i. The parties have stipulated for the purposes of the instant motion that Mr. Ahmadzai will testify under a grant of immunity from the convening authority, even though he is not suspected of having committed any criminal offenses.

j. Autopsy photographs taken of Dilawar contain evidence consistent with his physical abuse (see Enclosures to Appellate Exhibit VIII).

Law and Analysis.

3. The defense asserts that the statements Mr. Ahmadzai attributes to Dilawar are hearsay and should otherwise be excluded on Sixth Amendment grounds. Because the statements Dilawar made were in Arabic and related by Mr. Ahmadzai, an interpreter, "the defense will be unable to inquire into the reliability of the statements Mr. Ahmadzai attributes to Dilawar." The Government asserts that the statements attributed to Dilawar are relevant in that they support both the maltreatment and assault charges. The Government further asserts that the statements in question are admissible under multiple hearsay exceptions, to include MRE 803(1) (present sense impression); MRE 803(2) (excited utterance); MRE 803(3) (then existing mental, emotional or physical condition); and/or MRE 807.

4. MRE 803 exceptions are generally admissible whether or not the declarant is available. MRE 803(1) provides: "A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition or immediately thereafter." Under this provision, the contemporaneousness of the statement is crucial to its admission, and whether or not the declarant had an opportunity to reflect on his thoughts and thereby modify them. The statement must be made as soon as the opportunity to speak arises. An interrogation has been held to be an "event" within the meaning of MRE 803(1). MRE 803(2) allows the admission of a declarant's excited utterances. In order to qualify as an excited utterance, a statement must meet a three-part test: (1) the statement must be spontaneous, excited or impulsive rather than the product of reflection or deliberation; (2) the event prompting the utterance must be startling; and (3) the declarant must be under the stress of the excitement caused by the event. MRE 803(3) allows statements of the declarant's then existing state of mind, emotional, or physical condition. This provision does not permit evidence of present memory or belief to prove the existence of a past condition or fact.

5. The Court concludes that the statements attributed to Dilawar by Mr. Ahmadzai fall within the ambit of MRE 803(1), (2) and (3). His statements describe or explain an event (his interrogation) or condition (his physical

pain and discomfort) while he was perceiving the event or condition; his statements relate to a startling event or condition made while Dilawar was under the stress or excitement caused by the event or condition; and the statements relate to Dilawar's then existing state of mind, emotion, sensation, or physical condition (mental feeling, pain, and bodily health). Because the proffered statements meet the requirements of MRE 803 (1) – (3), the Court did not consider their admissibility under MRE 807.

6. With regard to the Sixth Amendment aspect of the defense's motion, the Court concludes that the proffered statements of Dilawar are non-testimonial in nature. No reasonable person in Dilawar's position at the time he made the statements would have expected his statements to Mr. Ahmadzai to be used prosecutorially. The statements were not volunteered for the purpose of initiating police action or criminal prosecution, and were not provided in response to an interrogation, the purpose of which was to gather evidence for use in a criminal prosecution. Finally, the defense will have the opportunity to fully cross-examine Mr. Ahmadzai.

Ruling.

7. The defense motion to exclude the statements attributed to Dilawar is DENIED.

MARK P. SPOSATO
LTC, JA
Military Judge

IN A SPECIAL COURT-MARTIAL OF THE UNITED STATES
US ARMY TRIAL JUDICIARY, THIRD JUDICIAL CIRCUIT

UNITED STATES v. SALCEDO, SELENA SGT, US Army, Company A, 519th Military Intelligence Battalion, Fort Bragg, North Carolina, 28310	MOTION TO COMPEL 25 July 2005

RELIEF REQUESTED

In accordance with RCM 701(g)(3) and 906(b)(7), the Defense in the above case hereby moves to compel the Government to produce and disclose to the Defense the requested discovery on the primary Government witness, Mr. Ahmad Ahmadzai. In the alternative, the Defense requests that this court compel the Government to produce this information so this Court can conduct an *in camera* review of this evidence to determine whether to release it to the Defense.

BURDEN OF PROOF AND STANDARD OF PROOF

As the moving party, the burden of proof is on the Defense by a preponderance of the evidence. R.C.M. 905(c)(1).

FACTS

On 16 July 2005, the Defense requested, *inter alia*,

e. All evidence of character or conduct or bias bearing on the credibility of government witnesses in the control of or known to the United States. Giglio v. United States, 405 U.S. 15, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972). This is specifically meant to include information relating to any past, present, or potential future plea agreements, immunity grants, payments of any kind and in any form, assistance to or favorable treatment with respect to any pending civil, criminal, or administrative dispute between the government and the witness, and any other matters which could arguably create an interest or bias in the witness in favor of the government or against the defense or act as an inducement to testify to color or shape testimony. This request specifically includes evaluation reports, complaints, and disciplinary records of Mr. Ahmad Ahmadzai in the possession of his former employer, The Titan Corporation. This information is kept and can be obtained from Corporation Service Company, 2711 Centerville Road, Wilmington, DE 19808, (888) 690-2882.

XV

UNITED STATES v. SERGEANT SALENA SALCEDO

g. Copies of the official civilian personnel file of each government witness that is a civilian employee of the United States.

On 22 July 2005, the Government responded to the Defense Discovery Request. The Government denied the discovery requested in the above-mentioned request, as follows:

e. On 20 July 2005, the convening authority issued Mr. Ahmad Ahmadzai an order to testify and granted him testimonial immunity. The order is attached.

g. The prosecution does not possess the personnel records of the prosecution's civilian witnesses. In *United States v. Williams*, 50 MJ 436 (1999), the Court of Appeals for the Armed Forces held the prosecution is not required to search a witness' personnel file. By way of further response concerning Mr. Ahmad Ahmadzai's personnel file, please contact his attorney, Mr. Eric Delinsky, at (202) 778-1831.

LAW

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

Article 46, UCMJ
Article 59, UCMJ
RCM 701(a)(6) and (g)(3)
RCM 906(b)(7)
Brady v. Maryland, 373 U.S. 83 (1963)
Strickler v. Greene, 119 S.Ct. 1936 (1999)
Kyles v. Whitley, 514 U.S. 419 (1995)
United States v. Bagley, 473 U.S. 667 (1985)
Giglio v. United States, 405 U.S. 150 (1972)
United States v. Hart, 29 M.J. 407, 410 (C.M.A. 1990)
United States v. Green, 37 M.J. 88 (C.M.A. 1993)
United States v. Stone, 37 M.J. 558(A.C.M.R. 1993)
United States v. Adens, 56 M.J. 724 (Army Ct. Crim. App. 2002)
United States v. Williams, 50 M.J. 436 (1999)

EVIDENCE

The Defense requests that the Court consider the following evidence:

Defense Request for Discovery, dated 16 July 2005
Government Response to Defense Request for Discovery, dated 22 July 2005

UNITED STATES v. SERGEANT SALENA SALCEDO

ARGUMENT

The Defense requests the evaluation reports, complaints, and disciplinary records (hereinafter employment records) of Mr. Ahmad Ahmadzai in the possession of The Titan Corporation specifically because he is the primary Government witness in this case. He is the only Government witness available whose testimony can provide direct evidence on the charges. Therefore, his credibility is paramount in this case.

Under MRE 607, 608, and 609, Mr. Ahmadzai's character, conduct, and bias would be admissible. The requested employment records would help to determine his character.

The Defense requested that background information about Mr. Ahmadzai in order to better ascertain the character and possible biases of the witness. Such information is easily obtainable by the Government and within their area of responsibility under Brady v. Maryland, 373 U.S. 83 (1963), and Kyles v. Whitley, 514 U.S. 419 (1995).

Under RCM 701(a)(6), the Government must disclose any evidence known which reasonably tends to "negate the guilt of the accused of an offense charged." In this case, the requested information is not known to the Government. However, under United States v. Williams, 50 M.J. 436, 441 (1999), the Government has a duty to search with respect to governmental files beyond the prosecutor's own files if the requested evidence is maintained in "(1) the files of law enforcement authorities that have participated in the investigation of the subject matter of the charged offenses; (2) investigative files in a related case maintained by an entity closely aligned with the prosecution, and *(3) other files, as designated in a defense discovery request, that involved a specified type of information within a specified entity*" (emphasis added). Williams also establishes that "neither Article 46 nor the Brady line of cases requires the prosecution to review records that are not directly related to the investigation of the matter that is the subject of the prosecution, *absent a specific defense request identifying the entity, the type of records, and type of information*" leaving for another day the "issue of when the prosecution properly may ask for a more particularized showing of relevance" (emphasis added). See Williams at 443 and N7.

In this case, the Defense has specifically requested the employment records of Mr. Ahmazai held by the Titan Corporation, satisfying the Williams requirements. Therefore, looking to Brady v. Maryland, 373 U.S. 83 (1963), it is necessary to determine whether a government denial of this specific request would violate the defendant's due process rights.

The evidence must be favorable to the defense. Brady at 87. Favorable evidence includes exculpatory evidence *and* information that might be used to impeach government witnesses. Strickler v. Greene, 119 S.Ct. 1936 (1999); Kyles v. Whitley, 514 U.S. 419 (1995); United States v. Bagley, 473 U.S. 667 (1985); Giglio v. United States, 405 U.S. 150 (1972). Here, the requested documents are to seek information that would likely be favorable to the defense. As stated above, the checks will reveal if the primary government witness is not credible or has any bias. These issues play directly into Sergeant Salcedo's ability to prepare and present a defense.

