

0134-02-CID369-23533
0135-02-CID369 23533Sworn Statement

LOCATION: Bagram Airfield, Afghanistan, APO AE 09354

DATE: 4 Dec 02

TIME: 0350Z *SAH*

NAME: Gerald A. HAWKINS

SSAN:

RANK: SFC/E-7/Reserves

ORGANIZATION:

I, SFC Gerald A. HAWKINS, want to make the following statement under oath:

SAH At approximately 1925Z, I was called to Isolation One, Main floor. When I arrived SPC CAMMACK told me that BT-412 was not responding. When I looked at the PUC his eyes were opened. I had SPC CAMMACK check his pulse, he said he had a faint pulse. The blood pressure I think was 118/36. We saw he was barely breathing, so we decided to call an ambulance at approximately 1935-1940Z. The ambulance arrived about 20 minutes later. We initially went to get the medic and he told us to call the hospital or take him to the hospital. The Captain that came to the BCP requested we take him to the hospital about ten minutes after they arrived at the BCP. I was called approximately 30 minutes later by 1LT BUELTRAM and told that BT-412 was dead. Prior to the phone call I went to the CPT BEIRINGS tent and brought him to the BCP to explain the situation. *SAH*

Q: SA POTTER

A: SFC HAWKINS

Q: What does PUC mean?

A: Person Under Control.

Q: Were you aware of any medical problems with BT-412?

A: No. We did pull his file prior to the ambulance arriving and found no information.

Q: How long has the detainee, BT-412, been at the Bagram Confinement Facility?

A: About 5 days.

Q: How long had he been in the Isolation Cell Block?

A: He had been there the entire time. He was originally in cell 7, but then we changed him to cell 6, and then changed him back to cell 7.

Q: Describe the cell?

A: Wooden cell, four walls, one door with an opening with metal bars. We had just started to use the cells just when the new group of detainees, which included BT-412, had arrived.

Q: Why was he in the Isolation Block?

A: He came in combative, always spitting, constantly talking to the other detainees, and not wanting listen to what he was being told. The first day that he arrived at the Confinement Facility, he (BT-412) had hit a guard in his testicles.

Q: At the time of this incident, was the detainee in restraints?

A: Yes.

Q: Why was he in restraints?

SAH
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Statement of SFC Gerald A. HAWKINS, taken at Bagram Airfield, Afghanistan, APO AE 09354, on 4 Dec 02,
continued:

A: Because he was combative. He just had spit on one of the guards, and the previous day, he struck a guard in the jaw and tried to strike another in the stomach.

Q: Was it standard procedure for a detainee to be restrained the way BT-412 was?

A: Yes, that way we can easily monitor the detainee.

Q: Had there been other altercations with BT-412?

A: He was always non-compliant and spitting on everybody and everything.

Q: Since he has been in Isolation, how would you say his eating patterns have been?

A: He was refusing some meals.

Q: On 3 Dec 02, prior to 1900Z, had BT-412 been involved in any other altercation?

A: Not as far as I know, we came on shift about 1930. If there had been a major incident, we would have been informed, but anything is annotated in the logbook in the Isolation area.

Q: During any of the altercations with BT-412, do you know if any US personnel had struck him?

A: No.

Q: Was there any guards that were violent towards the detainees?

A: Not that I have seen.

Q: How would you say that SGT DRIVER, SPC CAMMACK, SSG BERKELY and SPC NICHOLAS are towards the detainees?

A: Professional. If an incident occurs with the detainee, the guard notifies the SOG who in turn will decide what type of punishment needs to be dealt out, if any.

Q: While BT-412 was restrained within his cell, was he suspended from the ceiling with the chains?

A: Both feet were on the ground, and he was able to walk around the cell a little bit. But, he could not run towards the door or walls.

Q: Could he have choked or injured himself with the restraints?

A: No, because we had the restraints set up so he could not get the chains near his throat and his hands were handcuffed in front of him.

Q: Prior to the incident with SPC CAMMACK, was detainee BT-412 restrained, or was he restrained due to the incident?

A: He had been previously restrained.

Q: How was BT-412 restrained?

A: Belly chain, ankle restraints, short handcuffs, and he had one chain connected to the ceiling behind him and another in front of him.

Q: Is this statement in your own words and typed by this agent?

A: Yes.

Q: Do you have anything further to add to your statement?

A: No ///End of Statement///


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Statement of SFC Gerald A. HAWKINS, taken at Bagram Airfield, Afghanistan, APO AE 09354, on 4 Dec 02.
continued:

AFFIDAVIT

I, SFC Gerald A. HAWKINS, HAVE READ OR HAD READ TO ME THIS STATEMENT WHICH BEGINS OF PAGE 1 AND ENDS ON PAGE 3. I FULLY UNDERSTOOD THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT. *GAH*

WITNESS:

Gerald A. Hawkins
 (Signature of Person Making Statement)

(Signature)

(Printed Rank, Name)

(Unit)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 4th day of December, 2002, at Bagram Airfield, Afghanistan, APO AE 09354

Richard P. Potter
 (Signature of Person Administering Oath)

SA Richard P. POTTER
 87th Military Police Detachment (CID)
 Bagram Airfield, Afghanistan
 APO AE 09354

Article 136, UCMJ
 (Authority to Administer Oaths)

WITNESS:

(Signature)

(Printed Rank, Name)

(Unit)

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0137-02-CID369-23534

Sworn Statement

LOCATION: Bagram Airfield, Afghanistan, APO AE 09354

DATE: 10 Dec 02

TIME: 0730Z *LAH*

NAME: Gerald A. HAWKINS

SSAN: ~~REDACTED~~

RANK: SFC/E-7/Reserves

ORGANIZATION:

LAH I, SFC Gerald A. HAWKINS, want to make the following statement under oath:

I was on the main floor when I heard SPC MORDEN on the radio call for SPC CAMMACK to come to the ISO Block immediately. SPC CAMMACK passed by me and I radioed to SPC MORDEN if he needed any assistance. He informed me to call an ambulance. I went to the front area and told the RTO to call for an ambulance as I went upstairs. When I arrived in the ISO block, SSG BERKLEY and SPC MORDEN were doing CPR on the detainee, with SSG BERKLEY doing chest compressions and SPC MORDEN doing mouth to mouth. I could see that they were doing everything, so I started to write down times. I arrived at the ISO Block about 0130Z. SPC MORDEN said he looked inside the detainee's cell about 0128Z, and observed that he was slumped over. SPC MORDEN said he banged on the door to get a response, but did not receive anything, so he and SGT CURTIS went into the cell, removed the detainee's hood, and noticed that his eyes were rolled back. After a few minutes of doing CPR in the cell someone arrived with a stretcher, and we moved the detainee down to the inprocessing room to await the ambulance. This was about 0136Z. After the ambulance arrived, which was about 0140Z, we placed him on their backboard in order to continue CPR. The ambulance crew treated him for about two minutes and then transported him to the hospital. Upon arrival at the hospital, one of the doctors declared the time of death as 0204Z (0630L). *LAH*

Q: SA POTTER

A: SFC HAWKINS

Q: Had you checked on the detainee prior to 0128Z?

A: No I did not. I asked SSG BERKLEY earlier how the detainee was doing, and he said ok.

Q: Were you aware of any medical problems with the detainee?

A: No.

Q: Do you know if any guards had struck the detainee prior to 0128Z?

A: I didn't see anybody do anything to him.

Q: Is this statement in your own words and typed by this agent?

A: Yes. *LAH*

Q: Do you have anything further to add to your statement?

