

Field Grade Article 15 Punishment Worksheet

Pertaining To: [REDACTED] 66-2, 66-5, 67(c)

Unit: [REDACTED] 63-1
62-1 low 2

Maximum Punishment Authorized

Reduction:

Pay Grades E4 and below: Reduction to the lowest enlisted grade. Pay Grades E5 & E6 Reduction by one grade.

Forfeiture: 1/2 a months pay for 2 months (If reduction is imposed, forfeiture is based on the reduced pay grade, even if suspended).

\$995.00 as E5 \$907.00 as E4

Extra Duty: 45 days maximum

Restriction: 60 days maximum (Note: When given with extra duty, restriction will not exceed 45 days.)

Note: Punishments can be suspended for up to 180 days; all appeals must be returned to the article 15 section prior to going to the appellate authority. Most Restrictive Possible Restriction is: Place of Duty, Place of Worship, Dining and Medical Facilities, Quarters.

RETURN TO [REDACTED] BCT LEGAL CELL: 63-1, 62-1 low 2
BLDG 6285 (2ND Floor), RM 224a, FOR PUNISHMENT TO BE TYPED IN

Reduction to the Grade Of: SPL Suspended for (Number Days) _____.

Forfeiture of \$ 907.00, suspended for (Number Days) _____ for 2 months

Extra duty for: 45 days, suspended for (Number Days) _____.

Restriction for 45 days, to the limits of (Circle One) Fort Carson, Battalion Area,

Company Area, Most Restrictive, Other: _____, suspended

For (Number of Days) 180.

Imposing Commander's Signature: [REDACTED] 66-2, 66-3, 67(c)

Direct any questions to the [REDACTED] at DSN: [REDACTED]

66-2, 66-3
67(c)

62-1 (low 2)

011950

- RECEIPT/CERTIFICATE OF SERVICE -

A copy of each of the documents listed below, was served on

- The Accused;
 - Counsel for the Accused;
 - An authorized representative of counsel for the Accused;
- in the case of United States v. [REDACTED]

66-5, 67(c), 66-3, 66-2, 63-1 - [REDACTED]
62-1 - Unit
Low 2

Documents served consist of DA 2627's (2) with continuation sheets.

RECEIPT OF THE FOREGOING
IS ACKNOWLEDGED BY:

[REDACTED]
SIGN [REDACTED]
[REDACTED]
PRINT/DATE [REDACTED]

66-3
66-2
67(c)

I certify that on _____, I served the aforementioned document(s) to the party(ies) indicated, in the
aforementioned case.

(INITIAL IF RECIPIENT REFUSED TO SIGN ACKNOWLEDGING RECEIPT: _____)

62-1 [REDACTED]
(Low 2)

[REDACTED]
USA
Paralegal NCO

66-3
66-2
67(c)

-RECEIPT/CERTIFICATE OF SERVICE-

A copy of each of the documents listed below, was served on

- The Accused;
- Counsel for the Accused;
- An authorized representative of counsel for the Accused;
(in the case of US v [REDACTED])

*b7(c)
66-5, 63-1 } unit
62-1-Low 2*

Documents served consist of:

1. Grant of Testimonial Immunity

RECEIPT OF THE FOREGOING
IS ACKNOWLEDGED BY:

[REDACTED SIGNATURE]

SIGN

2/8/04
PRINT/DATE

66-2, 66-3, b7(c)

I certify that on _____, I served the aforementioned document(s) to the party(ies) indicated, in the aforementioned case.

(INITIAL IF RECIPIENT REFUSED TO SIGN ACKNOWLEDGING RECEIPT: _____)

[REDACTED]

USA
Paralegal Specialist

66-2, 66-3, b7(c)

*62-1
(Low 2)
FA*

-RECEIPT/CERTIFICATE OF SERVICE-

A copy of each of the documents listed below, was served on

- The Accused;
- Counsel for the Accused;
- An authorized representative of counsel for the Accused;
in the case of US v. [REDACTED]

*67(c)
66-5, 63-1 unit
66-2, 62-Low 2*

Documents served consist of:

- 1. DD 458, preferred 28 Jun 04
- 2. Assumption of command orders, dtd 21 Jun 04
- 3. Article 32 Appointment memo, dtd 28 Jun 04

RECEIPT OF THE FOREGOING
IS ACKNOWLEDGED BY:

[REDACTED SIGNATURE]

*66-2, 66-3,
67(c)*

SIGN

PRINT/DATE

I certify that on _____, I served the aforementioned document(s) to the party(ies) indicated, in the aforementioned case.

(INITIAL IF RECIPIENT REFUSED TO SIGN ACKNOWLEDGING RECEIPT: _____)

62-1 (Low 2) → [REDACTED] USA Paralegal NCO *66-2, 66-3, 67(c)*

011953

TRANSMISSION VERIFICATION REPORT

TIME : 01/28/2004 00:07

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

01/28 00:03
██████████
00:03:51
08
OK
STANDARD
ECM

62-1 (Low?)

C11954

DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
FORT CARSON, CO

FACSIMILE TRANSMITTAL SHEET

TO: [REDACTED] FROM: [REDACTED] 67(c) 66-2, 66-3, 62-1(Low 2)

COMPANY: [REDACTED] DATE: 28 JUNE 2004

FAX NUMBER: (254) 287 [REDACTED] TOTAL NO. OF PAGES INCLUDING COVER: 6

PHONE NUMBER: 62-1(Low 2) SENDER'S FAX NUMBER:

RE: REFERRED CHARGES ON [REDACTED] 66-5

- URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

OFFICE OF THE STAFF JUDGE ADVOCATE
FORT CARSON, CO 80913



011955

TRANSMISSION VERIFICATION REPORT

TIME : 01/26/2004 01:45

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

01/26 01:42

00:02:48

06

OK

STANDARD

ECM

62-1 (Low)

C11956

DEPARTMENT OF THE ARMY

Fort Carson, Colorado 80913

63-1 & 62-1 Lowr

AFZC-FC

1 July 2004

MEMORANDUM FOR [REDACTED] United States Trial Defense Service, Fort Carson Field Office,
Fort Carson, Colorado 80913

67(C)

SUBJECT: Article 32(b) Investigation in the case of [REDACTED] and [REDACTED]
[REDACTED]

66-2

66-5

1. The delay of the Article 32 Investigation on the charges against [REDACTED]
[REDACTED] until 22 July 2004 is approved.

2. The Point of Contact for this memo is [REDACTED] at 52 [REDACTED]

62-1 Lowr

66-2

66-3

67(C)

[REDACTED]

67(C)

66-2

66-3

62-1 (Lowr)

CHARGE SHEET

67(c)

66-2, 66-3, 62-1 (Low 2) (copy)

1. NAME OF ACCUSED (Last, First, MI) [REDACTED] 662, 665, 67(c)			I. PERSONAL DATA 68-5		3. GRADE OR RANK [REDACTED]	4. PAY GRADE [REDACTED]
5. UNIT OR ORGANIZATION Fort Carson, Colorado 80913			2. SSN [REDACTED] 66-2		6. CURRENT SERVICE	
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED	
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL	None			
\$1,991.10	NA	\$1,991.10				

II. CHARGES AND SPECIFICATIONS

10. CHARGE I: Violation of the UCMJ, Article 107.

THE SPECIFICATION: In that [REDACTED] U.S. Army, did at or near Tikrit, Iraq, on or about 16 January 2004, with the intent to deceive, make to a CID agent a sworn official statement, to wit: that [REDACTED] and [REDACTED] were stopped, searched and released to walk to their vehicle and that he personally witnessed the two individuals on the side of the road as his convoy departed the area, which statement was totally false and was then known by [REDACTED] to be false.

CHARGE II: Violation of the UCMJ, Article 119

THE SPECIFICATION: In that [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, while perpetrating an offense directly affecting the person of [REDACTED], to wit: push him into the Tigris River at nighttime, unlawfully kill [REDACTED] by drowning.

664, 67(c)

664, 67(c)

66-2, 66-3, 62-1 (Low 2)

11a. NAME OF ACCUSER (Last, First, MI) [REDACTED] 66-2, 66-37		III. PREFERRED		c. ORGANIZATION OF ACCUSER [REDACTED] - 62-1 (Low 2) 63-1	
d. SIGNATURE OF ACCUSER [REDACTED]				e. DATE 28 JUN 2004	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this _____ day of _____, 20____, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[REDACTED] 66-2, 66-3, 67(c) Office of the Staff Judge Advocate
 Typed Name of Officer Organization of Officer

CPT Judge Advocate
 Official Capacity to Administer Oath
 (See R.C.M. 307(b) - must be a commissioned officer)

[REDACTED] 66-2, 66-3, 67(c)
 Signature

12.

On 28 JUNE, 2094, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 109 if notification cannot be made.)

[Redacted] ^{67(c)}
66-2
66-3
62-1 (LOW?)

Typed Name of Immediate Commander

[Redacted] ^{62-1 (LOW?)}
63-1

Organization of Immediate Commander

Grade

[Redacted]

Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at _____ hours, _____ 20 _____ at _____

Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

[Redacted] ^{67(c)}
66-2
66-3
62-1 (LOW?)

Typed Name of Officer

FOR THE ¹

Commanding

Official Capacity of Officer Signing

[Redacted] ^{67(c)}
66-2
66-3
62-1 (LOW?)

Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OR CONVENING AUTHORITY

b. PLACE

c. DATE

Referred for trial to the _____ court-martial convened by _____

_____ 20 _____, subject to the following instructions:²

By _____ of _____

Command or Order

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

15.

On _____, 20____, I (caused to be) served a copy hereof on (each of) the above named accused.

[Redacted] ⁶⁶⁻²
66-3
67(c)

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

[Redacted] ^{62-1 (LOW?)}

Signature

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.

2 - See R.C.M. 601(e) concerning instructions. If none, so state.

62-1 (LOW?)
63-1

DEPARTMENT OF THE ARMY

[REDACTED] 4th Infantry Division (Mechanized)
Fort Carson, Colorado 80913

63-1

AFZC-FC

28 June 2004

MEMORANDUM FOR [REDACTED] Office of The Staff Judge Advocate, Fort Carson,
Colorado 80913

SUBJECT: Appointment of Article 32(b) Investigating Officer in the case of [REDACTED]
[REDACTED] and [REDACTED]

1. You are hereby designated to investigate the case of [REDACTED] and Sergeant [REDACTED] Infantry under Article 32, UCMJ. You will investigate the charges in conjunction with the case of U.S. v. [REDACTED] U.S. [REDACTED]. Additionally, you shall investigate and make a recommendation as to any uncharged offenses, except minor offenses as defined by Part V, Manual for Courts-Martial, brought to your attention during the investigation unless counsel for both sides agree that they should not be investigated.

2. Your investigation will be conducted IA^W Article 32(b), UCMJ, R.C.M. 405, MCM (2000 Edition) and AR 27-10. Procedural guidance is contained in DA Pam 27-17.

3. Your investigation will be completed and forwarded to the Criminal Law Division, OSJA, Fort Carson, Colorado, not later than fifteen duty days from the date of this correspondence. You may approve reasonable defense-requested delays, not to exceed ten duty days in length, occasioned by scheduling conflicts or defense requests for witnesses, and such periods will be excluded from your allotted time. Any requested delays beyond twenty five duty days from the date of this correspondence will be immediately forwarded through the trial counsel to me for action. Within 72 hours of completion of your investigation you will deliver the original Investigating Officer's Report, DD Form 457, with enclosures, and a detailed chronology of the investigation to the Criminal Law Division, OSJA, Fort Carson, Colorado.

4. Your clerical and administrative support will be provided by [REDACTED] of the Criminal Law Division, Office of The Staff Judge Advocate. You may contact [REDACTED] at [REDACTED]. The duty uniform should be worn at this hearing to facilitate witnesses returning to regular duties.

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

[REDACTED]
Commanding

67(c)
66-2
66-5
Esp 6,7

67(c)
66-2
66-5
63-1
62-1 (Low) un
2

66-2/67(c)
66-3

62-1 (Low 2)

67(c)
66-2
66-3
f

62-1 (Low 2)

011960



DEPARTMENT OF THE ARMY

HEADQUARTERS, 1ST INFANTRY DIVISION (AIRBORNE)
FORT BELLEVILLE, ILLINOIS 62002-5000
PERSONNEL BRANCH (M/CH/AN/PD)

REPLY TO
ATTENTION OF

AFZC-FC-A

21 JUN 04

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Assumption of Command

6700, 66-2, 66-3

63-1

1. [REDACTED] assumes the duties as Battalion Commander of the [REDACTED] REGT, Fort Carson, Colorado effective 21 JUN 04 IAW paragraphs 2-1, 2-2, 2-8, 2-11, 2-12, AR 600-20.

2. The P.O.C. for this memorandum is [REDACTED] Battalion Adjutant, (719) [REDACTED] *62-1 (Low 2)*

[REDACTED]

Commanding

62-1 (Low 2)

CHARGE SHEET

66-2, 66-3, 62-1 (Low 2)

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)

[Redacted] 662, 66-5 67(c)

2. SSN

[Redacted] 66-2, 67(c)

3. GRADE OR RANK

4. PAY GRADE

5. UNIT OR ORGANIZATION

Fort Carson, Colorado 80913

6. CURRENT SERVICE

a. INITIAL DATE

b. TERM

7. PAY PER MONTH

a. BASIC

b. SEA/FOREIGN DUTY

c. TOTAL

\$1,638.20

NA

\$1,638.20

8. NATURE OF RESTRAINT OF ACCUSED

None

9. DATE(S) IMPOSED

II. CHARGES AND SPECIFICATIONS

10. CHARGE I: Violation of the UCMJ, Article 107.

THE SPECIFICATION: In that [Redacted] U.S. Army, did at or near Tikrit, Iraq, on or about 16 January 2004, with the intent to deceive, make to a CID agent a sworn official statement, to wit: that [Redacted] and [Redacted] were stopped, searched and released to walk to their vehicle and that he personally witnessed the two individuals on the side of the road as his convoy departed the area, which statement was totally false and was then known by [Redacted] to be false.

66-4, 67(c)

CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 128

THE SPECIFICATION: In that [Redacted] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, commit an assault upon [Redacted] by pushing him into the Tigris River at nighttime.

66-2, 66-3, 62-1 (Low 2)

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI)

[Redacted] 66-2, 66-3 67(c)

b. GRADE

c. ORGANIZATION OF ACCUSER

62-1 (Low 2)
63-1

d. SIGNATURE OF ACCUSER

e. DATE

[Redacted] 62-1 (Low 2)

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this _____ day of _____, 20____, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Typed Name of Officer

66-2, 66-3, 67(c) Office of the Staff Judge Advocate

Organization of Officer

Grade

[Redacted] 62-1 (Low 2)

Judge Advocate

Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)

Signature

12.

On 28 JUNE, 2004, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

62-1(LOW)
63-1

[Redacted] 66-27
Typed Name of Immediate Commander
[Redacted] 66-3
62-1(LOW) 67(C)
Grade
[Redacted]
Signature

[Redacted]
Organization of Immediate Commander

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at _____ hours, _____ 20 _____ at [Redacted]
Designation of Command or

62-1(LOW)
63-1

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹

[Redacted] 67(C)
66-2
Typed Name of Officer
[Redacted] 66-3
62-1(LOW)
Grade
[Redacted]
Signature

[Redacted]
Commanding
Official Capacity of Officer Signing

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF CONVENING AUTHORITY b. PLACE c. DATE

Referred for trial to the _____ court-martial convened by _____

_____ 20 _____, subject to the following instructions:²

By _____ of _____
Command or Order

Typed Name of Officer Official Capacity of Officer Signing

Grade

Signature

15

On _____, 20 _____, I (caused to be) served a copy hereof on ~~(each of)~~ the above named accused.

[Redacted] 66-2
Typed Name of Trial Counsel
[Redacted] 66-3
67(C)
Signature

[Redacted]
Grade or Rank of Trial Counsel

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

62-1(LOW)

67cc)

RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ PEBD: 20010914

For use of this form, see AR 27-10; the proponent agency is TJAG.

66-2, 66-5

See Notes on Reverse Before Completing Form

63-1

NAME	GRADE	SSN	UNIT	PAY (Basic & Sea/Foreign)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	\$1,638.20

1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct: ^{1/} In that you did, at or near Tikrit, Iraq, on or about 16 January 2004, with intent to deceive, make to a CID agent a sworn official statement, to wit: that [REDACTED] and [REDACTED] were stopped, searched and released to walk to their vehicle and that [REDACTED]

SEE CONTINUATION SHEET

66-4

2. You are not required to make any statements, but if you do, they may be used against you in this proceeding or at a trial by court-martial. You have several rights under this Article 15 proceeding. First I want you to understand that I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have an open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (matters of defense) or why punishment should be very light (matters of extenuation and mitigation). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose. ^{2/} If you do not want me to dispose of this report of misconduct under Article 15, you have the right to demand trial by court-martial instead. ^{3/} In deciding what you want to do you have the right to consult with legal counsel located at TDS, Bldg. 6287, Fort Carson, DSN 526-4563. You now have 48 hours to decide what you want to do. ^{4/}

DATE TIME	NAME, GRADE AND ORGANIZATION OF COMMANDER	SIGNATURE
[REDACTED]	[REDACTED] 66-2, 66-3, 67cc)	[REDACTED]

3. Having been afforded the opportunity to consult with counsel, my decision are as follows: (Initial appropriate block, date, and sign)

a. I demand trial by court-martial.

b. I do not demand trial by court-martial and in the Article 15 proceedings:

(1) I request the hearing be Open Closed. (2) A person to speak in my behalf Is Is not requested.

(3) Matters in defense, mitigation, and/or extenuation: Are not presented Will be presented in person Are attached.

DATE	NAME AND GRADE OF SERVICE MEMBER	SIGNATURE
[REDACTED]	[REDACTED] 66-2, 66-5, 67cc)	[REDACTED]

4. In a(n) Open Closed hearing ^{5/} all matters presented in defense, mitigation, and/or extenuation, having been considered, the following punishment is imposed: ^{6/} Reduction to Private First Class (E3); forfeiture of \$747.00 pay per month for two months, suspended, to be remitted automatically if not vacated before 6 March 2005; extra duty for 45 days; restriction to the battalion area, suspended, to be remitted automatically if not vacated before 6 March 2005.

5. I direct the original DA Form 2627 be filed in the Performance fiche Restricted fiche of the OMPF. ^{7/} N/A

6. You are advised of your right to appeal to the Cdr [REDACTED] 62-1 LOW within 5 calendar days. An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
[REDACTED]	[REDACTED] 66-3, 67cc)	[REDACTED]

7. (Initial appropriate block, date, and sign)

a. I do not appeal b. I appeal and do not submit additional matters ^{8/9/} c. I appeal and submit additional ^{10/}

DATE	NAME AND GRADE OF SERVICE MEMBER	SIGNATURE
[REDACTED]	[REDACTED] 66-2, 66-5, 67cc)	[REDACTED]

8. I have considered the appeal and it is my opinion that:

DATE	NAME AND GRADE OF JUDGE ADVOCATE	SIGNATURE
[REDACTED]	[REDACTED]	[REDACTED]

9. After consideration of all matters presented in appeal, the appeal is:

Denied Granted as follows: ^{10/}

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
[REDACTED]	[REDACTED]	[REDACTED]

10. I have seen the action taken on my appeal.

DATE	SIGNATURE OF SERVICE MEMBER
[REDACTED]	[REDACTED]

11. ALLIED DOCUMENTS AND/OR COMMENTS ^{11/ 12/ 13/}

Continuation Sheet.

66-3
67cc)
66-2
62-1
LOW

b6-2, b6-5, b7(c)

b2-1 Low 2

b3-1

exp 6,7c

DA Form 2627-E, [REDACTED]

Item 1, continued:

you personally witnessed the two individuals on the side of the road as your convoy departed the area, which statement was totally false and was then known by you to be false. This is in violation of Article 107, UCMJ.

In that you did, at or near Samarra, Iraq, on or about 3 January 2004, commit an assault upon [REDACTED] by pushing him into the Tigris River at nighttime. This is in violation of Article 128, UCMJ.

b6-4, b7(c)

NOTES

1/ Insert a concise statement of each offense in terms stating a specific violation and the Article of the UCMJ (Part IV, MCM). If additional space is needed, use item 11 or continuation sheets as described in note 11 below.

2/ Inform the member of the maximum punishment which may be imposed under Article 15.

3/ Inform the member that if he or she demands trial, trial could be by SCM, SPCM, or GCM. Additionally, inform the member that he or she may object to trial by SCM and that at SPCM or GCM he or she would be entitled to be represented by qualified military counsel, or by civilian counsel at no expense to the government. If the member is attached to or embarked in a vessel, he or she is not permitted to refuse Article 15 punishment. In such cases, all reference to a demand for trial will be lined out and an appropriate remark will be made in item 11 indicating the official name of the vessel and that the member was attached to or embarked in the vessel at the time punishment was imposed.

4/ Give the member copy 5 of this form.

5/ Offenses determined not to have been committed will be lined out. If the imposing commander decides not to impose any punishment, the member will be notified and all copies of this form destroyed.

6/ Amounts of forfeitures of pay will be rounded off to the next lower whole dollar. If a punishment is suspended, the following statement should be added after to: To be automatically remitted if not vacated before (date). If punishment includes a written admonition or reprimand, it will be attached to this form and listed in item 11.

7/ The imposing commander will initial the appropriate block. The OMPF performance fiche is routinely used by MOS/specialty career managers and DA selection boards. The OMPF restricted fiche is not given to MOS/specialty career managers or DA selection boards without approval of the Cdr, MILPERCEN or selection board proponent.

8/ If the member appeals, this form and all written evidence considered by the imposing commander will be forwarded to the superior authority.

9/ Before acting on an appeal, it must be referred to a judge advocate for advice when the punishment, whether or not suspended, includes reduction or one or more pay grades from the fourth or a higher pay grade, or is in excess of one of the following: 7 days arrest in quarters, 7 days correctional custody, 7 days forfeiture of pay, or 14 days of either extra duties or restriction. (See Article 15e(1) to (7), UCMJ.)

10/ The superior authority will initial the appropriate block. If the appeal is granted, the specific relief granted will be stated according to note 12.

11/ In this space indicate the number of pages attached as follows: Allied documents on appeal consist of _____ pages. Allied documents include all written matters considered by the imposing commander submitted by the member on appeal and the commander's rebuttal, if applicable. If additional space is needed for completion of any item(s), use plain bond headed "Continuation Sheet 1", etc.

12/ Applicable portions of the following format may be used to record action taken on appeal. Appropriate language should be entered in item 11 or, if necessary, on a continuation sheet. Supplementary actions (para 3-38, AR 27-10) will be recorded on DA Form 2627-2.

Suspension, Mitigation, Remission, or Setting Aside

(DATE)

On (date), the punishment(s) of _____

_____ imposed on (date of punishment) (was) (were) (suspended and will be automatically remitted if not vacated before (date)) (mitigated to) (set aside, and all rights, privileges, and property affected restored) (by my order) (by order of) (the officer who imposed the punishment) (the successor in command to the imposing commander) (as superior authority).

(Typed name, grade, and organization of commander)

/s/

13/ Racial/ethnic identifiers will be placed in Item 11 (Chapter 15, AR 27-10).

Field Grade Article 15 Punishment Worksheet

Pertaining To: [Redacted] 66-2, 66-5, 67(c)
Unit: [Redacted] 63-1, 62-1 Low 2

Maximum Punishment Authorized

Reduction:

Pay Grades E4 and below: Reduction to the lowest enlisted grade. Pay Grades E5 & E6 Reduction by one grade.

Forfeiture: 1/2 a months pay for 2 months (If reduction is imposed, forfeiture is based on the reduced pay grade, even if suspended).

\$819.00 as E4 \$747.00 as E3 \$668.00 as E2 \$596.00 as E1

Extra Duty: 45 days maximum

Restriction: 60 days maximum (Note: When given with extra duty, restriction will not exceed 45 days.)

Note: Punishments can be suspended for up to 180 days; all appeals must be returned to the article 15 section prior to going to the appellate authority. Most Restrictive Possible Restriction is: Place of Duty, Place of Worship, Dining and Medical Facilities, Quarters.

RETURN TO [Redacted] LEGAL CELL:
BLDG 6285 (2nd Floor), RM 224a, FOR PUNISHMENT TO BE TYPED IN

Reduction to the Grade Of: PFC Suspended for (Number Days) _____.

Forfeiture of \$ 747⁰⁰, Suspended for (Number Days) 180 days

Extra duty for: 45 days, suspended for (Number Days) _____.

Restriction for 45 days, to the limits of (Circle One) Fort Carson, Battalion Area,

Company Area, Most Restrictive, Other: _____, suspended

For (Number of Days) 180.

Imposing Commander's Signature: [Redacted] 67(c)
[Redacted] 66-2
[Redacted] 66-3

Direct any questions to [Redacted] at DSN: [Redacted]

66-2
66-3
1011
62-1 Low 2
62-1 Low 2

TRANSMISSION VERIFICATION REPORT

TIME : 09/09/2004 14:22

DATE, TIME	09/09 14:20
FAX NO./NAME	XXXXXXXXXX 62-1 Low2
DURATION	00:01:54
PAGE(S)	04
RESULT	OK
MODE	STANDARD ECM

DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
FORT CARSON, CO

FACSIMILE TRANSMITTAL SHEET

TO: [REDACTED] 66-3, 67(c) FROM: [REDACTED] 63-1, 62-1 Low 2
Military Justice Cell

COMPANY: [REDACTED] PSB - 63-1, 62-1 Low 2 DATE: 9 SEPTEMBER 2004

FAX NUMBER: [REDACTED] 62-1 Low 2 TOTAL NO. OF PAGES INCLUDING COVER: 4

PHONE NUMBER: [REDACTED] 62-1 Low 2 SENDER'S FAX NUMBER: [REDACTED] 62-1 Low 2

RE: [REDACTED] SENDER'S PHONE NUMBER: [REDACTED] (DSN 691-xxxx)

66-2
66-5
67(c)

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

62-1 Low 2 & 63-1
OFFICE OF THE STAFF JUDGE ADVOCATE
ATTN: [REDACTED] (MJ CELL)
7086 ALBANESE LOOP
FORT CARSON, CO 80913



011970

Field Grade Article 15 Punishment Worksheet

Pertaining To: [Redacted] 66-2, 66-5, 67cc)

Unit: [Redacted] 63-1, 62-1 Low 2

Maximum Punishment Authorized

Reduction:

Pay Grades E4 and below: Reduction to the lowest enlisted grade. Pay Grades E5 & E6 Reduction by one grade.

Forfeiture: 1/2 a months pay for 2 months (If reduction is imposed, forfeiture is based on the reduced pay grade, even if suspended).

\$819.00 as E4 \$747.00 as E3 \$668.00 as E2 \$596.00 as E1

Extra Duty: 45 days maximum

Restriction: 60 days maximum (Note: When given with extra duty, restriction will not exceed 45 days.)

Note: Punishments can be suspended for up to 180 days; all appeals must be returned to the article 15 section prior to going to the appellate authority. Most Restrictive Possible Restriction is: Place of Duty, Place of Worship, Dining and Medical Facilities, Quarters.

66-2, 66-3, 67cc)

**RETURN TO [Redacted] LEGAL CELL:
BLDG 6285 (2nd Floor), RM 224a, FOR PUNISHMENT TO BE TYPED IN**

Reduction to the Grade Of: _____ Suspended for (Number Days) _____.

Forfeiture of \$ _____, Suspended for (Number Days) _____.

Extra duty for: _____ days, suspended for (Number Days) _____.

Restriction for _____ days, to the limits of (Circle One) Fort Carson, Battalion Area,

Company Area, Most Restrictive, Other: _____, suspended

For (Number of Days) _____.

Imposing Commander's Signature:

[Redacted Signature] - 66-2, 66-3, 67cc)

Direct any questions to the [Redacted] at DSN: 526 [Redacted]

66-2, 66-3, 67cc) 62-1 Low 2

011971

DEPARTMENT OF THE ARMY

4th Infantry Division (Mechanized)
Fort Carson, Colorado 80913

AFZC-FC

7 June 2004

63-1
62-1 Low 2

66-2, 66-3, 67(c)

MEMORANDUM FOR [REDACTED] Office of The Staff Judge Advocate, Fort Carson,
Colorado 80913

66-2, 66-5, 67(c)

SUBJECT: Appointment of Article 32(b) Investigating Officer in the cases of [REDACTED]
[REDACTED] and U.S. [REDACTED]

66-2, 66-5, 67(c)

1. You are hereby designated to investigate the attached charges in the case, [REDACTED] Team, and [REDACTED] Headquarters and Headquarters Company. [REDACTED] Team, and [REDACTED] Headquarters and Headquarters Company. [REDACTED] Team, under Article 32, UCMJ. Additionally, you shall investigate and make a recommendation as to any uncharged offenses, except minor offenses as defined by Part V, Manual for Courts-Martial, brought to your attention during the investigation unless counsel for both sides agree that they should not be investigated.

