

LTC Jordan worked in the MI Group under COL Pappas. There was no SOP for sleep management. At one time it was done "at will" by the interrogators. When I got there, I wanted it in writing. A policy was drafted and sent to JAG.

~~OGA wore civilian clothes. They took inmates out of the facility.~~ MI wore DCUs with no nametags or rank. Now, OGA cannot take inmates out of the facility.

Non-military or OGA are CIA, FBI, and CID. They would tell us to take something away from an inmate, like a pillow or something to make him uncomfortable. I would tell them to put it in writing. If I had sensed they wanted someone "roughed up", then I would have said something. Everyone should have been treated the same

I know PFC England, and I do not consider her to be forthright. At Hillah, I was the EOR, and she and CPL Graner were caught sleeping together. She tried to use the EO system to her advantage. That is my personal opinion. I do not consider her to be honest. It is a rumor that she has said things about me.

CROSS EXAMINATION

No one should have to tell SGT Davis to not stomp on detainees' feet. I don't know why he would stomp a detainees feet. OGA policy is not to pile detainees on the floor. There is no policy to dive on a pile of detainees or physically assault detainees. There is no reason to instruct a soldier to stomp on or abuse detainees, especially if they were flexi-cuffed and sandbagged

An NCO or supervisor observing a detainee forced to masturbate with another kneeling in front, should have the duty and responsibility to halt the behavior. There is no need to have to instruct SGT Davis to stop the behavior.

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

The Article 32 proceeding recessed at 1315, 7 April 2004.

The Article 32 proceeding reconvened at 1412, 7 April 2004, with all parties present.

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

DIRECT EXAMINATION

I have known SGT Davis since April 2000. I have been in the military since September 1999. I served at the prison, Hillah, and in Bosnia together. I am on the day shift at the prison; SGT Davis is on the night shift. He is a competent NCO, very detailed, and not a show off or a piece of crap. He is a very good soldier.

We received a few days of OJT. No instruction on how to discipline detainees. No SOP or anything in writing or set in stone from the 72d MP CO. No idea of their standard practices.

I work MI holds in 1A and 1B day shift. I have seen detainees naked. Not every day, but from time to time. At first it was unusual, but normal after a while.

When SGT Cathcart got shot, the guy was trying for me.

I would sometimes see the detainees naked in their cells when I would come in for day shift duty. I'd ask why, and I was told because they were disruptive or threw feces or something. It was accepted after a while.

I made sure the detainees were fed, counted, showered, and taken wherever they needed to go for interrogations. We would pat them down, cuff them, and turn them over to MI.

I was too busy to know if they weren't getting any sleep at night. I do know of a sleep management plan given by MI.

There is chaos during a riot. I remember one when I was off duty, and called on to duty to assist at Ganci. It was all over then I arrived.

No one asked us to soften or roughen up detainees. Maybe "give them a little more attention" I would just do more PT with them. I think the detainees in 1A and 1B were more dangerous. MI had interest in them and they were all segregated. At first there were no files on them. Now there are files. We would get a face card and an arrest sheet. A lot of the info is wrong or half done, for instance one card would say: born: "Iraqi police", occupation: "Iraqi police". When the new MI unit arrived, we started seeing dossiers. I took leave in Dec. I didn't know what a 15-6 Inv was until after I came off of leave and a lot of the chain of command was suspended because of it. I thought 15-6 was some kind of form.

I did not question anything of MI personnel. They were there longer than me. The stuff they did, as far as I know was justified. I did not question them. I don't know anything about a regulation on detainee operations. I am not a correction officer. I'm just an MP, on the road fighting the forces of evil...

I know Gus--he refused all things. He was brought to me because he threw rocks at MPs. They couldn't handle him. CPT Brinson was the OIC of the hard site at the prison. He was the commander during our convoys. CPT Brinson was there when Gus was given IV's because he did not eat for two weeks. Gus was combative, he would take swings at people. He would just say: I REFUSE..." I wouldn't take Gus' clothes; he just refused to wear any. I did see pictures when CID came around. I saw Gus naked when Gus refused to wear clothes. CPT Brinson was there. Gus refused all things.

CROSS EXAMINATION

There are many Ganci camps. During a riot, prisoners would throw rocks, wires, etc. When I got to the Ganci riot, it was over. One riot I witnessed was at the hard site. The prisoners were inside their cells, tearing beds apart, pulling pipes out of the walls, and breaking the lights. I never witnessed any Ganci riot.

CPL Graner would always tell me when the prisoners had no clothes.

Females were kept in 1B, the top tier. When 1A top and bottom tier filled up, some prisoners were put in the bottom tier 1B.

No one would have to tell me not to assault any detainees. No one would have to tell me to not allow masturbation amongst detainees. I would wholeheartedly want it to stop. An NCO should not allow it to occur. SGT Davis should have stopped it if he saw it. If MI told me to make detainees masturbate together, I would cut off his air supply until he turned blue in the face. This is not acceptable instruction to me. There is no special training to know this behavior is wrong except "life".

REDIRECT EXAMINATION

I don't know what cellblock SGT Davis works. He is on night shift, I am on day shift.

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 DEFENSE RESTS

The Investigating Officer reminded the Accused that he had the right to make a statement during the proceeding or remain silent.

The Defense counsel stated that the SGT Davis would remain silent.

The Defense Counsel once again objected and commented on the government's production of witnesses, files, documents, and a speakerphone, which could have been used to produce telephonic testimony for unavailable witnesses; and requested that the government produce said items.

The Investigating Officer denied the Defense Counsel's request.

The Government Counsel made a Closing Statement.

The Defense Counsel made a Closing Statement.

The Government Counsel made a Rebuttal Statement.

The Investing Officer stated his recommendation in this case was advisory, and would be forwarded to the Convening Authority

The Article 32 proceeding adjourned at 1500, 7 April 2004.

Mike:

Working copy

Attached please find a copy of the summarized transcript made of the Harman Article 32 transcript. I believe the witnesses with the most information for you are probably Donald Reese and Israel Rivera.

v/r

Chris

Christopher Graveline

25 pp.

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ART 32 Transcript

Article 32 Transcript

U.S. v Harman

The Article 32 Proceedings were called to order at 1000 hours, 24 June 2004, at Victory Base, Iraq.

PERSONS PRESENT

MAJ Gary S. Carlson, Investigating Officer
MAJ Michael Holley, Government Counsel
CPT Christopher G. Graveline, Assistant Government Counsel
CPT Patsy Takemura, Detailed Military Defense Counsel
Mr. Frank Spinner, Defense Counsel
SPC Sabrina D. Harman Accused
SGT Jared F. Kary, Recorder
MAJ L. Peter Yob, Legal Advisor to Investigating Officer

PERSONS ABSENT

The Investigating officer stated that he was appointed by the order of Colonel David E. Quantock, Commander, 16th Military Police Brigade (Airborne) as the investigating officer under Article 32 (b) of the Uniform Code of Military Justice, to investigate certain charges against Specialist Sabrina D. Harman. The Investigating Officer read the general nature of the charges.

The Investigating officer insured that the accused had a copy of the charge sheet before her.

The accused waived the reading of the charges.

The investigating officer read the name of the accuser, Captain Phillip F. Edenfield.

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

SA Scott E. Bobeck, 10th MP BN (CID)
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 Hydrue Joyer, 372d MP CO
SPC Mathew Wisdom, 372d MP CO
CPL Nichols, 372d MP CO
SGT Cathcart, 372d MP CO
SGT Stephen Hubbard, 372d MP CO
SGT Robert Jones, 372d MP CO
SGT Cesar Rodriguez, 372d MP CO

Telephonic testimony:

PVI Jeremy Sivits,
SGT Samuel Provance, A CO, 302d MI BN, Germany
SA Tyler Pieron, CID

The investigation officer informed all parties that other requested witness were unavailable or would present testimony that is cumulative or not relevant to this particular case.

