



DEPARTMENT OF THE ARMY
HEADQUARTERS
16th MILITARY POLICE BRIGADE (AIRBORNE)
VICTORY BASE, IRAQ APO AE 09342

REPLY TO
ATTENTION OF:

AFZA-AP-JA

12 May 2004

MEMORANDUM FOR Commander, U.S. Army Human Resources Command,
ATTN: AHRC-ARE, 1 Reserve Way, St. Louis, Missouri 63132-5200

SUBJECT: Request for Certified Official Military Personnel File

1. Under the provisions of AR 600-8-104, paragraph 2-5, request **2 (two)** certified copies of the Performance, Service and Restricted Fiche of the Official Military Personnel File (OMPF) of the following soldiers:

- a. SSG [REDACTED] HHC, 16th MP BDE (ABN), Iraq
- b. SGT [REDACTED] HHC, 16th MP BDE (ABN), Iraq
- c. SPC [REDACTED] HHC, 16th MP BDE (ABN), Iraq
- d. SPC [REDACTED] HHC, 16th MP BDE (ABN), Iraq
- e. SPC [REDACTED] HHC, 16th MP BDE (ABN), Iraq
- f. SPC [REDACTED] HHC, 16th MP BDE (ABN), Iraq
- g. PFC [REDACTED] HHC, 16th MP BDE
(ABN)(REAR), FBNC

2. These soldiers are pending trial by court-martial; and the records requested will be used in presenting the Government's Case. Please forward **(2) two certified copies** of the complete OMPF to the following address:

16th MP BDE (ABN) ATTN: [REDACTED]
VICTORY BASE, IRAQ
APO AE 09342

3. The POC for this request is the undersigned at DNV (302) 588-[REDACTED]
[REDACTED]

[REDACTED]
SGT, USA
Paralegal

002374

DEPARTMENT OF THE ARMY
U.S. ARMY HUMAN RESOURCES COMMAND
200 STOVALL STREET
ALEXANDRIA, VA 22332-0470

AHRC-PDZ-RC
ORDERS A-10-410338

13 OCT 2004

AMBUHL MEGAN MARV

SPC
WTEZAA

YOU ARE ORDERED TO ACTIVE DUTY IN THE GRADE OF RANK SHOWN ABOVE FOR THE PERIOD SHOWN IN ACTIVE DUTY COMMITMENT BELOW. YOU WILL PROCEED FROM YOUR CURRENT LOCATION IN TIME TO REPORT ON THE DATE SHOWN BELOW.

RPT TO: 16 MP BDE FWD WFP6A1 FT BRAGG NC 28310
REPORT DATE/TIME: 12 SEP 2004 BETWEEN 0800 AND 1700 HRS.
ASG TO: 16 MP BDE FWD WFP6A1 FT BRAGG NC 28310
DUTY AT: VICTORY BASE IRAQ APO AE 09342
ACTIVE DUTY COMMITMENT: 6 MONTHS
PURPOSE: UCMJ PROCESSING.

END DATE: 09 MAR 2005

ADDITIONAL INSTRUCTIONS: RELIEVED FROM RESERVE COMPONENT ASSIGNMENT ON THE DAY PRECEDING EFFECTIVE DATE OF ORDER. INDIVIDUAL WILL BE RETAINED ON ACTIVE DUTY IN HIS OR HER CURRENT GRADE AND IS INCLUDED IN THE ACTIVE ARMY END STRENGTH. ACCESSION INTO DJMS-AC WILL REFLECT A SVC COMP OF "R". SHIPMENT OF HHG AND TRAVEL OF DEP NOT APPLICABLE. SPECIAL EXCEPTION NOT TO ISSUE A DD FORM 214 TO SOLDIERS THAT ARE IN 12301, 12302 OR 12304 STATUS THAT REVERT TO R.C.M. 202 STATUS. A DD 214 WILL BE ISSUED UPON COMPLETION OF R.C.M. SERVICE. ALL PREVIOUS ACTIVE DUTY SERVICE PRIOR TO R.C.M. STATUS WILL BE ACCOUNTED FOR IN BLOCK 18 OF THE DD 214. EARLY RELEASE AUTHORIZED.

FOR ARMY USE: AUTHORITY: R.C.M. 202(C), AR 27-10 CH 21, AR 135-200 (7-4)
ACCT CLAS: NONE

MDC: 1AE4 HOR: [REDACTED] PMOS/SSI: 31B1
SEX: F PPN: N/A COMP: USAR RES GR: SPC
DORRES: 29 JAN 2002 PEBD: 29 JAN 2002 SCTY CL: NONE

FORMAT: 460

BY ORDER OF THE SECRETARY OF THE ARMY:

* AHRC *
* OFFICIAL *

[REDACTED]
CWS, AG
CHIEF, RC SPT SVC DIV

DISTRIBUTION: 1 SOLDIER
1 16 MP BDE FWD FT BRAGG NC 28310
1 372 MP CO COMBAT SUP 14418 MCMULLEN HWY SW CUMBERLAND MD 21502 5605

902375

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

1a. FROM: (Name of Investigating Officer - Last, First, MI) [REDACTED]		b. GRADE O-4	c. ORGANIZATION HHC, 420th Engineer Brigade APO AE 09391	d. DATE OF REPORT 8 May 2004
2a. TO: (Name of Officer who directed the investigation - Last, First, MI) [REDACTED]		b. TITLE Brigade Commander	c. ORGANIZATION Headquarters, 16th MP Bde (Airborne) APO AE 09342	
3a. NAME OF ACCUSED (Last, First, MI) Ambuhl, Megan M.		b. GRADE E-4	c. SSN [REDACTED]	d. ORGANIZATION HHC, 16th MP Bde (Airborne), Victory Base, Iraq, APO AE 09342
				e. DATE OF CHARGES 20 March 2004
(Check appropriate answer)				
4. IN ACCORDANCE WITH ARTICLE 32, UCMJ, AND R.C.M. 405, MANUAL FOR COURTS-MARTIAL, I HAVE INVESTIGATED THE CHARGES APPENDED HERETO (Exhibit 1)				YES NO <input checked="" type="checkbox"/> <input type="checkbox"/>
5. THE ACCUSED WAS REPRESENTED BY COUNSEL (If not, see 9 below)				<input checked="" type="checkbox"/>
6. COUNSEL WHO REPRESENTED THE ACCUSED WAS QUALIFIED UNDER R.C.M. 405(d)(2), 502(d)				<input checked="" type="checkbox"/>
7a. NAME OF DEFENSE COUNSEL (Last, First, MI) [REDACTED]		b. GRADE [REDACTED]	8a. NAME OF ASSISTANT DEFENSE COUNSEL (If any) [REDACTED]	
c. ORGANIZATION (If appropriate) [REDACTED]		b. GRADE O-3		
d. ADDRESS (If appropriate) 1101 15th ST, NW, Suite 202 Washington, D.C., 20005		c. ORGANIZATION (If appropriate) Trial Defense Counsel, Tikrit Branch Office (FOB Danger) Region IX		
		d. ADDRESS (If appropriate)		
9. (To be signed by accused if accused waives counsel. If accused does not sign, investigating officer will explain in detail in Item 21.)				
a. PLACE [REDACTED]		b. DATE [REDACTED]		
I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED IN THIS INVESTIGATION BY COUNSEL, INCLUDING MY RIGHT TO CIVILIAN OR MILITARY COUNSEL OF MY CHOICE IF REASONABLY AVAILABLE. I WAIVE MY RIGHT TO COUNSEL IN THIS INVESTIGATION.				
c. SIGNATURE OF ACCUSED [REDACTED]				
10. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF: (Check appropriate answer)				
a. THE CHARGE(S) UNDER INVESTIGATION				YES NO <input checked="" type="checkbox"/> <input type="checkbox"/>
b. THE IDENTITY OF THE ACCUSER				<input checked="" type="checkbox"/>
c. THE RIGHT AGAINST SELF-INCRIMINATION UNDER ARTICLE 31				<input checked="" type="checkbox"/>
d. THE PURPOSE OF THE INVESTIGATION				<input checked="" type="checkbox"/>
e. THE RIGHT TO BE PRESENT THROUGHOUT THE TAKING OF EVIDENCE				<input checked="" type="checkbox"/>
f. THE WITNESSES AND OTHER EVIDENCE KNOWN TO ME WHICH I EXPECTED TO PRESENT				<input checked="" type="checkbox"/>
g. THE RIGHT TO CROSS-EXAMINE WITNESSES				<input checked="" type="checkbox"/>
h. THE RIGHT TO HAVE AVAILABLE WITNESSES AND EVIDENCE PRESENTED				<input checked="" type="checkbox"/>
i. THE RIGHT TO PRESENT ANYTHING IN DEFENSE, EXTENUATION, OR MITIGATION				<input checked="" type="checkbox"/>
j. THE RIGHT TO MAKE A SWORN OR UNSWORN STATEMENT, ORALLY OR IN WRITING				<input checked="" type="checkbox"/>
11a. THE ACCUSED AND ACCUSED'S COUNSEL WERE PRESENT THROUGHOUT THE PRESENTATION OF EVIDENCE (If the accused or counsel were absent during any part of the presentation of evidence, complete b below.)				<input checked="" type="checkbox"/>
b. STATE THE CIRCUMSTANCES AND DESCRIBE THE PROCEEDINGS CONDUCTED IN THE ABSENCE OF ACCUSED OR COUNSEL				

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

12a. THE FOLLOWING WITNESSES TESTIFIED UNDER OATH (Check appropriate answer)					
NAME (Last, First, MI)	GRADE (If any)	ORGANIZATION/ADDRESS (Whichever is appropriate)	YES	NO	
[REDACTED]	E-5	302nd MI Battalion	X		
[REDACTED]	CW-2	CJTF-7	X		
[REDACTED]	E-9	418th MP Detachment	X		
[REDACTED]	E6	CID, Ft. Jackson, S.C.	X		
Please refer to the attached Enclosure #1 for additional witnesses					
b. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED.			X		
13a. THE FOLLOWING STATEMENTS, DOCUMENTS, OR MATTERS WERE CONSIDERED; THE ACCUSED WAS PERMITTED TO EXAMINE EACH.					
DESCRIPTION OF ITEM	LOCATION OF ORIGINAL (If not attached)				
Prosecution Exh 1-Sworn statement of SPC [REDACTED]			X		
Prosecution Exh 2-Sworn statement of SGT [REDACTED]			X		
Prosecution Exh 3-Sworn statement of SPC [REDACTED]			X		
Prosecution Exh 4A thru 4R -20 photos from CID CD			X		
Prosecution Exh 5-Sworn statement of PFC [REDACTED]			X		
Please refer to the attached Enclosure #2 for additional Exhibits from the Investigation					
b. EACH ITEM CONSIDERED, OR A COPY OR RECITAL OF THE SUBSTANCE OR NATURE THEREOF, IS ATTACHED			X		
14. THERE ARE GROUNDS TO BELIEVE THAT THE ACCUSED WAS NOT MENTALLY RESPONSIBLE FOR THE OFFENSE(S) OR NOT COMPETENT TO PARTICIPATE IN THE DEFENSE. (See R.C.M. 909, 916(k).)					X
15. THE DEFENSE DID REQUEST OBJECTIONS TO BE NOTED IN THIS REPORT (If Yes, specify in Item 21 below.)			X		
16. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL			X		
17. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM			X		
18. REASONABLE GROUNDS EXIST TO BELIEVE THAT THE ACCUSED COMMITTED THE OFFENSE(S) ALLEGED			X		
19. I AM NOT AWARE OF ANY GROUNDS WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER. (See R.C.M. 405(d)(1).)			X		
20. I RECOMMEND:					
a. TRIAL BY <input type="checkbox"/> SUMMARY <input type="checkbox"/> SPECIAL <input checked="" type="checkbox"/> GENERAL COURT-MARTIAL					
b. <input type="checkbox"/> OTHER (Specify in Item 21 below)					
21. REMARKS (Include, as necessary, explanation for any delays in the investigation, and explanation for any "no" answers above.)					
Enclosure #1 - Continuation of DD Form 457 Block 12a					
Enclosure #2 - Continuation of DD Form 457 Block 13a					
Enclosure #3 - Defense Counsel's Objections Prior to and During the ART 32 Investigation.					
Enclosure #4 - Request for Delay, United States v. SPC Megan M. Ambuhl					
Enclosure #5 - IO Concurrence on Request for Delay, U.S. v. SPC Ambuhl					
Enclosure #6 - Article 32 Request for Witnesses and Production of Evidence - United States v. SPC Megan M. Ambuhl					
Enclosure #7 - Second Request for Delay - United States v. SPC Megan M. Ambuhl					
Enclosure #8 - IO Recommendation on 2nd Defense Request for Delay, United States v. SPC Megan M. Ambuhl					
Enclosure #9 - Approval of 2nd Request for Delay, United States v. SPC Megan M. Ambuhl					
Enclosure #10 - IO Determination on Trial Counsel's response to Defense Request for Witnesses and Production of Evidence					
Enclosure #11 - Appointment as Article 32 Investigating Officer					
Enclosure #12 - Transcript of ART 32 Investigation US v. SPC Ambuhl					
Enclosure #13 -ART 32 Investigating Officer's Findings and Recommendations, United States v. SPC Megan M. Ambuhl					
Block #14 above, Def did not present any grounds to show that the accused was not mentally responsible for the offenses.					
22a. TYPED NAME OF INVESTIGATING OFFICER		b. GRADE	c. ORGANIZATION		
[REDACTED]		O-4	HHC, 420th Engineer Brigade APO AE 09391		
d. SIGNATURE OF INVESTIGATING OFFICER			e. DATE		
[REDACTED]			9 MAY 2004		

Enclosure #1 - CONTINUATION OF DD FORM 457, BLOCK 12a

The following witnesses were Available but invoked their rights

- | | | | |
|----|------------|-----|--|
| 1. | [REDACTED] | O-3 | 372 nd MP CO - invoked at last 32 |
| 2. | [REDACTED] | E-8 | 372 nd MP CO - invoked at last 32 |
| 3. | [REDACTED] | E-7 | 372 nd MP CO - invoked at last 32 |

The following witnesses were Declared reasonably unavailable

CID Agents:

- | | | | |
|----|------------|----|---|
| 1. | [REDACTED] | SA | 10 th MP BN - Redeployed to the U.S. |
|----|------------|----|---|

Chain of Command:

- | | | | |
|----|------------|-----|--|
| 1. | [REDACTED] | O-3 | 372 nd MP CO - Redeployed to U.S. |
|----|------------|-----|--|

Additional Witnesses -

- | | | | |
|-----|------------|-----|---|
| 1. | [REDACTED] | O-4 | 320 th MP BN - Kuwait |
| 2. | [REDACTED] | E-4 | 372 nd MP CO - LSA Anaconda-Unit attempted to get to ART 32 Inv. but was unable to get to Baghdad. |
| 3. | [REDACTED] | E-6 | - LSA Anaconda -invoked at prior 32 |
| 4. | [REDACTED] | E-5 | 372 nd MP CO - LSA Anaconda-Unit attempted to get to ART 32 Inv. but was unable to get to Baghdad. |
| 5. | [REDACTED] | E-6 | 372 nd MP CO - LSA Anaconda-Unit attempted to get to ART 32 Inv. but was unable to get to Baghdad. |
| 6. | [REDACTED] | E-5 | 372 nd MP CO - LSA Anaconda-Unit attempted to get to ART 32 Inv. but was unable to get to Baghdad. |
| 7. | [REDACTED] | E-4 | 372 nd MP CO - LSA Anaconda-Unit attempted to get to ART 32 Inv. but was unable to get to Baghdad. |
| 8. | [REDACTED] | E-5 | 372 nd MP CO - LSA Anaconda-Unit attempted to get to ART 32 Inv. but was unable to get to Baghdad. |
| 9. | [REDACTED] | E-5 | 372 nd MP CO - LSA Anaconda-Unit attempted to get to ART 32 Inv. but was unable to get to Baghdad. |
| 10. | [REDACTED] | E-4 | 372 nd MP CO - LSA Anaconda-Unit attempted to get to ART 32 Inv. but was unable to get to Baghdad. |
| 11. | [REDACTED] | E-6 | 372 nd MP CO - LSA Anaconda-Unit attempted to get to ART 32 Inv. but was unable to get to Baghdad. |

Military Intelligence Witnesses:

- | | | | |
|----|------------|-----|---|
| 1. | [REDACTED] | E-4 | 325 th MP BN - Redeployed to U.S. |
| 2. | [REDACTED] | E-4 | 325 th MP BN - Redeployed to U.S. |
| 3. | [REDACTED] | E-4 | 325 th MP BN - Redeployed to U.S. |
| 4. | [REDACTED] | O-6 | 205 th MI BDE - Redeployed to U.S. |

Other Witnesses:

- | | | | |
|----|------------|-----|---|
| 1. | [REDACTED] | O-3 | Former Interrogation OIC - Redeployed to U.S. |
|----|------------|-----|---|

2. [REDACTED] O-3 205th MI BDE - Redeployed to U.S.
3. [REDACTED] O-3 Ft. Sam Houston - Redeployed to U.S.
4. [REDACTED] O-5 CJTF-7 - cannot locate
5. [REDACTED] O-4 Member of Australian forces - Redeployed to Australia

Co-Accused:

1. [REDACTED] E-3 372nd MP CO - Fort Bragg, awaiting court-martial

The following witnesses are co-accused, have invoked their rights and are represented by counsel.

1. [REDACTED] E-5 372nd MP CO
2. [REDACTED] E-6 372nd MP CO
3. [REDACTED] E-4 372nd MP CO
4. [REDACTED] E-4 372nd MP CO
5. [REDACTED] E-4 372nd MP CO

The following witnesses were requested by Defense Counsel and were available. Defense Counsel decided during the Investigation to not call these witnesses and they were therefore deemed reasonably unavailable.

1. [REDACTED] - Vigilant A, security detainee
2. [REDACTED] - Vigilant A, security detainee
3. [REDACTED] - Hard site, 6-B, criminal
4. [REDACTED] - Ganci 5, security detainee
5. [REDACTED] - Ganci 8, security detainee
6. [REDACTED] - Hard site 3-B, criminal
7. [REDACTED] - Ganci -1, security detainee
8. [REDACTED] - Hard site 4-B, criminal
9. [REDACTED] - Unknown, released
10. [REDACTED] - Unknown, released
11. [REDACTED] - Vigilant C, security detainee
12. [REDACTED] - Ganci 5, Unknown
13. [REDACTED] - Unknown, released
14. [REDACTED] - Ganci 8, security detainee

Enclosure #2 - CONTINUATION OF DD FORM 457, BLOCK 13a

Prosecution Exhibit #6 – Sworn statement of SPC [REDACTED]
Prosecution Exhibit #7 – CD ROM of pictures and video clips
Prosecution Exhibit #8 – Sworn statement of SPC [REDACTED]
Prosecution Exhibits #9A thru 9O – Sworn statements of Detainees at the Prison
Case File

Defense Exhibit A – ARTICLE 15-6 Investigation of the 800th MP Brigade
Defense Exhibit B – Rebuttal of AR 15-6 for SFC [REDACTED]
Defense Exhibit C – Rebuttal of AR 15-6 for 1SG [REDACTED]
Defense Exhibit D – Rebuttal of AR 15-6 for CPT [REDACTED]
Defense Exhibit E – Sworn statement of [REDACTED]

Enclosure #3 – Defense Counsel's Objections prior to and during the ART 32 Investigation.

- The Defense objected to consideration by the IO of the following evidence. These were published in Defense Counsel's memorandum of 10 April, 2004.

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

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

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

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

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

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

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

nexus between SPC Ambuhl and the photographs the Government wishes to be considered.

- DC had the following objections during the investigation.

- 1) Admittance of photos that do not apply specifically to the charges against SPC Ambuhl.
- 2) Consideration of statements from the detainees that have been released.
- 3) Consideration of the CD ROM and specifically those items not relative to the case against SPC Ambuhl.

Article 32 Transcript

U.S. v Ambuhl

The Article 32 Proceedings were called to order at 1002 hours, 1 May 2004, at Victory Base, Iraq.

PERSONS PRESENT

MAJ [REDACTED], Investigating Officer
CPT [REDACTED], Government Counsel
1LT [REDACTED], Assistant Government Counsel
Mr. [REDACTED], Civilian Defense Counsel
CPT [REDACTED], Military Defense Counsel
SPC [REDACTED], Accused
SFC [REDACTED], Recorder

PERSONS ABSENT

None

The Government Counsel stated that sometime today, he would like for all parties to review each packet to ensure all contents were the same.

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

Government Counsel stated that all parties understand that due to witness location and different ways testimony would be given, the proceedings may not run as normal.

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

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

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

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

The Accused stated the she would be represented by Mr. [REDACTED]

The Investigating Officer instructed Mr. [REDACTED] to fill out items on DD Form 457, Investigating Officer's Report.

The Defense Counsel waived the reading of the charges.

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

The accused stated that she understood her rights.

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

CW2 [REDACTED] IMIR, CJTF-7
SGM [REDACTED] 418th MP Det, (CLD)
CPT [REDACTED] 372d MP CO
1SG [REDACTED] 372d MP CO
SFC [REDACTED] 372d MP CO

Telephonic testimony:

SGT [REDACTED] A CO, 302d MI BN, Germany
SA [REDACTED] CID
PFC [REDACTED] HHC, 16th MP BDE(ABN) (REAR), Fort Bragg, NC

The following exhibits were presented by the Government Counsel and admitted into evidence as follows:

Prosecution Exhibit 1: Sworn Statements of SPC [REDACTED]
Prosecution Exhibit 2: Sworn Statements of SGT [REDACTED]
Prosecution Exhibit 3: Sworn Statements of SPC [REDACTED]
Prosecution Exhibit 4A – 4R: 18 photos; with objection; Defense Counsel objected to photos not pertaining to SPC Ambuhl

The Assistant Government Counsel stated that the witnesses from the 372d MP CO, located at LSA Anaconda would probably not be here due to convoy difficulty.

The Government Counsel made an Opening Statement.

The Defense Counsel reserved his Opening Statement.

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

The witness was informed of, and invoked his rights under Article 31, UCMJ, and was excused.

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

The witness was informed of, and invoked his rights under Article 31, UCMJ, and was excused.

1SG [REDACTED], 372d Military Police Company, was called as a witness, sworn, and testified in substance as follows:

The witness was informed of, and invoked his rights under Article 31, UCMJ, and was excused.

SGT [REDACTED] A CO, 302d MI BN, Germany, was called as a witness, sworn, and testified telephonically in substance as follows:

QUESTIONS BY THE DEFENSE COUNSEL (CPT [REDACTED])

I was deployed to Abu Ghraib Prison Iraq at the end of September 2003 until February 2004; I left when my Battalion redeployed. I was the Systems Administrator and Trojan Spirit Operator for what was called the ICE Intelligence Center for the Interrogators. I was assigned to a MI Bn from Camp Victory, and worked with the interrogators that worked at Abu Ghraib. I worked in the center where the interrogators prepared their reports and collected data and kept information.

The MI personnel had to interact with MPs in order to do their interrogations. The MPs would provide security, or be told by individual interrogators from MI to alter diets or sleep of detainees. The Interrogation teams were usually made up of a civilian interrogator or interpreter. They would give direction to the MPs.

I may know SPC Ambuhl, but I don't recognize the name right now.

I do not know how Tier 1A and 1B is set up. I visited it once, and I was told that the real bad guys were there in individual cells.

I actually sat in on one interrogation with SPC [REDACTED] an interrogator from Victory Base. I was to interrogate a General, and I provided security.

To help with the interrogations, MP guards would play loud music, alter detainees' diets when feeding MRE's and taking out certain items. They would alter detainees' sleep,

use dogs to intimidate, pour water over them and put them in the back of HMMWVs and drive around.

