



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY AIR DEFENSE ARTILLERY CENTER  
AND FORT BLISS  
1733 PLEASANTON ROAD  
FORT BLISS, TEXAS 79916-8816

REPLY TO  
ATTENTION OF:

ATZC-JA

DEC 02 2005

MEMORANDUM FOR Commander, U.S. Army Air Defense Artillery Center and Fort Bliss, Fort Bliss, Texas 79916

SUBJECT: Staff Judge Advocate's Recommendation in the General Court-Martial Case of U.S. v. PFC Willie V. Brand

1. This is my recommendation under R.C.M. 1106, MCM, in the General Court-Martial case of PFC Willie V. Brand, Headquarters and Headquarters Battery, United States Army Air Defense Artillery Center and Fort Bliss, Fort Bliss, Texas, 79916.

2. Personal Data Concerning Accused:

- a. Date of Birth: \_\_\_\_\_
- b. Marital Status: Married
- c. Number of Dependents: 5
- d. Military Service: 970101-Present, AD
- e. Character of Service: Satisfactory
- f. Awards and Decorations: ASR, ARCOM, HSM-1, ARFAM w/"M" DEVICE (2), GWOT-E, NDSM, OVERSEAS TRAINING RIBBON w/DEVICE (2), KOSOVO CAMPAIGN MEDAL, AFGHANISTAN CAMPAIGN MEDAL, and AAM.
- g. GT Score: 103
- h. PMOS: 31B1
- i. Education: High School Diploma
- j. Nonjudicial Punishment: None
- k. Prior Convictions: None
- l. Pretrial Restraint: None

20051005

ATZC-JA


SUBJECT: Staff Judge Advocate's Recommendation in the General Court-Martial Case of U.S. v. PFC Willie V. Brand

## 3. Summary of Charges:

Charge	Art	Spec	Gist of Offense	Plea/Finding
I	128	1	Unlawfully strike Dilawar between o/a 5 Dec 02 and o/a 10 Dec 02.	NG/G
		2	Unlawfully strike Dilawar between o/a 5 Dec 02 and o/a 10 Dec 02.	NG/NG
		3	Unlawfully strike Dilawar between o/a 5 Dec 02 and o/a 10 Dec 02.	NG/NG
		4	Unlawfully strike Dilawar between o/a 30 Nov 02 and o/a 4 Dec 02.	NG/NG
II	93	1	Maltreat Dilawar between o/a 5 Dec 02 and 10 Dec 02.	NG/G
		2	Maltreat Dilawar between o/a 5 Dec 02 and 10 Dec 02.	NG/NG
		3	Maltreat Dilawar between o/a 5 Dec 02 and 10 Dec 02.	NG/NG
		4	Maltreat Dilawar between o/a 5 Dec 02 and 10 Dec 02.	NG/NG
III	134	The	Wrongfully and unlawfully subscribe a false statement o/a 21 Dec 02.	NG/G
Add'l Charge	124	The	Maim Dilawar between o/a 5 Dec 02 and 10 Dec 02.	NG/G

4. The Court adjudged the following sentence: To be reduced to the grade of E-1.

5. This recommendation was served on the defense counsel who had ten days to submit a response. Their response, if any, will be attached to the addendum to this recommendation.

  
 MARK A. RIVEST  
 COL, JA  
 Staff Judge Advocate

UNITED STATES

v.

BRAND, Willie V.,  
PFC, U.S. Army,  
HHB,  
US ADA Center and Fort Bliss,  
Fort Bliss, Texas

DEFENSE REQUEST  
POST TRIAL ARTICLE  
39(a) SESSION  
AND CONTINUANCE

16 January 2006

\*\*\*\*\*  
**RELIEF SOUGHT**

The Defense in the above case requests that, pursuant to RCM 1102(d), the General Court-Martial Convening Authority direct a post trial Article 39a session in order to receive evidence associated with disparate treatment of defendants in related cases and, as a consequence thereof, to determine whether the convening authority disqualified from taking any post-trial action in the instant case. Further, until appropriate action is taken on this request, the Defense respectfully asks that it be granted an extension of time in which to file post trial matters under RCM 1105.

**FACTS**

Following the Defendant's trial, wherein a jury acquitted him of the bulk of charges pressed against by a platoon of prosecutors – the Bagram Team – appointed, funded and directed by senior military authorities outside of Fort Bliss, Texas, the General Court-Martial Convening Authority (GCMCA) continued to refer and/or dispose of a series of companion or related cases.

In various related cases, the same GCMCA determined, in advance of trial, to dispose of the affected charges by way of favorable pre-trial agreement; or in some cases, by way of administrative action, such as Memorandum of Reprimand. For example, the GCMCA imposed a Memorandum of Reprimand upon the Defendant's unit commander (Captain Christopher M. Beiring) for criminal and administrative neglects associated with events associated with the underlying facts in this case. See attached Memorandum of Reprimand, dated January 6, 2006.

The Defense agrees to stipulate to the above facts for the purposes of this motion.

Jan 16 06 09:31a

John P. Galligan

LAW

The Defense relies on the following authorities in support of its motion:

R.C.M. 1102(d) – the convening authority may direct a post-trial Article 30a session before taking initial action.

WITNESSES / EVIDENCE

The Defense requests the following witnesses/evidence be produced and present for this motion:

Colonel Mark A. Rivest, Staff Judge Advocate, HQS,  
US Army ADA Center and Fort Bliss, Fort Bliss, Texas.

ARGUMENT

A cursory reading of the attached Memorandum of Reprimand clearly evinces that the General Court-Martial Convening Authority has already made various factual determinations about the underlying facts in this case concerning training, leadership, and responsibility. The role of Captain Beiring and other senior officials in the Defendant's chain of command was an essential part of the defense case at trial. To the extent that the GCMCA has, in the attached Memorandum of Reprimand, demonstrated that he has already established a fixed view of the events and evidence in this case, the Defense contends that he is disqualified from performing any fair or impartial post trial action in the instant case.


The Defense believes that a post trial Article 39a session is the proper mechanism to ensure that a complete and accurate record is prepared concerning this improper post trial treatment of the Defendant. In turn, those findings will be an essential part of any RCM 1105 matters submitted in this case.

CONCLUSION

Based on the above, the Defense requests that the Court direct a post trial Article 39a session to take evidence and render essential findings relative to the post trial treatment of the Defendant. Further it is requested that the suspense date for submission of RCM 1105 matters be continued until 10-days after action is taken on the instant motion.

  
JOHN P. GALLIGAN  
Civilian Defense Counsel

I certify that I served or caused to be served a true copy of the above  
on the Staff Judge Advocate and Trial Counsel, via, facsimile, on January  
16, 2006

  
JOHN P. GALLIGAN  
Civilian Defense Counsel

## From Bagram to Abu Ghraib



**NEWS:** For nearly three years, U.S. military authorities have investigating evidence of torture at American prisons in Afghanistan. But instead of disciplining those involved, the Pentagon sent them to Iraq.

By Emily Bazelon  
March/April 2005 Issue

HUSSAIN YOUSSEF MUSTAFA stepped off the bus outside a law office on a busy street in Amman, Jordan, on a bright day in November. The 51-year-old wore a white kaffiyeh and a white robe with square-rimmed glasses and a salt-and-pepper beard. Inside, he sat down at a table that faced a map of the Middle East, and over eight hours and two days answered questions about his two years in American captivity.

Mustafa, who is Palestinian, said he earned a master's degree in Islamic law in Saudi Arabia, but as a young teacher he had trouble making a living in the West Bank. In 1985, he heard that Pakistan was setting up schools for Afghans who were fleeing the Soviet occupation. Mustafa and his wife moved to Peshawar, a city of 1 million near the Pakistani-Afghan border, and for 17 years they lived there and raised eight children, with Mustafa teaching Arabic and the tenets of Islam at a government-run school.