63-1
62-1 Low 2

2. Your investigation will be conducted IAW Article 32(b), UCMJ, R.C.M. 405, MCM (2000 Edition) and AR 27-10. Procedural guidance is contained in DA Pam 27-17.

2002

3. Your investigation will be completed and forwarded to the Criminal Law Division, OSJA, Fort Carson, Colorado, not later than fourteen duty days from the date of this correspondence. You may approve reasonable defense-requested delays, not to exceed ten duty days in length, occasioned by scheduling conflicts or defense requests for witnesses, and such periods will be excluded from your allotted time. Any requested delays beyond twenty-four duty days from the date of this correspondence will be immediately forwarded through the trial counsel to me for action. Within 72 hours of completion of your investigation you will deliver the original Investigating Officer's Report, DD Form 457, with enclosures, and a detailed chronology of the investigation to the Criminal Law Division, OSJA, Fort Carson, Colorado.

66-2, 66-3, 67(c)

4. Your clerical and administrative support will be provided by [REDACTED] of the Criminal Law Division, Office of The Staff Judge Advocate. You may contact [REDACTED] at 526 [REDACTED]. The duty uniform should be worn at this hearing to facilitate witnesses returning to regular duties.

62-1 Low 2

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

[REDACTED]

66-2, 66-3
67(c)

62-1 Low 2

011972

21 June 2004

66-2, 66-5, 67(C)

MEMORANDUM FOR

[Redacted] 4th Infantry Division (Mechanized), Fort Carson, Colorado 80913

63-1
621402

SUBJECT: Article 32(b) Investigation

1. On 30 June 2004, at 0900, in the courtroom, First Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning the charges preferred against you by [Redacted]. The charges are Conspiracy in violation of Article 81, False Official Statement in violation of Article 107, Manslaughter in violation of Article 119, Assault in violation of Article 128, and Obstructing Justice in violation of Article 134.

66-3
66-2, 67(C)

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

exp 6, 7c, 7d

- a. SA [Redacted]
- b. SA [Redacted]
- c. SA [Redacted]
- d. Mr. [Redacted]
- e. SGT [Redacted]
- f. SPC [Redacted]
- g. SPC [Redacted]
- h. CPT [Redacted]

66-1
66-2
66-4, 67(C)
66-2, 66-5, 67(C)
66-4, 67(C), 66-2

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

- a. Charge sheet, 8 June 2004.
- b. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- c. Sworn statement of Mr. [Redacted] dated 16 January 2004.
- d. Your sworn statements, dated 16, 17, and 22 January 2004.
- e. Sworn statements of [Redacted] dated 16, 17, and 27 January 2004.
- f. Sworn statements of [Redacted] dated 16 and 23 (two) January 2004.
- g. Sworn statements of [Redacted] dated 16, 21, and 22 January 2004.
- h. Sworn statements of [Redacted] dated 16, 22 (two), and 24 January 2004.
- i. Memorandum for Record, dated 11 January 2003 [2004], by [Redacted]

67(C)
66-5
66-2
66-4
67(C)
66-2

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by 1600 on 25 June 2004. Please also furnish this witness information to CPT [REDACTED], Trial Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson/Colorado 80913.

b7(c)
b6-2
b6-3
φ
b2-1 LOW 2

[REDACTED]

Investigating Officer

b6-2
b6-3
b7(c)

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 30 June 2004, at 0900, located in the courtroom, First Floor, Building 6287, Fort Carson, Colorado.

 b7(c)
b6-2
b6-5
φ
62-12002

exp 6



DEPARTMENT OF THE ARMY

63-1
62-1 Low 2

REPLY TO
ATTENTION OF:

[Redacted]

8 July 2004

MEMORANDUM FOR Article 32(b) Investigating Officer, Office of the Staff Judge Advocate,

[Redacted] 62-1 Low 2

Subject: Article 32(b) Investigation in the case of United States v. [Redacted]
[Redacted] United States v. [Redacted] and [Redacted]

66-2
66-5
67(C)

1. The delay of the Article 32(b) investigation in the cases mentioned above until 28 July 2004 is approved.

66-2, 66-3, 67(C)

2. The point of contact for this memo is SGT [Redacted] at 526- [Redacted]

62-1 Low 2

[Redacted] 66-2, 66-3, 67(C)
J 62-1 Low 2

DEPARTMENT OF THE ARMY

[REDACTED]

b3-1
4
b2-1 Low 2

1 July 2004

MEMORANDUM FOR Commander, [REDACTED], 4th Infantry Division (Mechanized), Fort Carson, Colorado, 80913

SUBJECT: Article 32(b) Investigation in the case of [REDACTED] and [REDACTED]

7 b6-2
66-5
b7(c)

1. The delay of the Article 32 Investigation on the charges against U.S. [REDACTED] and U.S. [REDACTED] until 22 July 2004 is approved.

2. The Point of Contact for this memo is [REDACTED] 526- [REDACTED]

b7(c)
b6-2
b6-3
4
b2-1 Low 2

[REDACTED]

b7(c)
b6-2
b6-3
b2-1 Low 2

21 June 2004

66-2, 66-5, 67(c)

Exp 6, 7, 201

MEMORANDUM FOR

[REDACTED] 4th Infantry Division (Mechanized), Fort Carson, Colorado 80913

SUBJECT: Article 32(b) Investigation

63-1
62-1 Lowr

1. On 30 June 2004, at 0900, in the courtroom, First Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning the charges preferred against you by CPT [REDACTED]. The charges are Conspiracy in violation of Article 81, False Official Statement in violation of Article 107, Manslaughter in violation of Article 119, Assault in violation of Article 128, and Obstructing Justice in violation of Article 134. The additional charge is Assault in violation of Article 128.

66-2
66-3
67(c)

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

- 66-2
 - 66-1
 - 66-4
 - 66-9
 - 66-3
- a. SA [REDACTED]
 - b. SA [REDACTED]
 - c. SA [REDACTED]
 - d. Mr. [REDACTED]
 - e. SGT [REDACTED]
 - f. SPC [REDACTED]
 - g. SPC [REDACTED]
 - h. CPT [REDACTED]

67(c)

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

- a. Charge Sheet, dated 8 June 2004.
- b. Additional Charge Sheet, dated 15 June 2004.
- c. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- d. Sworn statement of Mr. [REDACTED] dated 16 January 2004.
- e. Sworn statements of 1LT [REDACTED] dated 16, 17, and 22 January 2004.
- f. Your sworn statements, dated 16, 17, and 27 January 2004.
- g. Sworn statements of SGT [REDACTED] dated 16 and 23 (two) January 2004.
- h. Sworn statements of SPC [REDACTED] dated 16, 21, and 22 January 2004.
- i. Sworn statements of SPC [REDACTED] dated 16, 22 (two), and 24 January 2004.
- j. Memorandum for Record, dated 11 January 2003 [2004], by [REDACTED]

66-4 67(c)
66-2, 66-5
66-5
66-2
66-3
66-4

67(c)

66-4 ↑

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by 1600 on 25 June 2004. Please also furnish this witness information to CPT [redacted] Trial Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado 80913.

[redacted]
[redacted]
[redacted]

b7(c)
b6-2

b6-3

]- 62-1 Low 2

b6-2
b6-3
b7(c)

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 30 June 2004, at 0900, located in the courtroom, First Floor, Building 6287, Fort Carson, Colorado.

[REDACTED]
US Army

] 66-2
66-5
67(c)

ex 6

TRANSMISSION VERIFICATION REPORT

TIME : 01/20/2004 01:29

DATE, TIME	01/20 01:26
FAX NO. /NAME	XXXXXXXXXX 621 LOW2
DURATION	00:02:11
PAGE(S)	06
RESULT	OK
MODE	STANDARD
	ECM

1 July 2004

b6-2, b6-5, b7(c).

b3-1
b2-1 Law 2
exp 6, 7, 7A

MEMORANDUM FOR

[Redacted]

4th Infantry Division (Mechanized), Fort Carson, Colorado 80913

SUBJECT: Article 32(b) Investigation

1. On 22 July 2004, at 0900, in the courtroom, First Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning the charges preferred against you by CPT [Redacted]

b6-2
b6-3 b7(c)

[Redacted] The charges are False Official Statement in violation of Article 107 and Manslaughter in violation of Article 119.

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

b6-1

b6-4, b7(c)
b6-2, b6-5
b-2

- a. SA [Redacted]
- b. SA [Redacted]
- c. SA [Redacted]
- d. Mr. [Redacted]
- e. SPC [Redacted]
- h. CPT [Redacted]

] b7(c)

b-4
7(c)

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

b6-4, b7(c)

b6-5, b7(c) b6-2

b6-2, b6-5

b7(c)

- a. Charge sheet, 28 June 2004.
- b. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- c. Sworn statement of Mr. [Redacted] dated 16 January 2004.
- d. Sworn statements of [Redacted] dated 16, 17, and 22 January 2004.
- e. Sworn statements of [Redacted] dated 16, 17, and 27 January 2004. & b6-5
- f. Your sworn statements, dated 16 and 23 (two) January 2004.
- g. Sworn statements of [Redacted] dated 16, 21, and 22 January 2004.
- f. Sworn statements of [Redacted] dated 16, 22 (two), and 24 January 2004. & b6-5
- i. Memorandum for Record, dated 11 January 2003 [2004], by [Redacted]

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by

b6-2, b6-3, b7(c)

0900 on 19 July 2004. Please also furnish this witness information to CPT [REDACTED] Trial
Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado
80913.

[REDACTED]

b6-2, b6-3, b7(c)

cf

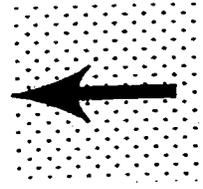
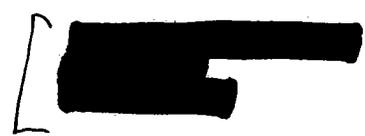
b2-1 Lowr

AFZX-JA-AL
SUBJECT: Article 32(b) Investigation

exp 6

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 22 July 2004, at 0900, located in the courtroom, First Floor, Building 6287, Fort Carson, Colorado.

b6-2
b6-~~2~~5
b7(c)



**SIGN
HERE**

63-1, 62-1 Low 2

DEPARTMENT OF THE ARMY
[Redacted] 4th Infantry Division (Mechanized)
Fort Carson, Colorado 80913

AFZC-FC

1 July 2004

MEMORANDUM FOR Commander [Redacted] 4th Infantry Division (Mechanized),
Fort Carson, Colorado, 80913

66-2, 66-5, 67(c)

SUBJECT: Article 32(b) Investigation in the case of U.S. v. [Redacted] and U.S. v. [Redacted]

1. The delay of the Article 32 Investigation on the charges against U.S. v. [Redacted] and U.S. v. [Redacted] until 22 July 2004 is approved.

] 66-2
66-5
67-(c)

2. The Point of Contact for this memo is SGT [Redacted] at 52 [Redacted]

66-2, 66-3
62-1 Low 2

[Redacted]
Commanding

] 66-2
66-3
67(c)

AFZC-JA-AL

b6-2, b6-5, b7(c)

1 July 2004
63-1, 62-1

Q, p 6, 7, 7d

MEMORANDUM FOR

[REDACTED], 4th Infantry Division (Mechanized), Fort Carson, Colorado 80913

SUBJECT: Article 32(b) Investigation

1. On 22 July 2004, at 0900, in the courtroom, First Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning the charges preferred against you by CPT [REDACTED]. The charges are False Official Statement in violation of Article 107 and Manslaughter in violation of Article 119.

*b6-2 b7(c)
b6-3*

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

- a. SA [REDACTED]
- b. SA [REDACTED]
- c. SA [REDACTED]
- d. Mr. [REDACTED]
- e. SPC [REDACTED]
- f. CPT [REDACTED]

*b6-1, b6-2
b6-4, b7(c)
b6-2, b6-5
b7(c)*

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

- a. Charge sheet, 28 June 2004.
- b. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- c. Sworn statement of Mr. [REDACTED] dated 16 January 2004.
- d. Sworn statements of [REDACTED] dated 16, 17, and 22 January 2004.
- e. Sworn statements of [REDACTED] dated 16, 17, and 27 January 2004.
- f. Your sworn statements, dated 16 and 23 (two) January 2004.
- g. Sworn statements of [REDACTED] dated 16, 21, and 22 January 2004.
- f. Sworn statements of [REDACTED] dated 16, 22 (two), and 24 January 2004.
- i. Memorandum for Record, dated 11 January 2003 [2004], by CPT [REDACTED]

*b6-4, b7(c)
b6-5, b7(c)
b6-2
b6-5
b7(c)*

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by

0900 on 19 July 2004. Please also furnish this witness information to CPT [REDACTED] Trial
Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado
80913.

66-2, 66-3
67(c)

[REDACTED]

66-2, 66-3, 67(c)

7-62-12002

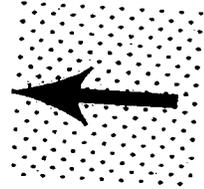
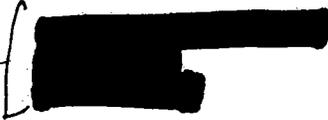
Investigating Officer

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 22 July 2004, at 0900, located in the courtroom, First Floor, Building 6287, Fort Carson, Colorado.

66-2
65-5
67CC



**SIGN
HERE**

1 July 2004

66-2, 66-5
b7(c)

63-1, 62-1 LNW2

exp 6, 7c, 7d

MEMORANDUM FOR

[Redacted] 4th Infantry Division (Mechanized), Fort Carson, Colorado 80913

SUBJECT: Article 32(b) Investigation

1. On 22 July 2004, at 0900, in the courtroom, First Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning the charges preferred against you by CPT [Redacted]. The charges are False Official Statement in violation of Article 107 and Assault in violation of Article 128.

-66-2 b7(c)
66-3

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

- 66-201 [a. SA [Redacted]
- 66-2 [b. SA [Redacted]
- [c. SA [Redacted]
- 6-4, b7(c) [d. Mr. [Redacted]
- 66-2, 66-5 [e. SPC [Redacted]
- [f. CPT [Redacted]

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

- a. Charge sheet, 28 June 2004.
- 6-4, b7(c) b. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- c. Sworn statement of Mr. [Redacted] dated 16 January 2004.
- 6-5, b7(c) [d. Sworn statements of [Redacted] 16, 17, and 22 January 2004.
- 66-2 [e. Sworn statements of [Redacted] dated 16, 17, and 27 January 2004.
- [f. Sworn statements of [Redacted] dated 16 and 23 (two) January 2004.
- [g. Sworn statements of [Redacted] dated 16, 21, and 22 January 2004.
- 66-5 [f. Your sworn statements, dated 16, 22 (two), and 24 January 2004.
- 66-2 [i. Memorandum for Record, dated 11 January 2003 [2004], by CPT [Redacted]

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by

0900 on 19 July 2004. Please also furnish this witness information to [REDACTED] Trial
Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado
80913.

, b6-2, b6-3, b7(c)

[REDACTED]

b6-2, b6-3, b7(c)

Investigating Officer

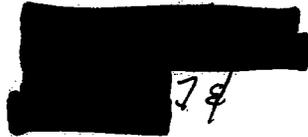
J-62-1-Low 2

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 22 July 2004, at 0900, located in the courtroom, First Floor, Building 6287, Fort Carson, Colorado.

apl



74

*66-2, 66-5
67(c)*

62-11a2

C11991



DEPARTMENT OF THE ARMY
Office of The Staff Judge Advocate, 7th Infantry Division
Fort Carson, Colorado 80913-4303

AFZC-JA-CL

7 June 2004

MEMORANDUM FOR Commander, USAEREC, ATTN: PCRE-RP, Indianapolis, Indiana
46249-5301

SUBJECT: Request for the OMPF Microfiche of Soldier Pending Court-Martial

1. This office is preparing court-martial charges against the soldier(s) stated below, and hereby requests a copy of the Official Military Personnel File (OMPF), to include the restrictive fiche. Also, please include certified copy(ies) of any Article 15's or Letter(s) of Reprimand for each soldier named, to ensure that their packets are complete.

exp 6

NAME [REDACTED] SSN# [REDACTED] DOB [REDACTED]

] 66-2
66-5
67EC)

2. Please use the following mailing address:

OSJA, 7th Infantry Division and Fort Carson
[REDACTED]
Fort Carson, Colorado 80913-4303

] 62-1 low 2

3. POC is the undersigned at [REDACTED] DSN 691 [REDACTED]

] 62-1 low 2

NCOIC, [REDACTED] Legal Cell

66-2
66-3
67EC)

62-1 low 2



DEPARTMENT OF THE ARMY
Office of The Staff Judge Advocate, 7th Infantry Division
Fort Carson, Colorado 80913-4303

AFZC-JA-CL

7 June 2004

MEMORANDUM FOR Commander, Human Resources Command, Alexandria, Virginia 22331
 ATTN: ARHRC-MS

SUBJECT: Request for the OMPF Microfiche of Soldier Pending Court-Martial

1. This office is preparing court-martial charges against the soldier(s) stated below, and hereby requests a copy of the Official Military Personnel File (OMPF), to include the restrictive fiche. Also, please include certified copy(ies) of any Article 15's or Letter(s) of Reprimand for each soldier named, to ensure that their packets are complete:

ly 6

NAME

SSN#

DOB

[REDACTED]

[REDACTED]

[REDACTED]

*] 66-2
66-5
67 CC)*

2. Please use the following mailing address:

OSJA, 7th Infantry Division and Fort Carson

[REDACTED]

Fort Carson, Colorado 80913-4303

62-1 Low 2

3. We are asking that our request be rushed due to a possible early court date.

4. POC is the undersigned at (719) [REDACTED] DSN 691 [REDACTED]

[REDACTED]

*66-2
66-3
67 CC)
\$
62-1 Low 2*

011993



DEPARTMENT OF THE ARMY
Office of The Staff Judge Advocate, 7th Infantry Division
Fort Carson, Colorado 80913-4303

AFZC-JA-CL

7 June 2004

FACSIMILE COVER SHEET

TO: [REDACTED] <i>b6-3, b7(c)</i>	FROM: [REDACTED] <i>b6-2, b6-3, b7(c)</i> CPT
ORGANIZATION: USAEREC, ATTN: PCRE-RP	DATE: 7 June 2004
RECIPIENT'S FAX NUMBER: (703) 325-[REDACTED] / DSN 221-[REDACTED] or (703) 325-[REDACTED] / DSN 221-[REDACTED]	NO. OF PAGES INCLUDING COVER SHEET: 2
RECIPIENT'S PHONE NUMBER: (703) 325-[REDACTED] / DSN 221-[REDACTED]	SENDER'S FAX NUMBER: (719) 526-[REDACTED] / DSN 691-[REDACTED]
REFERENCE: Request for OMPF Microfiche of Soldier Pending Court-Martial	SENDER'S PHONE NUMBER: (719) 526-[REDACTED] DSN 691-[REDACTED]

*62-1
Low 2*

- URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

PLEASE RUSH COURT-MARTIAL DATE MAY BE SOON

011994

-RECEIPT/CERTIFICATE OF SERVICE-

A copy of each of the documents listed below, was served on

- The Accused;
 - Counsel for the Accused;
 - An authorized representative of counsel for the Accused;
- in the case of US v [REDACTED]

Documents served consist of:

1. CID Report

b6-2
b6-5
b7(c)

2. 15-6 Report

1 b3-1, b2-1 Low 2

RECEIPT OF THE FOREGOING
IS ACKNOWLEDGED BY:

[REDACTED SIGNATURE] *b6-2 b7(c)*
b6-3
U.S. Army *b2-1 Low 2*

6 Jul 04
PRINT/DATE

I certify that on 6 Jul 04, I served the aforementioned document(s) to the party(ies) indicated, in the aforementioned case.

(INITIAL IF RECIPIENT REFUSED TO SIGN ACKNOWLEDGING RECEIPT: _____)

[REDACTED SIGNATURE] *b6-2, b6-3*
b7(c)
USA
Paralegal Specialist *b2-1 Low 2*

-RECEIPT/CERTIFICATE OF SERVICE-

A copy of each of the documents listed below, was served on

- The Accused;
 - Counsel for the Accused;
 - An authorized representative of counsel for the Accused;
- in the case of US v [REDACTED]

Documents served consist of:

1. CID Report

66-2
66-5 *63-1, 62-1 Low 2*

2. 15-6 Report

RECEIPT OF THE FOREGOING
IS ACKNOWLEDGED BY:

[REDACTED SIGNATURE]

SIGN

6 Jul 04
PRINT/DATE

*[66-2, 66-3
67 CC]*

I certify that on 6 Jul 04, I served the aforementioned document(s) to the party(ies) indicated, in the aforementioned case.
(INITIAL IF RECIPIENT REFUSED TO SIGN ACKNOWLEDGING RECEIPT: _____)

[REDACTED SIGNATURE]

Paralegal Specialist

[62-1 Low 2]

-RECEIPT/CERTIFICATE OF SERVICE-

A copy of each of the documents listed below, was served on

- The Accused;
- Counsel for the Accused;
- An authorized representative of counsel for the Accused;
in the case of US v [REDACTED]

Documents served consist of:

- 1. Notification of Article 32
Continuance.

Handwritten notes:
66-2 ✓ 63-6 62-1 Low 2
66-5
~~67A~~
67 CC)

RECEIPT OF THE FOREGOING
IS ACKNOWLEDGED BY:

[REDACTED]

SIGN

[REDACTED]

PRINT/DATE

I certify that on 23 Jun 04, I served the aforementioned document(s) to the party(ies) indicated, in the aforementioned case.

(INITIAL IF RECIPIENT REFUSED TO SIGN ACKNOWLEDGING RECEIPT: _____)

[REDACTED]

Legal

Handwritten notes and arrows:
[66-2]
[66-3]
[67 CC]
⊕
[62-1]
[Low 2]

-RECEIPT/CERTIFICATE OF SERVICE-

A copy of each of the documents listed below, was served on

- The Accused;
 - Counsel for the Accused;
 - An authorized representative of counsel for the Accused;
- in the case of [REDACTED]

Documents served consist of:

66-2
66-5, 67(C) 63-1
62-1 Law 2

1. Notification of Article 32
Continuance.

RECEIPT OF THE FOREGOING
IS ACKNOWLEDGED BY:

[REDACTED]
SIGN

[REDACTED]
PRINT/DATE

66-2
66-3
φ
62-1 Law 2

I certify that on 23 Jun 04, I served the aforementioned document(s) to the party(ies) indicated, in the aforementioned case.

(INITIAL IF RECIPIENT REFUSED TO SIGN ACKNOWLEDGING RECEIPT: _____)

[REDACTED]
- 62-1 Law 2
Legal

-RECEIPT/CERTIFICATE OF SERVICE-

A copy of each of the documents listed below, was served on

- The Accused;
 - Counsel for the Accused;
 - An authorized representative of counsel for the Accused;
- in the case of United States v. [REDACTED] United States v. [REDACTED]

and [REDACTED]

66-2
66-5
67(c)

Documents served consist of:

- 1. Article 32 Approval Postponement Memo.

RECEIPT OF THE FOREGOING
IS ACKNOWLEDGED BY:

[66-2]
[66-3]
§
62-1 Law 2

SIGN [REDACTED]

PRINT/DATE [REDACTED] 12 Jul 04

I certify that on 12 Jul 04, I served the aforementioned document(s) to the party(ies) indicated, in the aforementioned case.

(INITIAL IF RECIPIENT REFUSED TO SIGN ACKNOWLEDGING RECEIPT: _____)

[REDACTED]

Paralegal Specialist

b6-2, b6-3, b7(C)

Fort Carson/OSJA

From: [redacted]
Sent: Thursday, July 01, 2004 10:32 AM
To: [redacted]
Subject: RE: [redacted] Article 32 Delay Request

- b62 b7(C) - b62-12w2
b6-3
b3-1
- b62, b63 b7(C)

Ok...I'll approve this one: but no more... we need to get on with this... bring it on over

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

From: [redacted] Fort Carson/OSJA
Sent: Thursday, July 01, 2004 10:32 AM
To: [redacted]
Cc: [redacted] Fort Carson/OSJA; [redacted] CPT--4ID [redacted] CPT--4ID
OSJA
Subject: [redacted] Article 32 Delay Request

b6-2, b6-3, b7(C)
b62-12w2 b3-1

ALL
b6-2
b6-3
b7(C)

There is an Article 32 Investigation currently being conducted into the following cases: US v. [redacted] US v. [redacted] US v. [redacted] and US v. [redacted] I have been asked by the appointed Investigating Officer, CPT [redacted], to forward a Defense delay request by [redacted] Trial Defense attorney until 22 JUL for your determination. I have attached the Defense request and included an excerpt from an email correspondence from [redacted] Trial Defense attorney agreeing to the proposed Defense delay date of 22 JUL. At this time, [redacted] is outside his authority to grant such a delay and the request must be forwarded to you as the SPCMCA.

b6-5

ALL
b6-2
b7(C)

Due to the complexity of the case and the nature of the charges such a delay is not unreasonable and would be in the interest of justice to allow Defense adequate time to prepare.

Sir, I have included below a chronology of the Article 32 Investigation to date:

- 7 JUN: [redacted] appointed as Article 32 Investigating Officer.
10 JUN: IO received Appointment Memorandum for [redacted] and [redacted].
15 JUN: IO received Additional Charge for [redacted].
16 JUN: IO notified accused soldiers of hearing date.
22 JUN: IO approved Defense request for delay until 30 JUN.
22 JUN: IO approved a Defense request for delay until 8 JUL.
29 JUN: IO received Appointment Memorandum for [redacted].
30 JUN: IO received a Defense delay request until 22 JUL.

b6-2, b6-3, b7(C)
b6-2, b6-5, b7(C)

I have prepared a Approve/Deny Memorandum that I will deliver this morning.

b6-2, b6-5, b7(C)

[redacted]: << File: [redacted] (Art 32 additional delay).doc >>

Please find attached a Defense Request for Witnesses and Evidence in the above referenced matter. I will deliver the signed original of this document at the hearing. Further, as mentioned by CPT [redacted] in his correspondence to you below, the Defense in US v. [redacted] has no objection to delaying this matter until 22 July. This delay is necessary to secure the presence of the newly requested witnesses and to allow for my travel to Fort Carson for what now looks to be at least a two-day investigation. I currently have an Article 32 in another homicide case scheduled for 13/14 July at Fort Sill and a contested trial scheduled for 19 July at Fort Sill. Thank you.

CPT [redacted]
Trial Defense Counsel

b6-2, b6-3, b7(C)

v/r,

012000

b6-2, b6-3, b7(c)

~~XXXXXXXXXX~~

CPT/Fort Carson/OSJA

From: [redacted] CPT-4ID [redacted]

Sent: Thursday, July 01, 2004 10:17 AM

To: [redacted] CPT Fort Carson [redacted]

Cc: [redacted] CPT-4ID [redacted]

Subject: [redacted]

62-1 Low2

exp 7d

b6-2, b6-5, b7(c)

Just wondering about the status of SPC [redacted] (our star grant of immunity witness). I understand he might be on terminal leave. Need to know if we have a good status on where he is so we can make sure he's at the 32 (whenever that might be). Thanks!

David

C12001



DEPARTMENT OF THE ARMY
 UNITED STATES ARMY TRIAL DEFENSE SERVICE
 FORT CARSON FIELD OFFICE
 FORT CARSON, COLORADO 80913



REPLY TO
 ATTENTION OF:

AFZC-JA-TDS

1 July 2004

MEMORANDUM FOR Article 32(b) Investigating Officer

66-2, 66-5, 67(C)

Subject: Request for Delay of Article 32 Investigation- United States v. [REDACTED]

1. On behalf of the Accused, the Defense respectfully requests a delay in the Article 32 investigation until Wednesday, 28 July 2004.

2. The Article 32(b) Investigating Officer has expressed a desire to hold a joint investigation which will involve, at a minimum, [REDACTED], and possibly, [REDACTED] and [REDACTED] as well. The investigation into the matters involving [REDACTED] and [REDACTED] has been set for 22 July 2004. The undersigned will be on leave 21-26 July 2004, and requests a delay until 28 July 2004 to be available for the investigation.

