

1 Cathcart had taken over, and they kind of got into some kind of argument
2 because he was, like, "I'm not going to do anything you ask unless you have
3 it in writing." So, a lot of things stopped. A lot of people got clothes
4 back and it just mellowed down a lot, so--

5 Q. Okay.

6 A. I've never seen him physically hurt anybody, either.

7 Q. Big Steve?

8 A. Right, and whenever he came in I just went the opposite
9 direction, so I don't know if he did give out orders or what.

10 Q. Okay. Um, did you ever see him in the tier when these things
11 were going on? When the abuse was going on?

12 A. I can't remember.

13 Q. Okay. Um, does Al Kaida ring a bell? Well, obviously Al Kaida
14 rings a bell, but a detainee known as Al Kaida?

15 A. There's a detainee--I can't remember what he looks like. I think-
16 I think he was the one with the dog incident that was in the photograph with
17 Cathcart. I might be wrong, though.

18 Q. Yep.

19 A. Right.

20 Q. Do you know him or know anything about him?

21 A. No.

22 Q. Did you see anybody abusing him? Al Kaida, at all?

23 A. There are only a few detainees that I paid attention to.

1 Q. Okay.

2 A. He definitely wasn't one of them.

3 Q. He wasn't one of them?

4 A. No.

5 Q. Okay. All right. Um, so as far as Steve is concerned, you never
6 really saw him do anything. Was he—if you had to describe him what kind of
7 person was he?

8 A. Over powering.

9 Q. Over powering?

10 A. I wouldn't want to be around him.

11 Q. Was he boisterous? Loud?

12 A. He seemed very arrogant.

13 Q. Arrogant? Okay. Okay. You never really had any discussions
14 with him at all?

15 A. Not at all. If I did, it was "Hello" and "Good-bye".

16 Q. Um-hmm. Who did he deal with mostly?

17 A. Graner.

18 Q. He dealt with Graner?

19 A. Yes.

20 Q. Okay. Um, in your discussions with Graner did he ever tell you
21 that he got orders from Steve or—

22 A. I can't recall. I really don't know.

1 Q. You're not sure. Now, and I ask this question because it's out
2 there lingering, and of course it's one that we always get asked. Um,
3 there's a lot of talk out there that MI told us to do this. Did anybody from
4 MI ever tell you to abuse anybody?

5 A. We personally? I don't believe so. I did have a few sleep
6 plans—I don't know who they were—who gave them to me.

7 Q. Okay. So, you were given some sleep plans?

8 A. Yes.

9 Q. Okay, but I mean as far as the abusive things that happened----

10 A. What's abuse? Now, there's a-

11 Q. Um, ----

12 A. --big gray area now.

13 Q. Yeah. I mean, I use it----

14 A. To me, having somebody naked and cuffed to a door is abuse.

15 Q. Okay.

16 A. I don't know if that's abuse-

17 Q. Um-hmm.

18 A. --in the military now.

19 Q. Um-hmm. I mean, and we're looking at those. We're looking at
20 all of those incidents where people are naked, underwear on their head,
21 handcuffed, and what's been defined now as dress position. We're looking at
22 all of those things.

23 A. Now, the underwear came before our company even got there.

1 Q. Um-hmm.

2 A. And Red Cross even said something to 'em, and so they even told
3 us that, "Hey, we can't use this anymore."

4 Q. Did that use--once you guys were told did it discontinue?
5 Obviously, it didn't.

6 A. It didn't. It----

7 Q. It did or it didn't?

8 A. It did.

9 Q. It didn't? Okay.

10 A. It did end up stopping. I remember I tried to give a pair of
11 underwear to ship boy.

12 Q. Um-hmm.

13 A. And--as a towel because we didn't have any towels,--

14 Q. Um-hmm.

15 A. --and he tried to put them on, and I was, like, "All right. If
16 you want 'em you can keep 'em" since he didn't have any. Then somebody told
17 me--I think it was Graner or Ambule--that, they couldn't have 'em.

18 Q. Hmm.

19 A. Or he couldn't have them because they were female.

20 Q. Okay. All right. Um, now the folks that we talked to--anybody
21 out there that I didn't touch on that you could--that we need to talk about?
22 And I know we went through quite a few folks rather quickly. Anybody that

1 you can think of as to say, "Hey, we didn't talk about this person or we
2 didn't talk about"? How about any incidents?

