Witness:
That is correct.

Counsel:
What exactly was the property you were guarding?

Witness:
It was reported to us that it was a bunch of money. It was later found out that there was just money here and there. The original property that they had reported to us, that was in that box, they had assigned to someone else already. But they told us that it was with that property. So there was a very confusing mix-up over what happened to the money, where the money was and who had had it. At this time, we were under the understanding that the money was in our possession. That was my priority at that time.

Counsel:
And in terms of how the EPWs were being unloaded, Staff Sergeant [redacted] was standing right outside the bus door, correct? (b6) -4, 7(C)4

Witness:
Yes sir.

Counsel:
And he was sort of pulling them off the bus, or guiding them off the bus, how ever you want to put it.

Witness:
Yes sir.

Counsel:
And when he did that, he was letting everyone know what kind of guy he had that was coming off the bus, correct?

Witness:
That is correct.

Counsel:
He would identify them and say look this is the suspected police Major rapist.

Witness:
Yes sir.

Counsel:
The first one off the buss was the Fedahyeen Major. Is that right?

Witness:
Yes sir.

Counsel:

Okay, and you've been told by the 744th that he had a legitimate injury and that he often tried to milk it or tried to, kind of play it up?

Witness:
Yes sir.

Counsel:
Okay. Which you would assume would mean trying to ask for help or pretending that he couldn't walk, pretending he was more hurt than he was?

Witness:
Right sir, and trying to interrupt operations.

Counsel:
And in fact, when he was getting off the bus, he was moving especially slow, correct?

Witness:
Yes sir he was.

Counsel: (b)(6)-4, (7C)-4
And actually Sergeant [redacted] had to yell at him to come on.

Witness:
Yes I assume so sir. I didn't hear him say that.

Counsel:
Okay. But from what you could tell he did not want to get up and move, the Fedayeen Major?

Witness:
No sir. I do recall them having difficulty getting him to step off of the bus.

Counsel:
Sergeant [redacted] actually pulled him up and got him on his crutches, correct?

Witness: (b)(6)-4, 7(C)-4
Yes sir.

Counsel:
Even at that point, when he was on his crutches, he was moving very slowly.

Witness:
Yes sir.

Counsel:
Basically, doing just exactly what the 744th told you he would do, correct?

Witness:
Yes sir.

Counsel:
And you said you saw him fall down, right?

Witness:
That's correct, sir.

Counsel:
And you saw that he had to be picked up and had to be carried.

Witness:
Sir, at this point in time, the incident, as it occurred was, I heard Master Sergeant [redacted] (b)(6)-5; 7(C)(5) state "hurry the fuck up or come on get it moving". Basically telling him to get on the ball with it. As I turned around she pushed him in the back and he fell forward.

Counsel:
Okay. And at that point he did not get up on his own, correct?

Witness:
At this time I don't recall. I would have to refer to my statement to refresh my memory. If you don't mind?

Counsel:
You don't remember if he had to be carried or picked up and carried at that point.

Witness:
I don't recall at this time, sir.

Counsel:
Okay. And you said that you saw Staff Sergeant McKenzie escorting a few EPWs?

Witness:
Yes sir.

Counsel:
And you said that he used like a leg sweep to put an EPW on the ground more than once.

Witness:
Yes sir.

Counsel:
And actually you testified earlier that actually putting someone on the ground is one of the techniques used if someone, if an EPW is resisting, correct?

Witness:
Yes sir.

Counsel:
And you describe in sort of detail that someone is supposed to be put down in the face first position and their legs spread apart and their hands spread apart, correct?

Witness:
Yes sir.

Counsel:
But that, there was no briefing no demonstration of that technique done before this mission, was there?

Witness:
Sir, that training was provided prior to our arrival in-country.

Counsel:
Okay. But to the members of the 320th, there was no briefing, no demonstration of that?

Witness:
No sir.

Counsel:
And you have no idea whether they ever received that kind of training that you received, in regards to that technique, correct?

Witness:
I'm assuming if they were certified to come to a combat zone, sir, yes they did receive that training.

Counsel:
Okay. But you don't have any idea whether they did or not?

Witness:
No I don't.

Counsel:
And the purpose for putting someone down on the ground, that's to regain positive control, correct?

Witness:
Yes sir.

Counsel:
And you actually heard Sergeant McKenzie, when he did these leg sweeps, when he put the EPW on the ground, each time you heard him say "stop resisting"?
Witness:
That's correct, sir.

Counsel:
And not a single one of those times did you actually see, or did you actually tell if that EPW was or was not resisting.

Witness:
That is correct.

Counsel:
And specifically, the first time, you said that what you saw and what you thought that he did seemed perfectly acceptable and seemed perfectly legal.

Witness:
I didn't say that. I assumed the first time that the EPW was resisting.

Counsel:
And if someone is resisting, that's a perfectly reasonable, perfectly acceptable thing to do, put him on the ground, correct?

Witness:
No I did not say that.

Counsel:
But you agree that if someone was resisting, or an EPW was resisting, the perfectly acceptable thing to do would be to put them on the ground?

Witness:
To put them on the ground, yes sir.

Counsel:

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

Okay. In regards to this incident with Sergeant [redacted], regarding this tripping incident, you saw her escorting an EPW?

Witness:
No sir.

Counsel:
She was not escorting an EPW?

Witness:
No sir.

Counsel:
You said that you saw her try to trip this EPW.

Witness:
I saw her kicking the feet out from behind this EPW.

Counsel:
Okay. And he didn't fall down?

Witness:
According to my statement, sir, he fell down and then he was picked up by two other MPs who then took him back to the chute.

Counsel:
That's according to your statement, but you don't have a personal recollection of that, correct?

Witness:
At this time, sir, that's…I would rather trust what my statement says than what I recall at this time.

Counsel:
You remember a couple of weeks ago when you talked to one of the other defense attorneys and myself?

Witness:
Yes sir.

Counsel:
And at that time you didn't actually remember this EPW falling down at that time either, correct?

Witness:
That's correct sir.

Counsel:
Again you looked at your statement.

Witness:
Yes sir.

Counsel:
And you don't have any idea whether this particular EPW, that you saw tripped, you don't have any idea if he was an assassin or a high-profile EPW, correct?

Witness:
I don't recall which one it was, no sir.

Counsel:
But you know that he fell and was picked up.

Witness:
Yes sir. According to my statement, that's what happened.

Counsel:
You didn't see any injuries on him whatsoever?

Witness:
Sir, at this time I was about, I want to say about thirty meters from where he was at.

Counsel:
From that distance, you couldn't see any visible injuries?

Witness:
No sir.

Counsel:
You didn't see him having any.....At that time you did hear the escort say that he was resisting, correct?

Witness:
I heard him yelling at him. I don't recall exactly what they said.

Counsel:
They were saying stop resisting, does that sound right?

Witness:
I don't recall that, no.

Counsel:

You don't have any whether that EPW that you saw had any sort of history of faking injuries or falling down, or anything like that?

Witness:
No sir.

Counsel:
Let's talk about the interpreter. This person you identified as the interpreter or interrogator was possibly involved with the [redacted] case, correct?

(b)(6)-3; 7(c)-3

Witness:
That's what we had heard, sir, yes sir.

Counsel:
And you said that he was drug with his shorts down around his ankles.

Witness:
His pants were down around his ankles, yes sir.

Counsel:
You didn't see anything happen prior to that, correct?

Witness:
No I did not, sir.

Counsel:
And you have no idea whether he had a pattern of refusing to walk or of sitting down, or anything like that?

Witness:
I have no idea what his issue was, sir.

Counsel:
In regard to the Major that was charged with rape, you specifically remember Sergeant [redacted] calling attention to the fact that this guy was a police Major believed to have raped someone, correct?

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

Witness:
I just know that that's Sergeant [redacted] proper procedure. He always does that. Whenever I have accepted an EPW from him being a high-ranking Iraqi civilian, lower enlisted, he will tell me this is what this person is, take him over to the staging area.

Counsel:
And you believe he did that in this case as well?

Witness:

I believe he did that in this case.

Counsel:
Okay. And in regards to what you actually saw, with this alleged rapist, you said you saw him get kicked on a couple of different occasions, correct?

Witness:
Yes sir.

Counsel:
And at the time that you saw this, you were about twenty-five meters away?

Witness:
Yes sir.

Counsel:
And even though there are lights, you can't see the holding area from where you were, correct?

Witness:
The holding area sir?

Counsel:
Correct.

Witness:
The holding area is in the very back, over the top of the hill, that's correct?

Counsel:
And you saw this kicking where?

Witness:
I saw this kicking in the staging area which is at the beginning of the chute.

Counsel:
Right? About twenty-five meters from where you are.

Witness:
Yes sir.

Counsel:
It's safe to say that, even though it's lit, there are shadows and it's difficult to see in places back there?

Witness:
Yes sir.

Counsel:
And you said you saw him get kicked?

Witness:
Yes sir.

Counsel:
And then you said that there was a pause or there was a stop for a significant amount of time?

Witness:
For some amount of time, yes sir.

Counsel:
For some amount. And then you saw him get kicked again.

Witness:
Yes sir.

Counsel:
And you saw a couple of people holding his legs.

Witness:
Yes sir.

Counsel:
And do you remember having a conversation, the same conversation I referred to with one of the other defense counsel and myself a couple of weeks ago?

Witness:
Yes sir.

Counsel:
And at that time do you remember saying "I really couldn't tell who was holding his legs"?

Witness:
I remember stating that it was Staff Sergeant McKenzie, and then I remember stating that it was the Sergeant First Class. But I do remember stating that there was a "light-all" unit, and there was, it was like a, it was mainly lighting up the chute area and then there was an area where the shadows trailed off at the beginning of the chute.

Counsel:

Do you remember saying that, because of the lighting and the distance, it made it difficult to identify who that was?

Witness:
Yes sir.

Counsel:
And you remember saying that the two people that you saw, actually had their back to you?

Witness:
Which two people, sir?

Counsel:
The two people you saw holding the legs, they had their backs to you?

Witness:
The one individual had their back to me. The other individual was off into the shadows.

Counsel:
Okay. So basically you couldn't see either one of them well?

Witness:
That's correct sir. I saw them as they were going down to hold the ankles. I identified one as Staff Sergeant McKenzie because he was the tallest one there. The other one I believe to be the Sergeant First Class.

Counsel:
You never sought any medical treatment or tried to make sure that any of these people that you saw being abused or assaulted, you never tried to make sure that they got medical treatment?

Witness:
These people were taken back to the processing area and I reported the incident to Staff Sergeant [redacted] as soon as I saw him next.

(b)(6)-4; (c)-4

Counsel:
Okay, you reported it to Staff Sergeant [redacted] when?

Witness:
As soon as he came back from the 800's Brigade TOC.

Counsel:
Okay. You have a pretty good feel. You're probably two hundred pounds or so?

Witness:
About two-thirty, sir.

Counsel:
About two-thirty, okay. And you're probably about the same shape now as you were back then, would you say?

Witness:
Yes sir.

Counsel:
You never stepped in to stop any of the kicking or tripping or dragging.

Witness:
No sir.

Counsel:
But you certainly think that you have the physical strength to do that if you wanted to, correct?

Witness:
If I had to, yes sir.

Counsel:
After, at the end of this evening, you got together with the other people in your team?

Witness:
Yes sir.

Witness:
Yes sir.

Counsel:
Okay. Was it just the people in your team or the people in your squad that were there?

Witness:
I believe it was the people in the squad, sir.

Counsel:
And you talked about what each of you had seen?

Witness:
I don't recall what we had talked about. We didn't talk a very lengthy discussion. I just remember hearing that there were going to be sworn statements that were going to have to be made.

Counsel:
Staff Sergeant [redacted] said you were going to have to make a sworn statement?

Witness: (b)(6)-4; (7)(C)-4
Yes sir.

Counsel:
He said that to everyone?

Witness:
Yes sir.

Counsel:
There ever been any complaints of abuse against EPWs made against your squad or your company?

Witness:
Not that I'm aware of sir.

Counsel: b6-4 b7(C)-4
Specialist [redacted] have you been read your rights at any point in this investigation?

[Objection by the trial counsel: MAJ [redacted] (b)(6)-2; 7(C)-2

Objection. I'm sorry, this line of questioning is starting to irritate me. This is an implied effort to try to impugn the character of these witnesses. These witnesses aren't being charged with anything. This isn't relevant to the issue of whether the soldiers who have been charged, committed an offense. And it's just a dirty trick to try to make these out, the soldiers who are testifying, to be criminals, when they aren't. And I would object to that question being repeatedly asked. That's the third time that question's been asked.

CPT [redacted] (b)(6)-2; 7(C)-2
Sir, can I be heard? My client--some of the other accused are charged with dereliction of duty for not stepping in, not reporting these alleged incidents. The fact that other people who claimed to have seen these acts, were not charged, were not advised of their rights, and basically have not undergone any sort of investigation for, basically, exactly the same thing that each of these soldiers are being charged with, is relevant. It's absolutely relevant.

MAJ [redacted] (b)(6)-2; 7(C) 2
Sir, the very reason why we're here is because these soldiers stood up and reported this incident the very next morning, actually that night, and then came back and reported it to their chain-of-command. The reason why we're here today is because these soldiers did

their duty, and some how impugn their character to say they didn't do their job by failing to report this is simply flying in the face of the truth.

I/O:
Your objection will be noted in the report. Go ahead and ask the question.

Counsel:
Thank you sir. Have you been advised of your rights for dereliction of duty?

Witness:
No sir.

Counsel:
Okay. And you have not been charged with dereliction of duty?

Witness:
No sir.

Counsel:
You have not been charged with anything surrounding the events on twelve May?

Witness:
No sir.

Counsel:
Thank you Specialist [redacted] (b)(6)-4, (7)(C)-4

I/O:
Other questions from the defense?

Questions by the defense counsel: [redacted] (b)(6)-4, (7)(C)-4

Counsel: (b)(6)-4, (7)(C)4
Specialist [redacted] you said that during the briefing that you initially had at Camp Bucca, you were discussing some of the S's that included shout, shove, show and shoot?

Witness:
Negative, ma'am. The five S's are search, segregate, safeguard, I can't recall at this time. There's a separate list of five S's that basically is a guideline for the EPW escort process.

Counsel:
Do you recall at the beginning of your testimony today using the S's of shout, shove, show and shoot?

Witness:
Yes ma'am. Those are use of force guidelines. There's a distinction.

Counsel:
And those use of force guidelines were discussed at the initial briefing at Camp Bucca, correct?

Witness:
(b)(6)-4; 7(C)-4
I'm not sure ma'am. I know that Staff Sergeant [redacted] gives the convoy briefing. Staff Sergeant [redacted] gives the ROE briefing. When they gave that briefing to the 320th's staff, and the drivers to our trucks, I was not present at that meeting.

Counsel:
So you were not present during any of the initial briefings that occurred?

Witness:
No ma'am.

Counsel:
You're not sure exactly what was said during this initial briefing?

Witness:
No ma'am.

Counsel:
Your mission is to escort the EPWs from point A to point B, correct?

Witness:
That's correct.

Counsel:
And it's to safeguard those EPWs as you're transporting them, correct?

Witness:
Yes ma'am.

Counsel:
How long have you been a military police officer?

Witness:
Since August of last year, ma'am.

Counsel:
And what is your civilian occupation?

Witness:
I am a police officer recruit in Lexington, Kentucky.

Counsel:
How long have you been a police officer in your civilian life?

Witness:
I am not a police officer ma'am. I am a police officer recruit.

Counsel:
I'm sorry.

Witness:
I am not a police officer in my civilian job, ma'am…I'm a police officer recruit there's a distinction.

Counsel:
You're a police office recruit?

Witness:
That is correct.

Counsel:
So you're still in training?

Witness:
Yes ma'am.

Counsel:
Okay, so…as part of your training you're taught about crime prevention I assume, correct?

Witness:
Yes ma'am.

Counsel:
And about if you see a crime in progress you supposed to intervene, correct?

Witness:
Yes ma'am.

Counsel:
Now, your testimony before this hearing today is that you witnessed these individuals kicking this EPW and you stood your post?

Witness:
Yes ma'am.

Counsel: Thank you, no further questions.

Questions by the defense counsel: CPT [redacted] (6)(6)-2, 7(c)-2

Counsel:
When you guys got to Camp Bucca…you described it as a "ghost town", right?

Witness:
Yes ma'am.

Counsel:
Then later on, some soldiers from the in processing, I guess, unit came over to help you out, right?

Witness:
Yes ma'am.

Counsel:
And at one point there were about ten people running around escorting soldiers, right?

Witness:
That is correct.

Counsel:
And there weren't even putting these guys down in one staging area, right?

Witness:
That is correct.

Counsel:
So you had two separate staging areas, right?

Witness:
Yes ma'am.

Counsel:
And at least ten escorts running around with EPWs as well, right?

Witness:
Yes ma'am.

Counsel:
Okay, did you know any of those guys that came from the other unit?

Witness:
No I did not ma'am.

Counsel:
Now, you testified today that SSG McKenzie...you testified that he was involved in some of this this rough handling, right?

Witness:
Yes ma'am.

Counsel:
You actually used his name

Witness:
Yes ma'am.

Counsel:
You also testified that your sworn statement is probably more accurate because it was taken closer in time to the events, right?

Witness:
Yes ma'am.

Counsel:
You didn't identify SSG McKenzie by name in your sworn statement, right?

Witness:
That's correct ma'am.

Counsel:
You said some SSG out there, right?

Witness:
Yes ma'am.

Counsel:
Before the uh...EPWs were loaded on the bus you were working in the pit, right?

Witness:
That's correct.

Counsel:
Did you guys search them before you put them on the bus?

Witness:
Don't recall ma'am.... I don't know if they were searched on the other side of the bus...I know that typically, since we take them from a secured facility into our custody and into a secure facility uh which is ABC which they go...uh-- I don't think that the search is a common practice, because they're already in a secured area.

Counsel:
The secured area being.... much like they've got down here, right?

Witness:
Yes ma'am.

Witness:
Constantina wires.

Witness:
Yes ma'am.

Counsel:
Sand?

Witness:
Exactly.

Counsel:
Okay, you didn't search them in the pit?

Witness:
No I did not ma'am.

Counsel:
Did you put flex-cuffs on any of them or handcuffs?

Witness:
No ma'am.

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

Counsel:
Did you, from you vantage point, did you ever see SGT [redacted] uh...throw EPWs off the bus?

Witness:
No ma'am.

Counsel:
Did you ever see him head-butt an EPW as he's taking him off the bus?

Witness:
No ma'am.

Counsel:
When you talked about these leg sweeps, SSG McKenzie was standing directly next to the EPW that he was escorting, correct?

Witness:
That is correct.

Counsel:
They were hip-to-hip?

Witness:
Pretty much ma'am.

Counsel:
And his back was to you as this was happening?
Witness:
That's correct.

Counsel:
And the times that you've put people in the prone, you talked about that talked about putting people in the prone, you had other people there to assist you, correct?

Witness:
Yes ma'am.

Counsel: Thanks Specialist [redacted] (b)(6)-4, 7(c) 4

I/O: Major?

Questions by the defense counsel: [redacted] (b)(6)-2, 7(c) 2

Counsel:
I have a few questions about this interpreter, I'll start with him, on the bus, do you recall what he was wearing?

Witness:
As I recall it was a pair of brown pants, and a like a yellow wide-wing 70s shirt, I mean it was pretty …pretty good clash (laughs).

Counsel:
Okay, thank you…and when he went down into the stairwell (b)(6)-4, 7(C)-4 yelled for him to come back up, right? Or shouted something at him?

Witness:
Yes ma'am.

Counsel:
And he didn't come back up right away, did he?

Witness:
I recall him coming back up, ma'am-I'm that sure.

Counsel:
You don't?

Witness:
I do.

Counsel:
You do…but um.. (b)(6)-4, 7(C)-4 had to train his gun on him?

Witness:
Yes ma'am.

Counsel:
And that's the shotgun?

Witness:
Yes ma'am.

Counsel:
But how close was the weapon to the EPW?

Witness:
Um…probably 8 feet, 9 feet.

Counsel:
So he had to use the weapon to make him come back up?

Witness:
Yes ma'am because he was not…he was…there were other EPWs in his way, so he could not go over there and physically bring him back up into the bus.

Counsel:
So it did take the weapon to motivate this man to come back.

Witness:
Apparently ma'am, you'd have to ask [redacted] (b)(6)-4; 7(c)4

Counsel:
Well you were on the bus? And witnessed this?

Witness:
Yes ma'am.

Counsel:
And the EP…the interpreter that you said was dragged and his pants fell down…is that the same interpreter we're talking about?

Witness:
I believe so ma'am, yes.

Counsel:
And when you saw him being dragged…could explain again how the uh…escort was holding him?

Witness:
I believe the uh…he was bound, I think, he was bound by the wrist, but I know that the person that was escorting him was on the left arm, he had him by the elbow, the interpreter's left elbow was up like this, I can't remember if he was bound or not. He had him by the left elbow and the individual was dragging him towards the staging area.

Counsel:
Was the interpreter's entire body on the ground? Or were his feet kind of just dragging?

Witness:
Uh…probably from about mid-chest down was on the ground.

Counsel:
And he wasn't walking because his pants fell down?

Witness:
He wasn't walking because he was being dragged across the ground ma'am.

Counsel:
And you don't...you didn't see what happened before that to...

Witness:
No I did not.

Counsel:
Did you notice this interpreter back up at Talil when he was boarding the bus?

Witness:
I noticed him only once I got on the bus and identified our English speaker.

Counsel:
Do you recall him pulling his pants up constantly during the bus ride?

Witness:
No I do not.

Counsel:
You all got together and discussed uh...what happened that night after all the EPWs were downloaded, your squad got together and talked a bit, right?

Witness:
Yes ma'am.

Counsel:
And who was there?

Witness:
(b)(6)-4; 7(c)4 I believe it would've been SGT [redacted] SPC [redacted] SGT [redacted] myself, and SSG [redacted]

Counsel:
What was discussed?

Witness:
(b)(6)4-7(c)-4
We were just telling SSG [redacted] hat we had seen uh...so he could have a full report to
(b)(6)1-7(c)1 MAJ [redacted] h...he had said that we were gonna do some sworn statements, there were gonna have to be done probably the next day-it was late. Get up and do them in the morning and we broke and went to bed.

Counsel:
And have you talked to anybody in your squad about the events of that night after that meeting?

Witness:
I may have ma'am I'm not sure.

Counsel:
Did you talked to anybody here at Bucca since you've been here to testify um..before you testified about …the events that…happened….that you….that night?

Witness:
No ma'am.

Counsel:
When was the last conversation you had with your squad, anybody in your squad, about this?

Witness:
Other than the newspaper article, if we're talking specifically about the case and what happened that night, I can't tell you ma'am. I mean, something may have been brought up here and there but there's never been full-out detailed discussions of …why this happened or what should have been…we talked about, you know, some we wish we would've done something. We wish we should've done something that night, instead of waiting the next morning to do the uh…sworn statement. Unfortunately, it's easy to armchair quarterback.

Counsel:
Okay, I have no further questions. Thank you.

I/O:
Major [redacted] (b)(6)-2 ;(7)(c)-2

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)-2 ;(7)(c)-2

Counsel: (b)(6)-4 ;7(c)4
SPC [redacted]st a couple…when you got together with your squad that night, after you had finished with the mission, um…and you discussed this matter; had you ever seen MPs treat prisoners this way before?

Witness:
No I had not.

Counsel:
Did that have any effect on your decision to report it?

Witness:
Yes.

Counsel:
What effect did that have?

Witness:
Uh...we pretty much had to report it.

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

Counsel:
Now, I think you were being asked by CPT [redacted] if a prisoner is resisting then I think the words that he used were, "the perfectly acceptable thing to do is to put the EPW to the ground".

Witness:
Right.
Counsel:
And you said that that was true?

Witness:
To place them on the ground, yes, sir.

Counsel:
Is the manner in which SSG McKenzie was doing that, the "perfectly acceptable thing to do"?

Witness:
Absolutely not, sir.

Counsel:
And why is that?

Witness:
Because they're was very susceptible to injury in the neck and the head.

Counsel:
And that's because of they way he was doing it?

Witness:
Yes sir.

Counsel:
And how was he doing it?

Witness:
He was almost hip-tossing them up into the air and driving their head into the ground.

Counsel:

Now, there were some questions about the different status of some of these prisoners; to your knowledge, is it acceptable to abuse prisoners because of their status?

Witness:
No sir.

Counsel:
Because no matter what a prisoner's status, whether they're a suspected war criminal or a foot soldier from the enemy forces, you treat them the same, right?

Witness:
Yes sir.

Counsel:
Based on their status? I mean if they conduct themselves in ....

Witness:
We treated them the same based on our professionalism, sir.

Counsel:
If they act differently, then they...

Witness:
Yes sir.

Counsel:
But, just because of who they are...

Witness:
No.

Counsel:
There's no basis to treat them differently is there?

Witness:
That's correct sir.

Witness:
Counsel:
Now, let's go to that person that you saw being...the prisoner that you call the interpreter that was being drug across the ground, you have identified the person that you saw dragging him across the ground?

Witness:
That is correct.

Counsel:
And that was SPC [redacted] (b)6-5; (7)(c)-5

Witness:
Yes sir.

Counsel:
Alright, now…if, from your training, if a prisoner won't get up, is it proper procedure to drag the prisoner across the ground?

Witness:
No sir.

Counsel:
Is it proper procedure to drag him across the ground with their pants around their ankles?

Witness:
No sir.

Counsel:
Um…you mentioned that…when you were asked some questions about whether you had identified this SSG by his name in your statement, and you did not identify SSG McKenzie in this statement, did you?

Witness:
That is correct.

Counsel:
But on your mission that night there were the 220th-the 223rd, excuse me-and the 320th, right?

