

Information Paper

4 December 2003

SUBJECT: Status of Charges Pending Against LTC [REDACTED]

1. Purpose: To provide information on the current status of criminal charges pending against LTC [REDACTED] arising from allegations that he assaulted and threatened an Iraqi detainee.

2. Information:

a. On 20 Aug 03 while interrogating an Iraqi detainee at the Gunner Collection Point in northern Iraq, LTC [REDACTED], allegedly assaulted and threatened the detainee if the detainee did not reveal information regarding an alleged plot to kill LTC [REDACTED] and others. During the interrogation process, LTC [REDACTED] allegedly pointed his pistol at and threatened to shoot the detainee. It is also alleged that LTC [REDACTED] subsequently took the detainee to a weapons clearing barrel, held the detainee's head inside the barrel, and fired two shots from his pistol into the barrel next to the detainee's head. LTC [REDACTED] and other soldiers at the scene also allegedly stuck the detainee. The incident was reported to CID on 19 Sep 03 and an investigation was initiated.

b. Based on that investigation, charges were preferred against LTC [REDACTED] on 6 Oct 03 for three specifications of assault (pointing the loaded pistol at the detainee, striking the detainee, and firing the pistol near the detainee's head) and communicating a threat (threatening to kill the detainee). An Article 32 investigation, required by the UCMJ in cases in which a commander is recommending a general court-martial, commenced on 18 Nov 03 and was completed on [or about] 19 Nov 03.

c. Following completion of the transcript of that hearing, the Article 32 investigating officer will submit his recommendation to the commander as to the disposition of the charges. The recommendation of the Investigating Officer has not yet been made. We are informed that it will not be made prior to Friday, 5 December. 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.

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

d. 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]

e. On 3 Nov 03, LTC [REDACTED] submitted a request to retire. Because LTC [REDACTED] is currently "flagged," action on that request by LTC [REDACTED] chain of command is pending a determination on the disposition of the court-martial charges.

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3. Way Ahead.

a. After the Article 32 officer makes his recommendations, LTC [REDACTED] chain of command will make a determination as to the disposition of the charges. The chain of command is not bound by the recommendations of the Article 32 officer, but may take any action ranging from no action to referring the charges to a general court-martial. At any point in the process, LTC [REDACTED] through his defense counsel, may propose an alternate disposition of the charges (e.g., pleading guilty at an Article 32 proceeding). Any such proposal would be submitted to the appropriate commander for consideration.

b. HQDA officials should avoid making any comment about these charges while they are proceeding through the UCMJ process. Any substantive comment on the charges at this juncture risks the possibility of the comment being perceived as an attempt to improperly influence the process (commonly referred to as unlawful command influence).

c. If queried about these charges, HQDA officials should respond to the effect, "the charges are currently being processed in accordance with the UCMJ by experienced, senior field commanders; accordingly it is inappropriate for me to comment on them at this time."

d. Staffers for the HASC were informed at a 1300 meeting on 3 December of the current status of the LTC [REDACTED] case, as well as the 320th MP Cases by OCLL and OTJAG representatives.

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