

DD FORM 457 "IO REPORT"  
PURSUANT TO  
ARTICLE 32 INVESTIGATION

C12149

The Article 32 investigation was called to order at 0803 hours, 27 August 2003, at Camp Bucca, Iraq. The following is verbatim transcript of those proceedings:

I/O: LTC [REDACTED] (b)(6)1; (b)(7)(c)1

IO: This is an Article 32 hearing. Before we get started for the record today, I'd like to summarize a meeting that all the defense Counsel and the Government was present for yesterday. The meeting was held on Tuesday, 26 August 2003 at 0900 hours. We discussed defense request for witnesses and discovery, and general procedures for the Article 32 hearing. Generally the Government will present its witnesses first, examine them, and then the Defense will ask, each in turn if necessary, and then the Investigating Officer will ask any questions. Defense Counsels were asked to avoid repetitive questions if possible. Defense requested to be able to designate certain Counsel to ask certain witnesses, and the Investigating Officer consented. All legal advice from my legal advisor will be requested with all Counsel present, and restated on the record. There will be a verbatim transcript made of the entire proceeding due to the potential of later witness availability. Evidence will be marked and cataloged individually by the recorder. I'll review the entire case packet prior to these proceedings. I will request as the convening officer, that copies of the final report will be forwarded to all Counsel and their clients. Witness and evidence availability were reviewed.

A follow up meeting was held at 1500 on 26 August 2003 to establish the final availability of EPW witnesses and the order of military witnesses. All of the EPW witnesses to be called by the Government are available, and 8 additional witnesses for the defense are available. Some US military witnesses and the Coalition Force service member were determined to be unavailable, and will be highlighted further in these proceedings. Other routine matters of procedure were discussed to facilitate the progress of the hearing. (b)(6)-5; (b)(7)(c)-5

This is a formal investigation into certain charges against MSG [REDACTED] SSG Scott McKenzie, SGT [REDACTED] and SPC [REDACTED]. Ordered pursuant to Article 32B, UCMJ, by BG Janice Karpinski. On 24 July 2003, I informed you by letter of your right to be represented by civilian Counsel at no expense to the United States, military Counsel of your own selection, if reasonably available, or military Counsel detailed by the Trial Defense Service. MSG [REDACTED] is represented by CPT [REDACTED] SSG McKenzie by CPT [REDACTED] SGT [REDACTED] by CPT [REDACTED] and SPC [REDACTED] by MAJ [REDACTED]. The Government is represented by MAJ [REDACTED] and MAJ [REDACTED]. Let the record show that each of the aforementioned Counsel are present here today. (b)(6)-5; (b)(7)(c)-5 (b)(6)2-7(c)2

I want to remind you that my sole function as the Article 32 Investigating Officer in this case is to determine thoroughly, and impartially, all of the relevant facts of the case. To weigh and evaluate those facts, and determine the truth of the matters stated in the charges. I shall also consider the form of the charges and make a recommendation concerning the disposition of the charges that have been preferred against you. I will now read to you the charges, which I have been directed to investigate, unless your Counsel waives reading of the charges. Does any Counsel here so waive the reading of the charges against their client?

C12150

(b)(6)-2; 7(c)2 CPT [REDACTED]: Yes, Sir.  
CPT [REDACTED]: Yes, Sir.  
CPT [REDACTED]: Yes, Sir.  
MAJ [REDACTED]: Yes, Sir.

IO: You all waive? Very good.

I advise each of you that you do not have to make any statement regarding the offenses of which you are accused, and that any statement you do make may be used as evidence against you in trial by court-martial. You have the right to remain silent concerning the offenses with which you are charged. You may however make a statement, either sworn or unsworn, and present anything you may desire, either in defense, extenuation or mitigation. If you do make a statement, whatever you say will be considered and weighed as evidence by me just like the testimony of other witnesses.

You have previously been given a copy of the investigation file that has been compiled in your case. It contains the following documents: The CID report of the investigation dated 8 June 2003, CID agent's reports of Special Agents [REDACTED] (b)(6); (7)(C)(1)

b(6)(1)-(7)(c) 1 [redacted], and [redacted]. Sworn statements from SPC [redacted] (b)(6)(5);  
b(6)-4; 7(c) 4 [redacted], SSG [redacted], SPC [redacted], SPC [redacted], SGT [redacted], MSG [redacted] (b)(6)(5);  
SGT [redacted], SSG McKenzie, SPC [redacted], SSG [redacted], SGT [redacted], SPC [redacted] (b)(6)(5)  
SGT [redacted] and SPC [redacted]. Medical reports, prescriptions and reports, an EPW release (b)(6)(4);  
list dated 12 May 2003, the Article 15-6 report by MAJ [redacted], the CID crime (b)(6)(4)  
scene report, and rights invocation statements from SFC [redacted], MSG [redacted], SSG (b)(6)(5);  
McKenzie, and SGT [redacted]. (b)(6)(5)-(7)(c) 4, 7(c) 1 (b)(6)(2); 7(c) 2 (b)(6)(5);

It is my intent to call as witnesses in this investigation the following persons who have been identified by both the Government, and by the Defense: SPC [REDACTED] SPC [REDACTED]

b(6)4;  
7c)4

SPC [REDACTED], PFC [REDACTED], SPC [REDACTED], SSG [REDACTED], SGT [REDACTED]  
SGT [REDACTED], SGT [REDACTED], SSG [REDACTED], SSG [REDACTED], SPC [REDACTED], SPC [REDACTED]  
SPC [REDACTED], SFC [REDACTED], SGT [REDACTED], MAJ [REDACTED], SPC [REDACTED], ILT [REDACTED], SFC [REDACTED]  
SGT [REDACTED], SGT [REDACTED], SGT [REDACTED], EPW's will include [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
and [REDACTED], and I will apologize if I have butchered any of those names. The witness list is not all-inclusive and the Investigating Officer recognizes that further witnesses can be called by the Defense or the Government.

After these witnesses have testified in response to questions, you or your Counsel have the right to examine them. You also have the right to call available witnesses for my examination to produce other evidence in your behalf. I have arranged for the appearance of those witnesses previously requested by you. If you desire additional witness, I will help to arrange for their appearance or for their production of any available evidence related to your case.

C12151

(b)(6)1;7(c)1

At this point, the following witnesses are in question with regard to their appearance: SA [REDACTED] who is on emergency leave, SA [REDACTED] who has PCSed, Investigator [REDACTED] who is also PCSed, CPT [REDACTED] who has left the theater, LTC [REDACTED] who has ETS'd back to his home country in Spain, LTC [REDACTED] who has also ETS'd from theater. It is noted that both SPC L. [REDACTED] and SPC J. [REDACTED] are on leave and will return on August 31, SPC [REDACTED] is on leave and is due to report back in on 30 August. (b)(6)4; 7(c)4

Before proceeding further, I now ask you whether you have any questions concerning your right to remain silent, concerning the offenses which you have been accused, your right to make a statement either sworn or unsworn, the use that can be made of any statement you make, your right to cross-examine witnesses against you, or your right to present anything you may desire on your own behalf, and me examine available witnesses by you in defense, mitigation, or extenuation.

(b)(6)5-  
7(c)5  
SPC [REDACTED] No, Sir.  
MSG [REDACTED] No, Sir.  
SSG McKenzie: No, Sir.  
SGT [REDACTED] No, Sir.

IO: I'll ask you, do you want me to call any witnesses to testify in your defense or to testify in mitigation or extenuation on your behalf? You've already answered in the negative besides those we've already listed.

(b)(6)2; 7(c)2  
CPT [REDACTED] None other than those already listed, Sir.

IO: Correct. Which we understand is not an inclusive list. If you do wish for me to call other witnesses in this case for cross-examination, provide the names and organizations or addresses. If you are aware of any military records that you want me to consider, and that you have been unable to obtain, please provide a list of these documents as well.

Are there any further questions, or any other issues that we need to address before we get started?

(b)(6)2; 7(c)2  
MAJ [REDACTED] Sir, as we discussed last night, at some point before we start taking witnesses I'd like to conduct a short voir dire.

IO: Why don't you go ahead?

MAJ [REDACTED] OK. Your current job is the S-5 of what unit?

IO: 220<sup>th</sup> Military Police Brigade.

MAJ [REDACTED] Where do you work out of? Kuwait?

IO: Camp Arifjan, Kuwait.

012152

MAJ [REDACTED] And what are your duties in that job?

IO: S-5 is in charge of civil-military affairs for the Brigade.

MAJ [REDACTED] You've reviewed the packet. Do you have any prior dealings or personal familiarity with any of the accused?

IO: No, I don't.

MAJ [REDACTED] With any of the witnesses? Have you worked with any?

IO: No, I don't. No, I have not.

b(6)2;  
7(c)2  
all  
MAJ [REDACTED] You know this case has some press attention. Have you read any press articles or heard, or any press releases or discussions about anything in the press regarding this case?

IO: I've read two articles with regard to the case.

MAJ [REDACTED] Two articles? Which ones, Sir?

IO: There was one in the Stars and Stripes and one that was published in the LA times, I believe.

MAJ [REDACTED] And what, if anything, do you recall about them? Did they talk about the facts of the case?

IO: They talked about the basic circumstances of the case. Basically what was contained from what I had already gleaned from information from the case file.

MAJ [REDACTED] Did those articles, reach a conclusion, or tend to support one side over the other, in your opinion?

IO: I don't believe that they did.

MAJ [REDACTED] And have you seen any documents concerning this case that have not been provided to the defense Counsel. Sir?

IO: No I have not.

MAJ [REDACTED] Have you heard any conversations, I know that Arifjan is small, relatively speaking, have you heard any conversations of other people concerning this case?

IO: People have made general comments to me about it.

C12153

MAJ [REDACTED] Do you recall who, sir?

IO: Not right off the bat, I can't, but I'm sure I can if I give it some more thought. The comments have been general in nature. Just asking, expressing concern or just asking a question about the hearing and my position has always been to no comment on the case at all. Just to keep my thoughts and conversation to myself.

MAJ [REDACTED] The 220<sup>th</sup>, does your TOC share a TOC with the 800<sup>th</sup> MP Brigade?

IO: It does not share a TOC, but they are located right next to each other.

MAJ [REDACTED] And you haven't heard, there's been no discussions or nobody has approached you to talk about the case?

IO: From the 800<sup>th</sup>?

MAJ [REDACTED] Yes, Sir.

IO: No.

MAJ [REDACTED] There are 2 names-- the witness list that you sent out the first notification with a witness list. Was that the prosecution witness list? Did the prosecution help devise that witness list on your notification memo?

IO: Yes, that was their list.

MAJ [REDACTED] Sir, who appointed you as the 32 Officer?

IO: General Karpinski

MAJ [REDACTED]: Did you ever meet in person, or was it all in writing.

IO: It was all in writing.

MAJ [REDACTED] And did anybody that works for her ever talk to you in person about your duties or deliver a memo or anything to you and discuss your duties as a 32 Officer?

IO: From the 800<sup>th</sup> I assume you mean.

MAJ [REDACTED]: I'm sorry--

IO: From the 800<sup>th</sup>?

MAJ [REDACTED] Yes, Sir. From--

012154

(b)(6)-2,  
(7)(C)-2  
all

IO: No there was occasions where I sent memorandums back to BG Karpinski just advising her of the status of the proceedings and getting the investigation under way, but no, I had no conversations with them.

Are you aware of any representatives from the Secretary of Defense's office taking an interest in this case?

IO: No.

If you determine after hearing all the testimony in this case that no punishment is warranted, do you feel that you can make that recommendation?

IO: I feel that I can make whatever recommendation is warranted by the evidence and the testimony that is presented.

MAJ: Even if that is no punishment at all?

IO: Even if it would be no punishment.

MAJ: And one more area I want to talk about. Have you ever been to Bucca, Camp Bucca before this?

IO: Yes, I have.

MAJ: Were you here when the alleged crime scene was still in the condition it was? I understand it has been bulldozed; it's been taken down because the unit has moved. Have you ever seen that before it was taken down?

IO: It is hard to say because so much has changed here. It may have even changed when I had visited Camp Bucca before which was in late April. I know when I was here in late April I saw their processing area. I went inside the processing tent. That could or could not be the same configuration that they used on the date in question.

MAJ: So you'll be able to put that aside and listen to the testimony here, and determine what the configuration actually was on the night of May 12<sup>th</sup>?

IO: Absolutely.

MAJ: You won't bring that prior knowledge of the area in?

IO: No.

MAJ: I have no further questions. Thank you very much, Sir.

IO: Does anybody else have any other questions that they'd like to add?

C12155

(b)(6)-2  
(7)(C)-2  
CPT [REDACTED]: No, Sir.

MAJ [REDACTED]: The Government has a request to clarify something. This is really for everyone. There was a question about something in reference to recommending no punishment or something. I'm not aware of punishment being an issue in this case. I thought this was an Article 32 investigation to determine whether the evidence merited going forward to a trial, and if so, what level. So to that end, was there some purpose in asking him about punishment?

MAJ [REDACTED]: Maybe I used the wrong word. He has the um-- in your recommendation you may recommend court-martial or lesser forms of other dispositions such as Article 15, letters of reprimand, or that nothing occur.

IO: I made an assumption when she asked that whether, that she was talking about the charges and specifications being dropped and-- I assume that is what she meant--

MAJ [REDACTED]: Yeah. Poorly worded. Sorry, Sir. But, yeah--

MAJ [REDACTED]: I just wanted to clarify. Thank you, Sir.

IO: Thanks. Any further questions before we get started?

MAJ [REDACTED]: No, Sir.

#### DIRECT EXAMINATION

(b)(6)4 - 7(C)4  
Staff Sergeant [REDACTED] U.S. Army National Guard, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial Counsel: Major [REDACTED] (b)(6)2; 7(C)2

(b)(6)4 - 7(C)4  
Counsel: SSG [REDACTED], were you stationed here with the 223rd on the 12<sup>th</sup> of May?

Witness: Yes, Sir, I was.

Counsel: Ok. What were your duties on the 12<sup>th</sup> of May or about that time frame?

Witness: The same as they are now for the 2d platoon, 2d squad.

Counsel: Ok. What were the missions of the 223d MP Company back on the 12<sup>th</sup> of May?

Witness: Primarily convoy security, EPW missions. We did some other security missions. Movement of personnel and things like that, but primarily EPW missions.

012156

Counsel: Alright, so you transported EPW's, is that what you did?

Witness: Yes, Sir. That is correct.

Counsel: Ok. Alright. Do you remember the 12<sup>th</sup> of May?

Witness: Yes, Sir.

Counsel: Alright. Did you go on a mission that day?

Witness: Yes, Sir, I did.

Counsel: Alright. What was the mission?

Witness: Uh, the mission was to go to Talil, which is the core holding area. The Air Force base up near An Nasiriyah to pick up some EPW's and bring them back here to the internment facility.

Counsel: Alright. Now were you the senior person from the 223d that was on this mission?

Witness: Correct, Sir.

Counsel: Ok. Who else was on this mission with you?

Witness: My personnel, Sir?

Counsel: Yes.

5(b)-4,  
7(c)-4 { Witness: I had SGT [REDACTED], which is my Alpha team leader. I had SGT [REDACTED] which is my Bravo team-leader; I had SPC [REDACTED] and SPC [REDACTED].

Counsel: Alright.

Witness: So five total.

Counsel: Was there another unit that went on this mission with you?

Witness: Yes there was, Sir.

Counsel: Alright. What unit was that?

Witness: The 320<sup>th</sup> MPs, Sir.