The investigating officer informed the accused that he was appointed as the investigating officer on 24 March 2004, by Colonel David E. Quantock. Then on 3 April 2004, he granted a delay that was submitted by defense until 10 April 2004. Colonel David E. Quantock then granted an additional delay from: 10 April 2004 to 24 April 2004; then from 24 April 2004 to 10 May 2004 and then 10 May 2004 to 24 June 2004.

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.

The Investigating officer requested that the Government provide something in writing at some point, indicating the elements of desecrating a human corpse.

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

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 accused stated she understood her rights.

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

The accused stated she understood her right; and that she would be represented by Mr. Spinner (civilian counsel) and CPT Takemura, and was ready to proceed.

The Government counsel stated his legal qualifications.

The Defense counsel stated his legal qualifications.

There was no objection to the Investigating Officer being detailed to the hearing.

All parties were prepared to proceed.

The Government and Defense Counsel made a comment concerning the clarification of witness that were available and want to establish who was going to be present today.

The Investigating Officer conducted a brief meeting to discuss administrative matters as to who had the correct witness list and clear up the misunderstanding of who was present to testify.

Defense Counsel (Mr. Spinner)

Requested that the government produce some reason why the Iraqi detainees would not be made available. He wanted a list of who was not available and the reason. He wanted something on the record to reflect the reason why witnesses were deemed unavailable. We are unclear as to the witness being called today. We have a request that the government submitted to you and the list contains three detainees. We want a clarification as to who will be here today to testify.

The Government Counsel made an Opening Statement (MAJ Holley)

We have made a tactical decision that we are not going to call any witnesses today. In compliance with R.CM 405 we will only introduce sworn statement of those that are deemed reasonably unavailable.

IO explains that there will be reasons, on the record, as to why the witnesses are not available

IO we will recess and clarify who has the correct list and work out the logistics of the day.

The Article 32 proceeding recessed at 1026, 24 June 2004.

The Article 32 proceeding reconvened at 1122, 24 June 2004, with all parties present.

IO dismissed the following witnesses:

CPL Nichols, 372d MP CO
SGT Stephen Hubbard, 372d MP CO

This agreement was made by all parties.

The Government's Witness (MAJ Holley):

Specialist Harman John Cruz, 502th Military Intelligence Battalion, was called as a witness, sworn, and testified in substance as follows:

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

The Defense Calls Captain Donald J. Reese, Commander, 372nd Military Police Company, was called as a witness, sworn, and testified in substance as follows:

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I have been the 372nd Military Police Commander since December of 2002.

I know the SPC Harman because she is a member of the 372nd MP CO. We meet in December of 2002. She was in the company before I took command. The unit is located in Cumberland Maryland. SPC Harman was part of fourth platoon a detachment that was located at Fort Meade.

The unit was mobilized in February of 2003 and sent to Fort Meade, Virginia. We stayed there from February to May. We left from Fort Meade to Kuwait and stayed there for about a month. We then went north to Iraq.

I was aware of the training that SPC Harman received. At Fort Meade we were given a class on the Geneva Convention. I was present for that class when SPC Harman was there. The class was about a three hours block. We turned over the Alpha roster to verify that the class was taken.

We were not told (at that time) that we would be serving as prison guards in Iraq. We were not told at Fort Meade or Kuwait that we would be serving as prison guards. We did not receive and more instruction on Geneva Convention while in Kuwait. We did not receive anything in writing to carry with us in relation to the treatment of Prisoners of War or Iraqi Detainees.

We did not receive training on how to coordinated activities with Military Intelligence. We are typically a combat support company and not an interment resettlement (IR) company. An interment resettlement company would be a company designed to have the capacity to guard prisoners. We were typically combat support. Combat support consists of Main Supply Route (MSR) security, and rear area security. We are not designed to perform IR duties. It would be correct to say that we would normally apprehend Iraqis and turn those detainees over.

Prior to the mission at the prison, in Hilla we ran three substations in conjunction with the Iraqi police. We supervised and monitored the Iraqis while they ran the substation. We did have some Iraqi criminals at the substation. It was a small jail. The Iraqi criminals are those that committed Iraqi on Iraqi crimes. The Iraqi police were the ones in charge of the substation.

To my knowledge our unit was not trained in IR.

We were given various stories about how long we (the unit) would be in Iraq. We hoped to leave with the Marine Corp in October. We were extended once at Hilla. We entered Iraq in May of 2003. We were station in Hilla which is about 50 miles south of Baghdad. We were in Hilla from May until September or early October. In Hilla we were performing duties that we were trained to do. We were performing a law and order mission at Hilla.

During that time I witnessed SPC Harman in the performance of her duties. At that time she performed excellent and I can say that because I observed her many time. A lot of the Iraqi kids liked her and she was very well known by the Iraqis. We would go to the substation that she was working at and I would see her with the kids. She had good relationship with the Iraqi national. The locals would be happy to see her yelling "Sabrina, Sabrina, Sabrina." If she was not there, they (Iraqis) would ask where she was.

During that period of time I never witnessed her being abusive toward Iraqis. My impression was that she had an excellent relationship with Iraqis.

I was told at Hilla that we might be leaving in September with the Marines, but then we found that we had been extended and we did not know how long it would be. I was notified in late September that we would be going to Camp Bucca and then a few weeks later we were notified that we would be going to Abu Ghraib instead. At Bucca the mission would have been IR.

The 310th MP Battalion out of New York was the unit we fell under and they notified us of the mission. The S-3 of the 310th notified us of the mission and I can not recall that person's name.

I expressed concern about the mission because I would have preferred to do a combat support type mission because that is what we are best suited for. I talked to the new Battalion the 320th at the Abu Ghraib and expressed my concern. I was told that we were not the only unit in this situation and that we would have to perform the mission. We completed a Relief in Place (RIP) with the 72nd MP CO for 10 days and that acted as our on the job training (OJT). There was a ten to fourteen day overlap of time that we were there with the 72nd MP CO.

I was not told much about the working relationship with the Military Intelligence I just knew that they had control of wing 1 of the prison. It was my understanding that they controlled the wing, but we had MPs there to safeguard the detainees and provide food and water. We would also provide the movement and transportation of the detainees within the prison.

I was confused about the chain of command at Abu Ghraib because we had so many different agencies there. The 320th was the military presence. Other agencies that were there were Coalition Provisional Authority (CPA), MI, OGA and FBI.

I determined where SPC Harman would be working at the prison. I did not specific assign her to that duty, but it was the forth platoon (her platoon) that was assigned to the hard site.

In wing one there were two cell blocks that were multi tiered. I usually had three people down there and they worked in both tiers. I do not recall exactly where she worked at all times. I recall women and children detained in cell block 1B.

I had the opportunity to go to the hard site and witness the performance of SPC Harman's duties. She worked the night shift from 1600 to 0400. I recall that SPC Harman did a good job. All the inmates knew her by name. I never witnessed anything hostile or any show of force from her. I never had an impression that there were problems with

her performance in 1B.

1A was where serious criminals and military intelligence holds were kept. I was aware that some of the detainees from 1A were put in 1B as overflow. We brought to the attention of the Battalion. We knew it was in violation in the Geneva Convention, but we had no other option because we had no space. We did the best we could to segregate the males, females and children. It was physically impossible to keep all the detainees separated. When we started the mission in October there were about 250 detainees in the hard site. There were about 4,000 to 5,000 detainees in all of Abu Ghraib.

I discussed the ratio of detainees to guard with my chain of command. I felt that we knew enough to complete the mission. Initially I thought that we had enough assets and soldiers to perform the mission, but as the number of detainees steadily increased and the number of the soldiers I had decreased it became an issue. Initially we were slightly higher than the balance of soldiers to detainees need to be within standard. Toward the end we were probably 1 in every 100 inmate. The desired ratio is probably 10 guards per 100 detainees.

I visited the hard site 100 times from mid October to mid December 2003 (about 25 days), from 1600 to 0400. Iraqis were hooded during those occasions. Iraqis were nude.