*ALL
 66-2
 66-5
 67(C)*

3. An additional rationale for the delay request is to allow counsel sufficient time to prepare for the hearing and continue pretrial negotiations with the government, especially given the nature and gravity of the case at hand, as well as the companion cases. An unprepared counsel at an Article 32 hearing is tantamount to no hearing at all, and to that extent, it denies the accused his right to effective assistance of counsel. United States v. Miró, 22 M.J. 509 (A.F.C.M.R. 1986). Without the requested delay in the Article 32, the Accused will not receive the full and fair hearing provided for in RCM 405.

4. The Defense will be credited for the delay.

62-1 low 2

5. POC is the undersigned at 719-526-[REDACTED], or [REDACTED]

*66-2
 66-3
 67(C)*

// Original Signed //

[REDACTED]

Defense Counsel

62-1 low 2

012002



DEPARTMENT OF THE ARMY
 UNITED STATES ARMY TRIAL DEFENSE SERVICE
 FORT CARSON FIELD OFFICE
 FORT CARSON, COLORADO 80913



REPLY TO
 ATTENTION OF:

AFZC-JA-TDS

30 June 2004

MEMORANDUM FOR Article 32(b) Investigating Officer

Subject: Request for additional delay in the Article 32 Investigation, *United States v.* [REDACTED]
 [REDACTED] 66-2, 66-5, 67(c)

1. The Defense requests an additional delay in the Article 32 hearing for *United States v.* [REDACTED] until 22 July 2004, based on my conversations with CPT [REDACTED] detailed defense counsel for a co-accused in this case. I have requested several witnesses for the Art 32, including [REDACTED] and [REDACTED] who are on leave until on or about 14 July 2004, and the other witnesses that were previously called are unavailable for interview because of block leave. I will need sufficient time to interview these witnesses prior to the Art 32 to prepare an adequate defense and cross-examination, as well as to continue pre-trial negotiations with the Government. I understand that [REDACTED] will not object to this delay request. I also feel that it is unnecessary to recall personnel from much-deserved leave to unnecessarily expedite this hearing, given the serious nature of the allegations and the logistical requirements of coordinating a single hearing for multiple accused and counsel from different posts. An unprepared counsel at an Article 32 hearing is tantamount to no hearing at all, and to that extent, it denies the accused his right to effective assistance of counsel. *United States v. Miro*, 22 M.J. 509 (A.F.C.M.R. 1986).

exp 7d

66-2
 66-3
 67(c)

2. This delay is wholly attributable to the Defense.

// Original Signed //

[REDACTED]

Defense Counsel

62-1 Low 2

012003

66-2, 66-5, 67(c)

[redacted] CPT Fort Carson/OSJA

*66-2
66-3
67(c)*

From: [redacted] CPT Fort Carson [redacted]
Sent: Wednesday, June 30, 2004 4:56 PM
To: [redacted] CPT; [redacted] CPT Fort Carson [redacted]
Cc: [redacted] CPT Fort Carson [redacted] CPT-4ID [redacted] CPT-4ID [redacted] CPT Fort Carson [redacted]
Subject: RE: US v. [redacted] Article 32

66-2, 66-5, 67(c)

TRIAL COUNSEL - Please produce any available evidence requested by CPT [redacted] and arrange for the presence of the three witnesses requested by him, or indicate your objections to such production. Also, include the below correspondence from CPT [redacted] with CPT [redacted] Delay Request to COL [redacted]

CPT [redacted]

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

From: [redacted] CPT [redacted]
Sent: Wednesday, June 30, 2004 2:20 PM
To: [redacted] CPT Fort Carson [redacted] CPT Fort Carson [redacted]
Cc: [redacted] CPT; [redacted] CPT Fort Carson/ [redacted] CPT-4ID [redacted]
Subject: US v. [redacted] Article 32

66-2, 66-5, 67(c)

CPT [redacted]
Please find attached a Defense Request for Witnesses and Evidence in the above referenced matter. I will deliver the signed original of this document at the hearing. Further, as mentioned by CPT [redacted] in his correspondence to you below, the Defense in US v. [redacted] has no objection to delaying this matter until 22 July. This delay is necessary to secure the presence of the newly requested witnesses and to allow for my travel to Fort Carson for what now looks to be at least a two-day investigation. I currently have an Article 32 in another homicide case scheduled for 13/14 July at Fort Sill and a contested trial scheduled for 19 July at Fort Sill. Thank you.

66-2, 66-5, 67(c)

CPT [redacted]
Trial Defense Counsel
U.S. Army Trial Defense Service
Region III, Fort Sill Field Office
Building 462, Taylor Hall
Fort Sill, OK 73503
(580) 442-[redacted]

62-1 low 2

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

From: [redacted] CPT Fort Carson [redacted]
Sent: Wednesday, June 30, 2004 1:58 PM
To: [redacted] CPT Fort Carson [redacted]
Cc: [redacted] OSJA [redacted] CPT-4ID [redacted] CPT Fort Carson [redacted]

b6-2, b6-5, b7(C)

DEFENSE COUNSEL - Please acknowledge whether you are available on 7 & 8 July or during the week of 12 July.

TRIAL COUNSEL - Please ensure that any witness coordination of [REDACTED] and [REDACTED] is discontinued. I will not call these soldiers as witnesses now that they are charged. But each soldier will have a right to make a statement in any form during the Joint Article 32 IAW RCM 405(f)(12).

b6-2
b6-5
b7(C)

CPT [REDACTED]

[REDACTED]

b6-2
b6-3
b7(C)

COMM 719-526-
FAX 719-526-
DSN 491

b2-1
Low2

66-2, 66-3, 67(c)

CPT Fort Carson/OSJA

From: [redacted] CPT Fort Carson [redacted]
 Sent: Wednesday, June 30, 2004 12:58 PM
 To: [redacted] CPT Fort Carson [redacted]
 Cc: [redacted] Fort Carson/ [redacted] CPT-4ID [redacted] CPT Fort Carson [redacted]
 Subject: Art 32 [redacted]

66-2
66-3
67(c)

Importance: High 66-2, 66-5, 67(c)

66-2, 66-3, 67(c)

I have attached Defense objections/discovery requests for the Art 32, as well as a request for an additional delay until 22 July. Signed originals will be provided at the hearing.

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

From: [redacted] CPT-4ID [redacted]
 Sent: Wednesday, June 30, 2004 12:01 PM
 To: [redacted] CPT Fort Carson [redacted] CPT-4ID [redacted] CPT Fort Carson
 Cc: [redacted] CPT Fort Carson [redacted] CPT Fort Carson [redacted] CPT-4ID [redacted] SPC Fort Carson [redacted] SGT Fort Carson [redacted]
 Subject: RE: Joint Article 32 - [redacted] - 66-2, 66-5, 67(c)

ALCON,

I am responding from CPT [redacted] email account.

I was detailed as Assistant Trial Counsel with [redacted] of a few days ago. Please include me on your correspondence, thanks.

CPT [redacted] - 66-2-1 66-2

66-2
66-3
67(c)

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

From: [redacted] CPT Fort Carson [redacted]
 Sent: Wednesday, June 30, 2004 12:40 PM
 To: [redacted] CPT-4ID [redacted] CPT Fort Carson [redacted]
 Cc: [redacted] CPT Fort Carson [redacted] CPT Fort Carson [redacted] CPT-4ID [redacted] SPC Fort Carson [redacted] SGT Fort Carson [redacted]
 Subject: Joint Article 32 - [redacted]

66-2
66-3
67(c)

ALCON,

I received a second Article 32 Appointment Memorandum yesterday to investigate charges against [redacted] and [redacted]. I also received the charge sheets for both of these soldiers. I understand that [redacted] representing [redacted] and [redacted] s

66-2, 66-5, 67(c)

66-2, 66-3, 67(c)

Chronology
Article 32 Investigation

United States v. [REDACTED]
United States v. [REDACTED]
United States v. [REDACTED]
United States v. [REDACTED]

] 66-2
66-5
67(C)

- 7 June 2004 – Appointed Article 32 Officer.
- 10 June 2004 – Received my Appointment Memorandum for [REDACTED] and [REDACTED]; also received the Article 32 Packet.
- 15 June 2004 – Received additional charge against [REDACTED] completed read of Article 32 Packet and set the investigation date, 23 June 2004.
- 16 June 2004 – Notified Accused Soldiers of 23 June 2004 investigation date.
- 17 June 2004 – Received my Appointment Memorandum to investigate an additional charge against [REDACTED].
Received a defense request for delay until 30 June 2004.
- 22 June 2004 – Approved a defense request for delay (both [REDACTED] and [REDACTED] until 30 June 2004. Renotified Accused Soldiers of investigation date.
Later in day, received a defense request for delay until 8 July 2004.
- 23 June 2004 – Approved a defense request for delay (both [REDACTED] and [REDACTED] until 8 July 2004, no objection by government counsel. Renotified Accused Soldier of this investigation date.
- 29 June 2004 – Received my Appointment Memorandum for [REDACTED] and [REDACTED]; also received each soldiers' charge sheet.
- 30 June 2004 – Received discovery requests from CPT [REDACTED] and CP [REDACTED] forwarded to Trial Counsel. Received a delay request until 22 July 2004 from CPT [REDACTED] forwarded thru Trial Counsel to COL [REDACTED] for action.
- 1 July 2004 – Notified SGT [REDACTED] and SPC [REDACTED] of 22 July investigation date.

] 66-2
66-5
67(C)

66-2
66-3
67(C)

TRANSMISSION VERIFICATION REPORT

TIME : 09/21/2004 16:46

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

09/21 16:44

~~XXXXXXXXXX~~
00:02:05

05

OK

STANDARD

ECM

62-1 LOW

012008

DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
FORT CARSON, CO

FACSIMILE TRANSMITTAL SHEET

TO: [REDACTED] FROM: [REDACTED] 66-2, 66-3, 67(c)
COMPANY: [REDACTED] DATE: 21 Sept 04
FAX NUMBER: 254-288 [REDACTED] 67-1 Low TOTAL NO. OF PAGES INCLUDING COVER: 5
PHONE NUMBER: [REDACTED] SENDER'S FAX NUMBER: 719- [REDACTED]
[REDACTED] SENDER'S PHONE NUMBER: 719-526- [REDACTED]

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS

Please call me for
Confirmation of Receipt.

SPC [REDACTED]
719-526- [REDACTED]

OFFICE OF THE STAFF JUDGE ADVOCATE
FORT CARSON, CO 80913



012009

-RECEIPT/CERTIFICATE OF SERVICE-

A copy of each of the documents listed below, was served on

- The Accused;
 - Counsel for the Accused;
 - An authorized representative of counsel for the Accused;
- in the case of US v [REDACTED] ← 66-2, 66-5, 67(c)

Documents served consist of:

- 1. Charge Sheet.....5 pages

RECEIPT OF THE FOREGOING
IS ACKNOWLEDGED BY:

[REDACTED]
SIGN

[REDACTED]
PRINT/DATE

I certify that on _____, I served the aforementioned document(s) to the party(ies) indicated, in the aforementioned case.

(INITIAL IF RECIPIENT REFUSED TO SIGN ACKNOWLEDGING RECEIPT: _____)

[REDACTED] ← 66-2, 66-3, 67(c)
[REDACTED] ← E 62-1 2002
Paralegal Specialist

012010

-RECEIPT/CERTIFICATE OF SERVICE-

A copy of each of the documents listed below, was served on

- The Accused;
 - Counsel for the Accused;
 - An authorized representative of counsel for the Accused;
- in the case of [REDACTED] 66-2, 66-5, 67(C)

Documents served consist of:

- 1. Charge Sheet.....5 pages

RECEIPT OF THE FOREGOING
IS ACKNOWLEDGED BY:

[REDACTED SIGNATURE] _____
SIGN [REDACTED]
[REDACTED] _____ 62-1 Lwr
PRINT/DATE [REDACTED]

I certify that on _____, I served the aforementioned document(s) to the party(ies) indicated, in the aforementioned case.

(INITIAL IF RECIPIENT REFUSED TO SIGN ACKNOWLEDGING RECEIPT: _____)

[REDACTED SIGNATURE] 66-2, 66-3, 67(C)
[REDACTED] 62-1 Lwr
Paralegal Specialist



DEPARTMENT OF THE ARMY
Office of The Staff Judge Advocate, 7th Infantry Division
Fort Carson, Colorado 80913-4303

*Withheld
under
b2, b7(c)*

AFZC-JA-CL

FACSIMILE COVER SHEET

TO: [REDACTED] - <i>b2-1 Law</i>	FROM: SSG [REDACTED] <i>66-2, 66-3, 67(c)</i>
ORGANIZATION: Office of The Provost Marshal	DATE: 7 June 2004
RECIPIENT'S FAX NUMBER: (719) 526- [REDACTED] DSN 699- [REDACTED]	NO. OF PAGES INCLUDING COVER SHEET: 2
RECIPIENT'S PHONE NUMBER: (719) 526- [REDACTED] DSN 699- [REDACTED]	SENDER'S FAX NUMBER: (719) 526- [REDACTED] DSN 691- [REDACTED]
REFERENCE: Request for NCIC Report of Soldier Pending Court-Martial	SENDER'S PHONE NUMBER: (719) 526- [REDACTED] DSN 691- [REDACTED]

- URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

012012

TRANSMISSION VERIFICATION REPORT

TIME : 01/21/1996 20:48
NAME : FT CARSON
FAX :
TEL :

J62-1 Low2

DATE, TIME	01/21 20:47
FAX NO. / NAME	
DURATION	00:00:42
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



DEPARTMENT OF THE ARMY
Office of The Staff Judge Advocate, 7th Infantry Division
Fort Carson, Colorado 80913-4303

AFZC-JA-CL

7 June 2004

MEMORANDUM FOR Commander, USAEREC, ATTN: PCRE-RP, Indianapolis, Indiana
46249-5301

SUBJECT: Request for the OMPF Microfiche of Soldier Pending Court-Martial

1. This office is preparing court-martial charges against the soldier(s) stated below, and hereby requests a copy of the Official Military Personnel File (OMPF), to include the restrictive fiche. Also, please include certified copy(ies) of any Article 15's or Letter(s) of Reprimand for each soldier named, to ensure that their packets are complete: *67(c)*

NAME

[REDACTED]

SSN#

[REDACTED]

DOB

[REDACTED]

66-7, 66-3, 66-5 - 67(c)

67(c)

2. Please use the following mailing address:

OSJA, 7th Infantry Division and Fort Carson
ATTN: AFZC-JA-CL [REDACTED]
7086 Albanese Loop, Building 6285
Fort Carson, Colorado 80913-4303

66-3, 66-2, 67(c)

3. POC is the undersigned at (719) 526-[REDACTED] DSN 691-[REDACTED]

62-12602

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

Legal Cell

012014



DEPARTMENT OF THE ARMY
 Office of The Staff Judge Advocate, 7th Infantry Division
 Fort Carson, Colorado 80913-4303

AFZC-JA-CL

7 June 2004

FACSIMILE COVER SHEET

TO: 66-3, 67(C)
 [REDACTED]

FROM: 66-2, 66-3, 67(C)
 [REDACTED]

ORGANIZATION: USAEREC, ATTN: PCRE-RP	DATE: 7 June 2004
RECIPIENT'S FAX NUMBER: (317) 510-[REDACTED] / DSN 699-[REDACTED]	NO. OF PAGES INCLUDING COVER SHEET: 2
RECIPIENT'S PHONE NUMBER: (317) 510-[REDACTED] DSN 699-[REDACTED]	SENDER'S FAX NUMBER: (719) 526-[REDACTED] DSN 691-[REDACTED]
REFERENCE: Request for OMPF Microfiche of Soldier Pending Court-Martial	SENDER'S PHONE NUMBER: (719) 526-[REDACTED] DSN 691-[REDACTED]

62-1
20w2

- URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

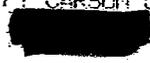
012015

TRANSMISSION VERIFICATION REPORT

62-146
2

TIME
NAME
FAX
TEL

01/21/1998 20:45
PT CARSON 9534



DATE TIME	01/21/98
LOG NO. NAME	981317
DURATION	00:01:21
PAGE(S)	E4
RESULT	OK
MODE	STANDARD
	ECM

FW: [redacted] Media SITREP

Entire pgs also
b2-1, 2, 3

CPT Fort Carson/OSJA

b6-2, b6-3, b7(C)

From: [redacted] CPT-4ID [redacted]
Sent: Tuesday, July 06, 2004 2:18 PM
To: [redacted] CPT Fort Carson [redacted]
Subject: FW: [redacted] Media SITREP

Hey [redacted] just so you know you're not alone. Here's the PAO sitrep from this last weekend.

Subject: [redacted] Media SITREP

Sir,

We handled over 25 queries today local, regional and national (tv, print, radio). After releasing the press release at 0830 CST, began fielding queries all day. With SJA's and [redacted] PSB assistance, developed releasable service data on the four soldiers. The SJA crafted charge sheet summaries with maximum penalties for each offense. The service data and charge sheet summaries went out to 9 organizations including [redacted] of the Washington Post and CBS News. COL [redacted] Cdr. [redacted] was ambushed via telephone by [redacted]. He held his ground. Some of the more influential media engaged included:

- [redacted] Washington Post
- Producer - CBS News
- [redacted] - Washington
- Reuters - Washington
- AP Denver
- CBS News Miami
- [redacted] - Baltimore Sun
- [redacted] BBC
- [redacted] - NPR
- [redacted] - CNN
- [redacted] - Denver Post
- Univision - Austin

b6-3

b3-1

We've been forthcoming. I know we won some and lost some. Other world events and the holiday weekend should limit some of the impact.

esp l

Steadfast and Loyal!

LTC [redacted]

(254)287 [redacted]
cell(254)681 [redacted]

012017

Entire pgs 2 & 3
b2-16w2

b6-2, b6-3, b7(c)

[Redacted] CPT Fort Carson [Redacted]
From: [Redacted] COL Fort Carson [Redacted]
Sent: Wednesday, June 30, 2004 10:17 AM
To: [Redacted] CPT Fort Carson [Redacted]
Subject: RE: AR 600-8-2

"Order, counter order, disorder"...they're coming back, don't want to further confuse anyone.

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

From: [Redacted] CPT Fort Carson [Redacted]
Sent: Wednesday, June 30, 2004 8:47 AM
To: [Redacted] COL Fort Carson [Redacted]
Subject: RE: AR 600-8-2

It is well within your purview to pull the soldiers back from leave. The scheduled Art. 32 is a legal proceeding/investigation as recognized by AR 600-8-2. Any claim defense is making as to unfairness or "punishment tantamount to confinement" is not valid. It is within your authority to pull the leave.

That said, I spoke with [Redacted] defense attorney last night. He informed me that he had arranged for his client to return by 6 JUL to prepare [Redacted] leave is scheduled to end on 11 JUL according to the DA 31).
b6-2 & b6-5, b7(c)

The defense attorney also informed me that they will be requesting additional time to prepare for the Art. 32 hearing and would request a delay until 22 JUL. I spoke with the Art. 32 Investigating Officer [Redacted] and he would not oppose such a delay request given the complexity of the charges and obvious witness limitations (specifically, Iraq witness availability).

Sir, at this point, given that a delay is fairly certain, having the soldiers return to duty NLT then COB on Monday/Tuesday would be an option as well. It would be exercising a degree of control over the two flagged soldiers balanced with fairness to the soldier (erroneously or not, the leave was already granted).

I am available if you have additional concerns or questions.

v/r,
CPT [Redacted]

719-526-[Redacted]
719-526-[Redacted]

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

From: [Redacted] COL Fort Carson [Redacted]
Sent: Wednesday, June 30, 2004 5:54 AM
To: [Redacted] CPT Fort Carson [Redacted]
Subject: AR 600-8-2

012018

b6-2, b6-3, b7(c)

Entire page
b2-1 Low 2
b7(c)

[Redacted] CPT Fort Carson [Redacted]

From: [Redacted] - b6-3, b7(c)
Sent: Friday, June 18, 2004 8:13 AM
To: [Redacted] CPT Fort Carson [Redacted]
Subject: Re: RE: [Redacted]

b6-2, ~~b6-3~~, b6-5, b7(c)

did we get it done? and has there been any 32 delays submitted by the defense?
thanks

b6-2, b6-3, b7(c)

Entire p 298
b2-1 lower
& b7(c)

[Redacted] CPT Fort Carson [Redacted]

From: [Redacted] b6-3
Sent: Wednesday, June 16, 2004 1:48 PM
To: [Redacted] CPT Fort Carson [Redacted]
Subject: [Redacted] charges

[Redacted] b6-3, b6-5, b7(c)

I sent [Redacted] and [Redacted] charge sheets to you via your carson account but want to make sure you get it. it's a word document and i can't get it to copy into this message so if it didn't go to your carson account let me know and i'll resend it.
thanks

Entire page b2-1 Low 2
67 (C)

66-2, 66-3

[Redacted] CPT Fort Carson [Redacted]

From: [Redacted] - 66-3
Sent: Monday, June 14, 2004 9:55 AM
To: [Redacted] CPT Fort Carson [Redacted]
Subject: Re: [Redacted] 66-2, 66-8

thanks, [Redacted]
i'm going to send you a copy of the additional charge sheet. i'd like to get it done soonest, and get the memo signed allowing the add'l charge to be investigated at the same 32. is tomorrow a doable date for you to get this done?

012021

Entire page 62-1 Low 2
(67cc)

66-2, 66-3

[Redacted] CPT Fort Carson [Redacted]

From: [Redacted] 66-3
Sent: Wednesday, June 02, 2004 1:11 PM
To: [Redacted] CPT Fort Carson
Subject: Re: RE: RE: Art 15s needed/Related Issues - Partial adjustment

[Redacted]
he should have been flagged in any event and shouldn't be attending ancoc. thanks for holding up his orders. please ensure that he's flagged.

66-3

Entire page
b2-1 Low
8
b7(c)

b6-2, b6-3

[Redacted] CPT Fort Carson [Redacted]

From: [Redacted] b6-3
Sent: Tuesday, June 01, 2004 11:21 AM
To: [Redacted] CPT Fort Carson [Redacted]
Subject: Re: [Redacted]

b6-2, b6-3, b6-5

just sent you an email, but want to relay the importance of stopping [Redacted] from clearing post. please keep me posted on that action. thanks [Redacted]

012023

Entire p 370
b2-1, low 2
b7(cc)

b6-2, b6-3

[Redacted] CPT Fort Carson [Redacted]

From: [Redacted]
Sent: Tuesday, June 01, 2004 11:21 AM
To: [Redacted] MAJ Fort Carson [Redacted]
Cc: [Redacted] CPT Fort Carson [Redacted]
Subject: Re: RE: Art 15s needed/Related Issues - Partial adjustment

hey [Redacted], just a head's up that one of my tcs (cpt [Redacted] is on his way to you to prefer charges in the [Redacted] and [Redacted] cases. should be there either thursday afternoon or friday morning. also, my ncoic informed me that [Redacted] is clearing -- i'm cc'ing [Redacted] on this so he can have the command stop that action, but wanted to let you know since it's a high profile case.
thanks
[Redacted]

b6-2, b6-3, b6-5

Azimuth Check on [redacted]

Entire page
b-2-1 lower
~~(circled)~~

b3-1

b6-2, b6-3, b7(c)

[redacted] CPT Fort Carson [redacted]

From: [redacted] CPT-4ID [redacted]
Sent: Wednesday, June 30, 2004 1:32 PM
To: [redacted] CPT Fort Carson [redacted]
Cc: [redacted] CPT-4ID [redacted]
Subject: Azimuth Check on [redacted]

b3-1

I want to make sure we are all on the same sheet of music. Please take a look at the items below and see if they fit with where you think we are at. I'm CC'ing [redacted] so he can stay abreast of the situation. [redacted] will not be back from leave until the night of 6 July, and back to duty on the 7th.

b6-2
b6-3
b7(c)

Where We Are Now:

- 1) Media Release: With [redacted] b3-1
- 2) TDY Orders for witnesses: [redacted] Legal will generate all orders, but funds will come from Ft Hood. [redacted], our Legal [redacted] is contacting III Corps to set up authorization for the fund cite. POC for the fund cite is Ms. [redacted] (254) 287-[redacted]

3) We are sending an email to Agent [redacted] and CPT [redacted] (1ID TC for [redacted] area) requesting that they contact Mr. [redacted] and have him available to do his ART 32 testimony via VTC. The contact for III Corps VTC in Baghdad is SGT [redacted] (DSN: 318-822-[redacted]). The VTC has to be initiated from Baghdad, but if the VTC personnel at Carson call SGT [redacted] then they can work out the technical details. However, SGT [redacted] needs to be notified of the times and dates (understanding that the dates and times are very epheral right now).

ADD NAMES
b6-2
b6-3
b7(c)

4) We are working on getting better copies of the pictures currently in the packet. Agent [redacted] is our POC.

b6-1

What Still Needs Addressing:

- 1) Need to confirm that all four accused ([redacted]) are flagged.
- 2) Still need to find the DVD video of the victim's body ([redacted]). [redacted] said he is still looking for it.

b6-2, b6-5, b7(c)

~~b6-3~~ b6-34

- 3) Need to verify that there are 3 ART 32 memo's appointing a 32 for:
 - (A) The original charges against [redacted] and [redacted]
 - (B) The additional assault charge against [redacted]
 - (C) The addition of [redacted] and [redacted]

b6-2 b6-5
~~b6-3~~ b7(c)

4) MOST IMPORTANT: Get everyone together in a conference call in order to set a final, agreeable date for the 32. With 4 defense counsels and the trial counsels at different locations (3 posts in total), it is crucial that we get everyone together in a conference call in order to set the final date (note--the email from the IO asking everyone to give a date).

We understand that this is quite a challenge trying to keep everyone together on this complicated case. Please let us know if there is anything else you can think of that we didn't address above. Thank you very much for all your assistance.

v/c [redacted] - b6-2) b6-3
254-287-[redacted]

012025

DEPARTMENT OF THE ARMY

4th Infantry Division (Mechanized)

Fort Carson, Colorado 80913

AFZC-FC

7 June 2004

b6-2, b6-3, b7(c)

MEMORANDUM FOR Captain [redacted] Office of The Staff Judge Advocate, Fort Carson, Colorado 80913

SUBJECT: Appointment of Article 32(b) Investigating Officer in the cases of U.S. v. [redacted] and U.S. v. [redacted]

b6-2
b6-3
b7(c)
b6-5 Upg,

1. You are hereby designated to investigate the attached charges in the case, [redacted] Headquarters and Headquarters Company, [redacted] and [redacted] Headquarters and Headquarters Company [redacted] under Article 32, UCMJ. Additionally, you shall investigate and make a recommendation as to any uncharged offenses, except minor offenses as defined by Part V, Manual for Courts-Martial, brought to your attention during the investigation unless counsel for both sides agree that they should not be investigated.

b6-2
b6-5
b7(c)

b6-1

2. Your investigation will be conducted IAW Article 32(b), UCMJ, R.C.M. 405, MCM (2000 Edition) and AR 27-10. Procedural guidance is contained in DA Pam 27-17.

3. Your investigation will be completed and forwarded to the Criminal Law Division, OSJA, Fort Carson, Colorado, not later than fourteen duty days from the date of this correspondence. You may approve reasonable defense-requested delays, not to exceed ten duty days in length, occasioned by scheduling conflicts or defense requests for witnesses, and such periods will be excluded from your allotted time. Any requested delays beyond twenty-four duty days from the date of this correspondence will be immediately forwarded through the trial counsel to me for action. Within 72 hours of completion of your investigation you will deliver the original Investigating Officer's Report, DD Form 457, with enclosures, and a detailed chronology of the investigation to the Criminal Law Division, OSJA, Fort Carson, Colorado.

4. Your clerical and administrative support will be provided by [redacted] of the Criminal Law Division, Office of The Staff Judge Advocate. You may contact [redacted] at 526-[redacted]. The duty uniform should be worn at this hearing to facilitate witnesses returning to regular duties.

b6-2, b6-3

62-120w2

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

[redacted signature]

Commanding

012026

[Handwritten scribbles]

COURT-MARTIAL CHARGES

Part I

TO CDR. [redacted] FROM CDR. [redacted] DATE 3 JUN 04

1. Court-martial charges against the following named individual are forwarded as Enclosure 1. Witness statements, any evidence of previous misconduct (to include properly certified DA Forms 2627) and the accused's DA Forms 2 and 2-1 are attached as Enclosure 2.

