government agency (collectively known as "OGA"- which encompasses the FBI, the CIA, and other civilian intelligence services) personnel who conducted interrogations in SPC Graner's wing (1A/1B) of the hard site from 1 October 2003 through 31 December 2003 (especially to include the individual referred to as "[redacted]" in "[redacted]" sworn statement to CID et al.) . Also request the names and contact information for any civilian contractors (particularly those working for CACI Corporation or Titan Corporation) who served as linguists, interrogators and/or interpreters on the 1A/1B wings of the hard site at Abu Ghraib prison from 1 October 2003 until 31 December 2003.

(b)(6) 5, (b)(7)(C) 5

(b)(6) 4, (b)(7)(C) 4

026988

32. Any evidence of the victim's past sexual behavior, *United States v. Dorsey*, 16 M.J. 1, 5-8 (C.M.A. 1983).

33. Notice of all evidence known to the trial counsel that affects the credibility of any defense witness.

34. All evidence in rebuttal which is exculpatory in nature or material to punishment. *United States v. Trimper*, 460 M.J. 460 (C.M.A. 1989), cert. Denied, 110 S.Ct. *United States v. Dancy*, 38 M.J. 1 (C.M.A. 1993).

PANEL SELECTION

35. The defense requests the 201 files and officer record brief of each client member. Additionally, defense requests results of the trial counsel submit to each member the written questions listed at R.C.M. 912(a)(1) (or attached hereto - sample questionnaire is located elsewhere in the TDS library) and provide the signed responses of each member to the defense. R.C.M/ 912(A)(1).

36. All written matters provided to the convening authority concerning the selection of the members detailed to the court-martial. R.C.M. 912(a)(2).

37. The convening order and all amending orders. All requests for excusal of court members and any written documents memorializing the denial or approval of the request. R.C.M. 701(a)(1)(B).

JUDICIAL NOTICE

38. All matters which the government intends to have judicially noticed. M.R.E. 201.

39. Notice and a legible copy of all law, foreign and domestic, relied upon by the government to support judicial notice. M.R.E. 201A.

EXPERTS AND PHYSICAL EVIDENCE

40. Pursuant to *United States v. Garries*, 22 M.J. 288, 293 (C.M.A. 1986) cert denied, 479 U.S. 985, 107 S.Ct. 575, 93 L.Ed.2d 578 (1986), *United States v. Mobley*, 31 M.J. 273, 277 (C.M.A. 1990), the defense requests:

a. Notification of testing upon any evidence which may consume the only available samples of the evidence and an opportunity to be present at any such testing.

b. An opportunity to examine all evidence, whether or not it is apparently exculpatory, prior to its release from the control of a government agency or agents.

41. All chain of custody documents, or litigation packets, generated by any law enforcement or military agency in conjunction with the taking or testing of evidence during the investigation of the alleged offenses.

42. Notice of, and the curricula vitae for, all expert witnesses the government intends to call in its case-in-chief and during presentencing. The defense requests the government disclose the number of times each expert has been qualified as an expert witness in a military or civilian court, the types of court each witness has testified in (civilian or military), the locations (city and state) of each of these courts and the civil and criminal docketed number of each of those cases. The defense further requests disclosure of any information, or evidence considered by the expert prior to testifying.

COMMAND INFLUENCE

43. All statements, oral or written (including e-mail), made by the summary, special or general court-martial convening authorities in this case or by any officer superior to the general court-martial convening authority, whether written or oral, which:

a. in any manner, withholds from a subordinate commander the authority to dispose of the accused's case under the UCMJ, to impose nonjudicial punishment upon the accused, to order the accused's separation or release from active duty or active duty for training or to order the accused into pretrial confinement.

b. provides guidance to any subordinate commander concerning appropriate levels of disposition and punishment of the offenses, whether made before or after the offenses at issue in this case.

c. in any manner indicates that the officer has anything other than an official interest in the matter, *United States v. Jeter*, 35 M.J. 442, 445 (C.M.A. 1992).

44. Disclosure of any information known to government agents, which, in any manner, indicates that a person who forwarded the charges with recommendation now is, or recently has been suspected of committing an offense under the UCMJ, *United States v. Nix*, 40 M.J. 6 (C.M.A. 1994).

INSTRUCTIONS

45. The defense requests the government provide it with all proposed instructions it intends to request that the court use in its instructions to the members and the authority for each instruction.

CONCLUSION

The defense requests equal and adequate opportunity to interview witnesses and inspect evidence. Specifically, the defense requests the trial counsel to instruct all of the witnesses and potential witnesses under military control, including those on any retired list to cooperate with the defense when contacted by the defense for purposes of interviewing these persons or otherwise obtaining information from them. Art 46, UCMJ, R.C.M. 701(e).

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Call (b)(6)2 ; (7)(C)2

If, before or during the court-martial, the government discovers additional evidence or material previously requested or required to be produced, which is subject to discovery or inspection under R.C.M. 701, the government shall promptly notify the defense of the existence of the additional evidence or material. R.C. M. 701(d).

This discovery request is continuing and shall apply to any additional charges or specifications that may be preferred after this request for discovery is served upon the government. Immediate notification is requested on all items the government is unable or unwilling to produce.

The defense acknowledges that certain of these requests may have been partially complied with prior to this motion. Those matters previously provided, need not be duplicated.

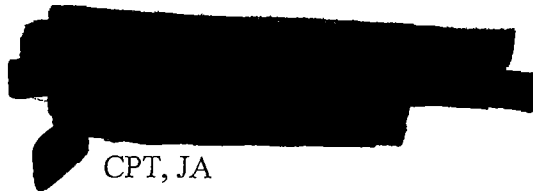
The defense reserves the right to make additional continuing discovery requests.



CPT, JA
Trial Defense Counsel

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Request for Discovery was served upon the government via e-mail on 22 May 2004.



CPT, JA
Trial Defense Counsel

026991

UNITED STATES)

v.)

) RESPONSE TO DEFENSE
) REQUEST FOR DISCOVERY

GRANER, Charles A., Jr.)

SPC, U.S. Army, [REDACTED] (b)(6);(7)(C)2)

Headquarters and Headquarters Company,)

16th MP Brigade (Airborne),)

III Corps, Victory Base, Iraq)

APO AE 09342)

27 May 2004

PRETRIAL CONFINEMENT/RESTRICTION TANTAMOUNT TO CONFINEMENT

1. The decision memorandum prepared by the military magistrate as well as all documents considered in making the decision. R.C.M. 305(1)(6), United States v. McCants, 39 M.J. 91,93 (C.M.A. 1994).

RESPONSE: The accused has never been placed in pretrial confinement so there was no magistrate decision memorandum or attendant documents.

2. The scope of any condition on liberty or restriction imposed on the accused.

RESPONSE: None

DOCUMENTS/TANGIBLE

3. All papers which accompanied the charges at preferral and referral, specifically to include, but not be limited to: the charge sheet, Article 32 investigation report, and all allied papers, transmittal documents accompanying the charges from one headquarters to another, all law enforcement reports whether prepared by military or civilian law enforcement personnel, all laboratory reports, copies of all requests for laboratory reports not yet completed or the request has been withdrawn, statement of the accused or witnesses, convening orders and the written advice, pretrial advice, or guidance given by any judge advocate to the convening authority or any intermediate commander during the referral process. R.C.M. 701(a)(1)(A).

RESPONSE: Previously provided.

4. Audible copies of all Article 32 audio tapes (add video tapes if the hearing was video taped).

RESPONSE: Previously provided. The hearing was not videotaped.

5. Any books, papers, documents, photographs, or copies or portions thereof and the opportunity to inspect tangible objects, buildings, or places which are in the

026992

possession, custody, or control of military authorities, and which are material to the preparation of the defense or are intended for use by the trial counsel as evidence in the prosecution case in chief, or were obtained from or belong to the accused. R.C.M. 701(a)(2)(A) (this may trigger reciprocal discovery if TC fully complies and so requests).

RESPONSE: Previously provided.

6. Any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of military authorities at all levels, the existence of which is known, or by the exercise of due diligence may become known, to the trial counsel, and which are material to the preparation of the defense or are intended for use by the trial counsel as evidence in the prosecution case in chief at trial. R.C.M. 701(a)(2)(B) (this may trigger reciprocal discovery if TC fully complies and so requests).

RESPONSE: Previously provided.

7. All written material that will be presented by the government as evidence at the presentencing proceedings, to include the accused's personnel records. R.C.M. 701(a)(5)(A).

RESPONSE: Previously provided.

8. All writings or documents used by a witness to prepare for trial, to include any writings or documents used by any witness to refresh memory for the purpose of testifying, either while testifying or prior to testifying. M.R.E. 612.

RESPONSE: Previously provided.

9. Access to inspect and to obtain a photocopy of the entire CID or other investigative file, to include all case notes, case agent summaries, interim, final and supplemental CID reports, photographs, slides, diagrams, sketches, drawings, electronic recordings, handwritten notes, interview worksheets, and any other information in the CID case file or associated with this case. Additionally, defense requests the names, addresses, and telephone numbers of all government and civilian, investigators who have participated in the investigation.

RESPONSE: Every document that CID provided to trial counsel has been copied at previously provided. The remaining portions of the file, to include handwritten agent notes and interview worksheets, if any, are available for inspection at BCCF.

STATEMENT/WITNESSES

10. All hand written, to include summary of conversations, typed, or recorded statements concerning the offenses which are in the possession of the government. This includes all statements of any person, not just the accused or potential government

026993

witnesses, taken by or given to any person or agency including all civilian or military law enforcement agencies, inspector general investigations, AR 15-6 investigations, and all formal or informal commander's inquiries or investigations. R.C.M. 701(a)(1)(C).

RESPONSE: Previously provided and will provide any additional documents as they become available.

11. All oral and written statements made by government witnesses relating to this case, R.C.M. 914(a)(4), 18 U.S.C. 3500 et.seq.

RESPONSE: Previously provided.

12. The names, addresses, and telephone numbers (commercial and DSN, if applicable) of all witnesses the government intends to call in its case in chief, R.C.M. 701(a)(3)(A).

RESPONSE: See attached witness list.

13. The names, addresses and telephone numbers (commercial and DSN, if applicable) of all witnesses the government intends to call to rebut a defense of alibi, innocent ingestion, or lack of mental responsibility, R.C.M. 701(a)(3)(B). (Only if defense has notified the government of an intent to offer there defenses under R.C.M. 701(b)(2).)

RESPONSE: None known at this time.

14. The names, addresses, and telephone numbers (commercial and DSN, if applicable) of all witnesses the government intends to call during presentencing, R.C.M. 701(a)(5)(B).

RESPONSE: See attached witness list.

15. All hearsay statements, oral or written, intended to be offered at trial under M.R.E. 803(24), the particulars of the statements and the name, address, and telephone number of the declarants, M.R.E. 803(24).

RESPONSE: None known at this time.

16. All hearsay statements, oral or written, intended to be offered at trial under M.R.E. 804(b)(5), the particulars of the statement and the name, address and telephone number of the declarants, M.R.E. 804(b)(5).

RESPONSE: None known at this time.

026994

17. Notice of any hearsay statements, oral or written, intended to be offered at trial under M.R.E. 803(24), the particulars of the statements and the name, address, and telephone number of the declarants, M.R.E. 803(24).

RESPONSE: None known at this time

18. Any immunity or leniency granted or promised by any government witness in exchange for testimony, M.R.E. 301(c)(2); United States v. Webster, 1 M.J. 216 (C.M.A. 1975).

RESPONSE: SPC [REDACTED] immunity. (b)(5), (7)(C) 5

19. Disclosure of the identity, including name, address, and telephone number, of all informants and/or notice of a governmental exercise of privilege, M.R.E. 507. Specifically, the current location of and point of contact for the following Iraqi detainees:

All (b)(6) 4; (7)(C) 4

- a. [REDACTED] (Detainee # [REDACTED]) last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;
- b. [REDACTED] (Detainee # [REDACTED]) last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;
- c. [REDACTED] (Detainee # [REDACTED]), last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;
- d. [REDACTED] (Detainee # [REDACTED]), last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;
- e. [REDACTED] (Detainee # [REDACTED]) last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;
- f. [REDACTED] (Detainee # [REDACTED]) last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;
- g. [REDACTED] (Detainee # [REDACTED]) last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;
- h. [REDACTED] (Detainee # [REDACTED]) last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335;
- i. [REDACTED] (Detainee # [REDACTED]) last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335; and
- j. [REDACTED] (Detainee # [REDACTED]) last known location at Abu Ghraib Correctional Facility, Abu Ghraib, Iraq APO AE 09335.

026995

All (b)(6)4, (b)(7)(C)4

RESPONSE: Last known locations

1. [REDACTED] - Vigilant A, security detainee
2. [REDACTED] Vigilant A, security detainee
3. [REDACTED] - Hard site, 6-B, criminal
4. [REDACTED] - Ganci 5, security detainee
5. [REDACTED] - Ganci 8, security detainee
6. [REDACTED] Hard site 3-B, criminal
7. [REDACTED] Ganci -1, security detainee
8. [REDACTED] - Hard site 4-B, criminal
9. [REDACTED] Unknown, released
10. [REDACTED] - Unknown, released
11. [REDACTED] - Vigilant C, security detainee
12. [REDACTED] - Ganci 5, Unknown
13. [REDACTED] Unknown, released
14. [REDACTED] Ganci 8, security detainee

20. Disclosure of all evidence affecting the credibility of all government witnesses to include, but not limited to:

a. Prior civilian and court-martial conviction and all arrests, apprehension of, or titling of government witnesses. Request a check with the National Crime Information Center (NCIC), National Records Center (NRC), and all local military criminal investigatory organizations be made. United States v. Jenkins, 18 M.J. 583, 584-585 (A.C.M.R. 1984). **Specifically request the "face sheets" (i.e. the single page documents listing who the detainee is, what his background is, and a brief description of why the detainee is held generated and maintained by the Military Police at Wing 1A/1B of the hard site at Abu Ghraib prison), interrogation files, and criminal records (maintained by/sent to the Iraqi Central Criminal Court) on the detainees listed in paragraph 19(a) through (j).**

RESPONSE: Will provide when available.

026996

b. Records of nonjudicial punishment, or adverse administrative actions (pending and completed), whether filed in official files of local unit files, to include discharge prior to expiration of term of service for any reason, relief for cause actions, letters or reprimand or admonition and negative counseling relating to adverse or disciplinary actions concerning any government (sic)

RESPONSE: None known at this time.

c. Disclosure of all investigations of any type or description, pending initiated, ongoing or recently completed which pertain to alleged misconduct of any type or description committed by a government witness United States v. Stone, 40 M.J. 420 (C.M.A. 1994). **Specifically request the full report (to include all annexes) of the 15-6 Investigation conducted by MG Antonio Taguba in February 2003 into the 800th MP Brigade.**

RESPONSE: Major General Taguba's report is available for inspection at the 16th MP Bde (Abn) TOC.

d. All evidence in control of or known to the United States concerning the mental status of the accused or any government witness. United States v. Green, 37 M.J. 88 (C.M.A. 1993). Material sought specifically includes medical records reflecting psychiatric diagnosis or treatment or head injury of any type and drug and/or alcohol addiction diagnosis or rehabilitation records. United States v. Brakefield, 43 C.M.R. 828 (A.C.M.R. 1971), United States v. Brickey, 8 M.J. 757 (A.C.M.R. 1980) affirmed 16 M.J. 258 (C.M.A. 1983), United States v. Eschalomi, 23 M.J. 12 (C.M.A. 1985).

RESPONSE: None known at this time.

e. All evidence of character or conduct or bias bearing on the credibility of government witnesses in the control of or known to the United States. Giglio v. United States, 405 U.S. 15, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972). This is specifically meant to include information relating to any past, present, or potential future plea agreements, immunity grants, payments of any kind and in any form, assistance to or favorable treatment with respect to any pending civil, criminal, or administrative dispute between the government and the witness, and any other matters which could arguably create an interest or bias in the witness in favor of the government or against the defense or act as an inducement to testify to color or shape testimony.

RESPONSE: SPC [REDACTED] granted immunity. (b)(6); (b)(7)(C)

f. The military status of all witnesses. As to those recently in civilian status, the date of separation, the discharge status and a summary of the circumstances explaining any discharge. Copies of the DA Form 2-1 or ORB and DA Form 2A for each government military witness.

026997

RESPONSE: Will provide if and when available.

g. Copies of the official civilian personnel file of each government witness that is a civilian employee of the United States.

RESPONSE: Government does not intend to call any civilian government employees.

h. The results of any polygraph examinations, including the Polygraph Examiner Report (DA Form 2802-E) and related polygraph records, the Polygraph Consent Form, the Polygraph Examination Authorization Request, the Polygraph Examination Quality Control Review and any rights certificate (DA Form 3881) executed by the examiner and the subject. *United States v. Mouganel*, 6 M.J. 589 (A.F.C.M.R. 1978), *United States v. Simmons*, 38 M.J. 376 (C.M.A. 1993).

RESPONSE: None known at this time.

i. Pursuant to M.R.E. 612, any writing or document used by a witness to prepare for trial.

RESPONSE: Previously provided in case file.

j. The contents of all CID accreditation files for all CID investigators how have participated in the investigation. **Specifically, request the current location and point of contact for the following CID agents who worked on this case:**

a. Special Agent [REDACTED] (b)(6), (7)(C) 1

RESPONSE: Building 406, Pershing Court
Fort Riley, Kansas 66442
785- [REDACTED]
DSN 856- [REDACTED]

b. Special Agent [REDACTED] (b)(6), (7)(C) 1

RESPONSE: 36th MP Detachment (CID)
Fort Jackson, SC 29207
803- [REDACTED]
DSN 734- [REDACTED]

21. Notice of whether the government intends to impeach any witness with a conviction older than ten years. M.R.E. 609(b).

RESPONSE: None known at this time.

EVIDENCE REGARDING ACCUSED

22. The contents of all statements, oral or written, made by the accused that are relevant to the case, known to the trial counsel and within control of the armed forces,

026998

regardless whether the government intends to use the statements at trial. M.R.E. 304(d)(1); United States v. Dancy, 38 M.J. 1,4 (C.M.A. 1993).

RESPONSE: Previously provided in the case file. The accused has made numerous statements to the press to which the defense has equal access.

23. The contents of all statements, oral or written, made by the accused that was not disclosed prior to arraignment. M.R.E. 304(d)(2)(B).

RESPONSE: None known at this time.

24. All affidavits supporting requests, which pertain to this case, whether or not granted, for authorization to search and seize or apprehend. This includes all DA Forms 3745-R.

RESPONSE: Previously provided in case file.

25. Notice of all evidence seized from the person or property of the accused or believed to be owned by the accused which is intended to be offered at trial. M.R.E. 311(d)(1).

RESPONSE: Previously provided in case file.

26. Notice of the government's intent to offer evidence seized from the person or property of the accused that was not disclosed prior to arraignment. M.R.E. 311(d)(2)(B).

RESPONSE: Previously provided in case file.

27. All evidence of a prior identification of the accused at a traditional line up, photo line up, show up, voice identification or other identification process which the government intends to offer against the accused at trial. M.R.E. 321(c)(1).

RESPONSE: None known at this time.

28. Notice of government intent to offer identification evidence that was not disclosed prior to arraignment. M.R.E. 321(c)(1)(B).

RESPONSE: None known at this time.

29. Any prior civilian or military convictions of the accused which may be offered by the government during the trial on the merits or presentencing phase for any purpose, including impeachment. R.C.M. 701(a)(4).

RESPONSE: None known at this time. The prosecution is aware of a prior restraining order against the accused.

026999

30. Notice of the general nature of evidence of other crimes, wrongs, or other misconduct, as well as the government's theory of admissibility in this case. M.R.E. 404(b), 413, and 414.

RESPONSE: None known at this time

EVIDENCE MATERIAL TO THE PREPARATION OF THE DEFENSE

31. All exculpatory, extenuating, or mitigating evidence known, or, with reasonable diligence should be known, to the trial counsel which reasonably tends to negate the guilt of the accused of any offense charged, reduce the guilt of the accused of an offense charged, or reduce the punishment. R.C.M. 701(a)(6), Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), United States v. Agurs, 427 U.S. 97, 93 S.Ct. 2392, 40 L.Ed.2d 342 (1976), United States v. Bagley, 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985), United States v. Simmons, 38 M.J. 376, 381 (C.M.A. 1993), United States v. Kinzer, 39 M.J. 559 (A.C.M.R. 1994), United States v. Sebring, 44 M.J. 805 (N.M. Ct. Crim App. 1996).

RESPONSE: Previously provided in case file

(b)(6), (b)(7)(C) 4 (b)(6) 5; (b)(7)(C) 5
Specifically, request names and contact information for any military intelligence personnel and other government agency (collectively known as "OGA"- which encompasses the FBI, the CIA, and other civilian intelligence services) personnel who conducted interrogations in SPC Graner's wing (1A/1B) of the hard site from 1 October 2003 through 31 December 2003 (especially to include the individual referred to as ██████ in ██████ sworn statement to CID et al.) . Also request the names and contact information for any civilian contractors (particularly those working for CACI Corporation or Titan Corporation) who served as linguists, interrogators and/or interpreters on the 1A/1B wings of the hard site at Abu Ghraib prison from 1 October 2003 until 31 December 2003.

RESPONSE: Further investigation required.

32. Any evidence of the victim's past sexual behavior, United States v. Dorsey, 16 M.J. 1, 5-8 (C.M.A. 1983).

RESPONSE: The government objects to this request on this basis of relevance, as the "past sexual behavior" of the victims in this case would not be relevant to defend against charges of detainee abuse and aggravated assault.

33. Notice of all evidence known to the trial counsel that affects the credibility of any defense witness.

RESPONSE: None known at this time.

027000

34. All evidence in rebuttal which is exculpatory in nature or material to punishment. United States v. Trimper, 460 M.J. 460 (C.M.A. 1989), cert. Denied, 110 S.Ct. United States v. Dancy, 38 M.J. 1 (C.M.A. 1993).

RESPONSE: None known at this time.

PANEL SELECTION

35. The defense requests the 201 files and officer record brief of each client member. Additionally, defense requests results of the trial counsel submit to each member the written questions listed at R.C.M. 912(a)(1) (or attached hereto - sample questionnaire is located elsewhere in the TDS library) and provide the signed responses of each member to the defense. R.C.M/ 912(A)(1).

RESPONSE: Will provide if available.

36. All written matters provided to the convening authority concerning the selection of the members detailed to the court-martial. R.C.M. 912(a)(2).

RESPONSE: Attached.

37. The convening order and all amending orders. All requests for excusal of court members and any written documents memorializing the denial or approval of the request. R.C.M. 701(a)(1)(B).

RESPONSE: Previously provided.

JUDICIAL NOTICE

38. All matters which the government intends to have judicially noticed. M.R.E. 201.

RESPONSE: Geneva Convention, AR 190-8.

39. Notice and a legible copy of all law, foreign and domestic, relied upon by the government to support judicial notice. M.R.E. 201A.

RESPONSE: None at this time.

EXPERTS AND PHYSICAL EVIDENCE

40. Pursuant to United States v. Garries, 22 M.J. 288, 293 (C.M.A. 1986) cert denied, 479 U.S. 985, 107 S.Ct. 575, 93 L.Ed.2d 578 (1986), United States v. Mobley, 31 M.J. 273, 277 (C.M.A. 1990), the defense requests:

027001

a. Notification of testing upon any evidence which may consume the only available samples of the evidence and an opportunity to be present at any such testing.

RESPONSE: None known at this time.

b. An opportunity to examine all evidence, whether or not it is apparently exculpatory, prior to its release from the control of a government agency or agents.

RESPONSE: None known at this time.

41. All chain of custody documents, or litigation packets, generated by any law enforcement or military agency in conjunction with the taking or testing of evidence during the investigation of the alleged offenses.

RESPONSE: Previously provided.

42. Notice of, and the curricula vitae for, all expert witnesses the government intends to call in its case-in-chief and during presentencing. The defense requests the government disclose the number of times each expert has been qualified as an expert witness in a military or civilian court, the types of court each witness has testified in (civilian or military), the locations (city and state) of each of these courts and the civil and criminal docketed number of each of those cases. The defense further requests disclosure of any information, or evidence considered by the expert prior to testifying.

RESPONSE: None known at this time.

COMMAND INFLUENCE

43. All statements, oral or written (including e-mail), made by the summary, special or general court-martial convening authorities in this case or by any officer superior to the general court-martial convening authority, whether written or oral, which:

a. in any manner, withholds from a subordinate commander the authority to dispose of the accused's case under the UCMJ, to impose nonjudicial punishment upon the accused, to order the accused's separation or release from active duty or active duty for training or to order the accused into pretrial confinement.

RESPONSE: None known at this time.

b. provides guidance to any subordinate commander concerning appropriate levels of disposition and punishment of the offenses, whether made before or after the offenses at issue in this case.

RESPONSE: None known at this time.

027002

c. in any manner indicates that the officer has anything other than an official interest in the matter, United States v. Jeter, 35 M.J. 442, 445 (C.M.A. 1992).

RESPONSE: None known at this time.

44. Disclosure of any information known to government agents, which, in any manner, indicates that a person who forwarded the charges with recommendation now is, or recently has been suspected of committing an offense under the UCMJ, United States v. Nix, 40 M.J. 6 (C.M.A. 1994).

RESPONSE: None known at this time.

INSTRUCTIONS

45. The defense requests the government provide it with all proposed instructions it intends to request that the court use in its instructions to the members and the authority for each instruction.

RESPONSE: Will provide. Government request for instructions will likely change after trial on the merits is completed.

RECIPROCAL DISCOVERY:

46. Under R.C.M. 701 and the Military Rules of Evidence, the government requests that the defense produce the following for use, inspection and reproduction by the government, through trial counsel, and respond in writing to this request for reciprocal discovery by 10 June 2004:

a. Under R.C.M. 701(b)(3), books, papers, documents, photographs, tangible objects, or copies or portions thereof, which are within the possession, custody, or control of the defense and which the defense intends to introduce as evidence in the defense case-in-chief at trial.

b. Under R.C.M. 701(b)(4), results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, which are within the possession, custody, or control of the defense, which the defense intends to introduce as evidence in the defense case-in-chief or which were prepared by a witness whom the defense intends to call at trial when the reports or results relate to that witness' testimony.

c. Under R.C.M. 701(b)(1), if the defense intends to offer the defense of alibi, disclosure of the specific place(s) at which the defense claims the accused to have been at the time of the alleged offenses, and the names and addresses of the witnesses upon whom the defense intends to rely to establish alibi.

d. Under R.C.M. 701(b)(2), If the defense intends to rely upon the defense of lack of

02773

mental responsibility or to introduce expert testimony relating to any mental disease, defect, or other condition bearing upon the guilt of the accused, notice of such intent.

e. Under R.C.M. 703, the government requests that the defense provide a list of witnesses (to include names, telephone numbers, addresses, and synopses of expected testimony) who the defense intends to call both on the merits and during presentencing proceedings.

//original signed//

[REDACTED]

(b)(6)2;(7)(C)2

CPT, JA
Trial Counsel

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Request for Discovery was served upon the government by email on 27 May 2004.

//original signed//

[REDACTED]

(b)(6)2;(7)(C)2

CPT, JA
Trial Counsel

027004

UNITED STATES)
)
v.)
)
CHARLES A. GRANER, JR.)
SPC, US Army)
HHC, 16th MP Brigade (Airborne))
III Corps)
APO AE 09342)

SUPPLEMENTAL DISCOVERY
REQUEST (I)

29 May 2004

SPC Charles A. Graner, Jr., by and through his detailed defense attorney, hereby requests that the Government provide the following information within seven days of receipt:

1. A written response to this request,
2. Production of the requested matters, and/or
3. Notice of any inability or intent not to comply.

The requested evidence is material to the preparation of the defense and/or is exculpatory. The accused cannot receive effective assistance of counsel nor prepare for trial without production of the documents and items requested. The requested information is known, or should be known, with the exercise of due diligence, to the United States or its agents.

If the government does intend to provide defense with copies of documents or tangible objects the defense requests a reasonable opportunity to inspect, photograph and photocopy such documents or objects.

STATEMENTS/WITNESSES

1. Defense requests copies of the stipulation of fact, offer to plead guilty (including the quantum portion), and the charge sheet in US v. Sivits. Since SPC [REDACTED] will potentially be called by the Government as a witness against the accused in this case, all the request information would be relevant as evidence of character or conduct or bias bearing on the credibility of government witnesses in the control of or known to the United States. Giglio v. United States, 405 U.S. 15, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972).

(b)(6)S
(7)(c)S

2. Defense requests any documentation concerning an investigation into alleged misconduct by Military Intelligence personnel at the Abu Ghraib prison complex being conducted by a MG Fay. Though the Defense understands that the investigation is unlikely to be completed at this time, any documentation produced thus far is relevant and material to the overall treatment of prisoners at Abu Ghraib, the conduct of the MP guards and the relationship between MI and MP personnel. This request includes the

027005

appointment memorandum, any documents provided to MG Fay to form the basis for his inquiry, and any documents produced by him or obtained by him in the course of his investigation.

(b)(1), (7)(C) {
3. Defense requests any documentation concerning an investigation into alleged misconduct by Central Intelligence Agency personnel at the Abu Ghraib prison complex being conducted by the CIA Office of the Inspector General. According to an email that Defense received from Special Investigator [REDACTED] (e-mail [REDACTED]@cia.gov/ telephone: (703) 874-[REDACTED]) the CIA OIG is specifically looking into a detainee's death on 4 November 2003 in the Hard Site at Abu Ghraib. SI [REDACTED] and his partner (Special Investigator [REDACTED]) are working with Army CID agent [REDACTED] to investigate misconduct on the part of CIA/OGA personnel. Though the Defense understands that the investigation is unlikely to be completed at this time, any documentation produced thus far is relevant and material to the overall treatment of prisoners at Abu Ghraib, the conduct/presence/identity of CIA personnel on the hard site at Abu Prison and the relationship between Army MP personnel and CIA personnel. This request includes any appointment memorandum, any documents provided to CIA OIG (or its investigators) to form the basis for this inquiry, and any documents produced by or obtained by CIA OIG (or its investigators) in the course of this investigation.

The defense reserves the right to make additional continuing discovery requests.

[REDACTED]
CPT, JA
Trial Defense Counsel

(b)(6) 2; (7)(C) 2

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Request for Discovery was served upon the government via e-mail on 29 May 2004.

[REDACTED]
CPT, JA
Trial Defense Counsel

(b)(6) 2; (7)(C) 2

027006

UNITED STATES)

v.)

CHARLES A. GRANER, JR.)
SPC, US Army)
HHC, 16th MP Brigade (Airborne))
III Corps)
APO AE 09342)

RESPONSE TO DEFENSE
SUPPLEMENTAL DISCOVERY
REQUEST (I)

31 May 2004

The Government offers the following in response to the Defense Supplemental Discovery Request:

STATEMENTS/WITNESSES

1. Defense requests copies of the stipulation of fact, offer to plead guilty (including the quantum portion), and the charge sheet in US v. [REDACTED]. Since SPC [REDACTED] will potentially be called by the Government as a witness against the accused in this case, all the request information would be relevant as evidence of character or conduct or bias bearing on the credibility of government witnesses in the control of or known to the United States. Giglio v. United States, 405 U.S. 15, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972).

RESPONSE: Previously provided.

2. Defense requests any documentation concerning an investigation into alleged misconduct by Military Intelligence personnel at the Abu Ghraib prison complex being conducted by a MG Fay. Though the Defense understands that the investigation is unlikely to be completed at this time, any documentation produced thus far is relevant and material to the overall treatment of prisoners at Abu Ghraib, the conduct of the MP guards and the relationship between MI and MP personnel. This request includes the appointment memorandum, any documents provided to MG Fay to form the basis for his inquiry, and any documents produced by him or obtained by him in the course of his investigation.

RESPONSE: There is no current documentation available. The government will provide the investigation when complete. No completion time has been identified at this time.

3. Defense requests any documentation concerning an investigation into alleged misconduct by Central Intelligence Agency personnel at the Abu Ghraib prison complex being conducted by the CIA Office of the Inspector General. According to an email that Defense received from Special Investigator [REDACTED] (e-mail: [REDACTED]@ucia.gov/ telephone: (703) [REDACTED]), the CIA OIG is specifically looking into a detainee's death on 4 November 2003 in the Hard Site at Abu Ghraib. SI [REDACTED] and

(b)(5)
(7)(C)5

(b)(1)
(7)(C)-1

027007

(b)(6);(b)(7)(C) 1
his partner (Special Investigator [REDACTED]) are working with Army CID agent [REDACTED] to investigate misconduct on the part of CIA/OGA personnel. Though the Defense understands that the investigation is unlikely to be completed at this time, any documentation produced thus far is relevant and material to the overall treatment of prisoners at Abu Ghraib, the conduct/presence/identity of CIA personnel on the hard site at Abu Prison and the relationship between Army MP personnel and CIA personnel. This request includes any appointment memorandum, any documents provided to CIA OIG (or its investigators) to form the basis for this inquiry, and any documents produced by or obtained by CIA OIG (or its investigators) in the course of this investigation.

RESPONSE: There is no current documentation available. The government will provide the investigation when complete. No completion time has been identified at this time.

(b)(6) 2; (b)(7)(C) 2
[REDACTED]
CPT, JA
Trial Counsel

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Response to Discovery was served upon the defense via e-mail on 31 May 2004.

//original signed// (b)(6) 2; (b)(7)(C) 2
[REDACTED]
CPT, JA
Trial Counsel

027008

From <[REDACTED]@us.army.mil>
Sent Saturday, May 29, 2004 5:25 pm
To [REDACTED]@vcmain.hq.c5.army.mil
Cc
Bcc

(b)(6);(b)(7)(C)2

Subject: Detainee Records

Ma'am,

I am the TDS attorney representing SPC Charles Graner in the Abu Prison courts-martial. I am trying to find out where the records on certain Iraqi detainees are being kept and how I can get access to them/get a copy of them.

I have a list of Iraqi detainees, who implicated SPC Graner in this case, along with a list of their ISN numbers. I talked with CPT [REDACTED] and with SSG [REDACTED] at the Magistrate Cell at Abu. SSG [REDACTED] told me which of the detainees were MI hold, which were Major Criminals, etc. She told me that the files on these detainees had been sent to Victory Base o/a 19 May 04. I presume that their files were part of MG Fay's investigation into the MI personnel at Abu.

I would like to view the files and get copies of them if possible on the detainees pertaining to my case. (Particularly since several detainees are on the gov't witness list...I'd like to have something to cross-examine them with.) Can you help me out, ma'am? Are the files at Victory Base? If so, how can I get copies or otherwise access those files?

Any help that you can provide me in the matter would be appreciated.

V/R,
Jay
CPT [REDACTED]
USATDS Region IX
(Camp Anaconda Field Office- Balad, Iraq)
DNVT 312 [REDACTED]

027009

From [redacted]@vcmain.hq.c5.army.mil
Sent Monday, May 31, 2004 9:39 pm
To [redacted]@vcmain.hq.c5.army.mil , [redacted]@us.army.mil
Cc [redacted]@vcmain.hq.c5.army.mil
Bcc
Subject RE: RE: Detainee Records

all (b)(2);(D)2

CPT [redacted]
Please direct your request to MG Miller, DCG (Detention Operation) whose organization is responsible for the detainee records.

COL [redacted]

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

From: [redacted] MAJ CJTF7-OIC Detention Operations OSJA
Sent: Monday, May 31, 2004 13:16
To: [redacted]@us.army.mil
Cc: [redacted] COL CJTF7-Staff Judge Advocate; [redacted] CPT
CJTF7-Chief of Military Justice OSJA
Subject: RE: RE: Detainee Records

[redacted]
Please send your request to the SJA or the Commanding General for Detention Operations. I am not trying to hide anything. I just need authority to provide that to you.

v/r,
MAJ [redacted]

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

From: [redacted]@us.army.mil [redacted]@us.army.mil
Sent: Monday, May 31, 2004 02:53
To: [redacted]@vcmain.hq.c5.army.mil
Subject: Re: RE: Detainee Records

Ma'am,

I respectfully disagree.

Article 46 of the UCMJ states that "[t]he trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence..." No provision of the MCM limits me as the defense counsel from making my own independent inquiries and discovery attempts. I do not have to go through the trial counsel to discover evidence if I can get it through other means; I do not have to inform the government as to what independent efforts I am making, what information I am looking for or why I want it.

Once again, I would appreciate any assistance you could provide me with respect to the detainee files. I have a list of detainee names and their corresponding ISN numbers which I would be happy to provide you. I am still trying to locate where the detainees' files are and would still like to view (and even copy) those files. How can I confirm that the files are in fact

027010

at Victory Base? If the files are at Victory Base, how can I view/copy them? Please advise...

V/R,

[REDACTED]
CPT [REDACTED]
USATDS Region IX
(Camp Anaconda Field Office- Balad, Iraq)
DNVT 312 [REDACTED]

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

From: [REDACTED]@vcmain.hq.c5.army.mil
Date: Sunday, May 30, 2004 8:47 pm
Subject: RE: Detainee Records

> This request should be made to the prosecution, unless the MCM has
> changed.

> v/r,
> MAJ [REDACTED]

> -----Original Message-----

> From: [REDACTED]@us.army.mil [REDACTED]@us.army.mil]
> Sent: Saturday, May 29, 2004 09:25
> To: [REDACTED]@vcmain.hq.c5.army.mil
> Subject: Detainee Records

> Ma'am,

> I am the TDS attorney representing SPC Charles Graner in the Abu
> Prisoncourts-martial. I am trying to find out where the records
> on certain Iraqi
> detainees are being kept and how I can get access to them/get a
> copy of
> them.

> I have a list of Iraqi detainees, who implicated SPC Graner in
> this case,
> along with a list of their ISN numbers. I talked with CPT [REDACTED]
> [REDACTED] and [REDACTED]
> with SSG [REDACTED] the Magistrate Cell at Abu. SSG [REDACTED]
> told me
> which of the detainees were MI hold, which were Major Criminals,
> etc. She
> told me that the files on these detainees had been sent to Victory
> Base o/a
> 19 May 04. I presume that their files were part of MG Fay's
> investigation into the MI personnel at Abu.

(S)(G)2; (F)(O)2

> I would like to view the files and get copies of them if
> possible on the
> detainees pertaining to my case. (Particularly since several
> detainees are
> on the gov't witness list...I'd like to have something to cross-
> examine them

027011

> with.) Can you help me out, ma'am? Are the files at Victory
> Base? If so,
> how can I get copies or otherwise access those files?
>
> Any help that you can provide me in the matter would be appreciated.
>
> V/R,
> [REDACTED] (b)(6) 2; 7(c) 2
> CPT [REDACTED]
> USATDS Region IX
> (Camp Anaconda Field Office- Balad, Iraq)
> DNVT 312 [REDACTED]
>

027012

From <[REDACTED]@us.army.mil>

Sent Monday, June 7, 2004 5:17 pm

To [REDACTED]@vcmain.hq.c5.army.mil

Cc [REDACTED]@usa.net

Bcc

Subject Request for Detainee Interviews

Attachments [Request for Iraqi Detainees.pdf](#)

63K

Ma'am,

Please see attached request. Can you please forward this request through channels to MG Miller? (Otherwise, please give me the POC to send it to and I will forward myself.)

Thanks for all your help in the matter.

V/R,

(b)(6)Z; (b)(7)(C)Z

[REDACTED]
[REDACTED]
CPT,JA
USATDS Region IX
LSA Anaconda Field Office
DNVT 312 [REDACTED]

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027013



REPLY TO
ATTENTION OF
AFVC-JA-TDS

DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
CAMP ANACONDA BRANCH OFFICE
BALAD, IRAQ APO AE 09391

7 June 2004

MEMORANDUM FOR MG Geoffrey D. Miller, Office of the Deputy Commanding General,
Detention Operations, Multinational Forces Iraq, APO AE 09342-1400

SUBJECT: Request for Access to Iraqi Detainees and Their Files

1. I am the detailed military defense counsel representing SPC Charles A. Graner, Jr in his pending court-martial. Pursuant to preparing SPC Graner's defense, I respectfully request permission to interview the following detainees:

- (a) [REDACTED] (Detainee # [REDACTED]);
- (b) [REDACTED] Detainee # [REDACTED];
- (c) [REDACTED] (Detainee # [REDACTED]);
- (d) [REDACTED] (Detainee # [REDACTED]);
- (e) [REDACTED] (Detainee # [REDACTED]);
- (f) [REDACTED] (Detainee # [REDACTED]);
- (g) [REDACTED] (Detainee # [REDACTED]);
- (h) [REDACTED] (Detainee # [REDACTED]);
- (i) [REDACTED] (Detainee # [REDACTED]); and
- (j) [REDACTED] Detainee # [REDACTED]

(b)(6)4; (7)(C)4

If permitted to interview these detainees, I further request to have my own Arab-language interpreter, covered by the attorney-client privilege, present to assist me in conducting these interviews.

2. As a separate matter, I request permission to view, take notes on and copy the interrogation/criminal files of the detainees listed in paragraph 1(a) through (j) above.

3. I make these requests in accordance with Article 46 of the Uniform Code of Military Justice. Article 46 provides that "the trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence..." Each of the above listed detainees provided sworn statements to Army CID and implicated SPC Graner by name or physical description in alleged misconduct for which SPC Graner is being court-martialed. Three of these detainees ([REDACTED]; [REDACTED], and [REDACTED] are listed by the trial counsel as government witnesses for the court-martial. The defense seeks equal access to interview these detainees and view their files in order to discover useful evidence for trial.

(b)(6)4; (7)(C)4

027014

AFVC-JA-TDS

SUBJECT: Request for Access to Iraqi Detainees and Their Files

4. POC for this memorandum is the undersigned at DNVT 529- [REDACTED] [REDACTED]@us.army.mil.

(b)(6)2; (7)(C)2

[REDACTED]

CPT, JA
Trial Defense Counsel



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
REGION IX, LSA ANACONDA BRANCH OFFICE
APO AE 09391

REPLY TO
ATTENTION OF:

AFVC-JA-TDS

1 June 2004

MEMORANDUM THRU Staff Judge Advocate, III Corps, Victory Base, APO AE 09342-1400

FOR Commanding General, III Corps, Victory Base, APO AE 09342-1400

SUBJECT: Request for Appointment of an Investigator to Assist in the Preparation of the Defense Case in United States v. SPC Charles A. Graner, Jr.

1. In accordance with Article 46 of the UCMJ, Rule for Courts-Martial 703, and United States v. Toledo, 25 MJ 270 (CMA 1987), and UP AR 195-2, para. 3-20, the defense hereby requests appointment of an investigator to the defense team to assist in the preparation of the above-captioned case.
2. Any suitably qualified and competent investigator is acceptable, provided that he or she:
 - a. is willing to accept the assignment,
 - b. understands that their role will be to assist the defense and agrees to be bound explicitly by the attorney-client privilege,
 - c. has sufficient available time to serve the many potential hours that would be required to conduct sufficient investigation for the defense in this case,
 - d. has training and experience as a criminal investigator,
 - e. is not currently assigned to any office that is currently investigating this case, or in the rating chain of any CID agent that has been involved in the case investigation,
 - f. was not involved in any manner in the investigation of this case.
3. An investigator is needed because this case concerns complicated issues of fact and necessitates interviews with multiple potential witnesses whom the defense is presently unable to contact but who could be vital to SPC Graner's defense.
 - a. The defense wishes to contact and interview the multiple Iraqi detainees at Abu Ghraib prison and other coalition confinement facilities, multiple former detainees at Abu Ghraib prison, multiple alleged Iraqi victims, and Iraqi security guards that were involved with the allegations that span a three-month time period. The information obtained from these individuals could be vital in presenting a defense or extenuation or mitigation evidence on behalf of SPC Graner.

027016

b. The defense wishes to locate and interview the multiple Criminal Investigation Division Special Agents, civilian intelligence personnel, and numerous military witnesses who may have evidence and vital information pertaining to the charges against SPC Graner. Further, the defense wishes to contact and interview numerous civilian contract employees and interpreters that were involved in investigating the alleged offenses or were potential witnesses to the alleged offenses. The alleged offenses occurred over a three-month time period with countless potential witnesses coming through the Abu Ghraib detention facility during that time, to include members of the MP and MI commands that ran the facility. Further, a great many of those witnesses were reservists who have since been deactivated and returned to their home units of assignment and/or their civilian jobs.

c. The defense wishes to contact and interview the acquaintances, neighbors, close friends, civilian employers and relatives of SPC Graner to prepare a case in defense, extenuation and mitigation. The defense does not have the time, resources, or training to locate and interview all of these potential witnesses.

4. The above-mentioned areas require a great degree of investigative expertise that the defense does not possess.

a. The investigative assistance will allow SPC Graner to gather exculpatory and mitigating evidence in this case, and attack the veracity of the testimony of the government's witnesses, some of whom may be facing their own criminal charges. The defense is unable to do this on its own. One defense attorney cannot possibly adequately interview witnesses in CONUS and elsewhere, when it has taken twenty CID Special Agents, and numerous other investigators and interpreters working on this case for over eight weeks to collect the evidence. As of the date of this request, the CID investigation is still ongoing.

b. The investigator will assist the defense in rebutting an attack on the accused's credibility, and to assist in the preparation of the defense case and prepare adequate cross-examination for the government witnesses by providing evidence of untruthfulness and bias. Without this assistance, cross-examination will be less effective because the defense will be unable to travel to these distant locations, or effectively interview witnesses to develop the basis for exculpatory, mitigating and character evidence.

5. Only the addition of an investigator, with the capability and resources to independently travel, to track down witnesses and to talk to them can properly assist the preparation of the defense of SPC Graner.

a. For many of the Iraqi, civilian and reservist witnesses, the defense has neither social security numbers nor current telephone numbers or addresses of these potential witnesses, so tracking them down involves far more effort than simply contacting the worldwide locator service or the local telephone book. Moreover, the defense cannot become expert investigators before trial, as it takes these professionals years of training and experience to excel at such skills.

AFVC-JA-TDS

SUBJECT: Request for Appointment of an Investigator to Assist in the Preparation of the Defense Case in United States v. SPC Charles A Graner, Jr.

Thus, an investigator is vitally important to the defense effort, and the denial of such an expert would result in a fundamentally unfair trial. See, e.g., United States v. Gonzalez, 39 MJ 459, (CMA 1994).

b. The government has had at least twenty CID special agents and countless interpreters working on this case; no less than two Major Generals with their own staffs and investigators have conducted 15-6 investigations. By contrast, the defense is only requesting one investigator. To deny the defense this assistance will make effective representation of SPC Graner difficult, and denial at this early stage clearly will result in a fundamentally unfair trial, as SPC Graner will be unable to discover potentially exculpatory evidence by personally interviewing witnesses familiar with the allegations in this case.

6. The defense respectfully requests that an investigator be appointed to assist the defense. This investigator and the interviews that he will conduct may produce exculpatory evidence, evidence in defense, extenuation, and mitigation, and evidence with which to effectively cross-examine the alleged victims. The appointment of an investigator is relevant and necessary for the accused to be able to present a defense in accordance with the Compulsory Process Clause of the Sixth Amendment to the United States Constitution.

7. The defense further requests that the investigator be bound by the attorney-client privilege under Military Rule of Evidence 502. The defense requests that this individual assist in the investigation of the case, and be present with SPC Graner at trial as a member of the defense team.

8. Thank you for your earnest consideration of this request. If I may be of further assistance in this matter, please contact me via email at [REDACTED]@us.army.mil or by phone at DNVT: 529-[REDACTED]

[REDACTED]
CPT, JA
Trial Defense Counsel

(b)(6)2; (7)(C)2

From [redacted]@us.army.mil>

Sent Tuesday, June 1, 2004 4:18 pm

To [redacted]@vcmain.hq.c5.army.mil

(b)(6)4; (7)(C)4

Cc [redacted]@vcmain.hq.c5.army.mil , [redacted]@usa.net

Bcc

Subject Request for an investigator

Attachments Request Appointment of Investigator.pdf

179K

[redacted]

Please see attached. Please forward up through channels.

(b)(6)2; (7)(C)2

V/R,

[redacted]

[redacted]
CPT,JA
USATDS Region IX
LSA Anaconda Field Office
DNVT 312 529-[redacted]

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027019

UNITED STATES

V.

CHARLES A. GRANER, JR.
SPC, U.S. ARMY
HHC, 16th MP BDE (ABN)
III CORPS
APO AE 09391

*
* OBJECTION TO
*
* ARTICLE 32
*
* PRETRIAL INVESTIGATION
*
* 4 June 2004
*

RELIEF SOUGHT

all (b)(6)-2; (b)(7)(C) 2

The accused, Specialist Charles A. Graner, Jr., through his detailed defense counsel, requests that the court order a new Article 32 pretrial investigation. The defense requests oral argument in support of this motion.

BURDEN OF PROOF AND STANDARD OF PROOF

The defense must prove, by a preponderance of the evidence, that the Article 32 investigation was not thorough and/or impartial.

FACTS

1. SPC Graner stands accused of conspiracy to maltreat subordinates, dereliction of duty, maltreatment of subordinates, assault, adultery, indecent acts, and obstruction of justice. All of this alleged misconduct occurred between on or about 15 October 2003 and on or about 1 December 2003 while SPC Graner worked as a guard at the Abu Ghraib prison facility. CPT [REDACTED] referred these charges against SPC Graner on 20 March 2004. (See DD Form 458)

2. On 21 March 2004, the charges against SPC Graner were forwarded to COL [REDACTED] Commander, 16th Military Police Brigade (Airborne), in his capacity as the Summary Court-Martial Convening Authority. (See DD Form 458) On 24 March 2004, COL [REDACTED] appointed MAJ [REDACTED] as the Article 32 Investigating Officer for this case. (See Appointment Memo of 24 Mar 04)

3. The Article 32 hearing was ultimately held at Victory Base on 26 April 2004. Prior to the hearing, the defense submitted an initial Discovery/Witness Request to the government on 15 April 2004. (See Memorandum for MAJ [REDACTED], dated 15 April 2004) The defense submitted a supplemental Discovery/Witness Request to the government on 19 April 2004. (See Memorandum for MAJ [REDACTED], dated 19 April 2004) In total, the defense requested that thirty-eight witnesses be produced at the Article 32 hearing; ten of those witnesses were Iraqi detainees who had been confined at

027020

(b)(6)2; (7)(C)2
except as noted

the Abu Ghraib prison facility. The defense made a request to have a portion of the proceedings moved to the Abu Ghraib facility to hear from the detainees. (See Article 32 Transcript)

4. Prior to the Article 32 hearing itself, the Investigating Officer issued his determination on whether these witnesses were reasonably available. (See Memorandum for Record, dated 23 April 2004) The Investigating Officer ruled that all the witnesses requested by the defense except for SPC [redacted] and LTC [redacted] were unavailable. The Investigating Officer ruled that LTC [redacted] was reasonably available (See Memorandum for Record, dated 23 April 2004); the Investigating Officer neglected to rule on SPC [redacted] in his memorandum. During the hearing itself, the Investigating Officer ruled that SPC [redacted] was unavailable. (See Summarized Transcript of Article 32 hearing) Finally, the Investigating Officer denied the defense request to move the proceedings to the Abu Ghraib prison to facilitate the live testimony of the detainees; the defense objected to this denial. (See Summarized Transcript of Article 32 hearing)

5. The defense objected to the non-production of each witness who did not testify at the hearing and was previously determined to be unavailable. (See Summarized Transcript of Article 32 hearing) The defense asked the government counsel to detail all the efforts made by the government to locate and produce all the witnesses who were deemed unavailable. (See Summarized Transcript of Article 32 hearing) With respect to PFC

(b)(6)5;
7(C)5

[redacted] SPC [redacted], CPT [redacted], SGT [redacted], SPC [redacted], SGT [redacted], CPL [redacted], SPC [redacted], SSG [redacted], SGT [redacted], SGT [redacted] and SGT [redacted], the government counsel claimed that the witnesses were outside the hundred mile radius. (See Partial Verbatim Transcript of Article 32 hearing) The government counsel made no efforts to contact these individual soldiers; instead, the government counsel relied on information from the S-3, 16th MP Brigade that the unit had been sent from Kuwait to Talil, Air Base. (See Partial Verbatim Transcript) No information was provided as to whether these soldiers moved with the unit. With respect to the detainees requested, the government emailed a CID agent, Special Agent [redacted] requesting information as to their whereabouts. (See Partial Verbatim Transcript) The government relied solely on SA [redacted] email and mentioned no other efforts to follow up. With respect to Special Agent [redacted] the government claimed that he had redeployed based on a conversation with CID. (See Partial Verbatim Transcript) The government counsel claimed that SPC [redacted], COL [redacted], CPT [redacted] and BG Janis Karpinski were all redeployed; the government counsel offered no basis for that knowledge. (See Partial Verbatim Transcript) Finally, the government counsel claimed that he could not find Mr. [redacted] Mr. [redacted] or Mr. [redacted] (See Partial Verbatim Transcript)

(b)(6)1;
(7)(C)1

(b)(6)4; (7)(C)4

6. The defense asked the investigating officer whether he had personal knowledge of the whereabouts of any of these witnesses. (See Partial Verbatim Transcript) He claimed that he had no personal knowledge other than the government's email. (See Partial Verbatim Transcript) The defense asked the investigating officer whether he had taken any steps to

027021

All (b)(6)2; (b)(7)(C)2 unless noted

secure their testimony through alternate means. (See Partial Verbatim Transcript) The investigating officer claimed that he had not. (See Partial Verbatim Transcript)

7. The defense asked the investigating officer to have the government counsel detail on the record what efforts he had made to arrange for alternate means of testimony for the witnesses listed in the defense request. The government counsel claimed that III Corps and 16th MP Brigade had tried to bring in commercial telephone lines to the hearing site but that neither organization had the capabilities. (See Partial Verbatim Transcript) Government counsel mentioned that SFC [REDACTED] had attempted to secure a speaker phone as well without success. (See Partial Verbatim Transcript) The government counsel specifically stated, "It's my understanding that we do not have a speaker phone at Victory Base, maybe not even in country at this point." (See Partial Verbatim Transcript)

8. The defense objected again to the unavailability determination because of the government's lack of effort to locate and produce these witnesses (See Summarized Transcript of Article 32 hearing). The defense objected to the receipt into evidence of the sworn statements of SPC [REDACTED] SGT [REDACTED], SPC [REDACTED] PFC [REDACTED] SPC [REDACTED] various Iraqi detainees, SPC [REDACTED] SPC [REDACTED] and SSG [REDACTED] in lieu of their production and live testimony. (See Summarized Transcript of Article 32 hearing)

WITNESSES AND EVIDENCE

The defense intends to present the following documentary evidence:

DD Form 458, Charge Sheet for SPC Charles A. Graner, Jr.
Appointment Memo, dated 24 March 04
Memorandum for MAJ [REDACTED] dated 15 April 2004
Memorandum for MAJ [REDACTED] dated 19 April 2004
Memorandum for Record, dated 23 April 2004
Summarized Transcript of Article 32, dated 26 April 2004
Partial Verbatim Transcript of Article 32 hearing
Audio Recording of Article 32 hearing (if necessary)

The defense anticipates calling the following witnesses:

MAJ [REDACTED]
SFC [REDACTED]

LAW

Unites States v. Nichols, 23 C.M.R. 343 (C.M.A. 1957);
United States v. Chestnut, 2 M.J. 84 (C.M.A. 1976);
United States v. Marrie, 43 M.J. 35 (1995);
MANUAL FOR COURTS-MARTIAL, UNITED STATES, R.C.M. 405 (2002) (hereinafter R.C.M. 405)

027022

ARGUMENT

1. The accused is entitled to a thorough and impartial Article 32 pretrial investigation. R.C.M. 405(a). An Article 32 investigation is not a mere formality. Rather, it is an integral part of the court-martial proceedings. Unites States v. Nichols, 23 C.M.R. 343 (C.M.A. 1957).
2. As part of a thorough investigation, the accused has the right to have witnesses produced at the Article 32 hearing. R.C.M. 405(f)(9). The accused also has the right to cross-examine witnesses who are produced at the hearing. R.C.M. 405(f)(8). Any witness whose testimony would be relevant to the investigation and not cumulative shall be produced if reasonably available. R.C.M. 405(g)(1)(A).
3. Failure to produce reasonably available witnesses requested by the defense constitutes denial of a substantial pretrial right of the accused. See United States v. Chestnut, 2 M.J. 84, 85 n4 (C.M.A. 1976). The appellate courts will test such a failure to produce reasonably available witnesses for actual prejudice to the accused. See United States v. Marrie, 43 M.J. 35, 40 (1995).
4. A witness is deemed "reasonably available" if located within 100 miles of the hearing situs and "the significance of the testimony and personal appearance outweighs the difficulty, expense, delay, and effect on military operations of obtaining the witness' appearance." RCM 405(g)(1)(A). Regarding both military and civilian witnesses, the investigating officer makes the determination whether that requested witness is "reasonably available." RCM 405(g)(2).
5. Mere assumption of unavailability on the part of the investigating officer is not enough. See United States v. Chestnut, 2 M.J. 84, 85 (CMA 1976). The Chestnut appellant had been charged with the rape of a German national while he was stationed in West Germany. The defense requested the presence of the victim at the Article 32 hearing for purposes of cross-examination. The investigating officer stated on the record that the victim was employed in Bobbard, West Germany, nearly 50 miles away from the hearing situs and that he did not consider her reasonably available. See Chestnut at 85. The investigating officer declined to conduct a portion of the hearing near the victim's home or to conduct a session after her working hours. The Chestnut court found that "[a]ssumptions of this witness' unavailability, rather than evidence demonstrating circumstances or exigencies warranting the excusal of [the victim] from the Article 32 hearing were utilized." Id at 85. The victim in this case had previously participated in the pretrial investigation. The court felt that the victim's prior participation "coupled with the absence of proof of efforts to secure [the victim's] presence at the Article 32 hearing compel the conclusion that her absence was neither reasonable nor unavoidable." Id.
6. In this case, the investigating officer premised his conclusions of unavailability on mere assumptions; he had no real basis to determine where these witnesses were. The circumstances of this case are identical to those of Chesnut. The investigating officer had no personal knowledge of where these witnesses were and made no personal efforts to

027023

locate them or to secure their testimony. Instead the investigating officer relied on the representation of the government counsel that the witnesses were too far away. All the government counsel did was to call his S-3 and email CID; the government did no follow-up or independent investigation into the whereabouts of these individuals. Like the victim in Chestnut, all the witnesses requested in this case had cooperated with the government's investigation into alleged misconduct at Abu Ghraib. In fact the government counsel admitted on the record that some of the requested witnesses had in fact appeared at the previous Article 32 hearings of co-accused. (See Partial Verbatim Transcript of Article 32 hearing) There is an "absence of proof of efforts" to secure the witnesses' presence at the hearing as with the victim in Chestnut. As such, the absence of 35 witnesses out of 38 witnesses requested was "neither reasonable nor unavoidable."

8. Even if the government's assertion that these witnesses were outside the one hundred mile radius was correct, the investigating officer still should not have found them to be unavailable. RCM 405(g)(1)(A) provides that a witness is "reasonably available" if located within 100 miles of the hearing situs. Being outside of this radius does not automatically cause a witness to be "reasonably unavailable." See United States v. Marrie, 43 M.J. 35, 40 (1995). If a witness is found to be beyond the 100 mile radius, then the investigating officer must determine whether "the significance of the testimony and personal appearance of the witness outweighs the difficulty, expense, delay, and effect on military operations of obtaining the witness' appearance." See Id at 40. In his memorandum for record, the investigating officer cites to this rule but does not articulate how the difficulty, expense, delay and effect on operations outstrips the significance of testimony and personal appearance. (See Memorandum For Record, dated 23 April 2004). Moreover, at no point during the actual hearing itself does the investigating officer discuss how he applied this balancing test to any of the requested witnesses. Parroting the language of the rule is not a substitute for actually conducting the balancing test.

9. The accused has been substantially prejudiced by the government's failure to produce these witnesses at the Article 32 hearing. The accused will be forced to go to trial without first being allowed to cross-examine the alleged victims or eyewitnesses under oath. Without the benefit of having all the witnesses brought to one location, the accused will be hard pressed to interview or even contact these witnesses. Even the government counsel has emphatically stated for the record how difficult travel and communications are in this theater for him, and he has all the resources of the state available to him. On the other accused does not enjoy such resources. Finally, the accused was not able to talk with the requested witnesses and discovery potential points of contact from them that could lead to other additional witnesses who might have provided valuable information or exculpatory evidence. In short, the accused suffered an "opportunity cost"; the appearance of the requested witnesses may have produced further investigative leads apart from the value of their live testimony.

027024

CONCLUSION

For the reasons above, the defense requests that this Court order a new Article 32 pretrial investigation

[REDACTED]

CPT, JA
Trial Defense Counsel

(S)(b)2; (7)(C)2

I certify that copies of this motion were served upon the government and military judge via electronic mail on 4 June 2004.

[REDACTED]

CPT, JA
Trial Defense Counsel

(S)(b)2; (7)(C)2

027025

UNITED STATES

V.

CHARLES A. GRANER, JR.
SPC, U.S. ARMY
HHC, 16th MP BDE (ABN)
III CORPS
APO AE 09391

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MOTION TO

COMPEL

PRODUCTION

9 June 2004

RELIEF SOUGHT

The accused, Specialist Charles A. Graner, Jr., through his detailed defense counsel, requests that the court order the government to produce the requested discovery matters.

BURDEN AND STANDARD OF PROOF

The defense as moving party must show by a preponderance of the evidence that compelled production is warranted in this case. RCM 905(c)(1) and (2).

FACTS/ARGUMENT

1. The above case was referred for trial on 14 May 2004. The Defense served an Initial Request for Discovery in this case on the Government on 22 May 2004. The Defense served a Supplemental Request for Discovery in this case on the Government on 29 May 2004. On 27 and 31 May 2004 respectively, the Government responded negatively to the defense requests for the following:

a. Access to Iraqi Detainees IAW RCM 701(e):

1) At the first RCM 802 session with the military judge held on the day of the accused's arraignment, the trial counsel indicated that it was the government's policy not to grant access to Iraqi detainees currently held in coalition custody.

2) The defense requested disclosure of the identity, including name, address, and telephone number, of all informants and/or notice of a governmental exercise of privilege, M.R.E. 507. Specifically, the defense asked for the current location of and points of contact for 10 Iraqi detainees who gave sworn statements to CID either implicating the accused by name or by physical description. The defense provided the detainees' full names, numbers (i.e. the "ISN" number assigned to detainees for tracking purposes by coalition forces), and their last known locations.

3) The government responded by providing the last known locations for these detainees; however, the government did not provide a point of contact or telephone number that would allow defense to get in touch with the detainees.

027026

4) The defense filed a request in writing for access to the named detainees with Office of the Deputy General for Detention Operations on 7 June 2004; the defense sent this request by email to the Officer-In-Charge, Legal Section, Detention Operations. (see Email to MAJ [REDACTED] dated 7 June 2004) At the time of filing this motion, the defense has not heard any reply to its request for access.

5) These Iraqi detainees are the victims of alleged misconduct by the accused. They have all implicated the accused in the events for which he is being court-martialed. Three of these detainees are on the government's witness list for its case-in-chief. The defense must be allowed to interview these detainees --especially those listed on the government's witness list- in order to test their story and be prepared to cross-examine them at trial. Moreover, the detainees might provide exculpatory information and evidence to raise a defense. In any case, the accused will not be prepared to mount an effective defense at trial without first being able to interview the detainees.

b. Access to the Iraqi Detainees' Files IAW RCM 701(e):

1) In its initial discovery request, the defense asked for prior civilian and court-martial conviction and all arrests, apprehension of, or titling of government witnesses. The defense requested that a check with the National Crime Information Center (NCIC), National Records Center (NRC), and all local military criminal investigatory organizations be made. United States v. Jenkins, 18 M.J. 583, 584-585 (A.C.M.R. 1984).

2) In particular, the defense asked for the "face sheets" (i.e. the single page documents listing who the detainee is, what his background is, and a brief description of why the detainee is held generated and maintained by the Military Police at Wing 1A/1B of the hard site at Abu Ghraib prison), interrogation files, and criminal records (maintained by/sent to the Iraqi Central Criminal Court) on the ten detainees previously mentioned.

3) In their response of 27 May 2004, the government noted that they "will provide when available."

4) The defense emailed the Officer-In-Charge, Legal Section, Detention Operations for assistance in getting access to the named detainees. (see Email to MAJ [REDACTED] dated 29 May 2004) The Staff Judge Advocate, III Corps, informed the defense that all such requests for access to detainees must go through the Office of the Deputy General for Detention Operations. (see Email from COL [REDACTED] dated 31 May 2004) The defense also filed a request in writing for access to the named detainees's files with Office of the Deputy General for Detention Operations on 7 June 2004; the defense sent this request by email to the Officer-In-Charge, Legal Section, Detention Operations. (see Email to MAJ [REDACTED] dated 7 June 2004)

5) To date, the government has not provided any such files for any of the detainees.

027027

6) These detainee records are essential to the Defense's case and are documents within the Government's control IAW RCM 703. Records on the detainees' prior criminal behavior or anti-coalition activities are relevant to the defense case. Such information could be used by the defense on the merits to impeach any detainee who testified or to show evidence of bias or character for untruthfulness. On sentencing, background materials on the detainees would be useful in extenuation to show the court-martial the violent and potentially dangerous nature of the "victims" that the accused had to deal with.

c. Contact Information on Intelligence Personnel at Abu Prison:

1) In its initial discovery request, the defense asked for all exculpatory, extenuating, or mitigating evidence known, or, with reasonable diligence should be known, to the trial counsel which reasonably tends to negate the guilt of the accused of any offense charged, reduce the guilt of the accused of an offense charged, or reduce the punishment IAW R.C.M. 701(a)(6); Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963).

(b)(6)4; (7)(C)4 (b)(6)2; (7)(C) 2

2) Specifically, the defense requested names and contact information for any military intelligence personnel and other government agency (collectively known as "OGA"- which encompasses the FBI, the CIA, and other civilian intelligence services) personnel who conducted interrogations in SPC Graner's wing (1A/1B) of the hard site from 1 October 2003 through 31 December 2003 (especially to include the individual referred to as ██████ in SGT ██████ sworn statement to CID et al.). Defense also requested the names and contact information for any civilian contractors (particularly those working for CACI Corporation or Titan Corporation) who served as linguists, interrogators and/or interpreters on the 1A/1B wings of the hard site at Abu Ghraib prison from 1 October 2003 until 31 December 2003.

3) In its response of 27 May 2004, the government counsel indicated that further investigation was required. To date, the defense has not received any information on intelligence personnel present in the accused's wing at Abu Prison. The defense has not received the names and contact information for any civilian contractors who worked at Abu Prison with the exception of Mr. ██████ of Titan Corporation.

(b)(6)4; (7)(C) 4

4) This information is essential to the defense case and within the control of the Government. Having access to intelligence personnel or civilian contractors would provide valuable information on the actual procedures used to handle detainees (and hence, the true "duty" owed to the detainees by the accused). Moreover, evidence from these sources would be useful in sentencing as extenuation to show the degree to which the accused was following orders when handling Iraqi detainees.

d) MG Fay's AR 15-6 Investigation Into Military Intelligence Personnel at Abu Prison

027028

1) In its supplemental discovery request, the defense requested any documentation concerning an investigation into alleged misconduct by Military Intelligence personnel at the Abu Ghraib prison complex being conducted by a MG Fay.

2) In its response of 31 May 2004, the government indicated that there was no current documentation available. The government said that it would provide the investigation when complete; however, no completion time had been identified thus far.

3) The defense acknowledges that the investigation may still be ongoing. However, any documentation produced thus far is relevant and material to the overall treatment of prisoners at Abu Ghraib, the conduct of the MP guards and the relationship between MI and MP personnel. The defense maintains that at least the appointment memorandum and the documents provided to MG Fay to form the basis for his inquiry are in the possession of the government with the meaning of RCM 703. The actual investigation may be completed well after the accused's case goes to trial. To allow the government to wait to produce any part of this documentation until after the entire investigation is complete would prejudice the accused's ability to present a full and complete defense at trial.

e) Joint CIA/CID Investigation Into A Detainee Death at Abu Prison

1) In its supplemental discovery request, the defense requested any documentation concerning an investigation into alleged misconduct by Central Intelligence Agency personnel at the Abu Ghraib prison complex being conducted by the CIA Office of the Inspector General.

2) In its response of 31 May 2004, the government indicated that there was no current documentation available. The government said that it would provide the investigation when complete; however, no completion time had been identified thus far.

3) The defense acknowledges that the investigation may still be ongoing. However, any documentation produced thus far is relevant and material to the overall treatment of prisoners at Abu Ghraib, the conduct/presence/identity of CIA personnel on the hard site at Abu Prison and the relationship between Army MP personnel and CIA personnel. The defense maintains that at a minimum the portion of the investigation conducted by Army CID are in the possession of the government with the meaning of RCM 703. The actual investigation may be completed well after the accused's case goes to trial. To allow the government to wait to produce any part of this documentation until after the entire investigation is complete would prejudice the accused's ability to present a full and complete defense at trial.

2. IAW RCM 703(f) each party is entitled to the production of evidence which is relevant and necessary. As of the date of this motion, the defense still has not received the desperately needed discovery materials. The Defense cannot adequately prepare for trial without the discovery requested.

027029

All (b)(6) 2; (7)(C) 2

EVIDENCE/WITNESSES

The defense intends to present the following documentary evidence:

Defense Initial Discovery Request, dated 22 May 2004;
Government Response to Defense Initial Discovery Request, dated 27 May 2004;
Defense Supplemental Discovery Request, dated 29 May 2004;
Government Response to Defense Initial Discovery Request, dated 31 May 2004;
Email to MAJ [REDACTED] dated 29 May 2004;
Email from COL [REDACTED] dated 31 May 2004;
Email to MAJ [REDACTED] dated 7 June 2004;
Memorandum for MG Geoffrey D. Miller, dated 7 June 2004.

The defense does not anticipate calling any witnesses at this time.

CONCLUSION

For the reasons above, the defense requests that this Court compel production of the requested items.

[REDACTED]

CPT, JA
Trial Defense Counsel

CERTIFICATE OF SERVICE

I certify that copies of this motion were served upon the government and military judge via electronic mail on 10 June 2004.

[REDACTED]

CPT, JA
Trial Defense Counsel

027030

UNITED STATES

V.

CHARLES A. GRANER, JR.
SPC, U.S. ARMY
HHC, 16th MP BDE (ABN)
III CORPS
APO AE 09391

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MOTION TO
COMPEL EXPERT
APPOINTMENT
10 June 2004

RELIEF SOUGHT

The accused, by and through detailed defense counsel, respectfully requests that the Court order the government to provide an expert investigator in order to aid the defense. The defense respectfully requests that this expert be a member of the defense team. As such, this expert would be bound by the attorney-client privilege, as representative employed by or assigned to assist the defense, in accordance with Military Rule of Evidence 502. In addition, pursuant to R.C.M. 906, the defense respectfully requests that the proceedings against SPC Charles A. Graner, Jr. be abated until investigative expert assistance is provided to assist the defense in this case.

BURDEN OF PROOF AND STANDARD OF PROOF

The Defense must show, by a preponderance of the evidence, that there is a convincing need to appoint an expert investigator to the Defense team.

FACTS

(b)(6)2; (b)(7)(C)2

1. On 1 June 2004, the defense requested the convening authority appoint an expert investigator to assist in the preparation of the defense case. (See Memorandum for Commanding General III Corps, dated 1 June 2004; email to CPT [REDACTED] dated 1 June 2004). To date, the defense has received no answer from the convening authority or the government counsel.
2. The accused is charged with Conspiracy to Maltreat Subordinates, Dereliction of Duty, Maltreatment of Subordinates, Assault, Adultery, Indecent Acts and Obstruction of Justice for alleged misconduct that occurred while he was a guard at Abu Ghraib Prison. These allegations span a range of three months. In addition to the CID investigation into the accused's case, two general officers have conducted their own investigations into the overall conditions and other alleged misconduct at Abu Ghraib during this same time frame. Other government agencies- including the Central Intelligence Agency, Office of the Inspector General- have also conducted inquiries into misconduct by civilians at Abu Ghraib Prison.

027031

3. The accused's court-martial was referred to trial on 14 May 2004.

WITNESSES/EVIDENCE

The defense will produce the following documentary evidence:

Memorandum for Commanding General, III Corps, dated 1 June 2004; and
Email to CPT [REDACTED] dated 1 June 2004.

(b)(6)2; (b)(7)(C)2

The defense does not intend to call any witnesses at this time.

LAW

Ake v. Oklahoma, 470 U.S. 68 (1984);
United States v. Garries, 22 M.J. 288 (C.M.A. 1986);
United States v. Gonzales, 39 M.J. 459 (1994);
MANUAL FOR COURTS-MARTIAL, UNITED STATES, RULE FOR COURT MARTIAL 906,
(2002); and
MANUAL FOR COURTS-MARTIAL, UNITED STATES, MILITARY RULE OF EVIDENCE 502,
(2002).

ARGUMENT

1. The Supreme Court has long recognized that when the government brings the weight of its judicial powers to bear on the accused in a criminal proceeding, it must take steps to assure the accused has a fair opportunity to present his defense. See Ake v. Oklahoma, 470 U.S. 68 (1984). As a matter of military due process, an accused is entitled to investigative or other expert assistance when necessary for an adequate defense. See United States v. Garries, 22 M.J. 288 (C.M.A. 1986).

2. Per United States v. Gonzales, 39 M.J. 459, 461 (1994), there is three-pronged test to determine the necessity for expert assistance:

- a. Why is the expert needed?
- b. What would the expert accomplish for the defense?
- c. Why is the defense counsel unable to gather and present the evidence that the expert assistant would be able to develop?

3. **Why is the expert needed?** An investigator is needed in this case to sort through the complicated issues of fact, discover the extensive amount of documentation produced by ongoing investigations, and interview the staggering number of potential witnesses.

- a. The defense wishes to contact and interview the Iraqi detainees at Abu Ghraib prison and other coalition confinement facilities, former detainees, the alleged Iraqi

027032

victims, and Iraqi security guards that were involved with the allegations against SPC Graner. The information obtained from these individuals could be vital in presenting a defense or extenuation or mitigation evidence on behalf of SPC Graner.

b. The defense also wishes to locate and interview the Army CID Special Agents, civilian intelligence personnel, civilian interpreters and interrogators, Army military intelligence personnel and Army military policemen from the accused's unit. A great many of these military witnesses were reservists who have since been deactivated and returned to their home units of assignment and/or their civilian jobs.

c. The defense wishes to contact and interview the acquaintances, neighbors, close friends, civilian employers and relatives of SPC Graner to prepare a case in extenuation and mitigation.

d. The defense seeks to discover the background files, interrogation records and criminal history of certain Iraqi detainees, formerly at Abu Ghraib Prison, who have implicated the accused in their statements to CID. The defense also seeks documents from the two General Officer Investigations into Abu Ghraib and the CIA Office of the Inspector General investigation as well. The defense will try to locate training records, rules of engagement, standard operating procedures, policy memos and log books from the military police units, military intelligence units and civilian contractors working at Abu Ghraib prison.

4. What would the expert accomplish? The investigator will enable the accused to gather potentially exculpatory documentary evidence and testimony to present in the accused's case-in-chief at trial. The investigator will assist the defense in preparing for adequate cross-examination of government witnesses by uncovering factual inconsistencies, prior inconsistent statements, bias, and evidence of untruthfulness, criminal background or anti-coalition activities. Finally, the investigator will help the defense put together a sentencing case by helping to interview family, friends, civilian employers, co-workers of the accused.