Witness:
That's correct sir.

Counsel:
And there were two SSGs total, correct? SSG [redacted] (b)(6)4; 7(c)4

Witness:
That's correct.

Counsel:
And SSG McKenzie?

Witness:
That's correct.

Counsel:
Were there any other SSGs?

Witness:
Not that I was aware of.

Counsel: (b)(6)-4; (7)(c)4
And did you see SSG [redacted] throwing prisoners to the ground?

Witness:
No sir he was at the Bucca TOC.

Counsel:
Did you see him pulling anybody's leg apart while somebody kicked him in the groin?

Witness:
No sir.

Counsel:
Okay, so…but you're sure that it was the other SSG that was doing this?

Witness:
Yes sir.

Counsel:
All right. Thank you, I don't have any further questions for you.

I/O:
Anything from the defense?

[The witness was duly warned, dismissed and left the room.]

[Comment for the record by defense counsel: CPT [redacted] (b)(6)-2, (7)(c)-2

Before we get started, I just wanted to take up something about one of the dialogues that happened earlier. The Trial Counsel said that the Defense was "pulling some sort of dirty trick in an attempt to impugn the character of witnesses" by asking them if they had been read their rights or charged, and it is my understanding is even people that are read their rights and charged are innocent until proven guilty, so I hope that there is no implication here that because our clients are charged that they're somehow guilty or bad people or something like that. So I just wanted to state for the record that hopefully that's not anybody's understanding of the comments that were made. Thank you.

I/O:
Okay, that's not my understanding.

DIRECT EXAMINATION

(b)(6) 4-(7)(c)-4

SGT [redacted], U.S. Army, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [redacted] (b)(6) 2 - 7(c) 2

Counsel:
You were on the mission on the 12th of May to go pick-up prisoners at Talil airbase, is that correct?

Witness:
Yes sir.

Counsel:
All right, um…and uh…what was your…what were your duties for that mission?

Witness: (b)(6) 4 - 7(c)(4)
Uh…I'm a team leader, sir. My driver was SSG [redacted], um…and my gunner was SPC [redacted] We were lead vehicle on the way up there and on the way back. I did more convoy security than directly working with the EPWs themselves, when we got up there. On the..When we got back here, I did…I was in charge of the property detail and then also, I had to go jump one of the 320th vehicles, too.

b6-4 b7c-4

Counsel:
All right um…lets just go straight to the trip back ..um..the uh… during the ride back from Talil to um…Bucca, did uh…was there an incident that happened with the bus?

Witness:
Roger.

Counsel:
What happened?

Witness:
I think we were about halfway back and…uh we were lead vehicle, radio communication was not good, because one the didn't have radios-they had some handheld's, but they didn't always work in the I think the batteries were low, at that time, too. We looked back we noticed that the bus had slowed down or stopping and the rest of the convoy, so we uh..we were probably 500 to 600 meters away by then when we noticed and uh…we turned around, came back, and uh…got back with the rest of the convoy. Once we were back in the lead vehicle we had turned around probably 2 or 3 minutes past, if that, and uh…we noticed that there was only one personnel uh…outside the vehicles in front of the bus, which was directly behind us in the convoy. And uh…and everybody else had gone up inside the bus. So I immediately got out of the vehicle to figure out what was going

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

on, went to the bus, stood outside the bus with the door open, and uh....either I asked SGT [redacted] or SPC [redacted] I have it written in my statement-it's been four months now-or uh..SGT [redacted] or SPC [redacted] and uh...asked them what was going on. They said "nothing" except for the bus had blown an air hose and the drivers had got out and they were immediately working on it right there. So he said we'd be back up in 15 minutes.

Counsel:
Okay, did you actually board the bus?

Witness:
Negative.

Counsel:
So you just stayed outside?

Witness:
Roger.

Counsel:
So the bus and the vehicles escorting the bus got back underway after this with the air hose situation was corrected?

Witness:
Roger. Uh..I did witness, I don't know who, it wasn't one of our personnel because I didn't recognize the voices, on e of the 320th personnel say, "hey who's the troublemaker on the bus" and there was, I did look up into the bus, and I saw approximately 3 to 4 personnel in the aisle towards the front of the bus kinda looking at the EPWs trying to figure out what was going on.

Counsel:
okay, now...once you got back her to Camp Bucca...what happened then?

Witness:
Once we got back to Bucca uh...they weren't ready for us, nobody in the whoever was controlling the in processing was not ready for us, so we probably had to wait about 45 minutes for them to get the property personnel, whoever was in charge of basically signing over the EPWs for them. So uh...that took about 45 minutes uh...me and SSG [redacted] both had left to try and round up people to try and get them out there so we could hurry up and get this over with because by that time I think it was ...oh it was like 2130 or something like that...um...and so it had been a long day and uh.... They finally get everybody there. SGT [redacted] stood at the front of the bus, and he proceeded to uh, we'd take about five personnel off the bus at-a –time, they line up, get down to the bottom of the steps, SGT [redacted] would check their ID, the wristband, and then shout out the name and he would also ask them, you know, if they were civilian, Republican Guard, you know, and etcetera, just so they would know how to segregate them once they

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

put them into the holding are. Um…immediately, I'd say it was with the first couple of 'em, he noticed when they were being taken off uh…and they were taken over, what they'd do is they'd take them off the bus, take them about 15 feet away, line them up in a line of five, and from there-after they got the five out there-they would take them to the holding are. Um…it was either the first person or the second person in the group … It was either the first person or the second person on the bus was the …uh…EPW with crutches and uh…that person was being taken over from the bus to just where they would set them down and he was basically being tripped up while he was being carried over there. And was kinda just like, kinda if you did the right leg in front of his left leg and threw him to the ground.

Counsel:
Did you see who did that to him?

Witness:
Uh…negative, I just remember seeing it kind of out of the corner of my eye type of thing.

Counsel:
So you don't have any idea who it was that?

Witness:
Negative.

Counsel:
So you don't know if it was a 223rd soldier or a 320th soldier?

Witness:
Uh…negative, at that time, if I remember right, I don't think any of our personnel were actually escorting over that part of the …I could not answer that question to the best of my knowledge.

Counsel:
Now, after this was over with you made a …you gave a written statement to the uh..CID, did you not?

Witness:
Roger.

Counsel:
Um…and that was on the 14th of May?

Witness:
Roger.

Counsel:

Do you remember telling them, in that statement, or writing in that statement that it was a 320th MP that had tripped the prisoner on crutches?

Witness:
Um…I do remember saying that, sir, and uh…that being two days from the time of the moment that would be the correct statement.

Counsel:
You're willing to…, because it was closer in time to the events?

Witness:
Right, it's not something that I necessarily want to think about over these past four months, so…what's written in my statement would be the correct answer.

Counsel:
Now, but besides seeing that it was a 320th soldier, you're not sure which one it was?

Witness:
Correct.

Counsel:
So then what happened after that did…with regard to that Iraqi prisoner who was on crutches…he was tripped up?

Witness:
Yes sir.

Counsel:
What happened to him?

Witness:
Sir I think it would be best probably if I did review my statement at this time.

Counsel:
You need to refresh your recollection?

The Government marked the witnesses statement as Exhibit 4 for identification and was allowed to review it for recollection.

Counsel: Does that refresh your recollection SGT [redacted] (b)(6)(4) -(7)(c) - 4

Witness:
Yes it does sir.

Counsel:
Okay, I think we were talking about the Iraqi prisoner on crutches?

Witness:
Roger.
Counsel:
What did you observe after he was tripped up?

Witness:
After I...he was tripped up I didn't immediately see anything happen with him. um...I saw approximately two to three EPWs after that taken out off the bus and I saw them thrown to the ground using a leg-sweeping move. That's basically where you use your right leg and it's swung back, and the way they were transporting them is they're putting their arm kinda through the front of their arm in between the arm and the body, and to the back and over the shoulder. So basically, to me, that's almost the perfect way as if you want to throw somebody to the ground all you have to do is rotate your body and they would immediately get thrown to the ground.

Counsel:
And when you say they, who do you mean, SGT [redacted] (b)(6) 4 - 7(c) 4

Witness:
Well, that's not how 223rd escorts personnel, so the 320th .

Counsel:
You remember specifically anyone in the 320th that you observed doing this?

Witness:
I don't know the name it was...uh white male, 5'5", specialist-if I remember right, a do-rag, a tattoo on his arm..

Counsel:
Do you remember what kind of a tattoo it was?

Witness:
It was long, that's all I can remember.

Counsel:
It was long?

Witness:
Yes, or actually 8 inches or so, immediately after this incident you could kinda hear like some wailing slash crying from the EPW and it wasn't something I wanted to see and so and I immediately then also got put on the property detail and so I was …the property person never showed up. So actually I had to end up trying to track him down, too.

Counsel:
Let's talk a little bit about the um…soldier from the 320th that you saw that you just described. What was that soldier doing? The one that you described that had the tattoo that was…

Witness:
He was escorting them from the bus to the group of five, where I would be

Counsel:
When he was escorting the prisoners from the bus, what was he doing with the prisoners?

Witness:
He was handling them roughly, we hadn't been having any problems with EPWs at all, besides them talking and we'd tell them not to and they'd stop. But uh…basically one time, when he threw him to the ground, he kinda put like one leg on one foot on his back and kinda crouch down like this and put the knee like at the top of the back top…lower neck area. And that was the most that I saw from that situation right there.

Counsel:
Okay, you say he threw that prisoner to the ground first?

Witness:
Roger, using that same move I just…

Counsel:
With having his arm woven up into their back with their arms behind their back?

Witness:
Roger.

Counsel:
And what were these prisoners…what was the situation with their hands. Were their hands free?

Witness:
I couldn't say for all of them I know, obviously the guy on crutches, he couldn't have been on crutches if he had his hands bound, but uh…if I recollect correctly some of them were bound with medical tape.

Counsel:
What about the one that you observed the specialist threw into the ground and put his knee in his back?

Witness:
The ones that you really couldn't necessarily do the move unless their hands were bound, so those three EPWs arms were bound.

Counsel:
Their arms were bound?
Witness:
Yes.

Counsel:
Okay, and...he did that with three different EPWs?

Witness:
Roger.

Counsel:
Were they...did you observe these EPWs?

Witness:
I mean, I observed the situation and it happening I didn't try to remember who they...which EPWs they were.

Counsel:
I understand...did you see them resisting?

Witness:
No sir I didn't see any resisting...the most resisting I saw was at Talil, and that was basically the same guy that was on crutches, he fell down and didn't want to get back up. But he was just picked back up off the ground and everything was fine.

Counsel:
Now, when he was...let's go to that, when he was picked back up from the ground do you remember who picked him up?

Witness:
If I remember correctly it was an E8 from 744, and basically they were all lined up and ready to be put on the bus, and he was last one on the line and he was leaning kinda on the guy in front of him. And you don't know if he's necessarily resting or is he just whispering in the guy's ear, so he went back there to just move him back , just pull him back like you know a foot.

Counsel:
And this was the E8 from the 744th that went back there to move him?

Witness:
Roger.

Counsel:
Okay, so he went back there to move him…I'm sorry go ahead…

Witness:
And he pulled him back, and he walked away, after he moved him back he was about five feet away, and the guy just, either lost his balance on purpose or just lost his balance, and he fell back and he started crying. An he comes walks back and the guy really wasn't like trying to get himself up by himself and he got him back up. And right at that time, I was standing approximately 20 feet away, I was with the vehicles, we were lined up like this, all the vehicles lined up like this, EPWs right there, and we had our two vehicles right here and I was standing with two 320th personnel, and one of them made a comment of you know next time he falls let us take a crack at him. And that was a female E5, 5'6" about 150 pounds.
Counsel:
Is that person in the hearing room today?

Witness:
No.

Counsel: b6-4 B7C-4
Now, SGT [redacted] going back to the three prisoners that you observed the specialist from the 320th with the tattoo throw to the ground. Did those prisoners say anything or make any noise when they were thrown to the ground?

Witness:
Yeah like a….more like a yell, like a shriek or scream, but I mean, they made noise I couldn't necessarily describe it per se.

Counsel:
Did it appear that they were in pain, or was it some other kind of scream?

Witness:
When they got on the ground it seemed like they were all in pain, I would definitely agree so.

Counsel:
The um…prisoner that was on the crutches, you said you saw that prisoner knocked to the ground, then you said your attention…you don't remember what happened to that prisoner after that?

Witness:
Correct.

Counsel:
Do you remember writing in your statement back in May that you then saw that person "half-dragged to the holding area"?

Witness:
Correct...that was after they got the group of five, so it wasn't immediately like the incident right when he was taken off the bus, so uh.....he was on crutches, he wasn't walking fast enough, and so uh...personnel on each side of the EPW on crutches basically half dragged-carried him over there because he wasn't going fast enough for their speed.

Counsel:
Did you hear that man, that Iraqi prisoner, did he say anything or make any sounds?

Witness:
He made the same crying noise he made the time before and he also uh...cried a little at Talil when he fell, too.

Counsel:
And you indicated that at some point you had to go jump-start a vehicle?

Witness:
Roger.

Counsel:
Let's talk about that for a second. When did that happen?

Witness:
That happened about the same time I was doing the property. I started off trying to round up that personnel. That person was supposedly come back, so I went back they needed a jump, so I drove my vehicle all the way around to the back of the bus where that vehicle was, and got out my slat cables and proceeded to jump-start that vehicle.

Counsel:
And when you did that were you away from the site where they were escorting the prisoners?

Witness:
I was only about fifty feet away, but I wasn't directly involved with anything else after that.

Counsel: (b)(6)-4, (7)(c) 4
Sergeant [redacted] nk you. I don't have any further questions for you please answer any questions that anyone else may have for you.

I/O:
Questions from the defense? CPT [redacted] (b)(6)-2, (7)(c)-2

CROSS- EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6) -2, (7)(c) -2

Counsel:
You've been with the 223rd since 1999?

Witness:
Yes sir.

Counsel: (b)(6)-4; (7)(c) 4
And you've known SGT [redacted] since you got there?

Witness:
Roger.

Counsel:
And he was initially your team leader?

Witness:
Roger, we were deployed to Bosnia and he was my team leader for that.

Counsel:
So you got a chance to know the people in your squad pretty well?

Witness:
Roger.

Counsel:
And you're a pretty tight-knit-group?

Witness:
Roger.

Counsel:
You've been on several of these escort missions before the 12th of May?

Witness:

Yes sir.

Counsel:
So you pretty much have the routine down you know what you want to have done, and you know what works for you, right?

Witness:
Roger.

Counsel:
There's no set ratio though of MPs per number of EPWs, correct?

Witness:
Roger, it's more set on what type of transportation is being used.

Counsel:
And in your case whenever you went on an escort mission you would have two MPs on the bus for however many EPWs you were picking up?

Witness:
Roger, usually two MPs and sometimes even the driver of the bus is an MP.

Counsel:
So sometimes you had a driver and one other MP?

Witness:
No, it was always two security, but sometime you had three MPs on there one being the driver.

Counsel:
But that wasn't written in stone anywhere that you had to have that many?

Witness:
To my knowledge at this time no.

Counsel: (b)(6)4-(7)(c)-4
And on this mission SSG [redacted] told you this was going to be a right-seat left-seat ride?

Witness:
Roger.

Counsel:
And what does that mean to you?

Witness:
Basically it means we're there to basically show them how it's done type thing. At the main time you're kinda hoping someone else is gonna be learning your job so they can take over so you can go home.

Counsel:
Did you think that was possible that that might be what happened and you might be able to get to go home soon?

Witness:
It was a possibility, but it wasn't something, you know it's early May, so it's just a thing in the back of your mind kinda hoping. That's what you did for Bosnia, when you got there you did a right-seat ride, and when your leaving the group came in you did a right-seat ride with them.

Counsel:
And...so this was essentially still the 223 mission, correct? A 223 escort mission?

Witness:
Roger, except for we they had the majority of the people. We only had...we had our my truck and them we had personnel on the bus that were up in the back.

Counsel:
But your NCOs were in charge of the escort, the convoy, and in charge of the bus, correct?

Witness:
We were uh...for the most part, roger....we did not have the ranking personnel out there.

Counsel:
But SSG [redacted] was the convoy chief or the convoy commander, correct?

Witness:
(b)(6)+(7)(C)-4 To the best of my knowledge, yes.

Counsel:
And SGT [redacted] was NCOIC on the bus, correct?

Witness:
Roger.

Counsel:
You hadn't met anybody from the 320th before, correct?

Witness:
Correct.

Counsel:
You just heard the name of the unit, right?

Witness:
Roger

Counsel:
And there weren't any 320th personnel in your vehicle on the mission?

Witness:
Correct.

Counsel:
What was the communications like on the mission?

Witness:
As far as commo wise it was not good. we used to always two SINGARs in each truck, so not only can we monitor our frequency, but if we have somebody else with us we can monitor their frequency on the other radios, too. 320th provided some handhelds, but they didn't work that well

Counsel:
So on this particular convoy not all the vehicles had…

Witness:
They all had commo, but it was not good communication, correct.

Counsel:
And you were given a briefing before you left, correct? By SSG [redacted] (b)(6)4-7(c)4

Witness:
Roger.

Counsel:
And that was a briefing to your squad?

Witness:
Roger and the group was briefed also.

Counsel:
Everybody in the 320th was there?

Witness:
Roger

Counsel:
And it was covering things like convoy distance and speed?

Witness:
Roger, ROE

Counsel:
ROE?

Witness:
Roger

Counsel: (b)(6)4-(7)(C)-4
And then when you got to Talil SSG [redacted] briefed you on the personnel you were picking up or that the EPWs were?

Witness:
Roger

Counsel:
And that included some Republican Guard, a translator or an interrogator?

Witness:
Roger

Counsel:
A general and you said that at Talil you said you saw someone on crutches?

Witness:
Roger

Counsel:
Do you know who he was?

Witness:
No

Counsel:
Could he have been a FEDAYEEN major?

Witness:
I wouldn't want to answer that cause I don't really know....obviously he could have been, but I wouldn't know

Counsel:
You don't remember at all...you would not identify who he was, right?

Witness:
Not that I recollect, sir

Counsel:
At that time you remember him trying to whisper to another one of the EPWs? ....or looked like he could have been trying to whisper to one of the EPWs?

Witness:
Roger, he was just more up there leaning on somebody else's shoulder, facing away from us though, so either he was resting on his crutches or he could have been resting on him.. All kinds of possibilities, sir

Counsel:
And to make sure he wasn't whispering or conspiring or whatever there was an E8 from the 744th that pulled him away. And when he pulled him away, as far as you could tell the E8 from the 744th didn't throw him down, correct?

Witness:
No, correct

Counsel:
The guy just fell down?

Witness:
Roger.

Counsel:
Lost his balance or whatever?

Witness:
Roger.

Counsel:
And he laid on the ground and he whined and cried, right?

Witness:
Roger.

Counsel:
And he didn't want to get up?

Witness:
Roger, he didn't want to help himself up, sir.

Counsel:
And you weren't involved in all the loading, correct?

Witness:
Correct.

Counsel:
What were you doing at the time the bus was being loaded?

Witness:
I was doing more of the vehicle security at that time.

Counsel:
And you weren't watching the loading of the EPWs?

Witness:
Not real close, correct.

Counsel: (b)(6)9-(7)(c) 4
I know SGT [redacted] was at the front of the bus…loading them up and I remember how they were being set-up and everything.

Counsel:
And you said when you got back to Camp Bucca it took about 45 minutes before you even started unloading prisoners, right?

Witness:
Roger.

Counsel:
So you were just kind of sitting there waiting for 45 minutes?

Witness:
Roger.

Counsel:
Nothing was happening at all.

Witness:
Negative, just trying to get the people out there.

Counsel:

So there was no in processing personnel or certainly not sufficient in processing personnel to help?

Witness:
Roger, so everybody just stayed on the bus.

Counsel: (b)(6) 4 - (7)(C) 4
As these people were taken off you said SGT [redacted] would shout out who they were in terms of what they were suspected of?

Witness:
Not what they did it's more like if they were an officer or enlisted, civilian, Republican Guard, etcetera.

Counsel:
So whatever Intel he had on them that was what he was telling the escort, right?

Witness:
Roger, just more just so they know how to segregate them in the holding are.

Counsel:
And you said the first one you saw was this individual on crutches?

Witness:
Roger.

Counsel:
And that's the same individual you saw in Talil?

Witness:
Roger.

Counsel:
The same one that you saw in Talil fall down on the ground?

Counsel:
And when he fell down on the ground he was crying and wailing?

Witness:
Roger, I wouldn't say to the same extent, but…

Counsel:
Okay,…..didn't want to get up didn't want to move in Talil, correct? …Didn't want to help himself up?

Witness:

Roger, sir he just picked him back up and then there was no problem…but I wouldn't…

Counsel:
And he's the first one you saw get off the bus?

Witness:
Correct, he was either number one or number two he was the first one that I witnessed.

Counsel:
And your responsibility at Camp Bucca was not to escort prisoners off the bus, correct?

Witness:
We usually did help with processing people to get them out there to expedite the situation.

Counsel:
On the night of 12 May, though, your responsibility was to help out with the property, correct?

Witness:
Roger I thought you meant like unit wise.

Counsel:
(6)(6)4 -(7)(C) -4
You on the night of 12 May you were responsible for helping out [redacted] with the property, is that right?

Witness:
Roger.

Counsel:
And there wasn't anybody there from property there to take over the property to help out as usual?

Witness:
Roger, roger.

Counsel:
You were worried about that issue and that was your main concern?

Witness:
Roger, we had a large sum of money that we were hoping (laughs) that we were ready to put in somebody else's hands.

Counsel:
You were more worried about getting rid of that property?

Witness:
Roger.

Counsel:
At no time did you ever see any EPW get struck or kicked by anyone, correct?

Witness:
I personally did not.

Counsel:
And you said that you saw a couple of EPWs get their legs swept out from under them? Put on the ground?

Witness:
Roger.

Counsel:
And you couldn't tell whether they had resisted at any point before that, though, could you?

Witness:
Before that? as in a few seconds? no I couldn't, but we didn't have a problem all the way on the way back, but then there's no problem with the EPWs.

Counsel:
Not on the bus, but bottom line is you couldn't tell as they were getting off the bus whether there was any problems with resistance?

Witness:
As far as I could see there were no problems when they were getting off the bus.

Counsel:
But you did not see before the leg sweep, you did not see whether there was resistance?

Witness:
I did not see any resistance, sir.

Counsel:
Okay, earlier you said you couldn't tell or you couldn't see whether there was any resistance, is that correct?

Witness:
Roger, which would be along the same lines.

Counsel:
And when you saw this when you saw a couple of different people you said that got their legs swept out and put on the ground. Where was SSG [redacted] (b)(6)4-(7)(C)-4

Witness:
He was moving around for a while there, he was talking on the SAT phone, I forget what he was trying to get a hold of somebody on, but he's everything from I think he was right up by the bus to I think the majority of the time he was approximately about 30 feet away trying to work some other issue out.

Counsel:
Three feet away from where?

Witness:
About 30 feet away from the bus.

Counsel:
Thrity feet away from the bus?

Witness:
Roger.

Counsel:
And probably he was about 15 meters from these people you saw being leg swept?

Witness:
Roger, the bus was right here, my vehicle was right here, we came in the gate, so I was about at this area at the time, I'm thinking where he was. He was about right there and he had the walkway going to into the (inaudible) in between like Constantine wire .

Counsel:
So he was first 15 meters away from when you saw?

Witness:
Roger, approximately.

Counsel:
And during the course of the evening as you were talking about the property and that you were worried about this property issue, after you saw these leg sweeps, did you have any conversations at all with SSG [redacted] bout reporting these legs sweeps that you saw?
(b)(6)4-(7)(6)-4

Witness:
After...it either before or during property when he was over there talking about, after he got off the phone, I mentioned to him, "hey this doesn't seem right" "I'm not seeing any type of resisting and it looked like they were being handled pretty roughly"

Counsel:
Did you remember having a conversation with myself and one of the other defense counsel a couple of weeks ago?

Witness:
Roger.

Counsel:
Up at the TOC?

Witness:
Roger.

Counsel:
Did you remember at that time saying that you didn't have any discussions with SSG (b)(6) 4-7(c)-4 [redacted]about the treatment of EPWs?

Witness:
I didn't mention anything specific to him, no…I don't remember talking about it then, no I don't remember that being brought up.

Counsel: (b)(6) 4-7(c)-4
So you don't recall saying "I didn't have any conversation with SSG [redacted]about the treatment of EPWs"?

Witness:
Oh no I'm positive I mentioned that, because immediately after I was done doing property I checked in with my gunner to see if anything happened while I was gone, and then she had mentioned what she saw which I wrote in my sworn statement and I brought that up to SSG [redacted] And then he said he witnessed some stuff and he immediately from there went, I actually went with him, up to Brigade to report it.

(b)(6) 4-7(c)-4
Counsel:
So you were just mistaken a couple of weeks ago, is that correct?

Witness:
If I left it out, correct.

Counsel:
Okay, SGT [redacted], I don't have any more questions for you right now.

(b)(6)(4)-(7(c)-4

Questions by the defense counsel: CPT [redacted] (b)(6)-2-7(c)-2

Counsel:
SGT [redacted], you said that you saw the Iraqi on the crutches get tripped up, correct?
(b)(6)-4;(7)(c)-4

Witness:
Roger.

Counsel:
And you said you saw him get tripped up, but you don't know by who?

Witness:
Correct.

Counsel:
After he got tripped up he was on the ground, correct?

Witness:
Roger.

Counsel:
And that was similar to how he was on the ground up in Talil, correct?

Witness:
Negative, he wasn't on his--he fell back in Talil, he was on his face and everything sprawled out at uh...here at Bucca.

Counsel:
After you saw him on the ground you did not see anyone go over and begin to kick and punch him, correct?

