

1007-039



REPLY TO
ATTENTION OF

DEPARTMENT OF DEFENSE
UNITED STATES SOUTHERN COMMAND
OFFICE OF THE COMMANDER
3511 NW 91ST AVENUE
MIAMI, FL 33172-1217

SCCC

5 February 2007

MEMORANDUM FOR Mr. Uldric L. Fiore, Jr., Assistant Inspector General and General Counsel, Office of the Inspector General, Department of Defense, 400 Army Navy Drive, Arlington, VA 22202

SUBJECT: Army Regulation (AR) 15-6 Investigation into Alleged Abuse of Detainees at Joint Task Force - Guantanamo

1. Enclosed for your review is a copy of the AR 15-6 investigation recently conducted into allegations raised to the Inspector General of the Department of Defense by Lieutenant Colonel Colby C. Vokey, USMC, on 4 October 2006.
2. Colonel Richard C. Bassett, USA, concluded his investigation on 22 January 2007, and I approved his findings and recommendations, except for Recommendation 2, on 5 February 2007.

J. STAVRIDIS
Admiral, U.S. Navy

Encl
as

CF:

Mr. Eric S. Edelman, Under Secretary of Defense for Policy
Mr. William J. Haynes II, General Counsel, Department of Defense
Gen Peter Pace, Chairman, Joint Chiefs of Staff

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

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

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

SECTION I - APPOINTMENT

Appointed by General Bantz J. Craddock, Commander, United States Southern Command
(Appointing authority)

on 13 October 2006 (Date) (Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - SESSIONS

The (investigation) (board) commenced at HQ, US Southern Command (Place) at 1430 (Time)

on 13 October 2006 (Date) (If a formal board met for more than one session, check here . Indicate in an inclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.) The following persons (members, respondents, counsel) were present: (After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)

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

The (investigating officer) (board) finished gathering/hearing evidence at 0830 (Time) on 2 November 2006 (Date)
and completed findings and recommendations at 0800 (Time) on 22 January 2007 (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

1 Inclosures (para 3-15, AR 15-6)		YES	NO ¹	NA ²
Are the following inclosed and numbered consecutively with Roman numerals: (Attached in order listed)				
a. The letter of appointment or a summary of oral appointment data?				
b. Copy of notice to respondent, if any? (See Item 9, below)		X		
c. Other correspondence with respondent or counsel, if any?				X
d. All other written communications to or from the appointing authority?				X
e. Privacy Act Statements (Certificate, if statement provided orally)?		X		
f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?				X
g. Information as to sessions of a formal board not included on page 1 of this report?				X
h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?				X

FOOTNOTES: 1) Explain all negative answers on an attached sheet.
2) Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

		YES	NO ^{1/}	NA ^{2/}
2	Exhibits (para 3-16, AR 15-6)			
	a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?	X		
	b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	X		
	c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	X		
	d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?			X
	e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-5b, AR 15-6)?			X
	f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?			X
	g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)?			X
3	Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)?			X
B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)				
4	At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 5-3b, AR 15-6)?			
5	Was a quorum present at every session of the board (para 5-2b, AR 15-6)?			
6	Was each absence of any member properly excused (para 5-2a, AR 15-6)?			
7	Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)?			
8	If any members who voted on findings or recommendations were not present when the board received some evidence, does the inclosure describe how they familiarized themselves with that evidence (para 5-2d, AR 15-6)?			
C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)				
9	Notice to respondents (para 5-5, AR 15-6):			
	a. Is the method and date of delivery to the respondent indicated on each letter of notification?			
	b. Was the date of delivery at least five working days prior to the first session of the board?			
	c. Does each letter of notification indicate --			
	(1) the date, hour, and place of the first session of the board concerning that respondent?			
	(2) the matter to be investigated, including specific allegations against the respondent, if any?			
	(3) the respondent's rights with regard to counsel?			
	(4) the name and address of each witness expected to be called by the recorder?			
	(5) the respondent's rights to be present, present evidence, and call witnesses?			
	d. Was the respondent provided a copy of all unclassified documents in the case file?			
	e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?			
10	If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings):			
	a. Was he properly notified (para 5-5, AR 15-6)?			
	b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-4c, AR 15-6)?			
11	Counsel (para 5-6, AR 15-6):			
	a. Was each respondent represented by counsel?			
	Name and business address of counsel:			
	(If counsel is a lawyer, check here <input type="checkbox"/>)			
	b. Was respondent's counsel present at all open sessions of the board relating to that respondent?			
	c. If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the report (para 5-6b, AR 15-6)?			
12	If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6):			
	a. Was the challenge properly denied and by the appropriate officer?			
	b. Did each member successfully challenged cease to participate in the proceedings?			
13	Was the respondent given an opportunity to (para 5-8a, AR 15-6):			
	a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?			
	b. Examine and object to the introduction of real and documentary evidence, including written statements?			
	c. Object to the testimony of witnesses and cross-examine witnesses other than his own?			
	d. Call witnesses and otherwise introduce evidence?			
	e. Testify as a witness?			
	f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)?			
14	If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)?			
15	Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it (para 5-11, AR 15-6)?			
FOOTNOTES: 1) Explain all negative answers on an attached sheet. 2) Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.				