66-2, 66-5

Name [redacted] Rank [redacted] SSN [redacted]

Exp 6

Organization [redacted]

63-1 HHC, [redacted] 4th Infantry Division (Mechanized)

2. All witnesses will remain at [redacted] for the next 90 days except the following named individuals:

62-1 Low 2

No other witnesses will be released without notifying the Staff Judge Advocate.

3. I recommended:

- () Summary Court-Martial () Special Court-Martial () BCD Special Court-Martial
- (X) General Court-Martial

NAME OF COMMANDER

66-2 67(C)

SIGNATURE OF COMMANDER

Part II

TO [redacted] FROM [redacted] DATE [redacted]

I have reviewed the attached charges and conclude that each offense is supported by the evidence.

- I () (recommend) () (direct):
- () Summary Court-Martial () Special Court-Martial () BCD Special Court-Martial
- () General Court-Martial

NAME OF COMMANDER

SIGNATURE OF COMMANDER

Part III

TO CDR. [redacted] FROM CDR. [redacted] DATE [redacted]

I have reviewed the attached charges and conclude that each offense is supported by the evidence.

- I () (recommend) (X) (direct):
- () Summary Court-Martial () Special Court-Martial () BCD Special Court-Martial
- (X) Articles 32 Investigation

66-2 67(C)

NAME OF COMMANDER

SIGNATURE OF COMMANDER

Part IV

TO [redacted] FROM [redacted] DATE [redacted]

I have examined the Article 32 Investigation and allied papers and () (recommend) () (direct) trial by:

- () Summary Court-Martial () Special Court-Martial () BCD Special Court-Martial
- () General Court-Martial

NAME OF COMMANDER

SIGNATURE OF COMMANDER

012027

66-2, 66-5, 67(c)

CHARGE SHEET

1. NAME OF ACCUSED (Last, First, MI)			2. SSN		3. GRADE OR RANK	4. PAY GRADE
5. UNIT OR ORGANIZATION			6. CURRENT SERVICE		7. PAY PER MONTH	
(Mechanized), Fort Carson, CO 80913			4th Infantry Division 63-1		a. INITIAL DATE	b. TERM
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED	
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL			N/A	
\$2970.60		\$2970.60				

apl

II. CHARGES AND SPECIFICATIONS

10. CHARGE: 1 VIOLATION OF THE UCMJ, ARTICLE 81

SPECIFICATION 1: In that [redacted] U.S. Army, did at or near Samarra, Iraq, on or about 3 January, 2004, conspire with [redacted] and [redacted] to commit an offense under the Uniform Code of Military Justice, to wit: to assault [redacted] and [redacted] and in order to effect the object of the conspiracy, the [redacted] along with [redacted] and [redacted] detained [redacted] and [redacted] and transported them to a bridge in the city of Samarra, Iraq, where the said [redacted] gave an order to push them into the Tigris River.

SPECIFICATION 2: In that [redacted] U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, conspire with [redacted] and [redacted] to commit an offense under the Uniform Code of Military Justice, to wit: endeavor to impede a criminal investigation by wrongfully influencing [redacted] and [redacted] to deny in their official statements to CID that [redacted] and [redacted] were pushed into the Tigris River.

67(c)
66-26
66-24
#011
VICTIMS

(SEE CONTINUATION SHEET)

66-2 67(c)

63-1

11a. NAME OF ACCUSER (Last, First, MI)		b. GRADE	c. ORGANIZATION OF ACCUSER
[redacted]		[redacted]	HHC [redacted]
d. SIGNATURE OF [redacted]			e. DATE
[redacted]			8 JUNE 04

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 8 day of JUNE, 2004, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[redacted]
 Typed Name of Officer
 CPT
 Grade
 [redacted]
 Signature

HHC, [redacted]
 Organization of Officer
 Article 136, UCMJ
 Official Capacity to Administer Oath
 (See R.C.M. 307(b) - must be a commissioned officer)

12. On 8 JUNE 2004, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

[Redacted]
Typed Name of Immediate Commander

HHC, [Redacted]
Organization of Immediate Commander

63-1

[Redacted]
Signature

66-2, 67(c)

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges received at 0955 hours, 8 JUNE 2004 at [Redacted] 4th Infantry Division
(Mechanized)
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

[Redacted]
Typed Name of Officer

FOR THE ¹
66-2, 67(c)

Commander
Official Capacity of Officer Signing

[Redacted]
Grade
[Redacted]
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY b. PLACE c. DATE

Referred for trial to the _____ court-martial convened by _____

_____ 20 04, subject to the following instructions:² _____

By _____ of _____
Command or Order

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

15. On _____, 2004, I (caused to be) served a copy hereof on (each of) the above named accused.

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 — When an appropriate commander signs personally, inapplicable words are stricken.
2 — See R.C.M. 601(e) concerning instructions. If none, so state.

b7(c)
b6-2166-1
b6-4
FOR
VICTIM

Item 10, continued:

Charge II: VIOLATION OF THE UCMJ, ARTICLE 107

SPECIFICATION: In that [REDACTED] U.S. Army, did at or near Tikrit, Iraq, on or about 16 January 2004, with the intent to deceive, make to a CID agent a sworn official statement, to wit: that [REDACTED] and [REDACTED] were stopped, searched and released to walk to their vehicle and that he personally witnessed the two individuals on the side of the road as his convoy departed the area, which statement was totally false and was then known by [REDACTED] to be false.

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 119

SPECIFICATION: In that [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, while perpetrating an offense directly affecting the person of [REDACTED], to wit: push him into the Tigris River at nighttime, unlawfully kill [REDACTED] by drowning.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 128

SPECIFICATION: In that, [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, commit an assault upon [REDACTED] by pushing him into the Tigris River at nighttime.

CHARGE V: VIOLATION OF THE UCMJ, ARTICLE 134

SPECIFICATION: In that, [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, wrongfully endeavored to impede an investigation by falsely giving a sworn statement denying that [REDACTED] and [REDACTED] were pushed into the Tigris River and that he saw them standing at the shoreline as his convoy departed the area.

COURT-MARTIAL CHARGES

Part I

TO CDR, [redacted] 4th ID (M) FROM CDR, HHC [redacted] DATE 8 JUN 04

1. Court-martial charges against the following named individual are forwarded as Enclosure 1. Witness statements, any evidence of previous misconduct (to include properly certified DA Forms 2627) and the accused's DA Forms 2 and 2-1 are attached as Enclosure 2.

Name [redacted] Rank [redacted] SSN [redacted]
Organization HHC, [redacted] 4th Infantry Division (Mechanized)

62-1
66-5
67(c)
Eggs

2. All witnesses will remain at [redacted] for the next 90 days except the following named individuals:

No other witnesses will be released without notifying the Staff Judge Advocate.

3. I recommended:

- () Summary Court-Martial () Special Court-Martial () BCD Special Court-Martial
(X) General Court-Martial

NAME OF COMMANDER

COMMANDER

Part II

TO FROM DATE

I have reviewed the attached charges and conclude that each offense is supported by the evidence.

- I () (recommend) (X) (direct):
() Summary Court-Martial () Special Court-Martial () BCD Special Court-Martial
() General Court-Martial

NAME OF COMMANDER

SIGNATURE OF COMMANDER

Part III

TO CDR, 3BCT FROM CDR, HHC 3BCT DATE

I have reviewed the attached charges and conclude that each offense is supported by the evidence.

- I () (recommend) (X) (direct):
() Summary Court-Martial () Special Court-Martial () BCD Special Court-Martial
(X) Articles 32 Investigation

NAME OF COMMANDER

SIGNATURE OF COMMANDER

Part IV

TO FROM DATE

I have examined the Article 32 Investigation and allied papers and () (recommend) (X) (direct) trial by:

- () Summary Court-Martial () Special Court-Martial () BCD Special Court-Martial
() General Court-Martial

NAME OF COMMANDER

SIGNATURE OF COMMANDER

66-2, 66-5, 67(c)

CHARGE SHEET

1. NAME OF ACCUSED (Last, First, MI)			I. PERSONAL DATA		3. GRADE OR RANK	4. PAY GRADE
[REDACTED]			2. SSN		[REDACTED]	[REDACTED]
5. UNIT OR ORGANIZATION				6. CURRENT SERVICE		
Headquarters and Headquarters Company, (Mechanized), Fort Carson, CO 80913				a. INITIAL DATE		b. TERM
				63-1, 62-1202		INDEF
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED	
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL				
\$2980.20		\$2980.20			N/A	

Appl

10. CHARGE: I VIOLATION OF THE UCMJ, ARTICLE 81

SPECIFICATION 1: In that [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or about 3 January, 2004, conspire with [REDACTED] and [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: to assault [REDACTED] and [REDACTED] and in order to effect the object of the conspiracy, the said [REDACTED] along with [REDACTED] and [REDACTED] retained [REDACTED] and [REDACTED] and transported them to a bridge in the city of Samarra, Iraq, where the said [REDACTED] gave an order to push them into the Tigris River.

SPECIFICATION 2: In that [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, conspire with [REDACTED] and [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: endeavor to impede a criminal investigation by wrongfully influencing [REDACTED] to deny in their official statements to CID that [REDACTED] and [REDACTED] were pushed into the Tigris River.

66-2, 66-5, 66-4 FOR UIC(T)M

(SEE CONTINUATION SHEET)

66-2, 67(c)

63-1, 62-1202

11a. NAME OF ACCUSER (Last, First, MI)		III. PREFERRAL	
[REDACTED]		b. GRADE	c. ORGANIZATION OF ACCUSER
[REDACTED]		[REDACTED]	HHC, [REDACTED]
d. SIGNATURE OF ACCUSER			e. DATE
[REDACTED]			8 JUN 04

AFFIDAVIT: I, [REDACTED], the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named [REDACTED] on this 8 day of JUNE, 2004, and signed the foregoing charges and specifications under oath that he/she is [REDACTED] on subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[REDACTED] 66-2, 67(c)

Typed Name of Officer

HHC, 4ID (M)
Organization of Officer

CPT
Grade

Article 136, UCMJ

Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)

Signature

On 8 JUNE 04, 2004, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

[Redacted]
Typed Name of Immediate Commander
HHC, [Redacted] AID(M)
Organization of Immediate Commander
[Redacted] CAPT
Grade
[Redacted] Signature
66-21
67CO
63-1162-1 Law 2

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 0955 hours, 8 JUNE, 2004 at [Redacted] 4th Infantry Division
Designation of Command or
(Mechanized)
Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹ _____
Commander
Official Capacity of Officer Signing

[Redacted]
Typed Name of Officer
COL
Grade
[Redacted] Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY b. PLACE c. DATE

Referred for trial to the _____ court-martial convened by _____

_____ 20 04 subject to the following instructions:² _____

By _____ of _____
Command or Order

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

15. On _____, 2004, I (caused to be) served a copy hereof on (each of) the above named accused.

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 — When an appropriate commander signs personally, inapplicable words are stricken.
2 — See R.C.M. 601(e) concerning instructions. If none, so state.

CONTINUATION SHEET DD FORM 458, [REDACTED]
Headquarters and Headquarters Company, 4th Infantry Division, Fort Carson, CO 80913

Item 10, continued:

Charge II: VIOLATION OF THE UCMJ, ARTICLE 107

SPECIFICATION: In that [REDACTED], U.S. Army, did at or near Tikrit, Iraq, on or about 16 January 2004, with the intent to deceive, make to a CID agent a sworn official statement, to wit: that [REDACTED] and [REDACTED] were stopped, searched and released to walk to their vehicle and that he personally witnessed the two individuals on the side of the road as his convoy departed the area, which statement was totally false and was then known by [REDACTED] to be false.

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 119

SPECIFICATION: In that [REDACTED], U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, while perpetrating an offense directly affecting the person of [REDACTED] to wit: push him into the Tigris River at nighttime, unlawfully kill [REDACTED] by drowning.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 128

SPECIFICATION: In that, [REDACTED], U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, commit an assault upon [REDACTED] by pushing him into the Tigris River at nighttime.

CHARGE V: VIOLATION OF THE UCMJ, ARTICLE 134

SPECIFICATION: In that, [REDACTED], U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, wrongfully endeavored to impede an investigation by falsely giving a sworn statement denying that [REDACTED] and [REDACTED] were pushed into the Tigris River and that he saw them standing at the shoreline as his convoy departed the area.

b7(c)
b6-2
b6-5
φ
b6-4
FOL
VICTIMS

b7(c) // 1-2 // 66-5
66

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) [REDACTED]		2. SSN [REDACTED]	3. GRADE OR RANK [REDACTED]	4. PAY GRADE [REDACTED]
5. UNIT OR ORGANIZATION Headquarters and Headquarters Company, [REDACTED] [REDACTED] Fort Carson, CO 80913			6. CURRENT SERVICE a. INITIAL DATE b. TERM INDEF	
7. PAY PER MONTH a. BASIC \$2980.20		b. SEA/FOREIGN DUTY	8. NATURE OF RESTRAINT OF ACCUSED	
c. TOTAL \$2980.20		9. DATE(S) IMPOSED N/A		

b3-1, b2-1 Low

II. CHARGES AND SPECIFICATIONS

10. CHARGE: I VIOLATION OF THE UCMJ, ARTICLE 81

SPECIFICATION 1: In that [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or about 3 January, 2004, conspire with [REDACTED] and [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: to assault [REDACTED] and [REDACTED] and in order to effect the object of the conspiracy, the said [REDACTED] along with [REDACTED] and [REDACTED] and transported them to a bridge in the city of Samarra, Iraq, where the said [REDACTED] gave an order to push them into the Tigris River.

SPECIFICATION 2: In that [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, conspire with [REDACTED] and [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: endeavor to impede a criminal investigation by wrongfully influencing [REDACTED] to deny in their official statements to CID that [REDACTED] and [REDACTED] were pushed into the Tigris River.

(SEE CONTINUATION SHEET)

b6-2, b7(c)

b3-1, b2-1 Low

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI) [REDACTED]	b. GRADE CPT	c. ORGANIZATION OF ACCUSER HHC [REDACTED] 4ID (M)
d. SIGNATURE OF ACCUSER [REDACTED]	e. DATE	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this _____ day of _____, 2004, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[REDACTED]
Typed Name of Officer

HHC, 4ID (M)
Organization of Officer

CPT
Grade

Article 136, UCMJ
Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)

Signature

b7(c),
b6-2,
b6-5
+
b6-4
for
UCMJ

Carson, CO 80913

Fort

Item 10, continued:

Charge II: VIOLATION OF THE UCMJ, ARTICLE 107

SPECIFICATION: In that [redacted] U.S. Army, did at or near Tikrit, Iraq, on or about 16 January 2004, with the intent to deceive, make to a CID agent a sworn official statement, to wit: that [redacted] and [redacted] were stopped, searched and released to walk to their vehicle and that he personally witnessed the two individuals on the side of the road as his convoy departed the area, which statement was totally false and was then known by [redacted] to be false.

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 119

SPECIFICATION: In that [redacted] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, while perpetrating an offense directly affecting the person of [redacted] to wit: push him into the Tigris River at nighttime, unlawfully kill [redacted] by drowning.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 128

SPECIFICATION 1: In that [redacted] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, commit an assault upon [redacted] by pushing him into the Tigris River at nighttime.

SPECIFICATION 2: In that [redacted] U.S. Army, did, at or near Balad, Iraq, on or about 4 December 2004, commit an assault upon a heavyset Iraqi male by detaining him at an auto shop in Balad, Iraq, transporting him to the pontoon bridge in Balad, Iraq, and pushing him into the Tigris River with a force likely to produce death or grievous bodily harm, to wit: pushing the Iraqi male into the Tigris River.

CHARGE V: VIOLATION OF THE UCMJ, ARTICLE 134

SPECIFICATION: In that, [redacted] U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, wrongfully endeavored to impede an investigation by falsely giving a sworn statement denying that [redacted] and [redacted] were pushed into the Tigris River and that he saw them standing at the shoreline as his convoy departed the area.

67(c)
66-2
65-5
66-4
FOR
VICTIMS

b7(c) / b6-2 / b6-5

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)		2. SSN	3. GRADE OR RANK	4. PAY GRADE
5. UNIT OR ORGANIZATION		6. CURRENT SERVICE		
Fort Carson, CO 80913		a. INITIAL DATE	b. TERM	
7. PAY PER MONTH		8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL		N/A
\$2970.60		\$2970.60		

II. CHARGES AND SPECIFICATIONS

10. CHARGE: I VIOLATION OF THE UCMJ, ARTICLE 81

SPECIFICATION 1: In that [redacted] U.S. Army, did at or near Samarra, Iraq, on or about 3 January, 2004, conspire with [redacted] and [redacted] to commit an offense under the Uniform Code of Military Justice, to wit: to assault [redacted] and [redacted] and in order to effect the object of the conspiracy, the [redacted] along with [redacted] and [redacted] detained [redacted] and [redacted] and transported them to a bridge in the city of Samarra, Iraq, where the said [redacted] gave an order to push them into the Tigris River.

SPECIFICATION 2: In that [redacted] U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, conspire with [redacted] and [redacted] to commit an offense under the Uniform Code of Military Justice, to wit: endeavor to impede a criminal investigation by wrongfully influencing [redacted] and [redacted] to deny in their official statements to CID that [redacted] and [redacted] were pushed into the Tigris River.

(SEE CONTINUATION SHEET)

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI)	b. GRADE	c. ORGANIZATION OF ACCUSER
[redacted]	[redacted]	HHC, [redacted]
d. SIGNATURE OF ACCUSER	e. DATE	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this _____ day of _____, 2004, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

 Typed Name of Officer

 HHC, 4ID (M)
 Organization of Officer

 CPT
 Grade

 Article 136, UCMJ
 Official Capacity to Administer Oath
 (See R.C.M. 307(b) - must be a commissioned officer)

Signature

b7(c)
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b6-4
FOI
VICTIM

b6-2

b3-1, b2-1 Low

b7(c)
b6-2
b6-5
E
b6-4
FOR
VICTIMS

Item 10, continued:

Charge II: VIOLATION OF THE UCMJ, ARTICLE 107

SPECIFICATION: In that [REDACTED], U.S. Army, did at or near Tikrit, Iraq, on or about 16 January 2004, with the intent to deceive, make to a CID agent a sworn official statement, to wit: that [REDACTED] and [REDACTED] were stopped, searched and released to walk to their vehicle and that he personally witnessed the two individuals on the side of the road as his convoy departed the area, which statement was totally false and was then known by [REDACTED] to be false.

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 119

SPECIFICATION: In that [REDACTED], U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, while perpetrating an offense directly affecting the person of [REDACTED] to wit: push him into the Tigris River at nighttime, unlawfully kill [REDACTED] by drowning.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 128

SPECIFICATION: In that, [REDACTED], U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, commit an assault upon [REDACTED] by pushing him into the Tigris River at nighttime.

CHARGE V: VIOLATION OF THE UCMJ, ARTICLE 134

SPECIFICATION: In that, [REDACTED], U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, wrongfully endeavored to impede an investigation by falsely giving a sworn statement denying that [REDACTED] and [REDACTED] were pushed into the Tigris River and that he saw them standing at the shoreline as his convoy departed the area.

CERTIFICATE

I hereby certify that the Enlisted Records Brief pertaining to [REDACTED] ^{Exp 6}] 66-2, 66-5, 67C
[REDACTED] Headquarters and Headquarters Company, [REDACTED] Fort Carson, ^{68-1, 62-1 Lowr}
Colorado 80913, was obtained through the Army Human Resource System (AHRS),
7 June 2004. The AHRS is the Army's database of all personnel records and contains the latest,
most up-to-date information.

[REDACTED]] 66-2, 66-7, 67C
[REDACTED]] 62-1 Lowr &
5-3-1,
62-1 Lowr



DEPARTMENT OF THE ARMY
Office of The Staff Judge Advocate, 7th Infantry Division
Fort Carson, Colorado 80913-4303

AFZC-JA-CL

7 June 2004

MEMORANDUM FOR NCIC Coordinator, Office of The Provost Marshal, ATTN: AFZC-Y-
MP, Fort Carson, Colorado 80913

SUBJECT: Request for NCIC Report of Soldier Pending Court-Martial

1. This office is preparing court-martial charges against the soldier(s) stated below, and hereby requests a copy of NCIC Report of the soldier(s).

NAME

[REDACTED]

SSN#

[REDACTED]

DOB

[REDACTED]

] 66-2
66-5 67cc) *Aggr*

3. POC is the undersigned at (719) 526-[REDACTED] / DSN 691-[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

] 66-2
68-3 67cc)

] 63-1
62-12622



DEPARTMENT OF THE ARMY
 Office of The Staff Judge Advocate, 7th Infantry Division
 Fort Carson, Colorado 80913-4303

*Entire page
b2-l 2002*

AFZC-JA-CL

7 June 2004

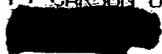
FACSIMILE COVER SHEET

TO: [REDACTED]	FROM: [REDACTED] <i>66-2, 66-3</i>
ORGANIZATION: Office of The Provost Marshal	DATE: 7 June 2004
RECIPIENT'S FAX NUMBER: (719) 526-[REDACTED]/DSN 699-[REDACTED]	NO. OF PAGES INCLUDING COVER SHEET: 2
RECIPIENT'S PHONE NUMBER: (719) 526-[REDACTED]/DSN 699-[REDACTED]	SENDER'S FAX NUMBER: (719) 526-[REDACTED] DSN 691-[REDACTED]
REFERENCE: Request for NCIC Report of Soldier Pending Court-Martial	SENDER'S PHONE NUMBER: (719) 526-[REDACTED] DSN 691-[REDACTED]

- URGENT
 FOR REVIEW
 PLEASE COMMENT
 PLEASE REPLY
 PLEASE RECYCLE

NOTES/COMMENTS:

TRANSMISSION VERIFICATION REPORT

TIME : 01/22/1996 00:22
NAME : FT. CARSON OSJA
FAX : 
TEL :

62-1
LOW 2

DATE, TIME	01/22 00:11
FAX NO. /NAME	82215204
DURATION	00:00:48
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

13 July 2004

MEMORANDUM FOR [redacted] Headquarters and Headquarters Company, [redacted], Fort Carson, Colorado 80913

apb, 3, 7d
] 66-2
66-5 b7(c)

SUBJECT: Article 32(b) Investigation 163-1, 62-16002

1. On 28 July 2004, at 0900, in the courtroom, Second Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning the charges preferred against you by [redacted]. The charges are Conspiracy in violation of Article 81, False Official Statement in violation of Article 107, Manslaughter in violation of Article 119, Assault in violation of Article 128, and Obstructing Justice in violation of Article 134.

] 66-2
66-3 b7(c)

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

- a. SA [redacted]
- b. SA [redacted]
- c. SA [redacted]
- d. Mr. [redacted]
- e. SPC [redacted]
- f. CPT [redacted]

66-2
66-1
66-4
6-2
66-4
67(c)

66-2, 66-5, 67(c)

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

- a. Charge sheet, 8 June 2004.
- b. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- c. Sworn statement of [redacted] dated 16 January 2004.
- d. Your sworn statements, dated 16, 17, and 22 January 2004.
- e. Sworn statements of [redacted], dated 16, 17, and 27 January 2004.
- f. Sworn statements of [redacted] dated 16 and 23 (two) January 2004.
- g. Sworn statements of [redacted] dated 16, 21, and 22 January 2004.
- h. Sworn statements of [redacted], dated 16, 22 (two), and 24 January 2004.
- i. Memorandum for Record, dated 11 January 2003 [2004], by [redacted]

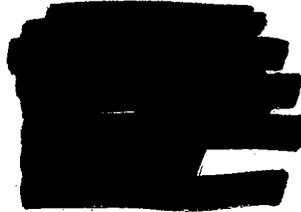
67(c)
66-4

66-2
6-5
67(c)

66-2, 66-3, 67(c)

66-2
66-3
67(c)

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your Military or Civilian Defense Counsel, by 1600 on 23 July 2004. Please also furnish this witness information to [REDACTED] Trial Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado 80913.



66-2
66-3
67(c)

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 28 July 2004, at 0900, located in the courtroom, Second Floor, Building 6287, Fort Carson, Colorado.

expl

[REDACTED]] 66-2
] 66-5
67 CC]

13 July 2004

MEMORANDUM FOR [redacted] Headquarters and Headquarters Company, [redacted] Fort Carson, Colorado 80913

63-1, 62-1 Lm2
] 66-2, 66-5
67cc)

SUBJECT: Article 32(b) Investigation

1. On 28 July 2004, at 0900, in the courtroom, Second Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMI, to investigate the facts and circumstances concerning the charges preferred against you by [redacted]. The charges are Conspiracy in violation of Article 81, False Official Statement in violation of Article 107, Manslaughter in violation of Article 119, Assault in violation of Article 128, and Obstructing Justice in violation of Article 134. The additional charge is Assault in violation of Article 128.

] 66-2, 66-3
67cc)

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

- 6-1
- 6-2
- 6-4, 67cc
- 6-2
- 6-3
- 7cc

- a. SA [redacted]
- b. SA [redacted]
- c. SA [redacted]
- d. Mr. [redacted]
- e. SPC [redacted]
- f. CPT [redacted]

66-2, 66-5, 67cc)

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

- 6-4
- 6-2
- 6-5
- 7cc

- a. Charge Sheet, dated 8 June 2004.
- b. Additional Charge Sheet, dated 15 June 2004.
- c. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- d. Sworn statement of [redacted] dated 16 January 2004.
- e. Sworn statements of [redacted] dated 16, 17, and 22 January 2004.
- f. Your sworn statements, dated 16, 17, and 27 January 2004.
- g. Sworn statements of [redacted] dated 16 and 23 (two) January 2004.
- h. Sworn statements of [redacted] dated 16, 21, and 22 January 2004.
- g. Sworn statements of [redacted] dated 16, 22 (two), and 24 January 2004.
- j. Memorandum for Record, dated 11 January 2003 [2004], by [redacted]

66-2, 66-3, 67cc)

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by 1600 on 23 July 2004. Please also furnish this witness information to [REDACTED], Trial Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado 80913.

[REDACTED]

66-2
66-3
67(c)

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

epb

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 28 July 2004, at 0900, located in the courtroom, Second Floor, Building 6287, Fort Carson, Colorado.



] b6-2
b6-5
b7(c)

012049

13 July 2004

MEMORANDUM FOR [REDACTED]

Fort Carson, Colorado 80913

SUBJECT: Article 32(b) Investigation

166-2
166-5
67(C)

1. On 28 July 2004, at 0900, in the courtroom, Second Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning the charges preferred against you by [REDACTED]. The charges are False Official Statement in violation of Article 107 and Manslaughter in violation of Article 119.

166-2, 166-3, 67(C)

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

- a. SA [REDACTED]
- b. SA [REDACTED]
- c. SA [REDACTED]
- d. Mr. [REDACTED]
- e. SPC [REDACTED]
- f. CPT [REDACTED]

66-1
66-2
6-4, 67(C)
66-2
66-4
67(C)

166-2, 166-5, 67(C)

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

- a. Charge sheet, 28 June 2004.
- b. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- c. Sworn statement of [REDACTED] dated 16 January 2004.
- d. Sworn statements of [REDACTED] dated 16, 17, and 22 January 2004.
- e. Sworn statements of [REDACTED] dated 16, 17, and 27 January 2004.
- f. Your sworn statements, dated 16 and 23 (two) January 2004.
- g. Sworn statements of [REDACTED], dated 16, 21, and 22 January 2004.
- f. Sworn statements of [REDACTED], dated 16, 22 (two), and 24 January 2004.
- i. Memorandum for Record, dated 11 January 2003 [2004], by [REDACTED]

66-4, 67(C)
66-2
66-5
67(C)
66-2
66-4
67(C)

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by 1600 on 23 July 2004. Please also furnish this witness information to [REDACTED] Trial Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado 80913.

[REDACTED]

66-2
66-3
67(4)

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

09/26

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 28 July 2004, at 0900, located in the courtroom, Second Floor, Building 6287, Fort Carson, Colorado.



*7/1/04-2
b6-6
b7(e)*

012052

13 July 2004

MEMORANDUM FOR [REDACTED]

Fort Carson, Colorado 80913

SUBJECT: Article 32(b) Investigation

766-2, 66-5, 67(c)
[Handwritten notes]

1. On 28 July 2004, at 0900, in the courtroom, Second Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning the charges preferred against you by [REDACTED]. The charges are False Official Statement in violation of Article 107 and Assault in violation of Article 128.