Physical Training that was authorized would be push-ups, overhead arm clap, instruction like from a Drill Sergeant to a Recruit.

I have not seen photos of abuse at Abu. My Chain of Command has not asked me if I have seen any photos, nor have they told me to delete photos from hard drives. I have only heard of incidents from interrogators.

I heard of the incident involving SPC [REDACTED]. I was told that he was too aggressive, and was relieved. I do not know of any UCMJ action. He was placed in a more analytical role at the ICE. SPC [REDACTED] was also relieved because she had a detainee stripped naked and made him walk back to his cell naked in the view of all the other prisoners. This happened in November or December 2003.

My Bde Cdr, moved into the ICE; he was a LTC, and seemed pretty involved with everything that went on until he was replaced by a MAJ [REDACTED].

I would say that MI was in control of prison operations. The OPTEMPO was high. I was the system administrator, and there were many requests for new accounts to be added to the network. More and more personnel and prisoners would arrive.

I would say that there was pressure for the interrogators to produce info from the detainees. It was an overwhelming amount of detainees in the facility. There was no deadline to get detainees out of interrogations.

I recall my statement to CID when I talked of a conversation with SPC [REDACTED]. I was sitting at the DFAC and heard him and his peers talking about what the MPs did to the detainees. Things like beating them up and using them as practice dummies and knocking them out.

I had just returned from leave, so this discussion was in December 2003.

Someone from the Nevada National Guard, an older female soldier, told me of some stuff that she saw going on. She documented it, and her chain of command reprimed her because of it. She was afraid of her chain of command. She sent the documentation to her relatives.

I spoke with a SPC [REDACTED] about the MPs using dogs on the detainees. She said how fearful the detainees were of the dogs. She described how a MP pretended to be a dog to scare the detainees. I don't know what happened to SPC [REDACTED] because she witnessed the incident. She is in the same unit as SPC [REDACTED] and SPC [REDACTED]. They are all in a Reserve Unit. She did take pictures of the facilities, but I do not know of her taking pictures of any detainees.

I did not report the abuse that I heard from others. I knew that some of the stuff was authorized, and did not need to be reported.

I talked to one woman about it only being a matter of time before the abuse got out and an investigation initiated. I spoke to at least everyone that I knew about how the place was poorly run. It was very unorganized. The response I got that it was a lot worse under Sadaam. LTC [REDACTED] had that statement after the Red Cross visited the prison and saw the conditions. The Red Cross criticized the food, from what I remember.

I remember soldiers from my BN visiting from Camp Victory being trained on how to interrogate and secure prisoners. They were also trained on how to better use their approaches.

I know that the detainees received blankets and clothing if the interrogators wanted them to have it. SPC Slagel had mentioned to me that they made them wear women's panties, and if they cooperated, some would get an extra blanket.

SPC [REDACTED] was known to bang on the table, yell, scream, and maybe assaulted detainees during interrogations in the booth. This was to not be discussed. It was kept "hush hush" by the individual interrogators.

To my knowledge, the only thing that happened after the incidents was the team getting together to make reports after the interrogation. Nothing was said about not banging on tables. Nothing was put out about not stripping detainees naked after the SPC [REDACTED] incident. She was relieved because she made a detainee walk to his cell naked in front of other detainees.

QUESTIONS BY THE GOVERNMENT COUNSEL (CPT [REDACTED])

I don't know what training was given to the MPs of the 372d MP CO. The only time I saw MPs was while waking through the facility, or at chow.

SPC [REDACTED] also told me of two inmates that supposedly raped a child, and the MPs punished them by making them get into all sorts of sexual positions.

I am vaguely familiar with interrogation techniques. I know the IROE. Putting inmates in sexual positions naked would not be appropriate. I wouldn't do it if someone ordered me to do something like that; not even a CPT.

The different things I was told, I wondered if it was a joke for the guards. I wouldn't be surprised if the freed innocent prisoners retaliated against the prison after being treated this way, by helping to pinpoint locations in the prison for the mortar attacks.

The MPs were directed by the MI personnel to play loud music, vary diets, limit MREs, deprive sleep, and PT exhaustion.

People got in trouble for being too aggressive. Physical violence would be over the limit of the IROE. It would not be authorized.

I would not hit someone to get them to soften up. Others shouldn't either. That would not be a legal order. Putting a leash around someone's neck, pretending to drag them and taking a picture would not be authorized.

Taking pictures was forbidden. Personnel were placing pictures on the database, and I was told to remove the pictures from the database. These were pictures of soldiers throughout the facility just walking around. It was totally inappropriate to take pictures of detainees. It is inappropriate to take pictures of detainees naked in a pyramid. You would not do this to soften them up. I don't know of anything that would allow MPs to have detainees masturbate to soften up for an interrogation. This would not be allowed. Pictures of this masturbation would be illegal also. Pictures of a detainee with his face next to another detainee's genital area masturbating would also be unauthorized. This is not a technique used to soften someone up. I have never heard of any of these techniques used by MI.

QUESTIONS BY THE INVESTIGATING OFFICER (MAJ [REDACTED])

I didn't report the stuff that I heard, because I thought some of the things I heard was authorized. The dietary and sleep stuff was common knowledge within the ICE. MPs using dogs to scare detainees, I think was approved by our IROE.

Dragging detainees with at leash, making detainees masturbate, and piling them naked in pyramids and taking pictures of it is not authorized.

It was confusing the way the place was run. It was an important mission run by Reservists who did not know what they were doing. They were just on their own. It was a shocking experience.

QUESTIONS BY THE DEFENSE COUNSEL (Mr. [REDACTED])

I don't know if the MI personnel received efficiency reports; I got an NCOER, and I counseled my soldiers. I guess the people above me were counseled on their performance.

The goal of the interrogators was to get information, make diagrams of the info and piece together theories or hypotheses of terrorist events that was going on.

It was important to get the information to prevent terrorist activity, and find perpetrators of terrorist activity.

We would get attacked at the prison. There was pressure to get results by effectively interrogating the prisoners. If there were no results, then the supervisors would be concerned. The goal was to get results.

General Sanchez opened more facilities, and made things better. The place was getting cleaned up. This was an incentive to get more information from the prisoners.

QUESTIONS BY THE GOVERNMENT COUNSEL (CPT [REDACTED])

Goals would not justify committing a crime; it would be definitely possible for maybe the civilian interrogators to overlook that. They were not under any authority.

General Sanchez never ordered anyone to commit crimes to get information. The Brigade, Battalion, Company, and MI Commanders, never told anyone to commit crimes to get information.

The facility in general, had no real authority base, other than LTC [REDACTED]. There were no clear-cut guidelines.

There is no justification to have detainees masturbate, piled in pyramids naked, or be pulled by leashes. The conditions might lead some people to act inappropriately. The people who act inappropriately should be punished.

I know that there is a separate facility for women and children. There are more than terrorists and security detainees at the prison. Some people were living there. The raids would round up people that were just in the area and probably innocent. If a prisoner was being kept for robbing an Iraqi bank, I wouldn't know about it.

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

The Article 32 proceeding recessed at 1149, 1 May 2004.

The Article 32 proceeding reconvened at 1203, 1 May 2004, with all parties present.

CW2 [REDACTED] IMIR, CJTF-7, was called as a witness, sworn, and testified in substance as follows:

I organize and process reporting by Iraqi information collectors. I am a 351E, Interrogations Technician. Prior to my current job, I was at the JIDC at Abu Ghraib from September 2003 until January 2004. I was reassigned when my unit left. I was asked to stay.

I am familiar with the layout of the prison. The largest camp is Ganci; it holds security detainees primarily, next is Vigilant, it holds detainees of informational interest; and then there is the Hard Site; it holds detainees of MI interest, females and juveniles, problematic detainees from the other camps, like rioters, or crazy detainees.

Tier 1A and 1B holds persons of MI interest. I do not know anything about what type of training the MP guards would have received at Tier 1A and 1B.

In January 2004, we ceased to bring problematic detainees into the Hard Site, because they created a chaotic environment. The FOB Commander ordered this change. They were troublemakers. I recall one who would rip up his mattress and relieve himself right on the floor of his cell; another would sling their feces at the guards.

I don't know if the MP guards received any special type of training.

I worked in the Operations section of the JIDC. We accounted for the detainees, and answered questions from CJTF-7. We tracked requirements and assessments of the detainees. Leaders would gather the information from the sections, The ICE NCOIC was SFC [REDACTED] and the OIC was CPT [REDACTED]. I don't recall seeing any suspense dates. We were short staffed; we requested for more personnel, and we got more personnel.

I think there was interaction with MPs and MI personnel. SPC [REDACTED] was a liaison, and would attend the FOB BUB daily. The personnel from each section would disseminate the info obtained from the BUB.

I know SPC Ambuhl; she worked in Tier 1, and she is here today. I don't remember when I first met her, but I had a almost daily professional interaction with her. She would provide updates on who was present or not. I don't know how long she worked at the prison. She observed juvenile and female detainees. She had interaction with them; she helped move them from cell to interrogation wing.

I don't know if she received any training on how to interrogating prisoners. We did have a conversation about supplies and Iraqi food for the detainees. We once talked about rewarding detainees that helped clean and do tasks, with cigarettes, because they loved to smoke.

I was the "old Operations expert", everyone would just ask me stuff.

I remember a discussion with her about problem detainees; it was about reducing the environment that caused them to misbehave. Some of the detainees were cooperative and others were not.

There were a few approved interrogation techniques; for example, prod and go down – when you speak down to someone to get them to cooperate.

I do not know of any SPC [REDACTED] know SPC [REDACTED] he was an analyst that worked in the ICE shop. I understand that he was removed because of a situation when a detainee was stripped naked.

SPC [REDACTED] was also involved in this same incident and was moved to my section after she was relieved from her duties. I asked her why she was moved, but I did not ask her what she did. I do not know if SPC [REDACTED] or SPC [REDACTED] received any UCMJ.

We had mandatory IROE training and implemented a mandatory sign out procedure. All MI personnel attended this training.

I heard about a riot at Ganci. I do not know of any punishment after they were moved to the hard site. I hope that they were segregated and silenced.

Embarrassment of the Arab culture would be contrary to producing results, in my opinion. Some of our most effective means to communicate is to just develop a rapport. I do not know if the MPs were trained on the Arab culture.

SPC Ambuhl would help move the prisoners from their cells to the interrogation wing or where we picked them up. The interrogator would ask for the prisoners they needed. SPC Ambuhl would cross-reference and tell which cell the prisoner was in, and she would facilitate the move.

Sleep deprivation would be documented in an interrogation plan. It is a separate book from other files.

I never had any problems with SPC Ambuhl.

QUESTIONS BY THE GOVERNMENT COUNSEL (CPT [REDACTED])

The Hard Site has problematic detainees in 1A and 1B. The rest of the Hard Site houses Iraqi corrections prisoners, such as robbers, and thieves. The CPA is in charge of the rest of the hard site, 2A, 2B, and so on. 1A and 1B contained security detainees for MI, females, and juveniles.

Ganci contained people possibly gathered from raids. There are many camps in Ganci. No one from Ganci has any interrogation value. Someone removed from a riot would not be interrogated. If detainees in Ganci could not be controlled, then they would be moved.

Our priority was to get information to stop the IED attacks, terrorist activity, and crimes against the Coalition.

Every detainee was inprocessed and assessed. After the screening, they were determined to be of value or not value to MI. These reports went to CJTF-7.

I am a trained interrogator. I finished my training in 1990; and I have been an interrogator for 14 years. MPs would do the sleep management plan, it was requested of MI. General Sanchez would have to approve speaking to someone about something that would make them upset. An MP could not just do this on his own.

I am familiar with the Geneva Conventions. We treated them the same as POWs; we treated them with dignity and respect. Anything outside of that required approval.

No MPs attended our training. MPs did not attend our Geneva training. The IROE is classified and located at the JIDC.

The worst criminals were to be treated with dignity and respect.

I never saw SPC Ambuhl treat anyone without dignity and respect. She would help us with the female detainees. She was nice and pleasant. She knew the difference between right and wrong, and what dignity and respect was. I saw her treat people with dignity and respect. I assume she was a guard; she took direction from the Shift NCO, SGT [REDACTED], CPL [REDACTED] or SSG [REDACTED].

There is nothing in the IROE that allows stripping detainees naked. There are times when they are naked for strip-searching. Detainees being piled in a pyramid naked, or being forced to masturbate has no MI or military purpose.

I've seen a handful of photos of the pyramid. That type of interrogation "plan" would not have made it to General Sanchez for approval; it would not have made it past me.

Forcing detainees to masturbate kneeling in front of one another would be outside of the bounds. Placing a leash around a detainee's neck would be out of bounds.

All of these acts would be criminal offenses. If I were ordered to do these acts, I would not carry them out. Embarrassment as a technique would be contradictory to achieving results.

Government Counsel shows the witness Prosecution Exhibit 4A.

This looks like 1A or 1B. I recognize the metal doors. SPC Ambuhl is in this picture. I have seen the other female around, but I do not know her name. I do not recognize the detainee on the "leash". This scene serves no military purpose; it is inappropriate. Interrogators would not tell MPs to do this. I have never seen SPC Ambuhl do anything like this.

QUESTIONS BY THE INVESTIGATING OFFICER (MAJ [REDACTED])

The rest of the Hard Site Tiers housed, as I understood it, Iraqi criminals; some I thought were actually sentenced and serving prison terms.

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Volzer)

A "unclassified" description of the general requirements would be: who's attacking us-, what are some imminent attacks-, where is the WMD-, what do you know about terrorist activity-?

Reports were generated from the information obtained from the detainees interrogated. CJTF-7 developed the reporting requirement.

1 to 2 people would interview or interrogate a detainee, depends on the detainee.

You could not "fear up" or belittle someone without approval. MI would tell the MPs to make the detainees more receptive. It depended on the environment; a detainee may be moved to another area, monitored for interaction, told to keep quiet and not interact with others, with proper documentation, put on dietary management, and possibly be given cigarettes.

These were effective techniques were used by MI and required approval. Removing a blanket or other item required approval.

Saying MI personnel are aggressive is an unfair statement. Some are, and some are not. I am a former grunt. 11B and 11C grunts are aggressive too.

The interrogation techniques used are taught.

MI does not own the detainees. The sleep management procedure was directed by MI to the MPs to supervise and report at the end of the day.

After someone is interrogated, doesn't mean they could leave the prison. There may be more interest in keeping them.

Yelling was not authorized. We had a few that were loud with the detainees.

I saw the special reaction team at the Vigilant camp once. Sometimes handling a situation quietly works better and is more effective. If one technique is working, we continue to scrutinize that technique. Its not one of those "not broke don't fix it" scenarios. We do continue to develop rapport.

There was a sign in sheet in the beginning; it is kept with the NCOIC of each tier. The detainee interrogation plans are classified and kept in the ICE log. Detainee files are secret.

QUESTIONS BY THE INVESTIGATING OFFICER (MAJ [REDACTED])

To prod and go down is a technique, such as getting a captured officer, making them tired, and calling them a coward.

You exploit how they were captured and use it to your advantage. An example of fear up would be, "okay, as long as you don't cooperate, you will just stay in here". Approval is need for these two techniques.

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

The Article 32 proceeding recessed at 1315, 1 May 2004.

The Article 32 proceeding reconvened at 1412, 1 May 2004, with all parties present.

SGM [REDACTED], 418th MP Det (CLD), was called as a witness, sworn, and testified in substance as follows:

QUESTIONS BY THE DEFENSE COUNSEL (CPT [REDACTED])

I first arrived to Iraq 1 February 2004. My mission was to work a BLD/CLD versus a EPW mission. CLD is Camp Liaison Detachment; BLD is Brigade. The 16th MP BDE (ABN) gave us our mission. We replaced the 381st BLD. There were no EPWs, except for a handful at Camp Bucca. We took on the detainee operations role.

The definition of detainee and EPW is in the Geneva Convention, Article 4.

Our mission falls under the 16th MP BDE (ABN). I have not aware of allegations of abuse and mistreatment of detainees. I have heard of the rumors.

I don't know what training was given in the past; I am aware that training is going on now. There are 30 corrections personnel from Fort Knox, Fort Leavenworth here to train soldiers at the prison. There is training on the Arab culture, ROE, and the Geneva Conventions.

I visit the prison often. I am aware of the prison breakdown; 1A and 1B houses MI holds, females and juveniles. Juveniles were moved recently. The Hard Site is fairly secure. Normally, females would be separated. We use the Geneva Convention as a guideline.

Changes are going on in Ganci and Vigilant to make conditions safer for the detainees. The 16th MP BDE (ABN) is refining policies, and SOPs.

I do not know of the officer involvement prior; but COL [REDACTED] frequently visits the prison.

We have MPs and MI personnel in the inprocessing center at the prison. I do not know of any cross over training. When we made our assessment, we noted that the nutrition and sanitation conditions were not within the Geneva Convention.

I do not know if the Geneva Conventions was followed before the 16th MP BDE (ABN) arrived. It is being followed now. There are weigh ins, and the meals are nutritional.

The Geneva Convention recommends that female detainees be guarded and searched by female MPs.

When a detainee arrives, they are assessed and inprocessed within 72 hours. I do not know of any SOPs being left behind or given to the 372d MP CO.

We at the BLD look at the prison from a Geneva Convention standpoint. We ensure that prisoners are treated properly, and that environmental conditions are correct.

The 372d MP CO was previously at Mosul. I am not aware of anyone else performing the prison mission before them.

We brought our regulations and documentation with us. I have walked throughout the compound and had casual conversations with the soldiers. We have a big switch of OIF1 and OIF 2 personnel.

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

The Article 32 proceeding recessed at 1435, 1 May 2004.

The Article 32 proceeding reconvened at 1459, 1 May 2004, with all parties present.

SA [REDACTED] U. S. Army CID, Fort Jackson, SC, was called as a witness, sworn, and testified telephonically in substance as follows:

QUESTIONS BY THE DEFENSE COUNSEL (CPT [REDACTED])

I first became involved in the detainee abuse case when we received a anonymous letter and cd-rom containing pictures. In the preliminary stage of the investigation, I was the case manager. I left in February 2004. Our CID detachment was located at Abu Ghraib; we were three agents conducting interviews of prisoners. We also had three translators.

In order to find out who the detainees were that were abuse, we obtained logs of the prisoners that were in the isolation wing at the time of 7 November and a couple of other days.

Initially, the person who came forward with the letter and cd-rom provided the names of the main persons involved. This was SPC [REDACTED] he went through the pictures with us and identified the military personnel involved. He identified the majority of the personnel, and knew who they were. Others, he did not know. We interviewed every single MI and military personnel that worked in the prison; we sent numerous requests for assistance to other CID offices worldwide to interview all other persons that were ever at the prison and identified in the photographs. I have no idea of any UCMJ action. The case is still open. I interviewed several hundred people, but I cannot remember a SPC [REDACTED]

I believe SPC [REDACTED] came forward because he knew this stuff was wrong, and that CPL [REDACTED] would go back to work in the isolation wing and continue the abuse. He wanted the abuse to stop. He received the pictures approximately one week before he came forward. He was weighing his conscience, and decided to do the right thing.

I think several people suspected abuse but did not report it. I don't know the status of any UCMJ against anyone. CID does not recommend what action be taken against subjects of our investigations. We just gather facts; the chain of command decides what to do. We briefed the Company and Battalion commanders about our progress during the investigation.

I remember my interview with SGT [REDACTED] he was interviewed twice. He lied in his first statement, and told the truth in his second statement; admitting to stepping, stomping, and jumping on the detainees.

After talking with the detainees and personnel, the names of the main perpetrators of the abuse were CPL [REDACTED] SSG [REDACTED] and SGT [REDACTED]. The ones taking pictures were SPC Ambuhl, PFC [REDACTED] and another I cannot recall. These names are based on the interviews, and who was there.

I recall the detainees mentioning SPC Ambuhl; they would refer to her as Miss Megan. I can't recall if she helped a detainee by giving him an inhaler.

When I interviewed a detainee, I explained why I was there, and just gave them a pen and a sworn statement form in Arabic or English; and they would write what they knew about the incidents. Their statements were later translated. If something wasn't clear, we had follow up questions. If they did not know someone's name, they were told to just describe that person using as much detail as possible.

I remember SGT [REDACTED] but not his statement. I remember SSG [REDACTED] once being a suspect; I thought he observed the abuse; he was later cleared of any wrongdoing. This was all based on our interviews of the personnel that were there.

SFC [REDACTED] as I remember was not involved. It became apparent through the course of the investigation, that the nightshift-- SPC Ambuhl, CPL [REDACTED] SSG [REDACTED] PFC [REDACTED]

██████████ and on occasion SPC ██████████ would do these acts after SFC ██████████ had left; and after the chain of command had changed shifts and gone home. It became clear to me that they knew that SFC ██████████ would not tolerate these acts. There was one incident when SFC ██████████ was on the upper tier and saw an incident and ordered them to stop immediately; I believe he observed SGT ██████████ stepping on a detainee. They were shocked at how angry he was when he told them to stop. I don't believe that SFC ██████████ reported that incident.

I have no recollection of SGT ██████████ again, I spoke with several hundred personnel.

SPC ██████████ was identified as one of the people in the photos, but I don't recall his statement. He never came forward to report any misconduct to the CID office. SPC ██████████ and SPC ██████████ were MI soldiers identified in one of the photographs.

I am not sure of any UCMJ action pending on anyone; I left Iraq in February 2004, and until very recently, I did not know of anyone pending any UCMJ action. I turned the investigation over to SA ██████████. I don't know if he did any follow up interviews. We gave the 15-6 Investigation Staff a copy of our case file; we also provided the photos and statements we gathered.

I do not recall a SGT ██████████ again, I spoke with hundreds of personnel. Our main purpose was to identify the personnel in the photos; we also wanted to find out if MI told the MPs to do these acts. If so, we wanted to know who told them; that's why we interviewed everyone. No one said do this to that person, or anything specific. Our second purpose was to have the most thorough investigation that we could. We wanted to talk with each and every person mentioned in the interviews.

Most of the interrogators did not wear nametags. You knew who they were, if you knew them. We would figure out who was working, and interview all the handlers, interrogators, and guards.

I do not recall if there are any civilians involved in the investigation; several people were interviewed.

I remember ██████████. We listed someone as a subject if there was reasonable belief that they committed a crime. The investigative file is a working document, and the status of personnel involved may change. Like when SSG ██████████ was listed as a subject, and later taken off of the status report.

There are numerous things involved when determining if someone is derelict in their duty; if they inform their chain of command, then they are not derelict in my mind, and the way the UCMJ puts it, as I know.

No one reported any abuse up until January 15, 2004, to CID; however, there was one individual who reported the abuse to his chain of command—his NCOIC.

The NCOIC then went to SSG [REDACTED] to report the abuse; and because SSG [REDACTED] was the perpetrator in this incident, it did not go anywhere. The individual that reported it did the right thing.

Had SPC Ambuhl reported the abuse to SFC [REDACTED] she would not be a subject of the investigation. It would be different if she had reported it to SSG [REDACTED] I am not a lawyer. This was an ongoing incident. The NCOIC that reported the incident to SSG [REDACTED] I believe, did not report it to anyone else. When he reported to SSG [REDACTED] he did not know that SSG [REDACTED] was the perpetrator.

I do not recall interviewing SPC [REDACTED] or SPC [REDACTED]. The investigation is still open, and pending a few requests for assistance. You can add and remove subjects as credible information becomes known.

I worked at Abu from October 2003 to February 2004; I would visit the Hard Site at least once or twice a week. We would interview suspects of crimes against U.S. Forces, or individuals who knew of deaths of U.S. Forces. On occasion, I visited with CPT [REDACTED] in tier 1A and 1B. I had no involvement with the Red Cross.

I heard of a deceased individual that was being stored at the facility, but I don't know the specifics. Our focus was Iraqis committing crimes against U.S. soldiers.