3 A. I'm still thinking of that.

4 Q. Okay.

5 A. You sparked one with that dog, but that's about it.

6 Q. Now, everything that happened over there what is the one incident
7 that stands out with you the most?

8 A. I think it would be taxicab; probably because he was my first.

9 And then--

10 Q. Okay. The kicking incident with taxicab?

11 A. Right.

12 Q. Okay.

13 A. And then the covering up with the dead guy.

14 Q. Um-hmm. Okay. And I just ask the question, "What was the
15 purpose of you guys taking photographs with him?"

16 A. The dead guy?

17 Q. Um-hmm.

18 A. Really, to take them? None. None whatsoever. Um, it was just
19 another dead person. I mean,--

20 Q. Um-hmm.

21 A. --you go to war. You see things. It's definitely something you--
22 I don't know. It can't be explained, I guess, but I guess there's a
23 fascination when somebody dies; to get photos of it. But when you realize

1 the guy didn't die of a heart attack, you start trying to take photos of
2 every single thing that you see wrong.

3 Q. Um-hmm. Okay. Um, let's talk about the medics first. And we'll
4 talk about the orders from MI. You never got any orders per se from MI to
5 appease anybody--

6 A. Not that I can recall.

7 Q. --of the things that you were involved in?

8 A. Other than the sleep plans.

9 Q. Okay. Sleep plans; yeah but-----

10 A. And food deprivation.

11 Q. Yeah. "Go over here and beat somebody" or anything like that?

12 No?

13 A. They're really were no-how do you say--there was no limit of what
14 you can do. Uh, your limit is what you are able to do.

15 Q. Um-hmm.

16 A. I had my limits and they stopped at a certain point. Graner had
17 his limits, I'm sure. They stopped at a certain point. So, it just depends
18 on that person handling that person; that prisoner.

19 Q. Okay. Um, before--did you know Graner before you guys got to the
20 prison?

21 A. On a working level or-----

22 Q. Just if you knew anything about him.

23 A. I knew his name.

1 Q. You knew his name? You really didn't know a whole lot about him
2 from Algular [phonetic] or----

3 A. I knew he was dating England.

4 Q. Okay. So, you guys kind of started to know each other when they
5 put y'all down on the hard site?

6 A. We did.

7 Q. Uh, any distinct changes from the time you got--you guys first
8 started working the hard site until the time this whole case broke?

9 A. Like----

10 Q. In his personality or anything like that? Did he seem the same?

11 A. He has always been the same. Uh, at first you think he's a
12 complete asshole and you're kind of scared of him. Like, things you wouldn't
13 find funny he would laugh about. And it's just because, I guess that's the
14 Marine in you and everybody handles stress or something else different.

15 Q. Um-hmm.

16 A. So, you realize, okay; maybe this is just his way of coping with
17 things. That's just my opinion on him.

18 Q. Okay. Uh was he and Stefano close? Did you see them talking a
19 lot or ----

20 A. I've only seen Steve there a few times.

21 q. Only saw him a few times? Okay.

1 A. And if I did he wouldn't have come up to me. They all go
2 straight to the male. It doesn't matter if we were even working that night.
3 They go straight to the male.

4 Q. Okay. Um, medics. You were a combat medic, right?

5 A. Yes.

6 Q. Um, how often were the medics in the tier?

7 A. Uh, they're supposed to come around daily. Um, I try to get a
8 list of anybody who needed any kind of--I don't know--aspirin or anything
9 like that. So, they were supposed to come every single day during the day
10 time. Like, you would leave a list.

11 Q. Okay.

12 A. Or do you mean for incidents?

13 Q. [Laughter.] No, but I'm glad you pointed that out 'cause I want
14 it to go both ways. You're saying that they're supposed to come by daily,--

15 A. Correct.

16 Q. --to check and see how everything was going.

17 A. During the day shift.

18 Q. Okay. How about for incidents? Were they called a lot to
19 incidents?

20 A. I remember that time and I remember a time where Gus needed an

21 IV-

22 Q. Um-hmm.

1 A. --'cause he wouldn't eat. There was a medic--the last name starts
2 with an "A", I believe. He came in for some lady who had head lice and they
3 wanted me to shave her head.

4 Q. Um-hmm.

5 A. And--which I did not. Uh, that's all I can remember. I know--I'm
6 sure there are other incidents, but nothing stands out.