The evidence must also be material to guilt or punishment. Brady at 87. In cases where there is no discovery request, a general discovery request, or a specific discovery request, evidence is "material" if there is a "reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." Bagley at 682. A reasonable probability is "a probability sufficient to undermine confidence in the result." *Id.* In the military, that standard is carried further. "[W]here the Government fails to disclose information pursuant to a specific discovery request, the evidence will be considered 'material unless failure to disclose' can be demonstrated to 'be harmless beyond a reasonable doubt.'" United States v. Hart, 29 M.J. 407, 410 (C.M.A. 1990). *See also* United States v. Green, 37 M.J. 88 (C.M.A. 1993)(Wiss, J., concurring); United States v. Stone, 37 M.J. 558 (A.C.M.R. 1993). If the requested evidence reveals the derogatory information about Mr. Ahmadzai, then it will be material, under both the Bagley standard and the Hart standard. Certainly, under the Hart standard, the only way the Government can be exonerated for their failure to produce the requested documents, is if the checks reveal no derogatory information.

Even if this Court determines that the requested information does not likely fall under the standard for a Brady violation, it still must determine whether the Government's refusal to provided the requested information violates Article 59(a), UCMJ. In United States v. Adens, 56 M.J. 724 (Army Ct. Crim. App. 2002), the court held (1) that equal opportunity to obtain evidence under Article 46, UCMJ, as implemented by the President in the Rules for Courts- Martial, is a "substantial right" of a military accused within the meaning of Article 59(a), UCMJ, independent of due process discovery rights provided by the Constitution; and (2) that accordingly, violations of a soldier's Article 46, UCMJ, rights that do not amount to constitutional error under Brady and its progeny must still be tested under the material prejudice standard of Article 59(a), UCMJ. Adens at 732. The court also emphasized that when the Government fails to disclose information pursuant to a specific request or when prosecutorial misconduct is present, the evidence is considered material unless the Government can show that failure to disclose was harmless beyond a reasonable doubt. Adens at 733.

In denying this request, the Government maintains that it will comply with the requirements of Brady v. Maryland, 373 U.S. 83 (1963). However, the

Supreme Court has held the Government to a higher standard in Kyles v. Whitley, 514 U.S. 419 (1995). The Kyles Court held that the prosecution has an affirmative duty to disclose evidence favorable to a defendant and "the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, ..." Kyles at 437. Further, although the constitutional duty to disclose evidence is triggered by the potential impact of favorable but undisclosed evidence, a showing of materiality does not require demonstration by a preponderance that disclosure of the suppressed evidence would have resulted ultimately in the defendant's acquittal. Kyles at 433. Here, the Defense does not know whether this information will result in an acquittal, but it has a good faith basis to believe the requested information is material because it is favorable to the defense. "The touchstone of materiality is a "reasonable probability" of a different result, and the adjective is important. The question is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence. A 'reasonable probability' of a different result is accordingly shown when the government's evidentiary suppression 'undermines confidence in the outcome of the trial.'" Id.

Most of the case law in the discovery field deals with the government's failure to disclose certain, potentially exculpatory information. The case law discusses the probable affect on the outcome of the case, after the trial has been completed. The standards involved are specifically designed for a post-trial review of the case. This case differs from those in that the case is still in the trial stage and we have not determined whether this information will be potentially material and relevant to the defense. It would be error to require the Defense to automatically prove materiality and relevance of information to which it does not have access, but which is easily accessible to the Government. The Defense has clearly articulated its reason for requesting this information. Accordingly, under the Adens and Williams standards, this evidence is now material unless the Government can show that failure to disclose is harmless beyond a reasonable doubt. In order to satisfy this requirement, the Government should, at a minimum, present the requested evidence to trial court judge to determine whether failure to present it to the Defense counsel is harmless beyond a reasonable doubt.

UNITED STATES v. SERGEANT SALENA GALCEDO

CONCLUSION

Accordingly, the Defense respectfully requests that this court compel the Government to produce the requested information or, in the alternative, review this evidence *in camera* and determine whether it is relevant and material to the Defense.

Respectfully submitted

//ORIGINAL SIGNED//
MARIO J. DEROSSI
CPT, JA
Defense Counsel

I hereby certify that a copy of this request was provided to the Military Judge and the United States on 25 July 2005.

United States Army Trial Judiciary
Fourth Judicial Circuit, Fort Bliss, Texas

UNITED STATES v. SGT Selena M. Salcedo Company A 519th MI Battalion Fort Bragg, NC 28310	)	Essential Findings of Fact Conclusions of Law and Ruling Defense Motion to Compel Discovery July 29, 2005

1. The defense has moved pursuant to Rule for Courts-Martial (RCM) 701(g)(3) and RCM 906(b)(7) to compel the production of certain personnel records relating to a Government witness. I have considered the briefs submitted by the parties, and documents appended thereto.

2. The Court finds the following facts by a preponderance of the evidence:

a. The defense has proffered, and the Government has agreed to stipulate to the facts alleged in the defense's brief (Appellate Exhibit XV).

b. The accused is charged with: one specification alleging willful dereliction of duty; one specification of maltreatment (by placing Dilawar in painful or stressful positions several times despite Dilawar's repeated complaints of having already suffered injury to his knees or legs); making a false official statement (to the effect that she never hit, did not kick in the genitals, or grab the ears of a detainee); and four specifications of assault consummated by a battery. All but one specification relate to the accused's interaction with a detainee at the Bagram Airbase in Afghanistan on or about 8 December 2002.

c. The charges were preferred on 13 May 2005, and referred to a BCD special court-marital by the convening authority on 18 May 2005. The accused was arraigned on 17 June 2005, and an Article 39(a) session was conducted on 19 July 2005. The instant motion was filed by the defense on 25 July 2005.

d. On 16 July 2005, the defense requested *inter alia*:

> All evidence of character or conduct or bias bearing on the credibility of government witnesses in the control of or known to the United States. Giglio v. United States, 405 U.S. 15, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972). This is specifically meant to include information relating to any past, present, or potential future plea

agreements, immunity grants, payments of any kind and in any form, assistance to or favorable treatment with respect to any pending civil, criminal, or administrative dispute between the government and the witness, and any other matters which could arguably create an interest or bias in the witness in favor of the government or against the defense or act as an inducement to testify to color or shape testimony. This request specifically includes evaluation reports, complaints, and disciplinary records of Mr. Ahmad Ahmadzai in the possession of his former employer, The Titan Corporation. This information is kept and can be obtained from Corporation Service Company, 2711 Centerville Road, Wilmington, DE 19808, (888) 690-2882.

Copies of the official civilian personnel file of each government witness that is a civilian employee of the United States.

e. On 22 July 2005, the Government responded to the Defense Discovery Request. The Government denied the specific discovery items relating to Mr. Ahmadzai's personnel records, and otherwise responded as follows: "On 20 July 2005, the convening authority issued Mr. Ahmad Ahmadzai an order to testify and issued him testimonial immunity. The order is attached."

Law and Analysis.

3. The defense requests the personnel records relating to Mr. Ahmadzai "because he is the primary Government witness in this case. He is the only Government witness whose testimony can provide direct evidence on the charges. Therefore, his credibility is paramount in this case. Under MRE 607, 608, and 609, Mr. Ahmadzai's character, conduct, and bias would be admissible. The requested employment records would help to determine his character." The defense further asserts that the requested records are easily obtainable by the Government and "within their area of responsibility under *Brady*. The Government asserts that the records are not in the possession of a Government entity, and the defense has failed to demonstrate: that such records exist; are relevant and necessary; and should be produced through compulsory process.

4. Article 46 of the UCMJ provides that parties to a court-martial are entitled to an "equal opportunity to obtain witnesses and other evidence." Article 46 is implemented in RCM 701 which details the liberal discovery practice in courts-martial, and otherwise implements the so-called *Brady* requirements. RCM 701(a)(6) requires the Government to disclose any evidence known which reasonably tends to "negate the guilt of the accused of an offense charged." In *United States v. Williams*, 50 M.J. 436 (1999) the Court of Appeals for the Armed Forces held "The scope of the

due-diligence requirement with respect to governmental files beyond the prosecutor's own files generally is limited to: (1) the files of law enforcement authorities that have participated in the investigation of the subject matter of the charged offenses; (2) investigative files in a related case maintained by an entity "closely aligned with the" prosecution; and (3) other files, as designated in a defense discovery request, that involved a specified type of information within a specified entity." The Government is obligated to produce by compulsory process evidence requested by the defense that is "relevant and necessary" as per R.C.M. 703(c)(1). The defense, as the moving party, is required as a threshold matter to show that the requested material exists.

5. The Court concludes that the defense has failed to demonstrate anything more than mere speculation that Mr. Ahmadzai's former employer maintains files of the nature it has requested. Further, assuming that such files even exist, defense counsel has not demonstrated that anything actually contained in such files is relevant and necessary to putting on a defense. There is no evidence before the Court that defense counsel ever attempted to ascertain if Mr. Ahmadzai had ever been subject to discipline by his employer. Finally, the Court concludes that absent a more particularized showing of relevance, the defense has failed to meet its burden to demonstrate relevance and necessity under RCM 701.

Ruling.

6. The defense motion to compel discovery is DENIED.

Mark P. Sposato

MARK P. SPOSATO
LTC, JA
Military Judge

UNITED STATES OF AMERICA v. SALCEDO, SELENA M. SGT, U. S. Army, Company A, 519th Military Intelligence Battalion Fort Bragg, NC 28310	OFFER TO PLEAD GUILTY 2 August 2005

****

1. I, SGT Selena M. Salcedo, the accused in a pending court-martial, offer to plead guilty to the following Charges:

To Charge I and its Specification: Guilty.

To Charge II and its Specification: Not Guilty

To Charge III: Not Guilty.

To Charge IV, Specification 1: Guilty, except the words "in or about the groin" and substituting the words "in the knees and inner thighs."
To Charge IV, Specification 2: Guilty, except the words "and pull."
To Charge IV, Specification 3: Guilty, except the words "shove Dilawar" and substituting the words "pull Dilawar up."
To Charge IV, Specification 4: Not Guilty.
To the excepted words: Not Guilty; to the substituted words: Guilty.
To Charge IV: Guilty.

