

AFZA-AP-HHC

20 MARCH 2004

MEMORANDUM THRU Commander, 16th Military Police Brigade (Airborne), Victory Base, Iraq APO AE 09342

FOR Commander, III Corps, Victory Base, Iraq APO AE 09342

SUBJECT: Transmittal of Court-Martial Charges – United States v. Sergeant Javal S. Davis

1. Pursuant to R.C.M. 401(c)(2) and 402(2), Manual for Court-Martial, United States (2002 Edition), forwarded herewith are the court-martial charges pertaining to Sergeant Javal S. Davis, 154-70-9719, HHC, 16th MP Bde (Abn), Victory Base, Iraq APO AE 09342.
2. Documentary evidence upon which the charges are based is enclosed.
3. All material witnesses are expected to be available at the time of trial.
4. There is no evidence of previous court-martial conviction(s).
5. I recommend that the charges and specifications be referred to trial by
 - a. ___ Summary Court-Martial
 - b. ___ Special Court-Martial
 - c. ___ Special Court-Martial (empowered to adjudge a Bad Conduct Discharge)
 - d. General Court-Martial.

Encls
as

[REDACTED]

CPT, MP
Commanding

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

027643

AFZA-AP-CO

23 April 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq APO AE 09342

SUBJECT: Transmittal of Court-Martial Charges - United States v. Sergeant Javal S. Davis

1. I have reviewed the enclosed court-martial charges and Article 3(b) Investigating Officer Report pertaining to Sergeant Javal S. Davis, [REDACTED] HHC, 16th MP BDE (ABN), Victory Base, Iraq APO AE 09342.

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

2. I recommend that the charges and specifications be referred to trial by

- a. ___ Summary Court-Martial.
- b. ___ Special Court-Martial.
- c. ___ Special Court-Martial (empowered to adjudge a Bad Conduct Discharge).
- d. General Court-Martial.

[REDACTED]

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

Encls
as

COL, MP
Commanding

027644

AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Service of Preferral of Charges in the case of United States v. Sergeant Javal S. Davis

1. I hereby acknowledge that the charges against me were read and preferred on this 20 day of MARCH, at 2220 hours. Further, I hereby acknowledge receipt of said charge sheet(s) and allied papers.

2. I further understand that I have an appointment at Trial Defense Services, ph: (302) 838-1100, trailer B12, Camp Victory, Iraq, at _____.


JAVAL S. DAVIS
SGT, USA

027645

AFZA-AP-HHC

29 APR 04
~~APR 28 2004~~ MB

MEMORANDUM FOR RECORD

SUBJECT: Service of Referral of Charges in the Case of United States v. Sergeant Javal S. Davis

1. I hereby acknowledge that the charges against me were referred to General Court-Martial on 28 April 2004. I further acknowledge receipt of said Charge Sheet, Continuation Page(s), and Court-Martial Convening Order(s).
2. I understand that I should contact my Trial Defense Attorney as soon as possible to further discuss my case.


JAVAL S. DAVIS
SGT, USA
4/29/04
(date)

027646



DEPARTMENT OF THE ARMY
Headquarters
16th Military Police Brigade (Airborne)
Victory Base, Iraq APO AE 09342

REPLY TO
ATTENTION OF:

AFZA-AP-CO

25 March 2004

MEMORANDUM FOR Major ^{(b)(6)2; (7)(C)2} [REDACTED] Corps Artillery, Victory Base, Iraq,
APO AE 09342

SUBJECT: Appointment as Article 32 Investigating Officer

1. You have been appointed as an investigating officer (IO) pursuant to the Uniform Code of Military Justice (UCMJ), Article 32, to investigate the attached charges against Sergeant Javal S. Davis, HHC, 16th MP BDE (ABN), Victory Base, Iraq APO AE 09342. According to Article 32, UCMJ, and Rule 405, Manual for Court-Martial (2002), you are to:

- a. Conduct a thorough and impartial investigation into the truth of the allegation(s);
- b. Consider the correctness of the form of the charges; and
- c. Make recommendations as to the disposition of the charges in the interest of justice and discipline.

2. Prior to the commencement of the investigation, you must contact MAJ ^{(b)(6)2; (7)(C)2} [REDACTED] at the Administrative Law Division, Combined Joint Task Force Seven, Victory Base, Iraq, at DSN [REDACTED] and advise him that you have been detailed to conduct this investigation. He, or a Staff Judge Advocate designee, will brief you on your responsibilities and provide you with advice throughout the investigation. You will not contact the government representative or defense counsel for assistance in matters, other than routine administrative or clerical matters, regarding this investigation.

3. Your duties as an Article 32 investigating officer takes precedence over any of your other assigned duties. The following guidance pertains to delays:

- a. Schedule the hearing as soon as you receive notice of this appointment. The hearing date should be within seventy-two hours of receipt of this appointment letter. If the defense or the government cannot proceed on the selected date, obtain a request for delay, in writing, from the party requesting the delay. Requests for delay should be attached to the report of investigation.

027647

AFZA-AP-CO

SUBJECT: Appointment of Article 32 Investigating Officer

b. You have the authority to approve one reasonable delay requested by the defense or the government, up to a total of seven days. Any delays in excess of seven days must be approved by me. Requests for delay should be in writing and clearly state the supporting reasons and the dates covering the delay. Before granting a delay you must also consider matters submitted by the opposing counsel. Your decision to grant a delay should be in writing. It should state your reasons and the dates of the delay.

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

4. CPT [REDACTED] Trial Counsel, 16th Mp Bde (Abn) DNV [REDACTED] is appointed as the government representative and is authorized to participate in this investigation. You can contact Trial Defense Service at DNV [REDACTED] to confirm the name of the detailed defense counsel. While these officers or their designees will attend the hearing and will question witnesses, it is your responsibility to conduct the investigation, not the government's representatives. Further, both of these parties play an adversarial role in the proceedings. You should therefore avoid discussing substantive matters pertaining to the case with either party outside formal sessions where all parties have opportunity to be present.

5. You should become familiar with the following reference materials/documents:

a. Article 32, UCMJ and R.C.M. 405, Manual for Courts-Martial, 2002 Edition

b. DA PAM 27-17, Procedural Guide for Article 32 Investigating Officer, (especially paragraphs 1-2, General Instructions, 2-3, informing the accused of the investigation and the right to counsel, and 2-4, consultation with counsel for the accused)

c. DD Form 458 (Charge Sheet) and allied documents

6. The Article 32 Investigating Officer Procedural Guide discusses in detail procedural aspects from appointment to submission of the final report. Included in Appendix B is a sample format for notification of the accused. A copy of the notification should be sent to the accused's unit commander to ensure that the unit commander is aware of the time and location of the hearing, thereby ensuring the presence of the accused at the hearing. If the accused is already represented by counsel, the written notice should be sent to that counsel. An information copy should also be provided to the appropriate trial counsel.

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

7. You are personally responsible for summarizing relevant testimony that is not already reduced to a written statement. SFC [REDACTED] been appointed as your administrative and paralegal assistant for this case and will act as the reporter. You can contact him at DNV 587 [REDACTED] However, the Article 32 Investigation will be a summarized transcript and not verbatim.

AFZA-AP-CO

SUBJECT: Appointment of Article 32 Investigating Officer

8. The complete report of investigation, DD Form 457, Investigating Officer's Report, with enclosures, and a chronology of the investigation from receipt of file to submission of the report, will be forwarded with one (1) copy to this headquarters no later than seventy-two hours after completion of the investigation.



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

2 Encls

1. DD Form 458

2. Case File

COL, MP
Commanding

DEPARTMENT OF THE ARMY
Headquarters
III Corps Artillery
Victory Base, Iraq APO AE 09342

AFZA-AP-IO

25 March 2004

MEMORANDUM FOR SGT Javal S. Davis, (b)(6); (D)(C) [REDACTED] HHC, 16th MP Bde (Abn),
Victory Base, Iraq APO AE 09342

SUBJECT: Notification of Article 32 Investigation

1. On 6 April 2004, at 1000 hours in the Victory Base Courtroom, Building 94, I will conduct an investigation pursuant to Article 32(b), UCMJ to investigate the facts and circumstances concerning charges preferred against you by CPT [REDACTED].
The charges are: (b)(6)2; (D)(C) 2

- Charge I: Conspiracy
- Charge II: Dereliction of Duty
- Charge III: Maltreatment
- Charge IV: False Statement
- Charge V: Assault

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel. Send your decision to me by 1200 hours, 30 March 2004.

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

- (b)(6)1; (D)(C) 1
- a. SA [REDACTED], CID Agent, DNV 302 [REDACTED]

Additionally, it is my intention to examine and consider all evidence.

4. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names and addresses of such witnesses to me by 1200 hours, 30 March 2004. If, at a later time, you identify additional witnesses, inform me of their names, phone numbers and/or addresses.

027650

AFZA-AP-IO

SUBJECT: Notification of Article 32 Investigation

5. You may contact me at DSN 318 [REDACTED]

[REDACTED]

(b)(6)(2);(7)(F)2

MAJ, FA
Investigating Officer

Received by: *J. S. Davis*
JAYAL S. DAVIS, SGT

Date: 3/26/04

027651



DEPARTMENT OF THE ARMY
 UNITED STATES ARMY TRIAL DEFENSE SERVICE
 HHC, STB, 13th COSCOM
 OSJA, TDS
 Camp Anaconda, Iraq
 APO AE 09391

REPLY TO
 ATTENTION
 OF:

TDS-Anaconda

30 March 2004

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

MEMORANDUM FOR Article 32 Investigating Officer (MAJ [REDACTED] III Corps
 Artillery, Victory Base, Iraq, APO AE 09342

SUBJECT: Request for Article 32 Witnesses (SGT Javal S. Davis)

1. The Accused, by and through counsel, offers the following response and request for witness production pursuant to the Article 32 notification memorandum dated 25 March 2004.

2. First, the defense notes your intent to "consider all evidence" indicated in paragraph 3 of the notification. The defense intends to object to all irrelevant evidence contained in the investigation file, as the large majority of alleged incidents do not involve SGT Davis. Additionally, the defense will object to the admission of all statements from witnesses who do not testify at the hearing, whether in person or telephonically.

3. The defense requests production of the following witnesses:

- a. CPL [REDACTED], 372d MP Company, Abu Ghraib, Iraq (co-accused/eyewitness)
- b. SSG [REDACTED], 72d MP Company, Abu Ghraib, Iraq (co-accused/eyewitness)
- c. PFC [REDACTED], 372d MP Company, Abu Ghraib, Iraq (co-accused/eyewitness)
- d. SPC [REDACTED], 72d MP Company, Abu Ghraib, Iraq (co-accused/eyewitness)
- e. SPC [REDACTED], 372d MP Company, Abu Ghraib, Iraq (suspect/eyewitness)
- f. SPC [REDACTED], 372d MP Company, Abu Ghraib, Iraq (co-accused/eyewitness)
- g. [REDACTED], ISN # [REDACTED] detainee, Abu Ghraib, Iraq (alleged victim)
- h. [REDACTED] nee # [REDACTED] Abu Ghraib, Iraq (alleged victim)
- i. [REDACTED] Detainee # [REDACTED] Abu Ghraib, Iraq (alleged victim)
- j. [REDACTED], 10th MP Battalion, Camp Victory, Iraq (took statement of SGT Davis on 17 Jan 04)
- k. [REDACTED], 10th MP Battalion, Camp Victory, Iraq (took statement of SGT Davis on 15 Jan 04)
- l. [REDACTED] MP Battalion, Camp Victory, Iraq (took statement of SGT Davis on 14 Jan 04; this statement is basis of alleged false official statement in Charge IV)

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

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

(b)(6), (b)(7)(C) 1

027652

TDS-Anaconda
SUBJECT: Request for Article 32 Witnesses (SGT Javal S. Davis)

*All (b)(6)2; (DC)2
unless indicated*

- m. SPC [REDACTED], A Company, 325th MI Battalion, Fort Devens, MA 01432 (USAR), [REDACTED] (worked as interrogator at Abu Ghraib, familiar with standard practices in controlling and disciplining detainees)
- n. SSG [REDACTED] 372d MP Company, Abu Ghraib, Iraq (alleged witness to detainee mistreatment that was generally practiced, supervised SGT Davis sometimes)
- o. SPC [REDACTED] 372d MP Company, Abu Ghraib, Iraq (witness to general mistreatment of prisoners and interrogation practices)
- p. SPC [REDACTED] 372d MP Company, Abu Ghraib, Iraq (witness to general mistreatment of prisoners and interrogation practices)
- q. SGT [REDACTED] 372d MP Company, Abu Ghraib, Iraq (witness to general mistreatment of prisoners and interrogation practices; also, African-American male who worked night shift and therefore could have been confused with SGT Davis on some occasions by Arab detainees)
- r. SPC [REDACTED] HHC, 109th Area Support Medical Battalion, LSA Anaconda, Balad, Iraq (witnessed general treatment of detainees at Abu Ghraib, specifically by MI personnel)
- s. SPC [REDACTED] 372d MP Company, Abu Ghraib, Iraq (eyewitness of alleged assault by SGT Davis)
- t. SGT [REDACTED] 372d MP Company, Abu Ghraib, Iraq (day shift NCO who allegedly "returned" clothes and food to inmates after night shift had departed on a regular basis)
- u. [REDACTED] Interrogation and Debriefing Center (JIDC), Abu Ghraib, Iraq (linguist who witnessed general treatment of detainees at Abu Ghraib by MI personnel)
- v. [REDACTED] Titan Corporation, Abu Ghraib, Iraq (interpreter who witnessed general treatment of detainees)
- w. CPT [REDACTED] 372d MP Company, Abu Ghraib, Iraq (USAR)(former OIC of "hard site" redeployed to CONUS, contact information unknown by defense counsel; CPT [REDACTED] present for right seat training with predecessor unit and familiar with standard practices taught to 372d personnel upon assumption of duties at Abu Ghraib)
- x. CPT [REDACTED] 372d MP Company, Abu Ghraib, Iraq (company commander during time of allegations, defense does not know if he is still in command; CPT [REDACTED] as the commander during relevant time period, should be familiar with training that 372d personnel received both before and during performance of duties at Abu Ghraib)

(b)(6)(4)(DC)4

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

TDS-Anaconda

SUBJECT: Request for Article 32 Witnesses (SGT Javal S. Davis)

- y. SFC [redacted] 372 MP Company, Abu Ghraib, Iraq (eyewitness to alleged assault by SGT Davis)
- z. LTC [redacted] Abu Ghraib, Iraq (conducted A/R 15-6 investigation into alleged abuse of female detainee; familiar with standards and training for treatment of detainees)
- aa. COL [redacted] Commander, JIDC, Abu Ghraib, Iraq (responsible for establishing standards and procedures for interrogation of detainees at Abu Ghraib; approval authority for deviations from standard treatment and discipline of detainees)
- bb. CPT [redacted] DC, Abu Ghraib, Iraq (as legal advisor to MI command, responsible for advising commander on legal issues pertaining to detainees and formulating ROE for general treatment and for interrogation)
- cc. [redacted] Titan Corporation (not sure of employer), Abu Ghraib, Iraq (civilian interrogator who allegedly was rough with detainees and worked on the MI side of the house; relevant to reasonable belief of MPs regarding acceptable treatment because they deferred to MI personnel on the "special" prisoners in the hard site)
- dd. [redacted] Titan Corporation (not sure of employer), Abu Ghraib, Iraq (civilian interrogator who allegedly was rough with detainees and worked on the MI side of the house; relevant to reasonable belief of MPs regarding acceptable treatment because they deferred to MI personnel on the "special" prisoners in the hard site)
- ee. [redacted], Titan Corporation (unsure of employer), Abu Ghraib, Iraq (witnessed behavior of Mr. [redacted] and Mr. [redacted])
- ff. Special Agent-in-Charge (SAC) [redacted] JIDC, Abu Ghraib, Iraq (worked alongside COL [redacted] establishing and enforcing standards for treatment and interrogation of detainees)
- gg. BG Janis L. Karpinski, Commander, 377th Theater Support Command, Camp Victory, Iraq (commander responsible for operation of Abu Ghraib during relevant time frame; responded to International Red Cross assessment and criticism of detainee living standards; should be aware of guidance from higher authorities regarding balance between detainee rights and need to obtain intelligence regarding ongoing terrorist/insurgent operations)

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

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

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

4. The Defense requests that the Government specifically identify all of the alleged victims of SGT Davis, as they are not named in the charges and specifications. The witness request above reflects all individuals who reasonably appeared to have accused SGT Davis based on their written statements. However, the numerous witness statements refer to many unnamed individuals abusing detainees on various unspecified dates. If the Government alleges that there are additional victims included in the charges and specifications, we request that they be identified and produced at the hearing to testify.

TDS-Anaconda

SUBJECT: Request for Article 32 Witnesses (SGT Javal S. Davis)

5. The Defense further requests production of whatever detainee files or records that are maintained or controlled by any agency of the United States Government, including but not limited to the Department of the Army, Department of Defense, any other of the armed forces, Central Intelligence Agency, Federal Bureau of Investigation, or the Department of Homeland Defense, that pertain to any of the alleged detainee victims of SGT Davis. Such records are likely to contain character evidence that is directly relevant to their credibility. The credibility of any witness, but particularly an alleged victim, is always relevant to a fair assessment of the allegations by an Investigating Officer and is necessary for the defense to have a fair chance to mount an effective case.

6. Thank you for your attention to this request. POC for this memorandum is the undersigned at 318-829- DSN or via email at @us.army.mil.

(b)(2);(C)2


CPT, JA
Senior Defense Counsel

SFC CJTF7-16th MP BDE SJA NCOIC

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

except as noted

From: [redacted] CPT CJTF7 -Senior Defense Counsel
Sent: Saturday, April 03, 2004 2:15 PM
To: [redacted] SFC CJTF7-16th MP BDE SJA NCOIC
Subject: RE: witness availability U.S. v Davis Art 32

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

SSG [redacted] will invoke his rights under Article 31 UCMJ.

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

From: [redacted] SFC CJTF7-16th MP BDE SJA NCOIC
Sent: Saturday, April 03, 2004 2:11 PM
To: [redacted] CPT [redacted]@us.army.mil'; [redacted] CPT CJTF7 -Senior Defense Counsel;
[redacted]@us.army.mil'; [redacted]@us.army.mil'; [redacted]@us.army.mil'
Cc: [redacted] CPT CJTF7 16MP; [redacted] LT CJTF7-OPS OSJA; [redacted] MAJ CJTF7 -Effects JA
Subject: FW: witness availability U.S. v Davis Art 32

[To]

In the Article 32(b) session in the case of U.S. v Davis, the Defense requests the following personnel be available for live testimony:

SPC [redacted]
SSG [redacted]
SPC [redacted]
SPC [redacted]
SPC [redacted]

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

Request a response as to whether your client mentioned above will be able to comply with the Defense's request.

The 32 will start at 1000, 6 Apr 04 in bldg 112, 16th MP BDE (ABN) Sullivan Rm (Fwd).

V/R

SFC [redacted]
Senior Paralegal
16th MP BDE (ABN)
VICTORY BASE, IRAQ
DNVT 302-587-[redacted]
588-[redacted]
cell [redacted]

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

027656
IO Ex

SFC CJTF7-16th MP BDE SJA NCOIC

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

From: [redacted]@us.army.mil
Sent: Saturday, April 03, 2004 8:30 PM
To: [redacted] SFC CJTF7-16th MP BDE SJA NCOIC
Subject: Re: Witness availability at U.S.v Davis Article 32

except as noted

SFC [redacted]
SPC [redacted] will not appear.
v/r, (b)(6) 5, (b)(7)(C) 5
CPT [redacted]

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

From: "[redacted] SFC CJTF7-16th MP BDE SJA NCOIC"
<[redacted]@vcmain.hq.c5.army.mil>
Date: Saturday, April 3, 2004 4:37 pm
Subject: Witness availability at U.S.v Davis Article 32

>
> [To]
>
> In the Article 32(b) session in the case of U.S. v Davis, the Defense
> requests the following personnel be available for live testimony:

> SPC [redacted]
> SSG [redacted]
> SPC [redacted] (b)(6) 5, (b)(7)(C) 5
> SPC [redacted]
> SPC [redacted]

> Request a response as to whether your client mentioned above will
> be able to
> comply with the Defense's request.

> The 32 will start at 1000, 6 Apr 04 in bldg 112, 16th MP BDE (ABN)
> SullivanRm (Fwd).

> V/R
>
> SFC [redacted]
> Senior Paralegal
> 16th MP BDE (ABN)
> VICTORY BASE, IRAQ
> DNV 302-587- [redacted]
> [redacted] 588- [redacted]
> cell [redacted]

027657

SFC CJTF7-16th MP BDE SJA NCOIC

From: [redacted]@us.army.mil
Sent: Sunday, April 04, 2004 10:12 AM
To: [redacted]@vcmain.hq.c5.army.mil
Subject: Re: FW: witness availability U.S. v Davis Art 32
SPC [redacted] will not be available to testify at the US v. Davis Article 32.

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

v/r

CPT [redacted]

Trial Defense Counsel

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

Mosul Field Office

except as noted

521 [redacted]

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

From: [redacted] SFC CJTF7-16th MP BDE SJA NCOIC"
[redacted]@vcmain.hq.c5.army.mil>

Date: Saturday, April 3, 2004 2:10 pm

Subject: FW: witness availability U.S. v Davis Art 32

>
>> [To]
>>
>> In the Article 32(b) session in the case of U.S. v Davis, the
> Defense> requests the following personnel be available for live
> testimony:>

>> SPC [redacted]
>> SSC [redacted]
>> SPC [redacted]
>> SPC [redacted]
>> SPC [redacted]

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

>> Request a response as to whether your client mentioned above
> will be able
>> to comply with the Defense's request.

>> The 32 will start at 1000, 6 Apr 04 in bldg 112, 16th MP BDE (ABN)
>> Sullivan Rm (Fwd).

>>
>>

027658

SFC CJTF7-16th MP BDE SJA NCOIC

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

From: [redacted]@us.army.mil
Sent: Monday, April 05, 2004 10:50 AM
To: [redacted]@us.army.mil
Cc: [redacted] SFC CJTF7-16th MP BDE SJA NCOIC; [redacted]@us.army.mil; [redacted]
Subject: Re: Witness availability at U.S.v Davis Article 32

as noted

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

SPC [redacted] will not be testifying in any of the companion cases.
Thanks.

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

[redacted]
CPT, JA
Trial Defense Counsel
Tikrit Branch Office (FOB Danger)
Region IX
DNVT: 553-[redacted]
E-mail: [redacted]@us.army.mil

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

From: [redacted]@us.army.mil
Date: Sunday, April 4, 2004 8:17 pm
Subject: Re: Witness availability at U.S.v Davis Article 32

> My client is not available to testify in any manner at any time
> during the investigations into this case.

> [redacted]
> CPT, JA
> Defense Counsel
> LSA Anaconda
> DSN 318-829-[redacted]
> [redacted]@us.army.mil

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

> From: [redacted] SFC CJTF7-16th MP BDE SJA NCOIC"
> [redacted]@evcmain.hq.c5.army.mil>Date: Saturday, April 3,
> 2004 8:37 am
> Subject: Witness availability at U.S.v Davis Article 32

> > [To]

> > In the Article 32(b) session in the case of U.S. v Davis, the
> Defense> requests the following personnel be available for live
> testimony:>

> > SPC [redacted]
> > SSG [redacted]
> > SPC [redacted]
> > SPC [redacted]
> > SPC [redacted]

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

> > Request a response as to whether your client mentioned above
> will
> be able to
> > comply with the Defense's request.

> > The 32 will start at 1000, 6 Apr 04 in bldg 112, 16th MP BDE
> (ABN)
> > SullivanRm (Fwd).

> > V/R

SFC CJTF7-16th MP BDE SJA NCOIC

From: [redacted]@us.army.mil
Sent: Sunday, April 04, 2004 10:18 PM
To: [redacted] SFC CJTF7-16th MP BDE SJA NCOIC
Cc: [redacted]@us.army.mil; [redacted]@us.army.mil; [redacted] CPT CJTF7
16MP
Subject: Re: Witness availability at U.S.v Davis Article 32

*all (b)(2); (7)(C)2 except
as noted*

My client is not available to testify in any manner at any time during the investigations into this case.

[redacted]
CPT, JA
Defense Counsel
LSA Anaconda
DSN 318-829-[redacted]
[redacted]@us.army.mil

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

From: [redacted] SFC CJTF7-16th MP BDE SJA NCOIC"
[redacted]@vcmain.hq.c5.army.mil
Date: Saturday, April 3, 2004 8:37 am
Subject: Witness availability at U.S.v Davis Article 32

>
> [To]
>
> In the Article 32(b) session in the case of U.S. v Davis, the Defense
> requests the following personnel be available for live testimony:

> SPC [redacted]
> SSG [redacted]
> SPC [redacted]
> SPC [redacted]
> SPC [redacted]

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

> Request a response as to whether your client mentioned above will
> be able to
> comply with the Defense's request.

> The 32 will start at 1000, 6 Apr 04 in bldg 112, 16th MP BDE (ABN)
> SullivanRm (Fwd).

> V/R
>
> SFC [redacted]
> Senior Paralegal
> 16th MP BDE (ABN)
> VICTORY BASE, IRAQ
> DNV 302-587-[redacted]
>
> cell [redacted]

027660

[REDACTED] T CJTF7-OPS OSJA

From: [REDACTED]@us.army.mil
Sent: Tuesday, April 06, 2004 02:56
To: [REDACTED] 1LT CJTF7-OPS OSJA
Subject: Re: RE: RE: Change in location for Art 32

Thanks, and by the way I did check on convoys this morning as an alternative, but no dice.

[REDACTED]
CPT, JA
Senior Defense Counsel
LSA Anaconda
318-[REDACTED] DSN
[REDACTED]@us.army.mil

all (X)2; (X)2

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

From: "[REDACTED] 1LT CJTF7-OPS OSJA" <[REDACTED]@vcmain.hq.c5.army.mil>

Date: Tuesday, April 6, 2004 2:55 am

Subject: RE: RE: Change in location for Art 32

> I'll check with the I/O and let you know.

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

> From: [REDACTED]@us.army.mil [REDACTED]@us.army.mil]
> Sent: Tuesday, April 06, 2004 02:54
> To: [REDACTED] 1LT CJTF7-OPS OSJA
> Subject: Re: RE: Change in location for Art 32

> [REDACTED]
> One slight change, my flight arrives at Griffin at 1700, not 1630.
> I have
> limited internet access today, but if you could let me know if
> we'll be
> proceeding tonight, I'd appreciate it. I'd like to know if I have
> to go
> straight to a hearing, or if we'll proceed tomorrow, or whatever.
> Thanks.

> [REDACTED]
> CPT, JA
> Senior Defense Counsel
> LSA Anaconda
> 318-[REDACTED] DSN
> [REDACTED]@us.army.mil

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

027661

PO BX

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

1LT CJTF7-OPS OSJA

From: [redacted]@us.army.mil

Sent: Monday, April 05, 2004 10:15

To: [redacted] SFC CJTF7-16th MP BDE SJA NCOIC

Cc: [redacted] MAJ CJTF7 -Effects JA; [redacted] CPT CJTF7 16MP; [redacted] 1LT CJTF7-OPS OSJA; [redacted] MAJ CJTF7 -JAG

Subject: Re: Change in location for Art 32

MAJ [redacted]

Sir, my flight to Camp Victory was just cancelled. I tried to come down yesterday, knowing that cancellations happen sometimes, and that was cancelled too. So unfortunately I've struck out two days in a row. I do not believe that I can make it down to Victory in time for the hearing. I am currently manifested for a flight that will get me to Griffin Pad around 1630, which was the earliest I could get. I will check on convoys to see if I can get there late tonight or early morning, but I am doubtful that that will be feasible. Accordingly, I need to request a delay until I can get there. I do not want any more of a delay than is necessary, so I would appreciate your guidance on when we could reschedule. Again, I'm currently scheduled to come in tomorrow afternoon, but I have no idea if the following day would work for you and everyone else involved. Please advise. Thank you.

V/R,

[redacted]
CPT, JA
Senior Defense Counsel
LSA Anaconda
318-829-[redacted] SN
[redacted]@us.army.mil

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

From: [redacted] SFC CJTF7-16th MP BDE SJA NCOIC"
<[redacted]@vcmain.hq.c5.army.mil>

Date: Thursday, April 1, 2004 12:19 pm

Subject: Change in location for Art 32

- > [To]
- >
- > The location for the Article 32 for U.S. v Davis has changed.
- >
- > The new location will be bldg 112, 16th MP BDE(ABN) Sullivan Room
- > (Fwd).
- > The start time is still 1000.
- >

027662

> If you need directions, I can assist.

>

>

> V/R

>

> [REDACTED]

> Senior Paralegal

> 16th MP BDE (ABN)

> VICTORY BASE, IRAQ

> DNV 302-587-[REDACTED]

> 588 [REDACTED]

> cell [REDACTED]

>

>

LS/6/02 - (b)(7)(C) 2

027663



DEPARTMENT OF THE ARMY
 UNITED STATES ARMY TRIAL DEFENSE SERVICE
 HHC, STB, 13th COSCOM
 OSJA, TDS
 Camp Anaconda, Iraq
 APO AE 09391

REPLY TO
 ATTENTION
 OF:

TDS-Anaconda
 2004

12 April

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

MEMORANDUM FOR Article 32 Investigating Officer (MAJ [REDACTED] III Corps
 Artillery, Victory Base, Iraq, APO AE 09342

SUBJECT: Article 32 Objections and Comments (SGT Davis)

1. The Accused, by and through counsel, offers the following memorandum to memorialize the verbal objections made during the hearing on 7 April 2004. The Defense requests inclusion of this memorandum in the report. We also would like to offer into evidence an exhibit that was not offered during the hearing.

2. First, the defense offers the sworn statement of CPT [REDACTED] which was marked in the investigation file as Exhibit 74. CPT [REDACTED] was called to testify during the hearing, but invoked his Article 31 right to remain silent. On that basis, the defense requests that he be deemed unavailable, and that his previous sworn statement be admitted for consideration by the Investigating Officer (IO).

b6-2, 7(C)(2)

3. The Defense objects to concluding the Article 32 hearing with no attempt to secure telephonic testimony from those witnesses deemed unavailable due to distance, particularly those witnesses located in CONUS or in Kuwait. Specifically, these witnesses include:

b(6)1, (7)(C)1

a. SA [REDACTED] 10th MP Battalion, Camp Victory, Iraq (took statement of SGT Davis on 17 Jan 04)—*redeployed to CONUS*

b. SA [REDACTED], 10th MP Battalion, Camp Victory, Iraq (took statement of SGT Davis on 15 Jan 04)—*redeployed to CONUS*

c. SA [REDACTED] 10th MP Battalion, Camp Victory, Iraq (took statement of SGT Davis

on 14 Jan 04; this statement is basis of alleged false official statement in Charge IV)—*redeployed to CONUS*

d. SPC [REDACTED], A Company, 325th MI Battalion, Fort Devens, MA 01432 (USAR),

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

[REDACTED] (worked as interrogator at Abu Ghraib, familiar with standard practices in controlling and disciplining detainees)

e. CPT [REDACTED] 372d MP Company, Abu Ghraib, Iraq (USAR)(former OIC of "hard site" redeployed to CONUS, contact information unknown by defense counsel; CPT [REDACTED] was present for right seat training with predecessor unit and familiar with standard practices taught to 372d personnel upon assumption of duties at Abu Ghraib)—*redeployed to*

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

027664

ALL (b)(6) (7) (C) (D) 2

TDS-Anaconda

SUBJECT: Article 32 Objections and Comments (SGT Davis)

CONUS

f. LTC [REDACTED] Abu Ghraib, Iraq (conducted AR 15-6 investigation into alleged abuse of female detainee; familiar with standards and training for treatment of detainees)—*redeployed to CONUS*

g. COL [REDACTED] Commander, JIDC, Abu Ghraib, Iraq (responsible for establishing standards and procedures for interrogation of detainees at Abu Ghraib; approval authority for deviations from standard treatment and discipline of detainees)—*redeployed to CONUS*

h. CPT [REDACTED], JIDC, Abu Ghraib, Iraq (as legal advisor to MI command, responsible for advising commander on legal issues pertaining to detainees and formulating ROE for general treatment and for interrogation)—*redeployed to CONUS*

i. BG Janis L. Karpinski, Commander, 377th Theater Support Command, Camp Victory, Iraq (commander responsible for operation of Abu Ghraib during relevant time frame; responded to International Red Cross assessment and criticism of detainee living standards; should be aware of guidance from higher authorities regarding balance between detainee rights and need to obtain intelligence regarding ongoing terrorist/insurgent operations)—*in Kuwait*

4. The Defense notes the Government's proffer that it was not possible to obtain telephonic testimony from these witnesses, both due to the lack of a phone line in the courtroom and the unavailability of a speaker phone in theater. While the Government made these conclusory statements, it was evident that no effort had been made to obtain a speaker phone, so no real determination of unavailability had even been made. Additionally, the unavailability of a DSN or commercial line in the courtroom was irrelevant, since the hearing did not have to be conducted in any specific room on Victory Base. The overall relevance and importance of the witnesses warranted an effort at securing their testimony prior to closing the taking of evidence in the hearing.

5. The Defense objects to closing the hearing without production of detainee files or records that are maintained or controlled by any agency of the United States Government, including but not limited to the Department of the Army, Department of Defense, any other of the armed forces, Central Intelligence Agency, Federal Bureau of Investigation, or the Department of Homeland Defense, that pertain to any of the alleged detainee victims of SGT Davis. Live testimony established that the prison did maintain detainee records, though they were of varying detail and quality. The Government conceded that it had made no effort to locate these files and simply stated that to do so would be difficult. The Defense requests these records for all seven of the detainees who were moved into Block 1A on 8 November 2004 that are the subjects of these allegations into SGT Davis and his co-accused.

6. The Defense objects to closing the hearing without production of the AR 15-6 investigation that was conducted by a general officer into conditions at Abu Ghraib prison. Live testimony established that such an investigation had taken place. This investigation, which purportedly

TDS-Anaconda

SUBJECT: Article 32 Objections and Comments (SGT Davis)
addressed the responsibility of various levels of the chain of command for poor conditions and treatment of detainees, is clearly relevant on the merits and in extenuation and mitigation. Command responsibility for any of the conditions or practices that contributed to the allegations in question in this case are clearly relevant, particularly to the allegations of dereliction levelled against SGT Davis for failing to prevent or report mistreatment.

7. The Defense objects to closing the hearing without securing testimony from the one identified victim who is still believed to be held at Abu Ghraib prison. The obvious relevance of a victim's testimony justifies at least telephonic, if not live, testimony. The Defense repeats its request to conduct the remainder of the hearing at the prison, if security reasons preclude moving the detainee.

8. Thank you for your attention to this request. POC for this memorandum is the undersigned at 318 [REDACTED] DSN or via email at [REDACTED]@us.army.mil.

