

## INVESTIGATING OFFICER'S REPORT

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

|  |                        |  |   |
|--|------------------------|--|---|
| FROM: (Name of Investigating Officer - Last, First, MI)<br>[REDACTED]                    | b. GRADE<br>[REDACTED] | c. ORGANIZATION<br>HQ, 3 <sup>rd</sup> Brigade Combat Team<br>1 <sup>st</sup> Armored Division<br>Baghdad, Iraq APO AE 09324 | d. DATE OF REPORT<br>28 Oct 2003                      |
| 2a. TO: (Name of Officer who directed the Investigation - Last, First, MI)<br>[REDACTED] | b. TITLE<br>[REDACTED] | c. ORGANIZATION<br>HQ, 3 <sup>rd</sup> Brigade Combat Team<br>1 <sup>st</sup> Armored Division<br>Baghdad, Iraq APO AE 09324 |   |
| 1a. NAME OF ACCUSED (Last, First, MI)<br>McKENZIE, John C.                               | b. GRADE<br>E6         | c. SSN<br>[REDACTED]   | d. ORGANIZATION<br>B Battery, 4-1 FA<br>Baghdad, Iraq |
|  |                        |  | e. DATE OF CHARGES<br>19 Sep 03                       |

(Check appropriate answer)

|   |  |  |          |
|---|--|--|----------|
| IN ACCORDANCE WITH ARTICLE 32, UCMJ, AND R.C.M. 405, MANUAL FOR COURTS-MARTIAL, I HAVE INVESTIGATED THE CHARGES APPENDED HERETO (Exhibit 1) | YES<br><input checked="" type="checkbox"/> | NO<br><input type="checkbox"/>                 |          |
| THE ACCUSED WAS REPRESENTED BY COUNSEL (If not, see 9 below)  | YES<br><input type="checkbox"/>            | NO<br><input checked="" type="checkbox"/>      |          |
| UNSEL WHO REPRESENTED THE ACCUSED WAS QUALIFIED UNDER R.C.M. 405(d)(2), 502(d)  | YES<br><input checked="" type="checkbox"/> | NO<br><input type="checkbox"/>                 |          |
| a. NAME OF DEFENSE COUNSEL (Last, First, MI)<br>WUSH, Brian   | b. GRADE<br>O3                             | 8a. NAME OF ASSISTANT DEFENSE COUNSEL (If any) | b. GRADE |
| ORGANIZATION (If appropriate)<br>DS<br>DS USALSA Field Office   |  | c. ORGANIZATION (If appropriate)               |          |
| ADDRESS (If appropriate)<br>Camp Victory<br>Baghdad, Iraq   |  | d. ADDRESS (If appropriate)                    |          |
| To be signed by accused if accused waives counsel. If accused does not sign, investigating officer will explain in detail in Item 21.)      |  |  |          |
| PLACE   | b. DATE                                    |  |          |

I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED IN THIS INVESTIGATION BY COUNSEL, INCLUDING MY RIGHT TO CIVILIAN OR MILITARY COUNSEL OF MY CHOICE IF REASONABLY AVAILABLE. I WAIVE MY RIGHT TO COUNSEL IN THIS INVESTIGATION.

SIGNATURE OF ACCUSED

|  |                                     |                          |
|--|-------------------------------------|--------------------------|
| 2. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF: (Check appropriate answer)   | YES                                 | NO                       |
| THE CHARGE(S) UNDER INVESTIGATION  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| IDENTITY OF THE ACCUSER  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| THE RIGHT AGAINST SELF-INCRIMINATION UNDER ARTICLE 31  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| THE PURPOSE OF THE INVESTIGATION   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| THE RIGHT TO BE PRESENT THROUGHOUT THE TAKING OF EVIDENCE  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| THE WITNESSES AND OTHER EVIDENCE KNOWN TO ME WHICH I EXPECT TO PRESENT   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| THE RIGHT TO CROSS-EXAMINE WITNESSES   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| THE RIGHT TO HAVE AVAILABLE WITNESSES AND EVIDENCE PRESENTED   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| THE RIGHT TO PRESENT ANYTHING IN DEFENSE, EXTENUATION, OR MITIGATION   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| THE RIGHT TO MAKE A SWORN OR UNSWORN STATEMENT, ORALLY OR IN WRITING   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| a. THE ACCUSED AND ACCUSED'S COUNSEL WERE PRESENT THROUGHOUT THE PRESENTATION OF EVIDENCE (If the accused or counsel were absent during any part of the presentation of evidence, complete b below.) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

STATE THE CIRCUMSTANCES AND DESCRIBE THE PROCEEDINGS CONDUCTED IN THE ABSENCE OF ACCUSED OR COUNSEL

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

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12a. THE FOLLOWING WITNESSES TESTIFIED UNDER OATH: (Check appropriate answer)

| NAME (Last, First, MI) | GRADE (if any) | ORGANIZATION/ADDRESS (Whichever is appropriate)                         | YES | NO |
|------------------------|----------------|---|-----|----|
| [REDACTED]             | E5             | B Batt, 4-1 <sup>st</sup> Field Artillery<br>Baghdad, Iraq APO AE 09324 | X   |    |
| [REDACTED]             | E5             | B Batt, 4-1 <sup>st</sup> Field Artillery<br>Baghdad, Iraq APO AE 09324 | X   |    |
| [REDACTED]             | E4             | B Batt, 4-1 <sup>st</sup> Field Artillery<br>Baghdad, Iraq APO AE 09324 | X   |    |
| [REDACTED]             | E4             | B Batt, 4-1 <sup>st</sup> Field Artillery<br>Baghdad, Iraq APO AE 09324 | X   |    |
| [REDACTED]             | E4             | B Batt, 4-1 <sup>st</sup> Field Artillery<br>Baghdad, Iraq APO AE 09324 | X   |    |

(SEE CONTINUATION SHEET 1)

13. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED.

13A. THE FOLLOWING STATEMENTS, DOCUMENTS, OR MATTERS WERE CONSIDERED; THE ACCUSED WAS PERMITTED TO EXAMINE EACH.

| DESCRIPTION OF ITEM  | LOCATION OF ORIGINAL (if not attached)                               | YES | NO |
|--|--|-----|----|
| Sworn Statements of SGT [REDACTED] dtd 21 Jun 03 and 27 Jun 03 | Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division | X   |    |
| Sworn Statements of SGT [REDACTED] dtd 21 Jun 03 and 27 Jun 03 | Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division | X   |    |
| Sworn Statements of SPC [REDACTED] dtd 21 Jun 03 and 27 Jun 03 | Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division | X   |    |
| Sworn Statements of SPC [REDACTED] dtd 21 Jun 03 and 27 Jun 03 | Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division | X   |    |
| Sworn Statements of SPC [REDACTED] dtd 21 Jun 03 and 27 Jun 03 | Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division | X   |    |
| (SEE CONTINUATION SHEET 1)                                     | Office of the Staff Judge Advocate, 1 <sup>st</sup> Armored Division |     |    |

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(h).)

15. THE DEFENSE DID REQUEST OBJECTIONS TO BE NOTED IN THIS REPORT (If Yes, specify in Item 21 below.)

16. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL

17. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM

18. REASONABLE GROUNDS EXIST TO BELIEVE THAT THE ACCUSED COMMITTED THE OFFENSE(S) ALLEGED

19. I AM NOT AWARE OF ANY GROUNDS WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER. (See R.C.M. 405(d)(1).)

20. I RECOMMEND:

TRIAL BY  SUMMARY  SPECIAL  GENERAL COURT-MARTIAL  
 OTHER (Specify in Item 21 below)

REMARKS (Include, as necessary, explanation for any delays in the investigation, and explanation for any "no" answers above.)

FORM OF THE CHARGES.

It is my certainty based upon the written and oral testimony provided by the witnesses that the two charges are in proper form and that there are reasonable grounds to believe that Staff Sergeant John C. McKenzie did in fact commit the offenses alleged; however, based upon evidence presented, I recommend several amendments to the form of the charges and their specifications. I recommend that Charge I, Violation of Article 93, UCMJ, cruelty and maltreatment, be amended to substitute the specification addressed in the following paragraph and also recommend that the specification of Charge I be dismissed for reasons addressed in the second paragraph of the

(SEE CONTINUATION SHEET 2)

|  |                |  |
|--|----------------|--|
| a. TYPED NAME OF INVESTIGATING OFFICER<br>[REDACTED] | b. GRADE<br>P4 | c. ORGANIZATION<br>HQ, 3 <sup>rd</sup> BCT, 1 <sup>st</sup> AD<br>Baghdad, Iraq APO AE 09324 |
|--|----------------|--|

CONTINUATION SHEET 1, DD FORM 457, PERTAINING TO SSG MCKENZIE, John C.,  
 B Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, Baghdad, Iraq  
 O AE 09324

Item 12a, continued:

| <u>NAME (Last, First, MI)</u> | <u>GRADE (if any)</u> | <u>ORGANIZATION/ADDRESS (Whichever is appropriate)</u>                  | <u>YES</u> | <u>NO</u> |
|-------------------------------|-----------------------|---|------------|-----------|
| [REDACTED]                    | E3                    | B Batt, 4-1 <sup>st</sup> Field Artillery<br>Baghdad, Iraq APO AE 09324 | X          |           |
| [REDACTED]                    | E3                    | B Batt, 4-1 <sup>st</sup> Field Artillery<br>Baghdad, Iraq APO AE 09324 | X          |           |
| [REDACTED]                    | E3                    | B Batt, 4-1 <sup>st</sup> Field Artillery<br>Baghdad, Iraq APO AE 09324 | X          |           |
| [REDACTED]                    | E4                    | B Batt, 4-1 <sup>st</sup> Field Artillery<br>Baghdad, Iraq APO AE 09324 | X          |           |
| [REDACTED]                    | Civilian              | Khalif Baghdad Harthia, House 44<br>Baghdad, Iraq                       | X          |           |

Item 13a, continued:

| <u>DESCRIPTION OF ITEM</u>   | <u>LOCATION OF ORIGINAL (if not attached)</u>  | <u>YES</u> | <u>NO</u> |
|--|--|------------|-----------|
| Sworn Statements of PFC [REDACTED]<br>dtd 21 Jun 03 and 27 Jun 03    | Office of the Staff Judge Advocate,<br>1 <sup>st</sup> Armored Division<br>Baghdad, Iraq | X          |           |
| Sworn Statements of PFC [REDACTED]<br>dtd 21 Jun 03 and 28 Jun 03    | Office of the Staff Judge Advocate,<br>1 <sup>st</sup> Armored Division<br>Baghdad, Iraq | X          |           |
| Sworn Statements of PFC [REDACTED]<br>dtd 21 Jun 03 and 28 Jun 03    | Office of the Staff Judge Advocate,<br>1 <sup>st</sup> Armored Division<br>Baghdad, Iraq | X          |           |
| Sworn Statements of SPC [REDACTED]<br>dtd 21 Jun 03 and<br>27 Jun 03 | Office of the Staff Judge Advocate,<br>1 <sup>st</sup> Armored Division<br>Baghdad, Iraq | X          |           |
| Sworn Statements of PFC [REDACTED]<br>dtd 21 Jun 03 and 27 Jun 03    | Office of the Staff Judge Advocate,<br>1 <sup>st</sup> Armored Division<br>Baghdad, Iraq | X          |           |
| Photographs (18)   |  | X          |           |

em 21, continued.

Dismissed for reasons addressed in the second paragraph of the discussion. I also recommend that one additional charge, Violation of Article 92, UCMJ, Dereliction in the Performance of Duties be preferred against Staff Sergeant McKenzie. The witness testimony and evidence supporting the charges, recommended amendments, and/or dismissals are discussed below.

1. Charge I, Violation of Article 93, UCMJ (Cruelty and Maltreatment).

This paragraph addresses my recommendation to substitute the specification to Charge I. While I do believe that reasonable grounds exist to believe that Staff Sergeant McKenzie violated Article 93, UCMJ (Cruelty and Maltreatment), I do not believe that he is guilty of the offense as it is stated on the charge sheet. The specification as it is stated, charges that Staff Sergeant McKenzie was cruel toward [REDACTED] by "laughing at [him] after he was assaulted...and saying to [REDACTED] "What happened, did you fall and break your nose?" I do not believe that the evidence supports the charge that Staff Sergeant McKenzie was cruel in this manner. I do not believe that what basically amounted to "teasing" [REDACTED] raises to the level of cruelty. Laughing at someone is not a crime and [REDACTED] could not understand the words that were being stated regardless. I do not believe that these acts could not meet the second element of Article 93.

While I do not believe there are reasonable grounds to charge Staff Sergeant McKenzie for cruelty as that specification is stated, I do believe that there are reasonable grounds to believe that he did commit the offense. There is credible evidence that Staff Sergeant McKenzie attempted to persuade [REDACTED] accept an operable pistol while he was sitting on the ground and with weapons pointed at him. I believe that Staff Sergeant McKenzie did this because he knew that [REDACTED] acceptance of the pistol would justify having the other soldiers shoot him. [REDACTED] testified that he believed that he would be killed if he accepted the pistol, and two other witnesses, Specialist [REDACTED] and Private First Class [REDACTED] testified that they overheard Staff Sergeant McKenzie say "take it so we can shoot you," or words to that effect. In addition, a few other witnesses testified that they believed Staff Sergeant McKenzie would shoot, engage or otherwise harm [REDACTED] if he accepted the pistol. By placing [REDACTED] in a fear of imminent death or bodily harm, he engaged in a type of mental torture by Staff Sergeant McKenzie that I believe would meet the cruelty element of the offense that [REDACTED] was subject to the orders of the accused. The victim was a detainee and had to obey the orders of his detainer. Staff Sergeant McKenzie was the senior ranking individual at the scene, so [REDACTED] was subject to his orders.

Although I do not believe that the statement "what happened, did you fall and break your nose?" rises to the level of cruelty by itself, I do believe that the statement may be indicative of some other type of physical maltreatment of [REDACTED] by someone in the group. I believe that he may have made the statement to provide an explanation for physical signs of maltreatment on the victim. However, I do not believe that there is sufficient evidence to suggest that Staff Sergeant McKenzie himself inflicted this damage.

Charge II, Violation of Article 128, UCMJ (Assault with a Dangerous Weapon)

This paragraph addresses my reasonable belief to that Charge II, Violation of Article 128, UCMJ, Assault with a Dangerous Weapon, is in proper form, that all the elements required to substantiate the charge have been met, and that credible witness testimony and sworn statements support the charge.

(SEE CONTINUATION SHEET 3)

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tem 21, continued.

The sequence of events based upon the evidence gathered shows that the actions, which are the basis of Charge II, took place sometime after the detainment of [REDACTED] outside the building he was guarding, but prior to the incident where [REDACTED] struck him in the face.

Besides [REDACTED] it is believed that there were only five other soldiers at the scene; Staff Sergeant McKenzie, [REDACTED] and [REDACTED]. A written statement and oral testimony by [REDACTED] and a written statement by [REDACTED] both credible witnesses at the scene, claim they saw Staff Sergeant McKenzie and another soldier taunting [REDACTED] by instructing him to lower and raise his head. Both witnesses observed Staff Sergeant McKenzie pull back the charging handle of his M16A2 rifle presumably to chamber a round into the chamber of his rifle and then aim his rifle at a distance of 6-12 inches away from [REDACTED] head. Another credible witness, [REDACTED], stated that he did see Staff Sergeant McKenzie aim his M16A2 at [REDACTED], but did not see him charge the weapon. [REDACTED] also a credible witness, did not recall having seen Staff Sergeant McKenzie aim his weapon at [REDACTED] however, it is reasonable to believe that [REDACTED] who was standing twenty to thirty feet away from the detainee, may have been distracted momentarily as Staff Sergeant McKenzie aimed his rifle at [REDACTED].

Although I do not believe [REDACTED] to be a credible witness in this case, I would like to acknowledge his testimony that he and another soldier "badgered" [REDACTED] and told him to keep his head down. When questioned by the defense counsel, [REDACTED] stated that he trained his weapon on [REDACTED] accused when he did not obey "our" command to keep his head down. The evidence and testimony leads me to believe that the other soldier was Staff Sergeant McKenzie.

There are other credible witnesses who did not recall having seen Staff Sergeant McKenzie aim his weapon at [REDACTED]. I believe that this discrepancy in credible witness testimony can be explained by a lack of personal knowledge of the events. The above-mentioned witnesses lack of knowledge can be explained by the fact that they were still in the process of searching nearby buildings or en'route to the site where the incident took place.

Recommended Charge, Violation of Article 92, UCMJ (Dereliction in the Performance of Duties).

Although it was not charged, the evidence uncovered during my investigation provided reasonable grounds to believe that Staff Sergeant McKenzie was derelict in his duty as a NCO supervisor when he failed to correct and to report that his soldier, [REDACTED], had wrongfully assaulted [REDACTED], in violation of UCMJ, Article 92. Six witnesses whose testimony I consider to be credible testified that after [REDACTED] had struck [REDACTED] in the face with his hand causing him to bleed profusely from his mouth and nose, Staff Sergeant McKenzie took no action whatsoever to correct or restrain [REDACTED] instead he joked about the incident. According to the accounts of several witnesses, [REDACTED] was at no time perceived a threat and he responded fully to the orders of the soldiers detaining him. After the incident occurred, Staff Sergeant McKenzie failed to report this incident to his superiors, as he should have. Instead, it was the soldiers who observed the incident who informed the battery first sergeant of what had happened. During the hearing, [REDACTED] stated that soldiers within the battery had received Rules of Engagement (ROE) training prior to deploying to Iraq.

(SEE CONTINUATION SHEET 4)

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em 21, continued.

Because of this, I recommend that Staff Sergeant McKenzie be additionally charged for the violation of Article 92, UCMJ (Dereliction of Duty).

## II. FINDINGS FROM WITNESS TESTIMONY.

Of the 10 soldier witnesses who had previously submitted sworn statements about the events of 21 June 2003, I found only 8 to be credible. I found the testimony of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] to be credible because their respective oral testimonies were generally consistent with their previously submitted sworn statements. The oral testimony did; however, tend to provide more illustrative detail of the events than did their sworn statements.

The testimony of the alleged victim in this case, [REDACTED] seemed to be credible and was consistent for the most part with the testimony of the other witnesses. I will say however, that it appeared as if he exaggerated the events at [REDACTED].

I did not find the testimony of [REDACTED] and [REDACTED] to be credible or convincing.

[REDACTED] acknowledged that the details in his first sworn statement were false. In this statement, he claimed to have seen nothing, but as the written and oral testimony of others would show, he was at or near every event related to Staff Sergeant McKenzie's alleged misconduct. I also have little reason to believe [REDACTED] second sworn statement and oral testimony because the recollection of events he described did not resemble in any consistent fashion those presented by the other eight witnesses.

With regard to the testimony provided by [REDACTED] I have a strong belief that the may have in fact violated Article 131 of the UCMJ by committing perjury during his examination in this Article 32 hearing. During his oral testimony, I questioned [REDACTED] about having seen Staff Sergeant McKenzie during the incident. He denied having seen Staff Sergeant McKenzie at all until after he left the scene where the assault took place. This testimony conflicts with [REDACTED] written statement acknowledging that Staff Sergeant McKenzie was located "somewhere behind him" at the time of the incident where he struck [REDACTED] in the face.

I would like to state that [REDACTED] was not a cooperative witness during the course of the investigation, it came to my attention that [REDACTED] had agreed to testify truthfully about this incident in exchange for disposition of his case with an Article 15. It is my belief that he did not live up to his part of the bargain. He did not provide truthful and accurate testimony against or in support of Staff Sergeant McKenzie as agreed to in the Memorandum of Agreement. In light of this, I believe that [REDACTED] voided the agreement and recommend that formal action should be taken against [REDACTED].

## II. RECOMMENDATION AS TO DISPOSITION

**Disposition.** I recommend that this case be referred to a special court-martial empowered to adjudge a bad conduct discharge. These are serious crimes, which have the possibility of adversely affecting the image of the United States Army, and if [REDACTED] is found guilty of these crimes at the court-martial, they are crimes worthy of a punitive discharge. I believe that this level of disposition is appropriate to both punish Staff Sergeant McKenzie and to deter other soldiers from engaging in this type of misconduct. Aware the chain of command, including yourself, recommend a general court-martial in this case, I believe that a special court-martial

(SEE CONTINUATION SHEET 5)

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Item 21, continued.

empowered to adjudge a bad conduct discharge is a more appropriate level of disposition considering Staff Sergeant McKenzie's years in service and previous service record.

**Summary.** I recommend that you send the following charges to the 1<sup>st</sup> Armored Division Commanding General, with a recommendation for referral to a special court-martial empowered to adjudge a bad-conduct discharge:

1. Charge I, The Specification: Violation of the UCMJ, Article 93.

I recommend that this charge be modified to reflect the acts, which could be considered to be cruel.

2. Charge II, The Specification: Violation of the UCMJ, Article 128.

3. Additional Charge I, The Specification: Violation of the UCMJ, Article 92.

I recommend that this charge be added, because the evidence provided reasonable grounds to believe that Staff Sergeant McKenzie was derelict.

# TAB B



## SUMMARIZED RECORD OF ARTICLE 32b INVESTIGATION

### PERSONS PRESENT

MAJ [REDACTED] Investigating Officer  
CPT [REDACTED] Government Representative  
CPT [REDACTED], Defense Counsel  
Mr. [REDACTED], Translator  
SSG [REDACTED] n C. McKenzie, Accused  
SPC [REDACTED] Reporter

### PERSONS ABSENT

None.

The Article 32b Investigation convened at 0900 hours, 22 October 2003.

The Investigating Officer informed the accused that this was a formal investigation of the charges against him ordered pursuant to Article 32b of the UCMJ by COI [REDACTED] special court-martial convening authority.

The Investigating Officer stated that he had previously informed the accused of his rights regarding counsel and that the accused indicated to him that he did wish to be represented by CPT [REDACTED] detailed defense counsel, who was present with the accused.

The Investigating Officer stated that Major [REDACTED] was assigned as his primary legal advisor on 30 September 2003, but on 21 October 2003 that Captain [REDACTED] was appointed as his legal advisor replacing Major [REDACTED].

The Investigating Officer advised the accused that the sole purpose of the Article 32b Investigation was to determine thoroughly and impartially all the relevant facts of the case. To weigh and evaluate those facts and determine the truth of the matter set on the charges and make a recommendation concerning disposition of the charges preferred against him.

The Defense Counsel waived the reading of the charges.

The Investigating Officer advised the accused of his right to remain silent concerning the offenses, of the right to make a sworn or unsworn statement, and that such a statement could be used against him in a trial by court-martial. The Investigating Officer further informed the accused of his right to present matters in defense, extenuation and mitigation, and that anything presented by the accused would be considered and weighed as evidence just as the testimony of any witness.

The Investigating Officer stated that the accused had been previously given a copy of the investigative file, which has been compiled in the case. The Investigating Officer listed the items contained in the investigative file.

The Defense attorney requested that the Investigating Officer allow counsel to review the charge sheet furnished to him. There being no objection by the Government Representative, the Investigating Officer allowed the Defense Counsel to review his copy of the charge sheet.

The Investigating Officer stated that he intended to call as a witnesses [REDACTED]  
Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment; [REDACTED] Bravo Battery, 4<sup>th</sup>  
Battalion, 1<sup>st</sup> Field Artillery Regiment; [REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field

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Artillery Regiment; [REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment;  
[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment; [REDACTED]  
[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment; [REDACTED]  
[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment; [REDACTED]  
[REDACTED] Iraqi citizen.

The Investigating Officer informed the accused that he had the right to cross-examine all witnesses, which testify at this hearing. The Investigating Officer further informed the accused of his right to call witnesses on his behalf.

The Investigating Officer asked the accused if he had any questions concerning his rights in the investigation.

The accused stated that he understood his rights in the Article 32b Investigation.

The Investigating Officer stated that [REDACTED] would be deemed as reasonably unavailable due to the witness being returned to the United States on environmental leave. There being no objection from the Defense Counsel or the Government Representative, the Investigating Officer stated that he would consider the sworn statement of [REDACTED] in his review of the investigation.

The Investigating Officer stated that the Government Representative would swear in the witnesses and the translator in this investigation. There was no objection from Defense Counsel.

The Defense Counsel performed voir dire on the Investigating officer.

The Government Representative asked both the Defense Counsel and the Investigating Officer if they were comfortable with the completeness of the investigative packet that they were given in this case. Both the Defense Counsel and the Investigative Officer stated that they felt comfortable with the completeness of the packet that they received in this case.

The Government Representative made an opening statement.

The Defense Counsel made an opening statement.

The Investigating Officer also stated that [REDACTED] currently would not be called as a witness due to the fact that the soldier has legal counsel and his counsel has advised him not to testify at this investigation at the present time. The Government Representative informed all parties that [REDACTED] would only testify if an agreement was reached between the witness, his counsel, the Government Representative, and the Special court-martial convening authority. There was no objection from Defense Counsel.

[REDACTED] was called as a translator for [REDACTED] [REDACTED] he was sworn and translated the testimony of the witness.

[REDACTED] Baghdad Harthia, House 44, was called as a witness for the government, was sworn, and testified through an interpreter in substance as follows:

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

My name is [REDACTED] I prefer to be called [REDACTED] I was guarding a building that housed military artifacts on 21 June 2003. They were trying to make that place educational for the youth of Iraq or as a health center for the Iraqi people. Me and one other man normally guard the building. I forgot the date that American forces came to the building and did a search of its interior. I do remember

that the date the American forces came to the building that I guard was in June. On the day the American forces came, I was the only guard at the building.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I was the only guard at the museum that day, but normally there are two of us.

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I was lying on the couch because it was a very hot day. I heard a lot of noises outside, so I got up and went outside to look and see where the noise was coming from. I saw a lot of American forces and tanks when I went outside. The soldiers started screaming at me to get out of the building, but I did not realize that they were talking to me at first. At this time, there were two soldiers with their rifles pointed at me. The two soldiers came in the building and told me to get outside, so I came out of the building. They had me lay down on the ground so that they could search me. After they had searched me and found nothing, they told me to get up and sit on a chair while some of the forces moved inside the building. I was not wearing a uniform that day when the American forces came to the museum because this all happened before we were issued uniforms. The soldiers had me sit down against some type of aluminum post as the other soldiers conducted some type of operation. Five of the soldiers stayed outside and guarded me, while the others went inside the building. I was thinking that the five soldiers guarding me where going to shoot me at any minute. The soldiers were talking to one another with their weapons pointed at me, but I could not understand what they were saying. The soldiers did bring some of the weapons from the museum outside. The building I was guarding was a military museum. It had a lot of old weapon systems inside. One of the soldiers brought a revolver pistol out of the building and asked me what it was. I told the soldier that it was an old revolver pistol. Later on, one of the soldiers had brought someone that could speak Arabic over and I told him that the revolver was an old pistol. I was told that there had been some resistance towards American forces the area around the museum, and that some of the coalition forces had been attacked from this area. The soldiers asked me if I knew anything about it. I told them that sometimes thieves and robbers come into the museum to still because they know that weapons are in there. Sometimes, I try to stop the thieves from stealing the weapons. There was about a foot and a half distance between my head and the weapons the soldiers had pointed at me. The soldiers did make me put my head down and close my eyes. I do remember a soldier putting his weapon to my head, but that did not occur until after one of the soldiers hit me. After the soldiers had searched the building and brought the weapons out of it, I was then struck by one of them. After I was surrounded, one of the soldiers showed me his bayonet by pulling his knife out as if to say that he was going to stab me. Two soldiers were standing beside me, when a third soldier came and hit me from behind in my mouth. I fell to the ground when the soldier hit me. When I was trying to get up, that is when two soldiers put their weapons to my head.

Let the record show that the witness identified an M16A2 rifle as being similar to the weapon that had been placed against his head.

My nose and mouth started bleeding when the soldier struck me in the face. After the soldiers saw that I was bleeding from the nose and mouth, they put their weapons on safe and started backing up. The man with the American forces who spoke Arabic then gave me a cloth to wash my face and mouth. I do not remember any of the soldiers laughing. The leader of the soldiers was in the building when I got struck. When he came out and saw that I was bleeding, he asked the soldiers which one of them had hit me. After the leader of the soldiers found out who had hit me, he pulled the soldier to the side and told him to go back to his area until he had a chance to speak with him later on the incident. The leader of the soldiers is not present in this room. I was not scared when I was struck in the mouth. I was more concerned with my friends finding out about me being hit by an American soldier because it would cause insult to me in their eyes. I was never hit by my father, mother, or brother. Up until now, most of my friends do not know that I was hit in the face by an American soldier. I was scared when the soldiers put their weapons to my head, because I was expecting one of them to pull the trigger. I have heard of a lot of innocent people getting killed by mistake and I thought that I was going to be one of them. I can not remember if any of the soldiers in the room here, were one of those present when I was assaulted. The only American soldier that I can recognize is the one who spoke Arabic that befriended me. Most of the time during the incident, my

head was down or my eyes were closed. I cried on the inside because I did not understand why the soldier had hit me. The only thing that I suffer from right now, because of the incident is ridicule from my friends. Sometimes when I play with my friends where we hit one another, they tell me that before I hit an Iraqi back, I should go and hit the American soldier back that struck me in the face. I lost 50,000 Dinar and 9MM Blanc pistol due to the incident. I used my pistol the American soldiers took from me only to protect myself whenever I went out.

#### QUESTIONS BY THE INVESTIGATING OFFICER

One of the soldiers tried to offer me a gun that he had brought out of the museum, The pistol that the soldier offered me was burnt up.