2. As part of this offer, I also agree to the following:

a. I agree to enter into a Stipulation of Fact.

b. I agree that the Convening Authority may not be bound by this agreement if I withdraw my plea of guilty or if the military judge, before sentencing, enters a plea of not guilty.

c. I agree to be tried by judge alone.

d. If either a discharge or a discharge and confinement are adjudged in my case, I agree that I will submit a request for Voluntary Excess Leave.

e. If requested, I agree to cooperate in the subsequent investigations and trials in cases for which I have personal relevant knowledge relating to dereliction of duty, maltreatment and assault while stationed at Bagram, Afghanistan from September 2002 thru March 2003. Cooperation is defined as providing truthful information to investigators, prosecutors, and defense counsel, and testifying truthfully at trial. This agreement to cooperate is conditioned upon my receiving testimonial immunity pursuant to R.C.M. 704(a)(1) for misconduct stemming from or relating to the charges listed above in paragraph 1.

APPELLATE EXHIBIT XVIII

3. This agreement shall not be affected by dismissal of any specification or charge by the military judge or upon motion by defense counsel.

4. I agree to take the actions above provided the Convening Authority

a. Takes the action contained in the Appendix (Quantum), and

b. Applies any confinement credit given by the military judge to the approved sentence.

c. Directs trial counsel not to present any evidence related to the charges and specifications to which I have pled Not Guilty.

5. I understand that I may request to withdraw the plea of guilty at any time before my plea is accepted and that if I do so, this agreement is canceled. This agreement may also be canceled if:

a. I fail to plead guilty as agreed above;

b. The Stipulation of Fact is modified at any time without the consent of both myself and the Trial Counsel; or

c. The Military Judge refuses to accept my plea of guilty.

6. This writing, including the Appendix (Quantum), includes all terms and conditions of this Offer to Plead Guilty and contains all promises made to me or by me concerning my plea of guilty. There are no other terms or conditions that are not contained in this writing.

Selena M. Salcedo
SELENA M. SALCEDO
SGT, U.S. Army
Accused

MARIO J. DEROSSI
CPT, JA
Defense Counsel

The offer to plead guilty dated 2 August 2005 is (accepted) ~~(not accepted)~~.

ROBERT P. LENNOX
Brigadier General, USA
Commanding

UNITED STATES OF AMERICA	)	APPENDIX
v.	)	(QUANTUM)
SALCEDO, SELENA M. SGT, U. S. Army, Company A, 519th Military Intelligence Battalion, Fort Bragg, NC 28310	)	2 August 2005

****

1. I, SGT Selena M. Salcedo, offer to plead guilty to the Charges and their Specifications stated in the Offer to Plead Guilty, and offer to abide by the other terms and conditions set forth in the Offer to Plead Guilty, provided the Convening Authority will:

Disapprove any confinement in excess of four (4) months.

2. Except as limited above, any other lawful punishments can be approved.

Selena M. Salcedo
SELENA M. SALCEDO
SGT, U.S. Army
Accused

MARIO J. DEROSSI
CPT, JA
Defense Counsel

The offer to plead guilty dated 2 August 2005 is (accepted) ~~(not accepted)~~.

ROBERT P. LENNOX
Brigadier General, USA
Commanding

APPELLATE EXHIBIT XIX

Request for Trial Before Military Judge Alone

(Article 16, UCMJ)

United States
v.
SGT Selena Salcedo

1. ACCUSED

I have been informed that LTC Mark A. Sposato is the military judge detailed to the court-martial to which the charges and specifications pending against me have been referred for trial. After consulting with my defense counsel, I hereby request that the court be composed of the military judge alone. I make this request with full knowledge of my right to be tried by a court-martial composed of (commissioned) [1] officers (and, if I so request, enlisted personnel). [2]

a. Typed Name (Last, First, Middle Initial)	b. Rank	c. Signature	d. Date Signed
Salcedo, Selena	SGT	Selena M. Salcedo	4 Aug 2005

2. DEFENSE COUNSEL

Prior to the signing of the foregoing request, I fully advised the above accused of his right to trial before a court-martial composed of (commissioned)[1] officers (and of his/her right to have such court consist of at least one-third enlisted members not of his/her unit, upon his/her request).[2]

a. Typed Name (Last, First, Middle Initial)	b. Rank	c. Signature	d. Date Signed
DeRossi, Mario J.	CPT		4 Aug 2005

3. TRIAL COUNSEL

Argument is (not) requested.

a. Typed Name (Last, First, Middle Initial)	b. Rank	c. Signature	d. Date Signed
Ellis, Christopher	CPT	Christopher E Ellis	4 AUG 2005

4. MILITARY JUDGE

The foregoing request for trial before me alone is hereby: (x one) [X] approved [ ] disapproved [3]

a. Typed Name (Last, First, Middle Initial)	b. Rank	c. Signature	d. Date Signed
Sposato, Mark A.	LTC	Mark P Sposato	4Aug05

1. Delete when accused is a warrant officer or enlisted member.
2. Delete when accused is a commissioned officer or warrant officer.
3. When request is disapproved, the basis for the denial must be put on the record. (See MCM, 1984, RCM 903(c))

DD Form 1722, OCT 84 Replaces Edition of 1 Oct 69 which may be used until supply is exhausted

APPELLATE EXHIBIT XX

IN A SPECIAL COURT-MARTIAL OF THE UNITED STATES
US ARMY TRIAL JUDICIARY, THIRD JUDICIAL CIRCUIT

UNITED STATES **v.** **SALCEDO, SELENA** **SGT, US Army,** **Company A,** **519th Military Intelligence Battalion,** **Fort Bragg, North Carolina, 28310**	)	**POST-TRIAL AND APPELLATE RIGHTS** **29 July 2005**

I, SGT Selena Salcedo, the accused in the above-entitled case, certify that my trial defense counsel has advised me of the following post-trial and appellate rights in the event that I am convicted of a violation of the Uniform Code of Military Justice:

1. In exercising my post-trial rights, or in making any decision to waive them, I am entitled to the advice and assistance of military counsel provided free of charge or civilian counsel provided at no expense to the government.

2. After the record of trial is prepared, the convening authority will act on my case. The convening authority can approve the sentence adjudged, or he can approve a lesser sentence, or disapprove the sentence entirely. The convening authority cannot increase the sentence. He can also disapprove some or all of the findings of guilty. The convening authority is not required to review the case for legal errors, but may take action to correct legal errors.

3. I have the right to submit any matters I wish the convening authority to consider in deciding what action to take in my case. Before the convening authority takes action, the staff judge advocate will submit a recommendation to him. This recommendation will be sent to me and/or my defense counsel before the convening authority takes action. If I have matters that I wish the convening authority to consider, or matters in response to the staff judge advocate's recommendation, such matters must be submitted within ten days after I or my counsel receives a copy of the record of trial or I and/or my counsel receive the recommendation of the staff judge advocate, whichever occurs later. Upon my request, the convening authority may extend this period, for good cause, for not more than an additional 20 days.

4. If the convening authority approves a punitive discharge or confinement for one year, my case will be reviewed by the Army Court of Criminal Appeals (ACCA). I am entitled to be represented by counsel before such court. If I so request, military counsel will be appointed to represent me at no cost to me. If I so choose, I may also be represented by civilian counsel at no expense to the United States.

APPELLATE EXHIBIT XXX

5. After the ACCA completes its review, I may request that my case be reviewed by the United States Court of Appeals for the Armed Forces (CAAF). If my case is reviewed by that Court, I may request review by the Supreme Court of the United States. I have the same rights to counsel before those courts as I have before the ACCA.

6. If the convening authority approves no punitive discharge and approves any confinement for less than a year, my case will be examined by a Judge Advocate in the Office of the Staff Judge Advocate for the Convening Authority (or by a Judge Advocate otherwise under the technical supervision of the Staff Judge Advocate) for any legal errors and to determine if the sentence is appropriate. This Judge Advocate may request that the Convening Authority take corrective action as appropriate. If the Convening Authority does not take the corrective action that the Judge Advocate states is required by law, then the Record of Trial will be forwarded to the Office of the Judge Advocate General for review. This mandatory review under Article 69(a), UCMJ, will constitute the final review of my case unless TJAG directs review by the ACCA.

7. I may waive or withdraw review by the appellate courts or, if applicable, review by the Office of the Staff Judge Advocate at any time before completion of review. I understand that if I waive or withdraw review:

(a) My decision is final and I cannot change my mind.

(b) My case will then be reviewed by a military lawyer for legal error. It will also be sent to the general court-martial convening authority for final action.

(c) Within two (2) years after the sentence is approved, I may request The Judge Advocate General (TJAG) to take corrective action on the basis of newly discovered evidence, fraud on the court-martial, lack of jurisdiction over me or the offense, error prejudicial to my substantial rights, or the appropriateness of the sentence.

8. I have read and had my post-trial rights explained to me by counsel and I acknowledge these rights and make the elections set forth below. (Please initial where appropriate.)

SMS a. I understand my post-trial and appellate review rights.

SMS b. I would like a copy of the record served on myself and my defense counsel, CPT Mario J. DeRossi (or substitute defense counsel detailed by the Trial Defense Service if CPT DeRossi is no longer on active duty).

SMS c. My defense counsel, CPT DeRossi (or substitute defense counsel detailed by the Trial Defense Service if CPT DeRossi is no longer on active duty), will submit R.C.M. 1105 matters in my case.

SMS d. If applicable, I want to be represented before the Army Court of Criminal Appeals by Appellate Defense Counsel appointed by The Judge Advocate General (TJAG) of the Army. I understand that I may contact my Appellate Defense Counsel by writing to Defense Appellate Division, U.S. Army Legal Services Agency (JALS-DA), 901 North Stuart Street, Arlington, Virginia 22203.

SMS e. I have been informed that I have the right to retain civilian counsel at my own expense. If I later retain civilian counsel, I must provide the name and address to: Clerk of the Court, U.S. Army Judiciary (JALS-CC), 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203.

9. I understand that any period of confinement included in my sentence generally begins to run from the date the court martial adjudges my sentence. I may request that the convening authority defer commencement of any period of confinement; however, deferral is solely within the discretion of the convening authority.