I did raise the issue of nudity to the previous company commander of the 72nd. I can not remember the name of the company commander at this time. He told me that it was a common practice to have the detainees nude. I raised the issue with the S-3 of the 320th MP Bn, Major Dinena. He told me that it was a tactic used by MI. The 320th is an IR Battalion. I assumed that since MAJ Dinena told me that the tactic was acceptable. I never looked for anything in writing.

It is safe to say that if I thought it was okay that SPC Harman and the others that worked in the hard site would assume that it was okay. I never sat down with the soldiers that worked in the hard site to explain who could be naked and who could not.

1A was on the right and 1B was on the left. There was no wall in front of the entrance when we got there. There was a wall erected and I do not know who had that done. The wall is about 12-14 feet away from the entrance and is at least 8 feet high. The wall covered 3/4 of the open bay across. I did not direct that the wall be put up. I was told that the wall was put up to keep the opposite sex from being able to look in. I believed that, that was a viable explanation to have the wall put up.

The Iraqi correctional officer knew that there were female detainees in there and the wall prevented them from looking in. There were female Iraqi correctional officers. Iraqi female guards were in that area when we got there. We discouraged them from going in there and we did not want them to go in the bay. The walls helped to keep them out.

I never saw SPC England in the hard site. I have seen the photos that portray SPC England in the hard site. In a hundred days of visits I never saw SPC England there. SPC was not assigned to work there. I was not aware that she was at the hard site. I knew of the relationship between CPL Graner and SPC England. I never gave them a No Contact order because I never prove the relationship. Based on their actions I knew that there was something going on between them. I knew late in December that she had been in the hard site. She had no reason to be there. She worked in the in-processing area on the other side of the prison. When we found out that she had been in the hard site I had SFC Bennett, her platoon sergeant, gave her a written order, verbal order and a counseling statement that directed her to directly to her room after work. We looked for her one night and could not find her. We went looking for her and we found her in the other barracks with CPL Graner.

I do not know where the clothes were put when they were taken from the detainees. I knew that our soldiers were being told to assist in the sleep deprivation of the detainees. My soldiers were briefed by MI to assist in the sleep deprivation. MI told them who should be up and the hours they had to sleep. There was a set schedule of sleep. A few months into the program a detainee had a panic attack and my MP stopped the program and sought medical attention. One of the OGA guy was upset and said he had to start all over. That is when I realized that I needed something in writing to protect my guys.

I asked for something in writing from the battalion or COL Pappas. I instructed my NCOIC, SFC Snider, to brief my night time shift that we need specific instructions in writing if we are going to assist in the sleep deprivation program. We will do it if COL Pappas had requested it in writing.

I believe that CID collected those documents. Those documents were stored in a small file cabinet in a small office on top of the wing. I believe that CID collected that filing cabinet. I did not actually see the filing cabinet removed by CID. It is third hand information. I believe that it would be possible to get a copy of those documents from CID.

I never went to anyone in my chain of command to inquire about the sleep deprivation techniques. I received the information from COL Pappas and I did not question it because it came from a full bird Colonel. I did not do much with COL Pappas because he was not there to often.

LTC Jordan did not have anything to do with interrogations. I do not know who LTC Jordan worked for. LTC Jordan was around a lot and he is a civil affairs guy. He was not in charge of interrogations. I have never seen him involved in interrogations. He was just always around.

The MI was in charge of the wing. It was run by the MI folks and they decided what went on in there. CPT Wood was the Company commander for the MI Company. I do not remember to many last names. I know faces of MI people. A lot of time their name tapes were covered up by the vests we were wearing. Chief Reyes was there a good bit.

The only OGA guy I knew was known as Big Steve. There were some younger guys there, E-4 and E-5s but I do not remember their names. I can not remember there names. I could recognize them. There were people around and I am not good with names. We did not exchange names. I could identify them in a line up if I had there pictures.

OGA typically wore civilian clothing and the MI soldiers wore military clothing. There was a time when a detainee became a corpse. It was in December sometime. It was in late 2003. I never saw him come in. All the information I have on the corpse is third party. This happened in one of my cell blocks. It happened in the shower. He was in the shower for a brief time before he passed.

The Government requested clarification if the knowledge was first hand to the witness.

I did see him after he died. His body was on the top tier as you walk into the cell block to the left. It was on the top left side of the tier. I was called by CPT Brison, Officer in Charge (OIC) of the wing, and he told me that we had a situation and that I should come up to see what was going on.

The body was clothed and laying on the floor. COL Pappas, LTC Jordan and some OGA guys were present looking at the body. There was another Major with COL Pappas and I do not know the name. It is safe to say that the detainee had been interrogated and died. It was my impression that he died in the shower. It was my impression that the interrogation took place in the shower. I was told that when they bought him in he was combative. I was told that he died during the interrogation. At that time I was told that he died of a heart attack.

I could see that he was bleeding from the head, nose and mouth. I am not aware of any medical personnel that came to the scene to ascertain the cause of death. I heard LTC Jordan tell CPT Brinson to get some ice from the chow hall and pack the body in ice.

I was aware of the action that was taken to either hook an IV to the body or to make it look like there was an IV attached to the body.

The OGA guys were visible upset that this had happened.

The detainee was never reported in as a prisoner or inmate. This was one of those ghost detainees. There was no record by name or number. It was clear that he was bought there for OGA or MI purposes. This was not unusual.

I did hear COL Pappas say something like "I'm not going to go down for this," or "I'm not going to go down alone for this."

Whatever decision was made was made and then LTC Jordan sent CPT Brison to get ice.

The story that I got that night was the man was involved with the Red Cross building being blown up that night in Baghdad. The team that went in eliminated two of the three threats and he was the one that they brought to the prison alive. They took him upstairs and started the interrogation and shortly after that he passed.

It appeared that he had an injury on the side of his head. It looked like it had been smashed or something. Again, this is third party information, but I was told that he was maybe hit with a rifle or something like that by one of the capturing units that brought him in.

To my knowledge no one took him for any medical attention. We had a clinic at the prison. We had doctors there. No one took him to see a doctor before they took him to the cell block. No one went to get a doctor to have the detainee treated. All of this is to the best of my knowledge.

CPT Brinson said that he died of a heart attack, but I am not sure where he got his information from. I do not think that CPT Brinson participated in the interrogation. That is not his job.

I do not remember anyone else saying that he died of a heart attack. I do not recall if anyone else heard CPT Brinson say that the man had a heart attack. It was a very small room with a lot of people present and a dead body. No one corrected CPT Brinson when he said the man died of a heart attack. At that point there was attempt to establish the cause of death.

From my understanding the next day there was an autopsy done on the detainee and the cause of death was maybe a blood clot or something else. I was told that it was a blood clot and trauma. I do not know of any official document that established the cause of death.

The next day the body was taken out of the prison hooked up to an IV. I was told the reasoning behind the IV was to not allow the other inmates become upset that someone in our custody had passed during an interrogation. I was not present when the body was removed from the cell block.

I do not know who performed the autopsy and established the cause of death. I was told that he was taken to Baghdad, but I do not know where. I heard about this information after the fact. To my personal knowledge there was no medical personnel at Abu Ghraib looked at the body.

I have seen a lot of death and my soldiers have too. It is a war and death is not an uncommon thing for my soldiers. No one explained to the soldier what had happened we wanted to keep it in the small group.

At some point a decision was made to put this body on ice and leave it there. OGA, COL Pappas, LTC Jordan, MI and I all left the area. We left the soldiers there to guard the corpse. We left the melting rotting corpse there. I did not pass down the chain how to deal with the situation.

I have no knowledge of who actually took the corpse out of the cell block. COL Pappas was there and he knew about the situation so I did not report it up my chain of command. I let the full bird do his job.

My people work in that cell block. My chain of command knew because Major Dinena, the S-3, knew. I am sure the Battalion commander knew and everybody else. I did not have to report it because it was common knowledge between the senior people there. I was the only one in my chain of command that was there. I did not see anyone from my Battalion come down and actually see the body.

