

- 1990 "Racial Discrimination in Death Penalty Cases," Invited presentation, NAACP Legal Defense Fund Conference on Capital Litigation, August, Airlie, VA.
- 1989 "Psychology and Legal Change: The Impact of a Decade," Invited Address to Division 41 (Psychology and Law), American Psychological Association Annual Convention, New Orleans, LA., August.
- "Judicial Remedies to Pretrial Prejudice," Law & Society Association Annual Meeting, Madison, WI, June.
- "The Social Psychology of Police Interrogation Techniques" (with R. Liebowitz), Law & Society Association Annual Meeting, Madison, WI, June.
- 1987 "The Fourteenth Amendment and Symbolic Legality: Let Them Eat Due Process," APA Annual Convention, New York, N.Y. August.
- "The Nature and Function of Prison in the United States and Mexico: A Preliminary Comparison," InterAmerican Congress of Psychology, Havana, Cuba, July.
- 1986 Chair, Division 41 Invited Address and "Commentary on the Execution Ritual," APA Annual Convention, Washington, D.C., August.
- "Capital Punishment," Invited Address, National Association of Criminal Defense Lawyers Annual Convention, Monterey, CA, August.
- 1985 "The Role of Law in Graduate Social Science Programs" and "Current Directions in Death Qualification Research," American Society of Criminology, San Diego, CA, November.
- "The State of the Prisons: What's Happened to 'Justice' in the '70s and '80s?" Invited Address to Division 41 (Psychology and Law); APA Annual Convention, Los Angeles, CA, August.
- 1983 "The Role of Social Science in Death Penalty Litigation." Invited Address in National College of Criminal Defense Death Penalty Conference, Indianapolis, IN, September.

- 1982 "Psychology in the Court: Social Science Data and Legal Decision-Making." Invited Plenary Address, International Conference on Psychology and Law, University College, Swansea, Wales, July.
- 1982 "Paradigms in Conflict: Contrasting Methods and Styles of Psychology and Law." Invited Address, Social Science Research Council, Conference on Psychology and Law, Wolfson College, Oxford University, March.
- 1982 "Law and Psychology: Conflicts in Professional Roles." Invited paper, Western Psychological Association Annual Meeting, April.
- 1980 "Using Psychology in Test Case Litigation," panelist, American Psychological Association Annual Convention, Montreal, Canada, September.
- 1980 "On the Selection of Capital Juries: The Biasing Effects of Death Qualification." Paper presented at the Interdisciplinary Conference on Capital Punishment. Georgia State University, Atlanta, GA, April.
- 1980 "Diminished Capacity and Imprisonment: The Legal and Psychological Issues," Proceedings of the American Trial Lawyers Association, Mid-Winter Meeting, January.
- 1975 "Social Change and the Ideology of Individualism in Psychology and Law." Paper presented at the Western Psychological Association Annual Meeting, April.

SERVICE TO STAFF OR EDITORIAL BOARDS OF
FOUNDATIONS, SCHOLARLY JOURNALS OR PRESSES

- 2000-present Reviewer, Society for the Study of Social Issues Grants-in-Aid Program.
- 2000-present Editorial Board Member, ASAP (on-line journal of the Society for the Study of Social Issues)

- 1997-present Editorial Board Member, Psychology, Public Policy, and Law
- 1991 Editorial Consultant, Brooks/Cole Publishing
- 1989 Editorial Consultant, Journal of Personality and Social Psychology
- 1988- Editorial Consultant, American Psychologist
- 1985 Editorial Consultant, American Bar Foundation Research Journal
- 1985-present Law and Human Behavior, Editorial Board Member
- 1985 Editorial Consultant, Columbia University Press
- 1985 Editorial Consultant, Law and Social Inquiry
- 1980-present Reviewer, National Science Foundation
- 1997 Reviewer, National Institutes of Mental Health
- 1980-present Editorial Consultant, Law and Society Review
- 1979-1985 Editorial Consultant, Law and Human Behavior
- 1997-present Editorial Consultant, Legal and Criminological Psychology
- 1993-1997 Psychology, Public Policy, and Law, Editorial Consultant

GOVERNMENTAL, LEGAL AND CRIMINAL JUSTICE CONSULTING

Training Consultant, Palo Alto Police Department, 1973-1974.

Evaluation Consultant, San Mateo County Sheriff's Department, 1974.

Design and Training Consultant to Napa County Board of Supervisors, County Sheriff's Department (county jail), 1974.

Training Consultation, California Department of Corrections, 1974.

Consultant to California Legislature Select Committee in Criminal Justice, 1974, 1980-1981 (effects of prison conditions, evaluation of proposed prison legislation).

Reviewer, National Science Foundation (Law and Social Science, Research Applied to National Needs Programs), 1978-present.

Consultant, Santa Clara County Board of Supervisors, 1980 (effects of jail overcrowding, evaluation of county criminal justice policy).

Consultant to Packard Foundation, 1981 (evaluation of inmate counseling and guard training programs at San Quentin and Soledad prisons).

Member, San Francisco Foundation Criminal Justice Task Force, 1980-1982 (corrections expert).

Consultant to NAACP Legal Defense Fund, 1982- present (expert witness, case evaluation, attorney training).

Faculty, National Judicial College, 1980-1983.

Consultant to Public Advocates, Inc., 1983-1986 (public interest litigation).

Consultant to California Child, Youth, Family Coalition, 1981-82 (evaluation of proposed juvenile justice legislation).

Consultant to California Senate Office of Research, 1982 (evaluation of causes and consequences of overcrowding in California Youth Authority facilities).

Consultant, New Mexico State Public Defender, 1980-1983 (investigation of causes of February, 1980 prison riot).

Consultant, California State Supreme Court, 1983 (evaluation of county jail conditions).

Member, California State Bar Committee on Standards in Prisons and Jails, 1983.

Consultant, California Legislature Joint Committee on Prison Construction and Operations, 1985.

Consultant, United States Bureau of Prisons and United States Department of the Interior (Prison History, Conditions of Confinement Exhibition, Alcatraz Island), 1989-1991.

Consultant to United States Department of Justice, 1980-1990 (evaluation of institutional conditions).

Consultant to California Judicial Council (judicial training programs), 2000.

Consultant to American Bar Association/American Association for Advancement of Science Task Force of Forensic Standards for Scientific Evidence, 2000.

Member, Joint Legislative/California Department of Corrections Task Force on Violence, 2001.

Consultant, United States Department of Health & Human Services/Urban Institute, "Effects of Incarceration on Children, Families, and Low-Income Communities" Project.

PRISON AND JAIL CONDITIONS

EVALUATIONS AND LITIGATION

Hoptowit v. Ray [United States District Court, Eastern District of Washington, 1980; 682 F.2d 1237 (9th Cir. 1982)]. Evaluation of psychological effects of conditions of confinement at Washington State Penitentiary at Walla Walla for United States Department of Justice.

Wilson v. Brown (Marin Country Superior Court; September, 1982, Justice Burke). Evaluation of effects of overcrowding on San Quentin mainline inmates.

Thompson v. Enomoto (United States District Court, Northern District of California, Judge Stanley Weigel, 1982 and continuing). Evaluation of conditions of confinement on Condemned Row, San Quentin Prison.

Toussaint v. McCarthy [United States District Court, Northern District of California, Judge Stanley Weigel, 553 F. Supp. 1365 (1983); 722 F. 2d 1490 (9th Cir. 1984) 711 F. Supp. 536 (1989)]. Evaluation of psychological effects of conditions of confinement in lockup units at DVI, Folsom, San Quentin, and Soledad.

In re Priest (Proceeding by special appointment of the California Supreme Court, Judge Spurgeon Avakian, 1983). Evaluation of conditions of confinement in Lake County Jail.

Ruiz v. Estelle [United States District Court, Southern District of Texas, Judge William Justice, 503 F. Supp. 1265 (1980)]. Evaluation of effects of overcrowding in the Texas prison system, 1983-1985.

Atascadero State Hospital (Civil Rights of Institutionalized Persons Act of 1980 action). Evaluation of conditions of confinement and nature of patient care at ASH for United States Department of Justice, 1983-1984.

In re Rock (Monterey County Superior Court 1984). Appointed to evaluate conditions of confinement in Soledad State Prison in Soledad, California.

In re Mackey (Sacramento County Superior Court, 1985). Appointed to evaluate conditions of confinement at Folsom State Prison mainline housing units.

Bruscino v. Carlson (United States District Court, Southern District of Illinois 1984-1985). Evaluation of conditions of confinement at the United States Penitentiary at Marion, Illinois [654 F. Supp. 609 (1987); 854 F.2d 162 (7th Cir. 1988)].

Dohner v. McCarthy [United States District Court, Central District of California, 1984-1985; 636 F. Supp. 408 (1985)]. Evaluation of conditions of confinement at California Men's Colony, San Luis Obispo.

Invited Testimony before Joint Legislative Committee on Prison Construction and Operations hearings on the causes and consequences of violence at Folsom Prison, June, 1985.

Duran v. Anaya (United States District Court, 1987-1988). Evaluation of conditions of confinement in the Penitentiary of New Mexico, Santa Fe, New Mexico [Duran v. Anaya, No. 77-721 (D. N.M. July 17, 1980); Duran v. King, No. 77-721 (D. N.M. March 15, 1984)].

Gates v. Deukmejian (United States District Court, Eastern District of California, 1989). Evaluation of conditions of confinement at California Medical Facility, Vacaville, California.

Kozeak v. McCarthy (San Bernardino Superior Court, 1990). Evaluation of conditions of confinement at California Institution for Women, Frontera, California.

Coleman v. Gomez (United States District Court, Eastern District of California, 1992-3; Magistrate Moulds, Chief Judge Lawrence Karlton, 912 F. Supp. 1282 (1995)). Evaluation of study of quality of mental health care in California prison system, special mental health needs at Pelican Bay State Prison.

Madrid v. Gomez (United States District Court, Northern District of California, 1993, District Judge Thelton Henderson, 889 F. Supp. 1146 (N.D. Cal. 1995). Evaluation of conditions of confinement and psychological consequences of isolation in Security Housing Unit at Pelican Bay State Prison, Crescent City, California.

Clark v. Wilson, (United States District Court, Northern District of California, 1998, District Judge Fern Smith, No. C-96-1486 FMS), evaluation of screening procedures to identify and treatment of developmentally disabled prisoners in California Department of Corrections.

Ruiz v. Johnson [United States District Court, Southern District of Texas, District Judge William Wayne Justice, 37 F. Supp. 2d 855 (SD Texas 1999)]. Evaluation of

current conditions of confinement, especially in security housing or “high security” units.

Osterback v. Moore (United States District Court, Southern District of Florida (97-2806-CIV-MORENO) (2001) [see, Osterback v. Moore, 531 U.S. 1172 (2001)]. Evaluation of Close Management Units and Conditions in the Florida Department of Corrections.

Valdivia v. Davis (United States District Court, Eastern District of California, 2002). Evaluation of due process protections afforded mentally ill and developmentally disabled parolees in parole revocation process.

Ayers v. Perry (United States District Court, New Mexico, 2003). Evaluation of conditions of confinement and mental health services in New Mexico Department of Corrections “special controls facilities.”

Interpersonal Dynamics in Simulated Prison

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not be redacted

Interpersonal dynamics in a prison environment were studied experimentally by designing a functional simulation of a prison in which subjects role-played prisoners and guards for an extended period of time. To assess the power of the social forces on the emergent behaviour in this situation, alternative explanations in terms of pre-existing dispositions were eliminated through subject selection. A homogeneous, "normal" sample was chosen after extensive interviewing and diagnostic testing of a large group of volunteer male college students. Half of the subjects were randomly assigned to role-play prison guards for eight hours each day, while the others role-played prisoners incarcerated for nearly one full week. Neither group received any specific training in these roles.

Continuous, direct observation of behavioural interactions was supplemented by video-taped recording, questionnaires, self-report scales and interviews. All these data sources converge on the conclusion that this simulated prison developed into a psychologically compelling prison environment. As such, it elicited unexpectedly intense, realistic and often pathological reactions from many of the participants. The prisoners experienced a loss of personal identity and the arbitrary control of their behaviour which resulted in a syndrome of passivity, dependency, depression and helplessness. In contrast, the guards (with rare exceptions) experienced a marked gain in social power, status and group identification which made role-playing rewarding.

The most dramatic of the coping behaviour utilised by half of the prisoners in adapting to this stressful situation was the development of acute emotional disturbance—severe enough to warrant their early release. At least a third of the guards were judged to have become far more aggressive and dehumanising toward the prisoners than would ordinarily be predicted in a simulation study. Only a very few of the observed reactions to this experience of imprisonment could be attributed to personality trait differences which existed before the subjects began to play their assigned roles.

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Introduction

After he had spent four years in a Siberian prison the great Russian novelist Dostoevsky commented, surprisingly, that his time in prison had created in him a deep optimism about the ultimate future of mankind because, as he put it, if man could survive the horrors of prison life he must surely be a "creature who could withstand anything". The cruel irony which Dostoevsky overlooked is that the reality of prison bears witness not only to the resilience and adaptiveness of the men who tolerate life within its walls, but as well to the "ingenuity" and tenacity of those who devised and still maintain our correctional and reformatory systems.

Nevertheless, in the century which has passed since Dostoevsky's imprisonment, little has changed to render the main thrust of his statement less relevant. Although we have passed through periods of enlightened humanitarian reform, in which physical conditions within prisons have improved somewhat and the rhetoric of rehabilitation has replaced the language of punitive incarceration, the social institution of prison has continued to fail. On purely pragmatic grounds, there is substantial evidence that prisons in fact neither "rehabilitate" nor act as a deterrent to future crime—in America, recidivism rates upwards of 75% speak quite decisively to these criteria. And, to perpetuate what is additionally an economic failure, American taxpayers alone must provide an expenditure for "corrections" of 1.5 billion dollars annually. On humanitarian grounds as well, prisons have failed: our mass media are increasingly filled with accounts of atrocities committed daily, man against man, in reaction to the penal system or in the name of it. The experience of prison undeniably creates, almost to the point of cliché, an intense hatred and disrespect in most inmates for the authority and the established order of society into which they will eventually return. And the toll which it takes on the deterioration of human spirit for those who must administer it, as well as for those upon whom it is inflicted, is incalculable.

Attempts to provide an explanation of the deplorable condition of our penal system and its dehumanising effects upon prisoners and guards, often focus upon what might be called the *dispositional hypothesis*. While this explanation is rarely expressed explicitly, it is central to a prevalent non-conscious ideology: that the state of the social institution of prison is due to the "nature" of the people who administer it, or the "nature" of the people who populate it, or both. That is, a major contributing cause to despicable conditions, violence, brutality, dehumanisation and degradation existing within any prison can be traced to some innate or acquired characteristic of the correctional and inmate population. Thus on the one hand, there is the contention that violence and brutality exist within prison because guards are sadistic, uneducated, and insensitive people. It is the "guard mentality", a unique syndrome of negative traits which they bring into the situation, that engenders the inhumane treatment of prisoners. Or, from other quarters comes the argument that violence and brutality in prison are the logical and predictable result of the

involuntary confinement of a collective of individuals whose life histories are, by definition, characterised by disregard for law, order and social convention and a concurrent propensity for impulsiveness and aggression. Logically, it follows that these individuals, having proved themselves incapable of functioning satisfactorily within the "normal" structure of society, cannot do so either inside the structure provided by prisons. To control such men as these, the argument continues, whose basic orientation to any conflict situation is to react with physical power or deception, force must be met with force, and a certain number of violent encounters must be expected and tolerated by the public.

The dispositional hypothesis has been embraced by the proponents of the prison *status quo* (blaming conditions on the evil in the prisoners), as well as by its critics (attributing the evil to guards and staff with their evil motives and deficient personality structures). The appealing simplicity of this proposition localises the source of prison riots, recidivism and corruption in these "bad seeds" and not in the conditions of the "prison soil". Such an analysis directs attention away from the complex matrix of social, economic and political forces which combine to make prisons what they are—and which would require complex, expensive, revolutionary solutions to bring about any meaningful change. Instead, rioting prisoners are identified, punished, transferred to maximum security institutions or shot, outside agitators sought and corrupt officials suspended—while the system itself goes on essentially unchanged, its basic structure unexamined and unchallenged.

However, a critical evaluation of the dispositional hypothesis cannot be made directly through observation in existing prison settings, since such naturalistic observation necessarily confounds the acute effects of the environment with the chronic characteristics of the inmate and guard populations. To separate the effects of the prison environment *per se* from those attributable to *à priori* dispositions of its inhabitants requires a research strategy in which a "new" prison is constructed, comparable in its fundamental social-psychological milieu to existing prison systems, but entirely populated by individuals who are undifferentiated in all essential dimensions from the rest of society.

Such was the approach taken in the present empirical study, namely, to create a prison-like situation in which the guards and inmates were initially comparable and characterised as being "normal-average", and then to observe the patterns of behaviour which resulted, as well as the cognitive, emotional and attitudinal reactions which emerged. Thus, we began our experiment with a sample of individuals who did not deviate from the normal range of the general population on a variety of dimensions we were able to measure. Half were randomly assigned to the role of "prisoner", the others to that of "guard", neither group having any history of crime, emotional disability, physical handicap nor even intellectual or social disadvantage.

The environment created was that of a "mock" prison which physically constrained the prisoners in barred cells and psychologically conveyed the sense of imprisonment to all participants. Our intention was not to create a *literal*

simulation of an American prison, but rather a functional representation of one. For ethical, moral and pragmatic reasons we could not detain our subjects for extended or indefinite periods of time, we could not exercise the threat and promise of severe physical punishment, we could not allow homosexual or racist practices to flourish, nor could we duplicate certain other specific aspects of prison life. Nevertheless, we believed that we could create a situation with sufficient mundane realism to allow the role-playing participants to go beyond the superficial demands of their assignment into the deep structure of the characters they represented. To do so, we established functional equivalents for the activities and experiences of actual prison life which were expected to produce qualitatively similar psychological reactions in our subjects—feelings of power and powerlessness, of control and oppression, of satisfaction and frustration, of arbitrary rule and resistance to authority, of status and anonymity, of machismo and emasculation. In the conventional terminology of experimental social psychology, we first identified a number of relevant conceptual variables through analysis of existing prison situations, then designed a setting in which these variables were made operational. No specific hypotheses were advanced other than the general one that assignment to the treatment of “guard” or “prisoner” would result in significantly different reactions on behavioural measures of interaction, emotional measures of mood state and pathology, attitudes toward self, as well as other indices of coping and adaptation to this novel situation. What follows is the mechanics of how we created and peopled our prison, what we observed, what our subjects reported, and finally, what we can conclude about the nature of the prison environment and the experience of imprisonment which can account for the failure of our prisons.

Method

Overview

The effects of playing the role of “guard” or “prisoner” were studied in the context of an experimental simulation of a prison environment. The research design was a relatively simple one, involving as it did only a single treatment variable, the random assignment to either a “guard” or “prisoner” condition. These roles were enacted over an extended period of time (nearly one week) within an environment which was physically constructed to resemble a prison. Central to the methodology of creating and maintaining a psychological state of imprisonment was the functional simulation of significant properties of “real prison life” (established through information from former inmates, correctional personnel and texts).

The “guards” were free with certain limits to implement the procedures of induction into the prison setting and maintenance of custodial retention of the “prisoners”. These inmates, having voluntarily submitted to the conditions of this total institution in which they now lived, coped in various ways with its

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stresses and its challenges. The behaviour of both groups of subjects was observed, recorded and analysed. The dependent measures were of two general types: transactions between and within each group of subjects, recorded on video and audio tape as well as directly observed; individual reactions on questionnaires, mood inventories, personality tests, daily guard shift reports, and post experimental interviews.

Subjects

The 21 subjects who participated in the experiment were selected from an initial pool of 75 respondents, who answered a newspaper advertisement asking for male volunteers to participate in a psychological study of "prison life" in return for payment of \$15 per day. Those who responded to the notice completed an extensive questionnaire concerning their family background, physical and mental health history, prior experience and attitudinal propensities with respect to sources of psychopathology (including their involvement in crime). Each respondent who completed the background questionnaire was interviewed by one of two experimenters. Finally, the 24 subjects who were judged to be most stable (physically and mentally), most mature, and least involved in anti-social behaviour were selected to participate in the study. On a random basis, half of the subjects were assigned the role of "guard", half to the role of "prisoner".

The subjects were normal, healthy males attending colleges throughout the United States who were in the Stanford area during the summer. They were largely of middle class socio-economic status, Caucasians (with the exception of one Oriental subject). Initially they were strangers to each other, a selection precaution taken to avoid the disruption of any pre-existing friendship patterns and to mitigate against any transfer into the experimental situation of previously established relationships or patterns of behaviour.

This final sample of subjects was administered a battery of psychological tests on the day prior to the start of the simulation, but to avoid any selective bias on the part of the experimenter-observers, scores were not tabulated until the study was completed.

Two subjects who were assigned to be a "stand-by" in case an additional "prisoner" was needed were not called, and one subject assigned to be a "stand-by" guard decided against participating just before the simulation phase began—thus, our data analysis is based upon ten prisoners and eleven guards in our experimental conditions.

Procedure

Physical aspects of the prison

The prison was built in a 35-ft section of a basement corridor in the psychology building at Stanford University. It was partitioned by two fabricated walls, one of which was fitted with the only entrance door to the cell block, the other

contained a small observation screen. Three small cells (6 x 9 ft) were made from converted laboratory rooms by replacing the usual doors with steel barred, black painted ones, and removing all furniture.

A cot (with mattress, sheet and pillow) for each prisoner was the only furniture in the cells. A small closet across from the cells served as a solitary confinement facility; its dimensions were extremely small (2 x 2 x 7 ft) and it was unlit.

In addition, several rooms in an adjacent wing of the building were used as guards' quarters (to change in and out of uniform or for rest and relaxation), a bedroom for the "warden" and "superintendent", and an interview-testing room. Behind the observation screen at one end of the "yard" was video recording equipment and sufficient space for several observers.

Operational details

The "prisoner" subjects remained in the mock-prison 24 hours per day for the duration of the study. Three were arbitrarily assigned to each of the three cells; the others were on stand-by call at their homes. The "guard" subjects worked on three-man, eight-hour shifts; remaining in the prison environment only during their work shift, going about their usual lives at other times.

Role instruction

All subjects had been told that they would be assigned either the guard or the prisoner role on a completely random basis and all had voluntarily agreed to play either role for \$15.00 per day for up to two weeks. They signed a contract guaranteeing a minimally adequate diet, clothing, housing and medical care as well as the financial remuneration in return for their stated "intention" of serving in the assigned role for the duration of the study.

It was made explicit in the contract that those assigned to be prisoners should expect to be under surveillance (have little or no privacy) and to have some of their basic civil rights suspended during their imprisonment, excluding physical abuse. They were given no other information about what to expect nor instructions about behaviour appropriate for a prisoner role. Those actually assigned to this treatment were informed by phone to be available at their place of residence on a given Sunday when we would start the experiment.

The subjects assigned to be guards attended an orientation meeting on the day prior to the induction of the prisoners. At this time they were introduced to the principal investigators, the "Superintendent" of the prison (P.G.Z.) and an undergraduate research assistant who assumed the administrative role of "Warden". They were told that we wanted to try to simulate a prison environment within the limits imposed by pragmatic and ethical considerations. Their assigned task was to "maintain the reasonable degree of order within the prison necessary for its effective functioning", although the specifics of how this

duty might be implemented were not explicitly detailed. They were made aware of the fact that while many of the contingencies with which they might be confronted were essentially unpredictable (e.g. prisoner escape attempts), part of their task was to be prepared for such eventualities and to be able to deal appropriately with the variety of situations that might arise. The "Warden" instructed the guards in the administrative details, including: the work-shifts, the mandatory daily completion of shift reports concerning the activity of guards and prisoners, the completion of "critical incident" reports which detailed unusual occurrences and the administration of meals, work and recreation programmes for the prisoners. In order to begin to involve these subjects in their roles even before the first prisoner was incarcerated, the guards assisted in the final phases of completing the prison complex—putting the cots in the cells, signs on the walls, setting up the guards' quarters, moving furniture, water coolers, refrigerators, etc.

The guards generally believed that we were primarily interested in studying the behaviour of the prisoners. Of course, we were equally interested in the effect which enacting the role of guard in this environment would have on their behaviour and subjective states.

To optimise the extent to which their behaviour would reflect their genuine reactions to the experimental prison situation and not simply their ability to follow instructions, they were intentionally given only minimal guidelines for what it meant to be a guard. An explicit and categorical prohibition against the use of physical punishment or physical aggression was, however, emphasised by the experimenters. Thus, with this single notable exception, their roles were relatively unstructured initially, requiring each "guard" to carry out activities necessary for interacting with a group of "prisoners" as well as with other "guards" and the "correctional staff".

Uniform

In order to promote feelings of anonymity in the subjects each group was issued identical uniforms. For the guards, the uniform consisted of: plain khaki shirts and trousers, a whistle, a police night stick (wooden batons) and reflecting sunglasses which made eye contact impossible. The prisoners' uniform consisted of loosely fitting muslin smocks with an identification number on front and back. No underclothes were worn beneath these "dresses". A chain and lock were placed around one ankle. On their feet they wore rubber sandals and their hair was covered with a nylon stocking made into a cap. Each prisoner was also issued a toothbrush, soap, soapdish, towel and bed linen. No personal belongings were allowed in the cells.

The outfitting of both prisoners and guards in this manner served to enhance group identity and reduce individual uniqueness within the two groups. The khaki uniforms were intended to convey a military attitude, while the whistle and night-stick were carried as symbols of control and power. The prisoners'

uniforms were designed not only to deindividuate the prisoners but to be humiliating and serve as symbols of their dependence and subservience. The ankle chain was a constant reminder (even during their sleep when it hit the other ankle) of the oppressiveness of the environment. The stocking cap removed any distinctiveness associated with hair length, colour or style (as does shaving of heads in some "real" prisons and the military). The ill-fitting uniforms made the prisoners feel awkward in their movements; since these dresses were worn without undergarments, the uniforms forced them to assume unfamiliar postures, more like those of a woman than a man—another part of the emasculating process of becoming a prisoner.

Induction procedure

With the cooperation of Palo Alto City Police Department all of the subjects assigned to the prisoner treatment were unexpectedly "arrested" at their residences. A police officer charged them with suspicion of burglary or armed robbery, advised them of their legal rights, handcuffed them, thoroughly searched them (often as curious neighbours looked on) and carried them off to the police station in the rear of the police car. At the station they went through the standard routines of being fingerprinted, having an identification file prepared and then being placed in a detention cell. Each prisoner was blindfolded and subsequently driven by one of the experimenters and a subject-guard to our mock prison. Throughout the entire arrest procedure, the police officers involved maintained a formal, serious attitude, avoiding answering any questions of clarification as to the relation of this "arrest" to the mock prison study.

Upon arrival at our experimental prison, each prisoner was stripped, sprayed with a delousing preparation (a deodorant spray) and made to stand alone naked for a while in the cell yard. After being given the uniform described previously and having an I.D. picture taken ("mug shot"), the prisoner was put in his cell and ordered to remain silent.

Administrative routine

When all the cells were occupied, the warden greeted the prisoners and read them the rules of the institution (developed by the guards and the warden). They were to be memorised and to be followed. Prisoners were to be referred to only by the number on their uniforms, also in an effort to depersonalise them.

The prisoners were to be served three bland meals per day, were allowed three supervised toilet visits, and given two hours daily for the privilege of reading or letterwriting. Work assignments were issued for which the prisoners were to receive an hourly wage to constitute their \$15 daily payment. Two visiting periods per week were scheduled, as were movie rights and exercise periods. Three times a day all prisoners were lined up for a "count" (one on each guard

work-shift). The initial purpose of the "count" was to ascertain that all prisoners were present, and to test them on their knowledge of the rules and their I.D. numbers. The first perfunctory counts lasted only about 10 minutes, but on each successive day (or night) they were spontaneously increased in duration until some lasted several hours. Many of the pre-established features of administrative routine were modified or abandoned by the guards, and some were forgotten by the staff over the course of the study.

Data collection (dependent measures)

The exploratory nature of this investigation and the absence of specific hypotheses led us to adopt the strategy of surveying as many as possible behavioural and psychological manifestations of the prison experience on the guards and the prisoners. In fact, one major methodological problem in a study of this kind is defining the limits of the "data", since relevant data emerged from virtually every interaction between any of the participants, as well as from subjective and behavioural reactions of individual prisoners, guards, the warden, superintendent, research assistants and visitors to the prison. It will also be clear when the results are presented that causal direction cannot always be established in the patterns of interaction where any given behaviour might be the consequence of a current or prior instigation by another subject and, in turn, might serve as impetus for eliciting reactions from others.

Data collection was organised around the following sources:

(1) *Videotaping.* About 12 hours of recordings were made of daily, regularly occurring events, such as the counts and meals, as well as unusual interactions, such as a prisoner rebellion, visits from a priest, a lawyer and parents, Parole Board meetings and others. Concealed video equipment recorded these events through a screen in the partition at one end of the cell-block yard or in a conference room (for parole meetings).

(2) *Audio recording.* Over 30 hours of recordings were made of verbal interactions between guards and prisoners on the prison yard. Concealed microphones picked up all conversation taking place in the yard as well as some within the cells. Other concealed recordings were made in the testing-interview room on selected occasions—interactions between the warden, superintendent and the prisoners' Grievance Committee, parents, other visitors and prisoners released early. In addition, each subject was interviewed by one of the experimenters (or by other research associates) during the study, and most just prior to its termination.

(3) *Rating scales.* Mood adjective checklists and sociometric measures were administered on several occasions to assess emotional changes in affective state and interpersonal dynamics among the guard and prisoner groups.

(4) *Individual difference scales.* One day prior to the start of the simulation all subjects completed a series of paper and pencil personality tests. These tests

were selected to provide dispositional indicators of interpersonal behaviour styles—the *F* scale of Authoritarian Personality [1], and the Machiavellianism Scale [2]—as well as areas of possible personality pathology through the newly developed Comrey Personality Scale [3]. The subscales of this latter test consist of:

- (a) trustworthiness
- (b) orderliness
- (c) conformity
- (d) activity
- (e) stability
- (f) extroversion
- (g) masculinity
- (h) empathy

(5) *Personal observations.* The guards made daily reports of their observations after each shift, the experimenters kept informal diaries and all subjects completed post-experimental questionnaires of their reactions to the experience about a month after the study was over.

Data analyses presented problems of several kinds. First, some of the data was subject to possible errors due to selective sampling. The video and audio recordings tended to be focussed upon the more interesting, dramatic events which occurred. Over time, the experimenters became more personally involved in the transaction and were not as distant and objective as they should have been. Second, there are not complete data on all subjects for each measure because of prisoners being released at different times and because of unexpected disruptions, conflicts and administrative problems. Finally, we have a relatively small sample on which to make cross-tabulations by possible independent and individual difference variables.

However, despite these shortcomings some of the overall effects in the data are powerful enough to reveal clear, reliable results. Also some of the more subtle analyses were able to yield statistically significant results even with the small sample size. Most crucial for the conclusions generated by this exploratory study is the consistency in the pattern of relationships which emerge across a wide range of measuring instruments and different observers. Special analyses were required only of the video and audio material, the other data sources were analysed following established scoring procedures.

Video analysis

There were 25 relatively discrete incidents identifiable on the tapes of prisoner-guard interactions. Each incident or scene was scored for the presence of nine behavioural (and verbal) categories. Two judges who had not been involved with the simulation study scored these tapes. These categories were defined as follows:

Question. All questions asked, requests for information or assistance (excluding rhetorical questions).

Command. An order to commence or abstain from a specific behaviour, directed either to individuals or groups. Also generalised orders, e.g. "Settle down".

Information. A specific piece of information proffered by anyone whether requested or not, dealing with any contingency of the simulation.

Individuating reference. Positive: use of a person's real name, nickname or allusion to special positive physical characteristics. Negative: use of prison number, title, generalised "you" or reference to derogatory characteristic.

Threat. Verbal statement of contingent negative consequences of a wide variety, e.g. no meal, long count, pushups, lock-up in hole, no visitors, etc.

