Table of Contents

Report of Proceedings by Investigating Officer, AR 15-6

Enclosure I. Letter of Appointment, Investigating Officer
Enclosure II. Memorandum for Record, Chronology of Events
Enclosure III. Report of Proceedings
Enclosure IV. Memorandum for Record, Findings and Recommendations
Enclosure V. Documentary Evidence

Exhibit A: Photograph, John Walker Lindh
Exhibit B: Detainee Captivity Log
Exhibit C: Sworn Statement, LTC
Exhibit D: Sworn Statement, MAJ
Exhibit E: Follow-up Sworn Statement, MAJ
Exhibit F: Sworn Statement, MAJ
Exhibit G: Sworn Statement, CPT
Exhibit H: Follow-up Sworn Statement, CPT
Exhibit I: Sworn Statement, CPT
Exhibit J: Sworn Statement, CPT
Exhibit K: Sworn Statement, MSG
Exhibit L: Follow-up Sworn Statement, MSG
Exhibit M: Sworn Statement, SFC
Exhibit N: Sworn Statement SFC
Exhibit O: Sworn Statement, SSG
Exhibit P: Sworn Statement, SSG
Exhibit Q: Sworn Statement, SFC
Exhibit R: Sworn Statement, SSG
Exhibit S: Sworn Statement, CPT
Exhibit T: Medical Log, Treatment of Detainee
Exhibit U: Sworn Statement, 1LT
Exhibit V: Sworn Statement, SFC
Exhibit W: Sworn Statement, SGT

Detainee

3/5 BN CDR
3/5 BN S3
C/3/5 CDR
D/3/5 CDR
BN S2
CDR
HM SGT
D/3/5
BN SURG
D/3/5
D/3/5
D/3/5

013598

43

DOD-015552
MEMORANDUM FOR MAJ [REDACTED], Headquarters, 2nd Battalion, 5th Special Forces Group (Airborne), Fort Campbell, KY 42223

SUBJECT: Appointment as Investigating Officer

1. Confirming my vocal appointment of 9 April 2002, Major [REDACTED] is appointed as an investigating officer to conduct an informal investigation into the facts and circumstances surrounding reports of inappropriate or unauthorized pictures of Johnny Walker Lindh taken by members of [REDACTED] at Mazar-e-Sharif, Afghanistan, on or about 7 December 2001.

2. Conduct your investigation in accordance with the procedures for informal investigations set out in AR 15-6. Take sworn statements from witnesses using DA Form 2823. Investigate the circumstances surrounding the pictures, their distribution, and the circumstances surrounding their discovery. Report your findings and recommendations using DA Form 1574. Complete your investigation as soon as possible but no later than 19 April 2002.

3. Special Instructions:
   a. Consult the Group Judge Advocate, 798 [REDACTED] for legal advice in conducting your investigation.
   b. If you suspect an individual has committed an act of misconduct, advise him of his Article 31, UCMJ rights using DA Form 3881, prior to questioning him about the suspected offense(s).
   c. Consult the 82 section for classification guidance regarding the report of investigation.
   d. This appointment supersedes all previous duty appointments.

CF: Individual

Colonel, SF
Commanding
MEMORANDUM FOR RECORD

SUBJECT: Chronology of Events, AR 15-6 Investigation, circumstances surrounding reports of inappropriate or unauthorized pictures of Detainee Johnny Walker Lindh

1. The following is the chronology of Events, AR 15-6 Investigation, circumstances surrounding reports of inappropriate or unauthorized pictures of Detainee Johnny Walker Lindh:

10 April 02
0900 COL [redacted] appoints the undersigned as Investigating Officer
1000 Initial Legal Brief, 5th SFG(A) JAG
1300 Office Call, in brief with COL [redacted] 

11 April 02
1000 Legal consultation, 5th SFG(A) JAG
1300 Office Call, interviewed LTC [redacted] 3/5 CDR
1630 Legal consultation, 5th SFG(A)
1645 Office Call, interviewed MAJ [redacted] 3/5 S3

12 April 02
0920 Review of sworn statement with LTC [redacted]
0945 Interviewed MSG [redacted] TM SGT
1000 Interviewed SF C
1020 Interviewed SSG [redacted]
1030 Interviewed SSG
1045 Interviewed SSG

15 April 02
1318 Follow up interview, MAJ [redacted]
1400 Interviewed CPT [redacted] D/3/5 Co. CDR
1530 Interviewed CPT [redacted] 3/5 S2
1650 Follow up interview, CPT

16 April 02
0900 Interviewed MAJ [redacted] C/3/5 Co. CDR
0910 Follow up interview, MSG
1000 Interviewed CPT [redacted] DBT CDR

17 April 02
1040 Interviewed SSG [redacted] D/3/5
1100 Interviewed 1LT [redacted] D/3/5
1308 Interviewed CPT [redacted] 3/5 BN Surgeon
1536 Interviewed SF C
1610 Interviewed SGT [redacted] D/3/5
SUBJECT: Chronology of Events, AR 15-6 Investigation, circumstances surrounding reports of inappropriate or unauthorized pictures of Detainee Johnny Walker Lindh

1615 Interviewed SFC D/3/5

18 April 02 0800 Findings and Recommendations Complete
0930 Legal consultation, 5th SFG(A) JAG
1700 Initial Legal Review, SJA

2. POC is the undersigned at DSN 635

MAJ, SF
Investigating Officer

013601
REPORT OF PROCEEDINGS

For use of this form, see AR 15-6; the proponent agency is OTJAG.

IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

SECTION I - APPOINTMENT

Appointed by COL [redacted] Commander, 5th Special Forces Group (Airborne) [Appointing authority]

on 10 April 2002 (Date) (Attach Inclosure I: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - SESSIONS

The (investigating officer) board commenced at Headquarters, 3d Battalion, 5th SFG(A) at 1555 (Place) (Time)

on 11 April 2002 (Date) (If a formal board met for more than one session, check here □. Indicate in an inclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.) The following persons (members, respondents, counsel) were present: (After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)

The following persons (members, respondents, counsel) were absent: (Include brief explanation of each absence.) (See paras 3-2 and 5-8, AR 15-6.)

The (investigating officer) board finished gathering/hearing evidence at 1641 (Time) on 17 April 2002 (Date) and completed findings and recommendations at 1939 (Time) on 17 April 2002 (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

1. Inclosures (para 3-15, AR 15-6)
   a. The letter of appointment or a summary of oral appointment data? [X]
   b. Copy of notice to respondent, if any? (See item 9, below) [X]
   c. Other correspondence with respondent or counsel, if any? [X]
   d. All other written communications to or from the appointing authority? [X]
   e. Privacy Act Statements (Certificate, if statement provided orally)? [X]
   f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)? [X]
   g. Information as to sessions of a formal board not included on page 1 of this report? [X]

   YES [ ] NO [ ] NA [ ]

   Inclosure: 013602 47

DOD-015556
### FOR OFFICIAL USE ONLY

**Exhibits (para 346, AR 15-6)**

| a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report? | YES \(\times\) | NO | NA |
| b. Has the testimony or statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit? | YES | \(\times\) | NO | NA |
| c. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated? | YES | \(\times\) | NO | NA |
| d. Are descriptions or diagrams included of locations visited by the investigating officer or board? (para 3-6b, AR 15-6)? | YES | \(\times\) | NO | NA |
| e. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record? | YES | \(\times\) | NO | NA |

### COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)

**Notice to respondents (para 5-5, AR 15-6):**

| a. Is the method and date of delivery to the respondent indicated on each letter of notification? | YES | \(\times\) | NO | NA |
| b. Was the date of delivery at least five working days prior to the first session of the board? | YES | \(\times\) | NO | NA |
| c. Does each letter of notification indicate — | YES | \(\times\) | NO | NA |
| (1) the date, hour, and place of the first session of the board concerning that respondent? | YES | \(\times\) | NO | NA |
| (2) the matter to be investigated, including specific allegations against the respondent, if any? | YES | \(\times\) | NO | NA |
| (3) the respondent's right with regard to counsel? | YES | \(\times\) | NO | NA |
| the name and address of each witness expected to be called by the recorder? | YES | \(\times\) | NO | NA |
| the respondent's right to present, present evidence, and call witnesses? | YES | \(\times\) | NO | NA |
| d. Was the respondent provided a copy of all unclassified documents in the case file? | YES | \(\times\) | NO | NA |
| e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them? | YES | \(\times\) | NO | NA |
| f. Any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings): | YES | \(\times\) | NO | NA |
| a. Was he properly notified (para 5-3, AR 15-6)? | YES | \(\times\) | NO | NA |
| b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel? (para 5-4b, AR 15-6)? | YES | \(\times\) | NO | NA |
| Counsel (para 5-4, AR 15-6): | YES | \(\times\) | NO | NA |
| s. Was each respondent represented by counsel? | YES | \(\times\) | NO | NA |

**Name and business address of counsel:**

| (If counsel is a lawyer, check here \(\square\) | YES | \(\times\) | NO | NA |
| 1. Was respondent's counsel present at all open sessions of the board relating to that respondent? | YES | \(\times\) | NO | NA |
| If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the report (para 3-6b, AR 15-6)? | YES | \(\times\) | NO | NA |
| If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 3-7, AR 15-6): | YES | \(\times\) | NO | NA |
| a. Was the challenge properly denied and by the appropriate officer? | YES | \(\times\) | NO | NA |
| b. Did each member successfully challenge cease to participate in the proceedings? | YES | \(\times\) | NO | NA |
| c. Was present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent? | YES | \(\times\) | NO | NA |
| d. Examines and object to the introduction of real and documentary evidence, including written statements? | YES | \(\times\) | NO | NA |
| e. Object to the testimony of witnesses and cross-examine witnesses other than his own? | YES | \(\times\) | NO | NA |
| f. Call witnesses and otherwise introduce evidence? | YES | \(\times\) | NO | NA |
| Testify as a witness? | YES | \(\times\) | NO | NA |

**Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)? | YES | \(\times\) | NO | NA |

**In so far as the record assists the respondent in obtaining evidence in possession of the Government and in filing for the presence of witnesses (para 5-8b, AR 15-6)? | YES | \(\times\) | NO | NA |

### COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)

| a. Is a copy or summary of the record completed before the first session of the board concerning that respondent? | YES | \(\times\) | NO | NA |
| b. Was each letter of notification (para 5-2b, AR 15-6)? | YES | \(\times\) | NO | NA |
| c. Is a copy of all official notice of which official notice was taken attached as an exhibit and is the location of the original evidence indicated? | YES | \(\times\) | NO | NA |
| d. If any members who voted on findings or recommendations were not present when the board received some evidence, does the recollection describe how they familiarized themselves with that evidence (para 5-3d, AR 15-6)? | YES | \(\times\) | NO | NA |

### COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)

**Notice to respondents (para 5-5, AR 15-6):**

| a. Is the method and date of delivery to the respondent indicated on each letter of notification? | YES | \(\times\) | NO | NA |
| b. Was the date of delivery at least five working days prior to the first session of the board? | YES | \(\times\) | NO | NA |
| c. Does each letter of notification indicate — | YES | \(\times\) | NO | NA |
| (1) the date, hour, and place of the first session of the board concerning that respondent? | YES | \(\times\) | NO | NA |
| (2) the matter to be investigated, including specific allegations against the respondent, if any? | YES | \(\times\) | NO | NA |
| (3) the respondent's right with regard to counsel? | YES | \(\times\) | NO | NA |
| the name and address of each witness expected to be called by the recorder? | YES | \(\times\) | NO | NA |
| the respondent's right to present, present evidence, and call witnesses? | YES | \(\times\) | NO | NA |
| d. Was the respondent provided a copy of all unclassified documents in the case file? | YES | \(\times\) | NO | NA |
| e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them? | YES | \(\times\) | NO | NA |
| f. Any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings): | YES | \(\times\) | NO | NA |
| a. Was he properly notified (para 5-3, AR 15-6)? | YES | \(\times\) | NO | NA |
| b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel? (para 5-4b, AR 15-6)? | YES | \(\times\) | NO | NA |
| Counsel (para 5-4, AR 15-6): | YES | \(\times\) | NO | NA |
| s. Was each respondent represented by counsel? | YES | \(\times\) | NO | NA |

**Name and business address of counsel:**

| (If counsel is a lawyer, check here \(\square\) | YES | \(\times\) | NO | NA |
| 1. Was respondent's counsel present at all open sessions of the board relating to that respondent? | YES | \(\times\) | NO | NA |
| If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the report (para 3-6b, AR 15-6)? | YES | \(\times\) | NO | NA |
| If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 3-7, AR 15-6): | YES | \(\times\) | NO | NA |
| a. Was the challenge properly denied and by the appropriate officer? | YES | \(\times\) | NO | NA |
| b. Did each member successfully challenged cease to participate in the proceedings? | YES | \(\times\) | NO | NA |
| c. Was present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent? | YES | \(\times\) | NO | NA |
| d. Examines and object to the introduction of real and documentary evidence, including written statements? | YES | \(\times\) | NO | NA |
| e. Object to the testimony of witnesses and cross-examine witnesses other than his own? | YES | \(\times\) | NO | NA |
| f. Call witnesses and otherwise introduce evidence? | YES | \(\times\) | NO | NA |
| Testify as a witness? | YES | \(\times\) | NO | NA |

**Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)? | YES | \(\times\) | NO | NA |

**In so far as the record assists the respondent in obtaining evidence in possession of the Government and in filing for the presence of witnesses (para 5-8b, AR 15-6)? | YES | \(\times\) | NO | NA |
SECTION IV - FINDINGS

Having carefully considered the evidence, finds:

Memorandum for Record, Findings and Recommendations, Enclosure IV

SECTION V - RECOMMENDATIONS

In view of the above findings, the (investigating officer) (board) recommends:

Memorandum for Record, Findings and Recommendations, Enclosure IV

013604
SECTION VI - AUTHENTICATION

This report of proceedings is complete and accurate. (If any voting member or the recorder fails to sign here or in Section VII lower, state the reason in the space where his signature should appear.)