I did not sit down with anyone from MI to establish the line between hooding, nudity and sleep deprivation. The only thing that was in writing was the sleep deprivation that I referred to earlier.

In October 2003 there was no guidance put in writing for the prison standards. We were not trained in IR. This was a totally new mission for all of us. At that time no one stopped to review the Geneva Convention.

The Red Cross visited cell block 1A in the October time frame. They were granted access. I did not accompany them. The Red Cross insisted that they be able to go on there on their own and visited who they wanted to visit. It was my understanding that they received permission to visit cell block 1A by COL Pappas. It was my understanding that they allowed them to go into cell block 1A. They tried to put restriction on the second visit, but the ICRC was very persistent. After some discussion with COL Pappas they received access to where they wanted to go. It was my understanding that on the second visit they spoke to whoever they wanted to speak to. I was not aware of any complaints that the ICRC made.

I am not aware of any other outside group that wanted to gain access to see what the living conditions were like. I did not see any positioning or zip ties used to keep the detainees up. If there was a reason to go into a cell we would have the inmates stick their hands out and use the zip strips to keep them in one place. This technique could have been used for sleep deprivation.

One of the first things I saw when I walked in was female underwear over the heads of the detainees. This practice was taking place before we got there. This was in 1A and 1B.

One of the inmates used an MRE carton as underwear and to cover himself. I thought it was odd to have women's underwear on their heads so I talked to the person that I was taking over for. He told me that it was a humiliation technique, or an MI technique.

We had a supply issue. We had supply issues. We did not have enough underwear. I know some of the females had to wear male boxers. Putting underwear on the heads was an MI tactic. I never saw the detainees put in any awkward positions. I just saw them standing. I saw evidence of some other things.

Standing on a box could be one way to implement sleep deprivation. I do not know of any other practices that MI used.

I had no knowledge of MI telling my soldiers to soften up the inmates. My soldiers were receiving guidance from MI. My soldiers did express concern about the treatment and they wanted something in writing.

After the ICRC came in and complained about the nudity I noticed things changed. As time went on the nudity and women's underwear lessened. That was around the December time frame.

I was not aware of pictures being taken in 1A. The first time I saw the images was the night the Battalion commander called me to his office at midnight. It was in January 2004.

I was not aware pictures of the inmates being used as screensaver during that time. I never saw a screensaver with those images.

I was briefed by CID, Chief Author. I was asked to escort the accused to our living area. CID then collected evidence from their rooms that they thought was pertinent.

It is my testimony under oath that I had no knowledge of pictures being taken on the cell block.

The Iraqi detainees were there for different reasons. Some inmates were there as MI Holds, CID holds, and Iraqi on Iraqi criminals. There was a mix of detainees.

I had no first hand knowledge that SPC Harman tried to seek medical attention for the detainees, but I did hear second hand that she had attempted to help the detainees.

We were all concerned that women and children were being held there for a long period of time without charges. We talked with the JAG office and the battalion and expressed our concerns that the women and children were

staying next to possible terrorists.

We constantly made lists for JAG and they were supposed to go through the proper procedures to have the individuals cases reviewed. Possibly to have some of the detainees transferred, moved or released. We had a few cases that we felt that the Iraqi was innocent, but that was taking their word for it. Many of them were not even being processed.

My soldiers were not given a distinction between handling CID holds and MI holds. There was no guidance.

The only time I saw dogs being used was the night of the shooting when we bought the dogs in, to search the area. The dog handles did not work for me. I did not direct the dog handlers. My soldiers were not in the position to direct the dog handlers. They appeared to be under the direction of MI.

I had no knowledge of dog handlers being used for interrogations. I thought that there primary mission was to crowd control and riots. I was never told under the Geneva Convention or any other Army Regulation that it was prohibited to use dogs for interrogation. There was no clear cut guidance that I was aware of. It is fair to say that if COL Pappas directed the use of dogs then my soldiers would think that it was okay. The dogs were used after the incident that occurred on cell block 1A. An Iraqi detainee had a gun and shot at one of my soldiers.

Iraqi detainees were able to get a hold of weapons on cell block 1A. My soldiers were subject to threats by the Iraqi prisoners. It was well known among the guards that they were at risk. Based on the ratio of guards to inmates there was a threat to my soldiers. My soldiers were not trained to handle prisoners.

We were being mortared during that time frame. Mortars did hit SPC Harman's living area. The mortars were landing where we lived. They were coming in routinely. The soldiers would normally work 15 days in a row before getting a break. I would have to say that the shifts we were working were not to IR standards. SPC Harman was a reservist.

My soldiers were not trained for this type of mission. I was upset about the position that we were in, but I was told flat out that that was the mission that we had and we had to do it.

We did not have a choice. SPC Harman did not have a choice.

She was under orders to be there. We were not getting any help with the mission. We did not receive any additional soldier support.

The Article 32 proceeding recessed at 1247, 24 June 2004.

The Article 32 proceeding reconvened at 1414, 24 June 2004, with all parties present.

The IO advised Captain Reese that he was still under oath.

QUESTIONS BY THE GOVERNMENT COUNSEL (MAJ Holley)

The death in the prison occurred in early December and it was late at night. A SEAL team bought him in. I was not there when they bought him in. I do not have names of the soldiers.

OGA took control of the detainee from the SEAL team. Typically the OGA personnel wore civilian clothing and they were around 24 hours a day. They would come in and out. They would tell the MPs if they need a detainee. They would interrogate the detainees and then my MP would escort them around.

There were about a dozen OGA personnel around. The only name I know was Big Steve, a big tall guy. Stevanivich was another name. I believed he was a civilian because he wore the clothing. I have no reason to believe that he was involved in the death of the detainee.

I witnessed the body late at night around 2300. I can not remember exactly who was there, but there were few people around. COL Pappas was there. There was a female major from COL Pappas's staff that was there. I can not remember anymore names.

They could not remove the body that night. I do not remember why. The idea behind the IV was to prevent the other inmates from becoming upset. CPT Brison told me that information.

CPT Brison would be the best person to question about this incident. CPT Brison is home. He REFRATED back in December (he was sent home). He is a civilian now. The corpse was in the cell. CPT Brinson was given guidance to keep the body locked in the cell.

CPT Brison gave the keys to one of the MPs when he left for the night. The night shift could have been SSG Frederick, CPL Graner, SGT Davis, SPC Ambul. I am not sure who was on that shift, it could have been anyone that normally worked that shift. It could have been anyone of those that normally work there. I never saw the corpse again. It was a big event. We did talk about it from time to time. We did not go into a lot of detail about it later.

It was my understanding that we had a team of dog handlers from the Navy and the Army. I do not recall the name of any of the dog handlers or their supervisors.

To correct myself from earlier, the training we received before we deployed was at Fort Lee Virginia. The slide show that was presented was on law of war and rules of engagement. The slide show addressed how all soldiers will treat Iraqis. It was a typical ROE brief. The gist of the brief was to treat people humanly.

SPC Harman is an excellent soldier and a good MP. She did a very good job. MPs have many battle field missions. Treatment of EPWs is conducted during MP schooling. This training focuses on the humane treatment of POW and anyone in detention. I never personally advised or implied that any of my MPs could abuse a detainee.

I heard of verbal abuse of a detainee by a soldier that was working in the prison and I immediately removed him. I followed up with written counseling. The soldier understood that his behavior was unacceptable.

I had some long days at the prison. I would normally go to bed around 2330. Between the hours 0001 and 0700 I did not visit the cell block that often.

I assigned MPs that had corrections training. I entrusted them with the night shift. I had no reason to believe that they were not doing their job. It was likely that things could happen on that shift that I would not know about.

At that time I did not know that SPC England had been on the cell block at night.

There were a few occasions that the dogs were used to search for drugs. If I had known of the actions that were taking place after midnight I would have taken action.

There are a total of 7 tiers in the prison now. There were 4 at the time we are referring to. We ran tier 1A and 1B for the most part and tried to let the Iraqi's run the other area. The detainees were divided by numbers.