5. Why is the defense counsel unable to accomplish what the investigator could?

a. For many of the Iraqi, civilian and reservist witnesses, the defense has neither social security numbers/identity numbers nor current telephone numbers or addresses of these potential witnesses; tracking them down involves far more effort than simply contacting the worldwide locator service or the local telephone book. The defense counsel does not have a dedicated commercial telephone line to call these witnesses even if he could locate them.

b. The sheer volume of potential witnesses and documentary evidence is beyond the capacity of one defense attorney to adequately sort through unassisted. The government has had dozens of CID investigators and interpreters working for weeks to build their case against the accused. Likewise, the two General Officers have had legions of dedicated investigators and expert working for their staffs to produce their reports. By

027033

contrast the defense asks only for one investigator to manage the overwhelming investigative work left to be done. The defense counsel will not be able to manage this task alone in the time remaining before trial.

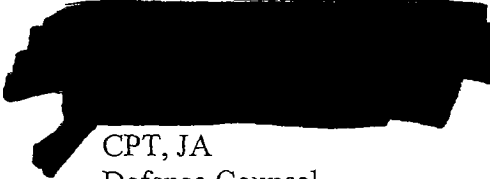
c. To track down these witnesses and documents requires the skills of a professional investigator. To become a competent investigator requires training and experience. The defense counsel cannot become an expert investigator in the time allotted.

6. In the absence of expert assistance in these areas, the accused would be denied his fundamental due process right to a fair trial and to an adequate defense.

IV. CONCLUSION

For the reasons above, the Defense requests that the court order the appointment of an investigator, covered by the attorney-client privilege, to the defense team. Likewise, the Defense requests that this court abate the proceedings until such time as this expert is appointed.

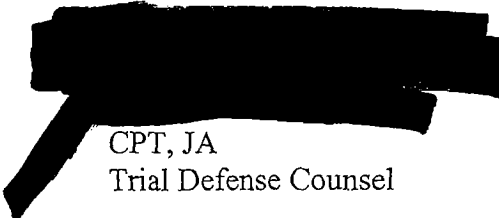
Defense reserves the right to introduce additional case law at oral argument on these motions.


CPT, JA
Defense Counsel

all (b)(6) 2 ; (c) 2

CERTIFICATE OF SERVICE

I certify that copies of this motion were served upon the government and military judge via electronic mail on 11 June 2004.


CPT, JA
Trial Defense Counsel

027034



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
REGION IX, CAMP ANACONDA BRANCH OFFICE
APO AE 09391

REPLY TO
ATTENTION OF
AFVC-JA-TDS

18 June 2004

all (b)(2); (C)2 unless otherwise indicated

MEMORANDUM FOR RECORD

SUBJECT: Partial Verbatim Transcript of Article 32 Hearing in United States v. Graner

1. Defense counsel certifies that he listened to a portion of the Article 32 audio recording provided by the government counsel and produced a verbatim transcript (see below). The recording was taken from File DM 10054, starting at 49:00 minutes and going until the end of the file. The total running time was approximately 10 minutes. This is a true and accurate transcription to the best of defense counsel's knowledge and belief.

2. **Verbatim Transcript.** "G" represents statements made by the government counsel (CPT [redacted]). "D" represents statements made by the defense counsel (CPT [redacted]). "T" represents statements made by the investigating officer (MAJ [redacted]).

Start 49:00

G- Sir, as to the co-accused Specialist [redacted] and [redacted] We have an email that we'd like to provide for the record for each one that states that each one is represented by counsel. *(b)(5); (C)5*

D- May I see that before you hand that to the IO.

D- OK. This person is no longer representing Specialist Graner. That's me- not CPT [redacted]

I- So I have emails from the Trial Defense Counsels from [redacted] n. OK. *(b)(5); (C)5*

G- Sir, as to SPC- uh, PFC [redacted] SPC [redacted] CPT [redacted] SGT [redacted], SPC [redacted] CPL [redacted] SPC [redacted] SSG [redacted] SGT [redacted] They are all outside the one hundred miles. *(b)(5); (C)5*

D- Sir, if I may, I have a memorandum for the record here [shows the government]. Sir I am going to show this, but I ask to retrieve it because it is my only copy. Sir, what is this?

I- That is a Memorandum For Record witness availability determined by the initiating officer- uh, me- on the United States versus Graner.

D- OK, sir. I have an unsigned copy. Do you have a signed copy?

I- Yes, I do.

D- Is it identical to that?

027035

*All (b)(2);(7)(C) 2
Unless noted otherwise*

AFVC-JA-TDS

SUBJECT: Partial Verbatim Transcript of Article 32 Hearing in United States v. Graner

I-Yes- let me just make sure. Yes it is.

D- May I retrieve it.

I- Your copy or mine?

D- Mine. My copy would be fine. As long as there is a signed copy.

I- I do have a signed copy. I apologize for not putting "original signed" on there.

D- Ok, sir. I just wanted to make sure. With respect to those witnesses- SPC [REDACTED],
CPT [REDACTED], SGT [REDACTED], SPC [REDACTED], CPL [REDACTED], SPC [REDACTED], SSG [REDACTED]
and SGT [REDACTED] do you have any personal knowledge of their whereabouts, whether
they are within one hundred miles of this investigating- uh, this place of hearing or not.

I- No, I do not.

D- Has the government made any representations to you that they have investigated whether
any of these individuals are within the hundred mile radius?

I- No proof. Just email.

D- Have you undertaken to contact by telephone or arranged to contact by alternate means of
testimony listed in RCM 405- uh, standby and I'll have it for you. RCM 405(g)(4) alpha roman
numeral two- statements taken under oath by radio, telephone or similar means. Have you
taken any steps to secure their testimony through alternate forms of testimony?

I- No I have not

D- Has the government taken any steps to secure any of these witnesses by alternate forms of
testimony?

I- Government?

G- Sir, I will ask sergeant [REDACTED] speak to this at that point. He can tell you exactly what steps
we have taken to identify these people and what steps we've taken to do telephonic.

[SFC Bostic begins to speak]

D- I would ask that if we are going to take evidence or an explanation as to the governments
efforts to locate these witnesses, then all evidence has to be taken under oath. CPT [REDACTED]
welcome to call Sergeant [REDACTED] as a witness but right now there is no evidence before you that
these individuals are or are not within the hundred mile radius.

all (b)(6); (7)(C) 2

AFVC-JA-TDS

SUBJECT: Partial Verbatim Transcript of Article 32 Hearing in United States v. Graner

G- I just made representations. I can make those representations now on behalf of sergeant [REDACTED]. We can call Sergeant [REDACTED] don't know if that's necessary. If you don't believe what we're saying. It's the government's responsibility along with the investigating officer to make provisions, to provide witnesses on behalf of defense and for us and we've done that. Earlier on, the 372d was here. Most of the people in the 372d were here. They were sent to redeploy. They went to Kuwait. They were since extended. In that extension they were ordered to go to Talil- that's my understanding from our S-3 at 16th MP Brigade who is now responsible for them- that they have been reassigned to Talil Air Force Base, which is over a hundred miles. They are now somewhere between Kuwait and Talil. And it's difficult as Sergeant [REDACTED] said to get in touch with their commander but they are certainly no longer in this area. Some of these guys were here and present at some of the other Article 32s. At this point, we have tried to get telephonic communications. III Corps has tried to set up in this room telephone- telephone access. There is no telephone other than the one that sits on the wall, the DNVVT Sergeant [REDACTED] has also tried to purchase in country some sort of speaker phone. At this point we have been unable to secure any type of this kind of communications. So that is our difficulty in having telephonic and the whereabouts.

I- So, you have attempted to telephonically contact these witnesses? Or have you based your hundred mile situs of the investigation on the unit in total being in Talil?

G- Yes, That's correct sir. The unit in Talil.

D- Sir, I just want to clarify. You personally have no personal knowledge of the whereabouts of the individuals listed in paragraph 1(c) of your memorandum?

I- I do not have any personal knowledge.

D- You have not attempted to have alternate means of testimony for these individuals. Is that correct?

I- That is correct.

D- I would ask that the government counsel please state what efforts they have made to have alternate means of testimony- be it radio, telephone or something like that- for the individuals listed in your memorandum one Charlie.

AFVC-JA-TDS

SUBJECT: Partial Verbatim Transcript of Article 32 Hearing in United States v. Graner

G- Again, I would say that III Corps and 16th MP Brigade have both tried to bring in telephones that would allow such communication. As you know in the country right now such communications are difficult. It's difficult to communicate within Victory Base let alone outside of Victory Base. But we have no capabilities at this time. It's my understanding that we do not have a speaker phone at Victory Base, maybe not even in country at this point. But the phone lines are not going to allow for that. DNVT lines won't allow for that. We can't just hook up a speaker phone to a DNVT line. It would have to be a DSN line, some sort of commercial line that would allow for a speaker phone. We are without access to that. Sergeant [REDACTED] has made efforts and its ongoing at this point to do so.

(b)(2);(D)2

D- Sir, may I ask that- It's my understanding that you made a preliminary determination as to witness availability or non-availability for the people listed in one Charlie of your memorandum. I would ask you sir whether you will change or standby that determination of witness availability for those witnesses?

I- OK, I have noted your objection. It's an objection?

D- I just want you to clarify, sir.

I- OK

D- based on what effort you've taken and what efforts the government has taken to locate and establish communications with these individuals.

I- I am satisfied. I still stand by. To answer your question, I still stand by the determination in one c. It does not outweigh the difficulty, extent, delay on military operations to obtain these witnesses.

D- I would ask that for the record you note my objection to your determination of unavailability of those folks listed in paragraph one Charlie of your memorandum. It is the defense's position that inadequate means to establish the whereabouts, to offer points of contact, telephone numbers for these individuals was made. Very little personal effort- if none at all- was made by any part of the government to contact these individuals, and as such, there is an inadequate basis to determine whether they are in the 100 mile radius.

I- Objection noted.

all (b)(6)4; (7)(C)4 except
as noted

AFVC-JA-TDS

SUBJECT: Partial Verbatim Transcript of Article 32 Hearing in United States v. Graner

G- With respect to the detainees, [REDACTED] I'll just read paragraph 1d of your memorandum and the names listed before [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. Again, it is the government's position that they were not available to come here. That was an impossibility because of security reasons. We would ask you to declare them unavailable. However if you feel that their testimony was necessary as to the 32, then we note that there is sworn statements by each of these individuals as well. We suggest that we would have to go with those.

I- And we have spoken about those earlier in the trial.

D- Yes, sir. I am just renewing my objection.

I- Objection noted.

G- With respect to [REDACTED] and [REDACTED], they were released from BCCF at some point, we have no information on their whereabouts.

D- Sir, if I may. The defense still objects to [REDACTED] and [REDACTED] nonproduction. Sir, have you made any personal efforts to locate the whereabouts of detainees [REDACTED] and [REDACTED]

I- No I have not

D- Have you done any investigation on your own into their whereabouts?

I- Other than the emails from the government, no I have not.

D- At this time, I would ask the government counsel to detail what efforts they have made to locate detainees [REDACTED] and [REDACTED]

G- We contacted CID at BCCF and gave them a list of the entire, all the detainees. And they went over to inprocessing to the PLD guys who are the keepers of the records of who is where. And CID, Agent [REDACTED] sent me back an email, a list of the whereabouts of these detainees. In my memorandum, in my email that I sent back, I believe I specified in detail where each one was. That we knew where they were. That was our record sir.

(b)(6); (7)(C)1
G- As to Special Agent [REDACTED], we talked to CID. He or she -I'm not sure- has redeployed back to the United States. SPC [REDACTED] has obviously also been redeployed. SGT [REDACTED] and SGT [REDACTED] are also part of the 372d and are both in either Kuwait or Talil- outside the hundred mile limit. COL [REDACTED] has redeployed to the United States. CPT [REDACTED] as redeployed to the United States. BG Karpinski- it's my understanding that she has been redeployed to the United States. That was when 16th MP Brigade replaced 800th MP Brigade. That was back in January. She's been redeployed since then.

Call (b)(6)2;(b)(7)(C)2 except as noted

AFVC-JA-TDS

SUBJECT: Partial Verbatim Transcript of Article 32 Hearing in United States v. Graner

I- CPT [REDACTED] is that who you are saying?

G- No CPT [REDACTED] an attorney, a JAG officer who was over at BCCF. He has redeployed.

D- Sir, have you made any personal efforts to locate Special Agent [REDACTED] SGT [REDACTED], SPC [REDACTED] SGT [REDACTED], COL [REDACTED] CPT [REDACTED] or BG Karpinski?
(b)(6), (b)(7)(C)

I- No, I have not.

D- OK. Have you attempted to establish an alternate means of communication, to track down telephone numbers or to secure an alternate means for them to testify here today?

I- No, I have not.

D- Again, sir, on the two detainees listed in paragraph 1 echo and these people listed in paragraph 2, we would object not only to their non-production but also to their non-availability determination. The government collectively has not tried, has not made personal efforts to have them here, to have their location or to secure alternate means for them, to testify by phone, radio, etc.

G- As to paragraph three, sir, we have not been able to find those individuals at this time. We continue to attempt to do so.

I- OK

D- Have you personally tried to locate or contact Mr. [REDACTED] Mr. [REDACTED] Johnson or Mr. [REDACTED]
(b)(6)-4; (b)(7)(C)4

I- No, I have not.

D- Have you sought assistance from CID or any other government agency or contacted Titan or CACI Corporation?

I-No, I have not.

D- At this time, we would object to their non-production and to the determination of non-availability. Actually you have not ruled on their non-availability, so I would reserve that objection until your determination.

I- Objection noted.

I- Captain [REDACTED] is there anything else?

AFVC-JA-TDS

SUBJECT: Partial Verbatim Transcript of Article 32 Hearing in United States v. Graner

D- With respect to witnesses, no, sir.

3. POC is the undersigned at DNVT 529- [REDACTED] [REDACTED]@us.army.mil.

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[REDACTED]
CPT, JA
Trial Defense Counsel

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These are indeed actions that go against the very core values of America. I want to say, however, that I believe the military responded properly immediately. And I want to join with Senator Lieberman's courageous comments and strong comments about how we do not need to dishonor the soldiers out there this very day, at risk of their lives, with holding firing weapons, being in hostile situations, taking chances with their own lives, to protect the people of Iraq.

SESSIONS: And yes, this is a serious problem, and we need to do something about it. And those who dishonored -- those soldiers need to be punished.

But I feel strongly that the military deserves a lot of credit here. And I want to go over this chart, General Myers, that you have there.

First, I want to say to Secretary Rumsfeld, thank you for your leadership, and all of you there.

And yes, you have some complainers in the Congress, but we voted to send our soldiers to this effort. Nobody else authorized you to go; we voted to support it.

And I would also note that terrorists aren't happy with you either. I saw they put a \$15 million bounty on your head, along with General Kimmitt and General Sanchez. And I thank you for that service.

MYERS: Senator Sessions, do you want me to go through that...

SESSIONS: Yes, I'd just like to ask you a little bit about it because our time is short.

But as I see back in August of last year, you appointed an assessment team. Is that right? Long before this occurred.

MYERS: Right. As I said in my opening statement, I think we ought to have a lot of confidence in our military leadership, handling the detention situation in Iraq.

It was on 11 August that General Sanchez was worried about detention and interrogation ops, and that resulted in General Ryder going over there and submitting a report.

We, kind of, pushed General Miller on him in August of '03, to look -- because he was so successful in Guantanamo, look at our detention operations to make sure we're doing it right. And that we're also -- that it's well-connected, that the intel is getting to the analysts and so forth, so we can win this...

(b)(7)(D)

SESSIONS: Now, was this in response to any immediate complaints, or was it on your own initiative?

MYERS: That was our own initiative...

SESSIONS: Go ahead.

MYERS: ... and that was a discussion between the secretary and myself and our staff.

The abuse, you can see when it took place. When we were told of the abuse was 13 January '04.

MYERS: The next day, the Army, their police, the Criminal Investigative Division, went on that particular case. We talked about the press.

SESSIONS: No, let's slow down. On January 14th, you started a criminal investigation based on the complaint of one soldier. And on January 16th, Major General Kimmitt briefed the world about the investigation commencing. Is that correct?

MYERS: Right. And he talked about abuse. And as I remember, he said there may be pictures involved with this abuse as well.

And then it was three days later where General Sanchez, based on that criminal investigation that he had started, that he asked for an investigating officer -- turned out to be Taguba -- to look at this M.P. brigade that was responsible for detention operations in Abu Ghraib and those three other locations.

It's important to point out as we go through it, and I had it in my opening statement, and I know we need to do things quickly and full disclosure and everything, but this 15-6 report, is what's called in the Army, the Taguba report, can result in administrative action such relief from command and other administrative admonishments to military personnel. So it has to be very, very thorough.

And that's why you'll see it was started and requested in 16 January. It was not approved by General Sanchez until 1 May, and the reason it isn't is because, as you go through the various chains, the people that are implicated in wrongdoing have a chance to look at the report and rebuttal the report. And that's part of this process that I think we owe it to our troops to uphold.

SESSIONS: But, General Myers, on January 18th, according to that chart, the 320th M.P. Battalion had leadership suspended, is that correct?

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MYERS: That's correct.

SESSIONS: In other words, that's a pretty dramatic action to take, is it not?

MYERS: It is. It is but the first look by the Army CID I think gave him the indications that things aren't right.

SESSIONS: Now, this wasn't by any pressure from the media or anyone else, this was the military's own decision that their high standards had been violated and that strong actions...

MYERS: General Abizaid, General Sanchez and his folks, absolutely.

SESSIONS: And I know some in this committee have complained when you took strong action against a brigade commander publicly that he fired a weapon as part of an interrogation effort; fine record. You took strong action on that case. And some of us in Congress complained you were too tough.

MYERS: The standards are the standards.

WARNER: Thank you very much, Senator.

We thank you for your service, all of you.

Senator Reed?

REED: Thank you, Mr. Chairman.

Let me begin by stating the obvious. For the next 50 years in the Islamic world and many other parts of the world, the image of the United States will be that of an American dragging a prostrate naked Iraqi across the floor on a leash. This is unfair to the honor and the courage of our soldiers, but unfortunately I think it's become a fact. This is a disaster.

Mr. Secretary, let me follow up on your proposed commission. As I understand your comments, this commission or this group of people will not have the authority to call witnesses to obtain material independent of your investigation. They'll simply review what you're doing.

RUMSFELD: We will be happy to give you a copy of the draft charge to the individuals. They will have, I can assure you, the absolute, full cooperation of the Department of Defense.

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REED: Will they have the opportunity to call individuals to testify?

RUMSFELD: Indeed.

REED: Thank you.

RUMSFELD: I wouldn't use the word testify. But certainly they can call individuals.

REED: Mr. Secretary, the Taguba report indicated the principal focus of Major General Miller's team was on the strategic interrogation of detainees, internees in Iraq. Among its conclusion and its executive summary where that CJTF-7 did not have authorities or procedures in place to affect the unified strategy to detain, interrogate and report information from the detainees-internees in Iraq.

REED: The executive summary also stated that detention operations must act as an enabler for interrogation -- an enabler for interrogation.

When General Miller was involved with Guantanamo DOD operations in another theater, he was sent to Iraq -- I don't think major generals in the United States Army make up policies about strategic interrogation of detainees unless they've coordinated and communicated to higher headquarters.

Did you ever see, approve or encourage this policy of enabling for interrogation? Did Secretary Cambone ever see, approve or encourage this policy at either facility?

RUMSFELD: I don't recall that that policy came to me for approval. I think that what we knew from the beginning, since September 11th, is that we had three issues with respect to people that were detained.

One issue was to get them off the street, so they can't kill again more innocent men, women and children, and keep them off. A second was the question of criminal prosecution for wrongdoing. And the third was to interrogate and see if additional information could be found that could prevent future terrorist acts against our country or our forces or our friends and allies.

So all of those things have been part since the beginning. They're different functions, as you point out...

REED: Is that Secretary Cambone's view too? Did he either see, approve or encourage? He's behind you. Can he respond?

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RUMSFELD: Sure he can respond.

CAMBONE: Sir, the...

WARNER: Would you identify yourself for the record, please?

CAMBONE: Yes, sir. My name is Steve Cambone. I'm the undersecretary for intelligence, Senator.

The original effort by the major general was done down with respect to Guantanamo and had to do with in fact whether or not we had the proper arrangement in the facilities in order to be able to gain the kind of intelligence we were looking from those prisoners in Guantanamo.

CAMBONE: We had then in Iraq a large body of people who had been captured on the battlefield that we had to gain intelligence from for force protection purposes, and he was asked to go over, at my encouragement, to take a look at the situation as it existed there. And he made his recommendations. His recommendations were that.

REED: Were the recommendations made to you, Mr. Secretary? Did you approve them?

CAMBONE: To me directly, no. They were made to the command.

REED: But you were aware of the recommendations about...

CAMBONE: I was aware of those recommendations.

REED: ... enabling interrogation?

CAMBONE: Excuse me, sir?

REED: You were you aware of those recommendations?

CAMBONE: I was aware that he went over, made the recommendation that we get a better coordination between those who are being held and those who are being interrogated.

REED: Mr. Secretary, were you aware that a specific recommendation was to use military police to enable in the interrogation process?

CAMBONE: In that precise language, no. But I knew that we were trying to get to the point where we were assuring that when they were in the general population, those that were under confinement were not undermining the interrogation process.



(b)(6);(b)(7)(C)



REED: So this was Major General Miller's own policy?

CAMBONE: No, sir, it was not a policy. It was a recommendation that he made to the command.

REED: And so General Sanchez adopted this policy, making it a policy of the United States Army and the Department of Defense without consultation with you...

CAMBONE: Sir, I don't think that's a proper rendering of it.

REED: Well, I don't know what the proper rendering is, but that seems to be at the core of this issue. Were you encouraging a policy that had military police officers enabling interrogations which created the situation where these...

CAMBONE: No, sir.

RUMSFELD: May I comment? I think that that is -- it is probably best put this way.

There are different responsibilities: detaining and interrogating. However, they do need to be looked at together.

They found in Guantanamo that how they are detained, in terms of the rhythm of their lives, can affect the interrogation process, and so the linkage between the two is desirable if in fact you're concerned about finding more information that can prevent additional terrorist acts or, in the case of Iraq, the killing of our forces in Iraq.

RUMSFELD: So it's important that there be a linkage, a relationship. That is not -- the way it can be put is that it has a bad connotation. And goodness knows that's not desirable or a policy that General Miller would have recommended. On the other hand, it could be...

(CROSSTALK)

REED: Well, the policy seems to be...

WARNER: Senator, I have to ask if you would require the witnesses to provide the further responses for the record.

REED: Mr. Chairman, I will certainly ask for his responses.

WARNER: Thank you very much, Senator.

Senator Collins?



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COLLINS: Mr. Secretary, the vast majority of American troops performed their duties with compassion, fairness and courage. This abuse makes the task which they've been assigned far more difficult and far more dangerous, and that troubles me greatly.

Worst of all, our nation, a nation that, to a degree unprecedented in human history, has sacrificed its blood and treasure to secure liberty and human rights around the world now must try to convince the world that the horrific images on their TV screens and front pages are not the real America, that what they see is not who we are.

That is why, Mr. Secretary, I'm so troubled by the Pentagon's failure to come forward, to fully disclose this appalling abuse, to express outrage and concern and to outline swift, tough, corrective actions.

COLLINS: I believe that had you done that, it would have mitigated somewhat how this abuse has been perceived around the world, particularly in the Muslim communities.

I'm not talking about issuing a press release from Baghdad. I'm talking about you personally coming forward and telling the world what you knew about this abuse.

In retrospect, do you believe that you erred in not coming forward, not just to the president and the Congress -- you've made very clear today that you regret not doing that -- but to the world community? Would it have made a difference if it had been the Pentagon itself that had disclosed the full extent of this abuse, whatever you knew, and what actions you were going to take?

RUMSFELD: I think in my statement I responded in full to your question. The -- I would characterize what was done in the Central Command by way of swift, corrective action as being just that -- swift, corrective action.

And second, the -- I don't know quite how to respond to your question. The Department of Defense announced that their abuse was being charged, there were criminal investigations under way. No one had seen the photographs.

RUMSFELD: They were part of a criminal investigation. And they were in that Central Command -- I say no one in the Pentagon had seen them. And they were part of that investigative process.

It is the photographs that gives one the vivid realization of what actually took place. Words don't do it. The words that there were abuses, that it was cruel, that it was inhumane -- all of which is true - - that it was blatant, you read that and it's one thing. You see the

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photographs and you get a sense of it and you cannot help but be outraged.

Now, there are -- at any given time in the Department of Defense as I said, there are these 3,000 courts-martial under way, general courts-martial some 1,200, criminal investigations 18,000 a year last year. And the importance of protecting the people charged, protecting their rights, and the importance of seeing that if in fact they're guilty that they don't get off because of command influence. So there's a pattern of not reaching down into those things, bringing them up and looking at all the evidence before it ever arrives. And in this case, it was released to the press.

Now, we announced the problem to the press. We did not release the Taguba report to the press. That was done by someone to release against the law a secret document.

That's how it surprised everyone. It shocked the Congress. It shocked me. It shocked the president. It shocked the country.

But to suggest that they had not taken tough, swift, corrective actions in the Central Command, it seems to me is inconsistent with what took place.

COLLINS: Well, Mr. Secretary, that's not what I said. What I said -- and I have no doubt that the military is committed to swift corrective action. It's the disclosure of the abuse and the promise to take those actions -- that's where I feel the Pentagon fell short.

And I think that rather than calling CBS and asking for a delay in the airing of the pictures, it would have been far better if you, Mr. Secretary, with all respect, had come forward and told the world about these pictures and of your personal determination -- a determination I know you have -- to set matters right and to hold those responsible accountable.

RUMSFELD: Well, Senator Collins, I wish I had done that. I said that in my remarks.

I wish I knew -- and we've got to find a better way to do it. But I wish I knew how you reach down into a criminal investigation when it is not just a criminal investigation, but it turns out to be something that is radioactive, something that has strategic impact in the world. And we don't have those procedures. They've never been designed.

We're functioning in a -- with peacetime restraints, with legal requirements in a war-time situation, in the information age, where people are running around with digital cameras and taking these

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unbelievable photographs and then passing them off, against the law, to the media, to our surprise, when they had not even arrived in the Pentagon.

WARNER: We have to move on.

RUMSFELD: There isn't a person at this table, except General Smith, who'd even seen them.

WARNER: You're free to amplify that for the record if you wish, Mr. Secretary.

WARNER: Senator Akaka?

AKAKA: Thank you, Mr. Chairman.

Secretary Rumsfeld, according to General Taguba's report, civilian contractors were found wandering around Abu Ghraib unsupervised and with free access to the detainee area. I have two questions on that.

What are the roles of the private contractors at this and other detention facilities in Iraq and Afghanistan? And who monitors and supervises these contracted employees?

RUMSFELD: The answer is that the civilian contractors, as I indicated, numbered something like 37 in this particular facility. They tend to be interrogators and linguists. And they're responsible to military intelligence who hire them, and have the responsibility for supervising them.

BROWNLEE: Sir, if I might...

WARNER: Secretary Brownlee?

BROWNLEE: ... in the theater, we have employed civilian contract interrogators and linguists. The Central Command has done this. And these people have no supervisory capabilities at all; they work under the supervision of officers in charge or non-commissioned officers in charge of whatever team or unit they are on.

And they, most of them, are retired military. And they are usually of the skill that they retired in and that's what they're employed for.

BROWNLEE: And they assist in these processes, but they are not in a supervisory role. In fact, they would be forbidden from doing that because it would be inherently governmental.

SMITH: Sir, I might add to that -- in this particular case there's a

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tiger team that interrogates and goes through that process. One is an interpreter, normally. One is an analyst. And one is an interrogator. And where we have shortages in the military of interrogators and translators, we go to contractors to do that.

And I said the numbers wrong. The numbers were 27 is how we -- are the number of contractors we have with CACI for interrogators. Then we have hundreds of translators that are under contract throughout the country under Titan Corporation.

AKAKA: Secretary Rumsfeld, the allegations of abuse at this detention facility has been characterized as sadistic, blatant, wanton criminal abuses.

So far, we have discussed allegations against military members. Are there allegations of abuse against contractors who are working with military members? If so, are any of these allegations being investigated?

RUMSFELD: There -- my recollection is, and I think it's OK to say this, is that the investigations are ongoing and that time will tell.

Go ahead, General.

SMITH: There are two contractors that are being investigated under the investigation for the military intelligence brigade and that is the -- from the recommendation from the Taguba report.

AKAKA: Mr. Chairman, I want to say I recently traveled to Iraq and Afghanistan, and I was so impressed with the professionalism of the men and women serving in our military who I had the opportunity to meet.

AKAKA: And I want to say that I'm really proud of what they are doing there.

General Myers, General Taguba's AR 15-6 report finds a general lack of knowledge, implementation and emphasis of basic legal regulatory, doctrinal and command requirements within the 800 M.P. Brigade and its subordinate units.

Understanding that there is an issue with authority between the military police and military intelligence units at Abu Ghraib, how is it that an entire brigade could be deployed to Iraq and not trained for their mission?

WARNER: Senator, I'll have to ask that the general provide his response for the record. I thank you for your cooperation.

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AKAKA: Thank you very much. Thank you for your responses.

WARNER: Senator Graham was to have been -- you're up.

GRAHAM: Mr. Secretary, have you seen the video?

RUMSFELD: I have not. The disk that I saw that had photos on it did not have the videos on it. I checked with General Smith and he indicates he does have a disk with the videos on it. I don't know if that means there's two disks with all these photographs or if the photographs are the same and one just doesn't have the video.

GRAHAM: The only reason I mention that, I want to prepare the public. Apparently, the worst is yet to come, potentially, in terms of disturbing events. We don't need to leave here thinking that we've seen the worst. There's more to come, is that correct?

RUMSFELD: I indicated in my remarks that there are a lot more pictures and many investigations under way.

GRAHAM: And my colleagues rightly want it done quickly, but my concern is to do it right, and I don't want to rush to judgment here and let some people go that deserve to be prosecuted, and I would be very disappointed if the only people prosecuted are sergeants and privates.

GRAHAM: That would be very, very bad and sad. So I want it done right and the sooner the better, but I'll pick right over sooner.

I'm confused. General Smith, when did you first learn of these photos and see them yourself?

SMITH: Sir, we knew that there were photos on June 14th because that's how the investigation started -- I mean January 14th. When the soldier...

GRAHAM: When did you see the photos?

SMITH: I saw the photos toward the end of March.

GRAHAM: Who did you tell about the photos when you saw them?

SMITH: Sir, that was part of the investigation. And that went forward. I told my boss.

GRAHAM: Did it dawn on you that when you saw these photos, "We're in a world of hurt. This is going to look bad"?

SMITH: Certainly, sir, if those were released we certainly...

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GRAHAM: General Myers, when you called CBS, had you seen the photos?

MYERS: No, I hadn't.

GRAHAM: What had you been told about what CBS was about to air and by who?

MYERS: They were going to air the photos. We didn't talk about that with CBS.

I, previously in our discussions back in January when they said there photos, they described them to me and the secretary up through the chain of command to the secretary. And I was happen to be there. And it was discussed several times. And the general nature of the photos, about nudity, some mock sexual acts and other abuse, was described.

GRAHAM: When you were informed that these photos, even though you hadn't seen them, were going to come out, who did you tell about that and when?

MYERS: There are a lot of people that knew inside our building.

MYERS: The people that have been working with the media knew that there were photos out there, and the media was trying to get their hands on them from January. So they've been working that for three months.

GRAHAM: At that time, is it fair to say you knew there was a story about to come out that was going to create a real problem for us?

MYERS: At that time, what my concern was was the impact it could have on our forces in Iraq. That was my focus at the time, was, "OK, if these photos are revealed right now, given the intensity of operations, what could be that impact on our troops?"

And my conclusion was this would be the worst of all possible times for these to come forward, realizing that eventually they're going to come forward; I understand that.

GRAHAM: Did you feel the need to inform the Congress or the president or the secretary of defense about the potential damage this could do?

MYERS: We had discussed the potential damage back in January, and in February and in March. And as we marched through those

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events on that chart, a lot of those events were based on our concern with where this might lead. In other words, is there a...

WARNER: We just need to -- could you use the microphone, General, we're missing some of your...

MYERS: OK.

GRAHAM: Long story short, I do trust the people in uniform to get it right. And I want to take the time necessary to make sure the people responsible are brought to justice and anybody innocently accused has their day in court.

You're right, Secretary Rumsfeld.

Here's the problem: It doesn't take a rocket scientist to figure out the explosive nature of these photos apart from court-martial, apart from legal proceedings. And most of us here found out about it on television. And if we knew enough to say, "Don't air a show that's going to be bad," why did we not call the president, call senior members of Congress to prepare us for what we were eventually going to see? That's the essence of my concern about all this.

MYERS: Senator Graham, in my opinion we could have done a better job of informing Congress of this -- of these pictures and this situation. And...

GRAHAM: And that is an honest and fair answer.

And, Secretary Rumsfeld, people are calling for your resignation. Somebody is drafting an article of impeachment against you right now. I've got my own view about people who want to call for your resignation before you speak, but I'll leave that to myself.

Do you have the ability, in your opinion, to come to Capitol Hill and carry the message and carry the water for the Department of Defense? Do you believe, based on all things that have happened and that will happen, that you're able to carry out your duties in a bipartisan manner? And what do you say to those people who are calling for your resignation?

RUMSFELD: Well, it's a fair question. Certainly since this firestorm has been raging, it's a question that I've given a lot of thought to.

The key question for me is the one you pose, and that is whether or not I can be effective. We've got tough tasks ahead. The people in the department, military and civilian, are doing enormously important work here, in countries all over the world and the issue is: Can I be effective in assisting them in their important tasks?

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Needless to say, if I felt I could not be effective, I'd resign in a minute. I would not resign simply because people try to make a political issue out of it.

WARNER: Thank the, gentleman.

Senator Bill Nelson?

BILL NELSON: Thank you, Mr. Chairman.

Mr. Secretary, when did you first see the photos?

RUMSFELD: Last night about 7:30.

BILL NELSON: Mr. Secretary...

RUMSFELD: I should say, I had seen the ones in the press. I had seen the ones that are doctored slightly to suit people's tastes. We've been trying to get one of the discs for days and days and days. And I'm told by General Smith that there were only a couple of these, that they were in the criminal investigation process. And we finally, Dick Myers and I, finally saw them last night.

BILL NELSON: Mr. Secretary, when did you first find out about the abuses?

RUMSFELD: With everybody else, when they were announced by the Central Command January 16th. They announced they had a series of criminal investigations under way, they told the world, the Congress, me, everyone else that they were under way. And then they came back March 20th and said not only are they under way, but now we've got specific charges. And then they detailed some abuses.

You read it, as I say, and it's one thing. You see these photographs and it's just unbelievable.

BILL NELSON: When did you first tell the president, Mr. Secretary?

RUMSFELD: I don't know. Dick Myers and I see the president every week, and he recalls that some time after we were apprised of it through the press, through CENTCOM's announcement, that it was brought up in one of our meetings.

Do you recall?

MYERS: I don't recall specifically because I think the day it was

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brought up it was General Pete Pace that was standing in for me, but he remembers exactly when it was -- well, roughly, with a week or so of when he was in that meeting and informed the president. They talked about it.

BILL NELSON: And was this back in January, Mr. Secretary?

MYERS: I think General Pace would say early February, is what I think he would say. It could have been late January.

RUMSFELD: I meet with the president once or twice a week, we cover eight, 10, 15 different points. General Myers or General Pace are generally there with me. And I don't keep notes about what I do. I just don't remember when it was.

BILL NELSON: And when you all had this discussion with the president, what did the president say that you should do about those abuses?

RUMSFELD: Well, I don't know that I'm going to get into private discussions with the president. If I don't remember when it was, my guess is it was more an information item from us to him where we were transmitting and saying, "here's the problem."

The problem at that stage was one-dimensional. It wasn't three-dimensional. It wasn't video. It wasn't color. It was quite a different thing, and as I indicated in my remarks, if there's a failure, it's me.

It's my failure for not understanding and knowing that were hundreds or however many there are of these things that could eventually end up in the public and do the damage they've done.

But I certainly never gave the president a briefing with the impact that one would have had you seen the photographs or the video. I mean, let there be no doubt about that. He was just as blind sided as the Congress and me and everyone else.

NELSON: Mr. Secretary, what are your instructions from the ... president to inform him of matters such as this?

RUMSFELD: Well, I don't know that I'm going to -- I mean, we have had so many discussions. And clearly, a secretary of defense has the responsibility to try to put himself in the shoes of the president and say, what ought a president to know about all the thousands, tens of thousands, of things that are happening in the Department of Defense at any given time?

And we sit down every week, and General Myers and I go through all the things that we've got going on, and pick and choose and say,

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"What are the things that are appropriate? What do we owe him so that he can provide the kind of leadership that this country deserves? And what is it the department's doing now that we can get in his head and apprise him of, so that he knows about that?"

RUMSFELD: And it may be a contingency plan. It may be a problem of personnel. It may be any -- it just runs the gamut.

WARNER: Thank you, Senator.

Senator Dole?

DOLE: Thank you, Mr. Chairman.

I certainly want to echo the sentiments of my colleagues and the American people by saying that I'm extremely disappointed that any American, and especially one in uniform, would mistreat or humiliate another human being and commit such atrocious acts.

The acts depicted in those photographs shown around the world do not in any way represent the values of the United States of America or our armed forces. I know our military men and women serve their country with great honor.

The abuse of these Iraqi detainees is a serious issue, not just because it violated human rights. It also tarnished our nation's credibility.

Furthermore, the inflammatory actions of a few have provided our enemies with a lucrative venue to question American values and our true intentions in the war on terror.

Unfortunately, a breakdown of discipline combined with a handful of morally deficient individuals has resulted in serious implications for our national security and the security of over 130,000 servicemembers striving to accomplish our goals in Iraq.

Over the past year, through dedication and sacrifice, and, I must emphasize, strong military leadership, our soldiers have made incredible breakthroughs. The United States and its allies have freed 50 million people from oppressive regimes, removed credible threats to our nation's security, destroyed burgeoning terrorist incubators, and set two countries on the path to democratic and free market reform.

DOLE: In Iraq, 2,600 schools have been rehabilitated and now more than 5.5 million children are enriching their minds free from the corruption of a repressive regime and its teachings. Women now have a voice in their own government. All 240 hospitals in Iraq are open. More than 1,200 clinics have been established. And on the



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streets and in the countryside, each day our military medical professionals offer assistance to the citizens of Iraq in addition to caring for their own.

After 30 years of being denied the most fundamental freedoms, today more than 170 independent newspapers are currently operating throughout Iraq, providing each member of that country an opportunity to participate in free and robust debate and, yes, the opportunity to view those horrendous pictures.

Trust among the Iraqi people had slowly been established. Bonds have been made. And sadly for now many of those bonds have been broken.

This legislative body is absolutely correct in focusing on the root causes behind these instances of prisoner abuse and doing everything within its power to ensure that such abuse never, never happens again. And I would expect no less from the Department of Defense to do the same. Transparency is of the utmost importance to our nation's credibility and security.

Fundamental to our success in the global war on terror is winning the hearts and minds of freedom-loving people who were held captive by a violent few. We are not company to that violent element and we denounce anyone who is.

Secretary Rumsfeld, the damage already done cannot be swept away but it can be repaired.

DOLE: You touched briefly on your plans for a way ahead. Could you go into more detail on this plan? Will it require more or different troops, quicker processing of detainees, more Iraqi police involvement?

You mentioned reparations. Could you please provide more details?

RUMSFELD: I don't think I used the word "reparations." I think -- I hope -- I used the word "compensation" for the detainees who were cruelly treated. And I am told that we have -- the lawyers have looked into it and we believe there are authorities where we can do that and it is my intention to see that we do do it, because it is the right thing.

With respect to the processing of detainees, in Iraq a total of 43,671 were captured. We have released 27,796 and transferred 4,054, and we currently detain something in the neighborhood of 11,821 which includes 3,842 of the so-called MEK -- which are really not detainees; they're in a separate status. So it's really closer to 7,000 or 8,000 that are currently detained.

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The key is to process them as rapidly as possible. And General Miller, who was out there and has been addressing all of these things -- they also believe a key element is to see that they are properly identified and that their families know they're there and why they're there and that there isn't a -- it isn't mysterious, and that we continue to process them.

The only people that need to be retained, obviously, are the ones that are either criminals -- and that's a different category, and a number of them are -- or they are individuals who are terrorists and need to be kept off the streets.

Or they have intelligence value and people have got to find out what it is they know so we can track down the remaining remnants of the Baathist regime and the Fedayeen Saddam people and the people that are out killing Iraqis -- not just Americans and coalition people, but are killing Iraqis every single day in that country.

WARNER: Thank you very much, Senator.

DOLE: Thank you.

WARNER: Senator Ben Nelson?

BEN NELSON: Thank you, Mr. Chairman.

And thank you, Mr. Secretary and gentlemen, for being here today.

First of all, I appreciate the apologies. Clearly, the president's apology, I think, is an important step in moving forward, as are the apologies of all of you today, and I think the apology of the American people, for these incidents.

And I agree with my colleague from Connecticut, that what this represents is so unfortunate that it would somehow would adversely impact on the lives and the deaths of those who have served with such distinction for freedom in Iraq.

Last night, I heard Secretary Armitage say that we're in a bit of a hole. I think those are exact words. And when you're in a hole, the first thing you have to do is stop digging. I hope that we have now gotten to the point where we've stopped digging, where we're not making matters worse.

And Mr. Secretary, you're right when you say there are times when words just simply don't do it. Pictures, and perhaps symbols, are more important for expressing or conveying thoughts or images.

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In this case, I think tearing down the statue of Saddam, the statues all over Iraq, was a symbolic gesture to say that there was a new era.

I wonder if it wouldn't be just as important to join together, tear down Abu Ghraib as a statement that the torture chamber of Saddam that carried forth, past and present, is no longer, and create a memorial to freedom in the future and the absence of tyranny of any kind.

BEN NELSON: But what I want to do is I want to get to a question, I think that I'm concerned about, and that is dealing with what seems to be an operative word today: the few and armed services or armed forces.

I think perhaps there are sergeants and privates, as Senator Graham indicated, who have been involved in this activity, and, obviously, the chain of command would be under consideration here. Criminal action will be taken. I suspect responsible action will be taken in terms of the chain of command.

Is it aberrant behavior of a few or can we be expecting to have out of the investigation an indication that there was something more systemic?

I know that we have a two-star Reserve general who has been in some position removed from duty, but isn't there a pretty good indication to date, some expectation that there was a severing of the chain of command somewhere along the line, through military intelligence or other intelligence operations coming in?

It's my understanding that there are reports that General Karpinski was banned from sections of her own prison system. I'm hopeful that we'll be able to get to the bottom of that with the reports. But in the interim, is there anything that you might be able to enlighten us with right now?

RUMSFELD: Well, let me answer a couple of pieces and let General Smith answer the last piece.

First, you say the first rule, if you're in a hole, is to stop digging. I've said today that there are a lot more photographs and videos that exist.

BEN NELSON: I didn't mean that. I mean is anything progressing on today, beyond what we already know and what we're going to find out from past performance?

RUMSFELD: If these are released to the public, obviously it's going

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to make matters worse. That's just a fact. I mean, I looked at them last night, and they're hard to believe. And so beyond notice. That's just a fact.

And if they're sent to some news organization, and taken out of the criminal prosecution channels that they're in, that's where we'll be. And it's not a pretty picture.

Second, there are people who are talking about the Abu Ghraib prison and tearing it down. And certainly that's something that the Coalition Provisional Authority and the Iraqi Governing Council and the Iraqi government, the transitional government, the interim government that will take over by June 30th, will be addressing and deciding.

I think it's -- frankly, from my standpoint, I think it's not a bad idea. But I think it's really up to the Iraqis. And I think much of what's going to happen.

BEN NELSON: Thank you, Mr. Chairman.

Thank you, Mr. Secretary.

WARNER: Senator Cornyn?

CORNYN: Thank you, Mr. Chairman.

Mr. Secretary, listening to the questions and the answers that have been given so far leads me to at least tentatively conclude that there are two major problems here. One is, first, the shock to our collective conscience at what we have seen human beings do to degrade and abuse other human beings. But secondly, the shock to our sensibilities as members of Congress who have a collective responsibility to the American people, to see these pictures in the press.

But I believe that it was General Myers -- and you also -- who talked about what we have seen as being a violation of American values.

CORNYN: I agree with that, but I also want to talk about other American values -- and General Myers alluded to this when he talked about due process. And you mentioned the issue of command influence.

First, I'd like to direct your attention back to the news release that CENTCOM issued on January the 16th, 2004, announcing this investigation. The second and third sentences I want to direct your attention to specifically.

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This news release says, "The release of specific information concerning the incidents could hinder the investigation, which is in its early stages. The investigation will be conducted in a thorough and professional manner."

I think what the American people expect of all of us here is not only that we have high standards of conduct, which I know that the military subscribes to, but we have the training, the oversight, the leadership, the accountability, but also the due process and desire to seek justice when it comes to holding people accountable for their crimes.

And I want to tell you that what you've described here, in terms of this chronology of investigation, gives me confidence that the Department of Defense has taken this matter as seriously as it should have and indeed, as you and others have said, not all the facts are in yet.

But I do see, on this chronology, that indeed after this investigation that there have been criminal charges proffered against some who are guilty of these crimes.

CORNYN: But I would ask you please just to briefly talk about your obligation, in terms of seeing that the persons who are accused of these crimes get that due process and to make sure that the investigation -- that you maintain the integrity of the investigation by not dripping information out on this incident in a piecemeal basis over the course of the past few months.

RUMSFELD: You have your finger on the dilemma, on the tension that exists between assuring that you protect the rights of individuals that are in a serious, difficult, criminal prosecution circumstance and avoiding saying things that either would infringe on their rights or would enable them to escape punishment by virtue of being able to successfully allege that command influence was exercised in a way that prejudiced the decisions up the chain of command. So we have that problem.

And to the extent senior people in the Department of Defense dive down in and start looking in criminal prosecutions in early and mid stages, the hue and outcry would be horrendous.

And yet, on the other hand, if you've got a situation where something like this is buried in there along with 3,000 other courts-martial and buried in there is something of this significance, we've got to find a way to know that.

And our country doesn't need those kinds of shocks. And the troops don't need it.

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CORNYN: Mr. Secretary, I would just conclude...

WARNER: Senator, I have to thank you. We must move on. The panel leaves here and goes over to the House Armed Services Committee.

RUMSFELD: We'll have to leave about 2:30, Mr. Chairman.

WARNER: That is correct. And that was made clear. We will have sufficient time to include our next senator, Senator Bayh, followed by Senator Chambliss, Senator Clinton and Senator Pryor and Senator Dayton.

BAYH: Thank you, Mr. Chairman.

Thank you, gentlemen, for being here today and, in addition to that, for serving our country. These are difficult times and your service is not without some personal cost.

I am going to assume some facts up here and then ask what I think may be two somewhat difficult questions.

I assume that you serve at the pleasure of the president. I assume that he sets a policy for our national security in general and for Iraq in particular. And I assume that he is engaged in overseeing the implementation of those policies and, like you, accepts responsibility for that implementation.

This is a long way of saying, as Senator Byrd mentioned, that in our system we have a tradition of the buck stopping at 1600 Pennsylvania Avenue. And as we're all aware, we're now engaged in a debate about who the occupant of that residence will be come next January.

So in many respects I view this as a question of presidential leadership. How does he react? How aggressively? Does he try and minimize the situation or does he try and take dramatic steps to address the magnitude of the problem?

As has been noted, he has apologized for what took place, and as all of you have indicated, particularly you, Mr. Secretary, the criminal process will move forward. That is a hallmark of our system of justice.

One of the questions that's overhanging this procedure today and the situation in general is, is that enough?

And so the difficult question I'd like to ask is to follow up on the

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question from Senator Graham. Mr. Secretary, I could tell that you struggled in answering his question, that this is something that's been on your mind.

BAYH: Your resignation has been called for; that's a pretty serious thing for any of us. And you answered that if you ever concluded that you could not be effective in discharging your duties, you would step down. But that you would not do so as part of a political witch-hunt, so to speak.

There's another aspect of this, though, I'd like to ask your opinion about, and that is whether, in your opinion -- and I know it is ultimately a decision for the president to make. But in your opinion, even though you weren't personally involved in the underlying acts here, would it serve to demonstrate how seriously we take this situation, and therefore help to undo some of the damage to our reputation, if you were to step down?

RUMSFELD: That's possible.

BAYH: I appreciate your candor.

My second question has to do with some comments that Senator Lieberman made, and I would like to associate myself with what I thought were very appropriate and moving comments by Senator Lieberman.

I believe very strongly that our cause -- and these are not words I use frequently -- but that our cause is morally superior to our adversaries', both the terrorists we fight and those who now seek to undo the future of a free Iraq.

There is growing concern by the supporters of this cause that this situation that we're inquiring into today is part of a broader problem, that the effort may be bogging down, that we may be approaching a tipping point, that momentum needs to be regained if we're going to prevail.

I'd like to just read a couple of sentences from a column in yesterday's New York Times by Tom Friedman, who supported this endeavor in Iraq. He says, "We are in danger of losing something much more important than just this war in Iraq. We are in danger of losing America as an instrument of moral authority and inspiration in the world.

BAYH: "This administration needs to undertake a total overhaul of its Iraq policy. Otherwise it is courting a total disaster for us all." And he goes on to say how he hopes that such an overhaul can be undertaken because we need to prevail in Iraq.

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So my question, Mr. Secretary, my final question is just very simply, do you believe we're on the right course presently? Or is dramatic action necessary to regain the momentum so that we can ultimately prevail in what is a very noble and idealistic undertaking?

RUMSFELD: I do believe we're on the right track. It's a tough road. It's a bumpy road. It's always been bumpy going from a vicious dictatorship to something approximating a representative government that's respectful of its different, varied religious and ethnic groups. It's not an easy path.

I am convinced that we are doing exactly what ought to be done, and that is to pass responsibility for that country to the Iraqis. I am convinced we're doing exactly what ought to be done in recognizing that they need to have the ability to provide for their own security, which is why so much effort's gone into developing police and civil defense corps and an army and border patrols and site protection people.

We do not want America -- they do not want Americans or coalition forces in their country over a prolonged period, and goodness knows we don't want to be there. The only proper way to pass it off is if they have their own security forces. Which is why we're spending the money and making the effort. It's why General Abizaid and General Sanchez and General Petraeus now are over there working that problem. And I think that we've got a crack at doing it.

I don't think it'll be smooth. I think it'll be rough. It'll be bumpy. But if you don't take your hand off the bicycle seat, you're not going to be able to ride the bike.

RUMSFELD: And we've got to do that. And we're doing it.

WARNER: You've got to do that.

Thank you very much, Mr. Secretary, Senator Bayh.

Senator Chambliss?

CHAMBLISS: Thank you very much, Mr. Chairman.

Mr. Secretary, it's interesting that Senator Roberts and I had previously been talking about the fact that one thing that probably should be done is exactly what Senator Ben Nelson just recommended, and that's tear down that wall -- and that wall is Abu Ghraib prison -- to show a sign of another destruction of Saddam Hussein.

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Mr. Secretary, there are different kinds of leaders, and different leaders even provide different kinds of leadership. One easy thing for a leader to do is sometimes hide behind the lower echelon in the chain of command.

And I just want to say to you, I've been prepared to be very critical of you if I needed to be critical today. But by you coming in here and making an admission, as a strong leader, that a mistake was made and that you're going to be doing whatever is necessary to correct that mistake, shows just what kind of leader you are. And anybody who questions your effectiveness and your ability to lead the United States military has had that question answered today. So for that I commend you.

I commend you also for your selection of General Miller. I've been to Guantanamo twice. I was worried about what might happen down there with respect to those detainees. I had the privilege to observe several different interrogations. And I think I was there the day that General Miller first arrived, as a matter of fact. And I observed random interrogations down there.

And General Miller did correct a problem that existed. There were charges of abuse that were much slighter than these charges of abuse, that General Miller dealt with swiftly and directly.

I am concerned, though, about a couple of different things. First of all, General Ryder did make his report following his visit to Abu Ghraib. From the period of October 13 to November the 6th, we had a United States Army general doing an investigation of a prison and the activities that were ongoing in that prison during a point in time when these alleged atrocities took place.

CHAMBLISS: Now, my understanding from General Ryder is that he was never told about any of this while he was there. And I don't understand that. I don't understand how the chain of command could be so faulty within that system to allow that to happen.

The only answer I ever got was that these atrocities occurred on the night shift. Well, the Army doesn't operate 12 hours a day. We operate 24 hours a day. And there's a failure in the chain of command that I hope you're in the process of addressing very directly from that standpoint.

Also, in response to Senator McCain, you made two comments. First of all, that guards are trained to guard people, not interrogate; and that guards are trained in the requirements of the Geneva Convention.

I understand those are policies of the Department of Defense, as well



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they should be. But the fact of the matter is, when you look at page 10 of the Taguba report, you find out that was not done in this case, that these M.P.s simply were not trained in what they were supposed to be doing.

So, again, I hope your folks are moving in the direction of making that correction with respect, particularly, to reservists that are brought on board.

Now, one obvious judgment is that the 800th M.P. Brigade was totally dysfunctional, from Brigadier General Karpinski on down, with few exceptions. And on the surface, you could portray the 800th M.P. Brigade as a Reserve unit with poor leadership and poor training.

However, the abuse of prisoners is not merely a failure of an M.P. brigade. It's a failure of the chain of command, Mr. Secretary.

And what I want to leave here today is, is knowing and taking comfort in the fact that, as Senator Graham said, we're not going to just prosecute somebody with one stripe on their sleeve or four stripes on their sleeve; that you're going to carry this thing to whatever extent is necessary to ensure that there's no good old boy system within the United States Army.

And irrespective of whether they've got a stripe on their sleeve or four stars on their shoulder, that we're going to get to the bottom of this and we're going to make sure that corrective action is taken, and where necessary criminal action is taken against anybody involved in the particular acts or in the shielding of this and the failure or negligence on their part of keeping this information from you in a quick and swift manner.

RUMSFELD: I agree with everything you've said. And there's no question but that the investigations have to go forward. They have to be respectful of people's rights but they have to be handled in manner that reflects the gravity of the situation. And it does not matter one whit where the responsibility falls. It falls where it does.

SCHOOMAKER: Senator Chambliss, I'd like to -- if I might, Mr. Chairman just for a minute, since Senator Chambliss characterized our Army in a way that I don't agree with. It doesn't matter whether a soldier is on active duty in the active component, in the Guard or the Reserve. There's one standard and we expect that our leadership and our soldiers adhere to the same standards, and those are those Army values, the soldiers creed and the things that we all believe in.

So I disassociate with your remarks there that for some reason that because this was a Reserve unit that there isn't a standard that's equal

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to everybody else's.

CHAMBLISS: General, my remarks were not directed toward this unit being a Reserve unit. They just happen to be a Reserve unit.

But the fact of the matter is that the Taguba report says that this unit, which is a Reserve unit, did not receive training during the mobilization. And that was a fault in the system. And it's a fault because they are a Reserve unit.

SCHOOMAKER: Sir, and we're going to look into that. We are looking into it. And if that's true, we're going to correct it. Nevertheless they have one standard.

WARNER: Thank you, gentlemen.

Senator Clinton?

CLINTON: Thank you, Mr. Chairman.

CLINTON: I think, Mr. Secretary, that you can discern from the questions that there are still many issues that we need further clarification on. I particularly look forward to the answer that you will provide to Senator Reed's last question -- following up on his line of questioning concerning the enabling of interrogation by M.P.s, something which, based on Army regulations, was not to be either done or condoned.

But, Mr. Secretary, in January 2002, when you publicly declared that hundreds of people detained by U.S. and allied forces in Afghanistan do not have any rights under the Geneva Convention, that was taken as a signal.

And it is clear in looking through the number of investigations that are currently ongoing, that it wasn't just this particular battalion but others that did not receive appropriate training and information about their responsibilities with respect to detention or the Geneva Convention.

The atrocities that have been depicted in photographs were very graphically, verbally, described in the Taguba report. It doesn't take a lot of imagination to read those descriptions and have one's stomach just turn in disgust.

The focus on the pictures being released is, with all due respect, missing the point. The report was well known, and apparently discussed on numerous occasions. And obviously, the release of the pictures to the entire world was devastating.

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But the underlying conduct, and the failure of the command, both at the site and further up the chain, to act with the appropriate quick response, is really at the heart of what the most serious problems we face here today are.

CLINTON: The information in the Taguba report links the atrocities at Abu Ghraib to Camp Buka. In fact, some of the same people, some of the same command, some of the same M.P.s were involved apparently.

And with respect to the recommendations at the end of General Taguba's report, they call for establishing the conditions with the resources and personnel required to prevent future occurrences of detainee abuse.

I would appreciate, since we don't have time in this round of questioning, to receive for the committee a report about exactly how that is being handled. What changes have been made? Are the Geneva Convention training going on now? Are the appropriate rules being posted in both English and Arabic?

And certainly an explanation as to the adequacy of the punishment that was meted out because, with respect to who was being punished for what, there is a clear distinction -- at least as reported by General Taguba -- between enlisted personnel and those up the command.

But I'm also concerned by a related matter. And let me just quickly reference the case of Chaplain Yee, the Muslim Army chaplain from Guantanamo Bay who was arrested and placed in solitary confinement. Ultimately all of the charges were dropped after his reputation was sullied.

CLINTON: It's obvious that the information about this particular case came from government sources. It was pushed out and it was widely disseminated.

So, Mr. Secretary, how is it that a case with no basis in fact gets such widespread publicity, based on information from government sources, while egregious conduct like that at the Abu Ghraib prison is cloaked in a classified report, and is only made available when the investigation is leaked to the press?

RUMSFELD: Well, Senator, first let me say, with respect to the question that Senator Reed raised, I can't conceive of anyone looking at the pictures and suggesting that anyone could have recommended, condoned, permitted, encouraged, subtly, directly, in any way, that those things take place.

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Second, the decision that was made by the president of the United States that you referred to was announced. And in the announcement it was said that the Al Qaida in Guantanamo that are captured in the world, mostly in Afghanistan, would be treated consistent with the Geneva Convention. That is a fact.

You say the report was well known. I don't know how you know that. All I know is when it made the public, when somebody took a secret document out of prosecutorial channels and released it to the press, I do not believe it was yet anywhere in the Pentagon. Certainly, I had not been given it or seen it.

I quite agree with you. When you read the report, you do get an impression, as you suggested, that there is something much worse than what was in the press release, for example, in January or the discussion in March by the Central Command.

RUMSFELD: But that was not something that had been moved past the Central Command, to my knowledge. It may have been somewhere in the Department of Defense, but certainly I had not received a copy. It was still in those channels.

WARNER: Thank you very much, Senator.

Senator Pryor?

RUMSFELD: Mr. Chairman, I'm going have to remind you that we do have to leave at 2:30. I apologize for that. Normally I'd stay, but we're due in the House, and...

WARNER: That is my understanding, and we're within six minutes of finishing at the 2:30 deadline.

RUMSFELD: Thank you.

WARNER: Thank you very much.

PRYOR: Mr. Chairman, thank you.

I notice that the majority leader came in. Would he like to say a few words? I do not want to knock him out of sequence.

Thank you, Mr. Chairman.

You know, in Arkansas, Mr. Secretary, we have an expression that says you cannot unring the bell. And at this point we know where we find ourselves, and that is these photos -- and as you indicated, there may be more to come, and even videos to come -- are now in the public domain. And we all know that they will be used to undermine



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U.S. credibility for years to come and that they put our soldiers at more jeopardy inside Iraq and other places today than they were just a few days ago.

In fact, this morning, I must tell you, I had trouble explaining the photographs and what's going on inside that prison with my 10- year-old son. They are very, very hard to explain.

Mr. Secretary, let me say this, that there's been a pattern that I have to bring to your attention from our perspective, and if I can just say this. In the last seven days some of things, some of the revelations that we've heard about Iraq, you know, first, for months and months we've asked, "Do you need more troops inside Iraq?"

PRYOR: And in the last few days, even though you've assured us many, many times and many people at the Pentagon and the White House have said "No"; we now have learned that you do.

Secondly, we've asked for weeks and weeks and weeks, maybe months -- Senator Byrd could probably tell you more than I could about that -- about whether you'll need a supplemental.

And originally, the answer was "No," at least not until very, very late in the year. And now it appears that you do.

We've been surprised on those two occasions, now we're surprised today.

And, Mr. Secretary, I must tell you that we do not like these type of surprises here in the Congress. And I don't want to sound glib in asking this question, but let me ask: We know the photographs are coming out, but do you anticipate anything else coming out in a relation to this story that we need to know about today?

RUMSFELD: Well, I'm certain there will be. You've got six investigations going on. You can be absolutely certain that these investigations will discover things, as investigations do, and that they'll elevate other individuals for prosecution and criminal matters. And you can be certain that there's going to be more coming out.

With respect to your other comments, I do need to answer this. I mean, the commanders on the ground, from the beginning, asked for and received all the troops they needed, all the troops they wanted, all the troops they asked for they got them.

You're right. General Abizaid called up and said, "Look, the situation in Iraq is difficult. I'd like to keep an extra 20,000 in this crossover period and go from 115,000 to 135,000."



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RUMSFELD: And we said, "Yes." And I went to the president and the president said, "Yes." And the senior military adviser, General Myers, said he thought that was correct.

And you say you don't like surprises. My Lord, who likes surprises? Nobody in the world likes surprises.

But the world's not perfect. Facts change on the ground. And when facts change on the ground, commanders tell us. And when commanders tell us, they get the troops they need.

Now, on the budget, you don't like surprises. Well, I don't, either. It happens more troops are needed and more money's needed. And it happens that it's a difficult thing for the military commanders to cash flow, taking out of one account to sustain something that came up that was not anticipated. And so the president said, "Fine."

He didn't want to ask a supplemental. General Myers and I went into him and said, "We think we need one." We think that that's not a good way to manage the Department of Defense by jerking money out of one account and sticking it in another account, trying to get reprogramming authority by the Congress. And we said, "We believe that it's the appropriate thing to do."

He didn't want to do it. He knew what he'd said but he said he'd do it. Now, that's not a surprise, it's just a fact.

PRYOR: Mr. Chairman, thank you for your time.

WARNER: Thank you very much.

PRYOR: One last point of clarification, on your chart it says that the...

WARNER: Senator, I'm going to have to ask that you defer to your colleague, Senator Dayton.

PRYOR: Will do. Thank you.

WARNER: Thank you.

DAYTON: Mr. Secretary were you aware, did you authorize General Myers to call CBS to suppress their news report?

RUMSFELD: I don't have any idea if he discussed it with me. I don't think he did.

DAYTON: Over the last two weeks, calling CBS to suppress the

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news report?

RUMSFELD: "Suppress" is not the right word at all.

DAYTON: I'm sorry, sir, but I...

RUMSFELD: It's an inaccurate word.

DAYTON: General Myers, did you discuss it with the secretary?

MYERS: This had been worked at lower levels with the secretary's staff and my staff for some time.

DAYTON: That you would call CBS to suppress their news report?

MYERS: I called CBS to ask them to delay the pictures showing on CBS's "60 Minutes" because I thought it would result in direct harm...

DAYTON: Mr. Secretary, is that standard procedure for the military command of this country to try to suppress a news report at the highest level?

MYERS: It didn't -- let me just -- Senator Dayton, this is a serious allegation...

DAYTON: Sure is.

MYERS: ... and it's absolutely -- the context of your question, I believe, is wrong.

DAYTON: I understand the context, General, you...

MYERS: Let me just...

DAYTON: ... told us the context earlier. I have very limited time, sir.

(CROSSTALK)

MYERS: I want to take as much time as we need to straighten this out.

This report -- the report was already out there, the news was out there about the abuse...

DAYTON: General, if the news had been out there and we had all known about it...

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(CROSSTALK)

WARNER: Senator, I ask that the witness be allowed to respond to your question. They're very important questions.

General, would you proceed?

MYERS: Thank you, sir.

Thank you, Senator Dayton.

This was not to suppress anything. What I asked CBS News to do was to delay the release of the pictures, given the current situation in Iraq, which was as bad as it had been since major combat ended, because I thought it bring direct harm to our troops; it would kill our troops.

We talked about it, and I said, "I know this report will eventually come out. But this -- if you can delay it for some period of time -- it would be helpful."

DAYTON: What period of time is that?

MYERS: I did it based on talking to General Abizaid and his worry was like mine, and he convinced me that this was the right thing to do. There was no -- this report has been around since January. What was new were the pictures. I asked for the pictures to be delayed.

DAYTON: Did you discuss delaying -- calling CBS to ask them to delay their report, with the secretary of defense, or the vice president or the president?

MYERS: Of course not.

DAYTON: None of those.

MYERS: Of course not.

DAYTON: I would just say, General -- and I agree with your assessment of the consequences of this on our troops, and that's the great tragedy of this, but attempts to suppress news reports, to withhold the truth from Congress and from the American people is antithetical to democracy.

MYERS: You bet it is. And that's not what we were doing.

DAYTON: And whatever the intentions may be, sir, the result is always the same. And it's, I think, terribly tragic that the president,



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who wants to expand democracy around the world, by actions of his own administration is undermining that democracy in the United States.

DAYTON: That's always the result when people try to control information, delay it, manage it and suppress it, it has that result. It's antithetical to a democracy.

RUMSFELD: May I speak a minute, Mr. Senator?

Throughout the history of this country, there have been instances where military situations have existed that have led government to talk to members of the media and make an editorial request of them that they delay for some period disclosing some piece of information. It is not against our history. It is not against our principles. It is not suppression of the news. And it's a misunderstanding of the situation to say it is.

DAYTON: It is against our principles. It's against our principles when you come before 40 to 45 members of the Senate three hours before that news report is going to occur and don't mention one word about it, sir.

That is antithetical to democracy and the Constitution, which has the Senate and the House as co-equal responsibility for this country.

I want to just ask about the escalation of American forces, sir. You're bringing in, in response to all of this -- and this is also important. This is the future of this nation and the people who are over there.

You're increasing the number of forces, the number of tanks over there. How can this have anything to do but to escalate the level of violence, the opposition of Iraqis, intensify the hatred across the Arab world to the United States, and more atrocities? How can this have any result other than to put us deeper into this situation and make the conditions there worse for our forces and for our nation and for the world?

WARNER: Senator, I'm going to ask that the witnesses respond to your important question for the record. And I thank your cooperation.

Mr. Secretary and witnesses, we've had a very thorough exchange of views.

WARNER: We've had a full and complete hearing. I wish to commend my colleagues. And I wonder if you might indulge the majority leader for one minute.

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LEVIN: Mr. Chairman, could the answers for the record which the secretary has promised be expedited given the circumstances? Would that be all right?

WARNER: Yes, absolutely. It'll be done.

FRIST: Thank you, Mr. Chairman.

Mr. Secretary, thank you for appearing before the Armed Services Committee today. It has been important, is important for this body, the United States Senate, to hear from you about the reprehensible incidents at Abu Ghraib prison.

Needless to say, the individuals that committed these despicable acts must be held accountable, justice must and will be served in a swift and a fair and transparent matter.

We are all troubled by the fact that actions of a few have tainted the efforts of all Americans who are serving so nobly abroad.

Mr. Secretary, I commend you for taking responsibility for what occurred at Abu Ghraib prison. If we're ever going to repair the damage done to our efforts in Iraq and to the reputation of the armed forces, it's important that we get all the facts out in a quick and a thorough manner.

The committees of jurisdiction here in the Senate will be conducting their own inquiries into this matter. We do look forward to regular updates from you and others on the panel and the department as your investigations proceed, as well as updates as to any other actions you may take to ensure that justice is served and heinous acts never occur again.

Thank you.

WARNER: Thank you, Mr. Leader.

RUMSFELD: Thank you very much.

WARNER: Hearing is concluded.

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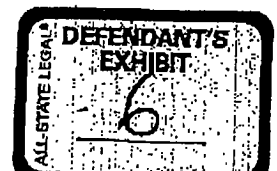
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TEXT

Senate Panel Hearings on Iraq Abuses

Published: May 11, 2004


Following is transcript of hearings before the Senate Armed Services Committee today that focus on whether military intelligence pressed military police to "soften up" Iraqi prisoners before interrogation at Abu Ghraib prison in Iraq, as transcribed by Federal News Service.

Speakers: Senators John W. Warner (R-VA), John McCain (R-AZ), James M. Inhofe (R-OK), Pat Roberts (R-KS), Wayne Allard (R-CO), Jeff Sessions (R-AL), Susan M. Collins (R-ME), John Ensign (R-NV), Jim Talent (R-MO), Saxby Chambliss (R-GA), Lindsey O. Graham (R-SC), Elizabeth Dole (R-NC), John Cornyn (R-TX), Carl Levin (D-MI), Edward M. Kennedy (D-MA), Robert C. Byrd (D-WV), Joseph I. Lieberman (D-CT), Jack Reed (D-RI), Daniel K. Akaka (D-HI), Bill Nelson (D-FL), Ben Nelson (D-NE), Mark Dayton (D-MN), Evan Bayh (D-IN), Hillary Rodham Clinton (D-NY) and Mark Pryor (D-AR).

Witnesses: Maj. Gen. Antonio M. Taguba; Stephen A. Cambone, under secretary of defense for intelligence; Lt. Gen. Lance Smith, deputy commander of Central Command; Lt. Gen. Keith B. Alexander, Army deputy chief of staff for intelligence; Maj. Gen. Ronald L. Burgess Jr., director for intelligence for the Joint Staff and Maj. Gen. Thomas J. Romig, Army judge advocate general.

SEN. WARNER: Before turning to the matters at hand, and a quorum being present, I ask the committee consider five civilian nominations.

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Tina Jonas to be undersecretary of Defense comptroller; Donald Obalise to be undersecretary of the Navy; Jerald Paul to be principal deputy administrator of the Nuclear Security Administration; Mr. Chatfield to be director of the Selective Service; Mr. Balkoff (sp) to be a member of the National Security Education Board. All of these nominations have been before the committee the required length of time. Is there a motion to favorably report the nominations?

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SEN. WARNER: So moved.

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SEN. JOHN MCCAIN (R-AZ): Mr. Chairman, I reserve the right to object and will not object, except to say that I will hold these nominations until we get the requested information that has been outstanding for a long period of time now concerning communications on the Boeing issue. And I won't waste the time of the committee much longer, but we're approaching a time where I will be asking a vote of the committee to see whether we subpoena these documents or not.

SEN. WARNER: Senator, you have been straightforward in that. I've done my best to date and will continue to help you gain that material, but you have kept the chairman and the ranking member informed continuously of your views.

SEN. MCCAIN: Thank you, Mr. Chairman.

SEN. WARNER: The issue of the nominations before the committee -- all in favor, say "aye."

(A chorus of "ayes" is heard.)

Opposed?

(No audible response.)

Ayes have it. Nominations are now proceeding to the floor.

The committee meets today for the second of a series of hearings regarding the mistreatment of Iraqi prisoners by some elements and certain personnel -- few in number, I hope -- of the armed forces in violation of United States and international laws.

Testifying before us today is Major General Antonio M. Taguba, U.S. Army deputy commander for Support Coalition Forces Land Component Command.

On January 31st, 2004, General Taguba was appointed by General Sanchez, commander, Combined Task Force-7, to conduct a procedure -- 15 investigations into allegations of prisoner abuse at the Abu Ghraib prison. General Taguba's report was

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received by this committee on Tuesday, May 4th, and its related annexes were received yesterday, May 10th.

As members know, they are in the possession of the committee, and members and staff worked on those reports until very late last night.

Joining General Taguba are Lieutenant General Lance L. Smith, United States Air Force, deputy commander of Central Command; and Dr. Stephen A. Cambone, undersecretary of Defense for intelligence.

We welcome our witnesses. And, General Taguba, I wish to personally say I commend you for your public service.

GEN. TAGUBA: Sir.

SEN. WARNER: Following the testimony of these witnesses we'll receive testimony from a second panel of witnesses this afternoon, commencing at 2:30.

As I stated last week, this mistreatment of prisoners represents an appalling and totally unacceptable breach of military regulations and conduct. The damage done to the reputation and credibility of our nation and the armed forces has the potential to undermine substantial gains and the sacrifices by our forces and their families, and those of our allies fighting with us in the cause of freedom.

This degree of breakdown in military leadership and discipline represents an extremely rare chapter in the otherwise proud history of our armed forces. It defies common sense and contradicts all the values for which America stands. There must be a full accounting for the cruel and disgraceful abuse of Iraqi detainees consistent with our law and protections of the Uniform Military Code of Justice.

I'm proud of the manner in which the armed forces have quickly reacted to these allegations, undertaken an appropriate investigation, and begun disciplinary actions. We're a nation of laws, and we confront abuses of our laws openly and directly.

We have had an apparent breakdown of discipline and leadership at this prison and possibly at other locations. I think it important to confront these problems swiftly, ensuring that justice is done, and take the corrective actions so that such abuses never happen again.

At the same time, it is important to remember that our commanders and their troops in Iraq are confronted with a very difficult, dangerous, complex military situation. Defeating insurgents and terrorists who seek to deny freedom and democracy to all Iraqis and who threaten our troops is the highest priority, and our troops are working very hard, courageously, and sacrifices to achieve that mission. Intelligence obtained in the course of any military action obtained in accordance with proper laws and professional procedures is an essential element of any military campaign.

I was heartened by President Bush's words of support for our men and women in the armed forces, as he stated yesterday in visiting the Department of Defense. And I quote our president: "All Americans know the goodness and the character of the United States

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armed forces. No military in the history of the world has fought so hard and so often for the freedom of others.

"Today our soldiers, our sailors, airmen and Marines are keeping terrorists across the world on the run. They're helping the people of Afghanistan and Iraq build democratic societies. They're defending America with unselfish courage. And these achievements have brought pride and credit to this nation. I want our men and women in uniform to know that America is proud of you and that I'm honored to be your commander in chief."

Speaking for myself, I feel our president, our secretary of Defense, the chairman of the Joint Chiefs and the other officers of our military have very correctly and properly addressed the (seriousness of these ?) issues, and I commend them.

We must not forget our overall purpose in Iraq. Success there is absolutely essential. Our men and women in uniform make a remarkable institution in this great America. And from time to time it must heal itself, consistent with law and tradition, and that we are doing in this particular case. We have a responsibility here in the Congress to help them do that, and that is precisely the purpose of these hearings.

Senator Levin.

SEN. CARL LEVIN (D-MI): Thank you, Mr. Chairman.

Today's hearing continues the committee's examination of the events at Abu Ghraib detention facility and the effort to learn what led to the abuses of Iraqi prisoners, so graphically depicted in the photographs that have shocked and disgusted the civilized world, and who may have authorized, encouraged or suggested those despicable actions.

Getting to the truth of what happened and who is responsible is important for our military men and women, for the American people, for the success of our mission in Iraq and for a watching world.

General Taguba, while your report paints a disturbing picture of horrible abuses and leadership failures at Abu Ghraib, your report reflects an honest and detailed assessment of the situation there and includes sensible recommendations on how to begin fixing those problems. I thank you for your professionalism in carrying out this service to our nation.

The hearing we held last week barely scratched the surface of the issues that this committee must examine. It yielded little in the form of detailed information as to how these abuses could possibly have occurred and who was responsible for them, including those within and without the chain of command whose policy decisions created an environment in which the abuses could occur.

The despicable actions described in General Taguba's report not only reek of abuse, they reek of an organized effort and methodical preparation for interrogation. The collars used on prisoners, the dogs and the cameras did not suddenly appear out of thin

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air. These acts of abuse were not the spontaneous actions of lower-ranking enlisted personnel who lacked the proper supervision. These attempts to extract information from prisoners by abusive and degrading methods were clearly planned and suggested by others.

Today we begin what must be a determined pursuit of the answers to the questions: Who organized the effort? Who oversaw it? Under what directives and policies were these actions implemented? All of those up and down the chain of command who bear any responsibility must be held accountable for the brutality and humiliation they inflicted on the prisoners, and for the damage and dishonor that they brought to our nation and to the United States armed forces, which is otherwise filled with honorable men and women acting with courage and professionalism to bring stability and security and reconstruction to Iraq.