Counsel: Ok. Do you remember who, from that group went on that mission with you?

012157

(b)(6)5-7(c)-5

Witness: I don't remember all of their names. I know that I was introduced to an E7 and I was introduced to MSC [REDACTED] when we went over and made contact with them at their location. I don't know the names of all the individuals. I believe there was 10 of them, total.

Counsel: Alright. When did you find out about this mission?

Witness: The night prior, on the 11<sup>th</sup>, about, uh-- I don't know the exact time, but it seemed like it was about 2100 or so.

Counsel: Alright. And how were you notified of this mission.

Witness: Through the standard procedures. Our TOC receives a mission briefing from the Brigade TOC. They pass it down through our Company operations. Our Company operations passes it down to the Platoon Sergeant. Our Platoon Sergeant assigns it to a squad. That day it was my turn to do the mission.

Counsel: Alright. And do you remember who told you about the mission?

Witness: My Platoon Sergeant, SFC [REDACTED] (b)(6)4-7(c)-4

Counsel: Ok. Now, did you brief your people about the mission?

Witness: Yes I did.

Counsel: When did you do that?

Witness: The evening prior. I believe I briefed all five of the individuals. I told them who would be going, where we'd be going, what the mission was, and at that time I did not make any contact with the 320<sup>th</sup> personnel.

Counsel: Ok. This type of a mission to go up and pick up prisoners at Talil Air Base, have you done something like this before?

Witness: Yes, Sir.

Counsel: How many times had you done this type of mission?

Witness: Um, just a rough estimate, Sir, I would say anywhere from 15 to 20, maybe 25 times, up until that point.

Counsel: Ok. Now, when did you brief your people about this?

Witness: My people?

C12158

Counsel: Yes.

Witness: As far as what the mission was?

Counsel: Um-- hum--

Witness: The night prior, on the 11<sup>th</sup>.

Counsel: Ok, and then you said you didn't brief the people from the 320<sup>th</sup>. Did you know the night before that they would be other soldiers from another unit going with you?

Witness: Yes I did, Sir.

Counsel: Alright. What-- When was the first time that you met with the soldiers from the 320<sup>th</sup>?

Witness: The original reason I didn't advise the 320<sup>th</sup> personnel was because the SP or the starting of the mission wasn't until later in the afternoon. Just off the top of my head, an estimate, I'd say around 1500. I figured that the morning after or the morning of the mission, on the 12<sup>th</sup>, that I would have time to go over and link up, make the necessary instruction, and coordinate whatever we needed to get done that morning.

Counsel: Ok. So it was that morning, then

Witness: Correct. And the mission-- it got changed from 1500-- they moved it up a couple hours. I believe it was until 1200, so I had to go over a little bit earlier and that's when I went over to their TOC, because they were originally supposed to meet us up at the Brigade TOC and just link up there and do our coordination and our safety briefs and everything there, but I had to go and advise them that the mission had been moved up, and make necessary arrangements for that.

Counsel: Alright. When you say that, you are talking about the soldiers from the 320<sup>th</sup>.

Witness: Correct.

Counsel: Alright. So, at what point did the soldiers from the 223d and the soldiers from the 320<sup>th</sup> get together to get ready to go on this mission?

Witness: The only-- I took myself and my Alpha team leader over to the 320<sup>th</sup> TOC that day. The time that our soldiers actually got together, other than my alpha team leader and myself and the lead 320<sup>th</sup> personnel was when we linked up over here at the Brigade TOC, and was conducting our safety briefing and getting staged to ride out of here.

Counsel: Alright. Now, who conducted the safety briefing?

012159

Witness: I did.

Counsel: Alright. And what was covered in the safety briefing?

Witness: Standard stuff. You know, the rules of engagement, reaction on contact, what happens if you get hit with sniper fire, ambushes, things like that. Go over convoy speeds. I advised everybody of the routes we'd be taking that day, alternate routes, rally points, what to happen if vehicles break down, things like that.

Counsel: Alright. Now, was it during that briefing that you talked about the actual mission and how to handle the prisoners that you were picking up?

Witness: The-- we talked about the actual mission and I explained the actual mission and gave them the run down during the safety briefing, yes.

Counsel: Alright. Now what did you tell them with regard to that? Handling the prisoners, I'm sorry.

Witness: We did not go over the handling of the prisoners.

Counsel: Ok.

Witness: We just told them that basically when we got on scene up there-- and I basically gave them the run down of what the mission was going to be once we got up there-- this was going to happen. 744, which is the MPs at the core holding area was primarily responsible. We're just transporting from A to B.

Counsel: Ok. Alright. Now do you know why the 320<sup>th</sup> was going on this mission with you?

Witness: Yes, Sir, I do.

Counsel: Ok, why?

Witness: I was advised through my operations that the 320<sup>th</sup> personnel were going to be conducting a right seat ride, which is basically a training mission. Primarily our command has designated that we take three vehicles for any movement north. That day, to alleviate some of the stress of the convoy and the volume of missions that we had been conducting up until this point, the 320<sup>th</sup> was going to start coming online and start taking some of these missions away from us. Make it easier for us.

Counsel: Ok. Do you know-- had any of these soldiers from the 320<sup>th</sup> ever been on this convoy, escort, pick up mission before?

012160

(b)(6)/5 - 7(c) 5

Witness: Not with me, Sir. I have no idea. When I linked up with MSG [REDACTED] and her E7 I got the impression that they had never been. I gave them the run down before we left. I took them up the Brigade TOC. Showed them the ropes, so to speak. I showed them where to check out the tactical satellite phone, we showed them the routes on the map, showed them what to do in case of break down, what our point of contacts was, got the phone numbers for back here in case we had any altercations or if any vehicles break down.

(b)(6) 4 - 7(c) 4

Counsel: Alright. Now, SSG [REDACTED] what time did you ultimately set off on your mission?

Witness: Without looking at my statement, Sir, I believe it was about 1300 or 1330. Right around that range.

Counsel: Ok. What was the configuration of the soldiers in vehicles on this mission?

(b)(6) 4  
7(c) 4

Witness: In the lead element was myself, I was driving, my Bravo team leader was in that vehicle as well. His name is SGT [REDACTED]. I had SPC [REDACTED] on the SAW gun. Behind me directly was the bus. I had SGT [REDACTED] and SPC [REDACTED] on the bus as bus security personnel, and then I was followed by two 320<sup>th</sup> vehicles.

Counsel: Ok. Two HMMWVs from the 320<sup>th</sup>.

Witness: Correct.

Counsel: Ok, were there any 320<sup>th</sup> soldiers on board the bus as you traveled up to Talil?

Witness: I believe so, Sir.

Counsel: Ok. Do you know which ones were?

(b)(6) 5 - 7(c) 5

(b)(6) 4 -  
7(c) 4

Witness: I know SGT [REDACTED] was and I do not know who else. I know that they probably had someone else on there. They were-- I advised my Alpha team leader, SGT [REDACTED] to give them the brief-- kind of run them through the ropes on the way up to Talil. To kind of show them what was expected once we got on ground up there.

(b)(6) 5 - 7(c) 5

Counsel: I'm sorry, you mentioned SGT [REDACTED]'s name. I don't think you mentioned her name earlier. Was she one of the ones from the 320<sup>th</sup> that went on this mission?

A: Yes, Sir.

Counsel: Ok.

Witness: I identified her. She was not wearing a DCU top, but she had a Boonie cap on with her name stitched on the back of it.

012161

Counsel: Alright. Ok. So anything remarkable about your trip up to Talil that day?

Witness: Nothing remarkable. We stopped one time. The armor HMMWV's-- sometimes they run low on fuel depending on the weather, so we stopped one time and put fuel cans in there.

Counsel: Ok. Now, when you arrived at Talil, what did you do?

Witness: Initially when we arrived at Talil, they have a bullpen so to speak for the vehicles to pull in. It is a secure area inside the core holding area. We staged the vehicles inside there. I told the drivers and "A" drivers to go over and get fuel. There is a refuel point at Talil AFB. I told them to go over and get fuel. While we were waiting for fuel, we went in and made contact with the 744 TOC, advised them what we were there for, who we were, and who we'd be picking up.

Counsel: Ok. Were they expecting you?

Witness: Yes they were.

Counsel: Ok. Do you remember approximately what time it was the you arrived at Talil.

Witness: No I don't, Sir. It takes about 3 ½ hours to get up there, so I would say about 1630.

Counsel: So what did the Talil folks have for you to pick up that day?

Witness: We kind of went back and forth between 41 and 44 EPW's. The reason that they are unsure sometimes is the medical personnel have to assess the casualties on the ground or the EPW's casualties, and determine whether they're to come back to the internment facility, or if they need to stay at Talil and be seen by further medical treatment.

Counsel: Ok. So you went back and forth. Ultimately how many prisoners did you pick up that day?

Witness: Forty-four.

Counsel: Alright. And what did you do with them. How does that process work? What did you do to take custody of these prisoners?

C12162

Witness: Ok. Primarily the process works-- we get on ground. We go hook up with their TOC, advise them, like I said we did. They print out an excel sheet. It's a spread sheet advising us of what prisoners we're taking, what they are accused of, they go ahead and gather any kind of medical documents that they have from their injuries that they sustained while being captured or wherever they got them from. We then take any kind of property that they have. We have to sign 4137's, which is evidence custody receipts; we have to sign 515's which is a prisoner manifest, 2708's which is the actual receipt for the prisoners. They give you any kind of low down if they have any kind of security threats, what the medical conditions are, and if they have any type of secret documents or any kind of Intel documents that need to come back here to the internment facility.

Counsel: Alright. So you signed these documents and you picked up whatever documents they had for you. Is that correct?

Witness: Correct.

Counsel: Alright. And how do you get the prisoners?

Witness: Inside this bullpen that I was talking about inside the core holding area, they have a row of concertina wire that actually leads to the holding facilities for the prisoners. They bring them out, 44 of them. They're in a seated position. Then what we'll do is probably 15 meters back from the exit to the bullpen, where they actually get on the bus, we bring them up 5 at a time for safety sake. At that time we go ahead and identify who our safety risks are, who our medical issues are, if we have any problems like that, and those are the people that we like to load in the front of the bus in case we need to get to them in a hurry or anything like that, or if they need any type of medical treatment while in route, we're able to provide that and not have to go all the way to the back of the bus to get to them.

Counsel: Alright. So then the prisoners are loaded on the bus, is that it?

(b)(6)-4;  
7(c)4  
Witness:--Correct. I had-- there was 320<sup>th</sup> personnel on the bus. I don't know how many there was. They were responsible for the actual seating of the prisoners. I had my Alpha Team leader, SGT [REDACTED] stationed at the door. He was provided with an excel spreadsheet with the prisoners matching up with the manifest numbers on the capture tags. His responsibility at the door at that time is they come on the bus, he checks the actual capture tag ID number and then marks them off the list to make sure that we're getting who we're signing for.

Counsel: Alright. Is that what happened that day?

Witness: Yes it is.

Counsel: What were you doing while this was going on?

C12163

Witness: I was signing for the property. There was a substantial amount of property to go through. The 4137s, we had 44 prisoners which had 44 persons worth of gear. They had each individual clothes, money, personal items, toiletries, things of that nature. So I was busy going through that and signing for those.

Counsel: Alright. Now, at any time up there in Talil, was a briefing given to your soldiers or solders from the 320<sup>th</sup> about the return mission and the handling of the EPW's?

Witness: Yes there was, Sir. After I received the 4137s, got those signed for, I was having a couple of my E4s put the property on the belly of the bus, and I walked to the front of the bus to the rear of the 1<sup>st</sup> HMMWV between those, probably about 15-20 feet in front of the bus. I was standing there. I was reviewing the manifest of who we had, making sure that we was getting everyone that we were signed for, what they were accused of, and if I needed to prioritize. I think that day we had nine accused assassins on the bus, and I was determining-- making sure that they were getting seated right. Making sure that they weren't able to communicate.

Counsel: Ok. So you were doing that and this briefing, did you hear the briefing that was given to the soldiers? About the return trip and treatment of the EPW's?

Witness: The only person that I advised about the return trip if you can picture, Sir, I was the NCOIC for my 223d personnel while MSG [REDACTED] was the NCOIC for hers. So in all actuality, there was two chains of command at work that day.

Counsel: Understood.

(S)(6)5-7EJ 5

Witness: When I was stationed at the front of the bus, the only contact that I was really having with the 320<sup>th</sup> personnel was through the E7 and through the MSG.

Counsel: Ok.

Witness: And then I would let her go back and advise her people on how to conduct their operations.

(S)(6)5-7EJ(5)

Counsel: Ok. So did you talk to MSG [REDACTED] up in Talil about the return trip and treatment of the prisoners?

Witness: Absolutely.

Counsel: What did you tell her?

C12164

(b)(6)5-76)5

Witness: Ok. As I said before, I was standing about 15 feet in front of the bus. I was standing there reviewing the excel spreadsheet. I did receive a secret document folder that day. I was standing there reading that. Making sure we was getting all the information. When I was doing that, MSG [REDACTED] walked up and we started talking, and I started explaining to her the process that we go through that I just explained about loading the prisoners on the bus for safety and medical issues and things like that. Who we had on the bus. What they were accused of. Where we were going, and anything else. I showed her the secret documents folder and told her how we prioritize the personnel.

Counsel: Alright. Did she say anything to you?

Witness: Yes, she did.

Counsel: What did she say?

(b)(6)5-76)5

Witness: At that time there was something that came around about the respect the EPW's had been shown up until that point, and MSG [REDACTED] referred to me, and she said, "Yeah, well that's the problem. They've been shown too much respect up until this point." I didn't really understand what she meant, and then she said something like, "Well, I don't want to make you uncomfortable. I don't want to make you upset, but do you guys get to do any interviews with the EPW's?" And I said no, that's usually reserved for the MI personnel once we arrive back here in Camp Bucca. And she said, "No I mean personal interviews." I knew right then what she meant. I said, no, we do not conduct any kind of operations like that, and she's like, "Well, do we ever stop the bus in route?" I said no unless there is a breakdown. She's like, "what if there is a problem on the bus?" I said we stop it and address it with the minimum force necessary. And she said she understood and that she would go and brief her troops.

Counsel: Ok. After that conversation with her, how did you feel?

(b)(6)5; 76)5

Witness: At that time I kind of-- I thought that if something was going to happen, it was going to happen in route, and I knew that they had security personnel on the bus. I went to the bus, pulled SGT [REDACTED] and SPC [REDACTED] to the side, and I advised them on the conversation that I just had with the MSG. I explained to them that safety of the prisoners was our number one priority. The mission was number one safety of our prisoners and just going along with our Five S's and our T's which we're trained on for EPW care.

Counsel: Ok. Let's talk about those for a second. The Five S's. What did you mean by that?

Witness: The Five S's are Speed, Safeguard, Segregate, Silence and-- well there is five of the S's, and basically all they are is a rundown on how to handle prisoners, and the T is for tag.

012165

Counsel: Ok. The T is for tag?

Witness: Tagging the prisoners.

Counsel: Right. I think you said safety, speed, safeguard, silence, there was one more.

Witness: Segregation. I'm sorry.

Counsel: The Five S's and tag. Do you know whether the soldiers from the 320<sup>th</sup> ever got a briefing on that?

Witness: Sir, I've been an MP for 11 years. I've been briefed that for 11 years. That's-- every part of every kind of training that I received in regards to EPW missions have been along those lines.

Counsel: So it is your experience as an MP that that is regular training that all MPs receive.