Based on our proximity and the amount of time, the 12th CID came over to help with the investigation. There were a lot of people to be interviewed. They were initially investigating hostile fire incidents. It was a higher priority to work the logistics of this case.

I had no interaction with SPC Ambuhl; I would see her when I went to the Hard Site. I did not see her commit any abuse. I only went there during the day in the morning; the alleged abuse happened in the evening or nighttime.

I never saw the detainees do any PT. I believe a SPC [REDACTED] or someone else hung a detainee in handcuffs for over six hours. I don't recall SPC Ambuhl letting the detainee down.

I don't recall if I interviewed PFC [REDACTED]. I read every document when I was there, but I cannot remember any statements that she made. I do not remember if she changed her stories; she may have. There were a lot of people and documents in this case.

We do criminal record checks on our subjects. I believe PFC [REDACTED] received an Article 15 for a improper relationship with CPL [REDACTED]. I believe CPL [REDACTED] was admonished, and they were told to stay away from each other. I don't remember if CPL [REDACTED] was recommended to take anger management by his commander.

When I interviewed the detainees, I did not provide any names. I would not ask, for instance, "Did CPL [REDACTED] hit you?"—I would simply ask "Were you in the isolation

wing-- and what happened when you were there?" We wanted a clear and unbiased environment.

I don't know if they wore their BDU Tops while in the isolation wing. I don't know if they were told to not use their first names; or to even use fake names. The MI personnel I interviewed never told me they told the MPs what to do to the prisoners.

In some of the incidents, some of the detainees being abused were not actively scheduled for interrogation. They were rioters. This appeared to me as just retaliation against the rioters. The riots were in separate camps.

We interviewed all of the MI personnel. No one admitted to telling the MPs to soften up any detainees; if they had, they would have been violating the UCMJ and the Geneva Convention. No one ever admitted to "good job, keep doing what you are doing".

MI had their very specific interrogation plan. It detailed things they could and could not do. No one I interviewed said they were abused during an interrogation. I am not aware of any MI investigation.

There was absolutely no evidence that the MI or MP chain of command authorized any of this kind of maltreatment. These individuals were acting on their own. The photos I saw, and the totality of our interviews, show that certain individuals were just having fun at the expense of the prisoners. Taking pictures of sexual positions, the assaults, and things along that nature were done simply because they could. It all happened after hours. The fear instilled in the prisoners after these incidents may have been a benefit, but I don't know for sure. These individuals wanted to do this for fun.

QUESTIONS BY THE GOVERNMENT COUNSEL (CPT [REDACTED])

Benefiting the interrogators did not come out in our investigation. The abused individuals were not going to be interrogated. The rioters would have been in another camp if they had military intelligence value. It is clear to me that the abuse was retaliation after the riot.

I know I am here today to help clarify the allegations against SPC Ambuhl. My investigation determined that she was present and took pictures. She is in the pictures with PFC [REDACTED] holding a leash around a detainee's neck. She is described as being present by some of the detainees during the abuse.

I do not recall her present at the riot incident. Our investigation did not determine her committing any abuse; nor did it determine that she stopped the abuse or reported the abuse.

I don't remember a statement from [REDACTED]. If he described a tall white female with green eyes named Miss Megan, he would be talking about SPC Ambuhl. I did not give the detainees any names.

I told them to use the names if they knew them, and to describe what happened. "Miss Mya" would also be SPC Ambuhl. In the Arab dialect, they have a hard time pronouncing Megan, and end up saying Mya.

QUESTIONS BY THE DEFENSE COUNSEL (CPT [REDACTED])

There was an amnesty period during the course of our investigation, ordered by the FOB Commander. We did not collect any of this evidence; none of it pertained to our investigation. We reviewed cds and media as requested by the chain of command. The commander had access to the amnesty boxes; it entirely a command function. The commander would have kept all the other contraband. We returned the stuff we reviewed to the chain of command to be destroyed.

The detainee statements were translated. [REDACTED] stated that all the guards were good except for SSG [REDACTED], CPL [REDACTED] and SGT [REDACTED], as I specifically recall. He also said that despite all the abuse, he realized that the majority of U.S. soldiers did not abuse detainees. He only pointed out SGT [REDACTED] and CPL [REDACTED] abusing him.

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

The Article 32 proceeding recessed at 1608, 1 May 2004.

The Article 32 proceeding reconvened at 1617, 1 May 2004, with all parties present.

PFC [REDACTED] HHC 16th MP BDE (ABN) (REAR), Fort Bragg, NC, SC, was called as a witness, sworn, and testified telephonically in substance as follows:

The witness was read her Article 31 rights; she acknowledged and understood them, and stated that she would participate in the proceedings without a lawyer. Upon discussion wit all parties present, the Defense Team decided that they did not wish to question PFC [REDACTED]

The Article 32 proceeding recessed at 1640, 1 May 2004.

The Article 32 proceeding reconvened at 1643, 1 May 2004, with all parties present.

The following exhibits were presented by the Government Counsel and admitted into evidence as follows:

Prosecution Exhibit 5: Sworn Statements of PFC [REDACTED]

Prosecution Exhibit 6: Sworn Statement of SPC [REDACTED]

The Article 32 proceeding recessed at 1643, 1 May 2004.

The Article 32 proceeding reconvened at 0713, 3 May 2004, with all parties present except for the Assistant Government Counsel.

The Government Counsel asked that the members of the 372d MP CO be declared unavailable since they could not make their convoy to Victory Base.

The following exhibits were presented by the Government Counsel and admitted into evidence as follows:

Prosecution Exhibit 7: CD Rom containing photos and video clips; with objection; the Defense objects to photos that do not pertain to SPC Ambuhl's charges.

Prosecution Exhibit 8: Sworn Statement of SPC [REDACTED]

Prosecution Exhibit 9A – 9O(oscar): Sworn Statement of detainees; with objection; the Defense objects to the statements of detainees that have been released.

THE GOVERNMENT RESTS

The following exhibits were presented by the Defense Counsel and admitted into evidence as follows:

Defense Exhibit A: 15-6 Investigation of 800th MP Bde

Defense Exhibit B: Rebuttal to 15-6, by SFC [REDACTED]

Defense Exhibit C: Rebuttal to 15-6 by 1SG [REDACTED]

Defense Exhibit D: Rebuttal to 15-6 by CPT [REDACTED]

Defense Exhibit E: Sworn Statement of CPT [REDACTED]

THE DEFENSE RESTS

The Government Counsel made a closing statement.

The Defense Counsel made a closing statement.

The Article 32 proceeding adjourned at 0814, 3 May 2004.



DEPARTMENT OF THE ARMY
HEADQUARTERS, 420th ENGINEER BRIGADE
Victory Base, IRAQ
APO AE 09342



Builders in Battle!

REPLY TO
ATTENTION OF

AFRC-CAR-EBA-LG

8 MAY 2004

MEMORANDUM FOR RECORD

SUBJECT: Article 32(b) Investigating Officer's Findings and Recommendations, United States v. SPC Megan M. Ambuhl

1. On 24 March 2004, I was appointed as an investigating officer (IO) pursuant to the Uniform Code of Military Justice (UCMJ), Article 32, to investigate the charges noted below against Specialist Megan M. Ambuhl, HHC, 16th MP BDE (ABN), Victory Base, Iraq APO AE 09342. The charges preferred were:
 - a. Charge I: ART 81 Conspiracy
 - b. Charge II: ART 92 Dereliction of Duty
 - c. Charge III: ART 93 Cruelty and Maltreatment
 - d. Charge IV: ART 134 Indecent Acts with Another
2. During the conduct of the investigation, there were two delays granted. Both were attributed to the defense. The first was a 15-day request to allow defense adequate time to prepare for the ART 32 investigation. The second delay was an 11-day request to allow for a civilian defense counsel to travel to Victory Base for the ART 32 investigation and to prepare for the investigation.
3. Upon completion of the investigation and consideration of all evidence presented during the investigation (as noted in block 13a of DD Form 457 and Enclosure #2), I have the following findings regarding the charges against Specialist Megan M. Ambuhl.
 - a. Charge I: Violation of UCMJ, Article 81, Conspiracy
 - i. The Specification: In that Specialist Megan M. Ambuhl, U.S. Army, did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 23 October 2003 conspire and enter into an agreement with SSG [REDACTED] SGT [REDACTED] CPL [REDACTED] SPC [REDACTED] SPC [REDACTED] and PFC [REDACTED] to commit an offense under UCMJ, Maltreatment of subordinates, and did effect the object of the conspiracy when she participated in a photograph with PFC [REDACTED] who tied a leash around the neck of a detainee and led the detainee down the corridor with the leash around his neck. (See PE 4A thru 4D, PE 5)
 - ii. I believe that the evidence presented shows that reasonable grounds exist to believe that the accused committed this offense.

SUBJECT: Article 32(b) Investigating Officer's Findings and Recommendations, United States v. SPC Megan M. Ambuhl

- iii. Strengths-The Trial Counsel presented evidence to show that SPC Ambuhl entered into an agreement with the co-accused to maltreat a detainee and then performed the overt act by proceeding downstairs with the co-accused to pull the detainee from the cell, place a tie down strap around his neck and then participate in a picture with PFC [REDACTED] as she held the leash.
- b. Charge II: Violation of UCMJ, Article 92, Dereliction of Duty
 - i. The Specification: In that Specialist Megan M. Ambuhl, U.S. Army, who knew of her duties as a Military Police soldier at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, was derelict in the performance of those duties in that she willfully failed to protect Iraqi detainees from abuse, cruelty and maltreatment, as it was her duty to do. (See PE 3, PE 4A thru 4D, PE 5)
 - ii. I believe that the evidence presented shows that reasonable grounds exist to believe that the accused committed this offense.
 - iii. Strengths-Trial counsel presented compelling evidence to show that SPC Ambuhl had a duty as an MP and as the NCOIC of 1B to oversee and protect those housed at BCCF. It is reasonable to expect that SPC Ambuhl would have known those duties by virtue of her MOS and of being a U.S. Soldier. Finally, she was willfully derelict in those duties when she did not protect those detainees under her control.
- c. Charge III: Violation of UCMJ, Article 93, Cruelty and Maltreatment
 - i. The Specification: In that SPC Megan Ambuhl, U.S. Army, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several Iraqi detainees, persons subject to her orders, by watching naked detainees in a pyramid of human bodies.
 - ii. I do not believe that the evidence presented shows reasonable grounds exist to believe that the accused committed this offense.
 - iii. Weaknesses-There is no contention that element 1 of this charge has been met. I do believe that Trial Counsel failed to present adequate evidence to meet the second element of this charge. SPC Ambuhl was present as the pyramid was built but aside from showing that she was present, Trial Counsel did not present evidence that SPC Ambuhl carried out any act of cruelty or maltreatment other than being present at the building of the pyramid.
- d. Charge IV: Violation of UCMJ, Article 134, Indecent Acts with Another
 - i. The Specification: In that SPC Megan Ambuhl, U.S. Army, did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with Iraqi detainees, SSG [REDACTED] CPL [REDACTED] SPC [REDACTED] PFC [REDACTED] by observing a group of detainees masturbating, or attempting to masturbate, while they were located

SUBJECT: Article 32(b) Investigating Officer's Findings and Recommendations, United States
v. SPC Megan M. Ambuhl

in a public corridor of the Baghdad Central Correctional Facility, with other soldiers who photographed or watched the detainees' actions.

- ii. I do not believe that the evidence presented shows reasonable grounds exist to believe that the accused committed this offense.
 - iii. Weaknesses-Of the three elements of this charge, I believe that Trial counsel failed to provide adequate evidence to show that elements #1 and #2 were met. SPC Ambuhl was present when the detainees were forced to masturbate but Trial counsel failed to provide evidence that she played any role, other than being present, in the perpetuation of the act itself. I do feel that element #3 was proven adequately as SPC Ambuhl being present was prejudice to good order and discipline and certainly brings discredit upon the armed forces.
4. After review of all evidence presented and completion of the Article 32 Investigation, it is my recommendation that Charges I and II against Specialist Megan Ambuhl be referred to a General Court Martial. I further recommend that Trial Counsel provide additional evidence to show that the elements listed above as not met, were indeed met if they intend to proceed with charges III and IV.
 5. POC for this memorandum is MAJ [REDACTED] at [REDACTED] or by phone at DNVN/DSN 559-[REDACTED]

[REDACTED]
MAJ, EN
Article 32 Investigating Officer



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

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

29 March 2004

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

SUBJECT: Request for Delay, United States v. SPC Megan M. Ambuhl

1. The defense requests a delay in the Article 32(b) hearing currently scheduled for 5 April 2004. The earliest available date for the defense to go forward with the Article 32 will be 20 April 2004. The defense requires this delay for the following reasons.

a. Defense counsel received the preferral packet on 26 March 2004. The packet contains several hundred pages of evidence and statements. The packet also contains a CD Rom with over 1,000 visual depictions. Counsel and SPC Ambuhl both must have ample time to conduct an even preliminary review of the evidence.

b. Defense counsel is located at FOB Danger in Tikrit and is reliant on military convoys or MILAIR to get to Victory Base. Defense counsel met with SPC Ambuhl on 26 March 2004 but requires at least two additional meetings with the client simply to prepare for the Article 32. These trips require significant advanced planning and coordination due to travel limitation in the Iraqi Theater.

c. The defense cannot reasonably be prepared to represent SPC Ambuhl at the Article 32 hearing by 5 April 2004. An unprepared counsel is tantamount to no counsel at all. U.S. v. Miro, 22 M.J. 509 (USACMR 1986). The delay is necessary for the defense counsel to reasonably prepare for the Article 32 hearing. Counsel needs time to interview witnesses, coordinate with civilian defense counsel, if any, and otherwise prepare for the hearing which includes 5 charged co-accused, several uncharged potential co-accused, voluminous documents and alleged victim statements in Farsi or Arabic.

d. SPC Ambuhl has considered hiring a civilian attorney. Granting the requested delay will allow the soldier to exercise her right to counsel and to explore avenues to hire a civilian attorney and ensure his or her presence for the Article 32(b) hearing.

e. Granting the requested delay will allow the government and the defense to explore a possible alternate disposition of this case.

f. Defense counsel is one of only two defense attorneys deployed to serve the entire 1st Infantry Division. In addition to representation of courts-martial clients, counsel is responsible for serving the needs of clients throughout a dozen geographically diverse FOBs in Iraq. Granting the requested delay will allow counsel to schedule coverage for these areas and to prioritize trial defense counsel requirements.

2. The requested delay is attributable to the defense. If I may be of further assistance in this matter, please contact me via email at [REDACTED] or by phone at DNVT: 553 [REDACTED]

[REDACTED]
CPT, JA
Trial Defense Counsel

002405

ENCLOSURE #4

AFZA-AP-IO

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

SUBJECT: Request for Delay

1. In the case of U.S. vs SPC Megan M. Ambuhl, HHC, 16th MP BDE (ABN), the Defense has submitted the attached request for delay until 20 April 2004.
2. The Article 32 was initially scheduled for 5 April 2004. Defense counsel received the case file on 26 March 2004, and is based FOB Danger in Tikrit. Defense needs more time to meet with its client and go over the entire case file.
3. SPC Ambuhl is also considering hiring a civilian attorney.
4. The Trial Counsel recommends approval of the delay as requested by defense.
5. I concur with both counsel and recommend that the request for delay be approved.
6. The POC for this memo is the undersigned at 559 [REDACTED]

Encl
as

[REDACTED]
MAJ, EN
Investigating Officer

002406
ENCLOSURE # 5



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

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

10 April 2004

MEMORANDUM FOR MAJ Charles Ransome, Article 32 Investigating Officer, Headquarters, 420th Engineer Brigade, Victory Base, Iraq, APO AE 09342

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

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

a. CID Agents

i. Special Agent [REDACTED], 10th MP BN, Baghdad, Iraq, APO AE 09335.
Agent [REDACTED] testimony is relevant because he interviewed numerous alleged victims and made several visits to the Abu Ghraib prison facility during the period of the alleged offenses. Agent [REDACTED] also interviewed several alleged co-conspirators.

ii. Special Agent [REDACTED], 10th MP BN, Baghdad, Iraq, APO AE 09335.
Agent [REDACTED] testimony is relevant because she interviewed several of the alleged victims and actively investigated the allegations in this case.

b. Iraqi Detainees

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

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

002407

ENCLOSURE #6

- vii. [REDACTED]
- viii. [REDACTED]
- ix. [REDACTED]
- x. [REDACTED]
- xi. [REDACTED]
- xii. [REDACTED]
- xiii. [REDACTED]
- xiv. [REDACTED]

c. Chain of Command — 372nd MP Company

- i. CPT [REDACTED] former Company Commander

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

- ii. CPT [REDACTED] former Platoon Leader

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

- iii. MSG [REDACTED] former Company 1SG

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

- iv. SFC [REDACTED] former Platoon Sergeant

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

d. Co-Accused — 372nd MP Company

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

e. Additional Witnesses — 372nd MP Company

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

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

iii. SSG [REDACTED]
(Day [REDACTED])

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

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

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

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

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

ix. SGT [REDACTED]

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

x. SPC [REDACTED]

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

xi. SSG [REDACTED]

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

f. Military Intelligence Witnesses

i. SPC [REDACTED] 325th MI Battalion

ii. SPC [REDACTED] 325th MI Battalion

iii. SPC [REDACTED] 325th MI Battalion

iv. SGT [REDACTED] 302nd MI Battalion

[REDACTED] will testify that members of his chain of command told him to delete Abu Ghraib photos off of his computer hard drive prior to the CID investigation.

v. CW2 [REDACTED] formerly assigned to 325th MI Battalion

1) CW2 [REDACTED] was an MI Interrogator that worked daily at Abu Ghraib at blocks 1a and 1b. CW2 [REDACTED] will testify about authorized MI interrogation techniques. CW2 [REDACTED] can testify as to the interaction and coordination between the MI interrogators and the MP guards. CW2 [REDACTED] has been transferred to the CPA in Baghdad.

vi. COL [REDACTED] 205th MI Brigade

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

g. Other Witnesses

- i. CPT [REDACTED] former Interrogation OIC, DNVT: 559-[REDACTED]
[REDACTED] CPT [REDACTED], a Military Intelligence officer, is familiar with the Camp Vigilant SOP and can testify as to CJTF-7 policies regarding Interrogation Rules of Engagement for detainees at Abu Ghraib.
- ii. CPT [REDACTED] 205th MI Brigade Operational Law, DNVT: 559-[REDACTED]
[REDACTED] CPT [REDACTED] was the legal advisor for the MI Group who ran Abu Ghraib prison. CPT [REDACTED] can testify to the procedures put into place for dealing with detainees and the training that was taught to the members of the 372nd MP Company for their work at the facility. CPT [REDACTED] visited Abu Ghraib during the relevant time period and can testify to the conditions at the facility.
- iii. CPT [REDACTED], Ft. Sam Houston
[REDACTED] CPT [REDACTED] was one of several attorneys who provided advice on detainee operations and ROE at Abu Ghraib.
- iv. SGM [REDACTED], 418th MP Detachment
- iii. LTC [REDACTED], CJTF-7, BIAP, Baghdad, Iraq
[REDACTED] LTC [REDACTED] will testify as to his knowledge of allegations of abuse and/or mistreatment of detainees between 16 Sep 03 and 22 Dec 03.
- iv. MAJ [REDACTED] CJTF-7
LTC [REDACTED] tasked MAJ [REDACTED] to respond to inquiries by the ICRC during the fall of 2003. When called to testify he can explain the ICRC inquiries and testify as to his response on behalf of CJTF-7.

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

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

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

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

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

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

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

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

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

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

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

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

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

- viii. SSG [REDACTED]
- ix. CPL [REDACTED]
- x. SPC [REDACTED]
- xi. SPC [REDACTED]
- xii. SGT [REDACTED]
- xiii. SPC [REDACTED]
- xiv. SPC [REDACTED]

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

- j. A copy of the final CID case file with exhibits, of case number 0005-04-CID149, as referenced in the AIR of SA [REDACTED] dated 22 Jan 04, regarding a K-9 incident at Abu Ghraib;
- k. Copies of the two Working Papers referenced by BG Karpinski in her 24th Dec 03 letter to Ms. [REDACTED] ICRC Protection Coordinator;
- l. Copies of the ICRC reports dated Oct 03 and Dec 03 obtained by CID from CW4 [REDACTED] as referenced in SA [REDACTED] AIR, dated 5 Feb 04;
- m. Copies of the official detainee file (as referenced in para. 3-4 of the Camp Vigilant Operations Procedures SOP (draft)) of the detainees listed in para. 1b of this Memorandum. At a minimum, the defense requests the name, detainee sequence number, capture number, capture date and crime charged with or suspected of for the detainees listed in para. 1b of this Memorandum;
- n. A copy of the "Behavior Modification Plan" as referenced in para. 3-12 of the SOP;
- o. A copy of the draft of Chapter 4 as referenced on pages 9-10 of the SOP;
- p. A copy of the parallel AR 15-6 Investigation concerning the charged offenses and the actions and conduct of the leadership of the 372nd MP Company and the 800th MP Brigade (to include, any documents maintained by the AR 15-6 Officer to include his or her appointment memorandum);
- q. Copies of any Press Releases or PAO information disseminated by the command regarding the charges faced by SPC Ambuhl and her co-accused, to include documents drafted by the Office of the Staff Judge Advocate for release;
- r. Copies of any administrative action, relief-for-cause documents, letters of reprimand, and OERs/NCOERs for the members of the commands of 372nd MP Company and 800th MP Battalion who were in command from October 2003 through March 2004;
- s. Copies of any SIGACTS, FRAGOs, OPORDERs, or other similar documents related to the ICRC visits to Abu Ghraib from October to December 2003;
- t. Copies of any documents obtained or produced by MAJ [REDACTED] as a result of his response by CJTF-7 to allegations of abuse and/or mistreatment of detainees between 16 Sep 03 and 22 Dec 03;
- u. Copies of all documents, including documents of UCMJ or administrative action, regarding 3 soldiers from the 519th who ordered a female detainee to strip as referenced by CPT [REDACTED] in the preferral packet;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. If I may be of further assistance in this matter, please contact me via email at [REDACTED] or by DNVF phone at: 553-[REDACTED] or 553-[REDACTED]

//original signed//

[REDACTED]
CPT, JA
Trial Defense Counsel

**REDACTED
COPY**

002417

COURT-MARTIAL RECORD

NAME AMBUHL, MEGAN M. SPC

SSN _____

ACTIONS CODED:

INITIAL _____

ACCA _____

FINAL _____

COMPANION(S):

ASSIGNED TO:

PANEL _____

EXAM. DIV. ✓

ACCA CLERK of COURT

RETURN THIS FILE TO:

OFFICE OF THE CLERK OF COURT

US ARMY JUDICIARY

901 NORTH STUART STREET, SUITE 1200

ARLINGTON, VA 22203-1837

VOL II OF III VOL(S)

ARMY 20041130

VERBATIM¹
RECORD OF TRIAL²
(and accompanying papers)

OF

AMBUHL, Megan M.