(Recorder)

(Investigating Officer) (President)

(Member)

(Member)

(Member)

(Member)

SECTION VII - MINORITY REPORT

The extent indicated in Enclosure ..., the undersigned do(es) not concur in the findings and recommendations of the board. In the enclosure, identify by number each finding and/or recommendation in which the dissenting member(s) do(es) not concur. State the reasons for disagreement. Additional/substitute findings and/or recommendations may be included in the enclosure.)

(Member)

(Member)

SECTION VIII - ACTION BY APPOINTING AUTHORITY

Findings and recommendations of the (Investigating officer) (Board) are (approved) (disapproved) (approved with following exceptions/ modifications). (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or action, attach that correspondence as a numbered inclosure.

A letter of concern to be issued to the detachment sargent reflecting my concern with his situational unique poor judgment. My concern is mitigated, however, by the obvious outstanding treatment afforded the detainee under extremely severe conditions. The treatment clearly reflects the true nature of the case the detainee received from the detachment.

(Member) Wernher

(Member) Wernher

DOD-015559
MEMORANDUM FOR RECORD

SUBJECT: Findings and Recommendations, AR 15-6 Investigation, circumstances surrounding reports of inappropriate or unauthorized pictures of Detainee Johnny Walker Lindh

1. Effective 10 April 2002, I was appointed as an investigating officer to conduct an informal investigation into the facts and circumstances surrounding reports of inappropriate or unauthorized pictures of Johnny Walker Lindh (See Exhibit A) taken by members of the ODA at Mazar-e-Sharif, Afghanistan, on or about 7 December 2001. I conducted my investigation in accordance with Army Regulation 15-6. I investigated the circumstances pursuant to Article 93, Cruelty and Maltreatment, of the Uniform Code of Military Justice (UCMJ), and Article 89, Humane Treatment of Prisoners, Field Manual 27-10, The Law of Land Warfare.

2. After having carefully considered the evidence, I make the following findings based on facts relevant to the events:

A. I find that the detainee, Johnny Walker Lindh, was treated humanely in accordance with the Uniform Code of Military Justice and the Law of Land Warfare, pursuant to Article 93 of the UCMJ, Cruelty and Maltreatment, and Article 89 of The Law of Land Warfare, Humane Treatment of Prisoners. I make this finding in light of the following facts:

1) When was given custody of the detainee, he was not capable of walking under his own power, and was carried in on a stretcher. When the detainee left the custody of the ODA, his health had improved to the point where he could walk under his own power (See Exhibit K).

2) The ODA members guarding the prisoner had been given specific instructions and guidelines regarding their manner of treatment to the detainee. They were instructed to provide food, water, medical treatment, and shelter for the detainee (See Exhibits C, J, K, M, N, O, P, Q).

3) All soldiers on who came in contact with the detainee during his period of captivity in their charge treated him in an excellent manner (See Exhibits K, M, N, O, P, Q, S, T).

4) The soldiers caring for the detainee made an effort to ensure the detainee's level of care was better than the level of care afforded U.S. soldiers in Mazar-e-Sharif (See Exhibit I, K, P, Q)
SUBJECT: Findings and Recommendations, AR 15-6 Investigation, circumstances surrounding reports of inappropriate or unauthorized pictures of Detainee Johnny Walker Lindh

5) The detainee was afforded medical attention whenever he so desired (See Exhibits B, P, N, S, T).

6) The ODA supplemented their medical treatment plan with the augmentation of the 3d Battalion Surgeon as the primary medical care facilitator for the detainee (See Exhibits I, O, P, S, T).

7) The battalion surgeon assessed that the detainee’s health improved significantly while in the custody of (See Exhibits S, T).

8) The battalion surgeon maintained a log of all medical care administered to the detainee (See Exhibits S, T).

9) When the detainee found the cold discomforting, the ODA provided a space heater for his cell to provide him warmth (See Exhibits N, P, Q).

10) The detainee was given food to eat whenever he so desired while in the custody of (See Exhibits B, P).

11) At a minimum, the detainee was fed three times per day while in the custody of (See Exhibits J, M, Q, S).

12) The ODA maintained an official log concerning the care and treatment of the detainee while in custody (See Exhibits B, K).

13) The soldiers charged with guarding the detainee were limited to talking to the detainee about four specific subjects: medical treatment, food, water, or relieving bodily functions (See Exhibits C, J, K, N).

14) The detainee was given the opportunity to relieve himself six times on record during his captivity by When the detainee defecated in the bucket provided, ODA members cleaned out the bucket in order to maintain sanitary conditions for the detainee (See Exhibits B, K, O).

15) Twice when requested by the detainee, the ODA afforded him the opportunity to pray in accordance with the customs of his religion (See Exhibits B, K).

16) The detainee was afforded a visit by the International Red Cross within 24 hours of being taken into captivity (See Exhibits B, J, L, O).

17) The detainee was given the opportunity to bathe, and given a new set of clothes to wear (See Exhibits K, N).
SUBJECT: Findings and Recommendations, AR 15-6 Investigation, circumstances surrounding reports of inappropriate or unauthorized pictures of Detainee Johnny Walker Lindh

B. I find that the photograph was not distributed beyond members on the ODA who participated in the photo, or those on battalion staff who initially discovered the photo two months later, after it was deleted. The photograph was not distributed with the intent of embarrassing the detainee, or to bring discredit to the character of the detainee in public. I make this finding in light of the following facts:

1) According to eyewitness accounts, the photograph was not distributed beyond members on the ODA who participated in the photo, or those on battalion staff who initially discovered the photo two months later. There is no evidence of a mass distribution of the photo, and there are only 16 members of a battalion of 350 who have seen the photo (See Exhibits C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, U, V, W).

2) The soldiers involved in taking the picture did not take the photograph in a public forum for the purposes of ridicule (See Exhibits K, M, N, O, P, Q).

3) The inscription on the detainee's blindfold was taken off before the detainee left the confines of his cell. No one outside of those in the photo and the photographer saw the inscription on the blindfold (See Exhibits K, O).

4) The detainee was never aware of the inscription that was written on his blindfold (See Exhibits K, M, N, O, P, Q).

5) The detainee was not blindfolded for the purposes of taking the photograph with the inscription. Blindfolding is a standard operating procedure for moving the detainee from one point to another, to prevent him from escaping, and from knowing his whereabouts for the future safety and security of The ODA was in the process of moving the detainee (See Exhibits K, M, N, O, P, Q).

6) After the photo was taken and initially viewed by the ODA members, CPT the Detachment Commander, and MSG the team sergeant, came to the conclusion that the photo could be taken out of context by any casual observer of the photo who wasn't present when the photo was taken. They subsequently deleted the photo in order to prevent dissemination as a means to prevent the photo from being taken out of context (See Exhibits J, K).

7) The detainee was never referred to as "Shthead" verbally by any of the ODA members through the duration of his detention in their custody (See Exhibit K).

8) The detainee did not show expressions of mental anguish while the photo was being taken (See Exhibits A, L, Q).

9) The detainee showed no signs of being bothered or discomforted by the taking of the photograph (See Exhibits A, L, Q).
SUBJECT: Findings and Recommendations, AR 15-6 Investigation, circumstances surrounding reports of inappropriate or unauthorized pictures of Detainee Johnny Walker Lindh

10) This photograph was taken while taking a series of photographs used for the purpose of historically documenting the captivity of the detainee while in custody, not for the specific intention of disrespecting the detainee (See Exhibit J, K, M, O).

C. I find that the service members that participated in the photograph and the soldiers who later discovered the photograph did not intentionally withhold the photograph from being turned over to the chain of command when asked to submit all documents, photographs, and material relating to the detainee. I make this finding in light of the following facts:

1) The photograph was deleted from the ODA’s program files on 9 December 2001, two days after the photo was taken. This was five months prior to being directed by the chain of command to hand the photos over for the detainee’s court case (See Exhibits K, M, N, O, P, Q).

2) The photo was discovered on a computer belonging to Delta Company, 3d Battalion in February of 2002. This was two months prior to being directed by the chain of command to hand photos over for the detainee’s court case (See Exhibits G, H, L).

3) The photo remained undisclosed when discovered in February, when those on the battalion staff who made the discovery realized that the photo could be taken out of context. This was two months previous to the order from the chain of command to turn over all documents, photographs, and material relating to the detainee’s court case. No order to turn over photos, documents, or material regarding the detainee’s court case had been given previous to April (See Exhibits E, G, I).

4) No soldier who saw the photograph or participated in the taking of the photograph knew of anyone who had destroyed the photograph for the specific purpose of hiding evidence for a court case (See Exhibits C, D, I, K, M, N, O, P, Q).

5) The chain of command received a directive in the first week of April to turn over all documents, photographs, and material relating to the detainee’s court case. The chain of command immediately and willingly handed over the photo in question (Exhibit A) without delay, fully understanding the impact the photo may have if taken out of context (See Exhibits C, D, E, F).

3. The soldiers who participated in the taking of the photograph, while consistently performing their duties in a professional manner through the duration of the detainee’s captivity in their charge, displayed a momentary lapse in judgement. These soldiers immediately recognized their mistake upon viewing the photo, and took steps immediately to correct their mistake by disposing of the photograph. These soldiers routinely performed their duties in excellence in regards to the care and treatment of the detainee while in their custody. Based on the findings, I make the following recommendations:
AOSO-SFA-CO

SUBJECT: Findings and Recommendations, AR 15-6 Investigation, circumstances surrounding reports of inappropriate or unauthorized pictures of Detainee Johnny Walker Lindh

A. I recommend no charges be brought against the soldiers in accordance with the UCMJ, pursuant to Article 93, Cruelty and Maltreatment.

B. I recommend a command policy be established outlining the guidelines and context in which all photographs should be taken in anticipation of being used for documentation of historical record or other purposes of legal significance.

4. POC is the undersigned at DSN 635

MAJ, SF
Investigating Officer
BATES PAGE 13611 HAS BEEN WITHHELD IN ITS ENTIRETY PURSUANT TO FOIA EXEMPTIONS 6 and 7, 5 U.S.C. Section 552(b)(6) and (b)(7)(C).

Photos depicting Americans
VEGETABLE CRACKERS
JALEPENO CHEESE SPREAD
CHICKEN IN TAMMIE SAUCE
NOT RAISIN MIX
WHITE RICE
1/2 QUART WATER

03 DEC
00:15 back room
00:20 Doc reg. - TYLENOL
00:36 I asked reg.
M. 12AM Trust.
Pasta with vegetables in Alfreda sauce.
01:15 prayed
04:15
2009-2011

Conducted check of guest All areas

11/07/2009

Conducted check of guest All areas

10/07/2010

Conducted check of guest All areas

2007-2009

Conducted check of guest All areas

2020-2021

Conducted check of guest All areas

2021-2022

Conducted check of guest All areas

2023-2024

Conducted check of guest All areas

2019-2020

Conducted check of guest All areas

2018-2019

Conducted check of guest All areas

11/04/2013

Conducted check of guest All areas

10/14/2014

Conducted check of guest All areas

1937-1939

Conducted check of guest All areas

1941-1943

Conducted check of guest All areas

1945-1946

Conducted check of guest All areas

1951-1952

Conducted check of guest All areas

1957-1958

Conducted check of guest All areas

1961-1962

Conducted check of guest All areas

1965-1966

Conducted check of guest All areas

1970-1971

Conducted check of guest All areas

Guest said he would like a blanket on Sunday to keep in warm.

Better or standard to keep.

Suited to keep the guests comfortable and secure.

30 & 31 FAX 703 504-1111

04/06/21:102 MON
Inventory List for 5 Dec 01
Breakfast Inventory

- 1 package of crackers
- 1 packet of peanut butter
- 1 moist towelette
- 1 granola bar
- 1 package of pasta with vegetables
- 1 package of pears
- 1 MRE spoon
- 1 brown bag

03/01/2002 Conduct check of guest. Retrieved all food items given to him. Evacuated.

03/10/2002 Conduct check of guest. All secure.

04/11/2002 Conduct check of guest. All secure.

04/10/2002 Conduct check of guest. All secure.

05/15/2002 Conduct check of guest. All secure.

05/22/2002 Conduct check of guest. All secure.

06/29/2002 Conducted check of guest. All secure.

07/10/2002 Conducted check of guest. All secure.

08/01/2002 Conducted check of guest. Gave food to guest consisting of:

- 1 package of crackers
- 1 packet of MRE spoon
- 1 package of peanut butter
- 1 package of shelled roasted peanuts
- 1 package of jalapeno cheese spread

08/25/2002 Conducted check of guest. Gave food to guest consisting of:

- 1 package of crackers
- 1 package of MRE spoon
- 1 package of peanut butter
- 1 package of shelled roasted peanuts
- 1 package of jalapeno cheese spread

01/12/2003 Conducted check of guest. All secure.