A: No ///End of Statement/// *LAH*

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LAH
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000025

0137-02-CID369-23534

Statement of SFC Gerald A. HAWKINS, taken at Bagram Airfield, Afghanistan, APO AE 09354, on 10 Dec 02,
continued:

AFFIDAVIT

I, SFC Gerald A. HAWKINS, HAVE READ OR HAD READ TO ME THIS STATEMENT WHICH BEGINS OF PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTOOD THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT. *LAH*

WITNESS:

[Signature]
 (Signature of Person Making Statement)

(Signature)

(Printed Rank, Name)

(Unit)

WITNESS:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 10th day of December, 2002, at Bagram Airfield, Afghanistan, APO AE 09354

[Signature]
 (Signature of Person Administering Oath)

SA Richard P. POTTER
 87th Military Police Detachment (CID)
 Bagram Airfield, Afghanistan
 APO AE 09354

(Signature)

(Printed Rank, Name)

(Unit)

Article 136, UCMJ
 (Authority to Administer Oaths)

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LAH
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000636

0134-02-CID369-23533

SWORN STATEMENT

File Number :
Location : Building 225, Camp Atterbury, IN
Date : 5 Feb 04 *10* Time: *1457* *SRH*
Statement Of: Gerald A. Hawkins Grade/Status: E-7
SSN : *[REDACTED]*
Org/Address : *[REDACTED]*

I, Gerald A. Hawkins, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q: The U.S. Army is currently investigating the death of two detainees at Bagram Airbase, Afghanistan during December 2002. Were you deployed or assigned to Afghanistan between October and December 2002?

A: Yes. *SRH*

Q: What dates were you there and what were your duties?

A: I got there at about September 2002 and I left at about 29 March 2003. I was a Platoon Sergeant for 1st Platoon. When we first got there, our platoon was doing entry control points at the gates. We rotated into the facility about two and a half months later and we worked night shift. As a Platoon Sergeant, I checked on the soldiers at their posts, made sure they got chow and had ammo. I had a daily briefing every day at the Provost Marshal's Office regarding threats, procedures and whether VIP's would be entering the facility. *SRH*

Q: Did you guard either detainee that died during the period of time between October and December 2002?

A: No, I was NCOIC, so I moved throughout the facility checking on my soldiers and ensuring there was no problems with the soldiers. I also assisted with inprocessing of detainees. *SRH*

Q: Did you interview or were you present during any interviews with either detainee during this time frame?

A: No. *SRH*

Q: Did you witness either detainee receiving any type of corrective punishment?

A: I can't remember which one it was, but one of them grabbed at SSG BERKELY and SSG BERKLEY struck the detainee in his rib area one time with his hand to make him release. It was extremely dangerous for the detainee to grab SSG BERKLEY, because he was the floor NCOIC, and as such carried a 9mm pistol. SSG BERKLEY, another MP and I then took the detainee to the isolation area since he was being noncompliant. *SRH*

Q: How often did detainees receive common pronial strikes?

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STATEMENT OF Gerald A. Hawkins, TAKEN AT Building 225, Camp Atterbury, IN; DATED 5 Feb 04; CONTINUED:

A: I never saw anybody get a common pronial strikes while I was there. I did not condone common pronial strikes because I work in a hospital and I know that would hurt after a period of time. I am pretty sure I told the soldiers not to use common pronial strikes. *LR*

Q: Did either PUC that died cause any trouble that you are aware of?

A: My troops told me both were constantly noncompliant and would spit and yell at the soldiers. I had heard that one of them flipped a third platoon soldier. I just heard they were constantly noncompliant. We had a few detainees that were noncompliant. Other than the incident I described with SSG BERKLEY, I don't think I saw either detainee cause any other trouble. *LR*

Q: Were either detainees that died placed into standing restraints?

A: Yes, from what I understand, a couple times both were noncompliant by spitting at the soldiers or kicking at the soldiers. They were put into the standing restraints each of those times. According to the unit that was there before us, a detainee could be placed into standing restraints for an hour for the first offense, another hour for the second offense, and then after that it was up to the ~~guard's~~ *guard's* discretion. I never saw it in an SOP, though. Sometimes, they would be in standing restraints when we came on shift from something they did on the previous shift. We would document when a person was put into standing restraints and for how long in a ledger. Sometimes MI would dictate when someone was to be in an isolation cell, with or without standing restraints, and sometimes they were put in there for being noncompliant. There was a status board in the isolation areas and one on the main floor. It would tell what time they were up, what time they would go down and what the infraction was that they did. *LR*

Q: Were the status boards wiped clean before the International Committee of the Red Cross or any other visitors arrived?

A: I couldn't tell you because we were on night shift and there weren't visitors during night shift. *LR*

Q: Did any MP's complain that either of the PUC's that died were troublemakers?

A: No, they sometimes complained that PUC's were non-compliant. If we had somebody that was being noncompliant we would give them verbal instructions. We didn't have interpreters when we worked

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INITIALS *LR*

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STATEMENT OF Gerald A. Hawkins, TAKEN AT Building 225, Camp Atterbury, IN; DATED 5 Feb 04; CONTINUED:

so we would get a PUC that spoke English to help us out. We had asked for interpreters, but never got them. *LH*

Q: Did any MP's appear to dislike the PUC's?

A: Nobody liked the PUC's. On one occasion, I saw Corey JONES walking a PUC and twist the cuffs to cause the PUC pain. When I saw that, which was after the two deaths, I had him removed from the facility and he no longer worked there. *LH*

Q: How did the MP's handle PUC's who were noncompliant?

A: It depended on the situation. During inprocessing, the PUC's weren't necessarily noncompliant, but they wouldn't understand what we were telling them so we would have to motion to them or even push them down to the ground to get them to sit. If a PUC is refusing to do what they were told, they would be put into the airlock if they were in general population. If they continued to be a problem, they would be escorted to an isolation cell where they would only be placed into standing restraints with their hands above their head if they continued to be noncompliant. *LH*

Q: Did you hear or see anything pertaining to the treatment of detainees that you felt uncomfortable with?

A: I didn't have any problems with anything they did.

Q: Have you been trained on common pronial strikes and pressure point control tactics? *LH*

A: We did some training on it at Fort Dix. I never did it and I never saw anybody use it. I think me and LT BUELTERMAN told them not to use the common pronial strikes. *LH*

Q: Why didn't you want soldiers using the common pronial strike?

A: I didn't think it was necessary. We had enough MP's to have them do what we wanted them to do. I didn't think it was necessary. With a two man escort, there shouldn't be any reason for a common pronial strike. *LH*

Q: Do you know who had anything to do with the eventual death of either detainee?

A: No. *LH*

Q: Did anyone tell you who might have had anything to do with the death of either detainee?

A: No. I heard that somebody did do common pronial strikes on one of the PUC's, but I don't remember who it was. I heard that they had to use common pronial strikes to get the guy out of the cell for an interrogation. *LH*

Q: How do you feel about the deaths of those two detainees?

A: I wish I knew what caused it. I felt fairly sure that it wasn't nothing that happened because of my shift. I have a pretty good

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STATEMENT OF Gerald A. Hawkins, TAKEN AT Building 225, Camp Atterbury, IN; DATED 5 Feb 04; CONTINUED:

belief that it wasn't anything that we did. I would hope that it didn't have nothing to do with other shifts. *LH*

Q: Who do you think caused the death of the detainees?

A: I don't know. When we first talked to CID there, they said the guy may have had a heart attack or blood clot. We were doing a really good job in the facility and I was impressed with our soldiers, so I was upset that the PUC's died on our shift. I felt better when I heard it was probably natural causes. *LH*

Q: Is there anyone that you know well enough that you feel is above suspicion and would not have abused a detainee?

A: I don't think anybody in my platoon would do something like that. The one problem I saw, which was Corey JONES, I took care of that and put him out of the facility. I put him to work in the post commander's office because I wouldn't put up with it. I don't know most of the people in third platoon well enough to speak for them. *LH*

Q: Do you suspect anyone caused the detainees death?

A: No. *LH*

Q: Do you think that the death of either of those detainees was deliberate?

A: No. *LH*

Q: Who do you think would have had the best opportunity to have physically abused either detainee?

A: I can't say. I don't think anybody would do it. Anybody would have the same capability as everyone else. *LH*

Q: Why do you think someone would abuse a detainee?

A: I don't think they would. *LH*

Q: Did you ever think about abusing a detainee, even though you didn't go through with it?

A: No. *LH*

Q: Why wouldn't you abuse a detainee?

A: It's not the right thing to do. I treat people like I want to be treated. *LH*

Q: What do you think should happen to a person who mistreated or caused the death of a detainee?

A: I can't pass judgment on them. It's not my place. *LH*

Q: Under what circumstances were you given direction that a common pronial strike or pressure point control tactic could be applied?

