

LX79A

STATEMENT BY

GENERAL PAUL KERN

COMMANDING GENERAL, UNITED STATES ARMY MATERIEL COMMAND

BEFORE THE

ARMED SERVICES COMMITTEE

UNITED STATES SENATE

ON THE INVESTIGATION OF THE 205<sup>TH</sup> MILITARY INTELLIGENCE  
BRIGADE AT ABU GHRAIB PRISON, IRAQ

SECOND SESSION, 108<sup>TH</sup> CONGRESS

SEPTEMBER 9<sup>TH</sup>, 2004

002015 A

Mr. Chairman, Senator Levin and Members of the Committee, on behalf of LTG Jones, MG Fay, and MG Taguba, I appreciate the opportunity to appear before you today and report to you the findings of our investigations concerning the events surrounding the allegations of detainee abuse at Abu Ghraib.

I am General Paul Kern, the Commander of the United States Army Materiel Command at Fort Belvoir, Virginia. On June 16th of this year, acting at the direction of the Secretary of the Defense, the Acting Secretary of the Army designated me as the new appointing authority for the investigation that LTG Sanchez began back on March 31<sup>st</sup> of 2004. This investigation, or "Procedure 15"'s specific purpose was to look into the alleged misconduct by certain personnel assigned or attached to the 205<sup>th</sup> Military Intelligence Brigade at Abu Ghraib Detention Facility. As you know from prior hearings, MG Taguba's investigation focused on the 800<sup>th</sup> Military Police Brigade. I have spent 41 years wearing an Army uniform, and was taught to live by standards - duty, honor, country, the Code of Conduct, the Army values, the Soldiers' Creed.

Over the years of my career, I have been led by and inspired by incredibly talented and dedicated individuals - soldiers like SPC Patrick Miller, an Ordnance Soldier who

002016

fought bravely and courageously until he was captured in An Nasiriya - to senior officers such as Generals McArthur and Patton. These people, and thousands like them, dedicate their lives to their country quietly, with honor.

Our report, however, discusses the failure of a relatively small number of soldiers who served at Abu Ghraib prison. The teams conducted an investigation that focused on the 205<sup>th</sup> Military Intelligence Brigade and its chain of command; however, we went where the facts led us. Our final report from this investigation is complete. In the course of this investigation, we discovered serious misconduct and a loss of moral values. We set our course to find truth, not to "whitewash" nor to convict those who are not incriminated. We found the pictures you have seen were not the result of any doctrine, training or policy, but violations of law.

We learned there were leaders in Abu Ghraib who knew about this misconduct - knew better and did nothing. Some Soldiers behaved improperly because they were confused by their experiences and direction. And we violated our own regulations by allowing "ghost detainees" in detention facilities.

All this was happening as thousands of Soldiers, Sailors, Airmen, Marines, civilians and contractors fought

002017

bravely to restore an elected government in Iraq and Afghanistan. We are very proud of their service, commitment, courage and values. They and their families can stand tall and proud. I regret, however, that we must report on those who failed.

Our investigation team brings a depth of knowledge and experience necessary to the task of investigating the activities regarding alleged detainee abuse at Abu Ghraib.

LTG Jones has over 34 years military service, commanding at all levels up through major general. He is currently the deputy commander of one of our Army major commands. He has served in the operational Army, both conventional and special operations, leading Soldiers in war, contingency operations, and in peace. He is a great trainer, and was the commander of Fort Rucker, Ala., where he was charged with initial military training, doctrine, leader development and creating the vision for the future. His has served in assignments overseas include duties in Europe, Korea, Bosnia and Southwest Asia. His experience also includes being the chief of staff for the 24<sup>th</sup> Infantry Division and the US Army Europe. His depth and breadth of operational assignments, experience at the tactical through strategic levels, and knowledge of training and doctrine

002018

have been invaluable to the scope of our investigation. He is a Soldier's Soldier who knows what is right.

MG Fay served on active duty for four years, followed by 27 years in the Army Reserve. He was mobilized immediately after 9/11 and has been on active duty for almost two and one-half years since then. The vast majority of both his Active and Reserve experience has been in Military Intelligence. In civilian life, MG Fay is a managing director of a major global property/casualty insurance company. He has nearly 30 years' experience investigating and overseeing complex claims and litigation.

The investigative teams conducted a comprehensive review of all available background documents and statements pertaining to Abu Ghraib from a wide variety of sources. These sources included the reports written by MG Geoffrey Miller, MG Donald Ryder, MG Antonio Taguba and the Department of Army Inspector General. LTG Jones did extensive review of previous reports, operations plans, policy memorandums, and sworn statements collected by the MG Fay team. He also personally interviewed LTG Richardo Sanchez and MG Barbara Fast, the CJTF-7 Senior Intelligence Staff Officer. MG Fay's team conducted over 170 interviews concerning the interviewees' knowledge of interrogation and detention operations at Abu Ghraib and/or their knowledge

002019

of and involvement in detainee abuse. MG Fay's interviews included interviews with MG Fast, MG Walter Wojdakowski, MG Geoffrey Miller, MG Thomas Miller, and BG Janis Karpinski. Over 9,000 documents were collected, catalogued and archived into a database. My review team consisted of 12 people, including general officers, subject matter experts and legal advisors. The investigative teams traveled to Iraq eight times, including a visit by the appointing authority and investigating officers in early August 2004.

The events at Abu Ghraib cannot be understood in a vacuum. Three interrelated aspects of the operational environment played important roles in the abuses that occurred at Abu Ghraib. First, from the time V Corps transitioned to become Combined Joint Task Force-7. (CJTF-7), and throughout the period under investigation, it was not resourced adequately to accomplish the missions of the Combined Joint Task Force. Those missions were stability and support operations (SASO) and support to the Coalition Provisional Authority (CPA). The CJTF-7 headquarters lacked adequate personnel and equipment. In addition, the military police and military intelligence units at Abu Ghraib were severely under-resourced. Second, providing support to the Coalition Provisional Authority (CPA) required greater resources than envisioned in operational plans. Third,

002020

operational plans envisioned that CJTF-7 would execute SASO and provide support to the CPA in a relatively nonhostile environment. In fact, opposition was robust and hostilities continued throughout the period under investigation. Therefore, CJTF-7 had to conduct tactical counter-insurgency operations, while also executing its planned missions. That is the operational context in which the abuses at Abu Ghraib took place.

#### Abuses

We found that abuses--on the part of military intelligence and military police personnel-- clearly occurred at the prison at Abu Ghraib. For purposes of this report, abuse is defined as treatment of detainees that violated U.S. criminal law or international law or treatment that was inhumane or coercive without lawful justification. Whether the Soldier or contractor knew, at the time of the acts, that the conduct violated any law or standard, is not an element of the definition.

There is no single, simple explanation for why this abuse at Abu Ghraib happened. The primary causes are misconduct (ranging from inhumane to sadistic) by a relatively small group of soldiers and civilians, a lack of discipline on the part of the leaders and Soldiers of the 205<sup>th</sup> MI BDE and a failure or lack of leadership by multiple

002021

echelons within CJTF-7. Contributing factors can be traced to issues affecting command and control, doctrine, training, and the experience of the Soldiers we asked to perform this vital mission.

The abuses at Abu Ghraib primarily fall into two categories: a) intentionally violent or sexual abuse and, b) abusive actions taken based on misinterpretations or confusion regarding law or policy.

LTG Jones found that while senior level officers did not commit the abuses at Abu Ghraib, they did bear responsibility for lack of oversight of the facility, failing to respond in a timely manner to the indications and warnings provided by reports of incidents within the command and as reported by agencies such as reports from the International Committee of the Red Cross, and for issuing policy memos that failed to provide clear, consistent guidance for execution at the tactical level.

MG Fay found that from 25 July 2003 to 6 February 2004, twenty-seven 205th MI BDE Personnel allegedly requested, encouraged, condoned or solicited Military Police (MP) personnel to abuse detainees and/or participated in detainee abuse and/or violated established interrogation procedures and applicable laws and regulations during interrogation operations at Abu Ghraib.

002022

Most, though not all, of the violent or sexual abuses occurred separately from scheduled interrogations and did not focus on persons held for intelligence purposes. No policy, directive or doctrine directly or indirectly caused violent or sexual abuse. In these cases, Soldiers knew they were violating the approved techniques and procedures.

Confusion about what interrogation techniques were authorized resulted from the proliferation of guidance and information from other theaters of operation; individual interrogator experiences in other theaters; and, the failure to distinguish between interrogation operations in other theaters and Iraq. This confusion contributed to the occurrence of some of the nonviolent and nonsexual abuses but did not contribute to the abuse that you have seen in the photographs

Alleged incidents of abuse by military personnel have been referred to the CID for criminal investigation and the chain of command for disciplinary action. Alleged incidents of abuse by civilian contractors have been referred through the Department of Defense to the Department of Justice.

#### Discipline and Leadership

Military Intelligence and Military Police units had missions throughout the Iraqi Theater of Operations (ITO);

002023

however, 205th MI Brigade and 800th Military Police Brigade leaders at Abu Ghraib failed to execute their assigned responsibilities. The leaders from units located at Abu Ghraib or with supervision over Soldiers and units at Abu Ghraib, failed to supervise subordinates or provide direct oversight of this important mission. These leaders failed to properly discipline their Soldiers. These leaders failed to learn from prior mistakes and failed to provide continued mission-specific training. The 205th MI Brigade commander did not assign a specific subordinate unit to be responsible for interrogations at Abu Ghraib and did not ensure that a Military Intelligence chain of command at Abu Ghraib was established. The absence of effective leadership was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents.

Neither Department of Defense nor Army doctrine caused any abuses. Abuses would not have occurred had doctrine been followed and mission training conducted. Nonetheless, certain facets of interrogation and detention operations doctrine need to be updated, refined or expanded, including, the concept, organization, and operations of a Joint Interrogation and Debriefing Center (JIDC); guidance for interrogation techniques at both tactical and strategic

002024

levels; the roles, responsibilities and relationships between Military Police and Military Intelligence personnel at detention facilities; and, the establishment and organization of a Joint Task Force structure and, in particular, its intelligence architecture.

#### Other Contributing Factors

Demands on the Human Intelligence (HUMINT) capabilities in a counterinsurgency and in the future joint operational environment will continue to tax tactical and strategic assets. The Army needs trained and experienced tactical HUMINT personnel.

Working alongside non-DOD organizations/agencies in detention facilities proved complex and demanding. The perception that non-DOD agencies had different rules regarding interrogation and detention operations was evident. Interrogation and detention policies and limits of authority should apply equally to all agencies in the Iraqi Theater of Operations.

#### "Ghost Detainees"

My investigation resulted in specific findings regarding the issue of "ghost detainees" within Abu Ghraib. It is clear that the interrogation practices of other government agencies led to a loss of accountability at Abu Ghraib. DOD must document and enforce adherence by other

002025

government agencies with established DOD practices and procedures while conducting detainee interrogation operations at DOD facilities. This matter requires further investigation and, in accordance with the provisions of AR 381-10, Part 15, is being referred to the DOD Inspector General, as the DOD liaison with other government agencies for appropriate investigation and evaluation.

Soldiers/Sailors/Airmen/Marines should never be put in a position that potentially puts them at risk for non-compliance with the Geneva Convention or Laws of Land Warfare.

#### Conclusion

Leaders and Soldiers throughout Operation Iraqi Freedom were confronted with a complex and dangerous operational environment. Although a clear breakdown in discipline and leadership, the events at Abu Ghraib should not blind us from the noble conduct of the vast majority of our Soldiers. We are a values based profession in which the clear majority of our Soldiers and leaders take great pride.

A clear vote of confidence should be extended to the leaders and Soldiers who continue to perform extraordinarily in supporting our Nation's wartime mission. Many of our Soldiers have paid the ultimate sacrifice to

002026

preserve the freedoms and liberties that America and our Army represent throughout the world. The events of this report stand in stark contrast to the values and honor of all these Americans. With that, we look forward to answering your questions.

002027

2028

Exemption 3(b)  
Withhold names

[REDACTED]

From: [REDACTED] - LTC  
Sent: Tuesday, January 20, 2004 2:47 PM  
To: [REDACTED] LTC; [REDACTED] CPT  
Cc: [REDACTED] COL; [REDACTED] LTC ODCSOPS; [REDACTED] (E-mail); [REDACTED] - MAJ;  
Subject: FW: FW VCSA Tasker -- Detainee Abuse .htm

Follow Up Flag: Follow up  
Flag Status: Flagged

Basic Email not a  
FORSCOM comm.



FW VCSA Tasker --  
Detainee Abu...

pls assist if you can with providing info to OPMG  
so they can answer this VCSA tasker

they are looking for OIF/OEF training for I/R units  
believe 1st Army trained most at Dix with Gtmo scenario ?

v/r  
LTC [REDACTED]  
Chief, MP Operations/DPM  
FORSCOM PMO  
404. [REDACTED] dsn. 367 fax. [REDACTED]  
[REDACTED]@forscom.army.mil  
[REDACTED].army.smil.mil

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

From: AOC/CAT Law Enforcement (AAOPMG) Army G3  
[mailto:AAOPMG3@HQDA.ARMY.SMIL.MIL]  
Sent: Monday, January 19, 2004 3:31 AM  
To: [REDACTED] - LTC; [REDACTED] - MAJ  
Subject: FW VCSA Tasker -- Detainee Abuse .htm

Gentlemen,

I know the details of the attached are sketchy and the attachment referred  
to is not attached, but I need your help in addressing the issues raised by  
key leaders in the Army staff.

Thanks.

v/r

MAJ [REDACTED]  
OPMG-OPS Desk Officer  
Crisis Action Team  
Army Operations Center  
DSN 223-[REDACTED] / COMM 703-693-[REDACTED]  
<mailto:aaopmg@hqda.army.smil.mil>

FW VCSA Tasker -- Detainee Abuse .htm  
<<FW VCSA Tasker -- Detainee Abuse .htm>>

**From:** AOC/CAT Law Enforcement (UAAOPMG) Army G3  
**Sent:** Sunday, January 18, 2004 8:36 PM  
**To:** AOC/CAT Admin NCOIC (UAAADMINC) Army G3  
**Subject:** FW: VCSA Tasker -- Detainee Abuse  
SSG [redacted] please send this back to me on the SIPER side.

MA [redacted]  
OPMG-OPS Desk Officer  
Crisis Action Team  
Army Operations Center  
DSN 223- [redacted]/COMM 703-693 [redacted]  
[redacted]@hqda-aoc.army.pentagon.mil

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

**From:** AOC/CAT Team Chief (UAATMCH) Army G3  
**Sent:** Sunday, January 18, 2004 3:37 PM  
**To:** AOC/CAT Law Enforcement (UAAOPMG) Army G3; AOC/CAT Training/PACOM (UAATR) Army G3  
**Cc:** AOC/CAT Team Chief (UAATMCH) Army G3; Robinson, Fred D MG Army G3/AOC; Davis, Bruce E. BG Army G3/AOC; Chesnut, Robert W. MG Army G3  
**Subject:** FW: VCSA Tasker -- Detainee Abuse

As directed, begin working this. I don't see the initial paper trail outlining the incident(s).

OPMG: Provide TR with that information you are able, as you obtain it.

COL [redacted]  
Team Chief  
AOC/CAT

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

**From:** Robinson, Fred D MG Army G3/AOC  
**Sent:** Sunday, January 18, 2004 2:41 PM  
**To:** AOC/CAT Team Chief (UAATMCH) Army G3  
**Subject:** FW: VCSA Tasker -- Detainee Abuse

PLS get a hold of the OPMG folks and TR and have them to start working. thx, FDR

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

**From:** Cody, Richard A. LTG Army G-3  
**Sent:** Sunday, January 18, 2004 10:28 AM  
**To:** Lovelace, James J LTG DAS; Mikolashek, Paul T LTG SAIG; Romig, Thomas J MG OTJAG  
**Cc:** [redacted] COL OCSA; Coggin, James A BG VDAS; Marchand, Michael J MG OTJAG; [redacted] COL ARMY G-3/DAMO-ZX; [redacted] COL VCSA; [redacted] COL USA; [redacted] COL CSA; Robinson, Fred D MG Army G3/AOC; Ryder, Donald J. MG; Stephen J. BG Curry (E-mail)  
**Subject:** RE: VCSA Tasker -- Detainee Abuse

DAS- we can do that- I do not remember the exact training we had set up for the GTMO, Afghan and the Iraqi Detainee Opns-but as I remember it was sizeable- will get all the 5 Ws and lay out for you and the VCSA- we have been tracking these activities very closely down at the AOC- why we have moved to generate a more deployable base for the MPs- as we know we will be doing these missions for awhile and we need to relieve some stress on the MP force. Certainly agree that the man, equip, train and eploy piece of the MP force over the past 2 years ought to be looked at separately (IG) so that we all understand what we are working to fix and see if we are getting there in the right way and at the right pace.  
Dick

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

**From:** Lovelace, James J LTG DAS  
**Sent:** Thursday, January 15, 2004 7:03 AM  
**To:** Cody, Richard A. LTG Army G-3; Mikolashek, Paul T LTG SAIG; Romig, Thomas J MG OTJAG  
**Cc:** [REDACTED] COL OCSA; Coggin, James A BG VDAS; Marchand, Michael J MG OTJAG;  
 [REDACTED] COL ARMY G-3/DAMO-ZX; [REDACTED] COL VCSA; [REDACTED] COL USA;  
 [REDACTED] COL CSA  
**Subject:** RE: VCSA Tasker -- Detainee Abuse  
**Importance:** High

DICK, ASK THAT YOU REVIEW THE NEED TO ASSESS WHAT TRAINING WE GIVE TO OUR SOLDIERS AND LEADERSHIP CHALLENGED WITH DETAINEE SITUATIONS. MAYBE WE HAVE DONE SO...IF SO I CANNOT REMEMBER SEEING IT. KNOW THAT YOU AGREE THAT WE WANT TO ENSURE THAT WE HAVE DONE ALL WE CAN. CAN USE THE IG ASSETS IF NECESSARY. INITIALLY WANT TO HEAR WHAT YOU THINK. THANKS, JIM

PT AND TOM, LET'S TALK...HOOOAH, JIM

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

**From:** [REDACTED] COL OCSA  
**Sent:** Wednesday, January 14, 2004 6:13 PM  
**To:** Lovelace, James J LTG DAS; Coggin, James A BG VDAS  
**Subject:** FW: VCSA Tasker -- Detainee Abuse

Sir, TJAG sent below to [REDACTED] Lengthy information paper addressing current cases. VR [REDACTED]

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

**From:** [REDACTED] COL OTJAG  
**Sent:** Wednesday, January 14, 2004 3:18 PM  
**To:** [REDACTED] COL VCSA  
**Cc:** [REDACTED] COL OCSA; [REDACTED] COL XO SAIG; [REDACTED] Mr.; [REDACTED]  
 [REDACTED] COL PMG; [REDACTED] LTC ECC  
**Subject:** VCSA Tasker -- Detainee Abuse

[REDACTED] Current list of detainee abuse cases. We will continue to update. VR, [REDACTED]  
 [Lovelace, James J LTG DA

002030

[Redacted]  
[Redacted]  
Sent: Tuesday, March 15, 2005 2:21 PM  
To: [Redacted]  
Subject: FW: MP Training Support

Not part of original document

[Redacted]  
[Redacted]  
[Redacted]

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

From: [Redacted] LTC G3  
Sent: Wednesday, May 26, 2004 6:43 AM  
To: [Redacted] COL  
Cc: [Redacted] LTC - G3; [Redacted] COL - G3-TR  
Subject: RE: MP Training Support

Exemptions 3+6  
Names withheld  
Privacy Act

Sir,

As requested.

LTC [Redacted]  
G3 Training  
DSN 367 [Redacted] Comm 404-464 [Redacted]

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

From: [Redacted] COL [mailto:[Redacted]@korea.army.mil]  
Sent: Wednesday, May 26, 2004 3:42 AM  
To: [Redacted] - LTC G3  
Subject: FW: MP Training Support

I don't have this paper - would appreciate it if you can send electrons or point me to a website where I can grab it. Please .cc COL [Redacted] and LTC [Redacted] on your reply so I can capture their email addresses. AKO white pages are down and we can't see your global.

Thx,

[Redacted]  
EUSA G3 Tng

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

From: [Redacted] COL [mailto:[Redacted]@usfk.korea.army.mil]  
Sent: Wednesday, May 26, 2004 4:22 PM  
To: [Redacted] COL  
Cc: [Redacted] LTC; [Redacted] MAJ  
Subject: FW: MP Training Support

[Redacted] Please provide LTC [Redacted] the DAIG White paper on detainee operations. Believe LTG Cody mentioned it has "point of capture" trng guidance which is an task 2BCT needs to focus on. FORSCOM said you and [Redacted] have a copy of this paper.

Also, pass digits to MAJ [redacted] and he will hang the paper on the web site.

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

From: [redacted] LTC  
Sent: Wednesday, May 26, 2004 4:12 PM  
To: [redacted] MAJ  
Cc: [redacted] MAJ; [redacted] LTC  
Subject: FW: MP Training Support

Guys,

We are getting mixed signals here. I personally spoke to LTC [redacted] over the weekend and he owes me exactly what he is looking for in the area of detainee operations training. He is going TDY in order to conduct a site survey and will then be able to better define the brigade's true needs, based on the mission they will assume in Iraq.

Let's not get confused with running "prison" operations and infantryman on the ground capturing enemy soldiers and insurgents.

Note the J3's directive for him to detail his needs to me and we will in turn tailor the training to fit 2d Brigade's needs.

My charter is to get them first class training and we'll do that when they LTC [redacted] determines the requirements. What we don't need is everyone guessing and wasting time and resources.

*Lieutenant Colonel* [redacted]

*Chief of Operations*

*Office of the Combined/Joint Provost Marshal*

*Combined Forces and United States Forces Korea*

DSN (315 when dialing from outside Korea) 738-[redacted]

CP TANGO (315)742-[redacted]

Home DSN 738-[redacted]

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

From: Higgins, George A. MG  
Sent: Friday, May 21, 2004 4:31 PM  
To: [redacted] COL  
Cc: [redacted] MAJ; [redacted] LTC; [redacted] COL; [redacted] COL; [redacted] COL; [redacted] COL; [redacted] MAJ; [redacted] LTC; [redacted] LTC(P); [redacted] COL; [redacted] MAJ; [redacted] LTC(P)  
Subject: MP Training Support

[REDACTED]

MG Wood is asking for MP Training support during 2nd BCT's train up for OIF. The focus of this training support will be Detainee Operations. Ask that you have [REDACTED] contact LTC [REDACTED] to get better definition on the scope, nature and timing of the requested support. DIRALUTH with 2nd ID is authorized. Keep 8th Army G-3 informed. Please acknowledge.

GH

Not part of original doc.

Sent: [redacted] Tuesday, March 15, 2005 1:53 PM  
To: [redacted]  
Subject: [redacted]

-----Original Message-----  
From: [redacted] LTC G3  
Sent: Wednesday, May 05, 2004 12:05 PM  
To: Burns, Julian H. MG - DCS G-3/5/7  
Cc: [redacted] COL - G3-TR; [redacted] LTC G3  
Subject: Updated 800th MP Bde Slide.

Exemption 3+6; Privacy Act  
Withhold names

Sir,

Forwarding updated 800th MP Bde training slide per COL Turner. Added 1003V training guidance.

V/R  
LTC [redacted]



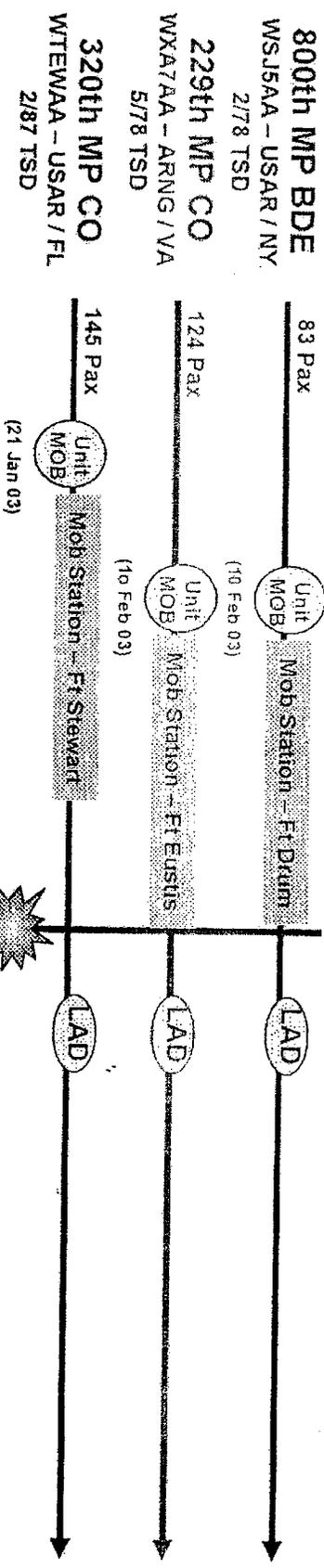
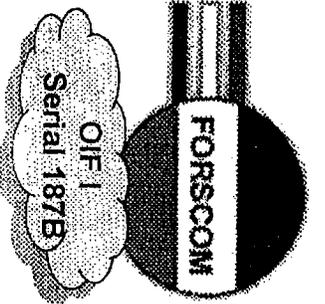
MP Mob History  
(v2).ppt (61 KB...)

LTC [redacted]  
Headquarters, U.S. Army Forces Command  
G3, Training Operations  
(404) 464- [redacted] or DSN 367- [redacted]  
[redacted]@forscom.army.mil

*Normally would not restate.*

# Mobilization History

800th MP BDE, 229 MP CO, & 320 MP CO



**FORSCOM DEPOD Serial 187B**  
Specified Training Tasks:

- ✓ ROE
- ✓ NBC Personal Protective Measures (12 tasks)
- ✓ First Aid (11 tasks)
- ✓ Subversion and Espionage Directed against the Army
- ✓ Level One Anti-terrorism/Force Protection
- ✓ Recognition of Combat Vehicle (ROC-V) Training IA
- ✓ CDR USCENCOM Force Protection Operations Order 97-01A dated 15 Apr 99 and USARCENT Force Protection Operations Order 99-02 dated 24 August 99.

**FORSCOM 1003V Training Guidance**  
Specified Training Tasks:

- ✓ Proficient in 1003V derived METL at level employed (trained to a T1/T2; no "U" in any METL task)
- ✓ Individual Training:
  - Weapons Qual LAW STRAC in last 6 mos
  - NBC (15 tasks)
- ✓ TSIRT (ROE, NBC, First Aid, SAEDA, Anti-terrorism/Force Protection)
- ✓ Collective training (Battestaff, Urban Ops, MOUT)
- ✓ Collective live fire exercise for CS/CSS units
- ✓ Force Protection collective tasks at the company/platoon/squad level (16 tasks)





REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
OFFICE OF THE CHIEF, ARMY RESERVE  
WASHINGTON, DC 20310-2400

May 17, 2004

Chief, Army Reserve Staff Group

Fellow Army Reserve Soldiers:

By now, you have probably heard various accounts of detainee abuse at the Abu Ghraib detention facility in Iraq. Army Reserve Soldiers are named in most of these reports.

These offensive acts undermine and conflict with the emphasis on strong values and respect for law and ethics to which this institution adheres. The individuals who allegedly committed these crimes against detainees in Iraq will be dealt with in accordance with the due process of law and the Uniform Code of Military Justice. Though the media reports may make it appear this matter was just uncovered, the public revelations are actually the result of a thorough, deliberate effort to ensure the detention facilities were being operated correctly, an effort instituted after a courageous Soldier stepped forward.

As Commander of the US Army Reserve Command, I accept my responsibility to lead this organization in a manner fully consistent with law and Army values. The Army Reserve's mission is to provide trained and ready units and Soldiers to the Army. To ensure we can accomplish this mission, my job is to set and enforce the policies and standards that our organization and its members will follow. It is also my responsibility to ensure our organization remains sensitive and responsive to the needs of our Soldiers, their families and employers.

As Soldiers in this organization, we all accept responsibilities, and at all times are responsible and accountable for our personal actions and conduct. When we take the oath of service, we agree to support and defend the Constitution of the United States. The oath is a promise and a commitment. It is enduring and inescapable.

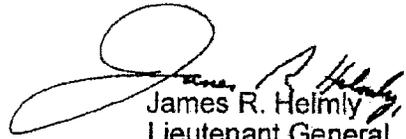
Wearing the uniform means taking responsibility for our actions by living the Army values and the Warrior Ethos. Integrity means we do what is right, legally and morally. Personal courage means we face fear, danger and adversity. Selfless service means we put the welfare of our Nation, the Army, and our subordinates ahead of our own. The Warrior Ethos makes a difference on the battlefield: *I will always place the mission first. I will never accept defeat. I will never quit. I will never leave a fallen comrade.* Throughout history, Soldiers have lived the American values and upheld the standards of ethical conduct that laid the foundation for the law of land warfare and the Geneva Convention. Make no mistake – living the Army values and the Warrior Ethos is not easy to do, but it is the right thing to do.

Finally, as a member of the Army Reserve, we assume a leadership role both within the organization and elsewhere. Family, friends, neighbors, co-workers, business and community professionals in our hometowns admire and respect our service and sacrifice. Our daily actions should reflect that trust and confidence. *Leaders at all levels must do the right thing for the right reason – always!*

002036 75

For all these reasons, duty in the Army Reserve represents a serious commitment of purpose. As members of the Army Reserve, we accept a shared responsibility to ensure the integrity of the institution that has been an integral part of the Army for nearly 100 years. We have suffered many casualties in this war. We cannot and will not allow our reputation as selfless servants upholding the highest values to become one of those casualties.

As we continue our mission, we must honor the sacrifice of our fallen, wounded, and captured comrades by conducting ourselves, at all times and in all situations, in a respectful and law-abiding manner. I am proud of you, the magnificent men and women who volunteered to fill the ranks of the Army Reserve. God Bless you, your family, your employers, and the United States of America.

  
James R. Helmly 5/16  
Lieutenant General, US Army  
Chief, Army Reserve

*Normally would not  
release*

**INFORMATION PAPER**

**AFOP-TRO**

**[REDACTED] 464 [REDACTED]  
24 August 2004**

**ISSUE:** Detainee Operations before and after May 2004 60 Minutes broadcast on Abu Ghraib

FORSCOM G3 training was asked to provide information on actions taken in response to the detainee abuse situation before and after 4 May.

**Sequence of events**

- Sometime prior to 31 March: USAMPS deploys a Mobile Training Team to Iraq to provide training on detainee operations, and develop a training support package for use in preparing soldiers for deployment. FORSCOM Provost Marshal contributes one team member.
- 4 May – 10 May: FORSCOM G3 Training is asked to answer training questions related to the 800th Military Police Brigade.
- 11 May: Hard copy of the USAMPS in theater detainee operations training received. Followed by electronic copy 12 May.
- 14 May: Email from TRADOC indicates that MP and MI schools are working a scrub of their doctrine.
- 15 May: LTG McKiernan white paper on detainee operations training is received.
- 17 May: FORSCOM completes draft training guidance for units performing detainee operations training and missions at detention facilities. This training guidance is reviewed and adjusted by COL(P) Terry on 18 May.
- 7 Jun: FORSCOM publishes training guidance for all units that will be performing detainee operations missions and missions at detention facilities.
- 15 Jun: USAMPS completes the detainee operations training support package.
- 22 Jun: Detainee ops training support package is available on Army Knowledge Online.

**002038**

*2029*

**ISSUE:** Detainee Operations before and after May 2004 60 Minutes broadcast on Abu Ghraib

**Actions prior to 4 May 04.**

FORSCOM provided combat arms, combat support, and combat service support forces to engage in major hostilities. FORSCOM training guidance required units to be proficient in tasks essential to their mission. Individuals are trained on Rules of Engagement and Rules for the Use of Force.

**Actions after 4 May 04.**

FORSCOM responds to pre-mobilization and post mobilization training questions concerning several Military Police units mobilized and deployed for Operation Iraqi Freedom.

FORSCOM is aware of the developing situation regarding alleged detainee abuse at Abu Ghraib, and some of the actions being taken by Training and Doctrine Command and the combatant commander chain of command to assess the situation, define the problem, and make recommendations. FORSCOM starts revisions of training guidance in response to initial TRADOC documentation and LTG McKiernan paper with training recommendations.

General training guidance is changed as follows:

- All deploying units and headquarters will conduct or receive Law of War and Code of Conduct training supported by a Judge Advocate where feasible, Active Component units will perform this training within 60 days prior to deployment. Reserve Component units will conduct this training at the mob station. Training will stress -
  - The Geneva Conventions with specific emphasis on the Geneva Convention relative to the treatment of civilian persons in time of war;
  - The basic principles of humane treatment and prohibited acts outlined in AR 190-8, paragraph 1-5b and c, for any captured or detained person, which includes those captured individuals suspected of being unlawful combatants; and
  - The importance of immediately reporting all suspected Law of War violations to the chain of command.
- All individuals receive training on -
  - The Law of War (Geneva Convention) briefing
  - Army Values Briefing
  - Comply with the Law of War and the Geneva and Hague Conventions
- All leaders receive training on -
  - Enforce the Law of War and the Geneva and Hague Conventions
  - Supervise the Handling of Enemy Personnel and Equipment at the Squad level

Specific training guidance is published for units performing internment and detainment operations based on initial training tasks identified by TRADOC and LTG McKiernan's white paper.

**ISSUE: Detainee Operations before and after May 2004 60 Minutes broadcast on Abu Ghraib**

**Specific questions**

6. Provide unit training exercises that existed to train detainee operations and establish links between MP and MI units. Has training expanded to incorporate lessons learned from OIF and Bosnia:

- Before and after 4 May: For units deploying as part of a brigade or division, the mission rehearsal exercise and staff exercises provide a training event where all elements work in concert. For echelons above division (EAD) and echelons above corps (EAC) units, no standard mission rehearsal exercise with other units is conducted.

- After 4 May: Individual, leader, and collective training has changed in response to lessons learned in OIF. Training has not been changed in response to lessons learned in Bosnia.

9. What training has been incorporated into our MP/MI schools to prepare soldiers/leaders for detainee operations?

- This question can be answered by Training and Doctrine Command.

10. What training existed to prepare soldiers to report detainee abuse and use of the ethical decision making process when dealing with different categories of detainees? How has this training changed?

- Before 4 May: Units were required to be trained and proficient in their mission essential tasks. FORSCOM OIF/OEF Training guidance did not explicitly address training tasks related to preparing soldiers to report detainee abuse or using the ethical decision making process, but all reserve and active component units are required to conduct Law of War and other mandatory briefings annually. No training was specifically directed in the OIF training guidance on differences in categories of detainees.

- After 4 May: Units are required to be trained and proficient in their mission essential tasks. FORSCOM OIF/OEF training guidance was changed to incorporate specific training for all individuals on the Law of War, the Geneva and Hague Conventions, and reporting violations of the Law of War. Leaders are trained on supervising the handling of enemy personnel and equipment at the squad level and enforcing compliance with the Geneva and Hague Conventions.

Exemption 3 F6 - names withheld

[REDACTED]

**From:** [REDACTED] LTC G3  
**Sent:** Tuesday, August 24, 2004 5:16 PM  
**To:** [REDACTED] CPT - G3 AXO  
**Cc:** [REDACTED] LTC G3; [REDACTED] LTC - G3  
**Subject:** Detainee Ops 24 Aug



Detainee Ops 24  
Aug.doc

Made the corrections .. thanks

002041  
JCScom # 41

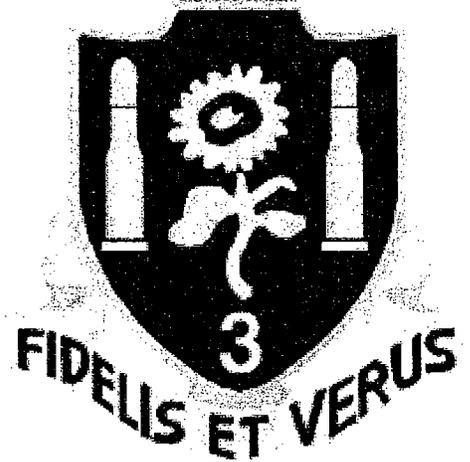
TAG # \_\_\_\_\_

DATE DETAINED: \_\_\_\_\_

NAME: \_\_\_\_\_

## 3-29 FA DETAINEE PACKET CHECKLIST

- \_\_\_\_\_ EPW TAG (DA FORM 2745) (OR EQUIVALENT)
- \_\_\_\_\_ COALITION APPREHENSION FORM
- \_\_\_\_\_ PHOTOGRAPH OF DETAINEE
- \_\_\_\_\_ TWO SWORN STATEMENTS
- \_\_\_\_\_ MEDICAL SCREEN (IF NEEDED)
- \_\_\_\_\_ DA FORM 4137 (IF DETAINEE HAS PROPERTY)



### RECOMMENDATIONS:

**S2 RECOMMENDATION:**

RELEASE  
TRANSFER TO APPREHENDING UNIT  
SEND TO BCCP  
OTHER: \_\_\_\_\_

**3-29 FA CDR RECOMMENDATION:**

RELEASE  
TRANSFER TO APPREHENDING UNIT  
SEND TO BCCP  
OTHER: \_\_\_\_\_

**DETAINEE CATEGORY:**

A    A1    B    C    D

002042

1. Date and time of Capture		2. Serial No.		<p align="center"><b>ENEMY PRISONER OF WAR (EPW) CAPTURE TAG (PART A)</b> For Use of this form, see AR 190-8, the proponent agency is DCSOPS</p> <p>Attach this part of tag to EPW (Do not remove from EPW.)</p> <ol style="list-style-type: none"> <li>1. Search – For weapons, military documents, or special equipment.</li> <li>2. Silence – Prohibit talking among EPWs for ease of control</li> <li>3. Segregate – By rank, sex, and nationality</li> <li>4. Safeguard – To prevent harm or escape.</li> <li>5. Speed – Evacuate from the combat zone.</li> <li>6. Tag – Prisoners and documents or special equipment.</li> </ol> <p>DA FORM 5976, JAN 91</p>
3. Name		4. Date of Birth		
5. Rank	6. Service No.			
7. Unit of EPW		8. Capturing Unit		
9. Location of Capture ( <i>Grid coordinates</i> )				
10. Circumstances of Capture	11. Physical Condition of EPW	12. Weapons, Equipment, Documents		
1. Date and time of Capture		2. Serial No.		<p align="center"><b>UNIT RECORD CARD (Part B)</b> Forward to Unit (Capturing unit retains for records.)</p> <p>Use string, wire, or other durable material to attach the appropriate section of this form to the EPW's equipment or property</p> <p>DA FORM 5976, JAN 91</p>
3. Name		4. Date of Birth		
5. Rank	6. Service No.			
7. Unit of EPW		8. Capturing Unit		
12. Location of Capture ( <i>Grid coordinates</i> )				
10. Circumstances of Capture	11. Physical Condition of EPW	12. Weapons, Equipment, Documents		
1. Date and time of Capture		2. Serial No.		<p align="center"><b>DOCUMENT / SPECIAL EQUIPMENT / WEAPONS CARD (Part C)</b></p> <p>Attach this part of tag to EPW's retained property. (<i>Do not remove from property.</i>)</p> <p>As a minimum, the tag must include the following information:</p> <ul style="list-style-type: none"> <li>■ Item 1, date and time of capture</li> <li>■ Item 8, capturing unit</li> <li>■ Item 9, place of capture (grid coordinates)</li> <li>■ Item 10, circumstances of capture (how the EPW was captured)</li> </ul> <p>DA FORM 5976, JAN 91</p>
3. Name		4. Date of Birth		
5. Rank	6. Service No.			
7. Unit of EPW		8. Capturing Unit		
12. Location of Capture ( <i>Grid coordinates</i> )				
10. Circumstances of Capture	11. Physical Condition of EPW	12. Weapons, Equipment, Documents		

**002043**

# 3BCT BCCP MEDICAL SCREENING FORM

**CAPTURE TAG #**

**NAME:**

<b>Initial Medical Screen:</b>	Overall Health:
Date:	Health Problems:
Medic's Name:	Medications Given:

<b>Follow Up Treatment:</b>	Medical Problem:
Date:	Medications Given:
Medic's Name:	

<b>Follow Up Treatment:</b>	Medical Problem:
Date:	Medications Given:
Medic's Name:	

<b>Follow Up Treatment:</b>	Medical Problem:
Date:	Medications Given:
Medic's Name:	

<b>Follow Up Treatment:</b>	Medical Problem:
Date:	Medications Given:
Medic's Name:	

<b>Follow Up Treatment:</b>	Medical Problem:
Date:	Medications Given:
Medic's Name:	

002044

# SCREENING REPORT

Screener	MP Number
----------	-----------

Interpreter	DTG
-------------	-----

## Biographical Information

Last Name	First Name	Middle Name
-----------	------------	-------------

Sex M / F	D.O.B.	Marital Status M S D W	Children
-----------	--------	------------------------	----------

Place of Birth	Current Residence
----------------	-------------------

Citizenship	Nationality	Tribe
-------------	-------------	-------

## Language Proficiency

Language	1 2 3	Language	1 2 3	Language	1 2 3
----------	-------	----------	-------	----------	-------

1 = Native 2 = Good 3 = Poor

## Military Service

Branch of Service	Rank	Severice Number
-------------------	------	-----------------

Full Unit Designation	Dates
-----------------------	-------

Duty Position	Additional Duties
---------------	-------------------

Military Training

Military Experience

## Capture Data

Capture Tag Number	Capturing Unit
--------------------	----------------

Date/Time of Capture	Place of Capture
----------------------	------------------

Captured Documents/Currency

Captured Weapons/Equipment

Circumstances of Capture

002045

<b>Education</b>	
Level of Education	Degree
Specialized Training	
<b>Employment</b>	
Current Employment	Position
Duties	Location
Previous Employment	Position
Duties	Location
Additional Skills	
<b>Mission at Time of Capture</b>	
<b>Category</b>	
Cooperation	1 2 3                      Knowledge    A B C
(1A = Highest / 3C = Lowest)	
<b> Screener Observations</b>	
Physical Condition	Mental State
Attitude	Additional Observations
Recommended Approach	
Screener Comments	

002046

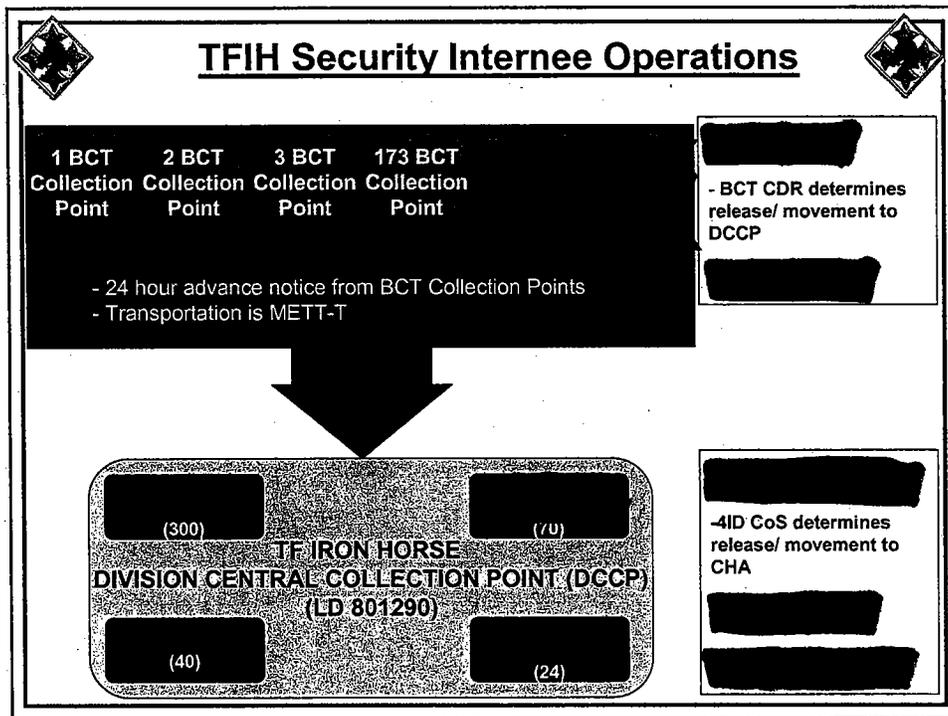
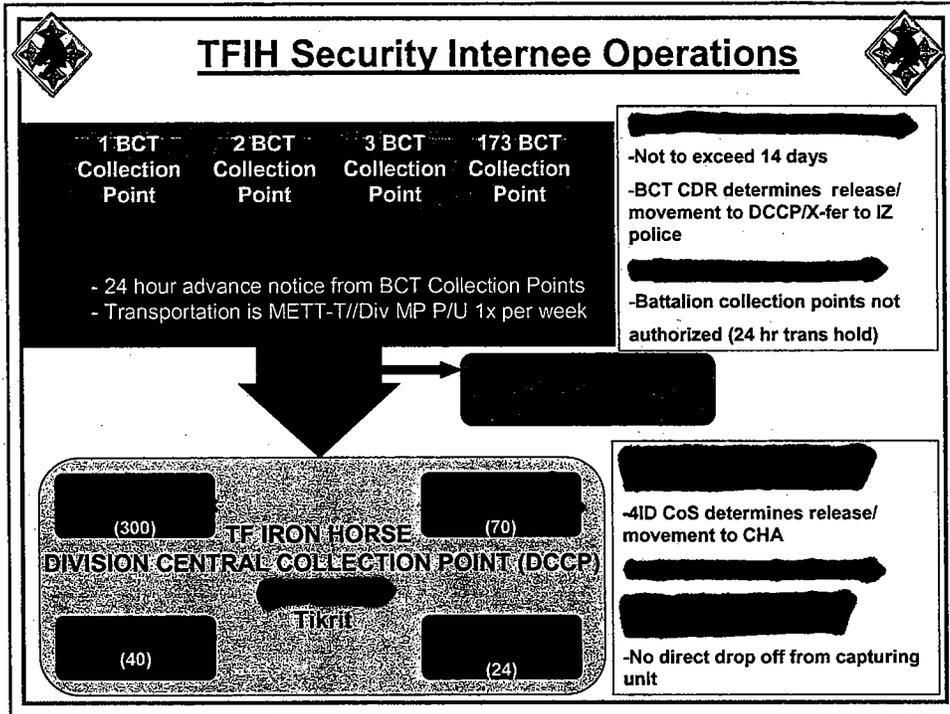
2047



## Agenda

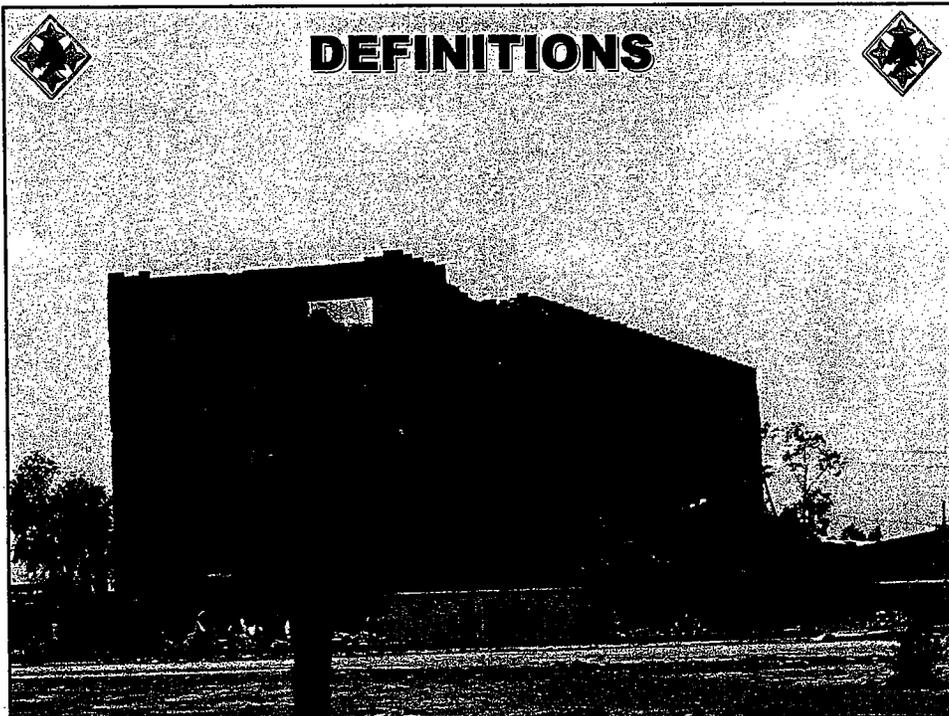
- Overview
- Definitions
- References
- Property accountability
- Use of force
- Back-haul operations
- Release process (Division level)

All: B2-3





# DEFINITIONS



## Definitions- (General)

**CIVILIAN INTERNEE**- A person who is interned during armed conflict or occupation if he/she is considered a security risk, needs protection or has committed an offense (insurgent or criminal) against the detaining power. A civilian internee is protected according to Geneva convention IV (protection of civilian persons in time of war).

**CRIMINAL DETAINEE**- A person detained because he/she is reasonably suspected of having committed a crime against Iraqi nationals of Iraqi property of a crime related to the coalition force mission.

**SECURITEE INTERNEE**- A civilian interned during conflict or occupation for their own protection or because they pose a threat to the security of coalition forces, its mission, or are of intelligence value. This includes persons detained for committing offenses (including attempts) against coalition forces (or previous coalition forces) members of the provisional government, NGOs, state infrastructure or any person accused of committing war crimes or crimes against humanity. Certain security internees may also be classified as a high value detainee (HVD).

**HIGH VALUE DETAINEE**- Are security internees of significant intelligence or political value.

**EPW**- A member of armed or uniformed security forces that conform to the requirements of article 4, Geneva convention relating to treatment of prisoners of war.

**Definitions**-(Security Internee Sub-Categories)

**CATEGORY A** - High level EPW/Detained Persons/Civilian Internees, including black list individuals, suspected war criminals, and violators of UN resolutions whose broad or specific knowledge makes it necessary for them to be questioned without delay by specially qualified interrogators or de-briefer. This category requires multiple interrogations and/or debriefings a mobile interrogation team (MIT) from the Iraqi survey group (ISG), comprised of specially qualified interrogators and/or de-briefer, and possibly technical experts should be dispatched to the location of category a EPW/ Detained Persons/Civilian Internees. Immediately transfer category A personnel to the task force central collection point (TFCCP)

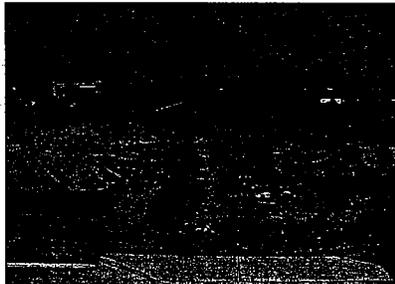
**CATEGORY A1** – Mid-level EPW/Detained Persons/Civilian Internees, including gray list individuals, whose broad or specific knowledge of regional and national level ba'ath party and fedayeen activities, leadership and cell structure, identities of members, recruiting, intelligence capabilities, financing, training, planning, communications and/or locations, makes it necessary for them to be questioned without delay by operationally focused interrogators. Also includes persons suspected of affiliation with terrorist organizations, foreign intelligence services and foreign fighters. Transfer category A1 personnel to the TFCCP immediately so that they may be processed and transported to the coalition interrogation facility vic Baghdad International Airport (BIAP) within 24 hours of categorization.

**Definitions**-(Security Internee Sub-Categories)

**CATEGORY B**- Non-mid/high level EPW/Detained Persons/Civilian Internees who have enough information on any subject of intelligence value, including information of immediate tactical value, to warrant a follow-on interrogation or debriefing. Transfer category B personnel to the CIF NLT 72 hours after categorization.

**CATEGORY C**- EPW or other detainees who have only information of immediate tactical value and do not warrant further questioning.