Witness:
I didn't watch the situation after that, correct. And so I didn't see anything-- I just didn't watch the situation anymore.

Counsel:
At no time during your duties that night did you ever see any EPWs with any injuries, correct?

Witness:
I saw some EPWs had medical uniforms on, but I didn't see any injuries myself that happened that night, correct.

Counsel:
They had medical uniforms on from up in Talil? But you did not see anybody sustain any injuries that night?

Witness:
Right.

Counsel:
Thank you, SGT [redacted] (b)(6)-4;(7)(C)-4

I/O:
Major [redacted] any questions?

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

Major [redacted]
No, sir.

I/O:
Major [redacted] any redirect?

Major [redacted]
No, sir.

Questions by the Investigating Officer: LT [redacted]

I/O: (b)(6)-4 (7)(C)-4
SGT [redacted] when you said uh…you said you saw this Iraqi major who was on crutches uh…half dragged half carried away after he was taken to the ground. Can you kinda describe that a little bit further for me in more detail?

Witness:
That was, it could've been about 5 minutes later, it was after they got the group of five and he was being taken to the "CHAD"s or not the "CHAD" but the holding area right there, so uh…it was more of a he was walking…they immediately they were escorting him and then they got to the point, instead of just holding him and escorting him there, as more of just um…half like dragging and carrying him, you know. When you're trying to hold somebody by their arms and everything it's they're gonna kinda get dragged …there was a person on each side. I couldn't see any thing anything specifically happen to him while he was being taken over there, but it was not a smooth movement from the group of five over to the holding area.

I/O:
I guess what I'm trying to ascertain is whether the dragging or the carrying, that you're describing, seemed abusive or to you or whether it was just an attempt to try and help him get--

Witness:
It appear that way…It did not appear like it was being used as a way of let's just try to help this guy move from one end point A to point B.

I/O:
It did not appear like that?

Witness:
Roger.

(6)(6)-2 -(7)(c)-2

I/O:
You said to CPT [redacted] question that you didn't watch the situation after the Iraqi major was brought to the ground?

Witness:
Roger.

I/O:
But you saw him dragged away?

Witness:
Roger, which was not within that same incident.

I/O:
What caused you not to watch the situation any more?

Witness:
It's probably more that I don't enjoy people get hurt and it's just not something I enjoy seeing, so I just more looked away. I mean, that's a lot of the reason I didn't see, I mean besides having my other duties to do, it was just not something...I knew, you could tell excessive force was being used and it's not something that I wanted to see and remember.

I/O:
And your responsibility was to assist SSG [redacted] with the property, is that correct?

(6)(6)-4; (7)(c)-4

Witness:
Roger.

I/O:
Tell me a little bit more about what that was specifically.

Witness:
It's all the EPWs' property that we received from Talil...

I/O:
Right.

Witness:
And uh…it's all in boxes or in bags or in maybe like a luggage thing .

I/O:
Underneath the bus?

Witness:
Roger, and I was in charge of getting, whoever the property person was, to take that stuff, go through it and then sign for it, so we couldn't SSG [redacted] at the time was signed for it. So we were just basically, it's part of the handing over process that needs to be done, so you know so we can complete the mission.

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

I/O:
Does anybody else have any questions?

CPT [redacted]
I just have a couple sir.

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

Questions by the defense counsel: CPT [redacted]

Counsel:
SGT [redacted] ow long have you been in the Army?

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

Witness:
Five years.

Counsel:
And how long have you been an NCO?

Witness:
NCO--a little over a year.

Counsel:
Have you been a military police officer the entire time?

Witness:
Yes, ma'am.

Counsel:
And you're saying that you just looked away 'cause you don't like seeing people get hurt? That's your testimony?

Witness:
That would be one of the reasons, yes ma'am.

Counsel:
Thanks SGT [redacted] (b)(6)4;(7)(C)4

[The witness was warned, dismissed and left the room.]

DIRECT EXAMINATION

(b)(6)4-(7)(C)·4

SPC [redacted], U.S. Army, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [redacted] (b)(6)-2; (7)(C)-2

Counsel:
You are with the 320th MP Company?

Witness:
MP Battalion 1st Platton.

Counsel:
And you are currently stationed in Baghdad?

Witness:
Abu Garab which is right outside the airport.

Counsel: (b)(6)-4; (7)(C)-4
SPC [redacted] I think you know why we're here this involves some alleged misconduct that allegedly occurred on or about the 12th of May of this year. Do you know SGT [redacted] one of the accused in this matter?
(b)(6)-5;(7)(C)-5

Witness:
Yes I do.

Counsel:
Okay, how do you know her?

Witness:
She and I met when I got involuntarily transferred to the unit, when we became battle buddies while at Fort Dix.

Counsel:
And Fort Dix was your mobilization station?

Witness:

Yes it was.

Counsel: (b)(6)-5-(7)(C)-5
After the 12th of May did you and SGT [redacted] happen to have a conversation about what happened that nigh?

Witness:
On or about, yes we did.

Counsel:
What did she tell you?

Witness:
She told me that they had had a escort mission up to Talil to pick-up some EPWs, and while there they had an altercation of sorts with one of the EPWs that was supposedly accused of rape.

Counsel:
What did she tell you happened?

(b)(6)-5;(7)(C)(5) (b)(6)-4-(7)(C)-4
Witness:
She told me that her and MSG [redacted] and I believe SGT [redacted] were involved in teaching the EPW a lesson about his conduct towards females.

Counsel:
I see...did she tell you what she did?

Witness:
That's where it gets kinda blurry...I don't remember the whole entire conversation verbatim, but I do remember she said that there were ..they did physically harm him.

Counsel:
What was her mood like when she told you this?

Witness:
What respect, what do you mean?

Counsel:
I mean, was she sad, was she happy, see what I'm saying? What was her mood like?

Witness:
She wasn't jumping for joy if that's what you're asking me, but she wasn't all upset about it either.

Counsel:
Did she say why they did that?

Witness:
Like I said it was to teach the EPW a lesson about how to treat a female. Because he was supposedly charged with rape.

Counsel:
Do you remember roughly when you had this conversation with her?

Witness:
It was either the night they got back or the next day, I can't remember exactly.

Counsel:
So it was around the 12th of May?

Witness:
Uh hmm [witnessed responded in the affirmative.]

Counsel:
SPC [redacted] thank you I don't have any further questions, but please answer any questions that anyone else may have.

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

CROSS- EXAMINATION

Questions by the defense counsel: MAJ [redacted] (b)(6)2; (7)(c)-2

Counsel:
Hello SPC [redacted] I'm Major [redacted] and I have a few questions for you.
(b)(6)4; 7(c)-4 (b)(6)-2; (7)(c)-2
Witness:
Yes, ma'am.

Counsel: (b)(6)-5; (7)(c)-5
You and um...SPC [redacted] I mean SGT [redacted] met at Fort Dix when?

Witness:
We met before Fort Dix, we exactly up in Ashley, Pennsylvania. I arrived on the 16th I met her, of February,

Counsel:
What year?

Witness:
This year, I met her on the 17th

Counsel:
And you were pretty close for a while, while you were working together over in the theater this theater, correct?

Witness:
For a while, correct.

Counsel:
Now, isn't it true that she told you that uh, originally she told you that that she and two other female soldiers took the prisoners onto the bus closed the curtains and taught them a lesson about how to treat a female?

Witness:
Yes.

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

Counsel:
Now, you knew her pretty well, when you were battle buddies, did SGT [redacted]ver talk tough to try to gain acceptance from her coworkers?

Witness:
Numerously, she was always trying to prove herself to the guys in the platoon that she was able to handle herself as a female being in an MP position.

Counsel:
And as her friend you reassured her that she was a good MP, correct?

Witness:
Yes.

Counsel:
Now, your job is to keep 201 files on each EPW? Well your job back then?

Witness:
It varies per mission that we were on...at that point in time I was an actual RTO for the 800th Brigade.

Counsel:
And what kind of record did you keep on the EPWs?

Witness:
At that point in time I wasn't keeping any, we weren't on any compounds.

Counsel:

Was there a point in time in this theater during this operation that you did keep dossiers, medical record, photos, and photo armbands?

Witness:
During this...when we were here in Bucca the last month? Yes, I did keep dossiers on each of the prisoners that were in the compound that I...that my platoon was in charge of, and when we moved up to Abu Garab I've been keeping the actual 201 files on the prisoners.

Counsel:
And at some point you switched from the numbered wristbands to photo armbands, right? to the EPWs?

Witness:
While at FREDY, the British armbands, were just numbered, and they just had the numbers on them. And as the Americans took over the processing they became the photo armbands, correct.

Counsel:
And isn't one of the reasons for that switch is that the EPWs would switch the numbers on their numbered arm uh...wristbands?

Witness:
No, the actual reason for that switch was the difference in control over who had control of the compound. It went from a British rule to American rule, and our system was using NDRS, which used the picture ID armbands.

Counsel:
And that makes it easier to identify the actual person with the number, correct?

Witness:
Correct.

Counsel:
Correct?

Witness:
Yes.

Counsel:
I have no further questions at this time.

I/O:
Any further questions from defense counsel?

Defense counsel: No, sir.

I/O:
Major [redacted] (b)(6)-2;(7)(c)-2

Major [redacted]
Yes, sir.

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)-2,(7)(c)-2

Counsel: (b)(6)-4;(7)(c)-4
SPC [redacted] in answering questions for MAJ [redacted] believe you said, she asked she said she originally told you that she had put them on the bus. Did she tell you this more that once this story?

Witness:
No, we only had the conversation about what happened once, because the next time it was brought up was when she said they were place under a gag order 'cause they were under investigation

Counsel:
So, originally there was only one conversation?

Witness:
Correct there was one conversation concerning the actions that occurred on that day

Counsel:
Okay, thank you.

I/O:
Any further questions?

Defense Counsel:
No, sir.

Questions by the Investigating Officer: LTC [redacted] (b)(6)-2; 7(c)-2

I/O: (b)(6)-4; (7)(c)-4
So let me see if I have this straight: SPC [redacted] first told you that the lesson that she spoke of was administered on the bus with the curtains pulled, is that correct?

Witness:
SGT [redacted] old me that.

(b)(6)-5;(7)(c)-5

I/O:
SGT [redacted] told you that. Okay, was there any other further versions you discussed, either during that conversation, or any other subsequent conversations?

Witness:
With SGT [redacted] any of the accused? (b)(2)-5;(7)(C)-5

I/O:
Yes, SGT [redacted]

Witness:
No.

I/O:
Did you have any other further conversations with any of the other further accused about what happened that evening?

Witness:
Not with what actually happened on that day, no.

I/O:
That implies there was something else discussed, what was that?

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

Witness:
There was one other conversation that I had with SGT [redacted] regarding...she came back from a meeting with MSG [redacted] and the other accused, or the other people that were under investigation, concerning what they were going to do in regards to how they were going to handle the investigation.

I/O:
Okay, how...who was handle what?

Witness:
The ten. The ten that were involved.

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

I/O:
Are you saying that this was a meeting among just the 320th people, from what you understood from what SGT [redacted] told you, that there was a meeting between the ten 320th personnel about how they were going to handle the situation on 12 May?

Witness:
Yes, sir.

I/O:
Okay, and were there any further details discussed between you and SGT [redacted] (b)(6)-5, (7)(C)-5 about that meeting?

Witness:
Several of the personnel were going to "take the hit" for everything. They were going to accept the responsibility and everybody else was going to supposedly not have any repercussions from this.

I/O:
And who were the individuals who were going to "take the hit" so to speak?

Witness:
MSG [redacted] SPC [redacted] nd SSG McKenzie.
(b)(6)-5; (7)(C)-5

I/O:
And was SGT [redacted] dentified, did she identify herself as one of those who was going to "take the hit"?

Witness:
No.

I/O:
And did they say why those three individuals in particular were the ones chosen or they volunteered?

Witness:
No sir, we didn't go into that discussion. I didn't ask.

I/O:
Did she volunteer this information to you?

Witness:
She had said, before she left, she said that "I had a meeting with MSG [redacted] meaning SGT [redacted] had the meeting with MSG [redacted] the other ones. When she came back I said so what happened, and that's when she told me. (b)(6)-5, (7)(C)-5

I/O:
So she told you beforehand that the meeting was going to take place and then afterwards she gave you these details about that particular meeting?

Witness:
Yes.

I/O:
And when did that meeting take place, on or about?

Witness:
To be honest, sir, I could not tell you because I don't know if you've been in the desert very long, but time comes kind of one big time span and I couldn't tell you dates.

I/O:
Estimation, within a week, or a few days, or a month?

Witness:
Probably a couple days after they were informed that they were under investigation…um….within a day, either before or after they actually… they had… their stuff was searched.

I/O:
Any other subsequent meeting, that you're aware of, that took place?

Witness:
None that I know of--And none that I was actually given any details about, so if there were I wasn't informed of them.

I/O: (6)(6)-4; (7)(C) 4
SPC [redacted] re you aware of any discussions between any of the accused and any other individuals, either about this meeting, or about any of the details alleged on 12 May?

Witness: (6)(6)-5 (7)(C)-5
No I don't um…those were the only basic two conversations I had with SGT [redacted]
I actually started to try to distance myself from the whole thing, after they were accused and it looked like it was going even further.

I/O:
Any idea where this meeting took place?

Witness:
Probably somewhere around--.no.

I/O:
Was it here on Camp Bucca?

Witness:
Yes, was probably somewhere around Fourth platoon's tent, but I can't be sure for that.

I/O:
And when you say that this took place within a few days after they were notified that there was going to be an investigation, do you mean an investigation by CID or

notification from me that this investigation was going to take place, or these proceedings were going to place? Are you aware of that?

Witness:
When the CID started their investigation.

I/O:
When CID started their investigation?

Witness:
Yes, sir.

I/O:
I don't have any further questions. Major [redacted] (b)(6)-2, (7)(C)-2

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)-2, (7)(C)-2

Counsel: (b)(6)-5, 7(C)(5)
Did SGT [redacted] ay, specifically, who was at this meeting?

Witness:
No, she just said that it was between the CID ten, so…

Counsel:
Not where, I'm sorry who?

Witness:
That's what I'm saying; she just said it was involving the CID ten, so.

Counsel:
Oh, the CID ten I'm sorry I thought you said the tent.

Witness:
Yeah, CID ten.

Counsel:
And do you know does anyone else have knowledge of this meeting that occurred besides you?

Witness:
Not that I know of.

Counsel:
You were the only person that you know that she told this to?

Witness:
Yes, sir.

Counsel:
Thank you, nothing further.

I/O:
Defense?

Defense counsel: No

[The witness was duly warned, dismissed and left the room.]

The Government requested to put the Defense on notice that this investigation will encompass the possibility of an additional charge of Conspiracy to Obstruct Justice, Article 80, UCMJ and Obstruction of Justice, Article 134, UCMJ by the accused based on the testimony of SPC [redacted] – b6 b7(c)-5

The Investigating Officer acceded to the Government's request with an objection from the Defense.

The Investigating Officer added that he would allow any opportunity to Government and Defense counsels to call or interview additional witnesses, in light of the Governments intent to amend the charges.

Counsel:
Before I begin questioning this witness, I don't see any other way other than I need to read this witness his Article 31(b) rights. Does anybody disagree with that?

CPT Ausprung:
For what offense?

Counsel:
This witness was read his Article 31(b) rights previously which resulted in a sworn statement being rendered which I've given copies to the defense. And if the defense doesn't see a need for reading the rights at this juncture until we get further into the questioning, then the government won't read them. But I don't really see--I think at this juncture I think he has to be read his rights.

I/O:
Go ahead and read him his rights.

Counsel:

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

SPC [redacted] earlier you recall you were read your rights by Major [redacted] up in Baghdad?

(b)(6)2 -(7)(c)-2

Witness:
Yes.

Counsel:
I'm going to remind you of those. First, you are suspected of possibly committing adultery, and making false statements. Before you go any further you need to understand that you do not have to answer any questions or say anything. Anything you do say can be used as evidence against you in a criminal trial. You have the right to talk to a lawyer before during or after any questioning, and to have a lawyer present with you during questioning. This lawyer can be a civilian attorney which you can arrange for at no expense to the government. Or a military lawyer detailed at no expense to you, or both.

Are you now willing to testify at this time?

Witness:
Sure.

[The witness was reminded by the Investigating Officer that he was addressing a Commissioned Officer, and that he responses should reflect that. The witness stated he understood.]

DIRECT EXAMINATION

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

SPC [redacted] U.S. Army, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [redacted] (b)(6)-2(7)(c)-2

Counsel: (b)(6)-4; (7)(c)-4
You are SPC [redacted] and you are a member of the 320th MP Battalion, currently stationed in Baghdad, is that right?

Witness:
Yes, sir.

Counsel: (b)(6)-5; (7)(c)-5
SPC [redacted] do you know SGT [redacted]

Witness: (b)(6)4; (7)(c)-4
Yes, sir.

Counsel:
How do you know her?

Witness:
We were having sexual relations.

Counsel:
All right, so she was your girlfriend?

Defense Counsel Interjected: I'm sorry I couldn't hear the response.

Witness:
We were having a sexual relationships.

Counsel:
So she was your girlfriend?

Witness:
Yes, right.

Counsel:
Are you seeing SGT [redacted] at this time?

Witness: (b)(6)-5; (b)(7)(C)-5
No

Counsel: (b)(6)-4; (b)(7)(C)-4
SPC [redacted] during the period of time that you were seeing SGT [redacted], did she ever talk to you about the events surrounding the incident that occurred on the 12th of May with some prisoners?

Witness:
A little bit.

Counsel:
What did she tell you?

Witness:
Just that she had kicked a prisoner.

Counsel:
She told you that she had kicked a prisoner?

Witness:
Yes, sir.

Counsel:
Did she tell you anything about the prisoner that she kicked?

Witness:
She just told me there was a couple people on the bus, that's about it.

Counsel:
Did she say anything about the reason why she did it?

Witness:
Basically because the rest of them were doing it.

I/O:
You have to speak up Specialist.

Witness:
Basically because the rest of them were doing it.

Counsel:
Is this difficult for you to talk about?

Witness:
A little bit.

Counsel:
Why is this difficult to talk about?

Witness:
Because I feel like a rat, it's weird ..I don't know.

Counsel: (b)(6)5-(7)(C)5
When did SGT [redacted] tell you about kicking a prisoner?

Witness:
Probably two weeks after the incident had happened.

Counsel:
So somewhere around the first of June?

Witness:
I believe so.

Counsel:
Did she say where she kicked this person?

Witness:
In the testicles.

Counsel:
And, did she mention anything about rapists?

Witness:
She said there was the General that raped little girls, on the bus, and that the female soldier that was raped, she said that one of the rapists was on the bus also.

I/O:
Could you repeat that for me, please? That last part?

Witness:
There was, the female that was raped-the female soldier, they said one of the rapists was on the bus.

Counsel:
The female specialist, are you talking about the female specialist in the 507th transportation?

Witness:
That's [redacted] (b)(6)-3;(7)(C)-3
Counsel:
[redacted]

Witness:
Yes.

Counsel:
Did she say whether the person that she kicked was the person that had raped her?

Witness:
No.

Counsel: (b)(6)4-(7)(C)-4
SPC [redacted] don't have any further questions for you. If you would answer any questions that defense counsel may have for you.

CROSS-EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6)-2;(7)(C)-2

Counsel:
SPC [redacted] you're not an MP, correct?

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

Witness:
No ma'am.

Counsel:
You're actually an R&U, repair and utilities guy?

Witness:
Yes I am.

Counsel:
You never actually did any MP work, correct?

Witness:
No ma'am.

Counsel:
Now all the R&U people they pretty much stay to themselves, correct?

Witness:
Yes ma'am.

Counsel:
So you never really had any interaction with the MPs in your unit 'til after the 12th of May, correct?
Witness:
Yes ma'am.

Counsel:
Now, this is not the first time that you've spoken about this case, correct?

Witness:
No ma'am.

Counsel:
Somebody actually came up to Baghdad to interview you a while ago, correct?

Witness:
A couple lawyers have come and spoke to me ma'am.

Counsel: (b)(6)-5; (b)(6)-5
And you told them that SGT [redacted]ad never said anything to you, correct?

Witness:
Not the lawyers that I saw in Baghdad, ma'am....the lawyers that I saw in Bucca, I saw that I did not hear anything from her. The lawyers in Baghdad I told them that I did hear things from her.

Counsel:
Okay, let's back up the timeline then. You went …the people that came to talk to you at Camp Bucca, way back a long time ago, around May. You told them SGT [redacted] never said anything to you? (b)(6)-5; (7)(C)-5

Witness:
Yes ma'am.

Counsel: (b)(6)-2; (7)(C)-2
And then myself and MAJ [redacted] actually came up to interview you, in Camp Bucca, or I'm sorry, in Baghdad, earlier this month, correct?

Witness:
Yes ma'am.

Counsel:
And we met in your uh…

Witness:
CP?

Counsel:
Exactly, and it was late at night and we had a long discussion, remember?

Witness:
Yes ma'am.

Counsel:
And you were out playing Playstation, or something like that, and we called you in to come have a discussion?

Witness:
Yes ma'am.

Counsel:
And during that meeting we asked you, "Why do you think the Government is calling you to testify?", correct?

Witness:
Yes ma'am.

Counsel:
And you said you had no idea?

Witness:

Okay, you're correct ma'am, I guess I did say that.

Counsel:
(b)(6)-5, (7)(C)-5
And you actually, you said, we asked you about SGT [redacted] correct?

Witness:
Yes ma'am.

Counsel:
And you said to us "I swear to God she never told me anything", correct?

Witness:
Yes ma'am.

Counsel:
So now you're telling us that that was a lie?

Witness:
Yes ma'am.

Counsel:
(b)(6)-5; 7(C) -5
We also asked you if you dated SGT [redacted] correct?

Witness:
Yes ma'am.

Counsel:
And you told us, "Nope, never dated her", correct?

Witness:
No ma'am I said that you really consider it dating.

Counsel:
Do you remember saying that "she's married so I did not date her"?

Witness:
Okay, yes ma'am.

Counsel:
So a couple of weeks ago you swore to God that she never told you anything, correct?

Witness:
Yes, ma'am.

Counsel:

Now you made a statement, I guess, up at Baghdad a couple of days ago?

Witness:
Yes ma'am.

Counsel:
And you said that she had actually made a statement to you?

Witness:
Yes ma'am.

Counsel:
Were you threatened in any way with being brought up on charges, if you didn't make this statement?

Witness:
No ma'am.

Counsel:
You were never threatened to being brought up on charges?

Witness:
No ma'am.

Counsel:
You never said to anybody, here at Camp Bucca today, that you only made this statement because you were threatened with being brought up on charges?

Witness:
No ma'am.

Counsel:
Now you just got swore in by the prosecutor, correct?

Witness:
Yes ma'am.

Counsel:
And you swore to God that time also.

Witness:
Yes ma'am.

Counsel:
And you swore to God back up in Baghdad a few weeks ago, correct?

Witness:
Yes ma'am.

Counsel:
Thank you SPC [redacted] (b)(6)4 (7)(C)-4

I/O:
Anyone else on the defense?

Questions by the defense counsel: CPT (b)(6)-2; 7(C)2 [redacted]

Counsel: (b)(6)4 (7)(C)4
SPC [redacted] have you been promised any leniency or promised that you won't have charges brought against you by anyone on the government?

Witness:
No ma'am, or no sir.

Counsel:
What is your understanding about what's going to happen to you in regards to these offenses that you're suspected of?

Witness:
I don't have any understanding, sir. Right now it's in the air. They haven't said they were or they haven't said they were not going to charge me.

Counsel:
Do you hope to benefit y cooperating in this investigation?

Witness:
Honestly, yes sir.

Counsel:
And have you been told that you may benefit in the outcome of your case if you cooperate today?

Witness:
No sir.

Counsel:
You've not been told by anyone that they would speak on your behalf to your command about this case?

Witness:

The major I just spoke to in Baghdad said he would give me a reference, but he didn't say that it was going to do any good. So he really isn't any benefit to it

Counsel:
Okay, but he told you he would talk to your command about trying to get you----

Witness:
Not to my command he said he would give a reference to somebody, but I don't remember who. He said it really didn't matter which way it went.

Counsel:
Thank you. I don't have anything further.

I/O:
Major [redacted] (b)(6)-2; (7)(C)-2

Major [redacted]
No, sir.

Questions by the Investigating Officer: LTC [redacted] (b)(6)-2; (7)(C)-2
I/O:
SPC [redacted] who was the individual that interviewed you in Baghdad?
(b)(6)-4; (7)(C)-4

Witness:
I don't remember his name I'm horrible with names.

I/O:
It wasn't either of the two attorneys for the government here was it?

Witness:
No, sir.

I/O:
And this individual said that he would give you a reference, but you're not sure to whom?

Witness:
Yes, sir I'm not sure who the reference was going to go to. And the gentleman also said that it wasn't really up to his reference how it would go, it was more upon the other individual.

I/O: (b)(6)-5; (7)(C)-5
Did SGT [redacted] veal to you this information voluntarily, or did you ask her about it?

Witness:

The first time, I honestly asked about it, and the last time she told me on her own.

I/O:
I'm sorry?

Witness:
The last time she told me it was on her own.

I/O:
So did you talk about it more than this on this one occasion?

Witness:
Probably two or three times, sir.

I/O:
Any additional information that she gave you about the night in question?

Witness:
Not really sir.

I/O:
Now I'm to understand that she told you that she kicked a prisoner?

Witness:
Yes, sir.

I/O:
She did it because everybody else did it? You said that according to what SGT (b)(6)-5; 7(C)-5 told you that she kicked the individual in the testicles and it was a General who had raped little girls?

Witness:
No, sir I don't know who the individual was that was kicked.