#### QUESTIONS BY THE DEFENSE COUNSEL

The soldiers had their guns pointed at me when I was kneeling in front of the museum. When I tried to get up from the ground, after I had been struck by the soldier; that is when they put their weapons to my head. I was on my knees while the soldiers had their weapons pointed at me. There were five soldiers with their weapons pointed at me. The soldier that offered me the gun had a piece of paper in his hand. The soldier that offered me the weapon knew how to read Arabic. He was asking me who had me guarding the museum. The soldier was asking me why I was in the museum and what was I doing there. The soldier that told me to take the weapon he had in his hand for me was not speaking to me in Arabic. I thought that the soldier was trying to hand me the weapon because the soldier was putting the weapon out towards me. I refused taking the weapon from the soldier, because I thought that they would have tried to harm me. The soldier that offered me the pistol was not speaking in Arabic. After the search, there were normally two soldiers guarding me. At times though, there was only one soldier guarding me with his weapon at my head.

The interpreter demonstrated the distances between the witness and the soldiers guarding him. The distance was about 8 feet.

#### QUESTION BY THE INVESTIGATING OFFICER

From the moment the soldiers walked into the museum, I was expecting them to kill me. I thought that if I took the pistol from the soldier that offered it to me, the others would have killed me.

The Government Representative requested that the Investigating Officer permanently excuse the witness, because he had come a long way to deliver his testimony. There being no objection by the Defense Counsel, the Investigating Officer stated that he would permanently excuse the witness.

There being no further questions, the witness was permanently excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

The Government Representative requested a brief recess to link the witness up with his coalition forces escort so that he could get back to his residence. There being not argument from Defense Counsel, the Investigating Officer gave all parties a brief recess.

The Article 32b Investigation recessed at 0956 hours, 22 October 2003.

The Article 32b Investigation resumed at 1001 hours, 22 October 2003, with all parties present

[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, was called as a witness for the government, was sworn, and testified in substance as follows:

002176

### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

On 21 June 2003, I was assigned to Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment. On 21 June 2003, we were called out on a QRF mission. When we arrived on the scene that we had been called to respond to as the QRF, I was tasked to guard a detainee. We were told that there was an Iraqi civilian in a building with an AK47. When I arrived the detainee was already outside and being watched by the [REDACTED]. The [REDACTED] told me to watch the detainee and make sure that he did not try to get away. The accused along with the rest of the guys from my unit were already inside the building when I arrived. Once the building was cleared, and they had brought out all the weapons that they needed to bring out, all the soldiers were congregating outside the building waiting to go back to our Forward Observation Base. The soldiers brought some mortar tubes, AK47s, a hand gun, and some ammunition out of the building.

The Government Representative handed the witness photo 1251.

This is a picture of a mortar tube, some AK47s, and a Rocket Propelled Grenade (RPG). These are the same weapons that I saw the soldiers bring out on 21 June 2003.

The Government Representative handed the witness photo 1265.

This photo shows two old, rusty weapons that look like they have been burned. I saw weapons that looked like these when the soldiers had brought them out of the building to turn them in. These looked like one of the weapons that the accused had brought out of the building. From my position, it looked like the accused was gesturing at the detainee in a way that looked like he was trying to hand the Iraqi detainee a weapon. I could not understand what the accused and the detainee were saying. I did see [REDACTED] that day. [REDACTED] struck the detainee in the face with an open hand. While I was guarding the detainee, [REDACTED] was talking to another soldier and kept walking around the detainee. Then [REDACTED] walked over and struck the detainee. The accused just sat there when he saw [REDACTED] strike the detainee. There was a lot of talking going on after [REDACTED] struck the detainee, but I could not make out what was being said. The accused was joking around with some other soldiers by saying that the detainee had tripped and fell on his face. I did not ever see the accused correct [REDACTED] for striking the detainee. The accused reported what had happened that day after we got back to our Forward Observation Base. The accused is the section chief of [REDACTED]. In my opinion, the only thing that disturbed me was the actions of [REDACTED].

### QUESTIONS BY THE INVESTIGATING OFFICER

The [REDACTED] remained on the scene, but he was not in the immediate area when [REDACTED] struck the accused. I was about thirty feet from the accused and the detainee when the incident took place.

### QUESTIONS BY THE DEFENSE COUNSEL

I was about twenty to thirty feet away from the detainee. My mission, once I got to the scene, was to guard the detainee. I did not have anything blocking my view from the detainee. I did have my weapon pointed at the detainee while I was guarding him. The accused did not have his weapon pointed at the detainee at any time. There was no one blocking the line of sight between myself and the detainee. I could not see what it was that the accused gesturing towards the detainee with. I could see that the accused had something in his hand, but I could not see precisely what that object was. The item in the hand of the accused looked like a burnt up weapon.

002177

### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

There were about five or six other soldiers around the detainee when I was guarding him. There were a lot of soldiers standing around waiting to go back and some walking around talking. I was the only soldier watching the detainee.

████████████████████ Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, was called as a witness for the government, was affirmed, and testified in substance as follows:

### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

On 21 June 2003, my unit was inside the Iraq palace, which serves as our unit's compound. The Sworn statements that I have previously made were correct and truthful. On 21 June 2003, we were called out as the Quick Reaction Force because people had been sighted on roofs with AK47s. Once, we got the call for our Quick Reaction Force, the ██████████ divided us up into groups. My task from the ██████████ was the rear security. I was later sent by the ██████████ with my squad on the roof to look for any suspicious activity or AK47 shell casings. In the beginning, I did not see any of the weapons taken from the building.

### QUESTIONS BY INVESTIGATING OFFICER

We did not find any shell casings.

### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I was about ten feet from the ██████████. The accused was also present that day. the accused was about five feet on my left hand side.

The Government Representative handed the witness photo 1265.

This is a picture of a rusted, burnt out revolver. I have seen this item before because it looks like the revolver that the accused was trying to hand the detainee. The accused was talking to the detainee, but I could not hear him. From his actions, it looked like the accused was taunting the detainee. Then ██████████ approached the detainee. While the detainee was sitting on the ground Indian style, ██████████ hit him in the face causing the detainees head to go back and hit the aluminum siding. The accused was standing about five feet to the right hand side of ██████████ when the detainee was struck. I do believe the accused saw ██████████ strike the detainee. ██████████ interceded to prevent ██████████ from striking the accused again. I did not hear the accused correct nor yell at ██████████ for what he did. The accused asked the detainee if he had fallen down and broke his nose. None of the noncommissioned officers said anything to ██████████ about striking the detainee.

### QUESTION BY THE INVESTING OFFICER

I did not say anything to ██████████ because I left it to the accused, who was the section chief of ██████████ to correct him.

### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

We did receive Rules of Engagement classes prior to deploying to Iraq. We did not receive any classes on the treatment of detainees. The detainee was not offering any type of resistance when ██████████ struck him. I do not believe that ██████████ actions were in accordance with the army's current operations in Iraq. We are not here to abuse these people. We were sent to liberate them.

### QUESTIONS BY THE DEFENSE COUNSEL

002178

I saw the revolver when the accused was taunting the detainee. I believe he was taunting the detainee solely because of the motions he was making at him with his hand. The accused did not make any other comments about the detainee besides asking the detainee had fell down and broke his nose. The accused was about five feet, and two the right of the detainee. I was about ten feet in front with [REDACTED] was right in front of the detainee.

#### QUESTIONS BY THE INVESTIGATING OFFICER

The Investigating Officer asked the witness to demonstrate how the accused was waiving the weapon towards the detainee. There being no objection from the Government Representative or the Defense Counsel, the witness demonstrated how the accused was holding the weapon out at the accused.

To me, it looked like the accused was trying to give the detainee the weapon.

#### QUESTIONS BY THE DEFENSE COUNSEL

It is possible that the accused could have been asking the detainee if the pistol was black when it looked like he was trying to give the detainee the weapon.

#### QUESTIONS BY THE INVESTIGATING OFFICER

When the accused said that the detainee had fell and broke his nose, he was making the statement to the detainee

#### QUESTIONS BY THE GOVERNEMENT RERPRESENTATIVE

The accused did make a statement to the Battery Commander and the [REDACTED]. The accused informed the Battery Commander and [REDACTED] that he did not know what had happened as far as [REDACTED] striking the witness is concerned.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

[REDACTED], Headquarters and Headquarters Company, 2<sup>nd</sup> Battalion, 70<sup>th</sup> Armor Regiment, was called as a witness for the government, was sworn, and testified in substance as follows:

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

On 21 June 2003, I was on a QRF mission to the museum. There had supposedly been shots fired towards one of our towers and we went out to access the situation. I road to the museum in a 5 ton. We were clearing the people out of the building. In the building that I cleared, there were a couple of AK7s, some passports, and about four people. We took the detainees from the building that we had searched over to where [REDACTED] was being detained. We had the detainees from the building my team searched separate from [REDACTED]. My job was to guard the detainees that we got out of the electrical compound. We had the three detainees from the electrical compound separate from the other detainee.

The Government Representative showed the witness photo 0009.

I do not recognize the individual in the photo. I saw [REDACTED] guarding the detainee that was there when I arrived.

The Government Representative showed the witness photo 1265.

002179

It looks like the weapon that I saw [REDACTED] take over and put up to the head of the detainee and yell bang. I saw the accused in the general area. The accused took the hand gun from [REDACTED] and walked over to the detainee. It looked like the accused could see everything that was going on. When the accused took the weapon from [REDACTED] it looked like the accused was holding the weapon by the barrel and was waving it towards the detainee. The accused was telling the detainee to go ahead and take the weapon.

The Government Representative handed the witness a 9MM to show how the accused was holding the weapon on the day of the incident. There being no argument from Defense Counsel, the Investigating Officer allowed the witness to demonstrate how the accused was holding the weapon.

Yes, emotions were running high that day. You could say that some of the soldiers were angry at [REDACTED]. After the incidents of this day, there was some incident involving the detainee on another occasion. I did not actually see [REDACTED] hit the detainee, but I did hear the detainee's head hit the aluminum siding. I did not hear the accused say anything to correct [REDACTED]. The accused was the senior noncommissioned officer in the immediate area. I saw that the detainee was bleeding. Once the detainee was hit, the soldiers that had been giving him a hard time dispersed. One of the soldiers came up and gave the detainee a rag to clean his face. The accused had his M16A2 that day. I saw the accused near the detainee with his weapon pointed at him. The weapon of the accused was slung over his shoulder at first. Then the accused took his weapon off of his shoulder and leveled it at the detainee. Then the accused charged his weapon and pointed it at the detainee again. I was on the wrong side of the accused to see if he moved his selector switch from safe to semi. It looked like the detainee was trying to comply with the demands of the soldiers standing around him. The detainee was aware of the accused pointing his weapon at him. It did not look like the accused was trying to guard the detainee. It looked like the accused was trying to threaten the detainee to me because there was no need for the accused to guard the detainee with [REDACTED] [REDACTED] was guarding the detainee the entire time that I was there. I thought the accused was angry at the detainee because of a rumor I had heard involving a previous incident where it was said that the detainee had been shooting at our compound. I do not know whether or not this rumor was ever verified.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I did see the accused charge his weapon. The weapon status is red whenever you leave our compound. Normally, we would stay amber until we were either told to put our weapons in red status, or if we felt we were in danger. We normally wait until we are told to put our weapon in red status before we actually do it because of safety reasons. There have been a lot of accidental discharges in our Battalion.

#### QUESTIONS BY THE DEFENSE COUNSEL

I am in second platoon and the accused is in first platoon. I am not in the same platoon as the accused. I was referring to my platoon when I said that we normally leave the Forward Observation Base in amber status. My mission on 21 June 2003 was to guard four other detainees. I would say that the accused and [REDACTED] taunted the detainee for about three to five minutes. I did not see the entire incident, because I was not always watching the detainee that [REDACTED] was guarding. I saw the accused pointing his weapon at the detainee before [REDACTED] struck him. I did not hear the accused say anything else to the detainee besides, "Here. Take it". It is possible that the accused was saying other things to the detainee that I could not hear. I was standing about fifteen to twenty meters away from the detainee which [REDACTED] was guarding. I remember [REDACTED] was present when the accused pointed his weapon at the detainee. I am pretty sure that other soldiers were around, but I can not remember their names. [REDACTED] and [REDACTED] were around when the accused pointed his weapon at the detainee. I was in front of the electrical building when the accused was offering the weapon to the detainee. The accused had his back towards me when he was waving the weapon at the detainee. There were some people that were saying that it was messed up that [REDACTED] had hit the detainee while others were laughing. I do not remember seeing the accused after the detainee had gotten hit. I did not hear the accused say anything about the incident where [REDACTED] hit the detainee.



QUESTIONS BY THE INVESTIGATING OFFICER

I cannot remember when [REDACTED] threw his Kevlar down. I remember someone telling him to go to the vehicle that had brought him to the site so that he could cool off.

QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I saw the accused charge his weapon well after the area had been secured. There would have been no reason for him to move his weapon to red status at the point where I heard him charge his weapon.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

The Article 32b Investigation recessed at 1100 hours, 22 October 2003.

The Article 32b Investigation resumed at 1110 hours, 22 October 2003, with all parties present.

[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, was called as a witness for the government, was sworn, and testified in substance as follows:

QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

On 21 June 2003, I was on a recon for a possible raid the first part of the day. Around mid afternoon when we were returning to our compound, [REDACTED] told us that someone was firing at the tower from a roof. Myself, [REDACTED], his driver, and several other soldiers went out as the Quick Reaction Force. We sat back about a block from the building until the rest of the group showed up. Once the others arrived, we all moved into position. The [REDACTED] yelled at the individual we saw standing in the building. [REDACTED] told the individual to come out of the building with his hands up twice, before the Iraqi complied. At this point, groups started to go in and clear the building.

The Government Representative showed the witness photo 0009.

This is the photo of the Iraqi that was standing in the doorway when we arrived on the scene. We found an AK47 in one of the first rooms that we cleared. We also found some old melted handguns in the building as we cleared the building. After the building was cleared, I proceeded down the street to go get some water from Bravo 7.

The Government Representative showed the witness photo 1205.

This is a photo of two of the pistols we retrieved from the building. We were told to take these revolvers out of the building and place them out to the gate. At first, I did not see anyone pick up the pistols. I later heard someone tell the detainee, "Here Take it" referring to one of the handguns that we had taken out of the building. When I turned around to see who it was, it was the accused. I could not remember exactly how the accused was trying to give the weapon to the detainee. The accused tried about two or three times to give the weapon to the detainee. Giving weapons to a detainee is not a part of our unit Standard Operating Procedure (SOP). [REDACTED] walked up to the detainee and asked him had he been shooting at our guard tower. That is when [REDACTED] hit the detainee in the face. The detainee that I am referring to is the one in the photo marked 0009. When [REDACTED] hit the detainee in the face, it caused the back of his head to hit the aluminum building he was sitting against. When [REDACTED] went back to try and hit the detainee again, I got in front of him, pushed him back, and told him that he needed to go cool down. The accused was present to witness this. The accused did not correct [REDACTED]. None of the noncommissioned officers tried to correct [REDACTED]. I heard someone laughing and saying in a joking manner that the detainee had fell and broke his nose when I was walking away. The accused was the soldier that made the

comment. I walked back up to the building and told the [REDACTED] that I was ashamed of wearing the American patch if soldiers were going to treat the Iraqis the way that the accused and [REDACTED] did. [REDACTED] then went and asked the detainee what had happened. The detainee told the [REDACTED] that [REDACTED] had hit him and busted his nose. The accused did not report the incident to the [REDACTED]. I am not aware of the accused making a statement about the incident.

#### QUESTION BY THE INVESTIGATING OFFICER

The accused made the statement that the detainee had fell and broke his nose while [REDACTED] was laughing. I was about five or ten feet from the accused and the detainee when the comment was made. I was about five to ten feet from the accused.

#### QUESTIONS BY THE DEFENSE COUNSEL

When I heard the words, "Here. Take it.", other things could have been being said at the same time. It is easy to understand the dialect of the accused once you have been around him for a while. The accused has a thick accent. When the accused said, "what did he do, fall down" it sounded more sarcastic than funny to me. [REDACTED] was laughing when the accused made the comment. [REDACTED] said something, but I could not hear what it was he said. There were other people around, but I can not remember what and if they were saying things as well. The first time I heard the accused say, "Here take it" I was not facing him. The second time the accused said it I was facing him.

#### QUESTIONS BY THE INVESTIGATING OFFICER

The accused was the highest ranking person in the immediate area.

#### QUESTIONS BY THE DEFENSE COUNSEL

I saw [REDACTED] strike the detainee. The accused was beside the guard shack where the detainee was sitting on a cement ledge. I was not watching the actions of the accused when [REDACTED] struck the accused. It is possible that the accused did not see the incident. I did not see whether or not the accused saw [REDACTED] strike the detainee. During the time period when I thought that the accused was offering the detainee a weapon, I could not remember who else was around, but there were other soldiers around.

#### QUESTIONS BY INVESTIGATING OFFICER

I did not see the accused point a weapon at the detainee. We were at red status during this incident. I did not hear nor see anyone charge a weapon.

#### QUESTIONS BY GOVERNMENT REPRESENTATIVE

The first thing I saw when I came out of the building was the accused trying to hand the detainee a pistol.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, was called as a witness for the government, he was sworn, and testified in substance as follows:

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

002182

I am assigned to Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment. This is the same unit I was assigned to on 21 June 2003. On 21 June 2003, I was part of the Quick Reaction Force which responded to the museum. We arrived at the building located across the street from our Forward Observation Base. There was an Iraqi citizen coming out of the building with his hands up when we arrived to the building. Some of the other soldiers involved in the QRF mission detained the civilian.

The Government Representative showed the witness photo 0009.

That is the individual that we had detained and put over near the guard shack. Once we brought the individual out, a few of us went inside the building to clear it. [REDACTED], and I found a suitcase full of burnt up pistols inside the museum. The weapons looked like burnt up revolvers to me.

The Government Representative showed the witness 1265.

This is a photo of the weapons that we brought out of the building. When we brought the weapons out, we put them on the ground beside us. The accused then grabbed one of the weapons and walked over to the detainee. The accused asked the detainee had he seen the weapons before. After that, the accused then tried to give the weapon to the detainee. The accused had told [REDACTED] that if the detainee tried to grab the weapon, they were to shoot him. The accused offered the detainee the weapon two or three times. The detainee kept shaking his head no when the accused was offering him the weapon. The accused gave [REDACTED] the weapon. [REDACTED] then walked over to the detainee and tried to get him to take it. [REDACTED] then put the weapon down and walked up to the detainee and slapped him in the face. When [REDACTED] struck the detainee, his head went through the thin aluminum of the guard shack, which caused his nose to bleed. That is when the [REDACTED] came out and asked who struck the detainee. The accused was three or four feet from the detainee and [REDACTED] I was behind the accused. The accused did not try to stop [REDACTED] from slapping the detainee. I did not see the accused try to correct [REDACTED]. The accused saw [REDACTED] strike the detainee. There were a lot of us that went and report the incident to the [REDACTED]. I could not see the accused and the detainee from inside the building.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I did hear laughing after the victim was slapped. The accused and [REDACTED] were laughing and saying that the detainee had fell and broke his nose. I heard [REDACTED] say that the reason the detainee's nose was bleeding was because he had fallen. I did hear the accused make the same statement.

#### QUESTIONS BY THE DEFENSE COUNSEL

[REDACTED] was the first person that I heard say that the detainee had fell and broke his nose. The accused repeated the statement that [REDACTED] had made. It sounded like the accused made the comment in a jokingly manner to me. I am in the section of the accused. The accused is by the book and above when it comes to following the standards. The accused enforces the standards of our organization. The weapon status is red outside of the Forward Observation Base. I thought the accused was trying to give the detainee a weapon by his actions and his words. He had told us that if the detainee took the weapon, then we were to shoot him. The first thing I remember the accused telling the detainee was whether or not he had seen the weapons before.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I did not see nor hear anyone charge their weapon. The weapons should have already been charged prior to leaving the Forward Observation Base. I did see the accused point his weapon at the detainee, but it was the standard way we use when we are guarding detainees. I did not see the accused point his weapon at the detainee any differently than we normally do.

#### QUESTIONS BY THE DEFENSE COUNSEL

002183

When I saw the accused trying to hand the weapon to the detainee, the accused was on the right hand side of the detainee. The M16A2 of the accused was slung on his shoulder and lowered in the direction of the detainee, but not directly at him.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

The Government Representative informed all parties that after the testimony of [REDACTED] he intended to call [REDACTED] to deliver testimony. The Government Representative further stated that a deal had been reached between [REDACTED] his counsel, the government, and the special court-martial convening authority.

[REDACTED], Hawk Troop, 1<sup>st</sup> Cavalry Regiment, was called as a witness for the defense, he was sworn, and testified in substance as follows:

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I did make a statement to [REDACTED] and to CID. Both of these statements were truthful.

The Government Representative stated that since the witness is offering cumulative evidence he would submit his sworn statement into the record in the place of testimony. The Defense Counsel objected to substituting the witness's sworn statements into the record instead of his verbal testimony since the witness was available for live testimony. Investigating Officer ruled that the witness' sworn statements would not substitute in the record for his live testimony.

Defense Counsel objected to the Investigating Officer taking a recess so that he could read the sworn statement of the witness since he was present to deliver live testimony. The Government Representative argued that the witness does not have any further information to add in the facts of this investigation. The Investigating Officer stated that he would not take a recess to review the witness' sworn statements of the witness and accept his live testimony over the sworn statements.

21 June 2003, my mission was as part of the Quick Reaction Force. One of our tours had reported someone in one of the neighboring buildings carrying an AK47. When we had completed searching the building, we stood around for a while.

The Government Representative showed the witness 0009.

This is a picture of the detainee in the area across the street from the museum. I was looking down the street from the museum because I was pulling security. I remember [REDACTED] and near the individual being detained. I happened to turn around for a minute when I saw [REDACTED] the detainee. [REDACTED] was saying that [REDACTED] was messed up. One of the NCOs started rendering aid to the Iraq for his nose bleed. We all talked about the incident later on with our chief, but that was after the incident. [REDACTED] striking the detainee is all that I can remember about that day. We were in the area for about two hours. I never saw the detainee again after that.

#### QUESTIONS BY THE DEFENSE COUNSEL

I was involved with clearing the electrical building. I do not remember any detainees being taken out of the electrical building. I saw [REDACTED] strike the detainee when I turned around. I do not know what the accused was doing when [REDACTED] struck the detainee. I saw the accused in the corner of my eyes well enough to know that he knew what was going on.

#### QUESTION BY THE INVESTIGATING OFFICER

002184

I did not see the accused react to the incident in any way. I can not recall any laughing or joking.

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

There were a lot of people in the building that I cleared that day. I believe [REDACTED] was one of the soldiers in the building that I was helping to clear. I did not hear anyone making comments on why the detainee was bleeding.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, was called as a witness for the government, he was sworn, and testified in substance as follows:

Government Representative stated that there is an agreement between the witness, his counsel, the Government, and the Special court-martial convening authority.

The Government Representative furnished a copy of the agreement to the Investigating officer.

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I recognize this document as the agreement between my counsel, the government, and the special court-martial convening authority. I have talked with my legal counsel about testifying at this investigation. I understand the context and language of this agreement. I understand that I must testify truthfully about the circumstances of 21 June 2003. I am not going to answer any questions about me, but I am willing to answer any questions that do not pertain to me. On 21 June 2003, my mission was to participate as a member of the Quick Reaction Force. We went out as the Quick Reaction Force because there was an Iraqi on one of the roofs with an AK47 that had fired at one of our towers. We did not know where we were going. We went across the street and detained the individual that was in the building. I went in the building with Specialist Vaughan and Private First Class Perkins to clear it. I found an Ak47 with a magazine which I handed to my First Sergeant. We found some rusty weapons in the building as well.

The Government Representative showed the witness photo 1265.

One of the weapons in this photograph is the weapon that I found in the building. The top pistol looks like the one that I had found in the building. I know that it was the top one that I found in the building because I had been the one to carry it outside.

The Government Representative showed the witness photo 0009.

This is a picture of an Iraqi citizen. It is a picture of the individual that we detained. I do not recall where the accused was when we went inside the building. The accused is my section chief at our unit. The accused means a lot to me because he has taught me a lot since I have been in the army. The accused cares about his family and his soldiers. Any problems that I have had with my family since arriving to Fort Riley; the accused has helped me resolve them. The accused tells me when I am doing wrong as well.

The Government Representative asked the witness was he invoking his right to remain silent on questions about his possible misconduct. The witness stated that he was invoking his right to remain silent on any issues involving him. The witness stated that his attorney advised him not to discuss anything about his possible misconduct.

002185

I do not remember seeing the accused take any action against the detainee. I did not see the accused with the detainee at all. The accused did not talk to me about anything that he may have said or done to the detainee.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I went in the building with [REDACTED] and [REDACTED]. I can not remember if we all came out of the building together because we were all taking out the burnt up weapons. I do remember seeing [REDACTED] when I came outside. [REDACTED] was walking from the other side of the building when I saw him. [REDACTED] was the only one out there guarding the detainee.

#### QUESTIONS BY THE DEFENSE COUNSEL

The accused makes sure that everything is straight with us and our families. Whenever we are going out for patrols or missions, he always checks our gear. The standard is red when we leave the compound. Red status is weapon on safe with magazine inside and round in the chamber. The government has dismissed the charges against me for my testimony in any proceedings against the accused. I have no recollection of any contact between the accused and the detainee.

#### QUESTIONS BY THE INVESTIGATING OFFICER

When we rolled in to the area on the Quick Reaction Force mission, I did not see the accused until we left.

There being no further questions, the witness was permanently excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

[REDACTED] 18<sup>th</sup> MP Detachment CID, was called as a witness for the government, he was sworn, and testified in substance as follows:

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I am currently assigned to Bravo Battery, 4<sup>th</sup> Battalion, 1st Field Artillery Regiment. I was part of the Quick Reaction Force on 21 October 2003. My first statement was false in that I told the commander that I had not seen anything. My second sworn statement was truthful. When we arrived, the Iraqi National was already detained. I can not remember who I arrived on the scene with.

The Government Representative showed the witness photo 0009.

This is a photo of an Iraqi National. I really do not recognize him. I searched the power plant with [REDACTED], and I can not remember the rest of the people involved. I do not remember where the accused was at that time. When we came out and walked over by the detainee, we were badgering him and telling him to keep his head down. I asked [REDACTED] could I kick the detainee because he had been shooting at our compound. We were mad because the intelligence we were given said that our tower was getting shot at from the building that the detainee was taken from.

#### QUESTIONS BY THE INVESTIGATING OFFICER

Our intelligence said that our compound was being shot at from the building that the detainee was found in.

#### QUESTIONS BY THE GOVERNMENT REPRESENTATIVE

I recognized the detainee from a previous QRF mission that we had been called out on previously. My reaction to the accused slapping the Iraqi was laughter. Someone did give the detainee a rag to wipe his nose. I do not recall the accused saying anything to [REDACTED] after the incident. I said

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that I did not see anything and that the Iraqi must have fell. After that, I walked away from the incident. After [REDACTED] had slapped the detainee, he walked away.

#### QUESTIONS BY INVESTIGATING OFFICER

The detainee had a nonchalant or arrogant look. When we told him to put his head down, he would lift his head and start looking at us. I know that the detainee could not speak English, but we demonstrated how we wanted him to put his head down. The accused and I are in the same platoon, but he is not my supervisor. Some people like him and some don't because he speaks the truth. When he speaks the truth, other people sometimes have a problem with that.

#### QUESTIONS BY THE DEFENSE COUNSEL

I had my weapon trained on the detainee when he was not obeying our command to keep his head down. I do not remember who else had their weapons trained on the detainee. Both myself and [REDACTED] had our weapons trained on the detainee. I do not remember who approached the accused and told him that his soldier, [REDACTED] was out of line. Someone then said that the Iraqi must have fell down in a surprised tone of voice. I did not see the accused near the detainee. When [REDACTED] hit the detainee, the accused was not around. I was on the detainee's left. The accused was at least ten feet away when [REDACTED] hit the detainee.

#### QUESTIONS BY THE INVESTIGATING OFFICER

I do not know who was in charge during the incident. If there had been a problem, the accused would have been the person that I would have went to for guidance.

There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

[REDACTED] Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, was called as a witness for the government, he was sworn, and testified in substance as follows:

#### QUESTIONS BY THE DEFENSE COUNSEL

On 21 June 2003, that was when I was one of the guys called out on Quick Reaction Force. We were moved across the street from the palace, because one of our towers had gotten shot at. We cleared the power plant and moved all of the workers out of the building so that we could search it. I believe that there were three or four AK47s taken out of the building. Myself and another soldier were sent out to pull perimeter detail. I did not have any personal interaction with the accused. I did not see the accused interact with the detainee. When I saw the accused, he was about ten feet from the detainee. I do remember that [REDACTED] had his weapon pointed at the detainee. I can not remember to well who was there, but I remember a lot of soldiers were present. I do not remember the accused having anything in his hands. The accused had his M16A2 slung over his soldier. I did not see the detainee get assaulted. I gave the detainee the brown rag which I had in my Kevlar to wipe the blood from his nose.

#### QUESTIONS BY INVESTIGATING OFFICER

I can not recall if the laughter was before or after I gave the Detainee my rag. When I walked by the detainee, he was looking pretty normal as he was sitting on the curve with his hands behind his head. No one else had offered assistance to the detainee.

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There being no further questions, the witness was temporarily excused and warned not to discuss his testimony with anyone other than the Government Representative, Defense Counsel, Investigating Officer, and the Reporter.

The Government Representative made a closing argument.

The Defense Counsel made a closing argument.

The Investigating Officer stated that he would be considering the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 28 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 28 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; the Sworn Statements of [REDACTED] made on 21 June 2003 and 27 June 2003; and photographs marked as numbers 000-001, 000-002, 000-003, 000-004, 000-006, 000-008, 000-009, 000-010, 000-012, DSN1251, DSN1255, DSN1256, DSN1260, DSN1265, DSN1268, DSN1269, DSN299, DSN1301.

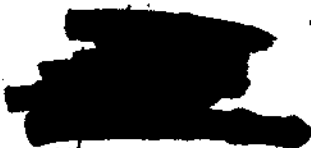
The Defense Counsel restated his objection to consider the Sworn Statements of soldiers that have testified at the investigation. The Investigating Officer noted Defense Counsel's objection for the record.