SECTION IV - FINDINGS (para 3-10, AR 15-6)

The (investigating officer) (board), having carefully considered the evidence, finds:
See Attached.

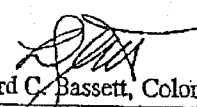
SECTION V - RECOMMENDATIONS (para 3-11, AR 15-6)

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

SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. (If any voting member or the recorder fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)

(Recorder)


Richard C. Bassett, Colonel, US Army
(Investigating Officer) (President)

(Member)

(Member)

(Member)

(Member)

SECTION VII - MINORITY REPORT (para 3-13, AR 15-6)

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

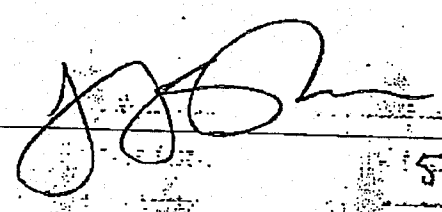
(Member)

(Member)

SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-3, AR 15-6)

The findings and recommendations of the (investigating officer) (board) are (~~approved~~) (~~disapproved~~) (approved with following exceptions/substitutions). (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or corrective action, attach that correspondence (or a summary, if oral) as a numbered inclosure.)

Recommendation 2 is disapproved.



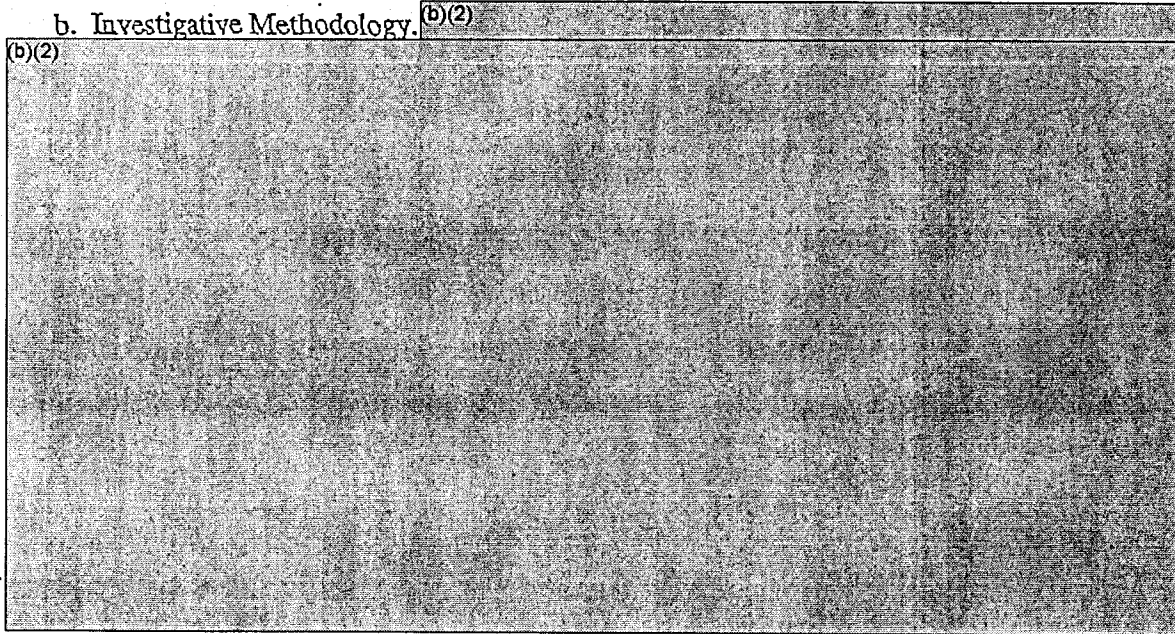
5 FEB 2007

I. Appointment and Investigative Methodology.

a. Appointment. GEN Bantz J. Craddock, Commander, United States Southern Command (USSOUTHCOM), appointed me the Army Regulation (AR) 15-6 investigating officer on 13 October 2006 to examine the allegations made in a sworn affidavit by Sgt Heather Cerveny USMC (Tab A), and determine if any Joint Task Force-Guantanamo (JTF-GTMO) personnel violated the UCMJ, U.S. laws, or DoD directives (Tab B). After RDML Harry B. Harris, Commander, JTF-GTMO, and (b)(3):10 USC §130b,(b)(6) JTF-GTMO SJA, received further allegations (Tabs C and D, respectively), ADM James Stavridis, the new Commander, USSOUTHCOM, expanded the scope of my investigation on 23 October 2006 (Tab E).

b. Investigative Methodology. (b)(2)

(b)(2)



2. Summary of Events. This report is divided into three parts to accurately reflect the expansion of the investigation over time with Part 1 focusing on those events surrounding the investigation into Sgt Cerveny's affidavit; Part 2 focusing on those events surrounding the statement presented by RDML Harris; and, Part 3 focusing on those events surrounding the JTF-GTMO Joint Intelligence Group (JIG) summary of detainee complaints. In some instances, information gained from one part of the investigation overlaps with another.

a. Part I (Sgt Cerveny's Affidavit).