(NAME: Last, First Middle Initial)

HHC, 16th MP Bde (ABN)

III Corps
(unit/Command Name)

[REDACTED]
(Social Security Number)

US Army
(Branch of Service)

Specialist
(Rank)

Victory Base, Iraq
(Station or Ship)

BY
GENERAL COURT-MARTIAL

CONVENED BY COMMANDING GENERAL
(Title of Convening Authority)

Headquarters, III Corps
(Unit/Command of Convening Authority)

TRIED AT

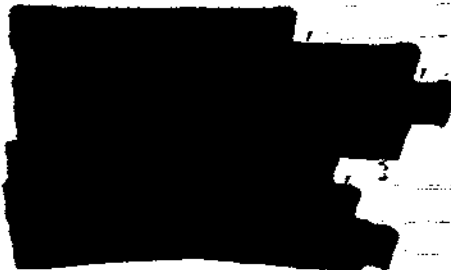
Victory Base, Iraq/Mannheim
(Place or Places of Trial)

ON

11, 23 and 25 August 2004
(Date or Dates of Trial)

COMPANION CASES:

SGT
SSG
SPC
SPC
SPC
SPC
PFC



Allied document through 59

US RMY JUDICIARY

2005 JAN - 5 P 2:16

RECEIVED
CLERK OF COURT

002419

¹ Insert "verbatim" or "summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)

² See inside back cover for instructions as to preparation and arrangement.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 420th ENGINEER BRIGADE
LSA ANACONDA
APO AE 09302-1344



Builders in Battle!

AFRC-CAR-EBA-LG

20 APR 04

MEMORANDUM FOR [REDACTED] Trial Defense Counsel, Tikrit Branch
Office, Region IX

SUBJECT: 2nd Request for Delay, United States v. SPC Megan M. Ambuhl

1. I have reviewed Defense Counsel's 2nd request for a delay in the Article 32(b) investigation scheduled for 20 April 2004 with [REDACTED]. [REDACTED] has agreed to a delay from the scheduled date of 20 April 2004 to 1 May, 2004.
2. The Article 32(b) session in the case of U.S. vs Ambuhl will be rescheduled for 1 May 2004 at a time to be determined.
3. This delay is attributable to the defense.
4. POC for this memorandum is [REDACTED] at [REDACTED] y.mil or by phone at DNV 302 559 [REDACTED]

[REDACTED]

Article 32 Investigating Officer

002420

ENCLOSURE #9



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 420th ENGINEER BRIGADE
LSA ANACONDA
APO AE 09302-1344



Builders in Battle!

AFRC-CAR-EBA-LG

19 APR 04

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

SUBJECT: 2nd Defense Request for Delay, United States v. SPC Megan M. Ambuhl

1. In the case of U.S. vs SPC Megan M. Ambuhl, HHC, 16th MP BDE (ABN), the Defense has submitted the attached 2nd request for delay in the ART 32 investigation to 20 May, 2004.
2. The Article 32 was initially scheduled for 5 April 2004. Defense Counsel was granted a request for delay to 20 April 2004.
3. SPC Ambuhl has retained a civilian attorney and is requesting this second delay to allow him to travel to Iraq to attend and prepare for the investigation.
4. Trial counsel recommends approval of a 7-10 day delay from 20 April or no later than 1 May 2004.
5. As the investigating officer, I recommend a 10 day delay as a reasonable delay and ask that you approve Defense Counsel's request for a 2nd delay for a period of 10 days.
6. POC for this memorandum is [REDACTED] at [REDACTED] or by phone at DNV 537 [REDACTED]

[REDACTED]

Article 32 Investigating Officer

002421

ENCLOSURE #8



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

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

19 April 2004

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

SUBJECT: Second Request for Delay -- United States v. SPC Megan M. Ambuhl

1. As previously requested by e-mail on 18 April 2004, the defense requests a delay in the Article 32(b) hearing currently scheduled for 20 April 2004. The defense requests a delay until approximately 20 May 2004, for the following reasons:

a. On 18 April 2004, Trial Defense Counsel was notified formally that SPC Ambuhl obtained civilian counsel [REDACTED]

b. [REDACTED] does not have a copy of the preferral packet or copies of any evidence in this case.

c. [REDACTED] maintains a law practice in Washington, D.C. and has not yet finalized the extensive coordination to travel to Iraq to represent SPC Ambuhl.

2. Further, the government has indicated that the majority of witnesses the defense has requested to testify at the Article 32 hearing are physically unavailable. Granting a delay will allow for continued efforts to produce the requested defense witnesses at the Article 32 hearing.

3. The requested delay is attributable to the defense. If I may be of further assistance in this matter, please contact me via email at [REDACTED] or by phone at DNVF: 553 [REDACTED]

//original signed//

[REDACTED]

Trial Defense Counsel

002422

ENCLOSURE #7

Enclosure #10 – IO Determination on Trial Counsel's Response to Defense Request for Witnesses and Production of Evidence

Please review my comments noted below in Underlined, italicized font. These are based upon my determinations after consultation with the IO legal advisor, LTC Black.

ART 32 Investigating Officer

Black, non-italicized font is Trial Counsel's response to the Defense Request for Witnesses and Production of Evidence.

Available

1. [REDACTED] invoked at last 32 If the government contends they do not intend to grant this witness immunity, then it is the government's prerogative. A letter or telephone correspondence from the DC of [REDACTED] should suffice as to [REDACTED] availability.
2. [REDACTED] - invoked at last 32 If the government contends they do not intend to grant this witness immunity, then it is the government's prerogative. A letter or telephone correspondence from the DC of [REDACTED] should suffice as to [REDACTED] availability.
3. [REDACTED] invoked at last 32 If the government contends they do not intend to grant this witness immunity, then it is the government's prerogative. A letter or telephone correspondence from the DC of [REDACTED] should suffice as to [REDACTED] availability.
4. [REDACTED]
5. [REDACTED]

Declare unavailable outside 100 miles This language applies to all witnesses outside of the 100 mile situs of the investigation: RCM 405 provides that a witness is "reasonably available" if they are within 100 miles of the situs of the investigation and their testimony and personal appearance of the witness outweighs the difficulty, expense, delay and effect on military operations of obtaining the witness.

CID Agents:

1. [REDACTED] Redeployed to the U.S. I feel that this individual may provide valuable input to the investigation and as such, TC should take all means possible to contact this individual and have them present for the investigation.
2. [REDACTED] - Redeployed to the U.S. I feel that this individual may provide valuable input to the investigation and as such, TC should take all means possible to contact this individual and have them present for the investigation.

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ENCLOSURE #10

Chain of Command:

1. [REDACTED] Redeployed to U.S. If the government contends they do not intend to grant this witness immunity, then it is the government's prerogative. A letter or telephone correspondence from the DC of [REDACTED] should suffice as to [REDACTED] availability.

Additional Witnesses:

1. [REDACTED] - Kuwait It is my determination that this witness is not reasonably available.
2. [REDACTED] Kuwait/ Tallil DC stated that [REDACTED] may provide exculpatory testimony regarding SPC Ambuhl. Please identify what is the nature of this exculpatory evidence.
3. [REDACTED] - Kuwait/Tallil -invoked at prior 32
4. [REDACTED] - Kuwait/Tallil It is my determination that this witness is not reasonably available.
5. [REDACTED] - Kuwait/ Tallil It is my determination that this witness is not reasonably available.
6. [REDACTED] - Kuwait/ Tallil It is my determination that this witness is not reasonably available.
7. [REDACTED] - Kuwait/ Tallil It is my determination that this witness is not reasonably available.
8. [REDACTED] - Kuwait/ Tallil It is my determination that this witness is not reasonably available.
9. [REDACTED] - Kuwait / Tallil It is my determination that this witness is not reasonably available.
10. [REDACTED] - Kuwait /Tallil It is my determination that this witness is not reasonably available.
11. [REDACTED] - Kuwait / Tallil It is my determination that this witness is not reasonably available.

Military Intelligence Witnesses:

1. [REDACTED] Redeployed to U.S. No reason has been given why these witnesses are critical to the investigation.

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2. [REDACTED] Redeployed to U.S. No reason has been given why these witnesses are critical to the investigation.
3. [REDACTED] Redeployed to U.S. No reason has been given why these witnesses are critical to the investigation.
4. [REDACTED] - cannot locate, will continue to check
5. [REDACTED] Redeployed to U.S. It is my determination that this witness is not reasonably available.

Other Witnesses:

1. [REDACTED] Redeployed to U.S. It is my determination that this witness is not reasonably available.
2. [REDACTED] Redeployed to U.S. It is my determination that this witness is not reasonably available.
3. [REDACTED] - Redeployed to U.S. It is my determination that this witness is not reasonably available.
4. [REDACTED] - cannot locate, will continue to check
5. [REDACTED] - Redeployed to Australia

Co-Accused:

1. [REDACTED] - Fort Bragg, awaiting court-martial I feel that this individual may provide valuable input to the investigation and as such, TC should take all means possible to contact this individual and have them present for the investigation.

Unavailable, co-accused, invoked rights and represented

1. [REDACTED] A letter or telephone correspondence from the DC of [REDACTED] should suffice as to [REDACTED] availability.
2. [REDACTED] A letter or telephone correspondence from the DC of [REDACTED] should suffice as to [REDACTED] availability.
3. [REDACTED] A letter or telephone correspondence from the DC of [REDACTED] should suffice as to [REDACTED] availability.
4. [REDACTED] A letter or telephone correspondence from the DC of [REDACTED] should suffice as to [REDACTED] availability.

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5. A letter or telephone correspondence from the DC of [REDACTED] should suffice as to [REDACTED] availability.

Detainee victims

For security reasons Detainees will not be brought to Victory Base. The government requests that they be declared unavailable. If the IO deems them necessary, we will have to arrange a portion of the hearing to take place at BCCF. [REDACTED] please make arrangements to either have the witnesses (Detainees 1-14 noted below) available to testify via phone conference or have a portion of the investigation at BCCF in order that we can hear their testimony. [REDACTED] it is a correct statement that defense wants this done in lieu of use of their sworn statements?

1. [REDACTED] Vigilant A, security detainee
2. [REDACTED] Vigilant A, security detainee
3. [REDACTED] Hard site, 6-B, criminal
4. [REDACTED] - Ganci 5, security detainee
5. [REDACTED] - Ganci 8, security detainee
6. [REDACTED] Hard site 3-B, criminal
7. [REDACTED] - Ganci -1, security detainee
8. [REDACTED] - Hard site 4-B, criminal
9. [REDACTED] - Unknown, released
10. [REDACTED] Unknown, released
11. [REDACTED] - Vigilant C, security detainee
12. [REDACTED] - Ganci 5, Unknown
13. [REDACTED] - Unknown, released
14. [REDACTED] - Ganci 8, security detainee

Documents

1. CID Reports - Already provided. Any further documents available at CID BCCF.

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2. Crime Scene Evidence - Already provided. Not aware of anything else at this time.
3. ROE RUF - Not aware of any.
4. OPORDs - Not sure what she is requesting or what time frame. Not aware of any Company OPORDs. CJTF-7 has thousands in total. They are classified and available on the SIPR / Tacweb.
5. Training Records - Not aware of any at this time. We will provide records as soon as they become available.
6. Detainees Medical Records - Already provided in CID file. Not aware of any others. If any they are available at BCCF.
7. IG Complaints - Not aware of any.
8. Counseling Files - Already provided Graner's and England's file. We will provide further records as they become available.
9. RIP Schedules - Not aware of any.
10. CID File 0005-04-CID149 - Available at CID BCCF.
11. Working Paper [REDACTED] - Will provide when available. [REDACTED], please clarify what "when available" means.
12. ICRC Reports - Already provided.
13. Official Detainee File - Not aware of any. If they exist, they will be available at BCCF.
14. Behavior Modification Plan - If not classified, will provide when available. [REDACTED], please clarify what "when available" means.
15. Chapter 4 - If not classified, will provide when available.
16. AR 15-6 - Already provided.
17. PAO - Not aware of any press releases or written PAO dissemination for release.
18. Admin. Actions - None complete at this time.
19. SIGACTS - Not aware of any.

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20. [REDACTED] Docs - Not aware of any.
21. UCMJ, 3 soldiers 519th - Not aware of this action. (We will check.)
22. UCMJ [REDACTED] - Not aware of this action. (We will check.)
23. UCMJ Abuse - Not aware of this action. (We will check.)
24. Negative Counseling - Not aware of any at this time. Will provide if available. [REDACTED]
[REDACTED] please clarify what "when available" means.
25. Work Schedules - Not aware of any at this time. Will provide if available. [REDACTED]
[REDACTED] please clarify what "when available" means.

Very respectfully,

[REDACTED]
16th MP BDE (ABN)
Trial Counsel
302-588-[REDACTED]
AIRBORNE!



REPLY TO
ATTENTION OF:

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

AFZA-AP-CO

24 March 2004

MEMORANDUM FOR [REDACTED] 420 Engineer Brigade, Victory Base,
Iraq, APO AE 09342

SUBJECT: Appointment as Article 32 Investigating Officer

1. You have been appointed as an investigating officer (IO) pursuant to the Uniform Code of Military Justice (UCMJ), Article 32, to investigate the attached charges against Specialist Megan M. Ambuhl, HHC, 16th MP BDE (ABN), Victory Base, Iraq APO AE 09342. According to Article 32, UCMJ, and Rule 405, Manual for Court-Martial (2002), you are to:
 - a. Conduct a thorough and impartial investigation into the truth of the allegation(s);
 - b. Consider the correctness of the form of the charges; and
 - c. Make recommendations as to the disposition of the charges in the interest of justice and discipline.
2. Prior to the commencement of the investigation, you must contact [REDACTED] at the Administrative Law Division, Combined Joint Task Force Seven, Victory Base, Iraq, at DSN 318-822 [REDACTED] and advise him that you have been detailed to conduct this investigation. He, or a Staff Judge Advocate designee, will brief you on your responsibilities and provide you with advice throughout the investigation. You will not contact the government representative or defense counsel for assistance in matters, other than routine administrative or clerical matters, regarding this investigation.
3. Your duties as an Article 32 investigating officer takes precedence over any of your other assigned duties. The following guidance pertains to delays:
 - a. Schedule the hearing as soon as you receive notice of this appointment. The hearing date should be within seventy-two hours of receipt of this appointment letter. If the defense or the government cannot proceed on the selected date, obtain a request for delay, in writing, from the party requesting the delay. Requests for delay should be attached to the report of investigation.

002429

ENCLOSURE #11

AFZA-AP-CO

SUBJECT: Appointment of Article 32 Investigating Officer

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

4. [REDACTED] Trial Counsel, 16th Mp Bde (Abn) DNV 588 [REDACTED] is appointed as the government representative and is authorized to participate in this investigation. You can contact Trial Defense Service at DNV 838 [REDACTED] to confirm the name of the detailed defense counsel. While these officers or their designees will attend the hearing and will question witnesses, it is your responsibility to conduct the investigation, not the government's representatives. Further, both of these parties play an adversarial role in the proceedings. You should therefore avoid discussing substantive matters pertaining to the case with either party outside formal sessions where all parties have opportunity to be present.

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

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

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

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

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

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

AFZA-AP-CO

SUBJECT: Appointment of Article 32 Investigating Officer

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

2 Encls

1. DD Form 458

2. Case File



COL, MP
Commanding

CHARGE SHEET

1. NAME OF ACCUSED (Last, First, MI) AMBUHL, Megan M.			2. SSN		3. GRADE OR RANK SPC	4. PAY GRADE E-4
5. UNIT OR ORGANIZATION Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq APO AE 09342					6. CURRENT SERVICE	
					a. INITIAL DATE 28 Jan 02	b. TERM 8 years
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED	
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL				
\$1,638.30	\$100.00	\$1,738.30	None		N/A	

II. CHARGES AND SPECIFICATIONS

10. CHARGE I VIOLATION OF THE UCMJ, ARTICLE 81

THE SPECIFICATION: In that Specialist Megan M. Ambuhl, U.S. Army, did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 23 October 2003 conspire with Staff Sergeant [REDACTED] Sergeant [REDACTED] Corporal [REDACTED] Specialist [REDACTED] and Private First Class [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Specialist Ambuhl did participate in a photograph with PFC [REDACTED] who tied a leash around the neck of a detainee and led the detainee down the corridor with the leash around his neck.

CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 92

THE SPECIFICATION: In that Specialist Megan M. Ambuhl, U.S. Army, who knew, of her duties at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, was derelict in the performance of those duties in that she willfully failed to protect Iraqi detainees from abuse, cruelty and maltreatment, as it was her duty to do.

(SEE CONTINUATION SHEET)

11a. NAME OF ACCUSER (Last, First, MI) [REDACTED]		11b. GRADE O-3		11c. ORGANIZATION OF ACCUSER HHC, 16th MP Bde (Abn) APO AE 09342	
11d. SIGNATURE OF ACCUSER [REDACTED]				11e. DATE 20 MAR '04	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 20th day of MARCH, 2004, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[REDACTED]
Typed Name of Officer

HHC, XVIII Abn Corps
Organization of Officer

O-3
Grade

Trial Counsel

Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)

[REDACTED]
Signature

12.

On 20 March 2004, the accused was informed of the charges against him/her and of the name(s) of The accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

[REDACTED]
Typed Name of Immediate Commander

HHC, 16th MP Bde (Abn) APO AE 09342

Organization of Immediate Commander

O-3

[REDACTED]
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1845 hours, 21 March 2004 at Headquarters, 16th Military
Designation of Command or

Police Brigade (Airborne) APO AE 09342

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹

[REDACTED]
Typed Name of Officer

Commanding

Official Capacity of Officer Signing

O-6

V. REFERRAL: SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE (YYYYMMDD)

Referred for trial to the _____ court-martial convened by _____

_____, subject to the following instructions: ²

By _____

of _____

Command or Order

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

15.

On _____, I (caused to be) served a copy hereof on (each of) the above named accused.

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 — When an appropriate commander signs personally, inapplicable words are stricken.
2 — See R.C.M. 601(a) concerning instructions. If none, so state.

DD FORM 458 (BACK), MAY 2000

002433

CONTINUATION SHEET DD Form 458, AMBUHL, Megan M., SPC,
HHC, 16th MP Bde (Abn), III Corps, Victory Base, Iraq APO AE 09342

Item 10 (continued)

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 93

THE SPECIFICATION: In that Specialist Megan M. Ambuhl, U.S. Army, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several Iraqi detainees, persons subject to her orders, by watching naked detainees in a pyramid of human bodies.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 134

THE SPECIFICATION: In that Specialist Megan M. Ambuhl, U.S. Army, did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with Iraqi detainees, Staff Sergeant [REDACTED], Specialist [REDACTED], and Private First Class [REDACTED], by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central Correctional Facility, with other soldiers who photographed or watched the detainees' actions.

002434

AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Service of Preferral of Charges in the case of United States v. Specialist Megan M. Ambuhl

1. I hereby acknowledge that the charges against me were read and preferred on this 20th day of MARCH, at 1221 hours. Further, I hereby acknowledge receipt of said charge sheet(s) and allied papers.

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

Sgt. Megan Ambuhl
MEGAN M. AMBUHL
SPC, USA

002435

OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837

THE RECORD OF TRIAL HAS BEEN REVIEWED FOR RELEASE UNDER THE PROVISIONS OF THE FREEDOM OF INFORMATION ACT. THE DOCUMENT[S] DESCRIBED AS FOLLOWS HAVE BEEN REMOVED FROM THIS COPY OF THE RECORD BECAUSE THE RELEASE WOULD BE IN VIOLATION OF THE DOD FREEDOM OF INFORMATION ACT PROGRAM, DOD 5400.7-R, EXEMPTION (7) (C), 5 U.S.C. 552 (b) (7) (C):

Criminal Investigation Report

Contents cannot be released outside the Department of the Army without the approval of the Commander, United States Army Criminal Investigation Command, Fort Belvoir, VA.

002436

**OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837**

THE RECORD OF TRIAL HAS BEEN REVIEWED FOR RELEASE UNDER THE PROVISIONS OF THE FREEDOM OF INFORMATION ACT. THE DOCUMENT[S] DESCRIBED AS FOLLOWS HAS [HAVE] BEEN REMOVED FROM THIS COPY OF THE RECORD BECAUSE THE RELEASE WOULD BE IN VIOLATION OF THE DOD FREEDOM OF INFORMATION ACT PROGRAM, DOD 5400.7-R, EXEMPTION 6 and 7(C):

Article 15-6 Investigation of the 800th Military Police Brigade

002437

AFZA-AP-CO

21 Apr 04


MEMORANDUM FOR Investigating Officer, U.S. v SPC Ambuhl

SUBJECT: Decision on Second Request for Delay


1. I have reviewed the enclosed Defense Second Request for Delay in the case of U.S. vs SPC Megan M. Ambuhl, HHC, 16th MP BDE (ABN).

2. ____ The request for delay is disapproved.

OR

3.  This second request for delay is approved, and the Article 32(b) session in the case of U.S. vs Ambuhl will be rescheduled for 1 May 2004.

Encl
as



COL, MP
Commanding

002438



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 420th ENGINEER BRIGADE
LSA ANACONDA
APO AE 09302-1344



Builders in Battle!

AFRC-CAR-EBA-LG

20 APR 04

MEMORANDUM FOR [REDACTED], Trial Defense Counsel, Tikrit Branch
Office, Region IX

SUBJECT: 2nd Request for Delay, United States v. SPC Megan M. Ambuhl

1. I have reviewed Defense Counsel's 2nd request for a delay in the Article 32(b) investigation scheduled for 20 April 2004 with [REDACTED] [REDACTED] has agreed to a delay from the scheduled date of 20 April 2004 to 1 May, 2004.
2. The Article 32(b) session in the case of U.S. vs Ambuhl will be rescheduled for 1 May 2004 at a time to be determined.
3. This delay is attributable to the defense.
4. POC for this memorandum is [REDACTED] at [REDACTED] mil or by phone at DNV 302 559 [REDACTED]

//Original Signed//

[REDACTED]
Article 32 Investigating Officer

002439



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 420th ENGINEER BRIGADE
LSA ANACONDA
APO AE 09302-1344



Builders in Battle!

AFRC-CAR-EBA-LG

20 APR 04

MEMORANDUM FOR [REDACTED] Trial Defense Counsel, Tikrit Branch
Office, Region IX

SUBJECT: Defense Request for Informal Meeting, United States v. SPC Megan M. Ambuhl

1. I have reviewed Defense Counsel's request for an informal meeting between Trial Counsel (TC), Defense Counsel (DC) and the Investigating Officer (IO). We have all agreed to meet 21 April 2004 at 1400 hours at the Camp Victory Courthouse. Additionally, DC has requested that SPC Ambuhl participate in the informal meeting and has also requested that the meeting be held "On the Record". I have discussed each request with [REDACTED] of CJTF7. This memorandum serves to provide my decision upon these two requests.
2. DC has requested that SPC Ambuhl attend the informal meeting. This is an informal meeting and as such, SPC Ambuhl is not entitled to attend. This meeting will be similar to an R.C.M. 802 and therefore only DC, TC and the IO are to be present.
3. DC has requested that the informal meeting be transcribed or placed "On the Record". I am prepared to hold this informal meeting as requested by DC although there will be no verbatim record of the meeting published and no transcription taken. It is acceptable for notes to be taken and I will publish my decisions formally in writing for the record on issues that are surfaced.
4. Please reply to my attention by 1200 hours on 21 April 2004 whether or not this is acceptable to DC. If this is not acceptable, we will postpone this meeting until the ART 32(b) Investigation scheduled for 1 May, 2004.
5. POC for this memorandum is [REDACTED] at [REDACTED] or by phone at DNV 537-[REDACTED]

//Original Signed//

[REDACTED]
Article 32 Investigating Officer

002440

CJTF7-16th MP BDE SJA NCOIC

From: [REDACTED]@us.army.mil
Sent: Tuesday, April 20, 2004 3:35 PM
To: [REDACTED] CJTF7 16MP
Cc: [REDACTED]@svg-law.com; Bostic, [REDACTED]
CJTF7-OPLAW
Subject: Re: RE: RE: Request for Delay



Card for

[REDACTED]@us.
I just got off the phone with [REDACTED]. He has agreed to a delay to 1 MAY 2004 for the ART 32 investigation. This is attributable to the defense. I will follow up with a memo stating this.