The Article 32b Investigation adjourned at 1525 hours, 22 October 2003



CERTIFICATION

I hereby certify that the enclosed 16 page Article 32b Investigation transcript in the case of US v. SSG McKENZIE, John C., Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment, is a true and summarized copy of proceedings at the Article 32b Investigation held on 22 October 2003 at the 3<sup>rd</sup> Brigade Combat Team Forward Observation Base, Baghdad, Iraq. I certify the accuracy of this transcript as the Investigating Officer of the hearing.



MAJ, OD  
Investigating Officer

002189

UNITED STATES

vs.

SSG John C. McKenzie

B Btry., 4-1 FA  
Baghdad, Iraq APO AE 09324

SERVICE OF DOCUMENTS

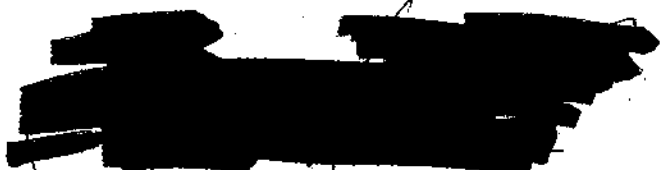
O N ACCUSED

1. The following document was served on the accused located in Baghdad, Iraq:


Referred Charge Sheet

2. Service was accomplished at 18 November, 2003.

3. Unit commander is to insure that the soldier signs this document and return this page back to the Military Justice Cell located at the 3<sup>rd</sup> Brigade Combat Team TOC.

  
SPC, USA  
Military Paralegal

Receipt acknowledged.

  
Signature

002190

# COURT-MARTIAL CHARGES TRANSMITTAL FORM

## PART I

TO:

FROM:

DATE:

20 SEP 03

Court-Martial charges against the following named individual are forwarded as Enclosure 1. Witness statements, any evidence of previous misconduct (to include properly certified DA Forms 2627 and the accused's DA Form 2A and 2-1) are attached as Enclosure 2. Soldier is not pending chapter action UP AR 635-200.

NAME:

John C. McKenzie

RANK:

SSG

SSN:

UNIT:

Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment

Recommend:

Summary Court-Martial

Special Court-Martial

BCD Special Court-Martial

General Court-Martial

Other

NAME OF COMMANDER

SIGNATURE OF COMMANDER

## PART II

TO:

FROM:

DATE:

20 SEP 03

I have reviewed the attached charges, documents, and Article 32 (if applicable) and (recommend)(direct):

Summary Court-Martial

Special Court-Martial

BCD Special Court-Martial

General Court-Martial

Other

NAME OF COMMANDER

SIGNATURE OF COMMANDER

## PART III

TO:

BG Martin E. Dempsey

FROM:

DATE:

I have reviewed the attached charges, documents, and Article 32 (if applicable) and (recommend)(direct):

Summary Court-Martial

Special Court-Martial

BCD Special Court-Martial

General Court-Martial

Other

NAME OF COMMANDER

SIGNATURE OF COMMANDER

002191

# COURT-MARTIAL CHARGES TRANSMITTAL FORM

## PART I

TO: [REDACTED]

FROM: [REDACTED]

DATE: 20 SEP 03

Court-Martial charges against the following named individual are forwarded as Enclosure 1. Witness statements, any evidence of previous misconduct (to include properly certified DA Forms 2627 and the accused's DA Form 2A and 2-1) are attached as Enclosure 2. Soldier is not pending chapter action UP AR 635-200.

NAME:  
John C. McKenzie

RANK:  
SSG

SSN:

UNIT:  
Bravo Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery Regiment

**Recommend:**

- Summary Court-Martial
- BCD Special Court-Martial
- Other
- Special Court-Martial
- General Court-Martial

NAME OF COMMANDER  
[REDACTED]

SIGNATURE OF COMMANDER  
[REDACTED]

## PART II

TO: [REDACTED]

FROM: [REDACTED]

DATE: 20 SEP 03

I have reviewed the attached charges, documents, and Article 32 (if applicable) and (recommend)(direct):

- Summary Court-Martial
- BCD Special Court-Martial
- Other
- Special Court-Martial
- General Court-Martial

NAME OF COMMANDER  
[REDACTED]

SIGNATURE OF COMMANDER  
[REDACTED]

## PART III

TO: BG Martin E. Dempsey

FROM: [REDACTED]

DATE:

I have reviewed the attached charges, documents, and Article 32 (if applicable) and (recommend)(direct):

- Summary Court-Martial
- BCD Special Court-Martial
- Other
- Special Court-Martial
- General Court-Martial

NAME OF COMMANDER  
[REDACTED]

SIGNATURE OF COMMANDER  
[REDACTED]

**REDACTED**  
**COPY**

002193

# COURT-MARTIAL RECORD

NAME AMBUEHL, MEGAN M. SPC

SSN \_\_\_\_\_

**ACTIONS CODED:**

INITIAL JAN 13 2005

ACCA \_\_\_\_\_

FINAL \_\_\_\_\_

**COMPANION(S):**

SSG  
SPC

 - cmcr  
- cmcr.

**ASSIGNED TO:**

PANEL \_\_\_\_\_

EXAM. DIV.

ACCA Clerk of Court

## RETURN THIS FILE TO:

OFFICE OF THE CLERK OF COURT

US ARMY JUDICIARY

901 NORTH STUART STREET, SUITE 1200

ARLINGTON, VA 22203-1837

ADMINISTRATIVE CHECK VOL I OF III VOL(S)

Examiner   
Clerk of Court's Office

ARMY 20041130

20041130

VERBATIM<sup>1</sup>  
**RECORD OF TRIAL<sup>2</sup>**  
(and accompanying papers)

OF

AMBUHL, Megan M.  
(NAME: Last, First Middle Initial)  
HHC, 16th MP Bde (ABN)  
III Corps  
(unit/Command Name)

\_\_\_\_\_  
(Social Security Number)

Specialist  
(Rank)

US Army  
(Branch of Service)

Victory Base, Iraq  
(Station or Ship)

BY  
GENERAL COURT-MARTIAL

CONVENED BY COMMANDING GENERAL  
(Title of Convening Authority)

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

TRIED AT

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

ON

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

COMPANION CASES:

[REDACTED]

RECEIVED  
CLERK OF COURT  
2005 JAN - 5 P 2:16  
US ARMY JUDICIARY  
Alfred Documents

<sup>1</sup> Insert "verbatim" or summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)  
<sup>2</sup> See inside back cover for instructions as to preparation and arrangement.

**CHRONOLOGY SHEET<sup>1</sup>**

In the case of: U.S. v. Specialist Megan M. Ambuhl

(Rank and Name of Accused)

Date of alleged commission of earliest offense tried: 23 October 2003

(Enter Date)

Date record forwarded to The Judge Advocate General: <sup>2</sup> \_\_\_\_\_

(Enter Date)

██████████

COL, JA, Staff Judge Advocate

██████████

*COL, JA*

(Signature and Rank of Staff Judge Advocate or Legal Officer)

<sup>1</sup> In a case forwarded to the Judge Advocate General, the staff judge advocate or legal officer is responsible for completion of the Chronology Sheet. Trial counsel should report any authorized deductions and reasons for any unusual delays of the case.

<sup>2</sup> Or officer conducting review under Article 64(a) (MCM, 1984, RCM 1112)

<sup>3</sup> In computing days between two dates, disregard first day and count last day. The actual number of days in each month will be counted.

<sup>4</sup> Item 1 is not applicable when accused is not restrained, (See MVM, 1984, RCM 304) or when he/she is in confinement under a sentence or court-martial at time charges are preferred. Item 2 will be the zero date if item 1 is not applicable.

<sup>5</sup> May not be applicable to trial by special court-martial

<sup>6</sup> Only this item may be deducted

<sup>7</sup> If no further action is required, items 1 through 8 will be completed and chronology signed by such convening authority or his/her representative.

<sup>8</sup> When further action is required under Article 64 or service directives.

| Action   | Date<br>2003 | Cumulative<br>Elapsed<br>Days <sup>3</sup> |
|--|--------------|--|
| 1. Accused placed under restraint by military authority <sup>4</sup> | _____        | _____                                      |
| 2. Charges preferred (date of affidavit)                             | 13 Jul 04    | _____                                      |
| 3. Article 32 investigation (date of report) <sup>5</sup>            | _____        | _____                                      |
| 4. Charges received by convening authority                           | 13 Jul 04    | 0  |
| 5. Charges referred for trial  | 21 Jul 04    | 8  |
| 6. Sentence or acquittal   | 25 Aug 04    | 43   |
| Less days:   |              |  |
| Accused sick, in hospital or AWOL                                    | 0            |  |
| Delay at request of defense  | 0            |  |
| Total authorized deduction <sup>6</sup>                              | 0            |  |
| 7. Net elapsed days to sentence or acquittal                         |              | 43   |
| 8. Record received by convening authority                            |              |  |
| Action <sup>7</sup>  |              |  |
| 9. Record received by officer conducting review under Article 64(a)  |              |  |
| Action <sup>8</sup>  |              |  |

**REMARKS**

Investigation of the most serious charge was initiated on 15 January 2004. The Accused was arraigned on 11 August 2004. Total of 209 days.



# COURT-MARTIAL DATA SHEET

1. OJAG NUMBER

2. NAME (Last, First, Middle Initial)  
AMBUHL, Magen M.

3. SOCIAL SECURITY

4. RANK  
SPC

5. UNIT/COMMAND NAME  
HRC, 16th MP Bde (ABN), III Corps

## INSTRUCTIONS

When an item is not applicable to the record of trial being reviewed, mark the proper block with a diagonal line similar to the ones which appear in the SPCMCA blocks for items 6a and b.

## KEY TO USE

**TC - Trial Counsel.** This column will be completed in all cases in which a finding of guilty is returned.

**SPCMCA - Special Court-Martial Convening Authority** who is not empowered to convene a general court-martial. This column will be completed in each special court-martial case by the SPCMCA or his/her designated representative.

**GCM or JA - General Court-Martial Convening Authority or Judge Advocate.** This column will be completed in any case in which the record is forwarded by the commander exercising general court-martial jurisdiction to The Judge Advocate General of the branch of service concerned. If the record is reviewed under Article 64(a), UCMJ, this column will be completed by the judge advocate accomplishing the review

**OJAG -** Appropriate appellate agency in the Office of The Judge Advocate General of the branch of service concerned. This column will be disregarded if a record of trial was reviewed under Article 64, UCMJ, and in cases where there are no approved findings of guilty.

**References -** All references are to the Uniform Code of Military Justice (UCMJ) and the Manual for Courts-Martial, United States (MCM), 1984.

### SECTION A - PRETRIAL AND TRIAL PROCEDURE

|  | TC  |    | SPCMCA |    | GCM or JA |    | OJAG |    |
|--|-----|----|--------|----|-----------|----|------|----|
|  | YES | NO | YES    | NO | YES       | NO | YES  | NO |
| 6. a. If a general court-martial: Was the accused represented in the Article 32 investigation by civilian or military counsel of his/her own selection or by counsel qualified within the meaning of Article 27(b), UCMJ?  |     |    |        |    |           |    |      |    |
| b. If not: Did the accused waive his/her right to such representation?   |     |    |        |    |           |    |      |    |
| 7. Does the record show place, date, and hour of each Article 39(a) session, the assembly and each opening and closing thereafter?   |     |    |        |    |           |    |      |    |
| 8. a. Are all convening and amending orders of courts to which charges were referred entered in the record?  |     |    |        |    |           |    |      |    |
| b. Are court members named in the convening orders, detailed military judge (if any), counsel and the accused accounted for as present or absent?  |     |    |        |    |           |    |      |    |
| c. Was less than a quorum present at any meeting requiring the presence of court members (RCM 805)?  |     |    |        |    |           |    |      |    |
| d. Does the record show that after each session, adjournment, recess, or closing during the trial, the parties to the trial were accounted for when the court reopened (A13-5)?  |     |    |        |    |           |    |      |    |
| e. If the military judge or any member present at assembly was thereafter absent, was such absence the result of challenge, physical disability or based on good cause as shown in the record of trial (RCM 505(c)(2)(A))? |     |    |        |    |           |    |      |    |
| 9. Were the reporter and interpreter, if any, sworn or previously sworn?   |     |    |        |    |           |    |      |    |
| 10. a. Was the military judge properly certified (RCM 502(c))?   |     |    |        |    |           |    |      |    |
| b. Was the military judge properly detailed (RCM 503(b))?  |     |    |        |    |           |    |      |    |
| c. Was the military judge present during all open sessions of the court?   |     |    |        |    |           |    |      |    |
| 11. a. Was the accused advised that:   |     |    |        |    |           |    |      |    |
| (1) He/she had the right to be represented free of charge by a military lawyer of his/her own selection, if reasonably available, in which case detailed counsel might be excused (RCM 506(a))?                            |     |    |        |    |           |    |      |    |

## COURT-MARTIAL DATA SHEET

| <b>SECTION A - PRETRIAL AND TRIAL PROCEDURE<br/>(CONTINUED)</b>   | TC  |    | SPCMCA |    | GCM or<br>JA |    | OJAG |    |
|---|-----|----|--------|----|--------------|----|------|----|
|   | YES | NO | YES    | NO | YES          | NO | YES  | NO |
| (2) He/she had the right to be represented at the trial by a civilian lawyer provided at no expense to the government, in which case detailed counsel would serve as associate counsel or be excused with the accused's consent?  |     |    |        |    |              |    |      |    |
| (3) If he/she did not exercise any of the rights listed above, he/she would be defended by detailed counsel certified under Article 27(b), UCMJ (RCM 502(d)(1))?  |     |    |        |    |              |    |      |    |
| b. (1) Was the accused represented by a civilian lawyer?  |     |    |        |    |              |    |      |    |
| (2) Did the accused request a specific military counsel?  |     |    |        |    |              |    |      |    |
| (3) (a) If so, was such request complied with?  |     |    |        |    |              |    |      |    |
| (b) If not, were reasons given why requested counsel was not reasonably available?  |     |    |        |    |              |    |      |    |
| 12. a. Was the detailed defense counsel properly certified (RCM 502(d))?  |     |    |        |    |              |    |      |    |
| b. Was at least one qualified counsel for each party present during all open sessions of the court (RCM 502(d) and RCM 805(c))?   |     |    |        |    |              |    |      |    |
| 13. a. If the special court-martial adjudged a BCD:   |     |    |        |    |              |    |      |    |
| (1) Was a military judge detailed to the court (RCM 503(b))?  |     |    |        |    |              |    |      |    |
| (2) If not, did the convening authority submit a statement indicating why a military judge could not be detailed and why trial had to be held at that time and place (Article 19, UCMJ)?  |     |    |        |    |              |    |      |    |
| (3) Was a verbatim transcript made (Article 19, UCMJ)?  |     |    |        |    |              |    |      |    |
| 14. Did any person who acted as the accuser, investigating officer, military judge, court member, or a member of the defense in the same case, or as counsel for the accused at a pretrial investigation or other proceedings involving the same general matter, subsequently act as a member of the prosecution (RCM 502(d)(4))? |     |    |        |    |              |    |      |    |
| 15. If any member of the defense had acted as a member of the prosecution in the same case, was he/she excused (RCM 502(d)(4))?   |     |    |        |    |              |    |      |    |
| 16. a. If any member of the defense had acted as the accuser, investigating officer, military judge, or member of the court, were his/her services expressly requested by the accused (RCM 502(d)(4))?  |     |    |        |    |              |    |      |    |
| b. If not, was he/she excused?  |     |    |        |    |              |    |      |    |
| 17. a. If accused was an enlisted person, did he/she make a request that enlisted persons be included in membership of the court?   |     |    |        |    |              |    |      |    |
| b. If so, were at least one-third of the members who tried the case enlisted persons, or did the convening authority direct the trial without enlisted persons and provide a detailed written explanation which is appended to the record (RCM 503(a)(2))?  |     |    |        |    |              |    |      |    |
| c. Did any enlisted member of the court belong to the same unit as the accused?   |     |    |        |    |              |    |      |    |
| 18. If a military judge was detailed to the court, was the accused informed of his/her right to request trial by military judge alone?  |     |    |        |    |              |    |      |    |
| 19. Were the members of the court, military judge (if any) and the personnel of the prosecution and defense sworn or previously sworn?  |     |    |        |    |              |    |      |    |
| 20. a. Was any person sitting as a member of the court, or military judge (if any), the accuser, a witness for the prosecution, the investigating officer, staff judge advocate, counsel, or convening authority, or upon rehearing or new trial was he/she a member of the former trial (RCM 902(b) and RCM 912(f))?             |     |    |        |    |              |    |      |    |
| b. If so, did the accused waive such disqualification (RCM 912(f)(4) and RCM 902(e))?   |     |    |        |    |              |    |      |    |

**COURT-MARTIAL DATA SHEET**

| SECTION A - PRETRIAL AND TRIAL PROCEDURE<br>(CONTINUED)  | TC  |    | SPCMCA |    | GCM or JA |    | OJAG |    |
|--|-----|----|--------|----|-----------|----|------|----|
|  | YES | NO | YES    | NO | YES       | NO | YES  | NO |
| 21. a. Was each accused extended the right to challenge military judge (if any), and any member of the court for cause and to exercise one peremptory challenge?   |     |    |        |    |           |    |      |    |
| b. Was action by court upon challenges proper (RCM 902 and RCM 912)?   |     |    |        |    |           |    |      |    |
| c. Does the record show that a member excused as a result of a challenge withdrew from the court?  |     |    |        |    |           |    |      |    |
| 22. a. Was the accused properly arraigned (RCM 904)?   |     |    |        |    |           |    |      |    |
| b. Do the following appear in the record: The charges and specifications, the name, rank and unit/command name of the person signing the charges, the affidavit, and the order of reference for the trial?   |     |    |        |    |           |    |      |    |
| c. Except in time of war, was the accused brought to trial (which includes an Article 39(a), UCMJ session) by general court-martial within five days (by special court-martial within three days) subsequent to service of charges upon him/her (RCM 602)?                               |     |    |        |    |           |    |      |    |
| d. If so, did the accused object to trial?   |     |    |        |    |           |    |      |    |
| 23. a. Were any charges or specifications affected by the statute of limitations (RCM 907(b))?   |     |    |        |    |           |    |      |    |
| b. If so, was accused advised of his/her right to assert the statute and was his/her response recorded (RCM 907(b))?   |     |    |        |    |           |    |      |    |
| 24. Did the court take proper action with respect to motions raising defenses and objections (RCM 905-907)?  |     |    |        |    |           |    |      |    |
| 25. a. Were pleas of accused regularly entered (RCM 910(a))?   |     |    |        |    |           |    |      |    |
| b. Were pleas of guilty properly explained, and accused's responses recorded (RCM 910(c))?   |     |    |        |    |           |    |      |    |
| 26. Does the record show that all witnesses were sworn?  |     |    |        |    |           |    |      |    |
| 27. Did the military judge or president advise the court concerning the elements of each offense, each lesser included offense reasonably raised by the evidence, and the presumption of innocence, reasonable doubt, and burden of proof, pursuant to Article 51(c), UCMJ (RCM 920(e))? |     |    |        |    |           |    |      |    |
| 28. a. If trial was by military judge alone, did the military judge announce the findings (RCM 922)?   |     |    |        |    |           |    |      |    |
| b. If the trial was with members, did the president announce the findings (RCM 922)?   |     |    |        |    |           |    |      |    |
| c. If special findings were requested, were they made a part of the record?  |     |    |        |    |           |    |      |    |
| 29. Were the findings in proper form (A10)?  |     |    |        |    |           |    |      |    |
| 30. a. Was the evidence, if any, of previous convictions admissible and properly introduced in evidence (RCM 1001(b)(3))?  |     |    |        |    |           |    |      |    |
| b. Was the information from personnel records of the accused properly admitted (RCM 1001(b)(2))?   |     |    |        |    |           |    |      |    |
| c. Was the defense permitted to introduce evidence in extenuation and mitigation after the court announced findings of guilty (RCM 1001(c))?   |     |    |        |    |           |    |      |    |
| 31. a. In a trial with members, did the president announce the sentence (RCM 1007)?  |     |    |        |    |           |    |      |    |
| b. If trial was by military judge alone, did the military judge announce the sentence (RCM 1007)?  |     |    |        |    |           |    |      |    |

2199  
~~2199~~

**COURT-MARTIAL DATA SHEET**

| <b>SECTION A - PRETRIAL AND TRIAL PROCEDURE<br/>(CONTINUED)</b>  | TC  |    | SPCMCA |    | GCM or JA |    | OJAG |    |
|--|-----|----|--------|----|-----------|----|------|----|
|  | YES | NO | YES    | NO | YES       | NO | YES  | NO |
| 32. Was the sentence in proper form (A11)?   |     |    |        |    |           |    |      |    |
| 33. Is the record properly authenticated (RCM 1104)?   |     |    |        |    |           |    |      |    |
| 34. a. Did all members who participated in proceedings in revision vote on original findings and sentence (RCM 1102(e)(1))?  |     |    |        |    |           |    |      |    |
| b. At proceedings in revision, were a military judge (if one was present at the trial), the accused, and counsel for the prosecution and defense present (RCM 1102(e)(1))?   |     |    |        |    |           |    |      |    |
| 35. Was each accused furnished a copy of the record or substitute service made on defense counsel (RCM 1104(b))?   |     |    |        |    |           |    |      |    |
| 36. Was clemency recommended by the court or military judge?   |     |    |        |    |           |    |      |    |
| <b>SECTION B - PROCEDURE AFTER TRIAL</b>   | TC  |    | SPCMCA |    | GCM or JA |    | OJAG |    |
|  | YES | NO | YES    | NO | YES       | NO | YES  | NO |
| 37. Was the court convened by proper authority (RCM 504(b))?   |     |    |        |    |           |    |      |    |
| 38. Did the court have jurisdiction of person and offense (RCM 202 & 203)?   |     |    |        |    |           |    |      |    |
| 39. Does each specification state an offense under the code (RCM 907(b))?  |     |    |        |    |           |    |      |    |
| 40. Did the accused have the requisite mental capacity at the time of trial and the requisite mental responsibility at the time of the commission of each offense (RCM 909 and RCM 916(k))?                                      |     |    |        |    |           |    |      |    |
| 41. Is the evidence sufficient to support the findings?  |     |    |        |    |           |    |      |    |
| 42. Is the sentence within legal limits (RCM 1112(d))?   |     |    |        |    |           |    |      |    |
| 43. Is the action of the convening authority properly entered in the record and signed (RCM 1107(f))?  |     |    |        |    |           |    |      |    |
| 44. If appropriate, is a proper place of confinement designated (RCM 1107(f)(4)(c))?   |     |    |        |    |           |    |      |    |
| 45. a. Was the staff judge advocate's post-trial recommendation served on the defense counsel for comment (RCM 1106(f))?   |     |    |        |    |           |    |      |    |
| b. If the addendum to the recommendation contained new matters, was it served on the defense counsel for comment (RCM 1105(f)(7))?   |     |    |        |    |           |    |      |    |
| c. Did the accused submit matters for the convening authority's consideration in a timely manner (RCM 1105)?   |     |    |        |    |           |    |      |    |
| d. If yes, was the convening authority's action subsequent to the submission of the matters?   |     |    |        |    |           |    |      |    |
| e. If no, did the accused waive in writing the right to submit matters and was the action taken subsequent to the written waiver or did the time periods provided in RCM 1105(c) expire before the convening authority's action? |     |    |        |    |           |    |      |    |
| 46. a. Does the record indicate that the accused was advised of his/her appellate rights (RCM 1010)?   |     |    |        |    |           |    |      |    |
| b. Do the allied papers contain a statement indicating the desires of the accused with respect to appellate representation in the event his/her case is referred to a court of military review?                                  |     |    |        |    |           |    |      |    |
| c. Did the accused waive or withdraw appellate review and is the waiver or withdrawal in proper form and attached to the record of trial (RCM 1110, A19 & 20)?   |     |    |        |    |           |    |      |    |

002200

**COURT-MARTIAL DATA SHEET**

| <b>SECTION C - COURT-MARTIAL ORDERS (CMO)</b>   | TC  |    | SPCMCA |    | GCM or JA |    | OJAG |    |
|---|-----|----|--------|----|-----------|----|------|----|
|   | YES | NO | YES    | NO | YES       | NO | YES  | NO |
| 47. Does the initial CMO bear the same date as the action of the convening authority who published it?  |     |    |        |    |           |    |      |    |
| 48. Are all the orders convening the court which tried the case correctly cited in the CMO?   |     |    |        |    |           |    |      |    |
| 49. Are the accused's name, rank, SSN, unit/command name and branch of service correctly shown in the CMO?                                    |     |    |        |    |           |    |      |    |
| 50. Are all the charges and specifications (including amendments) upon which the accused was arraigned correctly shown in the CMO (RCM 1114)? |     |    |        |    |           |    |      |    |
| 51. Are the pleas, findings, and sentence correctly shown in the CMO (RCM 1114)?  |     |    |        |    |           |    |      |    |
| 52. Does the CMO show the date the sentence was adjudged?   |     |    |        |    |           |    |      |    |
| 53. Is the action of the convening authority correctly shown in the CMO?  |     |    |        |    |           |    |      |    |
| 54. Is the CMO properly authenticated (RCM 1114)?   |     |    |        |    |           |    |      |    |

55. REMARKS:

002201

20041130

**COURT-MARTIAL DATA SHEET**

55. REMARKS (Continued):

**56. TRIAL COUNSEL**

|   |         |              |                |
|---|---------|--------------|----------------|
| a. TYPED NAME (Last, First, Middle Initial) | b. RANK | c. SIGNATURE | d. DATE SIGNED |
| [REDACTED]                                  | MAJ     | [REDACTED]   | 7 Dec 04       |

**57. CONVENING AUTHORITY OR HIS/HER REPRESENTATIVE**

|   |         |              |                |
|---|---------|--------------|----------------|
| a. TYPED NAME (Last, First, Middle Initial) | b. RANK | c. SIGNATURE | d. DATE SIGNED |
|   |         |              |                |

**58. STAFF JUDGE ADVOCATE OF GENERAL COURT-MARTIAL CONVENING AUTHORITY OR REVIEWING JUDGE ADVOCATE**

|   |         |              |                |
|---|---------|--------------|----------------|
| a. TYPED NAME (Last, First, Middle Initial) | b. RANK | c. SIGNATURE | d. DATE SIGNED |
| [REDACTED]                                  | COL     | [REDACTED]   | 25 Dec 04      |

**59. ACTION IN THE OFFICE OF THE JUDGE ADVOCATE GENERAL**

a. ACTION:

**b. INDIVIDUAL COMPLETING DATA SHEET**

|   |          |               |                 |
|---|----------|---------------|-----------------|
| (1) TYPED NAME (Last, First Middle Initial) | (2) RANK | (3) SIGNATURE | (4) DATE SIGNED |
|   |          |               |                 |

CORRECTED COPY

DEPARTMENT OF THE ARMY

Headquarters, III Corps

Victory Base, Iraq

APO AE 09342-1400

GENERAL COURT-MARTIAL ORDER  
NUMBER 9

5 December 2004

Specialist Megan M. Ambuhl, U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq, was arraigned at Victory Base, Iraq, on the following offenses at a general court-martial convened by the Commander, III Corps.

Charge I: Article 81. Plea: None Entered. Finding: None Entered.

Specification: At or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 23 October 2003 conspire with Staff Sergeant [REDACTED] Sergeant [REDACTED] Corporal [REDACTED], Specialist [REDACTED], Specialist [REDACTED] and Private First Class [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Specialist Megan M. Ambuhl did participate in a photograph with Private First Class [REDACTED] who tied a leash around the neck of a detainee and led the detainee down the corridor with the leash around his neck. Plea: None Entered. Finding: None Entered.

Charge II: Article 92. Plea: None Entered. Finding: None Entered.

Specification: In that Specialist Megan M. Ambuhl, who knew of her duties, at or near Baghdad Central Correction Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, was derelict in the performance of those duties in that she willfully failed to protect Iraqi detainees from abuse, cruelty and maltreatment, as it was her duty to do. Plea: None Entered. Finding: None Entered.

Charge III: Article 93. Plea: None Entered. Finding: None Entered.

Specification: At or near Baghdad Central Correction Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several Iraqi detainees, persons subject to her orders, by watching naked detainees in a pyramid of human bodies. Plea: None Entered. Finding: None Entered.

002203

GCMO No. 9, DA, Headquarters, III Corps, Victory Base, Iraq, APO AE 09342-1400,  
dated 5 December 2004 (continued)

Charge IV: Article 134. Plea: None Entered. Findings: None Entered.

Specification: At or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with Iraqi detainees, Staff Sergeant [REDACTED], Corporal [REDACTED], Specialist [REDACTED] and Private First Class [REDACTED] by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central Correction Facility, with other soldiers who photographed or watched the detainees' actions. Plea: None Entered. Findings: None Entered.

Additional Charge I: Article 81. Plea: None Entered. Finding: None Entered.

Specification: At or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 8 November 2003, conspired with Staff Sergeant [REDACTED], Corporal [REDACTED], Specialist [REDACTED], Private First Class [REDACTED], and others to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy, the said Corporal [REDACTED] did place naked detainees' in a human pyramid. Plea: None Entered. Finding: None Entered.

Additional Charge II: Article 93. Plea: None Entered. Finding: None Entered.

Specification 1: At or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to her orders, by watching naked detainees being forced to masturbate in front of other detainees and soldiers. Plea: None Entered. Finding: None Entered.

Specification 2: At or near Baghdad Central Confinement Facility, Abu Ghraib, Iraq, on or about 23 October 2003, did maltreat several detainees, persons subject to her orders, by participating in a photograph with Private First Class [REDACTED] depicting Private First Class [REDACTED] holding a naked detainee by a leash wrapped around the detainee's neck and by watching Private First Class [REDACTED] hold a naked detainee by a leash wrapped around said detainee's neck. Plea: None Entered. Finding: None Entered.