We supervised the entire thing, but we were trying to turn the control over. One of my MPs helped out a detainee that had a panic attack and I wanted to protect my MPs by setting up some standards. This MP stopped what was occurring to render aid. It is safe to say that if one of my MPs witness something that was inhumane that they could stop it.

I would expect that if my MPs witnessed something wrong they would stop it.

I read the directives that COL Pappas put out about sleep deprivation. None of those directives authorized physical abuse such as striking, slapping or punishing. None of those directives authorized sexual humiliation. None of those directives authorized the placing of electrical wires on the detainee's hands to create the impression that they would be electrocuted. None of those directives related to the authorization on abuse of detainees.

I saw a detainee with women's underwear on their head once or twice when I first got there. I believe MI or someone else directed that this be done. It is possible that some of the detainees did it themselves. We did have some bizarre detainees. There were some detainees with physiological problems. Some detainee had to receive women's underwear because we had supply issues.

I never authorized or witnessed individuals taking photos. I never remember witnessing any abusive photos such as a screen saver. I never witness the use of an MRE box as a sleep deprivation devise.

The process of adjudicating cases and releasing prisoners was extremely slow. The JAG and MI were overwhelmed with the amount of case files.

It is possible that our soldier could have started to resent the Iraqi people based on the attacks. Hatred could have been created.

I would put the men and women of my company up against any active duty company. That one wing was a very small part of what we did. I saw a number of acts of courage; dignity and professionalism from my soldiers. These acts were performed under very difficult circumstances. That is what we do a soldiers.

I was heartbroken when I first saw the photo. I was in tears when I saw what happened. I trusted the soldiers to do the job. I knew that this action was far beyond any action that was allowable. I selected the soldiers that would be suited for the job based on their corrections training.

Defense (Mr. Spinner) objects to the line of questioning, as to the focus away from SPC Harman's Article 32 Investigation.

I think that the world has seen those photos.

I love my soldiers including SPC Harman, but I was just as disappointed in her as I was in anyone else. She had no choice to be there. No soldiers had a choice to be there. She did have the choice as to how she would perform her duties. She was compassionate to others and she knew right from wrong. She knew as much as any one that this behavior was unacceptable.

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I believe that SPC Harman is in one photo. It is more serious to kill someone then to take a picture.

Government (MAJ Holy) objects to the line of questioning, as to the focus away from SPC Harman's Article 32 Investigation.

IO asked the defense to continue but keep focused on SPC Harman's Art 32 Investigation

There is one picture of SPC Harman standing behind naked bodies.

I was not aware of SPC Harman complaining to her friends back home about the abuse. The prosecution did not inform me that SPC Harman was writing home to Virginia in October to express her concern about the abuse.

No one let me know that she was going to start taking photographs to document the abuse that was taking place. No one shared the information in the letter with me. There is always a chain of command and it is always available.

After the death in the cell block it may have been more difficult to report minor forms of abuse.

I was not aware that SPC Harman reported the abuse of an inmate being hand cuffed for a long period of time.

I had a computer that was seized by CID. It was a government computer. It was returned to me and the hard drive

was missing. I am not aware of what happened to the hard drive.

I was not aware of any pencil whipping going on at Fort Lee. I understand what pencil whipping is.

Government Counsel introduce Prosecution Exhibit 1, 2, and 3

Prosecution Exhibit 1: Photo
Prosecution Exhibit 2: Photo
Prosecution Exhibit 3: Photo

Government Counsel shows the witness Prosecution Exhibit 1

SPC Harman does not look upset. SPC Harman acts like it is a photo opportunity.

Government Counsel shows the witness Prosecution Exhibit 2 and 3

SPC Harman does not look upset.

I am not aware of who put the wires on his hand of the detainee. I do not believe that is it minor offense to place wires on the fingers of a detainee for the purpose of creating the perception that he would be electrocuted if he stepped off the MRE box.

The image in Prosecution exhibit 2 and 3 is the corpses I witnessed in early December.

QUESTIONS BY THE INVESTIGATING OFFICER (MAJ Carlson)

I have been an MP for 19 years. I have served in a variety of different units.

There could be a blur of the IR and CS mission.

Throughout this campaign we have had to adapt to the mission.

Having the detainees naked was already in place when we got there.

We had a good working relationship with MI. Many of my soldiers became good friends with the MI folks. There was no joint planning of how the detainees were going to be treated. The MI just told the MP what they wanted done. The MPs were there to safeguard and provide movement of the detainees.

When we arrived at Abu Guraib it was like a war zone with rubble everywhere. There was nothing there for the soldiers. It was a below average living standards.

There were no policies or SOPs in posted when we got there. We were in the process of working on one. We got there around October 15. There was a policy form the 72nd MP Company, but it was not approved from any higher level. It was a working copy.

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

This was SPC Harman's first deployment to my knowledge. There is a little bit of EPW training for MPs. It would not facilitate working in the hard site or working with MI. Working with MI was a very unorthodox thing for the MPs. We expected a lot from an inexperienced soldier.

I did not know that she delivered pizza in her civilian job.

I am aware that SPC Harman went on leave on the 9th of November.

From what I know most of this occurred on the 8th of November.

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 Defense called Sergeant First Class Shannon Snider, Assistant Operation Sergeant, 372nd Military Police Company was called as a witness, sworn, and testified in substance as follows:

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I worked with SPC Harman. I started to work with her at Fort Lee, Virginia. During the deployment I saw her a couple of times a week; maybe once a day. I saw her about the same at Hilla as I did at Abu Guraib.

She was not a trouble maker. She was a good soldier. She was pretty quiet. She was a hard worker. I had no discipline problems with her.

She was friendly with the Iraqis and they all knew her. I can not remember ever having to correct her at Abu Guraib (maybe a uniform violation).

I know who CPL Graner is. He had a computer and I assume that it was in his room. I did not see his screen saver. I never saw naked Iraqis on his screen saver.

QUESTIONS BY THE GOVERNMENT COUNSEL (CPT Graveline)

I was the total NCOIC of the hard site. I was able to help identify the soldiers that were correctional officers in their civilian jobs and set up the shifts based on that information. SSG Frederick and CPL Graner were put on the night shift. For the day shift it was SGT Washington, SPC Stavanoas, and SGT Ward. Those with correction officer background were divided between night and day shift.

On November 9th there was a riot in the Ganci portion of the prison. I do not know what the riot was about. The rioters were moved to the hard site.

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I was told that the detainees in the pyramid photos were the rioters.

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 1508, 24 June 2004.

The Article 32 proceeding reconvened at 1520, 24 June 2004, with all parties present.

IO dismissed the following witnesses:

SSG Robert J. Elliot, 372d MP CO
SGT Bruce Brown, 372d MP CO
SPC Jason Kenner, 372nd MP CO
SGT Hydrue Joyner, 372nd MP CO

This agreement was made by all parties.

The Defense called SPC Matthew K. Wisdom, 372nd MP, Military Police Officer, was called as a witness, sworn, and testified in substance as follows:

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I worked at Abu Guriab in October and November of 2003. I know SPC Harman. I worked with her during that period of time. I worked on one of the four tiers. I was in one of the general population tiers.

Late on the 8th of November and early on the 9th of November I went to tier 1A. I witnessed a pile of clothed men on the floor. I was concerned about the pile. I took one of them down there.

When Ganci gave us trouble we would move them down there. I escorted one on them down there. We I got the SFC Snider grabbed my prisoner and threw him on the floor.

I went to SGT Jones after this and I told him everything I saw. I told him because I thought it was criminal in nature. I wanted to be removed from the prison. I had a problem with everything I saw.

SGT Jones said he passed the information up the chain. SGT Jones told me it was taken care of and I was moved form the prison the next day. SGT Jones told me it was taken care of so I believed it was.

QUESTIONS BY THE GOVERNMENT COUNSEL (CPT Graveline)

I was instructed to get SSG Frederick from the hard site because he needed to do something. When I went back down there I saw a naked man masturbating into another man's mouth. He had his mouth open and he was on his knees.