After the American invasion of Afghanistan in the winter of 2001, Mustafa said, Peshawar became tense, with periodic police roundups of suspected militants, although he had no run-ins with the authorities and felt no threat from them. Then, on May 25, 2002, at about 8 p.m., their doorbell rang. Mustafa asked Ibrahim, his youngest son, to answer the door. The boy yelled, "Police!" and ran back into the house, several Pakistani police officers behind him with guns drawn. They took Mustafa in for questioning along with two of his sons, 18-year-old Mohammed and 23-year-old Abdullah. The young men were released later that night. But their father was blindfolded, tightly shackled, and flown to Bagram Air Base in Afghanistan.

Built in 1976 for Soviet troops, Bagram is now a heavily guarded U.S. military compound an hour's drive from Kabul, on a desert plain beneath the snow-peaked Panjshir mountains. When he arrived, Mustafa was publicly stripped naked—a humiliation for a devout Muslim—and put into a crowded pen with more than a dozen others. A barrel in a corner served as a toilet. Mustafa stayed in the cell for about two months. From time to time,

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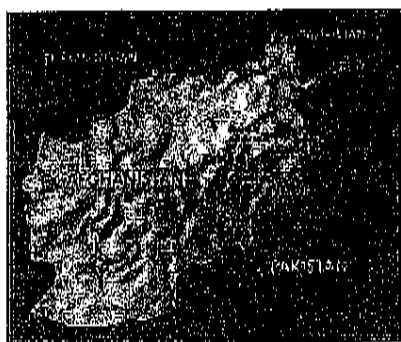
American soldiers would take one of the detainees away for interrogations. Mostly, Mustafa said, his questioners wanted to know about Al Qaeda. He told them he didn't know anything about the group.

As he told his story, Mustafa refused to be led by Clive Stafford Smith, the human rights lawyer who interviewed him. Had he been beaten when he arrived at Bagram, Stafford Smith asked through a translator; had he been threatened with guns? Mustafa firmly answered no. It was only on the second day of the interview, after Stafford Smith had stopped pressing, that his account turned grim. "Perhaps the worst thing that has ever happened to me took place at Bagram," he began.

During his imprisonment at the compound, Mustafa estimated that he was interrogated about 25 times. Sometimes the soldiers forced him to kneel on a concrete floor with a bag over his head. Other times they woke him from sleep interrupted him in prayer. He said he occasionally heard detainees screaming and concluded that they were being tortured. Then one day, he recalled, "an American soldier took me blindfolded. My hands were tightly cuffed, with my ears plugged. I could not hear properly, and my mouth covered so I could only make a muffled scream. Two soldiers, one on each side of me, pressed me to bend down, and a third pressed my face down over a table. A fourth soldier then pulled down my trousers. They then rammed a stick up my rectum."

Mustafa said that he was not told why he was brutalized. "The Americans never said anything about why they were doing this to me, so I had to think for many hours and days later, to try to work out what was going through their minds," he told Stafford Smith, pressing the tips of his broad fingers together. "I think maybe they wanted to make me so embarrassed that I would live with me for the rest of my life." He said other prisoners told him that they had experienced similar treatment.

Americans, and the world, have become accustomed to accounts like Mustafa's in connection with Iraq's Abu Ghraib scandal. But his story hints at another scandal—one that has received little sustained media attention and sparked no public outcry. Over the past three years, numerous reports—from Afghan and American human rights groups, and from the Pentagon itself—have documented allegations of abuse inside U.S. compounds in Afghanistan. Hundreds of prisoners have come forward, often reluctantly, offering accounts of harsh interrogation techniques including sexual brutality, beatings, and methods designed to humiliate and inflict physical pain. At least eight detainees are known to have died in U.S. custody in Afghanistan, and in at least two cases military officials ruled that the deaths were homicides. Many of the incidents were known to U.S. officials long before the Abu Ghraib scandal erupted; yet instead of disciplining those involved, the Pentagon transferred key personnel from Afghanistan to the Iraqi prison. "Had the investigation and prosecution of abusive interrogators in Afghanistan proceeded in a timely manner," Human Rights Watch executive director Brad Adams wrote in an open letter to Defense Secretary Donald Rumsfeld last fall, "it is possible that...many of the abuses seen in Iraq could have been avoided."



Former detainees -- and military officials -- have reported abuses at the Bagram detention center and six smaller U.S. bases in Afghanistan.

Even now, with the attention of the media and Congress focused on Abu Ghraib and Guantanamo, the problems in Afghanistan seem to be continuing. The Afghan Independent Human Rights Commission, created in 2002 during the early stages of the transition to Afghan self-governance, has collected a total of 120 reports of abuse by coalition forces; 50 of them were made just since last May. Many of the complaints involve excessive force by soldiers during the course of an arrest. But others come from former detainees who say that soldiers stripped them naked and sexually abused them. The Afghan commission and Human Rights Watch, as well as a smaller group in Washington, D.C.-based Crimes of War Project, have also gathered evidence of abuse at American "forward operating bases" near Kandahar, Gardez, Khost, Ghazni, and Jalalabad. Investigators estimate that in each of these places, between 10 and 20 prisoners are held at a time, compared to as many as 200 at Bagram.

It's hard to explain how facts this disturbing have garnered so little attention.

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in light of the connection to Abu Ghraib. According to the U.S. military's own investigators, it was at Bagram that interrogators devised and tested the methods that would shame the United States. Documents and witness accounts from both detainees and soldiers starkly portray how an initially disciplined interrogation effort deteriorated, in a climate of lawlessness and pressure to produce intelligence, to the point where officers and soldiers first bent the rules, and finally broke them.

A FEW WEEKS AFTER the fall of the Taliban, in January 2002, a State Department memo described Bagram as "a 'collection center' where some detainees stop over enroute to their permanent location," typically Guantanamo. Over the following months, however, Bagram became much more than that—in part because troops in the field kept bringing detainees who were not deemed valuable enough to send on to Guantanamo but were nonetheless kept at the base at a time. Many of them were local men arrested during U.S. raids on villages, according to Ahmad Fahim Hakim, chairman of the Afghan human rights commission. The problem, Hakim says, has been that the U.S. military frequently relies on tips from competing tribal factions, but isn't in a position to assess whether those claims are credible, or simply to settle scores. "The Americans get a report that a village belongs to Al Qaeda," he explains. "When we go to check, we find nothing. The commission is very keen to share information about our cross-checking of these local accusations. But coalition forces do not consult with us or with any other Afghan authority."

In May 2002, a few weeks before Hussain Mustafa was flown to Bagram, a 30-year-old Connecticut reservist was posted to the base as a senior interrogator. He and his team had come from a camp in the Afghan city of Kandahar, where they had been conducting interrogations according to the 16 methods taught in their training—standard questioning techniques, "good cop/bad cop" to "we know all"—and become frustrated by their failure to collect abundant useful information.

In Bagram, the interrogation team's number was cut from the 25 they'd had at Kandahar to 7. The team had about 10 prisoners to question and was processing between 35 and 40 a day. The reservist, together with *Los Angeles Times* reporter Greg Miller, later wrote a book about his experience, *The Interrogators*; the Army required that he use a pseudonym when writing the book and talking to reporters.

Chris Mackey, as the reservist is known, had been taught that harsh interrogation techniques yielded poor information because they prompted detainees to lie. Still, he recalls, "the more aggressive we were—though we never became physically violent—the more reliable the information was." His team realized that they often got their best information in the last hour of a 10-hour session, and they concluded that fatigue was their best available weapon. "We decided by committee that we couldn't get away with sleep deprivation under the Geneva Convention," Mackey says. "So we came up with this technique called 'monsterring.' We said that if you put one interrogator in with one prisoner and scrupulously gave them the sleep and food and bathroom breaks, the interrogation could go on as long as the interrogator could stand it. Of course, we were hoping that the interrogator would be fully rested, whereas the prisoner would have just come off the battlefield."

Monsterring wasn't in the Army manual, and before he came to Bagram, Mackey wouldn't have imagined improvising techniques that deviated from his training. But in Afghanistan, he increasingly felt compelled to produce intelligence that might help his fellow soldiers. "When I arrived, I would never have countenanced monsterring," he told me. "But we had little success we were having against a determined enemy. So we went to what we thought was the absolute edge."