#### ACTION

The accused having been arraigned, the proceedings were terminated on 25 August 2004. The Charges and Specifications are dismissed. All rights, privileges, and property of which the accused has been deprived by virtue of these proceedings will be restored.



GCMO No. 9, DA, Headquarters, III Corps, Victory Base, Iraq, APO AE 09342-1400,  
dated 5 December 2004 (continued)

BY COMMAND OF LIEUTENANT GENERAL METZ:



DISTRIBUTION:

- SPC Ambuhl (1)
- MJ, LTC [REDACTED] (1)
- TC, MAJ [REDACTED] (1)
- DC, CPT [REDACTED] (1)
- Cdr, HHC, 16th MP Bde (ABN) (1)
- Cdr, 16th MP Bde (ABN) (1)
- Cdr, III Corps, ATTN: SJA (2)
- Cdr, III Corps (1)
- Cdr, Det D, 15th Fin Bn, ATTN: FAO (1)
- Cdr, 15th PSB, ATTN: Records Section (1)
- Cdr, USAEREC, ATTN: PGRE-FS, Indianapolis, IN 46249 (1)
- Clerk of Court, ATTN: 901 N. Stuart St., Suite 1200, Arlington, VA 22203-1837 (1)

SSG, USA  
NCOIC, Military Justice

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

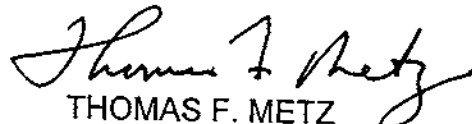
AFZF-CG

OCT 28 2004

MEMORANDUM FOR Staff Judge Advocate

SUBJECT: Disposition of the Court-Martial Charges Preferred Against Specialist  
Megan M. Ambuhl [REDACTED]

The recommendations of the Staff Judge Advocate are approved. Pursuant to the  
accused's offer to plead guilty, the attached charges and their specifications are  
referred to trial by summary court-martial. I hereby appoint Lieutenant Colonel [REDACTED]  
[REDACTED] as the summary court-martial officer.

  
THOMAS F. METZ  
Lieutenant General, USA  
Commanding

002206

OCT 28 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Advice on Disposition of the Court-Martial Charges Previously Referred Against Specialist Megan M. Ambuhl [REDACTED]—ACTION MEMORANDUM

1. Purpose. To forward for disposition, in accordance with Rule for Court-Martial (RCM) 407, the court-martial charges against Specialist Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Brigade (Airborne), III Corps, Victory Base, Iraq.

2. Background. On 21 July 2004, you referred the charges (including additional charges) and specifications in this case to trial by general court-martial. On 13 October 2004, the Defense submitted the attached offer to plead guilty, under which you would agree to refer all charges and specifications to trial by summary court-martial.

3. Recommendations.

a. *Chain of Command.* The chain of command recommends you accept the attached offer to plead guilty and refer this case to a summary court-martial.

b. *Staff Judge Advocate.* I recommend you accept the attached offer to plead guilty and refer this case to a summary court-martial.

4. Staff Judge Advocate Review. I affirm my prior review of these charges under RCM 406 and Article 34, Uniform Code of Military Justice (UCMJ). It is my legal conclusion that (1) The specifications allege offenses under the UCMJ; (2) The allegations of the offenses are warranted by the evidence indicated in the attached documentation; and (3) The court-martial will have jurisdiction over the accused and the offenses alleged.

5. POC is Captain [REDACTED] at DSN 318-822 [REDACTED]

[REDACTED]

COL, JA  
Staff Judge Advocate

Encls

- 1. Charge Sheet
- 2. Additional Charge Sheet
- 3. Offer to Plead Guilty
- 4. Allied Documents



**HEADQUARTERS**  
MULTI-NATIONAL CORPS - IRAQ  
BAGHDAD, IRAQ  
APO AE 09342

REPLY TO  
ATTENTION OF:

**OCT 28 2004**

FICI-JA

MEMORANDUM FOR Lieutenant Colonel [REDACTED] 57th Signal Battalion, 3rd Signal Brigade, Victory Base, Iraq APO AE 09342

SUBJECT: Appointment as a Summary Court-Martial Officer

1. Pursuant to Rules for Court Martial 401 and 403, I hereby appoint you the Summary Court-Martial Officer for the referred charges pertaining to Specialist (E-4) Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Victory Base, Iraq, APO AE 09342
2. Before you convene this court-martial you will contact your legal advisor, Major [REDACTED] Office of the Staff Judge Advocate, 1st Cavalry Division, Victory Base (North), Iraq, at DSN 302-531-[REDACTED] for a briefing. During the course of the proceeding, you may seek assistance from your legal advisor.
3. It will be your duty to come to a factual conclusion on this case at hand and, drawn from the evidence presented, adjudge a sentence that is not disproportionate to the offenses committed.

Encl  
nc

THOMAS F. METZ  
Lieutenant General, USA  
Commanding

002208

UNITED STATES )

v. )

AMBUHL, Megan M. )  
SPC, U.S. Army. )  
Headquarters and Headquarters Company )  
16th Military Police Brigade (Airborne) )  
III Corps, Victory Base, Iraq )  
APO AE 09342-1400 )

OFFER TO PLEAD GUILTY

8 October 2004

1. I, Specialist Megan M. Ambuhl, the accused in a pending court-martial, offer to plead guilty as follows:

- a. To the Specification of Charge I and to Charge I: Not Guilty;
- b. To the Specification of Charge II and to Charge II: Guilty;
- c. To the Specification of Charge III and to Charge III: Not Guilty; and
- d. To the Specification of Charge IV and to Charge IV: Not Guilty.

2. As part of this offer, I also agree to the following:

a. To enter into a Stipulation of Fact correctly describing the offense to which I am offering to plead guilty. I also agree that this stipulation may be used by the Summary Court-Martial officer to ascertain matters pertinent to findings and sentence. If my plea is not accepted, this offer to stipulate is null and void.

b. I agree to waive unconditionally any right I may have to an administrative separation board under AR 635-200, in the event my unit elects to separate me from the Army. This unconditional waiver includes any right I may have to a separation board if I am being considered for separation under other than honorable conditions.

c. I agree to waive the presence at my court-martial of all witnesses located outside of Victory Base, Iraq.

d. I agree to cooperate fully with the government in the investigations and prosecutions of Specialist [REDACTED] Sergeant [REDACTED] Staff Sergeant [REDACTED] Specialist [REDACTED] Specialist [REDACTED] Private First Class [REDACTED] and any other soldier or civilian charged based on misconduct at the Baghdad Central Confinement Facility at Abu Ghraib.

e. To request deferment of any period of adjudged confinement until after the conclusion of United States v. [REDACTED] IAW Article 57a, UCMJ.

002209

3. I agree to take the actions above provided the Convening Authority takes the following actions:

a. Refers this case to trial by summary court-martial.

b. Authorizes and orders the Trial Counsel to dismiss without prejudice the charges and specifications to which I have pled not guilty, once the summary court-martial officer accepts my plea of guilty to Charge II and its Specification.

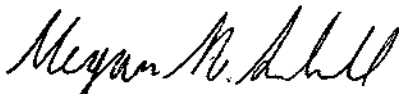
4. I understand that I may request to withdraw the plea of guilty at any time before my plea is accepted and that if I do so, this agreement is canceled. This agreement will also be canceled if:

a. I fail to plead guilty as agreed above;

b. The Stipulation of Fact is modified at any time after I have affixed my signature thereto without the consent of both myself and the Government; or

c. The summary court-martial officer either refuses to accept my plea of guilty or changes my plea of guilty during the trial.

5. This writing includes all terms and conditions of this Offer to Plead Guilty and contains all promises made to me or by me concerning my plea of guilty. There are no other promises, conditions, or understandings regarding my proposed plea of guilty that are not contained in this offer.



MEGAN M. AMBUHL  
SPC, U.S. Army  
Accused



Civilian Defense Counsel

The offer to plead guilty dated 8 October 2004 is:

(accepted)

(not accepted)



THOMAS F. METZ  
Lieutenant General, USA  
Commanding

OCT 28 2004

002210

UNITED STATES

STIPULATION OF FACT

v.

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

8 October 2004

**I. NATURE AND USES OF THE STIPULATION:**

1. This document represents a set of facts that both the Government and SPC Megan Ambuhl ("the accused") agree upon as true. These facts are admissible in evidence and can be considered by the Summary-Court Martial to determine the providence of the accused's plea of guilty; to establish the elements of all charges and specifications; and in consideration of an appropriate sentence. For these purposes, the accused expressly waives any objection that she may have to the admission of these facts, and any referenced attachments, into evidence at trial under any evidentiary rule, applicable case law, or Rule for Courts-Martial that might otherwise make them inadmissible.

**II. THE ACCUSED:**

2. I, SPC Megan Ambuhl, am 30 years old. I graduated High School in 1992, and then attended Coastal Carolina College where I received a B.S. in Biology. My GT score is 128. I entered military service on 31 January 2002. I attended One Station Unit Training at Fort Leonard Wood, Missouri. I completed Basic Training approximately 23 June 2002. After I completed my MOS training, I was released from active duty approximately 23 August 2002. On 21 February 2003, I was activated for the current tour of service in support of Operation Iraqi Freedom. I have a total of 2 years and 9 months service in the United States Army Reserve including my Delayed Entry time. I received Geneva Convention and UCMJ training during an approximately 60-90 minute block of instruction in basic training, but cannot remember any specifics of those classes. In my civilian life, I work as a histology technician at LabCorp, a private company in Herndon, Virginia.

3. I was originally assigned to the 352<sup>nd</sup> MP Company, but was involuntarily transferred to the 372<sup>nd</sup> MP Company. The 372<sup>nd</sup> spent 3 months training at Ft. Lee, Virginia on Law and Order missions. Now I am assigned to Headquarters and Headquarters Service Company, 16<sup>th</sup> Military Police Brigade. At all times relevant to the charged offenses, I was 29 years old and on active duty.

002211

### III. BACKGROUND

4. In May 2003, I, along with members of the 372d MP Company, arrived in Kuwait. The company proceeded north to the city of Hillah where the unit was responsible for, among other things, assisting and training the Iraqi Police in the surrounding area. During this time I became friends with SSG [REDACTED] CPL [REDACTED] and SPC [REDACTED] fellow MPs in my company. I am still good friends with SPC [REDACTED] and CPL [REDACTED].

5. On 14 October 2003, the 372d MP Co. assumed duties at the Baghdad Central Confinement Facility (BCCF). The BCCF is located in Abu Ghraib, a city located approximately 12 miles west of Baghdad, Iraq. Within the BCCF there are several compounds used to hold a large number of detainees. One of the compounds is actually a series of buildings built to contain individual cells. This compound is known as the "hard site" and consists of a number of halls, or tiers. Detainees in tier 1 were divided into two sub-tiers, tier 1A and tier 1B. During the relevant time, tier 1A was used for Military Intelligence (MI) holds -- individuals who were believed to possess information of tactical, strategic, or operational value. Tier 1B housed certain sub-categories of civilian detainees -- including women, juveniles, and detainees suspected of psychiatric/psychological problems or mental instability. 1B also housed many detainees that had caused serious disciplinary problems. There were juvenile and female MI holds on 1B from the beginning. Later on, there were all the different types of male MI and OGA holds as well.

6. During the months of October 2003 to January 2004, I worked at the BCCF. My primary responsibility was to serve as a night-shift guard for tier 1B. Specifically, I was given the responsibility to safeguard the women and juveniles who were held in the hard site on tier 1B. My formal supervisor during the night shift was generally SSG [REDACTED] the NCOIC, although SSG [REDACTED] also rotated the duty of night shift NCOIC with two other staff sergeants, SSG [REDACTED] and SSG [REDACTED]. SSG [REDACTED] and SSG [REDACTED] would also rotate between serving as the Sergeant of the Guard (SOG) during this time frame. SFC [REDACTED] arrived sometime in November was the NCOIC of the entire hard site. During the day-shift, SSG [REDACTED] generally served as the immediate supervisor for the tiers, with SSG [REDACTED] serving as the SOG. Overall responsibility for the entire hard site remained with the 4<sup>th</sup> Platoon Sergeant and Platoon Leader, SFC [REDACTED] and CPT [REDACTED] respectively. CPT [REDACTED] was the Company Commander and 1SG [REDACTED] was the Company 1SG, and these two men had the overall responsibility for the hard site, Camp Vigilant, as well as the company's LSA.

7. The 372d was not formally trained to conduct interment and resettlement (IR) operations of the type executed at Abu Ghraib. Several members of the company, including CPL [REDACTED] SSG [REDACTED] and SSG [REDACTED] were corrections officers in the United States.



### **III. THE MISCONDUCT: THE ELEMENTS**

8. Between the time frame of 20 October 2003 and 1 December 2003, I was derelict in the performance my duties, which I knew, in that I willfully failed to protect Iraqi detainees from abuse, cruelty, and maltreatment. Specifically:

a. I had a certain prescribed duty to the Iraqi detainees, that is I had a duty to protect them from abuse, cruelty, and maltreatment, and;

b. I actually knew of this assigned duty, and;

c. That between on or about 20 October 2003 and on or about 1 December 2003, I was derelict in the performance of that duty by willfully failing to protect the Iraqi detainees from abuse, cruelty, and maltreatment.

### **IV. THE MISCONDUCT: THE UNDERLYING FACTS**

9. During the time of 20 October 2003 and 1 December 2003, I witnessed numerous acts of abuse, cruelty, and maltreatment of Iraqi detainees within the hard site. This time was very confusing for me, and things were done to detainees that I questioned, but that apparently were permissible. But there were some things that were done that I knew were wrong at the time, and I did not act to stop this behavior to protect the detainees from abuse, cruelty, and maltreatment. There are two primary incidents that I specifically remember as being obviously wrong and that I took no action to prevent, either directly by saying something or taking action to stop the incident, or indirectly by reporting this behavior to someone who could stop the misconduct.

10. The first incident occurred approximately 8 days after the 372d had assumed duties at the hard site, on the evening of 24 October 2003.

a. This incident took place in the hard site, in tier 1A/1B and involved three soldiers, CPL [REDACTED], PFC [REDACTED], myself, and a detainee named Mr. [REDACTED] ISN 20092.

b. PFC [REDACTED] was a soldier assigned to the 372d MP Co., but not as an MP. Instead, PFC [REDACTED] was an administrative clerk who had no duties that required her to be in the hard site. PFC [REDACTED] however, was involved in a sexual relationship with CPL [REDACTED] a relationship the company had tried to stop but apparently did not.

c. The detainee involved, Mr. [REDACTED], nicknamed [REDACTED] was in the hole on the night of 24 October 2003. [REDACTED] was a small man weighing approximately 100 pounds when he was released. [REDACTED] had been arrested for attacking coalition forces. [REDACTED] often attacked or threatened to attack his MP guards. [REDACTED] demonstrated clear indications of a significant mental illness, and refused to accept anything offered to him including clothes, food, or water. As a result, [REDACTED] was often naked, as he was on the night of 24 October 2003. Because [REDACTED] routinely refused food and water, the MP

guarding [REDACTED] had to forcibly administer IV's to keep him alive, and this left [REDACTED] weak and frail.

d. On 24 October 2003, CPL [REDACTED] pulled [REDACTED] from the hole. CPL [REDACTED] looped a tie-down strap around [REDACTED] neck, and handed the other end of the strap to PFC [REDACTED]. CPL [REDACTED] then asked PFC [REDACTED] to pose holding the strap while he took photographs of [REDACTED]. [REDACTED] attempted to crawl along the floor. CPL [REDACTED] did not make any comments to me that he had been ordered to do this, and PFC [REDACTED] really had no business being there in the first place. It was not my idea to stage this photograph of [REDACTED] and I did not think there was a legitimate reason to do so. At the time this was happening I knew it was wrong just as I know now that it was wrong. I did not say anything to CPL [REDACTED] or PFC [REDACTED] to the effect that [REDACTED] shouldn't be treated this way, and I didn't try to stop this in any way. I also didn't tell anyone about this although I knew it was wrong to treat [REDACTED] or any detainee this way.

12. The second incident occurred in the late evening of 7 November 2003.

a. As mentioned above, the BCCF consists of both the hard site and several compounds. One compound within the BCCF is Camp Ganci. Camp Ganci generally houses detainees who may be a security risk if released or hold some low-level intelligence value. Camp Ganci was not administered by the 372<sup>nd</sup>, but by another MP company. Unlike its sister camp, Camp Vigilant was run by 2<sup>nd</sup> platoon of the 372d, Camp Ganci was fairly disorderly and riots sometimes occurred. One such riot occurred on the night of 7 November 2003.

b. After the riot at Camp Ganci was controlled, seven detainees believed to be participants in the riot were taken to the hard site to be placed into isolation as a means of punishing them for their conduct. The seven detainees were Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED]. I didn't know the names of these men at time, but I've since been told who they were. I recently heard Mr. [REDACTED] testify in court as to what happened to him that night and was very moved as he talked about being hurt and abused, and about the deep shame he felt as a result of what my fellow soldiers did to him that night.

c. The detainees were taken into the hard site with sandbags on their heads and flex-cuffs on their hands. This practice was not uncommon for incoming personnel and was generally done for security reasons. Present were a number of MP who were assigned to the night-shift including SSG [REDACTED], CPL [REDACTED], SPC [REDACTED], SGT [REDACTED], and myself. Also present was SPC [REDACTED] a mechanic assigned to the company.

d. Once the detainees arrived in the hard site, the situation deteriorated. I saw the detainees were thrown together in a pile, still bound and hooded. I then proceeded to walk up the stairs to the upper level. SGT [REDACTED] an MP

who worked in the tiers was there. SGT [REDACTED] used his combat boots to step on the hands and feet of the detainees. I walked up next to SFC [REDACTED], who was on the upper tier standing at the railing. SFC [REDACTED] and I saw SGT [REDACTED] stepping on the detainees and motioned for SGT [REDACTED] to stop, and ordered him to leave. SFC [REDACTED] left the hard site and SGT [REDACTED] left the tier. I think SGT [REDACTED] returned later to witness the additional abuse of the detainees, but I did not witness him do so.

e. I also saw a picture of CPL [REDACTED] posed with a detainee. In the pose, CPL [REDACTED] held a detainee's head with his fist cocked back as if he were about to punch the detainee. A soldier or soldiers photographed CPL [REDACTED] in this position; I was upstairs in the tier office. Cpl [REDACTED] may have hit a detainee; however I did not witness it. From SSG [REDACTED] testimony at his guilty plea, I learned he made an "X" with his hand on the chest of another bound and hooded detainee, and then punched the detainee with great force in the chest. This blow caused the detainee to have great difficulty breathing. When SSG [REDACTED] hit the detainee, whom I now know was Mr. [REDACTED] I got an inhaler from another detainee and tried to help him. I did not see, but a medic was called and she tried to help Mr. [REDACTED] breathe normally again. After Mr. [REDACTED] started breathing again, the medic left.

f. SSG [REDACTED] and CPL [REDACTED] strip-searched the detainees. I didn't take part in this either. From the investigation, I learned that SPC [REDACTED] wrote word "rapeist" on the leg of one detainee, listing his crime.

g. SSG [REDACTED] and CPL [REDACTED] placed the detainees into the humiliating and demeaning position of a naked human pyramid. Because the detainees did not speak English, they were physically pushed and forced into these degrading positions. The other soldiers then began photographing and posing for photographs with the detainees in humiliating and degrading positions. This I learned from the various pictures and photographs. I did not pose for any photographs or see others do so.

h. SPC [REDACTED] and I talked in the upstairs office of going to make personal phone calls. SPC [REDACTED] left the office and CPL [REDACTED] and I found cells for the detainees on tier 1B. SPC [REDACTED] came back and then she and I left. When I was going downstairs, I witnessed one detainee kneeling down in front of another with his head a few inches away from the standing detainee's groin area. The detainee who was standing had his hands on the head of the kneeling detainee. SPC [REDACTED] and I then left and went to the Internet café. We came back to the tier around 0200 and the detainees were in their cells. The detainees were naked with sandbags on their heads and no mattresses or blankets. It was a cold night and the detainees must have been very cold without anything to wear.

i. Prior to the investigation starting, I saw various videos and pictures depicting some of the events on the night of 7 November. I should have stopped or reported these events, both those I saw and those I found out about later, but I did not.

## **V. OTHER MATTERS**

13. I learned from the CID case file provided to my counsel that the investigation began on 13 January 2004 when SPC [REDACTED] slid a compact disc containing images of detainee abuse under the office door of the criminal investigation division (CID) at Baghdad Central Confinement Facility (BCCF) near Abu Ghraib, Iraq. SPC [REDACTED] had received two compact discs from CPL [REDACTED], another soldier assigned to BCCF. SPC [REDACTED] had asked for pictures of the hardsite. SPC [REDACTED] downloaded the images from both discs to his computer without looking at them. After saving the pictures, SPC [REDACTED] opened the files which included innocuous pictures of palaces in Iraq and soldiers working at the BCCF. The images also included pictures of naked detainees in forced sexual positions (Attachments 2 and 6). SPC [REDACTED] returned the two discs to CPL [REDACTED] and then burned the images to a compact disc that he anonymously provided to CID.

14. The CID investigation further showed that the day after SPC [REDACTED] slid the disc under CID's door, SPC [REDACTED] spoke to investigators and made a sworn statement describing the abuse of detainees at the BCCF. In his statement, SPC [REDACTED], a junior enlisted soldier, explained that he knew abusing detainees was wrong and wanted it to stop. He did not cite any rule of law or policy of the facility; he stated that he simply "felt the pictures were morally wrong."

15. I have since learned that the humiliating and sadistic acts of maltreatment and dehumanization described herein are unacceptable in any culture, but especially so in the Arab world. Homosexual acts are against Islamic law and Arab men consider it humiliating to be naked in front of others. Placing the detainees together in a manner to simulate acts of homosexuality seriously violated the tenets of Islamic law and degraded the detainees.

16. Over the past few months, both Middle Eastern and Western media outlets have broadcast some of the attached photographs. The acts of the soldiers in these photographs significantly contributed to tarnishing the reputation and image of the United States Armed Forces and the United States in the eyes of many Americans as well as many individuals throughout the world. Had I attempted to stop this abuse, or report it to the appropriate authorities sooner, much of the misconduct could have been avoided entirely.

## **VI. EXTENUATION AND MITIGATION:**

17. I have agreed to cooperate with the government in the investigation of misconduct within the BCCF. I will provide truthful information concerning the events that occurred within the BCCF from October 2003 to January 2004.

**VII. STIPULATION TO ADMISSIBILITY OF EVIDENCE**

18. The government and the I agree that this stipulation of fact plus attached enclosures are admissible at trial and may be considered in determining the providence of my pleas and in determining an appropriate sentence. The attached enclosures include Photo Exhibits 1-15 I appear in Photo Exhibits 3 and 4.



Civilian Defense Counsel



MEGAN M. AMBUHL  
SPC, USA  
Accused



MAJ, JA  
Trial Counsel

002217

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

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

Photographic Exhibits

002218



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

REPLY TO  
ATTENTION OF

OCT 28 2004

AFZF-CG

MEMORANDUM FOR Specialist Megan M. Ambuh' [REDACTED], Headquarters and  
Headquarters Company, 16th Military Police Brigade, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Grant of Testimonial Immunity and Order to Testify

1. Purpose. Under the provisions of Rule for Courts-Martial (RCM) 704(c), I grant you testimonial immunity for any statements made during the investigation and any courts-martial resulting from investigations into alleged abuse of detainees committed by the following soldiers in your unit: Sergeant [REDACTED] Specialist [REDACTED] Specialist [REDACTED], and Private First Class [REDACTED]. I further grant you immunity for testimony in any future criminal prosecutions of soldiers or civilians arising from detainee abuse allegations at Baghdad Central Confinement Facility (BCCF).

2. Authority and Basis for Grant. As a general court-martial convening authority, I am authorized to grant testimonial immunity under the provisions of RCM 704(c). Prior to granting testimonial immunity and directing you to testify, I made the following findings:

a. Relevant Evidence. You possess information relevant to proving the government's cases against individuals who have been or will be charged with detainee abuse at BCCF.

b. Self-Incrimination. Under ordinary circumstances, you would not be able to provide this testimony without implicating yourself in a possible criminal act. Absent a grant of immunity, it is anticipated that you would invoke your right against self-incrimination and not testify in the courts-martial listed above or any future criminal prosecutions.

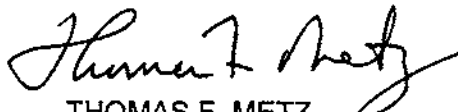
c. Necessity of Testimony. Your testimony before any court-martial which may be convened to adjudicate the misconduct described above, and your cooperation with law enforcement officers, investigating officers, and counsel investigating these allegations, is necessary to the public interest, including the good order and discipline of the U.S. Army.

d. Military Status. You are an individual subject to the Uniform Code of Military Justice.

3. Scope of Immunity. Any information you give pursuant to this order, or any information directly or indirectly derived from your testimony, shall not be used against you in a trial by courts-martial or proceedings under Article 15, UCMJ, except for prosecution for perjury, false swearing, making a false statement, or failing to comply with this order to testify.

4. Effective Date. This grant of immunity and order to testify shall be effective upon personal delivery to you or your detailed military defense counsel.

5. POC for this memorandum is Captain Neill at DSN 318-822 [REDACTED]

  
THOMAS F. METZ  
Lieutenant General, USA  
Commanding

002219

OCT 28 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Grant of Immunity and Order to Testify – ACTION MEMORANDUM

1. Purpose. To recommend you grant testimonial immunity and an order to testify to Specialist Megan M. Ambuhl [REDACTED]

2. Background.

a. On 20 March 2004, Specialist Megan M. Ambuhl was charged with maltreating detainees at the Baghdad Central Confinement Facility (BCCF) near Abu Ghraib, Iraq. Pursuant to an approved offer to plead guilty, Specialist Ambuhl will plead guilty at a summary court-martial on 30 October 2004.

b. You have previously referred similar charges against Sergeant [REDACTED] Specialist [REDACTED] and Specialist [REDACTED] whose courts-martial are pending. Specialist Ambuhl has agreed to testify against these co-accused after receiving a grant of immunity and order to testify. She has also agreed to provide truthful testimony in the court-martial of Private First Class [REDACTED] a co-accused stationed at Fort Bragg, North Carolina, and in other criminal prosecutions of soldiers and civilians arising from detainee abuse allegations at BCCF.

3. Applicable Law. Under the provisions of Rule for Courts-Martial (RCM) 704(c) in the Manual for Courts-Martial, you are authorized to grant testimonial immunity subject to making specific findings regarding the subjects listed below. Based on my review of the case, all the specific findings are satisfied.

a. *Relevant Evidence.* Specialist Ambuhl possesses information relevant to proving the government's case against the four charged soldiers listed above. She witnessed other soldiers abusing detainees at BCCF.

b. *Self-Incrimination.* Specialist Ambuhl cannot convey this information without implicating herself in possible criminal acts and, if asked to make a statement or if called to testify, it is anticipated that she would invoke her right against self-incrimination and not testify without a letter of testimonial immunity.

c. *Necessity of Testimony.* The testimony of Specialist Ambuhl at the remaining courts-martial is necessary to the public interest, including the good order and discipline of the United States Army. Similarly, her cooperation with officers, investigating officers, and counsel investigating these allegations is in the public interest.

002220



AFZF-JA-MJ

SUBJECT: Grant of Immunity and Order to Testify – ACTION MEMORANDUM

d. *Military Status.* Specialist Ambuhl is an individual subject to the Uniform Code of Military Justice.

4. Recommendation. I recommend you grant testimonial immunity and an order to testify for Specialist Ambuhl. An action to accomplish this is attached.

5. POC is CPT [REDACTED] Chief, Criminal Law Division, at 318-822 [REDACTED]

Encl  
as

[REDACTED]

COL, JA  
Staff Judge Advocate

002221

**SUMMARY COURT-MARTIAL RIGHTS NOTIFICATION/WAIVER STATEMENT**

For use of this form, see AR 27-10; the proponent agency is OTJAG

**1. STATEMENT CONCERNING REFUSAL TO ACCEPT QUALIFIED COUNSELING, ARTICLE 20, UCMJ AND UNDERSTANDING OF RIGHTS**

- a. On 29 OCT 04 (Date), I was afforded an opportunity to consult with legal counsel before making my decision to consent to Summary Court-Martial proceedings under Article 20, UCMJ.
- b. I have decided not to see counsel in connection with this action.
- c. I understand my rights under Article 20, UCMJ, including my right to object trial by Summary Court-Martial, punishment limitations, potential use of the record of Summary Court-Martial in any subsequent courts-martial, and other consequences of my decision.
- d. I voluntarily decide to consent to trial by Summary Court-Martial.

|  |                    |                                  |
|--|--------------------|----------------------------------|
| TYPED OR PRINTED NAME OF SERVICE MEMBER<br><b>MEGAN M. AMBUHL</b>    | RANK<br><b>SPL</b> | SIGNATURE<br><i>Megan Ambuhl</i> |
| TYPED OR PRINTED NAME OF SUMMARY COURT-MARTIAL OFFICER<br>[REDACTED] | RANK<br><b>LTC</b> | SIGNATURE<br>[REDACTED]          |

**2. STATEMENT ACKNOWLEDGING QUALIFIED LEGAL COUNSEL FOR ARTICLE 20, UCMJ, AND STATEMENT OF UNDERSTANDING OF RIGHTS**

- a. On 29 OCT 04 (Date), I consulted with CPT [REDACTED] (Name and Rank of Defense Counsel) who explained my rights to me under the provisions of Article 20, UCMJ, to include my right to object to trial by Summary Court-Martial, punishment limitations, potential use of the record of Summary Court-Martial proceedings in any subsequent courts-martial, and other consequences of my decision.
- b. I understand my rights and voluntarily decided to consent to trial by Summary Court-Martial.

|  |                    |                                  |
|--|--------------------|----------------------------------|
| TYPED OR PRINTED NAME OF SERVICE MEMBER<br><b>SPC MEGAN M. AMBUHL</b>  | RANK<br><b>SPC</b> | SIGNATURE<br><i>Megan Ambuhl</i> |
| c. I have advised <u>SPC MEGAN M. AMBUHL</u> (Name and Rank of Service Member) of his or her statutory and regulatory rights with regard to this Summary Court-Martial and the possible consequences of his or her consent or objection to trial by Summary Court-Martial. |                    |                                  |

|   |                    |                         |
|---|--------------------|-------------------------|
| TYPED OR PRINTED NAME OF DEFENSE COUNSEL BRANCH<br>[REDACTED] | RANK<br><b>CPT</b> | SIGNATURE<br>[REDACTED] |
|---|--------------------|-------------------------|

**3. REFUSAL TO ACKNOWLEDGE RECEIPT OF ADVICE - ARTICLE 20, UCMJ**

After I advised \_\_\_\_\_ (Name (First, MI, Last)) \_\_\_\_\_ (Rank) \_\_\_\_\_ (SSN) of his or her rights to consult with legal counsel before making a decision to consent or object to Summary Court-Martial proceedings under Article 20, UCMJ, he or she refused to complete and sign an acknowledgment of receipt of the advice.

|  |      |           |
|--|------|-----------|
| TYPED OR PRINTED NAME OF SUMMARY COURT-MARTIAL OFFICER | RANK | SIGNATURE |
|  |      |           |

REMARKS

002222

DEPARTMENT OF THE ARMY  
Headquarters and Headquarters Company  
57th Signal Battalion  
APO AE 09342

           OCT 29 2004

AFZF-JA-MJ

MEMORANDUM FOR Specialist (E4) Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Victory Base, Iraq, APO AE 09342

SUBJECT: Notification of Summary Court-Martial

1. On 30 October 2004, at 0800 hours, at the, Headquarters 57th Signal Battalion, building 41, I will hold a Summary Court-Martial, to consider all facts and circumstances concerning the charges referred against you on 21 July 2004, by Lieutenant General Thomas F. Metz. The charge is:

Charge II: Dereliction of Duty, Article 92, UCMJ.