MAJ, EN
S-4, 420th EN Brigade
DNVT
"Let's Roll" 9-11-01

"The only thing necessary for the Triumph of evil is for good men to do nothing" - Edmund Burke (1729-1797)

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

From: [REDACTED]@vcmain.hq.c5.army.mil>
Date: Tuesday, April 20, 2004 9:20 am
Subject: RE: RE: Request for Delay

> Sir:
>
> Are you available at 1500 today at the courthouse? [REDACTED]
> wants to go over some preliminaries as to availability of witnesses.

> VR
> [REDACTED]
> 16th MP BDE (ABN)
> Trial Counsel
> 302-588-[REDACTED]
> AIRBORNE!

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

> From: [REDACTED]@us.army.mil [
> Sent: Monday, April 19, 2004 7:31 PM
> To: [REDACTED].mil
> Cc: [REDACTED] CJTF7-OPS OSJA;
> [REDACTED]
> M CPT CJTF7 16MP; [REDACTED] CJTF7-16th MP BDE SJA NCOIC;
> [REDACTED] R LTC CJTF7-OPLAW
> Subject: Re: RE: Request for Delay

> [REDACTED]
> please forward the attached memos to [REDACTED] for his
> review/approval. If we cannot gain his approval in time for
> tomorrow's investigation, we must
> be prepared to proceed as originally scheduled.

> [REDACTED]
> S-4, 420th EN Brigade
> DNV
> "Let's Roll" 9-11-01
>
> "The only thing necessary for the Triumph of evil is for good men
> to do
> nothing" - Edmund Burke (1729-1797)
>

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

> From: [REDACTED]
> Date: Monday, April 19, 2004 2:53 pm
> Subject: Re: RE: Request for Delay

> > Sir,

> >
> > Thank you for your patience. A formal request is attached.
> > Again, I have not yet heard from [REDACTED] but will inform the
> > government as soon as I do. Thank you for your consideration of
> > this request.

> > V/R,

> > [REDACTED]
> > CPT, JA
> > Trial Defense Counsel
> > Tikrit Branch Office (FOB Danger)
> > Region IX
> > DNV: 553-[REDACTED] or 553-[REDACTED]
> > E-mail: [REDACTED]

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

> > From: [REDACTED]
> > Date: Monday, April 19, 2004 5:34 pm
> > Subject: Re: RE: Request for Delay

> > [REDACTED]
> > I will keep my eyes open.

> > [REDACTED]
> > MAJ, EN
> > S-4, 420th EN Brigade
> > DNV 302 559-[REDACTED]

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

> > From: [REDACTED] M 1LT CJTF7-OPS OSJA"
> > <[REDACTED]> Date: Monday, April 19,
> > 2004
> > 1:49 pm
> > Subject: RE: Request for Delay

> > > Sir,

> > >
> > > I just spoke to [REDACTED] She is having difficulty
> > > accessing
> > > her email
> > > and she is currently meeting with her client. She requested
> > I
> > > notify you
> > > that she will be submitting a formal request for delay
> > > within
> > > the
> > > next hour.
> > > The government does not object to a reasonable delay, so
> > long

002442

> > as
> > > the delay
> > > is credited to the defense.
> > >
> > > v/r
> > > [REDACTED]
> > >
> > > -----Original Message-----
> > > From: [REDACTED]
> > > [REDACTED]@us.army.mil]
> > > Sent: Monday, April 19, 2004 07:54
> > > To
> > > Cc: [REDACTED]@svg-law.com; [REDACTED] CJTF7 16MP;
> > > [REDACTED]
> > > [REDACTED]
> > > CJTF7-OPS OSJA; [REDACTED] CJTF7-16th MP BDE SJA
> > > NCOIC; [REDACTED]
> > > [REDACTED] CJTF7-OPLAW
> > > Subject: Re: Request for Delay
> > >
> > > [REDACTED]
> > > please forward a formal request for delay by 1700 hours today
> > > detailing the requested length of delay and the specific
> > reasons
> > > for the
> > > delay. In the absence of a formal request, we will proceed
> > with
> > > the ART
> > > 32 hearing tomorrow, 20 April, here at Camp Victory.
> > >
> > > [REDACTED], please
> > > prepare to have SPC Ambuhl brought to Camp Victory for the
> ART 32
> > > Investigation tomorrow, 20 April.
> > >
> > > I am currently at Victory and can be reached at 537-
> > > [REDACTED].> >
> > > [REDACTED]
> > > [REDACTED]
> > > S-4, 420th EN Brigade
> > > DNVF 302 559- [REDACTED]
> > >
> > > ----- Original Message -----
> > > From
> > > Date: Monday, April 19, 2004 9:46 am
> > > Subject: Re: Request for Delay
> > >
> > > > Sir,
> > > >
> > > > I have e-mailed [REDACTED] but have not heard back from
> him
> > > yet.
> > > >
> > > > He does not have a copy of the packet and apparently, was
> just
> > > > retained last week.
> > > >
> > > > Currently, I am working out of the TDS Victory office but
> I
> > > do
> > > > have limited access to e-mail.
> > > >
> > > > V/R,
> > > > [REDACTED]
> > > > [REDACTED]
> > > > Trial Defense Counsel
> > > > Tikrit Branch Office (FOB Danger)

> > > > Region IX
> > > > DNVT: 553- [REDACTED] or 553- [REDACTED]
> > > > E-mail: [REDACTED]
> > > >
> > > > ----- Original Message -----
> > > > From
> > > > Date: Monday, April 19, 2004 9:21 am
> > > > Subject: Re: Request for Delay
> > > >
> > > > [REDACTED], how much of a delay are you requesting?
> > > > Additionally, [REDACTED] please provide a memorandum
> (as
> > > > opposed
> > > > to an email) requesting the delay. Please forward the
> > > > memorandum
> > > > ASAP so that we can work this immediately.
> > > >
> > > > [REDACTED]
> > > > [REDACTED]
> > > > S-4, 420th EN Brigade
> > > > DNVT 302 559- [REDACTED]
> > > >
> > > >
> > > > ----- Original Message -----
> > > > From
> > > > Date: Sunday, April 18, 2004 2:57 pm
> > > > Subject: Request for Delay
> > > >
> > > > > Sir,
> > > > >
> > > > > Good evening. Please accept my personal apologies for
> > the
> > > > > lateness of this request.
> > > > >
> > > > > The defense requests a delay in the Art. 32 hearing
> > > scheduled
> > > > > for
> > > > > 20 April 2004 in the case of U.S. v. Ambuhl.
> > > > >
> > > > > I just received notice today that SPC Ambuhl has hired
> > [REDACTED]
> > > > > [REDACTED], a civilian attorney from Washington, D.C., to
> > > represent
> > > > > her in the pending case. Both SPC Ambuhl and [REDACTED]
> [REDACTED]
> > > > > desire
> > > > > his presence at the Article 32 hearing.
> > > > >
> > > > > [REDACTED]'s e-mail address is in the "cc" line of
> this
> > e-
> > > > > mail.
> > > > > His further contact information is as follows: [REDACTED]
> > [REDACTED]
> > > > > [REDACTED], 1101 15th Street, NW,
> > Suite
> > > 202,
> > > > > Washington, D.C., 20005. His phone number is: (202)
> 828-
> > [REDACTED]
> > > > > >
> > > > > Thank you for your consideration of this request.
> > > > >
> > > > > V/R,
> > > > >
> > > > > [REDACTED]

002444

AFZA-AP-IO

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

SUBJECT: Request for Delay

1. In the case of U.S. vs SPC Megan M. Ambuhl, HHC, 16th MP BDE (ABN), the Defense has submitted the attached request for delay until 20 April 2004.
2. The Article 32 was initially scheduled for 5 April 2004. Defense counsel received the case file on 26 March 2004, and is based FOB Danger in Tikrit. Defense needs more time to meet with its client and go over the entire case file.
3. SPC Ambuhl is also considering hiring a civilian attorney.
4. The Trial Counsel recommends approval of the delay as requested by defense.
5. I concur with both counsel and recommend that the request for delay be approved.
6. The POC for this memo is the undersigned at 559-██████████

Encl
as

████████████████████
Investigating Officer

002446



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 420th ENGINEER BRIGADE
LSA ANACONDA
APO AE 09302-1344



Builders in Battle!

AFRC-CAR-EBA-LG

19 APR 04

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

SUBJECT: 2nd Defense Request for Delay, United States v. SPC Megan M. Ambuhl

1. In the case of U.S. vs SPC Megan M. Ambuhl, HHC, 16th MP BDE (ABN), the Defense has submitted the attached 2nd request for delay in the ART 32 investigation to 20 May, 2004.
2. The Article 32 was initially scheduled for 5 April 2004. Defense Counsel was granted a request for delay to 20 April 2004.
3. SPC Ambuhl has retained a civilian attorney and is requesting this second delay to allow him to travel to Iraq to attend and prepare for the investigation.
4. Trial counsel recommends approval of a 7-10 day delay from 20 April or no later than 1 May 2004.
5. As the investigating officer, I recommend a 10 day delay as a reasonable delay and ask that you approve Defense Counsel's request for a 2nd delay for a period of 10 days.
6. POC for this memorandum is [REDACTED] at [REDACTED] or by phone at DNV 537 [REDACTED]

//original signed//

[REDACTED]

Article 32 Investigating Officer

002447



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

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

19 April 2004

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

SUBJECT: Second Request for Delay -- United States v. SPC Megan M. Ambuhl

1. As previously requested by e-mail on 18 April 2004, the defense requests a delay in the Article 32(b) hearing currently scheduled for 20 April 2004. The defense requests a delay until approximately 20 May 2004, for the following reasons:

a. On 18 April 2004, Trial Defense Counsel was notified formally that SPC Ambuhl obtained civilian counsel, [REDACTED]

b. [REDACTED] does not have a copy of the preferral packet or copies of any evidence in this case.

c. [REDACTED] maintains a law practice in Washington, D.C. and has not yet finalized the extensive coordination to travel to Iraq to represent SPC Ambuhl.

2. Further, the government has indicated that the majority of witnesses the defense has requested to testify at the Article 32 hearing are physically unavailable. Granting a delay will allow for continued efforts to produce the requested defense witnesses at the Article 32 hearing.

3. The requested delay is attributable to the defense. If I may be of further assistance in this matter, please contact me via email at [REDACTED] / phone at DNV: 553 [REDACTED]

//original signed//

[REDACTED]
Trial Defense Counsel

002449

CPT CJTF7 16MP

From: [REDACTED] CJTF7 16MP
Sent: Monday, April 19, 2004 6:40 PM
To: [REDACTED]
Cc: [REDACTED] CJTF7-OPS OSJA; [REDACTED]@svg-law.com; [REDACTED]
CJTF7 16MP; [REDACTED] CJTF7-16th MP BDE SJA NCOIC; [REDACTED]
[REDACTED] CJTF7-OPLAW;
Subject: RE: RE: Request for Delay

Sir:

The government will not object to a delay of 7-10 days and no later than 1 May 2004. The first request for a delay from 5 April until 20 April was requested to review the file and seek civilian counsel. That date was not met. 26 days, approximately 1 month, total delay should be adequate to review the file and obtain civilian counsel. If civilian counsel was retained on the 18th of April, 13 days should be sufficient time to get to Baghdad.

VR

[REDACTED]
16th MP BDE (ABN)
Trial Counsel
302-588-[REDACTED]
AIRBORNE!

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

From: [REDACTED]
{mailto:j.
Sent: Monday, April 19, 2004 5:53 PM
To: [REDACTED]@us.army.mil
Cc: [REDACTED] CJTF7-OPS OSJA; [REDACTED]
[REDACTED] CJTF7 16MP; [REDACTED] CJTF7-16th MP BDE SJA NCOIC;
[REDACTED] CJTF7-OPLAW
Subject: Re: RE: Request for Delay

Sir,

Thank you for your patience. A formal request is attached. Again, I have not yet heard from [REDACTED] but will inform the government as soon as I do. Thank you for your consideration of this request.

V/R,

[REDACTED]
CPT, JA
Trial Defense Counsel
Tikrit Branch Office (FOB Danger)
Region IX
DNVT: 553-[REDACTED] or 553-[REDACTED]
E-mail

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

From: [REDACTED]
Date: Monday, April 19, 2004 5:34 pm
Subject: Re: RE: Request for Delay

> [REDACTED]
> I will keep my eyes open.
>

002449

> [REDACTED]
> MAJ, EN
> S-4, 420th EN Brigade
> DNV 302 559-[REDACTED]
>
>
> ----- Original Message -----
> From: [REDACTED] CJTF7-OPS OSJA"
> [REDACTED] Monday, April 19, 2004
> 1:49 pm
> Subject: RE: Request for Delay
>
> > Sir,
> >
> > I just spoke to [REDACTED] She is having difficulty
> accessing
> > her email
> > and she is currently meeting with her client. She requested I
> > notify you
> > that she will be submitting a formal request for delay within
> the
> > next hour.
> > The government does not object to a reasonable delay, so long as
> > the delay
> > is credited to the defense.

> > v/r
> > [REDACTED]
> >
> > -----Original Message-----
> > From:
> > Sent: Monday, April 19, 2004 07:54
> > To: [REDACTED]
> > Cc: [REDACTED]@svg-law.com; [REDACTED] CJTF7 16MP; [REDACTED]
> > CJTF7-OPS OSJA; [REDACTED] CJTF7-16th MP BDE SJA
> > NCOIC; [REDACTED]
> > [REDACTED] CJTF7-OPLAW
> > Subject: Re: Request for Delay
> >
> > [REDACTED]

> > please forward a formal request for delay by 1700 hours today
> > detailing the requested length of delay and the specific reasons
> > for the
> > delay. In the absence of a formal request, we will proceed with
> > the ART
> > 32 hearing tomorrow, 20 April, here at Camp Victory.

> > [REDACTED] please
> > prepare to have SPC Ambuhl brought to Camp Victory for the ART 32
> > Investigation tomorrow, 20 April.

> > I am currently at Victory and can be reached at 537-[REDACTED]
> >
> > [REDACTED]
> >
> > [REDACTED]
> >
> > S-4, 420th EN Brigade
> > DNV 302 559-[REDACTED]
> >
> > ----- Original Message -----
> > F
> > Date: Monday, April 19, 2004 9:46 am
> > Subject: Re: Request for Delay
> >
> > > Sir,
> > >
> > > I have e-mailed Mr. [REDACTED] but have not heard back from him

002450

> yet.
> >
> > > He does not have a copy of the packet and apparently, was just
> > > retained last week.
> > >
> > > Currently, I am working out of the TDS Victory office but I do
> > > have limited access to e-mail.
> > >
> > > V/R,
> > > [REDACTED]
> > > CPT, JA
> > > Trial Defense Counsel
> > > Tikrit Branch Office (FOB Danger)
> > > Region IX
> > > DNVT: 553-[REDACTED] or 553-[REDACTED]
> > > E-mai
> > >
> > > ----- Original Message -----
> > > From
> > > Date: Monday, April 19, 2004 9:21 am
> > > Subject: Re: Request for Delay
> > >
> > > [REDACTED] how much of a delay are you requesting?
> > > > Additionally, [REDACTED] please provide a memorandum (as
> > > > opposed
> > > > to an email) requesting the delay. Please forward the
> > > > memorandum
> > > > ASAP so that we can work this immediately.
> > > >
> > > > [REDACTED]
> > > > [REDACTED]
> > > > S-4, 420th EN Brigade
> > > > DNVT 302 559-[REDACTED]
> > > >
> > > > ----- Original Message -----
> > > > From:
> > > > Date: Sunday, April 18, 2004 2:57 pm
> > > > Subject: Request for Delay
> > > >
> > > > > Sir,
> > > > >
> > > > > Good evening. Please accept my personal apologies for the
> > > > > lateness of this request.
> > > > >
> > > > > The defense requests a delay in the Art. 32 hearing
> > > > > scheduled
> > > > > for
> > > > > 20 April 2004 in the case of U.S. v. Ambuhl.
> > > > >
> > > > > I just received notice today that SPC Ambuhl has hired Mr.
> > > > > [REDACTED]
> > > > > [REDACTED] a civilian attorney from Washington, D.C., to
> > > > > represent
> > > > > her in the pending case. Both SPC Ambuhl and [REDACTED]
> > > > > desire
> > > > > his presence at the Article 32 hearing.
> > > > >
> > > > > [REDACTED]'s e-mail address is in the "cc" line of this e-
> > > > > mail.
> > > > > His further contact information is as follows: [REDACTED]
> > > > > [REDACTED]
> > > > > [REDACTED] 1101 15th Street, NW, Suite
> > > > > 202,
> > > > > Washington, D.C., 20005. His phone number is: (202) 828-[REDACTED]
> > > > >
> > > > > Thank you for your consideration of this request.

002451

002452



DEPARTMENT OF THE ARMY
372nd MILITARY POLICE COMPANY
APO AE 09432

REPLY TO
ATTENTION OF

12 April 04

MEMORANDUM THRU [REDACTED], Staff Judge Advocate, III Corp

FOR LTG Thomas Metz, CG, III Corps

SUBJECT: Rebuttal of AR 15-6 for [REDACTED] 372nd MP Company

1. In reading the AR 15-6 Investigative Report, I found it very thorough, involving subject matter experts in the field of Detention Operations and numerous references to AR's or supporting Documents. It would have been nice to have such a library of resources available when the 372nd Military Police was tasked to conduct Detention Operations at the Abu Ghriab Prison Facility.
2. The 372nd MP Company was assigned to the Abu Ghriab Prison in October 2003. The Unit assumed responsibility on 17 October 03 after a RIP with the 72nd MP Company. Prior to this Mission the Unit had been doing a Law and Order Mission in the city of Al Hillah, TACON to the ¼ Marines. The Unit was commended for the outstanding achievements while conducting those operations.
3. During the short 2 week period before Prison Task assumption, a multitude of activities were undertaken, from developing an unimproved living area, service support, force protection, convoy route reconnaissance, learning detention / prison operations, and establishing support and logistics in the area. Abu Ghraib was not just an EPW Operation, but a vague composite of civilian criminals, military detainees, other government detainees, and a host of civilian contract help.
4. These variables complicated by the list of ever increasing numbers of Detainees, CPA, Iraqi Correctional Guards, Prison Reconstruction, limited resources, reduction in our personnel, 12 hour work shifts, and limited basic life support systems. Least of which was the decision to use a Military Police Combat Support Company to conduct these Detention Operations. Who was responsible for making that decision? Was it beyond the 800th MP BDE? Our unit had no METL on I/R training or from the mob station prior to our arrival at the prison. Our unit was validated on Combat Support Operations.
5. MG Ryder conducted an assessment of Prison and Detention operations in Iraq, during 13 Oct through 6 Nov 2003. A thorough assessment was conducted at Abu Ghraib. Unfortunately that document or report was never shared with the company or BN working the facility. What could have been corrected if we had the insight of the November Report? Who was the report release too? Is it available to the Prison now?

002453

DEC

6. Theodore Roosevelt said "do what you can, with what you have, the best you can." An operational plan was set out to accomplish the mission. The resources of the Company and Battalion were limited, but that could not stop conducting operations at Abu Ghraib.

7. Our unit followed the guidelines for training set forth by BN. We pull our soldiers with civilian correction experience, trained on non lethal weapons, 800th ROE, Detainee feeding at Ganci, and prison civil disturbance and extraction. The Report fails to mention any successful aspects of the mission. Those successes were possible because 95% of the company's soldiers "did the right thing." Camp Vigilant stood as a model for efficient Detention Operations with minimal resources, no disturbances and no escapes.

8. Every soldier is trained annually on the Geneva Convention and the Laws of War and another class was given by instructors at Ft Lee during mobilization. It was part of the Validation. What they retained or what was accepted varies with individuals. Reflect on the Army Doctoral policy and training of Sexual Harassment; far less complex than the Geneva Convention as it applies to Detainee Operations. Yet why have there been so many reported or unreported incidents of sexual harassment? A "Zero Tolerance" is in place and yet the Army is "evaluating" its policy. Why are there continued problems?

9. Nearly every day I spent time with my soldiers at the Hard site and Camp Vigilant, various times and varying shifts. A greater emphasis was placed on Camp Vigilant as they were more vulnerable, with fewer assets, fewer constraints, and they had no assigned OIC. Other duties included establishment of the basic life support for the company and integration of the sections into the Battalion.

10. How does this command view the 9/11 hearings? Does it feel the current Administration had the ability to forecast and predict the tragedy? Could or would anything been avoided if the Administration had been better trained or informed? Are they making excuses or is it Monday morning quarterbacking by the hearing committee.

11. What of the Cleric [REDACTED]? Who was monitoring him and his movement? What of the city of Fallujah? Would a more restrictive Course of Action result in a change of recent events?

12. What is the status of the Abu Ghraib complex now? Are all the corrective measures from MG Ryder and this AR 15-6 in place for a smooth operation? It's difficult to be at all places at all times. To accomplish multiple tasks, others must be put in responsible positions. We were let down by the soldiers placed in those position of responsibility.

13. This was by no means a perfect deployment. The 372nd conducted operations through the Iraqi summer under some of the harshest and poorest conditions while working under the marines in Al Hillah. The Army Logistical and Support assets were not even available until the unit arrived at the prison. The Report refers to the psychological pressures. Yes, these pressures were recognized and mediated by allowing soldiers more comforts while inside their Living Support Areas. Civilian clothing was allowed there but there was an enforced uniform code while on duty or outside the LSA's.


002454

15. The Unit Conducted 15 Company grade Article 15 proceedings, numerous other situations were handled by First Line Leader Counseling's. Several NCO's were removed from their positions for inappropriate behavior. Standards were enforced.

16. I agree as "leaders" we all have room for improvement. That's why the Army's Doctrine for corrective action is corrective in nature, administered fairly, without prejudice, administered for the development of soldiers. The Soldier's Creed states "leave no fallen comrade behind." These administrative remedies are leaving good soldiers. Yes, there have been documented short comings, but lets not loose site of any gains or benefits from this experience.

17. I agree with the findings of the report; more could have been done to increase the level of awareness. The 372nd is a Military Police Combat Support Company. Our history and background is not in the Internment / Resettlement, or EPW areas. After being tasked with this mission the BN mandatory training was conducted, experienced civilian correctional soldiers were aligned with critical positions within the Hard site and Camp Vigilant. The Unit had less than two weeks to prepare for the Operation. The Plan mostly worked. A few individuals, conducting criminal activity, left the boundaries of good training and judgment. Recognize their shortcomings and take the appropriate action.

18. Take into consideration the isolation of the past 82 days waiting for this conclusion. I request any reprimand be filed locally, as an effort to salvage any benefit from this hard and painful experience. I would request you reconsider the administrative remedies recommended and evaluate the future potential, contributions of a soldier.



372nd Military Police Company

002455



DEPARTMENT OF THE ARMY
372nd MILITARY POLICE COMPANY
APO AE 09432

REPLY TO
ATTENTION OF

12 April 04

MEMORANDUM THRU [REDACTED], Staff Judge Advocate, III Corp
FOR LTG Thomas Metz, CG, III Corps
SUBJECT: Rebuttal of AR 15-6 for [REDACTED], 372nd MP Company

1. After reading the AR 15-6 Investigative Report, I found that it was very thorough and contained many subject matter experts in the field of Detention Operations and numerous references to AR's, FM's and many other supporting documents. Unfortunately none of these were made available to the immediate chain of command nor to the soldiers about to operate the Abu Ghraib Prison. We also have never seen any of the other findings of the prison that were mentioned in the 15-6, MG Ryder's report, for example. Also we were never given a copy of the ICRC reports to take corrective action, we were simply briefed. Had these and other reports been made available corrective action would have been taken, possibly making the duties of the MP's safer and easier, and in turn doing the same for the detainees.