02/01/2003 Conducted check of guest. All secure.

02/08/2003 Conducted check of guest. All secure.
Conducted check of guest. All secure.

2nd - 12th Conducted check of guest. All secure.

24th - 29th Conducted check of guest. All secure.

13th - 18th Conducted check of guest. All secure.

19th - 24th Conducted check of guest. All secure.

30th - 31st Conducted check of guest. All secure.

1st - 30th Conducted check of guest. All secure.

1st - 5th Conducted check of guest. All secure.
04/08/2002 MON 09:23 FAX 703 560
US ATTORNEY'S OFFICE
FOR OFFICIAL USE ONLY
09:58

2130/0244
Conducted check of guest All Secure
2130/0250
Conducted check of guest All Secure
2218/0224
Conducted check of guest All Secure
2432/0245
Conducted check of guest All Secure
2505/0211
Conducted check of guest All Secure
2541/0251
Conducted check of guest All Secure
0818-0820
Conducted check of guest All Secure
0033/0055
Conducted check of guest All Secure
0115-0117
Conducted check of guest All Secure
0142-0143
Conducted check of guest All Secure
0140-0148
Conducted check of guest All Secure
0130/0134
Conducted check of guest All Secure
0330/0332
Conducted check of guest All Secure
0426/0429
Conducted check of guest All Secure
0653/0656
Conducted check of guest All Secure
0510/0514
Conducted check of guest All Secure
0540/0543
Conducted check of guest All Secure
0619/0621
Conducted check of guest All Secure
0617-0650
Conducted check of guest All Secure
0721-0749
Conduct check of guest All Secure
0750 - 0753
Feed guest. Lunch menu inventory
1 lb. roast beef
1 lb. vegetable crackers
1 lb. chicken and rice
1 lb. peanut butter
1 lb. brown sugar
1 lb. fudge brownie
Conduct check and store food items.
0358-0400  Conducted check of guest. Retrieved all of food items. Guest ate all items in the inventory. All secure.

0420 - 0429  Guest took meals Zithromax. All secure.

0445 - 0450  Conducted check of guest. All secure.

0510 - 0515  Medical officer changed Bandages on thigh of guest. All secure.

0535 - 0546  Conducted check of guest. All secure.

0642 - 0646  Conducted check of guest. All secure.

0440 - 0443  Conducted check of guest. All secure.

0744 - 0747  Conducted check of guest. All secure.

0750 - 0752  Retrieved all of items from cage. All secure.

0831 - 0833  Conducted check of guest. All secure.

0850 - 0851  Conducted check of guest. All secure.

0915 - 0916  Conducted check of guest. All secure.

0947 - 0948  Conducted check of guest. All secure.

1020 - 1033  Conducted check of guest. All secure.

1100 - 1104  Conducted check of guest. All secure.

1145 - 1149  Conducted check of guest. All secure.

1220 - 1220  Conducted check of guest. All secure.

013620
12/15 - 12/21
Conducted check of guest. All secure.

12/24 - 12/31
Conducted check of guest. All secure. Guest was escorted out of the building.

b6-4
b7c-4
for use of this form see AR 190-45; the proponent agency is ODCSOPS

For official use only

SWORN STATEMENT

LOCATION
3d BN, 5th SFG(A), FT Campbell, KY

DATE
11 April 02

TIME
1555

FILING NUMBER
66-41

Social Security Number
66-41

Grade/Status
O5/LTC

WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q1) Under what circumstances were you first made aware of the photograph?

A1) I first saw the photograph when my S3 brought me the photo to show me when we were turning over documents and pictures as part of a court order relative to the detainee's case. The S3 needed to make me aware of the photo.

Q2) When were you first made aware of the photograph?

A2) Last Thursday the 4th of April, or Friday the 5th of April, approximately.

Q3) Did anyone give you an explanation of why the photograph was taken?

A3) Not at that time. Later when MSG was called in to be counseled in regards to the nature of the photo, he explained that it was a team photo that should have never been taken.

Q4) In light of the inscription on the blindfold, did you personally advise or counsel anyone in regards to the nature of the inscription?

A4) Yes, MSG told him it was the most stupid and juvenile thing I have seen in a long time, that this kind of stuff comes back to haunt us, that he gets paid to think, and he used exceptionally poor judgement in this matter. He thought he destroyed the photograph, earlier, way before there was a court order requesting documentation, and asked me where I got it. I told him from the S3 archives. MSG, ordinarily an exceptional NCO, this was a momentary lapse in judgement.

Q5) Did you give specific instructions on the treatment, care, and handling of the prisoner? What were those instructions?

A5) Yes, I instructed that the detainee will be treated appropriately, that he would be medically examined, and that he will be maintained under 24 hour surveillance. RADM Calland, SOCCENT Commander, took an active interest in this matter.

Q6) Based on your knowledge and experience, how do feel the prisoner was treated overall?

A6) The detainee was treated exceptionally well.

Q7) Do you know of anyone else who saw the photo? If so, who?

A7) Only the team and the S3 as far as I know.

Q8) Do you have any knowledge concerning the intentional deletion of the photo for the purpose of destroying evidence?

A8) No, absolutely not. That is the specific reason why we did not delete the photograph.

EXHIBIT

INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF ___ TAKEN AT ___ DATED ___ CONTINUED.

Do you know of any material that was intentionally eliminated?

A9) No, we turned everything over that we had. The key point here is that we turned over this photo even though it was embarrassing.

Q10) Do you have anything else to add?

A10) Nothing.

I, (Person Making Statement), have read or have had read to me this statement which begins on page 1 and ends on page 2. I fully understand the contents of the entire statement made by me. The statement is true. I have initialed all corrections and have initialed the bottom of each page containing the statement. I have made this statement freely without hope of benefit or reward, without threat of punishment, and without coercion, unlawful influence, or unlawful inducement.

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 11 day of APRIL, 2007, at Ft. Campbell, KY.

Typed Name of Person Administering Oath

[Redacted] 018623

INITIALS OF PERSON MAKING STATEMENT
Q1. Under what circumstances were you first made aware of the photograph?
A1. I first saw the photograph while the US Attorney, Mr. [Redacted], was at Ft. Campbell, KY interviewing personnel about their interactions with Mr. [Redacted] in mid-February. The photograph was shown to me while discussing the classification of digital photographs that 3rd BN was providing to the prosecutors. I concurred with the S2, CPT [Redacted], and D. Co. Commander, CP [Redacted], that the photograph should not be turned over to prosecutors since our cooperation at this time was strictly voluntary and were not under orders to produce the document.

Q2. When were you first made aware of the photograph?

Q3. Did anyone give you an explanation of why the photograph was taken?
A3. No.

Q4. In light of the inscription on the blindfold, did you personally counsel or advise anyone in regards to the nature of the inscription?
A4. No. At the time that I became aware of the photograph, the personnel responsible for it were still deployed.

Q5. Did you give specific instructions on the treatment, care, and handling of the detainee? What were those instructions?
A5. No, I did not give any specific instructions on the treatment, care, and handling of the detainee.

Q6. Based on your knowledge and experience, how do you feel that the detainee was handled overall?
A6. Given my knowledge and experience, the detainee received exemplary treatment. He received food, water, shelter, and medical treatment equal to that of any US Soldier in Mazar-e Sharif. He was not abused in any way, whatsoever.

Q7. Do you know of anyone else who saw the photo? Digital copy or physical copy? If so, who?
A7. I only know of the instructions from the DOD General Counsel, I personally showed a hard copy of the four photographs to Mr. [Redacted].

Q8. Do you have any knowledge of the intentional deletion of the photograph for the purpose of destroying evidence?
A8. No.

Q9. Do you know of any material that was intentionally eliminated?
A9. No.

Q10. Do you have anything else to add?
A10. Yes. While I believe that the picture may be a mild embarrassment to the Special Forces community, it constitutes nothing more than a momentary lapse in judgement on the part of the detachment involved. No harm, physical or psychological, was done to the detainee and I believe that the sentiment conveyed by the inscription is certainly shared by the vast majority of Americans. In light of the fact that this man was an American citizen who was fighting for an organization that killed nearly 3000 innocent American citizens and was attempting to kill more, I think it is a testament to the discipline and training of these American Special Forces soldiers that this inscription, written on a piece of tape, is the worst thing that happened to the detainee while in their custody.
STATEMENT (Continued)

WITNESSES: . Subscribed and sworn to before me, a person authorized by law to administer oaths, this __ day of __, ___.

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

Page: 1
Pages: 1

DOD-015579
I WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1) After the photograph was deleted by the ODA back in early December of 2001, who discovered the photograph and brought it to your attention? ANSWER: I do not know who discovered the photograph. In mid-February 2002, it was brought to my attention by CPT [redacted] while reviewing a CD of photos for classification. The CD was being voluntarily provided to the prosecutors who were gathering information to aid in the prosecution of Mr. Walker.

2) Where was the photograph discovered and how? ANSWER: I believe the photograph was on one of the laptop computers used in the operations center and was copied to a CD. Again, I believe that CPT [redacted] first noticed the photograph while reviewing the contents of the CD for appropriate classification.

3) When was the photograph discovered? ANSWER: In mid-February 2002. I am uncertain of the exact date but it coincided with the visit of the prosecutors and the FBI agents.

4) When specifically were you ordered to turn in all documents and photos for a Department of Justice court case? ANSWER: On Thursday 04 April 2002, upon receipt of the memorandum from the DOD General Counsel.

5) Who were the photos distributed to upon discovery? ANSWER: I gave a printed copy of the photographs to LTC [redacted]. To my knowledge, no electronic copies of the photograph were distributed.

6) Do you have anything else to add? ANSWER: NO
I, [blurred name], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1) Under what circumstances were you first made aware of the photograph?
   - 0/A 4 April 2002. LTC [blurred name] called all the commanders and his primary staff into his office to inform us of the directive to supply all documents and any information pertaining to the Johnny Walker case. At that time, I first saw the photograph as the S3 handed it over to LTC [blurred name].

2) When were you first made aware of the photograph?
   - 0/A 4 April.

3) Did anyone give you an explanation of why the photograph was taken?
   - Yes. I spoke with MSG [blurred name] immediately after getting out of the meeting. He stated to me the photo was merely a team photo taken prior to handing over Walker to the ME’s for further processing. The photo was meant to be humorous and had no ill intent. After seeing the photo, MSG [blurred name] realized it could be taken in the wrong manner by someone not aware of the circumstances and ordered the team to delete the photo. At the time, to his knowledge, the photo was deleted.

4) In light of the inscription on the blindfold, did you personally advise or counsel anyone in regards to the nature of the inscription?
   - Yes. As one of my team sergeants, I told MSG [blurred name] that he should have used better judgement on writing that inscription on the tape and taking the photo. Regardless of the intent at the time, anyone who saw the photo could take it out of context and twist it to mean any number of things. Their otherwise superb and professional performance could be erased by this one minor discretion. I instructed him to cooperate fully with any future requests for information or any other inquiries, which he has.

5) Did you give specific instructions on the treatment, care, and handling of the detainee? What were those instructions?
   - No. I was not present at that location.

6) Based on your knowledge and experience, how do you feel the detainee was treated overall?
   - Based on my knowledge, I think the team treated Walker very well and very professionally. He received better living conditions than many of the other US soldiers.

7) Do you know of anyone else who saw the photo? Digital copy or Physical Copy? If so, who?
   - No.

8) Do you have any knowledge concerning the intentional deletion of the photo for the purpose of destroying evidence?
   - No.

9) Do you know of any material that was intentionally eliminated?
   - No.

10) Do you have anything else to add?
    - No.

                                 /////////////////////////////////////////////////////////////////////NOTHING FOLLOWS///////////////////////////////////////////////////////////////////
WITNESSES:

Lut


Subscribed and sworn to before me, a person authorized by law to adminster oaths, April 12, 202

FT Campbell, KY

STATEMENT (Continued)

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

INITIALS OF PERSON MAKING STATEMENT

MAJ SF

Affidavit

Administering Oaths, April 12, 202

Subscribed and sworn to before me, a person authorized by law to adminster oaths, April 12, 202

FT Campbell, KY.
I, [blurred], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1) After the photograph was deleted by the ODA back in early December of 2001, who discovered the photograph and brought it to your attention? The S-2, CPT [blurred], brought the photo to my attention when I requested that he review photos being given to the Walker prosecution team. The time frame was the middle of February.

2) Where was the photograph discovered and how? A disk containing photos pertaining to the Walker case was compiled at the request of the Justice Department, the photos came from a variety of sources, but primarily from a computer used by 3rd BN Support Center personnel.

3) When was the photograph discovered? The middle of February.

4) When specifically were you ordered to turn in all documents and photos for a Department of Justice court case? 04 APR 02 was when I first became aware of the court order to turn over any photos or documents as part of the government's discovery obligation.

5) Who were the photos distributed to upon discovery? When the photos were brought to my attention I instructed the S-2 to delete them. We did not distribute them.

6) Do you have anything else to add? It was my decision to delete the photos in February, I did not inform anyone else about the photos at that time. When LTC [blurred] had the photos in his possession at the beginning of April, I told him that I had seen those photos in February and instructed the S-2 to delete them.