2. The uniform for the hearing is hereby designated as DCU's. You have the right to be present during the entire hearing.

3. You have the right to be represented at all times during the hearing by legally qualified civilian counsel, at no expense to the government. You also have the right to waive representation by counsel.

4. If reasonably available, I intend to call the following witnesses: None.


5. Additionally, it is my intention to examine and consider evidence contained in the court-martial packet.

6. As the summary court-martial officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. You will provide me with a list of the witnesses you intend to call to testify in your defense NLT 1500 hours, 29 October 2004.

7. Sergeant [REDACTED] paralegal, is detailed to this court-martial to provide paralegal and administrative support.

002223


AFZF-JA-MJ  
SUBJECT: Notification of Summary Court-Martial

8. You may contact me by calling 822-

- 2 Encls  
1. DD Form 458  
2. DA Form 5111-R

  
LTC, SC  
Summary Court-Martial Officer

I hereby acknowledge Receipt of this Notification of Summary Court-Martial on this  
29 day of OCT 2004.

  
MEGAN M. AMBUHL  
SPC, USA  
Respondent

002224

DEPARTMENT OF THE ARMY  
Headquarters and Headquarters Company  
57th Signal Battalion  
APO AE 09342

**OCT 28 2004**

AFZF-JA-MJ

MEMORANDUM FOR Specialist (E4) Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Victory Base, Iraq, APO AE 09342

SUBJECT: Notification of Summary Court-Martial

1. On 30 October 2004, at 0000<sup>28</sup> hours, at the Victory Base Court Room, building 94, I will hold a Summary Court-Martial, to consider all facts and circumstances concerning the charges referred against you on 21 July 2004, by Lieutenant General Thomas F. Metz. The charge is:

Charge I: Dereliction of Duty, Article 92, UCMJ.

2. The uniform for the hearing is hereby designated as DCU's. You have the right to be present during the entire hearing.
3. You have the right to be represented at all times during the hearing by legally qualified civilian counsel, at no expense to the government. You also have the right to waive representation by counsel.
4. If reasonably available, I intend to call the following witnesses: None.
5. Additionally, it is my intention to examine and consider evidence contained in the court-martial packet.
6. As the summary court-martial officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. You will provide me with a list of the witnesses you intend to call to testify in your defense NLT 1500 hours, 29 October 2004.
7. Sergeant [REDACTED] paralegal, is detailed to this court-martial to provide paralegal and administrative support.

002225

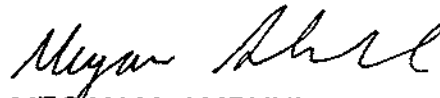
AFZF-JA-MJ  
SUBJECT: Notification of Summary Court-Martial

8. You may contact me by calling 822 [REDACTED]

- 2 Encls  
1. DD Form 458  
2. DA Form 5111-R

[REDACTED]  
DAVID R. HENSLEY  
LTC, SC  
Summary Court-Martial Officer

I hereby acknowledge Receipt of this Notification of Summary Court-Martial on this  
27 day of OCT 2004.

  
MEGAN M. AMBUHL  
SPC, USA  
Respondent

002226



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY TRIAL DEFENSE SERVICE  
REGION IX, BAGHDAD FIELD OFFICE  
CAMP VICTORY, IRAQ  
APO AE 09342

REPLY TO  
ATTENTION OF:

FICI-JA-BFO

29 October 2004

MEMORANDUM FOR RECORD

SUBJECT: Notification by Summary Court-Martial Officer -- United States v. SPC Megan M. Ambuhl

1. On 28 October 2004, LTC [REDACTED] Summary Court-Martial Officer, notified the accused, SPC Megan M. Ambuhl, of the government's intent to proceed to a Summary Court-Martial (SCM) on "Charge I: Dereliction of Duty."
2. The accused, her civilian defense counsel, and her military defense counsel understand that the SCM will proceed on one charge of dereliction of duty. This charge has been misidentified as "Charge I" and is correctly identified as the original Charge II. The substance and nature of the charge have not changed. The defense understands the reference to "Charge I" by the SCM Officer to be an administrative error.
3. SPC Ambuhl is not prejudiced by this error and she and her defense team are on notice that the offense to be considered at the SCM is original Charge II, Dereliction of Duty.
4. Questions concerning this matter, may be addressed to me via email at [REDACTED] or by telephone at DSN: (312) 521 [REDACTED]

//original signed//

[REDACTED]  
CPT, JA  
Trial Defense Counsel

002227

PRIVACY ACT STATEMENT

AUTHORITY: 42 U.S.C. 10606 et sec., Victim's Rights and Restitution Act of 1990; 18 U.S.C. 1501 et sec., Victim and Witness Protection Act of 1982.

PRINCIPAL PURPOSES: To inform victims and witnesses of their post-trial rights; to determine whether the victim or witness of a crime elects to be notified of changes in the confinement status of a convicted criminal offender; and to record the election by the victim or witness of their desire to be notified about subsequent changes in inmate status.

ROUTINE USES: None.

DISCLOSURE: Voluntary; however, failure to provide identifying information will prevent the corrections facility from notifying victim or witness of change in a criminal offender's status.

SECTION I - ADMINISTRATIVE INFORMATION

Installation Victory Base City Baghdad State Iraq APO AE 09342

Incident Number Organizational Identifier (ORI)

SECTION II - CERTIFICATION OF NO VICTIM OR WITNESS

(Complete this section only if there are no victims or witnesses who are entitled to notification under the Victim's Rights and Restitution Act of 1990, and DoD Instruction 1030.2.)

As a representative for the Government in the court-martial case of United States v. AMBUHL, Megan M. (Name of accused)(Last, first, middle initial)

[Redacted] convened by Lieutenant General Thomas F. Metz, III Corps, Commander (Social Security Number) (Summary Court-martial, Convening Authority)

I certify that this case does not involve a victim or witness entitled to receive information about the confinement status of the defendant as required by the Victim's Rights and Restitution Act of 1990 (Public Law 101-647; 104 Stat. 4820).

[Redacted Signature] (Signature of person certifying)

[Redacted Name] (Typed name (Last, first))

20041030

MAJ, Trial Counsel

(Date) YYYYMMDD

(Grade and title)

SECTION III - CERTIFICATION OF ADVICE TO VICTIM(S) AND WITNESS(ES)

(Complete this section when there are victims or witnesses entitled to notification.)

I certify that on this date I personally notified the victim(s) and witness(es) in the court-martial case of United States v.

[Redacted Name] (Name of accused)(Last, first, middle initial) [Redacted SSN] (Social Security Number) Convened by

(Summary Court-martial, Convening Authority)

whose sentence included confinement, of their right under the Victim's Rights and Restitution Act of 1990 (Public Law 101-647, 104 Stat. 4820), to receive information about the status of the inmate, to include length of sentence, anticipated earliest release date, likely place of confinement, the possibility of transfer, and the right to receive notification of a new place of confinement. I advised the possibility of parole or clemency with an explanation of these terms. Additionally, I advised of the right to prior notification of the inmate's parole hearings, release from confinement, escape and death. I advised that to receive notification of the inmate's transfer, parole hearings, and release from confinement, the victim or witness must provide the information required in Section IV of this form. I advised all victims and witnesses that if they elect to terminate or reinstate notifications, or if they change their address listed above, they must contact the Military Service Central Repository listed in Section V.

(Signature of person certifying)

(Typed name (Last, first)) 02228

(Date) YYYYMMDD

(Grade and title)



**SECTION IV - ELECTION TO BE NOTIFIED**

The victim(s) and witness(es) listed below have elected the right to receive information about changes in the status of the inmate by initialing the "Yes" block. If the inmate is transferred, they understand that they will be notified of the address of the new confinement facility. They also understand that if they move or their telephone number changes, they must notify the confinement facility of the new address or telephone numbers in order to be notified.

**LIST ALL VICTIMS AND WITNESSES INVOLVED IN THE CASE.** (Indicate whether a victim or witness be entering "V" or "W" in the appropriate column. Those who elect to be notified of inmate status changes should initial in the "Yes" column; otherwise initial the "No" column.)

| NAME<br>(Last, First, Middle Initial) | ADDRESS<br>(Street, Apartment No., City, State, ZIP Code) | TELEPHONE NUMBER<br>(Include Area Code) | V OR<br>W | NOTIFY |    |
|---------------------------------------|---|---|-----------|--------|----|
|                                       |   |   |           | YES    | NO |
| N/A                                   |   |   |           |        |    |
|                                       |   |   |           |        |    |
|                                       |   |   |           |        |    |
|                                       |   |   |           |        |    |
|                                       |   |   |           |        |    |
|                                       |   |   |           |        |    |
|                                       |   |   |           |        |    |
|                                       |   |   |           |        |    |
|                                       |   |   |           |        |    |
|                                       |   |   |           |        |    |
|                                       |   |   |           |        |    |
|                                       |   |   |           |        |    |
|                                       |   |   |           |        |    |

**SECTION V - DISTRIBUTION**

**ADDRESSES** (Include 9-digit ZIP Code and telephone number.)

MILITARY SERVICE CENTRAL REPOSITORY  
 HQDA, ODCS, G-3  
 ATTN: DAMO-ODL (Ms. [REDACTED])  
 400 Army Pentagon  
 Washington, DC 20310-0400  
 (703) 695-[REDACTED]

LOCAL CONFINEMENT FACILITY (name and address)

LAW ENFORCEMENT/SPECIAL INVESTIGATION

VICTIM/WITNESS (Individual will receive a copy with all other victim/witness addresses blacked out.)

002229



**HEADQUARTERS**  
MULTI-NATIONAL CORPS - IRAQ  
BAGHDAD, IRAQ  
APO AE 09342

REPLY TO  
ATTENTION OF:

FICI-JA

30 October 2004

MEMORANDUM FOR Lieutenant Colonel [REDACTED] Summary Court-Martial,  
HHC, 57th Signal Battalion, Victory Base Iraq APO AE

SUBJECT: Dismissal of Charges Without Prejudice

1. Upon acceptance of the accused's plea to the Specification of Charge II, I direct that the remaining charges now referred be dismissed without prejudice, in accordance with the offer to plead guilty approved by the Convening Authority.
2. The point of contact is the undersigned at DSN (318) 822-[REDACTED]

[REDACTED]  
MAJ, JA  
Trial Counsel

002230

SECTION I - PERSONAL DATA

1. NAME: AMRIHL MEGAN MARY  
 2. SSN: [REDACTED]  
 3. VSSN: A - SSN VERIFIED ON NAME, DATE OF BIRTH AND SEX  
 4. DOB: [REDACTED]  
 5. SEX: F - FEMALE  
 6. MARITAL STATUS: [REDACTED]  
 7. MIL SPOUSE / SSN: [REDACTED]  
 8. NUM DEPENDENTS: [REDACTED]  
 9. SOLE PARENT INDICATOR: [REDACTED]  
 10. FAMILY CARE PLAN STATUS: [REDACTED]  
 11. FAMILY CARE STATUS DATE: [REDACTED]  
 12. RACE: C - WHITE  
 13. ETHNIC GROUP: X - OTHER  
 14. CITIZENSHIP: A - NATIVE BORN  
 15. REL DENOM: [REDACTED]  
 16. ADDR STREET: [REDACTED]  
 17. CITY, STATE ZIP: [REDACTED]  
 18. ADDR VAL CDDATE: 4 / 2002/03/03  
 19. CIVILIAN OCC CAT: 041 - OCCUPATIONS IN BIOLOGICAL

SECTION II - SERVICE DATA

9. EXPN STAT OBLG: 2009H231 090128  
 10. EXPN TRU SVC: 2008/01/28  
 11. QUAL RETN STAT: [REDACTED]  
 12. QUAL RETN YRMO: [REDACTED]  
 13. INITIAL ENTRY MIL: 2002/01/01  
 14. INITIAL ENTRY RES: 2002/01/01  
 15. 20 YEAR CERT: [REDACTED]  
 16. SOURCE MPC: G - VOL ENL IN RC ON OR AFTER 3 SEPT 63, TITLE 10 USC 511D  
 17. AD CALL-UP EVENT: [REDACTED]  
 18. YRS ACT FED SVC: 00.00  
 19. DATE LAST REL AD: 2002/09/23  
 20. DATE LAST EVAL REG: [REDACTED]  
 21. YRMO ELIG AFAM: 2012/01  
 22. YRMO ARCAM SUSP: 2005/01  
 23. INC INCENT STATUS CD: [REDACTED]  
 24. INC INCENTIVE EFF DATE: [REDACTED]  
 25. INC INCENTIVE BONUS TYPE: [REDACTED]  
 26. INC INCENTIVE PROGRAM CD: [REDACTED]  
 27. TERM REASON CODE: [REDACTED]  
 28. TERMINATION EFF DATE: [REDACTED]

SECTION III - QUALIFICATION DATA

11. DENT XRAY LOC: [REDACTED]  
 12. DNA SAMPLE INDIC: [REDACTED]  
 13. HEIGHT / WEIGHT: [REDACTED]  
 14. HGT WT INDIC / YRMO: P / 2002/05  
 15. APRT INDIC / YRMO: Y - NONE  
 16. FLD DETM PSSTAT: [REDACTED]  
 17. DTE FLD DETM PSSTAT: [REDACTED]  
 18. PS INVEST TYPE / DATE: [REDACTED]  
 19. DEPT DETM PSSTAT: Y - NONE  
 20. AFQT PCTL / GRP: 98 / 1  
 21. MIL EDUC ENRLD: [REDACTED]  
 22. MIL EDUC COMPL: [REDACTED]  
 23. CIV EDUC LEVEL: G - 4TH YEAR OF COLLEGE  
 24. CIV EDUC CERT: K - BACCALAUREATE DEGREE  
 25. MAJ COLL SUBJ: DCH - BIOLOGY

REPORT DATE: 2002/10/06

SN: HQH-R07

TYPE RECORD: SPECIAL REQUEST

UNIT: 0352 MP CO (GUARD)  
NAME: AMBUHL MEGAN MARY

UIC: WYATHD MUSARC: 1U-99TH REGIONAL SUPPORT COMMAND

Page 2 of 2

RCS: AG-883

TCC: 1688

REGIONAL LEVEL APPLICATION SOFTWARE (RLAS)  
PERSONNEL QUALIFICATION RECORD  
(ENLISTED)

SECTION IV - UNIT DATA

CURR UIC / FPC: WYATHD /  
UNIT NAME: 0352 MP CO (GUARD)  
EFF DATE ASS: 2002/02/27  
PROJ YRMO DPRT: RSN PROJ LOSS:  
10. UIC OF ATTACH:  
11. EFF DATE ATTACH:  
12. REASON ATTACH:  
13. EXPN DATE ATTACH:

SECTION V - POSITION DATA

POSITION NBR: 2230  
PARA / LINE NBR: 103 / 03  
POSITION TITLE: MILITARY POLICE  
POSN ASS DATE: 2002/02/27  
9. AUTH MPC: E - ENLISTED  
10. AUTH SEX: I - INTERCHANGEABLE  
11. PS INVEST RGRD:  
12. POSITION PSSTAT:

SECTION VI - EDUCATION ASSISTANCE PROGRAM (GIBILL) DATA

ELIG STATUS: F - ELIG - MEETS ELIGIBILITY CRITERIA  
BENEFIT RECoup:  
3. DATE START MGIB: 2002/08/24  
5. INIT CONTRACT DATE: 2002/01/29  
4. DATE TERM MGIB: 2012/08/24  
6. 2ND CONTRACT DATE:

SECTION VII - LANGUAGE PROFICIENCY DATA

1. LANGUAGE IDENT CODE:  
PROFICIENCY SOURCE:  
YRMO PROFICIENCY TEST:  
LISTENING PROF LEVEL:  
LISTENING EVAL METHOD:  
SPEAKING PROF LEVEL:  
SPEAKING EVAL METHOD:  
READING PROF LEVEL:  
READING EVAL METHOD:  
2. LANGUAGE IDENT CODE:  
PROFICIENCY SOURCE:  
YRMO PROFICIENCY TEST:  
LISTENING PROF LEVEL:  
LISTENING EVAL METHOD:  
SPEAKING PROF LEVEL:  
SPEAKING EVAL METHOD:  
READING PROF LEVEL:  
READING EVAL METHOD:

I BELIEVE THAT ~~(I)~~ (I AM NOT) EMPLOYED IN A KEY POSITION WITH THE FEDERAL, STATE, OR LOCAL GOVERNMENT OR SUPPORTING DEFENSE AGENCY / INDUSTRY; OR PREPARING FOR THE MINISTRY, OR HAVE AN OBLIGATION TO PERFORM MISSIONARY WORK; OR MY ENTRY ON EXTENDED ACTIVE DUTY WOULD CREATE AN EXTREME PERSONAL OR COMMUNITY HARDSHIP.

I CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT I HAVE NO MEDICAL CONDITION OR PHYSICAL DEFECT THAT WOULD PREVENT MY PERFORMANCE OF ACTIVE MILITARY SERVICE EXCEPT AS FOLLOWS:

SIGNATURE: Megan Ambuhl DATE REVIEWED: 021006

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| SECTION I - IDENTIFICATION DATA                 |       |           |       | SECTION II - CLASSIFICATION AND ASSIGNMENT DATA (Continued)      |             |                      |       |
|---|-------|-----------|-------|--|-------------|----------------------|-------|
| 02108A4650                                      |       | 2. S.S.N. |       | 6. MILITARY OCCUPATIONAL SPECIALTIES                             |             |                      |       |
| 1. NAME   |       | MOSC      |       | TITLE  |             | DATE                 |       |
| AMBUHL MEGAN MARY                               |       |           |       | Military Police  |             | 01/28/73             |       |
| SECTION II - CLASSIFICATION AND ASSIGNMENT DATA |       |           |       | 7. AVIATION ASI & GUNNERY QUALIFICATION                          |             |                      |       |
| MOS EVALUATION SCORES                           |       | CONT      |       | GUNNERY SYSTEM   |             | APTITUDE AREA SCORES |       |
| YR & MO   | SCORE | YR & MO   | SCORE | AIRCRAFT   | INSTR PILOT | AREA                 | SCORE |
|   |       |           |       | FW   | FW          | GI                   | 128   |
|   |       |           |       |  |             | GM                   | 121   |
|   |       |           |       |  |             | EL                   | 123   |
|   |       |           |       |  |             | CL                   | 129   |
|   |       |           |       |  |             | MM                   | 113   |
|   |       |           |       |  |             | SC                   | 125   |
|   |       |           |       |  |             | CO                   | 122   |
|   |       |           |       |  |             | FA                   | 123   |
|   |       |           |       |  |             | OF                   | 120   |
|   |       |           |       |  |             | SI                   | 125   |
| 8. AWARDS, DECORATIONS & CAMPAIGNS              |       |           |       | 9. AMERICAN BOARD CERTIFICATION & LICENSES OR CERTIFICATES HELD  |             |                      |       |
| APRY - SVC - RAN - 1/                           |       |           |       | RIFLE M16 QUAL. BAD  |             |                      |       |
|   |       |           |       | HAND GREN QUAL. BAD  |             |                      |       |
|   |       |           |       | 11. AMERICAN BOARD CERTIFICATION & LICENSES OR CERTIFICATES HELD |             |                      |       |
|   |       |           |       | CONT   |             |                      |       |
| 12. LANGUAGE PROFICIENCY                        |       |           |       | DA FORM 330 SUBMITTED  |             |                      |       |
|   |       |           |       | DATE   |             |                      |       |

PERSONNEL QUALIFICATION RECORD - PART II

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DA FC JAN 73

| SECTION II - CLASSIFICATION AND ASSIGNMENT DATA          |                   |                      |      |       |                             |                                     |                |  |                          | SECTION III - SERVICE, TRAINING AND OTHER DATES |      |      |  |  |  |  |  |  |  |
|--|-------------------|----------------------|------|-------|-----------------------------|-------------------------------------|----------------|--|--------------------------|---|------|------|--|--|--|--|--|--|--|
| PILOT RATINGS  |                   |                      |      |       | APPOINTMENTS AND REDUCTIONS |                                     |                |  |                          | SPECIALIZED TRAINING                            |      |      |  |  |  |  |  |  |  |
| ORIGINAL   | DATE              | CURRENT              | DATE | CONT  | GRADE                       | COMP                                | EFFECTIVE DATE | DATE OF ELIG./RANK                                       | SUBJECT                  | CONT  | DATE | CONT |  |  |  |  |  |  |  |
|  |                   |                      |      |       | PV1                         |                                     |                | 20020129   | ATP 21-114(BCT)          |   |      |      |  |  |  |  |  |  |  |
|  |                   |                      |      |       | SPL                         | USAP                                |                | 020129   | Geneva-Hague Conventions |   |      |      |  |  |  |  |  |  |  |
| INSTRUMENT CERTIFICATION                                 |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| INTERNSHIPS, RESIDENCIES AND FELLOWSHIPS                 |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| HOSPITAL   |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| HOSPITAL/TEACHING APPOINTMENTS AND PRIVATE PRACTICE      |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| FROM   | THRU              | INSTITUTION/LOCATION | TYPE | DURAT | CONT                        | BASIC ENLISTED SERVICE DATE (BESD)  |                |  |                          |   |      |      |  |  |  |  |  |  |  |
|  |                   |                      |      |       |                             | TIME LOST (Sec. 972, Title 10, USC) |                |  |                          |   |      |      |  |  |  |  |  |  |  |
|  |                   |                      |      |       |                             | FROM                                | THRU           | DAYS   | REASON                   | CONT  |      |      |  |  |  |  |  |  |  |
| SECTION IV - PERSONAL AND FAMILY DATA                    |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| CIVILIAN EDUCATION AND MILITARY SCHOOLS                  |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| SCHOOL   | MAJOR/COURSE/MOSC | DURAT                | COMP | YEAR  | CONT                        | PHYSICAL STATUS                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| DAKTDG HTS   | GENERAL           | 4 yr                 | YES  | 92    |                             | HEIGHT                              | WEIGHT         | GLASSES  | SELF                     | PLACE OF BIRTH AND CITIZENSHIP                  |      |      |  |  |  |  |  |  |  |
| COASTAL CAROLINA   | BIOLOGY/BACH      | 4 yr                 | YES  | 98    |                             |                                     |                | <input type="checkbox"/> YES <input type="checkbox"/> NO | TROYNY                   |   |      |      |  |  |  |  |  |  |  |
| ET LEONARD WOOD MD                                       | 956               | 17 wks               | YES  | 02    |                             | SPOUSE                              |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| DATE OF EXAM 2102  |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| CITIZENSHIP OF SPOUSE                                    |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| 24. NUMBER OF DEPENDENTS                                 |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| ADULT CHILDREN   |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| 25. HOME OF RECORD/ADDRESS                               |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| 26. CIVILIAN OCCUPATION                                  |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| JOB TITLE:   |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| DOT CODE   |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| CRITICAL OCCUPATION                                      |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| YES <input type="checkbox"/> NO <input type="checkbox"/> |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| DUTIES PERFORMED   |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |
| EMPLOYER   |                   |                      |      |       |                             |                                     |                |  |                          |   |      |      |  |  |  |  |  |  |  |



MEMORANDUM FOR Commander, Multi-National Corps – Iraq, Baghdad, Iraq  
APO AE 09342

SUBJECT: Legal Review of Summary Court-Martial – U.S. v. SPC Megan M. Ambuhl

1. In accordance with Rule for Court-Martial 1112(a)(3), I have reviewed the subject Summary Court-Martial. I have not acted in this case as an accuser, investigating officer, member of the court-martial, military judge, or counsel, nor have I otherwise acted on behalf of the prosecution or defense.

2. I make the following conclusions:

a. The court-martial had jurisdiction over the accused and each offense as to which there was a finding of guilty that was not disapproved.

b. Each specification as to which there was a finding of guilty that has not been disapproved stated an offense under the UCMJ.

c. The sentence imposed was legal.

3. There are no allegations of error made in writing by the accused, nor have I identified any errors in the case.

4. The above record of trial by Summary Court-Martial does not require further legal review. The original copy of this legal review will be placed in the original Record of Trial and a copy of this review will be provided to the accused.

5. POC is the undersigned at: [REDACTED] or DSN 318-822-  
[REDACTED]

[REDACTED]  
CPT, JA  
Administrative Law Attorney





## RECORD OF TRIAL BY SUMMARY COURT-MARTIAL

|  |                                |   |  |
|--|--------------------------------|---|--|
| 1a. NAME OF ACCUSED <i>(Last, First, MI)</i><br><b>AMBUHL, Megan M.</b>                          | b. GRADE OR RANK<br><b>E-4</b> | c. UNIT OR ORGANIZATION OF ACCUSED<br><b>HHC, 16th Military Police Brigade (Airborne)<br/>Victory Base, Iraq APO AE 09342</b> | d. SSN<br><b>[REDACTED]</b>  |
| 2a. NAME OF CONVENING AUTHORITY <i>(Last, First, MI)</i><br><b>METZ, Thomas, F.</b>              | b. RANK<br><b>LTG</b>          | c. POSITION<br><b>Commander</b>   | d. ORGANIZATION OF CONVENING AUTHORITY<br><b>III Corps,<br/>Victory Base, Iraq, APO AE 09342</b> |
| 3a. NAME OF SUMMARY COURT-MARTIAL<br><i>(If SCM was accuser, so state.)</i><br><b>[REDACTED]</b> | b. RANK<br><b>LTC</b>          | c. UNIT OR ORGANIZATION OF SUMMARY COURT-MARTIAL<br><b>HHC, 57th Signal Battalion<br/>Victory Base, Iraq APO AE 09342</b>     |  |

*(Check appropriate answer)*

|   | YES | NO |
|---|-----|----|
| 4. At a preliminary proceeding held on <u>30 October</u> <u>19 2004</u> , the summary court-martial gave the accused a copy of the charge sheet.  | X   |    |
| 5. At that preliminary proceeding the summary court-martial informed the accused of the following:  |     |    |
| a. The fact that the charge(s) had been referred to a summary court-martial for trial and the date of referral.   | X   |    |
| b. The identity of the convening authority.   | X   |    |
| c. The name(s) of the accuser(s).   | X   |    |
| d. The general nature of the charge(s).   | X   |    |
| e. The accused's right to object to trial by summary court-martial.   | X   |    |
| f. The accused's right to inspect the allied papers and immediately available personnel records.  | X   |    |
| g. The names of the witnesses who could be called to testify and any documents or physical evidence which the summary court-martial expected to introduce into evidence.  | X   |    |
| h. The accused's right to cross-examine witnesses and have the summary court-martial cross-examine on behalf of the accused.  | X   |    |
| i. The accused's right to call witnesses and produce evidence with the assistance of the summary court-martial if necessary.  | X   |    |
| j. That during the trial the summary court-martial would not consider any matters, including statements previously made by the accused to the summary court-martial, unless admitted in accordance with the Military Rules of Evidence. | X   |    |
| k. The accused's right to testify on the merits or to remain silent, with the assurance that no adverse inference would be drawn by the summary court-martial from such silence.  | X   |    |
| l. If any findings of guilty were announced, the accused's right to remain silent, to make an unsworn statement, oral or written or both, and to testify and to introduce evidence in extenuation or mitigation.                        | X   |    |
| m. The maximum sentence which could be adjudged if the accused was found guilty of the offense(s) alleged.  | X   |    |
| n. The accused's right to plead guilty or not guilty.   | X   |    |

6. At the trial proceeding held on 30 October 19 2004, the accused, after being given a reasonable time to decide,  did  did not object to trial by summary court-martial.  
*(Note: The SCM may ask the accused to initial this entry at the time the election is made.)*

MA  
*(Initial)*


7a. The accused  was  was not represented by counsel. *(If the accused was represented by counsel, complete b, c, and d below.)*

|   |                         |
|---|-------------------------|
| b. NAME OF COUNSEL <i>(Last, First, MI)</i> | c. RANK <i>(If any)</i> |
|---|-------------------------|

d. COUNSEL QUALIFICATIONS

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8. The accused was arraigned on the attached charge(s) and specification(s). The accused's pleas and the findings reached are shown below:

| CHARGE(S) AND SPECIFICATION(S)   | PLEA(S)       | FINDINGS (Including any exceptions and substitutions)   |
|--|---------------|---|
| <p>Charge II.</p> <p>The Specification: Dereliction of Duty (20 OCT 03 - 1 DEC 03)</p> | <p>Guilty</p> | <p>Guilty</p> <p><i>MA</i> I was advised of my right to request that confinement be deferred and I was advised of my right to submit written matters to the convening authority, including a request for clemency and of the right to request review by the Judge Advocate General.</p> <p><i>MA</i> I acknowledge receipt of record of trial.</p> <p><br/>MEGAN M. AMBUHL</p> |

9. The following sentence was adjudged:

To forfeit 1/2 months pay for one month and to be reduced to the grade of Private (E-2).