I/O:
But the General that had allegedly raped little girls and the person who had potentially raped [redacted] were among the prisoners that who were present that night?

Witness: (b)(6)-3; 7(C)-3

That's what I was informed of sir.

I/O:
That's what she told you?

Witness:
Yes sir.

Questions by the defense counsel: MAJ [redacted] (b)(6)-2, (7)(C)-2

Counsel:
The person that interviewed you in Baghdad, was it..Do you remember the rank of the person?

Witness:
I believe a Major, ma'am.

Counsel:
Was it a JAG officer, or CID type?

Witness:
I believe a JAG. Possibly from CFLCC, I'm not sure

Counsel: (b)(6)-2; (7)(C)-2
Does the name [redacted]--COL [redacted] ring a bell?

Witness:
No ma'am I'm really horrible with names I'm better with faces than anything.

Counsel:
What did he look like?

Witness:
Long face, crew cut, brown hair, no mustache.

Counsel:
How tall?

Witness:
Probably about 6 foot.

Counsel:
Thank you.

I/O:
Major [redacted] (b)(6)-2; (7)(C)-2

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)-4, 7(c)-4
SPC [redacted] did the person who interviewed you sign the sworn statement with you?

Witness:
Yes sir.

Counsel:
You put your statement in writing, did you not?

Witness:
Yes, sir. (b)(6)4 - 7(c)4

SPC [redacted] was given Exhibit 5, his sworn statement, and was asked to look at second page and verified that the person that interviewed him did sign in that space.

Counsel: (b)(6)-2; 6(c) 2
And it appears that person's name is [redacted], is that correct?

Witness:
Yes sir.

Witness: (b)(6)4-(7(c) -4 (b)(6)-5, (7)(c) 5
SPC [redacted] when you had conversations with SGT [redacted] about this matter, did she ever tell you about any meetings that she might have had with other people who were on that mission with her?

Witness:
No sir she did not.

CROSS- EXAMINATION

Questions by the defense counsel: MAJ [redacted] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)(4)-(7(c)-4
SPC [redacted] could you read what is next to the name of [redacted] Some letters and numbers…

Witness:
C…J…T…F… dash 7 and the letters S..J..A

Counsel:
Thank you.

I/O:
Anything else?

[The witness was duly warned, dismissed and left the room.]

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

DIRECT EXAMINATION

SPC [redacted] U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MAJ [redacted] (b)(6)2-(7)(C)2

Counsel: (b)(6)-4;(7)(C)4
SPC [redacted] you are in the 744th MP Battalion and currently you are stationed up in Talil, is that correct?

Witness:
Yes, sir.

Counsel:
Okay. Thanks

CROSS-EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6)2;(7)(C)2

Counsel: (b)(6)-4;(7)(C)4
SPC [redacted] have some questions for you.

Witness:
Alright.

Counsel:
What is your MOS?

Witness:
I'm a 95B, Military Police.

Counsel:
How long have you been that?

Witness:
I've been that my whole duration in the military, three years.

Counsel:
Three years?

Witness:
Yes.

Counsel:
And have your whole three years been in this unit?

Witness:
Yes it has.

Counsel:
Have you done escort missions before in Iraq?

Witness:
Yes I have.

Counsel:
EPW escort missions?

Witness:
Yes.

Counsel:
About how many?

Witness:
I can't remember off hand, about a dozen or so.

Counsel:
And the buses you use for that, that your unit uses for that, do the have physical barriers between the prisoners and yourself?

Witness:
Yes four of them do two do not.

Counsel:
Can you describe what those barriers are like?

Witness:
It's a one structure between the first two seats, and the rest of the bus is trimmed with barbed wire, and the first two seats are turned around so that you can see the back of the bus.

Counsel:
And the purpose of those?

Witness:
To keep prisoners from coming up to the front.

Counsel:
And if you're on a bus without those what's the method for keeping secure from your prisoners?

Witness:
Usually we keep seats empty between ourselves and our prisoners.

Counsel:
And the more space the safer one might feel?

Witness:
That's correct.

Counsel:
Correct?

Witness:
That's correct.
Counsel:
Is there an SOP for how many seats to keep vacant?

Witness:
No there's not.

Counsel:
Is there an SOP for when you can put an prisoner face down on the ground?

Witness:
There's a level of force matrix that we use, that all depends on the situation.

Counsel:
For instance, if you were carrying, escorting , escorting an EPW as opposed to somebody much larger than you, would you be quicker to putting that person on the ground if they were resisting?

Witness:
Yes I probably would.

Counsel:
And why is that?

Witness:
Because it'd be harder for me to control the situation without having them on the ground.

Counsel:
I direct your attention to 12 May of this year, was there a lot...did you have an escort come up to pick up prisoners from Talil airbase?

Witness:
Yes we did.

Counsel:
And about how many prisoners did you have to ship out that day?

Witness:
I believe it was about 40.

Counsel:
Could you describe the scene?

Witness:
They came and pulled into our transport area, where we load and unload the prisoners...

Counsel:
Are you talking about the escorts that came to get them?

Witness:
Yes, and we just loaded the prisoners on the bus it was within one hour. It wasn't anything exceptional.

Counsel:
Did you search them before you put them on the bus?

Witness:
No I did not personally.

They might have searched them before they put them on the bus, but that's usually up to the escort company whether they search them before or after they put them on the bus.

Counsel:
So they should be searched either before or after they get on the bus?

Witness:
Yes.

Counsel:

And the escort company is responsible for that?

Witness:
Yes.

Counsel:
And how about their hands…were they bound?

Witness:
Yes, we bound them with medical tape at the time because we didn't have zip-ties.

Counsel:
Now that day there was about 40 EPWs, is that a relatively large group?

Witness:
Usually no, that's an actual smaller group it's one bus.

Counsel:
Right, but they all went on one bus, correct?

Witness:
Yes that's correct.

Counsel:
And was there an English speaker among the EPWs?

Witness:
Yes there was.

Counsel:
And who was this man?

Witness:
He was, all that I know, is he was a teacher that was supposedly associated with the 504th incident? I think it was, he was either an interrogator or an interpreter for the Iraqis who had the American POWs.

Counsel:
The transportation company that got ambushed, is what you're talking about?

Witness:
That's correct, yes.

Counsel:
And about how tall was he?

Witness:
He was probably about my height, maybe a little shorter.

Counsel:
And how tall are you?

Witness:
I'm 5'9".

Counsel:
Say again.

Witness:
5'9".

Counsel:
Was he a hefty guy, small, build?

Witness:
He wasn't too hefty, no.

Counsel:
Describe his build.

Witness:
About my build, couldn't be more than maybe 140.

Counsel:
And do you recall how he was dressed?

Witness:
No I don't recall.

Counsel:
And what was his attitude while he was in your custody? Did he complain a lot?

Witness:
He was usually cooperative with us if we needed him for a, you know, for interpretation, but he was also the one that came to us with the complaints from all the other prisoners and told us.

Counsel:
Did he call that he wanted more room or more cigarettes, things like that?

Witness:
Yes he could have, not to me personally, that I remember.

Questions by the defense counsel: CPT [redacted] (b)(6)2-7(c)-2

Counsel: (b)(6)2-7(c)-2
SPC [redacted] you were present when they were on loading the bus at Talil that evening?

Witness:
Yes I was.

Counsel:
And you observed...did you observe the individual from the escort mission that was loading the individuals on the bus? And E6?

Witness:
Yes one of them caught my because of the knife he had, but I didn't really talk to him at all.

Counsel:
Can you describe the knife that he had?

Witness:
It was a Jungle Tool, really large, at least a nine-inch blade. It was like a monster.

Counsel:
And where did he have that knife?

Witness:
It was strapped on his flak vest.

Counsel:
Was there anything else that you noticed about this individual, about he was conducting himself on loading the bus?

Witness:
He was the taller was a lot more vocal than the rest of them, but nothing out of the ordinary other than that.

Counsel:
Would you describe him as having sort of a drill sergeant attitude?

Witness:
You could say that, yes.

Counsel:
Now you've seen a lot of units come up and drop off and load up prisoners, correct?

Witness:
Yes.

Counsel:
And have you seen other units come up and get out of line?

Witness:
There have been other units that use the same approach he does every unit's different, how it's done.

Counsel:
So the approach that he used you would classify as out of line?

Major [redacted] (b)(6) 2 -(7)(c) - 2
Objection, she's trying to put words in his mouth. He didn't say that.

Counsel:
That's why I was trying to ask and clarify it for him.

I/O:
Can you restate the question?

Counsel: (b)(6) 4 - 7(c) - 4
I sure can. Okay, SPC [redacted] you said that he had a drill sergeant type attitude

Witness:
Yeah, he was very vocal.

Counsel:
Now, tell me again about the other units that you've seen come up there.

Witness:
A lot of them they all have different methods that they use. There's some people that are as vocal as he was. Other units have a more relaxed method about it. It varies.

Counsel:
Did you ever see anybody push and shove prisoners?

Witness:
A couple of times for prisoners if they weren't cooperating they kind of gave them a nudge but I don't know.

Counsel:
Who were the units that usually did that type of thing?

Witness:
There were, I remember a couple of Marine units, in the beginning when we first got here. Were real pushy-shovey, but for the most part I can't remember what units exactly.

Counsel:
Do you recall the other day describing that as sort of a drill sergeant thing?

Witness:
Yes it was.

Counsel:
Thank you.

I/O:
Major [redacted] (b)(6)-2; (7)(c)-2

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)-2; (7)(c) 2

Counsel:
Would you characterize SGT [redacted] loud voice as out of line?
(b)(6)-4; (7)(c)-4

Witness:
Compared to other people, no I would not.

Counsel:
Was the 223rd, and SGT [redacted] were they out of line when they picked up these prisoners?
(b)(6)-4, (7)(c) 4

Witness:
Not that I know of.

Counsel:
That's all I have, thank you.

Questions by the Investigating Officer: LTC [redacted] (b)(6)-2; (7)(c)-2

I/O: (b)(6)-4; (7)(c)-4
So SPC [redacted] I'm to understand that the description, the events that you just described relate to the boarding of the EPWs onto the bus there at Talil?

Witness:
That's correct, sir.

I/O:
And those were your observations, is that correct?

Witness:
That's correct.

[The witness was duly warned, dismissed and left the room].

DIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)-2, (7)(C)-2

Counsel:
You are in the 744th Military Police Battalion?

Witness:
Yes, sir

Counsel:
And you are currently stationed at Talil Air base?

Witness:
That's correct.

Counsel:
Okay, thank you.

CROSS-EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)-2; (7)(C)-2
SFC [redacted] what are your duties up at Talil?

Witness:
A compound NCOIC for the EPW trans/shipping point.

Counsel:
Were you performing those duties on May 12th of this past year?

Witness:
Yes.

Counsel:
Do you duties include preparing EPWs for transport?

Witness:
Yes they do.

Counsel:
In the course of preparing these EPWs for transport, do you prepare manifests?

Witness:
Yes we do.

Counsel:
For the escort, for the units that are receiving?

Witness:
That's correct.

[The witness was handed a document that was marked as Exhibit 36.]

Counsel:
I'm handing you a document. Does that look like your manifest, or is that the manifest that you prepared on the 12th of May?

Witness:
It appears to be a manifest that was prepared on the 12th of May from Camp "Witford", which is the TSP. I may not have personally prepared this, but we have soldiers assigned that do prepare this.

Counsel:
Do you know how to read it?

Witness:
Yes I do.

Counsel:
Can you explain it to us a little bit? Can we ask you some questions?

Witness:
Sure, certainly.

Counsel:
It's actually the exhibit 36 on the CID report.

Witness:
Would you like me to go into what each line represents, ma'am.

Counsel:
Yes we would.

Witness:
The first line is the capture tag number, the next line is the status and these read "Released", the code...you'll see "CD" "AP" those are essentially folks that are to be assigned to the EPW and tag numbers, so that we can retrieve their property. The EPWs, on the back of their tags, are marked, again this is two-letter code. Eventually we started out with alpha, bravo, charlie, delta, and then after we got so many prisoners in each group id assigned letter codes that way we can keep all their evidence, I'm sorry I meant property in one are and then retrieve that at what time they're sent to a different location. The next line is the location and as it has one and room 13 eight, the one then the eight then the six those are representative of the compound numbers that we have and also the rooms, we do segregate people into rooms that are adjacent to the buildings that we use for Tactical Operations Center as well as our break from and it's all in a horseshoe shaped building, if you will. We do hold people separately for various reasons general officers, people of special interest, or if the people that interview them request that they be segregated or separated, sometimes we'll put them in the separate rooms for that reason. The next is self explanatory it's the name that'll be the Internee's or EPW's name, the class is officer, or civilian is the next line. The capturing unit...be the capturing unit or the unit that bring them to us at the TSP. Rank, again self explanatory here it list captain, couple lieutenants, we have a major general. And received and release dates and those would be the EPWs or CIs are receive and also the date that they're released or turned over to another unit.

Counsel:
Your practice was to try and pick people off, then get them out as quickly as possible, right?

Witness:
That's correct.

Counsel:
'Cause your facility up at Talil is a temporary facility, right?

Witness:
Essentially we're trans/shipping point, if you will we're just kind of a way station. Prisoners come down from Baghdad on their way to Bucca. They come up from Bucca on their way to Baghdad and pretty much we fed them, water them, take care of medical needs while they're in transit, if you will.

Counsel:
And as I'm looking at the class of prisoner on this particular bus you had a mix, right?

Witness:
Yes.

Counsel:
Of officers, civilians?

Witness:
Yes.

Counsel:
Enlisted soldiers, right?

Witness:
That's correct. We have some FIF, those are the Free Iraqi Forces, I guess some of them are accused of looting.

Counsel:
Now, many of these prisoners were not immediately received and turned over for shipment, correct?

Witness:
It would indicate on the received and released dated, some of them had been there for a little while.

Counsel:
Let's take the interpreter for example, how long had he been there?

Witness:
According to this we received him on the 21st …and we'd had him, it looks like about 13 days.

Counsel:
He was kept in segregation, right?

Witness:
That's correct.

Counsel:
Do you remember being given specific instructions about why he needed to be kept in segregation?

Witness:
I think the Marine headquarters had to ask that he be segregated they had indicated that he had some knowledge, or some dealings, with 507th ambush incident. We were told that he had either acted as an interpreter, or translator, or interrogator of US soldiers that were captured in that incident.

Counsel:
And you were also instructed not to let the interpreter talk to the other EPWs, right?

Witness:
Well essentially we tried not to let the interpreter, at that time we had an Iraqi interpreter that we wouldn't allow, or tried not to allow him to talk to any of the people other that translate for us. And apparently he had know this individual they were both teachers and as a matter of fact he said at one time to me, he said "he's a good man" I said he accused of doing some not so good things, so you cannot talk to him.

Counsel:
You had some other notables on this particular bus as well, right?

Witness:
Yes, here on, in the rank area, we also list, sometimes, what they're accused of. Again at the beginning the paperwork, the paper trail we didn't have a closer tighter rain on what exactly they may have been in for, later on we'd get more information, and that. More recently we've had more accurate information as people would come in, and that. There's more paperwork that follows it indicates one of the people is an interpreter, had a BAATH member, major general, MI had some interest in some of these folks, another interpreter, two lieutenants, a captain and that are indicated under the rank.

Counsel:
So where is says rank MI ATT, that means that MI was holding those people to question them?

Witness:
I believe so; I recall that that would seem a good possible…

Counsel:
And looking at the last two entries, those two prisoners have an entry of "Memo"?

Witness:
Yeah, there may have been an attached memorandum that came in with them. Sometimes we do get paperwork other times we do not that would indicate to me that we had some kind of memorandum of what the did.

Counsel:
Can you remember, from looking at the names and the numbers, what these two memos might have referred to?

Witness:
To be honest with you, no I don't

Counsel:
Do you walk through this manifest with the receiving unit?

Witness:
Yeah, actually we try to indicate to the folks that are picking them up. A lot of these folks were in fairly quickly, as indicated. They came in the same day and they left the same day, so there's not a whole lot of time to gain familiarity with the folks in that case. But we do like to point out different people that are accused of different thing, so if somebody's a trouble maker or is going to potentially offer them problems as well as people of high interest, if you will, that they should be pointed out.

Counsel:
Did you go over the manifest on the 12th of May?

Witness:
I believe I did.

Counsel:
Were those individuals, or any of the individuals of note, searched before they were placed on the 223 bus?

Witness:
I don't recall.

Counsel:
Who would be responsible for searching them before they got on the bus?

Witness:
Usually the receiving unit, it's up to them. It's a concern obviously to them to search the individuals, because they are the ones that are going to be at risk.

Counsel:
How about the binding of the hands? Who determines whether or not that's necessary?

Witness:
We ask the units, and that, sometimes we do assist them, if they don't have enough people to do searches or binding and that we'll help accommodate them. If they request them to be bound and that we use flexi cuffs or sometimes if we run out of flexi cuffs we use medical tape.

Counsel:
Thanks.

Questions by the defense counsel: CPT [redacted] (b)(6)-2;(7)(C)-2

Counsel: (b)(6)-4-(7)(c)-4
SFC [redacted] o you recall the individuals from the escort mission that were loading the bus that day?

Witness: (b)(6)-4-(7)(c)-4
I remember one SG[redacted] ems to stick out in my head, just because I talked with him we were standing in close proximity. He's about my height; he's a larger man. I do remember that he had a large knife attached to his vest, and that. That's why I remember a set of Ray Ban sunglasses on him, or similar teardrop aviator style sunglasses on. I do recall him from that day.

Counsel:
Can you describe his demeanor as he was on loading the bus?

Witness:
As he was loading the bus he has more of a command presence like a drill instructor. He raised his voice to direct the prisoners of what he wants done. "Get on the bus" you know "hurry up, get in there" and that. I think that everybody has their own way of dealing with the prisoner and whatever works for them. But again, a command presence loud voice.

Counsel:
Thank you SGT [redacted] (b)(6)-4-(7)(c)-4

I/O:
Major [redacted] (b)(6)-2;(7)(c)-2

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)2;(7)(C)-2

Counsel: (b)(6)-4;(7)(c)-4
SFC [redacted] so you were involved in moving this group of prisoners from their holding cells to the bus?

Witness:
Yes.

Counsel:
How would you characterize the behavior of this group of EPWs?

Witness:
To be honest I don't recall any marked problems getting them to the bus or on the bus. I don't recall anybody being belligerent. No major problems, I don't think we've ever had, really, any major problems at our facility with getting prisoners onto the bus. Prisoners are usually pretty willing to get on the bus, 'cause they associate moving I think with leaving.

Counsel:
Would you characterize them as cooperative as you moved them?

Witness:
I would believe so, again I recall any major issues or problems.

Counsel:
And then with SGT [redacted] beyond his loud controlling voice, did you notice anything inappropriate in the 223rd? (b)(6) -4, (7)(C) -4

Witness:
No I did not sir.

Counsel: (b)(6)5, (7)(C) -5
And also, I believe last night when we talked, you'd heard of MSG [redacted] before?

Witness: (b)(6)5, (7)(C)5
Yes, I have some familiarity with MSG [redacted] name in that she's also a State Trooper as well as I am in the state of Pennsylvania. And that my wife, I believe, worked with her at Camp Cadet. And again, my familiarity with her name I saw her briefly at Fort Dix when we were preparing to move...our train-up. I didn't get an opportunity to talk to her then, and then briefly when I was at Camp Arifjan on R&R I did see her and I did say hello to her.

Counsel:
Sir, the government has nothing else.

I/O:
Anything further defense?

RECROSS-EXAMINATION

Questions by the defense counsel: MAJ [redacted] (b)(6) 2, (b)(c) -2

Counsel:
When we talked you mentioned that in your compound you had prisoners that sometimes cried when they weren't hurt. You described on ...described on uh...I believe...that ...describe a prisoner who was crying when he actually wasn't hurt. Can you describe that for the investigating officer?

Witness:
Yes, I believe that uh…you asked about having problems in the compound and I relayed it that uh…we had very recently an individual that uh...was acting out he was throwing items at our guards uh...at what time the guards went in uh…grabbed him, took him to the ground, and removed him from the compound and placed him in a separate compound. At which time he began balling and again he was not injured. And that..We were told by the other prisoners and that they make motions that he was mentally defective in some way one prisoner spoke English said his parents had been killed and after that he hasn't been right since. They separated him put him in his own compound uh..At what time he felt it necessary to open the compound gate and run out into the runway in between the compounds uh...our guards chased him and he ran into another empty compound at which time they again took him to the ground uh..Where he started balling again uh…and then they picked him up and carried him out to the uh…separation er uh..Isolation cell area that we have placed him in there 'til he calmed down. The next shift came on and within about an hour they put him into uh…another compound.

Counsel:
Thank you.

I/O:
Any further questions?

REDIRECT EXAMINATION

Questions by the trial counsel: MA[redacted] (b)(6)-2, (7)(C)-2

Counsel:
You just said that very recently happened to him like this?

Witness:
Yes.

Counsel:
Okay…when?

Witness:
Within the last week or so.

Counsel:
So that was not one of these...uh...one of the 44 prisoners that were on the bus that night.

Witness:
No it was not

CPT [redacted] (b)(6) - 2 ; (7)(C) - 2
No I didn't mean to imply that it was.

Counsel:
Okay I just wanted to clear that up.

RECROSS-EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6) -2 ; (7)(C) -2

Counsel:
It was a prisoner in your compound, right?

Witness:
Yes that's correct, ma'am

Questions by the Investigating Officer: LTC [redacted] (b)(6) - 2 ; (7)(C) - 2

I/O: (b)(6) - 4 ; 7(c) - 4
Sergeant [redacted] uh…describing this last incident that uh…you had to take that EPW to the ground? Could you describe that for me?

Witness:
Uh…there were two soldiers uh…we didn't we didn't call for the QRF at that quickly …we deal with a small volume of prisoners uh…when this individual was throwing stuff at our guards uh we had uh quite a few guards out in the uh runway including myself uh we essentially were uh just getting prisoners and placing them in their respective compounds issuing them uh…uh their comfort items their blankets, the water and that and at what time he started acting out uh..uh..one of my guards uh..A male that would've been SPC [redacted] and a female uh…SPC [redacted] then went into the compound and grabbed the individual uh and he started flailing a little bit they took him to the ground then….by his arms grabbed him, stood him up and walked him over to the other compound uh at what time then he began to flail around again they put him to the ground and uh…then he started crying and they released him and just let him in there by himself he's laying on the ground wailing and crying… (b)(6) - 4 ; (7)(C) - 4
(b)(6) - 4 ; 7(c) - 4

I/O:
Let me narrow that focus…just a little bit, describe to me, if you saw it take place…did you see did you see that take place?

Witness:
I didn't I didn't see the initial uh…take down, sir …but when they separated and put him in the other compound I did see them place him in the compound and then put him to the ground…

I/O:
Okay…how did they do that the second time?

Witness:
Uh…I think it was more by sheer physical force they just pulled down on his arms and put him to the ground..

I/O: (b)(6)-4; (7)(C)-4
Okay…that's all I needed to know okay…anybody have any further questions? Okay, sergeant [redacted] for being here today please do not discuss your testimony with any other witnesses or potential witnesses and just to put you on notice you may be recalled later in these proceedings…

Witness:
How's that, sir? Uh…are we uh…myself and my soldiers after we testify today, sir should we wait here or should we go back to Talil?

I/O:
We'll uh…we'll discuss that here in just a little bit and let you know…thank you.

[The witness was duly warned, dismissed and left the room.]

[The Article 32 Hearing recessed at 1730.]

[The Article 32 Hearing reconvened at 1845.]

(b)(6)-4; (7)(C)-4 **DIRECT EXAMINATION**

SGT [redacted] U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MA[redacted] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)-4; (7)(C)-4
For the record you are SGT [redacted] and you are with the 744th Military Police Battalion, Headquarters and Headquarters Company, currently stationed in Talil, Iraq?

CROSS-EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6)-2; 7(C)-2

Counsel: (b)(6)4-7(C)-4
SGT [redacted] you are actually a medic with the 744th?

Witness:
Yes, ma'am.

Counsel:
Now, were you serving as a medic with the 744th on the night of the 12th of May?

Witness:
Yes, ma'am.

Counsel:
Do you recall a unit coming up to pick up a group of EPWs to escort them back to Camp Bucca?

Witness:
Yes ma'am I do.

Counsel:
Okay. I wanted to talk to you a little about your recollection of some of the EPWs that were involved in that transport. What is your job there as a medic at Talil?

Witness:
At Talil my job is when prisoners come in to…physically look at them to see if they're injured, wounded uh…any major medical problems or any signs of abuse.

Counsel:
Do you recall the 44 EPWs that were involved in the transport mission that night?

Witness:
Yes ma'am.

Counsel:
Okay, I wanna draw your attention to one…do you remember if there was one on there that was a suspected rapist?

Witness:
Yes ma'am.

Counsel:
Did he have any medical conditions?

Witness:
Uh…he suffered from anxiety attacks uh…if he was pushed you know whether verbally or just if he got upset he would just freeze up on ya go somewhat catatonic just…just freeze then hyperventilate himself.

Counsel:
Did you actually observe him doing that?

Witness:
Yes ma'am.

Counsel:
If he was confronted with somebody who had sort of a drill sergeant attitude...would he do something like that?

Witness:
Uh...possibly ma'am I only had him in my care for three days so I could not do a complete work up on him...we have no labs anything of that nature um...he could have with some of the confrontations my MPs had with him he froze up so with someone like that may or may not have triggered an event.

Counsel:
Okay...are the MPs in your unit pretty mellow.

Witness:
Yes ma'am they strive to be.

Counsel:
And on even under those mellow environment sometimes he would seize up and have one of these anxiety attacks?

Witness:
Um...that particular individual when we were moving from our old site which is now the PX on Talil...to our new site when they built our camp outside of the perimeter when we went to transport him he had an anxiety attack ..And uh...was...whenever he got like moved he was scared of where he was at what he was doing.