END OF STATEMENT

[Signature]
CPT, SF
Commanding
STATEMENT (Continued)

STATEMENT

(Continued)

AFFIDAVIT

I, ____________, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE _____. 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 UNAWFUL INDUCEMENT.

[Signature of Person Making Statement]

WITNESSES:

[Signature of Person Administering Oath]

Subscribed and sworn to before me, a person authorized by law to administer oaths, this __ day of __________, 19____ at __________.

[Typed Name of Person Administering Oath]

[Authority To Administer Oaths]

INITIALS OF PERSON MAKING STATEMENT:

[Initials]
WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1) In regards to the photograph of the detainee with the inscription "shithead" written on the blindfold: In addition to the computer that the photo was discovered on and the CD that it was copied to, are there any other CDs or other recordable media that you know of that have this specific picture on it?

To the best of my knowledge, no...
HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE ______. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

(Signature of Person making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 15th day of April, 2002, at FT Campbell, KY

(Handwritten Name of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE OF
1) After the photograph was deleted by the ODA back in early December of 2001, who discovered the photograph and brought it to your attention?
RESPONSE: I assume the photograph referred to is the one of John Walker-Lindh standing in a room of the Turkish School House, Mazar-B Sharif, Afghanistan blindfolded with the text "SHITHEAD" written across the blindfold. All further comments will be in regards to this photograph. Sometime in mid-February, shortly after returned, a CD was brought into my office under the direction of CPT to be reviewed prior to release to FBI representatives preparing to build their case against Walker-Lindh.

2) Where was the photograph discovered and how?
RESPONSE: I placed the CD in a computer in my office, and looked at all of the photos.

3) When was the photograph discovered?
RESPONSE: I do not recall the specific date and time but, it was mid-February in the afternoon sometime.

4) When specifically were you ordered to turn in all documents and photos for a Department of Justice court case?
RESPONSE: I returned from leave on 4 April 2002 and was notified by the Battalion Commander, in formation that the DOJ was collecting all information in regards to Walker-Lindh.

5) Who were the photos distributed to upon discovery?
RESPONSE: I believe that they were handed over the FBI agents that same day after I reviewed the photos.

6) Do you have anything else to add?
RESPONSE: Yes. After realizing that the CD had the photo in question on it, I decided that it would reflect poorly on the unit and our chain of command. I copied all of the photos onto the computer and deleted the photograph in question. I then created a new CD will all of the photos except the one in question. I then destroyed the original CD. The decision to delete the photo was mine alone. NOTHING FOLLOWS.
FOR OFFICIAL USE ONLY

SWORN STATEMENT

LOCATION
3d BN, 5th SFG(A), FT Campbell, KY

DATE
16APR02

TIME

SOCIAL SECURITY NUMBER
ble-4 67c-4

GRADE/STATUS
0-3

ORGANIZATION OR ADDRESS
3d BN, 5th SFG(A), FT Campbell, KY 42223

ble-4 67c-4

WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1) Under what circumstances were you first made aware of the photograph? When consolidating photographs from all of our cameras onto one computer.

2) When were you first made aware of the photograph? Mid-December.

3) Did anyone give you an explanation of why the photograph was taken? The explanation given was the photograph was taken purely for historical reasons and that the photograph was never meant to leave the detachment.

4) In light of the inscription on the blindfold, did you personally advise or counsel anyone in regards to the nature of the inscription? I counseled the team members that such a photograph could be taken out of context by someone outside of the detachment and instructed that no other such photographs were to be taken.

5) Did you give specific instructions on the treatment, care, and handling of the prisoner? What were those instructions? Any additional instructions were meant to supplement the instructions from the POF. Those instructions included the initial medical care by the Battalion Surgeon, Captain [redacted], to supplement the medical treatment given by the detachment medic from [redacted] prior to him being placed in our protection. Also, instructions were given to begin a log of all actions conducted by the detachment and by the detainee. A meeting with the Head of the 3rd Battalion S-3, Major [redacted], and the Bravo Company, 3rd Battalion Supply Sergeant, Sergeant [redacted], had copies of the photograph on their computers.

6) Based on your knowledge and experience, how do you feel the prisoner was treated overall? Better than the deployed soldiers taking care of him.

7) Do you know of anyone else who saw the photo? If so, who? I have heard, but have no other personal knowledge, that the 3rd Battalion S-3, Major [redacted], and the Bravo Company, 3rd Battalion Supply Sergeant, Sergeant [redacted], had copies of the photograph on their computers.

8) Do you have any knowledge concerning the intentional deletion of the photo for the purpose of destroying evidence? No.

9) Do you know of any material that was intentionally eliminated? I ordered the photograph deleted when I saw it in mid-December because I felt that if anyone outside of the team were to see the photo it could be taken out of context. Other than the photograph I do not know of any other material that was intentionally eliminated.

10) Do you have anything else to add? No.

NOTHING FOLLOWING

ble-4 67c-4

EXHIBIT
ble-4 67c-4

INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 1 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF ______ TAKEN AT ______ DATED ______ CONTINUED."

"BE BOTTOM OF EACH ADDITIONAL PAGE MUST BE THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE OF ______ PAGES" WHEN ADDITIONAL PAGES ARE UTILIZED. THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

DA FORM 2823, JUL 72

SUPERSEDES DA FORM 2823, 1 Jan 66, Which Will Be Used.

DOD-015588
FOR OFFICIAL USE ONLY

SWORN STATEMENT

For use of this form, see AR 190-49; the proponent agency is ODCSOPS

LOCATION

Bldg 3213 FICKY 42223

DATE

12 APR 02

TIME

1000 hrs

FILE NUMBER

LAST NAME, FIRST NAME, MIDDLE NAME

bl6-4 b7c-4

SOCIAL SECURITY NUMBER

GRAD/STATUS

E8/RA

ORGANIZATION OR UNIT

D/3/5 SELL(A) FICKY 42223-6223

bl6-4/b7c-4

I WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1) What was your mission in Operation Enduring Freedom? Quick Reaction Force and Base Defense for

2) When were you given the mission to guard the detainee? On the Morning of 02 Dec 01.

3) What are your standard operating procedures for handling a detainee? Secure, Search, Segregate, Safeguard, and Speed to the rear.


5) What were your specific duties and responsibilities in regards to handling, feeding, and caring for the detainee? We were to provide food, water, medical treatment, and shelter.

6) Why did you take the photograph? The photograph was taken as a small team picture with an American member of the Al Qaeda Terrorist Organization.

7) When, during the detention of the detainee did you take the photograph? 07 Dec 01 at approximately 1320z prior to moving the detainee to the airfield.

8) Where did you take the photograph? In the detainee room located in the Turkish School in Mazar-E-Shife, AFG.

EXHIBIT

INITIALS PERSON MAKING STATEMENT

bl6-4 b7c-4

PAGE 1 OF 45 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF ______ TAKEN AT _______ DATED ______._ CONTINUED."

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE _______ OF _______ PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

DOD-015589
**FOR OFFICIAL USE ONLY**

**SWORN STATEMENT**

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

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>BLK H 3213, FTCKY 42223</th>
</tr>
</thead>
<tbody>
<tr>
<td>DATE</td>
<td>12 APR 82</td>
</tr>
<tr>
<td>TIME</td>
<td>1623 HRS</td>
</tr>
<tr>
<td>FILE NUMBER</td>
<td>ble-4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NAME</th>
<th>ble-4</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>SOCIAL SECURITY NUMBER</th>
<th>072-1-4</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>GRADE/STATUS</th>
<th>E 8 (RA)</th>
</tr>
</thead>
</table>

**ORGANIZATION OR ADDRESS**

D/315 SFL(4) FTCKY 42223-6223

ble-4 | ble-4 | ble-4 | ble-4 | ble-4 | ble-4 | ble-4 |

**FILE NUMBER**

ble-4 | ble-4 | ble-4 | ble-4 | ble-4 | ble-4 | ble-4 |

**STATEMENT OF TAKEN AT DATED CONTINUED.**

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____ CONTINUED."

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE _____ OF _____ PAGES."

WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

EXHIBIT

INITIALS OF PERSON MAKING STATEMENT | ble-4 |
--- | --- |
PAGE | 3 OF 5 |

**ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____ CONTINUED."

**THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE _____ OF _____ PAGES."

**WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.**

**DA FORM 2823, JUL 72**

**SUPERSEDES DA FORM 2823, 1 JAN 88, WHICH WILL BE REISSUED.**

**USAPRC V3.00**

**DOD-015590**

---

1. **Who took the photograph?** SFC ble-4 | ble-4 |
2. **Were there any witnesses who saw the photograph being taken besides the photographer, the detainee, and the ODA members in the photograph?** No and the detainee was not aware of any pictures after he was blindfolded.
3. **What was written on the blindfold and why?** SHITHEAD, because we thought it was humorous and we thought he was.
4. **At any time was the detainee aware of what was written on the blindfold?** No. In addition, he was never referred to as such or anything else.
5. **How would you describe your treatment of the detainee?** Excellent. Better than the OOA was being treated. He was given three MRE's each day. The OOA got 1 MRE, 2 pieces of bread, 1 plate of rice each day. He had a military cot which was taken from the company 15Lb. The OOA slept on a concrete floor. He had an electric heater taken from the company supply sergeant. The supply sergeant did without heat. He had bottled water. The detachment's water was local water.
Which was filtered. He was given a large bucket to receive himself in. The detachment had to empty and clear the bucket with the detainees urine and feces in it. He was provided hot water, soap, toothbrush, toothpaste, and towel to clean himself up. The detachment boiled the water because the Turkish School had no hot-water heaters at the time. He was given medical attention whenever he wanted it. It was provided by the BN Surgeon. He was allowed to visit with the International Red Cross on two occasions. He was allowed to pray and hold the time of day so that he could. He was carried in on the 2nd of Dec because he could not walk. He walked out on his own on the 7th of Dec because of our efforts. I would say he was treated more than exceptionally.

14) At any time did you mistreat the detainee in accordance with the law of land warfare and the UCMJ? NO

15) Was a physical version or the electronic version of the photograph distributed or e-mailed to anyone? If so, who?

NO
**Sworn Statement**

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

<table>
<thead>
<tr>
<th>Location</th>
<th>File Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>BLDG 3213, FICKY 42223</td>
<td>b6-4/b7c-4</td>
</tr>
</tbody>
</table>

**Date** 12 APR 02 **Time** 10:53

**Grade/Status** b6-4/b7c-4

WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

16) Who else may have seen the photograph? (AIR b6-4/b7c-4

17) Was the photo deleted/destroyed? When specifically? Yes, on approximately 8 or 9 Dec 01.

18) When specifically were you ordered to turn all documentation to include photographs over for a Department of Justice court case? On the morning of 5 April 02.

19) Do you have any knowledge of the intentional deletion/destruction of the photo for the purpose of destroying evidence? No.

20) Was the photo deleted/destroyed before or after being asked to produce it for evidence? Before.

21) Were any other photographs taken that haven’t been submitted for evidence? No.

22) Do you know of any material that was intentionally eliminated? If so, describe. No.

23) Do you have anything else to add? No.

**Exhibit Initials of Person Making Statement**

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Initials of Person Making Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>b6-4/b7c-4</td>
</tr>
</tbody>
</table>

Additional pages must contain the heading "Statement of _______ taken at _______ dated _______ continued."
The bottom of each additional page must bear the initials of the person making the statement and be initialled as "Page _______ of _______ pages." When additional pages are utilized, the back of page 1 will be lined out, and the statement will be concluded on the reverse side of another copy of this form.

DA Form 2823, Jul 72

Supercedes DA Form 2823, Jan 68, which will be used.

USAPPC v2.0
STATEMENT (Continued)

WITNESSES:

ORGANIZATION OR ADDRESS

I HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE AND ENDS ON PAGE_____. 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 ANY FORM OF INDUCEMENT.

INITIALS OF PERSON MAKING STATEMENT

WITNESSES:

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this ___ day of ___ , 20___ at ___.

SUBSCRIBER

ORGANIZATION OR ADDRESS

INITIALS OF PERSON ADMINISTERING OATH

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE 5 OF 5 PAGES

DOD-015593
## Statement of Purpose

I want to make the following statement under oath:

1. How many visits did the detainee receive from the International Red Cross? Two. One visit on the 3rd of December and I cannot remember the exact date of the second visit.

2. Did you get the feeling that the detainee was in mental anguish when you took the photo? No, the detainee had the same expression on his face when he arrived on the 2nd. He did not talk to us.

3. Did the detainee appear to be bothered by the taking of the photo at any time? No.

4. Did you leave the inscription "Shithead" on the detainee's blindfold after the picture, or did you take the inscription off before moving him outside his cell? The inscription was removed before he left the room.

5. Did anyone see the inscription on the blindfold besides those who participated in the taking of the photograph? No.

6. How is it possible for the photo to be rediscovered if you deleted it on 9 December 2002 and did not disseminate it? The camera had two flashcards. We attempted to open the photo on a borrowed laptop from the FOB. The electronic copy was inadvertently left on the laptop and possibly on one of the flashcards. The laptop was then connected to a LAN.

---

### Additional Information

EXHIBIT: B64-4 | B7C-4  
INITIALS OF PERSON MAKING STATEMENT: [Redacted]  
PAGE 1 OF 2 PAGES
I, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2, I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR INDUCCMENT.