Deprecation insult. Use of obscenity, slander, malicious statement directed toward individual or group, e.g. "You lead a life of mendacity" or "You guys are really stupid."

Resistance. Any physical resistance, usually prisoners to guards, such as holding on to beds, blocking doors, shoving guard or prisoner, taking off stocking caps, refusing to carry out orders.

Help. Person physically assisting another (i.e. excludes verbal statements of support), e.g. guard helping another to open door, prisoner helping another prisoner in cleanup duties.

Use of instruments. Use of any physical instrument to either intimidate, threaten, or achieve specific end, e.g. fire extinguisher, batons, whistles.

Audio analysis

For purposes of classifying the verbal behaviour recorded from interviews with guards and prisoners, eleven categories were devised. Each statement made by the interviewee was assigned to the appropriate category by judges. At the end of this process for any given interview analysis, a list had been compiled of the nature and frequencies of the interviewee's discourse. The eleven categories for assignment of verbal expressions were:

Questions. All questions asked, requests for information or assistance (excluding rhetorical questions).

Informative statements. A specific piece of information proffered by anyone whether requested or not, dealing with any contingency of the simulation.

Demands. Declarative statements of need or imperative requests.

Requests. Deferential statements for material or personal consideration.

Commands. Orders to commence or abstain from a specific behaviour, directed either to individuals or groups.

Outlook, positive/negative. Expressions of expectancies for future experiences or future events; either negative or positive in tone, e.g. "I don't think I can make it" v. "I believe I will feel better."

Criticism. Expressions of critical evaluation concerning other subjects, the experimenters or the experiment itself.

Statements of identifying reference, deindividuating/individuating. Statements wherein a subject makes some reference to another subject specifically by allusion to given name or distinctive characteristics (individuating reference), or by allusion to non-specific identity or institutional number (deindividuating reference).

Desire to continue. Any expression of a subject's wish to continue or to curtail participation in the experiment.

Self-evaluation, positive/negative. Statements of self-esteem or self-degradation, e.g. "I feel pretty good about the way I've adjusted" v. "I hate myself for being so oppressive."

Action intentions, positive/negative including "intent to aggress". Statements concerning interviewees' intentions to do something in the future, either of a positive, constructive nature or a negative, destructive nature, e.g. "I'm not going to be so mean from now on" v. "I'll break the door down."

Results

Overview

Although it is difficult to anticipate exactly what the influence of incarceration will be upon the individuals who are subjected to it and those charged with its maintenance (especially in a simulated reproduction), the results of the present experiment support many commonly held conceptions of prison life and validate anecdotal evidence supplied by articulate ex-convicts. The environment of arbitrary custody had great impact upon the affective states of both guards and prisoners as well as upon the interpersonal processes taking place between and within those role-groups.

In general, guards and prisoners showed a marked tendency toward increased negativity of affect and their overall outlook became increasingly negative. As the experiment progressed, prisoners expressed intentions to do harm to others more frequently. For both prisoners and guards, self-evaluations were more deprecating as the experience of the prison environment became internalised.

Overt behaviour was generally consistent with the subjective self-reports and affective expressions of the subjects. Despite the fact that guards and prisoners were essentially free to engage in any form of interaction (positive or negative, supportive or affrontive, etc.), the characteristic nature of their encounters tended to be negative, hostile, affrontive and dehumanising. Prisoners immediately adopted a generally passive response mode while guards assumed a very active initiating role in all interactions. Throughout the experiment, commands were the most frequent form of verbal behaviour and, generally, verbal exchanges were strikingly impersonal, with few references to individual identity. Although it was clear to all subjects that the experimenters would not

permit physical violence to take place, varieties of less direct aggressive behaviour were observed frequently (especially on the part of guards). In lieu of physical violence, verbal affronts were used as one of the most frequent forms of interpersonal contact between guards and prisoners.

The most dramatic evidence of the impact of this situation upon the participants was seen in the gross reactions of five prisoners who had to be released because of extreme emotional depression, crying, rage and acute anxiety. The pattern of symptoms was quite similar in four of the subjects and began as early as the second day of imprisonment. The fifth subject was released after being treated for a psychosomatic rash which covered portions of his body. Of the remaining prisoners, only two said they were not willing to forfeit the money they had earned in return for being "paroled". When the experiment was terminated prematurely after only six days, all the remaining prisoners were delighted by their unexpected good fortune. In contrast, most of the guards seemed to be distressed by the decision to stop the experiment and it appeared to us that had become sufficiently involved in their roles so that they now enjoyed the extreme control and power which they exercised and were reluctant to give it up. One guard did report being personally upset at the suffering of the prisoners and claimed to have considered asking to change his role to become one of them—but never did so. None of the guards ever failed to come to work on time for their shift, and indeed, on several occasions guards remained on duty voluntarily and uncomplaining for extra hours—without additional pay.

The extremely pathological reactions which emerged in both groups of subjects testify to the power of the social forces operating, but still there were individual differences seen in styles of coping with this novel experience and in degrees of successful adaptation to it. Half the prisoners did endure the oppressive atmosphere, and not all the guards resorted to hostility. Some guards were tough but fair ("played by the rules"), some went far beyond their roles to engage in creative cruelty and harassment, while a few were passive and rarely instigated any coercive control over the prisoners.

These differential reactions to the experience of imprisonment were not suggested by or predictable from the self-report measures of personality and attitude or the interviews taken before the experiment began. The standardised tests employed indicated that a perfectly normal emotionally stable sample of subjects had been selected. In those few instances where differential test scores do discriminate between subjects, there is an opportunity to, partially at least, discern some of the personality variables which may be critical in the adaptation to and tolerance of prison confinement.

Initial personality and attitude measures

Overall, it is apparent that initial personality-attitude dispositions account for an extremely small part of the variation in reactions to this mock prison experience. However, in a few select instances, such dispositions do seem to be correlated with the prisoners' ability to adjust to the experimental prison environment.

Comrey scale

The Comrey Personality Inventory [3] was the primary personality scale administered to both guards and prisoners. The mean scores for prisoners and guards on the eight sub-scales of the test are shown in Table 1. No differences between prisoner and guard mean scores on any scale even approach statistical significance. Furthermore, in no case does any group mean fall outside of the 40 to 60 centile range of the normative male population reported by Comrey.

Table 1. Mean scores for prisoners and guards on eight Comrey subscales

Scale	Prisoners	Guards
Trustworthiness—high score indicates belief in the basic honesty and good intentions of others	$\bar{X} = 92.56$	$\bar{X} = 89.64$
Orderliness—extent to which person is meticulous and concerned with neatness and orderliness	$\bar{X} = 75.67$	$\bar{X} = 73.82$
Conformity—indicates belief in law enforcement, acceptance of society as it is, resentment of nonconformity in others	$\bar{X} = 65.67$	$\bar{X} = 63.18$
Activity—liking for physical activity, hard work, and exercise	$\bar{X} = 89.78$	$\bar{X} = 91.73$
Stability—high score indicates calm, optimistic, stable, confident individual	$\bar{X} = 98.33$	$\bar{X} = 101.45$
Extroversion—suggests outgoing, easy to meet person	$\bar{X} = 83.22$	$\bar{X} = 81.91$
Masculinity—"people who are not bothered by crawling creatures, the sight of blood, vulgarity, who do not cry easily and are not interested in love stories"	$\bar{X} = 88.44$	$\bar{X} = 87.00$
Empathy—high score indicates individuals who are sympathetic, helpful, generous and interested in devoting their lives to the service of others	$\bar{X} = 91.78$	$\bar{X} = 95.36$

Table 2. Mean scores for "Remaining" v. "Early released" prisoners on Comrey subscales

Scale	Remaining prisoners	Early released prisoners	Mean difference
Trustworthiness	93.4	90.8	+2.6
Orderliness	76.6	78.0	-1.4
Conformity	67.2	59.4	+7.8
Activity	91.4	86.8	+4.6
Stability	99.2	99.6	-0.4
Extroversion	98.4	76.2	+22.2
Masculinity	91.6	86.0	+5.6
Empathy	103.8	85.6	+17.2

Table 2 shows the mean scores on the Comrey sub-scales for prisoners who remained compared with prisoners who were released early due to severe emotional reactions to the environment. Although none of the comparisons achieved statistical significance, three seemed at least suggestive as possible discriminators of those who were able to tolerate this type of confinement and those who were not. Compared with those who had to be released, prisoners who remained in prison until the termination of the study: scored higher on conformity ("acceptance of society as it is"), showed substantially higher average scores on Comrey's measure of extroversion and also scored higher on a scale of empathy (helpfulness, sympathy and generosity).

F-Scale

The *F*-scale is designed to measure rigid adherence to conventional values and a submissive, uncritical attitude towards authority. There was no difference between the mean score for prisoners (4.78) and the mean score for guards (4.36) on this scale.

Again, comparing those prisoners who remained with those who were released early, we notice an interesting trend. This intra-group comparison shows remaining prisoners scoring more than twice as high on conventionality and authoritarianism ($\bar{X} = 7.78$) than those prisoners released early ($\bar{X} = 3.20$). While the difference between these means fails to reach acceptable levels of significance, it is striking to note that a rank-ordering of prisoners on the *F*-scale correlates highly with the duration of their stay in the experiment ($r_s = 0.898$, $P < 0.005$). To the extent that a prisoner was high in rigidity, in adherence to conventional values, and in the acceptance of authority, he was likely to remain longer and adjust more effectively to this authoritarian prison environment.

Machiavellianism

There were no significant mean differences found between guards ($\bar{X} = 7.73$) and prisoners ($\bar{X} = 8.77$) on this measure of effective interpersonal manipulation. In addition, the Mach Scale was of no help in predicting the likelihood that a prisoner would tolerate the prison situation and remain in the study until its termination.

This latter finding, the lack of any mean differences between prisoners who remained *v.* those who were released from the study, is somewhat surprising since one might expect the Hi Mach's skill at manipulating social interaction and mediating favourable outcomes for himself might be acutely relevant to the simulated prison environment. Indeed, the two prisoners who scored highest on the Machiavellianism scale were also among those adjudged by the experimenters to have made unusually effective adaptations to their confinement. Yet, paradoxically (and this may give the reader some feeling for the anomalies we encountered in attempting to predict in-prison behaviour from personality

measures), the other two prisoners whom we categorised as having effectively adjusted to confinement actually obtained the lowest Mach scores of any prisoners.

Video recordings

An analysis of the video recordings indicates a preponderance of genuinely negative interactions, i.e. physical aggression, threats, deprecations, etc. It is also clear that any assertive activity was largely the prerogative of the guards, while prisoners generally assumed a relatively passive demeanour. Guards more often aggressed, more often insulted, more often threatened. Prisoners, when they reacted at all, engaged primarily in resistance to these guard behaviours.

For guards, the most frequent verbal behaviour was the giving of commands and their most frequent form of physical behaviour was aggression. The most frequent form of prisoners' verbal behaviour was question-asking, their most frequent form of physical behaviour was resistance. On the other hand, the most infrequent behaviour engaged in overall throughout the experiment was "helping"—only one such incident was noted from all the video recording collected. That solitary sign of human concern for a fellow occurred between two prisoners.

Although question-asking was the most frequent form of verbal behaviour for the prisoners, guards actually asked questions more frequently overall than did prisoners (but not significantly so). This is reflective of the fact that the overall level of behaviour emitted was much higher for the guards than for the prisoners. All of those verbal acts categorised as commands were engaged in by guards. Obviously, prisoners had no opportunity to give commands at all, that behaviour becoming the exclusive "right" of guards.

Of a total 61 incidents of direct interpersonal reference observed (incidents in which one subject spoke directly to another with the use of some identifying reference, i.e. "Hey, Peter"; "you there", etc.), 58 involved the use of some deindividuating rather than some individuating form of reference. (Recall that we characterised this distinction as follows: an individuating reference involved the use of a person's actual name, nickname or allusion to special physical characteristics, whereas a deindividuating reference involved the use of a prison number, or a generalised "you"—thus being a very depersonalising form of reference.) Since all subjects were at liberty to refer to one another in either mode, it is significant that such a large proportion of the references noted involved were in the deindividuating mode ($Z = 6.9, P < 0.01$). Deindividuating references were made more often by guards in speaking to prisoners than the reverse ($Z = 3.67, P < 0.01$). (This finding, as all prisoner-guard comparisons for specific categories, may be somewhat confounded by the fact that guards apparently enjoyed a greater freedom to initiate verbal as well as other forms of behaviour. Note, however, that the existence of this greater "freedom" on the part of the guards is itself an empirical finding since it was not prescribed

à priori.) It is of additional interest to point out that in the only three cases in which verbal exchange involved some individuating reference, it was prisoners who personalised guards.

A total of 32 incidents were observed which involved a verbal threat spoken by one subject to another. Of these, 27 such incidents involved a guard threatening a prisoner. Again, the indulgence of guards in this form of behaviour was significantly greater than the indulgence of prisoners, the observed frequencies deviating significantly from an equal distribution of threats across both groups ($Z = 3.88, P < 0.01$).

Guards more often deprecated and insulted prisoners than prisoners did of guards. Of a total of 67 observed incidents, the deprecation-insult was expressed disproportionately by guards to prisoners 61 times; ($Z = 6.72, P < 0.01$).

Physical resistance was observed 34 different times. Of these, 32 incidents involved resistance by a prisoner. Thus, as we might expect, at least in this reactive behaviour domain, prisoner responses far exceeded those of the guards ($Z = 5.14, P < 0.01$).

The use of some object or instrument in the achievement of an intended purpose or in some interpersonal interaction was observed 29 times. Twenty-three such incidents involved the use of an instrument by a guard rather than a prisoner. This disproportionate frequency is significantly variant from an equal random use by both prisoners and guards ($Z = 3.16, P < 0.01$).

Over time, from day to day, guards were observed to generally escalate their harassment of the prisoners. In particular, a comparison of two of the first prisoner-guard interactions (during the counts) with two of the last counts in the experiment yielded significant differences in: the use of deindividuating references per unit time ($\bar{X}_{t_1} = 0.0$ and $\bar{X}_{t_2} = 5.40$, respectively; $t = 3.65, P < 0.10$); the incidence of deprecation-insult per unit time ($\bar{X}_{t_1} = 0.3$ and $\bar{X}_{t_2} = 5.70$, respectively; $t = 3.16, P < 0.10$). On the other hand, a temporal analysis of the prisoner video data indicated a general decrease across all categories over time: prisoners came to initiate acts far less frequently and responded (if at all) more passively to the acts of others—they simply *behaved less*.

Although the harassment by the guards escalated overall as the experiment wore on, there was some variation in the extent to which the three different guard shifts contributed to the harassment in general. With the exception of the 2.30 a.m. count, prisoners enjoyed some respite during the late night guard shift (10.00 p.m. to 6.00 a.m.). But they really were "under the gun" during the evening shift. This was obvious in our observations and in subsequent interviews with the prisoners and was also confirmed in analysis of the video taped interactions. Comparing the three different guard shifts, the evening shift was significantly different from the other two in resorting to commands; the means being 9.30 and 4.04, respectively, for standardised units of time ($t = 2.50, P < 0.05$). In addition, the guards on this "tough and cruel" shift showed more than twice as many deprecation-insults toward the prisoners (means of 5.17 and

2.29, respectively, $P < 0.20$). They also tended to use instruments more often than other shifts to keep the prisoners in line.

Audio recordings

The audio recordings made throughout the prison simulation afforded one opportunity to systematically collect self-report data from prisoners and guards regarding (among other things) their emotional reactions, their outlook, and their interpersonal evaluations and activities within the experimental setting. Recorded interviews with both prisoners and guards offered evidence that: guards tended to express nearly as much negative outlook and negative self-regard as most prisoners (one concerned guard, in fact, expressed more negative self-regard than any prisoner and more general negative affect than all but one of the prisoners); prisoner interviews were marked by negativity in expressions of affect, self-regard and action intentions (including intent to aggress and negative outlook).

Analysis of the prisoner interviews also gave *post hoc* support to our informal impressions and subjective decisions concerning the differential emotional effects of the experiment upon those prisoners who remained and those who were released early from the study. A comparison of the mean number of expressions of negative outlook, negative affect, negative self-regard and intentions to aggress made by remaining *v.* released prisoners (per interview) yielded the following results: prisoners released early expressed more negative expectations during interviews than those who remained ($t = 2.32$, $P < 0.10$) and also more negative affect ($t = 2.17$, $P < 0.10$); prisoners released early expressed more negative self-regard, and four times as many "intentions to aggress" as prisoners who remained (although those comparisons fail to reach an acceptable level of significance).

Since we could video-record only public interactions on the "yard", it was of special interest to discover what was occurring among prisoners in private. What were they talking about in the cells—their college life, their vocation, girl friends, what they would do for the remainder of the summer once the experiment was over. We were surprised to discover that fully 90% of all conversations among prisoners were related to prison topics, while only 10% to non-prison topics such as the above. They were most concerned about food, guard harassment, setting up a grievance committee, escape plans, visitors, reactions of prisoners in the other cells and in solitary. Thus, in their private conversations when they might escape the roles they were playing in public, they did not. There was no discontinuity between their presentation of self when under surveillance and when alone.

Even more remarkable was the discovery that the prisoners had begun to adopt and accept the guards' negative attitude toward them. Half of all reported private interactions between prisoners could be classified as non-supportive and non-cooperative. Moreover, when prisoners made evaluative statements of or

expressed regard for, their fellow prisoners, 85% of the time they were uncomplimentary and deprecating. This set of observed frequencies departs significantly from chance expectations based on a conservative binomial probability frequency ($P < 0.01$ for prison *v.* non-prison topics; $P < 0.05$ for negative *v.* positive or neutral regard).

Mood adjective self-reports

Twice during the progress of the experiment each subject was asked to complete a mood adjective checklist and indicate his current affective state. The data gleaned from these self-reports did not lend themselves readily to statistical analysis. However, the trends suggested by simple enumeration are important enough to be included without reference to statistical significance. In these written self-reports, prisoners expressed nearly three times as much negative as positive affect. Prisoners roughly expressed three times as much negative affect as guards. Guards expressed slightly more negative than positive affect. While prisoners expressed about twice as much emotionality as did guards, a comparison of mood self-reports over time reveals that the prisoners showed two to three times as much mood fluctuation as did the relatively stable guards. On the dimension of activity-passivity, prisoners tended to score twice as high, indicating twice as much internal "agitation" as guards (although, as stated above, prisoners were seen to be markedly less active than guards in terms of overt behaviour).

It would seem from these results that while the experience had a categorically negative emotional impact upon both guards and prisoners, the effects upon prisoners were more profound and unstable.

When the mood scales were administered for a third time, just after the subjects were told the study had been terminated (and the early released subjects returned for the debriefing encounter session), marked changes in mood were evident. All of the now "ex-convicts" selected self-descriptive adjectives which characterised their mood as less negative and much more positive. In addition, they now felt less passive than before. There were no longer any differences on the sub-scales of this test between prisoners released early and those who remained throughout. Both groups of subjects had returned to their pre-experimental baselines of emotional responding. This seems to reflect the situational specificity of the depression and stress reactions experienced while in the role of prisoner.

Representative personal statements

Much of the flavour and impact of this prison experience is unavoidably lost in the relatively formal, objective analyses outlined in this paper. The following quotations taken from interviews, conversations and questionnaires provide a more personal view of what it was like to be a prisoner or guard in the "Stanford County Prison" experiment.

Guards

"They [the prisoners] seemed to lose touch with the reality of the experiment—they took me so seriously."

"... I didn't interfere with any of the guards' actions. Usually if what they were doing bothered me, I would walk out and take another duty."

"... looking back, I am impressed by how little I felt for them ..."

"... They [the prisoners] didn't see it as an experiment. It was real and they were fighting to keep their identity. But we were always there to show them just who was boss."

"... I was tired of seeing the prisoners in their rags and smelling the strong odours of their bodies that filled the cells. I watched them tear at each other, on orders given by us."

"... Acting authoritatively can be fun. Power can be a great pleasure."

"... During the inspection, I went to cell 2 to mess up a bed which the prisoner had made and he grabbed me, screaming that he had just made it, and he wasn't going to let me mess it up. He grabbed my throat, and although he was laughing I was pretty scared. I lashed out with my stick and hit him in the chin (although not very hard) and when I freed myself I became angry."

Prisoners

"... The way we were made to degrade ourselves really brought us down and that's why we all sat docile towards the end of the experiment."

"... I realise now (after it's over) that no matter how together I thought I was inside my head, my prison behaviour was often less under my control than I realised. No matter how open, friendly and helpful I was with other prisoners I was still operating as an isolated, self-centred person, being rational rather than compassionate."

"... I began to feel I was losing my identity, that the person I call _____, the person who volunteered to get me into this prison (because it was a prison to me, it *still* is a prison to me, I don't regard it as an experiment or a simulation ...) was distant from me, was remote until finally I wasn't *that* person, I was 416. I was really my number and 416 was really going to have to decide what to do."

"I learned that people can easily forget that others are human."

Debriefing encounter sessions

Because of the unexpectedly intense reactions (such as the above) generated by this mock-prison experience, we decided to terminate the study at the end of six days rather than continue for the second week. Three separate encounter sessions were held, first, for the prisoners, then for the guards and finally for all participants together. Subjects and staff openly discussed their reactions and strong feelings were expressed and shared. We analysed the moral conflicts posed by this experience and used the debriefing sessions to make explicit alternative courses of action that would lead to more moral behaviour in future comparable situations.

Follow-ups on each subject over the year following termination of the study revealed the negative effects of participation had been temporary, while the personal gain to the subjects endured.

Conclusions and Discussion

It should be apparent that the elaborate procedures (and staging) employed by the experimenters to insure a high degree of mundane realism in this mock prison contributed to its effective functional simulation of the psychological dynamics operating in "real" prisons. We observed empirical relationships in the simulated prison environment which were strikingly isomorphic to the internal relations of real prisons, corroborating many of the documented reports of what occurs behind prison walls.

The conferring of differential power on the status of "guard" and "prisoner" constituted, in effect, the institutional validation of those roles. But further, many of the subjects ceased distinguishing between prison role and their prior self-identities. When this occurred, within what was a surprisingly short period of time, we witnessed a sample of normal, healthy American college students fractionate into a group of prison guards who seemed to derive pleasure from insulting, threatening, humiliating and dehumanising their peers—those who by chance selection had been assigned to the "prisoner" role. The typical prisoner syndrome was one of passivity, dependency, depression, helplessness and self-deprecation. Prisoner participation in the social reality which the guards had structured for them lent increasing validity to it and, as the prisoners became resigned to their treatment over time, many acted in ways to justify their fate at the hands of the guards, adopting attitudes and behaviour which helped to sanction their victimisation. Most dramatic and distressing to us was the observation of the ease with which sadistic behaviour could be elicited in individuals who were not "sadistic types" and the frequency with which acute emotional breakdowns could occur in men selected precisely for their emotional stability.

Situational v. dispositional attribution

To what can we attribute these deviant behaviour patterns? If these reactions had been observed within the confines of an existing penal institution, it is probable that a dispositional hypothesis would be invoked as an explanation. Some cruel guards might be singled out as sadistic or passive-aggressive personality types who chose to work in a correctional institution because of the outlets provided for sanctioned aggression. Aberrant reactions on the part of the inmate population would likewise be viewed as an extrapolation from the prior social histories of these men as violent, anti-social, psychopathic, unstable character types.

Existing penal institutions may be viewed as *natural experiments* in social control in which any attempts at providing a causal attribution for observed behaviour hopelessly confound dispositional and situational causes. In contrast, the design of our study minimised the utility of trait or prior social history explanations by means of judicious subject selection and random assignment to roles. Considerable effort and care went into determining the composition of the

final subject population from which our guards and prisoners were drawn. Through case histories, personal interviews and a battery of personality tests, the subjects chosen to participate manifested no apparent abnormalities, anti-social tendencies or social backgrounds which were other than exemplary. On every one of the scores of the diagnostic tests each subject scored within the normal-average range. Our subjects then, were highly representative of middle-class, Caucasian American society (17 to 30 years in age), although above average in both intelligence and emotional stability.

Nevertheless, in less than one week their *behaviour* in this simulated prison could be characterised as pathological and anti-social. The negative, anti-social reactions observed were not the product of an environment created by combining a collection of deviant personalities, but rather, the result of an intrinsically pathological situation which could distort and rechannel the behaviour of essentially normal individuals. The abnormality here resided in the psychological nature of the situation and not in those who passed through it. Thus, we offer another instance in support of Mischel's [4] social-learning analysis of the power of situational variables to shape complex social behaviour. Our results are also congruent with those of Milgram [5] who most convincingly demonstrated the proposition that evil acts are not necessarily the deeds of evil men, but may be attributable to the operation of powerful social forces. Our findings go one step further, however, in removing the immediate presence of the dominant experimenter-authority figure, giving the subjects-as-guards a freer range of behavioural alternatives, and involving the participants for a much more extended period of time.

Despite the evidence favouring a situational causal analysis in this experiment, it should be clear that the research design actually *minimised* the effects of individual differences by use of a homogenous middle-range subject population. It did not allow the strongest possible test of the relative utility of the two types of explanation. We cannot say that personality differences do not have an important effect on behaviour in situations such as the one reported here. Rather, we may assert that the variance in behaviour observed could be reliably attributed to variations in situational rather than personality variables. The inherently pathological characteristics of the prison situation itself, at least as functionally simulated in our study, were a *sufficient* condition to produce aberrant, anti-social behaviour. (An alternative design which would maximise the potential operation of personality or dispositional variables would assign subjects who were extreme on pre-selected personality dimensions to each of the two experimental treatments. Such a design would, however, require a larger subject population and more resources than we had available.)

The failure of personality assessment variables to reliably discriminate the various patterns of prison behaviour, guard reactions as well as prisoner coping styles is reminiscent of the inability of personality tests to contribute to an understanding of the psychological differences between American P.O.W.s in Korea who succumbed to alleged Chinese Communist brain-washing by

"collaborating with the enemy" and those who resisted [6]. It seems to us that there is little reason to expect paper-and-pencil behavioural reactions on personality tests taken under "normal" conditions to generalise into coping behaviours under novel, stressful or abnormal environmental conditions. It may be that the best predictor of behaviour in situations of stress and power, as occurs in prisons, is overt behaviour in functionally comparable simulated environments.

In the situation of imprisonment faced by our subjects, despite the potent situational control, individual differences were nevertheless manifested both in coping styles among the prisoners and in the extent and type of aggression and exercise of power among the guards. Personality variables, conceived as learned behaviour styles can act as moderator variables in allaying or intensifying the impact of social situational variables. Their predictive utility depends upon acknowledging the inter-active relationship of such learned dispositional tendencies with the eliciting force of the situational variables.

Reality of the simulation

At this point it seems necessary to confront the critical question of "reality" in the simulated prison environment: were the behaviours observed more than the mere acting out assigned roles convincingly? To be sure, ethical, legal and practical considerations set limits upon the degree to which this situation could approach the conditions existing in actual prisons and penitentiaries. Necessarily absent were some of the most salient aspects of prison life reported by criminologists and documented in the writing of prisoners [7, 8]. There was no involuntary homosexuality, no racism, no physical beatings, no threat to life by prisoners against each other or the guards. Moreover, the maximum anticipated "sentence" was only two weeks and, unlike some prison systems, could not be extended indefinitely for infractions of the internal operating rules of the prison.

In one sense, the profound psychological effects we observed under the relatively minimal prison-like conditions which existed in our mock prison make the results even more significant and force us to wonder about the devastating impact of chronic incarceration in real prisons. Nevertheless, we must contend with the criticism that the conditions which prevailed in the mock prison were too minimal to provide a meaningful analogue to existing prisons. It is necessary to demonstrate that the participants in this experiment transcended the conscious limits of their preconceived stereotyped roles and their awareness of the artificiality and limited duration of imprisonment. We feel there is abundant evidence that virtually all of the subjects at one time or another experienced reactions which went well beyond the surface demands of role-playing and penetrated the deep structure of the psychology of imprisonment.

Although instructions about how to behave in the roles of guard or prisoner were not explicitly defined, demand characteristics in the experiment obviously exerted some directing influence. Therefore, it is enlightening to look to

circumstances where role demands were minimal, where the subjects believed they were not being observed, or where they should not have been behaving under the constraints imposed by their roles (as in "private" situations), in order to assess whether the role behaviours reflected anything more than public conformity or good acting.

When the private conversations of the prisoners were monitored, we learned that almost all (a full 90%) of what they talked about was directly related to immediate prison conditions, that is, food, privileges, punishment, guard harassment, etc. Only one-tenth of the time did their conversations deal with their life outside the prison. Consequently, although they had lived together under such intense conditions, the prisoners knew surprisingly little about each other's past history or future plans. This excessive concentration on the vicissitudes of their current situation helped to make the prison experience more oppressive for the prisoners because, instead of escaping from it when they had a chance to do so in the privacy of their cells, the prisoners continued to allow it to dominate their thoughts and social relations. The guards too, rarely exchanged personal information during their relaxation breaks. They either talked about "problem prisoners", or other prison topics, or did not talk at all. There were few instances of any personal communication across the two role groups. Moreover, when prisoners referred to other prisoners during interviews, they typically deprecated each other, seemingly adopting the guards' negative attitude.

From post-experimental data, we discovered that when individual guards were alone with solitary prisoners and out of range of any recording equipment, as on the way to or in the toilet, harassment often was greater than it was on the "Yard". Similarly, video-taped analyses of total guard aggression showed a daily escalation even after most prisoners had ceased resisting and prisoner deterioration had become visibly obvious to them. Thus guard aggression was no longer elicited as it was initially in response to perceived threats, but was emitted simply as a "natural" consequence of being in the uniform of a "guard" and asserting the power inherent in that role. In specific instances we noted cases of a guard (who did not know he was being observed) in the early morning hours pacing the "Yard" as the prisoners slept—vigorously pounding his night stick into his hand while he "kept watch" over his captives. Or another guard who detained an "incorrigible" prisoner in solitary confinement beyond the duration set by the guards' own rules and then he conspired to keep him in the hole all night while attempting to conceal this information from the experimenters who were thought to be too soft on the prisoners.

In passing, we may note an additional point about the nature of role-playing and the extent to which actual behaviour is "explained away" by reference to it. It will be recalled that many guards continued to intensify their harassment and aggressive behaviour even after the second day of the study, when prisoner deterioration became marked and visible and emotional breakdowns began to occur (in the presence of the guards). When questioned after the study about their persistent affrontive and harassing behaviour in the face of prisoner

emotional trauma, most guards replied that they were "just playing the role" of a tough guard, although none ever doubted the magnitude or validity of the prisoners' emotional response. The reader may wish to consider to what extremes an individual may go, how great must be the consequences of his behaviour for others, before he can no longer rightfully attribute his actions to "playing a role" and thereby abdicate responsibility.

When introduced to a Catholic priest, many of the role-playing prisoners referred to themselves by their prison number rather than their Christian names. Some even asked him to get a lawyer to help them get out. When a public defender was summoned to interview those prisoners who had not yet been released, almost all of them strenuously demanded that he "bail" them out immediately.

One of the most remarkable incidents of the study occurred during a parole board hearing when each of five prisoners eligible for parole was asked by the senior author whether he would be willing to forfeit all the money earned as a prisoner if he were to be paroled (released from the study). Three of the five prisoners said, "yes", they would be willing to do this. Notice that the original incentive for participating in the study had been the promise of money, and they were, after only four days, prepared to give this up completely. And, more surprisingly, when told that this possibility would have to be discussed with the members of the staff before a decision could be made, each prisoner got up quietly and was escorted by a guard back to his cell. If they regarded themselves simply as "subjects" participating in an experiment for money, there was no longer any incentive to remain in the study and they could have easily escaped this situation which had so clearly become aversive for them by quitting. Yet, so powerful was the control which the situation had come to have over them, so much a reality had this simulated environment become, that they were unable to see that their original and singular motive for remaining no longer obtained, and they returned to their cells to await a "parole" decision by their captors.