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

[REDACTED]
Senior Defense Counsel

INVESTIGATING OFFICER'S REPORT

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

1a. FROM: (Name of Investigating Officer - Last, First, MI) [REDACTED]	b. GRADE 0-4	c. ORGANIZATION 197th Field Artillery Brigade New Hampshire Army National Guard <i>cell (6) 2, 710 2</i>	d. DATE OF R. 15 April 2004
2a. TO: (Name of Officer who directed the investigation - Last, First, MI) [REDACTED]	b. TITLE Commander	c. ORGANIZATION Headquarters 16th Military Police Brigade (Airborne) Victory Base, Iraq APO AE 09342 <i>9th MP BDE</i>	
3a. NAME OF ACCUSED (Last, First, MI) Davis, Javal, S.	b. GRADE E-5	c. SSN <i>(6) 6, (7) C</i> [REDACTED]	d. ORGANIZATION HHC 16th MP BDE (ABN), III Corps, Victory Base, Iraq e. DATE OF CHARGES <i>20 March 2004</i>

(Check appropriate answer)

4. IN ACCORDANCE WITH ARTICLE 32, UCMJ, AND R.C.M. 405, MANUAL FOR COURTS-MARTIAL, I HAVE INVESTIGATED THE CHARGES APPENDED HERETO (Exhibit 1)	X	
5. THE ACCUSED WAS REPRESENTED BY COUNSEL (If not, see 9 below)	X	
6. COUNSEL WHO REPRESENTED THE ACCUSED WAS QUALIFIED UNDER R.C.M. 405(d)(2), 502(d)	X	

7a. NAME OF DEFENSE COUNSEL (Last, First, MI) [REDACTED]	b. GRADE O-3	8a. NAME OF ASSISTANT DEFENSE COUNSEL (If any)	b. GRADE
c. ORGANIZATION (If appropriate) United States Army Trial Defense Services		c. ORGANIZATION (If appropriate)	
d. ADDRESS (If appropriate) HHC, STB, 13th COSCOM, OSJA, TDS, Camp Anaconda, Iraq		d. ADDRESS (If appropriate)	

9. (To be signed by accused if accused waives counsel. If accused does not sign, investigating officer will explain in detail in Item 21.)

a. PLACE	b. DATE
----------	---------

I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED IN THIS INVESTIGATION BY COUNSEL, INCLUDING MY RIGHT TO CIVILIAN OR MILITARY COUNSEL OF MY CHOICE IF REASONABLY AVAILABLE. I WAIVE MY RIGHT TO COUNSEL IN THIS INVESTIGATION.

c. SIGNATURE OF ACCUSED

10. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF: (Check appropriate answer)	YES	NO
a. THE CHARGE(S) UNDER INVESTIGATION	X	
b. THE IDENTITY OF THE ACCUSER	X	
c. THE RIGHT AGAINST SELF-INCRIMINATION UNDER ARTICLE 31	X	
d. THE PURPOSE OF THE INVESTIGATION	X	
e. THE RIGHT TO BE PRESENT THROUGHOUT THE TAKING OF EVIDENCE	X	
f. THE WITNESSES AND OTHER EVIDENCE KNOWN TO ME WHICH I EXPECTED TO PRESENT	X	
g. THE RIGHT TO CROSS-EXAMINE WITNESSES	X	
h. THE RIGHT TO HAVE AVAILABLE WITNESSES AND EVIDENCE PRESENTED	X	
i. THE RIGHT TO PRESENT ANYTHING IN DEFENSE, EXTENUATION, OR MITIGATION	X	
j. THE RIGHT TO MAKE A SWORN OR UNSWORN STATEMENT, ORALLY OR IN WRITING	X	
11a. THE ACCUSED AND ACCUSED'S COUNSEL WERE PRESENT THROUGHOUT THE PRESENTATION OF EVIDENCE (If the accused	X	

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

027667

NOTE: If additional space is required for any item, enter the additional material in Item 21 or on a separate sheet. Identify such material with the proper numerical and, if appropriate, lettered heading (Example: "7c.") Securely attach any additional sheets to the form and add a note in the appropriate item of the form: "See additional sheet."

*All (b)(6) 2, (b)(7)(C) 2
keep as noted*

12a. THE FOLLOWING WITNESSES TESTIFIED UNDER OATH: (Check appropriate answer)				
NAME (Last, First, MI)	GRADE (If any)	ORGANIZATION/ADDRESS (Whichever is appropriate)	YES	NO
1) [REDACTED] (b)(6) 1, (b)(7)(C) 1	E-5	CID Agent	X	
2) [REDACTED]	E-4	372d MP CO, Abu Gharib, Iraq	X	
3) [REDACTED]	O-3	372d MP CO, Abu Gharib, Iraq	X	
4) [REDACTED]	E-6	372d MP CO, Abu Gharib, Iraq	X	
5) [REDACTED]	E-7	372d MP CO, Abu Gharib, Iraq	X	
See Continuation Sheet				
b. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED.			X	
13a. THE FOLLOWING STATEMENTS, DOCUMENTS, OR MATTERS WERE CONSIDERED; THE ACCUSED WAS PERMITTED TO EXAMINE EACH.				
DESCRIPTION OF ITEM	LOCATION OF ORIGINAL (If not attached)			
1) PE #1 CD of photos	Government (Copy attached)		X	
2) PE #2 photo of detainees in a "dog pile".	Government (Copy attached)		X	
3) PE #3 sworn statement of SPC [REDACTED] 20X615, 07X615	Government (Copy attached)		X	
4) PE #4 sworn statement of SPC [REDACTED]	Government (Copy attached)		X	
5) PE #5 sworn statement of PFC [REDACTED]	Government (Copy attached)		X	
See Continuation Sheet				
b. EACH ITEM CONSIDERED, OR A COPY OR RECITAL OF THE SUBSTANCE OR NATURE THEREOF, IS ATTACHED			X	
14. THERE ARE GROUNDS TO BELIEVE THAT THE ACCUSED WAS NOT MENTALLY RESPONSIBLE FOR THE OFFENSE(S) OR NOT COMPETENT TO PARTICIPATE IN THE DEFENSE. (See R.C.M. 909, 916(k).)				X
15. THE DEFENSE DID REQUEST OBJECTIONS TO BE NOTED IN THIS REPORT (If Yes, specify in Item 21 below.)			X	
16. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL			X	
17. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM			X	
18. REASONABLE GROUNDS EXIST TO BELIEVE THAT THE ACCUSED COMMITTED THE OFFENSE(S) ALLEGED			X	
19. I AM NOT AWARE OF ANY GROUNDS WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER. (See R.C.M. 405(d)(1).)			X	
20. I RECOMMEND:				
a. TRIAL BY <input type="checkbox"/> SUMMARY <input type="checkbox"/> SPECIAL <input checked="" type="checkbox"/> GENERAL COURT-MARTIAL				
b. <input type="checkbox"/> OTHER (Specify in Item 21 below)				
21. REMARKS (Include, as necessary, explanation for any delays in the investigation, and explanation for any "no" answers above.)				
a. The Article 32 Hearing was scheduled at 1000, 6 Apr 04, at the Courthouse, The Defense Counsel requested, via email, a delay because he was not able to fly to Victory Base as scheduled. The hearing was rescheduled for 1000, 7 Apr 04.				
b. See Continuation Sheet regarding witness availability and Defense Counsel objections and motions.				
027668				
22a. TYPED NAME OF INVESTIGATING OFFICER		b. GRADE	c. ORGANIZATION	
[REDACTED]		0-4	197th Field Artillery Brigade New Hampshire Army National Guard	
d. SIG [REDACTED]			e. DATE	
[REDACTED]			15 April 2004	

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

CONTINUATION SHEET, DD Form 457, Investigating Officer's Report, Article 32(b)
Proceeding, U.S. v Davis

Item 12a continued:

6)	[REDACTED]	E-4	372d MP Co, Abu Gharib, Iraq	yes
7)	[REDACTED]	E-4	372d MP Co, Abu Gharib, Iraq	yes
8)	[REDACTED]	E-5	372d MP Co, Abu Gharib, Iraq	yes
9)	[REDACTED]	E-5	372d MP Co, Abu Gharib, Iraq	yes

Item 13a continued:

- 6) PE #6 sworn statement of accused (SGT Davis).
- 7) PE #7 photo of simulated "fellatio" of one detainee on another detainee.
- 8) PE #8 photo of simulated "fellatio" of one detainee on another detainee.
- 9) PE #9 photo of detainee masturbating.

Item 21 continued:

1. Both Trial counsel and Defense Counsel requested witness(es), the following availability/non-availability for each request is noted for the record:

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

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

(b)(6) 1, (b)(7)(C) 1

- a. CPL [REDACTED] invoked Art. 31 Rights through his attorney.
- b. SSG [REDACTED] invoked Art. 31 Rights through his attorney.
- c. PFC [REDACTED] re-deployed and not reasonably available. Her sworn testimony is admitted as PE#5.
- d. SPC [REDACTED] invoked Art. 31 Rights through his attorney. His sworn testimony is admitted as PE#3.
- e. SPC [REDACTED] invoked Art. 31 Rights through her attorney. Her sworn testimony is admitted as PE# 4.
- f. SPC [REDACTED] invoked Art. 31 Rights through her attorney.
- g. [REDACTED] detainee at prison and because of security reasons, he is not reasonably available.
- h. [REDACTED] presently not listed as detainee at prison, and if present at prison, and because of security reasons, he is not reasonably available.
- i. [REDACTED] presently not listed as detainee at prison, and if present at prison, and because of security reasons, he is not reasonably available.
- j. SA [REDACTED] re-deployed and not reasonably available.
- k. SA [REDACTED] re-deployed and not reasonably available.
- l. SA [REDACTED] re-deployed and not reasonably available.
- m. SPC [REDACTED] re-deployed and not reasonably available.
- n. SSG [REDACTED] present and testified at Art. 32 Hearing.
- o. SPC [REDACTED] present and testified at Art. 32 Hearing.
- p. SPC [REDACTED] present and testified at Art. 32 Hearing.

all (b)(6) 2, (b)(7) 2 except
as noted

- (b)(6) 4, (b)(7) (C) 4
- q. SGT [REDACTED] - present and testified at Art. 32 Hearing.
 - r. SPC [REDACTED] unable to locate and not reasonably available.
 - s. SPC [REDACTED] - present and testified at Art. 32 Hearing.
 - t. SGT [REDACTED] present and testified at Art. 32 Hearing.
 - u. [REDACTED] no longer at prison and not reasonably available.
 - v. [REDACTED] invoked right to remain silent at prior Art. 32 Hearing re similar allegations stemming from alleged abuse at prison and not reasonably available.
 - w. CPT [REDACTED] re-deployed and not reasonably available.
 - x. CPT [REDACTED] - present and invoked his Art. 31 Rights.
 - y. SFC [REDACTED] present and invoked his Art. 31 Rights.
 - z. LTC [REDACTED] unable to contact and not reasonably available.
 - aa. COL [REDACTED] - re-deployed and not reasonably available.
 - bb. CPT [REDACTED] re-deployed and not reasonably available.
 - cc. [REDACTED] not with Titan Corporation, present whereabouts unknown and not reasonably available.
 - dd. [REDACTED] not with Titan Corporation, present whereabouts unknown and not reasonably available.
 - ee. [REDACTED] - not with Titan Corporation, present whereabouts unknown and not reasonably available.
 - (b)(6) 11, (b)(7) (C) 11 ff. Special Agent-in- Charge [REDACTED] - agent not known and believed to be a fictitious name used on form as an example.
 - gg. BG Janis L. Karpinski- presently in Kuwait and no reasonably available.
 - (b)(6) 11, (b)(7) (C) 11 hh. [REDACTED] present and testified at Art. 32 Hearing.

EVIDENTARY ISSUES RE PROSECUTION EXHIBITS AND DEFENSE MOTIONS

2. Defense Counsel made the following objections to the Prosecution's Exhibits:

- a. Introduction to PE # 1- a CD which contained photos. Defense Counsel objected on grounds of relevance and prejudicial effect. PE # 1 was admitted and Defense Counsel's objection was noted.
- b. Introduction to PE # 2- a photo from PE # 1 (CD) which depicts a "dog-pile" of detainees. Defense Counsel objected on grounds of relevance and prejudicial effect.
- c. Introduction to PE # 7- a photo from PE # 1 (CD) which depicts a detainee in an act of "simulated fellatio" with another detainee. Defense Counsel objected on the grounds of relevance and prejudicial effect.
- d. Introduction to PE # 8- a photo from PE # 1 (CD) which depicts a detainee in an act of "simulated fellatio" with another detainee. Defense Counsel objected on the grounds of relevance and prejudicial effect.
- e. Introduction to PE # 9- a photo from PE # 1 (CD) which depicts a detainee masturbating in the presence of other detainees. Defense Counsel objected on the grounds of relevance and prejudicial effect.

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3. Defense Counsel did not object to the following Prosecution's Exhibits:

- a. Introduction to PEs # 3, 4, 5, and 6 which contain the sworn statements of SPC [REDACTED], SPC [REDACTED], PFC [REDACTED] and SGT Davis (the accused), respectively. (b)(6) 5, (7)(C) 5

4. Defense Counsel made the following Motions:

- a. An "Open Hearing" with regards to the Art. 32 Hearing. Motion granted.
- b. Continue the Art. 32 Hearing from 1000hrs on 6APR04 to 1000hrs on 7APR04 because Defense Counsel was unable to travel (flight delay). Motion was granted.
- c. Convene the Art. 32 proceedings from Camp Victory to Abu Gharib Prison. Motion was denied because of travel security and safety.
- d. Telephonic testimony set up for witnesses at Abu Gharib Prison to the Camp Victory Courthouse. Motion was denied because of the lack of adequate telephonic facilities. The Courthouse and Prison only had DNV capability and there was no ability to teleconference.
- e. Compel the Government to specifically identify all of the alleged victims of SGT Davis (the accused). Further, if there are any other additional alleged victims included in the charges and specifications then to identify and produce them at the hearing. The Trial Counsel stated that they had provided to Defense Counsel all the information and documentation in their possession and if they received any additional information and/or documentation, it would be provided to Defense Counsel. Motion was denied.
- f. Compel the Government to produce whatever detainee files or records that are maintained or controlled by any agency of the United States Government, including but not limited to the Department of the Army, Department of Defense, any other of the armed forces, Central Intelligence Agency, Federal Bureau of Investigation, or the Department of Homeland Defense, that pertain to any of the alleged detainees. The Trial Counsel stated that they had provided to Defense Counsel all the information and documentation in their possession and if they received any additional and/or documentation, it would be provided to Defense Counsel. Motion was denied.

5. After the hearing adjourned, via email, Defense Counsel made a motion to include the sworn statement of CPT [REDACTED] as a defense exhibit. The motion was granted, and the statement marked as Defense Exhibit A.

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

027671

Article 32 Transcript

U.S. v Davis

The Article 32 Proceedings were called to order at 1000 hours, 7 April 2004, at Victory Base, Iraq.

The Investigating Officer stated for the record that the proceedings were scheduled to start on 6 Apr 04, but were delayed due the defense counsel's absence.

PERSONS PRESENT

MAJ [REDACTED] Investigating Officer
1LT [REDACTED] Government Counsel
CPT [REDACTED] Assistant Government Counsel
CPT [REDACTED] Defense Counsel
SGT Javal S. Davis, Accused
SFC [REDACTED] Recorder

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

PERSONS ABSENT

None

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

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

(b)(6)1, (7)(C)1
SA [REDACTED] 10th MP BN (CID)
SPC [REDACTED] 372d MP CO
CPT [REDACTED] 372d MP CO
SFC [REDACTED] 372d MP CO
SSG [REDACTED] 372d MP CO
SPC [REDACTED] 372d MP CO
SPC [REDACTED] 372d MP CO
SGT [REDACTED] 372d MP CO
SGT [REDACTED] 372d MP CO

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

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

The Investigating Officer advised the accused of his right to counsel.

The Accused stated the he would be represented by CPT [REDACTED] (b)(6);(7)(C) 2

The Defense Counsel waived the reading of the charges.

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

The accused stated he understood his rights.

Government Counsel reminded the I.O. of the email traffic concerning the Defense Counsel's transportation problems and email traffic concerning co-accused witnesses rights invocation.

The Investigating officer stated that the email traffic would be marked as I.O. exhibits.

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

Government Counsel clarified for the Investigating Officer and Defense Counsel, which requested defense witnesses were available, and would be present for testimony.

The following requested defense witnesses were determined to be unavailable for testimony:

- (b)(6);(7)(C) 5 { SPC (CPL) [REDACTED], HHC 16th MP BDE (ABN)
- SSG [REDACTED] HHC, 16th MP BDE (ABN)
- PFC [REDACTED] HHC (rear) 16th MP BDE(ABN)
- SPC [REDACTED] HHC, 16th MP BDE (ABN)
- SPC [REDACTED], HHC, 16th MP BDE (ABN)
- SPC [REDACTED] HHC, 16th MP BDE (ABN)
- (b)(6);(7)(C) 4 { [REDACTED] ISN [REDACTED] BCCF
- [REDACTED] # [REDACTED] BCCF
- [REDACTED] CCF
- (b)(6);(7)(C) 1 { SA [REDACTED], 10th MP BN (CID)
- SA [REDACTED], 10th MP BN (CID)
- SA [REDACTED] 10th MP BN(CID)

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

SPC [redacted] 325th MI BN
SPC [redacted] o, HHC, 109th ASMB
[redacted] JIDC
[redacted] Titan Corp
CPT [redacted], 372d MP CO
LTC [redacted] BCCF
COL [redacted] JIDC
CPT [redacted] JIDC
[redacted] CACI (Titan Corp)
[redacted] CACI (Titan Corp)
[redacted] CACI (Titan Corp)
Special Agent-in-Charge [redacted] JIDC
BG Janis Karpinski, Cdr, 800th MP BDE (377th TSC)

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

*(b)(6) 4,
(b)(7) 4*

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

The Defense Counsel objected to the unavailability of witnesses.

The Government Counsel discussed the availability and status of documents and miscellaneous information the Defense Counsel requested in discovery.

Defense Counsel objected to the Government's production of documents and miscellaneous information requested in Discovery.

Government Counsel did not make an opening statement.

Defense Counsel did not make an opening statement.

THE GOVERNMENT'S CASE

SA [redacted] 10th MP BN (CID), Prisoner Interrogations, Abu Ghraib Prison, Iraq, was called as a witness, sworn, and testified in substance as follows:

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

DIRECT EXAMINATION

I am currently the Special Agent in Charge of a CID Team at Abu Ghraib Prison. The Prisoner Interrogation Team is a small CID element that interviews and screens various prisoners at the Abu Ghraib Prison. I have been a CID agent for 4 years. I went through 16 weeks of training to become an agent.

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

I first arrived at Abu in mid January 2004. This is the first case I have worked on at the prison. I was called from BIAP to help with this investigation. This investigation was initiated when a soldier named SPC [redacted] came forward anonymously, and provided a CD and letter to CID. He later came forward and made a sworn statement. He was afraid of any repercussions he might receive from the members of his unit. He had been on leave, and upon his return, he heard of a shooting, and wanted to see pictures of the incident. His roommate, CPL [redacted] gave him a CD to copy.

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

027674

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

After SPC [REDACTED] reviewed the CD, he saw pictures of naked detainees in sexual situations and other various positions.

The Government Counsel hands the Witness Prosecution Exhibit 1 for Identification.

This is a copy of the CD of pictures and files we recovered during the investigation. It is labeled "CPU Exam", and has instructions listed on how to view the AIRs and files within.

The Defense Counsel objected to the admission of Prosecution Exhibit 1 into evidence.

I have reviewed the images on the CD, and I have seen pictures as depicted by SGT Davis. There are pictures of the dog pile incident, in which SGT Davis admitted to jumping onto a pile of detainees. Other images SGT Davis described were of a detainee-masturbating incident. These images are on the CD. With the help of SPC [REDACTED] we used the CD to identify the parties involved in the images. We think the dog pile incident occurred in late Oct or early Nov when 7 prisoners were transferred from Ganci to the hard site for invoking a riot. SGT Davis was involved in escorting those prisoners. From PFC [REDACTED] statement, she and SPC [REDACTED] were on a tier looking down and saw SGT Davis, SSG [REDACTED] and SSG [REDACTED] escort the detainees into a pile on the floor. From all of our investigation, we were able to determine that SGT Davis was involved in placing the detainees in the pile.

b(6)(7)(C)4

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

The Government Counsel hands the Witness Prosecution Exhibit 2 for Identification.

This is a picture of detainees lying in a pile on the floor of Tier 1A. This is one of the pictures from the CD, which is Prosecution Exhibit 1. This is a fair and accurate representation of the dog pile as described in the accused's and co-accused's statements.

The Defense Counsel objected to the admission of Prosecution Exhibit 2 into evidence.

From looking at the folder on the computer, the folders were labeled 5 Nov, 7 Nov, etc, and the pictures were obtained in those folders.

Prosecution Exhibits 1 and 2 were admitted into evidence.

I interviewed SPC [REDACTED]. She invoked her rights. SPC [REDACTED] SPC [REDACTED] SGT Davis, and PFC [REDACTED] gave written sworn statements.

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

027675

all (b)(6) & (b)(7)(C)

The Investigating Officer granted the Government Counsel's request of the co-accused and accused being declared as unavailable due to their rights invocation through their counsel.

The written sworn statements of SPC [REDACTED] were admitted into evidence as Prosecution Exhibit 3 with no objection.

The written sworn statements of SPC [REDACTED] were admitted into evidence as Prosecution Exhibit 4 with no objection.

The written sworn statements of PFC [REDACTED] were admitted into evidence as Prosecution Exhibit 5 with no objection.

The written sworn statements of SGT Davis were admitted into evidence as Prosecution Exhibit 6 with objection.

I did not take statements from SPC [REDACTED], SPC [REDACTED], PFC [REDACTED] or SGT Davis. No one agent took every statement. On large cases, many agents take statements and compile everything together. I recall the statement SPC [REDACTED] gave. She described the incident when SGT Davis helped escort prisoners into the hard site.

The Government Counsel hands the Defense Counsel, and Investigating Officer, and Witness, a CID sketch of the layout of tier 1A and 1B.

SPC [REDACTED] was on the top tier standing here, and the detainees were in a pile in this area [Witness points to the sketch]. The numbers on the sketch are cell numbers.

Per the sworn statements given, once the detainees were placed in a dog pile, they were jumped on and had their fingers and toes stepped on, and later stripped nude. SGT Davis was described as jumping into the air and landing on the pile, with the detainees grunting in pain. SPC [REDACTED] identified SGT Davis as a jumper in his statement. SGT Davis initially denied, and later admitted jumping onto the pile. Some of the detainees described the soldiers as stepping on their hands and feet. SGT Davis first stated in his sworn statement that he stepped on hands and feet and fell onto the pile by accident. In his second statement, he said that he stepped and jumped purposely.

SGT Davis stated that he observed a naked detainee standing masturbating and another naked detainee kneeling with his face towards the standing detainee's crotch.

The Government Counsel hands the Witness Prosecution Exhibits 7 and 8 for Identification.

These photos represent SGT Davis' description of the masturbation incident, and are stored on the CD. This incident happened in late Oct or early Nov.

027676

Prosecution Exhibits 7 and 8 admitted into evidence with no objection.

SGT Davis was the NCOIC of tier 3A and 3B. He gave his first sworn statement on 14 Jan 04.

The Government Counsel hands the Witness Prosecution Exhibit 6.

SGT Davis says here that he did not intentionally step on the detainees' feet. In his second statement he said that he was not entirely honest in his first statement. SGT Davis gave his second statement on 15 Jan 04. He stated that he stepped on detainees' feet out of anger, and that he jumped on the pile once for sure, maybe twice.

CROSS EXAMINATION

The Investigating Officer reminded the Accused that this was the Defense's opportunity to examine the Government's witness.

I have been at Abu Ghraib since 6 Jan 04, and moved there permanently on 1 Feb 04. Through the course of this investigation, we determined that the detainees in 1A and 1B were stripped regularly. They basically followed this as a verbal SOP from the troops there before them.

Security checks were made by the Chain of Command in the evening, but I don't know how often. The incidents of 8 Nov 03 happened while the detainees were clothed and while they were naked.

I don't know if SGT Davis was there for the entire incident.

We collected files from the on-call medics on the detainees, and we interviewed the medical personnel. I have no recollection of injuries to detainees' hands or feet. We looked for injuries "out of the ordinary".

I was present when SGT Davis gave his statement. There is no rule for who has to be present during an interview. I don't believe SGT Davis did anything to the detainees after they were naked. His statement indicated that he left the room after they were stripped naked.

The SOP gathered by the other agents was written after the alleged incidents. Before the allegations, there were no SOPs on how to treat detainees. Procedures were "word of mouth" or just verbal guidelines.

Tier 1A and 1B housed MI, CID, OGA (FBI, CIA), female and juvenile detainees. They were segregated from the general population. The general population was criminals.

027677

I don't know of the SOPs. There were guideline for specific sleep and eating patterns for detainees. It is not the MP guards who implement this sleep or eating pattern, but MI personnel who authorize it.

I never read a 15-6 Investigation, but I believe one was done. A number of personnel in the Chain of Command were relieved because of this investigation. I don't remember if it went on before or after our investigation.

I don't know how often the physical abuse occurred.

I do not know the unit's METL or any training they were given. They were mainly road MPs, and were put into the prison to serve as guards. A few may have been prison guards in their civilian jobs.

The prison is a dangerous environment. Tier 1A and 1B has two MPs who monitor the detainees. I don't know if the MI holds are worse than the general population. There may be terrorists and detainees involved in politically driven incidents in 1A and 1B.

The seven detainees transferred from Ganci were suspected to be leaders of a riot. Before I arrived at the prison, an Iraqi guard smuggled a weapon in to a prisoner, resulting in the prisoner shooting a soldier in the chest. The soldier's body armor saved him.

Camp Vigilant also holds HVDs, black list, and MI holds. The statements I read, listed the seven as being transferred from Ganci.

REDIRECT EXAMINATION

SGT Davis was the NCOIC of one wing at the hard site. He indicated that he observed the masturbating incident.

The Government Counsel hands the Witness Prosecution Exhibit 9 for Identification.

I recognize this picture from the CD, Prosecution Exhibit 1. This is the masturbating incident he described in his statement. I am not aware of any other masturbating incidents.

Prosecution Exhibit 9 admitted into evidence with no objection.

The 7 individuals were brought over from Ganci. Ganci was used to hold the general population, I don't know what crimes they committed. It holds anyone not in any special category. There are about 6,000 prisoners at Ganci.

With neither side having anything further, the witness was warned not to discuss his testimony with anyone other than the parties present, and permanently excused.

027678

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

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

DIRECT EXAMINATION

I have been in 372d MP CO for 1½ years. We had a Law and Order mission at Hillah for 4 months upon arrival here. We got here 15 May 03. SGT Davis is in 372d MP CO. We were all transferred to Abu Ghraib 1 Oct 03, and we replaced the 72d MP CO.

In Oct and Nov, I was in charge of a Tier with a few soldiers to make sure the prisoners got food, and medical care. I report to a NCOIC. The tier has two levels of cells. We were part of the hard site.

The first week of Nov, I was working an observed abuse after I was moved to the night shift. The abuse started in the inprocessing area. We escorted prisoners down to tier 1 for isolation. There were seven transfers from Ganci because of a riot.

The detainees were flexi-cuffed, and had sandbags on their heads. It is a long walk from Inprocessing to Tier 1. The escorts were leading them into walls and cell bars as they walked with them. They could not see where they were going because they had sandbags on their heads.

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

I was the last escort in line with a prisoner. When we arrived at tier 1, SFC [REDACTED] took my prisoner and placed him into a pile on top of the other prisoners. They were all restrained with zip ties on their hands behind their backs, and sandbags on their heads, clothed, and on top of each other.

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

I specifically remember SFC [REDACTED] posing for picture of him holding a prisoner with his left hand, and his left hand about to punch a detainee with a sand bag over his head. **[Witness simulates motion]** After the picture, he actually punched the detainee. I specifically remember SGT Davis walking around the pile of detainees stomping on the detainees' feet and toes. SGT Davis was wearing his issue boots. They would cry out in pain. It was powerful enough to be painful. I did not see SGT Davis jump onto any detainees. SFC [REDACTED] saw SGT Davis stomping, and motioned for SGT Davis to stop. He gave a cutting sign across his neck for SGT Davis to stop. **[Witness simulates motion]** SGT Davis then stopped.

CROSS EXAMINATION

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

I never saw SGT Davis jump on the pile of detainees. I left the room after SFC [REDACTED] motioned for SGT Davis to stop. I did not see when SGT Davis left; he was still there when I left.

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

027679

I was with the unit the whole time it was at the prison. We did not get much training. We RIP'd for a few days with the 72d MP CO. I went on leave in Oct, and when I returned, I was RIP'd by the day shift for about a week. They told me how to do things.

I did not see the detainees naked before then. That night was my first duty on the night shift.

When I say RIP, I mean training.

Tier 1A and 1B were MI holds and people with high profiles for MI questioning. The Ganci rioters were taken to 1A and 1B into isolation to calm down. I was never told that 1A and 1B were to be treated differently. It is implied from MI personnel that they have different sleep and eating schedules.

REDIRECT EXAMINATION

I do not recall who else was in the line escorting detainees down to tier 1.

With neither side having anything further, the witness was warned not to discuss his testimony with anyone other than the parties present, and permanently excused.

The Article 32 proceeding recessed at 1153, 7 April 2004.

The Article 32 proceeding reconvened at 1204, 7 April 2004, with all parties present.

(b)(6) 2; (P)(C) 2

SPC [REDACTED], 372d Military Police Company, Abu Ghraib Prison, Iraq, previously sworn, was recalled, and testified in substance as follows:

RECROSS EXAMINATION

The detainees were placed in the pile with flexi-cuffs on. The cuffs were not removed, nor do I know if they fell off of the detainees' hands.

With neither side having anything further, the witness was warned not to discuss his testimony with anyone other than the parties present, and permanently excused.

THE GOVERNMENT RESTS

027680

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

THE DEFENSE'S CASE

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

The witness was informed of his rights under Article 31, signed DA Form 3881, and was excused. DA Form 3881 attached as an I.O. exhibit.

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

The witness was informed of his rights under Article 31, signed DA Form 3881, and was excused. DA Form 3881 attached as an I.O. exhibit.

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

The witness was informed of his rights under Article 31, signed DA Form 3881, and was excused. DA form 3881 attached as an I.O. exhibit.

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

DIRECT EXAMINATION

I have been with the 372d MP CO since its arrival at Abu Ghraib Prison. For about 4 months, we were a Law and Order, working with Iraqi police and performing convoy security. We were transferred to the prison. We did left and right seat training with 72d MP CO, and I then went on leave. We didn't learn anything from 72d MP CO.

Then, we were responsible for 70-200 prisoners; now 1200-1600 prisoners. I work tier 1B, it holds females and juveniles. When they fight, they are disciplined by taking their cigarettes. Sometimes we even recommend no sunlight. There was no SOP.

Reports were filed with the Sergeant of the Guard (SOG), and then forwarded to the front office. We were not given much training. We were not given any written SOP. We developed our own SOP.

Our shift Supervisor was a correctional officer, SSG [REDACTED]

I never saw a regulation on detainee operations. We are 31B's, Military Police, Combat Support.

027631

Tiers 1A and 1B were mostly isolated. I worked tier 1B day shift. I never saw prisoners kept naked in their cells. I first heard of it when CID came out. I had little to no contact with MI. I would only see them in passing, and said hi or bye. They would take prisoners away, interrogate them, and bring them back to their cells. I don't know how they do interrogations. There were situations where they gave us ideas on how to treat detainees. They had sleep management plans and eating plans. When we first got there, everything was just verbal. Later it was put in writing. I only saw the sleep management in writing. 1A would sometimes share documents with me.

I heard of a dead detainee being stored in the hard site. We would spray air freshener to cover the scent. MI or OGA interrogated this guy, and somehow, he died. They finally took the body away.

I do not remember a riot at Ganci. I did my left and right seat training and went on leave. I returned from leave the first week of Nov.

With neither side having anything further, the witness was warned not to discuss his testimony with anyone other than the parties present, and permanently excused.

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

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

DIRECT EXAMINATION

I have been with the 372d MP CO for the entire deployment. We had left-right seat training with the 72d MP CO for 2 days. They were just showing us the ropes.

MI would take stuff from the detainees in 1A and 1B to discipline them. They also had sleep management plans. I did not work on a daily basis in 1A and 1B. I worked different tiers to fill in as NCOIC of day shift.

I have seen detainees strip-searched. MI would take away clothes and the detainees would sleep in their cells naked. I remember coming in for duty and seeing the detainees in their cells naked. CID, MI or OGA would have authorized a detainee to be naked.

It was never instructed to take anything away from detainees. If I saw a detainee naked, I thought that was how it was supposed to be.

Lieutenants, Captains, Majors, or Lieutenant Colonels would not come to hang around and walk the tier. No one really wore any rank. Our NOIC spent a lot of time down there. If they didn't walk the tier, they wouldn't see the nakedness. I don't remember how often they walked the tier.

027682

I know a lot about a dead detainee being stored in the hard site. He wasn't dead at first. When he came in, we were told to not remove his sandbag, and we didn't know how much he was injured. He went into the showers for interrogation, and about an hour later, he died on them. I was sent to find out what was going on. Later that day, they decided to put him on ice. There was a battle between IGA and MI as to who was going to take care of the body. A couple of days later he was finally disposed of. OGA brought him in with a sandbag over his face. When we put his orange jumpsuit on to take him to the tier, we were told to not take the sandbag off at all. After he passed, the sandbag was removed, and I saw that he was severely beaten on his face. At the time, they would interrogate people in the shower rooms. He was shackled to the wall. I was not present for that. MPs were present on the tier, but not in the interrogation. The shower room was just used because there was no other space available. OGA did the interrogation.

I have known SGT Davis for about 5 years. I drilled with him back in the states. He is in a different squad. I only see him in passing. He is on a different shift than me. He knows his job, and does what is asked of him. We have butted heads, but who doesn't.

No one I know of, has a reputation of being tough on prisoners. A few others and me are considered to be tough verbally.

I remember a riot where a few prisoners were shot.

Conditions for MP guards were rough, ending a 30-day work cycle. Back then it was very dangerous. SGT [REDACTED] as shot because an IP smuggled a weapon in to a prisoner. We were exposed to external attacks. Not too often back then, now--every day.

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

Rarely are MP Guards assaulted, IP guards are assaulted more often than MP guards.

I would work tier 1 maybe once a week, and tiers 2-7 the rest of the week.

CROSS EXAMINATION

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

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

The outgoing shift, CPL [REDACTED] SGT [REDACTED] would tell me if an individual should be naked or had stuff taken away. No one ever told me to take anything away or that someone should be naked.

SGT Davis was not involved in the dead body incident. He was not there with the body, or the interrogation. I believe Seal Team 7 brought the guy in.

With neither side having anything further, the witness was warned not to discuss his testimony with anyone other than the parties present, and permanently excused.

027683

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

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

DIRECT EXAMINATION

I have known SGT Davis since Feb 03. I initially entered the military as an MP in 1975, and stayed in until 1981. I came in again in Feb 1998 as a 92A. In Nov 03, I was involuntarily transferred to the 372d MP CO to serve as a MP again. SGT Davis and I are in the same squad. I was his team leader at Abu Ghraib.

He was a patrol supervisor at Hillah. He is a good soldier. I weigh things out. When at Ft Lee, I watched him work with the squad. We didn't always see eye to eye, but he works well, and works things out.

Conditions at the prison are pretty bad. When we first started, we had no interpreters, ICOs, (Iraqi Correctional Officers) or IP (Iraqi Police). We had to do a lot of OJT. We arrived there in Oct 03. When we took over, there were a lot of personnel. More and more prisoners slowly began to arrive.

There was no guidance given from higher on how to discipline detainees to SSG [REDACTED] and I. I am blessed to have been a civilian correctional officer.

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

1A and 1B were treated differently because they were MI hold, and a no talking tier. Daily operations were the same as the rest of the prison, just a smaller population. MI and OGA told us how to treat them. I would ask OGA and MI what Geneva category to place prisoners in, but got no response. I also asked this of CPT [REDACTED] or CPT [REDACTED] at JAG and the BN. I also discuss this intensively with the General who did the 1546 investigation on the prison policies and procedures.

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

I have seen detainees held naked, but not often. We had one individual who would continuously urinate and put his feces all over himself. Another would try to escape. In Dec, I was designated as NCOIC when CPL [REDACTED] was assigned to transport prisoners by aircraft.

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

I wrote the SOP last month (March) for tier 1. MI said that they had started a draft SOP, but I never saw it.