2. The Soldiers of the platoon and company received a briefing of cultural awareness and basics of the Geneva Convention at the mobilization site. However I did not have access to the Geneva Convention relative to the Treatment of Prisoners of War to post at locations throughout the hard site of Abu Ghraib. I did ask, on several occasions, to be provided with some form of what was expected by the MP's and what they were and were not to do. This request was made to [REDACTED] and [REDACTED] both of whom were with the MI BDE. [REDACTED] was with the SJA. We did have a copy of the 800th MP BDE ROE and a copy of this was posted at every tier in the hard site as well as the MP's office. If not posted on the wall it was posted on the MP's clipboard which also contained the inmate numbers of those housed on that tier.

3. I was the NCOIC of the hard site, I worked directly for the OIC of the hard site, [REDACTED]. I took a managerial role within the prison. There were two shift NCOIC's One for day shift (0400-1600) the other for night shift (1600-0400). I worked an over lapping shift of 1000-0100 so that I was able to work with all of the soldiers in my platoon. I also did this to make it easier for the soldier of the platoon to see me if there were any concerns that needed to be addressed. I made checks of the prison routinely, to include the towers, tiers and the health clinic. I worked extensively for the first several weeks after we took over operations from the 72nd MP Company working on a data base where we could effectively track inmates. This data base included the names of the inmates, their Inmate Number and their cell assignment. It also noted any specific information that was pertinent, such as TB patients, sentenced inmates, etc. This kind of information was not easily obtained from the BN and allot of times their information was incorrect. This data base was developed to make tracking of prisoners and head

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counts easier for the guards, and we were then able to give the BN a correct roster digitally when requested. I also made regularly checks on the water tank and generator room, to ensure that there was enough water for the detainees and to ensure that power went uninterrupted when ever possible. I also tried to keep track of maintenance concerns and tried by best to have these fixed in a timely manner. I relied on the shift NCOIC's and the shift SOG to take the supervisory role of the guards working the site for their specific shift. After [REDACTED] had gone home in December for REFRAD, I was instructed by [REDACTED] to more closely supervise the operations at the hard site to include tier 1, in which I did. But as always to accomplish multiple tasks, others must be put in responsible positions. Most of those soldiers did an outstanding job, however we were let down by a few soldiers placed in those position of responsibility. A few individuals, conducting criminal activity, left the boundaries of good training and judgment. Recognize their shortcomings and deal with them.

4. The soldiers of the 372nd MP Company were trained on the common tasks of EPW procedure, but not IR operations. The 372nd MP Company is a combat support element of the Military Police Corps, therefore at the mob site we trained specifically on combat support operations, to include battlefield circulation control, convoy escorts, close quarters combat, and some law enforcement. We carried out allot of these duties during the first part of our mission in Al Hillah Iraq where we were OPCON to the 1/4 Marine BN. We were unaware that our mission would eventually be Internment and Resettlement Operations. Had we know this long in advance of starting the mission we would have been able to adequately retrain ourselves for this type of mission. Because of the lack of knowledge and in turn the lack of training we had to rely on the civilian experience of a few members of the company to train the rest of the company in the two weeks prior to assuming the operations at the prison and then an ongoing OJT. Prior to taking this mission we made it very clear to the chain of command that we were inexperienced in this type of operation.

5. The soldier who allegedly stomped on a detainee's hands and feet was not reported by me because I did not witness any physical contact. I entered the B side of wing 1, walked up the steps to retrieve some paper work, I had noticed that some detainees had been brought in and looked down at the A side and saw on of the guards stomp his foot once, but could not by my vantage point see why he was stomping. Judging by the reaction of the detainee, or lack there of, I had no reason to believe that any contact had been made. The detainee did not flinch nor did he cry out in pain as if he had been struck. I then called for the soldier to leave the tier and return back to his station, the shift NCOIC, [REDACTED], and the tier NCOIC, [REDACTED] were both present, and both are corrections officers as civilians they seemed to have control of the detainees. This statement was given by me to CID during their investigation. The soldier was later counseled and removed from the hard site for allegations of verbally abusive activity against detainees in tier 3A. This counseling was given to him on 16 November 2003 and he was moved into a position within force protection which limited his contact with the detainees. I would have and never will condone any abusive activity, verbal or physical, towards anyone, be it friend or foe. I and other soldiers willingly donated items from our care packages for use be the inmates in the prison. Items such as shampoo, soap, toothpaste, etc, these supplies were difficult to get through the CPA supply system. Many of the detainees did not have shoes, the company supply SGT allowed me to sign out 2 boxes of socks to hand out to the inmates with no shoes. For the juveniles we brought in gum and candy to reward them for good behavior or for a work detail of cleaning. The care and welfare of the detainees were priority to me, the Iraqi people were taught by Saddam to hate the Americans, I wanted to prove to them that we were not the bad guys that he made us out to be.

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6. Since we have been suspended from the operations at the prison and the company, we have been treated as guilty. We have not until this point been given a chance to defend ourselves. We were initially told that we would be suspended for 7-10 days and to pack for a week, this was three months ago. The actions of a few individuals have broken the moral of the soldiers and the leaders of the company. Statements were made that the chain of command had no knowledge of the acts of abuse, in which we did not. These acts were carried out at times when the chain was not around, our fault lines in the fact that we trusted an experienced E-6 and civilian corrections officer in the shift supervisory role and an experienced corrections officer as the tier NCOIC. In an effort to gain any benefit and knowledge from this painful and difficult experience, I request that you reconsider the administrative remedies recommended and evaluate the future potential of a soldier and NCO.



PLATOON SERGEANT
372nd Military Police Company

002458



DEPARTMENT OF THE ARMY
320nd MILITARY POLICE COMPANY
APO AE 09432

REPLY TO
ATTENTION OF

12 April 04

MEMORANDUM THRU [REDACTED], Staff Judge Advocate, III Corp

FOR LTG Thomas Metz, CG, III Corps

SUBJECT: Rebuttal of AR 15-6 for [REDACTED], 372nd MP Company

1. This is my rebuttal of the 15-6 investigation for the incidents at Abu-Ghurayb Prison. After reading through the entire packet several times, I can easily defend all the allegations against me and my soldiers. However, I am quit certain that the outcomes have been decided and a response is only a formality at this point. The first thing I want to say is "I accept full responsibility for the actions of the soldiers of the 372nd MP CO." I fully agree that I should have done a better job at supervising them I had assigned an OIC [REDACTED] and a NCOIC [REDACTED] to oversee operations during this period. We are a Combat Support Company so I concur with the fact that we are not trained in I/R functions. We completed the mandatory training required by the 320th BN and a two week RIP with the 72nd MP CO. We did everything as they were and improved on all areas of accountability and training of the IP's. At the MOB station we trained according to our METL which is consistent with a CS mission.

2. [REDACTED]'s statement in the investigation is inaccurate. He was not present during the escapes and was assigned the escort missions at the BN. His platoon did a great job but the escapes are noted in the report. Also, because he was doing an escort mission during the abuses, I believe he is mistaken for [REDACTED] and should be excluded from being held accountable in this 15-6.

3. Anytime the command was made aware of any situations we were extremely proactive. I have documentation to support the disciplinary measures and all the counseling that was administered during this deployment. I strongly disagree with any reference of an undisciplined atmosphere.

4. The first half of this mission we were TACOM to the 1/4 Marines and we performed a L&O, Police Training Academy, Police Force Mission in the city of Al-Hila, Iraq. We performed extremely well and this company received high praise from the Marines. All the extra training that we focused on at Ft. Lee probably saved a few of my soldier's lives. I am extremely glad we had the opportunity and would not change anything we did there. It would have been nice to know our mission so we could have focused training toward a specific mission.

5. The only thing to decide here is where do you put the letter of reprimand? I guess if you go from what CNN said we will all receive letters that will effectively end our careers. I had dreams before this deployment started to someday lead a BN. The important thing here is my company

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knows that the leadership did there absolute best and we will continue to hold our heads high. I would hope you will consider the past three months we have been isolated and confined from my company as part of the punishment afforded to us. Unlike the General Officer appointed above me, I take the responsibility of what my soldiers did. It's easy sitting back as the Monday morning quarterback and second guessing everything. We had numerous visits by Gen Sanchez and many other dignitaries and experts from CPA and ICRC. In all those visits, no one mentioned that we should post the Geneva Convention or why isn't there an SOP from the Brigade. I wasn't aware the Geneva Convention had to be posted or I would have asked someone to get us a copy. This company was undermanned and under trained for this mission. Regardless of that, they still performed well and it's only the actions of a few ignorant people that caused this entire event. As I told the General during the 15-6, It would not of mattered if the policies were posted or not, it would not of stopped these particular soldiers from performing there actions. There was an SOP for Bucca and they had a similar incident. I hope that I can continue to stay in the military, before this incident I was once very proud and actually volunteered to be here. This company accomplished and affected the lives of many Iraqi citizens in a very positive way. It's amazing that the entire chain-of-command could be so incompetent

A large, solid black rectangular redaction box covering the signature area of the document.

372nd Military Police Company

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SWORN STATEMENT

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

PRIVACY ACT STATEMENT

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

1. LOCATION ABU GHRAIB PRISON, ABU GHRAIB, IRAQ	2. DATE (YYYYMMDD) 18 JAN 04	3. TIME 1501	4. FILE NUMBER 0003-04-CID149-83130
5. LAST NAME FIRST NAME MIDDLE NAME [REDACTED]		6. SSN [REDACTED]	7. GRADE/STATUS CPT

8. ORGANIZATION OR ADDRESS
372ND MILITARY POLICE COMPANY, CUMBERLAND, MD (DEPLOYED TO ABU GHRAIB, IRAQ)

9. I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

I am the current warden of the Hard Site at Abu-Ghuraib. I have additional responsibilities of the Vigilant Yard along with escorts, a PSD mission and company responsibilities. On 15 Oct 03, we accepted the mission from the 72nd Military Police Company. I divided all my responsibilities among my platoons to evenly distribute as much of the work load as possible. I assigned one platoon to Vigilant the two others split duties at Hard Site. The third platoon is currently still at AL-Hilla performing the PSD Mission. Wing one at the Hard Site is used exclusively by MI and OGA and other government agencies. Wing one was supervised mostly by [REDACTED] was very involved with the interrogation process and the day to day activity that occurred. I spent approximately 70% of my time supervising and coordinating the construction activity at the Hard Site. I also worked closely with the CPA to ensure all aspects of the current contract were fulfilled. The rest of my time was spent assisting and mentoring the current Iraqi Warden, operating Camp Vigilant, and performing company commander tasks. Because I knew it was impossible to accomplish all these missions at once, I assigned [REDACTED] as OIC of the Hard Site. [REDACTED] worked closely with [REDACTED] and they understood the daily routine of tier one. [REDACTED] is a superb officer of outstanding morale and ethical values and I am convinced he had absolutely no knowledge of any misconduct. [REDACTED] would often stay later into the night, on many occasions I can recall him returning well after midnight. I am not sure of the exact date, but in November of 2003 I had heard there was a 15-6 investigation on a possible situation which involved interrogator abuse to certain female detainees [REDACTED] spearheaded the investigation. I was told nothing was founded and everything returned as usual. It was not uncommon to see people without clothing, I only ever saw males, I was told the "whole nudity thing" was an interrogation procedure used by MI, and never thought much of it. We then had a visit by the ICRC and one of there main concerns were the inmates not having clothing or proper bedding. Another major issue was the prison itself was cold. In December, I heard some stories about possible abuse but I was never able to confirm or gather sufficient evidence to sustain anything concrete. I immediately assigned [REDACTED] (the PLT SGT) to the wing just to ensure all was well. [REDACTED] often worked late into the evening and was committed to ensuring the proper care was given to all inmates. [REDACTED] returned to the States in Dec as a refrad and [REDACTED] continued to work the wing. On a few occasions when [REDACTED] did see something minor he made immediate corrections. I was awoken the morning of the 13th of Jan by my operations sergeant. She informed me that the BN Commander wished to speak with me. I reported to the 320th TOC area and was greeted by [REDACTED]. He proceeded to explain the allegations and he immediately started to interview my soldiers and confiscate computers and pictures. When I initially saw the pictures, I was absolutely appalled at what I saw. I specifically assigned the soldiers to certain missions based on there civilian corrections backgrounds. Many of the pictures contained [REDACTED] and [REDACTED] in them. I have since seen and heard many other stories that absolutely sadden me and I can't believe these two soldiers whom I trusted were mainly responsible for these actions. Some of the pictures contained other people observing or participating in events. I will not defend the acts of my soldiers but I know they were others who had knowledge to illegal activity. In the beginning of our mission, it appeared that the MI tactics were very aggressive and then appeared to taper in intensity as time went along. One of my accused soldiers approached me and said "He was unclear of the rules and didn't know what he could or couldn't do" I replied "You are a correctional officer back home, that is the sorriest excuse I have ever heard." I know I am responsible for the site and continue to question myself for not detecting there behavior earlier. I thought I had assigned responsible soldiers with the right knowledge and was totally unaware of any alleged illegal activity taking place. As I stated earlier, I did not spend a lot of time in wing 1 because I was and continue to be extremely busy with many other duties. I feel that I made reasonable decisions and I took the appropriate steps in assigning work duties. My company and the U.S Army will probably not recover from this for a long time. I am ashamed of what my soldiers did and embarrassed as well. This company deserves better, we have worked extremely hard only to have a few soldiers tear down the morale and all our accomplishments. I only hope these two soldiers can live with there choices because it will likely affect many people for a long time.

Q. Who was [REDACTED]
 A. He was the MI Commander for the Battalion, which has departed the area.
 Q. Do you know where [REDACTED] is now?

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]	PAGE 1 OF 4 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT DATED

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

Statement of [REDACTED] taken on 18 Jan 04, at the Abu Ghraib Prison, Abu Ghraib, Iraq

A. He was my 4th Platoon Leader. He was the OIC for the Hardsite.

Q. Have you witnessed any interrogations conducted by MII?

(A) Partial. I saw detainees in their rooms without clothing. The interrogators were within the rooms talking to the detainees. It was common practice to walk the tier and see detainees without clothing and bedding.

Q. During this time period did any of your soldier inform you of the abuse going on in the tiers?

A. No.

Q. Who was assigned to work the tiers during the Midnight shift?

A. CPL [REDACTED] SSG [REDACTED] SPC [REDACTED], SPC [REDACTED] which worked wing 1. The other tiers had soldier working them, but was controlled by the platoons. They handled their relief and days off. SSG [REDACTED] and CPL [REDACTED] were initially assigned to a separate platoon, but because of their experience they were brought into the hard site.

Q. What was the investigation conducted by [REDACTED]

A. It was my understanding it dealt with an interrogator had a female detainee in the nude being interrogated in a closed room.

Q. What was the result of the investigation?

A. [REDACTED] handled the investigation and it was unfounded.

Q. At the time was there any MP's involved?

A. No.

Q. Have you had any disciplinary issue with the MP's in the hard site and the detainees?

A. I pulled out [REDACTED] as the Platoon Sergeant's approached me as he was becoming a little aggressive with the detainees. I pulled him out as a preventive measure.

Q. When did this occur?

A. Towards the end of Nov 03.

Q. Describe how he was being aggressive?

A. I was informed about excessive yelling, and being very agitated. The Chain of Command was concerned for his well being and had him pulled.

Q. Was [REDACTED] returned to the hard site after a cooling off period?

A. No, he is still working with [REDACTED].

Q. Is it common to have Admin Specialist and Mechanics in the hard site?

A. Absolutely not.

Q. Did you authorize them in the hard site?

A. The mechanic yes, as he was assigned to a 24 hour duty for generator mechanical purpose. The Admin did not have and reason to be there.

(Q) Is there an SOP for the hard site operation?

(A) Yes.

Q. Are all soldiers require to read and understand the SOP?

A. Yes.

(Q) Is there any documentation showing everyone read and understood the SOP?

(A) I do not think so.

Q. Are the MP's in the site authorized to conduct their own form of interrogation? 012462

A. No.

Q. Do you know who authorized them to conduct these types of acts depicted on the pictures previously shown to you?

A. No.

Q. Was the Chain of Command aware of these types of acts being conducted in the hard site?

A. No.

Q. What happened when the ICRC walked through the hard site?

A. The first time they were upset with what they saw. They were concerned with the amount of nudity and the area was cold and damp. The detainees did not have appropriate clothing and bedding. The second visit occurred two weeks ago, and things were much better. Their nudity has stopped and they seemed happy with what they saw.

Q. Have you heard of your soldiers being told to give detainees the special treatment or something to this affect?

A. No.

Q. How long has CPL [REDACTED] been assigned to your unit?

A. He just came on board when we mobilized. He was an insert.

Q. Have you had any problems with his work performance?

A. Yes, he constantly challenges orders and requests from the leadership. He would put stuff on his uniform that he was not authorized.

Q. How long has SSG [REDACTED] been assigned to your unit?

A. I believe he was assigned to the unit prior to the mobilization. I was just coming on board when we got our orders. There are several assigned that was inserts to the unit for the deployment.

Q. Was there any disciplinary issue concerning SSG [REDACTED]?

A. No.

Q. As far as the other soldiers involved were there any disciplinary issues concerning them?

A. PFC [REDACTED] had an issue of disobeying a direct order to stay away from CPL GRANIER.

Q. When you viewed the pictures did you recognize any other soldiers previously not identified?

A. I believe two of the soldiers are [REDACTED] and [REDACTED], 4th Plt, 372nd. I cannot be 100% sure on [REDACTED] but it is [REDACTED].

Q. What actions have you taken to correct the issue regarding this investigation?

A. We immediately moved all suspects out of the hard site and reassigned them. We reassured everyone understood the SOP and LTG SANCHEZ's guidance. Everyone will sign a roster. [REDACTED] will now work the evenings to ensure nothing further occurs. The Command is making more unannounced visits to the hard site. All soldiers were informed no interrogations were to be conducted by them.

Q. Do you wish to add anything else to your statement?

A. No.

ICRC (2nd visit) ± Jan 4

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Initials DTL

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For Official Use Only

EXHIBIT 74



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

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

10 April 2004

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

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

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

only left
a. CID Agents

i. Special Agent [REDACTED] 10th MP BN, Baghdad, Iraq, APO AE 09335.
Agent [REDACTED] testimony is relevant because he interviewed numerous alleged victims and made several visits to the Abu Ghraib prison facility during the period of the alleged offenses. Agent [REDACTED] also interviewed several alleged co-conspirators.

ii. Special Agent [REDACTED] 10th MP BN, Baghdad, Iraq, APO AE 09335.
Agent [REDACTED] testimony is relevant because she interviewed several of the alleged victims and actively investigated the allegations in this case.

b. Iraqi Detainees

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

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

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

c. Chain of Command – 372nd MP Company

- i. ^{Vick} [REDACTED], former Company Commander

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

- ii. ^{visited states} [REDACTED], former Platoon Leader

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

- iii. ^{Vick} [REDACTED], former Company 1SG

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

- iv. ^{Vick} [REDACTED], former Platoon Sergeant

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

d. Co-Accused – 372nd MP Company

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

e. Additional Witnesses -- 372nd MP Company

- i. ^{Kuwait} [REDACTED], former S-3 for the 320th MP Battalion [REDACTED] the S-3 [REDACTED] was responsible for drafting and disseminating ROE guidance. The ROE and any training received by the 372nd MPs are extremely relevant to Charge II.
- ii. ^{Kuwait} [REDACTED] first reported the alleged offenses to CID. His credibility and motivation are highly relevant. Further, [REDACTED] may have provided exculpatory testimony regarding SPC Ambuhl.
- iii. ^{Victory} [REDACTED]
- iv. ^{Kuwait} [REDACTED] was the operations NCOIC of Abu Ghraib during the time frame of the charged offenses. He will testify that he never witnessed any abuse taking place at the prison.
- v. ^{Kuwait} [REDACTED] was the Force Protection NCO of Abu Ghraib during the time frame of the charged offenses. He can testify as to the day-to-day operations of Abu Ghraib and what procedures were in place on cell blocks 1b for interacting with detainees.
- vi. ^{Kuwait} [REDACTED] spent time at blocks 1a and 1b during October, November, and December 2003. [REDACTED] worked at 1a on evenings when CPL Graner was not working. He can provide testimony as to the procedures used on the cell blocks and to training that he and his unit received.
- vii. ^{Kuwait} [REDACTED] is [REDACTED] worked on the same block as [REDACTED] Ambuhl. She can testify as to the nature of detainees that were held on 1b and as to the types of training received by her reserved unit. She can testify as to the interaction between the MI representatives and the MP guards.
- viii. ^{Kuwait} [REDACTED] worked at block 1a during October, November, and December 2003. He worked at 1a on evenings when CPL [REDACTED] was not working. He can provide testimony as to the procedures used on the cell blocks and to training that he and his unit received. He can testify as to the general nature of detainees that were held on block 1a and the procedures that MI used for interrogation.

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

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

xi. ^{Kunst} [REDACTED] can testify as to the procedures used on the cell blocks and to training that he and his unit received. He will also testify to the lack of any standard procedure or accountability at Abu Ghraib.

f. Military Intelligence Witnesses

- redacted U.S.*
- i. [REDACTED], 325th MI Battalion
 - ii. [REDACTED], 325th MI Battalion
 - iii. [REDACTED], 325th MI Battalion

iv. [REDACTED], 202nd MI Battalion
[REDACTED]@us.army.mil) [REDACTED] will testify that members of his chain of command told him to delete Abu Ghraib photos off of his computer hard drive prior to the CID investigation.

v. [REDACTED], formerly assigned to 325th MI Battalion 914-360-[REDACTED]
[REDACTED] was an MI Interrogator that worked daily at Abu Ghraib at blocks 1a and 1b. [REDACTED] will testify about authorized MI interrogation techniques. [REDACTED] can testify as to the interaction and coordination between the MI interrogators and the MP guards. [REDACTED] has been transferred to the CPA in Baghdad.

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

g. Other Witnesses

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per i. [REDACTED], former Interrogation OIC, DNV: 559-[REDACTED] a Military Intelligence officer, is familiar with the Camp Vigilant SOP and can testify as to CJTF-7 policies regarding Interrogation Rules of Engagement for detainees at Abu Ghraib.

10 ii. [REDACTED] 205th MI Brigade Operational Law, DNV: 559-[REDACTED] was the legal advisor for the MI Group who ran Abu Ghraib prison. [REDACTED] can testify to the procedures put into place for dealing with detainees and the training that was taught to the members of the 372nd MP Company for their work at the facility. [REDACTED] visited Abu Ghraib during the relevant time period and can testify to the conditions at the facility.

referred (C) iii. [REDACTED], Ft. Sam Houston [REDACTED] was one of several attorneys who provided advice on detainee operations and ROE at Abu Ghraib.

completed iv. [REDACTED] 418th MP Detachment

star ~~iii. [REDACTED], CJTF 7, BLAP, Baghdad, Iraq~~
 [REDACTED] will testify as to his knowledge of allegations of abuse and/or mistreatment of detainees between 16 Sep 03 and 22 Dec 03.

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

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

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

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

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

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

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

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

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

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

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

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

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

i. SPC Megan M. Ambuhl
 ii. [REDACTED]
 iii. [REDACTED]
 iv. [REDACTED]
 v. [REDACTED]
 vi. [REDACTED]
 vii. [REDACTED]

viii. [REDACTED]
 ix. [REDACTED]
 x. [REDACTED]
 xi. [REDACTED]
 xii. [REDACTED]
 xiii. [REDACTED]
 xiv. [REDACTED]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AETV-BGJA-TDS

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

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

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

7. If I may be of further assistance in this matter, please contact me via email at [REDACTED]@us.army.mil or by DNVF phone at: 553-[REDACTED] or 553-[REDACTED]

//original signed//

[REDACTED]
JA
Trial Defense Counsel

AFZA-AP-CO

2 Apr 04

MEMORANDUM FOR Investigating Officer, U.S. v SPC Ambuhl

SUBJECT: Decision on Request for Delay

1. I have reviewed the enclosed Defense Request for Delay in the case of U.S. vs SPC Megan M. Ambuhl, HHC, 16th MP BDE (ABN).