7 Q. Okay. Were the medics to your knowledge and to what you saw,
8 were they there when any abuses occurred?

9 A. Just that one time that I can remember for taxicab driver.

10 Q. For taxicab driver? And who was that? Do you know who the medic
11 was then?

12 A. Sergeant Leighton.

13 Q. Leighton? Okay. So he was there when taxicab driver was kicked
14 and----

15 A. I don't know if he was there when he was kicked.

16 Q. When he was hit with the asp?

17 A. Right.

18 Q. Okay. Okay. And we talked a little bit about sex in the hard
19 site, right?

20 A. Right.

21 Q. Okay. Nothing that you saw?

22 A. No.

23 Q. How about guards and detainees?

1 A. No. Absolutely not.

2 Q. Okay. All right. How about ghost detainees.

3 A. Quite a few.

4 Q. Quite a few? Tell me what you know about the ghost detainees.

5 A. I know that they didn't have numbers.

6 Q. Um-hmm.

7 A. They didn't have names. Sometimes they wouldn't have any

8 paperwork, actually. I don't think any of 'em had paperwork. Um, I know the

9 guy in the shower was a ghost detainee. I don't think the Red Cross was

10 allowed to see them. I know they started putting paperwork up saying you

11 can't see this prisoner whenever they would come through.

12 Q. Um-hmm.

13 A. I remember them typing up a bunch of those. Uh, when the Red

14 Cross came through the last time, they started giving them all numbers,--

15 Q. Um-hmm.

16 A. --and giving them back their clothing.

17 Q. Okay.

18 A. That's pretty much it that I can remember.

19 Q. Okay.

20 A. They were in and out. I mean, they weren't even on the count.

21 Q. Well, they were but they weren't. Does that make sense?

22 A. Um-hmm.

23 Q. Like, OJ [phonetic] would have their own little section.

1 Q. Okay. Uh, who brought 'em in? Do you know? The ghost team?
2 A. Uh, they were ghosts, too. Uh, they started coming into the
3 front and then for some reason they stopped, and started coming through the
4 back door. They stuck a walkie-talkie in the back,--
5 Q. Um-hmm.
6 A. --and they would just buzz 'em and then they bring 'em in and
7 leave 'em.
8 Q. Okay. Was it whoever was on duty accepted them or did somebody
9 come down to get 'em , or--
10 A. Nobody accepted them in the main office. They went straight to 1
11 A.
12 Q. Okay.
13 A. Is that what you mean?
14 Q. Yeah. I mean,-----
15 A. It would have been whoever was working. Like, either Graner or
16 Sergeant Synder. Whoever the male was--
17 Q. Okay.
18 A. --usually went down.
19 Q. Okay.
20 A. Or their handler would bring them up.
21 Q. So, it was basically whoever was working down there--
22 A. Right.

1 Q. --that would be there? All right. Um, and again, I guess, to-
2 did you ever see Colonel Jordan in the tier?

3 A. If I did I don't recall.

4 Q. Okay. Um----

5 A. And again, I really didn't pay attention to faces or names. Uh,-

6 -

7 Q. Uh-hmm.

8 A. Everybody was the same to me, it seemed like. There were only a
9 few people that stood out.

10 Q. Okay. So, for you who were the people that actually stood out?

11 A. Chief Reevus stood out just because we talked and had conversations.

12 DJ stood out, Spencer stood out. Um, the little fat guy that was with the
13 prostitute--he stood out.

14 Q. Okay.

15 A. Um, Steve definitely stood out. Um, I can't remember that other
16 guy's name. There was a guy named Mike. He was a captain; Michael, I
17 believe.

18 Q. Okay.

19 A. He stood out. Um, now "stood out" means I just remember them.

20 It doesn't mean I got orders from them or----

21 Q. Okay.

22 A. --listening to their conversation with other people.

17 pp

Article 32 Transcript**U.S. v Davis**

The Article 32 Proceedings were called to order at 1000 hours, 7 April 2004, at Victory Base, Iraq.

The Investigating Officer stated for the record that the proceedings were scheduled to start on 6 Apr 04, but were delayed due the defense counsel's absence.

PERSONS PRESENT

MAJ John J. Coughlin, Investigating Officer
1LT Kyson Johnson, Government Counsel
CPT John McCabe, Assistant Government Counsel
CPT Scott E. Dunn, Defense Counsel
SGT Javal S. Davis, Accused
SFC Michael Bostic, Recorder

PERSONS ABSENT

None

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

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

SA Scott E. Bobeck, 10th MP BN (CID)
SPC Matthew C. Wisdom, 372d MP CO
CPT Donald J. Reese, 372d MP CO
SFC Shannon Snider, 372d MP CO
SSG Robert J. Elliott, 372d MP CO
SPC Bruce Brown, 372d MP CO
SPC Jason Kenner, 372d MP CO
SGT William A. Cathcart, 372d MP CO
SGT Hydrue S. Joyner, 372d MP CO

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

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

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

The Accused stated the he would be represented by CPT Scott E. Dunn.