Thank you, Mr. Chairman.

SEN. WARNER: I'll ask the witnesses to rise. Raise your right hand. Do you solemnly swear that the testimony that you are about to give before the Committee of the Armed Services of the United States Senate will be the truth, the whole truth and nothing but the truth, so help you God?

WITNESSES: I do.

SEN. WARNER: In accordance with the time-honored traditions of our country, the civilian control over the military, we recognize Secretary Cambone, who's speaking on behalf of the Department of Defense. Mr. Secretary.

MR. CAMBONE: Mr. Chairman, thank you. Members of the committee, we're here today to continue the discussion on the terrible activities at Abu Ghraib, begun last Friday by the secretary of Defense, the chairman and other members of the panel.

Before going further, let me say that we are dismayed by what took place. The Iraqi detainees are human beings. They were in U.S. custody.

We had an obligation to treat them right. We didn't do that. That was wrong, and I associate myself without reservation to the sentiments expressed by the secretary.

To those Iraqis who were mistreated by members of the U.S. armed forces, I offer my deepest apology. It was un-American and it was inconsistent with the values of our nation.

Now, a number of issues arose related to those events during the hearing last Friday, which, as Senator Levin has noted, were not fully engaged. And I wanted to tick off a short list that we have been developing since then as way of preparation in answer to the questions we know that you have. But before I go through those, let me say again that, to the -- we will give you this information today to the best of our knowledge. We do not have -- yet -- all the facts related to this case. There are at least five other investigations ongoing, and we will need that information in order to come to a full understanding.

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So first, with respect to the application of the Geneva Convention to detainees in Iraq. From the outset of the war in Iraq, the United States government has recognized and made clear that the Geneva Conventions apply to our activities in that country. Members of our armed forces should have been aware of that. If they were not -- if they were not -- Lieutenant General Sanchez, CJTF-7 commander, reminded them on more than one occasion that the forces under his command operated under that obligation. Nevertheless, there clearly was a breakdown of following Geneva Convention procedures at Abu Ghraib, and we are in the process, as you know, of investigating why that happened.

As Major General Miller, who is now in charge of detainee operations in Iraq, remarked on Saturday, "The procedures established for interrogations in Iraq were sanctioned under the Geneva Convention and authorized in U.S. Army manuals." All permissible -- permissible -- interrogation activities were within the requirements and boundaries of applicable provisions of the convention. We are currently investigating why soldiers -- some soldiers at Abu Ghraib did not abide by those understood procedures and guidelines.

Early in the war on terrorism, long before the war in Iraq, the president made a determination that the Geneva Convention did not apply to al Qaeda detainees. That decision was made because the Geneva Conventions govern conflicts between states, and the al Qaeda is not a state, much less a signatory of the convention. Moreover, the conventions forbid the targeting of civilians and require that military forces wear designated uniforms to distinguish them from noncombatants. Terrorists don't care about the Geneva Convention, nor do they abide by its guidelines. They deliberately target civilians, for example, and have brutalized and murdered innocent Americans. To grant terrorists the rights they so cruelly reject would make a mockery of the Geneva Conventions.

Nevertheless, President Bush did order -- did order -- that detainees held at Guantanamo be treated humanely and consistent with the convention's principles. And in fact, those detainees in the war on terror are being provided with many of the privileges typically afforded to enemy prisoners of war.

The notion that this decision in some way undermined the Geneva Convention or created a poor climate is false. To the contrary; the administration made this decision with the objective of assuring that those who would claim protection under its auspices and not act in keeping with its intent did not abuse the Geneva Convention. Far from disrespect, the decision was made out of a notion of respect. The notion of a departmental belief that the alleged climate created and led to abuse in Iraq is, therefore, not in keeping with clear and stated determination to adhere to the Geneva Convention.

Second, Major General Miller's recommendations. Major General Miller was sent to Iraq -- it was late August of '03 -- based on his experience with the flow of information gained by interrogation at Guantanamo Bay. He was sent under Joint Staff auspices, and as I said on Friday before this committee, with my encouragement, to determine if the flow of information to CJTF-7 and back to the subordinate commands could be improved. He laid out an approach to do this in a series of recommendations to General Sanchez; recommendations to General Sanchez. He had no directive authority in that

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visit.

One recommendation on detention operations was to dedicate and train the detention guard force subordinate to the joint intelligence commander that would, in the words of General Taguba's report, and others, "set the conditions for the successful interrogation and exploitation of internees and detainees." In making this recommendation, Major General Miller was underscoring the need for military police and military intelligence personnel, both of whom serve different functions, to act in a fashion such that the one -- military police -- did not undermine the efforts of the other -- military intelligence -- to discover during interrogation information that was important to coalition forces and to the lives of Iraqi civilians. Consequently, he underscored the need for legal review of his recommendations by a dedicated Command Staff judge advocate.

With respect to detention operations, Major General Miller noted that their purpose is to provide a safe, secure and humane environment that supports the expeditious collection of intelligence. In addition, he observed that detention operations must be structured to ensure the detention environment focus the internees' confidence and attention on their interrogators. He recommended training in building the teamwork the interrogator and detention staffs needed to accomplish the objective.

The order placing the military police at Abu Ghraib under the tactical control of the 205th Military Intelligence Brigade. And here, for more of the detail I can defer to General Smith. But on November 19th of 2003, General Sanchez issued an order effectively placing Abu Ghraib under the tactical control of the 205th Military Intelligence Brigade. This order was within the authority of General Sanchez to give. And as I say, Lieutenant General Smith might elaborate on the reasons that the order was given.

But what it did is it gave a senior officer responsibility for the facility; for the facility. We needed someone to take care of such matters as security, force protection, the internal security, living conditions for the troops, and other things.

It did not give, as far as I understand it, the Military Intelligence Brigade commander authority over military police operations. And as I might note, if you look at General Karpinski's CNN interview last night, she makes comments to that effect. Let me stress that the promulgation of the order in no way changed the rules governing the conduct of military police and military personnel in Iraq with respect to the laws of war, the Geneva Convention, CENTCOM directions, or CJTF directions and instructions.

Third, the role of contractors. Contractors may not perform interrogations except under the supervision of military personnel. There may have been circumstances under which this regulation was not followed. I cannot tell you that it was followed in all respects. This is a matter that General Fay is now examining. In addition, contractors may not supervise or give orders or direction to military personnel, and while contractors are not under military discipline -- another issue raised on Friday -- they are subject to suspension from their contracts by the government for cause. Furthermore, criminal sanctions for any crimes a contractor may commit may be available in U.S. federal court, and maybe referred to U.S. federal court.

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Fourth, with respect to the oversight of military intelligence, criminal investigation and the operations of combatant commanders, I have on page 8 of the statement that I prepared for you listed the roles of the office I presently hold, that of the joint commands and that of the services. I then go on and talk about oversight of criminal investigations and the role of the DOD IG's office, and the counterintelligence oversight.

On page 9 I begin the actions under way. The secretary reviewed those with you on Friday and I will not take your time here, unless the committee wishes to return to them -- but to add one development since we were here last and that is that the secretary is now preparing a personal message for the men and women of the armed forces underscoring his dismay over the events at Abu Ghraib, expressing his confidence in the valor and professionalism of the men and women, stressing once again that the Geneva Convention applies to our conflict in Iraq, and expressing his confidence in the ultimate success of our mission in Iraq.

Mr. Chairman, this is an occasion to demonstrate to the world the difference between those who believe in democracy and those who do not. We value human life, we believe in the right to individual freedom and the rule of law, and for those beliefs we send our men and women abroad to protect that right, for our own people and to give millions of others hope for freedom in the future. Part of that mission is making sure that when wrongdoing or scandal occurs it's not covered up, but exposed, investigated, publicly disclosed, and the guilty brought to justice.

I believe we can repair the damage done to our credibility in the region if we hold true to our principles and continue to keep our commitments to the people of Iraq and Afghanistan. Eventually, the nobility of that mission will touch the hearts of more people in the Arab world. I am confident of this because the outstanding service that has been rendered by the vast majority of the men and women of the U.S. armed forces.

Thank you, Mr. Chairman.

SEN. WARNER: Thank you very much, Secretary Cambone. General Smith, do you have a few opening comments?

GEN. SMITH: Senator Warner, Senator Levin, members of the committee. Sir, I'll stand by the comments that I made on Friday, but add that, once again, on behalf of General Abizaid and all the men and women of Central Command, we regret very much that these events ever occurred and apologize for those who were victims of the abuse.

I would like to assure you that, in every case of the -- where the investigations have had recommendations and findings, that we have either implemented the recommendations or are in the process of making the fixes necessary to alleviate the problems there.

SEN. WARNER: Can you speak clearly and directly into the mike? Your voice is being lost. GEN. SMITH: Yes, sir.

In all cases where we have had recommendations and findings, they have either been implemented or we are in the process of implementing fixes to ensure that those gaps

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that we had either in policy, procedures or leadership are being fixed.

We, at the same time, have a number of investigations that are ongoing that should give us more answers to some of the questions that we all have about what actually went on in the Abu Ghraib prison, the most significant of which is the General Fay investigation over the military intelligence brigade. We will continue to try to and make every effort to ensure that we implement the proper procedures, policies and practices to ensure that this never happens again, sir.

Thank you, Senator Warner.

SEN. WARNER: Thank you. General Taguba, we welcome you.

GEN. TAGUBA: Thank you, sir. Mr. Chairman, Senator Levin, members of the committee, good morning all. I am Major General Antonio M. Taguba, the deputy commanding general for support, Army Central Command and Combined Forces Land Component Command that is headquartered in Camp Arifijan, Kuwait.

On 24 January 2004, when directed --

SEN. WARNER: Interrupt you. If you would direct right at --

GEN. TAGUBA: Yes, sir.

SEN. WARNER: Get the mike aligned with you, and it --

GEN. TAGUBA: Okay.

SEN. WARNER: Thank you very much.

GEN. TAGUBA: My apologies, sir. Let me continue, sir. On 24 January, 2004, I was directed by Lieutenant General David McKiernan, the commanding general, ARCENT CFLCC, to conduct an investigation into the allegations of detainee abuse at Abu Ghraib prison, which is also known as the Baghdad Central Confinement Facility. And I appreciate the opportunity to appear before you today to discuss the purpose, the findings and the recommendation of that investigation.

The purpose of the investigation. We had specific instructions, were as follows. First, inquire into all of the facts and circumstances surrounding the recent allegations of detainee abuse, specifically allegations of maltreatment at the Abu Ghraib prison. Second, inquire into detainee escapes and accountability lapses as reported by CJTF-7, specifically allegations concerning these events at the Abu Ghraib prison. Third, investigate the training, the standards, employment, command policies, internal procedures and command climate in the 800th MP Brigade as appropriate.

And finally, make specific findings of fact concerning all aspects of this investigation, and make recommendations for corrective action as appropriate.

My investigation team consisted of officers and senior enlisted personnel who are

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military policemen, experts in detention and corrections, judge advocates, psychiatrists, and public affairs officers. At the onset, I did not have military intelligence officers or experts in military interrogation in my team because the scope of my investigation dealt principally with detention operations and not intelligence gathering or interrogations operations.

However, during the course of my team's investigation, we gathered evidence pertaining to the involvement of several military intelligence personnel or contractors assigned to the 205th MI Brigade in the alleged detainee abuses at Abu Ghraib. As stated in the findings of the investigation, we recommended that a separate investigation be initiated under the provisions of Procedure 15, Army Regulation 381-10, concerning possible improper interrogation practices in this case.

Again, my task was limited to the allegations of detainee abuse involving MP personnel and the policies, procedures and command climate of the 800 MP Brigade.

As I assembled the investigation team, my specific instructions to my teammates were clear: maintain our objectivity and integrity throughout the course of our mission, in what I considered to be a very grave, highly sensitive and serious situation; to be mindful of our personal values and the moral values of our nation; and to maintain the Army values in all of our dealings; and to be complete, thorough and fair in the course of the investigation. Bottom line, we'll follow our conscience and do what is morally right.

As agonizing as this investigation was, I commend the exceptional professionalism of my teammates, their extraordinary efforts, and the outstanding manner by which they carried out my instructions. I also commend the courage and selfless service of those soldiers and sailors who brought these allegations to light, discovered evidence of abuse and turned it over to the military law enforcement authorities.

The criminal acts of a few stand in stark contrast to the high professionalism, competence and moral integrity of countless active Guard and Army Reserve soldiers that we encountered in this investigation. At the end of the day, a few soldiers and civilians conspired to abuse and conduct egregious acts of violence against detainees and other civilians outside the bounds of international law and the Geneva Convention.

Their incomprehensible acts, caught in their own personal record of photographs and video clips, have seriously maligned and impugned the courageous acts of thousands of U.S. and coalition forces. It put into question the reputation of our nation and the reputation of those who continue to serve in uniform and who would willingly sacrifice their lives to safeguard our freedom.

Thank you for the opportunity to speak before you today. I look forward to answering your questions. Thank you, Mr. Chairman.

SEN. WARNER: Thank you very much, General. I must say that I was very heartened by your use of the phrase "follow our conscience, do what is morally right."

GEN. TAGUBA: Thank you, sir.

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SEN. WARNER: I think you've done that. Colleagues, we'll have a six-minute round. We take note that votes will start at 11:30, but it's the intention of Senator Levin and myself to continue this hearing on into approximately the 12:30 to 12:45 time frame, in hopes that further opportunity can give members to questions (sic).

SEN. JAMES INHOFE (R-OK): Mr. Chairman?

SEN. WARNER: Yes?

SEN. INHOFE: Will there be one round?

SEN. WARNER: I've said that we'll continue to 12:45, and we'll do our best, given the votes --

SEN. INHOFE: Thank you.

SEN. WARNER: -- we will try to keep the hearing going during a portion of the votes.

SEN. INHOFE (?): (Twelve-forty-five ?).

SEN. WARNER: Thank you. Secretary Cambone, my understanding is and in my briefings with you -- and I thank you for discussing these matters with me over the weekend --

MR. CAMBONE: Sir.

SEN. WARNER: -- that your office has the overall responsibility for policy concerning the handling of detainees in the global war on terrorism. Is that correct?

MR. CAMBONE: Not precisely, sir. The overall policy for the handling of detainees rests with the undersecretary of Defense for Policy, by directive --

SEN. WARNER: Wait a minute. Rests with --

MR. CAMBONE: The undersecretary of Defense for Policy, by directive. My office became involved in this issue primarily from the perspective of the -- assuring that there was a flow of intelligence back to the commands and done in an efficient and effective way.

SEN. WARNER: Then I would presume that it would be incumbent upon this committee to get the undersecretary for Policy over and let him provide this committee with such knowledge that he has --

MR. CAMBONE: Sir, and that -- his responsibilities -- and I have talked with Mr. Feith about this -- he issued any number of statements and directives to the effect that detainees in Iraq, civilian or military, were to be treated under the provisions of the Geneva Convention.

SEN. WARNER: And did you work with him in that? I'm trying to ascertain --

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MR. CAMBONE: Yes, sir. I was aware of that work and knowledgeable of it and endorsed it, of course.

SEN. WARNER: I'm trying to ascertain the degree to which the civilian authority in the Department of Defense under the secretary, be it yourself or the other undersecretary --

MR. CAMBONE: Yes, sir.

SEN. WARNER: -- reviewed the procedures by which the interrogations took place in our -- places of incarceration --

MR. CAMBONE: Right.

SEN. WARNER: -- and most specifically by the -- those doing it in Iraq.

MR. CAMBONE: Yes, sir.

SEN. WARNER: You did review the procedures that were being followed for the interrogation of detainees in Iraq?

MR. CAMBONE: We gave direction that the -- the department gave direction that the Geneva Convention was to be followed. The procedures for interrogation are established via the use of -- and General Taguba and General Smith can clarify, but they are established on the basis of approved techniques for interrogation. There is a list of those, and you will find them in Army doctrine and manuals.

SEN. WARNER: Right.

MR. CAMBONE: Those are approved for use by the commanding general, and any exceptions to those activities that he authorizes, he would then set terms and conditions for exceptions to his guidance. At the level of those techniques, and so forth, they were signed out at the command level and not in the Department of Defense.

SEN. WARNER: You've had time to reflect on this. In simple and plain words, how do you think this happened?

MR. CAMBONE: With the caveat, sir, that I don't know the facts, it's, for me, hard to explain. I have spent a good deal of time over the last 10 days to two weeks looking at the various elements of this issue, and I think what we did have here was a problem of leadership with respect to the 372nd Battalion -- that was the group that was the MP unit.

SEN. WARNER: Leadership starting -- a failure of leadership starting at what level?

MR. CAMBONE: That is decidedly more difficult to say, sir. Again, in simple terms, you asked. There was clear direction moving down the chain from the secretary to General Abizaid to General Sanchez to those people who were in charge of the military police, and that in this case is General Karpinski. She had -- I think it's eight battalions -

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- eight battalions under her control, lodged at a large number of locations. She, as best I understand it, was not frequently present at Abu Ghraib. Abu Ghraib itself -- and let's remember the time frame that we're talking about. We're coming out of the period of active combat operations. We have a large number of detainees who are being moved from a facility --

SEN. WARNER: I'm going to ask you to be brief because I'm holding myself tightly to my time.

MR. CAMBONE: I understand, sir. Move them into a -- from temporary facilities into permanent facilities. The place is being mortared and attacked frequently. And the local commander was unable to bring order to that place. And for that reason, I would argue, General Sanchez looked to Colonel Pappas, the head of the 205th Military Intelligence Brigade, and gave him the responsibility, then, for taking care of Abu Ghraib as an installation.

SEN. WARNER: Right. Now, the reports that were developed by international organizations -- the Red Cross and others -- my understanding, they came to your office for an assessment and a determination as to what was to be done in response to those reports?

MR. CAMBONE: No, the reports that are issue here is -- ICRC, the International Committee of the Red Cross --

SEN. WARNER: But you told me, I thought, over the weekend that --

MR. CAMBONE: I've seen the report.

SEN. WARNER: You've seen them --

MR. CAMBONE: I have seen it.

SEN. WARNER: -- and you took some steps to implement some of their recommendations.

MR. CAMBONE: Steps were taken to implement their recommendations. I saw those reports well after they were issued. The one in question was issued on the 6th of November. It was addressed, to my knowledge, to General Karpinski, and she replied, at her command level, on the 24th of December of '03 to the ICRC.

SEN. WARNER: Now, who else in the building had access to those reports? Did they reach the secretary's level?

MR. CAMBONE: No, sir, they did not. Those reports, those working papers -- again, as far as I understand it -- were delivered at the command level. They are designed -- the process is designed so that the ICRC can engage with the local commanders and make those kinds of improvements that are necessary in a more collaborative environment than in an adversarial one. And so they tend to try to work these problems at that level. There was, sir, just for the record, another paper developed by the ICRC which was delivered to the Coalition Provisional Authority in February of 2004. That paper is a

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historical paper. It is a review of activity from March or so of '03 --

SEN. WARNER: My time has run out.

MR. CAMBONE: -- through the end of January.

SEN. WARNER: Sorry to cut you off. We've asked for those reports --

MR. CAMBONE: Yes, sir.

SEN. WARNER: -- and it's my understanding the secretary is --

MR. CAMBONE: The secretary is going to give them to you, sir.

SEN. WARNER: General Taguba, in your orders, were there any restrictions placed upon you by General McKiernan, General Sanchez or Abizaid in the scope of your inquiry? In other words, were you given a free hand to do what you felt had to be done?

GEN. TAGUBA: Sir, the scope, as I described to you, was related to the detainee abuse at Abu Ghraib. However, because there were detention operations under the purview of the 800 MP Brigade, we also look at Camp Bucca, the high-value detention facility at Camp Cropper, and also the MEK facility at --

SEN. WARNER: I ask the same question to you. In simple laymen's language, so it can be understood, what do you think went wrong, in terms of the failure of discipline and the failure of this interrogation process to be consistent with known regulations, national and international? And also, to what extent do you have knowledge of any participation by other than U.S. military, namely Central Intelligence Agency and/or contractors, in the performance of the interrogations?

GEN. TAGUBA: Sir, as far as your last question, I'll answer that first. The comments about participation of other government agencies or contractors were related to us through interviews that we conducted. It was related to our examination of written statements and, of course, some other records. With regards to your first question, sir, there was a failure of leadership --

SEN. WARNER: In other words, in the material that you've now submitted to the Senate -- or the department has submitted --

GEN. TAGUBA: Yes, sir.

SEN. WARNER: -- we will find in there all of your knowledge with respect to participation by other government agencies?

GEN. TAGUBA: Yes, sir.

SEN. WARNER: It's nine volumes and about almost --

GEN. TAGUBA: (Chuckles) -- Six thousand pages, yes, sir.

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SEN. WARNER: -- thousand pages, and we just got it yesterday.

GEN. TAGUBA: Yes, sir.

SEN. WARNER: Can you give us a quick synopsis of participation by other U.S. government agencies?

GEN. TAGUBA: Sir, they refer to them as OGAs or MIs. And when I asked for clarification it's because of the way they wore their uniforms. Some of them did not wear a uniform, and so how would I ask them to clarify further if they knew any of these people? And they gave us names, as stipulated on their statements. They also gave us names of those who are MI, uniformed MI in personnel in the U.S. Army, and that was substantiated by the comments made to us by other witnesses as we conducted our interviews.

SEN. WARNER: Right. In simple words, your own soldiers' language, how did this happen?

GEN. TAGUBA: Failure in leadership, sir, from the brigade commander on down; lack of discipline; no training whatsoever; and no supervision. Supervisory omission was rampant. Those are my comments.

SEN. WARNER: Thank you very much. Senator Levin.

SEN. LEVIN: General Taguba, the ICRC said that the military intelligence officers at the prison confirmed to them that this was all part of the military intelligence process, these activities. Would you agree with the ICRC that coercive practices such as holding prisoners naked for extended periods of time were used, in their words, in a "systematic way" as part of a military intelligence process at the prison?

GEN. TAGUBA: Sir, I did not read the ICRC report.

SEN. LEVIN: Would you agree with that conclusion?

GEN. TAGUBA: Yes, sir, based on the evidence that was presented to us and what we gathered and what we reviewed. Yes, sir.

SEN. LEVIN: That's more than a failure of leadership. That's an active decision on the part of leadership. It's not just oversight or negligence or neglect or sloppiness, but purposeful, willful determination to use these techniques as part of an interrogation process. Would you include that in your definition of failure of leadership?

GEN. TAGUBA: Yes, sir. They were.

SEN. LEVIN: Secretary Cambone told us earlier, a few minutes ago, that the shift in command at the prison did not mean that the military intelligence commander had command authority over the MPs, but your report says the opposite; that the decision to transfer that command to the military intelligence commander did effectively put that commander in charge of the military police. Do you stick by your statement?

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GEN. TAGUBA: That to me, sir?

SEN. LEVIN: Yes.

GEN. TAGUBA: Sir, the -- I did not question the order that was given to Colonel Pappas on the fragmentary order that he received on the 19th of November. That was not under my purview. I did ask him to elaborate on what his responsibilities were.

SEN. LEVIN: Your report states that that change in command, quote, "effectively made a military intelligence officer rather than an MP officer responsible for the MP units conducting detainee operations at that facility." Is that your conclusion?

GEN. TAGUBA: Yes, sir because the order gave him tactical control of all units that were residing at Abu Ghraib.

SEN. LEVIN: All right. Secretary Cambone, you disagree with that?

MR. CAMBONE: Tactical control is the question here. I --

SEN. LEVIN: Do you disagree with what the general just said?

MR. CAMBONE: Yes, sir.

SEN. LEVIN: Pardon?

MR. CAMBONE: I do. I do not believe that the order placing Colonel Pappas in charge gave him the authority to address the MPs' activities in direct op-con conditions. (To Gen. Taguba.) Is that true, General?

SEN. LEVIN: Thank you. No, it's okay. Let me just keep going then. You have just a disagreement over that. Secretary Cambone, in an article in last Sunday's Post -- in April 2003, the Defense Department approved about 20 interrogation techniques for use at Guantanamo that permit reversing normal sleep patterns of detainees, exposing them to heat, cold, sensory assault; and the use of these techniques required the approval of senior Pentagon officials and, in some cases, of Secretary Rumsfeld, according to that article. These procedures, according to the Pentagon spokesman Bryan Whitman, are controlled and approved on a case-by-case basis. And then it says that the Defense and intelligence officials said that similar guidelines have been approved for use on, quote, "high-value detainees in Iraq, those suspected of terrorism or of having knowledge of insurgency operations." Is that true? Were those techniques adopted for Guantanamo and were they then used or accepted or adapted for Iraq?

MR. CAMBONE: There are command-level guidelines for the use in interrogation. They are in some cases the same and in many cases not.

SEN. LEVIN: Not the same in Iraq?

MR. CAMBONE: Not the same.

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SEN. LEVIN: In Iraq. Can you give us a copy of the guidelines?

MR. CAMBONE: I can do that.

SEN. LEVIN: Both. So there were specific guidelines for Guantanamo, and they were different from the guidelines for Iraq.

MR. CAMBONE: I believe that they were, and I will give you the comparisons.

SEN. LEVIN: All right. And you'll give those to the committee, then. Do you know that -- well, let me go to another issue, and that has to do with whether or not the -- let me start it this way. There was an interview in the Times last week, in which Major General Miller said that 50 techniques that the military officially uses in prisoner interrogations, including hooding, sleep deprivation and forcing prisoners into stress positions, have been adopted. Are you familiar with those 50 techniques?

MR. CAMBONE: There is in -- as I said in my opening statement, there are those techniques in Army doctrine. Yes, sir.

SEN. LEVIN: Those are 50 techniques?

MR. CAMBONE: I don't know that it's 50, sir, but there is --

SEN. LEVIN: But it includes stress positions?

MR. CAMBONE: I believe they do.

SEN. LEVIN: All right. And is that something that you will also supply to the committee?

MR. CAMBONE: We can supply the manual to you. Yes, sir.

SEN. LEVIN: All right. Now it says here the following: that the interrogation officer -- excuse me. This is an annex in the Taguba report, says the following as being a permissible technique for use in the Iraqi theater: The interrogation officer in charge will submit memoranda for the record requesting harsh approaches for the commanding general's approval prior to employment: sleep management, sensory deprivation, isolation longer than 30 days, and dogs. Secretary Cambone, were you personally aware that permissible interrogation techniques in the Iraqi theater included sleep management, sensory deprivation, isolation longer than 30 days, and dogs?

MR. CAMBONE: No, sir. That list, both in terms of its detail and its exceptions, were approved at the command level in the theater.

SEN. LEVIN: That was a command-level approval?

MR. CAMBONE: As far as I understand it, yes, sir.

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SEN. LEVIN: And finally, Secretary, you said that the -- you have decided right from the beginning that the Geneva Conventions would apply to our activities in Iraq.

MR. CAMBONE: Yes, sir.

SEN. LEVIN: And yet Secretary Rumsfeld repeatedly has made a distinction between whether or not those Geneva Convention rules must be applied, whether people -- prisoners will be treated, quote, "pursuant to those rules or consistent with those rules." And he said -- and this is just a few days ago -- that the Geneva Convention did not apply precisely.

MR. CAMBONE: Sir.

SEN. LEVIN: You this morning said, again, the Geneva Convention applies to our activities in Iraq, but not precisely.

MR. CAMBONE: No, sir. I think what the secretary -- I -- let me tell you what the facts are. The Geneva Convention applies in Iraq.

SEN. LEVIN: Precisely?

MR. CAMBONE: Precisely.

SEN. LEVIN: (Inaudible) --

MR. CAMBONE: They do not apply in the precise way that the secretary was talking about -- Guantanamo and the unlawful combatants --

SEN. LEVIN: Well, he was talking about Iraq -- let me cut you right off there. This -- the whole interview here was about Iraq and the conditions at that prison.

MR. CAMBONE: And I --

SEN. LEVIN: That's what this whole, entire interview was about. It was on NBC. It was May 5th, 2004. It was an interview about Iraq. No longer Guantanamo is the issue here. And the secretary said something he said elsewhere, and I've heard this with my own ears recently -- that -- he said that the Geneva Conventions apply not precisely; that prisoners are treated consistent with but not pursuant to. Now he did say the other day -- this is a quote saying that the Geneva Convention did not apply precisely. Are you saying that the secretary misspoke on --

MR. CAMBONE: I can't speak for the secretary. I can only tell you what my understanding is, Senator, and that is --

SEN. LEVIN: You don't know what he meant by that?

MR. CAMBONE: I can tell you what I understand --

SEN. LEVIN: No. Do you know what he meant by that?

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MR. CAMBONE: -- and that is that the Geneva Convention applies. Sir, I can't speak for the secretary on that issue. But I will take --

SEN. LEVIN: And you've not talked to --

MR. CAMBONE: I will take the question for the record and I will ask him. I can't --

SEN. LEVIN: It was the May 5th interview. Thank you.

SEN. WARNER: Thank you very much, Senator Levin. I think at this juncture, Secretary Cambone said the question of the utilization of dogs and other things were at the command level. Can you speak to that -- respond to that important question? GEN. SMITH: Sir, I can't. The rule on dogs that I'm aware of is that they can patrol in the areas, but they have to be muzzled at all times.

SEN. WARNER: Have you examined the exact language that your command promulgated down to these prisoners? GEN. SMITH: Sir, I have -- I have the Army techniques that are authorized, which is what they lived by.

SEN. WARNER: All right. We have to clarify this. Secretary Cambone said it came from your command. So I ask you to focus on it. Senator McCain? And provide it for the committee.

SEN. JOHN MCCAIN (R-AZ): Thank you. General Tabuga (sic), I want to thank you for your excellent report, and I think it's been very helpful to this committee, as well as to the American people. General Miller -- first of all, we know that the detainees at Guantanamo Bay are not subject to the Geneva Conventions because they're al Qaeda -- at least those that are al Qaeda, and therefore, being terrorists, they are not subject to the Geneva Conventions for the treatment of prisoners of war. And I don't disagree with that assessment, and I don't think you do either, do you?

GEN. TAGUBA: Yes, sir. No.

SEN. MCCAIN: And yet, General Miller was quoted in your report, when he arrived in Iraq -- I believe Secretary Cambone was one of those who urged his transfer there -- that he wanted to "Gitmo-ize" the treatment of prisoners throughout Iraq, including Abu Ghraib prison. What do you make of that statement?

GEN. TAGUBA: Sir, I'd defer that to General Miller, sir. But for the record, I've never been to Guantanamo. I'm only knowledgeable of my experience and my observations at Abu Ghraib, which is a detention operation, along with the other detention operations under the command and control of the 800 MP Brigade as under combat conditions, separate and distinct of what I consider to be a sterile environment at --

SEN. MCCAIN: But you found clearly in your report violations of the rules for the -- Geneva Conventions for treatment of prisoners of war, right?

GEN. TAGUBA: Yes, sir.

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SEN. MCCAIN: Including moving prisoners around to avoid International Red Cross inspections?

GEN. TAGUBA: Yes, sir. That was conveyed to us by those that we interviewed and comments that we assessed in the written statements.

SEN. MCCAIN: In your report, General Karpinski says that General Sanchez said that in the case of problems in the prison -- there was uprising and riot and escape; an American, I believe, was killed -- that they should use lethal means immediately and not non-lethal means to start with. Isn't that according to your report?

GEN. TAGUBA: Yes, sir. They changed their rules of engagement I believe four times, to use lethal and then to -- non-lethal to lethal force based on the level of the events. I believe the last time they changed that rules of engagement, sir, was in November of last year. That's contained in one of the annexes that we have.

SEN. MCCAIN: In your judgment, were these abuses a result of an overall military or intelligence policy to, quote, "soften up" detainees for interrogation?

GEN. TAGUBA: Sir, we did not gain any evidence where it was an overall military intelligence policy of this sort. I think it was a matter of soldiers with their interaction with military intelligence personnel who they perceived or thought to be competent authority that were giving them or influencing their action to set the conditions for successful interrogations operations.

SEN. MCCAIN: According to your report, these abuses were very widespread, correct?

GEN. TAGUBA: Sir, the manner by which we conducted our investigation in collecting evidence was that they were between mid- to late October, and as late as December, perhaps early January.

SEN. MCCAIN: Mr. Cambone, the media report that complaints were made by Ambassador Bremer and Secretary Powell concerning the treatment of prisoners in Iraq. Do you know anything about that?

MR. CAMBONE: No, sir. I am not aware of those complaints.

SEN. MCCAIN: In your opinion -- maybe I'd better ask General Taguba. How far up the chain of command did awareness of these ongoing -- let me ask this. When someone says that they're going to Gitmo-ize a prison, wouldn't a subordinate think we're going to change the rules?

GEN. TAGUBA: Sir, I'd rather not speculate on that, and I don't exactly know what General Miller meant by Gitmo-izing Abu Ghraib because of a different situation there.

SEN. MCCAIN: I think it's pretty obvious, but I thank you for your testimony and your report. Tell me again about your view of General Karpinski's role in this. She says that she was excluded from certain parts of the prison and certain areas where some of these abuses took place. Do you have anything on that?

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GEN. TAGUBA: I disagree with that.

SEN. MCCAIN: Do you agree or disagree.

GEN. TAGUBA: I disagree, the fact that she was excluded from certain areas of the prison. In my interview of her, she was still in charge of detention operations in theater, and it's hard for me to believe that she would be excluded from any of those facilities or any portions of those facilities.

SEN. MCCAIN: What evidence did you find that these individuals who -- had received any training in the Geneva Conventions for treatment of prisoners of war?

GEN. TAGUBA: Sir, the evidence that we gathered were training records from the training that they received at the mobilization station and home station, their mission-essential task list that they developed to prepare them for deployment, that sort of thing. And several of these soldiers intimated to us, at least conveyed to us that they were never trained on internment or resettlement operations. But as far as I was concerned, sir, they were -- their leaders should have, could have provided the necessary resources to which they are expected to do so in training their soldiers.

SEN. MCCAIN: But they did not receive it.

GEN. TAGUBA: No, sir.

SEN. MCCAIN: Mr. Cambone states that they did, and the secretary of Defense stated they did. I thank you, General. Thank you very much, Mr. Chairman.

MR. CAMBONE: Mr. Chairman, could I just be a little more clear with Senator McCain?

SEN. WARNER: Yes, please.

MR. CAMBONE: You asked if I was aware of concerns expressed by Ambassador Bremer and the secretary of State, and I assumed you meant specifically on these cases. I mean, that's what I intended to answer.

SEN. MCCAIN: No, I -- on the treatment of prisoners of war.

MR. CAMBONE: Yeah. Let me give you a broader answer, which is --

SEN. MCCAIN: Thank you.

MR. CAMBONE: -- Ambassador Bremer had been concerned about the number of people who were in custody and was anxious to see them move through the system and released as rapidly as possible, as was Secretary Powell. So on the broad question --

SEN. MCCAIN: But my question was, and I'm sorry to interrupt -- my time's expired --

MR. CAMBONE: Forgive me.

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SEN. MCCAIN: -- were you aware of the complaints about treatment of prisoners were made by Ambassador Bremer?

MR. CAMBONE: Per se in that sense, no. That he was worried about prisoners of war, that I knew.

SEN. MCCAIN: Thank you. Thank you, Mr. Chairman. GEN. SMITH: Sir, could I also add that I have all the standard operating procedures here for Gitmo, and in every case it is very specifically and clearly written that the humane treatment of prisoners is first and foremost, and inhumane treatment of detainees is never justified, and it is all in the spirit of the Geneva Conventions. So --

SEN. MCCAIN: I thank you, but clearly there's a difference between adherence to the Geneva Conventions for treatment of prisoners of war and -- GEN. SMITH: Yes, sir, but we were operating under the Geneva Conventions in Iraq. We clearly understood that.

SEN. MCCAIN: I thank you. Thank you --

SEN. WARNER: Now, those apply to the prison in Iraq? GEN. SMITH: Sir, when he went over there and he talked --

SEN. WARNER: When who went? GEN. SMITH: When General Miller went over there and he spoke and addressed this with each of the commanders, he gave them the special operating procedures that they were using at Gitmo to use as an example on how they should generate their own operating procedures.

SEN. WARNER: And that included the phraseology that you just -- GEN. SMITH: Exactly, sir. I just read it to you.

SEN. WARNER: Secretary -- GEN. SMITH: Sir, may I also just mention, on your question on promulgation of policy. The policy regarding dogs and stuff was established and put out by CJTF-7 on the 12th of October, and it specifically says that "Interrogators must ensure the safety of security internees, and approaches must in no way endanger them. Interrogators will ensure that security internees are allowed adequate sleep, that diets, " et cetera, et cetera. And it says, "Should military working dogs be present during interrogations, they will be muzzled and under control of a handler at all times to ensure safety." So General Sanchez, through his things, very specifically addressed what was allowed in the interrogation room and what was not allowed, and those things that required his approval, such as segregation from the population in excess of 30 days.

SEN. WARNER: Can you throw any light, then, on where this thing broke down, given that you started in the proper way? GEN. SMITH: Sir, given the guidance that was put out there, I can't -- I have to agree with General Taguba's assessment of it and that these rules and regulations were out there, and somewhere in the leadership chain, execution and implementation of these policies broke down.

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SEN. WARNER: Is CENTCOM trying to find out where that happened? GEN. SMITH: Absolutely, sir.

SEN. WARNER: All right. Thank you. Senator Kennedy.

SEN. TED KENNEDY (D-MA): Thank you, Mr. Chairman. General Taguba, we want to -- I want to join others in commending you and thank you for the service to this country. Dr. Cambone, I hope when you have a chance to read through the 2004 report, which according to the ICRC was given to the -- Paul Bremer, General Sanchez and the U.S. Permanent Mission in Geneva, according to Christopher Gerard (sp) from the ICRC, it talks about the ICRC collected the allegations of ill treatment following the capture that took place in Baghdad, Basra, Ramadi and Tikrit.

MR. CAMBONE: Yes, sir.

SEN. KENNEDY: It isn't only just focused on this one prison camp, but lists the others as well, and I think we have to be aware of that. Let me just go quickly to this report. There was a Newsweek magazine report that since 9/11, Secretary Rumsfeld has insisted on personally signing-off on the harsher methods used to squeeze suspected terrorists held at U.S. prison Guantanamo Bay, Cuba. He's approved such tactics as the use of stress positions, stripping of detainees naked, prolonged sleep deprivation. Have you advised the secretary, Rumsfeld, on these issues? And what other officials of the department have participated in these decisions?

MR. CAMBONE: Sir, I can't --

SEN. KENNEDY: And has the general counsel been involved --

MR. CAMBONE: Yes, sir. And if I --

SEN. KENNEDY: -- in giving advice? He's been involved?

MR. CAMBONE: If I may, sir, with the permission of the chair and yourself. The secretary has a deep regard for the well-being of those being held in Guantanamo and their well-being and their care. Therefore, any procedure which is of the type that General Smith suggested, which are within the approved rules but are harsh, he has withheld to his approval first. Secondly, when the issue of how these prisoners -- detainees in Guantanamo were to be treated, there was convened, under the GC, the general counsel of the department, a working group whose objective it was to work through all of these issues. So that matrix that has been reported is the product of that effort.

SEN. KENNEDY: All right. Let me -- because the time is short -- has the secretary -- so he has evidently approved these kinds of --

MR. CAMBONE: I don't know in detail, sir, but those that he -- there is a list that he has approved.

SEN. KENNEDY: He has approved. What about on Iraq? Has he approved signing off on harsher methods of interrogation on Iraq?

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MR. CAMBONE: Answer no. That, as General Smith said, is a CJTF- 7 promulgation.

SEN. KENNEDY: If not, who has -- someone have that authority in Iraq?

MR. CAMBONE: If there is anything that exceeds General Sanchez's direction, he is, as I understand it, to sign off on that exception.

SEN. KENNEDY: So he has the authority -- General Sanchez. Do you know whether he's used that or not?

MR. CAMBONE: General Smith? GEN. SMITH: Sir --

SEN. KENNEDY: Just quickly. GEN. SMITH: Yes, sir. Just in that policy that I told you, were separation of greater than 30 days, he would be the approval authority. To the best of my knowledge, he has not used anything beyond that.

SEN. KENNEDY: Let me ask you, Dr. Cambone, about rendering. A number of reports about detainees in U.S. custody, U.S. Military Intelligence officials being transferred for interrogations to governments that routinely torture prisoners. December 2002, Washington Post -- detainees who refuse to cooperate with Americans have been rendered to foreign intelligence services -- Saudi Arabia, Jordan, Morocco, Syria and other countries. Can you assure the committee that the administration is fully complying with all of the legal requirements and that all reports of U.S. officials engaging in the practice of rendering are false?

MR. CAMBONE: Sir, to the best of my knowledge, that is a true statement.

SEN. KENNEDY: We are not -- we have not -- your statement -- sworn statement now -- to your knowledge, the United States has not been involved in any rendering, any turning over of any personnel to any other country.

MR. CAMBONE: No, no. You said that they were turned over for torture and mistreatment. We have returned, for example, individuals to the U.K. There may be three or four of them that have been returned from Gitmo.

SEN. KENNEDY: Have you turned over, to your knowledge, any suspects to Saudi Arabia, Jordan, Morocco or Syria, to gather information?

MR. CAMBONE: From those people in DOD custody, not that I'm aware of, sir.

SEN. KENNEDY: So -- well, you would know if they --

MR. CAMBONE: I am not aware of any that have been transferred for that purpose. And if there --

SEN. KENNEDY: For any other purpose.

MR. CAMBONE: If there are, I will come back to you and tell you. As best I know,

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there are not any persons under our custody that have been transferred.

SEN. KENNEDY: Do the interrogators for Military Intelligence, the Central Intelligence Agency and also the contract intelligence, do they all have identical rules and regulations in terms of interrogating the detainees or prisoners of war or combatants? Or is there any distinction between the three?

MR. CAMBONE: Within Iraq the rules of the Geneva Convention apply. So therefore, the rules obtain for all three.

SEN. KENNEDY: I'm not -- that isn't my question. That's not my question.

MR. CAMBONE: Sir.

SEN. KENNEDY: My question is, do they have different kinds of rules of questioning? Do each of those services have rules? If they do have rules, how are they different?

MR. CAMBONE: I can speak for the DOD, contractor and military personnel, and those rules are the same.

SEN. KENNEDY: Identical.

MR. CAMBONE: The people we hire, in most cases, are required to have had that training in the military in order to become interrogators.

SEN. KENNEDY: And they are bound by the same set --

MR. CAMBONE: Yes, sir.

SEN. KENNEDY: So your testimony is the private contractors, Military Intelligence and military interrogators all operate -- and the CIA -- all operate with the same rules of interrogation.

MR. CAMBONE: I can only speak for the last inside of Iraq, sir.

SEN. KENNEDY: You're going to provide those rules to us?

MR. CAMBONE: I can do that.

SEN. KENNEDY: Let me just ask you -- finally, in the opinion of General Taguba, the setting of conditions for favorable interrogation is not authorized or consistent with Army regulations. You seemed to reach a different conclusion in your testimony today.

MR. CAMBONE: Yes, sir.

SEN. KENNEDY: Could you -- do you agree -- you and General Taguba there differ on that, the issues.

MR. CAMBONE: Yes, sir.

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SEN. KENNEDY: Is that correct?

MR. CAMBONE: We do, and in this sense --

SEN. KENNEDY: Well, I think it's important that we understand, when we were talking about the abuses that are taking place with the Military Police -- and you have two entirely different kinds of viewpoints on this issue -- how in the world are the military police that are supposed to implement going to be able to get it straight, particularly when you have General Miller there that is following what you believe, Mr. Secretary --

MR. CAMBONE: Sir.

SEN. KENNEDY: -- how are we -- how do you expect the MPs to get it straight if we have a difference between the two of you?

MR. CAMBONE: Well, let me try and explain it. As far as I understand it, there is doctrine relative to the Military Police which gives them the responsibility for conveying to the interrogators the attitudes of their -- those who are going to be interrogated, their disposition, who they've been talking to, and so forth; and it's the interrogators, in turn, under doctrine, Army doctrine, ask the Military Police those kinds of questions. So there is designed in the system a collaborative approach with respect to gaining that information. With respect to the issue of Gitmo-izing, if I may return to that, Senator Kennedy, let's go back to the conditions that were in Abu Ghraib. They were disorderly, as the general just points out. And the notion, it seems to me, that General Miller had was that order needed to be established in the processes and procedures.

SEN. KENNEDY: Well, just to finish, because my time is up, General Taguba, why do you believe that there should be a separation between the Military Police and intelligence officers?

GEN. TAGUBA: Sir, there's a baseline that we use as a reference, which is Army Regulation 190-8, which is a multi-service regulation, establishes the policy and executive agency for detention operations; in there, enumerates in Paragraph 1-5, the general policy and the treatment of not just EPWs but civilian internees, retained personnel and other detainees. That's the baseline that we use. We also use the MPs' doctrine on detention operations, which is Field Manual 3-3-19.40. And we further referred to the interrogation operations doctrine by -- used by the MI, which is Field Manual 3452. And they're all --

SEN. WARNER: Thank you very much, Senator.

SEN. KENNEDY: Thank you.

SEN. WARNER: Senator Inhofe.

SEN. INHOFE: Thank you, Mr. Chairman. I -- well, first of all, I regret I wasn't here on Friday. I was unable to be here. But maybe it's better that I wasn't, because as I watched

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the -- this outrage, this outrage everyone seems to have about the treatment of these prisoners, I was, I have to say -- and I'm probably not the only one up at this table that is more outraged by the outrage than we are by the treatment. The idea that these prisoners -- you know, they're not there for traffic violations. If they're in cell block 1-A or 1-B, these prisoners, they're murderers, they're terrorists, they're insurgents. Many of them probably have American blood on their hands. And here we're so concerned about the treatment of those individuals. And I hasten to say yeah, there are seven bad guys and gals that didn't do what they should have done. They were misguided, I think maybe even perverted, and the things that they did have to be punished. And they're being punished. They're being tried right now, and that's all taking place. But I'm also outraged by the press and the politicians and the political agendas that are being served by this, and I say political agendas because that's actually what is happening. I would share with my colleagues a solicitation that was made. I'm going to read the first two sentences. "Over the past week, we've all been shocked by the pictures from Abu Ghraib prison in Iraq. But we have also been appalled at the slow and inept response by President Bush, which has further undermined America's credibility." And it goes on to demand that George Bush fire Donald Rumsfeld. And then it goes on to a timeline, a chronology, and at the very last it makes a solicitation for contributions. I don't recall this ever having happened before in history. Mr. Chairman, I ask unanimous consent that this solicitation be made a part of the record at this point.

SEN. WARNER: Without objection.

SEN. INHOFE: Mr. Chairman, I also am -- and have to say, when we talk about the treatment of these prisoners, that I would guess that these prisoners wake up every morning thanking Allah that Saddam Hussein is not in charge of these prisoners. When he was in charge they would take electric drills and drill holes through hands, they would cut their tongues out, they would cut their ears off. We've seen accounts of lowering their bodies into vats of acid. All these things were taking place. This was the type of treatment that they had. And I would want everyone to get this and read it. This is a documentary of the Iraq special report. It talks about the unspeakable acts of mass murder, unspeakable acts of torture, unspeakable acts of mutilation, the murdering of kids -- lining up 312 little kids under 12 years old and executing them, and then of course what they do to Americans, too. There's one story in here that was in the I think it was The New York Times, yes, on June 2nd. I suggest everyone take that -- get that and read it. It's about one of the prisoners who did escape as they were marched out there, blindfolded and put before mass graves, and they mowed them down and they buried them. This man was buried alive and he clawed his way out and was able to tell his story. And I ask, Mr. Chairman, at this point in the record that this account of the brutality of Saddam Hussein be entered into the record, made a part of the record.

SEN. WARNER: Without objection, so ordered.

SEN. INHOFE: I am also outraged that we have so many humanitarian do-gooders right now crawling all over these prisons, looking for human rights violations while our troops, our heroes, are fighting and dying. And I just don't think we can take seven -- seven bad people. There are some 700 guards in Abu Ghraib. There are some 25 other prisons, about 15,000 guards all together, and seven of them did things they shouldn't have done and they're being punished for that. But what about some 300,000 troops

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have been rotating through all this time and they have -- all the stories of valor are there. Now, one comment about Rumsfeld. A lot of them don't like him. And I'm sorry that Senator McCain isn't here, because I just now said to him, "Do you remember back three years ago when Secretary Rumsfeld was up for confirmation, and I said these guys aren't going to like him because he doesn't kowtow to them, he is not easily intimidated." I've never seen Secretary Rumsfeld intimidated. And quite frankly, I can't think of any American today as qualified as Donald Rumsfeld is to prosecute this war. Now -- oh, one other thing. All the idea about these pictures. I would suggest to you any pictures -- and I think maybe we should get direction from this committee, Mr. Chairman, that if pictures are authorized to be disseminated among the public, that for every picture of abuse or alleged abuse of prisoners, we have pictures of mass graves, pictures of children being executed, pictures of the four Americans in Baghdad that were burned and their bodies were mutilated and dismembered in public. Let's get the whole picture. Now, General Taguba, many, many years ago I was in the United States Army. My job -- I was a court reporter. I know a little bit about the history. The "undue command influence" that is a term that we've heard, and I'd like to make sure that we get into the record what that is. I'm going from memory now, but it's my understanding that the commanders up the line can possibly serve as appellate judges. Consequently, commanders up the line are not given a lot of the graphic details but merely said, as in the case of Rumsfeld, serious allegations need to be investigated and they start an investigation. This is back in January. Now, Rumsfeld said -- and I'm quoting him now -- "Anything we say publicly could have the impact on the legal proceeding against the accused. If my responses are measured, it is to assure that pending cases are not jeopardized." Do I have an accurate memory as to why they have this particular "undue command influence" provision that we have been following now for five decades that I know of?

GEN. TAGUBA: Sir, I'm not a lawyer and --

SEN. INHOFE: But isn't that the reason you were called in? Well, I should ask General Smith. General Smith, isn't that the reason that General Taguba was brought in in the first place to keep this from happening? GEN. SMITH: Yes, sir; to do the investigation and do the fact-finding so that the commanders could make informed decisions on what actions should be taken thereafter. And the difficulty in the command influence piece is that should General Sanchez or should I or General Abizaid say something along the lines that we must take this action against these individuals, then that is command influence down the line that those that are making judgment on them would influence and bias their decisions.

SEN. INHOFE: And that, sir, has not changed over the last 45 years? GEN. SMITH: That has not changed. And that has happened; we have had a number of folks that have -- their sentences, or whatever, have been impacted by command influence.

SEN. INHOFE: Mr. Chairman, one last question to General Smith. All kinds of accounts are coming out now that are -- many that are fictitious, I would suggest. One was about a guy being dragged out of a barber shop. This is in Washington Post this morning. They talked about the person doing this had AK-47s, was blindfolded. Are our troops issued AK-47s? GEN. SMITH: They are not, sir.

SEN. INHOFE: Thank you very much. Thank you, Mr. Chairman.

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SEN. WARNER: Thank you very much, Senator. For the benefit of all members, the subject of the pictures has been raised, and I'd like to address that. In consultation with the department over the weekend, the department indicated its willingness to cooperate in every way to provide these pictures to the Senate Armed Services Committee. But it occurred to me in my capacity as chairman that this issue was a Senate institutional issue, it went beyond this committee, because I think other senators should be entitled to receive that information in the same way that members of this committee. I thereby asked the Senate leadership, majority, minority, and invited Senator Levin to join me, and we discussed this issue very carefully yesterday. We are seeking the advice of Senate counsel and the respective counsel of the majority, minority leader and counsel to this committee. And we will before, hopefully, the end of the day, have adopted a procedure by which that transmission of further evidence can come to the Senate -- the whole Senate and how it would be made available to all senators and under what conditions, in compliance with Senate precedents, rules, and to protect the legal interests of all parties involved.

MR. CAMBONE: Thank you, sir.

SEN. WARNER: Thank you. Senator Byrd.

SEN. ROBERT BYRD (D-WV): Thank you, General Taguba, for your report and for your service to your country. In Friday's hearing before the Armed Services Committee, General Schoomaker, the Army chief of staff, said of the prison abuse this is not a training issue but one of character and values. It's becoming clear to me that this abuse wasn't just about values, it was about policies and planning. General Taguba, based on your investigation, who gave the order to soften up these prisoners, to give them the treatment? Was this a policy? Who approved it?

GEN. TAGUBA: Sir, we did not find any evidence of a policy or a direct order given to these soldiers to conduct what they did. I believe that they did it on their own volition. I believe that we -- they collaborated with several MI interrogators at the lower level, based on the conveyance of that information through interviews and written statements. We didn't find any order whatsoever, sir, written or otherwise, that directed them to do what they did.

SEN. BYRD: Doesn't the lack of training of our troops for prison duty actually demonstrate a monumental failure in planning for the long-term occupation of Iraq? How else could the military and civilian leadership of the Pentagon explain why this training wasn't even offered?

GEN. TAGUBA: Sir, the training of the Geneva Convention is inherent -- every time -- from the recruit all the way up to my rank level. In terms of these MPs, as far as internment and resettlement, some of them received training at home station and the (mobe ?) station, and some did not. And that was our recommendation, that a mobile training team be deployed to theater to ensure that they are in compliance with training tasks to do that. And there was a capacity to do that during the conduct of their operation, because there were competent battalion commanders -- the battalion commander at Camp Ashraf was conducting his detention operation to standard. At Camp Bucca -- they did that at Camp Bucca, and also at Camp Cropper. Somehow it

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did not pan out at Abu Ghraib. GEN. SMITH: Sir, I might also mention that this organization, the 800th MP, is a specific task organized internment and resettlement organization. Their job was this sort of stuff.

SEN. BYRD: So you don't agree that there was a monumental lack of planning, that there was a monumental failure of planning for the long-term occupation of Iraq? You don't agree with that? GEN. SMITH: Sir, are you talking to me?

SEN. BYRD: Yes. GEN. SMITH: I'm just addressing the specific training issue for the 800th MP that you related to, that this was their task to come over and do that. I mean, that's what they did as an organization. So they were brought over to conduct internment and resettlement issues.

MR. CAMBONE: If I may, Senator Byrd, I don't think that the difficulties that we found at Abu Ghraib indicates that there was a long-term planning effort. In fact, Major General Ryder, who also did a report, was there specifically for that purpose. What is the long-term basis for confinement facilities and training and care and so forth? So no, there was attention being paid to the longer-term occupation issues.

SEN. BYRD: Secretary Cambone, when, if ever, did Ambassador Bremer first raise any concerns about how the military was running prisons in Iraq?

MR. CAMBONE: Sir, as I said earlier, the broad question of moving detainees through the prison system was a concern of Ambassador Bremer early on. With respect to the specific conditions inside of those facilities, I am not aware of his having raised them. I don't know when that might have been. I do know -- I am told that some time in the February-March time frame he raised this issue. But I would have to check records for you, sir.

SEN. BYRD: Didn't Ambassador Bremer have overall responsibility for what was going on in Iraq?

MR. CAMBONE: Yes, sir, he was the occupying power, the one in whom that was invested.

SEN. BYRD: Shouldn't he have known how Iraqi prisons were being run, and shouldn't he have sounded the alert if he thought that the military were doing something wrong?

MR. CAMBONE: And again, sir, the working papers that are issued by the ICRC are done at the level of the command that they are investigating, and they don't frequently elevate to that level. They did meet in February of 2004, which is the result -- the resulting paper is the one that has been distributed. And at that time, the ICRC presented to Ambassador Bremer their findings for that previous year. And it is my guess that it's that point that the specific issues that you're addressing may have been raised by Ambassador Bremer.

SEN. BYRD: Do you know if Ambassador Bremer made any recommendations to the Department of Defense?

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MR. CAMBONE: He was anxious that the department find a way to, as I've said, move the prisoner detainee more rapidly through the system, provide addresses for the location to dependents and things of that character; that is, the general treatment of the detainees within the system in Iraq.

SEN. BYRD: Do you know if he made any recommendations with reference to policy?

MR. CAMBONE: No, sir, not beyond what I've said. But he -- that, again, his concern would have been for the broad population and assuring that we were moving people through that system, doing what was necessary for interrogations and releasing those who had either served their time or had no reason for being in custody. He was anxious to see those people returned to their homes and families.

SEN. BYRD: My time is up. Thank you.

SEN. WARNER: Thank you, Senator Byrd. Thank you very much. Senator Roberts.

SEN. PAT ROBERTS (R-KS): Thank you, Mr. Chairman. I think my questions are somewhat repetitive, but at any rate, why, General, thank you for the job that you've done. Many are called and few are chosen, and you have done an outstanding job. In your report, you indicated that the 800th Military Brigade had not been directed to change its policies and procedures to set conditions for intelligence interrogations, but you concluded indeed such changes had been made at lower levels. Were these changes made at the battalion or the company level?

GEN. TAGUBA: Sir, we didn't find any changes either at the company or the battalion or even at the brigade --

SEN. ROBERTS: I'm going to repeat the question by Senator Byrd: Did these changes result from orders or direction from the military intelligence unit at the prison?

GEN. TAGUBA: Sir, there were interaction between the guards and the military interrogators at that level.

SEN. ROBERTS: But the changes were not policy?

GEN. TAGUBA: No, sir.

SEN. ROBERTS: Did you discuss with Major General Miller his recommendation that the MPs and the military intelligence functions be better coordinated, to determine exactly what he had in mind? And as a follow-up, this is the Gitmo-ize question: Is there some level of coordination between the Military Police and the military intelligence units that is permitted by Army regulations? You cited a whole series of Army regulations. General Ryder, I believe, states that we should have a firewall in between the MPs and the military interrogators. But yet General Miller says, from his experience in regards to Gitmo, that that basically, if not impossible, is actually detrimental in terms of cooperation, but insists that if you do have that kind of cooperation, you must have leadership, you must have discipline, and you must have training. Were the military intelligence officers at Abu Ghraib familiar with Major General Miller's recommendations?

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GEN. TAGUBA: Sir, I cannot answer that. I was not there for the debriefing, nor did I discuss in any detail General Miller's report. However --

SEN. ROBERTS: Did the intelligence officers then at the prison believe that Major General Miller's recommendations had been accepted and adopted? And if so, what was the basis of this belief?

GEN. TAGUBA: Sir, I cannot answer that. I was not there, nor did I question whether the CJTF-7 accepted his recommendations or not. I just read his report.

SEN. ROBERTS: Okay. General Smith, an order to soften up a detainee would not be a lawful order, is that correct? GEN. SMITH: Sir, that's correct. I mean, it is --

SEN. ROBERTS: What legal basis, then, would a soldier have for following that order? GEN. SMITH: Sir, none. And especially if you're an organization of that type and have read any of the regulations, all of them are replete with guidance on humane treatment, as well as the number of fragmentary orders that were put out through General Sanchez telling them that they could not do many of these -- or take actions that were inhumane.

SEN. ROBERTS: Secretary Cambone, thank you for your appearance. And we welcome you to the Intelligence Committee tomorrow. Some accused of the abuses at the prison claim they were acting under orders from intelligence officers. Do any of the Department of Defense regulations or policies encourage, condone or permit such actions?

MR. CAMBONE: No, sir.

SEN. ROBERTS: In your review of this matter, have you learned of any local or unit-level policies -- I emphasize the word "policies" -- that encouraged or condoned or permitted these abuses?

MR. CAMBONE: No, sir.

SEN. ROBERTS: Were you aware of Major General Miller's recommendations that MPs set the conditions for the interrogations at the prison? Did you discuss this recommendation with anybody at the Joint Task Force 7?

MR. CAMBONE: I did not discuss them with anybody at Joint Task Force 7, no, sir.

SEN. ROBERTS: What did you understand this recommendation to mean?

MR. CAMBONE: That there had to be a basis for the transfer of information from those who had custody on a daily basis of those who were being interrogated to those who were being interrogated in order that the interrogators understood personalities, relationships, in order to be able to gain the information that they were trying to gain from the persons being interrogated.

SEN. ROBERTS: From a pragmatic standpoint, is this a good thing or a bad thing? Is

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Ryder right and Miller wrong? Miller right, Ryder wrong? Or is it somewhere in between?

MR. CAMBONE: Sir, this is a matter -- while it is written in doctrine, it seems to me doctrine is meant to be adapted to circumstance, and that was what the substance of General Miller's recommendation was.

SEN. ROBERTS: When is the Fay report going to come out?

MR. CAMBONE: My understanding -- (aside) -- And, General, you can correct me -- (returning) -- that he is completing his work in Iraq over this week. He has to go to Germany to see people who have since rotated from Iraq to Germany. And then will come back here to meet others. So we're looking toward the end of this month and perhaps the first part of June.

SEN. ROBERTS: Is the policy in regards to the military police and the military intelligence functions at Gitmo, is this being reviewed for compliance with Army regulations?

MR. CAMBONE: If General Fay didn't realize that was the subject of his investigation, sir, he is now painfully aware of it.

SEN. ROBERTS: Was your encouragement to Major General Miller to inspect the prison in any way prompted or otherwise linked to concerns about any abuse at the prison?

MR. CAMBONE: No, sir. To the contrary, it was the desire to make certain that we had the proper conditions within those places in order for the information to be gathered.

SEN. ROBERTS: When you learned of the abuse and knowing of the intelligence activities at the prison, did you have any concern about a possible link to the intelligence unit?

MR. CAMBONE: I understood -- it's probably in February that there were military intelligence personnel who were implicated. I did not know the nature of that implication, the extent or scope of the abuse that had taken place. So I didn't make a connection in the sense that there was a significant issue here until we moved down the path and realized exactly what was taking place. Furthermore, I still don't know that there is a significant issue here.

SEN. ROBERTS: I thank the chairman. GEN. SMITH: Sir, could I clarify on the MP/MI regulation here? It is not absolutely clear in this regulation that the MPs and the military intelligence guys should not have some relationship. What is absolutely clear in the regulation is that the MPs are not allowed to be in the interrogation process. So do not take it that there is some Army regulation out here that says this shall not be. I've got it right here and I'll be glad to provide it for the record, and it is not --

SEN. ROBERTS: I think that would be helpful. My point was I don't think you can set up a firewall between those who are interrogating and the MPs. I don't even think that would be desirable. On the other side of the fence, you don't want them directly

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involved -- GEN. SMITH: Yes, sir.

SEN. ROBERTS: -- and with a lack of discipline and leadership and training to have something like this happen. GEN. SMITH: I agree with you, and I believe when you read the document you will see that that allows that sort of activity.

SEN. ROBERTS: Mr. Chairman, it would be helpful if we had Secretary Cambone's statement. I don't have that. I don't know if it was made available.

SEN. WARNER: It was made just shortly before the hearing commenced.

SEN. ROBERTS: All right. Thank you, sir.

SEN. WARNER: It's being reproduced. Thank you. I acknowledge, as chairman of the Intelligence Committee, you're conducting a separate inquiry on this matter. But I think it's important -- I picked up on something that Secretary Cambone -- do you have any knowledge of any Central Intelligence participation in the interrogation process in the cellblocks?

MR. CAMBONE: I do know that there were people who were brought by agency personnel to that place, to the cellblocks. And there may be -- and again, there may have been interrogations conducted by the agency personnel while they were there, and that's about the extent of my knowledge of specifically what they were engaged in in terms of interrogation.

SEN. WARNER: General Smith, do you have any additional knowledge? GEN. SMITH: No, sir. I do not.

SEN. WARNER: Thank you very much. Senator Reed.

SEN. JACK REED (D-RI): Thank you, Mr. Chairman. General Taguba, to the best of your knowledge, when did this pattern of abuse begin as we've seen in the pictures?

GEN. TAGUBA: Sir, to the best of the evidence that we gathered, it happened sometime after the 15th of October, thereabouts; mid- to late October.

SEN. REED: Fifteenth of October, right. And, General Smith, General Miller came to Iraq in August with the baseline from Guantanamo, which had series of coercive measures which was being employed in Guantanamo, and we all recognize that area was not subject to the Geneva Convention. He briefed, as you indicated in your previous testimony, individuals at the prison. He also recommended the establishment of a theater joint interrogation and detention center there. Is that correct? GEN. SMITH: I believe so.

SEN. REED: That's correct. That's August, and then October we start seeing a series of abusive behaviors, which the accused suggest were a result of encouragement or direction from these intelligence people in this theater joint interrogation and detention center. General Taguba has testified that he did not investigate, talk to or in any way know anything about what was going on in that joint interrogation center. Is that a fair

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sort of chronology? GEN. SMITH: Sir, it's a fair chronology. I would only say that in talking and speaking with General Miller -- and he has to be the one that answers some of this -- he spoke directly to the brigade commanders that were involved here and he had the special operating procedures with him and left those with him.

SEN. REED: And General, to your knowledge, General Miller made it very clear to these brigade commanders that because of the Geneva Convention many of these provisions could not be applied? GEN. SMITH: Sir, according to General Miller, that was very clear to the commanders.

SEN. REED: That was very clear. Then why would he bring those procedures over and brief them? GEN. SMITH: Sir, he -- to the best of my knowledge -- and again, these are questions you're going to have to ask General Miller. But to the best of my knowledge, he did not bring those coercive procedures over with him.

SEN. REED: Thank you. Mr. Secretary, you encouraged General Miller to visit --

MR. CAMBONE: I did, sir.

SEN. REED: Were you in communication or anyone in your office in communication with General Miller during his trip or after his trip?

MR. CAMBONE: He technically went over under joint staff auspices but with my encouragement, and that of other senior members of the department, to look at the issues that we've talked about. On his return, when he completed his report, I received a briefing on it and then asked for people to look at its subsequent progress and what had taken place.

SEN. REED: So you were briefed on his recommendation to use the guard force actively to condition the --

MR. CAMBONE: No, sir, again --

SEN. REED: You weren't briefed on that?

MR. CAMBONE: No, no, excuse me. I want to phrase this right and that is on the issue of making certain that we had the kind of cooperative relationships, I understood that. I don't know that I was being told and I don't know that General Miller said that there should be that kind of activity that you are ascribing to his recommendation.

SEN. REED: General Taguba -- excuse me, and I'm probably doing -- Taguba -- I'm doing violence to your name. I apologize.

GEN. TAGUBA: (Laughs.)

SEN. REED: Taguba. Forgive me. Was it clear from your reading of the report that one of the major recommendations was to use guards to condition soldiers -- condition these prisoners, excuse me.

GEN. TAGUBA: As I read it on the report, yes, sir. That was recommended on the

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report.

SEN. REED: But General Miller didn't think it was important enough to brief you, Mr. Secretary?

MR. CAMBONE: That's right, I was not briefed by General Miller.

SEN. REED: Who were you briefed by?

MR. CAMBONE: My deputy general, Boykin, briefed me on the report.

SEN. REED: So General Boykin and General Miller were collaborating on this exercise?

MR. CAMBONE: No, sir. Not at all, sir. Not at all. General Miller --

SEN. REED: And he -- so General Boykin didn't think it was important enough to brief you on that?

MR. CAMBONE: No, sir. Again, your suggestion that the report on the phrase "setting the conditions" is tantamount to asking the military police to engage in abusive behavior, I believe, is a misreading of General Miller's intent.

SEN. REED: Mr. Secretary, what I'm suggesting is anyone in your position should have asked questions. One specifically would be: What does it mean to set the conditions for these troops under the Geneva Convention?

MR. CAMBONE: Sir --

SEN. REED: Did you ask that question?

MR. CAMBONE: Well, I didn't have to answer (sic) that question. Why? Because we had been through a process in which we understood what those limits were with respect to Iraq, and what those were with respect to Guantanamo.

SEN. REED: Mr. Secretary, what is the status of the detainees in that prison under the Geneva Convention?

MR. CAMBONE: I'm sorry, sir, which prison?

SEN. REED: What is the -- Abu Ghraib.

MR. CAMBONE: Abu Ghraib? They are there under either Article 3 or Article 4 of the Geneva Convention.

SEN. REED: Let me recite Article 4. "Persons protected by the convention are those who at any given moment and in any manner whatsoever find themselves, in case of a conflict or occupation, in the hands of a party to the conflict or occupying power of which they are not nationals." These are protected persons. Let me read Article 31. "No

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physical or moral coercion shall be exercised against protected persons, in particular to obtain any information from them or from third parties."

MR. CAMBONE: Sir, we're in agreement here. What --

SEN. REED: Well -- we're in agreement? I don't think we are, Mr. Secretary.

MR. CAMBONE: We are in agreement on the terms --

SEN. REED: General Miller suggested that guard forces be used to set the conditions, based on the template at Guantanamo, those methods were coercive. Yet you did not choose to ask about this. You were completely oblivious.

MR. CAMBONE: No, sir. Again, what I said was we knew what the circumstances were with respect to Guantanamo. We knew what the circumstances were with respect to Iraq. We understood that the Geneva Convention and all of its articles applied in Iraq. And that -- again, I come back to what I keep saying here. The notion was that you had to have a cooperation, a cooperative attitude, team-building, call it what you will --

SEN. REED: Mr. Secretary, please. Please.

MR. CAMBONE: -- between the MPs and the MIs.

SEN. REED: Please.

MR. CAMBONE: Sir --

SEN. REED: This is not a cooperative attitude. This is not a guard observing the comments of a prisoner --

MR. CAMBONE: That is exactly true, sir.

SEN. REED: Is that what's happening at Guantanamo?

MR. CAMBONE: No, sir. What took place --

SEN. REED: Is that what's happening in Guantanamo?

MR. CAMBONE: What took place in the prison, we have all said, exceeded the regulations, laws, and laws of war, conventions of the Geneva Convention and everything else. General Taguba has said repeatedly that there was no policy, he discovered no direction; that these were not directed acts on the part of those individuals --

SEN. REED: Mr. Secretary, people failed to ensure, by asking the appropriate questions, that these recommendations were transmitted down to individual soldiers in a way that they would understand --

MR. CAMBONE: Yes, sir.

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SEN. REED: -- that this just is cooperating, not participating in setting the conditions, as was done -- as is done in Guantanamo.

MR. CAMBONE: Senator, I agree with you on the transmission of those directions. And as I said to you, and as General Smith has alluded to, there is a paper from General Sanchez making precisely those points. Moreover, if you read General Miller's report, he says before you do anything with this, we need a command staff judge advocate to work this problem and make sure it's --

SEN. REED: Did the command staff judge advocate issue a legal opinion?

MR. CAMBONE: Again, what I have is his report, and it says that that was an activity in progress. And I have not heard -- what I know is that General Sanchez --

SEN. REED: So General Sanchez ordered this policy without advice of counsel.

MR. CAMBONE: No, sir, he did not. If you read General Taguba's report, he will tell you that at the time he was there, he had not seen any actions -- page 12, I think -- to implement the procedures specifically and officially from General Sanchez down to anyone in the lower ranks of his command. The activity that was taking place was not authorized.

SEN. WARNER: I have to ask that if the witness -- GEN. SMITH: Sir, I would add that there were numerous fragmentary orders out there that direct other than what you are suggesting.

SEN. WARNER: Thank you very much. If there's further amplification to the senator's questions, please provide it for the record. Senator Allard?

SEN. WAYNE ALLARD (R-CO): Mr. Chairman, I want to thank you for moving forward on this investigation quickly here at the committee level. I think it's something that we need to move off our agenda so that we begin to concentrate on many good things that are happening in Iraq as far as moving them towards the sovereignty, their own sovereignty. And I do have a statement I'd like to have put in the record --

SEN. WARNER: Without objection.

SEN. ALLARD: -- I ask unanimous consent -- prior to my questioning. I'd also share my shock and dismay that Mr. -- Senator Inhofe mentioned in the fact that this unfortunate situation at Abu Ghraib prison is actually being used as a fundraiser by the Kerry campaign. I just find that appalling. And now I'd like to move forward and have a question to you, General Taguba. In my statement I find that your reporting supports that the Army has taken the initiative and following through appropriately on our own affairs. Now, just so that I am clear in my own understanding, were you directed by any of your superiors to remove any findings that you felt were credible or relevant?

GEN. TAGUBA: Sir, I was not directed by my superiors.

SEN. ALLARD: Were you directed by any of your superiors to withhold or remove

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recommendations for any adverse personal actions regarding subjects of your investigations?

GEN. TAGUBA: Sir, none whatsoever.

SEN. ALLARD: And just so I am clear also about the makeup of the prison population, my understanding from some of the testimony that we received here today, that if somebody is classified as a terrorist -- in other words, they're not associated with any country officially -- then there is a difference -- they don't fall under the Geneva guidelines. Is that correct?

MR. CAMBONE: The president designated the al Qaeda as being unlawful combatants, sir.

SEN. ALLARD: So just that particular terrorist organization, or any terrorist organizations?

MR. CAMBONE: I know for a fact it's al Qaeda, and my guess is that, depending on the circumstances, if we found ourselves in armed conflict with some other organization such as, the president would take that under advisement.

SEN. ALLARD: Okay. Now, did we have terrorists in the population at this prison?

GEN. TAGUBA: Sir, none that we were made aware of.

SEN. ALLARD: So as far as we know, these were all related to those guidelines that generally you're complying with as far as the military is concerned on how you handle prisoners.

GEN. TAGUBA: Sir, they were either classified as security detainees or other detainees, criminals, things of that nature.

SEN. ALLARD: But no terrorist classification --

GEN. TAGUBA: None that we were given, no, sir.

SEN. ALLARD: Okay. Secretary Cambone or General Smith, in your estimation, why was anyone taking pictures in the security detention facility at Abu Ghraib? And is there any explanation from a physical security or prisoner security or military intelligence perspective? GEN. SMITH: Sir, the photographing of prisoners, especially with private cameras, is against --

SEN. ALLARD: Private cameras? GEN. SMITH: -- by private cameras is against the rules. The rule --

SEN. ALLARD: Uh-huh. And so these were taken by private cameras? GEN. SMITH: Sir, I believe they were taken by digital cameras that belonged to the individuals. But I don't know that.

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SEN. ALLARD: I see. GEN. SMITH: Maybe General Taguba does.

GEN. TAGUBA: Sir, they were personal cameras.

SEN. ALLARD: They were personal -- GEN. SMITH: This specifically says photographing, filming and videotaping of individual EPW/CI, other than internal internment facility administration or intelligence/counterintelligence purposes, is strictly prohibited.

SEN. ALLARD: And so this didn't have anything to do with the way you manage the prisoners or any of their interrogation or any physical security of the prison; this was taken on by individuals, unknown to those in command at the time? GEN. SMITH: That is my belief, but I don't know specifically --

GEN. TAGUBA: Sir, as far as we know, based on the evidence and the interviews and the statements, they were taken by -- with personal cameras.

SEN. ALLARD: Individuals taking that on their own, without any instruction from command?

GEN. TAGUBA: Yes, sir.

SEN. ALLARD: Okay. Now, General Smith, in General Taguba's report, he recommended that a mobile training team be assembled and dispatched to your area of operations to oversee and conduct comprehensive training in all aspects of detainee and confinement operations. Were these teams dispatched as recommended? GEN. SMITH: Sir, they were dispatched before the report was actually approved. About 50 percent of the training is complete, and they will continue and have all of this completed by the end of June, although everybody that's out there is getting training weekly, awaiting the mobile training team specifically getting down there. That will be followed by sustained required training every week in all of these rules. Additionally, the Geneva Conventions are required to be briefed at every change of shift.

SEN. ALLARD: And your point is that when you got General Taguba's report, even before it was finalized, you were beginning to take corrective action, and so action was -- you were responding immediately to concerns about how -- what was being reported in the camp of Abu Ghraib. GEN. SMITH: That's correct, sir.