2. _____ The request for delay is disapproved.

OR

3. med The request for delay is approved, and the Article 32(b) session in the case of U.S. vs Ambuhl will be rescheduled for 20 April 2004.

Encl
as


MP
Commanding

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

REPLY TO
ATTENTION OF:

AETV-BGJA-TDS

29 March 2004

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

SUBJECT: Request for Delay, United States v. SPC Megan M. Ambuhl

1. The defense requests a delay in the Article 32(b) hearing currently scheduled for 5 April 2004. The earliest available date for the defense to go forward with the Article 32 will be 20 April 2004. The defense requires this delay for the following reasons.

a. Defense counsel received the preferral packet on 26 March 2004. The packet contains several hundred pages of evidence and statements. The packet also contains a CD Rom with over 1,000 visual depictions. Counsel and SPC Ambuhl both must have ample time to conduct an even preliminary review of the evidence.

b. Defense counsel is located at FOB Danger in Tikrit and is reliant on military convoys or MILAIR to get to Victory Base. Defense counsel met with SPC Ambuhl on 26 March 2004 but requires at least two additional meetings with the client simply to prepare for the Article 32. These trips require significant advanced planning and coordination due to travel limitation in the Iraqi Theater.

c. The defense cannot reasonably be prepared to represent SPC Ambuhl at the Article 32 hearing by 5 April 2004. An unprepared counsel is tantamount to no counsel at all. U.S. v. Miro, 22 M.J. 509 (USACMR 1986). The delay is necessary for the defense counsel to reasonably prepare for the Article 32 hearing. Counsel needs time to interview witnesses, coordinate with civilian defense counsel, if any, and otherwise prepare for the hearing which includes 5 charged co-accused, several uncharged potential co-accused, voluminous documents and alleged victim statements in Farsi or Arabic.

d. SPC Ambuhl has considered hiring a civilian attorney. Granting the requested delay will allow the soldier to exercise her right to counsel and to explore avenues to hire a civilian attorney and ensure his or her presence for the Article 32(b) hearing.

e. Granting the requested delay will allow the government and the defense to explore a possible alternate disposition of this case.

f. Defense counsel is one of only two defense attorneys deployed to serve the entire 1st Infantry Division. In addition to representation of courts-martial clients, counsel is responsible for serving the needs of clients throughout a dozen geographically diverse FOBs in Iraq. Granting the requested delay will allow counsel to schedule coverage for these areas and to prioritize trial defense counsel requirements.

2. The requested delay is attributable to the defense. If I may be of further assistance in this matter, please contact me via email at [REDACTED] or by phone at DNV: 553-[REDACTED]

[REDACTED]
CPT, JA
Trial Defense Counsel

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DEPARTMENT OF THE ARMY
Headquarters
420th Engineer Brigade
Victory Base, Iraq APO AE 09342

AFZA-AP-IO

25 March 2004

MEMORANDUM FOR SPC Megan M. Ambuhl,
Victory Base, Iraq APO AE 09342

HHC, 16th MP Bde (Abn),

SUBJECT: Notification of Article 32 Investigation

1. On 5 April 2004, at 1000 hours in the Victory Base Courtroom, Building 94, I will conduct an investigation pursuant to Article 32(b), UCMJ to investigate the facts and circumstances concerning charges preferred against you by [REDACTED]. The charges are:

- Charge I: Conspiracy
- Charge II: Dereliction of Duty
- Charge III: Maltreatment
- Charge IV: Assault
- Charge V: Indecent Acts

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

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

- a. [REDACTED] CID Agent, DNVT 302-550-[REDACTED]

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

4. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names and addresses of such witnesses to me by 1200 hours, 2 April 2004. If, at a later time, you identify additional witnesses, inform me of their names, phone numbers and/or addresses.

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

REPLY TO
ATTENTION OF:

AFZA-AP-CO

24 March 2004

MEMORANDUM FOR [REDACTED] 420 Engineer Brigade, Victory Base,
Iraq, APO AE 09342

SUBJECT: Appointment as Article 32 Investigating Officer

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

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

2. Prior to the commencement of the investigation, you must contact [REDACTED] at the Administrative Law Division, Combined Joint Task Force Seven, Victory Base, Iraq, at DSN 318-822-[REDACTED] and advise him that you have been detailed to conduct this investigation. He, or a Staff Judge Advocate designee, will brief you on your responsibilities and provide you with advice throughout the investigation. You will not contact the government representative or defense counsel for assistance in matters, other than routine administrative or clerical matters, regarding this investigation.

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

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

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AFZA-AP-CO

SUBJECT: Appointment of Article 32 Investigating Officer

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

4. [REDACTED] Trial Counsel, 16th Mp Bde (Abn) DNV 588 [REDACTED], is appointed as the government representative and is authorized to participate in this investigation. You can contact Trial Defense Service at DNV 838- [REDACTED] to confirm the name of the detailed defense counsel. While these officers or their designees will attend the hearing and will question witnesses, it is your responsibility to conduct the investigation, not the government's representatives. Further, both of these parties play an adversarial role in the proceedings. You should therefore avoid discussing substantive matters pertaining to the case with either party outside formal sessions where all parties have opportunity to be present.

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

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

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

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

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

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

AFZA-AP-CO

SUBJECT: Appointment of Article 32 Investigating Officer

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

2 Encls

1. DD Form 458

2. Case File


MP
Commanding

AFZA-AP-IO

SUBJECT: Notification of Article 32 Investigation

5. You may contact me at _____.

///original signed///


Investigating Officer

Received by:

SPC Megan Ambuhl
MEGAN M. AMBUHL, SPC

Date: 26 MAR 04

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RECORD OF PROCEEDINGS OF COURT-MARTIAL

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This errata submitted by:

W. R. R. R.

~~22 ENOTA~~

Signature:

James R. R.

Date: 30 NOV 04

002482

MILITARY JUDGE: (Pages 1-13)

002483

RECORD OF TRIAL

OF

AMBUHL, Megan M.

(Name: Last, First, Middle Initial)

[REDACTED]

(Social Security Number)

SPC

(Rank)

HHC, 16th MP Bde (ABN)

III Corps

(Unit/Command Name)

U.S. Army

(Branch of Service)

Victory Base, Iraq

(Station or Ship)

BY

GENERAL COURT-MARTIAL

Convened by: Commander

(Title of Convening Authority)

Headquarters, III Corps

(Unit/Command of Convening Authority)

Tried at

Victory Base, Iraq and Mannheim, Germany

(Place or Places of Trial)

on 11, 23 and 25 August 2004

(Date or Dates of Trial)

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TESTIMONY

<u>NAME OF WITNESS</u>	<u>DIRECT/ REDIRECT</u>	<u>CROSS/ RECROSS</u>	<u>COURT</u>
------------------------	-----------------------------	---------------------------	--------------

PROSECUTION:

None.

DEFENSE:

None.

COURT:

None.

EXHIBITS ADMITTED IN EVIDENCE

<u>NUMBER OR LETTER</u>	<u>DESCRIPTION</u>	<u>PAGE WHERE OFFERED</u>	<u>ADMITTED</u>
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None.

APPELLATE EXHIBITS

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RECEIPT FOR COPY OF RECORD OF TRIAL

I hereby acknowledge receipt of a copy of the record of trial in the case of the United States versus SPC Megan M. Ambuhl delivered to me via U.S. mail, this _____ day of November 2004.

[REDACTED] JA
Defense Counsel

PROCEEDINGS OF A GENERAL COURT-MARTIAL

2 The military judge called the Article 39(a) session to order at 1300,
3 11 August 2004, at Victory Base, Iraq, pursuant to the following
4 order:

5

6 Court-Martial Convening Order Number 1, Headquarters, III Corps,
7 Victory Base, Iraq, dated 14 January 2004 as amended by Court-Martial
8 Convening Order Number 3, same headquarters, dated 8 March 2004.

7 Victory Base, Iraq, dated 14 January 2004 as amended by Court-Martial
8 Convening Order Number 3, same headquarters, dated 8 March 2004.

8 Convening Order Number 3, same headquarters, dated 8 March 2004.

9 [END OF PAGE]

10

1 MJ: This Article 39(a) session is called to order.

2 TC: This court-martial is convened by Court Martial Convening
3 Order Number 1, Headquarters, III Corps, dated 14 January 2004, as
4 amended by Court-Martial Convening Order Number 3, same headquarters,
5 dated 8 March 2004, copies of which have been furnished to the
6 military judge, counsel, and the accused, and which will be inserted
7 at this point into the record.

8 The charges have been properly referred to this court for
9 trial and were served on the accused on 23 July 2004.

10 The prosecution is ready to proceed in the arraignment of
11 The United States versus Ambuhl.

12 The accused and the following persons detailed to this
13 court are present:

14 [REDACTED], MILITARY JUDGE;

15 [REDACTED], TRIAL COUNSEL; and

16 [REDACTED], DEFENSE COUNSEL.

17 The members are absent.

18 [REDACTED] has been detailed reporter
19 for this court and has been previously sworn.

20 I have been detailed to this Court-martial by [REDACTED]
21 [REDACTED] Chief of Military Justice, III Corps. I am qualified
22 and certified under Article 27(b) and sworn under Article 42(a),
23 Uniform Code of Military Justice. I have not acted in any manner

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1 which might tend to disqualify me in this court-martial.

2 MJ: Thank you. Good afternoon, Specialist Ambuhl.

3 ACC: Good afternoon, ma'am.

4 MJ: You are currently represented by [REDACTED], she is
5 your detailed military defense counsel, and she is provided to
6 represent you free of charge. You also have the right to request
7 another military lawyer to represent you and if that person were
8 reasonably available, then he or she would also be detailed to your
9 case to represent you free of charge. If your request for another
10 military lawyer were granted, however, you would not have the right
11 to keep the services of [REDACTED] because you're normally
12 entitled to only one military attorney. You could ask [REDACTED]
13 [REDACTED] superiors to let you keep her on the case, but your
14 request would not have to be granted. Now finally, you also have the
15 right to hire a civilian attorney. It's my understanding that you
16 have hired [REDACTED] who practices law in the Washington,
17 D.C. area. Is that right?

18 ACC: Yes, ma'am.

19 MJ: Right. Civilian counsel does have to be provided by you
20 at no expense to the government and if you hire [REDACTED] to
21 represent you, then you can keep [REDACTED] on your case to
22 assist him or you could excuse [REDACTED] and be represented
23 solely by your civilian counsel.

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1 Now those are your rights to counsel. Do you understand
2 everything I've told you?

3 ACC: Yes, ma'am.

4 MJ: All right. I note today, well first of all, do you want
5 to be represented by both [REDACTED] and [REDACTED]?

6 ACC: Yes, ma'am.

7 MJ: All right. Today of course, [REDACTED] alone is in
8 court and [REDACTED] is not here. The purpose of today's hearing is
9 merely to set dates and to initiate the court-martial process. Do
10 you understand that?

11 ACC: Yes, ma'am.

12 MJ: Is it okay with you if we proceed to this arraignment
13 solely for the purposes of the arraignment just with [REDACTED]
14 and without [REDACTED]?

15 ACC: Yes, ma'am.

16 MJ: All right. Have you discussed this with [REDACTED]
17 before today?

18 ACC: Yes, ma'am.

19 MJ: So you are ready to waive his appearance for today only?

20 ACC: Yes, ma'am.

21 MJ: Roger. Okay. [REDACTED] go ahead state your
22 detailing and qualifications for the record please.

23 DC: Your Honor. I have been detailed to this

1 court-martial by [REDACTED], Regional Defense
2 Counsel, U.S. Army Trial Defense Service, Region IX. I am qualified
3 and certified under Article 27(b) and sworn under Article 42(a),
4 Uniform Code of Military Justice. I have not acted in any manner,
5 which might tend to disqualify me in this court-martial.

6 MJ: Thank you. I too have been properly certified, sworn, and
7 detailed to this court-martial. Counsel for both sides appear to
8 have the requisite qualifications and all personnel required to be
9 sworn have been sworn.

10 Trial counsel, please indicate the general nature of
11 the charges in this case.

12 TC: Yes, ma'am. The general nature of the charges in this
13 case is two specifications of conspiracy in violation of Article 81;
14 one specification of willful dereliction of duty in violation of
15 Article 92, three specifications of maltreatment of subordinates in
16 violation of Article 93, and one specification of inde^{ce}nt acts in
17 violation of Article 134. The charges were preferred by [REDACTED]
18 [REDACTED] and forwarded with recommendations as to
19 disposition by Lieutenant [REDACTED] and investigated by
20 [REDACTED]. Additional charges were preferred by [REDACTED]
21 [REDACTED] and forwarded, investigated [REDACTED] and
22 forwarded with recommendation as to disposition by [REDACTED]
23 [REDACTED]

1 Your Honor, are you aware of any matter which might be a
2 ground for challenge against you?

3 MJ: I am not. Does either side desire either to question me
4 or challenge me?

5 TC: No, ma'am.

6 DC: No, Your Honor.

7 MJ: [REDACTED] I did not receive a copy of the additional
8 charges and that may clear it up. Is the additional charge another
9 specification of maltreatment?

10 TC: Ma'am, the additional charges are one specification of
11 conspiracy and two specifications of maltreatment and we will make
12 that copy for you.

13 MJ: All right. After trial please give me a copy of the
14 additional charge sheet and the referral, okay.

15 TC: Yes, ma'am.

16 MJ: Thanks. Specialist Ambuhl, now we are going to go over
17 your rights to forum that is your choices to how you can be tried at
18 this court-martial. You have the right to be tried by a court
19 consisting of at least five officer members, they would be
20 commissioned and/or warrant officers. Also, if you request it, your
21 court or you could be tried by a court consisting of at least one-
22 third enlisted soldiers, but none of those enlisted soldiers would
23 come from your company and none of them would be junior in rank to

1 you.

2 Do you understand what I've said so far?

3 ACC: Yes, ma'am.

4 MJ: If you are tried by a court with members, the members will
5 vote by secret, written ballot and two-thirds of the members must
6 agree before you could be found guilty of any offense. If you were
7 found guilty, then two-thirds must also agree in voting on a
8 sentence. If your sentence included confinement for more than
9 10 years then three-fourth would have to agree. Now you also have
10 the right to request a trial by a military judge alone, and if your
11 request is approved, there will be no court members and the judge
12 alone will decide whether you are guilty or not guilty, and if the
13 judge finds you guilty, then the judge will determine an appropriate
14 sentence in your case.

15 Do you understand the difference between trial before
16 members and trial before military judge alone?

17 ACC: Yes, ma'am.

18 MJ: [REDACTED], are you prepared to enter a choice of
19 forum today?

20 DC: No, Your Honor. We request to defer choice of forum and
21 plea, Your Honor.

22 MJ: All right. We'll get to that in a moment. Your request
23 to defer entry of choice of forum is granted. What that means,

1 Specialist Ambuhl, is, I'll let you continue to talk with [REDACTED]
2 and [REDACTED] about your options. At sometime prior to the
3 date of trial, however you'll be required to notify the government
4 and the court of your choice of how you want to be tried, all right.

5 ACC: Yes, ma'am.

6 MJ: The accused will now be arraigned.

7 TC: All parties to the trial have been furnished with a copy
8 of the charges. Does the accused want them read?

9 DC: The accused waives reading of the charges, Your Honor.

10 MJ: The reading may be omitted.

11 [THE CHARGE SHEET FOLLOWS AND IS NOT A NUMBERED PAGE.]

12 [END OF PAGE]

13

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) AMBUHL, Megan M.		2. SSN --		3. GRADE OR RANK SPC	4. PAY GRADE E-4
5. UNIT OR ORGANIZATION Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq APO AE 09342				6. CURRENT SERVICE	
				a. INITIAL DATE 28 Jan 02	b. TERM 8 years
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL			
\$1,638.30	\$100.00	\$1,738.30	None		N/A

II. CHARGES AND SPECIFICATIONS

10. CHARGE I VIOLATION OF THE UCMJ, ARTICLE 81

THE SPECIFICATION: In that Specialist Megan M. Ambuhl, U.S. Army, did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 23 October 2003 conspire with Staff Sergeant [REDACTED], Sergeant [REDACTED], Corporal [REDACTED], Specialist [REDACTED], Specialist [REDACTED], and Private First Class [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Specialist Ambuhl did participate in a photograph with PFC [REDACTED] who tied a leash around the neck of a detainee and led the detainee down the corridor with the leash around his neck.

CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 92

THE SPECIFICATION: In that Specialist Megan M. Ambuhl, U.S. Army, who knew, of her duties at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, was derelict in the performance of those duties in that she willfully failed to protect Iraqi detainees from abuse, cruelty and maltreatment, as it was her duty to do.

(SEE CONTINUATION SHEET)

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI) [REDACTED]	b. GRADE O-3	c. ORGANIZATION OF ACCUSER HHC, 16th MP Bde (Abn) APO AE 09342
d. SIGNATURE OF ACCUSER [REDACTED]	e. DATE 20 MAR '04	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 20th day of MARCH, 2004, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[REDACTED]
Typed Name of Officer

HHC, XVIII Abn Corps
Organization of Officer

O-3
Grade

Trial Counsel

Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)

[REDACTED]
Signature

12.

On 20 March 2004, the accused was informed of the charges against him/her and of the name(s) of The accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

[Redacted]
Typed Name of Immediate Commander

HHC, 16th MP Bde (Abn) APO AE 09342

Organization of Immediate Commander

O-3

Grade

[Redacted]
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1845 hours, 21 March, 2004 at Headquarters, 16th Military
Designation of Command or

Police Brigade (Airborne) APO AE 09342

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹

[Redacted]
Typed Name of Officer

Commanding

Official Capacity of Officer Signing

O-6

[Redacted]
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

Headquarters, III Corps

b. PLACE Victory Base, Iraq
APD AE 09342-1460

c. DATE JUL 21 2004

Referred for trial to the general court-martial convened by Court-Martial Convening Order Number 1,
dated 14 January 2004; as amended by Court-Martial Convening Order Number 3,
dated 8 March 2004, subject to the following instructions: NONE

By Command of Lieutenant General Metz:
Command or Order

[Redacted]
Typed Name of Officer

Chief, Criminal Law Division
Official Capacity of Officer Signing

Captain/O-3

Grade

[Redacted]
Signature

15.

On 23 July, 2004, I (~~caused to be~~) served a copy hereof on (each of) the above named accused.

[Redacted]
Typed Name of Trial Counsel

[Redacted]
Grade or Rank of Trial Counsel

[Redacted]
Signature

FOOTNOTES: 1 — When an appropriate commander signs personally, inapplicable words are stricken.
2 — See R.C.M. 601(e) concerning instructions. If none, so state.

12.

On _____, the accused was informed of the charges against him/her and of the name(s) of The accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

Typed Name of Immediate Commander

Organization of Immediate Commander

Grade

Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at _____ hours, _____ at _____
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE⁺ _____

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE (YYYYMMDD)

III Corps

Victory Base, Iraq
APO AE 09342-1400

20041028

Referred for trial to the Summary court-martial convened by this detail of _____
_____ the summary court-martial officer on

28 October, 2004, subject to the following instructions: None

By Command of Lieutenant General Metz
Command or Order

Typed Name of Officer

Chief, Criminal Law Division
Official Capacity of Officer Signing

O-3

Signature

15.

On 29 OCTOBER, 2004, I (caused to be) served a copy hereof on (each of) the above named accused.

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 — When an appropriate commander signs personally, inapplicable words are stricken.
2 — See R.C.M. 601(e) concerning instructions. If none, so state.

CONTINUATION SHEET DD Form 458, AMBUHL, Megan M., SPC,
HHC, 16th MP Bde (Abn), III Corps, Victory Base, Iraq APO AE 09342

Item 10 (continued)

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 93

THE SPECIFICATION: In that Specialist Megan M. Ambuhl, U.S. Army, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several Iraqi detainees, persons subject to her orders, by watching naked detainees in a pyramid of human bodies.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 134

THE SPECIFICATION: In that Specialist Megan M. Ambuhl, U.S. Army, did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with Iraqi detainees, Staff Sergeant [REDACTED], II, Corporal [REDACTED], Specialist [REDACTED], and Private First Class [REDACTED] by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central Correctional Facility, with other soldiers who photographed or watched the detainees' actions.

002498

CHARGE SHEET				
I. PERSONAL DATA				
1. NAME OF ACCUSED (Last, First, MI) AMBUHL, Megan M.		2. SSN		3. GRADE OR RANK SPC
4. PAY GRADE E-4		5. UNIT OR ORGANIZATION Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq APO AE 09342		
6. CURRENT SERVICE		7. PAY PER MONTH		
a. INITIAL DATE 28 Jan 02		b. TERM 8 years		8. NATURE OF RESTRAINT OF ACCUSED None
9. DATE(S) IMPOSED N/A		10. CHARGES AND SPECIFICATIONS		
a. BASIC \$1,638.30		b. SEA/FOREIGN DUTY \$100.00		c. TOTAL \$1,738.30
ADDITIONAL		II. CHARGES AND SPECIFICATIONS		
10. CHARGE I VIOLATION OF THE UCMJ, ARTICLE 81				
THE SPECIFICATION: In that Specialist Megan M. Ambuhl, U.S. Army, did, at or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 8 November 2003, conspire with Staff Sergeant [REDACTED], Corporal [REDACTED], Specialist [REDACTED], Private First Class [REDACTED], and others to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy, the said Corporal Graner did place naked detainees in a human pyramid.				
CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 93				
SPECIFICATION 1: In that Specialist Megan M. Ambuhl, U.S. Army, at or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several Iraqi detainees, persons subject to her orders, by watching naked detainees being forced to masturbate in front of other detainees and soldiers.				
(SEE CONTINUATION SHEET)				
III. PREFERRAL				
11a. NAME OF ACCUSER (Last, First, MI) [REDACTED]		b. GRADE O-3		c. ORGANIZATION OF ACCUSER HHC, 16th MP BDE (ABN) APO AE 09342
d. SIGNATURE OF ACCUSER [REDACTED]		e. DATE 13 JUL 04		
AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 13 day of July, 2004, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.				
[REDACTED] Typed Name of Officer		16th MP BDE (ABN) Organization of Officer		
O-3 [REDACTED] CPTJA		Trial Counsel Official Capacity to Administer Oath (See R.C.M. 307(b) - must be a commissioned officer)		

002499

12.

On 13 July, 2004, the accused was informed of the charges against him/her and of the name(s) of The accuser(s) known to me (See R.O.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

[Redacted]
Typed Name of Immediate Commander

HHC, 16th MP Bde (Abn) APO AE 09342

Organization of Immediate Commander

O-3
[Redacted]
[Redacted] CPT, MP

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 0900 hours, 13 JUL 2004 at Headquarters, 16th Military

Designation of Command or

Police Brigade (Airborne) APO AE 09342

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹

[Redacted]
Typed Name of Officer

Commanding

Official Capacity of Officer Signing

O-6
[Redacted]

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

Headquarters, III Corps

b. PLACE Victory Base, Iraq
APD AE 09342-1400

c. DATE (YYYYMMDD)

JUL 21 2004

Referred for trial to the general court-martial convened by Court-Martial Convening Order Number 1,
dated 14 January 2004, as amended by Court-Martial Convening Order Number 3, dated
8 March, 2004, subject to the following instructions: ²

To be tried in conjunction with the original charges.

By Command of Lieutenant General Metz:

Command or Order

[Redacted]
Typed Name of Officer

Chief, Criminal Law Division

Official Capacity of Officer Signing

Captain/O-3

Grade

[Redacted]
Signature

15.

On 23 July, 2004, I (caused to be) served a copy hereof on (each of) the above named accused.

[Redacted]
Typed Name of Trial Counsel

[Redacted]
Grade or Rank of Trial Counsel

FOOTNOTES: 1 — When an appropriate commander signs personally, inapplicable words are stricken.
2 — See R.C.M. 601(e) concerning instructions. If none, so state.