Counsel:
And you said when he'd get an anxiety attack he'd get kinda catatonic?

Witness:
Yeah he'd freeze up he'd hyperventilate himself ... uh rigid muscles and eventually just pass out due to hyperventilation.

Counsel:
Now, do you also remember somebody in this uh transport that was a major who was on crutches?

Witness:
Yes ma'am.

Counsel:
Did he have any particular habits that you observed?

Witness:
Uh…he was a he was a baby...he lost his left leg… he came from the comfort to us he had crutches he refused to use 'em um… wanted to get picked on by a litter you know from place to place um I pretty much put an stop to that they drug him up on a litter to my aid station and through my translator I explained to him that sir your leg is not going to come back you must learn how to use crutches…then he went back out to the yard…and he was pretty much of a … just a mammas boy. He felt sorry for himself.

Counsel:
Did he ever do anything would he ever throw himself to the ground?

Witness:
Yes he did he'd throw a tantrum compared to my seven year old.

Counsel:
What would he do when he would do this tantrum?

Witness:
He'd just lay down not move freeze just holler a little.

Counsel:
What do you mean by holler?

Witness:
Just like get agitated just holler a little nothing we'd just let him be he'd get over himself.

Counsel:
Do you recall the crew that was actually loading the bus that night?

Witness:
Uh…by person? No ma'am…it was uh…during that time frame we were busy there were troops in and out in and out all day long every day so.

Counsel:
Did you remember the individual that was standing by the door loading them onto the bus can you describe him?

Witness:
Vaguely, about six foot tall male uh…big knife on his LBE.

Counsel:
What was his demeanor like when he was loading the bus?

Witness:
Uh…Drill Sergeant he was pretty forceful with the prisoners.

Counsel:
Thank you SGT [redacted] (b)(6)-4, (7)(C)-4

I/O:
Other counselors?

Questions by the defense counsel: CPT [redacted] (b)(6)2; (7)(C)-2

Counsel:
Was it unusual to have people come in to have EPWs brought to you that were previously injured that had been previously injured?

Witness:
That was quite usual ma'am… at that point in time the U.S.S. Comfort was…getting rid of their prisoners cause they were getting ready to leave so we did get a big influx of uh…I called them pajama boys they were green or blue scrubs showing up identified from Comfort the Comfort.

Counsel:
Did you document their injuries and send them along with them?

Witness:
Yes ma'am any records that came from the Comfort went along with the property.

Counsel:
Can you remember if you sent any records along with this group?

Witness:
Yes ma'am I know I did.

Counsel:
Would those be your notes? Or…

Witness:
No ma'am those would be the Comfort notes uh…we normally due to the volume what we majorly did there was just general sick call in the morning and bandage changing just changing their bandage out and at the rate we were doing is just we do 60-70 bandage changes in a day frame annotating a bandage change is just not that…

Counsel:
If they hadn't come from the Comfort hadn't come from shift-- ship are they tagged in any way?

Witness:
Uh...medical?

Counsel:
Yeah.

Witness:
No ma'am.

Counsel:
Do they get some kind of medical tag so the escorts know hey this guy was injured before?

Witness:
No ma'am…uh…nine out of ten times you would actually see a visible bandage uh...I always briefed the medic on the convoy all my medics were instructed to whenever a convoy was leaving and we had medicals to brief…the medic on the convoy that you have this, you have this, you have this, it's a standard practice in EMS.

Counsel:
If I'm looking at the guy and he doesn't have hospital gown or he doesn't have a bandage there's no way of knowing whether or not he's injured previously injured, right?

Witness:
Uh…not unless you're informed.

Counsel:
Thanks SGT [redacted] (b)(6)-4; (7)(C)-4

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)2-(7)(C)-2

Counsel: (b)(6)-4;(7)(C)-4
SGT [redacted], the uh…one-legged major on crutches he would have one of these tantrums how did you respond to tantrums?

Witness:
When he when he had a tantrum the MPs would call me out to the yard it was a medical issue 'cause of his amputation we would just let him sit and look talk to him "Hey this isn't getting you nowhere it's not gonna get you anywhere."

Counsel:
And then what would uh...what would be the outcome of one of these tantrums?

Witness:
He would sit out in the yard and eventually just realize that it's not going to get him anywhere…comply with the instructions given to him.

Counsel:
So he was compliant then?

Witness:
Yes.

Counsel:
The loud drill instructor MP uh…that came from the 223rd did you see anything inappropriate in the manner of the treatment of the EPWs?

Witness:
While loading the bus that looked like they were in a hurry they were grabbing them and "get back there get back there" but nothing--I wouldn't say nothing too over extravagant.

Counsel:
And finally the uh…the physical condition of this group when they left you care how would you describe that?

Witness:
On our scale good. So far no one injured which were known… the ones I pointed out to the medic…the rest of the group was in good condition.

Counsel:
Any uh...any fresh wounds?

Witness:
No all the wounds that were on that convoy were old.

Counsel:
Thank you…that's all from the government, sir.

[The witness was duly warned, dismissed and left the room.]

[The Article 32 Hearing recessed at 1905 hours 26 August 2003.]

[The Article 32 Hearing reconvened at 0800 hours 27 August 2003.]

DIRECT EXAMINATION

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

SSG [redacted] U.S. Army, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [redacted] (b)(6)-2, (7)(C)-2

Counsel:
For the record you are SSG [redacted] 314th Military Police Battalion, currently stationed in Baghdad, Iraq? (b)(6)-4,(7)(C)-4

Witness:
Yes, sir. That is correct.

Counsel:
On the 14th-pardon me-on the 12th of May you were stationed here at Camp Bucca, is that correct?

Witness:
That is correct, sir.

Counsel:
Okay, what were the duties of the uh...314th back around that time frame the 12th of May?

Witness:
At that time we were charged with the security of the processing center.

Counsel:
Alright and (clears throat) the processing center that was in place at that time it doesn't exist anymore, right.

Witness:
No, sir there are a few remaining tents sitting over here that's that's sort of like three tents left and that's it.

Counsel:
Okay...now, when prisoners were brought in from various locations in the theater to Camp Bucca...would your unit be one of the first units that would see these prisoners when they got here?

Witness:
That would have who's been normally running the processing center had their own personnel this was the night in question was the first time I personally handled incoming prisoners--

Counsel:
Okay…alright uh..Do you remember that night the 12th of May?

Witness: Yes, I do, sir.

Counsel:
Okay can you tell the hearing officer about what happened that night?

Witness:
That night about right about 9 o'clock 9:15 local…the we were informed the load of 44 prisoners was was on site was the first we'd known about it was when they arrived the none of the processing center for all intents and purposes was closed down that night already none of the personnel were on site none of the property or document officers supply none nobody was on site at the time immediately link up at the like the processing center I don't recall the individuals that were there I took them down got them hooked up with the processing center and then went back and started trying to locate the property and supply personnel we need to process them…uh at the time I assigned SSG [redacted] CP [redacted], and SPC [redacted] assist with the offloading and check security of the prisoners…I immediately started firing up light sets at this point we like I was saying we had no indication that anybody was inbound we had none of the lights were on nothing for that area so I started firing that up and getting trying to get the appropriate personnel on the ground …uh in the mean time the commenced unloading while I was doing this I was involved maybe 25-30 minutes and …trying to get all trying to get everything in place 'cause we were having to wake people up and everything.

(b)(6)-4
(7)(C)-4

Counsel:
Roger.

Witness:
At this point when I got back there they were well into probably the bus probably been about half unloaded by the time I got back to the actual site and they were escorting prisoners up there were a few of the prisoners appeared to be less that cooperative.

Counsel:
Let's stop for a second what do you mean by that?

Witness:
Uh…apparently someone I don't know it was because they didn't understand what was expected of them or did not want to comply that's I don't know someone appeared to be stiffening up and resisting a little bit and were had to be forcefully escorted to accomplish the mission.

Counsel:
Okay…and when you say forcefully escorted to accomplish the mission what do you mean by that?

Witness:
Uh…use of control holds such as the wrist lock or gooseneck come on to gain compliance of the subject to of the EPW to make them to force them to do what you want them to do to make them move appropriately preferably without causing any injury to them but you have to make sure you maintain control for your safety and theirs.

Counsel:
Okay so what happened then?

Witness:
Uh…at that point I ..It was brought to my I watch I saw no uncoersed actions another individual I do not have the individual name I probably couldn't recognize them at this point was a individual I recc…I remember him because he had had the conf some confidential documents that we were trying to get somebody to sign for, but he came over and said "hey you need to calm these this down there's some stuff going on something going on you guys need to calm it down" I looked at one point about probably about halfway up the processing center I saw a pair of personnel escorting a soldier or excuse me escorting an EPW two soldiers two female soldiers escorting an EPW the EPW was thrown to the ground and what appeared to be a punch at this point I'm probably one hundred to one hundred fifty feet away so my actual view of it is was extremely narrow at this point I had no idea what led to it or anything it was an action that to the best of my knowledge was not extremely grievous again 'cause I do not know what led up to it.

Counsel:
But it was a punch?

Witness:
It appeared to be yes, sir.

Counsel:
And you wrote that in your statement back on the fourteenth….

Witness:
Yes, sir I did.

Counsel:
I mean it was something that stuck in your mind, right.

Witness:
Yes, sir it did, but at the same time that is …if the person isn't…effectively resisting you again you must be you must maintain compliance and you must maintain control.

Counsel:
Alright.

Witness:

Of that individual.

Counsel:
To include punching the individual?

Witness:
If the person is actively resisting you you'd have the right to defend yourself.

Counsel:
If the person is resisting you or if the person is attacking you?

Witness:
In the case of the EPWs we've got weapons on our person if they were resisting we have to consider that we must maintain control to defend ourselves from that person having access to our weapons.

Counsel:
Punching them is an acceptable you're taught that in military police school that punching EPWs is an acceptable method to maintain control over EPWs?

Witness:
Only as a last resort, sir.

Counsel:
Are there all kinds of other…what's the rule as far as use of force with controlling EPWs?

Witness:
What is minimum reasonable and necessary.

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

Counsel:
Minimum force reasonably necessary, okay um…alright please go ahead SSG [redacted]

Witness:
At this point uh…because the individual had brought something to my attention –I hadn't noticed anything up to that point-I started watching a little closer. At that point I saw uh…one individual was brought off the bus very controlled manner brought off the bus to me he appeared to passively resist he stiffened up didn't want to comply with when he was instructed when they attempted to push him onto the push him down to the ground to get him to get him into a sitting or kneeling position he was like just passively resisting stiffened up to the point where he was not gonna do it his attitude showed that he did not want to comply he was then, by the use of a hip-throw, was thrown to the ground and placed in the prone position uh…I saw no….no….no serious injuries or anything to comply with that it was a controlled movement that accomplished what had to be done. From there another one came off the bus uh…was….it was similarly through hip throw was tossed to the ground and placed face down on the ground.

Counsel:
What was that --what did that EPW do to deserve that?

Witness:
Nothing that I saw, sir.

Counsel:
Okay, what went through your mind when you saw that?

Witness:
I was like...at that point I made a general comment to everybody in the area "we need to ease up a little bit"...because it looked like people's tension was a little high ...we...the what we had been told was that people were that these were some individuals who were involved in a number of serious incidents prior to this...the tension level that night was relatively high people were a little tense so I just my goal was to just ease it up a little bit ...but again I saw no serious injury I didn't see it as a major issue where it was need to immediate intercession.

Counsel:
Okay, what was your tone of voice when you told them to ease it up?

Witness:
Not...I wasn't screaming or anything it was a just a normal tone of voice loud enough that it could be heard over the general noise of the area.

Counsel:
Okay...all right then what else happened?

Witness:
Uh...there was a third EPW that was brought off the bus and...again was thrown down at this point I was like I was a little concerned again not having actual physical hands on the individual I had no way of knowing if the person was pulling trying to pull away or what the situation was that was the final incident though that I witnessed of any thing that was at all questionable. Everything else up to that point and after that point went very much according to normal procedures.

IO:
Excuse me I didn't get what the third EPW what the situation was with the third EPW.

Witness:
He was same situation he was escorting when they brought him off the bus he was being placed on the ground uh..I do not know if he resisted or what the situation was to my from my point of view I did not see any active resistance he was by use of a hip throw was again tossed to the ground and was place in the prone face down position on the ground waiting for an escort team.

Counsel: (b)(6)-4; (7)(c)-4
You know SSG [redacted] gave a statement to CID agents uh when this investigation first began did you not?

Witness:
Yes, sir I did.

Counsel:
And you remember making that statement?

Witness:
Yes, sir I do.

Counsel: (b)(6)-4; (7)(c)-4
Um... SSG [redacted]

[Exhibit 7, a sworn statement of SSG [redacted] was marked for identification.]

Counsel:
SSG [redacted] I'd like to ask you to take a look at that do you recognize that?

Witness:
Yes, sir I do.

Counsel:
Is that your statement?

Witness:
Yes, sir it is.

Counsel:
What I'd like for you to do is I'd like for you to start reading your statement from where it says right there where it says "I observed..."

Witness: (b)(6)-5, (7)(c)-5
(Reading) I observed one EPW exit the bus appeared to resist was told to sit down and was then thrown to the ground and told to stay there after seeing this I watched this soldier extremely close. As the next EPW exited the bus I overheard the soldier's supervisor, MSG [redacted] say, "He said fuck you I heard him" to the soldier at which time he used a hip throw to toss the EPW to the ground I saw no sign of resistance on the part of the EPW the same actions followed with the next EPW at which time I said we needed to ease up a little I also saw an escort pair then throw an EPW down further up the way towards the holding area and appeared to throw at least one punch. The escort team consisted of two people whom cannot identify.

Counsel: (b)(6)-4, (7)(C)-4
Alright let me stop you there....so SSG [redacted] was three EPWs in a row that you saw this person hip toss to the ground right.

Witness:
Yes, sir it was.

Counsel:
And only the first one appeared to offer any resistance.

Witness:
From the advantage point I was at yes, sir.

Counsel: (b)(6)-5, (7)(C)-5
And MSG [redacted] told him with regard to the told this person that was hip tossing these people "he said fuck you I heard him"

Witness:
Yes, sir.

Counsel:
Uh...did you just forget that when you were testifying?

Witness:
Yes, sir I did and as far as the order on the statement as far as the course of events is more accurate due to the fact that it was written very close to the time of the events.

Counsel:
Do you remember what that person who was hip tossing these EPWs to the ground what he looked like.

Witness:
At the time it was dimly lit was tall taller than I am I would estimate probably about 210-220, well over 6 foot, very slender, light colored hair none of us nobody was wearing blouses or anything so I didn't catch any names or even decent descriptions at the time.

Counsel: (b)(6)-4, (7)(C)-4
Okay...now, SSG [redacted] testified that um..When you said eventually that everybody needed to ease up um..You said you said that in a normal tone of voice.

Witness:
Yes I did.

Counsel:
Do you remember writing in the statement that you said you were vocal and you felt emotions were running a little high?

Witness:
Yes, sir I did I when I say normal tone of voice it's for me it a tone of voice that is very clearly understood it's not I didn't use it in a command voice I didn't use it in a way that was shouted or as a directive it was just kinda of to kind of break the ease up have everybody ease up a little bit and just try to cool the situation.

Counsel:
Okay, do you know any of the accused soldiers?

Witness:
I just in passing we worked the worked the well we worked the before that we had worked the security for the old the old EPW camp and they worked the internal so we had contact there did not have I did not know them personally.

Counsel:
Now other than non-compliance with commands did you observe any other resistance by any of the EPWs…?

Witness:
No, sir I did not.

Counsel:
So there was no they didn't attack any of the MPs?

Witness:
Not to my knowledge I could not see actions on the bus itself.

Counsel:
And so at most that you saw prisoner not moving when they were ordered to move stiffening up.

Witness:
That's correct, sir.

Counsel:
Now from your training as an MP if an EPW is simply just not moving would that authorize an MP to strike them.

Witness:
No, sir.

Counsel:
To kick them.

Witness:
No sir.

Counsel:
To kick them in the groin.

Witness:
No sir.

Counsel:
To stomp on their head?

Witness:
No, sir.

Counsel:
To throw them face first into the sand.

Witness:
That would depend on the level of if they were refusing to move…to throw them face first in the sand, no I to take them down and at which time if the person is stiffening up and failing to resist if it may possibly look like they were thrown down yes but to take them down to the ground if that's necessary to gain compliance yes to throw, no.

Counsel:
But there are ways of taking that prisoner down.

Witness:
That's correct.

Counsel:
Throwing them to the ground is that proper.

Witness:
No sir.

(b)(6)-4; (b)(6)-4

Counsel: Okay, hold on one second SSG [redacted]. SSG [redacted] hank you I don't have any further questions for you but please answer any questions anyone else might have.

I/O:
Defense?

CROSS- EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6)-2 - (7)(c) - 2

Counsel: (b)(6)-4; (7)(c)-4
SSG [redacted] you've been in the Reserves for three years now, right?

Witness:
Yes, ma'am.

Counsel:
And all that time spent as a 95B?

Witness:
That is correct.

Counsel:
And prior to that you served eight years on active duty?

Witness:
That is correct.

Counsel:
Same MOS 95B military police officer?

Witness:
Yes, ma'am.

Counsel:
Could you talk to me a little bit about the typical procedure how things were supposed to work at the in processing in processing center?

Witness:
Again this was the first night I had actually been involved with the reception of prisoners at the in processing prior to that I had worked with JFIS and then the external security on the site normally the way it would work is they would be brought off the bus be checked against the manifest uh…to ensure that we have the right number of prisoners and we actually have the ones that were supposed to be accepting …they will then be searched, segregated and then placed in a holding area for safety until they can be further processed by the processing center at which time they will be assigned a by based on their status they'll be assigned where they go in the holding cells down in the IF.

Counsel:
And these actions-checking the manifest, searching, segregating-those are the responsibility of the in processing team?

Witness:
That is correct.

Counsel:
So you would expect that an escorting unit would hold EPWs on the bus until the in processing people got there.

Witness:
That's correct.

Counsel:
And you weren't expecting a shipment that night, right?

Witness:
No, ma'am we were not.

Counsel:
And at that time there was no SOP for coordination with escort units?

Witness:
Not that I knew of no nothing that I had seen.

Counsel:
So nobody called you when this team rolled out the gate at Bucca and said, "Hey, we'll be back in eight hours with some EPWs"?

Witness:
No ma'am we had no contact until they arrived on site.

Counsel:
And the TOC never called you that evening and said, "hey these guys are two hours out get ready to go"?

Witness:
No ma'am.

Counsel:
They came in very late that night, right?

Witness:
Yes ma'am to the best of my knowledge is was between 9:00 and 9:30 somewhere in the range between 9:00 and 9:30 pm local time.

Counsel:
You said everything was pretty much shut down, right?

Witness: yes ma'am the processing site we had uh..Three to five medical holds were the only prisoners we had that we expected to be watching that night.

Counsel:
And you talked a little bit about the lighting conditions, right?

Witness:
They were very poor I had only four working light sets that all covered that area two were on the holding tent and two were at least fifty to the sides of us with the lighting was not directed to that area.

Counsel:
The lighting was directed to the shoot that the prisoners walked up?

Witness:
No ma'am.

Counsel:
And the generator you needed to turn those on, right?

Witness:
Yes ma'am I did.

Counsel:
So they weren't turned on when the bus pulled up, correct?

Witness:
No they were not.

Counsel:
Now you were notified when a soldier came down to the processing area to get you, right?

Witness:
That is correct.

Counsel:
You didn't talk to that soldier, right?

Witness:
Just in passing to try and link them up with the processing center to get somebody up there to handle the manifest, and also to get the necessary personnel over to property documents and supply in processing for us.

Counsel:
That soldier was not the same individual you talked to later with the classified documents, right?

Witness:
I cannot I could not honestly tell you I do not I never got a name and in the rush of everything I don't even know if I would recognize the individual.

Counsel:
Okay, so you said come down to the bus, right?

Witness:
I as soon as he said that I linked him up with the processing center I went down to the bus to see where they were at and to get an idea of what we had going on just so I could better prepare for it.

Counsel:
When you got down to the bus had any of the prisoners been unloaded yet?

Witness:
No ma'am they had not.

Counsel:
And you talked to the individual with the classified documents down at the bus, right?

Witness:
Yes ma'am they wanted me to sign for the documents and property…I did not…I'm not… my job was security of the site I didn't want it becoming in a link of the documents and stuff and just have that many more links so I was trying to find the appropriate people for the documents and property.

Counsel:
So you sent the guy with the documents and property up to the in processing folks, right?

Witness:
Yes, ma'am.

Counsel:
And at that point nobody had been taken off the bus, right?

Witness:
No.

Counsel:
Now before you came down to the bus you told your guys hey we need to be ready to go, right?

Witness:
I told them to go ahead and grab their stuff and head up or go ahead head up that area to be prepared to start receiving prisoners, yes.

Counsel:
And the people you notified were [redacted] and [redacted] (6)(6)4-(7)(C)-4

Witness:
That is correct.

Counsel:
When talked to that individual with the classified documents at the bus he told you that you had some pretty bad guys on the bus, right?

Witness:
That is correct we were told we had some serious cases of individuals that had hurt or caused severe damage to the U.S. soldiers that's the only other reason I felt tensions were a little higher than normal.

Counsel:
Okay, could you describe the bus to me when you walked up to it?

Witness:
It was a looks like an older tour bus it has baggage compartments underneath it was either white or silver in color there just a regular passenger bus from what I could tell.

Counsel:
Were the curtains up or down on the bus?

Witness:
They were down the curtains were pulled were drawn on all windows.

Counsel:
Did you see a soldier standing on the bus?

Witness:
Yes, ma'am I saw there was a soldier standing at the door of the bus and there was another soldier that I could see standing approximately where the driver's seat is on the bus I did not could not see any further into the bus to see if there were additional soldiers inside--

Counsel:
Okay, and at this point no unloading had taken place at all?

Witness:
No ma'am.

Counsel:
Okay, …then your guys showed up and that's when the unloading started, right?

Witness:
At that…by the time…when my guys showed up I was already had already left the area was attempting to locate the proper personnel to help assist with the process.

Counsel:
And when you returned you saw people being escorted off the bus?

Witness:
Yes, ma'am.

Counsel:
You still saw a soldier on the bus, right?

Witness:
Yes, ma'am there was a soldier on the bus at the same place next to the driver's area there was one directly at the door of the bus and there was a third that was actually placing the individuals on the ground pending the escorts team coming up.

Counsel:
Okay, so you've got soldier one on the bus, soldier two at the door, and soldier three moving them back and forth.

Witness:
That's correct.

Counsel:
From the door to the staging area?

Witness:
Yes, ma'am.

Counsel:
And then you had escorts that would pick them up from the staging area, right?

Witness:
That's correct.

Counsel:
Okay, …they were being-the EPWs-were being escorted off the bus one-at-a-time, right?

Witness:
That's correct.

Counsel:
Did you think that one was enough? Did you think that one guy on each EPW was enough?

Witness:
In that area, yes. There were additional personnel standing in close proximity if something were to happen...based also the both personnel standing right at the door and the one that was placed at the ground were both individuals my height or taller both at least 200 or better well, a solid size if something were to happen they had positive control over the EPWs at that point.

Counsel:
And searches are typically conducted as soon as you take someone off the bus, right?

Witness:
That is correct, ma'am.

Counsel:
But you didn't do that this night right?

Witness:
No ma'am due to the lighting we waited until they were actually up into the holding area or just outside the holding area before they were actually searched.

Counsel:
And you didn't think that the area next to the bus was a secure place to do searches either did you?

Witness:
No, ma'am-not at all.

Counsel:
The guy standing right at the door-what can you remember about what he looked like?

Witness:
He's uh...individual's extremely short cropped hair ...medium brown hair, at least 6' 3" – 6' 2" – 6' 3" or better, relatively heavyset I would guess maybe 220...230 in weight, Caucasian male other than that I never did get a name or anything I've seen the person around but did not know the name or recognize the individual as specifically.

Counsel:
And soldier number three is the one that was taking people from the door to the staging area, right?

Witness:
Yes ma'am.

Counsel:
He was slender?

Witness:
A little...slighter build uh...maybe an inch maybe an inch shorter than the individual at the door, but still over 200-I would estimate- over 200 lbs and at least probably 6' 2" to 6' 3" as well.

Counsel:
And he had blonde hair?

Witness:
Light brown to blondish hair, again very shortly cropped hard to tell the color that was due to the lighting.

Counsel:
What you first saw was the soldier standing at the door handing prisoners to the third soldier and that soldier was placing them at the staging area, right?

Witness:
That's correct.

Counsel:
He was sitting them down?

Witness:
He was placing them on their knees or if they were unable to do that he was placing them in the prone position.

Counsel:
Some of them would sit....

Witness:
Some of them had injuries that would preclude them from kneeling effectively, or would make that really an impossibility...or for whatever reason they were unable to be kneeled down they were placed prone.

Counsel:
Okay, so some of these EPWs were placed in the prone at the staging area...?

Witness:
Yes, ma'am they were.

Counsel:
You talked about control holds, why would you use a control hold?

Witness:
It's better if you wanna maintain positive control of anybody you're escorting to prevent further injury to them or yourself, because...as long as you maintain control they will not try anything stupid or anything dangerous therefore you place them in a position of disadvantage, off-balance to where if necessary you can cause slight amount of pain or gain compliance so they cannot cause further ruckus or further problems.

Counsel:
So wristlock is a control hold, right?

Witness:
Wrist-lock-yes ma'am.

Counsel:
An arm-bar is a control hold, right?

Witness:
Yes, ma'am.

Counsel:
You described a gooseneck, that's a control hold right?

Witness:
Yes ma'am.