10. The accused was advised of the right to request that confinement be deferred. (Note: When confinement is adjudged.)

YES  NO

11. The accused was advised of the right to submit written matters to the convening authority, including a request for clemency, and of the right to request review by the Judge Advocate General.

YES  NO

12. AUTHENTICATION

  
Signature of Summarizing Authority

30 October 2004

Date

13. ACTION BY CONVENING AUTHORITY

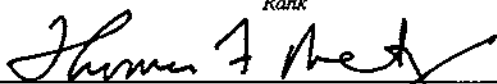
The sentence is approved and will be executed.

THOMAS F. METZ

Typed Name of Convening Authority

Lieutenant General

Rank



Signature of Convening Authority

Commander

Position of Convening Authority

NOV 6 2004

Date

**DEPARTMENT OF THE ARMY REPORT OF RESULT OF TRIAL**

For use of this form, see AR 27-10; the proponent agency is OTJAG

TO: Commander, Headquarters, III Corps, Victory Base, Iraq, APO AE 09342

- Notification under R.C.M. 1101 and AR 27-10, paragraph 5-30 is hereby given in the case of the United States v. Specialist Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), APO AE 09342.
- Trial by summary court-martial on 30 October 2004, at Baghdad, Iraq, convened by: III Corps, US Army, Victory Base, Iraq APO AE 09342.
- Summary of offenses, pleas, and findings:

| CH | ART UCMJ | SPEC | BRIEF DESCRIPTION OF OFFENSES(S)           | PLEA | FINDING |
|----|----------|------|--|------|---------|
| II | 92       | The  | Dereliction of duty (20 OCT 03 – 1 DEC 03) | G    | G       |

4. SENTENCE: (LTC [REDACTED]) To forfeit 1/2 a months pay per month for one month and to be reduced to the grade of Private (E-2).

5. Date sentence adjudged and effective date of any forfeiture or reduction in grade (YYYYMMDD): 20041030.  
(See UCMJ Articles 57-58b and R.C.M. 1101.) 20041113.

6. Contents of pretrial agreement concerning sentence, if any: Attached

7. Number of days of presentence confinement, if any: N/A.

8. Number of days of judge-ordered administrative credit under Article 13, or for presentence confinement or restriction found tantamount to confinement, if any: N/A.

9. Total presentence confinement credit toward post-trial confinement: None.

10. Name(s) and SSN(s) of companion accused or co-accused, if any: SPC [REDACTED] SGT [REDACTED]  
[REDACTED]; SPC [REDACTED] SSG [REDACTED]  
SPC [REDACTED]; SPC [REDACTED] PFC [REDACTED]

11. DNA processing IAW 10 U.S.C. § 1565 is (not) required.

12. Conviction(s) do(es) require sex offender registration IAW 42 U.S.C. § 14071.

CF: Unit Commander SJA TDS MJ Post-trial  
Confinement Facility SPCMA CID Supporting Finance Activity

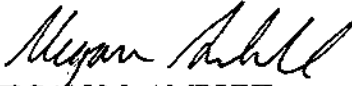
MJ: LTC [REDACTED] DC: CPT [REDACTED]  
TC: N/A CR: N/A

|      |            |           |            |
|------|------------|-----------|------------|
| NAME | [REDACTED] | SIGNATURE | [REDACTED] |
| RANK | LTC        | BRANCH    | SC         |

MEMORANDUM FOR RECORD

SUBJECT: Wavier of Clemency Matters

1. I understand that Lieutenant Colonel [REDACTED] the summary court-martial officer, adjudged a sentence of forfeiture of 1/2 a month's pay for one month and reduction to Private (E-2). MA
2. I understand that I may consult with counsel; and, in conjunction with counsel, submit clemency matter to the convening authority. MA
3. I having full knowledge of my right to submit matters, and after consulting with my defense counsel have elected to waive that right. MA

  
MEGAN M. AMBUHL  
SPC, USA

**Kary Jared F SGT MNC-I SJA Claims**

---

**From:** [REDACTED]  
**Sent:** Monday, November 01, 2004 6:12 PM  
**To:** [REDACTED] SGT CJTF7-SJA Claims; v  
**Cc:** [REDACTED]  
**Subject:** RE: Result of Trial (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

SGT [REDACTED]

The defense does not intend to submit any matters to the convening authority or to appeal the findings and sentence of the SCM officer in U.S. v. Ambuhl.

V/R,  
[REDACTED]  
CPT, JA  
Trial Defense Counsel

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

**From:** [REDACTED] SGT CJTF7-SJA Claims  
**Sent:** Saturday, October 30, 2004 11:35 AM  
**To:** [REDACTED] CPT;  
**Cc:** [REDACTED]  
**Subject:** Result of Trial

SPC Ambuhl Team

If you wish to submit matters to the convening authority please submit them to me NLT 1400 6 NOV 04 Baghdad time.

<<Result\_A.pdf>>  
I will serve a hard copy to SPC Ambuhl and have her sign the result ASAP.

Very Respectfully,

SGT [REDACTED]  
US Army, Paralegal  
DSN 318-822-[REDACTED]

Classification: UNCLASSIFIED  
Caveats: NONE

**CHARGE SHEET**

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

**II. CHARGES AND SPECIFICATIONS**

10. CHARGE I VIOLATION OF THE UCMJ, ARTICLE 81

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

**CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 92**

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

(SEE CONTINUATION SHEET)

**III. PREFERRAL**

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

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

|  |   |
|--|---|
| [REDACTED]<br>_____<br>Type of Officer | <b>HHC, XVIII Abn Corps</b><br>_____<br>Organization of Officer   |
| <b>O-3</b><br>_____<br>Grade           | <b>Trial Counsel</b><br>_____<br>Official Capacity to Administer Oath<br>(See R.C.M. 307(b) - must be a commissioned officer) |

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, 16<sup>th</sup> 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, 16<sup>th</sup> Military  
Designation of Command or

Police Brigade (Airborne) APO AE 09342

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

FOR THE

[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) |
| III Corps  | Victory Base, Iraq<br>APO AE 09342-1400 | 20041028           |

Referred for trial to the Summary court-martial convened by this detail of Lieutenant Colonel [Redacted]  
[Redacted] as the summary court-martial officer on

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

By Command of Lieutenant General Metz  
Command or Order

[Redacted]  
Typed Name of Officer

Chief, Criminal Law Division  
Official Capacity of Officer Signing

15.

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

[Redacted]  
Typed Name of Trial Counsel

MAJ  
Grade or Rank of Trial Counsel

FOOTNOTES: 1— When an appropriate commander signs personally, inapplicable words are stricken.  
2— See R.C.M. 801(e) concerning instructions. If none, so state.



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

Item 10 (continued)

**CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 93**

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

**CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 134**

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

002245



**HEADQUARTERS**  
MULTI-NATIONAL CORPS - IRAQ  
BAGHDAD, IRAQ  
APO AE 09342

REPLY TO  
ATTENTION OF:

FICI-JA

30 October 2004

MEMORANDUM FOR Lieutenant Colonel [REDACTED] Summary Court-Martial,  
HHC, 57th Signal Battalion, Victory Base Iraq APO AE

SUBJECT: Dismissal of Charges Without Prejudice

1. Upon acceptance of the accused's plea to the Specification of Charge II, I direct that the remaining charges now referred be dismissed without prejudice, in accordance with the offer to plead guilty approved by the Convening Authority.
2. The point of contact is the undersigned at DSN (318) 822 [REDACTED]

[REDACTED]  
MAJ, JA  
Trial Counsel

002246

UNITED STATES )

v. )

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

12 October 2004

---

**EXTENUATION AND MITIGATION**

COMES NOW the accused, by Counsel, and provides the following information to be used as extenuation and mitigation evidence at her summary court-martial:

1. SPC Megan Ambuhl is pleading guilty to one charge of dereliction of duty for not reporting the activities of MP and MI personnel at Abu Ghraib Prison. She has agreed to testify truthfully at all subsequent courts-martial relating to said activities.

2. The uncontroverted evidence is that she did not participate in any of the activities alleged to have occurred at the prison. Exhibit 1 is a partial transcript of the BCD special court-martial of SPC [REDACTED] a co-accused. SPC [REDACTED] agreed to plead guilty and to testify truthfully against his co-accused.

On page 44, lines 10-14, the Military Judge asked SPC [REDACTED] who participated in the conspiracy to maltreat detainees at the prison and received this response:

MJ: ...did all these people (Sergeant [REDACTED] Sergeant [REDACTED] Corporal [REDACTED] Specialist [REDACTED] Specialist [REDACTED] and PFC [REDACTED] participate in the abuse of these detainees?

002247

ACC: Negative, Your Honor.

MJ: Who didn't?

ACC: Specialist Ambuhl did not.

Emphasis added.

SPC [REDACTED] reiterates this fact later in his guilty plea at page 45, lines 17-20, and page 46, lines 8-13. The Military Judge twice makes SPC [REDACTED] agree that SPC Ambuhl is not part of the conspiracy—"Let's put Specialist Ambuhl to the side for a second. These six other people were conspiring to maltreat these subordinates. Do you understand that? And the subordinates in this case are the detainees."

ACC: Yes, Your Honor.

Id. Emphasis added.

PFC [REDACTED] Corporal [REDACTED] girlfriend and the soldier depicted in photographs as holding the leash, confirms that SPC Ambuhl did not participate in the abuse. In her 5 May 2004 Sworn Statement PFC [REDACTED] was asked whether she saw SPC Ambuhl strike any of the detainees. She responded, "No, she rarely participated, she really wasn't part of all this." See Exhibit 2, page 3 of 6. Emphasis added.

Finally, SGT [REDACTED] a witness but not an accused, states that, "SPC Ambuhl at no time in any way became involved in nor did she engage in any of the interrogations or alleged abuse." See Exhibit 3, 11 October 2004, Statement Addition. Emphasis added.

3. On 2 May 2004 the accused, the undersigned civilian defense counsel, JAG CPT [REDACTED] and a civilian interpreter assigned to the JAG office visited the prison to interview detainees who previously had provided witness statements to CID. Every remaining detainee was interviewed. Without exception each detainee stated that SPC Ambuhl treated them well and was both liked and respected. See Exhibit 4, personal testimonials of the detainees.

4. Exhibit 5 contains letters from family and friends of SPC Ambuhl attesting to her good character. They uniformly state that she is a caring and patriotic person. Many letters describe her as a shy, non-confrontational person. Exhibit 5 also contains personal photographs of her family and activities.

5. On 31 August 2004 LTC [REDACTED] was designated by the convening authority as an expert to assist SPC Ambuhl's defense counsel. LTC [REDACTED] conducted a comprehensive psychological assessment of SPC Ambuhl, the facts and circumstances surrounding her dereliction charge, and the mitigating factors pertaining to her actions. LTC [REDACTED] report is found at Exhibit 6.

It is important to note that LTC [REDACTED] informed SPC Ambuhl that she was appointed by the government and that any report that she issued was not confidential. Id. at numbered paragraph 1. SPC Ambuhl understood and cooperated fully.

While neither condoning nor justifying SPC Ambuhl's dereliction in not reporting what had occurred, LTC [REDACTED] report places the inaction in context in the "Findings" section of her report. Id. at pages 3-5. Her primary findings are stated on page 4 at subsection 4c:

c. SPC Ambuhl's decision not to report alleged detainee abuse at Abu Ghraib BCCF clearly appears to be related to her lack of training as a corrections officer, a lack of understanding of proper procedures regarding treatment of detainees, and perceived influences from civilian and military intelligence agencies who she assumed had authority of the hard site. In addition, she was clearly a junior member of her work group, and despite her rank, had been in the Army only a short period of time (she enlisted as a college graduate). There are no indications that she participated in any incidents of abuse, as corroborated by detainee interviews and other witness statements. Based on knowledge gained through her participation in her legal proceedings, SPC Ambuhl has expressed remorse for not reporting actions that she witnessed.

6. Exhibit 7 is a 1 August 2002 memorandum from the Department of Justice Office of Legal Counsel to Alberto R. Gonzales, Counsel to the President of the United States. It is part of the packet of material released by the White House earlier this year.

Although SPC Ambuhl did not participate in any of the alleged activities, the context for her inaction is important. LTC [REDACTED] report has provided some of that context. This memorandum provides some additional context. It is uncontroverted that both MP and MI personnel participated in the activities at Abu Ghraib. It has been reported widely in the press that GEN Miller in September 2003 advised that MI should use MPs at the prison to "set the conditions" for successful interrogations. GEN Miller was using his experience at Guantanamo Bay as his point of reference. Finally, it is uncontroverted that interrogators with experience in Afghanistan and Guantanamo Bay were brought to the prison in the Fall of 2003.

It should be noted that, accepting the fact that the actions depicted in the photographs at the prison were wrong, the Attorney General of the United States stated otherwise. In the conclusion to the memorandum it states:

For the foregoing reasons, we conclude that torture as defined in and proscribed by Sections 2340-1340A, covers only extreme acts. Severe pain is generally of the kind difficult for the victim to endure. Where the pain is physical, it must be of an intensity akin to that which accompanies serious physical injury such as death or organ failure. Severe mental pain requires suffering not just at the moment of infliction but it also requires lasting psychological harm, such as seen in mental disorders like posttraumatic stress disorder. Additionally, such severe mental pain can arise only from the predicate acts listed in Section 2340. Because the acts inflicting torture are extreme, there is significant range of acts that though they might constitute cruel, inhuman, or degrading treatment or punishment fail to rise to the level of torture.

Further, we conclude that under the circumstances of the current war against al Qaeda and its allies, application of Section 2340A to interrogations undertaken pursuant to the President's Commander-in-Chief powers may be unconstitutional. Finally, even if an interrogation method might violate Section 2340A, necessity or self-defense could provide justifications what would eliminate any criminal liability.

Thus, it is a matter in mitigation that SPC Ambuhl, with no corrections or interrogation training, would be reluctant to question or report activities conducted by MI and her superior non-commissioned officers. As the [REDACTED] statement indicates, even her officers were reluctant to question MI. See Exhibit 3, page 2, numbered paragraph 6 (27 May 2004).

**Conclusion:**

The defense would ask the summary court-martial officer to consider the factors above, the fact that SPC Ambuhl's unit has returned to the United States months ago, the restrictions on her activities since March 2004, and her

cooperation with the Government, and give a sentence that does not include imprisonment.

Respectfully submitted,

SPC MEGAN AMBUHL  
By Counsel



Civilian Defense Counsel



**Exhibit 1**

002253

**RECORD OF TRIAL**

**OF**

**[REDACTED]** **SPC**  
(Name: Last, First, Middle Initial) (Social Security Number) (Rank)

**HHC, 16th MP Bde (ABN)**  
**III Corps** **U.S. Army** **Victory Base, Iraq**  
(Unit/Command Name) (Branch of Service) (Station or Ship)

**BY**

**SPECIAL (BCD) COURT-MARTIAL**

**Convened by: Commander**  
(Title of Convening Authority)


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

**Tried at**


**Baghdad, Iraq** **on** **19 May 2004**  
(Place or Places of Trial) (Date or Dates of Trial)

| <b>INDEX</b>                        | <b>RECORD</b> |
|-------------------------------------|---------------|
| <b>Article 39(a) Sessions</b>       | <b>R-2</b>    |
| <b>Introduction of Counsel</b>      | <b>R-2</b>    |
| <b>Challenges</b>                   | <b>R-N/A</b>  |
| <b>Arraignment</b>                  | <b>R-8</b>    |
| <b>Motions</b>                      | <b>R-N/A</b>  |
| <b>Pleas</b>                        | <b>R-11</b>   |
| <b>Prosecution Evidence</b>         | <b>R-14</b>   |
| <b>Defense Evidence</b>             | <b>R-N/A</b>  |
| <b>Instructions on Findings</b>     | <b>R-N/A</b>  |
| <b>Charge(s) dismissed</b>          | <b>R-N/A</b>  |
| <b>Findings</b>                     | <b>R-72</b>   |
| <b>Prosecution Evidence</b>         | <b>R-73</b>   |
| <b>Defense Evidence</b>             | <b>R-96</b>   |
| <b>Sentence</b>                     | <b>R-126</b>  |
| <b>Appellate Rights Advise ment</b> | <b>R-125</b>  |
| <b>Proceedings in Revision</b>      | <b>R-NA</b>   |

TESTIMONY

| <u>NAME OF WITNESS</u>  | <u>DIRECT/<br/>REDIRECT</u> | <u>CROSS/<br/>RE CROSS</u> | <u>COURT</u> |
|---|-----------------------------|----------------------------|--------------|
| <u>PROSECUTION:</u>   |                             |                            |              |
|  | 75                          | 80                         |              |
|   | 82                          | 93                         |              |



DEFENSE:

|   |         |     |  |
|---|---------|-----|--|
|  | 100/104 | 102 |  |
|   | 104     | 107 |  |
| <u>Accused (unsworn)</u>  | 108     |     |  |

COURT:

None.

EXHIBITS ADMITTED IN EVIDENCE

| <u>NUMBER OR<br/>LETTER</u> | <u>DESCRIPTION</u>   | <u>PAGE WHERE</u> |                 |
|-----------------------------|--|-------------------|-----------------|
|                             |  | <u>OFFERED</u>    | <u>ADMITTED</u> |
| 1                           | Stipulation of fact  | 14                | 17              |
| 2                           | PQR and 2-1  | 73                | 73              |
| 3                           | Magazine article   | 74                | [Not R.74]      |
| A                           | Stipulation of expected testimony (CPI  | 96                | 97              |
| B                           | Stipulation of expected testimony (SGM  | 96                | 97              |
| C                           | 15-6 Investigation   | 98                | 98              |
| D                           | Proof of employment  | 98                | 98              |
| E                           | Good soldier book  | 99                | 99              |

APPELLATE EXHIBITS

|     |                                  |     |
|-----|----------------------------------|-----|
| I   | Request for military judge alone | 7   |
| II  | Offer to plead guilty            | 53  |
| III | Quantum                          | 53  |
| IV  | Post-trial and appellate rights  | 125 |

1 MJ: You mentioned earlier that, at least now, Specialist [REDACTED]  
2 was there?

3 ACC: Yes, Your Honor.

4 MJ: And Sergeant [REDACTED]

5 ACC: Yes, Your Honor.

6 MJ: So the group that was there for most of the time when you  
7 were there were you, Sergeant [REDACTED] Sergeant [REDACTED] Corporal  
8 [REDACTED] Specialist [REDACTED] Specialist Ambuhl and PFC [REDACTED]

9 ACC: Correct, Your Honor.

10 MJ: Now, when you turned the hall, did all these people  
11 participate in the abuse of these detainees?

12 ACC: Negative, Your Honor.

13 MJ: Who didn't?

14 ACC: Specialist Ambuhl did not. She was upstairs. From what I  
15 understood, she was actually in charge of the female and juvenile  
16 side of that area. She was upstairs, and Sergeant First Class  
17 [REDACTED]

18 MJ: And correct me if I'm wrong, I believe you told me you saw  
19 Sergeant [REDACTED]

20 ACC: Correct, Your Honor.

21 MJ: Okay, as I go through these names, tell me what you saw  
22 each of these individuals do. Sergeant [REDACTED]

1 ACC: Strike a detainee in the chest, Your Honor.  
2 MJ: Sergeant [REDACTED]  
3 ACC: Stomped on hands and toes, Your Honor.  
4 MJ: Corporal [REDACTED]  
5 ACC: Punching a detainee, Your Honor.  
6 MJ: Specialist [REDACTED]  
7 ACC: Write the word "rapist" on an inmate's leg, Your Honor.  
8 MJ: And PFC [REDACTED]  
9 ACC: PFC [REDACTED] was taking photos and laughing.  
10 MJ: And she was also the one....  
11 ACC: Stomping on the hands and toes.  
12 MJ: So, you turned the corner here and you escorted your  
13 detainee in there. And you told me earlier, is you didn't know what  
14 was going to happen, but as you get in there, you see what they're  
15 going to do.  
16 ACC: Yes, Your Honor.  
17 MJ: And let's put Specialist Ambuhl to the side for a second,  
18 but the other six and you, remember I talked to you earlier about  
19 what a conspiracy is?  
20 ACC: Yes, Your Honor.  
21 MJ: And a conspiracy can be like two people getting together or  
22 three people, and saying, "Here's our plan to rob the bank. You do

1 this, you do that," and then kind of talk it out and work it out and  
2 then they may or may not go rob the bank. But that agreement's in  
3 words. There's also a way to get an agreement just by actions, to  
4 join in common actions indicating that each individual member of the  
5 conspiracy are all agreeing with the object of the conspiracy. Do  
6 you understand what I'm talking about there?

7 ACC: Yes, I do, Your Honor.

8 MJ: And in this case, you're charged with conspiring with these  
9 six other people. And again, let's put Specialist Ambuhl to the side  
10 for a second. These six other people were conspiring to maltreat  
11 these subordinates. Do you understand that? And the subordinates in  
12 this case are the detainees.

13 ACC: Yes, Your Honor.

14 MJ: Now, before you walked in there, did you ever discuss doing  
15 this with them or anything like that?

16 ACC: Negative, Your Honor.

17 MJ: But once you got in there, by your actions and their  
18 actions, do you believe and admit that you formed an agreement to  
19 maltreat these detainees?

20 ACC: Yes, I do, Your Honor.

AFFIDAVIT

I, [REDACTED], have read or have had read to me this statement which begins on page 1 and ends on page 5. I fully understand the contents of the entire statement made by me. The statement is true. I have initialed all corrections and have initialed the bottom of each page containing the statement. I have made this statement freely without hope of benefit or reward, without threat of punishment, and without coercion, unlawful influence or unlawful inducement.

Witness #1:

[REDACTED]  
87<sup>th</sup> MP Det (C18)  
FORT BRAGG, NC 28310

Witness #2:

\_\_\_\_\_  
\_\_\_\_\_

[REDACTED]

Subscribed and sworn before me, a person authorized by law to administer oaths, this 15<sup>th</sup> day of May 2004, at Fort Bragg, NC 28310.

[REDACTED]

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

Article 136 (b) (4) UCMJ  
(Authority to Administer Oath)

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 5 OF 5 PAGES

DA Form 2823-E

FOR OFFICIAL USE ONLY

00952

002259

**Exhibit 3**



11 Oct 04

**Statement Addition:**

I [REDACTED] a former SGT. With the 372<sup>nd</sup> MP Company hereby make this statement concerning SPC Megan Ambuhl. This is an addition to my statement that has already been made on 27 May 04.

On the night of the alleged abuse incident that I witnessed which was on or about October 25<sup>th</sup>.

On this night in question SPC Ambuhl at no time in anyway became involved in nor did she engage in any of the interrogations or alleged abuse.

I personally did not witness this soldier (SPC Ambuhl) come out on the tier to even watch what was going on.

SPC Ambuhl from what I know about her coming from our original Unit the 352<sup>nd</sup> MP Company would not knowing or willfully in a sound state of mind abuse detainees.

Very Respectfully,

[REDACTED]

002261

ATZM-DPS-C

27 May 2004

## MEMORANDUM FOR RECORD

SUBJECT: Statement of SGT [REDACTED] Headquarters and Headquarters Company, Garrison Fort Lee, Virginia

1. My name is SGT [REDACTED] Headquarters and Headquarters Company, Garrison Fort Lee, Virginia. On 24 September 2001, I was assigned to 352<sup>nd</sup> MP Company, 220<sup>th</sup> MP Brigade, Gaithersburg, Maryland. On 23 February 2003, I was involuntarily transferred to 372<sup>nd</sup> MP Company, Cumberland, Maryland. On 24 February 2003, my unit was mobilized and on 27 February 2004, I arrived at Fort Lee, Virginia. On 16 May 2003, members of 372<sup>nd</sup> MP Company deployed from Fort Lee, Virginia to Camp Arifjan, Kuwait. I remained at Fort Lee in order to undergo surgery. On 21 September 2003, after the surgery, I deployed from Fort Lee and arrived at Camp Arifjan, Kuwait. On 30 September 2003, I left Camp Arifjan and on 1 October 2003, I arrived at the Baghdad Correctional Facility (BCF/Abu Ghrejb). I was assigned to 3<sup>rd</sup> platoon of 372<sup>nd</sup> MP Company. My duty assignment was Team Leader. My missions included escort of detainees from BCF to various courts in Baghdad, as well as escorts of VIPs and contractors. My quarters were located at 3<sup>rd</sup> platoon building, approximately 400 meters away from the BCF hard-site. I was not detailed to conduct any missions at the BCF hard-site.

2. During the last week of October at approximately 2200 hours I went over to the BCF hard-site in order to speak with SPC [REDACTED] my driver. I found SPC [REDACTED] at Tier 1A speaking with his cellmate, CPL [REDACTED]. When I approached Tier 1A, I observed two (2) service members (the first service member wore black PT shorts, brown t-shirt, and shower shoes; the second service member wore DCU pants and brown t-shirt). I perceived both service members to be military intelligence (MI). I saw both MI soldiers handcuff two (2) naked Iraqi detainees to the bars of cells on opposite sides. I then witnessed the same MI soldiers handcuff the detainees together, face to face. The MI soldier dressed in black PT shorts and brown t-shirt approached me and asked me in a sarcastic tone of voice: "Do you think we crossed the line?" or words to that effect. I responded: "I am not sure, you are MI" or words to that effect. The MI soldier then stated that they were interrogating 2 detainees and said: "We know what we are doing," or words to that effect.

3. Subsequently, both MI soldiers walked back to the detainees, separated them, and then re-cuffed them to the bars. The MI soldier wearing PT shorts tapped one of the detainees on his buttocks with a plastic water bottle. Then both MI soldiers re-cuffed the detainees together. Throughout this incident, both MI soldiers, via an interpreter, ordered the detainees to confess. When the detainees failed to cooperate, both MI soldiers yelled at them and ordered CPL [REDACTED] to yell at the detainees. At this time another MI soldier (wearing DCU pants and brown t-shirt) came in and the others seemed to look to him with respect and sought his approval. I asked him: "Is this how you interrogate detainees?" or words to that effect. The MI soldier responded "there are different ways to get it done," or words to that effect. The MI soldiers escorted the naked detainees around Tier 1A.

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ATZM-DPS-C

SUBJECT: Statement of SGT [REDACTED] Headquarters and Headquarters Company,  
Garrison Fort Lee, Virginia

4. One of the MI soldiers pointed to the naked detainees and said, "These are the people who raped a little boy," or words to that effect. Then SSG [REDACTED] I believe, escorted a third detainee to Tier 1A. SSG [REDACTED] said that this detainee assisted in the rape by holding down the victim. One of the MI soldiers then told the third detainee to get undressed like the other two. The new detainee refused. The MI soldiers proceeded to yell at the detainee. Then, one of the MI soldiers ordered CPL [REDACTED] to tell the detainee to get undressed. The third detainee undressed after CPL [REDACTED] yelled at him. Then the MI soldiers ordered all three detainees to low crawl on the floor. When the detainees attempted to arch up, two of the MI soldiers put pressure in the middle of their backs and yelled at them to get down. Two MI soldiers then cuffed the detainees together.

5. After the detainees were again handcuffed, I walked over and asked the detainee to tell the MI soldiers what they needed know and that I would try to make the MI soldiers stop. The detainee stated, through the interpreter, that he would not confess to something that he did not do. I turned to the older MI soldier and asked him with a raised voice: "Did you all ever consider that they guys are innocent?" or words to that effect. The MI soldier responded: "I've been doing this longer than you've been in the military. You know, sergeant, they are guilty," or words to that effect. I then turned to walk out and the MI soldier wearing black PT shorts started to sprinkle water on the detainees from his water bottle. While I was leaving the tier, I also observed one of the MI soldiers on the upper tier tossing a nerf ball towards the detainees. I also noticed SPC [REDACTED] standing in the distance and taking photos. I went back to my LSA at approximately 2230. By the time I returned to my LSA, everyone was already asleep.

6. Following morning, at approximately 0530, I along with SPC [REDACTED] and SPC [REDACTED] left the BCF on mission to escort detainees to Rusafa Courthouse. After completing the mission, at approximately 1600, I went to my platoon leader, 2LT [REDACTED] and I described to him the incident I witnessed the previous night. I informed 2LT [REDACTED] that MI soldiers were interrogating naked detainees. 2LT [REDACTED] stated: "They are MI and they are in charge let them do their job," or words to that effect. I then began to question 2LT [REDACTED] about who was in charge of the facility. I further voiced my concerns about our mission and organization. 2LT [REDACTED] then acknowledged my complaint and indicated that he will address it. Approximately one week later CPL [REDACTED] received a written counseling statement from CPT [REDACTED] for use of excessive force. CPL [REDACTED] informed me about the counseling statement and I overheard CPT [REDACTED] indicating that he counseled CPL [REDACTED] for use of excessive force.

7. Approximately one week prior to the incidents I described above, I spoke with CPL [REDACTED] and I noticed that CPL [REDACTED] voice was hoarse. I asked CPL [REDACTED] why he was hoarse. CPL [REDACTED] stated that OGA and MI were making him yell at detainees and do things that he felt were wrong. CPL [REDACTED] did not provide any details. I told him "then don't do it," or words to that effect. He stated that MI soldiers would tell him after an explosion that there are Americans out there dying and unless he helps them get information from the detainees then more Americans will die. CPL [REDACTED] then told me that he was taking pictures to protect himself. I told CPL [REDACTED] to take this issue up his chain of command.