(1) Background. Sgt Cerveny provided a sworn affidavit to her supervisor, LtCol Colby C. Vokey USMC, on 4 October 2006. Upon receipt of Sgt Cerveny's statement, LtCol Vokey added a cover letter, and forwarded the packet to the DoD Inspector General (IG) requesting a full investigation. Subsequently, the matter was forwarded to U.S. Southern Command and GEN Craddock initiated this investigation. In Sgt Cerveny's affidavit, she specifically identifies four U.S. Navy personnel by name or nickname, their general description, and where she believed they worked within JTF-GTMO. She identified the four personnel as follows:

(a) two Naval Expeditionary Guard Battalion (NEGB) personnel with the names or nicknames of (b)(3):10 USC §130b,(b)(6)

(b) a Camp America postal clerk, with the name or nickname of (b)(3):10 USC and,

(c) a female who works in intelligence by the name or nickname of (b)(3):10 USC §130b,(b)(6)

Prior to my arrival at Guantanamo Bay, the JTF-GTMO SJA and the NEGB chain of command sought to identify the four named individuals. In short order, they had potentially identified (b)(3):10 USC but had not identified (b)(3):10 USC. Upon my arrival at GTMO, (b)(3):10 USC §130b,(b)(6) JTF-GTMO Assistant SJA, was assigned as my investigative assistant. (b)(3):10 USC provided me with the identities of (b)(3):10 USC §130b,(b)(6) was identified as (b)(3):10 USC §130b,(b)(6) both members of the NEGB. (b)(3):10 USC §130b,(b)(6) was identified as (b)(3):10 USC §130b,(b)(6) a former Camp America postal clerk who had returned to his ship, (b)(6). During my first afternoon at GTMO, and after an e-mail name search, I was able to identify (b)(3):10 USC §130b,(b)(6) a member of the Joint Intelligence Group (JIG).

(2) Interview of Principals. Over the course of the next two days, (b)(3):10 USC and I interviewed the three personnel who were still located at GTMO. (b)(3):10 USC §130b,(b)(6) were both accused by Sgt Cerveny of bragging about abusing the detainees, and therefore, were suspected of violating the UCMJ. Accordingly, prior to questioning either of them, I advised both of them of their rights (Tabs F and G). After I read (b)(3):10 USC §130b,(b)(6) their rights, both agreed to cooperate fully, answer my questions, and make sworn written statements (Tabs H and I). (b)(3):10 USC §130b,(b)(6) was considered a witness and was not suspected of any wrongdoing, and therefore, was not advised of her rights. (b)(3):10 USC §130b,(b)(6) agreed to cooperate fully, and provided a sworn written statement (Tab J). Finally, I successfully contacted (b)(3):10 USC §130b,(b)(6) and scheduled an interview with (b)(3):10 USC §130b,(b)(6) who was traveling to Norfolk enroute to Camp Pendleton. (b)(3):10 USC §130b,(b)(6) cooperated fully with the investigation and provided a sworn statement (Tab K). (b)(3):10 USC §130b,(b)(6) did not read (b)(3):10 USC §130b,(b)(6) his rights, because I had previously determined that he was not suspected of any wrongdoing. Despite the fact that Sgt Cerveny accused (b)(3):10 USC §130b,(b)(6) of bragging about tampering with detainee mail, which is a violation of the UCMJ and US law, I ruled out the possibility of wrongdoing based on my interview of (b)(3):10 USC §130b,(b)(6) (Tab L). In summary, the detainee mail handling procedures precluded (b)(3):10 USC §130b,(b)(6) from having direct contact with any detainee mail, thus making it impossible for him to have committed the acts of which he was accused.

(3) Additional Interviews. In addition to the personnel identified in Sgt Cerveny's affidavit, I felt it necessary to pursue an understanding of the JDG environment, and policies under which the JDG guards operate. In pursuit of understanding I interviewed (b)(3):10 USC §130b,(b)(6). In addition to the interviews, I received a tour of Camps 2/3 and 4. Based on the knowledge I gained from my interviews and the tours, I decided to interview a medical professional from the JTF-GTMO Joint Medical Group (JMG) to determine if any medical personnel had identified any injuries sustained by the detainees that could be indicative of abuse. I interviewed (b)(3):10 USC §130b,(b)(6).