66-2
66-3
67(c)

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

- 66-1 a. SA [REDACTED]
- 66-2 b. SA [REDACTED]
- 66-4, 67(c) c. SA [REDACTED]
- 66-2 d. Mr. [REDACTED]
- 66-4 e. SPC [REDACTED]
- 66-4 f. CPT [REDACTED]

66-2, 66-5, 67(c)

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

- a. Charge sheet, 28 June 2004.
- b. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- 66-4, 67(c) c. Sworn statement of [REDACTED] dated 16 January 2004.
- 17(c) d. Sworn statements of [REDACTED] dated 16, 17, and 22 January 2004.
- 66-2 e. Sworn statements of [REDACTED] dated 16, 17, and 27 January 2004.
- 66-5 f. Sworn statements of [REDACTED] dated 16 and 23 (two) January 2004.
- g. Sworn statements of [REDACTED] dated 16, 21, and 22 January 2004.
- h. Your sworn statements, dated 16, 22 (two), and 24 January 2004.
- 66-2 i. Memorandum for Record, dated 11 January 2003 [2004], by [REDACTED]

66-3, 67(c)

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by 1600 on 23 July 2004. Please also furnish this witness information to [REDACTED] Trial Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado 80913.

[REDACTED]

66-2
/ 66-3
67(c)

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

2/26

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 28 July 2004, at 0900, located in the courtroom, Second Floor, Building 6287, Fort Carson, Colorado.

[REDACTED]

*] 66-2
66-5
67(c)*

DEPARTMENT OF THE ARMY
3rd Brigade Combat Team, 4th Infantry Division (Mechanized)
Fort Carson, Colorado 80913

AFZC-FC

7 June 2004

66-2, 66-3, 67(C)

MEMORANDUM FOR Captain [REDACTED] Office of The Staff Judge Advocate, Fort Carson, Colorado 80913

SUBJECT: Appointment of Article 32(b) Investigating Officer in the cases of U.S. v. [REDACTED] and U.S. v. [REDACTED]

66-2
66-5
67(C)

1. You are hereby designated to investigate the attached charges in the case, [REDACTED] Headquarters and Headquarters Company, [REDACTED]; and [REDACTED] Headquarters and Headquarters Company, [REDACTED], under Article 32, UCMJ. Additionally, you shall investigate and make a recommendation as to any uncharged offenses, except minor offenses as defined by Part V, Manual for Courts Martial, brought to your attention during the investigation unless counsel for both sides agree that they should not be investigated.

63-1, 62-12^{aw}

2. Your investigation will be conducted IAW Article 32(b) UCMJ, R.C.M. 405, MCM (2000 Edition) and AR 27-10. Procedural guidance is contained in DA Pam 27-17.

3. Your investigation will be completed and forwarded to the Criminal Law Division, OSJA, Fort Carson, Colorado, not later than fourteen duty days from the date of this correspondence. You may approve reasonable defense-requested delays, not to exceed ten duty days in length, occasioned by scheduling conflicts or defense requests for witnesses, and such periods will be excluded from your allotted time. Any requested delays beyond twenty-four duty days from the date of this correspondence will be immediately forwarded through the trial counsel to me for action. Within 72 hours of completion of your investigation you will deliver the original Investigating Officer's Report, DD Form 457, with enclosures, and a detailed chronology of the investigation to the Criminal Law Division, OSJA, Fort Carson, Colorado.

4. Your clerical and administrative support will be provided by [REDACTED] of the Criminal Law Division, Office of The Staff Judge Advocate. You may contact [REDACTED] at 526-9196. The duty uniform should be worn at this hearing to facilitate witnesses returning to regular duties.

66-2
66-3
67(C)

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

[REDACTED]

012056

16 June 2004

MEMORANDUM FOR [REDACTED] Headquarters and Headquarters Company, [REDACTED] Fort Carson, Colorado 80913

SUBJECT: Article 32(b) Investigation

66-2, 66-5
67 (C)

1. On 23 June 2004, at 0900, in the courtroom, First Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning the charges preferred against you by [REDACTED]. The charges are Conspiracy in violation of Article 81, False Official Statement in violation of Article 107, Manslaughter in violation of Article 119, Assault in violation of Article 128, and Obstructing Justice in violation of Article 134.

66-2, 66-3
67 (C)

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

- a. SA [REDACTED]
- b. SA [REDACTED]
- c. SA [REDACTED]
- d. Mr. [REDACTED]
- e. SGT [REDACTED]
- f. SPC [REDACTED]
- g. SPC [REDACTED]
- h. CPT [REDACTED]

66-1
66-2
66-4, 67 (C)
66-2, 66-5
67 (C)

66-2 66-4, 67 (C)

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

- a. Charge sheet, 8 June 2004.
- b. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- c. Sworn statement of [REDACTED], dated 16 January 2004.
- d. Your sworn statements, dated 16, 17, and 22 January 2004.
- e. Sworn statements of [REDACTED], dated 16, 17, and 27 January 2004.
- f. Sworn statements of [REDACTED], dated 16 and 23 (two) January 2004.
- g. Sworn statements of [REDACTED], dated 16, 21, and 22 January 2004.
- h. Sworn statements of [REDACTED], dated 16, 22 (two), and 24 January 2004.
- i. Memorandum for Record, dated 11 January 2003 [2004], by [REDACTED]

66-4
66-2, 66-5
66-2, 66-5

67 (C)
66-2
66-4

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by 0900 on 21 June 2004. Please also furnish this witness information to CP [REDACTED] Trial Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado 80913.



66-2
66-3
67(C)

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

29/6

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 23 June 2004, at 0900, located in the courtroom, First Floor, Building 6287, Fort Carson, Colorado.

[REDACTED]] b6-2
b6-3
67 (u)

16 June 2004

MEMORANDUM FOR [REDACTED] Headquarters and Headquarters Company, [REDACTED] Fort Carson, Colorado 80913

SUBJECT: Article 32(b) Investigation

66-2
66-5
67(C)

1. On 23 June 2004, at 0900, in the courtroom, First Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning the charges preferred against you by [REDACTED]. The charges are Conspiracy in violation of Article 81, False Official Statement in violation of Article 107, Manslaughter in violation of Article 119, Assault in violation of Article 128, and Obstructing Justice in violation of Article 134. The additional charge is Assault in violation of Article 128.

66-2
66-34
67(C)

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

- a. SA [REDACTED]
- b. SA [REDACTED]
- c. SA [REDACTED]
- d. Mr. [REDACTED]
- e. SGT [REDACTED]
- f. SPC [REDACTED]
- g. SPC [REDACTED]
- h. CPT [REDACTED]

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

- a. Charge Sheet, dated 8 June 2004.
- b. Additional Charge Sheet, dated 15 June 2004.
- c. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- d. Sworn statement of [REDACTED] dated 16 January 2004.
- e. Sworn statements of [REDACTED] dated 16, 17, and 22 January 2004.
- f. Your sworn statements, dated 16, 17, and 27 January 2004.
- g. Sworn statements of [REDACTED] dated 16 and 23 (two) January 2004.
- h. Sworn statements of [REDACTED] dated 16, 21, and 22 January 2004.
- i. Sworn statements of [REDACTED] dated 16, 22 (two), and 24 January 2004.
- j. Memorandum for Record, dated 11 January 2003 [2004], by [REDACTED]

67(C)
66-4
66-2
66-5
67(C)

66-34
66-2
67(C)

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by 0900 on 21 June 2004. Please also furnish this witness information to CPT [REDACTED] Trial Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado 80913.



66-2
66-3
67(8)

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

eg 6

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 23 June 2004, at 0900, located in the courtroom, First Floor, Building 6287, Fort Carson, Colorado.



b6-2/
b6-5
b7(c)

DEPARTMENT OF THE ARMY
3rd Brigade Combat Team, 4th Infantry Division (Mechanized)
Fort Carson, Colorado 80913

AFZC-FC

16 June 2004

MEMORANDUM FOR [REDACTED] Office of The Staff Judge Advocate, Fort Carson,
Colorado 80913

SUBJECT: Appointment of Article 32(b) Investigating Officer in the case of U.S. v. [REDACTED]
[REDACTED] U.S. v. [REDACTED]

1. You are hereby designated to investigate the additional charge in the case of [REDACTED] under Article 32, UCMJ. You will investigate the additional charge in conjunction with the original charges. Additionally, you shall investigate and make a recommendation as to any uncharged offenses, except minor offenses as defined by Part V, Manual for Courts-Martial, brought to your attention during the investigation unless counsel for both sides agree that they should not be investigated.

2. Your investigation will be conducted IAW Article 32(b), UCMJ, R.C.M. 405, MCM (2000 Edition) and AR 27-10. Procedural guidance is contained in DA Pam 27-17.

3. Your investigation will be completed and forwarded to the Criminal Law Division, OSJA, Fort Carson, Colorado, not later than fifteen duty days from the date of this correspondence. You may approve reasonable defense-requested delays, not to exceed ten duty days in length, occasioned by scheduling conflicts or defense requests for witnesses, and such periods will be excluded from your allotted time. Any requested delays beyond twenty five duty days from the date of this correspondence will be immediately forwarded through the trial counsel to me for action. Within 72 hours of completion of your investigation you will deliver the original Investigating Officer's Report, DD Form 457, with enclosures, and a detailed chronology of the investigation to the Criminal Law Division, OSJA, Fort Carson, Colorado.

4. Your clerical and administrative support will be provided by [REDACTED] of the Criminal Law Division, Office of The Staff Judge Advocate. You may contact [REDACTED] at 526-0496. The duty uniform should be worn at this hearing to facilitate witnesses returning to regular duties.

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

[REDACTED]

012063

66-3
66-2
67(C)
66-2
66-5
67(C)
66-2, 66-5, 67(C)
66-2
66-3
67(C)

b6-2
b6-5
b7(c)

copy

ADDITIONAL CHARGE SHEET

1. NAME OF ACCUSED (Last, First, MI) [REDACTED]			I. PERSONAL DATA 2. SSN [REDACTED]		3. GRADE OR RANK [REDACTED]	4. PAY GRADE [REDACTED]	
5. UNIT OR ORGANIZATION Headquarters and Headquarters Company, [REDACTED] [REDACTED] Fort Carson, CO 80913				6. CURRENT SERVICE a. INITIAL DATE [REDACTED]			b. TERM INDEF
7. PAY PER MONTH a. BASIC \$2980.20			b. SEA/FOREIGN DUTY		c. TOTAL \$2980.20		
8. NATURE OF RESTRAINT OF ACCUSED NONE				9. DATE(S) IMPOSED N/A			

b3-1, b2-1 Low 2

II. CHARGES AND SPECIFICATIONS

10. ADDITIONAL CHARGE: *1 VIOLATION OF THE UCMJ, ARTICLE 128

The SPECIFICATION: In that [REDACTED] U.S. Army, did, at or near Balad, Iraq, on or about 4 December 2004, commit an assault upon a large Iraqi male by detaining him at an auto shop in Balad, transporting him to the pontoon bridge in Balad, Iraq, and pushing him into the Tigris River with a force likely to produce death or grievous bodily harm, to wit: pushing the Iraqi male into the Tigris River.

b6-2 b7(c)
b6-3

b3-1, b2-1 Low 2

11a. NAME OF ACCUSER (Last, First, MI) [REDACTED]		b. GRADE CPT	c. ORGANIZATION OF ACCUSER HHC, [REDACTED]
d. SIGNATURE [REDACTED]			e. DATE 15 JUN 04

AFFIDAVIT: I, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named [REDACTED] on this 15th day of June, 2004, and signed the foregoing charges and specifications under oath that he/she is a member of the U.S. Army, subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[REDACTED] Typed Name of Officer	HHC, 7th ID (M) Organization of Officer
[REDACTED] Signature	Article 136, UCMJ Official Capacity to Administer Oath (See R.C.M. 307(b) - must be a commissioned officer)

b6-2, b6-3, b7(c)

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)		2. SSN	3. GRADE OR RANK	4. PAY GRADE
5. UNIT OR ORGANIZATION Headquarters and Headquarters Company, (Mechanized), Fort Carson, CO 80913		6. CURRENT SERVICE		INDEF
7. PAY PER MONTH a. BASIC \$2980.20 b. SEA/FOREIGN DUTY c. TOTAL \$2980.20		8. NATURE OF RESTRAINT OF ACCUSED		
		9. DATE(S) IMPOSED		N/A

b3-1, b2-1 Low 2

II. CHARGES AND SPECIFICATIONS

10. CHARGE: I VIOLATION OF THE UCMJ, ARTICLE 81

SPECIFICATION 1: In that [redacted] U.S. Army, did at or near Samarra, Iraq, on or about 3 January, 2004, conspire with [redacted] and [redacted] to commit an offense under the Uniform Code of Military Justice, to wit: to assault [redacted] and [redacted] and in order to effect the object of the conspiracy, the said [redacted] along with [redacted] and [redacted] detained [redacted] and [redacted] and transported them to a bridge in the city of Samarra, Iraq, where the said Lieutenant [redacted] gave an order to push them into the Tigris River.

SPECIFICATION 2: In that [redacted] U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, conspire with [redacted] and [redacted] to commit an offense under the Uniform Code of Military Justice, to wit: endeavor to impede a criminal investigation by wrongfully influencing [redacted] to deny in their official statements to CID that [redacted] and [redacted] were pushed into the Tigris River.

b7(c)
b6-2
b6-5
b6-4
P37
41 CTM

(SEE CONTINUATION SHEET)

b7(c)
b6-2
b6-3

b3-1 b2-1 Low 2

III. PREFERRAL

1a. NAME OF ACCUSER (Last, First, MI)	d. GRADE CPT	c. ORGANIZATION OF ACCUSER HHC, [redacted] 4ID (M)
e. SIGNATURE	e. DATE 8 JUNE 2004	

AFFIDAVIT: I, [redacted], the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named [redacted] on this 8 day of JUNE, 2004, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[redacted]
Typed Name of Officer

HHC, 4ID (M)
Organization of Officer

CPT
Grade

Article 136, UCMJ
Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)

[redacted]
Signature

Item 10, continued:

Charge II: VIOLATION OF THE UCMJ, ARTICLE 107

SPECIFICATION: In that [REDACTED] U.S. Army, did at or near Tikrit, Iraq, on or about 16 January 2004, with the intent to deceive, make to a CID agent a sworn official statement, to wit: that [REDACTED] and [REDACTED] were stopped, searched and released to walk to their vehicle and that he personally witnessed the two individuals on the side of the road as his convoy departed the area, which statement was totally false and was then known by [REDACTED] to be false.

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 119

SPECIFICATION: In that [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, while perpetrating an offense directly affecting the person of [REDACTED] to wit: push him into the Tigris River at nighttime, unlawfully kill [REDACTED] by drowning.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 128

SPECIFICATION: In that, [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, commit an assault upon [REDACTED] by pushing him into the Tigris River at nighttime.

CHARGE V: VIOLATION OF THE UCMJ, ARTICLE 134

SPECIFICATION: In that, [REDACTED], U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, wrongfully endeavored to impede an investigation by falsely giving a sworn statement denying that [REDACTED] and [REDACTED] were pushed into the Tigris River and that he saw them standing at the shoreline as his convoy departed the area.

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b7(C)
b6-2
b6-5
66-4
FAR
VICTIMS



DEPARTMENT OF THE ARMY
Office of The Staff Judge Advocate, 7th Infantry Division
Fort Carson, Colorado 80913-4303

AFZC-JA-CL

9 June 2004

MEMORANDUM FOR NCIC Coordinator, Office of The Provost Marshal, ATTN: AFZC-Y-
MP, Fort Carson, Colorado 80913

SUBJECT: Request for NCIC Report of Soldier Pending Court-Martial

1. This office is preparing court-martial charges against the soldier(s) stated below, and hereby requests a copy of NCIC Report of the soldier(s).

NAME

[REDACTED]

SSN#

[REDACTED]

DOB

[REDACTED]

} b6-2
b6-5
b7(c)
8/26

3. POC is the undersigned at (719) 526-4766 / DSN 691-4766.

[REDACTED]

} b6-2
b6-3
b7(c)

TRANSMISSION VERIFICATION REPORT

TIME : 06/09/2004 16:28
NAME : FT. CARSON OSJA
FAX : [REDACTED]
TEL : [REDACTED] *62-1 Low 2*

DATE, TIME	06/09 16:29
FAX NO. /NAME	65238
DURATION	00:00:42
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



DEPARTMENT OF THE ARMY
Office of The Staff Judge Advocate, 7th Infantry Division
Fort Carson, Colorado 80913-4303

*Entire
 page
 b2-1 low 2*

AFZC-JA-CL

9 June 2004

FACSIMILE COVER SHEET

TO: [REDACTED]	FROM: [REDACTED] <i>b6-2 b6-3</i>
ORGANIZATION: Office of The Provost Marshal	DATE: 9 June 2004
RECIPIENT'S FAX NUMBER: (719) 526-[REDACTED] DSN 699-[REDACTED]	NO. OF PAGES INCLUDING COVER SHEET: 2
RECIPIENT'S PHONE NUMBER: (719) 526-[REDACTED] DSN 699-[REDACTED]	SENDER'S FAX NUMBER: (719) 526-[REDACTED] DSN 691-[REDACTED]
REFERENCE: Request for NCIC Report of Soldier Pending Court-Martial	SENDER'S PHONE NUMBER: (719) 526-[REDACTED] DSN 691-[REDACTED]

- URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

012069

23 June 2004

66-2, 66-5, 67(C)

MEMORANDUM FOR [redacted] Headquarters and Headquarters Company, [redacted] Fort Carson, Colorado 80913

SUBJECT: Article 32(b) Investigation

1. On 8 July 2004, at 0900, in the courtroom, First Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning the charges preferred against you by [redacted]. The charges are Conspiracy in violation of Article 81, False Official Statement in violation of Article 107, Manslaughter in violation of Article 119, Assault in violation of Article 128, and Obstructing Justice in violation of Article 134. The additional charge is Assault in violation of Article 128.

66-2, 66-3
67(C)

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

- 66-1 a. SA [redacted]
- 66-2 b. SA [redacted]
- 1-4/67(C) c. SA [redacted]
- d. Mr. [redacted]
- e. SGT [redacted]
- 66-2 f. SPC [redacted]
- 66-5, 67(C) g. SPC [redacted]
- h. CPT [redacted]

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

- 1-2
- 66-34
- 67(C)
- 6-4
- 6-2
- 6-5
- 7(C)
- a. Charge Sheet, dated 8 June 2004.
- b. Additional Charge Sheet, dated 15 June 2004.
- c. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- d. Sworn statement of [redacted] dated 16 January 2004.
- e. Sworn statements of [redacted] dated 16, 17, and 22 January 2004.
- f. Your sworn statements, dated 16, 17, and 27 January 2004.
- g. Sworn statements of [redacted] dated 16 and 23 (two) January 2004.
- h. Sworn statements of [redacted] dated 16, 21, and 22 January 2004.
- i. Sworn statements of [redacted] dated 16, 22 (two), and 24 January 2004.
- j. Memorandum for Record, dated 11 January 2003 [2004], by [redacted]

66-2, 66-3
67(C)

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by 1600 on 1 July 2004. Please also furnish this witness information to CPT [REDACTED] Trial Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado 80913.

b6-2

[REDACTED]

b6-2, b6-3
b7(c)

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 8 July 2004, at 0900, located in the courtroom, First Floor, Building 6287, Fort Carson, Colorado.

eyc



*766-2, 66-5
✓ b7(c)*

23 June 2004

b6-2, b6-5, b7(c)

MEMORANDUM FOR [redacted] Headquarters and Headquarters Company, [redacted] Fort Carson, Colorado 80913

Exp 6, 20, 24

SUBJECT: Article 32(b) Investigation
b3-1 / b2-1 Low 2

1. On 8 July 2004, at 0900, in the courtroom, First Floor, Building 6287, Fort Carson, Colorado, I will conduct an investigation pursuant to Article 32(b), UCMI, to investigate the facts and circumstances concerning the charges preferred against you by [redacted]. The charges are Conspiracy in violation of Article 81, False Official Statement in violation of Article 107, Manslaughter in violation of Article 119, Assault in violation of Article 128, and Obstructing Justice in violation of Article 134.

b6-2
b6-3
b7(c)

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel.

3. The names of witnesses known to me who will be asked to testify at the hearing are:

- a. SA [redacted]
- b. SA [redacted]
- c. SA [redacted]
- d. Mr. [redacted]
- e. SGT [redacted]
- f. SPC [redacted]
- g. SPC [redacted]
- h. CPT [redacted]

b6-1
b6-2
b6-4 (7 cc)
b6-2
b6-5 (7 cc)
b6-2
b6-4 (7 cc)

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

- a. Charge sheet, 8 June 2004.
- b. CID Report, 0011-04-CID469-79630, dated 3 February 2004.
- c. Sworn statement of [redacted] dated 16 January 2004.
- d. Your sworn statements, dated 16, 17, and 22 January 2004.
- e. Sworn statements of [redacted] dated 16, 17, and 27 January 2004.
- f. Sworn statements of [redacted] dated 16 and 23 (two) January 2004.
- g. Sworn statements of [redacted] dated 16, 21, and 22 January 2004.
- h. Sworn statements of [redacted] dated 16, 22 (two), and 24 January 2004.
- i. Memorandum for Record, dated 11 January 2003 [2004], by [redacted]

b6-2
b6-5 (7 cc)
b6-2
b6-4
b7(c)

5. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names, addresses, and phone numbers, and a brief synopsis of expected testimony of such witnesses to me, through your detailed Trial Defense Counsel, by 1600 on 1 July 2004. Please also furnish this witness information to CPT [REDACTED] Trial Counsel, Military Justice Division, Office of the Staff Judge Advocate, Fort Carson, Colorado 80913. b6-2

[REDACTED]

] b6-2
b6-3
b7(C)

AFZX-JA-AL

SUBJECT: Article 32(b) Investigation

I hereby acknowledge receipt of a copy of the memorandum notifying me of the Article 32(b) Investigation. I further understand that the hearing will be conducted on 8 July 2004, at 0900, located in the courtroom, First Floor, Building 6287, Fort Carson, Colorado.

ap6



7/6-2
66-5
67(c)

AFYB-CG

MEMORANDUM FOR SOLDIER'S NAME, UNIT, 4th Infantry Division (Mechanized)

SUBJECT: Grant of Testimonial Immunity and Order to Testify

1. As an officer empowered to convene general courts-martial, under the provisions of Rule for Courts-Martial (RCM) s704, I make the following findings
 - a. Soldier's Name received nonjudicial punishment on _____ for his involvement in the events that led to the court-martial charges pending against _____.
 - b. Soldier's Name possesses information relevant to the case.
 - c. Soldier's Name cannot convey this information without exposing himself to possible future criminal liability under the Uniform Code of Military Justice (UCMJ).
 - d. Soldier's Name testimony in the prosecution of this case and his cooperation with law enforcement officers, investigating officers, and counsel investigating these allegations is necessary to the public interest, including good order and discipline of this command.
 - e. If asked to make a statement or if called to testify, Soldier's Name may invoke his right against self-incrimination, and may not testify without a grant of testimonial immunity.
2. On the basis of these facts, under RCM 704, I order Soldier's Name to fully cooperate with, and provide truthful and complete information to law enforcement officers, CID, and attorneys during the investigation and to testify at the trial and any hearings in the above-titled case. Any information given by Soldier's Name pursuant to this order, or any information directly or indirectly derived from such testimony or other information, shall not be used against him in a trial by court-martial, except prosecution for perjury or giving false statements or otherwise failing to comply with this order.
3. This order is issued under my authority under RCM 704, and under Sections 6000-5, Title 18, United States Code. This is a grant of testimonial immunity only, not a grant of transactional immunity.


Commanding

] 66-2
66-3
67 CC)

012076

66-2, 66-5

000

CONTINUATION SHEET DD FORM 458

4th Infantry Division, Fort Carson, CO 80913

63-1, 62-1-ans

Item 10, continued:

Charge II: VIOLATION OF THE UCMJ, ARTICLE 107

SPECIFICATION: In that [redacted] U.S. Army, did at or near Tikrit, Iraq, on or about 16 January 2004, with the intent to deceive, make to a CID agent a sworn official statement, to wit: that [redacted] and [redacted] were stopped, searched and released to walk to their vehicle and that he personally witnessed the two individuals on the side of the road as his convoy departed the area, which statement was totally false and was then known by [redacted] to be false.

67(c)
66-2
66-5
d
66-4
FOR
VICTIMS

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 119

SPECIFICATION: In that [redacted] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, while perpetrating an offense directly affecting the person of [redacted] to wit: push him into the Tigris River at nighttime, unlawfully kill [redacted] by drowning.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 128

SPECIFICATION: In that, [redacted] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, commit an assault upon [redacted] by pushing him into the Tigris River at nighttime.

CHARGE V: VIOLATION OF THE UCMJ, ARTICLE 134

SPECIFICATION: In that, [redacted] U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, wrongfully endeavored to impede an investigation by falsely giving a sworn statement denying that [redacted] and [redacted] were pushed into the Tigris River and that he saw them standing at the shoreline as his convoy departed the area.

66-2, 66-5, 67(c)

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)		2. SSN	3. GRADE OR RANK	4. PAY GRADE
5. UNIT OR ORGANIZATION Headquarters and Headquarters Company, Fort Carson, CO 80913		6. CURRENT SERVICE		
7. PAY PER MONTH		8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL		
\$2980.20		\$2980.20		N/A

Op 4

63-1

II. CHARGES AND SPECIFICATIONS

10. CHARGE: I VIOLATION OF THE UCMJ, ARTICLE 81

SPECIFICATION 1: In that [redacted] U.S. Army, did at or near Samarra, Iraq, on or about 3 January, 2004, conspire with [redacted] and [redacted] to commit an offense under the Uniform Code of Military Justice, to wit: to assault [redacted] and [redacted] and in order to effect the object of the conspiracy, the said [redacted] along with [redacted] and [redacted] detained [redacted] and [redacted] and transported them to a bridge in the city of Samarra, Iraq, where the said Lieutenant [redacted] gave an order to push them into the Tigris River.

SPECIFICATION 2: In that [redacted] U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, conspire with [redacted] and [redacted] to commit an offense under the Uniform Code of Military Justice, to wit: endeavor to impede a criminal investigation by wrongfully influencing [redacted] to deny in their official statements to CID that [redacted] and [redacted] were pushed into the Tigris River.

67(c)
66-2
66-5
66-4
FOR
VICTIMS

(SEE CONTINUATION SHEET)

66-2, 66-3, 67(c)

63-1, 62-1 Low 2

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI)	b. GRADE	c. ORGANIZATION OF ACCUSER
[redacted]	CPT	HHC, [redacted], 4ID (M)
d. SIGNATURE OF ACCUSER	e. DATE	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this _____ day of _____, 2004, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[redacted signature]

HHC, 4ID (M)
Organization of Officer

CPT
Grade

Article 136, UCMJ
Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)

Signature

66-2, 66-5, 67(c)

exp 6

CONTINUATION SHEET DD FORM 458. [REDACTED]

[REDACTED] 4th Infantry Division, Fort Carson, CO 80913

163-1, 62-14w2

Item 10, continued:

Charge II: VIOLATION OF THE UCMJ, ARTICLE 107

SPECIFICATION: In that [REDACTED] U.S. Army, did at or near Tikrit, Iraq, on or about 16 January 2004, with the intent to deceive, make to a CID agent a sworn official statement, to wit: that [REDACTED] and [REDACTED] were stopped, searched and released to walk to their vehicle and that he personally witnessed the two individuals on the side of the road as his convoy departed the area, which statement was totally false and was then known by [REDACTED] to be false.

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 119

SPECIFICATION: In that [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, while perpetrating an offense directly affecting the person of [REDACTED] to wit: push him into the Tigris River at nighttime, unlawfully kill [REDACTED] by drowning.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 128

SPECIFICATION 1: In that [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or about 3 January 2004, commit an assault upon [REDACTED] by pushing him into the Tigris River at nighttime.

SPECIFICATION 2: In that [REDACTED] U.S. Army, did, at or near Balad, Iraq, on or about 4 December 2004, commit an assault upon a heavysset Iraqi male by detaining him at an auto shop in Balad, Iraq, transporting him to the pontoon bridge in Balad, Iraq, and pushing him into the Tigris River with a force likely to produce death or grievous bodily harm, to wit: pushing the Iraqi male into the Tigris River.

CHARGE V: VIOLATION OF THE UCMJ, ARTICLE 134

SPECIFICATION: In that, [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, wrongfully endeavored to impede an investigation by falsely giving a sworn statement denying that [REDACTED] and [REDACTED] were pushed into the Tigris River and that he saw them standing at the shoreline as his convoy departed the area.