**CATEGORY D**- EPW or other detainees who have no information of intelligence value.

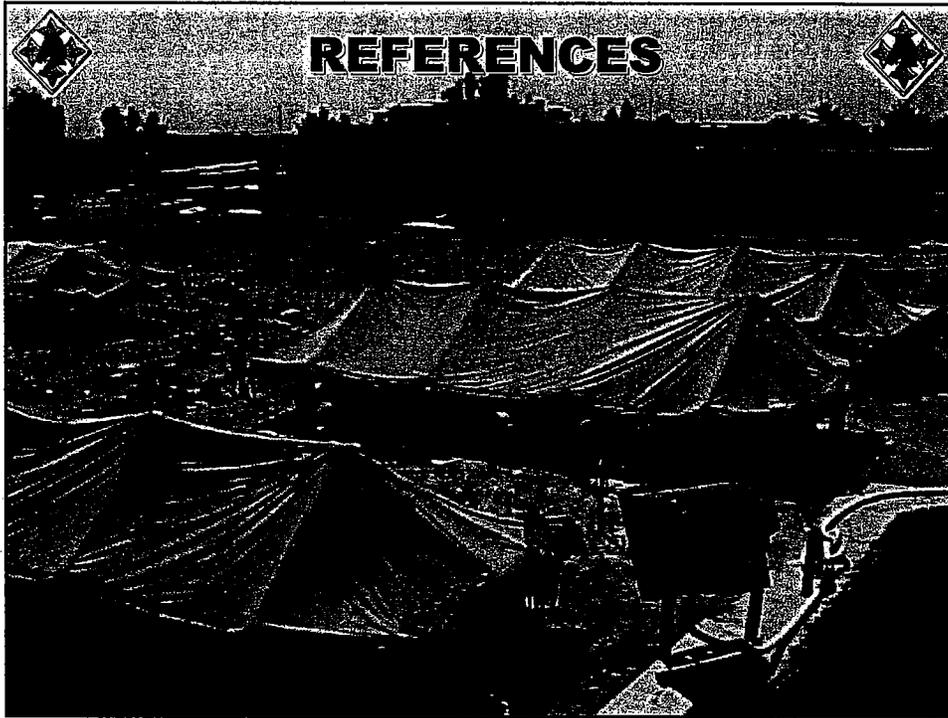


 **Task Force Iron horse Division Central Control Point  
Glossary** 

- **DCCP: Division Central Collection Point**
- **CI: Civilian Internee**
- **CD: Civilian Detainee**
- **SI: Security Internee**
- **HVD: High Value Detainee**
- **EPW: Enemy Prisoner of War**
- **DP: Detained Persons**
- **RP: Retained Persons**
- **TCN: Third Country National**

 **Task Force Iron horse Division Central Control Point  
Glossary** 

- **CHA: Corps Holding Area**
- **PAO: Public Affairs Office**
- **SJA: Staff Judge Advocate**
- **PSYOP: Psychological Operations**
- **CA: Civil Affairs**
- **HN: Host Nation**
- **IFRC: International Federation of Red Cross and Red Crescent Societies**
- **IHO: International Humanitarian Organization**
- **IG: Inspector General**



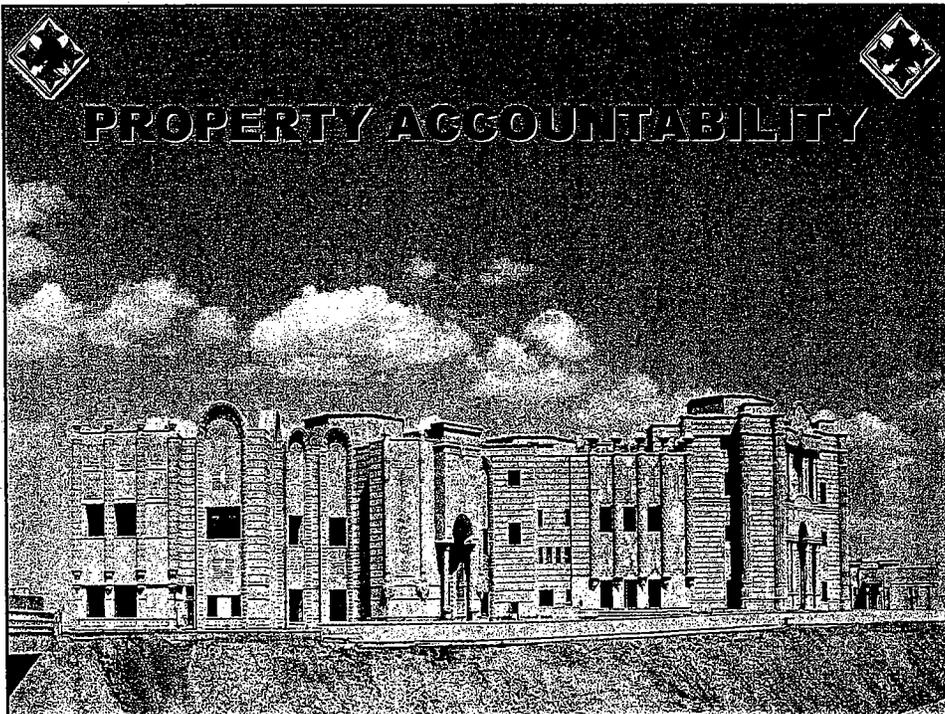
**Task Force Iron horse Division Central Control Point  
References**

- The Hague Regulations 1907
- Geneva Hague Conventions 1949
- UN Security Council Regulation 1483
- AR 190-8 Enemy Prisoners of War
- AR 190-47 The Army Corrections System
- AR 195-2 Criminal Investigations Command
- FM 3-19-40 Military Police Internment-Resettlement Operations
- FM 19-10 Military Police Law and Order Operations
- FM 19-15 Civil Disturbances

**Task Force Iron horse Division Central Control Point  
References**

- FM 19-20 Law Enforcement Investigations
- FM 21-10 Field Hygiene and Sanitation
- STP 19-95B1-SM Soldiers Manual MOS 95B Military Police Skill Level 1
- Coalition Provisional Authority Forces Apprehension Form
- DA Form 2823 Sworn Statement
- DA Form 4137 Evidence/Property Custody Document
- DD Form 2745 Capture Tag
- DD Form 629 Receipt for Prisoner or Detained Person
- FBI Form FD-249 Arrest and Institutional Fingerprint Card

**PROPERTY ACCOUNTABILITY**





**Task Force Ironhorse Division Central Control Point**



**PROPERTY DURING IN-PROCESSING**

**Account for each captive and his/her equipment when they arrive at the CP:**

- **Inventory and record property (in the presence of EPWs) brought from temporary property storage areas.**
- **Make separate lists for returned, stored, impounded, and confiscated property.**
- **List property to be returned to EPWs or stored during internment on a separate list.**
- **Provide receipts for property placed in temporary storage.**
- **Provide receipts for money placed in EPW accounts (AR 190-8 and DFAS-IN 37-1).**



**Task Force Ironhorse Division Central Control Point**



**PROPERTY DURING IN-PROCESSING**

- **Return retained property that was taken from the EPW at Station 1 of in-processing.**
- **Supervise the movement of EPWs throughout in-processing.**
- **Maintain control and accountability until EPWs are received by the serving power or designated protecting power.**
- **Have MI sign for property on DA Form 4137 and for captives on DD Form 2708**
- **Return confiscated property to supply/storage area after it is cleared by MI teams**
- **Evacuate retained items with the captive when he/she moves to the next level of internment.**



**Task Force Ironhorse Division Central Control Point**

**Control and Accountability**

- **Maintain a manifest that contains the—**
  - **Name**
  - **Rank/status**
  - **ISN**
  - **Power served/nationality**
  - **Physical condition**
- **NOTE: A manifest is used as an official receipt of transfer and becomes a permanent record to ensure accountability of each EPW until his/her final release.**



**Task Force Ironhorse Division Central Control Point**

**Control and Accountability**

- **Records**
  - **Ensure the copies of appropriate personnel, finance, and medical records accompany released and repatriated EPWs.**
  - **Transfer the records to the designated official receiving EPWs.**
- **Ensure that confiscated personal property (that can be released) accompanies released and repatriated EPWs.**
- **Conduct an inventory and identify discrepancies.**
- **Ensure that EPWs sign property receipts.**



**Task Force Ironhorse Division Central Control Point**



• **Retained Items:** Captive is allowed to keep certain items during his/her captivity. Generally two groups, these lists are not all inclusive.

• **Group 1**

- Military mess equipment (except knives and forks).
- Helmet
- Protective clothing and equipment for use during evacuation from the CZ
- Personal clothing if detainee uniforms are not available
- Badges of rank and nationality
- ID cards and tags
- Rations (in the early stages of captivity).

• **Group 2**

- Religious literature (within reason)
- Personal items having no intelligence value (jewelry and pictures)



**Task Force Ironhorse Division Central Control Point**

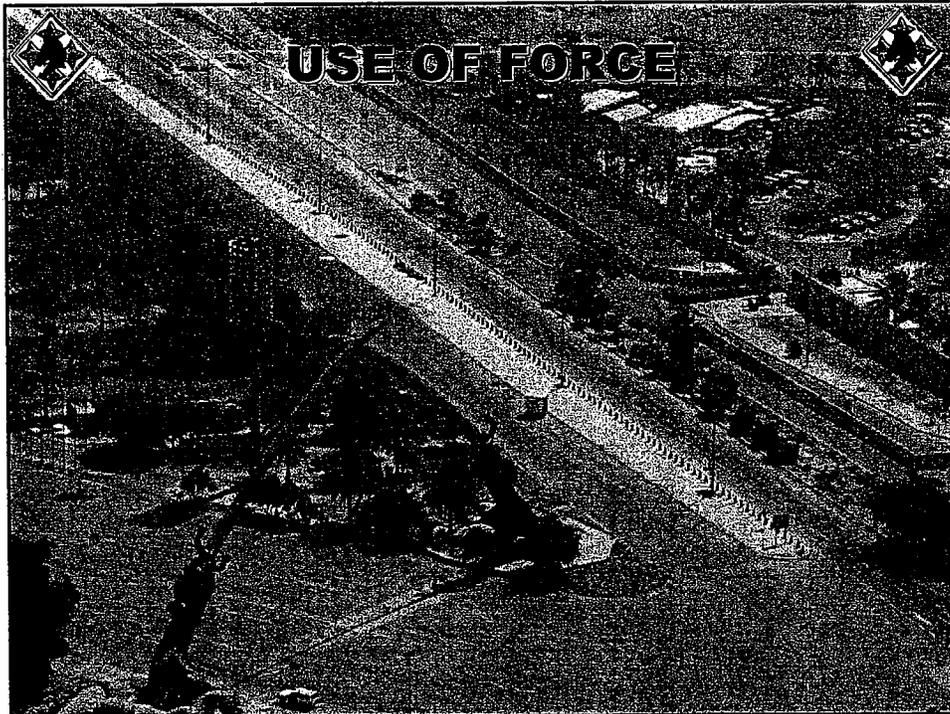


• **Impounded Items:** A captive is not allowed to keep impounded items during his/her internment.

- Cameras
- Radios
- Currency
- Negotiable instruments.

• **Confiscated Items:** The following items are confiscated when searching a captive.

- Weapons
- Ammunition
- Items of intelligence value (maps and orders).
- Other inappropriate items.



**Task Force Ironhorse Division Central Control Point**

**USE OF FORCE**

**LEVELS OF FORCE**

- **1<sup>st</sup>: Verbal Persuasion**
- **2<sup>nd</sup>: Show of Force**
- **3<sup>rd</sup>: Chemical Spray (Guard Must Be Certified To Use)**
- **4<sup>th</sup>: Use of Physical Force (I.E. Restraints, Riot Batons, Tasers)**
- **5<sup>th</sup>: Presentation Of Deadly Force**
- **6<sup>th</sup>: Deadly Force**



Task Force Ironhorse Division Central Control Point  
USE OF FORCE



Deadly Force causes death or serious bodily harm. Deadly Force is authorized for the following reasons only:

- Self-Defense And Defense Of Others
- Protection Of Assess Involving National Security
- Protection Of Assets Dangerous To Others
- Serious Offenses Against Persons
- Escapes (Guard Must Command Halt three (3) Times in the Detainees Native Language) breaching outer perimeter of compound



Task Force Ironhorse Division Central Control Point  
USE OF FORCE



IAW with TF IH Frago 1291 (Detainee Operations) detention Officials will handle all prisoners with the minimum amount of force necessary as required by the situation. Use of deadly force against unarmed prisoners is authorized only in cases when the following situations apply:

- US/Coalition Forces Are At Risk Of Loss Of Life
- Other Prisoners Are At risk Of Loss Of Life
- Escape Is Apparent

# BACK-HAUL OPERATIONS



## Task Force Ironhorse Division Central Control Point Back-haul Operations

- The DCCP will back-haul detainees from the BCPs to the DCCP on a weekly basis with the exception of 1BCT due to their close proximity to FOB Ironhorse

- CORPS will back-haul detainees from the DCCP on a weekly basis

- The schedule for back-haul is

<u>Day</u>	<u>Unit Responsible</u>	<u>Pick-up location</u>
Monday	DCCP	173 <sup>RD</sup> ABN
Wednesday	DCCP	2 <sup>ND</sup> / 3 <sup>RD</sup> BCT
Friday	CORPS	DCCP

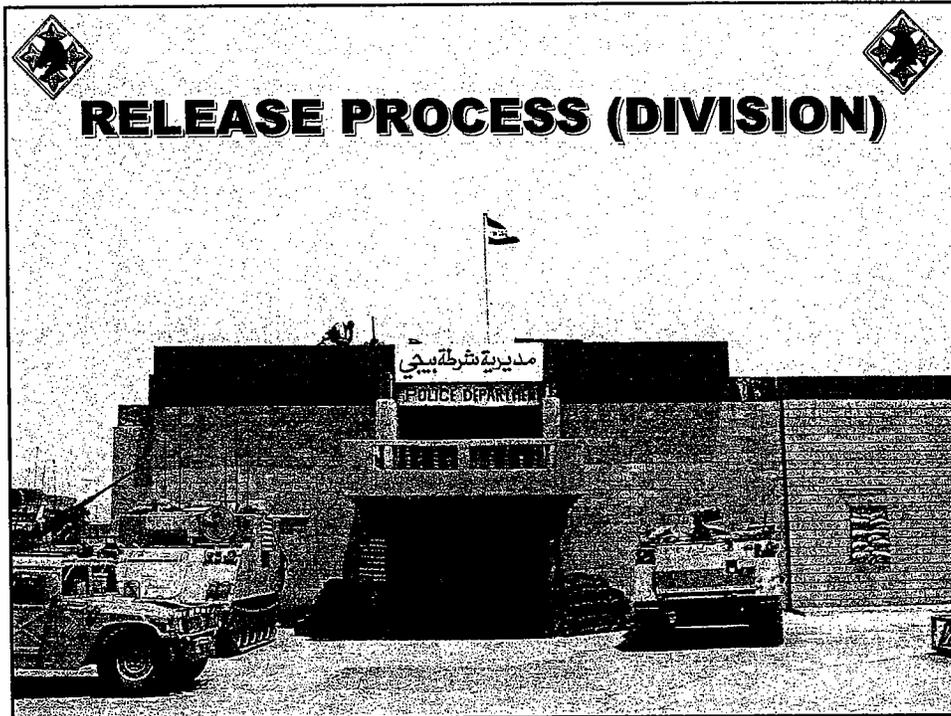
- Units need to be prepared to report the number of detainees expected to be ready for transfer the day prior to transferring detainees

 **Task Force Ironhorse Division Central Control Point**  
**Back-haul Operations** 

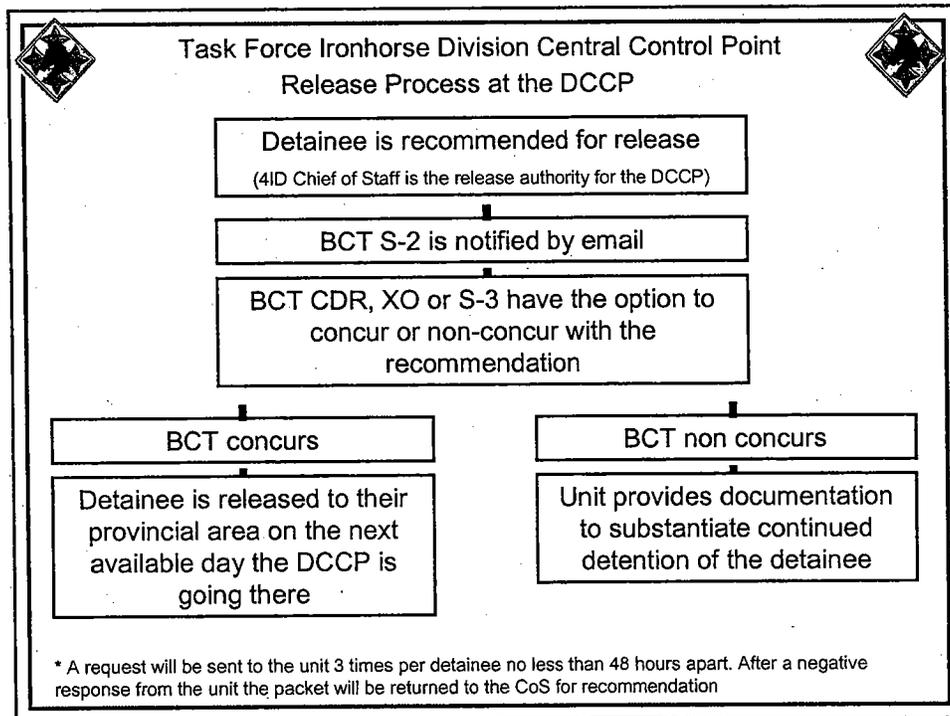
- Detainees may be transferred by respective units to the DCCP provided prior coordination is made with the PMO (534-8003) at least 24 hours prior to transfer
- Detainees will be transferred with all personal property recorded on a DA 4137. All personal property will accompany the detainee when transferred unless it requires special handling (vehicles, explosives, large equipment, ect). Property not transferred with the detainee will be photographed with a copy attached to the detainees packet
- Detainees will be transferred with CPA form, witness statements, screening paperwork, medical screenings, photograph, and all related paperwork
- No detainees in U.S. custody will be transferred to the control of another coalition force nation without U.S. Secretary of Defense approval

 **Task Force Ironhorse Division Central Control Point**  
**Back-haul Operations** 

- Detainees being released will be released in cities from their respective provinces as close to their home as possible
- Detainees being transferred to IZ police will be delivered to police stations nearest their home



## RELEASE PROCESS (DIVISION)



## Issues

- Excessive detention period at BCTs
- All evidence not transported with detainee
- Detention facilities not operating IAW AR 190-8
- Improper property accountability
- Incomplete coalition capture forms/statements
- Back-haul from BCTs not properly coordinated
- Release feedback takes to Ing from BCTs



## CHECKLIST FOR BRIGADE LEVEL DETENTION FACILITIES

1. Is a copy of TF IH FRAGO 1291 (Detainee Operations) on hand?
2. Does the BCCP have a SOP on hand?
3. Are Journals (DA FM 1594) being maintained at BCCP?
4. Is the BCCP in a good state of police (i.e. clean, litter free, central located trash point)?
5. Are BCCP Operations employing military police augmented by ten (10) augmentees minimum for safe operations?
6. Are military police platoons receiving support for facility operations from supporting BCTs?
7. Are person's detained/captured in brigade AOR transferred within 24 hours to designated BCT Collection Points?
8. Are proper guidelines for detainee deaths being followed IAW TF IH Frago 1291?
9. Are CAT A detainee's immediately transferred to Corps and TF IH PMO notified?
10. Are MSCs coordinating with TF IH G2X prior to detainee's being processed to TF IH DCCP?
11. Are guidelines being followed for the handling of all HVDs and non-Iraqi detainees IAW TF IH Frago 1291?
12. Are capturing units providing proper documentation at time of release to BCCP (i.e. CPA forms, (2) DA FM 2823s)?
13. Is the BCCP NCOIC ensuring all detainees have the proper paper work at in processing?

YES	NO	REMARKS

002064

2065

14. Are capturing units recording detainee property on a DA FM 4137?
15. Is the detainee property clearly marked and inventoried with detainee name and capture number?
16. Does BCCP have adequate storage space for evidence and property?
17. Does the amount of evidence in evidence room match up with detainees in detention?
18. Are detention officials handling detainees with the minimum force necessary required by the situation?
19. Are detainees who require medical attention receiving proper care?
20. Are military police maintaining accountability of detainee packets?
21. Are detainees being transferred to TF IH DCCP NLT fourteen (14) days after capture?
22. Are BCCP Personnel releasing names or status of detained persons to third parties?
23. Are detainees being assigned a sequence number at in processing?
24. Does the BCCP report current on hand numbers of detainees twice a day to the TF IH PMO

YES	NO	REMARKS

- 25. Is there a clearly defined outer perimeter that is identifiable by the detainee's?
- 26. Is there a QRF dedicated to detention facility uprisings? What is the response time?
- 27. Is there riot control/less than lethal equipment available to the MPs?
- 28. Are weapons/munitions adequately controlled and out of sight of the detainee's?
- 29. Are there an adequate # of armed MPs on the outer perimeter instructed and equipped to use lethal force?
- 30. Are detainee's receiving adequate water throughout the day?
- 31. Are inner barrier's/perimeters able to prevent detainee escape attempts? – more than a single strand of concertina wire?
- 32. Is the detainee area clean of excess debris and clutter?
- 33. Is there an MP PLT SGT or higher on duty at all times? Are the MPs in charge of the facility?
- 34. Is there a plan for improvement? Winter preparation?
- 35. Are there any detainee's being held below BDE Level?

YES	NO	REMARKS



**COALITION PROVISIONAL AUTHORITY FORCES APPREHENSION FORM**  
 YELLOW FIELDS MUST BE FILLED IN, IF APPLICABLE, UPON APPREHENSION

**Offense against Civilian(s) [check one] If "Other" then describe:** \_\_\_\_\_

<input type="checkbox"/> Arson (I.P.C. 342)	<input type="checkbox"/> Burglary or Housebreaking (I.P.C. 428)
<input type="checkbox"/> Solicitation of Fornication/Prostitution (I.P.C. 399)	<input type="checkbox"/> Extortion/Communicating Threats (I.P.C. 430)
<input type="checkbox"/> Rape/Indecent/Sexual Assaults/Acts (I.P.C. 393-98, 402)	<input type="checkbox"/> Theft (I.P.C. 439)
<input type="checkbox"/> Murder (I.P.C. 405)	<input type="checkbox"/> Destruction of Property (I.P.C. 477)
<input type="checkbox"/> Aggravated Assault/Assault With Intent To Kill (I.P.C. 410)	<input type="checkbox"/> Obstructing a Public Highway/Place (I.P.C. 487)
<input type="checkbox"/> Maiming (I.P.C. 412)	<input type="checkbox"/> Discharging Firearm/ Explosive in City/Town/Village (I.P.C. 495)
<input type="checkbox"/> Simple Assault (I.P.C. 415)	<input type="checkbox"/> Riot or Breach of Peace (I.P.C. 495(3))
<input type="checkbox"/> Kidnapping (I.P.C. 421)	<input type="checkbox"/> Other

**Offense against Coalition Forces [check one] If "Other" then describe:** \_\_\_\_\_

<input type="checkbox"/> Violation of Curfew	<input type="checkbox"/> Trespass on Military Installation or Facility
<input type="checkbox"/> Illegal Possession of Weapon	<input type="checkbox"/> Photographing/Surveillance of Military Installation or Facility
<input type="checkbox"/> Assault/Attack on Coalition Forces	<input type="checkbox"/> Obstructing Performance of Military Mission
<input type="checkbox"/> Theft of Coalition Force Property	<input type="checkbox"/> Other

Apprehending Unit: \_\_\_\_\_ Location Grid: \_\_\_\_\_

Date of Incident: (D/M/Y) \_\_\_\_\_ Time of Incident: \_\_\_\_\_ Date of Report: (D/M/Y) \_\_\_\_\_ Time of Report: \_\_\_\_\_

    /    /    to    /    /                    hrs to                    hrs                    /    /                    hrs

Detainee # _____				Key Connected Person: <input type="checkbox"/> Victim <input type="checkbox"/> Witness			
Last Name: _____				Last Name: _____			
First Name: _____		Given Name: _____		First Name: _____		Given Name: _____	
Fair Color: _____		Scars/Tattoos/Deformities: _____		Hair Color: _____		Scars/Tattoos/Deformities: _____	
Eye-Color: _____		Weight: lb	Height: in	Eye-Color: _____		Weight: lb	Height: in
Address: _____				Address: _____			
Place of Birth: _____				Place of Birth: _____			
Ethn/Tribe/ Sect:	Sex: <input type="checkbox"/> M <input type="checkbox"/> F	Phone#: DOB D/M/Y: _____	<input type="checkbox"/> Mobile <input type="checkbox"/> Regular	Ethn/Tribe/ Sect:	Sex: <input type="checkbox"/> M <input type="checkbox"/> F	Phone#: DOB D/M/Y: _____	<input type="checkbox"/> Mobile <input type="checkbox"/> Regular
<input type="checkbox"/> Passport	<input type="checkbox"/> Dr. license	<input type="checkbox"/> Other (specify)		<input type="checkbox"/> Passport	<input type="checkbox"/> Dr. license	<input type="checkbox"/> Other (specify)	
Document #:				Document #:			

Total Number of Persons Involved \_\_\_\_\_ (list names/identifying info on reverse under "Additional Helpful Information")

Vehicle Information      Vehicle Number \_\_\_\_\_ of \_\_\_\_\_ Vehicle(s)

Make: _____	Color: _____	License No.: _____	Owner: _____
Model: _____	Type: _____	Plate No.: _____	Number of People in Vehicle: _____
Year: _____	Names of People in Vehicle: _____		

Contraband/Weapons in Vehicle: \_\_\_\_\_

Property/Contraband       Weapon      Photo Taken of Suspect with Weapon/Contraband: Yes/ No

Type: _____	Model: _____	Color/Caliber: _____
Serial No.: _____	Quantity: _____	Make: _____
Other Details: _____	Where Found: _____	Owner: _____

Name of Assisting Interpreter: \_\_\_\_\_ Email, Phone, or Contact Info: \_\_\_\_\_

Retaining Soldier's Name (Print): _____ Last, First MI		Supervising Officer's Name (Print): _____ Last, First MI	
Signature: _____		Signature: <b>002068</b>	
Email: _____		Email: _____	

Why was this person detained? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Who witnessed this person being detained or the reason for detention? Give names, contact numbers, addresses.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How was this person traveling (car, bus, on foot)? \_\_\_\_\_  
\_\_\_\_\_

Who was with this person? \_\_\_\_\_  
\_\_\_\_\_

What weapons was this person carrying? \_\_\_\_\_  
\_\_\_\_\_

What contraband was this person carrying? \_\_\_\_\_  
\_\_\_\_\_

What other weapons were seized? \_\_\_\_\_  
\_\_\_\_\_

What other information did you get from this person? \_\_\_\_\_  
\_\_\_\_\_

Additional Helpful Information: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**002069**



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
TASK FORCE IRONHORSE  
OFFICE OF THE PROVOST MARSHAL  
TIKRIT MAIN PALACE, TIKRIT, IRAQ

AFYB-PM

23 Jul 2003

MEMORANDUM FOR RECORD

SUBJECT: Standard Operating Procedure for Death of a Detainee

1. The purpose of this memorandum is to outline the actions needed in order to properly dispose of and record the death of a Detainee in US custody. References used include Article 120 and Article 121 of the Geneva Convention: relative to the Treatment of Prisoners of War.
2. Initial notification will begin, upon discovery of the body. 4<sup>th</sup> MP CO Operations will notify the Provost Marshal. The CIC and Mortuary Affairs will be notified by the Provost Marshal, see enclosure 1, for the flow of information.
3. A doctor must confirm the death and record approximate time of death. The body must be removed immediately upon examination from DCCP and placed in an area out of sight of both detainees and US Forces.  
  
Contact Mortuary Affairs for temporary storage and transport of body. The detaining authorities shall ensure that prisoners of war who have died in captivity are transferred to their families, morgue, hospital or a facility that can properly dispose of the body.
4. If such a facility is not available they will be honorably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, suitably maintained and marked, so as to be found at anytime.
5. Every death or serious injury of a prisoner of war caused or suspected to have been caused by a sentry, another prisoner of war, or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official inquiry by CID as well as a 15-6 Investigation. A medical doctor must conduct the 15-6 investigation.

Communication on this subject shall be sent immediately to V Corps. Statements shall be taken from witnesses on a DA Form 2823, specifically from those who are prisoners of war, and a report including such statements shall be forwarded to the V Corps and CID.

002070

2071

If the inquiry indicates the guilt of one or more persons, the 4<sup>th</sup> Infantry Division (M) shall recommend measures for the prosecution of the person or persons responsible to host nation.

B3/B6

6. The POC for this memo is CPT [REDACTED] and can be reached at DNVT 312-534 [REDACTED]

[REDACTED]

MAJ (P), MP  
Provost Marshal

Encl 1: Information Flow Chart

002071

TAG # \_\_\_\_\_

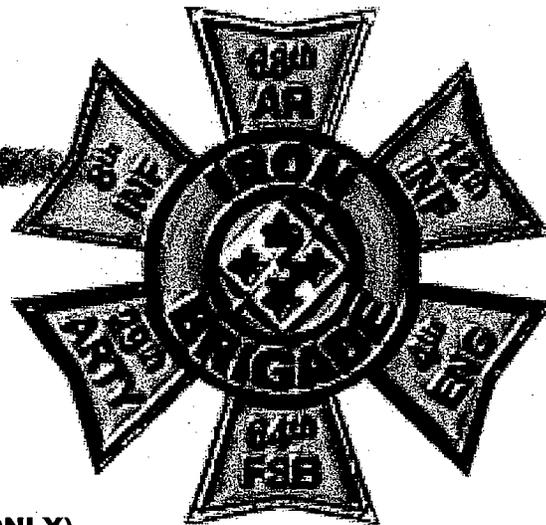
DATE DETAINED: \_\_\_\_\_

NAME: \_\_\_\_\_

DATE BCCP: \_\_\_\_\_

# 3BCT DETAINEE PACKET CHECKLIST

- \_\_\_\_\_ EPW TAG (DA FORM 2745) (OR EQUIVALENT)
- \_\_\_\_\_ COALITION APPREHENSION FORM
- \_\_\_\_\_ TWO SWORN STATEMENTS
- \_\_\_\_\_ MEDICAL SCREEN (IF NEEDED)
- \_\_\_\_\_ DA FORM 4137 (IF DETAINEE HAS PROPERTY)
- \_\_\_\_\_ PHOTOGRAPH OF DETAINEE
- \_\_\_\_\_ 3BCT WEAPONS / CONTRABAND MEMO (DCCP ONLY)



## UNIT OF CAPTURE:

1-8 IN  1-68 AR  1-66 AR  4 ENGR  3-29 FA  DIVARTY  BRT

## RECOMMENDATIONS:

CI RECOMMENDATION:

RELEASE  
 TRANSFER TO APPREHENDING UNIT  
 SEND TO DCCP (TIKRIT)  
 OTHER: \_\_\_\_\_

S2 RECOMMENDATION:

RELEASE  
 TRANSFER TO APPREHENDING UNIT  
 SEND TO DCCP (TIKRIT)  
 OTHER: \_\_\_\_\_

3-29 FA CDR RECOMMENDATION:

RELEASE  
 TRANSFER TO APPREHENDING UNIT  
 SEND TO DCCP (TIKRIT)  
 OTHER: \_\_\_\_\_

DETAINEE CATEGORY:      A      A1      B      C      D

002072

## DETAINEE PROCESS

1. Unit brings detainee(s) to Striker Detention Facility at FOB Pacesetter.
2. Prior to admitting any detainee into the detention facility, the OIC/NCOIC that accompanies the detainee(s) to FOB Pacesetter comes to the 3-29 FA TOC and conducts an initial in-processing with the 3-29 FA S-2 section. Initial in processing includes a review of the detainee's packet. The detainee's packet should include:
  - a. Filled out Coalition Apprehension Form
  - b. CI screening form (if the unit has a CI team)
  - c. Any sworn statements
  - d. DA 4137 for all confiscated property
  - e. EPW Category assessed
  - f. A synopsis memo
  - g. Identification validated
  - h. Photo printed

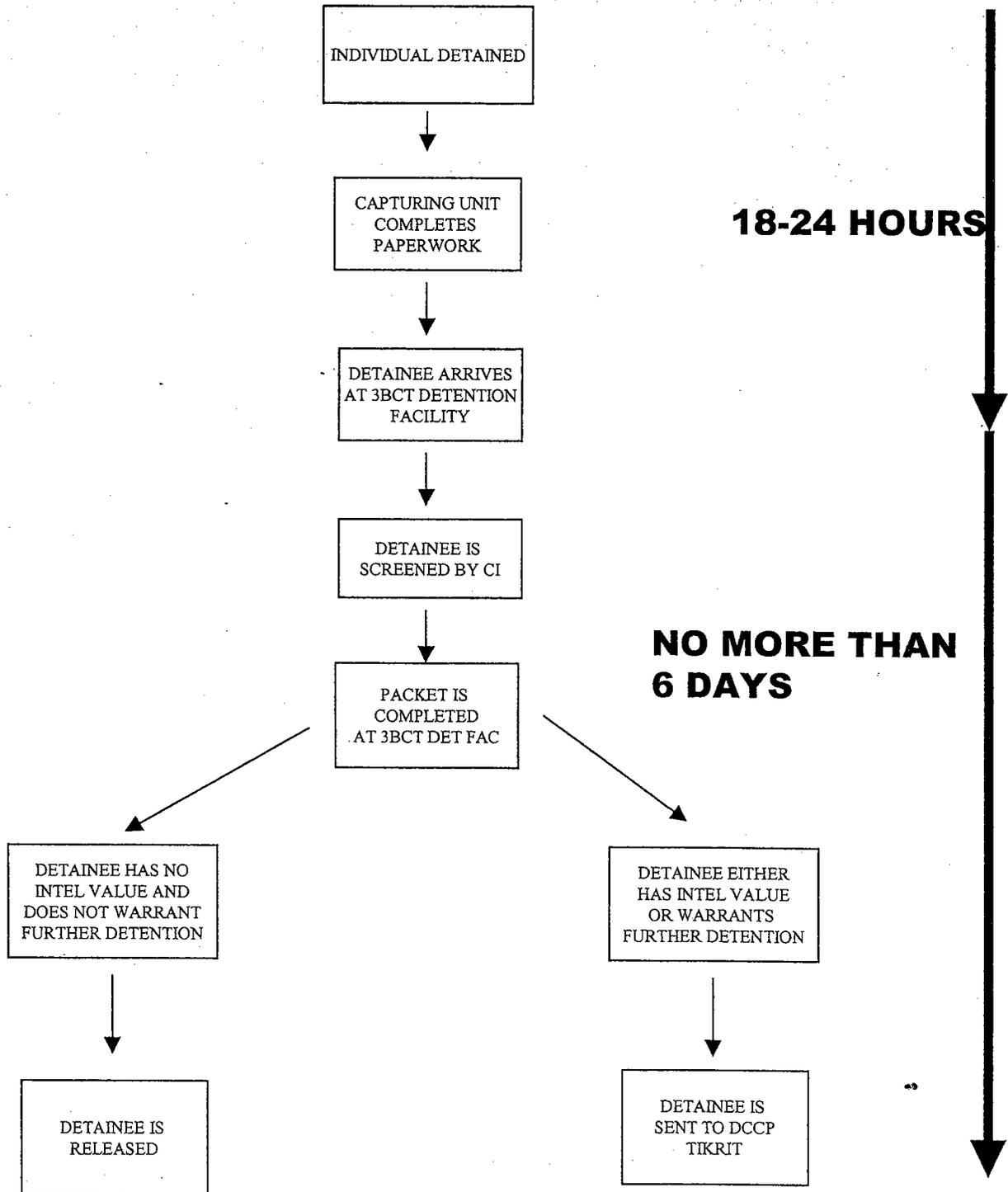
Any discrepancies identified are annotated and the detaining unit is responsible for corrections needed.

3. Once the initial in-processing is complete, the detainee(s) are then taken to the detention facility and in-processed by the 64<sup>th</sup> MP Company. Simultaneously the 3-29 FA S-2 section validates the identity of the detainee(s) through the BDE S-2 while concurrently verifying against the Battalion's list.
4. If the detaining Battalion S-2 does not conduct an initial interrogation of the detainee(s), the 3-29 FA THT will conduct the interrogation.
5. If the detainee(s) is a CAT I or IA (have intelligence value, HVT, or a Foreign fighter), the detainee(s) will be immediately transferred to DCCP. Pacesetter S-2 will coordinate with DCCP not less than 24 hours prior to transfer. (DCCP runs occur every TUE and FRI)
6. If the detainee(s) is determined to have no intelligence value (CAT B, C, or D) from and/or through interrogations, the detainee(s) is/are tried for the violations listed. A DA Form 6 selects the trial officer. Proceedings are conducted based on a summary courts martial model written by the 3BCT JAG.
7. If detainee(s) was apprehended and is not of intel value or has not committed any other violations, then they are released. Prior to any release, Pacesetter S-2 contacts the detaining unit not less than 24 hours prior and receives an acknowledgement that a release is going to occur in the detaining units AO. If the unit has no objections or reasons to further detain the individual the detainee(s) is released. The releases are conducted on every WED and SAT.
8. The major shortfalls that usually hold up a detainee from being released or transferred to DCCP are:
  - a. Coalition Apprehension Form improperly filled out. The form does not have all the information needed. The Detaining soldiers name and Supervising officers name are the items that are usually left off.
  - b. Synopsis memo is missing or incomplete.
  - c. CI screening sheet is missing or incomplete
  - d. DA 4137 missing
  - e. Sworn statements missing.

If the information is not on hand, it takes some units up to 3 weeks to complete the packets to expedite the process.

002073

# DETAINEE PROCESSING



# TFIH DCCP

## Required documentation prior to in processing

1. **Coalition Provisional Authority Forces Apprehension Form** (CPA form) must be properly filled out. Yellow fields must be filled in, if applicable, upon apprehension.
2. **DD Form 2745** EPW capture tag or an equivalent document containing information shown on DD 2745
3. **Photograph of detainee**
4. **DA Form 2823s** are required for criminal detainees from two individuals present at time of capture which must have the who, what, when, why, how and where explained. It is recommended all detainees have a DA Form 2823 completed by the capturing unit to assist in explaining why detainees were detained and the events that took place at time of capture.
5. **Medical screening documents** need to accompany any detainee who has a medical condition
6. **DA Form 4137** is required for any property that was taken from the detainee since time of capture. If a weapon is mentioned on the DA Form 4137 but is not transferred with the detainee a disposition statement is required explaining where the weapon is.
7. **Photographs of any property** that was not transferred with the detainee for any reason.

\* The more information that is transferred with a detainee the more likely it is he will not be released due to lack of evidence or information concerning his detention. The detainees packet should provide information specific as to why he was detained. Several forms reviewed by the Division only state the individual was detained during a raid or in the vicinity of an IED. This alone will most often cause a recommendation for release, after further inquires it is often discovered that there are more circumstances warranting the detainees detention that were not provided in the individual packet.



DEPARTMENT OF THE ARMY  
HEADQUARTERS,  
4TH INFANTRY DIVISION (MECHANIZED)  
TEKRIT, IRAQ

AFYB-CG

21 September 2003

MEMORANDUM FOR TF Ironhorse Commanders, Leaders and Soldiers

SUBJECT: Treatment of Detainees in the Custody of U.S. Forces

1. The purpose of this memorandum is to provide guidance for the treatment of enemy prisoners of war (EPW), civilian internees (CI) and other detainees (OD) in the custody of U.S. Forces.
2. Commanders at all levels will ensure that EPWs, civilian internees (to include unlawful combatants and terrorists) and other detainees are humanely treated in accordance with AR 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees, and Other Detainees; Field Manual 27-10, The Law of Land Warfare; the 1949 Geneva Convention Relative to the Treatment of Prisoners of War; and, the 1949 Geneva Convention Relative to the Protection of Civilians in a Time of War.
3. TF Ironhorse soldiers will treat all detainees with dignity and respect and, at the very least, will meet the standards for humane treatment as articulated in international law. TF Ironhorse soldiers will treat all CI and OD in a manner consistent with the protections afforded EPWs pursuant to the principles outlined in the Geneva Convention. Such treatment will be extended to EPWs, CI, and OD from the moment they fall into the hands of U.S. Forces to the time of their final release or repatriation.
4. EPWs, CI, and OD will be respected as human beings. They will be protected against all acts of violence, including, but not limited to, assault, insults, public curiosity, bodily injury, and reprisals of any kind. While detainees in U.S. custody may be interrogated for intelligence purposes, the use of physical or mental torture, or coercion to compel individuals to provide information is strictly prohibited. Interrogations will be conducted by intelligence or counter-intelligence personnel.
5. Detainees will receive humane treatment without regard to race, nationality, religion, political opinion, sex, or other criteria. U.S. Forces may, however, segregate detainees by category for operational and security reasons.
6. Inhumane treatment of EPWs, CI, and OD is strictly prohibited. Neither the stresses of combat, nor deep provocation will justify inhumane treatment. Such ill treatment of detainees is a serious crime, punishable under international law and the Uniform Code of Military Justice (UCMJ). All reports of detainee or civilian maltreatment will be investigated and reported to the supporting judge advocate or Division SJA.

002076

2077

AFYB-CG

SUBJECT: Treatment of Detainees in the Custody of U.S. Forces

B3/B6

7. POC for this memorandum is LTC [REDACTED] Staff Judge Advocate, at CNVT 534-  
[REDACTED]

"STEADFAST AND LOYAL"

RAYMOND T. ODIERNO  
Major General, USA  
Commanding

ENCLOSURE 1 SOP FOR TF IH DETAINEE COLLECTION POINTS



REPLY TO  
ATTENTION OF:

DEPARTMENT OF THE ARMY  
HEADQUARTERS, 4TH INFANTRY DIVISION  
(MECHANIZED)  
OFFICE OF THE PROVOST MARSHAL  
MAIN PALACE, TIKRIT IRAQ

AFYB-PM

20 September 2003

MEMORANDUM FOR RECORD

SUBJECT: Standard Operating Procedures for all Task Force Ironhorse Detainee Collection Points

1. OVERVIEW

The purpose of this memorandum is to standardize the operations of the Task Force Detainee Collection Points and provide guidance for the handling of detainees. All MSC's operating holding areas in their area of operations will follow this SOP. All BCCP's will be operated by military police and augmentations as needed. The size of the facility is based on the number of prisoners being detained. It may be a room or a tent, as long as it provides shelter equal to that offered to other soldiers in the combat zone. The physical criteria for permanent and temporary structures are the same. MP should use existing structures if you can. Otherwise, use tents. Field-expedient facilities must be approved and periodically inspected by a medical corps officer or a designated representative. All individuals that are captured and detained in the TFIH AOR are transported to the DCCP for final disposition. Detainees are transferred to the DCCP no later than fourteen days from the date of capture. Individuals include criminals, soldiers, terrorists, government officials, and anyone else who disrupts Coalition Forces' operations, poses a threat to U.S. soldiers, or has information of the same; and anyone who was actively engaged in and supported the removed regime. U.S. military prisoners may at times be detained in the facility. This SOP covers some of the basic internal procedures for operating the collection point.

2. GUARD FORCE

a. General. The MSC Holding Collection Points will operate with [REDACTED] with enough military police to adequately guard the detainees. Augmentation will, at a minimum be [REDACTED] personnel.

b. Administrative. Holding Area OICs/NCOICs will maintain a journal during their shift and review the journal with the oncoming NCOIC at the end of the shift. Any entries made in the pass on book will be annotated on a DA Form 1594. All visitors to the facility will be logged in.

c. Equipment:

002078

2079

B2-3

1. MP and augmentee guards will report to shift with Kevlar, LBV, IBAS, Gloves, Flexi-Cuffs and required rations. Guards in the inner areas of the facility will keep their equipment in a designated area readily available to them. [REDACTED]

2. The Guard Force Commander will have a [REDACTED] (if qualified) when available, which will be kept in a secure area. [REDACTED]

3. Any losses or shortages of equipment that occur during a shift will be logged on the DA Form 1594 and the OIC and NCOIC will be notified immediately.

d. Guard Force Commanders (GFC) during each shift will:

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. Log all relevant information in the journal to include, but should not be limited to:

- a. Sick call and medication times
- b. Detainees' who are taken outside the wire for any reason
- c. Water and meal times
- d. Detainees' who failed to follow the rules and the action taken
- e. Detainee interrogation by CI/MI (EPW Tag #)
- f. Any refusal by a prisoner of food, water, or medical attention and reason
- g. Any significant events
- h. Shortages of equipment

5. [REDACTED]

6. Brief incoming GFC on changes in the pass on book and all significant actions or events during shift.

e. Guard Force Commanders will notify the OIC/ NCOIC immediately of the following:

- 1. A problem with the headcount and actions taken to fix it
- 2. A significant event in the compound such as riots or disturbances
- 3. Excessive amounts of money or equipment being turned over on 4137's
- 4. Any use of force
- 5. Any punishments given to a detainee

All:  
B2-3

6. Any medical issues or emergencies
7. Any un-authorized personnel who enter the compound. Authorized persons include the following personnel:

All: B2-3

- a. Military Police
- b. Medics
- c. Assigned Augmentees'
- d. MI and CI
- e. Any other personnel granted authorization by the OIC/ NCOIC

[REDACTED]

### 3. ADMINISTRATIVE OPERATIONS

#### a. In processing:

1. The dismount point will notify the OIC/ NCOIC will get notified from the dismount point that Detainee's have arrived. Detainee operations will then be notified of the new arrivals.
2. SOG, OIC, or NCOIC will screen packets for any discrepancies and will categorize the detainees.
3. Once the coalition packet is screened, it is handed off to SOG for in processing. The capturing or transporting unit will not bring prisoners past dismount point until packets are screened and SOG is ready for processing.
4. Once SOG is ready, the capturing unit will escort prisoners and their property to the inner processing area. Property will be received and signed for on a DA 4137. High property will be signed for by the OIC and placed in the safe of securable area.
5. [REDACTED]
6. Property will be marked by detainee number and maintained in the in processing room.
7. [REDACTED]
8. Once detainees are in-processed, the coalition packets will be handed over to Operations for administrative data and maintained until detainee is transferred to the DCCP. Packets will be handed over to the DCCP OIC or NCOIC for processing.

9. A detainee packet will be created, which will include a DA Form 1597 detailing any disciplinary actions, a DA Form 4137, sworn statements from capturing units, and any biographical information on the detainee.
10. Arriving detainees with medical conditions will stay with the capturing unit and will not be signed for until a final determination is made regarding their status, which will be determined by qualified medical personnel located at the Aid Station

b. Out-processing:

- All: B2-3
1. [REDACTED]
  2. SOG ensures that the detainees and their property are accounted for and verified. The DA Form 4137's and DA Form 2708's will be completed prior to the detainee(s) being released.
  3. SOG records the notification on the DA 1594.
  4. [REDACTED]
  5. [REDACTED]
  6. SOG will check and re-check badge numbers and the detainee(s) photo to verify that the correct detainee(s) are being transported.
  7. [REDACTED]
  8. [REDACTED]
  9. All property and personnel shall be released on DA Form 2708's.
  10. An entry will be annotated in the journal stating the time the convoy departed the facility. The detainee register will then be completed, which is located in the in-processing room.

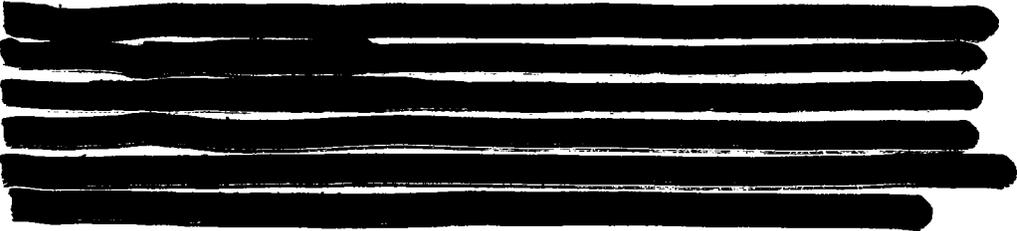
c. Logistics:

1. The NCOIC of the Collection Point is responsible for logistics.
2. Detainees will be used to load and down load rations, transport trash, and burn human waste.

All:  
B2-3

3. Rations for the detainees will be based off the ration allowances for the U.S. Soldiers. (2 MRE's for detainees.)
4. Detainees will receive two MRE's a day. They will receive two fresh bottles of water a day. They will also refill their bottles with potable water from a water blivit or water buffalo under direct supervision of the roving military police or augmentee. Detainees will get a total of 6 bottles of water a day.
5. MRE's will be broken down before being received by detainees. The heaters, matches and Tobassco sauce will be removed from each MRE. Religious customs will be taken into consideration when distributing meals.
6. There are jump suits available for detainees who show up with severely ripped or soiled clothing. There are also shower shoes available for those that arrive at the TFICCP without shoes.
7. Soap will be distributed evenly among detainees and hygiene kits will be distributed when available.

d. Medical Operations

1. The MSC's on call Medic will be notified of all medical issues regarding detainees and U.S. Soldiers. Notification will include the initial assessment of the situation, detainee(s) identification number and the action(s) taken.
2. 
3. Medics will be the only ones authorized to administer medication(s) to detainees; not US military police soldiers.
4. Medical logs will be maintained in the detainee's folder.
5. Any medical action(s) taken with the detainee will be logged in the daily journal. Any refusal of medical care or medications by a detainee will also be annotated.
6. Operations will be notified on all medical treatment received by the detainee(s).

4. DISCIPLINE AND SECURITY

- a. The following acts WILL NOT be permitted at the Holding Areas:

002082

1. Fraternalization between detainees and U.S. military or civilian personnel. Fraternalization is defined as improper or intimate communications or actions between U.S. Armed Forces and the detainees.
2. Donating or receiving gifts or engaging in any commercial activity between persons in U.S. custody and U.S. personnel.
3. Disciplinary powers will not be delegated to or exercised by detainees. Detainees will not administer punishments.
4. The following notice will be posted in both areas of the compound:

“A detainee who feels that their lives are in danger or that they may suffer physical injury at the hands of other detainees will immediately report the fact personally to a U.S. military guard. From that time on the Officer-In-Charge will assure adequate protection to the detainee by segregation, transfer, or other means. Detainees who mistreat other detainees will be punished.”

5. Security guidelines outlined below concern the custody and use of detainees.

6. Guard and work details.

[REDACTED]

All: B2-3

b. Preventing Escape:

1. SOG's will ensure that each detainee understands the meaning of the word "halt" (Arabic: OGOFF).

[REDACTED]

- 2.

[REDACTED]

c. Security of detention facility.

1. The NCOIC will handle all logistical materials in and around the camp.
2. The NCOIC will ensure that there is adequate C-wire around the camp and that there are no gaps in C-wire.

002083

3. The NCOIC will ensure that the camp is sufficiently lit during hours of darkness so the guards can see any escape attempt.

4. The SOG will ensure the following security measure are met at all times:

a. [REDACTED]

b. [REDACTED]

c. [REDACTED]

d. [REDACTED]

e. If these requirements cannot be met due to personnel strength, the SOG will immediately notify the OIC .

All: B2-3

d. General provisions common to disciplinary and judicial punishments:

▪ [REDACTED]

▪ Punishment will not be inhumane, brutal, or dangerous to the health of the CI. The age, sex, and state of health of the CI will be considered.

▪ Disciplinary punishments may be ordered by the OIC or NCOIC.

5. Proponent for this SOP is the Task Force Ironhorse Provost Marshal.

6. Point of contact for this SOP is the undersigned at 534 [REDACTED]

[REDACTED]

MAJ(P), MP  
Provost Marshal

ANNEX A- FACILITY MAP  
ANNEX B- QRF PLAN  
ANNEX C- AUGMENTEE INTEGRATION

002084

# COLLECTION POINTS/HOLDING AREAS

## CHECKLIST

### Facility

1. Are detainees/prisoners exposed to fire of the combat zone?
2. Are detainees/prisoners segregated by category?
3. Are detainees/prisoners quartered under conditions as favorable as those of detaining power?
4. Are there adequate blankets/bedding for population?
5. Is adequate heat and light provided ? (In particular between dusk and Lights out)
6. Are there separate dormitories for men and women?
7. Is there an interview/screening area?

YES	NO	REMARKS

### Detainees/ Prisoners

1. Have there been any detainees/prisoners killed in your facility?
2. Are detainees/prisoners protected against acts of violence/intimidation?
3. Are detainees/prisoners subjected to physical/mental torture?
4. Are detainees/prisoners questioned in their own language?
5. Are detainees treated with respect?
6. Are women treated with all regard due their sex?

YES	NO	REMARKS

002085

7. Are all detainees/prisoners treated equally with no distinction based on race, nationality, religious belief or political opinions?
8. Are detainees'/prisoners' classification known by facility OIC/NCOIC?
9. Are detainees/prisoners asked if they would like to have their family notified of their detention?
10. Are family members notified upon request?
11. Are detainees/prisoners allowed visits from family or Religious Leaders?

YES	NO	REMARKS

### Religious Freedoms

1. Are detainees/prisoners permitted complete latitude in the exercise of their religious duties, including attendance at the service of their faith?
2. Are detained Chaplains authorized to conduct services and visit with other detainees in other camps?
3. Do detainees/prisoners who are Ministers of Religion receive the same treatment as Chaplains?

YES	NO	REMARKS

## Food

1. Are detainees/prisoners receiving basic daily food rations?
2. Are rations sufficient in quality, quantity, and variety to keep detainees/prisoners in good health and prevent loss of weight or the development of nutritional deficiencies?
3. Are additional rations supplied to those that conduct work?
4. Are detainees/prisoners receiving sufficient drinking water?
5. Are detainees/prisoners permitted the use of tobacco?
6. Are there adequate facilities for messing?