Counsel:
And what's a shoulder-lock?

Witness:
A shoulder-lock is coming up underneath the individual's arm itself basically forcing their arm up locking down you grab a hold of the trapezium muscle and just basically place the pressure there works well if you're taller than the subject you place them off-balance and without causing pain you have positive control you can also feel their movement if the try to pull away from you or whatever you have them locked right tight to your body.

Counsel:
What determines what hold is appropriate for?

Witness:
Personal preference and what works for you is based on the size of the individual you are escorting size of the person escorting whether you have more than one person escorting at the time.

Counsel:
Are all those holds you just described trained...things that you've been trained on?

Witness:
Yes, ma'am.

Counsel:
Acceptable in the law enforcement community?

Witness:
Yes ma'am.

Counsel:
Are those holds always comfortable to the people being escorted?

Witness:
No ma'am they aren't designed to be.

Counsel:
Why are they still used?

Witness: because they gain compliance without causing injury to the person you're escorting.

Counsel:
Looking at a person being escorted can you always tell if someone's resisting?

Witness:
No ma'am uh...you feel it before you'd ever see it.

Counsel:
So if you're the person doing the escorting...

Witness:
If you've physically got a hold of them you will feel if they resist before you'd ever see the motion.

Counsel:
From the most part what you saw that night was professional handling of EPWs, right?

Witness: Yes ma'am.

Counsel: you talked about these two small females, right?

Witness:
Yes ma'am.

Counsel:
The guy they were escorting was much larger than they were, wasn't he?

Witness:
To my…it's my recollection he was I would have to estimate 5' 10" to 6 foot, probably a good 200, he was a large, for an Iraqi male, for an EPW he's what I consider relatively large individual uh…therefore they had two people on him working with him but at that point they were both…he was significantly taller significantly heavier than either one of them.

Counsel: (b)(6)-5,(7)(C)5
And MSG [redacted] wasn't one of the individuals escorting…

Witness:
No ma'am she was standing directly to my right slightly forward to my right at that point was observing the process.

Counsel:
You talked about these hip-throws-that was the third soldier…

Witness:
Yes ma'am.

Counsel:
That was conducting the hip-throws, right? …The guy that was in charge from the bus to the staging area.

Witness:
Of placing them in the staging area, yes.

Counsel:
You talk throwing someone to the ground and using a controlled movement to put them on the ground?

Witness:
That's correct.

Counsel:
Were these controlled movements to put the EPW on the ground?

Witness:
To my… in my opinion yes they were, they were not uh…the individual maintained a hold on the individual at all times which allows-even though it may look, from a distance, it may look like they aren't controlled-you still are supporting a great deal of the person's weight and controlling them so they fall in a controlled manner.

Counsel:
You have your hands on them as all the way down to the ground?

Witness:
Yes you do.

Counsel:
Is that what you're describing?

Witness:
Yes you do.

Counsel:
That first EPW was refusing to move from what you could see, right?

Witness:
Yes ma'am.

Counsel:
He was refusing to listen to directions.

Witness:
To my… from my vantage point, yes.

Counsel:
Once that EPW was on the ground did you see anybody hit him?

Witness:
Not that I saw no ma'am.

Counsel:
Did you see anybody kick him?

Witness:
No ma'am.

Counsel:
Same thing with the second hip-throw that you described did you see anybody hit that EPW once he was on the ground?

Witness:
No, ma'am I did not.

Counsel:
Did you see anybody kick him?

Witness:
No.

Counsel:
And same for the third?

Witness:
No…at that location I saw no punches or kicks of any type it was strictly a forceful movement to place the individual where they needed to be.

Counsel:
You said you saw no injuries on those particular EPWs, correct?

Witness:
Nothing that had not already been there were some bandages on one or two of them from previous I do not know the injuries there were some bandages but no additional injuries that I saw.

Counsel:
You went up to the holding area later, right?

Witness:
Yes I did.

Counsel:
And you saw no serious medical issues in the holding area?

Witness:
Not that I recognized at that time, no.

Counsel:
In the whole course of that evening-either when you were standing there, or when you were moving in between the processing tent and the um…and the staging are-did you hear any yelling?

Witness:
I …just…um…soldiers raising their voice to make themselves understood …the individuals may not understand what's said to them, but they will understand tone of voice and body language enough to get the point across to what you want them to do and that's all I….I heard a very rarely you hear an EPW say anything but for the most part they were completely silent and I did not hear anything that brought alarm to me.

Counsel:
Did you hear any screaming?

Witness:
No ma'am.

Counsel:
Any screaming out in pain?

Witness:
Not that I recall no ma'am.

Counsel:
Blood curdling screams?

Witness:
No ma'am.

Counsel:
Thank you, SSG [redacted] (b)(6)-4;(7)(C)-4

I/O:
No further questions.

Defense counsel: No, sir.

I/O:
Major [redacted] (b)(6)-2;(7)(C)-2

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)-2;(7)(C)-2

Counsel: (b)(6)4-(7)(C)-4
Um…SSG [redacted] was a little bit confused about something you just said, you said that when you were observing the movements of the soldier who was hip-throwing the prisoners to the ground you said those were controlled movements?

Witness:
It is a controlled movement it is a rapid movement but it is still controlled that person is not one that if done properly is not one that causes injury it's a routine it's an acceptable practice within law enforcement to put somebody on the ground from a position of advantage.

Counsel:
So did you think that this was appropriate behavior that you were observing?

Witness:
The first one yes the other two I did not see a cause for it…but it was not something that caused me great alarm 'cause it was not causing injury to the individual.

Counsel:
But it caused you enough alarm to go over and tell this person to ease up, right?

Witness:
Just because I thought..I did not want to see things escalate beyond that point and things can tend to escalate if unless it's necessary if I don't see a reason for it I don't feel it's necessarily necessary and it's preferred to just use the something a lot less aggressive.

Counsel:
Because if it's not necessary to hip-throw a prisoner to the ground to maintain control of that prisoner then that's improper conduct, correct? …If you're just hip-throwing a prisoner to the ground for no reason that's not proper, right?

Witness:
That's correct yes, sir.

Counsel:
You're taught that, right?

Witness:
Yes, sir.

Counsel:
Minimum amount of force necessary.

Witness:
That's correct, sir.

Counsel:
Um…now…you said there were some of the um…soldiers were calling out commands to the prisoners?

Witness:
Yes, sir.

Counsel:
What language was being used?

Witness:
Combination of both English and some Arabic was what few commands we had learned at that point in Arabic were being used as a much as possible.

Counsel:
Now some of prisoners had what appeared to be prior injuries?

Witness:
That's correct, sir.

Counsel:
And some of those injuries precluded them from being able to kneel down like they were supposed to do?

Witness:
In my from what I saw, sir.

Counsel:
From what you saw I understand that's... just I'm just asking...from your vantage point, alright...now during the course of this um...evening you were...fair to say it was it was an unexpected arrival of prisoners.

Witness:
That is correct, sir.

Counsel:
And...you had a lot to do in a very short period of time to get this site ready for these prisoners to be offloaded, right?

Witness:
That's correct, sir.

Counsel:
And so you were moving around trying to get all that done, right.

Witness:
Yes, sir I was.

Counsel:

And isn't it also true you weren't really paying attention to what way going on with the treatment of the prisoners until that sergeant walked up to you and said, "hey this has got to calm down" or whatever he said…?

Witness:
That's correct I was busy with other things and I had I had not seen or heard anything that really attracted my attention to the point where I felt I needed to become involved.

Counsel: (b)(6),(7)(C)-2
Now the last thing I had a little bit of confusion at one point when you were answering some questions from CPT [redacted] you said something about um..These moves that you were describing the gooseneck hold and some of the other things you were describing are moves that are designed not to cause a prisoner..To maintain control of a prisoner without causing the prisoner pain and then later you said without causing the prisoner injury…uh..Is there a difference or are they both the same.

Witness:
They cause to say it does not cause pain…it causes discomfort…and pain depending on the level of resistance it can cause pain it will not cause-if they're done correctly-will not cause injury to the individual or long term pain…as soon as the person has released off 'em the pain goes away…that's the idea of the pain-compliance …when it's applied the person feels discomfort and to a point at some point pain as soon as the person is released the pain stops.

Counsel:
Okay, …did you…if the prisoner has injuries, say for example if a prisoner has a previously injured leg or previously injured arm, is it appropriate for an MP to take those injuries into account when considering what control measures to use…?

Witness:
Yes, sir it is.

Counsel:
And why is that?

Witness:
Uh…for two things, uh…otherwise applying the hold would not be effective because that part may already be in pain and you are not changing the situation.. The other thing being you do not want to cause further injury to that existing injury and on another part of it if an individual has blood on him the last thing you wanna do is get that all over you for your own safety and for their…you don't wanna aggravate the situation. If the person has a problem with a wrist you'll use a…either an arm-bar or shoulder-lock, if they have a problem with a leg either way with a leg it's limited all you can do is basically assist them and move at a slower rate we don't-unless it's absolutely necessary-we don't carry prisoners again that would be placing ourselves at risk or the and in jeopardy.

Counsel:
Thank you, no further questions.

I/O:
Defense, any further questions?

Defense counsel: No, sir.

Questions by the Investigating Officer: LTC [redacted] (b)(6)2;(7)(C)(2)

I/O: (b)(6)4-(7)(C)-4
SSG [redacted] just a couple of points I wanna clarify.

Witness:
Yes, sir.

I/O:
Do you know…who usually alerts you that there are EPWs in bound?

Witness:
Ideally there should be a system to where we know ahead of time when they have coming in bound we to my…in all… I'd say I received three buses in the time we worked at the processing center and only once did we receive any advance warning of them inbound and that came from the TOC.

I/O:
From the Battalion TOC?

Witness:
From the battalion…from the 320th Battalion TOC at which time I had called down and said hey do you have anybody coming in tonight? And they informed me yes they did have.

I/O:
So you actually asked them and then they replied?

Witness:
Yes, sir…uh I know they must…they had to track missions but if they were pushing it up to the processing center which I do not know it wasn't getting to my people down at my level.

I/O:
Okay…you said previously that you saw two females escorting the EPW…

Witness:
That's correct.

I/O:
And…you witnessed what you thought were punches.

Witness:
I saw what I felt was at least one punch that was thrown by the female that was would've been on the left side of the EPW closest to me…I saw this at a great distance, so what I saw appeared to be a punch…

I/O:
No description of the escort?

Witness:
They were Caucasian females…5' 6" 5' 8" maybe, they were relatively short…. medium build it's hard to describe at a distance, and I wouldn't be able to ID them, sir.

I/O:
Couldn't identify them today?

Witness:
No, sir I doubt I could -even if I was looking right at them- I wouldn't be able to identify them at this point, sir.

I/O:
From you vantage point…see any resistance that would've caused them to do this?

Witness:
Not from my vantage point no, sir…but again I was at a great distance, sir.

I/O:
Okay…describe for me what you're saying is a hip-throw?

Witness:
Hip-throw is you grab a person usually…basically your arm is looped around their neck using your body and your hips and lower back as leverage, pull the person across lifting the off the ground-pull them across and, so the person ends up going from standing to usually on their back or on their side directly- virtually directly in front of you…using your back.

I/O:
Nearly over your shoulder?

Witness:
Actually comes over your lower over your hips and lower back as leverage and you just using your legs as leverage depending on the size of the person pull them over and drop down as you go down with them 'cause you're still controlling their upper body 'cause your arm is around now the back of their neck so their head doesn't hi the ground you...from a distance or even close up it goes fairly quickly you may hear the person "thump" when they hit the ground a little bit that's them when they land it still they do not land hard enough to cause, as long as you maintain a hold of them, they do not land hard enough to cause any injury.

I/O:
I wasn't clear, and I guess I need you to clarify this for me, when you arrived at the in processing center for the first initially.

Witness:
Yes, sir.

I/O:
Were the EPWs being offloaded, or were they still on the bus?

Witness:
No sir, when I first went up to the bus they were still on the bus...no EPWs had been removed from the bus at that time.

I/O:
Okay, and then you mentioned uh...you said later that at the holding area you didn't see any serious injuries?

Witness:
No, sir I didn't...not that I not to my not from what I noted I saw nothing that was serious that needed immediate medical attention.

I/O:
Did you see any injuries at all?

Witness:
I saw what appeared to be some blood on a face I do not know if it was from previous or not I had no knowledge of that.

I/O:
Blood on a face like where?

Witness:
Just uh...possibly somebody had had a bloody nose or something

I/O:
Fresh blood?

Witness:
At that point by that point not really fresh no it was could have been probably within the couple of hours.

I/O:
Really not qualified to say that are you?

Witness:
It was dried on it was dry on the person's face.

I/O:
Dried blood.

Witness:
It was not was not currently bleeding at that point.

I/O:
Got it, okay, thanks. Does anybody else have any questions?

Defense counsel: No, sir,

[The witness was duly warned, dismissed and left the room.]

DIRECT EXAMINATION

SSG [redacted] U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MA [redacted]

Counsel:
You are a SSG with the 314th MP Company, currently stationed in Baghdad.

Witness:
Yes, sir

Counsel:
Thank you very much.

CROSS-EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6)-2 -(7)(C)-2

Counsel:
Good morning SSG [redacted] (b)(6)-4;(7)(C)-4

Witness:
Good morning, sir.

Counsel:
Where were you assigned on 12 May 2003?

Witness:
Here at Camp Bucca.

Counsel:
And you remember what you were doing that night…that day?

Witness:
Yeah we were uh…basically gonna run the in processing center for the EPWs just a portion of where we were to um…get 'em off the bus, give them food, water, blankets basically that's all we do.

Counsel:
Okay …and can you tell a little bit about your background, did you spend any time on active duty?

Witness:
Seven years.

Counsel:
Okay…and what do you do on the civilian side?

Witness:
I'm a correctional Sergeant with the California Department of Corrections.

Counsel:
And how long have you done that?

Witness:
Twenty years.

Counsel:
On the 12th of May, do you know anyone from the 320th?

Witness:
Did I know them..I recognized at least one um…but I don't know them.

Counsel:
Okay…did you know anyone by name?

Witness:
Uh…I believe there was a MSG [redacted] of [redacted] at's it that's the only one I recognize.

(b)(6)-1; (7)(C)1
(b)6-5; (7)(C)5

Counsel:
Okay…um….and when did you arrive here in Theater?

Witness:
Uh…I believe it was March 25th I believe it was.

Counsel:
And then when did you come to Camp Bucca?

Witness:
Sometime in April…no it …we spent about two and a half weeks…about the first of April I believe it was.

Counsel:
Okay…and how long did you spend at the in processing center before the 12th of May?

Witness:
I think we were there a couple of weeks.

Counsel:
Okay….and what is you MOS?

Witness:
95B.

Counsel:
And you've had that MOS how long?

Witness:
Going on two years.

Counsel:
Why don't you describe for me what you remember happening on the 12th of May

ALL (B)(6)-4,(7)(C)-4

Witness:
Um…well let's see we got word that some prisoners were here and we had to go and get 'em off the bus so I took myself and SPC [redacted] and SPC [redacted] we um…met some soldiers at the bus they told us they had about fifty and somebody said they had some problem children so we'll get those off first the brought them off the bus--

Counsel:
What do you mean-I'm sorry SSG [redacted] what do you mean "problem children"?

Witness:
Some people that were gave them some problems.

Counsel:
Okay.

Witness:
Okay…um…I asked them to get those people off the bus first…they got them off…uh…

Counsel:
SSG [redacted] I'm sorry-when you arrived down there..Er…when you went down to the offloading area were there any prisoners that are already been unloaded off the bus?

Witness:
Uh…I don't believe so, no…no.

Counsel:
Do you remember seeing the first the first EPWs come off the bus?

Witness:
Well I saw at least, yeah, it wasn't exactly the first one, but yeah. At least the first five because we took them in groups of five in the beginning.

Counsel:
Okay. And describe exactly what you did then.

Witness:
Well, after I got the off the bus, my soldiers and I escorted them in groups of five down to the holding area. And at the first five, I told Specialist [redacted] stay there with the EPWs and [redacted] and myself, we escorted another ten. And I think on our way back, one of the soldiers asked if they could help us and I appreciate the help, yea. And then we started escorting them one at a time or two at a time.

Counsel:

And how many MPs did you have per EPW that you were escorting?

Witness:
Either one per EPW or two, which is two soldiers per EPW. It's depending if they're having a problem with the guy or not, or if the guy needed help.

Counsel:
Okay. And explain exactly where you were taking them from.

Witness:
Well from the bus area. The bus area was right across this road here, from that bus down to the pen, which is parked a little over a hundred meters away.

Counsel:
Okay. And during that time, did you see anything that caused you alarm or anything that you thought was inappropriate?

Witness:
No.

Counsel:
Did anyone come up to you and say anything about there being anything inappropriate, or any mistreatment?

Witness:
Yes, it was, I don't know the individual's name. For some reason I believe he's a Staff Sergeant. Anyway he was standing off to the side and as I came back he, I believe he and [redacted] Sergeant [redacted] approached me and said that these guys are kind of rough. And when he said this, I looked at the people coming off the bus and I turned over my shoulder looked at those that were escorting them to the pen. I didn't see anything. And I said to him what the hell are you talking about? I continued on. I'll just continue on. Okay. Escorting.

(b)(6)-4
(7)(C)-4

Counsel:
Okay, and prior to that time had you heard screaming, whaling or yelling?

Witness:
I didn't hear any whaling or anything. Some of the guys were, I guess you could call moaning or whimpering when they got off the bus, and some were while we were escorting them, but other than hollering or anything like that, no.

Counsel:
Okay. And then after that time did you hear any screaming or crying out or anything like that?

Witness:
Crying out? No, there was one guy who supposedly had bullet wounds in his legs. Now he was whimpering and crying out. He had to be carried down to them. Other than that, no.

Counsel:
Okay. And how long were you actually present for the EPWs being escorted?

Witness:
I would say from the beginning to the end. I didn't escort the last person back, but through the whole process from beginning to end.

Counsel:
Can you estimate how many EPWs you personally escorted up to the holding area?

Witness:
I'm gonna say about twenty because counting the fifteen that Specialist [redacted] and [redacted] (b)(6)-4, and I...that we all took together. We took five in a group until we got about fifteen, so (7)(C)-4 I'm gonna say I...about twenty, counting those guys.

Counsel:
Okay. During the course of escorting, or seeing prisoners taken off the bus, did you see any of the EPWs resist?

Witness:
I don't really recall seeing them resist. I do know that when we were escorting a lot them, at least the ones that I escorting, they seem hesitant to move, like they were going to the death chamber, or something. Sometimes we had to push them to make them move.

Counsel:
Okay. And do you remember any one in particular that refused to move or would not comply?

Witness:
Well, the one that I escorted, one of the guys I escorted, he was really hesitant to move, you know, I had to kind of push him a little bit and he actually just dropped to the ground...dropped on his own power. And I had to get him up and a soldier came and assisted me to escort him down there and as we went further he became a little less resistant.

Counsel:
Okay. Sergeant [redacted] if you had seen anything that you deem inappropriate, what would you have done? (b)(6)4 - (7)(c)-4

Witness:
I would have stopped it, or at least said something.

Counsel: (b)(6)4-(7)(C)-4
Okay thank you Sergeant [redacted] don't have any more questions for you right now.

I/O:
Anyone else? Major [redacted] (b)(6)2-(7)(C)2

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)2-7(c)-2

Counsel: (b)(6)4-7(c)-4
Sergeant [redacted] you did see a prisoner, you essentially saw two prisoners that had blood on their faces, didn't you?

Witness:
Yes. This was after their escort was complete.

Counsel:
I understand. And you escorted approximately twenty prisoners yourself?

Witness:
Well no. When we started, we started escorting about five at a time. We started out all three of my soldiers. My two soldiers and myself escorted the first five and I told Specialist [redacted] to stay at the pen with them. And then [redacted] and myself escorted another ten. Five at a time. So I counted those. (b)(6)4-7(c)-4

Counsel:
And you didn't see any prisoner getting punched by anyone?

Witness:
No.

Counsel:
You didn't see any prisoner getting kicked between the legs while he was on the ground?

Witness:
No. Kicked, pummeled, pinch or anything, no.

Counsel:
You didn't see any of that kind of contact?

Witness:
No.

Counsel:
But you did have an NCO walk up to you and say that that was going on, didn't you?

Witness: (b)(6)-4, (7)(C)-4
No. Here's what he said to me. He said these guys are kind of rough. Now [redacted]d I were standing...as I was coming back he came up [redacted] believe [redacted] nd him came to me and said these guys are kind of rough. Now when he said that I looked at the guys being escorted off the bus, where they were escorting them and sitting them down, and I looked across my shoulder at those being escorted. There might have been about four or five that were being escorted up to the pen. I didn't see anything and if he saw something, he should have said something. I can't imagine an NCO--

Counsel:
You mean other than to you?

Witness:
Yea, he could have went to the individuals and told them to sit down, stop doing what you're doing, if they were doing something.

Counsel:
But you don't know whether he did that or not?

Witness:
I do not know.

Counsel: (b)(6)-4, (7)(C)-4
Okay. Are you aware that Sergeant [redacted]ctually saw something and went over and mentioned it to one of the escorts, are you aware of that?

Witness:
No I was not.

Counsel:
You didn't know that?

Witness:
No.

Counsel:
Okay. I don't have any further questions.

I/O:
Any follow-ups?

Defense counsel: No, sir.

(b)(6)4-7(c)-4 **DIRECT EXAMINATION**

SPC [redacted], U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MAJ [redacted] (b)(6)-2; 7(c)-2

Counsel:
You are a SPC with the 314th MP Company, currently stationed in Baghdad.

Witness:
Yes, sir

Counsel:
Thank you very much.

CROSS-EXAMINATION

Questions by the defense counsel: MAJ [redacted] (b)(6)-2; 7(c)-2

Counsel:
How long have you been with the 314th?

Witness:
About two and a half years now, ma'am.

Counsel:
And is that how long you've been in the Army?

Witness:
Correct.

Counsel:
And you've been a 95B the entire time?

Witness:
Yes.

Counsel:
When did you arrive at Camp Bucca?

Witness:
I arrived in Camp Bucca somewhere in the beginning of April.

Counsel:
And what were your main duties there?

Witness:
I was to provide perimeter security for the installation…the EPW camp.

Counsel:
And did you have any additional duties?

Witness:
Later on in the mission, I was put on to provide security for the tribunal and for the in-processing area.

Counsel:
And did you escort EPWs, in that mission, back and forth to the tribunal from the compound?

Witness:
Correct ma'am.

Counsel:
Now are you friends with, or do you know anybody in the 320th MPs or the 223 MPs?

Witness:
Not really. I know a few, but not really friends with any of them.

Counsel:
So you hung out mainly with the 314th?

Witness:
Correct.

Counsel:
I direct your attention to the night of twelve May of this year. Did you help unload a bus-load of EPWs?

Witness:
Yes I did.

Counsel:
And did you arrive at the…when you arrived at the bus to do this, had any EPWs been unloaded yet?

Witness:
No.

Counsel:
So you were there for the beginning of the process?

Witness:
Correct.

Counsel:
And did you stay 'til the end?

Witness:
Yes I did.

Counsel:
When you arrived at the bus, was there someone standing at the door of the bus?

Witness:
Yes. There was one MP. I don't know what Company he was with, either 223 or the 320th. He was standing outside the bus. He was in his DCUs. He had his FLAC vest on. I couldn't distinguish who he was. There was no nameplate, no rank. He was pretty much sitting right outside the bus waiting for the reception to come in.

Counsel:
What'd he look like?

Witness:
Tall gentleman. Tan skin. Had a six o'clock shadow. Tall. Some hair.

Counsel:
How about weight? His build and weight.

Witness:
He was a pretty big guy. I couldn't tell you what weight.

Counsel:
And he began unloading the bus at some point, right?

Witness:
Yes. We were told...we...I heard an order, I believe it was from Master Sergeant (b)(6)5-(7)(C)-5 [redacted] start lining them up. So I started to do that and he started yelling to whoever was inside the bus to start bringing the EPWs out.

Counsel:
Now were you the one, you said that you repeated an order, did you suggest to him that you start unloading the bus?

Witness Yes, I said okay let's start unloading the bus and take out five at a time.

Counsel:
And he…

Witness:
…Proceeded to do that.

Counsel:
Okay. So he was directing another MP on the bus to bring one at a time to the door?

Witness:
Correct.

Counsel:
And as they came off the bus, describe the procedure.

Witness:
Well we would have two MPs escort the person to a line-up, where we had…I believe we were doing five at a time, lining them up. We had two MPs escorting them to that one staging area.

Counsel:
About how far away from that bus is the staging area?

Witness:
Maybe ten feet.

Counsel:
And did the MP that was unloading directly at the door of the bus, did he tell you anything about the behavior of the prisoners on the bus ride?

Witness:
Yes. He said the first twelve were causing trouble on the way down from the ride from wherever they were coming from.

Counsel:
After you lined them up by fives, what happened next?

Witness:
We proceeded to take them down to the holding area where we would put them until the in-processing needed them. We'd take them down, two MPs at a time, escort one EPW…take them all the way down to the holding area. Drop them off with the guard that was there, and the guard would segregate them from whatever they were…soldier, civilian, high-ranking official, whatever. Then we would just leave them there and come back and do the process over.

Counsel:
Who was down to accept them at that end?

Witness:
Specialist [redacted] (b)(6)-4; (7)(C)-4

Counsel:
And about how long would you spend down there with Specialist [redacted] as you brought each EPW?

Witness:
Maybe five, ten seconds at the most. Drop them off, tell him what he was, and he'd segregate them. We'd walk back and make sure everything was okay.

Counsel:
And how long is the chute that you walked them down? When you say…describe what the chute means?