The Bush administration had decided at the beginning of the conflict that the Geneva Conventions did not apply to detainees. But Mackey's commander never told him of that decision, and Mackey worried that he could be disciplined for breaking the rules. "As part of your training as an interrogator, it's hardwired into your system that a violation of the Geneva Convention will bring swift justice down on you," he says. At one point, Mackey remembers, a military police officer at Bagram suggested that the interrogators use dogs to scare the detainees. "He was a reservist from Michigan, where there's a big Arab population, and he said that Arabs are terrified of dogs," Mackey says. "I remember sitting in a hot pizza office, arguing with everyone, trying to figure out how we could do this. But we couldn't—not out of any love for the detainees. We just thought we would get into trouble."

Asked about Mustafa's story of abuse—which would have taken place while his team was based at Bagram—Mackey



culprits couldn't have been members of his unit, the only one formally questioning prisoners at the base (though he can't be sure whether the CIA had interrogators there). Former detainees, he points out, have "everything to gain for cause by lying or exaggerating wildly." But, he adds, "10 months ago I would have told you, categorically, there was that this sort of thing could have happened. Now...the criminal abuses in Iraq—and the murders in Bagram—have r of the comfort and uniformity of blanket denials."

IN AUGUST 2002, Mackey and his team turned over the detention unit in Bagram to the 519th Military Intelligence from Fort Bragg, North Carolina. The new head of the interrogation unit was Captain Carolyn Wood, a 34-year-old 10-year Army veteran. Wood rewrote the interrogation policy set by Mackey's group, adding to it nine techniques not approved by military doctrine or included in Army field manuals. Her expanded list included "the use of dogs, stress positions, sleep management, [and] sensory deprivation," according to an internal Pentagon investigation known as the Jones report; the report noted that other techniques, such as "removal of clothing and the use of detainee's phobias also used at Bagram.

In December 2002, four months after Wood and the 519th took over at Bagram, two detainees died in custody at the base. One was Mullah Habibullah, a 30-year-old man from the southern province of Oruzgan; the other was a 22-year-old driver named Dilawar (many Afghans use only one name), who was married and had a 2-year-old daughter. The men had been hung by their arms from the ceiling and beaten so severely that, according to a report by Army investigators leaked to the *Baltimore Sun*, their legs would have needed to be amputated had they lived. The Army's Criminal Investigation Command launched an inquiry, but few people outside Afghanistan took notice.

Then in March 2003, *New York Times* reporter Carlotta Gall tracked down Dilawar's brother in his home village. Gall took from his pocket Dilawar's death certificate, which he'd been unable to understand because it was in English. Gall read the document and discovered that the Army pathologist who signed the certificate had checked "homicide" as the cause of death. The *Times* buried Gall's story on page A14; few other outlets picked it up. It wasn't until May 2004, more than a year later, that the Army released its report on the deaths. In it, investigators implicated a total of 28 military personnel including negligent homicide, maiming, and dereliction of duty. To date, however, only one person has been charged: Sergeant James Boland, a reserve military police soldier, who is accused of denying medical care to Dilawar and another detainee. A lower-ranking soldier beat Habibullah. "It is left up to the various commanders whether to bring legal action" against the other 27, says Army spokeswoman Lt. Col. Pamela Hart. So far they have not.

By the summer of 2003, it was the 519th's turn to leave Bagram. Despite Gall's report and the ongoing criminal investigations, they were redeployed to run another prison—Abu Ghraib. There, Wood proceeded to implement new interrogation techniques. As a Pentagon report later noted, they were "remarkably similar" to those she had developed at Bagram. In September 2003, the Army probed tips from other military police officers that members of the 519th had beaten prisoners at Abu Ghraib. Investigators found the allegations unsubstantiated. Members of the 519th have not been directly implicated in the photographed abuses that set off the scandal.

Wood herself testified last summer at a military hearing in the case of Lynndie England, one of the soldiers prosecuted for her role in the abuses at Abu Ghraib. Wood said she was "outraged" by the photos she had seen.

Chris Mackey had trained with Wood before she got her command at Bagram. He says that while he was "gravely disappointed" when he found out about her changes to the interrogation rules, he understands what might have been behind them. "After she took over, the stakes got very high," he says. "We went from losing three or four soldiers a month to saving them. She must have been under a tremendous amount of pressure."

Mackey also says he couldn't imagine that Wood's superiors didn't know what she was doing. "I don't think it was a programmatic," Mackey says of the military's handling of detainees in Afghanistan and Iraq. "But there was horrible incompetence at the leadership and oversight level. People were aware of what we were doing because we were open. The prison was practically a Disney ride, with lots of higher-ups and officials coming through. But the common response was, 'Aren't you kind of babying them?'"

THE DEATHS OF HABIBULLAH and Dilawar weren't the only signals that something was going awry in the Afghan detention centers. In March 2003, just as U.S. troops were streaming into Iraq, American troops in Afghanistan arrested an 18-year-old soldier in the Afghan army, Jamal Naseer, at the behest of a provincial governor embroiled in a dispute with warlords. The arrest wasn't recorded and no charges were filed, but Naseer was taken to a U.S. base near Gardez. Then, later, he was dead. A report prepared for the Afghan attorney general, who considered bringing charges against the American soldiers in the case, found that he had been severely beaten over the course of two weeks. The Afghan investigation and a report by the United Nations also recorded allegations that other prisoners at Gardez had been beaten, immersed in cold water, given electric shocks, hung upside down, and had their toenails torn off. The U.S. Army investigated the circumstances of Naseer's death, but closed its inquiry because there were no records of who was in charge at the time or the names of victims and witnesses.

By the summer and fall of 2003, more and more detainees were coming forward to complain about abuse in U.S. custody. In September 2003, a former Afghan police colonel told the Afghan human rights commission that he had been sexually abused while being detained at Bagram, Gardez, and Kandahar for a total of 40 days. Another former detainee named Abdul Khadr, who was held at Bagram in March 2003, later testified in a Canadian federal court that U.S. soldiers "got me and they were taking pictures of my face and my private parts—just constantly taking pictures of my private parts." He said that he'd seen other prisoners hung from a wall by their shackles for as long as four days. Two other detainees, Rahman and Abdul Qayyum, told the Associated Press that they had been deprived of sleep, forced to stand for long hours, and taunted by female soldiers during the fall and winter of 2002.

The Army report on the deaths of Dilawar and Habibullah documented similar practices. The investigators found that members of the Cincinnati-based 377th Military Police Company, which was based at Bagram along with the 519th, forced prisoners into walls, twisted their handcuffs, shackled a detainee's arms to the ceiling, and forced water into another detainee's mouth "until he could not breathe." Finally, last June, a grand jury in North Carolina indicted a private U.S. contractor, David Passaro, in connection with the death of an Afghan man who had voluntarily surrendered to U.S. forces at another base in Afghanistan; the man had been savagely beaten with a flashlight.

LAST SUMMER, a small group of American lawyers began talking about the pattern of misconduct at Bagram and Guantanamo. Ghraib laid out in the Army's Fay-Jones report; attorneys at the American Civil Liberties Union (ACLU) and others are now preparing to file lawsuits on behalf of a number of detainees who claim to have been tortured in either Afghanistan or Iraq. The lawyers argue that the Bush administration laid the groundwork for abuse by claiming that those captured in Afghanistan were "enemy combatants" not covered by international law. With the restrictions of the Geneva Convention lifted, says Priti Patel, a lawyer with the group Human Rights First, interrogators developed harsh techniques that they used on detainees who were transferred to Iraq. (The Bush administration has not backed down from its stance on the detainees' legal status; it has looked for additional ways to hold foreign prisoners outside the reach of American courts. In October, the House of Representatives passed a measure that would allow foreign detainees to be deported to countries that engage in torture. Last year, the White House helped kill a legislative provision that would have explicitly banned intelligence officials from torturing detainees.)