YES	NO	REMARKS

## Canteens

1. Are detainees/prisoners allowed to procure foodstuffs, soap, tobacco, and ordinary articles for daily use?

YES	NO	REMARKS

## Clothing/Personal Effects

1. Are detainees/prisoners clothing, underwear, and footwear Supplied in sufficient quantities?
2. Are detainees/prisoners retaining personal effects and articles used for their clothing or feeding?

YES	NO	REMARKS

## Hygiene

1. Do detainees/prisoners have access to all sanitary measures, baths and showers?
2. Are separate conveniences provided for women?
3. Are detainees/prisoners provided sufficient water and soap for personal toilet and laundry use?

YES	NO	REMARKS

## Medical Attention

1. Is there an adequate infirmary/aid station?
2. Is there an isolation ward if necessary for cases of Contagious or mental disease?
3. Are detainees/prisoners suffering from serious disease, or whose condition requires special treatment admitted to a hospital? (Military or Civilian)
4. Are detainees/prisoners paying for medical attention?
5. Medical emergency transportation within 10 minutes away.

YES	NO	REMARKS

### Medical Inspections

1. Are medical inspections being conducted atleast once a month?
2. Are detainees/prisoners weight checked and recorded? (DA Form 2664-R)

YES	NO	REMARKS

### Recreation, Study, Sports and Games

1. Are detainees/prisoners given the opportunity for taking physical exercise, including sports and games outdoors?
2. Is sufficient open space provided for recreation, study, sports and games?

YES	NO	REMARKS

### Evacuation of Detainees/Prisoners

1. Are detainees/prisoners evacuated in a timely manner?
2. Are detainees/prisoners exposed to danger while awaiting evacuation?
3. Are detainees/prisoners supplied with sufficient food and potable water, clothing and medical attention?
4. Are detainees/prisoners passing through transit camps and is Their stay there as short as possible.

YES	NO	REMARKS

**Overall Condition of Facility**

FAIR	GOOD	ABOVE AVG	EXCELLENT

**Person Conducting Assessment:** \_\_\_\_\_

**Comments:** \_\_\_\_\_

---

---

---

---

---

---

---

---

## EPW Categories

1. **CATEGORY A** - HIGH LEVEL EPW/DETAINED PERSONS/CIVILIAN INTERNEES, INCLUDING BLACK LIST INDIVIDUALS, SUSPECTED WAR CRIMINALS, AND VIOLATORS OF UN RESOLUTIONS WHOSE BROAD OR SPECIFIC KNOWLEDGE MAKES IT NECESSARY FOR THEM TO BE QUESTIONED WITHOUT DELAY BY SPECIALLY QUALIFIED INTERROGATORS OR DEBRIEFERS. THIS CATEGORY REQUIRES MULTIPLE INTERROGATIONS AND/OR DEBRIEFINGS A MOBILE INTERROGATION TEAM (MIT) FROM THE IRAQI SURVEY GROUP (ISG), COMPRISED OF SPECIALLY QUALIFIED INTERROGATORS AND/OR DEBRIEFERS, AND POSSIBLY TECHNICAL EXPERTS SHOULD BE DISPATCHED TO THE LOCATION OF CATEGORY A EPW/DETAINED PERSONS/CIVILIAN INTERNEES. **IMMEDIATELY TRANSFER CATEGORY A PERSONNEL TO THE TASK FORCE CENTRAL COLLECTION POINT (TFCCP).**
2. **CATEGORY A1** - MID-LEVEL EPW/DETAINED PERSONS/CIVILIAN INTERNEES, INCLUDING GREY LIST INDIVIDUALS, WHOSE BROAD OR SPECIFIC KNOWLEDGE OF REGIONAL AND NATIONAL LEVEL BA'ATH PARTY AND FEDAYEEN ACTIVITIES, LEADERSHIP AND CELL STRUCTURE, IDENTITIES OF MEMBERS, RECRUITING, INTELLIGENCE CAPABILITIES, FINANCING, TRAINING, PLANNING, COMMUNICATIONS AND/OR LOCATIONS, MAKES IT NECESSARY FOR THEM TO BE QUESTIONED WITHOUT DELAY BY OPERATIONALLY FOCUSED INTERROGATORS. ALSO INCLUDES PERSONS SUSPECTED OF AFFILIATION WITH TERRORIST ORGANIZATIONS, FOREIGN INTELLIGENCE SERVICES AND FOREIGN FIGHTERS. **TRANSFER CATEGORY A1 PERSONNEL TO THE TFCCP IMMEDIATELY SO THAT THEY MAY BE PROCESSED AND TRANSPORTED THE COALITION INTERROGATION FACILITY VIC BAGHDAD INTERNATIONAL AIRPORT (BIAP) WITHIN 24 HOURS OF CATEGORIZATION.**
3. **CATEGORY B** - NON-MID/HIGH LEVEL EPW/DETAINED PERSONS/CIVILIAN INTERNEES WHO HAVE ENOUGH INFORMATION ON ANY SUBJECT OF INTELLIGENCE VALUE, INCLUDING INFORMATION OF IMMEDIATE TACTICAL VALUE, TO WARRANT A FOLLOW-ON INTERROGATION OR DEBRIEFING. **TRANSFER CATEGORY B PERSONNEL TO THE CIF NLT 72 HOURS AFTER CATEGORIZATION.**
4. **CATEGORY C** - EPW OR OTHER DETAINEES WHO HAVE ONLY INFORMATION OF IMMEDIATE TACTICAL VALUE AND DO NOT WARRANT FURTHER QUESTIONING.
5. **CATEGORY D** - EPW OR OTHER DETAINEES WHO HAVE NO INFORMATION OF INTELLIGENCE VALUE.

002091 2091

# DETAINEE PROCESSING

- PACKET REQUIREMENTS
  - COALITION APPREHENSION FORM
  - EPW CAPTURE TAG (MAY BE DONE AT SEAF)
  - DA FORM 2823, SWORN STATEMENT, WITH SYNOPSIS OF DETAINMENT, SIGNED AND DATED
  - DA FORM 4137, EVIDENCE/PROPERTY CUSTODY DOCUMENT, FILLED OUT WITH ALL CONTRABAND AND PERSONAL PROPERTY OF DETAINEE
  - ALL BACKGROUND INFORMATION
    - INFORMATION ON INFORMANTS (ON SWORN STATEMENT)
      - RELIABILITY
      - PRIOR WORK
      - REASONS FOR INFORMING ON DETAINEE
    - BACKGROUND ON MISSION OR RAID (COPY OF OPORD)
      - SUMMARY OF INTEL SOURCE THAT PROMPTED RAID OR MISSION
  - NEED TO ENSURE THAT DETAINEE INFORMATION IS SPECIFIC. OFTEN, WHEN A GROUP OF PEOPLE ARE DETAINED, THE PACKETS FOR ALL OF THEM ARE EXACTLY THE SAME
  
- NEW GUIDANCE FROM IRONHORSE (FRAGO 1120)
  - DETAINEES ARE SEND TO DCCP WITHIN 6 DAYS OF CAPTURE
  - CATEGORY A AND A1 DETAINEES ARE SENT TO DCCP IMMEDIATELY
  - CREATE A NEW MECHANISM FOR UNITS TO BE ABLE TO ACCESS INTELLIGENCE THAT COMES FROM INTERROGATIONS
  - MOST OF INTERROGATION WILL BE DONE AT THE DIVISION LEVEL
  
- THINK OF DETAINEE'S PACKET LIKE IT IS A COURT CASE. MOST DETAINEES ARE TRIED WITH JAG AT THE DIVISION AND CORPS LEVEL, WITH A PROCESS SIMILAR TO A COURT MARTIAL. PROVIDING AS MUCH INFORMATION AS POSSIBLE IS ESSENTIAL TO ENSURE A PROPER TRIAL IS CONDUCTED, AND MORE IMPORTANTLY, THAT INTELLIGENCE IS GATHERED MORE EFFECTIVELY BY THE INTERROGATORS.



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
TASK FORCE IRONHORSE  
TIKRIT MAIN PALACE, TIKRIT, IRAQ

AFYB-CG

21 SEP 03

MEMORANDUM FOR ALL DETAINEE COLLECTION POINT VISITORS

SUBJECT: Detainee Collection Point Access Control Guidance

1. The proper safeguarding of detainees is the responsibility of capturing US forces as directed by AR 190-8. Within TFIH this responsibility is solely that of the Provost Marshal.
2. In order to properly safeguard detainees under the control of TFIH, the release of the names and detailed information to third parties not directly related to the detainee is not authorized.
3. Exceptions to this policy are members of the International Committee of the Red Cross or legal representatives to the party that have been properly documented.
  - a. Visitation to TFIH collection points and the DCCP by HN personnel is not authorized.
  - b. Visitation to TFIH collection points and the DCCP by US/Coalition forces is limited to:
    - Military Police performing security/detainee duties
    - MI/CI personnel performing interview/screening duties
    - Linguists directly supporting TFIH DCCP/BCCP operations
    - SJA personnel performing interview/screening duties
    - Visitors authorized as directed by the TFIH, CG/CoS
    - ICRC visits as approved by the TFIH, CG
    - Designated guard force augmentee's as directed by the G3/S3
    - Work details authorized by the TFIH PM/MP OIC/NCOIC
    - Medical personnel performing health screenings
    - Capturing unit personnel delivering detainees to the facility
4. Detainees are not authorized to receive items from outside of the facility (food, clothing, notes, etc).

002093  
2093

AFYB-CG

SUBJECT: Release of Detainee Status

5. OPSEC is of paramount concern in operating a facility such as those designated in TF IH:

a. Alerting the local populace to who is located exactly where and when has obvious implications, and poses a direct threat against individual BCCP's and our soldiers.

b. Concurrently, identifying these three W's to the local populace potentially places the detainee at risk due to his/her past position or information that they may be sharing with our interviewers.

6. Point of contact is the Task Force Ironhorse Provost Marshal, MAJ(P) [REDACTED] at 534- [REDACTED]

B3/B6

RAYMOND T. ODIERNO  
MG, USA  
Commanding

002094

United Nations

OHCHR

[Français](#) | [Español](#)

Human Rights

## Geneva Convention relative to the Treatment of Prisoners of War

Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August, 1949

*entry into force 21 October 1950*

### **PART I**

#### **GENERAL PROVISIONS**

##### *Article 1*

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

##### *Article 2*

In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

##### *Article 3*

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place

002095

9/29/2004

2095

whatsoever with respect to the above-mentioned persons:

- (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) Taking of hostages;
- (c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
- (d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

#### *Article 4*

A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

1. Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.
2. Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:
  - (a) That of being commanded by a person responsible for his subordinates;
  - (b) That of having a fixed distinctive sign recognizable at a distance;
  - (c) That of carrying arms openly;
  - (d) That of conducting their operations in accordance with the laws and customs of war.
3. Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.
4. Persons who accompany the armed forces without actually being members thereof, such as

civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.

5. Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.

6. Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

B. The following shall likewise be treated as prisoners of war under the present Convention:

1. Persons belonging, or having belonged, to the armed forces of the occupied country, if the occupying Power considers it necessary by reason of such allegiance to intern them, even though it has originally liberated them while hostilities were going on outside the territory it occupies, in particular where such persons have made an unsuccessful attempt to rejoin the armed forces to which they belong and which are engaged in combat, or where they fail to comply with a summons made to them with a view to internment.

2. The persons belonging to one of the categories enumerated in the present Article, who have been received by neutral or non-belligerent Powers on their territory and whom these Powers are required to intern under international law, without prejudice to any more favourable treatment which these Powers may choose to give and with the exception of Articles 8, 10, 15, 30, fifth paragraph, 58-67, 92, 126 and, where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned, those Articles concerning the Protecting Power. Where such diplomatic relations exist, the Parties to a conflict on whom these persons depend shall be allowed to perform towards them the functions of a Protecting Power as provided in the present Convention, without prejudice to the functions which these Parties normally exercise in conformity with diplomatic and consular usage and treaties.

C. This Article shall in no way affect the status of medical personnel and chaplains as provided for in Article 33 of the present Convention.

#### *Article 5*

The present Convention shall apply to the persons referred to in Article 4 from the time they fall into the power of the enemy and until their final release and repatriation.

Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.

#### *Article 6*

In addition to the agreements expressly provided for in Articles 10, 23, 28, 33, 60, 65, 66, 67,

72, 73, 75, 109, 110, 118, 119, 122 and 132, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of prisoners of war, as defined by the present Convention, nor restrict the rights which it confers upon them.

Prisoners of war shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

#### *Article 7*

Prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

#### *Article 8*

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

#### *Article 9*

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of prisoners of war and for their relief.

#### *Article 10*

The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When prisoners of war do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

#### *Article 11*

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for prisoners of war, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

## **PART II**

### **GENERAL PROTECTION OF PRISONERS OF WAR**

#### *Article 12*

Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. When prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

Nevertheless if that Power fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such requests must be complied with.

### *Article 13*

Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

### *Article 14*

Prisoners of war are entitled in all circumstances to respect for their persons and their honour. Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men. Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

### *Article 15*

The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

### *Article 16*

Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria.

## **PART III**

### **CAPTIVITY**

#### **SECTION I**

#### **BEGINNING OF CAPTIVITY**

### *Article 17*

**002100**

9/29/2004

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information. If he wilfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand.

#### *Article 18*

All effects and articles of personal use, except arms, horses, military equipment and military documents shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment.

At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none.

Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war.

Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article 64.

The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply.

Such objects, likewise the sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

#### *Article 19*

Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger.

Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone.

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

#### *Article 20*

The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station.

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated.

If prisoners of war must, during evacuation, pass through transit camps, their stay in such camps shall be as brief as possible.

### **SECTION II**

#### **INTERNMENT OF PRISONERS OF WAR**

##### **Chapter I**

#### **GENERAL OBSERVATIONS**

##### *Article 21*

The Detaining Power may subject prisoners of war to internment. It may impose on them the obligation of not leaving, beyond certain limits, the camp where they are interned, or if the said camp is fenced in, of not going outside its perimeter. Subject to the provisions of the present Convention relative to penal and disciplinary sanctions, prisoners of war may not be held in close confinement except where necessary to safeguard their health and then only during the continuation of the circumstances which make such confinement necessary.

Prisoners of war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend. Such measures shall be taken particularly in cases where this may contribute to the improvement of their state of health. No

prisoner of war shall be compelled to accept liberty on parole or promise.

Upon the outbreak of hostilities, each Party to the conflict shall notify the adverse Party of the laws and regulations allowing or forbidding its own nationals to accept liberty on parole or promise. Prisoners of war who are paroled or who have given their promise in conformity with the laws and regulations so notified, are bound on their personal honour scrupulously to fulfil, both towards the Power on which they depend and towards the Power which has captured them, the engagements of their paroles or promises. In such cases, the Power on which they depend is bound neither to require nor to accept from them any service incompatible with the parole or promise given.

#### *Article 22*

Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness. Except in particular cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries.

Prisoners of war interned in unhealthy areas, or where the climate is injurious for them, shall be removed as soon as possible to a more favourable climate.

The Detaining Power shall assemble prisoners of war in camps or camp compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent.

#### *Article 23*

No prisoner of war may at any time be sent to or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations.

Prisoners of war shall have shelters against air bombardment and other hazards of war, to the same extent as the local civilian population. With the exception of those engaged in the protection of their quarters against the aforesaid hazards, they may enter such shelters as soon as possible after the giving of the alarm. Any other protective measure taken in favour of the population shall also apply to them.

Detaining Powers shall give the Powers concerned, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of prisoner of war camps.

Whenever military considerations permit, prisoner of war camps shall be indicated in the daytime by the letters PW or PG, placed so as to be clearly visible from the air. The Powers concerned may, however, agree upon any other system of marking. Only prisoner of war camps shall be marked as such.

#### *Article 24*

Transit or screening camps of a permanent kind shall be fitted out under conditions similar to those described in the present Section, and the prisoners therein shall have the same treatment as in other camps.

## **Chapter II**

### **QUARTERS, FOOD AND CLOTHING OF PRISONERS OF WAR**

#### *Article 25*

Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. All precautions must be taken against the danger of fire.

In any camps in which women prisoners of war, as well as men, are accommodated, separate dormitories shall be provided for them.

#### *Article 26*

The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners.

The Detaining Power shall supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed.

Sufficient drinking water shall be supplied to prisoners of war. The use of tobacco shall be permitted.

Prisoners of war shall, as far as possible, be associated with the preparation of their meals; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession.

Adequate premises shall be provided for messing.

Collective disciplinary measures affecting food are prohibited.

#### *Article 27*

Clothing, underwear and footwear shall be supplied to prisoners of war in sufficient quantities by the Detaining Power, which shall make allowance for the climate of the region where the prisoners are detained. Uniforms of enemy armed forces captured by the Detaining Power should, if suitable for the climate, be made available to clothe prisoners of war.

The regular replacement and repair of the above articles shall be assured by the Detaining Power. In addition, prisoners of war who work shall receive appropriate clothing, wherever the nature of the work demands.

#### *Article 28*

Canteens shall be installed in all camps, where prisoners of war may procure foodstuffs, soap and tobacco and ordinary articles in daily use. The tariff shall never be in excess of local market prices. The profits made by camp canteens shall be used for the benefit of the prisoners; a special fund shall be created for this purpose. The prisoners' representative shall have the right to collaborate in the management of the canteen and of this fund.

When a camp is closed down, the credit balance of the special fund shall be handed to an international welfare organization, to be employed for the benefit of prisoners of war of the same nationality as those who have contributed to the fund. In case of a general repatriation, such profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

### **Chapter III**

#### **HYGIENE AND MEDICAL ATTENTION**

#### *Article 29*

The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them.

Also, apart from the baths and showers with which the camps shall be furnished, prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

#### *Article 30*

Every camp shall have an adequate infirmary where prisoners of war may have the attention they require, as well as appropriate diet. Isolation wards shall, if necessary, be set aside for cases of contagious or mental disease.

Prisoners of war suffering from serious disease, or whose condition necessitates special treatment, a surgical operation or hospital care, must be admitted to any military or civilian medical unit where such treatment can be given, even if their repatriation is contemplated in the near future. Special facilities shall be afforded for the care to be given to the disabled, in particular to the blind, and for their rehabilitation, pending repatriation.

Prisoners of war shall have the attention, preferably, of medical personnel of the Power on

002105

... 9/29/2004

which they depend and, if possible, of their nationality.

Prisoners of war may not be prevented from presenting themselves to the medical authorities for examination. The detaining authorities shall, upon request, issue to every prisoner who has undergone treatment, an official certificate indicating the nature of his illness or injury, and the duration and kind of treatment received. A duplicate of this certificate shall be forwarded to the Central Prisoners of War Agency.

The costs of treatment, including those of any apparatus necessary for the maintenance of prisoners of war in good health, particularly dentures and other artificial appliances, and spectacles, shall be borne by the Detaining Power.

#### *Article 31*

Medical inspections of prisoners of war shall be held at least once a month. They shall include the checking and the recording of the weight of each prisoner of war. Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of prisoners and to detect contagious diseases, especially tuberculosis, malaria and venereal disease. For this purpose the most efficient methods available shall be employed, e.g. periodic mass miniature radiography for the early detection of tuberculosis.

#### *Article 32*

Prisoners of war who, though not attached to the medical service of their armed forces, are physicians, surgeons, dentists, nurses or medical orderlies, may be required by the Detaining Power to exercise their medical functions in the interests of prisoners of war dependent on the same Power. In that case they shall continue to be prisoners of war, but shall receive the same treatment as corresponding medical personnel retained by the Detaining Power. They shall be exempted from any other work under Article 49.

### ***Chapter IV***

#### ***MEDICAL PERSONNEL AND CHAPLAINS RETAINED TO ASSIST PRISONERS OF WAR***

#### *Article 33*

Members of the medical personnel and chaplains while retained by the Detaining Power with a view to assisting prisoners of war, shall not be considered as prisoners of war. They shall, however, receive as a minimum the benefits and protection of the present Convention, and shall also be granted all facilities necessary to provide for the medical care of, and religious instruction to, prisoners of war.

They shall continue to exercise their medical and spiritual functions for the benefit of prisoners of war, preferably those belonging to the armed forces upon which they depend, within the scope of the military laws and regulations of the Detaining Power and under the control of its competent services, in accordance with their professional etiquette. They shall also benefit by the following facilities in the exercise of their medical or spiritual functions:

- (a) They shall be authorized to visit periodically prisoners of war situated in working detachments or in hospitals outside the camp. For this purpose, the Detaining Power shall

place at their disposal the necessary means of transport.

(b) The senior medical officer in each camp shall be responsible to the camp military authorities for everything connected with the activities of retained medical personnel. For this purpose, Parties to the conflict shall agree at the outbreak of hostilities on the subject of the corresponding ranks of the medical personnel, including that of societies mentioned in Article 26 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949. This senior medical officer, as well as chaplains, shall have the right to deal with the competent authorities of the camp on all questions relating to their duties. Such authorities shall afford them all necessary facilities for correspondence relating to these questions.

(c) Although they shall be subject to the internal discipline of the camp in which they are retained, such personnel may not be compelled to carry out any work other than that concerned with their medical or religious duties.

During hostilities, the Parties to the conflict shall agree concerning the possible relief of retained personnel and shall settle the procedure to be followed.

None of the preceding provisions shall relieve the Detaining Power of its obligations with regard to prisoners of war from the medical or spiritual point of view.

## **Chapter V**

### **RELIGIOUS, INTELLECTUAL AND PHYSICAL ACTIVITIES**

#### *Article 34*

Prisoners of war shall enjoy complete latitude in the exercise of their religious duties, including attendance at the service of their faith, on condition that they comply with the disciplinary routine prescribed by the military authorities.

Adequate premises shall be provided where religious services may be held.

#### *Article 35*

Chaplains who fall into the hands of the enemy Power and who remain or are retained with a view to assisting prisoners of war, shall be allowed to minister to them and to exercise freely their ministry amongst prisoners of war of the same religion, in accordance with their religious conscience. They shall be allocated among the various camps and labour detachments containing prisoners of war belonging to the same forces, speaking the same language or practising the same religion. They shall enjoy the necessary facilities, including the means of transport provided for in Article 33, for visiting the prisoners of war outside their camp. They shall be free to correspond, subject to censorship, on matters concerning their religious duties with the ecclesiastical authorities in the country of detention and with international religious organizations. Letters and cards which they may send for this purpose shall be in addition to the quota provided for in Article 71.

#### *Article 36*

002107

.. 9/29/2004

Prisoners of war who are ministers of religion, without having officiated as chaplains to their own forces, shall be at liberty, whatever their denomination, to minister freely to the members of their community. For this purpose, they shall receive the same treatment as the chaplains retained by the Detaining Power. They shall not be obliged to do any other work.

#### *Article 37*

When prisoners of war have not the assistance of a retained chaplain or of a prisoner of war minister of their faith, a minister belonging to the prisoners' or a similar denomination, or in his absence a qualified layman, if such a course is feasible from a confessional point of view, shall be appointed, at the request of the prisoners concerned, to fill this office. This appointment, subject to the approval of the Detaining Power, shall take place with the agreement of the community of prisoners concerned and, wherever necessary, with the approval of the local religious authorities of the same faith. The person thus appointed shall comply with all regulations established by the Detaining Power in the interests of discipline and military security.

#### *Article 38*

While respecting the individual preferences of every prisoner, the Detaining Power shall encourage the practice of intellectual, educational, and recreational pursuits, sports and games amongst prisoners, and shall take the measures necessary to ensure the exercise thereof by providing them with adequate premises and necessary equipment.

Prisoners shall have opportunities for taking physical exercise, including sports and games, and for being out of doors. Sufficient open spaces shall be provided for this purpose in all camps.

### ***Chapter VI***

#### ***DISCIPLINE***

#### *Article 39*

Every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application.

Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces.

Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank.

#### *Article 40*

The wearing of badges of rank and nationality, as well as of decorations, shall be permitted.

**002108**

*Article 41*

In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, at places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand.

*Article 42*

The use of weapons against prisoners of war, especially against those who are escaping or attempting to escape, shall constitute an extreme measure, which shall always be preceded by warnings appropriate to the circumstances.

**Chapter VII****RANK OF PRISONERS OF WAR***Article 43*

Upon the outbreak of hostilities, the Parties to the conflict shall communicate to one another the titles and ranks of all the persons mentioned in Article 4 of the present Convention, in order to ensure equality of treatment between prisoners of equivalent rank. Titles and ranks which are subsequently created shall form the subject of similar communications.

The Detaining Power shall recognize promotions in rank which have been accorded to prisoners of war and which have been duly notified by the Power on which these prisoners depend.

*Article 44*

Officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

In order to ensure service in officers' camps, other ranks of the same armed forces who, as far as possible, speak the same language, shall be assigned in sufficient numbers, account being taken of the rank of officers and prisoners of equivalent status. Such orderlies shall not be required to perform any other work.

Supervision of the mess by the officers themselves shall be facilitated in every way.

*Article 45*

Prisoners of war other than officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

Supervision of the mess by the prisoners themselves shall be facilitated in every way.

### *Chapter VIII*

#### **TRANSFER OF PRISONERS OF WAR AFTER THEIR ARRIVAL IN CAMP**

##### *Article 46*

The Detaining Power, when deciding upon the transfer of prisoners of war, shall take into account the interests of the prisoners themselves, more especially so as not to increase the difficulty of their repatriation.

The transfer of prisoners of war shall always be effected humanely and in conditions not less favourable than those under which the forces of the Detaining Power are transferred. Account shall always be taken of the climatic conditions to which the prisoners of war are accustomed and the conditions of transfer shall in no case be prejudicial to their health.

The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention. The Detaining Power shall take adequate precautions especially in case of transport by sea or by air, to ensure their safety during transfer, and shall draw up a complete list of all transferred prisoners before their departure.

##### *Article 47*

Sick or wounded prisoners of war shall not be transferred as long as their recovery may be endangered by the journey, unless their safety imperatively demands it.

If the combat zone draws closer to a camp, the prisoners of war in the said camp shall not be transferred unless their transfer can be carried out in adequate conditions of safety, or if they are exposed to greater risks by remaining on the spot than by being transferred.

##### *Article 48*

In the event of transfer, prisoners of war shall be officially advised of their departure and of their new postal address. Such notifications shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of transfer so require, to what each prisoner can reasonably carry, which shall in no case be more than twenty-five kilograms per head.

Mail and parcels addressed to their former camp shall be forwarded to them without delay. The camp commander shall take, in agreement with the prisoners' representative, any measures needed to ensure the transport of the prisoners' community property and of the luggage they are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph of this Article.

The costs of transfers shall be borne by the Detaining Power.

**002110**

**SECTION III****LABOUR OF PRISONERS OF WAR***Article 49*

The Detaining Power may utilize the labour of prisoners of war who are physically fit, taking into account their age, sex, rank and physical aptitude, and with a view particularly to maintaining them in a good state of physical and mental health.

Non-commissioned officers who are prisoners of war shall only be required to do supervisory work. Those not so required may ask for other suitable work which shall, so far as possible, be found for them.

If officers or persons of equivalent status ask for suitable work, it shall be found for them, so far as possible, but they may in no circumstances be compelled to work.

*Article 50*

Besides work connected with camp administration, installation or maintenance, prisoners of war may be compelled to do only such work as is included in the following classes:

- (a) Agriculture;
- (b) Industries connected with the production or the extraction of raw materials, and manufacturing industries, with the exception of metallurgical, machinery and chemical industries; public works and building operations which have no military character or purpose;
- (c) Transport and handling of stores which are not military in character or purpose;
- (d) Commercial business, and arts and crafts;
- (e) Domestic service;
- (f) Public utility services having no military character or purpose.

Should the above provisions be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article 78.

*Article 51*

Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work; account shall also be taken of climatic conditions.

The Detaining Power, in utilizing the labour of prisoners of war, shall ensure that in areas in which prisoners are employed, the national legislation concerning the protection of labour, and, more particularly, the regulations for the safety of workers, are duly applied.

002111

9/29/2004

Prisoners of war shall receive training and be provided with the means of protection suitable to the work they will have to do and similar to those accorded to the nationals of the Detaining Power. Subject to the provisions of Article 52, prisoners may be submitted to the normal risks run by these civilian workers.

Conditions of labour shall in no case be rendered more arduous by disciplinary measures.

#### *Article 52*

Unless he be a volunteer, no prisoner of war may be employed on labour which is of an unhealthy or dangerous nature.

No prisoner of war shall be assigned to labour which would be looked upon as humiliating for a member of the Detaining Power's own forces.

The removal of mines or similar devices shall be considered as dangerous labour.

#### *Article 53*

The duration of the daily labour of prisoners of war, including the time of the journey to and fro, shall not be excessive, and must in no case exceed that permitted for civilian workers in the district, who are nationals of the Detaining Power and employed on the same work.

Prisoners of war must be allowed, in the middle of the day's work, a rest of not less than one hour. This rest will be the same as that to which workers of the Detaining Power are entitled, if the latter is of longer duration. They shall be allowed in addition a rest of twenty-four consecutive hours every week, preferably on Sunday or the day of rest in their country of origin. Furthermore, every prisoner who has worked for one year shall be granted a rest of eight consecutive days, during which his working pay shall be paid him.

If methods of labour such as piece-work are employed, the length of the working period shall not be rendered excessive thereby.

#### *Article 54*

The working pay due to prisoners of war shall be fixed in accordance with the provisions of Article 62 of the present Convention.

Prisoners of war who sustain accidents in connection with work, or who contract a disease in the course, or in consequence of their work, shall receive all the care their condition may require. The Detaining Power shall furthermore deliver to such prisoners of war a medical certificate enabling them to submit their claims to the Power on which they depend, and shall send a duplicate to the Central Prisoners of War Agency provided for in Article 123.

#### *Article 55*

The fitness of prisoners of war for work shall be periodically verified by medical examinations at least once a month. The examinations shall have particular regard to the nature of the work which prisoners of war are required to do.

002112

... 9/29/2004

If any prisoner of war considers himself incapable of working, he shall be permitted to appear before the medical authorities of his camp. Physicians or surgeons may recommend that the prisoners who are, in their opinion, unfit for work, be exempted therefrom.

*Article 56*

The organization and administration of labour detachments shall be similar to those of prisoner of war camps.

Every labour detachment shall remain under the control of and administratively part of a prisoner of war camp. The military authorities and the commander of the said camp shall be responsible, under the direction of their government, for the observance of the provisions of the present Convention in labour detachments.

The camp commander shall keep an up-to-date record of the labour detachments dependent on his camp, and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross, or of other agencies giving relief to prisoners of war, who may visit the camp.

*Article 57*

The treatment of prisoners of war who work for private persons, even if the latter are responsible for guarding and protecting them, shall not be inferior to that which is provided for by the present Convention. The Detaining Power, the military authorities and the commander of the camp to which such prisoners belong shall be entirely responsible for the maintenance, care, treatment, and payment of the working pay of such prisoners of war.

Such prisoners of war shall have the right to remain in communication with the prisoners' representatives in the camps on which they depend.

**SECTION IV**

**FINANCIAL RESOURCES OF PRISONERS OF WAR**

*Article 58*

Upon the outbreak of hostilities, and pending an arrangement on this matter with the Protecting Power, the Detaining Power may determine the maximum amount of money in cash or in any similar form, that prisoners may have in their possession. Any amount in excess, which was properly in their possession and which has been taken or withheld from them, shall be placed to their account, together with any monies deposited by them, and shall not be converted into any other currency without their consent.

If prisoners of war are permitted to purchase services or commodities outside the camp against payment in cash, such payments shall be made by the prisoner himself or by the camp administration who will charge them to the accounts of the prisoners concerned. The Detaining

002113

9/29/2004

Power will establish the necessary rules in this respect.

#### *Article 59*

Cash which was taken from prisoners of war, in accordance with Article 18, at the time of their capture, and which is in the currency of the Detaining Power, shall be placed to their separate accounts, in accordance with the provisions of Article 64 of the present Section.

The amounts, in the currency of the Detaining Power, due to the conversion of sums in other currencies that are taken from the prisoners of war at the same time, shall also be credited to their separate accounts.

#### *Article 60*

The Detaining Power shall grant all prisoners of war a monthly advance of pay, the amount of which shall be fixed by conversion, into the currency of the said Power, of the following amounts:

Category I: Prisoners ranking below sergeant: eight Swiss francs.

Category II: Sergeants and other non-commissioned officers, or prisoners of equivalent rank: twelve Swiss francs.

Category III: Warrant officers and commissioned officers below the rank of major or prisoners of equivalent rank: fifty Swiss francs.

Category IV: Majors, lieutenant-colonels, colonels or prisoners of equivalent rank: sixty Swiss francs.

Category V: General officers or prisoners of equivalent rank: seventy-five Swiss francs.

However, the Parties to the conflict concerned may by special agreement modify the amount of advances of pay due to prisoners of the preceding categories.

Furthermore, if the amounts indicated in the first paragraph above would be unduly high compared with the pay of the Detaining Power's armed forces or would, for any reason, seriously embarrass the Detaining Power, then, pending the conclusion of a special agreement with the Power on which the prisoners depend to vary the amounts indicated above, the Detaining Power:

(a) Shall continue to credit the accounts of the prisoners with the amounts indicated in the first paragraph above;

(b) May temporarily limit the amount made available from these advances of pay to prisoners of war for their own use, to sums which are reasonable, but which, for Category I, shall never be inferior to the amount that the Detaining Power gives to the members of its own armed forces.

The reasons for any limitations will be given without delay to the Protecting Power.

*Article 61*

The Detaining Power shall accept for distribution as supplementary pay to prisoners of war sums which the Power on which the prisoners depend may forward to them, on condition that the sums to be paid shall be the same for each prisoner of the same category, shall be payable to all prisoners of that category depending on that Power, and shall be placed in their separate accounts, at the earliest opportunity, in accordance with the provisions of Article 64. Such supplementary pay shall not relieve the Detaining Power of any obligation under this Convention.

*Article 62*

Prisoners of war shall be paid a fair working rate of pay by the detaining authorities direct. The rate shall be fixed by the said authorities, but shall at no time be less than one-fourth of one Swiss franc for a full working day. The Detaining Power shall inform prisoners of war, as well as the Power on which they depend, through the intermediary of the Protecting Power, of the rate of daily working pay that it has fixed.

Working pay shall likewise be paid by the detaining authorities to prisoners of war permanently detailed to duties or to a skilled or semi-skilled occupation in connection with the administration, installation or maintenance of camps, and to the prisoners who are required to carry out spiritual or medical duties on behalf of their comrades.

The working pay of the prisoners' representative, of his advisers, if any, and of his assistants, shall be paid out of the fund maintained by canteen profits. The scale of this working pay shall be fixed by the prisoners' representative and approved by the camp commander. If there is no such fund, the detaining authorities shall pay these prisoners a fair working rate of pay.

*Article 63*

Prisoners of war shall be permitted to receive remittances of money addressed to them individually or collectively.

Every prisoner of war shall have at his disposal the credit balance of his account as provided for in the following Article, within the limits fixed by the Detaining Power, which shall make such payments as are requested. Subject to financial or monetary restrictions which the Detaining Power regards as essential, prisoners of war may also have payments made abroad. In this case payments addressed by prisoners of war to dependants shall be given priority.

In any event, and subject to the consent of the Power on which they depend, prisoners may have payments made in their own country, as follows: the Detaining Power shall send to the aforesaid Power through the Protecting Power a notification giving all the necessary particulars concerning the prisoners of war, the beneficiaries of the payments, and the amount of the sums to be paid, expressed in the Detaining Power's currency. The said notification shall be signed by the prisoners and countersigned by the camp commander. The Detaining Power shall debit the prisoners' account by a corresponding amount; the sums thus debited shall be placed by it to the credit of the Power on which the prisoners depend.

To apply the foregoing provisions, the Detaining Power may usefully consult the Model

Regulations in Annex V of the present Convention.

#### *Article 64*

The Detaining Power shall hold an account for each prisoner of war, showing at least the following:

1. The amounts due to the prisoner or received by him as advances of pay, as working pay or derived from any other source; the sums in the currency of the Detaining Power which were taken from him; the sums taken from him and converted at his request into the currency of the said Power.
2. The payments made to the prisoner in cash, or in any other similar form; the payments made on his behalf and at his request; the sums transferred under Article 63, third paragraph.

#### *Article 65*

Every item entered in the account of a prisoner of war shall be countersigned or initialled by him, or by the prisoners' representative acting on his behalf.

Prisoners of war shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts, which may likewise be inspected by the representatives of the Protecting Powers at the time of visits to the camp.

When prisoners of war are transferred from one camp to another, their personal accounts will follow them. In case of transfer from one Detaining Power to another, the monies which are their property and are not in the currency of the Detaining Power will follow them. They shall be given certificates for any other monies standing to the credit of their accounts.

The Parties to the conflict concerned may agree to notify to each other at specific intervals through the Protecting Power, the amount of the accounts of the prisoners of war.

#### *Article 66*

On the termination of captivity, through the release of a prisoner of war or his repatriation, the Detaining Power shall give him a statement, signed by an authorized officer of that Power, showing the credit balance then due to him. The Detaining Power shall also send through the Protecting Power to the government upon which the prisoner of war depends, lists giving all appropriate particulars of all prisoners of war whose captivity has been terminated by repatriation, release, escape, death or any other means, and showing the amount of their credit balances. Such lists shall be certified on each sheet by an authorized representative of the Detaining Power.

Any of the above provisions of this Article may be varied by mutual agreement between any two Parties to the conflict.

The Power on which the prisoner of war depends shall be responsible for settling with him any credit balance due to him from the Detaining Power on the termination of his captivity.

#### *Article 67*

Advances of pay, issued to prisoners of war in conformity with Article 60, shall be considered as made on behalf of the Power on which they depend. Such advances of pay, as well as all payments made by the said Power under Article 63, third paragraph, and Article 68, shall form the subject of arrangements between the Powers concerned, at the close of hostilities.

#### *Article 68*

Any claim by a prisoner of war for compensation in respect of any injury or other disability arising out of work shall be referred to the Power on which he depends, through the Protecting Power. In accordance with Article 54, the Detaining Power will, in all cases, provide the prisoner of war concerned with a statement showing the nature of the injury or disability, the circumstances in which it arose and particulars of medical or hospital treatment given for it. This statement will be signed by a responsible officer of the Detaining Power and the medical particulars certified by a medical officer.

Any claim by a prisoner of war for compensation in respect of personal effects, monies or valuables impounded by the Detaining Power under Article 18 and not forthcoming on his repatriation, or in respect of loss alleged to be due to the fault of the Detaining Power or any of its servants, shall likewise be referred to the Power on which he depends. Nevertheless, any such personal effects required for use by the prisoners of war whilst in captivity shall be replaced at the expense of the Detaining Power. The Detaining Power will, in all cases, provide the prisoner of war with a statement, signed by a responsible officer, showing all available information regarding the reasons why such effects, monies or valuables have not been restored to him. A copy of this statement will be forwarded to the Power on which he depends through the Central Prisoners of War Agency provided for in Article 123.

### **SECTION V**

#### **RELATIONS OF PRISONERS OF WAR WITH THE EXTERIOR**

#### *Article 69*

Immediately upon prisoners of war falling into its power, the Detaining Power shall inform them and the Powers on which they depend, through the Protecting Power, of the measures taken to carry out the provisions of the present Section. They shall likewise inform the parties concerned of any subsequent modifications of such measures.

#### *Article 70*

Immediately upon capture, or not more than one week after arrival at a camp, even if it is a transit camp, likewise in case of sickness or transfer to hospital or another camp, every prisoner of war shall be enabled to write direct to his family, on the one hand, and to the Central Prisoners of War Agency provided for in Article 123, on the other hand, a card similar, if possible, to the model annexed to the present Convention, informing his relatives of his capture, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any manner.

#### *Article 71*

Prisoners of war shall be allowed to send and receive letters and cards. If the Detaining Power

002117

9/29/2004

deems it necessary to limit the number of letters and cards sent by each prisoner of war, the said number shall not be less than two letters and four cards monthly, exclusive of the capture cards provided for in Article 70, and conforming as closely as possible to the models annexed to the present Convention. Further limitations may be imposed only if the Protecting Power is satisfied that it would be in the interests of the prisoners of war concerned to do so owing to difficulties of translation caused by the Detaining Power's inability to find sufficient qualified linguists to carry out the necessary censorship. If limitations must be placed on the correspondence addressed to prisoners of war, they may be ordered only by the Power on which the prisoners depend, possibly at the request of the Detaining Power. Such letters and cards must be conveyed by the most rapid method at the disposal of the Detaining Power; they may not be delayed or retained for disciplinary reasons.

Prisoners of war who have been without news for a long period, or who are unable to receive news from their next of kin or to give them news by the ordinary postal route, as well as those who are at a great distance from their homes, shall be permitted to send telegrams, the fees being charged against the prisoners of war's accounts with the Detaining Power or paid in the currency at their disposal. They shall likewise benefit by this measure in cases of urgency.

As a general rule, the correspondence of prisoners of war shall be written in their native language. The Parties to the conflict may allow correspondence in other languages.

Sacks containing prisoner of war mail must be securely sealed and labelled so as clearly to indicate their contents, and must be addressed to offices of destination.

#### *Article 72*

Prisoners of war shall be allowed to receive by post or by any other means individual parcels or collective shipments containing, in particular, foodstuffs, clothing, medical supplies and articles of a religious, educational or recreational character which may meet their needs, including books, devotional articles, scientific equipment, examination papers, musical instruments, sports outfits and materials allowing prisoners of war to pursue their studies or their cultural activities.

Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

The only limits which may be placed on these shipments shall be those proposed by the Protecting Power in the interest of the prisoners themselves, or by the International Committee of the Red Cross or any other organization giving assistance to the prisoners, in respect of their own shipments only, on account of exceptional strain on transport or communications.

The conditions for the sending of individual parcels and collective relief shall, if necessary, be the subject of special agreements between the Powers concerned, which may in no case delay the receipt by the prisoners of relief supplies. Books may not be included in parcels of clothing and foodstuffs. Medical supplies shall, as a rule, be sent in collective parcels.

#### *Article 73*

In the absence of special agreements between the Powers concerned on the conditions for the receipt and distribution of collective relief shipments, the rules and regulations concerning

collective shipments, which are annexed to the present Convention, shall be applied.

The special agreements referred to above shall in no case restrict the right of prisoners' representatives to take possession of collective relief shipments intended for prisoners of war, to proceed to their distribution or to dispose of them in the interest of the prisoners.

Nor shall such agreements restrict the right of representatives of the Protecting Power, the International Committee of the Red Cross or any other organization giving assistance to prisoners of war and responsible for the forwarding of collective shipments, to supervise their distribution to the recipients.

#### *Article 74*

All relief shipments for prisoners of war shall be exempt from import, customs and other dues.

Correspondence, relief shipments and authorized remittances of money addressed to prisoners of war or despatched by them through the post office, either direct or through the Information Bureaux provided for in Article 122 and the Central Prisoners of War Agency provided for in Article 123, shall be exempt from any postal dues, both in the countries of origin and destination, and in intermediate countries.

If relief shipments intended for prisoners of war cannot be sent through the post office by reason of weight or for any other cause, the cost of transportation shall be borne by the Detaining Power in all the territories under its control. The other Powers party to the Convention shall bear the cost of transport in their respective territories.

In the absence of special agreements between the Parties concerned, the costs connected with transport of such shipments, other than costs covered by the above exemption, shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the rates charged for telegrams sent by prisoners of war, or addressed to them.

#### *Article 75*

Should military operations prevent the Powers concerned from fulfilling their obligation to assure the transport of the shipments referred to in Articles 70, 71, 72 and 77, the Protecting Powers concerned, the International Committee of the Red Cross or any other organization duly approved by the Parties to the conflict may undertake to ensure the conveyance of such shipments by suitable means (railway wagons, motor vehicles, vessels or aircraft, etc.). For this purpose, the High Contracting Parties shall endeavour to supply them with such transport and to allow its circulation, especially by granting the necessary safe-conducts.

Such transport may also be used to convey:

(a) Correspondence, lists and reports exchanged between the Central Information Agency referred to in Article 123 and the National Bureaux referred to in Article 122;

(b) Correspondence and reports relating to prisoners of war which the Protecting Powers, the International Committee of the Red Cross or any other body assisting the prisoners, exchange

either with their own delegates or with the Parties to the conflict.

These provisions in no way detract from the right of any Party to the conflict to arrange other means of transport, if it should so prefer, nor preclude the granting of safe-conducts, under mutually agreed conditions, to such means of transport.

In the absence of special agreements, the costs occasioned by the use of such means of transport shall be borne proportionally by the Parties to the conflict whose nationals are benefited thereby.

#### *Article 76*

The censoring of correspondence addressed to prisoners of war or despatched by them shall be done as quickly as possible. Mail shall be censored only by the despatching State and the receiving State, and once only by each.

The examination of consignments intended for prisoners of war shall not be carried out under conditions that will expose the goods contained in them to deterioration; except in the case of written or printed matter, it shall be done in the presence of the addressee, or of a fellow-prisoner duly delegated by him. The delivery to prisoners of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by Parties to the conflict, either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

#### *Article 77*

The Detaining Powers shall provide all facilities for the transmission, through the Protecting Power or the Central Prisoners of War Agency provided for in Article 123, of instruments, papers or documents intended for prisoners of war or despatched by them, especially powers of attorney and wills.

In all cases they shall facilitate the preparation and execution of such documents on behalf of prisoners of war; in particular, they shall allow them to consult a lawyer and shall take what measures are necessary for the authentication of their signatures.

### **SECTION VI**

#### **RELATIONS BETWEEN PRISONERS OF WAR AND THE AUTHORITIES**

##### **Chapter I**

#### **COMPLAINTS OF PRISONERS OF WAR RESPECTING THE CONDITIONS OF CAPTIVITY**

##### *Article 78*

Prisoners of war shall have the right to make known to the military authorities in whose power they are, their requests regarding the conditions of captivity to which they are subjected.

They shall also have the unrestricted right to apply to the representatives of the Protecting Powers either through their prisoners' representative or, if they consider it necessary, direct, in order to draw their attention to any points on which they may have complaints to make regarding their conditions of captivity.

These requests and complaints shall not be limited nor considered to be a part of the correspondence quota referred to in Article 71. They must be transmitted immediately. Even if they are recognized to be unfounded, they may not give rise to any punishment.

Prisoners' representatives may send periodic reports on the situation in the camps and the needs of the prisoners of war to the representatives of the Protecting Powers.

## **Chapter II**

### **PRISONER OF WAR REPRESENTATIVES**

#### *Article 79*

In all places where there are prisoners of war, except in those where there are officers, the prisoners shall freely elect by secret ballot, every six months, and also in case of vacancies, prisoners' representatives entrusted with representing them before the military authorities, the Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. These prisoners' representatives shall be eligible for re-election.

In camps for officers and persons of equivalent status or in mixed camps, the senior officer among the prisoners of war shall be recognized as the camp prisoners' representative. In camps for officers, he shall be assisted by one or more advisers chosen by the officers; in mixed camps, his assistants shall be chosen from among the prisoners of war who are not officers and shall be elected by them.

Officer prisoners of war of the same nationality shall be stationed in labour camps for prisoners of war, for the purpose of carrying out the camp administration duties for which the prisoners of war are responsible. These officers may be elected as prisoners' representatives under the first paragraph of this Article. In such a case the assistants to the prisoners' representatives shall be chosen from among those prisoners of war who are not officers.

Every representative elected must be approved by the Detaining Power before he has the right to commence his duties. Where the Detaining Power refuses to approve a prisoner of war elected by his fellow prisoners of war, it must inform the Protecting Power of the reason for such refusal.

In all cases the prisoners' representative must have the same nationality, language and customs as the prisoners of war whom he represents. Thus, prisoners of war distributed in different sections of a camp, according to their nationality, language or customs, shall have for each section their own prisoners' representative, in accordance with the foregoing paragraphs.

#### *Article 80*

Prisoners' representatives shall further the physical, spiritual and intellectual well-being of prisoners of war.

002121

9/29/2004

In particular, where the prisoners decide to organize amongst themselves a system of mutual assistance, this organization will be within the province of the prisoners' representative, in addition to the special duties entrusted to him by other provisions of the present Convention.

Prisoners' representatives shall not be held responsible, simply by reason of their duties, for any offences committed by prisoners of war.

#### *Article 81*

Prisoners' representatives shall not be required to perform any other work, if the accomplishment of their duties is thereby made more difficult.

Prisoners' representatives may appoint from amongst the prisoners such assistants as they may require. All material facilities shall be granted them, particularly a certain freedom of movement necessary for the accomplishment of their duties (inspection of labour detachments, receipt of supplies, etc.).

Prisoners' representatives shall be permitted to visit premises where prisoners of war are detained, and every prisoner of war shall have the right to consult freely his prisoners' representative.

All facilities shall likewise be accorded to the prisoners' representatives for communication by post and telegraph with the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, the Mixed Medical Commissions and with the bodies which give assistance to prisoners of war. Prisoners' representatives of labour detachments shall enjoy the same facilities for communication with the prisoners' representatives of the principal camp. Such communications shall not be restricted, nor considered as forming a part of the quota mentioned in Article 71.

Prisoners' representatives who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

In case of dismissal, the reasons therefor shall be communicated to the Protecting Power.

### ***Chapter III***

#### ***PENAL AND DISCIPLINARY SANCTIONS***

##### ***I. General provisions***

#### *Article 82*

A prisoner of war shall be subject to the laws, regulations and orders in force in the armed forces of the Detaining Power; the Detaining Power shall be justified in taking judicial or disciplinary measures in respect of any offence committed by a prisoner of war against such laws, regulations or orders. However, no proceedings or punishments contrary to the provisions of this Chapter shall be allowed.

If any law, regulation or order of the Detaining Power shall declare acts committed by a prisoner of war to be punishable, whereas the same acts would not be punishable if committed

by a member of the forces of the Detaining Power, such acts shall entail disciplinary punishments only.

#### *Article 83*

In deciding whether proceedings in respect of an offence alleged to have been committed by a prisoner of war shall be judicial or disciplinary, the Detaining Power shall ensure that the competent authorities exercise the greatest leniency and adopt, wherever possible, disciplinary rather than judicial measures.

#### *Article 84*

A prisoner of war shall be tried only by a military court, unless the existing laws of the Detaining Power expressly permit the civil courts to try a member of the armed forces of the Detaining Power in respect of the particular offence alleged to have been committed by the prisoner of war.

In no circumstances whatever shall a prisoner of war be tried by a court of any kind which does not offer the essential guarantees of independence and impartiality as generally recognized, and, in particular, the procedure of which does not afford the accused the rights and means of defence provided for in Article 105.

#### *Article 85*

Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention.

#### *Article 86*

No prisoner of war may be punished more than once for the same act, or on the same charge.

#### *Article 87*

Prisoners of war may not be sentenced by the military authorities and courts of the Detaining Power to any penalties except those provided for in respect of members of the armed forces of the said Power who have committed the same acts.

When fixing the penalty, the courts or authorities of the Detaining Power shall take into consideration, to the widest extent possible, the fact that the accused, not being a national of the Detaining Power, is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will. The said courts or authorities shall be at liberty to reduce the penalty provided for the violation of which the prisoner of war is accused, and shall therefore not be bound to apply the minimum penalty prescribed.

Collective punishment for individual acts, corporal punishments, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden.

No prisoner of war may be deprived of his rank by the Detaining Power, or prevented from wearing his badges.

002123

9/29/2004

*Article 88*

Officers, non-commissioned officers and men who are prisoners of war undergoing a disciplinary or judicial punishment, shall not be subjected to more severe treatment than that applied in respect of the same punishment to members of the armed forces of the Detaining Power of equivalent rank.

A woman prisoner of war shall not be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a woman member of the armed forces of the Detaining Power dealt with for a similar offence.

In no case may a woman prisoner of war be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a male member of the armed forces of the Detaining Power dealt with for a similar offence.

Prisoners of war who have served disciplinary or judicial sentences may not be treated differently from other prisoners of war.

**II. Disciplinary sanctions***Article 89*

The disciplinary punishments applicable to prisoners of war are the following:

1. A fine which shall not exceed 50 per cent of the advances of pay and working pay which the prisoner of war would otherwise receive under the provisions of Articles 60 and 62 during a period of not more than thirty days.
2. Discontinuance of privileges granted over and above the treatment provided for by the present Convention.
3. Fatigue duties not exceeding two hours daily.
4. Confinement.

The punishment referred to under (3) shall not be applied to officers.

In no case shall disciplinary punishments be inhuman, brutal or dangerous to the health of prisoners of war.

*Article 90*

The duration of any single punishment shall in no case exceed thirty days. Any period of confinement awaiting the hearing of a disciplinary offence or the award of disciplinary punishment shall be deducted from an award pronounced against a prisoner of war.

The maximum of thirty days provided above may not be exceeded, even if the prisoner of war is answerable for several acts at the same time when he is awarded punishment, whether such acts are related or not.

002124

9/29/2004

The period between the pronouncing of an award of disciplinary punishment and its execution shall not exceed one month.

When a prisoner of war is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

#### *Article 91*

The escape of a prisoner of war shall be deemed to have succeeded when:

1. He has joined the armed forces of the Power on which he depends, or those of an allied Power;
2. He has left the territory under the control of the Detaining Power, or of an ally of the said Power;
3. He has joined a ship flying the flag of the Power on which he depends, or of an allied Power, in the territorial waters of the Detaining Power, the said ship not being under the control of the last-named Power.