Witness:
The cute would be, kind of like an alleyway of concertina, basically what it was. An alleyway of concertina that we took the EPWs down. And maybe no more than a hundred yards.

Counsel:
So it's a lane that's defined by concertina wire?

Witness:
Yes.

Counsel:
Okay. Did you see any EPWs on crutches that night?

Witness:
Yes, I saw about three EPWs on crutches that night, wearing blue garments, medical garments…Something like that.

Counsel:
And where were they when you saw them?

Witness:
I saw one already on the staging line, one coming off the bus, one being escorted down the chute.

Counsel:
And did you see any EPWs on crutches get thrown to the ground?

Witness:
No.

Counsel:
Did any of them get kicked?

Witness:
No ma'am.

Counsel:
Did you see any of them get punched?

Witness:
No ma'am.

Counsel:
Did you see any of them held down on the ground?

Witness:
No.

Counsel:
Kicked in the groin?

Witness:
No.

Counsel:
Yelled at?

Witness:
No.

Counsel:
Where they being told to hurry up at all?

Witness:
Not really, no. If they were like dragging purposely, we'll ask them to hurry up, you know, let's go, stop stalling.

Counsel:
I'm talking about...you didn't escort anybody on crutches?

Witness:
No.

Counsel:
Okay. So you're talking about the other escorts when you're talking about these guys on crutches being escorted?

Witness:
Yes.

Counsel:
Did you see any MPs yelling at EPWs in general?

Witness:
Yelling? Giving commands, verbal commands...get up, stand up, let's go, stuff like that.

Counsel:
Did you see any...hang on a second. Did you see any EPWs resisting that night?

Witness:
Yes I saw...I had one individual resist, with myself and my escort. I saw, maybe, two or three others as well.

Counsel:
Can you describe the incident that happened to you, personally?

Witness:
Yes. We had one individual that was refusing to walk. He didn't want to walk. He was dragging his feet. I was escorting with another soldier, I don't know if he was in the 320th or 223, and we were going to the chute and he was just dragging his feet. So myself and my other soldier decided to put him up, grabbed him, raised him, try to put him on his feet but he fell straight to the ground. And doing so, we were helping the individual back up and he was grabbing onto my leg and he eventually put his hand on my pistol, my pistol holder. And I told him to stop, get your hand off my weapon. He wouldn't do so. he kept on holding it, got a little higher on it, coming close to the handle of my weapon so I put him down. I put him down until he stopped resisting.

Counsel:
Can you please describe what "putting someone down" means?

Witness:
The action that I took, ma'am?

Counsel:
Yes.

Witness:
I pretty much just grabbed the gentleman by the shoulder, had him by the legs, took his feet out from underneath him and placed him on the floor, put him in a wristlock until he had stopped resisting.

Counsel:
And did he stop resisting right away?

Witness:
No he squirmed around for maybe a minute or so, then he stopped. He got the clue.

Counsel:
What was your position in relation to him while he was squirming around?

Witness:
I was on top of him with a wristlock.

Counsel:
Were your knees on him?

Witness:
No, just my upper body.

Counsel:
So you were that close to him? You had your upper body on top of him to restrain him?

Witness:
Yes ma'am.

Counsel:
And you were holding one of his arms behind him in a wristlock?

Witness:
Yes ma'am.

Counsel:
And he squirmed for over a minute?

Witness:
Yes.

Counsel:
How many times did he touch your holster while he was resisting?

Witness: About three times.

Counsel:
And was there a magazine with live rounds in your pistol?

Witness:
Yes ma'am.

Counsel:
Did he actually ever touch the pistol?

Witness:
Yes ma'am. He touched the handle, ma'am.

Counsel:
And you gave him verbal commands before putting him down?

Witness:
Yes ma'am.

Counsel:
Did he comply?

Witness:
No.

Counsel:
Describe the escort that was with you?

Witness:
Another tall individual, tan skin, had brown hair, had a six o'clock shadow on his face. He was in DCU pants, boots, brown t-shirt on, no over coat, no soft cap, no rank, no nameplate.

Counsel:
About how tall?

Witness:
Taller than me, about 6' 3", 6' 4".

Counsel:
What color hair?

Witness:
Black or brown.

Counsel: And did he do anything when you were putting this prisoner down?

Witness:
No, he pretty much backed away and let me handle it.

Counsel:
Did you see any other EPWs resisting MP escorts that night?

Witness:
Yes I did, ma'am.

Counsel:
Can you pleas tell the investigating officer what you saw?

Witness:
Well sir, I saw one individual was being non-compliant with following verbal orders and being resistant, pretty much had to be dragged, not dragged but pushed along to go down the chute. And he starting nudging two MPs. What I mean by that, he would take his elbows and his shoulders and he started squirming around, and knocking two of the MPs, and he put them down as well, until he would stop resisting.

Counsel:
Was that a graceful put down?

Witness:
Things never go gracefully, especially when someone's resisting you. You do what you can to put them on the ground without sustaining injury to yourself or much to the EPW, and we would have to hold them there until he would stop moving around.

Counsel:
Did the escort punch them or kick them?

Witness:
No ma'am.

Counsel:
You saw that as you were coming...where were you when you saw that?

Witness:
I was coming back from the holding area. I just dropped off an EPW. I was coming back. I was maybe fifteen yards away when I saw the whole thing.

Counsel:
Say that again? You were fifteen yards away?

Witness:
Yes.

Counsel:
And you were walking towards…

Witness:
Towards the staging area where the EPWs were.

Counsel:
So you were approaching the scene?

Witness:
Yes.

Counsel:
And when you arrived at that scene, where they had him on the ground, you had to walk right past them?

Witness:
Yes ma'am.

Counsel:
And what were they doing, if anything?

Witness:
Restraining the individual until he would stop squirming.

Counsel:
Was he still squirming around after he was put to the ground?

Witness:
He was still kicking around.

Counsel:
Did you hear any screaming on the part of the EPWs that night?

Witness:
More like a crying, a whining. They sounded like a bunch of scared individuals.

Counsel:
Did you hear any blood-curdling screams?

Witness:
No screaming. Nothing real high-pitched.

Counsel:
Would you remember that if you heard it?

Witness:
Yes.

Counsel:
In your duties that night, between the holding area, the staging area and the bus, if there was such a scream, would you have heard it anywhere you where while you were conducting your escort duties that night?

Witness:
Yes I'm pretty sure. It was only a hundred yards. If they were screaming bloody murder, you'd be able to hear it.

Counsel:
And you said they were whining and making noises?

Witness:
Yes ma'am.

Counsel:
And why were they? Because they were scared?

Witness:
I believe they would be scared. They don't know what's going to happen to them. They're just coming into a new place. They don't know what's going to happen.

Counsel:
I have no further questions, but somebody else may.

I/O:
Any questions defense?

Defense counsel: No, sir.

I/O:
Major [redacted] (b)(6)-2; (7)(C) 2

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)-2; (b)(c) 2

Counsel: (b)(6)-4; (7)(C)-4
Yes sir, thank you. SPC [redacted] you say you would have heard any kind of really loud scream?

Witness:
Yes sir.

Counsel:
You think you would have heard that when you were trying to put that prisoner to the ground who had just tried to grab your weapon?

Witness:
I'm pretty sure.

Counsel:
You think you would have been listening for all that when some guy was grabbing for…

Witness:
I would have been focusing on that individual, but I think if I heard somebody yelling and screaming, I think I would have been able to do that.

Counsel:
You think you would have been able to do that?

Witness:
Yes.

Counsel:
Now, when you put these…another thing, you were…you jumped right in…you said you heard Master Sergeant [redacted] You seem to know her. Do you know her?

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

Witness:
I've heard of her. I've seen her around camp before.

Counsel:
So you knew her that night?

Witness:
Yes I know what she looked like.

Counsel:
And what do you mean, you've seen her around camp?

Witness:
Around my camp area, the 320th and 314th bunks were right next to each other.

Counsel:
Okay. So you practically lived together, right?

Witness:
I wouldn't say lived together. We kind of kept our separate ways, but once we, you know, we worked together. We were perimeter security. They were the interior security. We passed by each other on a daily basis. We never really talked.

Counsel:
But you knew who she was?

Witness:
Yes I knew who she was.

Counsel:
Saw if you saw her that night, you'd know exactly who she was?

Witness:
Yes.

Counsel:
Okay. You escorted six prisoners that night, right?

Witness:
Six to ten, yes.

Counsel:
Okay, so you were pretty busy escorting prisoners. You say you saw three EPWs on crutches?

Witness:
Yes sir.

Counsel:
And you said...when you said you saw one on the staging line, tell me again...where did you see these...

Witness:
I saw one on the staging line, was already lined up in the row of five. I saw one coming off the bus and I saw one being escorted down the chute to the holding area, sir.

Counsel:
Okay. And that was when you first got there, right?

Witness:
No. When I first got there, there was nobody off the bus. This was during the escorts.

Counsel:
Okay, so at some point you just happen to notice this configuration of people on crutches?

Witness:
Yes sir.

Counsel:
Do you know what happened to all those people on crutches?

Witness:
No.

Counsel:
Because you were busy escorting...

Witness:
I heard stories about why they were on crutches.

Counsel:
Did you see all these three on crutches get escorted to the holding area?

Witness:
I only saw one being escorted. And two over by the staging area.

Counsel:
I understand. And this EPW that resisted you, he put his hand on your holster?

Witness:
Yes sir.

Counsel:
And you first told him to stop.

Witness:
Yes sir.

Counsel:
And then you eventually had to put him to the ground.

Witness:
Correct.

Counsel:
And you described how you did that.

Witness:
Yes.

Counsel:
You didn't throw him to the ground, correct?

Witness:
No sir, I did not.

Counsel:
And you didn't drop him on his head?

Witness:
No.

Counsel:
You didn't punch him?

Witness:
No sir.

Counsel:
You didn't kick him?

Witness:
No.

Counsel:
You didn't step on his head.

Witness:
No.

Counsel:
You didn't kick him between the legs?

Witness:
No.

Counsel:
You didn't drag him across the ground?

Witness:
No.

Counsel:

You didn't body slam him?

Witness:
No sir.

Counsel:
Because those would not be proper techniques, would they?

Witness:
No. That would be going against what you should be doing.

Counsel:
Right. You have a duty to safeguard these prisoners, don't you?

Witness:
Correct.

Counsel:
You did notice at least one of these prisoners had dirt on his face and blood after they had been in the holding area, right?

Witness:
Correct. Dry blood.

Counsel:
And you said somebody told you…did the person that was standing at the base of the bus with the FLAC vest on, that told you that these prisoners had been causing trouble the whole way?

Witness:
Correct.

Counsel:
Do you know any of the soldiers from the 223rd like you know the soldiers from the 320th?

Witness:
No.

Counsel:
Okay. Thank you. I don't have any further questions.

I/O:
Any follow up defense counsel?

Defense counsel:
Yes.

RECROSS-EXAMINATION

Questions by the defense counsel: MAJ [redacted] (b)(6)-2;(7)(C)-2

Counsel:
MAJ [redacted] asked you if you know the soldiers from the 320th. Do you know if Master Sergeant [redacted] married? (b)(6)5;(7)(C)-5

Witness:
No.

Counsel:
Do you know if she has children?

Witness:
No ma'am.

Counsel:
Do you know what town she's from?

Witness:
No ma'am.

Counsel:
Have you ever had dinner with her?

Witness:
No ma'am.

Counsel:
Have your units ever sat together in the chowhall?

Witness:
Not that I know of.

Counsel:
Have you ever sat down and had a conversation with her?

Witness:
No ma'am.

Counsel:
Have you ever sat down and had a conversation with anybody from the 320th?

Witness:
Yes ma'am.

Counsel:
Who?

Witness:
I've had conversations with Sergeant [redacted] (b)(6) 4; 7(c) 4 and I forgot which other gentleman. He was an E-6.

Counsel:
And what were those…were they about this case?

Witness:
No ma'am. We were just bullshitting about everyday events.

Counsel:
Of the people you see at this table…this person, this person, this person, and that person…are you friends with them?

Witness:
No.

Counsel:
Have you ever had conversations with them?

Witness:
No.

Counsel:
Thank you.

I/O:
Any follow up?

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6) 2 - (7)(c) 2

Counsel: (b)(6) 4 - (7)(c) 4
Yes sir, just one follow up. Specialist [redacted] when you were escorting who resisted you, and you had to put him to the ground, there was another soldier with you, right?

Witness:
Correct.

Counsel:

And you were the one who pretty much took control of the situation with that prisoner, right?

Witness:
Yes.

Counsel:
That soldier that was walking with you, was it any one of these soldiers sitting at that table there?

Witness:
He looks familiar. Sergeant McKenzie looks familiar. I think he might have been the one with me.

Counsel:
You think he might have been the one with you?

Witness:
Yes.

Counsel:
Okay.

I/O:
Defense anything else?

Defense Counsel:
No sir.

Questions by the Investigating Officer: LTC [redacted] (b)(6)-2; (7)(C) 2

I/O: (b)(6) -4; (7)(C)-4
Specialist [redacted] when you said you saw the escorts giving verbal commands to the EPWs, describe for me the tone of voice and the inflection that they were using in those commands.

Witness:
It was a firm tone of voice, letting them know that they were in-charge. They were just repeated once or twice. The individual would get the hint and start walking or get up or sit down, hurry up. Some individuals were just not cooperating and they just didn't want to go anywhere they were told, sir.

I/O:
Did you hear any other commands or any other comments from any of the escorts besides the directives to the EPWs?

Witness:
No.

I/O:
Were the verbal commands in English or Arabic?
Witness:
Some were in English. Some were in Arabic. There was a mix between the two.

I/O:
Okay. Did you recognize any of the Arabic commands?

Witness:
Yes. Stop, back up. Nothing much. Just simple words.

I/O:
And it's your testimony, under oath, that you had no…well let me just ask you. Have you had any contact or any meeting with any 320th person, soldier, member, any of the accused here since the incidents on May twelfth?

Witness:
Yes I have, sir.

I/O:
Describe those for me.

Witness:
The individuals sir?

I/O:
The individuals and the substance of your meeting.

Witness:
(6)(6) 4-(7)(C) -4
For some reason, there was three individuals from the 320th that were brought to our barracks in Camp Arifjan, where we were stationed at during force protection. And, I talked to a few of them. One was Sergeant [redacted] one was Specialist [redacted] and a Sergeant. I can't remember his last name, but he was one of the three. And pretty much it was just like hello, how's it going. I saw them in the PX and said hi. That's all the nature of the conversation was.

I/O:
Didn't discuss anything with regard to the incidents?

Witness:
No.

I/O: Okay. No other such contact other than that?

Witness:
No.

I/O:
Okay. And you didn't have any substantive meetings with anybody else from the 320th prior to May twelfth?

Witness:
No.

I/O:
Or on the twelfth?

Witness:
No.

I/O:
Does anybody have any further questions?

All Counsel:
No sir.

[The witness was duly warned, dismissed and left the room.]

(b)(6)-4;(7)(C)-4 **DIRECT EXAMINATION**

SSG [redacted] U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MA [redacted] (b)(6)-2, (7)(C)-2

Counsel:
You are a SSG with the 314th MP Company, currently stationed in Baghdad.

Witness:
Yes, sir

Counsel:
Thank you very much.

CROSS-EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6)-2, (7)(C)-2

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

Counsel:
Morning Specialist [redacted] Specialist [redacted] you said you're with the 314th MP Company?

Witness:
Yes.

Counsel:
Were you with them back on the twelfth of May two thousand three?

Witness:
Yes.

Counsel:
What was your mission back on the twelfth of May?

Witness:
To work the perimeter security for the IF, the prison camp here at Bucca.

Counsel:
Were you also working the in processing?

Witness:
Yea, that and then we worked the in processing.

Counsel:
About how long before the twelfth of May did you start working in the in-processing center?

Witness:
I would say approximately a week.

Counsel:
Do you remember the bus-load of EPWs that came in on the twelfth of May?

Witness:
Yes.

Counsel:
Can you tell us what happened when they first came to get you?

(b)(6)-4;(7)(C)-4 Witness:
Sergeant [redacted] my NCOIC, came to me and said we needed somebody to go help escort off the bus. That's when I went over and escorted the first prisoner off the bus and moved out to the staging area.

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

Counsel:
Okay. Let me take you back for a second. Now you said that Sergeant [redacted] came to get you and then you proceeded down to the bus?

Witness:
Right.

Counsel:
Were the prisoners still on the bus when you arrived there?

Witness:
Yes.

Counsel:
So no off-loaded had begun?

Witness:
No had off-loaded yet.

Counsel:
And you said that you escorted the first prisoner off the bus?

Witness:
Correct.

Counsel:
Can you describe what that prisoner was like?

Witness:
He was on crutches. I know he had gunshot wounds to his leg. I don't remember which leg. I believe it was his right leg. We off-loaded him real slow, on the crutches. Me and, I forget who…I don't know who helped me escort him. We picked him up under the arm and carried him to the staging area.

Counsel:
Okay. Who was originally with this prisoner when he was first getting off the bus?

Witness:
The MP?

Counsel:
Yes.

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

Witness:
I don't know. I know Sergeant [redacted] was there originally. And I don't know who the other MP was. I don't know name. I don't recognize'em.

Counsel:
Okay. Not the MP that helped you, but the person who originally had him when he got off the bus. Master Sergeant [redacted] (b)(6)-5, (7)(C)-5

Witness:
Right.

Counsel:
Okay. Did she start having some problems with him?

Witness:
Yeah. He didn't want to...he was going real slow and he didn't want to...basically go to where we were telling him to go. We were pointing...We're going here, we're going here.

Counsel:
So what did you do?

Witness:
Then she grabbed his crutches and I held him underneath the arm and we carried him to the staging area.

Counsel:
You and another individual carried him to the staging area?

Witness:
Yes.

Counsel: (b)(6)-5, (7)(C)-5
At any time during that process, did you see Master Sergeant [redacted] ush him to the ground?

Witness:
No.

Counsel:
Did he ever go down to the ground?

Witness:
His legs were giving out. He was basically acting limp. I'm sure he was in a great deal of pain with his gunshot wound, you know, he was favoring that leg. That's why we carried him.

Counsel:
Did you ever see him go down on the ground and anybody start punching or kicking him?

Witness:
No.

Counsel:
Now you said that you and another escort escorted him to the staging line?

Witness:
Right, the staging area.

Counsel:
What happened from there.

Witness:
He was sat down and we had an interpreter there, and we told him…I told the interpreter that the prisoners were going to be coming in and this is where we were going to be staging them. I needed them to sit Indian style, with their heads down and not talk to each other. I remember because his leg had bandages and stuff all over it. He couldn't sit Indian style so he had his leg out straight.

Counsel:
What did you do with the prisoners in the staging area?

Witness:
After they were all there?

Counsel:
Yes.

Witness:
That's where they stayed and I was relieved.

Counsel:
Okay. So you're saying you escorted them all the way down the chute?

Witness: (6)(6)4, (7)(C) -4
No. I just escorted one and then Sergeant [redacted] had me stay there. And said okay this is where we're bringing the prisoners. I need you to stay here and guard the prisoners.

Counsel:
I'm sorry. I'm confused. Are you talking about the staging area right in front of the bus or the holding area down…

Witness:
No. The holding area.

Counsel:
Okay the holding area.

Witness:
Yes. Yes. The holding area is the staging area. That's what I'm calling it.

Counsel:
Okay. So you actually escorted him all the way down the lane?

Witness:
Yes.

Counsel:
And this was another soldier that you were with?

Witness:
Yes.

Counsel:
Do you know who that other soldier was?

Witness:
No I don't know if he was…I know he was taller than me. That's the only time I saw him throughout the night.

Counsel:
Do you know anybody from the 320th MP Company?

Witness:
Just Master Sergean[redacted] by face. I remember seeing her at her camp. I think when we were in country I recognized [redacted] think we went to basic AIT together.

(b)(6)-5, 7(c)-5

Counsel:
Did you ever talk to him in basic AIT?

Witness:
No. He was in a different platoon. I may have. I don't know.

Counsel:
Did you know any of these people like personally on a friendly basis or anything like that?

Witness:
No. I knew they were in the 320th, that's all.

Counsel:

Okay, so you said you escorted the very first prisoner of the evening. So was there anybody down in the holding area when you got there?

(b)(6) 4-(7)(C)-4

Witness:
Not when I got down there. I was the first one. And that's when Sergeant [redacted] was behind me and said I need you to stay here and guard them.
Counsel:
So you remained in the holding area for the rest of the evening?

Witness:
Right.

Counsel:
So you remained in the holding area for the rest of the evening?

Witness:
Right.

Counsel:
So the escorts were bringing the prisoners to you?

Witness:
Right.

Counsel:
When they were bringing the prisoners in to you, did you ever see any of the EPWs noticeably injured?

Witness:
From wounds they already had from getting off the bus. They were bandaged.

Counsel:
Did you notice anybody holding their groin or limping or anything like that?

Witness:
A lot of them were injured already coming off the bus. That's the only injuries I noticed.

Counsel:
Did you see somebody with a little bit of blood underneath their nose?

Witness:
Yea, I saw one like it had been dried blood. It looked like it had been there for a while. I don't know if he had a bloody nose earlier.

Counsel:
When you were down in the holding area, did you have a translator down there?

Witness:
Yes.

Counsel:
Did any of the EPWs ask you for medical attention or make any complaints to you?

Witness:
No. Not while I was down there.

Counsel:
What were the lighting conditions out there that night?

Witness: (b)(6);(7)(C)
Poor. I even asked Sergeant [redacted] about getting more lights over there. You know, the generator lights. They can't be easily moved. I remember there was one light set that was kind of off to the distance. It was kind of pointing in our direction but it was still pretty poor.

Counsel:
What was your ability to see back down to the bus?

Witness:
I could barely see the bus.

Counsel:
Was it very noisy out there? Were you able to hear things pretty clearly?

Witness:
The bus is a far enough distance. I couldn't hear what they were saying down there. Once they started escorting them closer to me, I heard MP commands like walk, you know.

Counsel:
Did you hear anybody like screaming belittling any of the EPWs?

Witness:
No. Not where I was.

Counsel:
Did you hear any blood-curdling screams coming from anywhere?

Witness:
No.

Counsel: Do you think you would have noticed something like that?

Witness:
If it was loud enough, probably.

Counsel:
During your escort down the lane, initially, and then when you were down at the holding area, did you ever see anything done to any EPW? Punching, kicking, anything of that nature.

Witness:
No. I didn't see any punching, kicking. No.

Counsel:
Now, a CID agent came to interview you back in May, is that correct?

Witness:
Yes.

Counsel:
Did they ask you to write a statement?

Witness:
No. He questioned me for a few minutes and said okay I'll get in contact with you later if I need anything else.

Counsel:
Thank you Specialist [redacted] (b)(6)-4;(7)(C)-4

I/O:
Any further questions?

Defense counsel:
No, sir

I/O:
MAJ [redacted] (b)(6)-2;(7)(C)-2

Major [redacted] (b)(6)-2;(7)(C)-2
Sir can I have a second?

I/O:
Sure.

Major [redacted]
No questions. Thank you sir.

Questions by the Investigating Officer: LTC [redacted] (b)(6)-2; (7)(C)-2

I/O: (b)(6)-4, (7)(C)-4
Specialist [redacted] let me get this straight. You escorted the first EPW off the bus, took him to the holding area, and then you stayed at the holding area, basically for the rest of the period that night?

Witness:
Yes.

I/O:
In your estimation, how far was the holding area from the bus?

Witness:
Around fifty meters. I know I was getting tired carrying the guy. I'd say around fifty meters.

I/O:
And would you describe for me how you and the other escort assisted this EPW on crutches from the bus to the holding area?

Witness: (b)(6)-5-7(C)-5
After Master Sergeant [redacted] and the other escort... he was going real slow and then we tried to start carrying him and that's when Sergeant [redacted] grabbed his crutches and I grabbed his arm. He had his arms back like this...and then we had our arm under this and then wrapped around with his arm over my shoulder. Both of us, we carried him.

I/O:
And he was pretty passive?

Witness:
He wasn't really fighting us except for...he was telling us my leg, mister, my leg.

I/O:
Did somebody tell you he had gunshot wounds or was that obvious to you?

Witness:
I found out afterwards. They said that he had been shot in the leg.

I/O:
Have you had any previous contact or any meetings with any member of the 320th subsequent to twelve May?

Witness:
As far as like briefings with them or...?

I/O:
Just any meetings or any contact. Has anybody approached you? Have you approached anybody in the 320th?

Witness:
I say hi, how you doing.

I/O:
Have you discussed anything about the incidents on twelve May with any member of the 320th since that time?

Witness:
Since that time there was a Sergean[redacted]or E-5. (b)(6)-4; 7(c) 4

I/O:
Sergeant who?

Witness:
I don't know his name. He was down in Arifjan.

I/O:
Rice you think?

Witness:
Yes I think that's his name. An E-5. I'm not sure of his name.

I/O:
An E-5?

Witness:
Could be an E-5. I'm not sure if it's something else.

I/O:
Rice.

Witness:
That rings a bell. I'm not sure what his name is.

I/O:
Okay. Did you discuss anything with regard to what happened on twelve May?

Witness:
No.

I/O:
Okay. No other contact then?

Witness:
No.

I/O:
Does anybody have any further questions?

Major [redacted]
I do. (b)(6)(c); (7)(C) 2

Questions by the trial counsel: MAJ [redacted]

Counsel: b6/4-(7)(C)-4
Specialist [redacted] have you discussed this matter with Sergeant [redacted] Sergeant [redacted] or Specialist [redacted]

Witness:
Yes. As far as...after May twelve?

Counsel:
Yes.

Witness:
Sure we talked.

Counsel:
About the incident?

Witness: (b)(6)4-(7)(c)-4
Just off-loading and Sergeant [redacted] said that...you know, mission accomplished.

Counsel:
Anything else?