CONTINUATION SHEET (Additional Charges) DD Form 458, AMBUHL, Megan M.,
SPC HHC, 16th MP Bde (Abn), III Corps, Victory Base, Iraq APO AE
09342

Item 10 (continued)

SPECIFICATION 2: In that Specialist Megan M. Ambuhl, U.S. Army, at or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 23 October 2003, did maltreat several Iraqi detainees, persons subject to her orders, by participating in a photograph with Private First Class [REDACTED] depicting Private First Class [REDACTED] holding a naked detainee by a leash wrapped around said detainee's neck and by watching Private First Class [REDACTED] hold a naked detainee by a leash wrapped around said detainee's neck.

002501

1 TC: The charges are signed by [REDACTED],

2 a person subject to the Code as accuser; and the additional charges
3 are signed by [REDACTED], the charges and the additional
4 charges were properly sworn to before a commissioned officer of the
5 armed forces authorized to administer oaths; and are properly
6 referred to this court for trial by Lieutenant General Thomas F.
7 Metz, the Convening Authority.

8 MJ: Very well, Specialist Ambuhl, counsel, please rise.

9 [The accused and counsel did as directed.]

10 MJ: Specialist Megan M. Ambuhl, how do you plead? Before
11 receiving your plea, I advise you that any motions to dismiss or to
12 grant any other appropriate relief should be made at this time. Your
13 defense counsel will speak for you.

14 DC: Your Honor, the defense request to defer plea. Several
15 motions have been filed with this court, Your Honor. We request to
16 defer plea until the outcome of those motions.

17 MJ: Roger. Have a seat, please.

18 [The accused and counsel did as directed.]

19 MJ: All right. Let me put on the record the substance of the
20 802 that we held just a minute ago in my office. Present were [REDACTED]
21 [REDACTED], [REDACTED] and myself. A couple of things, I was
22 informed that [REDACTED] has been retained as civilian counsel
23 and will be present for the trial even if tried here in Baghdad,

1 Iraq. However, Specialist Ambuhl was willing to waive his appearance
2 for the purposes of the arraignment. The second thing that we talked
3 about is that it's my understand^{ing am} that [REDACTED], who will be the
4 judge of record in this case, has set the 23rd of August as a date
5 for motion hearing in Mannheim, Germany and [REDACTED] informed
6 me that she does expect [REDACTED] to present for that motion hearing
7 and of course Specialist Ambuhl and counsel will be there as well.
8 Past that, I'll let [REDACTED] set any future dates as necessary for
9 either additional motions or trial. I was also told that the defense
10 has requested an expert on psychological affects of working in
11 prisons to the effect of why good people may do bad things. The
12 government has not yet acted on that and of course we're getting down
13 to the wire because you ought to be able to litigate that motion on
14 the 23rd. It's my understand^{ing am} that defense will start travel from
15 Tikrit on or about 19th, so government you are hereby ordered to get
16 that to the CG and have action taken one way or the other no later
17 than the 18th of August, all right.

18 TC: Yes, ma'am.

19 MJ: Defense, if I were you I would just plan on it being
20 denied so that you can raise the motion before you scoot off to
21 Germany. I realize that it takes several days to get from Tikrit to
22 Germany. That was the substance of everything that my notes showed
23 that we talked about, is there anything counsel that you want to add?

1 TC: No, ma'am.

2 DC: No, Your Honor.

3 MJ: Very well. All right. Specialist Ambuhl, the purpose of
4 today as I said was to start the pretrial process, it's called an
5 arraignment and it's essentially where a judge calls for the plea.
6 You didn't need to enter your plea today, but I called for your
7 plea.

8 As the accused in a court-martial, you have the absolute
9 right to be present at every session of your court and that's whether
10 it's a pretrial session like the one we just held or a pretrial
11 session like you are going to hold on the 23rd of August or the trial
12 or even any post-trial session. The one exception to your right to
13 be present for trial is if you were to go AWOL between now and the
14 date that is set for trial, then the government could opt to try you
15 even in your absence. It wouldn't be a pretty sight for [REDACTED]
16 [REDACTED] or [REDACTED] because they would be defending an empty
17 chair. The judge would enter a plea of not guilty for you and you
18 would go with an officer panel. I don't expect that you are going to
19 go AWOL frankly from Iraq, I don't know where you would go AWOL, all
20 right. The reason that I tell you that is that I inform everybody of
21 that I have arraigned because it's critically important for you to
22 remain in close contact with [REDACTED] and [REDACTED] between
23 now and the dates you've set for pretrial hearings and for the trial

1 so that you could be present on the day of trial to assist in your
2 defense. Do you understand that?

3 ACC: Yes, ma'am.

4 MJ: All right. Is there any thing else we can take up here
5 today then?

6 TC: No, ma'am.

7 DC: No, Your Honor.

8 MJ: Court is in recess.

9 [The court-martial recessed at 1312, 11 August 2004.]

10

002505

1 [The Article 39(a) session was called to order at Mannheim, Germany,
2 at 1505, 23 August 2004.]

3 MJ: Court is called to order. The following people are again
4 present: the accused, [REDACTED] and [REDACTED].
5 [REDACTED], you weren't at the arraignment of the
6 accused?

7 ATC: That's correct, Your Honor.

8 MJ: Put your qualifications and detailing on the record,
9 please.

10 ATC: Yes, my name is [REDACTED]. I've been
11 detailed to this court-martial by [REDACTED], Chief of
12 Military Justice, III Corps. I'm qualified and certified under
13 Article 27(b) and sworn under Article 42(a), Uniform Code of Military
14 Justice. I have not acted in any manner which might tend to
15 disqualify me in this court-martial.

16 MJ: And [REDACTED], you weren't here, were you?

17 CDC: I was not here, Your Honor.

18 MJ: Please put your qualifications on the record.

19 MJ: [REDACTED]; I'm the retained counsel for Specialist
20 Megan Ambuhl. I'm a member in good standing of the bars of the
21 Commonwealth of Virginia and Washington D.C. and the Court of
22 Military Appeals, United States Supreme Court, all federal appellate

1 courts. I've handled approximately 100 court-martials and also was
2 counsel in the case of VCD, the Berlin Democratic Club versus the
3 Department of the Army.

4 [The civilian defense counsel was sworn.]

5 MJ: You've not acted in any manner inconsistent with your
6 duties as defense counsel in this case, have you, [REDACTED]?

7 CDC: No, sir.

8 MJ: And Specialist Ambuhl, at the prior hearing with, I believe
9 [REDACTED], she discussed your rights to counsel with
10 you. Do you recall that?

11 ACC: Yes, sir.

12 MJ: And at that time, did you indicate you wanted both [REDACTED]

13 [REDACTED]?

14 ACC: Yes, sir.

15 MJ: But at that time, you waived the presence of [REDACTED],
16 true?

17 ACC: [No verbal response.]

18 MJ: You didn't----

19 ACC: Oh, yes, sir, I did.

20 MJ: I'm [REDACTED] I've been properly certified
21 and sworn and detailed to this court-martial. As I'm sure both sides
22 are aware, that I'm also the military judge in the companion cases,

1 but I'm not aware of any grounds that might be a challenge against
2 me. Does either side desire to question or to challenge me at this
3 time?

4 TC: No, Your Honor.

5 CDC: No, Your Honor.

6 MJ: And of course, both sides are aware of my status in the
7 other cases, and if there is an issue, I would expect either side
8 that wants to raise the issue raises it on their own.

9 [REDACTED] has been detailed to
10 this court-martial as court reporter and has been previously sworn.

11 I believe that accounts for all the parties.

12 I'll also note for the record that this, as I told all
13 counsel, this case was moved to Mannheim at the request of the
14 defense because they were going to be in Germany conducting
15 discovery. The fact that this hearing is being conducted in Mannheim
16 in no way indicates the eventual situs of trial and has no
17 precedential value on any change of venue or change of place of trial
18 motion.

19 Defense, I understood you have some motions you wish to
20 make?

21 CDC: That's correct, Your Honor. The first motion will be
22 presented by [REDACTED]

1 MJ: Okay, that's been marked as Appellate Exhibit I, which is
2 the request to dismiss the additional charge. Is that correct,

3 [REDACTED]

4 DC: That's correct, Your Honor.

5 MJ: The failure to comply with R.C.M. 405 alpha in that they
6 were not investigated.

7 DC: Correct, Your Honor.

8 MJ: Government, do you have a written response?

9 ATC: Yes, Your Honor, it's been previously provided.

10 MJ: That's Appellate Exhibit II. It would appear to the court
11 that this is primarily a legal issue. Do both sides agree?

12 ATC: Yes, Your Honor.

13 DC: Yes, Your Honor.

14 MJ: And that the facts are really not in dispute?

15 ATC: That is correct, Your Honor.

16 MJ: Okay, I have a copy of the--as I understand it, the
17 additional charges were not preferred at the time of the 32, but were
18 preferred and referred subsequent to the 32.

19 ATC: That is correct, Your Honor.

20 MJ: The defense motion includes an exhibit which include the
21 Article 32 officer's report and the transcript. Any objection to me
22 considering both those documents?

1 ATC: No, Your Honor.

2 MJ: Defense?

3 ATC: No, Your Honor.

4 MJ: Now [REDACTED] you would agree the defense has the
5 burden on this motion?

6 DC: Yes, Your Honor, we do.

7 MJ: It would strike to the court to do it by each
8 specification.

9 DC: Yes, Your Honor.

10 MJ: Now, the specification of Additional Charge I is a
11 conspiracy offense on or about 8 November. And you allege there was
12 no evidence presented on that issue at the 32?

13 DC: As to the conspiracy, Yes, Your Honor. The defense's
14 position on that is that in order for the government ultimately to
15 meet its burden of proof, not only do they need to meet the elements
16 of the conspiracy, but also those of the underlying offense, Your
17 Honor. And this particular conspiracy was not investigated by the
18 investigating officer.

19 MJ: What element wasn't addressed?

20 DC: Your Honor, the two elements that are required, that the
21 accused entered into an agreement with one or more persons to commit
22 an offense. And secondly, that while the agreement continued to

1 exist and while the accused remained a party to that agreement, the
2 accused, or at least one of the co-conspirators, performed an overt
3 act.

4 Your Honor, we ask the court to take into consideration
5 with regard to that charge the fact that the investigating officer,
6 in fact, recommended that in order to go forward with that, the
7 government produce more evidence, in effect, recommending that that
8 charge not be referred over to a general court-martial.

9 MJ: Well, now apparently, we need to refer back to--you're
10 talking about the additional charge, or it's an original charge?

11 DC: Your Honor, I'm sorry, the underlying predicate.

12 MJ: Of original Charge III?

13 DC: Yes, Your Honor, and I mention that to the court because
14 that is the way the position of the government is presented in their
15 responsive motion. Simply focusing on Additional Charge I and its
16 Specification, the two elements for a conspiracy were not
17 investigated by the investigating officer, Your Honor.

18 MJ: Well, you would agree that the overt act was, wasn't it?

19 DC: Yes, Your Honor.

20 MJ: Government, what evidence--was there an agreement
21 introduced at the 32?

1 ATC: We believe that the evidence found in the sworn statements
2 of the co-conspirators, that is, the statement of--the 32 officer
3 considered the statement of [REDACTED],
4 [REDACTED] and [REDACTED], Your Honor, as well as various
5 pictures showing what occurred the night of November 7th and 8th.
6 The government did not attach the statements to its motion. We did
7 attach photographs but can provide the statements of the co-accused
8 if the court would like.

9 MJ: Well, what you gave me is a picture of a, apparently, naked
10 detainee with an individual holding a dog leash around his head.

11 ATC: That's correct, Your Honor.

12 MJ: A statement from a [REDACTED]

13 ATC: That's correct.

14 MJ: The SJA recommendation.

15 ATC: And then six photographs, Your Honor, that's correct. And
16 we believe that those photographs are a sampling of some of the
17 evidence that we've shown of what happened the night of November
18 7th----

19 MJ: Defense, do you take any issue that all of this was
20 presented to the 32 officer?

21 DC: It was presented, Your Honor, no issue there.

1 MJ: And are there any other things you say were presented to
2 the 32 officer you want me to consider?

3 ATC: There were multiple statements of the co-conspirators. We
4 can provide the court with a copy of those statements, Your Honor.

5 MJ: It's your case, [REDACTED], not mine.

6 ATC: I understand. The government would request that we provide
7 those after, unless you want those right now. We could take a quick
8 break and I can present those to you, Your Honor. [Pause.] It's the
9 government's fault. It was trying to save paper as far as how much
10 was copied, but I understand.

11 MJ: There's a lot of paper. So, the witness statements were
12 considered by whom?

13 ATC: By the 32 officer.

14 MJ: No, but which witness statements? I'm sorry.

15 ATC: [REDACTED] and [REDACTED], as
16 well as an additional one of PFC England.

17 MJ: But obviously, if you want me to consider them, you've got
18 to give them to me.

19 ATC: That's correct, Your Honor.

20 MJ: The 32 officer report refers to them, but I don't know what
21 they are without seeing them.

1 Well, let me ask you about...let's move on, because what
2 you're telling me is, he considered the factual predicate based on
3 those statements, [REDACTED], that's the government's
4 position?

5 ATC: That's correct, Your Honor. And the government can get a
6 copy of those statements as attachments.

7 MJ: Make them a separate exhibit, Appellate Exhibit III.

8 [REDACTED], in your brief, you allege that one of the
9 legal deficiencies here is that the accused was not informed of the
10 nature of each uncharged offense investigated?

11 DC: That's correct, Your Honor.

12 MJ: And where does that requirement come from?

13 CDC: Your Honor, that requirement is from the Manual, if I may,
14 inquire to the court which paragraph you're referencing of the brief,
15 Your Honor?

16 MJ: Paragraph 3--or excuse me, page 3, second paragraph, second
17 full paragraph under F.

18 DC: Yes, Your Honor. Your Honor, as cited, Article 32,
19 subparagraph D of the UCMJ.

20 MJ: Government, what do you say about that? Any evidence that
21 the accused was informed?

1 ATC: No, Your Honor. As far as the government's position, is
2 that that is something that was not done at the Article 32
3 investigation. However, it is our position that substantial
4 compliance is the legal test now, and that the Article 32
5 investigation, by investigating the subject matter of the night of
6 November 8th has substantially complied with Article 32 of the UCMJ.

7 MJ: But don't you put the defense in the position of, they go
8 to an Article 32 and they defend themselves against something they're
9 unaware of?

10 ATC: That is correct, Your Honor.

11 MJ: How hard is it to tell them, "Oh, by the way, I'm looking
12 at this, too?"

13 ATC: That's correct, Your Honor, that was not done.

14 MJ: But you think they're on notice anyway.

15 ATC: We believe by the subject matter of the investigation and
16 by the facts educed at the investigation, that yes, that these facts
17 came up and that they were on notice that----

18 MJ: They had to defend themselves against these facts? Well,
19 how were they on notice of that? Was Specialist Ambuhl supposed to
20 say, "Oh, by the way, I want to present a defense on this 8 November
21 incident that you've not charged me with? And in case you do charge

1 me with it later on, and get back to you?" Is that kind of the
2 government theory here?

3 ATC: Well, the government's theory here is that during the
4 investigation, multiple facts were educed, to include the statements
5 of the co-accused and the photos, as well. That those facts educed
6 certain charges that were preferred later on, and yes, technically,
7 yes, step two of UCMJ, paragraph D is not met in this case. That is
8 correct.

9 MJ: And that's a statutory right backed by Congress.

10 ATC: That's correct, Your Honor, but we believe that it still
11 substantially complies with the rules. Now, based on the case law
12 that's cited in the defense brief, the government would agree that if
13 they want the Article 32 reopened----

14 MJ: We're talking about remedies.

15 ATC: Right.

16 MJ: We're still on wrongs here. We'll get remedies in a
17 second. You may not agree, but it strikes to the court that it's a
18 little difficult to defend yourself against something you don't know
19 about.

20 ATC: That is correct, Your Honor.

21 MJ: I mean, quite frankly, if you look at the underlying
22 offense, that apparently, the government theory is, on Charge III,

1 that by watching somebody else commit an offense, the accused
2 committed an offense.

3 ATC: We believe that she was complicit in that offense----

4 MJ: That's not what you said, you said "...by watching naked
5 detainees in a pyramid of..." so she somehow is guilty of
6 maltreatment, because by watching some other people commit
7 maltreatment.

8 ATC: That's correct, under an aider and abettor theory, yes.

9 MJ: So what you're saying is, there's more to this than you've
10 charged in the specification.

11 ATC: As far as....

12 MJ: I'm talking about Charge III.

13 ATC: Yes, we did not spell out aider and abettor----

14 MJ: I'm on a side issue here [REDACTED], I understand
15 that. But it's black letter law that mere presence at a scene of a
16 crime is not an offense.

17 ATC: That is correct, Your Honor.

18 MJ: Unless you have a duty to intervene.

19 ATC: That's correct.

20 MJ: And she is a specialist.

21 ATC: That is correct, and a military police----

1 MJ: Yes, but this isn't charged that way, it's charged as a
2 maltreatment by watching somebody else commit an offense.

3 ATC: That is correct, Your Honor.

4 MJ: So everybody who watched somebody commit this offense is
5 equally guilty as the person who committed it.

6 ATC: Unless they had a duty to intervene, that is correct, Your
7 Honor. And we believe that due to her position at Abu Ghraib, she
8 had a duty to intervene, that is correct.

9 MJ: And that's a maltreatment and not a dereliction of duty.

10 ATC: That is correct, Your Honor.

11 MJ: That's the government theory, anyway.

12 ATC: Yes, Your Honor.

13 MJ: Okay. And when I say "Okay," I mean okay, in that I
14 understand the government theory, not okay, that I'm agreeing
15 necessarily that's the state----

16 ATC: Oh, we understand, sir.

17 MJ: Okay. But there's no compliance with 32(d)(2) in any of
18 these.

19 ATC: That is correct, Your Honor.

20 MJ: So, if I hold that that's a substantial right of the
21 accused, then the remedy is....

22 ATC: The remedy is that we reopen the Article 32, yes, sir.

1 MJ: Defense, you want me to dismiss everything.
2 DC: Yes, Your Honor.
3 MJ: Why?
4 DC: Your Honor----
5 MJ: I know why you want me to, but I'm just saying is, isn't
6 the real remedy here if you have a defective--isn't the normal remedy
7 for a defective 32 simply to return it to a new--either the
8 government can choose to dismiss the charges, or return it to the 32
9 officer to complete the investigation with all the additional
10 charges.
11 DC: Those are possible remedies, Your Honor.
12 MJ: Right.
13 DC: If I can be permitted, I guess, further argument based off
14 of the brief. I've laid it out in the brief as to why that is
15 certainly not an appropriate remedy in this case, Your Honor.
16 MJ: Tell me why.
17 DC: The prejudice to Specialist Ambuhl is the significant
18 amount more of jail time, Your Honor. The government has said in
19 their motion that she has not shown what benefit she can receive at a
20 32, and that's certainly not the standard at all, but rather, what
21 prejudice is there to the accused. If you grant, rather, a standard
22 traditional remedy, Your Honor, of simply reopening the Article 32,

1 Specialist Ambuhl continues to be prejudiced. She's still in Iraq.
2 She's still pending charges. The government would ask you,
3 basically, to reopen a 32 from back in May. The IO issued his
4 findings on May 9th, and Specialist Ambuhl has been facing these
5 original charges since the 20th of March. So, there's significant
6 prejudice to her, to the development of her case and rescheduling a
7 32, reopening it, getting back the Reserve Article 32 officer, and
8 just coordination with the parties, Your Honor. And that's something
9 that Specialist Ambuhl should not have to suffer because of the
10 government's miscalculations or misestimations of the case. Rather,
11 the case law cited in the defense's brief, Your Honor, allows you the
12 authority to dismiss with prejudice, to tell the government that this
13 is not acceptable, to tell the government that when an IO comes down
14 with his findings on 9 May, you do not wait until the 13th of July to
15 add additional charges conveniently one week before referral. That's
16 the appropriate remedy, Your Honor.

17 MJ: [REDACTED] if I dismiss these things, and then
18 government says, "Fine, we'll prefer them again, and then you'll have
19 two trials."

20 DC: Your Honor, we ask you to dismiss those three with
21 prejudice, Your Honor.

1 MJ: Why is this case any different than those other cases?
2 You're saying the prejudice your client is suffering is the length of
3 time. I understand that. But that's inherent whenever you get a new
4 32, true?

5 DC: Yes, Your Honor. The additional prejudice is the jail
6 time.

7 MJ: Well, yes, I know, but that's also true of every one of
8 these cases, is that if you go back and reinvestigate or go to a
9 proper 32, the accused has always got greater exposure, right? I
10 mean, I'm just trying to figure out why this case is any different
11 than any of these other cases, that the remedy is normally--you said
12 the 32 was defective, so you get a new 32.

13 DC: Yes, Your Honor. This case, if I may have a moment of the
14 court's indulgence, is analogous to United States--sorry, Your Honor,
15 I've cited a case in my brief in which the appellate courts thought
16 that the appropriate remedy was dismissal, when there was over 2
17 months of delay between the end of the Article 32 and the initiation
18 of the charges. And that case is analogous to the present situation
19 that we find ourselves in, Your Honor, that months after this 32 has
20 been opened and investigated, the defense team, in effect, Specialist
21 Ambuhl should not be prejudiced by this. So the appellate courts
22 have already said that dismissal is an appropriate remedy, 002521

1 particularly when you've got 2 months of inactivity. The government,
2 in their responsive motion, Your Honor, concedes that it's the same
3 factual predicate for these offenses. So even with that, the
4 government knew of these offenses as early as 20 March. So it should
5 be a, "It's okay, government, we'll let it happen and we'll let the
6 defense go through the motions of rehashing out this 32." Sir,
7 that's not an appropriate remedy when the case is this far gone, Your
8 Honor. The government--a message needs to be sent to the government
9 that you do not add on three additional charges with 3 more years
10 possible maximum confinement a week before referral, because after
11 the fact, you found that you have enough evidence. That's why
12 dismissal is appropriate, Your Honor.

13 MJ: Government, the date I have on the report is 8 May 2004.

14 ATC: That's correct, Your Honor.

15 MJ: It takes 2 months to prefer the additional charge?

16 ATC: That's correct, Your Honor. The government----

17 MJ: I mean, the defense is saying that the government just sits
18 around for 2 months and says, "Oh, by the way, let's add these other
19 charges." Any reason for that delay?

20 ATC: Yes, Your Honor. What happened after the 8 May timeframe
21 is two things. First of all, you have a change of the trial counsel
22 trying the case. Both myself and [REDACTED] were put on after----

1 MJ: When were you put on?

2 ATC: I was put on May 26th, and [REDACTED] was put on June
3 22d. Then, the discussion was to add these additional charges based
4 upon the evidence at the Article 32 after I reviewed. However, to
5 say there was no activity by the government, the Fay investigation
6 was ongoing, the Major General Fay investigation into the MI
7 involvement----

8 MJ: Does that have legal relevance on the 32?

9 ATC: Only to this amount, Your Honor, and this might sound
10 somewhat self-serving, but we were actually waiting to see if there
11 was the exculpatory-type of evidence that was being claimed that MI
12 was telling them. So before we preferred the additional charges, we
13 were actually waiting to see if this exculpatory information was
14 coming out. After we, once again, found that the Fay investigation
15 kept getting pushed back, kept getting pushed back and pushed back,
16 after we did not find any more exculpatory information, yes, the
17 government went ahead, recommended and the command preferred
18 additional charges. So that's the legal relevance of the Fay
19 investigation, that we were actually waiting to see if this
20 exculpatory information was going to come out. We have not found
21 that type of exculpatory information----

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