10. I also understand that by operation of Article 58(b) of the Uniform Code of Military Justice, any sentence which includes confinement for over 6 months, or confinement for 6 months or less and a punitive discharge, will result in forfeiture of 2/3s pay and allowances, effective 14 days after my sentence is adjudged or when the convening authority takes action, whichever occurs first. Additionally, any adjudged forfeitures in my case are effective 14 days after the sentence is adjudged or when the convening authority takes final action, whichever occurs first. I may petition the convening authority to defer forfeitures until the time of final action, but such relief is solely within the discretion of the convening authority, who may withdraw deferment at any time.

11. I understand that if my sentence included a punitive discharge but no confinement, I can immediately request to be placed on voluntary excess leave (VEL) until the Convening Authority takes action on my case. I understand that if my sentence included a Bad Conduct Discharge and any confinement, I can request to be placed on VEL at the completion of my confinement, until the Convening Authority takes action on my case. If my request is granted and I am placed on VEL, I understand that:

a. My accrued leave will be used until exhausted, and then I will be in a VEL status;

b. While in a VEL status, I will not receive any pay or allowances, nor will I accrue leave:

c. While in a VEL status, I will not be entitled to travel on a space available basis; and

d. I will be completely processed for discharge from the Army and, if requested, will receive a separation physical prior to my departure on VEL. I understand that there is no entitlement to physical disability retired pay should I incur a physical disability while in a VEL status.

12. I understand that if my sentence included a punitive discharge, when the Convening Authority takes action on my case, I will be placed on involuntary excess leave (IEL) until the completion of the post-trial and appellate process in my case. If I am placed on IEL, I understand that the same restrictions as listed in paragraph 14 above for VEL apply.

13. Pending action on my case, I can be contacted or a message may be left for me at the following address:

NAME: Selena Salcedo

STREET: _____

CITY/ STATE / ZIP CODE: _____

AREA CODE/ TELEPHONE NUMBER: _____

ELECTRONIC MAIL (IF APPLICABLE): Selena_Salcedo@

Permanent address (if different from above):

NAME: same as above

STREET: _____

CITY/ STATE / ZIP CODE: _____

AREA CODE/ TELEPHONE NUMBER: _____

1 Aug 05
DATE

Selena M. Salcedo
SELENA SALCEDO
SGT, US Army
Accused

I certify that I have advised the above named accused regarding the post trial and appellate rights as set forth above, that he has received a copy of this document, and that he has made elections concerning appellate counsel.

1 Aug 2005
DATE

MARIO J. DEROSSI
CPT, JA
Defense Counsel

[redacted]

UNCLASSIFIED

THE WHITE HOUSE
WASHINGTON

February 7, 2002

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
CHIEF OF STAFF TO THE PRESIDENT
DIRECTOR OF CENTRAL INTELLIGENCE
ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF

SUBJECT: Humane Treatment of al Qaeda and Taliban Detainees

1. Our recent extensive discussions regarding the status of al Qaeda and Taliban detainees confirm that the application of the Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (Geneva) to the conflict with al Qaeda and the Taliban involves complex legal questions. By its terms, Geneva applies to conflicts involving "High Contracting Parties," which can only be states. Moreover, it assumes the existence of "regular" armed forces fighting on behalf of states. However, the war against terrorism ushers in a new paradigm, one in which groups with broad, international reach commit horrific acts against innocent civilians, sometimes with the direct support of states. Our Nation recognizes that this new paradigm -- ushered in not by us, but by terrorists -- requires new thinking in the law of war, but thinking that should nevertheless be consistent with the principles of Geneva.

2. Pursuant to my authority as Commander in Chief and Chief Executive of the United States, and relying on the opinion of the Department of Justice dated January 22, 2002, and on the legal opinion rendered by the Attorney General in his letter of February 1, 2002, I hereby determine as follows:

a. I accept the legal conclusion of the Department of Justice and determine that none of the provisions of Geneva apply to our conflict with al Qaeda in Afghanistan or elsewhere throughout the world because, among other reasons, al Qaeda is not a High Contracting Party to Geneva.

b. I accept the legal conclusion of the Attorney General and the Department of Justice that I have the authority under the Constitution to suspend Geneva as between the United States and Afghanistan, but I decline to

[redacted]
Reason: 1.5 (d)
Declassify on: 02/07/12

ATTACHMENT EXHIBIT IV

exercise that authority at this time. Accordingly, I determine that the provisions of Geneva will apply to our present conflict with the Taliban. I reserve the right to exercise this authority in this or future conflicts.

c. I also accept the legal conclusion of the Department of Justice and determine that common Article 3 of Geneva does not apply to either al Qaeda or Taliban detainees, because, among other reasons, the relevant conflicts are international in scope and common Article 3 applies only to "armed conflict not of an international character."

d. Based on the facts supplied by the Department of Defense and the recommendation of the Department of Justice, I determine that the Taliban detainees are unlawful combatants and, therefore, do not qualify as prisoners of war under Article 4 of Geneva. I note that, because Geneva does not apply to our conflict with al Qaeda, al Qaeda detainees also do not qualify as prisoners of war.

3. Of course, our values as a Nation, values that we share with many nations in the world, call for us to treat detainees humanely, including those who are not legally entitled to such treatment. Our Nation has been and will continue to be a strong supporter of Geneva and its principles. As a matter of policy, the United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

4. The United States will hold states, organizations, and individuals who gain control of United States personnel responsible for treating such personnel humanely and consistent with applicable law.

5. I hereby reaffirm the order previously issued by the Secretary of Defense to the United States Armed Forces requiring that the detainees be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

6. I hereby direct the Secretary of State to communicate my determinations in an appropriate manner to our allies and other countries and international organizations cooperating in the war against terrorism of global reach.

[redacted]

DEPARTMENT OF THE ARMY
HEADQUARTERS AND HEADQUARTERS COMPANY
525TH MILITARY INTELLIGENCE BRIGADE (REAR) (PROVISIONAL)
FORT BRAGG, NORTH CAROLINA 28310-5000

REPLY TO ATTENTION OF:

AFZA-MI-HHD

03 October 2005

MEMORANDUM FOR RECORD

SUBJECT: Letter of input for Selena Salcedo

1. The following information is provided in reference to a request for leniency for SGT Selena Salcedo.

2. I have known and worked with SGT Salcedo since Juno 2001. She was a member of a tactical HUMINT Team (THT) while deployed to (SFOR-X form September '01 to April '02.) SGT Salcedo also served as an interrogation team sergeant/leader during deployments to both Afghanistan (Operation Enduring Freedom form August '02 to January '03) and Iraq (Operation Iraqi Freedom form March '03 to December '03).

3. I was SGT Salcedo's Team Leader for SFOR-X and the Interrogation Operation Officer for OIF and was able to observe her in the performance of her duties on a daily basis. Her competence and professionalism was above reproach. As a junior THT member she was eager to lean, and as a team sergeant/leader she was willing to teach/mentor. IN all cases I relied on her loyalty, integrity, sense of responsibility, and dedication to mission to ensure success of our assigned missions. SGT Salcedo is an outstanding and highly dependable Noncommissioned Officer, one of the best I have served with over my past 14 years of military service.

4. I am surprised by the charged of detainee abuse and making a false statement. These actions are not consistent with my experiences with SGT Salcedo. They are definitely not characteristics of her past actions or behavior. In addition, the sentence of forfeiture of pay and reduction of rank do not seem to be consistent with misdemeanor charges. I believe the charges should be levied as an Article 15 rather than a Special Courts Martial, Misdemeanor.

5. Sgt Salcedo is a highly dedicated and dependable soldier who has performed her duties exceptionally in the past. If SGT Salcedo decides to remain in the U.S Army, she will undoubtedly be a tremendous asset.

6. Please contact me at (910) 396-8504 or jon.graham@us.army.mil with any question

JON D. GRAHAM
CW2, USA

DEPARTMENT OF THE ARMY
BATTLE COMMAND TRAINING PROGRAM
FORT LEAVENWORTH, KANSAS 66027-5000

REPLY TO
ATTENTION OF

ATZL-CTB-B (25-50)

17 July 2005

MEMORANDUM FOR RECORD

SUBJECT: Letter of Input for SGT Selena Salcedo

1. Purpose: The purpose of this memorandum is to provide input for SGT Selena Salcedo, A Company, 519th Military Intelligence Battalion (Tactical Exploitation) (Airborne) in reference to a request for leniency.

2. General: SGT Salcedo was a Team Sergeant in A Company, 519th MI BN (TE) (ABN) during deployments to Afghanistan in support of Operation Enduring Freedom (OEF) and Iraq in support of Operation Iraqi Freedom (OIF). She served as an interrogation team sergeant/leader and a Tactical HUMINT Team (THT) sergeant/leader during both operations.

3. I was SGT Salcedo's Company Commander from 2 September 2002 until 30 September 2003. I have known her since January 2002 when I served as the 519th MI BN (TE) (ABN) S1/Adjutant. During my time as company commander, I relied heavily on her leadership and tactical and technical competence in all aspects regarding CI/HUMINT operations. Moreover, I believe she performed admirably during OEF and OIF and is one of the better noncommissioned officers I have ever served with in my 13 years of service.

3. I observed SGT Salcedo performing her duties as an interrogation team sergeant/leader almost on a daily basis in Afghanistan and Iraq. Additionally, I participated with her and her THT on several source operations in Kirkuk, Iraq. Furthermore, during my time as company commander, I never had any disciplinary problems with SGT Salcedo and was very pleased with her job performance and potential for positions of greater responsibility.

4. I was surprised to hear that SGT Salcedo was charged with detainee abuse and making a false statement. I believe this is out of character for her since she always demonstrated to me a high level of integrity, honesty, reliability, and responsibility. My First Sergeant and I had the outmost trust and confidence in her abilities.

5. In short, I believe SGT Salcedo is a good soldier, has performed well in the past, and would still be an asset to the U.S. Army, Military Intelligence Corps, and Non-commissioned Officer corps.