(Signature of Person Making Statement)

Witnesses:

[Redacted]

Organization or Address

[Redacted]

Organization or Address

[Redacted]

Initials of Person Making Statement

[Redacted]
1. What was your mission in Operation Enduring Freedom?
2. When were you given the mission to guard the detainee?
3. Is blindfolding a standard operating procedure for handling a detainee? Why?
4. What were your specific duties and responsibilities in respect to handling, feeding, and caring for the detainee?
5. Why did you take the photograph?
6. Where did you take the photograph?
7. Who took the photograph?
8. Were there any witnesses who saw the photograph being taken besides the photographer, the detainee, and the ODA members in the photograph?
9. At any time was the detainee aware of what was written on the blindfold and why?
10. How would you describe your treatment of the detainee?
11. Was a physical version or the electronic version of the photograph distributed or e-mailed to anyone? If so, who?
12. Who else may have seen the photograph?
13. Was the photo deleted/destroyed? When specifically?
14. When specifically were you ordered to turn all documentation to include photographs over for a Department of Justice court case?
15. Do you have any knowledge of the intentional deletion/destroying of the photo for the purpose of destroying evidence?
16. Was the photo deleted/destroyed before or after being asked to produce it for evidence?
17. Were any other photographs taken that haven't been submitted for evidence?
18. Do you know of any material that was intentionally eliminated? If so, describe.
19. Do you have anything else to add?
I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1. WHAT WAS YOUR MISSION IN OPERATION ENDURING FREEDOM?
   a) QUICK REACTION FORCE

2. WHEN WERE YOU GIVEN THE MISSION TO CARRY THE DETAINEE?
   b) LATE DECEMBER 02

3. WHAT MEANS DID YOU USE FOR HANDLING THE DETAINEE?
   c) 5'5" SENIOR, SERIOUS, SEPARATE, SPEED, SAFEGUARD

4. IS BLINDFOLDING A SOP FOR WHAT DOA FOR HANDLING DETAINES, WHY?
   a) YES  b) OUR PROTECTION AND HIS PROTECTION

5. WHAT WERE YOUR SPECIFIC DUTIES AND RESPONSIBILITIES IN REGARD TO
   HANDLING, FEEDING AND CARRYING FOR THE DETAINEE?
   a) PROVIDED HIM A ROOM, COT, 2 BLANKETS, BED PAN AND
      SPACE HEATER, 3 HAIR COMB, A BATH AND TOILET FACILITIES,
      DETAINED HIM PRIOR TO HIS TRANSPORTATION ELSEWHERE.

6. WHY DID YOU TAKE THE PHOTOGRAPH?
   a) HISTORICAL RECORD

7. WHEN DURING THE DETENTION DID YOU TAKE THE PHOTOGRAPH?
   a) MINUTES PRIOR TO HIS DEPARTURE TO ANOTHER FACILITY
      IN KANDAHAR.

8. WHERE DID YOU TAKE THE PHOTOGRAPH?
   a) HIS ROOM (JUL) IN THE TURKEISH SCHOOL ME 5 AFGHANISTAN.

9. WHO TOOK THE PHOTOGRAPH?
   b) 4TO5 67C-4

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF TAKEN AT DATED CONTINUED."
<table>
<thead>
<tr>
<th>EXHIBIT INITIALS OF P</th>
<th>STATEMENT INITIALS OF PERSON MAKING STATEMENT</th>
<th>PAGE 1 OF 4 PAGES</th>
</tr>
</thead>
</table>

1. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

10) WHERE WERE WITNESSES WHO SAW THE PHOTOGRAPH BEING TAKEN besides the photographer, the detainee, and the ODA members in the photograph:
   a) NO

11) WHAT WAS WRITTEN ON THE BUNDFOLD, WHY:
   3) "SHITHEAD", BACKBONES ROOM HUMOR.

12) AT ANY TIME WAS THE DETAINEE AWARE OF WHAT WAS WRITTEN ON THE BUNDFOLD:
   a) NO, I DON'T THINK SO.

13) HOW WOULD YOU DESCRIBE YOUR TREATMENT OF THE DETAINEE:
   a) EXCELLENT, HE HAD A LOT WE WERE SLEDDING ON THE FLOOR.

14) AT ANY TIME DID YOU MISLEAD THE DETAINEE IN ACCORDANCE WITH THE LAW OF LAND WARFARE AND THE UCMT:
   a) NEVER

15) WAS A PHYSICAL VERSION OR THE ELECTRONIC VERSION OF THE PHOTOGRAPH DISTRIBUTED OR EMAILED TO ANYONE IF SO WHY:
   a) NO, NOT TO MY KNOWLEDGE

16) WHO ELSE HASSEEN THE PHOTOGRAPH:
   a) NO ONE TO MY KNOWLEDGE

blot 4 676 4
I, want to make the following statement under oath:

17) Was the photo deleted or destroyed, when specifically:
   a) Yes, within [fill in number] days of it being taken.

18) When specifically where you ordered to turn in all documentation to include photographs over for a Dept. of Justice Court case:
   a) Sometime in April 02

19) Do you have any knowledge of the (intentional deletion/destruction of the photo) for the purpose of destroying evidence:
   a) No

20) Was the photo deleted/destroyed before or after being asked to produce it for evidence:
   a) Before, long before

21) Were any other photographs taken that haven't been submitted for evidence:
   a) No, Not to my knowledge

22) Do you know of any material that was intentionally deleted:
   a) No, not to my knowledge

23) Do you have anything else to add:
   a) No
WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 1, 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 THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INHIBITION.

WITNESSES: ble-4 bjc-4

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 12th day of April, 1985 at 415-6.

Organization or Address: ble-2

Organization or Address: Maj, SF

Typed Name of Person Administering Oath:

Authority To Administer Oaths: 01-646
1) What was your mission in Operation Enduring Freedom?
2) When were you given the mission to guard the detainee?
3) What are your standard operating procedures for handling a detainee?
4) Is blindfolding a standard operating procedure for your ODA for handling a detainee? Why?
5) What were your specific duties and responsibilities in regards to handling, feeding, and caring for the detainee?
6) Why did you take the photograph?
7) When during the detention of the detainee did you take the photograph?
8) Where did you take the photograph?
9) Who took the photograph?
10) Were there any witnesses who saw the photograph being taken besides the photographer, the detainee, and the ODA members in the photograph?
11) What was written on the blindfold and why?
12) At any time was the detainee aware of what was written on the blindfold?
13) How would you describe your treatment of the detainee?
14) At any time did you restrain the detainee in accordance with the law of land warfare and the UCMJ?
15) Was a physical version of the electronic version of the photograph distributed or e-mailed to anyone? If so, who?
16) Who else may have seen the photograph?
17) Was the photo deleted/destroyed? When specifically?
18) When specifically were you ordered to turn all documentation to include photographs over for a Department of Justice court case?
19) Do you have any knowledge of the intentional deletion/destruction of the photo for the purpose of destroying evidence?
20) Was the photo deleted/destroyed before or after being asked to produce it for evidence?
21) Were any other photographs taken that haven't been submitted for evidence?
22) Do you know of any material that was intentionally eliminated? If so, describe.
23) Do you have anything else to add?
**SWORN STATEMENT:**

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>DATE</th>
<th>TIME</th>
<th>FILE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>BAG-3213 2 BN 5TH SFG (A) DICKY</td>
<td>12-APR-02</td>
<td>1652</td>
<td>-</td>
</tr>
</tbody>
</table>

**LAST NAME, FIRST NAME, MIDDLE NAME**

**ORGANIZATION OR ADDRESS**

| [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |

**SOCIAL SECURITY NUMBER**

[DOD-015602]

---

**SERVICE MEMBER STATEMENT**

3. JCP involved this 5 54, we searched him, secured a room, full of only, placed him in the room and explained the rules mentioned in question #5.

4. Yes during transportation so the detainees cannot see where he is or where he is going.

5. My first day was to guard him; two ussf were in the room at all times while he was under our possession. I was not allowed to speak to the detainees; the detainee was allowed only to ask to relieve himself, for medical attention and for food and water. He was also told not to speak to any of us; other.

6. The photo was taken simply because of who he is.

7. Prior minutes to his movement to mazar-e-sharif airfield to be handed off to mp's aboard a c-130.

8. The photo was taken inside the room the detainees were reeled hold.

9. SRC NICK WARD

10. NO, THE DETAINEE DID NOT KNOW OF THIS PHOTO.

11. SHITHEAD, BECAUSE IT'S FIST BASED ON HIS SITUATION THAT HE WAS.

12. NO

**ADDITIONAL PAGES MUST CONTAIN THE HEADING **STANDARD STATEMENT** TAKEN AT *** DATED *** CONTINUED ***.

**THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE" OF "PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.**
For use of this form, see AR 150-45; the proponent agency is ODCSOPS.

I want to make the following statement under oath:

Lay on. My ODA was sleeping on the ground and at times did not have a heater. He was also bathed and given new clothes.

14. NO.
15. NO.
16. Only other ODA members.
17. Yes, within days of it being taken, sometime in early December 2001.
18. Late March 2002.
19. None.
21. No.
22. None.
23. No.

Nothing follows.

b6-4/b7c-4

Additional pages must contain the heading "Statement of _____ taken at _____ dated _____ continued." The bottom of each additional page must bear the initials of the person making the statement and be initialed as "Page _____ of _____ pages." When additional pages are utilized, the back of Page 1 will be lined out, and the statement will be concluded on the reverse side of another copy of this form.

DA FORM 2823, III. 72

SUPERSEDES DA FORM 2823, 4 JAN 00, WHICH WAS REVISED.

DOD-015603
I, [redacted], have read or have had read to me this statement which begins on page 1 and ends on page 9. 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 promise.

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 22nd day of April, 1952, at Fort Campbell, KY.

[Redacted]

ORGANIZATION OR ADDRESS

b6-2

b6-4/b7c-4

[Redacted]

INITIALS OF PERSON

b6-4/b7c-4

STATEMENT (Continued)
THE BOTTOM OF EACH ADDITIONAL PAGE MUST CONTAIN THE HANDWRITTEN STATEMENT OR INITIALLY CONTAINED ON THE BACK OF THE ADDITIONAL PAGE.

INITIALS OF PERSON MAKING STATEMENT OR ADDED:

DOD-015605

The document is heavily redacted and difficult to read. The visible text appears to be a statement or record, possibly related to military or official matters, but the content is not clear due to the redactions and the handwriting style.
WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

7) WHEN DURING THE DETENTION OF THE DETAINEE DID YOU TAKE THE PHOTOGRAPH? THE PHOTOGRAPH WAS TAKEN JUST PRIOR TO TRANSPORTING THE DETAINEE TO THE AIRFIELD FOR TURNOVER TO M.P.'S FOR TRANSPORT TO Bagram. THAT IS WHY THE DETAINEE WAS BLINDFOLDED AND THE TEAM WAS IN FULL GEAR.

8) WHERE DID YOU TAKE THE PHOTOGRAPH? IN WALENS DETENTION ROOM.

9) WHO TOOK THE PHOTOGRAPH? I DON'T RECALL.


11) WHAT WAS WRITTEN ON THE BLINDFOLD AND WHY? SHIT HEAD WAS WRITTEN ON A PIECE OF Duct TAPE AND ATTACHED TO THE BLINDFOLD BY THE STICKY SIDE. THIS WAS DONE OUT OF HUMOR AND WAS REMOVED AFTER THE PHOTO WAS TAKEN. HE WAS NOT SEEN BY ANY OTHER PERSON WITH THE TAPE ATTACHED TO THE BLINDFOLD.

12) AT ANYTIME PRIOR WAS THE DETAINEE AWARE OF WHAT WAS WRITTEN ON THE BLINDFOLD NO. WALTER DID NOT KNOW THE TAPE HAD BEEN PLACED ON THE BLINDFOLD NOR WHAT THE TAPE CONTAINED.

13) HOW WOULD YOU DESCRIBE YOUR TREATMENT OF THE DETAINEE? EXCELLENT, HE WAS TREATED AND REGARDED AS THE BEST MEDICAL CARE AVAILABLE AT THE TIME. I EVEN OFFERED HIS FOOD BECAUSE I HAD THE STRENGTH TO OPEN THE MRE PACKET WHEN HE FIRST ARRIVED.

14) AT ANYTIME DID YOU MISTREAT THE DETAINEE IN ACCORDANCE WITH THE LAW OF LAND WARFARE AND THE UCMJ? NO

15) WAS A PHYSICAL VERSION OR THE ELECTRONIC VERSION OF THE PHOTOGRAPH DISTRIBUTED OR E-MAILED TO ANYONE? NO, NOT TO MY KNOWLEDGE.
I, ____________, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

16) WHO ELSE MAY HAVE SEEN THE PHOTOGRAPH? TO MY KNOWLEDGE NO ONE OTHER THAN THOSE IN THE PICTURE AND THE PHOTOGRAPHER.

17) WAS THE PHOTO DELETED/DESTROYED? YES, THE PHOTO WAS DELETED WITHIN A DAY OR TWO AFTER IT WAS TAKEN BECAUSE THOUGHT THAT SOMEONE MIGHT TAKE THE ATTIRE OR OF CONTEXT IF IT WERE SEEN.