The lawyers also fault the military and the Pentagon for failing to track responsibility for the abuses up the chain of command. To date, only 10 soldiers have been prosecuted for crimes involving prisoner abuse in Afghanistan and Iraq—none above the rank of staff sergeant. "All of the investigations have looked down rather than up," says Lucas Guttentag, a lawyer with the ACLU. "Our goal is to hold high-level officials accountable for the policies and practices that caused widespread abuse and to hold them accountable for their failure to stop the abuse once it came to light. This is really about who bears responsibility."

Part of the challenge in assigning accountability for the Afghan abuses is that, in contrast to the uproar about Abu Ghraib, very little about them has become public. Last May, the Army assigned Brig. General Charles Jacoby to conduct a review of American detention centers in Afghanistan. Jacoby completed his report in July, but it remains classified; the only part of its contents that has come out is in the *Washington Post*, which in December reported that it had found that many of the prisons

clear interrogation guidelines, inviting commanders in the field to set their own limits.

Outside investigators, meanwhile, have been almost entirely barred from the Afghan detention centers. The International Committee for the Red Cross has had no access to any of them except Bagram, and even there its representatives have been able to see all parts of the facility. Former prisoners have said the Red Cross never visited detainees being held upstairs cells, including Dilawar and Habibullah. Amnesty International and Human Rights Watch have not been able to visit the base at all; neither has the Afghan human rights commission, which has been asking the U.S. military for a year. "We expected to have a friendly relationship with the coalition force deputy chair Hakim. But what the coalition has done, the abuses, overshadows the friendly aspect of the American intervention. I ask you: What is the difference between the Americans and the Soviet forces who occupied Afghanistan?"

IN EARLY AUGUST 2002, Hussain Mustafa was flown from Bagram to Guantanamo. There, he was held mostly in prison's "preferred" area, reserved for detainees who were deemed to be cooperating with interrogators. At one point, he went 10 months without being questioned. "I was led to believe that the frequency of the questioning depended on what they thought you had done," he said. "So I assume from the limited number of times they bothered to question me that they knew all along that I had nothing that I could say."

Mustafa was released from Guantanamo last August. His wife and seven of his children were waiting for him in Jordan. His son Abdullah, however, had died six months earlier. Abdullah had had a heart condition that he'd been able to keep under control in Pakistan, where visits with a specialist were relatively cheap. But when the family moved to Jordan after arrest, he couldn't afford to see a doctor regularly. "It is a nightmare to me that I did not even know Abdullah had died," Mustafa said, and then he stopped talking.

The day after he finished his interview with Stafford Smith, Mustafa returned to read over his statement and sign it. He brought with him a document stating that he had been "determined to pose no threat to the U.S. Armed Forces or to the people of Afghanistan"—the standard release that the military gives detainees when they are allowed to return home. Mustafa had also been given one other thing when he left Guantanamo: a pair of white canvas sneakers. He shook Stafford Smith's hand and walked out of the law office, the sneakers bright in the autumn sun.

**Emily Bazelon, a senior editor at *Slate.com*, traveled to Jordan as a Soros Justice Media Fellow to report on the treatment of prisoners captured in Afghanistan.**

[Back to Story - Help](#)**YAHOO! NEWS****AP** Associated Press

## Senate Approves Detainee Treatment Rules

By LIZ SIDOTI, Associated Press Writer

1 hour, 24 minutes ago

The Senate faces a confrontation with the House over a \$440 billion military spending bill that, despite White House opposition, would impose restrictions on the treatment of terrorism suspects.

Delivering a rare wartime slap at Pentagon authority and President Bush, the GOP-controlled Senate voted 90-9 on Wednesday to back an amendment that would prohibit the use of "cruel, inhuman or degrading treatment or punishment" against anyone in U.S. government custody, regardless of where they are held.

Sponsored by Sen. John McCain (news, bio, voting record), R-Ariz., the proposal also would require all service members to follow procedures in the Army Field Manual when they detain and interrogate terrorism suspects.

"This amendment strives to establish uniform standards for the interrogation of prisoners and detainees as a means for helping ensure our service men and women are well trained, well briefed, knowledgeable of their legal, professional and moral duties and obligations," said Senate Majority Leader Bill Frist, R-Tenn.

The Senate was expected to vote on the overall spending bill by week's end. The House-approved version of it does not include the detainee provision. It is unclear how much support the measure has in the GOP-run House.

However, Rep. John Murtha (news, bio, voting record) of Pennsylvania, the top Democrat on the House Appropriations subcommittee on defense, who supports the measure, could prove a powerful ally when House and Senate negotiators meet to reconcile differences in their bills.

And the House could face immense pressure after such a mandate by the Senate. All but nine Republicans voted in favor of the legislation.

Sen. Ted Stevens (news, bio, voting record), R-Alaska, said he was concerned that McCain's legislation could inadvertently endanger the lives of people who work in classified roles, and he hoped to fix the potential problems in the final bill.

"There are some changes that have to be made if we are going to be faithful to those people who live in the classified world," Stevens said.

The rebuke by members of the president's own party shows how reluctant some lawmakers are to give him unchecked wartime power as the conflict in Iraq drags on and U.S. casualties mount. It also comes as Bush seeks to show strength after weeks in which his approval rating plummeted as Americans questioned the direction of the war, the sluggish federal response to Hurricane Katrina and the surge in gas prices.

Bush administration officials say the legislation would limit the president's authority and flexibility in war, and advisers say they would recommend a veto of the spending bill if the prisoner provision is included in the version that goes to his desk.

However, Bush has never vetoed a bill, despite threats, and scrapping a measure that provides money for pay raises, benefits, equipment and weapons for troops while the country is fighting wars in Iraq and Afghanistan would open the president to a flood of criticism.

[http://news.yahoo.com/s/ap/20051006/ap\\_on\\_go\\_co/congress\\_detainees&printer=1;ylt=...](http://news.yahoo.com/s/ap/20051006/ap_on_go_co/congress_detainees&printer=1;ylt=...) 10/6/2005

Still pending is an amendment by Sen. Lindsey Graham (news, bio, voting record), R-S.C., that would distinguish between a "lawful enemy combatant" and an "unlawful enemy combatant," and put into law the procedures for prosecuting them at the Navy's Guantanamo Bay prison in Cuba.

Lawmakers increasingly started calling for Congress to provide U.S. troops with clear standards for detaining, interrogating and prosecuting terrorism suspects after allegations surfaced of mistreatment at Guantanamo Bay and the abuse scandal at Abu Ghraib prison in Iraq.

"We demanded intelligence without ever clearly telling our troops what was permitted and what was forbidden. And when things went wrong, we blamed them and we punished them," said McCain, a prisoner of war in Vietnam.

Republican supporters say U.S. troops interrogating terrorism suspects do not know which techniques are allowed. "We have let the troops down when it comes to trying to give them guidance in very stressful situations," said Graham, an Air Force judge for 20 years.

But Sen. Jeff Sessions (news, bio, voting record), R-Ala., called the legislation unnecessary. "We do not have ... systematic abuse of prisoners going on by our United States military," he said.

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UNITED STATES )

v. )

BRAND, Willie V., )

PFC, U.S. Army, )

HHB; )

US ADA Center and Fort Bliss, )

Fort Bliss, Texas )

DEFENSE REQUEST  
 POST TRIAL ARTICLE  
 39(a) SESSION  
 AND CONTINUANCE

6 March 2006

\*\*\*\*\*

### RELIEF SOUGHT

The Defense in the above case requests that, pursuant to RCM 1102(d), the General Court-Martial Convening Authority direct a post trial Article 39a session in order to receive evidence from the Defendant's unit commander, Captain Christopher Beiring. To date, a legally correct Post Trial Review has not been served upon the Defense. Therefore, until appropriate action is taken on this request the Defense respectfully asks that it be granted an extension of time in which to file post trial matters under RCM 1105.