6. Please contact me at (913) 684-9713 or britton.hopper@leavenworth.army.mil for any questions.

BRITTON T. HOPPER
MAJ, MI

DEPARTMENT OF THE ARMY
Headquarters, 525th Military Intelligence Brigade
Task Force Lightning
APO AE 09342

12 July 2005

AFZA-MI

MEMORANDUM FOR RECORD

SUBJECT: Request of Leniency for SGT Selena Salcedo

1. I first met SGT Salcedo in early 2002. She did not work for me directly but within the same unit. I had daily professional contact during deployment preparation in late spring and early summer of 2002. During which time she impressed me with her tactical and technical competence in HUMINT operations. In July 2002, we deployed to Afghanistan in support of Operation Enduring Freedom. As a 97B, Counterintelligence Agent, with assigned duties in the Bagram Interrogation Facility, I had the opportunity to work with her on occasion. She was always thorough and professional in the handling and screening of detainees. On another occasion, we needed a female soldier to work in Kabul on a high visibility mission and she was the first and only soldier we requested. She performed remarkably for a soldier of her experience level. After we completed our tour in Afghanistan, we deployed to Kuwait with follow on deployment to Iraq in support of Operation Iraqi Freedom. I had minimal contact with her during OIF but had daily contact upon our return to Fort Bragg.

2. During the time I have known SGT Salcedo, she impressed me with here dedication to duty and the execution of here responsibilities. As an NCO she always displays the Army's corps values of LDRSHIP. Refreshingly, candor and commitment are her strongest character traits. In today'a Army, commitment is hard to find in junior soldiers. Even though, her intentions are not to remain in the Army for the long term, she remains dedicated to mission accomplishment day in and day out. I believe she is not guilty of what she is accused. Her integrity, responsibility, honesty, and reliability are above reproach and leniency is in order.

3. POC is the undersigned at (910) 487-9669 or robert.rader@us.army.mil.

ROBERT L. RADER
CW2, MI
CI/HUMINT Operations Officer

Following is the executive summary of the report

The Independent Panel to Review
Department of Defense
Detention Operations
August 2004

Executive Summary

OVERVIEW

The events of October through December 2003 on the night shift of Tier 1 at Abu Ghraib prison were acts of brutality and purposeless sadism. We now know these abuses occurred at the hands of both military police and military intelligence personnel. The pictured abuses, unacceptable even in wartime, were not part of authorized interrogations nor were they even directed at intelligence targets. They represent deviant behavior and a failure of military leadership and discipline. However, we do know that some of the egregious abuses at Abu Ghraib which were not photographed did occur during interrogation sessions and that abuses during interrogation sessions occurred elsewhere.

In light of what happened at Abu Ghraib, a series of comprehensive investigations has been conducted by various components of the Department of Defense. Since the beginning of hostilities in Afghanistan and Iraq, U.S. military and security operations have apprehended about 50,000 individuals. From this number, about 300 allegations of abuse in Afghanistan, Iraq or Guantanamo have arisen. As of mid-August 2004, 155 investigations into the allegations have been completed, resulting in 66 substantiated cases. Approximately one-third of these cases occurred at the point of capture or tactical collection point, frequently under uncertain, dangerous and violent circumstances.

Abuses of varying severity occurred at differing locations under differing circumstances and context. They were widespread and, though inflicted on only a small percentage of those detained, they were serious both in number and in effect. No approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities. Still, the abuses were not just the failure of some individuals to follow known standards, and they are more than the failure of a few leaders to enforce proper discipline. There is both institutional and personal responsibility at higher levels.

Secretary of Defense Donald Rumsfeld appointed the members of the Independent Panel to provide independent, professional advice on detainee abuses, what caused them and what actions should be taken to preclude their repetition. The Panel reviewed various criminal investigations and a number of command and other major investigations. The Panel also conducted interviews of relevant persons, including the Secretary and Deputy Secretary of Defense, other senior Department of Defense officials, the military chain-of-command and their staffs and other officials directly and indirectly involved with Abu Ghraib and other detention operations. However, the Panel did not have full access to

information involving the role of the Central Intelligence Agency in detention operations; this is an area the Panel believes needs further investigation and review. It should be noted that information provided to the Panel was that available as of mid-August 2004. If additional information becomes available, the Panel's judgments might be revised.

POLICY

With the events of September 11, 2001, the President, the Congress and the American people recognized we were at war with a different kind of enemy. The terrorists who flew airliners into the World Trade Center and the Pentagon were unlike enemy combatants the U.S. has fought in previous conflicts. Their objectives, in fact, are to kill large numbers of civilians and to strike at the heart of America's political cohesion and its economic and military might. In the days and weeks after the attack, the President and his closest advisers developed policies and strategies in response. On September 18, 2001, by a virtually unanimous vote, Congress passed an Authorization for Use of Military Force. Shortly thereafter, the U.S. initiated hostilities in Afghanistan and the first detainees were held at Mazar-e-Sharrif in November 2001.

On February 7, 2002, the President issued a memorandum stating that he determined the Geneva Conventions did not apply to the conflict with al-Qaeda, and although they did apply in the conflict with Afghanistan, the Taliban were unlawful combatants and therefore did not qualify for prisoner of war status (see Appendix C). Nonetheless, the Secretary of State, Secretary of Defense, and the Chairman of the Joint Chiefs of Staff were all in agreement that treatment of detainees should be consistent with the Geneva Conventions. The President ordered accordingly that detainees were to be treated "... humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva." Earlier, the Department of State had argued the Geneva Conventions in their traditional application provided a sufficiently robust legal construct under which the Global War on Terror could effectively be waged. The Legal Advisor to the Chairman, Joint Chiefs of Staff, and many of the military service attorneys agreed with this position.

In the summer of 2002, the Counsel to the President queried the Department of Justice Office of Legal Counsel (OLC) for an opinion on the standards of conduct for interrogation operations conducted by U.S. personnel outside of the U.S. and the applicability of the Convention Against Torture. The OLC responded in an August 1, 2002, opinion in which it held that in order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain and suffering that is difficult to endure.

Army Field Manual 34-52 (FM 34-52), with its list of 17 authorized interrogation methods, has long been the standard source for interrogation doctrine within the Department of Defense (see Appendix D). In October 2002, authorities at Guantanamo requested approval of stronger interrogation techniques to counter tenacious resistance by some detainees. The Secretary of Defense responded with a December 2, 2002, decision authorizing the use of 16 additional techniques at Guantanamo (see Appendix E). As a

result of concerns raised by the Navy General Counsel on January 15, 2003, Secretary Rumsfeld rescinded the majority of the approved measures in the December 2, 2002, authorization. Moreover, he directed the remaining more aggressive techniques could be used only with his approval (see Appendix D).

At the same time, he directed the Department of Defense (DoD) General Counsel to establish a working group to study interrogation techniques. The Working Group was headed by Air Force General Counsel Mary Walker, and included wide membership from across the military legal and intelligence communities. The Working Group also relied heavily on the OLC. The Working Group reviewed 35 techniques and, after a very extensive debate, ultimately recommended 24 to the Secretary of Defense. The study led to the Secretary of Defense's promulgation on April 16, 2003, of a list of approved techniques strictly limited for use at Guantanamo. This policy remains in force at Guantanamo (see Appendix E).

In the initial development of these Secretary of Defense policies, the legal resources of the Services' Judge Advocates General and General Counsels were not utilized to their full potential. Had the Secretary of Defense had a wider range of legal opinions and a more robust debate regarding detainee policies and operations, his policy of April 16, 2003, might well have been developed and issued in early December 2002. This would have avoided the policy changes which characterized the Dec 02, 2002,-to-April 16, 2003, period.

It is clear that pressures for additional intelligence, and the more aggressive methods sanctioned by the Secretary of Defense memorandum, resulted in stronger interrogation techniques that were believed to be needed and appropriate in the treatment of detainees defined as "unlawful combatants." At Guantanamo, the interrogators used those additional techniques with only two detainees, gaining important and time-urgent information in the process.

In Afghanistan, from the war's inception through the end of 2002, all forces used FM [Field Manual] 34-52 as a baseline for interrogation techniques. Nonetheless, more aggressive interrogation of detainees appears to have been on-going. On January 24, 2003, in response to a data call from the Joint Staff to facilitate the Working Group efforts, the Commander Joint Task Force-180 forwarded a list of techniques being used in Afghanistan, including some not explicitly set out in FM 34-52. These techniques were included in a Special Operation Forces (SOF) Standard Operating Procedures document published in February 2003. The 519th Military Intelligence Battalion, a company of which was later sent to Iraq, assisted in interrogations in support of SOF and was fully aware of their interrogation techniques.

Interrogators and lists of techniques circulated from Guantanamo and Afghanistan to Iraq. During July and August 2003, the 519th Military Intelligence Company was sent to the Abu Ghraib detention facility to conduct interrogation operations. Absent any explicit policy or guidance, other than FM 34-52, the officer in charge prepared draft interrogation guidelines that were a near copy of the Standard Operating Procedure

created by SOF. It is important to note that techniques effective under carefully controlled conditions at Guantanamo became far more problematic when they migrated and were not adequately safeguarded.

Following a CJTF-7 [Combined Joint Task Force 7] request, Joint Staff tasked SOUTHCOM [U.S. Southern Command] to send an assistance team to provide advice on facilities and operations, specifically related to screening, interrogations, HUMINT [human intelligence] collection, and interagency integration in the short and long term. In August 2003, MG [Major General] Geoffrey Miller arrived to conduct an assessment of DoD [Department of Defense] counterterrorism interrogation and detention operations in Iraq. He was to discuss current theater ability to exploit internees rapidly for actionable intelligence. He brought the Secretary of Defense's April 16, 2003, policy guidelines for Guantanamo with him and gave this policy to CJTF-7 as a possible model for the command-wide policy that he recommended be established. MG Miller noted that it applied to unlawful combatants at Guantanamo and was not directly applicable to Iraq, where the Geneva Conventions applied. In part as a result of MG Miller's call for strong, command-wide interrogation policies, and in part as a result of a request for guidance coming up from the 519th at Abu Ghraib, on September 14, 2003, LTG [Lieutenant General Ricardo] Sanchez signed a memorandum authorizing a dozen interrogation techniques beyond Field Manual 34-52 -- five beyond those approved for Guantanamo (see Appendix D).