18) WHEN SPECIFICALLY WERE YOU OR NEEDED TO TURN AN DOCUMENTATION TO INCLUDE PHOTOGRAPHS TAKEN FOR A DEPARTMENT OF JUSTICE COURTOIRNE? AROUND THE FIRST OR PART OF APRIL 2002.

19) DO YOU HAVE ANY KNOWLEDGE OF THE INTENTIONAL DELETION/DESTRUCTION OF THE PHOTO FOR THE AMUSE OF DESTROYING EVIDENCE? NO.

20) WAS THE PHOTO DELETED/DESTROYED BEFORE OR AFTER BEING ASKED TO PRODUCE IT FOR EVIDENCE? WELL BEFORE HAND, THE PHOTO WAS DELETED, SO WE THOUGHT, IN EARLY, DECEMBER SOME 4 MONTHS PRIOR TO OUR NOTIFICATION OF THE COURT ORDER.

21) WERE ANY OTHER PHOTOGRAPHS TAKEN THAT HAVE NOT BEEN SUBMITTED FOR EVIDENCE? NO, NOT TO MY KNOWLEDGE.

22) DO YOU KNOW OF ANY MATERIAL THAT WAS INTENTIONALLY ELIMINATED? NO, I DO NOT.

23) DO YOU HAVE ANYTHING ELSE TO ADD? NO.

/Signature/

b/4 7c/4
AFFIDAVIT

I, ____________, have read or have had read to me this statement which begins on page 1 and ends on page ____, and 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.

INITIALS OF PERSON MAKING STATEMENT

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE 4 OF 4 PAGES
SWORN STATEMENT

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

DATE: 12 APRIL 2002  
TIME: 11:05

LAST NAME, FIRST NAME, MIDDLE NAME: [Redacted]
SOCIAL SECURITY NUMBER: [Redacted]
GRADE/STATUS: E-6

ORGANIZATION OR ADDRESS: 3d BN, 5th SPG(A), FT Campbell, KY 42223
FILE NUMBER: 60-4/67c-4

I WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1) What was your mission in Operation Enduring Freedom?
2) When were you given the mission to guard the detainee?
3) What are your standard operating procedures for handling a detainee?
4) Is blindfolding a standard operating procedure for your ODA for handling a detainee? Why?
5) What were your specific duties and responsibilities in regards to handling, feeding, and caring for the detainee?
6) Why did you take the photograph?
7) When during the detention of the detainee did you take the photograph?
8) Where did you take the photograph?
9) Who took the photograph?
10) Were there any witnesses who saw the photograph being taken besides the photographer, the detainee, and the ODA members in the photograph?
11) What was written on the blindfold and why?
12) At any time was the detainee aware of what was written on the blindfold?
13) How would you describe your treatment of the detainee?
14) At any time did you mistreat the detainee in accordance with the law of land warfare and the UCMJ?
15) Was a physical version or the electronic version of the photograph distributed or e-mailed to anyone? If so, who?
16) Who else may have seen the photograph?
17) Was the photo deleted/destroyed? When specifically?
18) When specifically were you ordered to turn all documentation to include photographs over for a Department of Justice court case?
19) Do you have any knowledge of the intentional deletion/destruction of the photo for the purpose of destroying evidence?
20) Was the photo deleted/destroyed before or after being asked to produce it for evidence?
21) Were any other photographs taken that haven't been submitted for evidence?
22) Do you know of any material that was intentionally eliminated? If so, describe.
23) Do you have anything else to add?

My mission was Base Defense.

Yes, it is. It is for transportation.

ble-4/67c-4
I WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

5) What were your specific duties and responsibilities in regards to handling, feeding, and caring for the detainee?

I gave the detainee food, water, and medical attention when ever he asked for it. He was given a cot, blankets and a heater. His treatment was superior to my own living conditions.

6) Why did you take the photograph?

A team photo.

7) When during the detention of the detainee did you take the photograph?

On the last day before transport.

8) Where did you take the photograph?

In his cell (3)-3

9) Who took the photograph?

I do not recall.

10) Where were any witnesses who saw the photograph being taken besides the photographer, the detainee and the ODA members in the photograph?

I do not believe so.

11) What was written on the blindfold and why?

"Shit head" written for honor.

12) At any time was the detainee aware of what was written on the blindfold?

NO
14. At any time did you mistreat the detainee in accordance with the law of land warfare under the UCMJ?
   NO.
15. Was a physical version or the electronic version of the photograph distributed or e-mailed to anyone? If so, who?
   NO.
16. Who else may have seen the photograph?
   I do not know.
17. Was the photo deleted/destroyed? When specifically?
   Yes, soon after taking it, in Afghanistan.
18. When specifically were you ordered to turn all documentation to include photographs over for a Department of Justice Court case, early this week, possibly Tues 10, Apr 02.
19. Do you have any knowledge of the intentional deletion/photograph of the photo for the purpose of destroying evidence?
   NO.
20. Was the photo deleted/destroyed before or after being asked to produce it for evidence?
   Before.
21. Were any other photographs taken that haven't been submitted as evidence?
   NO.
FOR OFFICIAL USE ONLY

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

<table>
<thead>
<tr>
<th>TCATION</th>
<th>DATE</th>
<th>TIME</th>
<th>FILE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>6LX 3213</td>
<td>12 APR 02</td>
<td>11:35</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LAST NAME</th>
<th>FIRST NAME</th>
<th>MIDDLE NAME</th>
<th>SOCIAL SECURITY NUMBER</th>
<th>GRADE/STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>E-6</td>
</tr>
</tbody>
</table>

ORGANIZATION OR ADDRESS
C 315 SF6 FT Campbell Ky 42233

BL-4 | B7C-4

1. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

22) Do you know of any material that was intentionally eliminated? If so, describe.

    NO.

23) Do you have anything else to add?

    NO.

   End of Statement

EXHIBIT
PAGE 4 OF 4 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF____ TAKEN AT____ DATED____ CONTINUED.
AFFIDAVIT

I, ________________________________, have read or have had read to me this statement which begins on page 1 and ends on page ___. 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

INITIALS OF PERSON MAKING STATEMENT
**SWORN STATEMENT**

**LOCATION**

Bldg 5213 Ft Campbell, KY

**DATE**

17 Apr 02

**TIME**

1308

**FIEL NUMBER**

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

**LAST NAME, FIRST NAME, MIDDLE NAME**

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

**SOCIAL SECURITY NUMBER**

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

**ORGANIZATION OR ADDRESS**

315 SFG CA

---

What was the overall condition of the detainee when he arrived and came under the custody of (b)(2) ?

Medically, he was stable. He said he was hungry, but denied substantial pain. He told me he felt warm enough in his pajama-type outfit and blanket. I examined him and found him to have a wound to his right thigh and a cut on his left second toe. Neither wound was hemodynamically significant at this time.

What care did you administer to the detainee while he was in the custody of (b)(2) ?

I cleaned and dressed his wound at least daily. I gave antibiotics on a regular schedule. I did my best to ensure that he had enough food and water and that he was as warm as possible. Each time I saw him, I documented his care on a Microsoft Word document that I used as his medical record.

What was the overall condition of the detainee when he was transferred from custody from (b)(2) and departed?

He was still in stable condition. He was hydrated and not hungry.

Was there any measure of improvement or relapse in the detainee's health and attitude? If so, how significant?

His health improved as he continued to eat. He said he felt better each day, and he looked like his strength was returning. The improvement in his strength was significant. I cannot comment on his attitude.

"Nothing follows."

---

**EXHIBIT**

**INITIALS OF PERSON MAKING STATEMENT**

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

**PAGE 1 OF**

---

**PAGES**

---

**DA FORM 2023, JUL 72**

Supercedes DA Form 2023, 1 Jan '99, which will be used.
I, the undersigned, do solemnly swear or affirm, under penalty of perjury under the laws of the United States of America, that I will answer truthfully and completely all questions put to me concerning the subject matter of this sworn statement.

I have read and understand the contents of the sworn statement provided to me. I have made this statement freely and without any threat of punishment, and without fear of corruption, unlawful influence, or unlawful reward. I have made this statement relying on my own knowledge and information, without assistance from others.

I do solemnly swear or affirm that I will not withhold, conceal, or falsify any material fact or information that is required to be stated in this sworn statement. I further swear or affirm that I will not knowingly or wilfully make any false statement.

I, the undersigned, do hereby affirm the accuracy and completeness of the information contained in this sworn statement.

[Signature]

[Date]

[Organization Name]
Report of Medical Examination and Treatment of American Citizen

On 2 December 2001, at approx 0700Z, I examined the American citizen. Our conversation was strictly kept to medical issues and all of my interactions were in the presence of one or two American guards.

Subjective:
The patient says he is feeling much better than yesterday. He says that yesterday he was cold, wet (had spent an extended period of time in cold, standing water), hungry, dizzy, and disoriented. He denies substantial pain and feels warm enough in his blanket, but still complains of hunger. He reports wounds to his toe, his right thigh, and his lower back. He claims that his right thigh wound is a gunshot wound, 3 days old, and that the bullet is still inside. He suspects that his back wound is a result of shrapnel.

In discussion with the medic, I learned that he was found in a small room (perhaps 10ft X 10ft) with approximately 15 dead or dying persons on the floor. The medic had dressed his thigh wound. Someone else had already dressed the toe wound. The medic had given him morphine and sedation (as a sleep aid) last night, as well as tetanus shot.

I asked the detained person if he had any medical concerns that had not been addressed. He denied any medical concerns other than food.

Objective:
The patient appears to be in his twenties or early thirties. He is clad in a pajama-type outfit. Has long unkempt hair and a beard, and bare feet. He is lying on a cot.

Per the medic, the vital signs are stable.

The patient is awake and alert. He has been kept unaware of his location or the time. I do not ask his name.

Left 2nd toe—Wrapped in a dressing that appears to be soaked in octadine. The toe has sustained a laceration that extends from the plantar surface of the toe pad around the anterolateral aspect, through approximately 30% of the nail. The laceration appears to be clean, and made with something very sharp. It is difficult to tell the depth of the laceration.

Right thigh—Circular wound, approximately 6 cm diameter on the anteromedial aspect of the thigh. No erythema, swelling, warmth, pus, or other signs of infection of the skin are evident. There is a tender area of induration of the muscle tissue extending approximately 8-10 cm proximal to the wound, without involvement of the overlying skin.

Lower back—Tender scab, approximately 2-3 mm diameter just off the midline. No surrounding signs of inflammation.

Assessment/Plan:
1. Wounds as described above. Tetanus already given. 4 gram Rocephin IM' now and continue antibiotic treatment until patient transferred or wounds no longer felt to be in danger of infection. Dressings changed. Pain control as needed.
2. Hunger. Without signs of malnutrition. Feed as needed.
3. Continue examination and care in the rear area.

M.D.
FOB Surgeon
022200ZDEC01

Called to detained person's room at the request of the detained person. States that he is cold and his ankle hurts. Is lying on a cot, covered with two Army blankets, each folded double. Losing heat from underneath. Space heater in room is functional. Upon examining his ankle, I find a tiny wound that may be a result of shrapnel, overtlying his Achilles tendon. The surrounding skin is tender, but not red, hot, or raised. The ankle joint itself is unremarkable upon exam.

I rearrange his blankets so that he has a layer of wool underneath him as well as the layers above him. We have no other blankets to give him. Unfortunately, this may be a worsening problem, as the electricity in the building is becoming increasingly unreliable.

Regarding the wound on his Achilles tendon, I advise him that there does not appear to be any infection and his ankle is fully functional. There is no specific treatment needed at this time.

M.D.
FOB Surgeon

030300ZDEC01

Called to detained person's room at the request of the detained person. States that he is concerned about the circulation in his feet as both of them ache, and he reports that the dressing on his toe is too tight.

Both feet have strong dorsalis pedis and posterior tibial pulses. Sensation is intact throughout, and he has active motion in his toes. Brisk capillary refill is demonstrated.

The dressing on his toe, which wraps around his whole distal foot, is checked and loosened.

The patient reports that he is warmer than he was before my last visit.

M.D.
FOB Surgeon

04DEC01

Patient visited. Wounds checked and redressed. Thigh wound is without pus, but dressing material is malodorous. No specific complaints at this time. Plan to continue with daily dressing changes and antibiotics. Will consider switching from IM ceftriaxone to oral antibiotics.

M.D.
FOB Surgeon

05 DEC

Wounds checked and redressed. Now using Telfa pads (with Bactracin) taped with cloth tape, rather than bulky dressing and Kerlex wrap for the toe and Telfa pad and 4X4 gauze for the thigh wound.

Strong distal pulses in both feet. Patient asks for more blankets as we continue to lose power often.

Patient has been eating three MREs per day with plenty of water. Strength continues to improve.

013663

/08
Plan: continue dressing changes daily. Will switch to PO antibiotics. Based on what I have on hand and the lack of dedicated nursing care, I will prescribe Azithromycin 500 mg today, followed by 250 mg daily, in accordance with the Sanford Guide to Antimicrobial Therapy. Will also attempt to find more blankets or clothing.

Based on my discussion with the FOB command cell, we continue to expect transfer within the next 24-48 hours. I want the receiving physician to know that if the thigh wound is explored and a bullet is retrieved, a proper chain of custody is essential, as the bullet may be used as forensic evidence.