The other guards were Graner, Davis, Frederick, Ambul, Harman and England. I remember Graner posing for a photograph like he was going to hit a detainee with a sand bag on his head and then he did hit him. I saw SGT Davis walking around stomping on the toes of detainees. I saw SSG Frederick hit a detainee in the chest. The detainees where crying out in pain.

SFC Snider yelled from the top tier to stop SGT Davis from stepping on hands and toes. He asked me if I was the one that told him to stop and I said, "No, it was SFC Snider." He thought it was me that told him to stop, but it was not.

When I came back I saw SSG Frederick and heard England's voice. I heard her say, "he is getting hard." SSG Frederick said something like, "you see what these animals do when we leave them alone for a second," or something like that. I am not aware of anyone else telling them to stop assaulting the detainees.

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I saw SFC Snider looking down on the pile so he did see what was going on. He was the senior NCO present at the time. He was in the position to stop it and take corrective action. I told SGT Jones the first person in my chain of command. I told him everything I saw and as far as I was concerned it was taken care of.

QUESTIONS BY THE INVESTIGATING OFFICER (MAJ Carlson)

I did not witness SPC Harman hit any detainees at anytime.

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 Defense called SGT Robert Jones, 372nd MP, team member, was called as a witness, sworn, and testified in substance as follows:

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I worked at Abu Gurib on 8 November 2003.

SPC Wisdom did come to me and report abuse. I was in tower 5 at the time. SPC Wisdom came to the tower. I was his team leader. He told me witnessed a prisoner get his toes stepped on and some getting punched.

He came back and reported to me that a detainee was masturbating into the mouth of another detainee. He came to me twice in one hour.

I took that information to SSG Frederick. I was not satisfied with that conversation so I went to SSG Elliot and he wanted me to show him proof. I reported everything to SSG Elliott. I told SSG Frederick that I did not want SPC Wisdom working with him anymore and he reported to the tower the next day.

I do not know what SSG Elliot did with the information I just know that SPC Wisdom reported to me the next day.

QUESTIONS BY THE GOVERNMENT COUNSEL (CPT Graveline)

I have been SPC Wisdom's team leader since the beginning of the deployment (February of 2003).

SPC Wisdom is a religious, ethical and trust worthy person.

This was SPC Wisdom's first day back off leave and he came to me to report the incident. He said the detainees were involved in a riot and he did not want to be around when anyone was being hit.

The first report I did not have much urgency because I am a police officer and I know people get hit.

When he came back the second time about the masturbation I went to SSG Frederick. He told me he saw SGT Davis was stepping on the toes of the detainees and SSG Frederick punched one of them. I do not recall him mentioning any more names.

The second time he came back he said that SPC Harman, SPC England, CPL Graner, and SSG Frederick were there during the masturbation. I went and got in SSG Frederick face and had a heated conversation. It was an uncomfortable position to have to get in a higher ranking soldiers face. SSG Frederick told me to calm down, but I just wasn't SPC Wisdom out of there. He decided to move SPC Wisdom. I was not satisfied with that conversation so I went to SSG Elliot to find out what was going on. I did not hear anything else about the abuse after that. I have worked for the Baltimore City police department for five years.

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I went around SSG Frederick to SSG Elliot. I do not know what capacity SSG Elliot worked as in the prison. I worked tower 5, force protection. I am not aware of him reporting that to anyone else. I wanted to protect SPC Wisdom, my soldier. I do not know what message came out of all of this.

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 Defense called SGT William A. Cathcart, 372nd MP, Military Police Officer, was called as a witness, sworn, and testified in substance as follows:

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I worked at Abu Guraib form October of 2003 to around February of 2004. I was assigned to the night shift. form 1600 to 0400.

We called the Iraqis detainees and inmates.

There was an occasion that an inmate shot at me. It happened in wing 1A. It was on Thanksgiving eve and we had not been on the shift to long when it happened. I was working with SPC Ambul who was working wing 1B.

She came to me and said an inmate in 1A indicated that there was a weapon in 1A. We took the inmate that provided the information upstairs. I referred to the inmates as numbers. We researched who it was. One detainee told us that another detainee had a weapon. We identified the detainee that had the weapon.

We were told that he had a handgun and two bayonet knives. Not know the environment I contacted my supervisors SSG Frederick and SSG Elliot. LTC Jordan was around and there were a couple MI folks there. Medical was on a round so they were there.

We identified the cell and did a tactical approach. I was the contact person. I asked him to step out. That is when he went to a praying position. Then he said he was not coming out. He reached over to the pillow and we stepped back.

That is when the shooting started and I want to say he got off 6 to 8 rounds. I felt something strike me. My chest was hurting after. I was wearing protective equipment and I was glad I was wearing it.

SSG Elliot returned fire with two non lethal rounds. The third round was lethal. The detainee was injured pretty badly. I checked the cell out first. We gave him medical attention and he survived.

It is fair to say that this was a dangerous environment that we worked in. We were mortared constantly and on alert a lot. We also had to worry about Iraqi Correctional Officers (ICO) because they smuggled weapons into the detainees. It was a stressful environment. Every time we did a cell search we found weapons.

I took over 1A in December 2003. We tried to sit down with MI, JAG and medical to all the parties involved to get on the same page. We wanted an SOP for the sleep management program. I do not know if it was required before that so I requested it. There were many people that had the job before me. I started worked full time at cell block 1A in December. There was an instruction sheet for the sleep deprivation program, but no SOP that stated who was to do it and how to do it. The doctor said that the detainees should only be on the program for 72 hours. There should have been a break in the sleep deprivation program after 72 hours, but there was nothing in writing.

QUESTIONS BY THE GOVERNMENT COUNSEL (CPT Graveline)

I work as a computer engineer in my civilian job. I was on active duty from 1975 to 1981. Then I worked as a deputy chief in Arlington, Virginia.

I took over in December. I tried to get people on the same page. I thought we needed an SOP. Chief Rivas was with the old MI group and Chief Olson was on the MI group that was transitioning in. MAJ Thompson was the Trans Interrogation Physician, for the cell block. There was a physiologist with the Major, but I do not remember the name.

We were never asked to pile naked detainees up on the floor, make them masturbate, or sexually humiliate them.

I replaced CPL Graner as the NCOIC of that shift.

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 Defense called SGT Caesar Rodriguez, 372nd MP, supply escort team member, was called as a witness, sworn, and testified in substance as follows:

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I have been deployed since 14 May and my duties varied from law and order and jail house guard.

SPC Harman was my team member. I work with her everyday all day. She was a beneficial to the mission because she became or public relations person. She showed me that there was nothing wrong with the locals. She bought the family that live across for the substation a refrigerator and mattresses. It made our job easier. Her performance was good and it made our lives easier.

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 Defense called SPC Israel Rivera, B Company, 325th MI Battalion, was called as a witness, sworn, and testified in substance as follows:

QUESTIONS BY THE GOVERNMENT COUNSEL (MAJ Holley)

I am in the reserves from Texas. I have been in the military since 2001. I am a 96B intelligence analyst.

On 24 and 25 October there was an incident. At that time I belonged to 205th MI Bde. A mortar attack in September ended our after night interrogations. The 372nd took over in the middle of October.

SPC Cruz came to the living quarters around 1900 and told me about a rape of a 15 year old boy. I was told that two or three detainees held him down and raped him. I asked what they were going to do with them and he asked me if I wanted to come find out.

We headed to tier 1A, the isolation cell block to see what was going on. SPC Krol, with MI, had joined us. SPC Harman, Graner, another MP, and a specialist in green BDU were all there. The soldier with the green BDUs had a speaker box with a microphone attached to it. He was shooting homosexual slurs into the cell that the detainees were in. The soldier with the green BDU took the detainees out of the cell.

The detainees were shaking. They were told with the help Adal to get down on their stomachs and crawl. CPL Graner made a stipulation that they had to drag their genitally on the floor.