Prisoners of war who have made good their escape in the sense of this Article and who are recaptured, shall not be liable to any punishment in respect of their previous escape.

#### *Article 92*

A prisoner of war who attempts to escape and is recaptured before having made good his escape in the sense of Article 91 shall be liable only to a disciplinary punishment in respect of this act, even if it is a repeated offence.

A prisoner of war who is recaptured shall be handed over without delay to the competent military authority.

Article 88, fourth paragraph, notwithstanding, prisoners of war punished as a result of an unsuccessful escape may be subjected to special surveillance. Such surveillance must not affect the state of their health, must be undergone in a prisoner of war camp, and must not entail the suppression of any of the safeguards granted them by the present Convention.

#### *Article 93*

Escape or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance if the prisoner of war is subjected to trial by judicial proceedings in respect of an offence committed during his escape or attempt to escape.

In conformity with the principle stated in Article 83, offences committed by prisoners of war with the sole intention of facilitating their escape and which do not entail any violence against life or limb, such as offences against public property, theft without intention of self-enrichment, the drawing up or use of false papers, the wearing of civilian clothing, shall occasion disciplinary punishment only.

Prisoners of war who aid or abet an escape or an attempt to escape shall be liable on this count to disciplinary punishment only.

#### *Article 94*

If an escaped prisoner of war is recaptured, the Power on which he depends shall be notified thereof in the manner defined in Article 122, provided notification of his escape has been made.

#### *Article 95*

A prisoner of war accused of an offence against discipline shall not be kept in confinement pending the hearing unless a member of the armed forces of the Detaining Power would be so kept if he were accused of a similar offence, or if it is essential in the interests of camp order and discipline.

Any period spent by a prisoner of war in confinement awaiting the disposal of an offence against discipline shall be reduced to an absolute minimum and shall not exceed fourteen days.

The provisions of Articles 97 and 98 of this Chapter shall apply to prisoners of war who are in confinement awaiting the disposal of offences against discipline.

#### *Article 96*

Acts which constitute offences against discipline shall be investigated immediately.

Without prejudice to the competence of courts and superior military authorities, disciplinary punishment may be ordered only by an officer having disciplinary powers in his capacity as camp commander, or by a responsible officer who replaces him or to whom he has delegated his disciplinary powers.

In no case may such powers be delegated to a prisoner of war or be exercised by a prisoner of war.

Before any disciplinary award is pronounced, the accused shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced to the accused prisoner of war and to the prisoners' representative.

A record of disciplinary punishments shall be maintained by the camp commander and shall be open to inspection by representatives of the Protecting Power.

#### *Article 97*

Prisoners of war shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

All premises in which disciplinary punishments are undergone shall conform to the sanitary

**002126**

9/29/2004

requirements set forth in Article 25. A prisoner of war undergoing punishment shall be enabled to keep himself in a state of cleanliness, in conformity with Article 29.

Officers and persons of equivalent status shall not be lodged in the same quarters as non-commissioned officers or men.

Women prisoners of war undergoing disciplinary punishment shall be confined in separate quarters from male prisoners of war and shall be under the immediate supervision of women.

#### *Article 98*

A prisoner of war undergoing confinement as a disciplinary punishment, shall continue to enjoy the benefits of the provisions of this Convention except in so far as these are necessarily rendered inapplicable by the mere fact that he is confined. In no case may he be deprived of the benefits of the provisions of Articles 78 and 126.

A prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to his rank.

Prisoners of war awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, on their request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the camp infirmary or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money, however, may be withheld from them until the completion of the punishment; they shall meanwhile be entrusted to the prisoners' representative, who will hand over to the infirmary the perishable goods contained in such parcels.

### ***III. Judicial proceedings***

#### *Article 99*

No prisoner of war may be tried or sentenced for an act which is not forbidden by the law of the Detaining Power or by international law, in force at the time the said act was committed.

No moral or physical coercion may be exerted on a prisoner of war in order to induce him to admit himself guilty of the act of which he is accused.

No prisoner of war may be convicted without having had an opportunity to present his defence and the assistance of a qualified advocate or counsel.

#### *Article 100*

Prisoners of war and the Protecting Powers shall be informed as soon as possible of the offences which are punishable by the death sentence under the laws of the Detaining Power.

002127

9/29/2004

Other offences shall not thereafter be made punishable by the death penalty without the concurrence of the Power upon which the prisoners of war depend.

The death sentence cannot be pronounced on a prisoner of war unless the attention of the court has, in accordance with Article 87, second paragraph, been particularly called to the fact that since the accused is not a national of the Detaining Power, he is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will.

#### *Article 101*

If the death penalty is pronounced on a prisoner of war, the sentence shall not be executed before the expiration of a period of at least six months from the date when the Protecting Power receives, at an indicated address, the detailed communication provided for in Article 107.

#### *Article 102*

A prisoner of war can be validly sentenced only if the sentence has been pronounced by the same courts according to the same procedure as in the case of members of the armed forces of the Detaining Power, and if, furthermore, the provisions of the present Chapter have been observed.

#### *Article 103*

Judicial investigations relating to a prisoner of war shall be conducted as rapidly as circumstances permit and so that his trial shall take place as soon as possible. A prisoner of war shall not be confined while awaiting trial unless a member of the armed forces of the Detaining Power would be so confined if he were accused of a similar offence, or if it is essential to do so in the interests of national security. In no circumstances shall this confinement exceed three months.

Any period spent by a prisoner of war in confinement awaiting trial shall be deducted from any sentence of imprisonment passed upon him and taken into account in fixing any penalty.

The provisions of Articles 97 and 98 of this Chapter shall apply to a prisoner of war whilst in confinement awaiting trial.

#### *Article 104*

In any case in which the Detaining Power has decided to institute judicial proceedings against a prisoner of war, it shall notify the Protecting Power as soon as possible and at least three weeks before the opening of the trial. This period of three weeks shall run as from the day on which such notification reaches the Protecting Power at the address previously indicated by the latter to the Detaining Power.

The said notification shall contain the following information:

1. Surname and first names of the prisoner of war, his rank, his army, regimental, personal or serial number, his date of birth, and his profession or trade, if any;

**002128**

9/29/2004

2. Place of internment or confinement;
3. Specification of the charge or charges on which the prisoner of war is to be arraigned, giving the legal provisions applicable;
4. Designation of the court which will try the case, likewise the date and place fixed for the opening of the trial.

The same communication shall be made by the Detaining Power to the prisoners' representative.

If no evidence is submitted, at the opening of a trial, that the notification referred to above was received by the Protecting Power, by the prisoner of war and by the prisoners' representative concerned, at least three weeks before the opening of the trial, then the latter cannot take place and must be adjourned.

#### *Article 105*

The prisoner of war shall be entitled to assistance by one of his prisoner comrades, to defence by a qualified advocate or counsel of his own choice, to the calling of witnesses and, if he deems necessary, to the services of a competent interpreter. He shall be advised of these rights by the Detaining Power in due time before the trial.

Failing a choice by the prisoner of war, the Protecting Power shall find him an advocate or counsel, and shall have at least one week at its disposal for the purpose. The Detaining Power shall deliver to the said Power, on request, a list of persons qualified to present the defence. Failing a choice of an advocate or counsel by the prisoner of war or the Protecting Power, the Detaining Power shall appoint a competent advocate or counsel to conduct the defence.

The advocate or counsel conducting the defence on behalf of the prisoner of war shall have at his disposal a period of two weeks at least before the opening of the trial, as well as the necessary facilities to prepare the defence of the accused. He may, in particular, freely visit the accused and interview him in private. He may also confer with any witnesses for the defence, including prisoners of war. He shall have the benefit of these facilities until the term of appeal or petition has expired.

Particulars of the charge or charges on which the prisoner of war is to be arraigned, as well as the documents which are generally communicated to the accused by virtue of the laws in force in the armed forces of the Detaining Power, shall be communicated to the accused prisoner of war in a language which he understands, and in good time before the opening of the trial. The same communication in the same circumstances shall be made to the advocate or counsel conducting the defence on behalf of the prisoner of war.

The representatives of the Protecting Power shall be entitled to attend the trial of the case, unless, exceptionally, this is held in camera in the interest of State security. In such a case the Detaining Power shall advise the Protecting Power accordingly.

#### *Article 106*

Every prisoner of war shall have, in the same manner as the members of the armed forces of

002129

9/29/2004

the Detaining Power, the right of appeal or petition from any sentence pronounced upon him, with a view to the quashing or revising of the sentence or the reopening of the trial. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

#### *Article 107*

Any judgment and sentence pronounced upon a prisoner of war shall be immediately reported to the Protecting Power in the form of a summary communication, which shall also indicate whether he has the right of appeal with a view to the quashing of the sentence or the reopening of the trial. This communication shall likewise be sent to the prisoners' representative concerned. It shall also be sent to the accused prisoner of war in a language he understands, if the sentence was not pronounced in his presence. The Detaining Power shall also immediately communicate to the Protecting Power the decision of the prisoner of war to use or to waive his right of appeal.

Furthermore, if a prisoner of war is finally convicted or if a sentence pronounced on a prisoner of war in the first instance is a death sentence, the Detaining Power shall as soon as possible address to the Protecting Power a detailed communication containing:

1. The precise wording of the finding and sentence;
2. A summarized report of any preliminary investigation and of the trial, emphasizing in particular the elements of the prosecution and the defence;
3. Notification, where applicable, of the establishment where the sentence will be served.

The communications provided for in the foregoing subparagraphs shall be sent to the Protecting Power at the address previously made known to the Detaining Power.

#### *Article 108*

Sentences pronounced on prisoners of war after a conviction has become duly enforceable, shall be served in the same establishments and under the same conditions as in the case of members of the armed forces of the Detaining Power. These conditions shall in all cases conform to the requirements of health and humanity.

A woman prisoner of war on whom such a sentence has been pronounced shall be confined in separate quarters and shall be under the supervision of women.

In any case, prisoners of war sentenced to a penalty depriving them of their liberty shall retain the benefit of the provisions of Articles 78 and 126 of the present Convention. Furthermore, they shall be entitled to receive and despatch correspondence, to receive at least one relief parcel monthly, to take regular exercise in the open air, to have the medical care required by their state of health, and the spiritual assistance they may desire. Penalties to which they may be subjected shall be in accordance with the provisions of Article 87, third paragraph.

### **PART IV**

#### **TERMINATION OF CAPTIVITY**

**002130**

9/29/2004

**SECTION I****DIRECT REPATRIATION AND ACCOMMODATION IN NEUTRAL COUNTRIES***Article 109*

Subject to the provisions of the third paragraph of this Article, Parties to the conflict are bound to send back to their own country, regardless of number or rank, seriously wounded and seriously sick prisoners of war, after having cared for them until they are fit to travel, in accordance with the first paragraph of the following Article.

Throughout the duration of hostilities, Parties to the conflict shall endeavour, with the cooperation of the neutral Powers concerned, to make arrangements for the accommodation in neutral countries of the sick and wounded prisoners of war referred to in the second paragraph of the following Article. They may, in addition, conclude agreements with a view to the direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity.

No sick or injured prisoner of war who is eligible for repatriation under the first paragraph of this Article, may be repatriated against his will during hostilities.

*Article 110*

The following shall be repatriated direct:

1. Incurably wounded and sick whose mental or physical fitness seems to have been gravely diminished.
2. Wounded and sick who, according to medical opinion, are not likely to recover within one year, whose condition requires treatment and whose mental or physical fitness seems to have been gravely diminished.
3. Wounded and sick who have recovered, but whose mental or physical fitness seems to have been gravely and permanently diminished.

The following may be accommodated in a neutral country:

1. Wounded and sick whose recovery may be expected within one year of the date of the wound or the beginning of the illness, if treatment in a neutral country might increase the prospects of a more certain and speedy recovery.
2. Prisoners of war whose mental or physical health, according to medical opinion, is seriously threatened by continued captivity, but whose accommodation in a neutral country might remove such a threat.

The conditions which prisoners of war accommodated in a neutral country must fulfil in order to permit their repatriation shall be fixed, as shall likewise their status, by agreement between the Powers concerned. In general, prisoners of war who have been accommodated in a neutral country, and who belong to the following categories, should be repatriated:

**002131**

1. Those whose state of health has deteriorated so as to fulfil the conditions laid down for direct repatriation;
2. Those whose mental or physical powers remain, even after treatment, considerably impaired.

If no special agreements are concluded between the Parties to the conflict concerned, to determine the cases of disablement or sickness entailing direct repatriation or accommodation in a neutral country, such cases shall be settled in accordance with the principles laid down in the Model Agreement concerning direct repatriation and accommodation in neutral countries of wounded and sick prisoners of war and in the Regulations concerning Mixed Medical Commissions annexed to the present Convention.

#### *Article 111*

The Detaining Power, the Power on which the prisoners of war depend, and a neutral Power agreed upon by these two Powers, shall endeavour to conclude agreements which will enable prisoners of war to be interned in the territory of the said neutral Power until the close of hostilities.

#### *Article 112*

Upon the outbreak of hostilities, Mixed Medical Commissions shall be appointed to examine sick and wounded prisoners of war, and to make all appropriate decisions regarding them. The appointment, duties and functioning of these Commissions shall be in conformity with the provisions of the Regulations annexed to the present Convention.

However, prisoners of war who, in the opinion of the medical authorities of the Detaining Power, are manifestly seriously injured or seriously sick, may be repatriated without having to be examined by a Mixed Medical Commission.

#### *Article 113*

Besides those who are designated by the medical authorities of the Detaining Power, wounded or sick prisoners of war belonging to the categories listed below shall be entitled to present themselves for examination by the Mixed Medical Commissions provided for in the foregoing Article:

1. Wounded and sick proposed by a physician or surgeon who is of the same nationality, or a national of a Party to the conflict allied with the Power on which the said prisoners depend, and who exercises his functions in the camp.
2. Wounded and sick proposed by their prisoners' representative.
3. Wounded and sick proposed by the Power on which they depend, or by an organization duly recognized by the said Power and giving assistance to the prisoners.

Prisoners of war who do not belong to one of the three foregoing categories may nevertheless present themselves for examination by Mixed Medical Commissions, but shall be examined only after those belonging to the said categories.

**002132**

9/29/2004

The physician or surgeon of the same nationality as the prisoners who present themselves for examination by the Mixed Medical Commission, likewise the prisoners' representative of the said prisoners, shall have permission to be present at the examination.

*Article 114*

Prisoners of war who meet with accidents shall, unless the injury is self-inflicted, have the benefit of the provisions of this Convention as regards repatriation or accommodation in a neutral country.

*Article 115*

No prisoner of war on whom a disciplinary punishment has been imposed and who is eligible for repatriation or for accommodation in a neutral country, may be kept back on the plea that he has not undergone his punishment.

Prisoners of war detained in connection with a judicial prosecution or conviction and who are designated for repatriation or accommodation in a neutral country, may benefit by such measures before the end of the proceedings or the completion of the punishment, if the Detaining Power consents.

Parties to the conflict shall communicate to each other the names of those who will be detained until the end of the proceedings or the completion of the punishment.

*Article 116*

The costs of repatriating prisoners of war or of transporting them to a neutral country shall be borne, from the frontiers of the Detaining Power, by the Power on which the said prisoners depend.

*Article 117*

No repatriated person may be employed on active military service.

**SECTION II**

**RELEASE AND REPATRIATION OF PRISONERS OF WAR AT THE CLOSE OF HOSTILITIES**

*Article 118*

Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities.

In the absence of stipulations to the above effect in any agreement concluded between the Parties to the conflict with a view to the cessation of hostilities, or failing any such agreement, each of the Detaining Powers shall itself establish and execute without delay a plan of repatriation in conformity with the principle laid down in the foregoing paragraph.

In either case, the measures adopted shall be brought to the knowledge of the prisoners of war.

The costs of repatriation of prisoners of war shall in all cases be equitably apportioned between the Detaining Power and the Power on which the prisoners depend. This apportionment shall be carried out on the following basis:

(a) If the two Powers are contiguous, the Power on which the prisoners of war depend shall bear the costs of repatriation from the frontiers of the Detaining Power.

(b) If the two Powers are not contiguous, the Detaining Power shall bear the costs of transport of prisoners of war over its own territory as far as its frontier or its port of embarkation nearest to the territory of the Power on which the prisoners of war depend. The Parties concerned shall agree between themselves as to the equitable apportionment of the remaining costs of the repatriation. The conclusion of this agreement shall in no circumstances justify any delay in the repatriation of the prisoners of war.

#### *Article 119*

Repatriation shall be effected in conditions similar to those laid down in Articles 46 to 48 inclusive of the present Convention for the transfer of prisoners of war, having regard to the provisions of Article 118 and to those of the following paragraphs.

On repatriation, any articles of value impounded from prisoners of war under Article 18, and any foreign currency which has not been converted into the currency of the Detaining Power, shall be restored to them. Articles of value and foreign currency which, for any reason whatever, are not restored to prisoners of war on repatriation, shall be despatched to the Information Bureau set up under Article 122.

Prisoners of war shall be allowed to take with them their personal effects, and any correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of repatriation so require, to what each prisoner can reasonably carry. Each prisoner shall in all cases be authorized to carry at least twenty-five kilograms.

The other personal effects of the repatriated prisoner shall be left in the charge of the Detaining Power which shall have them forwarded to him as soon as it has concluded an agreement to this effect, regulating the conditions of transport and the payment of the costs involved, with the Power on which the prisoner depends.

Prisoners of war against whom criminal proceedings for an indictable offence are pending may be detained until the end of such proceedings, and, if necessary, until the completion of the punishment. The same shall apply to prisoners of war already convicted for an indictable offence.

Parties to the conflict shall communicate to each other the names of any prisoners of war who are detained until the end of the proceedings or until punishment has been completed.

By agreement between the Parties to the conflict, commissions shall be established for the purpose of searching for dispersed prisoners of war and of assuring their repatriation with the least possible delay.

**SECTION III****DEATH OF PRISONERS OF WAR***Article 120*

Wills of prisoners of war shall be drawn up so as to satisfy the conditions of validity required by the legislation of their country of origin, which will take steps to inform the Detaining Power of its requirements in this respect. At the request of the prisoner of war and, in all cases, after death, the will shall be transmitted without delay to the Protecting Power; a certified copy shall be sent to the Central Agency.

Death certificates in the form annexed to the present Convention, or lists certified by a responsible officer, of all persons who die as prisoners of war shall be forwarded as rapidly as possible to the Prisoner of War Information Bureau established in accordance with Article 122. The death certificates or certified lists shall show particulars of identity as set out in the third paragraph of Article 17, and also the date and place of death, the cause of death, the date and place of burial and all particulars necessary to identify the graves.

The burial or cremation of a prisoner of war shall be preceded by a medical examination of the body with a view to confirming death and enabling a report to be made and, where necessary, establishing identity.

The detaining authorities shall ensure that prisoners of war who have died in captivity are honourably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, suitably maintained and marked so as to be found at any time. Wherever possible, deceased prisoners of war who depended on the same Power shall be interred in the same place.

Deceased prisoners of war shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, on account of the religion of the deceased or in accordance with his express wish to this effect. In case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased.

In order that graves may always be found, all particulars of burials and graves shall be recorded with a Graves Registration Service established by the Detaining Power. Lists of graves and particulars of the prisoners of war interred in cemeteries and elsewhere shall be transmitted to the Power on which such prisoners of war depended. Responsibility for the care of these graves and for records of any subsequent moves of the bodies shall rest on the Power controlling the territory, if a Party to the present Convention. These provisions shall also apply to the ashes, which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country.

*Article 121*

Every death or serious injury of a prisoner of war caused or suspected to have been caused by a sentry, another prisoner of war, or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

**002135**

9/29/2004

A communication on this subject shall be sent immediately to the Protecting Power. Statements shall be taken from witnesses, especially from those who are prisoners of war, and a report including such statements shall be forwarded to the Protecting Power.

If the enquiry indicates the guilt of one or more persons, the Detaining Power shall take all measures for the prosecution of the person or persons responsible.

## **PART V**

### **INFORMATION BUREAUX AND RELIEF SOCIETIES FOR PRISONERS OF WAR**

#### *Article 122*

Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall institute an official Information Bureau for prisoners of war who are in its power. Neutral or non-belligerent Powers who may have received within their territory persons belonging to one of the categories referred to in Article 4, shall take the same action with respect to such persons. The Power concerned shall ensure that the Prisoners of War Information Bureau is provided with the necessary accommodation, equipment and staff to ensure its efficient working. It shall be at liberty to employ prisoners of war in such a Bureau under the conditions laid down in the Section of the present Convention dealing with work by prisoners of war.

Within the shortest possible period, each of the Parties to the conflict shall give its Bureau the information referred to in the fourth, fifth and sixth paragraphs of this Article regarding any enemy person belonging to one of the categories referred to in Article 4, who has fallen into its power. Neutral or non-belligerent Powers shall take the same action with regard to persons belonging to such categories whom they have received within their territory.

The Bureau shall immediately forward such information by the most rapid means to the Powers concerned, through the intermediary of the Protecting Powers and likewise of the Central Agency provided for in Article 123.

This information shall make it possible quickly to advise the next of kin concerned. Subject to the provisions of Article 17, the information shall include, in so far as available to the Information Bureau, in respect of each prisoner of war, his surname, first names, rank, army, regimental, personal or serial number, place and full date of birth, indication of the Power on which he depends, first name of the father and maiden name of the mother, name and address of the person to be informed and the address to which correspondence for the prisoner may be sent.

The Information Bureau shall receive from the various departments concerned information regarding transfers, releases, repatriations, escapes, admissions to hospital, and deaths, and shall transmit such information in the manner described in the third paragraph above.

Likewise, information regarding the state of health of prisoners of war who are seriously ill or seriously wounded shall be supplied regularly, every week if possible.

The Information Bureau shall also be responsible for replying to all enquiries sent to it concerning prisoners of war, including those who have died in captivity; it will make any

**002136**

9/29/2004

enquiries necessary to obtain the information which is asked for if this is not in its possession.

All written communications made by the Bureau shall be authenticated by a signature or a seal.

The Information Bureau shall furthermore be charged with collecting all personal valuables, including sums in currencies other than that of the Detaining Power and documents of importance to the next of kin, left by prisoners of war who have been repatriated or released, or who have escaped or died, and shall forward the said valuables to the Powers concerned. Such articles shall be sent by the Bureau in sealed packets which shall be accompanied by statements giving clear and full particulars of the identity of the person to whom the articles belonged, and by a complete list of the contents of the parcel. Other personal effects of such prisoners of war shall be transmitted under arrangements agreed upon between the Parties to the conflict concerned.

#### *Article 123*

A Central Prisoners of War Information Agency shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency.

The function of the Agency shall be to collect all the information it may obtain through official or private channels respecting prisoners of war, and to transmit it as rapidly as possible to the country of origin of the prisoners of war or to the Power on which they depend. It shall receive from the Parties to the conflict all facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross, or of the relief Societies provided for in Article 125.

#### *Article 124*

The national Information Bureaux and the Central Information Agency shall enjoy free postage for mail, likewise all the exemptions provided for in Article 74, and further, so far as possible, exemption from telegraphic charges or, at least, greatly reduced rates.

#### *Article 125*

Subject to the measures which the Detaining Powers may consider essential to ensure their security or to meet any other reasonable need, the representatives of religious organizations, relief societies, or any other organization assisting prisoners of war, shall receive from the said Powers, for themselves and their duly accredited agents, all necessary facilities for visiting the prisoners, distributing relief supplies and material, from any source, intended for religious, educational or recreative purposes, and for assisting them in organizing their leisure time within the camps. Such societies or organizations may be constituted in the territory of the Detaining Power or in any other country, or they may have an international character.

002137

9/29/2004

The Detaining Power may limit the number of societies and organizations whose delegates are allowed to carry out their activities in its territory and under its supervision, on condition, however, that such limitation shall not hinder the effective operation of adequate relief to all prisoners of war.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times.

As soon as relief supplies or material intended for the above-mentioned purposes are handed over to prisoners of war, or very shortly afterwards, receipts for each consignment, signed by the prisoners' representative, shall be forwarded to the relief society or organization making the shipment. At the same time, receipts for these consignments shall be supplied by the administrative authorities responsible for guarding the prisoners.

## **PART VI**

### **EXECUTION OF THE CONVENTION**

#### **SECTION I**

##### **GENERAL PROVISIONS**

###### *Article 126*

Representatives or delegates of the Protecting Powers shall have permission to go to all places where prisoners of war may be, particularly to places of internment, imprisonment and labour, and shall have access to all premises occupied by prisoners of war; they shall also be allowed to go to the places of departure, passage and arrival of prisoners who are being transferred. They shall be able to interview the prisoners, and in particular the prisoners' representatives, without witnesses, either personally or through an interpreter.

Representatives and delegates of the Protecting Powers shall have full liberty to select the places they wish to visit. The duration and frequency of these visits shall not be restricted. Visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure.

The Detaining Power and the Power on which the said prisoners of war depend may agree, if necessary, that compatriots of these prisoners of war be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall enjoy the same prerogatives. The appointment of such delegates shall be submitted to the approval of the Power detaining the prisoners of war to be visited.

###### *Article 127*

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the entire population.

Any military or other authorities, who in time of war assume responsibilities in respect of prisoners of war, must possess the text of the Convention and be specially instructed as to its provisions.

*Article 128*

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

*Article 129*

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the present Convention.

*Article 130*

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile Power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention.

*Article 131*

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

*Article 132*

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be

002139

9/29/2004

decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

## **SECTION 11**

### **FINAL PROVISIONS**

#### *Article 133*

The present Convention is established in English and in French. Both texts are equally authentic. The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

#### *Article 134*

The present Convention replaces the Convention of 27 July 1929, in relations between the High Contracting Parties.

#### *Article 135*

In the relations between the Powers which are bound by The Hague Convention respecting the Laws and Customs of War on Land, whether that of July 29, 1899, or that of October 18, 1907, and which are parties to the present Convention, this last Convention shall be complementary to Chapter II of the Regulations annexed to the above-mentioned Conventions of The Hague.

#### *Article 136*

The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949; furthermore, by Powers not represented at that Conference, but which are parties to the Convention of July 27, 1929.

#### *Article 137*

The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

#### *Article 138*

The present Convention shall come into force six months after not less than two instruments of

002140

9/29/2004

ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

#### *Article 139*

From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

#### *Article 140*

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

#### *Article 141*

The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

#### *Article 142*

Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with the release and repatriation of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

#### *Article 143*

The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

002141

9/29/2004

IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed the present Convention.

DONE at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.

## **ANNEX I**

Model agreement concerning direct repatriation and accommodation in neutral countries  
of wounded and sick prisoners of war

(see Article 110)

### **I.-PRINCIPLES FOR DIRECT REPATRIATION AND ACCOMMODATION IN NEUTRAL COUNTRIES**

#### **A. DIRECT REPATRIATION**

The following shall be repatriated direct:

1. All prisoners of war suffering from the following disabilities as the result of trauma: loss of limb, paralysis, articular or other disabilities, when this disability is at least the loss of a hand or a foot, or the equivalent of the loss of a hand or a foot.

Without prejudice to a more generous interpretation, the following shall be considered as equivalent to the loss of a hand or a foot:

- (a) Loss of a hand or of all the fingers, or of the thumb and forefinger of one hand; loss of a foot, or of all the toes and metatarsals of one foot.
- (b) Ankylosis, loss of osseous tissue, cicatricial contracture preventing the functioning of one of the large articulations or of all the digital joints of one hand.
- (c) Pseudarthrosis of the long bones.
- (d) Deformities due to fracture or other injury which seriously interfere with function and weight-bearing power.

2. All wounded prisoners of war whose condition has become chronic, to the extent that prognosis appears to exclude recovery-in spite of treatment-within one year from the date of the injury, as, for example, in case of:

**002142**

- (a) Projectile in the heart. even if the Mixed Medical Commission should fail, at the time of their examination, to detect any serious disorders.
- (b) Metallic splinter in the brain or the lungs, even if the Mixed Medical Commission cannot, at the time of examination, detect any local or general reaction.
- (c) Osteomyelitis, when recovery cannot be foreseen in the course of the year following the injury, and which seems likely to result in ankylosis of a joint, or other impairments equivalent to the loss of a hand or a foot.
- (d) Perforating and suppurating injury to the large joints.
- (e) Injury to the skull, with loss or shifting of bony tissue.
- (f) Injury or burning of the face with loss of tissue and functional lesions.
- (g) Injury to the spinal cord.
- (h) Lesion of the peripheral nerves, the sequelae of which are equivalent to the loss of a hand or foot, and the cure of which requires more than a year from the date of injury, for example: injury to the brachial or lumbosacral plexus, the median or sciatic nerves, likewise combined injury to the radial and cubital nerves or to the lateral popliteal nerve (*N. peroneus communes*) and medial popliteal nerve (*N. tibialis*); etc. The separate injury of the 'radial (musculo-spiral), cubital, lateral or medial popliteal nerves shall not, however, warrant repatriation except in case of contractures or of serious neurotrophic disturbance.
- (i) Injury to the urinary system, with incapacitating results.

3. All sick prisoners of war whose condition has become chronic to the extent that prognosis seems to exclude recovery-in spite of treatment-within one year from the inception of the disease, as, for example, in case of:

- (a) Progressive tuberculosis of any organ which, according to medical prognosis, cannot be cured, or at least considerably improved, by treatment in a neutral country.
- (b) Exudate pleurisy.
- (c) Serious diseases of the respiratory organs of non-tubercular etiology, presumed incurable. for example: serious pulmonary emphysema, with or without bronchitis, chronic asthma;\* chronic bronchitis\* lasting more than one year in captivity; bronchiectasis,\* etc.
- (d) Serious chronic affections of the circulatory system, for example: valvular lesions and myocarditis\* which have shown signs of circulatory failure during captivity, even though the Mixed Medical Commission cannot detect any such signs at the time of examination; affections of the pericardium and the vessels (Buerger's disease, aneurism of the large vessels); etc.
- (e) Serious chronic affections of the digestive organs, for example: gastric or duodenal

002143

.. 9/29/2004

ulcer-, sequelae of gastric operations performed in captivity; chronic gastritis, enteritis or colitis, having lasted more than one year and seriously affecting the general condition: cirrhosis of the liver, chronic cholecystopathy;\* etc.

(f) Serious chronic affections of the genito-urinary organs, for example: chronic diseases of the kidney with consequent disorders; nephrectomy because of a tubercular kidney; chronic pyelitis or chronic cystitis: hydronephrosis or pyonephrosis; chronic grave gynaecological conditions-, normal pregnancy, and obstetrical disorder, where it is impossible to accommodate in a neutral country; etc.

(g) Serious chronic diseases of the central and peripheral nervous system, for example: all obvious psychoses and psychoneuroses, such as serious hysteria, serious captivity psychoneurosis, etc., duly verified by a specialist;\* any epilepsy duly verified by the camp physicians.' cerebral arteriosclerosis- chronic neuritis lasting more than one year. etc.

(h) Serious chronic disease of the neuro-vegetative system, with considerable diminution of mental or physical fitness. noticeable loss of weight and general asthenia.

(i) Blindness of both eyes, or of one eye when the vision of the other is less than 1 in spite of the use of corrective glasses; diminution of visual acuity in cases where it is impossible to restore it by correction to an acuity of 1/2 in at least one eye;\* other grave ocular affections, for example: glaucoma, iritis, choroiditis; trachoma, etc.

(k) Auditive disorders, such as total unilateral deafness, if the other ear does not discern the ordinary spoken word at a distance of one metre;\* etc.

(l) Serious affections of metabolism, for example: diabetes mellitus requiring insulin treatment; etc.

(m) Serious disorders of the endocrine glands, for example: thyrotoxicosis; hypothyrosis; Addison's disease; Simmonds' cachexia; tetany; etc.

(n) Grave and chronic disorders of the blood-forming organs.

(o) Serious cases of chronic intoxication, for example: lead poisoning, mercury poisoning, morphinism. cocaineism, alcoholism; gas or radiation poisoning; etc.

(p) Chronic affections of locomotion, with obvious functional disorders, for example: arthritis deformans, primary and secondary progressive chronic polyarthritis; rheumatism with serious clinical symptoms; etc.

(q) Serious chronic skin diseases. not amenable to treatment.

(r) Any malignant growth.

(s) Serious chronic infectious diseases, persisting for one year after their inception, for example: malaria with decided organic impairment, amoebic or bacillary dysentery with grave disorders; tertiary visceral syphilis resistant to treatment; leprosy; etc.

(t) Serious avitaminosis or serious inanition.

---

\*The decision of the Mixed Medical Commission shall be based to a great extent on the records kept by camp physicians and surgeons of the same nationality as the prisoners of war, or on an examination by medical specialists of the Detaining Power.

## **B. ACCOMMODATION IN NEUTRAL COUNTRIES**

The following shall be eligible for accommodation in a neutral country:

1. All wounded prisoners of war who are not likely to recover in captivity, but who might be cured or whose condition might be considerably improved by accommodation in a neutral country.
2. Prisoners of war suffering from any form of tuberculosis, of whatever organ, and whose treatment in a neutral country would be likely to lead to recovery or at least to considerable improvement, with the exception of primary tuberculosis cured before captivity.
3. Prisoners of war suffering from affections requiring treatment of the respiratory, circulatory, digestive, nervous, sensory, genito-urinary, cutaneous, locomotive organs, etc., if such treatment would clearly have better results in a neutral country than in captivity.
4. Prisoners of war who have undergone a nephrectomy in captivity for a nontubercular renal affection; cases of osteomyelitis, on the way to recovery or latent; diabetes mellitus not requiring insulin treatment; etc.
5. Prisoners of war suffering from war or captivity neuroses.  
  
Cases of captivity neurosis which are not cured after three months of accommodation in a neutral country, or which after that length of time are not clearly on the way to complete cure, shall be repatriated.
6. All prisoners of war suffering from chronic intoxication (gases, metals, alkaloids, etc.), for whom the prospects of cure in a neutral country are especially favourable.
7. All women prisoners of war who are pregnant or mothers with infants and small children.

002145

9/29/2004

The following cases shall not be eligible for accommodation in a neutral country:

1. All duly verified chronic psychoses.
2. All organic or functional nervous affections considered to be incurable.
3. All contagious diseases during the period in which they are transmissible, with the exception of tuberculosis.

## II. GENERAL OBSERVATIONS

1. The conditions given shall, in a general way, be interpreted and applied in as broad a spirit as possible.

Neuropathic and psychopathic conditions caused by war or captivity, as well as cases of tuberculosis in all stages, shall above all benefit by such liberal interpretation. Prisoners of war Who have sustained several wounds, none of which, considered by itself, justifies repatriation, shall be examined in the same spirit, with due regard for the psychic traumatism due to the number of their wounds.

2. All unquestionable cases giving the right to direct repatriation (amputation, total blindness or deafness, open pulmonary tuberculosis, mental disorder, malignant growth, etc.) shall be examined and repatriated as soon as possible by the camp physicians or by military medical commissions appointed by the Detaining Power.

3. Injuries and diseases which existed before the war and which have not become worse, as well as war injuries which have not prevented subsequent military service, shall not entitle to direct repatriation.

4. The provisions of this Annex shall be interpreted and applied in a similar manner in all countries party to the conflict. The Powers and authorities concerned shall grant to Mixed Medical Commissions all the facilities necessary for the accomplishment of their task.

5. The examples quoted under (1) above represent only typical cases. Cases which do not correspond exactly to these provisions shall be judged in the spirit of the provisions of Article 10 of the present Convention, and of the principles embodied in the present Agreement.

002146

9/29/2004

**ANNEX II**Regulations concerning Mixed Medical Commissions  
(see Article 112)*Article 1*

The Mixed Medical Commissions provided for in Article 112 of the Convention shall be composed of three members, two of whom shall belong to a neutral country, the third being appointed by the Detaining Power. One of the neutral members shall take the chair.

*Article 2*

The two neutral members shall be appointed by the International Committee of the Red Cross, acting in agreement with the Protecting Power, at the request of the Detaining Power. They may be domiciled either in their country of origin, in any other neutral country, or in the territory of the Detaining Power.

*Article 3*

The neutral members shall be approved by the Parties to the conflict concerned, who notify their approval to the International Committee of the Red Cross and to the Protecting Power. Upon such notification, the neutral members shall be considered as effectively appointed.

*Article 4*

Deputy members shall also be appointed in sufficient number to replace the regular members in case of need. They shall be appointed at the same time as the regular members or, at least, as soon as possible.

*Article 5*

If for any reason the International Committee of the Red Cross cannot arrange for the appointment of the neutral members, this shall be done by the Power protecting the interests of the prisoners of war to be examined.

*Article 6*

002147

9/29/2004

So far as possible, one of the two neutral members shall be a surgeon and the other a physician.

*Article 7*

The neutral members shall be entirely independent of the Parties to the conflict, which shall grant them all facilities in the accomplishment of their duties.

*Article 8*

By agreement with the Detaining Power, the International Committee of the Red Cross, when making the appointments provided for in Articles 2 and 4 of the present Regulations, shall settle the terms of service of the nominees.

*Article 9*

The Mixed Medical Commissions shall begin their work as soon as possible after the neutral members have been approved, and in any case within a period of three months from the date of such approval.

*Article 10*

The Mixed Medical Commissions shall examine all the prisoners designated in Article 113 of the Convention. They shall propose repatriation, rejection, or reference to a later examination. Their decisions shall be made by a majority vote.

*Article 11*

The decisions made by the Mixed Medical Commissions in each specific case shall be communicated, during the month following their visit, to the Detaining Power, the Protecting Power and the International Committee of the Red Cross. The Mixed Medical Commissions shall also inform each prisoner of war examined of the decision made, and shall issue to those whose repatriation has been proposed, certificates similar to the model appended to the present Convention.

*Article 12*

The Detaining Power shall be required to carry out the decisions of the Mixed Medical

002148

9/29/2004

Commissions within three months of the time when it receives due notification of such decisions.

*Article 13*

If there is no neutral physician in a country where the services of a Mixed Medical Commission seem to be required, and if it is for any reason impossible to appoint neutral doctors who are resident in another country, the Detaining Power, acting in agreement with the Protecting Power, shall set up a Medical Commission which shall undertake the same duties as a Mixed Medical Commission, subject to the provisions of Articles 1, 2, 3, 4, 5 and 8 of the Present Regulations.

*Article 14*

Mixed Medical Commissions shall function permanently and shall visit each camp at intervals of not more than six months.

**ANNEX III**

Regulations concerning collective relief  
(see Article 73)

*Article 1*

Prisoners' representatives shall be allowed to distribute collective relief shipments for which they are sible, to all prisoners of war administered by their camp, including those who am in hospitals or in prisons or other penal establishments.

*Article 2*

The distribution of collective relief shipments shall be effected in accordance with the instructions of the donors and with a plan drawn up by the prisoners' representatives. 'Me issue of medical stores shall. however, be made for preference in agreement with the senior medical officers, and the latter may. in hospitals and infirmaries, waive the said instructions, if the needs of their patients so demand. Within the limits thus defined, the distribution shall always be carried out equitably.

*Article 3*

The said prisoners' representatives or their assistants shall be allowed to go to the points of

002149

9/29/2004

arrival of relief supplies near their camps. so as to enable the prisoners' representatives or their assistants to verify the quality as well as the quantity of the goods received, and to make out detailed reports thereon for the donors.

#### *Article 4*

Prisoners' representatives shall be given the facilities necessary for verifying whether the distribution of collective relief in all sub-divisions and annexes of their camps has been carried out in accordance with their instructions.

#### *Article 5*

Prisoners' representatives shall be allowed to fill up, and cause to be filled up by the prisoners' representatives of labour detachments or by the senior medical officers of infirmaries and hospitals, forms or questionnaires intended for the donors, relating to collective relief supplies (distribution, requirements, quantities, etc.). Such forms and questionnaires, duly completed, shall be forwarded to the donors without delay.

#### *Article 6*

In order to secure the regular issue of collective relief to the prisoners of war in their camp, and to meet any needs that may arise from the arrival of new contingents of prisoners, prisoners' representatives shall be allowed to build up and maintain adequate reserve stocks of collective relief. For this purpose, they shall have suitable warehouses at their disposal; each warehouse shall be provided with two locks, the prisoners' representative holding the keys of one lock and the camp commander the keys of the other.

#### *Article 7*

When collective consignments of clothing are available each prisoner of war shall retain in his possession at least one complete set of clothes. If a prisoner has more than one set of clothes, the prisoners' representative shall be permitted to withdraw excess clothing from those with the largest number of sets, or particular articles in excess of one, if this is necessary in order to supply prisoners who are less well provided. He shall not, however, withdraw second sets of underclothing, socks or footwear, unless this is the only means of providing for prisoners of war with none.

#### *Article 8*

The High Contracting Parties, and the Detaining Powers in particular, shall authorize, as far as

possible and subject to the regulations governing the supply of the population, all purchases of goods made in their territories for the distribution of collective relief to prisoners of war. They shall similarly facilitate the transfer of funds and other financial measures of a technical or administrative nature taken for the purpose of making such purchases.

*Article 9*

The foregoing provisions shall not constitute an obstacle to the right of prisoners of war to receive collective relief before their arrival in a camp or in the course of transfer, nor to the possibility of representatives of the Protecting Power, the International Committee of the Red Cross, or any other body giving assistance to prisoners which may be responsible for the forwarding of such supplies, ensuring the distribution thereof to the addressees by any other means that they may deem useful.

**ANNEX IV.**

**A. IDENTITYCARD**

(see Article 4)

[...]

**B. CAPTURE CARD**

(see Article 70)

[...]

**C. CORRESPONDENCE CARD AND LETTER**

(see Article 71)

[...]

**D. NOTIFICATION OF DEATH**

(see Article 120)

[...]

**E. REPATRIATION CERTIFICATE**

(see Annex II, Article 11)

**REPATRIATION CERTIFICATE**

Date:

Camp:

**002151**

... 9/29/2004

Hospital:

Surname:

First names:

Date of birth:

Rank:

Army number:

P. W. number:

Injury-Disease:

Decision of the Commission:

Chairman of the  
Mixed Medical Commission:

A= direct repatriation

B= accommodation in a neutral country

NC= re-examination by next Commission

#### **ANNEX V**

Model regulations concerning payments sent by prisoners to their own country

1. The notification referred to in the third paragraph of Article 63 will show:
  - (a) Number as specified in Article 17, rank, surname and first names of the prisoner of war who is the payer;
  - (b) The name and address of the payee in the country of origin;
  - (c) The amount to be so paid in the currency of the country in which he is detained.
2. The notification will be signed by the prisoner of war, or his witnessed mark made upon if it he cannot write, and shall be countersigned by the prisoners' representative.
3. The camp commander will add to this notification a certificate that the prisoner of war concerned has a credit balance of not less than the amount registered as payable.
4. The notification may be made up in lists, each sheet of such lists witnessed by the prisoners' representative and certified by the camp commander.

---

[CONTACT](#) [TOP](#) [HOME](#) [INSTRUMENTS](#) [DOCUMENTS](#) [INDEX](#) [SEARCH](#)

---

Office of the United Nations High Commissioner for Human Rights  
Geneva, Switzerland

002153

9/29/2004

2153

AFYB-PM

11 Oct 03

MEMORANDUM FOR RECORD

Subject: DCCP guidelines for the interrogation of prisoners.

1. Effective immediately the following guidelines are in effect for the TFIH DCCP. Accordingly, the 4<sup>th</sup> MP CO will:

a. Have all personnel assigned duties at the DCCP to include MP, CI and augmentee's or unit leadership overseeing operations at the facility read this policy letter.

b. Keep on hand a roster signed by all individuals that they are aware of these policies.

2. Read the TFIH DCCP SOP.

3. Read the Commanding General's DCCP policy letter dated 21 Sep 03.

4. Be briefed on Division FRAGO 1291.

5. Receive a class on the Geneva conventions as it applies to the treatment of detained persons.

6. Only MP and designated augmentee's will possess (touch) a riot baton. Under no circumstances will a soldier of any other MOS or duty position possess a baton or any other weapon while inside of the DCCP. Specifically, interrogators will not possess a weapon of any type while in the proximity of detainee's. If interpreters are in fear of a prisoner, then they will request an MP to be present during the interview.

7. Only the three designated interrogation tents are authorized for detainee screening. That is it—period. The senior MP present is responsible to ensure that this is enforced, I hold you personally responsible for any violation of this policy. Interrogation tents will have as a minimum, one side up at all times, viewable by an MP. If a request is made to put all sides down, then an MP will be present inside of the tent.

8. Interrogators (CI) are not authorized to physically strike, in any manner, a detainee. MP will detainee as subjects all personnel striking a prisoner that is not directly related to the safeguarding of other prisoners or themselves ~~JAW~~ the ROE or in the prevention of imminent harm to other persons working within the facility.

9. Temporary re-arranging of cell's by other than MP is not authorized. MP will adhere to established guidelines for separation and categorization. Exceptions will be approved by myself or the DPM.

10. If MP witness any questionable behavior during the questioning of detainee's they will immediately notify their supervisor who will log the action and make immediate contact to the Provost Office.

002154

2154

11. TF-20 personnel will abide by our guidelines regarding the detention of their detainee's. They will routinely 'sign out' a detainee for various reasons. In order to do so they must possess a signed cover sheet with the division Chief of Staffs signature. This will have a date beside it—for each and every time. The unit will call the PMO to verify a sign out has been authorized. TF-20 is authorized to question persons within the DCCP at any time at one of the designated tents and under the same conditions as CI personnel.

12. **Military Police are solely responsible for all actions within the DCCP.** This authority is not delegated in any manner to any other person working inside of the facility. I will hold MP accountable for all actions that occur regardless of the fact that they were out ranked, quoted a regulation/policy they are not familiar with, or simply bullied into compromising our standards.

[REDACTED]

MAJ(P), MP  
Provost Marshal

## DETAINEE PROCESS

1. Unit brings detainee(s) to Striker Detention Facility at FOB Pacesetter.
2. Prior to admitting any detainee into the detention facility, the OIC/NCOIC that accompanies the detainee(s) to FOB Pacesetter comes to the 3-29 FA TOC and conducts an initial in-processing with the 3-29 FA S-2 section. Initial in processing includes a review of the detainee's packet. The detainee's packet should include:
  - a. Filled out Coalition Apprehension Form
  - b. CI screening form (if the unit has a CI team)
  - c. Any sworn statements
  - d. DA 4137 for all confiscated property
  - e. EPW Category assessed
  - f. A synopsis memo
  - g. Identification validated
  - h. Photo printed

Any discrepancies identified are annotated and the detaining unit is responsible for corrections needed.

3. Once the initial in-processing is complete, the detainee(s) are then taken to the detention facility and in-processed by the 64<sup>th</sup> MP Company. Simultaneously the 3-29 FA S-2 section validates the identity of the detainee(s) through the BDE S-2 while concurrently verifying against the Battalion's list.
4. If the detaining Battalion S-2 does not conduct an initial interrogation of the detainee(s), the 3-29 FA THT will conduct the interrogation.
5. If the detainee(s) is a CAT I or IA (have intelligence value, HVT, or a Foreign fighter), the detainee(s) will be immediately transferred to DCCP. Pacesetter S-2 will coordinate with DCCP not less than 24 hours prior to transfer. (DCCP runs occur every TUE and FRI)
6. If the detainee(s) is determined to have no intelligence value (CAT B, C, or D) from and/or through interrogations, the detainee(s) is/are tried for the violations listed. A DA Form 6 selects the trial officer. Proceedings are conducted based on a summary courts martial model written by the 3BCT JAG.
7. If detainee(s) was apprehended and is not of intel value or has not committed any other violations, then they are released. Prior to any release, Pacesetter S-2 contacts the detaining unit not less than 24 hours prior and receives an acknowledgement that a release is going to occur in the detaining units AO. If the unit has no objections or reasons to further detain the individual the detainee(s) is released. The releases are conducted on every WED and SAT.
8. The major shortfalls that usually hold up a detainee from being released or transferred to DCCP are:
  - a. Coalition Apprehension Form improperly filled out. The form does not have all the information needed. The Detaining soldiers name and Supervising officers name are the items that are usually left off.
  - b. Synopsis memo is missing or incomplete.
  - c. CI screening sheet is missing or incomplete
  - d. DA 4137 missing
  - e. Sworn statements missing.

If the information is not on hand, it takes some units up to 3 weeks to complete the packets to expedite the process.

## DETAINEE PROCESS

1. Unit brings detainee(s) to Striker Detention Facility at FOB Pacesetter.
2. Prior to admitting any detainee into the detention facility, the OIC/NCOIC that accompanies the detainee(s) to FOB Pacesetter comes to the 3-29 FA TOC and conducts an initial in-processing with the 3-29 FA S-2 section. Initial in processing includes a review of the detainee's packet. The detainee's packet should include:
  - a. Filled out Coalition Apprehension Form
  - b. CI screening form (if the unit has a CI team)
  - c. Any sworn statements
  - d. DA 4137 for all confiscated property
  - e. EPW Category assessed
  - f. A synopsis memo
  - g. Identification validated.
  - h. Photo printed

Any discrepancies identified are annotated and the detaining unit is responsible for corrections needed.

3. Once the initial in-processing is complete, the detainee(s) are then taken to the detention facility and in-processed by the 64<sup>th</sup> MP Company. Simultaneously the 3-29 FA S-2 section validates the identity of the detainee(s) through the BDE S-2 while concurrently verifying against the Battalion's list.
4. If the detaining Battalion S-2 does not conduct an initial interrogation of the detainee(s), the 3-29 FA THT will conduct the interrogation.
5. If the detainee(s) is a CAT I or IA (have intelligence value, HVT, or a Foreign fighter), the detainee(s) will be immediately transferred to DCCP. Pacesetter S-2 will coordinate with DCCP not less than 24 hours prior to transfer. (DCCP runs occur every TUE and FRI)
6. If the detainee(s) is determined to have no intelligence value (CAT B, C, or D) from and/or through interrogations, the detainee(s) is/are tried for the violations listed. A DA Form 6 selects the trial officer. Proceedings are conducted based on a summary courts martial model written by the 3BCT JAG.
7. If detainee(s) was apprehended and is not of intel value or has not committed any other violations, then they are released. Prior to any release, Pacesetter S-2 contacts the detaining unit not less than 24 hours prior and receives an acknowledgement that a release is going to occur in the detaining units AO. If the unit has no objections or reasons to further detain the individual the detainee(s) is released. The releases are conducted on every WED and SAT.
8. The major shortfalls that usually hold up a detainee from being released or transferred to DCCP are:
  - a. Coalition Apprehension Form improperly filled out. The form does not have all the information needed. The Detaining soldiers name and Supervising officers name are the items that are usually left off.
  - b. Synopsis memo is missing or incomplete.
  - c. CI screening sheet is missing or incomplete
  - d. DA 4137 missing
  - e. Sworn statements missing.

If the information is not on hand, it takes some units up to 3 weeks to complete the packets to expedite the process.

002157

TAG # \_\_\_\_\_

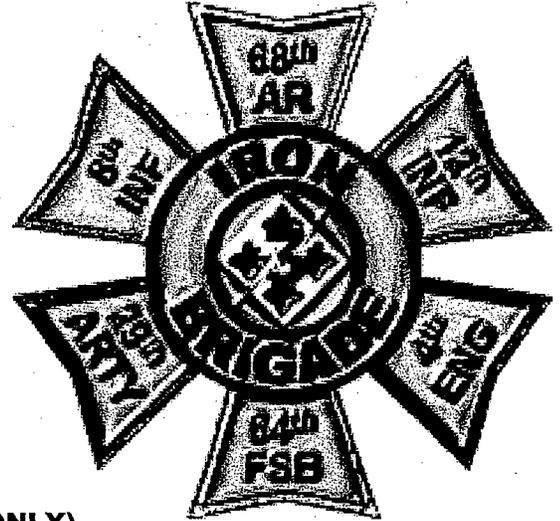
DATE DETAINED: \_\_\_\_\_

NAME: \_\_\_\_\_

DATE BCCP: \_\_\_\_\_

# 3BCT DETAINEE PACKET CHECKLIST

- \_\_\_\_\_ EPW TAG (DA FORM 2745) (OR EQUIVALENT)
- \_\_\_\_\_ COALITION APPREHENSION FORM
- \_\_\_\_\_ TWO SWORN STATEMENTS
- \_\_\_\_\_ MEDICAL SCREEN (IF NEEDED)
- \_\_\_\_\_ DA FORM 4137 (IF DETAINEE HAS PROPERTY)
- \_\_\_\_\_ PHOTOGRAPH OF DETAINEE
- \_\_\_\_\_ 3BCT WEAPONS / CONTRABAND MEMO (DCCP ONLY)



## UNIT OF CAPTURE:

1-8 IN  1-68 AR  1-66 AR  4 ENGR  3-29 FA  DIVARTY  BRT

## RECOMMENDATIONS:

CI RECOMMENDATION:

RELEASE  
 TRANSFER TO APPREHENDING UNIT  
 SEND TO DCCP (TIKRIT)  
 OTHER: \_\_\_\_\_

S2 RECOMMENDATION:

RELEASE  
 TRANSFER TO APPREHENDING UNIT  
 SEND TO DCCP (TIKRIT)  
 OTHER: \_\_\_\_\_

3-29 FA CDR RECOMMENDATION:

RELEASE  
 TRANSFER TO APPREHENDING UNIT  
 SEND TO DCCP (TIKRIT)  
 OTHER: \_\_\_\_\_

DETAINEE CATEGORY:

A      A1      B      C

D 002158

DEPARTMENT OF THE ARMY REPORT OF RESULTS OF TRIAL

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

TO: Commander  
B Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Armored Division  
Baghdad, Iraq APO AE 09324

1. Notification under R.C.M. 1101 and AR 27-10, paragraph 5-26 is hereby given in the case of the United States v. McKENZIE, John C.