FOB Surgeon

06 DEC

Patient afebrile and continuing to gain strength. No complaints at this time. Does not complain of pain. Wounds checked and redressed. The toe wound is progressing well, without signs of infection. The thigh wound is unchanged in appearance. No pockets of pus, but thick tenacious whitish mucus present at superior edge of wound, seeping and malodorous.

FOB Surgeon

07 DEC

No complaints at this time. Wounds checked and redressed. Thigh wound unchanged. Again no pocket of pus, but whitish mucus present at superior edge of wound. No cellulitic changes at wound margins. Wound covered with 4x4 gauze and held in place with paper tape. Continue Azithromycin.

I have repeatedly informed the chain of command here and back at Karshi (through official traffic and telephone calls) of the increasing importance of transferring his care to a higher echelon. I want to culture the wound and provide antibiotics based on sensitivity of the cultured organisms, but I cannot do so here. I would also recommend X-raying the extremity to determine the location of any bullet or shrapnel, with possible surgical wound exploration and foreign object extraction.

FOB Surgeon

013664

DOD-015618
WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1) Did you see a photograph of the Detainee, where he was wearing a blindfold with the inscription "SHITHEAD" written on the blindfold? NO

2) Were you ever made aware of the photograph? NO

3) Do you know of anyone else who saw the photo? NO

4) Do you have any knowledge concerning the intentional deletion of the photo for the purpose of destroying evidence? NO

5) Do you know of any material that was intentionally eliminated? NO

6) Do you have anything else to add? NO

FILE NUMBER
047, E

LOCATION
D/3/5 SFU (A)

DATE
b6-4

TIME
b7c-4
I, have read or have had read to me this statement which begins on page and ends on page . 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: 

Subscribed and sworn to before me, a person authorized by law to administer oaths, this day of April, at ETCampbell, Ky.

Typed Name of Person Administering Oath

(To Administer Oath)

Page of Pages
WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1) After the photograph was deleted by the ODA back in early December of 2001, who discovered the photograph and brought it to your attention?
   I cannot remember who showed me the photograph.

2) Where was the photograph discovered and how?
   I think it was shown to me in the screen.

3) When was the photograph discovered?
   I think I saw it in December 2001.

4) When specifically were you ordered to turn in all documents and photos for a Department of Justice court case?
   I believe it was the beginning of April 2002.

5) Who were the photos distributed to upon discovery?
   To my knowledge, no one saw it after me.

6) Do you know of anyone else who has seen a digital or physical copy of this photograph?
   No.

7) Do you have anything to add?
   No.
   Nothing follows.

FILE NUMBER: 66-4 | 67C-4
I, Have read or have had read to me this statement which begins on page 1 and ends on page 1. I, fully understand the contents of the entire statement made by me. The statement is true, I have not given any false directions or information for the purpose of delay or hindrance for benefit or reward, without threat of punishment, and without coercion, unlawful influence, and I have made this statement out of desire or volition.

Witnesses:

Subscribed and sworn to before me, a person authorized to administer oaths, this 26th day of April, 1974.

Affiant

[Handwritten text on the page is not legible due to the image's quality.]
**FOR OFFICIAL USE ONLY**

**SWORN STATEMENT**

For use of this form, see AR 10046; the proponent agency is ODICOPS.

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>DATE</th>
<th>TIME</th>
<th>FILE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>17-02-02</td>
<td>14:10</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SOCIAL SECURITY NUMBER</th>
<th>GRADE/STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>E-7</td>
</tr>
</tbody>
</table>

**LAST NAME** ET COMPRELLE, CY

**ORGANIZATION OR ADDRESS**

<table>
<thead>
<tr>
<th>OJ-3 SFG (A) FICKY 42223</th>
</tr>
</thead>
</table>

---

WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1) After the photograph was deleted by the ODA in early December of 2001, who discovered the photograph and brought it to your attention? I do not remember who showed the photograph to me.

2) Where was the photograph discovered and how? Someone showed the photograph to me on a computer from a floppy disk.

3) When was the photograph discovered? Some time mid-March.

4) When specifically were you ordered to turn in all documents and photos for a Department of Justice court case? Early Apr.

5) Who were the photos distributed to upon discovery? No one that I am aware of.

6) Do you know of anyone who has seen a digital or physical copy of this photograph? No.

7) Do you have anything to add? No.

Nothing follows.

---

**EXHIBIT**

---


DA FORM 2823, JUL 72

SUPERSEDES DA FORM 2823, 1 JAN 68, WHICH WILL BE USED.
STATEMENT (Continued)

I, have read or have had read to me this statement which begins on page 1 and ends on page ..., 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: bl4-4 | b7c-4

Subscribed and sworn to before me, a person authorized by law to administer oaths, this day of 19...

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)
**CHRONOLOGY**

**22 Apr 2002**
- Received Appointment Orders as Investigating Officer

**09 Jul 2002**
- Met with Legal Counsel, CPT
- Conducted Telephonic Interviews

**11 Jul 2002**
- Met with Legal Counsel, CPT
- Conducted Telephonic Interviews

**15 Jul 2002**
- Traveled to Fort Campbell to conduct interviews, accompanied by Legal Counsel, CPT

**23 Aug 2002**
- Met with Legal Counsel, CPT
- Conducted Telephonic Interviews

**6 Sep 2002**
- Requested extension of Suspense Date to 23 August.
- Conducted Telephonic Interview

**25 Sep 2002**
- Met with Legal Counsel, CPT

**27 Sep 2002**
- Prepared Findings and Recommendations.
- Prepared DA Form 1574

**27 Sep 2002**
- Submitted DA Form 1574 for legal review.
30 Sep 2002
- Investigation returned from legal review.
- Investigation resumed/material review

21 Dec 2002
- Investigation/review completed

3 February 2003
- Finding and Recommendations Prepared
- Submitted for Legal Review
## EXHIBITS INDEX

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>FBI Agent sworn statement, DA 2823, dated 18 Jul 02 (faxed copy)</td>
</tr>
<tr>
<td>B.</td>
<td>DOJ Attorney sworn statement, DA 2823, dated 18 Jul 02 (faxed copy)</td>
</tr>
<tr>
<td>C.</td>
<td>CPT sworn statement, DA 2823, dated 23 Aug 02</td>
</tr>
<tr>
<td>D.</td>
<td>LTC sworn statement, DA 2823, dated 15 July 02</td>
</tr>
<tr>
<td>E.</td>
<td>SGM sworn statement, DA 2823, dated 21 Jul 02</td>
</tr>
<tr>
<td>F.</td>
<td>CPT sworn statement, DA 2823, dated 15 Jul 02</td>
</tr>
<tr>
<td>G.</td>
<td>SSG sworn statement, DA 2823, dated 15 Jul 02</td>
</tr>
<tr>
<td>H.</td>
<td>CPT sworn statement, DA 2823, dated 15 Jul 02</td>
</tr>
<tr>
<td>I.</td>
<td>SFC sworn statement, DA 2823, dated 15 Jul 02</td>
</tr>
<tr>
<td>J.</td>
<td>SGT sworn statement, DA 2823, dated 15 Jul 02</td>
</tr>
<tr>
<td>K.</td>
<td>COL sworn statement, DA 2823, dated 15 Jul 02</td>
</tr>
<tr>
<td>L.</td>
<td>DOJ Letter to MG Lambert, dated October 7, 2002</td>
</tr>
</tbody>
</table>
BATES PAGES 13674-13675
HAVE BEEN WITHHELD IN THEIR ENTIRETY
- REFERRED TO THE FEDERAL BUREAU OF INVESTIGATION FOR CONSULTATION.

Mr. David Hardy, Chief
Record/Information Dissemination Section
Records Management Division
Federal Bureau of Investigation
Department of Justice
935 Pennsylvania Ave, N.W.
Washington, DC 20535-0001
BATES PAGES 13676-13678
HAVE BEEN WITHHELD IN THEIR ENTIRETY
- Exemption (b)(5) - PURSUANT TO A REQUEST FROM
THE EXECUTIVE OFFICE OF THE UNITED STATES
ATTORNEY, DEPARTMENT OF JUSTICE.

Marie A. O'Rourke, Assistant Director
FOIA/Privacy Unit
Executive Office for United States Attorneys
Department of Justice
Room 7300, 600 E Street, N.W.
Washington, DC 20530-0001
Q. When and where did you first have contact with the Department of Justice (DOJ)?
A. When I was the Rear Detachment commander for 3rd Battalion, 5th Special Forces Group. The Department of Justice contacted CID at Fort Campbell who placed them in touch with me at 5th Group. Attorney [redacted] asked if I could facilitate a meeting. He had a specific names of soldiers and I arranged to have them interviewed when Attorney [redacted] and two FBI personnel arrived in February 2002.

Q. What conversation did you have with Attorney [redacted] prior to the visit at Fort Campbell?
A. He explained the discovery rules, which I was familiar with and a discussion on how any information would be classified. It was not an extremely formal interview. I met the agents and Attorney [redacted] at the entrance to Fort Campbell and then helped them get established in the conference rooms to conduct their interviews. During the interviews they were shown photos, SOJ asked informally for a copy of the disk. It was not a demand rather a friendly request and we agreed to cooperate. They did not know what the Army had and were just inquiring on our documents and files.

Q. How would you describe Attorney [redacted] perception of how the interviews at Fort Campbell were conducted?
A. He was happy that the Army had been cooperative with his office. In fact he wrote a letter expressing how pleased he was with the cooperation to [redacted].

Q. When did you see the fourth photo?
A. I told the S-2 to screen the photos for classification purposes. He showed me the fourth photo. It did not add anything, since there were three other photos of his capture so I told them to delete it. I did so because I thought it was embarrassing to Special Forces. This was prior to any official request by DOJ.

Q. Were you contacted subsequent to the February interviews by anyone at DOJ?
A. After the initial interviews, there were other names of soldiers that they wanted to talk too so I helped them make arrangements by phone. I was not present for those interviews which I think happened at the end of March 2002. I continued to receive email traffic thanking me for the cooperation. Eventually I turned over contact with DOJ to CPT [redacted] our JAG.

Q. When did you receive an official request from DOJ?
A. I received the official directive to turn over all items. LTC [redacted] talked with me and asked if I had seen the fourth photo and I said yes on the S-2 shop computer. I never showed it to anyone.
STATEMENT (Continued)

AFFIDAVIT

I, ____________________________, have read or have had read to me this statement which begins on page 1 and ends on page 2. I fully understand the contents of the entire statement made by me. The statement is true. I have initialed all corrections and have initialed the bottom of each page containing the statement. I have made this statement freely without hope of benefit or reward, without threat of punishment, and without coercion, unlawful influence, or unlawful inducement.

(Signature of Person Making Statement)

WITNESSES:

ble-4 | b7c-4

ORGANIZATION OR ADDRESS

ble-2

ORGANIZATION OR ADDRESS

ble-4 | b7c-4

INITIALS OF PERSON MAKING STATEMENT

ble-4 | b7c-4

PAGE 1 OF 2 PAGES

DOD-015631
Q. When did you first become aware of the photograph?
A. When it became an issue.

Q. When was that?
A. It was found during a document search, along with everything else.

Q. When were you notified the Department of Justice attorney would be at Fort Campbell to conduct interviews?
A. That was in February. I only got a list of names of who they wanted to see, but not a list of specifics of what they were looking for.

Q. Who told you this?
A. It was related to me, I knew they were coming. Afterward I asked someone how it went. He told me the Department of Justice attorneys were really happy and would be coming back.

Q. Who was the unit point of contact?
A. It was the battalion's rear detachment commander and since all the guys the DOJ wanted to see were in 3rd Battalion everything was just put down to him because he could get access to them easier.

Q. Do you know whether the interviews in February 2002 were voluntary?
A. I don't remember any coercion or resistance.

Q. Do you know what documents or photographs were provided to the DOJ attorneys at that time?
A. I saw it after COL [redacted].

Q. Have you seen the photograph again since then?
A. I have not seen it since.

Q. Do you know of any directions that were issued for answering the Motion for Discovery?
A. Not that I heard, other than look for all documents relating to the Motion for Discovery.

Q. Who was in charge of the collection effort or in contact with DOJ?
A. If [redacted] wasn't here, [redacted] would have been in on coordinating it. I also remember a letter from LTG Brown. I just let it go or run with it - it was lawyers working with lawyers.
<table>
<thead>
<tr>
<th>WITNESSES:</th>
<th>ORGANIZATION OR ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Typed Name of Person Administering Oath)</td>
<td>9 Authority To Administer Oaths</td>
</tr>
<tr>
<td>WHOMEVER IT MAY CONCERN:</td>
<td></td>
</tr>
<tr>
<td>HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT</td>
<td></td>
</tr>
<tr>
<td>WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2.</td>
<td></td>
</tr>
<tr>
<td>STATEMENT CONTAINING THE STATEMENTS MADE</td>
<td></td>
</tr>
<tr>
<td>CONTAINING THE STATEMENTS MADE</td>
<td></td>
</tr>
<tr>
<td>HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM sapien page</td>
<td></td>
</tr>
<tr>
<td>HAVE MADE THIS STATEMENT FREELY WITHOUT</td>
<td></td>
</tr>
<tr>
<td>THREAT OF PUNISHMENT, AND WITHOUT COMMUNITY, UNLAWFUL INFLUENCE</td>
<td></td>
</tr>
<tr>
<td>I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT</td>
<td></td>
</tr>
<tr>
<td>HAVE INITIALED THE BOTTOM OF EACH PAGE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**AFFIDAVIT**

Subscribed and sworn to before a person authorized by law to administer oaths, this 5th day of September, 1964, at Fort Campbell, Ky.