There were several riots at Ganci--one coincided when I was shot, maybe around Thanksgiving. There was some significance to Islamic faith and Ramadan. I don't know of the seven detainees involved in this case. When a riot breaks out the company reactionary team goes in. A lot of times, they are just letting off steam. There has been very few times where we had to go in and use less than lethal means to restrain the detainees. They use it a lot now.

b6-4 b7C-4

Inmate [REDACTED] shot me. He was a Feydayeen CPT, and CID was investigating him. I was there as relief that night, and SPC [REDACTED] let me know that this inmate had a possible weapon. We went through the procedure to find the individual.

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

027684

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

LTC [redacted] worked in the MI Group under COL [redacted]. There was no SOP for sleep management. At one time it was done "at will" by the interrogators. When I got there, I wanted it in writing. A policy was drafted and sent to JAG.

OGA wore civilian clothes. They took inmates out of the facility. MI wore DCUs with no nametags or rank. Now, OGA cannot take inmates out of the facility.

Non-military or OGA are CIA, FBI, and CID. They would tell us to take something away from an inmate, like a pillow or something to make him uncomfortable. I would tell them to put it in writing. If I had sensed they wanted someone "roughed up", then I would have said something. Everyone should have been treated the same

b(6)s, (7)(C)s I know PFC [redacted], and I do not consider her to be forthright. At Hillah, I was the EOR, and she and CPL [redacted] were caught sleeping together. She tried to use the EO system to her advantage. That is my personal opinion. I do not consider her to be honest. It is a rumor that she has said things about me.

CROSS EXAMINATION

No one should have to tell SGT Davis to not stomp on detainees' feet. I don't know why he would stomp a detainees feet. OGA policy is not to pile detainees on the floor. There is no policy to dive on a pile of detainees or physically assault detainees. There is no reason to instruct a soldier to stomp on or abuse detainees, especially if they were flexi-cuffed and sandbagged

An NCO or supervisor observing a detainee forced to masturbate with another kneeling in front, should have the duty and responsibility to halt the behavior. There is no need to have to instruct SGT Davis to stop the behavior.

With neither side having anything further, the witness was warned not to discuss his testimony with anyone other than the parties present, and permanently excused.

The Article 32 proceeding recessed at 1315, 7 April 2004.

The Article 32 proceeding reconvened at 1412, 7 April 2004, with all parties present.

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

027635

DIRECT EXAMINATION

I have known SGT Davis since April 2000. I have been in the military since September 1999. I served at the prison, Hillah, and in Bosnia together. I am on the day shift at the prison; SGT Davis is on the night shift. He is a competent NCO, very detailed, and not a show off or a piece of crap. He is a very good soldier.

We received a few days of OJT. No instruction on how to discipline detainees. No SOP or anything in writing or set in stone from the 72d MP CO. No idea of their standard practices.

I work MI holds in 1A and 1B day shift. I have seen detainees naked. Not every day, but from time to time. At first it was unusual, but normal after a while.

When SGT [REDACTED] ^{(b)(6)2; (b)(7)2} got shot, the guy was trying for me.

I would sometimes see the detainees naked in their cells when I would come in for day shift duty. I'd ask why, and I was told because they were disruptive or threw feces or something. It was accepted after a while.

I made sure the detainees were fed, counted, showered, and taken wherever they needed to go for interrogations. We would pat them down, cuff them, and turn them over to MI.

I was too busy to know if they weren't getting any sleep at night. I do know of a sleep management plan given by MI.

There is chaos during a riot. I remember one when I was off duty, and called on to duty to assist at Ganci. It was all over then I arrived.

No one asked us to soften or roughen up detainees. Maybe "give them a little more attention" I would just do more PT with them. I think the detainees in 1A and 1B were more dangerous. MI had interest in them and they were all segregated. At first there were no files on them. Now there are files. We would get a face card and an arrest sheet. A lot of the info is wrong or half done, for instance one card would say: born: "Iraqi police", occupation: "Iraqi police". When the new MI unit arrived, we started seeing dossiers. I took leave in Dec. I didn't know what a 15-6 Inv was until after I came off of leave and a lot of the chain of command was suspended because of it. I thought 15-6 was some kind of form.

I did not question anything of MI personnel. They were there longer than me. The stuff they die, as far as I know was justified. I did not question them. I don't know anything about a regulation on detainee operations. I am not a correction officer. I'm just an MP, on the road fighting the forces of evil...

027636

0061621002

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

I know [redacted] --he refused all things. He was brought to me because he threw rocks at MPs. They couldn't handle him. CPT [redacted] was the OIC of the hard site at the prison. He was the commander during our convoys. CPT [redacted] was there when [redacted] was given IV's because he did not eat for two weeks. [redacted] was combative, he would take swings at people. He would just say: I REFUSE... I wouldn't take [redacted] clothes; he just refused to wear any. I did see pictures when CID game around. I saw [redacted] naked when [redacted] refused to wear clothes. CPT [redacted] was there. [redacted] refused all things.

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

CROSS EXAMINATION

There are many Ganci camps. During a riot, prisoners would throw rocks, wires, etc. When I got to the Ganci riot, it was over. One riot I witnessed was at the hard site. The prisoners were inside their cells, tearing beds apart, pulling pipes out of the walls, and breaking the lights. I never witnessed any Ganci riot.

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

CPL [redacted] would always tell me when the prisoners had no clothes.

Females were kept in 1B, the top tier. When 1A top and bottom tier filled up, some prisoners were put in the bottom tier 1B.

No one would have to tell me not to assault any detainees. No one would have to tell me to not allow masturbation amongst detainees. I would wholeheartedly want it to stop. An NCO should not allow it to occur. SGT Davis should have stopped it if he saw it. If MI told me to make detainees masturbate together, I would cut off his air supply until he turned blue in the face. This is not acceptable instruction to me. There is no special training to know this behavior is wrong except "life".

REDIRECT EXAMINATION

I don't know what cellblock SGT Davis works. He is on night shift, I am on day shift.

With neither side having anything further, the witness was warned not to discuss his testimony with anyone other than the parties present, and permanently excused.

THE DEFENSE RESTS

The Investigating Officer reminded the Accused that he had the right to make a statement during the proceeding or remain silent.

The Defense counsel stated that the SGT Davis would remain silent.

027687

The Defense Counsel once again objected and commented on the government's production of witnesses, files, documents, and a speakerphone, which could have been used to produce telephonic testimony for unavailable witnesses; and requested that the government produce said items.

The Investigating Officer denied the Defense Counsel's request.

The Government Counsel made a Closing Statement.

The Defense Counsel made a Closing Statement.

The Government Counsel made a Rebuttal Statement.

The Investing Officer stated his recommendation in this case was advisory, and would be forwarded to the Convening Authority

The Article 32 proceeding adjourned at 1500, 7 April 2004.

027638

[REDACTED] SFC CJTF7-16th MP BDE SJA NCOIC

From: [REDACTED]@us.army.mil

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

Sent: Tuesday, April 20, 2004 11:17 AM

To: [REDACTED] SFC CJTF7-16th MP BDE SJA NCOIC

Cc: [REDACTED] CPT CJTF7 16MP [REDACTED] 1LT CJTF7-OPS OSJA; [REDACTED] MAJ
CJTF7 -Effects JA; [REDACTED] MAJ CJTF7 -JAG

Subject: Re: RE: SGT Davis 32 objections

SFC [REDACTED]

Thank you for providing an opportunity to comment. I've reviewed the material and I have nothing to add to the written objections I have already submitted.

V/R,

[REDACTED]
CPT, JA
Senior Defense Counsel
LSA Anaconda
529-[REDACTED]DNVT
[REDACTED]@us.army.mil

027639

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

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

DATA REQUIRED BY THE PRIVACY ACT

000602, 000-2

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

1. LOCATION <i>Victory Base, Iraq</i>	2. DATE <i>7 Apr 04</i>	3. TIME <i>1206</i>	4. FILE NO.
5. NAME (Last, First, MI) [REDACTED]	8. ORGANIZATION OR ADDRESS <i>372d MP Co</i>		
6. SSN [REDACTED]	7. GRADE/STATUS <i>CPT</i>		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army *Article 32 U.S. v. Davis* and wanted to question me about the following offense(s) of which I am suspected/accused: *Dereliction of duty*

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

- I do not have to answer any question or say anything.
- Anything I say or do can be used as evidence against me in a criminal trial.
- (For personnel subject to the UCMJ)* I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.
 - or -
(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.
- If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS *(Continue on reverse side)*

Section B. Waiver

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

WITNESSES <i>(If available)</i>		3. SIGNATURE OF INTERVIEWEE
1a. NAME <i>(Type or Print)</i>		4. SIGNATURE OF INVESTIGATOR [REDACTED]
b. ORGANIZATION OR ADDRESS AND PHONE		
2a. NAME <i>(Type or Print)</i>		5. PRINTED NAME OF INVESTIGATOR [REDACTED]
b. ORGANIZATION OR ADDRESS AND PHONE		6. ORGANIZATION OF INVESTIGATOR <i>197th FA Bde</i>

Section C. Non-waiver

1. I do not want to give up my rights
 I want a lawyer
 I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE [REDACTED] **027690**

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

EO Lx

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

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

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

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

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

- or -

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

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

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

THE WAIVER

"Do you understand your rights?"

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

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

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

"Do you want a lawyer at this time?"

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

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

SPECIAL INSTRUCTIONS

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

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

PRIOR INCRIMINATING STATEMENTS:

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

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

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

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

COMMENTS (Continued)

027691

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

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

DATA REQUIRED BY THE PRIVACY ACT

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

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

1. LOCATION <i>Victory Base, Iraq</i>	2. DATE <i>7 Apr 04</i>	3. TIME <i>1211</i>	4. FILE NO.
5. NAME (Last, First, MI) [REDACTED]	8. ORGANIZATION OR ADDRESS <i>372d MP Co</i>		
6. SSN [REDACTED]	7. GRADE/STATUS		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army *Article 32 U.S. V DAns.* and wanted to question me about the following offense(s) of which I am suspected/accused: *Dereliction of duty*

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

- I do not have to answer any question or say anything.
- Anything I say or do can be used as evidence against me in a criminal trial.
- (For personnel subject to the UCMJ)* I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.
 - or -
(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.
- If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS *(Continue on reverse side)*

Section B. Waiver

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

WITNESSES <i>(If available)</i>		3. SIGNATURE OF INTERVIEWEE
1a. NAME <i>(Type or Print)</i>		[REDACTED]
b. ORGANIZATION OR ADDRESS AND PHONE		
2a. NAME <i>(Type or Print)</i>		4. SIGNATURE OF INVESTIGATOR
b. ORGANIZATION OR ADDRESS AND PHONE		5. FULL NAME OF INVESTIGATOR
		6. ORGANIZATION OF INVESTIGATOR
		<i>197th FA Bde</i>

Section C. Non-waiver

1. I do not want to give up my rights
 I want a lawyer
 I do not want to be questioned or say anything

2. SIGNATURE [REDACTED]

027692

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

To Cx

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

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

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

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

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

- or -

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

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

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

THE WAIVER

"Do you understand your rights?"

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

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

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

"Do you want a lawyer at this time?"

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

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

SPECIAL INSTRUCTIONS

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

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

PRIOR INCRIMINATING STATEMENTS:

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

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

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

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

COMMENTS *(Continued)*

027633

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

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

DATA REQUIRED BY THE PRIVACY ACT

all (b)(7)(E)(C)

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

1. LOCATION <i>Victory Base, Iraq</i>	2. DATE <i>7 Apr 04</i>	3. TIME <i>1215</i>	4. FILE NO.
5. NAME (Last, First, MI) [REDACTED]	8. ORGANIZATION OR ADDRESS <i>372d MP Co</i>		
6. SSN [REDACTED]	7. GRADE/STATUS		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army *Article 32 U.S. J. Davis* and wanted to question me about the following offense(s) of which I am suspected/accused: *Dereliction of Duty*

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

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

- or -

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

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

5. COMMENTS *(Continue on reverse side)*

Section B. Waiver

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

WITNESSES <i>(If available)</i>		3. SIGNATURE OF INTERVIEWEE
1a. NAME <i>(Type or Print)</i>		[REDACTED]
b. ORGANIZATION OR ADDRESS AND PHONE		
2a. NAME <i>(Type or Print)</i>		5. TYPED NAME OF INVESTIGATOR
b. ORGANIZATION OR ADDRESS AND PHONE		6. ORGANIZATION OF INVESTIGATOR <i>197th FA Bde</i>

Section C. Non-waiver

- I do not want to give up my rights
 I want a lawyer
 I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE

[REDACTED SIGNATURE]

027694

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

T/D Lv

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

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

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

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

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

- or -

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

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

THE WAIVER

"Do you understand your rights?"

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

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

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

"Do you want a lawyer at this time?"

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

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

SPECIAL INSTRUCTIONS

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

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

PRIOR INCRIMINATING STATEMENTS:

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

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

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

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COMMENTS *(Continued)*

027695

[REDACTED] 1LT CJTF7-OPS OSJA

From: [REDACTED]@us.army.mil
Sent: Tuesday, April 06, 2004 02:54
To: [REDACTED] LT CJTF7-OPS OSJA
Subject: Re: RE: Change in location for Art 32

All (b)(6) 2; OIC 2

[REDACTED]
One slight change, my flight arrives at Griffin at 1700, not 1630. I have limited internet access today, but if you could let me know if we'll be proceeding tonight, I'd appreciate it. I'd like to know if I have to go straight to a hearing, or if we'll proceed tomorrow, or whatever. Thanks.

[REDACTED]
CPT, JA
Senior Defense Counsel
LSA Anaconda
318-[REDACTED] DSN
[REDACTED]@us.army.mil

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

From: [REDACTED] 1LT CJTF7-OPS OSJA" <[REDACTED]@vcmain.hq.c5.army.mil>
Date: Tuesday, April 6, 2004 1:39 am
Subject: RE: Change in location for Art 32

> Any word on your schedule today?

> [REDACTED]
> [REDACTED]
> -----Original Message-----

> From: [REDACTED]@us.army.mil [REDACTED]@us.army.mil]
> Sent: Monday, April 05, 2004 10:15
> To: [REDACTED] SFC CJTF7-16th MP BDE SJA NCOIC
> Cc: [REDACTED] MAJ CJTF7 -Effects JA; [REDACTED] CPT
> CJTF7 16MP;
> [REDACTED] 1LT CJTF7-OPS OSJA; [REDACTED] MAJ CJTF7 -JAG
> Subject: Re: Change in location for Art 32

> MAJ [REDACTED]
> Sir, my flight to Camp Victory was just cancelled. I tried to
> come down
> yesterday, knowing that cancellations happen sometimes, and that was
> cancelled too. So unfortunately I've struck out two days in a
> row. I do
> not believe that I can make it down to Victory in time for the
> hearing. I
> am currently manifested for a flight that will get me to Griffin

027696

> Pad around
 > 1630, which was the earliest I could get. I will check on convoys
 > to see if
 > I can get there late tonight or early morning, but I am doubtful
 > that that
 > will be feasible. Accordingly, I need to request a delay until I
 > can get
 > there. I do not want any more of a delay than is necessary, so I
 > would appreciate your guidance on when we could reschedule. Again,
 > I'm currently
 > scheduled to come in tomorrow afternoon, but I have no idea if the
 > following day would work for you and everyone else involved.
 > Please advise. Thank
 > you.
 > V/R,

>
 >
 > [REDACTED]

> CPT, JA
 > Senior Defense Counsel
 > LSA Anaconda

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

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

> From: [REDACTED] SFC CJTF7-16th MP BDE SJA NCOIC"

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

> Date: Thursday, April 1, 2004 12:19 pm

> Subject: Change in location for Art 32

>> [To]

>>
 >> The location for the Article 32 for U.S. v Davis has changed.

>>
 >> The new location will be bldg 112, 16th MP BDE(ABN) Sullivan
 > Room

>> (Fwd).
 >> The start time is still 1000.

>>
 >> If you need directions, I can assist.

>>
 >>
 >> V/R

>>
 >> SFC [REDACTED]
 >> Senior Paralegal
 >> 16th MP BDE (ABN)
 >> VICTORY BASE, IRAQ

>> DNV 302-587-[REDACTED]
 >> 588 [REDACTED]
 >> cell [REDACTED]

>>
 >>

all (6) 2; (7) 2

027697

SFC CJTF7-16th MP BDE SJA NCOIC

From: [redacted] MAJ CJTF7 -Effects JA
Sent: Tuesday, April 13, 2004 5:07 PM
To: [redacted] SFC CJTF7-16th MP BDE SJA NCOIC
Subject: FW: SGT Davis 32 objections
SFC [redacted]

I received this e-mail today. Please make sure we include into the record. Thanks.

b/r
jc

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

From: [redacted]@us.army.mil [mailto:[redacted]@us.army.mil]
Sent: Tuesday, April 13, 2004 14:18
To: [redacted] MAJ CJTF7 -Effects JA
Cc: [redacted] LT CJTF7-OPS OSJA; [redacted] CPT CJTF7 16MP; [redacted] MAJ CJTF7 -JAG; [redacted] SFC CJTF7-16th MP BDE SJA NCOIC
Subject: SGT Davis 32 objections

Sir,

I don't believe you had requested that we submit our objections in writing, but I thought it would be better for the clarity of the record. Also, I would like to offer the statement of CPT [redacted] that is part of the investigation file, since he invoked at the hearing and therefore may be deemed unavailable to testify. I am sending a signed copy of this memo to the OSJA at Victory Base. Thank you, sir.

V/R,

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

[redacted]
CPT, JA
Senior Defense Counsel
LSA Anaconda
318-829-[redacted]
[redacted]@us.army.mil

027638

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE
For use of this form, see AR 190-30: the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

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

1. LOCATION Baghdad Correctional Facility, Abu Ghraib, APO AE 09335	2. DATE 14 JAN 04	3. TIME 1134	4. FILE NO. 6265, 0265
5. NAME (Last, First, MI) [REDACTED] (6265, 0265)	8. ORGANIZATION OR ADDRESS 372nd MPCo Cumberland Md. 75550 21502 Forward deploy Abu GHRAIB IRAQ		
6. SSN [REDACTED]	7. GRADE/STATUS SPC / AD / Reserve		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command as a Special Agent and wanted to question me about the following offense(s) of which I am suspected/suspected: Cruelty and Maltreatment, Indecent Acts, Failure to Obey an Order or Regulation, Assault, Dereliction of Duty///

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

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

(6265, 0265)

- or -

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

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

5. COMMENTS (Continue on reverse side)

Have you requested a lawyer after rights advisement in the past 30 days? YES NO

Section B. Waiver

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

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE [REDACTED] (6265, 0265)
a. NAME (Type or Print)		4. SIGNATURE OF INVESTIGATOR [REDACTED] (6261, 0261)
b. ORGANIZATION OR ADDRESS AND PHONE		5. TYPED NAME OF INVESTIGATOR [REDACTED]
2a. NAME (Type or Print)		6. ORGANIZATION OF INVESTIGATOR 10th MD BN (CTD) Baghdad, IRAQ
b. ORGANIZATION OR ADDRESS AND PHONE		

Section C. Non-Waiver

- I do not want to give up my rights:
 - I want a lawyer.
 - I do not want to be questioned or say anything.

2. SIGNATURE OF INTERVIEWEE

027700

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

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

SWORN STATEMENT

For use of this form, see AR 190-45: The proponent agency of the Deputy Chief of Staff for Personnel.

LOCATION Baghdad Correctional Facility, Abu Ghraib Iraq	DATE 14 Jan 04	TIME 1545	FILE NUMBER
LAST NAME, FIRST NAME, MIDDLE NAME	SOCIAL SECURITY NUMBER		GRADE/STATUS SPC/AD Reserve

ORGANIZATION OR ADDRESS

372nd MT Co Cumbelland MD 21902 JCS

I, [redacted] want to make the following statement under oath:

I would like to make the following statement about things that I have participated in or witnessed while I have been stationed at Abu Ghraib correctional facility. Sometime about the end of Oct 03, I was on generated detail and SSG [redacted] came by and asked me to come down to the hard site with him. He said that they had some new detainees come in, and wanted me to come bullshit with him. We got to where the detainees were at a holding cell, and I asked [redacted] if he wanted me to escort one of them to the tier and he said go ahead. So I took one of the detainees down to the tier. After we got to the tier, they put the detainees in a pile on the floor. The detainees were tossed in the middle of the floor together. That is when SGT DAVIS ran across the room and lunged in the air and landed in the middle of where the detainees were. I believe this is when CPL [redacted] told SPC [redacted] come in and "get him some". Meaning to come in and be apart of whatever was going to happen. I believe DAVIS ran across the room a total of two times and landed in the middle of the pile of detainees. A couple of the detainees kind of made an AH sound as if this hurt them or caused them some type of pain when DAVIS would land on them. After DAVIS had done this, DAVIS then stumped on either the fingers or toes of the detainees. When he stumped the detainees they were in pain, because the detainee would scream loudly. I know this happened to at least one detainee; maybe it was a second one as well. I know after DAVIS had done this, SFC [redacted] told him that was enough, and DAVIS stopped, and that was when DAVIS left as well. Next [redacted] and [redacted] had the detainee's strip. [redacted] was the one who told them to strip in Arabic language. During this whole time the detainees had sandbags over their heads. The detainees did not want to take their civilian clothes or jumpsuits off, and were hesitant to strip. There may have been one or two that had a jumpsuit on. [redacted] and [redacted] would take one of the detainees aside, tell them to strip, and they would strip. After the detainee was stripped, [redacted] would put a sandbag over the head of the detainee, and he would have the detainee sit down. At one point after a couple of the detainees were stripped, and I do not know what provoked [redacted], but [redacted] knelt down to one of the detainees that was nude and had the sandbag over his head, [redacted] put the detainees head into a cradle position with [redacted] arm, and [redacted] punched the detainee with a lot of force, in the temple [redacted] punched the detainee with a closed fist so hard in the temple that it knocked the detainee unconscious. I walked over to see if the detainee was still alive, I could tell that the detainee was unconscious, because his eyes were closed and he was not moving, but I could see his chest rise and fall, so I knew he was still alive. [redacted] checked on him as well once or twice to make sure he was still alive as well. I do not recall [redacted] saying anything. I do remember [redacted] saying, "Damn that hurt", referring to [redacted] hurting his hand when he punched the detainee. After about two minutes the detainee moved for the first time, like he was coming to. After [redacted] had done this he went over to the pile of detainees that were still clothed and he put his knees on them and had his picture taken. I took this photo. SSG [redacted] about this point struck one of the detainees in the chest with a closed fist. The detainee was standing in front of [redacted] and for no reason [redacted] punched the detainee in the chest. The detainee took a real deep breath and kind of squatted down. The detainee said he could not breath. They called for a medic to come down, to try and get the detainee to breath right. [redacted] said he thought he put the detainee in cardiac arrest. I also tried to show the detainee how to breathe slowly. It was if

EXHIBIT	INITIALS OF PERSON MAKING STATEMENT [redacted]	PAGE 1 OF 5 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF [redacted] TAKEN AT [redacted] DATED [redacted] CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE OF [redacted] PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE OF ANOTHER COPY OF THIS FORM.

was gone

0003-04-CID-0-83130

His breath. [redacted] then had the rest of the detainees strip down, and after they were all nude and had sandbags on, [redacted] made them make a tower, by making several detainees be on the bottom, and then the next ones get on top of them, while all of them were in a kneeling position. [redacted] and [redacted] then tried to get several of the inmates to masturbate themselves. SSG [redacted] would take the hand of the detainee and place it on the detainees penis, and make the detainee's hand go back and fourth, as if masturbating. He did this to about three of the detainees before one of them did it right. This detainee masturbated himself for about five minutes. [redacted] finally told him to stop. I do not recall if any pictures were taken of this. I do not remember this detainee ejaculating either. [redacted] had them all get up and get against the wall, and [redacted] positioned one of the detainees on his knees in front of the other detainee, so that from behind the detainee that was kneeling, it would look like the detainee kneeling had the penis of the detainee standing, in his mouth, but he did not. This went on for maybe about two minutes. I do not know about pictures that were taken. SPC [redacted] SPC [redacted] had their pictures taken with the detainees. They would stand in front of the detainees and [redacted] and [redacted] would put their thumbs up and have the picture taken. That is about it for that incident. I left about that time.

Q. How many detainees were involved in the above-mentioned incident?

A. There was seven.

Q. Who is [redacted]?

A. [redacted], last I heard he is a CPL. He is in 372nd MP Co. Everyone there that night is in the 372nd.

Q. Who is [redacted]?

A. SSG [redacted] same unit.

Q. Who is [redacted] DAVIS

A. SGT Javal DAVIS, same unit.

Q. Who is [redacted]?

A. SPC [redacted] same unit.

Q. Who is [redacted]?

A. SPC [redacted] same unit.

Q. Who is [redacted]?

A. SPC [redacted] same unit, but I do not know his first name.

*all (b)(6)S, (b)(7)(C)S
except as noted*

AFFIDAVIT

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

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

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

(Signature of Person Making Statement)
SUBSCRIBED AND SWORN BEFORE ME, A PERSON BY LAW
TO ADMINISTER OATHS, THIS 14th DAY OF Jan 04
AT Abu Gharib Correctional Facility, Iraq

[redacted]
(Signature of Person Administering Oath)

SA [redacted]
(Name of Person Administering Oath)

ARTICLE 136, UCMJ
(Authority to Administer Oath)

INITIALS OF PERSON MAKING STATEMENT [redacted]

PAGES 2 OF 5 PAGES

STATEMENT OF [REDACTED] TAKEN AT [REDACTED] DATED [REDACTED]

CONTINUED:

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

- Q. Who is [REDACTED]?
- A. SFC [REDACTED] same unit.
- Q. Did you see [REDACTED] after he told DAVIS to stop stumping on the detainees?
- A. No, that was the last I saw of him.
- Q. Was this in an area where any of the other detainees could see what was going on?
- A. No, because it was on the bottom floor of isolation where you cannot see out.
- Q. Why did this event take place?
- A. I do not know. I do not know if someone had a bad day or what. It was normal day for me; aside from the stuff I told you about.
- Q. What was [REDACTED] attitude during this event?
- A. He was joking, laughing, pissed off a little, acting like he was enjoying it.
- Q. What was [REDACTED] attitude during this event?
- A. Same, as always, mellow. He really was not saying too much. Just kind of standing there.
- Q. What was [REDACTED] attitude during this event?
- A. She was laughing at the different stuff that they were having the detainees do.
- Q. What was [REDACTED] attitude during this event?
- A. There was a few times she was smiling, there was a few times she had a look of disgust on her face. She did write the word rapist on the side of the leg of one of the inmates. She did this after she had found out from the processing sheets that he had raped someone. She wrote it with a dry erase black marker. She really did not say anything, she just wrote it down.
- Q. What was your attitude during this event?
- A. I was kind of surprised by the actions of [REDACTED] and [REDACTED]. I was laughing at some of the stuff that they had them do. I was disgusted at some of the stuff as well. As I think about it now I do not think any of it was funny.
- Q. What part did you think then was funny?
- A. The tower thing.
- Q. Who took pictures of the events that occurred?
- A. [REDACTED] and I took one photo of [REDACTED] when he was cradling one of the detainee's head. Not the one that he punched. I think I am in one picture; it was when I was trying to take the flex cuffs off one of the detainee's because it was too tight.
- Q. Have you ever helped escort other prisoners?
- A. No.
- Q. Are there any other incidents of abuse you witnessed?
- A. Back in I believe December, there was an incident. There was a guy that had got bit by a dog. I am not sure why. [REDACTED] told me that the detainee came at him, and the dog then bit the detainee. I believe this guy was provoked to go at [REDACTED]. I based this on what I have seen before with [REDACTED].
- Q. Are there any other incidents?
- A. Yes. There was a time that I saw a detainee handcuffed to the bed, and

INITIALS OF PERSON MAKING STATEMENT

027703

EXHIBIT 2a

For Official Use Only

0003-04-C1D149-43130

0003-04-C1D149-43130

[redacted] was in the room with him. This detainee had wounds on his legs from where he had been shot with the buckshot. [redacted] would take the asp and strike the detainee with a half baseball swing, and hit the wounds of the detainee. There is no doubt that this hurt the detainee because he would scream he got hit. The detainee would beg [redacted] To stop by saying, "Mister, Mister please stop", or words to that effect. I saw [redacted] strike him twice. SSG [redacted] was in the room as well and witnessed this, and there was one other medic also. [redacted] is in 372nd MP Co, and I am not sure about the other. The other medic was kind of heavier set, glasses, E5. The medics were there to check out the guy's wounds, to make sure that they were healing properly. (b)(2)(D)(C)2

Q. Why was [redacted] striking this detainee?
A. I think [redacted] was still angry because this detainee had tried to kill one of our soldiers.

Q. Did [redacted] say anything while he was striking this detainee?
A. I think one time [redacted] said in a baby type voice, "Ah, does that hurt?".

Q. Was there anything else that happened the night of the first incident you talked about?
A. Yes, [redacted] had two of the inmate punch each other in the head.

[redacted] showed them by using his hands and fist that he wanted one inmate to punch the other inmate. A first neither of them would do it, but then one of the inmates punched the other, then the other struck that one back. They hit each other once each.

Q. When [redacted] knocked the detainee unconscious, did any call for a medic?
A. No.

Q. Did any of the mentioned soldiers in this statement, ever say they knew what they were doing was wrong?
A. No.

Q. Do you think the incidents you witnessed were wrong?
A. All of them were.

Q. Why were they wrong?
A. To be honest it was mistreating the prisoners. I know the war has stopped, but I know if they are POW's that is abuse of the Geneva Convention.

Q. Why did you not report this to the Chain of Command?
A. I was asked not to, and I try to be friends with everyone. I see now where trying to be friends with everyone can cost ya.

Q. Who asked you not to tell?
A. [redacted] He pretty much said, "You did not see shit".
Q. Did anyone say anything to you before you came here today?
A. No.

Q. Is there anything else you want to add to this statement?
A. Yes. There was a night up in an office space they built between 1A and 1B. I was looking at a laptop computer, I do not know whose it was or if the photographs they were showing were on a hard drive or disk, but they had the pictures of the first incident I spoke of that I was present for, and there were pictures of some other time that I do not know when that stuff happened. The pictures were of prisoners from the incident with the dog. There was a picture of the detainee's leg where the dog had bit it,

before it was sewed. I was in the wrong when the above incidents happened; I should of said something.///END OF STATEMENT

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

027705

Exhibit

INITIALS OF PERSON MAKING STATEMENT
For Official Use Only

EXHIBIT 26
Page 5 of 5

WARNING PROCEDURE/WAIVER/IF STATE

Use of this form, see AR 190-30; the proponent agency is CSOPS

DATA REQUIRED BY THE PRIVACY ACT

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

1. LOCATION Abu Gharib Prison, Abu Gharib Iraq	2. DATE 27 January	3. TIME 0930	4. FILE NO.
5. NAME (Last, First, MI) [REDACTED]	8. ORGANIZATION OR ADDRESS 3rd MPCO (b)(6), (7)(C) 5 Abu Gharib, Iraq (no note)		
6. SSN [REDACTED]	7. GRADE/STATUS SPC/ADJ ROSEARS		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command
SS S Special Agent and wanted to question me about the following offense(s) of which I am suspected/accused: Tampering with Evidence, Obstruction of Justice, Failure to Obey Order or Regulation, Cruelty and Maltreatment
 Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

- I do not have to answer any question or say anything.
- Anything I say or do can be used as evidence against me in a criminal trial.
- (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.
- (For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.
- If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)

Have you requested a lawyer after being advised of your rights in the past 30 days? NO

Section B. Waiver

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

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE [REDACTED]
1a. NAME (Type or Print)		4. SIGNATURE OF INVESTIGATOR [REDACTED]
b. ORGANIZATION OR ADDRESS AND PHONE		5. TYPED NAME OF INVESTIGATOR SA [REDACTED] (b)(6), (7)(C) 1
2a. NAME (Type or Print)		6. ORGANIZATION OF INVESTIGATOR 10th MPBN (CCID) APO AE 01115
b. ORGANIZATION OR ADDRESS AND PHONE		

Section C. Non-waiver

1. I do not want to give up my rights
 I want a lawyer I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE

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

SWORN STATEMENT

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

add 6/6/5, 07/05
except as noted

LOCATION Abu Ghraib, Iraq, APO AE 09335	DATE 27 JAN 04	Time 1035	FILE NUMBER
--------------------------------------------	-------------------	--------------	-------------

LAST NAME, FIRST NAME, MIDDLE NAME	SOCIAL SECURITY NUMBER	GRADE/STATUS E4/SPC/Reserves
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ORGANIZATION OR ADDRESS
372nd Military Police Company, Abu Ghraib Correctional Facility, Abu Ghraib, Iraq, APO AE 09335

I, [redacted], want to make the following statement under oath:

Q: SA [redacted] (b)(1) (X)

A: SPC [redacted]

Q: On the night that 7 detainees were brought into the Hard Site, do you remember how long SSG [redacted] was there after he brought the detainees into the area?

A: He was there for about 20 seconds or so.

Q: To your knowledge, did SSG [redacted] see any abuse of the detainees?

A: No, I am sure he didn't see any abuse. He was bringing the detainees into Isolation Area from another part of the Hard Site, and then he left. He never went past the wooden partition, and because of that, he couldn't have seen anything.

Q: Did you see SSG [redacted] abuse any detainees, including hitting them, pushing them into walls or other fixed objects, kicking them, or assaulting them in any way?

A: No.

Q: How well do you know SSG [redacted]

A: I know him, sort of. We aren't friends or anything. But from what I hear of him, he is a hell of a nice guy.

Q: To your knowledge, is there any reason that SSG [redacted] should have know that the detainees would be abused?

A: No.

Q: Do you believe SSG [redacted] would have reported the abuse of the detainees if he knew it was going on?

A: Yes. I know he is very honest, and he always make sure things are done the right way. I would be very surprised if he didn't report it if he knew it was going on.

Q: How long was SFC [redacted] in the area while the abuse was going on?

A: From what I saw, he was there for two minutes or less.

Q: What type of abuse do you believe SFC [redacted] witnessed?

A: I know he saw SGT DAVIS stomping on a detainee's foot. When he saw that he ordered SGT DAVIS to stop. I believe that SFC [redacted] thought it was an isolated incident and that when he ordered SGT DAVIS to stop, it was over.

Q: Did SFC [redacted] see SGT DAVIS, or anyone else, abusing the detainees by jumping on them, punching them or any other acts of abuse other than when SGT DAVIS stepped on the detainees foot?

A: No. SFC [redacted] was upstairs in the office area, and I think he happened to look over the railing when SGT DAVIS was stomping on the detainees foot. I know when he saw that, he immediately told SGT DAVIS to stop. When SFC [redacted] told SGT DAVIS to stop, he said it in a very commanding, stern voice. He seemed to be very angry because I have never heard him use that tone of voice before. To be honest, that's why I remember it, because when I heard him say that, I was surprised to hear the tone of voice from him. I know that's the only incident that SFC [redacted] saw because he left shortly afterwards.

Q: When SFC [redacted] left, did the abuse continue?

A: Yes.

Q: In your mind, do you believe SFC [redacted] thought that no more abuse would continue and that what he witnessed was an isolated incident?

A: Yes.

Q: Why is that?

A: Because he is the Platoon Sergeant, and all his people respect him and do what he tells them. He told SGT DAVIS to stop, and I'm sure he thought that was the end of it.

EXHIBIT	INITIALS OF PERSON MAKING STATEMENT [redacted]	PAGE 1 OF 2 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF [redacted] TAKEN AT [redacted] DATED [redacted] CONTINUED."
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE [redacted] OF [redacted] PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

STATEMENT JEREMY C. SIVITS OF TAKEN AT ABU GHRAIB PRISON COMPLEX, IRAQ DATED 27 Jan 2004 CONTINUED

Q: Why do you think the abuse continued even though SFC [REDACTED] told SGT DAVIS to stop when he saw him stomp on the detainees' foot?

A: I think it continued because the detainees caused the riot at Ganci, and they were found with shanks and were probably going to hurt fellow soldiers.