Witness: Yes. And that is additional to the training that we received in Fort Dix. Going over those same things. Handling EPW's. That is what we were taught there as well.

Counsel: Alright. So you talked to MSG (b)(6)5-7(c)5  
MSG (b)(6)5 SPC (b)(6)4-7(c)4 and SGT (b)(6)4-7(c)4

Witness: Correct. They were my security personnel on the bus.

Counsel: Alright. The prisoners got loaded on the bus?

Witness: Yes.

Counsel: Did anything happen before you took off, back for Camp Bucca?

Witness: Negative. At that time we had the uh-- the 320<sup>th</sup> personnel did not have SINGARS on their vehicles. We had little hand held radios. I had one so that we would have some type of communication with the vehicles. I did a radio check with all the vehicles, basically giving the thumbs up that we were ready to roll. The vehicles were refueled. The prisoners were signed for. They were on the bus. They were secure. All the property was signed for. We were ready to go.

Counsel: Alright. So do you remember what time you departed Talil and headed back for Bucca?

Witness: Roughly about 1830.

Counsel: Alright. Now, where were you riding?

C12166

Witness: I was in the lead vehicle. I was driving the lead vehicle.

Counsel: Ok. Same position that you had been in when you came up to Talil.

Witness: Correct.

Counsel: Alright. What about-- pretty much all the vehicles were in the same configuration as when you left?

Witness: Yes, Sir.

Counsel: Ok. So did anything happen on the way back?

Witness: Yes, Sir. About--I think it's--I believe it's 36 kilometers Southeast of Talil is uh Cedar refuel point. It's not there anymore. But probably about 2 kilometers on the other side, on the Talil side of Cedar refuel point, we're going around the curve, and I'm probably 200 meters out in front of the convoy doing scout mission stuff like that. Periodically, about every 30 seconds or so I am checking my rear view mirror to make sure that the convoy is still with me. I've got my little hand held walkie-talkie that is sitting right on my dash where my air conditioner vent is. I look back. I see the convoy, everybody looks fine. I look back 30 seconds later. Maybe even--maybe not even 30 seconds later, and I don't see the convoy.

Counsel: Ok. What did you do?

Witness: At that time I just slowed down. Our convoy speed is usually about 45 mph. I think I knocked it down to about 20 to give them a chance if I ran off and left them for some reason to give them an opportunity to catch up. Once I realized that they were not going to catch up, I did a U-turn and started heading back northwest on Tampa.

Counsel: Ok. Did you find them?

Witness: Yes I did.

Counsel: What was going on when you found them?

Witness: First of all, the convoy was approximately ¼ mile back, just at the entrance to the curve. When I--I was headed northwest, so I passed the convoy. There was a 320<sup>th</sup> personnel vehicle in front of the bus at this time, the bus, and then the other HMWWV -- the trail vehicle. So in essence you had your bus and two HMMWV's. When they stopped and realized that I was gone, one of those HMMWV's just pulled around and staged in front of the bus.

Counsel: Ok.

C12167

Witness: I went down past the convoy, did another u-turn and went back and staged back in front of the convoy in my original configuration with me being the lead-element.

Counsel: Alright, and then what did you do?

Witness: The first thing that I did was talk to my gunner and my team leaders, and I advised them to watch the radios. I set up sectors of fire for my gunners. It was dark at that time. I believe that we left about 1830. This was probably 30-45 minutes into the trip so it was already dark outside. I told them to pull out their NVG's, make sure those were working, and that I was going to go back to find out what was going on.

Counsel: Alright, and did you in fact do that?

Witness: Yes I did.

Counsel: What did you find?

Witness: When I was approaching the bus, like I said before, one of the 320<sup>th</sup> HMMWV's at this time was now in front of the bus. There was a female, white E5, I do not know her name. Short haired. She was standing-- I'm assuming she was driving the HMMWV. She was the only one that was standing next to that HMMWV. I asked her what was going on. She said there was a problem on the bus. Right then, with what I had heard up there at Talil, I knew something had happened. I knew something went wrong.

Counsel: Ok. So when you got that information from the female Sergeant from the 320<sup>th</sup>, what did you do?

(b)(6)(b)(7)(C) →  
7E-4  
Witness: At that time I went to the bus. The first thing that I noticed that the lights on the bus were on. The interior lights of the bus-- there was a bunch of people standing on the bus. I walked to the bus steps. Walked up to the bus steps. I couldn't even get all the way to the top flight of steps. I barely got to the top of the platform for the bus. I seen SPC [REDACTED] and then there was, I'm going to guess, anywhere from six to eight 320<sup>th</sup> personnel, and on the other side of them I seen SGT [REDACTED]

Counsel: Alright. Was anybody saying anything at that point.

Witness: Yes. As soon as I got on the bus, I said, "What's the problem. What's going on?" I was advised that there was a mechanical issue on the bus, the hydraulic hose had been broken or come loose, and that the driver had already made the necessary repairs, and that we were ready to roll.

Counsel: Ok. Do you remember who told you that?

Witness: SPC [REDACTED] (S)(b)(4); 7E) F

C12168

Counsel: Alright, and he is a member of your unit, right?

Witness: Correct, and I confirmed that with the bus driver as well.

Counsel: Ok. So at that point, did you do anything?

Witness: I was-- all I said was if the bus is repaired and everything-- the prisoners are fine, let's roll. And basically told everybody to get off the bus, and let's resume our mission. I was -- since I was the last one on the bus, I was the first one off the bus. After I said that, there was probably about a 10 second pause of people just kind of standing there, and then everybody-- it just clicked what I had said, and I got off the bus. I walked off, and I did not see who got off the bus behind me, but I looked back and just the silhouette, because of the bus headlights, I seen some of the 320<sup>th</sup> personnel start to come off the bus.

Counsel: Ok. So did everybody eventually get back in the vehicles?

Witness: Yes they did.

Counsel: Alright. Did you head back for Camp Bucca?

Witness: We got a commo check with the little hand held, and then we headed back to Camp Bucca.

Counsel: Ok. Any more incidents along the way back to Camp Bucca?

Witness: No. Before we left, when the bus was stopped before we left, I went ahead and advised my drivers. They had the 998's or the 1025's, the lightweight HMMWV's. Those get a ton better fuel mileage, so I dumped 5 gallons of fuel in my vehicle and that was it. We rolled out.

Counsel: Alright. And no more incidents until you got back to Camp Bucca?

Witness: Negative.

Counsel: Ok. What time did you arrive at Camp Bucca that night?

Witness: Rough estimate again, obviously Sir, I'd say about 2200.

Counsel: And where did you go when you got onto Camp Bucca.

C12169

Witness: When you come into Camp Bucca the way they had it set up at the time, there is an in-processing team that comes out to meet you, and there is like an IHA or an initial holding area. That's basically where you get the person off the bus. It's where the in-processing team accepts the prisoners. They give them their blankets; they do their searches, things like that. Things that they're going to need when they go into the pens back here.

Counsel: Ok, and so did you take the bus of prisoners to that location.

Witness: Correct. It was probably, when you come in the gate, it was probably 50-75 meters on the right hand side, away from the gate.

Counsel: Alright. Now, where did the bus pull up with the prisoners in relation to that in-processing center?

Witness: They have a bullpen going up-- the actual CONEX's which formed the in-processing area was probably about 75 meters up away from the road. They had a bullpen of concertina wire, a chute that you use. Once you pull prisoners off the bus, you search them right there. If you go into the bullpen area, you can take a left -- there is an IHA over there. If there is an overflow up there at the in-processing area, you can put the prisoners in a secure environment over in the initial holding area. You pull them off the bus. Usually nine times out of ten, I've never, up until that day and since that day, I've never had an in-processing team not to meet me there and accept the prisoners.

Counsel: Alright. Let me ask you a question about the prisoners, first. When you transport these prisoners, are they in any way restrained?

Witness: Any type of security threats that we have, they are restrained with flexi-cuffs, or I think that the 744 that evening, they were short on flexi-cuffs, so they used some type of medical tape on their hands. And those are just for the prisoners that are security threats, that are not medical issues. Any type of medical issues we do not put their hands together like that.

Counsel: Ok. So medical issue prisoners were not restrained. Their hands were not restrained, but others were.

Witness: Correct. And that was done by the 744th personnel.

Counsel: Alright. So the bus rolled up, and you said something about, you've never been to the in-processing center before where there wasn't a unit there to meet you. Was that the situation that night?

Witness: Yes it was.

Counsel: There was or was not a unit there to meet you?

C12170

Witness: Was not.

Counsel: Oh, Ok. So this was the first time that it happened?

Witness: Correct.

Counsel: Do you know why the unit was not there waiting to meet you?

Witness: I have no idea. I was told by the-- when I-- later on, when I got off the bus, or when I got out of the HMMWV, I walked up to the tent to get a team together, and I was told by the person at the desk that they were not advised that we were coming. They didn't know that we were in route. So if that is true, I do not know.

Counsel: So what is the unit, what was the unit that supposed to be at the processing tent?

Witness: I don't know.

Counsel: Ok. So you arrived at the tent, there was no unit there to meet you, so what did you do at that point?

Witness: At that point, I walked to the bus. I told-- there was some of the 320<sup>th</sup> personnel already walking up to the bus area. I told them to start bringing the prisoners off the bus, getting them searched, and staged, and ready to be accepted by the team, and that I was going to go to the team, get an in-processing team together, and link up, and go down there and plus I had the secret documents folder that I had to turn over to a Commissioned Officer.

Counsel: Ok. So, did you do that?

Witness: Yes I did.

Counsel: How long did that take for you to do that?

Witness: Before I left, they were starting to get the first five prisoners-- typically what we do for security personnel, we had 44 EPW's that night. Instead of bringing them all off the bus at the same time, the same fashion that we get them up at the core holding area, we take them off the bus five at a time. We started bringing the first five off the bus. The thing that I noticed right off the bat before I left, we were conducting the searches, they were staged five in a row, ready to go up to the bullpen area, up to the in-processing area. The first one to get off the bus was, I believe he was an Iraqi Major, Fedahyeen Major, I'm not positive on that. He wasn't identified, but he had hospital attire on, and he was on crutches.

Counsel: Ok. So the first person off the bus was a man on crutches.

C12171

Witness: Correct.

Counsel: Alright. You said that-- Did you notice anything about that man, or something that happened to that man?

Witness: In regards to--

Counsel: I'm Sorry--

Witness: That evening, you mean?

Counsel: Yes, that evening.

Witness: Ok. When we got back here, the first five were off the bus at this time. Now, they were in a seated position. I wasn't looking at the prisoners the whole time, so I'm not going to testify about how they were seated. From the exit to the bus to where we had them staged at was probably only about 10 feet. They were in the seated position. The Iraqi Major-- they were told to get up. All five of them get up. They started escorting them back to the in-processing area. The Iraqi Major, naturally, that was on crutches--

Counsel: Ok, so it was the man on crutches? Ok. Go ahead, I'm sorry.

Witness: He was the slowest one. I believe that when he was taken into custody, or at some point, he had been shot in the leg a couple of times. So he was moving pretty slow.

Counsel: Ok.

Witness: When he was moving pretty slow, I seen a person that I identified as the E6, the only way I identified him was tall, he was the biggest guy in the group, a bald headed guy, and he had an E4 on the other side of him, and they were on his right and left sides, yelling in his ear, telling him that he was not, he was faking it, pretty much. That he wasn't as hurt as bad as he was, and that he was faking, and that he was just trying to hold up the progress and stuff like that.

Counsel: Ok, and then did anything else happen?

Witness: Yes. At that time, when they were yelling at them, they were entering the bullpen chute taking him up to the area, MSG ██████████ walked up behind the first prisoner, uh--was yelling at him.

(S)(6)5-7(C)5

Counsel: I'm sorry, when you're saying the first prisoner, are we talking about the same person, them man on Crutches?

Witness: Correct. The man on crutches.

C12172

Counsel: I'm sorry, go ahead.

Witness: Ok. Walked up behind him, was yelling at him, and they were verbally abusing him. They were verbally abusing him. And they were telling him that he was full of shit, and that he was just faking it, and he's not hurt as bad, and he needs to move faster-- stuff like that. The guy was scared because he's got like 3 MP's, you know just probably inches from his face just yelling at him at the top of their lungs. He's scared. At some point--

Counsel: Let me stop you for a second. Are those 3 MP,s that you observed doing this to the Major, are they here?

Witness: Yes, they are.

Counsel: Could you identify them, please?

Witness: MSG (b)(6)(5)-7C15, SSG McKenzie, and the SPC right there.

The witness identified MSG (b)(6)(5)-7C15, SSG McKenzie, and SPC (b)(6)(5)-7C15 by pointing to them.

Counsel: What happened next?

Witness: Ok. At that time, again, like I said, as far as how the prisoner got on the ground, I have no idea. I heard a loud thud. I turned around. The prisoner was down on the ground. All three of them were over top of him yelling. Telling him to get up, he better get up, he better move. All this stuff like that. At that time, the E6 and the E4 scooped him up underneath his arms. This is what I seen. They scooped him up underneath his arms like that, and started lifting him up off the ground and just started dragging him. When he dropped down on the ground, this guy was terrified. When he dropped down on the ground, and uh-- he was screaming. I'm going to tell you right now, if you've never heard that kind of scream before, it's-- you won't forget it.

Counsel: What was it like?

Witness: Uh--

Counsel: The scream?

Witness: In my opinion, he was scared. He was scared for his life.

Counsel: Was it high pitched? Was it low pitched? I mean was it-- can you kind of describe it a little bit more?

C12173

Witness: I can't really describe it, Sir. I mean its-- its-- it was at the top of his lungs. It was as loud as he could scream. He was hollering something in Arabic. I don't know. I don't speak Arabic. He was hollering something in Arabic, and they were just on top of him yelling at him.

Counsel: Alright. Now, you said that they picked him up?

Witness: Yes.

Counsel: And what did they do?

Witness: Um-- they basically started-- he was in an erect position. They had their arms up under his armpits like that so they had him picked up like this on either side, and they just started walking real fast. Of course, he could not walk that way because he had been shot in the leg and was on crutches. But uh, they were just-- they were yelling at him the while way up the bullpen. And uh--

Counsel: So he couldn't walk that fast. What was he doing?

Witness: The prisoner?

Counsel: Yes.

Witness: The prisoner was just-- he was dragging his feet on the ground. The tops of his feet was dragging against the ground.

Counsel: Ok, and you said-- was he screaming while this was going on, too?

Witness: Absolutely. All the way to where I lost sight of him. If you see the-- where the area is, like I said before it's like 75 meters from the road, and its well lit up from a bunch of lights and stuff around that area. It is actually focused on that area, where they actually take them for the. But at the same time, what those lights do is they silhouette as they get so far up the bullpen, I couldn't see because the lights were blinding pretty much.

Counsel: Alright. Now, did you see-- this-- you said you saw this before you took the documents up to the TOC?

Witness: Correct.

Counsel: Alright. Did you see anything else before you tool the documents up to the TOC?

Witness: No.

Counsel: Alright, what did you do after you saw this?

C12174

Counsel: Ok. Now what was going on when you got down there?

Witness: Ok. When I got down there, uh-- at that point they had switched. It went from five coming off the bus at a time to, they were bringing them off individually. When I got down there, there was, the property personnel hadn't shown up, yet. I did see another guy-- I don't know his rank, but he was in hospital attire, again. They were-- one of the 320<sup>th</sup> personnel, it was the E6 and the E4 again, I believe. I know for sure that it was the E6. I had the E6 and the prisoner standing between me. I was on the left side of the prisoner, probably about 15 meters, 20 meters away. They took the-- custody of the individual, put him in a gooseneck or an arm bar behind his back, and started escorting him up the chute to the in-processing area.