MG Miller had indicated his model was approved only for Guantanamo. However, CJTF-7, using reasoning from the President's Memorandum of February 7, 2002, which addressed "unlawful combatants," believed additional, tougher measures were warranted because there were "unlawful combatants" mixed in with Enemy Prisoners of War and civilian and criminal detainees. The CJTF-7 Commander, on the advice of his Staff Judge Advocate, believed he had the inherent authority of the Commander in a Theater of War to promulgate such a policy, and make determinations as to the categorization of detainees under the Geneva Conventions. CENTCOM [U.S. Central Command] viewed the CJTF-7 policy as unacceptably aggressive and, on October 12, 2003, Commander CJTF-7 rescinded his September directive and disseminated methods only slightly stronger than those in Field Manual 34-52 (see Appendix D). The policy memos promulgated at the CJTF-7 level allowed for interpretation in several areas, and did not adequately set forth the limits of interrogation techniques. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned.

DETENTION AND INTERROGATION OPERATIONS

From his experience in Guantanamo, MG Miller called for the military police [MP] and military intelligence [MI] soldiers to work cooperatively, with the military police "setting the conditions" for interrogations. This MP role included passive collection on detainees as well as supporting incentives recommended by the military interrogators. These collaborative procedures worked effectively in Guantanamo, particularly in light of the high ratio of approximately 1:1 of military police to mostly compliant detainees.

However, in Iraq and particularly in Abu Ghraib the ratio of military police to repeatedly unruly detainees was significantly smaller -- at one point 1 to about 75 at Abu Ghraib -- making it difficult even to keep track of prisoners. Moreover, because Abu Ghraib was located in a combat zone, the military police were engaged in force protection of the complex, as well as escorting convoys of supplies to and from the prison. Compounding these problems was the inadequacy of leadership, oversight and support needed in the face of such difficulties.

At various times, the U.S. conducted detention operations at approximately 17 sites in Iraq and 25 sites in Afghanistan, in addition to the strategic operation at Guantanamo. A cumulative total of 50,000 detainees have been in the custody of U.S. forces since November 2001, with a peak population of 11,000 in the month of March 2004.

In Iraq, there was not only a failure to plan for a major insurgency, but also to quickly and adequately adapt to the insurgency that followed after major combat operations. The October 2002 CENTCOM War Plan presupposed that relatively benign stability and security operations would precede a handover to Iraq's authorities. The contingencies contemplated in that plan included sabotage of oil production facilities and large numbers of refugees generated by communal strife.

Major combat operations were accomplished more swiftly than anticipated: Then began a period of occupation and an active and growing insurgency. Although the removal of Saddam Hussein was initially welcomed by the bulk of the population, the occupation became increasingly resented. Detention facilities soon held Iraqi and foreign terrorists, as well as a mix of Enemy Prisoners of War, other security detainees, criminals and undoubtedly some accused as a result of factional rivalries. Of the 17 detention facilities in Iraq, the largest, Abu Ghraib, housed up to 7,000 detainees in October 2003, with a guard force of only about 90 personnel from the 800th Military Police Brigade. Abu Ghraib was seriously overcrowded, under-resourced, and under continual attack. Five U.S. soldiers died as a result of mortar attacks on Abu Ghraib. In July 2003; Abu Ghraib was mortared 25 times; on August 16, 2003, five detainees were killed and 67 wounded in a mortar attack. A mortar attack on April 20, 2004 killed 22 detainees.

Problems at Abu Ghraib are traceable in part to the nature and recent history of the military police and military intelligence units at Abu Ghraib. The 800th Military Police Brigade had one year of notice to plan for detention operations in Iraq. Original projections called for approximately 12 detention facilities in non-hostile, rear areas with a projection of 30,000 to 100,000 Enemy Prisoners of War. Though the 800th had planned a detention operations exercise for the summer of 2002, it was cancelled because of the disruption in soldier and unit availability resulting from the mobilization of Military Police Reserves following 9/11. Although its readiness was certified by U.S. Army Forces Command, actual deployment of the 800th Brigade to Iraq was chaotic. The "Time Phased Force Deployment List," which was the planned flow of forces to the theater of operations, was scrapped in favor of piecemeal unit deployment orders based on actual unit readiness and personnel strength. Equipment and troops regularly arrived out of planned sequence and rarely together. Improvisation was the order of the day.

While some units overcame these difficulties, the 800th was among the lowest in priority and did not have the capability to overcome the shortfalls it confronted.

The 205th MI Brigade, deployed to support Combined Joint Task Force-7 (CJTF-7), normally provides the intelligence capability for a Corps Headquarters. However, it was insufficient to provide the kind of support needed by CJTF-7, especially with regard to interrogators and interpreters. Some additional units were mobilized to fill in the gaps, but while these MI units were more prepared than their military police counterparts, there were insufficient numbers of units available. Moreover, unit cohesion was lacking because elements of as many as six different units were assigned to the interrogation mission at Abu Ghraib. These problems were heightened by friction between military intelligence and military police personnel, including the brigade commanders themselves.

ABUSES

As of the date of this report, there were about 300 incidents of alleged detainee abuse across the Joint Operations Areas. Of the 155 completed investigations, 66 have resulted in a determination that detainees under the control of U.S. forces were abused. Dozens of non-judicial punishments have already been awarded. Others are in various stages of the military justice process.

Of the 66 already-substantiated cases of abuse, eight occurred at Guantanamo, three in Afghanistan and 55 in Iraq. Only about one-third were related to interrogation, and two-thirds to other causes. There were five cases of detainee deaths as a result of abuse by U.S. personnel during interrogations. Many more died from natural causes and enemy mortar attacks. There are 23 cases of detainee deaths still under investigation; three in Afghanistan and 20 in Iraq. Twenty-eight of the abuse cases are alleged to include Special Operations Forces (SOF) and, of the 15 SOF cases that have been closed, 10 were determined to be unsubstantiated and five resulted in disciplinary action. The Jacoby review of SOF detention operations found a range of abuses and causes similar in scope and magnitude to those found among conventional forces.

The aberrant behavior on the night shift in Cell Block 1 at Abu Ghraib would have been avoided with proper training, leadership and oversight. Though acts of abuse occurred at a number of locations, those in Cell Block 1 have a unique nature fostered by the predilections of the noncommissioned officers in charge. Had these noncommissioned officers behaved more like those on the day shift, these acts, which one participant described as "just for the fun of it," would not have taken place.

Concerning the abuses at Abu Ghraib, the impact was magnified by the fact the shocking photographs were aired throughout the world in April 2004. Although CENTCOM had publicly addressed the abuses in a press release in January 2004, the photographs remained within the official criminal investigative process. Consequently, the highest levels of command and leadership in the Department of Defense were not adequately informed nor prepared to respond to the Congress and the American public when copies were released by the press.

POLICY AND COMMAND RESPONSIBILITIES

Interrogation policies with respect to Iraq, where the majority of the abuses occurred, were inadequate or deficient in some respects at three levels: Department of Defense, CENTCOM/CJTF-7, and Abu Ghraib Prison. Policies to guide the demands for actionable intelligence lagged behind battlefield needs. As already noted, the changes in DoD interrogation policies between December 2, 2002, and April 16, 2003, were an element contributing to uncertainties in the field as to which techniques were authorized. Although specifically limited by the Secretary of Defense to Guantanamo, and requiring his personal approval (given in only two cases), the augmented techniques for Guantanamo migrated to Afghanistan and Iraq where they were neither limited nor safeguarded.

At the operational level, in the absence of specific guidance from CENTCOM, interrogators in Iraq relied on Field Manual 34-52 and on unauthorized techniques that had migrated from Afghanistan. On September 14, 2003, CJTF-7 signed the theater's first policy on interrogation, which contained elements of the approved Guantanamo policy and elements of the SOF policy (see Appendix D). Policies approved for use on al-Qaeda and Taliban detainees, who were not afforded the protection of the Geneva Conventions, now applied to detainees who did fall under the Geneva Convention protections.

CENTCOM disapproved the September 14, 2003, policy, resulting in another policy signed on October 12, 2003, which essentially mirrored the outdated 1987 version of the FM 34-52 (see Appendix D). The 1987 version, however, authorized interrogators to control all aspects of the interrogation, "to include lighting and heating, as well as food, clothing, and shelter given to detainees." This was specifically left out of the current 1992 version. This clearly led to confusion on what practices were acceptable. We cannot be sure how much the number and severity of abuses would have been curtailed had there been early and consistent guidance from higher levels. Nonetheless, such guidance was needed and likely would have had a limiting effect.

At the tactical level we concur with the Jones/Fay investigation's conclusion that military intelligence personnel share responsibility for the abuses at Abu Ghraib with the military police soldiers cited in the Taguba investigation. The Jones/Fay Investigation found 44 alleged instances of abuse, some which were also considered by the Taguba report. A number of these cases involved MI personnel directing the actions of MP personnel. Yet it should be noted that of the 66 closed cases of detainee abuse in Guantanamo, Afghanistan and Iraq cited by the Naval Inspector General, only one-third were interrogation-related.

The Panel concurs with the findings of the Taguba and Jones investigations that serious leadership problems in the 800th MP Brigade and 205th MI Brigade, to include the 320th MP Battalion Commander and the Director of the Joint Debriefing and Interrogation Center (JDIC), allowed the abuses at Abu Ghraib. The Panel endorses the disciplinary actions taken as a result of the Taguba Investigation. The Panel anticipates that the Chain

of Command will take additional disciplinary action as a result of the referrals of the Jones/Fay investigation.