Q: Did you ever believe that the abuse was sanctioned by anyone in the chain of command?

A: No.

Q: If a member of the chain of command, including SFC [REDACTED] or SSG [REDACTED] was present, would the abuse have happened?

A: Hell no.

Q: Why not?

A: Because our command would have slammed us. They believe in doing the right thing. If they saw what was going on, there would be hell to pay.

Q: Is there anything you wish to add to this statement?

A: Yes. I gave a statement last week where I said that I took a picture of the detainees with [REDACTED]'s camera, but I now remember that although I took a picture of the detainees, I'm pretty sure it wasn't with [REDACTED]'s camera, but someone else's, I don't know whose. I just want to make sure that everything I tell you is 100% accurate, that's why I'm bringing this up.

Q: At the time you said it was [REDACTED]'s camera, did you believe that to be true?

A: At that time, yes. I was thinking about it after I left, and then I started thinking that maybe it wasn't [REDACTED]'s camera, so I wanted to make sure that everything I have said is the truth.

Q: Is there anything else you wish to add to this statement?

A: No. ///END OF STATEMENT/// [REDACTED]

(b)(6) S; (b)(7)(C) S. exceptions noted

AFFIDAVIT

[REDACTED] S, HAVE READ OR HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OR BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFULENCE, OR UNLAWFUL INDUCEMENT. [REDACTED]

[REDACTED]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by Law to administer oaths, this 27th day of January, 2004 at Abu Ghraib, Iraq, APO AE 09335.

[REDACTED]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS
10TH Military Police Battalion (CID)
Baghdad, Iraq, APO AE 09335

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

[REDACTED]
(Typed Name of Person Administering Oath)

Article 136, UCMJ or 5 USC 903

ORGANIZATION OR ADDRESS

(Authority to Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 2 PAGES

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE
For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

*all (b)(6) 3, (b)(6) 5
except as noted*

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

1. LOCATION Baghdad Correctional Facility, Abu Ghraib, Iraq APO AE 09335		2. DATE 2 Feb 04	3. TIME 1506	4. FILE NO.
5. NAME (Last, First, MI) [REDACTED]		8. ORGANIZATION OR ADDRESS 372 nd Military Police Company		
6. SSN [REDACTED]	7. GRADE/STATUS E-4/RA	Cumberland, MD Deployed to Abu Ghraib, Iraq, APO AE 09335		

PART 1 - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command and wanted to question me about the following offense(s) of which I am suspected/accused Dereliction of Duty, Cruelty and Maltreatment, Conspiracy, Failure to Obey an Order or Regulation, Assault//

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

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

- or -

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

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

5. COMMENTS (Continue on reverse side)
 Have you requested a lawyer after rights advisement in the past 30 days? YES NO
[REDACTED] I have come to CID on my own will to discuss the investigation. At no time did CID request me to return and discuss the case.

Section B. Waiver

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

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE [REDACTED]
a. NAME (Type or Print)		4. SIGNATURE OF INVESTIGATOR [REDACTED] (b)(6);(b)(7)(C)
b. ORGANIZATION OR ADDRESS AND PHONE		5. TYPED NAME OF INVESTIGATOR [REDACTED]
2a. NAME (Type or Print)		6. ORGANIZATION OF INVESTIGATOR PRISONER INTERROGATION TEAM B-C-F, ABU GHRAIB, 12 APO AE 09335
b. ORGANIZATION OR ADDRESS AND PHONE		

Section C. Non-Waiver

- I do not want to give up my rights:
 I want a lawyer. I do not want to be questioned or say anything.

2. SIGNATURE OF INTERVIEWEE 027779

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

SWORN STATEMENT

For this form, see AR 190-45; the proponent agency is JCSOPS

LOCATION Baghdad Correctional Facility, Abu Ghraib, Iraq APO AE 09335	DATE 2 Feb 04	Time 1904	FILE NUMBER
LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	SOCIAL SECURITY NUMBER [REDACTED]		GRADE/STATUS E-4/AD-Res

ORGANIZATION OR ADDRESS
372nd Military Police Company, Cumberland MD (Deployed to Abu Ghraib, Iraq)

I, [REDACTED], want to make the following Statement under oath:
Today, 2 Feb 04 of my own free will, I came to speak to CID against the advisement from legal council, on information to the current investigation. At no time after requesting a lawyer did CID call me to discuss the case. I would like to make the following statement. On 24 Dec 03 at 20:04 inmate 150548 from 2A came into the clinic from a dog bite. On 25 Dec 03 at 22:44 inmate 15664 from 2B came into the clinic from a dog bite.

Q: [REDACTED] (b)(6); (7)(C)

A: [REDACTED]

Q: How do you know the two previously stated inmates were treated for dog bites?

A: On the previously stated dated and time I was working in the clinic as an over watch for the inmates.

Q: You were shown photographs, can you identify any of the individuals in the photographs?

A: CPL [REDACTED] Interpreter, and I don't know the MI guy's name.

Q: Why did you take the photographs? (b)(6)4; (7)(C)4

A: To show what was going on?

Q: Whom were you going to show?

A: The media.

Q: Why did you want to give the photos to the media?

A: To show what was going on.

Q: What was your intent for the media to do?

A: Make it stop.

Q: Did you tell anyone in your Chain of Command?

A: My Chain of Command was there. CPL [REDACTED] and SSG [REDACTED] were there.

Q: Did you try to tell anyone higher in the Chain of Command?

A: No.

Q: Why didn't you report the incidents?

A: Some rumors were going around and I figure they already knew.

Q: Whom are you referring to when you said, "they already knew?"

A: People higher up.

Q: Did you let anyone other than the Chain of Command know about the incidents in this investigation?

A: My roommate back in the states.

Q: How did you tell your roommate?

A: I told her with letters. When something would happen I would write her.

Q: Where are the letters now?

A: At my house.

Q: At anytime did you attempt to stop the incidents in this investigation?

A: Yes, there was an inmate with a messed up hand, I would not let anyone get close to him because I felt sorry for him.

Q: Why did you choose to return to CID and make this statement?

(b)(6)5; (7)(C)5 on copy as noted

EXHIBIT	INITIALS OF PERSON MAKING STATEMENT [REDACTED]	PAGE 1 OF 4 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF ___ TAKEN AT ___ DATED ___ CONTINUED."
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE ___ OF ___ PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

A: Because I had more information to give you and by the time the investigation would be over, the inmates would be gone.

Q: Pertaining to the inmates at the clinic, do you recall the circumstances behind the inmates getting bitten by the dogs?

A: No.

Q: Pertaining to photograph with an inmate who appeared to have wires connected to his extremities, who were present for that photo?

A: Myself, CPL [REDACTED] SSG [REDACTED] and another inmate who had a deformity with his hand.

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

A: Yes, I would like to add the following information that was not in my previous statements. An inmate was handcuffed to the front bar gate to the 1A side, behind his back so low that he was bending backwards. No pictures were taken. Further, the inmate known as the "Taxicab Driver," was handcuffed to his bed, naked in his cell with a pair of underwear donned on his head. Another incident with the "Taxicab Driver," was when he was handcuffed against the wall and an interpreter, named [REDACTED] was doing some karate moves on him and kicked him in the head, which why "Taxicab Driver" needed stitches. [REDACTED] was not allowed in the Tier again. Pictures were taken of "Taxicab Driver" getting stitches. In addition, a prisoner was handcuffed to his door for almost six hours straight. I uncuffed him with [REDACTED] [REDACTED] was removed from 1A for that incident. Pictures were not taken. I recall an occasion when two dogs were brought into 1A to scare an inmate. He was naked against the wall when they let the dogs corner him. They pulled them back enough and the prisoner ran to I think [REDACTED] and some else, straight across the floor like he was trying to jump in their arms. The prisoner was cornered and a dog bit his leg. A couple seconds later, he started to move again and the dog bit his other leg. The guy ran straight for the door where they tackled him. I ran up and got the first aid pouch, started cleaning him up. [REDACTED] came down and we gave him a stitch. Pictures were taken, but not by us. The dog handlers have copies. I know that CID went to my house in the states and picked up the CD, which contains the pictures that were downloaded from my computer in November. But, I also have letters and notes, which I sent home to my friend, which documents all the incidents that I saw. I know she still has them because when I went home on leave I saw letters addressed to her from me, in the nightstand in the bedroom. She keeps everything I send her. Also, if you go into 1A, there are tack marks on the wooden wall, which symbolized how many stitches inmates have received in 1A. Further, MI, CID, OGA, etc. have all been involved. Many of the inmates are now at Ganci/Vigilant that was there during these incidents.

Q: How long was the inmate handcuffed to the front gate to 1A.

A: I don't know. That was in the beginning. I think he's still here.

Q: Where is he now?

A: He should be in 2B.

Q: Who stitched up the "Taxicab Driver"?

A: It was an Iraqi doctor. He's pictured on my CD.

Q: Did [REDACTED] handcuff the inmate to his cell door for six hours?

A: Yes. (b)(6);(7)(C)4

Q: When the dogs were brought into 1A, were they called to come to 1A?

A: I don't know.

Q: When the dogs bit the inmate, were the dog handlers instructed to have their dogs bite the inmate?

A: I don't think so.

Q: Did you order the dog handlers to have the dogs bite the inmate?

A: No.

Q: What was documented in the letters you wrote to your friend?

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 4 PAGES

(b)(5), (7)(C)
A: Whatever went on that day.

Q: Are the letters dated?

A: Yes.

Q: You stated MI was involved. What were the names of the MI personnel involved?

A: I don't know names; I only know them by face. I'm pretty sure they went home by now.

Q: How was MI involved?

A: They were there during incidents and even participated in a few.

Q: How did they participate in the incidents?

A: One of the MI guys took two of the inmates naked down to Tier 3. I saw an Iraqi Policeman who told the MI guy that it was an insult for another man to see another man naked like that. I think there was an interpreter with him.

Q: Who was the interpreter?

A: Not sure.

Q: You stated Other Government Agency (OGA) personnel were involved. Can you name them?

A: No.

Q: How were they involved?

A: They present during some incidents. And as soon as International Red Cross came in, OGA wanted the prisoners to have their numbers, mattresses, blankets and clothes back.

Q: You stated CID was involved. What were their names?

A: Agent (b)(6), (7)(C)

Q: How was he involved?

A: He was there during an incident.

Q: Do you recall which incident he attended?

A: I believed it was when the dogs bit the prisoner twice, but I'm not sure.

Q: What was his involvement?

A: He was just watching from the top Tier.

Q: How long was he watching?

A: I'm not sure.

Q: Did he make any attempts to stop the incident?

A: No.

Q: Did he know what led to the incident?

A: I don't know.

Q: Did he observe the entire incident?

A: I'm not sure.

Q: Do you know what caused the dog incident?

A: No.

Q: Were you there during the whole dog incident?

A: Yes.

Q: Did he get involved at all?

A: No.

Q: Was he present for any other incident?

A: Not that I can remember.

Q: Why was he there during the dog incident?

A: I have no idea.

Q: Are you 100 percent sure he was there during the dog incident?

INITIALS OF PERSON MAKING STATEMENT

(b)(6), (7)(C)
PAGE 3 OF 4 PAGES

all (b)(6), (b)(7)(C) except as noted

STATEMENT OF [REDACTED]

AT BAGHDAD CORRECTIONAL FACILITY

PAGE 2 FEB 04 CONTINUED

A: No, but I've seen him there several times.

Q: Did he ever come to the Tier with the dog handlers and the dogs?

A: No that I'm aware of. The dog handlers came to the Tier by themselves during the dog incident.

Q: Do you know how long he observed the incident?

A: No.

A: No. ///End of Statement/// [REDACTED]

AFFIDAVIT

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

[REDACTED]

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by Law to administer oaths, this 2ND day of February, 2004 at Baghdad Correctional Facility, Abu Ghraib, Iraq APO AE 09335

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

[REDACTED]

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

Article 136, UCMJ or 5 USC 303

(Authority to Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 4 OF 4 PAGES

For Official Use Only

027713

EXHIBIT (3)

RIGHTS WAIVER/CONFIRMATION STATEMENT

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

DATA REQUIRED BY THE PRIVACY ACT

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

1. LOCATION: Abu Gharib Prison, Abu Gharib Iraq
2. DATE: 19 JAN 04
3. TIME: 0952
4. FILE NO.
5. NAME (Last, First, MI)
6. SSN
7. GRADE/STATUS: SPC/ADRES
8. ORGANIZATION OR ADDRESS: 372nd MP Co, Cumberland, MD. Deployed to Abu Gharib Prison

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command and wanted to question me about the following offense(s) of which I am suspected/accused: False Statements, Failure to Obey an Order or Regulatory Assault, Dereliction of Duty. Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights: Cruelty and Maltreatment. I do not have to answer any question or say anything. Anything I say or do can be used as evidence against me in a criminal trial. (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both. (For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

All (b)(6)s, (7)(C)s except as noted

5. COMMENTS (Continue on reverse side)

noted

Section B. Waiver

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

WITNESSES (If available)
1a. NAME (Type or Print)
b. ORGANIZATION OR ADDRESS AND PHONE
3. SIGNATURE OF INTERVIEWEE
4. SIGNATURE OF INVESTIGATOR
5. TYPED NAME OF INVESTIGATOR
6. ORGANIZATION OF INVESTIGATOR: 10th MP BN (CID), APO AE 09335

Section C. Non-waiver

1. I do not want to give up my rights
I want a lawyer
I do not want to be questioned or say anything
2. SIGNATURE OF INTERVIEWEE

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

For Official Use Only 027714 EXHIBIT 76

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

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

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

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

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

- or -

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

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

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

THE WAIVER

"Do you understand your rights?"¹

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

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

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

"Do you want a lawyer at this time?"

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

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

SPECIAL INSTRUCTIONS

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

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

PRIOR INCRIMINATING STATEMENTS:

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

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

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

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

COMMENTS *(Continued)*

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE
For use of this form. see AR 190-30: the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

Cell (b)(6), (b)(7)(C) 5
EXCERPTS
NOTED

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

PURPOSE:
REASONS:

2. DATE *16 JAN 04* 3. TIME *1137* 4. FILE NO.

Abnab, Correctional Facility
Asst, First, MIJ

8. ORGANIZATION OR ADDRESS
37th MP Co
CUMBERLAND, MD.
Forward deployed to Abu Gharib, Iraq

7. GRADE/STATUS
E4 / AD Res.

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Rights

I, *[Redacted]*, a member of the United States Army *Criminal Investigation Command* and wanted to question me about the following offense(s) of which I am accused *OBSTRUCTION, FALSE STATEMENTS*

she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:
I have to answer any questions or say anything.
Anything I say or do can be used as evidence against me in a criminal trial.

I, as *personnel subject to the UCMJ* I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me.

- or -

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

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

COMMENTS (Continue on reverse side)
Did you request a lawyer after rights advisement in the past 30 days? YES NO

Section B. Waiver

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

WITNESSES (If available)

NAME (Type or Print)

3. SIGNATURE OF INTERVIEWEE

4. SIGNATURE OF INVESTIGATOR

5. TYPED NAME OF INVESTIGATOR

6. ORGANIZATION OF INVESTIGATOR

10th MP BN (CID)
BAGHDAD IRAQ

ORGANIZATION OR ADDRESS AND PHONE

NAME (Type or Print)

ORGANIZATION OR ADDRESS AND PHONE

Section C. Non-Waiver

I do not want to give up my rights:

I do not want to be questioned or say anything.

I want a lawyer.
2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA Form 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED.
EDITION OF NOV 84 IS OBSOLETE

027716

EXHIBIT 42

PART II - RIGHTS WARNING PROCEDURE
THE WARNING

WARNING - Inform the suspect/accused of:
Your official position
Nature of offense(s).
The fact that he/she is a suspect/accused.
RIGHTS - Advise the suspect/accused of his/her rights as follows:
Before I ask you any questions, you must understand your rights."
"You do not have to answer my questions or say anything."
"Anything you say or do can be used as evidence against you in a criminal trial."
c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer

can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."
- or -
(For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."
d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."
Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"
If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)
"Have you ever requested a lawyer after being read your rights?"
If the suspect/accused says "yes," find out when and where. If the request was recent (i.e. fewer than 30 days ago), obtain legal advice on whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

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

SPECIAL INSTRUCTIONS

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

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

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

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

PRIOR INCRIMINATING STATEMENTS:

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

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

COMMENTS (Continued)

027717

EXHIBIT

SWORN STATEMENT

For use of this form, see AR 190-45: The proponent agency of the Deputy Chief of Staff for Personnel.

DATE (C)	TIME	FILE NUMBER
15 Jan 04	1227	[REDACTED]
SOCIAL SECURITY NUMBER		GRADE/STATUS
[REDACTED]		SPC, Ad Res.

Baghdad Iraq
E, FIRST NAME, MIDDLE NAME

LOCATION OR ADDRESS
Co, Cumberland, MD, deployed with duty at Abu Ghraib, Iraq

want to make the following statement under oath:

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

Are you truthful in your first statement to CID?

Q. What did not tell the truth about?

A. Writing rapist on the guy's leg.

Q. Was there anything else that you did not tell CID about?

A. Just stuff I did not remember.

Q. Did you take any of the photographs of the detainee's home during R&R leave?

A. Yes.

Q. Where are the photographs now?

A. In my apartment. The photographs are by the computer. They are on a CD rom. The CD is located in the CD rack, on the right hand side of the computer. I think it is blue or green case, all of the rest of them are red.

Q. May have the word picture wrote on the outside of it.

Q. Did you show these photographs to anyone while home?

A. [REDACTED], my roommate.

Q. Whose apartment are these photographs in?

A. Mine, I pay the rent for the apartment.

Q. Will you give Army CID consent to retrieve the photographs from the apartment?

A. Yes.

Q. Did you email or show anyone else the photographs?

A. No.

Q. Do you have any more copies of the photographs here or anywhere else?

A. No.

Q. Who else has copies of these photographs?

A. [REDACTED] Ops 4th Platoon, 372nd, [REDACTED] and [REDACTED] there are

Q. Who else might have copies of these photographs?

A. I know that people from MI have them because they were swapping pictures.

Q. Who was swapping pictures?

A. [REDACTED] and I think [REDACTED] as well. I do not know what type of pictures they were swapping.

Q. Did you ever talk to anyone else while home about the photographs?

A. Just the girl from CNN. We were at a club called Cobalt in DC. Somehow we got introduced and I told her

Q. Was I worked. She told me were she worked. She gave me her business card, and we went our separate ways.

Q. DO you have her business card still?

A. Probably not, but [REDACTED] might know her.

Q. Did you tell her the substance of the photographs?

A. I am sure I did, but I do not remember what I said.

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

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

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

027718

D. DO you have anything to add to this statement?
A. No /// End of Statement ///

Call (b)(6) 5/1/95

AFFIDAVIT

_____ HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OR PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

(Signature of Person Making Statement)
SUBSCRIBED AND SWORN BEFORE ME, A PERSON BY LAW
TO ADMINISTER OATHS, THIS 16th DAY OF Jan 04
AT Abu Gharib Prison, Iraq

(b)(6) 1, 701

(Signature of Person Administering Oath)

(Name of Person Administering Oath)

Article 136, UCMJ
(Authority to Administer Oath)

INITIALS OF PERSON MAKING STATEMENT

SH

PAGES 2 OF 2 PAGES

027719

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE
For use of this form, see AR 190-30: the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

0003-04-CID149-8313r

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

1. LOCATION Abu Ghariab Prison CID OFFICE	2. DATE 15 JAN 04	3. TIME 1323	4. FILE NO.
5. NAME (Last, First, MI) [REDACTED]	8. ORGANIZATION OR ADDRESS 372nd MP Co Cumberland MD. Deployed to IRAQ.		
6. SSN [REDACTED]	7. GRADE/STATUS E4/AD Reserve		

PART 1 - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command as a Special Agent and wanted to question me about the following offense(s) of which I am

suspected/accused of Cruelty + Maltreatment, Indecent Assault, Failure to Obey an order or regulation, CONSPIRACY.
Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

- 1. I do not have to answer any questions or say anything.
- 2. Anything I say or do can be used as evidence against me in a criminal trial.
(For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.
- or -
- (For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.
- 4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

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

5. COMMENTS (Continue on reverse side)
Have you requested a lawyer after rights advisement in the past 30 days? YES NO

Section B. Waiver

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

WITNESSES (if available)		3. SIGNATURE OF INTERVIEWEE [REDACTED]
1a. NAME (Type or Print)		4. SIGNATURE OF INVESTIGATOR [REDACTED]
b. ORGANIZATION OR ADDRESS AND PHONE		5. TYPED NAME OF INVESTIGATOR [REDACTED]
2a. NAME (Type or Print)	(b)(6), (b)(7)(C)	6. ORGANIZATION OF INVESTIGATOR 10TH MP BN (CID) Baghdad, IRAQ.
b. ORGANIZATION OR ADDRESS AND PHONE		

Section C. Non-Waiver

- 1. I do not want to give up my rights:
 I want a lawyer. I do not want to be questioned or say anything.

2. SIGNATURE OF INTERVIEWEE

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

SWORN STATEMENT

For use of this form, see AR 190-45: The proponent agency of the Deputy Chief of Staff for Personnel.

LOCATION Abu Ghraib, Baghdad Iraq	DATE 15 Jan 04	TIME 1609	FILE NUMBER
LAST NAME, FIRST NAME, MIDDLE NAME	SOCIAL SECURITY NUMBER		GRADE/STATUS SPC, Ad Res.

ORGANIZATION OR ADDRESS

372nd MP Co, Cumberland, MD, deployed with duty at Abu Ghraib, Iraq*All (b)(6) & (b)(7)(C) & (b)(7)(D) except*

- I, [REDACTED] want to make the following statement under oath:
- Q. At what point did you enter the prison area on the day that the seven detainees were made into the pyramid?
- A. I got there about the same time as the detainees.
- Q. During the event of the seven detainees that were brought over from the riot, do recall if anyone ran and jumped on top of them while they were lying in the floor?
- A. I saw DAVIS step on the detainee's feet, but I did not see him jump into the pile of detainees. I saw him do this maybe twice.
- Q. Did this cause injury or pain to the detainees?
- A. I am sure it hurt, but I did not hear anything from them.
- Q. Did you see anyone else step on the detainee's feet or hands?
- A. No.
- Q. Were you present when [REDACTED] punched the detainee in the head?
- A. He posed for a picture like he was hitting the detainee, but I do not recall him hitting the detainee.
- Q. Did you ever see any of the detainee's unconscious?
- A. I did see two of the detainees lying on the floor for a few minutes and they were not moving. I do not know if they were conscious or not.
- Q. Were you present when [REDACTED] punched the detainee in the chest?
- A. I remember [REDACTED] hitting the detainee in the stomach or chest, and I remember the detainee slumping over and then he went down. I know a medic came shortly after this but I don't know who called the medic. I do not know why [REDACTED] punched this guy.
- Q. When [REDACTED] punched the guy in the chest, did he have a sand bag over his head?
- A. I can't remember.
- Q. Did you take any photographs during this incident with the seven detainees?
- A. Yes. I took two of [REDACTED] in the pile of detainees, and some of the pyramid. [REDACTED] was posing in the picture like he was going to hit them.
- Q. Did you have any pictures taken of yourself?
- A. Yes. One was of me taking a picture, and someone took a picture of [REDACTED] and me behind the pyramid.
- Q. Do you know who wrote the word rapist on the one detainee?
- A. I did.
- Q. Where did you write this?
- A. On his right side, and I wrote it with a marker.
- Q. Why did you write this on his leg?
- A. Because that is what his sheet said he was.
- Q. Do you recall SFC [REDACTED] being there the night of this incident?
- A. He just dropped off the detainees. *(b)(6) & (b)(7)(C) & (b)(7)(D)*

027721

EXHIBIT 30

For Official Use Only

(b)(7)(D);(b)(7)(C)

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

000 004 - CID 149 - 83180

Q. Did SFC [redacted] ever tell anyone to quit or knock it off in referring to what was being done to the detainees?

A. I do not recall that, but I do not know how long he was there.

Q. Do you recall anybody doing anything else to the detainees on this night?

A. They made the detainees into a pyramid. [redacted] as the person who did this.

Q. Did anyone do anything else with the detainees?

A. Afterwards two were put so that one was on his knees and the other was standing as if he was jacking off in the other ones mouth, that is the one who was sitting. This is when [redacted] and I left to go use the phones.

Q. Who put the detainees in the standing and kneeling positions?

A. I do not know. I think [redacted] might have been there during this time, I am not sure.

Q. Where there any other incidents you were present for when detainees were not treat correctly?

A. There was one event where someone handcuffed a detainee and the cuffs were not double locked. The detainee was left handcuffed for about 6 hours. I went with [redacted] to uncuff him. His hands were cold and there were marks on his wrist from the cuffs. SPC [redacted] was the person who did this. He is in my unit. I think he was written up for this, but I know he was taken off the tier. (b)(7)(D);(b)(7)(C)

Q. Have you any seen any other photographs of detainees?

A. I know of some with a female detainee and one of a detainee that is standing with wires on his hands.

Q. What is the incident with the female's photographs?

A. There is one with her and me and I have my thumb up. She was a thin and blue clothes. I believe she was in for prostitution.

Q. Describe the incident with the detainee with the wires on his hands?

A. He is nicknamed Gilligan, he is currently on tier 3. He was just standing on the MRE box with the sandbag over his head for about an hour. I put the wires on his hands. I do not recall how. I was joking with him and told him if he fell off he would get electrocuted.

Q. Who took the pictures of this?

A. I took one and [redacted] took one.

Q. Why did you do this to the detainee "Gilligan"?

A. Just playing with him.

Q. Do you feel it was allowable to do this to the detainee?

AFFIDAVIT

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

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

[redacted]
(Signature of Person Making Statement)
SUBSCRIBED AND SWORN BEFORE ME, A PERSON BY LAW TO ADMINISTER OATHS, THIS 15th DAY OF Jan 04 AT Abu Gharib Prison, Iraq

[redacted]
(Signature of Person Administering Oath)

[redacted]
(Name of Person Administering Oath)

Article 136, UCMJ
(Authority to Administer Oath)

INITIALS OF PERSON MAKING STATEMENT [redacted]

PAGES 2 OF 3 PAGES

STATEMENT OF [REDACTED] TAKEN AT Abu Ghraib DATED 15 Jan 04 CONTINUED:

A. We were not hurting him. It was not anything that bad.

Q. Was this your idea?

A. Just the wires part.

Q. Why did you have the detainee in standing on the box?

A. Just to keep him awake.

Q. Did MI ask you to do this?

A. Not me personally. They were talking to [REDACTED] MI wanted to get them to talk. It is [REDACTED] and [REDACTED]'s job to do these things for MI and OGA to get these people to talk. I do not recall anyone from MI or OGA saying this. I do not recall [REDACTED] or [REDACTED] ever saying that MI or OGA had told them to do this either.

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

A. No. ///End of Statement/// [REDACTED]

All (6)(b)5, (7)(c)5

INITIALS OF PERSON MAKING STATEMENT
[REDACTED]

PAGES 3 OF 3 PAGES

027723

EXHIBIT 30

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE
For use of this form, see AR 190-30: the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

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

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

1. LOCATION Baghdad Correctional Facility, Abu Ghraib, APO AE 09335		2. DATE 14 Jan 04	3. TIME 1114	4. FILE NO.
5. NAME (Last, First, MI) [REDACTED]		8. ORGANIZATION OR ADDRESS 372nd MPCo		
6. SSN [REDACTED]	7. GRADE/STATUS E-4 / RA	APO AE 09355-1322		

PART 1 - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

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

The investigator whose name appears below told me that he/she is with the United States Army - Criminal Investigation Command and wanted to question me about the following offense(s) of which I am suspected/accused Cruelty and Maltreatment, Indecent Acts, Failure to Obey an Order or Regulation, Assault, Dereliction of Duty///

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

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

- or -

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

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

5. COMMENTS (Continue on reverse side)

Have you requested a lawyer after rights advisement in the past 30 days? YES NO

Section B. Waiver

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

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE [REDACTED]	
1a. NAME (Type or Print)	[REDACTED]	4. SIGNATURE OF INVESTIGATOR [REDACTED]	
b. ORGANIZATION OR ADDRESS AND PHONE		5. TYPED NAME OF INVESTIGATOR [REDACTED]	
2a. NAME (Type or Print)	[REDACTED]	6. ORGANIZATION OF INVESTIGATOR 3rd MGRP (CID) APO AE 09335	
b. ORGANIZATION OR ADDRESS AND PHONE			

Section C. Non-Waiver

1. I do not want to give up my rights:

I want a lawyer.

I do not want to be questioned or say anything.

2. SIGNATURE OF INTERVIEWEE

027724

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

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is Office of The Deputy Chief of Staff for Personnel.

LOCATION <i>Abu Ghraib, Abu Ghraib Prison complex IRAQ</i>	DATE <i>14 Jan 04</i>	TIME <i>1420</i>	FILE NUMBER
LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	SOCIAL SECURITY NUMBER [REDACTED]	GRADE/STATUS <i>E-4/RA</i>	
ORGANIZATION OR ADDRESS <i>372nd MPCo, APO AE 09355-1322</i>			

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

LATE OCTOBER / EARLY NOVEMBER AROUND 12:30AM I WAS THE RUNNER FOR THE NIGHT I WENT TO 1-B TO GET SPC [REDACTED] TO GO USE THE PHONES. WHEN I GOT THERE FIVE PRISONERS WERE ESCORTED INTO 1A. THEY WERE HANDCUFFED AND BAGGED FROM GRACI ACCUSED OF STARTING A RIOT. FOR SOME TIME THEY WERE LYING ON THE FLOOR, I ENDED UP TAKING A PICTURE OF CPL [REDACTED] POSING FOR A PICTURE. THEY WENT TO THE WALL WHERE THEY WERE STRIPPED. I CAME BACK IN WHEN THEY WERE GETTING INTO THE PYRAMID. MYSELF AND [REDACTED] POSED FOR A THUMBS UP PICTURE. I WENT BACK TO 1B, [REDACTED] AND I GOT READY TO LEAVE, CAME DOWN THE STEPS AND SAW ONE ON HIS KNEES AND THE OTHER STANDING. WE LEFT AND SHE RETURNED ABOUT 1 AND 1/2 HOURS LATER. NOTHING FOLLOWS THAT NIGHT. A MAN WAS IN THE SHOWER OF 1B WHEN NIGHTSHIFT ARRIVED. THEY SAID HE WAS DEAD AND ON ICE. HE STARTED TO DEFROST AND MELT OUTSIDE THE SHOWER INTO THE HALLWAY. WE GOT THE KEY AND TOOK PHOTOS OF HIM. NOTHING FOLLOWS THAT DAY. TWO FEMALES WERE BROUGHT INTO 1B. I GOT A PICTURE WITH BOTH. NOTHING FOLLOWS THAT DAY.

Q: DURING THE NIGHT OF THE "PYRAMID" YOU DISCUSSED ABOVE, WHO ORDERED THE FIVE MEN TO STRIP THEIR CLOTHES OFF?

A: I DON'T REMEMBER.

Q: IS IT STANDARD PROCEDURE TO HAVE THEM REMOVE THEIR CLOTHES WHEN THEY ENTER CELL BLOCK 1A?

A: YES.

Q: WHO ORDERED THEM INTO THE HUMAN "PYRAMID"?

A: I LEFT THE BOTTOM FLOOR OF BLOCK 1A WHEN THE PRISONERS WERE TAKING OFF THEIR CLOTHES. WHEN [REDACTED] I WALKED UPSTAIRS TO TALK TO SPC [REDACTED] WHEN AND RETURN CPL [REDACTED] DIGITAL CAMERA TO THE OFFICE. SPC [REDACTED] AND I TALKED FOR A WHILE AND I LOOKED DOWN STAIRS AND NOTICE THE FIVE PRISONERS WERE NAKED AND PUTTING INTO A HUMAN PYRAMID. I THEN WALKED BACK DOWN STAIRS WITH THE DIGITAL CAMERA BUT SPC [REDACTED]

EXHIBIT	INITIALS OF PERSON MAKING STATEMENT [REDACTED]	027725	PAGE 1 OF 6 PAGES
---------	---------------------------------------------------	--------	-------------------

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF ___ TAKEN AT ___ DATED ___ CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE ___ OF ___ PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

all (b) (5) (C) (S)

SFC [redacted]

Abu Ghraib prison complex, Abu Ghraib, Iraq

FILE NUMBER:

STATEMENT OF

TAKEN AT

DATED 14 Jan 04

CONTINUED

[redacted] stayed up stairs. I then took about two pictures of the naked prisoners in the human pyramid with CPL [redacted] and SFC [redacted] in the photos. I do not know who ordered the prisoners into the human pyramid as they were already getting into the position when I walked back down stairs with CPL [redacted] digital camera.

Q: who was present when the prisoners got into the pyramid? (b) (2), (C) (S)

A: myself, CPL [redacted], SFC [redacted], SSG [redacted], and I think [redacted] I can identify the soldiers in the pictures if you show me the pictures.

Q: was anyone talking to the five prisoners when they were getting into the human pyramid?

A: No because the prisoners do not speak english. CPL [redacted] was "placing" them into position.

Q: was he the only MP who touched the prisoners?

A: I think so. I'm not sure

Q: Is SFC [redacted] the same person as SFC [redacted]?

A: Yes.

Q: Are SSG [redacted], CPL [redacted], and SFC [redacted] all in the 372 MP Co?

A: Yes.

Q: How long did the human pyramid last?

A: From the time I got to call block 1A until the time I left with SFC [redacted] was about 35 minutes?

Q: The pyramid lasted about 15 to 20 minutes.

Q: Did you take any photographs prior to the prisoners taking off their clothes and getting into the pyramid?

A: Yes. I know I took a photograph of CPL [redacted] either his right or left arm back (cocked) like he was going to hit one of the prisoners on the floor. The prisoner was laying on the floor, fully clothed (with all the other prisoners) and CPL [redacted] was holding one down with his hand and

027726

000005(7)05

SPC [REDACTED]

Abu Ghraib Prison complex,
Abu Ghraib, Iraq

FILE NUMBER:

STATEMENT OF

TAKEN AT

DATED 14 Jan 04 CONTINUED

had his other arm back like he was going to hit the prisoner. He never hit any prisoners though. He then started picking them up off the floor and putting them against the wall. That is when the prisoners took off their clothes.

Q: Do you think any of this was wrong?

A: I don't think the human pyramid was wrong, nor CPL [REDACTED] posing like he was going to hit the prisoner. He never hit him.

Q: After you took the pictures of the pyramid, what happened?

A: I went back upstairs to get SPC [REDACTED] and when we walked back down stairs the second time, I saw one male prisoner, naked, on the his knees with another prisoner, naked, standing in front of him. I was standing by the doorway and the two prisoners were in the middle of the cell block. They appeared to be about 6 inches from each other. I do not think that was right for the prisoners to have to do.

Q: Who was present at this incident?

A: SSG [REDACTED] CPL [REDACTED] and SPC [REDACTED]

Q: Did you see any contact between the two prisoners?

A: No.

Q: Which dead prisoners did you pose for photographs?

A: One dead man that the "OGA" brought into the prison and one dead man at the morgue.

Q: When did this happen?

A: The morgue incident was in August or September of 2003 and the dead OGA I can not remember.

Q: Did you ever give any order for any prisoner to do any sex acts?

A: No.

Q: Have you ever physically abused any prisoner?

A: No.

027727

INITIALS OF PERSON MAKING STATEMENT: [REDACTED]

PAGE 3 OF 6 PAGES

027728
EXCEPT

SPC [REDACTED]

Abu Ghraib Prison complex
Abu Ghraib, Iraq

FILE NUMBER:

STATEMENT OF

TAKEN AT

DATED 14 Jan 04

CONTINUED

Q: other than what you have told me, have you ever witnessed or heard about any prisoner being physically or sexually abused?