The Defense Counsel waived the reading of the charges.

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

The accused stated he understood his rights.

Government Counsel reminded the I.O. of the email traffic concerning the Defense Counsel's transportation problems and email traffic concerning co-accused witnesses rights invocation.

The Investigating officer stated that the email traffic would be marked as I.O. exhibits.

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

Government Counsel clarified for the Investigating Officer and Defense Counsel, which requested defense witnesses were available, and would be present for testimony.

The following requested defense witnesses were determined to be unavailable for testimony:

SPC (CPL) Charles A. Graner , HHC 16th MP BDE (ABN)
SSG Ivan L. Frederick, HHC, 16th MP BDE (ABN)
PFC Lynndie R. England, HHC (rear) 16th MP BDE(ABN)
SPC Jeremy C. Sivits, HHC, 16th MP BDE (ABN)
SPC Sabrina D. Harman, HHC, 16th MP BDE (ABN)
SPC Megan M. Ambuhl, HHC, 16th MP BDE (ABN)
Nori Samir Gunbar Al Yasseri ISN # 7787, BCCF
Mustafa Jassim Mustafa det # 150542, BCCF
Ghalan Said Alsharoni det # 10422, BCCF
SA Warren Worth, 10th MP BN (CID)
SA Tler M. Pieron, 10th MP BN (CID)
SA Manora Iem, (10th MP BN(CID)

SPC Roman Krol, 325th MI BN
SPC Helga Aldape-Moreno, HHC, 109th ASMB
Bakeer Naseef, JIDC
Adel L. Nakhla, Titan Corp
CPT Christopher Brinson, 372d MP CO
LTC Steve Jordan, BCCF
COL Thomas Pappas, JIDC
CPT Brent Fitch, JIDC
Dan Johnson, CACI (Titan Corp)
Timothy Dugan, CACI (Titan Corp)
Steven Stefanoicz, CACI (Titan Corp)
Special Agent-in-Charge James Bond, JIDC
BG Janis Karpinski, Cdr, 800th MP BDE (377th TSC)

The Defense Counsel objected to the unavailability of witnesses.

The Government Counsel discussed the availability and status of documents and miscellaneous information the Defense Counsel requested in discovery.

Defense Counsel objected to the Government's production of documents and miscellaneous information requested in Discovery.

Government Counsel did not make an opening statement.

Defense Counsel did not make an opening statement.

THE GOVERNMENT'S CASE

SA Scott Edward Bobeck, 10th MP BN (CID), Prisoner Interrogations, Abu Ghraib Prison, Iraq, was called as a witness, sworn, and testified in substance as follows:

DIRECT EXAMINATION

I am currently the Special Agent in Charge of a CID Team at Abu Ghraib Prison. The Prisoner Interrogation Team is a small CID element that interviews as screens various prisoners at the Abu Ghraib Prison. I have been a CID agent for 4 years. I went through 16 weeks of training to become an agent.

I first arrived at Abu in mid January 2004. This is the first case I have worked on at the prison. I was called from BIAP to help with this investigation. This investigation was initiated when a soldier named SPC Darby came forward anonymously, and provided a CD and letter to CID. He later came forward and made a sworn statement. He was afraid of any repercussions he might receive from the members of his unit. He had been on leave, and upon his return, he heard of a shooting, and wanted to see pictures of the incident. His roommate, CPL Graner gave him a CD to copy.

After SPC Darby reviewed the CD, he saw pictures of naked detainees in sexual situations and other various positions.

The Government Counsel hands the Witness Prosecution Exhibit 1 for Identification.

This is a copy of the CD of pictures and files we recovered during the investigation. It is labeled "CPU Exam", and has instructions listed on how to view the AIRs and files within.

The Defense Counsel objected to the admission of Prosecution Exhibit 1 into evidence.

I have reviewed the images on the CD, and I have seen pictures as depicted by SGT Davis. There are pictures of the dog pile incident, in which SGT Davis admitted to jumping onto a pile of detainees. Other images SGT Davis described were of a detainee-masturbating incident. These images are on the CD. With the help of SPC Darby, we used the CD to identify the parties involved in the images. We think the dog pile incident occurred in late Oct or early Nov when 7 prisoners were transferred from Ganci to the hard site for invoking a riot. SGT Davis was involved in escorting those prisoners. From PFC England's statement, she and SPC Ambuhl were on a tier looking down and saw SGT Davis, SSG Elliot and SSG Frederick escort the detainees into a pile on the floor. From all of our investigation, we were able to determine that SGT Davis was involved in placing the detainees in the pile.