### FACTS

On March 5, 2006, the Defendant's unit commander, Captain Christopher M. Beiring appeared on national TV (60 Minutes Sunday) wherein he acknowledged that the chaining of detainees at Bagram was a routine occurrence and, contrary to the representations of government representatives, was a practice known and sanctioned by superior authorities. During the trial proceedings, efforts to secure such exculpatory testimony of Captain Beiring was frustrated by the trial counsel and military judge. It should now be clear that the Defense theory advanced at trial – that the underlying conduct was known and approved by superior authority – is supported by none other than the Defendant's immediate commander.

The Defense agrees to stipulate to the above facts for the purposes of this motion.

### LAW

The Defense relies on the following authorities in support of its motion:

R.C.M. 1102(d) – the convening authority may direct a post-trial Article 30a session before taking initial action.

### WITNESSES / EVIDENCE

The Defense requests the following witnesses/evidence be produced and present for this motion:

Colonel Mark A. Rivest, Staff Judge Advocate, HQS,  
US Army ADA Center and Fort Bliss, Fort Bliss, Texas.  
Captain Christopher Beiring

### ARGUMENT


The Defense believes that a post trial Article 39a session is the proper mechanism to ensure that a complete and accurate record is prepared concerning this improper post trial treatment of the Defendant. In turn, those findings will be an essential part of any RCM 1105 matters submitted in this case.

### CONCLUSION

Based on the above, the Defense requests that the convening authority direct a post trial Article 39a session to take evidence from the Defendant's unit commander, Captain Christopher Beiring. Further, it is requested that the suspense date for submission of RCM 1105 matters be continued until 10-days after action is taken on the instant motion.

  
JOHN P. GALLIGAN  
Civilian Defense Counsel

I certify that I served or caused to be served a true copy of the above on the Staff Judge Advocate and Trial Counsel, via, facsimile, on March 6, 2006

  
JOHN P. GALLIGAN  
Civilian Defense Counsel



DEPARTMENT OF DEFENSE  
COMBINED JOINT TASK FORCE (CJTF-180)  
OPERATION ENDURING FREEDOM  
BAGRAM AIRFIELD, AFGHANISTAN  
APO AE 09354

CJTF-180-OPS LAW

24 January 2003

MEMORANDUM THRU CJTF180 CJ3

FOR CENTCOM SJA

SUBJECT: CJTF180 Interrogation Techniques

1. CJTF180 convened an interrogation techniques working group on 22 Jan 03 to respond to the DJS Tasker received via email on 21 Jan 03. The purpose of this document is to address the following four topics:

a. Description of current and past interrogation techniques, with references enclosed as the basis for these techniques.

b. Description of current and past interrogation techniques found to be effective.

c. Description of techniques combatant commanders desire to implement with rationale included.

d. Any further relevant information CJTF180 believes is relevant in representing combatant commander equities in the interrogation working group.

2. The responses below were solicited from CJTF180's primary tactical intelligence-gathering sources: the Bagram Collection Point (BCP), CTF82, and CJSOTF. Also, there was coordination with JTF-5. The response is broken into two distinct categories: Battlefield Interrogation (BI) and interrogation at the BCP. BI occurs in the field for periods of 96 hours or less before transfer to the BCP. The BCP detains Persons Under U.S. Control (PUCs) for longer periods of time. BI is a mission critical tool for field units to gather "down range" time-sensitive, tactical intelligence for immediate exploitation and to allow timely, follow-on operations. As such, we recommend greater latitude for the BI. This combined response focuses on interrogation techniques as requested. There are times when the line between techniques implemented for interrogation, safety, and discipline blur. For example, hooding is a technique used for all three purposes, and where the distinction is necessary, this is highlighted below.

3. References: FM 34-52 (Intelligence Interrogation).



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4. Battlefield Interrogation. - current and past techniques.

a. BI that is conducted at forward locations upon initial apprehension yields the most actionable intelligence following the shock, humiliation, and realization of capture coupled with the uncertainty about their future. Once captured, the PUC is handled according to the 5 S's, (Search, Silence, Segregate, Safeguard and Speed to the rear). Individuals have a sandbag or hood placed over their head to ensure the safety of the capturing unit and the PUC - the hood is only used during movement. The PUC is brought to a secure forward area where they are searched again. This search includes temporarily disrobing the PUC to ensure no weapons or dangerous items are introduced to the holding room. The PUC is photographed to document evidence, if any, of preexisting marks or bruises. The PUC is medically screened and provided food and water and when appropriate, necessities such as a sleeping bag.

b. During the BI phase of exploitation, the PUCs are questioned for any tactical-level intelligence. Intelligence personnel, both 18F and Warrant Officers, are trained on non-violent means of BI and therefore, the primary BI techniques utilized are nonviolent.

c. The following techniques have been used and proved to be effective in building rapport and gaining the trust of the PUC.

(1) ~~Relaxed Grooming Standards~~ for Selected DOD Personnel  
Currently utilized by JSOTF and selected MI interrogators in the field. Conventional troops do not have relaxed standards. Facial hair has special significance in the Afghan culture. It is easier for interrogators with beards to gain the respect of PUCs.

(2) ~~Sterile Uniforms~~. Allows interrogators flexibility in identifying themselves. Uncertainty about the rank or stature of guards and interrogators keeps the PUCs mentally off-balance and discourages them from resisting interrogation from junior personnel. (Note: There is also a force protection purpose to this technique. The interrogator's personal identity is protected and PUCs cannot gain intelligence about the units involved in the capture, detention, and interrogation).

(3) Informing the PUC why he was detained.

(4) Advising the PUC they will not be harmed. Threats are generally ineffective as rapport cannot be fostered in this manner.

(5) Isolation. This is an effective means of causing stress in a non-violent manner. Longer periods of isolation after capture increase the stress level due to uncertainty. Since the timing of transportation to a detention facility varies, the length of detention at the field site will never exceed 96 hours. When an

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SUBJECT: CJTF180 Interrogation Techniques

interrogator arrives, he/she is viewed as a friend that can end the isolation. (Note: this technique has also been used as a form of punishment for noncompliance with established rules).

(6) Female Interrogators or Guards. This method has been used in limited circumstances as part of BI (primarily female MI interrogators as part of a conventional MI unit in field. SOF have no female soldiers). The purpose of this technique is shame/humiliation and an uncomfortable situation, and not to degrade or insult. Using females to guard and interrogate Afghan and Arab male PUCs evokes deep feelings of shame on the part of the PUCs. This reduces their feelings of pride in their cause and makes them more likely to respond to interrogation. Additionally, using military women as interrogators and guards is equally sensitive and subjectively shameful within the Afghan and Arab culture and is beneficial to the battlefield interrogation process. Leveraging these cultural sensitivities aids in establishing control and placing the PUC in an uncomfortable environment during the interrogation. Female MPs are used to search female PUCs and this significantly reduces the risk of negative reaction by other Afghans.

(7) Sleep Adjustment. Sleep adjustment techniques create an artificial sleep cycle while sleep deprivation keeps the PUCs awake beyond the point of exhaustion. FM 34-52 prohibits "abnormal" sleep deprivation. BI techniques that have been used are limited to sleep adjustment and not sleep deprivation. Sleep adjustment is generally 4 hours of sleep per every 24 hours. The 4 hours may be consecutive or may be varied. These techniques place the PUCs in a vulnerable state-of-mind, causing confusion and disorientation and making them more susceptible to disclosing valuable intelligence. Sleep adjustment is generally achieved through noise, interruptions and periodic awakenings. A PUC may be required to stand in order to stay awake. However, standing is not prolonged and is not enforced by use of restraints or securing PUC to fixed object. BI techniques never reach sleep deprivation to the point of exhaustion. Sleep adjustment is personnel intensive and not frequently used.

