

Information Paper

4 December 2003

SUBJECT: Charges Pending for Abuse of Iraqi Detainees

1. Purpose: To respond to a VCSA tasker requesting an update on UCMJ charges arising from two separate allegations of abuse of Iraqi detainees, one involving LTC [REDACTED] and four soldiers under his command and a second involving the 320th MP Battalion. (b)(6)-5/(b)(7)(C)-5

2. Information:

a. LTC [REDACTED] Case. (b)(6)-5/(b)(7)(C)-5 (b)(7)(C)-5/(b)(6)-5

(1) On 6 Oct 03, LTC [REDACTED] was charged with three specifications of assault (pointing the loaded pistol at a detainee, striking the detainee, and firing the pistol near the detainee's head) and communicating a threat (threatening to kill the detainee). These allegations arose from an interrogation of an Iraqi detainee by LTC [REDACTED] and four Soldiers under his command. An Article 32 investigation was directed by the Commander, [REDACTED], on the charges and the hearing was completed on 19 Nov 03. The Investigating Officer is expected to submit his findings and recommendations not earlier than 5 Dec 03. The investigating officer's recommendations may range from dismissing or disposing of the charges at a lower level (e.g., an Article 15) up to referring the charges to a general court-martial. (b)(3)-1

(2) The four other soldiers allegedly involved in the incident (a SFC, a SSG, a SPC, and a PFC) received field grade Article 15s.

(3) At the time of this incident, LTC [REDACTED] was the commander of the 2-20 FA. Following the incident, LTC [REDACTED] chain of command administratively reassigned LTC [REDACTED] to the [REDACTED] (b)(6)-5/(b)(7)(C)-5 (b)(3)-1

(4) On 3 Nov 03, LTC [REDACTED] submitted a request to retire. No action on that request has been taken pending receipt of the Article 32 Investigating Officer's report. (b)(6)(S)/(b)(7)(C)-5

b. 320th MP Battalion Case.

(1) On 03, charges were preferred against four USAR soldiers assigned to the 320th MP Battalion arising from allegations that they assaulted an Iraqi detainee (three Soldiers allegedly held the detainee down while the fourth kicked him). The charges included assault and obstruction of justice. Following an Article 32 Investigation, the Commander, CFLCC, referred the charges to general courts-martial on 8 Nov 03. The soldiers were arraigned on 15 Nov 03.

(2) One soldier subsequently requested and received a Chapter 10 (In Lieu of Court-Martial) administrative discharge.

(3) Pre-trial motions in the remaining three trials were scheduled to be heard on 3 Jan 04.

The actual trials are currently scheduled for 21 Jan 04, 25 Jan 04, and 30 Jan 04, respectively. In any of these remaining cases, the accused may submit requests for alternate disposition to the convening authority, Commander, CFLCC, for consideration.

c. "Linkage" of the Two Incidents.

(1) Similarities. Both cases involve abuse of Iraqi detainees in the custody of Soldiers. The alleged abuse in each case was significant, but not of a nature to result in permanent injury. In both cases, the respective general courts-martial convening authorities (Commander, 4th ID and Commander, CFLCC) are experienced field commanders.

(2) Differences. In LTC [REDACTED] case, he essentially confessed to facts surrounding the assaults in a statement to CID. The only issue being raised by LTC [REDACTED] is whether his actions were justified by the circumstances (obtaining information critical to force protection). The four enlisted Soldiers involved with LTC [REDACTED] accepted Article 15 punishments for their involvement. In the case of the 320th MP Soldiers, the Soldiers involved were all MPs, trained in and entrusted with the care, custody, and safe transportation of detained persons. Unlike LTC [REDACTED], they have not admitted to facts surrounding the allegations, but rather are alleged to have lied about their actions and obstructed justice. If these allegations are true, the potential for these soldiers retaining their MOS would be minimal.

d. [REDACTED]

(1) [REDACTED]

(2) [REDACTED]

Approved by: MG Marchand