67(c)
66-2
66-5
/
66-4
FOR
VICTIMS

EVIDENCE SUMMARY

SUBJECT: Death of [REDACTED]

JAG-66-2,66-3

66-2, 66-3, 66-4, 66-84, 67(c)

Background:

FOB Eagle hit with mortar fire at 1625 on 2 JAN 04

66-2, 66-3, 66-4 - [REDACTED] is fatally wounded in this attack.

63-1, 62-1 Law 2 [REDACTED] BN (Strykers) has temporarily replaced [REDACTED] BN in Balad due to Operation Ivy Blizzard.

[REDACTED] Co., [REDACTED] BN is in Samarra at the time of the attack; returns to Balad to conduct operation that same evening/early morning.

Brigade INTSUM for period 0601 02 JAN – 0600 03 JAN 04:

63-1 - [REDACTED] Conduct Cordon and Search. On 030048 JAN 04, [REDACTED] conducted a cordon and search vicinity MC 2160 6124. The target of the cordon and search were to apprehend individuals suspected of conducting mortar attacks on FOB Eagle. During the cordon and search, 11 x personnel were detained; two enemy personnel were KIA, and 30 x AK 47's were confiscated. The detainees were transported to FOB Eagle for further questioning. (NFI) (3 JAN / [REDACTED] BATTLE CPT)"

63-1, 62-1 Law 2
66-2, 66-3
UCO Memo, dated 22 JAN 04: Below is verbatim text copied from the UCO Memo, submitted by [REDACTED]. He ultimately recommended that no compensation be paid to the family but did bring the claim to my attention.

63-1 - [REDACTED] had valid information identifying the deceased as an IED planter and a terrorist cell planner. The Balad City Police chief witnessed the deceased running from the scene of a previous IED attack.

63-1, 62-1 Law 2
According to witness statements: [REDACTED] conducted a cordon and search of the claimant's father's home (the deceased). Upon entering a 2nd story room the suspect was seen holding a pistol and pointing it in the direction of the clearing team. A soldier on the clearing team reacted to the hostile threat, firing 2 controlled shots at the deceased killing him.

Claimant: The claimant feels her father was executed and was a poor innocent man. The claimant is a well educated female teacher, which further backs up reports of her father's high standing within the Ba'ath party.

66-3, 66-4
Another male who was in the home, [REDACTED] was detained and released and gave the following statement: US forces came to the home and woke up the family while trying to kick in the door. He opened the door and was quickly placed on the ground and restrained. [REDACTED] (the deceased) was brought out also restrained and placed on the ground. A US soldier holding a pistol began asking everyone for their name. When [REDACTED] was identified, US soldiers lifted him up and took him into a separate room. [REDACTED] and all female occupants were taken outside. 66-3

[REDACTED] claims US forces came out of the house with a body bag, loaded it in a Bradley fighting vehicle and drove away. Upon entering the home [REDACTED] found a pool of blood in the room where [REDACTED] had been taken.

66-4
Upon interviewing the company commander reference the facts of this case, I was informed the information about [REDACTED] was valid and he was a leader of a terrorist cell working in the local area responsible for attacks against US forces. After all males were detained in the living room, "like normal for questioning," soldiers began asking the names of the males to identify the target suspect. When the target suspect was identified, the males were separated for questioning, at which point [REDACTED] lunged for a pistol in the room."

Claimant gave US forces the following statement: (Original statement is in English) I have re-typed the statement below – it is a verbatim transcription of their statement.

In The Name of God Most Gracious Most Merciful

On the third of January 2004, 2.00 A.M., our house had been attacked by American troops, while we were sleeping, American troops destroyed the outer door and fence by armored vehicles during the raid where the soldiers stormed into the house taking women outside the house, arresting our young guest tightening his hands together and placed him in the outdoor.

They kept our father inside, who was physically disabled retired old man, walking only through the aid of crutches due peripheral neuropathy and muscular atrophy cause by long standing disease of Diabetes Mellitus and hypertension that is documented earlier. Then the soldiers pulled our father to the west room where they shot him dead, where which there is still blood patch on the carpet, after that they put him in the sac and dropped him in the armored vehicle.

The soldiers took five million I.D. along with gold jewelry worth eight million I.D., not to mention the huge sabotage to the house and furniture costing about four million I.D.

The troops searched the house thoroughly and they did not find any weapons, or documents that verify my father was supporter of insurgents or anti-American activists, we asked the CPA local agent about the following measures:

1. Settling a mutual account committee for the excessive force and aggressiveness measures that used without need, documenting any of these acts and acting to prevent them in the future.
2. If there is no evidence incriminating our father, so he must be considered as innocent until otherwise proved. It is not heroic to kill an old, handicapped, retired man living peacefully him home, it is a plain murder.
3. This murder is arbitrates act and oppression; so we demand complete compensation; financial and moral.

Family of the Murdered [REDACTED] 66-4) [REDACTED]

- The family also provided us a copy of [REDACTED] Death certificate and various medical records, dated 24 APR 2001, that state he has some sort of spinal condition or degeneration. It is specifically referred to as degenerative spondylosis. The most recently dated medical document is 14 SEP 2003.

- Pictures of the house are included. They show clothing dumped out, items in disarray, etc. The walkway outside is also damaged.

I initially received the following 2 sworn statements with the claims packet. Both were taken at Samarra the day following the incident.

66-2, 66-3
[redacted] (1250, 4Jan04): On 3 Jan 04 around 0130 [redacted] conducted a raid on [redacted] house vic MC21430 61320. As [redacted] squad entered one house and began clearing the second floor, they found the target individual holding a 32 mm pistol. [redacted] engaged the individual with 2 controlled pair. Upon initial medical treatment, [redacted] PLT medic, [redacted] declared [redacted] KIA. The body was loaded on BFV #13 and taken to Attack FOB. *66-2, 66-3* *66-4* *b(7)(c)-4; b(6)-4* *63-1, 62-1 Low*

66-2, 66-3
[redacted] (1415, 4Jan04): On 03 Jan 04 at aprox 0130 [redacted] conducted a raid on the home of [redacted] at vic grid [redacted]. As 1st squad cleared the house and the second story the target individual was holding a 32 mm pistol. [redacted] using a controlled pair shot group engaged the target. [redacted] Platoon medic, [redacted] after attempting medical treatment, declared the individual KIA. The body was then loaded onto Bradley #A13 and taken to Attack FOB. *66-2, 66-3* *66-4* *63-1, 62-1 Low*

UCO Memo, dated 3 MAR 04: CPT [redacted] submits an amended UCO memo attempting to clarify the incident. The new language appears below:

"The original claim was submitted for denial with the wrong witness statements. The statements from the shooter and the other soldier in the room were not included in the previous claim as believed by the UCO. The UCO submitted the witness statements from the Company Intel Officer and the Platoon Leader from the mission, which were given to S2 to identify all detainees. The witness statements did not match the statements made by the commander and this led to some confusion.

At this time all witnesses have been asked to resubmit their witness statements due to the loss of the original statements."

-- Three additional sworn statements now accompany the claims packet.

66-2, 66-3
[redacted] (0035, 4Mar04): It is now the middle of the night and I was woken up to write another statement on something that happened about two months ago.

On 04 Jan 04 in the early morning hours my unit conducted a mission to capture a suspected planner of attacks against coalition forces [redacted]. My squad entered the house to clear, search, and detain all personnel there. We immediately separated the women and children and were beginning to search the males. On man [redacted] was putting up a struggle so I told my guys to move him to another room thinking he might calm down a little. The Platoon Sgt [redacted] came in to assist. As [redacted] was moved into the other room I saw him grab something, I shouted that he had something in his hand (which turned out to be a gun) and [redacted] shot him. End of Statement *66-2, 66-4* *63-1, 62-1 Low*

66-2, 66-4
[redacted] (1533, 4Mar04): On 3 Jan 04 sometime early in the morning, [redacted] platoon had the mission of a cordon and attack. My role was to move with [redacted] squad until the [redacted] house was clear then move their EPWs and establish an EPW collection point. *66-4* *63-1, 62-1 Low*

The tgt individual [redacted] was struggling with members of [redacted] sqd so he was moved to another room. I come in to assist by calming the individual down. I thought he had settled down enough to detain. I turned to ask for some prostic cuffs, when [redacted] shouted something to the effect that the man was grabbing something. I turned saw a pistol in the mans hand and fired a controlled pair, the arm was still coming up and I fired a third shot in his head. The platoon medic came in and said the

man was dead. Some of the exact details may be a little different this is the second statement I've made for this event. End of Statement.

b6-2, b6-4

b6-4 (2351, 4Mar04): On the night of 03 Jan 04 my company conducted cordon and search on 3 separate objective areas in order to detain the cell responsible for multiple IED attacks in Balad over the previous week. The leader of the cell was a former SSO officer and ranking Ba'ath party member named [REDACTED] recently returned to the area prior to the IED attacks. Multiple informants, to include the Balad Police Chief indicated that [REDACTED] cell was responsible for 4 IEDs to include the bomb that killed the Balad Patrol Chief and 6 other Iraqi Police Officers.

b6-2, b6-4 While conducting search operations in [REDACTED] residence the senior squad leader identified the target, [REDACTED] reaching for a weapon. The squad leader yelled to the nearest soldier, [REDACTED] to alert him of the threat. [REDACTED] shot [REDACTED] mortally wounding him. b6-2, b6-4

b6-2, b6-4 At the time of the shooting, I was outside the house talking to the female residents with my interpreter. I heard the shots and asked the platoon leader over the radio to give an update once he developed the situation. Soon after that, [REDACTED] and [REDACTED] briefed me on the action.

b6-2, b6-4 I had the platoon leader and my intel officer write basic statements on the incident with statements from the other 16 detainees. Based on my proximity to the action and the Battalion Commander outside the courtyard, I did not have the individuals write full statements. I was [REDACTED] the incident on scene and was confident all actions were within ROE. b6-2, b6-3

About a week later, [REDACTED] approached me for clarification on the incident based on a claim from one of the women I was talking to. I had [REDACTED] and [REDACTED] write full statements and handed them to [REDACTED] that evening. Apparently, the statements were not included in the Claims submission.

On 4 March, [REDACTED] asked me to have both individuals re-write the statements in order to clarify the incident. -- Nothing Follows --

b6-2, b6-4

b6-2, b6-4

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] 66-1, 66-2	[REDACTED]	Criminal Investigation Division (CID)	X	
[REDACTED]	[REDACTED]	Fort Carson, Colorado 80913	X	
[REDACTED] 66-2 b7(c)	[REDACTED]	Fort Huachuca, Arizona	X	
[REDACTED] -66-5 66-4	[REDACTED]	Fort Carson, Colorado 80913	X	
[REDACTED]	[REDACTED]	Fort Hood, Texas 76544	X	
[REDACTED] (Block 21 for continuation)	[REDACTED]	Fort Carson, Colorado 80913	X	

b. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED.

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)	YES	NO
CID Report(0011-04-CID469-79630-5H1) and relevant Agent's Investigation Reports	Exhibit 2 (after admission, decided not to consider; not attached)	X	
Arabic Message and Translation (Exhumation Approval)	Exhibit 3	X	
[REDACTED] Sheet (8 June 2004)	Exhibit 4 66-2, 66-5	X	
Grants of Immunity: [REDACTED]	Exhibit 5 66-2, 66-5, 66-4	X	
Sworn Statements: [REDACTED]	Exhibit 6 66-2, 66-4 & 66-5 on 3	X	
Memo For Record, [REDACTED] dated 11 Jan 03 [2004]	Exhibit 7 66-2, 66-3	X	

- b. EACH ITEM CONSIDERED, OR A COPY OR RECITAL OF THE SUBSTANCE OR NATURE THEREOF, IS ATTACHED
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 SUMMARY SPECIAL GENERAL COURT-MARTIAL.

b. 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.)

12a. [REDACTED] Fort Carson, Colorado 80913 Sworn
 [REDACTED] Silver Spring, MD 20910 Sworn
 [REDACTED] Colorado 80913 Sworn
 [REDACTED] Fort Carson, Colorado 80913 Sworn
 [REDACTED] Fort Carson, Colorado 80913 Sworn

13a. Packet for Defense Counsel, including Article 15s, counseling, ERBs, and ORBs - Exhibit 8; Commander's Inquiry by [REDACTED] dated 24 Feb 04 - Exhibit 9; Administrative Memos and Defense Requests - Exhibit 10; CID CD - Exhibit 11; E-mails detailing the Govt's attempts to secure [REDACTED] as a witness - Exhibit 12; Sworn Statements: [REDACTED] 66-2, 66-5 67-c.

and [REDACTED] - Exhibit 13: [REDACTED] 66-2, 66-4

22a. TYPED NAME OF INVESTIGATING OFFICER [REDACTED] 66-2, 66-3

b. GRADE O-3

c. ORGANIZATION OSJA, Administrative Law Division Fort Carson, CO 80913

d. SIGNATURE [REDACTED]

e. DATE 19 August 2004

6-4
 6-2
 6-4
 6-5

ALSO
 b7(c)
 66-2, 66-3
 b7(c)

[REDACTED] Fort Carson.

Colorado 80913

66-2, 66-5 67(c)

63-1, ~~62-1~~ 62-1 L. 66-2

Continuation Pages

66-2, 66-5 67(c)

13a. Exhibits (continued). Character Statements, NCOERs, and awards for [REDACTED] - Exhibit 15; Two photographs (visual aids) of Bradley Fighting Vehicles - Exhibit 16; Sworn Statement of [REDACTED] - Exhibit 17.

15. Objections by Defense Counsel.

66-4 67(c)

a. Defense Counsel objected to my considering Exhibit 2, CID Report (0011-04 -CID469-79630-5H1) and relevant Agent's Investigation Reports. Initially, I considered Exhibit 2 as evidence over Defense objection. Prior to the close of evidence, I decided not to consider Exhibit 2.

b. Defense Counsel objected to the unavailability of [REDACTED] and [REDACTED] arguing that Government Counsel should have coordinated grants of testimonial immunity for them. Prior to the close of evidence, [REDACTED] Commander, 4th Infantry Division (Mechanized), signed grants of testimonial immunity for these witnesses.

66-2 67(c)
66-5

66-2, 66-3
67(c)

c. Defense Counsel objected to my consideration of [REDACTED] sworn statement of 16 January 2004, Exhibit 17. I determined that [REDACTED] was not reasonably available and considered his sworn statement as an alternative to testimony (RCM 405(g)(4)(B)). My availability determination was based upon e-mail correspondence detailing the Government Counsel's attempts to secure [REDACTED] as a witness (Exhibit 12).

66-4 67(c)

16. Availability of Essential Witnesses. All essential witnesses may not be available in the event of trial. [REDACTED] one of the two detainees/victims, could not be located to testify by telephone for the Article 32 investigation. Government counsel sought [REDACTED] whereabouts from 30 June 2004 until the time of the Article 32 investigation (Exhibit 12). [REDACTED] is the only civilian witness to the 3 January 2004 incident of detainee abuse. There is a possibility, however, that [REDACTED] testimony could be replaced with [REDACTED] and [REDACTED] testimony under grants of testimonial immunity.

66-4
67(c)

66-4
67(c)

66-2, 66-5 67(c)

17. Charge III and the Additional Charge are not in proper form.

a. Charge III. See paragraph 18 below.

b. The Additional Charge. Roman numeral one should be deleted, replaced with

ENTIRE
PAGE
ALSO b7(C)

"the" prior to the words "Additional Charge." Also recommend deleting the words "with a force likely to produce death or grievous bodily harm, to wit: pushing the Iraqi male into the Tigris River." There was insufficient evidence of an Aggravated Assault.

18. Reasonable Grounds. Based upon available evidence, reasonable grounds do not exist that [redacted] unlawfully killed [redacted] testified

that he checked on the detainees after they were forced into the water. [redacted] observed that [redacted] was already on shore and making "come to me" motions to

[redacted] who was approximately five feet from the shore (Summarized Transcript, Page 10). [redacted] viewed the site after the incident and observed that the water

did not have any current, that the nearest locks were rusted in position, and that the area was well lit (Summarized Transcript - Page 30). [redacted] and [redacted] all report that both detainees were near the side of

the road as the convoy left the scene of the incident (Summarized Transcript, pages 16, 18, and 22). All accounts of [redacted] death and recovery of his body are only from

his family (Summarized Transcript - [redacted] Sworn Testimony, Page 20). [redacted] family provided a video of a deceased individual (Exhibit 11), but the body

or those persons surrounding the body were not identified. Further, no exhumation of [redacted] body has ever taken place despite receiving religious consent from a local

sheikh by 9 February 2004 (Summarized Transcript - [redacted] Sworn Testimony, page 20). Further, [redacted] testified that the same sheikh that assisted the [redacted] family, Sheikh [redacted], had faked his own death and funeral only a few weeks prior to

[redacted] alleged death (Summarized Transcript - Page 30). Evidence exists, however, that [redacted] committed the lesser-included offense of assault against [redacted]. As a conspirator, [redacted] is liable for the assault by [redacted] against [redacted] (Article 81, UCMJ).

20a. General Court-martial recommendation. I recommend a general court-martial for [redacted] based on the following evidence:

a. [redacted] encouraged the unlawful practice of forcing detainees into a body of water. [redacted] said something to the effect that "someone was going to get wet" prior to the unit's patrol on 3 January 2004 (Exhibit 6 - [redacted] Sworn Statement of 22 January 2004, Page 1, and Summarized Transcript - [redacted] Sworn Testimony, Page 23). [redacted] Defense Counsel elicited evidence from witnesses at the Article 32 that [redacted] was in the last Bradley Fighting Vehicle in the convoy, implying that he could not have been involved in the detainee abuse but [redacted] provided evidence that [redacted] observed the two detainees being forced into the water (Exhibit 6 - [redacted] Sworn Statement of 22 January 2004, Page 2) and [redacted] indicated that [redacted] knew where the detainees had been dropped off (Exhibit 13 - [redacted] Sworn Statement of 25 January 2004, Page 2). As mentioned by his Company Commander [redacted] [redacted] was one of the leaders on the ground at the scene of the incident (Summarized Transcript - Page 29).

[redacted] was one of the leaders on the ground at the scene of the incident (Summarized Transcript - Page 29).

ENTIRE PAGE ALSO b7(C)

b6-2
b6-5

b. There is evidence of a previous incident of abuse in that [redacted] ordered subordinate soldiers to throw an Iraqi citizen into a body of water in Balad, Iraq (Exhibit 6 - [redacted] Sworn Statement of 23 January 2004, Page 5, and [redacted] Sworn Statement of 22 January 2004, Page 4). An aggravating factor regarding this incident is that the Iraqi citizen appears to have been randomly selected for this abuse, having done nothing to warrant the attention of [redacted] or any other U.S. Soldier.

b6-2
b6-5

c. [redacted] was one of the members of the chain-of-command to influence the false official statements of the other soldiers (Exhibit 6 - [redacted] Sworn Statement of 23 January 2004, Page 4, and [redacted] Sworn Statement of 22 January 2004, Page 3; and Summarized Transcript - [redacted] Sworn Testimony, Page 13, and SSG [redacted] Sworn Testimony, Page 18). [redacted] and [redacted] had meetings with the soldiers involved (Summarized Transcript - [redacted] Sworn Testimony, page 28), coaching their answers to CID questioning.

b6-2, b6-4

b6-2
b6-4

b6-2, b6-5

Additional Matters/Mitigation.

b6-2, b6-5

a. [redacted] submitted an impression packet of character letters, NCOERs with Among the Best ratings, and awards. Being an outstanding soldier/leader may have a negative effect, however, in that more was expected of him. [redacted] should not have initiated or encouraged the abuse of detainees or Iraqi citizens and should have challenged the directive to omit that the detainees were forced into the Tigris River.

b6-2
b6-5

b. Defense Counsel for [redacted] presented evidence regarding the accused soldiers' use of the drug Larium (mefloquine hydrochloride) and the possibility it caused the soldiers to react violently to the detainees. I find this to be a tenuous argument. Although [redacted] testified that the unit members were required to take Larium once a week for thirteen months (Summarized Transcript, Page 22), there is no evidence regarding how much Larium was actually ingested by [redacted] and what type of reaction, if any, he may have to the drug.

b6-2
b6-3

c. Defense Counsel also raised the issue of unlawful command influence. [redacted] actions do not rise to the level of unlawful command influence. [redacted] order that the accused soldiers were to go to CID was lawful (although he could not order them to provide a statement). Further, the evidence does not show that any accused soldier was denied access to counsel. [redacted] told the soldiers' Company Commander, [redacted], to escort [redacted] and [redacted] to their CID interviews. Even though [redacted] was aware of [redacted] order that no soldier should be taken to TDS prior to going to CID, he stated to [redacted] that during the interviews, "if it doesn't feel right, have them seek TDS (Summarized Transcript - [redacted] Sworn Testimony, Page 28)." Further, CID Agents advised each accused soldier of his rights, to include the right to speak to an attorney before being questioned (Exhibit 6 - DA Forms 3881).

b6-2, b6-5

b6-2, b6-5
b6-2, b6-3

[redacted] to their CID interviews. Even though [redacted] was aware of [redacted] order that no soldier should be taken to TDS prior to going to CID, he stated to [redacted] that during the interviews, "if it doesn't feel right, have them seek TDS (Summarized Transcript - [redacted] Sworn Testimony, Page 28)." Further, CID Agents advised each accused soldier of his rights, to include the right to speak to an attorney before being questioned (Exhibit 6 - DA Forms 3881).

b6-2
b6-5

d. [REDACTED] has a colorable argument that Charge II and Charge V are an unreasonable multiplication of charges (United States v. Quiroz, 55 M.J. 334 (C.A.A.F., 2001)). The underlying misconduct for both charges is [REDACTED] providing a false statement to CID. If a court-martial reached the pre-sentencing stage, a military judge may merge both charges.

66-2
66-5
b7(c)

e. Combat stress may offer some mitigation for [REDACTED] actions. The City of Sammarra was in constant turmoil and was one of the most troublesome cities in Iraq. U.S. Forces were trying to regain control of the city from insurgents, [REDACTED] being a member of one of the most relied upon platoons for this mission (Summarized Transcript - [REDACTED] Sworn Testimony, Page 32). These same soldiers were operating with lack of sleep and fighting an enemy that did not follow the Law of War (Summarized Transcript - [REDACTED] Sworn Testimony, Page 33). A Company Commander within the Brigade had also been killed a short time prior to the detainee abuse (Summarized Transcript - [REDACTED] Sworn Testimony, Page 32).

66-2
66-5
b7(c)

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) ██████████ <i>66-2 67(C) 66-3</i>	b. GRADE O-3	c. ORGANIZATION Office of the Staff Judge Advocate 7086 Albanese Loop, Building 6285 Fort Carson, CO 80913-4303	d. DATE OF REPORT 19 Aug 2004
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2a. TO: (Name of Officer who directed the investigation - Last, First, MI) ██████████ <i>66-2 67(C) 66-3</i>	b. TITLE Commander	c. ORGANIZATION ██ Fort Carson, Colorado 80913
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3a. NAME OF ACCUSED (Last, First, MI) ██████████ <i>66-2 66-5 67(C)</i>	b. GRADE ██████████	c. SSN ██████████	d. ORGANIZATION ██ Fort Carson, CO 80913 <i>63-1</i>	e. DATE OF CHARGES 28 June 2004
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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) ██████████ <i>66-2, 66-3</i>	b. GRADE O-3	8a. NAME OF ASSISTANT DEFENSE COUNSEL (If any) N/A	b. GRADE
c. ORGANIZATION (If appropriate) Trial Defense Service		c. ORGANIZATION (If appropriate)	
d. ADDRESS (If appropriate) Building 6287, Room 110 Fort Carson, Colorado 80913		d. ADDRESS (If appropriate)	

9. (To be signed by accused if accused waives counsel. If accused does not sign, investigating officer will explain in detail in Item 21.)

a. PLACE	b. DATE
----------	---------

I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED IN THIS INVESTIGATION BY COUNSEL, INCLUDING MY RIGHT TO CIVILIAN OR MILITARY COUNSEL OF MY CHOICE IF REASONABLY AVAILABLE. I WAIVE MY RIGHT TO COUNSEL IN THIS INVESTIGATION.

c. SIGNATURE OF ACCUSED

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

N/A

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."

12a. THE FOLLOWING WITNESSES TESTIFIED UNDER OATH: (Check appropriate answer)

NAME (Last, First, MI)	GRADE (If any)	ORGANIZATION/ADDRESS (Whichever is appropriate)	YES	NO
[REDACTED]	[REDACTED]	Criminal Investigation Division (CID) [REDACTED] - 62-1 Law 2	X	
[REDACTED]	[REDACTED]	Fort Carson, Colorado 80913	X	
[REDACTED]	[REDACTED]	Fort Huachuca, Arizona	X	
[REDACTED]	[REDACTED]	Fort Carson, Colorado 80913	X	
[REDACTED]	[REDACTED]	Fort Hood, Texas 76544	X	
[REDACTED] (Block 21 for continuation)	[REDACTED]	Fort Carson, Colorado 80913	X	

b. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED.

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)	YES	NO
CID Report(0011-04-CID469-79630-5H1) and relevant Agent's Investigation Reports	Exhibit 2 (after admission, decided not to consider; not attached)	X	
Arabic Message and Translation (Exhumation Approval)	Exhibit 3	X	
[REDACTED] 8 June 2004)	Exhibit 4	X	
Grants of Immunity: [REDACTED]	Exhibit 5	X	
Sworn Statements: R [REDACTED]	Exhibit 6 66-2, 66-4, 66-5 on 4, 67(c)	X	
Memo For Record, [REDACTED], dated 11 Jan 03 [2004]	Exhibit 7 66-2, 66-4, 67(c)	X	

b. EACH ITEM CONSIDERED, OR A COPY OR RECITAL OF THE SUBSTANCE OR NATURE THEREOF, IS ATTACHED

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).)

15. THE DEFENSE DID REQUEST OBJECTIONS TO BE NOTED IN THIS REPORT (If Yes, specify in Item 21 below.)

16. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL

17. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM

18. REASONABLE GROUNDS EXIST TO BELIEVE THAT THE ACCUSED COMMITTED THE OFFENSE(S) ALLEGED

19. I AM NOT AWARE OF ANY GROUNDS WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER. (See R.C.M. 405(d)(1).)

20. I RECOMMEND:

a. TRIAL BY SUMMARY SPECIAL GENERAL COURT-MARTIAL

b. OTHER (Specify in Item 21 below) 62-1 Law 2

21. REMARKS (Include, as necessary, explanation for any delays in the investigation, and explanation for any "no" answers above.)

[REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Silver Spring, MD 20910	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn

13a. Packet for Defense Counsel, including Article 15s, counseling, ERBs, and ORBs - Exhibit 8; Commander's Inquiry by [REDACTED] dated 24 Feb 04, Exhibit 9; Administrative Memos and Defense Requests - Exhibit 10; CID CD - Exhibit 11; E-mails detailing the Govt's attempts to secure [REDACTED] as a witness - Exhibit 12; Sworn Statements [REDACTED] and [REDACTED] - Exhibit 13; [REDACTED]'s resume and Larium information - Exhibit 14; (Continuation Pages)

22a. TYPED NAME OF INVESTIGATING OFFICER

b. GRADE

c. ORGANIZATION

d. SIGNATURE OF

e. DATE

19 August 2004

Colorado 80913
66-2, 66-5, 67(c) 63-1, 627 2nd

4ID (Mech), Fort Carson;

Continuation Pages

66-2, 66-5, 67(c)

13a. Exhibits (continued). Character Statements, NCOERs, and awards for [redacted] - Exhibit 15; Two photographs (visual aids) of Bradley Fighting Vehicles - Exhibit 16; Sworn Statement of [redacted] - Exhibit 17.

66-4, 67(c)

15. Objections by Defense Counsel.

a. Defense Counsel objected to my considering Exhibit 2, CID Report (0011-04 -CID469-79630-5H1) and relevant Agent's Investigation Reports. Initially, I considered Exhibit 2 as evidence over Defense objection. Prior to the close of evidence, I decided not to consider Exhibit 2.

b. Defense Counsel objected to the unavailability of [redacted] and [redacted], arguing that Government Counsel should have coordinated grants of testimonial immunity for them. Prior to the close of evidence, [redacted] Infantry Division (Mechanized), signed grants of testimonial immunity for these witnesses.