SSG, B BTRY., 4<sup>th</sup> BN, 1<sup>st</sup> FA, 3<sup>rd</sup> BDE, 1<sup>st</sup> AD

2. Trial by general court-martial on 8 Dec 03 at Baghdad, Iraq

convened by CMCO Number 5 HQ, 1st Armored Division, APO AE 09324.

3. Summary of offenses, pleas, and findings:

CH	ART UCMJ	SPEC	BRIEF DESCRIPTION OF OFFENSE(S)	PLEA	FINDING
THE	128	THE	Assault with a loaded firearm	Not Guilty	Not Guilty

4. SENTENCE: None.

5. Date sentence adjudged: None.

6. Contents of pretrial agreement concerning sentence, if any: None.

7. Number of days of presentence confinement, if any: None.

8. Number of days of judge-ordered administrative credit for illegal presentence confinement or restriction found tantamount to confinement, if any: None

9. Total present confinement credit towards post-trial confinement: None.

10. Name(s) and SSN(s) of companion accused or co-accused, if any: None.

CF: Commander  
4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery  
Baghdad, Iraq APO AE 09324

SJA  
1st Armored Division  
Baghdad, Iraq APO AE 09324

TYPED NAME

SIGNATURE

RANK

BRANCH OF SERVICE

CPT

JA

### CHARGE SHEET

#### I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, Middle Initial) <b>McKenzie, John C.</b>			2. SSN	3. GRADE OR RANK <b>SSG</b>	4. PAY GRADE <b>E6</b>
5. UNIT OR ORGANIZATION <b>Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Baghdad, Iraq APO AE 09324</b>				6. CURRENT SERVICE	
				a. INITIAL DATE <b>20001208</b>	b. TERM <b>6 years</b>
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL			
<b>\$2,400.90</b>	<b>None</b>	<b>\$2,400.90</b>	<b>None.</b>		

#### II. CHARGES AND SPECIFICATIONS

10. CHARGE I: VIOLATION OF THE UCMJ, ARTICLE 93.

THE SPECIFICATION: In that Staff Sergeant (E6) John C. McKenzie, U.S. Army, at or near Baghdad, Iraq, on or about 21 June 2003, was cruel toward [REDACTED] a person subject to his orders, by laughing at [REDACTED] after he was assaulted by Private First Class [REDACTED], and saying to [REDACTED] "What happened, did you fall and break your nose?", or words to that effect.

*inoperable firearm*  
*offering an*  
*while other armed soldiers*  
*guarded*  
*16 NOV 03*

CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 128.

THE SPECIFICATION: In that Staff Sergeant (E6) John C. McKenzie, U.S. Army, did at or near Baghdad, Iraq, on or about 21 June 2003, commit an assault upon [REDACTED] by pointing at him with a dangerous weapon likely to produce death or grievous bodily harm, to wit: a loaded firearm.

#### III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, Middle Initial)	b. GRADE	c. ORGANIZATION OF ACCUSER
[REDACTED]	<b>MAJ</b>	<b>HHC, 3<sup>rd</sup> Brigade</b>
d. SIGNATURE OF ACCUSER	e. DATE (YYYYMMDD)	
[REDACTED]	<b>20030919</b>	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 19 day of September, 2003, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

_____ Typed Name of Officer	<b>HHC, 3<sup>rd</sup> Bde, 1<sup>st</sup> AD</b> Organization of Officer
<b>CPT</b> Grade	<b>Trial Counsel</b>
_____ Signature	Official Capacity to Administer Oath (See R.C.M. 307(b) - must be a commissioned officer)

12.

On 20 September, 2003, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me  
(See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

[Redacted]  
Typed Name of Immediate Commander

B Btry, 4-1 FA  
Organization of Immediate Commander

CPT

[Redacted]  
Grade

[Redacted]  
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1500 hours, 20 SEPT., 2003 at

HQ, 4-1 FA  
Designation of Command or

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

FOR THE <sup>1</sup>

[Redacted]  
Typed Name of Officer

Commander  
Official Capacity of Officer Signing

LTC

[Redacted]  
Grade

[Redacted]  
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

HEADQUARTERS, 1st ARMORED DIVISION

b. PLACE

BAGHDAD, IRAQ

c. DATE (YYYYMMDD)

20031114

Referred for trial to the general court-martial convened by Court-Martial Convening Order Number 5,  
this headquarters,

dated 20 August 2003, subject to the following instructions:<sup>2</sup>

by COMMAND of BRIGADIER GENERAL DEMPSEY  
Command or Order

[Redacted]  
Typed Name of Officer

Chief, Military Justice

Official Capacity of Officer Signing

MAJ

[Redacted]  
Grade

[Redacted]  
Signature

15.

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

[Redacted]  
Typed Name of Trial Counsel

CPT

Grade or Rank of Trial Counsel

[Redacted]  
Signature

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

DEPARTMENT OF THE ARMY  
HEADQUARTERS, 1ST ARMORED DIVISION  
BAGHDAD INTERNATIONAL AIRPORT COMPLEX  
UNIT 93054  
APO AE 09324

COURT-MARTIAL CONVENING ORDER  
NUMBER 9

1 December 2003

The following members are detailed to the Special Court-Martial empowered to adjudge a bad-conduct discharge convened by Court-Martial Convening Order Number 5, this headquarters, dated 20 August 2003, for the trial of United States v. SSG John C. McKenzie, Battery B, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery, 1<sup>st</sup> Armored Division only:

CSM [REDACTED] HHT, 1-2 ACR (L)  
CSM [REDACTED] HHC, 47<sup>th</sup> FSB, 1AD

Vice

CSM [REDACTED] 1 AR EN BDE  
SGM [REDACTED] HHC, 2d BDE, 82d ABN

BY COMMAND OF BRIGADIER GENERAL MARTIN E. DEMPSEY:

[REDACTED]

DISTRIBUTION:  
Each Indiv Conc (1)  
Record of Trial (1)  
Record Set (1)  
Reference Set (1)

MAJ, JA  
Chief, Military Justice

002162

CORRECTED COPY

DEPARTMENT OF THE ARMY  
HEADQUARTERS, 1ST ARMORED DIVISION  
BAGHDAD INTERNATIONAL AIRPORT COMPLEX  
APO AE 09324-3054

COURT-MARTIAL CONVENING ORDER

20 August 2003

NUMBER

5

A general or special court-martial is convened with the following members and shall meet at a location to be determined:

COL. [REDACTED], HHC, 4th BDE, 1AD  
COL. [REDACTED], HHT, 2ACR (L)  
LTC [REDACTED], HHB, 2-3 FA  
LTC [REDACTED], HHC, 2 BDE  
LTC [REDACTED], HHC, 501st MI BN  
MAJ [REDACTED], HHC, 1AD  
MAJ [REDACTED], HHC, 1457th EN BN  
CPT [REDACTED], HSC, 389th EN BN  
CPT [REDACTED], HHC, 1st BCT, IAD

In the event the accused submits a request pursuant to Article 25c, UCMJ, that the court be composed of at least one-third enlisted members, the officers not named below are excused and the court will be composed of the following officers and enlisted members:

COL. [REDACTED], HHT, 2ACR (L)  
COL. [REDACTED], HHC, 4th BDE, 1AD  
LTC [REDACTED], HHB, 2-3 FA  
LTC [REDACTED], HHC, 501st MI BN  
CPT [REDACTED], 389th EN BN  
CSM [REDACTED], 1 AR EN BDE  
SGM [REDACTED], HHC, 2ND BDE, 82ND ABN  
MSG [REDACTED], RHHT, 2ACR  
SFC [REDACTED], HHC 1-6 IN

All cases referred to the general or special court-martial convened by Court-Martial Convening Order Number 17 or 18, this headquarters, dated 8 December 2002 in which the court has not yet been assembled, will be brought to trial before the court-martial hereby convened.

BY COMMAND OF BRIGADIER GENERAL DEMPSEY:

DISTRIBUTION:  
Each Indiv Conc (1)  
Record of Trial (1)  
Record Set (1)  
Reference Set (1)

[REDACTED]  
MAJ, JA  
Chief, Military Justice

002163



DEPARTMENT OF THE ARMY  
HEADQUARTERS, 3<sup>RD</sup> BRIGADE COMBAT TEAM, 1<sup>ST</sup> ARMORED DIVISION  
BAGHDAD, IRAQ  
UNIT 92940, APO AE 09324-2940

REPLY TO  
ATTENTION OF:

AFZN-BB-CO

3 November 2003

MEMORANDUM THRU Staff Judge Advocate, 1<sup>st</sup> Armored Division, Baghdad, Iraq

FOR Commanding General, 1<sup>st</sup> Armored Division, Baghdad, Iraq

SUBJECT: Disposition of Court Martial Case (U.S. v. SSG John C. McKenzie)

1. This memorandum is to inform you of the results of a recently completed Article 32 investigation in the case of U.S. v SSG John C. McKenzie and to discuss with you my preference for the disposition of this case.
2. Staff Sergeant McKenzie was charged on 19 September 2003 with a violation of Article 93, UCMJ, for maltreatment of a detainee, and with a violation of Article 128, UCMJ, for assaulting the same detainee. The Article 32 investigation for this case was conducted on 22 October 2003. This investigation found reasonable grounds to believe that SSG McKenzie committed the Article 128 offense, as well as a variation on the charged Article 93 offense. It also found reasonable grounds to believe that SSG McKenzie violated Article 92, UCMJ, for being derelict in his duty to correct a subordinate soldier's maltreatment of the detainee. The recommendation of the investigating officer was that the case be referred to a Special Court-Martial empowered to adjudge a Bad-Conduct Discharge.
3. Despite this recommendation, it is my preference that I handle this case with a Field Grade Article 15. Although the charges in this case are serious, this appears to be the only indiscretion by the noncommissioned officer in question. In fact, even the witnesses against him stated that he is "by the book" and always sets the standard. I feel a Field Grade Article 15 is appropriate for this offense considering the circumstances surrounding it.
4. This case has not previously been referred to you for disposition. I will await word from you as to whether my intended resolution of this case is acceptable before executing any nonjudicial punishment, and will understand if you decide to pull the case up to your level for a court-martial.

  
COL, AR  
Commanding

002164

## INVESTIGATING OFFICER'S REPORT

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

<b>FROM:</b> (Name of Investigating Officer - Last, First, MI) [REDACTED]	<b>b. GRADE</b> [REDACTED]	<b>c. ORGANIZATION</b> HQ, 3 <sup>rd</sup> Brigade Combat Team 1 <sup>st</sup> Armored Division Baghdad, Iraq APO AE 09324	<b>d. DATE OF REPORT</b> 28 Oct 2003
<b>2a. TO:</b> (Name of Officer who directed the Investigation - Last, First, MI) [REDACTED]	<b>b. TITLE</b> [REDACTED]	<b>c. ORGANIZATION</b> HQ, 3 <sup>rd</sup> Brigade Combat Team 1 <sup>st</sup> Armored Division Baghdad, Iraq APO AE 09324	
<b>3a. NAME OF ACCUSED</b> (Last, First, MI) McKENZIE, John C.	<b>b. GRADE</b> E6	<b>c. SSN</b> [REDACTED]	<b>d. ORGANIZATION</b> B Battery, 4-1 FA Baghdad, Iraq
			<b>e. DATE OF CHARGES</b> 19 Sep 03

(Check appropriate answer)

IN ACCORDANCE WITH ARTICLE 32, UCMJ, AND R.C.M. 405, MANUAL FOR COURTS-MARTIAL, I HAVE INVESTIGATED THE CHARGES APPENDED HERETO (Exhibit 1)	YES	NO	
THE ACCUSED WAS REPRESENTED BY COUNSEL (If not, see 9 below)	<input checked="" type="checkbox"/>		
UNSEL WHO REPRESENTED THE ACCUSED WAS QUALIFIED UNDER R.C.M. 405(d)(2), 502(d)	<input checked="" type="checkbox"/>		
<b>a. NAME OF DEFENSE COUNSEL</b> (Last, First, MI) RUSH, Brian	<b>b. GRADE</b> O3	<b>8a. NAME OF ASSISTANT DEFENSE COUNSEL</b> (If any)	<b>b. GRADE</b>
<b>ORGANIZATION</b> (If appropriate) US USALSA Field Office		<b>c. ORGANIZATION</b> (If appropriate)	
<b>ADDRESS</b> (If appropriate) Camp Victory Baghdad, Iraq		<b>d. ADDRESS</b> (If appropriate)	
To be signed by accused if accused waives counsel. If accused does not sign, investigating officer will explain in detail in Item 21.			
<b>PLACE</b>	<b>b. DATE</b>		

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.

SIGNATURE OF ACCUSED

<b>J. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF:</b> (Check appropriate answer)	YES	NO
THE CHARGE(S) UNDER INVESTIGATION	<input checked="" type="checkbox"/>	
IDENTITY OF THE ACCUSER	<input checked="" type="checkbox"/>	
THE RIGHT AGAINST SELF-INCRIMINATION UNDER ARTICLE 31	<input checked="" type="checkbox"/>	
THE PURPOSE OF THE INVESTIGATION	<input checked="" type="checkbox"/>	
THE RIGHT TO BE PRESENT THROUGHOUT THE TAKING OF EVIDENCE	<input checked="" type="checkbox"/>	
THE WITNESSES AND OTHER EVIDENCE KNOWN TO ME WHICH I EXPECT TO PRESENT	<input checked="" type="checkbox"/>	
THE RIGHT TO CROSS-EXAMINE WITNESSES	<input checked="" type="checkbox"/>	
THE RIGHT TO HAVE AVAILABLE WITNESSES AND EVIDENCE PRESENTED	<input checked="" type="checkbox"/>	
THE RIGHT TO PRESENT ANYTHING IN DEFENSE, EXTENUATION, OR MITIGATION	<input checked="" type="checkbox"/>	
THE RIGHT TO MAKE A SWORN OR UNSWORN STATEMENT, ORALLY OR IN WRITING	<input checked="" type="checkbox"/>	
a. THE ACCUSED AND ACCUSED'S COUNSEL WERE PRESENT THROUGHOUT THE PRESENTATION OF EVIDENCE (If the accused or counsel were absent during any part of the presentation of evidence, complete b below.)	<input checked="" type="checkbox"/>	

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

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

002165

12a. THE FOLLOWING WITNESSES TESTIFIED UNDER OATH: (Check appropriate answer)

NAME (Last, First, MI)	GRADE (if any)	ORGANIZATION/ADDRESS (Whichever is appropriate)	YES	NO
[REDACTED]	E5	B Batt, 4-1 <sup>st</sup> Field Artillery Baghdad, Iraq APO AE 09324	X	
[REDACTED]	E5	B Batt, 4-1 <sup>st</sup> Field Artillery Baghdad, Iraq APO AE 09324	X	
[REDACTED]	E4	B Batt, 4-1 <sup>st</sup> Field Artillery Baghdad, Iraq APO AE 09324	X	
[REDACTED]	E4	B Batt, 4-1 <sup>st</sup> Field Artillery Baghdad, Iraq APO AE 09324	X	
[REDACTED]	E4	B Batt, 4-1 <sup>st</sup> Field Artillery Baghdad, Iraq APO AE 09324	X	

(SEE CONTINUATION SHEET 1)

13. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED.

13A. THE FOLLOWING STATEMENTS, DOCUMENTS, OR MATTERS WERE CONSIDERED; THE ACCUSED WAS PERMITTED TO EXAMINE EACH.

DESCRIPTION OF ITEM	LOCATION OF ORIGINAL (if not attached)	YES	NO
Sworn Statements of SGT [REDACTED] dtd 21 Jun 03 and 27 Jun 03	Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division	X	
Sworn Statements of SGT [REDACTED] dtd 21 Jun 03 and 27 Jun 03	Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division	X	
Sworn Statements of SPC [REDACTED] dtd 21 Jun 03 and 27 Jun 03	Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division	X	
Sworn Statements of SPC [REDACTED] dtd 21 Jun 03 and 27 Jun 03	Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division	X	
Sworn Statements of SPC [REDACTED] dtd 21 Jun 03 and 27 Jun 03	Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division	X	

(SEE CONTINUATION SHEET 1)

EACH ITEM CONSIDERED, OR A COPY OR RECITAL OF THE SUBSTANCE OR NATURE THEREOF, IS ATTACHED

4. 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).)

5. THE DEFENSE DID REQUEST OBJECTIONS TO BE NOTED IN THIS REPORT (If Yes, specify in Item 21 below.)

6. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL

7. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM

8. REASONABLE GROUNDS EXIST TO BELIEVE THAT THE ACCUSED COMMITTED THE OFFENSE(S) ALLEGED

9. I AM NOT AWARE OF ANY GROUNDS WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER. (See R.C.M. 405(d)(1).)

10. I RECOMMEND:

TRIAL BY  SUMMARY  SPECIAL  GENERAL COURT-MARTIAL  
 OTHER (Specify in Item 21 below)

REMARKS (Include, as necessary, explanation for any delays in the investigation, and explanation for any "no" answers above.)

FORM OF THE CHARGES.

It is my certainty based upon the written and oral testimony provided by the witnesses that the two charges are in proper form and that there are reasonable grounds to believe that Staff Sergeant John C. McKenzie did in fact commit the offenses alleged; however, based upon evidence presented, I recommend several amendments to the form of the charges and their specifications. I recommend that Charge I, Violation of Article 93, UCMJ, cruelty and maltreatment, be amended to substitute the specification addressed in the following paragraph and also recommend that the specification of Charge I be dismissed for reasons addressed in the second paragraph of the

(SEE CONTINUATION SHEET 2)

a. TYPED NAME OF INVESTIGATING OFFICER [REDACTED]	b. GRADE 04	c. ORGANIZATION HQ, 3 <sup>rd</sup> BCT, 1 <sup>st</sup> AD Baghdad, Iraq APO AE 09324
--	----------------	--

CONTINUATION SHEET 1, DD FORM 457, PERTAINING TO SSG MCKENZIE, John C.,  
 B Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, Baghdad, Iraq  
 O AE 09324

Item 12a, continued:

<u>NAME (Last, First, MI)</u>	<u>GRADE (If any)</u>	<u>ORGANIZATION/ADDRESS (Whichever is appropriate)</u>	<u>YES</u>	<u>NO</u>
[REDACTED]	E3	B Batt, 4-1 <sup>st</sup> Field Artillery Baghdad, Iraq APO AE 09324	X	
[REDACTED]	E3	B Batt, 4-1 <sup>st</sup> Field Artillery Baghdad, Iraq APO AE 09324	X	
[REDACTED]	E3	B Batt, 4-1 <sup>st</sup> Field Artillery Baghdad, Iraq APO AE 09324	X	
[REDACTED]	E4	B Batt, 4-1 <sup>st</sup> Field Artillery Baghdad, Iraq APO AE 09324	X	
[REDACTED]	Civilian	Khalif Baghdad Harthia, House 44 Baghdad, Iraq	X	

Item 13a, continued:

<u>DESCRIPTION OF ITEM</u>	<u>LOCATION OF ORIGINAL (If not attached)</u>	<u>YES</u>	<u>NO</u>
Sworn Statements of PFC [REDACTED] dtd 21 Jun 03 and 27 Jun 03	Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division Baghdad, Iraq	X	
Sworn Statements of PFC [REDACTED] dtd 21 Jun 03 and 28 Jun 03	Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division Baghdad, Iraq	X	
Sworn Statements of PFC [REDACTED] dtd 21 Jun 03 and 28 Jun 03	Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division Baghdad, Iraq	X	
Sworn Statements of SPC [REDACTED] dtd 21 Jun 03 and 27 Jun 03	Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division Baghdad, Iraq	X	
Sworn Statements of PFC [REDACTED] dtd 21 Jun 03 and 27 Jun 03	Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division Baghdad, Iraq	X	
Photographs (18)		X	

em 21, continued.

Dismissed for reasons addressed in the second paragraph of the discussion. I also recommend that one additional charge, Violation of Article 92, UCMJ, Dereliction in the Performance of Duties be preferred against Staff Sergeant McKenzie. The witness testimony and evidence supporting the charges, recommended amendments, and/or dismissals are discussed below.

1. Charge I, Violation of Article 93, UCMJ (Cruelty and Maltreatment).

This paragraph addresses my recommendation to substitute the specification to Charge I. While I do believe that reasonable grounds exist to believe that Staff Sergeant McKenzie violated Article 93, UCMJ (Cruelty and Maltreatment), I do not believe that he is guilty of the offense as it is stated on the charge sheet. The specification as it is stated, charges that Staff Sergeant McKenzie was cruel toward [redacted] by "laughing at [him] after he was assaulted...and saying to [him] "What happened, did you fall and break your nose?" I do not believe that the evidence supports the charge that Staff Sergeant McKenzie was cruel in this manner. I do not believe that what basically amounted to "teasing" [redacted] raises to the level of cruelty. Laughing at someone is not a crime and [redacted] could not understand the words that were being stated regardless. I do not believe that these acts could not meet the second element of Article 93.

While I do not believe there are reasonable grounds to charge Staff Sergeant McKenzie for cruelty as that specification is stated, I do believe that there are reasonable grounds to believe that he did commit the offense. There is credible evidence that Staff Sergeant McKenzie attempted to persuade [redacted] accept an operable pistol while he was sitting on the ground and with weapons pointed at him. I believe that Staff Sergeant McKenzie did this because he knew that [redacted] acceptance of the pistol would justify having the other soldiers shoot him. [redacted] testified that he believed that he would be killed if he accepted the pistol, and two other witnesses, Specialist [redacted] and Private First Class [redacted] testified that they overheard Staff Sergeant McKenzie say "take it so we can shoot you," or words to that effect. In addition, a few other witnesses testified that they believed Staff Sergeant McKenzie would shoot, engage or otherwise harm [redacted] if he accepted the pistol. By placing [redacted] in a state of fear of imminent death or bodily harm, he engaged in a type of mental torture by Staff Sergeant McKenzie that I believe would meet the cruelty element of the offense that [redacted] was subject to the orders of the accused. The victim was a detainee and had to obey the orders of his detainer. Staff Sergeant McKenzie was the senior ranking individual at the scene, so [redacted] was subject to his orders.

Although I do not believe that the statement "what happened, did you fall and break your nose?" rises to the level of cruelty by itself, I do believe that the statement may be indicative of some other type of physical maltreatment of [redacted] by someone in the group. I believe that he may have made the statement to provide an explanation for physical signs of maltreatment on the victim. However, I do not believe that there is sufficient evidence to suggest that Staff Sergeant McKenzie himself inflicted this damage.

Charge II, Violation of Article 128, UCMJ (Assault with a Dangerous Weapon)

This paragraph addresses my reasonable belief to that Charge II, Violation of Article 128, UCMJ, Assault with a Dangerous Weapon, is in proper form, that all the elements required to substantiate the charge have been met, and that credible witness testimony and sworn statements support the charge.

(SEE CONTINUATION SHEET 3)

002168

tem 21, continued.

The sequence of events based upon the evidence gathered shows that the actions, which are the basis of Charge II, took place sometime after the detainment of [REDACTED] outside the building he was guarding, but prior to the incident where [REDACTED] struck him in the face.

Besides [REDACTED] it is believed that there were only five other soldiers at the scene; Staff Sergeant McKenzie, [REDACTED] and [REDACTED]. A written statement and oral testimony by [REDACTED] and a written statement by [REDACTED] both credible witnesses at the scene, claim they saw Staff Sergeant McKenzie and another soldier taunting [REDACTED] by instructing him to lower and raise his head. Both witnesses observed Staff Sergeant McKenzie pull back the charging handle of his M16A2 rifle presumably to chamber a round into the chamber of his rifle and then aim his rifle at a distance of 6-12 inches away from [REDACTED] head. Another credible witness, [REDACTED], stated that he did see Staff Sergeant McKenzie aim his M16A2 at [REDACTED], but did not see him charge the weapon. [REDACTED] also a credible witness, did not recall having seen Staff Sergeant McKenzie aim his weapon at [REDACTED] however, it is reasonable to believe that [REDACTED] who was standing twenty to thirty feet away from the detainee, may have been distracted momentarily as Staff Sergeant McKenzie aimed his rifle at [REDACTED].

Although I do not believe [REDACTED] to be a credible witness in this case, I would like to acknowledge his testimony that he and another soldier "badgered" [REDACTED] and told him to keep his head down. When questioned by the defense counsel, [REDACTED] stated that he trained his weapon on [REDACTED] accused when he did not obey "our" command to keep his head down. The evidence and testimony leads me to believe that the other soldier was Staff Sergeant McKenzie.

There are other credible witnesses who did not recall having seen Staff Sergeant McKenzie aim his weapon at [REDACTED]. I believe that this discrepancy in credible witness testimony can be explained by a lack of personal knowledge of the events. The above-mentioned witnesses lack of knowledge can be explained by the fact that they were still in the process of searching nearby buildings or en'route to the site where the incident took place.

Recommended Charge, Violation of Article 92, UCMJ (Dereliction in the Performance of Duties).

Although it was not charged, the evidence uncovered during my investigation provided reasonable grounds to believe that Staff Sergeant McKenzie was derelict in his duty as a NCO supervisor when he failed to correct and to report that his soldier, [REDACTED], had wrongfully assaulted [REDACTED] in violation of UCMJ, Article 92. Six witnesses whose testimony I consider to be credible testified that after [REDACTED] had struck [REDACTED] in the face with his hand causing him to bleed profusely from his mouth and nose, Staff Sergeant McKenzie took no action whatsoever to correct or restrain [REDACTED] instead he joked about the incident. According to the accounts of several witnesses, [REDACTED] was at no time perceived a threat and he responded fully to the orders of the soldiers detaining him. After the incident occurred, Staff Sergeant McKenzie failed to report this incident to his superiors, as he should have. Instead, it was the soldiers who observed the incident who informed the battery first sergeant of what had happened. During the hearing, [REDACTED] stated that soldiers within the battery had received Rules of Engagement (ROE) training prior to deploying to Iraq.

(SEE CONTINUATION SHEET 4)

002169

em 21, continued.

Because of this, I recommend that Staff Sergeant McKenzie be additionally charged for the violation of Article 92, UCMJ (Dereliction of Duty).

## II. FINDINGS FROM WITNESS TESTIMONY.

Of the 10 soldier witnesses who had previously submitted sworn statements about the events of 21 June 2003, I found only 8 to be credible. I found the testimony of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] to be credible because their respective oral testimonies were generally consistent with their previously submitted sworn statements. The oral testimony did; however, tend to provide more illustrative detail of the events than did their sworn statements.

The testimony of the alleged victim in this case, [REDACTED] seemed to be credible and was consistent for the most part with the testimony of the other witnesses. I will say however, that it appeared as if he exaggerated the events at times.

I did not find the testimony of [REDACTED] and [REDACTED] to be credible or convincing.

[REDACTED] acknowledged that the details in his first sworn statement were false. In this statement, he claimed to have seen nothing, but as the written and oral testimony of others would show, he was at or near every event related to Staff Sergeant McKenzie's alleged misconduct. I also have little reason to believe [REDACTED] second sworn statement and oral testimony cause the recollection of events he described did not resemble in any consistent fashion those presented by the other eight witnesses.

With regard to the testimony provided by [REDACTED] I have a strong belief that the may have in fact violated Article 131 of the UCMJ by committing perjury during his examination in this Article 32 hearing. During his oral testimony, I questioned [REDACTED] about having seen Staff Sergeant McKenzie during the incident. He denied having seen Staff Sergeant McKenzie at all until after he left the scene where the assault took place. This testimony conflicts with [REDACTED] written statement acknowledging that Staff Sergeant McKenzie was located "somewhere behind him" at the time of the incident were he struck [REDACTED] in the face.

I would like to state that [REDACTED] was not a cooperative witness during the course of the investigation, it came to my attention that [REDACTED] had agreed to testify truthfully about this incident in exchange for disposition of his case with an Article 15. It is my belief that he did not live up to his part of the bargain. He did not provide truthful and accurate testimony against or in support of Staff Sergeant McKenzie as agreed to in the Memorandum of Agreement. In light of this, I believe that [REDACTED] voided the agreement and recommend that formal action should be taken against [REDACTED]

## II. RECOMMENDATION AS TO DISPOSITION

**Disposition.** I recommend that this case be referred to a special court-martial empowered to adjudge a bad conduct discharge. These are serious crimes, which have the possibility of adversely affecting the image of the United States Army, and if [REDACTED] is found guilty of these crimes at the court-martial, they are crimes worthy of a punitive discharge. I believe that this level of disposition is appropriate to both Staff Sergeant McKenzie and to deter other soldiers from engaging in this type of misconduct. Aware the chain of command, including yourself, recommend a general court-martial in this case, I believe that a special court-martial

(SEE CONTINUATION SHEET 5)

002170

Item 21, continued.

empowered to adjudge a bad conduct discharge is a more appropriate level of disposition considering Staff Sergeant McKenzie's years in service and previous service record.

**Summary.** I recommend that you send the following charges to the 1<sup>st</sup> Armored Division Commanding General, with a recommendation for referral to a special court-martial empowered to adjudge a bad-conduct discharge:

1. Charge I, The Specification: Violation of the UCMJ, Article 93.

I recommend that this charge be modified to reflect the acts, which could be considered to be cruel.

2. Charge II, The Specification: Violation of the UCMJ, Article 128.

3. Additional Charge I, The Specification: Violation of the UCMJ, Article 92.

I recommend that this charge be added, because the evidence provided reasonable grounds to believe that Staff Sergeant McKenzie was derelict.

# TAB B

SUMMARIZED RECORD OF ARTICLE 32b INVESTIGATION

PERSONS PRESENT

MAJ [REDACTED] Investigating Officer  
CPT [REDACTED] Government Representative  
CPT [REDACTED], Defense Counsel  
Mr. [REDACTED], Translator  
SSG [REDACTED] n C. McKenzie, Accused  
SPC [REDACTED] Reporter

PERSONS ABSENT

None.

The Article 32b Investigation convened at 0900 hours, 22 October 2003.

The Investigating Officer informed the accused that this was a formal investigation of the charges against him ordered pursuant to Article 32b of the UCMJ by COI [REDACTED] special court-martial convening authority.

The Investigating Officer stated that he had previously informed the accused of his rights regarding counsel and that the accused indicated to him that he did wish to be represented by CPT [REDACTED] detailed defense counsel, who was present with the accused.

The Investigating Officer stated that Major [REDACTED] was assigned as his primary legal advisor on 30 September 2003, but on 21 October 2003 that Captain [REDACTED] was appointed as his legal advisor replacing Major [REDACTED].

The Investigating Officer advised the accused that the sole purpose of the Article 32b Investigation was to determine thoroughly and impartially all the relevant facts of the case. To weigh and evaluate those facts and determine the truth of the matter set on the charges and make a recommendation concerning disposition of the charges preferred against him.

The Defense Counsel waived the reading of the charges.

The Investigating Officer advised the accused of his right to remain silent concerning the offenses, of the right to make a sworn or unsworn statement, and that such a statement could be used against him in a trial by court-martial. The Investigating Officer further informed the accused of his right to present matters in defense, extenuation and mitigation, and that anything presented by the accused would be considered and weighed as evidence just as the testimony of any witness.

The Investigating Officer stated that the accused had been previously given a copy of the investigative file, which has been compiled in the case. The Investigating Officer listed the items contained in the investigative file.

The Defense attorney requested that the Investigating Officer allow counsel to review the charge sheet furnished to him. There being no objection by the Government Representative, the Investigating Officer allowed the Defense Counsel to review his copy of the charge sheet.

The Investigating Officer stated that he intended to call as a witnesses [REDACTED]  
Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment; [REDACTED] Bravo Battery, 4<sup>th</sup>  
Battalion, 1<sup>st</sup> Field Artillery Regiment; [REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field

002173

Artillery Regiment; [REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment;  
[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment; [REDACTED]  
[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment; [REDACTED]  
[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment; and [REDACTED]  
Iraqi citizen.

The Investigating Officer informed the accused that he had the right to cross-examine all witnesses, which testify at this hearing. The Investigating Officer further informed the accused of his right to call witnesses on his behalf.

The Investigating Officer asked the accused if he had any questions concerning his rights in the investigation.

The accused stated that he understood his rights in the Article 32b Investigation.

The Investigating Officer stated that [REDACTED] would be deemed as reasonably unavailable due to the witness being returned to the United States on environmental leave. There being no objection from the Defense Counsel or the Government Representative, the Investigating Officer stated that he would consider the sworn statement of [REDACTED] in his review of the investigation.

The Investigating Officer stated that the Government Representative would swear in the witnesses and the translator in this investigation. There was no objection from Defense Counsel.

The Defense Counsel performed voir dire on the Investigating officer.

The Government Representative asked both the Defense Counsel and the Investigating Officer if they were comfortable with the completeness of the investigative packet that they were given in this case. Both the Defense Counsel and the Investigative Officer stated that they felt comfortable with the completeness of the packet that they received in this case.

The Government Representative made an opening statement.

The Defense Counsel made an opening statement.

The Investigating Officer also stated that [REDACTED] currently would not be called as a witness due to the fact that the soldier has legal counsel and his counsel has advised him not to testify at this investigation at the present time. The Government Representative informed all parties that [REDACTED] would only testify if an agreement was reached between the witness, his counsel, the Government Representative, and the Special court-martial convening authority. There was no objection from Defense Counsel.

[REDACTED] was called as a translator for [REDACTED] he was sworn and translated the testimony of the witness.

[REDACTED] Baghdad Harthia, House 44, was called as a witness for the government, was sworn, and testified through an interpreter in substance as follows:

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

My name is [REDACTED] I prefer to be called [REDACTED] I was guarding a building that housed military artifacts on 21 June 2003. They were trying to make that place educational for the youth of Iraq or as a health center for the Iraqi people. Me and one other man normally guard the building. I forgot the date that American forces came to the building and did a search of its interior. I do remember

002174

that the date the American forces came to the building that I guard was in June. On the day the American forces came, I was the only guard at the building.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I was the only guard at the museum that day, but normally there are two of us.

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I was lying on the couch because it was a very hot day. I heard a lot of noises outside, so I got up and went outside to look and see where the noise was coming from. I saw a lot of American forces and tanks when I went outside. The soldiers started screaming at me to get out of the building, but I did not realize that they were talking to me at first. At this time, there were two soldiers with their rifles pointed at me. The two soldiers came in the building and told me to get outside, so I came out of the building. They had me lay down on the ground so that they could search me. After they had searched me and found nothing, they told me to get up and sit on a chair while some of the forces moved inside the building. I was not wearing a uniform that day when the American forces came to the museum because this all happened before we were issued uniforms. The soldiers had me sit down against some type of aluminum post as the other soldiers conducted some type of operation. Five of the soldiers stayed outside and guarded me, while the others went inside the building. I was thinking that the five soldiers guarding me were going to shoot me at any minute. The soldiers were talking to one another with their weapons pointed at me, but I could not understand what they were saying. The soldiers did bring some of the weapons from the museum outside. The building I was guarding was a military museum. It had a lot of old weapon systems inside. One of the soldiers brought a revolver pistol out of the building and asked me what it was. I told the soldier that it was an old revolver pistol. Later on, one of the soldiers had brought someone that could speak Arabic over and I told him that the revolver was an old pistol. I was told that there had been some resistance towards American forces the area around the museum, and that some of the coalition forces had been attacked from this area. The soldiers asked me if I knew anything about it. I told them that sometimes thieves and robbers come into the museum to still because they know that weapons are in there. Sometimes, I try to stop the thieves from stealing the weapons. There was about a foot and a half distance between my head and the weapons the soldiers had pointed at me. The soldiers did make me put my head down and close my eyes. I do remember a soldier putting his weapon to my head, but that did not occur until after one of the soldiers hit me. After the soldiers had searched the building and brought the weapons out of it, I was then struck by one of them. After I was surrounded, one of the soldiers showed me his bayonet by pulling his knife out as if to say that he was going to stab me. Two soldiers were standing beside me, when a third soldier came and hit me from behind in my mouth. I fell to the ground when the soldier hit me. When I was trying to get up, that is when two soldiers put their weapons to my head.

Let the record show that the witness identified an M16A2 rifle as being similar to the weapon that had been placed against his head.

My nose and mouth started bleeding when the soldier struck me in the face. After the soldiers saw that I was bleeding from the nose and mouth, they put their weapons on safe and started backing up. The man with the American forces who spoke Arabic then gave me a cloth to wash my face and mouth. I do not remember any of the soldiers laughing. The leader of the soldiers was in the building when I got struck. When he came out and saw that I was bleeding, he asked the soldiers which one of them had hit me. After the leader of the soldiers found out who had hit me, he pulled the soldier to the side and told him to go back to his area until he had a chance to speak with him later on the incident. The leader of the soldiers is not present in this room. I was not scared when I was struck in the mouth. I was more concerned with my friends finding out about me being hit by an American soldier because it would cause insult to me in their eyes. I was never hit by my father, mother, or brother. Up until now, most of my friends do not know that I was hit in the face by an American soldier. I was scared when the soldiers put their weapons to my head, because I was expecting one of them to pull the trigger. I have heard of a lot of innocent people getting killed by mistake and I thought that I was going to be one of them. I can not remember if any of the soldiers in the room here, were one of those present when I was assaulted. The only American soldier that I can recognize is the one who spoke Arabic that befriended me. Most of the time during the incident, my

head was down or my eyes were closed. I cried on the inside because I did not understand why the soldier had hit me. The only thing that I suffer from right now, because of the incident is ridicule from my friends. Sometimes when I play with my friends where we hit one another, they tell me that before I hit an Iraqi back, I should go and hit the American soldier back that struck me in the face. I lost 50,000 Dinar and 9MM Blanc pistol due to the incident. I used my pistol the American soldiers took from me only to protect myself whenever I went out.

#### QUESTIONS BY THE INVESTIGATING OFFICER

One of the soldiers tried to offer me a gun that he had brought out of the museum, The pistol that the soldier offered me was burnt up.

#### QUESTIONS BY THE DEFENSE COUNSEL

The soldiers had their guns pointed at me when I was kneeling in front of the museum. When I tried to get up from the ground, after I had been struck by the soldier; that is when they put their weapons to my head. I was on my knees while the soldiers had their weapons pointed at me. There were five soldiers with their weapons pointed at me. The soldier that offered me the gun had a piece of paper in his hand. The soldier that offered me the weapon knew how to read Arabic. He was asking me who had me guarding the museum. The soldier was asking me why I was in the museum and what was I doing there. The soldier that told me to take the weapon he had in his hand for me was not speaking to me in Arabic. I thought that the soldier was trying to hand me the weapon because the soldier was putting the weapon out towards me. I refused taking the weapon from the soldier, because I thought that they would have tried to harm me. The soldier that offered me the pistol was not speaking in Arabic. After the search, there were normally two soldiers guarding me. At times though, there was only one soldier guarding me with his weapon at my head.

The interpreter demonstrated the distances between the witness and the soldiers guarding him. The distance was about 8 feet.

#### QUESTION BY THE INVESTIGATING OFFICER

From the moment the soldiers walked into the museum, I was expecting them to kill me. I thought that if I took the pistol from the soldier that offered it to me, the others would have killed me.

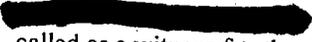
The Government Representative requested that the Investigating Officer permanently excuse the witness, because he had come a long way to deliver his testimony. There being no objection by the Defense Counsel, the Investigating Officer stated that he would permanently excuse the witness.

There being no further questions, the witness was permanently excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

The Government Representative requested a brief recess to link the witness up with his coalition forces escort so that he could get back to his residence. There being not argument from Defense Counsel, the Investigating Officer gave all parties a brief recess.

The Article 32b Investigation recessed at 0956 hours, 22 October 2003.

The Article 32b Investigation resumed at 1001 hours, 22 October 2003, with all parties present

 Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, was called as a witness for the government, was sworn, and testified in substance as follows:

002176

### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

On 21 June 2003, I was assigned to Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment. On 21 June 2003, we were called out on a QRF mission. When we arrived on the scene that we had been called to respond to as the QRF, I was tasked to guard a detainee. We were told that there was an Iraqi civilian in a building with an AK47. When I arrived the detainee was already outside and being watched by the [REDACTED]. The [REDACTED] told me to watch the detainee and make sure that he did not try to get away. The accused along with the rest of the guys from my unit were already inside the building when I arrived. Once the building was cleared, and they had brought out all the weapons that they needed to bring out, all the soldiers were congregating outside the building waiting to go back to our Forward Observation Base. The soldiers brought some mortar tubes, AK47s, a hand gun, and some ammunition out of the building.

The Government Representative handed the witness photo 1251.

This is a picture of a mortar tube, some AK47s, and a Rocket Propelled Grenade (RPG). These are the same weapons that I saw the soldiers bring out on 21 June 2003.

The Government Representative handed the witness photo 1265.

This photo shows two old, rusty weapons that look like they have been burned. I saw weapons that looked like these when the soldiers had brought them out of the building to turn them in. These looked like one of the weapons that the accused had brought out of the building. From my position, it looked like the accused was gesturing at the detainee in a way that looked like he was trying to hand the Iraqi detainee a weapon. I could not understand what the accused and the detainee were saying. I did see [REDACTED] that day. [REDACTED] struck the detainee in the face with an open hand. While I was guarding the detainee, [REDACTED] was talking to another soldier and kept walking around the detainee. Then [REDACTED] walked over and struck the detainee. The accused just sat there when he saw [REDACTED] strike the detainee. There was a lot of talking going on after [REDACTED] struck the detainee, but I could not make out what was being said. The accused was joking around with some other soldiers by saying that the detainee had tripped and fell on his face. I did not ever see the accused correct [REDACTED] for striking the detainee. The accused reported what had happened that day after we got back to our Forward Observation Base. The accused is the section chief of [REDACTED]. In my opinion, the only thing that disturbed me was the actions of [REDACTED].

### QUESTIONS BY THE INVESTIGATING OFFICER

The [REDACTED] remained on the scene, but he was not in the immediate area when [REDACTED] struck the accused. I was about thirty feet from the accused and the detainee when the incident took place.

### QUESTIONS BY THE DEFENSE COUNSEL

I was about twenty to thirty feet away from the detainee. My mission, once I got to the scene, was to guard the detainee. I did not have anything blocking my view from the detainee. I did have my weapon pointed at the detainee while I was guarding him. The accused did not have his weapon pointed at the detainee at any time. There was no one blocking the line of sight between myself and the detainee. I could not see what it was that the accused gesturing towards the detainee with. I could see that the accused had something in his hand, but I could not see precisely what that object was. The item in the hand of the accused looked like a burnt up weapon.

002177



I saw the revolver when the accused was taunting the detainee. I believe he was taunting the detainee solely because of the motions he was making at him with his hand. The accused did not make any other comments about the detainee besides asking the detainee had fell down and broke his nose. The accused was about five feet, and two the right of the detainee. I was about ten feet in front with [REDACTED] [REDACTED] was right in front of the detainee.

#### QUESTIONS BY THE INVESTIGATING OFFICER

The Investigating Officer asked the witness to demonstrate how the accused was waiving the weapon towards the detainee. There being no objection from the Government Representative or the Defense Counsel, the witness demonstrated how the accused was holding the weapon out at the accused.

To me, it looked like the accused was trying to give the detainee the weapon.

#### QUESTIONS BY THE DEFENSE COUNSEL

It is possible that the accused could have been asking the detainee if the pistol was black when it looked like he was trying to give the detainee the weapon.

#### QUESTIONS BY THE INVESTIGATING OFFICER

When the accused said that the detainee had fell and broke his nose, he was making the statement to the detainee

#### QUESTIONS BY THE GOVERNEMENT RERPRESENTATIVE

The accused did make a statement to the Battery Commander and the [REDACTED]. The accused informed the Battery Commander and [REDACTED] that he did not know what had happened as far as [REDACTED] striking the witness is concerned.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

[REDACTED], Headquarters and Headquarters Company, 2<sup>nd</sup> Battalion, 70<sup>th</sup> Armor Regiment, was called as a witness for the government, was sworn, and testified in substance as follows:

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

On 21 June 2003, I was on a QRF mission to the museum. There had supposedly been shots fired towards one of our towers and we went out to access the situation. I road to the museum in a 5 ton. We were clearing the people out of the building. In the building that I cleared, there were a couple of AK7s, some passports, and about four people. We took the detainees from the building that we had searched over to where [REDACTED] was being detained. We had the detainees from the building my team searched separate from [REDACTED]. My job was to guard the detainees that we got out of the electrical compound. We had the three detainees from the electrical compound separate from the other detainee.

The Government Representative showed the witness photo 0009.

I do not recognize the individual in the photo. I saw [REDACTED] guarding the detainee that was there when I arrived.

The Government Representative showed the witness photo 1265.

002179

It looks like the weapon that I saw [REDACTED] take over and put up to the head of the detainee and yell bang. I saw the accused in the general area. The accused took the hand gun from [REDACTED] and walked over to the detainee. It looked like the accused could see everything that was going on. When the accused took the weapon from [REDACTED] it looked like the accused was holding the weapon by the barrel and was waving it towards the detainee. The accused was telling the detainee to go ahead and take the weapon.

The Government Representative handed the witness a 9MM to show how the accused was holding the weapon on the day of the incident. There being no argument from Defense Counsel, the Investigating Officer allowed the witness to demonstrate how the accused was holding the weapon.

Yes, emotions were running high that day. You could say that some of the soldiers were angry at [REDACTED]. After the incidents of this day, there was some incident involving the detainee on another occasion. I did not actually see [REDACTED] hit the detainee, but I did hear the detainee's head hit the aluminum siding. I did not hear the accused say anything to correct [REDACTED]. The accused was the senior noncommissioned officer in the immediate area. I saw that the detainee was bleeding. Once the detainee was hit, the soldiers that had been giving him a hard time dispersed. One of the soldiers came up and gave the detainee a rag to clean his face. The accused had his M16A2 that day. I saw the accused near the detainee with his weapon pointed at him. The weapon of the accused was slung over his shoulder at first. Then the accused took his weapon off of his shoulder and leveled it at the detainee. Then the accused charged his weapon and pointed it at the detainee again. I was on the wrong side of the accused to see if he moved his selector switch from safe to semi. It looked like the detainee was trying to comply with the demands of the soldiers standing around him. The detainee was aware of the accused pointing his weapon at him. It did not look like the accused was trying to guard the detainee. It looked like the accused was trying to threaten the detainee to me because there was no need for the accused to guard the detainee with [REDACTED] [REDACTED] was guarding the detainee the entire time that I was there. I thought the accused was angry at the detainee because of a rumor I had heard involving a previous incident where it was said that the detainee had been shooting at our compound. I do not know whether or not this rumor was ever verified.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I did see the accused charge his weapon. The weapon status is red whenever you leave our compound. Normally, we would stay amber until we were either told to put our weapons in red status, or if we felt we were in danger. We normally wait until we are told to put our weapon in red status before we actually do it because of safety reasons. There have been a lot of accidental discharges in our Battalion.

#### QUESTIONS BY THE DEFENSE COUNSEL

I am in second platoon and the accused is in first platoon. I am not in the same platoon as the accused. I was referring to my platoon when I said that we normally leave the Forward Observation Base in amber status. My mission on 21 June 2003 was to guard four other detainees. I would say that the accused and [REDACTED] taunted the detainee for about three to five minutes. I did not see the entire incident, because I was not always watching the detainee that [REDACTED] was guarding. I saw the accused pointing his weapon at the detainee before [REDACTED] struck him. I did not hear the accused say anything else to the detainee besides, "Here. Take it". It is possible that the accused was saying other things to the detainee that I could not hear. I was standing about fifteen to twenty meters away from the detainee which [REDACTED] was guarding. I remember [REDACTED] was present when the accused pointed his weapon at the detainee. I am pretty sure that other soldiers were around, but I can not remember their names. [REDACTED] and [REDACTED] were around when the accused pointed his weapon at the detainee. I was in front of the electrical building when the accused was offering the weapon to the detainee. The accused had his back towards me when he was waving the weapon at the detainee. There were some people that were saying that it was messed up that [REDACTED] had hit the detainee while others were laughing. I do not remember seeing the accused after the detainee had gotten hit. I did not hear the accused say anything about the incident where [REDACTED] hit the detainee.

### QUESTIONS BY THE INVESTIGATING OFFICER

I cannot remember when [REDACTED] threw his Kevlar down. I remember someone telling him to go to the vehicle that had brought him to the site so that he could cool off.

### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I saw the accused charge his weapon well after the area had been secured. There would have been no reason for him to move his weapon to red status at the point where I heard him charge his weapon.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

The Article 32b Investigation recessed at 1100 hours, 22 October 2003.

The Article 32b Investigation resumed at 1110 hours, 22 October 2003, with all parties present.

[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, was called as a witness for the government, was sworn, and testified in substance as follows:

### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

On 21 June 2003, I was on a recon for a possible raid the first part of the day. Around mid afternoon when we were returning to our compound, [REDACTED] told us that someone was firing at the tower from a roof. Myself, [REDACTED], his driver, and several other soldiers went out as the Quick Reaction Force. We sat back about a block from the building until the rest of the group showed up. Once the others arrived, we all moved into position. The [REDACTED] yelled at the individual we saw standing in the building. [REDACTED] told the individual to come out of the building with his hands up twice, before the Iraqi complied. At this point, groups started to go in and clear the building.

The Government Representative showed the witness photo 0009.

This is the photo of the Iraqi that was standing in the doorway when we arrived on the scene. We found an AK47 in one of the first rooms that we cleared. We also found some old melted handguns in the building as we cleared the building. After the building was cleared, I proceeded down the street to go get some water from Bravo 7.

The Government Representative showed the witness photo 1205.

This is a photo of two of the pistols we retrieved from the building. We were told to take these revolvers out of the building and place them out to the gate. At first, I did not see anyone pick up the pistols. I later heard someone tell the detainee, "Here Take it" referring to one of the handguns that we had taken out of the building. When I turned around to see who it was, it was the accused. I could not remember exactly how the accused was trying to give the weapon to the detainee. The accused tried about two or three times to give the weapon to the detainee. Giving weapons to a detainee is not a part of our unit Standard Operating Procedure (SOP). [REDACTED] walked up to the detainee and asked him had he been shooting at our guard tower. That is when [REDACTED] hit the detainee in the face. The detainee that I am referring to is the one in the photo marked 0009. When [REDACTED] hit the detainee in the face, it caused the back of his head to hit the aluminum building he was sitting against. When [REDACTED] went back to try and hit the detainee again, I got in front of him, pushed him back, and told him that he needed to go cool down. The accused was present to witness this. The accused did not correct [REDACTED]. None of the noncommissioned officers tried to correct [REDACTED]. I heard someone laughing and saying in a joking manner that the detainee had fell and broke his nose when I was walking away. The accused was the soldier that made the

002181

comment. I walked back up to the building and told the [REDACTED] that I was ashamed of wearing the American patch if soldiers were going to treat the Iraqis the way that the accused and [REDACTED] did. [REDACTED] then went and asked the detainee what had happened. The detainee told the [REDACTED] that [REDACTED] had hit him and busted his nose. The accused did not report the incident to the [REDACTED]. I am not aware of the accused making a statement about the incident.

#### QUESTION BY THE INVESTIGATING OFFICER

The accused made the statement that the detainee had fell and broke his nose while [REDACTED] was laughing. I was about five or ten feet from the accused and the detainee when the comment was made. I was about five to ten feet from the accused.

#### QUESTIONS BY THE DEFENSE COUNSEL

When I heard the words, "Here. Take it.", other things could have been being said at the same time. It is easy to understand the dialect of the accused once you have been around him for a while. The accused has a thick accent. When the accused said, "what did he do, fall down" it sounded more sarcastic than funny to me. [REDACTED] was laughing when the accused made the comment. [REDACTED] said something, but I could not hear what it was he said. There were other people around, but I can not remember what and if they were saying things as well. The first time I heard the accused say, "Here take it" I was not facing him. The second time the accused said it I was facing him.

#### QUESTIONS BY THE INVESTIGATING OFFICER

The accused was the highest ranking person in the immediate area.

#### QUESTIONS BY THE DEFENSE COUNSEL

I saw [REDACTED] strike the detainee. The accused was beside the guard shack where the detainee was sitting on a cement ledge. I was not watching the actions of the accused when [REDACTED] struck the accused. It is possible that the accused did not see the incident. I did not see whether or not the accused saw [REDACTED] strike the detainee. During the time period when I thought that the accused was offering the detainee a weapon, I could not remember who else was around, but there were other soldiers around.