The reality of the prison was also attested to by our prison consultant who had spent over 16 years in prison, as well as the priest who had been a prison chaplain and the public defender who were all brought into direct contact with our simulated prison environment. Further, the depressed affect of the prisoners, the guards' willingness to work overtime for no additional pay, the spontaneous use of prison titles and I.D. numbers in non role-related situations all point to a level of reality as real as any other in the lives of all those who shared this experience.

To understand how an illusion of imprisonment could have become so real, we need now to consider the uses of power by the guards as well as the effects of such power in shaping the prisoner mentality.

Pathology of power

Being a guard carried with it social status within the prison, a group identity (when wearing the uniform), and above all, the freedom to exercise an unprecedented degree of control over the lives of other human beings. This

control was invariably expressed in terms of sanctions, punishment, demands and with the threat of manifest physical power. There was no need for the guards to rationally justify a request as they do in their ordinary life and merely to make a demand was sufficient to have it carried out. Many of the guards showed in their behaviour and revealed in post-experimental statements that this sense of power was exhilarating.

The use of power was self-aggrandising and self-perpetuating. The guard power, derived initially from an arbitrary label, was intensified whenever there was any perceived threat by the prisoners and this new level subsequently became the baseline from which further hostility and harassment would begin. The most hostile guards on each shift moved spontaneously into the leadership roles of giving orders and deciding on punishments. They became role models whose behaviour was emulated by other members of the shift. Despite minimal contact between the three separate guard shifts and nearly 16 hours a day spent away from the prison, the absolute level of aggression as well as more subtle and "creative" forms of aggression manifested, increased in a spiralling function. Not to be tough and arrogant was to be seen as a sign of weakness by the guards and even those "good" guards who did not get as drawn into the power syndrome as the others respected the implicit norm of *never* contradicting or even interfering with an action of a more hostile guard on their shift.

After the first day of the study, practically all prisoner's rights (even such things as the time and conditions of sleeping and eating) came to be redefined by the guards as "privileges" which were to be earned for obedient behaviour. Constructive activities such as watching movies or reading (previously planned and suggested by the experimenters) were arbitrarily cancelled until further notice by the guards—and were subsequently never allowed. "Reward", then became granting approval for prisoners to eat, sleep, go to the toilet, talk, smoke a cigarette, wear glasses or the temporary diminution of harassment. One wonders about the conceptual nature of "positive" reinforcement when subjects are in such conditions of deprivation, and the extent to which even minimally acceptable conditions become rewarding when experienced in the context of such an impoverished environment.

We might also question whether there are meaningful non-violent alternatives as models for behaviour modification in real prisons. In a world where men are either powerful or powerless, everyone learns to despise the lack of power in others and in oneself. It seems to us, that prisoners learn to admire power for its own sake—power becoming the ultimate reward. Real prisoners soon learn the means to gain power whether through ingratiation, informing, sexual control of other prisoners or development of powerful cliques. When they are released from prison, it is unlikely they will ever want to feel so powerless again and will take action to establish and assert a sense of power.

The pathological prisoner syndrome

Various coping strategies were employed by our prisoners as they began to react to their perceived loss of personal identity and the arbitrary control of their

lives. At first they exhibited disbelief at the total invasion of their privacy, constant surveillance and atmosphere of oppression in which they were living. Their next response was rebellion, first by the use of direct force, and later with subtle divisive tactics designed to foster distrust among the prisoners. They then tried to work within the system by setting up an elected grievance committee. When that collective action failed to produce meaningful changes in their existence, individual self-interests emerged. The breakdown in prisoner cohesion was the start of social disintegration which gave rise not only to feelings of isolation but deprecation of other prisoners as well. As noted before, half the prisoners coped with the prison situation by becoming extremely disturbed emotionally—as a passive way of demanding attention and help. Others became excessively obedient in trying to be “good” prisoners. They sided with the guards against a solitary fellow prisoner who coped with his situation by refusing to eat. Instead of supporting this final and major act of rebellion, the prisoners treated him as a trouble-maker who deserved to be punished for his disobedience. It is likely that the negative self-regard among the prisoners noted by the end of the study was the product of their coming to believe that the continued hostility toward all of them was justified because they “deserved it” [9]. As the days wore on, the model prisoner reaction was one of passivity, dependence and flattened affect.

Let us briefly consider some of the relevant processes involved in bringing about these reactions.

Loss of personal identity. Identity is, for most people, conferred by social recognition of one's uniqueness, and established through one's name, dress, appearance, behaviour style and history. Living among strangers who do not know your name or history (who refer to you only by number), dressed in a uniform exactly like all other prisoners, not wanting to call attention to one's self because of the unpredictable consequences it might provoke—all led to a weakening of self identity among the prisoners. As they began to lose initiative and emotional responsivity, while acting ever more compliantly, indeed, the prisoners became deindividuated not only to the guards and the observers, but also to themselves.

Arbitrary control. On post-experimental questionnaires, the most frequently mentioned aversive aspect of the prison experience was that of being subjugated to the apparently arbitrary, capricious decisions and rules of the guards. A question by a prisoner as often elicited derogation and aggression as it did a rational answer. Smiling at a joke could be punished in the same way that failing to smile might be. An individual acting in defiance of the rules could bring punishment to innocent cell partners (who became, in effect, “mutually yoked controls”), to himself, or to all.

As the environment became more unpredictable, and previously learned assumptions about a just and orderly world were no longer functional, prisoners ceased to initiate any action. They moved about on orders and when in their cells rarely engaged in any purposeful activity. Their zombie-like reaction was the functional equivalent of the learned helplessness phenomenon reported by

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Seligman and Groves [10]. Since their behaviour did not seem to have any contingent relationship to environmental consequences, the prisoners essentially gave up and stopped behaving. Thus the subjective magnitude of aversiveness was manipulated by the guards not in terms of physical punishment but rather by controlling the psychological dimension of environmental predictability [11].

Dependency and emasculation. The network of dependency relations established by the guards not only promoted helplessness in the prisoners but served to emasculate them as well. The arbitrary control by the guards put the prisoners at their mercy for even the daily, commonplace functions like going to the toilet. To do so, required publicly obtained permission (not always granted) and then a personal escort to the toilet while blindfolded and handcuffed. The same was true for many other activities ordinarily practised spontaneously without thought, such as lighting up a cigarette, reading a novel, writing a letter, drinking a glass of water or brushing one's teeth. These were all privileged activities requiring permission and necessitating a prior show of good behaviour. These low level dependencies engendered a regressive orientation in the prisoners. Their dependency was defined in terms of the extent of the domain of control over all aspects of their lives which they allowed other individuals (the guards and prison staff) to exercise.

As in real prisons, the assertive, independent, aggressive nature of male prisoners posed a threat which was overcome by a variety of tactics. The prisoner uniforms resembled smocks or dresses, which made them look silly and enabled the guards to refer to them as "sissies" or "girls". Wearing these uniforms without any underclothes forced the prisoners to move and sit in unfamiliar, feminine postures. Any sign of individual rebellion was labelled as indicative of "incurability" and resulted in loss of privileges, solitary confinement, humiliation or punishment of cell mates. Physically smaller guards were able to induce stronger prisoners to act foolishly and obediently. Prisoners were encouraged to belittle each other publicly during the counts. These and other tactics all served to engender in the prisoners a lessened sense of their masculinity (as defined by their external culture). It follows then, that although the prisoners usually outnumbered the guards during line-ups and counts (nine v. three) there never was an attempt to directly overpower them. (Interestingly, after the study was terminated, the prisoners expressed the belief that the basis for assignment to guard and prisoner groups was physical size. They perceived the guards were "bigger", when, in fact, there was no difference in average height or weight between these randomly determined groups.)

In conclusion, we believe this demonstration reveals new dimensions in the social psychology of imprisonment worth pursuing in future research. In addition, this research provides a paradigm and information base for studying alternatives to existing guard training, as well as for questioning the basic operating principles on which penal institutions rest. If our mock prison could generate the extent of pathology it did in such a short time, then the punishment of being imprisoned in a real prison does not "fit the crime" for

most prisoners—indeed, it far exceeds it! Moreover, since prisoners and guards are locked into a dynamic, symbiotic relationship which is destructive to their human nature, guards are also society's prisoners.

Shortly after our study was terminated, the indiscriminate killings at San Quentin and Attica occurred, emphasising the urgency for prison reforms that recognise the dignity and humanity of both prisoners and guards who are constantly forced into one of the most intimate and potentially deadly encounters known to man.

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References

- 1 T. W. Adorno, E. Frenkel-Brunswick, D. J. Levinson & R. N. Sanford. *The Authoritarian Personality*. New York, Harper. 1950.
- 2 R. Christie & F. L. Geis (Eds). *Studies in Machiavellianism*. New York, Academic Press. 1970.
- 3 A. L. Comrey. *Comrey Personality Scales*. San Diego, Educational and Industrial Testing Service. 1970.
- 4 W. Mischel. *Personality and Assessment*. New York, Wiley. 1968.
- 5 S. Milgram. Some conditions of obedience and disobedience to authority, *Human Relations* 1965, 18(1), 57-76.
- 6 G. Jackson. *Soledad Brother: the Prison Letters of George Jackson*. New York, Bantam Books. 1970.
- 7 E. Schein. *Coercive Persuasion*. New York, Norton. 1961.
- 8 H. Charrière. *Papillon*. Paris, Robert Laffont. 1969.
- 9 E. Walster. Assignment of responsibility for an accident, *Journal of Personality and Social Psychology* 1966, 3(1), 73-79.
- 10 M. E. Seligman & D. P. Groves. Nontransient learned helplessness, *Psychonomic Science* 1970, 19(3), 191-192.
- 11 D. C. Glass & J. E. Singer. Behavioural after effects of unpredictable and uncontrollable aversive events, *American Scientist* 1972, 6(4), 457-465.

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Interpersonal Dynamics in a Simulated Prison

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Interpersonal dynamics in a prison environment was simulated by designing a functional simulation of a prison in which prisoners and guards for an extended period of time. The study examined the social forces on the emergent behaviour in the prison and provided explanations in terms of pre-existing dispositions and subject selection. A homogeneous, "normal" sample of college students was selected. After extensive interviewing and diagnostic testing of a large group of college students, half of the subjects were randomly assigned to the role of prison guards for eight hours each day, while the other half played prisoners incarcerated for nearly one full week. Neither group received any specific training in these roles.

Continuous, direct observation of behavioural interactions was supplemented by video-taped recording, questionnaires, self-report scales and interviews. All these data sources converge on the conclusion that this simulated prison developed into a psychologically compelling prison environment. As such, it elicited unexpectedly intense, realistic and often pathological reactions from many of the participants. The prisoners experienced a loss of personal identity and the arbitrary control of their behaviour which resulted in a syndrome of passivity, dependency, depression and helplessness. In contrast, the guards (with rare exceptions) experienced a marked gain in social power, status and group identification which made role-playing rewarding.

The most dramatic of the coping behaviour utilised by half of the prisoners in adapting to this stressful situation was the development of acute emotional disturbance—severe enough to warrant their early release. At least a third of the guards were judged to have become far more aggressive and dehumanising toward the prisoners than would ordinarily be predicted in a simulation study. Only a very few of the observed reactions to this experience of imprisonment could be attributed to personality trait differences which existed before the subjects began to play their assigned roles.

Introduction

After he had spent four years in a Siberian prison the great Russian novelist Dostoevsky commented, surprisingly, that his time in prison had created in him a deep optimism about the ultimate future of mankind because, as he put it, if man could survive the horrors of prison life he must surely be a "creature who could withstand anything". The cruel irony which Dostoevsky overlooked is that the reality of prison bears witness not only to the resilience and adaptiveness of the men who tolerate life within its walls, but as well to the "ingenuity" and tenacity of those who devised and still maintain our correctional and reformatory systems.

Nevertheless, in the century which has passed since Dostoevsky's imprisonment, little has changed to render the main thrust of his statement less relevant. Although we have passed through periods of enlightened humanitarian reform, in which physical conditions within prisons have improved somewhat and the rhetoric of rehabilitation has replaced the language of punitive incarceration, the social institution of prison has continued to fail. On purely pragmatic grounds, there is substantial evidence that prisons in fact neither "rehabilitate" nor act as a deterrent to future crime—in America, recidivism rates upwards of 75% speak quite decisively to these criteria. And, to perpetuate what is additionally an economic failure, American taxpayers alone must provide an expenditure for "corrections" of 1.5 billion dollars annually. On humanitarian grounds as well, prisons have failed: our mass media are increasingly filled with accounts of atrocities committed daily, man against man, in reaction to the penal system or in the name of it. The experience of prison undeniably creates, almost to the point of cliché, an intense hatred and disrespect in most inmates for the authority and the established order of society into which they will eventually return. And the toll which it takes on the deterioration of human spirit for those who must administer it, as well as for those upon whom it is inflicted, is incalculable.

Attempts to provide an explanation of the deplorable condition of our penal system and its dehumanising effects upon prisoners and guards, often focus upon what might be called the *dispositional hypothesis*. While this explanation is rarely expressed explicitly, it is central to a prevalent non-conscious ideology: that the state of the social institution of prison is due to the "nature" of the people who administer it, or the "nature" of the people who populate it, or both. That is, a major contributing cause to despicable conditions, violence, brutality, dehumanisation and degradation existing within any prison can be traced to some innate or acquired characteristic of the correctional and inmate population. Thus on the one hand, there is the contention that violence and brutality exist within prison because guards are sadistic, uneducated, and insensitive people. It is the "guard mentality", a unique syndrome of negative traits which they bring into the situation, that engenders the inhumane treatment of prisoners. Or, from other quarters, comes the argument that violence and brutality in prison are the logical and predictable result of the

involuntary confinement of a collective of individuals whose life histories are, by definition, characterised by disregard for law, order and social convention and a concurrent propensity for impulsiveness and aggression. Logically, it follows that these individuals, having proved themselves incapable of functioning satisfactorily within the "normal" structure of society, cannot do so either inside the structure provided by prisons. To control such men as these, the argument continues, whose basic orientation to any conflict situation is to react with physical power or deception, force must be met with force, and a certain number of violent encounters must be expected and tolerated by the public.

The dispositional hypothesis has been embraced by the proponents of the prison *status quo* (blaming conditions on the evil in the prisoners), as well as by its critics (attributing the evil to guards and staff with their evil motives and deficient personality structures). The appealing simplicity of this proposition localises the source of prison riots, recidivism and corruption in these "bad seeds" and not in the conditions of the "prison soil". Such an analysis directs attention away from the complex matrix of social, economic and political forces which combine to make prisons what they are—and which would require complex, expensive, revolutionary solutions to bring about any meaningful change. Instead, rioting prisoners are identified, punished, transferred to maximum security institutions or shot, outside agitators sought and corrupt officials suspended—while the system itself goes on essentially unchanged, its basic structure unexamined and unchallenged.

However, a critical evaluation of the dispositional hypothesis cannot be made directly through observation in existing prison settings, since such naturalistic observation necessarily confounds the acute effects of the environment with the chronic characteristics of the inmate and guard populations. To separate the effects of the prison environment *per se* from those attributable to *à priori* dispositions of its inhabitants requires a research strategy in which a "new" prison is constructed, comparable in its fundamental social-psychological milieu to existing prison systems, but entirely populated by individuals who are undifferentiated in all essential dimensions from the rest of society.

Such was the approach taken in the present empirical study, namely, to create a prison-like situation in which the guards and inmates were initially comparable and characterised as being "normal-average", and then to observe the patterns of behaviour which resulted, as well as the cognitive, emotional and attitudinal reactions which emerged. Thus, we began our experiment with a sample of individuals who did not deviate from the normal range of the general population on a variety of dimensions we were able to measure. Half were randomly assigned to the role of "prisoner", the others to that of "guard", neither group having any history of crime, emotional disability, physical handicap nor even intellectual or social disadvantage.

The environment created was that of a "mock" prison which physically constrained the prisoners in barred cells and psychologically conveyed the sense of imprisonment to all participants. Our intention was not to create a *literal*

simulation of an American prison, but rather a functional representation of one. For ethical, moral and pragmatic reasons we could not detain our subjects for extended or indefinite periods of time, we could not exercise the threat and promise of severe physical punishment, we could not allow homosexual or racist practices to flourish, nor could we duplicate certain other specific aspects of prison life. Nevertheless, we believed that we could create a situation with sufficient mundane realism to allow the role-playing participants to go beyond the superficial demands of their assignment into the deep structure of the characters they represented. To do so, we established functional equivalents for the activities and experiences of actual prison life which were expected to produce qualitatively similar psychological reactions in our subjects—feelings of power and powerlessness, of control and oppression, of satisfaction and frustration, of arbitrary rule and resistance to authority, of status and anonymity, of machismo and emasculation. In the conventional terminology of experimental social psychology, we first identified a number of relevant conceptual variables through analysis of existing prison situations, then designed a setting in which these variables were made operational. No specific hypotheses were advanced other than the general one that assignment to the treatment of “guard” or “prisoner” would result in significantly different reactions on behavioural measures of interaction, emotional measures of mood state and pathology, attitudes toward self, as well as other indices of coping and adaptation to this novel situation. What follows is the mechanics of how we created and peopled our prison, what we observed, what our subjects reported, and finally, what we can conclude about the nature of the prison environment and the experience of imprisonment which can account for the failure of our prisons.

Method

Overview

The effects of playing the role of “guard” or “prisoner” were studied in the context of an experimental simulation of a prison environment. The research design was a relatively simple one, involving as it did only a single treatment variable, the random assignment to either a “guard” or “prisoner” condition. These roles were enacted over an extended period of time (nearly one week) within an environment which was physically constructed to resemble a prison. Central to the methodology of creating and maintaining a psychological state of imprisonment was the functional simulation of significant properties of “real prison life” (established through information from former inmates, correctional personnel and texts).

The “guards” were free with certain limits to implement the procedures of induction into the prison setting and maintenance of custodial retention of the “prisoners”. These inmates, having voluntarily submitted to the conditions of this total institution in which they now lived, coped in various ways with its

stresses and its challenges. The behaviour of both groups of subjects was observed, recorded and analysed. The dependent measures were of two general types: transactions between and within each group of subjects, recorded on video and audio tape as well as directly observed; individual reactions on questionnaires, mood inventories, personality tests, daily guard shift reports, and post experimental interviews.

Subjects

The 21 subjects who participated in the experiment were selected from an initial pool of 75 respondents, who answered a newspaper advertisement asking for male volunteers to participate in a psychological study of "prison life" in return for payment of \$15 per day. Those who responded to the notice completed an extensive questionnaire concerning their family background, physical and mental health history, prior experience and attitudinal propensities with respect to sources of psychopathology (including their involvement in crime). Each respondent who completed the background questionnaire was interviewed by one of two experimenters. Finally, the 24 subjects who were judged to be most stable (physically and mentally), most mature, and least involved in anti-social behaviour were selected to participate in the study. On a random basis, half of the subjects were assigned the role of "guard", half to the role of "prisoner".

The subjects were normal, healthy males attending colleges throughout the United States who were in the Stanford area during the summer. They were largely of middle class socio-economic status, Caucasians (with the exception of one Oriental subject). Initially they were strangers to each other, a selection precaution taken to avoid the disruption of any pre-existing friendship patterns and to mitigate against any transfer into the experimental situation of previously established relationships or patterns of behaviour.

This final sample of subjects was administered a battery of psychological tests on the day prior to the start of the simulation, but to avoid any selective bias on the part of the experimenter-observers, scores were not tabulated until the study was completed.

Two subjects who were assigned to be a "stand-by" in case an additional "prisoner" was needed were not called, and one subject assigned to be a "stand-by" guard decided against participating just before the simulation phase began—thus, our data analysis is based upon ten prisoners and eleven guards in our experimental conditions.

Procedure

Physical aspects of the prison

The prison was built in a 35-ft section of a basement corridor in the psychology building at Stanford University. It was partitioned by two fabricated walls, one of which was fitted with the only entrance door to the cell block, the other

duty might be implemented were not explicitly detailed. They were made aware of the fact that while many of the contingencies with which they might be confronted were essentially unpredictable (e.g. prisoner escape attempts), part of their task was to be prepared for such eventualities and to be able to deal appropriately with the variety of situations that might arise. The "Warden" instructed the guards in the administrative details, including: the work-shifts, the mandatory daily completion of shift reports concerning the activity of guards and prisoners, the completion of "critical incident" reports which detailed unusual occurrences and the administration of meals, work and recreation programmes for the prisoners. In order to begin to involve these subjects in their roles even before the first prisoner was incarcerated, the guards assisted in the final phases of completing the prison complex—putting the cots in the cells, signs on the walls, setting up the guards' quarters, moving furniture, water coolers, refrigerators, etc.

The guards generally believed that we were primarily interested in studying the behaviour of the prisoners. Of course, we were equally interested in the effect which enacting the role of guard in this environment would have on their behaviour and subjective states.

To optimise the extent to which their behaviour would reflect their genuine reactions to the experimental prison situation and not simply their ability to follow instructions, they were intentionally given only minimal guidelines for what it meant to be a guard. An explicit and categorical prohibition against the use of physical punishment or physical aggression was, however, emphasised by the experimenters. Thus, with this single notable exception, their roles were relatively unstructured initially, requiring each "guard" to carry out activities necessary for interacting with a group of "prisoners" as well as with other "guards" and the "correctional staff".

Uniform

In order to promote feelings of anonymity in the subjects each group was issued identical uniforms. For the guards, the uniform consisted of: plain khaki shirts and trousers, a whistle, a police night stick (wooden batons) and reflecting sunglasses which made eye contact impossible. The prisoners' uniform consisted of loosely fitting muslin smocks with an identification number on front and back. No underclothes were worn beneath these "dresses". A chain and lock were placed around one ankle. On their feet they wore rubber sandals and their hair was covered with a nylon stocking made into a cap. Each prisoner was also issued a toothbrush, soap, soapdish, towel and bed linen. No personal belongings were allowed in the cells.

The outfitting of both prisoners and guards in this manner served to enhance group identity and reduce individual uniqueness within the two groups. The khaki uniforms were intended to convey a military attitude, while the whistle and night-stick were carried as symbols of control and power. The prisoners'

uniforms were designed not only to deindividuate the prisoners but to be humiliating and serve as symbols of their dependence and subservience. The ankle chain was a constant reminder (even during their sleep when it hit the other ankle) of the oppressiveness of the environment. The stocking cap removed any distinctiveness associated with hair length, colour or style (as does shaving of heads in some "real" prisons and the military). The ill-fitting uniforms made the prisoners feel awkward in their movements; since these dresses were worn without undergarments, the uniforms forced them to assume unfamiliar postures, more like those of a woman than a man—another part of the emasculating process of becoming a prisoner.

Induction procedure

With the cooperation of Palo Alto City Police Department all of the subjects assigned to the prisoner treatment were unexpectedly "arrested" at their residences. A police officer charged them with suspicion of burglary or armed robbery, advised them of their legal rights, handcuffed them, thoroughly searched them (often as curious neighbours looked on) and carried them off to the police station in the rear of the police car. At the station they went through the standard routines of being fingerprinted, having an identification file prepared and then being placed in a detention cell. Each prisoner was blindfolded and subsequently driven by one of the experimenters and a subject-guard to our mock prison. Throughout the entire arrest procedure, the police officers involved maintained a formal, serious attitude, avoiding answering any questions of clarification as to the relation of this "arrest" to the mock prison study.

Upon arrival at our experimental prison, each prisoner was stripped, sprayed with a delousing preparation (a deodorant spray) and made to stand alone naked for a while in the cell yard. After being given the uniform described previously and having an I.D. picture taken ("mug shot"), the prisoner was put in his cell and ordered to remain silent.

Administrative routine

When all the cells were occupied, the warden greeted the prisoners and read them the rules of the institution (developed by the guards and the warden). They were to be memorised and to be followed. Prisoners were to be referred to only by the number on their uniforms, also in an effort to depersonalise them.

The prisoners were to be served three bland meals per day, were allowed three supervised toilet visits, and given two hours daily for the privilege of reading or letterwriting. Work assignments were issued for which the prisoners were to receive an hourly wage to constitute their \$15 daily payment. Two visiting periods per week were scheduled, as were movie rights and exercise periods. Three times a day all prisoners were lined up for a "count" (one on each guard

work-shift). The initial purpose of the "count" was to ascertain that all prisoners were present, and to test them on their knowledge of the rules and their I.D. numbers. The first perfunctory counts lasted only about 10 minutes, but on each successive day (or night) they were spontaneously increased in duration until some lasted several hours. Many of the pre-established features of administrative routine were modified or abandoned by the guards, and some were forgotten by the staff over the course of the study.

Data collection (dependent measures)

The exploratory nature of this investigation and the absence of specific hypotheses led us to adopt the strategy of surveying as many as possible behavioural and psychological manifestations of the prison experience on the guards and the prisoners. In fact, one major methodological problem in a study of this kind is defining the limits of the "data", since relevant data emerged from virtually every interaction between any of the participants, as well as from subjective and behavioural reactions of individual prisoners, guards, the warden, superintendent, research assistants and visitors to the prison. It will also be clear when the results are presented that causal direction cannot always be established in the patterns of interaction where any given behaviour might be the consequence of a current or prior instigation by another subject and, in turn, might serve as impetus for eliciting reactions from others.

Data collection was organised around the following sources:

(1) *Videotaping.* About 12 hours of recordings were made of daily, regularly occurring events, such as the counts and meals, as well as unusual interactions, such as a prisoner rebellion, visits from a priest, a lawyer and parents, Parole Board meetings and others. Concealed video equipment recorded these events through a screen in the partition at one end of the cell-block yard or in a conference room (for parole meetings).

(2) *Audio recording.* Over 30 hours of recordings were made of verbal interactions between guards and prisoners on the prison yard. Concealed microphones picked up all conversation taking place in the yard as well as some within the cells. Other concealed recordings were made in the testing-interview room on selected occasions—interactions between the warden, superintendent and the prisoners' Grievance Committee, parents, other visitors and prisoners released early. In addition, each subject was interviewed by one of the experimenters (or by other research associates) during the study, and most just prior to its termination.

(3) *Rating scales.* Mood adjective checklists and sociometric measures were administered on several occasions to assess emotional changes in affective state and interpersonal dynamics among the guard and prisoner groups.

(4) *Individual difference scales.* One day prior to the start of the simulation all subjects completed a series of paper and pencil personality tests. These tests

were selected to provide dispositional indicators of interpersonal behaviour styles—the *F* scale of Authoritarian Personality [1], and the Machiavellianism Scale [2]—as well as areas of possible personality pathology through the newly developed Comrey Personality Scale [3]. The subscales of this latter test consist of:

- (a) trustworthiness
- (b) orderliness
- (c) conformity
- (d) activity
- (e) stability
- (f) extroversion
- (g) masculinity
- (h) empathy

(5) *Personal observations.* The guards made daily reports of their observations after each shift, the experimenters kept informal diaries and all subjects completed post-experimental questionnaires of their reactions to the experience about a month after the study was over.

Data analyses presented problems of several kinds. First, some of the data was subject to possible errors due to selective sampling. The video and audio recordings tended to be focussed upon the more interesting, dramatic events which occurred. Over time, the experimenters became more personally involved in the transaction and were not as distant and objective as they should have been. Second, there are not complete data on all subjects for each measure because of prisoners being released at different times and because of unexpected disruptions, conflicts and administrative problems. Finally, we have a relatively small sample on which to make cross-tabulations by possible independent and individual difference variables.

However, despite these shortcomings some of the overall effects in the data are powerful enough to reveal clear, reliable results. Also some of the more subtle analyses were able to yield statistically significant results even with the small sample size. Most crucial for the conclusions generated by this exploratory study is the consistency in the pattern of relationships which emerge across a wide range of measuring instruments and different observers. Special analyses were required only of the video and audio material, the other data sources were analysed following established scoring procedures.

Video analysis

There were 25 relatively discrete incidents identifiable on the tapes of prisoner-guard interactions. Each incident or scene was scored for the presence of nine behavioural (and verbal) categories. Two judges who had not been involved with the simulation study scored these tapes. These categories were defined as follows:

Question. All questions asked, requests for information or assistance (excluding rhetorical questions).

Command. An order to commence or abstain from a specific behaviour, directed either to individuals or groups. Also generalised orders, e.g. "Settle down".

Information. A specific piece of information proffered by anyone whether requested or not, dealing with any contingency of the simulation.

Individuating reference. Positive: use of a person's real name, nickname or allusion to special positive physical characteristics. Negative: use of prison number, title, generalised "you" or reference to derogatory characteristic.

Threat. Verbal statement of contingent negative consequences of a wide variety, e.g. no meal, long count, pushups, lock-up in hole, no visitors, etc.

Deprecation insult. Use of obscenity, slander, malicious statement directed toward individual or group, e.g. "You lead a life of mendacity" or "You guys are really stupid."

Resistance. Any physical resistance, usually prisoners to guards, such as holding on to beds, blocking doors, shoving guard or prisoner, taking off stocking caps, refusing to carry out orders.

Help. Person physically assisting another (i.e. excludes verbal statements of support), e.g. guard helping another to open door, prisoner helping another prisoner in cleanup duties.

Use of instruments. Use of any physical instrument to either intimidate, threaten, or achieve specific end, e.g. fire extinguisher, batons, whistles.

Audio analysis

For purposes of classifying the verbal behaviour recorded from interviews with guards and prisoners, eleven categories were devised. Each statement made by the interviewee was assigned to the appropriate category by judges. At the end of this process for any given interview analysis, a list had been compiled of the nature and frequencies of the interviewee's discourse. The eleven categories for assignment of verbal expressions were:

Questions. All questions asked, requests for information or assistance (excluding rhetorical questions).

Informative statements. A specific piece of information proffered by anyone whether requested or not, dealing with any contingency of the simulation.

Demands. Declarative statements of need or imperative requests.

Requests. Deferential statements for material or personal consideration.

Commands. Orders to commence or abstain from a specific behaviour, directed either to individuals or groups.

Outlook, positive/negative. Expressions of expectancies for future experiences or future events; either negative or positive in tone, e.g. "I don't think I can make it" v. "I believe I will feel better."

Criticism. Expressions of critical evaluation concerning other subjects, the experimenters or the experiment itself.

Statements of identifying reference, deindividuating/individuating. Statements wherein a subject makes some reference to another subject specifically by allusion to given name or distinctive characteristics (individuating reference), or by allusion to non-specific identity or institutional number (deindividuating reference).

Desire to continue. Any expression of a subject's wish to continue or to curtail participation in the experiment.

Self-evaluation, positive/negative. Statements of self-esteem or self-degradation, e.g. "I feel pretty good about the way I've adjusted" v. "I hate myself for being so oppressive."

Action intentions, positive/negative including "intent to aggress". Statements concerning interviewees' intentions to do something in the future, either of a positive, constructive nature or a negative, destructive nature, e.g. "I'm not going to be so mean from now on" v. "I'll break the door down."

Results

Overview

Although it is difficult to anticipate exactly what the influence of incarceration will be upon the individuals who are subjected to it and those charged with its maintenance (especially in a simulated reproduction), the results of the present experiment support many commonly held conceptions of prison life and validate anecdotal evidence supplied by articulate ex-convicts. The environment of arbitrary custody had great impact upon the affective states of both guards and prisoners as well as upon the interpersonal processes taking place between and within those role-groups.

In general, guards and prisoners showed a marked tendency toward increased negativity of affect and their overall outlook became increasingly negative. As the experiment progressed, prisoners expressed intentions to do harm to others more frequently. For both prisoners and guards, self-evaluations were more deprecating as the experience of the prison environment became internalised.

Overt behaviour was generally consistent with the subjective self-reports and affective expressions of the subjects. Despite the fact that guards and prisoners were essentially free to engage in any form of interaction (positive or negative, supportive or affrontive, etc.), the characteristic nature of their encounters tended to be negative, hostile, affrontive and dehumanising. Prisoners immediately adopted a generally passive response mode while guards assumed a very active initiating role in all interactions. Throughout the experiment, commands were the most frequent form of verbal behaviour and, generally, verbal exchanges were strikingly impersonal, with few references to individual identity. Although it was clear to all subjects that the experimenters would not

permit physical violence to take place, varieties of less direct aggressive behaviour were observed frequently (especially on the part of guards). In lieu of physical violence, verbal affronts were used as one of the most frequent forms of interpersonal contact between guards and prisoners.