SEN. ALLARD: Okay. General Smith, General Taguba, I understand the necessity and significance of maintaining a strategic interrogation exploitation process. After all, our primary goal, along these lines, is to save the lives of Americans, Iraqis and other partners in the region. Can you share with us whether or not your command is actually developing good intelligence based on your approved interrogation techniques? In other words, are we saving lives? GEN. SMITH: Sir, my belief is that we are. We absolutely have built the networks and what they look like and who the players are, based on intelligence information from human intelligence. A portion of that is this kind of activity. And so, sir, I would say absolutely that there have been lives saved because of the people that we have been able to go out and pick up because of the human intelligence process.

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SEN. WARNER: Thank you very much, Senator. Senator Akaka.

SEN. DANIEL AKAKA (D-HI): Thank you very much, Mr. Chairman. General Taguba, I want to commend you and your team for submitting a very -- what I consider a candid and thorough report. Your task was not an easy one. However, your honesty and your integrity reflect the character we expect from soldiers in our military. General Taguba, in your report you reference the lack of supervision over U.S. civilian contractor personnel, third country nationals and local contractors within the detention facility at Abu Ghraib. During your investigation, did you determine how many civilian contract personnel were working there? Who supervised these individuals? And can you describe what you observed in terms of type of access these individuals had to the detainee areas?

GEN. TAGUBA: Sir, we did not make a determination of how many civilian contractors were assigned to the 205th MI Brigade and operating at Abu Ghraib. I personally interviewed a translator and I also personally interviewed an interrogator, both civilians, contractors. There was also a statement, and substantiated by the witnesses that we interviewed, of another translator, a third-country national in fact, that was involved. And there was another third-country national who was acting as a translator for the interrogators that was involved in one of the interrogation incidents where dogs were used. Their supervision, sir, from the best that we could determine or discern from the information that we gathered, was they were under the supervision of the Joint Interrogation and Debriefing Center, the JIDC, who is then under the supervision of one, a lieutenant colonel, who was also supervised by the brigade commander, the MI brigade commander. That was the chain, sir.

SEN. AKAKA: What access these individuals had to the detainee?

GEN. TAGUBA: Sir, they had an open access to the detainees.

SEN. AKAKA: General Taguba, your report finds that two contractors were either directly or indirectly responsible for the abuses at Abu Ghraib. Were either of these contracted personnel supervising soldiers or in a position to direct soldiers to take specific actions?

GEN. TAGUBA: Sir, they were not in any way supervising any soldiers, MP or otherwise. However, the guards, those who were involved, looked at them as competent authority as in the manner by which they described them, as the MI or by name or by function.

SEN. AKAKA: Secretary Cambone, what kind of training did the U.S. civilian contractors have prior to going to Iraq? I've been informed that the training for interrogators including training tactics and techniques used by other countries. Did such training occur? And if so, are these tactics and techniques approved by DOD intelligence officials?

MR. CAMBONE: The only tactics and techniques that would be approved, sir, are those that are approved by the command for use in that situation. As I said earlier, the recruitment -- and if you look at the advertisements for the recruitment, they look for

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people who have had the experience of being interrogators. And I am told that in fact some of the retired personnel and those who have since left the service are quite capable and are, in terms of the interrogator's art, better able to conduct those interrogations than the younger individuals who are new to that activity. GEN. SMITH: Sir, most have gone through the 19-and-a-half week training at Fort Huachuca either while they were in the service or afterwards.

SEN. AKAKA: General Smith, who is keeping a record of all the employees that work for all the contracted firms in Iraq and Afghanistan? Is it the contracted firm or DOD?

GEN. SMITH: Sir, you're beyond my knowledge there. Except that the contracting officer who contracts with the company is responsible for ensuring that they comply with the contract. And by name, I suspect he has who those contractors are, but I can't tell you that for sure.

SEN. AKAKA: Thank you for responses.

SEN. WARNER: Thank you very much, Senator Akaka. Senator Sessions.

SEN. JEFF SESSIONS (R-AL): Thank you. I first want to again state my appreciation for the superb work of our soldiers in Iraq and Afghanistan. In many, many instances, some of which we've seen on television, they demonstrate restraint day after day. They - sometimes under very intense pressure, and they've maintained their poise and their professionalism. They've risked their lives, as we've seen a soldier going to the bridge to save an Iraqi woman under hostile fire. They have, on their off hours, built schools and hospitals and treated the sick. And so this is particularly painful for all of us to have this experience. But I absolutely have visited those soldiers there, and I know them who've been there. They've told me of things that they've done and the relationships they've had with Iraqi citizens. Strongly, it's interesting how many want to volunteer and go back because they believe in their work and they want to see this to be a healthy, stable country, and nothing we say today should denigrate that. I have been somewhat concerned at the suggestion that there is a policy of abuse here. And, General Smith, I think you've read clearly that the explicit statement from every level of command are in existence that would absolutely prohibit this kind of behavior. Is not that correct? GEN. SMITH: Sir, that's absolutely correct. In many venues, in a number of times when fragmentary orders have been republished for the purpose of doing that, and I would like to present those for the record. I know Senator Reed is very concerned about it, and I would like to put those in the record.

SEN. SESSIONS: With regard, General Smith, of the Geneva Conventions. I was in the Army Reserve. I, for a short time, had a JAG slot, although I'm not like Colonel Lindsey Graham over here, who was an actual practicing JAG officer. But I remember in the transportation unit I had to train the transportation soldiers, enlisted people, in the Geneva Conventions. Isn't that done throughout the Army and the military? GEN. SMITH: Sir, that continues to be a requirement.

SEN. SESSIONS: And in basic training every soldier has been trained in the Geneva Conventions, is that not correct? GEN. SMITH: That's correct, sir.

SEN. SESSIONS: And I heard you say that they are briefing the Geneva Conventions at every shift change now in Abu Ghraib prison? GEN. SMITH: That's correct, sir.

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SEN. SESSIONS: And before that occurred, one of the criticisms I think General Taguba mentioned was they were supposed to be briefing the Geneva Conventions periodically, but perhaps it was not occurring. Are you familiar with that part of the report and what the requirement was?

SEN. SESSIONS: And, of course, General Smith, military police have more of this training than others, than the soldiers, I assume, in how to handle prisoners. GEN. SMITH: Sir, I can't speak to that. But my assumption would be that certainly they have more training than the average soldier would.

SEN. SESSIONS: Well, I'll thank you for your comments and would note that my time is expiring. But this Gitmo-ize issue I think really misses the point. Yes, we want to use some of the procedures that were working in Guantanamo and try to share that information to get it up to the people in authority so we could save lives, get it out to the people who could use it to identify who these attackers and terrorists were, but I don't think there's any indication that General Miller would in any way suggest this kind of behavior was legitimate. GEN. SMITH: Sir, you're absolutely right in both counts. In a counterinsurgency like this, intelligence is critical, in that if you want to go find the guys that are making the IEDs, or the ones that are shooting down our helicopters with SA-7s, or folks that are fomenting the insurgency, then you have to use human intelligence to do that. You can't do that by technical means alone.

SEN. WARNER: Thank you very much, Senator. GEN. SMITH: So it is a critical piece of the process. And clearly, time and time again, we are told, humane treatment in concert with the Geneva Conventions.

SEN. SESSIONS: Thank you.

SEN. WARNER: Thank you, Senator. That's a very important inquiry and response. And I appreciate that, General. Senator Nelson -- Bill Nelson.

SEN. BILL NELSON (D-FL): Thank you, Mr. Chairman. I don't think General Miller is where the problem lies, Senator Sessions. I think it lies elsewhere. General Taguba, in -- on page 16 of your report you state: "I find that the intentional abuse of detainees by military police personnel included the following acts" -- and you list a whole number of those acts. Among them: videotaping and photographing naked male and female detainees; forcibly arranging detainees in various sexually explicit positions for photographing; forcing groups of male detainees -- and I will insert paraphrasing here -- certain sexual acts while being photographed and videotaped; a male MP guard having sex with a female detainee; using military dogs without muzzles to intimidate and frighten detainees, and in one case, biting and severely injuring a detainee; sodomizing a detainee with a chemical light, and perhaps a broomstick; using military working dogs to frighten and intimidate detainees with threats of attack, and in one instance actually biting the detainee. Is that your report?

GEN. TAGUBA: Yes, sir.

SEN. BILL NELSON: All right. Mr. Secretary, when did you become aware of the

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nature of these prisoner abuses and the existence of the photographic and video evidence? That's two questions.

MR. CAMBONE: The photographic evidence -- to be clear, that there were photographs associated with this inquiry, I knew early in the change of the year. The nature --

SEN. BILL NELSON: I'm sorry, I didn't understand.

SEN. WARNER: We did not hear that answer. Could --

MR. CAMBONE: I'm sorry. I understood at the beginning of this year that there were photographs associated with the criminal investigative inquiry.

SEN. BILL NELSON: Did you know about these acts?

MR. CAMBONE: I did not know about these acts, and learned of them in specificity when I read the report and when I was exposed to some of those photographs.

SEN. BILL NELSON: And you read the report when?

MR. CAMBONE: It's got to be in the last week, sir. It was not out of the command until the end of last month.

SEN. BILL NELSON: Now, the secretary of Defense told us last Friday that he learned about these abuses in the middle of January.

MR. CAMBONE: That we had abuses, true. The nature of them I was not aware of.

SEN. BILL NELSON: Did you know that they were horrific?

MR. CAMBONE: No, sir. I received a report that there was an inquiry under -- a number of six or seven, by the way, this being one of them, under way in which there were people implicated in abuses of prisoners in Iraq. The character of it, the scope, the scale, I was not aware of.

SEN. BILL NELSON: Specific to this prison, what was your role in alerting others that you work for, such as the secretary of Defense?

MR. CAMBONE: Yes, sir. Again, as the secretary testified, corporately we were aware, and I was one of those who told him so, that there were investigations under way with respect to this facility and ultimately the report that General Taguba has done in the February time frame. I mean, and so it was a report of an investigation about acts of abuse.

SEN. BILL NELSON: And what was your role in alerting the secretary to the danger posed to our theater strategy and the general perception around the world?

MR. CAMBONE: Yes, sir. And let me draw gradations here. There are instances of people having been mistreated in their apprehension, transportation and interrogation

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that -- a level of poor performance and behavior on the part of our people was understood, but it was understood at a fairly low level of abuse and incidence, rate of incidence. The scale of this was unknown to any of us. And had we known its scale, scope -- the earlier we would have known, the sooner we would have been able to come to you, to the president and to others to talk about it.

SEN. BILL NELSON: And you're saying you didn't know about that until last week?

MR. CAMBONE: Scope, scale, until the pictures began appearing in the press, sir, I had no sense of that scope and scale. I knew of the problem that there was abuse, that there was a criminal investigation, that there was an investigation being done by General Taguba, but I had no sense of it, sir.

SEN. BILL NELSON: Okay. Given that fact, why was the secretary of Defense unprepared, when he came before us in the secure room in the Capitol on April the 28th, why was he unprepared to share the information that he knew of with members, probably some 35 or 40 members of the U.S. Senate?

MR. CAMBONE: Sir, I don't -- I can't answer for the secretary on that question. He was here; he spoke with this committee and gave his answer, as I recall. I can't speak for him on why he did not raise it that evening. I don't know.

SEN. BILL NELSON: You had not discussed that with him?

MR. CAMBONE: That day I had not discussed it with him, no, sir.

SEN. BILL NELSON: Had you discussed it with him any time before, after you had learned in mid-January about these abuses?

MR. CAMBONE: Again, I informed him that there were investigations under way, of which this is one of six or seven that I was informed of. And I -- again, I did not understand the scope and scale. If I had, I assure you, Senator, I would have told him.

SEN. WARNER: Thank you very much, Senator. Senator Talent.

SEN. JAMES TALENT (R-MO): Thank you, Mr. Chairman. Secretary Cambone, very quickly, one of the things I've wondered about, when you say you didn't recognize the scope and scale, is it possible that not having seen the pictures, you didn't recognize what the significance of the pictures would be in terms of the impact of this internationally?

MR. CAMBONE: Yes, sir.

SEN. TALENT: General Taguba, your report -- I think if we summed it up, we'd say that the unit at the prison was underdisciplined, undermanned, and poorly led. Is that a fair summation?

GEN. TAGUBA: Sir, very fair.

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SEN. TALENT: And in the middle of an Army that I think all of us would agree is very well disciplined and very well led. And so the question in my mind is, well, how? Why is this particular unit so below the standards and performance of the rest of the United States Army? And I'm going to make a comment, and you can comment on it if you want. I was in the other body all throughout the '90s, during which time the highest civilian authorities here and on the other side of Pennsylvania Avenue were cutting the size of the Army, and in my judgment, not funding adequately what -- the end strength that we had remaining. And what I saw consistently was the Army, in order to keep the tip of the spear sharp, if you will, allowing some of the rest of the spear to go rusty. And, you know, sooner or later, those chickens come home to roost. You get a poor commander, you don't have enough people, the guys you've got are not trained up adequately because you don't have the money for it, and then something like this happens. And I'll just say, I wish we'd had the interest nationally through the '90s about funding the Army adequately, and maybe we wouldn't all be sitting here. General Smith, let me ask you a question. I had a phone call, actually, from a constituent who raised an issue that might help in one aspect of this. As I understand it, one of the difficulties with getting this up to the very highest civilian levels is that -- the concern about command influence, because the same people that you'd want to report this through and to are the people who would be involved in passing on any court-martials that may emerge from this. And I know this is a problem. My wife used to be in the JAG Corps. Well, the constituent let me know that there is an office in the Air Force, the Reporting Office on Special Interest Cases, which is evidently designed to deal exactly with this. Are you aware of that office? GEN. SMITH: Sir -- sir, I'm not aware of this -- of that office. And this was in basically Army channels.

SEN. TALENT: Right. And what I'm wondering -- and maybe to recommend to the secretary -- this office exists for, as I am told -- and we're checking this out in my office -- in the Air Force to deal with cases like this. So you can -- if you think something's of special significance, you can get it up to higher authority, but through a separate, specially created chain of command, so you don't compromise the command influence. And then you can get it to somebody who then has the discretion, if they want to, to go directly to the secretary or the deputy secretary. And we're certainly going to be looking. And I'd recommend it to you, if you're not aware of it, because evidently it functions pretty well in the Air Force. You're not aware of it, though, as of now, I take it. GEN. SMITH: Now that you mention that office, I -- yes, I recall that there is one. And I can tell you that the secretary has more than that on his list of ideas, or will have more than that on the list of his ideas.

SEN. TALENT: Okay. Thank you, Mr. Chairman. GEN. SMITH: Because you are right, some way has got to be found to do this.

SEN. TALENT: Yeah, because we clearly have a defect in this. I mean, command influence is a problem, and when you think everybody involved in this probably wishes, they just said, the heck with command influence, we've got to pick up the phone and call and let people know. GEN. SMITH: Yes, sir. Yes, sir. And, indeed, you know, at least to the extent that the sergeant delivered the disc to the Criminal Investigative Division, he put in train, at least, a process that has brought all this to light.

SEN. TALENT: Thank you, Mr. Chairman.

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SEN. WARNER: Thank you very much. Senator Dayton. (Pause.) This says Dayton.

SEN. LEVIN: Where's Nelson in that? He -- no, no, you missed him.

SEN.: Senator Nelson.

SEN. LEVIN: It's Ben Nelson.

SEN. WARNER: We have a different sheet, but I think Senator Nelson is preceding.

SEN. LEVIN: All right.

SEN. WARNER: Oops. Thank you very much.

SEN.: (Laughs.)

SEN. BEN NELSON (D-NE): I hate to cheat my colleague from Minnesota out of his place, but --

SEN. WARNER: Well, he's been getting here earlier and earlier each time. (Light laughter.)

SEN. BEN NELSON: I thank you, Mr. Chairman. I thank the witnesses today as well for your very strong statements about your opinions as well as the -- as well as the nature of the investigations. I'm going to ignore some of the partisan sniping that's been going on from the other side today, because I don't think it's particularly helpful. Having said that, General Taguba, in your opinion, this is not a top-down problem. I think what you're saying is that this was something that may have been spontaneous, but an abuse involving only a handful -- last week the operative word was "few" individuals, but I think that right now -- I think that perhaps it's a limited number of people. Is that accurate?

GEN. TAGUBA: Yes, sir. Based on the -- based on the interviews and the statements that were given to us by both the detainees, MP personnel, and those that we examined -- there were others, but we just could not track them down.

SEN. BEN NELSON: Well, what's the highest-ranking officer you interrogated?

GEN. TAGUBA: My interview, sir? Brigadier General Janis Karpinski.

SEN. BEN NELSON: You didn't talk to General Sanchez or --

GEN. TAGUBA: No, sir.

SEN. BEN NELSON: Did you talk to Colonel Pappas?

GEN. TAGUBA: Yes, sir. I did.

SEN. BEN NELSON: What's the highest-ranking official -- not officer, official -- you

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may have talked to?

GEN. TAGUBA: Sir, none. I stopped at General Karpinski.

SEN. BEN NELSON: So what may have happened above General Karpinski is an open book; in other words, it's not -- or it's a closed book. No one knows what may or may not have occurred above that level. Is that accurate, insofar as your investigation's concerned?

GEN. TAGUBA: Yes, sir. She did intimate to me other officials from the Coalition Provisional Authority that she interacted with in terms of the prison system, the Iraqi prison system, but I did not go after that. I did do a mid-course brief to General Sanchez and General McKiernan, but only in that we were proceeding on the timeline without any great details.

SEN. BEN NELSON: But General Karpinski says that her command was severed by the infusion of military intelligence dealing with certain detainees. Is that accurate, or an approximation of her statement?

GEN. TAGUBA: Sir, I don't understand where her command authority -- her command was severed from Abu Ghraib.

SEN. BEN NELSON: Well, because others were put in and she was given the instruction. Colonel Pappas appeared on the scene and military intelligence not under her command were there as well. Is that accurate?

GEN. TAGUBA: Sir, it's contained in my report that when I asked her if she had known about the FRAGO 1108, dated 19 November, the first time -- or the only time I interviewed her, she had no knowledge about that until about two days afterwards, of which I asked her what did she do after that. And then she wanted clarification from her chain of command, where she was told that, you know, that the FRAGO was indeed in effect and that the MI brigade commander was the commander, the forward operating base commander.

SEN. BEN NELSON: Well, under those circumstances, if her command wasn't severed was it at least interfered with, in your judgment?

GEN. TAGUBA: Sir, truthfully she challenged that.

SEN. BEN NELSON: She -- in what way was --

GEN. TAGUBA: Challenged the authority that was given to Colonel Pappas.

SEN. BEN NELSON: And what was the result of the challenge?

GEN. TAGUBA: Sir, it created a confusion and friction between those two commanders.

SEN. BEN NELSON: So what we have now is confusion, a lack of clarity of command.

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We've got a handful at least of spontaneous abusers as it related to detainees. So we know whether in that prison or in other prisons where there were criminal prisoners as well, not detainees, whether there was any abuse that carried over into their lives?

GEN. TAGUBA: Sir, the fragmentary order only affected Abu Ghraib. Camp Bucca was still under the 800th MP Brigade exclusively. So was Camp Cropper and Camp Ashraf.

SEN. BEN NELSON: Well, were the abuses there anywhere similar? Were there photographs there, as in the case of Abu Ghraib?

GEN. TAGUBA: None that we gathered in terms of evidence. No, sir.

SEN. BEN NELSON: And those other prisons were under her command, is that correct?

GEN. TAGUBA: Yes, sir. They were -- you might consider abuse, but that was in terms of slapping a prisoner, and they were (dealt with ?).

SEN. BEN NELSON: But not similar type abuses as we have here.

GEN. TAGUBA: Not to the gravity that was exposed, no, sir.

SEN. BEN NELSON: And not photographs.

GEN. TAGUBA: Not photographs, no, sir.

SEN. WARNER: Thank you very much, Senator.

SEN. BEN NELSON: Thank you, Mr. Chairman.

SEN. WARNER: Senator Chambliss.

SEN. SAXBY CHAMBLISS: (R-GA): Thank you, Mr. Chairman. General Taguba, it's refreshing to those of us who deal with the military every day not only to look at your report but to see your frankness here today. And I think every military officer can certainly walk a little taller and a little straighter because of the work that all of you gentlemen are doing, but particularly, General, with respect to the way you have handled yourself and being willing to be critical where you need to be critical. Now, General Smith, you made the statement earlier that this particular unit, the 800th MP Brigade, they were trained -- their job was "this sort of stuff." Now, I'm assuming you mean from that that their job was to go over there and run this prison. GEN. SMITH: Sir, and maybe General Taguba can jump in on this a little bit, but I believe there are only one or two organizations of its type in the United States Army, and it is an internment and resettlement brigade.

SEN. CHAMBLISS: Okay.

GEN. SMITH: (Speaking aside) Is that correct, Tony? SASC-PNL-ONE-IRAQ PAGE 89 05/11/2002

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GEN. TAGUBA: That's correct, sir.

SEN. CHAMBLISS: And General Taguba, while General Schoomaker took exception to a comment I made the other day relative to the lack of training of this unit, they just happened to be a Reserve unit, the fact of the matter is there were a few dysfunctional individuals within this unit that, according to your report, was a very poorly trained unit that didn't have knowledge of what they were supposed to do. In fact, as I read your statement here, there's a general lack of knowledge, implementation and emphasis of basic legal, regulatory, doctrinal and command requirements within the 800th MP Brigade and its subordinate units. Do you still stand by that statement?

GEN. TAGUBA: Yes, sir, I stand by that statement.

SEN. CHAMBLISS: In fact, your report is replete with comments relative to the lack of training of this particular unit that was supposed to be highly specialized and trained to do exactly what they were sent there to do; isn't that correct?

GEN. TAGUBA: Sir, when I interviewed the company commander and asked him to outline for me what training he received at the mobe (ph) station, he basically gave me the typical basic requirements only, marksmanship, things of that nature. When I asked him, did you get any additional training prior to your deployment and into deployment with regards to internment and resettlement or anything that has anything to do with detention operations, he said he did not. I did not interview the battalion commander, the 320th MP Battalion commander, because he invoked his right. However, those that we interviewed within that chain of command also concluded that.

SEN. CHAMBLISS: Okay. General, there's something that has puzzled me throughout this process that's evolved over the last -- or been made public over the last 10 days or so. MORE And one thing is the fact that Major General Ryder went in there in October and November of 2003 and did a report. And his report, according to your report, his objective was to observe detention and prison operations, identify potential, systemic and human rights issues and provide near-term, mid-term and long-term recommendations to improve operations in the Iraqi prison system. Yet he -- during the time that he was there in Abu Ghraib, some of these instances were occurring. I think your report confirms that; certainly, when he testified the other day in the Intelligence Committee, that was obvious. I have asked the question privately and publicly, why didn't somebody come forward and tell Major General Ryder about this during the time that he was there when these incidents were going on? Do you have any -- can you shed any light on that particular question?

GEN. TAGUBA: Sir, I read General Ryder's report; I did not discuss it with him. I know that it's in -- within the content of his report he visited quite a bit of the detention centers, not just exclusively Abu Ghraib. The results, of course, were -- his recommendations I agreed with in terms of putting things under a single command and control, things of that nature. And I don't want to speculate about anything with regards to any knowledge of detainee abuse having not been reported or being reported up the chain of command. It was apparent in our investigation that these things were happening, but we were puzzled also with the fact, sir, that none of this stuff was going above the battalion commander level. And that's what we concluded, that none of this

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stuff was going above the battalion commander level.

SEN. CHAMBLISS: Thank you, General.

SEN. WARNER: Thank you very much, Senator. The committee will continue right through the first vote, and if there's a second, likewise, until every senator's had their opportunity to ask a question. Next week we have our bill on the floor, according to the current schedule. So in all likelihood we'll have to suspend this series of hearings until after the bill has been considered.

SEN. BILL NELSON: Mr. Chairman, may we continue with a second round, or -- ?

SEN. WARNER: No, Senator, because I think we would be infringing on the policy councils for both parties. Thank you very much. Senator Dayton.

SEN. MARK DAYTON (D-MN): Thank you, Mr. Chairman. And I thank you, Mr. Chairman, for holding today's hearings, and for your resolve to face these atrocities. You're an honorable man, and would that everyone shared your resolve to find the truth rather than to deny it or deflect it. Unfortunately, we in this committee were overshadowed yesterday by President Bush's words and actions traveling to the Pentagon with the vice president to tell the secretary of Defense, the country and the world, quote, "You're doing a superb job." The president looked at a dozen more pictures of abuse and reportedly shook his head in disgust, but the apologizes, regrets and mea culpas are now history. It's back to business as usual. And if anybody missed those subtleties, the vice president was even more direct over the weekend when he said people ought to get off of his case and let him do his job, referring to the secretary of Defense. In other words, we should stop meddling and interfering and let them go back to running the war. This morning illustrates the difficulty in a hearing to get beyond the words to the realities. General Taguba's report and directness here today are notable exceptions. But it shows why the pictures made such a difference; they showed us the truth. Most of the words today have managed to obscure that truth. We're told there were papers and procedures, policies and protocols; there were directives given, conditions set, and everyone followed the Geneva Convention, international law, United States principles, except for a few people who did very bad things, unbeknownst to anyone else, all of whom were doing what they were doing to save American lives. So let's dispense with this and get back to our good intentions, the great progress going unreported in 95 percent of Iraq; the upcoming handoff of democracy to whoever the recipients shall be. And that's why those pictures are disruptive, because they defy that sanitizing. They can't be obscured by non-descriptions like, quote, "the inappropriate behavior of a sexual nature," close quote, which were words used to describe the forced masturbation of one detainee or the rape of another. That's why Pentagon officials are reportedly preventing the additional pictures from being publicly released. The White House communications director said that the president wants the Pentagon to, quote, "use its best judgment about the release of the photos." Close quote. Well, we've seen where that best judgment has gotten us so far, and I think it's deplorable that --

SEN. WARNER: Senator --

SEN. DAYTON: -- they intend again to try to suppress the truth and all the truth from

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the American people.

SEN. WARNER: Senator, having worked on that question with the department, at this point in time, the decision as to public release is an ongoing review. To the best of my knowledge, as of late last night, no final decision has been made --

SEN. DAYTON: Well --

SEN. WARNER: -- by the Department of Defense, the White House or others.

SEN. DAYTON: All right. Thank you, Mr. Chairman. If you were to go elsewhere -- and thank goodness for a free and vigilant press, because I don't think we would find most of this out any other way, but there's a Red Cross report which describes excessive patterns of -- patterns of excessive force used by U.S. soldiers in prisons, and not just the one subject to this investigation, but throughout the country.

The Red Cross wrote that ill treatment during capture was frequent. It often included pushing people around, insulting, taking aim with rifles, punching, kicking, striking which seemed to go beyond -- seemed to reflect a usual modus operandi and appeared to go beyond the reasonable, legitimate, proportional use of force required to apprehend suspects or restrain persons resisting arrest or capture.

The published reports say that as many as 43,000 Iraqis were detained at various times, and that an estimated 90 percent of them were determined to have not had any involvement in the matters under -- that were of concern to U.S. authorities; that only 600 were turned over to -- for prosecution; that 8,000 that remain in detention now for indefinite periods of time, although I gather that there is now steps being taken to release all but 2,000 of them.

My time is up, but I'm just going to complete here by just referring to one individual that said he was taken from a barber shop where he was getting a shave and he was beaten with pipes, starting at his legs and back and moving to his head. He was bleeding from his mouth and ears. He fainted. When he woke up, he was in a dog's cage at a local military base. He was left naked in the cage for several days, receiving only scant food and water until soldiers hung him from a tree by his cuffed hands. "They told me they would bring my wife and hang her next to me."

I don't take any pleasure in recounting these incidents, but I take umbrage that there are still those who want to deny that they occurred to any degree or those that want to ascribe other motives to those of us who are just trying to face up to them.

I want the United States to succeed in Iraq. I'm deeply concerned that what's occurred there is going to cause further violence that will come down on our troops, who will bear the brunt of this, and set back our ability to meet our objectives there. But I don't see how that's going to be served by trying to obscure or deny what's occurring there or what has occurred there, and make sure -- try to make sure it doesn't happen again there or anywhere else in the world.

Thank you, Mr. Chairman. My time is expired.

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SEN. WARNER: I thank you, Senator. Senator Cornyn.

SEN. JOHN CORNYN (R-TX): Thank you, Mr. Chairman.

General Taguba, Chairman Warner asked I believe earlier the question what went wrong, and you answered there was a failure of leadership from the brigade level on down -- and down. In your investigation, did you find any evidence -- any evidence whatsoever -- that culpability extended beyond the brigade level?

GEN. TAGUBA: No, sir. We did not. However, we did recommend, based on some evidence that we gathered of the complicity of MI interrogators, and we recommended that would be -- a separate investigation be provided under Procedure 15 of 380-10.

SEN. CORNYN: How many individuals do you believe were involved in this abuse at Abu Ghraib?

GEN. TAGUBA: Sir, directly there were those six or seven, I believe. I know that the ongoing investigation continues under Article 32. Don't know of anybody -- of any others. In terms of those soldiers' supervisors and leaders, I enumerated that on my report. I believe there was a total of 17 there that I identified.

SEN. CORNYN: So there was seven -- there was disciplinary action taken against the seven supervisors, and then there was the actual criminal charges that have now been brought, I guess, against another seven; is that correct?

GEN. TAGUBA: Yes, sir. Those were the criminal investigation. You know, I'm not involved in that whole process. But my investigation was purely administrative, to gather facts and circumstances that were related to the detainee abuse and the other things that I mentioned to you earlier, principally their leaders.

SEN. CORNYN: I ask those questions because I am concerned that there are those who are suggesting that somehow what you have said was exceptional misconduct on the part of these guards and their superior officers was somehow the norm. Indeed, there was a question asked earlier attempting to suggest that this was the implementation of policies and procedures that are in existence at Guantanamo Bay. There was a question asked about whether Guantanamo Bay was somehow the base line, and that now that represented the norm and this was the logical conclusion of those policies and procedures at Guantanamo Bay.

I have to tell you that like other members of the committee, no doubt, I've traveled to Guantanamo Bay because of my interest in the detention of the individuals there who -- of course who plan, finance and execute terrorist acts against Americans and other innocent civilians. And I had an opportunity to meet General Geoffrey Miller, who was the commander of the Joint Task Force at Guantanamo. And I was very impressed with the treatment, with the policies and procedures that allowed the humane interrogation of detainees there.

And let me just ask you, whether they're enemy combatants or unlawful combatants or common criminals, is there any policy that you're aware of in the United States military

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that allows for less than humane treatment of detainees?

GEN. TAGUBA: No, sir. Did not find that anywhere.

SEN. CORNYN: And of course we are concerned about the atypical conduct on the part of these individuals who committed these crimes and those who failed to see that they got the supervision and the leadership necessary in order to avoid these crimes. But I must add my voice to those of others that say, while we are absolutely committed to getting to the bottom of this, and your report gets us a long way there, and to making sure that the guilty are held accountable, we can't forget the context in which all of this is taking place, and that is in a larger context of many other military troops serving honorably in Iraq and Afghanistan and elsewhere, and the need to get essential information from some of these detainees that could well protect America from the next 9/11.

And so I want to commend you and the others for the wonderful service that you're performing and thank you for helping us get to the bottom of this. And I hope that we will ultimately be successful in doing so, holding those accountable who were responsible and then making sure we focus on our greater and more important job of making sure that America's safe in this war on terror.

Thank you, Mr. Chairman.

SEN. WARNER: Thank you very much, Senator. Senator Clinton.

SEN. HILLARY CLINTON (D-NY): Thank you, Mr. Chairman. And I want to join in thanking you, General Taguba, for your service and for this report. You know, I don't think anyone disagrees with the last comment by my colleague that our objective is to prosecute this war on terrorism successfully and also to ensure the safety and security of our own people from future attacks. The question is whether behavior and conduct and decisions with respect to the treatment of these detainees undermines the potential success that we all agree is essential to our national security.

I am still confused. And my confusion is this: with respect to the actions that are described in your report, General Taguba, you also included a number of other problems at other detention facilities. But is it your best information that no detention facility that was in any way connected with the 800th MP Brigade, had the level of problems that you reported in this unit at Abu Ghraib?

GEN. TAGUBA: Yes ma'am. I -- the scope, again, was within the context of those facilities that the 800th MP operated.

SEN. CLINTON: And the 800th MP Brigade was under the command of General Karpinski, is that correct?

GEN. TAGUBA: Yes ma'am.

SEN. CLINTON: Now, if the problems were severe and located principally in this one unit, then I think it is appropriate to follow the chain-of-command up to the decision to send General Miller to that prison, whereas I understand the testimony thus far, he set

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up a specific joint interrogation unit. He did, however one wants to describe, either coordinate or direct the MPs' involvement in the conditioning of the detainees. Is that a correct statement, General?

GEN. TAGUBA: Yes ma'am.

SEN. CLINTON: All right. So, it seems to me that if indeed General Miller was sent from Guantanamo to Iraq for the purpose of acquiring more actionable intelligence from detainees, then it is fair to conclude that the actions that are at point here in your report are in some way connected to General Miller's arrival and his specific orders, however they were interpreted, by those MPs and the Military Intelligence that were involved. Therefore, I, for one, don't believe I yet have adequate information from Mr. Cambone in the Defense Department as to exactly what General Miller's orders were, what kind of reports came back up the chain-of-command as to how he carried out those orders, and the connection between his arrival in the fall of '03 and the intensity of the abuses that occurred afterwards. Now, we know that General Karpinski has been rightly singled out for appropriate concern about her behavior and her failure of command, but I just want to read to you a comment she made in an interview, which I find extraordinary. And I quote, "But when I looked at those pictures, and when I continued to see those pictures, I don't think that there was anything that was improperly done because this wasn't something that was a violation of a procedure. This was something they were instructed to do as a completely new procedure. I'm not sure that those MPs had ever been confronted with any instructions like this before."

General Taguba, can you explain for us the disparity between holding this brigade commander completely accountable and the comments that I just read to you, in light of the fact that certainly the 20th Military Intelligence Brigade was given tactical control over that prison? Can you explain the General Karpinski's comment?

GEN. TAGUBA: Yes ma'am. During the course of our investigation, there was clear evidence, based on my interview of General Karpinski and Colonel Pappas, that there was friction between those two commanders in the operation of Abu Ghraib. This tension was that who was in charge of when and at what time. They could not explain, so that's the context of the ambiguity of the order that was given to Colonel Pappas. It was clear that he was directed to be the forward-operating base commander there for security of detainees and force protection. However, General Karpinski challenged that, and she noted that in her recorded testimony, point one. I held her accountable and responsible, not exclusively and solely for the abuse cases there at Abu Ghraib, but the context of her leadership, the lack of leadership on her part, overall in terms of her training, the standards, supervisory of mission, the command climate in her brigade. Those were all, in totality, why I held her accountable and responsible, ma'am.

SEN. CLINTON: And just one last follow-up, General. Did Colonel Pappas report directly to General Miller?

GEN. TAGUBA: That I did not know, because General Miller was not there. He reported to, I believe, to CJTF-7.

SEN. CLINTON: General Smith, do you know who Colonel Pappas reported directly to? GEN. SMITH: Yes sir, through CJTF-7. Sir -- ma'am, General Miller had no

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command relationship in this at all. I mean, he came over to do an investigation and make some findings and recommendations on how to improve. Nobody reported to him. Nobody -- he had no relationship whatsoever other than to report details.

SEN. CLINTON: (Inaudible) --

SEN. INHOFE: Thank you, Senator Clinton. Senator Graham.

SEN. LINDSEY GRAHAM (R-SC): Thank you, Senator. I think they've left, but just a few minutes ago, there were some foreign military officers that came to the hearing, and I would -- just want to say for the record that I'm very proud of the fact that our military command system, civilian and military, comes out in the open, is asked hard questions, has to appear before the public. And you've documented, General Taguba, some failings. I think we're failing the country ourselves up here a bit. I think we're overly criticizing this. This should be what binds us, not what tears us apart. I think Republicans and Democrats have a different view of a lot of things, but it seems to me that investigating a prison abuse scandal, when you say you're the good guys, should pull you together, not tear you apart. And I would just hope my colleagues can understand that when you say you're the good guys, you've got to act as the good guys. So, General Taguba, how long have you been in uniform?

GEN. TAGUBA: Sir, this is my 32nd year.

SEN. GRAHAM: Saddam Hussein is in our control. How would you feel if we sicced (sp) dogs on him tomorrow?

GEN. TAGUBA: Sir, on Saddam Hussein?

SEN. GRAHAM: Yeah.

GEN. TAGUBA: Sir, we still have to follow the tenets of international law.

SEN. GRAHAM: As much as you and I dislike him, as mean a tyrant as he is, and you know he'd kill us all tomorrow, I am so proud of you. What are we fighting for, General Taguba, in Iraq? To be like Saddam Hussein? Is that what we're fighting for?

GEN. TAGUBA: No sir.

SEN. GRAHAM: Our standard, General Smith, can never be to be like Saddam Hussein, can it be, sir? GEN. SMITH: No sir.

SEN. GRAHAM: How long have you been in the service? GEN. SMITH: Thirty-four years.

SEN. GRAHAM: Is it okay with you if the International Red Cross comes and looks at our prisons? GEN. SMITH: Absolutely, sir, and they should.

SEN. GRAHAM: Okay. God bless you both. General Taguba, it comes down to this for me. You've got one prison that was run differently than other prisons. The photo we see

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of the detainee on the stool, wired up, was that just six or seven people having a good time in a perverted way at that person's expense, or was there something deeper going on there, and do you know?

GEN. TAGUBA: Sir, based on the evidence, it was six or seven people that created that type of a scenario, a situation.

SEN. GRAHAM: Okay. To the dog scenario, where you see the detainee with two dogs, was that a couple of guards with dogs in a perverted way having a good time, or was there something else going on?

GEN. TAGUBA: No sir. The dogs were invited in there, according to witness statements, and collaborated by interviews by the two MP guards.

SEN. GRAHAM: The way these people were stacked up in sexual positions and the sexual activity, was that just individual guards, or was that part of something else going on?

GEN. TAGUBA: Sir, those actual acts, based again on interviews and statements and collaborated by the detainees' statements as well.

SEN. GRAHAM: Part of the defense that we're going to be hearing about in these court martial is that the people that we're charging are going to say this system that we see photographic evidence of, was at least encouraged if not directed by others. Do you think that's an accurate statement?

GEN. TAGUBA: Sir, I would say that they were probably influenced by others --

SEN. GRAHAM: Okay --

GEN. TAGUBA: -- if not necessarily directed specifically by others.

SEN. GRAHAM: For those -- we're not going to have a seminar in military law today, but I have a different view of command influence than some people have suggested, in terms of what we can disclose and how it would affect court martial. There -- another level of accountability in the military beyond just participating in out-of- bounds behavior, Geneva Convention or otherwise. Do you agree with me that the Uniform Code of Military Justice prevents this conduct, regardless of the Geneva Convention?

GEN. TAGUBA: Absolutely.

SEN. GRAHAM: So, ladies and gentlemen, what we're here today is to show the world that our military is governed by the rule of law, just like all of us. And having been a JAG officer for over 20 years, a prosecutor, a defense attorney, now a Reserve judge, I've got great confidence that we will get to the bottom of this. Do you agree with that, General Smith?

GEN. SMITH: Yes sir, I do.

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SEN. GRAHAM: Now. Dereliction of duty is a concept unique to military law. Probably should apply to us in politics. A lot of us would be in trouble, probably me included if that was the case. But in the military, as a commander, it can be a criminal offense if you derelict your duty to maintain good order and discipline in a way that crosses the line, is that correct?

GEN. TAGUBA: Yes sir.

SEN. GRAHAM: You interviewed a general officer, and in your report you indicated that you thought the general officer misled you about how many times that person had been to the prison system, is that correct?

GEN. TAGUBA: Yes sir. And that was collaborated by her own aide.

SEN. GRAHAM: I would suggest to you, General Taguba, that out of this investigation, not only should we focus on the privates, and the sergeants, and the specialists who did criminal activity, but we also should have a hire accountability that if a general officer misrepresents what they did in terms of command and control, that a letter of reprimand may not be the appropriate sanction. But I will leave that discussion for others. Colonel Philabaum (ph)?

GEN. TAGUBA: Colonel Philabaum(ph), yes sir.

SEN. GRAHAM: Your description of his time there was classic dereliction of duty. You have recommended a letter of reprimand for him.

GEN. TAGUBA: And relief from command, sir, and to be removed from a promotion list.

SEN. GRAHAM: My point is that Secretary Rumsfeld should not be held accountable for the criminal activity of others. It would be unfair to any military commander, politician or otherwise, to have to take a fall when people break the law and take the law in their own hands. However, those of us in responsibility do have a burden to bear.

SEN. INHOFE: Senator Graham, your time has expired.

SEN. GRAHAM: Could I just end with this one thought, Mr. Chairman?

SEN. INHOFE: Yes, sir.

SEN. GRAHAM: Secretary Rumsfeld has to manage the whole war. I think it would be unfair for him to take a fall if this is just a limited activity of a few people or a prison poorly run. At the end of the day, General Taguba, responsibility, command and otherwise, is very much part of the military law and culture. And I appreciate what you've done to expose the failings. Thank you very much.

SEN. INHOFE: Thank you, Senator Graham. Senator Bayh.

SEN. EVAN BAYH (D-IN): Thank you, Mr. Chairman. And thank you, gentlemen, for your presence here today. Two quick questions for you, Mr. Cambone, then one

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observation that if any of you want to react to, I would appreciate it. And I apologize for moving expeditiously, but there is a vote that is about to expire. Mr. Cambone, I'd like to follow up on the questions of some others; I think Senator McCain started, and then it was touched upon a little bit later with regard to Ambassador Bremer's warnings.

MR. CAMBONE: Yes, sir.

SEN. BAYH: Published reports indicate that he began raising these warnings in about August of last year. And as I understand your testimony, these were sort of general in nature about the overcrowding and the concern for transiting people through there and returning them to their civilian situation when they didn't need to be retained any longer. The Red Cross report came to his attention in February or March, and you seemed to imply that perhaps his warnings became more specific with regard to activities in the prison thereafter. Is that the case?

MR. CAMBONE: With respect to the first part of your question, sir, or your statement, I believe that to be the case. That is to say, I was not in communications with Ambassador Bremer nor know of any statements by him specific to these --

SEN. BAYH: So in his meetings with the secretary, you were never present.

MR. CAMBONE: I did not know of those. I did know of his general concern, as you said, for the prison population.

SEN. BAYH: What about following the Red Cross report?

MR. CAMBONE: With respect to the 2004 report, I can only tell you again what I know, and that is that there was a meeting in that time frame of February at which senior members of the CPA staff met with members of the ICRC and this report was made available. And from that, there were some communications from CPA to the State Department and elsewhere with respect to these concerns.

SEN. BAYH: About these abuses.

MR. CAMBONE: That's what I think I know.

SEN. BAYH: Did that make its way into --

MR. CAMBONE: Sir, I did not see the ICRC report until I began working my way into this problem over the last two weeks.

SEN. BAYH: My second question involves the dispute between you and the general about who had tactical control at the prison.

MR. CAMBONE: Yes, sir.

SEN. BAYH: As I understand it, he believes that the military intelligence individuals did exert practical tactical control. And it's your opinion that they did not. As I understand your position, the intelligence authorities were given control over the

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facility but not control over the individuals running the facility. What exactly does that mean? How do you have control over a facility but not the people who are running it?

MR. CAMBONE: The same way that --

SEN. BAYH: Were they in charge of the plumbing or the --

MR. CAMBONE: No, sir -- well, in the same way that you have a building supervisor who doesn't tell the tenants how to do their business. In other words, you do require someone who is senior in command to be able to be responsible for the facility; that is, for its security from outside activity, internal security, the care and feeding of folks, all of those administrative and logistics tasks that go with running a large facility. Then there are, within that facility, a number of operations and activities that take place which are under the command of other individuals. And those individuals are responsible for the exercise of command over those activities.

SEN. BAYH: A layman's opinion, General; I'd be interested in your opinion. It seems to me the attempt here to draw this line may have contributed to confusion about who was in charge, which may have led to some of these troubles. General, is that a fair comment?

GEN. TAGUBA: Yes, sir. We followed doctrine in the context of our investigation as a matter of our base lines. We used those as references. Doctrinally, (Daycon?), as given to Colonel Pappas, was that his mission was for security detainees and force protection. Doctrinally, if you (Daycon?) to him, he establishes priorities.

SEN. BAYH: My comment --

MR. CAMBONE: That doesn't go, sir, though, to the heart of his being able to give what would have been -- and General, correct me -- unlawful orders to the commander of that military police battalion.

GEN. SMITH: Sir, nor did it allow him to change their mission. In other words, they're trained to a specific task. It's the person with operational control that is allowed to change how they do business and the like. So, as General Taguba said, he can change the priorities for these folks, but they still have to operate within the guidelines and the doctrine that they are trained to. So they are still cops doing cop business.

SEN. BAYH: General?

GEN. TAGUBA: Sir, there were established standards -- two, in fact -- that were signed by Lieutenant General Sanchez that stipulated what you can and cannot do. Those were clear. However, the feeling here was that some leaders just did not comply with it. They were posted for a purpose, sir, and there were certain standards that they have to follow.

SEN. BAYH: Compounded by a number of other things, including lack of uniformity in training. My last comment -- and this gets to the dilemma; we face this repeatedly in the intelligence arena, Mr. Chairman -- and that is the following. Timely and accurate intelligence information is essential to protecting our troops, civilians, winning the war against this insurrection and the larger war against terrorism.

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At the same time, preserving our honor and our moral integrity is also vitally important in the longer term to winning this struggle, because that, at the end of the day, is what differentiates us from those with whom we fight.

Now, it seems to me you've laid out, all of you, in your testimony, we begin taking our instruction about how do you draw the line. How do you draw the line between vigorous but acceptable interrogation versus morphing into abuse?

We start with the Geneva Convention and general principles. I think, Mr. Cambone, you then used the term "approved interrogation techniques," of which there were 20 or 30. So we try and refine that general guidance into more specific guidance. Then exceptions are allowed at the behest or the direction of the commander. I assume in this case it would have been General Sanchez. Is that correct? I assume he didn't authorize any exceptions. No.

That's the process that we go through in trying to determine where the line is, what you can do and what you can't do. And I'd just like to conclude by saying I think it is absolutely critical that we enforce the line as we defined it -- vigorously; hold those who crossed it to account, to show that we don't tolerate this kind of thing.

But let's learn the lessons of the past as well. We are currently trying to overcome some past intelligence abuses 20, 30 years ago and our reaction to those abuses that have hamstrung us in the covert arena and otherwise.

So let's draw the line bright and clear. Let's institute training. Let's hold commanders who don't insist that the line be followed to account as well as the foot soldiers. But let's not throw the baby out with the bath water, because gaining access to appropriate information is also important, as we also preserve our moral integrity and our honor.

MR. CAMBONE (?): Thank you for that, Senator. And if I may say, in trying to answer the committee's questions today on these issues, if in any way I suggested that if we find that there was misconduct or misbehavior or inappropriate behavior on the part of anyone associated with the military intelligence side of this, which General Fay is now looking at today, I can assure you and other members of this committee that we will be back here and we will tell you that.

SEN. INHOFE: Thank you, Senator Bayh. Senator Lieberman.

SEN. JOSEPH LIEBERMAN (D-CT): Thank you, Mr. Chairman. Thanks to the witnesses. In absentia, I wanted to thank Chairman Warner and Senator Levin for the speed and intensity with which they have convened this series of hearings. And I thank you, gentlemen, for being here.

We've got a real challenge here, which is to deal with this inhumane, immoral, unacceptable, un-American behavior that happened in this prison and maybe others -- I want to ask some questions about that -- and to do it as quickly as we can so that we can get back to fighting the war on terrorism, and to do it in so comprehensive and aggressive a way that we do not allow or even facilitate unintentionally the erosion of

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public support in this country for the critically important mission our troops are performing in Iraq and the broader war against terrorism. And that's why I appreciate these hearings. In that regard, I think the comprehensiveness of our investigation -- yours, really -- is critically important. General Taguba, I just want to make clear, when you were asked to investigate, you were asked to investigate conditions at Abu Ghraib and two of the other most populated prison facilities in Iraq. Is that correct?

GEN. TAGUBA: Yes, sir, with matters related to training standards, internal policies and the like. Yes, sir.

SEN. LIEBERMAN: Are there other prison facilities in Iraq beyond those three, therefore, that have not been reviewed? Or are they being reviewed now for conduct that we're concerned about?

GEN. TAGUBA: Sir, I did not go beyond the four that I looked at during the course of the investigation. And I believe a subsequent investigation by the Army inspector general conducted that following my investigation. They looked at other facilities.

SEN. LIEBERMAN: Is that General Ryder's (sp) investigation?

GEN. SMITH: No, sir, there's an independent investigation put in train by the acting secretary of the Army that covers all -- as I understand it, not only facilities in Iraq, but in Afghanistan as well.

SEN. LIEBERMAN: That was my next question; Afghanistan as well.

MR. CAMBONE: Yes, sir.

GEN. SMITH: That's ongoing, Senator.

SEN. LIEBERMAN: That is ongoing --

GEN. SMITH: Yes, sir.

SEN. LIEBERMAN: -- in the sense that it pre-dates this scandal?

GEN. SMITH: No, sir. It was directed and it continues today. They are still --

SEN. LIEBERMAN: So that -- I got you. Would it be fair for you to say through us to the American people that we are essentially looking everywhere throughout the American military prison system to make sure that nothing like what happened at the Abu Ghraib prison is occurring anywhere else?

GEN. SMITH: I'd have to look at the specific charge that the Department of Army IG was given, but I believe that to be the case. Certainly they are looking -- well, go ahead.

MR. CAMBONE: No, with respect to the CENTCOM AOR and the handling of prisoners there and terrorists who are in detention, the secretary of Defense has asked the secretary of the Navy to take a look as well at Charleston and other places where

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there may be internees.

SEN. LIEBERMAN: Okay, that's very important. Let me come back -- and obviously you will continue to report to us on the conclusions of those investigations. I had an exchange with Secretary Rumsfeld on Friday that reverberated in my own mind over the weekend. I think one of the other senators may have asked one of you a question about this. And it is about the relevance of the Geneva Convention to the prisoners being held in Iraq. I had read various statements by the secretary and others that confused me on this, because I didn't think the Geneva Convention was being applied precisely to detainees. And in response to -- in Iraq -- my question on Friday, Secretary Rumsfeld said, "The president announced from the outset that everyone in Iraq who was a military person and was detained is a prisoner of war; therefore the Geneva Conventions apply." And second, continuing with the secretary's statement, the decision was made that civilians or criminal elements that are detainees are also treated subject to the Geneva Convention, although it is a different element of it. In an earlier point, in an interview he did on television, he -- and this is, I think, what was asked before -- he said that they're not entitled to the Geneva Convention -- oh, I'm sorry, here it is -- the decision was made that the Geneva Convention did not precisely apply, but that every individual would be treated as though the convention did apply.

So, first off, my staff can't find the statement that the president made announcing that policy. And Secretary Cambone, I'd ask you --

MR. CAMBONE: Sir, I'd be happy to get that for you. And I'm happy to ask the secretary this afternoon what indeed he had in mind in that expression. Senator Levin asked that question earlier. And I will ask him and I will get you an answer.

SEN. LIEBERMAN: I would appreciate that. And as part of that -- and I'd ask General Taguba or General Smith to respond to this part of it -- how do we -- there's a report in one of the papers today based on an International Red Cross report that 70 to 90 percent of the detainees, according to the Red Cross, were captured without solid evidence of their guilt. And the numbers are large. Is there a process for determining, considering what Secretary Rumsfeld said on Friday, who is a prisoner of war and who is a detainee -- who's military and therefore treated as a prisoner of war, and who's a detainee, and therefore who gets the higher level of rights legally?

MR. CAMBONE: We have at the moment very few, as I recall, enemy prisoners of war left in the system. What we have primarily are those who have posed a threat to the security of the coalition forces, the Iraqi government or the Iraqi people or other who may have committed crimes of one kind or another against Iraqi citizens. There are some of those latter who are, as I understand it, in custody and being in the custody of Iraqi security police and things of that sort. And they are in a process to be brought forward before an Iraqi judicial process, which itself is slowly and painfully standing up.

SEN. LIEBERMAN: Okay. So my final question -- I think my time is up; maybe I should ask you to bring it back to the Pentagon and then respond, sir, if you could, is the status which is -- because as I read the Geneva Convention, I think the detainees have rights under the convention. They are a lot lower than the rights of prisoners of war. So, I'm confused by what seems to be the policy that Secretary Rumsfeld

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articulated on Friday, that though they're not entitled to the rights of Geneva that we're giving it to them.

MR. CAMBONE: I will take one more step on behalf of my general counsel, and I will over you him for a period of time to come by and brief you and other Senators as you might wish, Mr. Chairman, on precisely how this has unfolded, and so that there is no confusion left in the committee or in the American people about where we stand on the Convention.

SEN. LIEBERMAN: I appreciate that. Thanks, Mr. Chairman.

SEN. WARNER: And thank you, Senator.

And I will be discussing with the Secretary of Defense and others the other witnesses that I think should come before the committee, and I'm considering general counsel given his expertise in this area, so we'll do that. And, again, I wish to thank the Secretary of Defense through you, Mr. Secretary, for the cooperation in putting together this series of hearings that we're holding today.

I would ask now, do you or any other witness have a response to a question, or wish to make any added statement before we close out this morning's record?

MR. CAMBONE: Sir, I ordinarily begin my presentations here by saying that it's a pleasure. This is not. It is a duty, and a responsibility. We take it seriously. To General Dayton's point, we will get to the bottom of this. More over, I would like to thank you for your courtesies. They are important to all of us who are grappling with a very difficult problem, and in the end we will answer this committee's questions, and those of the other committees of the Congress, to the best of our knowledge, with as much knowledge as we have at the time that we are asked the question. And, sir, therefore, I say to you if we read through this record and we find we have made a mistake, I have misspoken on a convention, or I have told you something about command relationships that is incorrect, I would beg your indulgence to allow us to correct that record as quickly and as accurately as we can, and make any changes known to every member of the committee when we do so.

SEN. WARNER: And I thank you for that offer, and it will be done. This after noon we'll be having Lieutenant General Keith B. Alexander, he's a Deputy Chief of Staff, G2, United States Army, handling intelligence matters. Major General Ronald L. Burgess, Jr., Director of Intelligence, J2, the Joint Staff. And Major General Thomas J. Romig, Judge Advocate General, United States Army. If there are no other comments, I thank my colleagues for the sincerity, the tremendous time that each of them are putting in to prepare for this hearing, and I think it has been a very successful hearing. And I thank you, Secretary Cambone, General Smith, and General Taguba.

MR. CAMBONE: Thank you, sir.

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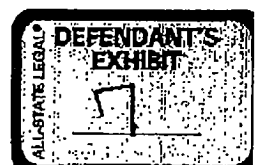
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SENATE ARMED SERVICES COMMITTEE

May 19, 2004

Transcript: Abizaid, Sanchez, Miller, Warren on Iraq Prisoner Abuse

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Sen. Mark Pryor (D-Ark.)

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WITNESSES:

Gen. John Abizaid, Commander, U.S. Central Command

Lt. Gen. Ricardo Sanchez, Commander, Multinational Force-Iraq

Maj. Gen. Geoffrey Miller, Deputy Commander for Detainee Operations,
Multinational Force-Iraq

Col. Marc Warren, Army Judge Advocate General

WARNER: Good morning, everyone.

The committee meets today for the third in a series of hearings regarding the mistreatment of Iraqi prisoners by a small — hopefully a very small — number of personnel of the armed forces of the United States, in violation of the U.S. and international laws.

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Testifying before us today are General John P. Abizaid, commander, U.S. Central Command; Lieutenant General Ricardo Sanchez, commander, Multinational Force-Iraq; and Major General Geoffrey Miller, deputy commander for detainee operations, Multinational Force. And they're joined this morning by their judge advocate general, which I think is a very wise decision to have you with us.

We welcome our witnesses and thank them for their service. Thank them again. How many times members of this committee and other members of Congress have gone abroad and visited each of you in CENTCOM, and most particularly Afghanistan and Iraq.

We must all be mindful of the role of our witnesses in the operational chain of command and of their related responsibilities in the administration of military justice. Each witness this morning will use caution with regard to their comments, such as not to inadvertently influence in any way the ongoing criminal or administrative proceedings.

And, indeed, I'll add, the investigations. Many investigations instituted by the Department of Defense are now ongoing. Indeed, this morning we see the opening of the first trials, and opening in a manner in which the entire world public can see democracy in action.

As I previously stated, this mistreatment of prisoners represents an appalling and totally unacceptable breach of military regulations and conduct. Our committee, a co-equal branch of the United States Congress, co-equal branch of government, and our committee has a solemn responsibility to determine as best we can how this breakdown in military leadership and discipline occurred. And most importantly, what steps are being taken by the civilians in control and, indeed, those in the uniform, to see that it never, never happens again.

I firmly believe this prisoner mistreatment represents an extremely rare chapter in the otherwise proud and magnificent history of the United States military. It is counter to every human value that we as Americans have learned, beginning in our earliest days with our families, our schools, our churches.

WARNER: It is counter to what this nation stands for and it is counter to the principles that the men and women of the armed forces today and in years past have fought to protect wherever they are in the world in the cause of freedom.

There must be a full accountability for the abuse of Iraq detainees and important questions must be asked of the chain of command to understand what happened, how it happened, when it happened and how those in positions of responsibility either ordered, encouraged or authorized — or maybe looked the other way — such conduct.

Our witnesses today are uniquely qualified to answer many of these important questions, including: What policies and procedures were established for the treatment of prisoners and detainee interrogations? What was the chain of command at the prison? Were military police or military intelligence personnel in charge and at what times? When did you — I say that collectively and individually — realize the magnitude of these allegations, the seriousness of them, and indeed the uniqueness?

What measures did you take to inform the civilian structure, from the president to the Department of Defense, Department of State and others — that civilian structure that has the ultimate responsibility for the control of the United States military, which goes back to the very origins of this country?

What steps were taken to respond to earlier reports of mistreatment of prisoners received from the International Committee of the Red Cross and possibly other sources?

And how did the conduct of interrogations and detainee operations evolve from May 2003 until January 2004?

WARNER: I'm confident that you will, to the best of your ability, be responsive to these and other questions.

I'm proud of the manner in which the armed forces of the United States, represented by these extraordinarily accomplished officers before us, have promptly

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reacted to the allegations, undertaken an appropriate investigation, and begun disciplinary action under the Uniform Code of Military Justice, the trials, in some instances, beginning today.

We are a nation of laws. We confront breaches of our laws openly and directly. And we must find the evidence to hold those who break the law and regulation accountable.

We must not forget our overall purpose in Iraq and indeed in Afghanistan. Success there in both areas is essential, not only to our nation and the people of Iraq, but to the entire world as we fight global terrorism.

We all have an important stake in learning the truth. We must not allow these acts of a few to tarnish the honor of the many dedicated men and women in uniform, 99.99 percent, who are valiantly upholding the values they were taught in the cause of freedom, and doing so at great personal risk and at great sacrifice.

Lastly, how this hearing originated is spelled out in a letter that I wrote to secretary of defense last week, May 13th, for which I thanked him for his participation and assistance in facilitating these hearings that we have had.

I indicated that our committee would pursue further hearings and involve a list of witnesses. And I named them all, you three among the witnesses.

WARNER: And then I'll recite this paragraph, "To date, in scheduling, the committee has tried to meet your requirements, and we hope to continue such cooperation in arranging the earliest possible date for appearances of these witnesses.

"Given that some witnesses may need to remain in Iraq of operational reasons, we are open to exploring the option of video teleconferences for some hearings."

And in the course of the last few days and working with the department on, I thought, several civilians in the department to come up today, somewhat unexpectedly my distinguished colleague Senator Levin and I were informed that you were in town, General Abizaid, and had been for several days and that the other witnesses were coming for consultations at the department. And in cooperation the secretary made you available here this morning. And that's plain and simple how it happened.

As to the conduct of this hearing, the buck stops right here on this desk, and I'm chairman. And I consult with my members, as my distinguished ranking member consults with his. And I'm very proud of the manner in which this committee has pursued its responsibilities under the Constitution. We're trying to search for the facts, put together a record, so that we here in Congress, and indeed the American public, can better understand these problems.

This story has been unfolding in many ways. First, a very brave enlisted man sought to bring to the attention of his superiors a problem which, frankly, in his guts he knew was wrong. And he's to be commended for that. Thereafter, the military very quickly took action, and the rest is history.

The press has been diligent. The victims have actually gone on to tell their story. **WARNER:** The lawyers are trying to interpret it. And really the distressing thing is watching the families, families of the soldiers who are under the uniform code now being examined, families of other soldiers.

And I just felt it was imperative that at some point in time — and the Pentagon basically selected when that time would be, this morning — that you would face the American public and face the world and give your own personal accounts of how this situation happened and, most importantly, what we're going to do to see that it never happens again. That is the executive and the legislative branches working together.

We're proud of the democracy here in America. It's an open process. And we're going to show the world how we fairly, firmly and calmly deal with this situation.

Thank you.

Senator Levin?

LEVIN: Thank you, Mr. Chairman.

First, I want to join you in welcoming our witnesses this morning. I want to join

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you in thanking each one of them for their service to our nation.

And most importantly of all, I join you, Mr. Chairman, in asking our witnesses to pass along to the troops under their command the gratitude of every member of this committee and of our nation for the service of those troops.

The allegations of abuses of Iraqi detainees has shocked our country and shocked our justifiably proud armed forces and their families.

The committee's hearing this morning is part of our continuing efforts to investigate and find out the full extent of these abuses and how they could have happened. Insisting on accountability will help prevent future abuses and hopefully help restore the credibility of our nation within Iraq, the region and throughout the world.

LEVIN: The inquiry is not just about the behavior of a few soldiers at a detention facility. We, of course, must do whatever we can to ensure that the perpetrators of the abuses are held accountable. But also those who are responsible for encouraging, condoning or tolerating such behavior or who established or created an atmosphere or climate for such abusive behavior must also be held accountable.

The February 2004 report of the International Committee of the Red Cross, the ICRC, presents an overview of documented abuses that extend beyond the conduct of interrogations at one cell block in one detention facility. The report sets forth an extensive list of methods of ill treatment used, quote, "in a systematic way," close quote, by military intelligence at Abu Ghraib and a number of other facilities.

Nor are the abuses that are alleged apparently limited to detention facilities. Many of the alleged violations are reported to occur at the time of arrest.

This is particularly disturbing given the statement in the Red Cross report that, quote, "Certain military intelligence officers told the ICRC that in their estimate between 70 and 90 percent of the persons deprived of their liberty in Iraq had been arrested by mistake."

In addition, according to their report, the ICRC in May 2003 handed over to the U.S. Central Command in Doha a memorandum based on, quote, "over 200 allegations of ill treatment of prisoners of war during capture and interrogation," close quote.

I know that General Abizaid and General Sanchez will inform us today about when the Red Cross and other reports of abuse were brought to their attention and what actions were ordered to address those concerns.

LEVIN: In addition to reports that were made in the field, ICRC President Kellenberger stated that he briefed administration officials, including CPA Administrator Paul Bremer, Secretary Powell, National Security Adviser Rice and Pentagon officials, concerning allegations of abuse on a number of occasions, including in early and mid-2003 and January 2004.

And we'd be interested in hearing from our witnesses about what word, if any, was received from Washington or Ambassador Bremer as a result of those allegations of abuse being brought to the attention of administration officials.

Finally, I want to commend you, Mr. Chairman, for your determination to carry out the oversight responsibility of this committee. Committees of jurisdiction have a obligation to understand these events, to deter future abuses and to help assure proper accountability.

Mr. Chairman, you are leading this committee in a responsible way to do just that, and this nation is in your debt for you carrying out your duty as you see it.

WARNER: Senator Levin, the committee is acting as a whole. Each member, most especially yourself, have been responsible for conducting ourselves, I think, in strict accordance with the institution of the Senate and in the best interests of the Constitution.

Gentleman, I'll ask you to rise.

In accordance to the rules of this committee, will you raise your right hand?

I solemnly swear the testimony that I'm about to give the Senate committee of the United States the whole truth and nothing but the truth, so help me God.

ABIZAID: I do.

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SANCHEZ: I do.

MILLER: I do.

General Abizaid?

ABIZAID: Thank you, Mr. Chairman.

ABIZAID: Senator Warner, Senator Levin and members of the committee, a few days ago, I had the honor to talk to the class of 2004 at West Point, young men and women who have dedicated themselves to service to the nation and who clearly understand that within the first year of their duties they will likely find themselves in combat, probably in the CENTCOM theater of operations.

I could have just as easily been talking to young cadets at the Air Force or Naval Academies or at other countless colleges or places where our young people are about to be commissioned as officers in our armed forces.

One of the most important messages I had for them is my deep, deep belief in the principle that officers of the United States military are responsible; that when in charge we must be in charge.

This is as true for the lowest second lieutenant in the chain of command as it is for me. Every officer is responsible for what his or her unit does or fails to do. I accept that responsibility for the United States Central Command.

I come before you as a senior regional commander to address the Abu Ghraib prison case and at the same time, I hope you'll allow me to discuss the conduct of the war not only in Iraq, but throughout the region.

As all of you understand, both General Sanchez and I, as members of the chain of command, have yet to examine all the facts about the incidents at Abu Ghraib; have made no judgment as to the guilt or innocence of any person associated with events there; nor have we precluded further action against others that additional testimony or evidence may indicate acted inappropriately or failed in their duties.

From evidence already gathered, we believe that systemic problems existed at the prison that may have contributed to events there.

ABIZAID: Other investigations are currently under way, and we will consider their findings carefully once they become available. We will follow the trail of evidence wherever it leads. We will continue to correct systemic problems. We will hold people accountable. And in accordance with the Uniform Code of Military Justice, we will take appropriate action.

On my way back to the States, I stopped and talked to many of the region's top military and political leaders to discuss Abu Ghraib and the situation in Iraq, to assess the damage that this incident has done to our reputation. They, like us, and like the many Iraqis who talked to me before I last left Iraq, were shocked, disgusted and disappointed at the images of abuse.

Yet all of them expressed confidence that our system could and would produce answers and hold people accountable. If we endanger our ability to see that justice is served — through failure to thoroughly investigate allegations, by inadvertently exerting inappropriate command influence, or through the inappropriate handling of evidence — we will do ourselves, the region and Iraqis in particular a great disservice.

As concerned as the good people of the region are about what happened at Abu Ghraib, they are more concerned about our willingness to stay the course in Iraq and Afghanistan. They are more worried that we'll lose our patience with the difficult tasks of stabilizing those places and we'll walk away and come home and bring up the drawbridges and defend Fortress America.

For some of the nations in the region our departure could be fatal. I reassured our friends that we are tough, that we cannot be defeated militarily and that we will stay the course.

We know that we must move quickly from occupation to partnership in Iraq.

ABIZAID: We know that we must help the Afghan government of President Karzai extend its influence throughout its own land. We must find and destroy Al Qaida and its ideological partners wherever we find them. And we must help the nations of the Middle East help themselves in fighting this desperate war against terror and

extremism.

We have given much blood and treasure since 9/11, and we will give more.

Allowing moderation to succeed in a region where talented people seek prosperity and hope for their children is as important a victory as our struggles against the totalitarian regimes of the Second World War.

Our enemies are in a unique position, and they are a unique brand of ideological extremists whose vision of the world is best summed up by how the Taliban ran Afghanistan.

If they can outlast us in Afghanistan and undermine the legitimate government there, they'll once again fill up the seats at the soccer stadiums and force people to watch executions.

If in Iraq the culture of intimidation practiced by our enemies is allowed to win, the mass graves will fill again.

Our enemies kill without remorse, they challenge our will through the careful manipulation of propaganda and information, they seek safe havens in order to develop weapons of mass destruction that they will use against us when they are ready.

Their targets are not Kabul and Baghdad, but places like Madrid and London and New York.

They are a patient and despicable enemy that seeks to break our will, to terrorize us in such a manner as to cause us to leave the fight, to isolate us from our allies, to destroy those that seek a better future and direct the patient work required to build reliable infrastructure and sophisticated economic structures.

Unlike us, they will not hold themselves accountable for their outrages.

Our enemies believe they have scored a great victory in Madrid. They believed they changed a government and forced a valued ally off the battlefield.

They see before them elections in Iraq, elections in Afghanistan, and indeed elections here at home and elsewhere.

ABIZAIID: They see us mired in scandal and preoccupied with failure.

We should not kid ourselves about the violent times ahead, yet we should also understand that, despite the images of Abu Ghraib and burning Humvees that constantly play on our media screens, we are winning the battle against extremism.

Our troops are confident. They win tactical battle after tactical battle. They work with Iraqis and Afghans to build viable security forces, and one day these viable security forces will allow us to come home.

They know that the enemy is elusive and dangerous, and they know that they need to fight this war with balanced ferocity and compassion.

As we fight this most unconventional war of this new century, we must be patient and courageous. It will require a great amount of intelligence work. We must focus all of our national power and recognize that this war requires as much political, economic, diplomatic and national willpower to win as it does the courage to fight and to sacrifice with our young people in harm's way.

There are more people in the region who value peace over terrorism, who know that moderation brings prosperity and hope for their children. They also know that if they cannot stand alone, they certainly cannot expect that the United States of America will walk away from them.

Our gift to them has to be to give them a chance to win. Our great gift to ourselves will be to show a great and open demonstration that the rule of law applies in time of war; that despite the great demands of the day-to-day battles, we will fix what is broken and we will let justice be served.

No doubt, we have made mistakes in Abu Ghraib. We have suffered a setback.

ABIZAIID: I accept responsibility for that setback. But the failures of a few will not keep the many courageous young men and women of ours from accomplishing their dangerous and important work to defend the nation abroad.

And I thank the committee.

WARNER: Thank you, General, for a very good statement.

General Sanchez?

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SANCHEZ: Mr. Chairman, members of the committee, thank you for the opportunity to appear before the committee and talk to you about events in Iraq, and specifically the events at Abu Ghraib.

Before I talk about these events, I'm proud to report that over 150,000 coalition military personnel are doing great work in Iraq under very, very difficult circumstances. They are fighting an insurgency, rebuilding and protecting infrastructure, and setting the conditions for the inevitable turnover to an interim government on the 30th of June.

Those soldiers, sailors, airmen and Marines of America and the people who support them are stunned, disappointed and embarrassed by the events that transpired at Abu Ghraib prison. However, like me, these great servicemembers also understand that we must continue with our mission.

Regarding the events at Abu Ghraib, we must fully investigate and fix responsibility, as well as accountability, I am fully committed to thorough and impartial investigations that examine the role, commissions and omissions of the entire chain of command, and that includes me.

As the senior commander in Iraq, I accept responsibility for what happened at Abu Ghraib, and I accept as a solemn obligation the responsibility to ensure that it does not happen again.

We have already initiated courts-martial in seven cases, and there may very well be more prosecutions. The Army Criminal Investigative Division investigation is not final, and the investigation of military intelligence procedures by Major General Fay is also ongoing.

We may find that the evidence produced in these investigations not only leads to more courts-martial, but causes us to revisit actions previously taken to determine whether to initiate judicial or nonjudicial action in cases which may have been handled to date by adverse administrative action.

SANCHEZ: In this regard, I must be very circumspect in what I say. We must let our military justice process work. It is a process in which the American people can and should have confidence, and one in which I take great pride.

I cannot say anything that might compromise the fairness or integrity of the process or in any way suggest a result in a particular case. I have taken an oath to support and defend the Constitution of the United States, and that includes ensuring that all persons receive a fair trial and, if found guilty, appropriate punishment.

This respect for the rule of law has been a guiding principle for my command. There is no doubt that the law of war, including the Geneva Conventions, apply to our operations in Iraq. This includes interrogations.

I have reinforced this point by way of orders and command policies. In September and October of 2003, and in May of 2004, I issued interrogation policies that reiterated the application of the Geneva Conventions and required that all interrogations be conducted in a lawful and humane manner, with command oversight.

In October 2003, I issued a memorandum for all coalition forces personnel that was entitled "Proper Treatment of Iraqi People During Combat Operations." I reissued this memorandum on the 16th of January after learning about the events that had taken place at Abu Ghraib.

On the 4th of March of 2004, I issued my policy memorandum number 18, entitled "Proper Conduct During Combat Operations." This document, which I also reissued in April, emphasized the need to treat all Iraqis with dignity and respect. This policy memorandum also contained a summary for distribution down to the individual soldier level that provided clear guidance and mandated training on the following points.

- Follow the law of war and the rules of engagement.
- Treat all persons with humanity, dignity and respect.
- Use judgment and discretion in detaining civilians.
- Respect private property.
- And treat journalists with dignity and respect.

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With regards to Abu Ghraib, as soon as I learned of the reported abuses, I ensured that a criminal investigation had been initiated and requested my superior appoint an investigating officer to conduct a separate administration investigation under Army Regulation 15-6 into this matter.

SANCHEZ: Within days of receiving the initial report, I directed suspension of key members of the chain of command of the unit responsible for detainee security at Abu Ghraib.

The criminal investigation, while still under way, resulted thus far in the decision to initiate court-martial proceedings against seven individuals. The administrative investigation that was conducted by Major General Taguba has caused me to change the way we conduct detention, internment and interrogation operations.

One significant change has been the addition to my staff of a general officer with responsibility for detention operations. As you know, Major General Geoffrey Miller was assigned this task and has taken numerous positive steps to eliminate the possibility that such abuse could occur in the future.

Well before I received the January 14th report and viewed the shocking photographs later on, I had directed steps be taken to improve the overall condition of detainees at Abu Ghraib.

Back in August 2003, I requested that subject matter experts conduct a comprehensive assessment of all detention operations in Iraq. This was the genesis for the report completed by Major General Ryder, the provost marshal general of the Army.

In September, a team headed by General Miller assessed our intelligence interrogation activities and human detention operations. We reviewed the recommendations with the expressed understanding, reinforced in conversations between General Miller and me, that they might have to be modified for use in Iraq where the Geneva Convention was fully applicable.

Plans for the new detainee camp at Abu Ghraib, which will now be called Camp Redemption, were begun in November of 2003 in order to relieve overcrowding of the facility. After a series of mortar attacks against the facility in September which killed and injured both Iraqi detainees and U.S. soldiers, I directed increased force protection measures be taken in order to protect coalition forces and detainees. The plans to upgrade the facilities for soldiers and detainees were also implemented.

And finally, the rate at which detainee case files were reviewed and recommended for release or continued internment was increased both in November of 2003 and again in February of 2004 in order to ensure that only those detainees who posed a threat to security were detained. Indeed, our February 2004 changes resulted in the review of over 100 cases per day.

The terrible events that occurred in the fall of 2003 have obviously highlighted additional problems that we have moved quickly to address.

SANCHEZ: While horrified at the abusive behavior that took place at Abu Ghraib, I believe that I've taken the proper steps to ensure that such behavior is not repeated.

I further believe that my actions have sent the correct message that such behavior is inconsistent with our values, our standards and our training.

I have faith in our military justice system to resolve the cases brought before it.

I would like to read the concluding paragraph of my memorandum to the command on proper conduct during combat operations. I believe it is an accurate summary of my standards and expectations.

"Respect for others, humane treatment of all persons, and adherence to the law of war and rules of engagement is a matter of discipline and values. It is what separates us from our enemies. I expect all leaders to reinforce this message."

In closing, the war in Iraq continues against a relentless enemy that is focused on preventing the Iraqi people from achieving their dream of freedom, prosperity and security. This awful episode at Abu Ghraib must not allow us to get distracted.

America's armed forces are performing magnificently, sacrificing every single day to defeat an enemy that is ruthless and elusive in his quest to terrorize Iraq and the

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world.

The honor and value systems of our armed forces are solid and the bedrock of what makes us the best in the world.

There has been no catastrophic failure, and America's armed forces will never compromise their honor.

America must not falter in this endeavor to defeat those who seek to destroy our democratic value systems.

In Iraq, the coalition military, including our 130,000 Americans, remain focused, and I guarantee you they will not fall.