The MPs were in charge and Graner was in charge because he was the loudest. SPC Harman was instigating it tell them to roll around and she was making motions. She was asking for a confession.

I questioned this behavior and I knew it was illegal. I asked SPC Cruz if we even knew if they did what they were accused of. He said that one of them came forward and then recanted. SPC Krol poured a cup of water on the detainees.

One of the detainees started to bleed form the knee and SPC Cruz asked Graner if we should stop and he said, "no." He said it was just a small room. I saw no regret or fear from SPC Harman. It seamed as if she was happily participating. The detainees were freighted, they were shaking, begging and crying. It is terrible for and Arab to be naked with another man. They begged for us to stop.

SPC Krol threw a Nerf football at them. The MPs, SPC Krol and Adal all put the detainees on the floor and handcuff them together in sexual position. I do not remember how many time SPC Krol threw the football from the top tier.

I stayed for about 10 to 15 minutes. I told SPC Cruz that I had enough and I headed back. He asked me form my silence. I reported it to SPC Schlegel and she told SGT Joyner. I did not follow up with that information and I do not think it went anywhere.

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

It was two or three people that were suspected of raping to boy. I do not know who decided to bring the three

detainees to the cell block. They were there when I we got there. SPC Cruz and I were there out of curiosity. I do not know who apprehended the detainees. I do not know what their duties where that night. I never questioned the rape and I never saw the boy at any time.

OGVERNEMT OBJECTION as to the line of questioning

I saw what was happening to the three men. I did not have the entire story. The law is the law.

Graner was giving the order so he was in charge. I believe he was a Corporal.

I feel an obligation to step in if someone is in violation of the law. I did not step in and stop this situation because I was in fear. When you are there and you see this going it has an effect on you.

I do not know what the MPs were told to do. I do not know what they were told. I would be shocked if this were allowed. I did not report it at the time. I lied to SPC Cruz. I just wanted to get out of there. I want to separate myself from the situation. I told SPC Schlegel. I did not pursue it and I thought it was over. I would have been aware of an investigation.

To my knowledge SPC Cruz was never investigated.

QUESTIONS BY THE GOVERNMENT COUNSEL (MAJ Holley)

They all seemed to be having a good time. SPC Harman's demeanor never changed and she did not show any remorse. The interpreter kept looking at me saying "isn't this fun."

SPC Harman seemed to be enjoying this I do not minimize rape in any way.

I feel that everyone deserves due process for any crime that may have been committed.

I saw SPC Harman after this and she never approached me and told me that she enjoyed it or not.

I feel that the truth needs to be told at whatever cost.

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I feel horrible about a 15 year old boy being raped.

QUESTIONS BY THE INVESTIGATING OFFICER (MAJ Carlson)

I never saw SPC Harman put a hand on a detainee.

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 1653, 24 June 2004.

The Article 32 proceeding reconvened at 1820, 24 June 2004, with all parties present.

Telephonic Testimony

The Government called PV1 Jeremy C. Sivits, 372nd MP CO, detained at Camp Arfjan, was called as a witness, sworn, and testified telephonically in substance as follows:

QUESTIONS BY THE GOVERNMENT COUNSEL (MAJ Holley)

I was activated on February 24th 2003. We arrive in Kuwait May 15th 2003 and then in Iraq on May 30th 2003. I am a 63B which is a light wheeled vehicle mechanic.

I was on generation maintenance detail on the night in question, which meant that I was on standby in the CO TOC. While I was in the TOC SSG Frederick came in and explained that seven detainees had to be processed to the hard site because of a riot.

He asked me to come down to the hard site so I did. We went to the holding area and there were seven detainees and four guards. SSG Frederick asked me if I wanted to escort a detainee and I said yes. I took a detainee by the arm and lead him down to tier 1A.

SPC Harman, SGT Davis, PFC England, CPL Graner, SSG Frederick and SFC Snider were all in the cell block. I heard CPL Graner yelling something in Arabic. When I turned the corner and saw a pile of detainees on the floor. I shoved my detainee into the pile.

That is when the abuse started toward the detainees. One detainee was struck in the temple. One detainee was struck in the chest. I witnesses SPC Harman write Rapist on one of the detainee's thighs.

SSG Frederick and CPL Graner struck the detainees. SSG Frederick hit the detainee in the chest with a closed fist. SSG Frederick said that he though that he put the detainee in cardiac arrest. I went over to the detainee to check on his breathing. They called for a female medic to come down and check on him. SPC Ambul went bought an inhaler down for the second tier.

CPL Graner picked the detainees head up and punched him in the temple knocking him unconscious. The detainee was still breathing.

I did not see SPC Harman strike anyone. I witnessed SGT Davis and PFC England stepping on the hands and toes.

PFC England is not an MP. The only reason I know she might have been there was to see CPL Graner.

SFC Snider yelled at SGT Davis to stop; from the top tier. SGT Davis then left. SFC Snider tone was very strong. I have never heard SFC Snider speak in that tone before. I do not know if SFC Snider witness SSG Fredrick or CPL Graner hit a detainee. I do not know if SFC Snider witnessed SPC Harman write rapist on the leg of a detainee. I witness SPC Harman taking photographs of this event.

After this they had the detainees strip down. That is when they were put in the pyramid. More photos were taken at that point. SSG Frederick and CPL Graner put them in the pyramid. SPC Harman was standing back with me looking at the pyramid with a look of disgust on her face like she could not believe this was happening.

SPC Harman did not appear to approve of this behavior, but she did take photographs.

They had a detainee against the wall and one on his knees to make it look like the detainee was performing oral sex. CPL Graner put them in this position. SSG Frederick was standing there.

The detainees were all flex cuffed with sandbags over there head. The detainees appeared to be afraid. After CPL Graner hit the detainee he stood up and shook his hand and said, "dam that hurt." There a were number if individuals taking photos.

SPC Harman was primarily trying to avoid being in the photos.

PFC England took a photo behind the pyramid. She was commenting on the size of the detainee's genitals. She was pointing at their genitals with a cigarette in her mouth.

SPC Harman is a caring person. I spoke with SPC Harman when we went on leave. We had talked about the incident and she said she was disgusted with what went on. She did not approve of it. She did write rapist on the

leg of a detainee and she took photos. She did not physically contact any detainees. She had remorse about her conduct.

I am in confinement now. My sentence was one year for the conduct on that night. My involvement was to be there and not report or stop these abuses.

The impact of these abuses is big. It is looked down upon.

There would be hell to pay if the chain of command found out about this.

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

I was aware of SPC Harman leaving one time during the evening. It is possible that I did not see her leaving at other times.

SFC Snider was in a position to be aware of what was going on for about a minute. He could have been there longer. He could have left through that office upstairs and went down in 1B. He was upstairs looking down. He was in 1A when I saw him. He could have crossed through the office area on the second tier. I did not see how he left. I saw him walk away. SFC Snider was there when I got there. He said "enough" to Davis. He was aware that this was going on. I never talked to SFC Snider about the event. SFC Snider could have stayed and taken control of the situation.

I was not aware that SSG Elliot knew what was going on. I know who SSG Elliot is.

SPC Harman told me that she did not think it was bad to write rapist on the leg of the detainee. The detainee was identified as a rapist on his in processing sheet. I do not know if that detainee could read what was written on his leg. The detainee had a sandbag on his head. I never observed SPC Harman sitting or ride on a prisoner. When we were coming back from leave SPC Harman told me that she was taking picture of the detainees to document the abuse.

She is a very credible person. She is one of the most kind heartedness persons that I have ever met. She had told me that she had documented detainee medical needs. As far as I knew she was there to be with the women and children.

QUESTIONS BY THE GOVERNMENT COUNSEL (MAJ Holley)

The detainees had sandbags on their heads. I believe the detainees were aware that their photographs were being taking because of they could feel and see the flash. They could hear the laughing.

The detainees were in fear. They did not know what was going to happen.

I did not know that SPC Harman attached wires to a detainee's hands.