A: I heard that the same five prisoners were told to ^{(b)(2);(D)} enter the room talking about one prisoner on his knees and the other standing above masturbating in front.

Q: who were the prisoners?

A: I assume they were the same five as before.

Q: How do you know this?

A: SGT [REDACTED] just walked into the room I was in and told everyone. SGT [REDACTED] SPC [REDACTED] and myself were in the room. ^{(b)(2);(D)}

Q: who is [REDACTED]?

A: He is a mechanic in the 372nd MP Co. I think he is a spc.

Q: what is the procedure to strip search prisoners?

A: If a female is being searched only female guards can be present. If a male is being strip searched both male and female guards can be present and can conduct the search.

Q: How do you know it is standard operating procedure to strip search all prisoners in cell block 1A?

A: I just heard it from different people.

Q: Have you ever seen this in writing?

A: No.

Q: Has an officer or NCO ever told you this?

A: No officer has and I don't think any NCO has either.

Q: who told you this then? ^{(b)(5);(D)}

A: Either MI, SSG [REDACTED] or CPL [REDACTED]

Q: Is it SOP to strip the prisoners then put them into a human pyramid?

A: No.

Q: Is it SOP to have prisoner simulate oral sex,

027728

INITIALS OF PERSON MAKING STATEMENT: SA

PAGE 4 OF 6 PAGES

APC [REDACTED]

Abu Ghraib Prison complex,
Abu Ghraib, Iraq

FILE NUMBER:

STATEMENT OF

TAKEN AT

DATED 14 Jan 04 CONTINUED

master hater, or pose for any photographs either
sexually explicit or not?

A: No.

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

A: No. (1) End of statement (1) [REDACTED]

0006(6)5(7)65

027729

INITIALS OF PERSON MAKING STATEMENT: [REDACTED]

PAGE 5 OF 6 PAGES

SAC [REDACTED]

Abu Ghraib Prison, Iraq

STATEMENT OF

TAKEN AT

FILE NUMBER: DATED 19 Jan 04 CONTINUED:

STATEMENT (Continued)

(b)(6)S, (b)(7)(C)S

AFFIDAVIT

WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(b)(6)S, (b)(7)(C)S

WITNESSES:

(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 20 day of at Abu Ghraib Prison, Abu Ghraib, Iraq

ORGANIZATION OR ADDRESS

(b)(6)S, (b)(7)(C)S

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

Art 13.6 (b)(4) UCMJ

(Authority To Administer Oaths)

027730

INITIALS OF PERSON MAKING STATEMENT

[REDACTED]

(b)(6)S, (b)(7)(C)S

PAGE 6 OF 6 PAGES

RIGHTS WAIVER PROCEDURE/WAIVER CERTIFICATE

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

DATA REQUIRED BY THE PRIVACY ACT

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

1. LOCATION Abu Gharib Prison, Abu Gharib Iraq	(b)(6) 5, 7(c) 5	2. DATE 19 JAN 04	3. TIME 0828	4. FILE NO.
5. NAME (Last, First, MI) [REDACTED]	except	8. ORGANIZATION OR ADDRESS 372nd MP Co Cumberland MD Deployed to Abu Gharib IRAQ		
6. SSN [REDACTED]	7. GRADE/STATUS PFC/AD Res			

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command and wanted to question me about the following offense(s) of which I am suspected/accused: Dereliction of Duty, Assault, False Statements, Failure to Obey an Order or Regulation

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

I do not have to answer any question or say anything.

Anything I say or do can be used as evidence against me in a criminal trial.

(For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

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

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

5. COMMENTS (Continue on reverse side)

Section B. Waiver

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

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE
1a. NAME (Type or Print)		
b. ORGANIZATION OR ADDRESS AND PHONE		4. SIGNATURE OF INVESTIGATOR
2a. NAME (Type or Print)		5. TYPED NAME OF INVESTIGATOR [REDACTED] (b)(6), (7)(C) 1
b. ORGANIZATION OR ADDRESS AND PHONE		6. ORGANIZATION OF INVESTIGATOR 10th MP BN CID (7)(C) 1 BAGHDAD, IRAQ APO AE 09335

Section C. Non-waiver

1. I do not want to give up my rights
 I want a lawyer
 I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE
 [REDACTED] 027731

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

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

1.
 - a. Your official position.
 - b. Nature of offense(s).
 - c. The fact that he/she is a suspect/accused.
2. RIGHTS - Advise the suspect/accused of his/her rights as follows:

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

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

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

- or -

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

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

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

THE WAIVER

"Do you understand your rights?"

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

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

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

"Do you want a lawyer at this time?"

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

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

SPECIAL INSTRUCTIONS

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

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

PRIOR INCRIMINATING STATEMENTS:

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

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

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

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

COMMENTS (Continued)

027732

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

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

LOCATION: Abu Ghuraib Prison DATE: 15 Jan 04 TIME: 0900
FILE NUMBER: 0213-03-CID609
NAME (Last, First MI): SSAN: GRADE / STATUS: PFC
ORGANIZATION OR ADDRESS: 372nd MP Co, Cumberland MD, deployed to Abu Ghraib

all
(68)S, (70)S
except

RIGHTS WAIVER/NON-WAIVER CERTIFICATE

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command as a Special Agent and wanted to question me about the following offense(s) of which I am suspected/accused: Cruelty and Maltreatment, Indecent Acts, Failure to Obey an Order or Regulation, Assault, Dereliction of Duty.

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

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

- or -

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

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

5. COMMENTS: Have you requested a lawyer in the past 30 days after having been read your rights? *Y*

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

Witness# 1

Signature of Witness

Signature of Interviewee

Witness# 2

Signature of Witness

Signature of Investigator/Special Agent

10th MP BN CID
Building 9, Room 6
Baghdad, Iraq 09335

NON-WAIVER CERTIFICATE

I do not want to give up my rights: I want a lawyer: I do not want to be questioned or say anything:

Signature of Interviewee: _____

DA Form 3881-E

027733

FOR OFFICIAL USE ONLY

EXHIBIT 29

SWORN STATEMENT

For use of this form, see AR 190-45: The proponent agency of the Deputy Chief of Staff for Personnel.

LOCATION Abu Ghraib, Baghdad Iraq	DATE 15 Jan 04	TIME 0510 1510	FILE NUMBER
LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	SOCIAL SECURITY NUMBER [REDACTED]		GRADE/STATUS PFC, Ad Res.
ORGANIZATION OR ADDRESS 372 nd MP Co, Cumberland, MD, deployed with duty at Abu Ghraib, Iraq			(605, 0015)

I, [REDACTED] want to make the following statement under oath:

Q. During the event of the seven detainees that were brought over from the riot, do recall if anyone ran and jumped on top of them while they were lying in the floor?

A. Yes. I remember DAVIS, [REDACTED] and [REDACTED] did. I do not recall anyone else. I know that DAVIS jumped in the pile at least two times, and [REDACTED] did at least twice or maybe three times. [REDACTED] did for sure once but I do not recall if he did more then once.

Q. Describe how they jumped into the pile of detainees?

A. They would be standing beside them and they would just jump in the air to put their body over the top of the pile so when they came down they would fall on top of the detainees.

Q. Did this cause injury or pain to the detainees?

A. They would grunt as soon as the guys would land on them. I do not think it injured the detainees, just caused them pain.

Q. How were the detainees lying on the floor during this event?

A. All bunched up together, some on their sides and some on their backs. They all had sandbags over there heads and they were still clothed and handcuffed at this point.

Q. Do you recall an event when [REDACTED] punched one of the detainees in the temple and rendered him unconscious?

A. No I do not remember that, but I do remember them checking on one of the detainees who was lying on the floor. They pulled the sandbag off his head. From what I took of it they were looking for injury because one of them said there was no blood. I do remember [REDACTED] moving his hand around and saying 'Damn that hurt', I think [REDACTED] had done something to hurt his hand. I remember one of the other detainees apparently had asthma. He was complaining about his chest and hard to breath. This was a different detainee. This detainee kept motioning like he needed an inhaler. There was a medic that came down. The medic came over in PT's; I think she was from the 109th Medical unit. I am not sure if they are still here. This is how then event took place. The detainee was still clothed and he had a sandbag over his head, and I think he was handcuffed. When the papers came in and said who was who, we stood him up, and do not recall why, and he stood up, and [REDACTED] was messing with him, and [REDACTED] was marking like a fake X on his chest of this detainee with his finger, and then he drew back with t closed fist and hit the detainee in the chest. It hit him so hard it knocked the detainee backward, and he grunted in pain, the detainee then went to his knees, and was breathing heavy, like he was having problems breathing. We uncuffed the detainee at that point. The detainee was motioning to his chest, and we realized he had asthma. SPC [REDACTED] stated that one of the other detainees had an inhaler so she got that and gave it to this detainee. He took 5 or 6 puffs. After about 5 or 6 minutes the detainee started to breath normal again, and about that time the medic showed up.

Q. Why did [REDACTED] hit the detainee?

A. I guess just because he wanted to hit him. He just said watch this, and he drew the X and then hit him.

Q. Was anyone scared the detainee was hurt or was going to die?

A. I was. [REDACTED] was to. [REDACTED] got on his hand held radio and quickly called for a medic. I cannot remember if we brought him water or not. I think we might have. When the medic did arrive she

page 1 of 3

027734

ALL (65, 705)
EXHIBIT

That he was fine and she left.

Q. Describe this medic?

A. About 5'1", dark hair, pulled back, maybe Puerto Rican, or Hispanic, about 110 to 115lbs. I think she was with the 109th. I know they probably documented this event, because they have to do that when a medic comes to see a detainee.

Q. Do you recall an event where DAVIS was stumping the fingers or hands of any of the detainees?

A. When they were lying in the dog pile, some of the shoes had fallen off the detainees, there was one detainee whose legs who was sticking out, and DAVIS would stand on the toes and feet of the detainee. The prisoner would groan or grunt that it was causing pain and discomfort. DAVIS did this maybe twice; I had done this once as well. For both me and DAVIS it was not like we stumped on the toes, but we would just put all of the weight of our body on our foot that was stepping on the detainee. [REDACTED] had done this as well, to the same prisoners feet that me and DAVIS stepped on. There was also one that [REDACTED] had stepped on his hand. This was a different prisoner in the pile.

Q. Who was taking pictures that night?

A. I took some with [REDACTED] camera, [REDACTED] took some, [REDACTED] had a camera and he took some pictures, and [REDACTED] had a camera, they both took pictures. I took pictures with their cameras as well. They would be like get me in a picture. I took the pictures from the upper tier looking down at the time that I retrieved the camera from the office.

Q. What was the overall mood of everyone?

A. We would joke around, everyone would laugh at the things we had them do. If the prisoners would not do what we wanted them to do, that person would be mad at the moment because the prisoner would not do what they wanted. DAVIS, [REDACTED] and [REDACTED] were the ones telling the prisoners what to do. DAVIS would assist them.

Q. Whose idea was it to do the pyramid?

A. [REDACTED] He would one to get on his knees and we did not know what his was doing. After he was getting the next detainee, he said he was going to make a pyramid with the detainees.

Q. Whose idea was it to make the detainees masturbate?

A. [REDACTED]

Q. Who was the person who placed the detainee on his knees at the groin of the detainee who was standing?

A. I placed him to sit down facing away, in front of the detainee standing. Then [REDACTED] turned the

AFFIDAVIT

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

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

[REDACTED]
(Signature of Person Making Statement)
SUBSCRIBED AND SWORN BEFORE ME, A PERSON BY LAW TO ADMINISTER OATHS, THIS 15th DAY OF Jan 04 AT Abu Gharib Prison, Iraq

[REDACTED]
(Signature of Person Administering Oath)

[REDACTED]
(Name of Person Administering Oath)

Article 136 UCMJ
(Authority to Administer Oath)

INITIALS OF PERSON MAKING STATEMENT

PAGES 2 OF 3 PAGES

[REDACTED]
STATEMENT OF

Abu [REDACTED].b
TAKEN AT

15 Jan 04
DATED

CONTINUED:

Said this turn the detainee around, this was the one who was sitting. So the detainee who was sitting was now facing the groin of the one whom as standing
A. During this event were the detainees nude?

Q. Do you remember anything else about the dog pile incident?

A. Yes, [REDACTED] was there. But I do not recall him staying long. I do also know after the information sheets on the detainees was read, we found out one of them was rapist. We figured out which one it was by the picture and the ISN number. SFC [REDACTED] took a black marker and wrote RAPIST on the guy's outer part of the leg, like by his thigh going down. I took a picture of her pointing out at, and she took a picture of me pointing at it. I think she also took a picture of it right after she was done.

Q. Have you talked to [REDACTED] or [REDACTED] since your interview on 14 Jan 04?

A. I saw [REDACTED] I ask him what he thought was going to happen. He just said it was 19 and a half years down the drain for him. He said he did not think he would be leaving Iraq either on time due to this.

Q. Are there any other incidents you want to talk about?

A. There was an incident where we had two rapists that came in. We separated the two, ad the one was lying on the floor and we, DAVIS and I, stood on these guys toes, like we did in the above mentioned incident. I think [REDACTED] did this as well, I am not sure. Someone also took a bottle of cold water and poured on the back of the guy's neck to get him cold. I do not remember who this was. It was someone that was white. I think it was [REDACTED]

Q. Do you know who took the pictures of the female detainee with her breast exposed?

A. I do not know. I was not there. I had seen the picture. It was either [REDACTED] or [REDACTED] is my guess that took the picture. The other pictures I saw of the two females they were standing by a wall or just sitting in the chair.

Q. Did anyone ever say in any of the listed events, that they knew what they were doing was wrong?

A. Everyone was like "I did not see that", or "I did not see anything" and they would just go back to work.

Q. DO you know about any detainee that was made to stand on an MRE box, and they hooked wires up to the detainee and took pictures of him?

A. No.

Q. Do you recall if SFC [REDACTED] was ever at the event with the seven detainees?

A. Yes, I remember him yelling and saying to knock it off, when they guys were jumping on top of the pile of detainees. SFC [REDACTED] then left and I did not see him agai.

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

A. No.///End of Statement/// [REDACTED]

all (S) (S), (S) (S) [unclear]

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INITIALS OF PERSON MAKING STATEMENT
[REDACTED]

PAGES 3 OF 3 PAGES

For Official Use Only

EXHIBIT 29

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE
For use of this form, see AR 190-30: the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

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

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

1. LOCATION: Baghdad Correctional Complex, Abu Ghraib, APO AE 09335
2. DATE: 14 Jan 04
3. TIME: 0347
4. FILE NO.

5. NAME (Last, First, MI): [REDACTED]
8. ORGANIZATION OR ADDRESS: 372nd MP Co

6. SSN: [REDACTED]
7. GRADE/STATUS: Pfc
Cumberland, MD
(Deployed to Abu Ghraib)

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command and wanted to question me about the following offense(s) of which I am as a Special Agent suspected/accused [REDACTED] Cruelty and Maltreatment, Indecent Acts, Failure to Obey an Order or Regulation, Assault, Dereliction of Duty

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

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

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

- or -

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

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

5. COMMENTS (Continue on reverse side)
Have you requested a lawyer after rights advisement in the past 30 days? YES NO [REDACTED]

Section B. Waiver

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

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE
1a. NAME (Type or Print)	[REDACTED] 1LT 1 MP	[REDACTED]
b. ORGANIZATION OR ADDRESS AND PHONE	320 MP CO (CS)	4. SIGNATURE OF INVESTIGATOR
2a. NAME (Type or Print)	[REDACTED]	[REDACTED] (b)(6), (7)(C) 1
b. ORGANIZATION OR ADDRESS AND PHONE	[REDACTED]	5. TYPED NAME OF INVESTIGATOR
		[REDACTED]
		6. ORGANIZATION OF INVESTIGATOR
		Prisoner Interrogation Team (PIT), 10th Military Police Battalion
		Abu Ghraib, Iraq, APO AE 09335

Section C. Non-Waiver

- 1. I do not want to give up my rights:
 - I want a lawyer.
 - I do not want to be questioned or say anything.

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2. SIGNATURE OF INTERVIEWEE

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

all (b)(6) (b)(7)(C) (b)(7)(D)

10018-04-CI 0140-8818

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is Office of The Deputy Chief of Staff for Personnel.

LOCATION Abu Ghraib Prison Complex, Abu Ghraib, Iraq	DATE 14 Jan 04	TIME 0840	FILE NUMBER
LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	SOCIAL SECURITY NUMBER [REDACTED]	GRADE/STATUS PFC	
ORGANIZATION OR ADDRESS 372nd MP Co Cumberland, MD (deployed to Abu Ghraib, Iraq)			

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

Around the end of October 2003, I went to the Hqs site to visit with the soldiers working there. When I arrived at 1A/1B Wing CPL [REDACTED] and SFC [REDACTED] were the only ones there. CPL [REDACTED] and SFC [REDACTED] had said that there was a prisoner named "Gus" in the solitaire. He was arrested for attacking on Coalition Forces and was telling the soldiers working at the Hqs site that he "hated Americans and wanted to kill us." CPL [REDACTED] had suggested he take a picture of me with [REDACTED] pretending to drag him on a leash type thing. CPL [REDACTED] then got out a tie-down strap and went downstairs to solitaire. He opened the door and [REDACTED] out. [REDACTED] was not handcuffed, but he was naked. CPL [REDACTED] had [REDACTED] lay down on the floor and he made a big loop in the tie-down strap. He then placed the tie-down strap loosely around [REDACTED] head and neck. He gave me the end of the strap and took a picture. At any time, I did not drag or pull on the leash, I simply stood with the strap in my hand. [REDACTED] started to crawl on the floor and CPL [REDACTED] took another picture. We then took the strap off of him and placed back in his cell. SFC [REDACTED] during that time was observing. On or about the 24th of October, I went back to the Hqs site to visit again. I got off work at 2200 and walked over to the prison. I arrived at about 2215. Shortly after I arrived SSG [REDACTED] SSG [REDACTED] and SSG Davis had brought two prisoners from another block to 1A/1B. The two prisoners had supposedly raped a 15 year old boy in the prison the night before. They were brought to 1A/1B to be questioned about the incident. Prior to this, MI had told us to "rough them up", to get answers from the prisoners. When they were brought in the prisoners were handcuffed wearing their civilian clothes and had sand bags on their hands. SSG [REDACTED] and SSG [REDACTED] had [REDACTED] shoved the two prisoners at myself, CPL [REDACTED] and SSG [REDACTED]. So when they were shoved at us we shoved them towards the wall. They hit the wall, but it wasn't a really hard hit.

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

EXHIBIT	INITIALS OF PERSON MAKING STATEMENT [REDACTED]	PAGE 1 OF 8 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF [REDACTED] TAKEN AT [REDACTED] DATED [REDACTED] CONTINUED."
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE [REDACTED] OF [REDACTED] PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER PAGE OF THIS FORM.

0297738

all (b)(5), (b)(7) except

Abu Ghariib Prison Complex
Abu Ghariib, Iraq
TAKEN AT

FILE NUMBER:

DATED 14 Jan 03 CONTINUED

STATEMENT OF [REDACTED]

were handcuffed together the third guy was brought over and handcuffed between the other two. They then were laying on the floor handcuffed together so all the other prisoners could see them. CPL [REDACTED] and SSG [REDACTED] then asked me to start taking pictures with the camera. At this time, SPC [REDACTED] arrived and came upstairs to join SPC [REDACTED] and I. She had brought her camera as well and started taking pictures too. I took the pictures from the top tier of the three prisoners handcuffed together and laying on the floor. After that they all started admitting to do it and we unhandcuffed them from each other. Then they were re-handcuffed themselves and placed in solitary. After awhile CPL [REDACTED] and SPC [REDACTED] took out of solitary one at a time and gave them jump suits and returned the first two to their cells and gave the third guy a cell as well. SSG Davis, SPC [REDACTED] and SSG [REDACTED] left after they were placed in solitary.

The Interpreter and an MI person were all present during this incident. They all left after the prisoners were placed into solitary. I left again at shift change with everyone else. Shift change was at 0400. On 08 NOV 03, at 2208 I went back to the Hardsite to visit because it was my birthday and I wanted to see the soldiers who worked at the Hardsite. When I arrived at 2215 SPC [REDACTED] was the only one on the block. I stayed here with her ^{like} then at about 2400 CPL [REDACTED] and SSG [REDACTED] returned and said that there was a riot at Camp and they were bringing 7 prisoners over for initiating the riot. When they arrived they were escorted by SSG Davis, SSG [REDACTED] and SSG [REDACTED]. The prisoners were brought in in handcuffs, sand bags on their heads and wearing civilian clothes. They appeared to be exhausted from the riot. When they were brought in SPC [REDACTED] and I stayed on the top tier. Everyone else was downstairs pushing the prisoners into each other and the wall. Until they all ended up in a dog pile. They just layed there. Because they were exhausted I guess. CPL [REDACTED] and SSG [REDACTED] told me to grab the camera and get some pictures of them pretending to hit the prisoners. While I was taking the pictures at no time did they actually hit the prisoners. At that time I went down stairs to get the paperwork. We started sorting through the dog pile of prisoners to make them with the paperwork. We'd get one at a time and stand them up, unhandcuff them and tell them to strip their clothes off. Once we had them all

(b)(6) 4;
001
4

027740

INITIALS OF PERSON MAKING STATEMENT: [REDACTED]

PAGE 3 OF 8 PAGES

For Official Use Only

EXHIBIT 4

[REDACTED]

Abu Ghariib Prison Complex
Abu Ghariib, Iraq
TAKEN AT

FILE NUMBER:

STATEMENT OF

DATED 14 Jan 03 CONTINUED

lined up against the wall naked with bags on their heads we decided
 riot to PT them cause they were already exhausted. At this time SPC
 [REDACTED] came he and remained down stairs to observe. They started to sit
 one prisoner facing the wall and have another sit on his back.
 They were lined up like that for awhile. Then they started to have
 the prisoners opt in a pyramid. We started taking pictures of
 the prisoners at this time again. SPC [REDACTED] took a picture of
 CPL [REDACTED] and myself standing behind the pyramid. SSG [REDACTED]
 was taking with his camera as well as the [REDACTED] SPC [REDACTED] with her
 own camera. During this whole time various people had stopped cause
 they'd heard about the riot in Camp. I can't remember who all stopped
 by, but they were only there for a few minutes at a time. We
 then told them to stand back against the wall facing us. Everyone
 had left except SPC [REDACTED], CPL [REDACTED], SSG [REDACTED] and myself.
 CPL [REDACTED] and SPC [REDACTED] had went up stairs in the office to find
 out where they had room to put them on the block. SSG [REDACTED]
 and myself stayed to keep an eye on the prisoners. SSG [REDACTED]
 then walked up to the first prisoner and started to move his left
 arm in the motion of masturbating. He let go of the prisoners arm
 and the prisoner continued to masturbate. SSG [REDACTED] thought it
 was amusing and told CPL [REDACTED] and SPC [REDACTED] to come see. I
 was surprised that he continued to masturbate. CPL [REDACTED] and
 SPC [REDACTED] came down stairs and we started to take more
 pictures. CPL [REDACTED] and SSG [REDACTED] wanted me to get beside him
 and pose pointing at him masturbating for a picture. I really didn't
 want to get that close him masturbating, but posed for the
 picture anyway. SPC [REDACTED] had returned at this time and she
 stated taking picture too. They started making 15 second recordings
 of the prisoner masturbating. SPC [REDACTED] left after we were
 done taking pictures. SSG [REDACTED] wanted to see if the other
 six prisoners would do the same. They all started to, but stopped
 after a few minutes. The first guy continued to masturbate while
 CPL [REDACTED] and SPC [REDACTED] started taking the prisoners one by one to
 their cells. SSG [REDACTED] and I took the guys standing next to the one

INITIALS OF PERSON MAKING STATEMENT: [REDACTED]

(b)(6)s; (7)(c)s

STATEMENT OF [REDACTED]

Abu Ghariib Prison Complex FILE NUMBER:
Abu Ghariib, Iraq TAKEN AT

DATED 14 Jan 03 CONTINUED

Q. Who is SSG [REDACTED]?

A. SSG [REDACTED] is the NCO who works in the office at the Hardsite who keeps accountability of all the prisoners with 372nd MP CO.

Q. Who was involved in assaulting the detainees?

A. SSG [REDACTED], CPL [REDACTED], SSG Davis and myself.

Q. What was the extent of the assaults committed by the above individuals?

A. Shoving and pushing the prisoners around or into the wall.

Q. Was any prisoner struck with a closed fist?

A. No, not that I know of.

Q. Was there any sexual acts committed against the detainees?

A. Detainees continued masturbating once his arm was moved in that motion by SSG [REDACTED]. One detainee sitting on other's back while being ~~watched~~^{noted} by ~~the~~^{us}. All were doing that at one point. Sitting a prisoner into front of another prisoner who is masturbating.

Q. Did you observe any acts against the female detainees?

A. No.

Q. Did you witness CPL Garner slap, punch, kick or drag any detainees?

A. He would grab their arm if while they were running and would start to slack off, but he wouldn't drag them cause he was running with them.

Q. Did you witness any detainees with wires connected to them, as to appear as though they might be electrocuted?

A. No.

Q. Who was the photos you took?

A. I took the pictures for other people's ~~entire~~^{entire} with their camera. So they probably have the pictures.

Q. Do you have any pictures?

A. Yes, CPL [REDACTED] gave 2 CDs with pictures on them. I haven't been able to look at the disks, but they probably have some pictures from the prison.

INITIALS OF PERSON MAKING STATEMENT: [REDACTED]

[REDACTED]

STATEMENT OF

Abu Ghariib Prison Complex
Abu Ghariib, Iraq
TAKEN AT

FILE NUMBER:

DATED 14 Jan 03

CONTINUED

Q. Where did he get the CD's from?

A. He took the pictures off of his camera and put them in his computer. He then burned pictures onto the CD's he brought and gave them to me.

Q. Who else did he give CD's to?

A. I don't know.

Q. Do you wish to Did you pose for any photos while the detainee's were being mistreated?

A. Yes, I posed while I was pointing at the one detainee who was masturbating. I also posed for a picture that looked like I had a detainee on a leash. And I posed with CPL [REDACTED] behind the naked pyramid for a picture.

Q. Do you wish to add anything to your statement?

A. No. // END OF STATEMENT //

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

027744

INITIALS OF PERSON MAKING STATEMENT: [REDACTED]

PAGE 7 OF 8 PAGES

For Official Use Only.

EXHIBIT 4

[Redacted]

Abu Ghari'b Prison Complex
Abu Ghari'b, Iraq
TAKEN AT

FILE NUMBER:
DATED 19 Jan 03 CONTINUED:

STATEMENT OF

STATEMENT (Continued)

all (b)(6)S; (7)(C) 5
except as noted

AFFIDAVIT

I, [Redacted], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 8. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

[Redacted Signature]
(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 14 day of Jan, 20 04 at Abu Ghari'b Prison Complex, Abu Ghari'b, Iraq

ORGANIZATION OR ADDRESS

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

[Redacted Signature]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

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

Art 136 UCMJ

(Authority To Administer Oaths)

027745

INITIALS OF PERSON MAKING STATEMENT

[Redacted Initials]

PAGE 8 OF 8 PAGES

RIGHTS WAIVER/STATEMENT OF CONSENT TO INTERVIEW
For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

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

1. LOCATION Abu Gharib Prison, Abu Gharib Iraq	2. DATE 11/19/04	3. TIME 1446 JN	4. FILE NO.
5. NAME (Last, First, MI) DAVIS, JAVAL S.	8. ORGANIZATION OR ADDRESS 372nd MP Co, Cumberland MD Deployed to Abu Gharib, IRAQ		
6. SSN [REDACTED] (b)(6)(C)(D)	7. GRADE/STATUS E-5/AD SES		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command and wanted to question me about the following offense(s) of which I am suspected: Failure to Obey an Order or Regulation, False Statements, Conspiracy, Maltreatment

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

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

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

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

5. COMMENTS (Continue on reverse side)

Section B. Waiver

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

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE
1a. NAME (Type or Print)	b. ORGANIZATION OR ADDRESS AND PHONE	4. SIGNATURE OF INVESTIGATOR
2a. NAME (Type or Print)		5. TYPED NAME OF INVESTIGATOR
b. ORGANIZATION OR ADDRESS AND PHONE	6. ORGANIZATION OF INVESTIGATOR 10th MP BN (CID) Baghdad, IRAQ 09335	

Section C. Non-waiver

1. I do not want to give up my rights
 I want a lawyer I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE 027746

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

RIGHTS WAIVER PROCEDURE/WAIVER CERTIFICATE

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

DATA REQUIRED BY THE PRIVACY ACT

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

1. LOCATION <i>Boghead Correctional Facility, Abbeville, Iowa</i>	2. DATE <i>15 Jan 04</i>	3. TIME <i>1430</i>	4. FILE NO.
5. NAME (Last, First, MI) <i>Davis, David S</i>	8. ORGANIZATION OR ADDRESS <i>372nd Military Police Company</i>		
6. SSN <i>(b)(6), (b)(7)(C)</i>	7. GRADE/STATUS <i>E5/AD</i>	APD AE 09335	

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army *Criminal Investigation Company as a Senior Agent* and wanted to question me about the following offense(s) of which I am suspected/accused: *Security & Maliciousness, Indecent Acts, Failure to obey orders or regulations, assault, Peril to life*. Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

- I do not have to answer any question or say anything.
- Anything I say or do can be used as evidence against me in a criminal trial.
- For personnel subject to the UCMJ I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.
 - or -
 (For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.
- I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)
of Duty; False Official Statement 11/02

Section B. Waiver

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

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE <i>[Signature]</i>
1a. NAME (Type or Print)		4. SIGNATURE OF INVESTIGATOR <i>[Redacted]</i>
b. ORGANIZATION OR ADDRESS AND PHONE	<i>(b)(6), (b)(7)(C)</i>	5. TYPED NAME OF INVESTIGATOR <i>SA [Redacted]</i>
2a. NAME (Type or Print) <i>SA [Redacted]</i>		6. ORGANIZATION OF INVESTIGATOR <i>Prisoner Interrogation Team</i>
b. ORGANIZATION OR ADDRESS AND PHONE <i>Prisoner Interrogation Team (EPR) [Redacted]</i>		<i>With MP BN, APO AE 09335</i>

Section C. Non-waiver

1. I do not want to give up my rights
 I want a lawyer I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE **027747**

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

For Official Use Only **EXHIBIT 11**

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is Office of The Deputy Chief of Staff for Personnel.

LOCATION Baghdad Correctional Facility, Abu Ghraib, Iraq	DATE 15 JAN 01	TIME 1652	FILE NUMBER
LAST NAME, FIRST NAME, MIDDLE NAME Davis, Jason Shawn	SOCIAL SECURITY NUMBER [REDACTED]	GRADE/STATUS E5 / Reserve	
ORGANIZATION OR ADDRESS 372nd Military Police Company, APO AE 09335			

1st JAVAL S DAVIS WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Yesterday JAN 14 I was brought in for questioning by (CID). I did not know what for until I was being questioned. I told the agent everything I saw, but was vague about some parts out of fear. Today JAN 15 I was asked to come in for more questioning to elaborate on what I saw during an incident. The evening that the Visitation Camp (not started) were brought in I saw SSG [REDACTED] jump on inmates, hit them. I saw SFC [REDACTED], Corporal [REDACTED] SFC [REDACTED], SFC [REDACTED] other people may have been there but, I don't remember. Everything I've stated prior to now, I did do, I did fall on the inmates on purpose and not on purpose. I did step on the inmates hands and feet on purpose and not on purpose while dealing with an inmate. I was very upset at the inmates for wanting to kill some of my fellow soldiers from my company. I wanted to scare them. When SFC [REDACTED] felt that things were out of hand or beyond use of force for me to let it go and I did. I then left the room. I just want to take this statement and get everything out. I am old and was embarrassed about what I did. I did what I shouldn't have out of anger. However, I did leave the room before going out further. I felt that I needed to leave before I got myself into trouble. I guess I left to late.

Q: SA [REDACTED] (b)(6), (7)(C) 1 All (b)(6), (7)(C) 5 except

A: SGT Davis

Q: When you provided a statement yesterday, did you lie and say you never intentionally hurt the prisoners?

A: Yes, I was not honest completely

Q: Did you know it was wrong to lie?

A: Yes

Q: Why did you not tell the truth in your previous statement but decided to tell the truth today? J2

027748

EXHIBIT	INITIALS OF PERSON MAKING STATEMENT J2	PAGE 1 OF 22 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF ___ TAKEN AT ___ DATED ___ CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE ___ OF ___ PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

FILE NUMBER:

STATEMENT OF Janet S. Davis TAKEN AT Abu Ghraib, Iraq DATED 15 Jan 04 CONTINUED:

STATEMENT (Continued)

Q: It bothered me that I did not tell the truth yesterday when I was asked about it today, I decided I needed to be honest and maintain my integrity and admit my fault.

Q: How many times did you intentionally jump on the detainees?

A: Once for sure, but maybe twice. Another time, the first time, it really was an accident.

Q: How many times did you step on detainees hands and feet?

A: I did it once by accident and another time on purpose. I may have stepped on their heads, but I wasn't paying attention and I did not care. As I stepped on one detainee foot on purpose, SFC [redacted] said "that's enough" and I stopped, and left the room.

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

Q: Did anyone else jump on the prisoners?

A: Yes, SSG [redacted], CPL [redacted], SPC [redacted], SPC [redacted] and SPC [redacted] all jumped on them. There may have been more, but I don't know. These same people are the ones who stepped on the prisoners hands and feet.

(b)(6) 1
(7)(C) 5

Q: Did anyone hit, kick, punch or strike the prisoners?

A: I saw SSG [redacted] hit a prisoner in the chest. I didn't personally see any other guards hit prisoners, but I think SFC [redacted] hit a prisoner.

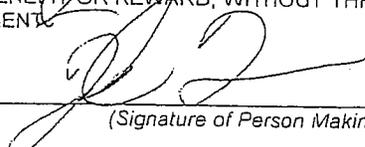
Q: Do you have anything to add to this statement?

A: NO. /// END OF STATEMENT ///

AFFIDAVIT

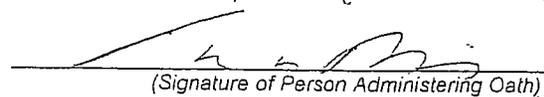
I, Janet S. Davis, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:


(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 15 day of January, 2004 at Abu Ghraib, Iraq

ORGANIZATION OR ADDRESS

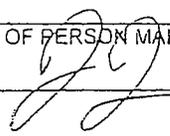

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

SA Tyler M. Pienan
(Typed Name of Person Administering Oath)

Art 136, UCMJ
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT



PAGE 2 OF 2 PAGES

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE
For use of this form, see AR 190-30: the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

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

1. LOCATION Baghdad Correctional Complex, Abu Ghraib, APO AE 09335	2. DATE 14 Jan 04 <i>JO</i>	3. TIME 0656	4. FILE NO.
5. NAME (Last, First, MI) <i>DAVIS, JAVAL S.</i>	8. ORGANIZATION OR ADDRESS <i>372nd MP Co Baghdad Correctional Facility Abu Ghraib, APO AE 09335</i>		
6. SSN [REDACTED] <i>(b)(6) (b)(7)(C)</i>	7. GRADE/STATUS <i>E-5 / AD</i>		

PART 1 - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command and wanted to question me about the following offense(s) of which I am suspected/accused Cruelty and Maltreatment, Indecent Acts, Failure to Obey an Order or Regulation, Assault, Dereliction of Duty//

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

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

- or -

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

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

5. COMMENTS (Continue on reverse side)
Have you requested a lawyer after rights advisement in the past 30 days? YES NO *JO*

Section B. Waiver

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

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE <i>[Signature]</i>
1a. NAME (Type or Print)		4. SIGNATURE OF INVESTIGATOR [REDACTED] <i>(b)(6) (b)(7)(C)</i>
b. ORGANIZATION OR ADDRESS AND PHONE		5. TYPED NAME OF INVESTIGATOR [REDACTED]
2a. NAME (Type or Print)		6. ORGANIZATION OF INVESTIGATOR Prisoner Interrogation Team (PIT), 10 th Military Police Battalion Abu Ghraib, Iraq, APO AE 09335
b. ORGANIZATION OR ADDRESS AND PHONE		

Section C. Non-Waiver

027750

- I do not want to give up my rights:
 I want a lawyer. I do not want to be questioned or say anything.