Thank you, Mr. Chairman.

WARNER: Thank you, General. And that's a very comprehensive statement. And I would ask on behalf of the committee that the documents that you referred to you your testimony — could copies be provided to the committee?

SANCHEZ: We'll comply, Mr. Chairman.

WARNER: Thank you very much.

General Miller?

MILLER: Mr. Chairman, members of the committee, thank you for affording me this opportunity to appear this morning. While I have no opening statement, I do stand with the statements of General Abizaid and General Sanchez.

Thank you.

WARNER: Thank you very much.

Colonel Warren, do you wish to add anything?

WARREN: Mr. Chairman, I have no opening statement, but I would be happy to respond to any questions.

WARNER: Thank you very much.

We will follow our six-minute round. And I advise the committee that, in consultation with General Abizaid and the ranking member, there will be a brief closed session following the open session such that we can receive some classified material.

General Abizaid, what policies has the Central Command established for the conduct of interrogations in detainee operations? When were these policies established? What allegations of abuse are you aware of that could have occurred also in Afghanistan? Are the policies being uniformly applied and enforced throughout your AOR?

ABIZAID: Thank you, Mr. Chairman.

As I believe the Army has come over and discussed with the committee, the total number of detainee abuse cases that have been investigated since I believe the beginning of the conflict in Afghanistan is around 75. And, of course, there are some death investigations as well.

We have homicide investigations that go back as far as December 2002 in Afghanistan that we absolutely have got to move on and understand what happened there.

ABIZAID: We're working with the Army Criminal Investigation Division to understand that. But I believe the committee has the statistics on abuse.

And abuse has happened. Abuse has happened in Afghanistan, it's happened in Iraq, it's happened at various places.

I think the question before us: Is there a systemic abuse problem with regard to interrogation that exists in the Central Command area of operations?

Yesterday — and I know the committee has not had a chance to review it yet — I did see the preliminary findings of a Department of the Army I.G. investigation that talked about problems in training, problems in organization, very specific changes that will need to be made in doctrine, et cetera.

And I specifically asked the I.G. of the Army, did he believe that there was a pattern of abuse of prisoners in the Central Command area of operation, and he looked at both Afghanistan and Iraq and he said no.

I sent my I.G. out in August of last year asking him the same question: Are we treating people with dignity and respect?

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With regard to policies, it is...

WARNER: What findings did he report back when you sent him out to get all this?

ABIZAID: He came back and said that we were struggling with the number of prisoners, we were struggling with the facilities, and we were struggling to, in particular, deal with criminal detainees that needed to go into an Iraqi criminal detention system that still didn't exist.

WARNER: But he didn't discover any of the evidence that is now being revealed about these abuses?

ABIZAID: No, sir, he did not.

WARNER: All right, that's a direct answer.

Can you provide the committee, within the bounds of not violating UCMJ procedures and otherwise, your own personal observations as to what you believe happened from the breakdown of the orders that General Sanchez has clearly documented here this morning and where it happened?

ABIZAID: Sir, I think you know that Major General Fay is still conducting an investigation, and so I'm not quite ready to say where I think all the breakdown were.

But it's clear that there were some breakdown in procedures, in access, in standards of interrogation, and confusion between the roles of what the military intelligence people were doing versus the military police.

And there was also clearly criminal misconduct that took place. And the criminal misconduct is not the subject of any order or policy that I believe exists anywhere.

WARNER: There's been, for course, concern that the initial steps by the chain of command was directed at a group of enlisted people who are now subject to various forms of UCMJ accountability. Can you assure this committee that you will diligently pursue all evidence and, no matter how high up the chain or sideways or down the chain, all will be brought forward subject to the UCMJ?

ABIZAID: Sir, I assure the committee that we will do that.

WARNER: Fine.

ABIZAID: And I can also assure the committee that I've been in this business a long time, and when General Sanchez called me up and told me, I think, probably within 24 hours of the evidence being handed to his Criminal Investigation Division people in Baghdad, he followed it up very shortly with a decision to suspend the entire chain of command, which is a pretty strong action that doesn't just focus at a low level.

ABIZAID: He initiated investigations and he moved ahead in a way that I thought was commendable.

WARNER: Do you feel that the UCMJ procedures and other regulations impeded in any way your responsibility to keep the civilian control structure back in Washington advised?

ABIZAID: No, sir, it did not impede us. As always, we believe that we've got to do everything possible to protect the evidence that's available, to keep the investigatory information within investigatory channels, and that's what we tried to do.

WARNER: You tried to do that in a timely fashion?

ABIZAID: That's what we tried to do.

WARNER: Yes.

General Sanchez, on November 19th you directed that the commander of the 205th Military Intelligence Brigade assume command of all units and operations in the prison of Abu Ghraib. Why did you put military intelligence in charge of the prison? In your view, did this new command arrangement improve intelligence and detainee operations? What objections did General Karpinski, commander, have concerning the change in command responsibilities?

SANCHEZ: Mr. Chairman, on the 19th of November, I issued a fragmentary order that placed all elements at Abu Ghraib under the tactical control of Colonel Pappas, the 205th M.I. commander.

The specific order stated that this was for forward operating base protection and

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for security of detainees.

SANCHEZ: The context of the order is that we had been receiving significant amounts of a direct and indirect fire. And during the conduct of one of my visits, I had found that force protection and the defensive planning of that FOB was seriously lacking and I needed to get a senior commander in charge of the defense of that forward operating base, and that was the purpose of the order.

The order did not intend to eliminate any of the responsibilities of the 800th Military Police commander. And that was a specific purpose for the tactical control. Tactical control placed the 320th under the 205th M.I. Brigade commander, and what that does, specifically, it gives the M.I. brigade commander authority to conduct local direction and control of movements or maneuvers to accomplish the mission at hand.

All of the other responsibilities for continuing to run the prison for logistics training, discipline and the conduct of prison operations remained with the 800th Brigade commander. And there was never a time when General Karpinski surfaced to me any objections to that tactical control order.

WARNER: General Abizaid, you — I properly advised this committee this morning that you're fighting a war. This responsibility occasioned by these abuses has taken a measure of your time, but you've continued and your troops have performed bravely.

The question I put to you — in listening, your professional and personal view: Is the scheduled change of sovereignty — limited sovereignty on July 1st consistent, in your judgment, and achievable given the security situation?

ABIZAID: Mr. Chairman, it is achievable, but it needs to emerge soon as to who is going to be in charge and what their names are and where they're going to be and what they're going to do.

WARNER: That's on the Iraqi side?

ABIZAID: That's correct.

WARNER: Clear on our side that we have a United States ambassador to replace (inaudible)?

ABIZAID: Sir, we're going to be there no matter what.

WARNER: To provide the security?

ABIZAID: That's correct.

WARNER: Thank you.

Senator Levin?

LEVIN: Thank you.

General Sanchez, your answer to Senator Warner about who was responsible for the M.P. units conducting detainee operations at that facility leaves me uncertain now, because General Taguba says that your order of November 19 effectively made the military intelligence officer, rather than the M.P. officer, responsible for the M.P. units conducting detainee operations. That's a quote. Do you disagree with General Taguba then on that point?

SANCHEZ: Senator, the purpose of the order was as described. It was to ensure that I had synchronized forward operating base defenses, and that was the purpose for the tactical control order that was issued to the military police unit at that installation.

LEVIN: Well, in addition to its purpose, though, General Taguba said that the military intelligence officer then became responsible for the M.P. units conducting the operations. Do you differ with that?

SANCHEZ: They were responsive to the military intelligence officer for the specific purpose of defending the forward operation base, Senator.

LEVIN: That did not, then, include conducting detainee interrogations.

SANCHEZ: That is exactly right, sir. It did not include that.

LEVIN: There's a difference there between you and General Taguba.

SANCHEZ: Yes, sir.

LEVIN: General Abizaid, in May of 2003 the Red Cross sent to the coalition forces a memorandum based on over 200 allegations of ill treatment of prisoners during

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capture and interrogation at collecting points, battle group stations and temporary holding areas, according to the ICRC report, which I'm now reading.

LEVIN: It said here that the U.S. Central Command in Doha received this memorandum. And I'm wondering if, in fact, you remember receiving that memorandum and what action you took on it.

ABIZAID: There are some Red Cross reports, Senator, that we received. Which one are you talking about?

LEVIN: May 2003.

ABIZAID: I know that the May 2003 report was received at our headquarters, that's correct.

LEVIN: And what action do you remember taking?

ABIZAID: I was a deputy commander at the time. I know that we discussed the report. We sent it forward to the Combined Forces Land Component Command, General McKiernan, and we asked for his take on it.

LEVIN: Did you receive a report from him, do you remember?

ABIZAID: I do not believe we received a report in writing, and I do not recall having a lot to do with this particular report or paying much attention to it.

LEVIN: Perhaps you could then check your records and supply to the committee any documents relative to that also.

In early July, according to the Red Cross, the Red Cross sent to the coalition forces a working paper detailing approximately 50 allegations of ill treatment in the military intelligence section of Camp Cropper, and this, according to their report, set forth requiring — or using stress positions for three or four hours, physical hits, prolonged exposure to sun and a number of other allegations.

LEVIN: Can you tell us whether the early July ICRC report was received at headquarters?

ABIZAID: No. And we have a real problem with ICRC reports and the way that they're handled and the way that they move up and down the chain of command.

For example, the February report of '04, I first read in May.

LEVIN: Relative to the early July report...

ABIZAID: I won't make any excuses for it, Senator. I'll just say that we don't all see them. Sometimes it works at a lower level. Sometimes commanders at the lowest level get the report and they work on it confidentially. And I think what we've got to do is have a system that when there is something that comes to the attention at any level of command that it not be worked through at the lower level, but that it surfaces all the way up through the chain of command.

So we've got a problem there that's got to be fixed.

LEVIN: General Sanchez, is there a record of the ICRC working paper being received by you or at your level?

SANCHEZ: The July paper?

LEVIN: July...

SANCHEZ: Yes.

LEVIN: ... the working paper detailing 50 allegations of ill treatment?

SANCHEZ: Not that I'm aware of, Senator.

LEVIN: So there's no indication at your level at your headquarters that that document was ever received?

SANCHEZ: No, Senator, the working paper that I am aware of that made it to my headquarter was the November paper.

LEVIN: The Interrogation Rules of Engagement, so called — this is a document which was presented to this committee by General Alexander, saying that the rules of engagement that were in effect at the Combined Joint Task Force-7 in Iraq prior to 2003 are set forth on a piece of paper, which — are you familiar with it? — called Interrogation Rules of Engagement.

SANCHEZ: Yes, sir, I have seen that.

LEVIN: And can you tell us what — if you've seen this before, did you approve this? Did you have legal advice? What is this document that General Alexander told us were the rules of enlargement that were in effect at the Combined Joint Task Force?

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SANCHEZ: Sir, the first time I saw that paper was when it was shown in one of the prior hearings in this same forum. And I had no role in preparing it or approving it.

LEVIN: All right. So he was in error then relative to that? General Alexander then would have been in error if he said this was the document?

SANCHEZ: Right, sir. I have never seen that, and I had never approved it, and had no part in putting that together, sir.

LEVIN: I don't believe this committee has your October 12th policy statement. If I'm wrong, then fine. But can you present — would you provide that October 12th to the committee?

SANCHEZ: Yes, sir.

LEVIN: And finally, the newspaper reported that 100 or so high-value detainees do not fall under your command, General Sanchez, but are the responsibility of General Dayton, who's commander of the Iraq Survey Group, who reports directly to General Abizaid. Is that accurate, as far as you know?

SANCHEZ: Yes, sir, that is accurate. My M.P.s provide security at Camp Cropper.

LEVIN: Can you just tell us then why that was done that way, General Abizaid?

ABIZAID: Sir, that was done that way because the people at Camp Cropper happened to be those people that had theoretical information concerning weapons of mass destruction information, and also were the high-value detainees that we hope some day to turn over to a legitimate Iraqi government for trial.

LEVIN: But why should they be treated differently from other detainees, separated out that way?

ABIZAID: They were separated out that way to ensure that we understood — I guess I would call it the strategic environment, as opposed to the tactical environment, where we would get information at a lower level from lower-level detainees.

ABIZAID: It was established that way as a result of discussions that were taken place here in Washington regarding having a better and more efficient way to really understand what was going on with regard to weapons of mass destruction.

LEVIN: That was all then WMD-information-related, basically?

ABIZAID: It was sir, but it was also dealing with very senior levels of the government...

LEVIN: Thank you.

ABIZAID: ... of the former Iraqi government.

LEVIN: Thank you.

WARNER: Thank you very much, Senator.

I've just been informed that the Department of Defense has informed the committee that another disk of pictures has been located. And I'll soon advise the committee on the conditions under which — and timing — they can be viewed.

Senator McCain?

MCCAIN: Thank you, Mr. Chairman.

And I want to thank the witnesses, particularly Generals Miller and Abizaid and Sanchez, for their outstanding service to our nation under the most difficult circumstances. And I was pleased to hear that you were here on other business and were not have to be called back from the theater of operations.

And I thank you for all the time and effort you have devoted to trying to resolve this terrible issue. And we're very grateful for that and your appearance here today.

General Sanchez, according to a November 19th, 2003 message, as you responded to questions from Senator Warner and Senator Levin, you transferred full responsibility to General Pappas to assume full responsibility for Abu Ghraib and appointed the guard units to be under the tactical control that 205 Military Intelligence commander for security of detainees and forward operating base protection, I quote from your message. I think that's accurate.

MCCAIN: In his statement to General Taguba, Colonel Pappas said, and I quote, "Policies and procedures established by the joint operation detention center at Abu Ghraib relative to detainees operations were enacted as a specific result of a visit by Major General Geoffrey Miller, commander of Joint Task Force Gitmo."

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He went on to say, quote, "The key findings of his visit were that the interrogators and analysts develop a set of rules and limitations to guide interrogation and provide dedicated M.P.s to support interrogation operations" — I repeat, "and provide dedicated M.P.s to support interrogation operations."

Now, General Sanchez, General Miller's report, as I understand it, had observations and recommendations. One of those recommendations was, and I quote from his recommendations, "It is essential that the guard force be actively engaged in setting the conditions for successful exploitation of the internees."

Am I accurate so far, General Sanchez?

SANCHEZ: Yes, Senator.

MCCAIN: General Miller?

MILLER: Yes, sir, you are.

MCCAIN: General Miller, do you believe that your instructions may have been misinterpreted?

MILLER: Senator, I do not.

On our visit to the JTF to be able to give an assessment of the intelligence function in the three major areas — intelligence fusion, the interrogation process and in humane detention — the team of 19 experts laid out those standards that would allow for humane detention, interrogation in accordance with the Geneva Convention, and then recommended procedures by which intelligence could be fused more rapidly to provide actionable intelligence for units and for the JTF itself.

MCCAIN: Well, thank you.

But it seems to me that this order that I just quoted, which turned over certain M.P. duties to the control of Colonel Pappas, then certain things happened. And according to General Taguba's report, soldiers were questioned that were involved in this.

MCCAIN: Soldier number one, question, "Have you ever been directed by the M.I., military intelligence, personnel or any government agency to soften up a prisoner prior to interrogation?" Answer, "Yes. Sometimes they would ask me to show a prisoner, quote, 'special attention.'"

Soldier number two, "Have you ever been told by M.I. personnel to work over a prisoner?" "Yes. M.I. told us to rough them up to get answers from the prisoners." "Why didn't you report the abuse?" "Because I assumed that if we were doing anything wrong or out of the ordinary or outside the guidelines, someone would have said something. Also, the wing belonged to military intelligence and it appeared military intelligence personnel approved of the abuse."

Soldier number three, question, "What can you tell us about the abuse of prisoners at Abu Ghraib?" "Yes, the M.I. staffs, to my understanding, have given compliments to us on the way we were handling the M.I. holds. For example, meaning statements like, 'Good job, they're breaking down real fast.' Quote, 'They answer every question, now keep it up,' unquote. 'They're giving out good information.'"

Soldier number four, "Have you ever heard M.I. insinuate to guards to abuse inmates of any type of manner?" "Yes." "What was said?" Answer, quote, "They said, 'Loosen this guy up for us, make sure he has a bad night, make sure he gets the treatment.'"

You see my point, Major General Miller?

At least according to General Taguba's report, there were at least a number of guards — I mean, guards, M.P.s, who were under the impression or stated that they were under the impression that they were under specific directions of military intelligence personnel to, quote, "rough up, soften up, give them a bad night," et cetera.

MCCAIN: How do we respond to that, General Miller?

MILLER: Sir, in the recommendations that we made...

MCCAIN: Could I go back to my first question? This goes back to my first question. Does this lead you to believe that your orders were misinterpreted?

MILLER: No, sir. The leadership that received the recommendations throughout the

JTF had a clear understanding of the recommendations that we made in those three areas of intelligence fusion, interrogation and humane detention that laid out those requirements, laid the basis that they must be in concert with the Geneva Convention, and gave recommendations from our experience about how those three functions could be done successfully.

MCCAIN: There must have been a breakdown somewhere.

MILLER: Sir, in my estimation, it's a breakdown in leadership on how that the follow-on actions may have occurred, but I was not present at that time, so it would be difficult for me to give...

MCCAIN: General Sanchez — my time has expired.

WARNER: Go ahead.

MCCAIN: General Sanchez, please?

SANCHEZ: Senator, I wanted to make one clarification: that General Miller did not issue any orders, and he has not issued any orders until he arrived as the deputy commanding general for detainee operations. Those orders were my orders, sir.

MCCAIN: I guess my question was better directed to you. Were those orders misinterpreted?

SANCHEZ: Sir, I do not believe those orders were misinterpreted. The procedures that General Miller and I had discussed, that he had recommended, were very detailed. And it very clearly stated that M.P.s were involved in passive enabling of those operations and had no involvement in the conduct of interrogations. Those were the orders in the SOPs that remained after General Miller's visit.

MCCAIN: Thank the witnesses.

My time has expired. Thank you very much.

WARNER: Senator Kennedy?

KENNEDY: Thank you very much, General. And I echo the sense that all of us feel of the great respect we all have for you and the troops that you're commanding.

We've lost 23 very brave soldiers in my state of Massachusetts and we're all very mindful of the complexities, the difficulties that the uniformed service personnel are facing over there. So we thank you so much for your leadership and your careers and public service in serving our country.

I was, just quickly — General Sanchez, as an old M.P. myself, I'm surprised that you take that the military intelligence are better in force protection — in protecting the forces than the M.P.s. But we'll leave that for another time.

When we had the secretary of defense here, General Abizaid, last week, he denied that there was any failure to take any of these reports seriously.

"The military, not the media, discovered these abuses," he said. And Specialist Joseph Darby reported the acts of abuse in Abu Ghraib prison in mid-January. And, according to Secretary Rumsfeld, by the next day investigations were authorized.

Yet now we learn, both from the front page of the New York Times today and the front page of the Wall Street Journal today, that the International Committee on the Red Cross observed the abuses in the prison during the two unannounced inspections in October 2003, and they complained in a strongly-worded written report of November 6.

This report was reviewed by senior military officials in Iraq, including two advisers to General Sanchez, according to this report.

KENNEDY: So it appears that the military's first reaction was to restrict future Red Cross visits to the Abu Ghraib. That's the story in here: After the Red Cross had provided two critical reports, the reaction of the military dealing with the prison then was to restrict. They said, "You have to give us notice." And all of us understand what that means: If you're going to give notice prior to the inspections, it obviously compromises the inspections.

So according to those news reports, nothing was done in the prison for two months. And the military previously acknowledged that the worst abuses continued into December 2003.

So we have the secretary of defense saying one thing and we're learning from two newspapers another story. And that's why I think we are trying to find out what

exactly, who was in charge, and who bears the responsibility, because these are completely conflicting stories within a period of just a few weeks here before this committee.

I don't know whether you have any reaction to those stories, whether you had a chance to see those this morning, I want to move on.

Quickly, I suppose it's fair to say who in Iraq or in CENTCOM is responsible for receiving and responding to the reports of violations of international law or conventions by U.S. military personnel.

SANCHEZ: I am responsible. If someone brings it to my attention, I am responsible. And I will not turn my back on any report that I receive.

KENNEDY: Well, you obviously didn't get these reports.

SANCHEZ: No, I didn't.

KENNEDY: Well, I'm asking who would have gotten these reports? Who would have received this report in the chain of command, General?

SANCHEZ: Senator, the November report was received by the brigade commander. And then the — as I found out now, the CJTF staff assisted her in responding to that report.

KENNEDY: Well, do they get — that brigade commander receive all of the reports or it's just — who institutionally receives, within your organization, any of the — like for the Red Cross violations that come on in? Who's in charge on that?

SANCHEZ: When the February '04 report came in, that's when I found out that the November working papers had been issued to the brigade commander. At that point, I immediately changed the procedure and required that those reports come to me as a senior commander in the country.

KENNEDY: But there were...

SANCHEZ: That is the procedure now.

KENNEDY: But there was no central receiving officer charged prior to what you've just established?

SANCHEZ: Prior to that, Senator, those all would come to the staff judge advocate's office. That was the repository. And he was the point of contact in terms of commander. It would come in at the lowest level.

KENNEDY: At the staff JAG — JAG office?

SANCHEZ: Yes, sir, that is correct.

ABIZAIID (?): If I may, sir, this system is broken. We've got a...

KENNEDY: Let me move on to General Miller.

After your assessment of the detention and interrogation in Iraq, you stated that it was essential that the guard force be actively engaged in setting the conditions for the successful exploitation of the internees.

And as you know, General Taguba strongly disapproved the recommendation, and he has stated that setting of the conditions for the detainees' successful exploitation through interrogation is fundamentally inconsistent with Army regulations. It undermines the goals of running a safe and secure detention facility. That's what he testified here for this committee.

So given the New York Times that reported yesterday that Colonel Pappas — Thomas Pappas, who's the military intelligence brigade commander at Abu Ghraib — told General Taguba that there was no safeguards to ensure the M.P.s at Abu Ghraib behaved properly in setting conditions for the detainees. "There'd be no way for us to actually monitor whether that happened," Colonel Pappas said. "We have no formal system in place to do that."

KENNEDY: General Taguba also found the M.P.s hadn't been trained on the Geneva Conventions.

Wasn't this a catastrophic failure of leadership? I mean, how would you expect an average soldier in the Army to understand the term "successful exploitation" isn't simply a euphemism for "anything goes"? And do you take responsibility for that failure?

MILLER: Thank you, Senator.

The Taguba report was very thorough, but I would like to clarify on this one point.

The recommendation that my team made in the September time frame was that the military police help set the conditions for successful interrogation as we had learned of their success in Guantanamo.

The recommendation was that they conduct passive intelligence gathering during this process. And by that that meant to observe the detainees, to see how their behavior was, to see who they would speak with and then to report that to the interrogators so the interrogators could better understand the attitude with human dynamic of the detainee as he would come into the interrogation booth.

We also recommended that the military police, for security reasons, would accompany the detainee from the cell block, or the area where they were held, up to the interrogation booth because they are security risks. Then the M.P. would wait somewhere else, and then accompany the detainee back.

Our recommendations were that the M.P.s did not actively participate in any form of the interrogation itself.

And that was explained in detail to the chain of command and giving them that for their opportunity. And the SOP that laid that out was provided to them. It's about 200 pages long. It goes into great detail about how this system works, because, as it says in the SOP, the M.P.s are not trained intelligence officers, should not initiate questioning or anything like that. They were just to be observers of that process.

And so that was the active support for the interrogation process that was recommended.

And so, Senator, I will tell you, with my utmost — I believe that the recommendations that we made, had they been implemented, would have not only increased the intelligence value of what was being done, but help to ensure that humane detention was accomplished throughout every facility.

WARNER: Thank you very much, Senator.

Senator Roberts?

Before responding, General Sanchez, you made four references to the brigade commander. Now that would be General Karpinski?

SANCHEZ: Yes, sir, that is correct.

ROBERTS: All right. I want the record to reflect that.

ABIZAID: Mr. Chairman, just for the record, I would just like to caution the committee. We still do not know what we don't know.

WARNER: That's very clear. And we recognize that. And it's been a struggle throughout this whole thing to get a full understanding. And that's why we've got to entrust credibility to what the Department of Defense and the Army, particularly, are doing now with a series of investigations. And we fully appreciate that.

ABIZAID: And I think that Major General Fay's report will go a long ways to make us understand this dynamic between M.P.s and M.I. in particular.

WARNER: And I share that.

ABIZAID: (OFF-MIKE) Senator McCain's questions.

WARNER: Thank you.

Senator Roberts?

ROBERTS: General Abizaid, you realize that your statement is contrary to the United States Senate where we always know what we don't know.

(LAUGHTER)

Let me say that I want to thank Senator McCain for his comments, because I think he spoke for the whole committee, in reference to the contribution that you are making to our country and your service to our country, and I would like to associate myself with his remarks.

ROBERTS: I'm going to try to get my fast questions in to General Miller.

Well, first let me ask of General Sanchez, no soldier would be justified in interpreting an order in such a way as to violate the Uniform Code of Military Justice; is that correct?

SANCHEZ: Sir, I would state absolutely.

ROBERTS: So even if a soldier did misinterpret General Miller's recommendation, even though I doubt if they had it, to carry out these acts, that would not be an

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excuse, would it?

SANCHEZ: Sir, that is correct. That is a basic instinct we built into the soldiers.

ROBERTS: General Miller, would the abuse evidenced by the photos be permitted or condoned under any practices or policies that were recommended in your report?

MILLER: Senator, they absolutely would not be.

ROBERTS: Would the abuse evidenced in the photos be permitted or condoned in any of the practices or policies at Gitmo?

MILLER: Senator, they would not.

ROBERTS: Do you have any problem with General Ryder, who allegedly said there should be a firewall between the M.P.s and military intelligence, given your rationale as to why they should work together if we have the leadership and the training and the discipline that you have indicated that we now have?

MILLER: Sir, our doctrinal publications say that there should be cooperation between the military police and the intelligence function in a detention facility.

But it does say there should not any active participation by the military police force in any interrogations.

ROBERTS: I have a staffer that works on the Intelligence Committee for me; I have the privilege of being chairman. He has been down at Gitmo in a reserve capacity. He indicates that you made a remarkable turnaround down at Gitmo. Many senators have gone down; it only takes a day. I encourage every senator here to do that. And I credit you for improving a very difficult kind of situation.

In Iraq, it's my understanding that there are three prisons, five battalions, four of the five are Reserves. Is that correct?

MILLER: Senator, in the organization that I now lead, as the deputy commander general for detainee operations, that is a correct statement.

ROBERTS: In the estimate today, after the incident at Abu Ghraib, how would you determine the leadership today in regards to discipline and training and leadership of those personnel that you command as of right now?

MILLER: Sir, in the first 30 days of my opportunity to work in this capacity, I was able to visit every facility and talk to virtually every leader and soldier who are involved in this. I'll tell you that there's strong, positive, dynamic leadership throughout this chain of command.

ROBERTS: So you've seen a hell of a change?

MILLER: Sir, we have seen soldiers and leaders who know what standards are and execute them seven days a week, 24 hours a day.

ROBERTS: At Gitmo, you had one M.P. per two prisoners. In Iraq, you have one M.P. per 8.5 prisoners. Is that correct?

MILLER: Sir, those are approximately correct numbers.

ROBERTS: OK, but you've indicated at 50 percent of the prisoners in Abu Ghraib will be released. You have 3,800 prisoners now. That will bring it down to 1,500. What's happening to the 1,500? I understand that 74 are being tried by the central court of Iraq. Will all 1,500 be tried?

MILLER: Sir, those approximately 1,500 security internees have been interned. That means that we have great — we have strong evidence that they have committed attacks on the coalition. And they will most likely be referred to the Central Criminal Court of Iraq for trial by the Iraqi system for those.

There are a number of those, approximately 600 to 700, who are so dangerous that should they be released back into Iraqi society that they would put that society at risk, with a higher probability of attack on their fellow citizens.

ROBERTS: So they're the worst of the worst.

MILLER: Sir, those are the worst of the worst.

ROBERTS: If the Red Cross investigated today, what would they find?

MILLER: Sir, the Red Cross is, as a matter of fact, investigating today. They are at Camp Buka, which is one of our theater facilities down by Umm Qasr on the southern border. They have found that we are making an enormous effort to improve conditions every day, that we take their findings seriously and that we have addressed them.

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General Sanchez made a change when I arrived in the theater and put the ICRC responsibility directly on me. And so all reports come to me, and I move them to General Sanchez and the command leadership as rapidly as possible.

ROBERTS: So until we get the report by General Fay to assess responsibility and accountability, you think there's been a big change in regards to leadership and training and discipline, which all are directed at interrogation to provide better intelligence to save Iraqi lives and American lives. Is that correct?

MILLER: Yes, sir, that's absolutely correct.

ROBERTS: I thank you, Mr. Chairman.

WARNER: Senator Byrd?

BYRD: Thank you, Mr. Chairman.

General Abizaid and General Sanchez, this travesty of justice occurred on your watch. The Iraqi prisoner abuse scandal has dealt a body blow to the heroic efforts of scores of American military troops and civilian workers in Iraq to win the hearts and minds of the Iraqi people. I do not know if that damage can ever be fully repaired.

Certainly a lot depends on what else might emerge about this scandal and on what you and the civilian leadership at the Pentagon — at the Pentagon — do to set things right.

BYRD: General Sanchez, you told Senator Levin that you never saw the rules of engagement presented to this committee last week. If you do not see or set the so called rules of engagement for the interrogation of prisoners in Iraq, who does? Who does set them?

SANCHEZ: Senator, what I had stated is that I had not seen the specific slide that was referred to. I was the one that approved the interrogation rules of engagement on the 12th of September and again in the October time frame, sir.

BYRD: Does anyone in the civilian leadership of the Pentagon need to approve the rules of interrogation operation?

SANCHEZ: Senator, those rules were forwarded to Central Command in the September time frame. And based on the inputs from Central Command, resulted the October memorandum.

BYRD: I'll ask the question again. Does anyone in the civilian leadership of the Pentagon need to approve the rules of interrogation operations?

SANCHEZ: Sir, I do not know. As far as I know, there is no requirement for the civilian leadership to approve those rules of engagement.

ABIZAID: You know, Senator, I would say we're all responsible for making sure what happens in our organization happens right. Things don't have to go all the way to the top to be approved. We know what's right and we know what's wrong.

BYRD: But the committee needs to know if you can answer this question. Does anyone in the civilian leadership of the Pentagon need to approve the rules of interrogation operations? If so, who?

ABIZAID: My answer is no, it's our responsibility.

BYRD: Then you're saying that nobody in the Pentagon approves these rules?

ABIZAID: No, I'm not saying that, sir.

BYRD: Then what are you saying?

ABIZAID: I am saying that the rules of engagement for interrogators are a product of Army doctrine, of Army training, of practices in the field, and of commanders doing their job out there.

BYRD: General Abizaid, if someone at the Pentagon is required to approve these rules of engagement surely you know.

ABIZAID: If I knew, Senator, I would tell you. I would not forward any rules of engagement to anybody. Nobody's asked me for any, and I wouldn't have forwarded it to them.

BYRD: So you're indeed saying that nobody in the Pentagon approved these rules?

ABIZAID: I don't know that I'm saying whether they reviewed them or not. I am saying that I have not personally forwarded anything to the Pentagon for their approval.

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BYRD: Did the secretary of defense has to approve these rules, to your knowledge?

ABIZAID: Sir, I (inaudible) said. In the Central Command, I have not forwarded anything to the Pentagon for approval with regard to rules of engagement.

BYRD: And I'm not asking you what you have forwarded to the Pentagon. To your knowledge, did the secretary of defense have to approve these or did he approve these rules of engagement, to your knowledge — the secretary of defense?

MILLER: Senator, if I might — I was the legal adviser for the command and participated in the drafting of the counter-resistance and interrogation policy.

There is no requirement that the Department of Defense review or approve the methods that we used. As Generals Abizaid and Sanchez has said, they're operating in a combat environment. The commanders have the authority to approve...

BYRD: All right, if there's no requirement, to your knowledge, did the secretary of defense approve these rules of engagement?

MILLER: Sir, to my knowledge, no.

BYRD: General Sanchez, as Senator Kennedy stated, the New York Times reported this morning — and here it is right here. The headline says, "Officers Says Army Tried to Curb Red Cross Visits to Prison in Iraq." Is that allegation accurate?

SANCHEZ: Sir, I never approved any policy or procedure or requirement to do that.

BYRD: Let's see what this says. Two announced inspections in Iraq — the International Committee of the Red Cross observed abuses in one cell block on two announced inspections in October, and complained in writing. On November the 6th, the military responded that inspectors should make appointments before visiting the cell block.

BYRD: Well, we know what that means.

General Abizaid, the Red Cross has alleged a pattern of abuse at detention centers in Iraq. With all due respect, how can you explain the culture of abuse that was allowed to develop in a prison system under your ultimate command?

ABIZAID: I don't believe that a culture of abuse existed in my command. And I don't believe that, based on what my I.G. told me and what the Department of the Army I.G. told me. I believe that we have isolated incidents that have taken place.

I am aware that the International Red Cross has its view on things. A lot of its view is based upon what happens at the point of detention, where soldiers fighting for their lives detain people, which is a very brutal and bloody event.

BYRD: Thank you, Mr. Chairman. My time is up.

WARNER: Thank you, Senator Byrd.

Senator Allard?

ABIZAID: Mr. Chairman, maybe I — if I may...

WARNER: Feel free, General, when you wish to add some information.

ABIZAID: Policies do flow from the top of the Defense Department and I don't want to give any impression that they do not. But standard operating procedures are our business, and we work them.

BYRD: These are not standing operating procedures we're talking about, I hope.

WARNER: Fine.

Senator Allard?

ALLARD: Mr. Chairman, I just want to point out that I think the real travesty of justice is on the other side, where we see women and children used as shields; where we see a fight being carried on in mosques by our adversaries and other religious structures; where I see that conflict being carried in schools; and where our adversaries don't care about innocent lives, and they'll cheat and lie and do anything.

ALLARD: And I think that we have to understand the challenges that our men and women facing in Iraq. And I think that it's a very, very difficult situation.

Now, that doesn't justify, I think, what we've seen by a few individuals here in this prison. And I want to fully understand how it is that kind of incident would happen in the prison.

I think we all have to understand, I think, General Abizaid, that you have recognized that there is a problem and that we're in the process of correcting that

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problem.

Major General Miller, of the list of reports that came out, yours was the first report. You looked at Guantanamo, and then you went on ahead and briefed, I think, the command in Iraq as to what you learned in Guantanamo. Is that correct?

MILLER: Senator, when I briefed the command of CJTF-7, it was on the findings and recommendations that the team that I brought found of our assessments of the operations within CJTF-7 in Iraq.

ALLARD: Did you share with them some of the lessons learned and what not in Guantanamo and explain to them what to watch out for?

MILLER: Yes, sir.

We used our SOPs that we had developed for humane detention, interrogation and intelligence fusion, to be able to use that as a starting point where they could go about improving their capability.

ALLARD: And so when you did your briefing, how far down did that information go? Did it go to those interrogators, or were you relying on individuals further down in the command to pass on your words?

MILLER: Sir, the recommendations that I made from the assessments were given to the senior leadership of the joint task force for them to make decisions upon their applicability and then to, if they chose, make additional modifications to their procedures to go about doing that.

In no case did we — did the team have the opportunity or ask to brief down at the lowest level. It was at the senior leadership level, at the commander and the senior staff officer level.

ALLARD: Now, those lessons learned — can anybody on this panel explain to me what happened to that information that was shared by Major General Miller to a higher command? How was that passed down?

SANCHEZ: Yes, Senator.

What we did after I received the recommendations of General Miller is I then forwarded those to my staff and the commander of the detention center for execution — correction, for modification in accordance with the Geneva Convention, since we knew that there was a difference in climates between the two different operations.

And then we set about and...

ALLARD: By that "difference in climate," you're saying that in Guantanamo it wasn't as pertinent as to actually what was happening in the field of battle, but what was happening in Iraq was very pertinent, was happening on the day-to-day basis in the field of battle — and that information was crucial to the survival of Americans. Is that...

SANCHEZ: Yes, sir, that is exactly right. We were, at that point in time working very, very hard to get intel fusion at a higher level that could allow us to target precisely the enemy forces.

And we had to very rapidly take those recommendations and modify them to the theater, modify them to ensure that they were in accordance with the Geneva Convention, get the lessons that had been learned before in interrogation and detention operations and be able to adjust our own procedures and fix the procedures that we had in-country.

ALLARD: Now, General Abizaid and General Sanchez, I'd like for you to describe the checks and balances or the command-wide reporting and supervision that was in place during 2003 when the subject prisoner abuses occurred.

General Taguba's report clearly shows abuses reported as early as May 2003 in Iraq, as well as major accountability leadership and basic discipline breakdowns through the 800th Military Police Brigade.

And, I guess, the bottom line, did Brigadier General Karpinski, the 800th M.P. Brigade commander, keep you informed as to the deteriorating conditions in her command?

ABIZAID: I did not talk to the commander of the 800th M.P. Brigade.

ALLARD: General Sanchez?

SANCHEZ: Sir, as far as the deteriorating conditions of her command, part of our basic understanding in the July-August time frame was that we had a detainee situation that had not been faced by our Army in over 50 years.

That was the reason why I had requested the Ryder team to come in to assist us in establishing those operations, so that they would be efficient, effective and treating people with dignity and respect. That is why I supported the Miller team coming into the country. And we were providing the resources that were necessary in order for us to stand up the capabilities of the 800th to be able to function effectively.

ALLARD: And the Ryder report, that was the first report in trying to deal with any hint of impropriety that was happening at the prison, is that correct?

SANCHEZ: Senator, there were investigations that had been conducted as a result of allegations of abuse that were out in the command, not at the detention centers at that point.

As we have stated before, there were allegations that at the point of contact, where the soldiers are fighting every single day, there were allegations from the ICRC that prisoners were being treated rough. And those were the allegations that were being investigated at that point in time.

As far as detention center abuses, at that point I did not have knowledge of that.

But I would like to make sure that the committee understands, we did have detention center problems. They were overcrowded. We didn't have the M.P.s in the right place. We were moving into facilities that had been destroyed or damaged by the war. We had an intelligence problem, in that the tactical units were not getting feedback from the detainees that moved into the detention centers.

And from Ambassador Bremer's point of view, he had a problem in that we weren't releasing detainees back into the population quickly enough, and he wanted us to come up with a system that would make that more efficient.

So let's be clear that we understood that there were problems in the detainee system linked to the intelligence system, linked to the political system that had to be addressed, and we were working on them.

But I would also like to remind you that these images are not the kind of thing that we thought was happening out there that anyone in the chain of command would have condoned or allowed to be practiced.

MILLER: Sir, if I may...

ALLARD: Mr. Chairman, my time has expired.

MILLER: ... if I may just one — because I think it's an important clarifying point.

During the assistance visit that my team made in the August- September time frame, we were also charged with the responsibility of looking for humane detention throughout, at the CJTF Level 7 — 7 level detention facilities.

And during that assessment, in one of the facilities, the team found that it was being operated in an unsatisfactory manner. I stopped the assessment. I went to General Sanchez and made this report. He directed that there be corrective action made within 48 hours in this facility. That action was immediately started. And it was continuing on as the assessment team that I led departed theater.

And so there were reports — and I will tell you, there was very aggressive action taken by the chain of command to go about correcting those shortfalls.

ALLARD: Thank you.

Mr. Chairman, my time has expired.

WARNER: Thank you, Senator. Thank you very much.

Senator Reed?

REED: Thank you, Mr. Chairman.

Colonel Warren, is it accurate to say that all the prisoners in Abu Ghraib were entitled to the protections of the Geneva Convention, that they were either enemy prisoners of war or protected persons? Is that correct?

WARREN: Sir, that's right. They were protected persons either under the third or fourth Geneva Convention.

REED: Thank you.

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Under the Geneva Convention Article 31, "no physical or moral coercion shall be exercised against any protected persons, in particular to obtain information about them or from third parties." Is that correct?

WARREN: Sir, you're quoting from Article 31 of the fourth convention. That is an accurate recitation of what the article says. I would cite you to Pictet's commentary on the article for elaboration...

REED: Well, thank you, but we'll go into the elaboration.

WARREN: Yes, sir. It should not be taken out of context.

REED: But that is the operative rule.

WARREN: That is a literal generalization.

REED: Let's go back to the rules of engagement here. Sleep management, 72 hours; sensory deprivation, 72 hours, would you consider that to be physical or moral coercion?

WARREN: Sir, not prohibited coercion under Article 31 for security internees in a...

REED: I'm talking about in particular to obtain information about them or from third parties.

WARREN: No, sir, I would not.

REED: So these are not methods to use for interrogation.

WARREN: Sir, the list on the right-hand side of the...

REED: Can you answer the question, Colonel?

WARREN: Sir, that does not require a yes-or-no answer. I have to elaborate upon it.

REED: Well, Colonel, my time is six minutes. So let me just move on.

WARREN: Yes, sir.

REED: You just said that these are coercive means.

WARREN: No, sir, I did not. What I said is...

REED: For a protected person, to obtain information.

WARREN: No, sir. What I said was that those that are on the right are a list on a slide which was produced at a low level, which was not representative of our counter-resistance and interrogation policy.

REED: Excuse me, Colonel, I'm asking you a question, not how it was evolved, but if 72 hours with a bag over your head to obtain information is contrary to Article 31 of the Geneva Convention; correct?

WARREN: That would be yes, sir.

REED: Thank you.

General Sanchez, today's USA Today, sir, reported that you ordered or approved the use of sleep deprivation, intimidation by guard dogs, excessive noise and inducing fear as an interrogation method for a prisoner in Abu Ghraib prison.

REED: Is that correct?

SANCHEZ: Sir, that may be correct that it's in a news article, but I never approved any of those measures to be used within CJTF-7 at any time in the last year.

REED: Excuse me. Because I want to get back to this.

It may be correct that you ordered those methods used against a prisoner. Is that your answer?

SANCHEZ: No, sir, that's not what I said. I said it may be correct...

REED: Well, I didn't hear; that's why I want...

SANCHEZ: ... that it's printed in an article, but I have never approved the use of any of those methods within CJTF-7 in the 12.5 months that I've been in Iraq.

REED: What level of command produced this slide?

SANCHEZ: Sir, my understanding is that that was produced at the company commander level.

REED: How could the company commander evolve such a specific list? How could the company commander then turn around and said some of these things would require your permission without any interaction between your command? It seems to me just difficult to understand.

SANCHEZ: Sir, it's difficult for me to understand it. You have to ask the commander.

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REED: Now, this is the company commander that you relieved and gave him a letter of admonition.

SANCHEZ: No, sir.

REED: No. OK.

General Miller, at Guantanamo, it's been reported that you developed a 72-point matrix for stress and duress, lays out types of coercion, escalating levels. They include harsher heat or cold, withholding food, hooding for days at a time, naked isolation and cold, dark cells. Is that correct?

MILLER: Sir, that is categorically incorrect.

REED: That never happened.

MILLER: That is categorically incorrect.

REED: OK.

When you were dispatched by Secretary Cambone and General Boykin to go to Iraq, did they give you any specific instructions about increasing the aggressiveness of interrogations?

MILLER: Sir, I was tasked to go to assist — conduct assistance visit by the Joint Chiefs of Staff.

MILLER: They tasked Southern Command, who then tasked JTF Guantanamo to put the team together.

REED: Did you have conversations with General Boykin and Secretary Cambone prior to your departure about your trip?

MILLER: Sir, I did not.

REED: You did not. Did you have any discussions after your visit, after your return?

MILLER: Sir, I submitted the report up to SOUTHCOM. I had no direct discussions with Secretary Cambone or General Boykin.

REED: Well, Secretary Cambone testified that General Boykin briefed him on your discussions. And he led the implication that you and General Boykin — have you spoken to General Boykin about any of these issues?

MILLER: No, sir. The report was provided up and it may — and this is my speculation because I do not know — it may have gone to General Boykin. But he and I have not had conversations about personal conversations about this inspection visit.

REED: Your team, when they went down and briefed at the — how low a level did you brief and talk to people in that prison?

MILLER: Sir, the team went at several different levels. They started at the CJTF level...

REED: How far did they go in the prison?

MILLER: They went down to the battalion commander level at the military police function and to the company commander level at the military intelligence function.

REED: And that might be the level where this document was developed?

MILLER: Sir, I do not know at what level that document was developed at.

REED: Did your team specifically brief that these techniques, which you deny being placed in Guantanamo, could not be used? Did they any way suggest that methods could be used in that prison that are contrary to Geneva Conventions?

MILLER: Sir, no methods contrary to the Geneva Convention were presented at any time by the assistance team that I took to CJTF-7.

MILLER: And there is no — as you brought up again, sir — there is no status, or there is no program, JTF-Guantanamo, that has any of those techniques. That are...

REED: Well...

MILLER: ... that are prohibited by the Geneva Convention.

REED: One of the problems that we have, General, is that we have not yet, after repeated requests, received the documentation about the interrogation techniques at Guantanamo, which is another lack of cooperation in this investigation.

My time's expired. Will we have a second round, Mr. Chairman?

WARNER: It's important that we conclude today's round with a closed session in which members will be given an opportunity to have questions.

Senator Sessions?

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SESSIONS: Thank you, Mr. Chairman.

And I thank all of you for your service in a difficult and dangerous area of the world. You're serving your country with distinction.

General Abizaid, I appreciate your leadership and your comments earlier today.

We have made progress in Afghanistan and Iraq. We've had Al Qaida on the run. And we've made — we've avoided another attack on this country, for which we can be grateful.

I think you're correct to suggest that sometimes, in this city, people get preoccupied with failure and error rather than seeing the progress that's occurred.

And I am troubled by this suggestion that the interrogation rules are some, sort of, smoking gun of illegality and impropriety.

You've been asked about — what about sleep adjustment or sleep management for 72 hours? Those — as I read this document, this is a restrictive document that said anything — that such an action must be, have the direct approval of the commanding general.

SESSIONS: Is that the way you understand it, General Sanchez?

SANCHEZ: Sir, that's the way I read that document also, sir.

SESSIONS: And was it you or the commanding general, or who was the commanding general referred to?

SANCHEZ: That referred to the commanding general CJTF-7. That's me, sir.

SESSIONS: So, the system was set up to restrict these kind of activities. They could never be done even though, as Colonel Warren, the JAG officer said, could be acceptable under — some of them at least can be acceptable under the Geneva Conventions. They had to make a written report and request the use before any of those could be used.

SANCHEZ: That is exactly right, sir.

SESSIONS: And were any of these ever approved by you?

SANCHEZ: Sir, the only approvals that I ever had at my desk was for continued segregation beyond 30 days. And there were 25 of those who were approved. I never saw any other method come to my level requesting approval.

SESSIONS: So the only request under this category of what some refer to as harsher treatment were the isolation requests, which are done in American prisons every day. And these isolation requests were, in fact, submitted to you in writing. And do you or your staff make an evaluation before you approved them?

SANCHEZ: Yes, sir, those came forward. My staff — both the intel officer and my staff judge advocate evaluated those. And then my staff judge advocate brought them in to me, and I personally approved it.

SESSIONS: And I would like to note that in big print here, it says, "Safeguards: Approaches must always be humane and lawful. Detainees will never" — in capital letters — "be touched in a malicious or unwanted manner." Would that violate — were the actions in this prison in violation of that directive? The allegations and the pictures we've seen, that would be in violation of that directive, would it not?

SANCHEZ: Sir, if those allegations are proved in the investigative process to be true, those would be violations.

SESSIONS: And it said Geneva Conventions must be complied with.

SANCHEZ: Absolutely, sir, that was always the standard.

SESSIONS: Now, General Abizaid or General Sanchez, the Ryder report — General Ryder was the provost marshal. That's the person in charge of the military prison system, is that not correct?

ABIZAID: Yes, sir, it's correct.

SESSIONS: He's the Army's top expert on how to house prisoners. And it's not easy in the United States, I'm telling you. Senator Kennedy and I sponsored a bill recently to crack down on sexual abuse in prisons, a prison rape bill, because it happens in American prisons we have abuses. But it's difficult in a theater of combat operation.

You brought him over to help you bring order to this situation in the post-hostility conflict? Is that what you did?

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ABIZAID: Yes, sir. We've asked for a lot of help, because we need a lot of help in this theater on a lot of different things.

But what's the most helpful is where commanders travel and look and see with their own eyes what's going on and how it's going on. And General Sanchez and I and others have been all around the theater and talked to interrogators. We've looked to make sure what was happening was right. And we emphasize to them all the time that they need to treat people right.

SESSIONS: Well, things go awry; there's just no doubt about it. And it's more difficult in a combat environment.

General Miller, you had a reputation of being able to manage a prison and to obtain information from detainees in a way that was closely inspected and observed by the Red Cross and other people on a continuing basis.

SESSIONS: And we had soldiers at risk in Iraq. We had civilian leadership of the new Iraqi government at risk of their very lives, as we saw one just killed recently. It certainly would have been wonderful if we'd obtained intelligence so we could have interdicted the latest murder of the head of the council in Iraq.

And, General Abizaid, you said you wanted to get information to the tactical commanders. The American people may not understand this language. Part of the problem was, as I understood it, you're obtaining information, but we're not getting it out to the people who could benefit from having it. Is that fair to say?

ABIZAID: Well, Senator, as I traveled around — and I spend most of my time when I go around going to tactical units — I was extremely impressed by the amount of information that they had about local conditions. And I would always ask them whether once the detainees were evacuated into the prison system, did they receive follow-up information that would help them in their difficult job of breaking down the cellular structures that the enemy uses against us.

And at the same time, General Sanchez and I, probably very early on in General Sanchez arriving in the theater, were concerned that we were not getting a good view of what was happening at the leadership level. So we knew that there had to be a connection between what the tactical units knew and what the leadership knew if we were ever to get at the insurgency base problems that we were seeing out there.

So we were dealing with a systemic problem and we still don't have as good a view as we'd like to have about the nature of the insurgency and who's in charge and where the cells move and how they operate, et cetera. It's an intelligence-intensive task.

SESSIONS: Well, General Miller, one of your responsibilities is to try to make sure that evidence that had been gathered was promptly disseminated.

SESSIONS: And is that one of your responsibilities?

MILLER: That's correct, Senator.

SESSIONS: I think my time's expired.

WARNER: Thank you, very much, Senator.

Senator Ben Nelson?

BEN NELSON: Thank you, Mr. Chairman.

And thank you all for being here this morning.

General Abizaid, I want to commend you particularly for your candor. This is a city and this group from time to time is used to what I've termed progressive candor. We learned a little bit at a time. And ultimately somebody has to take responsibility. I appreciate very much your willingness to take the responsibility.

General Miller, there are photos showing military intelligence, M.P.s and private contractors in the vicinity of prisoner abuse. We would be — we're being told that it was a handful or a few — the operative word of the day — a few bad apples engaging in activities that were abusive, not consistent with either Geneva Convention rules or with the expectations of the command above them.

So can you tell me who were the participants, who were the abusers in the situation? I'm not aware of anyone outside of a handful of privates, sergeants, et cetera, being charged with anything. What about the private contractors or the

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military intelligence people, apart from M.P.s, being charged? Or do you know?

MILLER: Senator, those — the events, are part of the investigations being done, also being done now by General Fay involving the intelligence elements, both the military and any of the contractors who would be involved in the intelligence function.

BEN NELSON: Will we expect something within a timely manner on those investigations?

MILLER: Sir, it's my understanding that General Fay's report is nearing close and that those reports will be given to the chain of command very quickly.

BEN NELSON: General Miller, what instructions or orders were you given before you arrived and on your way to Guantanamo?

MILLER: Sir, on my assumption of command of JTF-Guantanamo, I went to the headquarters Southern Command and General Hill laid out his responsibilities for me and gave me the orders.

We had an opportunity to fuse two JTFs together that were not working as successfully; that was the priority mission, to be able to integrate both the detention and intelligence function to produce actionable intelligence for the nation. In this case, operational and strategic intelligence to help us win the global war on terror.

BEN NELSON: Did you talk to any of the civilians within the Department of Defense?

MILLER: Sir, initially I did not. Once I made my assessment at JTF-Guantanamo, then I went to Washington, D.C., and talked to both the intelligence community and others who were a part of the functionalities that we had at Guantanamo, about detentions, interrogation and an Intelligence fusion.

BEN NELSON: Any one at the level of undersecretary or assistant secretary of defense?

MILLER: Sir, I did not initially talk, but later on, as the mission in Guantanamo went — as you remember, I was there for 17 months. Then I talked all the way up to the secretary of defense- level, briefing them on the operations that we had and the intelligence that we'd gathered and the integration of those operations throughout Guantanamo.

BEN NELSON: Were any of those discussions directed at what you might do in the future if you were assigned to Abu Ghraib or to Iraq in general?

MILLER: No, sir, they were not.

BEN NELSON: Were there any differences between the two assignments?

MILLER: Senator, there were substantial differences. As you know, JTF-Guantanamo has a responsibility to detain enemy combatants not covered by the Geneva Convention. And so there were specific authorizations and limits that went directly into Guantanamo.

MILLER: And so I became very knowledgeable of those, I read the Geneva Convention, to be frank with you, in great depth, my lawyer probably spent one to two hours a day with me, as I learned every day how to be more effective in doing this job and also doing it to the standards of America: humane detention and interrogation that reflected America's values.

BEN NELSON: Thank you.

General Sanchez, you have suspended the entire chain of command that was under the command of General Karpinski, including General Karpinski. She says she objected to the interference with her command which was represented by Colonel Pappas in bringing intelligence operations in tactical control over the prison. But you disagree that she objected?

SANCHEZ: Senator, General Karpinski never talked to me about any interference in my command.

BEN NELSON: Did she send you a written communication?

SANCHEZ: Sir, she received the same order that assigned responsibility for FOB protection and security of detainees as the other commanders in the task force.

BEN NELSON: Is it usual that a military intelligence officer would take over the tactical command for force protection?

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SANCHEZ: Sir, it is dependent upon the senior commander in that forward operating base that has responsibility to defend its soldiers.

BEN NELSON: Do you know of any other instances?

SANCHEZ: The brigade commander, sir — the M.I. brigade commander, no, sir. He was a senior man that was permanently on that forward operating base, and he had responsibilities for protecting the soldier...

BEN NELSON: Merging interrogation and force protection together?

SANCHEZ: Sir, a commander has integral responsibility, independent of his mission, to protect his soldiers. And that was what I was trying to institutionalize.

BEN NELSON: My time has expired. Thank you.

WARNER: Thank you very much, Senator.

Senator Collins?

COLLINS: Thank you, Mr. Chairman.

First, let me begin by thanking all of you for your extraordinary service. One of the tragedies of this abuse scandal is that it not only obscures the fine work that you're doing, but it also overwhelms the thousands of acts of kindness, courage and compassion by our troops every day in Iraq. And that's why this abuse scandal is particularly upsetting.

COLLINS: I feel it sets back and undermines the good work of our troops — the vast majority of our troops.

I have to say that after reading the Taguba report, reviewing the various interviews and participating in these hearings, I remain unclear about the answers to some very basic and critical questions, questions such as who really was in charge of the prison and what was allowed in the treatment of the prisoners.

General Sanchez, at the committee's hearing last week, General Alexander referred to these guidelines, these Interrogation Rules of Engagement, as yours. Numerous press reports have referred to these rules as "The Sanchez guidelines."

But is it your testimony this morning that these guidelines were not issued by your office and that, in fact, you only saw them last week at our hearing?

SANCHEZ: Ma'am, absolutely not. The first time I saw the slide that was specifically shown to me by one of the senators is what I was referring to.

I personally issued the memorandums and I have both memorandums sitting here that I will provide to the committee. Those rules of engagement were my rules of engagement and I personally approved those after I consulted with my higher headquarters and my staff judge advocate.

COLLINS: In response to a question from Senator Reed, you said, however, that you had never approved the presence of dogs, sleep deprivation, stress positions, however, that are listed on these guidelines.

COLLINS: Is that correct?

SANCHEZ: Ma'am, that is exactly right.

COLLINS: General Sanchez, I also want to follow up on your November order putting military intelligence in charge of some aspects of the prison. I also want to explore with you the role of military intelligence in general.

In the Taguba report the general says that the recommendations of General Miller's team that the guard force be actively engaged in setting the conditions for the successful exploitation of the detainees would appear to be in conflict with the recommendations of General Ryder's team and AR 190-8 that military police do not participate in military intelligence-supervised interrogation sessions.

He also says that having military police actively set the favorable conditions for interviews runs counter to the smooth operation of a detention facility.

Didn't your order, where you involved the military police in some aspects of the supervision of the prison, run counter to the regulations cited by General Taguba?

ABIZAID: Senator Collins, may I take this?

COLLINS: Yes, General.

ABIZAID: First of all, we do not have all the facts. And I think it's important for the committee to understand that.

We need to see what we're going to hear from the 205th M.I. Brigade. What was

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in the mind of that commander? What did he think?

So if we can set that aside, let me share with you one of the findings that came out of the Department of the Army I.G. investigations that are preliminary; they're not approved. I'm sure they'll be shared with this committee.

Our doctrine is not right. It's just not right.

ABIZAID: I mean, there are so many things that are out there that aren't right in the way that we operate for this war.

This is a doctrinal problem of understanding where you bring, what do the M.P.s do, what do the military intelligence guys do, how do they come together in the right way. And this doctrinal issue has got to be fixed if we're ever going to get our intelligence right to fight this war and defeat this enemy.

So we've got problems that have to be looked at from top to bottom in order to ensure that there is no confusion, because you see the Ryder report says one thing, the Taguba report will say one thing...

COLLINS: Exactly my point.

ABIZAID: ... you're going to see that the Fay report says something else, and it's not because anybody's lying to anybody; it's because the system is not right.

And there are a lot of systems that are wrong out there that we had better fix if we're going to beat this enemy.

COLLINS: But, General, I guess what concerns me is when you have all these contradictory doctrines, or all these contradictory findings, it suggests to me that there was great confusion at the prison, and that confusion can set the stage for the kinds of unacceptable abuses that occurred. That's my concern.

ABIZAID: It is a concern that I share, Senator, and we will find out the facts.

But I would like to ensure that you understand that there is great confusion in a combat zone all the time, almost as much as there is here in Washington, but not quite.

COLLINS: Thank you, General.

WARNER: Thank you, Senator.

And that confusion in a combat zone goes way back in history.

Senator Dayton?

DAYTON: Thank you, Mr. Chairman.

WARNER: History of the country, all conflicts.

DAYTON: Mr. Chairman, I wanted to join with others in thanking you for convening this hearing and doing your utmost to get to the bottom of these matters.

But I really question our ability to get down to the truth of what's occurred at six minutes apiece. We've now had 15 of the highest level officials involved in this entire operation, from the secretary of defense to the generals in command, and nobody knew that anything was amiss, no one approved anything amiss, no one did anything amiss.

We have a general acceptance of responsibility, but there's no one to blame except for the people down at the very bottom of one prison, and the focus has been on that, although the International Red Cross report says that there were abuses at 14 different prisons under U.S. control.

DAYTON: And according to the New York Times today, the Red Cross complained in writing on November 6th about some of the abuses that they had witnessed which paralleled the practices that were shown in the pictures, of holding Iraqi prisoners naked in dark, concrete cells for several days at a time, forcing them to wear women's underwear on their heads while being paraded and photographed.

And it characterizes the response of the Army to that complaint as barring unannounced visits by the Red Cross at the prisons. And it cited in particular a letter dated December 24th that the Army had described as evidence of the military promptly addressing the Red Cross concerns, but the action that was taken — the barring of unannounced visits — brings into question what the content of that letter actually was.

The Army's refused to release that letter, citing a tradition of confidentiality in dealing with the international agency. And an Army spokesman declined on Tuesday

to characterize the letter or to do discuss what it said about the Red Cross's access to the cell block.

General Sanchez, is that evidence of the transparency of this Army's handling of these matters? How are we going to find anything out if no one will tell us anything or even provide the information that is necessary to evaluate these matters?

SANCHEZ: Senator, I swore to tell you the truth and everything that I've told you in here is the truth.

DAYTON: What is in the December 24th letter to the Red Cross?

SANCHEZ: Sir, I don't recall exactly what — we have the letter, obviously, and I'd have to leave it to the department to provide that letter to you, sir.

DAYTON: Will you release that letter?

SANCHEZ: Sir, as far as I'm concerned, we are transparent within CJTF-7.

DAYTON: Well, sir, all right, I'll accept that then. So you'll provide a copy of that letter and we can assess what the response was?

SANCHEZ: Sir, as long as that is within the approval of the higher headquarters and the department, yes, sir, we will provide that.

DAYTON: That's a big caveat but we'll see what comes forward.

SANCHEZ: Sir, I have no problems with providing you that letter. However, there are higher headquarters directives.

DAYTON: Fair enough.

Sir, on November 19th, you, again according to another newspaper report — as soon as I think our responsibilities in this body are delegated to reading the newspapers and watching the other news reports to find out these things that we're not getting any information about.

But there's reportedly a memo from your office, General Sanchez, on November 19th that placed two key Abu Ghraib cell blocks where the abuses occurred under the control of Colonel Pappas.

And then there's also reference made to a request he made reportedly made to you 11 days later about an interrogation plan for a particular prisoner that involved: First, the interrogators were to throw chairs and tables in the man's presence at the prison and quote, "invade his personal space," close quote.

This is a request from Colonel Pappas, the man to whom you turned over that authority over those two cells.

DAYTON: Then the police were to put a hood on his head and take him to an isolated cell through a gauntlet of barking dogs. There the police were to strip-search him and interrupt his sleep for three days with interrogations, barking and loud music, according to Army documents.

The plan was sent to you — is that one of the 25 requests for additional interrogation techniques that you approved?

SANCHEZ: Sir, first of all, you stated that I issued an order that I specifically put key cell blocks under Colonel Pappas. I never issued such an order.

DAYTON: OK, and...

SANCHEZ: Secondly...

DAYTON: The article's incorrect? That I...

SANCHEZ: Sir, I never issued such an order.

DAYTON: I regret the...

SANCHEZ: And secondly, that request never made it to my headquarters — or to me, personally, rather.

DAYTON: So there wasn't memo on November 19th, to place — from your office — to place these cell blocks under Colonel Pappas?

SANCHEZ: No, sir, I never issued such an order.

DAYTON: All right.

SANCHEZ: And that specific request for interrogation methods — that never...

DAYTON: Let me see that one.

SANCHEZ: ... never got to the CJTF-7 commanding general's level, and I never approved any interrogation methods other than continued segregation.

DAYTON: Thank you.

General Abizaid, you commented on that — we just stay the course. And I, you know, wanted — on behalf of, speaking for myself anyway; I won't presume to speak for my colleagues — but, you know, the Senate has been bipartisanly resolute behind every request the president's made for funding and support.

It's been virtually unanimous. It's been — across the board, the supplemental appropriations, the authorizations, we're taking up now the 2005 authorization. We're adding, at the request of the president, an additional \$25 billion for purposes that haven't even been defined.

But I think it's something I wanted to try to get an answer from various authorities: What is that course? And what is the, you know, the direction that we're on?

And just note, in response, particularly to some comments that were made about how well things are going — and I don't know how to sort this out. I want us to succeed there. I just want to be told the truth about whether we are or not so we can assess whether the Minnesotans and other Americans who are serving over there are going to be there for months or years and what their likelihood is of returning safely and alive.

But I refer here to a Washington Post comment made by a Kurdish member of the governing council, that if something is not done about the security situation, there will be no transfer of power.

DAYTON: (inaudible), his name, who is generally pro-American, described the assassination as only the most extreme example of the lawlessness that has grown in the year since President Saddam Hussein was driven from power. Quote, "Never in Iraq has it been like this, never, even under Saddam," he said. "People are killed, kidnapped and assaulted. Children are taken away. Women are raped. No one is afraid of any punishment."

Is that an accurate description of 1 percent of the country? 5 percent? More than that? What is the security situation there, sir?

ABIZAID: Yes, sir, I appreciate the question.

First of all, not only were people carried away in the middle of the night and raped and tortured and killed under Saddam, but it happened at a huge scale, on an institutional scale unequalled in any recent memory and I guess perhaps only rivaled by what the Nazis did.

So are things better just by the mere fact that that regime of torture and intimidation is gone? Yes, that's a good thing.

On the other hand, I won't be Pollyannish about where we are, Senator. This is a hard thing. And it's going to take a long time. And it's going to take a lot of courage and a lot of perseverance and unfortunately more blood, and it's going to take more treasure. But there are more people in Iraq that are working with us to try to make their country a better place than are trying to tear it apart.

The people that are trying to tear it apart are ruthless. They are doing it precisely now for the reasons that I think I've been about as honest as I could be with this committee in the past, because this is the vulnerable time. They must make it fail now. They are pulling out everything that they can to make it fail.

And it's hard. That's why we kept extra forces there. And it's hard and it's tough and it's difficult, but we will prevail. And I'm telling you, you know, there are things that are bad about Iraq, and we are responsible for security. And it's not like walking in downtown Washington, D.C. It's a dangerous place.

But I can tell you, people have a right to express their opinion. There's political activity. There's freedom of the press. There are things that are happening in Iraq that don't happen anywhere else in the Middle East. And we ought to be proud of it.

DAYTON: May I just conclude? My time is up. How soon do you expect the 200 or 4,000 or whatever Iraqi police and militia will be in a position to enforce their own law and order on their city streets?

ABIZAID: Well, Senator, I would have said, before the recent events, that somewhere between September and December they would be ready.

ABIZAID: But we had a setback. We know we had a setback. Putting one of our

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best officers in the United States military on the job. And I'm saying if the creek don't rise somewhere between January and April they'll be ready.

DAYTON: Thank you.

WARNER: Thank you very much, Senator.

Senator Chambliss?

CHAMBLISS: Thank you, Mr. Chairman.

Gentleman, let me echo the sentiments of all of our colleagues up here relative to the leadership you're providing and the great job that all the men and women underneath you are doing.

And while we've seen on the front pages of the paper for the last three weeks this story, those of us who follow the details of the battles that your men and women are waging every day know and understand that you have scored major victory after major victory in the last three weeks. And we commend you for the great job you folks are doing right on.

Colonel Warren, would you tell me what is the jurisdiction between the Central Intelligence Agency and the Army relative to the arresting, securing, transporting and interrogation of these detainees in Iraq.

Sir, I don't know that it's a matter necessarily of jurisdiction. We do know that other agencies do detain individuals in Iraq. They use the same legal standard under the fourth Geneva Convention, which is that they are imperative threats to security. And once they are brought into a coalition forces detention facility, they are subject to our rules and regulation.

CHAMBLISS: Well, is there any integration or cooperation between the CIA and the Army relative to the securing of prisoners and bringing them to places like Abu Ghraib?

WARREN: Sir, your question is outside the scope of my knowledge. I can speak to the rules that apply once they are inducted. With arrangements relative to operations, I'm unable to speak to that.

CHAMBLISS: General Abizaid, can you answer that question?

ABIZAID: Sir, I would like to answer the question in closed session.

CHAMBLISS: OK.

General Abizaid and General Sanchez, I have asked this question twice before and I still have not gotten a satisfactory answer. And that is, General Ryder was sent to this prison. He was there in late October, early November of 2003. During the very time he was there, these particular incidents that are alleged — the alleged abuses that we're talking about now were ongoing during that point in time. Yet, even though he was asking questions of the conditions of the prison and the condition of the prisoners, nobody told him, apparently, one word about these incidents happening.

Can either of you give me any explanation why that would have happened when a general of his stature was there?

ABIZAID: Well, I can tell you that, as I travel around, I don't always get the whole truth and nothing but the truth. You know, I get a lot of, "Everything's OK, everything's fine; don't worry about it." And that's one of the problems we have in the armed forces, that we've got to look beyond our rank and got to think about what would our son be doing in that particular position in that particular unit and is he or she — or your daughter doing the right thing or not.

ABIZAID: And so because General Ryder was there, because General Sanchez was there, because half a dozen other important people that went there to visit it didn't see it doesn't mean it wasn't happening. And we have a lot to understand about what went on in that organization, and why, and who was responsible.

CHAMBLISS: Well, I accept your answer, and I think it's a repeat of the statement you made earlier that there are some things in this system that are broken. And you're now working to fix them. That's what leadership is all about: When you recognize a problem, you take after it and you fix it. And I commend you for doing that.

General Miller, the situation at Guantanamo has been alluded to by a number of

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folks during this process. And I've been down there a couple of times, had the opportunity to visit the prison both before the new camp was built, as well as afterwards. Saw interrogation of prisoners down there.

From what I saw and from what I've heard, there's been no systemic prisoner abuse that was ongoing at any point in time in Guantanamo, and I just wish you'd address that very quickly, if you will, please.

MILLER: Thank you, Senator.

Sir, there is no — there was no systemic abuse of prisoners at Guantanamo at any time. I believe that there were three or four events — I'll have to correct that for the record as we go back and look — of instances of minor abuse. Two or three of those were corrected by administrative action in Article 15 and one went to court-martial about an abuse of one of the enemy combatants down there.

It was the effect of strong, dynamic leadership by the chain of command, 24 hours a day, 7 days a week, that did not allow the abuse to happen.

We walked the cell blocks and the interrogation booths of Guantanamo around the clock, not because we didn't trust our people, but this is a very difficult mission and it takes active engagement by leadership to ensure that it is done correctly. That is why in Guantanamo, because of the enormously talented people who were there, 75 percent, as most of you know, were reserve component leaders, were successful.

CHAMBLISS: Thank you.

Colonel Warren, there is a report in the Wall Street Journal today which — there is an article today which says, "A senior legal adviser to Lieutenant General Sanchez helped draft a formal response to the Red Cross's November report, according to one senior Army official."

CHAMBLISS: Is that you they're referring to?

WARREN: Sir, that may be me to whom they are referring. In fact, I did not draft that particular response. I believe, however, that my office did.

And as General Sanchez alluded to earlier, before January, the intake of working papers, the camp visit reports from the International Committee of the Red Cross, were handled in a haphazard manner. Some of them were given to the camp commander. Some were given to the military police brigade. Some went to my office.

In the particular case that is at issue, the October visit, it took a period of time — and I don't know how long, but I believe several weeks — for the working papers to reach the level of my office.

My office participated in the drafting of a response for General Brigadier Karpinski's signature. That response was dated 24 December and would have been delivered to the International Committee of the Red Cross.

When we discovered this haphazard process — and, frankly, were concerned in the December time frame when I first became aware of the content of the report and its genesis — I talked to General Sanchez. This would have been in early January.

General Sanchez then mandated that from that point forward all International Committee of the Red Cross reports and working papers would be addressed to him, and that the single entry point for those to the command would be me. And in that way we could maintain positive accountability of those reports, as well as take remediative action and track the corrections that were done by the subordinate commands.

CHAMBLISS: Thank you.

Thank you, gentlemen.

WARNER: Thank you very much, Senator.

Senator Clinton?

CLINTON: Thank you, Mr. Chairman.

And I thank our witnesses for their service and for their appearance today. I know it's not an easy assignment to be here, given especially all your other responsibilities.

But it is in line with this committee's constitutional and institutional

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responsibilities, and I believe all of us are trying to discharge them to the best of our ability.

CLINTON: General Miller, I would like to return for a moment to this document that's been much discussed on interrogation rules of engagement.

General Sanchez characterized this document as having been developed at a relatively low level, at the company level, and indicated that he had not seen it before it became public at our hearings. But in an annex to the Taguba report, it's revealed that this document was briefed to you as part of a situation report when you visited Iraq in August 2003.

What was your reaction to that document at that time? And did you have any concern that the techniques described would violate the Geneva Convention?

MILLER: Senator, that report is incorrect. At no time was that document briefed to me during my visit in the August-September time frame.

CLINTON: Was it briefed to you at any time prior to that or following that period?

MILLER: Senator, that document was never briefed to me at any time.

CLINTON: Were the contents of the document briefed to you, General?

MILLER: The contents of that document were not briefed to me.

CLINTON: So it's not only that you never saw the document, the slide. You were never briefed, orally or in writing, about the contents of that document. Is that correct?

MILLER: Senator, that is absolutely correct.

CLINTON: General Sanchez, at a hearing last week, General Alexander, the head of Army Military Intelligence, distributed that slide to the committee. He stated at that time that the slide was prepared by CJTF staff, your staff.

Do you know where General Alexander obtained the slide or why he believed that this came from your staff?

SANCHEZ: No, ma'am, I do not.

CLINTON: Colonel Warren, do you have any information that would lend us some additional enlightenment about why General Alexander told us in sworn testimony that this slide came from General Sanchez's staff?

WARREN: I absolutely do, ma'am.

The reason that the general made the statement that he did is because the slide, as we now know, contained a Combined Joint Task Force-7 logo and was posted on the wall of the joint interrogation and debriefing center at Abu Ghraib.

WARREN: It was styled the Interrogation Rules of Engagement, an unfortunate use of the term "rules of engagement." What it should have said is Interrogation Policy Extract. And that's the context that's so vital that you have to understand, ma'am.

When that slide was created — and I talked to the person who created it — it was the commander of Alpha Company 519th military intelligence battalion...

CLINTON: And what was that person's name, Colonel?

WARREN: Captain Woods, ma'am.

It was intended to be a profilaxis (ph). There's really nothing insidious about that particular slide.

In fact, if you'll go back, ma'am, to the counter-resistance and interrogation policies, which General Sanchez has said we will make available to the committee, you will see that they lay out specific measures that are approved.

The 12 October memorandum, in fact, approves only those measures which are contained within the Army Field Manual on interrogations. That applies to prisoners of war and segregation in access of 30 days.

The intent of the slide, however, was to ensure that interrogators understood that those measures on the left hand column, the ones that were approved, the ones I mentioned, were authorized, but that any other measures were not without commanding general approval.

Now, why is it that some of those, again, that seemed to be the so-called harsh methods appear on the right, ones such as sensory deprivation, that were never in any authorized policy?

The reason is because within the drafts that we prepared in the headquarters in

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the September and October time frame, we, collectively — the legal community and the military intelligence community — took every doctrinal approach that was authorized, we took every approach that had been used by interrogators in other places, we took every approach that was contained in any document that we could find, and we put that in a policy so as to regulate it, to ensure that it complied with the Geneva Conventions, that there was command oversight, there was a specific safeguards document that was published that referenced the conventions, and required that in no time could any interrogator in any approach violate the floor of the Geneva Convention: that is the basic requirements, the food, shelter, water, medical care, clothing and protection, could never be violated.

It required an interrogation plan. It required that any exception to policy go through the senior intelligence officer and the staff judge advocate, me, before going to the commanding general.

WARREN: So the intent of that slide was to remind interrogators that anything that was not authorized had to go to the commanding general.

And by the way, given that list, prepared by a captain with all good intention, had items on it that could never be approved; that, frankly, could never reasonably be requested.

But note, ma'am, what's on the bottom. That is something that often is overlooked because that captain did not do a bad job. That captain paraphrased the safeguards that are in enclosure II of our counter-resistance and interrogation policy.

And you'll note, they talk about the requirement to treat everyone with humanity, to follow the Geneva Conventions, to never unlawfully touch a person who is under interrogation.

CLINTON: Colonel, may I just quickly follow up in one of the follow-up question. Are you aware of any requests for approval submitted in writing for any exceptions to the list on the right-hand side?

WARREN: Yes, ma'am, I am aware of approximately 25 for segregation in excess of 30 days, which went through the process of approval that I described. I'm also aware that there were three requests for stress positions which were submitted and were declined, that is denied, at the brigade commander level. So they never would have arisen to the CJTF-7 level for review or approval.

CLINTON: Is it also your understanding that non-military agents of our government and private contractors were similarly bound by the rules that you have just described?

WARREN: Ma'am, I can't speak definitively to the former, however I can speak definitively to the latter. And that is any contractors who were working within our facility under contract of the Department of Defense were certainly and clearly bound by our rules and policies.

WARNER: Thank you very much, Senator.
Senator Graham?