A: I don't think we were ever given direction on that. When they gave us the course, they told us about the pressure points and common pronial strikes, but they didn't say when it would or would

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STATEMENT OF Gerald A. Hawkins, TAKEN AT Building 225, Camp Atterbury, IN; DATED 5 Feb 04; CONTINUED:

not be appropriate. *AK*

Q: Where did you learn what was and was not acceptable treatment of the detainees?

A: After the second PUC passed, we were told that PUC's could no longer be restrained to the ceiling and it made me wonder if it was ever appropriate in the first place. I didn't know if that had something to do with a blood clot or whatever because I had no idea people were using common pronial strikes to that effect. I can't remember if there was paper SOP written on how the detainees were to be treated of it was just passed down. The SOP talked about how the guards were supposed to be set up. *AK*

Q: Did you ever see a SOP for the facility?

A: I can't remember if I did or didn't. I think I saw one that was written by a Lieutenant Colonel or Major. *AK*

Q: Do you know if the unit prior to yours utilized standing restraints, PPCT or common pronial strikes?

A: I know they did standing restraints. I am assuming they told second platoon who was in the facility when we first arrived in country. I had not heard anything about PPCT or common pronial strikes by the other unit. *AK*

Q: What was your professional training and background outside of the military before deploying?

A: I worked in the Psychiatric Ward of a hospital as a Psychiatric Technician for eighteen years, which included locked units. *AK*

Q: Did you ever see the legs of either PUC that died underneath his clothing?

A: I think I saw one of them when they were in the morgue, but I can't remember if I saw bruises or not. *AK*

Q: Did you ever observe any bruises or injuries on either PUC that died?

A: I can't remember. *AK*

Q: Did either PUC that died ever appear ill to you?

A: One of the PUC's had something wrong with one of his eyes that I noticed during inprocessing. I think it was the second one. It was a different color than the other one, I think. *AK*

Q: Did you ever observe either PUC that died in pain?

A: No. *AK*

Q: Do you have any idea what type of emergency medical treatment either PUC received on the day they died?

A: On the first PUC that died, I was in the facility with LT BUELTERMAN and somebody called over the radio and said that they were having a problem in one of the isolation cells and so we went

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STATEMENT OF Gerald A. Hawkins, TAKEN AT Building 225, Camp Atterbury, IN; DATED 5 Feb 04; CONTINUED:

there. When we got there, the PUC was laying on the floor and SPC CAMMACK was trying to get the pulse. CAMMACK looked at the eyes to see if they were dilated. I think CAMMACK said that he didn't think he had a pulse and the eyes were not dilated. I think we moved the PUC into the front foyer area. CAMMACK and I can't remember who else kept trying to get a pulse and checking the pupils. Somebody said they thought they had a faint pulse. We called for an ambulance and we waited about 20 to 25 minutes to get there. We didn't have any medics or doctors on site; we only had our combat lifesavers there. During that time, myself and LT BUELTERMAN were writing the details down in the green log books because we knew it would be important. I don't remember if anyone quoted a pulse or blood pressure to me. When the doctor did arrive, he looked at the PUC and said, "He's dead. He's been dead for awhile." *GAH*

Q: Did the doctor say anything like, "you better have your paperwork straight"?

A: I don't remember him saying that. *GAH*

Q: Did the PUC appear to have any signs of life when you first arrived to the cell?

A: When I first walked up, I thought he was dead because his eyes were open and he wasn't moving and I didn't see his chest rising or falling. *GAH*

Q: Did anyone give CPR to the first PUC that died?

A: No, we didn't have any face shields in the facility. The medical facility inside was inadequate. *GAH*

Q: What type of emergency medical treatment did the second PUC that died receive? *GAH*

A: On the second PUC that died, SGT CURTIS called for SSG BERKLEY over the radio. I think SSG BERKLEY and maybe SPC MORDEN were saying that they thought they had a problem and MORDEN and BERKLEY had started CPR on the PUC. MORDEN was doing mouth to mouth without a mask and BERKLEY was doing chest compressions. We moved the PUC to the main foyer area and the guys continued CPR while we waited for the ambulance. The ambulance got there a lot quicker for the second one. I think medics arrived for this PUC and I don't remember if they made any comments about the PUC's condition. I don't recall if either of the guys said anything about a pulse or a blood pressure. *GAH*

Q: Did the second PUC appear to have any signs of life when you first arrived to his cell?

A: I think I saw a chest rise and fall on him. I didn't check for
Exhibit: _____ INITIALS *GAH* PAGE *6* OF *2*

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STATEMENT OF Gerald A. Hawkins, TAKEN AT Building 225, Camp Atterbury, IN; DATED 5 Feb 04; CONTINUED:

pulse or anything because MORDEN and BERKLEY were doing that. *LH*

Q: Are you aware of any plan to conceal or alter details surrounding either detainee's deaths?

A: No. *LH*

Q: Were any MP's using steroids during the deployment?

A: I know some guys were using muscle building powder stuff that you can buy in the health food places. *LH*

Q: Other than Corey JONES, are you aware of any soldiers being counseled for their treatment of detainees?

A: Not that I know of. *LH*

Q: Were you aware of 2LT COLLINS being involved in any mistreatment of the detainees?

A: No. *LH*

Q: What was your assessment of SPC CAMMACK's duty performance and well-being?

A: He is a good troop. I think he should have been promoted a long time ago, but he doesn't get promoted because he can't pass a PT test. I think he is a professional who does a good job. I am not aware of him having any personal problems. *LH*

Q: Was SPC CAMMACK ever involved in any misconduct?

A: Not that I saw or heard. *LH*

Q: How often were the guards required to check on the well being of the PUC's in isolation?

A: Approximately every fifteen minutes. *LH*

Q: Do you think the soldiers were diligent in performing those checks?

A: I think so. When I walked around, I saw people making rounds and checking on the detainees. I think soldiers would notice if a detainee was not moving. *LH*

Q: Was SPC CAMMACK responsible for guarding the first PUC that died on the night he died?

A: He was responsible for isolation on the first floor and I think that is where that PUC was. *LH*

Q: Do you recall anything that would have kept CAMMACK busy and prevent him from checking on that PUC before he was discovered dead?

A: No. *LH*

Q: What was your assessment of SPC BRAND's duty performance and well-being?

A: He was doing a good job as far as duty performance. He had some problems at the beginning of the deployment because of a death in the family. He did what he was supposed to do. I didn't

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STATEMENT OF Gerald A. Hawkins, TAKEN AT Building 225, Camp
Atterbury, IN; DATED 5 Feb 04; CONTINUED:

see him do anything wrong with the prisoners. *LR*

Q: Were you aware your soldiers were giving common pronial strikes
to detainees?

A: No. I didn't have a clue. If I would have know, I would have
stopped it. Just like with Corey JONES. *LR*

Q: Do you have anything to add to this statement?

A: No. ///END OF STATEMENT/// *LR*

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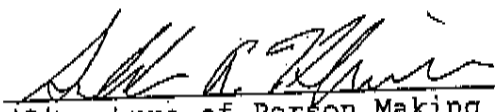
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STATEMENT OF Gerald A. Hawkins, TAKEN AT Building 225, Camp
Atterbury, IN; DATED 5 Feb 04; CONTINUED:

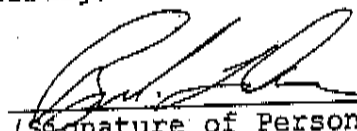
AFFIDAVIT

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UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE
STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE
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WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL
INFLUENCE, OR UNLAWFUL INDUCEMENT.



(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by
law to administer oaths, this 5th day of February, 2004 at Camp
Atterbury, IN.



(Signature of Person Administering Oath)

SA Brandon L. Owens

(Typed Name of Person Administering Oath)

ARTICLE 136 (b) (4) UCMJ

(Authority To Administer Oaths)

WITNESS:

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INITIALS



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0134-02-CID369-23533

SWORN STATEMENT

File Number :
Location : 3/338th LNO, Camp Atterbury, IN
Date : 17 Jun 04 *SH* Time: 11:45 *SH*
Statement Of: Gerald A. Hawkins
SSN :
Org/Address :
Grade/Status: E-7

I, Gerald A. Hawkins, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q: Were you aware of guards striking a detainee just to hear him say, "Allah"?