2. SIGNATURE OF INTERVIEWEE

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

SWORN STATEMENT

For this form, see AR 190-45; the proponent agency is DUCSOPS

LOCATION Baghdad Correctional Facility, Abu Ghraib, APO AE 09335	DATE 14 JAN 04 JA	Time 1400 J	FILE NUMBER
LAST NAME, FIRST NAME, MIDDLE NAME DAVIS, Javal Shawnta	SOCIAL SECURITY NUMBER [REDACTED] (b)(6)/(c)		GRADE/STATUS E-5/AD-RSRV
ORGANIZATION OR ADDRESS 372 ND Military Police Co, Baghdad Correction Facility, Abu Ghraib, APO AE 09335			

I, Javal S. DAVIS, want to make the following Statement under oath:
 About two months ago when I worked in the hard site I witnessed prisoners in the MI hold section, wing 1A being made to do various things that I would question morally. I was in charge of wing 3A-B, regular prisoners. In wing 1A we were told that they had different rules and different SOP for treatment. I never saw a set of rules or SOP for that section just word of mouth. I did see paperwork provided by the MI soldiers regulating sleep and meals for some of the MI hold prisoners. I witnessed prisoners come in escorted with sand bags on there heads. They would be sent to 1A to be processed and readied for interrogation. On the night shift FBI, OGA, CID, MI would be in and out of the wing interrogating prisoners, bringing them in, or taking them away to the wood hut behind the hard site or away period. Someone was always there from the other agencies or military personnel it seemed. If anything was going on not within the guidelines of the SOP, if it existed I assume someone would have said something to the MP on duty or NCOIC/OIC. The soldier in charge of 1A was corporal [REDACTED]. He stated that the Agents, and MI soldiers would ask him to do things, but nothing was ever in writing he would complain. I witnessed from time to time friends of Grainer would stop by to say hello or pick something up. I witnessed one time I was coming to the section for some cheese and crackers that an inmate was standing on top of an MRE box, sand bag on his head, wearing a poncho style blanket with his arms outstretched to his sides. Corporal [REDACTED] and SSG [REDACTED] were there in the shower room with the inmate at that time. On another occasion I witnessed some inmates being in-processed, but I noticed one masturbating against the wall with a sand bag on his head. Another inmate was on the ground in front of him kneeling with a sand bag on his head. The inmate on the floor looked like he was praying. I found the site of that disgusting. I got what I came to get and left the cellblock. Our company did a right seat ride with the 72nd MP CO who we replaced. This being a non EPW MP CO we just continued what they passed on to us.

Q: IEM
 A: DAVIS (b)(6), (c)
 Q: Did you write the above statement?
 A: Yes.
 Q: You mentioned you saw various things you thought were immoral. What things are you referring to?
 A: The sleep and food plan that was the majority of the crap. You see inmates stand all day and not get food until they are scheduled to sleep. They stand for 3-4 hours and sleep for 3 hours. I guess it was in their SOP, but I never seen that.
 Q: Do you recall when you witnessed the prisoner you described in a poncho-like blanket with his arms outstretched?
 A: At nighttime, two months ago. That's all I can remember.
 Q: Did you ever transport prisoners to wing 1A/1B?
 A: Yes.
 Q: Did you ever push, pull, shove, kicked or abuse the prisoners you transport in anyway?
 A: We pull them to guide them into the blocked because they have sand bags on their heads and we push them down so they would sit down because of the language barrier. If they resist, we would use the MP arm-bar to

EXHIBIT	INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 5 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF [NAME] TAKEN AT [DATE] DATED [DATE] CONTINUED."
 THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE [] OF [] PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

STATEMENT OF Javal S. DAVIS, CAMP BUCCA, IRAQ DATED 14 JAN 04 CONTINUED.

take down and re-subdued if they are un-handcuffed.

Q: Did you witness any prisoner, which you transported get injured as a result from MP handling?

A: [redacted] tried to put a rape offender down in a kneeling position and he lost his balance and hit the wall and cut his around his eye.

Q: Where is the inmate with the cut eye now?

A: Deceased.

Q: How did this come about?

A: He was killed by an Improvised Explosive Device (IED) coming back from court.

Q: Was the inmate alone when you transported him?

A: There was he and another inmate for the same offense.

Q: Did the second inmate sustain any injuries?

A: No.

Q: Where is he now?

A: I think he was release to go home.

Q: Were there any other inmates whom you transported to 1A/1B?

A: Yes.

Q: How many others?

A: I can't recall. Not a lot. More than 8.

Q: Did any of them sustain injures after you released them to the Wing Guards, other than the rape offender?

A: I wouldn't know because I'm not down there.

Q: Have you ever stayed to witness abuse of the inmates after releasing them to the Wing 1A/1B Guards?

A: I stayed to watch them get processed a couple times. As far as abuse I don't know what was SOP or out of the ordinary. Like I said, Things are different down there.

Q: Why are the rules different in 1A/1B than the rest of the wings?

A: The rest of the wings are regular prisoners and 1A/1B are Military Intelligence (MI) holds.

Q: Other than [redacted] and [redacted] who did you see present during the treatment you deemed immoral and abusive?

A: Nobody, but [redacted] could have been there. Ambul was on her side and her friends coming in and out. But if anyone, [redacted] could more than likely be there?

Q: Why did you not inform your Chain of Command about this abuse?

A: Because I assumed that if they were doing anything out of the ordinary or outside the guidelines, someone would have said something. Also the wing belongs to MI and it appeared MI personnel approved of the abuse.

Q: Has anyone asked you to participate in the physical abuse of the inmates?

A: Not directly and I would say no and leave the area.

Q: Who would ask you to participate?

A: [redacted] or [redacted] but like I said, they would not ask directly. They would just tell me about the inmate and try to coax me to physically abuse them. I stayed away from that. Occasionally I yell at them but I would not abuse them.

Q: Did you see anyone take photographs of the inmates while engaged in physical abuse?

A: Yes, [redacted] and [redacted] took pictures their digital camera and I've heard rumors that the pictures were bad.

Q: Where are those photographs now?

A: I have no clue.

Q: Do you have any of the photographs you previously spoke of?

all (6) (7) (C) 5

INITIALS OF PERSON MAKING STATEMENT

J.D.

PAGE 2 OF 5 PAGES

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A: No.

Q: Do you have anything else to add to this statement?

A: Yeah, the MI staffs, to my understanding have been giving [redacted] compliments on the way he has been handling the MI holds. Example being statements like, "Good job, they're breaking down real fast"; "They answer every question"; "They're giving out good information, Finally"; and "Keep up the good work", stuff like that.

Q: Do you recall the names of the MI staff that made these statements?

A: Names, I would remember at this time or they keep changing personnel, and they cover their name with tape.

Q: Did you make any attempts at all to tell your superiors?

A: No.

Q: Have you heard of any other acts of Cruelty, Maltreatment, Indecent Acts, or Assault of inmates?

A: Yes, I heard [redacted] and [redacted], more so [redacted] would strike the inmates.

Q: Would they strike them with a close fist, open palm, or kicked?

A: I heard they did all of that.

Q: What else did you hear?

A: Pictures were taken of the inmates after abusive acts were conducted.

Q: Were any of the acts considered sexually indecent?

A: Yes, it was indecent for them to make the inmate to masturbate in the open bay. Pictures of and with the female prostitutes. It was speculated [redacted] and [redacted] might have had sex with the prostitutes.

Q: Did you witness the inmates being placed in sexually indecent positions?

A: No.

Q: Have you heard MI insinuate to the guards to abuse the inmates of any type or manner?

A: Yes.

Q: What was said?

A: "Loosen this guy up for us." "Make sure he has a bad night." "Make sure he gets the treatment."

Q: Who were the MI staff speaking to when the previous comments were made?

A: MP Guard CPL [redacted] and SSG [redacted]

Q: Who would have knowledge of any or additional information pertaining to the previously mentioned incidents?

A: Anybody that work on the nightshift.

Q: Who do you believe would have the most reliable information?

A: The people who work in Wing 1A/1B.

Q: What is the name the MI staff member who made the previously stated comments?

A: I don't know the name because they often don't wear uniforms and if they do they don't have nametapes.

Q: Are there any other person(s) you believed contributed to the abuse and maltreatment of the inmates?

A: [redacted]

Q: Who is [redacted] :

A: I don't know who he works for, I just know that he is an investigator/interrogator

Q: Describe [redacted]

A: White male, dark hair, dark beard, about 6'7 - 6'8 tall.

Q: Who do you hear the rumors from?

A: Various soldiers, but I heard the masturbating thing from SGT [redacted]

Q: Did you personally photograph any of the inmates during the maltreatment?

A: No, but I did take a picture of the Generals who were coming in for processing into 1A/1B.

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

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

INITIALS OF PERSON MAKING STATEMENT

J.D.

PAGE 3 OF 5 PAGES

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Q: Did you contribute in any way to the photography of the inmates?

A: I let camera be borrowed, but I didn't know they were taking pictures of inmates.

Q: Who did you allow to borrow your camera?

A: Pretty much any of the MP's over there in the office in Wing 1A/1B.

Q: Did you see any other inmates in any provocative, sexual, indecent, or obscene positions directed by the MP guards?

A: No.

Q: Did you dive on top of an inmate while he was on the floor?

A: No. I might have stumbled over a person on the floor trying to get my detainee in to process.

Q: Did you stomp, kick, or grind your boot on any part of an inmate's body?

A: I stepped a guys feet and he didn't have any shoes on.

Q: Did you intend to step on the inmate's feet?

A: No, I didn't intend to step on his feet. The inmate was combative and I restrained him to the ground with the use of an arm bar. I un-intentionally stepped on his foot while trying to restrain him so I could take his flex-cuffs off, sit him up against the wall, calm him down, so he could get process and I can leave, but the language barrier hindered the process.

Q: Who else was present for the processing of inmates

A: SFC [redacted], he told me to just let the inmate be and I did.

Q: Where was SFC [redacted] standing when he told you to release the inmate? (b)(6);(7)(C) 2

A: He was on the top tear to look over the cellblock floor.

Q: Who participated in the transport and processing during that day? (b)(6) 2; (7)(C) 2

A: SSG [redacted], SSG [redacted] K, CPL [redacted] R, SFC [redacted] SGT [redacted] and I think SPC [redacted] was there. (b)(6);(7)(C) 2

Q: Was there anyone helping with the transport or processing who was not an MP? (b)(6);(7)(C) 2

A: I don't recall, but the most likely people who would be there was SPC [redacted] SGT [redacted] SPC [redacted] and SPC [redacted] (b)(6);(7)(C) 2

Q: What are their jobs if they are not MP's, SPC [redacted] was an admin clerk, SGT [redacted] and SPC [redacted] were the medics, and SPC [redacted] was a mechanic. (b)(6);(7)(C) 2

Q: Did you strike any of the inmates for amusement and out of anger?

A: No, I've never struck an inmate for amusement or out of anger.

Q: Other than the masturbation incident, did you witness any of the MP guards place the inmates, while nude, in compromising positions in the center of the cellblock floor?

A: Yes, I've seen the inmates handcuffed to their cells and made to do exercises.

Q: Do you have anything further to add to this statement?

A: ///End of Statement. *J.D.*

INITIALS OF PERSON MAKING STATEMENT

J.D.

PAGE 4 OF 5 PAGES

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For Official Use Only

EXHIBIT 20

///NOT USED/// J.S.

AFFIDAVIT

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

[Handwritten Signature]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by Law to administer oaths, this 14th day of January, 2004 at Prisoner Interrogation Team (PIT)(CID)(FWD), Baghdad Correcting Facility, Abu Ghraib, 09335

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

[Redacted Signature]

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

SA *[Redacted]*

(Typed Name of Person Administering Oath)

Article 136, UCMJ or 5 USC 303

(Authority to Administer Oaths)

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INITIALS OF PERSON MAKING STATEMENT

J.S.

PAGE 5 OF 5 PAGES

SWORN STATEMENT

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

all (b)(2) (7)(C) 2 except

PRIVACY ACT STATEMENT

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

1. LOCATION ABU GHRAIB PRISON, ABU GHRAIB, IRAQ 2. DATE (YYYYMMDD) 18 JAN 04 3. TIME 1501 4. FILE NUMBER 0003-04-CID149-83130

5. LAST NAME, FIRST NAME, MIDDLE NAME 6. SSN 7. GRADE/STATUS CPT

8. ORGANIZATION OR ADDRESS 372ND MILITARY POLICE COMPANY, CUMBERLAND, MD (DEPLOYED TO ABU GHRAIB, IRAQ)

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

I am the current warden of the Hard Site at Abu-Ghuraub. I have additional responsibilities of the Vigilant Yard along with escorts, a PSD mission and company responsibilities. On 15 Oct 03, we accepted the mission from the 72nd Military Police Company. I divided all my responsibilities among my platoons to evenly distribute as much of the work load as possible. I assigned one platoon to Vigilant the two others split duties at Hard Site. The third platoon is currently still at AL-Hilla performing the PSD Mission. Wing one at the Hard Site is used exclusively by MI and OGA and other government agencies. Wing one was supervised mostly by LTC [redacted]. LTC [redacted] was very involved with the interrogation process and the day to day activity that occurred. I spent approximately 70% of my time supervising and coordinating the construction activity at the Hard Site. I also worked closely with the CPA to ensure all aspects of the current contract were fulfilled. The rest of my time was spent assisting and mentoring the current Iraqi Warden, operating Camp Vigilant, and performing company commander tasks. Because I knew it was impossible to accomplish all these missions at once, I assigned CPT [redacted] as OIC of the Hard Site. Cpt [redacted] worked closely with LTC [redacted] and they understood the daily routine of tier one. Cpt [redacted] is a superb officer of outstanding morale and ethical values and I am convinced he had absolutely no knowledge of any misconduct. Cpt Brinson would often stay later into the night, on many occasions I can recall him returning well after midnight. I am not sure of the exact date, but in November of 2003, I had heard there was a 15-6 investigation on a possible situation which involved interrogator abuse to certain female detainees. LTC [redacted] spearheaded the investigation. I was told nothing was founded and everything returned as usual. It was not uncommon to see people without clothing, I only ever saw males, I was told the "whole nudity thing" was an interrogation procedure used by MI, and never thought much of it. We then had a visit by the ICRC and one of their main concerns were the inmates not having clothing or proper bedding. Another major issue was the prison itself was cold. In December, I heard some stories about possible abuse but I was never able to confirm or gather sufficient evidence to sustain anything concrete. I immediately assigned SFC [redacted] (the PLT SGT) to the wing just to ensure all was well. SFC [redacted] often worked late into the evening and was committed to ensuring the proper care was given to all inmates. Cpt [redacted] returned to the States in Dec as a refrad and SFC [redacted] continued to work the wing. On a few occasions when SFC [redacted] saw something minor he made immediate corrections. I was awoken the morning of the 13th of Jan by my operations sergeant. She informed me that the BN Commander wished to speak with me. I reported to the 320th TOC area and was greeted by Special Agent [redacted]. He proceeded to explain the allegations and he immediately started to interview my soldiers and confiscate computers and pictures. When I initially saw the pictures, I was absolutely appalled at what I saw. I specifically assigned the soldiers to certain missions based on their civilian corrections backgrounds. Many of the pictures contained SSG [redacted] and CPL [redacted] in them. I have since seen and heard many other stories that absolutely saddened me and I can't believe these two soldiers whom I trusted were mainly responsible for these actions. Some of the pictures contained other people observing or participating in events. I will not defend the acts of my soldiers but I know they were others who had knowledge to illegal activity. In the beginning of our mission, it appeared that the MI tactics were very aggressive and then appeared to taper in intensity as time went along. One of my accused soldiers approached me and said "He was unclear of the rules and didn't know what he could or couldn't do" I replied "You are a correctional officer back home, that is the sorriest excuse I have ever heard." I know I am responsible for the site and continue to question myself for not detecting there behavior earlier. I thought I had assigned responsible soldiers with the right knowledge and was totally unaware of any alleged illegal activity taking place. As I stated earlier, I did not spend a lot of time in wing 1 because I was and continue to be extremely busy with many other duties. I feel that I made reasonable decisions and I took the appropriate steps in assigning work duties. My company and the U.S Army will probably not recover from this for a long time. I am ashamed of what my soldiers did and embarrassed as well. This company deserves better, we have worked extremely hard only to have a few soldiers tear down the morale and all our accomplishments. I only hope these two soldiers can live with their choices because it will likely affect many people for a long time.

Q. Who was LTC [redacted]
A. He was the MI Commander for the Battalion, which has departed the area.
Q. Do you know where LTC [redacted] is now?

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

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT TAKEN AT DATED 027759

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

(b)(5) 2015

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

EXHIBIT 74 USAFA V: 30

- A. He was my 4th Platoon Leader. He was the OIC for the Hardsite.
- Q. Have you witnessed any interrogations conducted by MI?
- A. Partial. I saw detainees in their rooms without clothing. The interrogators were within the rooms talking to the detainees. It was common practice to walk the tier and see detainees without clothing and bedding. *all (b)(6)(7);*
- Q. During this time period did any of your soldier inform you of the abuse going on in the tiers? *(7)(C) 2*
- A. No. *except*
- Q. Who was assigned to work the tiers during the Midnight shift?
- A. CPL [REDACTED], SSG [REDACTED], SPC [REDACTED], SPC [REDACTED], which worked wing 1. The other tiers had soldier working them, but was controlled by the platoons. They handled their relief and days off. SSG [REDACTED] and CPL [REDACTED] were initially assigned to a separate platoon, but because of their experience they were brought into the hard site. *(b)(6)(7); (7)(C) 5*
- Q. What was the investigation conducted by LTC [REDACTED]
- A. It was my understanding it dealt with an interrogator had a female detainee in the nude being interrogated in a closed room.
- Q. What was the result of the investigation?
- A. LTC [REDACTED] handled the investigation and it was unfounded.
- Q. At the time was their any MP's involved?
- A. No.
- Q. Have you had any disciplinary issue with the MP's in the hard site and the detainees?
- A. I pulled out SGT Davis, as the Platoon Sergeant's approached me as he was becoming a little aggressive with the detainees. I pulled him out as a preventive measure.
- Q. When did this occur?
- A. Towards the end of Nov 03.
- Q. Describe how he was being aggressive?
- A. I was informed about excessive yelling, and being very agitated. The Chain of Command was concerned for his well being and had him pulled.
- Q. Was SGT DAVIS returned to the hard site after a cooling off period?
- A. No, he is still working with SFC [REDACTED] *(b)(6)(7); (7)(C) 5*
- Q. Is it common to have Admin Specialist and Mechanics in the hard site?
- A. Absolutely not.
- Q. Did you authorize them in the hard site?
- A. The mechanic yes, as he was assigned to a 24 hour duty for generator mechanical purpose. The Admin did not have and reason to be there.
- Q. Is there an SOP for the hard site operation?
- A. Yes.
- Q. Are all soldiers require to read and understand the SOP?
- A. Yes.
- Q. Is there any documentation showing everyone read and understood the SOP?
- A. I do not think so.
- Q. Are the MP's in the site authorized to conduct their own form of interrogation?

ced(b)(6)2 (7)(c)2

A. No.

Q. Do you know who authorized them to conduct these types of acts depicted on the pictures previously shown to you?

A. No.

Q. Was the Chain of Command aware of these types of acts being conducted in the hard site?

A. No.

Q. What happened when the ICRC walked through the hard site?

A. The first time they were upset with what they saw. They were concerned with the amount of nudity and the area was cold and damp. The detainees did not have appropriate clothing and bedding. The second visit occurred two weeks ago, and things were much better. There nudity has stopped and they seemed happy with what they saw.

Q. Have you heard of your soldiers being told to give detainees the special treatment or something to this affect?

A. No.

Q. How long has CPL [REDACTED] been assigned to your unit?

A. He just came on board when we mobilized. He was an insert.

Q. Have you had any problems with his work performance?

A. Yes, he constantly challenges orders and requests from the leadership. He would put stuff on his uniform that he was not authorized.

Q. How long has SSG [REDACTED] been assigned to your unit?

A. I believe he was assigned to the unit prior to the mobilization. I was just coming on board when we got our orders. There are several assigned that was inserts to the unit for the deployment.

Q. Was there any disciplinary issue concerning SSG [REDACTED]

A. No.

Q. As far as the other soldiers involved were there any disciplinary issues concerning them?

A. PFC [REDACTED] had an issue of disobeying a direct order to stay away from CPL [REDACTED]

Q. When you viewed the pictures did you recognize any other soldiers previously not identified?

A. I believe two of the soldiers are SPC Bruce [REDACTED] and SPC [REDACTED], 4th Plt, 372nd. I cannot be 100% sure on [REDACTED]

Q. What actions have you taken to correct the issue regarding this investigation?

A. We immediately moved all suspects out of the hard site and reassigned them. We reassured everyone understood the SOP and LTG SANCHEZ's guidance. Everyone will sign a roster. SFC [REDACTED] will now work the evenings to ensure nothing further occurs. The Command is making more unannounced visits to the hard site. All soldiers were informed no interrogations were to be conducted by them.

Q. Do you wish to add anything else to your statement?

A. No.

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



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

027761

Initials [REDACTED]

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

AFFIDAVIT

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

[REDACTED]

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by Law to administer oaths, this 18 day of JAN, 2004 at Abu Ghraib Prison, Abu Ghraib Prison, Iraq

[REDACTED]

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(b)(6) 1, (7)(C) 1

[REDACTED]

(Typed Name of Person Administering Oath)

Article 136, UCMJ or 5 USC 303

(Authority to Administer Oaths)

027762

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

[REDACTED]

PAGE 4 OF 4 PAGES

BATES PAGES
27763-27999

are portions of the Record of Trial of
Javal Davis, received from Fort Hood
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&w&bPage &p of &P

Abu Ghraib Abuse 'Abhorrent,' Bush Tells Arab TV

By Jim Garamone

American Forces Press Service

WASHINGTON, May 5, 2004 – President Bush considers the actions of a few soldiers at Abu Ghraib prison in Iraq "abhorrent" and told Arab news services that the abuse at the prison "does not represent the America that I know."

The president spoke at length with Al Arabiya and Al Hurra satellite television outlets today.

"The America I know is a compassionate country that believes in freedom," Bush told Al Hurra. "The America I know cares about every individual. The America I know has sent troops into Iraq to promote freedom – good, honorable citizens that are helping the Iraqis every day."

Bush said the United States will move forward as other democracies have when mistakes are made. "Those mistakes will be investigated, and people will be brought to justice," he said. "We're an open society. We're a society that is willing to investigate, fully investigate, in this case, what took place in that prison."

The president said that the United States will punish those found guilty of abuse. "That stands in stark contrast to life under Saddam Hussein," he said. "His trained torturers were never brought to justice under his regime. There were no investigations about mistreatment of people. There will be investigations. People will be brought to justice."

Bush said he found out about the allegations in January, shortly after a soldier reported the incidents to officials in Baghdad.

The president told Al Hurra that in addition to the criminal investigations there are numerous other ongoing investigations. "We want to know the truth. I talked to the secretary of defense about this, this morning, by the way," Bush said. "I said, 'Find the truth, and then tell Iraqi people and the world the truth.'"

Bush said the United States has nothing to hide. Bush says he maintains his confidence in the civilian and military leadership in the Department of Defense. "I've got confidence in the commanders on the ground in Iraq because they and our troops are doing great work on behalf of the Iraqi people," Bush said. "We're finding the few that want to try to stop progress toward freedom and democracy. We're helping the Iraqi people stand up a government. We stand side by side with the Iraqis that love freedom."

Bush said the United States will continue to cooperate with the International Red Cross and Red Crescent. Americans discovered the abuses in Abu Ghraib, and they will work to stop them. "The American people are just as appalled at what they have seen on TV as Iraqi citizens have," Bush said. "The Iraqi citizens must understand that."

The president told Al Arabiya that "it's very important for the people of the Middle East to realize that the troops we have overseas are decent, honorable citizens who care about freedom and peace, that are working daily in Iraq to improve the lives of the Iraqi citizens. And these actions of a few people do not reflect the nature of the men and women who serve our country."



Bush Discusses Prisoner Abuse With Arab Media

Thursday, May 06, 2004

By Liza Porteus

FOX NEWS

WASHINGTON — President Bush told Arab news outlets Wednesday that allegations of Iraqi prisoner abuse at a Baghdad prison do not "represent the America I know" — and vowed to bring those responsible to justice.

"People in Iraq must understand that I view those practices as abhorrent," Bush said in an interview with *Alhurra* ([search](#)), an Arab-language network funded by the U.S. government.

"They also must understand that what took place in that prison does not represent the America I know. The America I know is a compassionate country that believes in freedom. The America I know cares about every individual."

Bush said he retained confidence in Defense Secretary Donald H. Rumsfeld ([search](#)), but White House aides said the president let the secretary know he was not satisfied with the way he was informed about the unfolding controversy. In particular, Bush was unhappy he was not told about incriminating pictures before they were shown on television or about a 2-month-old Pentagon report before it turned up in the news.

Rumsfeld did not know about the images until CBS aired them last Wednesday, a senior White House official said.

Senate Armed Services Chairman John Warner announced on the Senate floor that Rumsfeld and Chairman of the Joint Chiefs of Staff Gen. Richard Myers will testify in an open hearing before the Senate Armed Services Committee on Friday morning.

The hearing is scheduled to last for two hours after which Rumsfeld and Myers will meet with Senate leaders and any other interested senators.

In his interview with Arab TV, Bush also said most troops are "good honorable citizens" sent to Iraq and elsewhere "to promote freedom" and "who are helping Iraqis every day."

"We're an open society, we're a society that is going to investigate, fully investigate in this place, what took place in that prison," Bush said.

People have to understand, the president continued, that "in a democracy, everything is not perfect, that mistakes are made but in a democracy as well, those mistakes will be investigated and people will be brought to justice."

Bush said the ordeal is in "stark contrast" to former Iraqi dictator Saddam Hussein's rule, when torturers were not brought to justice and no investigations were made into the mistreatment of Iraqis.

"In our country, when an issue is brought to our attention of this magnitude, we act ... that stands in contrasts to dictatorships, a dictator wouldn't be answering questions about this," Bush later told Arabic network *Al Arabiya* ([search](#)). "I want to know the full extent of operations in Iraq, of prison operations."

&w&bPage &p of &P

'Actions of a Few'

"The people of the Middle East must understand that this is horrible, but we're dealing with it in a way that will bring confidence not only to our citizens ... but confidence to people in the world that this situation will be rectified and justice will be done," Bush continued in the Al Arabiya interview.

"These actions of a few people do not reflect the nature of the men and women who serve our country."

When asked if the June 30 deadline to hand over Iraqi sovereignty was still firm, Bush said, "absolutely — when we say we're gonna do something, we're gonna do it."

But "there's still gonna be a lot of work to do and we want to help," the president continued. "The Iraqi citizens need to understand America's not gonna leave," until the job is done, he said. He also vowed that the United States would help rid Iraq of foreign guerrillas and Al Qaeda influences.

"I will never forget what they have done to us," Bush said of Usama bin Laden's terror network. "They have declared war on us and we will pursue them ... the truth of the matter is, they hate us and they hate freedom and they hate people who embrace freedom."

Although the United States has been criticized for wanting to conform the Middle East into a Western democracy, Bush said: "Freedom doesn't have to look like America ... free societies will develop from the cultures of people in the region."

"I think the president is hearing loud and clear from Arab leaders, 'don't try to impose American democracy on us, don't try to ram that down our throats, we don't like what we're seeing as far as what American democracy [is]," said Fox News foreign affairs analyst Marc Ginsberg.

"If the president's message is going to be, in effect, accepted by the Arab world, they're going to have to see the United States is cleaning up what happened in Abu Ghraib."

Bush's remarks brought mixed responses in Baghdad's streets.

Sari Mouwaffaq, a mechanic, said: "Bush's statements today will not restore the dignity which the tortured detainees lost. Bush's apology, or his attempt to find excuses, has no value to us."

But Raad Youssef, a teacher, said he appreciated Bush's statements. "During Saddam, there were many genocides that were committed and nobody dared to reveal them at that time and now officials of the former regime did not try to apologize," he said. "Bush's attempt to repair the damage is a good thing in my opinion."

Sen. Bill Nelson, D-Fla., told Fox News that accountability must be had, and that he hoped "this is just an isolated thing because this is really giving us difficulty in the Arab world. At the end of the day ... we want to be successful in stabilizing Iraq and this makes that difficult."

"We cannot sweep things like this under the rug and we won't sweep it under the rug," said Sen. Richard Shelby, R-Ala., adding that he hopes Bush's interviews will help the situation.

"The president has been up-front, he's been candid about most things that I know about during his presidency and if he continues this and he says 'look, we know there are problems here, we're gonna punish the wrongdoers, we don't want this,'" then anger over the ordeal may be quelled, Shelby said.

'There Will Be More Investigations'

Senior military officials braced for the investigations to widen.

"I expect that as these investigations track down all the possible leads that there will be more things that will need to be looked at very, very carefully," Gen. Peter Pace, vice chairman of the Joint Chiefs of Staff, said

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Wednesday.

Gen. Peter Schoomaker, the Army's chief of staff, told Fox News that the Army will take full responsibility for the military police's actions at the prison if need be.

"Quite frankly, in my years of service, I've never seen anything like this," Schoomaker said. "I'm as upset with it as anyone else would be because it does not represent the United States Army."

Rumsfeld called the images "totally unacceptable and un-American," adding that no one should believe the behavior captured in the photographs was tolerated.

"The actions by U.S. military personnel in those photos do not in any way represent the values of our country or of the armed forces," Rumsfeld continued.

Secretary of State Colin Powell, a former Army general, said he was shocked but that a "fairly small number of soldiers" were involved.

Powell said Wednesday that officials were in constant talks with Congress.

"We want to get all of the information out so that the American people know what happened ... and so that our friends in the Arab world knows we're a country of law and a country of justice," Powell said. "I would hope this would not cause anybody to hold back any support they might have provided" to the multinational force helping restore Iraq.

But some lawmakers think the problem is more a lack of adequate leadership.

"It shows significant problems ... a real lack of leadership that's very troubling," Sen. Kit Bond, R-Mo., told Fox News on Wednesday. "There were many failures up the line as well as outrageous actions by military police and perhaps military intelligence officers."

The Senate Intelligence Committee will hold a closed session on Wednesday to determine whether U.S. intelligence officers were involved.

The Associated Press contributed to this report.

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Published on Wednesday, May 5, 2004 by the Canadian Broadcasting Company

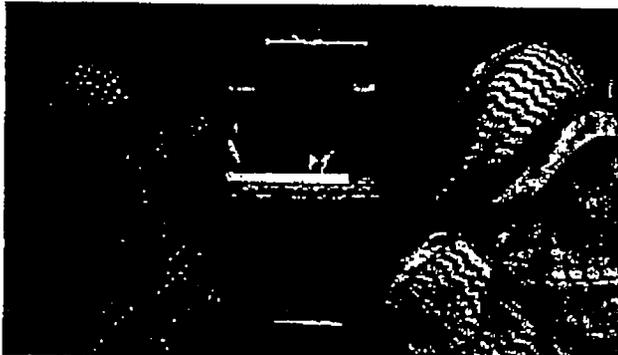
Bush Offers No Apology for Abuse of Iraqi Prisoners

WASHINGTON - U.S. President George W. Bush's appearance on two Arab-language TV channels to talk about the abuse of Iraqi prisoners brought mixed response in Baghdad Wednesday.

Bush vowed that those responsible for the "abhorrent" abuse of Iraqi prisoners will be "held to account" for their crimes.

Ayub Nuri of Global Radio News told CBC News that many Iraqis were skeptical of Bush's remarks.

"They don't believe what President Bush says," he said. "They don't believe that the soldiers will be punished."



NO APOLOGY
Palestinian watch on TV the interview with U.S. President George W. Bush in the West Bank city of Hebron May 5, 2004. REUTERS/Nayaf Hashlamoun

Sari Mouwaffaq, a mechanic, told the Associated Press that Bush's statements will "not restore the dignity which the tortured detainees lost. Bush's apology, or his attempt to find excuses, has no value to us."

But Raad Youssef, a teacher, said he appreciated Bush's statements.

"During Saddam, there were many genocides that were committed and nobody dared to reveal them at that time and now officials of the former regime did not try to apologize," he said.

"Bush's attempt to repair the damage is a good thing in my opinion."

Bush granted the brief interviews after the U.S. Army said criminal investigations were underway into the deaths of 14 prisoners in Iraq and Afghanistan, and into 10 other cases of abuse.

Washington has been reeling since photographs surfaced last week showing U.S. soldiers abusing and humiliating Iraqi prisoners at the Abu Ghraib prison in Baghdad. British officials are also investigating similar images.

Images will have 'terrible' effect on Iraqis: Bush

"People in Iraq must understand that I view those practices as abhorrent... they also must understand that what took place in that prison does not represent the America that I know," Bush said.

Bush conceded in one interview that the images will have a "terrible" effect on Iraqis

and that people in the region will use them to remind people of their dislike for the U.S.

Meanwhile, in Baghdad, anger over the abuse spilled into the streets on Wednesday.

Protesters gathered outside the prison chanting "democracy doesn't mean killing innocent people" and "America and Israel are the enemies of God."

The deaths of two Iraqi prisoners have already been ruled homicides.

Six military police are facing criminal charges and seven officers have been disciplined by the U.S. military.

In his interviews with the U.S.-sponsored al-Hurra television network and the Arab network al-Arabiya, Bush said the United States would hold itself up to the same standard of human rights it expects of others.

"There will be investigations, people will be brought to justice," he said.

Bush stopped short of specifically apologizing for the mistreatment of the prisoners. But U.S. national security adviser Condoleezza Rice told al-Arabiya that "we are deeply sorry for what happened to these people."

Bush also said he has full confidence in Defence Secretary Donald Rumsfeld and in the U.S. commanders on the ground in Iraq.

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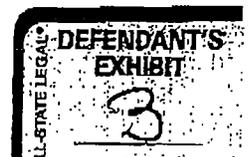
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■ May .05.2004 Bush Tries to Calm Arabs on Prison Abuse

Associated Press

President Bush tried to calm the anger of the Arab world over the abuse of prisoners in Iraq, promising that justice would be served. White House aides said he had chastised Defense Secretary Donald H. Rumsfeld for failing to tell him about pictures of prisoner mistreatment.

Bush's administration on Wednesday asked Congress for an additional \$25 billion for operations in Iraq and Afghanistan, while also dealing with the Army's acknowledgment that at least a dozen deaths at prisons and detention camps remained under scrutiny by criminal investigators.

The CIA's inspector general also was looking into three deaths that may have involved agency officers or contractors, intelligence officials said. It was unclear how many of these CIA investigations involved the same prison deaths as the military's investigators, although Army officials said at least one did.



In Iraq, the new general in charge of prisons there apologized for the mistreatment of detainees at Abu Ghraib prison, and troops launched a new offensive against the followers of a rebel cleric.

Rumsfeld was summoned by angry lawmakers to testify on Capitol Hill on Friday, while senators — Republicans and Democrats alike — discussed a resolution to condemn the abuses.

Bush went on Arab TV on Wednesday and said Americans were appalled by the abuse and deaths of Iraqi prisoners at the hands of U.S. soldiers. He promised that "justice will be delivered."

"The people in the Middle East must understand that this was horrible," Bush said. He appeared on two Arabic-language television networks to take control of the administration's damage-control efforts.

Bush said that what happened at Abu Ghraib prison was "more than an allegation, in this case, actual abuse — we saw the pictures. There will be a full investigation." He said he retained confidence in Rumsfeld.