GRAHAM: Thank you, Mr. Chairman.

General Abizaid, is it fair to say that people in the region, the Arab world, are watching these hearings and have been?

ABIZAID: It's fair to say that, Senator, yes, sir.

GRAHAM: In your professional opinion, I know we're, sort of, beating on ourselves here a bit, does this help or hurt our cause?

ABIZAID: It helps our cause.

GRAHAM: I couldn't agree with you more.

ABIZAID: It helps our cause because they have to know that people will be held accountable that are in positions of responsibility.

GRAHAM: Does anybody at this panel feel like a burden's been placed upon you to come here and have to talk about what happened?

ABIZAID: No, sir. We feel it's our responsibility.

GRAHAM: Colonel Warren, you're a very good JAG officer and a very good officer, and I know you're in a tough spot. But if you had talked about that slide an hour ago

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that would really help. So just pipe up. Don't be bashful.

(LAUGHTER)

Now, I disagree with you a bit, General Abizaïd, about a doctrine problem. I don't think we have a doctrine problem. I like our doctrine. Our doctrine, when it comes to trying to gather intelligence, is that anybody in Iraq is covered by the Geneva Convention and that we're going to follow the law, because that's who we are as a nation.

And the idea that M.P.s — General Miller, I'm talking to you now — can help the interrogators know what's going on in the cell block is a good doctrine, isn't it?

MILLER: Yes, sir. It is.

GRAHAM: It's stupid to not be able to talk to the people who are running the jail about how the prisoner's doing that day before you interrogate him, right?

MILLER: Yes, sir. That's exactly right.

GRAHAM: For those who are watching in the Arab world or anywhere else, can you get good intelligence and still be humane and decent?

ABIZAÏD: Yes, you can, sir.

GRAHAM: You agree with that, General Miller?

MILLER: Yes, sir, I do.

GRAHAM: That is our doctrine.

Our problem is that these well-thought-out policies and procedures, when it came to practice, failed miserably, and that's why we're here. Isn't that true?

Now, let's talk about how that failure may have occurred. Colonel Warren, I need you to help me here.

WARREN: Yes, sir.

GRAHAM: Pappas comes in November. Is that correct, General Sanchez?

SANCHEZ: Yes, sir, that is correct.

GRAHAM: But we know in October abuse has already taken place before he gets there. Is that correct?

SANCHEZ (?): Yes, sir. Now, we know that. Yes, sir.

GRAHAM: OK. So there was a culture in that jail that was abusive before November. My question is, do we know if it changed after November in its tone or its application? Do we know the answer to that yet?

ABIZAÏD: Sir, I don't think we know. I think, as we've said that the General Fay report may provide some insight. And also, the Criminal Investigative Division report conducted by the Army is not yet final.

GRAHAM: Is it true or not that some of the people in this abuse photos, some of these people are common criminals?

ABIZAÏD: Sir, that is absolutely correct. We know from the list of victims that that's true.

GRAHAM: So now we know that the abuse wasn't just directed at the high-value targets, but there was abuse going on just in general?

ABIZAÏD: Absolutely correct, sir, and there should not have been in that cell block. That violated our orders and our policies.

GRAHAM: So one thing we can find out pretty quickly is if in October it's done to people who are not high-value targets — that jail was just- sort of- screwed up.

ABIZAÏD: Certainly it would suggest by the investigations and the evidence we have that that statement is accurate. Yes, sir.

GRAHAM: General Sanchez, I have never been in combat but I do have some knowledge of the military. I have never seen a more dysfunctional command relationship in the history of me looking at the military like that jail. Do you agree with that?

SANCHEZ: Sir, it was dysfunctional before the 19th of November.

GRAHAM: Right.

And, General Miller, the reason you were called over is to make sure that we did this not only legally correct but we got the necessary intelligence to win this war. Is that correct?

MILLER: Sir, I was requested to come over to give an assessment and then to be

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able to...

GRAHAM: Is that why you brought him over, General Sanchez?**SANCHEZ:** Yes, sir.**GRAHAM:** I think you've done a great job at Gitmo. I'm glad you brought him over. People didn't misunderstand what you said. They just totally ignored it. That's why we're here, isn't it?**MILLER:** Sir, in my opinion that is exactly correct.**GRAHAM:** Now, here's my problem: When it comes time to assess who ignored it, I'm just not convinced that it's six or seven M.P.s doing this by themselves.**GRAHAM:** Because we know in the photos, Colonel Warren, that there are people who are not M.P.s. We know that military intelligence analysts and maybe interrogators are present at abuse situations.**WARREN:** That's correct, sir.**GRAHAM:** Do I have your promise and pledge, all of you, that you're going to make sure that whatever information we get out of these courts-martial will answer that question?**ABIZAID:** You do, sir.**GRAHAM:** I will give everybody an A-plus past January. I think General Sanchez you reported this appropriately to General Myers. Did you call him on January the 14th?**SANCHEZ:** Sir, I called General Abizaid.**GRAHAM:** Who called General Myers?**ABIZAID:** I did, sir.**GRAHAM:** And you told him this was a big deal?**ABIZAID:** I did, sir.**GRAHAM:** And he had every assurance that you were investigating it. So from General Myers' point of view, he's running this war, it's fair to say that in January he thought you were on top of it and you were investigating the matter. Is that correct?**ABIZAID:** That's correct, sir.**GRAHAM:** So when we look at responsibility up the chain, the chairman of the Joint Chiefs was informed that it was being investigated early January.**ABIZAID:** I'd say immediately, yes, sir.**GRAHAM:** Please, if you can, explain how the abuse could have happened at this level, this long, with this much devastation to our country, and no one know about it before January and the photos given over by the specialist?**ABIZAID:** Explain how the abuse was taking place between October and November and us not know about it?**GRAHAM:** How did it happen so long and so deep and we not know?**ABIZAID:** Well, I think there are failures in people doing their duty. There are failures in systems. And we should have known. And we should have uncovered it and taken action before it got to the point that it got to. I think there's no doubt about that.

I have asked myself the question, as I'm sure has everybody else in the chain of command, what could and should we have done differently?

ABIZAID: And I can think of some things that we've got to do. We've got to ensure that we've got transparency with the Red Cross, for example.

We've got to ensure that there are other methods, just like when we had this problem that we looked at during the movement phase of the war, where there were a lot of rapes and sexual assaults going on that were unreported. When we looked at our systems, what we have at Fort Bragg, North Carolina doesn't get replicated on the battlefield.

So, Senator, it's a lot of work we got to do and we got to fix this one so it doesn't happen again.

WARNER: Thank you very much, Senator.

Senator Lieberman?

LIEBERMAN: Thank you, Mr. Chairman.

Thanks to the witnesses.

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Obviously, I express my gratitude not only for your service, but my support for the cause that — the mission we have sent you to Iraq to carry out. I think it is the test of a generation, and I appreciate your confidence as you go forward because it's going to have a lot to do with our future security. It makes why we're here all the more heartbreaking and infuriating because it distracts us from that mission.

But I absolutely agree with you: We got to go at this.

I mean, casualties occur in war. The tragedy here is that this prison abuse scandal is a self-inflicted wound. But like any wound, we got to clean it up, fix it up, and then try our best to make sure it doesn't happen again.

I want to express, first, my concern that on more than one occasion, at least two of you today — you're honorable people, obviously — under oath have taken specific objection to parts of General Taguba's report. And that report has received a lot of credibility and, obviously, I believe it was a report, General Sanchez, to you and — should we think less of it because of the objections that — General Miller's response to the question Senator Clinton asked said that something that he was reported to have done or seen just didn't happen.

LIEBERMAN: And you yourself have separated yourself from conclusions in the report on a few occasions.

Does it lead you to doubt the thoroughness of the report or lead you to feel, as the commander, that you ought to send somebody else out there?

SANCHEZ: No, sir, it does not. As we have stated here, there are some differences and there are some concerns with our doctrinal foundations in the conduct of military police and military intelligence operations. And I think that is what is reflected there. We've got to fix those over time.

LIEBERMAN: So the areas in which you disagree, and you've heard that General Miller has disagreed, with General Taguba's report, you're pursuing in different ways, then.

SANCHEZ: Sir, where I disagreed with the report was in my placing the 205th M.I. commander in charge of force protection and security of detainees. And I believe that was exactly the right decision to make, given the circumstances, the tactical circumstances and the war-fighting conditions that existed.

LIEBERMAN: So in that case, your disagreement is on a matter of judgment really, not fact.

SANCHEZ: Absolutely.

LIEBERMAN: Whereas General Miller, yours is a matter of fact.

MILLER: Yes, sir, mine is a matter of fact. The incident that Senator Clinton...

LIEBERMAN: Just didn't, by your testimony, happen.

MILLER: Yes, sir, that's correct.

LIEBERMAN: Let me go on to a next concern of mine. It follows up on Senator Graham's questions. And in some sense it goes back to — let me preface this by saying and taking some notes myself.

General Abizaid, you said two things here today that I want to come back to. One is, to the best of your knowledge, there was no pattern of prisoner abuse in your command.

Second, that you expressed a belief that there were systemic problems that existed at Abu Ghraib that may have contributed to events there. And obviously we're all interested in trying to figure out when a reasonable person in a position of responsibility would have found that out.

The decision by the Pentagon to send General Miller — down the chain of command but to send General Miller by your testimony to Iraq and then your decision, General Sanchez, to put Colonel Pappas involved, am I correct, General Sanchez, that you're saying that that decision was made because of your concern that conditions at Abu Ghraib were, as I think someone else used the word — maybe you did yourself — dysfunctional? Is that correct?

SANCHEZ: Sir, that is exactly right. And it was dysfunctional in terms of the ability to defend the forward operating base. That was the judgment that I expressed in the issuance of that fragment.

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LIEBERMAN: Got it. But that's what I wanted to clarify.

But at that time, the dysfunction that you saw at Abu Ghraib did not include your knowledge of prisoner abuse. Is that right?

SANCHEZ: Sir, that is exactly right.

LIEBERMAN: And, General Miller, I take it from — your understanding of the reasons why you were dispatched to Iraq last fall, did not include — or did they? — a concern about prisoner abuse?

MILLER: Sir, they did not concern — were not focused on the concern about prisoner abuse. They were about the overall capability of CJTF-7 to develop actionable intelligence, to do intelligence fusion, to see how interrogations...

LIEBERMAN: Got it. So your stress on the humane treatment of the Geneva Convention was of your own initiative, not because anyone, as they dispatched you to Iraq, had said, "We think we have a problem with prisoner abuse"?

MILLER: Sir, that is absolutely correct.

LIEBERMAN: Let me now go to the chart that's received so much attention.

I got to say, again here, this was given — you know, put before us by General Alexander, the general of the Army who's in charge of intelligence. So the fact that it comes from a lower ranking — a company commander, Captain Woods, is surprising.

Now, maybe it was given to us in the context of this investigation because it's not all bad news for the Army. It does have a series of approved approaches for all detainees, on the left here, which certainly to me seems reasonable.

At the bottom, it lists safeguards, including "approaches must always be humane and lawful; Geneva Conventions apply."

The problem is this section here on the right which Captain Woods was notifying anyone who saw this chart that required General Sanchez's approval. Some of these seem reasonable. Some of them literally seem in violation of the Geneva Convention.

And I wanted to ask you, Colonel Warren, two questions. One is, how Captain Woods could have come up with these sections that he said required the commanding general's approval, if the commanding general had not approved this chart.

And secondly, do you agree with — do you agree that the procedures listed on the right side, including environmental manipulation, sleep adjustment, sensory deprivation, are, in fact, violations of the Geneva Convention under all circumstances?

LIEBERMAN: Because I thought in your answer to Senator Reed earlier, you opened a door in which you were suggesting they might not be. And if so, I think it's very important for the committee to hear that.

WARREN: My answer is that they are not. And this is why this cannot be...

LIEBERMAN: That these are not violations of the Geneva Convention?

WARREN: These are not, in and of themselves, in isolation, violations of the Geneva Conventions. Specifically the fourth convention, when applied to security internees, in this case who are unlawful combatants, who under...

LIEBERMAN: Which covers a number of the people at Abu Ghraib, is that right?

WARREN: It does. It should cover those who in this circumstance would have been permissibly under active interrogation.

As was pointed out by Senator Graham, some of the people depicted in these photographs could not have been under interrogation at all. They were of no interest. They were actually criminal detainees who should not have been in that cell block in the first place.

But that is an aside, sir.

This is more complicated than a yes-or-no answer. Those things that were on the right, that were placed there by Captain Woods, as I said earlier, sir, were placed there in order to show the range of the universe, if you will, of things that were not authorized. They were representative...

LIEBERMAN: Where did he get the authority to not only put them down on the paper, but to say that they required the approval of General Sanchez? I mean, he's

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a captain.

WARREN: Actually it's a she.

LIEBERMAN: She.

WARREN: Yes.

But I think I can explain that, sir, because, again, I was present throughout, as this policy developed.

LIEBERMAN: Please.

With the chairman's consent, if you'd just take a moment to just go over this.

WARNER: The witness will have adequate time to respond.

WARREN: Thank you, sir.

This goes back to General Miller's teams visit, where they looked at a broad range of interrogation and intelligence analytical operations. Their recommendation was that we should have an interrogation policy.

We, as a task force, did not have one. We were focused on the tactical level of interrogations. We were following predominantly the Army Field Manual approaches. And in addition we had other units, such as Alpha Company 519th Military Intelligence Battalion, which had served in Afghanistan, bring in their own policies that had been used in other theaters.

Additionally, we had what we call the common law of interrogation approaches. And that is approaches which were variations on the authorized approaches contained within the Army Field Manual by way of implementation. So the point that was made, to have a policy, I believe was a reasoned and correct recommendation.

And I was present at meetings in which...

LIEBERMAN: Reasoned and correct.

WARREN: Reasoned and correct, absolutely, sir.

WARREN: I believe we needed to have one as we moved our focus to the operational level, as we became more sophisticated and, frankly, as we wanted to stem the growth of this common law of interrogations so that we could regularize it, so that we could regulate it, and so that we should be able to provide proper oversight.

So we took a number of these standard operating procedures and policies. Among them were those in use in Guantanamo Bay. Others were, as I mentioned, those that were imported into theater.

We put together a team of folks who were military intelligence and legal officers. We looked at those policies, we reviewed them against the requirements that we believe were imposed by the fourth Geneva Convention. We discarded some of those procedures; an example: sensory deprivation.

We floated these through the command in a series of drafts.

To be sure, in some of these drafts, specifically one dated 10 September, you may very well find all of those on the right-hand side, including sensory deprivation.

But during the course of the staffing and the deliberative process and the review — and, sir, by no means is there a book that you can look up that runs through interrogation approaches and methods and has a check and a block that they comply or don't comply with the Geneva Conventions. This is a matter of judgment, a matter of rigor and a matter of oversight and interpretation.

We came up with the interrogation policy first dated 14 September. We then sent that to Central Command, as General Sanchez described.

During the course of the next 28 days, this deliberative and consultative process continued within the legal and the military intelligence community. It resulted ultimately in the 12 October policy.

The 12 October policy, as I described, requires compliance with the Geneva Convention. It draws a legal contrast between prisoners of war and between security internees interned for suspicion of hostile activity to the security of the state, and it requires the safeguards and the oversight mechanisms that I described.

WARREN: That policy contains only the field manual approaches, which applied to enemy prisoners of war who enjoy the highest and most preferred status on the battlefield, plus segregation in excess of 30 days.

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When Captain Woods at some point — we believe in October — prepared that slide, what I believe that she did was to take all of the approaches that were floating around the command, if you will, in various drafts and within the policies, list them to ensure that interrogators understood that only those things on the left were authorized without permission.

LIEBERMAN: But, again, you would say that of the group on the right — which has attracted the attention of the committee, the media and the public, that is OK with General Sanchez's approval — that none of these are inherently or automatically in violation of the Geneva Convention?

WARREN: In my opinion, they are not, sir. And this is why one has to read not just Article 31 of the fourth convention, but also Pictet's commentary and various legal treatises and Interpretations of coercion as applied to security internees.

And I'll make another point, sir, with regard to the environment in which we found ourselves. Remember that there were three Geneva Conventions initially in the 1929 iteration. After World War II the fourth convention, the civilians or occupation convention, was added.

The body of case law, if you will, concerning interpretation of specific articles within the fourth Geneva Convention is not very great at all. And in fact, as we worked through this, we did the best that we could do under the exigencies of the circumstances.

And I am very comfortable, frankly, sir, with that 12 October policy that remained our policy for a period of eight months.

And if I might add one other thing, sir, it's very important — and this is a problem with a chart like this — it's very important that you understand the definitions which are contained, for example, in the field manual and the policy of some of those measures.

A term I've learned in the past week in Washington, the optics are bad on that chart.

But if you read the actual definitions you'll find, for example, with regard to environmental manipulation, it sounds horrible. But the fact is that environmental manipulation can be as simple as, while at all times maintaining the minimum requirements of the Geneva Convention, that a person who cooperates in interrogations would get an air conditioned room. A person who is not cooperating gets the minimum non-air conditioned room.

And each of those approaches has to be laid out in writing in an interrogation plan. Each of those interrogation plans is reviewed at the brigade level.

For an exception to policy, it comes up for legal and senior intelligence review before going to the commanding general.

So the intent of the chart, frankly, was to regulate, not to impose unlawful measures.

LIEBERMAN: So though General Sanchez didn't see the chart before last week when General Alexander put it before us, it accurately reflects what you think is the appropriate policy for interrogation.

WARREN: Those on the left and the safeguards, absolutely.

Those on the right, again, are the range of the universe that are things that may very well in implementation not be authorized. In particular, given the intensity, the magnitude, the duration, the combination of measures, may very well, as Senator Reed suggested, violate the Geneva Conventions. You have to look at it on a case-by-case basis.

LIEBERMAN: And obviously you'd agree that a lot of what we've seen in pictures that occurred on the particular cell block in Abu Ghraib violated the Geneva Convention.

WARREN: No question about it, sir. They also violated U.S. law and that's why we're seeing courts-martial.

LIEBERMAN: And this chart.

WARREN: Absolutely, sir.

LIEBERMAN: Thank you very much.

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WARNER: Thank you very much, Senator.
Senator Cornyn?

CORNYN: Thank you, Mr. Chairman.

I guess we can conclude that not even the combatant commanders can go very far without their lawyer. Correct, General Abizaid?

ABIZAID: I'm going to hire Warren.

CORNYN: I don't think any of us should be surprised that what I've counted up to be at least six separate investigations occurring in a war zone might occasionally come up, at least in a preliminary fashion, with some conflicts or gaps in the investigation. But I want to make sure that we understand at a baseline where we are.

General Abizaid, isn't it true that in basic training our soldiers receive training on the Geneva Convention?

ABIZAID: Yes, sir, that's true.

CORNYN: And also prior to their deployment to the theater of operations, they receive retraining on the terms of the Geneva Convention?

ABIZAID: They are supposed to, yes, sir.

CORNYN: And I believe that you've made very clear that under no circumstances, whether or not — no matter what the category of detainee may be, that at a basic minimum everyone in the custody of the United States military is entitled to be treated humanely. Is that correct, sir?

ABIZAID: That's correct, sir.

CORNYN: And I believe very strongly that in addition to the hearings we've had here which hopefully will, after they conclude, allow our military to get back and do what we've asked you to do in Iraq and Afghanistan, and that is defeat the enemy, that we've got to let our military justice process work.

But General Sanchez, you suspended the entire chain of command, not just privates and corporals on January 17th, or thereabouts. Is that correct, sir?

SANCHEZ: Yes, sir, that is correct.

CORNYN: So just to make clear, no one is pointing the finger at the lowest level of our military food chain and saying you're at fault and the commanding officers are being protected. Is that right?

SANCHEZ: Sir, that is correct.

CORNYN: General Miller, I had the pleasure of traveling to Guantanamo Bay like a number of the committee have and meeting you there and was enormously impressed with that operation. There had been some who during the course of these hearings who suggested that perhaps because of the various categories of detainees that we have in different locations, whether in Iraq, Afghanistan or Guantanamo Bay, that perhaps there is some variation in terms of the acceptability of humane treatment.

But would you also confirm for us that at minimum, everyone, regardless of their status at Guantanamo Bay or anywhere else, to your knowledge, is entitled to be treated humanely?

MILLER: Yes, Senator, every enemy combatant who was at Guantanamo is detained in a humane manner.

CORNYN: And in your opinion, General Miller, is the military intelligence that you've been able to gain from those who have recruited, financed and carried out terrorist activities against the United States or our military, has that intelligence that you've gained saved American lives?

MILLER: Senator, absolutely.

CORNYN: And would you confirm for us, General Abizaid, that that's also true within the Central Command?

ABIZAID: Senator, I agree that that's true.

And I would also like to add that some of these people that we are dealing with are some of the most despicable characters you could ever imagine. They spend every waking moment trying to figure out how to deliver a weapon of mass destruction into the middle of our country. And we should not kid ourselves about

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what they are capable of doing to us, and we have to deal with them.

CORNYN: If we needed any other reminder of that, the death of Nicholas Berg, I believe reminded us again in a graphic fashion.

But I for one am not troubled by the fact that some person who's trying to kill Americans is deprived of a good night's sleep in order to elicit information consistent with the Geneva Convention and our laws and humanity — information that might save American lives.

And I consider you all American heroes and congratulate you for the job you're doing.

Thank you, Mr. Chairman.

WARNER: Thank you very much, Senator.

Senator Pryor?

PRYOR: Thank you, Mr. Chairman.

General Abizaid, according to the Washington Post on 05-08-04, starting in August of 2003, Ambassador Bremer had concerns about the treatment of detainees and pressed the military to, quote, "improve conditions, and later made the issue of regular talking points and discussions with Secretary Rumsfeld, Vice President Cheney, National Security Adviser Rice," end quote.

The same Washington Post article notes that in August 2003, Ambassador Bremer, quote, "after interceding in one detainee's case, urged the U.S. military in Iraq and top Bush administration officials to improve conditions and avoid potential fallout," end quote.

General Abizaid, is that story, that statement I just read, is that essentially true?

ABIZAID: Ambassador Bremer brought up to me on one of my many trips to Iraq on more than one occasion his concern about detainees.

PRYOR: So you were aware that Ambassador Bremer had concerns about the treatment of detainees.

PRYOR: And were you also aware that he raised this matter with a wide array of senior administration officials?

ABIZAID: I'm not aware of that, Senator, but as I understand the context of Ambassador Bremer's and my discussions, and also it's also the context of discussions that I had with many Iraqis as well who were also talking to me about the detainee issue, it had to do with moving into the prison system; being lost sight of because we didn't have a good tracking system; not being able to get information to families in a timely manner.

I mean, these were things that we were all concerned about. General Sanchez and I talked about them. And we certainly knew that the detainee system had to be such that we could identify people, track people through the system, and then release people in a timely fashion back to their families once we had determined that they served no intelligence purpose to us.

And until General Miller got there — well, I shouldn't say that. I mean, we were struggling with this very early on. And I won't make any excuses for it, other than to say when you take a country in the shape that we took it, everything was broken and we were starting from zero.

PRYOR: But are you saying that Ambassador Bremer did not have concerns about human rights violations?

(CROSSTALK)

ABIZAID: I don't remember him — I mean, how you want to describe human rights violations. To me, the issue was, as far as the Arabs were concerned and Ambassador Bremer was concerned, it is human rights. It's, you know, my husband disappeared into your prison system and now you guys can't find him. That's a human rights problem. And I agreed with him and Rick agreed with him, and we moved to fix it.

PRYOR: OK.

General Sanchez, let me ask you, were you aware that Ambassador Bremer had concerns about the prison system?

SANCHEZ: Sir, on many occasions, since the time I became the commanding

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general of CJTF-7, Ambassador Bremer and I had discussions about the detainee operations. We talked, as General Abizaid stated, about the identification, the in-processing, talked about the release procedures...

PRYOR: What about the treatment of the prisoners and detainees?

SANCHEZ: We also talked at some points about the quality of life of prisoners and the conditions that existed, especially during the summer and into the early fall.

PRYOR: Do you recall when he first brought those to your attention?

SANCHEZ: Sir, it was not a matter of him bringing it up to my attention. It was general discussions that we were having.

PRYOR: Do you remember when those general discussions started?

SANCHEZ: Sir, we started having those in the mid-summer time frame.

PRYOR: All right. Let me ask...

ABIZAID (?): Senator, if I could just add, there's another issue here which I just want to make clear to the committee. It has to do with what goes on at the point of capture. I mean, this is not police work that we're dealing with. It's not arrest. It's combat.

And there were an awful lot of people in Iraq at the Iraqi Governing Council level that thought our troops were being too harsh in the way that they took people into custody.

In my mind, having seen it personally on the battlefield, I thought — and I still think — it's some of the most professional work I've seen young troopers do anywhere. So we did have a different point of view in that regard.

PRYOR: Well, General Sanchez, let me follow up with you, if I may. When — you mentioned you were having these general discussions about conditions and a variety of issues relating to the detainees.

When did you first start to report that up the chain of command and who did you report that to?

SANCHEZ: Sir, there were multiple occasions when General Abizaid and I had the discussions, especially as they related to actions at the point of attack.

PRYOR: Do you remember when that started? When did you start...

(CROSSTALK)

SANCHEZ: Sir, as I stated, immediately.

ABIZAID: Immediately.

PRYOR: As soon as you were aware of it?

ABIZAID: Senator, let there be no doubt. We knew there were problems in the detainee system and we didn't think that there were a system of conditions existing out there such as we've seen in the photographs, but we knew that there were problems and we moved to get them under control as quickly as we could.

And when I say immediately, I took command in July and I would imagine that besides talking about operational matters, one of the first things that the two of us talked about was, you know, how we've got to get this under control.

PRYOR: And, General Abizaid, when you talked to your superiors, who did you talk to?

ABIZAID: Well, sir, I can't recall specifically mentioning the problem to the secretary or to the chairman, but on one of their visits, and during one of our phone calls — we talk all the time, there's a free exchange of information — that they would have known.

I mean, I don't think that Don Ryder coming over to look at the system was indicative of us trying to sweep the problem under the table. It was indicative of us trying to fix the problem.

PRYOR: Thank you.

WARNER: Thank you, Senator.

Senator Inhofe?

INHOFE: Thank you, Mr. Chairman.

One advantage of going close to the last is that you can cross things off your list. I've done a lot of crossing off.

INHOFE: Let me just share a concern. You know, during the last three hours there

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have been eight references to different newspaper accounts, some of them with the same newspaper several times.

Of the articles that were written, there are four of them that have been categorically denied by you, General Abizaid, or by you, General Sanchez, and I believe you in that.

It leads me to believe this is so press driven that it's — this is out of control. But when you get your briefings every morning, I know you read the different articles in the paper that affect you, isn't that correct?

ABIZAIID (?): Yes, sir.

INHOFE: And there are many times that you have denied and found that they are in error, and I'm sure you have either directly or indirectly called that to the attention of the newspaper, the publication that gave those articles. Is that correct? You've done it right here in this setting.

ABIZAIID (?): Well, sir, there's a lot of things that are incorrect. I don't spend much time correcting them.

INHOFE: Well, I would hope you didn't.

But I guess I would ask this: Have you ever seen a retraction by any of these newspapers when something is proven to be wrong?

ABIZAIID (?): No, sir.

INHOFE: All right. I haven't either.

I think Senator Collins was right when she talked about all of the good things that are happening that you just don't see in the media and not just the humanitarian things that we see when we go over to Iraq and go to Afghanistan and see what these great guys and gals are doing and how much they're loved by the people over there.

In the case of Afghanistan, General Abizaid, Oklahoma's 45th, they've taken on the responsibility of training the ANA to train themselves and they're doing a great job. When I was over there, I watched the expressions on the faces of the new commanders, Afghan commanders, teaching and training their troops. I mean, this is something that would be worthy certainly of publication. I dare say not anyone, very few people, not half of 1 percent of the people in America know all these good things that are going on.

Quite frankly, it just breaks my heart to see you guys over here.

I agree with what Senator Graham said, that we have to air this out and get it out in the public. But we've already had the secretary of defense, the undersecretary of defense, the chairman of the Joint Chiefs of Staff, the vice chairman of the Joint Chiefs of Staff.

And quite frankly, I'm sorry that you guys are here. I'd rather be handling this in some way where we can get your statement, get it in the record and have that done with, because you have an awesome responsibility.

General Sanchez, you're the — as Task Force 7, that's all the Army, all the Navy, all the Air Force, all the Marines, all the coalition forces, all the allies. That's your responsibility in Iraq.

And, General Abizaid, you have that responsibility plus what's going on in Afghanistan.

And by the way, I think the Afghanistan success story should serve and will serve as a model for what we're trying to get done in Iraq.

So that's just one opinion. I know that you're anxious to get back to the battlefield and that's where your mind is today and that's where your heart is.

I want to say this, though. And I did talk to Senator Warner, to our chairman, when I found you were going to be here, and he assured us that you had other reasons to be here so perhaps that takes care of that.

I think some things are worth repeating. I think that until we see the Fay report, until we get the investigations, the results of the investigations, the results of the courts-martial, we're not going to have the answers.

INHOFE: This concept of undue command influence puts you in a very awkward position to say things, and I hope in your own minds you haven't said anything

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publicly that is going to interfere with the prosecutions that are going on.

Do you feel pretty comfortable that you've been able to do that?

SANCHEZ: Yes, sir, I do.

INHOFE: I look at what happened when things were discovered and I was amazed with how quickly things were done, how quickly you took care of the problems that were there.

The guards were removed, the commanders were relieved, criminal investigations started immediately, and that was long before the public even knew what was going on; long before the pictures came out, that was already happening.

Maybe the system's broke. But it's not broke to the extent that you didn't perform immediately when you found out what was going on.

I want to say one thing — and this is just an opinion — a lot of people have been critical that just some of the guards, the seven guards that have been referred to many times, that they're taking the heat for all of this.

I don't think there's an American out there once they see the videos and the pictures that we at this table have seen of the behavioral pattern of these guards would be at all critical of any kind of punishment that they would be subjected to.

Now, I'm not saying anything that hasn't already been in the paper. I was very careful after I saw those not to say anything, but others did. And they talked about the fact this could be — it's like they're staging a porn film.

Well, this is something that no one would condone. You folks wouldn't, no one else would. So I just think that we need to talk about the good things that have been happening and get you back in the battle where you belong.

Let me just — before I run out of time, General Sanchez, there have been several things that you've taken away in terms of interrogation and techniques. Do you think that that has harmed your ability to get the information that needs — we need to have?

SANCHEZ: No, sir, it has not.

INHOFE: OK. Do you think that — and I think that also Colonel Warren, I believe it was you who talked about, yes, in cell block A-1 or section A-1 and A-B, that those are the tough guys, those are the terrorists, those are the bad guys, but occasionally one gets in there who isn't.

INHOFE: I would suggest that probably the profile of that individual got him there, and when you realized that they didn't belong there, you took them out.

Is that — or I should ask you that, General Miller, is that what you think might have happened?

MILLER: Sir, I wasn't there when they were using cell block 1-A and 1-B, but in discussions, that was the intent, early on, in September.

INHOFE: OK. Well, I knew that you weren't there at the time. In fact, I was down at Gitmo when you were there, and you just did great work down there.

My time has expired, but I'd like to have — I'm glad that Senator Cornyn brought up something most significant, and that was, did any of the information that you have been able to get from these detainees prevent something bad from happening or saved American lives or saved coalition lives. And if so, are there any specific examples that you would like to share with us?

In other words, you were successfully interrogating some of these people in that particular section. Was some of the information that you got helpful in saving American lives or saving troops?

ABIZAID: Senator, I do not know the answer to that. I certainly do know that in many cases, good interrogation techniques used by very smart people have saved the lives of an awful lot of Americans and Iraqis.

INHOFE: Thank you very much.

MILLER: If I could just add to that, General Sanchez, as one of my new jobs as the deputy commander for detainee operations, asked me to look at the intelligence function. I'll tell you that half of the effort of the CJTF-7, now Multinational Forces-Iraq, is going down to develop actionable intelligence at the unit level that saves soldiers' lives every day.

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The other 30 percent goes toward theater-level things that come down from the commanders' decision or in taskings from other organizations.

The other 20 percent, we just keep as a standby. It's used every day because of high profile.

And so that system, that organization, works every day and every night to try to be able to provide actionable intelligence.

INHOFE: Thank you, General Miller.

I hope the media is paying attention today after you gave — I know my time is up, but Colonel Warren wanted to say something about Article 32 earlier on.

WARNER: Please, Colonel Warren?

INHOFE: Is there anything you'd like to say about Article 32? I think you were...

WARREN: Well, sir, Article 32 of the fourth convention is the one that prohibits torture and the conduct of medical experimentation and so forth. Those are grave breaches under the law of war and, of course, obviously prohibited under our policies, under our values, our standards, our training, and our interrogation policy.

WARNER: Thank you, Senator Inhofe.

SANCHEZ: Mr. Chairman, may I add something?

WARNER: Yes, General Sanchez?

SANCHEZ: As a result of the two visits from General Miller and then from General Ryder, the system that we put into place for intel fusion within CJTF-7 matured significantly, because of the experience and the lessons and the integration of those lessons into the command under General Fast.

There is absolutely no question in my mind that because of those two efforts significant amounts of American's lives have been saved, because of the turn, in terms of from the time we find the information, develop the information, and get it to the tactical level for action.

Absolutely the right thing for us to have done. And I would do it again.

INHOFE: Thank you for that answer.

WARNER: Thank you very much.

General Sanchez, in my most recent visit, I met with General Fast. Would you kindly explain exactly the position that she occupied?

SANCHEZ: Yes, sir, Brigadier General Fast has been my director for intelligence of the CJTF-7.

WARNER: Thank you very much.

Senator Bayh?

BAYH: Gentlemen, thank you for your service to our country under most difficult circumstances. And I could only hope that your treatment at our hands today has been humane. I sometimes feel empathy for those of you who are on the receiving end of these hearings.

General Abizaid, who is responsible for the staffing levels at the prison; for the number of M.P.s and prison guards?

ABIZAID: The responsibility for staffing — I would say the responsibility for a unit coming with the right number of people belongs to the United States Army. The responsibility if we have shortages, then devolves upon CJTF-7 to tell me so I can tell the Army to fix it.

BAYH: The reason I ask is I understand Army doctrine calls for one M.P. brigade for about 4,000 prisoners. And here we had one battalion for what ultimately reached about 7,000 or slightly more prisoners, or about five times the number of detainees per guard or M.P. that the Army doctrine would call for.

I'd like your opinion, and there have been some reports to this effect: Did this substantial overcrowding — not excuse the behavior, of course — but did it contribute to an atmosphere which might have given rise in at least part of this abhorrent behavior?

ABIZAID: Well, it contributed to systemic failures at the prison. I think that's clear.

BAYH: And it gets to my second and somewhat broader concern now that I've had a chance to reflect upon this whole set of circumstances, which is — and I'd like your opinion with the benefit of hindsight and going forward about whether we have

adequate troop strength in Iraq to accomplish our mission.

I've been concerned from day one — and I know Senator McCain and some others have had this concern — that we didn't have adequate strength in the beginning to prevent some of this rampant looting that took place. We didn't have adequate troop strength to prevent some of the sabotage or vital infrastructure that took place. We didn't have adequate troop strength to immediately clamp down on the insurrection which has now gathered a momentum all of its own.

And I wonder if, just in a microcosm, this is, you know, just another manifestation of our, sort of, continual underestimation of the task that we've taken on here.

BAYH: And, you know, I guess in a situation like this where we're deposing a regime, we're trying to reconstitute a country with no history of democracy, it seems to me we should err on the side of having more strength than necessary rather than too little.

Both looking back and looking forward, have we had adequate troop strength and do we have adequate troop strength to accomplish our mission with this critical June 30th handover fast approaching?

ABIZAIID: Have we had adequate troop strength? Certainly in February I would have told you absolutely. I mean, things were where we thought they would be.

And did we anticipate that there would be additional violence as we moved toward a political process? We did.

And that's the reason I asked for the troops from the 1st Armored Division and the 2nd Armored Cavalry Regiment to remain there, although we did not specify them particularly.

I would like to point out that one of the hugely good news stories that has been lost in this period of the Abu Ghraib scandal is the incredible work and bravery and selflessness and military capability of those two units in moving from positions in contact in Baghdad down into the south and fighting a very tough fight. As well as have been the Marines.

But to answer your question directly, and forgive me for diverting, Senator McCain and I have had this opportunity many times to discuss it and I appreciate his opinion.

And there are certain types of troops that we don't have enough of and we still don't have enough of them and we got to figure out how to get them. And they're M.P.s. And they're M.I. guys. And they're HUMINT guys. And they're civil affairs people.

And we must build a force structure that allows us to be able to fight a war like this in the 21st century — and they're not in the force structure.

Now, we have M.P.s on the scene — that the Army has done a very good job in training — that don't happen to be M.P.s. And then we have Air Force truck units.

I mean, we are doing things with our force structure that, in my view, we need to sit back from a service provider point of view and say, "OK, what do we really need?"

Now, in terms of, are there enough tanks, are there enough Bradleys, are there enough combat troops, Marines, et cetera? I'm pretty comfortable with that.

ABIZAIID: It's the enablers I'm not comfortable with. And I'll end it up by saying I'm also not comfortable that there are enough international troops on the battlefield because the effort needs to be not just American but it needs to be international.

Now, these are things that I've said I believe to the committee on numerous occasions and it's not new.

But did I miscalculate the number of troops? Maybe. Maybe I miscalculated but I think we've adjusted and we'll continue to adjust based on what the enemy does because the enemy has a vote.

BAYH: The civilian leadership always places this at your doorstep, saying that they're endeavoring to get you everything you need. And I certainly appreciate that. But Undersecretary Wolfowitz began to touch on this, I think, yesterday in some of his testimony up here in different capacity, which is this is not only a military

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undertaking. This is a political undertaking.

And I'm just wondering if, you know, those who felt that we were going to be greeted as liberating heroes, so to speak, perhaps didn't underestimate the magnitude of the societal transformation we have taken on. It goes way beyond the military purview. And I'm just wondering if, given the magnitude of that task, we have been understaffed. And this is just another manifestation of that.

ABIZAIID: Well, Senator, I can't comment for the political side of the house. But I can comment in saying that while we can't be defeated militarily, we're not going to win this thing militarily alone. We have to get everything together: economics, politics, intelligence, you name it — information.

It's all got to come together in a synchronized fashion that allows us to do this very, very important task. And it's really one of the hardest things that this nation has ever undertaken in this part of the world or anywhere else.

BAYH: My last point, gentlemen, is several of you have indicated in response to recent questioning that lives have been saved, attacks have been prevented with access to timely and accurate intelligence.

I think, General Miller, you've indicated that approximately 600 of these detainees are some of the worst of the worst and that if released upon Iraqi society, they would not only imperil our forces but innocent Iraqis.

BAYH: Colonel Warren, I think you've indicated that the Geneva Convention would allow somewhat more rigorous interrogations of some of those kind of folks, but with the exception of a few requests for solitary confinement, we, kind of, haven't gone there. Is that all correct?

Stress positions were requested, but that wasn't permitted.

Where I'm going with all this is that, you know, this is so important that we strike the right balance here.

On the one hand, timely intelligence saves lives. Innocent Iraqi lives, the lives of our troops.

On the other hand, there's a dividing line beyond which our moral integrity, our honor is vitally important if we're going to win this war against terrorism because we do stand for something better.

And so what's been brought before this committee with these pictures, which obviously go to the latter, who we are and what we stand for, let's not lose sight of the former either.

The pictures that stick in my mind, also, Mr. Chairman, are the pictures of the young men out there at Walter Reed, some of them missing arms, some of them missing legs, fractured lives in the full flower of their youth, the pictures that came out of those flag-draped caskets. Those pictures are important too.

So there's no excuse for the behavior, none, that gave rise to the pictures of this abuse at this prison. We have to root it out, and some of these individuals are on trial.

But at the same time, let's not repeat some of the mistakes that we made in the area of covert intelligence, where the director of the CIA now tells us it's going to take five years to reconstitute our covert capabilities and adequately protect this country.

So a balance is in order here. And I just hope that we are empowering you to strike that balance in ways that protect our brave men and women on the one hand and preserve our honor on the other.

WARNER: Thank you very much, Senator.

Any desire for any witness to speak?

If not, Senator Dole?

DOLE: Thank you, Mr. Chairman.

Gentlemen, I certainly want to join my colleagues in thanking you for your tremendous leadership, your outstanding service to our country. And, like Senator Cornyn, I regard you as heroes sitting in front of me today. And I thank you for your time with us.

And since all of you have been very forthcoming in the past three hours of

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questions, I'd like to take this opportunity to ask some questions with regard to your overall Iraqi operations — to go beyond.

DOLE: First of all, though, General Miller, let me ask you, would you clarify who will be in charge of running the Iraqi prison system after June 30th?

MILLER: Senator, that's still in dialogue and discussion between the Coalition Provisional Authority and the interim governing council and now the soon to be interim Iraqi government. Those transitions are working.

I'll tell you that, as far as Multinational Force-Iraq, we will — our plan is to continue to run our theater level, our Multinational Force-Iraq three detention facilities and other detention facilities that allow us to ensure we can implement a safe and secure environment.

But as we work toward transition, every day I meet with my Iraqi counterparts to see how we can more successfully move to integrate this operation.

DOLE: Thank you.

Now, in an intercepted letter written by Al Qaida operative Zarqawi, we were given insight to a terrorist message that was very significant and compelling.

In noting concern that he may lose a foothold in Iraq, he wrote, and I quote, "With the spread of the army and the police, our future is becoming frightening."

He went on to detail the very environment of chaos his network requires to succeed: attacks on Iraqi security forces, the targeting of Kurds, the Shia populations and the killing of Americans; the very environment evolving in Iraq that he feared the coalition forces would suffocate.

General Abizaid, several reports have claimed that Zarqawi is in Baghdad. If he actually got into Baghdad past coalition forces, can we assume that he has the mobility to move to other regions in Iraq?

ABIZAID: Senator Dole, I would assume that Zarqawi has the ability to move around the nation, unfortunately. The nature of the insurgency is one that you can't stop one person from moving where you would like him to move, even as visible as they may be.

He can move around. He can strike at will. And we have reason to believe that he was in Jordan recently and had his hands in the plot that would have killed thousands and thousands of Jordanians that was foiled by the king's special forces and intelligence forces.

So there is a great battle going on in the region. It not only extends to Iraq, but it's in Saudi Arabia.

It should come as no surprise to the committee that these people are also attacking foreigners in places like Saudi Arabia.

There is a strategy at work here that we should not lose sight over. And it's happening in Afghanistan and it's happening in Pakistan, Saudi Arabia, Jordan and elsewhere in the region. And it's also happening in places like Madrid.

DOLE: Can you confirm that Zarqawi beheaded Nicholas Berg?

ABIZAID: I don't know that I can confirm that it was him. I know that there are various reports of people saying it's his voice. I know he has claimed it. But certainly it wouldn't be past him.

DOLE: General Kimmitt said that the killing of Salim had the classic hallmarks of Zarqawi. Do you have any further information to share with us on that?

ABIZAID: No, Senator. I wouldn't want to give Zarqawi any stature he doesn't deserve. He's a murderer, he's a torturer and that's the status he deserves.

DOLE: Do you have any indication that Al Qaida is coordinating with al-Sadr's resistance?

ABIZAID: That's a very good question, but I think the answer is no. But in that part of the world you never know.

DOLE: Saddam Hussein's government was believed to have produced several hundred tons of sarin as well as stockpiles of mustard gas. Now the presence of both sarin and mustard gas has been reported in Baghdad.

Do our men and women in-theater have the equipment, the devices that they need, in order to protect themselves from exposure to such agents as these?

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General Sanchez?

SANCHEZ: Yes, ma'am. The answer is yes, we do. We deploy with all of our chemical and nuclear, biological capabilities, and those are present.

DOLE: General Abizaid, defense contractors and private business representatives, of course, are critical to reconstruction efforts and rebuilding in Iraq.

Terrorists seem to have shifted their focus. They're targeting the unarmed civilians. A corporation from my home state of North Carolina, Black Water, of course, has four contractors who were shot, burned, hung from a bridge. Nick Berg's murder.

What are you doing to provide increased security for these unarmed civilians?

ABIZAID: Well, I think it's best left for General Sanchez to talk the details, but it's clear that the enemy has discovered a vulnerability in the contracting system.

ABIZAID: It's also clear that we have got to work with them to protect them not only in coordinating with Iraqi security services, but with our own.

For example, we should not have convoys moving around areas that we know to be very violent without some sort of coordination with the military, and that's happened before and that's gotten people into trouble before

DOLE: General Sanchez, do you want to answer that, as well?

SANCHEZ: Yes, ma'am.

We are working with the CPA reconstruction effort. We work with all the contractors in the country. We have the mechanisms to provide escort for convoys as they move across the country. And there have been instances where contractors have moved without coordination with the local commanders and without escort, and they've gotten themselves in trouble.

But we do have the mechanisms and we're continuing to work that way.

WARNER: Thank you.

ABIZAID: By the way, Senator Dole, if I may, I'd just like to add by saying we sometimes forget that a lot of these contractors that are out there are heroes to.

DOLE: Yes.

ABIZAID: I mean, they're out there in a very dangerous area. A lot of them are in — I would say, the vast majority of them are doing it because they love their country.

And so we shouldn't fail to praise them. There are time when we're not happy with the way a contract works, et cetera. But these young Americans and older Americans that are out there doing this are by and large great people who love the country and doing God's work.

DOLE: Thank you for adding that statement. I couldn't agree with you more.

My time has expired.

WARNER: And I'd like to also say I thank you very much for the recognition that's well-deserved by that infrastructure that supports our forces.

We have two remaining senators, then the committee will stand in recess for just a few minutes. And we will resume in 219, which is in this building.

Senator Bill Nelson?

BILL NELSON: General Miller, I think you cleaned up the situation at Guantanamo. I think you did a good job. And, of course, we're trying to sort out other things, but I just want that for the record, from my observations, having been there twice.

General Abizaid, yesterday we had Lieutenant General Sharp in front of the Senate Foreign Relations Committee and there was a little bit of clarity, perhaps you can help clarify here for us. Specifically picking up on your statement earlier in your testimony that what we're facing — you used the words "It's a hard thing. It will take a long time."

And so one of the responsibilities that we have is looking at a force structure. We keep getting different statements that are interpreted different ways.

So one of the things that I would like to ask you is that part of — do you consider it part of the mission in Iraq to disarm the militias, such as the Mahdi Army of al-Sadr?

ABIZAID: I regard al-Sadr's militia right now as being a hostile forces. And it is our

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mission to disarm them or destroy them in battle.

BILL NELSON: And I would think that would be the common-sense thing. If I were the commander, that would be part of my mission.

ABIZAIID: But, Senator, if I might add, it's also clear that, as we move toward a period of partnership in Iraq, which is so essential for us to move to, that those militia forces or armed groups that may belong to people loyal to the new Iraq that are willing to move forward in a manner of reconciliation and work toward a better future, we need to work with them to integrate them into the system.

So it's not that we will go out and destroy all militias. Certainly not. It's that we will fight those that are working against us and will work to help integrate those that have worked with us, such as we find in the Kurdish areas and to a certain extent in some of the Shia areas with the Badr Corps.

BILL NELSON: And it would be nice if we had an Iraqi army that was ready to do a lot of that. It would be nice if we had a police force that would be able to help us. But at the moment we don't. So I'm asking you about your mission now.

Does your mission in Iraq include providing security on the streets against crime, functions normally performed by a police force?

ABIZAIID: Our mission, in some areas where the police force is not working, unfortunately causes troops to have to do police work. That is correct.

It is also correct to say, Senator, that we have probably overstated how bad things are with the Iraqi security forces; that the Iraqi security forces in certain areas of the country are exceptional and they're doing very well.

ABIZAIID: In the north we see it. In some places in the south, there are many police forces that are doing well by Iraqi standards and will continue to do well.

So we had a failure during the April time frame, as you're well aware, of some units of the Iraqi Civil Defense Corps, of some units of the army and of some units of the police. But on the other hand, Senator, I believe this is more to do with our willingness to give them authority than it has to do with their willingness to fight for their country.

They want to fight for their country but they want to fight for Iraqis. And so as we move toward this period of sovereignty, and Iraqi chains of command are established that are reliable, I believe that the quality of Iraqi forces will move in a direction that will surprise a lot of people. I have faith in them.

BILL NELSON: Well, I certainly hope so. And I visited one of those police academies in Jordan where you're training them. But, you know, it's a long time and there's only X number of thousand that you can prepare. And we'll find out in the future.

So the fact that we are having to disarm militias and also having to provide some protection against street crime right now, the question is, is the 105,000 level, augmented by keeping the additional 20,000 so that you're somewhere in the range of 125,000, 130,000 troops — is that sufficient for you to carry out your mission over the course — not only before June 30th but over the rest of the year after June 30th?

ABIZAIID: I think the force — again, I don't like to waffle in my answers and this will sound like a waffle to you. But it depends on a couple of different things.

It depends on the enemy, although I would predict — and I think Rick will agree with me — that the situation will become more violent even after sovereignty because it will remain unclear what's going to happen between the interim government and elections.

So moving through the election period will be violent. And it could very well be more violent than we're seeing today.

ABIZAIID: So it's possible that we might need more forces.

But I would, again, say that perhaps with a resolution in the United Nations that instead of forces withdrawing from Iraq, that they come to Iraq because international nations need to understand how important Iraq's stability is for their future, as well as the entire region's future.

So getting more international forces, getting a higher quality of Iraqi force, will help figure out where we stand. But I think the numbers about where we are now for

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TOTAL P. 26

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the foreseeable future, unless something changes, either international force-wise or in the quality of Iraqi troops, is what we can expect through the elections.

BILL NELSON: What did you mean by a long time?

ABIZAID: Well, we know the elections will take place in December or January, so am I saying that the 1st — don't get me in any more trouble with the 1st Armored Division and the 2nd Armored Cav. We will rotate them out of there. But the force levels will stay about what they are I think until after the elections.

WARNER: Thank you, Senator.

ABIZAID: Or until we come to a point where we see that we're going to have a soft landing.

WARNER: Thank you very much, Senator.

Senator Akaka?

AKAKA: Thank you very much, Mr. Chairman.

I want to add my gratitude to you and praise and commendation to your leadership as well as to our troops in Iraq and Afghanistan.

I, too, have visited Iraq and Afghanistan, and the kind of message I got while I was there was good. And our troops seem to have been working well at that time.

And I've been very concerned about one part of the personnel that's there. We have talked about international and coalition forces. We've talked about M.P.s, M.I.s. One group — the contractors — this has been mentioned here. And it seems as though — and I seem to sense that — and I'd like to get an answer from you on this — that the contractors seem to be outside of the line of command. That's my feeling. And as a result, some things they do are not known by us.

General Abizaid, it is my understanding that the civilian contractors who are interrogators — there were many different kinds — interrogators work directly with military intelligence personnel. My question is who supervises the civilian interrogators and do they report to any agencies other than DOD?

Another question is is anyone in DOD accountable for the behavior of the civilian contractors?

MILLER: Sir, if I could add, I'd like to take this.

AKAKA: General Miller? Thank you.

MILLER: The civilian contractors who work in our intelligence organizations are accountable to the chain of command of the intelligence organization. So if you're an interrogator, you're accountable to the chain of command of the interrogation company or the battalion or the brigade that goes in here.

And so there are also people who do screening. By the screening, I mean when you come in to — you're captured, they do the initial debriefing to be able to develop intelligence. And we have a small number who are in our intelligence fusion centers.

They all work for the military and through here.

In our organization, currently, no civilian contractor is in a supervisory position. It's the military who has the priority — who sets the priorities and ensures that we meet our standards.

AKAKA: What other types of personnel do you have there as contractors, besides interrogators who are contractors?

MILLER: Sir, in the intelligence area, there are the screeners, those who get initial information — and that's not an interrogation — and those who are involved in intelligence fusion: developing processed intelligence from raw intelligence and feeding our computer systems. Those are the contractors that we have in the intelligence system.

ABIZAID: You'll also find interpreters, Senator.

AKAKA: Thank you.

Then my question on that is: Are there any contractors who are from Third World nations?

MILLER: I'm sure there are, yes. I've talked to some.

ABIZAID: Our translators are — some of them are from Third World nations. They're doing an excellent job for us.

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AKAKA: Can you name some of the nations?

ABIZAID: Sir, I'm sorry, I cannot.

AKAKA: Yes, and my concern has been — and thank you for answering it — that they are within the line and chain of command so that we know what they're doing and they're answerable to someone in DOD.

ABIZAID: For the record, we will get the nations that those interpreters are from.

AKAKA: Thank you very much.

General Miller, you've had quite a bit of publicity, and so let me ask you this, out of my curiosity. Did you tell General Karpinski that you were going to Gitmo-ize Abu Ghraib? And my question is: What did you mean by this statement?

MILLER: Senator, I did not tell General Karpinski I was going to Gitmo-ize Abu Ghraib. I don't believe I've ever used that term — ever.

When General Karpinski and I were having our dialogues, they were about humane detention, how the detention centers would be run, requirements for the military police and the leadership to be present to ensure that humane detention is done.

As we've talked about before, there's an enormously high leader- impact, high leader-test requirement.

AKAKA: And my concern there: Do you think it is possible that any of your recommendations could have been misconstrued by the civilian contractors?

MILLER: Senator, I do not believe that any of those recommendations were misconstrued. At that time there were no civilian contractors employed in the organizations, but they were on their way to be coming.

But, once again, that would be speculation on my part, because I was not there during the hiring and how the civilian contractors come.

AKAKA: General Abizaid, you discussed the need to modify Army doctrine about Abu Ghraib, and you cited instances of abuse in Afghanistan and Iraq. Is the problem of detainee abuse systemic within CENTCOM?

ABIZAID: No, sir, I do not believe it's systemic. There have been instances of abuse in Afghanistan and other prisons, as you know, and in Iraq as well.

I believe my comments concerning doctrine have to do more with how we fuse intelligence, how we distribute intelligence, how we work in a synchronized manner to achieve results that will help our young soldiers on the battlefield, and Marines.

AKAKA: Thank you very much.

WARNER: Thank you very much, Senator Akaka.

We've had an excellent hearing, very thorough exchange of views and responses. We thank you. We will now reassemble in the Intelligence Committee, 219.

(UNKNOWN): Mr. Chairman, just very briefly. I appreciate the opportunity, and I think I'll — if we're going to go into closed, I'll withhold my question, so just a very brief statement, though.

I do want to associate myself with some of the concerns that Senator Inhofe raised. Since there is so much that you don't know whether you know it or not, and I do know one of the worst things that could happen out of this is if we ended up in a situation where some of these people got off, you know, the people that we ultimately determine are responsible because of something that was said at one of these hearings.

In addition, the fact that I think there's something to be said for waiting until you all can present the comprehensive results of your investigations.

I do want to just, for the record, Mr. Chairman, respectfully suggest to you and the ranking member that we consider whether it would be good to have the Fay report in hand before we do the next hearing.

I know you are talking constantly with the ranking member about timing and what we ought to do. And I think these hearings have been very good. But it almost comports with the Senate schedule anyway, given that a recess is coming up.

Other than that, Mr. Chairman, I'll withhold until the...

WARNER: Senator, in my discussions with the Department of Defense — which has, I might say, been very cooperative — they have indicated that this committee will

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be the first to receive the Fay report when it is available.

(UNKNOWN): Yes, if it looks like they're stonewalling on it, it's a different thing.

WARNER: No.

(UNKNOWN): But if you think in a couple of weeks, then that's the report I think...

(CROSSTALK)

WARNER: The Department will determine the timing of the release of that report.

(UNKNOWN): All right. Thank you, Mr. Chairman.

WARNER: Again, I thank you very much.

We'll now go to 219 for a closed session.

And I thank the committee.

I take note that we have had a 100 percent attendance here today. I think that speaks to the seriousness and the solemnity with which this committee regards this very serious issues.

LEVIN: Mr. Chairman, I just would want to clarify one — not by asking a question though, by just thanking our witnesses joining you, but also indicating that I have some additional questions that are unclassified that we don't have time to ask...

WARNER: Right.

LEVIN: ... but which I will be submitted to our witnesses. And I think if the chairman would set a deadline for those so our witnesses won't have to be troubled by questions coming in for a long period of time, for instance, questions within the next 24 hours or 48 hours, would be very helpful. But I do want to respect your...

WARNER: Absolutely. Thank you.

LEVIN: Would that be all right?

WARNER: That would be fine. Let's just establish midday Friday.

LEVIN: That would be fine. Noon Friday?

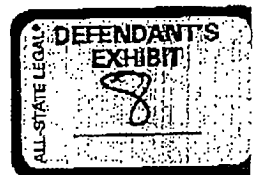
WARNER: Noon Friday.

Thank you very much.



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TODAY'S FORECAST: Fog with rain in the afternoon, then thundery rain in the afternoon.

56° 62° 61° DETAILS PAGE 51

FRIDAY, OCTOBER 15, 2003

THE NEWSPAPER FOR NEW JERSEY

BOMBERS HIT GREEN ZONE



A U.S. helicopter flies over after two bombings in the Green Zone, home to the U.S. Embassy and Iraqi government offices in Baghdad.

Cafe, market blasts kill four Americans in central Baghdad

BY ALEXANDRA ZAVIS
ASSOCIATED PRESS

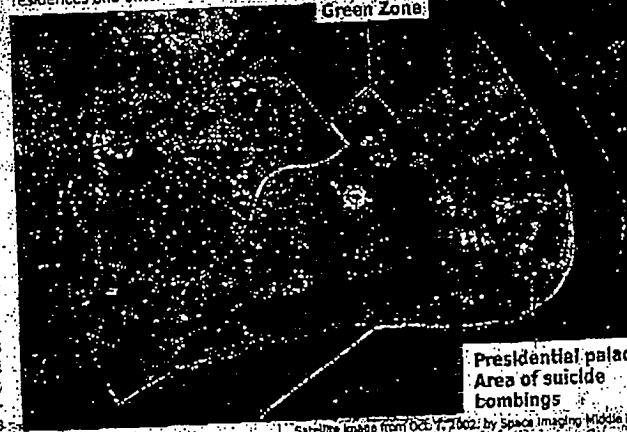
BAGHDAD — Insurgents struck deep inside Baghdad's heavily fortified Green Zone yesterday, setting off bombs at a market and a popular cafe that killed six people — including four believed to be Americans — and wounded 20 others in the compound housing foreign embassies and Iraqi government offices.

The bold, unprecedented attack, which witnesses and a senior Iraqi official said was carried out by suicide bombers, dramatized the militants' ability to penetrate the heart of the U.S.-Iraqi leadership even as authorities step up military operations to suppress Sunni Muslim insurgents in other parts of the country.

Three American employees of DynCorp security company were killed and another was missing and presumed dead in the blast in a vendor's alley near the U.S. Embassy annex. Three State Department employees were wounded.

The outdoor bazaar caters to Westerners, selling everything from mobile phone

The Green Zone is a 4-square-mile district of central Baghdad surrounded by barricades and checkpoints that houses the Iraqi government, the U.S. Embassy, and residences and entertainment facilities for the hundreds of Americans working there.



Presidential palace: Area of suicide bombings

accessories to pornographic DVDs.

Iraq's most feared terror group, led by Jordanian militant Abu Musab al-Zarqawi, claimed responsibility for the twin blasts and said they were suicide attacks, according to a statement posted on a Web site known for its Islamic content.

Last night, U.S. Marines launched air

and ground attacks on the insurgent stronghold of Falujah, 40 miles west of Baghdad, after city representatives suspended peace talks with the Iraqi government over Prime Minister Ayad Allawi's demand to hand over Zarqawi.

Residents described the bombardments [See GREEN ZONE, Page 3]

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Bush and saw fous

BY JAMES KUHN AND WILLIAM B. KRZYWONOSKI

LAS VEGAS — Vice President Dick Cheney and Sen. John McCain, both of whom have been critical of President George W. Bush's handling of the war in Iraq, are expected to announce their candidacies for the 2004 presidential election.

Both candidates are expected to be more hawkish than Bush, and are likely to focus on the war in Iraq and the economy. McCain, who has been a vocal critic of the war, is expected to be a strong contender for the Republican nomination.

Democracy is a core value, McCain said. He also criticized the administration's handling of the war and the economy. McCain said he would focus on the economy and the war in Iraq.

D.A. Cull Pa.

BY RICK AND MIKI STAR-LEDGER

From across a June 2003 at St. U suspect their sta The when i charge nurse with i patient

a future that reflects Asbury Park's past

Ground is broken for luxury condos on dilapidated city's waterfront

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Posted 9/30/2004 11:05 PM

Police foil plot to kidnap U.S. officials in Green Zone

By Jim Michaels, USA TODAY

BAGHDAD — Local police are holding four Iraqis accused of plotting to kidnap two U.S. officials inside the Green Zone, a heavily fortified area that houses the U.S. Embassy.

The previously undisclosed arrests early this month, investigated by Baghdad's Major Crimes Unit, are the first plot uncovered to kidnap U.S. officials inside the Green Zone, say Baghdad police and Steven Casteel, the senior U.S. adviser to the Interior Ministry. The case raises concerns about militant capabilities to penetrate U.S. and allied government facilities.

"The objective of the operation was to show how mujahedin (insurgents) ... are able to strike deep inside the Green Zone," said police 1st Lt. Khalid Abbas, a counterterrorism officer.

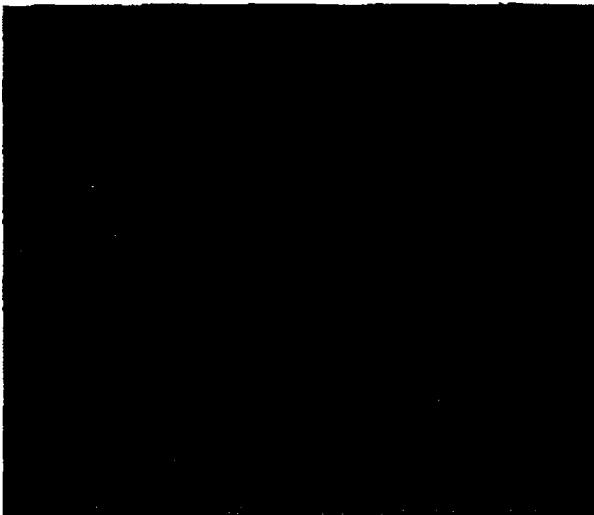
The plan was hatched by Iraqis inside the Green Zone, including an Iraqi translator who worked closely with a U.S. security official, one of the two kidnapping targets, according to investigative reports and interviews this week with police. The other target was the official's female assistant.

Two other suspects were employed by a Western company with offices in the Green Zone. A fourth suspect was recruited because of his links to Fallujah, an insurgent stronghold west of Baghdad. At least one other suspect is being sought, police said.

According to the police report, the group planned to grab the first hostage in early September. After a meeting in a cafe in the Green Zone, the translator would lure the official outside where he would be incapacitated with a toxic gas. The group planned to load him into a car trunk and drive to Fallujah. His assistant would be seized later.

The hostages were to be sold to militant groups in Fallujah and Baqouba, insurgent-held cities in the Sunni Triangle north and west of Baghdad, according to the report. "Ninety percent of all kidnappings are initiated by organized crime," Casteel said. He confirmed the outlines of the case and described the targets of the plot as two "midlevel" U.S. officials working in the Green Zone.

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E-Mail Newsletters

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Iraqi police made the arrests a month ago after one of the four suspects, arrested in a separate case, told police about the plan, said Raad al-Dulaimi, head of the Major Crimes Unit. The investigation is continuing.

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Police say the men were questioned separately and confessed readily. They have been charged with attempted kidnapping.

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Nearly 150 foreigners have been kidnapped in Iraq. Twenty-six have been killed. Most of the others were released. A militant group Thursday claimed to have taken 10 Iraqis and foreigners, including two Indonesian women.

Police complain that the willingness of some governments and companies to negotiate with kidnapers is encouraging abductions. The negotiations generally are conducted without police involvement, hindering their ability to investigate, police say. "The bargaining is really damaging us," al-Dulaimi said.

Negotiations have worked to win the release of some hostages. Two Italian aid workers taken hostage three weeks ago were released unharmed Tuesday by their captors. Italian officials denied reports that the country paid \$1 million ransom to free the two. The U.S. and British governments have refused to negotiate with hostage takers demanding ransoms or political concessions.

Contributing: César G. Soriano, Sabah al-Anbaki

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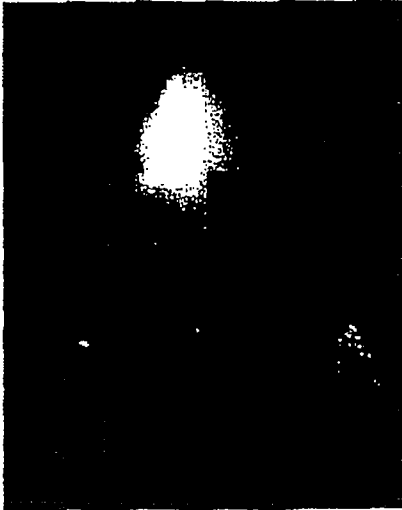
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International News
Rockets, gunfire rattle Baghdad hotels
Two more U.S. soldiers killed in separate attacks



Anja Niedringhaus / AP



FREE VIDEO
Oct. 7: MSNBC analyst Dan Goure talks about security around the Baghdad hotels that were fired on Thursday.

MSNBC

A palm tree burns outside the Sheraton Hotel in Baghdad on Thursday. Hotel windows also were shattered in an overnight attack.

MSNBC News Services
Updated: 2:48 p.m. ET Oct. 7, 2004

BAGHDAD, Iraq - Two rockets hit a downtown Baghdad hotel housing foreigners and journalists Thursday across the Tigris River from the U.S. Embassy compound.

Security guards at the Palestine hotel said two rockets fired from the back of a pickup struck the nearby Sheraton hotel, shattering windows and filling the main lobby of the hotel with smoke and debris.

No casualties were reported, and and Iraqi police sealed off access to the heavily fortified complex that houses both the Sheraton and the Palestine hotels.

Shaken Westerners emerged from the hotel, some covering their mouths with cloths, as workers swept up shards from shattered plate-glass doors in the Sheraton lobby. A huge crack appeared in the lobby wall.

Outside, bursts of automatic gunfire were heard in the street between the Sheraton and nearby Palestine hotel, which also is a base for foreigners. The gunfire lasted for about 10 minutes after the explosions.



Missiles fired from pick-up

Sheraton security guards said two rockets were fired from a pickup truck at the square, where Saddam Hussein's statue was pulled down last year in what collapse.

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• Insurgent strongholds
Where Iraq is out of control

A security guard speaking on condition of anonymity said private security guards at the pickup truck, destroying it and another car. The truck contained more m

The blaze was believed caused by several rockets that landed in the compound tree was set on fire and tracer bullets streaked across the nighttime sky.

A bride and groom rushed out of the smoke-filled Sheraton minutes after arriv

"I made a mistake by booking at the Sheraton. I knew something like this would happen. But I just did a his shivering bride in his arms.

One barefoot man was carried over the broken glass by rescuers. Western foreign contractors, some app their armed security guards.

Iraqi police, National Guard and U.S. soldiers went to the lobby, and nearby Firdous Square was filled w

The U.S. Army rolled in reinforcements, including Bradley fighting vehicles, armored personnel carriers hotel compound.

The hotels have been targeted by several previous rocket attacks, including one on Nov. 21, 2003, in whi cart, injuring one person.

Shortly after the gunfire subsided, a new explosion was heard, but it sounded further away — likely acro the river from the area of the Green Zone, where the interim Iraqi government and U.S. are based.

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What did the VP candidates say about Iraq

The security alert in the heavily guarded Green Zone was raised this week after an improvised bomb was explosive device was safely defused.

Meantime, 20 Iraqis were arrested in the north in operations against those suspected of planting bombs a

2 U.S. troops killed, 2 wounded

Elsewhere, two American soldiers were killed and two others were wounded in separate bombings that o Thursday. The attacks also injured an Iraqi translator.

The first attack on American soldiers happened at about 9:45 p.m. Wednesday near rebel-held Fallujah, said.

Three soldiers from the 13th Corps Support Command were wounded when their convoy was attacked w statement said. One later died of his injuries at a military hospital in the capital, Baghdad.

The other two remained at the hospital, where one was listed in serious condition and the other stable.

At about midnight, a U.S. patrol was hit by an improvised bomb near Beiji, 155 miles north of Baghdad, soldier from the 1st Infantry Division was killed and a translator wounded, she said. He was being treate

The names of the dead soldiers were withheld pending notification of their families.

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As of Wednesday, 1,064 members of the U.S. military had died since the war began in March 2003, according to the U.S. military. The figures include three military civilians.

Explosive device found in Green Zone

The warning to Americans and Iraqi officials in the Green Zone followed the discovery Tuesday of an explosive device in a hangout for Westerners living and working in the compound -- which houses major U.S. and Iraqi government detachment safely disarmed it, U.S. officials said.

Americans living and working in the zone were warned to avoid non-essential movements, travel in groups and to stay in their compounds.

Although movements in and out of the Green Zone are restricted, about 10,000 Iraqis live inside the 4-square kilometers of the Tigris river.

A loud explosion shook the Green Zone on Wednesday afternoon and smoke was seen rising from inside the compound. U.S. officials did not have immediate information on the incident. Insurgents regularly fire at the compound.

In Mosul, the U.S. military said American and Iraqi forces detained 20 people in operations in northern Iraq. The city of Tal Afar, scene of intense fighting last month between U.S. soldiers and insurgents.

A U.S. demolition team defused a homemade bomb found beneath an Iraqi police car, the U.S. command said. In Tal Afar, and Iraqi National Guard troops seized two grain sacks full of dynamite, two-way radios used to communicate with authorities said.

Twelve other people were arrested in a series of raids in Mosul, the U.S. command said.

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[WashPost: Bremer says U.S. paid 'a big price'](#)

Threat of car bombs increases

Homemade bombs, including those rigged in cars and trucks, have become an increasing threat to multinationals in Iraq. U.S. officials say them safer than other forms of attack that can draw devastating American return fire. In September, 29 Iraqis were killed in car bombings, according to the U.S. command, which did not break down the figure by nationality.

On Wednesday, a suicide car bomber slammed into an Iraqi military checkpoint northwest of Baghdad, killing 10 people, U.S. officials said. The attack occurred near an Iraqi National Guard camp near Anah, 160 miles northwest of Baghdad. According to the U.S. military, the camp came under fire, and a few minutes later a vehicle sped to a nearby area.

U.S. and Iraqi forces are trying to restore enough control so that national elections can be held in January. U.S. officials say building Iraqi democracy. President Bush and Prime Minister Ayad Allawi insist the balloting will take place. U.S. military officials say that elections in some areas may not be possible.

Push to clear insurgent strongholds

As part of the new security push, more than 3,000 U.S. and Iraqi forces are trying to clear an insurgent stronghold south of Baghdad, notorious for kidnappings and ambushes.

A statement by the U.S. command Thursday said 17 suspected insurgents were captured the day before in the area of Haswah and Iskandariyah, both about 30 miles south of Baghdad.

Since the operation began Tuesday, four U.S. Marines, three Iraqi National Guard members and three civilians were killed.

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since Tuesday have yielded 18 500-pound bombs, 197 rocket propelled grenades, dozens of mortar shell

As military operations continue, the Iraqi government is reported close to an agreement with followers of stronghold of Sadr City, a teeming Shiite slum in northeastern Baghdad.

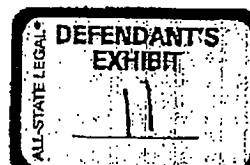
The Associated Press and Reuters contributed to this report.

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6 U.S. soldiers killed as Iraq tells Fallujah to turn over militant

BY NADIA ABOU EL-MAGD
ASSOCIATED PRESS

BAGHDAD — A suicide attack and roadside bombs killed six American soldiers yesterday, and Iraq's prime minister warned residents of the insurgent bastion of Fallujah to hand over terror mastermind Abu Musab al-Zarqawi or face attack.

Zarqawi's Tawhid and Jihad group has claimed responsibility for beheading several foreign hostages and for car bombings throughout the country. A videotape posted yesterday on an Islamic Web site showed militants linked to Zarqawi beheading two Iraqis, the terror group accused of being spies.

"If they do not turn in al-Zarqawi and his group, we will carry out operations in Fallujah," Prime Minister Ayad Allawi told a meeting of the 100-member interim National Council. "Fallujah of course is an honest city, but it has been manipulated by a deviant bunch that wants to harm Iraq."

The attacks on U.S. forces, at a time when the Americans are applying pressure on insurgent strongholds in the Sunni heartland, occurred in the run-up to the Islamic holy month of Ramadan, which Iraqi television said would begin here tomorrow.

Some extremists believe they earn a special place (See IRAQ, Page 14)

Breast cancer may trace back to womb

The way a woman grows during adolescence and even in the womb may play a key role in her risk of breast cancer later in life, a study suggests. Page 10.

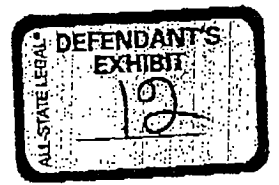
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International News

At least 21 dead in Baghdad bombings
Mosul bombed, too; Fallujah hospital staff say U.S. strikes kill 11



Saurabh Das / AP

A wounded person, said to be a foreign national, is helped away after a car bomb ripped through Saadoun street in Baghdad on Monday.

MSNBC News Services

Updated: 9:29 a.m. ET Oct. 4, 2004

BAGHDAD, Iraq - Two car bombs ripped through Baghdad streets on Monday, killing at least 21 people entrance to the Green Zone, the seat of the U.S. Embassy and key Iraqi government offices, officials said

In nearby, rebel-held Fallujah, meanwhile, American warplanes unleashed strikes on two houses early Monday, killing at least 11 people, including women and children, hospital officials said.

In the first of the Baghdad explosions, a four-wheel-drive vehicle packed with explosives detonated outside the heavily fortified complex, Interior Ministry spokesman Col. Adnan Abdul-Rahman said.

Yarmouk Hospital received 15 bodies and 81 wounded from the explosion, said Sabah Aboud, the facility's chief registration official.

No Americans were believed hurt or killed in the blast, which happened shortly before 9 a.m. near a checkpoint at the western entrance to the Green Zone, said Maj. Phil Smith, a spokesman for the U.S. 1st Cavalry Division.

"I was thrown 10 meters away and hit the wall," said Wissam Mohammed, who was visiting a nearby recruiting center for Iraqi security forces when the explosion happened. He lay in a hospital bed, his right hand broken, his head wrapped in bandages and his clothes stained with blood.

Second blast

The second car bomb exploded at 9:45 a.m., targeting a convoy of vehicles leaving a complex of major h reside. American and Iraqi forces opened fire after the blast, but it was not immediately clear what they

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At least six people were killed and 15 wounded, said Tahsin al-Freiji of the U.S.-trained Facility Protecti the city.

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[Poll: Iraqis losing faith in election](#)

A pickup truck loaded with dates exploded as it plowed into the three-vehicle convoy as they emerged fr vehicles in the convoy was destroyed, and shrapnel hit the nearby Palestine Hotel and Baghdad Hotel.

Minutes later, unidentified gunmen began shooting from the rooftops and police returned fire, said Tahsi

The pickup truck carrying the explosives was ripped in half with one part left dangling from a shop sign

At least five other cars were charred, including one of the targeted vehicles, which had a burned body lef was thrown against a garage wall, his body crumpled in the street.

Both the Green Zone and the area around Saadoun Street have been the target of previous suicide attacks

In other attacks Monday:

- A car bomb exploded outside a grade school in the northern city of Mosul. Iraqi police said seven 11 wounded. A U.S. officer said only three people died, two believed to be transporting the explos exploded prematurely, as there was no obvious target in the area.
- A senior official of Iraq's Sciences and Technology Ministry and a female employee were assassin said.
- In Baqouba, a police commander was assassinated in an early morning drive-by shooting by unkno mortar rounds at Baqouba's municipal building, killing one person and wounding seven in the city

Fallujah strikes

In Fallujah, the U.S. military said the strikes there targeted followers of Jordanian terror mastermind Abu

INTERACTIVE



• [Insurgent strongholds](#)
Where Iraq is out of control

took place," the statement said.