The most dramatic evidence of the impact of this situation upon the participants was seen in the gross reactions of five prisoners who had to be released because of extreme emotional depression, crying, rage and acute anxiety. The pattern of symptoms was quite similar in four of the subjects and began as early as the second day of imprisonment. The fifth subject was released after being treated for a psychosomatic rash which covered portions of his body. Of the remaining prisoners, only two said they were not willing to forfeit the money they had earned in return for being "paroled". When the experiment was terminated prematurely after only six days, all the remaining prisoners were delighted by their unexpected good fortune. In contrast, most of the guards seemed to be distressed by the decision to stop the experiment and it appeared to us that had become sufficiently involved in their roles so that they now enjoyed the extreme control and power which they exercised and were reluctant to give it up. One guard did report being personally upset at the suffering of the prisoners and claimed to have considered asking to change his role to become one of them—but never did so. None of the guards ever failed to come to work on time for their shift, and indeed, on several occasions guards remained on duty voluntarily and uncomplaining for extra hours—without additional pay.

The extremely pathological reactions which emerged in both groups of subjects testify to the power of the social forces operating, but still there were individual differences seen in styles of coping with this novel experience and in degrees of successful adaptation to it. Half the prisoners did endure the oppressive atmosphere, and not all the guards resorted to hostility. Some guards were tough but fair ("played by the rules"), some went far beyond their roles to engage in creative cruelty and harassment, while a few were passive and rarely instigated any coercive control over the prisoners.

These differential reactions to the experience of imprisonment were not suggested by or predictable from the self-report measures of personality and attitude or the interviews taken before the experiment began. The standardised tests employed indicated that a perfectly normal emotionally stable sample of subjects had been selected. In those few instances where differential test scores do discriminate between subjects, there is an opportunity to, partially at least, discern some of the personality variables which may be critical in the adaptation to and tolerance of prison confinement.

Initial personality and attitude measures

Overall, it is apparent that initial personality-attitude dispositions account for an extremely small part of the variation in reactions to this mock prison experience. However, in a few select instances, such dispositions do seem to be correlated with the prisoners' ability to adjust to the experimental prison environment.

Comrey scale

The Comrey Personality Inventory [3] was the primary personality scale administered to both guards and prisoners. The mean scores for prisoners and guards on the eight sub-scales of the test are shown in Table 1. No differences between prisoner and guard mean scores on any scale even approach statistical significance. Furthermore, in no case does any group mean fall outside of the 40 to 60 centile range of the normative male population reported by Comrey.

Table 1. Mean scores for prisoners and guards on eight Comrey subscales

Scale	Prisoners	Guards
Trustworthiness—high score indicates belief in the basic honesty and good intentions of others	$\bar{X} = 92.56$	$\bar{X} = 89.64$
Orderliness—extent to which person is meticulous and concerned with neatness and orderliness	$\bar{X} = 75.67$	$\bar{X} = 73.82$
Conformity—indicates belief in law enforcement, acceptance of society as it is, resentment of nonconformity in others	$\bar{X} = 65.67$	$\bar{X} = 63.18$
Activity—liking for physical activity, hard work, and exercise	$\bar{X} = 89.78$	$\bar{X} = 91.73$
Stability—high score indicates calm, optimistic, stable, confident individual	$\bar{X} = 98.33$	$\bar{X} = 101.45$
Extroversion—suggests outgoing, easy to meet person	$\bar{X} = 83.22$	$\bar{X} = 81.91$
Masculinity—"people who are not bothered by crawling creatures, the sight of blood, vulgarity, who do not cry easily and are not interested in love stories"	$\bar{X} = 88.44$	$\bar{X} = 87.00$
Empathy—high score indicates individuals who are sympathetic, helpful, generous and interested in devoting their lives to the service of others	$\bar{X} = 91.78$	$\bar{X} = 95.36$

Table 2. Mean scores for "Remaining" v. "Early released" prisoners on Comrey subscales

Scale	Remaining prisoners	Early released prisoners	Mean difference
Trustworthiness	93.4	90.8	+2.6
Orderliness	76.6	78.0	-1.4
Conformity	67.2	59.4	+7.8
Activity	91.4	86.8	+4.6
Stability	99.2	99.6	-0.4
Extroversion	98.4	76.2	+22.2
Masculinity	91.6	86.0	+5.6
Empathy	103.8	85.6	+17.2

Table 2 shows the mean scores on the Comrey sub-scales for prisoners who remained compared with prisoners who were released early due to severe emotional reactions to the environment. Although none of the comparisons achieved statistical significance, three seemed at least suggestive as possible discriminators of those who were able to tolerate this type of confinement and those who were not. Compared with those who had to be released, prisoners who remained in prison until the termination of the study: scored higher on conformity ("acceptance of society as it is"), showed substantially higher average scores on Comrey's measure of extroversion and also scored higher on a scale of empathy (helpfulness, sympathy and generosity).

F-Scale

The *F*-scale is designed to measure rigid adherence to conventional values and a submissive, uncritical attitude towards authority. There was no difference between the mean score for prisoners (4.78) and the mean score for guards (4.36) on this scale.

Again, comparing those prisoners who remained with those who were released early, we notice an interesting trend. This intra-group comparison shows remaining prisoners scoring more than twice as high on conventionality and authoritarianism ($\bar{X} = 7.78$) than those prisoners released early ($\bar{X} = 3.20$). While the difference between these means fails to reach acceptable levels of significance, it is striking to note that a rank-ordering of prisoners on the *F*-scale correlates highly with the duration of their stay in the experiment ($r_s = 0.898$, $P < 0.005$). To the extent that a prisoner was high in rigidity, in adherence to conventional values, and in the acceptance of authority, he was likely to remain longer and adjust more effectively to this authoritarian prison environment.

Machiavellianism

There were no significant mean differences found between guards ($\bar{X} = 7.73$) and prisoners ($\bar{X} = 8.77$) on this measure of effective interpersonal manipulation. In addition, the Mach Scale was of no help in predicting the likelihood that a prisoner would tolerate the prison situation and remain in the study until its termination.

This latter finding, the lack of any mean differences between prisoners who remained *v.* those who were released from the study, is somewhat surprising since one might expect the Hi Mach's skill at manipulating social interaction and mediating favourable outcomes for himself might be acutely relevant to the simulated prison environment. Indeed, the two prisoners who scored highest on the Machiavellianism scale were also among those adjudged by the experimenters to have made unusually effective adaptations to their confinement. Yet, paradoxically (and this may give the reader some feeling for the anomalies we encountered in attempting to predict in-prison behaviour from personality

measures), the other two prisoners whom we categorised as having effectively adjusted to confinement actually obtained the lowest Mach scores of any prisoners.

Video recordings

An analysis of the video recordings indicates a preponderance of genuinely negative interactions, i.e. physical aggression, threats, deprecations, etc. It is also clear that any assertive activity was largely the prerogative of the guards, while prisoners generally assumed a relatively passive demeanour. Guards more often aggressed, more often insulted, more often threatened. Prisoners, when they reacted at all, engaged primarily in resistance to these guard behaviours.

For guards, the most frequent verbal behaviour was the giving of commands and their most frequent form of physical behaviour was aggression. The most frequent form of prisoners' verbal behaviour was question-asking, their most frequent form of physical behaviour was resistance. On the other hand, the most infrequent behaviour engaged in overall throughout the experiment was "helping"—only one such incident was noted from all the video recording collected. That solitary sign of human concern for a fellow occurred between two prisoners.

Although question-asking was the most frequent form of verbal behaviour for the prisoners, guards actually asked questions more frequently overall than did prisoners (but not significantly so). This is reflective of the fact that the overall level of behaviour emitted was much higher for the guards than for the prisoners. All of those verbal acts categorised as commands were engaged in by guards. Obviously, prisoners had no opportunity to give commands at all, that behaviour becoming the exclusive "right" of guards.

Of a total 61 incidents of direct interpersonal reference observed (incidents in which one subject spoke directly to another with the use of some identifying reference, i.e. "Hey, Peter"; "you there", etc.), 58 involved the use of some deindividuating rather than some individuating form of reference. (Recall that we characterised this distinction as follows: an individuating reference involved the use of a person's actual name, nickname or allusion to special physical characteristics, whereas a deindividuating reference involved the use of a prison number, or a generalised "you"—thus being a very depersonalising form of reference.) Since all subjects were at liberty to refer to one another in either mode, it is significant that such a large proportion of the references noted involved were in the deindividuating mode ($Z = 6.9, P < 0.01$). Deindividuating references were made more often by guards in speaking to prisoners than the reverse ($Z = 3.67, P < 0.01$). (This finding, as all prisoner-guard comparisons for specific categories, may be somewhat confounded by the fact that guards apparently enjoyed a greater freedom to initiate verbal as well as other forms of behaviour. Note, however, that the existence of this greater "freedom" on the part of the guards is itself an empirical finding since it was not prescribed

à priori.) It is of additional interest to point out that in the only three cases in which verbal exchange involved some individuating reference, it was prisoners who personalised guards.

A total of 32 incidents were observed which involved a verbal threat spoken by one subject to another. Of these, 27 such incidents involved a guard threatening a prisoner. Again, the indulgence of guards in this form of behaviour was significantly greater than the indulgence of prisoners, the observed frequencies deviating significantly from an equal distribution of threats across both groups ($Z = 3.88, P < 0.01$).

Guards more often deprecated and insulted prisoners than prisoners did of guards. Of a total of 67 observed incidents, the deprecation-insult was expressed disproportionately by guards to prisoners 61 times; ($Z = 6.72, P < 0.01$).

Physical resistance was observed 34 different times. Of these, 32 incidents involved resistance by a prisoner. Thus, as we might expect, at least in this reactive behaviour domain, prisoner responses far exceeded those of the guards ($Z = 5.14, P < 0.01$).

The use of some object or instrument in the achievement of an intended purpose or in some interpersonal interaction was observed 29 times. Twenty-three such incidents involved the use of an instrument by a guard rather than a prisoner. This disproportionate frequency is significantly variant from an equal random use by both prisoners and guards ($Z = 3.16, P < 0.01$).

Over time, from day to day, guards were observed to generally escalate their harassment of the prisoners. In particular, a comparison of two of the first prisoner-guard interactions (during the counts) with two of the last counts in the experiment yielded significant differences in: the use of deindividuating references per unit time ($\bar{X}_{t_1} = 0.0$ and $\bar{X}_{t_2} = 5.40$, respectively; $t = 3.65, P < 0.10$); the incidence of deprecation-insult per unit time ($\bar{X}_{t_1} = 0.3$ and $\bar{X}_{t_2} = 5.70$, respectively; $t = 3.16, P < 0.10$). On the other hand, a temporal analysis of the prisoner video data indicated a general decrease across all categories over time: prisoners came to initiate acts far less frequently and responded (if at all) more passively to the acts of others—they simply *behaved less*.

Although the harassment by the guards escalated overall as the experiment wore on, there was some variation in the extent to which the three different guard shifts contributed to the harassment in general. With the exception of the 2.30 a.m. count, prisoners enjoyed some respite during the late night guard shift (10.00 p.m. to 6.00 a.m.). But they really were "under the gun" during the evening shift. This was obvious in our observations and in subsequent interviews with the prisoners and was also confirmed in analysis of the video taped interactions. Comparing the three different guard shifts, the evening shift was significantly different from the other two in resorting to commands; the means being 9.30 and 4.04, respectively, for standardised units of time ($t = 2.50, P < 0.05$). In addition, the guards on this "tough and cruel" shift showed more than twice as many deprecation-insults toward the prisoners (means of 5.17 and

2.29, respectively, $P < 0.20$). They also tended to use instruments more often than other shifts to keep the prisoners in line.

Audio recordings

The audio recordings made throughout the prison simulation afforded one opportunity to systematically collect self-report data from prisoners and guards regarding (among other things) their emotional reactions, their outlook, and their interpersonal evaluations and activities within the experimental setting. Recorded interviews with both prisoners and guards offered evidence that: guards tended to express nearly as much negative outlook and negative self-regard as most prisoners (one concerned guard, in fact, expressed more negative self-regard than any prisoner and more general negative affect than all but one of the prisoners); prisoner interviews were marked by negativity in expressions of affect, self-regard and action intentions (including intent to aggress and negative outlook).

Analysis of the prisoner interviews also gave *post hoc* support to our informal impressions and subjective decisions concerning the differential emotional effects of the experiment upon those prisoners who remained and those who were released early from the study. A comparison of the mean number of expressions of negative outlook, negative affect, negative self-regard and intentions to aggress made by remaining *v.* released prisoners (per interview) yielded the following results: prisoners released early expressed more negative expectations during interviews than those who remained ($t = 2.32$, $P < 0.10$) and also more negative affect ($t = 2.17$, $P < 0.10$); prisoners released early expressed more negative self-regard, and four times as many "intentions to aggress" as prisoners who remained (although those comparisons fail to reach an acceptable level of significance).

Since we could video-record only public interactions on the "yard", it was of special interest to discover what was occurring among prisoners in private. What were they talking about in the cells—their college life, their vocation, girl friends, what they would do for the remainder of the summer once the experiment was over. We were surprised to discover that fully 90% of all conversations among prisoners were related to prison topics, while only 10% to non-prison topics such as the above. They were most concerned about food, guard harassment, setting up a grievance committee, escape plans, visitors, reactions of prisoners in the other cells and in solitary. Thus, in their private conversations when they might escape the roles they were playing in public, they did not. There was no discontinuity between their presentation of self when under surveillance and when alone.

Even more remarkable was the discovery that the prisoners had begun to adopt and accept the guards' negative attitude toward them. Half of all reported private interactions between prisoners could be classified as non-supportive and non-cooperative. Moreover, when prisoners made evaluative statements of or

expressed regard for, their fellow prisoners, 85% of the time they were uncomplimentary and deprecating. This set of observed frequencies departs significantly from chance expectations based on a conservative binominal probability frequency ($P < 0.01$ for prison *v.* non-prison topics; $P < 0.05$ for negative *v.* positive or neutral regard).

Mood adjective self-reports

Twice during the progress of the experiment each subject was asked to complete a mood adjective checklist and indicate his current affective state. The data gleaned from these self-reports did not lend themselves readily to statistical analysis. However, the trends suggested by simple enumeration are important enough to be included without reference to statistical significance. In these written self-reports, prisoners expressed nearly three times as much negative as positive affect. Prisoners roughly expressed three times as much negative affect as guards. Guards expressed slightly more negative than positive affect. While prisoners expressed about twice as much emotionality as did guards, a comparison of mood self-reports over time reveals that the prisoners showed two to three times as much mood fluctuation as did the relatively stable guards. On the dimension of activity-passivity, prisoners tended to score twice as high, indicating twice as much internal "agitation" as guards (although, as stated above, prisoners were seen to be markedly less active than guards in terms of overt behaviour).

It would seem from these results that while the experience had a categorically negative emotional impact upon both guards and prisoners, the effects upon prisoners were more profound and unstable.

When the mood scales were administered for a third time, just after the subjects were told the study had been terminated (and the early released subjects returned for the debriefing encounter session), marked changes in mood were evident. All of the now "ex-convicts" selected self-descriptive adjectives which characterised their mood as less negative and much more positive. In addition, they now felt less passive than before. There were no longer any differences on the sub-scales of this test between prisoners released early and those who remained throughout. Both groups of subjects had returned to their pre-experimental baselines of emotional responding. This seems to reflect the situational specificity of the depression and stress reactions experienced while in the role of prisoner.

Representative personal statements

Much of the flavour and impact of this prison experience is unavoidably lost in the relatively formal, objective analyses outlined in this paper. The following quotations taken from interviews, conversations and questionnaires provide a more personal view of what it was like to be a prisoner or guard in the "Stanford County Prison" experiment.

Guards

"They [the prisoners] seemed to lose touch with the reality of the experiment—they took me so seriously."

"... I didn't interfere with any of the guards' actions. Usually if what they were doing bothered me, I would walk out and take another duty."

"... looking back, I am impressed by how little I felt for them ..."

"... They [the prisoners] didn't see it as an experiment. It was real and they were fighting to keep their identity. But we were always there to show them just who was boss."

"... I was tired of seeing the prisoners in their rags and smelling the strong odours of their bodies that filled the cells. I watched them tear at each other, on orders given by us."

"... Acting authoritatively can be fun. Power can be a great pleasure."

"... During the inspection, I went to cell 2 to mess up a bed which the prisoner had made and he grabbed me, screaming that he had just made it, and he wasn't going to let me mess it up. He grabbed my throat, and although he was laughing I was pretty scared. I lashed out with my stick and hit him in the chin (although not very hard) and when I freed myself I became angry."

Prisoners

"... The way we were made to degrade ourselves really brought us down and that's why we all sat docile towards the end of the experiment."

"... I realise now (after it's over) that no matter how together I thought I was inside my head, my prison behaviour was often less under my control than I realised. No matter how open, friendly and helpful I was with other prisoners I was still operating as an isolated, self-centred person, being rational rather than compassionate."

"... I began to feel I was losing my identity, that the person I call _____, the person who volunteered to get me into this prison (because it was a prison to me, it *still* is a prison to me, I don't regard it as an experiment or a simulation ...) was distant from me, was remote until finally I wasn't *that* person, I was 416. I was really my number and 416 was really going to have to decide what to do."

"I learned that people can easily forget that others are human."

Debriefing encounter sessions

Because of the unexpectedly intense reactions (such as the above) generated by this mock-prison experience, we decided to terminate the study at the end of six days rather than continue for the second week. Three separate encounter sessions were held, first, for the prisoners, then for the guards and finally for all participants together. Subjects and staff openly discussed their reactions and strong feelings were expressed and shared. We analysed the moral conflicts posed by this experience and used the debriefing sessions to make explicit alternative courses of action that would lead to more moral behaviour in future comparable situations.

Follow-ups on each subject over the year following termination of the study revealed the negative effects of participation had been temporary, while the personal gain to the subjects endured.

Conclusions and Discussion

It should be apparent that the elaborate procedures (and staging) employed by the experimenters to insure a high degree of mundane realism in this mock prison contributed to its effective functional simulation of the psychological dynamics operating in "real" prisons. We observed empirical relationships in the simulated prison environment which were strikingly isomorphic to the internal relations of real prisons, corroborating many of the documented reports of what occurs behind prison walls.

The conferring of differential power on the status of "guard" and "prisoner" constituted, in effect, the institutional validation of those roles. But further, many of the subjects ceased distinguishing between prison role and their prior self-identities. When this occurred, within what was a surprisingly short period of time, we witnessed a sample of normal, healthy American college students fractionate into a group of prison guards who seemed to derive pleasure from insulting, threatening, humiliating and dehumanising their peers—those who by chance selection had been assigned to the "prisoner" role. The typical prisoner syndrome was one of passivity, dependency, depression, helplessness and self-deprecation. Prisoner participation in the social reality which the guards had structured for them lent increasing validity to it and, as the prisoners became resigned to their treatment over time, many acted in ways to justify their fate at the hands of the guards, adopting attitudes and behaviour which helped to sanction their victimisation. Most dramatic and distressing to us was the observation of the ease with which sadistic behaviour could be elicited in individuals who were not "sadistic types" and the frequency with which acute emotional breakdowns could occur in men selected precisely for their emotional stability.

Situational v. dispositional attribution

To what can we attribute these deviant behaviour patterns? If these reactions had been observed within the confines of an existing penal institution, it is probable that a dispositional hypothesis would be invoked as an explanation. Some cruel guards might be singled out as sadistic or passive-aggressive personality types who chose to work in a correctional institution because of the outlets provided for sanctioned aggression. Aberrant reactions on the part of the inmate population would likewise be viewed as an extrapolation from the prior social histories of these men as violent, anti-social, psychopathic, unstable character types.

Existing penal institutions may be viewed as *natural experiments* in social control in which any attempts at providing a causal attribution for observed behaviour hopelessly confound dispositional and situational causes. In contrast, the design of our study minimised the utility of trait or prior social history explanations by means of judicious subject selection and random assignment to roles. Considerable effort and care went into determining the composition of the

final subject population from which our guards and prisoners were drawn. Through case histories, personal interviews and a battery of personality tests, the subjects chosen to participate manifested no apparent abnormalities, anti-social tendencies or social backgrounds which were other than exemplary. On every one of the scores of the diagnostic tests each subject scored within the normal-average range. Our subjects then, were highly representative of middle-class, Caucasian American society (17 to 30 years in age), although above average in both intelligence and emotional stability.

Nevertheless, in less than one week their *behaviour* in this simulated prison could be characterised as pathological and anti-social. The negative, anti-social reactions observed were not the product of an environment created by combining a collection of deviant personalities, but rather, the result of an intrinsically pathological situation which could distort and rechannel the behaviour of essentially normal individuals. The abnormality here resided in the psychological nature of the situation and not in those who passed through it. Thus, we offer another instance in support of Mischel's [4] social-learning analysis of the power of situational variables to shape complex social behaviour. Our results are also congruent with those of Milgram [5] who most convincingly demonstrated the proposition that evil acts are not necessarily the deeds of evil men, but may be attributable to the operation of powerful social forces. Our findings go one step further, however, in removing the immediate presence of the dominant experimenter-authority figure, giving the subjects-as-guards a freer range of behavioural alternatives, and involving the participants for a much more extended period of time.

Despite the evidence favouring a situational causal analysis in this experiment, it should be clear that the research design actually *minimised* the effects of individual differences by use of a homogenous middle-range subject population. It did not allow the strongest possible test of the relative utility of the two types of explanation. We cannot say that personality differences do not have an important effect on behaviour in situations such as the one reported here. Rather, we may assert that the variance in behaviour observed could be reliably attributed to variations in situational rather than personality variables. The inherently pathological characteristics of the prison situation itself, at least as functionally simulated in our study, were a *sufficient* condition to produce aberrant, anti-social behaviour. (An alternative design which would maximise the potential operation of personality or dispositional variables would assign subjects who were extreme on pre-selected personality dimensions to each of the two experimental treatments. Such a design would, however, require a larger subject population and more resources than we had available.)

The failure of personality assessment variables to reliably discriminate the various patterns of prison behaviour, guard reactions as well as prisoner coping styles is reminiscent of the inability of personality tests to contribute to an understanding of the psychological differences between American P.O.W.s in Korea who succumbed to alleged Chinese Communist brain-washing by

"collaborating with the enemy" and those who resisted [6]. It seems to us that there is little reason to expect paper-and-pencil behavioural reactions on personality tests taken under "normal" conditions to generalise into coping behaviours under novel, stressful or abnormal environmental conditions. It may be that the best predictor of behaviour in situations of stress and power, as occurs in prisons, is overt behaviour in functionally comparable simulated environments.

In the situation of imprisonment faced by our subjects, despite the potent situational control, individual differences were nevertheless manifested both in coping styles among the prisoners and in the extent and type of aggression and exercise of power among the guards. Personality variables, conceived as learned behaviour styles can act as moderator variables in allaying or intensifying the impact of social situational variables. Their predictive utility depends upon acknowledging the inter-active relationship of such learned dispositional tendencies with the eliciting force of the situational variables.

Reality of the simulation

At this point it seems necessary to confront the critical question of "reality" in the simulated prison environment: were the behaviours observed more than the mere acting out assigned roles convincingly? To be sure, ethical, legal and practical considerations set limits upon the degree to which this situation could approach the conditions existing in actual prisons and penitentiaries. Necessarily absent were some of the most salient aspects of prison life reported by criminologists and documented in the writing of prisoners [7, 8]. There was no involuntary homosexuality, no racism, no physical beatings, no threat to life by prisoners against each other or the guards. Moreover, the maximum anticipated "sentence" was only two weeks and, unlike some prison systems, could not be extended indefinitely for infractions of the internal operating rules of the prison.

In one sense, the profound psychological effects we observed under the relatively minimal prison-like conditions which existed in our mock prison make the results even more significant and force us to wonder about the devastating impact of chronic incarceration in real prisons. Nevertheless, we must contend with the criticism that the conditions which prevailed in the mock prison were too minimal to provide a meaningful analogue to existing prisons. It is necessary to demonstrate that the participants in this experiment transcended the conscious limits of their preconceived stereotyped roles and their awareness of the artificiality and limited duration of imprisonment. We feel there is abundant evidence that virtually all of the subjects at one time or another experienced reactions which went well beyond the surface demands of role-playing and penetrated the deep structure of the psychology of imprisonment.

Although instructions about how to behave in the roles of guard or prisoner were not explicitly defined, demand characteristics in the experiment obviously exerted some directing influence. Therefore, it is enlightening to look to

circumstances where role demands were minimal, where the subjects believed they were not being observed, or where they should not have been behaving under the constraints imposed by their roles (as in "private" situations), in order to assess whether the role behaviours reflected anything more than public conformity or good acting.

When the private conversations of the prisoners were monitored, we learned that almost all (a full 90%) of what they talked about was directly related to immediate prison conditions, that is, food, privileges, punishment, guard harassment, etc. Only one-tenth of the time did their conversations deal with their life outside the prison. Consequently, although they had lived together under such intense conditions, the prisoners knew surprisingly little about each other's past history or future plans. This excessive concentration on the vicissitudes of their current situation helped to make the prison experience more oppressive for the prisoners because, instead of escaping from it when they had a chance to do so in the privacy of their cells, the prisoners continued to allow it to dominate their thoughts and social relations. The guards too, rarely exchanged personal information during their relaxation breaks. They either talked about "problem prisoners", or other prison topics, or did not talk at all. There were few instances of any personal communication across the two role groups. Moreover, when prisoners referred to other prisoners during interviews, they typically deprecated each other, seemingly adopting the guards' negative attitude.

From post-experimental data, we discovered that when individual guards were alone with solitary prisoners and out of range of any recording equipment, as on the way to or in the toilet, harassment often was greater than it was on the "Yard". Similarly, video-taped analyses of total guard aggression showed a daily escalation even after most prisoners had ceased resisting and prisoner deterioration had become visibly obvious to them. Thus guard aggression was no longer elicited as it was initially in response to perceived threats, but was emitted simply as a "natural" consequence of being in the uniform of a "guard" and asserting the power inherent in that role. In specific instances we noted cases of a guard (who did not know he was being observed) in the early morning hours pacing the "Yard" as the prisoners slept—vigorously pounding his night stick into his hand while he "kept watch" over his captives. Or another guard who detained an "incurable" prisoner in solitary confinement beyond the duration set by the guards' own rules and then he conspired to keep him in the hole all night while attempting to conceal this information from the experimenters who were thought to be too soft on the prisoners.

In passing, we may note an additional point about the nature of role-playing and the extent to which actual behaviour is "explained away" by reference to it. It will be recalled that many guards continued to intensify their harassment and aggressive behaviour even after the second day of the study, when prisoner deterioration became marked and visible and emotional breakdowns began to occur (in the presence of the guards). When questioned after the study about their persistent affrontive and harassing behaviour in the face of prisoner

emotional trauma, most guards replied that they were "just playing the role" of a tough guard, although none ever doubted the magnitude or validity of the prisoners' emotional response. The reader may wish to consider to what extremes an individual may go, how great must be the consequences of his behaviour for others, before he can no longer rightfully attribute his actions to "playing a role" and thereby abdicate responsibility.

When introduced to a Catholic priest, many of the role-playing prisoners referred to themselves by their prison number rather than their Christian names. Some even asked him to get a lawyer to help them get out. When a public defender was summoned to interview those prisoners who had not yet been released, almost all of them strenuously demanded that he "bail" them out immediately.

One of the most remarkable incidents of the study occurred during a parole board hearing when each of five prisoners eligible for parole was asked by the senior author whether he would be willing to forfeit all the money earned as a prisoner if he were to be paroled (released from the study). Three of the five prisoners said, "yes", they would be willing to do this. Notice that the original incentive for participating in the study had been the promise of money, and they were, after only four days, prepared to give this up completely. And, more surprisingly, when told that this possibility would have to be discussed with the members of the staff before a decision could be made, each prisoner got up quietly and was escorted by a guard back to his cell. If they regarded themselves simply as "subjects" participating in an experiment for money, there was no longer any incentive to remain in the study and they could have easily escaped this situation which had so clearly become aversive for them by quitting. Yet, so powerful was the control which the situation had come to have over them, so much a reality had this simulated environment become, that they were unable to see that their original and singular motive for remaining no longer obtained, and they returned to their cells to await a "parole" decision by their captors.

The reality of the prison was also attested to by our prison consultant who had spent over 16 years in prison, as well as the priest who had been a prison chaplain and the public defender who were all brought into direct contact with out simulated prison environment. Further, the depressed affect of the prisoners, the guards' willingness to work overtime for no additional pay, the spontaneous use of prison titles and I.D. numbers in non role-related situations all point to a level of reality as real as any other in the lives of all those who shared this experience.

To understand how an illusion of imprisonment could have become so real, we need now to consider the uses of power by the guards as well as the effects of such power in shaping the prisoner mentality.

Pathology of power

Being a guard carried with it social status within the prison, a group identity (when wearing the uniform), and above all, the freedom to exercise an unprecedented degree of control over the lives of other human beings. This

control was invariably expressed in terms of sanctions, punishment, demands and with the threat of manifest physical power. There was no need for the guards to rationally justify a request as they do in their ordinary life and merely to make a demand was sufficient to have it carried out. Many of the guards showed in their behaviour and revealed in post-experimental statements that this sense of power was exhilarating.

The use of power was self-aggrandising and self-perpetuating. The guard power, derived initially from an arbitrary label, was intensified whenever there was any perceived threat by the prisoners and this new level subsequently became the baseline from which further hostility and harassment would begin. The most hostile guards on each shift moved spontaneously into the leadership roles of giving orders and deciding on punishments. They became role models whose behaviour was emulated by other members of the shift. Despite minimal contact between the three separate guard shifts and nearly 16 hours a day spent away from the prison, the absolute level of aggression as well as more subtle and "creative" forms of aggression manifested, increased in a spiralling function. Not to be tough and arrogant was to be seen as a sign of weakness by the guards and even those "good" guards who did not get as drawn into the power syndrome as the others respected the implicit norm of *never* contradicting or even interfering with an action of a more hostile guard on their shift.

After the first day of the study, practically all prisoner's rights (even such things as the time and conditions of sleeping and eating) came to be redefined by the guards as "privileges" which were to be earned for obedient behaviour. Constructive activities such as watching movies or reading (previously planned and suggested by the experimenters) were arbitrarily cancelled until further notice by the guards—and were subsequently never allowed. "Reward", then became granting approval for prisoners to eat, sleep, go to the toilet, talk, smoke a cigarette, wear glasses or the temporary diminution of harassment. One wonders about the conceptual nature of "positive" reinforcement when subjects are in such conditions of deprivation, and the extent to which even minimally acceptable conditions become rewarding when experienced in the context of such an impoverished environment.

We might also question whether there are meaningful non-violent alternatives as models for behaviour modification in real prisons. In a world where men are either powerful or powerless, everyone learns to despise the lack of power in others and in oneself. It seems to us, that prisoners learn to admire power for its own sake—power becoming the ultimate reward. Real prisoners soon learn the means to gain power whether through ingratiation, informing, sexual control of other prisoners or development of powerful cliques. When they are released from prison, it is unlikely they will ever want to feel so powerless again and will take action to establish and assert a sense of power.

The pathological prisoner syndrome

Various coping strategies were employed by our prisoners as they began to react to their perceived loss of personal identity and the arbitrary control of their

lives. At first they exhibited disbelief at the total invasion of their privacy, constant surveillance and atmosphere of oppression in which they were living. Their next response was rebellion, first by the use of direct force, and later with subtle divisive tactics designed to foster distrust among the prisoners. They then tried to work within the system by setting up an elected grievance committee. When that collective action failed to produce meaningful changes in their existence, individual self-interests emerged. The breakdown in prisoner cohesion was the start of social disintegration which gave rise not only to feelings of isolation but deprecation of other prisoners as well. As noted before, half the prisoners coped with the prison situation by becoming extremely disturbed emotionally—as a passive way of demanding attention and help. Others became excessively obedient in trying to be “good” prisoners. They sided with the guards against a solitary fellow prisoner who coped with his situation by refusing to eat. Instead of supporting this final and major act of rebellion, the prisoners treated him as a trouble-maker who deserved to be punished for his disobedience. It is likely that the negative self-regard among the prisoners noted by the end of the study was the product of their coming to believe that the continued hostility toward all of them was justified because they “deserved it” [9]. As the days wore on, the model prisoner reaction was one of passivity, dependence and flattened affect.