The Government Counsel hands the Witness Prosecution Exhibit 2 for Identification.

This is a picture of detainees lying in a pile on the floor of Tier 1A. This is one of the pictures from the CD, which is Prosecution Exhibit 1. This is a fair and accurate representation of the dog pile as described in the accused's and co-accused's statements.

The Defense Counsel objected to the admission of Prosecution Exhibit 2 into evidence.

From looking at the folder on the computer, the folders were labeled 5 Nov, 7 Nov, etc, and the pictures were obtained in those folders.

Prosecution Exhibits 1 and 2 were admitted into evidence.

I interviewed SPC Ambuhl. She invoked her rights. SPC Harman, SPC Sivits, SGT Davis, and PFC England gave written sworn statements.

The Investigating Officer granted the Government Counsel's request of the co-accused and accused being declared as unavailable due to their rights invocation through their counsel.

The written sworn statements of SPC Sivits were admitted into evidence as Prosecution Exhibit 3 with no objection.

The written sworn statements of SPC Harman were admitted into evidence as Prosecution Exhibit 4 with no objection.

The written sworn statements of PFC England were admitted into evidence as Prosecution Exhibit 5 with no objection.

The written sworn statements of SGT Davis were admitted into evidence as Prosecution Exhibit 6 with objection.

I did not take statements from SPC Sivits, SPC Harman, PFC England or SGT Davis. No one agent took every statement. On large cases, many agents take statements and compile everything together. I recall the statement SPC England gave. She described the incident when SGT Davis helped escort prisoners into the hard site.

The Government Counsel hands the Defense Counsel, and Investigating Officer, and Witness, a CID sketch of the layout of tier 1A and 1B.

SPC England was on the top tier standing here, and the detainees were in a pile in this area [Witness points to the sketch]. The numbers on the sketch are cell numbers.

Per the sworn statements given, once the detainees were placed in a dog pile, they were jumped on and had their fingers and toes stepped on, and later stripped nude. SGT Davis was described as jumping into the air and landing on the pile, with the detainees grunting in pain. SPC Sivits identified SGT Davis as a jumper in his statement. SGT Davis initially denied, and later admitted jumping onto the pile. Some of the detainees described the soldiers as stepping on their hands and feet. SGT Davis first stated in his sworn statement that he stepped on hands and feet and fell onto the pile by accident. In his second statement, he said that he stepped and jumped purposely.

SGT Davis stated that he observed a naked detainee standing masturbating and another naked detainee kneeling with his face towards the standing detainee's crotch.

The Government Counsel hands the Witness Prosecution Exhibits 7 and 8 for Identification.

These photos represent SGT Davis' description of the masturbation incident, and are stored on the CD. This incident happened in late Oct or early Nov.

Prosecution Exhibits 7 and 8 admitted into evidence with no objection.

SGT Davis was the NCOIC of tier 3A and 3B. He gave his first sworn statement on 14 Jan 04.

The Government Counsel hands the Witness Prosecution Exhibit 6.

SGT Davis says here that he did not intentionally step on the detainees' feet. In his second statement he said that he was not entirely honest in his first statement. SGT Davis gave his second statement on 15 Jan 04. He stated that he stepped on detainees' feet out of anger, and the he jumped on the pile once for sure, maybe twice.

CROSS EXAMINATION

The Investigating Officer reminded the Accused that this was the Defense's opportunity to examine the Government's witness.

I have been at Abu Ghraib since 6 Jan 04, and moved there permanently on 1 Feb 04. Through the course of this investigation, we determined that the detainees in 1A and 1B were stripped regularly. They basically followed this as a verbal SOP from the troops there before them.

Security checks were made by the Chain of Command in the evening, but I don't know how often. The incidents of 8 Nov 03 happened while the detainees were clothed and while they were naked.

I don't know if SGT Davis was there for the entire incident.

We collected files from the on-call medics on the detainees, and we interviewed the medical personnel. I have no recollection of injuries to detainees' hands or feet. We looked for injuries "out of the ordinary".

I was present when SGT Davis gave his statement. There is no rule for who has to be present during an interview. I don't believe SGT Davis did anything to the detainees after they were naked. His statement indicated that he left the room after they were stripped naked.