Counsel: Alright. I'm sorry. That was the E6 and the E4?

Witness: Correct?

Counsel: Same individuals you identified earlier?

Witness: Yes.

Counsel: Alright. That would be SSG McKenzie and SPO [REDACTED] (b)(6)5-765

Witness: Correct.

Counsel: Alright. And they took this person and they put him in a, I think you said a gooseneck?

Witness: Yes.

Counsel: What is a gooseneck?

Witness: Basically what it is-- his left arm-- what they did-- they wrenched it up behind his back, it was in this position here if you picture it being behind his back. They had control of his hand here. Had one hand on the back of his neck, and they were escorting him up the chute.

Counsel: Alright, now, what was this prisoner doing while this was going on?

Witness: Screaming.

Counsel: Alright. What kind of a scream was he issuing?

Witness: Pain.

Counsel: And, have you ever seen this techniques used to escort prisoners before?

C12175

Witness: At that point, I said, I don't remember what I said-- but I said that I needed to go and turn these documents in and get an in-processing team down here to accept these prisoners. At that point, I didn't know how the prisoner got on the ground other than a verbal abuse, I didn't see any assaults up until that point. So I turned and went to the in-processing tent.

Counsel: Alright, and what was going through your mind when you were up in the area?

Witness: To get an in-processing team down there as quickly as possible.

Counsel: Why?

Witness: Not only to take the prisoners from my guys, and the 320<sup>th</sup> personnel, but because. I mean it had been a long day up until that point, and once you get to the point of turning them over, that is your last little thing that you had to do for the day, and I was concerned about getting my guys back and getting them some rest.

Counsel: Ok. Were you concerned about what was going on?

Witness: At that point, I was thinking, well they're being a little aggressive, but like I said before, I had not seen any type of physical contact up until that point. When you're on the ground like that, then you have a MSG and an E7 and an E6, and you have all these professional people that wear the same brassard that I do and the same uniform that I do on the ground, you don't anticipate anything like that is going to happen. You don't expect anything like that to happen.

Counsel: Ok. So, you went up to the TOC, right, to deliver the documents and get an in-processing team?

Witness: The TOC and the in-processing team and the secret documents was two different stops.

Counsel: Ok.

Witness: I first went to the in-processing tent, met up with the duty there. That's where I was advised that they did not know-- they weren't aware that we were coming. I was told that we were there with 44 EPW's from the core holding area. They needed to get an in-processing team down. She said, "Let me let you talk to my NCOIC," and at that time I was introduced to SSG [REDACTED]

(b)(6) 4-7634

Counsel: Ok, and what did you tell SSG [REDACTED]?

C12176

Witness: The same thing that I had just told the individual at the desk – that we were there from the core holding area. That we had 44 EPW's and I need an in-processing team with the property personnel down there to accept the EPW's.

Counsel: Ok. So what unit was SSG [REDACTED] with?  
(b)(6)4 - 7(c)4

Witness: I don't know.

Counsel: Alright. Did he indicate that he'd get all that for you?

Witness: Yes.

Counsel: Ok. So what did you do next?

Witness: At that time I went back to the desk where I initially entered the TOC at. I told the SPC that I needed a Commissioned Officer to sign for, not sign for, but turn over to the Commissioned Officer the secret documents folder. She said that the only one that they had on duty that evening was MAJ [REDACTED] and that she was at the Brigade TOC, which was probably about another 300 meters that way. South I guess it would be from the in-processing tent.  
(b)(6)4 - 7(c)1

Counsel: Ok.  
(b)(6)4 - 7(c)1

Witness: At that time I made contact via landline with MAJ [REDACTED] I told her the circumstances. She said, "Sure, no problem. Just bring it on up here." At that time I left on foot and walked up to the Brigade TOC.

Counsel: Ok, and did you deliver the documents at that point?

Witness: Yes.

Counsel: Alright, and then what did you do?

Witness: At that time-- first of all I spent probably, in the in-processing area, I probably spent 20-25 minutes. If you picture from the, where we drop-- where we stop the bus to where the Brigade TOC is, you're talking about maybe 500 meters. So it is a nice little walk. I walked to the in-processing tent, and spent about 20-25 minutes there, and then walked another 300 meters to the Brigade TOC for a total of about 500 meters. I then made contact with MAJ [REDACTED] Told her that we needed a processing team. I had already spoke to SSG [REDACTED] and that I had this folder for her. She took it and secured it.  
(b)(6)4 - 7(c)4 (b)(6)1 - 7(c)1

Counsel: Alright. What did you do after that?

Witness: After that, I left the Brigade TOC. I was walking back down to the area where the EPW's were. When I was walking past the in-processing tent, I met up with SSG [REDACTED] and his team which were coming out of the in-processing tent, and we just all kind of linked up and walked down to the EPW's together.

(b)(6)4;  
7(c)4

C12177

Counsel: Ok. Now what was going on when you got down there?

Witness: Ok. When I got down there, uh-- at that point they had switched. It went from five coming off the bus at a time to, they were bringing them off individually. When I got down there, there was, the property personnel hadn't shown up, yet. I did see another guy-- I don't know his rank, but he was in hospital attire, again. They were-- one of the 320<sup>th</sup> personnel, it was the E6 and the E4 again, I believe. I know for sure that it was the E6. I had the E6 and the prisoner standing between me. I was on the left side of the prisoner, probably about 15 meters, 20 meters away. They took the-- custody of the individual, put him in a gooseneck or an arm bar behind his back, and started escorting him up the chute to the in-processing area.

Counsel: Alright. I'm sorry. That was the E6 and the E4?

Witness: Correct?

Counsel: Same individuals you identified earlier?

Witness: Yes.

Counsel: Alright. That would be SSG McKenzie and SPC [REDACTED] (61615-76) 5

Witness: Correct.

Counsel: Alright. And they took this person and they put him in a, I think you said a gooseneck?

Witness: Yes.

Counsel: What is a gooseneck?

Witness: Basically what it is-- his left arm-- what they did-- they wrenched it up behind his back, it was in this position here if you picture it being behind his back. They had control of his hand here. Had one hand on the back of his neck, and they were escorting him up the chute.

Counsel: Alright, now, what was this prisoner doing while this was going on?

Witness: Screaming.

Counsel: Alright. What kind of a scream was he issuing?

Witness: Pain.

Counsel: And, have you ever seen this techniques used to escort prisoners before?

C12178

Witness: Noncompliant prisoners.

Counsel: Alright. Did you observe this EPW's behavior?

Witness: Yes I did.

Counsel: How was he behaving?

Witness: Compliant.

Counsel: And in what way was he compliant?

Witness: They-- we-- up until that point, we were advised at the core holding area that they had had them in custody for 3 weeks. They did not have one incident. Not one.

Counsel: That was the briefing you got from the 744<sup>th</sup>?

Witness: Correct.

Counsel: Ok.

Witness: When we got on the whole escort, the whole trip down, 3 ½ hours back, probably a little bit more because the bus broke down, no problems. They never gave this guy a chance to be compliant.

Counsel: Ok. So, did you observe this person from the time he got off the bus to the time he was--

Witness: Until I lost sight of him. Like I said before, once they got up to a certain point of the bullpen, the lights were too much and you couldn't see up in that area.

Counsel: Alright. Did you notice anything about the medical condition of this prisoner.

Witness: Yes, I did. The prisoner was wearing-- again, he was wearing a hospital attire. When they wrenched his arm-- when they goose necked his arm up behind him, his sleeve fell down kind of like mine is now. He had a bandage on his arm right here, and I'd identified him as one of our medical personnel that were identified to us at 744. I can't recall at this time, but it was something along the lines of some sort of dislocation, whether it be in the hand, the elbow or the shoulder, I'm not sure.

Counsel: Ok. Alright. So he had some kind of a bandage on the arm that they were twisting?

Witness: Yes.

C12179

Counsel: Alright. How long did this person scream?

Witness: They escorted him-- they walked with him like that up into the bullpen for about, I'm going to say probably 15 meters. At that time, the guy was just screaming at the top of his lungs and just fell on the ground. He just collapsed on the ground. At that time I observed the SSG and E4 get down beside him. The SSG, if the prisoner was facing this way, he was facing this way and has his knee against the back of his shoulder. I observed him take a fist, or a hand, which I believed to be a closed fist, and hit him at least three times to the left side of the body.

Counsel: Alright. Did you say anything at this point?

Witness: Yes I did.

Counsel: What did you say?

Witness: I walked over, like I said I was probably 15-20 meters away. I walked over. They were inside the concertina wire, in the bullpen. I was outside the concertina wire. I walked over to the concertina wire. I was probably 10 feet at the most away from the SSG and the altercation going on. I said, "Hey you, cut that shit out right now. That is not how we do business."

Counsel: Alright. Did anybody respond to that?

Witness: Yes, he said, "well he's resisting."

Counsel: Who said that?

Witness: The SSG.

Counsel: Alright. He said, "He's resisting."

Witness: Yes.

Counsel: Ok. Did you respond to that?

Witness: Yes I did.

Counsel: What did you say?

Witness: I said, "of course he's resisting. He has a dislocated arm or shoulder or whatever it was, and you have it wrenched up in a gooseneck. He's screaming out in pain. If you'll pick him up, and escort him the right way, then he'll be compliant and walk with you."

Counsel: Alright, and what did they do at that point?

C12180

Witness: At that time, the E4 and the SSG scooped him up again underneath the arm, and just started dragging him, and this guy was just screaming. He was terrified.

Counsel: Alright. Anything happen after that, SSG [REDACTED]? (b)(3)4 - 7(c)4

Witness: The-- in-processing team was on the ground, like I said I linked up with them at the in-processing tent. We walked back down together. Which I identified as SSG [REDACTED] and I believe SSG [REDACTED] which was a black E6. They were on the ground at that time. (b)(3)4 7(c)4

6(b)5  
7(c)5 Up until that point I had not seen MSG [REDACTED] on the ground. Once we got back to the in-processing area, other than when we first walked up and I saw them take the first five off the bus. I seen her at that point, but I hadn't seen her up until then. There was some conflict with 4137's, there was clerical errors on the paperwork, pretty much. It boiled down to they were saying that I signed for something that I didn't, and we went back and forth on that. So I was told that the property personnel-- I started to walk back up the in-processing area to find the property personnel because they weren't there. I probably got to the lead HMWWV and the processing personnel drove past me. I turned around and went back to the bus and started working on the property.

Counsel: Alright. Now were you concerned at all about the way these prisoners were being treated?

Witness: When... after I addressed the issue with the E6, now this, up until that point I made a conscious decision that there is something going on and you know, well-- ok now the in-processing team is here. Again I have an E8 and an E7, although I had not seen it, I was advised an E6, but what he's doing was wrong, and I've told him to cut it out. So I figured from that point that everything was going to be ok. That the treatment of the prisoners would improve.

Counsel: Ok. What happened after that?

Witness: Like I said before, we were-- I was working on the property issues. Any type of major property issues like I told before that you need to sign for specifically. I believe in that case there was a bunch of money that the prisoners had actually taken. I think it was like \$8,000 dollars in Dinar, just off the top of my head, but anyway, what it boiled down to was the 4137 and the evidence custody technician property personnel said that I had signed for this money when in fact I hadn't. So at that time, to clear up this error, I had-- I needed to go back to the Brigade TOC which was the only DSN line available to contact the 744 personnel and work out this problem.

Counsel: Alright. Did you go do that?

Witness: Yes I did.

Counsel: How long did that take?

C12181

Witness: This time it was a lot quicker. Like I said before I had stopped at the in-processing tent for 25 minutes. This time it was just a direct route right to the Brigade TOC, so how long that took, I don't know. I'd say anywhere from 15-20 minutes. I went to the Brigade TOC. I told MAJ [REDACTED] of the situation.

Counsel: What situation did you tell MAJ [REDACTED] of?

(b)(6); 7(c)

Witness: Of the property issues.

Counsel: Of the property issues?

Witness: Yes.

Counsel: Did you discuss with her the treatment of the EPW's at that point?

Witness: Not at that time.

Counsel: Ok. (b)(6); 7(c)

Witness: I got on the DSN. I called 744th, I had negative contact with them. I told MAJ [REDACTED] that we had property issues. She advised me at that time to just go ahead and finish the 2708's and the 515's, which are the forms for dealing with the prisoners. Just go ahead and get them signed over, and then gather up all the property and bring it up there. It was dark, like I said. I don't know what time it was. We arrived at 2200 so you guys can do the time line, but she told me to gather up all the property and bring it up to the Brigade TOC where we could actually sit down and get it in the light and go through it.

Counsel: Ok. Now, did you go back at all to where the prisoners were being taken off the bus?

Witness: Yes.

Counsel: Ok. What happened when you got back down there.

Witness: When I got back down there, they were still doing the-- I seen SPC [REDACTED] (b)(6) 4-7(b) 4 escorting one of the prisoners up the bullpen, which was-- I didn't think it was odd at time, but I never have any of my guys do that. They are not responsible for that part of it. Plus the in-processing team was there on the ground.

Counsel: By that you mean you don't usually have your team do the escorting?

Witness: Correct.

Counsel: Because there's somebody else that is supposed to do that?

012182

Witness: Exactly.

Counsel: Ok. So you thought it was unusual to see SPC [REDACTED] <sup>66-4,7c-7</sup> escorting the prisoners.

Witness: Typically, all we do is when we bring them out, and we're staging them in our five at a time, I have my MPs stand around and provide additional security for any kind of threats that may happen while they're escorting the prisoners up, or while they're being searched.

Counsel: Ok. But you saw SPC [REDACTED] <sup>(b)(6)4 - 7c)4</sup> escorting somebody.

Witness: Yes.

Counsel: Did you see anything else?

Witness: At that time I seen MSG [REDACTED] <sup>(b)(6)5 - 7c)5</sup> She was standing at the door of the bus. Just by going on what I had seen the E6 do earlier, and what I had seen initially, I told her at that time, "Hey MSG, you need to wave your people in right now." She said, "I know."

Counsel: She said that to you?

Witness: Yes.

Counsel: Alright. Now, did you ever talk to SSG [REDACTED] <sup>(b)(6)4 - 7c)5</sup> about what you were observing?

Witness: Yes.

Counsel: What did you talk about? What did you say to him?

Witness: When I seen the SSG assault the prisoner, and I made the correction, which I felt like was an on the spot correction, that wouldn't be a further issue. Once I seen that, I walked over to SSG [REDACTED] and I said this is, something to the effect of this is ridiculous. This shit needs to cut out right now.

Counsel: Alright.

Witness: And he said, "I know." <sup>(b)(6)4, 7c)4</sup>

Counsel: SSG [REDACTED] said that?

Witness: Yes.

Counsel: Ok.

Witness: And at that time with his in-processing team, like I said before, I don't know how many personnel he had on the ground. I did not count them. But I assumed, when I

C12183

left the second time to go to the Brigade TOC that they were going to be the ones responsible for taking over the escorts of the prisoners up to the in-processing area.

Counsel: Ok. Now, did you observe any more remarkable behavior that evening?