We believe LTG Sanchez should have taken stronger action in November, when he realized the extent of the leadership problems at Abu Ghraib. His attempt to mentor BG [Brigadier General Janis] Karpinski, though well-intended, was insufficient in a combat zone in the midst of a serious and growing insurgency. Although LTG Sanchez had more urgent tasks than dealing personally with command and resource deficiencies at Abu Ghraib, MG [Major General Walter] Wojdakowski and the staff should have seen that urgent demands were placed to higher headquarters for additional assets. We concur with the Jones findings that LTG Sanchez and MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations.

We note, however, in terms of its responsibilities, CJTF-7 was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7 and CENTCOM took too long to finalize the Joint Manning Document (JMD). It was not finally approved until December 2003, six months into the insurgency. At one point, CJTF-7 had only 495 of the 1,400 personnel authorized. The command was burdened with additional complexities associated with its mission to support the Coalition Provisional Authority.

Once it became clear in the summer of 2003 that there was a major insurgency growing in Iraq, with the potential for capturing a large number of enemy combatants, senior leaders should have moved to meet the need for additional military police forces. Certainly by October and November when the fighting reached a new peak, commanders and staff from CJTF-7 all the way to CENTCOM to the Joint Chiefs of Staff [JCS] should have known about and reacted to the serious limitations of the battalion of the 800th Military Police Brigade at Abu Ghraib. CENTCOM and the JCS should have at least considered adding forces to the detention/interrogation operation mission. It is the judgment of this panel that in the future, considering the sensitivity of this kind of mission, the OSD [Office of the Secretary of Defense] should assure itself that serious limitations in detention/interrogation missions do not occur.

Several options were available to Commander CENTCOM and above, including reallocation of U.S. Army assets already in the theater, Operational Control (OPCON) of other Service Military Police units in theater, and mobilization and deployment of additional forces from the continental United States. There is no evidence that any of the responsible senior officers considered any of these options. What could and should have been done more promptly is evidenced by the fact that the detention/interrogation operation in Iraq is now directed by a Major General reporting directly to the Commander, Multi-National Forces Iraq (MNFI). Increased units of Military Police, fully manned and more appropriately equipped, are performing the mission once assigned to a single under-strength, poorly trained, inadequately equipped and weakly-led brigade.

In addition to the already-cited leadership problems in the 800th MP Brigade, there were a series of tangled command relationships. These ranged from an unclear military intelligence chain of command, to the Tactical Control (TACON) relationship of the

800th with CJTF-7 which the Brigade Commander apparently did not adequately understand, and the confusing and unusual assignment of MI and MP responsibilities at Abu Ghraib. The failure to react appropriately to the October 2003 ICRC [International Commission of the Red Cross] report, following its two visits to Abu Ghraib, is indicative of the weakness of the leadership at Abu Ghraib. These unsatisfactory relationships were present neither at Guantanamo nor in Afghanistan.

RECOMMENDATIONS

Department of Defense reform efforts are underway and the Panel commends these efforts. They are discussed in more detail in the body of this report. The Office of the Secretary of Defense, the Joint Chiefs of Staff and the Military Services are conducting comprehensive reviews on how military operations have changed since the end of the Cold War. The Military Services now recognize the problems and are studying force compositions, training, doctrine, responsibilities and active duty/reserve and guard/contractor mixes which must be adjusted to ensure we are better prepared to succeed in the war on terrorism. As an example, the Army is currently planning and developing 27 additional MP companies.

The specific recommendations of the Independent Panel are contained in the Recommendations section, beginning on page 87.

CONCLUSION

The vast majority of detainees in Guantanamo, Afghanistan and Iraq were treated appropriately, and the great bulk of detention operations were conducted in compliance with U.S. policy and directives. They yielded significant amounts of actionable intelligence for dealing with the insurgency in Iraq and strategic intelligence of value in the Global War on Terror. For example, much of the information in the recently released 9/11 Commission's report, on the planning and execution of the attacks on the World Trade Center and Pentagon, came from interrogation of detainees at Guantanamo and elsewhere.

Justice Sandra Day O'Connor, writing for the majority of the Supreme Court of the United States in Hamdi v. Rumsfeld on June 28, 2004, pointed out that "The purpose of detention is to prevent captured individuals from returning to the field of battle and taking up arms once again." But detention operations also serve the key purpose of intelligence gathering. These are not competing interests but appropriate objectives which the United States may lawfully pursue.

We should emphasize that tens of thousands of men and women in uniform strive every day under austere and dangerous conditions to secure our freedom and the freedom of others. By historical standards, they rate as some of the best trained, disciplined and professional service men and women in our nation's history.

While any abuse is too much, we see signs that the Department of Defense is now on the path to dealing with the personal and professional failures and remedying the underlying causes of these abuses. We expect any potential future incidents of abuse will similarly be discovered and reported out of the same sense of personal honor and duty that characterized many of those who went out of their way to do so in most of these cases. The damage these incidents have done to U.S. policy, to the image of the U.S. among populations whose support we need in the Global War on Terror and to the morale of our armed forces, must not be repeated.

26 September 2005

ATZC-JA

MEMORANDUM FOR CPT Mario J. DeRossi, U.S. Army Trial Defense Service, Fort Hood Office, Fort Hood, Texas 76544

SUBJECT: Defense Request for Extension of Clemency under R.C.M. 1105 - **U.S. v. SGT Selena M. Salcedo**

1. This trial was completed on 4 August 2005, and the post-trial recommendation was served on 16 September 2005 and the record of trial was served on 16 September 2005. In this case, the 10th day is 26 September 2005, and the 30th day is 16 October 2005.

2. I approve the extension of the deadline for submission of matters from 26 September 2005 to 16 October 2005.

ATZC, JA, Acting SJA

MARK A. RIVEST
COL, JA
Staff Judge Advocate

DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
FORT HOOD FIELD OFFICE
FORT HOOD, TEXAS 76544

REPLY TO
ATTENTION OF

26 September

AFZF-JA-TDS
2005

MEMORANDUM FOR Commander, US Army Air Defense Artillery Center and Fort Bliss, Texas 79916

SUBJECT: Request For Delay – Clemency, Sergeant Selena Salcedo, Headquarters and Headquarters Battery, US Army Air Defense Artillery Center and Fort Bliss, Fort Bliss, Texas 79916

IAW R.C.M. 1105 and 1106, Defense requests an additional 20-day delay before action in the above matter. Letters of support from several individuals have been received.

//ORIGINAL SIGNED//
MARIO J. DEROSSI
CPT, JA
Defense Counsel

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

REPLY TO
ATTENTION OF:

ATZC-JA

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 Special Court-Martial Case of **U.S. v. SGT Selena M. Salcedo.**

1. This is my recommendation under R.C.M. 1106 in the Special Court-Martial case of SGT Selena M. Salcedo, 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: Single

c. Number of Dependents: 0

d. Military Service: 990831-Present AD

e. Character of Service: satisfactory

f. Awards and Decorations: JSCM, ARCOM, AGCM, NDSM, AFEM, NATOMDL, ACM, ICM GWTSM, and PRCHTBAD.

g. GT Score: 110

h. PMOS: 97B

i. Education: High School Diploma

j. Nonjudicial Punishment: None

k. Prior Convictions: None

l. Pretrial Restraint: None

ATZC-JA
SUBJECT: Staff Judge Advocate's Recommendation in the Special Court-Martial Case of **U.S. v. SGT Selena M. Salcedo,**

3. Summary of Charges:

Charge	Art	Spec	Gist of Offense	Plea/Finding
I	92	THE	Derelict in the performance of your duties o/a 8 Dec 02.	G/G
II	93	THE	Maltreat a person subject to your orders o/a 8 Dec 02.	NG/NG
III	107	THE	Make false official statements with intent to deceive o/a 17 Dec 02.	NG/NG
IV	128	1	Unlawfully kick Dilawar, o/a 8 Dec 02.	G*/G*1
		2	Unlawfully grab and pull the ears of Dilawar, o/a 8 Dec 02.	G**/G**
		3	Unlawfully shove Dilawar, o/a 8 Dec 02.	G***/G***2
		4	Assault an unknown PUC o/a 15 Oct 02, and o/a 15 Feb 03.	NG/NG

*To Charge IV, Specification 1: Guilty, except the words, "in or about the groin", and substituting the words, "in the knees and inner thighs".

**To Charge IV, Specification 2: Guilty, except the words, "and pull".

***To Charge IV, Specification 3: Guilty, except the words, "shove Dilawar", and substituting the words, "pulled Dilawar up".

1 Of Specification 1 of Charge IV: Guilty, except the words, "in the groin", substituting therefor the words, "in the knees and inner thighs".

2 Of Specification 3 of Charge IV: Guilty, except the words, "shove Dilawar", substituting therefor the words, "pull Dilawar up".

4. The Court adjudged the following sentence: To be reprimanded; to be reduced to the grade of E4; and to forfeit $250 pay per month for 4 months.

5. Pursuant to a pretrial agreement between you and the accused, you agreed to disapprove any term of confinement adjudged in excess of 4 months; any other lawfully adjudged punishment may be approved. I recommend that you approve as adjudged.

6. 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.

JOHN P. SAUNDERS
LTC, JA
Acting Staff Judge Advocate

UNITED STATES

v.