Let us briefly consider some of the relevant processes involved in bringing about these reactions.

Loss of personal identity. Identity is, for most people, conferred by social recognition of one’s uniqueness, and established through one’s name, dress, appearance, behaviour style and history. Living among strangers who do not know your name or history (who refer to you only by number), dressed in a uniform exactly like all other prisoners, not wanting to call attention to one’s self because of the unpredictable consequences it might provoke—all led to a weakening of self identity among the prisoners. As they began to lose initiative and emotional responsiveness, while acting ever more compliantly, indeed, the prisoners became deindividuated not only to the guards and the observers, but also to themselves.

Arbitrary control. On post-experimental questionnaires, the most frequently mentioned aversive aspect of the prison experience was that of being subjugated to the apparently arbitrary, capricious decisions and rules of the guards. A question by a prisoner as often elicited derogation and aggression as it did a rational answer. Smiling at a joke could be punished in the same way that failing to smile might be. An individual acting in defiance of the rules could bring punishment to innocent cell partners (who became, in effect, “mutually yoked controls”), to himself, or to all.

As the environment became more unpredictable, and previously learned assumptions about a just and orderly world were no longer functional, prisoners ceased to initiate any action. They moved about on orders and when in their cells rarely engaged in any purposeful activity. Their zombie-like reaction was the functional equivalent of the learned helplessness phenomenon reported by

Seligman and Groves [10]. Since their behaviour did not seem to have any contingent relationship to environmental consequences, the prisoners essentially gave up and stopped behaving. Thus the subjective magnitude of aversiveness was manipulated by the guards not in terms of physical punishment but rather by controlling the psychological dimension of environmental predictability [11].

Dependency and emasculation. The network of dependency relations established by the guards not only promoted helplessness in the prisoners but served to emasculate them as well. The arbitrary control by the guards put the prisoners at their mercy for even the daily, commonplace functions like going to the toilet. To do so, required publicly obtained permission (not always granted) and then a personal escort to the toilet while blindfolded and handcuffed. The same was true for many other activities ordinarily practised spontaneously without thought, such as lighting up a cigarette, reading a novel, writing a letter, drinking a glass of water or brushing one's teeth. These were all privileged activities requiring permission and necessitating a prior show of good behaviour. These low level dependencies engendered a regressive orientation in the prisoners. Their dependency was defined in terms of the extent of the domain of control over all aspects of their lives which they allowed other individuals (the guards and prison staff) to exercise.

As in real prisons, the assertive, independent, aggressive nature of male prisoners posed a threat which was overcome by a variety of tactics. The prisoner uniforms resembled smocks or dresses, which made them look silly and enabled the guards to refer to them as "sissies" or "girls". Wearing these uniforms without any underclothes forced the prisoners to move and sit in unfamiliar, feminine postures. Any sign of individual rebellion was labelled as indicative of "in corrigibility" and resulted in loss of privileges, solitary confinement, humiliation or punishment of cell mates. Physically smaller guards were able to induce stronger prisoners to act foolishly and obediently. Prisoners were encouraged to belittle each other publicly during the counts. These and other tactics all served to engender in the prisoners a lessened sense of their masculinity (as defined by their external culture). It follows then, that although the prisoners usually outnumbered the guards during line-ups and counts (nine v. three) there never was an attempt to directly overpower them. (Interestingly, after the study was terminated, the prisoners expressed the belief that the basis for assignment to guard and prisoner groups was physical size. They perceived the guards were "bigger", when, in fact, there was no difference in average height or weight between these randomly determined groups.)

In conclusion, we believe this demonstration reveals new dimensions in the social psychology of imprisonment worth pursuing in future research. In addition, this research provides a paradigm and information base for studying alternatives to existing guard training, as well as for questioning the basic operating principles on which penal institutions rest. If our mock prison could generate the extent of pathology it did in such a short time, then the punishment of being imprisoned in a real prison does not "fit the crime" for

DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

AFZF-CG

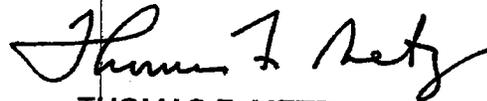
AUG 14 2004

MEMORANDUM FOR Defense Counsel for Specialist Megan Ambuhl, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Request for Expert Assistance in United States v. SPC Megan M. Ambuhl

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

Your request for Appointment of [REDACTED] as a confidential expert consultant is denied. You have not demonstrated that the appointment of [REDACTED] necessary pursuant to RCM 703(d). I am prepared, however, to detail a military expert of suitable training, education, and experience to assist you if you so desire.



THOMAS F. METZ
Lieutenant General, USA
Commanding

002709

UNITED STATES)

RESPONSE TO DEFENSE MOTION
FOR EXPERT ASSISTANCE

v.)

AMBUHL, MEGAN M.)
SPC, U.S. Army)
Headquarters & Headquarters Company)
16th Military Police Brigade (Airborne))
III Corps, Victory Base, Iraq)
APO AE 09342)

17 August 2004

RELIEF SOUGHT

The Government moves the Court deny the Defense Motion for Expert Assistance.

BURDEN OF PROOF & STANDARD OF PROOF

The Defense, as the moving party, bears the burden of this motion by a preponderance of the evidence. R.C.M. 905(c). The current legal standard for employment of a defense expert is discussed below.

FACTS

The accused, along with a number of other co-accused, allegedly maltreated and assaulted foreign national detainees while acting as a prison guard at the Baghdad Central Correctional Facility, Abu Ghraib, Iraq.

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

On 20 March 2004, CPT [REDACTED] preferred charges against the accused for violations of the Uniform Code of Military Justice (UCMJ). The charges and specifications alleged the following UCMJ violations: Article 81 (conspiracy to commit maltreatment), Article 92 (dereliction of duty), Article 93 (maltreatment), and Article 134 (indecent acts). All of these offenses are alleged to have occurred at BCCF during the time of the accused's assignment to the facility.

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

On 6 July 2004, the Defense submitted a Request for Expert Assistance, regarding Dr. [REDACTED] to the Convening Authority. The Defense asserts the following: Dr. [REDACTED] is a Professor of Psychology at the University of California, Santa Cruz; Dr. [REDACTED] is one of the original researchers in the "Stanford Prison Experiment"; Dr. [REDACTED] has dedicated over 30 years of research to the subject-area of prison psychology; Dr. [REDACTED] research has shown that prisons are powerful social settings and that much of what people do inside of them is shaped by the conditions that exist therein.

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APPELLATE EXHIBIT V

Recognized R. 40

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

On 13 July 2004, CPT [REDACTED] preferred additional charges against the accused. The following violations were alleged: Article 81 (conspiracy to commit maltreatment); and Article 93 (x2) (maltreatment). These additional charges are alleged to have occurred at BCCF while SPC Ambuhl worked on Tier 1B.

On 21 July 2004, the Convening Authority, referred the 20 March 2004 and the 13 July 2004 charges and specifications to a General Court-Martial.

On 14 August 2004, the Convening Authority denied the Defense's 6 July 2004 Request for Expert Assistance. However, the Convening Authority indicated that the Government would detail a military expert of suitable training, education, and experience to assist the Defense.

On 16 August 2004, the Government notified the Defense of the Convening Authority's decision. The Defense immediately requested that the Government identify who they deemed as a suitable alternative prior to 23 August 2004.

On 17 August the Government notified the Defense that efforts were underway to identify suitable individuals to be detailed to the Defense.

LAW

A military accused has, as a matter of Equal Protection and Due Process, a right to expert assistance when necessary to present an adequate defense. See Ake v. Oklahoma, 470 U.S. 68 (1985); U.S. v. Garries, 22 M.J. 288 (C.M.A.), cert. denied, 479 U.S. 985 (1986). Article 46 of the Manual for Courts-Martial (MCM) provides that the trial counsel and defense counsel shall have equal opportunity to obtain witnesses and other evidence. As a matter of due process, servicemembers are entitled to investigative or other expert assistance at Government expense when necessary for an adequate Defense. See United States v. Garries, 22 M.J. 288, 290 (C.M.A. 1986). The necessity requirement exists because, unlike the civilian defendant, the military accused has the resources of the Government at his or her disposal. Id. There are three criteria for showing necessity:

First, why the expert assistance is needed. Second, what the expert assistance [would] accomplish for the accused. Third, why the defense counsel [is] unable to gather and present the evidence that the expert assistant would be able to develop.

United States v. Ndanyi, 45 M.J. 315, 319 (C.A.A.F. 1996) (emphasis supplied). Finally, in demonstrating necessity, the accused must demonstrate more than just the possibility of assistance from a requested expert, but instead must show that there exists a reasonable probability that an expert would be of assistance to the defense and that the denial of expert assistance would result in a fundamentally unfair trial. United States v. Gunkle, 55 M.J. 26, 31-32 (C.A.A.F. 2001).

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ARGUMENT

Applying the factors above, the Defense has not shown that the requested investigative assistance is necessary.

First, the Defense ^{(b)(6)-4 (b)(7)(C)-4} has failed to show why the expert assistance is needed. The Defense asserts that ██████████ can provide insight into how the prison environment “may help to account for a person’s behavior or inaction.” The Defense further asserts that this expert is necessary to explore the defenses to all charges, specifically with reference to the accused’s complacency or inability to act. The expert will also be apparently utilized to demonstrate the “elaborate” training requirements necessary to handle the unique pressures of the prison environment.

With respect to the accused’s complacency or inability to act, the Defense’s ultimate contention appears to be that this expert is able to answer the imponderable question of “why good people do bad things.” This contention is simply speculative at best and falls short of the reasonable probability of assistance specified in United States v. Gunkle. This is particularly true given the inordinate reliance upon the “Stanford Prison Experiment,” an experiment with a questionable foundation. See Alan Zarembo, *A Theater of Inquiry and Evil*, L.A. TIMES at 1, July 15, 2004 (attached). If the Defense’s assertion were given credence then any offense within any prison involving a person’s “action or inaction” would be entitled to expert assistance, a result that is both impractical and nonsensical.

Second, the Defense has failed to show why they are unable to present the evidence that the expert assistant would be able to develop. The Defense has the ability to consult with a wide variety of experts, including Colonel ██████████. As an annex to MG Taguba’s investigation, COL ██████████ initial report addresses many of the same issues the Defense now seeks to present. COL ██████████ report highlights the unique pressures, lack of training, and other situation specific stressors that the Defense seeks to highlight. The Defense has access to Colonel ██████████ as well as a wide variety of military and civilian psychologist, and psychiatrist, all of whom may be called to testify on behalf of the Defense upon a proper showing of relevancy. ^{all (b)(6)-2; (b)(7)(C)-2}

Additionally, the two defense counsel representing the accused, though not trained as psychologists, have an identified duty to do the hard work necessary to understand the operative facts of their case. In this case, two attorneys (one military and one civilian) represent the accused. Additionally, the Convening Authority previously detailed a trained military police investigator to assist with other aspects of case preparation. The Defense team is also aided by the work of other investigators including MG Taguba’s report, a Department of Army Inspector General’s report (specifically identifying training issues within a military context), as well as a number of other investigations. Together with these reports, the Defense team has the means to adequately research the pertinent issues particularly given the wide variety of trained psychologists within the Department of Defense made available to the all parties to this case.

Finally, although not conceding that the Defense has met their requisite showing for necessity, the Convening Authority, at his discretion, is prepared to appoint a specific psychologist or psychiatrist of appropriately comparable training, education and experience.

CONCLUSION

While the appointment of Dr. [REDACTED] may very well be helpful to the Defense, the standard for appointment of an expert to the Defense team is not whether the assistance is helpful, but rather expert's assistance is necessary. Because the Defense has failed to demonstrate either need or inability to gather and present the requisite evidence and thus failed to establish necessity, the Government requests that the Defense motion for appointment of Dr. [REDACTED] as an expert assistant on the Defense team be denied.

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

RESPECTFULLY SUBMITTED:

[REDACTED]

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

MAJ, JA
Trial Counsel

CERTIFICATE OF SERVICE

I certify that this Government Response to Motion for Expert Assistance was served on the Defense via e-mail to CPT [REDACTED] at [REDACTED]@us.army.mil and to Mr. [REDACTED] at [REDACTED]@svg-law.com and to the military judge via e-mail on 17 August 2004.

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

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

[REDACTED]

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

MAJ, JA
Trial Counsel

002713

UNITED STATES)

v.)

Megan M. AMBUHL)
SPC, U.S. Army)
Headquarters & Headquarters Company)
16th Military Police Brigade (Airborne))
III Corps, Victory Base, Iraq)
APO AE 09342)

MOTION TO COMPEL
DISCOVERY

14 August 2004

COMES NOW the accused, SPC Megan M. Ambuhl, by and through counsel, to move the Court to compel the government to release certain discovery that is relevant and necessary to the preparation of the defense's case.

A. RELIEF SOUGHT

The defense respectfully requests that the defense Motion to Compel Discovery be granted and that the government be ordered to produce discovery expeditiously in this case.

B. BURDEN OF PROOF & STANDARD OF PROOF

The defense, as the moving party, bears the burden of this motion by a preponderance of the evidence. Rule for Courts-Martial (R.C.M.) 905(c).

C. FACTS

On 20 March 2004, the government preferred charges against SPC Megan M. Ambuhl for four alleged violations of the Uniform Code of Military Justice (UCMJ). (See Charge Sheet)

On 10 April 2004, the defense requested production of certain relevant and necessary evidence. The government only partially complied with this request prior to the Article 32(b) hearing in the above-captioned case.

On 7 May 2004, the defense requested copies of the Article 32 hearing reports for the following co-accused: SGT [REDACTED], CPL [REDACTED], SPC [REDACTED], and SPC [REDACTED]. The government complied with this request. *all (b)(6)-5, (b)(7)(C)-5*

On 11 May 2004, the defense requested copies of all of the individual rebuttals to MG Taguba's 15-6 investigation. The defense has not yet received all of the rebuttal documents.

On 20 May 2004, the defense requested audio recordings of the Article 32 hearings for the following co-accused: SGT [REDACTED], SPC [REDACTED], and SSG [REDACTED]. The government complied with this request.

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APPELLATE EXHIBIT VI

Recognized R. 71

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

On 22 May 2004, the defense requested copies of certain case documents from the companion case of *United States v. SPC [REDACTED]*. The government complied with this request.

On 24 May 2004, the defense requested production and declassification of MG Taguba's AR 15-6 Investigation and Annexes. To date, the government has failed to comply with this request. (On 1 July 2004, the government formally requested declassification of these documents by submitting a memorandum to the Commanding General, Coalition Forces Land Component Command.)

On 17 June 2004, the defense submitted a formal request for discovery. The government has not responded and has failed to produce a significant portion of this request.

On 26 June 2004, the defense requested a copy of the audio recording of the Article 32 hearing for the following co-accused: SPC [REDACTED]. The government has failed to comply with this request.

On 26 June 2004, the defense requested production and declassification of several memoranda issued by the Combined Joint Task Force Seven (CJTF-7) relating to International Committee for the Red Cross (ICRC) visits to the Baghdad Central Detention Facility and Special Detentions Facility in October 2003. The government has not responded to or complied with this request.

On 28 June 2004, the defense requested the preservation of certain tangible evidence maintained by the government's Criminal Investigative Command (CID) pertaining to case number 0003-04-CID149. The government has not responded to this request.

On 1 July 2004, the defense requested production of copies of certain tangible CID evidence. The government has not responded to or complied with this request.

On 13 July 2004, the government preferred additional charges against SPC Megan M. Ambuhl for three alleged violations of the UCMJ.

On 22 July 2004, the General Court-Martial Convening Authority referred all charges and specifications to a general court-martial.

On 11 August 2004, the court arraigned SPC Ambuhl on the charges and specifications and the additional charges and specifications.

D. LAW

The defense relies on the following authorities in support of its motion:

- a. Article 46, UCMJ
- b. R.C.M. 701
- c. R.C.M. 703
- d. R.C.M. 905
- e. Brady v. Maryland, 373 U.S. 83 (1963)
- f. United States v. Adens, 56 M.J. 724 (A.C.C.A. 2002)
- g. United States v. Mosley, 42 M.J. 300 (C.A.A.F. 1995)

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- h. United States v. Eshalomi, 23 M.J. 12 (C.M.A. 1986)

E. EVIDENCE

The defense requests consideration of the following documents to establish a factual timeline of events in this case and to memorialize the exact content of each defense request:

- a. Memorandum, dated 10 April 2004, SUBJECT: Article 32 Request for Witnesses and Production of Evidence – United States v. SPC Megan M. Ambuhl
- b. Memorandum, dated 11 May 2004, SUBJECT: Request for Copies of 15-6 Rebuttals
- c. Memorandum, dated 24 May 2004, SUBJECT: Request for Production and Declassification of MG Taguba’s AR 15-6 Investigation and Annexes – U.S. v. SPC Megan M. Ambuhl
- d. Request for Discovery, dated 17 June 2004
- e. Memorandum, dated 26 June 2004, SUBJECT: Request for Declassification of Memoranda Reviewing ICRC Detention Facility Visits – U.S. v. SPC Megan M. Ambuhl
- f. Memorandum, dated 28 June 2004, SUBJECT: Request for Preservation of Evidence – U.S. v. SPC Megan M. Ambuhl
- g. Memorandum, dated 1 July 2004, SUBJECT: Request for Production of CID Evidence – U.S. v. SPC Megan M. Ambuhl
- h. Memorandum, dated 1 July 2004, SUBJECT: Declassification of witness statements in AR 15-6 Investigation – 800th Military Police Brigade

F. ARGUMENT

An accused has a right as a matter of due process to favorable evidence. The United States Supreme Court held that “the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material to either guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” Brady v. Maryland, 373 U.S. 83, 87 (1963).

The military provides even more generous provisions for discovery in trials by Courts-Martial. In military trials, the defense “shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the President may prescribe.” Article 46, UCMJ. Moreover, R.C.M. 703(f)(1) provides: “Each party is entitled to the production of evidence which is both relevant and necessary.” The Discussion to this rule explains that, “[r]elevant evidence is necessary when it is not cumulative and when it would contribute to a party’s presentation of the case in some positive way on a matter in issue.” Upon defense request, the government shall permit the defense to inspect tangible objects that are material to the preparation of the defense. R.C.M. 701(a)(2).

In United States v. Eshalomi, 23 M.J. 12 (C.M.A. 1986), the Court of Military Appeals held that Congress and the President enacted higher standards for discovery in trials by Courts-Martial. The Court noted that Article 46, UCMJ, provides for “equal opportunity” to obtain

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witnesses and evidence. See id. at 24. The Court, although not directly addressing the issue, noted that Article 46, UCMJ, may impose a heavier burden on the government to sustain a conviction than is constitutionally required when defense requested discovery is withheld. See id.

In United States v. Mosley, 42 M.J. 300 (1995), the Court of Appeals for the Armed Forces dealt with the issue of defense access to evidence. In that case, the accused was charged with wrongful use of cocaine. The defense made a request to the convening authority for retesting of the urine sample, which was denied. The defense then asked that the Court order the retesting. See id. at 301. Despite the Military Judge's order to retest the sample based upon R.C.M 703(f)(1), the convening authority refused to comply. The Military Judge subsequently abated the proceedings. The Air Force Court of Criminal Appeals reversed the order of the Military Judge, holding that he abused his discretion. The Court of Appeals for the Armed Forces reversed and ordered a new trial, holding that the Military Judge relied upon the proper standard and did not abuse his discretion. See id. at 303.

There is no requirement in military practice that the evidence be exculpatory in nature in order to be discoverable. See United States v. Adens, 56 M.J. 724 (A.C.C.A. 2002) (finding that neither the phrase "material to the preparation of the defense" in R.C.M. 701 nor Article 46, UCMJ, limits disclosure to exculpatory matters).

1. The Defense has a Right to Equal Access to Evidence in this Case

The defense first requested discovery on 10 April 2004. To date the government has failed to provide a significant amount of discovery and documents. The requested materials should be provided in an expeditious manner to enable SPC Ambuhl's civilian and military counsel to have equal access. Government representatives control the release of discovery in this case and despite continued defense requests, submitted in a timely manner, the government continues to fail to comply with these requests. Civilian and military counsel must be granted equal access.

Additionally, the defense has requested the declassification of a significant number of documents in this case. The government only made the classified documents available to the civilian defense counsel in July 2004 and has not yet provided redacted or declassified copies. The government has suspended SPC Ambuhl's security clearance pending the outcome of the pending charges. The government is also prohibiting SPC Ambuhl from viewing classified documents because of this now-suspended security clearance. Even with these government mandated decisions, the government still refuses to provide declassified or redacted documents for SPC Ambuhl's review. The government is effectively prohibiting SPC Ambuhl from fully participating in her own defense. Despite receiving a defense request for declassification of MG Taguba's 15-6 Investigation on 24 May 2004, the government did not act on that request until 1 July 2004. This failure to produce denies the defense equal access to evidence in this case.

2. The Requested Evidence is Relevant and Necessary to the Defense

The inspection of the requested evidence by the defense team is both relevant and necessary. SPC Ambuhl is charged with dereliction of duty. At issue in this case will be the exact extent of SPC Ambuhl's duties and whether or not her alleged dereliction was actually sanctioned by those in her chain-of-command. Many of the requested documents are relevant and necessary to explore this possible defense. These documents may further assist the defense in presenting extenuation or mitigation if SPC Ambuhl is convicted.

Further, SPC Ambuhl is charged with two specifications of conspiracy, three specifications of maltreatment and one specification of indecent acts. The defense has requested copies of the hard drives of various laptop computers seized by the government. These hard drives contain dozens, if not hundreds, of additional photographs that the Criminal Investigative Division deemed not relevant to its investigation. These photographs, specifically the dates and times these digital photos were taken, are relevant and necessary to SPC Ambuhl's defense.

If deemed necessary by the court, the defense requests argument as to the relevance and necessity of each requested piece of evidence prior to the court's determination to compel production. At a minimum, the defense requests written government responses to each of the defense requests submitted to date.

3. The Requested Evidence is Material to the Preparation of the Defense

R.C.M. 701(a)(2) provides that upon defense request, the government shall permit the defense to inspect tangible objects that are material to the preparation of the defense. The defense team is unable to prepare adequately for trial without being able to examine certain documents and tangible evidence in this case. The defense has a good faith basis as to the materiality of each requested piece of evidence. Certain tangible evidence may prove exculpatory to SPC Ambuhl and is certainly material to preparation of her defense.

G. CONCLUSION

The defense respectfully request that this Court grant the defense's Motion to Compel Discovery and order expeditious production of the requested discovery in this case.

RESPECTFULLY SUBMITTED:



CPT, JA
Trial Defense Counsel

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

CERTIFICATE OF SERVICE

(b)(6)-4; (b)(7)(C)-4
I certify that this defense Motion to Compel Discovery was served on the government via e-mail to [REDACTED]@vcmain.hq.c5.army.mil and [REDACTED]@vcmain.hq.c5.army.mil and on and on the military judge via e-mail on 14 August 2004.

[REDACTED] (b)(6)2; (b)(7)(C)-2

CPT, JA
Trial Defense Counsel



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
REGION IX, FOB DANGER BRANCH OFFICE
APO AE 09392

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

10 April 2004

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

MEMORANDUM FOR MAJ [REDACTED] Article 32 Investigating Officer, Headquarters,
420th Engineer Brigade, Victory Base, Iraq, APO AE 09342

SUBJECT: Article 32 Request for Witnesses and Production of Evidence – *United States v. SPC Megan M. Ambuhl*

1. The Defense requests that the following witnesses be produced at the Article 32 investigative hearing scheduled for 20 April 2004, IAW with Rules for Courts-Martial (R.C.M.) 405(f)(9) and 405(g):

a. CID Agents

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

i. Special Agent [REDACTED] 10th MP BN, Baghdad, Iraq, APO AE 09335.

Agent [REDACTED] testimony is relevant because he interviewed numerous alleged victims and made several visits to the Abu Ghraib prison facility during the period of the alleged offenses. Agent Pieron also interviewed several alleged co-conspirators.

ii. Special Agent [REDACTED] 10th MP BN, Baghdad, Iraq, APO AE 09335.

Agent [REDACTED] testimony is relevant because she interviewed several of the alleged victims and actively investigated the allegations in this case.

b. Iraqi Detainees

The Defense requests a certified interpreter to translate the testimony of the Iraqi detainee witnesses. The testimony of these witnesses is extremely relevant. These individuals may have potentially exculpatory information. The Defense has limited if any access to them based on their current status. For that reason, the Defense requests that the government produce the listed detainees to testify at the Article 32(b) Investigation. IAW R.C.M. 405(g)(4)(A) the Defense objects to consideration of the Sworn Statements of the listed alleged victims and Iraqi detainees. Such statements may not be considered by the IO over the objection of the Defense. All alleged victims and detainees reside at Abu Ghraib Prison in Abu Ghraib, Iraq. They are as follows:

- i. [REDACTED]
- ii. [REDACTED]
- iii. [REDACTED]
- iv. [REDACTED]
- v. [REDACTED]
- vi. [REDACTED]

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

002720

- vii.
- viii.
- ix.
- x.
- xi.
- xii.
- xiii.
- xiv.

[REDACTED]

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

c. Chain of Command – 372nd MP Company

i. CPT [REDACTED] former Company Commander

[REDACTED]@us.army.mil) CPT [REDACTED] can testify as to the training provided to his unit, specifically any training regarding detention facilities. CPT [REDACTED] can testify as to his knowledge of the alleged abuses that occurred at Abu Ghraib. If necessary, the defense requests immunity for this witness to testify.

all
(b)(6) 2, (b)(7)(C)-2
except as
indicated

ii. CPT [REDACTED] former Platoon Leader

[REDACTED]@us.army.mil) CPT [REDACTED] can testify as to the training given to reserve MPs, specifically the training regarding detention facilities and control of detainees. CPT [REDACTED] can testify as to his knowledge of the alleged abuses that occurred at Abu Ghraib. If necessary, the defense requests immunity for this witness to testify.

iii. MSG [REDACTED] former Company 1SG

[REDACTED]@us.army.mil) As the senior enlisted member of the 372nd MP Company, 1SG Lipinski can testify as to the training given to his MPs. He can testify as to his knowledge of the alleged abuses that occurred at Abu Ghraib. If necessary, the defense requests immunity for this witness to testify.

iv. SFC [REDACTED] former Platoon Sergeant

[REDACTED]@us.army.mil) SFC [REDACTED] supervised many of the co-accused at Abu Ghraib. He conducted spot-checks of the facility, specifically cell blocks 1a and 1b. SFC [REDACTED] witnessed at least one of the charges to which SPC Ambuhl is facing court-martial. He can provide exculpatory testimony for SPC Ambuhl. His testimony is highly relevant and critical to this case. If necessary, the defense requests immunity for this witness to testify.

d. Co-Accused – 372nd MP Company

- i. SGT [REDACTED]
- ii. PFC [REDACTED]
- iii. SSG [REDACTED]
- iv. CPL [REDACTED]
- v. SPC [REDACTED]
- vi. SPC [REDACTED]

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

all (b)(6)-2, (7)(g)-2

e. Additional Witnesses – 372nd MP Company

i. MAJ [REDACTED] former S-3 for the 320th MP Battalion [REDACTED]@us.army.mil) As the S-3 MAJ [REDACTED] was responsible for drafting and disseminating ROE guidance. The ROE and any training received by the 372nd MPs are extremely relevant to Charge II.

ii. SPC [REDACTED] [REDACTED]@us.army.mil) SPC [REDACTED] first reported the alleged offenses to CID. His credibility and motivation are highly relevant. Further, SPC [REDACTED] may provided exculpatory testimony regarding SPC Ambuhl.

iii. SSG [REDACTED] [REDACTED]@us.army.mil)

iv. SGT [REDACTED] [REDACTED]@us.army.mil) SGT [REDACTED] was the operations NCOIC of Abu Ghraib during the time frame of the charged offenses. He will testify that he never witnessed any abuse taking place at the prison.

v. SSG [REDACTED] [REDACTED]@us.army.mil) SSG [REDACTED] was the Force Protection NCO of Abu Ghraib during the time frame of the charged offenses. He can testify as to the day-to-day operations of Abu Ghraib and what procedures were in place on cell blocks 1b for interacting with detainees.

vi. SGT [REDACTED] [REDACTED]@us.army.mil) SGT [REDACTED] spent time at blocks 1a and 1b during October, November, and December 2003. SGT [REDACTED] worked at 1a on evenings when CPL [REDACTED] was not working. He can provided testimony as to the procedures used on the cell blocks and to training that he and his unit received.

vii. SPC [REDACTED] [REDACTED]@us.army.mil) SPC [REDACTED] worked on the same block as SPC Ambuhl. She can testify as to the nature of detainees that were held on 1b and as to the types of training received by her reserved unit. She can testify as to the interaction between the MI representatives and the MP guards.

viii. SGT [REDACTED] [REDACTED]@us.army.mil) SGT [REDACTED] worked at block 1a during October, November, and December 2003. He worked at 1a on evenings when CPL [REDACTED] was not working. He can provided testimony as to the procedures used on the cell blocks and to training that he and his unit received. He can testify as to the general nature of detainees that were held on block 1a and the procedures that MI used for interrogation.

all (b)(6) · 2; (b)(7)(C) · 2

ix. SGT [REDACTED] ([REDACTED]@us.army.mil) SGT [REDACTED] worked at block 1a during October, November, and December 2003. He can provided testimony as to the procedures used on the cell blocks and to training that he and his unit received. He can testify as to the general nature of detainees that were held on block 1a and the procedures that MI used for interrogation. He will also testify to the lack of any standard procedure or accountability at Abu Ghraib.

x. SPC [REDACTED] ([REDACTED]@us.army.mil) SPC [REDACTED] worked at block 1a during October, November, and December 2003. He can provided testimony as to the procedures used on the cell blocks and to training that he and his unit received. He can testify as to the general nature of detainees that were held on block 1a and the procedures that MI used for interrogation.

xi. SSG [REDACTED] ([REDACTED]@us.army.mil) SSG [REDACTED] can testify as to the procedures used on the cell blocks and to training that he and his unit received. He will also testify to the lack of any standard procedure or accountability at Abu Ghraib.

f. Military Intelligence Witnesses

- i. SPC [REDACTED] 325th MI Battalion
- ii. SPC [REDACTED] 325th MI Battalion
- iii. SPC [REDACTED] 325th MI Battalion

iv. SGT [REDACTED] 302nd MI Battalion ([REDACTED]@us.army.mil) SGT [REDACTED] will testify that members of his chain of command told him to delete Abu Ghraib photos off of his computer hard drive prior to the CID investigation.

v. CW2 [REDACTED] formerly assigned to 325th MI Battalion ([REDACTED]@us.army.mil) CW2 [REDACTED] was an MI Interrogator that worked daily at Abu Ghraib at blocks 1a and 1b. CW2 [REDACTED] will testify about authorized MI interrogation techniques. CW2 [REDACTED] can testify as to the interaction and coordination between the MI interrogators and the MP guards. CW2 [REDACTED] has been transferred to the CPA in Baghdad.

vi. COL [REDACTED] 205th MI Brigade ([REDACTED]@us.army.mil) COL [REDACTED] will testify as to his knowledge of allegations of abuse and/or mistreatment of detainees between 16 Sep 03 and 22 Dec 03. In command during the time of the alleged offenses, COL [REDACTED] knowledge of misconduct at Abu Ghraib and the chain-of-commands response to such allegations is highly relevant.