A: No. If I had heard about that I would have kicked them out of the facility just like I did Corey JONES. I mean, I kicked him out just for twisting cuffs, so if I had heard of anything like that they would have been kicked out, too. *SH*

Q: Did you give a briefing in which you stated you knew common peronial strikes were being overused and they needed to stop?

A: I told my guys that I didn't want anyone doing common peronial strikes because we were doing two man escorts in which the detainee was restrained and there would be no need for common peronial strikes to control a detainee. *SH*

Q: When did you instruct your platoon not to use common peronial strikes in relation to the detainee deaths?

A: I believe it was right when we first got into the facility because we were doing two man escorts right off the bat, so there was no need. *SH*

Q: Did you have any inclination that soldiers may be overusing common peronial strikes?

A: I had heard that third platoon was using common peronial strikes on ~~some~~ ^{peronals} who were not cooperative. I don't remember where I heard that or from whom, but I had heard that they were using common peronial strikes and I didn't want my platoon to be doing that. I may have specifically reinforced to my platoon during a guardmount that they were not to use the common peronial strike based upon hearing that third platoon was using them on uncooperative detainees. *SH*

Q: Do you recall any specific instances that third platoon gave a common peronial strike to an uncooperative detainee?

A: No. *SH*

Q: Why didn't you want your soldiers administering common peronial strikes to detainees who were not cooperative?

Exhibit: _____

INITIALS *SH*

PAGE 1 OF 3

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0134-02-CID369-23533

STATEMENT OF Gerald A. Hawkins, TAKEN AT Camp Atterbury, IN; DATED 17 Jun 04; CONTINUED:

A: It wasn't in the SOP to do that for one, and it was unnecessary. Everything was done with a two man escort, and they can control anything a restrained detainee did. *LH*

Q: Did a soldier ever report to you that one of the detainees had a bruise on their leg that appeared to be worsening?

A: I don't remember that. Not to say it didn't happen, but I don't remember it happening. *LH*

Q: What would have been your response to such a report?

A: I would have told the medic to check him out to see if it was okay. If the medic would have said it was okay, we probably would have documented it in the logbook. If the medic thought it was a problem, it was their responsibility to report it to the doctor. *LH*

Q: Do you recall any medical problems being brought to your attention regarding either detainee that later died?

A: No. *LH*

Q: Do you have anything to add to this statement?

A: No. ///END OF STATEMENT/// *LH*

Exhibit: _____

INITIALS *LH*

PAGE 2 OF 3

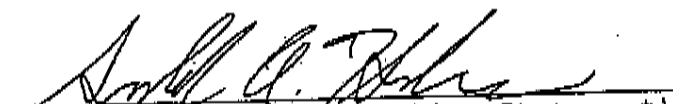
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0134-02-CID369-23533

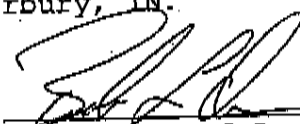
STATEMENT OF Gerald A. Hawkins, TAKEN AT Camp Atterbury, IN; DATED
17 Jun 04; CONTINUED:

AFFIDAVIT

I, Gerald A. Hawkins, HAVE READ OR HAVE HAD READ TO ME THIS
STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 3. I FULLY
UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE
STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE
INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I
HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD,
WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL
INFLUENCE, OR UNLAWFUL INDUCEMENT.


(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by
law to administer oaths, this 17th day of June, 2004 at Camp
Atterbury, IN.


(Signature of Person Administering Oath)

SA Brandon L. Owens

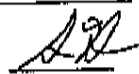
(Typed Name of Person Administering Oath)

ARTICLE 136, UCMJ

(Authority To Administer Oaths)

WITNESS:

Exhibit: _____

INITIALS 

PAGE 3 OF 3

FOR OFFICIAL USE ONLY

0134-02-CID369-23533

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT**AUTHORITY:****PRINCIPAL PURPOSE:****ROUTINE USES:****DISCLOSURE:**

Title 10, United States Code, Section 3012(g)

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

Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval

Disclosure of your Social Security Number is voluntary.

1. LOCATION 3/338 th LNO, Camp Atterbury, IN	2. DATE 17 Jun 04	3. TIME 11:11	4. FILE NO.
5. NAME (Last, First, MI) Hawkins, Gerald A.	8. ORGANIZATION OR ADDRESS		
6. SSN	7. GRADE/STATUS SPC		

PART 1 - RIGHTS WAIVER/NON-WAIVER CERTIFICATE**Section A. Rights**

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command and wanted to question me about the following offense(s) of which I am

suspected/accused: Dereliction of Duty, Negligent Homicide, Cruelty and Maltreatment of a Prisoner, False Official Statement

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

1. I do not have to answer any questions or say anything.
2. Anything I say or do can be used as evidence against me in a criminal trial.
3. (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me or both.


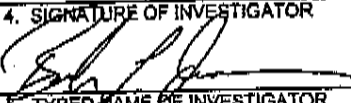
- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)**Section B. Waiver**

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWER
1a. NAME (Type or Print)		
b. ORGANIZATION OR ADDRESS AND PHONE		4. SIGNATURE OF INVESTIGATOR
2a. NAME (Type or Print)		
b. ORGANIZATION OR ADDRESS AND PHONE		5. TYPED NAME OF INVESTIGATOR SA Brandon L. Owens
		6. ORGANIZATION OF INVESTIGATOR HQ, USACIDC, 5010 Sixth Street Ft. Belvoir, VA 22060

Section C. Non-Waiver

1. I do not want to give up my rights:

☐ I want a lawyer.☐ I do not want to be questioned or say anything.

2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA form 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED.

DA FORM 3884 NOV 88

EDITION OF NOV 88 IS OBSOLETE

0134-02-CID369-23533

PART II - RIGHTS WARNING PROCEDURE**THE WARNING**

1. **WARNING** - Inform the suspect/accused of:
 - a. Your official position
 - b. Nature of offense(s).
 - c. The fact that he/she is a suspect/accused.
2. **RIGHTS** - Advise the suspect/accused of his/her rights as follows:

"Before I ask you any questions, you must understand your rights."

 - a. "You do not have to answer my questions or say anything."
 - b. "Anything you say or do can be used as evidence against you in a criminal trial."
 - c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer

can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."

- or -

(For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."

- d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"

(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?"

(If the suspect/accused says "yes," find out when and where. If the request was recent (i.e., fewer than 30 days ago), obtain legal advice on whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

"Do you want a lawyer at this time?"

(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)

"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" (If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)

SPECIAL INSTRUCTIONS

WHEN THE SUSPECT/ACCUSED REFUSES TO SIGN THE WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make an entry on the waiver certificate to the effect that he/she has stated that he/she has his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogations, completion may be temporarily postponed. Notes should be kept on the circumstances.

PRIOR INCRIMINATING STATEMENTS:

1. If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.

2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.

NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting a lawyer, (example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")

COMMENTS (Continued)

0134-02-CID369-23533

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE For use of this form, see AR 190-30: the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY:

PRINCIPAL PURPOSE:

ROUTINE USES:

DISCLOSURE:

Title 10, United States Code, Section 3012(g)

To provide commanders and law enforcement officials with means by which information may be accurately identified.
Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.
Disclosure of your Social Security Number is voluntary.

1. LOCATION Embassy Suites, Cincinnati, Ohio	2. DATE 4 Feb 04 <i>TVC</i>	3. TIME 1710 <i>TVC</i>	4. FILE NO. 0134-02-CID369-23533
5. NAME (Last, First, MI) CURTIS, Thomas V.	8. ORGANIZATION OR ADDRESS		
6. SSN	7. GRADE/STATUS Civilian		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command
and wanted to question me about the following offense(s) of which I am
as a Special Agent

suspected/accused UNegligent Homicide/Cruelty and Maltreatment/False Official Statement/ TVC
Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

1. I do not have to answer any questions or say anything.
2. Anything I say or do can be used as evidence against me in a criminal trial.
3. (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me or both.