A strike in the central al-Jumhuriyah area killed nine people, including three Fallujah General Hospital. Twelve were injured, including six women and thr neighboring houses that were damaged in the blast.

A second strike in the city's southern Al-Shuhada neighborhood killed two m

The military, which regularly accuses hospitals of inflating casualty figures, sa building where about 25 insurgents were moving weapons on the outskirts of

Intelligence sources said insurgents were using the site to store weapons and c

"Throughout the operation, multiple measures were employed to ensure no in

In control of Samarra

Monday's violence comes a day after Iraqi security forces emerged to patrol Samarra following a morale Samarra.

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American and Iraqi commanders have declared the opening of Baghdad, a successful first step in a major push to wrest the city from insurgents in preparation for January elections.

But locals were angered by the civilian death toll.

Of the 70 dead brought to Samarra General Hospital since Sunday, 40 were women, hospital official Abdul-Nasser Hamed Yousif said. He also said that 10 were treated.

Two bodies possibly Westerners

Twelve miles south of Baghdad, two bodies — those of a man and a woman — were found Sunday, with police saying the corpses had been shot.

Reuters

An Iraqi family sits amid the rubble outside their home in the northern city of Samarra on Sunday.

Police Lt. Hussein Rizouqi said no identification was found on the bodies. The man, he said, had blond hair, he said.

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[Mystery over whereabouts of British hostage](#)

Insurgents have used kidnappings and grisly beheadings in their 17-month campaign to drive the United States and other foreigners out of Iraq. At least 200 foreigners have been kidnapped since April, some as political leverage and others for ransoms.

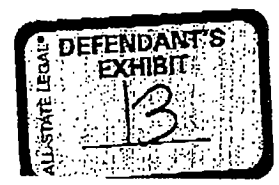
The Associated Press and Reuters contributed to this report.

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Deadly attack on Iraq Green Zone

Thursday, May 6, 2004 Posted: 11:56 AM EDT (1556 GMT)

BAGHDAD, Iraq (CNN) – A rocket attack in the vicinity of Baghdad's Green Zone has killed two Iraqi civilians and wounded at least five others, U.S. military and hospital sources said.

Three rockets were launched, one of them hitting inside the zone, which serves as the U.S.-led coalition's headquarters.

A U.S. soldier was slightly wounded, the sources said.

The other rockets landed near Baghdad's fairgrounds and Iraq's Foreign Ministry, just outside the zone.

Figures differed about the number of Iraqis wounded. Iraqi hospital sources said nine Iraqis were wounded while the Coalition Press Information Center said five Iraqis were wounded.

Also Sunday, a U.S. soldier was shot and killed in a non-combat incident that took place while soldiers were preparing for patrol, the coalition said. The soldier was from the 1st Infantry Division, based in Samarra, about 70 miles north of Baghdad.

Sunday is a holiday in Iraq, and Iraqi officials have asked citizens not to gather in large groups for security reasons.

Saturday night, insurgents launched at least five rockets on a U.S. military position in Fallujah, killing two soldiers and wounding six other troops, a U.S. military spokesman said.

Five soldiers and one sailor were among the wounded in the incident, which happened around 7 p.m. (11 a.m. ET), the spokesman said.

European Union President Romano Prodi on Sunday cautioned Americans not to "confuse terrorism with the Iraqi war" in their assessment of Europe's reactions to U.S. foreign policy.

Speaking on "Fox News Sunday," Prodi

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VIDEO


Mortar attacks in Iraq
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Explosion captured on tape.
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Iraq: One year later
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said the war in Iraq "was a mistake."

He called it "a break" in a political strategy "of trying to make things better."

"I don't think the fight against terrorism is better because of the war in Iraq," Prodi said. "Clearly, it is not."

Anti-war protesters held rallies around the world this weekend to mark the anniversary of the U.S.-led invasion of Iraq.

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Thousands of Sunni and Shi'ite Muslims rallied in Baghdad on Friday.

In the United States, rallies were held in Los Angeles, California; Fayetteville, North Carolina; and Crawford, Texas, where President Bush has a ranch.

Demonstrators against the Iraq war also gathered in England, Japan, South Korea, the Philippines and Australia. (Full story)

In Cairo, Egypt, protesters burned a U.S. flag and called Bush a liar, while thousands of demonstrators braved a downpour in Tokyo, Japan, to express their displeasure with the U.S.-led effort. Some carried signs depicting the Statue of Liberty about to launch a missile.

Protesters carried signs in London, England, calling Bush the "world's worst terrorist" and labeling Prime Minister Tony Blair a "Blair." Two protesters scaled Big Ben, then stood for hours just beneath the face of the clock tower with a sign reading "Time for Truth."

In Rome, Italy, demonstrators set off colorful smoke flares at the residence of Prime Minister Silvio Berlusconi.

Despite the rallies, the chief architect of the war stood firm on Saturday.

U.S. President George W. Bush defended the U.S. invasion and occupation of Iraq, during his weekly radio address.

"The liberation of Iraq was good for the Iraqi people, good for America and good for the world," the president said Saturday.

Bush said "violent thugs and murderers" were at work in Iraq, but said the war's result was that "the worst regime in the region was given way to what will soon be among the best."

In addition to the two soldiers killed Saturday night, there were three other U.S. deaths Friday, according to the coalition: a Marine died from hostile fire in western Iraq; a 1st Infantry Division soldier died of injuries received in a Bradley Fighting Vehicle accident in Baji Wednesday that also killed another soldier; and a 1st Infantry Division soldier was electrocuted while working on communications equipment north of Ba'qubah.

With the deaths, 578 U.S. forces have died in the year-long Iraq war -- 392 from hostile fire, 186 from non-hostile incidents.

Of those, 439 have died since May 1, when U.S. President George W. Bush declared an end to major combat -- 277 from hostile fire, 162 from non-hostile incidents.

CNN's Sally Holland, Jane Arraf, Walter Rodgers and Klanne Sadeq contributed to this report.

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Bombers penetrate Baghdad's Green Zone

PRINT FRIENDLY EMAIL STORY

The World Today - Friday, 15 October , 2004 12:14:00

Reporter: Alison Caldwell

ELEANOR HALL: Iraq's President Ghazi al-Yawar is warning that escalating security problems in the country could force him to delay the national elections scheduled for January.

Overnight in Baghdad, suicide bombers broke through the supposedly impenetrable Green Zone, the compound where the US and British Embassies and the Iraqi government offices are located, and detonated bombs which killed at least 10 people.

The group led by Jordanian militant Abu Mussab Al-Zarqawi claimed responsibility for the attack and a few hours later US warplanes and helicopters intensified their assault on the city of Fallujah where Al-Zarqawi is thought to be in hiding.

Negotiations with a delegation from Fallujah had broken down a day earlier when the Iraqi government demanded that the people of Fallujah hand over militants or face a military onslaught.

And as the holy month of Ramadan begins in Iraq, there are fears the violence is set to intensify.

As Alison Caldwell reports.

ALISON CALDWELL: It was just a matter of time before an attack like this would happen inside Green Zone in Baghdad.

Due to security fears in the capital, the coalition recently opened up an area inside the Green Zone, known as the Suc or "Vendors Alley", where the people who live and work inside the compound, can do their shopping safely.

Hundreds of traders queue up outside the entrance each morning, with people coming and going throughout the day. There have been suicide bombings at the entrance, but this was the first time an attack had been carried out from within.

Paul Jordan is a security consultant with AKE Asia Pacific. He's just returned from Baghdad.

PAUL JORDAN: There are a lot of people living and working inside that particular area, so, you know, they're trying to make it a little bit more livable for those people.

ALISON CALDWELL: Is it the case, though, they're now really going to have to reassess having that market area where people can come and go?

PAUL JORDAN: Well, I think they will... I mean they'll have to assess it, but also have a very

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close look at their security and try to determine how these people brought those products inside that particular area.

Now, they could have done it a number of different ways, because as I said that area is quite huge and it's a difficult task for the Americans to secure that. They're doing a fantastic job the Americans, but it is a big area.

Also processing all those people every day, you know some people can slip through the cracks.

You've got to remember... I mean, these people, they don't particularly care for their own well being anymore and if they get caught, well, you know they're happy to live with that. So they are happy with taking a huge risk at being caught.

You've also got to remember – it doesn't take a great deal of explosives or equipment to make a bomb. If you had three or four people bringing a little piece of that device in then together they make one tidy bomb.

ALISON CALDWELL: So in fact... I mean, we've always been told that the Green Zone is one of the safest places in Iraq. It isn't really?

PAUL JORDAN: That it is a stretch and also given the fact that it's the headquarters, I guess, for the coalition forces, all located within that particular area, and it is very heavily fortified.

But it also gets mortared on a regular occasion. You know, mortars that they just pull up, fire some mortars, just to see where they land. Most of the time – 90 per cent of the time those mortars just land in a paddock somewhere, but still inside that Green Zone. It is a targeted area.

ALISON CALDWELL: According to eyewitnesses, two Jordanian men entered one of the cafes inside Vendors Alley just before 1 o'clock in the afternoon.

Larry Kaplow is a journalist with Cox Newspapers in Baghdad, he's spoken to several people who witnessed the attacks.

LARRY KAPLOW: One of the men sat down and, they said, kept a hand on the table and other hand in his... in the bag, in one of the bags. And the other man spent most of the time, according to this witness, standing next to him and talking to him very fervently about something that they said they didn't overhear, and they said afterwards they think it was sort of encouraging him, brainwashing him, coaxing him into blowing himself up.

ALISON CALDWELL: Twenty five minutes later one of the men got up and threw a bag over his shoulder. He then left the cafe and jumped into a taxi.

Larry Kaplow again.

LARRY KAPLOW: A few minutes after that they heard the blast at the bazaar, a few hundred metres from there and people were just sort of taking that in when according to them the man who was sitting there blew up his bag.

ALISON CALDWELL: The US military is expecting more attacks over the holy month of Ramadan. In a statement it said security would be significantly increased in the Green Zone and

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at other key locations in and around Baghdad. Those new measures include more armed patrols, intensified security at the airport and air patrols.

Supporters of Jordanian militant Abu Mussab Al-Zarqawi have claimed responsibility for the bombings. In a statement posted on an Islamic website the group describes it as one of their most successful operations.

Zarqawi is America's most wanted man in Iraq.

He and his supporters are believed to be hiding out in the Sunni Muslim stronghold of Fallujah, west of Baghdad.

(Sound of chaotic crowd)

Soon after the attacks on the Green Zone, the US launched another series of air raids on Fallujah, targeting buildings, which it claims, were being used by Zarqawi's supporters.

Five people were killed and 12 wounded.

As people dug through the rubble of demolished homes looking for survivors, residents said those killed were all innocent.

RESIDENT 1 (translated): A car was passing by here, then it parked close to the house. US troops started firing on the house – it's a family who have nothing to do with the Mujahedin.

RESIDENT 2 (translated): US aircraft bombed this house, which belongs to a poor family. The US troops claimed that this house sheltered terrorists, but in fact there is nobody here targeting the Americans.

ALISON CALDWELL: Yesterday, Iraq's interim Prime Minister Iyad Allawi demanded residents of Fallujah hand over Zarqawi and his men, or face military force. Angered by the ultimatum, a delegation of sheikhs and civil leaders suspended peace talks with the interim government.

Meanwhile in other attacks in the Iraqi capital gunmen killed a journalist, Dina Hassan, and a judge in two separate incidents.

One US soldier was killed when his patrol came under fire in central Baghdad and another died when a roadside bomb exploded. Further north in Baquba, two senior Iraqi army officials were shot dead, while another two people were killed by a roadside bomb in Mosul.

National elections are due to be held in January, but today Iraqi President Ghazi Al Yawar said the elections could be delayed owing to the security problems.

ELEANOR HALL: Alison Caldwell with our report.

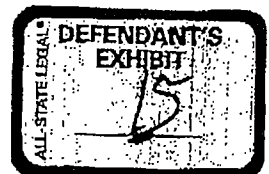
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Camp Victory LSA

What a safe place to live

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OCT-18-2004 19:19

P.28/42

The safest place

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- On Sept 30, 2004 at 4:30am a rocket was launched by insurgents. That rocket zoomed over head and landed directly on a trailer. A direct hit killing one soldier and wounding badly seven. The soldier that died burned to death because the roof heavy aluminum roof caved in on him. SFC [redacted] heard the soldier scream out for help but by then the flames had engulfed the trailers and ammo was cooking off, it was too late. In all twelve people lost everything to the fire. Firearms, ammo, clothes etc. The memorial service is Oct 2, 2004. The soldier never had a chance. He was sleeping. I sleep 150m from the impact zone. They know where we live and sleep. They work on our camp. They already know that they hit their mark this time. The workers here go back home and report what they see. This place is supposed to be so safe to have a trial.

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OCT-18-2004 19:19

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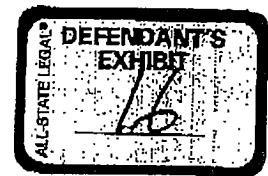
**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

The Record of Trial has been reviewed for release under the provisions of the Freedom of Information Act. The documents described as follows have been removed from this copy of the record because the release would be in violation of the DOD Freedom of Information Act Program, DOD 5400.7-R. Exemption 6,7(C), and 7(F):

Bates Pages 27224-27227 Photographic Exhibits

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DEPARTMENT OF THE ARMY
HEADQUARTERS, III CORPS
VICTORY BASE, IRAQ
APO AE 09342-1400

REPLY TO
ATTENTION OF

Criminal Law Division

Mr. [REDACTED] (b)(6)4, (7)(C)4
SSN [REDACTED]
572 Market Street
Newark, New Jersey 07105
Telephone: 973-589-7744/Fax: 973-589-8012

Dear Mr. [REDACTED] (b)(6)4, (7)(C)4

The purpose of this letter is to summarize the arrangements made for you to travel to Iraq for the court-martial hearing in United States v. Sergeant [REDACTED] as well as explain the risks associated with travel to Iraq, a combat zone.

You previously notified the ^{(b)(6)5, (7)(C)5} III Corps, Office of The Staff Judge Advocate that you had been retained by Sergeant [REDACTED] to represent him at his pending court-martial. Based on the pending trial date you will arrive in Kuwait City, Kuwait on or about 17 October 2004, and depart Kuwait on or about October 25, 2004, to return to the States.

We are making arrangements for you to be flown into Baghdad International Airport (BIAP) after you arrive in Kuwait. From BIAP, you will convoy to Victory Base, Iraq for the court-martial. We are making arrangements for you to stay in temporary lodging on Victory Base. Like visiting military defense counsel, you will be staying in a climate-controlled tent with a cot and outdoor showers and latrines. Due to the high threat conditions, we cannot transport you to local hotels. Please bring all personal hygiene products for your stay in country as well as suitable clothing for a hot, dry environment (long-sleeved shirts and trousers, a sun hat, sturdy shoes or light-weight boots). Captain [REDACTED] the senior defense counsel, will coordinate with Trial Defense Service at Victory Base for transportation on the compound; there is also a shuttle bus system that travels from your living area to the courthouse. (b)(6)2, (7)(C) -2

You will be traveling into a combat zone in a dangerous part of the world. By agreeing to come to Iraq, you assume several risks including, but not limited to, serious injury or death. First, by flying on a Government aircraft, you will be a potential target of enemy insurgents. Enemy forces have been known to fire missiles or rocket-propelled grenades (RPGs) at aircraft, which can cause substantial injuries or death if successful. Second, by convoying from BIAP to Victory Base, you will again be a potential target of enemy insurgents who have been known to fire weapons (rifles and rocket-propelled grenades) and to plant improvised explosive devices (IEDs) alongside roads traveled by Coalition Forces. Third, by staying on Victory Base, you assume the risk of being killed by mortar, rocket or other attacks. Recently the number of attacks has increased.

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- 2 -

Pursuant to Rule for Court-Martial (RCM) 506(a), a military accused is entitled to civilian counsel "if provided at no expense to the Government." We have created fund cites for your travel into Iraq and will require reimbursement for travel, lodging, and meals after you arrive in country.

Before allowing you to enter Iraq, you must agree to hold the United States harmless, assume the risks set forth above, and affirmatively waive your right to sue the Army or any other governmental agency for injury or death. You must also agree to reimburse the Government for expenses incurred for travel and lodging during this visit. Please sign this letter upon receipt and e-mail a scanned copy (with your signature) to our office. We cannot complete your travel orders without your acknowledgement of the costs and risks of this travel.

If you have any questions or concerns, please contact me at [Redacted]@vcmain.hq.c5.army.mil.

(b)(6)2; (b)(7)(C)2

Sincerely,

[Redacted Signature]

CF:
Detailed Defense Counsel
Trial Counsel

Major, U.S. Army
Trial Counsel, Criminal Law Division

Hold Harmless Agreement:

I hereby acknowledge receipt of this letter. I further acknowledge that I will be traveling into a war zone and that the Army cannot guarantee my safety. I also acknowledge that I may be killed or injured while traveling to, from, or in Iraq. I knowingly assume these risks and waive any right I (or my heirs) might otherwise have to sue the Army or any other governmental organization for my injuries or death. I acknowledge that I will be required to reimburse the Government for expenses incurred by my travel and lodging in Iraq. I further agree that I, my heirs, executors, administrators or assigns agree to indemnify and hold harmless the United States of America, its agents, servants, and employees from and against any and all such causes of action, claims or interests incident to or resulting from litigation of claims relating to travel to Iraq, including wrongful death claims.

[Redacted Signature]

(b)(6)4; (b)(7)(C)4

Civilian Defense Attorney

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More car bombs target Iraq's green zone

October 5, 2004 - 6:19AM

Two car bombs near Baghdad's Green Zone and three other explosions brought the day's bombing toll to at least 24 dead and more than 100 wounded.

Insurgents unleashed a pair of powerful car bombs near the symbol of US authority in Iraq - the heavily fortified Green Zone - where the US Embassy and key government offices are located as well as hotels occupied by hundreds of foreigners.

More than three dozen car bombings since September illustrate the militants' seeming ability to strike at will despite recent pledges by the United States and Iraq to intensify the suppression of insurgents and the weekend's morale-boosting recapture of rebel-held Samarra.

In the latest hostage dramas, two Indonesian women were released by their kidnappers, but a separate militant group claimed to have killed a Turkish man and a longtime Iraqi resident of Italy.

Turning their bombs against higher-profile targets in the capital, insurgents detonated a four-wheel drive packed with explosives at the western entrance of the heavily fortified Green Zone, said Interior Ministry spokesman Col. Adnan Abdul-Rahman.

"I was thrown 10 yards (metres) away and hit the wall," said Wissam Mohammed, 30, who was visiting a nearby recruiting centre for Iraqi security forces.

His right hand broken, his head wrapped in bandages and his clothes stained with blood, he lay in a bed at Yarmouk Hospital.

The hospital took in 15 bodies and 81 wounded from the explosion, said Sabah Aboud, the facility's chief registration official.

An hour later, a second car bomb targeted a convoy of vehicles from a civilian security outfit as it left a complex of high-rise hotels where hundreds of foreign contractors and journalists reside.

As people rushed to help, unidentified gunmen began shooting from the rooftops and police returned fire, said Tahsin al-Kaabi, of the Facility Protection Service, a US-trained civilian guard force.

At least six people were killed and 15 wounded in the day's second attack, said Tahsin al-Frejji, another FPS member.

No coalition forces were injured in either of the blasts, said Major Phil Smith, a spokesman for the US 1st Cavalry Division.

But the US command reported that two of its soldiers had been killed at a Baghdad traffic checkpoint Sunday.

A pickup truck packed with dates plowed into the three-vehicle convoy as it left a parking lot shared by several hotels, al-Frejji said at the scene.

One of the four-wheel drive vehicles was destroyed and the pickup truck carrying the explosives was ripped in half, with one part left dangling from a shop sign on the opposite side of the street.

At least five other cars were charred, including one of the targeted vehicles, which had a burned body left sitting in the front passenger seat. A head and other body parts were strewn in the road amid shards of glass.

"I was on my way to work. We heard a big boom and I briefly passed out," said Razaq Hadi, 36, who was riding a minibus that was damaged in the blast.

"I saw seven of the passengers who were seriously wounded being taken out through the broken windows."

The driver was killed. "I saw his body torn apart," said Hadi, who was covered in the man's blood.

Both the Green Zone and the area around the hotels have been the target of previous suicide

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attacks that have killed dozens of people.

Last month saw at least 39 car bomb attacks in Iraq - the highest number in any month since the US-led invasion in March 2003.

On Sept. 30, insurgents set off a series of vehicle explosives that killed at least 35 children and seven adults at a government ceremony in Baghdad.

Two more car bombs exploded Monday in Mosul, 360 kilometres northwest of Baghdad.

Two people believed to be transporting explosives and a civilian bystander were killed in one of the blasts, said Capt. Angela Bowman, a military spokeswoman.

Hospital officials said they treated 11 wounded.

The second bomb targeted a US Army convoy, injuring one American soldier, Bowman said.

In Baqouba, a police commander was assassinated in a drive-by shooting, police said.

Insurgents also fired mortar rounds at a municipal building, killing one person and wounding seven in the city 57 kilometres northeast of Baghdad.

There were also assassinations in Baghdad, where gunmen killed a senior official of Iraq's Sciences and Technology Ministry and a female employee near the southeastern Zayona suburb, Abdul-Rahman said.

Monday's violence came despite promises by US and Iraqi officials to crack down on insurgents ahead of elections slated for January and wrest key parts of the country from their control.

In rebel-held Fallujah, American warplanes unleashed strikes against suspected terrorist hideouts and weapons caches.

At least 11 people, including three women and four children, died in the attacks and 12 others were wounded, said officials at the city hospital.

The military, which regularly accuses hospitals of inflating casualty figures, said the strikes targeted followers of Jordanian terror mastermind Abu Musab al-Zarqawi.

The military said a "precision strike" hit a building where about 25 insurgents were moving weapons on the outskirts of Fallujah.

Intelligence sources said insurgents were using the site to store weapons and conduct training, the military said in a statement.

Coalition forces also struck a site where members of al-Zarqawi's network were believed to be meeting, another military statement said.

It was the latest in weeks of strikes in the city 65 kilometres west of Baghdad aimed at groups with links to terrorists, particularly al-Zarqawi's network.

Followers of the Jordanian militant have claimed responsibility for a string of deadly bombings, kidnappings and other attacks across the country.

The two kidnapped Indonesian women, Rosidah binti Anan and Rafikan binti Arning, were handed over Monday to the United Arab Emirates Embassy in Baghdad, said an Emirates diplomat.

Abu Dhabi TV broadcast footage of the pair in long black cloaks known as abayas, sitting quietly in a lounge at the Emirates Embassy in Baghdad. They appeared nervous but unharmed.

The women, who were working as maids in Iraq, were among 10 people - including two Lebanese and six Iraqis - kidnapped by militants calling themselves the Islamic Army in Iraq.

They were first seen Thursday in a video broadcast on Arabic TV station Al-Jazeera.

The kidnappers later demanded that Indonesia release terror suspect Abu Bakar Bashir in exchange for the women. Bashir is in jail awaiting trial for allegedly heading an al-Qaeda-linked terror group.

The fate of those kidnapped with the two Indonesian women was not known.

Another militant group claimed Monday to have shot and killed the Turkish and Iraqi men, Al-Jazeera reported. The claim could not immediately be verified.

The station said it had received video footage from a group calling itself the Salafist Brigades of Abu Bakr Al-Sidiq accusing the two men of being spies. Al-Jazeera identified the Iraqi as Anwar

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Wali but did not give the Turkish man's name.

More than 140 foreigners have been kidnapped in Iraq by a range of groups, some holding them for ransom while others have set political conditions for their release. At least 26 hostages have been killed.

In Samarra, 95 kilometres northwest of Baghdad, US troops patrolled in tanks, armoured personnel carriers and Humvees as sporadic gunfire broke the relative calm Monday.

US soldiers, accompanied by Iraqi translators carrying lists, entered houses asking about specific persons.

Iraqi National Guard forces have captured 40 foreign fighters, including Egyptians, Sudanese and a Tunisian, since entering Samarra early Friday, Defence Minister Hazem Shaalan told Arab TV network Al-Arabiya.

In other developments:

-The headless body of a police officer, still in his uniform, was discovered in the area of Kirkuk, north of Baghdad.

-Patrolling US troops, returning fire on rebels, killed five persons and wounded five others in the Sunni Triangle city of Ramadi, witnesses a hospital official said. The military had no immediate information on the incident

-Poland's Defense Minister Jerzy Szmajdzinski said his country should withdraw its troops from Iraq at the end of next year - the first time a Polish official has indicated when Warsaw might end its presence. He later said his remarks were "not the official position of the government."

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OCTOBER 17, 2004

\$1.25

U.S. loses 2 copters in Baghdad

2 soldiers die in crashes, and 5 churches attacked

BY TIMI TRAM
ASSOCIATED PRESS

BAGHDAD — Two Army helicopters crashed last night in Baghdad, killing two American soldiers and wounding two others, the U.S. command said. The crashes came on a day of violence in the Iraqi capital as Muslims began marking the holy month of Ramadan.

Homemade bombs exploded at five churches before dawn, and a hospital and a hotel later came under mortar fire, killing a hospital worker.

The Army helicopters were down about 8:30 p.m. in the southwestern part of the city, the 1st Cavalry Division said, at least the 26th and 27th helicopters lost in Iraq since May 2003, according to figures compiled by the Brookings Institution. The division said the cause of the latest crashes was not immediately known.

Some other members of the American military had been killed the day before, along with an Iraqi interpreter, in a series of bombings in the west and north of Iraq, the U.S. command said.

The homemade bombs exploded in quick succession at five churches in four separate Baghdad neighborhoods, causing no casualties but alarming the Christian minority community, which had been on edge since August, when coordinated attacks hit four churches in Baghdad and one in Mosul. Those attacks killed at least 12 people and wounded dozens, the first significant strike against Iraq's estimated 700,000 Christians since the U.S. invasion of Iraq.

"It is a criminal act to make Iraq unstable and to create religious difficulties," the Rev. Zaya Yousef of St. George's Church said of the latest attacks. "But

[See BASHBAG, Page 9]

027236

TOTAL P. 42

(b)(6);(7)(C)-3

SWORN STATEMENT

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

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	2. DATE (YYYYMMDD) 2004/09/19	3. TIME 4:50pm	4. FILE NUMBER
5. LAST NAME FIRST NAME MIDDLE NAME	6. SSN	7. GRADE/STATUS C-11	
8. ORGANIZATION OR ADDRESS (b)(6);(7)(C)3			

9. (b)(6);(7)(C)5, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

(b)(6);(7)(C)5 is my beloved nephew who I love dearly (b)(6);(7)(C)5
The family affectionately calls (b)(6);(7)(C)5
our little guy who ^{was} always very malleable,
playful, loving and kind. (b)(6);(7)(C)5 would not, could
not willfully harm anyone (his personality, spirit,
and morals would make him question anything going
against them. (b)(6);(7)(C)5

(b)(6);(7)(C)5 is unsafe in Iraq and should be
brought to a neutral country where his ^{very} life is at stake
I am in support of my nephew 150% and feel an
injustice that I can't be there with him at this
critical time of his life. He is alone in a
hostile foreign country, does anyone hear his cry
for his mom, dad, his family. (b)(6);(7)(C)5

I fear for my life and the lives of our family members
if we attempt to travel to Iraq which putting (b)(6);(7)(C)5
in greater danger. by alerting al Qaeda and all

10. EXHIBIT	11. PERSON MAKING STATEMENT (b)(6);(7)(C)5	PAGE 1 OF 2 PAGES
-------------	---	-------------------

ADDITIONAL PAGES MUST CONTAIN THE HEADING (STATEMENT TAKEN AT DATE)

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED. (b)(6);(7)(C)3

(b)(6)3, (7)(C)3

STATEMENT OF

TAKEN AT

DATE

9/19/04

9. STATEMENT (Continued)

of those militant forces who would kill him and the others without any thought.

(b)(6)5,

(7)(C)5

Please, Please bring [redacted] to a neutral country outside of Iraq, either Kuwait, Germany or even safer in the United States of America.

A soldier is as good as his leader, Leaders please stand up to support our soldiers. End of statement

(b)(6)3, (7)(C)3

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 THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE,

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 19th day of Sept 2004 at [redacted]

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(b)(6)1, (7)(C)1

(Typed Name of Person Administering Oath)

Article 136 (b) (4) UCMJ

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

(b)(6)3, (7)(C)3

PAGE 2 OF 2 PAGES

027239

SWORN STATEMENT

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

all (b)(3), (7)(C) 3
except as noted

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 8397 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	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
[REDACTED]	9/19/04	4:52 PM	
5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS	
[REDACTED]	[REDACTED]	C1V	

B. ORGANIZATION OR ADDRESS

9. [REDACTED]

... WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

I am unable to go to Iraq because they're killing Americans.
 CES My cousin, [REDACTED] (b)(3), (7)(C) 5 has never been anything but a wonderful person. The thought that I am unable to show him the support he needs at this time is almost unbearable. I realize these accusations are serious and there must be a trial but why in Iraq? What justifiable ^{reason} can the US Government have to keep these young men, who were willing to die for my freedom, in harms way! Bring him home, try him here. Does character count? [REDACTED] (b)(3), (7)(C) 5's character has never been challenged. He is a respectable, obedient, sweet, loving and caring individual who has and would do anything to help anybody. Bring him home so he'll be safe with a family who loves and wants to support him.

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 2 PAGES
	[REDACTED]	

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.

027240

STATEMENT OF

TAKEN AT

DATED

9/19/04

9. STATEMENT (Continued)

NOAF
US90

All (b)(6) 3i (b)(6) 3
except as noted

AFFIDAVIT

_____, 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

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 19 day of Sept, 2004

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

Article 136 (b) (4) UCMJ

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

027241

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2961; 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.

add (b)3;
 (7)(C)3
 except oo
 noted

1. LOCATION	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
[REDACTED]	9-19-04	4:50pm	
5. LAST NAME FIRST NAME MIDDLE NAME	6. SSN	7. GRADE/STATUS	
[REDACTED]	[REDACTED]	Civ	
8. ORGANIZATION OR ADDRESS			
N/A			

9. [REDACTED] TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
 [REDACTED] is my nephew it is unsafe
 in Iraq for anyone I love my nephew
 [REDACTED] and he has the right to
 be on trial in a soft environment
 I feel that alone is a injustice
 for a person and also the
 family and the america people
 person trial now not at war
 were he could be killed.
 trial should be in a soft
 environment not prof. it should
 be in U.S.A. in Germany Kuwait
 End of statement

(b)6,5;
 7(C)5

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 2 PAGES
	[REDACTED]	

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 BE INDICATED.

077242

STATEMENT OF [REDACTED]

TAKEN AT [REDACTED]

9-19-04

9. STATEMENT (Continued)

All (b)(6)3; (7)(C) 3
except as noted

NOT
USED

AVIT

[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.

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 19th day of September 2004

ORGANIZATION OR ADDRESS

[REDACTED] (Administering Oath)

(b)(6); (7)(C) 1

[REDACTED] (Typed Name of Person Administering Oath)

Article 136 (b) (4) UCMJ

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 2 PAGES

027243

all (b)(6)3, (7)(C)3
except as noted

SWORN STATEMENT

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

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	DATE (YYMMDD)	3. TIME	4. FILE NUMBER
[REDACTED]	9/19/04	4:44 pm	
5. LAST NAME FIRST NAME MIDDLE NAME	6. SSN	7. GRADE/STATUS	
[REDACTED]	[REDACTED]	CIVILIAN	
8. ORGANIZATION OR ADDRESS			
N/A			

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

I am the cousin of Sgt. [REDACTED] and have known him his entire life. [REDACTED] as he is affectionately known by our family has always been a very mannerable, humble, respectful young man. He was very disciplined and athletic as a young child and into his adulthood. He was a star athlete as [REDACTED] and we were so proud to see his picture and articles about his successes in the local newspapers each week. I remember how proud he was when he received his scholarship to go to college in Maryland. He later was so excited to become a soldier in the Army Reserve. He would tell me about his tours with such pride and how he really enjoyed serving his country. I can not understand how [REDACTED] can be penalized for doing what he has done his entire life obeying his superiors. I wholeheartedly support Sgt. [REDACTED] who would be unable to attend trial. I tragically due to personal concerns, therefore, I ask that his trial be moved stateside.

(b)(6)5;
(7)(C)5

(b)(6)5,
(7)(C)5

10. EXHIBIT	11. INITIALS [REDACTED] STATEMENT	PAGE 1 OF 2 PAGES
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" [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.		

STATEMENT OF [REDACTED] TAKEN AT [REDACTED] DATED 9/19/04

9. STATEMENT (Continued)

NOT
[REDACTED]

all (b)(6)3; (7)(C)3

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 [REDACTED] WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR [REDACTED]

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 19th day of September, 2004.

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

Article 136 (b) (4) UCMJ

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 2 PAGES

SWORN STATEMENT

For use of this form, see AR 180-46; the proponent agency is ODCSGIPS

(b)(6)s; (b)(7)(C)s
examples noted

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	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
[REDACTED]	09/19/04	4:30 pm	
5. LAST NAME	6. SSN	7. GRADE/STATUS	
[REDACTED]	[REDACTED]	OJ119A	
8. ORGANIZATION OR ADDRESS			(b)(6)s; (b)(7)(C)s
[REDACTED]			

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

My name is minister [REDACTED] I am [REDACTED] is my older sister, [REDACTED] safety, because nephew. I fear for [REDACTED] of this, a trial in Iraq is highly volatile. [REDACTED] Grandmother, [REDACTED] passed away in 2001, if she were alive today, her voice and presence surely would have been seen and felt. I can say without a shadow of a doubt she would say "Bring my Grandson, Home" a young man of [REDACTED] age although very mature, could not be part of a master mind plan to interrogate Iraq prisoners without the a higher ups' awareness. Please!!! Charge the trial in United States Germany, somewhere other than Iraq before more American Soldiers and [REDACTED] are killed before the trial begins.

(b)(6)s;
(b)(7)(C)s

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 2 PAGES
	[REDACTED]	

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.

(b)(6)s; (b)(7)(C)s

027246

09/20/04 14:31 FAX 7036968419

STATEMENT OF

TAKEN AT

DATED

9/19/04

9. STATEMENT (Continued)

Not used

All (b)(6)3; (b)(7)(C)3
except as noted

AFFIDAVIT

_____, 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.

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 19 day of September, 2004 at _____

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

Article 136 (b) (4) UCMJ

(Authority To Administer Oaths)

(b)(6); (b)(7)(C)1

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

027247

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOP5

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	2. DATE (YYYYMMDD) 9-19-04	3. TIME 4:44 p.m.	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS CIV	

8. ORGANIZATION OR ADDRESS
N/A ALL (b)(6)3; (b)(7)(C)3 except as noted

9. [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
(b)(6)5; (b)(7)(C)5

I am a cousin to [REDACTED] and I basically fear for my life if I were to go over to Iraq.

As the world already sees and know, it is a very dangerous and hostile environment toward Americans especially military soldiers.

At this present time I am very concerned for the safety and the security of [REDACTED]. I feel that the trial should be moved to a more safer place, preferably the U.S.A. — End of Statement [REDACTED]

(b)(6)5, (b)(7)(C)5

10. EXHIBIT	11. INITIALS [REDACTED] IN MAKING STATEMENT	PAGE 1 OF 2 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.

027248

STATEMENT OF [REDACTED] TAKEN AT [REDACTED] DATED 9-19-04

9. STATEMENT (Continued)

NOT
USED

All (b)(6)3; (b)(7)C3
except as noted

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 19th day of September 2004

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

[REDACTED]
Article 136 (b) (4) UCMJ

[REDACTED]
(Authority To Administer Oaths)

(b)(6)1
(b)(7)C1

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

027249

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 2851; E.O. 9397 dated November 22, 1943 ISSN:
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 [redacted] 2. DATE (YYYYMMDD) 09-19-04 3. TIME 1845 4. FILE NUMBER

5. LAST NAME FIRST NAME MIDDLE NAME [redacted] 6. SSN [redacted] 7. GRADE/STATUS CIV.

8. ORGANIZATION OR ADDRESS DA A11(6)3;(7)C3 exact as noted

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

I am the aunt of [redacted] He is my nephew and I love him very much. [redacted] needs to be around family and friends who care for him. I want to be at the trial however I don't have plans on going to Iraq. That's not the place where I want to be. [redacted] is a family man with patience & charm. I hope & pray for the return of [redacted] back to the States. He is well missed by all. End of statement

NOT USED

10. EXHIBIT 11. INITIALS OF PERSON MAKING STATEMENT [redacted] PAGE 1 OF 2 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.

STATEMENT OF [REDACTED] TAKEN AT [REDACTED] DATED Sept. 19, 2004

9. STATEMENT (Continued)

NOT USED

*All (b)(6) 3; (7)(C) 3
except as noted*

AFFIDAVIT

[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 19th day of September, 2004 at [REDACTED]

ORGANIZATION OR ADDRESS [REDACTED]

[REDACTED]
(Signature of Person Administering Oath)

[REDACTED]
(Typed Name of Person Administering Oath)

Article 136 (b) (4) UCMJ

(Authority To Administer Oaths)

*(b)(6)
(7)(C)*

ORGANIZATION OR ADDRESS [REDACTED]

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 2 PAGES

027251

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	2. DATE (YYMMDD)	3. TIME
[REDACTED]	9-19-04	4:30 PM
4. FILE NUMBER		
[REDACTED]		
5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS
[REDACTED]	[REDACTED]	Sgt
8. ORGANIZATION OR ADDRESS	all (b)(6)3;(b)(7)(C)3 except as noted	
N.A.		
9.	I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:	
<p>(b)(6)5; (b)(7)(C)5</p> <p>I'm [REDACTED] father it is not safe for me to go to Iraq my son is in danger and all how go there. but I could like to see it back in the USA i love my son and i would like to see him BACK home in his [REDACTED] Country.</p> <p>End of statement</p>		
<p>NOT USED</p>		
10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 2 PAGES
	[REDACTED]	
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.		

STATEMENT OF

TAKEN AT

DATED

9-17-04

9. STATEMENT (Continued)

[REDACTED]

NOT USED

all (b)(6)3;
(7)(C)3
except as noted

[REDACTED]

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 19 day of Sept, 2004

ORGANIZATION OR ADDRESS

[REDACTED]

(b)(6)1;
(7)(C)1

Article 136 (b) (4) UCMJ

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

all (b)(3); (7)(C)3 except as noted

SWORN STATEMENT

For Use of this form, see AR 190-45; the proponent agency is ODCSDPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2861; 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	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
[REDACTED]	9/19/04	5:23 pm	
5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS	
[REDACTED]	[REDACTED]	CIV	
8. ORGANIZATION OR ADDRESS			
N/A			

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

I would be afraid for the safety of my son and myself. My son ^{(b)(5), (b)(5)} [REDACTED] is a good young man not the bad person he has been made to look like. My son ^{(b)(5), (b)(5)} [REDACTED] has always done what was right. He is a God fearing man. I wish I could be there for nothing more than to let my son ^{(b)(5), (b)(5)} [REDACTED] know his mother has got his back and that I'm in his corner. Although I want to be with him being in Iraq is unsafe. If the trial is moved anywhere else I plan to be there for my son. He is the only child I have and God knows I love him. I need my son safe. [REDACTED]

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 2 PAGES
	[REDACTED]	

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.

027254

STATEMENT [REDACTED] TAKEN AT [REDACTED] DATED 9/19/2004

9. STATEMENT (Continued)

(b)(3);(7)(C)3
except as noted

not used

AFFIDAVIT

[REDACTED] 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 19 day of September, 2004 at [REDACTED]

ORGANIZATION OR ADDRESS [REDACTED]

[REDACTED]
(Signature of Person Administering Oath)

[REDACTED]
(Typed Name of Person Administering Oath)

Article 136 (b) (4) UCMJ

(Authority To Administer Oaths)

(b)(6);
(7)(C)1

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 2 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

1. LOCATION
2. DATE (YYYYMMDD) 9-19-04
3. TIME 4:00pm
4. FILE NUMBER
5. LAST NAME FIRST NAME MIDDLE NAME
6. SSN
7. GRADE/STATUS CIV
8. ORGANIZATION OR ADDRESS

9. [REDACTED] WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
MR. [REDACTED] is my only grandson. I would like for my grandson to come home to us as soon as possible. He couldn't possibly have a fair trial in Iraq. That is why I request for his return. end of Report

NOT USED
all (b)(6) & (7)(C) except as noted

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT
PAGE 1 OF 2 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 BE INDICATED.

STATEMENT OF [REDACTED] TAKEN AT [REDACTED] DATED 9-19-04

9. STATEMENT (Continued)

NOT USED

all (b)(6)3, (b)(6)3

AFFIDAVIT

[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 9 day of 19 2004

at [REDACTED]

[REDACTED] (Signature of Person Administering Oath)

[REDACTED] (Typed Name of Person Administering Oath)

Article 136 (b) (4) UCMI

(Authority To Administer Oaths)

(b)(6); (b)(6)

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 2 PAGES

CERTIFICATE

I HEREBY CERTIFY THAT I AM THE CURRENT CUSTODIAN OF THE PERSONNEL RECORDS OF SPECIALIST CHARLES A. GRANER JR., SSN: [REDACTED] HHC 16TH MP BDE (ABN) VICTORY BASE, IRAQ APO AE 09342, AND THAT THE ATTACHED DA Form 4187, dtd 25 Jan 04 & DA FORM 2-1 IS A TRUE AND ACCURATE COPY AS MAINTAINED, IN ACCORDANCE WITH REGULATION, IN THE SOLDIER'S RECORDS.

[REDACTED]

2LT, AG
Brigade Adjutant

(b)(6)2; (7)(c) 2

original

027258

PERSONNEL ACTION

For use of this form, see AR 600-8-6 and DA PAM 600-8-21; the proponent agency is ODCSPER

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: Title 5, Section 3012; Title 10, USC, E.O. 9397.
 PRINCIPAL PURPOSE: Used by soldier in accordance with DA PAM 600-8-21 when requesting a personnel action on his/her own behalf (Section III).
 ROUTINE USES: To initiate the processing of a personnel action being requested by the soldier.
 DISCLOSURE: Voluntary. Failure to provide social security number may result in a delay or error in processing of the request for personnel action.

1. THRU (Include ZIP Code) CPL [REDACTED] 372ND MP CO APO AE 09335-1322 CAMP VIGILANT, IRAQ	2. TO (Include ZIP Code) ATTN: CPL GRANER CHARLES. 372ND MP CO APO AE 09335-1322 CAMP VIGILANT, IRAQ	3. FROM (Include ZIP Code) COMMANDER 372ND MP CO APO AE 09335-1322 CAMP VIGILANT, IRAQ
---	--	--

SECTION I - PERSONAL IDENTIFICATION

4. NAME (Last, First, MI) GRANER JR, CHARLES A.	5. GRADE OR RANK/PMOS/AOC E-4/ CPL	6. SOCIAL SECURITY NUMBER [REDACTED]
--	---------------------------------------	---

SECTION II - DUTY STATUS CHANGE (AR 600-8-6)

7. The above soldier's duty status is changed from _____ to _____ effective _____ hours, _____

SECTION III - REQUEST FOR PERSONNEL ACTION

8. I request the following action: (Check as appropriate)

<input type="checkbox"/> Service School (Enl only)	<input type="checkbox"/> Special Forces Training/Assignment	<input type="checkbox"/> Identification Card
<input type="checkbox"/> ROTC or Reserve Component Duty	<input type="checkbox"/> On-the-Job Training (Enl only)	<input type="checkbox"/> Identification Tags
<input type="checkbox"/> Volunteering For Oversea Service	<input type="checkbox"/> Retesting in Army Personnel Tests	<input type="checkbox"/> Separate Rations
<input type="checkbox"/> Ranger Training	<input type="checkbox"/> Reassignment Married Army Couples	<input type="checkbox"/> Leave - Excess/Advance/Outside CONUS
<input type="checkbox"/> Reassignment Extreme Family Problems	<input type="checkbox"/> Reclassification	<input type="checkbox"/> Change of Name/SSN/DOB
<input type="checkbox"/> Exchange Reassignment (Enl only)	<input type="checkbox"/> Officer Candidate School	<input checked="" type="checkbox"/> Other (Specify) LATERAL TRANSFER TO SPECIALIST E-4
<input type="checkbox"/> Airborne Training	<input type="checkbox"/> Asgmt of Pers with Exceptional Family Members	

9. SIGNATURE OF SOLDIER (When required)	10. DATE (YYYYMMDD)
---	---------------------

SECTION IV - REMARKS (Applies to Sections II, III, and V) (Continue on separate sheet)

LATERAL FROM: CORPORAL/ E-4
 LATERAL TO: SPECIALIST/ E-4
 AUTHORITY: AR140-158 CHAPTER 3-8
 EFFECTIVE DATE: 20040125
 DATE OF RANK: 20040125
 SPECIAL INSTRUCTIONS: NONE

all
 (6)(6)2; (7)(C) 2

SECTION V - CERTIFICATION/APPROVAL/DISAPPROVAL

11. I certify that the duty status change (Section II) or that the request for personnel action (Section III) contained herein -

HAS BEEN VERIFIED RECOMMEND APPROVAL RECOMMEND DISAPPROVAL IS APPROVED IS DISAPPROVED

12. COMMANDER/AUTHORIZED REPRESENTATIVE [REDACTED] ILT, MP Commanding	13. SIGNATURE [REDACTED]	14. DATE (YYYYMMDD) 2004 01 25 20021138
--	-----------------------------	---

027259

SECTION I - IDENTIFICATION DATA

1. NAME GRANER, CHARLES A. Jr. 2. S.S.N. [REDACTED]

SECTION II - CLASSIFICATION AND ASSIGNMENT DATA

3. MOS EVALUATION SCORES

MOSC	YR & MO	SCORE	YR & MO	SCORE	YR & MO	SCORE

4. ASSIGNMENT CONSIDERATIONS

SECTION II - CLASSIFICATION AND ASSIGNMENT DATA (Continued)

6. MILITARY OCCUPATIONAL SPECIALTIES

MOSC	TITLE	DATE
(P) 95B(10)	MILITARY POLICE	020319
(S) 71L(10)	Admin Spec.	020319

7. AVIATION ASI & GUNNERY QUALIFICATION CONT 8. APTITUDE AREA SCORES CONT

AIRCRAFT		INSTR PILOT		GUNNERY SYSTEM		AREA	SCORE	AREA	SCORE
F/W	R/W	F/W	R/W	TNG	INSTR	GT	129		
						GM	137		
						EL	135		
						CL	132		
						MM	114		
						SC	136		
						CO	128		
						FA	126		
						OF	111		
						ST	133		

5. OVERSEA SERVICE

FROM	THRU	AREA AND COUNTRY	MO	TYPE	CONT NTC	DEPN ARR OS
91 01 14	91 05 28	SAUDI	5	TDY		
03 02 24		SW ASIA (IRAQ)		TDY		

9. AWARDS, DECORATIONS & CAMPAIGNS CONT

NAT-DEF-SVC-MDL -2/MET-UNIT-COM-RBN/	DATE		
NAV-UNIT-COM-RBN/	PLACE Fullsborough VA		
SEL-MAR-CORP-REV-MDL/SEA-SVC-DEP-RIB	10. OTHER TESTS CONT		
KU-LIB-MDL/SW-ASIA-SVC-SM-W-BSS-2/	TEST	DATE	SCORE
KU-LIB-MDL(K)/ARCM()	MDB		
ARMED-FCS-RES-MDL W/M DEVICE	OCT		
ARMY-SVC_RBN	DLAT		
	OQI-1		
	FAST		
	OB		
	WOCS		
9MM 15 02 QUAL BAD 1XF			
M16 16 02 QUAL BAD 1XF			

11. AMERICAN BOARD CERTIFICATION & LICENSES OR CERTIFICATES HELD CONT

12. LANGUAGE PROFICIENCY

DA FORM 330 SUBMITTED	DATE
-----------------------	------

PERSONNEL QUALIFICATION RECORD - PART II

027260

DOD-052735

SECTION II - CLASSIFICATION AND ASSIGNMENT DATA (Continued)

SECTION III - SERVICE, TRAINING AND OTHER DATES

13	PILOT RATINGS			
	ORIGINAL	DATE	CURRENT	DATE

14	FLYING STATUS			CONT

INSTRUMENT CERTIFICATION

15	INTERNSHIPS, RESIDENCIES AND FELLOWSHIPS			CONT
	HOSPITAL	TYPE OF SERVICE	MONTHS	YEAR

HOSPITAL/TEACHING APPOINTMENTS AND PRIVATE PRACTICE

FROM	THRU	INSTITUTION/LOCATION	TYPE	DURAT	CONT
------	------	----------------------	------	-------	------

18. APPOINTMENTS AND REDUCTIONS

GRADE	COMP	EFFECTIVE DATE	DATE OF ELIG./RANK
-------	------	----------------	--------------------

PVT			88 06 14
PFC			88 09 08
LCPL			88 12 08
PFC	USAR	01 12 20	
CPL	USAR	02 01 29	

19. SPECIALIZED TRAINING

SUBJECT	DATE
---------	------

ATP 21-114 (BCT)	
Geneva-Hague Conventions	
Military Justice	
Benefits of Honorable Discharge	

20. BASIC ENLISTED SERVICE DATE (BESD)

DATE (BESD)

21. TIME LOST (Sec. 972, Title 10, USC)

FROM	THRU	DAYS	REASON
------	------	------	--------

17. CIVILIAN EDUCATION AND MILITARY SCHOOLS

SCHOOL	MAJOR/COURSE/MOSC	DURAT	COMP	YEAR
--------	-------------------	-------	------	------

LACKLAND AFB, TX	GENERAL	3	YES	1986
	LAW ENFORMENT	6WK	YES	1988

SECTION IV - PERSONAL AND FAMILY DATA

22. PHYSICAL STATUS	23. PLACE OF BIRTH AND CITIZENSHIP
---------------------	------------------------------------

HEIGHT	WEIGHT	GLASSES	SELF	PITTSBURGH, PA
5'7"	145	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	SPOUSE	

DATE OF EXAM	CITIZENSHIP OF SPOUSE
--------------	-----------------------

24. NUMBER OF DEPENDENTS

ADULT	CHILDREN	25. HOME OF RECORD/ADDRESS
-------	----------	----------------------------

0	2	[REDACTED]
---	---	------------

26. CIVILIAN OCCUPATION

JOB TITLE:	DOT CODE	CRITICAL OCCUPATION	NO. MONTHS EMPLOYED	MOSC
------------	----------	---------------------	---------------------	------

		<input type="checkbox"/> YES <input type="checkbox"/> NO		
--	--	--	--	--

DUTIES PERFORMED

EMPLOYER

--

027261

DOD-052736

SECTION VII - CURRENT AND PREVIOUS ASSIGNMENTS

35. RECORD OF ASSIGNMENTS							CONT	
EFFECTIVE DATE	DUTY MOSC	PRINCIPAL DUTY	ORGANIZATION AND STATION OR OVERSEA COUNTRY	NON-DUTY DAYS BP YR/MO	NON-RATED DAYS EP YR/MO	TYPE REPORT		
88 04 01		MARINE CORPS RESERVES						
		881210-880613 AD	MCADET AFMTC LACKLAND AFB, TX					
		901204-910603 AD (DESERT SHIELD/STORM)	HQSVC BN 2DFSSG CAM LEJ NC					
96 03 31		DISCHARGE MARINE CORPS RESERVES						
01 12 20	95B10	MILITARY POLICE (USAR READY)	363RD MP CO, GRAFTON, WV 26354-1689					
02 01 07		ORD TO ACT MIL SVC (NOBLE EAGLE)	ORD M-012-002 DTD 020112					
02 01 30	95B10	MILITARY POLICE	1079TH, FT DIX, NJ					
02 06 24	95B10	MILITARY POLICE	DET 3, 363RD MP CO, CARLISLE, PA					
02 10 28		RELEASE FROM AD	ORD 273-0051 DTD 020930					
02 10 29	95B10	MILITARY POLICE (USAR READY)	363RD MP CO, GRAFTON, WV 26354-1689					

027263

DOD-052738



DEPARTMENT OF THE ARMY
HEADQUARTERS, 16TH MILITARY POLICE BRIGADE (AIRBORNE)
CAMP VICTORY, IRAQ, APO AE 09342

REPLY TO
ATTENTION OF

ORDERS 72-1

12 March 2004

GRANDER, CHARLES A., CPL, 95B10, [REDACTED] 372nd Military Police Company
(WTEZAA), APO AE 09342

You are attached or released from attachment.

Attached to: HHC, 16th Military Police Brigade (Airborne) (WFP6AA) APO AE 09342

Reporting Date: 12 March 2004

Period: Indefinite

Movement Designator Code: NZ03

Additional Instructions: You are attached for personnel service support to include
Awards and Decorations, UCMJ, and all other forms of personnel and legal
administration support.

Format: 745

All 6/62, (716) 2

[REDACTED]

CPT, MP
Brigade Adjutant

DISTRIBUTION:

CDR, 372nd MP CO (1)

CDR, HHC, 16th MP BDE (ABN) (1)

File (1)

Individual (3)

027264

PERSONNEL ACTION

For use of this form, see AR 600-8-6 and DA PAM 600-8-21; the proponent agency is ODCSPER

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: Title 5, Section 3012; Title 10, USC, E.O. 9397.
 PRINCIPAL PURPOSE: Used by soldier in accordance with DA PAM 600-8-21 when requesting a personnel action on his/her own behalf (Section III).
 ROUTINE USES: To initiate the processing of a personnel action being requested by the soldier.
 DISCLOSURE: Voluntary. Failure to provide social security number may result in a delay or error in processing of the request for personnel action.

1. THRU (Include ZIP Code) CPL [REDACTED] 372ND MP CO APO AE 09335-1322 CAMP VIGILANT, IRAQ	2. TO (Include ZIP Code) ATTN: CPL GRANER CHARLES. 372ND MP CO APO AE 09335-1322 CAMP VIGILANT, IRAQ	3. FROM (Include ZIP Code) COMMANDER 372ND MP CO APO AE 09335-1322 CAMP VIGILANT, IRAQ
---	--	--

SECTION I - PERSONAL IDENTIFICATION

4. NAME (Last, First, MI) GRANER JR, CHARLES A.	5. GRADE OR RANK/PMOS/AOC E-4/ CPL	6. SOCIAL SECURITY NUMBER [REDACTED]
--	---------------------------------------	---

SECTION II - DUTY STATUS CHANGE (AR 600-8-6)

7. The above soldier's duty status is changed from _____ to _____ effective _____ hours, _____

SECTION III - REQUEST FOR PERSONNEL ACTION

8. I request the following action: (Check as appropriate)

<input type="checkbox"/> Service School (Enl only)	<input type="checkbox"/> Special Forces Training/Assignment	<input type="checkbox"/> Identification Card
<input type="checkbox"/> ROTC or Reserve Component Duty	<input type="checkbox"/> On-the-Job Training (Enl only)	<input type="checkbox"/> Identification Tags
<input type="checkbox"/> Volunteering For Oversea Service	<input type="checkbox"/> Retesting in Army Personnel Tests	<input type="checkbox"/> Separate Rations
<input type="checkbox"/> Ranger Training	<input type="checkbox"/> Reassignment Married Army Couples	<input type="checkbox"/> Leave - Excess/Advance/Outside CONUS
<input type="checkbox"/> Reassignment Extreme Family Problems	<input type="checkbox"/> Reclassification	<input type="checkbox"/> Change of Name/SSN/DOB
<input type="checkbox"/> Exchange Reassignment (Enl only)	<input type="checkbox"/> Officer Candidate School	<input checked="" type="checkbox"/> Other (Specify) LATERAL TRANSFER TO SPECIALIST E-4
<input type="checkbox"/> Airborne Training	<input type="checkbox"/> Asgmt of Pers with Exceptional Family Members	

9. SIGNATURE OF SOLDIER (When required)	10. DATE (YYYYMMDD)
---	---------------------

SECTION IV - REMARKS (Applies to Sections II, III, and V) (Continue on separate sheet)

LATERAL FROM: CORPORAL/ E-4
 LATERAL TO: SPECIALIST/ E-4
 AUTHORITY: AR140-158 CHAPTER 3-8
 EFFECTIVE DATE: 20040125
 DATE OF RANK: 20040125
 SPECIAL INSTRUCTIONS: NONE

All (b)(6)2; (b)(7)(C) 2

SECTION V - CERTIFICATION/APPROVAL/DISAPPROVAL

11. I certify that the duty status change (Section II) or that the request for personnel action (Section III) contained herein - **027265**

HAS BEEN VERIFIED RECOMMEND APPROVAL RECOMMEND DISAPPROVAL IS APPROVED IS DISAPPROVED

12. COMMANDER/AUTHORIZED REPRESENTATIVE [REDACTED] LT, MP Commanding	13. SIGNATURE [REDACTED]	14. DATE (YYYYMMDD) 2004 01 25 20031128
---	-----------------------------	---

NAME (Last, First, MI)

SSN

BRANER, CHARLES A. JR.

(b)(6), (b)(7)(C)

E-4/CPL

On active duty Not on active duty On ADT

5. ETS/ESA/MRD
20031219

6. UNIT ASSIGNED AND ARMY MAJOR COMMAND
72ND MILITARY POLICE COMPANY
9TH REGIONAL SUPPORT COMMAND

7. STATION (Geographical location)
CAMP VIGILANT, IRAQ
APO AE 09335-1322

8. PSC CONTROLLING FLAGGING ACTION AND TELEPHONE NUMBER
PFC [REDACTED]

(b)(6), (b)(7)(C)

9. THIS ACTION IS TO:

Initiate a flag (Sections II and V only) Transfer a flag (Sections III and V only) Remove flag (Sections IV and V only)

SECTION II - INITIATE A FLAG

10. A FLAG IS INITIATED, EFFECTIVE 20040103 FOR THE FOLLOWING REASON:

NON-TRANSFERABLE

TRANSFERABLE

- Adverse action (A)
- Elimination - field initiated (B)
- Removal from selection list - field initiated (C)
- Referred OER (D)
- Security violation (E)
- HQDA use only - elimination or removal from selection list (F)
- APFT failure (J)
- Weight control program (K)

SECTION III - TRANSFER A FLAG

11. A FLAG IS TRANSFERRED FOR THE FOLLOWING REASON:

- Adverse action - HQDA directed reassignment (G)
- Adverse action - punishment phase (H)
- Supporting documents attached? Yes No
- APFT failure (J)
- Weight control program (K)

SECTION IV - REMOVE A FLAG

12. A FLAG IS REMOVED, EFFECTIVE _____ FOR THE FOLLOWING REASON:

- Case closed favorably (C)
- Disciplinary action taken (D)
- Soldier transferred to a different Army component or discharged while case in process (destroy case file) (E)
- Other final action (E)

SECTION V - AUTHENTICATION

DISTRIBUTION

- 1 - Unit Commander
- 1 - F&AO
- 1 - PSC
- 1 - Commander, gaining unit (transfer flag only)

(S)(b)(2), (b)(7)(C) 2

NAME, RANK, TITLE AND ORGANIZATION
[REDACTED] MP, USAR Commanding

SIGNATURE

DATE

20040103

027266

REPORT TO SUSPEND FAVORABLE PERSONNEL ACTIONS (FLAG)

For use of this form, see AR 600-8-2; the proponent agency is MILPERCEN.

SECTION I - ADMINISTRATIVE DATA

NAME (Last, First, MI) RANER JR, CHARLES A 2. SSN [REDACTED] 66-5 167C-5 3. RANK E-4/SPC

On active duty [X] Not on active duty [] On ADT [] 5. ETS/ESA/MRD 20031209

UNIT ASSIGNED AND ARMY MAJOR COMMAND 2ND MP CO 4TH RRC 7. STATION (Geographical location) 372ND MP CO ABU GHRAIB, IRAQ APO AE 09335

PSC CONTROLLING FLAGGING ACTION AND TELEPHONE NUMBER [REDACTED]

THIS ACTION IS TO: Initiate a flag [X] Transfer a flag [] Remove flag []

SECTION II - INITIATE A FLAG

A FLAG IS INITIATED, EFFECTIVE 20040125 FOR THE FOLLOWING REASON:

NON-TRANSFERABLE: Adverse action (A) [X], Elimination - field initiated (B) [], Removal from selection list - field initiated (C) [], Referred OER (D) [], Security violation (E) [], HQDA use only - elimination or removal from selection list (F) []. TRANSFERABLE: APFT failure (J) [], Weight control program (K) []. (S)(b)2, (7)(C)2 below

SECTION III - TRANSFER A FLAG

A FLAG IS TRANSFERED FOR THE FOLLOWING REASON: Adverse action - HQDA directed reassignment (G) [], Adverse action - punishment phase (H) [], Supporting documents attached? [] Yes [] No [], APFT failure (J) [], Weight control program (K) []

SECTION IV - REMOVE A FLAG

A FLAG IS REMOVED, EFFECTIVE [] FOR THE FOLLOWING REASON: Case closed favorably (C) [], Disciplinary action taken (D) [], Soldier transferred to a different Army component or discharged while case in process (destroy case file) (E) [], Other final action (E) []

SECTION V - AUTHENTICATION

DISTRIBUTION: 1 - Unit Commander, 1 - F&AO, 1 - PSC, 1 - Commander, gaining unit (transfer flag only). AND ORGANIZATION: [REDACTED] 2nd Military Police Company. SIGNATURE: [REDACTED] DATE: 027267 25 Jan 04

DEPARTMENT OF THE ARMY
HEADQUARTERS, 99TH REGIONAL SUPPORT COMMAND
99 SOLDIERS LANE
CORAOPOLIS, PENNSYLVANIA 15108-2550

ORDERS M-052-0066

21 February 2003

GRANER CHARLES ALLAN JR

[REDACTED]

[REDACTED] SGT

0372 MP CO COMBAT SUPPORT (WTEZAA)
CUMBERLAND, MD 21502-5605

(506) 5, (700) 5

You are ordered to Active Duty as a member of your Reserve Component unit for the period indicated unless sooner released or unless extended. Proceed from your current location in sufficient time to report by the date specified. You enter active duty upon reporting to unit home station.

Report to: 0372 MP CO COMBAT SUPPORT (WTEZAA), 14418 MCMULLEN HWY SW,
CUMBERLAND, MD 21502-5605 Report On: 24 February 2003

Report to: Fort Lee, Building P6008, Fort Lee, VA 23801 Report On: 27 February
2003

Period of active duty: 365 Days

Purpose: Mobilization for ENDURING FREEDOM

Mobilization category code: "V"

Additional instructions: 01, 02, 03, 04, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15,
16, 17

FOR ARMY USE

AUTHORITY: HQDA MSG 171644ZFEB03/DAMO-ODM/ORDTYP/MOBORD/HQDA ONE/OEF NO.322-03

Accounting classification:

2132010.0000 01-1100 P1W1C00 11**/12** VFRE F3203 5570 S99999
2132010.0000 01-1100 P2W2C00 11**/12** VFRE F3203 5570 S99999
2132020.0000 01-1100 P135198 21**/22**/25** VFRE F3203 5570 S99999

Sex: M

MDC: PM

PMOS/AOC/ASI/LIC: 95B10

HOR: UNIONTOWN, PA

PEBD: 28 August 1994

DOR: 29 January 2002

Security clearance: NONE

Comp: USAR

Format: 165

FOR THE COMMANDER:

* OFFICIAL *
* 99TH REGIONAL SUPPORT COMMAND *

[REDACTED] (506) 2; (700) 2

MPO
MILITARY PERSONNEL OFFICER

DISTRIBUTION: M1 PLUS
INDIVIDUAL CONCERNED (4)
FAMILY ASSISTANCE OFFICER (1)
MPRJ
FILE (ORIGINAL + 1)

027268

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, Middle) GRANER, CHARLES ALLAN JR		2. DEPARTMENT, COMPONENT AND BRANCH ARMY/USAR		3. SOCIAL SECURITY NO [REDACTED]		
4.a GRADE, RATE, OR RANK CPL		4.b PAY GRADE E4		5. DATE OF BIRTH (YYYYMMDD) 19681003		
7.a PLACE OF ENTRY INTO ACTIVE DUTY GRAFTON, WV			7.b HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known) [REDACTED] 66-5-67(c)5			
8.a LAST DUTY ASSIGNMENT AND MAJOR COMMAND HQ USA GARRISON FC			8.b STATION WHERE SEPARATED FORT DIX, NJ 08640-5089			
9. COMMAND TO WHICH TRANSFERRED 363RD MILITARY POLICE COMPANY DET 4 GRAFTON WV 26354				10. SGLI COVERAGE <input type="checkbox"/> None Amount: \$ 250,000.00		
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) 95B10 00 MILITARY POLICE--13 YRS-11 MOS //NOTHING FOLLOWS		12. RECORD OF SERVICE				
		a. Date entered AD This Period		Year(s)	Month(s)	Day(s)
		b. Separation Date This Period		2002	01	07
		c. Net Active Service This Period		2002	10	28
		d. Total Prior Active Service		0000	09	22
		e. Total Prior Inactive Service		SEE	BLOCK	#18
		f. Foreign Service		SEE	BLOCK	#18
		g. Sea Service		0000	00	00
		h. Effective Date of Pay Grade		0000	00	00
		2002	01	29		
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) ARMY COMMENDATION MEDAL//MERITORIOUS UNIT COMMENDATION//NAVY UNIT COMMENDATION//NATIONAL DEFENSE SERVICE MEDAL (2ND AWARD)//SOUTHWEST ASIA SERVICE MEDAL WITH 2 BRONZE SERVICE STAR (BSS)//ARMED FORCES RESERVE MEDAL W/"M" DEVICE//ARMY SERVICE RIBBON//MARINE CORPS RESERVE RIBBON//SEA SERVICE DEPLOYMENT RIBBON//KUWAIT LIBERATION MEDAL (SAUDI//CONT IN BLOCK 18.						
14. MILITARY EDUCATION (Course title, number of weeks and month and year completed) ADMINISTRATION SPECIALIST SCHOOL, 2 WEEKS, MAR 2002//BASIC COMBAT LIFESAVER COURSE, 1 WEEK, MAR 2002//NOTHING FOLLOWS <i>see (b)(6)2, (7)(c)2</i>						
15.a MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERAN'S EDUCATIONAL ASSISTANCE PROGRAM		Yes	No	15.b HIGH SCHOOL GRADUATE OR EQUIVALENT		
			X			
				Yes	No	
				X		
16. DAYS ACCRUED LEAVE PAID .5						
17. MEMBER WAS PROVIDED A COMPLETE DENTAL EXAM AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
18. REMARKS DATA HEREIN SUBJECT TO COMPUTER MATCHING WITHIN DOD OR WITH OTHER AGENCIES FOR VERIFICATION PURPOSES AND DETERMINING ELIGIBILITY OR COMPLIANCE FOR FEDERAL BENEFITS//SEPARATED FROM SERVICE ON TEMPORARY RECORDS AND SOLDIER'S AFFIDAVIT//DD FORM 215 WILL BE ISSUED TO PROVIDE MISSING INFORMATION//INDIVIDUAL COMPLETED PERIOD FOR WHICH ORDERED TO ACTIVE DUTY FOR PURPOSES OF POST SERVICE BENEFITS AND ENTITLEMENTS//ORDERED TO ACTIVE DUTY IN SUPPORT OF OPERATION NOBLE EAGLE LAW 10 USC 12302//MEMBER HAS COMPLETED FIRST FULL TERM OF SERVICE//ORDERED TO ACTIVE DUTY IN RESPONSE TO THE WORLD TRADE CENTER AND PENTAGON ATTACKS//CONT FROM BLOCK 13-ARABIA//KUWAIT LIBERATION MEDAL (KUWAIT)//NOTHING FOLLOWS						
19.a MAILING ADDRESS AFTER SEPARATION (Include Zip Code) [REDACTED] 66-567c-5			19.b NEAREST RELATIVE (Name and address - include Zip Code) CHARLES A GRANER SR [REDACTED]			
20. MEMBER REQUESTS COPY 6 BE SENT TO DA DIR OF VET AFFAIRS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
21. SIGNATURE OF MEMBER BEING SEPARATED <i>Charles A Graner</i>			22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature) [REDACTED] 66-2 DIR, MILITARY PERSONNEL			
SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)						
23. TYPE OF SEPARATION RELEASE FROM ACTIVE DUTY		24. CHARACTER OF SERVICE (Include upgrades) HONORABLE				
25. SEPARATION AUTHORITY AR 635-200, CHAP 4		26. SEPARATION CODE LBK		27. REENTRY CODE NA		
28. NARRATIVE REASON FOR SEPARATION COMPLETION OF REQUIRED ACTIVE SERVICE 027269						
29. DATES OF TIME LOST DURING THIS PERIOD NONE				30. MEMBER REQUESTS COPY 4 <input checked="" type="checkbox"/> Initials		

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

66-5

1. NAME (Last, First, Middle) GRANER Charles Allan Jr		2. DEPARTMENT, COMPONENT AND BRANCH USMCR (C-7)		3. SOCIAL SECURITY NO. [REDACTED]	
--	--	--	--	--------------------------------------	--

4.a. GRADE, RATE OR RANK LCPL	4.b. PAY GRADE E-3	5. DATE OF BIRTH (YYMMDD) 681003	6. RESERVE OBLIG. TERM. DATE Year 98 Month 03 Day 31		
----------------------------------	-----------------------	-------------------------------------	---	--	--

7.a. PLACE OF ENTRY INTO ACTIVE DUTY Pittsburgh PA	7.b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known) Uniontown PA
---	---

8.a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND HqSvcBn 2dFSSG CamLej NC	8.b. STATION WHERE SEPARATED I-I Stf Pittsburgh PA RUCB1239
---	--

9. COMMAND TO WHICH TRANSFERRED 2dMPCo HqSvcBn 4thFSSG RUC 14235	10. SGLI COVERAGE Amount: \$ \$100,000
---	---

11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.)

5811-Military Police

00 Years 06 Months

12. RECORD OF SERVICE			
	Year(s)	Month(s)	Day(s)
a. Date Entered AD This Period	90	12	04
b. Separation Date This Period	91	06	03
c. Net Active Service This Period	00	06	00
d. Total Prior Active Service	00	05	25
e. Total Prior inactive Service	02	08	02
f. Foreign Service	00	04	00
g. Sea Service	00	00	00
h. Effective Date of Pay Grade	88	12	02

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)

National Defense Service Medal
Sea Service Deployment Ribbon

all (6)(6) 2 (7)(C) 2

14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed)

None

15.a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM	Yes	No	15.b. HIGH SCHOOL GRADUATE OR EQUIVALENT	Yes	No	16. DAYS ACCRUED LEAVE PAID
		X		X		0

17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION Yes No

18. REMARKS

PARTICIPATED IN OPERATION DESERT SHIELD/STORM FROM 901204 TO 910603 ITEMS 12D AND 12E DO NOT ACCOUNT FOR ANNUAL AND/OR WEEKEND TRAINING THIS MEMBER MAY HAVE ACCOMPLISHED PRIOR TO DATE ENTERED IN ITEM 12A SERVICE IN SOUTHWEST ASIA FROM 910111 TO 910510

ORDERED TO ACTIVE DUTY IN SUPPORT OF OPERATION DESERT SHIELD/DESERT STORM IAW 10 USC 6738.

19.a. MAILING ADDRESS AFTER SEPARATION (Include Zip Code)	19.b. NEAREST RELATIVE (Name and address - include Zip Code)
[REDACTED] 66-5 676-5	[REDACTED] Ave 66-3 676-3

20. MEMBER REQUESTS COPY 6 BE SENT TO [REDACTED] DIR. OF VET AFFAIRS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	22. OFFICIAL [REDACTED] TO [REDACTED] name, grade, title and signature [REDACTED]
21. SIGNATURE OF MEMBER [REDACTED]	

DD Form 214, NOV 88 S/N 0102-LF-006-5500 Previous editions are obsolete. MEMBER

23. TYPE OF SEPARATION RELEASED FROM ACTIVE DUTY	24. CHARACTER OF SERVICE (Include upgrades) HONORABLE
---	--

25. SEPARATION AUTHORITY DMC 081807Z MAR 91/ALMAR 59-91	26. SEPARATION CODE MBK5	27. REENTRY CODE RE-1A
--	-----------------------------	---------------------------

28. NARRATIVE REASON FOR SEPARATION
COMPLETION OF REQUIRED ACTIVE SERVICE (INVOLUNTARY RECALL)

027270

DD FORM 1 JUL 79 214 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE. CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, first, middle) GRANER Charles Allan Jr. 2. DEPARTMENT, COMPONENT AND BRANCH USMCR-K1 3. SOCIAL SECURITY NO. [REDACTED]

4a. GRADE, RATE OR RANK Lance Corporal 4b. PAY GRADE E-3 5. DATE OF BIRTH 681003 6. PLACE OF ENTRY INTO ACTIVE DUTY MEPS Pittsburgh PA 66-5, 67(4) 5

7. LAST DUTY ASSIGNMENT AND MAJOR COMMAND MCADET AFMTC LACKLAND AFB TX 78236 8. STATION WHERE SEPARATED MCADET AFMTC LACKLAND AFB TX 5407

9. COMMAND TO WHICH TRANSFERRED I-I Stf 2dMPCo H8SEn Pittsburgh PA 81239 10. SGLI COVERAGE AMOUNT \$ 50,000 [] NON

Table with 4 columns: 11. PRIMARY SPECIALTY NUMBER, TITLE AND YEARS AND MONTHS IN SPECIALTY; 12. RECORD OF SERVICE; YEAR (s); MON (s); DAY (s). Rows include: 5811: Military Police 01 month; a. Date Entered AD This Period 88 12 10; b. Separation Date This Period 88 06 13; c. Not Active Service This Period 00 05 28; d. Total Prior Active Service 00 00 00; e. Total Prior Inactive Service 00 02 12; f. Foreign Service 00 00 00; g. Sea Service 00 00 00; h. Effective Date of Pay Grade 88 12 02; i. Reserve Oblig. Term. Date 96 03 31

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) Sharpshooter Rifle Badge Marksman Pistol Badge

14. MILITARY EDUCATION (Course Title, number weeks, and month and year completed) Law Enforcement (Military Police) 09 weeks 1188

15. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM [] YES [X] NO 16. HIGH SCHOOL GRADUATE OR EQUIVALENT [X] YES [] NO 17. DAYS ACCRUED LEAVE PAID RLB 7.0 0

18. REMARKS Not a final discharge Dental examination and treatment was provided 90 days prior to release from active duty (b)(6), (b)(7)(C) - 5

19. MAILING ADDRESS AFTER SEPARATION [REDACTED] 20. MEMBER REQUESTS COPY 6 BE SENT TO PA DIR. OF VET AFFAIRS [X] YES [] NO

21. MEMBER BEING SEPARATED Charles A. Graner Jr. 22. TYPED NAME, GRADE, TITLE AND SIGNATURE AUTHORIZED TO SIGN [REDACTED] b6-2

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

Table with 4 columns: 23. TYPE OF SEPARATION Release from active duty; 24. CHARACTER OF SERVICE (Includes upgrades) HONORABLE; 25. SEPARATION AUTHORITY MARCORSEPMAN par 1005; 26. SEPARATION CODE MBK2; 27. REENLISTMENT CODE N/A; 28. NARRATIVE REASON FOR SEPARATION Completion of required active service (USMCR) IADT 027271; 29. DATES OF TIME LOST DURING THIS PERIOD None; 30. MEMBER REQUESTS COPY 4 [X] YES [] NO



DEPARTMENT OF THE ARMY
HEADQUARTERS
16th MILITARY POLICE BRIGADE (AIRBORNE)
VICTORY BASE, IRAQ APO AE 09342

REPLY TO
ATTENTION OF:

AFZA-AP-JA

12 May 2004

MEMORANDUM FOR Commander, U.S. Army Human Resources Command,
ATTN: AHRC-ARE, 1 Reserve Way, St. Louis, Missouri 63132-5200

SUBJECT: Request for Certified Official Military Personnel File

1. Under the provisions of AR 600-8-104, paragraph 2-5, request **2 (two)** certified copies of the Performance, Service and Restricted Fiche of the Official Military Personnel File (OMPF) of the following soldiers:

- a. SSG [REDACTED] SSN: [REDACTED], HHC, 16th MP BDE (ABN), Iraq
- b. SGT [REDACTED] SSN: [REDACTED]; HHC, 16th MP BDE (ABN), Iraq
- (b)(6)5,
(7)(C)5
c. SPC GRANER, Charles A. Jr; SSN: [REDACTED] HHC, 16th MP BDE (ABN), Iraq
- d. SPC [REDACTED] SSN: [REDACTED] HHC, 16th MP BDE (ABN), Iraq
- e. SPC [REDACTED] SSN: [REDACTED] HHC, 16th MP BDE (ABN), Iraq
- f. SPC [REDACTED] SSN: [REDACTED] HHC, 16th MP BDE (ABN), Iraq
- g. PFC [REDACTED] HHC, 16th MP BDE (ABN)(REAR), FBNC

2. These soldiers are pending trial by court-martial; and the records requested will be used in presenting the Government's Case. Please forward **(2) two certified copies** of the complete OMPF to the following address:

16th MP BDE (ABN) ATTN: SGT [REDACTED]
VICTORY BASE, IRAQ
APO AE 09342

7

3. The POC for this request is the undersigned at DNVT (302) 588-9527 or [REDACTED]@vcmain.hq.c5.army.mil.

(b)(6)2; (b)(7) 2

[REDACTED]

SGT, USA
Paralegal

027272

DEPARTMENT OF THE ARMY
U.S. ARMY HUMAN RESOURCES COMMAND
200 STOVALL STREET
ALEXANDRIA, VA 22332-0470

AHRC-PDZ-RC
ORDERS A-10-410341

13 OCT 2004

GRANER CHARLES ALLAN JR
[REDACTED]

(b)(6);(c)-5

SPC [REDACTED]
WTEZAA [REDACTED]

YOU ARE ORDERED TO ACTIVE DUTY IN THE GRADE OF RANK SHOWN ABOVE FOR THE PERIOD SHOWN IN ACTIVE DUTY COMMITMENT BELOW. YOU WILL PROCEED FROM YOUR CURRENT LOCATION IN TIME TO REPORT ON THE DATE SHOWN BELOW.