Witness: The only, like I said, after I talked to the MSG, that was one of the, if not the last prisoner to come off the bus. They escorted him up. I don't know if the MSG, I don't know who escorted them up. At that time, once I talked to her I turned and told SGT [REDACTED] and SPC [REDACTED] who I'd put in charge of counting the property and getting it accounted for when I left, that what we were going to do-- What MAJ [REDACTED] had advised me to do was bring it up to the Brigade TOC. I told them what we were going to do, and [REDACTED], at that point, pointed out the clerical error on the form, and I said, "Ok, well it's ok," and then we went ahead and got everything together at that point. Like I said it was the last prisoner off the bus. We got the paperwork signed off, and the 4137's were still not signed. I took that to property, the 4137's along with the evidence custody technicians up to the Brigade TOC, and went through it with them up there. But the 2708's and the 515's were done at that time.

Counsel: Ok, and after that, what did you do?

Witness: After that, I believe one of the 320<sup>th</sup> vehicles would not start, so SGT [REDACTED] vehicle pulled back there, he slaved him or jump-started his vehicle. We gathered up the property. They left. Their two HMMWV's. I don't know where they went, refuel, wherever. I took my HMWWV along with the property and went up to the Brigade TOC.

Counsel: And what was the purpose for going up to the Brigade TOC?

Witness: The purpose for going up to the Brigade TOC at that point-- on the way up to the Brigade TOC, just talking to some of my guys, they were telling me specifics about what they had seen up until that time. They were telling me "Hey, they were-- them guys were a little rough" and "what the fuck was going on out there and stuff like that," and then at that point I put that together with what I'd seen and along with the property issues I went up to the Brigade TOC with the intention to tell MAJ [REDACTED] or whoever was on duty about what had happened.

Counsel: Alright. Did you report that night to someone about what you observed in regard to the treatment of the prisoners.

Witness: Yes I did.

Counsel: Do you remember who you reported it to?

A: Originally I reported to MSG [REDACTED] and then I basically told him that they were real rough with the prisoners, and that they didn't need to be doing any type of convoy security missions with the prisoners, because in the future-- at that point I was worried that if they-- we were there, and to be honest with you, my guys did, in my opinion they

C12184

did everything they could. And as many prisoners that were probably hurt out there that night, there was probably a lot more that could have been. A lot more if my guys hadn't been there doing what they did.

Counsel: Ok.

Witness: But-- So I told MSG [REDACTED] that they-- hey they were a little rough with the prisoners, that they didn't need to be doing convoy security, they need to be pulled off these type of missions, because I was worried that if they went out there solo, by themselves, what might happen.

(b)(1), 7(c)(1)

Counsel: Ok. So you communicated all this to MSG [REDACTED] Did you tell anybody else about it that night?

Witness: Yes I did. When I advised MSG [REDACTED] about it, at that time, he called MAJ [REDACTED] out and said, "MAJ [REDACTED] you need to hear this," and she came outside and I told her the exact same thing.

(b)(1) - 7(c)(1)

Counsel: Ok. Alright. Did you report to anybody else about this that night?

Witness: That night, no.

Counsel: Ok. Did you subsequently file a report with anybody else about this?

Witness: Yes.

Counsel: Who did you file a report with?

Witness: When we left the Brigade TOC after we got the property issue straightened out, we left the Brigade TOC. I went ahead and sent all my E4s back to get the vehicles unloaded, to get them refueled, and told them to meet me over at the motor pool area. I said that they were tired, they were wore out. They'd been up since 0500 in the morning.

Counsel: By now, how late was it?

Witness: It was probably about 2330.

Counsel: Alright, so it had been a long day.

Witness: It had been a long day. So I sent them back to get the vehicles squared away, trying to get them some chow, or get them back where they could take a shower, get to bed. I stayed there with my E5s, squared away the property. We was walking back over. When I got to the motor pool area, my guys were hanging out waiting for me, and they were in a group and they were just kind of sitting there talking about some of the things that they had seen, and then that's when I started seeing the whole picture. Before, up until that point, like I said, all I'd seen is what I had seen. My little piece of the puzzle,

C12185

and when I started hearing some of the other things that they had done, or what they had seen, I told them that day, I said, you know we do the right thing irregardless. And so that next morning, it was late by that point. My Commander was already in bed. That next morning I went up and reported it to my Commander.

Counsel: Alright. So the very next morning you reported it to 1LT [REDACTED] (b)(6)4-7(c)4

Witness: CPT [REDACTED], my Commander.

Counsel: CPT [REDACTED]

Witness: Yes, my Company Commander.

Counsel: I'm sorry, I-- different commander. You reported to CPT [REDACTED], the (b)(6)4-7(c)4 incident. Then, were you subsequently asked to make some statements about these matters in writing?

Witness: The next day, which was that same day that I reported to CPT [REDACTED] (b)(6)4-7(c)4 I believe that was the 13<sup>th</sup>, the 530<sup>th</sup> personnel came over and, I don't know in what capacity, PMI, or CID, I don't know what capacity they were working, but I had a SGT, an E5 take a statement from me.

Counsel: Alright. I'm just going to hand you, defense Counsel have all been provided copies of this document. I'm going to hand you this document. We probably need to get this marked.

**There was an objection from Defense Counsel to considering this sworn statement. After consulting with the Legal Advisor, Major [REDACTED] the IO overruled the objection by the Defense Counsel.** (b)(6)2  
7(c)2

(b)(6)4-7(c)4  
Counsel: SSG [REDACTED] you indicated that you provided-- You were asked to provide a statement shortly after the incident. Were you also interviewed by CID agents?

Witness: Yes I was.

Counsel: Were you asked to provide a statement at that time?

Witness: Yes I was.

Counsel: Alright. Do you remember telling those CID agents in your statement that you made to them that you also observed the tall NCO and a SPC with the tattoo administered knee strikes to the EPW?

Witness: Yes, yes I do.

Counsel: Do you remember that?

C12186

Witness: Yes, I do. After the individual had fell to the ground-- this was the same altercation with the guy that had his arm wrenched up behind him and fell to the ground uh...when he fell to the ground and they scooped him up underneath his arms as they was walking him up the bullpen I seen him administer probably three to four on either side. The left and right side a common coronal knee strike is basically a dead-leg or uh--

Counsel: And that term dead-leg or knee strike what did you actually observe them do to this soldier's to this prisoner's leg?

Witness: Uh...they were taking their knees and driving it into the side of his leg on either side as they were escorting him--they'd walk three or four steps they had him scooped up...they'd turn and hit him and walk a little bit more and turn and hit him-I observed that three to four times.

Counsel: Okay--and when they did that did the prisoner respond?

Witness: Yes--I mean he was--the same thing that he'd been doing since they got him off the bus--he was screaming.

Counsel: Did you observe how this prisoner was behaving himself when they were doing this to him?

Witness: Yes.

Counsel: What was he doing?

Witness: He was terrified.

Counsel: How was he with regard to his uh...cooperation with SSG McKenzie and SPC

 (Q6)5-7C)5

Witness: From the time they got him off the bus up and to the point 'til they got him off the bus, he had not been any type of anything other than compliant. They never gave him an opportunity to be compliant, never. If they would have him off the bus and walked him--this guy he was able to walk but they never gave him that opportunity. He was walking when they had him wrenched up in an arm-bar just fine he was screaming out in pain. There's two different types that you apply for compliant and non-compliant, until someone is non-compliant and you don't assume right off the bat that they are non-compliant

Counsel: You seem to be familiar with this common coronal knee strike technique--is that a proper, from your training, is that a proper technique for MPs to use.

C12187

Witness: It is something that we're taught, yes.

Counsel: Okay...and when do use that technique?

Witness: Uh--when --if--I've been told to use it if you're in some type of fight with an EPW, or if the EPW is just being out of control or you need to put him to the ground

Counsel: What is the purpose of striking someone in the leg with your knee like that? What effect does that have on a person?

Witness: Uh--basically what it is a common coronal is a group of nerves that run down on either side of the thigh right here (indicating the outer thigh) when you hit that with your knee it jolts that and it buckles your knee, so when you do that basically you're gonna--if you hit somebody in the right spot you don't have to apply much force they're gonna go down on the ground.

Counsel: So by applying those strikes your training is that that would cause a person to fall to the ground?

Witness: Absolutely.

Counsel: Is that why you call it a dead-leg?

Witness: Yes.

Counsel: 'Cause it makes your leg "go dead" is that right?

Witness: Correct.

Counsel: So if one was trying to get a prisoner to walk from the bus to the in-processing center that would not be an appropriate technique to use to get them to walk would it be?

Witness: No it would not.

Counsel: Just one second, sir. SSG <sup>(S)(6) - 4; 7(c) 4</sup> [REDACTED], thank you I don't have any further questions, but please answer any questions that anybody else might have.

[The witness was duly warned, dismissed and left the room.]

C12188

**CROSS-EXAMINATION**

**Questions by the defense Counsel:** CPT [REDACTED] (b)(6)-2; 7(c)(2)

Counsel: SSG [REDACTED], you are a Reservist correct? (b)(6)-4; 7(c)(4)

Witness: National Guard

Counsel: National Guard?

Witness: Yes.

Counsel: And in your civilian life your civilian life you are a plumber, correct?

Witness: Correct.

Counsel: You are not a police officer?

Witness: No, I'm not.

Counsel: Now you testified that SGT [REDACTED] (b)(6)-4; 7(c)(4) is a member of your squad?

Witness: Yes he is.

Counsel: And you've known him for many years, correct?

Witness: Yes.

Counsel: He actually was your sponsor when you first arrived in the unit?

Witness: Correct.

Counsel: And that was back in 1997?

Witness: March of '97.

Counsel: So you've known him for quite some time?

Witness: I have.

Counsel: And you also testified that SGT [REDACTED], SPC [REDACTED], and SPC [REDACTED] are also in your squad? (b)(6)-4; 7(c)(4)

Witness: Yes they are.

012189

Counsel: You have a very tight knit group in your squad correct?

Witness: Yes I would say that.

Counsel: Now on the 12<sup>th</sup> of May that was the first time that you ever had any interaction with the 320<sup>th</sup> soldiers, correct?

Witness: That's correct.

Counsel: You'd never met any of them before?

Witness: Never.

Counsel: And you've never done any escort missions with them before.

Witness: Me, no--someone in my company may have, but I hadn't 'til that point.

Counsel: It was actually your understanding today that this was this particular group's first escort mission, correct?

Witness: That's what I assumed--that's what I assumed like I said before when we were going through the procedures and the ropes up their Brigade TOC I asked 'em if they knew the route and they said they didn't know the route so I was assuming that if they didn't know the route then they'd never been there before, yes.

Counsel: And you were told that this was actually gonna be a right-seat ride, correct?

Witness: Correct.

Counsel: And that means that you're to train them on how to do these missions?

Witness: Train them on the procedures to do the missions.

Counsel: Correct you're training them on the procedures to do the missions.

Witness: Yes.

Counsel: You are the trainer they are the trainees, correct?

Witness: To a point, I mean everyone there is an MP everyone there has a basic--been through MP school--uh was trained at Fort Dix--everyone there has a basic knowledge of how to handle EPW's--how to do their job. I was just apprising them of the proper procedures to conduct the convoy security missions.

C12190

Counsel: Now you testified that you had done 15-20 maybe even 25-escort missions up to this point, correct?

Witness: I would say closer to 15-20, not 25.

Counsel: And the 320<sup>th</sup>, you're aware, that their mission is to guard the compounds, correct?

Witness: I was not aware of that.

Counsel: Okay--um was it your understanding that prior to that date the 320<sup>th</sup> was also a group that was doing escort missions on a routine basis?

Witness: I was not aware of that .

Counsel: Okay, because you guys were the ones that were doing the escort missions up to that point?

Witness: Correct.

Counsel: So you're kind of the subject-matter expert on doing these escort missions, correct?

Witness: I wouldn't say that.

Counsel: You're not a subject-matter expert?

Witness: No--I know enough to bring my people back successfully, but to say that I'm an expert on it, no--anything can happen at anytime, so--.

Counsel: Now, by doing escort missions your unit transports EPW's from point A to point B, correct?

Witness: Yes.

Counsel: And you have no interaction with the EPW's in the compounds, correct?

Witness: No.

Counsel: So your sole experience with them is transporting them from point A to point B, correct?

Witness: Yes.

Counsel: Now, you received notice of this mission the night before-you testified?

012191

Witness: The 11<sup>th</sup> of May.

Counsel: And you were told that the 320<sup>th</sup> was coming with you, correct?

Witness: Yes.

Counsel: You did not make any interaction with them that night?

Witness: No.

Counsel: You briefed your people on the mission, correct?

Witness: Yes.

Counsel: But it was late in the evening, so you didn't make any contact with the 320<sup>th</sup>?

Witness: Correct.

Counsel: You figured you had plenty of time to do it in the morning because the mission wasn't supposed to go off until the next afternoon?

Witness: Originally, I believe, it was not slated to go off until like 1500, so if that's--if I remember correctly, yes.

Counsel: But when it got to the next morning they actually moved up the mission, correct?

Witness: Yes.

Counsel: And you only got about an hour suspense on leaving on the mission, correct?

Witness: About--about an hour. Hour and a half.

Counsel: And at that point you had to PMCS the vehicles--there was a lot to do to get ready to go, correct?

Witness: I charged that to my team leaders.

Counsel: And when you charged it to the team leaders that's when you went to the 320<sup>th</sup> TOC to round up the 320<sup>th</sup>, correct?

Witness: Yes.

Counsel: And that was the first time you'd ever had any interaction with the 320<sup>th</sup>, correct?

012192

Witness: That's correct.

Counsel: Now you met up with MSG [REDACTED] outside at the TOC?

Witness: Originally, I went to the TOC and I explained to them who I was, what I was there for and what our mission was told them that the mission had been moved up, and she made a call, or the person at the desk made a call, I was told to just hang out that they'd be up in a few minutes.

Counsel: And then you went outside and you linked up with MSG [REDACTED] correct?

Witness: Correct.

Counsel: And you explained to her that this was going to be a right-seat ride?

Witness: Yes.

Counsel: And therefore you started from ground zero with them, correct?

Witness: Correct.

Counsel: Like any good trainer would--so you explained to them everything about the mission at that point?

Witness: At that point, no--I told them that uh--when I went into the TOC I told the personnel at the desk that the mission had been moved up, I believe it was moved up from 1500 to 1300--uh so it got moved up by two hours--I told them that uh--that uh--just to she's already advised of that by the personnel at the desk apparently uh they were already on the HMMWV's getting their stuff in the HMMWV's getting ready to go. I told her that I was going to go back and finalize some last issues with my guys and that I would link up with them here at the Brigade TOC

Counsel: So there wasn't a lot of time before you left?

Witness: You make time--to do the right thing--you make time.

Counsel: You talked to her about where to go, correct?

Witness: I'm sorry?

Counsel: You talked to her about her about how to get to Talil?

Witness: Yes.

Counsel: She didn't know how to get to Talil, correct?

012193

Witness: No.

Counsel: So you took her into the TOC and you showed her a map?

Witness: I showed her a map on the routes to get up there I showed her check points rally points possible ambush sites I showed where to check out a satellite phone the phone numbers for the TOC I was showing her the ropes.

Counsel: And you never gave her a strip-map, did you?

Witness: No.

Counsel: You didn't give any of the drivers that day a strip-map, correct?

Witness: No.

Counsel: You kept that for yourself.

Witness: I did not have a strip-map.

Counsel: You just knew the way?

Witness: Yes--we have maps but I didn't have a strip-map.

Counsel: Now before you left you pulled everyone together for a briefing, correct?

Witness: Yes.

Counsel: You discussed safety issues, correct? An ROE?