The SOP gathered by the other agents was written after the alleged incidents. Before the allegations, there were no SOPs on how to treat detainees. Procedures were "word of mouth" or just verbal guidelines.

Tier 1A and 1B housed MI, CID, OGA (FBI, CIA), female and juvenile detainees. They were segregated from the general population. The general population was criminals.

I don't know of the SOPs. There were guideline for specific sleep and eating patterns for detainees. It is not the MP guards who implement this sleep or eating pattern, but MI personnel who authorize it.

I never read a 15-6 Investigation, but I believe one was done. A number of personnel in the Chain of Command were relieved because of this investigation. I don't remember if it went on before or after our investigation. I don't know how often the physical abuse occurred.

I do not know the unit's METL or any training they were given. They were mainly road MPs, and were put into the prison to serve as guards. A few may have been prison guards in their civilian jobs.

The prison is a dangerous environment. Tier 1A and 1B has two MPs who monitor the detainees. I don't know if the MI holds are worse than the general population. There may be terrorists and detainees involved in politically driven incidents in 1A and 1B.

The seven detainees transferred from Ganci were suspected to be leaders of a riot. Before I arrived at the prison, an Iraqi guard smuggled a weapon in to a prisoner, resulting in the prisoner shooting a soldier in the chest. The soldier's body armor saved him.

Camp Vigilant also holds HVDs, black list, and MI holds. The statements I read, listed the seven as being transferred from Ganci.

REDIRECT EXAMINATION

SGT Davis was the NCOIC of one wing at the hard site. He indicated that he observed the masturbating incident.

The Government Counsel hands the Witness Prosecution Exhibit 9 for Identification.

I recognize this picture from the CD, Prosecution Exhibit 1. This is the masturbating incident he described in his statement. I am not aware of any other masturbating incidents.

Prosecution Exhibit 9 admitted into evidence with no objection.

The 7 individuals were brought over from Ganci. Ganci was used to hold the general population, I don't know what crimes they committed. It holds anyone not in any special category. There are about 6,000 prisoners at Ganci.

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

SPC Matthew Carl Wisdom, 372d Military Police Company, Abu Ghraib Prison, Iraq, was called as a witness, sworn, and testified in substance as follows:

DIRECT EXAMINATION

I have been in 372d MP CO for 1½ years. We had a Law and Order mission at Hillah for 4 months upon arrival here. We got here 15 May 03. SGT Davis is in 372d MP CO. We were all transferred to Abu Ghraib 1 Oct 03, and we replaced the 72d MP CO.

In Oct and Nov, I was in charge of a Tier with a few soldiers to make sure the prisoners got food, and medical care. I report to a NCOIC. The tier has two levels of cells. We were part of the hard site.

The first week of Nov, I was working an observed abuse after I was moved to the night shift. The abuse started in the inprocessing area. We escorted prisoners down to tier 1 for isolation. There were seven transfers from Gancl because of a riot.

The detainees were flexi-cuffed, and had sandbags on their heads. It is a long walk from inprocessing to Tier 1. The escorts were leading them into walls and cell bars as they walked with them. They could not see where they were going because they had sandbags on their heads.

I was the last escort in line with a prisoner. When we arrived at tier 1, SFC Snider took my prisoner and placed him into a pile on top of the other prisoners. They were all restrained with zip ties on their hands behind their backs, and sandbags on their heads, clothed, and on top of each other.

I specifically remember SPC Graner posing for picture of him holding a prisoner with his left hand, and his right hand about to punch a detainee with a sand bag over his head. [Witness simulates motion] After the picture, he actually punched the detainee. I specifically remember SGT Davis walking around the pile of detainees stomping on the detainees' feet and toes. SGT Davis was wearing his issue boots. They would cry out in pain. It was powerful enough to be painful. I did not see SGT Davis jump onto any detainees. SFC Snider saw SGT Davis stomping, and motioned for SGT Davis to stop. He gave a cutting sign across his neck for SGT Davis to stop. [Witness simulates motion] SGT Davis then stopped.

CROSS EXAMINATION

I never saw SGT Davis jump on the pile of detainees. I left the room after SFC Snyder motioned for SGT Davis to stop. I did not see when SGT Davis left; he was still there when I left.

I was with the unit the whole time it was at the prison. We did not get much training. We RIP'd for a few days with the 72d MP CO. I went on leave in Oct, and when I returned, I was RIP'd by the day shift for about a week. They told me how to do things.

I did not see the detainees naked before then. That night was my first duty on the night shift.

When I say RIP, I mean training.