CO(6)(6)-2, (7)(C)-2

g. Other Witnesses

i. CPT [REDACTED] former Interrogation OIC, DNV: [REDACTED] ([REDACTED]@us.army.mil) CPT [REDACTED] a Military Intelligence officer, is familiar with the Camp Vigilant SOP and can testify as to CJTF-7 policies regarding Interrogation Rules of Engagement for detainees at Abu Ghraib.

ii. CPT [REDACTED] 205th MI Brigade Operational Law, DNV: [REDACTED] ([REDACTED]@us.army.mil) CPT [REDACTED] was the legal advisor for the MI Group who ran Abu Ghraib prison. CPT [REDACTED] can testify to the procedures put into place for dealing with detainees and the training that was taught to the members of the 372nd MP Company for their work at the facility. CPT [REDACTED] visited Abu Ghraib during the relevant time period and can testify to the conditions at the facility.

iii. CPT [REDACTED] Ft. Sam Houston ([REDACTED]@us.army.mil) CPT [REDACTED] was one of several attorneys who provided advice on detainee operations and ROE at Abu Ghraib.

iv. SGM [REDACTED] 418th MP Detachment ([REDACTED]@us.army.mil)

iii. LTC [REDACTED] CJTF-7, BIAP, Baghdad, Iraq ([REDACTED]@us.army.mil) LTC [REDACTED] will testify as to his knowledge of allegations of abuse and/or mistreatment of detainees between 16 Sep 03 and 22 Dec 03.

iv. MAJ [REDACTED] CJTF-7
LTC [REDACTED] tasked MAJ [REDACTED] to respond to inquiries by the ICRC during the fall of 2003. When called to testify he can explain the ICRC inquiries and testify as to his response on behalf of CJTF-7.

2. If the Government contends that any Defense requested witness is not reasonably available under R.C.M. 405(g), the Defense requests that you make a determination under R.C.M. 405(g)(2). Your determination should be made after the Government explains *on the record* the specific efforts made to locate and contact the witnesses and after consultation with your legal advisor as to whether or not the witness is reasonably available. If deemed reasonably unavailable, the Defense requests that a specific factual reason be stated on the record.

3. The Defense requests that the following documents and evidence be produced to the Defense at the Article 32 hearing, LAW with R.C.M. 405(f)(10) and 405(g)(1)(B):

a. All copies of CID reports (including 28s), military police reports, or any other reports made by a law enforcement agency relevant to this investigation to include the Agent Activity Reports and the Agent Activity Summaries compiled by the following investigators:

- i. SA [REDACTED]
- ii. SA [REDACTED]
- iii. SA [REDACTED]
- iv. SA [REDACTED]
- v. SA [REDACTED]
- vi. SA [REDACTED]
- vii. SA [REDACTED]
- viii. SA [REDACTED]
- ix. SA [REDACTED]
- x. SA [REDACTED]

- xi. SA [REDACTED]
- xii. SA [REDACTED]
- xiii. SA [REDACTED]
- xiv. SA [REDACTED]
- xv. SA [REDACTED]
- xvi. SA [REDACTED]
- xvii. SA [REDACTED]
- xviii. SA [REDACTED]
- xix. SA [REDACTED]
- xx. SA [REDACTED]

*all (b)(6) 2; (b)(7)(C)-2
 except as
 indicated*

b. All evidence seized from the crime scene or any related evidence be present or made available for inspection by the Defense and the Investigating Officer including but not limited to any evidence seized as a result of the CID searches conducted throughout this investigation;

c. Any and all ROE/RUF guidance established by 372nd MP Company from October 2003 to the present;

d. Any and all OPORDs that pertain to the Abu Ghraib mission to include the ROE/RUF card then in effect;

e. Training records for SPC Megan Ambuhl and the co-accused;

f. Complete medical records for the Iraqi detainees listed in paragraph 1b of this Memorandum;

g. Any and all unit level and/or IG complaints regarding the treatment of Abu Ghraib detainees lodged against any soldier assigned to the 372nd MP Company, the 800th MP Brigade, the 205th MI Company, the 325th MI Battalion, or the 20th MI Brigade;

h. A complete copy of the unit counseling files to include any records of nonjudicial punishment or administrative action for the following soldiers:

- i. SPC *MEGAN M. Ambuhl* [REDACTED]
- ii. SGT [REDACTED]
- iii. SPC [REDACTED]
- iv. SPC [REDACTED]
- v. SGT [REDACTED]
- vi. SSG [REDACTED]
- vii. PFC [REDACTED]

- viii. SSG [REDACTED]
- ix. CPT [REDACTED] *(b)(6)-5; (b)(7)(C) 5*
- x. SPC [REDACTED]
- xi. SPC [REDACTED]
- xii. SGT [REDACTED]
- xiii. SPC [REDACTED]
- xiv. SPC [REDACTED] *(b)(6)-5; (b)(7)(C) 5*

i. Copies of any relief-in-place (RIP) schedules or training schedules between the 72nd MP Company (Las Vegas, Nevada) and the 372nd MP Company, to include any OPORDs;

j. A copy of the final CID case file with exhibits, of case number 0005-04-CID149, as referenced in the AIR of SA [REDACTED] dated 22 Jan 04, regarding a K-9 incident at Abu Ghraib;

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

k. Copies of the two Working Papers referenced by BG Karpinski in her 24th Dec 03 letter to Ms. [REDACTED] ICRC Protection Coordinator; (b)(6)-4, (b)(7)(C)-4

l. Copies of the ICRC reports dated Oct 03 and Dec 03 obtained by CID from CW4 [REDACTED] as referenced in SA [REDACTED] AIR, dated 5 Feb 04; (b)(6)-1; (b)(7)(C)-1

m. Copies of the official detainee file (as referenced in para. 3-4 of the Camp Vigilant Operations Procedures SOP (draft)) of the detainees listed in para. 1b of this Memorandum. At a minimum, the defense requests the name, detainee sequence number, capture number, capture date and crime charged with or suspected of for the detainees listed in para. 1b of this Memorandum;

n. A copy of the "Behavior Modification Plan" as referenced in para. 3-12 of the SOP;

o. A copy of the draft of Chapter 4 as referenced on pages 9-10 of the SOP;

p. A copy of the parallel AR 15-6 Investigation concerning the charged offenses and the actions and conduct of the leadership of the 372nd MP Company and the 800th MP Brigade (to include, any documents maintained by the AR 15-6 Officer to include his or her appointment memorandum);

q. Copies of any Press Releases or PAO information disseminated by the command regarding the charges faced by SPC Ambuhl and her co-accused, to include documents drafted by the Office of the Staff Judge Advocate for release;

r. Copies of any administrative action, relief-for-cause documents, letters of reprimand, and OERs/NCOERs for the members of the commands of 372nd MP Company and 800th MP Battalion who were in command from October 2003 through March 2004;

s. Copies of any SIGACTS, FRAGOs, OPORDERS, or other similar documents related to the ICRC visits to Abu Ghraib from October to December 2003;

t. Copies of any documents obtained or produced by MAJ [REDACTED] as a result of his response by CJTF-7 to allegations of abuse and/or mistreatment of detainees between 16 Sep 03 and 22 Dec 03; (b)(6)-2; (b)(7)(C)-2

u. Copies of all documents, including documents of UCMJ or administrative action, regarding 3 soldiers from the 519th who ordered a female detainee to strip as referenced by CPT [REDACTED] in the preferral packet;

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

v. Copies of all documents, including documents of UCMJ or administrative action, regarding the 'Spence Incident,' as referenced by CW2 [REDACTED] in the preferral packet;

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

w. Copies of all documents, including documents of UCMJ or administrative action, from the August 2003 incident where 2 or 3 soldiers were disciplined by LTC [REDACTED] after a CID investigation into abuse, as referenced by MAJ [REDACTED], JDC, MI, Operations Officer, as referenced in the preferral packet;

x. Copies of all negative counselings, UCMJ records, and records of administrative action regarding the following soldiers from 4th Platoon, 372nd MP Company: SPC [REDACTED] SPC [REDACTED], SPC [REDACTED], SPC [REDACTED], SPC [REDACTED], SPC [REDACTED] and SSG [REDACTED]

y. Copies of all work schedules maintained by the 372nd MP Company or higher headquarters showing which soldiers were scheduled to work which shifts at cell blocks 1a and 1b during October, November and December 2003;

z. The Defense reserves the right to ask for additional evidence, as it becomes known during the Article 32 investigation.

4. If the Government contends that any Defense requested evidence relevant to this case is not reasonably available under R.C.M. 405(g), the Defense requests that you make a determination under R.C.M 405(g)(2). This determination should be made after the Government counsel explains on the record the specific efforts made to locate and produce the evidence and consultation with your legal advisor as to whether the evidence is reasonably available.

5. The Defense objects to consideration by the IO of the following evidence:

a. Various Documents (From Detainee Medical Records, 372nd MP CO, Medical Section, Abu Ghraib). The case file contains approximately 16 pages of assorted medical documents obtained from Abu Ghraib. These documents do not purport to be connected to any alleged victims or to SPC Ambuhl. Further, several of these records are dated outside of the alleged time period of abuse and have no relevance to the charged offenses.

b. Detainee Medical Records (From the 372nd MP CO, Medical Section, Abu Ghraib). The case file contains approximately 30 pages of medical records that do not pertain to any of the alleged victims of the charged offenses. These records do not purport to have any connection to SPC Ambuhl or the charges she is facing.

c. Hard-cell Medical Log (From the 372nd MP CO, Medical Section, Abu Ghraib). The case file contains approximately 48 pages of a medical log. These documents do not purport to be connected to any alleged victims or to SPC Ambuhl. These documents do not go to any element of any of the charged offenses.

d. Treatment Logs (From B Company, 109th Area Support Medical Battalion, BIAP). The case file contains approximately 61 pages of treatment logs. These documents do not purport to be connected to any alleged victims or to SPC Ambuhl. Further, a significant number of these documents (49 pages) are outside the time period for the charged offenses and are simply irrelevant to the pending Article 32(b) investigation.

e. Canvas Interview Worksheets. The case file contains approximately 140 canvas interview worksheets that do not contain any pertinent information relevant to the ongoing investigation. Consideration of this collective piece of evidence is prejudicial to SPC Ambuhl. Any potential probative value does not outweigh the prejudice to the soldier under M.R.E. 403.

f. Investigative Worksheets. The case file contains approximately 150 investigative worksheets that do not contain any pertinent or relevant information regarding the ongoing investigation. The investigative worksheets are not an exhibit to the CID report and are irrelevant to the Article 32(b) investigation.

g. Photographs & Video Clips. The case file contains several hundred digital photographs and numerous digital video clips. The defense objects to the consideration of the images unless the relevant images can be tied specifically to SPC Ambuhl. None of the photographs were seized from SPC Ambuhl or from any electronic equipment belonging to her. Consideration of the photographs as a group is highly prejudicial to SPC Ambuhl. At a minimum the Government should be required to establish some nexus between SPC Ambuhl and the photographs the Government wishes to be considered.

6. The Defense expresses the following additional concerns regarding the Article 32 pretrial investigation in this case:

a. Receipt of Legal Advice. The defense specifically requests that the IO make all determinations on questions of law after referring to R.C.M. 405, DA Pam 27-17, and based on advice from your legal advisor. As per DA Pam 27-17, para.1-2e, SPC Ambuhl and defense counsel are entitled to be informed of any legal advice received by the IO and the opportunity to reply to that legal advice. The Defense proposes that both parties be present during receipt of legal advice, that you restate the legal advice on the record, and that both parties be given the opportunity to respond to that advice before you make a determination on a question of law.

b. Marking Evidence. For record purposes, the Defense requests that you have the reporter mark each piece of evidence received and catalog the evidence. Please do not admit the “packet” as part of the record. This will prevent the parties and you from determining which evidence has been objected to and ruled upon.

c. Delivery of Report to Defense Counsel. The Defense requests that the convening authority direct delivery of your report to the Defense Counsel instead of SPC Ambuhl. See, R.C.M. 405(j)(3). To effect this delivery, I ask that you state my request in your report, and request that

the report be delivered with a personal certification and date annotation so that the Defense may comment on the report within five (5) days allocated UP R.C.M. 405 (j)(4). Defense counsel and SPC Ambuhl are located in different physical jurisdictions and service upon SPC Ambuhl can not be considered the same as service on Defense Counsel.

d. Verbatim Testimony. The Defense requests a verbatim transcript of the testimony presented during the Article 32 hearing. Alternatively, and IAW R.C.M. 405(h) and its applicable discussion, the Defense requests that each witness swear to the truth of his or her testimony, after it is reduced to writing.

7. If I may be of further assistance in this matter, please contact me via email at [REDACTED]@us.army.mil or by DNVT phone at: [REDACTED] or [REDACTED]

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

[REDACTED]

CPT, JA
Trial Defense Counsel



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
REGION IX, FOB DANGER BRANCH OFFICE
APO AE 09392

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

11 May 2004

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

MEMORANDUM FOR CPT [REDACTED], Trial Counsel, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Victory Base, Iraq, APO AE 09342

SUBJECT: Request for Copies of 15-6 Rebuttals

1. The defense requests copies of the rebuttals to the AR 15-6 Investigation completed by MG Taguba. As the 15-6 Investigation does not identify by name specific respondents, the defense requests copies of all rebuttals. The request *excludes* the rebuttals by the following individuals which previously were served on the defense:

- a. SFC [REDACTED] (b)(6)2; (7)(C)2
- b. 1SG [REDACTED]
- c. CPT [REDACTED]
- d. LTC [REDACTED]

2. This request specifically includes, but is not limited to, copies of the following:

- a. Notification of right to submit rebuttal matters
- b. Rebuttal Memoranda
- c. Exhibits or attachments to the rebuttal memoranda

3. Additionally, the defense requests copies of any and all actions, to include Letters of Reprimand and Relief for Cause OERs and NCOERs, that were issued as a result of the findings of MG Taguba's 15-6 Investigation or as a result of the investigation into misconduct at Abu Ghraib.

4. If possible, the defense requests that these documents be served electronically on the defense at [REDACTED]@svg-law.com and [REDACTED]@us.army.mil. Alternatively, a hard copy of the requested documents or a CD Rom of the requested documents may be served on the defense at [REDACTED] the Camp Victory Trial Defense Service Office, Baghdad. Point of contact for this request is the undersigned at DNVT: [REDACTED]

[REDACTED]
CPT, JA
Trial Defense Counsel

002730

Enclosure 2



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
REGION IX, FOB DANGER BRANCH OFFICE
APO AE 09392

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

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

24 May 2004

MEMORANDUM FOR CPT [REDACTED], Trial Counsel, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Victory Base, Iraq, APO AE 09342

SUBJECT: Request for Production and Declassification of MG Taguba's AR 15-6 Investigation and Annexes – U.S. v. SPC Megan M. Ambuhl

1. The defense requests government production of the entire AR 15-6 Investigation and Annexes completed by MG Taguba regarding allegations of abuse at Abu Ghraib prison.
2. The 15-6 annexes are maintained together on a classified CD Rom. After having completed a preliminary review of the annexes, the defense now requests that the government conduct a document-by-document review to determine the proper classification for each annex. Many documents, to include relevant sworn statements, appear to be unclassified; however, by maintaining them with classified documents on a CD Rom, the government has deemed them "secret." The government is reminded that Executive Order Number 12958 prohibits the classification of documents solely to "conceal violations of law." Government documents should be classified only if revealing their contents would harm national security. A cursory review of the annexes reveals that national security would not be jeopardized by the release and/or declassification of the majority of the 15-6 annexes.
3. Prior to any disposition of the charges against the above-referenced accused, the defense requires production of *all* the 15-6 annexes and an unredacted copy of the 15-6 Report. However, to facilitate and expedite the process, the defense requests immediate production of the annexes listed at the enclosure to this memorandum.
4. The defense requests that these documents be served electronically on the defense at [REDACTED]@svg-law.com and [REDACTED]@us.army.mil. Alternatively, a hard copy of the requested documents or a CD Rom of the requested documents may be served on the defense at the Camp Victory Trial Defense Service Office, Baghdad. Point of contact for this request is the undersigned at DNVT: 553-[REDACTED]

Encl

[REDACTED]

CPT, JA
Trial Defense Counsel

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**MG Taguba's 15-6 Investigation
Annexes**

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

<u>Annex No.</u>	<u>Annex Title</u>	<u>Summary</u>	
1	Psychological Assessment	Overview of life at Abu Ghraib and its effects on MP guards conducted by COL Henry Nelson, USAF Psychiatrist	
8	15-6 Investigation, 24 Nov 03	Contains 2 documents: (1) Memo from COL ██████████, dated 14 Feb 04, regarding corrective action from 24 Nov 03 incident; and (2) 25-page 15-6 Investigation about the riot and shootings from 24 Nov 03 – includes observations of conditions at hard site and Camp Ganci	
19	MG Ryder's Report, 6 Nov 03		
20	MG Miller's Report, 9 Sep 03		
27	800 th MP Brigade Roster, 29 Jan 04	Contains 2 documents: (1) a 39-page unit roster; (2) another unit roster of 2-pages	
28	205 th MI Brigade IROE, undated	Contains 4 documents: (1) 205 th photos of IROE; (2) 3-page IROE and DROE; (3) LTC ██████████ plan (same as corrective plan in Annex #8); (4) unsigned request from COL ██████████ to CJTF-7 to use "fear-up harsh and isolation approaches," dated 30 Nov 03	
30	Investigation Team's Witness List	List of interviewee names, dated interviewed, type of transcript (verbatim or summarized); 2-page document	
37	Excerpts from log books, 320 th MP Bn	11-pages of the Camp Ganci Log Book	
38	310 th MP Bn's Inprocessing SOP	A1 Hillah SOP by the 310 th MP Bn; 36-page SOP	
40	Joint Interrogation and Debriefing Center (JIDC) Slides, undated	Contains 3 sets of JIDC slides – 49 page slide show	
43	General Officer Memoranda of Reprimand (GOMORs)	On 10 Nov 03, BG Karpinski reprimands LTC ██████████ for 8 Nov 03 escape at Abu Ghraib.	
45	BG Janis Karpinski, Commander, 800 th MP BDE	Contains 2 documents: (1) Memo dated 17 Jan 04, issued by BG Karpinski regarding Fraternalization and Memo dated 19 Jan 04, issued by BG Karpinski, regarding treatment of detainees; (2) BG Karpinski's 157 page verbatim deposition.	

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

<u>Annex No.</u>	<u>Annex Title</u>	<u>Summary</u>
46	COL ██████████ Commander, 205 th MI BDE	Contains 4 statements from COL ██████████ including a verbatim transcript of his 15-6 interview
47	COL ██████████ CFLCC Judge Advocate, CPA Ministry of Justice	Verbatim deposition, dated 10 Feb 04, 41- pages. Questioned by COL ██████████ ██████████ CFLCC-SJA.
48	LTC ██████████ S-5 and XO, 800 th MP Brigade	Summary of Interview by MG Taguba's Investigative Team
49	LTC ██████████ Command Judge Advocate, 800 th MP Brigade	Summary of Interview by MG Taguba's Investigative Team
50	LTC ██████████ Commander, 165 th MI Battalion (Tactical Exploitation)	Summary of Interview by MG Taguba's Investigative Team
51	LTC ██████████ 202 nd MI Battalion	Summary of Interview by MG Taguba's Investigative Team
52	LTC ██████████, CDR, 310 th MP Bn	Summary of Interview by MG Taguba's Investigative Team
53	LTC ██████████ former Director, JIDC	Summary of Interview by MG Taguba's Investigative Team
54	LTC ██████████ CDR, 724 th MP Bn and OIC Arifjan Detachment, 800 th MP BDE	Summary of Interview by MG Taguba's Investigative Team
55	LTC ██████████, CDR, 744 th MP Bn	Summary of Interview by MG Taguba's Investigative Team
56	MAJ ██████████ -1, 800 th MP Brigade	Summary of Interview by MG Taguba's Investigative Team
57	MAJ ██████████ Deputy CJA, 800 th MP BDE	Summary of Interview by MG Taguba's Investigative Team
58	MAJ ██████████ -1 (forward), 800 th MP Brigade	Summary of Interview by MG Taguba's Investigative Team
59	MAJ ██████████, S-3, 320 th MP Bn	Summary of Interview by MG Taguba's Investigative Team
60	MAJ ██████████, XO, 320 th MP Bn	Summary of Interview by MG Taguba's Investigative Team
61	MAJ ██████████, S-3, 800 th MP Brigade	Summary of Interview by MG Taguba's Investigative Team
62	CPT ██████████, CDR, 670 th MP Company	Summary of Interview by MG Taguba's Investigative Team
63	CPT ██████████, CDR, 372 nd MP Company	Summary of Interview by MG Taguba's Investigative Team
64	CPT ██████████ Assistant S-3, 310 th MP Bn	Summary of Interview by MG Taguba's Investigative Team
65	CPT ██████████ S-3, 310 th MP Bn	Summary of Interview by MG Taguba's Investigative Team

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

<u>Annex No.</u>	<u>Annex Title</u>	<u>Summary</u>	
66	CPT ██████████ S-2, 800 th MP Brigade	Summary of Interview by MG Taguba's Investigative Team	
67	LTC ██████████ CDR, 320 th MP Bn.	Summary of Interview by MG Taguba's Investigative Team	
68	CPT ██████████ CDR, 299 th MP Co.	Summary of Interview by MG Taguba's Investigative Team	
69	CPT ██████████ Jr., CDR, 310 th MP Company	Summary of Interview by MG Taguba's Investigative Team	
70	CPT ██████████ IG, 800 th MP Brigade	Summary of Interview by MG Taguba's Investigative Team	
71	1LT ██████████ Platoon Leader, 372 nd MP Co	Summary of Interview by MG Taguba's Investigative Team	
72	1LT ██████████ Aide-de-Camp to BG Karpinski	Summary of Interview by MG Taguba's Investigative Team	
73	1LT ██████████ CDR, HHC 320 th MP Bn.	Summary of Interview by MG Taguba's Investigative Team	
74	2LT ██████████ Platoon Leader, 229 th MP Company	Summary of Interview by MG Taguba's Investigative Team	
75	CW2 ██████████ 205 th MI Brigade	Summary of Interview by MG Taguba's Investigative Team	
76	CSM ██████████ 320 th MP Bn	Summary of Interview by MG Taguba's Investigative Team	
77	SGM ██████████ 800 th MP Brigade	Summary of Interview by MG Taguba's Investigative Team	
78	CSM ██████████ 310 th MP Bn	Summary of Interview by MG Taguba's Investigative Team	
79	1SG ██████████ 977 th MP Co	Summary of Interview by MG Taguba's Investigative Team	
80	SGM ██████████ Ops SGM, 320 th MP Battalion	Summary of Interview by MG Taguba's Investigative Team	
81	MSG ██████████ 1SG, 372 nd MP Company	Summary of Interview by MG Taguba's Investigative Team	
82	MSG ██████████ Operations Sergeant, 310 th MP Bn	Summary of Interview by MG Taguba's Investigative Team	
83	SFC ██████████ Platoon Sergeant, 299 th MP Company	Summary of Interview by MG Taguba's Investigative Team	
84	SFC ██████████ Platoon Sergeant, 372 nd MP Company	Summary of Interview by MG Taguba's Investigative Team	
85	SFC ██████████ 372 nd MP Company	Summary of Interview by MG Taguba's Investigative Team	
86	SSG ██████████ Squad Leader, 372 nd MP Company	Summary of Interview by MG Taguba's Investigative Team	
87	SSG ██████████ Army Dog Handler	Summary of Interview by MG Taguba's Investigative Team	

<u>Annex No.</u>	<u>Annex Title</u>	<u>Summary</u>	
88	SGT [REDACTED] Army Dog Handler	Summary of Interview by MG Taguba's Investigative Team	
89	MA1 [REDACTED] USN Dog Handler	Summary of Interview by MG Taguba's Investigative Team	
90	Mr. [REDACTED] Civ. Interrogator w/CACI, 205 th MI Brigade	Verbatim transcript of interview conducted by MG Taguba's Investigative Team	
91	Mr. [REDACTED] Civ. Interpreter w/Titan Corp., 205 th MI Brigade	Verbatim transcript of interview conducted by MG Taguba's Investigative Team	
94	CJTF-7 Interrogation and Counter Resistance Policy, 12 Oct 03	Describes "fear-up" and "pride and ego down"	
101	2LT [REDACTED] S-2, 320 th MP Bn	Summary of Interview by MG Taguba's Investigative Team	
102	Mem of Admonishment from LTG Sanchez to BG Karpinski, 17 Jan 04		
104	205 th MI Brigade SITREP to MG Miller, 12 Dec 03	Annex contains 5 documents, to include secret briefings.	
105	SGT [REDACTED] 372 nd MP Company	Summary of Interview by MG Taguba's Investigative Team	
106	1LT [REDACTED] Cdr, 870 th MP Company	Summary of Interview by MG Taguba's Investigative Team	

UNITED STATES)

REQUEST FOR DISCOVERY

v.)

Megan M. AMBUHL)

SPC, U.S. Army)

Headquarters & Headquarters Company)

16th Military Police Brigade (Airborne))

17 June 2004

III Corps, Victory Base, Iraq)

APO AE 09342)

1. In accordance with the Rules for Courts-Martial (R.C.M.) and the Military Rules of Evidence (M.R.E.), Manual for Courts-Martial, United States, 2002 edition, the defense requests that the government produce and permit the defense to inspect, copy, or photograph each of the following items which are known, or should through the exercise of due diligence be known, to the United States or its agents. The defense requests the government to notify the defense in writing which specific items of requested information or evidence will not be provided and the reason for denial of discovery.

a. R.C.M. 701(a)(1)(A). All papers which accompanied the charges when they were referred to court-martial, including, but not limited to, the charge sheet, transmittals of charges from the commanders, law enforcement reports, laboratory reports, statements by the accused and witnesses, and the Staff Judge Advocate's pre-trial advice.

b. R.C.M. 701(a)(1)(B). The convening order and all amending orders.

c. R.C.M. 701(a)(1)(C). All statements about the charged offenses which are in the possession of the government. The term "statements" includes statements of any person, not just the accused and potential government witnesses, taken by or given to any person or agency, to include all Reports of Investigation under Article 32(b), UCMJ, civilian or military law enforcement agencies, Inspector General investigations, all AR 15-6 investigations, all commander's inquiries or investigations, Central Intelligence Agency investigations, congressional investigations, Department of Justice Investigations, internal CJTF-7 Memoranda and investigations, and any press releases or documents produced or maintained by the III Corps or CJTF-7 Public Affairs Offices and any such documents produced, maintained or disseminated by the press or public affairs offices of the White House, the Office of the President of the United States, the Pentagon, the Department of Defense, the Department of the Army, the Office of the Vice President of the United States, the Office of the Chairman of the Joint Chiefs of Staff, the Office of the Secretary of Defense, the Office of the Secretary of the Army, the Central Intelligence Agency, the Department of Justice, the Office of the Attorney General, and the offices of the members of the Senate Armed Services Committee.

d. R.C.M. 701(a)(2)(A). Any books, papers, documents, photographs, tangible objects, or copies of portions thereof, which are within the possession, custody, or control of military authorities, and which were obtained from or belong to the accused or co-accused or are intended for use by trial counsel as evidence in the government's case-in-chief or are material to the

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preparation of the defense. Request permission to inspect all buildings or places at which the alleged offenses occurred and any such place within government control that may be material to the preparation of the defense.

e. R.C.M. 701(a)(2)(B). Any results or reports of physical or mental examinations, to include those of government witnesses and the alleged victims of the charged offenses, and of scientific tests or experiments, or copies thereof, which are within the possession, custody or control of military authorities, the existence of which is known to the trial counsel or should be known by the exercise of due diligence, and which are intended for use by the trial counsel as evidence in the government's case-in-chief or which are material to the preparation of the defense.

f. R.C.M. 701(a)(3)(A). The names, addresses, home telephone numbers, work telephone numbers, mobile phone numbers, and e-mail addresses of all witnesses the government intends to call in its case-in-chief.

g. R.C.M. 701(a)(4). Notice and copies of the records of prior civilian or military convictions of the accused which may be offered by the government during trial on the merits, impeachment, or presentencing proceedings.

h. R.C.M. 701(a)(5)(A). Copies of all written material to be presented by the government at the presentencing proceedings, to include the accused's personnel records.

i. R.C.M. 701(a)(5)(B). The names, addresses, home telephone numbers, work telephone numbers, mobile phone numbers, and e-mail addresses of all witnesses the government intends to call at the presentencing proceedings.

j. R.C.M. 701(a)(6). All evidence which may negate the guilt of the accused, reduce the degree of guilt of the accused, or reduce the punishment. See Brady v. Maryland, 373 U.S. 83 (1963); United States v. Agars, 427 U.S. 97 (1976). This request includes the disclosure of any and all evidence affecting the credibility of government witnesses, alleged co-conspirators and alleged victims of the charged offenses, pursuant to United States v. Webster, 1 M.J. 216 (C.M.A. 1975). This request encompasses such documents that may negate the guilt of the accused as maintained by the organizations, offices, agencies, departments and entities listed in paragraph 1c of this Request for Discovery. This request seeks the listed evidence for the following individuals: (b)(6) S, SSG [REDACTED], Jr., SGT [REDACTED], CPL [REDACTED], SPC [REDACTED], SPC [REDACTED] and PFC [REDACTED]. The list of individuals is non-exclusive. (b)(6) S, (b)(6) S. The following provides a non-exclusive list of matters subject to this request:

(1) Prior civilian or court-martial convictions or arrests of all government witnesses; request a check with the National Crime Information Center (NCIC), Criminal Records Center (CRC), and all local military criminal investigatory organizations; see United States v. Jenkins, 18 M.J. 583 (A.C.M.R. 1984).

(2) Records of pending and/or completed nonjudicial punishment; adverse administrative actions, including but not limited to, discharge prior to expiration of term of service for any reason, relief for cause actions, letters of reprimand, and letters of admonition; and all

documents or counseling statements which refer to or relate to any adverse or disciplinary actions against government witnesses, to include but not limited to, the counseling packets and 201 files of SSG [REDACTED], SGT [REDACTED], CPL [REDACTED], SPC J. [REDACTED] (b)(6)5; SPC [REDACTED] and PFC [REDACTED], see United States v. Green, 37 M.J. 88 (7K) 5 (C.M.A. 1993). This request also encompasses the counseling records, OERs, letters of reprimand and letters of admonition for the following individuals:

- i. BG Janis Karpinski
- ii. COL [REDACTED]
- iii. LTC [REDACTED]
- iv. LTC [REDACTED]
- v. LTC [REDACTED]
- vi. LTC [REDACTED]
- vii. LTC [REDACTED]
- viii. LTC [REDACTED]
- ix. LTC [REDACTED]
- x. MAJ [REDACTED]
- xi. MAJ [REDACTED]
- xii. MAJ [REDACTED]
- xiii. MAJ [REDACTED]
- xiv. MAJ [REDACTED]
- xv. CPT [REDACTED]
- xvi. CPT [REDACTED]
- xvii. CPT [REDACTED]
- xviii. LTC [REDACTED]
- xix. 1LT [REDACTED]
- xx. 2LT [REDACTED]
- xxi. CW2 [REDACTED]
- xxii. CSM [REDACTED]
- xxiii. SGM [REDACTED]
- xxiv. MSG [REDACTED]
- xxv. SFC [REDACTED]
- xxvi. SFC [REDACTED]
- xxvii. SSG [REDACTED]
- xxviii. SGT [REDACTED]

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

(3) Any evidence, including medical records, of psychiatric treatment, mental disease or defect, combat stress treatment, head injury, alcoholism, or drug addiction of the accused, government witnesses, and co-accused; see United States v. Eshalomi, 23 M.J. 12 (C.M.A. 1986); United States v. Brickey, 8 M.J. 757 (A.C.M.R. 1980), aff'd, 16 M.J. 258 (C.M.A. 1983); United States v. Brakefield, 43 C.M.R. 828 (A.C.M.R. 1971).

(4) Evidence of character, conduct, or bias bearing on the credibility of government witnesses; see Giglio v. United States, 405 U.S. 150 (1972); United States v. Brickey, 8 M.J. 757 (A.C.M.R. 1980), aff'd, 16 M.J. 258 (C.M.A. 1983). This request includes, but is not limited to, information relating to any and all consideration or promises of consideration given to or made on

behalf of government witnesses. By consideration, the defense refers to anything of value and use, including but not limited to, plea agreements, immunity grants, witness fees, special witness fees, transportation assistance to members of a witness' family or associates, and any civil or favorable treatment with respect to any pending civil, criminal, or administrative dispute between the government and that witness, and anything else which could arguably create an interest or bias in the witness in favor of the government or against the defense or act as an inducement to testify or to color or shape testimony.