Witness: Yes.

Counsel: You never discussed handling of the EPW's at that point?

Witness: No.

Counsel: Now you arrived at Talil a few hours later?

Witness: Three --and-a-half hours later.

Counsel: And on the way you had to make a fuel stop, correct?

Witness: Yes.

Counsel: And the area where the fuel stop was a big dust bowl, correct?

C12194

Witness: I wouldn't say that--this whole country is a dust bowl--I wouldn't say that--there was visibility, yes.

Counsel: You actually lost your trailing vehicle at that dust bowl, correct?

Witness: No.

Counsel: You never lost them--they never lost contact with you?

Witness: Lost contact with me?--visual or radio?

Counsel: Visual contact?

Witness: No.

Counsel: You never lost visual contact?

Witness: No, 'cause we pulled up underneath a I believe it was an overpass, is where we refueled at.

Counsel: So after that refuel stop you proceeded on to Talil and you got there a couple of hours after the fuel stop, correct?--and you were briefed when you got there about all of the EPW's?

Witness: Yes.

Counsel: And you were told what they were all suspected of?

Witness: Yes.

Counsel: And this was for your own safety, correct?

Witness: Safety of everyone, yes.

Counsel: Because you wanted to know what you were dealing with, correct?

Witness: Yes.

Counsel: Now you only had a few other people on the bus and 44 EPW's, correct?

Witness: Yes--I don't how many I know there was one maybe two of the 320<sup>th</sup> and there was two of my guys.

Counsel: You were informed that one of the individuals on the bus was a Major involved with the Fedahyeen?

C12195

Witness: Yes.

Counsel: And you were notified there was nine assassins among this group, correct?

Witness: Among others, yes.

Counsel: And there was several murderers among this group, correct?

Witness: Yes.

Counsel: And there were several kidnappers?

Witness: Suspected.

Counsel: And there was someone suspected of having interrogated [REDACTED] correct?

(b)(6)-3; 703

Witness: I believe so, yes.

Counsel: And these EPW's--

IO: Excuse me? Are we discussing classified information at this point?

Counsel: No, sir.

IO: Go ahead.

Counsel: And these EPW's were segregated out from the rest, correct?

Witness: Uh--I don't know how many there was total, but uh--we typically put them-- like I said before in a separate line and load them toward the front of the bus for security purposes, yes.

Counsel: So you segregate those individuals out so that they can be loaded in an appropriate manner?

Witness: Yes.

Counsel: And that's for the safety of the individuals involved on the bus?

Witness: Yes, and on the whole--for everybody. The whole convoy.

Counsel: 'Cause you wanna keep an eye on them, correct?

Witness: That's right.

C12196

Counsel: Now, you spoke to MSG [REDACTED] also at Talil, correct?

Witness: Yes.

Counsel: And you informed her about what you had learned about all these individuals, correct?

Witness: Yes I did.

Counsel: Because you wanted her to know everything that was going on in this mission, correct?

Witness: Yes.

Counsel: 'Cause you thought it was very important for everybody's safety that they understand what you're dealing with?

Witness: Not only their safety, but to ensure that they knew the proper procedures once they got to Talil for future missions that they might run.

Counsel: Now, you said that you were discussing this and something came around regarding respect of these EPW's that was your testimony? Now the something that came around was your comment that you had some "real shit heads" on the bus, correct?

Witness: I wouldn't say that--I don't recall saying that.

Counsel: Do you recall sitting down with the four defense Counsel and being interviewed yesterday?

Witness: Yes I do.

Counsel: Do you recall telling us that you said to her we have some "real shit heads" on the bus?

Witness: Yes, but I was also not allowed to review my statement when I sat down with the four defense lawyers, so what I said verbatim I would've remembered it better the day after when I wrote my statement--than four months later.

Counsel: So you remembered yesterday that you said there were some "real shit heads" on the bus.

Witness: I said something similar to that.

Counsel: So reading your statement now refreshes your recollection better about what happened that night?

012197

Witness: Uh--there's two separate statements I read half of the one.

Counsel: So your memory is a little bit weaker at this point shall we say?

Witness: It's four months later or five months later.

Counsel: Now, you said that uh--she made this comment about a personal interview and you knew what she meant, correct?

Witness: Yes.

Counsel: You'd never met MSG [REDACTED] before, correct?

(b)(5) - (7)(C)

Witness: No.

Counsel: You didn't ask her what she meant by that, correct?

Witness: No.

Counsel: And you told her that you just escort people from point A to point B and use the minimum force necessary if anything happens, correct?

Witness: Yes.

Counsel: You've often heard people say things just to blow off steam, correct?

Witness: What type of things?

Counsel: Comments such as this just to blow off steam.

Witness: Comments such as what?

Counsel: Such as this personal interview comment.

Witness: No.

Counsel: Never heard anybody say anything like that to blow off steam?

Witness: No.

Counsel: Do you recall sitting down with the four defense Counsel and being interviewed yesterday?

Witness: Yes.

012198

Counsel: Do you recall telling us that you'd heard people make comments like this to blow off steam?

Witness: I told you that they--that I had not heard my people make comments like that. That is what I told you yesterday, ma'am.

Counsel: But you said you'd heard other people make comments like that?

Witness: No I did not.

Counsel: So we're just mistaken about that comment?

Witness: Apparently.

Counsel: Now after you left Talil you said that uh--about thirty minutes into the convoy you'd lost track of the bus?

Witness: Yes.

Counsel: Now, one other thing---

Witness: ---it's 36 kilometers, so probably anywhere from 30 to 45 minutes.

Counsel: Now you said that one of the things that you briefed the individuals on at Talil was the fact that if there was an emergency on the bus, the bus was supposed to turn on its flashers and pull over, correct?

Witness: Yes.

Counsel: Now, you said that you were watching in your rearview mirror for the bus?

Witness: Yes.

Counsel: And--you never saw the flashers go on, on the bus?

Witness: No--the addition to the flashers on the bus was a means of communication uh--is we did have a personnel on the bus with a uh--one of those handheld walkie-talkies that I talked about prior.

Counsel: You're not sure whether or not they called you on the walkie-talkie, correct?

Witness: No I'm not.

Counsel: It was awfully loud in your truck and they might've tried to call and you just didn't hear it?

012199

Witness: I will not testify that they did not call me.

Counsel: Now, you said that once you realized the bus was not behind you anymore you slowed down, correct?

Witness: Yes.

Counsel: And you drove a little ways at 20 miles an hour?

Witness: Probably a hundred meters, hundred-and-fifty meters.

Counsel: And then you made a U-turn and you came around back?

Witness: Yes.

Counsel: Now, you said that when you arrived there's was about six to eight 320<sup>th</sup> MPs on the bus?

Witness: Just an estimate--like I said there was--the only person of the 320<sup>th</sup> that I had seen that was not on the bus at that time--and I'm not saying that there wasn't anyone with the trail vehicle, I don't know, but the only one that I seen at that time was the E5 that I spoke to while I was en-route to the bus.

Counsel: So there could've been personnel still in the rear vehicle behind the bus?

Witness: There could have been uh--there was ten 320<sup>th</sup> personnel total and I seen one of them, so there was nine unaccounted for at that point.

Counsel: Now, you said you actually got onto the bus, correct?

Witness: Yes.

Counsel: And none of the MP personnel were back towards where the EPW's were at on the bus, correct?

Witness: Uh--SGT <sup>66-4</sup> [REDACTED] was standing between them and the EPW's, yes.

Counsel: So they were all in the very front entryway of the bus?

Witness: Uh--the they were probably about two rows--two or three rows back, I mean I cannot recall at this time--uh--they were a little bit back. I know that when [REDACTED] was on the uh--front side of the bus when I--as soon as I got on the bus I could barely fit on the bus, and me and [REDACTED] was pretty close quarters, yes. And I had the discussion about the vehicle breaking down.

(S)(6) 4 - 7(6) Y

012200

Counsel: And you found out that an air hose had broken on the bus?

Witness: Hydraulic hose.

Counsel: And that was fixed a few moments after you arrived?

Witness: Yes, by the driver--actually it was fixed already before--before I had even gotten there.

Counsel: So by the time you got back to the bus they had diagnosed the problem, repaired it-- fixed it were ready to head back on the road?

Witness: What I found out later on uh--all it was-- was a hose clamp had come loose on one of the hydraulic hoses and the driver needed nothing more that to grab a flat head screwdriver and put it back on there and tighten it back down. The repair was that simple.

Counsel: So you got back on the road and about two hours later you arrived back in Camp Bucca?

Witness: I don't know if it was two hours--it was about 2200 when we arrived back here.

Counsel: The in-processing team was not here when you arrived.

Witness: That is correct.

Counsel: And normally they are the ones that actually search and escort the EPW's?

Witness: Yes.

Counsel: But there was some problem that night and they just weren't there?

Witness: Uh--yes.

Counsel: Now you told SGT (b)(6) 4-7(E)4 to start getting the first five off the bus, correct?

Witness: Yes.

Counsel: And you told him to get them staged out in front of the bus--I'm sorry you have to say it verbally for the record.

Witness: Yes--yes that's what I said.

Counsel: And you told them to search those EPW's, correct?

012201

Witness: I told them to get 'em ready for the in-processing team, and normally, yes, that does include a search. That's typically the procedure when we take them off the bus--uh typically-like I said prior-the in-processing team does that, but to expedite matters-like I said before my guys had been up for so long, you know, to expedite matters we was just getting them off and getting 'em ready for the in-processing team to just take 'em and take 'em up to the in-processing area.

Counsel: And then you began to leave to go get paperwork squared away at the TOC?

Witness: First, I seen the first incident with the individual on the crutches at that time, and then I left.

Counsel: You were actually walking away, towards the TOC, when you witnessed this incident, correct?

Witness: No I was not--I was standing there.

Counsel: You were standing right there when it happened?

Witness: About 20 meters away.

Counsel: So you saw these three MPs yelling at this major?

Witness: I did.

Counsel: And you classified that as verbal abuse, you testified?

Witness: Yes.

Counsel: And by verbal abuse you mean yelling at him to move faster?

Witness: About two inches away from him--if you have three individuals who are responsible for your custody, and are about two inches away from your ear on either side and you have another one right up on your back and they're yelling at you at the top of their lungs--then yes I would assume that would be verbal abuse.

Counsel: Now, this individual was the same major that you were told at Talil was suspected to be Fedahyeen?

Witness: I believe so--I'm not quite sure on that.

Counsel: Now, you testified that they told you at Talil that they had had these individuals in custody for three week and not had any problems wit them, correct?

Witness: That's correct.

012202

Counsel: They also told you that the Marines had had these individuals in custody the prior three weeks and that they had had problems with these individuals?

Witness: No I did not say that?

Counsel: Did you have a meeting with all the defense Counsel in this case yesterday?

Witness: I did.

Counsel: Do you recall telling us that the Marines had had custody of these individuals the prior three weeks and that they had had problems with them?

Witness: I told you that the Marines dropped them off to the 744th and that the 744th had custody of them for three weeks I do not know how long the Marines had custody.

Counsel: Do recall telling us that the Marines had problems with these individuals?

Witness: The Marines were the ones that took them into custody, I doubt seriously that they would hold on to them for three weeks. uh things were moving--.

Counsel: Excuse me could you speak up I can't hear you.

Witness: Okay. uh--the Marines were--I don't know how long they had them in custody. uh--like I said before--the 744th, I know that I was told by these seven on the ground up there that they had them in custody for three weeks.

Counsel: SSG [REDACTED] do you recall saying that they had problems with these individuals prior to getting them at Talil?

Witness: Who did?

(b)(6) 4 - 764

Counsel: The Marines.

Witness: They were the ones that took them into custody. I am assuming they had problems because they were the ones that the individual that was on crutches I believe he had two gunshot wounds to his leg, so yes I would classify that as being having problems.

Counsel: And do you remember actually making that comment yesterday "well obviously, because he was shot in the leg"?

Witness: Yes, but I did not say anything about how long they had him in custody, because I wasn't advised of that, nor did I know, so--.

Counsel: Were you also told by the 744<sup>th</sup> personnel that its major had a habit of throwing himself on the ground?

012203

Witness: I don't recall that, no.

Counsel: You don't recall it now or you didn't recall it then?

Witness: I don't recall being told that.

Counsel: Now, you said they were yelling at him and you were standing right there while this was going on.

Witness: About 20 meters away.

Counsel: This is a right-seat ride, correct?

Witness: Yes.

Counsel: You were the trainer that day?

Witness: I was a trainer for an E8 and an E7--I do not at that point--if it's verbal abuse--that's a long way, in my opinion--from physical abuse.

Counsel: You didn't step in at that point and say anything like, "Hey quit yelling at that guy!"

Witness: "Quit yelling at that guy?" No, I did not.

Counsel: Okay. Now, you said that he then went to the ground and you don't know how he got there?

Witness: Yes.

Counsel: Now, do you remember-- recall yesterday saying he just fell on the ground?

Witness: No.

Counsel: You don't recall saying that at all?

Witness: No.

Counsel: And then you testified that they had picked him up under the arms and just drug him?

Witness: The tops of his feet were on the ground. They had him lifted up where he was like on his tippy toes and his feet just kind of laid over and were dragging him off, yes.

Counsel: You didn't walk up at that point and intervene, correct?

C12204

Witness: No.

Counsel: You didn't go up and say that's not the proper way to escort an EPW?

Witness: If he fell on the ground, and I don't know the reason he fell on the ground, at that point--other than the verbal abuse--and he's on crutches, they're just, in my opinion, they were doing what they had to do to expedite movement at that time, but I did witness the verbal abuse

Counsel: So then you proceeded off to the TOC to get your paperwork squared away?

Witness: Yes.

Counsel: And you stopped at the 314<sup>th</sup> tent along the way?

Witness: I don't know the unit.

Counsel: The in-processing tent?

Witness: Yes.

Counsel: And you spent about ten minutes there talking to SSG [REDACTED] (b)(6)-4  
7(c)4

Witness: I spent about 20 or 25 minutes there.

Counsel: Okay, and you proceeded to go on to the TOC and talk to MAJ [REDACTED] (b)(6)-1  
7(c)-1

Witness: Where I spent about ten minutes.

Counsel: Okay, so you returned back at the bus area about 45-50 minutes later?

Witness: I'd say that's right.

Counsel: Now, during that entire 45-50 minutes that you were gone you never said anything to SSG [REDACTED] about what you had just witnessed?

Witness: I talked to SSG [REDACTED] (b)(6)-4; 7(c)4 at the in-processing tent for probably about three minutes uh--I did not advise him of what I had seen at that point uh--I did not link back up with him until I had left the Brigade TOC and was walking back down and uh--from the initial holding area to the in-processing tents are probably about a hundred or a hundred fifty meters and uh--we just--I basically gave him a run down on the situation--we got 44 EPW's--we need property personnel here, and I didn't account for how many personnel he had with him at that point, no.

012205

(b)(6)1, 7(c)(1)

Counsel: When you were up in the TOC, speaking to MAJ [REDACTED], you never mentioned anything to her about what you had seen, correct?

Witness: Up until that point I observed them being a little rough with the EPW's, but I hadn't seen any type of physical assaults at that point, no.

Counsel: You didn't advise her anything about this personal interview comment, correct?

Witness: No.

Counsel: So you returned back to the bus about 45 or 50 minutes later and that's when you saw them escorting this individual in arm-bar?

Witness: Yes--that's the individual they got off the bus when I came back down the second time and soon as they came off the bus uh--I believe it was the E6, uh--ducked his head down, took his arm up behind him, and put him in an arm-bar and started escorting up the shoot.