Tier 1A and 1B were MI holds and people with high profiles for MI questioning. The Ganci rioters were taken to 1A and 1B into isolation to calm down. I was never told that 1A and 1B were to be treated differently. It is implied from MI personnel that they have different sleep and eating schedules.

REDIRECT EXAMINATION

I do not recall who else was in the line escorting detainees down to tier 1.

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

The Article 32 proceeding recessed at 1153, 7 April 2004.

The Article 32 proceeding reconvened at 1204, 7 April 2004, with all parties present.

SPC Matthew Carl Wisdom, 372d Military Police Company, Abu Ghraib Prison, Iraq, previously sworn, was recalled, and testified in substance as follows:

RE CROSS EXAMINATION

The detainees were placed in the pile with flexi-cuffs on. The cuffs were not removed, nor do I know if they fell off of the detainees' hands.

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

THE GOVERNMENT RESTS

THE DEFENSE'S CASE

CPT Donald J. Reese, 372d Military Police Company, Abu Ghraib Prison, Iraq, was called as a witness, sworn, and testified in substance as follows:

The witness was informed of his rights under Article 31, signed DA Form 3881, and was excused. DA Form 3881 attached as an I.O. exhibit.

SFC Shannon Snider, 372d Military Police Company, Abu Ghraib Prison, Iraq, was called as a witness, sworn, and testified in substance as follows:

The witness was informed of his rights under Article 31, signed DA Form 3881, and was excused. DA Form 3881 attached as an I.O. exhibit.

SSG Robert J. Elliott, 372d Military Police Company, Abu Ghraib Prison, Iraq, was called as a witness, sworn, and testified in substance as follows:

The witness was informed of his rights under Article 31, signed DA Form 3881, and was excused. DA form 3881 attached as an I.O. exhibit.

SPC Bruce Brown, 372d Military Police Company, Abu Ghraib Prison, Iraq, was called as a witness, sworn, and testified in substance as follows:

DIRECT EXAMINATION

I have been with the 372d MP CO since its arrival at Abu Ghraib Prison. For about 4 months, we were a Law and Order, working with Iraqi police and performing convoy security. We were transferred to the prison. We did left and right seat training with 72d MP CO, and I then went on leave. We didn't learn anything from 72d MP CO.

Then, we were responsible for 70-200 prisoners; now 1200-1600 prisoners. I work tier 1B, it holds females and juveniles. When they fight, they are disciplined by taking their cigarettes. Sometimes we even recommend no sunlight. There was no SOP.

Reports were filed with the Sergeant of the Guard (SOG), and then forwarded to the front office. We were not given much training. We were not given any written SOP. We developed our own SOP.

Our shift Supervisor was a correctional officer, SSG Ward.

I never saw a regulation on detainee operations. We are 31B's, Military Police, Combat Support.

Tiers 1A and 1B were mostly isolated. I worked tier 1B day shift. I never saw prisoners kept naked in their cells. I first heard of it when CID came out. I had little to no contact with MI. I would only see them in passing, and said hi or bye. They would take prisoners away, interrogate them, and bring them back to their cells. I don't know how they do interrogations. There were situations where they gave us ideas on how to treat detainees. They had sleep management plans and eating plans. When we first got there, everything was just verbal. Later it was put in writing. I only saw the sleep management in writing. 1A would sometimes share documents with me.

I heard of a dead detainee being stored in the hard site. We would spray air freshener to cover the scent. MI or OGA interrogated this guy, and somehow, he died. They finally took the body away.

I do not remember a riot at Ganci. I did my left and right seat training and went on leave. I returned from leave the first week of Nov.

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

SPC Jason A. Kenner, 372d Military Police Company, Abu Ghraib Prison, Iraq, was called as a witness, sworn, and testified in substance as follows:

DIRECT EXAMINATION

I have been with the 372d MP CO for the entire deployment. We had left-right seat training with the 72d MP CO for 2 days. They were just showing us the ropes.

MI would take stuff from the detainees in 1A and 1B to discipline them. They also had sleep management plans. I did not work on a daily basis in 1A and 1B. I worked different tiers to fill in as NCOIC of day shift.

I have seen detainees strip-searched. MI would take away clothes and the detainees would sleep in their cells naked. I remember coming in for duty and seeing the detainees in their cells naked. CID, MI or OGA would have authorized a detainee to be naked.

It was never instructed to take anything away from detainees. If I saw a detainee naked, I thought that was how it was supposed to be.