(5) The questions, answers, and results of any polygraph examination of the accused and government witnesses, including the Polygraph Examination Report (DA Form 2802-E) and related polygraph records, the Polygraph Examination Authorization, and the Polygraph Examination Quality Control Review; see United States v. Mouganel, 6 M.J. 589 (A.F.C.M.R. 1978); United States v. Simmons, 38 M.J. 376 (C.M.A. 1993). This request includes those records maintained at the U.S. Army Crime Records Center, USACIDC, 6010 6th Street, Fort Belvoir, Virginia, 22060-5585.

(6) 201 files, unit files, and Military Personnel Records Jacket (MPRJ) of all government witnesses; request a hard copy of the Official Military Personnel File (OMPF) for each government witness; copies of the DA Form 2A, 2-1, and Enlisted Record Brief (ERB) for all enlisted government witnesses and ORBs for all officer government witnesses. Request copies of the counseling packets, DA Form 2A, 2-1 and ERBs for the following:

- i. SPC Megan M. Ambuhl
- ii. SGT [REDACTED]
- iii. SPC [REDACTED]
- iv. SPC [REDACTED] (b)(6)2;
- v. SGT [REDACTED] (7)(C)-2
- vi. SSC [REDACTED]
- vii. PFC [REDACTED] (b)(6)5; (7)(C)-5
- viii. SSG [REDACTED] (b)(6)2; (7)(C)-2
- ix. CPL [REDACTED] (b)(6)5; (7)(C)-5
- x. SPC [REDACTED]
- xi. SPC [REDACTED]
- xii. SGT [REDACTED] (b)(6)2; (7)(C)-2
- xiii. SPC [REDACTED]
- xiv. SPC [REDACTED] (b)(6)5; (7)(C)-5

(7) Counseling/performance files of the investigators who have or are presently participating in the investigation of the allegations contained in the charges and specifications preferred against the accused, to include but not limited to the following:

- i. SA [REDACTED]
 - ii. SA [REDACTED]
 - iii. SA [REDACTED]
 - iv. SA [REDACTED]
 - v. SA [REDACTED]
 - vi. SA [REDACTED]
 - vii. SA [REDACTED]
 - viii. SA [REDACTED]
 - ix. SA [REDACTED]
 - x. SA [REDACTED]
 - xi. SA [REDACTED]
 - xii. SA [REDACTED]
 - xiii. SA [REDACTED]
 - xiv. SA [REDACTED]
 - xv. SA [REDACTED]
 - xvi. SA [REDACTED]
 - xvii. SA [REDACTED]
 - xviii. SA [REDACTED]
 - xix. SA [REDACTED]
 - xx. SA [REDACTED]
- all (b)(6)1; (7)(C)-1

(8) Contracts between the Department of Defense or any subsidiary or sub-entity and Titan and/or CACI Corporations concerning the employment of contractors at Abu Ghraib or Baghdad Central Correctional Facility (BCCF) between August 2003 and March 2004. Request copies of the employee files of all civilian contractors, to include anyone involved in interrogation or intelligence gathering during the referenced time period. Specifically, the defense requests copies of any and all performance evaluations and/or adverse actions and/or counselings or ratings of Mr. [REDACTED] of CACI Corporation and Mr. [REDACTED] of Titan Corporation.

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

k. R.C.M. 912(a)(1). The defense requests that the government submit to each panel member the written questions listed at R.C.M. 912 (a)(1) and provide copies of the signed responses of each member to the defense; request copies of the ORBs of officer panel members and DA Form 2A, 2-1, and ERB of enlisted panel members.

l. R.C.M. 912(a)(2). All written matters provided to the convening authority concerning the selection of members detailed to this court-martial or more broadly, selection of the members stated in the applicable Court-Martial Convening Order.

m. R.C.M. 914 (a)(2), 18 U.S.C. Section 3500, et. seq. The defense intends to move at trial for the production by the government of all statements by government witnesses which relate to the subject matter of their testimony, to include statements made by the co-accused; the government is requested to voluntarily disclose all such statements before trial.

n. M.R.E. 201. Any matters the prosecution seeks to have judicially noticed.

o. M.R.E. 301(c)(2). Any immunity or leniency granted or promised to any government witness in exchange for testimony.

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

q. M.R.E. 304(d)(2)(B). Notice of government intent to offer against the accused a statement, oral or written, made by the accused that was not disclosed prior to arraignment.

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

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

t. M.R.E. 321(c)(1). All evidence of the identification of the accused at a line-up, photo line-up, show-up, voice identification, or other identification process which the government intends to offer at trial; request disclosure of any unsuccessful efforts at identification by any witness.

u. M.R.E. 321(c)(2)(B). Notice of government intent to offer identification evidence that was not disclosed prior to arraignment.

v. M.R.E. 404(b). Notice of whether the government intends to offer other crimes, wrongs, or acts of the accused; the defense requests copies of investigations, witness statements, and names and phone numbers of witnesses pertaining to such alleged crimes, wrongs, or acts.

w. M.R.E. 507. Disclosure of the identity, including name, address, and phone number, of all informants and notice of any government exercise of privilege.

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

y. M.R.E. 612. All writings or documents used by a witness to prepare for trial; the defense intends to move at trial for the production of any writings or documents used by any witness to refresh memory for the purpose of testifying, either while testifying or before testifying.

z. M.R.E. 807. Notice of any hearsay statements, oral or written, intended to be offered at trial under M.R.E. 807, the particulars of the statements, and the names, addresses, and the phone numbers of the declarants.

aa. Notification of testing upon any evidence which may consume the only available samples of the evidence and an opportunity to be present at such testing; an opportunity to examine all evidence, whether or not it is apparently exculpatory, prior to its release from the control of any government agency or agents. See United States v. Garries, 22 M.J. 288 (C.M.A. 1986), cert. denied, 479 U.S. 985 (1986); United States v. Mobley, 31 M.J. 273 (C.M.A. 1990).

bb. All evidence in rebuttal which is exculpatory in nature or material to punishment. See United States v. Trimper, 26 M.J. 534 (A.F.C.M.R. 1988), aff'd, 28 M.J. 460 (C.M.A.), cert. denied, 493 U.S. 965 (1989). The government is reminded that trial by "ambush" is improper. See United States v. Dancy, 38 M.J. 1 (C.M.A. 1993).

cc. All chain of custody documents generated by any law enforcement or military agency in conjunction with the taking of evidence during the investigation of the alleged offense.

dd. All case notes of the agents involved in this case, investigation report entries, photographs, slides, diagrams, sketches, drawings, electronic recordings, handwritten notes, interview worksheets, or any other similar documentation made by such law enforcement personnel pertaining to this case.

ee. A list of, and the opportunity to view prior to trial, all physical, demonstrative, or other evidence and proposed exhibits the government intends to introduce at trial. Please list the location of such evidence and a contact phone number to arrange for inspection of such evidence.

ff. Names, addresses, and telephone numbers of any expert witnesses whom the government intends to call at trial; copies of all reports and statements of expert witnesses who

spoke with witnesses or otherwise participated in the investigation of this case, regardless of whether such reports or statements are included in any formal report.

gg. Any statements, oral or written, made by the summary, special, or general court-martial convening authorities in this case or by any officer superior to the general courts-martial convening authority, or acting for the command, whether oral or written, which:

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

(2) provides guidance to any subordinate commander concerning the appropriate level of disposition of the charged offenses and/or punishment for the charged offenses, either made before or after the offenses at issue in this case.

hh. United States v. Nix, 40 M.J. 6 (C.M.A. 1994). Disclosure of any information known to government agents which in any manner indicates that a person who forwarded the charges with recommendations displayed bias or prejudice or had an other-than-official interest in the case.

ii. Notice to the defense of the nature of any past or present relationships, associations, or ties between any potential member of the court-martial panel and the trial counsel, assistant trial counsel, chief of military justice, or the Staff Judge Advocate; this request specifically includes, but is not limited to, any religious, social, business, professional, or recreational associations.

2. The defense renews its request of 10 April 2004 for production of the following documents and evidence:

a. All copies of CID reports (including 28s), military police reports, or any other reports made by a law enforcement agency relevant to this investigation to include the Agent Activity Reports and the Agent Activity Summaries compiled by the following investigators:

- i. SA [REDACTED]
- ii. SA [REDACTED]
- iii. SA [REDACTED]
- iv. SA [REDACTED]
- v. SA [REDACTED]
- vi. SA [REDACTED]
- vii. SA [REDACTED]
- viii. SA [REDACTED]
- ix. SA [REDACTED]
- x. SA [REDACTED]

- xi. SA [REDACTED]
- xii. SA [REDACTED]
- xiii. SA [REDACTED]
- xiv. SA [REDACTED]
- xv. SA [REDACTED]
- xvi. SA [REDACTED]
- xvii. SA [REDACTED]
- xviii. SA [REDACTED]
- xix. SA [REDACTED]
- xx. SA [REDACTED]

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

b. All evidence seized from the crime scene or any related evidence be present or made available for inspection by the Defense and the Investigating Officer including but not limited to any evidence seized as a result of the CID searches conducted throughout this investigation;

c. Any and all ROE/RUF guidance established by 372nd MP Company from October 2003 to the present;

d. Any and all OPORDs that pertain to the Abu Ghraib mission to include the ROE/RUF card then in effect;

e. Training records for SPC Megan Ambuhl and all of the co-accused;

f. Complete medical records for the Iraqi detainees listed in paragraph 1b of this Memorandum;

g. Any and all unit level and/or IG complaints regarding the treatment of Abu Ghraib detainees lodged against any soldier assigned to the 372nd MP Company, the 800th MP Brigade, the 205th MI Company, the 325th MI Battalion, or the 20th MI Brigade;

h. A complete copy of the unit counseling files to include any records of nonjudicial punishment or administrative action for the following soldiers:

i. SPC Megan M. Ambuhl

ii. SGT [REDACTED]

iii. SPC [REDACTED]

iv. SPC [REDACTED]

v. SGT [REDACTED]

vi. SSG [REDACTED]

vii. PFC [REDACTED]

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

viii. SSG [REDACTED]

ix. CPT [REDACTED]

x. SPC [REDACTED]

xi. SPC [REDACTED]

xii. SGT [REDACTED]

xiii. SP [REDACTED]

xiv. SPC [REDACTED]

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

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

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

i. Copies of any relief-in-place (RIP) schedules or training schedules between the 72nd MP Company (Las Vegas, Nevada) and the 372nd MP Company, to include any OPORDERS;

j. A copy of the final CID case file with exhibits, of case number 0005-04-CID149, as referenced in the AIR of SA [REDACTED], dated 22 Jan 04, regarding a K-9 incident at Abu Ghraib;

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

k. Copies of the two Working Papers referenced by BG Karpinski in her 24th Dec 03 letter to Ms. [REDACTED] ICRC Protection Coordinator;

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

l. Copies of the ICRC reports dated Oct 03 and Dec 03 obtained by CID from CW [REDACTED] [REDACTED] referenced in SA [REDACTED] AIR, dated 5 Feb 04;

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

m. Copies of the official detainee file (as referenced in para. 3-4 of the Camp Vigilant Operations Procedures SOP (draft)) of the detainees listed in para. 1b of this Memorandum. At a minimum, the defense requests the name, detainee sequence number, capture number, capture date and crime charged with or suspected of for the detainees listed in para. 1b of this Memorandum;

n. A copy of the "Behavior Modification Plan" as referenced in para. 3-12 of the SOP;

- o. A copy of the draft of Chapter 4 as referenced on pages 9-10 of the SOP;
- p. A copy of the parallel AR 15-6 Investigation concerning the charged offenses and the actions and conduct of the leadership of the 372nd MP Company and the 800th MP Brigade (to include, any documents maintained by the AR 15-6 Officer to include his or her appointment memorandum);
- q. Copies of any Press Releases or PAO information disseminated by the command regarding the charges faced by SPC Ambuhl and her co-accused, to include documents drafted by the Office of the Staff Judge Advocate for release;
- r. Copies of any administrative action, relief-for-cause documents, letters of reprimand, and OERs/NCOERs for the members of the commands of 372nd MP Company and 800th MP Battalion who were in command from October 2003 through March 2004;
- s. Copies of any SIGACTS, FRAGOs, OPORDERS, or other similar documents related to the ICRC visits to Abu Ghraib from October to December 2003;
- t. Copies of any documents obtained or produced by MAJ [REDACTED] as a result of his response by CJTF-7 to allegations of abuse and/or mistreatment of detainees between 16 Sep 03 and 22 Dec 03;
- u. Copies of all documents, including documents of UCMJ or administrative action, regarding 3 soldiers from the 519th who ordered a female detainee to strip as referenced by CPT [REDACTED] in the preferral packet;
- v. Copies of all documents, including documents of UCMJ or administrative action, regarding the 'Spence Incident,' as referenced by CW2 [REDACTED] in the preferral packet;
- w. Copies of all documents, including documents of UCMJ or administrative action, from the August 2003 incident where 2 or 3 soldiers were disciplined by LTC [REDACTED] after a CID investigation into abuse, as referenced by MAJ [REDACTED], JIDC, MI, Operations Officer, as referenced in the preferral packet;
- x. Copies of all negative counselings, UCMJ records, and records of administrative action regarding the following soldiers from 4th Platoon, 372nd MP Company: SPC [REDACTED], SPC [REDACTED], SPC [REDACTED], SPC [REDACTED], SPC [REDACTED] and SSG [REDACTED];
- y. Copies of all work schedules maintained by the 372nd MP Company or higher headquarters showing which soldiers were scheduled to work which shifts at cell blocks 1a and 1b during October, November and December 2003;
3. For any documents that fall within this discovery request, the defense requests that the government begin to declassify such documents so they may be offered at trial by the defense. Alternatively, the defense requests that redacted copies of such documents be provided until such

time as the documents can be unclassified. Providing redacted copies as early as possible will enable the civilian defense counsel to begin to identify specific documents that require further review by the military defense counsel, who possesses adequate clearance. Further, such identification may narrow the scope of those documents that the defense requests be unclassified.

4. This discovery request is continuing and shall apply to any additional charges or specifications that may be preferred after this request for discovery is served upon the government. Immediate notification of new evidence and/or material is requested. A negative response is requested on all items the government is unwilling or unable to produce. The government is reminded of its obligation to provide full discovery in a timely manner. Gamesmanship and trial by ambush are not appropriate. See United States v. Adens, 56 M.J. 724 (A.C.C.A. 2002).

[Redacted]

CPT, JA
Trial Defense Counsel

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

CERTIFICATE OF SERVICE

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

I certify that on 17 June 2004 this defense Request for Discovery was served on the government via e-mail to [Redacted]@vcmain.hq.c5.army.mil and [Redacted]@vcmain.hq.c5.army.mil.

[Redacted]

CPT, JA
Trial Defense Counsel



CONFIDENTIAL -- FOR OFFICIAL USE ONLY

DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
REGION IX, FOB DANGER BRANCH OFFICE
APO AE 09392

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

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

26 June 2004

MEMORANDUM FOR MAJ [REDACTED] Lead Trial Counsel, Headquarters and
Headquarters Company, III Corps, Victory Base, APO AE 09342

SUBJECT: Request for Declassification of Memoranda Reviewing ICRC Detention Facility
Visits – U.S. v. SPC Megan M. Ambuhl

1. The defense requests declassification of the following Headquarters, Combined Joint Task
Force Seven (CJTF-7) memoranda relating to International Committee for the Red Cross (ICRC)
visits to the Baghdad Central Detention Facility and Special Detentions Facility in October 2003:

a. Memorandum for Commander, 800th MP Brigade from LTC [REDACTED] CJTF-
7 DSJA, dated 27 November 2003

b. Memorandum titled "Review of ICRC Detention Visits – Oct 03," from MAJ [REDACTED]
[REDACTED], SJA Ops Law, dated 25 Nov 03

c. Memorandum titled "Review of ICRC Detention Visits – 18-24 Oct 03, Baghdad HVD
Detention Facility," MAJ [REDACTED], SJA Ops Law, dated 25 Nov 03

2. These CJTF-7 SJA reviews of the ICRC working papers indicate that the protections afforded
to certain persons under the Geneva Conventions did not apply to security detainees housed at
Abu Ghraib detention facility. At a minimum, these documents indicate a level of knowledge of
alleged abuses at Abu Ghraib by the Commander, 800th MP Brigade.

3. The defense requests that redacted copies of these documents be served immediately on the
defense electronically at [REDACTED]@svg-law.com and [REDACTED]@us.army.mil.
Alternatively, a hard copy of the requested documents or a CD Rom of the requested documents
may be served on the defense at the Camp Victory Trial Defense Service Office, Baghdad. The
defense requests that an unredacted copy of these documents be made available to counsel in
Washington, D.C. Point of contact for this request is the undersigned at DNVT: 553-9 [REDACTED]

[REDACTED]

CPT, JA
Trial Defense Counsel

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Enclosure 5



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
REGION IX, FOB DANGER BRANCH OFFICE
APO AE 09392

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

28 June 2004

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

MEMORANDUM FOR MA [REDACTED], Lead Trial Counsel, Headquarters and
Headquarters Company, III Corps, Victory Base, APO AE 09342

SUBJECT: Request for Preservation of Evidence - U.S. v. SPC Megan M. Ambuhl

1. The defense requests that the government preserve all tangible evidence maintained by the government or its agents relating to CID Case Number 0003-04-CID149 and/or all investigations concerning allegations of MP misconduct or detainee abuse at Abu Ghraib prison.
2. The defense requests preservation of this evidence until such time as there is final action on appeal, if any, in United States v. SPC Megan M. Ambuhl.
3. POC for this request is the undersigned at [REDACTED]@us.army.mil or civilian defense counsel, Mr. [REDACTED]; at [REDACTED]@svg-law.com.

[REDACTED]

CPT, JA
Trial Defense Counsel

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Enclosure 6



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
REGION IX, FOB DANGER BRANCH OFFICE
APO AE 09392

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

1 July 2004

MEMORANDUM FOR MA ^{(b)(2), (b)(7)(C)-2} [REDACTED], Lead Trial Counsel, Headquarters and
Headquarters Company, III Corps, Victory Base, APO AE 09342

SUBJECT: Request for Production of CID Evidence – U.S. v. SPC Megan M. Ambuhl

1. The defense requests production of the following listed items of tangible evidence maintained by the U.S. Army Criminal Investigative Division, BIAP field office, as part of case number 003-04-CID149:

- a. Document No. 405-04: Request declassification and production of the 4 memoranda included in this piece of evidence.
- b. Document No. 035-04: Request a copy of each page of the log book, excluding the blank unused pages at the back of the log book. Request that each page be scanned and provided to the defense on CD Rom. Only portions of this log book were provided to the defense in the preferral packet; the defense requests production of a copy of the entire book.
- c. Document No. 036-04: Request a copy of each page of the log book, excluding the blank unused pages at the back of the log book. Request that each page be scanned and provided to the defense on CD Rom. Only portions of this log book were provided to the defense in the preferral packet; the defense requests production of a copy of the entire book.
- d. Document No. 037-04: Request a copy of each page of the log book, excluding the blank unused pages at the back of the log book. Request that each page be scanned and provided to the defense on CD Rom. Only portions of this log book were provided to the defense in the preferral packet; the defense requests production of a copy of the entire book.
- e. Item No. 029-04: Request an exact mirrored-copy of the hard drive of this laptop computer.
- f. Item No. 031-04: Request an exact mirrored-copy of the contents of this USB thumb drive.
- g. Item No. 032-04: Request an exact mirrored-copy of the hard drive of this laptop computer.

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Enclosure 7

*all (b)(6), (b)(7)(C) - 2
except as noted*

h. Item No. 033-04: Request exact mirrored-copies of the two compact discs composing this piece of evidence.

i. Item No. 034-04: Request exact mirrored-copies of the two compact discs composing this piece of evidence.

j. Item No. 330-04: Request an exact mirrored-copy of the compact disc identified in this piece of evidence.

k. Item No. 301-04: Request an exact mirrored-copy of the hard drive of this laptop computer.

l. Item No. 162-04: Request an exact mirrored-copy of the compact disc identified in this piece of evidence.

m. Item No. 073-04: Request exact mirrored-copies of the two compact discs composing this piece of evidence.

2. On 22 June 2004, the 16th MP Brigade Trial Counsel seized two boxes of relevant documents, memoranda, schedules, log sheets and log books from the Commander, 301st MP Company at Abu Ghraib prison. The defense requests immediate production of copies of each document seized from the 301st MP Company.

3. At the Article 32 Hearing in U.S. v. SPC  held on 24 June 2004, CPT  *(b)(6)(7)(C)-5* Commander, 372nd MP Company, testified under oath that representatives from CID confiscated the hard drive of the government-issued laptop belonging to the 372nd MP Company. The computer shell was returned to CPT  at the hard drive remained missing and presumably, in the custody of CID. The defense requests permission to inspect the original hard drive and production of a mirror-image copy of the contents of that hard drive.

4. This request for production of evidence is made in the interests of judicial economy and efficiency. Providing copies of the requested evidence ensures accessibility to civilian defense counsel located in Washington, D.C. and military defense counsel located in Tikrit.

5. If possible, the defense requests that the requested materials be served electronically on the defense at @svg-law.com and @us.army.mil. Alternatively, a CD Rom of the requested evidence may be served on the defense at the Camp Victory Trial Defense Service Office, Baghdad. Point of contact for this request is the undersigned at DNVT 


CPT, JA
Trial Defense Counsel



DEPARTMENT OF THE ARMY
 HEADQUARTERS, III CORPS
 VICTORY BASE, IRAQ
 APO AE 09342-1400

REPLY TO
 ATTENTION OF

AFZF-JA-MJ

1 July 2004

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

THRU LTC [REDACTED] Deputy Staff Judge Advocate, Coalition Forces Land Component
 Command, Camp Doha, Kuwait, APO AE 09304

MEMORANDUM FOR LTG David McKiernan, Commanding General, Coalition Forces Land
 Component Command, Camp Doha, Kuwait, APO AE 09304

SUBJECT: Declassification of witness statements in AR 15-6 Investigation – 800th Military
 Police Brigade

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

1. I am the trial counsel currently prosecuting Staff Sergeant (SSG) [REDACTED] Sergeant
 (SGT) [REDACTED] is, Specialist (SPC) [REDACTED], Specialist Meghan Ambuhl, and Specialist
 [REDACTED] in connection with detainee abuse at the Baghdad Central Confinement Facility,
 Abu Ghraib, Iraq. In a pretrial Article 39(a), Uniform Code of Military Justice (UCMJ) session
 held on 21 June 2004, defense counsel for SSG [REDACTED] SGT [REDACTED] and SPO [REDACTED] requested
 that witness statements found in the annexes of the Army Regulation (AR) 15-6 report of
 investigation (ROI) Major General (MG) Taguba conducted be declassified from secret/secret-
 noform to unclassified. The defense counsel stated that declassification would allow for easier
 access to these statements and facilitate their ability to photocopy and use these statements in
 questioning witnesses. The military judge withheld ruling pending your response to this request.

2. Based upon the defense counsel's request and the need to allow for easier access to these
 witness statement and other documents collected by MG Taguba, the Government requests that
 you immediately declassify the annexes of the AR 15-6 ROI, that can be declassified without
 compromising vital national interests. In order to facilitate this process, the Government has
 reviewed the annexes and has identified specific annexes that contain documents marked as
 SECRET (11, 12, 13, 20, 28, 40, 41, 93, 94, 95, 97, 99, 100, 103, and 105). In addition to these
 annexes that contain secret documents, the Government has identified two other annexes that
 may contain other sensitive material (44 and 104). At a minimum, the Government requests that
 the annexes containing witness statements be declassified and marked as "For Official Use
 Only".

3. The government believes that the declassification of the annexes to the AR 15-6 report,
 specifically those that contain witness statements, will assist in the expeditious resolution of
 these cases. Thank you for your consideration in this matter.

[REDACTED SIGNATURE]

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

CPT, JA
 Trial Counsel

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

UNITED STATES)

v.)

[REDACTED])
SSG, U.S. Army)
HHC, 16th MP BDE (ABN),)
III Corps)
Victory Base, Iraq,)
APO AE 09342)

28 JULY 2004

UNITED STATES)

v.)

[REDACTED])
SPC, U.S. Army)
HHC, 16th MP BDE (ABN),)
III Corps)
APO AE 09342)

18 JUNE 2004

UNITED STATES)

v.)

[REDACTED])
SGT, U.S. Army)
HHC, 16th MP BDE (ABN),)
III Corps)
Victory Base, Iraq,)
APO AE 09342)

18 JUNE 2004

UNITED STATES)

v.)

AMBUHL, Megan)
SPC, U.S. Army)
HHC, 16th MP BDE (ABN),)
III Corps)
Victory Base, Iraq,)
APO AE 09342)

18 JUNE 2004

002751

APPELLATE EXHIBIT VII

Recognized R. 93

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Motion and proposed Order were emailed, as instructed by Government Counsel, this 9th day of August 2004, to the Military Judge, Government Counsel, Defense Counsel, and Counsel for CACI at the following email addresses:

• Military Judge: [REDACTED] (b)(6)2, (7)(C)-4

• Defense Counsel: [REDACTED]

(b)(6)2, (7)(C)-2
(b)(6)4, (7)(C)-4

• Government Counsel: [REDACTED] (b)(6)2, (7)(C)-2

[REDACTED]

• Counsel for CACI: (b)(6)4, (7)(C)4

[REDACTED] (b)(6)4, (7)(C)-4

[REDACTED]
Williams & Connolly, LLP
725 Twelfth Street, N.W.
Washington, D.C. 20005
Voice: 202-434-[REDACTED]
Fax: 202-434-5029

August 9, 2004



OFFICE OF THE SECRETARY OF DEFENSE
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950



ADMINISTRATION &
MANAGEMENT

November 9, 2001

Ref: 01-CORR-101

MEMORANDUM FOR DOD FOIA OFFICES

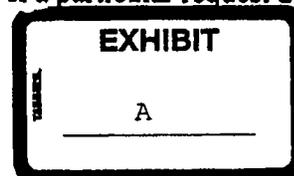
SUBJECT: Withholding of Personally Identifying Information Under the Freedom of Information Act (FOIA)

The President has declared a national emergency by reason of the terrorist attacks on the United States. In the attached memorandum, the Deputy Secretary of Defense emphasizes the responsibilities all DoD personnel have towards operations security and the increased risks to US military and civilian personnel, DoD operational capabilities, facilities and resources. All Department of Defense personnel should have a heightened security awareness concerning their day-to-day duties and recognition that the increased security posture will remain a fact of life for an indefinite period of time.

This change in our security posture has implications for the Defense Department's policies implementing the Freedom of Information Act (FOIA). Presently all DoD components withhold, under 5 USC § 552(b)(3), the personally identifying information (name, rank, duty address, official title, and information regarding the person's pay) of military and civilian personnel who are assigned overseas, on board ship, or to sensitive or routinely deployable units. Names and other information regarding DoD personnel who did not meet these criteria have been routinely released when requested under the FOIA. Now, since DoD personnel are at increased risk regardless of their duties or assignment to such a unit, release of names and other personal information must be more carefully scrutinized and limited.

I have therefore determined this policy requires revision. Effective immediately, personally identifying information (to include lists of e-mail addresses) in the categories listed below must be carefully considered and the interests supporting withholding of the information given more serious weight in the analysis. This information may be found to be exempt under 5 USC § 552(b)(6) because of the heightened interest in the personal privacy of DoD personnel that is concurrent with the increased security awareness demanded in times of national emergency.

- Lists of personally identifying information of DoD personnel: All DoD components shall ordinarily withhold lists of names and other personally identifying information of personnel currently or recently assigned within a particular component, unit, organization or office with the Department of Defense in response to requests under the FOIA. This is to include active duty military personnel, civilian employees, contractors, members of the National Guard and Reserves, military dependents, and Coast Guard personnel when the Coast Guard is operating as a service in the Navy. If a particular request does not raise



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security or privacy concerns, names may be released as, for example, a list of attendees at a meeting held more than 25 years ago. Particular care shall be taken prior to any decision to release a list of names in any electronic format.

- Verification of status of named individuals: DoD components may determine that release of personal identifying information about an individual is appropriate only if the release would not raise security or privacy concerns and has been routinely released to the public.
- Names in documents that don't fall into any of the preceding categories: Ordinarily names of DoD personnel, other than lists of names, mentioned in documents that are releasable under the FOIA should not be withheld, but in special circumstances where the release of a particular name would raise substantial security or privacy concerns, such a name may be withheld.

When processing a FOIA request, a DoD component may determine that exemption (b)(6) does not fully protect the component's or an individual's interests. In this case, please contact Mr. [REDACTED] Directorate of Freedom of Information and Security Review, at (703) [REDACTED], or DSN [REDACTED].

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

This policy does not preclude a DoD component's discretionary release of names and duty information of personnel who, by the nature of their position and duties, frequently interact with the public, such as flag/general officers, public affairs officers, or other personnel designated as official command spokespersons.

[REDACTED]
[REDACTED]
Director

Attachment:
As stated

002754



**ASSISTANT SECRETARY OF DEFENSE
6000 DEFENSE PENTAGON
WASHINGTON, DC 20301-6000**

December 28, 2001



**COMMAND, CONTROL,
COMMUNICATIONS, AND
INTELLIGENCE**

**MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES**

**SUBJECT: Removal of Personally Identifying Information of DoD Personnel from
Unclassified Web Sites**

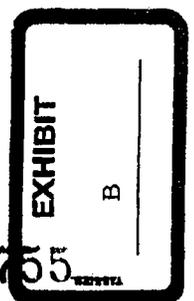
In accordance with DoD 5400.7-R, "DoD Freedom of Information Act Program," unclassified information which may be withheld from the public by one or more Freedom of Information Act (FOIA) exemptions is considered For Official Use Only (FOUO). DoD Web Site Administration policy (www.defenselink.mil/webmasters), issued by Deputy Secretary of Defense memorandum, December 7, 1998, prohibits posting FOUO information to publicly accessible web sites and requires access and transmission controls on sites that do post FOUO materials (see Part V, Table 1).

The attached November 9, 2001, memorandum from the Director, Administration and Management (DA&M), citing increased risks to DoD personnel, states that personally identifying information regarding all DoD personnel may be withheld by the Components under exemption (b)(6) of the FOIA, 5-USC §552. This action makes the information which may be withheld FOUO and inappropriate for posting to most unclassified DoD web sites.

Thus, all personally identifying information regarding DoD personnel now eligible to be withheld under the FOIA must be removed from publicly accessible web pages and web pages with access restricted only by domain or IP address (i.e., .mil restricted). This applies to unclassified DoD web sites regardless of domain (e.g., .com, .edu, .org, .mil, .gov) or sponsoring organization (e.g., Non-Appropriated Fund/Morale, Welfare and



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Recreations sites; DoD educational institutions). The information to be removed includes name, rank, e-mail address, and other identifying information regarding DoD personnel, including civilians, active duty military, military family members, contractors, members of the National Guard and Reserves, and Coast Guard personnel when the Coast Guard is operating as a service in the Navy.

Rosters, directories (including telephone directories) and detailed organizational charts showing personnel are considered lists of personally identifying information. Multiple names of individuals from different organizations/locations listed on the same document or web page constitutes a list. Aggregation of names across pages must specifically be considered. In particular, the fact that data can be compiled easily using simple web searches means caution must be applied to decisions to post individual names. If aggregation of lists of names is possible across a single organization's web site/pages, that list should be evaluated on its merits and the individual aggregated elements treated accordingly.

Individual names contained in documents posted on web sites may be removed or left at the discretion of the Component, in accordance with the DA&M guidance. This direction does not preclude the discretionary posting of names and duty information of personnel who, by the nature of their position and duties, frequently interact with the public, such as flag/general officers, public affairs officers, or other personnel designated as official command spokespersons. Posting such information should be coordinated with the cognizant Component FOIA or Public Affairs office.