66-2 67(c)
66-5

66-2
66-3
67(c)

c. Defense Counsel objected to my consideration of [redacted] sworn statement of 16 January 2004, Exhibit 17. I determined that [redacted] was not reasonably available and considered his sworn statement as an alternative to testimony (RCM 405(g)(4)(B)). My availability determination was based upon e-mail correspondence detailing the Government Counsel's attempts to secure [redacted] as a witness (Exhibit 12).

67(c) 66-4

66-4
67(c)

16. Availability of Essential Witnesses. All essential witnesses may not be available in the event of trial. [redacted] one of the two detainees/victims, could not be located to testify by telephone for the Article 32 investigation. Government counsel sought [redacted] whereabouts from 30 June 2004 until the time of the Article 32 investigation (Exhibit 12). [redacted] is the only civilian witness to the 3 January 2004 incident of detainee abuse.

17. Charge II is not in proper form. See Paragraph 18 below.

18. Reasonable Grounds. Based upon available evidence, reasonable grounds do not exist that [redacted] unlawfully killed [redacted] testified that he checked on the detainees after they were forced into the water. [redacted] observed that [redacted] was already on shore and making "come to me" motions to [redacted] who was approximately five feet from the shore (Summarized Transcript, Page 10). [redacted] viewed the site after the incident and observed that the water

66-2, 66-5, 67(c)

66-4, 67(c)

66-2, 66-4
67(c)

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66-4

67(c)

66-2, 66-5

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6-2
6-4
66-4
did not have any current, that the nearest locks were rusted in position, and that the area was well lit (Summarized Transcript - Page 30). [redacted] and [redacted] all report that both detainees were near the side of the road as the convoy left the scene of the incident (Summarized Transcript, pages 16, 18, and 22). All accounts of [redacted] death and recovery of his body are only from his family (Summarized Transcript - [redacted] Sworn Testimony, Page 20).

66-4
66-2, 66-5
6-3
66-4
[redacted] family provided a video of a deceased individual (Exhibit 11), but the body or those persons surrounding the body were not identified. Further, no exhumation of [redacted] body has ever taken place despite receiving religious consent from a local sheikh by 9 February 2004 (Summarized Transcript - [redacted] Sworn Testimony, page 20). Further, [redacted] testified that the same sheikh that assisted the [redacted] family, [redacted], had faked his own death and funeral only a few weeks prior to [redacted] alleged death (Summarized Transcript - Page 30).

66-4
66-2, 66-4
66-4
66-2, 66-5
Evidence exists, however, that [redacted] committed the lesser-included offense of assault upon [redacted] by picking up a weapon and telling [redacted] to jump into the Tigris River (Summarized Transcript - [redacted] Sworn Testimony, Page 9). [redacted] would have reasonable apprehension of receiving immediate bodily harm, creating an offer-type assault (Article 128, UCMJ). Defense Counsel introduced evidence that it was standard operating procedure to point a weapon at a detained person. This was no longer a lawful act, however, because [redacted] used his weapon for the unlawful means of forcing a detainee to jump into the water. There is also evidence that [redacted] committed an assault upon [redacted] when he kicked him in the butt and told him to jump [redacted] Sworn Statement of 23 January 2004, page 3).

66-2, 66-5
66-2, 66-4
66-2, 66-5
66-2, 66-5
20b. Recommended Disposition. I recommend the charges be dismissed against [redacted] being replaced with the imposition of a Field-Grade Article 15 and a General Officer Memorandum of Reprimand (GOMOR). Although not defenses to [redacted] actions, there are several mitigating factors that lead to this recommendation. First, there is evidence that [redacted] was ordered to lead the detainees to the water's edge and that this action was not something he would do on his own (Summarized Transcript - [redacted] Sworn Testimony, page 10). Second, [redacted] was coerced into providing a false official statement by his chain of command. The Battalion Commander, [redacted], ordered that no one was to mention the detainees being forced into the water (Summarized Transcript - [redacted] Sworn Testimony, Page 32). [redacted] and [redacted] carried out this order by meeting several times with the individuals involved in the detainee abuse, coaching their answers to CID questioning. Third, combat stress may also offer some mitigation for [redacted] actions. The City of Sammarra was in constant turmoil and was one of the most troublesome cities in Iraq. U.S. Forces were trying to regain control of the city from insurgents, [redacted] being a member of one of the most relied upon platoons for this mission (Summarized Transcript - [redacted] Sworn Testimony, Page 32). These same soldiers were operating with lack of sleep and fighting an enemy that did not follow the Law of War (Summarized Transcript - [redacted] Sworn Testimony, Page 33). A Company

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66-2, 66-5

66-2, 66-4

66-2, 66-3

66-2, 66-5

66-2, 66-3

66-2
66-5

66-2

66-5

Commander within the Brigade had also been killed a short time prior to the detainee abuse (Summarized Transcript - [redacted] Sworn Testimony, Page 32). Defense Counsel for [redacted] presented evidence regarding the accused soldiers' use of the drug Larium (mefloquine hydrochloride) and the possibility it caused the soldiers to react violently to the detainees. I find this to be a tenuous argument. Although [redacted] testified that the unit members were required to take Larium once a week for thirteen months (Summarized Transcript, Page 22), there is no evidence regarding how much Larium was actually ingested by [redacted] and what type of reaction, if any, he may have to the drug.

66-2, 66-5

Defense Counsel also raised the issue of unlawful command influence. [redacted] actions do not rise to the level of unlawful command influence. [redacted] order that the accused soldiers were to go to CID was lawful (although he could not order them to provide a statement). Further, the evidence does not show that any accused soldier was denied access to counsel. [redacted] told the soldiers' Company Commander, [redacted], to escort [redacted], and [redacted] to their CID interviews. Even though [redacted] was aware of [redacted] order that no soldier should be taken to TDS prior to going to CID, he stated to [redacted] that during the interviews, "if it doesn't feel right, have them seek TDS (Summarized Transcript - [redacted] Sworn Testimony, Page 28)." Further, CID Agents advised each accused soldier of his rights, to include the right to speak to an attorney before being questioned (Exhibit 6 - DA Forms 3881).

66-2, 66-5

I recommend the GOMOR because [redacted] was in charge of the small group that led the detainees to the edge of the Tigris River (Exhibit 6 - [redacted] Sworn Statement of 16 January 2004, Page 3). [redacted] as a Non-Commissioned Officer, was in the best position to challenge any unlawful order to abuse a detainee. He did not, and in fact, verbally counseled [redacted] for refusing to participate in the abuse (Exhibit 6 - [redacted] Sworn Statement of 23 January 2004, Page 3 and [redacted] Sworn Statement of 22 January 2004, Page 2; and Summarized Transcript - [redacted] Sworn Testimony, Page 13). I also recommend this additional punishment because of [redacted] involvement in and failure to report a previous incident of abuse regarding an Iraqi citizen in Balad, Iraq (Exhibit 6 - [redacted] Sworn Statement of 23 January 2004, Page 5).

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] <i>66-2, 66-3, 67(c)</i>	b. GRADE [Redacted]	c. ORGANIZATION Office of the Staff Judge Advocate 7086 Albanese Loop, Building 6285 Fort Carson, CO 80913-4303	d. DATE OF REPORT 19 Aug 2004
2a. TO: (Name of Officer who directed the investigation - Last, First, MI) [Redacted] <i>66-2, 66-3, 67(c)</i>	b. TITLE Commander	c. ORGANIZATION [Redacted] <i>63-1, 62-1 Law 2</i> Fort Carson, Colorado 80913	
3a. NAME OF ACCUSED (Last, First, MI) [Redacted] <i>66-2, 66-5, 67(c)</i>	b. GRADE [Redacted]	c. SSN [Redacted]	d. ORGANIZATION <i>63-1, 62-1 Law 2</i> Fort Carson, CO 80913
			e. DATE OF CHARGES 28 June 2004

(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)	X	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] <i>66-2, 66-3, 67(c)</i>	b. GRADE O-3	8a. NAME OF ASSISTANT DEFENSE COUNSEL (If any) N/A	b. GRADE
c. ORGANIZATION (If appropriate) Trial Defense Service		c. ORGANIZATION (If appropriate)	
d. ADDRESS (If appropriate) Building 6287, Room 114 Fort Carson, Colorado 80913		d. ADDRESS (If appropriate)	
9. (To be signed by accused if accused waives counsel. If accused does not sign, investigating officer will explain in detail in Item 21.)			
a. PLACE	b. DATE		

I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED IN THIS INVESTIGATION BY COUNSEL, INCLUDING MY RIGHT TO CIVILIAN OR MILITARY COUNSEL OF MY CHOICE IF REASONABLY AVAILABLE. I WAIVE MY RIGHT TO COUNSEL IN THIS INVESTIGATION.

c. SIGNATURE OF ACCUSED

10. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF: (Check appropriate answer)	X	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 N/A			

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."

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] -66-2, 66-1	[REDACTED]	Criminal Investigation Division (CID) [REDACTED] - 62-1 Low 2	X	
[REDACTED] -66-2, 66-4	[REDACTED]	Fort Carson, Colorado 80913 63-1 62-1 Low 2	X	
[REDACTED] -66-2, 66-4	[REDACTED]	Fort Huachuca, Arizona 63-1, 62-1 Low 2	X	
[REDACTED] -66-2, 66-5	[REDACTED]	Fort Carson, Colorado 80913 63-1 62-1 Low 2	X	
[REDACTED] -66-2, 66-4	[REDACTED]	Fort Hood, Texas 76544. 63-1 32-1 Low 2	X	
[REDACTED] (Block 21 for continuation) 66-2, 66-4	[REDACTED]	Fort Carson, Colorado 80913 63-1 62-1 Low 2	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)	YES	NO
CID Report(0011-04-CID469-79630-5H1) and relevant Agent's Investigation Reports	Exhibit 2 (after admission, decided not to consider; not attached)	X	
Arabic Message and Translation (Exhumation Approval) 66-2, 66-5	Exhibit 3	X	
[REDACTED] Charge Sheet (8 June 2004)	Exhibit 4	X	
Grants of Immunity [REDACTED]	Exhibit 5 66-2, 66-4, 66-5 (a4)	X	
Sworn Statements [REDACTED]	Exhibit 6	X	
Memo For Record, [REDACTED] dated 11 Jan 03 [2004]	Exhibit 7 66-2, 66-4	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 SUMMARY SPECIAL GENERAL COURT-MARTIAL
 b. 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.)

12a. [REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Silver Spring, MD 20910	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn
[REDACTED]	Fort Carson, Colorado 80913	Sworn

13a. Packet for Defense Counsel, including Article 15s, counseling, ERBs, and ORBs - Exhibit 8; Commander's Inquiry by [REDACTED] dated 24 Feb 04 - Exhibit 9; Administrative Memos and Defense Requests - Exhibit 10; CID CD - Exhibit 11; E-mails detailing the Govt's attempts to secure [REDACTED] a witness - Exhibit 12; Sworn Statements: [REDACTED] and [REDACTED] Exhibit 13; [REDACTED] resume and Larium information - Exhibit 14; (Continuation Pages)

22a. TYPED NAME OF INVESTIGATING OFFICER: [REDACTED] b. GRADE: O-3 c. ORGANIZATION: OSJA, Administrative Law Division Fort Carson, CO 80913

d. SIGNATURE: [REDACTED] e. DATE: 19 August 2004

30 (c)

6-2 15

1 (cc) 1-2 1-4 1-6 6-4 6-2 6-5 6-7 (cc) 1-2 1-3 1-2 6-5

ALSO 67(c)

63-1, 62-1 Low 1
66-4
63-1, 62-1 Low 1

66-2 66-5 67(c)

[Redacted] Fort
Carson, Colorado 80913

166-2, 66-5, 67(c)

63-1, 62-1 Lowr

Continuation Pages

13a. Exhibits (continued). Character Statements, NCOERs, and awards for [Redacted] - 66-2, 66-5
- Exhibit 15; Two photographs (visual aids) of Bradley Fighting Vehicles - Exhibit 16; 67(c)
Sworn Statement of [Redacted] - Exhibit 17.

15. Objections by Defense Counsel. 66-4, 67(c)

a. Defense Counsel objected to my considering Exhibit 2, CID Report (0011-04 -CID469-79630-5H1) and relevant Agent's Investigation Reports. Initially, I considered Exhibit 2 as evidence over Defense objection. Prior to the close of evidence, I decided not to consider Exhibit 2.

b7(c)
b6-2
b6-5
b6-2
b6-3
b7(c)

b. Defense Counsel objected to the unavailability of [Redacted] and [Redacted], arguing that Government Counsel should have coordinated grants of testimonial immunity for them. Prior to the close of evidence, [Redacted] Commander, 4th Infantry Division (Mechanized), signed grants of testimonial immunity for these witnesses.

c. Defense Counsel objected to my consideration of [Redacted] sworn statement of 16 January 2004, Exhibit 17. I determined that [Redacted] was not reasonably available and considered his sworn statement as an alternative to testimony (RCM 405(g)(4)(B)). My availability determination was based upon e-mail correspondence detailing the Government Counsel's attempts to secure [Redacted] as a witness (Exhibit 12).

66-4, 67(c)

16. Availability of Essential Witnesses. All essential witnesses may not be available in the event of trial. [Redacted] one of the two detainees/victims, could not be located to testify by telephone for the Article 32 investigation. Government counsel sought [Redacted] whereabouts from 30 June 2004 until the time of the Article 32 investigation (Exhibit 12). [Redacted] the only civilian witness to the 3 January 2004 incident of detainee abuse.

66-4, 67(c)

20b. Recommended Disposition. I recommend the charges be dismissed against [Redacted] being replaced with the imposition of a Field-Grade Article 15 and Developmental Counseling on DA Form 4856. Although not defenses to [Redacted] actions, there are several mitigating factors that lead to this recommendation. First, [Redacted] was ordered to force the detainees into the Tigris River by [Redacted] (Exhibit 6 - [Redacted] Sworn Statement of 22 January 2004, Page 2, and [Redacted] Sworn Statement of 23 January 2004, Page 1). Second, [Redacted] was coerced by his chain of command into provided a false official statement. The Battalion Commander,

66-2
66-5
67(c)

E WITRE
PAGE
ALSO b7 (C)

[REDACTED] ordered that no one was to mention the detainees being forced into the water (Summarized Transcript - [REDACTED] Sworn Testimony, Page 32). [REDACTED] and [REDACTED] carried out this order by meeting several times with the individuals involved in the detainee abuse, coaching their answers to CID questioning. Third, combat stress may also offer some mitigation for [REDACTED]'s actions. The City of Samarra was in constant turmoil and was one of the most troublesome cities in Iraq. U.S. Forces were trying to regain control of the city from insurgents, [REDACTED] being a member of one of the most relied upon platoons for this mission (Summarized Transcript - [REDACTED]'s Sworn Testimony, Page 32). These same soldiers were operating with lack of sleep and fighting an enemy that did not follow the Law of War (Summarized Transcript - [REDACTED]'s Sworn Testimony, Page 33). A Company Commander within the Brigade had also been killed a short time prior to the detainee abuse (Summarized Transcript - [REDACTED] Sworn Testimony, Page 32).

b6-2
b6-5

Defense Counsel for [REDACTED] presented evidence regarding the accused soldiers' use of the drug Larium (mefloquine hydrochloride) and the possibility it caused the soldiers to react violently to the detainees. I find this to be a tenuous argument.

b6-2
b6-4

Although [REDACTED] testified that the unit members were required to take Larium once a week for thirteen months (Summarized Transcript, Page 22), there is no evidence regarding how much Larium was actually ingested by [REDACTED] and what type of reaction, if any, he may have to the drug.

b6-2, b6-5

Defense Counsel also raised the issue of unlawful command influence.

b6-2
b6-3

[REDACTED] actions do not rise to the level of unlawful command influence. [REDACTED] order that the accused soldiers were to go to CID was lawful (although he could not order them to provide a statement). Further, the evidence does not show that any accused soldier was denied access to counsel. [REDACTED] told the soldiers' Company Commander, [REDACTED] to escort [REDACTED] and [REDACTED] to their CID interviews. Even though [REDACTED] was aware of [REDACTED] order that no soldier should be taken to TDS prior to going to CID, he stated to [REDACTED] that during the interviews, "if it doesn't feel right, have them seek TDS (Summarized Transcript - [REDACTED] Sworn Testimony, Page 28)."

b6-2
b6-5

b6-2
b6-3

b6-2
b6-5

Further, CID Agents advised each accused soldier of his rights, to include the right to speak to an attorney before being questioned (Exhibit 6 - DA Forms 3881).

b6-2
b6-5

I recommend the developmental counseling because [REDACTED] failed to report his knowledge of a previous incident of abuse regarding an Iraqi citizen in Balad, Iraq ([REDACTED] Sworn Statement of 22 January 2004, Page 4).

TRANSMISSION VERIFICATION REPORT

TIME : 03/08/2004 15:51

INSTRUMENT TIME
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STANDARD

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012100

DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
FORT CARSON, CO

b6
b6-3

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
COMPANY:	DATE: 20 AUG 04
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER: 11
PHONE NUMBER:	SENDER'S FAX NUMBER: 719-526- [REDACTED]
RE:	SENDER'S PHONE NUMBER: 719-526- [REDACTED]

62-1
Low 2

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS

OFFICE OF THE STAFF JUDGE ADVOCATE
FORT CARSON, CO 80913



012101

b6-2, b6-3, b7(c)
[REDACTED] CPT Fort Carson/OSJA

From: [REDACTED]
Sent: Monday, August 23, 2004 8:00 PM
To: [REDACTED]
Subject: Re: RE: Art. 32 Reports - [REDACTED]

b6-5, b7(c)

Untitled Attachment

*b6-2 b7(c)
b6-3*

Just the messenger. If you want you can email [REDACTED] about the details of what is wanted. I understand your reply though. You may also want your SJA to call [REDACTED] and they can figure it out. I assume they just want to be in the loop of what is being done, but again I am just the messenger. Give me a call if you need a better explanation.

[REDACTED] *4th ID*
Fort Hood, Texas
(254) 285- [REDACTED] Office *] 62-1402*
(254) 288- [REDACTED] Fax

This electronic message transmission contains information from the Criminal Law Office of the 4th Infantry Division (Mechanized), Fort Hood, Texas which may be confidential or privileged. The information is intended for the use of the individual or agency to whom it was sent. If you are not the intended recipient, be aware that any disclosure, distribution or use of the contents of this information is prohibited.

RE: Art. 32 Reports - [REDACTED]

b6-2
b6-5
b7(c)

[REDACTED] Port Carson/OSJA

From: [REDACTED]
Sent: Monday, August 23, 2004 2:43 PM
To: [REDACTED]
Subject: RE: Art. 32 Reports - [REDACTED]

b6-2
b6-3
b7(c)

[REDACTED] - b6-2
b6-3 b7(c)

b6-2, b6-3, b7(c)

b2-1, b2-1 Low 2

What do you mean by "run through." Doesn't [REDACTED] commander of [REDACTED] BCT, have the authority to refer to a SPCM rather than referring for a GCM? I'm not suggesting that he will (I'm not sure what he plans on doing), but he should have that authority.

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

From: [REDACTED]
Sent: Monday, August 23, 2004 2:40 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Art. 32 Reports - [REDACTED]

b6-2
b6-3
b7(c)

b6-5

The SJA here at 4ID wanted to make sure you knew that any recommendations for action need to be run through this office as we have jurisdiction on the case. I believe [REDACTED] will be talking to your SJA, but he wanted me to give you a heads up before any action was taken.

b6-2
b7(c)
b6-3

[REDACTED] is the Chief of Justice and the TC on the case. [REDACTED] is the other TC. [REDACTED] is TDY this week, but I believe he is checking his emails. Call me if I can do anything.

Thanks.

[REDACTED] - 4th ID
Fort Hood, Texas
P: (254) 287-[REDACTED]
F: (254) 288-[REDACTED]
DSN 737-XXXX

b6-2
b6-3
b7(c)

b2-1 Low 2

This electronic message transmission contains information from the Criminal Law Office of the 4th Infantry Division (Mechanized), Fort Hood, Texas, which may be confidential or privileged. The information is intended for the use of the individual or agency to whom it was sent. If you are not the intended recipient, be aware that any disclosure, distribution or use of the contents of this information is prohibited.

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

From: [REDACTED]
Sent: Monday, August 23, 2004 3:01 PM
To: [REDACTED]
OSJA: [REDACTED]
Cc: [REDACTED]

b6-2
b6-3
b7(c)

012103

66-2, 66-5, 67(C)

CHECKLIST FOR PRETRIAL CONFINEMENT

[Handwritten signature]

NAME:

[REDACTED]

UNIT: AC

[REDACTED]

DOB:

[REDACTED]

ETS:

[REDACTED]

AWOL ETS date will be adjusted

TIS: 1 year, 2 months.

MARRIED: No

OF CHILDREN: No

OF ARTICLE 15s: None

OF PREVIOUS CONVICTIONS: UNK

PRESENT OFFENSES:

<u>Date</u>	<u>Article</u>	<u>Offense</u>
9 Jul 04	86	FTR
12 Jul 04	86	FTR
23 Jun 04 to 29 Jun 04	86	AWOL
20 Jul 04 to 27 Jul 04	86	AWOL
17 Aug 2004 to 18 Aug 2004	86	AWOL
17 Aug 2004	90	Disobeying an order from an Commissioned Officer
13 May 2004	91	Disobeying an order from an NCO
30 April 2004	92	Failure to obey an order or regulation s 2 (4-1 2" knife and alcohol)
29 30 April 2004	128	Assault
13 May 2004	128	Assault
Between 30 March 2004 and 30 April 2004	112a	Wrongful use of a controlled substance (marijuana)
Between 13 June 2004 and 13 July 2004	112a	Wrongful use of a controlled substance (marijuana cocaine)

ENTIRE
PAGE ALSO
b7(c)

CONTINUATION SHEET DD FORM 458

[REDACTED]

Infantry Division

66-2
66-3

Item 10 continued:

Charge II:

VIOLATION OF THE UCMJ, ARTICLE 107 (D) TF Syrs
66-2, 66-5

SPECIFICATION: In that [REDACTED] U.S. Army did at or near [REDACTED] Iraq, on or about 16 January 2004, with the intent to deceive, induce, or cause a sworn official statement, to wit: that [REDACTED] were stopped, searched and released to walk to their vehicle and upon personal witness of the two individuals on the side of the road as his convoy departed the area, which statement was totally false and was then known by [REDACTED] to be false.

66-4

66-2, 66-5

CHARGE III:

VIOLATION OF THE UCMJ, ARTICLE 119 No
66-2, 66-5

SPECIFICATION: In that [REDACTED] U.S. Army did at or near Samarra, Iraq, on or about 3 January 2004, while perpetrating a crime, to wit: the person of [REDACTED] to wit: push him into the Tigris River at nighttime, with the intent to kill [REDACTED] by drowning.

66-4

CHARGE IV:

VIOLATION OF THE UCMJ, ARTICLE 128 4x3 3 mos
66-2, 66-5

SPECIFICATION: In that, [REDACTED] U.S. Army did at or near Samarra, Iraq, on or about 3 January 2004, commit an assault upon [REDACTED] by pushing him into the Tigris River at nighttime.

66-4

CHARGE V:

VIOLATION OF THE UCMJ, ARTICLE 134 1L TF Syrs.
66-2, 66-5

SPECIFICATION: In that, [REDACTED] U.S. Army, did at or near Samarra, Iraq, on or between 3 January 2004 and 16 January 2004, wrongfully endeavor to impede an investigation by falsely giving a sworn statement denying that [REDACTED] and [REDACTED] were pushed into the Tigris River and that he saw them standing at the shoreline as his convoy departed the area.

66-4

[REDACTED] CPT Fort Carson/OSJA

From: 66-2
Sent: 66-3
To:
Cc: 66-3
Subject:

[REDACTED] Fort Carson/OSJA
Friday, August 20, 2004 1:43 PM
[REDACTED] Fort Carson/OSJA
[REDACTED] Fort Carson [REDACTED] Fort Carson
[REDACTED] Fort Carson/
Letter from the RCO to the CG on [REDACTED]

Gentlemen, FYI.

V/R



letter from RCO to
CG.doc

Message

9E)
5-2
6-3

Fort Carson/OSJA
From: [redacted] Fort Carson [redacted]
Sent: Friday, August 13, 2004 4:46 PM
To: [redacted] 66-3
Cc: [redacted] Fort Carson/OSJA
Subject: RE: [redacted]

Mr. [redacted]

I apologize for not getting back with you sooner. The investigation is continuing. Until it is complete, I have no information to release about [redacted]. I appreciate your introduction. Major [redacted] our Chief of Litigation Services, and I look forward to working with you.

66-2, 66-5, b7(c)

66-2, 66-3, b7(c)

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

From: [redacted] 66-3,
Sent: Friday, August 13, 2004 2:01 PM
To: [redacted] 66-2, 66-3, b7(c)
Subject: Fw: [redacted] 66-2, 66-5, b7(c)

I am resending this, as my server was down yesterday.

[redacted] 66-3
Attorney at Law
1-706-[redacted]
1-888-[redacted] 62-1 Low 2
1-706-[redacted] (fax)
http://[redacted] 66-3

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

From: [redacted] 66-3
To: [redacted] 66-2, 66-3, b7(c)
Sent: Wednesday, August 11, 2004 15:20
Subject: [redacted] 66-2, 66-5, b7(c)
[redacted] 66-3, 66-2, b7(c) 66-2, 66-5, b7(c)

I am the civilian counsel for [redacted] I understand you are the Chief of Justice at [redacted] I spoke with [redacted] a few months ago, but I understand he is no longer the SJA. I just wanted to introduce myself and find out if you know anything more as to when, or if, charges will be forthcoming.
Thanks. [redacted] 66-2, 66-3, b7(c)

[redacted] 66-3
Attorney at Law
1-706-[redacted]
1-888-[redacted]
1-706-[redacted]

62-1 Low 2

012107

[REDACTED] CPT Fort Carson/OSJA

From: [REDACTED] Fort Carson
Sent: Wednesday, August 11, 2004 5:26 PM
To: [REDACTED] Fort Carson
Subject: FW: [REDACTED]

b2
b3
1(c)

b6-2, b6-3, b7(c) (b6-2, b6-5, b7(c))

Do you want to reply, or do you want me to? At this point, I recommend saying nothing other than the investigation is continuing. I'm not sure what Mr. [REDACTED] relationship is with [REDACTED]

(b6-3)

b6-2, b6-5, b7(c)

b6-2, b6-3, b7(c)

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

From: [REDACTED]
Sent: Wednesday, August 11, 2004 1:20 PM
To: [REDACTED] Fort Carson
Subject: [REDACTED]

b6-3

b6-2, b6-3, b7(c)

b6-2, b6-3, b7(c)

b6-2, b6-5, b7(c)

I am the civilian counsel for [REDACTED]. I understand you are the Chief of Justice at Carson. I spoke with [REDACTED] few months ago, but I understand he is no longer the SJA. I just wanted to introduce myself and find out if you know anything more as to when, or if, charges will be forthcoming. Thanks.

b6
b7(c)

[REDACTED]
Attorney at Law
1-706 [REDACTED]
1-888 [REDACTED]
1-706 [REDACTED]

b6-3

b2-1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

b6-3

Fort Carson/

From: [redacted] Fort Carson/
Sent: Wednesday, July 14, 2004 3:56 PM
To: [redacted] Fort Carson/
Subject: FW: PUC Cases Press Releases, Media Coverage, and Responses to Congress Once Media Spin Starts

In case you had not seen -- some of the below is almost gibberish

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

From: [redacted] SJA [mailto:[redacted]@us.army.mil]
Sent: Wednesday, July 14, 2004 5:15 AM
To: [redacted]
Cc: [redacted] SJA; [redacted] OTJAG; [redacted]
Fort Carson; [redacted] SJA
Subject: RE: PUC Cases Press Releases, Media Coverage, and Responses to Congress Once Media Spin Starts

Where is CID with securing info from CIA on [redacted] and [redacted] homicide cases (3 ACR soldiers suspected)? I understand 7th ID, OSJA needs info from a collaborative CID/CIA investigative effort.

[redacted]
[redacted]
office
cell
fax
] 66-2
66-3
12-2
2022

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

From: [redacted] [mailto:[redacted]]
Sent: Tuesday, July 13, 2004 6:42 PM
To: [redacted] SJA; [redacted]
CFC
Cc: [redacted] COL OCPA; [redacted] P; Maj [redacted]
(E-mail)
Subject: PUC Cases Press Releases, Media Coverage, and Responses to Congress Once Media Spin Starts

] 66-2
66-3

Sirs, Ma'am, and MAJ [redacted], please ensure coordination of any draft Press Releases on the Death Cases that occurred in Dec 02, Afghan. CID is nearing completion of the two investigations. Army and CENTCOM leaders are inquiring about the PA plan.