(8) Hooding/Blacked Out Goggles. Battlefield units will hood PUCs for security purposes to prevent the PUC identifying the location of the detention facility, location and identification of guarding and transporting personnel, and intelligence about friendly units. It is used during movement of PUC. However, hooding is not used during BI. Hoods are removed during BI questioning. Nonetheless, the general disorientation caused by obstructing vision prior to questioning has proven beneficial to maintain "capture shock" which may be helpful during interrogations. Use of goggles is the preferred means to obscure vision.

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d. The following are effective BI techniques desired for future use. Subparagraphs 1 to 6 are currently used techniques as described above that are recommended for continued use based on the above stated rationale. Paragraphs 7 to 11 are additional BI techniques recommended for future use based on rationale described below:

(1) Relaxed Grooming Standards for selected DOD Personnel.

(2) Sterile Uniforms.

(3) Isolation.

(4) Female Interrogators or Guards.

(5) Sleep Adjustment (Should be available as an interrogation tool. However, maintaining sleep adjustment is often manpower intensive and not frequently used).

(6) Blacked Out Goggles for obscuring vision (eliminate use of hoods).

(7) Deprivation of clothing. Initially, as noted above, processing requires a strip search for force protection purposes. However BI has never included clothing deprivation. Nonetheless, clothing deprivation may effectively put the PUCs in a subjectively shameful, uncomfortable situation and very vulnerable to successful intelligence exploitation. The interrogator can gain trust by providing the PUC pieces of clothing. Clearly, adoption of this practice may raise objections to degrading or inhumane treatment. However, no specific written legal prohibition exists against this technique. Adoption of the practice is recommend after the appropriate legal analysis by DOD.

(8) Food deprivation. This technique is not currently utilized. Proposal is to use a reasonable period of food deprivation (i.e. no more than 24 hours). This provides the interrogator, arriving with food, an opportunity to build rapport. Again, these techniques are subject to objections concerning humane treatment and should be appropriately analyzed.

(9) Sensory overload. Noise overload, such as loud music, is one technique. However, in the BI environment the practical execution is limited. Temperature adjustment is a technique that regulates extreme changes in temperature, but never at a level harmful to the PUC. The purpose of this technique is to cause the PUC to focus on the temperature rather than a cover story. On-sight

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medical personnel would monitor the limited sensory deprivation techniques. In the battlefield environment PUCs can be guarded outside tents in the cold or heat. Again, these techniques are subject to objections concerning humane treatment and should be appropriately analyzed.

(10) ~~Controlled Fear - use of muzzled, trained military working dogs~~ (MWD). BI interrogators do not currently have or use working dogs. The Afghan culture is very uncomfortable and fearful of dogs. The use of trained MWD with trained handlers would be a valuable asset during BI for both force protection and intelligence gathering. The employment of MWD would be regulated such that the dogs are always muzzled, always under the control of a trained handler, and never allowed to touch the PUCs and will remain a safe distance. Experience in Afghanistan shows that MWDs are an invaluable force protection, crowd control weapon and would be a force multiplier and control mechanism in interrogations. The MWD's presence alone in the vicinity of the PUCs would accomplish the goal sought by their use - creating that discomfort, disorientation, and lack of control and also striking a subjective and reasonable fear in the PUCs to facilitate cooperation. We believe we should be able to leverage this cultural sensitivity and Afghan aversion to dogs aids in establishing control and placing the PUC in an uncomfortable environment during the interrogation. The use of this technique is not designed to create a threat of bodily injury or death such that it would rise to the level of torture or cruel, degrading, or inhumane treatment; rather it is designed to create an uncomfortable situation, keep the PUC off-balance, and ensure control of the environment is with the interrogation team. As a practical reality SOF units and other units may be unable to bring working dogs along in field missions. However, the option of use should be available.

5. ~~Bagram Collection Point (BCP) Tactics, Techniques and Procedures (TTPs)~~ - current and past interrogation techniques. The main reference for the TTPs is FM 34-52.

a. PUCs arrive at the BCP from field screeners and interrogators anywhere from one to four days after capture, based on availability of transportation from the outlying provinces.

b. Every PUC goes through formal in-processing by Military Police prior to any interrogation by MI personnel. This in-processing includes an introduction to the rules of the BCP, a strip search, medical screening, evidence collection, and identification procedures (photograph, fingerprints, saliva and hair samples). The PUCs are placed in isolation cells guarded by MPs and available to MI personnel to continue the intelligence exploitation process started during the BI process described above.

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## SUBJECT: CJTF180 Interrogation Techniques

c. The following techniques are part of the BCP TTPs developed from doctrine in FM 34-52. Each technique has been utilized at the BCP as effective means of gaining rapport with the PUCs and gathering intelligence during interrogations:

(1) Use of falsified documents or reports and deception. This technique creates uncertainty in the PUC which the interrogator can exploit. The level of deception, or seriousness of the false report, can be a valuable asset for the interrogator.

(2) Use of individual fears. The use of pre-existing fears creates anxiety and uncertainty about the future. This technique is designed to evoke an emotional response and reinforce the shock of capture. Exploitation of cultural differences and associated fears, such as announcing the intention to transfer the PUC to long-term detention in Cuba or being transferred to another country, leads to cooperative efforts of the PUC. This method is effective during the period immediately following capture and extends the concept of capture shock.

(3) Removal of comfort items. This technique is most effective in an environment where there are privileges to be withdrawn. As a temporary facility, the PUCs at the BCP have very few privileges. Essential items such as blankets, clothing, and Korans will not be withdrawn. Additional blankets, cigarettes, books and extra food are issued as comfort items and they are considered incentives that can be withdrawn to for failure to cooperate.

(4) Safety Positions during Interrogations. With documented cases of aggression against interrogators, various positions, such as kneeling or standing against a wall, have been used to safeguard interrogators. At present there are no means to cuff or secure a PUC to a seat for questioning. Plans are currently underway to place bolts on the floor to secure PUCs by handcuffs and chains. In lieu of such security, interrogators must place PUCs in positions to minimize potential assaults or quick movements. The positions have never been used solely as a means to attain information. However, since safety positions are often uncomfortable, interrogators have in the past offered a PUC a seat as a reward for cooperation. Initially, the safety positions are effective in eliciting emotional responses due to the PUCs pre-existing fears and uncertainty. Over time, the PUCs' psychological defenses break down and lower their resistance posture. This technique is not used as punishment and is only used as a planned approach, approved by the NCOIC or interrogation team leader prior to the interrogation.

(5) Use of isolation. Isolation is utilized to increase anxiety and capitalize on the shock of capture. When the PUCs arrive at the BCP, the PUCs are in-processed, then immediately isolated for a period of 24-72 hours. When isolated, the PUC is helpless with no control over his new surroundings. The uncertainty with

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respect to the length of isolation provides great leverage to interrogators during the initial BCP interrogations. High Value PUCs as well as PUCs under 15 years of age are also segregated from the general populous in an isolation away from the main detention general population detention cells.

(6) Deprivation of light and sound in the living areas. This technique was used in the past, but not currently employed at the BCP due to lack of resources. It was effective in quickly breaking individuals that have immediate force protection information.

(7) Use of hood during interrogation. Hoods are used at the BCP for force protection, and to deny PUCs knowledge of the detention facility. In addition hoods were used on PUCs during interrogations conducted during their first 24 hours at the BCP. The hoods increased anxiety and capitalized on the shock of capture. Also, when used in conjunction with isolation, the hood disoriented the PUC and distorted his sense of place and time. Hoods were also utilized effectively in the interrogation booth when the interrogator uses one PUC to incriminate another – the second PUC's identity is protected. The practice of using hoods during interrogation continues. However, changes are currently underway (as noted in recommendation below) to use blackened glasses in lieu of hoods.

(8) Mild physical contact. During interrogations PUCs have been subject to mild contact to include invading personal space and touching a PUC's shoulder, knee or head. Such tactics increase psychological discomfort. The PUC is never touched in a demeaning manner or in a manner that would cause pain. In the past this technique has been used to enforce safety positions during intense interrogation designed to elicit emotional response. Also, conversely, it can have been used to comfort an emotionally distraught PUC to gain rapport.