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES (if available)		3. SIGNATURE OF INTERVIEWEE <i>Thomas V. Curtis</i>
1a. NAME (Type or Print) SA Angela Birt, 3615	<i>[Signature]</i>	4. SIGNATURE OF INVESTIGATOR <i>[Signature]</i>
b. ORGANIZATION OR ADDRESS AND PHONE HQ, USACIDC Fort Belvoir, VA 22060		5. TYPED NAME OF INVESTIGATOR SA Daniel G. Carton, 3609
2a. NAME (Type or Print)		6. ORGANIZATION OF INVESTIGATOR HQ, USACIDC Fort Belvoir, VA 22060
b. ORGANIZATION OR ADDRESS AND PHONE		

Section C. Non-Waiver

1. I do not want to give up my rights:

☐ I want a lawyer.

☐ I do not want to be questioned or say anything.

2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA form 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

DA FORM 3881 NOV 80

EDITION OF NOV 84 IS OBSOLETE

PROSECUTION EXHIBIT 19

For Official Use Only / Law Enforcement Se

0134-02-CID369-23533

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

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 - b. Nature of offense(s).
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- d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"

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(If the suspect/accused says "yes," find out when and where. If the request was recent (i.e. fewer than 30 days ago), obtain legal advice on whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

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WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS:
During the interrogation, the suspect displays indecision about requesting a lawyer, for example, "Maybe I should get a lawyer.", further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning must not be utilized to discourage a suspect/accused from exercising his/her right. (For example, do not make such comments as "If you didn't do anything wrong you shouldn't need an attorney.")

COMMENTS (Continued)

0134-02-CID369-23533

SWORN STATEMENT

File Number : 0134-02-CID369-23533/0137-02-CID369-23534
Location : Embassy Suites Hotel, Cincinnati, OH 45242
Date : 4 Feb 04 Tvc Time: 1850 Tvc
Statement of: CURTIS, Thomas V. Grade/Status: Civ
SSN :
Org/Address :

TVC I, Thomas V. CURTIS, want to make the following statement under oath: I initially came in to speak with CID, in Cincinnati, OH on 31 Jan 04. I was unable to stay and complete the interview. This statement reflects a compilation of incidents we discussed on 31 Jan 04 and today, 4 Feb 04. I was advised of my rights both days and I made this statement freely, to assist in the investigation of the two deaths at the Bagram Collection Point (BCP), Bagram, Afghanistan, which occurred in Dec 02.

I came into the US Army Reserves as a 12B (Combat Engineer) in 1993. I was working in Juvenile Detention Center for Hamilton County, IN, full time. I worked with juveniles in the main confinement area for the first 18 months and rounded out my experience by working in the intake division and learning the administrative portion of the operation. I worked at the Detention Center, Hamilton County, between 1994 to Jan 01, mostly working in intake, where juveniles are processed into the facility. I got out of the reserves in Jan 99 and later (in Sep 2000), I was contacted by a recruiter to join the MPs at the 377th MP Company, which was local, here in Cincinnati. In Jan 01, I moved from the juvenile detention position, to a parole officer position, supervising adult prisoners who were released. I monitor prisoners' parole conditions and check on their progress in getting back into the community.

Q: How were you taught to handle confrontational or combative juveniles?

A: Talk to them and conduct verbal intervention first, then if you must get physical, we are taught "bushido" control techniques. It focuses on the wrists, arms and hands and controlling movement.

Q: Are there any circumstances under which you are permitted to strike juveniles in your custody?

A: To defend myself, you're not supposed to hit them. Only do what is necessary to get them off you, if attacked.

Q: Have you ever had to use physical force on juveniles?

A: Yes.

Q: Have you ever been the subject of an excessive force complaint?

INITIALS TVC

Page 1 of 10

FOR OFFICIAL USE ONLY

EXHIBIT _____

0134-02-CID369-23533

STATEMENT OF Thomas V. CURTIS, TAKEN AT Embassy Suites Hotel,
DATED 4 Feb 2004, CONTINUED:

TVC

A: No, never.

On 20 Jun 02, my unit left Ohio to go to Fort Dix, NJ for Mobilization Training. We did a little training on about everything, we shot all the weapons, NBC, radio (SINCGARS), first aid and mine awareness. It was a wide variety of training to prepare us for deploying to Afghanistan. We also did crowd control training (acting as role players), land navigation. We completed training in a couple weeks, but were at Fort Dix, NJ until we shipped out to Afghanistan. I arrived in Afghanistan on 31 Aug 2002. I was assigned to 1st Platoon and we began working out on the gates. By the time we transitioned into the Bagram Control Point (BCP) and began working with detainees, the MP unit we relieved was gone. I don't recall which MP unit that was. We were trained by our own people on how to handle operations within the BCP.

Q: What did your training to working in the BCP consist of?

A: Mainly hands on, watching the platoon we were relieving escort people to the bathroom, conduct searches, write in the log book, feed the detainees. It was On the Job Training (OJT).

Q: What were you told to write in the log books?

A: Bathroom breaks, when they ate, when they saw medical, when they were interviewed, what MI directed about the detainees' treatment (hooding, standing up for sleep dep).

Q: What is "sleep dep"?

A: Sleep deprivation, they would tell us how many hours to let them sleep and how many hours they had to stay awake. It disoriented the detainees and made them more willing to talk.

Q: Were comments made in the logbook about strikes made?

A: Nope, cause you rarely had to strike someone. If they struck at you, you'd note he was combative.

Q: Did you do any MP specific training at Fort Dix?

A: Yes, self defense training. I remember going to a sand pit and learning throws and blows, some pressure point control techniques (PPCT).

Q: Do you remember who taught that training on PPCT?

A: I don't remember whom - specifically. It was someone from the unit, who either had experienced or volunteered to teach it. It did not come from the Army trainers at Fort Dix, NJ.

Q: Was the self-defense training a single training event or was it repeated (either at Fort Dix or once in country - Afghanistan)?

A: It may have been more than once at Fort Dix, but once we got into country, we did not have training time. We just worked.

INITIALS TVC

Page 2. of 10

FOR OFFICIAL USE ONLY

EXHIBIT _____

0134-02-CID369-23533

STATEMENT OF Thomas V. CURTIS, TAKEN AT Embassy Suites Hotel,
DATED 4 Feb 2004, CONTINUED:

TVC

Q: Do you remember which unit you replaced and how long you trained alongside them?

A: I don't remember the unit we replaced. I started on the gates, so my training was on how to work gates. The platoons that worked in the Bagram Control Point got their training when they took over that job. I took over working in the BCP from another platoon (2nd) in my unit, so that was who trained me.

Q: When did you arrive in Afghanistan?

A: 31 Aug 02.

Q: When did you start working in the BCP?

A: I'm not for sure, I think it was mid to late Oct 02. I'm assigned to 1st Platoon and I think the platoon we replaced (the one who trained us) was 2nd platoon. We took over nightshift, which ran from 1930 to 0730 Bagram local time. Day shift was 3rd platoon.

Q: When you got trained in the facility, what instructions did you receive about the shackling of detainees?

A: Detainees were to be shackled with leg irons on their ankles, their hands cuffed in the front, and their heads were to be hooded for any movement.

Q: Did you routinely use belly chains to affix their hands to their waist?

A: No, the handcuffs were enough, when moved them, it was always by two MPS, so we had good control of them.

Q: What instructions were you given about shackling detainees in a standing position?

A: If they would not stand up when they were told to, then we would cuff them to the ceiling to keep them standing. We would use a leg chain, fixed to the ceiling and then affixed to the short (hand) cuffs.

Q: What was the purpose of making the detainee stand up?

A: So they wouldn't sleep, so they would be willing to talk to MI. MI directed us to keep them from sleeping for specified periods of time. They would write it on the status board, for example, one hour up, two hours down. This meant we had to keep the guy awake for one hour and he could lie down or sleep for two. MI wrote what they wanted on the status board and we did our best to comply with what MI wanted. It was documented on a dry eraser board. Possibly it would be in the logbook.

Q: What was documented in the logbook?

A: When they went to the bathroom, when they ate, when they took medicines, any issues with them acting out during the shift, stuff like that.

INITIALS TVC

FOR OFFICIAL USE ONLY

Page 3 of 10

EXHIBIT _____

0134-02-CID369-23533

STATEMENT OF Thomas V. CURTIS, TAKEN AT Embassy Suites Hotel,
DATED 4 Feb 2004, CONTINUED:

TVC

Q: Was the MP response to behavioral problems documented in the logbook also?