Many in NCR are concerned about how the results of these investigations are finally reported to the media and public as well as Congress.

PAO, CIDC prepared to assist but is not lead for dealing with media.

Prior discussions have PAO, FORSCOM as lead unless CENTCOM wants to take over as PA lead?

PAO, CIDC has spoken to PAO, FORSCOM and [redacted] OCPA, HQDA. To date neither FORSCOM or CENTCOM has shared a draft press release or IDed which office has lead for dealing with the Media.

Recommended model is the Command that has the prosecution be primary for dealing with the media = FORSCOM for now even though the crimes occurred in

[Redacted] Fort Carson [Redacted]

b6-2
b6-3

From: [Redacted]
Sent: Thursday, July 08, 2004 3:06 PM
To: [Redacted]
Cc: [Redacted]
Subject: FW: Attachment Orders

b6-2, b6-5

Sir, we have [Redacted] back under our control.

V/R

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

b6-2
b6-3

From: [Redacted] Ms Fort Carson/AG Reassignments
Sent: Thursday, July 08, 2004 3:03 PM
To: [Redacted] Fort Carson [Redacted]
Subject: RE: Attachment Orders

My apologies.

b6-2, b6-3
b6-3

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

From: [Redacted] CPT Fort Carson [Redacted]
Sent: Thursday, July 08, 2004 2:58 PM
To: [Redacted] Fort Carson/AG Reassignments
Subject: RE: Attachment Orders

I did not get anything attached.

Thanks

b6-2
b6-3

[Redacted]
[Redacted]
COM: 719-526-[Redacted] 62-1 L 042
[Redacted] carson.army.smil.mil

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

b6-3
b6-2, b6-3

From: [Redacted] Ms Fort Carson/AG Reassignments
Sent: Thursday, July 08, 2004 2:35 PM
To: [Redacted] CPT Fort Carson/[Redacted]
Subject: Attachment Orders

Sir,

b6-2, b6-5

Attachment orders for [Redacted] are below. If you need anything else, please let me know. Also, if everything's cleared and the officer needs to be released from attachment, just notify me.

b6-3

Chief, Personnel Reassignments
Tel: 526-[Redacted] -62-1 L 042

[REDACTED] Fort Carson

From: [REDACTED] Fort Carson/
Sent: Monday, June 28, 2004 11:35 AM
To: [REDACTED] Fort Carson/
Subject: FW: New case

-66-2
66-3

FYI.

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

From: [REDACTED] COL Fort Carson/
Sent: Monday, June 28, 2004 11:26 AM
To: [REDACTED] JTC Fort Carson, [REDACTED] Fort Carson, [REDACTED] EPT Fort
Carson/
Subject: FW: New case

66-2
66-3

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

From: [REDACTED] -66-3
Sent: Monday, June 28, 2004 11:17 AM
To: [REDACTED] Fort Carson 66-2, 66-3
Subject: New case

66-2, 66-5

66-2, 66-3
In the truly small world department, I have been retained to represent [REDACTED]. I am sure you are familiar with the case. Merely dropping a line to let you know of my involvement, and to ask if you have any idea where the case is in the process. He has just closed on a house in [REDACTED] so there are family considerations. Let me know, and hope all is well.

66-2, 66-5
62-1 Low 2

[REDACTED] -66-3
1-706-
1-888-
1-706- (fax) -62-1 Low 2

012111

[REDACTED] Fort Carson [REDACTED]

From: [REDACTED]
Sent: Tuesday, June 29, 2004 9:17 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: CG's Comments in Denver Post

Sir - FYI

66-2
66-3

Denver Post
June 27, 2004

Ft. Carson Commander Waiting For Evidence In Iraqi Death

By The Denver Post

The commanding officer at Fort Carson says he has not made any determination regarding charges against two military intelligence officers implicated in the death of an Iraqi general during interrogation.

Maj. Gen. Robert Wilson, in a written statement released Friday, said he hadn't seen any of the evidence gathered against the soldiers and that he won't make a decision on whether to file criminal charges until then.

"No competent authority has signed a charge sheet because the investigation has not been completed or received by this headquarters," Wilson said.

The Denver Post reported Thursday that Army officials plan to file negligent-homicide and manslaughter charges against the Fort Carson-based intelligence officers who allegedly suffocated Maj. Gen. Abed Hamed Mowhoush, a commander of Saddam Hussein's air forces, during an interrogation in November. Chief Warrant Officers Lewis Welshofer and Jeff Williams allegedly placed Mowhoush in a sleeping bag while sitting on his chest and covering his mouth.

The two enlisted soldiers face dereliction-of-duty charges in the fatal interrogation, according to a Pentagon document obtained by The Post.

The Post reported that Welshofer and Williams were reprimanded by their commander, Col. David Teeples of the 3rd Armored Cavalry Regiment, and forbidden from conducting further interrogations.

Members of the 3rd Armored Cavalry Regiment also are being questioned about the death of Iraqi prisoner Abdul Jaleel, 46, on Jan. 9. The Army has said Jaleel died of blunt force injuries and asphyxia.

In his statement, Wilson said he "has not formed any conclusions about these cases at this time ... and will carefully consider appropriate action based on a review of all the evidence and relevant law."

[Redacted] Fort Carson [Redacted]

From: [Redacted] Fort Carson [Redacted]
Sent: Thursday, August 12, 2004 12:07 PM
To: [Redacted] Fort Carson [Redacted]
Cc: [Redacted] Fort Carson [Redacted]
Subject: FORSCOM High Profile Case Update

b6-2
b6-3

Sir:

Here is what I propose we send to FORSCOM. The letters and case designations correspond to those in Mr. [Redacted]'s e-mail to you and the SJA.

b6-3

(a) The [Redacted] (otherwise [Redacted]) The only piece Carson has is the 32 IO and administrative support for the 32. The 32 on three of the four is complete; and the IO, [Redacted] is nearly finished with his report.

b3-1, b2-1, Low 2 b6-2, b6-5, b7(c)

[Redacted] has scheduled the fourth 32 for 8 September. b6-2, b6-3

(b) [Redacted] 3d ACR): Former [Redacted] asked CID to try to find victims and/or interpreters in Iraq. That search is ongoing. In the meantime, [Redacted] is currently assigned to [Redacted] Training Brigade at Fort Bliss. However, he is apparently attached to 3d ACR for UCMJ purposes. b6-2, b6-3, b2-1 Low 2

b6-2, b6-5 b6-2, b6-3

(c) 3rd ACR [Redacted] and [Redacted] ([Redacted]): CID investigation nearly complete. Anticipate preferring charges on those less culpable by the end of the month.

b6-2, b6-5 b6-4

(d) 3rd ACR troopers [Redacted] See comments for (c).

b6-4

There is obviously much more we could say in this update. Let me know if you need me to draft something more extensive, or if you want a briefing from those most knowledgeable on the cases.

b6-2, b6-3

[Redacted] Please chime in if any of the status reports are incomplete or incorrect.

Entire
page b62, b6-3

[REDACTED] Fort Carson/ [REDACTED]

From: [REDACTED] Fort Carson/
Sent: Wednesday, July 21, 2004 12:00 PM
To: [REDACTED] Fort Carson
Cc: [REDACTED] Fort Carson
Subject: List of Suspects and Witnesses

As requested Sir.

V/R

[REDACTED]



List of Suspect and
Witnesses....

ENTIRE
PAGE
ALSO b7(C)

66-4

[REDACTED] Case

SUSPECTS

[REDACTED], 3d ACR.
[REDACTED], 3d ACR.
[REDACTED], 3d ACR.
[REDACTED], 3d ACR.

66-2
66-5

WITNESSES

[REDACTED], 3d ACR.
[REDACTED], National Guard.
[REDACTED], AFIP.
[REDACTED], 3d ACR.
[REDACTED], 3d ACR.

66-2
66-5

66-4

[REDACTED] Case

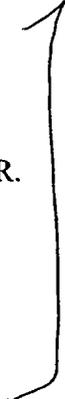
SUSPECTS

[REDACTED], 3d ACR.
[REDACTED], 3d ACR.
[REDACTED], d ACR.
[REDACTED], 5th SF Group.
[REDACTED], 3d ACR.
[REDACTED], 5th SF Group.
[REDACTED], 5th SF Group.

WITNESSES

[REDACTED], 3d ACR.
[REDACTED], National Guard.
[REDACTED], 3d ACR.
[REDACTED], 3d ACR.

[REDACTED] 3d ACR.



b6-2
b6-4
b7 (c)

ENTIRE
PAGE
b6-2
b6-3

[REDACTED] Fort Carson/OSJA

From: [REDACTED] Fort Carson OSJA
Sent: Thursday, July 22, 2004 2:15 PM
To: [REDACTED] Fort Carson/IG
Cc: [REDACTED] Fort Carson/OSJA; [REDACTED] Fort Carson/OSJA; [REDACTED] Fort Carson/OSJA
Subject: FW: Answer ref: [REDACTED] INTERROGATION TF
Importance: High
Sensitivity: Confidential

Here is the guidance from DA and our list of subjects and primary witnesses that we do not want interviewed. If you have any questions please let me know. Thanks.

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

From: [REDACTED] OTJAG [mailto:[REDACTED]@us.army.mil]
Sent: Thursday, July 22, 2004 1:50 PM
To: [REDACTED] SJA; [REDACTED] OTJAG
Cc: [REDACTED] OTJAG; [REDACTED] - SJA; [REDACTED] - SJA; [REDACTED] - SJA; [REDACTED] Fort Carson OSJA; [REDACTED] - SJA; [REDACTED] Fort Carson/OSJA; [REDACTED] OTJAG
Subject: RE: Answer ref: [REDACTED] INTERROGATION TF
Sensitivity: Confidential

Per [REDACTED] guidance, I spoke to the lead Navy Team OIC for [REDACTED] investigation. His name was [REDACTED]

His guidance was:

Navy IG does not want to interfere with any on-going criminal investigation.

Fort Carson IG should interview those MI soldiers who are not subjects or primary witnesses to alleged criminal misconduct - these are the "available" personnel who can complete the questionnaire.

Only these "available" personnel need be interviewed with the 13-page questionnaire provided by Navy IG. This is consistent with the email below to only interview "available" witnesses.

Fort Carson OSJA can determine with consultation with CID which witnesses meet the definition of "available."

The issue of future release of the questionnaires taken at Fort Carson under RCM 701 is the same as the release of similar statements in IG's possession just recently requested by [REDACTED], TC for Abu Ghraib prosecutions - it is not resolved.

ENTIRE
PAGE
66-2
66-3

From: [REDACTED] Fort Carson/IG
Sent: Wednesday, July 21, 2004 12:54 PM
To: [REDACTED] Fort Carson/7ID HQ
Cc: [REDACTED] Fort Carson/Inspector General; [REDACTED]@ignet.army.mil; [REDACTED]
[REDACTED] Fort Carson OSJA
Subject: FW: [REDACTED] INTERROGATION TF
Importance: High

Sir,
Yesterday afternoon, I was called by a [REDACTED] who is one of three Team Leaders on an Investigation Task Force led by [REDACTED] (the Navy's Inspector General). At the direction of the SECDEF (see attachment), this task force has been investigating Interrogation practices, procedures and policies in Gitmo, Afghanistan and Iraq.

[REDACTED]'s team conducted interviews and other information gathering in Iraq over the past several months. While there, he and his team were told that they might want to contact intelligence folks from Fort Carson who had been in Iraq.

[REDACTED] requested assistance from me due to a lack of time available before the Task Force's report is due to the SECDEF.
He requested the following assistance:

1. Confirmation that there are, in fact, Military Intelligence interrogators & other Intel types here at Carson who had been deployed to Iraq.
2. Given the current on-going criminal investigations, he asked for a list of "available" interrogators which could be interviewed using the questions (pages 1-13) from the attachment.
3. He requested that the IG office here conduct the interviews and provide the results back to him NLT the beginning of next week.

Based on the DAIG Intel Oversight team visit last week and the CMD Group's / SJA sensitivity to the on-going investigations, I asked [REDACTED] to review the questions and give me his opinion on this request for assistance. He stated that the questioning of any of the interrogators (both the ones already identified as subjects as well as any that might be called as witnesses) could compromise the capability of the SJA to prosecute the on-going and/or future cases effectively.

As such, believe that the CG needs to be made aware of this request and provide guidance on whether he wants me to assist in some fashion or not.
I am supposed to contact [REDACTED] this afternoon to give him some feedback on his request.

v/r

[REDACTED]
[REDACTED]
[REDACTED] US Army
[REDACTED]
7th ID(L) & Fort Carson

Commercial: (719) 52 [REDACTED]
Fax: XXX [REDACTED]
DSN: 691-XXXX
email: [REDACTED]@carson.army.mil

J [REDACTED] 66-2-1 Low 2

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

From: [REDACTED] CARSON-IG [mailto:[REDACTED]@carson.army.mil]
Sent: Wednesday, July 21, 2004 8:34 AM
To: [REDACTED] Fort Carson OSJA



DEPARTMENT OF THE ARMY
 HEADQUARTERS, 3d ARMORED CAVALRY REGIMENT
 FORT CARSON, COLORADO 80913

REPLY TO
 ATTENTION OF

AFZC-R-CO

DATE: _____

MEMORANDUM FOR _____, Office of the Staff Judge Advocate,
 Fort Carson, Colorado 80913 66-2 66-5, 67(c)

SUBJECT: Appointment of Article 32(b) Investigating Officer in the case of U.S. v. _____

1. You are hereby designated to investigate the attached charges in the case of _____
 _____, 3d Armored Cavalry Regiment, Fort
 Carson, Colorado 80913, under Article 32, UCMJ. Additionally, you shall investigate and make a
 recommendation as to any uncharged offenses, except minor offenses as defined by Part V, Manual for Courts-
 Martial, brought to your attention during the investigation unless counsel for both sides agree that they should not be
 investigated.

B-7
 2-1
 aw2

2. Your investigation will be conducted IAW Article 32(b), UCMJ, R.C.M. 405, MCM (2002 Edition) and AR 27-10. Procedural guidance is contained in DA Pam 27-17.

3. Promptly upon receipt of this endorsement, you will contact the Office of the Staff Judge Advocate – Administrative Law Division at DSN 526-_____. Your appointed advisor will assist you in technical legal advice and guidance. All questions concerning the law applicable to this case, as well as questions concerning admissibility of evidence, etc., will be directed to the advisor. You will not contact the government representatives for assistance or advice in any substantive legal matters regarding the investigation. The hearing will be open.

4. You will set the date for the Article 32(b) investigation to take place within five duty days from the date of this memorandum. You may approve reasonable defense-requested delays, not to exceed twenty duty days in length, occasioned by scheduling conflicts or defense requests for witnesses. Any requested delays beyond thirteen duty days from the date of this correspondence will be immediately forwarded through the trial counsel to me for action. Within 72 hours of completion of your investigation you will deliver the original Investigating Officer's Report, DD Form 457, with enclosures, and a detailed chronology of the investigation to the Criminal Law Division, OSJA, Fort Carson.

5. Your clerical and administrative support will be provided by the 3d Armored Cavalry Regiment Military Justice Cell of the Criminal Law Division, Office of the Staff Judge Advocate. You may contact this office at 526-_____. The duty uniform should be worn at this hearing to facilitate witnesses returning to regular duties.

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

_____] 66-2, 66-3
 Commanding 67(c)

Page 4

DEPARTMENT OF THE ARMY
HEADQUARTERS, [REDACTED]
FORT CARSON, COLORADO 80913-5000

b3-1
b2-1 LWR

ORDERS 04-189-01

7 July 2004

b6-2, b6-5

[REDACTED]
FT CARSON, CO 80913

esp6

YOU ARE ATTACHED OR RELEASED FROM ATTACHMENT AS SHOWN.

ACTION: YOU ARE ATTACHED TO 3D ARMORED CAVALRY REGIMENT
(WAY8AA) FT CARSON, CO 80913

EFFECTIVE DATE: 15 JULY 2004

PERIOD: 15 JULY 2004 - 15 OCTOBER 2004

PURPOSE: SOLDIER IS ATTACHED FOR UCMJ ACTION/INVESTIGATION. IF
THE INVESTIGATION IS COMPLETED PRIOR TOO OR GOES PAST THE END
DATE, SOLDIER WILL NEED TO CONTACT HIS BDE S1 FOR NEW ORDERS.

FORMAT: 440

[REDACTED]

b6-2, b6-3

COMMANDING

DISTRIBUTION: [REDACTED]
CDR, [REDACTED] ARMOR REGIMENT, FT. CARSON, CO 80913
CDR, [REDACTED] DIVISION, FT. CARSON, CO 80913
CDR, 3D ARMORED CAVALRY REGIMENT, FT. CARSON, CO 80913

b3-1
b2-1 LWR



DEPARTMENT OF THE ARMY
HEADQUARTERS, 3D ARMORED CAVALRY REGIMENT
FORT CARSON, COLORADO 80913

REPLY TO
ATTENTION OF

AFZC-R-CO

DATE:

MEMORANDUM FOR Commander, 7th Infantry Division and Fort Carson, Colorado 80913.

SUBJECT: Recommendation of Disposition for [REDACTED] ^{66-2, 66-5, 67(C)}

1. [REDACTED] ^{66-2, 66-5, 67(C)} was the former [REDACTED] ^{b7(C)} 3d Armored Cavalry Regiment at FOB [REDACTED] ^{66-2, 66-5, 83-1, b2-1, 12002}, Iraq. He was involved in the multiple incidents of detainee abuse. [REDACTED] ^{66-2, 66-5, 67(C)} the former 3d ACR Commander, reprimanded [REDACTED] for his misconduct. Based on the 26 statements obtained in the AR 15-6 investigation and CID having contacted the majority of the witnesses, I recommend going forward with court-martial charges against [REDACTED] ^{66-2, 66-5, 67(C)}

2. As of now, the charges against [REDACTED] would most likely be: Detainee Abuse (a violation of Geneva Conventions), Aggravated Assault, Assault and Conduct unbecoming. ^{66-2, 66-5, 67(C)}

3. [REDACTED] was also involved in the abuse of detainees and received a Field Grade ART 15 for his involvement. Court-martial charges may be preferred against him for his conduct as well. ^{66-2, 66-5, 67(C)}

4. As of now, the charges against [REDACTED] would most likely be: Detainee Abuse (a violation of Geneva Conventions), Aggravated Assault, Assault and Conduct unbecoming. ^{66-2, 66-5, 67(C)}

5. [REDACTED] was involved in the shooting in the general direction of a detainee in the attempt to encourage the detainee to cooperate in the gathering of information. This act by [REDACTED] was under direct order from [REDACTED]. With his cooperation in this case, the appropriate action for him will most likely be an ART 15 or less.

6. CID is currently attempting to locate the victims and one of the witnesses. CID also has not yet contacted two of the witnesses but has determined their current whereabouts.

7. You have retained jurisdiction on all cases involving detainee abuse. Based on the forgoing, I request the authority to proceed in these cases.

[REDACTED]
Commanding

66-2
66-3
67(C)

66-2
66-4
67(C)

DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
FORT CARSON, COLORADO

FACSIMILE TRANSMITTAL SHEET

TO: [REDACTED] <i>62-1 Flow 2</i>	FROM: [REDACTED]
COMPANY: Provost Marshall's Office	DATE: 4 OCTOBER 2004
FAX NUMBER: 6 [REDACTED] <i>62-1 Lwr</i>	TOTAL NO. OF PAGES INCLUDING COVER: 2
PHONE NUMBER: 6 [REDACTED]	SENDER'S FAX NUMBER: [REDACTED]
RE: Request for NCIC/CCIC Check for Soldier Pending Court-Martial	SENDER'S PHONE NUMBER: 6 [REDACTED]

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

OFFICE OF THE STAFF JUDGE ADVOCATE
ATTN: AFCZ-JA-CL (3ACR MJ CELL)
7086 ALBANESE LOOP
FORT CARSON, CO 80913



012122



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 7TH INFANTRY DIVISION AND FORT CARSON
OFFICE OF THE STAFF JUDGE ADVOCATE
FORT CARSON, COLORADO 80913

AFZC-JA-CL

DATE: 4 October 2004

MEMORANDUM FOR Provost Marshall's Office, ATTN: NCIC/CICC Records Coordinator,
Fort Carson, Colorado 80913

copy

SUBJECT: Request for NCIC/CICC Checks

1. This office is preparing court-martial charges against the following soldier. Request a copy of the NCIC/CICC criminal history checks the below soldier to ensure their packets are complete:

NAME

SSN#

DOB

[REDACTED]

[REDACTED]

[REDACTED]

] 662, 66-5, 67(c)

2. POC is the undersigned at 526-

[REDACTED]

*62-1
6042*

[REDACTED]

*] 66-2, 66-3
67(c)*

012123

TRANSMISSION VERIFICATION REPORT

TIME : 10/04/2004 13:42

DATE, TIME	10/04 13:41
FAX NO./NAME	[REDACTED]
DURATION	00:00:42
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

6-2-1 Low2

62-1
Low
Entire
page

DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
FORT CARSON, COLORADO

FACSIMILE TRANSMITTAL SHEET

TO: [REDACTED]	FROM: [REDACTED]
COMPANY: USAEREC (ATTN: PCRE-FF)	DATE: 4 OCTOBER 2004
FAX NUMBER: (317) 510-[REDACTED]	TOTAL NO. OF PAGES INCLUDING COVER: 2
PHONE NUMBER:	SENDER'S FAX NUMBER: (719) 526-[REDACTED] (DSN 691-[REDACTED])
RE: Request for copy of the Official Military Personnel File (OMPF) for Soldier Pending Court-Martial	SENDER'S PHONE NUMBER: (719) 526-[REDACTED] (DSN 691-[REDACTED])

- URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

OFFICE OF THE STAFF JUDGE ADVOCATE
ATTN: AFCZ-JA-CL (3ACR MJ CELL)
7086 ALBANESE LOOP
FORT CARSON, CO 80913



012125



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 7TH INFANTRY DIVISION AND FORT CARSON
OFFICE OF THE STAFF JUDGE ADVOCATE
FORT CARSON, COLORADO 80913

AFZC-JA-CL

DATE: 4 October 2004

MEMORANDUM FOR Commander, U.S. Army Enlisted Records and Evaluation Center, ATTN:
PCRE-FF, Fort Benjamin Harrison, IN 46249-5301

SUBJECT: Request for OMPF

1. This office is preparing court-martial charges against the following soldier(s). Request a copy of the Official Military Personnel File (OMPF), to include the restrictive fiche. Also, please include certified copies of any Article 15's, or letters of reprimand, for each soldier named to ensure that their packets are complete:

Exp 6

NAME

[REDACTED]

SSN#

[REDACTED]

DOB

[REDACTED]

*66-2
66-5
67(c)*

2. Please use the following mailing address:

Office of the Staff Judge Advocate
ATTN: 3d ACR Military Justice Cell
7086 Albanese Loop
Fort Carson, Colorado 80913

3. POC is the undersigned at DSN 526-

[REDACTED]

*62-1
2002*

[REDACTED]

*66-2
66-3
67(c)*

012126

DEPARTMENT OF THE ARMY
Headquarters, 7th Infantry Division and Fort Carson
Office of the Staff Judge Advocate
Fort Carson, Colorado 80913

AFZC-JA-CL

18 October 2004

MEMORANDUM FOR RECORD

SUBJECT: Authentication of DA Form 2627

I certify and attest that I am the official custodian of DA Form 2627's, Record of Proceedings Under Article 15, UCMJ, for the 3d Armored Cavalry Regiment, Fort Carson, Colorado. These records are regularly preserved and maintained by me in my official capacity in this office in accordance with applicable regulation prescribed pursuant to statutory authority. I further attest that the attached DA Form 2627, Record of Proceedings Under Article 15, UCMJ, pertaining to [REDACTED] 3d Armored Cavalry Regiment, Fort Carson, Colorado, dated 13 October 2003 is a true and accurate copy of the original DA Form 2627.

esp b

*] 66-2
66-5
67(cc)*

[REDACTED]

Legal Cell

*] 66-2
66-3
67(cc)*

Exp 6

REPORT OF PROCEEDINGS UNDER ARTICLE 15, UCMJ

Use of this form, see AR 27-10: the proponent agency (JAG).

See Notes on Reverse Before Completing Form

NAME	GRADE	SSN	UNIT	PAY (Basic & Sea/Foreign)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	\$2,477.40

b6-2
b6-5
b7(c)

1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct:^{1/}
 In that you, who should have known of your duties at or near the Ar Rutbah police station, on or about 9 July 2003, were derelict in the performance of those duties in that you willfully failed to properly handle detainees, which conduct was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces, as it was your duty to do. This is in violation of Article 92, UCMJ.

(SEE CONTINUATION SHEET)

2. You are not required to make any statements, but if you do, they may be used against you in this proceeding or at a trial by court-martial. You have several rights under this Article 15 proceeding. First I want you to understand that I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have an open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (matters of defense) or why punishment should be very light (matters of extenuation and mitigation). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose.^{2/} If you do not want me to dispose of this report of misconduct under Article 15, you have the right to demand trial by court-martial instead.^{3/} In deciding what you want to do you have the right to consult with legal counsel. Located at TDS, Al Asad, 302-539-0717. You now have 48 hours to decide what you want to do.^{4/}

DATE	TIME	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
25 Sept 03	2030	[REDACTED]	[REDACTED]

b6-2
b6-3
b7(c)

3. Having been afforded the opportunity to consult with counsel, my decision are as follows: (Initial appropriate blocks, date, and sign)
 a. I demand trial by court-martial.
 b. I do not demand trial by court-martial and in the Article 15 proceedings:

(1) I request the hearing be Open Closed. (2) A person to speak in my behalf is is not requested.
 (3) Matters in defense, mitigation, and/or extenuation: Are not presented Will be presented in person Are attached.

DATE	NAME AND GRADE OF SERVICE MEMBER
13 Oct 03	[REDACTED]

4. In a(n) Open Closed hearing^{5/} all matters presented in defense, mitigation, and/or extenuation having been considered, the following punishment is imposed:^{6/} Forfeiture of \$1,238.00 pay for one month..

b6-2, b6-3, b7(c)

5. I direct the original DA Form 2627 be filed in the Performance file Restricted file of the OMPF.^{7/} N/A
 6. You are advised of your right to appeal to the Cdr, 3d ACR within 5 calendar days. An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
13 Oct 03	[REDACTED]	[REDACTED]

7. (Initial appropriate block, date, and sign)
 a. I do not appeal b. I appeal and do not submit additional matters^{8/9/} c. I appeal and submit additional matters^{8/9/}

DATE	NAME AND GRADE OF SERVICE MEMBER
13 Oct 03	[REDACTED]

8. I have considered the appeal and it is my opinion that:

DATE	NAME AND GRADE OF JUDGE ADVOCATE	SIGNATURE

9. After consideration of all matters presented in appeal, the appeal is:
 Denied Granted as follows:^{10/}

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE

10. I have seen the action taken on my appeal.	DA	SIGNATURE OF SERVICE MEMBER
		[REDACTED]

11. ALLIED DOCUMENTS AND/OR COMMENTS ^{11/ 12/ 13/}

1. Continuation page 2. 15-6 Inv Rpt

b6-2
b6-5
b7(c)

b6-2
b6-3
b7(c)

b6-2
b6-5
b7(c)

b6-2
b6-3
b7(c)

DA Form 2627 pertaining to [REDACTED]
09320

b6-2, b6-5, b7(c)

b6-3, b2-1 Lawr

Exp 6

/3 ACR, FOB [REDACTED], Iraq

Item 1 (con't):

b2-1 Lawr

In that you, did, at or near FS 06 East-West route, South of FOB [REDACTED] on or between 13 July 2003, wrongfully and willfully discharge a firearm, to wit: in the vicinity of a detainee, under circumstances such as to endanger human life. This is in violation of Article 134, UCMJ.

2/2/04

CERTIFICATE

b7(c)

b3-1, b7-1, 2002

b6-2, b6-3

I hereby certify that the Enlisted Records Brief pertaining to [redacted] 3d Armored Cavalry Regiment, Fort Carson, Colorado 80913, was obtained through the Army Human Resource stem (AHRS), 1 October 2004. The AHRS is the Army's database of all personnel records and contains the latest, most up-to-date information.

[redacted]

b6-2
b6-3
b7(c)