#### QUESTIONS BY INVESTIGATING OFFICER

I did not see the accused point a weapon at the detainee. We were at red status during this incident. I did not hear nor see anyone charge a weapon.

#### QUESTIONS BY GOVERNMENT REPRESENTATIVE

The first thing I saw when I came out of the building was the accused trying to hand the detainee a pistol.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, was called as a witness for the government, he was sworn, and testified in substance as follows:

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

002182

I am assigned to Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment. This is the same unit I was assigned to on 21 June 2003. On 21 June 2003, I was part of the Quick Reaction Force which responded to the museum. We arrived at the building located across the street from our Forward Observation Base. There was an Iraqi citizen coming out of the building with his hands up when we arrived to the building. Some of the other soldiers involved in the QRF mission detained the civilian.

The Government Representative showed the witness photo 0009.

That is the individual that we had detained and put over near the guard shack. Once we brought the individual out, a few of us went inside the building to clear it. [REDACTED], and I found a suitcase full of burnt up pistols inside the museum. The weapons looked like burnt up revolvers to me.

The Government Representative showed the witness 1265.

This is a photo of the weapons that we brought out of the building. When we brought the weapons out, we put them on the ground beside us. The accused then grabbed one of the weapons and walked over to the detainee. The accused asked the detainee had he seen the weapons before. After that, the accused then tried to give the weapon to the detainee. The accused had told [REDACTED] that if the detainee tried to grab the weapon, they were to shoot him. The accused offered the detainee the weapon two or three times. The detainee kept shaking his head no when the accused was offering him the weapon. The accused gave [REDACTED] the weapon. [REDACTED] then walked over to the detainee and tried to get him to take it. [REDACTED] then put the weapon down and walked up to the detainee and slapped him in the face. When [REDACTED] struck the detainee, his head went through the thin aluminum of the guard shack, which caused his nose to bleed. That is when the [REDACTED] came out and asked who struck the detainee. The accused was three or four feet from the detainee and [REDACTED] I was behind the accused. The accused did not try to stop [REDACTED] from slapping the detainee. I did not see the accused try to correct [REDACTED]. The accused saw [REDACTED] strike the detainee. There were a lot of us that went and report the incident to the [REDACTED] I could not see the accused and the detainee from inside the building.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I did hear laughing after the victim was slapped. The accused and [REDACTED] were laughing and saying that the detainee had fell and broke his nose. I heard [REDACTED] say that the reason the detainee's nose was bleeding was because he had fallen. I did hear the accused make the same statement.

#### QUESTIONS BY THE DEFENSE COUNSEL

[REDACTED] was the first person that I heard say that the detainee had fell and broke his nose. The accused repeated the statement that [REDACTED] had made. It sounded like the accused made the comment in a jokingly manner to me. I am in the section of the accused. The accused is by the book and above when it comes to following the standards. The accused enforces the standards of our organization. The weapon status is red outside of the Forward Observation Base. I thought the accused was trying to give the detainee a weapon by his actions and his words. He had told us that if the detainee took the weapon, then we were to shoot him. The first thing I remember the accused telling the detainee was whether or not he had seen the weapons before.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I did not see nor hear anyone charge their weapon. The weapons should have already been charged prior to leaving the Forward Observation Base. I did see the accused point his weapon at the detainee, but it was the standard way we use when we are guarding detainees. I did not see the accused point his weapon at the detainee any differently than we normally do.

#### QUESTIONS BY THE DEFENSE COUNSEL

002183

When I saw the accused trying to hand the weapon to the detainee, the accused was on the right hand side of the detainee. The M16A2 of the accused was slung on his shoulder and lowered in the direction of the detainee, but not directly at him.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

The Government Representative informed all parties that after the testimony of [REDACTED] he intended to call [REDACTED] to deliver testimony. The Government Representative further stated that a deal had been reached between [REDACTED] his counsel, the government, and the special court-martial convening authority.

[REDACTED], Hawk Troop, 1<sup>st</sup> Cavalry Regiment, was called as a witness for the defense, he was sworn, and testified in substance as follows:

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I did make a statement to [REDACTED] and to CID. Both of these statements were truthful.

The Government Representative stated that since the witness is offering cumulative evidence he would submit his sworn statement into the record in the place of testimony. The Defense Counsel objected to substituting the witness's sworn statements into the record instead of his verbal testimony since the witness was available for live testimony. Investigating Officer ruled that the witness' sworn statements would not substitute in the record for his live testimony.

Defense Counsel objected to the Investigating Officer taking a recess so that he could read the sworn statement of the witness since he was present to deliver live testimony. The Government Representative argued that the witness does not have any further information to add in the facts of this investigation. The Investigating Officer stated that he would not take a recess to review the witness' sworn statements of the witness and accept his live testimony over the sworn statements.

21 June 2003, my mission was as part of the Quick Reaction Force. One of our tours had reported someone in one of the neighboring buildings carrying an AK47. When we had completed searching the building, we stood around for a while.

The Government Representative showed the witness 0009.

This is a picture of the detainee in the area across the street from the museum. I was looking down the street from the museum because I was pulling security. I remember [REDACTED] and near the individual being detained. I happened to turn around for a minute when I saw [REDACTED] the detainee. [REDACTED] was saying that [REDACTED] was messed up. One of the NCOs started rendering aid to the Iraq for his nose bleed. We all talked about the incident later on with our chief, but that was after the incident. [REDACTED] striking the detainee is all that I can remember about that day. We were in the area for about two hours. I never saw the detainee again after that.

#### QUESTIONS BY THE DEFENSE COUNSEL

I was involved with clearing the electrical building. I do not remember any detainees being taken out of the electrical building. I saw [REDACTED] strike the detainee when I turned around. I do not know what the accused was doing when [REDACTED] struck the detainee. I saw the accused in the corner of my eyes well enough to know that he knew what was going on.

#### QUESTION BY THE INVESTIGATING OFFICER

002184

I did not see the accused react to the incident in any way. I can not recall any laughing or joking.

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

There were a lot of people in the building that I cleared that day. I believe [REDACTED] was one of the soldiers in the building that I was helping to clear. I did not hear anyone making comments on why the detainee was bleeding.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, was called as a witness for the government, he was sworn, and testified in substance as follows:

Government Representative stated that there is an agreement between the witness, his counsel, the Government, and the Special court-martial convening authority.

The Government Representative furnished a copy of the agreement to the Investigating officer.

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I recognize this document as the agreement between my counsel, the government, and the special court-martial convening authority. I have talked with my legal counsel about testifying at this investigation. I understand the context and language of this agreement. I understand that I must testify truthfully about the circumstances of 21 June 2003. I am not going to answer any questions about me, but I am willing to answer any questions that do not pertain to me. On 21 June 2003, my mission was to participate as a member of the Quick Reaction Force. We went out as the Quick Reaction Force because there was an Iraqi on one of the roofs with an AK47 that had fired at one of our towers. We did not know where we were going. We went across the street and detained the individual that was in the building. I went in the building with Specialist Vaughan and Private First Class Perkins to clear it. I found an Ak47 with a magazine which I handed to my First Sergeant. We found some rusty weapons in the building as well.

The Government Representative showed the witness photo 1265.

One of the weapons in this photograph is the weapon that I found in the building. The top pistol looks like the one that I had found in the building. I know that it was the top one that I found in the building because I had been the one to carry it outside.

The Government Representative showed the witness photo 0009.

This is a picture of an Iraqi citizen. It is a picture of the individual that we detained. I do not recall where the accused was when we went inside the building. The accused is my section chief at our unit. The accused means a lot to me because he has taught me a lot since I have been in the army. The accused cares about his family and his soldiers. Any problems that I have had with my family since arriving to Fort Riley; the accused has helped me resolve them. The accused tells me when I am doing wrong as well.

The Government Representative asked the witness was he invoking his right to remain silent on questions about his possible misconduct. The witness stated that he was invoking his right to remain silent on any issues involving him. The witness stated that his attorney advised him not to discuss anything about his possible misconduct.

002185

I do not remember seeing the accused take any action against the detainee. I did not see the accused with the detainee at all. The accused did not talk to me about anything that he may have said or done to the detainee.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I went in the building with [REDACTED] and [REDACTED]. I can not remember if we all came out of the building together because we were all taking out the burnt up weapons. I do remember seeing [REDACTED] when I came outside. [REDACTED] was walking from the other side of the building when I saw him. [REDACTED] was the only one out there guarding the detainee.

#### QUESTIONS BY THE DEFENSE COUNSEL

The accused makes sure that everything is straight with us and our families. Whenever we are going out for patrols or missions, he always checks our gear. The standard is red when we leave the compound. Red status is weapon on safe with magazine inside and round in the chamber. The government has dismissed the charges against me for my testimony in any proceedings against the accused. I have no recollection of any contact between the accused and the detainee.

#### QUESTIONS BY THE INVESTIGATING OFFICER

When we rolled in to the area on the Quick Reaction Force mission, I did not see the accused until we left.

There being no further questions, the witness was permanently excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

[REDACTED] 78<sup>th</sup> MP Detachment CID, was called as a witness for the government, he was sworn, and testified in substance as follows:

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I am currently assigned to Bravo Battery, 4<sup>th</sup> Battalion, 1st Field Artillery Regiment. I was part of the Quick Reaction Force on 21 October 2003. My first statement was false in that I told the commander that I had not seen anything. My second sworn statement was truthful. When we arrived, the Iraqi National was already detained. I can not remember who I arrived on the scene with.

The Government Representative showed the witness photo 0009.

This is a photo of an Iraqi National. I really do not recognize him. I searched the power plant with [REDACTED], and I can not remember the rest of the people involved. I do not remember where the accused was at that time. When we came out and walked over by the detainee, we were badgering him and telling him to keep his head down. I asked [REDACTED] could I kick the detainee because he had been shooting at our compound. We were mad because the intelligence we were given said that our tower was getting shot at from the building that the detainee was taken from.

#### QUESTIONS BY THE INVESTIGATING OFFICER

Our intelligence said that our compound was being shot at from the building that the detainee was found in.

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I recognized the detainee from a previous QRF mission that we had been called out on previously. My reaction to the accused slapping the Iraqi was laughter. Someone did give the detainee a rag to wipe his nose. I do not recall the accused saying anything to [REDACTED] after the incident. I said

002186

that I did not see anything and that the Iraqi must have fell. After that, I walked away from the incident. After [REDACTED] had slapped the detainee, he walked away.

#### QUESTIONS BY INVESTIGATING OFFICER

The detainee had a nonchalant or arrogant look. When we told him to put his head down, he would lift his head and start looking at us. I know that the detainee could not speak English, but we demonstrated how we wanted him to put his head down. The accused and I are in the same platoon, but he is not my supervisor. Some people like him and some don't because he speaks the truth. When he speaks the truth, other people sometimes have a problem with that.

#### QUESTIONS BY THE DEFENSE COUNSEL

I had my weapon trained on the detainee when he was not obeying our command to keep his head down. I do not remember who else had their weapons trained on the detainee. Both myself and [REDACTED] had our weapons trained on the detainee. I do not remember who approached the accused and told him that his soldier, [REDACTED] was out of line. Someone then said that the Iraqi must have fell down in a surprised tone of voice. I did not see the accused near the detainee. When [REDACTED] hit the detainee, the accused was not around. I was on the detainee's left. The accused was at least ten feet away when [REDACTED] hit the detainee.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I do not know who was in charge during the incident. If there had been a problem, the accused would have been the person that I would have went to for guidance.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, was called as a witness for the government, he was sworn, and testified in substance as follows:

#### QUESTIONS BY THE DEFENSE COUNSEL

On 21 June 2003, that was when I was one of the guys called out on Quick Reaction Force. We were moved across the street from the palace, because one of our towers had gotten shot at. We cleared the power plant and moved all of the workers out of the building so that we could search it. I believe that there were three or four AK47s taken out of the building. Myself and another soldier were sent out to pull perimeter detail. I did not have any personal interaction with the accused. I did not see the accused interact with the detainee. When I saw the accused, he was about ten feet from the detainee. I do remember that [REDACTED] had his weapon pointed at the detainee. I can not remember to well who was there, but I remember a lot of soldiers were present. I do not remember the accused having anything in his hands. The accused had his M16A2 slung over his soldier. I did not see the detainee get assaulted. I gave the detainee the brown rag which I had in my Kevlar to wipe the blood from his nose.

#### QUESTIONS BY INVESTIGATING OFFICER

I can not recall if the laughter was before or after I gave the Detainee my rag. When I walked by the detainee, he was looking pretty normal as he was sitting on the curve with his hands behind his head. No one else had offered assistance to the detainee.

002187

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

The Government Representative made a closing argument.

The Defense Counsel made a closing argument.

The Investigating Officer stated that he would be considering the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 28 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 28 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; and photographs marked as numbers 000-001, 000-002, 000-003, 000-004, 000-006, 000-008, 000-009, 000-010, 000-012, DSN1251, DSN1255, DSN1256, DSN1260, DSN1265, DSN1268, DSN1269, DSN299, DSN1301.

The Defense Counsel restated his objection to consider the Sworn Statements of soldiers that have testified at the investigation. The Investigating Officer noted Defense Counsel's objection for the record.

The Article 32b Investigation adjourned at 1525 hours, 22 October 2003.

CERTIFICATION

I hereby certify that the enclosed 16 page Article 32b Investigation transcript in the case of US v. SSG  
McKENZIE, John C., Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, is a true and  
summarized copy of proceedings at the Article 32b Investigation held on 22 October 2003 at the 3<sup>rd</sup>  
Brigade Combat Team Forward Observation Base, Baghdad, Iraq. I certify the accuracy of this transcript as  
the Investigating Officer of the hearing.

A large black rectangular redaction covering the signature of the Investigating Officer.

MAJ, OD  
Investigating Officer

002189

UNITED STATES

vs.

SSG John C. McKenzie

B Btry., 4-1 FA  
Baghdad, Iraq APO AE 09324

SERVICE OF DOCUMENTS

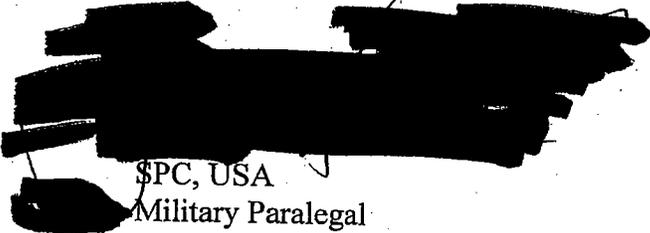
O N ACCUSED

1. The following document was served on the accused located in Baghdad, Iraq:

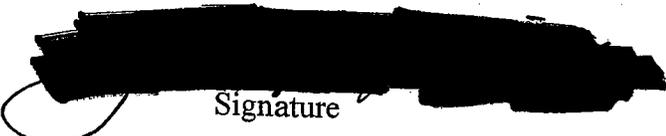
Referred Charge Sheet

2. Service was accomplished at 18 November, 2003.

3. Unit commander is to insure that the soldier signs this document and return this page back to the Military Justice Cell located at the 3<sup>rd</sup> Brigade Combat Team TOC.

  
SPC, USA  
Military Paralegal

Receipt acknowledged.

  
Signature

002190

# COURT-MARTIAL CHARGES TRANSMITTAL FORM

## PART I

TO:

FROM:

DATE:

20 SEP 03

Court-Martial charges against the following named individual are forwarded as Enclosure 1. Witness statements, any evidence of previous misconduct (to include properly certified DA Forms 2627 and the accused's DA Form 2A and 2-1) are attached as Enclosure 2. Soldier is not pending chapter action UP AR 635-200.

NAME:

John C. McKenzie

RANK:

SSG

SSN:

UNIT:

Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment

Recommend:

Summary Court-Martial

Special Court-Martial

BCD Special Court-Martial

General Court-Martial

Other

NAME OF COMMANDER

SIGNATURE OF COMMANDER

## PART II

TO:

FROM:

DATE:

20 SEP 03

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

Summary Court-Martial

Special Court-Martial

BCD Special Court-Martial

General Court-Martial

Other

NAME OF COMMANDER

SIGNATURE OF COMMANDER

## PART III

TO:

BG Martin E. Dempsey

FROM:

DATE:

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

Summary Court-Martial

Special Court-Martial

BCD Special Court-Martial

General Court-Martial

Other

NAME OF COMMANDER

SIGNATURE OF COMMANDER

002191

# COURT-MARTIAL CHARGES TRANSMITTAL FORM

## PART I

TO: [REDACTED]

FROM: [REDACTED]

DATE: 20 SEP 03

Court-Martial charges against the following named individual are forwarded as Enclosure 1. Witness statements, any evidence of previous misconduct (to include properly certified DA Forms 2627 and the accused's DA Form 2A and 2-1) are attached as Enclosure 2. Soldier is not pending chapter action UP AR 635-200.

NAME:  
John C. McKenzie

RANK:  
SSG

SSN:

UNIT:  
Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment

**Recommend:**

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

NAME OF COMMANDER

SIGNATURE OF COMMANDER

[REDACTED]

[REDACTED]

## PART II

TO: [REDACTED]

FROM: [REDACTED]

DATE: 20 SEP 03

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

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

NAME OF COMMANDER

SIGNATURE OF COMMANDER

[REDACTED]

[REDACTED]

## PART III

TO: BG Martin E. Dempsey

FROM: [REDACTED]

DATE:

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

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

NAME OF COMMANDER

SIGNATURE OF COMMANDER

[REDACTED]

[REDACTED]

**REDACTED**  
**COPY**

002193

# COURT-MARTIAL RECORD

NAME AMBUEHL, MEGAN M. SPC

SSN \_\_\_\_\_

**ACTIONS CODED:**

INITIAL JAN 13 2005

ACCA \_\_\_\_\_

FINAL \_\_\_\_\_

**COMPANION(S):**

SSG  
SPC

 - cmcr  
 - cmcr.

**ASSIGNED TO:**

PANEL \_\_\_\_\_

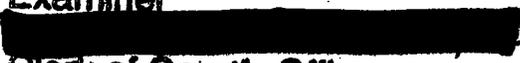
EXAM. DIV.

ACCA Clerk of Court

**RETURN THIS FILE TO:  
OFFICE OF THE CLERK OF COURT  
US ARMY JUDICIARY**

**901 NORTH STUART STREET, SUITE 1200  
ARLINGTON, VA 22203-1837**

ADMINISTRATIVE CHECK VOL I OF III VOL(S)

Examiner   
Clerk of Court's Office

ARMY 20041130

20041130

VERBATIM<sup>1</sup>  
**RECORD OF TRIAL<sup>2</sup>**  
(and accompanying papers)

OF

AMBUHL, Megan M.  
(NAME: Last, First Middle Initial)  
HHC, 16th MP Bde (ABN)  
III Corps  
(unit/Command Name)

\_\_\_\_\_  
(Social Security Number)

Specialist  
(Rank)

US Army  
(Branch of Service)

Victory Base, Iraq  
(Station or Ship)

BY  
GENERAL COURT-MARTIAL

CONVENED BY COMMANDING GENERAL  
(Title of Convening Authority)

Headquarters, III Corps  
(Unit/Command of Convening Authority)

TRIED AT

Victory Base, Iraq/Mannheim  
(Place or Places of Trial)

ON

11, 23 and 25 August 2004  
(Date or Dates of Trial)

COMPANION CASES:

[REDACTED]

RECEIVED  
CLERK OF COURT  
2005 JAN - 5 P 2:16  
US ARMY JUDICIARY  
Alfred Documents

<sup>1</sup> Insert "verbatim" or summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)  
<sup>2</sup> See inside back cover for instructions as to preparation and arrangement.



## COURT-MARTIAL DATA SHEET

1. OJAG NUMBER

2. NAME (Last, First, Middle Initial)  
AMBUHL, Magen M.

3. SOCIAL SECURITY

4. RANK  
SPC

5. UNIT/COMMAND NAME  
HHC, 16th MP Bde (ABN), III Corps

### INSTRUCTIONS

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

### KEY TO USE

**TC - Trial Counsel.** This column will be completed in all cases in which a finding of guilty is returned.

**SPCMCA - Special Court-Martial Convening Authority** who is not empowered to convene a general court-martial. This column will be completed in each special court-martial case by the SPCMCA or his/her designated representative.

**GCM or JA - General Court-Martial Convening Authority or Judge Advocate.** This column will be completed in any case in which the record is forwarded by the commander exercising general court-martial jurisdiction to The Judge Advocate General of the branch of service concerned. If the record is reviewed under Article 64(a), UCMJ, this column will be completed by the judge advocate accomplishing the review

**OJAG -** Appropriate appellate agency in the Office of The Judge Advocate General of the branch of service concerned. This column will be disregarded if a record of trial was reviewed under Article 64, UCMJ, and in cases where there are no approved findings of guilty.

**References -** All references are to the Uniform Code of Military Justice (UCMJ) and the Manual for Courts-Martial, United States (MCM), 1984.

### SECTION A - PRETRIAL AND TRIAL PROCEDURE

	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
6. a. If a general court-martial: Was the accused represented in the Article 32 investigation by civilian or military counsel of his/her own selection or by counsel qualified within the meaning of Article 27(b), UCMJ?								
b. If not: Did the accused waive his/her right to such representation?								
7. Does the record show place, date, and hour of each Article 39(a) session, the assembly and each opening and closing thereafter?								
8. a. Are all convening and amending orders of courts to which charges were referred entered in the record?								
b. Are court members named in the convening orders, detailed military judge (if any), counsel and the accused accounted for as present or absent?								
c. Was less than a quorum present at any meeting requiring the presence of court members (RCM 805)?								
d. Does the record show that after each session, adjournment, recess, or closing during the trial, the parties to the trial were accounted for when the court reopened (A13-5)?								
e. If the military judge or any member present at assembly was thereafter absent, was such absence the result of challenge, physical disability or based on good cause as shown in the record of trial (RCM 505(c)(2)(A))?								
9. Were the reporter and interpreter, if any, sworn or previously sworn?								
10. a. Was the military judge properly certified (RCM 502(c))?								
b. Was the military judge properly detailed (RCM 503(b))?								
c. Was the military judge present during all open sessions of the court?								
11. a. Was the accused advised that:								
(1) He/she had the right to be represented free of charge by a military lawyer of his/her own selection, if reasonably available, in which case detailed counsel might be excused (RCM 506(a))?								

## COURT-MARTIAL DATA SHEET

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

**COURT-MARTIAL DATA SHEET**

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

2199  
~~2199~~

**COURT-MARTIAL DATA SHEET**

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

002200

**COURT-MARTIAL DATA SHEET**

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

55. REMARKS:

002201

20041130

**COURT-MARTIAL DATA SHEET**

55. REMARKS (Continued):

**56. TRIAL COUNSEL**

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
[REDACTED]	MAJ	[REDACTED]	7 Dec 04

**57. CONVENING AUTHORITY OR HIS/HER REPRESENTATIVE**

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED

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

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
[REDACTED]	COL	[REDACTED]	25 Dec 04

**59. ACTION IN THE OFFICE OF THE JUDGE ADVOCATE GENERAL**

a. ACTION:

**b. INDIVIDUAL COMPLETING DATA SHEET**

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

CORRECTED COPY

DEPARTMENT OF THE ARMY  
Headquarters, III Corps  
Victory Base, Iraq  
APO AE 09342-1400

GENERAL COURT-MARTIAL ORDER  
NUMBER 9

5 December 2004

Specialist Megan M. Ambuhl, U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq, was arraigned at Victory Base, Iraq, on the following offenses at a general court-martial convened by the Commander, III Corps.

Charge I: Article 81. Plea: None Entered. Finding: None Entered.

Specification: At or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 23 October 2003 conspire with Staff Sergeant [REDACTED] Sergeant [REDACTED] Corporal [REDACTED], Specialist [REDACTED], Specialist [REDACTED] and Private First Class [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Specialist Megan M. Ambuhl did participate in a photograph with Private First Class [REDACTED] who tied a leash around the neck of a detainee and led the detainee down the corridor with the leash around his neck. Plea: None Entered. Finding: None Entered.

Charge II: Article 92. Plea: None Entered. Finding: None Entered.

Specification: In that Specialist Megan M. Ambuhl, who knew of her duties, at or near Baghdad Central Correction Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, was derelict in the performance of those duties in that she willfully failed to protect Iraqi detainees from abuse, cruelty and maltreatment, as it was her duty to do. Plea: None Entered. Finding: None Entered.

Charge III: Article 93. Plea: None Entered. Finding: None Entered.

Specification: At or near Baghdad Central Correction Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several Iraqi detainees, persons subject to her orders, by watching naked detainees in a pyramid of human bodies. Plea: None Entered. Finding: None Entered.

002203

GCMO No. 9, DA, Headquarters, III Corps, Victory Base, Iraq, APO AE 09342-1400,  
dated 5 December 2004 (continued)

Charge IV: Article 134. Plea: None Entered. Findings: None Entered.

Specification: At or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with Iraqi detainees, Staff Sergeant [REDACTED] Corporal [REDACTED] Specialist [REDACTED] and Private First Class [REDACTED] by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central Correction Facility, with other soldiers who photographed or watched the detainees' actions. Plea: None Entered. Findings: None Entered.

Additional Charge I: Article 81. Plea: None Entered. Finding: None Entered.

Specification: At or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 8 November 2003, conspired with Staff Sergeant [REDACTED] Corporal [REDACTED] Specialist [REDACTED], Private First Class [REDACTED], and others to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy, the said Corporal [REDACTED] did place naked detainees in a human pyramid. Plea: None Entered. Finding: None Entered.

Additional Charge II: Article 93. Plea: None Entered. Finding: None Entered.

Specification 1: At or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to her orders, by watching naked detainees being forced to masturbate in front of other detainees and soldiers. Plea: None Entered. Finding: None Entered.

Specification 2: At or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 23 October 2003, did maltreat several detainees, persons subject to her orders, by participating in a photograph with Private First Class [REDACTED] depicting Private First Class [REDACTED] holding a naked detainee by a leash wrapped around the detainee's neck and by watching Private First Class [REDACTED] hold a naked detainee by a leash wrapped around said detainee's neck. Plea: None Entered. Finding: None Entered.

#### ACTION

The accused having been arraigned, the proceedings were terminated on 25 August 2004. The Charges and Specifications are dismissed. All rights, privileges, and property of which the accused has been deprived by virtue of these proceedings will be restored.

GCMO No. 9, DA, Headquarters, III Corps, Victory Base, Iraq, APO AE 09342-1400,  
dated 5 December 2004 (continued)

BY COMMAND OF LIEUTENANT GENERAL METZ:



**DISTRIBUTION:**

- SPC Ambuhl (1)
- MJ, LTC [redacted] (1)
- TC, MAJ [redacted] (1)
- DC, CPT [redacted] (1)
- Cdr, HHC, 16th MP Bde (ABN) (1)
- Cdr, 16th MP Bde (ABN) (1)
- Cdr, III Corps, ATTN: SJA (2)
- Cdr, III Corps (1)
- Cdr, Det D, 15th Fin Bn, ATTN: FAO (1)
- Cdr, 15th PSB, ATTN: Records Section (1)
- Cdr, USAEREC, ATTN: PGRE-FS, Indianapolis, IN 46249 (1)
- Clerk of Court, ATTN: 901 N. Stuart St., Suite 1200, Arlington, VA 22203-1837 (1)

SSG USA  
NCOIC, Military Justice

DEPARTMENT OF THE ARMY  
Headquarters, III Corps  
Victory Base, Iraq  
APO AE 09342-1400

AFZF-CG

OCT 28 2004

MEMORANDUM FOR Staff Judge Advocate

SUBJECT: Disposition of the Court-Martial Charges Preferred Against Specialist  
Megan M. Ambuhl [REDACTED]

The recommendations of the Staff Judge Advocate are approved. Pursuant to the  
accused's offer to plead guilty, the attached charges and their specifications are  
referred to trial by summary court-martial. I hereby appoint Lieutenant Colonel [REDACTED]  
[REDACTED] as the summary court-martial officer.

  
THOMAS F. METZ  
Lieutenant General, USA  
Commanding

002206

OCT 28 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Advice on Disposition of the Court-Martial Charges Previously Referred Against Specialist Megan M. Ambuhl [REDACTED]—ACTION MEMORANDUM

1. Purpose. To forward for disposition, in accordance with Rule for Court-Martial (RCM) 407, the court-martial charges against Specialist Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Brigade (Airborne), III Corps, Victory Base, Iraq.

2. Background. On 21 July 2004, you referred the charges (including additional charges) and specifications in this case to trial by general court-martial. On 13 October 2004, the Defense submitted the attached offer to plead guilty, under which you would agree to refer all charges and specifications to trial by summary court-martial.

3. Recommendations.

a. *Chain of Command.* The chain of command recommends you accept the attached offer to plead guilty and refer this case to a summary court-martial.

b. *Staff Judge Advocate.* I recommend you accept the attached offer to plead guilty and refer this case to a summary court-martial.

4. Staff Judge Advocate Review. I affirm my prior review of these charges under RCM 406 and Article 34, Uniform Code of Military Justice (UCMJ). It is my legal conclusion that (1) The specifications allege offenses under the UCMJ; (2) The allegations of the offenses are warranted by the evidence indicated in the attached documentation; and (3) The court-martial will have jurisdiction over the accused and the offenses alleged.

5. POC is Captain [REDACTED] at DSN 318-822 [REDACTED]

[REDACTED]

Encls

- 1. Charge Sheet
- 2. Additional Charge Sheet
- 3. Offer to Plead Guilty
- 4. Allied Documents

COL, JA  
Staff Judge Advocate



**HEADQUARTERS**  
MULTI-NATIONAL CORPS - IRAQ  
BAGHDAD, IRAQ  
APO AE 09342

REPLY TO  
ATTENTION OF:

**OCT 28 2004**

FICI-JA

MEMORANDUM FOR Lieutenant Colonel [REDACTED] 57th Signal Battalion, 3rd Signal Brigade, Victory Base, Iraq APO AE 09342

SUBJECT: Appointment as a Summary Court-Martial Officer

1. Pursuant to Rules for Court Martial 401 and 403, I hereby appoint you the Summary Court-Martial Officer for the referred charges pertaining to Specialist (E-4) Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Victory Base, Iraq, APO AE 09342
2. Before you convene this court-martial you will contact your legal advisor, Major [REDACTED] Office of the Staff Judge Advocate, 1st Cavalry Division, Victory Base (North), Iraq, at DSN 302-531-[REDACTED] for a briefing. During the course of the proceeding, you may seek assistance from your legal advisor.
3. It will be your duty to come to a factual conclusion on this case at hand and, drawn from the evidence presented, adjudge a sentence that is not disproportionate to the offenses committed.

Encl  
nc

THOMAS F. METZ  
Lieutenant General, USA  
Commanding

002208

UNITED STATES )

v. )

AMBUHL, Megan M. )  
SPC, U.S. Army )  
Headquarters and Headquarters Company )  
16th Military Police Brigade (Airborne) )  
III Corps, Victory Base, Iraq )  
APO AE 09342-1400 )

OFFER TO PLEAD GUILTY

8 October 2004

1. I, Specialist Megan M. Ambuhl, the accused in a pending court-martial, offer to plead guilty as follows:

- a. To the Specification of Charge I and to Charge I: Not Guilty;
- b. To the Specification of Charge II and to Charge II: Guilty;
- c. To the Specification of Charge III and to Charge III: Not Guilty; and
- d. To the Specification of Charge IV and to Charge IV: Not Guilty.

2. As part of this offer, I also agree to the following:

a. To enter into a Stipulation of Fact correctly describing the offense to which I am offering to plead guilty. I also agree that this stipulation may be used by the Summary Court-Martial officer to ascertain matters pertinent to findings and sentence. If my plea is not accepted, this offer to stipulate is null and void.

b. I agree to waive unconditionally any right I may have to an administrative separation board under AR 635-200, in the event my unit elects to separate me from the Army. This unconditional waiver includes any right I may have to a separation board if I am being considered for separation under other than honorable conditions.

c. I agree to waive the presence at my court-martial of all witnesses located outside of Victory Base, Iraq.

d. I agree to cooperate fully with the government in the investigations and prosecutions of Specialist [REDACTED] Sergeant [REDACTED] Staff Sergeant [REDACTED] Specialist [REDACTED] Specialist [REDACTED] Private First Class [REDACTED] and any other soldier or civilian charged based on misconduct at the Baghdad Central Confinement Facility at Abu Ghraib.

e. To request deferment of any period of adjudged confinement until after the conclusion of United States v. [REDACTED] IAW Article 57a, UCMJ.

002209

3. I agree to take the actions above provided the Convening Authority takes the following actions:

a. Refers this case to trial by summary court-martial.

b. Authorizes and orders the Trial Counsel to dismiss without prejudice the charges and specifications to which I have pled not guilty, once the summary court-martial officer accepts my plea of guilty to Charge II and its Specification.

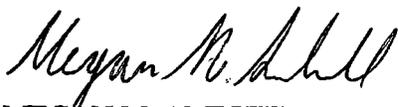
4. I understand that I may request to withdraw the plea of guilty at any time before my plea is accepted and that if I do so, this agreement is canceled. This agreement will also be canceled if:

a. I fail to plead guilty as agreed above;

b. The Stipulation of Fact is modified at any time after I have affixed my signature thereto without the consent of both myself and the Government; or

c. The summary court-martial officer either refuses to accept my plea of guilty or changes my plea of guilty during the trial.

5. This writing includes all terms and conditions of this Offer to Plead Guilty and contains all promises made to me or by me concerning my plea of guilty. There are no other promises, conditions, or understandings regarding my proposed plea of guilty that are not contained in this offer.



MEGAN M. AMBUHL  
SPC, U.S. Army  
Accused



Civilian Defense Counsel

The offer to plead guilty dated 8 October 2004 is:

(accepted)

(not accepted)



THOMAS F. METZ  
Lieutenant General, USA  
Commanding

OCT 28 2004

002210

UNITED STATES )

STIPULATION OF FACT

v. )

AMBUHL, MEGAN M. )  
SPC, U.S. Army )  
Headquarters & Headquarters Company )  
16<sup>th</sup> Military Police Brigade (Airborne) )  
III Corps, Victory Base, Iraq )  
APO AE 09342 )

8 October 2004

**I. NATURE AND USES OF THE STIPULATION:**

1. This document represents a set of facts that both the Government and SPC Megan Ambuhl ("the accused") agree upon as true. These facts are admissible in evidence and can be considered by the Summary-Court Martial to determine the providence of the accused's plea of guilty; to establish the elements of all charges and specifications; and in consideration of an appropriate sentence. For these purposes, the accused expressly waives any objection that she may have to the admission of these facts, and any referenced attachments, into evidence at trial under any evidentiary rule, applicable case law, or Rule for Courts-Martial that might otherwise make them inadmissible.

**II. THE ACCUSED:**

2. I, SPC Megan Ambuhl, am 30 years old. I graduated High School in 1992, and then attended Coastal Carolina College where I received a B.S. in Biology. My GT score is 128. I entered military service on 31 January 2002. I attended One Station Unit Training at Fort Leonard Wood, Missouri. I completed Basic Training approximately 23 June 2002. After I completed my MOS training, I was released from active duty approximately 23 August 2002. On 21 February 2003, I was activated for the current tour of service in support of Operation Iraqi Freedom. I have a total of 2 years and 9 months service in the United States Army Reserve including my Delayed Entry time. I received Geneva Convention and UCMJ training during an approximately 60-90 minute block of instruction in basic training, but cannot remember any specifics of those classes. In my civilian life, I work as a histology technician at LabCorp, a private company in Herndon, Virginia.

3. I was originally assigned to the 352<sup>nd</sup> MP Company, but was involuntarily transferred to the 372<sup>nd</sup> MP Company. The 372<sup>nd</sup> spent 3 months training at Ft. Lee, Virginia on Law and Order missions. Now I am assigned to Headquarters and Headquarters Service Company, 16<sup>th</sup> Military Police Brigade. At all times relevant to the charged offenses, I was 29 years old and on active duty.

002211

### III. BACKGROUND

4. In May 2003, I, along with members of the 372d MP Company, arrived in Kuwait. The company proceeded north to the city of Hillah where the unit was responsible for, among other things, assisting and training the Iraqi Police in the surrounding area. During this time I became friends with SSG [REDACTED] CPL [REDACTED] and SPC [REDACTED] fellow MPs in my company. I am still good friends with SPC [REDACTED] and CPL [REDACTED].

5. On 14 October 2003, the 372d MP Co. assumed duties at the Baghdad Central Confinement Facility (BCCF). The BCCF is located in Abu Ghraib, a city located approximately 12 miles west of Baghdad, Iraq. Within the BCCF there are several compounds used to hold a large number of detainees. One of the compounds is actually a series of buildings built to contain individual cells. This compound is known as the "hard site" and consists of a number of halls, or tiers. Detainees in tier 1 were divided into two sub-tiers, tier 1A and tier 1B. During the relevant time, tier 1A was used for Military Intelligence (MI) holds -- individuals who were believed to possess information of tactical, strategic, or operational value. Tier 1B housed certain sub-categories of civilian detainees -- including women, juveniles, and detainees suspected of psychiatric/psychological problems or mental instability. 1B also housed many detainees that had caused serious disciplinary problems. There were juvenile and female MI holds on 1B from the beginning. Later on, there were all the different types of male MI and OGA holds as well.

6. During the months of October 2003 to January 2004, I worked at the BCCF. My primary responsibility was to serve as a night-shift guard for tier 1B. Specifically, I was given the responsibility to safeguard the women and juveniles who were held in the hard site on tier 1B. My formal supervisor during the night shift was generally SSG [REDACTED] the NCOIC, although SSG [REDACTED] also rotated the duty of night shift NCOIC with two other staff sergeants, SSG [REDACTED] and SSG [REDACTED]. SSG [REDACTED] and SSG [REDACTED] would also rotate between serving as the Sergeant of the Guard (SOG) during this time frame. SFC [REDACTED] arrived sometime in November was the NCOIC of the entire hard site. During the day-shift, SSG [REDACTED] generally served as the immediate supervisor for the tiers, with SSG [REDACTED] serving as the SOG. Overall responsibility for the entire hard site remained with the 4<sup>th</sup> Platoon Sergeant and Platoon Leader, SFC [REDACTED] and CPT [REDACTED] respectively. CPT [REDACTED] was the Company Commander and 1SG [REDACTED] was the Company 1SG, and these two men had the overall responsibility for the hard site, Camp Vigilant, as well as the company's LSA.

7. The 372d was not formally trained to conduct interment and resettlement (IR) operations of the type executed at Abu Ghraib. Several members of the company, including CPL [REDACTED] SSG [REDACTED] and SSG [REDACTED] were corrections officers in the United States.

### **III. THE MISCONDUCT: THE ELEMENTS**

8. Between the time frame of 20 October 2003 and 1 December 2003, I was derelict in the performance my duties, which I knew, in that I willfully failed to protect Iraqi detainees from abuse, cruelty, and maltreatment. Specifically:

a. I had a certain prescribed duty to the Iraqi detainees, that is I had a duty to protect them from abuse, cruelty, and maltreatment, and;

b. I actually knew of this assigned duty, and;

c. That between on or about 20 October 2003 and on or about 1 December 2003, I was derelict in the performance of that duty by willfully failing to protect the Iraqi detainees from abuse, cruelty, and maltreatment.

### **IV. THE MISCONDUCT: THE UNDERLYING FACTS**

9. During the time of 20 October 2003 and 1 December 2003, I witnessed numerous acts of abuse, cruelty, and maltreatment of Iraqi detainees within the hard site. This time was very confusing for me, and things were done to detainees that I questioned, but that apparently were permissible. But there were some things that were done that I knew were wrong at the time, and I did not act to stop this behavior to protect the detainees from abuse, cruelty, and maltreatment. There are two primary incidents that I specifically remember as being obviously wrong and that I took no action to prevent, either directly by saying something or taking action to stop the incident, or indirectly by reporting this behavior to someone who could stop the misconduct.

10. The first incident occurred approximately 8 days after the 372d had assumed duties at the hard site, on the evening of 24 October 2003.

a. This incident took place in the hard site, in tier 1A/1B and involved three soldiers, CPL [REDACTED], PFC [REDACTED], myself, and a detainee named Mr. [REDACTED] ISN 20092.

b. PFC [REDACTED] was a soldier assigned to the 372d MP Co., but not as an MP. Instead, PFC [REDACTED] was an administrative clerk who had no duties that required her to be in the hard site. PFC [REDACTED] however, was involved in a sexual relationship with CPL [REDACTED] a relationship the company had tried to stop but apparently did not.

c. The detainee involved, Mr. [REDACTED], nicknamed [REDACTED] was in the hole on the night of 24 October 2003. [REDACTED] was a small man weighing approximately 100 pounds when he was released. [REDACTED] had been arrested for attacking coalition forces. [REDACTED] often attacked or threatened to attack his MP guards. [REDACTED] demonstrated clear indications of a significant mental illness, and refused to accept anything offered to him including clothes, food, or water. As a result, [REDACTED] was often naked, as he was on the night of 24 October 2003. Because [REDACTED] routinely refused food and water, the MP

guarding [REDACTED] had to forcibly administer IV's to keep him alive, and this left [REDACTED] weak and frail.

d. On 24 October 2003, CPL [REDACTED] pulled [REDACTED] from the hole. CPL [REDACTED] looped a tie-down strap around [REDACTED] neck, and handed the other end of the strap to PFC [REDACTED]. CPL [REDACTED] then asked PFC [REDACTED] to pose holding the strap while he took photographs of [REDACTED]. [REDACTED] attempted to crawl along the floor. CPL [REDACTED] did not make any comments to me that he had been ordered to do this, and PFC [REDACTED] really had no business being there in the first place. It was not my idea to stage this photograph of [REDACTED] and I did not think there was a legitimate reason to do so. At the time this was happening I knew it was wrong just as I know now that it was wrong. I did not say anything to CPL [REDACTED] or PFC [REDACTED] to the effect that [REDACTED] shouldn't be treated this way, and I didn't try to stop this in any way. I also didn't tell anyone about this although I knew it was wrong to treat [REDACTED] or any detainee this way.

12. The second incident occurred in the late evening of 7 November 2003.

a. As mentioned above, the BCCF consists of both the hard site and several compounds. One compound within the BCCF is Camp Ganci. Camp Ganci generally houses detainees who may be a security risk if released or hold some low-level intelligence value. Camp Ganci was not administered by the 372<sup>nd</sup>, but by another MP company. Unlike its sister camp, Camp Vigilant was run by 2<sup>nd</sup> platoon of the 372d, Camp Ganci was fairly disorderly and riots sometimes occurred. One such riot occurred on the night of 7 November 2003.

b. After the riot at Camp Ganci was controlled, seven detainees believed to be participants in the riot were taken to the hard site to be placed into isolation as a means of punishing them for their conduct. The seven detainees were Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED]. I didn't know the names of these men at time, but I've since been told who they were. I recently heard Mr. [REDACTED] testify in court as to what happened to him that night and was very moved as he talked about being hurt and abused, and about the deep shame he felt as a result of what my fellow soldiers did to him that night.

c. The detainees were taken into the hard site with sandbags on their heads and flex-cuffs on their hands. This practice was not uncommon for incoming personnel and was generally done for security reasons. Present were a number of MP who were assigned to the night-shift including SSG [REDACTED], CPL [REDACTED], SPC [REDACTED], SGT [REDACTED], and myself. Also present was SPC [REDACTED] a mechanic assigned to the company.

d. Once the detainees arrived in the hard site, the situation deteriorated. I saw the detainees were thrown together in a pile, still bound and hooded. I then proceeded to walk up the stairs to the upper level. SGT [REDACTED] an MP

who worked in the tiers was there. SGT [REDACTED] used his combat boots to step on the hands and feet of the detainees. I walked up next to SFC [REDACTED], who was on the upper tier standing at the railing. SFC [REDACTED] and I saw SGT [REDACTED] stepping on the detainees and motioned for SGT [REDACTED] to stop, and ordered him to leave. SFC [REDACTED] left the hard site and SGT [REDACTED] left the tier. I think SGT [REDACTED] returned later to witness the additional abuse of the detainees, but I did not witness him do so.

e. I also saw a picture of CPL [REDACTED] posed with a detainee. In the pose, CPL [REDACTED] held a detainee's head with his fist cocked back as if he were about to punch the detainee. A soldier or soldiers photographed CPL [REDACTED] in this position; I was upstairs in the tier office. Cpl [REDACTED] may have hit a detainee; however I did not witness it. From SSG [REDACTED] testimony at his guilty plea, I learned he made an "X" with his hand on the chest of another bound and hooded detainee, and then punched the detainee with great force in the chest. This blow caused the detainee to have great difficulty breathing. When SSG [REDACTED] hit the detainee, whom I now know was Mr. [REDACTED] I got an inhaler from another detainee and tried to help him. I did not see, but a medic was called and she tried to help Mr. [REDACTED] breathe normally again. After Mr. [REDACTED] started breathing again, the medic left.

f. SSG [REDACTED] and CPL [REDACTED] strip-searched the detainees. I didn't take part in this either. From the investigation, I learned that SPC [REDACTED] wrote word "rapeist" on the leg of one detainee, listing his crime.

g. SSG [REDACTED] and CPL [REDACTED] placed the detainees into the humiliating and demeaning position of a naked human pyramid. Because the detainees did not speak English, they were physically pushed and forced into these degrading positions. The other soldiers then began photographing and posing for photographs with the detainees in humiliating and degrading positions. This I learned from the various pictures and photographs. I did not pose for any photographs or see others do so.

h. SPC [REDACTED] and I talked in the upstairs office of going to make personal phone calls. SPC [REDACTED] left the office and CPL [REDACTED] and I found cells for the detainees on tier 1B. SPC [REDACTED] came back and then she and I left. When I was going downstairs, I witnessed one detainee kneeling down in front of another with his head a few inches away from the standing detainee's groin area. The detainee who was standing had his hands on the head of the kneeling detainee. SPC [REDACTED] and I then left and went to the Internet café. We came back to the tier around 0200 and the detainees were in their cells. The detainees were naked with sandbags on their heads and no mattresses or blankets. It was a cold night and the detainees must have been very cold without anything to wear.

i. Prior to the investigation starting, I saw various videos and pictures depicting some of the events on the night of 7 November. I should have stopped or reported these events, both those I saw and those I found out about later, but I did not.

## **V. OTHER MATTERS**

13. I learned from the CID case file provided to my counsel that the investigation began on 13 January 2004 when SPC [REDACTED] slid a compact disc containing images of detainee abuse under the office door of the criminal investigation division (CID) at Baghdad Central Confinement Facility (BCCF) near Abu Ghraib, Iraq. SPC [REDACTED] had received two compact discs from CPL [REDACTED], another soldier assigned to BCCF. SPC [REDACTED] had asked for pictures of the hardsite. SPC [REDACTED] downloaded the images from both discs to his computer without looking at them. After saving the pictures, SPC [REDACTED] opened the files which included innocuous pictures of palaces in Iraq and soldiers working at the BCCF. The images also included pictures of naked detainees in forced sexual positions (Attachments 2 and 6). SPC [REDACTED] returned the two discs to CPL [REDACTED] and then burned the images to a compact disc that he anonymously provided to CID.

14. The CID investigation further showed that the day after SPC [REDACTED] slid the disc under CID's door, SPC [REDACTED] spoke to investigators and made a sworn statement describing the abuse of detainees at the BCCF. In his statement, SPC [REDACTED], a junior enlisted soldier, explained that he knew abusing detainees was wrong and wanted it to stop. He did not cite any rule of law or policy of the facility; he stated that he simply "felt the pictures were morally wrong."

15. I have since learned that the humiliating and sadistic acts of maltreatment and dehumanization described herein are unacceptable in any culture, but especially so in the Arab world. Homosexual acts are against Islamic law and Arab men consider it humiliating to be naked in front of others. Placing the detainees together in a manner to simulate acts of homosexuality seriously violated the tenets of Islamic law and degraded the detainees.

16. Over the past few months, both Middle Eastern and Western media outlets have broadcast some of the attached photographs. The acts of the soldiers in these photographs significantly contributed to tarnishing the reputation and image of the United States Armed Forces and the United States in the eyes of many Americans as well as many individuals throughout the world. Had I attempted to stop this abuse, or report it to the appropriate authorities sooner, much of the misconduct could have been avoided entirely.

## **VI. EXTENUATION AND MITIGATION:**

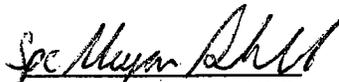
17. I have agreed to cooperate with the government in the investigation of misconduct within the BCCF. I will provide truthful information concerning the events that occurred within the BCCF from October 2003 to January 2004.

**VII. STIPULATION TO ADMISSIBILITY OF EVIDENCE**

18. The government and the I agree that this stipulation of fact plus attached enclosures are admissible at trial and may be considered in determining the providence of my pleas and in determining an appropriate sentence. The attached enclosures include Photo Exhibits 1-15 I appear in Photo Exhibits 3 and 4.



Civilian Defense Counsel



MEGAN M. AMBUHL  
SPC, USA  
Accused



MAJ, JA  
Trial Counsel

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

THE RECORD OF TRIAL HAS BEEN REVIEWED FOR RELEASE UNDER THE PROVISIONS OF THE FREEDOM OF INFORMATION ACT. THE DOCUMENT[S] DESCRIBED AS FOLLOWS HAS[HAVE] BEEN REMOVED FROM THIS COPY OF THE RECORD BECAUSE THE RELEASE WOULD BE IN VIOLATION OF THE DOD FREEDOM OF INFORMATION ACT PROGRAM, DOD 5400.7-R, EXEMPTION 6 and 7(C):

Photographic Exhibits

002218



DEPARTMENT OF THE ARMY  
HEADQUARTERS, III CORPS  
VICTORY BASE, IRAQ  
APO AE 09342-1400

REPLY TO  
ATTENTION OF

OCT 28 2004

AFZF-CG

MEMORANDUM FOR Specialist Megan M. Ambuh' [REDACTED], Headquarters and  
Headquarters Company, 16th Military Police Brigade, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Grant of Testimonial Immunity and Order to Testify

1. Purpose. Under the provisions of Rule for Courts-Martial (RCM) 704(c), I grant you testimonial immunity for any statements made during the investigation and any courts-martial resulting from investigations into alleged abuse of detainees committed by the following soldiers in your unit: Sergeant [REDACTED] Specialist [REDACTED] Specialist [REDACTED], and Private First Class [REDACTED]. I further grant you immunity for testimony in any future criminal prosecutions of soldiers or civilians arising from detainee abuse allegations at Baghdad Central Confinement Facility (BCCF).

2. Authority and Basis for Grant. As a general court-martial convening authority, I am authorized to grant testimonial immunity under the provisions of RCM 704(c). Prior to granting testimonial immunity and directing you to testify, I made the following findings:

a. *Relevant Evidence*. You possess information relevant to proving the government's cases against individuals who have been or will be charged with detainee abuse at BCCF.

b. *Self-Incrimination*. Under ordinary circumstances, you would not be able to provide this testimony without implicating yourself in a possible criminal act. Absent a grant of immunity, it is anticipated that you would invoke your right against self-incrimination and not testify in the courts-martial listed above or any future criminal prosecutions.

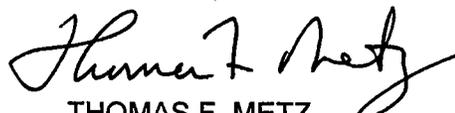
c. *Necessity of Testimony*. Your testimony before any court-martial which may be convened to adjudicate the misconduct described above, and your cooperation with law enforcement officers, investigating officers, and counsel investigating these allegations, is necessary to the public interest, including the good order and discipline of the U.S. Army.

d. *Military Status*. You are an individual subject to the Uniform Code of Military Justice.

3. Scope of Immunity. Any information you give pursuant to this order, or any information directly or indirectly derived from your testimony, shall not be used against you in a trial by courts-martial or proceedings under Article 15, UCMJ, except for prosecution for perjury, false swearing, making a false statement, or failing to comply with this order to testify.

4. Effective Date. This grant of immunity and order to testify shall be effective upon personal delivery to you or your detailed military defense counsel.

5. POC for this memorandum is Captain Neill at DSN 318-822 [REDACTED]

  
THOMAS F. METZ  
Lieutenant General, USA  
Commanding

002219

OCT 28 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Grant of Immunity and Order to Testify – ACTION MEMORANDUM

1. Purpose. To recommend you grant testimonial immunity and an order to testify to Specialist Megan M. Ambuhl [REDACTED]

2. Background.

a. On 20 March 2004, Specialist Megan M. Ambuhl was charged with maltreating detainees at the Baghdad Central Confinement Facility (BCCF) near Abu Ghraib, Iraq. Pursuant to an approved offer to plead guilty, Specialist Ambuhl will plead guilty at a summary court-martial on 30 October 2004.

b. You have previously referred similar charges against Sergeant [REDACTED] Specialist [REDACTED] and Specialist [REDACTED] whose courts-martial are pending. Specialist Ambuhl has agreed to testify against these co-accused after receiving a grant of immunity and order to testify. She has also agreed to provide truthful testimony in the court-martial of Private First Class [REDACTED] a co-accused stationed at Fort Bragg, North Carolina, and in other criminal prosecutions of soldiers and civilians arising from detainee abuse allegations at BCCF.