A: Yes, SFC DAVIS would take the logbooks and compile them in a computer in the front (main) office of the BCP and make a report that went somewhere. I never saw the report. SFC DAVIS' job was mostly administrative, recording who came in, who left, who went to GTMO and he kept everything he did very secret. He protected it very closely.

Q: Was the computer SFC DAVIS used a desktop or a laptop?

A: I wanna say it was a desktop.

Q: Were compliance blows recorded in the logbook?

A: I doubt it and I never remember reading it in the book. I knew the blows happened and I don't remember reading it.

Q: What do you remember about the first detainee who died (HABIBULLAH-- PUC 412)?

A: The nightshift prior to the day he died, I was working (control or relief) in the BCP and SSG BERKLEY was the Iso Guard. BERKLEY was supervising the detainees in the downstairs Isolation Cells (I think it was called Iso #2, because it was the second one built). Iso #1 was built first and it was upstairs. BERKLEY asked for some assistance to take HABIBULLAH down from restraints to go to the bathroom. He was hooded and I think his hands were affixed to the ceiling by some sort of chain, but I can't remember the configuration. I wanna say his hands were cuffed together. I remember him being a "big fish". He was someone of importance. I knew he had kicked DRIVER during in processing and I wanted to get a good look at him. I remember he was healthier; he was a little bit heavier than most Afghans. He was well groomed, he came in with a group of other people and they were all in Isolation. He had an air of someone who was not a dirt farmer or a poor person. He seemed different than even the Afghans we had working from day to day on the base.

Q: Did HABIBULLAH walk to bathroom on his own?

A: Yes, I think so. Someone else was with me escorting him, but I don't remember the trip to the bathroom, as much as taking him down from restraints and putting him back up. I seem to recall he was sort of out of it, from being standing up and without sleep so long. He walked funny, but was moving under his own power. He was probably real tired or maybe he was walking funny because he was hurt, but I didn't think that at the time. Now looking back it's possible he was injured at that time.

INITIALS TVC

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EXHIBIT _____

0134-02-CID369-23533

STATEMENT OF Thomas V. CURTIS, TAKEN AT Embassy Suites Hotel,
DATED 4 Feb 2004, CONTINUED:

TVC

Q: Could you observe his legs at all during the trip to the bathroom or at any other time?

A: No they were covered up.

Q: Did you ever see anyone strike HABIBULLAH (PUC 412)?

A: No.

Q: Did you ever hear of or read about anyone striking HABIBULLAH (PUC 412)?

A: That's not the sort of thing you write in a logbook. It's just not gonna happen.

Q: Do you remember hearing about anyone hitting HABIBULLAH?

A: No, I just remember that DRIVER did not hit him, when the detainee kicked him in the groin during in-processing.

Q: In your civilian position, do you record use of force against a juvenile or prisoner?

A: Oh, yes. We write a report and record the event as best we can.

Q: Were you given guidance on what to do, if force was used on detainees within the BCP?

A: I know they told us something about what to do. I don't recall what it was. Ask for assistance, call the SOG, don't try to handle it on your own, stuff like that.

Q: Why?

A: Because I know what I was going to do. I knew that I was going get help and handle the situation with the training I had.

Q: What were you told to do if a detainee assaulted you?

A: Protect yourself.

Q: How did you learn of the first death (HABIBULLAH)?

A: I was off the day he died. Some guys came in the tent, as I was waking up and they said a PUC died last night. When I went on shift that night, I found out it was one of the ones in Iso who had just come in. I figured out it was the guy who was the "big fish" from the night before.

Q: Did it surprise you that HABIBULLAH died?

A: Oh, yeah.

Q: Why?

A: It had never happened before. It was just surprising.

Q: When you placed HABIBULLAH back in restraints on did he say anything to you?

A: He was mumbling stuff, but I have no idea what he was saying.

Q: Did you notice if HABIBULLAH was sick, or ill in anyway?

A: He looked tired, he was on sleep deprivation so that was

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EXHIBIT _____

0134-02-CID369-23533

STATEMENT OF Thomas V. CURTIS, TAKEN AT Embassy Suites Hotel,
DATED 4 Feb 2004, CONTINUED:

TVC

normal. He did not seem sick to me, but I had very limited contact with him.

Q: Do you remember if HABIBULLAH was coughing or spitting?

A: No, I can't recall. It was a very crude situation, we couldn't really know if someone was asking for us, unless it was on our list of Pashtun commands or directions. I remember one of the detainees spit a lot in his hood, but I can't recall if it was him.

Q: What did your list of Pashtun language commands have on it?

A: "Tashnob" which means bathroom, "sit down", "be quiet". Food was given regularly so there was no word for it. Water was given when they waived an empty water bottle at us.

Q: When working ISO Guard, were you supposed to check on the PUCs at regular intervals?

A: Yes, and no. I checked on them every 30 minutes or so. There was an SOP for it, I think I saw it, but I never read it. Each day the status board would be my guide for what I would do.

Q: How would you know if one of the detainees was asking for medical assistance?

A: Generally, it was by the tone of their voice and their insistence. We'd go get an interpreter and figure out what they were so insistent about, that would be the only way to know.

Q: What was the nature of your contact with DILAWAR (PUC 421) the second detainee who died?

A: You know it's been so long, but I have this mental image of SPC MORDEN. One night I was Iso Guard in the upstairs Iso Cellblock, DILAWAR was doing something, mumbling or not holding his hands up high enough, so MORDEN and another MP (I can't remember who the other MP was) went into the cell. I was standing in the doorway, DILAWAR was shackled up to the ceiling. MORDEN hit this guy pretty good (hard) with his knee in both legs. I remember him hitting on detainee's left side, he hit him five or six times that I saw. I just remember the look MORDEN gave me when he came out, which seemed like to me as if to mean this is how you take care of business.

Q: Do you recall being present when DILAWAR (PUC 421) would not put his hood down and SPC Willie BRAND delivered two common peroneal blows to get the detainee to stop fighting the hooding?

A: No, it may have happened, but I don't remember it. The thing I remember was MORDEN striking him, but it's possible BRAND was working with him and BRAND struck him too. I know MORDEN had a partner, but there are just certain things you

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EXHIBIT _____

0134-02-CID369-23533

STATEMENT OF Thomas V. CURTIS, TAKEN AT Embassy Suites Hotel,
DATED 4 Feb 2004, CONTINUED:

TVC
remember and I felt sorry for the guy, because MORDEN was kicking on him.

Q: Why did you never deliver common peroneal strikes?

A: It just didn't do anything for me. I just wanted to get through the shift. I viewed it as unnecessary for me.

Q: How did you learn of DILAWAR's death?

A: Almost at the end of my shift, around 0530 or so, we were taking a guy to the bathroom from the end of the Isolation Cells where PUC 421 (DILAWAR) was confined. I had to walk by his cell on the way, to observe the escort guards take the other guy to the bathroom. DILAWAR was hanging limp in the chains, I thought he was sleeping, so I kicked the door and I could have sworn I got a response, a slight move of the head. I walked up and watched them shackle up a detainee and take him to the bathroom. A guy in the other side cells was talking or asking for something, so I dealt with him and when I returned, DILAWAR was still hanging there. I looked real close at him and called MORDEN. We stood outside the cell and asked MORDEN, "does he look all right to you?". MORDEN said he didn't look too good, so went in to check him. We took the hood off and uncuffed him and he was dead weight. He just dropped. MORDEN started CPR, mouth to mouth and I called SOG (SSG BERKLEY). They carried him out on a stretcher and that was the last time I saw him. I had to stay in Iso and guard the rest of the prisoners.

Q: Did anyone strike DILAWAR that night?

A: That was the night MORDEN hit him, five or so times, earlier in the shift.

Q: How much time do you estimate elapsed between the time MORDEN struck DILAWAR and the time you found him unresponsive?

A: Seven to eight hours.

Q: Was DILAWAR standing restrained that whole time?

A: Yes.

Q: Was DILWAR hooded?

A: Yes.

Q: Did you check on him during the shift?

A: Oh, yeah. I'd check by seeing if he was shifting in his restraints, shuffling around, giving them water or taking them to the bathroom.