(9) Sleep Adjustment. This technique has been used to rapidly decrease a PUC's resistance to questioning. Short increments of sleep are interrupted by long periods of being awake. Normally, during a 24-hour period the PUC sleeps a total of four hours that is split into increments. Each period of sleep is scheduled and monitored to maintain capture shock and disorientation. During this period, the PUC is monitored for changes in his demeanor and attitude and when resistance diminishes, exploitation efforts increase. As noted above sleep adjustment differs from sleep deprivation. BCP interrogators have used flexible approach which takes into account the individual PUC's ability to remain awake. This practice was deemed consistent with FM 34-52 which states that sleep deprivation may not be "abnormal". In the past the sleep adjustment has been enforced by requiring the PUC to remain standing. When PUCs became tired and could not stand they were handcuffed to fixed positions.

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SUBJECT: CJTF180 Interrogation Techniques

d. BCP most effective TTPs. Each TTP noted above, when used properly, is an effective interrogation technique subject to the will, determination and training of the interrogator v. the PUC's resistance level. The following have proved to be the most effective methods based on the results yielded during interrogations using these techniques:

(1) Sleep Adjustment. This technique was effective in the initial interrogations of T264, resulting in four spot reports with imminent threat information and information that contributed to the capture of a Tier I target. Sleep adjustment is no longer enforced by handcuffing to stationary objects. Enforcement is generally achieved through noise, interruptions and periodic awakenings. A PUC may be required to stand in order to stay awake. However, standing is not prolonged and is as noted is not enforced by use of cuffing or securing PUC to fixed object. Techniques will never reach sleep deprivation to the point of exhaustion

(2) Fear of long-term incarceration.

(3) Transference to another agency/country. Conveying an intention to transfer to another country is extremely effective with PUCs who have been transferred to the BCP from foreign government detention facilities where conditions are much worse.

(4) Use of isolation. This technique is used on every PUC immediately following in-processing at the BCP to maintain capture shock, instill anxiety, and cause disorientation. Without the ability to communicate, T325 and T333 could not maintain their cover stories and admitted to moving hundreds of thousands of dollars into the CJOA for use in terrorist operations.

(5) Safety Positions - Clearly safety positions continue to be needed to maintain safety and security of the interrogators. Until additional methods are implemented to secure PUCs during interrogations the positions should be used. A determination must be made by the NCOIC or lead interrogator that the use of the technique is essential to maintain safety of personnel. Safety should be the only consideration in the use of the technique. However, it is usually the case that PUCs who require safety positions are those upon whom a harsh verbal interrogation is planned. When the determination is made that a safety position may be used, a relaxing of those positions may also be utilized when cooperation is elicited. This is primarily because the release of information demonstrates a willingness to cooperate and reduced danger to interrogators. Enforcement of safety positions

## CJTF-180-OPS LAW

## SUBJECT: CJTF180 Interrogation Techniques

should be by military police personnel in accordance with the established BCP rules of force.

(6) Use of blacked-out goggles during interrogation (eliminate use of hoods). An example of the value of blacked-out goggles is illustrated in the case of T456. Another PUC, T455 who was cooperating with interrogators sat behind T456, whose vision was obstructed. T455 signaled to interrogators when T456 was deceptive without T456's knowledge.

(7) Mild physical contact. To include invading persona space and touching PUCs in shoulders, head, and knees. Virtually every screening session employs this technique. It can be used to place the PUC in an uncomfortable position or to effectively foster a good rapport. Mild physical contact with T257 endeared him to the interrogator and facilitated a rapid exploitation of time-sensitive information. It is recommended that CENTCOM or JCS establish clear guidelines for commanders to develop local procedures for mild physical contact; or alternatively publish specific performance measures to be adhered to by all interrogation facilities.

(8) Use of falsified documents or reports and deception. This technique is a basic principle of interrogation (taught in the Basic Interrogation Course) and is often used in conjunction with fear of long-term incarceration.

(9) Removal of comfort items. As the PUCs are afforded more comfort items, removal will instill a sense of loss and lack of control over one's possessions and space, especially when the items are limited to begin with.

e. The BCP recommends all TTPs cited above be approved for continued use. Additionally, the BCP recommends the following TTP be approved for implementation:

Use of Light and Noise Deprivation. This technique erodes a PUC's mental willingness to resist. When used with sleep deprivation, this technique extends the disorientation period rendering the PUC more susceptible other techniques.

f. Further relevant information.

(1) The above recommendations are based on interrogators' experiences during Operation Enduring Freedom (OEF) from Dec 01 - Jan 03. OEF requires counter-terrorism interrogation that is significantly more difficult than the conventional interrogations which Army interrogators are trained to conduct. They also require more aggressive, creative and flexible techniques.



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(2) It is important to differentiate between the facility at GTMO, a long term strategic exploitation point and the BCP, a short term screening point. The BCP operates an intensive interrogation and intelligence-gathering program designed to screen and identify those individuals who meet the SECDEF's detention criteria. An integral part of BCP's mission is to gather and report timely and actionable intelligence for exploitation at the tactical level. As such, a host of national level intelligence agencies participate in the interrogation process utilizing a wide array of tactics, techniques and procedures. These TTPs, however varied, do conform with the BCP's TTPs delineated above. Prior to their rescission, CJTF180 used selected techniques contained in the SOUTHCOM's Cat II & III techniques applied humanely with a focus on PUC safety and interrogator security.

(3) FM 34-52 loosely outlines restrictions and procedures for interrogators. The manual further describes the role of the interrogator in counter-terrorism operations as a linguistic supporter and strategic debriefer of US Forces (FORMICA - Foreign Military Intelligence Collection Activities).

(4) The BCP TTPs are based on FM 34-52 principles, but are the byproduct of a CJTF180 working group. The techniques found to be effective are not specified in FM 34-52.

(5) CJTF180 strongly recommends implementation of interrogation technique standards and their inclusion in doctrinal changes and regulatory guidance.

6. POC is the undersigned at SIPR email: CJTF180-SJA@citf180.army.smi.mil

*original signed*  
ROBERT J. COTELL  
LTC, JA  
Acting Staff Judge Advocate



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY AIR DEFENSE ARTILLERY CENTER AND FORT BLISS  
1733 PLEASANTON ROAD  
FORT BLISS, TEXAS 79916-6816

REPLY TO  
ATTENTION OF:

ATZC-JA

MEMORANDUM FOR Commander, United States Army Air Defense Artillery Center and Fort Bliss, Fort Bliss, Texas 79916-6816


SUBJECT: Advice on Disposition of Court-Martial Charges, United States v. CPT Christopher M. Beiring.

1. I received the attached charges and allied papers in the case of CPT Christopher M. Beiring, HHB Center, Garrison Command, Fort Bliss, Texas and render this advice.

Legal Conclusion: After reviewing the attached charges and allied papers, I reach the following legal conclusions:

- a. The charges and specifications allege offenses under the Uniform Code of Military Justice.
  - b. The allegations in the specifications are warranted by the evidence contained in the allied papers.
  - c. There is court-martial jurisdiction over the accused and the charged offenses.
2. The accused's company commander and battalion commander recommend that this case be disposed of by general court-martial. The garrison commander recommends that this case be disposed of administratively.
  3. The Article 32 Investigation was conducted on 5-6 December 2005. The Investigating Officer recommended that the charges be dismissed.
  4. RECOMMENDATIONS: The charges meet the criteria for referral to a general court-martial. However, based on the statements of the witnesses, the Article 32 testimony, and the interests of justice, I recommend that you dismiss the charges and consider administrative action.

- 3 Encls
1. DD Form 458
  2. CMCO #24
  3. Allied Papers

  
MARK A. RIVEST  
COL, JA  
Staff Judge Advocate

ATZC-JA

SUBJECT: Advice on Disposition of Court-Martial Charges, United States v. CPT Christopher M. Beiring.

DIRECTION OF THE CONVENING AUTHORITY:

The recommendation of the Staff Judge Advocate is approved.