SGT Selena M. Salcedo
, U.S. Army

SERVICE OF RECORD OF TRIAL AND POST-TRIAL RECOMMENDATION OF THE STAFF JUDGE ADVOCATE

Staff Judge Advocate, U.S. Army Air Defense Artillery Center and Fort Bliss, Fort Bliss, Texas 79916

TO: Captain Mario DeRossi, Trial Defense Service, Region 4, Fort Hood Office, ATTN: AFZF-JA (ATTN: TDS) 1001 761st Tank Battalion Avenue Room 207, Fort Hood, Texas 76544-5008

Attached is a copy of the recommendation of the Staff Judge Advocate and a copy of the authenticated record of trial in the case of **SGT Selena M. Salcedo,** U.S. Army. Pursuant to R.C.M. 1105 and 1106, you have ten days from date of receipt to submit any rebuttal to the matters contained in the recommendation of the Staff Judge Advocate, any omissions you consider pertinent to this case, or any clemency matters. If you desire additional time, you must submit in writing a request that the ten day period required by United States v. Goode, 1 MJ 3 (CMA 1975) and Article 60, UCMJ, be extended prior to the expiration of the ten day period. Failure to submit a rebuttal or other matters or request an extension will constitute a waiver thereof and the record of trial will be forwarded to the convening authority for action. You are requested to return the copy of the record of trial with the matters, if any, by the expiration of the time period for submission.

CHRISTOPHER D. CARRIER
MAJ, JA
Chief, Bagram Prosecution Team

ATZC-TDS

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

SUBJECT: Certificate of Service – SGT Selena M. Salcedo, .

I hereby acknowledge receipt of a copy of the post-trial recommendation of the Staff Judge Advocate and a copy of the authenticated record of trial in the case of **United States v. SGT Selena M. Salcedo,** U.S. Army on 16 Sep 05. I understand this is a service in accordance with the requirements of R.C.M. 1105 and 1106, and that I have 10 days in which to submit a rebuttal to the recommendation of the Staff Judge Advocate or other matters or to request an extension of this time period. Further, I understand that failure to submit a rebuttal or request an extension of time will constitute a waiver and that the record of trial will be forwarded to the convening authority for action. Matters in rebuttal (will) (will not) be submitted herewith. Matters in clemency (will) (will not) be submitted herewith.

MARIO DEROSSI
CPT, JA
Defense Counsel

COURT-MARTIAL CHARGES TRANSMITTAL FORM

PART I

TO: Cdr, Co A,
519th MI, Fort Bragg, NC 28310

FROM: Cdr, HHB, USAADACENFB
Fort Bliss, TX 79916

DATE:

Court-Martial charges against the following named individual are forwarded as Enclosure 1. Witness statements, any evidence of previous misconduct (to include properly certified DA Forms 2627 and the accused's ERB) are attached as Enclosure 2. Soldier is not pending chapter action UP AR 635-200.

NAME: SALCEDO, Selena M.

RANK: SGT

SSN:

UNIT: HHB, USAADACENFB, Fort Bliss, TX 79916

Recommend:

( ) **Summary Court-Martial**

( ) **Special Court-Martial**

(X) **BCD Special Court-Martial**

( ) **General Court-Martial**

NAME OF COMMANDER
ERICK J. SEGARRA
CPT, AD
Commanding

SIGNATURE OF COMMANDER

PART II

TO: Cdr, US Army Garrison
Fort Bliss, TX 79916

FROM: Cdr, 76th MP BN
Fort Bliss, TX 79916

DATE: 17 May 05

I have reviewed the attached charges, documents, and Article 32 (if applicable) and recommend:

( ) **Summary Court-Martial**

( ) **Special Court-Martial**

(X) **BCD Special Court-Martial**

( ) **General Court-Martial**

NAME OF COMMANDER
THOMAS T. KOESTERS
LTC, MP
Commanding

SIGNATURE OF COMMANDER

PART III

TO: CDR, USAADACENFB
Fort Bliss, TX 79916

FROM: Cdr, US Army Garrison
Fort Bliss, TX 79916

DATE: 17 May 05

I have reviewed the attached charges, documents, and Article 32 (if applicable) and *(recommend)*(~~direct~~):

( ) **Summary Court-Martial**

( ) **Special Court-Martial**

(X) **BCD Special Court-Martial**

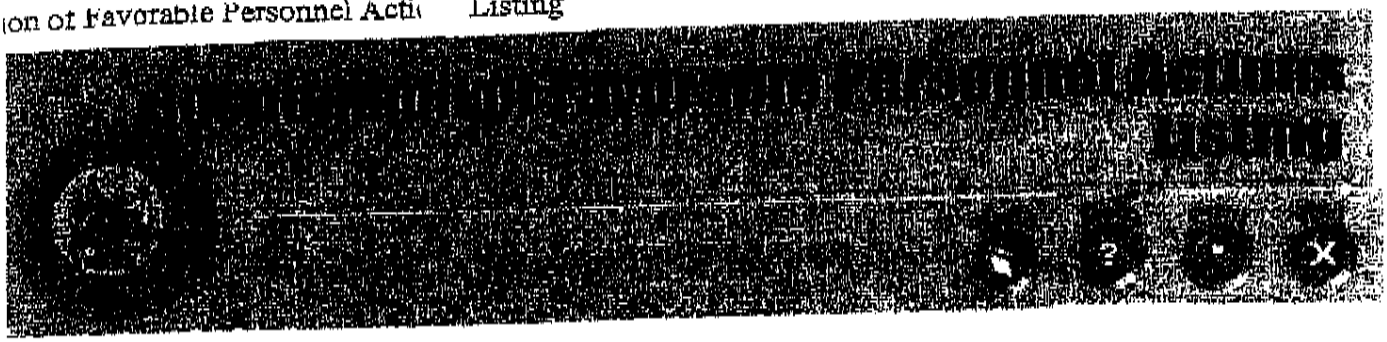
( ) **General Court-Martial**

NAME OF COMMANDER
BRYON E. GREENWALD
COL, AD
Commanding

SIGNATURE OF COMMANDER

PRETRIAL ALLIED PAPERS

ion of Favorable Personnel Acti Listing



This page allows the user to initiate, update or remove/finalize one or multiple SFPA flags. The Status column will display the user's completed actions. Select from the corresponding picklist to update or remove/finalize existing flags. Click on the checkbox to initiate a new flag.

- Click "**Submit**" to proceed. Click "**Next**" to proceed without saving. Click "**Close**" to exit the page and terminate the working session.

SGT SELENA SALCEDO SSN: **UIC: WBVFA0** **1 of 1**

Action	Status	Flag Type	Reason	Effective Date	Expiration Date	Report
Select One	Removed/Finalized	FINAL-OTHER REPORT	ADVERSE-ACTION	20040302		DA Form 268

☑ Initiate SFPA Flag

[redacted]

DEPARTMENT OF THE ARMY
Headquarters, US Army Air Defense Artillery Center and Fort Bliss
Fort Bliss, Texas 79916-6812

4 March 2005

Orders 063-444

SALCEDO, SELENA M. -- SGT A CO, 519TH MI BN, FT BRAGG, NC 28310

You are attached or released from attachment as shown.

Action: You are attached to HHB USA ADA CNTR (W0VH01) FT BLISS, TX 79916
Effective date: 25 February 2005
Period: Indefinite
Purpose: general administration of military justice
Accounting classification: Not applicable
Additional instructions: (a) Authority AR 27-10 paragraph 5-2, and Memorandum from Commanding General, USAADACEN FT Bliss, TX dated 25 February 2005 Subject: Attachment of Soldiers. (b) The 76th Military Police Battalion and US Army Garrison Command, Fort Bliss will serve as the summary and special court-martial convening authorities, respectively. Nothing in this attachment shall be construed as a directive to any subordinate commander to take or refrain from taking any action, including no action, deemed appropriate in the interests of good order and discipline.
Format: 440

FOR THE COMMANDER:

* *
* OFFICIAL *
* HQ, USAADACEN & FT. BLISS *
* FORT BLISS, TX *
* *

C. D. YOUNG
ADJUTANT GENERAL

DISTRIBUTION:
Individual (10)
CDR, A CO, 519TH MI BN (1)
CDR, HHB USA ADA CNTR (1)

DEPARTMENT OF THE ARMY
HEADQUARTERS, XVIII AIRBORNE CORPS AND FORT BRAGG
FORT BRAGG, NORTH CAROLINA 28310

REPLY TO
ATTENTION OF:

17 Dec 04

AFZA-JA-C

MEMORANDUM FOR RECORD

SUBJECT: Retention of Soldier Beyond ETS

1. Per Army Regulation 635-200, chapter 1, paragraph 1-22(b), Sergeant Selena M. Salcedo (aka Ryan), , Company A, 519th Military Intelligence Battalion, 525th Military Intelligence Brigade, will be retained on active duty at Fort Bragg, North Carolina, and be involuntarily extended until 31 May 2005.

2. SGT Salcedo is currently under investigation with a view toward court-martial for offenses related to the treatment of person under U.S. control in Afghanistan.

JOHN R. VINES
Lieutenant General, USA
Commanding

DEPARTMENT OF THE ARMY
U.S. ARMY ENLISTED RECORDS AND EVALUATION CENTER
8899 EAST 56TH STREET
INDIANAPOLIS, INDIANA 46249-5301

REPLY TO ATTENTION OF

14 OCT 2004

AHRC-ERP (600-8-104)

MEMORANDUM FOR Staff Judge Advocate, Headquarters, U.S. Army Forces Command, CW3 Jack D. Bradley (APCG-JA), 1777 Hardee Avenue SW, Fort McPherson, GA 30330-1062

SUBJECT: Certification of Official Military Personnel File (OMPF) pertaining to SGT Selena M. Salcedo,

1. Under the provisions of AR 600-8-104, paragraph 2-3, the attached documents are released. This certifies that the OMPF of active duty Soldiers are maintained at this organization, the U.S. Army Enlisted Records and Evaluation Center, as required by appropriate regulations. As custodian of these records, I am authorized to certify official records, reports, entries, or documents filed therein.

2. I certify that the attached OMPF of the Soldier named hereon is a true and complete copy maintained at this Center.

3. In witness whereof, I have this date hereunto set my hand and affixed the seal of the Department of the Army, U.S. Army Enlisted Records and Evaluation Center, 8899 East 56th Street, Indianapolis, Indiana 46249-5301

4. Point of Contact is Lynn Riley at (317) 510-3644 (DSN 699-3644) or email at lynn.riley@erec.army.mil.

Encls

FREDRIC D. ZIEGLER
Deputy Commander