However, White House aides said Bush let Rumsfeld know in recent days he was "not satisfied" with the way he was informed about the unfolding scandal. In particular, Bush was unhappy about learning of the pictures only when they were broadcast, and not before, said the aides, who spoke only on condition they not be identified by name.

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Rumsfeld himself did not know about the images of naked prisoners and gloating U.S. soldiers until CBS-TV broadcast them, a senior White House official said.

The Washington Post, in its Thursday editions, said it had obtained a new batch of more than 1,000 digital photos from Iraq. The newspaper said the photos ranged from snapshots depicting everyday military life to graphic images of what appeared to be a female soldier holding a leash that goes around a naked man's neck at Abu Ghraib prison. Friends and relatives of the soldier with the leash said the photo must have been staged, the Post said.

Six months before he stands for re-election, the prisoner-abuse controversy poses a major problem for Bush, already on the defensive about rising U.S. casualties and persistent violence in Iraq a year after he declared major combat operations completed.

Sen. John Kerry, Bush's Democratic rival, said the president's remarks Wednesday were not enough.

"The president of the United States needs to offer the world an explanation and needs to take appropriate responsibility," Kerry said. "And if that includes apologizing for the behavior of those soldiers and what happened, they ought to do that."

The difficulty of Bush's task Wednesday became clear in the first question from an Arab TV interviewer who said there was evidence of torture that made many Arabs believe the United States was no better than Saddam Hussein's government, notorious for torture and murder. The president murmured under his breath at the comparison.

Bush said the abuses were "terrible" for America's image abroad. "I think people in the Middle East who want to dislike America will use this as an excuse to remind people about their dislike," he told Al-Arabiya television, a satellite channel based in Dubai, United Arab Emirates, that is popular around the Arab world.

In Iraq, Maj. Gen. Geoffrey Miller, the new commander of U.S.-run prisons, apologized for the abuse of prisoners and said he would invite observers from the Red Cross and Iraqi government into Abu Ghraib prison.

"These are violations not only of our national policy but of how we conduct ourselves as members of the international community," Miller said.

Reaction in the region to Bush's remarks was generally skeptical.

"Bush's statements today will not restore the dignity which the tortured detainees lost," said Sari Mouwaffaq, a Baghdad mechanic. "Bush's apology, or his attempt to find excuses, has no value to us."

But Raed Youssef, a 49-year-old teacher in Baghdad, said that during Saddam's rule, "there were many genocides that were committed and nobody dared to reveal them at that time and now officials of the former regime did not try to apologize. Bush's attempt to repair the damage is a good thing in my opinion."

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Meanwhile, U.S.-led forces launched their biggest assault yet against militiamen loyal to radical Shiite cleric Muqtada al-Sadr, raiding hideouts in several cities Wednesday and clashing with gunmen in the world's biggest cemetery. At least 15 Iraqis and a U.S. soldier were killed.

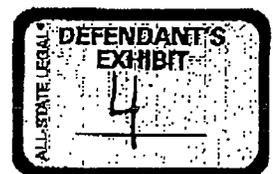
The Bush administration's \$25 billion request marks a retreat from the White House's earlier plans not to seek such money until after the November elections.

For months, administration officials had insisted they had enough money to last until the new year. This year's expected record federal deficit could be a significant issue in the election campaign.

Congress and Bush enacted an \$87.5 billion package in November for this year's U.S. operations in Iraq and Afghanistan. In April 2003, a \$79.5 billion measure was approved for that year's activities.

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For Immediate Release
Office of the Press Secretary
May 5, 2004

President Bush Meets with Al Arabiya Television on Wednesday
Interview of the President by Al Arabiya Television
The Map Room

10:33 A.M. EDT

Q Mr. President, thank you for giving us this chance here in Al Arabiya. Regarding the alleged abuse of Iraqi prisoners, six U.S. soldiers are being reprimanded. Do you think that's enough?

THE PRESIDENT: First, I want to tell the people of the Middle East that the practices that took place in that prison are abhorrent and they don't represent America. They represent the actions of a few people. Secondly, it's important for people to understand that in a democracy that there will be a full investigation. In other words, we want to know the truth.

In our country, when there's an allegation of abuse — more than an allegation in this case, actual abuse, we saw the pictures — there will be a full investigation and justice will be delivered. We have a presumption of innocent until you're guilty in our system, but the system will be transparent, it will be open and people will see the results. This is a serious matter. It's a matter that reflects badly on my country. Our citizens in America are appalled by what they saw, just like people in the Middle East are appalled. We share the same deep concerns. And we will find the truth, we will fully investigate. The world will see the investigation and justice will be served.

Q And you just — you've said this is reflected badly here, in the United States of America. How do you think this will be perceived in the Middle East?

THE PRESIDENT: Terrible. I think people in the Middle East who want to dislike America will use this as an excuse to remind people about their dislike. I think the average citizen will say, this isn't a country that I've been told about. We're a great country because we're a free country, and we do not tolerate these kind of abuses.

The people of the Middle East must be assured that we will investigate fully, that we will find out the truth. They will know the truth, just like the American citizens will know the truth, and justice will be served.

Secondly, it's very important for the people of the Middle East to realize that the troops we have overseas are decent, honorable citizens who care about freedom and peace; that are working daily in Iraq to improve the lives of the Iraqi citizens, and these actions of a few people do not reflect the nature of the men and women who serve our country.

Q After these pictures came out, some people in the area started talking about another alleged abuse. Could you tell us about what's being done to prevent this from happening and just to improve the situation?

THE PRESIDENT: Absolutely. I have told our Secretary of Defense, and I have instructed him to tell everybody else in the military, I want to know the full extent of the operations in Iraq, the prison operations. We want to make sure that if there is a systemic problem — in other words, if there's a problem system-wide — that we stop the practices.

Again, it's very important for people, your listeners, to understand, in our country that when an issue is brought to our attention on this magnitude, we act — and we act in a way where leaders are willing to discuss it with the media. And we act in a way where, you know, our Congress asks pointed questions to the leadership. In other words, people want to know the truth. That stands in contrast to dictatorships. A dictator wouldn't be answering

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questions about this. A dictator wouldn't be saying that the system will be investigated and the world will see the results of the investigation. A dictator wouldn't admit reforms needed to be done.

And so the people in the Middle East must understand that this was horrible. But we're dealing with it in a way that will bring confidence to not only our citizens, which is very important, but confidence to people of the world that this situation will be rectified and justice will be done.

Q We are going to Fallujah — the way the situation is being resolved, is being considered in some parts of Iraq as a defeat to U.S. How do you address that, or do you have anything to address —

THE PRESIDENT: Yes, of course. The strategy in Fallujah is to empower Iraqis to step up and take control of the security situation; that we're on our way to the transfer of sovereignty. And people who feel like that they can wreak havoc on innocent Iraqis will be brought to justice in Iraq, either by Iraqi citizens and/or by coalition forces.

And we're making progress. There are a few people there in Iraq that want to claim credit for any situation on the ground, but the people in Fallujah are tired of foreign fighters and radicals and extremists preventing them from living a normal life. And those who remain in Fallujah will be taken care of. And the Iraqi forces that have been stood up are now in the process of patrolling the streets and bringing law and order to the streets.

Q June the 30th is approaching. How do you think — still Mr. Sadr in defense with U.S., how do you think this person should be dealt with?

THE PRESIDENT: I think he ought to be dealt with by the Iraqi citizens who are getting tired of him occupying the holiest of holy sites. And we are very respectful for the holy sites in Iraq, we understand their importance to the Iraqi citizens. Mr. Sadr is occupying those sites as if they're his, and I think the Iraqi citizens are getting tired of that.

We will deal with his militias, as will the Iraqi forces deal with these militias. Militias are people who are willing to kill, intimidate and try to take matters into their own hands, which is not the way democracy functions. Free societies do not allow thugs to roam streets and hold people hostage to their whims. The Iraqis will deal with Mr. Sadr.

Q June the 30th, do you think your administration is really prepared right now to have a very, very nice day — in that day to give the power to Iraqis?

THE PRESIDENT: Absolutely we're prepared to do so. When we say we're going to do something, we're going to do it. As you know, the United Nations, the coalition, as well as Iraqi citizens are preparing the entity to which sovereignty will be passed. There will still be a lot of hard work to do, and we want to help.

The Iraqi citizens must understand America is not going to leave until the job is complete. We want to help Iraq. We've made a commitment. And the United States will keep that commitment because we believe in freedom and we believe the people of Iraq want to be free. We believe they want to raise their children in a peaceful world. We believe they want to educate their children in good schools. We want to — we believe they want to realize their own personal ambitions. If they're a businessman or a businesswoman, they want to build their own business in peace. That's what we believe.

And, therefore, we stand side-by-side with the people of Iraq who are peaceful. And there's a lot of peaceful people that look for a better day. I'm very proud of the brave Iraqis who've stood up, and I'm very proud of our own men and women in uniform who are helping Iraq to become free.

Q Mr. President, critics are saying that by your action in Iraq actually invited al Qaeda and other terrorists to do business with you over there. Could you address that?

THE PRESIDENT: Sure. Do you remember September the 11th, 2001? Al Qaeda attacked the United States. They killed thousands of our citizens. I will never forget what they have done to us. They declared war on us. And the United States will pursue them. And so long as I'm the President, we will be determined, steadfast, and strong as we pursue those people who kill innocent lives because they hate freedom.

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And, of course, al Qaeda looks for any excuse. But the truth of the matter is, they hate us, and they hate freedom, and they hate people who embrace freedom. And they're willing to kill innocent Iraqis because Iraqis are willing to be free. Iraqis are sick of foreign people coming in their country and trying to destabilize their country. And we will help them rid Iraq of these killers.

Q Mr. President, you went to Iraq as a part of your project in the Middle East, and flourish democracy over there. To which extent you are willing to go further to flourish a democracy? Are we going to see in the future more action against some other countries to flourish democracy over there, like Syria?

THE PRESIDENT: No, I think it's -- first of all, you've got to understand, sir, that military options are always my last option, not the first option, and that we can promote freedom without use of military. There are ways to stand with reformers and encourage reform and hold up examples of where societies are more stable and more free as a result of democracy and freedom.

Secondly, it's very important for the people of the Middle East to understand that freedom doesn't have to look like America. A free society doesn't have to look like an American society. Free societies will develop according to the cultures of the people in the regions and the Middle East. And reform and freedom take time. I understand that. It takes time for a free society to emerge. And so America can affect freedom in different kinds of ways.

But inherent in your question was, you know, am I anxious to use military power? Iraq was a unique situation because Saddam Hussein had constantly defied the world and had threatened his neighbors, had used weapons of mass destruction, had terrorist ties, had torture chambers inside his country, had mass graves. It was a very unique situation. And he was given a chance to meet the demands of the free world in a peaceful way, but he chose -- he chose war.

We can make progress with freedom and peace because I believe deep in the heart and soul of every human being is a desire to be free. And America will continue to speak to those aspirations.

Q My last question, Mr. President. You gave assurance to Sharon government. From Al Arabiya, in these last questions, what kind of assurance are you going to give to Palestinian today?

THE PRESIDENT: I stood up in front of the world and said that the Palestinian people ought to have their own state. I'm the first President to have ever said that. And my assurance is, is that I have not changed my vision of two states living side-by-side in peace. And that -- Prime Minister Sharon made a decision to withdraw from the Gaza and from settlements on the West Bank, which I thought was a very strong decision and an important decision, because it now gives us a chance to move in and to say to the Palestinians, here's your chance to build a state, to put the institutions in place for a state to emerge, that speaks to the aspirations and hopes of the Palestinian people, that is a peaceful state.

And we want to help. And that's why yesterday you saw a statement coming out of the Quartet, which is a part of the road map -- the road map process that says, let's work together to give the Palestinians hope. And my commitment to the Palestinian people is, when peaceful leaders emerge, when people are willing to fight off terror, they will have a great opportunity to see this state emerge. And America will help.

Q Mr. President, thank you so much for discussing. Enjoy your day. It's sunny, so I hope you have a good day.

THE PRESIDENT: Thank you, sir. It is a sunny day.

Q Thank you.

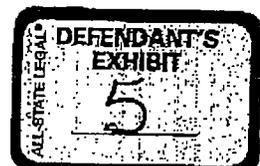
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Rumsfeld Testifies Before Senate Armed Services Committee

Advan

FDCH E-Media

Friday, May 7, 2004; 3:28 PM

U.S. Senate Armed Services Committee held a hearing on the treatment of Iraqi Prisoners Friday.

The transcript follows.

SPEAKERS:

- Sen. John W. Warner (R-Va.) Chairman
- Sen. John McCain (R-Ariz.)
- Sen. James M. Inhofe (R-Okla.)

- Sen. Pat Roberts (R-Kan.)
- Sen. Wayne Allard (R-Colo.)
- Sen. Jeff Sessions (R-Ala.)
- Sen. Susan M. Collins (R-Maine)
- Sen. John Ensign (R-Nev.)
- Sen. Jim Talent (R-Mo.)
- Sen. Saxby Chambliss (R-Ga.)
- Sen. Lindsey O. Graham (R-S.C.)

- Sen. Elizabeth Dole (R-N.C.)
- Sen. John Cornyn (R-Texas)
- Sen. Carl Levin (D-Mich.) Ranking Member
- Sen. Edward M. Kennedy (D-Mass.)
- Sen. Robert C. Byrd (D-W.Va.)
- Sen. Joseph I. Lieberman (D-Conn.)
- Sen. Jack Reed (D-R.I.)
- Sen. Daniel K. Akaka (D-Hawaii)
- Sen. Bill Nelson (D-Fla.)

Live Discussion

Transcript: Brig. Gen. Janis L. Karpinski, who oversaw Iraqi prisons at the time of the abuses, answered readers' questions.



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Inside Abu Ghraib Prison

Photo Gallery: Images obtained by The Post reveal more about treatment of prisoners at the Abu Ghraib prison.



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- [Prisons in Iraq, Afghanistan](#)
- [Army Investigation Report](#) (From GlobalSecurity.org)

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- [Pro-War Press Breaks With Bush](#) (washingtonpost.com, May 13, 2004)
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Sen. Ben Nelson (D-Neb.)
 Sen. Mark Dayton (D-Minn.)
 Sen. Evan Bayn (D-Ind.)
 Sen. Hillary Rodham Clinton (D-N.Y.)
 Sen. Mark Pryor (D-Ark.)
 Sen. Bill Frist (R-Tenn.), Senate Majority Leader

WITNESSES:

Donald H. Rumsfeld, U.S. Secretary of Defense
 Gen. Richard B. Myers, Chairman, Joint Chiefs of Staff
 Les Brownlee, Acting Secretary of the Army
 Gen. Peter J. Schoomaker, Chief of Staff, United States Army
 Lt. Gen. Lance L. Smith, Deputy Commander, United States Central Command
 Dr. Steve Cambone, Undersecretary of Defense for Intelligence

WARNER: Committee of the Armed Services meets today in the first of a series of hearings to receive testimony regarding the mistreatment of Iraqi prisoners by some -- I repeat some -- elements and certain personnel of the armed forces of the United States, in violation of U.S. and international laws.

Testifying before us today is the secretary of defense, the Honorable Donald Rumsfeld. He is joined by the chairman of the Joint Chiefs of Staff, General Richard Myers; Acting Secretary of the Army Les Brownlee; Army Chief of Staff General Peter Schoomaker; and Central Command Deputy Commander Lieutenant General Lance Smith.

We welcome each of you today.

I have had the privilege of being associated with and, more importantly, learning from the men and women of the armed forces for close to 60 years of my life, and the I can say that the facts that I now have from a number of sources represent to me as serious an issue of military misconduct as I have ever observed.

These reports could also seriously affect this country's relationships with other nations, the conduct of the war against terrorism, and place in jeopardy the men and women of the armed forces wherever they are serving in the world.

This mistreatment of prisoners represents an appalling and totally unacceptable breach of military regulations and conduct.

WARNER: Most significant, the replaying of these images day after day throughout the Middle East and indeed the world has the

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potential to undermine the substantial gains -- emphasize the substantial gains -- toward the goal of peace and freedom in various operation areas of the world, most particularly Iraq, and the substantial sacrifice by our forces, those of our allies, in the war on terror.

Let me be as clear as one senator can be: This is not the way for anyone who wears the uniform of the United States of America to conduct themselves.

This degree of breakdown in military leadership and discipline represents an extremely rare -- and I repeat, rare -- chapter in the otherwise proud history of the armed forces of the United States.

It defies common sense. It contradicts all the values we Americans learned beginning in our homes.

Members of the committee, as we conduct this hearing, I urge you that we take every care that our actions, our words, our individual and collective conduct in this hearing not reflect unfairly on the 99.9 percent of our uniformed personnel who are performing remarkable tasks and in some cases making the ultimate sacrifice of life and limb to win the war on terror.

Each of us on the committee has nothing but the strongest support for our brave men and women in uniform and their families. And what we seek through this and following hearings is to find out for the American people is only to strengthen and honor their efforts, not in any way to detract from them and their accomplishments.

WARNER: I'd point out that while some systems have failed, we are here today because of a courageous enlisted man and his lieutenant, whose values, American values, compelled them to step forward and inform their superiors. They did the right thing. And as this committee performs its constitutional duties and hearings and oversight, we are working in the same spirit as those two soldiers.

The questions before us today are who knew what and when? What did they do about it? And why were members of Congress not properly and adequately informed?

In my 25 years on this committee, I've received hundreds of calls day and night from top -- all levels -- top and all levels, uniformed and civilian, in the Department of Defense when they in their judgment felt it was necessary. And I dare say other members on this committee have experienced the same courtesy.

I did not receive such a call in this case. And yet I think the situation

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was absolutely clear and required it, not only to me but my distinguished ranking member and other members of this committee.

Members of the committee, our central task here today is to get all the facts in this difficult situation no matter where they lead, no matter how embarrassing they may be, so that we can assess our response and in the end make sure that such dereliction of duty as is in this case never, never happens again in the proud history of our country.

WARNER: Senator Levin?

LEVIN: Thank you, Mr. Chairman.

The abuses that were committed against prisoners in U.S. custody at the Abu Ghraib prison in Iraq dishonored our military and our nation and they made the prospects for success in Iraq even more difficult than they already are.

Our troops are less secure and our nation is less secure because these depraved and despicable actions will fuel the hatred and the fury of those who oppose us.

General Taguba's investigation, as reported, paints an alarming picture of abuse and humiliation of Iraqi prisoners. It has enraged people here at home and throughout the civilized world.

Humiliating and sexually abusing prisoners has nothing to do with the effective internment or interrogation of prisoners. In fact, such actions are counterproductive to those goals.

As we seek to bring stability and democracy to Iraq and to fight terrorism globally, our greatest asset as a nation is the moral values that we stand for. Those values have been compromised.

To begin the process of restoring them, the people involved who carried out or who authorized or suggested that we should, quote, "loosen prisoners up" or, quote, "make sure they get the treatment," must be held accountable.

So must anyone up the chain of command be held accountable who had command responsibility over the interrogation and security of prisoners and who knew or should have known of these abuses and looked the other way.

LEVIN: General Taguba's finding that, quote, "Personnel assigned to the 372nd M.P. Company were directed to change facility procedures to set the conditions for military intelligence interrogations." is bolstered by pictures that suggest that the sadistic abuse was part of

*who is going to come forward
and admit everything*

*

an organized and conscious process of intelligence gathering.

 In other words, those abusive actions do not appear to be aberrant conduct by individuals, but part of a conscious method of extracting information.

If true, the planners of this process are at least as guilty as those who carried out the abuses.

 The president's legal counsel, Alberto Gonzales, reportedly wrote in a memorandum that the decision to avoid invoking the Geneva Conventions, quote, "preserves flexibility in the war on terrorism."

Belittling or ignoring the Geneva Conventions invites our enemies to do the same and increases the danger to our military service men and women. It also sends a disturbing message to the world that America does not feel bound by internationally accepted standards of conduct.

 The findings of General Taguba's report, as reported on a public Web site, raise a number of disturbing issues. For example, how far up the chain was there implicit or explicit direction or approval or knowledge of these prisoner abuses? Why was a joint interrogation and detention facility at Abu Ghraib established in a way which led to the subordination of the military police brigade to the military intelligence unit conducting interrogation activities?

LEVIN: What was the role played by the military intelligence, the CIA and any other intelligence units in requesting or suggesting abusive activities?

 And how is it in our nation's interest to have civilian contractors, rather than military personnel, performing vital national security functions, such as prisoner interrogations, in a war zone? When soldiers break the law, or fail to follow orders, commanders can hold them accountable for their misconduct. Military commanders don't have the same authority over civilian contractors.

 And finally, Secretary Rumsfeld and General Myers, I join our chairman in expressing deep dismay that when you briefed senators in a classified session last week on events in Iraq, just hours before the story broke on television, you made no reference to the impending revelations. Executive branch consultation with Congress is not supposed to be an option but a long-standing and fundamental responsibility.

It is essential that our nation at the highest levels apologize directly to the victims and to the Iraqi people as a whole for these actions. But words alone are not sufficient. Prompt and decisive action, which establish responsibility and holds people accountable,

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is essential here. It will also, hopefully, convince the world that our free and open society does not condone and will not tolerate this depraved behavior.

WARNER: I'll ask our witnesses to rise.

Do each of you solemnly swear that the testimony that you are about to give to the Committee on the Armed Services Committee of the United States will be the truth, the whole truth and nothing but the truth, so help you God?

RUMSFELD: I do.

MYERS: I do.

BROWNLEE: I do.

SCHOOMAKER: I do.

SMITH: I do.

WARNER: The complete statements of all witnesses will be placed into the record. The committee will now receive the opening remarks of the secretary, followed by the chairman of the joint chiefs. And I'm not certain if others desire some recognition for opening remarks. If so, indicate to the chair, and then we'll go into a six-minute round of questions by each member.

Mr. Secretary?

RUMSFELD: Mr. Chairman, members of the committee, in recent days there has been a good deal of discussion about who bears responsibility for the terrible activities that took place at Abu Ghraib. These events occurred on my watch. As secretary of defense, I am accountable for them and I take full responsibility.

It's my obligation to evaluate what happened, to make sure that those who have committed wrong-doing are brought to justice, and to make changes as needed to see that it doesn't happen again.

I feel terrible about what happened to these Iraqi detainees. They are human beings. They were in U.S. custody. Our country had an obligation to treat them right. We didn't, and that was wrong.

So to those Iraqis who were mistreated by members of the U.S. armed forces, I offer my deepest apology. It was inconsistent with the values of our nation. It was inconsistent with the teachings of the military, to the men and women of the armed forces. And it was certainly fundamentally un-American.

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Further, I deeply regret the damage that has been done. First to the reputation of the honorable men and women of the armed forces, who are courageously and responsibly and professionally defending our freedoms across the globe.

RUMSFELD: They are truly wonderful human beings. And their families and their loved ones can be enormously proud of them.

Second to the president, the Congress and the American, I wish I had been able to convey to them the gravity of this before we saw it in the media.

And finally to the reputation of our country.

The photographic depictions of the U.S. military personnel that the public has seen have offended and outraged everyone in the Department of Defense. If you could have seen the anguished expressions on the faces of those in our department upon seeing those photos, you would know how we feel today.

It's important for the American people and the world to know that while these terrible acts were perpetrated by a small number of U.S. military, they were also brought to light by the honorable and responsible actions of other military personnel.

There are many who did their duty professionally and we should mention that as well. First, Specialist Joseph Darby, who alerted the appropriate authorities that abuses were occurring. Second, those in the military chain of command who acted promptly on learning of those abuses by initiating a series of investigations, criminal and administrative, to assure that abuses were stopped and the responsible chain of command was relieved and replaced.

Having said that, all the facts that may be of interest are not yet in hand. In addition to the Taguba report, there are other investigations under way and we'll be discussing those today. And because all the facts are not in hand, there will be corrections and clarifications to the record as more information is learned.

From the witnesses, you will be told the sequence of events and investigations that have taken place since the activities first came to light. I want to inform you of the measures under way to improve our performance in the future.

RUMSFELD: Before I do that, let me say that each of us at this table is either in the chain of command or has senior responsibilities in the Department of Defense. This means that anything we say publicly could have an impact on the legal proceedings against those accused

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of wrongdoing in this matter.

So please understand that if some of our responses to questions are measured, it is to assure that pending cases are not jeopardized by seeming to exert command influence and that the rights of any accused are protected.

Now let me tell you the measures we're taking to deal with this issue.

First, to ensure we have a handle on the scope of this catastrophe, I will be announcing today the appointment of several senior former officials who are being asked to examine the pace, the breadth, the thoroughness of the existing investigations and to determine whether additional investigations or studies need to be initiated. They're being asked to report their findings within 45 days of taking up their duties.

I'm confident that these distinguished individuals will provide a full and fair assessment of what has been done thus far and recommend whether further steps may be necessary.

Second, we need to review our habits and our procedures.

One of the things we've tried to do in the department since September 11th is to try to get the department to adjust our procedures and processes to reflect that we're in a time of war, and that we're in the information age. For the past three years we've looked for areas where adjustments were needed, and we've made a great many adjustments. And regrettably we've now found another area where adjustments may be needed.

Let me be clear: I failed to recognize how important it was to elevate a matter of such gravity to the highest levels, including the president and the members of Congress.

Third, I'm seeking a way to provide appropriate compensation to those detainees who suffered such grievous and brutal abuse and cruelty at the hands of a few members of the United States armed forces.

RUMSFELD: It's the right thing to do.

I wish we had known more sooner and been able to tell you more sooner, but we didn't.

Today we'll have a full discussion of these terrible acts, but first let's take a step back for a moment. Within the constraints imposed on those of us in the chain of command, I have a few additional words.

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PROTESTER: What about the other abuses in Iraq?

(CROSSTALK)

WARNER: We'll remain seated for a brief period and suspend the hearing. I ask all persons...

(PROTESTERS SHOUTING)

PROTESTER: Fire Rumsfeld! Fire Rumsfeld! Fire Rumsfeld!

WARNER: Committee will resume the hearing.

Mr. Secretary?

RUMSFELD: First, beyond abuse of prisoners, there are other photos that depict incidents of physical violence toward prisoners, acts that can only be described as blatantly sadistic, cruel and inhuman.

RUMSFELD: Second, there are many more photographs, and indeed some videos. Congress and the American people and the rest of the world need to know this.

In addition, the photos give these incidents a vividness, indeed a horror, in the eyes of the world.

Mr. Chairman, that's why this hearing today is important. It's why the actions we take in the days and weeks ahead are so important.

However, terrible the setback, this is also an occasion to demonstrate to the world the difference between those who believe in democracy and in human rights, and those who believe in rule by terrorist code.

We value human life. We believe in individual freedom and in the rule of law. For those beliefs, we send men and women of the armed forces abroad to protect that right for our own people and to give others who aren't Americans the hope of a future of freedom.

Part of that mission, part of what we believe in, is making sure that when wrongdoings or scandal do occur, that they're not covered up, but they're exposed, they're investigated, and the guilty are brought to justice.

Mr. Chairman, I know you join me today in saying to the world, judge us by our actions, watch how Americans, watch how a democracy deals with the wrongdoing and with scandal and the pain of acknowledging and correcting our own mistakes and our own

weaknesses.

And then, after they have seen America in action, then ask those who teach resentment and hatred of America if our behavior doesn't give a lie to the falsehood and the slander they speak about our people and about our way of life. Ask them if the resolve of Americans in crisis and difficulty, and, yes, in the heartbreak of acknowledging the evil in our midst, doesn't have meaning far beyond their hatred.

RUMSFELD: Above all, ask them if the willingness of Americans to acknowledge their own failures before humanity doesn't light the world as surely as the great ideas and beliefs that made this nation a beacon of hope and liberty for all who strive to be free.

We know what the terrorists will do; we know they will try to exploit all that is bad, and try to obscure all that is good. That's their nature. And that's the nature of those who think they can kill innocent men, women and children to gratify their own cruel wills to power.

We say to the world, we will strive to do our best, as imperfect as it may be.

Thank you, Mr. Chairman.

WARNER: Thank you, Mr. Secretary.

You and I have had the privilege to know each other for many, many years. We've enjoyed a close working relationship. I want to say I found that statement to be strong and in every sense heartfelt by you.

RUMSFELD: Thank you.

WARNER: General Myers?

MYERS: Mr. Chairman and Senator Levin, I would like to express my deep regret at being here under these circumstances.

The incidents of prisoner abuse that occurred at Abu Ghraib prison are absolutely appalling. The actions of those involved are unconscionable and absolutely unacceptable.

Since Brigadier General Kimmitt's public announcement of the allegations back in January, the commanders' response to the problems highlighted in these investigations has been timely and thorough.

And just as a backdrop, we must also realize that our commanders

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had been handling some enormous challenges in Iraq, including the fighting that had intensified in Fallujah and Najaf, the temporary plus-up of troops, which was a decision that was pending, and the departure of the Spanish brigade. All at the same time that they're dealing with some of these reports.

And despite these extraordinary events, our commanders did exactly the right thing in a timely manner. I have great confidence in them, as should the American public and the citizens of Iraq.

I've been receiving regular updates since the situation developed in January and have been involved in corrective actions and personally recommended specific steps. Again, I'm confident that the commanders are doing the right things.

One of the military's greatest strengths comes from the fact that we hold our service men and women accountable for their actions. Our military justice system works very well.

I took an oath to support the Constitution and with that comes the responsibility to ensure that all military members enjoy the full protections of our Constitution, to include the due process of a fair, judicial system. After all, it's respect for the rule of law that we're trying to teach and instill in places like Afghanistan and Iraq.

So like the secretary said, we are now in the middle of a judicial process regarding detainee abuse. And because of my position, I have to be careful I don't say anything that can be interpreted as direction or pressure for a certain outcome in any of these cases.

Moreover, we have to understand that a fair judicial system takes time to work. I know you all understand that. So no one is stalling or covering up information, but it's absolutely essential to protect the integrity of our judicial system.

I have complete confidence in our military justice system. The accused will receive due process. Those found guilty will face punishments based on their offenses.

When I spoke to Dan Rather, with whom I already had a professional association, concerning the "60 Minutes" story, I did so after talking to General Abizaid. And I did so out of concern for the lives of our troops.

MYERS: The story about the abuse was already public, but we were concerned that broadcasting the actual pictures would further inflame the tense situation that existed then in Iraq and further endanger the lives of coalition soldiers and hostages.

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Again, it's useful to remember the context here. We were in the midst of some very heavy fighting in Fallujah and other places in Iraq. Some 90 hostages had been taken. It was a very delicate situation that we were trying to resolve.

Since the story of the photographs was already public, I felt we were on good ground on asking him to hold off airing the actual photos. As we are now seeing, the photos are having a very real, very emotional worldwide impact.

And I would identify myself with the secretary's remarks on having seen more of them than I wish to have seen about the impact that it has on me.

The situation is nothing less than tragic. The Iraqi people are trying to build a free and open society and I regret they saw such a fragrant violation of the very principles that are the cornerstone of such a society.

I'm also terribly saddened at the hundreds of thousands of service men and women who are serving or who have served so honorably in Iraq and Afghanistan and elsewhere, what have their reputation tarnished and their accomplishments diminished by those few who don't uphold our military's values. I know our service men and women are all suffering unfairly with a collective sense of shame over what has happened.

Their credibility will be restored, day by day, as they interact with the Iraqi people. And I'm confident that our dedicated service men and women will continue to prove worth of the trust and respect of our nation and of the world.

We continue to be very proud of them. As always, I thank you on their behalf for your steadfast support. Thank you.

WARNER: Thank you, General. Good statement, General.

Secretary Brownlee, do you wish to...

BROWNLEE: At this point, no.

WARNER: You defer to General Smith?

RUMSFELD: Lance Smith, yes.

WARNER: Thank you.

SMITH: Senator Warner, Senator Levin, members of the committee, I wish to start by thanking you for the opportunity to testify before

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this committee concerning the mistreatment of Iraqi detainees.

The more than 250,000 soldiers, sailors, airmen and Marines who have served in the CENTCOM area of responsibility over the past year have faced numerous challenges in prosecuting the global war on terror and Operations Iraqi Freedom and Enduring Freedom.

Throughout these operations, they have worked to better the lives of the people of Afghanistan and Iraq, to bring progress and stability to these countries.

Their efforts, however, have been put at risk by the reprehensible actions of a few. These few have acted in a manner that is inconsistent with the proud history of the American soldier. There is no excuse for their actions, nor do I offer one.

Their unprofessional and malicious conduct has caused considerable harm to our attempts to win the trust and confidence of the Iraqi people. Unfortunately, it has also facilitated the efforts of our enemy to malign our national intent and character, and gives weight to the charge of American hypocrisy.

When the allegations of abuse and improper conduct of U.S. forces against legally detained Iraqis were brought to light by a soldier on 13 January, 2004, our leadership in Iraq prudently informed us of what they knew and immediately initiated a criminal investigation.

That investigation has resulted in profferal of charges against six service members, three of which have thus been referred to court martial, and we are still investigating further allegations of criminal misconduct.

At the request of the CJTF-7 commander, on 24 January, U.S. CENTCOM directed the conduct of a broader administrative investigation, now known as the Taguba report, with a mandate to make a comprehensive examination of our detainee operations in Iraq in order to detect any systemic problems, and if problems were identified to take necessary steps to rectify the situation and hold accountable all those responsible who failed in their duties.

SMITH: That investigation is near completion, and we have already made significant progress in implementing its recommendations, though we have more ahead of us.

Information flow up and down the chain of command was timely and will continue to be. Commanders regularly briefed their superiors as these investigations progressed.

The first public release of information on the CID investigation

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happened in January and was reported by the media. The interim results of the Taguba report were briefed to me in late March as the investigation made its way through command channels en route to approval by the command force land component commander on 6 April and formal adverse administrative action by the JTF commander on 1 May. The investigation is ongoing.

Some have asked why it took so long for the allegations to make it up the chain of command. One needs to look at this as a legal proceeding. Once the allegations were made, the investigation was initiated immediately. Evidence was gathered, people were questioned, and a number were removed from their posts.

As with any prosecution, materials and evidence were kept within the investigatory chain for obvious reasons: to maintain confidentiality, to protect individual rights, and to allow the investigation to proceed without danger of exposure to those being investigated.

The actions in the chain of command in Iraq in conducting the investigations connected with detainee abuse or mistreatment have been swift, circumspect and proper. They have carefully uncovered facts, analyzed evidence and gauged the context of the situation, all the while under the stress of ongoing combat operations and ever mindful of protecting the rights of the accused.

Commanders are taking action both to ensure justice is done and to ensure that this kind of deplorable conduct is never repeated.

SMITH: With regards to the question whether this abuse is systemic, the investigations under way should better inform us of that. At this point we don't know and that's part of what we're trying to determine by conducting investigations. When we have answers, we will provide them.

The Taguba report, in fact, highlights three units for praise for the performance of military detention duties. That is a hopeful sign that these abuses are not widespread, and I don't believe they are.

The vast majority of coalition and U.S. forces have shown great humanity and restraint in this, and have acted with courage and compassion.

The situation at Abu Ghraib is not representative of the conduct of U.S. and coalition forces. It is a distasteful and criminal aberration, and will absolutely not be tolerated.

We deeply regret that these egregious actions occurred, and we are taking the necessary steps to preclude similar incidents in the future.

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Thank you, Mr. Chairman.

WARNER: Thank you, General.

Secretary Brownlee, we need to move on, but we certainly recognize that you might have a few opening remarks.

BROWNLEE: OK, sir.

WARNER: Thank you.

BROWNLEE: Chairman Warner, Senator Levin and distinguished members of the committee, I appreciate the opportunity to be here today, to offer testimony on actions taken by the Army in response to the appalling abuse of detainees at Abu Ghraib prison in Iraq. I join the secretary of Defense in apologizing to those detainees who were abused there.

Let me begin by outlining the range of investigation into detainee abuse.