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SUBJECT: Statement of SGT [REDACTED] Headquarters and Headquarters Company,  
Garrison Fort Lee, Virginia

8. I returned to Tier 1A approximately one week later in order to inform one of the detainees of his release date. At this time, I did not observe any unusual conduct by the MI personnel. This was the last time I went to Tier 1A.

9. In November 2003, while in Iraq, I experienced post-surgery complications. On 2 December 2003, my unit received a Red Cross message informing me that my father experienced a very serious heart attack. I was placed on Emergency Leave status and returned to Dallas, Texas on 2 December 2003. Subsequently, I returned to Fort Lee, Virginia on or about 17 December 2003 in order to undergo medical procedures.

10. In addition to attempting an on the spot correction, I reported the above-mentioned incident to my platoon leader, 1LT [REDACTED]. After returning to Fort Lee, Virginia I informed the following, among others, of my concerns regarding the incident I witnessed at BCF:

|   |               |
|---|---------------|
| Chaplain (LTC) [REDACTED] (Fort Lee)                    | December 2003 |
| 1SG [REDACTED] (HHC Garrison, Fort Lee)                 | December 2003 |
| CPT [REDACTED] (HHC Garrison, Fort Lee)                 | December 2003 |
| CPT [REDACTED] (OIC Mental Health Clinic, Fort Lee)     | January 2004  |
| COL [REDACTED] (Deputy Chief of Staff, USAR)            | March 2004    |
| COL [REDACTED] (SJA, Fort Lee)                          | March 2004    |
| COL [REDACTED] (Quartermaster School, Fort Lee)         | March 2004    |
| Chaplain (COL) [REDACTED] (Fort Lee)                    | April 2004    |
| Ms. [REDACTED] (PAO, Fort Lee)                          | April 2004    |
| U.S. House of Representatives Armed Services Committee: | April 2004    |

11. POC is the undersigned [REDACTED]

[REDACTED]

SGT, IA

**SWORN STATEMENT**

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

**PRIVACY ACT STATEMENT**

**Authority:** Title 10 USC Section 201; Title 5 USC Section 552; E.O. 13526 dated November 22, 2001 (SSM).

**Principal Purpose:** To provide commanders and law enforcement officials with means by which information may be accurately identified.

**Source Limit:** 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<br>1301 West Potomac St. Washington, DC                 |  | 2. DATE (YYYYMMDD)<br>2004/09/07 | 3. TIME<br>20:47              | 4. FILE NUMBER |
| 5. LAST NAME, FIRST NAME, MIDDLE NAME<br>[REDACTED]                 |  |                                  | 7. GRADE/STATUS<br>[REDACTED] |                |
| 6. ORGANIZATION OR ADDRESS<br>410 Virginia Ave Hagerstown, MD 21740 |  |                                  |                               |                |

WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

I, [REDACTED], do hereby certify that the foregoing is true and correct.

DEFENSE REPORT FORM 2023

FOR DEBRIEFING AND VERIFICATION

913

P. 01/01

I was a SGT Assigned to the 37th MP Co. I arrived at Abu Ghraib 1 Oct 03. While I was there I witnessed an event. Detailed on Attachment. In early November I went to the Hard-site to give a message to a couple of Detainees for their Attorney. When I went through the Tier door SGT [redacted] seemed upset and asked me why I was there. I started to tell him and he stated that he was tired of people just walking in and taking his detainees without clearing it first. I then explained that I just had to give them a message and he said OH, okay. Then he explained again that people would just come and get detainees without his knowledge. Then in late November SGT [redacted] was assigned to Tower duty along with myself and other soldiers. We would have to do details in the afternoon and he would state that he was not allowed to be around detainees but they would still make him do the details.

Q.) IS THERE ANYTHING YOU WOULD LIKE TO ADD? PAC

A.) Just the Memorandum for Record written on 27 May 2004. PAC  
as written by me. KAD

~~END OF STATEMENT~~  
~~MEMORANDUM FOR RECORD IS ATTACHED.~~

|  |   |                   |
|--|---|-------------------|
| 10. EXHIBIT  | 11. INITIALS OF PERSON MAKING STATEMENT<br>[redacted] | PAGE 1 OF 4 PAGES |
| ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"  |   |                   |
| THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED. |   |                   |

STATEMENT OF [REDACTED] TAKEN AT [REDACTED] 20/09/07

STATEMENT (Continued)

~~[REDACTED] Not USED~~

**AFFIDAVIT**

[REDACTED] HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 7, AND ENDS ON PAGE [REDACTED]. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(Signature of Person Making Statement) [REDACTED]

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 20th day of September 2007.

AT [REDACTED] (City/State)

[REDACTED] (City/State)

ORGANIZATION OR ADDRESS [REDACTED]

ORGANIZATION OR ADDRESS [REDACTED]

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

ERT 136(6)(4), UCMT

PAGE 4 OF 4 PAGES

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**Exhibit 4**

002268





# CERTIFICATION

Schreiber Translations, Inc.

51 Monroe Street

Suite 101

Rockville, MD 20850

This is to certify that the attached English language document, identified as Personal Testimonies, is a true and accurate translation of the original Arabic language document to the best of our knowledge and belief.

P: 301.424- [REDACTED]

F: 301.424- [REDACTED]

Executed this 19th day  
of May, 2004

[REDACTED]  
[REDACTED]  
[REDACTED]  
Schreiber Translations, Inc.  
51 Monroe Street, Suite 101  
Rockville, Maryland 20850  
ATA Member 212207

Schreiber Translations, Inc. uses all available measures to ensure the accuracy of each translation, but shall not be held liable for damages due to error or negligence in translation or transcription.

I, hereby attest that prison guard, Megan treated the prisoners in solitary confinement with dignity and that we are much better after she has taken charge. May god be witness to the veracity of my testimony.

[Illegible signature]

05-02-2004

002270



In the Name of God

In Mahjar, I never had any problems with Maggie, the American lady; she was a very nice person in the prison and treated all prisoners, whether male and female, in a good manner. She always talked with the prisoners in a polite and pleasant way and if they had any complaints, she would make every effort to solve their problems. I never saw an inhuman behavior on her behalf, and never had any problems with her. Whenever I needed food she would bring it to me with a bottle of water, and would even give me cigarettes. She treated all the prisoners in the same way and most prisoners liked this American girl and respected her.

 [illegible]

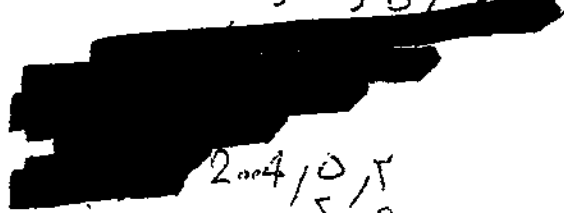
/signature/

02/05/2004

002272

به نام خدا

من در محضر هیچگونه شکلی با نامگی دختر ابریکایی نداشتیم و ایشان در محسن دختر بیار خوی  
بوده و با تمام زندانیان به خوبی رفتار می کرد و هم می نمی کرده زندانی مرد با شو یا زن خوبی  
را در محسن حال باز زندانیان صحبت می کرد و اگر شکلی داشتند در حال مشکل می گوشتند  
هیچگونه رفتار غیر انسانی از ایشان من نویسم و هیچگونه مشکل با من نداشته است  
و حتی هر وقت که احتیاج بود ای مردم به من خبر ای رسانند بطوری آک و حتی سگبار  
من می دادم من تنها بلکه با تمام زندانیان یکسان رفتار می کرد و زندانیان این  
دختر ابریکایی را اگر دوست داشتند و یا اجاری گواشتند



2004 / 5 / 2  
5 2

"In the Name of God The Compassionate, the Merciful"

I, hereby attest that guard Megan treated all prisoners correctly including myself. We had no problem with her. She treated us well and was very amicable with everybody.

[Illegible signature]

05-02-2004

002274

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

لن الحارة سيخز كانت تتعاملني وتعامل السجاد  
الاشرفي احسن معاملة لي لم يكن هناك ابي مشكلة حصار  
وكانت تصرف جيداً معنا. كانت ايضا حنونة جداً مع



٢-٥-٤

I, hereby attest that prison guard Maki was one of the best police officers in our jail together with Officer [REDACTED] Mr. [REDACTED] and Mr. [REDACTED] all of whom dealt with us in a humane manner. They provided us with everything we needed, especially, Maki who used to bring us medicines and mattresses. She also helped us when the US Police had us punished in solitary confinement. I testify that this lady is incapable of punishing a sole.

[Illegible signature]

[REDACTED]  
05-02-2004

002276





My name is [REDACTED] and I testify that Mickey was nice to everybody in confinement. One day she was carrying some canned food and I asked her if I can have some but she refused because it was pork. I have never witnessed her offend anyone.

May god be witness to the veracity of my testimony.

[Signed: [REDACTED]  
05-02-2004

002278

انا بياو حاج يونس اهد

انور بالله عن ملحق سكرتير [Redacted] الناس

خبر المجلس وبع من الايام طلبت منه الاكل وكانت فيه قهقهة معيات معارفا

ورفعت وقالت هذه نعم فقير ما رايت في يوم من الايام ان يسير الناس

[Redacted]

[Redacted]

2004/012

[Redacted]

Mika is a kind person and, during my stay in solitary confinement, I have never seen her punish anyone. She used to be nice and to take the Qura'an from one cell to the other so that we can all recite. When she brought the American foodstuff, she was always willing to exchange one bag for another to suit the prisoners' taste. Once she brought me Iraqi food that I longed for badly and she came all the way across some 30 cells in order to hand it to me. I respect her for her pleasant attitude with the detainees.

[Illegible signature]

05-02-2004

002280

كانت تعامل ميثك فيه شئ من الهيبه والادبها كانت تعاملت  
 امه طيله الفتره التي كنت في السجن لا تفردت وكانت  
 بن سهوله تحوّل القرآن من غروفه الى غروفه الثانيه  
 لتقرأ القرآن وعندما تجلب الاكل لا امر بان يتبدل امه  
 ليس ما كان يعجبني لشفهه من ايام هليلت  
 اكل عذائتي لذت كثير من اس لحاجه اليه وتعبير  
 اكثر من ٣ غروفه تعطينا لن نكتي اهرمها  
 لتعاملنا الهيبه مع المشاقين

  
 10/1

**Exhibit 5**

002282

REMOVED BATES PAGES 2283 - 2297  
(RECORD OF TRIAL – SPC MEGAN M. AMBUHL)

(15 TOTAL PAGES)

DOCUMENTS CONSIST OF PERSONAL LETTERS WRITTEN TO THE  
CONVENING AUTHORITY BY FAMILY AND FRIENDS ON BEHALF  
OF SPC AMBUHL, WHICH WERE DETERMINED TO BE  
NONRESPONSIVE TO PLAINTIFF'S FOIA REQUEST

**Exhibit 6**

002298



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

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

(b) (6)

Memorandum - Psychological Assessment

002299

**Exhibit 7**

002300





DEPARTMENT OF THE ARMY  
UNITED STATES ARMY TRIAL DEFENSE SERVICE  
REGION IX, BAGHDAD FIELD OFFICE  
CAMP VICTORY, IRAQ  
APO AE 09342

REPLY TO  
ATTENTION OF:

FICI-JA-BFO

29 October 2004

MEMORANDUM FOR LTC [REDACTED] Summary Court-Martial Officer, Headquarters  
and Headquarters Company, 57<sup>th</sup> Signal Battalion, APO AE 09342

SUBJECT: Request for Confinement Credit -- United States v. SPC Megan M. Ambuhl

1. The accused, through counsel, respectfully requests that the Summary Court-Martial Officer grant SPC Ambuhl 28 days of credit toward any approved sentence of confinement. SPC Ambuhl is entitled to 15 days credit for restriction tantamount to confinement, 8 days for a violation of Rule for Courts-Martial (R.C.M.) 305(i), and 5 days for the command's violation of Article 1B, Uniform Code of Military Justice (U.C.M.J.). At a minimum, the defense requests that you consider the restrictions unduly imposed on SPC Ambuhl as extenuation and mitigation at sentencing.

2. Unlawful pretrial punishment and circumstances tantamount to confinement are evaluated according to the totality of the circumstances. See United States v. Herrin, 32 M.J. 983, 985 (A.C.M.R. 1991); United States v. Smith, 20 M.J. 528, 530 (A.C.M.R. 1985). The defense requests confinement credit under three separate and distinct principles of law. Each is addressed separately below:

**a. Restriction Tantamount to Confinement.** A soldier is entitled to day-for-day sentence credit for any pretrial restriction equivalent to confinement. United States v. Mason, 19 M.J. 274 (C.M.A. 1985). A determination of restriction tantamount to confinement is made under a totality of the circumstances. Factors to consider include the limits of the restriction, access to facilities, whether the soldier is singled out by the command, and whether the soldier is permitted to continue normally assigned duties. See United States v. Sassman, 32 M.J. 687, 690 (A.F.C.M.R. 1991); United States v. Russell, 30 M.J. 977, 979 (A.C.M.R. 1990). SPC Ambuhl should be granted at least 15 days of credit for restriction tantamount to confinement.

**(1) Time period of 20 August 2004 – 3 September 2004:** From 20 August 2004 through 3 September 2004, SPC Ambuhl suffered restriction tantamount to confinement by being under 24-hour supervision by a military police non-commissioned officer (NCO). On approximately 19 August 2004, SPC Ambuhl and her assigned military defense counsel traveled from Baghdad through Kuwait to Manheim, Germany, for a scheduled court appearance in Germany. Upon SPC Ambuhl's arrival at Taylor and Coleman Barracks in Germany, the government subjected her to greater restriction than she had ever faced at Camp Victory, Iraq, a war-zone. SPC Ambuhl was not allowed to leave her temporary barracks building without an escort. She was not permitted to go anywhere without this assigned E5 "shadow." SPC Ambuhl

012347

could not leave her barracks to meet with either of her attorneys unless the escort was present. SPC Ambuhl could not leave her barracks to go to the Shoppette unless her escort was present. SPC Ambuhl could not leave her barracks to attend religious services on-post unless her escort was present. Even in the presence of one, or both, of her defense attorneys, SPC Ambuhl was not to be without this NCO escort. On one occasion when SPC Ambuhl was at a video teleconference with her attorneys at an on-post conference room, she was not allowed to walk down the hallway to use the latrine without her escort. For this "infraction," the NCO publicly chastised SPC Ambuhl. This type of restriction goes well-beyond the bounds allowed in the military justice system.

**(2) Time period of 6 February 2004 – 30 October 2004:** The actions of the command as early as 6 February 2004 are restriction tantamount to confinement. On 6 February 2004, the government moved SPC Ambuhl away from her regular duties at Baghdad Central Correctional Facility (BCCF) at Abu Ghraib. The government separated SPC Ambuhl from her unit and reassigned her to an unknown unit at Camp Victory. By moving SPC Ambuhl to a different base, under the circumstances of deployment, the command effectively isolated and restricted the soldier. When, in a deployed environment, a soldier is reliant on her battle-buddies and her squad. The command moved SPC Ambuhl from that emotionally-secure environment. She no longer lived, worked or socialized with her squad or platoon. She had little to no contact with her platoon during the time she was at Camp Victory. She was moved to an unfamiliar post where she knew only approximately four junior enlisted soldiers. The acts of the command were intended as restriction tantamount to confinement and were done to punish the soldier.

Another factor that contributes to the reasonable conclusion that SPC Ambuhl suffered restriction tantamount to confinement, if not also pretrial punishment was the seizure and removal of her issued weapons. The command took SPC Ambuhl's weapons from her on 20 March 2004. Despite repeated requests by the soldier, the command never returned any of her weapons to her; nor did the command provide any reason for its decision. In the Iraq Theater of Operations a weapon is a part of each soldier's assigned uniform. The obvious absence of a weapon signals to others that the particular soldier is different. The command had no legitimate reason to seize SPC Ambuhl's weapons, other than punishment and restriction. SPC Ambuhl was not a threat to those around her, nor was she charged with a crime of violence using a weapon. She never threatened to shoot any fellow soldiers or herself. To prohibit SPC Ambuhl from carrying a weapon on Camp Victory, a base under constant mortar and small arms attacks, for force protection was a decision made by the command designed to punish the soldier. At no time during the investigation of the allegations has SPC Ambuhl been identified as a flight risk, thus to remove her weapons so she would not leave post is an invalid argument, and reveals the command's bias against the soldier.

Additionally, since 6 February 2004, SPC Ambuhl was not permitted to continue her normally assigned duties. Instead, SPC Ambuhl was singled-out and ordered to work extra duty

type details. The factor on which the SCM should focus is not whether the tasks performed by SPC Ambuhl were those normally assigned to an E-4, but rather that the tasks were assigned to SPC Ambuhl because she was facing UCMJ action. Absent the pending UCMJ action, SPC Ambuhl would have performed the duties of a 95B. She was denied the opportunity to contribute meaningfully to her unit and was forced to do menial tasks.

During her assignment to HHC, 16<sup>th</sup> MP Brigade, SPC Ambuhl and several of her co-accused were treated like complete outcasts by the command. SPC Ambuhl did not take part in regularly-scheduled company missions or taskings. Instead, she and the co-accused, were given special assignments, tasked directly from the company 1SG. Some of the tasks to which 1SG [REDACTED] assigned SPC Ambuhl were: to pick up trash and cigarette butts along the road on Camp Victory; to paint "no parking" curbs on Camp Victory; and to fill sandbags on a daily basis. Adding insult to injury, the 1SG directed that these tasks be performed in areas that were not assigned to HHC, 16<sup>th</sup> MP Brigade and were not in the Brigade AO. SPC Ambuhl was only allowed to work with the other co-accused or other soldiers facing UCMJ action; as such, she was easily distinguished from other soldiers. SPC Ambuhl was forced to endure taunts from fellow soldiers while completing these tasks out on the main thoroughfares of Camp Victory. She suffered further degradation when other soldiers took photos of her sweeping the streets. When asked by SPC Ambuhl to intervene on numerous occasions, 1SG [REDACTED] and CPT [REDACTED] did nothing. What defies logic is that the government had no issue with assigning SPC Ambuhl to I&R duties at BCCF, an area in which she had no experience; but once the soldier was moved to Camp Victory she easily could have performed tasks in her assigned Combat Support operations role.

Another factor to consider in determining if the command subject SPC Ambuhl to restriction tantamount to confinement is whether or not she was entitled to leave the Camp Victory AO, much less Iraq. She is entitled to credit because her command punished her by requiring her to remain in Iraq for approximately 18 months without even the opportunity for R&R leave or a 4-day pass. From February 2003 through February 2004, the Army assigned SPC Ambuhl to the 372<sup>nd</sup> Military Police (MP) Company. On 12 March 2004, the government arbitrarily reassigned SPC Ambuhl to an unfamiliar company, HHC, 16<sup>th</sup> MP Brigade. As a result of this arbitrary reassignment, SPC Ambuhl was treated as an outcast by her new command and forced to remain in Iraq for several months past the redeployment of her true company, the 372<sup>nd</sup> MP Company. During her entire deployment, SPC Ambuhl was not granted the opportunity to take leave or her authorized and encouraged two weeks of R&R. Once it became clear that she would be required to remain in theater, SPC Ambuhl request leave, on several occasions, through the appropriate channels in her company. She was denied leave on each occasion. Unlike other soldiers of equal rank, SPC Ambuhl was not granted any 4-day passes and was denied the opportunity to relax at a place like Qatar or in the northern mountains of Iraq. These factors contribute to the determination that the company imposed restriction tantamount to confinement on SPC Ambuhl.

**b. Violation of R.C.M. 305:** When restriction is tantamount to confinement, the procedures for review of the propriety of pretrial confinement set forth in R.C.M. 305 are triggered. If the government fails to comply with those procedural requirements, day-for-day credit for those days of noncompliance is required. United States v. Gregory, 21 M.J. 952 (A.C.M.R. 1986), aff'd, 23 M.J. 246 (C.M.A. 1986). The command subjected SPC Ambuhl to restriction tantamount to confinement from 20 August 2004 through 3 September 2004. This restriction should have been reviewed within 7-days of its imposition, IAW R.C.M. 305(i)(2); thus, the review should have occurred no later than 26 August 2004. The government never conducted a review of this restriction but rather chose to end the restriction on 3 September 2004 when SPC Ambuhl left Germany to return to Iraq. SPC Ambuhl is entitled to additional administrative credit under R.C.M. 305(k) as a remedy for the government's failure to follow this rule. The defense requests and additional 8 days of credit for the period from 27 August 2004 through 3 September 2004 for the government's failure to review SPC Ambuhl's restriction tantamount to confinement under R.C.M. 305(i).

**c. Unlawful Pretrial Punishment Under Article 13, UCMJ.** SPC Ambuhl suffered hostile and degrading treatment from the government and the leadership of her company and is entitled to credit for unlawful pretrial punishment under Article 13, U.C.M.J.

Pretrial punishment is forbidden in accordance with Article 13, U.M.C.J., 10 U.S.C. § 813, which states that:

No person, while being held for trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances required to insure his presence . . .

The Court of Military Appeals in United States v. James, 28 M.J. 214 (C.M.A. 1989), adopting the standard in Bell v. Wolfish, 441 U.S. 520 (1979), set out a two-prong test to determine if a violation of Article 13 has occurred. The Court should first decide whether the particular conditions were imposed with the intent to punish. See id. at 216. If the answer is yes, then the conditions are punishment and the Court should consider a sentence credit. See id. If the answer is no, the Court should inquire as to whether the purposes purportedly served by the conditions are reasonably related to a legitimate governmental objective. See id. “[I]f a restriction or condition is not reasonably related to a legitimate goal -- if it is arbitrary or purposeless -- a court permissibly may infer that the purpose of the governmental action is punishment.” Bell, 441 U.S. at 539.

Military appeals courts have routinely and “unequivocally” condemned conduct by those in positions of authority which result in needless military degradation, or public denunciation or humiliation of an accused.” United States v. Latta, 34 M.J. 596, 597 (A.C.M.R. 1992), *citing*

United States v. Cruz, 25 M.J. 326 (C.M.A. 1987). Specifically, "public denunciation by the commander and subsequent military degradation before the troops prior to courts-martial constitute unlawful pretrial punishment prohibited by Article 13." Cruz, 25 M.J. at 330. The court further denounced the unnecessary public identification of an apprehended person as a criminal suspect. See id. at 331 n.3.

Accused soldiers may be entitled to credit toward an approved sentence if they are repeatedly subject to disparaging remarks by the command. See United States v. Stamper, 39 M.J. 1097, 1100 (A.C.M.R. 1994) (awarding credit based on disparaging remarks by a company commander regarding a larceny the accused allegedly committed). In such instances, "these remarks chipped away at the accused's presumption of innocence." *Id.* Further, Article 13 credit can be granted for actions of the command toward the accused soldier when "some of the [restraints] bore no relation to the purposes of his restriction and were unnecessary to his presence." United States v. Carmel, 4 M.J. 744, 748 (N.C.M.R. 1977).

In addition to the behavior of the command described in paragraph 2a(2) of this memorandum, SPC Ambuhl was further subjected to unlawful pretrial punishment. 1SG [REDACTED] routinely, punished SPC Ambuhl by making her do menial manual labor. While this activity itself is no unexpected for junior-enlisted soldiers, 1SG West would require of SPC Ambuhl labor that was being done by contractors. For example, the 16<sup>th</sup> MP Brigade hired contractors to fill sandbags and Hesco barriers to fortify the tents of 16<sup>th</sup> MP Brigade soldiers. 1SG [REDACTED] prohibited the contractors from fortifying SPC Ambuhl's tent and required her to do it without the assistance of contractors. Further, he required her to conduct such tasks during non-duty hours. The only reason for these decisions was to punish SPC Ambuhl.

1SG [REDACTED] also subject SPC Ambuhl to degrading comments. Repeatedly, he would comment to SPC Ambuhl and others about her guilt. He would berate her about how she alone brought down the reputation of the company and the U.S. Army. 1SG [REDACTED] made these inappropriate comments directly to SPC Ambuhl and to any NCO or junior enlisted soldier that would listen. Such behavior on behalf of the company 1SG belies the presumption of innocent until proven guilty and erodes any confidence among soldiers in the military justice system.

On one occasion, SPC Ambuhl volunteered to help fill backpacks with school supplies. After spending several days with just one or two other soldiers, filling dozens of packs, SPC Ambuhl requested to be permitted to go with members of HHC to distribute the backpacks to local Iraqi children. Her request was denied because she was a "criminal." To worsen the humiliation to SPC Ambuhl, other members of HHC, 16<sup>th</sup> MP Brigade, received (and took) credit for her work and received positive publicity in "Stars and Stripes." The command knew that distributing the backpacks to Iraqi children was important to SPC Ambuhl; they knew that it mattered to her. The command's denial of this request can be deemed as nothing less than punishment to the soldier.



SPC Ambuhl is entitled to additional credit under Article 13, UCMJ, for unlawful pretrial punishment for the actions by his chain-of-command and for the unnecessary comments made by the unit leadership. See Latta, 34 M.J. at 597, United States v. Villamil-Perez, 32 M.J. 341, 343 (CMA 1991); Cruz, 25 M.J. at 330. The hostile treatment was demeaning to SPC Ambuhl and chipped away at her presumption of innocence. See Stamper, 39 M.J. at 1100. There is no set formula for calculating credit for pretrial punishment. If the military judge finds that illegal pretrial punishment occurred, he or she determines the sentence credit to which the accused is entitled. The military judge may order more than day-for-day credit for illegal pretrial punishment. See United States v. Suzuki, 14 M.J. 491 (C.M.A. 1983).

3. Further, under the principle of parity, SPC Ambuhl should be granted at least 20 days credit toward any sentence of confinement. On 21 October 2004, SSG [REDACTED] plead guilty at a General Court-Martial to several violations of the U.C.M.J. At trial, the military judge approved an agreed-upon 20 days credit toward SSG [REDACTED] approved sentence of confinement. The defense position is that HHC, 16<sup>th</sup> MP Brigade, kept SSG [REDACTED] under the same conditions as those suffered by SPC Ambuhl. While a non-commissioned officer, SSG [REDACTED] suffered similar degrading and humiliating treatment by the company and was subjected to substantially the same escort requirements as SPC Ambuhl from 20 August 2004 through 3 September 2004. Though the substance of these soldier's offenses differ significantly, as do their degrees of culpability, the restriction tantamount to confinement and pretrial punishment were substantially the same. Parity and justice require that SPC Ambuhl, at a minimum, be granted 20 days of credit toward any adjudged sentence of confinement.

4. Under the totality of the circumstances, SPC Ambuhl's chain of command kept SPC Ambuhl under restriction tantamount to confinement and unlawfully punished her prior to trial. SPC Ambuhl is entitled to 15 days credit for restriction tantamount to confinement, 8 days for a violation of R.C.M. 305(i), and 5 days for the command's continued violations of Article 13, U.C.M.J. The defense request should be granted and SPC Ambuhl should be awarded an appropriate amount of credit toward any approved sentence of confinement.

5. Questions concerning this memorandum may be addressed to the undersigned via email at [REDACTED] or by telephone at DSN: (312) 521 [REDACTED]

//original signed//

[REDACTED]  
CPT, JA  
Trial Defense Counsel

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

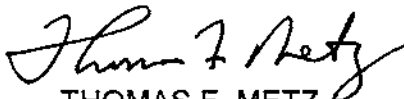
AFZF-CG

JUL 21 2004

MEMORANDUM FOR Staff Judge Advocate

SUBJECT: Disposition of the Court-Martial Charges Preferred Against Specialist Megan M. Ambuhl (

The recommendations of the Staff Judge Advocate are approved. The attached original charges and additional charges, and their specifications, are referred to a general court-martial convened by Court-Martial Convening Order Number 1, dated 14 January 2004, as amended by Court-Martial Convening Order Number 3, dated 8 March 2004. In accordance with RCM 601(e)(2), the additional charges and their specifications are joined with the original charges and specifications.

  
THOMAS F. METZ  
Lieutenant General, USA  
Commanding

002353

JUL 21 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Advice on Disposition of the Court-Martial Charges Preferred Against  
Specialist Megan M. Ambuhl ( ) -ACTION MEMORANDUM

1. Purpose. To forward for disposition, in accordance with Rule for Court-Martial (RCM) 407, the court-martial charges against Specialist Megan M. Ambuhl, Headquarters and Headquarters Company, 16th Military Police Brigade, III Corps, Victory Base, Iraq.

2. Recommendations.

a. *Chain of Command*. As reflected by the court-martial charges transmittal memoranda, the soldier's commanders recommend referral of the charges and the additional charges to a general court-martial.

b. *Staff Judge Advocate*. I recommend you refer the attached charges and additional charges, as well as their specifications, to a general court-martial, pursuant to RCM 601, and refer the case to trial by Court-Martial Convening Order Number 1, dated 14 January 2004, as amended by Court-Martial Convening Order Number 3, dated 8 March 2004, with instructions that the additional charges be joined with the original charges.

c. *Article 32 Investigation*. As reflected by the Investigating Officer Report, the Article 32 Investigating Officer recommended that Charges III (maltreatment) and IV (indecent acts) not be forwarded for trial and that the remaining charges be forwarded to a general court-martial. The additional charges were not preferred before the Article 32 investigation; however, the evidence supporting the additional charges was investigated at the hearing.

3. Staff Judge Advocate Review. In accordance with RCM 406 and Article 34, Uniform Code of Military Justice (UCMJ), I have reviewed the attached charges and supporting documentation. It is my legal conclusion that:

a. The specifications allege offenses under the UCMJ;

b. The allegations of the offenses are warranted by the evidence indicated in the attached documentation; and

c. The court-martial will have jurisdiction over the accused and the offenses alleged.

