

DEFENSE EXHIBITS
NOT ADMITTED



DEPARTMENT OF THE ARMY
66th Military Intelligence Company
3d Squadron, 3d Armored Cavalry Regiment
Camp Rifles Base
Al Asad, Iraq 09320



AFZC-R-K-MI

12 February 2004

MEMORANDUM FOR Commander, 66th ABN DIV, Champion Base, Iraq 09320

SUBJECT: MAJ [REDACTED] Rebuttal of General Officer Letter of Reprimand
b6-5

1. As the 66th Military Intelligence Company commander I fully understand I am accountable for all actions my soldiers do or fail to do. With 153 soldiers currently spread over my Regiment's AO, I command the active Army's largest tactical Military Intelligence Company. I respectfully request you set aside my letter of reprimand (LOR), dated 22 January 2004. I do not believe I did anything wrong. In the paragraphs below I will explain my actions as the commander as to why I felt the "sleeping bag" technique abided by the parameters set forth from CJTF-7 and the Laws of Warfare. If, after you read this rebuttal, you feel I warrant a LOR, I request this LOR be placed in my local file.

2. My company has 6 distinctly different platoons each with a different mission. My platoons are Headquarters, Service Support, Collection, Jamming, Analysis Control Element, and Ground Surveillance Radar. Due to the extreme variety of missions my company must execute to support the Regiment, I could not always be present at the Regiment's Detention Facility. Since I have no formalized training in interrogation operations, I fully relied on the recommendations made by CW3 [REDACTED], my senior interrogator, to execute proper interrogations. The "sleeping bag" technique is a stress position we considered authorized by CJTF-7 in their memo; CJTF-7 Interrogation and Counter-Resistance Policy, dated 10 SEP 03 which states "Stress Positions: Use of physical postures (sitting, standing, kneeling, prone, etc)". Utilizing the "sleeping bag" technique is a stress position which was used to bring about claustrophobic conditions. This technique uses the Iraqi's fear of being in confined spaces and was never used as a tool to prevent breathing. When CW3 [REDACTED] approached me and explained the "sleeping bag" technique, I assessed the use of this technique as an appropriate method to be used to glean intelligence from detainees. At no time did I perceive any violations of CJTF-7 policy or Laws of War. I determined this based on the facts that the "sleeping bag" technique: 1. Does not physically harm the detainee; 2. Allows for a legal practice of interrogations; 3. Exploits an identified weakness without harming the detainee in any way. This technique was only used as a last resort. The purpose and parameters of this technique was clearly understood by all of my interrogators. At no time was this technique used to endanger a detainee's life.

3. As the commander, I do not believe I neglected my duties and obligations as the commander. I made the decision to use this technique based on a recommendation by an experienced interrogator with the desired endstate of gaining actionable intelligence in

Defense Exhibit B
for Identification

- 66-2

Subject: Rebuttal Statement, MAJ [REDACTED]

order to protect and ultimately save American and Coalition lives. As the commander I take full responsibility for any excessive force used by the interrogators. However, I am still not aware of any specific evidence that would indicate the interrogators used unlawful or excessive techniques. Detainees who were interrogated by my soldiers were treated humanely and at no time do I believe their lives were placed in jeopardy. It is important to note that since the incident of MG [REDACTED], I have reviewed the interrogators standard operating procedure and have made the necessary changes to ensure my interrogators only use approved interrogation methods.

4. I ask that the LOR be set aside based on the fact that I intentionally did no wrongdoing. If after having considered the facts listed above you still feel I still deserve the LOR, I ask that it get filed in my local file. I have been serving my country in the Army for close to 14 years. If this reprimand gets filed in my official file, I can no longer pursue my desire to make the Army my career and I will be forced to leave the Army. I believe I am an extremely valuable member of the Army and I know I can still contribute to this outstanding institution. The lessons I have learned in this extremely challenging environment will allow me to effectively train leaders and soldiers in the future. My lessons learned range from interrogations conducted at the detention facility to all aspects of ACE operations to establishing a PROPHET baseline to properly managing THTs. I can share this knowledge with the intelligence and operations community and make a difference in the Army's training to assist us in becoming better equipped to fight this enemy in the future.

[REDACTED]
MAJ, MI
Commanding

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for ID

P. 282

008283

Defense Exhibit C for Identification is classified and is located in
Volume 3 of 3 of the record of trial.

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
 PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
 ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
 DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION <u>Iraq vic of FOB Tiger</u>	2. DATE (YYYYMMDD) <u>20031128</u>	3. TIME <u>1243</u>	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME <u>Loper, Jerry Leonidas Jr</u>	6. GRADE/STATUS <u>SPC/AD</u>		
8. ORGANIZATION OR ADDRESS <u>Aviation Trp, Spt Sq, 3rd ACR, Fort Carson, CO</u>			

9. Jerry L. Loper Jr., WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

2 days ago I was called on the radio to escort number 76 (the General) to go to interrogation room number 6. I proceeded to go to get the General. About 50 to 75 feet from the cage I said "General, let's go General." in a very friendly way. Just like I do to all the EPWs. By time I got there he still wasn't standing. I had to physically help him up. On the way to the interrogation room I had to help him walk the whole way. Very slowly I might add. He was breathing short & heavy with a little bit of wheezing and a ~~very~~ tired/roll moan at the exhale of every breath. I had to carry a lot of his weight on me while walking with him with his hands and arms over mine. When I got up to the "Bat cave" (the interrogation room's) Chief Wale (Big Chief) was waiting and told me to take him to room six. I took him there and waited out side the room against the wall. After standing there while I was told by Big Chief to come inside and make sure he doesn't sit down. Chief left for approximately 15 minutes and came back. Before Big Chief came ~~back~~ back Little Chief came into the room just talking to the General. Taking him "How was your cookie I gave you?" The General said it was good and that's all he had to eat in the last few days. Little Chief was telling him how he was his friend and that he liked him and some other stuff I don't really remember. About that time Big Chief and the interpreter, (Short E-7 with glasses and grey hair) Interpreter #1, come in the room. Big Chief asked him a few questions and the General responded all same, "I don't know." At this time I asked the chief if I should step out and he slightly shook his head no. Little Chief told the General that if he didn't tell Big Chief what he wanted to know then he's not going to like what's coming. Big Chief asked