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

Based on SPC Harman's size and nature she was not in a position to challenge CPL Graner or SSG Frederick.

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 Defense called SGT Samuel Provance, Military Intelligence, was called as a witness, sworn, and testified telephonically in substance as follows:

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

IO deemed the witness unavailable and accepted the sworn statement that was previously given to investigating

officers.

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 Defense called SA Tyler Pieron, Military Intelligence, was called as a witness, sworn, and testified telephonically in substance as follows:

I was one of the case agents in this investigation. Initially there were three case agents assigned to Abu Guraib. SA Paul Author worked on the case. I was the lead agent on this case. SA Author was the Special Agent in Charge (SAC) at the office. I was lead agent from 13 January until late February.

I believe Paul Author took over the case. SA Bobeck was a case agent. I believe that he was questioned in relation to a separate investigation. There was an allegation that there was some abuse, but I believe it was unfounded.

I do not know who questioned CPT Brinson. CPT Brinson redeployed so he was not interview at Abu Guraib. He was back in the states. I believe that we did receive a response, but I do not recall. I do not recall if there was a lead sent out to CPT Brinson, involving the corpse incident. I do not know if CPT Brinson was question about this case.

I have not seen the case file in a few months.

CPT Brinson would not be the subject of a case. There are at least three cases at the time. The major case is 003-04CID149. Case number 05 involved the use of Military working dogs. I know case 3 and 5 are related to the prison and I do not know what case number 4 is. CPT Brinson statement would be in case 3 or 5.

Copies of these case files should be in Iraq. I believe that CID would have these cases files.

I do not recall who ceased CPT Reese's computer. I did not collect his computer. I do not have information about his hard drive.

I believe detainee with the wires attached to him was a CID hold for the case related to the death of two soldiers. SFC Phillip and SPC Ott were the two soldiers. General CID holds were held there for their own safety. It depended on the situation.

It would have been up to MI to put the detainee on the sleep deprivation program. The detainees had their rights. I do not know how the guards determined who was on the sleep deprivation program.

COL Dwight Warren does the prosecution for this type of case. Generally the guards would just transport the detainees.

I believe that Agent Romero who is located at Fort Hood was tasked with interviewing that detainee. I believe that he was assigned to the 43rd MP Detachment while he was in Iraq. I would check on the CID holds at least once or twice a week for a general health and welfare.

I am sure I talked to the detainee after the incident with the box and the wires but I do not recall exactly when it was I talked to him. I remember talking to this detainee in a health and welfare capacity because I checked on all the CID holds. I was aware of his nickname Gilligan.

The only time he bought up the incident is when we asked about it during the investigation in January. He never complained about it until it was bought up to him. I do not recall that he said that a man put the wires on his hands. The wires were not live wires. I do not believe that he was in any danger from wires.

I do not believe that Gilligan had a lawyer. I do not know if he had a lawyer. I never questioned him. I do not know if he has been prosecuted. I do not even know the facts of the case.

I visited tier 1A from 15 October to the 9th of November 2003 about three times because I was just getting orientated. I believe that Gilligan was classified as a security detainee.

The Geneva Convention still applied as far as I know. I do not know where the term security detainee comes from. I do not know if he had a right to a lawyer. We decided that it was best to provide the rights to all the CID holds. There were no more than three to five CID holds in at the hard site during those three months. 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 Defense called SA Manora Iem, 78th MP Detachment CID, Fort Riley, Kansas was called as a witness, sworn, and testified telephonically in substance as follows:

QUESTIONS BY THE DEFENSE COUNSEL (Mr. Spinner):

My primary role was to identify the victims in this investigation. I interview the individual that had the wires on his hands.

The witness is read the statement by Mr. Spinner

I remember the statement and that individual goes by the nickname Gilligan. I am not aware of any other detainee that had wires placed on his figures. The statement says that the wires were attached to him by a tall black soldier.

SPC Harman is not a tall black man. I did not come across any evidence that showed that SPC Harman harmed any detainee.

I was not involved in ceasing the computers.

I do not recall being involved in contacting or locating CPT Brinson.

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 1930, 24 June 2004.

The Article 32 proceeding reconvened at 1009, 25 June 2004, with all parties present.

Defense Called Special Agent Scott Edward Bobeck, 10th MP BN (CID), Abu Ghraib Prison, Iraq, was called as a witness, sworn, and testified in substance as follows:

The investigation started on the night of the 14th of January 2004. I was one of the additional agents called in to help out with the case. I arrived at Abu Guraib on the 15th of January 2004.

My role in the investigation to interview a few subjects, collect evidence and interview detainees. I was not involved in any interview with CPT Brinson. There were many CID Agents on the case. There were about 8 agents on the case.

I did take some statement from the detainees.

I do not remember any statement that referenced SPC Harman or anyone the looked like her. I am not aware of any situation that SPC Harman wore glasses. It is safe to say that if they were talking about someone in glasses then they were not talking about SPC Harman.

I do not remember who actually collected the evidence. The computers were collected before I arrived. Iem, Perion and Author were assigned to Abu Guraib at the time. There were two inquires involving Iem and Perion, but I do not know that results of those inquires. One of the statement indicated that they may have been witness to abuse and that is why there was an inquiry.

Mr. Chmielewski is the operations officer at the Abu Gurab prison if you wanted to request that investigation. The investigation was started a few weeks after the initial inquiry. I do not know if they were actually suspended for duties. I have never seen the inquiries into the CID Agents. It is my understanding that it was an internal CID investigation. I am not sure how the investigation came about.

Agent Romero is at Fort Hood and there was a recent inquire based on an interpreter receiving a statement.

There are still a few loose ends to finish up with the case. With the MI piece there are some issues to deal with in relation to the case. There are a couple new subjects in the pictures that we are still identifying. Mr. Chmielewski would be the one to contact about the case tracking.

I am not aware on any statement that CPT Brinson made. The name is familiar. I have his name on my to-do list as someone to follow up with. He should have been interviewed. I do not know where his is. I will find him and follow up.

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.

Defense Calls Sergeant Jared F. Kary, 16th MP Bde (Abn), Paralegal, was called as a witness, sworn, and testified in substance as follows:

DIRECT EXAMINATION

There were a total of six detainees on the witness list, three from the defense and three from the government.

Fahel was never in the detention operation system. I double check the number. He was a CID hold and that concerned me. We did a name search and could not find him. I did not physically go to the prison to track him down. I tried to track him down through the C-2. I knew I had the correct name.

The two others that the government requested were now under the control of the ministry of justice (Iraqi control). The request was sent to the through MAJ Harris.

It will be difficult to have Iraqis testify for a trial down the road. It maybe possible to contact them to testify.

I was able to identify another from the defense list that was located in Bucca.

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

- Prosecution Exhibit 4: 22 Pages of Photos
- Prosecution Exhibit 5: Sworn Statements of SPC Harman, Dated 16 Jan 04
- Prosecution Exhibit 6: Sworn Statements of SPC Harman, Dated 02 Feb 04
- Prosecution Exhibit 7: Sworn Statements of SPC Harman, Dated 14 Jan 04
- Prosecution Exhibit 8: Sworn Statements of SPC Harman, Dated 15 Jan 04
- Prosecution Exhibit 9: Sworn Statements of SPC England, Dated 15 Jan 04
- Prosecution Exhibit 10: Sworn Statements of SPC England, Dated 14 Jan 04
- Prosecution Exhibit 11: Sworn Statements of SPC Davis, Dated 14 Jan 04

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

- Defense Exhibit A: Sworn Statement of SGT Provance, Dated 21 Jan 04
- Defense Exhibit B: Statement of Abdou Hussain Saad FALEH, Dated 16 Jan 04

Defense Exhibit C: Statement of Mustafa Jassim Mustafa, Dated 17 Jan 04

The Government Counsel made a Closing Statement.

The Defense Counsel made a Closing Statement.

The Government Counsel did not make a Rebuttal Statement.

The Article 32 proceeding adjourned at 1123, 25 June 2004.