Witness:
No.

Counsel:
Did you talk about what you were going to say today?

Witness:
No. Basically we just keep to ourselves, you know. We don't talk about this stuff or--

Counsel:
No further questions, sir.

Questions by the Investigating Officer: LTC [redacted] (b)(6)-2, 7(C)-2

I/O:
So it's my understanding that among Sergean[redacted], Sergean[redacted] and Specialist [redacted] (b)(6)-4 - (7)(C)-4 you have or you haven't discussed the events of twelve May?

Witness:
We have not, no. But we knew that there was the hearing and everything and we just kinda as a group collectively decided not to talk about it. At least I have so--

I/O:
Decided not to talk to anybody?

Witness:
Not to talk to anybody about it.

I/O:
Or just not to talk about it, period.

Witness:
No.

I/O:
And you didn't discuss what your testimony, or what the testimony of any of the other members of the 314th that would be here today?

Witness:
No.

I/O:
Okay. Thank you.

[The witness was duly warned, dismissed and left the room.]

DIRECT EXAMINATION

(b)(6)-4 (7)(C)-4

SPC [redacted] U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MA[redacted] (b)(6)-2, (7)(C)-2

Counsel:
You are a Specialist SG with the 320th MP Battalion, currently stationed in Baghdad.

Witness:
Yes.

Counsel:
Thank you.

CROSS-EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)-4; (7)(C)-4
Specialist [redacted] you arrived at Camp Bucca around the last weekend of March, correct?

Witness:
Yes.

Counsel:
And you were working in the internment facility as a compound guard, initially?

Witness:
Yes.

Counsel:
How long did you perform those duties?

Witness:
Two months.

Counsel:
Couple months?

Witness:
Yea.

Counsel:
And the compound that you actually worked with was compound four, correct?

Witness:
Yes.

Counsel:
Your shifts were twelve hours on, twelve hours off?

Witness:
Yes.

Counsel:
So you had a good amount of interaction with the EPWs, right?

Witness:
Yea.

Counsel:
In the two months that you worked down there, were there ever instances when EPWs complained about injuries that later turned out to be unfounded?

Witness:
Yea.

Counsel:
Could you describe some of that for me?

Witness:
There's a lot of pretending that they had seizures. Medics would come down and give them a shot of distilled water. They would be all right. A lot of times they would give them skittles. They would take the red skittles and go back. They were fine. They would complain about little bumps, scrapes and bruises. They wanted to go to the hospital for that when all was needed was a band aid.

Counsel:
Could you tell the difference between a real complaint and something that was…?

Witness:
You got to know the people that complained too much that were usually faking, but usually if you didn't see somebody up there and they were complaining a lot then usually it was legitimate, but usually not.

Counsel:
Did you ever see an EPW scream and fall to the ground?

Witness:
Yea.

Counsel:
And later find out that that person was not injured at all?

Witness:
Yea.

Counsel:
You said you've seen seizures?

Witness:
Yea.

Counsel:
Did those turn out to be seizures?

Witness:
No.

Counsel:
Eventually you learned who the people were who would act, and you could kind of tell?

Witness:
Yea.

Counsel:
But until that point, what was your response?

Witness:
I don't know what was going on. I wasn't a doctor so...

Counsel:
So you called the medic?

Witness:
Yea.

Counsel:
You guarded the segregation unit down at the compound, right?

Counsel:
Were you on guard about sixteen May, fifteen, sixteen May?

Witness:
Yea.

Counsel:
Who was in the segregation unit at that time?

Witness:
They had some guys that were misbehaving from the regular compounds and then they had the two prisoners that were involved, I think, in this case.

Counsel:
Why do you think there were two prisoners in segregation from the bus?

Witness:
Because when I was guarding, CID came down and were asking them questions about the case.

Counsel:
Can you describe for me what the segregation unit is like down there?

Witness:
It consisted of CONEXs with, like, a wooden train in the front. The doors are taken off. There's a wooden train and then there's concertina wire nailed to the wooden frame so that you couldn't come through the door. It was like this big, with a little padlock and a chain.

Counsel:
So the front is concertina so you can see inside?

Witness:
Yes.

Counsel:
And these two prisoners were being held in the same CONEX together?

Witness:
Yes.

Counsel:
How did they look?

Witness:
They looked fine to me. They didn't have any visual injuries. They didn't complain of anything either.

Counsel:
No complaints to you at the time that you were…?

Witness:
No.

Counsel:
Any requests for medical treatment?

Witness:
No.

Counsel: Would it be typical for an EPW to ask a guard for medical treatment?

Witness:
Yes, if they were hurt or if they were trying to get out of there?

Counsel:
Why pick a guard?

Witness:
We're the only ones who can talk to them.

Counsel:
You said that CID came down, right?

Witness:
Yes.

Counsel:
Can you remember who from CID came down?

Witness:
I can't remember their names. I know it was a Chief Warrant Officer, a Warrant Officer, I don't know what rank, and another agent. He looked a little Chinese. I don't remember their names.

Counsel:
Did they bring anybody else with them?

Witness:
Yes. They had another person. I don't think he was from CID. They were using him as an interpreter. I think he was from another unit.

Counsel:
Why do you think he was from another unit? How was he dressed?

Witness:
The CID lady came down in civilians, and the other guy came down, I think...he didn't have his blouse on. And this guy came down, he had a blouse on. I think he had some rank on.

Counsel:
The translator, you're talking about?

Witness:
Yes.

Counsel: Had a blouse on?

Witness:
Yes.

Counsel:
Did they tell you why they came down to the CONEX?

Witness:
They didn't tell me why. They just kinda walked in and said we're here to ask some questions, and that was it.

Counsel:
Did you stand near the CONEX as they were asking questions?

Witness:
Yes. I stood right there.

Counsel:
To make sure that they weren't handing the prisoners any cigarettes or any reward because we're not supposed to.

Counsel:
So did you hear the conversation that the agents had with the two guys that were in the CONEX?

Witness:
Yes.

Counsel:
What can you remember from the conversation?

Witness:
I can remember them asking them what had happened.
Where they had punched them. Where they had kicked them, specifically. She had said that she wanted to bring the MPs to justice that did this. Just specific questions about what had happened.

Counsel:
When you say specifics, were they saying things like "were you kicked in this area; were you punched in this area"?

Witness:
Yes.

Counsel:
What was the dialogue back from the EPW?

Witness:
They would kind of talk to each other about it first, and then one would say something to the interpreter. It would take the interpreter a little while to figure out what they were saying and then he would tell them what he had said.

Counsel:
Were they giving back lengthy answers or was it more a...?

Witness:
It was more of, kind of, short and choppy answers.

Counsel:
Did you see any of the agents take any notes?

Witness:
No.

Counsel:
Is there anything else that stands out in your mind about the dialogue that was going back and forth?

Witness:
No.

Counsel: (6)(6)-4; (7)(C)-4 did you...did the agents ask them any open-ended questions to start, like do you remember what happened on the night you came in on the bus?

Witness:
No.

Counsel:
How did they start into the questioning?

Witness:
They came down and there was...she identified herself as CID and she just went right into questioning like "did they hurt you; did they...".
Again, they started asking them specific questions about what had happened.

Counsel:
And you said by specifics, they were saying like...

Witness:
Where it had happened.

Counsel:
So nobody ever asked them at any time…did this ever happen?

Witness:
No.

Counsel:
And the EPWs, where they agreeing with everything they said?

Witness:
More or less, yes. Some things they would say no to, but most of it was like, they would talk back and forth to each other. The one guy would go yea that's what happened.

Counsel:
Thank you Specialist [redacted] (b)(6) 4- 7(c) -4

Questions by the defense counsel: MAJ [redacted] (b)(6)-2 (7)(c) 2

Counsel: (b)(6)2-(7)(c)2
CPT [redacted] asked you is it typical for an EPW to ask a guard for medical treatment, and your answer was yes, if they were hurt or if they wanted to get out of there. What do you mean by "if they wanted to get out of there"?

Witness:
Well, if they wanted the medical truck, they usually went to the hospital. In the hospital, they would get a bed to sleep on, air conditioned…it was like a little incentive for them to go on a little trip and get out of the compounds.

Counsel:
And with reference to the CID interview, you answered it would take the interpreter a little while to figure out what they were saying. What do you mean by that?

Witness:
I think he was Arabic, but I think the dialect was getting in the way. It would take him a little while to figure out what they were saying, and then he finally got it. He would tell the CID agents.

Counsel:
He got what he believed they were saying.

Witness:
Yea..

Counsel:
Thank you.

Questions by defense counsel: CPT [redacted]

Counsel:
Specialist [redacted] have you ever seen this soldier/interpreter before?
(b)(6)-4, (7)(C) 4

Witness:
No I've never seen him before.

Counsel:
Have you seen other interviews with CID?

Witness:
No.

Counsel:
Okay. But you've seen other interpreters there in the IF?

Witness:
Yes, the ones that we use.

Counsel:
Okay. Thanks

Questions by the defense counsel: CPT [redacted] (b)(6) 2; (7)(C) -2

Counsel:
Follow-up on that. The ones that you normally use are who?

Witness:
Were other prisoners.

Counsel:
Okay. So they understood the language and the dialect?

Witness:
Yes.

Counsel:
Thank you.

I/O:
Anything else, CPT [redacted] (b)(6) 2; (7)(C) -2

Counsel:
No sir.

I/O:
MAJ [redacted] (b)(6) 2-7(C)(2)

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)-2, (7)(C) 2

Counsel: (b)(6)-4-(7)(C)(7)
[redacted], what was your job that day that you overheard this conversation?

Witness:
I was to guard the segregation unit.

Counsel:
And the reason you listened in on this conversation was why?

Witness:
I was standing there to make sure they didn't give the prisoners any cigarettes or any reward because they're not allowed to have anything like that.

Counsel:
And during that process you decided it was okay for you to listen to CID agents conducting interviews?

Witness:
Yes.

Counsel:
You thought that was okay?

Witness:
Yes.

Counsel:
And what you heard was…you said the CID agents would ask questions?

Witness:
Yes.

Counsel: (b)(6)-2; (7)(C) 2
And you said to CPT [redacted] that they weren't asking any open-ended questions, right?

Witness:
Yes.

Counsel:
But your first question that came out of your mouth was you said that one of them said "did they hurt you", right?

Witness:
Yes.

Counsel:
And then there was some discussion, and there was an answer given, and then they said where did they hurt you?

Witness:
Yes.

Counsel:
The implication to that would be that the answer to the question "did they hurt you" would be yes.

Witness:
Yes.

Counsel:
Is that what they said, or do you not know?

Witness:
No, that's what they said, and then they went on asking specific questions.

Counsel:
So "did they hurt you" is kind of an open-ended question, isn't it?

Witness:
Yes.

Counsel:
Doesn't imply whether they were or were not, it just asks if somebody got hurt, right?

Witness:
Yes.

Counsel:
And wouldn't the logical questions for an investigator to ask, if after they were asked a question such as that, if after a question such as that was answered yes they hurt me, wouldn't the next question logically be where?

Witness: Yes.

Counsel:
And wasn't that the next question?

Witness:
Yes.

Counsel:
Okay. Thank you, no further questions.

I/O:
Defense counsel, anything further?

RECROSS-EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6)2 -(7)(c)-2

Counsel: (b)(6)(4) -(7)(c) 4
SPC [redacted] did they just ask them "where were you hurt?" and then they just gave off a whole litany of everywhere where they hurt?

Witness:
No.

Counsel:
How did they do it?

Witness:
They asked, after they asked them where they were hurt and they said, "yes we were hurt", they began saying well did they kick you here or did they punch you here, you know specific questions like that.

Counsel:
Okay, thanks Specialist [redacted] (b)(6) 4 ; (7)(c) 4

I/O:
Anything else from the defense?

Defense counsel: No, sir.

I/O:
Government?

Major [redacted] (b)(6)2 ; (7)(c)(2) No, sir.

[The witness was duly warned, dismissed and left the room.]

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

[redacted] an interpreter, was sworn and interpreted the following witnesses testimony.

DIRECT EXAMINATION

Questions by the trial counsel: MAJ [redacted] (b)(6)-2,(7)(C)2
(b)(6)-4,(7)(C)4

[redacted] detainee at Camp Bucca, Iraq was called as a witness for the Government, was sworn and testified as follows:

Counsel:
Do you remember the night you came to Camp Bucca?

Witness:
Yes I do.

Counsel:
Were you on the bus that came from An Nasariyah on May the 12th?

Witness:
Yes, sir.

Counsel:
Please tell us what happened to you after you got off the bus at Camp Bucca.

Witness:
I was mistreated on the bus. The American soldier used bad words to us while we were getting on the bus. They were using words like "fuck your mother, fuck your sister" something like that. After that they tied our hands and used normal processing. We understand that there's no problem with security processing. They didn't let us drink any water. And from time to time they told us to shut up and not talk to each other. One soldier pointed his rifle in my face two times and I didn't do anything. While on the road the bus broke down and stopped for some mechanical reason.
They were fixing the bus and we didn't do anything. As we arrived at Um Quasar, the used they used fists to push us out. One soldier came to me and pushed me badly and they let me sit up on the stairs of the bus. Another MP said to me "fucking police" and hit me on my head. When we got on the bus at An Nasariyah they didn't let me sit on the seats. They said that this place was for dogs, and they made me sit in that place.

Counsel:
Did you sit on the floor of the bus?

Witness:
Yes on the floor of the bus between the chairs. There was an empty chair, but they didn't let us sit there. We sat tied to each other, prisoners tied to each other. I had my lunch with me and he took it and threw it away. Three American soldiers came and pulled on me by force to the ground. Then 10 to 15 meters they pushed me to the floor again. One female soldier put her boot on my leg as I was laying on the floor.

I/O: Are we talking about incidents on the bus?

Counsel: I would like for you to tell me what happened to you after you got off the bus at Camp Bucca.

Witness:
Okay, they were pulling me on the floor for 15 meters, and after that they pushed me to lay the floor on the ground and they let my leg to get from each other and they put their boot on my leg. Another one he squeezed my head on the sand using his boot until my side face touches the sand. One American female beat me ten times on my ass with her boot.

Counsel:
Were these all American soldiers that did this to you?

Witness:
I don't know, it was night, but they were using English.

Counsel:
But you remember that one was female?

Witness:
Two females, I remember.

Counsel:
Did anyone else kick you, with their boot, between your legs?

Witness:
Yes, sir...around ten times.

Counsel:
Did it hurt to be kicked between the legs?

Witness:
Yes, it hurt.

Counsel:
Did you say anything when you were being kicked?

Witness:
No they didn't answer me anything so I didn't speak.

Counsel:
Did you cry out in pain?

Witness:
I screamed.

Counsel:
Besides being kicked between the legs, did the soldiers touch you anywhere else?

Witness:
Only they pushed my face to the sand, and this we consider in Iraq as big criminal, insult me.

Counsel:
How did they push your face into the sand?

Witness:
I was laying on the sand after they pushed me on the sand they put their boot on the side the other side was on the sand. And then he pushed and squeezed it. Some sand blew inside my ear, and my mouth the doctor use sticks to take the sand from my ear.

Counsel:
Were your hands bound with tape or handcuffs?

Witness:
It was but when they pushed me it take off

Counsel:
Which direction were you facing when you were on the ground? Were you on your back or were you on your stomach?

Witness:
I was on my stomach.

Counsel:
Did anything else happen to you after you got off the bus?

Witness:
After they took me to the holding area one guy pulled me from my waist my stomach with tough hands he used expression "big American I'm in higher rank" after that the treatment started to be better they treat me in better way in holding area.

Counsel:
Did you see any other prisoners when you got off the bus that night?

Witness:
Did I see any other prisoner they beat him?

Counsel:
Did you see any other prisoners being mistreated that night?

Witness:
I didn't see I only heard the screaming because they didn't allow me to raise my face. I only heard people suffering and screaming.

Counsel:
Did you resist the soldiers who were transporting you that night?

Witness:
Never, no.

Counsel:
Did you fight with the soldiers who were transporting you that night?

Witness:
No.

Counsel:
Did you obey the soldiers at all times?

Witness:
Yes.

Counsel:
Did anyone kick you in the stomach?

Witness:
No, how they kicked me in my stomach and my stomach directed to floor?

Counsel:
Did you talk to the lawyers that represent the soldiers yesterday?

Witness:
Yes.

Counsel:
Did they talk to you about going home?

Witness:
The lawyer told him through Iraqi Major if you change your testimony we can release you tomorrow. The major informed that he did hear that directly from the lawyer and they inform him maybe we delay this trial two months. And we have been here four months and this holding, it seems to me, is way of making pressure on me to change my story or not telling the truth.

Counsel:
Are you telling the truth today?

Witness:
Yes.

Counsel:
Thank you, I don't have any more questions for you. Please answer any questions that anyone else might have.

Defense counsel: CPT [redacted] (6)(6) 2 -(7)(C) (2)
Sir I would like to ask for an immediate closed session of this hearing.

I/O:
Okay, what is it. I thought you meant that you wanted a side bar. No?

Defense counsel: CPT [redacted] (6)(6) 2 -(7)(C)-(2)
I don't know if we can have a side bar out of the hearing of everybody, but I think we need to have a hearing out of the presence of the other-the spectators, the witnesses, the party.

I/O:
Okay.

I/O:
At this time due to the nature of the line of questioning for this particular individual, I'm going to order that all spectators and all members of the media please leave the hearing tent and we will have a ten minute recess to allow the defense to compare notes, and then we will resume with this individual.

I/O: (6)(6) 2 -(7)(C) -2
Defense counsel was concerned over perceived allegations of impropriety made by the government's question-last question. At first we cleared the courtroom of both media and spectators, MAJ [redacted] PAO is advised that under the Freedom of Information Act since this is an open hearing the media does have access to the hearing and we will respect that and allow the media in on advice of the Legal Advisor. The spectators, because this is an open hearing, have the same standing as the media, so the hearing will continue to be open. Spectators and press will be allowed access and any remark Defense would like to add to that, you are invited to do so at this time.

I/O:
Any remarks the defense would like to add to that you're invited to do at this time.

Defense counsel: No, sir.

I/O:
Government?
(b)(6)-2;(7)(C)2
Major [redacted] No, sir.

CROSS-EXAMINATION

Questions by the defense counsel: CPT [redacted] (b)(6)-2;(7)(C)-2

Counsel: (b)(6)4-(7)(C)-4
Mr. [redacted], when you were transported to Camp Bucca, you knew one of the other prisoners that was transported, correct?

Witness:
Yes I know one guy he is captain in Iraqi police.

Counsel:
And in the time that you have been here at Camp Bucca, you've come to know an Iraqi major named "[redacted]"?

Witness:
No.

Counsel:
EPW number [redacted] (b)(6)-4;(7)(C)4

Witness:
His name "[redacted]", he is major in Iraqi army.

(b)(6)-4;(7)(C)-4
Counsel:
And his number is [redacted]

Witness:
I do not recognize the number.

Counsel:
And this is the same major that told you that a translator told him that a defense attorney told him that he would be released if he changed his story, right?

Witness:
Yes, in front of another witness in front of group of prisoners.

Counsel:
So he told the whole group of prisoners?
Witness:
He told the group of prisoners and I was listening. And then the major he thought that he is going to change his testimony …

Counsel: (b)(6)4-7(c)4
Mr. [redacted], you've been interviewed several times in reference to this case, correct?

Witness:
Yes, I met CID, I met lawyer, I met--yes.

Counsel:
And the first time you were interviewed by CID, was when you were in segregation… you were in segregation area, correct?

Witness:
Yes, three days from arriving here.

Counsel:
And when they came to interview you what you wanted to talk to them about was about the conditions that you were living in at that time, correct?

Witness:
No, CID came and they told us that a group of American soldier has been witnessed that the bus arrived on 12th of May has been beaten-they beat them…

Counsel:
So at that time you did not say that, you did not complain about the fact that you were being held in a metal container surrounded by barbed wire?

Witness:
I didn't complain, but I explained to them how we lived. Even they checked me physical on my feet because I was walking in metal container, so the saw my feet, but I didn't complain just I was explain to them.

Counsel:
You told them that you needed to be released, correct?

Witness:
As I am police officer so I know the procedure, so I didn't ask them because they have to complete investigation.

Counsel:
And you're being held right now because you're being investigated for war crimes, correct?

Witness:
I don't know and I'm not war criminal.
Counsel:
CID is investigating you for war crimes, correct?

Witness:
No, but only the who I am I am police officer and I worked with American one month and after five days I received salary from American side, but the reason for holding me is nonsense.

Counsel:
Mr[redacted], you're not being held pending an investigation by CID for war crimes, is that your testimony?

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

Witness:
No I am not war criminal.

Counsel:
I did not ask if you're a war criminal. Mr[redacted] I asked if you're being held here because you're being investigated for war crimes.

Witness:
Negative, no.

Counsel:
Mr.[redacted] before you boarded the bus in An Nasariyah to come to Camp Bucca, you were not given a medical examination, correct?

Witness:
No.

Counsel:
And you remember that when you boarded the bus there were soldiers on the bus, correct?

Witness:
Beside the driver standing?

Counsel:
After the bus was boarded with EPWs then soldiers got on the bus, correct?

Witness:
Yes.

Counsel:
And those soldiers were on the bus for the trip to Camp Bucca?

Witness:
Yes.
Counsel:
And you were told to keep your head down, correct?

Witness:
Correct.

Counsel:
But from time-to-time you looked up at the soldiers, correct?

Witness:
Yes, it is difficult for three hours to keep your head for many hours down. Sometimes the prisoners ask for water he has to raise his head.

Counsel: (b)(6)-4;(7)(C)-4
Mr. [redacted] the times that you looked up you could tell that there were four male soldiers on the bus, is that correct?

Witness:
No, as I believe only one female and the rest are male.

Counsel:
So you noticed that there were four male soldiers on the bus and one female?

Witness:
Yes, the exact number I don't know but I remember one female and the rest male.

Counsel:
And one of the soldiers was a tall soldier with a shotgun, correct?

Witness:
Yes.

Counsel:
And from time-to-time, if EPWs looked up or did not follow instructions, then he would yell at the EPWs?

Witness:
Yes.

Counsel:
And he pointed his weapon at the EPWs?

Witness:
Yes, he pointed his gun for me two times as soon as I raise my head.

Counsel:
And during the trip you were made to kneel down in the aisle, correct?
Witness:
Yes.

Counsel:
And while you were on the bus, soldiers yelled different things at you, obscenities at you?

Witness:
No.

Counsel:
That was before you got on the bus?

Witness:
Yes when we stand on the line he was yelling and using bad words at us.

Counsel:
And then when you arrived at Camp Bucca, the tall soldier with the shotgun was standing right outside the door of the bus, correct?

Witness:
Yes.

Counsel:
And when he picked you up and pulled you off the bus, he hit you with his head, correct?

Witness:
No, he let me sit down on the stair of the bus. There are these three stairs and he let me sit down until he take another prisoner to send him, and he yelled and using bad words.

Counsel:
And he said "fucking police"? And then he hit you in the head with his head?

Witness:
Yes he said "fucking police" and then he use his head, beat me by his head.

Counsel:
And that was the tall soldier with the shotgun, correct?

Witness:
Yes.

Counsel:
The same soldier that was on the bus?

Witness:
Yes.

Counsel:
You said that later on when you got outside the bus that you were kicked, and you said that only one person kicked you, correct?

Witness:
Yes, correct.

Counsel:
And you don't know if it was a male or female, correct?

Witness:
Yes I don't know, but I recognize from her voice that she's female. And the other soldier he was putting his boot on my face.

Counsel:
And there was no one else was touching you from behind, correct?

Witness:
Only one…this female beat me ten times.

Counsel:
And the female was not the same female you saw on the bus, correct?

Witness:
Not the same.

Counsel:
And this kicking that happened, this happened all at one time, correct?

Witness:
Only one time, it happened one time.

Counsel:
When CID came to interview you, that was three days after you arrived at Camp Bucca, correct?

Witness:
Yes, correct.

Counsel:
And at that time you did not seek any medical treatment, correct?

Witness:
Correct, yes.

Counsel:
And you didn't seek any medical treatment after you got off of the bus, the same night that you arrived at Camp Bucca?

Witness:
Medical assistance no I didn't receive anything.

Counsel:
And you didn't seek, when you talked to CID, you didn't seek any medical treatment because you were not injured, correct?

Witness:
Correct, but no. I ask for a doctor to check my ear, and they send me doctor next day after interview by CID. The CID promise me they will send me doctor, and they did that next day.

Counsel:
When you talked to CID you told them that you were beaten on more than one occasion, correct?

Witness:
Yes, correct.

Counsel:
You said the second time happened when you were being moved from the in processing area to the confinement compound, correct?

Witness:
Yes correct.

Counsel:
And you that during that second time that a loaded weapon was pointed at you head, correct?

Witness:
Correct, yes.

Counsel:
And you were told that you were going to be killed, correct?

Witness:
Yes correct.

Counsel:
And after you told CID that they never came back and questioned you about that incident again, did they?

Witness:
Yes correct.

Counsel:
That's correct they did not?

Witness:
Yes, but during the investigation they told me only speak about the bus accident only, so that's the reason I didn't open again the topic.

Questions by the defense counsel: CPT [redacted] (b)(6)-2;(7)(C)-2

Counsel: (b)(6)-4; 7(C)-4
Mr. [redacted] do you remember speaking with me two weeks ago?

Witness:
Yes I remember.

Counsel:
And the first thing you said to me was "when am I going to be released", right?

Witness:
No.

Counsel:
You didn't ask me when you were going to be released?

Witness:
Yes, I did but your release is not related to us, but after the trial your release is not related to us we have to investigate another department like CID maybe they release you or no.

Counsel:
Right I said I have no control over whether or not you're going to be released, correct?

Witness:
Yes you and the lawyer also, you said that.