3. Applicable Law. Under the provisions of Rule for Courts-Martial (RCM) 704(c) in the Manual for Courts-Martial, you are authorized to grant testimonial immunity subject to making specific findings regarding the subjects listed below. Based on my review of the case, all the specific findings are satisfied.

a. *Relevant Evidence*. Specialist Ambuhl possesses information relevant to proving the government's case against the four charged soldiers listed above. She witnessed other soldiers abusing detainees at BCCF.

b. *Self-Incrimination*. Specialist Ambuhl cannot convey this information without implicating herself in possible criminal acts and, if asked to make a statement or if called to testify, it is anticipated that she would invoke her right against self-incrimination and not testify without a letter of testimonial immunity.

c. *Necessity of Testimony*. The testimony of Specialist Ambuhl at the remaining courts-martial is necessary to the public interest, including the good order and discipline of the United States Army. Similarly, her cooperation with officers, investigating officers, and counsel investigating these allegations is in the public interest.

002220

AFZF-JA-MJ

SUBJECT: Grant of Immunity and Order to Testify – ACTION MEMORANDUM

d. *Military Status.* Specialist Ambuhl is an individual subject to the Uniform Code of Military Justice.

4. Recommendation. I recommend you grant testimonial immunity and an order to testify for Specialist Ambuhl. An action to accomplish this is attached.

5. POC is CPT [REDACTED] Chief, Criminal Law Division, at 318-822 [REDACTED]

Encl  
as

[REDACTED]

COL, JA  
Staff Judge Advocate

002221

**SUMMARY COURT-MARTIAL RIGHTS NOTIFICATION/WAIVER STATEMENT**

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

**1. STATEMENT CONCERNING REFUSAL TO ACCEPT QUALIFIED COUNSELING, ARTICLE 20, UCMJ AND UNDERSTANDING OF RIGHTS**

- a. On 29 OCT 04 (Date), I was afforded an opportunity to consult with legal counsel before making my decision to consent to Summary Court-Martial proceedings under Article 20, UCMJ.
- b. I have decided not to see counsel in connection with this action.
- c. I understand my rights under Article 20, UCMJ, including my right to object trial by Summary Court-Martial, punishment limitations, potential use of the record of Summary Court-Martial in any subsequent courts-martial, and other consequences of my decision.
- d. I voluntarily decide to consent to trial by Summary Court-Martial.

TYPED OR PRINTED NAME OF SERVICE MEMBER <b>MEGAN M. AMBUHL</b>	RANK <b>SPL</b>	SIGNATURE <i>Megan Ambuhl</i>
TYPED OR PRINTED NAME OF SUMMARY COURT-MARTIAL OFFICER [REDACTED]	RANK <b>LTC</b>	SIGNATURE [REDACTED]

**2. STATEMENT ACKNOWLEDGING QUALIFIED LEGAL COUNSEL FOR ARTICLE 20, UCMJ, AND STATEMENT OF UNDERSTANDING OF RIGHTS**

- a. On 29 OCT 04 (Date), I consulted with CPT [REDACTED] (Name and Rank of Defense Counsel) who explained my rights to me under the provisions of Article 20, UCMJ, to include my right to object to trial by Summary Court-Martial, punishment limitations, potential use of the record of Summary Court-Martial proceedings in any subsequent courts-martial, and other consequences of my decision.
- b. I understand my rights and voluntarily decided to consent to trial by Summary Court-Martial.

TYPED OR PRINTED NAME OF SERVICE MEMBER <b>SPC MEGAN M. AMBUHL</b>	RANK <b>SPC</b>	SIGNATURE <i>Megan Ambuhl</i>
c. I have advised <u>SPC MEGAN M. AMBUHL</u> (Name and Rank of Service Member) of his or her statutory and regulatory rights with regard to this Summary Court-Martial and the possible consequences of his or her consent or objection to trial by Summary Court-Martial.		

TYPED OR PRINTED NAME OF DEFENSE COUNSEL BRANCH [REDACTED]	RANK <b>CPT</b>	SIGNATURE [REDACTED]
---	--------------------	-------------------------

**3. REFUSAL TO ACKNOWLEDGE RECEIPT OF ADVICE - ARTICLE 20, UCMJ**

After I advised \_\_\_\_\_ (Name (First, MI, Last)) \_\_\_\_\_ (Rank) \_\_\_\_\_ (SSN) of his or her rights to consult with legal counsel before making a decision to consent or object to Summary Court-Martial proceedings under Article 20, UCMJ, he or she refused to complete and sign an acknowledgment of receipt of the advice.

TYPED OR PRINTED NAME OF SUMMARY COURT-MARTIAL OFFICER	RANK	SIGNATURE

REMARKS

DEPARTMENT OF THE ARMY  
Headquarters and Headquarters Company  
57th Signal Battalion  
APO AE 09342

**OCT 29 2004**

AFZF-JA-MJ

MEMORANDUM FOR Specialist (E4) Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Victory Base, Iraq, APO AE 09342

SUBJECT: Notification of Summary Court-Martial

1. On 30 October 2004, at 0800 hours, at the, Headquarters 57th Signal Battalion, building 41, I will hold a Summary Court-Martial, to consider all facts and circumstances concerning the charges referred against you on 21 July 2004, by Lieutenant General Thomas F. Metz. The charge is:

Charge II: Dereliction of Duty, Article 92, UCMJ.

2. The uniform for the hearing is hereby designated as DCU's. You have the right to be present during the entire hearing.

3. You have the right to be represented at all times during the hearing by legally qualified civilian counsel, at no expense to the government. You also have the right to waive representation by counsel.

4. If reasonably available, I intend to call the following witnesses: None.

5. Additionally, it is my intention to examine and consider evidence contained in the court-martial packet.

6. As the summary court-martial officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. You will provide me with a list of the witnesses you intend to call to testify in your defense NLT 1500 hours, 29 October 2004.

7. Sergeant [REDACTED] paralegal, is detailed to this court-martial to provide paralegal and administrative support.

**002223**

AFZF-JA-MJ  
SUBJECT: Notification of Summary Court-Martial

8. You may contact me by calling 822-

- 2 Encls  
1. DD Form 458  
2. DA Form 5111-R

  
LTC, SC  
Summary Court-Martial Officer

I hereby acknowledge Receipt of this Notification of Summary Court-Martial on this  
27 day of OCT 2004.

  
MEGAN M. AMBUHL  
SPC, USA  
Respondent

002224

DEPARTMENT OF THE ARMY  
Headquarters and Headquarters Company  
57th Signal Battalion  
APO AE 09342

**OCT 28 2004**

AFZF-JA-MJ

MEMORANDUM FOR Specialist (E4) Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Victory Base, Iraq, APO AE 09342

SUBJECT: Notification of Summary Court-Martial

1. On 30 October 2004, at 0800<sup>21</sup> hours, at the Victory Base Court Room, building 94, I will hold a Summary Court-Martial, to consider all facts and circumstances concerning the charges referred against you on 21 July 2004, by Lieutenant General Thomas F. Metz. The charge is:

Charge I: Dereliction of Duty, Article 92, UCMJ.

2. The uniform for the hearing is hereby designated as DCU's. You have the right to be present during the entire hearing.
3. You have the right to be represented at all times during the hearing by legally qualified civilian counsel, at no expense to the government. You also have the right to waive representation by counsel.
4. If reasonably available, I intend to call the following witnesses: None.
5. Additionally, it is my intention to examine and consider evidence contained in the court-martial packet.
6. As the summary court-martial officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. You will provide me with a list of the witnesses you intend to call to testify in your defense NLT 1500 hours, 29 October 2004.
7. Sergeant [REDACTED] paralegal, is detailed to this court-martial to provide paralegal and administrative support.

002225

AFZF-JA-MJ  
SUBJECT: Notification of Summary Court-Martial

8. You may contact me by calling 822 [REDACTED]

- 2 Encls  
1. DD Form 458  
2. DA Form 5111-R

[REDACTED]  
DAVID R. HENSLEY  
LTC, SC [REDACTED]  
Summary Court-Martial Officer

I hereby acknowledge Receipt of this Notification of Summary Court-Martial on this  
27 day of OCT 2004.

  
MEGAN M. AMBUHL  
SPC, USA  
Respondent

002226



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

REPLY TO  
ATTENTION OF:

FICI-JA-BFO

29 October 2004

MEMORANDUM FOR RECORD

SUBJECT: Notification by Summary Court-Martial Officer -- United States v. SPC Megan M. Ambuhl

1. On 28 October 2004, LTC [REDACTED] Summary Court-Martial Officer, notified the accused, SPC Megan M. Ambuhl, of the government's intent to proceed to a Summary Court-Martial (SCM) on "Charge I: Dereliction of Duty."
2. The accused, her civilian defense counsel, and her military defense counsel understand that the SCM will proceed on one charge of dereliction of duty. This charge has been misidentified as "Charge I" and is correctly identified as the original Charge II. The substance and nature of the charge have not changed. The defense understands the reference to "Charge I" by the SCM Officer to be an administrative error.
3. SPC Ambuhl is not prejudiced by this error and she and her defense team are on notice that the offense to be considered at the SCM is original Charge II, Dereliction of Duty.
4. Questions concerning this matter, may be addressed to me via email at [REDACTED] or by telephone at DSN: (312) 521 [REDACTED]

//original signed//

[REDACTED]  
CPT, JA  
Trial Defense Counsel

002227

**PRIVACY ACT STATEMENT**

AUTHORITY: 42 U.S.C. 10606 et sec., Victim's Rights and Restitution Act of 1990; 18 U.S.C. 1501 et sec., Victim and Witness Protection Act of 1982.

PRINCIPAL PURPOSES: To inform victims and witnesses of their post-trial rights; to determine whether the victim or witness of a crime elects to be notified of changes in the confinement status of a convicted criminal offender; and to record the election by the victim or witness of their desire to be notified about subsequent changes in inmate status.

ROUTINE USES: None.

DISCLOSURE: Voluntary; however, failure to provide identifying information will prevent the corrections facility from notifying victim or witness of change in a criminal offender's status.

**SECTION I - ADMINISTRATIVE INFORMATION**

Installation Victory Base City Baghdad State Iraq APO AE 09342

Incident Number \_\_\_\_\_ Organizational Identifier (ORI) \_\_\_\_\_

**SECTION II - CERTIFICATION OF NO VICTIM OR WITNESS**

*(Complete this section only if there are no victims or witnesses who are entitled to notification under the Victim's Rights and Restitution Act of 1990, and DoD Instruction 1030.2.)*

As a representative for the Government in the court-martial case of United States v. AMBUHL, Megan M.  
*(Name of accused)(Last, first, middle initial)*

[Redacted], convened by Lieutenant General Thomas F. Metz, III Corps, Commander  
*(Social Security Number) (Summary Court-martial, Convening Authority)*

I certify that this case does not involve a victim or witness entitled to receive information about the confinement status of the defendant as required by the Victim's Rights and Restitution Act of 1990 (Public Law 101-647; 104 Stat. 4820).

[Redacted] (Signature of person certifying) [Redacted] (Typed name (Last, first))  
20041030 (Date) YYYYMMDD MAJ, Trial Counsel (Grade and title)

**SECTION III - CERTIFICATION OF ADVICE TO VICTIM(S) AND WITNESS(ES)**

*(Complete this section when there are victims or witnesses entitled to notification.)*

I certify that on this date I personally notified the victim(s) and witness(es) in the court-martial case of United States v.

[Redacted] (Name of accused)(Last, first, middle initial) [Redacted] (Social Security Number)  
Convened by \_\_\_\_\_  
[Redacted] (Summary Court-martial, Convening Authority)

whose sentence included confinement, of their right under the Victim's Rights and Restitution Act of 1990 (Public Law 101-647, 104 Stat. 4820), to receive information about the status of the inmate, to include length of sentence, anticipated earliest release date, likely place of confinement, the possibility of transfer, and the right to receive notification of a new place of confinement. I advised the possibility of parole or clemency with an explanation of these terms. Additionally, I advised of the right to prior notification of the inmate's parole hearings, release from confinement, escape and death. I advised that to receive notification of the inmate's transfer, parole hearings, and release from confinement, the victim or witness must provide the information required in Section IV of this form. I advised all victims and witnesses that if they elect to terminate or reinstate notifications, or if they change their address listed above, they must contact the Military Service Central Repository listed in Section V.

[Redacted] (Signature of person certifying) [Redacted] (Typed name (Last, first)) 02228  
[Redacted] (Date) YYYYMMDD [Redacted] (Grade and title)





**HEADQUARTERS**  
MULTI-NATIONAL CORPS - IRAQ  
BAGHDAD, IRAQ  
APO AE 09342

REPLY TO  
ATTENTION OF:

FICI-JA

30 October 2004

MEMORANDUM FOR Lieutenant Colonel [REDACTED] Summary Court-Martial,  
HHC, 57th Signal Battalion, Victory Base Iraq APO AE

SUBJECT: Dismissal of Charges Without Prejudice

1. Upon acceptance of the accused's plea to the Specification of Charge II, I direct that the remaining charges now referred be dismissed without prejudice, in accordance with the offer to plead guilty approved by the Convening Authority.
2. The point of contact is the undersigned at DSN (318) 822-[REDACTED]

[REDACTED]  
MAJ, JA  
Trial Counsel

002230

1. NAME: AMRIHL MEGAN MARY  
 2. SSN: [REDACTED]  
 3. VSSN: A - SSN VERIFIED ON NAME, DATE OF BIRTH AND SEX  
 4. DOB: [REDACTED]  
 5. SEX: F - FEMALE  
 6. MARITAL STATUS: [REDACTED]  
 7. MIL SPOUSE / SSN: [REDACTED]  
 8. NUM DEPENDENTS: [REDACTED]

9. EXPN STAT OBLG: 2008M231 090728  
 10. EXPN TPU SVC: 2008/01/28  
 11. QUAL RETN STAT: [REDACTED]  
 12. QUAL RETN YRMO: [REDACTED]  
 13. INITIAL ENTRY MIL: 2002/01/01  
 14. INITIAL ENTRY RES: 2002/01/01  
 15. 20 YEAR CERT: [REDACTED]  
 16. SOURCE MPC: G - VOL ENL IN RC ON OR AFTER 3 SEPT 63, TITLE 10 USC 511D  
 17. AD CALL-UP EVENT: [REDACTED]  
 18. YRS ACT FED SVC: 00.00

19. DATE LAST REL AD: 2002/08/23  
 20. DATE LAST EVAL REG: [REDACTED]  
 21. YRMO ELIG AFRM: 2012/01  
 22. YRMO ARCAM SUSP: 2005/01  
 23. IND INCENT STATUS CD: [REDACTED]  
 IND INCENTIVE EFF DATE: [REDACTED]  
 INCENTIVE BONUS TYPE: [REDACTED]  
 INCENTIVE PROGRAM CD: [REDACTED]  
 TERM REASON CODE: [REDACTED]  
 TERMINATION EFF DATE: [REDACTED]

20. AFQT PCTL / GRP: 98 / 1  
 21. MIL EDUC ENRLD: [REDACTED]  
 22. MIL EDUC COMPL: [REDACTED]  
 23. CIV EDUC LEVEL: G - 4TH YEAR OF COLLEGE  
 24. CIV EDUC CERT: K - BACCALAUREATE DEGREE  
 25. MAJ COLL SUBJ: DCH - BIOLOGY

SECTION I - PERSONAL DATA

SECTION II - SERVICE DATA

SECTION III - QUALIFICATION DATA

REPORT DATE: 2002/10/06

SN: HOH-R07

TYPE RECORD: SPECIAL REQUEST

UNIT: 0352 MP CO (GUARD)  
NAME: AMBUHL MEGAN MARY

REGIONAL LEVEL APPLICATION SOFTWARE (RLAS)  
PERSONNEL QUALIFICATION RECORD  
(ENLISTED)

MUSARC: 1U - 99TH REGIONAL SUPPORT COMMAND

UIC: WYATHD

SECTION IV - UNIT DATA

CURR UIC / FPC: WYATHD /  
UNIT NAME: 0352 MP CO (GUARD)  
EFF DATE ASS: 2002/02/27  
PROJ YRMO DPRT: RSN PROJ LOSS:  
10. UIC OF ATTACH:  
11. EFF DATE ATTACH:  
12. REASON ATTACH:  
13. EXPN DATE ATTACH:

SECTION V - POSITION DATA

POSITION NBR: 2230  
PARA / LINE NBR: 103 / 03  
POSITION TITLE: MILITARY POLICE  
POSN ASS DATE: 2002/02/27  
9. AUTH MPC: E - ENLISTED  
10. AUTH SEX: I - INTERCHANGEABLE  
11. PS INVEST RGRD:  
12. POSITION PSSTAT:

SECTION VI - EDUCATION ASSISTANCE PROGRAM (GI BILL) DATA

ELIG STATUS: F - ELIG - MEETS ELIGIBILITY CRITERIA  
BENEFIT RECoup:  
3. DATE START MGIB: 2002/08/24  
5. INIT CONTRACT DATE: 2002/01/29  
4. DATE TERM MGIB: 2012/08/24  
6. 2ND CONTRACT DATE:

SECTION VII - LANGUAGE PROFICIENCY DATA

1. LANGUAGE IDENT CODE:  
PROFICIENCY SOURCE:  
YRMO PROFICIENCY TEST:  
LISTENING PROF LEVEL:  
LISTENING EVAL METHOD:  
SPEAKING PROF LEVEL:  
SPEAKING EVAL METHOD:  
READING PROF LEVEL:  
READING EVAL METHOD:  
2. LANGUAGE IDENT CODE:  
PROFICIENCY SOURCE:  
YRMO PROFICIENCY TEST:  
LISTENING PROF LEVEL:  
LISTENING EVAL METHOD:  
SPEAKING PROF LEVEL:  
SPEAKING EVAL METHOD:  
READING PROF LEVEL:  
READING EVAL METHOD:

I BELIEVE THAT (I AM NOT) EMPLOYED IN A KEY POSITION WITH THE FEDERAL, STATE, OR LOCAL GOVERNMENT OR SUPPORTING DEFENSE AGENCY / INDUSTRY; OR PREPARING FOR THE MINISTRY, OR HAVE AN OBLIGATION TO PERFORM MISSIONARY WORK; OR MY ENTRY ON EXTENDED ACTIVE DUTY WOULD CREATE AN EXTREME PERSONAL OR COMMUNITY HARDSHIP.

I CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT I HAVE NO MEDICAL CONDITION OR PHYSICAL DEFECT THAT WOULD PREVENT MY PERFORMANCE OF ACTIVE MILITARY SERVICE EXCEPT AS FOLLOWS:

SIGNATURE: *Megan Ambuhl* DATE REVIEWED: 021006

002232

SECTION I - IDENTIFICATION DATA				SECTION II - CLASSIFICATION AND ASSIGNMENT DATA (Continued)			
1. NAME		2. S.S.N.		6. MILITARY OCCUPATIONAL SPECIALTIES			
02108A4650		AMBUEHL MEGAN MARY		MOSC TITLE DATE			
030224		2W ASIA (EPAD)		MOSC TITLE DATE			
3		MOS EVALUATION SCORES		7. AVIATION ASI & GUNNERY QUALIFICATION			
YR & MO	SCORE	YR & MO	SCORE	YR & MO	SCORE	YR & MO	SCORE
4. ASSIGNMENT CONSIDERATIONS				8. APITUDE AREA SCORES			
THRU		AREA AND COUNTRY		MO TYPE		DEFN ARR OS	
030224		2W ASIA (EPAD)		MOB			
5. OVERSEA SERVICE				9. AWARDS, DECORATIONS & CAMPAIGNS			
THRU		AREA AND COUNTRY		MO TYPE		DEFN ARR OS	
030224		2W ASIA (EPAD)		MOB			
10. OTHER TESTS				11. AMERICAN BOARD CERTIFICATION & LICENSES OR CERTIFICATES HELD			
TEST		DATE		SCORE		CONT	
DATE 1/25/73		1/25/73		112		112	
MDB-		OCT		DLAT		OOL-1	
FAST-		OB		WOCB			
12. LANGUAGE PROFICIENCY				11. AMERICAN BOARD CERTIFICATION & LICENSES OR CERTIFICATES HELD			
DA FORM 330		SUBMITTED		LANGUAGE PROFICIENCY		DATE	

PERSONNEL QUALIFICATION RECORD - PART II

002233

DA FC JAN 73





MEMORANDUM FOR Commander, Multi-National Corps – Iraq, Baghdad, Iraq  
APO AE 09342

SUBJECT: Legal Review of Summary Court-Martial – U.S. v. SPC Megan M. Ambuhl

1. In accordance with Rule for Court-Martial 1112(a)(3), I have reviewed the subject Summary Court-Martial. I have not acted in this case as an accuser, investigating officer, member of the court-martial, military judge, or counsel, nor have I otherwise acted on behalf of the prosecution or defense.

2. I make the following conclusions:

a. The court-martial had jurisdiction over the accused and each offense as to which there was a finding of guilty that was not disapproved.

b. Each specification as to which there was a finding of guilty that has not been disapproved stated an offense under the UCMJ.

c. The sentence imposed was legal.

3. There are no allegations of error made in writing by the accused, nor have I identified any errors in the case.

4. The above record of trial by Summary Court-Martial does not require further legal review. The original copy of this legal review will be placed in the original Record of Trial and a copy of this review will be provided to the accused.

5. POC is the undersigned at: [REDACTED] or DSN 318-822-

[REDACTED]  
CPT, JA  
Administrative Law Attorney



## RECORD OF TRIAL BY SUMMARY COURT-MARTIAL

1a. NAME OF ACCUSED <i>(Last, First, MI)</i> <b>AMBUHL, Megan M.</b>	b. GRADE OR RANK <b>E-4</b>	c. UNIT OR ORGANIZATION OF ACCUSED <b>HHC, 16th Military Police Brigade (Airborne) Victory Base, Iraq APO AE 09342</b>	d. SSN <b>[REDACTED]</b>
2a. NAME OF CONVENING AUTHORITY <i>(Last, First, MI)</i> <b>METZ, Thomas, F.</b>	b. RANK <b>LTG</b>	c. POSITION <b>Commander</b>	d. ORGANIZATION OF CONVENING AUTHORITY <b>III Corps, Victory Base, Iraq, APO AE 09342</b>
3a. NAME OF SUMMARY COURT-MARTIAL <i>(If SCM was accuser, so state.)</i> <b>[REDACTED]</b>	b. RANK <b>LTC</b>	c. UNIT OR ORGANIZATION OF SUMMARY COURT-MARTIAL <b>HHC, 57th Signal Battalion Victory Base, Iraq APO AE 09342</b>	

*(Check appropriate answer)*

	YES	NO
4. At a preliminary proceeding held on <u>30 October</u> <del>19</del> <u>2004</u> , the summary court-martial gave the accused a copy of the charge sheet.	X	
5. At that preliminary proceeding the summary court-martial informed the accused of the following:		
a. The fact that the charge(s) had been referred to a summary court-martial for trial and the date of referral.	X	
b. The identity of the convening authority.	X	
c. The name(s) of the accuser(s).	X	
d. The general nature of the charge(s).	X	
e. The accused's right to object to trial by summary court-martial.	X	
f. The accused's right to inspect the allied papers and immediately available personnel records.	X	
g. The names of the witnesses who could be called to testify and any documents or physical evidence which the summary court-martial expected to introduce into evidence.	X	
h. The accused's right to cross-examine witnesses and have the summary court-martial cross-examine on behalf of the accused.	X	
i. The accused's right to call witnesses and produce evidence with the assistance of the summary court-martial if necessary.	X	
j. That during the trial the summary court-martial would not consider any matters, including statements previously made by the accused to the summary court-martial, unless admitted in accordance with the Military Rules of Evidence.	X	
k. The accused's right to testify on the merits or to remain silent, with the assurance that no adverse inference would be drawn by the summary court-martial from such silence.	X	
l. If any findings of guilty were announced, the accused's right to remain silent, to make an unsworn statement, oral or written or both, and to testify and to introduce evidence in extenuation or mitigation.	X	
m. The maximum sentence which could be adjudged if the accused was found guilty of the offense(s) alleged.	X	
n. The accused's right to plead guilty or not guilty.	X	

6. At the trial proceeding held on 30 October ~~19~~ 2004, the accused, after being given a reasonable time to decide,  did  did not object to trial by summary court-martial.  
*(Note: The SCM may ask the accused to initial this entry at the time the election is made.)*

MA  
*(Initial)*

7a. The accused  was  was not represented by counsel. *(If the accused was represented by counsel, complete b, c, and d below.)*

b. NAME OF COUNSEL <i>(Last, First, MI)</i>	c. RANK <i>(If any)</i>
d. COUNSEL QUALIFICATIONS	
<b>002238</b>	

8. The accused was arraigned on the attached charge(s) and specification(s). The accused's pleas and the findings reached are shown below:

CHARGE(S) AND SPECIFICATION(S)	PLEA(S)	FINDINGS (Including any exceptions and substitutions)
<p>Charge II.</p> <p>The Specification: Dereliction of Duty (20 OCT 03 - 1 DEC 03)</p>	<p>Guilty</p>	<p>Guilty</p> <p><u>MA</u> I was advised of my right to request that confinement be deferred and I was advised of my right to submit written matters to the convening authority, including a request for clemency and of the right to request review by the Judge Advocate General.</p> <p><u>MA</u> I acknowledge receipt of record of trial.</p> <p> MEGAN M. AMBUHL</p>

9. The following sentence was adjudged:

To forfeit 1/2 months pay for one month and to be reduced to the grade of Private (E-2).

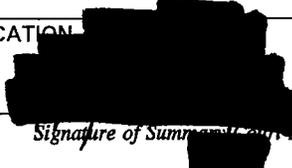
10. The accused was advised of the right to request that confinement be deferred. (Note: When confinement is adjudged.)

YES  NO

11. The accused was advised of the right to submit written matters to the convening authority, including a request for clemency, and of the right to request review by the Judge Advocate General.

YES  NO

12. AUTHENTICATION

  
Signature of Sumner F. Metz, Martial

30 October 2004

Date

13. ACTION BY CONVENING AUTHORITY

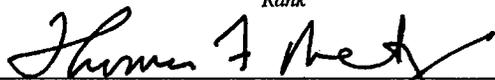
The sentence is approved and will be executed.

THOMAS F. METZ

Typed Name of Convening Authority

Lieutenant General

Rank



Signature of Convening Authority

Commander

Position of Convening Authority

NOV 6 2004

Date

# DEPARTMENT OF THE ARMY REPORT OF RESULT OF TRIAL

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

TO: Commander, Headquarters, III Corps, Victory Base, Iraq, APO AE 09342

1. Notification under R.C.M. 1101 and AR 27-10, paragraph 5-30 is hereby given in the case of the United States v. Specialist Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), APO AE 09342.
2. Trial by summary court-martial on 30 October 2004, at Baghdad, Iraq, convened by: III Corps, US Army, Victory Base, Iraq APO AE 09342.
3. Summary of offenses, pleas, and findings:

CH	ART UCMJ	SPEC	BRIEF DESCRIPTION OF OFFENSES(S)	PLEA	FINDING
II	92	The	Dereliction of duty (20 OCT 03 – 1 DEC 03)	G	G

4. SENTENCE: (LTC [REDACTED]) To forfeit 1/2 a months pay per month for one month and to be reduced to the grade of Private (E-2).

5. Date sentence adjudged and effective date of any forfeiture or reduction in grade (YYYYMMDD): 20041030.  
(See UCMJ Articles 57-58b and R.C.M. 1101.) 20041113.

6. Contents of pretrial agreement concerning sentence, if any: Attached

7. Number of days of presentence confinement, if any: N/A.

8. Number of days of judge-ordered administrative credit under Article 13, or for presentence confinement or restriction found tantamount to confinement, if any: N/A.

9. Total presentence confinement credit toward post-trial confinement: None.

10. Name(s) and SSN(s) of companion accused or co-accused, if any: SPC [REDACTED] SGT [REDACTED]  
[REDACTED]; SPC [REDACTED] SSG [REDACTED]  
SPC [REDACTED]; SPC [REDACTED] PFC [REDACTED]

11. DNA processing IAW 10 U.S.C. § 1565 is (not) required.

12. Conviction(s) do(es) require sex offender registration IAW 42 U.S.C. § 14071.

CF: Unit Commander	SJA	TDS	MJ Post-trial
Confinement Facility	SPCMA	CID	Supporting Finance Activity

MJ: LTC [REDACTED] DC: CPT [REDACTED]  
TC: N/A CR: N/A

NAME [REDACTED]	SIGNATURE [REDACTED]
RANK LTC	BRANCH SC

MEMORANDUM FOR RECORD

SUBJECT: Wavier of Clemency Matters

1. I understand that Lieutenant Colonel [REDACTED], the summary court-martial officer, adjudged a sentence of forfeiture of 1/2 a month's pay for one month and reduction to Private (E-2). MA
2. I understand that I may consult with counsel; and, in conjunction with counsel, submit clemency matter to the convening authority. MA
3. I having full knowledge of my right to submit matters, and after consulting with my defense counsel have elected to waive that right. MA

  
MEGAN M. AMBUHL  
SPC, USA

**Kary Jared F SGT MNC-I SJA Claims**

---

**From:** [REDACTED]  
**Sent:** Monday, November 01, 2004 6:12 PM  
**To:** [REDACTED] SGT CJTF7-SJA Claims; v  
**Cc:** [REDACTED]  
**Subject:** RE: Result of Trial (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

SGT [REDACTED]

The defense does not intend to submit any matters to the convening authority or to appeal the findings and sentence of the SCM officer in U.S. v. Ambuhl.

V/R,  
[REDACTED]  
CPT, JA  
Trial Defense Counsel

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

**From:** [REDACTED] SGT CJTF7-SJA Claims  
**Sent:** Saturday, October 30, 2004 11:35 AM  
**To:** [REDACTED] CPT;  
**Cc:** [REDACTED]  
**Subject:** Result of Trial

SPC Ambuhl Team

If you wish to submit matters to the convening authority please submit them to me NLT 1400 6 NOV 04 Baghdad time.

<<Result\_A.pdf>>  
I will serve a hard copy to SPC Ambuhl and have her sign the result ASAP.

Very Respectfully,

SGT [REDACTED]  
US Army, Paralegal  
DSN 318-822-[REDACTED]

Classification: UNCLASSIFIED  
Caveats: NONE

**CHARGE SHEET**

1. NAME OF ACCUSED (Last, First, MI) <b>AMBUHL, Megan M.</b>			I. PERSONAL DATA		3. GRADE OR RANK <b>SPC</b>	4. PAY GRADE <b>E-4</b>
5. UNIT OR ORGANIZATION <b>Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq APO AE 09342</b>			2. SSN	6. CURRENT SERVICE		
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED		a. INITIAL DATE <b>28 Jan 02</b>	b. TERM <b>8 years</b>
a. BASIC <b>\$1,638.30</b>	b. SEA/FOREIGN DUTY <b>\$100.00</b>	c. TOTAL <b>\$1,738.30</b>	<b>None</b>		9. DATE(S) IMPOSED <b>N/A</b>	

**II. CHARGES AND SPECIFICATIONS**

10. CHARGE I VIOLATION OF THE UCMJ, ARTICLE 81

**THE SPECIFICATION:** In that Specialist Megan M. Ambuhl, U.S. Army, did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 23 October 2003 conspire with Staff Sergeant [REDACTED], Sergeant [REDACTED], Corporal [REDACTED], Specialist [REDACTED], Specialist [REDACTED] and Private First Class [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Specialist Ambuhl did participate in a photograph with PFC [REDACTED] who tied a leash around the neck of a detainee and led the detainee down the corridor with the leash around his neck.

**CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 92**

**THE SPECIFICATION:** In that Specialist Megan M. Ambuhl, U.S. Army, who knew, of her duties at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, was derelict in the performance of those duties in that she willfully failed to protect Iraqi detainees from abuse, cruelty and maltreatment, as it was her duty to do.

(SEE CONTINUATION SHEET)

**III. PREFERRAL**

11a. NAME OF ACCUSER (Last, First, MI) [REDACTED]	b. GRADE <b>O-3</b>	c. ORGANIZATION OF ACCUSER <b>HHC, 16<sup>th</sup> MP Bde (Abn) APO AE 09342</b>
d. [REDACTED]		e. DATE <b>20 MAR '04</b>

**AFFIDAVIT:** Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 20<sup>th</sup> day of MARCH, 2004, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

_____ [REDACTED] Typed Name of Officer	_____ <b>HHC, XVIII Abn Corps</b> Organization of Officer
_____ <b>O-3</b> Grade	_____ <b>Trial Counsel</b> Official Capacity to Administer Oath (See R.C.M. 307(b) - must be a commissioned officer)
_____ [REDACTED]	

12.

On 20 March 2004, \_\_\_\_\_, the accused was informed of the charges against him/her and of the name(s) of The accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

\_\_\_\_\_  
Typed Name of Immediate Commander

HHC, 16<sup>th</sup> MP Bde (Abn) APO AE 09342  
Organization of Immediate Commander

O-3

\_\_\_\_\_  
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1845 hours, 21 March, 2004 at Headquarters, 16<sup>th</sup> Military  
Designation of Command or

Police Brigade (Airborne) APO AE 09342

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

FOR THE \_\_\_\_\_

Commanding

Official Capacity of Officer Signing

\_\_\_\_\_  
Typed Name of Officer

O-6

\_\_\_\_\_  
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE (YYYYMMDD)

III Corps

Victory Base, Iraq  
APO AE 09342-1400

20041028

Referred for trial to the Summary court-martial convened by this detail of Lieutenant Colonel  
\_\_\_\_\_ as the summary court-martial officer on

28 October, 2004, subject to the following instructions: None

By Command of Lieutenant General Metz  
Command or Order

Chief, Criminal Law Division

Official Capacity of Officer Signing

\_\_\_\_\_  
Typed Name of Officer

\_\_\_\_\_  
Signature

15.

On 29 October, 2004, I (caused to be) served a copy hereof on (each of) the above named accused.

MAJ

Grade or Rank of Trial Counsel

\_\_\_\_\_  
Typed Name of Trial Counsel

\_\_\_\_\_  
Signature

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

CONTINUATION SHEET DD Form 458, AMBUHL, Megan M., SPC,  
HHC, 16th MP Bde (Abn), III Corps, Victory Base, Iraq APO AE 09342

Item 10 (continued)

**CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 93**

**THE SPECIFICATION:** In that Specialist Megan M. Ambuhl, U.S. Army, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several Iraqi detainees, persons subject to her orders, by watching naked detainees in a pyramid of human bodies.

**CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 134**

**THE SPECIFICATION:** In that Specialist Megan M. Ambuhl, U.S. Army, did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with Iraqi detainees. Staff Sergeant [REDACTED] Corporal [REDACTED] Specialist [REDACTED] and Private First Class [REDACTED] by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central Correctional Facility, with other soldiers who photographed or watched the detainees' actions.

002245



**HEADQUARTERS**  
MULTI-NATIONAL CORPS - IRAQ  
BAGHDAD, IRAQ  
APO AE 09342

REPLY TO  
ATTENTION OF:

FICI-JA

30 October 2004

MEMORANDUM FOR Lieutenant Colonel [REDACTED] Summary Court-Martial,  
HHC, 57th Signal Battalion, Victory Base Iraq APO AE

SUBJECT: Dismissal of Charges Without Prejudice

1. Upon acceptance of the accused's plea to the Specification of Charge II, I direct that the remaining charges now referred be dismissed without prejudice, in accordance with the offer to plead guilty approved by the Convening Authority.
2. The point of contact is the undersigned at DSN (318) 822 [REDACTED]

[REDACTED]  
MAJ, JA  
Trial Counsel

002246

UNITED STATES )

v. )

AMBUHL, MEGAN M. )  
SPC, U.S. Army )  
Headquarters & Headquarters Company )  
16th Military Polige Brigade (Airborne) )  
III Corps, Victory Base, Iraq )  
APO AE 09342 )

12 October 2004

---

**EXTENUATION AND MITIGATION**

COMES NOW the accused, by Counsel, and provides the following information to be used as extenuation and mitigation evidence at her summary court-martial:

1. SPC Megan Ambuhl is pleading guilty to one charge of dereliction of duty for not reporting the activities of MP and MI personnel at Abu Ghraib Prison. She has agreed to testify truthfully at all subsequent courts-martial relating to said activities.

2. The uncontroverted evidence is that she did not participate in any of the activities alleged to have occurred at the prison. Exhibit 1 is a partial transcript of the BCD special court-martial of SPC [REDACTED] a co-accused. SPC [REDACTED] agreed to plead guilty and to testify truthfully against his co-accused.

On page 44, lines 10-14, the Military Judge asked SPC [REDACTED] who participated in the conspiracy to maltreat detainees at the prison and received this response:

MJ: ...did all these people (Sergeant [REDACTED] Sergeant [REDACTED] Corporal [REDACTED] Specialist [REDACTED] Specialist [REDACTED] and PFC [REDACTED] participate in the abuse of these detainees?

002247

ACC: Negative, Your Honor.

MJ: Who didn't?

ACC: Specialist Ambuhl did not.

Emphasis added.

SPC [REDACTED] reiterates this fact later in his guilty plea at page 45, lines 17-20, and page 46, lines 8-13. The Military Judge twice makes SPC [REDACTED] agree that SPC Ambuhl is not part of the conspiracy—"Let's put Specialist Ambuhl to the side for a second. These six other people were conspiring to maltreat these subordinates. Do you understand that? And the subordinates in this case are the detainees."

ACC: Yes, Your Honor.

Id. Emphasis added.

PFC [REDACTED] Corporal [REDACTED] girlfriend and the soldier depicted in photographs as holding the leash, confirms that SPC Ambuhl did not participate in the abuse. In her 5 May 2004 Sworn Statement PFC [REDACTED] was asked whether she saw SPC Ambuhl strike any of the detainees. She responded, "No, she rarely participated, she really wasn't part of all this." See Exhibit 2, page 3 of 6. Emphasis added.

Finally, SGT [REDACTED] a witness but not an accused, states that, "SPC Ambuhl at no time in any way became involved in nor did she engage in any of the interrogations or alleged abuse." See Exhibit 3, 11 October 2004, Statement Addition. Emphasis added.

3. On 2 May 2004 the accused, the undersigned civilian defense counsel, JAG CPT [REDACTED] and a civilian interpreter assigned to the JAG office visited the prison to interview detainees who previously had provided witness statements to CID. Every remaining detainee was interviewed. Without exception each detainee stated that SPC Ambuhl treated them well and was both liked and respected. See Exhibit 4, personal testimonials of the detainees.

4. Exhibit 5 contains letters from family and friends of SPC Ambuhl attesting to her good character. They uniformly state that she is a caring and patriotic person. Many letters describe her as a shy, non-confrontational person. Exhibit 5 also contains personal photographs of her family and activities.

5. On 31 August 2004 LTC [REDACTED] was designated by the convening authority as an expert to assist SPC Ambuhl's defense counsel. LTC [REDACTED] conducted a comprehensive psychological assessment of SPC Ambuhl, the facts and circumstances surrounding her dereliction charge, and the mitigating factors pertaining to her actions. LTC [REDACTED] report is found at Exhibit 6.

It is important to note that LTC [REDACTED] informed SPC Ambuhl that she was appointed by the government and that any report that she issued was not confidential. Id. at numbered paragraph 1. SPC Ambuhl understood and cooperated fully.

While neither condoning nor justifying SPC Ambuhl's dereliction in not reporting what had occurred, LTC [REDACTED] report places the inaction in context in the "Findings" section of her report. Id. at pages 3-5. Her primary findings are stated on page 4 at subsection 4c:

c. SPC Ambuhl's decision not to report alleged detainee abuse at Abu Ghraib BCCF clearly appears to be related to her lack of training as a corrections officer, a lack of understanding of proper procedures regarding treatment of detainees, and perceived influences from civilian and military intelligence agencies who she assumed had authority of the hard site. In addition, she was clearly a junior member of her work group, and despite her rank, had been in the Army only a short period of time (she enlisted as a college graduate). There are no indications that she participated in any incidents of abuse, as corroborated by detainee interviews and other witness statements. Based on knowledge gained through her participation in her legal proceedings, SPC Ambuhl has expressed remorse for not reporting actions that she witnessed.

6. Exhibit 7 is a 1 August 2002 memorandum from the Department of Justice Office of Legal Counsel to Alberto R. Gonzales, Counsel to the President of the United States. It is part of the packet of material released by the White House earlier this year.

Although SPC Ambuhl did not participate in any of the alleged activities, the context for her inaction is important. LTC [REDACTED] report has provided some of that context. This memorandum provides some additional context. It is uncontroverted that both MP and MI personnel participated in the activities at Abu Ghraib. It has been reported widely in the press that GEN Miller in September 2003 advised that MI should use MPs at the prison to "set the conditions" for successful interrogations. GEN Miller was using his experience at Guantanamo Bay as his point of reference. Finally, it is uncontroverted that interrogators with experience in Afghanistan and Guantanamo Bay were brought to the prison in the Fall of 2003.

It should be noted that, accepting the fact that the actions depicted in the photographs at the prison were wrong, the Attorney General of the United States stated otherwise. In the conclusion to the memorandum it states:

For the foregoing reasons, we conclude that torture as defined in and proscribed by Sections 2340-1340A, covers only extreme acts. Severe pain is generally of the kind difficult for the victim to endure. Where the pain is physical, it must be of an intensity akin to that which accompanies serious physical injury such as death or organ failure. Severe mental pain requires suffering not just at the moment of infliction but it also requires lasting psychological harm, such as seen in mental disorders like posttraumatic stress disorder. Additionally, such severe mental pain can arise only from the predicate acts listed in Section 2340. Because the acts inflicting torture are extreme, there is significant range of acts that though they might constitute cruel, inhuman, or degrading treatment or punishment fail to rise to the level of torture.

Further, we conclude that under the circumstances of the current war against al Qaeda and its allies, application of Section 2340A to interrogations undertaken pursuant to the President's Commander-in-Chief powers may be unconstitutional. Finally, even if an interrogation method might violate Section 2340A, necessity or self-defense could provide justifications what would eliminate any criminal liability.

Thus, it is a matter in mitigation that SPC Ambuhl, with no corrections or interrogation training, would be reluctant to question or report activities conducted by MI and her superior non-commissioned officers. As the [REDACTED] statement indicates, even her officers were reluctant to question MI. See Exhibit 3, page 2, numbered paragraph 6 (27 May 2004).

**Conclusion:**

The defense would ask the summary court-martial officer to consider the factors above, the fact that SPC Ambuhl's unit has returned to the United States months ago, the restrictions on her activities since March 2004, and her

cooperation with the Government, and give a sentence that does not include imprisonment.

Respectfully submitted,

SPC MEGAN AMBUHL  
By Counsel



Civilian Defense Counsel

**Exhibit 1**

002253

**RECORD OF TRIAL**

**OF**

**[REDACTED]** **SPC**  
(Name: Last, First, Middle Initial) (Social Security Number) (Rank)

**HHC, 16th MP Bde (ABN)**  
**III Corps** **U.S. Army** **Victory Base, Iraq**  
(Unit/Command Name) (Branch of Service) (Station or Ship)

**BY**

**SPECIAL (BCD) COURT-MARTIAL**

**Convened by: Commander**  
(Title of Convening Authority)

**Headquarters, III Corps**  
(Unit/Command of Convening Authority)

**Tried at**

**Baghdad, Iraq** **on** **19 May 2004**  
(Place or Places of Trial) (Date or Dates of Trial)

<b>INDEX</b>	<b>RECORD</b>
<b>Article 39(a) Sessions</b>	<b>R-2</b>
<b>Introduction of Counsel</b>	<b>R-2</b>
<b>Challenges</b>	<b>R-N/A</b>
<b>Arraignment</b>	<b>R-8</b>
<b>Motions</b>	<b>R-N/A</b>
<b>Pleas</b>	<b>R-11</b>
<b>Prosecution Evidence</b>	<b>R-14</b>
<b>Defense Evidence</b>	<b>R-N/A</b>
<b>Instructions on Findings</b>	<b>R-N/A</b>
<b>Charge(s) dismissed</b>	<b>R-N/A</b>
<b>Findings</b>	<b>R-72</b>
<b>Prosecution Evidence</b>	<b>R-73</b>
<b>Defense Evidence</b>	<b>R-96</b>
<b>Sentence</b>	<b>R-126</b>
<b>Appellate Rights Advisement</b>	<b>R-125</b>
<b>Proceedings in Revision</b>	<b>R-NA</b>

TESTIMONY

<u>NAME OF WITNESS</u>	<u>DIRECT/ REDIRECT</u>	<u>CROSS/ RE CROSS</u>	<u>COURT</u>
------------------------	-----------------------------	----------------------------	--------------

PROSECUTION:

[REDACTED]	75	80	
[REDACTED]	82	93	

DEFENSE:

[REDACTED]	100/104	102	
[REDACTED]	104	107	
Accused (unsworn)	108		

COURT:

None.

EXHIBITS ADMITTED IN EVIDENCE

<u>NUMBER OR LETTER</u>	<u>DESCRIPTION</u>	<u>PAGE WHERE</u>	
		<u>OFFERED</u>	<u>ADMITTED</u>
1	Stipulation of fact	14	17
2	PQR and 2-1	73	73
3	Magazine article	74	[Not R.74]
A	Stipulation of expected testimony (CPT [REDACTED])	96	97
B	Stipulation of expected testimony (SGM [REDACTED])	96	97
C	15-6 Investigation	98	98
D	Proof of employment	98	98
E	Good soldier book	99	99

APPELLATE EXHIBITS

I	Request for military judge alone	7
II	Offer to plead guilty	53
III	Quantum	53
IV	Post-trial and appellate rights	125

1 MJ: You mentioned earlier that, at least now, Specialist [REDACTED]  
2 was there?

3 ACC: Yes, Your Honor.

4 MJ: And Sergeant [REDACTED]

5 ACC: Yes, Your Honor.

6 MJ: So the group that was there for most of the time when you  
7 were there were you, Sergeant [REDACTED], Sergeant [REDACTED], Corporal  
8 [REDACTED], Specialist [REDACTED], Specialist Ambuhl and PFC [REDACTED]

9 ACC: Correct, Your Honor.

10 MJ: Now, when you turned the hall, did all these people  
11 participate in the abuse of these detainees?

12 ACC: Negative, Your Honor.

13 MJ: Who didn't?

14 ACC: Specialist Ambuhl did not. She was upstairs. From what I  
15 understood, she was actually in charge of the female and juvenile  
16 side of that area. She was upstairs, and Sergeant First Class

17 [REDACTED]

18 MJ: And correct me if I'm wrong, I believe you told me you saw  
19 Sergeant [REDACTED]

20 ACC: Correct, Your Honor.

21 MJ: Okay, as I go through these names, tell me what you saw  
22 each of these individuals do. Sergeant [REDACTED]

1 ACC: Strike a detainee in the chest, Your Honor.  
2 MJ: Sergeant [REDACTED]  
3 ACC: Stomped on hands and toes, Your Honor.  
4 MJ: Corporal [REDACTED]  
5 ACC: Punching a detainee, Your Honor.  
6 MJ: Specialist [REDACTED]  
7 ACC: Write the word "rapist" on an inmate's leg, Your Honor.  
8 MJ: And PFC [REDACTED]  
9 ACC: PFC [REDACTED] was taking photos and laughing.  
10 MJ: And she was also the one....  
11 ACC: Stomping on the hands and toes.  
12 MJ: So, you turned the corner here and you escorted your  
13 detainee in there. And you told me earlier, is you didn't know what  
14 was going to happen, but as you get in there, you see what they're  
15 going to do.  
16 ACC: Yes, Your Honor.  
17 MJ: And let's put Specialist Ambuhl to the side for a second,  
18 but the other six and you, remember I talked to you earlier about  
19 what a conspiracy is?  
20 ACC: Yes, Your Honor.  
21 MJ: And a conspiracy can be like two people getting together or  
22 three people, and saying, "Here's our plan to rob the bank. You do

1 this, you do that," and then kind of talk it out and work it out and  
2 then they may or may not go rob the bank. But that agreement's in  
3 words. There's also a way to get an agreement just by actions, to  
4 join in common actions indicating that each individual member of the  
5 conspiracy are all agreeing with the object of the conspiracy. Do  
6 you understand what I'm talking about there?

7 ACC: Yes, I do, Your Honor.

8 MJ: And in this case, you're charged with conspiring with these  
9 six other people. And again, let's put Specialist Ambuhl to the side  
10 for a second. These six other people were conspiring to maltreat  
11 these subordinates. Do you understand that? And the subordinates in  
12 this case are the detainees.

13 ACC: Yes, Your Honor.

14 MJ: Now, before you walked in there, did you ever discuss doing  
15 this with them or anything like that?

16 ACC: Negative, Your Honor.

17 MJ: But once you got in there, by your actions and their  
18 actions, do you believe and admit that you formed an agreement to  
19 maltreat these detainees?

20 ACC: Yes, I do, Your Honor.

**AFFIDAVIT**

I, [REDACTED], have read or have had read to me this statement which begins on page 1 and ends on page 5. I fully understand the contents of the entire statement made by me. The statement is true. I have initialed all corrections and have initialed the bottom of each page containing the statement. I have made this statement freely without hope of benefit or reward, without threat of punishment, and without coercion, unlawful influence or unlawful inducement.

Witness #1:

[REDACTED]  
87<sup>th</sup> MP Det (CIB)  
FORT BRAGG, NC 28310

Witness #2:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[REDACTED]

Subscribed and sworn before me, a person authorized by law to administer oaths, this \_\_\_\_\_ day of May 2004, at Fort Bragg, NC 28310.

[REDACTED]

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

Article 136 (b) (4) UCMJ  
(Authority to Administer Oath)

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 5 OF 5 PAGES

DA Form 2823-E

FOR OFFICIAL USE ONLY

00952

002259

**Exhibit 3**

11 Oct 04

**Statement Addition:**

I [REDACTED] a former SGT. With the 372<sup>nd</sup> MP Company hereby make this statement concerning SPC Megan Ambuhl. This is an addition to my statement that has already been made on 27 May 04.

On the night of the alleged abuse incident that I witnessed which was on or about October 25<sup>th</sup>.

On this night in question SPC Ambuhl at no time in anyway became involved in nor did she engage in any of the interrogations or alleged abuse.

I personally did not witness this soldier (SPC Ambuhl) come out on the tier to even watch what was going on.

SPC Ambuhl from what I know about her coming from our original Unit the 352<sup>nd</sup> MP Company would not knowing or willfully in a sound state of mind abuse detainees.

Very Respectfully,

[REDACTED]

002261

ATZM-DPS-C

27 May 2004

## MEMORANDUM FOR RECORD

SUBJECT: Statement of SGT [REDACTED] Headquarters and Headquarters Company, Garrison Fort Lee, Virginia

1. My name is SGT [REDACTED] Headquarters and Headquarters Company, Garrison Fort Lee, Virginia. On 24 September 2001, I was assigned to 352<sup>nd</sup> MP Company, 220<sup>th</sup> MP Brigade, Gaithersburg, Maryland. On 23 February 2003, I was involuntarily transferred to 372<sup>nd</sup> MP Company, Cumberland, Maryland. On 24 February 2003, my unit was mobilized and on 27 February 2004, I arrived at Fort Lee, Virginia. On 16 May 2003, members of 372<sup>nd</sup> MP Company deployed from Fort Lee, Virginia to Camp Arifjan, Kuwait. I remained at Fort Lee in order to undergo surgery. On 21 September 2003, after the surgery, I deployed from Fort Lee and arrived at Camp Arifjan, Kuwait. On 30 September 2003, I left Camp Arifjan and on 1 October 2003, I arrived at the Baghdad Correctional Facility (BCF/Abu Ghreib). I was assigned to 3<sup>rd</sup> platoon of 372<sup>nd</sup> MP Company. My duty assignment was Team Leader. My missions included escort of detainees from BCF to various courts in Baghdad, as well as escorts of VIPs and contractors. My quarters were located at 3<sup>rd</sup> platoon building, approximately 400 meters away from the BCF hard-site. I was not detailed to conduct any missions at the BCF hard-site.
2. During the last week of October at approximately 2200 hours I went over to the BCF hard-site in order to speak with SPC [REDACTED] my driver. I found SPC [REDACTED] at Tier 1A speaking with his cellmate, CPL [REDACTED]. When I approached Tier 1A, I observed two (2) service members (the first service member wore black PT shorts, brown t-shirt, and shower shoes; the second service member wore DCU pants and brown t-shirt). I perceived both service members to be military intelligence (MI). I saw both MI soldiers handcuff two (2) naked Iraqi detainees to the bars of cells on opposite sides. I then witnessed the same MI soldiers handcuff the detainees together, face to face. The MI soldier dressed in black PT shorts and brown t-shirt approached me and asked me in a sarcastic tone of voice: "Do you think we crossed the line?" or words to that effect. I responded: "I am not sure, you are MI" or words to that effect. The MI soldier then stated that they were interrogating 2 detainees and said: "We know what we are doing," or words to that effect.
3. Subsequently, both MI soldiers walked back to the detainees, separated them, and then re-cuffed them to the bars. The MI soldier wearing PT shorts tapped one of the detainees on his buttocks with a plastic water bottle. Then both MI soldiers re-cuffed the detainees together. Throughout this incident, both MI soldiers, via an interpreter, ordered the detainees to confess. When the detainees failed to cooperate, both MI soldiers yelled at them and ordered CPL [REDACTED] to yell at the detainees. At this time another MI soldier (wearing DCU pants and brown t-shirt) came in and the others seemed to look to him with respect and sought his approval. I asked him: "Is this how you interrogate detainees?" or words to that effect. The MI soldier responded "there are different ways to get it done," or words to that effect. The MI soldiers escorted the naked detainees around Tier 1A.