In keeping with the concerns stated in the referenced memorandum and in the October 18, 2001, DepSecDef memorandum, "Operations Security Throughout the Department of Defense," the posting of biographies and photographs of DoD personnel identified on public and .mil restricted web sites should also be more carefully scrutinized and limited.

Sites needing to post contact information for the public are encouraged to use organizational designation/title and organizational/generic position e-mail addresses (e.g., office@organization.mil; helpdesk@organization.mil; commander@base.mil).

Questions regarding Web Site Administration policy may be directed to Ms. [REDACTED]. She can be reached at (703) [REDACTED] and e-mail [REDACTED]@osd.mil. Questions regarding Component-specific implementation of the DA&M memorandum should be directed to the Component FOIA office.

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

[REDACTED]

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

UNITED STATES)

v.)

[REDACTED])

SSG, U.S. Army)
HHC, 16th MP BDE (ABN),)
III Corps)
Victory Base, Iraq,)
APO AE 09342)

28 JULY 2004

UNITED STATES)

v.)

[REDACTED])

SPC, U.S. Army)
HHC, 16th MP BDE (ABN),)
III Corps)
APO AE 09342)

18 JUNE 2004

UNITED STATES)

v.)

[REDACTED])

SGT, U.S. Army)
HHC, 16th MP BDE (ABN),)
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Victory Base, Iraq,)
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18 JUNE 2004

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v.)

AMBUHL, Megan)

SPC, U.S. Army)
HHC, 16th MP BDE (ABN),)
III Corps)
Victory Base, Iraq,)
APO AE 09342)

18 JUNE 2004

002757

APPELLATE EXHIBIT VIII

Recognized R. 93

MOTION OF NONPARTY SOS INTERNATIONAL LTD
FOR A PROTECTIVE ORDER

COMES NOW nonparty SOS International Ltd (“SOSi” formerly named SOS Interpreting Ltd.), by and through undersigned counsel, and respectfully moves the Court for entry of a Protective Order pursuant to Rule for Court-Martial (“R.C.M.”) 701(g) to prevent the public dissemination of names and other personally identifying information of SOSi’s employees produced and/or used during the course of the above-captioned court-martial. For the reasons set forth below, a Protective Order is necessary to safeguard any employment records or other personally identifying information of SOSi employees supporting the U.S. military efforts in Iraq that may be produced by the Government or through subpoena to SOSi.

BACKGROUND

SOSi, through its counsel, has been informed (by counsel for Titan Corporation, its prime contractor for the work reflected in the documents at issue) that the Government intends to disclose, on or about August 13, 2004, approximately 26 pages containing sensitive “personally identifying” information concerning Titan and SOSi employees to defense counsel in this court-martial. Titan—as part of its ongoing efforts to fully cooperate with Government investigations—had earlier provided the Army Criminal Investigative Command access to these 26 pages of detailed confidential information concerning Titan and SOSi personnel with the belief it would be held as such. The 26 pages that the Government intends to disclose contain the following information about Titan and SOSi employees who are presently or were previously assigned to support the U.S. military in Iraq: name, social security number, home address, date of birth, citizenship, telephone number, email address, security clearance (including level and date of clearance), hire date, arrival date, employment category, language proficiency, unit assignment, identity of site manager, employment status, sex, vocational and educational history,

employee number. These documents also identify names of close family members of the employees. In addition, Government Counsel has issued a subpoena seeking production of employment records of a particular SOSi employee that contains additional confidential personal information about the employee.

ARGUMENT

The legal framework for analyzing the need for protective orders in a situation such as this is fully set forth in the Motion of nonparty CACI International, Inc. (“CACI”) for Appropriate Relief in the Form of a Protective Order which is pending in the captioned matters. Rather than burden the Court with a repetition of that framework and its applicability to SOSi’s situation, SOSi joins and adopts the arguments and authorities contained in CACI’s motion and relies on them in support of this motion.

Turning to the particular situation of SOSi, there can be no question that the disclosure of the above-described sensitive information would constitute a severe and unwarranted intrusion upon the privacy interests of SOSi’s employees and that SOSi has standing to move for such protection. Cf. United States v. RMI Co., 599 F.2d 1183, 1186 (3d Cir. 1979)(“[I]t is settled law that persons affected by the disclosure of allegedly privileged materials may intervene in pending criminal proceedings and seek protective orders, and if protection is denied, seek immediate appellate review.”). Moreover, in addition to the privacy concerns, given the role of SOSi’s employees in supporting the military’s efforts in quelling the insurgency in Iraq, disclosure could unnecessarily endanger SOSi’s employees and their families.

The information at issue clearly warrants protection under R.C.M. 701(g).

The Department of Defense has a long-standing policy of protecting from public disclosure “personally identifying” information of military and civilian personnel, including

contractors, who are assigned overseas, on board ship, or to sensitive or routinely deployable units. See Exhibit A, Office of Secretary of Defense Memorandum for DOD FOIA Offices (Nov. 9, 2001). Personally identifying information protected under this policy includes name, rank, email address, along with rosters, directories (including telephone directories) and detailed organizational charts – in short, precisely the type of information that the Government intends to disclose in this case. See Exhibit B, Assistant Secretary of Defense Memorandum, Removal of Personally Identifying Information from Unclassified Websites (Dec. 28, 2001). Such information is properly treated as “For Official Use Only” and protected from public disclosure. See id.; 32 C.F.R. § 505.4 (d)(3)(“Ordinarily, personal information must be afforded at least the protection required for information designated ‘For Official Use Only’ (see Chapter IV, AR 340–17).”).

Since the President’s declaration of a national emergency by reason of the terrorist attacks on the United States, DOD personnel, including DOD contractors, are considered at “increased risk” and “release of names and other personal information must be more carefully scrutinized and limited.” See Exhibit A. Accordingly, DOD policy is now to give more serious weight to the “heightened interest in the personal privacy of DOD personnel that is concurrent with the increased security awareness demanded in times of national emergency.” Id.

The U.S. military’s policy of protecting from disclosure the personally identifying information and unit affiliation of its Service members, civilian employees, and contractors should be fully respected in this proceeding. Accordingly, all information relating to the identity of SOSi employees and their families should remain protected and not subject to public disclosure during the course of these court-martial proceedings, except to the extent deemed necessary and appropriate by the military judge after permitting SOSi to respond, and only after

considering all less intrusive means of proceeding.

Such relief is necessary and appropriate in order to protect the compelling security and privacy interests of SOSi's employees and their families.

CONCLUSION

Accordingly, for the reasons set forth above and in CACI's motion, SOSi respectfully requests this Court GRANT its Motion for Protective Order and issue the attached proposed Protective Order.

Given the emergency nature of the motion, SOSi requests telephonic argument on its Motion.

Respectfully submitted,

[Redacted signature]

By:

[Redacted signature]

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

[Redacted signature]

[Redacted signature]

Washington, DC 20006
(202) 496-[Redacted]

Counsel for SOS International Ltd.

Dated: August 11, 2004

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Motion and proposed Order were emailed, as instructed by Government Counsel, this 11th day of August 2004, to the Military Judge, Government Counsel, Defense Counsel, and Counsel for CACI and Counsel for Titan at the following email addresses:

- Military Judge [redacted]@us.army.mil
- Defense Counsel: [redacted]@vcmain.hq.c5.army.mil; [redacted]@usa.net; (b)(6) 4 (7)(C) 4
(b)(6)-4, (7)(C) 4
[redacted]@pope-firm.com; [redacted]@us.army.mil; [redacted]@us.army.mil; (b)(6)-2, (7)(C)-2
(b)(6) 4, (7)(C)-4
[redacted]@aol.com; [redacted]@us.army.mil; [redacted]@svg-law.com (b)(6) 2, (7)(C) 1-2
- Government Counsel: [redacted]@us.army.mil; (b)(6)-2, (7)(C)-2
[redacted]@hqda.army.mil
- Counsel for CACI: [redacted]@steptoe.com 7 (b)(6) 4, (7)(C) 4
- Counsel for Titan: [redacted]@wc.com

[redacted] (b)(6)-2
[redacted] (7)(C)-2
[redacted]

August 11, 2004

MOTION OF NONPARTY TITAN CORPORATION FOR A PROTECTIVE ORDER

COMES NOW nonparty Titan Corporation ("Titan"), by and through undersigned counsel, and respectfully moves the Court for entry of a Protective Order pursuant to Rule for Court-Martial ("R.C.M.") 701(g) to prevent the public dissemination of names and other personally identifying information of Titan's employees produced and/or used during the course of the above-captioned court-martial. For the reasons set forth below, a Protective Order is necessary to safeguard any employment records or other personally identifying information of Titan employees supporting the U.S. military efforts in Iraq that may be produced by the Government or through subpoena to Titan.

BACKGROUND

On August 3, 2004, Titan, through its counsel, was informed that the Government intends to disclose, on or about August 13, 2004, approximately 26 pages containing sensitive "personally identifying" information concerning Titan's employees to defense counsel in this court-martial. Titan—as part of its ongoing efforts to fully cooperate with Government investigations—had earlier provided the Army Criminal Investigative Command access to these 26 pages of detailed confidential information concerning its personnel with the belief it would be held as such. The 26 pages that the Government intends to disclose contain the following information about Titan employees who are presently or were previously assigned to support the U.S. military in Iraq:

name, social security number, home address, date of birth, citizenship, telephone number, email address, security clearance (including level and date of clearance), hire date, arrival date, employment category, language proficiency, unit assignment, identity of site manager, employment status, sex, vocational and educational history, employee number. These documents also identify names of close family members of the employees. In addition, Government Counsel has issued a subpoena seeking production of employment records of a particular Titan employee that contains additional confidential personal information about the employee.

ARGUMENT

The legal framework for analyzing the need for protective orders in a situation such as this is fully set forth in the Motion of nonparty CACI International, Inc. ("CACI") for Appropriate Relief in the Form of a Protective Order with regard to its information. Rather than burden the Court with a repetition of that framework and its applicability to Titan's situation, Titan joins and adopts the arguments and authorities contained in CACI's motion.

Turning to the particular situation of Titan, there can be no question that the disclosure of the above-described sensitive information would constitute a severe and unwarranted intrusion upon the privacy interests of Titan's employees and that Titan has standing to move for such protection. Cf. United States v.

RMI Co., 599 F.2d 1183, 1186 (3d Cir. 1979) ("[I]t is settled law that persons affected by the disclosure of allegedly privileged materials may intervene in pending criminal proceedings and seek protective orders, and if protection is denied, seek immediate appellate review."). Moreover, in addition to the privacy concerns, given the role of Titan's employees in supporting the military's efforts in quelling the insurgency in Iraq, disclosure could unnecessarily endanger Titan's employees and their families.

The information at issue clearly warrants protection under R.C.M. 701(g).

The Department of Defense has a long-standing policy of protecting from public disclosure "personally identifying" information of military and civilian personnel, including contractors, who are assigned overseas, on board ship, or to sensitive or routinely deployable units. See Exhibit A, Office of Secretary of Defense Memorandum for DOD FOIA Offices (Nov. 9, 2001). Personally identifying information protected under this policy includes name, rank, email address, along with rosters, directories (including telephone directories) and detailed organizational charts - in short, precisely the type of information that the Government intends to disclose in this case. See Exhibit B, Assistant Secretary of Defense Memorandum, Removal of Personally Identifying Information from Unclassified Websites (Dec. 28, 2001). Such information is properly treated as "For

Official Use Only" and protected from public disclosure. See id.; 32 C.F.R. § 505.4 (d)(3) ("Ordinarily, personal information must be afforded at least the protection required for information designated 'For Official Use Only' (see Chapter IV, AR 340-17).").

Since the President's declaration of a national emergency by reason of the terrorist attacks on the United States, DOD personnel, including DOD contractors, are considered at "increased risk" and "release of names and other personal information must be more carefully scrutinized and limited." See Exhibit A. Accordingly, DOD policy is now to give more serious weight to the "heightened interest in the personal privacy of DOD personnel that is concurrent with the increased security awareness demanded in times of national emergency." Id.

The U.S. military's policy of protecting from disclosure the personally identifying information and unit affiliation of its Service members, civilian employees, and contractors should be fully respected in this proceeding. Accordingly, all information relating to the identity of Titan employees and their families should remain protected and not subject to public disclosure during the course of these court-martial proceedings, except to the extent deemed necessary and appropriate by the military judge after permitting Titan to respond, and only after considering all less intrusive means of proceeding.

Such relief is necessary and appropriate in order to protect

the compelling security and privacy interests of Titan's employees and their families.

CONCLUSION

Accordingly, for the reasons set forth above and in CACI's motion, Titan respectfully requests this Court GRANT its Motion for Protective Order and issue the attached proposed Protective Order.

Given the emergency nature of the motion, Titan requests telephonic argument on its Motion.

Respectfully submitted,

[REDACTED]

By:

[REDACTED]

[REDACTED]

[REDACTED]

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

Counsel for Titan Corporation

Dated: August 9, 2004



OFFICE OF THE SECRETARY OF DEFENSE
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950



ADMINISTRATION &
MANAGEMENT

November 9, 2001

Ref: 01-CORR-101

MEMORANDUM FOR DOD FOIA OFFICES

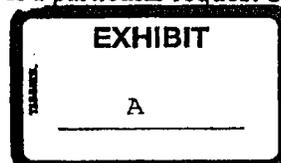
SUBJECT: Withholding of Personally Identifying Information Under the Freedom of Information Act (FOIA)

The President has declared a national emergency by reason of the terrorist attacks on the United States. In the attached memorandum, the Deputy Secretary of Defense emphasizes the responsibilities all DoD personnel have towards operations security and the increased risks to US military and civilian personnel, DoD operational capabilities, facilities and resources. All Department of Defense personnel should have a heightened security awareness concerning their day-to-day duties and recognition that the increased security posture will remain a fact of life for an indefinite period of time.

This change in our security posture has implications for the Defense Department's policies implementing the Freedom of Information Act (FOIA). Presently all DoD components withhold, under 5 USC § 552(b)(3), the personally identifying information (name, rank, duty address, official title, and information regarding the person's pay) of military and civilian personnel who are assigned overseas, on board ship, or to sensitive or routinely deployable units. Names and other information regarding DoD personnel who did not meet these criteria have been routinely released when requested under the FOIA. Now, since DoD personnel are at increased risk regardless of their duties or assignment to such a unit, release of names and other personal information must be more carefully scrutinized and limited.

I have therefore determined this policy requires revision. Effective immediately, personally identifying information (to include lists of e-mail addresses) in the categories listed below must be carefully considered and the interests supporting withholding of the information given more serious weight in the analysis. This information may be found to be exempt under 5 USC § 552(b)(6) because of the heightened interest in the personal privacy of DoD personnel that is concurrent with the increased security awareness demanded in times of national emergency.

- Lists of personally identifying information of DoD personnel: All DoD components shall ordinarily withhold lists of names and other personally identifying information of personnel currently or recently assigned within a particular component, unit, organization or office with the Department of Defense in response to requests under the FOIA. This is to include active duty military personnel, civilian employees, contractors, members of the National Guard and Reserves, military dependents, and Coast Guard personnel when the Coast Guard is operating as a service in the Navy. If a particular request does not raise



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security or privacy concerns, names may be released as, for example, a list of attendees at a meeting held more than 25 years ago. Particular care shall be taken prior to any decision to release a list of names in any electronic format.

- Verification of status of named individuals: DoD components may determine that release of personal identifying information about an individual is appropriate only if the release would not raise security or privacy concerns and has been routinely released to the public.
- Names in documents that don't fall into any of the preceding categories: Ordinarily names of DoD personnel, other than lists of names, mentioned in documents that are releasable under the FOIA should not be withheld, but in special circumstances where the release of a particular name would raise substantial security or privacy concerns, such a name may be withheld.

When processing a FOIA request, a DoD component may determine that exemption (b)(6) does not fully protect the component's or an individual's interests. In this case, please contact Mr. Jim Hogan, Directorate of Freedom of Information and Security Review, at (703) 697-4026, or DSN 227-4026.

This policy does not preclude a DoD component's discretionary release of names and duty information of personnel who, by the nature of their position and duties, frequently interact with the public, such as flag/general officers, public affairs officers, or other personnel designated as official command spokespersons.



D. O. Cooke
Director

Attachment:
As stated

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ASSISTANT SECRETARY OF DEFENSE

**6000 DEFENSE PENTAGON
WASHINGTON, DC 20301-6000**

December 28, 2001



**COMMAND, CONTROL,
COMMUNICATIONS, AND
INTELLIGENCE**

**MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES**

**SUBJECT: Removal of Personally Identifying Information of DoD Personnel from
Unclassified Web Sites**

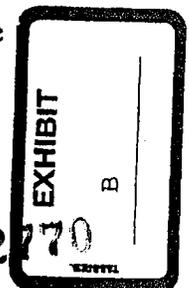
In accordance with DoD 5400.7-R, "DoD Freedom of Information Act Program," unclassified information which may be withheld from the public by one or more Freedom of Information Act (FOIA) exemptions is considered For Official Use Only (FOUO). DoD Web Site Administration policy (www.defenselink.mil/webmasters), issued by Deputy Secretary of Defense memorandum, December 7, 1998, prohibits posting FOUO information to publicly accessible web sites and requires access and transmission controls on sites that do post FOUO materials (see Part V, Table 1).

The attached November 9, 2001, memorandum from the Director, Administration and Management (DA&M), citing increased risks to DoD personnel, states that personally identifying information regarding all DoD personnel may be withheld by the Components under exemption (b)(6) of the FOIA, 5 USC §552. This action makes the information which may be withheld FOUO and inappropriate for posting to most unclassified DoD web sites.

Thus, all personally identifying information regarding DoD personnel now eligible to be withheld under the FOIA must be removed from publicly accessible web pages and web pages with access restricted only by domain or IP address (i.e., .mil restricted). This applies to unclassified DoD web sites regardless of domain (e.g., .com, .edu, .org, .mil, .gov) or sponsoring organization (e.g., Non-Appropriated Fund/Morale, Welfare and



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Recreations sites; DoD educational institutions). The information to be removed includes name, rank, e-mail address, and other identifying information regarding DoD personnel, including civilians, active duty military, military family members, contractors, members of the National Guard and Reserves, and Coast Guard personnel when the Coast Guard is operating as a service in the Navy.

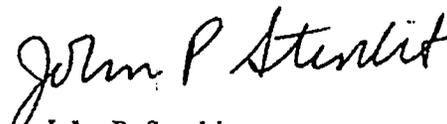
Rosters, directories (including telephone directories) and detailed organizational charts showing personnel are considered lists of personally identifying information. Multiple names of individuals from different organizations/locations listed on the same document or web page constitutes a list. Aggregation of names across pages must specifically be considered. In particular, the fact that data can be compiled easily using simple web searches means caution must be applied to decisions to post individual names. If aggregation of lists of names is possible across a single organization's web site/pages, that list should be evaluated on its merits and the individual aggregated elements treated accordingly.

Individual names contained in documents posted on web sites may be removed or left at the discretion of the Component, in accordance with the DA&M guidance. This direction does not preclude the discretionary posting of names and duty information of personnel who, by the nature of their position and duties, frequently interact with the public, such as flag/general officers, public affairs officers, or other personnel designated as official command spokespersons. Posting such information should be coordinated with the cognizant Component FOIA or Public Affairs office.

In keeping with the concerns stated in the referenced memorandum and in the October 18, 2001, DepSecDef memorandum, "Operations Security Throughout the Department of Defense," the posting of biographies and photographs of DoD personnel identified on public and .mil restricted web sites should also be more carefully scrutinized and limited.

Sites needing to post contact information for the public are encouraged to use organizational designation/title and organizational/generic position e-mail addresses (e.g., office@organization.mil; helpdesk@organization.mil; commander@base.mil).

Questions regarding Web Site Administration policy may be directed to Ms. Linda Brown. She can be reached at (703) 695-2289 and e-mail Linda.Brown@osd.mil. Questions regarding Component-specific implementation of the DA&M memorandum should be directed to the Component FOIA office.


John P. Stenbit

Attachment
As stated

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UNITED STATES)

v.)

[REDACTED]
SSG, U.S. Army)
HHC, 16th MP BDE (ABN),)
III Corps)
Victory Base, Iraq,)
APO AE 09342)

28 JULY 2004

UNITED STATES)

v.)

[REDACTED]
SPC, U.S. Army)
HHC, 16th MP BDE (ABN),)
III Corps)
APO AE 09342)

18 JUNE 2004

UNITED STATES)

v.)

[REDACTED]
SGT, U.S. Army)
HHC, 16th MP BDE (ABN),)
III Corps)
Victory Base, Iraq,)
APO AE 09342)

18 JUNE 2004

002772

FINALLY, IT IS ORDERED that nothing in this Order shall preclude entry of a further protective order as to particular items of discovery material.

Dated: August __, 2004

Military Judge

Copy to:
Civilian Defense Counsel
Military Defense Counsel
Trial Counsel
Counsel for Titan
Counsel for CACI
Counsel for SOSi

made pursuant to the above provision shall be provided a copy of this protective order and will be advised that he or she shall not further disseminate the materials except by the express direction of counsel of record. They shall be further advised that by reviewing the particularly sensitive discovery materials, the individuals consent to the jurisdiction of this Court over them for the purposes of enforcing this order. It is expressly ordered that the attorneys of record for the defendant may not show any of such particularly sensitive discovery materials to witnesses or potential witnesses. The defendant may seek relief from these provisions as to a particular item of discovery by making a motion for such relief to the Court upon notice to the Government, the employee whose records are at issue and his employer. The notice shall identify the particular item(s) at issue. The motion shall be made under seal.

IT IS FURTHER ORDERED that, for the purposes of this order, "personally identifying information" includes, but is not limited to the following information: name, social security number, home address, date of birth, citizenship, telephone number, email address, security clearance (including level and date of clearance), hire date, arrival date, employment category, language proficiency, unit assignment, identity of site manager, employment status, sex, vocational and educational history, travel history, history of residences, employee number, and names and addresses of family members.

IT IS FURTHER ORDERED that any papers to be served upon the Court by either party which include or refer to the contents of particularly sensitive materials shall be filed under seal;

IT IS FURTHER ORDERED that any papers to be served upon the Court in response to papers served in conformity with the preceding paragraph also be filed under seal;

FINALLY, IT IS ORDERED that nothing in this Order shall preclude entry of a further protective order as to particular items of discovery material.

Dated: August __, 2004

Military Judge

Copy to:
Civilian Defense Counsel
Military Defense Counsel
Trial Counsel
Counsel for Titan
Counsel for CACI
Counsel for SOSi

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ASSISTANT SECRETARY OF DEFENSE
 6000 DEFENSE PENTAGON
 WASHINGTON, DC 20301-6000
 December 28, 2001



COMMAND, CONTROL,
 COMMUNICATIONS, AND
 INTELLIGENCE

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
 CHAIRMAN OF THE JOINT CHIEFS OF STAFF
 UNDER SECRETARIES OF DEFENSE
 DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
 ASSISTANT SECRETARIES OF DEFENSE
 GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
 INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
 DIRECTOR, OPERATIONAL TEST AND EVALUATION
 ASSISTANTS TO THE SECRETARY OF DEFENSE
 DIRECTOR, ADMINISTRATION AND MANAGEMENT
 DIRECTOR, NET ASSESSMENT
 DIRECTORS OF THE DEFENSE AGENCIES
 DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Removal of Personally Identifying Information of DoD Personnel from
 Unclassified Web Sites

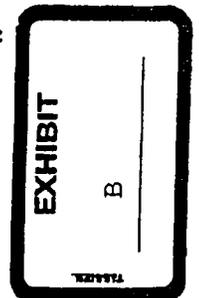
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The attached November 9, 2001, memorandum from the Director, Administration and Management (DA&M), citing increased risks to DoD personnel, states that personally identifying information regarding all DoD personnel may be withheld by the Components under exemption (b)(6) of the FOIA, 5 USC §552. This action makes the information which may be withheld FOUO and inappropriate for posting to most unclassified DoD web sites.

Thus, all personally identifying information regarding DoD personnel now eligible to be withheld under the FOIA must be removed from publicly accessible web pages and web pages with access restricted only by domain or IP address (i.e., .mil restricted). This applies to unclassified DoD web sites regardless of domain (e.g., .com, .edu, .org, .mil, .gov) or sponsoring organization (e.g., Non-Appropriated Fund/Morale, Welfare and



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Recreations sites; DoD educational institutions). The information to be removed includes name, rank, e-mail address, and other identifying information regarding DoD personnel, including civilians, active duty military, military family members, contractors, members of the National Guard and Reserves, and Coast Guard personnel when the Coast Guard is operating as a service in the Navy.

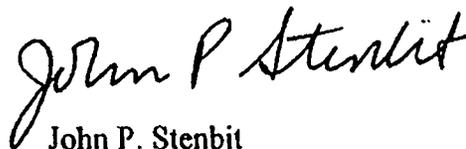
Rosters, directories (including telephone directories) and detailed organizational charts showing personnel are considered lists of personally identifying information. Multiple names of individuals from different organizations/locations listed on the same document or web page constitutes a list. Aggregation of names across pages must specifically be considered. In particular, the fact that data can be compiled easily using simple web searches means caution must be applied to decisions to post individual names. If aggregation of lists of names is possible across a single organization's web site/pages, that list should be evaluated on its merits and the individual aggregated elements treated accordingly.

Individual names contained in documents posted on web sites may be removed or left at the discretion of the Component, in accordance with the DA&M guidance. This direction does not preclude the discretionary posting of names and duty information of personnel who, by the nature of their position and duties, frequently interact with the public, such as flag/general officers, public affairs officers, or other personnel designated as official command spokespersons. Posting such information should be coordinated with the cognizant Component FOIA or Public Affairs office.

In keeping with the concerns stated in the referenced memorandum and in the October 18, 2001, DepSecDef memorandum, "Operations Security Throughout the Department of Defense," the posting of biographies and photographs of DoD personnel identified on public and .mil restricted web sites should also be more carefully scrutinized and limited.

Sites needing to post contact information for the public are encouraged to use organizational designation/title and organizational/generic position e-mail addresses (e.g., office@organization.mil; helpdesk@organization.mil; commander@base.mil).

Questions regarding Web Site Administration policy may be directed to Ms. Linda Brown. She can be reached at (703) 695-2289 and e-mail Linda.Brown@osd.mil. Questions regarding Component-specific implementation of the DA&M memorandum should be directed to the Component FOIA office.


John P. Stenbit

Attachment
As stated

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MOTION OF NONPARTY SOS INTERNATIONAL LTD
FOR A PROTECTIVE ORDER

COMES NOW nonparty SOS International Ltd (“SOSi” formerly named SOS Interpreting Ltd.), by and through undersigned counsel, and respectfully moves the Court for entry of a Protective Order pursuant to Rule for Court-Martial (“R.C.M.”) 701(g) to prevent the public dissemination of names and other personally identifying information of SOSi’s employees produced and/or used during the course of the above-captioned court-martial. For the reasons set forth below, a Protective Order is necessary to safeguard any employment records or other personally identifying information of SOSi employees supporting the U.S. military efforts in Iraq that may be produced by the Government or through subpoena to SOSi.

BACKGROUND

SOSi, through its counsel, has been informed (by counsel for Titan Corporation, its prime contractor for the work reflected in the documents at issue) that the Government intends to disclose, on or about August 13, 2004, approximately 26 pages containing sensitive “personally identifying” information concerning Titan and SOSi employees to defense counsel in this court-martial. Titan—as part of its ongoing efforts to fully cooperate with Government investigations—had earlier provided the Army Criminal Investigative Command access to these 26 pages of detailed confidential information concerning Titan and SOSi personnel with the belief it would be held as such. The 26 pages that the Government intends to disclose contain the following information about Titan and SOSi employees who are presently or were previously assigned to support the U.S. military in Iraq: name, social security number, home address, date of birth, citizenship, telephone number, email address, security clearance (including level and date of clearance), hire date, arrival date, employment category, language proficiency, unit assignment, identity of site manager, employment status, sex, vocational and educational history,

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employee number. These documents also identify names of close family members of the employees. In addition, Government Counsel has issued a subpoena seeking production of employment records of a particular SOSi employee that contains additional confidential personal information about the employee.

ARGUMENT

The legal framework for analyzing the need for protective orders in a situation such as this is fully set forth in the Motion of nonparty CACI International, Inc. (“CACI”) for Appropriate Relief in the Form of a Protective Order which is pending in the captioned matters. Rather than burden the Court with a repetition of that framework and its applicability to SOSi’s situation, SOSi joins and adopts the arguments and authorities contained in CACI’s motion and relies on them in support of this motion.

Turning to the particular situation of SOSi, there can be no question that the disclosure of the above-described sensitive information would constitute a severe and unwarranted intrusion upon the privacy interests of SOSi’s employees and that SOSi has standing to move for such protection. Cf. United States v. RMI Co., 599 F.2d 1183, 1186 (3d Cir. 1979)(“[I]t is settled law that persons affected by the disclosure of allegedly privileged materials may intervene in pending criminal proceedings and seek protective orders, and if protection is denied, seek immediate appellate review.”). Moreover, in addition to the privacy concerns, given the role of SOSi’s employees in supporting the military’s efforts in quelling the insurgency in Iraq, disclosure could unnecessarily endanger SOSi’s employees and their families.

The information at issue clearly warrants protection under R.C.M. 701(g).

The Department of Defense has a long-standing policy of protecting from public disclosure “personally identifying” information of military and civilian personnel, including

contractors, who are assigned overseas, on board ship, or to sensitive or routinely deployable units. See Exhibit A, Office of Secretary of Defense Memorandum for DOD FOIA Offices (Nov. 9, 2001). Personally identifying information protected under this policy includes name, rank, email address, along with rosters, directories (including telephone directories) and detailed organizational charts – in short, precisely the type of information that the Government intends to disclose in this case. See Exhibit B, Assistant Secretary of Defense Memorandum, Removal of Personally Identifying Information from Unclassified Websites (Dec. 28, 2001). Such information is properly treated as “For Official Use Only” and protected from public disclosure. See id.; 32 C.F.R. § 505.4 (d)(3) (“Ordinarily, personal information must be afforded at least the protection required for information designated ‘For Official Use Only’ (see Chapter IV, AR 340–17).”).

Since the President’s declaration of a national emergency by reason of the terrorist attacks on the United States, DOD personnel, including DOD contractors, are considered at “increased risk” and “release of names and other personal information must be more carefully scrutinized and limited.” See Exhibit A. Accordingly, DOD policy is now to give more serious weight to the “heightened interest in the personal privacy of DOD personnel that is concurrent with the increased security awareness demanded in times of national emergency.” Id.

The U.S. military’s policy of protecting from disclosure the personally identifying information and unit affiliation of its Service members, civilian employees, and contractors should be fully respected in this proceeding. Accordingly, all information relating to the identity of SOSi employees and their families should remain protected and not subject to public disclosure during the course of these court-martial proceedings, except to the extent deemed necessary and appropriate by the military judge after permitting SOSi to respond, and only after

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considering all less intrusive means of proceeding.

Such relief is necessary and appropriate in order to protect the compelling security and privacy interests of SOSi's employees and their families.

CONCLUSION

Accordingly, for the reasons set forth above and in CACI's motion, SOSi respectfully requests this Court GRANT its Motion for Protective Order and issue the attached proposed Protective Order.

Given the emergency nature of the motion, SOSi requests telephonic argument on its Motion.

Respectfully submitted,

[REDACTED]

By: [REDACTED]

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

[REDACTED]

1900 K St., N.W.
Washington, DC 20006
(202) [REDACTED]

Counsel for SOS International Ltd.

Dated: August 11, 2004

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Motion and proposed Order were emailed, as instructed by Government Counsel, this 11th day of August 2004, to the Military Judge, Government Counsel, Defense Counsel, and Counsel for CACI and Counsel for Titan at the following email addresses:

- Military Judge: [redacted]@us.army.mil (b)(6)2;(7)(C)-2
- Defense Counsel: [redacted]@vcmain.hq.c5.army.mil; [redacted]@usa.net;
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August 11, 2004

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