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b(6), b(3)
04-CID023 67282

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2D BATTALION
325TH AIRBORNE INFANTRY REGIMENT
FORT BRAGG, NORTH CAROLINA 28307-5100



AFVC-BB-S2

8 JUN 04

MEMORANDUM FOR RECORD

SUBJECT: Appointment as Investigating Officer

1. On 4 Jun 04, I was appointed to conduct an informal investigation into the alleged detainee abuse by [REDACTED] in Baghdad Iraq between 1-30 April 2003. The appointment was delivered orally by [REDACTED], the battalion [REDACTED] on behalf of [REDACTED], appointing authority and commanding officer for 2-325th AIR b(6)-5-

2. POC is the undersigned at [REDACTED]



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LAW ENFORCEMENT SENSITIVE
ACLU RDI 1180 p.1
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EXHIBIT 7

DOD 007022



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b(6), b(7), b(7)(C)

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2D BATTALION
325TH AIRBORNE INFANTRY REGIMENT
FORT BRAGG, NORTH CAROLINA 28307-5100



AFVC-BB-S2

8 JUN 04

MEMORANDUM FOR RECORD

SUBJECT: Exhibit Index

1. The following exhibits are enclosed as part of the 15-6 Informal Investigation of detainee abuse. They are listed in the order in which they are submitted in evidence.

- A. Sworn Statement by [REDACTED] explaining his actions while guarding detainees during a platoon operation in Baghdad.
- B. Sworn Statement by [REDACTED] explaining his actions and the platoons while searching a warehouse during a platoon operation in Baghdad.
- C. Sworn Statement by [REDACTED] explaining his actions while guarding detainees during a platoon operation in Baghdad.
- D. Sworn Statement by [REDACTED] explaining his actions and the platoons while searching a warehouse during a platoon operation in Baghdad.
- E. CID Report of Investigation identifying [REDACTED] as the investigating agent.

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2. POC is the undersigned at [REDACTED]

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[REDACTED]

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SECTION IV - FINDINGS (para 3-10, AR 15-6)

The (investigating officer) (board), having carefully considered the evidence, finds: b(6)-5
 The alleged detainee abuse by [REDACTED] in Baghdad, Iraq between May - Jun 2003 was brought to the attention of this command through an Inspector General (IG) sensing session. During the IG sensing session SFC [REDACTED] platoon b(6) sergeant during May - Jun 2003, was asked if he had ever seen a detainee hit by a soldier. [REDACTED] said that he had seen a detainee hit by a soldier. The IG further asked why had he ([REDACTED]) not reported it. [REDACTED] stated that he and the platoon leader ([REDACTED]) conducted an AAR of the mission, including [REDACTED] shoving of the detainee, [REDACTED] and [REDACTED] reviewed the 5Ws of EPWs and the CJTF-7 ROE (shout, shove, warning shot, shoot) and concluded that PFC [REDACTED] had acted properly according to the ROE. During this investigation I conducted concurrent (separate rooms) interviews with the individuals involved with the CID investigator. I also used the same sworn statements given to the CID investigator since I was right there when they were being written.

During a platoon "search for possible cache" mission in Baghdad, Iraq between Jun - Jul 2003, [REDACTED] and [REDACTED] were tasked to guard 4-5 detainees at the beginning of the mission as the remainder of the platoon continued clearing the warehouse (see exhibits A-D). The 4-5 detainees were flex cuffed and either put on their knees or set on the ground. According to all sworn statements (see exhibits A,B,C,D) and interviews conducted by me and [REDACTED] b(6), CID investigator assigned to this case, (see Exhibit E) the detainees were resisting detention by yelling at the soldiers and being uncooperative by not being still (see exhibits A-D). Because the detainees were yelling and being so loud, the platoon leader told the guards to keep the detainees quiet in order to allow him to be able to communicate with the other elements still clearing the warehouse and for the safety of the platoon (see exhibit A and B). [REDACTED] told the detainees to be quiet in Arabic and English several times but they continued to yell at the soldiers. One of the detainees then yelled back at [REDACTED] and told him to be quiet in Arabic and then spit on his boots and then attempted to get off his knees and stand up. [REDACTED] protected himself by taking his right hand and shoving the detainee on his head pushing him back down on his knees (see exhibit A and C). After PFC prevented the detainee from standing up all the detainees quieted down and did not resist detention again. Even with the language barrier the detainees probably understood enough about the situation to know that they should cooperate and be quiet until the military leader, with assistance from the translator, was ready to hear their story and sort out the situation. The platoon completed the mission and found no weapons cache or any other reason to continue to hold the detainees (see exhibit B). The detainees were guards of the warehouse so they had their weapon(s) returned and were released. b(6)

After reviewing all documents, conducting interviews, and personal experience with handling detainees as the senior intelligence officer in the battalion, [REDACTED] acted properly by following the ROE. [REDACTED] felt threatened and thus followed the ROE by first shouting at the detainee to be quiet and not to stand up, then shoving the detainee back down on his knees in order to control the situation and protect himself, other soldiers, and the detainees.