Counsel: And an arm-bar is a technique that MPs are taught for escorting non-compliant EPW's?

Witness: That's not what I was taught, no--we have a compliant and non-compliant escort position. and that's not what I was taught. That's part of unarmed self-defense, but that's not a technique I was taught for escorting prisoners, no.

Counsel: It is a technique that is taught to the MP's in personal self-defense for escorting non-compliant EPW's.

Witness: I was not taught that--when I went through my training at Fort Dix in preparation for this I was taught a compliant and non-compliant EPW escort position and that was not either one of them.

Counsel: Do you remember testifying on direct that you'd seen this technique for non-compliant prisoners?

Witness: I've seen it, but I haven't been taught it, no.

Counsel: Now, you said that you then saw the tall E6 punch him several times?

Witness: The individual went to the ground, uh--screamed--he was screaming in pain when they were starting to escort him up the uh--the bullpen they probably got 15 to 20 meters up the shoot--to the in-processing area--uh--this guy's screaming the whole way, he fell on the ground, uh and just went face first into the ground, they kneeled over him and applied the-- I seen the E6 apply three--it looked like--closed handed blows when they went up in the air to the left side of the body --the upper left side of the body.

012206

Counsel: So you never actually saw the hand make the contact with the body? You're just assuming it was a closed hand blow, correct?

Witness: I'm assuming that he wouldn't hit the ground--yes. I'm assuming he hit the EPW, yes.

Counsel: So you were standing about 20 meters away witnessing this?

Witness: Yes.

Counsel: And you said--you went over to them and you said "Cut that out"?

Witness: I said "Cut that shit out."

Counsel: You saw an MP punching an EPW and you said "Cut that shit out"?

Witness: Yes.

Counsel: You did not step in at that point, and ----

Witness: I was on the other side of the concertina wire.

Counsel: You're an E6. Could have said stop right now----

Witness: That's what I did. I said "Cut that shit out"--that means stop. That's not how we do business. That's what that means.

Counsel: Could you have put new escorts on that EPW?

Witness: He was already inside the shoot escorting him up there when I told him that he said "he's resisting" I said "he's not resisting. The reason why he's resisting is because you have his arm in an arm-bar" and I said "he has some type of injury--dislocation to his shoulder, or some part of his arm" I said "now pick him up and walk with him he will walk."

Counsel: This was a right-seat ride, correct?

Witness: Yes.

Counsel: You did not immediately call any authorities at that point, correct?

Witness: No.

Counsel: You didn't head back up to the TOC to report what you had seen?

C12207

Witness: No.

Counsel: You didn't go try to get any medical personnel to help this EPW?

Witness: Medical personnel were part of the in-processing team-- they're typically part of the in-processing team--when we arrive on the ground and turn over our 515's and our medical records there's a medical person over there to accept them.

Counsel: Did you walk up to any medical personnel and say I just saw that man punched three times in the side. I believe he needs to be looked at?

Witness: No.

Counsel: You went to handle some problems with the property, correct?

Witness: Yes.

Counsel: There were some clerical errors with the 4137's?

Witness: Yes.

Counsel: And you chose to go handle those after you'd just seen an MP supposedly hit an EPW?

Witness: Okay--Okay, now, it's easy for everybody in this room to sit here and four or five months later break it down the way that it happened, but if you're up there on the ground, and like I said earlier, you have two chains of command that were up there, you have an in-processing team there, okay, you have an E8 on the ground you have an E7, E6--these are professionals these are people that I would assume to be professional----

(b)(6)4 - 7eJ(4)  
Counsel: SSG [REDACTED] this was a right-seat ride correct?

Witness: I understand that, and like I said it was a right-seat right to show little techniques that we use to pick up the EPW's.

Counsel: So you went back and you tried to fix these clerical errors with the 4137's?

Witness: Yes, I did.

Counsel: Because there was some property that wasn't accounted for that you had signed for, correct?

Witness: Yes, money.

Counsel: And you didn't want to get stuck holding the bag for that?

012208

Witness: I wasn't the--the biggest thing that was in my mind was to ex--the EPW's, the in-processing team was on the ground that part of it was already working I needed to start getting the property issues working. The biggest part of what was on my mind was getting my back-- for my guys back because they had had such a long day.

Counsel: After everything was over with the mission you met with your squad in the motor pool that night?

Witness: I did.

Counsel: And you decided that you were gonna sleep on everything for the night and make a decision in the morning, correct?

Witness: Uh--at that point I had already made my decision, but yes that's what I said.

Counsel: Have you ever been read your rights during this investigation?

Witness: I don't recall.

Counsel: Ever been read your rights for dereliction of duty?

Witness: No.

Counsel: Are you currently charged with dereliction of duty?

Witness: No, I'm not.

Counsel: No further questions.

IO: Does anyone else have any questions on the defense?

**Questions from the defense counsel: MAJ [REDACTED] (b)(6) 2 - 7c(2)**

Counsel: The man on crutches how tall is he?

Witness: I don't know.

Counsel: I'm sorry, I'm having trouble hearing because there is noise behind me.

Witness: I have no idea.

Counsel: None at all?

Witness: No idea how tall he was.

Counsel: Do you have any idea how tall the man on crutches was?

C12209

Witness: I'd say six feet. Just an estimate. I have no idea.

Counsel: How--do you know how much he weighed? Was he hefty, skinny?

Witness: No, he was medium build. Average size I would say.

Counsel: Moving to the prisoner that had supposedly something wrong with his arm. You mentioned earlier something about a dislocated shoulder?

Witness: I don't recall if it was his shoulder an elbow--I don't it was some type of dislocation in his arm

Counsel: And how did you know that?

Witness: I was briefed on that by the 744<sup>th</sup> and the medical personnel up there. When I received the records when we got on the ground up there we were advised----

Counsel: So you had that man's medical records, and you read them and you knew exactly what his injury was at the time?

Witness: I did not read his medical records--uh--we were told uh--we were basically just given a run down by the 744<sup>th</sup> about um--who we had and what type of injuries they had.

Counsel: Now, on direct didn't you testify that he had some hospital type clothes on or loose shirt that you demonstrated with your own shirt that it was loose and when his arm was put back the sleeve went up and that's when you saw a bandage around his forearm?

Witness: Had a hospital gown, yes.

Counsel: But did you see--that's when you saw the bandage on his forearm, correct?

Witness: Yes.

Counsel: So that was the first time you realized that he had something wrong with his arm----

Witness: Yes.

Counsel: ---- that that was the prisoner that had something wrong with his arm?

Witness: Yes.

Counsel: And that wasn't until his arm was put back, correct?

012210

Witness: When he --when they put his arm back and were starting to walk off and it fell down that's when I noticed, yes.

Counsel: His back was to you? Is that correct? The prisoner's back he was being walked away from your direction?

Witness: Uh--he was being walked at an angle away from my direction I guess you would say.

Counsel: And you were more to his left side, correct?

Witness: I would say his left--yes.

Counsel: Left rear?

Witness: I don't know if--it's I mean it's probably--the angle that I was at was probably 45 degrees away from the prisoner.

Counsel: Forty-five degrees away from where?

Witness: The prisoner.

Counsel: To the left or the right?

Witness: To the left.

Counsel: Now, the E6 that you said pulled his arm back and pushed his head down in this gooseneck position? He was on the left side of that prisoner, correct?

Witness: That's correct.

Counsel: And the other escort was on the right side of the prisoner?

Witness: Yes.

Counsel: And you weren't able to--you weren't sure who that other escort was were you?

Witness: Uh--the uh--uh--I knew who it was--I mean you could identify him he had a --I had seen him earlier in the day uh--sitting on top of the HMMWV with his soft Boonie cap on SPC rank and he has a tribal band tattoo on his left arm I believe.

Counsel: And you didn't see that tattoo when he was escorting this prisoner, correct?

Witness: No he was on the other side of the--.

012211

Counsel: And do you recall talking to the four defense attorneys yesterday?

Witness: Yes I do.

Counsel: And do you recall saying "no, I'm really not sure I can't really identify exactly who it was on the other side?"

Witness: That's what I just said, yes.

Counsel: No further questions.

IO: Captain [REDACTED] (S)(b)2-7(c)-2

**Questions from the defense counsel: CPT [REDACTED]**

Counsel: You testified that there was a change in the start time for the mission, right?

Witness: Correct.

Counsel: And so you were scrambling to put things together, right?

Witness: Uh--I wouldn't say scrambling--we were advised probably an hour and hour-an-a-half out that the mission had been moved up.

Counsel: And at that point in time the 12th of May things were still pretty hot outside the front gate, right?

Witness: I would say, yes.

Counsel: You thought it'd be a good idea to have the SAT phone, right?

Witness: It's SOP that you take a SAT phone if you move north, yes uh--I know that after May 1<sup>st</sup> that the end of the major hostilities had been declared, but uh--as of May 12<sup>th</sup>--as of today, I believe-- it is still standard procedures that if you move north from this position that you're required to have a satellite phone in case of break downs or type of emergencies or anything like that.

Counsel: Okay, and your plan for communications was that you had a SINGARs radio in your vehicle, correct?

Witness: We had SINGARs radios for MEDEVAC frequencies-- they uh--we have a frequency for 744th in case uh--we get--the SINGARs was good for certain range, once you get out of this area--there's a black area--between here and Talil, and if you need any type of communications or any type if anything happens then you have the satellite phone to utilize.

C12212

Counsel: Did you coordinate to make sure that the 320<sup>th</sup> had SINGARs in their vehicle as well so you could talk to them?

Witness: They did not have vehicles --uh-- SINGARs in their vehicles.

Counsel: They had brought the Motorola's right?

Witness: Yes.

Counsel: Had they not brought the Motorola's you wouldn't have been able to communicate with the people on the bus, right?

Witness: But they did, yes.

Counsel: Had they not brought the Motorola's you wouldn't have been able to communicate with--

Witness: If they had not brought the Motorola's and we would not have had comms then we wouldn't have rolled.

Counsel: You talked about the loading of the bus, you said you had the medical personnel correct?

Witness: Yes.

Counsel: You had two concerns when the bus was being loaded, right? Your medical personnel? Right? You were concerned about their placement on the bus?

Witness: Yes.

Counsel: And you were also concerned about the high-risk EPW's that you had, correct?

Witness: Yes.

Counsel: And your preference is to put the medical people up front, right?

Witness: Yes.

Counsel: Now, your team leader, SGT [REDACTED], was actually in charge of loading the bus, right?

Witness: That's correct.

Counsel: SGT [REDACTED] is a pretty assertive guy, isn't he?

Witness: Uh--yes I would say so.

012213

Counsel: He's been doing this a long time, right?

Witness: To say he's assertive I mean, I can't say that he's assertive, but he knows what he's doing.

Counsel: You had confidence that he could properly load the bus, right?

Witness: Yes.

Counsel: He could figure out where the MEDs should go, and where the high-risk people should go, correct?

Witness: Absolutely.

Counsel: And you left that task to him?

Witness: Yes.

Counsel: You never went back and checked on him? You had confidence that he would square it away, right?

Witness: Yes.

Counsel: The common coronal strikes that you Witnessed with that second EPW --let me back up a little bit. Initially you said that the escort had him in an arm-bar, right?

Witness: Yes.

Counsel: Okay--then he fell on the ground, right?

Witness: Correct.

Counsel: When they picked him up they didn't put back in an arm-bar hold, right?

Witness: No.

Counsel: They were walking next to him?

Witness: They had him scooped up underneath his arms here and were walking.

Counsel: So the two escorts were walking with the prisoner sandwiched in between them, right? With their hands underneath his arms?

Witness: Yes.

C12214

Counsel: Standing--how close would you say? Touching?

Witness: They were touching, yes.

Counsel: And they're walking away from you as this is happening?

Witness: Yes they were the prisoner's facing this way they had him on either side--they were walking with their probably their legs were rubbing together that's why I would mean by touching.

Counsel: So the prisoner was upright and dragging his feet?

Witness: Yes--when he was able to walk yes.

Counsel: He wasn't walking along with the escorts, correct?

Witness: No.

Counsel: And it was at that point that you saw this strikes to the legs, right?

Witness: Yes.

Counsel: And you testified that these strikes were the technique that you'd seen used with non-compliant prisoners before, correct?

Witness: Non-compliant ones.

Counsel: Thanks, that's all.

(b)(6)2, 7(c)2  
I/O: CPT [REDACTED] any questions?

CPT [REDACTED]: No sir.

I/O: MAJ [REDACTED] would you like to re-direct?

MAJ [REDACTED] Yes sir, thank you.

#### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)2, 7(c)2

(b)(6)4, 7(c)4  
Counsel: Sergeant [REDACTED] I just want to clarify something. You have seen the dead leg knee strikes used before, correct?

Witness: Yes I have.

012215

Counsel: You've never seen them used on someone to try to get them to walk, right?

Witness: No.

Counsel: Because it makes their leg go dead, right?

Witness: That's correct.

Counsel: There was a question asked of you, I believe it was by CPT (S)(6)-2; 7C) 2, she asked if you were a subject matter expert. That's kind of a legal term, and you said that you didn't think you were a subject matter expert, but at the time that you did this mission on the twelfth of May, you've done about how many missions have you done up there?

Witness: Roughly about fifteen or twenty.

Counsel: So at the time that you have done this, would it be fair to say that you knew more about doing these convoy missions up to Talil than the average soldier?

Witness: Yes.

Counsel: You certainly knew more about doing these convoys missions than anybody sitting at these tables that are questioning you today, right?

Witness: That's why I was the one responsible for training them.

Counsel: Right, and so you were in a position where you could then offer training to someone who hadn't done the mission before?

Witness: Yes.

Counsel: Okay. Would it be fair to say your recollection of the events that occurred on the twelfth of May was somewhat more fresh in your mind on the fourteenth and fifteenth of May than it is today, would that be fair to say?

Witness: Absolutely.

Counsel: And so on the date that you rendered those statements, your recollection of the events of the twelfth of May was better than it is today?

Witness: Yes.

Counsel: You testified that you weren't allowed to see those statements before you talked to the defense Counsel yesterday?

C12216

Witness: That's correct. And in fact I did ask to see them and I was told that it wasn't necessary.

Counsel: Okay. Thank you. I don't have any further questions.

I/O: Any further questions from the defense? Sergeant [REDACTED], I just have a couple of questions I need to clarify for myself. (b)(6) 4-7624

Witness: Yes sir.

**Questions by the Investigating Officer: LTC [REDACTED] (b)(6) 2-7622**

I/O: It's my understanding that prior to your leaving for this mission...well let me just ask you. Did at any point, did you really sit down and talk with Master Sergeant [REDACTED] or any member of the 320<sup>TH</sup> about what your specific roles and responsibilities were going to be? You said you had two different chains-of-command going there. Did you ever sit down and say Sergeant [REDACTED] you and the 320<sup>TH</sup> will be responsible for this and myself and my people are going to be responsible for these aspects of the mission? (b)(6) 5-7625

Witness: Negative sir. I told her that if she wanted to put a couple of her personnel on the bus to kind of get a handle on what the procedures were on the bus, then that would be okay. They were primarily responsible for...they had two HMMWVs...they were responsible for the force pro and the convoy security of the mission.

I/O: Otherwise they were just, I guess kind of there observing, more or less.

Witness: Yes.

I/O: Okay. The information that you received about the EPW's on the bus, where did you receive that from?

Witness: From the 744 personnel.

I/O: From the 744<sup>TH</sup>?