4. POC is [REDACTED] at DSN 318-822 [REDACTED]

Encls

1. Charge Sheet (20 Mar 04)
2. Charge Sheet (13 Jul 04)
3. Transmittal Memoranda
4. Article 32 Investigation
5. Allied Documents

[REDACTED]  
COL, JA  
Staff Judge Advocate

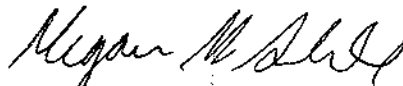
002354

AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Service of Referral of Charges in the Case of United State v. Specialist Megan M. Ambuhl

1. I hereby acknowledge that the initial and additional charges against me were referred to General Court-Martial on 21 July 2004. I further acknowledge receipt of said Charge Sheet, Continuation Page(s), and Court-Martial Convening Order(s).
2. I understand that I should contact my Trial Defense Attorney as soon as possible to further discuss my case.



MEGAN M. AMBUHL  
SPC, USA

23 July 04  
(date)

002355

AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Accused Receipt of Referral of Charges

1. I hereby acknowledge that on 23 July 2004 Specialist Megan M. Ambull was served a copy of the Charge Sheets, Continuation Page(s), and Court-Martial Convening Order(s).
2. Due to the unavailability of government counsel block 15 of the charge sheet will be filled out at a later date.



SGT, USA  
Paralegal

AFZA-AP-HHC

MEMORANDUM FOR RECORD

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

1. I hereby acknowledge that the additional charges against me were read and preferred on this 13 day of July 2004, at 0812 hours. Further, I hereby acknowledge receipt of said charge sheet(s) and allied papers.
2. I further understand that I should contact my attorney as soon as possible, for further advice in my case.



MEGAN M. AMBUHL  
SPC, USA

002357

DEPARTMENT OF THE ARMY  
Headquarters and Headquarters Company,  
16<sup>TH</sup> Military Police Brigade (Airborne)  
Victory Base, APO AE 09342

28 JUN 04

AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Assumption of Command

IAW AR 600-20, Chapter 2, Paragraph 3a, the undersigned assumes command of Headquarters and Headquarters Company, 16<sup>th</sup> Military Police Brigade (Airborne) (WFP6AA), Victory Base, Iraq, APO AE 09342, effective 0001 hours on 28 JUN 04 to 2400 hours on 17 JUL 04.



CPT, MP  
Commanding

DISTRIBUTION:

- 1-Cdr, 16<sup>th</sup> MP BDE (ABN)
- 1-Cdr, HHC, 16<sup>th</sup> MP BDE (ABN)
- 1-Bde S-1, 16<sup>th</sup> MP BDE (ABN)
- 1-Bde S-2, 16<sup>th</sup> MP BDE (ABN)
- 1-Cdr, 15<sup>TH</sup> PSB, Victory Base PSB
- 1-Cdr, 15<sup>TH</sup> Finance Battalion, Victory Base
- 1-Office of the Staff Judge Advocate
- 1-Individual

002358

AFZA-AP-HHC

13 Jul 04

MEMORANDUM THRU Commander, 16<sup>th</sup> Military Police Brigade (Airborne), Camp Victory, Iraq APO AE 09342

FOR Deputy Commander, III Corps, Victory Base, Iraq APO AE 09342

SUBJECT: Transmittal of Additional Court-Martial Charges – United States v. Specialist Megan M. Ambuhl

1. Pursuant to R.C.M. 401(c)(2) and 402(2), Manual for Court-Martial, United States (2002 Edition), forwarded herewith are the additional court-martial charges pertaining to Specialist Megan, [REDACTED], HHC, 16<sup>th</sup> MP Bde (Abn), Camp Victory, Iraq APO AE 09342.
2. Documentary evidence upon which the charges are based is enclosed.
3. All material witnesses are expected to be available at the time of trial.
4. There is no evidence of previous court-martial conviction(s).
5. I recommend that the charges and specifications be referred to trial by
  - a. \_\_\_ Summary Court-Martial
  - b. \_\_\_ Special Court-Martial
  - c. \_\_\_ Special Court-Martial (empowered to adjudge a Bad Conduct Discharge)
  - d. [REDACTED] General Court-Martial.

Encls  
as

[REDACTED]  
CPT, MP  
Commanding [REDACTED]

002359



AFZA-AP-CO

13 Jul 04  
10 JUL 2004

MEMORANDUM FOR Deputy Commander, Multi National Corps - Iraq, Victory Base,  
Iraq APO AE 09342

SUBJECT: Transmittal of Initial and Additional Court-Martial Charges – United States v. Specialist Megan M. Ambuhl

1. I have reviewed the enclosed initial and additional court-martial charges and Article 32 Report pertaining to Specialist Megan M. Ambuhl, [REDACTED] HHC, 16<sup>th</sup> MP Bde (Abn), Victory Base, Iraq APO AE 09342.

2. I recommend that the enclosed charges and specifications be referred to trial by

- a. \_\_\_ Summary Court-Martial
- b. \_\_\_ Special Court-Martial
- c. \_\_\_ Special Court-Martial (empowered to adjudge a Bad Conduct Discharge)
- d. [REDACTED] General Court-Martial.

Encls  
nc

[REDACTED]  
COL, M [REDACTED]  
Commanding

AFZA-AP-HHC

MEMORANDUM FOR RECORD

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

1. I hereby acknowledge that the charges against me were read and preferred on this 20<sup>th</sup> day of MARCH, at 2221 hours. Further, I hereby acknowledge receipt of said charge sheet(s) and allied papers.
2. I further understand that I have an appointment at Trial Defense Services, ph: (302) 838-[REDACTED] trailer B12, Camp Victory, Iraq, at \_\_\_\_\_, \_\_\_\_\_.

*Spc. Megan Ambuhl*  
MEGAN M. AMBUHL  
SPC, USA

002361

AFZA-AP-HHC

20 March 2004

MEMORANDUM THRU Commander, 16<sup>th</sup> Military Police Brigade (Airborne), Camp Victory, Iraq APO AE 09342

FOR Deputy Commander, Combined Joint Task Force Seven, Camp Victory, Iraq APO AE 09342

SUBJECT: Transmittal of Court-Martial Charges – United States v. Specialist Megan M. Ambuhl

1. Pursuant to R.C.M. 401(c)(2) and 402(2), Manual for Court-Martial, United States (2002 Edition), forwarded herewith are the court-martial charges pertaining to Specialist Megan, [REDACTED], HHC, 16<sup>th</sup> MP Bde (Abn), Camp Victory, Iraq APO AE 09342.
2. Documentary evidence upon which the charges are based is enclosed.
3. All material witnesses are expected to be available at the time of trial.
4. There is no evidence of previous court-martial conviction(s).
5. I recommend that the charges and specifications be referred to trial by
  - a.  Summary Court-Martial
  - b.  Special Court-Martial
  - c.  Special Court-Martial (empowered to adjudge a Bad Conduct Discharge)
  - d.  General Court-Martial.

Encls  
as

[REDACTED]  
CPT, MP  
Commanding

002362

CERTIFICATE

I HEREBY CERTIFY THAT I AM THE CURRENT CUSTODIAN OF THE PERSONNEL RECORDS OF SPECIALIST MEGAN M. AMBUHL, [REDACTED] HHC 16<sup>TH</sup> MP BDE (ABN) VICTORY BASE, IRAQ APO AE 09342, AND THAT THE ATTACHED PERSONNEL QUALIFICATION RECORD & DA FORM 2-1 IS A TRUE AND ACCURATE COPY AS MAINTAINED, IN ACCORDANCE WITH REGULATION, IN THE SOLDIER'S RECORDS.

[REDACTED]  
[REDACTED]  
2LT, AG  
Brigade Adjutant

original

002363

1. NAME: AMBUHL MEGAN MARY  
 2. SSN: [REDACTED]  
 3. VSSN: [REDACTED]  
 4. DOB: [REDACTED]  
 5. SEX: F - FEMALE  
 6. MARITAL STATUS: [REDACTED]  
 7. MIL SPOUSE / SSN: [REDACTED]  
 8. NUM DEPENDENTS: [REDACTED]

9. EXPN STAT OBLG: 2009M2731 090725  
 10. EXPN TPJ SVC: 2008/01/28  
 11. QUAL RETN STAT:  
 12. QUAL RETN YRMO:  
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 14. ADDR STREET:  
 15. ADDR VAL CD/DATE: 4 / 2002/03/03  
 16. CIVILIAN OCC CAT: 041 - OCCUPATIONS IN BIOLOGICAL

17. AD CALL-UP EVENT:  
 18. YRS ACT FED SVC: 00.00  
 19. DATE LAST REL AD: 2002/08/23  
 20. DATE LAST EVAL REG:  
 21. YRMO ELIG AFIRM: 2012/01  
 22. YRMO ARCAM SUSP: 2005/01

23. IND INCENT STATUS CD:  
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 28. TERMINATION EFF DATE:

29. AFQT PCTL / GRP: 98 / 1  
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 31. MIL EDUC COMPL:  
 32. CIV EDUC LEVEL: G - 4TH YEAR OF COLLEGE  
 33. CIV EDUC CERT: K - BACCALAUREATE DEGREE  
 34. MAJ COLL SUBJ: DCH - BIOLOGY

35. DENT XRAY LOC:  
 36. DNA SAMPLE INDIC: Y  
 37. HEIGHT / WEIGHT:  
 38. HGT WT INDIC / YRMO: M / 2002/06  
 39. APRT INDIC / YRMO: P / 2002/06  
 40. FLD DETM PSSTAT: Y - NONE  
 41. OTE FLD DETM PSSTAT:  
 42. PS INVEST TYPE / DATE:  
 43. DEPT DETM PSSTAT: Y - NONE

REGIONAL LEVEL APPLICATION SOFTWARE (RLAS)  
PERSONNEL QUALIFICATION RECORD  
(ENLISTED)  
MUSARC: 10 - 99TH REGIONAL SUPPORT COMMAND  
UIC: WYATHD  
SSN:  
NAME: AMBUHL MEGAN MARY

TYPE RECORD: SPECIAL REQUEST  
UNIT: 0352 MP CO (GUARD)  
UNIT NAME: 0352 MP CO (GUARD)

10. UIC OF ATTACH:  
11. EFF DATE ATTACH:  
12. REASON ATTACH:  
13. EXPN DATE ATTACH:  
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10. AUTH SEX: I - INTERCHANGEABLE  
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12. POSITION PSSTAT:  
13. DATE START MGIB: 2002/09/24  
14. DATE TERM MGIB: 2012/08/24

\*\* SECTION IV - UNIT DATA \*\*  
6. DATE CONDL REL:  
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8. DATE ASSG PREV UIC:  
9. DATE DPRT PREV UIC:  
\*\* SECTION V - POSITION DATA \*\*  
5. DUTY POSITION: 95810  
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8. AUTH BRANCH: N  
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READING EVAL METHOD:

1. LANGUAGE IDENT CODE:  
PROFICIENCY SOURCE:  
YRMO PROFICIENCY TEST:  
LISTENING PROF LEVEL:  
LISTENING EVAL METHOD:  
SPEAKING PROF LEVEL:  
SPEAKING EVAL METHOD:  
READING PROF LEVEL:  
READING EVAL METHOD:

1. LANGUAGE IDENT CODE:  
PROFICIENCY SOURCE:  
YRMO PROFICIENCY TEST:  
LISTENING PROF LEVEL:  
LISTENING EVAL METHOD:  
SPEAKING PROF LEVEL:  
SPEAKING EVAL METHOD:  
READING PROF LEVEL:  
READING EVAL METHOD:

1. LANGUAGE IDENT CODE:  
PROFICIENCY SOURCE:  
YRMO PROFICIENCY TEST:  
LISTENING PROF LEVEL:  
LISTENING EVAL METHOD:  
SPEAKING PROF LEVEL:  
SPEAKING EVAL METHOD:  
READING PROF LEVEL:  
READING EVAL METHOD:

I BELIEVE THAT (I AM NOT) EMPLOYED IN A KEY POSITION WITH THE FEDERAL, STATE, OR LOCAL GOVERNMENT OR SUPPORTING DEFENSE AGENCY / INDUSTRY; OR PREPARING FOR THE MINISTRY, OR HAVE AN OBLIGATION TO PERFORM MISSIONARY WORK; OR MY ENTRY ON EXTENDED ACTIVE DUTY WOULD CREATE AN EXTREME PERSONAL OR COMMUNITY HARDSHIP.  
I CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT I HAVE NO MEDICAL CONDITION OR PHYSICAL DEFECT THAT WOULD PREVENT MY PERFORMANCE OF ACTIVE MILITARY SERVICE EXCEPT AS FOLLOWS:

SIGNATURE: *Megan Ambuhl* DATE REVIEWED: 021006

00236

SECTION II - CLASSIFICATION AND ASSIGNMENT DATA (Continued)

|  |             |                                 |         |   |       |
|--|-------------|---------------------------------|---------|---|-------|
| 02108A4650   |             | SECTION I - IDENTIFICATION DATA |         | SECTION II - CLASSIFICATION AND ASSIGNMENT DATA (Continued) |       |
| 1. NAME<br>AMBUHL MEGAN MARY                                     |             | 2. SSN<br>[REDACTED]            |         | 6. MILITARY OCCUPATIONAL SPECIALTIES                        |       |
| 3. MOS EVALUATION SCORES   |             | TITLE<br>[REDACTED]             |         | DATE<br>07-08-91  |       |
| MOSC   | YR & MO     | SCORE                           | YR & MO | SCORE   | CONT  |
|  |             |                                 |         |   |       |
| 4. ASSIGNMENT CONSIDERATIONS                                     |             |                                 |         |   |       |
| 7. AVIATION ASI & GUNNERY QUALIFICATION                          |             |                                 |         |   |       |
| AIRCRAFT   |             | GUNNERY SYSTEM                  |         | APTITUDE AREA SCORES  |       |
| FW   | INSTR PILOT | AREA                            | INSTR   | AREA  | SCORE |
|  |             |                                 |         |   |       |
| 8. AWARDS, DECORATIONS & CAMPAIGNS                               |             |                                 |         |   |       |
| ARMY - SVC - RAN - 1   |             |                                 |         |   |       |
| 9. OVERSEA SERVICE   |             |                                 |         |   |       |
| FROM   | THRU        | AREA AND COUNTRY                | MO      | TYPE  | CONT  |
| 1020224  |             | SW ASIA (IRAN)                  |         | MOB   |       |
| 10. OTHER TESTS  |             |                                 |         |   |       |
| DATE   | TEST        | DATE                            | SCORE   |   |       |
| 11-2-91  | MOB         |                                 |         |   |       |
| 11-2-91  | OCT         |                                 |         |   |       |
| 11-2-91  | DLAT        |                                 |         |   |       |
| 11-2-91  | OOL-1       |                                 |         |   |       |
| 11-2-91  | FAST        |                                 |         |   |       |
| 11-2-91  | OB          |                                 |         |   |       |
| 11-2-91  | WOCB        |                                 |         |   |       |
| 11. AMERICAN BOARD CERTIFICATION & LICENSES OR CERTIFICATES HELD |             |                                 |         |   |       |
| RIFLE M16  |             | QUAL. BAD                       |         |   |       |
| HAND GREN  |             | QUAL. BAD                       |         |   |       |
| 12. LANGUAGE PROFICIENCY   |             |                                 |         |   |       |
| DA FORM 330 SUBMITTED  |             |                                 |         | DATE  |       |

PERSONNEL QUALIFICATION RECORD - PART II

002366

JAN 73

DA FC

0210844650 SECTION II - CLASSIFICATION AND ASSIGNMENT DATA

SECTION III - SERVICE, TRAINING AND OTHER DATES

| PILOT RATINGS                               |  | CURRENT  |                    | DATE                     |       |
|---|--|--|--------------------|--------------------------|-------|
| ORIGINAL                                    | DATE                                     | DATE   | DATE               | DATE                     | DATE  |
| 13  |  |  |                    |                          |       |
| 14  | FLYING STATUS                            |  |                    |                          |       |
| INSTRUMENT CERTIFICATION                    |  |  |                    |                          |       |
| 15  | INTERNSHIPS, RESIDENCIES AND FELLOWSHIPS |  |                    |                          |       |
| HOSPITAL                                    |  | TYPE OF SERVICE  |                    | MONTHS                   | YEAR  |
| 16  |  | HOSPITAL/TEACHING APPOINTMENTS AND PRIVATE PRACTICE      |                    | CONT                     | DURAT |
| FROM  | THRU                                     | INSTITUTION/LOCATION                                     | TYPE               |                          |       |
|   |  |  |                    |                          |       |
| 17. CIVILIAN EDUCATION AND MILITARY SCHOOLS |  |  |                    |                          |       |
| SCHOOL                                      | MAJOR/COURSE/MOSC                        | DURAT  | COMP               | CONT                     | YEAR  |
| DAKTDN HS                                   | GENERAL                                  | 4 yr   | YES                |                          | 92    |
| CDASIRL/ABOLINA                             | BIGW/BACH                                | 4 yr   | YES                |                          | 98    |
| FT LEONARD WOOD MO                          | 9516                                     | 17 wks   | YES                |                          | 02    |
| 18. APPOINTMENTS AND REDUCTIONS             |  |  |                    |                          |       |
| GRADE                                       | COMP                                     | EFFECTIVE DATE   | DATE OF ELIG./RANK | SUBJECT                  | CONT  |
| PV1   |  |  | 20020129           | ATP 21-114(BCT)          |       |
| SPC   | USAR                                     |  | 02-01-29           | Geneva-Hague Conventions |       |
| 19. SPECIALIZED TRAINING                    |  |  |                    |                          |       |
| Military Justice                            |  |  |                    |                          |       |
| Benefits of Honorable Discharge             |  |  |                    |                          |       |
| STD OF CDT                                  |  |  |                    |                          |       |
| 20. BASIC ENLISTED SERVICE                  |  |  |                    |                          |       |
| DATE (BESD)                                 | THRU                                     | DAYS   | REASON             | CONT                     |       |
|   |  |  |                    |                          |       |
| 21. TIME LOST (Sec. 972, Title 10, USC)     |  |  |                    |                          |       |
| FROM  | THRU                                     | DAYS   | REASON             | CONT                     |       |
|   |  |  |                    |                          |       |
| SECTION IV - PERSONAL AND FAMILY DATA       |  |  |                    |                          |       |
| 22. PHYSICAL STATUS                         |  | 23. PLACE OF BIRTH AND CITIZENSHIP                       |                    |                          |       |
| HEIGHT                                      | WEIGHT                                   | GLASSES  | SELF               | TROY NY                  |       |
| 6'7 1/2                                     | 195                                      | <input type="checkbox"/> YES <input type="checkbox"/> NO | SPOUSE             |                          |       |
| DATE OF EXAM                                |  | CITIZENSHIP OF SPOUSE                                    |                    |                          |       |
| 21/11/03                                    |  |  |                    |                          |       |
| 24. NUMBER OF DEPENDENTS                    |  | 25. HOME OF RECORD/ADDRESS                               |                    |                          |       |
| ADULT                                       | CHILDREN                                 |  |                    |                          |       |
| 0   | 0  |  |                    |                          |       |
| 26. CIVILIAN OCCUPATION                     |  |  |                    |                          |       |
| JOB TITLE:                                  |  | CRITICAL OCCUPATION                                      |                    | NO. MONTHS EMPLOYED      |       |
|   |  | <input type="checkbox"/> YES <input type="checkbox"/> NO |                    |                          |       |
| DOT CODE                                    |  | DUTIES PERFORMED   |                    | MOSC                     |       |
|   |  |  |                    |                          |       |
| EMPLOYER                                    |  |  |                    |                          |       |









**DEPARTMENT OF THE ARMY  
HEADQUARTERS, 16<sup>TH</sup> MILITARY POLICE BRIGADE (AIRBORNE)  
CAMP VICTORY, IRAQ, APO AE 09342**

REPLY TO  
ATTENTION OF

ORDERS 72-5

12 March 2004

AMBUHL, MEGAN M., SPC, 95B10,  
(WTEZAA), APO AE 09342

372<sup>nd</sup> Military Police Company

You are attached or released from attachment.

Attached to: HHC, 16<sup>th</sup> Military Police Brigade (Airborne) (WFP6AA) APO AE 09342

Reporting Date: 12 March 2004

Period: Indefinite

Movement Designator Code: NZ03

Additional Instructions: You are attached for personnel service support to include Awards and Decorations, UCMJ, and all other forms of personnel and legal administration support.

Format: 745

  
CPT, MP  
Brigade Adjutant

**DISTRIBUTION:**

CDR, 372<sup>nd</sup> MP CO (1)

CDR, HHC, 16<sup>th</sup> MP BDE (ABN) (1)

File (1)

Individual (3)

002370

# REPORT TO SUSPEND FAVORABLE PERSONNEL ACTIONS (FLAG)

For use of this form, see AR 600-8-2; the proponent agency is MILPERCEN.

## SECTION I - ADMINISTRATIVE DATA

1. NAME (Last, First, MI)

AMBUHL, MEGAN M.

2. SSN

3. RANK

E-4/ SPC

4.  On active duty  Not on active duty  On ADT

5. ETS/ESA/MRD  
20080128

6. UNIT ASSIGNED AND ARMY MAJOR COMMAND  
372ND MP CO  
99TH RRC

7. STATION (Geographical location)  
372ND MP CO  
ABU GHRAIB, IRAQ APO AE 09335

8. PSC CONTROLLING FLAGGING ACTION AND TELEPHONE NUMBER

MSG  
CPL

9. THIS ACTION IS TO:

Initiate a flag  
(Sections II and V only)

Transfer a flag  
(Sections III and V only)

Remove flag  
(Sections IV and V only)

## SECTION II - INITIATE A FLAG

10.  A FLAG IS INITIATED, EFFECTIVE 20040125 FOR THE FOLLOWING REASON:

### NON-TRANSFERABLE

- Adverse action (A)
- Elimination - field initiated (B)
- Removal from selection list - field initiated (C)
- Referred OER (D)
- Security violation (E)
- HQDA use only - elimination or removal from selection list (F)

### TRANSFERABLE

- APFT failure (J)
- Weight control program (K)

## SECTION III - TRANSFER A FLAG

11.  A FLAG IS TRANSFERRED FOR THE FOLLOWING REASON:

Adverse action - HQDA directed reassignment (G)

APFT failure (J)

Adverse action - punishment phase (H)

Weight control program (K)

Supporting documents attached?  Yes  No

## SECTION IV - REMOVE A FLAG

12.  A FLAG IS REMOVED, EFFECTIVE \_\_\_\_\_ FOR THE FOLLOWING REASON:

Case closed favorably (C)

Soldier transferred to a different Army component or discharged while case in process (destroy case file) (E)

Disciplinary action taken (D)

Other final action (E)

## SECTION V - AUTHENTICATION

DISTRIBUTION

1 - Unit Commander  
1 - PSC

1 - F&AO

1 - Commander, gaining unit (transfer flag only)

NAME, RANK, TITLE, AND ORGANIZATION  
LT, MP Commanding  
72nd Military Police Company

SIGNATURE

DATE

25 Jan 04

HEADQUARTERS, 99TH REGIONAL SUPPORT CO. D  
99 SOLDIERS LANE  
CORAOPOLIS, PENNSYLVANIA 15108-2550

ORDERS M-052-0002

21 February 2003

AMBUHL MEGAN MARY

SPC  
0372 MP CO COMBAT SUPPORT (WTEZAA)  
CUMBERLAND, MD 21502-5605

You are ordered to Active Duty as a member of your Reserve Component unit for the period indicated unless sooner released or unless extended. Proceed from your current location in sufficient time to report by the date specified. You enter active duty upon reporting to unit home station.

Report to: 0372 MP CO COMBAT SUPPORT (WTEZAA), 14418 MCMULLEN HWY SW,  
CUMBERLAND, MD 21502-5605 Report On: 24 February 2003  
Report to: Fort Lee, Building P6008, Fort Lee, VA 23801 Report On: 27 February  
2003

Period of active duty: 365 Days

Purpose: Mobilization for ENDURING FREEDOM

Mobilization category code: "V"

Additional instructions: 01, 02, 03, 04, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15,  
16, 17

FOR ARMY USE

AUTHORITY: HQDA MSG 171644ZFEB03/DAMO-ODM/ORDTYP/MOBORD/HQDA ONE/OEF NO.322-03

Accounting classification:

2132010.0000 01-1100 P1W1C00 11\*\*/12\*\* VFRE F3203 5570 S99999  
2132010.0000 01-1100 P2W2C00 11\*\*/12\*\* VFRE F3203 5570 S99999  
2132020.0000 01-1100 P135198 21\*\*/22\*\*/25\*\* VFRE F3203 5570 S99999

Sex: F

MDC: PM

PMOS/AOC/ASI/LIC: 95B10

HOR: [REDACTED]

PEED: 29 January 2002

DOR: 29 January 2002

Security clearance: SECRET

Comp: USAR

Format: 165

FOR THE COMMANDER:

\*\*\*\*\*  
\* OFFICIAL \*  
\* 99TH REGIONAL SUPPORT COMMAND \*  
\*\*\*\*\*

[REDACTED]

MPO

MILITARY PERSONNEL OFFICER

DISTRIBUTION: M1 PLUS  
INDIVIDUAL CONCERNED (4)  
FAMILY ASSISTANCE OFFICER (1)  
MPRJ  
FILE (ORIGINAL + 1)

002372

# CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

|  |  |  |   |   |    |
|--|--|--|---|---|----|
| 1. NAME (Last, First, Middle)<br>AMBUEHL, MEGAN MARY   |  | 2. DEPARTMENT, COMPONENT AND BRANCH<br>ARMY/USAR               |   | 3. SOCIAL SECURITY NO.  |    |
| 4.a GRADE, RATE OR RANK<br>SPC   |  | 4.b PAY GRADE<br>24  |   | 5. DATE OF BIRTH (YYYYMMDD)   |    |
| 7.a PLACE OF ENTRY INTO ACTIVE DUTY  |  |  |   | 6. RESERVE OBLIG. TERM. DATE<br>Year 2010 Month 01 Day 28               |    |
| 7.b HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known)   |  |  |   |   |    |
| 8.a LAST DUTY ASSIGNMENT AND MAJOR COMMAND<br>CO C 787TH MP BN TR TC   |  |  | 8.b STATION WHERE SEPARATED<br>FORT LEONARD WOOD, MO 65473-8935 |   |    |
| 9. COMMAND TO WHICH TRANSFERRED<br>352 MP CO (CBT SPT) 1850 BALTIMORE RD ROCKVILLE MD 20851  |  |  |   | 10. SGLI COVERAGE <input type="checkbox"/> None<br>Amount: \$ 20,000.00 |    |
| 11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.)<br>NONE//NOTHING FOLLOWS  |  | 12. RECORD OF SERVICE  |   |   |    |
|  |  | a. Date entered AD This Period                                 | 2002  | 04  | 18 |
|  |  | b. Separation Date This Period                                 | 2002  | 08  | 23 |
|  |  | c. Net Active Service This Period                              | 0000  | 04  | 06 |
|  |  | d. Total Prior Active Service                                  | 0000  | 00  | 00 |
|  |  | e. Total Prior Inactive Service                                | 0000  | 02  | 19 |
|  |  | f. Foreign Service   | 0000  | 00  | 00 |
|  |  | g. Sea Service   | 0000  | 00  | 00 |
|  |  | h. Effective Date of Pay Grade                                 | 2002  | 01  | 29 |
| 13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)<br>NONE//NOTHING FOLLOWS  |  |  |   |   |    |
| 14. MILITARY EDUCATION (Course title, number of weeks and month and year completed)<br>MILITARY POLICE, 17 WEEKS, 2002//NOTHING FOLLOWS  |  |  |   |   |    |
| 15.a MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERAN'S EDUCATIONAL ASSISTANCE PROGRAM   |  | Yes  | No  | 15.b HIGH SCHOOL GRADUATE OR EQUIVALENT                                 |    |
|  |  |  | X   | Yes   |    |
|  |  |  |   | No  |    |
| 16. DAYS ACCRUED LEAVE PAID  |  |  |   | NONE  |    |
| 17. MEMBER WAS PROVIDED A COMPLETE DENTAL EXAM AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION  |  |  |   |   |    |
| NA Yes NA No   |  |  |   |   |    |
| 18. REMARKS<br>DATA HEREIN SUBJECT TO COMPUTER MATCHING WITHIN DOD OR WITH OTHER AGENCIES FOR VERIFICATION PURPOSES AND DETERMINING ELIGIBILITY OR COMPLIANCE FOR FEDERAL BENEFITS//MEMBER HAS COMPLETED FIRST FULL TERM OF SERVICE//NOTHING FOLLOWS |  |  |   |   |    |
| 19.a MAILING ADDRESS AFTER SEPARATION (include Zip Code)   |  |  | 19.b NEAREST RELATIVE (Name and address - include Zip Code)     |   |    |
|  |  |  | LAWRENCE AMBUEHL  |   |    |
| 20. MEMBER REQUESTS COPY 6 BE SENT TO: <input type="checkbox"/> VA <input type="checkbox"/> DIR OF VET AFFAIRS   |  | <input checked="" type="checkbox"/> Yes                        | <input type="checkbox"/> No                                     | 22. OFFICIAL AUTHORIZED TO SIGN and signatur                            |    |
| 21. SIGNATURE OF MEMBER BEING SEPARATED  |  | [Signature]  |   |   |    |
| SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)   |  |  |   |   |    |
| 23. TYPE OF SEPARATION<br>RELEASE FROM ACTIVE DUTY TRAINING  |  | 24. CHARACTER OF SERVICE (Include upgrades)<br>UNCHARACTERIZED |   |   |    |
| 25. SEPARATION AUTHORITY<br>AR 635-200, CHAP 4   |  | 26. SEPARATION CODE<br>MEK                                     |   | 27. REENTRY CODE<br>NA  |    |
| 28. NARRATIVE REASON FOR SEPARATION<br>COMPLETION OF REQUIRED ACTIVE SERVICE   |  |  |   |   |    |
| 29. DATES OF TIME LOST DURING THIS PERIOD<br>NONE  |  |  |   | 30. MEMBER REQUESTS COPY 4<br>Initials<br>002373                        |    |