602262

ATZM-DPS-C

SUBJECT: Statement of SGT [REDACTED] Headquarters and Headquarters Company,  
Garrison Fort Lee, Virginia

4. One of the MI soldiers pointed to the naked detainees and said, "These are the people who raped a little boy," or words to that effect. Then SSG [REDACTED] I believe, escorted a third detainee to Tier 1A. SSG [REDACTED] said that this detainee assisted in the rape by holding down the victim. One of the MI soldiers then told the third detainee to get undressed like the other two. The new detainee refused. The MI soldiers proceeded to yell at the detainee. Then, one of the MI soldiers ordered CPL [REDACTED] to tell the detainee to get undressed. The third detainee undressed after CPL [REDACTED] yelled at him. Then the MI soldiers ordered all three detainees to low crawl on the floor. When the detainees attempted to arch up, two of the MI soldiers put pressure in the middle of their backs and yelled at them to get down. Two MI soldiers then cuffed the detainees together.

5. After the detainees were again handcuffed, I walked over and asked the detainee to tell the MI soldiers what they needed know and that I would try to make the MI soldiers stop. The detainee stated, through the interpreter, that he would not confess to something that he did not do. I turned to the older MI soldier and asked him with a raised voice: "Did you all ever consider that they guys are innocent?" or words to that effect. The MI soldier responded: "I've been doing this longer than you've been in the military. You know, sergeant, they are guilty," or words to that effect. I then turned to walk out and the MI soldier wearing black PT shorts started to sprinkle water on the detainees from his water bottle. While I was leaving the tier, I also observed one of the MI soldiers on the upper tier tossing a nerf ball towards the detainees. I also noticed SPC [REDACTED] standing in the distance and taking photos. I went back to my LSA at approximately 2230. By the time I returned to my LSA, everyone was already asleep.

6. Following morning, at approximately 0530, I along with SPC [REDACTED] and SPC [REDACTED] left the BCF on mission to escort detainees to Rufafa Courthouse. After completing the mission, at approximately 1600, I went to my platoon leader, 2LT [REDACTED] and I described to him the incident I witnessed the previous night. I informed 2LT [REDACTED] that MI soldiers were interrogating naked detainees. 2LT [REDACTED] stated: "They are MI and they are in charge let them do their job," or words to that effect. I then began to question 2LT [REDACTED] about who was in charge of the facility. I further voiced my concerns about our mission and organization. 2LT [REDACTED] then acknowledged my complaint and indicated that he will address it. Approximately one week later CPL [REDACTED] received a written counseling statement from CPT [REDACTED] for use of excessive force. CPL [REDACTED] informed me about the counseling statement and I overheard CPT [REDACTED] indicating that he counseled CPL [REDACTED] for use of excessive force.

7. Approximately one week prior to the incidents I described above, I spoke with CPL [REDACTED] and I noticed that CPL [REDACTED] voice was hoarse. I asked CPL [REDACTED] why he was hoarse. CPL [REDACTED] stated that OGA and MI were making him yell at detainees and do things that he felt were wrong. CPL [REDACTED] did not provide any details. I told him "then don't do it," or words to that effect. He stated that MI soldiers would tell him after an explosion that there are Americans out there dying and unless he helps them get information from the detainees then more Americans will die. CPL [REDACTED] then told me that he was taking pictures to protect himself. I told CPL [REDACTED] to take this issue up his chain of command.

ATZM-DPS-C

SUBJECT: Statement of SGT [REDACTED] Headquarters and Headquarters Company, Garrison Fort Lee, Virginia

8. I returned to Tier 1A approximately one week later in order to inform one of the detainees of his release date. At this time, I did not observe any unusual conduct by the MI personnel. This was the last time I went to Tier 1A.

9. In November 2003, while in Iraq, I experienced post-surgery complications. On 2 December 2003, my unit received a Red Cross message informing me that my father experienced a very serious heart attack. I was placed on Emergency Leave status and returned to Dallas, Texas on 2 December 2003. Subsequently, I returned to Fort Lee, Virginia on or about 17 December 2003 in order to undergo medical procedures.

10. In addition to attempting an on the spot correction, I reported the above-mentioned incident to my platoon leader, 1LT [REDACTED]. After returning to Fort Lee, Virginia I informed the following, among others, of my concerns regarding the incident I witnessed at BCF:

- |   |               |
|---|---------------|
| Chaplain (LTC) [REDACTED] (Fort Lee)                    | December 2003 |
| 1SG [REDACTED] (HHC Garrison, Fort Lee)                 | December 2003 |
| CPT [REDACTED] (HHC Garrison, Fort Lee)                 | December 2003 |
| CPT [REDACTED] (OIC Mental Health Clinic, Fort Lee)     | January 2004  |
| COL [REDACTED] (Deputy Chief of Staff, USAR)            | March 2004    |
| COL [REDACTED] (SIA, Fort Lee)                          | March 2004    |
| COL [REDACTED] (Quartermaster School, Fort Lee)         | March 2004    |
| Chaplain (COL) [REDACTED] (Fort Lee)                    | April 2004    |
| Ms. [REDACTED] (PAO, Fort Lee)                          | April 2004    |
| U.S. House of Representatives Armed Services Committee: | April 2004    |

11. POC is the undersigned [REDACTED]

[REDACTED]

SGT, JA

**SWORN STATEMENT**

For use of this form, see AR 100-45; the reporting agency is PMG.

**PRIVACY ACT STATEMENT**

**AUTHORITY:** Title 10 USC Section 2017; Title 5 USC Section 2051; E.O. 8467 dated November 22, 1949 (SSW).

**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 1304 West Park St, Frederick, MD		2. DATE (YYYYMMDD) 2004/09/27	3. TIME 20:47	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]			7. GRADE/STATUS [REDACTED]	
6. ORGANIZATION OR ADDRESS 416 Virginia Ave Hagerstown, MD 21740				

WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

I, [REDACTED], do hereby certify that the foregoing information is true and correct to the best of my knowledge and belief.

REF ID: A66007

FUGA. DEKURIN HND MERDESOU

9/3

P.01/01

I was a SGT Assigned to the 37th MP Co. I arrived at Abu Ghraib 1 Oct 03. While I was there I witnessed an event. Detailed on Attachment. In early November I went to the hard-site to give a message to a couple of Detainees for their Attorney. When I went through the Tier doors SGT [redacted] seemed upset and asked me why I was there. I started to yell him and he stated that he was tired of people just walking in and taking his detainees without checking it first. I then explained that I just had to give them a message and he said OH, okay. Then he explained again that people would just come and get detainees without his knowledge. Then in late November SGT [redacted] was assigned to Tower duty along with myself and other soldiers. We would have to do details in the afternoon and he would state that he was not allowed to be around detainees but they would still make him do the details.

Q.) IS THERE ANYTHING YOU WOULD LIKE TO ADD? KAC

A.) Just the Memorandum for Record written on 27 May 2004. KAC  
as written by me. KAD

~~END OF STATEMENT~~  
~~MEMORANDUM FOR RECORD IS ATTACHED.~~

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT [redacted]	PAGE 1 OF 4 PAGES
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"		
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.		

STATEMENT OF [REDACTED] TAKEN AT [REDACTED] 204/09/07

STATEMENT (Continued)

~~[REDACTED] Not USED~~

**AFFIDAVIT**

[REDACTED] HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 7, AND ENDS ON PAGE [REDACTED]. 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 DETENTION.

[REDACTED]  
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this [REDACTED] day of September 2007.

ORGANIZATION OR ADDRESS

[REDACTED]  
(Print Name)  
(Print Title)

ORGANIZATION OR ADDRESS

[REDACTED]  
 (ART 136(b)(4), UCMJ)

INITIALS OF PERSON MAKING STATEMENT

[REDACTED]

PAGE 4 OF 4 PAGES

**Exhibit 4**

002268



I, hereby attest that prison guard, Megan treated the prisoners in solitary confinement with dignity and that we are much better after she has taken charge. May god be witness to the veracity of my testimony.

[Illegible signature]

05-02-2004

002270



In the Name of God

In Mahjar, I never had any problems with Maggie, the American lady; she was a very nice person in the prison and treated all prisoners, whether male and female, in a good manner. She always talked with the prisoners in a polite and pleasant way and if they had any complaints, she would make every effort to solve their problems. I never saw an inhuman behavior on her behalf, and never had any problems with her. Whenever I needed food she would bring it to me with a bottle of water, and would even give me cigarettes. She treated all the prisoners in the same way and most prisoners liked this American girl and respected her.

 [illegible]

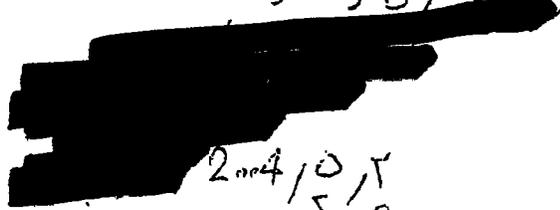
/signature/

02/05/2004

002272

به نام خدا

من در محضر هیچگونه تسلی با منگی دختر ابریکایی نداشتیم و اینان در محسن دختر بیار خوبی  
بوده و با تمام زندانیان به خوبی رفتار می کردند و من نمی کرده که زندانی مرد با شو یا زن خوبی  
را در محضر حال باز زندانیان صحبت می کرد و اگر تسلی داشتند در حال مشکل می گوشتند  
هیچگونه رفتار غیر انسانی از اینان من ندیدم و هیچگونه مشکل با من نداشتند است  
و حتی هر وقت که احتیاج بود ای مردم به من خبر ای رسانند بطوری آک و حتی سگبار  
من می دادم من تنها بلکه با تمام زندانیان یکسان رفتار می کردند و زندانیان این  
دختر ابریکایی را اگر دوست داشتند و یا اجازتی می خواشتند



2004 / 5 / 2  
5 2

**“In the Name of God The Compassionate, the Merciful”**

**I, hereby attest that guard Megan treated all prisoners correctly including myself. We had no problem with her. She treated us well and was very amicable with everybody.**

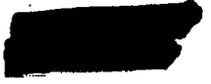
**[Illegible signature]**

**05-02-2004**

**002274**

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

لن الحارة سيخز كانت تتعاملني وتعامل السجاد  
الاشرفي احد معاملتي لم يكن هناك ابي مشكلة حصار  
وكانت تصرف جيدا معنا. كانت ايضا حثارة جدا مع



٢-٥-٢٠٠٤

I, hereby attest that prison guard Maki was one of the best police officers in our jail together with Officer [REDACTED] Mr. [REDACTED] and Mr. [REDACTED] all of whom dealt with us in a humane manner. They provided us with everything we needed, especially, Maki who used to bring us medicines and mattresses. She also helped us when the US Police had us punished in solitary confinement. I testify that this lady is incapable of punishing a sole.

[Illegible signature]

[REDACTED]

05-02-2004

002276

ان السيد عاكي كانت من الطبق الشرهيات الموجوده في السجن مع  
 الشرطة صابرين ولسيد بل ولسيد جوسير فم كانوا يعاملونا  
 برفق وحب و كانوا يلعبون لنا ان ما نطلبه منهم وخاصة بسيد  
 عاكي فكانت تجلب لنا الدواء وبقراشه وقت كانت نأخذنا  
 عند ما كانوا الشرطة الامريكيه يعاقبوننا داخل المحاجر وانا اشهد  
 ان هذه بسيد ذات اقل الحنون لا يمكنه ان يهاون كعاقب  
 اي شخص.

[Redacted signature block]

٤٠٤ / ٥ / ٤

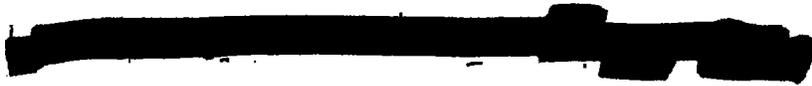
My name is [REDACTED] and I testify that Mickey was nice to everybody in confinement. One day she was carrying some canned food and I asked her if I can have some but she refused because it was pork. I have never witnessed her offend anyone.

May god be witness to the veracity of my testimony.

[Signed: [REDACTED]  
05-02-2004

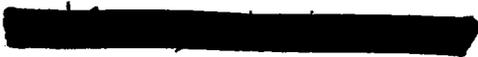
002278

انا بياو حاج يونس الهد

اشهر بحاله عن طبعه  اشهر

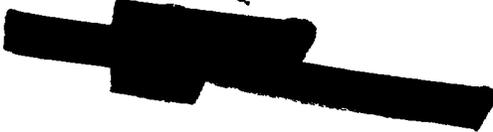
خبر الجبل وبع من الاديام طلبت منه الاكل وقامت فيه تحمل معبات معراها

ورفعت وقالت هذه لحم فقير ومارايتي يوم من الايام ان ايسير العاصي





٢٠٠٤/٥/٢



Mika is a kind person and, during my stay in solitary confinement, I have never seen her punish anyone. She used to be nice and to take the Qura'an from one cell to the other so that we can all recite. When she brought the American foodstuff, she was always willing to exchange one bag for another to suit the prisoners' taste. Once she brought me Iraqi food that I longed for badly and she came all the way across some 30 cells in order to hand it to me. I respect her for her pleasant attitude with the detainees.

[Illegible signature]

05-02-2004

002280

كانت تعامل معك فيه حسن من الهيبه والادبها كانت تعاملت  
 ام طيبه لغته الله كنت في السبعين لافرادى وكانت  
 بن سهوله تحوكة لقرآن من غروفه الى غروفه الشانه  
 لقرآن القرآن وعندما تجلب الاكل لا امر ان تبدل امه  
 ليس ما كان يعجبك الشفون ومن امه الايام هليلت  
 اكل عراقي لذت كنت في اس لحاجه ليه وتعب  
 اكثر من ٣ غروفه تعديها لن فكتي اهرمها  
 لتعاملها الهيبه مع بلشقلين

  
 10/1

**Exhibit 5**

002282

REMOVED BATES PAGES 2283 - 2297  
(RECORD OF TRIAL – SPC MEGAN M. AMBUHL)

(15 TOTAL PAGES)

DOCUMENTS CONSIST OF PERSONAL LETTERS WRITTEN TO THE  
CONVENING AUTHORITY BY FAMILY AND FRIENDS ON BEHALF  
OF SPC AMBUHL, WHICH WERE DETERMINED TO BE  
NONRESPONSIVE TO PLAINTIFF'S FOIA REQUEST

**Exhibit 6**

**002298**

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

THE RECORD OF TRIAL HAS BEEN REVIEWED FOR RELEASE UNDER THE PROVISIONS OF THE FREEDOM OF INFORMATION ACT. THE DOCUMENT[S] DESCRIBED AS FOLLOWS HAS [HAVE] BEEN REMOVED FROM THIS COPY OF THE RECORD BECAUSE THE RELEASE WOULD BE IN VIOLATION OF THE DOD FREEDOM OF INFORMATION ACT PROGRAM, DOD 5400.7-R, EXEMPTION

(b) (6)

Memorandum - Psychological Assessment

**002299**

**Exhibit 7**

002300





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

REPLY TO  
ATTENTION OF:

FICI-JA-BFO

29 October 2004

MEMORANDUM FOR LTC [REDACTED] Summary Court-Martial Officer, Headquarters  
and Headquarters Company, 57<sup>th</sup> Signal Battalion, APO AE 09342

SUBJECT: Request for Confinement Credit -- United States v. SPC Megan M. Ambuhl

1. The accused, through counsel, respectfully requests that the Summary Court-Martial Officer grant SPC Ambuhl 28 days of credit toward any approved sentence of confinement. SPC Ambuhl is entitled to 15 days credit for restriction tantamount to confinement, 8 days for a violation of Rule for Courts-Martial (R.C.M.) 305(i), and 5 days for the command's violation of Article 13, Uniform Code of Military Justice (U.C.M.J.). At a minimum, the defense requests that you consider the restrictions unduly imposed on SPC Ambuhl as extenuation and mitigation at sentencing.

2. Unlawful pretrial punishment and circumstances tantamount to confinement are evaluated according to the totality of the circumstances. See United States v. Herrin, 32 M.J. 983, 985 (A.C.M.R. 1991); United States v. Smith, 20 M.J. 528, 530 (A.C.M.R. 1985). The defense requests confinement credit under three separate and distinct principles of law. Each is addressed separately below:

**a. Restriction Tantamount to Confinement.** A soldier is entitled to day-for-day sentence credit for any pretrial restriction equivalent to confinement. United States v. Mason, 19 M.J. 274 (C.M.A. 1985). A determination of restriction tantamount to confinement is made under a totality of the circumstances. Factors to consider include the limits of the restriction, access to facilities, whether the soldier is singled out by the command, and whether the soldier is permitted to continue normally assigned duties. See United States v. Sassman, 32 M.J. 687, 690 (A.F.C.M.R. 1991); United States v. Russell, 30 M.J. 977, 979 (A.C.M.R. 1990). SPC Ambuhl should be granted at least 15 days of credit for restriction tantamount to confinement.

**(1) Time period of 20 August 2004 – 3 September 2004:** From 20 August 2004 through 3 September 2004, SPC Ambuhl suffered restriction tantamount to confinement by being under 24-hour supervision by a military police non-commissioned officer (NCO). On approximately 19 August 2004, SPC Ambuhl and her assigned military defense counsel traveled from Baghdad through Kuwait to Manheim, Germany, for a scheduled court appearance in Germany. Upon SPC Ambuhl's arrival at Taylor and Coleman Barracks in Germany, the government subjected her to greater restriction than she had ever faced at Camp Victory, Iraq, a war-zone. SPC Ambuhl was not allowed to leave her temporary barracks building without an escort. She was not permitted to go anywhere without this assigned E5 "shadow." SPC Ambuhl

012347

could not leave her barracks to meet with either of her attorneys unless the escort was present. SPC Ambuhl could not leave her barracks to go to the Shoppette unless her escort was present. SPC Ambuhl could not leave her barracks to attend religious services on-post unless her escort was present. Even in the presence of one, or both, of her defense attorneys, SPC Ambuhl was not to be without this NCO escort. On one occasion when SPC Ambuhl was at a video teleconference with her attorneys at an on-post conference room, she was not allowed to walk down the hallway to use the latrine without her escort. For this "infraction," the NCO publicly chastised SPC Ambuhl. This type of restriction goes well-beyond the bounds allowed in the military justice system.

**(2) Time period of 6 February 2004 – 30 October 2004:** The actions of the command as early as 6 February 2004 are restriction tantamount to confinement. On 6 February 2004, the government moved SPC Ambuhl away from her regular duties at Baghdad Central Correctional Facility (BCCF) at Abu Ghraib. The government separated SPC Ambuhl from her unit and reassigned her to an unknown unit at Camp Victory. By moving SPC Ambuhl to a different base, under the circumstances of deployment, the command effectively isolated and restricted the soldier. When, in a deployed environment, a soldier is reliant on her battle-buddies and her squad. The command moved SPC Ambuhl from that emotionally-secure environment. She no longer lived, worked or socialized with her squad or platoon. She had little to no contact with her platoon during the time she was at Camp Victory. She was moved to an unfamiliar post where he knew only approximately four junior enlisted soldiers. The acts of the command were intended as restriction tantamount to confinement and were done to punish the soldier.

Another factor that contributes to the reasonable conclusion that SPC Ambuhl suffered restriction tantamount to confinement, if not also pretrial punishment was the seizure and removal of her issued weapons. The command took SPC Ambuhl's weapons from her on 20 March 2004. Despite repeated requests by the soldier, the command never returned any of her weapons to her; nor did the command provide any reason for its decision. In the Iraq Theater of Operations a weapon is a part of each soldier's assigned uniform. The obvious absence of a weapon signals to others that the particular soldier is different. The command had no legitimate reason to seize SPC Ambuhl's weapons, other than punishment and restriction. SPC Ambuhl was not a threat to those around her, nor was she charged with a crime of violence using a weapon. She never threatened to shoot any fellow soldiers or herself. To prohibit SPC Ambuhl from carrying a weapon on Camp Victory, a base under constant mortar and small arms attacks, for force protection was a decision made by the command designed to punish the soldier. At no time during the investigation of the allegations has SPC Ambuhl been identified as a flight risk, thus to remove her weapons so she would not leave post is an invalid argument, and reveals the command's bias against the soldier.

Additionally, since 6 February 2004, SPC Ambuhl was not permitted to continue her normally assigned duties. Instead, SPC Ambuhl was singled-out and ordered to work extra duty

FICI-JA-BFO

SUBJECT: Request for Confinement Credit -- United States v. SPC Megan M. Ambuhl

type details. The factor on which the SCM should focus is not whether the tasks performed by SPC Ambuhl were those normally assigned to an E-4, but rather that the tasks were assigned to SPC Ambuhl because she was facing UCMJ action. Absent the pending UCMJ action, SPC Ambuhl would have performed the duties of a 95B. She was denied the opportunity to contribute meaningfully to her unit and was forced to do menial tasks.

During her assignment to HHC, 16<sup>th</sup> MP Brigade, SPC Ambuhl and several of her co-accused were treated like complete outcasts by the command. SPC Ambuhl did not take part in regularly-scheduled company missions or taskings. Instead, she and the co-accused, were given special assignments, tasked directly from the company 1SG. Some of the tasks to which 1SG [REDACTED] assigned SPC Ambuhl were: to pick up trash and cigarette butts along the road on Camp Victory; to paint "no parking" curbs on Camp Victory; and to fill sandbags on a daily basis. Adding insult to injury, the 1SG directed that these tasks be performed in areas that were not assigned to HHC, 16<sup>th</sup> MP Brigade and were not in the Brigade AO. SPC Ambuhl was only allowed to work with the other co-accused or other soldiers facing UCMJ action; as such, she was easily distinguished from other soldiers. SPC Ambuhl was forced to endure taunts from fellow soldiers while completing these tasks out on the main thoroughfares of Camp Victory. She suffered further degradation when other soldiers took photos of her sweeping the streets. When asked by SPC Ambuhl to intervene on numerous occasions, 1SG [REDACTED] and CPT [REDACTED] did nothing. What defies logic is that the government had no issue with assigning SPC Ambuhl to I&R duties at BCCF, an area in which she had no experience; but once the soldier was moved to Camp Victory she easily could have performed tasks in her assigned Combat Support operations role.

Another factor to consider in determining if the command subject SPC Ambuhl to restriction tantamount to confinement is whether or not she was entitled to leave the Camp Victory AO, much less Iraq. She is entitled to credit because her command punished her by requiring her to remain in Iraq for approximately 18 months without even the opportunity for R&R leave or a 4-day pass. From February 2003 through February 2004, the Army assigned SPC Ambuhl to the 372<sup>nd</sup> Military Police (MP) Company. On 12 March 2004, the government arbitrarily reassigned SPC Ambuhl to an unfamiliar company, HHC, 16<sup>th</sup> MP Brigade. As a result of this arbitrary reassignment, SPC Ambuhl was treated as an outcast by her new command and forced to remain in Iraq for several months past the redeployment of her true company, the 372<sup>nd</sup> MP Company. During her entire deployment, SPC Ambuhl was not granted the opportunity to take leave or her authorized and encouraged two weeks of R&R. Once it became clear that she would be required to remain in theater, SPC Ambuhl request leave, on several occasions, through the appropriate channels in her company. She was denied leave on each occasion. Unlike other soldiers of equal rank, SPC Ambuhl was not granted any 4-day passes and was denied the opportunity to relax at a place like Qatar or in the northern mountains of Iraq. These factors contribute to the determination that the company imposed restriction tantamount to confinement on SPC Ambuhl.

**b. Violation of R.C.M. 305:** When restriction is tantamount to confinement, the procedures for review of the propriety of pretrial confinement set forth in R.C.M. 305 are triggered. If the government fails to comply with those procedural requirements, day-for-day credit for those days of noncompliance is required. United States v. Gregory, 21 M.J. 952 (A.C.M.R. 1986), aff'd, 23 M.J. 246 (C.M.A. 1986). The command subjected SPC Ambuhl to restriction tantamount to confinement from 20 August 2004 through 3 September 2004. This restriction should have been reviewed within 7-days of its imposition, IAW R.C.M. 305(i)(2); thus, the review should have occurred no later than 26 August 2004. The government never conducted a review of this restriction but rather chose to end the restriction on 3 September 2004 when SPC Ambuhl left Germany to return to Iraq. SPC Ambuhl is entitled to additional administrative credit under R.C.M. 305(k) as a remedy for the government's failure to follow this rule. The defense requests and additional 8 days of credit for the period from 27 August 2004 through 3 September 2004 for the government's failure to review SPC Ambuhl's restriction tantamount to confinement under R.C.M. 305(i).

**c. Unlawful Pretrial Punishment Under Article 13, UCMJ.** SPC Ambuhl suffered hostile and degrading treatment from the government and the leadership of her company and is entitled to credit for unlawful pretrial punishment under Article 13, U.C.M.J.

Pretrial punishment is forbidden in accordance with Article 13, U.M.C.J., 10 U.S.C. § 813, which states that:

No person, while being held for trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances required to insure his presence . . .

The Court of Military Appeals in United States v. James, 28 M.J. 214 (C.M.A. 1989), adopting the standard in Bell v. Wolfish, 441 U.S. 520 (1979), set out a two-prong test to determine if a violation of Article 13 has occurred. The Court should first decide whether the particular conditions were imposed with the intent to punish. See id. at 216. If the answer is yes, then the conditions are punishment and the Court should consider a sentence credit. See id. If the answer is no, the Court should inquire as to whether the purposes purportedly served by the conditions are reasonably related to a legitimate governmental objective. See id. “[I]f a restriction or condition is not reasonably related to a legitimate goal -- if it is arbitrary or purposeless -- a court permissibly may infer that the purpose of the governmental action is punishment.” Bell, 441 U.S. at 539.

Military appeals courts have routinely and “unequivocally” condemned conduct by those in positions of authority which result in needless military degradation, or public denunciation or humiliation of an accused.” United States v. Latta, 34 M.J. 596, 597 (A.C.M.R. 1992), *citing*

United States v. Cruz, 25 M.J. 326 (C.M.A. 1987). Specifically, “public denunciation by the commander and subsequent military degradation before the troops prior to courts-martial constitute unlawful pretrial punishment prohibited by Article 13.” Cruz, 25 M.J. at 330. The court further denounced the unnecessary public identification of an apprehended person as a criminal suspect. See id. at 331 n.3.

Accused soldiers may be entitled to credit toward an approved sentence if they are repeatedly subject to disparaging remarks by the command. See United States v. Stamper, 39 M.J. 1097, 1100 (A.C.M.R. 1994) (awarding credit based on disparaging remarks by a company commander regarding a larceny the accused allegedly committed). In such instances, “these remarks chipped away at the accused’s presumption of innocence.” *Id.* Further, Article 13 credit can be granted for actions of the command toward the accused soldier when “some of the [restraints] bore no relation to the purposes of his restriction and were unnecessary to his presence.” United States v. Carmel, 4 M.J. 744, 748 (N.C.M.R. 1977).

In addition to the behavior of the command described in paragraph 2a(2) of this memorandum, SPC Ambuhl was further subjected to unlawful pretrial punishment. 1SG [REDACTED] routinely, punished SPC Ambuhl by making her do menial manual labor. While this activity itself is no unexpected for junior-enlisted soldiers, 1SG West would require of SPC Ambuhl labor that was being done by contractors. For example, the 16<sup>th</sup> MP Brigade hired contractors to fill sandbags and Hesco barriers to fortify the tents of 16<sup>th</sup> MP Brigade soldiers. 1SG [REDACTED] prohibited the contractors from fortifying SPC Ambuhl’s tent and required her to do it without the assistance of contractors. Further, he required her to conduct such tasks during non-duty hours. The only reason for these decisions was to punish SPC Ambuhl.

1SG [REDACTED] also subject SPC Ambuhl to degrading comments. Repeatedly, he would comment to SPC Ambuhl and others about her guilt. He would berate her about how she alone brought down the reputation of the company and the U.S. Army. 1SG [REDACTED] made these inappropriate comments directly to SPC Ambuhl and to any NCO or junior enlisted soldier that would listen. Such behavior on behalf of the company 1SG belies the presumption of innocent until proven guilty and erodes any confidence among soldiers in the military justice system.

On one occasion, SPC Ambuhl volunteered to help fill backpacks with school supplies. After spending several days with just one or two other soldiers, filling dozens of packs, SPC Ambuhl requested to be permitted to go with members of HHC to distribute the backpacks to local Iraqi children. Her request was denied because she was a “criminal.” To worsen the humiliation to SPC Ambuhl, other members of HHC, 16<sup>th</sup> MP Brigade, received (and took) credit for her work and received positive publicity in “Stars and Stripes.” The command knew that distributing the backpacks to Iraqi children was important to SPC Ambuhl; they knew that it mattered to her. The command’s denial of this request can be deemed as nothing less than punishment to the soldier.

FICI-JA-BFO

SUBJECT: Request for Confinement Credit -- United States v. SPC Megan M. Ambuhl

SPC Ambuhl is entitled to additional credit under Article 13, UCMJ, for unlawful pretrial punishment for the actions by his chain-of-command and for the unnecessary comments made by the unit leadership. See Latta, 34 M.J. at 597, United States v. Villamil-Perez, 32 M.J. 341, 343 (CMA 1991); Cruz, 25 M.J. at 330. The hostile treatment was demeaning to SPC Ambuhl and chipped away at her presumption of innocence. See Stamper, 39 M.J. at 1100. There is no set formula for calculating credit for pretrial punishment. If the military judge finds that illegal pretrial punishment occurred, he or she determines the sentence credit to which the accused is entitled. The military judge may order more than day-for-day credit for illegal pretrial punishment. See United States v. Suzuki, 14 M.J. 491 (C.M.A. 1983).

3. Further, under the principle of parity, SPC Ambuhl should be granted at least 20 days credit toward any sentence of confinement. On 21 October 2004, SSG [REDACTED] plead guilty at a General Court-Martial to several violations of the U.C.M.J. At trial, the military judge approved an agreed-upon 20 days credit toward SSG [REDACTED] approved sentence of confinement. The defense position is that HHC, 16<sup>th</sup> MP Brigade, kept SSG [REDACTED] under the same conditions as those suffered by SPC Ambuhl. While a non-commissioned officer, SSG [REDACTED] suffered similar degrading and humiliating treatment by the company and was subjected to substantially the same escort requirements as SPC Ambuhl from 20 August 2004 through 3 September 2004. Though the substance of these soldier's offenses differ significantly, as do their degrees of culpability, the restriction tantamount to confinement and pretrial punishment were substantially the same. Parity and justice require that SPC Ambuhl, at a minimum, be granted 20 days of credit toward any adjudged sentence of confinement.

4. Under the totality of the circumstances, SPC Ambuhl's chain of command kept SPC Ambuhl under restriction tantamount to confinement and unlawfully punished her prior to trial. SPC Ambuhl is entitled to 15 days credit for restriction tantamount to confinement, 8 days for a violation of R.C.M. 305(i), and 5 days for the command's continued violations of Article 13, U.C.M.J. The defense request should be granted and SPC Ambuhl should be awarded an appropriate amount of credit toward any approved sentence of confinement.

5. Questions concerning this memorandum may be addressed to the undersigned via email at [REDACTED] or by telephone at DSN: (312) 521 [REDACTED]

//original signed//

[REDACTED]  
CPT, JA  
Trial Defense Counsel

DEPARTMENT OF THE ARMY  
Headquarters, III Corps  
Victory Base, Iraq  
APO AE 09342-1400

AFZF-CG

JUL 21 2004

MEMORANDUM FOR Staff Judge Advocate

SUBJECT: Disposition of the Court-Martial Charges Preferred Against Specialist Megan M. Ambuhl (

The recommendations of the Staff Judge Advocate are approved. The attached original charges and additional charges, and their specifications, are referred to a general court-martial convened by Court-Martial Convening Order Number 1, dated 14 January 2004, as amended by Court-Martial Convening Order Number 3, dated 8 March 2004. In accordance with RCM 601(e)(2), the additional charges and their specifications are joined with the original charges and specifications.



THOMAS F. METZ  
Lieutenant General, USA  
Commanding

002353

JUL 21 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Advice on Disposition of the Court-Martial Charges Preferred Against  
Specialist Megan M. Ambuhl ( )  
-ACTION MEMORANDUM

1. Purpose. To forward for disposition, in accordance with Rule for Court-Martial (RCM) 407, the court-martial charges against Specialist Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Police Brigade, III Corps, Victory Base, Iraq.

2. Recommendations.

a. *Chain of Command*. As reflected by the court-martial charges transmittal memoranda, the soldier's commanders recommend referral of the charges and the additional charges to a general court-martial.

b. *Staff Judge Advocate*. I recommend you refer the attached charges and additional charges, as well as their specifications, to a general court-martial, pursuant to RCM 601, and refer the case to trial by Court-Martial Convening Order Number 1, dated 14 January 2004, as amended by Court-Martial Convening Order Number 3, dated 8 March 2004, with instructions that the additional charges be joined with the original charges.

c. *Article 32 Investigation*. As reflected by the Investigating Officer Report, the Article 32 Investigating Officer recommended that Charges III (maltreatment) and IV (indecent acts) not be forwarded for trial and that the remaining charges be forwarded to a general court-martial. The additional charges were not preferred before the Article 32 investigation; however, the evidence supporting the additional charges was investigated at the hearing.

3. Staff Judge Advocate Review. In accordance with RCM 406 and Article 34, Uniform Code of Military Justice (UCMJ), I have reviewed the attached charges and supporting documentation. It is my legal conclusion that:

a. The specifications allege offenses under the UCMJ;

b. The allegations of the offenses are warranted by the evidence indicated in the attached documentation; and

c. The court-martial will have jurisdiction over the accused and the offenses alleged.

4. POC is [REDACTED] at DSN 318-822 [REDACTED]

Encls

1. Charge Sheet (20 Mar 04)
2. Charge Sheet (13 Jul 04)
3. Transmittal Memoranda
4. Article 32 Investigation
5. Allied Documents

[REDACTED]  
COL, JA  
Staff Judge Advocate

002354

AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Service of Referral of Charges in the Case of United State v. Specialist Megan M. Ambuhl

1. I hereby acknowledge that the initial and additional charges against me were referred to General Court-Martial on 21 July 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.



MEGAN M. AMBUHL  
SPC, USA

23 July 04  
(date)

002355

AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Accused Receipt of Referral of Charges

1. I hereby acknowledge that on 23 July 2004 Specialist Megan M. Ambull was served a copy of the Charge Sheets, Continuation Page(s), and Court-Martial Convening Order(s).
2. Due to the unavailability of government counsel block 15 of the charge sheet will be filled out at a later date.



SGT, USA  
Paralegal

002356

AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Service of Preferral of Additional Charges in the case of United States v. Specialist Megan M. Ambuhl

1. I hereby acknowledge that the additional charges against me were read and preferred on this 13 day of July 2004, at 0812 hours. Further, I hereby acknowledge receipt of said charge sheet(s) and allied papers.
2. I further understand that I should contact my attorney as soon as possible, for further advice in my case.



MEGAN M. AMBUHL  
SPC, USA

002357

DEPARTMENT OF THE ARMY  
Headquarters and Headquarters Company,  
16<sup>TH</sup> Military Police Brigade (Airborne)  
Victory Base, APO AE 09342

28 JUN 04

AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Assumption of Command

IAW AR 600-20, Chapter 2, Paragraph 3a, the undersigned assumes command of Headquarters and Headquarters Company, 16<sup>th</sup> Military Police Brigade (Airborne) (WFP6AA), Victory Base, Iraq, APO AE 09342, effective 0001 hours on 28 JUN 04 to 2400 hours on 17 JUL 04.



CPT, MP  
Commanding

DISTRIBUTION:

- 1-Cdr, 16<sup>th</sup> MP BDE (ABN)
- 1-Cdr, HHC, 16<sup>th</sup> MP BDE (ABN)
- 1-Bde S-1, 16<sup>th</sup> MP BDE (ABN)
- 1-Bde S-2, 16<sup>th</sup> MP BDE (ABN)
- 1-Cdr, 15<sup>TH</sup> PSB, Victory Base PSB
- 1-Cdr, 15<sup>TH</sup> Finance Battalion, Victory Base
- 1-Office of the Staff Judge Advocate
- 1-Individual

002358

AFZA-AP-HHC

13 Jul 04

MEMORANDUM THRU Commander, 16<sup>th</sup> Military Police Brigade (Airborne), Camp Victory, Iraq APO AE 09342

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

SUBJECT: Transmittal of Additional Court-Martial Charges – United States v. Specialist Megan M. Ambuhl

1. Pursuant to R.C.M. 401(c)(2) and 402(2), Manual for Court-Martial, United States (2002 Edition), forwarded herewith are the additional court-martial charges pertaining to Specialist Megan, [REDACTED], HHC, 16<sup>th</sup> MP Bde (Abn), Camp Victory, 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. [REDACTED] General Court-Martial.

Encls  
as

[REDACTED]  
CPT, MP  
Commanding [REDACTED]

002359



AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Service of Preferral of Charges in the case of United States v. Specialist Megan M. Ambuhl

1. I hereby acknowledge that the charges against me were read and preferred on this 20<sup>th</sup> day of MARCH, at 2221 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-[REDACTED] trailer B12, Camp Victory, Iraq, at \_\_\_\_\_, \_\_\_\_\_.

*Spl. Megan Ambuhl*  
MEGAN M. AMBUHL  
SPC, USA

002361

AFZA-AP-HHC

20 March 2004

MEMORANDUM THRU Commander, 16<sup>th</sup> Military Police Brigade (Airborne), Camp Victory, Iraq APO AE 09342

FOR Deputy Commander, Combined Joint Task Force Seven, Camp Victory, Iraq APO AE 09342

SUBJECT: Transmittal of Court-Martial Charges – United States v. Specialist Megan M. Ambuhl

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 Specialist Megan, [REDACTED], HHC, 16<sup>th</sup> MP Bde (Abn), Camp Victory, 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. [REDACTED] General Court-Martial.

Encls  
as

[REDACTED]  
CPT, MP  
Commanding

002362

CERTIFICATE

I HEREBY CERTIFY THAT I AM THE CURRENT CUSTODIAN OF THE PERSONNEL RECORDS OF SPECIALIST MEGAN M. AMBUHL, [REDACTED], HHC 16<sup>TH</sup> MP BDE (ABN) VICTORY BASE, IRAQ APO AE 09342, AND THAT THE ATTACHED PERSONNEL QUALIFICATION RECORD & DA FORM 2-1 IS A TRUE AND ACCURATE COPY AS MAINTAINED, IN ACCORDANCE WITH REGULATION, IN THE SOLDIER'S RECORDS.

[REDACTED]  
[REDACTED]  
2LT, AG  
Brigade Adjutant

original

002363

SECTION I - PERSONAL DATA

1. NAME: AMBUHL, MEGAN MARY  
 2. SSN: [REDACTED]  
 3. VSSN: [REDACTED]  
 4. DOB: [REDACTED]  
 5. SEX: F - FEMALE  
 6. MARITAL STATUS: [REDACTED]  
 7. MIL SPOUSE / SSN: [REDACTED]  
 8. NUM DEPENDENTS: [REDACTED]

SECTION II - SERVICE DATA

9. EXPN STAT OBLG: 2009/12/31  
 10. EXPN TPU SVC: 2008/01/28  
 11. QUAL RETN STAT: [REDACTED]  
 12. QUAL RETN YRMO: [REDACTED]

SECTION III - QUALIFICATION DATA

13. INITIAL ENTRY MIL: 2002/01/01  
 14. INITIAL ENTRY RES: 2002/01/01  
 15. 20 YEAR CERT: [REDACTED]  
 16. SOURCE MPC: G - VOL ENL IN RC ON OR AFTER 3 SEPT 63, TITLE 10 USC 511D  
 17. AD CALL-UP EVENT: [REDACTED]  
 18. YRS ACT FED SVC: 00.00  
 19. DENT XRAY LOC: [REDACTED]  
 20. DNA SAMPLE INDIC: Y  
 21. HEIGHT / WEIGHT: [REDACTED]  
 22. HGT WT INDIC / YRMO: M / 2002/06  
 23. APRT INDIC / YRMO: P / 2002/06  
 24. FLD DETM PSSTAT: Y - NONE  
 25. OTE FLD DETM PSSTAT: [REDACTED]  
 26. PS INVEST TYPE / DATE: [REDACTED]  
 27. DEPT DETM PSSTAT: Y - NONE  
 28. DEPT DETM PSSTAT: [REDACTED]



SECTION II - CLASSIFICATION AND ASSIGNMENT DATA (Continued)

02108A4650 SECTION I - IDENTIFICATION DATA  
 1. NAME: AMBUHL MEGAN MARY  
 2. S.S.N: [REDACTED]  
 3. MOS: PMSBID  
 TITLE: AIRCRAFT PILOT  
 DATE: 07-08-04

SECTION II - CLASSIFICATION AND ASSIGNMENT DATA  
 MOS EVALUATION SCORES

MOSC	YR & MO	SCORE	YR & MO	SCORE	YR & MO	SCORE	CONT

4. ASSIGNMENT CONSIDERATIONS

CONT

7. AVIATION ASI & GUNNERY QUALIFICATION

AIRCRAFT	INSTR PILOT		GUNNERY SYSTEM		CONT		APTITUDE AREA SCORES		CONT
	FW	RW	TNG	INSTR	AREA	SCORE	AREA	SCORE	
					GT	128			
					GM	121			
					EL	123			
					CL	129			
					MM	113			
					SC	125			
					CO	122			
					FA	123			
					OF	120			
					ST	125			

9. AWARDS, DECORATIONS & CAMPAIGNS

ARMY - SVC. RAN - 1

DEPN ARR OS

CONT NTC

OVERSEA SERVICE

AREA AND COUNTRY

MO TYPE

FROM THRU

020224 SW ASIA (SRAD) MOD

DATE: 11-7-91

PLACE: 13810-011 AVPS

10. OTHER TESTS

TEST	DATE	SCORE
MDB-		
OCT		
DLAT		
OOL-1		
FAST-		
OB		
WOCB		

11. RIFLE M16 QUAL. BAD  
 HAND GREN QUAL. BAD  
 AMERICAN BOARD CERTIFICATION & LICENSES OR CERTIFICATES HELD

12. LANGUAGE PROFICIENCY

DA FORM 330 SUBMITTED DATE

002009

DA FC JAN 73

PERSONNEL QUALIFICATION RECORD - PART II









**DEPARTMENT OF THE ARMY  
HEADQUARTERS, 16<sup>TH</sup> MILITARY POLICE BRIGADE (AIRBORNE)  
CAMP VICTORY, IRAQ, APO AE 09342**

REPLY TO  
ATTENTION OF

ORDERS 72-5

12 March 2004

AMBUHL, MEGAN M., SPC, 95B10,  
(WTEZAA), APO AE 09342

372<sup>nd</sup> Military Police Company

You are attached or released from attachment.

Attached to: HHC, 16<sup>th</sup> Military Police Brigade (Airborne) (WFP6AA) APO AE 09342

Reporting Date: 12 March 2004

Period: Indefinite

Movement Designator Code: NZ03

Additional Instructions: You are attached for personnel service support to include Awards and Decorations, UCMJ, and all other forms of personnel and legal administration support.

Format: 745



CPT, MP  
Brigade Adjutant

**DISTRIBUTION:**

CDR, 372<sup>nd</sup> MP CO (1)

CDR, HHC, 16<sup>th</sup> MP BDE (ABN) (1)

File (1)

Individual (3)

002370

# REPORT TO SUSPEND FAVORABLE PERSONNEL ACTIONS (FLAG)

For use of this form, see AR 600-8-2; the proponent agency is MILPERCEN.

## SECTION I - ADMINISTRATIVE DATA

1. NAME (Last, First, MI) AMBUHL, MEGAN M.		2. SSN [REDACTED]	3. RANK E-4/ SPC
4. <input checked="" type="checkbox"/> On active duty <input type="checkbox"/> Not on active duty <input type="checkbox"/> On ADT		5. ETS/ESA/MRD 20080128	
6. UNIT ASSIGNED AND ARMY MAJOR COMMAND 372ND MP CO 99TH RRC		7. STATION (Geographical location) 372ND MP CO ABU GHRAIB, IRAQ APO AE 09335	
8. PSC CONTROLLING FLAGGING ACTION AND TELEPHONE NUMBER MSG [REDACTED] CPL [REDACTED]			
9. THIS ACTION IS TO: <input checked="" type="checkbox"/> Initiate a flag (Sections II and V only) <input type="checkbox"/> Transfer a flag (Sections III and V only) <input type="checkbox"/> Remove flag (Sections IV and V only)			

## SECTION II - INITIATE A FLAG

10.  A FLAG IS INITIATED, EFFECTIVE 20040125 FOR THE FOLLOWING REASON:

<u>NON-TRANSFERABLE</u>		<u>TRANSFERABLE</u>	
<input checked="" type="checkbox"/> Adverse action (A)	<input type="checkbox"/> Elimination - field initiated (B)	<input type="checkbox"/> APFT failure (J)	<input type="checkbox"/> Weight control program (K)
<input type="checkbox"/> Removal from selection list - field initiated (C)	<input type="checkbox"/> Referred OER (D)		
<input type="checkbox"/> Security violation (E)	<input type="checkbox"/> HQDA use only - elimination or removal from selection list (F)		

## SECTION III - TRANSFER A FLAG

11.  A FLAG IS TRANSFERED FOR THE FOLLOWING REASON:

<input type="checkbox"/> Adverse action - HQDA directed reassignment (G)	<input type="checkbox"/> APFT failure (J)
<input type="checkbox"/> Adverse action - punishment phase (H)	<input type="checkbox"/> Weight control program (K)
<input type="checkbox"/> Supporting documents attached? <input type="checkbox"/> Yes <input type="checkbox"/> No	

## SECTION IV - REMOVE A FLAG

12.  A FLAG IS REMOVED, EFFECTIVE \_\_\_\_\_ FOR THE FOLLOWING REASON:

<input type="checkbox"/> Case closed favorably (C)	<input type="checkbox"/> Soldier transferred to a different Army component or discharged while case in process (destroy case file) (E)
<input type="checkbox"/> Disciplinary action taken (D)	<input type="checkbox"/> Other final action (E)

## SECTION V - AUTHENTICATION

DISTRIBUTION 1 - Unit Commander    1 - F&AO 1 - PSC    1 - Commander, gaining unit (transfer flag only)	
NAME, RANK, TITLE, AND ORGANIZATION [REDACTED] LT, MP Commanding 72nd Military Police Company	SIGNATURE [REDACTED]    DATE 25 Jan 04

HEADQUARTERS, 99TH REGIONAL SUPPORT COMMAND  
99 SOLDIERS LANE  
CORAOPOLIS, PENNSYLVANIA 15108-2550

ORDERS M-052-0002

21 February 2003

AMBUHL MEGAN MARY

SPC  
0372 MP CO COMBAT SUPPORT (WTEZAA)  
CUMBERLAND, MD 21502-5605

You are ordered to Active Duty as a member of your Reserve Component unit for the period indicated unless sooner released or unless extended. Proceed from your current location in sufficient time to report by the date specified. You enter active duty upon reporting to unit home station.

Report to: 0372 MP CO COMBAT SUPPORT (WTEZAA), 14418 MCMULLEN HWY SW,  
CUMBERLAND, MD 21502-5605 Report On: 24 February 2003  
Report to: Fort Lee, Building P6008, Fort Lee, VA 23801 Report On: 27 February  
2003

Period of active duty: 365 Days

Purpose: Mobilization for ENDURING FREEDOM

Mobilization category code: "V"

Additional instructions: 01, 02, 03, 04, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15,  
16, 17

FOR ARMY USE

AUTHORITY: HQDA MSG 171644ZFEB03/DAMO-ODM/ORDTYP/MOBORD/HQDA ONE/OEF NO.322-03

Accounting classification:

2132010.0000 01-1100 P1W1C00 11\*\*/12\*\* VFRE F3203 5570 S99999  
2132010.0000 01-1100 P2W2C00 11\*\*/12\*\* VFRE F3203 5570 S99999  
2132020.0000 01-1100 P135198 21\*\*/22\*\*/25\*\* VFRE F3203 5570 S99999

Sex: F

MDC: PM

PMOS/AOC/ASI/LIC: 95B10

HOR: [REDACTED]

PEED: 29 January 2002

DOR: 29 January 2002

Security clearance: SECRET

Comp: USAR

Format: 165

FOR THE COMMANDER:

\*\*\*\*\*  
\* OFFICIAL \*  
\* 99TH REGIONAL SUPPORT COMMAND \*  
\*\*\*\*\*  
[REDACTED]

MPO

MILITARY PERSONNEL OFFICER

DISTRIBUTION: M1 PLUS  
INDIVIDUAL CONCERNED (4)  
FAMILY ASSISTANCE OFFICER (1)  
MPRJ  
FILE (ORIGINAL + 1)

002372

# CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, Middle) AMBUHL, MEGAN MARY		2. DEPARTMENT, COMPONENT AND BRANCH ARMY/USAR		3. SOCIAL SECURITY NO.							
4.a GRADE, RATE OR RANK SPC	4.b PAY GRADE E4	5. DATE OF BIRTH (YYYYMMDD)		6. RESERVE OBLIG. TERM. DATE Year 2010   Month 01   Day 28							
7.a PLACE OF ENTRY INTO ACTIVE DUTY			7.b HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address, if known)								
8.a LAST DUTY ASSIGNMENT AND MAJOR COMMAND CO C 787TH MP BN TR TC			8.b STATION WHERE SEPARATED FORT LEONARD WOOD, MO 65473-8935								
9. COMMAND TO WHICH TRANSFERRED 352 MP CO (CBT SPT) 1850 BALTIMORE RD ROCKVILLE MD 20851				10. SGLI COVERAGE <input type="checkbox"/> None Amount: \$ 20,000.00							
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) NONE//NOTHING FOLLOWS		12. RECORD OF SERVICE		Year(s)	Month(s)	Day(s)					
		a. Date entered AD This Period		2002	04	18					
		b. Separation Date This Period		2002	08	23					
		c. Net Active Service This Period		0000	04	06					
		d. Total Prior Active Service		0000	00	00					
		e. Total Prior Inactive Service		0000	02	19					
		f. Foreign Service		0000	00	00					
		g. Sea Service		0000	00	00					
		h. Effective Date of Pay Grade		2002	01	29					
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) NONE//NOTHING FOLLOWS											
14. MILITARY EDUCATION (Course title, number of weeks and month and year completed) MILITARY POLICE, 17 WEEKS, 2002//NOTHING FOLLOWS											
15.a MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERAN'S EDUCATIONAL ASSISTANCE PROGRAM		Yes	No	15.b HIGH SCHOOL GRADUATE OR EQUIVALENT		Yes	No	16. DAYS ACCRUED LEAVE PAID			
			X			X		NONE			
17. MEMBER WAS PROVIDED A COMPLETE DENTAL EXAM AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION								NA	Yes	NA	No
18. REMARKS DATA HEREIN SUBJECT TO COMPUTER MATCHING WITHIN DOD OR WITH OTHER AGENCIES FOR VERIFICATION PURPOSES AND DETERMINING ELIGIBILITY OR COMPLIANCE FOR FEDERAL BENEFITS//MEMBER HAS COMPLETED FIRST FULL TERM OF SERVICE//NOTHING FOLLOWS											
19.a MAILING ADDRESS AFTER SEPARATION (include Zip Code)						19.b NEAREST RELATIVE (Name and address - include Zip Code) LAWRENCE AMBUHL					
20. MEMBER REQUESTS COPY 6 BE SENT TO		NA	DIR OF VET AFFAIRS	X	Yes	NO	22. OFFICIAL AUTHORIZED TO SIGN (Name, title and signature)				
21. SIGNATURE OF MEMBER BEING SEPARATED		<i>Megan M. Ambuhl</i>					[Redacted Signature]				
SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)											
23. TYPE OF SEPARATION RELEASE FROM ACTIVE DUTY TRAINING				24. CHARACTER OF SERVICE (Include upgrades) UNCHARACTERIZED							
25. SEPARATION AUTHORITY AR 635-200, CHAP 4				26. SEPARATION CODE MBK				27. REENTRY CODE NA			
28. NARRATIVE REASON FOR SEPARATION COMPLETION OF REQUIRED ACTIVE SERVICE										002373	
29. DATES OF TIME LOST DURING THIS PERIOD NONE										30. MEMBER REQUESTS COPY 4 Initials	