<table>
<thead>
<tr>
<th>PAGE 2 OF 2 PAGES</th>
</tr>
</thead>
<tbody>
<tr>
<td>01/682</td>
</tr>
</tbody>
</table>

**DOD-015633**

**STATEMENT (Continued)**
Q. Have you ever seen the photograph of John Walker Lindh blindfolded with the word "shithead" written on it?
A. I've heard about it, but never saw it.

Q. Were you a member of the 3rd Battalion S3 shop?
A. I arrived in December 2002.

Q. When did you become aware of an investigation regarding the photograph?
A. I thought the focus of this investigation was the April timeframe.

Q. What did you know about the document search?
A. There was a weekend recall in response to the Motion for Discovery. I didn't participate in that, I deployed instead.

Q. Have you heard any discussions about the photograph?
A. For us, its a dead issue; not discussed.

NOTHING FOLLOWS.
Q. What was your duty position?
A. I was the Assistant S3 for the battalion.

Q. When did you return from Afghanistan?

Q. Where was your office located at MSE?
A. I was a Detachment Commander and JSOTF at MSE from December until I left. I never worked at

Q. How were you notified that the Department of Justice attorney would be at Fort Campbell in February?
A. I knew it was going on, but was not involved. I knew that they wanted all of our photographs. I never spoke with anyone from DOJ or FBI.

Q. What was your understanding about why DOJ was at Fort Campbell?
A. I understood they were collecting information for JWL's trial and wanted everything we had.

Q. Have you ever seen the photograph?
A. I have seen the photograph, it was in a list of photos from the S3 computer after we returned from overseas. It was saved on the hard drive. I was going through photos, but didn't see the word "shithead" until the photo was blown up.

Q. Why were you looking at the photographs?
A. I was just going through those that were on the laptop in the S3 shop.

Q. Who else had access to that laptop?
A. Everybody had access to it and would look at photographs of what the other guys did over there.

Q. Do you know the circumstances under which the photograph was given to the Department of Justice attorneys?
A. I knew that DOJ asked for it, then the Discovery Motion came down and was told everything you have goes to them.

Q. Have you ever discussed the photograph with anyone else?
A. Everyone's discussed it, but only after it became an issue in April.

Q. Have you ever seen the photograph being shown around the unit?
A. Not that I know of.

Q. Did you delete or ever hear of anyone else deleting the photograph off the computer?
A. So far as I know it could still be on the laptop.
STATEMENT (Continued)

Q. Do you know when the photograph was given to the Department of Justice attorneys?
A. It was turned over in April. We'd been directed to turn over everything we had. I'd actually been on leave at the time, and when I came back in on Monday everything had been turned in already.

Q. What else was turned over?
A. All of our message traffic, which was still all over the S3 shop.

Q. Are you aware of anyone outside of 5th Group being shown the photograph?
A. Outside of 3rd Battalion, not aware of or know of anyone seeing it. The photograph was not distributed to the JSOTF. I received all message traffic from [redacted].

Q. Have you seen the photograph since?
A. I never saw the photo again.

NOTHING FOLLOWS.
I, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q. Where did you work in Afghanistan, and what was your duty position?
A. I worked in the Support Center; I was the acting Battalion S4.

Q. When did you return from Afghanistan?

Q. When were you first notified that Department of Justice attorney would be at Fort Campbell to conduct interviews and collect photographs?
A. I was notified anyone who had contact with John Walker Lindh was to speak with them and show them photographs. I gave a copy of the photograph to the DOJ on a CD in February. It was from a laptop.

Q. What were you told about the reason for the DOJ visit?
A. I was told they were here investigating anyone who had contact with Walker. My name was brought up because of the photograph. We had a lot of photographs.

Q. How many cameras did your section have, and what did you do with them?
A. We had two cameras. I would get them from the guys when they came back in, then I would download all their photographs and transfer them to the S3. I would use a flashcard to make the transfer.

Q. What did you do with the photographs when the teams brought the cameras back in to you?
A. The cameras would be downloaded to the hard drive of my laptop, into a file I made there.

Q. Who else had access to the laptop you used?
A. Others in the section had access to that laptop.

Q. Describe the Support Center computer?
A. It was used for Support Center business. It was not networked, but at the end of our time overseas it did have internet access.

Q. Why did you take the CD to the S2?
A. Wanted to classify the photographs because there were pictures of 5th Group personnel on them. Team guys, their faces; OGA faces. The classification stuff was discussed with the attorney or agents. Prior to handing over we informed them the faces were classified sensitive. The attorney recommended secret - this would allow the defense attorney to still see the photographs but wouldn't put them into the public domain.

Q. Do you know whether the photograph was ever deleted from your laptop?
A. A copy remained on the hard drive, and we were told NOT to delete anything by the chain of command. LTC... the Battalion Commander said don't delete, I'm not sure if the Group Commander ever said anything like that. We got that word about two weeks after DOJ was at the unit in February.

Q. What was the attitude of the Department of Justice attorney when you met with them in February 2002? Was it a casual meeting, or did you receive any type of formal briefing of what they expected?
A. It was all casual, there was no inventory of the photographs we provided at that time. They just needed everything, so we downloaded everything we could onto the disk.
STATEMENT (Continued)

NOTHING FOLLOWS.

AFFIDAVIT

I, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 3 I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 3rd day of September, 2002

FORT CAMPBELL, KY

Organization or address

INITIALS OF PERSON MAKING STATEMENT

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

DOD-015638
Q. How were you notified the Department of Justice attorney would be at Fort Campbell in February 2002 to conduct interviews?
A. I have no idea how the Department of Justice contacted members of 5th Special Forces Group in February 2002. I was not interviewed by any Department of Justice attorney, and have never been contacted by them.

Q. How were you notified the Department of Justice would conduct interviews in April 2002?
A. I was told something back in April there was a memorandum or letter that we had to read. SPC showed me something he had to read and send back; I never got one.

Q. So the DOJ attorney never interviewed you or contacted you?
A. Last Friday (July 2002) the DOJ attorney sent a fax asking for information about another set of notes; I was the author of those.

Q. When did you first see the photograph?
A. I first saw the photograph of John Walker Lindh with the word "shithead" written across the blindfold, and five members of 5th Special Forces Group also in the photograph, at the end of February when the FBI was down policing up evidence. SGT brought a CD into my office to check for classified items. I saw the photograph on the CD.

Q. What did you do with the CD?
A. I downloaded everything on the CD to my computer hard drive, then deleted the photograph. Then I burned a new CD without the photograph; we didn’t have a read-write CD.

Q. Did you give the CD to the FBI agent?
A. I never met with the FBI agent. Somebody just told me they were there and to give them what we've got to help build the prosecution's case.

Q. How were you notified to begin collection of documents in April 2002?
A. I found out about the Motion for Discovery when I got back after a trip to Jordan. I learned that the photograph had already been turned over, so I didn’t turn over another copy.

Q. Can you recall whether you destroyed the original CD or not?
A. The CD from February was either destroyed or left in the office.

Q. Can you recall who brought you the CD?
A. SGT brought the CD to my office, and we pulled up all the photographs to review for classification purposes. Once pulled up, you could easily read the word written on JWL's blindfold.
Q. When did you return from Afghanistan?
A. Came back on 7 March.

Q. Were you ever interviewed by a Department of Justice attorney?
A. No. The first time I was ever interviewed about the photograph was by the Investigating Officer in the earlier AR 15-6 Investigation. I provided him a written statement.

Q. When did you first see the photograph?
A. I was the photographer.

Q. When did you next see it?
A. It was still in the camera.

Q. Did you ever see it after that time?
A. I never saw it again.

Q. Whose camera was used to take the photograph?
A. It was a detachment camera.

Q. Do you know who had the camera after the photograph was taken?
A. The camera went back to MSG.

Q. Do you know who or how the photograph was downloaded to any computer in the Support Center?
A. I don't know how it was downloaded.

Q. Did you ever use the same digital camera after that?
A. I don't believe we used that particular camera again.

Q. Did you delete the photograph from the digital camera?
A. I took no steps to delete the photograph.

Q. Do you know who the unit point of contact for the Department of Justice interviews in February or document collection in April 2002?
A. I'm not sure who was in charge of collection efforts in February or April.

Q. Are you aware that others outside 5th Group were shown the photograph?
A. I know MSG told some people about it, and others had seen it, but I have no idea who would have had access to it.

NOTHING FOLLOWS.
STATEMENT (Continued)

NOTHING FOLLOWS.

---

AFFIDAVIT

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

WITNESSES:

ORGANIZATION OR ADDRESS

---

INITIATING PERSON MAKING STATEMENT

---

PAGE 2 OF 2 PAGES
**SWORN STATEMENT**

For use of this form, see AR 190-46: the proponent agency is ODCSOPS

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>DATE</th>
<th>TIME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fort Campbell, Kentucky</td>
<td>2002/07/15</td>
<td>1205</td>
</tr>
</tbody>
</table>

**FILE NUMBER**

**Q.** Have you ever seen the photograph of John Walker Lindh with the word "shiteal." written on his blindfold?

A. I saw the photograph in December or January while we were still at 

Q. Specifically where did you see the photograph?

A. On a laptop computer in our section area. It was a laptop that was used for MWR purposes, so it had internet access. The MWR laptop was not networked, but was used for unclassified activities. I don't recall who showed me the photograph, it could have been a team guy or SGT...

Q. What was your conversation at that time about the photograph?

A. I think it was, hey check this photo out. It was nonchalant.

Q. Have you seen the photograph at any time since then?

A. I only saw it that one day. Whoever showed it to me had the camera hooked up to the laptop.

Q. Was it downloaded to the hard drive?

A. It was not on the hard drive to my knowledge.

Q. Did anyone make copies of the photograph?

A. I know of no one reproducing or storing it, or any talk about distributing it.

Q. Did anyone email it home?

A. I don't think anyone emailed it home.

Q. What format did you see it in?

A. It was just on the monitor. I have never seen any other photos of JLW like it.

Q. Have you seen it since that time in December or January?

A. I haven't seen it since.

Q. Was anyone else in the Support Center when you saw it?

A. I think I was the only one present at the time.

Q. Did you make any copies of the photograph?

A. I didn't make a copy

Q. Did you ever distribute it?

A. No.

Q. Did you ever delete it?

A. No.
Q. What did you think the impact of the photograph would be?
A. I didn't think about it at the time.

Q. Do you know if the photograph could still be on the laptop hard drive?
A. Two or three weeks after seeing the photograph, the MWR laptop computer hard drive crashed and had to be rebooted. This happened while we were still overseas.

Q. Were you interviewed by the Department of Justice about the photograph in March or April 2002?
A. DOJ didn't talk to me. There was some scuttlebutt like from the S2 maybe, has anyone seen this photograph? Then the Investigating Officer talked to us for the 15-6 investigation in April 2002.

Q. Are you aware that others outside of 5th Group have seen the photograph, other than the one that was on the news?
A. No one I knew of had seen a copy of the photo. I saw it on CNN and am not aware anyone outside Group has seen it.

NOTHING FOLLOWS.
Q. When did you return from Afghanistan?
A. I got back at the end of March 2002.

Q. How were you notified of the Department of Justice interviews in February?
A. I really can't remember. LTC [redacted] was handling the February interviews, but I can't imagine that he didn't tell me about it. I know we spoke about them here.

Q. Were you ever interviewed by the Department of Justice attorney?
A. I never spoke to anyone at DOJ or FBI.

Q. Do you know if there was any guidance as to the left and right limits of the DOJ interviews?
A. There were none that I am aware of.

Q. Do you know who the point of contact was for the Group?
A. I think it was our IMA attorney, CPT [redacted]. LTC Frank [redacted] would know better.

Q. When did you first see the JWL photograph?
A. The day or day after they found it; I saw it here in my office. It was the first I'd heard about it. LTC [redacted] told me about it.

Q. Do you know how it was found?
A. They were going through hard drive data and found it. The Team Sergeant thought twice about it, it was a dumb thing, and erased it. Electrons being electrons, it found its way into the Ops shop. No one even knew it was there.

Q. Did you see the photograph in hard copy or digital?
A. I saw it hard copy.

Q. Do you recall what you did with the photograph?
A. They classified it and sent it forward with the other stuff.

Q. Did you ever discuss the photograph and its taking with anyone?
A. I certainly discussed the situation with all the Team Leaders and above.

Q. Have you seen the photograph since it was first shown to you?
A. I haven't seen it since, or heard about it.

Q. Did you show it to anyone else?
A. I was at Fort Bragg for another event shortly after, but did not show and discuss it with MG Lambert as I had intended, due to time considerations.
BATES PAGES 13696-13698
HAVE BEEN WITHHELD IN THEIR ENTIRETY
- REFERRED TO THE EXECUTIVE OFFICE OF THE
UNITED STATES ATTORNEY, DEPARTMENT OF
JUSTICE FOR CONSULTATION.

Marie A. O'Rourke, Assistant Director
FOIA/Privacy Unit
Executive Office for United States Attorneys
Department of Justice
Room 7300, 600 E Street, N.W.
Washington, DC 20530-0001