SECTION V - RECOMMENDATIONS (para 3-11, AR 15-6)

In view of the above findings, the (investigating officer) (board) recommends:
 Recommend the [REDACTED]

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b(5)-1 unapproved recommendations

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(3 of 20)

LAW ENFORCEMENT SENSITIVE
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EXHIBIT 7

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SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. (If any voting member or the recorder fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)

(Recorder)

(Investigating Officer) (President)

(Member)

(Member)

(Member)

(Member)

SECTION VII - MINORITY REPORT (para 3-13, AR 15-6)

To the extent indicated in Inclosure _____, the undersigned do(es) not concur in the findings and recommendations of the board. In the inclosure, identify by number each finding and/or recommendation in which the dissenting member(s) do(es) not concur. State the reasons for disagreement. Additional/substitute findings and/or recommendations may be included in the inclosure.)

(Member)

(Member)

SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-3, AR 15-6)

The findings and recommendations of the (investigating officer) (board) are (approved) (disapproved) (approved with following exceptions/substitutions). (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or corrective action, attach that correspondence (or a summary, if oral) as a numbered inclosure.)

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EXHIBIT

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REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form, see AR 15-6; the proponent agency is OTJAG.

IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

SECTION I - APPOINTMENT

Appointed by [REDACTED]
(Appointing authority)

on 4 JUNE 04 (Date) (Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - SESSIONS

The (investigation) (board) commenced at HHC, 2-325th AIR, 82d ABN DIV, FT BRAGG, NC 28310 at 0900
(Place) (Time)

on 7 JUNE 04 (Date) (If a formal board met for more than one session, check here ☐. Indicate in an inclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.) The following persons (members, respondents, counsel) were present: (After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)
[REDACTED] - INVESTIGATING OFFICER

The following persons (members, respondents, counsel) were absent: (Include brief explanation of each absence.) (See paras 5-2 and 5-8a, AR 15-6.)
NOT APPLICABLE

The (investigating officer) (board) finished gathering/hearing evidence at 1600 on 9 JUNE 04
(Time) (Date)
and completed findings and recommendations at 1200 on 10 JUNE 04
(Time) (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

| | YES | NO ^{1/} | NA ^{2/} |
|--|-----|------------------|------------------|
| 1. Inclosures (para 3-15, AR 15-6) | | | |
| Are the following inclosed and numbered consecutively with Roman numerals: (Attached in order listed) | | | |
| a. The letter of appointment or a summary of oral appointment data? | X | | |
| b. Copy of notice to respondent, if any? (See item 9, below) | | | X |
| c. Other correspondence with respondent or counsel, if any? | | | X |
| d. All other written communications to or from the appointing authority? | | | X |
| e. Privacy Act Statements (Certificate, if statement provided orally)? | | | X |
| f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)? | | | X |
| g. Information as to sessions of a formal board not included on page 1 of this report? | | | X |
| h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board? | | | X |

FOOTNOTES: ^{1/} Explain all negative answers on an attached sheet.