Q: Was he facing the door?

A: Yes, and he was like less than ten feet away through the door. You can actually see them breathing, shuffling and moving around.

Q: Was DILAWAR's body cold when you took him out of restraints?

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EXHIBIT _____

0134-02-CID369-23533

STATEMENT OF Thomas V. CURTIS, TAKEN AT Embassy Suites Hotel,
DATED 4 Feb 2004, CONTINUED:

TVC

A: No, not that I remember, but we were wearing long sleeved BDUs. The only thing that would have touched him were my hands. I don't remember him being cold.

Q: Was DILAWAR stiff when you took him out of restraints?

A: No, he was limp.

Q: Were his hands clinched?

A: I don't remember, I'm gonna say no, but I'm not sure.

Q: Were DILAWAR's open or closed when you took the hood off?

A: I think closed. I remember MORDEN opening an eyelid to look at his eyes. Then SSG BERKLEY arrives with other people who start CPR and carry him out on a stretcher.

Q: Did you take anything out of DILAWAR's cell prior to CID arriving?

A: No, I think it was secured.

Q: Did you ever see any detainee with tape affixed to their head or used to hold on a hood or mask?

A: No.

Q: Did you strike DILAWAR?

A: No.

Q: Why do you think MORDEN hit DILAWAR?

A: I heard that he was very combative when he came in and it seemed to be a little revenge thing for the detainees being hard to handle. They liked to soften them up.

Q: Was there a particular group of people who hit detainees?

A: The young guys, it wasn't a unit type of thing, it was the ones who were immature.

Q: Do you know about the use of illegal drugs or steroids by 377th MPs while in Afghanistan?

A: Not drugs, but supplements. There was one big guys, called "Meat" who could bench 490 lbs and I heard started acting weird and he was told to stop taking it. The guy's name was SPC Nathan JONES. I don't know what the weird stuff he was doing was cause he always seemed fine to me.

Q: How did you feel about DILAWAR's death?

A: It was more or less that he was the second one to die on our shift. I had no personal connection to him, I didn't know him, but it was unfortunate.

Q: Do you think the standing restraint and blows to his legs caused DILAWAR's death?

A: It could have.

Q: Did you feel any responsibility for the condition contributing to the death, as an NCO?

INITIALS TVC

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EXHIBIT _____

0134-02-CID369-23533

STATEMENT OF Thomas V. CURTIS, TAKEN AT Embassy Suites Hotel,
DATED 4 Feb 2004, CONTINUED:

TVC

A: At that point it was too late, you can sit back now and see that we should have done things differently. It was like a war thing, us against them, we just did what we were trained to do.

Q: Who else delivered blows to DILAWAR?

A: I don't know, but it stands to reason other guys did.

Q: Would the leadership have known about the delivery of common peroneal strikes to detainees?

A: Yes, they would have had to. Everyone knew it happened, from the SOG to the platoon sergeant and platoon leaders.

Q: Do recall any receiving any guidance from the chain of command about striking detainees?

A: After the second death, we could not stand them up, strike them. I think it's a given you aren't supposed to hit them, but it was also a given that it happened.

Q: What did the platoon sergeants and platoon leaders do on a typical shift?

A: They sat in the Admin section near the front entrance of the BCP, sometimes they would walk around. They let us run the facility. I'm not even sure 1LT BUELTERMAN was even there the night DILAWAR died.

Q: What do you think could have been changed that would have prevented the deaths?

A: Put them all in general population, only isolation provided enough privacy for blows to be delivered.

Q: Is there anything you wish to add to or delete from this statement at this time?

A: No.

////////////////////End of Statement////////////////////

TVC

INITIALS TVC

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EXHIBIT _____

Law Enforcement Sensitive

0134-02-CID369-23533

STATEMENT OF Thomas V. CURTIS, TAKEN AT Embassy Suites Hotel,
DATED 4 Feb 2004, CONTINUED:

TVL

AFFIDAVIT

I, Thomas V. CURTIS, HAVE READ OR HAVE HAD READ TO ME THIS
STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 10. I FULLY
UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE
STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE
INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I
HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR
REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION,
UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Thomas V. Curtis
(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to
administer oaths, this 4th day of February 2004 at Cincinnati, OH
45242.

[Signature]
(Signature of Person Administering Oath)

SA Angela G. Birt, 3615

(Typed Name of Person Administering Oath)

Article 136 (b) 4 UCMJ

(Authority to Administer Oath)

INITIALS TVL

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Page 10 of 10

EXHIBIT _____

0134-02-CID369-23533

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE For use of this form, see AR 190-30: the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT 0134-02-CID 369-23533

AUTHORITY:
PRINCIPAL PURPOSE:
ROUTINE USES:
DISCLOSURE:

Title 10, United States Code, Section 3012(g)
To provide commanders and law enforcement officials with means by which information may be accurately identified.
Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.
Disclosure of your Social Security Number is voluntary.

1. LOCATION Bagram Airfield, Afghanistan, APO AE 09354	2. DATE 22 Dec 02	3. TIME 0410 TVC	4. FILE NO.
5. NAME (Last, First, MI) CURTIS, Thomas V.	8. ORGANIZATION OR ADDRESS		
6. SSN	7. GRADE/STATUS SGT/E-5/Reserves		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command (CID) and wanted to question me about the following offense(s) of which I am

As a Special Agent

suspected/accused: Aggravated Assault

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

- I do not have to answer any questions or say anything.
- Anything I say or do can be used as evidence against me in a criminal trial.
- (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

- If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES (if available)

1a. NAME (Type or Print)

b. ORGANIZATION OR ADDRESS AND PHONE

2a. NAME (Type or Print)

b. ORGANIZATION OR ADDRESS AND PHONE

3. SIGNATURE OF INTERVIEWEE

4. SIGNATURE OF INVESTIGATOR

5. TYPED NAME OF INVESTIGATOR
SA Richard P. POTTER

6. ORGANIZATION OF INVESTIGATOR
87th Military Police Detachment (CID), Bagram Airfield, Afghanistan, APO AE 09354

Section C. Non-Waiver

- I do not want to give up my rights:

☐ I want a lawyer.

☐ I do not want to be questioned or say anything.

2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA Form 2823) SUBSEQUENT

PROSECUTION EXHIBIT 10

0134-02-CID369-23533

0134-02-CID369-23533

Sworn Statement

LOCATION: Bagram Airfield, Afghanistan, APO AE 09354

DATE: 22 Dec 02

TIME: 0430 TVL

NAME: Thomas V. CURTIS

SSAN:

RANK: SGT/E-5/Re-

ORGANIZATION:

I, SGT Thomas V. CURTIS, want to make the following statement under oath:

I understand that this statement is made to clarify or add to certain questions or aspects of my statement which I made to this office on 10 Dec 02:

Q: Did you have any significant involvement with PUC 412?

A: No, the only involvement I had with him is moving him around, going to the bathroom, etc. I was off the night that he died.

Q: Did you ever strike PUC 421?

A: No, not even any common pressure point strikes. I never hit any of the PUC's.

Q: Other than administering common pressure point strikes, did you ever see any guards strike the PUC's?

A: I have never seen any of the guards strike any of the PUC's unnecessarily. I did see SPC BRAN, SPC MORDEN, and SGT HUMPHREYS administer the common perineal strike to PUC 421, while in his cell, on separate occasions.

Q: Did you ever see a guard strike a PUC with an object, such as a baton?

A: No. I don't think anybody as ever hit any of them with a baton, not that I know of.

Q: Does your unit have batons?

A: Yes.

Q: What are they used for?

A: They were already in the Detention Facility, it was nothing that my unit brought with them. To my knowledge, they are used to control or regain control of PUC's in case they start to fight with the guards, as in a riot situation.

Q: Did you ever see any of the MI interrogators strike or kick any of the PUC's?

A: No.

Q: Did you see any of the MI interrogators place their hands on any of the PUC's?

A: No, if they did it was to help the PUC's walk, nothing such as an assault.

Q: What was the SOP within the Detention Facility for a PUC that said he was hurt or injured?

A: It was kind of tough because they do not really communicate with us, but if they did, we would contact the SOG.

Q: Do you have anything further to add to your statement?