10. EXHIBIT <u>10</u>	11. INITIALS OF PERSON MAKING STATEMENT <u>[Signature]</u>	PAGE 1 OF <u>4</u> PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT _____ DATE _____ Defense Exhibit for Identification 1/19/4

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

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STATEMENT OF Jerry L. Loper

TAKEN AT Vic of FOB Tiger, DATED 2003/12/8
Irre

9. STATEMENT (Continued)

a few more questions. The same thing "I don't know." Big Chief picked up the sleeping bag and wrapped it around the General and I tied it up with electrical cord. Big Chief told me to make sure that it was tight. So I did. I was still wrapping the chord around his thighs and I asked Chief how low do you want me to go. He replied "A little lower." So I did. After that Chief asked me if it was tight, and I said ~~yes~~ yes. We had ~~tried~~ tried to turn him around a couple of times but he was too big to turn. Me, Big Chief, Little Chief, and Interpreter #1 all layed the General down on his back. After laying him down Big Chief sat on his both chest and stomach. Big Chief asked him a few question and the same thing. "I don't know." Big Chief put his hand over the face of the General and held it there for a few seconds and then released. Asked him a few more questions and the same answer. Big Chief took both his hands and pushed down on the sleeping bag on both sides and held it there. Meanwhile me and Little Chief are standing on the sides of the sleeping bag to hold down the General's legs to keep them from kicking or kicking Big Chief. Big Chief asked a few more questions and there was no answers. Chief stood up and was watching the guy. I saw that at first the general wasn't breathing, but after about 15 to 20 seconds he took a big, deep breath. Big Chief then said "Thank God. I was worried that he stopped breathing." Big Chief then told us to roll him over. Before we rolled him over he started to shake for about 2 seconds. We all really thought nothing of it. We rolled him over and Chief sat on his back. After a few seconds I saw the General's whole body just clench. His body clenched about 3 or 4 times, maybe more. At this time Interpreter #2 (Tall E-7 with glasses) walks in the room stands there for a minute or so and the alls me to step out of the room. After I walked out of the room about 2 minutes later a battle buddy of mine walked by and I talked to him for no more than 5 minutes. When I came back to the room a Sgt ran out of the room yelling "Where's the Doc!! Where's the Doc!!" At that time I was wondering what the hell was going on. A few minutes later

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for ID 1-2-84

INITIALS OF PERSON MAKING STATEMENT

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PAGES

STATEMENT OF Jerry L. Loper TAKEN AT Vic of FOB Tigee, DATED 20031128
Iraq

9. STATEMENT (Continued)

runs over and starts doing her thing.

2 days before that I was told to escort #074 ~~He~~^{to} the Bat cave. I did and the General was taken from me by some of the SF personnel. They kept him for about an hour to an hour and a half. When the General came back out it took 4 or five of us to practically carry him back to the cage he was in. The General had no energy. No breath. It was ~~almost~~^{just} almost as if he was about to ~~die~~^{die} die. Excuse the pun.

Q: Describe big chief.

A: He is tall, A CW3. He wears glasses, speaks Russian and works at the Al Asad EPW site.

Q: Describe little chief.

A: He is a CW2, short and stocky. He always wears sunglasses, I think he has blonde hair.

Q: Describe Interpreter #1.

A: Short. Skinny. He has gray hair and wears glasses. He is a SFC.

Q: Describe Interpreter #2.

A: Tall. Brown Hair. Glasses. He chews Koolman.

Q: Were there any weapons in Room 6 on 26 Nov 03?

A: My guard stick was in the corner of the room.

Q: Did you see anyone hit the general on 26 Nov 03?

A: No.

Q: Did you ever hit the general?

A: No.

Q: Did you ever see anyone hit the general.

DEFENSE EXHIBIT D
 for ID p. 38ff

INITIALS OF PERSON MAKING STATEMENT

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STATEMENT OF Jerry L. Loper

TAKEN AT Vic of FOB Tiger, Iraq DATED 2003 1128

9. STATEMENT (Continued)

A: I never saw it, but I did hear someone hit him.
Q: Describe what happened when you heard the general being hit.
A: The day I escorted the general to SF I waited about 40 feet from the door to the room he was in. I heard smacking sounds and the general screaming. It sounded like the general was being hit with an object. I think the sounds lasted five to ten minutes. That was the day we had to carry the general back to the cage.
Q: Are you sure it was the general you heard screaming?
A: Yes.
Q: Do you know who was in the room with the general?
A: No. They were all wearing masks.
Q: Did the general ever ask to see a doctor?
A: No.
Q: Did the general ever complain about anything?
A: Sometimes he would complain when we made him get up.
He was like that from when he first got here.
End of Statement

AFFIDAVIT

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

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

[Signature]
(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 28th day of November, 2003 at Vic of FOB Tiger, Iraq

[Signature]
(Signature of Person Administering Oath)

SA Curtis E. Ryan
(Typed Name of Person Administering Oath)

Art 136(b)(4) UCMJ
(Authority To Administer Oaths)

DEFENSE EXHIBIT
for ID 4284

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