^{2/} Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

LAW ENFORCEMENT SERVICE
ACT FOR OFFICIAL USE ONLY

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EXHIBIT

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| | YES | NO | NA |
|---|-----|----|----|
| 2 Exhibits (para 3-16, AR 15-6) | | | |
| a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report? | X | | |
| b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit? | X | | |
| c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit? | X | | |
| d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated? | X | | |
| e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)? | | | X |
| f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record? | | | X |
| g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)? | | | X |
| 3 Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)? | | | X |
| B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6) | | | |
| 4 At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 5-3b, AR 15-6)? | | | |
| 5 Was a quorum present at every session of the board (para 5-2b, AR 15-6)? | | | |
| 6 Was each absence of any member properly excused (para 5-2a, AR 15-6)? | | | |
| 7 Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)? | | | |
| 8 If any members who voted on findings or recommendations were not present when the board received some evidence, does the inclosure describe how they familiarized themselves with that evidence (para 5-2d, AR 15-6)? | | | |
| C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6) | | | |
| 9 Notice to respondents (para 5-5, AR 15-6): | | | |
| a. Is the method and date of delivery to the respondent indicated on each letter of notification? | | | |
| b. Was the date of delivery at least five working days prior to the first session of the board? | | | |
| c. Does each letter of notification indicate — | | | |
| (1) the date, hour, and place of the first session of the board concerning that respondent? | | | |
| (2) the matter to be investigated, including specific allegations against the respondent, if any? | | | |
| (3) the respondent's rights with regard to counsel? | | | |
| (4) the name and address of each witness expected to be called by the recorder? | | | |
| (5) the respondent's rights to be present, present evidence, and call witnesses? | | | |
| d. Was the respondent provided a copy of all unclassified documents in the case file? | | | |
| e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them? | | | |
| 10 If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings): | | | |
| a. Was he properly notified (para 5-5, AR 15-6)? | | | |
| b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-4c, AR 15-6)? | | | |
| 11 Counsel (para 5-6, AR 15-6): | | | |
| a. Was each respondent represented by counsel? | | | |
| Name and business address of counsel: | | | |
| (If counsel is a lawyer, check here <input type="checkbox"/>) | | | |
| b. Was respondent's counsel present at all open sessions of the board relating to that respondent? | | | |
| c. If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the report (para 5-6b, AR 15-6)? | | | |
| 12 If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6): | | | |
| a. Was the challenge properly denied and by the appropriate officer? | | | |
| b. Did each member successfully challenged cease to participate in the proceedings? | | | |
| 13 Was the respondent given an opportunity to (para 5-8a, AR 15-6): | | | |
| a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent? | | | |
| b. Examine and object to the introduction of real and documentary evidence, including written statements? | | | |
| c. Object to the testimony of witnesses and cross-examine witnesses other than his own? | | | |
| d. Call witnesses and otherwise introduce evidence? | | | |
| e. Testify as a witness? | | | |
| f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)? | | | |
| 14 If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)? | | | |
| 15 Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it (para 5-11, AR 15-6)? | | | |

FOOTNOTES: 1) Explain all negative answers on an attached sheet.

2) Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

$$b(6), b(3)$$

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form, see AR 15-6; the proponent agency is OTJAG.

IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

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(Appointing authority)

on 4 JUNE 04 (Date) (Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

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(Place) (Time)

on 7 JUNE 04 (If a formal board met for more than one session, check here ☐. Indicate in an inclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.) The following persons (members, respondents, counsel) were present: (After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)

- INVESTIGATING OFFICER

The following persons (members, respondents, counsel) were absent: (Include brief explanation of each absence.) (See paras 5-2 and 5-8a, AR 15-6.)
NOT APPLICABLE

The (investigating officer) (board) finished gathering/hearing evidence at 1600 on 9 JUNE 04
(Time) (Date)
and completed findings and recommendations at 1200 on 10 JUNE 04
(Time) (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

| COMPLETE IN ALL CASES | | YES | NO ^{1/} | NA ^{2/} |
|--|--|-----|------------------|------------------|
| Inclosures (para 3-15, AR 15-6) | | | | |
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| c. Other correspondence with respondent or counsel, if any? | | | | X |
| d. All other written communications to or from the appointing authority? | | | | X |
| e. Privacy Act Statements (Certificate, if statement provided orally)? | | | | X |
| f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)? | | | | X |
| g. Information as to sessions of a formal board not included on page 1 of this report? | | | | X |
| h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board? | | | | X |

NOTES:

- 1) Explain all negative answers on an attached sheet.
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| 2 | Exhibits (para 3-16, AR 15-6) | YES | NO ¹ | NA ² |
|---|---|-----|-----------------|-----------------|
| a. | Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report? | X | | |
| b. | Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit? | X | | |
| c. | Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit? | X | | |
| d. | Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated? | X | | |
| e. | Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)? | | | X |
| f. | Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record? | | | X |
| g. | If official notice of any manner was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)? | | | X |
| 3 | Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)? | | | X |
| B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6) | | | | |
| 4 | At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 5-3b, AR 15-6)? | | | |
| 5 | Was a quorum present at every session of the board (para 5-2b, AR 15-6)? | | | |
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| (1) | the date, hour, and place of the first session of the board concerning that respondent? | | | |
| (2) | the matter to be investigated, including specific allegations against the respondent, if any? | | | |
| (3) | the respondent's rights with regard to counsel? | | | |
| (4) | the name and address of each witness expected to be called by the recorder? | | | |
| (5) | the respondent's rights to be present, present evidence, and call witnesses? | | | |
| d. | Was the respondent provided a copy of all unclassified documents in the case file? | | | |
| e. | If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them? | | | |
| 10 | If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings): | | | |
| a. | Was he properly notified (para 5-5, AR 15-6)? | | | |
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| 11 | Counsel (para 5-6, AR 15-6): | | | |
| a. | Was each respondent represented by counsel? | | | |
| | Name and business address of counsel: | | | |
| | (If counsel is a lawyer, check here <input type="checkbox"/>) | | | |
| b. | Was respondent's counsel present at all open sessions of the board relating to that respondent? | | | |
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| 12 | If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6): | | | |
| a. | Was the challenge properly denied and by the appropriate officer? | | | |
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| 14 | If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)? | | | |
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29