ROBERT P. LENNOX  
Brigadier General, USA  
Commanding

October 31, 2005

Your Honor;

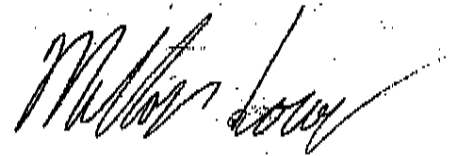
My name is Milton Lowe and I am writing to you on behalf of Willie Brand. I have known Willie ever since my Junior year at high school at Western Hills High here in Cincinnati, Ohio. Willie and his family are very close to my family and my wife's family. I know him to be a very generous person. His children and my children are very close and play together. Willie has also worked under me at my place of employment and did an outstanding job until the company was forced to lay him off.

I know Willie to be a respectful, law abiding citizen with no criminal record until now. He is a good husband and father during these days when most men are shirking their fatherly duties. I am certain that no matter what happened in Afghanistan that Willie only did what he was ordered to do. On several occasions we have questioned Willie ourselves, in disbelief, and he maintains that he was only following orders, and doing his job.

Please consider Willie's appeal so he and his family can come home and have a fresh start as citizens of these United States. God bless and thank you.

Sincerely,

Milton Lee Lowe, jr.



October 29, 2005

Dear Judge,

My name is Cindy Buis, and I am writing on behalf of Willie Brand. I wish to express to you the good nature of this man. I have known Willie and his wife Brandie ever since they attended high school with my two daughters and my son-in-law. Willie played saxophone in the Western Hills High School marching and concert bands. He was also in the JR. ROTC program in high school. He has always wanted to be a soldier and we were so very proud of him the day he chose to go to the Army. Every time he left for duty, no matter where in the world he was stationed, he wrote letters to us and called us. When he would return from foreign countries he would come bearing gifts for us all, and we are not a small bunch.

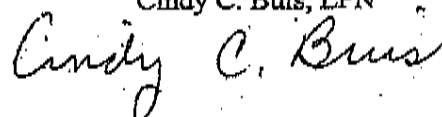
Willie has always been a kind and gentle, soft-spoken person, who could have never done what he has been accused of, at least not in the degree to which he has been accused. On several occasions, when my family has fallen on hard times, Willie and his wife have been there both emotionally and financially to help us out. He won't even allow us to pay him back. He says that "family helps family," and he always helps us. Now in his time of need, I feel the least I could do is beg of you to please consider his appeal. We have been made aware of the fact that if Willie does not win his appeal then he will not have a job here in Cincinnati. He works for Brantley Security and under Ohio Law, he can't work in the security field with a felony of any sort on his Military or Civilian record.

I don't wish to leave the impression that what happened in Afghanistan was a terrible tragedy for the families of those men who were killed in our custody, but I just don't believe that he was malicious in his actions. He said he was following orders, and if that is what he says, then that is what we believe. We have never known of him to lie to us before, so there is no need to start now.

I would like to ask of you to please give this a lot of thought. Willie has four small children and a wife to support. He really needs his job back here at home. Thank you for taking the time to read this letter, and God bless you all for what you do.

Sincerely yours,

Cindy C. Buis, LPN



November 1, 2005

To Whom It May Concern:

My name is Edward Buis and I am a friend of Willie Brand's. I am writing to you to ask you to please clear his name. My wife and I have known Willie ever since he went to high school with our two girls. He has been a friend of ours for 12 years now and we feel that we know him quite well. Willie is a very generous man and a good father.

I am a discharged service man from the Air Force and I know all about following orders and then getting the blame put on you. I have never personally experienced such a thing, but I have witnessed it many times before. I am sure that if Willie says that he was given an order to strike the detainee in his knees, then he was given an order to do so. I have never known Willie to outright lie about anything. He was a good, and now he is a good man. It is terrible to see a child grow up and become a man, and then try to raise a family with no way to earn an income. People in this country aren't supposed to discriminate, but they do. If Willie is released from the Army with a felony on his record then he will not be able to maintain his employment with Brantley Security or any other security or patrol duty here in Ohio. McDonalds won't hire Willie with a felony on his military record. Punishment is one thing, and destroying a man's means of providing for his family is another. Please consider his appeal. Thank you.

Sincerely,

Edward W. Buis

*Edward W. Buis*

ENCLOSURE

1. A copy of this letter is being furnished to the following:

2. A copy of this letter is being furnished to the following:

3. A copy of this letter is being furnished to the following:

4. A copy of this letter is being furnished to the following:

5. A copy of this letter is being furnished to the following:

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8. A copy of this letter is being furnished to the following:

9. A copy of this letter is being furnished to the following:

10. A copy of this letter is being furnished to the following:

Dear Judge,

In regards to P.F.C. Willie Ve Brand, I have known he and his family for more than 2 yrs now, and find him to be a man with very strong family values. He is a strong community figure, and always the first to offer a helping hand to anyone in need. It will truly be a devastating act if he is charged with the felony he is facing. Not only will this prevent him from being able to support his loving family, it will also bring more hardship on his wife and 4 children, whom all adore him. To interact with him and his family fills your heart with joy. There is just

so much love that spills out onto you when you are in their presence that you can not help but come back to their home. I have witnessed the hurt and sadness his wife and children had to experience during his absence, and it just tore at my heart. Even though friends and family were very supportive of Willie's family, it could not replace their need for their father and husband. Mr. Brand is very deserving of an appeal, and we are all praying that this does happen for him and his family. He is well missed by all of our friends, and we will continue to be



as helpful and supportive as we possibly can to his family. But we all know that the best remedy to his family's hardship will be for the appeal to be granted, and charges dismissed. This will enable a wholesome family to once again become complete, and able to grow without in a positive way. As we all know when a struggling family is facing negative obstacles it affects everyone and opens them up to more negativity. Please consider these words and help his family to heal.

Thank you  
Bettie Sittel

11/01/05

November 1, 2005

Your Honor,

I am writing to you on behalf of PFC Willie V. Brand. I have known Willie for eleven years of his life. I met Willie in high school at Western Hills High School when he was a freshman in the marching band. I have always known that Willie was a good person. He is not only a friend of mine and my husbands, but also a dear friend to my parents as well.

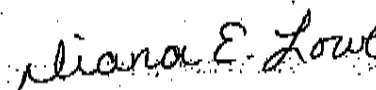
I know that Willie has always wanted to serve in the armed forces and I was there the day he announced to us all that he chose the Army. We were very proud. I can't speak for what happened in Afghanistan, sir, but I do believe that Willie was doing what he was ordered to do. I'm not a member of the armed forces, but I do know the importance of following orders. It is my belief that Willie did as he was told.

I ask you your Honor to please consider Willie's appeal. He has served his country well. It would not be fair to put him or his family through more turmoil. I think that under the circumstances his embarrassment from the news coverage, and the fact that he was charged and convicted the first time, which led to a loss of rank is a just punishment.

Willie has lost everything material and probably a lot of respect here at home. He will always have his friends and family, but no appeal means no civilian job for Willie and will only hurt his four children and his wife.

I ask you again, sir, to please consider Willie's appeal. Thank you, and God Bless you and every member of the United States Armed Forces.

Respectfully yours,



Diana Elaine Lowe, CRI

Dear Judge,

I am writing on behalf of Willie Brand. I have known Willie most of his life. I worked as the head Plant Operator in the school that he attended from K-6. Later he became good friends with my daughter in high school and was in the band with her.

Willie was a good kid. He did what he was told and it carried into the military I'm sure. I have not talked to him since he entered the military and he does not know I am writing this. So please believe me when I say he was a good kid.

Having been in the military myself, I know what following orders is expected of each and every member of the Armed Forces. I do not know what happened over in Iraq that caused this. I only know what is being said on TV. But it is my belief that Willie was following orders. Simply that. He went over there unselfishly to fight for our country. Please take that into consideration. He does not deserve to have the rest of his life put in turmoil, nor his children's for what I believe was not his call.

Please consider his appeal!

God Bless

Steven K. Clevins

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