Lieutenants, Captains, Majors, or Lieutenant Colonels would not come to hang around and walk the tier. No one really wore any rank. Our NOIC spent a lot of time down there. If they didn't walk the tier, they wouldn't see the nakedness. I don't remember how often they walked the tier.

I know a lot about a dead detainee being stored in the hard site. He wasn't dead at first. When he came in, we were told to not remove his sandbag, and we didn't know how much he was injured. He went into the showers for interrogation, and about an hour later, he died on them. I was sent to find out what was going on. Later that day, they decided to put him on ice. There was a battle between IGA and MI as to who was going to take care of the body. A couple of days later he was finally disposed of. OGA brought him in with a sandbag over his face. When we put his orange jumpsuit on to take him to the tier, we were told to not take the sandbag off at all. After he passed, the sandbag was removed, and I saw that he was severely beaten on his face. At the time, they would interrogate people in the shower rooms. He was shackled to the wall. I was not present for that. MPs were present on the tier, but not in the interrogation. The shower room was just used because there was no other space available. OGA did the interrogation.

I have known SGT Davis for about 5 years. I drilled with him back in the states. He is in a different squad. I only see him in passing. He is on a different shift than me. He knows his job, and does what is asked of him. We have butted heads, but who doesn't.

No one I know of, has a reputation of being tough on prisoners. A few others and me are considered to be tough verbally.

I remember a riot where a few prisoners were shot.

Conditions for MP guards were rough, ending a 30-day work cycle. Back then it was very dangerous. SGT Cathcart was shot because an IP smuggled a weapon in to a prisoner. We were exposed to external attacks. Not too often back then, now--every day.

Rarely are MP Guards assaulted, IP guards are assaulted more often than MP guards.

I would work tier 1 maybe once a week, and tiers 2-7 the rest of the week.

CROSS EXAMINATION

The outgoing shift, CPL Graner or SGT Cathcart would tell me if an individual should be naked or had stuff taken away. No one ever told me to take anything away or that someone should be naked.

SGT Davis was not involved in the dead body incident. He was not there with the body, or the interrogation. I believe Seal Team 7 brought the guy in.

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

SGT William A. Cathcart, 372d Military Police Company, Abu Ghraib Prison, Iraq, was called as a witness, sworn, and testified in substance as follows:

DIRECT EXAMINATION

This is the Soldier shot by smuggled up

I have known SGT Davis since Feb 03. I initially entered the military as an MP in 1975, and stayed in until 1981. I came in again in Feb 1998 as a 92A. In Nov 03, I was involuntarily transferred to the 372d MP CO to serve as a MP again. SGT Davis and I are in the same squad. I was his team leader at Abu Ghraib.

He was a patrol supervisor at Hillah. He is a good soldier. I weigh things out. When at Ft Lee, I watched him work with the squad. We didn't always see eye to eye, but he works well, and works things out.

Conditions at the prison are pretty bad. When we first started, we had no interpreters, ICOs, (Iraqi Correctional Officers) or IP (Iraqi Police). We had to do a lot of OJT. We arrived there in Oct 03. When we took over, there were a lot of personnel. More and more prisoners slowly began to arrive. There was no guidance given from higher on how to discipline detainees to SSG Elliot and I. I am blessed to have been a civilian correctional officer.

1A and 1B were treated differently because they were MI hold, and a no talking tier. Daily operations were the same as the rest of the prison, just a smaller population. MI and OGA told us how to treat them. I would ask OGA and MI what Geneva category to place prisoners in, but got no response. I also asked this of CPT Avery or CPT Fitch at JAG and the BN. I also discuss this intensively with the General who did the 15-6 investigation on the prison policies and procedures.

I have seen detainees held naked, but not often. We had one individual who would continuously urinate and put his feces all over himself. Another would try to escape. In Dec, I was designated as NCOIC when CPL Graner was assigned to transport prisoners by aircraft.

I wrote the SOP last month (March) for tier 1. MI said that they had started a draft SOP, but I never saw it.

There were several riots at Ganci--one coincided when I was shot, maybe around Thanksgiving. There was some significance to Islamic faith and Ramadan. I don't know of the seven detainees involved in this case. When a riot breaks out the company reactionary team goes in. A lot of times, they are just letting off steam. There has been very few times where we had to go in and use less than lethal means to restrain the detainees. They use it a lot now.

Inmate 151362 shot me. He was a Feydayeen CPT, and CID was investigating him. I was there as relief that night, and SPC Ambuhl let me know that this inmate had a possible weapon. We went through the procedure to find the individual.