RPT TO: 16 MP BDE FWD WFP6A1 FT BRAGG NC 28310
REPORT DATE/TIME: 12 SEP 2004 BETWEEN 0800 AND 1700 HRS.
ASG TO: 16 MP BDE FWD WFP6A1 FT BRAGG NC 28310
DUTY AT: VICTORY BASE IRAQ APO AE 09342
ACTIVE DUTY COMMITMENT: 6 MONTHS
PURPOSE: UCMJ PROCESSING. END DATE: 09 MAR 2005

ADDITIONAL INSTRUCTIONS: RELIEVED FROM RESERVE COMPONENT ASSIGNMENT ON THE DAY PRECEDING EFFECTIVE DATE OF ORDER. INDIVIDUAL WILL BE RETAINED ON ACTIVE DUTY IN HIS OR HER CURRENT GRADE AND IS INCLUDED IN THE ACTIVE ARMY END STRENGTH. ACCESSION INTO DJMS-AC WILL REFLECT A SVC COMP OF "R". SHIPMENT OF HHG AND TRAVEL OF DEP NOT APPLICABLE. SPECIAL EXCEPTION NOT TO ISSUE A DD FORM 214 TO SOLDIERS THAT ARE IN 12301, 12302 OR 12304 STATUS THAT REVERT TO R.C.M. 202 STATUS. A DD 214 WILL BE ISSUED UPON COMPLETION OF R.C.M. SERVICE. ALL PREVIOUS ACTIVE DUTY SERVICE PRIOR TO R.C.M. STATUS WILL BE ACCOUNTED FOR IN BLOCK 18 OF THE DD 214. EARLY RELEASE AUTHORIZED.

FOR ARMY USE: AUTHORITY: R.C.M. 202(C), AR 27-10 CH 21, AR 135-200 (7-4)
ACCT CLAS: NONE

MDC: 1AE4 HOR: SAME AS SNL PMOS/SSI: 31B1
SEX: M PPN: N/A COMP: USAR RES GR: SPC
DORRES: 29 JAN 2002 PEBD: 28 AUG 1994 SCTY CL: NO CLEARANCE

FORMAT: 460

BY ORDER OF THE SECRETARY OF THE ARMY:

* AHRC *
* OFFICIAL *

[REDACTED]
CWS, AG
CHIEF, RC SPT SVC DIV

(b)(6)2;
(c)2

DISTRIBUTION: 1 SOLDIER
1 16 MP BDE FWD FT BRAGG NC 28310
1 372 MP CO COMBAT SUP 14418 MCMULLEN HWY SW CUMBERLAND MD 21502 5605

027273

DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

AFZF-JA

OCT 4 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Request for Appointment of Expert Assistance in United States v. Specialist Charles A. Graner, Jr. – ACTION MEMORANDUM

1. Purpose. To obtain your decision on a request for appointment of Dr. [REDACTED] (b)(6)4; (7)(C)4 as a confidential expert consultant to the Defense team in the case of United States v. Specialist Charles A. Graner, Jr., Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq.

2. Background. On 14 May 2004, charges were referred against Specialist Charles Graner for conspiracy to maltreat detainees, dereliction, maltreatment, assault, adultery, indecent acts, and wrongfully influencing an investigation while assigned to the Baghdad Central Confinement Facility near Abu Ghraib, Iraq. See Enclosure 1, Charge Sheets. Through counsel, Specialist Graner has filed a request for appointment of Dr. [REDACTED] (b)(6)4; (7)(C)4 as a confidential expert consultant to the Defense team. See Enclosure 2, Defense Request for Expert Assistance.

a. [REDACTED] is a Professor of Psychology at the University of California, Santa Cruz. Dr. [REDACTED] has over 30 years of research and work in the subject area of prison psychology, and holds a Master's Degree, a Juris Doctor degree, and a Ph.D. in psychology from Stanford. Dr. [REDACTED] has also testified in over 22 court cases regarding the area of prison psychology. See Enclosure 2, Curriculum Vitae.

b. The Defense asserts that Dr. [REDACTED] would assist the Defense in the following manner:

(1) Dr. [REDACTED] would assist the accused in raising possible defenses to the various instances of misconduct charged. Dr. [REDACTED] will "analyze the situational pressures existent at Abu Ghraib that may help to account for SPC Graner's actions or failures to act."

(2) Dr. [REDACTED] would also provide insight to the Defense team about how corrections officers are affected by living and working in prison environments. Dr. [REDACTED] will interview a number of individuals to develop a "psychological profile" of those who worked at the facility. Dr. [REDACTED] will further "evaluate anything that might bear on

027274

all (b)(6) 4, 0104

AFZF-JA

SUBJECT: Request for Appointment of Expert Assistance in United States v. Specialist Charles A. Graner, Jr. – ACTION MEMORANDUM

the situational pressures that were created inside the facility that might have influenced and affected those that worked there.”

(3) Dr. [REDACTED] would help the Defense to intelligently prepare both direct and cross-examinations of relevant witnesses. Finally, if the accused is convicted, Dr. [REDACTED] would assist in developing evidence in extenuation or mitigation by helping to demonstrate “why good people do bad things.”

c. The Defense contends that they are unable to gather and present the desired evidence on their own. Further, the Defense contends that Dr. [REDACTED] will not simply assist the Defense, but also be expected to testify as a witness.

d. Dr. [REDACTED] charges \$175 per hour and anticipates spending 100 in preparation of Specialist Graner’s Defense.

3. Applicable Law. Article 46 of the Manual for Courts-Martial (MCM) provides that the trial counsel and defense counsel shall have equal opportunity to obtain witnesses and other evidence. Defense asserts that they are unable to present the desired evidence or adequately prepare for the defense of Specialist Graner absent this appointment of an expert consultant. As a matter of due process, servicemembers are entitled to investigative or other expert assistance at Government expense when *necessary* for an adequate Defense. See United States v. Garries, 22 M.J. 288, 290 (1986). The necessity requirement exists because, unlike the civilian defendant, the military accused has the resources of the Government at his or her disposal. *Id.* Defense counsel must present more than an inkling that expert assistance is required. See United States v. Tornowski, 29 M.J. 578, 580 (1989). In demonstrating necessity, the accused must demonstrate more than just the possibility of assistance from a requested expert, but instead must show that there exists a reasonable probability that an expert would be of assistance to the defense and that the denial of expert assistance would result in a fundamentally unfair trial. United States v. Gunkle, 55 M.J. 26, 31-32 (C.A.A.F. 2001). The highest military court has articulated three criteria for showing necessity:

First, why the expert assistance is *needed*. Second, what the expert assistance [would] *accomplish* for the accused. Third, why the defense counsel [is] *unable* to gather and present the evidence that the expert assistant would be able to develop.

United States v. Ndanyi, 45 M.J. 315, 319 (C.A.A.F. 1996) (emphasis supplied). In this case, the Defense has not shown the necessity of the requested appointment of an expert consultant.

AFZF-JA

SUBJECT: Request for Appointment of Expert Assistance in United States v. Specialist Charles A. Graner, Jr. – ACTION MEMORANDUM

4. Discussion. Applying the factors above, the Defense has not shown that the requested expert assistance is necessary:

a. The Defense has not clearly demonstrated exactly how the requested expert will assist the Defense in determining the guilt or innocence of the accused with regard to the pending charges, that is to say, what the Defense actually intends to accomplish. The Defense makes references to the unique prison environment and how this behavior may help to account for SPC Graner's actions or failure to act. At best, the Defense seems to assert that this particular expert can help the trier of fact determine "why good people do bad things." Such evidence is nebulous at best and as such does not demonstrate a bona fide need for appointment of an expert.

b. Additionally, the Defense has the ability to consult with a wide variety of experts, including Colonel [REDACTED] an experienced psychologist who reported on the unique conditions at Abu Ghraib at the request of MG Taguba. Colonel [REDACTED] initial report highlights the unique pressures, lack of training, and other situation specific stressors that the Defense seeks to highlight. The Defense has access to Colonel [REDACTED] as well as a wide variety of military and civilian psychologists and psychiatrists, all of whom may be called to testify on behalf of the Defense upon a proper showing of relevancy.

c. Further, the two defense counsel (one military and one civilian) representing the accused, though not trained as psychologists, have an identified duty to do the hard work necessary to understand the operative facts of their case. Additionally, you have previously detailed a trained military police investigator to assist the Defense with other aspects of case preparation. The Defense team has the means to adequately research the pertinent issues particularly given the wide variety of trained psychologists who are available to all parties in this case.

d. Finally, to alleviate any particular concerns regarding confidentiality on behalf of the Defense, you may appoint a specific psychologist within your command with the appropriate experience and credentials to assist the Defense in preparation of their case and to testify if necessary. If needed, this military psychologist could refer to the apparent rich body of existing work regarding the psychological aspects of prison operations in order to better assist the Defense. By detailing a specified military psychologist to the Defense team, you provide the means for the Defense to consult with this expert on a confidential basis and thus aid their efforts to present the desired evidence.

AFZF-JA

SUBJECT: Request for Appointment of Expert Assistance in United States v. Specialist Charles A. Graner, Jr. – ACTION MEMORANDUM

5. Recommendation. The Defense has not provided a legally cognizable basis for appointment of an expert consultant. I therefore recommend you disapprove the Defense request. Out of an overabundance of caution and to further ensure a fair proceeding, I recommend that you offer to the Defense the appointment of a military psychologist within theater to assist the Defense in the preparation of this case.

6. POC is Major [REDACTED] at DSN 318-[REDACTED]

[REDACTED]

(b)(6)2; (7)(C)2

Encls

1. Charge sheet COL, JA
2. Defense request for expert assistance Staff Judge Advocate
3. Profile of Dr. [REDACTED] (b)(6)4, (7)(C)4
4. Baltimore Sun Article
5. Curriculum Vitae

DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

OCT 4 2004

AFZF-CG

MEMORANDUM FOR Defense Counsel for Specialist Charles A. Graner, Jr.,
Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III
Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Request for Expert Assistance in United States v. SPC Charles A. Graner,
Jr.

Your request for Appointment of Dr. [REDACTED] as a confidential expert consultant is denied. You have not demonstrated that the appointment of Dr. [REDACTED] is necessary pursuant to RCM 703(d). However, I am prepared to detail a military psychologist of suitable training, education, and experience, to assist you if you so desire.

(b)(4);(b)(7)(C)

[REDACTED]

(b)(2);(b)(7)(C) 2

Lieutenant General, USA
Commanding

027278



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
REGION IX, LSA ANACONDA BRANCH OFFICE
APO AE 09391

REPLY TO
ATTENTION OF:

FICI-JA-TCO

25 October 2004

MEMORANDUM THRU Staff Judge Advocate, III Corps, Victory Base, APO AE 09342-1400
FOR Commanding General, III Corps, Victory Base, APO AE 09342-1400

SUBJECT: Request for Appointment of a Military Psychologist as an Expert Consultant/Expert Witness in United States v. SPC Charles A. Graner, Jr.

1. The accused, acting by and through counsel, respectfully requests that you appoint a military psychologist as an expert consultant/expert witness for the defense team in United States v. Graner. The accused further requests that, upon appointment, this military psychologist be made a member of the defense team and thereby bound by the lawyer-client privilege, as a representative employed by or assigned to assist the defense, in accordance with MIL. R. EVID. 502.

2. On 20 September 2004, the accused requested the appointment of Dr. [REDACTED] as an expert consultant/witness. On 4 October 2004, you denied that request but offered to detail a military psychologist of suitable training, education and experience. (See Enclosure). This letter constitutes the defense's formal request for and acceptance of your previous offer of an expert military psychologist. (b)(6)4; (b)(7)C

3. Thank you for your earnest consideration of this request. If I may be of further assistance in this matter, please contact me via email at [REDACTED]@us.army.mil or by phone at DNVT: 529-[REDACTED]

[REDACTED]
CPT, JA

Trial Defense Counsel

Encl

027279

DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

NOV 9 2004

AFZF-CG


MEMORANDUM FOR Defense Counsel for Specialist Charles A. Graner, Jr.,
Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III
Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Request for Expert Assistance in United States v. Specialist Charles A.
Graner, Jr.

1. I previously reviewed your request to appoint Dr. [REDACTED] as a confidential expert consultant to assist your defense counsel at your pending court-martial. On 4 October 2004, I denied your request to appoint Dr. [REDACTED] to your Defense team and offered to detail an adequate substitute to your team under Rule for Courts-Martial 703(d). (b)(6);(7)(C)

2. I hereby detail Dr. (Lieutenant Commander [REDACTED]) (b)(6);(7)(E) 2 to your defense team as a confidential expert consultant and adequate substitute for Dr. [REDACTED] in accordance with Rule for Courts-Martial 703(d). (b)(6)4-7e)4

3. POC is Colonel [REDACTED] at DSN 318 [REDACTED] (b)(6)2;(7)(C) 2


THOMAS F. METZ
Lieutenant General, USA
Commanding

027280

DEC 27 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Excusal and Selection of Members for the Courts-Martial of Sergeant [REDACTED] and Specialist Charles A. Graner, Jr. – ACTION MEMORANDUM

(b)(6)S
O.C.J.S1. Purpose.

a. *Excusal of Current Members.* To excuse primary and alternate court-martial members detailed in General Court-Martial Convening Order Number 1, dated 14 January 2004, as amended by General Court-Martial Convening Order Number 3, dated 8 March 2004, as further amended by General Court-Martial Convening Order Number 8, dated 6 November 2004, from the courts-martial of Sergeant [REDACTED] and Specialist Charles A Graner, Jr. These convening orders are attached at TAB B.

b. *Selection of New Members.* To select Soldiers to serve as panel members for general courts-martial of the Soldiers listed above. A discussion of the rules governing your selection of courts-martial panel members is set forth in paragraph 3 below. My recommendations are set forth in paragraph 4 below.

2. Excusal of Current Members. In January 2004, you selected a general court-martial panel to hear all III Corps cases in Iraq. The members selected were those officers and enlisted Soldiers deployed to Iraq. In November 2004, as the Convening Authority, you elected to send the courts-martial of Sergeant [REDACTED] and Specialist Graner, Jr. to Fort Hood for trial. Specialist Graner's court-martial is set for 7 January 2005 and Sergeant [REDACTED] court-martial is set for 2 February 2005. The members of the current panel are (1) deployed to Iraq or (2) have recently redeployed from Iraq and will be in transitional training or on block leave during the courts-martial. For these reasons, I recommend you excuse the primary and alternate members of the current panel and select officers and enlisted members who are currently stationed at Fort Hood for the cases of Sergeant [REDACTED] and Specialist Graner.

(b)(6)S,
(7)(E)S3. Discussion of Selection of Courts-Martial Panel Members.

a. *Selection.* Article 25, Uniform Code of Military Justice (UCMJ), and Rule for Courts-Martial (R.C.M.) 502, delineate guidance for selecting courts-martial panel members (TAB C). In relevant part, Article 25 and R.C.M. 502 provide that you should select as panel members those Soldiers whom you determine are best qualified for that duty by reason of age, education, training, experience, length of service, and judicial temperament. You have requested that the Commanders, 4th Infantry Division (Mechanized), 1st Cavalry Division (Rear), and III Corps (Rear), make available to you, and those commanders have agreed to make available to you, personnel currently located at Fort Hood for your personal selection to serve as members on the courts-

027281

AFZF-JA-MJ

SUBJECT: Selection of Members for the Courts-Martial of Sergeant [REDACTED] and Specialist Charles A. Graner, Jr. – ACTION MEMORANDUM

(b)(6), (7)(C)

martial of Sergeant [REDACTED] and Specialist Graner. You may select any officer or enlisted Soldier from 4th Infantry Division (Mechanized), 1st Cavalry Division (Rear), or III Corps (Rear), except for those precluded by regulation.

(1) Nominations. In making your selection, you should consider the nominations from the Commander, 4th Infantry Division (Mechanized), Commander, 1st Cavalry Division, (Rear) and subordinate commanders of III Corps (Rear) units (see ORB and ERB notebooks). You must, however, exercise your own personal discretion and knowledge when choosing the members. You may select any Soldiers from these units (see Alpha Rosters at TAB G).

(2) Ineligible Soldiers. Army Regulation (AR) 27-10, paragraph 7-2, states that chaplains will not be detailed as members of courts-martial. AR 27-10, paragraph 7-3, provides that except when regulations provide otherwise, medical, dental, and veterinary officers will not be detailed as members of courts-martial. AR 27-10, paragraph 7-6, provides that officers assigned as Inspectors General will not be appointed as courts-martial members.

(3) Special Branch and Law Enforcement Officers. Normally, judge advocates, Army Nurse Corps officers, Medical Specialist Corps officers, and military police primarily performing law enforcement duties are not detailed as members of court-martial.

b. Alternate Officer Court Members. To facilitate the administration of justice, you may authorize the automatic detail of alternate court members when a primary member(s) is properly excused from a court-martial.

c. Excusals. R.C.M. 505(c)(1)(B)(i) authorizes you to delegate the authority to excuse members without cause before a court-martial is assembled. R.C.M. 505(c)(1)(B) limits such excusal authority to no more than one-third of the total number of members detailed in any one court-martial. After assembly, only you or the military judge detailed to the case may excuse a member for good cause.

4. Courts-Martial Panel Recommendations.

a. Selection Methodology. Recommend you select courts-martial panel members using the procedures set forth below. In addition to annotating your initials in the columns, you should write the name of any member selected from the Alpha Roster (TAB G) on the last page of the nominee list (TAB D).

AFZF-JA-MJ

SUBJECT: Selection of Members for the Courts-Martial of Sergeant [REDACTED] and Specialist Charles A. Graner, Jr. – ACTION MEMORANDUM

(b)(6);(b)(7)(C)

(1) Primary Officer Members. In the column titled "primary members", select **12** officer court members, by placing your initials next to 12 officer names on the nominee list at TAB D.

(2) Primary Enlisted Members. In the column titled "primary members", select **6** enlisted court members (for courts composed of at least one third enlisted) by placing your initials next to **6** enlisted names on the nominee list at TAB D. Place a capital "R" next to **6** of the 12 officer names selected in 4a above. This will automatically excuse and replace 6 officer members with the 6 enlisted members.

(3) Alternate Members. In the column titled "alternate members", select **50 officer** and **50 enlisted** alternate court members by numbering the officer and enlisted member selections 1 through 50 to signify the order in which they should serve on the court-martial panels for excused members.

b. *Detail and Term of Service.*

(b)(6);(b)(7)(C)

(1) Recommend you detail the members selected in paragraph 4a for the courts-martial of Sergeant [REDACTED] and Specialist Graner until those cases are completed.

(2) Recommend that court-martial convening orders be prepared, authenticated, and published reflecting your selection of the members.

c. *Excusals.*

(1) Delegation to Staff Judge Advocate. Recommend you delegate to the Staff Judge Advocate, III Corps (Forward), the authority to excuse individual members from court-martial. I further recommend you delegate this same authority to the Acting Staff Judge Advocate during the Staff Judge Advocate's absence (*i.e.*, leave, temporary duty, or other circumstances that may constitute an official absence). In accordance with R.C.M. 505(c)(1)(B)(ii), if you granted such authority, the Staff Judge Advocate or Acting Staff Judge Advocate may not excuse more than one-third of the total number of members in any one court-martial.

(2) Automatic Excusals. Recommend you automatically excuse court members who are junior in grade to the accused; enlisted members assigned to the same company or battery-sized unit as the accused; members in the accused's technical or UCMJ chain of command; or members who have made a recommendation as to the disposition in the accused's case. You should also automatically temporarily excuse any court member who is on leave, temporary duty, made a temporary change of station (TCS), made a permanent change of station (PCS) move from Fort Hood

AFZF-JA-MJ

SUBJECT: Selection of Members for the Courts-Martial of Sergeant [REDACTED] and Specialist Charles A. Graner, Jr. – ACTION MEMORANDUM

(b)(6);(b)(7)(C)

beyond the general court-martial convening authority jurisdiction of the Commander, Fort Hood, or any other situation when a member is physically absent from Fort Hood on official duty that is in excess of 30 days. I further recommend that you automatically excuse from the second court-martial any individual who served as a panel member in the first court-martial and was not excused prior to assembly of court.

d. *Use of Alternate Members.* I recommend you authorize the automatic detail of an alternate member in the following circumstances.

(1) Prior to Assembly. If a primary member of either panel is excused 24 hours or more before assembly of a court-martial panel, that primary member will be replaced, for that case only, by the first available alternate member descending in numerical order (1 through 50). Officer alternates will replace excused officer members and enlisted alternates will replace excused enlisted members.

(2) After Assembly. When, after assembly, the membership of a panel falls below the minimum statutory membership requirement, excused officer or enlisted members will be replaced by alternates using the following procedures. If the composition of an officer and enlisted panel falls below the one-third enlisted statutory requirement, the number of alternate enlisted members necessary to raise the composition to one-third enlisted plus two additional members will be automatically detailed in accordance with 4d(1). If the number of members of an officer and enlisted panel falls below quorum and the one-third enlisted composition is satisfied, then the number of officer members necessary to raise the total number of members to two over quorum will automatically detailed in accordance with 4d(1). If detailing these officers causes the composition to fall below one-third enlisted (including the newly detailed officers), then the number of alternate enlisted members necessary to raise the composition to one-third enlisted plus two additional enlisted members will be automatically detailed in accordance with 3d(1) at the same time that the alternate officers are detailed.

(b)(6);(b)(7)(C)

e. *Members for the Court-Martial of Specialist [REDACTED]* The requests for nominees to subordinate commands indicated that the nominees would also be used for the court-martial of Specialist [REDACTED]. Due to operational considerations, many of your subordinate commands were unable to provide the number of officers and enlisted members requested. Given the number of nominees, I recommend that you defer selecting the panel for Specialist [REDACTED] at this time. Her court-martial is currently set for 8 March 2005 at which time more III Corps units will be redeployed to Fort Hood.

AFZF-JA-MJ

SUBJECT: Selection of Members for the Courts-Martial of Sergeant [REDACTED] and Specialist Charles A. Graner, Jr. – ACTION MEMORANDUM

(b)(6);(C)(5)

4. Action. You should sign the action memorandum directing appointment of the court and board members that you have selected and approving my other recommendations.

[REDACTED]

(b)(6) 2; (C)(5) 2

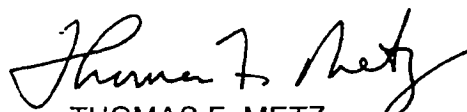
Encls

- A. Nominee Memos to Cdrs
- B. III Corps CMCOs
- C. References
- D. Nominee List
- E. ORB Notebook
- F. ERB Notebook
- G. Alpha Rosters

COL, JA
Staff Judge Advocate

ACTION

The recommendations of the Staff Judge Advocate are approved. I direct appointment of the court-martial I have indicated on the nominee list.



THOMAS F. METZ
Lieutenant General, USA
Commanding

DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

COURT-MARTIAL CONVENING ORDER
NUMBER 9

27 December 2004

COL [REDACTED] AD, USAOTC, III Corps
COL [REDACTED] EN, HHC, 4ID (Mech)
COL [REDACTED] FA, HHB, DIVARTY, 4ID (Mech)
COL [REDACTED] M., FA, HHC, AVN Bde, 4ID (Mech)
LTC [REDACTED] IN, HHC, 1-22d IN, 4ID (Mech)
LTC [REDACTED] AR, HHC, 1-66th AR, 4ID (Mech)
LTC [REDACTED] AR, HHB, 3-66th FA, 4ID (Mech)
LTC [REDACTED] N, HHC, 2-8th IN, 4ID (Mech)
LTC [REDACTED] AR, HHB, 3-16th FA, 4ID (Mech)
MAJ [REDACTED] AR, HHC, 1-67th AR, 4ID (Mech)
MAJ [REDACTED] FA, HHB, DIVARTY, 4ID (Mech)
MAJ [REDACTED] II, FA, HHC, 4ID (Mech)

*all
(b)(6); (7)(C) 2
except as noted*

*(b)(6);
(7)(C) 5*

are detailed as members of the General Court-Martial of United States v. Sergeant [REDACTED] and United States v. Specialist Charles A. Graner, Jr., only, convened by Court-Martial Convening Order Number 1, dated 14 January 2004, as amended by Court-Martial Convening Order Number 3, dated 8 March 2004, and further amended by Court-Martial Convening Order Number 8, dated 6 November 2004.

VICE

COL [REDACTED] MI, 504th MI Bde
COL [REDACTED] CM, HHC, III Corps
COL [REDACTED] GC, HHC, III Corps
COL [REDACTED] R., QM, HHC, III Corps
COL [REDACTED] AR, HHC, III Corps
COL [REDACTED] Sig Bde
COL [REDACTED] 13th COSCOM
COL [REDACTED] HHC, III Corps
COL [REDACTED] HHC, III Corps
LTC [REDACTED] 3d Sig Bde
LTC [REDACTED] TC, HHC, III Corps
LTC [REDACTED] HHC, III Corps
LTC [REDACTED] HHC Corps
LTC [REDACTED] III Corps
LTC [REDACTED] HHC, III Corps
LTC [REDACTED] HHC, III Corps

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LTC [REDACTED] HHC, III Corps
 LTC [REDACTED] HHC, III Corps
 MAJ [REDACTED] AR, HHC, III Corps
 MAJ [REDACTED] MS, HHC, III Corps
 CSM [REDACTED] M., HHC, III Corps
 CSM [REDACTED], 504th MI Bde
 CSM [REDACTED], 303d MI Bn
 SGM [REDACTED] HHC, III Corps
 SGM [REDACTED] 3d MI Bn
 SGM [REDACTED] HHC, III Corps
 SGM [REDACTED], HHC, III Corps
 SGM [REDACTED], HHC, III Corps
 SGM [REDACTED], HHC, III Corps
 SGM [REDACTED], HHC, III Corps
 SGM [REDACTED] HHC, III Corps
 MSG [REDACTED] HHC, 89th MP Bde
 MSG [REDACTED] Jose A., HHC, 3d Sig Bde
 MSG [REDACTED] 3d Sig Bn
 MSG [REDACTED] HHC, III Corps

*All (b)(6); (b)(7)
 except as noted*

(b)(6); (b)(7)

are relieved for the courts-martial of United States v. Sergeant [REDACTED] and United States v. Specialist Charles A. Graner, Jr., only.

In the event an accused requests that the membership of the court-martial include enlisted persons, the following members are detailed to the general courts-martial of United States v. Sergeant [REDACTED] and United States v. Specialist Charles A. Graner, Jr., only, by this order: *(b)(6); (b)(7)*

MEMBERS

CSM [REDACTED] Jr. HHC, 4ID (Mech)
 CSM [REDACTED] HHC, 2-8th IN, 4ID (Mech)
 CSM [REDACTED] HHC, 1-66th AR, 4ID (Mech)
 SGM [REDACTED] HHC, 1-22d IN, 4ID (Mech)
 SGM [REDACTED] HHC, 4ID (Mech)
 1SG [REDACTED] Co A, 1-67th AR, 4ID (Mech)

VICE

LTC [REDACTED] AR, HHC, 1-66th AR, 4ID (Mech)
 LTC [REDACTED], IN, HHC, 2-8th IN, 4ID (Mech)
 LTC [REDACTED] D., AR, HHC, 3-16th FA, 4ID (Mech)
 MAJ [REDACTED] HHC, 1-67th AR, 4ID (Mech)
 MAJ [REDACTED] FA, HHC, DIVARTY, 4ID (Mech)
 MAJ [REDACTED], II, FA, HHC, 4ID (Mech)

Relieved only for trials in which an accused request that the membership of the court-martial include enlisted persons.

BY COMMAND OF LIEUTENANT GENERAL METZ:

DISTRIBUTION:

Each individual indicated (1)
Cdr, III Corps (SJA) (1)



(b)(6)2;(b)(7)(C)2

MAJ, JA
Chief, Military Justice

(b)(6); (7)(C)

The following personnel are detailed as alternate officer members in the general courts-martial of United States v. Sergeant [redacted] and United States v. Specialist Charles A. Graner, Jr., only:

all
(b)(6) 2; (7)(C) 2
except as noted

- COL [redacted], AV, HHC, 4ID (Mech)
- LTC [redacted], AV, HHC, AVN Bde, 4ID (Mech)
- LTC [redacted], QM, HHC, 4th CMMC, 13th COSCOM, III Corps
- [redacted], AV, USAOTC, III Corps
- [redacted], Jr., EN, STB, 2BCT, 4ID (Mech)
- [redacted], Jack, AV, 2-4th AVN Bde, 4ID (Mech)
- [redacted], FA, HHC, AVN Bde, 4ID (Mech)
- [redacted], EN, DIV ENG, 4ID (Mech)
- [redacted], MP, HHC, 89th MP Bde, III Corps
- [redacted], AV, Co B, 404th ASB, 4ID (Mech)
- [redacted], AV, HHC, 4th Bde, 1CD
- [redacted], AC, USAOTC, III Corps
- [redacted], HHC, 4ID (Mech)
- [redacted], HHC, SPT Bde, 4ID (Mech)
- [redacted], MI, HHD, 1BCT, 4ID (Mech)
- [redacted], AV, A Co, 1-4th AVN, 4ID (Mech)
- [redacted], M., AD, HHC, 2BCT, 4ID (Mech)
- [redacted], HHC, 89th MP Bde, III Corps
- [redacted], W., FA, HHC, 4ID (Mech)
- [redacted], AV, HHC, 1-4th AVN, 4ID (Mech)
- [redacted], AV, HHC, 2-4th AVN, 4ID (Mech)
- [redacted], 1-67th AR, 4ID (Mech)
- [redacted], A, 1-10th CAV, 4ID (Mech)
- [redacted], AR, D Co, 1-66th AR, 4ID (Mech)
- [redacted], AV, Co C, 1-4th AVN, 4ID (Mech)
- [redacted], MP, HHC, 89th MP Bde, III Corps
- [redacted], FA, HHS, 2-20th FA, 4ID (Mech)
- [redacted], AR, HHD, 1BCT, 4ID (Mech)
- [redacted], HHC, 4ID (Mech)
- [redacted], MS, USA MEDDAC, III Corps
- [redacted], MS, USA MEDDAC, III Corps
- [redacted], HHC, 1-22d IN, 4ID (Mech)
- [redacted], SC, HHC, 3d Sig Bde, III Corps
- [redacted], HHC, 1-9th CAV, 1CD
- [redacted], SC, HQ, STB, 4ID (Mech)
- [redacted], AV, HHC, 1-4th AVN, 4ID (Mech)
- [redacted], IN, HHC, 2-8th IN, 4ID (Mech)
- [redacted], Jr., MI, USAOTC, III Corps
- [redacted], SC, HHC, 4ID (Mech)
- [redacted], SC, HHC, AVN Bde, 4ID (Mech)
- [redacted], Matthew, QM, HHC, 4ID (Mech)
- [redacted], CM, HHC, AVN Bde, 4ID (Mech)
- [redacted], OD, HHC, 4ID (Mech)
- [redacted], OD, 15th FSB, DISCOM, 1CD
- [redacted], FI, HHD, 230th FIN Bn
- [redacted], TC, HHC, 204th FSB, 4ID (Mech)
- [redacted], 92A, HHC, DISCOM, 1CD
- [redacted], SC, HHC, DISCOM, 4ID (Mech)
- [redacted], HHC, DISCOM, 4ID (Mech)
- [redacted], MS, Co A, MEDDAC

16X65; 0X05

The following personnel are detailed as alternate enlisted members in the general courts-martial of United States v. Sergeant [REDACTED] and United States v. Specialist Charles A. Graner, Jr., only:

- CSM [REDACTED] 404th ASB, 4ID (Mech)
- CSM [REDACTED] HHC, AVN Bde, 4ID (Mech)
- SGM [REDACTED], HHC, 4ID (Mech)
- SGM [REDACTED] HHC, 3-66th AR, 4ID (Mech)
- SGM [REDACTED] r., HHC, 1-67th AR, 4ID (Mech)
- SGM [REDACTED] HHC, DISCOM, 4ID (Mech)
- SGM [REDACTED] 1-10th CAV, 4ID (Mech)
- 1SG [REDACTED] HHC, 4ID (Mech)
- 1SG [REDACTED] Tp C, 1-10th CAV, 4ID (Mech)
- 1SG [REDACTED] HHB, 3-16th FA, 4ID (Mech)
- 1SG [REDACTED] HHC, 299th Eng Bn, 4ID (Mech)
- MSG [REDACTED] HHC, 2-8th IN, 4ID (Mech)
- MSG [REDACTED] HHC, AVN Bde, 4ID (Mech)
- 1SG [REDACTED] HHC, 57th Sig Bn, 3d Sig Bde, III Corps
- 1SG [REDACTED] W., HHC, 1-4th AVN Bde, 4ID (Mech)
- 1SG [REDACTED] HHC, 204th FSB, 4ID (Mech)
- 1SG [REDACTED] Co, 4th FSB, 4ID (Mech)
- 1SG [REDACTED] Co B, STB, 2BCT, 4ID (Mech)
- MSG [REDACTED] HHC, 4th FSB, 4ID (Mech)
- MSG [REDACTED] HHC, DISCOM, 4ID (Mech)
- MSG [REDACTED] DISCOM, 4ID (Mech)
- MSG [REDACTED] HHC, 4ID (Mech)
- MSG [REDACTED] HHC, 4ID (Mech)
- MSG [REDACTED], HHC, 4th CMMC, 13th COSCOM, III Corps
- MSG [REDACTED] HHS, DIVARTY, 1CD
- MSG [REDACTED], HHC, 4ID (Mech)
- SFC [REDACTED] HHC, 89th MP Bde, III Corps
- SFC [REDACTED] Co C, 1-10th CAV, 4ID (Mech)
- SFC [REDACTED] Bty B, 2-20th FA, 4ID (Mech)
- SFC [REDACTED] C, 89th MP Bde, III Corps
- SFC [REDACTED] Co C, PSG, 4ID (Mech)
- SFC [REDACTED] 1-21st FA, DIVARTY, 1CD
- SFC [REDACTED] Co B, 1-66th AR, 4ID (Mech)
- SFC [REDACTED] HHC, 2-8th IN, 4ID (Mech)
- SFC [REDACTED] HHB, DIVARTY, 4ID (Mech)
- SFC [REDACTED] Co, A, 1-67th AR, 4ID (Mech)
- SFC [REDACTED] Bty C, 20th FA, 4ID (Mech)
- SFC [REDACTED] HHC, 2-8th IN, 4ID (Mech)
- SFC [REDACTED] Bn, 1CD
- SFC [REDACTED] Co, 1-22d IN, ENG Bde, 4ID (Mech)
- SFC [REDACTED] C, 3d Sig Bde, III Corps
- SFC [REDACTED] C, 4-5th ADA, 1CD
- SFC [REDACTED] Co B, 404th ASB, 4ID (Mech)
- SFC [REDACTED] HHC, DISCOM, 4ID (Mech)
- SFC [REDACTED], HHC, 4ID (Mech)
- SFC [REDACTED], HHC, 3d Sig Bde, III Corps
- SFC [REDACTED] HHC, DISCOM, 4ID (Mech)
- SFC [REDACTED] Co D, 1-4th AVN, 4ID (Mech)
- SFC [REDACTED] Co B, 204th FSB, 4ID (Mech)
- SFC [REDACTED] USAOTC, III Corps

all (b)(6) 2

(7)(C) 2 except annotated

[REDACTED] CPT--SJA

From: [REDACTED] SSGT SJA
Sent: Thursday, December 30, 2004 1:41 PM
To: [REDACTED] CPT--SJA
Subject: FW: Request for Excusal

*all
(b)(6)2, (b)(7)2
except as noted*

FYI

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

From: [REDACTED] LTC--4ID SJA (PKI)
Sent: Thursday, December 30, 2004 12:16 PM
To: [REDACTED] SSGT SJA
Cc: [REDACTED] LTC--4ID Deputy Chief of Staff (PKI); [REDACTED] COL-- 4ID Chief of Staff (PKI)
Subject: Request for Excusal

SSG [REDACTED]

(b)(6)5, (b)(7)5

COL [REDACTED], Chief of Staff, 4th Infantry Division, requests excusal from court-martial duty for U.S. v. Graner scheduled for 7-14 January 2005 and U.S. v. [REDACTED] scheduled for 31 January - 5 February 2005.

COL [REDACTED] requests excusal because of pressing military duties. In addition to serving as Division Chief of Staff while the division is undergoing reset and modularity conversion, he is currently performing the duties of the Assistant Division Commander (Support) who was killed in a Blackhawk crash on 29 Nov 04. In addition, COL [REDACTED] will be TDY to Fort Rucker, AL on 23-28 Jan 05 and Fort Belvoir, VA on 13-18 Feb. COL [REDACTED] is responsible for a Division-level Digital exercise scheduled for 18-21 Jan 05 and coordinating a Department of the Army Staff visit to 4th ID on 2-3 Feb 05.

COL [REDACTED] temporary absence to perform court-martial duties would severely hinder the Division during a critical period of training, reset and reorganization.

v/r
TAB

[REDACTED]
LTC, JA
Staff Judge Advocate
(254) 287 [REDACTED]

027291

[REDACTED] CPT--SJA

From: [REDACTED] SSGT SJA
Sent: Tuesday, January 04, 2005 5:22 PM
To: [REDACTED] CPT--SJA
Subject: FW: Court-Martial Panel Selection

We have his leave form also.

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

From: [REDACTED] COL--4ID DIV ENG
Sent: Tuesday, December 28, 2004 8:00 AM
To: [REDACTED] SGT SJA
Subject: RE: Court-Martial Panel Selection

SSGT [REDACTED]

You do not mention any dates in your email. I will be on leave from 1-8 Jan 05, other than that I am available.

Thanks

all (b)(6) 2, (7)(C) 2

COL [REDACTED]
DIVEN, 4ID
COM: (254) 288-3586
CELL: (254) 289-8618

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

From: [REDACTED] SSGT SJA
Sent: Monday, December 27, 2004 15:33 PM
To: [REDACTED] LTC 4ID 3-66 AR; [REDACTED] COL--4ID DIVARTY; [REDACTED] MAJ--4ID ESE; [REDACTED] COL--4ID DIV ENG; [REDACTED] LTC 4ID 3-16 FA Commander; [REDACTED] LTC--4ID 2-8 IN; [REDACTED] LTC--4ID 1-66 AR CDR (PKI); [REDACTED] MAJ--4ID DIVARTY; [REDACTED] COL OTC; [REDACTED] COL--4ID AVN BDE (PKI); [REDACTED] LTC--4ID 1-22 IN; [REDACTED] MAJ -- 4ID 1-67 AR; [REDACTED] CSM--4ID 1-22 IN; [REDACTED] SGM--4ID 124th SIG BN; [REDACTED] CSM--4ID 2-8 IN; [REDACTED] 1SG--4ID 1-67 AR; [REDACTED] CSM--4ID CMD GRP; [REDACTED] MAJ -- 4ID AVN BDE (PKI); [REDACTED] CPT -- A Co, 4th FSB, 4ID; [REDACTED] CPT -- A Co, 1-4 AVN, 4ID; [REDACTED] PT -- 4ID AVN BDE; [REDACTED] LTC 4ID (PKI); [REDACTED] 4ID MAJ G-3; [REDACTED] PT -- 4ID DISCOM; [REDACTED] CPT--4ID 1-22 IN; [REDACTED] MAJ--4ID HHC 1st BDE (PKI); [REDACTED] MAJ--4ID SPT BDE (PKI); [REDACTED] CPT--4ID STB 2BCT; [REDACTED] PT 89MP; [REDACTED] CPT--4ID 2-20 FA; [REDACTED] CPT -- 4ID 1-4 AVN (PKI); [REDACTED] PT -- HHC, 2-4th AVN, 4ID; [REDACTED] MAJ--4ID AVN BDE; [REDACTED] B. MAJ--4ID DIVENG; [REDACTED] CPT--4ID 1-67 AR; [REDACTED] MAJ OTC; [REDACTED] M. CPT G6; [REDACTED] CPT--1CD HDC 15th FSB S-1 Adjutant; [REDACTED] d CPT 4ID 1-66 AR; [REDACTED] MAJ--4ID G4; [REDACTED] 1LT 1CD HHC 1-9 CAV MORTARS; [REDACTED] G MAJ -- HHC 1CD G3 OPS Officer; [REDACTED] CPT 13th FIN GP; [REDACTED] LTC--13C (PKI); [REDACTED] PT -- HHC, 1-4 AVN, 4ID; [REDACTED] LTC OTC; [REDACTED] MAJ -- HHC, 89th MP Bde; [REDACTED] C MAJ--4ID 404 ASB (PKI); [REDACTED] A CPT 4ID 204 FSB; [REDACTED] L CPT--4ID 1-10 CAV; [REDACTED] PT--4ID DISCOM; [REDACTED] LTC -- 4ID STB 2BCT; [REDACTED] k LTC--4ID 2-4 AVN (PKI); [REDACTED] CPT--4ID HHC STB (PKI); [REDACTED] D COL-- 4ID Chief of Staff (PKI); [REDACTED] E CPT DACH FT-Hood; [REDACTED] CPT--4ID 2-8 IN; [REDACTED] 4ID DISCOM GSO; [REDACTED] MAJ DACH-Ft HOOD; [REDACTED] P CPT DACH-Ft Hood; T [REDACTED] CPT -- C Co, 1-4 AVN, 4ID; [REDACTED]

027292

all (b)(6) 2; (b)(7)(C) 2

except

W. CPT 89MP; [REDACTED] MAJ--4ID 1STB; [REDACTED] CPT OTC; [REDACTED] CPT--4ID 2-20 FA; [REDACTED] CPT--4ID G-7 LNO; [REDACTED] SFC HHC 20 EN BN 1CD; [REDACTED] SGM--4ID DIVARTY; [REDACTED] SGM 3SIG; [REDACTED] SGM -- 4ID 3-66 AR; [REDACTED] 1SG--4ID 1-4 A (PKI); [REDACTED] SFC G6; [REDACTED] 1SG -- 4ID 204 FSB; [REDACTED] SFC -- HHC, 89th MP Bde; [REDACTED] V SFC 4ID; [REDACTED] SFC -- C Co, 4-5 ADA, 1CD; [REDACTED] SGM--4ID 1-67 AR; [REDACTED] 1SG--4ID 4 FSB; [REDACTED] SFC--4ID 404 ASB; [REDACTED] W SFC-- 4ID SPT BDE; [REDACTED] MSG--4ID DIVARTY; [REDACTED] MSG--4ID DIVARTY; [REDACTED] 1SG--4ID 1STB; [REDACTED] MSG 13CC (PKI); [REDACTED] MSG -- 1CD HHC 5 BCT MAINTENANCE 5TH BCT BMS (PKI); [REDACTED] SFC-1CD 1-21 FA S2 NCOIC (PKI); [REDACTED] 1SG--4ID 1-10 CAV (PKI); [REDACTED] P MSG 4ID [REDACTED] SFC--4ID SPT BDE; [REDACTED] F CSM--4ID 404 ASB (PKI); [REDACTED] SFC--4ID 124 SIG (PKI); [REDACTED] SGM-- 4ID DISCOM; [REDACTED] SFC 4ID; [REDACTED] SGM--4ID AVN BDE (PKI); [REDACTED] MSG--4ID SPT BDE; [REDACTED] T 1SG--4ID 299 ENG; [REDACTED] A 1SG--4ID 3-16 FA; [REDACTED] EC -- 4ID DIVARTY; [REDACTED] SFC(P)--4ID SPT BDE; [REDACTED] SGM--4ID 1-10 CAV; [REDACTED] SFC--4ID 204 FSB; SFC [REDACTED] SFC [REDACTED] SFC [REDACTED] SFC [REDACTED] T. SFC--4ID 26 FA; [REDACTED] J MSG 4ID; [REDACTED] Jr. SFC 4ID 1-67 AR; [REDACTED] N. MSG--4ID 4 FSB; [REDACTED] SFC--4ID 2-8 IN; [REDACTED] MSG -- 4ID AVN BDE (PKI); [REDACTED] C 1SG--4ID STB 2BCT

Cc: [REDACTED] MAJ--SJA; [REDACTED] CPT--SJA; [REDACTED] CPT--SJA; [REDACTED] CPT III Corp SJA; [REDACTED] SGT--SJA

Subject: Court-Martial Panel Selection

Ladies and Gentlemen:

(b)(6) 5; (b)(7)(C) 5

LTG Metz has selected you to serve as court-martial members in the cases of United States v. Graner and United States v. [REDACTED]. We will provide you with more information as we get closer to trial. As you can see from the "To" line, the CG has selected over 100 potential members, so many of you are alternates who might not be called to sit on these panels.

Because of pretrial publicity, the Military Judge has published "No Publicity" orders in both cases. Please review and sign both of the attached orders (one for the Graner case and one for the Davis case). Please return these orders either by email or fax (254) 287-9073 DSN 737.

Thank you in advance for your cooperation. If you should have any questions, please contact me at [REDACTED]

V/R,
SSG [REDACTED]

027293

CPT--SJA

Call (616) 5-7625

From: [REDACTED] SSGT SJA
Sent: Tuesday, January 04, 2005 5:23 PM
To: [REDACTED] CPT--SJA
Subject: FW: Court-Martial Panel Selection

Definite excusal.

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

From: [REDACTED] 1LT 1CD HHC 1-9 CAV MORTARS
Sent: Tuesday, December 28, 2004 9:40 AM
To: [REDACTED] SSGT SJA
Subject: RE: Court-Martial Panel Selection

SSG [REDACTED]

I'm currently in IRAQ. I don't think that I'll be available to sit on this case

CPT [REDACTED]

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

From: [REDACTED] SSGT SJA
To: [REDACTED] LTC 4ID 3-66 AR; [REDACTED] W COL--4ID DIVARTY; [REDACTED] MAJ--4ID FSE; [REDACTED] COL--4ID DIV ENG; [REDACTED] LTC 4ID 3-16 FA Commander; [REDACTED] LTC--4ID 2-8 IN; [REDACTED] LTC--4ID 1-66 AR CDR (PKI); [REDACTED] MAJ--4ID DIVARTY; [REDACTED] COL OTC; [REDACTED] M COL--4ID AVN BDE (PKI); [REDACTED] LTC--4ID 1-22 IN; [REDACTED] MAJ -- 4ID 1-67 AR; [REDACTED] CSM--4ID 1-22 IN; [REDACTED] L. SGM--4ID 124th SIG BN; [REDACTED] CSM--4ID 2-8 IN; [REDACTED] 1SG--4ID 1-67 AR; [REDACTED] Jr CSM--4ID CMD GRP; [REDACTED] M MAJ -- 4ID AVN BDE (PKI); [REDACTED] CPT -- A Co, 4th FSB, 4ID; [REDACTED] CPT -- A Co, 1-4 AVN, 4ID; [REDACTED] D CPT-- 4ID AVN BDE; [REDACTED] LTC 4ID (PKI); [REDACTED] J. 4ID MAJ G-3; [REDACTED] CPT -- 4ID DISCOM; [REDACTED] T CPT--4ID 1-22 IN; [REDACTED] MAJ--4ID HHC 1st BDE (PKI); [REDACTED] MAJ--4ID SPT BDE (PKI); [REDACTED] CPT--4ID STB 2BCT; [REDACTED] P CPT 89MP; [REDACTED] CPT--4ID 2-20 FA; [REDACTED] CPT -- 4ID 1-4 AVN (PKI); [REDACTED] CPT -- HHC, 2-4th AVN, 4ID; [REDACTED] MAJ--4ID AVN BDE; [REDACTED] MAJ--4ID DIVENG; [REDACTED] CPT--4ID 1-67 AR; [REDACTED] MAJ OTC; [REDACTED] CPT G6; [REDACTED] CPT--1CD HDC 15th FSB S-1 Adjutant; [REDACTED] CPT 4ID 1-66 AR; [REDACTED] MAJ--4ID G4; [REDACTED] 1LT 1CD HHC 1-9 CAV MORTARS; [REDACTED] MAJ -- HHC 1CD G3 OPS Officer; [REDACTED] R CPT 13th FIN GP; [REDACTED] LTC--13C (PKI); [REDACTED] CPT -- HHC, 1-4 AVN, 4ID; [REDACTED] LTC OTC; [REDACTED] MAJ -- HHC, 89th MP Bde; [REDACTED] MAJ--4ID 404 ASB (PKI); [REDACTED] A CPT 4ID 204 FSB; [REDACTED] CPT--4ID 1-10 CAV; [REDACTED] CPT--4ID DISCOM; [REDACTED] LTC -- 4ID STB 2BCT; [REDACTED] LTC--4ID 2-4 AVN (PKI); [REDACTED] L CPT--4ID HHC STB (PKI); [REDACTED] COL--4ID Chief of Staff (PKI); [REDACTED] CPT DACH FT-Hood; [REDACTED] CPT--4ID 2-8 IN; [REDACTED] 4ID DISCOM GSO; [REDACTED] Ft HOOD; [REDACTED] P CPT [REDACTED]; [REDACTED] CPT -- C Co, 1-4 AVN, 4ID; [REDACTED] CPT 89MP; [REDACTED] MAJ--4ID 1STB; [REDACTED] CPT OTC; [REDACTED] CPT--4ID 2-20 FA; [REDACTED] CPT--4ID G-7 LNO; [REDACTED] SFC HHC 20 EN BN 1CD; [REDACTED] G SGM--4ID DIVARTY; [REDACTED] 1SG 3SIG; [REDACTED] 2 SGM -- 4ID 3-66 AR; [REDACTED] 1SG--4ID 1-4 A (PKI); [REDACTED] SFC G6; [REDACTED] 1SG -- 4ID 204 FSB; [REDACTED] SFC -- HHC, 89th MP Bde; [REDACTED] SFC 4ID; [REDACTED] SFC -- C Co, 4-5 ADA, 1CD; [REDACTED] SGM--4ID 1-67 AR; [REDACTED] H 1SG--4ID 4 FSB; [REDACTED] SFC--4ID 404 ASB; [REDACTED] W SFC-- 4ID SPT BDE; [REDACTED] MSG--4ID DIVARTY; [REDACTED] A MSG--4ID DIVARTY; [REDACTED] T 1SG--4ID 1STB; [REDACTED] MSG 13CC (PKI); [REDACTED] M. MSG -- 1CD HHC 5 BCT MAINTENANCE 5TH BCT BMS (PKI); [REDACTED] SFC-1CD 1-21 FA S2 NCOIC (PKI); [REDACTED] 1SG--4ID 1-10 CAV (PKI); [REDACTED]

MSG 4ID; SEC--4ID SPT BDE; F CSM--4ID 404 ASB (PKI)
SFC--4ID 124 SIG (PKI); SGM-- 4ID DISCOM; P SFC 4ID;
SGM--4ID AVN BDE (PKI); MSG--4ID SPT BDE; 1SG--4ID
299 ENG; A 1SG--4ID 3-16 FA; SFC -- 4ID DIVARTY; S. SFC
(P)--4ID SPT BDE; SGM--4ID 1-10 CAV; SFC--4ID 204 FSB; SFC
SFC SFC SFC SFC
y T. SFC--4ID 26 FA; MSG 4ID; Jr. SFC 4ID
1-67 AR; MSG--4ID 4 FSB; SFC--4ID 2-8 IN; MSG -- 4ID
AVN BDE (PKI) 1SG--4ID STB 2BCT
Cc: MAJ--SJA; CPT--SJA; PT--SJA;

CPT III Corp SJA; F SGT--SJA
Sent: 12/27/2004 3:33 PM
Subject: Court-Martial Panel Selection

Ladies and Gentlemen: (b)(5), (7)(C)5

LTG Metz has selected you to serve as court-martial members in the cases of United States v. Graner and United States v. [redacted]. We will provide you with more information as we get closer to trial. As you can see from the "To" line, the CG has selected over 100 potential members, so many of you are alternates who might not be called to sit on these panels.

Because of pretrial publicity, the Military Judge has published "No Publicity" orders in both cases. Please review and sign both of the attached orders (one for the Graner case and one for the [redacted] case). Please return these orders either by email or fax (254) 287-[redacted] SN 737.

(b)(5), (7)(C)5

Thank you in advance for your cooperation. If you should have any questions, please contact me at 288-3113.

V/R,
SSG [redacted]

<<Document1.pdf>> <<Document.pdf>>

All (b)(2), (7)(C) 2

[REDACTED] C CPT--SJA

From: [REDACTED] SSGT SJA
Sent: Tuesday, January 04, 2005 5:25 PM
To: [REDACTED] CPT--SJA
Subject: FW: Court-Martial Panel Selection (Excusal Request)

all (6)(6)2, (7)(C)2

He's an alternate way down on the list sir.

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

From: [REDACTED] CPT--4ID DISCOM
Sent: Wednesday, December 29, 2004 9:43 AM
To: [REDACTED] SGT SJA
Cc: [REDACTED] MAJ--4ID SPT BDE; [REDACTED] MAJ--4ID SPT BDE
Subject: Court-Martial Panel Selection (Excusal Request)

SSG [REDACTED]

I am submitting my request for excusal for serving as a court-martial member in the cases of United States v. Graner and United States v. [REDACTED] I am selected to serve on a civilian jury panel beginning 3 January 2005. I will also be on leave from 28 January - 11 February 2005.

Thank you for your assistance,

(5)(6)5, (7)(C)5

[REDACTED]
CPT, QM
Chief, Distribution Management Center
Support Brigade
Fourth Infantry Division (Mechanized)
Commercial: (254) [REDACTED]
DSN: 312-[REDACTED]

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

From: [REDACTED] SSGT SJA
Sent: Monday, December 27, 2004 3:33 PM
To: [REDACTED] LTC 4ID 3-66 AR; [REDACTED] COL--4ID DIVARTY; [REDACTED] MAJ--4ID FSE; [REDACTED] COL--4ID DIV ENG; [REDACTED] LTC 4ID 3-16 FA Commander; [REDACTED] LTC--4ID 2-8 IN; [REDACTED] LTC--4ID 1-66 AR CDR (PKI); [REDACTED] MAJ--4ID DIVARTY; [REDACTED] LTC; [REDACTED] COL--4ID AVN BDE (PKI); [REDACTED] LTC--4ID 1-22 IN; [REDACTED] MAJ -- 4ID 1-67 AR; [REDACTED] CSM--4ID 1-22 IN; [REDACTED] GM--4ID 124th SIG BN; [REDACTED] CSM--4ID 2-8 IN; [REDACTED] 1SG--4ID 1-67 AR; [REDACTED] CSM--4ID CMD GRP; [REDACTED] MAJ -- 4ID AVN BDE (PKI); [REDACTED] -- A Co, 4th FSB, 4ID; [REDACTED] CPT -- A Co, 1-4 AVN, 4ID; [REDACTED] CPT-- 4ID AVN BDE; [REDACTED] LTC 4ID (PKI); [REDACTED] MAJ MAJ G-3; [REDACTED] CPT -- 4ID DISCOM; [REDACTED] CPT--4ID 1-22 IN; [REDACTED] MAJ--4ID HHC 1st BDE (PKI); [REDACTED] MAJ--4ID SPT BDE (PKI); [REDACTED] CPT--4ID STB 2BCT; [REDACTED] CPT 89MP; [REDACTED] CPT--4ID 2-20 FA; [REDACTED] -- 4ID 1-4 AVN (PKI); [REDACTED] -- HHC, 2-4th AVN, 4ID; [REDACTED] MAJ--4ID AVN BDE; [REDACTED] MAJ--4ID; [REDACTED] 4ID 1-67 AR; [REDACTED] MAJ OTC; [REDACTED] G6; [REDACTED] CPT--1CD HDC 15th FSB S-1 Adjutant; [REDACTED] CPT 4ID 1-66 AR; [REDACTED] MAJ--4ID G4; [REDACTED] 1LT 1CD HHC 1-9 CAV MORTARS; [REDACTED] MAJ -- HHC 1CD G3 OPS Officer; [REDACTED] CPT 13th FIN GP; [REDACTED]

027296

LTC--13C (PKI); [REDACTED] CPT -- HHC, 1-4 AVN, 4ID; [REDACTED] C OTC; [REDACTED] MAJ --
HHC, 89th MP Bde; [REDACTED] C MAJ--4ID 404 ASB (PKI); [REDACTED] CPT 4ID 204 FSB;
[REDACTED] L CPT--4ID 1-10 CAV; [REDACTED] L CPT--4ID DISCOM; [REDACTED] LTC -- 4ID
STB 2BCT; [REDACTED] LTC--4ID 2-4 AVN (PKI); [REDACTED] CPT--4ID HHC STB (PKI); [REDACTED]
[REDACTED] COL-- 4ID Chief of Staff (PKI); [REDACTED] E CPT DACH FT-Hood; [REDACTED] CPT--4ID 2-8
IN; [REDACTED] 4ID DISCOM GSO; [REDACTED] MAJ DACH-Ft HOOD; [REDACTED] P CPT DACH-Ft
Hood; [REDACTED] CPT -- C Co, 1-4 AVN, 4ID; [REDACTED] CPT 89MP; [REDACTED] MAJ--
4ID 1STB; [REDACTED] CPT OTC; [REDACTED] CPT--4ID 2-20 FA; [REDACTED] CPT--4ID G-7
LNO; [REDACTED] SFC HHC 20 EN BN 1CD; [REDACTED] Id G SGM--4ID DIVARTY; [REDACTED] E 1SG
3SIG; [REDACTED] L SGM -- 4ID 3-66 AR; [REDACTED] 1SG--4ID 1-4 A (PKI); [REDACTED] A SFC
G6; [REDACTED] SG -- 4ID 204 FSB; [REDACTED] SFC -- HHC, 89th MP Bde; [REDACTED] SFC 4ID;
[REDACTED] C D. SFC-- C Co, 4-5 ADA, 1CD; [REDACTED] SGM--4ID 1-67 AR; [REDACTED] 1SG--
4ID 4 FSB; [REDACTED] SFC--4ID 404 ASB; [REDACTED] SFC-- 4ID SPT BDE; [REDACTED] MSG--
4ID DIVARTY; [REDACTED] MSG--4ID DIVARTY; [REDACTED] 1SG--4ID 1STB; [REDACTED]
MSG 13CC (PKI); [REDACTED] MSG -- 1CD HHC 5 BCT MAINTENANCE 5TH BCT BMS (PKI);
[REDACTED] SFC-1CD 1-21 FA S2 NCOIC (PKI); [REDACTED] SG--4ID 1-10 CAV (PKI); [REDACTED]
[REDACTED] MSG 4ID [REDACTED] SFC--4ID SPT BDE; [REDACTED] F CSM--4ID 404 ASB (PKI);
[REDACTED] SFC--4ID 124 SIG (PKI); [REDACTED] SGM-- 4ID DISCOM [REDACTED] SFC 4ID;
[REDACTED] L SGM--4ID AVN BDE (PKI); [REDACTED] SG--4ID SPT BDE; [REDACTED] 1SG--4ID
299 ENG; [REDACTED] A 1SG--4ID 3-16 FA; [REDACTED] SFC -- 4ID DIVARTY; Rivers, Derek S. SFC
(P)--4ID SPT BDE; [REDACTED] SGM--4ID 1-10 CAV; [REDACTED] SFC--4ID 204 FSB; SFC
[REDACTED] SFC [REDACTED] SFC [REDACTED] SFC [REDACTED] SFC [REDACTED] SFC
[REDACTED] SFC--4ID 26 FA; [REDACTED] MSG 4ID; [REDACTED] SFC 4ID
1-67 AR; [REDACTED] MSG--4ID 4 FSB; [REDACTED] SFC--4ID 2-8 IN; [REDACTED] MSG --
4ID AVN BDE (PKI); [REDACTED] C 1SG--4ID STB 2BCT
Cc: [REDACTED] R MAJ--SJA; [REDACTED] C CPT--SJA; [REDACTED] CPT--SJA; [REDACTED]
Cullen CPT III Corp SJA; [REDACTED] SGT--SJA
Subject: Court-Martial Panel Selection

Ladies and Gentlemen:

LTG Metz has selected you to serve as court-martial members in the cases of United States v. Graner and United States v. [REDACTED]. We will provide you with more information as we get closer to trial. As you can see from the "To" line, the CG has selected over 100 potential members, so many of you are alternates who might not be called to sit on these panels. (b)(6); (b)(7)(C)

Because of pretrial publicity, the Military Judge has published "No Publicity" orders in both cases. Please review and sign both of the attached orders (one for the Graner case and one for the [REDACTED] case). Please return these orders either by email or fax (254) 287-9073 DSN 737.

Thank you in advance for your cooperation. If you should have any questions, please contact me at [REDACTED].

V/R,
SSG [REDACTED]

All (b)(6)2, (b)(7)(C)2

027297

[REDACTED] CPT--SJA

From: [REDACTED] SSGT SJA
Sent: Tuesday, January 04, 2005 5:27 PM
To: [REDACTED] CPT--SJA
Subject: FW: Request for Excusal from Court-Martial Duty

all (b)(6) 2; (b)(7)(C) 2

Again - way down on the alternate list.

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

From: [REDACTED] CPT OTC [mailto:[REDACTED]@otc.army.mil]
Sent: Monday, January 03, 2005 2:28 PM
To: [REDACTED] SGT SJA
Cc: [REDACTED] Mr. OTC; [REDACTED] COL OTC; [REDACTED] Mr. OTC; [REDACTED] Mr. OTC; [REDACTED] LTC OTC
Subject: Request for Excusal from Court-Martial Duty

SSG [REDACTED]
COL [REDACTED]

For LTG Metz,

Request excusal from court-martial duty for the period 7 January 2005 until 20 April 2005.

I am scheduled to attend the Operational Research Systems Analysis (ORSA) Military Application Course I, Phases I and II, at Fort Lee, VA. A copy of my orders has been faxed separately.

This training is required for my functional area selection qualification, and had been previously scheduled. I am unable to perform my present ORSA duties at the Methodology and Analysis Directorate of Operational Test Command without this training.

Respectfully,

[REDACTED]

*CPT, MI
Methodology and Analysis Directorate
COM 254.287.
DSN 737.
FAX 254.288.*

"There are two ways to go through life: Onward and Upward. Onward and Upward are perpendicular and thus have a beginning. Their beginning is called ALPHA." - Andre Hudson

027298

[REDACTED] CPT--SJA

From: [REDACTED] SSGT SJA
Sent: Tuesday, January 04, 2005 5:32 PM
To: [REDACTED] CPT--SJA
Subject: FW: excusal from CM duty

This came in today.

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

From: [REDACTED] SGM-- 4ID DISCOM
Sent: Tuesday, January 04, 2005 11:42 AM
To: [REDACTED] SGT SJA
Subject: excusal from CM duty

all (b)(6)2 (7)(c) 2

SSG [REDACTED]

I have been served as a CM panel before. Through my previous experience I am not happy to requesting this excusal, but please deeply consider my situation for the following reason:

Currently I am under medication and permanent profile due to my heart problem which has been found during over 40 physical. However, during past Christmas holidays I have been experienced that unusual shortness of breath all of a sudden and several times. Thus immediately I consulted a doctor, and have two different medical appointments on 10 & 12 Jan in order to determine the seriousness, exact causes, and priority for the treatment. And I want to keep these appointments prior to change my uniform since I have submitted retirement. Thank you for your time and consideration.

v/r
SGM [REDACTED]
4ID SUP BDE

027299



DEPARTMENT OF THE ARMY
HEADQUARTERS, 4TH INFANTRY DIVISION (MECHANIZED)
FORT HOOD, TX 76544-5000

REPLY TO
ATTENTION OF:

AFYB-CG

4 January 2005

MEMORANDUM FOR Commanding General, III Corps, Victory Base, Iraq APO AE 09342


SUBJECT: Request to Excuse Panel Member

1. COL [REDACTED] Chief of Staff, 4th Infantry Division, was selected to serve as an alternate panel member for two III Corps courts-martial. U.S. v. Graner is scheduled for 7-14 January 2005 and U.S. v. Davis is scheduled for 31 January - 5 February 2005. I respectfully request that you permanently excuse COL [REDACTED] from court-martial duty.

2. COL [REDACTED] is serving in a critical position during an incredibly busy period for the Division. I fully appreciate the importance of serving as a court-martial panel member. However, I simply cannot afford to lose him for this duty. COL [REDACTED] assumed additional duties of the Assistant Division Commander (Support) who was killed in a Blackhawk crash on 29 Nov 04. In addition to assisting with modularity conversion and reset of the Division, COL [REDACTED] is responsible for a Division-level Digital exercise scheduled for 18-21 Jan 05 and coordinating a Department of the Army Staff visit to 4th ID on 2-3 Feb 05.

3. COL [REDACTED] temporary absence to perform court-martial duties would severely hinder the 4th Infantry Division during a critical period of training, reset and reorganization. Therefore, I respectfully request that you excuse him from court-martial duty.

4. POC is the undersigned at (254) [REDACTED]


JAMES D. THURMAN
Major General, USA
Commanding

(S)(b)(2);(7)(C) 2

027300

DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

ALL (b)(6)2, (7)(C)2
excused as noted

AFZF-JA

JAN 5 2005

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Excusal of Panel Members in United States v. Graner – ACTION
MEMORANDUM

1. Purpose. To obtain your decision on requests for temporary and permanent excusals of panel members in the court-martial of Specialist Charles A. Graner, Jr., Headquarters and Headquarters Company, III Corps, Victory Base, Iraq.

2. Background. Under Rule for Courts-Martial (RCM) 505(c)(1), you have the authority to excuse panel members before assembly without showing cause.

a. Temporary Excusals. The following members have requested temporary excusal:

1. Colonel [REDACTED] Primary panel member is on approved leave through 8 January 2005 on a cruise. He will be available to sit on the [REDACTED] case if necessary.

2. Lieutenant Colonel [REDACTED] and Command Sergeant Major [REDACTED] Both primary panel members have been seated as panel members in the court-martial of Sergeant First Class [REDACTED]. This court-martial is expected to last for three days and conclude on 6 January 2005. The Graner court-martial will begin the next day and will likely continue through 14 January 2005. If these Soldiers are seated, they will serve on court-martial duty for two weeks.

3. Captain [REDACTED]. Alternate panel member has requested excusal from 7 January 2005 through 20 April 2005 so he can attend Operational Research Systems Analysis (ORSA) Military Application Course I, Phases I and II at Fort Lee, Virginia.

4. Captain [REDACTED] Alternate panel member reports that he is in Iraq.

5. Captain [REDACTED] Alternate panel member requests excusal because he may be serving as a civilian jury member on 3 January 2005.

6. Sergeant Major [REDACTED] Alternate panel member has requested excusal because of medical appointments. As set forth in his request, he is under medication for a heart problem found during his over 40 physical. Over the holiday break, Sergeant Major [REDACTED] experienced unusual shortness of breath and has medical appointments on 10 and 12 January 2005 for evaluation of a potentially serious medical condition.

027301

AFZF-JA

SUBJECT: Excusal of Panel Members in United States v. Graner – ACTION
MEMORANDUM

b. Permanent Excusal. Colonel [REDACTED] was selected as an alternate panel member. Major General Thurman, Commander, 4ID, has requested the permanent excusal of Colonel [REDACTED] from court-martial duty. Colonel [REDACTED] is the Chief of Staff, 4th ID and has also assumed the duties of the Assistant Division Commander (Support) who was killed in a Blackhawk crash on 29 November 2004. Colonel [REDACTED] is also assisting with the modularity conversion and reset of 4ID and is responsible for a Division-level Digital exercise scheduled for 18-21 January 2005 and coordinating a Department of the Army Staff visit to 4ID on 2-3 February 2005.

3. Recommendation. I make the following recommendations:

a. Temporary Excusals. I recommend you temporarily all panel members except for Captain [REDACTED] from the court-martial of United States v. Graner.

b. Permanent Excusal. I recommend you approve the permanent excusal of Colonel [REDACTED]

c. Designate Alternates. I recommend that you designate alternates to replace excused primary members. Once you take action, court-martial convening orders will be published to document your decision.

4. POC is the undersigned at DSN 318-822 [REDACTED]

all (b)(6) 2)
(7)(c) 2

Encl
as

[REDACTED]
[REDACTED]
[REDACTED]
COL, JA
Staff Judge Advocate

027302

DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

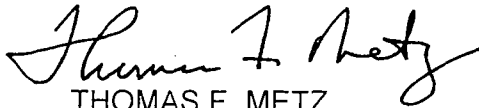
AFZF-CG

JAN 5 2005

MEMORANDUM FOR Staff Judge Advocate

SUBJECT: Excusal of Panel Members in United States v. Graner

The recommendations of the Staff Judge Advocate are approved. Colonel [REDACTED], Lieutenant Colonel [REDACTED], Captain [REDACTED], Captain [REDACTED], Command Sergeant Major [REDACTED] and Sergeant [REDACTED] are temporarily excused only for the court-martial of Specialist Charles A. Graner. Colonel [REDACTED] is permanently excused. I direct that Colonel [REDACTED] be replaced by the first available officer alternate, Lieutenant Colonel [REDACTED]. I direct that Lieutenant Colonel [REDACTED] be replaced by the second available officer alternate, Lieutenant Colonel [REDACTED]. I direct that Command Sergeant Major [REDACTED] be replaced by the first available enlisted alternate, Command Sergeant Major [REDACTED]. I deny the request to temporarily excuse Captain [REDACTED] from court-martial duty.


THOMAS F. METZ
Lieutenant General, USA
Commanding

*all (b)(6)2;
EXC12*

027303

AFZF-JA-MJ

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Advice on Disposition of the Court-Martial Charges Preferred Against Specialist Charles A. Graner, Jr. [REDACTED] ACTION MEMORANDUM

1. Purpose. To forward for disposition, in accordance with Rule for Court-Martial (RCM) 407, the court-martial charges against Staff Sergeant [REDACTED] Headquarters and Headquarters Company, 16th MP Brigade (Airborne), III Corps, Victory Base, Iraq.

(b)(6);
(7)(C)5

2. Recommendations.

a. *Chain of Command.* As reflected on the attached court-martial charges transmittal memoranda, the soldier's company and brigade commanders recommend referral of the charges to a general court-martial.

b. *Article 32 Investigation.* As reflected in the Investigating Officer's Report, the Article 32 Officer recommends referral of the charges to a general court-martial.

c. *Staff Judge Advocate.* I recommend you refer the attached charges and their specifications to a general court-martial, pursuant to RCM 601, and refer the case to trial by Court-Martial Convening Order Number 1, dated 14 January 2004, as amended by Court-Martial Convening Order Number 3, dated 8 March 2004.

3. Staff Judge Advocate Review. In accordance with RCM 406 and Article 34, Uniform Code of Military Justice (UCMJ), I have reviewed the attached charges and supporting documentation. It is my legal conclusion that:

a. The specifications allege offenses under the UCMJ;

b. The allegations of the offenses are warranted by the evidence indicated in the attached documentation; and

c. The court-martial will have jurisdiction over the accused and the offenses alleged.

4. POC is CPT [REDACTED] at DSN 318-822-[REDACTED]

all (b)(6)2;
(7)(C)2
except as noted

Encls

- 1. Charge Sheet
- 2. Transmittal Memoranda
- 3. Article 32 Investigation Report
- 4. Allied Documents

[REDACTED]

COL, JA
Staff Judge Advocate

14 May 2004

007304

DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

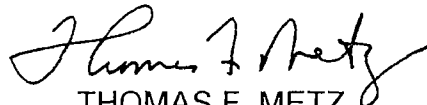
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AFZF-CG

MEMORANDUM FOR Staff Judge Advocate

SUBJECT: Disposition of the Court-Martial Charges Preferred Against Specialist
Charles A. Graner, Jr. [REDACTED] (b)(6), (b)(7)(C)

The recommendations of the Staff Judge Advocate are approved. The attached charges and their specifications are referred to a general court-martial convened by Court-Martial Convening Order Number 1, dated 14 January 2004, as amended by Court-Martial Convening Order Number 3, dated 8 March 2004.


THOMAS F. METZ
Lieutenant General, USA
Commanding

027305

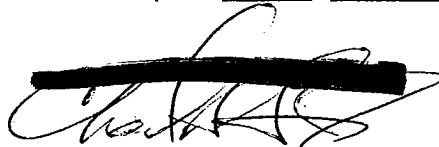
AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Service of Preferral of Charges in the case of United States v. Specialist Charles A. Graner Jr.

1. I hereby acknowledge that the charges against me were read and preferred on this 20 day of March 2004, at 2225 hours. Further, I hereby acknowledge receipt of said charge sheet(s) and allied papers.

2. I further understand that I have an appointment at Trial Defense Services, ph: (302) 838-1100, trailer B12, Victory Base, Iraq, at _____, _____.



CHARLES A. GRANER Jr
SPC, USA

27306


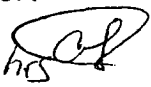
AFZA-AP-HHC

14 May 2004

MEMORANDUM FOR RECORD

SUBJECT: Service of Referral of Charges in the Case of United States v. Specialist Charles A. Graner Jr

1. I hereby acknowledge that the charges against me were referred to General Court-Martial on 14 May 2004. I further acknowledge receipt of said Charge Sheet, Continuation Page(s), and Court-Martial Convening Order(s).
2. I understand that I should contact my Trial Defense Attorney as soon as possible to further discuss my case.


CHARLES A. GRANER JR
SPC, USA
14 May 2003 1612 hrs 
(date)

027307