A: No ///End of Statement///TVL

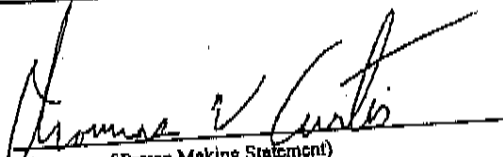
0134-02-CID369-23533

0134-02-CID369-23533

Statement of SGT Thomas V. CURTIS, taken at Bagram Airfield, Afghanistan, APO AE 09354, on 22 Dec 02.
continued:

AFFIDAVIT

I, SGT Thomas V. CURTIS, HAVE READ OR HAD READ TO ME THIS STATEMENT WHICH BEGINS OF PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTOOD THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT. TVC


(Signature of Person Making Statement)

WITNESS:

(Signature)

(Printed Rank, Name)

(Unit)

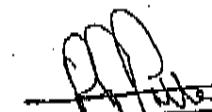
WITNESS:

(Signature)

(Printed Rank, Name)

(Unit)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 22nd day of December, 2002, at Bagram Airfield, Afghanistan, APO AE 09354


(Signature of Person Administering Oath)
SA Richard P. POTTER
87th Military Police Detachment (CID)
Bagram Airfield, Afghanistan
APO AE 09354

Article 136, UCMJ
(Authority to Administer Oaths)

TVC
Initials of Person Making Statement
DA Form 2823

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Page 2 of 2 Pages

Exhibit: _____



DEPARTMENT OF THE ARMY
U.S. ARMY TRIAL DEFENSE SERVICE
FORT BLISS FIELD OFFICE
FORT BLISS, TEXAS 79912

REPLY TO
ATTENTION OF

17 April 2005

ATZC - JA - TDS

MEMORANDUM FOR Commander, Garrison Command, Fort Bliss, Texas 79916

SUBJECT: Request for Verbatim Transcript of Article 32, UCMJ Investigation of PFC Willie V. Brand, HHB, Garrison Command, Fort Bliss, Texas 79916

1. I am an attorney representing PFC Willie V. Brand. PFC Brand is charged under several articles of the UCMJ in connection with the death and assaults of two Afghani detainees at Bagram, Afghanistan, in December 2002.
2. PFC Brand's Article 32 Investigation for the charges against him was held 21-23 March 2005 at Ft. Bliss. It was presided over by COL Stephen Pence, JA.
3. The defense was given the results of the Article 32 Investigation and a summarized transcript of the proceedings on 4 April 2005. The investigating officer recommended that most of the charges be tried at a general court-martial.
4. Because of the charges involved, the evidence at hand is likely to be quite complex and intricate. Several people testified by telephone at the Article 32 investigation, including a forensic pathologist and CID agent.
5. The defense needs to be able to review the testimony of these witnesses to fully prepare its case. All but one of the witnesses called gave telephonic testimony and the defense needs a full and complete record of their testimony for trial.
6. Also, the recorder at the Article 32 investigation had difficulty with her recording equipment and asked all parties and witnesses to speak up several times. The situation escalated to the point where people were shouting into microphones, a situation I had never encountered in my practice in the Ft. Bliss courtroom. The defense does not know if she was able to hear/record all of the testimony in an accurate manner.
7. For these reasons, the defense requests a verbatim transcript of the Article 32 Investigation of PFC Willie V. Brand.

Steven Slawinski

STEVEN SLAWINSKI
CPT, JA
Defense Counsel



DEPARTMENT OF THE ARMY
GARRISON COMMAND, FORT BLISS
2 SHERIDAN ROAD
FORT BLISS, TEXAS 79916

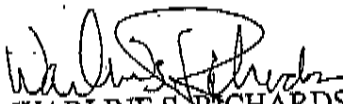
30 March 2005

ATZC-GC

MEMORANDUM FOR COL Stephen B. Pence,

SUBJECT: Approval of Request for Extension to Submit Investigating Officer's Report

I approve the request for extension to submit the Investigating Officer's Report of the Article 32, Uniform Code of Military Justice, investigation of charges against PFC Willie V. Brand. You will submit the complete report not later than 1 April 2005.


WARLINE S. RICHARDSON
MAJ, AD
Acting Commander

REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, U. S. ARMY GARRISON COMMAND
2 SHERIDAN ROAD
FORT BLISS, TEXAS 79916-6812

24 March 2005

IMSW-BLS-ZA

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Assumption of Command

The undersigned assumes command of the HQ, USA Garrison Command (W6CLAA), effective 0001 hours, Saturday, 26 March 2005, through 1900 hours, Wednesday, 30 March 2005.

A handwritten signature in black ink, appearing to read "Warline Richardson".

WARLINE RICHARDSON
MAJ, AD
Commanding

DISTRIBUTION:

COMMANDER, 62ND US ARMY BAND
COMMANDER, 76TH MILITARY POLICE BATTALION
COMMANDER, C DETACHMENT, 230TH FINANCE BATTALION
COMMANDER, BIGGS ARMY AIRFIELD
COMMANDER, USA COMBINED ARMS SUPPORT BATTALION
COMMANDER, 5035TH GARRISON SUPPORT UNIT
COMMANDER, 647TH AREA SUPPORT GROUP
COMMANDER, 326TH REPLACEMENT BATTALION (CONUS)

DIRECTORATE OF MORALE, WELFARE, AND RECREATION
DIRECTORATE OF CONTRACTING
DIRECTORATE OF ENVIRONMENT
DIRECTORATE OF INFORMATION MANAGEMENT
DIRECTORATE OF HUMAN RESOURCES
DIRECTORATE OF PLANS, TRAINING, MOBILIZATION AND SECURITY
DIRECTORATE OF PUBLIC WORKS & LOGISTICS
DIRECTORATE OF RESOURCE MANAGEMENT

FORT BLISS MUSEUMS
CIVILIAN PERSONNEL ADVISORY CENTER
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SAFETY OFFICE
PUBLIC AFFAIRS OFFICE
EQUAL EMPLOYMENT OPPORTUNITY
INTERNAL REVIEW AND AUDIT COMPLIANCE OFFICE

CF:

COMMANDER, USAADACENFB
OFFICE OF THE STAFF JUDGE ADVOCATE



DEPARTMENT OF THE ARMY
GARRISON COMMAND, FORT BLISS
2 SHERIDAN ROAD
FORT BLISS, TEXAS 79916

REPLY TO
ATTENTION OF:

25 Feb 05

ATZC-GC

Headquarters and Headquarters

MEMORANDUM FOR SPC Willie V. Brand
Battery, Garrison Command, Fort Bliss, Texas 79916

SUBJECT: Article 32(b) Investigation

1. On 21 March, 2005 at 0800 hours, at Building 13, Office of the Staff Judge Advocate, Courtroom, I will conduct an investigation pursuant to Article 32(b), UCMJ, to investigate the facts and circumstances concerning charges preferred against you by CPT Erick Segarra. The charges are Assault (Article 128 of the UCMJ x4), Cruelty or Maltreatment (Article 93 of the UCMJ x4) and False Swearing (Article 134 of the UCMJ) of which you were notified by memorandum dated 25 January 2005. The additional charges of Manslaughter (Article 119 of the UCMJ) and Maiming (Article 124 of the UCMJ) will also be investigated of which you were notified by memorandum dated 04 February 05. The rescheduling of this investigation is at the request of the defense. The uniform will be BDU's.

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during the investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel. I have been advised that you will be represented by civilian counsel, Mr. John P. Galligan.

3. The names of witnesses known to me and who will be asked to testify have been identified in previous notifications to you as has the evidence that I intend to consider.

4. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. Send names and addresses of such witnesses to me by COB 03 March 2005. If, at a later time, you identify additional witnesses, inform me of their names and addresses.

5. You may contact me at (502) 564-8082.

Stephen B. Pence

STEPHEN B. PENCE
LTC, JA
Investigating Officer

Cc: via e-mail:
1LT David Trainor, Trial Counsel
LTC Timothy MacDonnell, Trial Counsel
LTC Edward J. O'Brien, Regional Defense Counsel
CPT Sebastian Edwards, Senior Defense Counsel
CPT Steven Slawinski, Defense Counsel
MAJ John Dehn
Mr. John P. Galligan