From December 2002 to present, the Criminal Investigation Command has conducted, or is continuing to conduct, investigations into 35 cases of abuse or death of detainees held in detention facilities in the Central Command theater. Twenty-five of these are death cases, and 10 involve assault.

The CID investigates every death in our custody.

BROWNLEE: Of the 25 death investigations, the CID has determined that 12 deaths were due to natural or undetermined causes, one was justifiable homicide and two were homicides. The 10 remaining deaths are still under investigation.

Additionally, 42 other potential cases of misconduct against civilians occurred outside detention facilities and are currently under investigation by the Army's CID or by the responsible units.

On 10 February 2004, I directed the inspector general of the Army to conduct a functional analysis of the department's internment, enemy prisoner of war and detention policies, practices and procedures. I directed this inspection to determine if there might be systemic problems relating to the planning, doctrine or training in the detention facilities operating within the Central Command theater.

Phase one of this assessment is oriented on current operations in the Central Command area of responsibility, with assessment team visits to 16 detention facilities.

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Phase two of the J.G. assessment will encompass visits to defense facilities worldwide, including previously visited facilities, to ensure compliance to established standards.

Preliminary findings indicate that leaders and soldiers are aware of the requirement and expectation to treat detainees humanely, and that it is their duty to report incidents of abuse.

To date the majority of the abuse cases indicate the underlying cause has been two-fold: an individual failure to adhere to basic standards of discipline, training and Army values, and leadership failures to provide oversight and enforce standards.

To date the Army has taken numerous actions to improve the training for military police and military intelligence soldiers. The Army is retraining select M.P. soldiers to serve as correctional specialists. We have incorporated detainee lessons learned from operations in both Iraq and Afghanistan into the M.P. school curriculum, and have deployed military police training teams to our combat training centers.

BROWNLEE: In response to a request from the CJTF-7 commander, the Army deployed integrated, multi-disciplined, mobile training teams to oversee and conduct comprehensive training in all aspects of detainee and confinement operations in-theater.

Additionally, the chief of the Army Reserve has directed his inspector general to conduct a special assessment of training for reserve personnel on the law of war, detainee treatment, ethics and leadership. All reserve component M.I. soldiers are now required to mobilize at the intelligence school at Fort Huachuca so they can receive the latest instruction on tactical questioning before deploying.

Finally, the Army is improving the training of military police and military intelligence personnel at our combat training centers by incorporating detainee holding situations into the tactical scenarios. These improvements were initiated for the later-deploying OIF or Iraqi Freedom II units and will be fully implemented for all OIF III deploying units.

The reported acts of detainee abuse at Abu Ghraib are tragic and disappointing and they stand in sharp contrast to the values of our Army and the nation it serves. Were these incidents to reflect negatively on the courage, sacrifice and selfless service of the hundreds of thousands of dedicated men and women who have volunteered to serve our nation in uniform would be a tragedy as well.

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Our soldiers, over 300,000 of whom are deployed in over 120 countries around the world, most in Iraq and Afghanistan, have provided the opportunity for freedom and democracy for over 46 million people who have never experienced it before, while at the same time providing protection to the American people.

Mr. Chairman, we will find out how and why this happened and ensure that those individuals determined to be responsible for these shameful and illegal acts of abuse are held accountable for their actions.

BROWNLEE: I appreciate this opportunity to appear before you today. I thank you and the members of this distinguished committee for your continuing support of the men and women in our Army, and I look forward to answering your questions.

WARNER: Secretary Brownlee, your statement is very helpful and a significant contribution to this hearing.

General Schoomaker?

SCHOOMAKER: Chairman Warner, Senator Levin, distinguished members of the committee, I'll be brief. As the chief of staff of the Army, I am responsible for the training and equipping of our soldiers and growing our Army leaders.

I am also responsible for providing ready and relevant land power capabilities to the combatant commanders and the joint team.

Though not in the operational chain of command, I am responsible for our soldiers' training and readiness. Therefore I take it personally when any of them falls short of our standards.

To put it in perspective, what we are dealing with are actions of a few, as has been pointed out. These are conscious actions that are contrary to all that we stand for. This is not a training issue, but one of character and values.

Our Army values of loyalty, duty, respect, selfless service, honor, integrity and personal courage are taught to our soldiers from the moment that they enter the training base.

There's no question that the potential consequences are serious. But we must not forget that these are a few among a great many others who are serving with great honor and sacrifice, as has been pointed out.

We must be careful how we proceed, as it will affect the morale and

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safety of the great majority of our soldiers who are meeting the standards and are daily placing themselves in harm's way. I promise you they, too, take this personally.

SCHOOMAKER: I am reminded that in the report by Major General Taguba, he spoke of several soldiers in units who were challenged by the same set of demanding circumstances at the same place, and they did what was right. The inexcusable behavior of a few is not representative of the courageous and compassionate performance of the overwhelming majority of our soldiers who served with pride and honor.

We are currently undergoing an extensive investigation of every allegation. The system works, and will result in fairness and justice. We will also learn and adapt.

Our Army has already taken corrective actions. Our soldiers are performing with distinction and I am proud of them all. We owe them our confidence.

Our Army is taking this very seriously and will meet the standards that our nation expects as we have for 229 years.

Thank you.

WARNER: Thank you, General.

That statement on leadership reflects your own strong record of leadership. And we're fortunate to have you at the helm of the United States Army today.

We'll proceed with questions now. And colleagues, recognizing that the full committee almost, less one, is present, today we'll have to cut the time to five minutes.

Mr. Secretary, I was particularly impressed by your phrase, "We're going to watch American democracy in action, as the president and all others address this problem swiftly in accordance with the rule of law and American values."

In the meantime, however, it's obvious to all of us that the impact of the facts of this case, as they're unfolding, are affecting our relationship with other nations, our foreign policy. So I ask you, what is that impact, as best you can assess it today?

WARNER: And secondly, will this impact of this situation affect in any way the transition that I and others support to take place on June 30th?

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And will it have any impact on other nations in the coalition to consider their continued participation at this time and the chances of adding additional nations?

And lastly, does it have any impact on the force levels that you anticipate, together with your on-scene commanders of CENTCOM, in the near future?

RUMSFELD: Mr. Chairman, those are tough questions. I'm afraid no one has the ability to know precisely what will unfold.

We have seen no shift in coalition countries, in answer to your first question.

About future coalition countries, I think the key determinative there is whether or not we are successful in getting an additional U.N. resolution, in which case I think we will get additional countries to participate.

It certainly will not have any effect on the determination to have sovereign responsibility assumed by Iraqis by June 30.

And I would just say one other thing. We have been enormously disadvantaged by false allegations and lies for the better part of a year -- and indeed before that with respect to Afghanistan -- by terrorists and terrorist organizations alleging things that weren't true. So we have taken a beating in the world for things we were not doing that were alleged to be done, and now we're taking a beating, understandably, for things that did in fact happen.

WARNER: Thank you, sir.

MYERS: Mr. Chairman, if I could just add, I just returned from a NATO military committee meeting, and had the chance to talk to several of the countries that have major military units inside Iraq. They were very strong in every case about seeing this through and seemed undeterred by any of the recent events. They were looking forward, and we were talking about the future, and about their steadfastness in seeing this mission through.

WARNER: General, I direct my next question to you.

The Department of the Army has been in the forefront to come back and make the early response, as understandable, to this situation. But nevertheless, CENTCOM, as we all know, composed by officers -- men, women, of all branches of the services.

I would anticipate that you have consulted with your colleagues, not only on the Joint Chiefs but particularly in CENTCOM. And you are

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making, or have made and will continue to make, an assessment as to the possible increase to the men and women -- the personal increase to the men and women of the armed forces, most particularly in Iraq and perhaps elsewhere in the world, as this story continues to affect very deeply the thinking and actions of others.

MYERS: Mr. Chairman, absolutely, we will.

And we should not underestimate that impact. It was that impact of the pictures, given that the report was already reported -- given there was a report of pictures, but the actual pictures, possibly coming out on a news program that prompted my call to try to delay that, because I thought those pictures at that particular time would have a particularly bad affect on our troops, perhaps resulting in death to our forces.

MYERS: I think we have a lot of troops in Iraq right now, after talking to General Smith and others, that are probably walking with - - I mean, they're involved in combat, but they're walking with their head just a little bit lower right now, because they have to bear the brunt of what their colleagues up in Abu Ghraib did. And it's going to take, as General Schoomaker said, good leadership and everything else we can do to get them back up on the step, because they are engaged in some very, very important work.

I continue to think that the way we will -- as I said in my statement -- the way we'll win their trust will be soldier by soldier, patrol by patrol, like we're winning the war over there. And we're just going to have to stay at it.

WARNER: My time has expired.

Senator Levin?

LEVIN: Thank you, Mr. Chairman.

Secretary Rumsfeld, I was struck upon seeing one of the photographs from the prison, depicting three naked prisoners in a lump on the floor being overseen by a number of soldiers, while other soldiers in the cell block were assisting, or were going about their business without any apparent interest in or concern about the obvious abusive treatment, that the conduct that we were witnessing and watching was not aberrant conduct of a few individuals, but was part of an organized and conscious process to extract information.

This picture reinforces the Taguba report, which quotes Sergeant Davis as saying that he witnessed prisoners in the military intelligence hold section, Wing 1-A, being made to do various things that I would question morally.

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LEVIN: And he quoted the military intelligence folks as saying that "Loosen a guy up for us," "Make sure he has a bad night," "Make sure he gets the treatment," and that the wing belonged to the military intelligence and it appeared that military intelligence personnel approved of the abuses.

Now, in the Taguba report itself, General Taguba says the following, and this is his finding: "that military intelligence interrogators and other U.S. government agency interrogators" -- which I assume includes CIA -- "actively requested that M.P. guards set physical and mental conditions for favorable interrogation of witnesses," and that personnel assigned to the M.P. company and brigade were, quote, "directed to change facility procedures to set the conditions for military intelligence interrogations."

My question to you is: What were those changes that were made, and whether or not they were -- it was proper to make changes of the kind that General Taguba refers to?

RUMSFELD: The conclusions you seem to have drawn in your question, Senator Levin, are issues that I believe are probably all being addressed in an investigation that was initiated last month -- and I believe it's called the Fay.

Possibly you, General Smith, have been involved in this and would want to comment.

SMITH: Sir, there has been an investigation that was initiated in mid-April by Major General Fay. And it is to look into exactly those allegations as a result.

LEVIN: Secretary Rumsfeld, would you agree that people who authorized or suggested or prompted the conduct depicted in the pictures that we've seen as well, as those who carried out those abuses, must be held accountable? That anybody who authorized, knew about, prompted, suggested in the intelligence community or otherwise, that conduct must be held accountable? That's my very direct question to you.

RUMSFELD: The pictures I've seen depict conduct, behavior that is so brutal and so cruel and so inhumane that anyone engaged in it or involved in it would have to be brought to justice.

LEVIN: Would that include anybody who suggested it, prompted it, hinted at it, directly or indirectly? I just want to know how far up this chain you're going to go. Are you going to limit this to people who perpetrated it? Or are we going to get to the people who may have suggested it or...

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RUMSFELD: That is exactly why the investigation was initiated, that is why it's being brought forward, and we'll find what their conclusions are. And I'm sure they will make recommendations with respect to prosecutions.

LEVIN: But in terms of the standard, does anybody who recommended or suggested, directly or indirectly, that conduct in order to extract information, are they also in your judgment, if that occurred, violative of our laws and standards?

RUMSFELD: Certainly anyone who recommended the kind of behavior that I have seen depicted in those photos needs to be brought to justice.

WARNER: Thank you, Senator.

LEVIN: My time is up. Thank you.

WARNER: Senator McCain?

MCCAIN: Thank you, Mr. Secretary.

I come to this hearing with a deep sense of sorrow and grave concern. Sorrow for -- after the shock and anger of seeing these pictures for the first time, that so many brave young Americans who are fighting and dying are under this cloud.

I attended the memorial service of Pat Tillman, a brave American who sacrificed his life recently, and he and others, unfortunately, at least in some way are diminished by this scandal.

I'm gravely concerned that many Americans will have the same impulse as I did when I saw this picture, and that's to turn away from them. And we risk losing public support for this conflict. As Americans turned away from the Vietnam War, they may turn away from this one unless this issue is quickly resolved with full disclosure immediately.

With all due respect to investigations ongoing and panels being appointed, the American people deserve immediate and full disclosure of all relevant information so that we can be assured and comforted that something that we never believed could happen will never happen again.

Now, Mr. Secretary, I'd like to know -- I'd like you to give the committee the chain of command from the guards to you, all the way up the chain of command. I'd like to know...

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RUMSFELD: I think General Myers brought an indication of it, and we'll show it.

MCCAIN: Thank you.

I'd like to know who was in charge of the -- what agencies or private contractors were in charge of interrogations? Did they have authority over the guards? And what were their instructions to the guards?

RUMSFELD: First, with respect to the...

SMITH: We did not bring it.

RUMSFELD: Oh, my.

SMITH: Yes, oh, my is right.

RUMSFELD: It was all prepared.

SMITH: Yes, it was, indeed.

RUMSFELD: Do you want to walk through it?

MCCAIN: Anyway, who was in charge? What agency or private contractor was in charge of the interrogations? Did they have authority over the guards? And what were the instructions that they gave to the guards?

SMITH: I'll walk through the chain of command and...

MCCAIN: No. Let's just -- you can submit the chain of command, please.

WARNER: General Smith, do you want to respond?

MCCAIN: No. Secretary Rumsfeld, in all due respect, you've got to answer this question. And it could be satisfied with a phone call. This is a pretty simple, straightforward question: Who was in charge of the interrogations? What agencies or private contractors were in charge of the interrogations? Did they have authority over the guards? And what were the instructions to the guards?

This goes to the heart of this matter.

RUMSFELD: It does indeed.

As I understand it, there were two contractor organizations. They supplied interrogators and linguists. And I was advised by General

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Smith that there were maybe a total of 40.

MCCAIN: Now, were they in charge of the interrogations?

SMITH: Thirty-seven interrogators, and...

WARNER: The witnesses voice are not being recorded. You'll have to speak into your microphone.

Would you repeat the conversation in response to the senator's question?

SMITH: Yes, sir. There were 37 interrogators that were...

MCCAIN: I'm asking who was in charge of the interrogations.

SMITH: They were not in charge. They were interrogators.

MCCAIN: My question is who was in charge of the interrogations?

SMITH: The brigade commander for the military intelligence brigade.

MCCAIN: And were they -- did he also have authority over the guards?

SMITH: Sir, he was -- he had tactical control over the guards, so he was...

MCCAIN: Mr. Secretary, you can't answer these questions?

RUMSFELD: I can, I'd be -- I thought the purpose of the question was to make sure we got an accurate presentation, and we have the expert here who was in the chain of command.

MCCAIN: I think these are fundamental questions to this issue.

RUMSFELD: Fine.

MCCAIN: Were the instructions to the guards...

RUMSFELD: There's two sets of responsibilities, as your question suggests. One set is the people who have the responsibility for managing the detention process; they are not interrogators. The military intelligence people, as General Smith has indicated, were the people who were in charge of the interrogation part of the process.

And the responsibility, as I have reviewed the matter, shifted over a period of time and the general is capable of telling you when that

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responsibility shifted.

MCCAIN: What were the instructions to the guards?

RUMSFELD: That is what the investigation that I have indicated has been undertaken...

MCCAIN: Mr. Secretary...

RUMSFELD: ... is determining...

MCCAIN: ... that's a very simple, straight-forward question.

RUMSFELD: Well, the -- as the chief of staff of the Army can tell you, the guards are trained to guard people. They're not trained to interrogate, they're not -- and their instructions are to, in the case of Iraq, adhere to the Geneva Convention.

The Geneva Conventions apply to all of the individuals there in one way or another. They apply to the prisoners of war, and they are written out and they're instructed and the people in the Army train them to that and the people in the Central Command have the responsibility of seeing that, in fact, their conduct is consistent with the Geneva Conventions.

The criminals in the same detention facility are handled under a different provision of the Geneva Convention -- I believe it's the fourth and the prior one's the third.

MCCAIN: So the guards were instructed to treat the prisoners, under some kind of changing authority as I understand it, according to the Geneva Conventions?

RUMSFELD: Absolutely.

MCCAIN: I thank you, Mr. Chairman.

WARNER: Thank you, Senator.

Senator Kennedy?

KENNEDY: Thank you very much. Thank you, Mr. Chairman.

To the people in the Middle East, and too often today, the symbol of America is not the Statue of Liberty, it's the prisoner standing on a box wearing a dark cape and a dark hood on his head, wires attached to his body, afraid that he's going to be electrocuted.

These incidents of torture and abuse resulted in a catastrophic crisis

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of credibility for our nation.

Now, since the beginning of the war, the International Committee of the Red Cross provided the Pentagon officials with reports of abuses at this prison, saying that some of them were tantamount to torture. They issued serious complaints during an inspection of the prison in October of 2003 and at several other times.

The State Department and the Coalition Provisional Authority appealed to you to stop the mistreatment of the military detainees. Secretary Powell raised this issue at Cabinet meeting and elsewhere, pleading with officials from your department, Mr. Secretary, to see that detainees were properly cared for and treated, and your department failed to act.

The military leadership put the troops in charge of the prison who weren't trained to do the job, and they assigned far too prisoners (sic) to the prison than were required to do the job right, and they relied on the civilian contractors to perform military duties, as I understand, including the interrogation of Iraqi prisoners.

And as Senator Levin pointed out, the top-level Defense officials directed guards at the prison to set physical and mental conditions for favorable interrogation of the detainees, a decision that directly resulted in the abuses.

And the military leadership failed to respond in a systematic way even after it initiated the 35 criminal investigations into alleged mistreatment of detainees in Iraq and Afghanistan, 25 of these investigations involving a death.

KENNEDY: I know that Secretary Brownlee referred to this.

In particular, in December of 2002, military doctors at the Bagram Air Base in Afghanistan ruled that two Afghan men in U.S. custody died from blunt force injuries. No one in the military has been held accountable for those homicides.

You and your senior leadership have shown, I believe, a disregard for the protection of the Geneva Conventions in detainee operations. In January, 2002, you were asked why you believe the Geneva Conventions do not apply to detainees in Guantanamo. You replied that you did not have the slightest concern about their treatment, in light of what has occurred in 9/11.

According to the New York Times, you have known about the graphic photographs, evidence of abuse in the Abu Ghraib prison since mid- January. You told President Bush about these reports of abuse shortly thereafter. And yet, rather than work with Congress to

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deal with the problem together, you and other top Defense Department officials have apparently spent the last three weeks in preparing the public relations plan.

Can you tell us what exactly did you tell the president about these reports of abuse in late January, and what did he say, and what did you do about it, and why month after month after month had to pass before anything has happened and then we find out that the pictures came out and that the president is indeed angry?

RUMSFELD: First, Senator Kennedy, your statement that other agencies of government were concerned about detainees and the Department of Defense failed to act is simply not correct.

KENNEDY: This wasn't brought to your attention by the secretary of the State Department?

RUMSFELD: I'll respond. I did not say that. I said your statement that the Department of Defense...

KENNEDY: Well, it was brought to you then by the State Department. We don't want to parse words.

KENNEDY: Was this brought to you by the State Department? I mentioned Secretary Powell. Question is whether this was brought to you and when did you know. When did you know it?

You gave us a laundry list in your presentation about the timeline on it. I'm trying to find out, because it has been published, that you were notified about this a series of times and advised to do something about it and nothing was done.

RUMSFELD: It's not correct to say "Nothing was done." You're making a set of conclusions that are just simply not accurate.

We've had numerous discussions, interagency, on detainees. All in all, there have been some 43,000 people who were captured or detained in Iraq, of whom 31,850 have already been released. That is a big task for the Army to undertake. The...

KENNEDY: Can I...

RUMSFELD: ... the actions of the ICRC -- you said they came in and indicated concerns about the Abu Ghraib prison. That's correct. And the prison officials began the process of making corrections and the general's report -- Taguba -- found that a number of those things were already under way, in terms of corrections. And when he made his study, a number of additional things and corrections were made.

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So it seems to me that the ICRC report was helpful, and that the military command, as I understand it, undertook a series of corrections.

Now, with respect to when we were knowledgeable of this, the situation was this: Specialist Darby told the CID that he had information about abuses in the prison. I believe it was on the 13th or 14th of January.

RUMSFELD: By the 15th or 16th, an investigation had been initiated. And the Central Command public affairs people went out and told the world -- they told everyone in the world that there were allegations of abuse and they were being investigated.

Again, by mid-March, when some criminal -- I don't know the legal term but -- some criminal actions were initiated, the Central Command's public affairs people went out again and announced that not only were there allegations of abuses but they listed the types of abuses. And then this is to the world. Everyone knew it. CNN was there asking questions.

And that is the time frame when General Myers and I were meeting with the president and discussed the reports that we had obviously heard because they weren't hiding anything. They disclosed it to the world.

WARNER: Thank you, Senator.

Senator Roberts?

ROBERTS: Thank you, Mr. Chairman.

I mean in no way to diminish the seriousness of what has occurred here, but it seems very clear to me that the task before Congress is to determine whether or not these abuses are a result of flaws in the system or if this was a matter, as has been indicated, of individuals that simply broke the rules.

With that in mind, I'd like to know, Mr. Secretary, were any of the abuses that occurred in Iraq encouraged, condoned or committed by Department of Defense regulations or policy? Were any local or unit level policies in effect that would have encouraged or condoned or permitted these abuses?

RUMSFELD: Certainly not to my knowledge. And when one looks at the abuses and the cruelty, the idea that you would have regulations that would permit or condone or encourage that type of thing is just not comprehensible.

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And General Smith is the deputy Central Command under General Abizaid, and he is responsible for the management of the guidance and instructions and can respond if you'd like.

ROBERTS: No, I think you've answered the question at least to the degree that I want it answered right now. I want to move on.

I do have the privilege of being the chairman of the Intelligence Committee. Three days ago we had a hearing. We had the military intelligence representatives there. We had the CIA there. They indicated that at that particular time they did not know -- had no evidence of any direction on the part of intelligence personnel at this prison suggesting that they commit these abuses at the behest of the military interrogators who asked the military police to, quote, "soften up" the detainees to prepare them for the interrogation.

This, sort of, gets back to the opening statement by Senator Levin and the question by Senator McCain.

Let me remind everybody that as we speak, we have men and women in uniform engaged in combat in Najaf and basically when we interrogate people it is to find out from the prisoners, in terms of force protection and in terms of the mission in Iraq, precisely what's going on. It's a very, very important mission.

I said at the time, at that hearing -- it was a closed hearing -- but I said at the time I would be stunned -- and I've said it to the press -- that anybody in military intelligence that would condone these kind of activities. This criteria is ingrained in terms of their training. It's black and white.

And so my question to you, and I think it's going to result on the Fay report here: Is there any truth to the allegations made in the press and some of the accused military police that they did commit these abuses at the behest of the military interrogators?

RUMSFELD: I've read the same allegations, comments that you have. That is what the criminal investigations are looking at, among other things. And we will at an early date know what the answers are to those questions.

ROBERTS: Can you give me, sort of, a time frame when the Fay report will be completed?

SMITH: Sir, it should be completed in the next couple of weeks if he does not ask for an extension. Part of the problem is that unit has redeployed back to Germany and so there's traveling back and forth engaged.

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ROBERTS: And that would help answer the question that was asked by Senator McCain as to actually who was in charge of that prison?

And I put the "in charge" in quotes. You had the intelligence and then you also had the M.P.s in terms of the maintenance of the unit. And then it seems to me that there's another command that you mentioned, oh, in terms of the contractors.

I think Senator McCain's question is right on: Who was really in charge? And I think you have a tri-part system here. Is that being fixed? Will that be recommended by the Fay report?

SMITH: Sir, that's already been fixed with the appointment of Major General Jeff Miller as the central...

ROBERTS: And he's the person that straightened out GITMO down in Cuba.

SMITH: Sir, and he is there doing that right now. He's been there since the middle of April.

ROBERTS: I thank you, Mr. Chairman.

WARNER: Thank you very much.

Senator Byrd?

BYRD: Thank you for calling this timely, very important hearing.

I apologize for my voice. I've been struggling with a bout of laryngitis.

I share your outrage over the atrocities that have emerged from the Abu Ghraib prison. I believe Congress has a responsibility to demand a public accounting and a public explanation from the leadership of the Defense Department.

I fear this is only the beginning of a long and painful process. And I am glad that you have taken the first steps to begin the necessary public examination of the massive policy failure that led to this catastrophe.

Among the many aspects of this situation that are so troubling to me is why the president and his advisers are only now publicly condemning the prisoner abuses in Iraq when apparently the Defense Department had known about them for months.

BYRD: I do not recall hearing a peep out of either of you, Secretary

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Rumsfeld or General Myers, about this before CBS broke the silence. Why did it take the televised broadcast of graphic photos of prisoner abuse, a broadcast General Myers has acknowledged he tried to suppress, to galvanize the leadership of the Defense Department to express its outrage over the situation?

Why was a report that described sadistic, blatant and wanton criminal abuses by American soldiers left to languish on a shelf in the Pentagon unread by the top leadership until the media revealed it to the world?

Why wasn't Congress apprised of the findings of this report from the Defense Department instead of from CBS News?

Mr. Secretary, it was President Truman who was said to have displayed the famous sign on his desk: The buck stops here. I served with President Truman. He was an honorable man. He did not shirk his responsibility.

I see a very different pattern in this administration. I see arrogance and a disdain for Congress. I see misplaced bravado and an unwillingness to admit mistakes. I see finger-pointing and excuses.

Given the catastrophic impact that this scandal has had on the world community, how can the United States ever repair its credibility?

BYRD: How are we supposed to convince not only the Iraqi people, but also the rest of the world that America is indeed a liberator, and not a conqueror, not an arrogant power? Is the presidential apology to the king of Jordan sufficient?

I ask you that question.

RUMSFELD: Senator, the facts are somewhat different than that. The story was broken by the Central Command, by the United States Department of Defense, in Baghdad. General Kimmitt stood up in January and announced that there were allegations of abuses and that they were being investigated. He then briefed reporters. And I think it was March 20 -- there's a timeline up here. By March 20, he went back out again and said that these had been filed.

The idea that this is a story that was broken by the media is simply not the fact. This was presented by the Central Command to the world so that they would be aware of the fact that these have been filed.

What was not known is that a classified report with photographs would be given to the press before it arrived in the Pentagon.

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BYRD: Mr. Secretary, we'll put my timeline in the record and compare it with yours. My question is: Is the presidential apology to the king of Jordan sufficient?

RUMSFELD: Senator, I guess that's for the president and the Congress and others to decide.

There have been many apologies. There have been apologies by every person at this table today. Any suggestion that there is not a full, deep awareness of what has happened, and the damage it has done, I think, would be a misunderstanding.

BYRD: Have you read the...

RUMSFELD: The report that we're talking about is sitting over -- right there on the floor. And it is, I don't know -- what? -- two feet high. There is a...

BYRD: Did you read it?

RUMSFELD: I read the executive summary, which is 50 to 75 pages, and I looked at some of the annexes and appendices and references. I had been briefed on it in full and as have the people at this table. And you can be certain of that.

BYRD: The Red Cross claims that it made reports of prison abuse in Iraq throughout 2003. I understand that those reports are confidential by mutual agreement. Secretary Rumsfeld, how do we know that there isn't a broader problem here?

We've heard reports of prisoner abuse from more than just the Abu Ghraib prison. Will you ask the Red Cross to waive its confidentiality agreement on those reports and make public all the pertinent reports on U.S. military-run prison facilities including those in Iraq, Afghanistan, Guantanamo and elsewhere?

RUMSFELD: We would certainly be happy to provide the committee with all the reports that we have.

I think the issue of the International Committee of the Red Cross allowing one of their reports to be made public is an issue for them, because they worry that they will not be told the truth when they go into countries where there are dictatorships and where people are systematically punished and tortured. And people do not want to talk to them if the ICRC gets a reputation for making their reports public.

So we will be happy to give you our reports on a confidential basis that is respectful of the International Committee of the Red Cross's stipulation.

BYRD: I must conclude...

WARNER: Thank you very much, Senator.

BYRD: ... with all due respect to you, the matter is far deeper than that.

BYRD: The American people need to know what's in those reports. And when the Red Cross surprises the Defense Department with those reports, Congress should have that material.

RUMSFELD: We'd be happy to give it to you.

BYRD: Very well. Thank you.

WARNER: Senator Allard?

ALLARD: Mr. Chairman, first of all I want to thank you for holding this committee hearing and I know there was some discussion about the format and everything, but I think it's the right thing to do to have this as an open hearing.

And I want to also thank the panel for agreeing to come here and testify before us in an open hearing. You know, that's the strength of America, is that we're willing to come out in a public manner and talk about our strengths and weaknesses and lay out, you know, how we're going to deal with those.

And so as somebody who has participated in this, I think that we are sending a good message to the world that we are open, that we are not a perfect people but we do our best. And I just want to make that in before I asked any questions.

The thing that I heard in your testimony, Mr. Secretary, and I think it needs to be elaborated on, is this issue of command influence. And I know that as the facts become evident that prosecutors of misconduct in the military have a real concern about command influence.

And I wish if you would elaborate more on that, or maybe some other panel members might elaborate on that and how that might affect the case or prosecution. You mentioned you had six courts-martial, I believe, and I wondered if you would share that with the committee.

RUMSFELD: We are continuously advised by lawyers, counsels, that there's two issues that create a tension. One is the importance of having integrity to the criminal prosecution process.

RUMSFELD: And that people in the chain of command that conceivably over time would be called upon to make a judgment about the decisions at the lower levels do not inject themselves into that process early or in a way that would lead people to believe that their comments were influencing the outcome of some of those criminal decisions or other decisions.

Therefore people in the chain are in a difficult position. To the extent we have a discussion like this, about what's taken place, we can be certain that the defense counsels for these people who are being accused, and are going to be criminally prosecuted, will say that these hearings and this discussion had an influence on the case.

And the other side of the coin that's equally important -- we don't want to have that be the case, and that's why we're being careful in what we say. The other side of the coin is that we don't someone's rights to be infringed upon, someone who is a defendant and may be innocent. And a process could lead to a situation where their rights could not be fully protected. So we do have to be careful.

ALLARD: Now, the six courts-martial now, do you anticipate there will be more courts-martial, and have any of those in command been indicted?

RUMSFELD: I checked, and last year, we had something like 18,000 criminal investigations opened, and we ended up with 3,000 courts-martial.

So at any given time, and with a large organization like the Department of Defense, there's always something happening.

There's no way in the world I could anticipate. But the investigations are open, the investigators are determined, and to the extent they find information that leads them to believe that a court-martial is indicated, or nonjudicial punishment of other types, they certainly will do so.

RUMSFELD: They understand the gravity of this.

ALLARD: Now, a number of months ago -- I want to just follow up on the Red Cross report. Now, were they given full access? And what main issues did that report raise?

RUMSFELD: I have the report somewhere here and I'd be happy to let you see it. I'm reluctant to start discussing it, but I can say what I said.

They found a number of things that they were concerned about, as

they always do. And it's helpful, I must say. The people then began to read it and agree or disagree and make the changes, and they did.

And when General Taguba came in and made his report, he indicated that a number of the issues that had been raised last year by the ICRC had, in fact, been corrected by the command structure between the time that they were observed by the ICRC and the time that General Taguba's team arrived on the scene.

ALLARD: Mr. Chairman, my time's expired.

WARNER: Thank you, Senator. Thank you very much.

Senator Lieberman?

LIEBERMAN: Thank you, Mr. Chairman.

Mr. Secretary, the behavior by Americans at the prison in Iraq is, as we all acknowledge, immoral, intolerable and un-American. It deserves the apology that you have given today and that have been given by others in high positions in our government and our military.

I cannot help but say, however, that those who were responsible for killing 3,000 Americans on September 11th, 2001, never apologized. Those who have killed hundreds of Americans in uniform in Iraq working to liberate Iraq and protect our security have never apologized.

LIEBERMAN: And those who murdered and burned and humiliated four Americans in Fallujah a while ago never received an apology from anybody.

So it's part of -- wrongs occurred here, by the people in those pictures and perhaps by people up the chain of command.

But Americans are different. That's why we're outraged by this. That's why the apologies were due.

And that's why I hope as we go about this investigation, we do it in a way that does not dishonor the hundreds of thousands of Americans in uniform who are a lot more like Pat Tillman and Americans that are not know, like Army National Guard Sergeant Felix Del Greco of Simsbury, Connecticut, who was killed in action a few weeks ago; that we not dishonor their service or discredit the cause that brought us to send them to Iraq, because it remains one that is just and necessary.

We've got to get to the whole truth here, and nothing but the

truth. We can't be defensive. We've got to be aggressive about it. And as Senator McCain said, we've got to do it quickly so that we and you and most of all our soldiers can get back to fighting and winning the war on terrorism with determination.

As far as I'm concerned, we do have to know how this happened. And we have to know it so we can stop it from happening ever again.

You've said that the behavior of those soldiers was fundamentally un-American. I agree with you. And this goes way back to the first American declaration, the Declaration of Independence, where we said that every human being has those rights as an endowment of our creator.

That even goes to human beings who have been apprehended by our military as they have been in Iraq because they are suspected of being part of the terrorists, of the jihadists, of the foreign fighters, of the Saddam loyalists who are killing Americans and Iraqis every day.

LIEBERMAN: We know that people are flawed. And that's why we believe in the rule of law, to try to make this better and punish those who fall below appropriate humane standards.

In that regard, it seems to me when it comes to the treatment of prisoners and detainees and conditions of combat, the Geneva Convention adopted by the United States as the law of the land, and that has been implemented by U.S. Army Regulation 190-8.

You made some controversial statements early on, after Afghanistan, that said, "The Geneva Convention was not relevant here" -- that "By-in-large -- and I'm quoting -- "generally, American military interrogators of prison guards would try to carry out the rights of prisoners and detainees according to the Geneva Convention."

But I want to ask you today, as you look back to that, do you think you were right? Did anything replace the rules of the Geneva Convention or Army Regulation 190-8? And if not, why not?

RUMSFELD: Senator, the president of the United States made a determination in early 2002 that the Geneva Convention provisions did not apply to our conflict with Al Qaida although he concluded the Geneva Conventions did apply to the conflict with Taliban. That was a decision by the president.

He determined the Taliban detainees did not qualify as prisoners of war under the third Geneva Convention criteria for prisoners of war. He also made clear that it was and will continue to be the policy to treat detainees humanely, and in a manner that was consistent with the Geneva Conventions. So these people were treated consistent to

the Geneva Conventions.

RUMSFELD: But he made a distinction with respect to Al Qaida and...

LIEBERMAN: Are these detainees, do you assume, members of Al Qaida -- that is, the thousands that have been held in Iraq? Or are they in another status?

RUMSFELD: Oh no, the president announced from the outset that everyone in Iraq who was a military person and was detained is a prisoner of war, and therefore the Geneva Conventions apply.

And second, the decision was made that the civilians or criminal elements that are detainees are also treated subject to the Geneva Convention, although it's a different element of it. I think it's the 4th instead of the 3rd.

LIEBERMAN: I appreciate the clarification, because I was not aware of that; that you would say that all those held in prison, including those who were abused here, had the rights of prisoners of war...

RUMSFELD: Absolutely.

LIEBERMAN: ... under the Geneva Convention.

RUMSFELD: Absolutely. That's true...

LIEBERMAN: And therefore the fault clearly was that those we've seen, and hopefully not others, were not either properly trained, properly disciplined or in any case not observing the law of the United States of America with regard to the rights of prisoners of war.

MYERS: If I may, I think that's exactly right. It's abhorrent behavior.

The Taguba report, if you recall, looked at four installations where the 800th M.P. Brigade had operations. They found abuse in one, and that's Abu Ghraib. They found abuse in one.

LIEBERMAN: My time's up. Thank you.

RUMSFELD: Thank you very much.

WARNER: Senator Sessions?

SESSIONS: Thank you, Mr. Chairman.