Witness: Correct.

I/O: Then you in-turn shared that with Master Sergeant [REDACTED] and another E-7 from the 320<sup>TH</sup> contingent? (b)(6) 5-7625

Witness: They were the ones...from my standpoint, I was training the trainers. The E-8 and E-7 on the ground that day, they were the trainers for the 320<sup>TH</sup> personnel. They had never been on any type of missions like this before so I did not brief their entire crew, I briefed their E-7 and E-8 on who we had and left it to them to advise their personnel.

C12217

I/O: Did you receive any specific instructions from your Company or Battalion with regard to your responsibilities to train the 320<sup>TH</sup>?

Witness: Negative. I was just told to basically just show them the ropes, show them what our responsibilities were. The routes, how we get custody of the prisoners, what the paperwork was, and things like that.

I/O: You specifically saw two incidents, which caused concern in your mind, about the treatment of EPW's, is that correct?

Witness: Yes.

I/O: The first incident, and this is just to clarify in my mind, involved an Iraqi prisoner who is on crutches.

Witness: Correct. He was the first one taken off the bus.

I/O:

And you said you didn't see him hit the ground, but that you did observe Staff Sergeant McKenzie and Specialist [REDACTED] scoop him up under his arms and start to drag him down the chute, is that correct?

(b)(6)(S-7E)J

Witness:

Yes.

I/O:

Okay.

Witness:

When they first took him and started escorting, he was walking but he was being real slow. That's when they got up beside him and started yelling in his ear, and then that's when the Master Sergeant came up from behind him and was yelling at him. After a short distance, he fell to the ground. They got down and was yelling at him and then they scooped him up and took off.

I/O:

And then the second incident was with another EPW who you saw them put him in a, I believe you called it a gooseneck hold, is that the same thing as an arm-bar hold?

Witness:

Yes sir. It's where they take their hands, it's behind their back, and just twist it and control this part of the arm.

I/O:

You said the EPW was screaming...now is this the same EPW who you say saw him being hit on the left side of his body?

012218

Witness:  
That's correct.

I/O:  
And what about the three or four knee strikes that you talked about?

Witness:  
Same guy.

I/O:  
Second incident?

Witness:  
Yes.

I/O:  
I was confirming that this was the same EPW that received the three or four knee strikes.  
How many times did you see Major [REDACTED] that evening, during the course of your coming back?

(b)(6) - 7(c)

Witness:  
Twice.

I/O:  
Okay.

Witness:  
I saw her the first time when I went up there. I'd seen the verbal abuse of the EPW.  
Then when I came back, that next time, is when I seen her for the final time that evening.  
I told her that...actually I saw her again when I went up there to call the 744, and I saw her a third time when we went up there for property and I told her about the incident.

I/O:  
You saw her three times?

Witness:  
Correct.

I/O:  
Okay. And was it during the third time that you also saw this Master Sergeant [REDACTED] (sic)?

(b)(6) - 4; 7(c)

Witness:  
Yes.

012219

I/O:

Okay. Then you talked to him and then you both talked to MAJ [REDACTED] is that correct?

(b)(6) 1 - 7(c)

Witness:

Yes sir.

I/O:

(b)(6) 5 - 7(c) 5

Okay. Was Master Sergeant [REDACTED] expecting you on the morning before the mission took place?

Witness:

I'm sure that she wasn't expecting me to come over to their Company area. The mission was originally slated to go out at fifteen hundred. It got moved up by two hours. I assumed that she was intending on linking up with me at the Brigade TOC and not in her Company area.

I/O:

Did she indicate to you that she made any preparations or briefed her people prior to your arriving there, or done anything to try to prepare for the mission herself?

Witness:

No.

I/O:

You didn't have any indication?

Witness:

Not at that time. I just told her that the mission had been moved up and she got the information through their TOC. They were getting their people ready to go. I told her I was going to finalize a few things with my guys and that we would link them over here at Brigade.

I/O:

Okay. When did you find out about the Marines, and their role with the EPW's?

Witness:

When the medical personnel and the 744 personnel...when I was receiving my brief from them, they told me that we got a guy that was shot twice and the Marines brought him in.

I/O:

Was it just that one individual or more than that?

Witness:

That's the only one that I recall sir.

C12220

I/O:

That's the only one they talked to you about, specifically, with regard to the Marines?

Witness:

They said they brought him in because they were talking about his injuries.

I/O:

This was the EPW on crutches, is that correct?

Witness:

Yes sir.

I/O:

Okay. I don't have any more questions.

**Questions by the defense counsel:** CPT [REDACTED]

(b)(6) 2 - 7(c) 2

Counsel: (b)(6) 4 - 7(c) 4

Sergeant [REDACTED], were his hands bound or unbound?

Witness:

Unbound.

Counsel:

As were all the medicals?

Witness:

When they came off the bus, yes.

I/O:

Anyone else?

[The witness was duly warned, dismissed and left the room.]

I/O:

(b)(6) 2 - 7(c) 2 MAJ [REDACTED] call your next Witness.

MAJ [REDACTED]

Yes sir. Before I begin, I would like to note for the record that the reporter, Sergeant [REDACTED], has been previously sworn. I didn't know if you needed that for the record. I would like that noted for the record. The next Witness that I would call is Sergeant

[REDACTED] (b)(6) 4 - 7(c) 4

012221

**DIRECT EXAMINATION**

(b)(6)4 - 7(c)4  
Staff Sergeant [REDACTED], U.S. Army National Guard, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial Counsel: Major [REDACTED] (b)(6)-2 ; 7(c) 2

Counsel: (b)(6)-4; 7(c)4  
For the record, you are [REDACTED], is that correct?

Witness:  
That's correct sir.

Counsel:  
And you spell [REDACTED] with a [REDACTED] (b)(6)4 - 7(c)4

Witness:  
Yes.

Counsel:  
And you are with the 223<sup>RD</sup> MP Company?

Witness:  
Correct sir.

Counsel:  
And you are currently serving here at Camp Bucca, correct?

Witness:  
Correct.

Counsel: (b)(6)4 - 7(c)4  
Sergeant [REDACTED] we had heard some testimony previously from Sergeant [REDACTED] so picking up from there...you were a member of the 223<sup>RD</sup> MP Company that went on this mission on the twelfth of May to Talil to pick up prisoners, is that correct?

Witness:  
Yes sir and I still am.

Counsel:  
Right, you're still a member of the 223<sup>RD</sup> Company.

Witness:  
Yes sir.

012222

Counsel:

And on the twelfth of May, you were on that mission with the other 223<sup>RD</sup> members, of which Sergeant [REDACTED] was the NCOIC, correct?

Witness:

(b)(6)4 - 7C)4

That's correct.

Counsel:

I would like to pick up from the point when you arrived at Talil and have you relay your memory of the events that occurred after you arrived at Talil and picked up the prisoners. Okay?

Witness:

Yes sir.

Counsel:

Okay, if you would just tell us about from Talil forward.

Witness:

We arrive at Talil at eighteen hundred hours. We pulled up into the core holding area. We exited the bus and the vehicles. The bus and vehicles went to go get fuel. That's usually the way we conduct ourselves. We get fuel first. Sergeant [REDACTED] was on the (b)(6)4; ground to make contact with the NCOIC up at the core holding area. He made contact 7C)4 with them and let them know that we were there to do the pick up. At first we heard there was thirty-eight. It ended up being forty-four EPW's that we picked up. After the vehicles came back, they were staged in order that we would be pulling out in. We started loading prisoners.

Counsel:

Okay, before you started loading up prisoners, where were you stationed for this mission?

Witness:

I was stationed at the front of the bus, recording the numbers of the personnel that went on, with one of the NCOs that was up there at the core holding area. I checked my numbers with his. We made sure that our count was good.

Counsel:

We you Bravo team leader?

Witness:

Alpha team leader.

C12223

Counsel:

Had, at any point during this day, before you started loading up the prisoners, had you provided briefings to any of the other soldiers that were on this mission, prior to receiving these prisoners?

Witness:

What kind of briefings sir?

Counsel:

Briefings with regard to the mission or the handling of the prisoners, or SOP on how to conduct the mission that day?

Witness:

(b)(6)4; 7C)4

I wouldn't call it a briefing sir. Briefings were taken care of by the NCOIC, as far as safety briefs and actions on contact. That's Sergeant [REDACTED] lane when we go on missions. As far as my part, I was NCOIC on the bus. It was to my knowledge that we were doing a right seat ride, which meant that we were training people to do our jobs. On the bus, I gave a few blocks of instruction on searching a bus. It was pretty informal, but just going over some of the things that I look for in a bus prior to loading EPW's on it. I also remember making the statement that some of the people that we're picking up are accused of some pretty horrible things. As much as I would want to go and take action against them in my own way, it's not what we do. I also explained that there were a couple of times that we did some high-profile individuals where I felt like I wanted to go back to the in-processing area and punch a hole through their chest. But, I didn't do that. I don't do that. That's not what we do.

Counsel:

And you explained this to those people on the bus?

Witness:

I believe I said it a couple of times sir.

Counsel:

Let's talk about how the prisoners were loaded into the bus. How did that process work that day?

Witness:

There was one Specialist on the bus that was not in my Company. That individual is on the bus. I asked him if he can handle loading the bus as I put the EPW's on the bus one at a time. He said he could handle it. The process went, pretty much, one at a time would come up to the bus. The number would be checked. I checked the tag on them. The person would get up on the bus. The Specialist on the bus would seat them, starting at the back of the bus, moving towards the front.

Counsel:

(b)(6)4-7C)4

Sergeant [REDACTED] do you remember who that Specialist was?

012224

Witness:  
I don't know his name sir.

Counsel:  
Was he a member of the 320<sup>TH</sup>?

Witness:  
I would have to assume so, sir.

Counsel:  
So he wasn't a member of the 223<sup>RD</sup>? The 320<sup>TH</sup> was the only other company that was with you on the mission?

Witness:  
The people that I was told that was with us was the 320<sup>TH</sup>.

Counsel:  
This Specialist then loaded the bus as you handed him the prisoners one at a time?

Witness:  
That's correct.

Counsel:  
Any problems with loading the bus?

Witness:  
Not a one sir.

Counsel:  
Any of the prisoners act up or misbehave during this process?

Witness:  
Not a one sir.

Counsel:  
The bus was loaded, and did you take off immediately after that?

Witness:  
Not immediately, sir, there was property that we had to go and get. We had to make sure the camp count was good before we proceeded out of the gate.

012225

Counsel:

By that you mean you had to square away the number with the Talil Air Base with your numbers, and make sure that everyone agreed that you had what they thought you had?

Witness:

That's correct sir. We take care of that right at the bus. The record of the number that I take and the charts that they have of people to be sent...those numbers have to match, but they also have to do another count of their base camp. Take the people that are still in the base camp and subtract the number that we are taking...make sure that's the number that they are supposed to have.

Counsel:

Did anything else have to happen before the convoy departed?

Witness:

Negative.

Counsel:

Did you get on the road after that?

Witness:

Yes.

Counsel:

On the bus, who were the soldiers from your unit and the other unit?

Witness:

(b)(6) 4 - 7C) 4  
I remember Specialist (b)(6) He was with me. There were three other individuals from the other company that were there.

Counsel:

Do you recognize any of those individuals in the room today?

Witness:

I recognize Sergeant (b)(6) -5; 7C) 5

Counsel:

She was on the bus with you?

Witness:

Yes.

Counsel:

You left Talil. Let's talk about what happened after that. Just go ahead.

C12226

Witness:

(b)(6)4-7(c)4  
We drove down the road. We were coming back eastbound on Tampa. It wasn't long after we got on route Tampa that the bus experienced some kind of a problem. I heard an air hose pop. I got up in the aisle way, facing the EPW's with a loaded 12-gauge shotgun. I called over Specialist [REDACTED] to find out what was going on with the bus. Sergeant [REDACTED] was on the bus and she had radio communication with handhelds to the personnel that she was with. The first thing I asked was to get radio communication with wolf-2, who was Sergeant [REDACTED]. To my knowledge, he had a handheld also. To let him know that the bus will be stopping for unknown reasons. The call was made by Sergeant [REDACTED] to wolf-2. I heard radio traffic of other individuals calling for wolf-2. There was no reply. (b)(6)4-7(c)4

At the same time, the bus pulled over. As the bus pulled over, I had Specialist [REDACTED] trying to assess the situation with the bus. I was facing the EPW's with the shotgun. [REDACTED] let me know that it was an air hose that he will try to fix. I heard some commotion in the front of the bus. As I turned around, there were other personnel on the bus that were not assigned to the bus, starting to move down the aisle. (b)(6)4-7(c)4

Counsel:

Did you recognize any of those individuals?

Witness:

No sir.

Counsel:

They were not part of the 223<sup>RD</sup>?

Witness:

No.

Counsel:

What happened next?

Witness:

These personnel started to move down the aisle. I heard individuals say who's the problem child. Somebody was behind me. I couldn't identify who it was. I was watching forty-four EPW's. I asked [REDACTED] what was going on. He said it was an air hose and the bus is fixed. I looked down the steps of the bus in front and I saw Staff Sergeant [REDACTED] enter the bus. He looked around. I knew he was there and then faced the EPW's. I heard him ask what's going on. [REDACTED] said that the bus was fixed and we were ready to roll. He said let's get out of here. (b)(6)4-7(c)4

Counsel:

Did everyone who wasn't supposed to be on the bus, get off the bus?

Witness:

I still had the five personnel that I started with.

012227

Counsel:  
Did you continue back to Camp Bucca?

Witness:  
Roger sir.

Counsel:  
Any more incidents along the way?

Witness:  
No sir.

Counsel:  
When you arrived at Camp Bucca, what happened there?

Witness:  
We arrived at...I call it the east gate. We arrived at the east gate, which is the gate we normally use when we bring in EPW's. It's right by the in-processing area. We arrived at the in-processing area at 2150 hours. That's my official RP time in my logbook. We waited a few minutes. There wasn't anybody at the in-processing area. We stayed on the bus. The bus drops down into the sand a little bit, to get the EPW'S right into the in-processing area. It was after that that I asked one of the personnel if he could step off the bus and stand right in front of the storage compartment of the bus. There were items on that bus that needed to be secured and I asked him to take care of it until he was relieved by Sergeant [REDACTED]. The other person on the bus was the Specialist who loaded the bus. I asked him if he wanted to stay on the bus and unload the bus. He said he would. Sergeant [REDACTED] exited the bus. I don't know where she went.

Counsel:  
What did you do at that point?

Witness:  
I stepped off the bus to see what was going on? I was gonna start making my adjustments to get these people off-loaded.

Counsel:  
And did that eventually occur?

Witness:  
Yes.

Counsel:  
When you started off-loading, how did that whole process go?

C12228

Witness:

It went pretty awful. That's my recollection.

Counsel:

Specifically, if you can describe what happened that night.

Witness:

As we unloaded the EPW's...we take them off in groups of five. Five come off at a time. Sometimes we have done as many as ten. This night, we did five at a time. The first five had an Iraqi Major who was on crutches. His hands were bound on the bus with tape. He was moving fairly slowly with his crutches. As he got to the bottom of the bus, he sat on the step. I freed his hands so he could use the crutches. He was the first one off the bus, with four others behind him. The first five got down and were walking one at a time, with an MP one-on-one. As they got about fifty feet behind the bus, there's the beginning of the chute. It's an area where they kneel on the ground and waited to be escorted up the chute to the holding area. For some reason, on this day, it was all the way down the backside of the base camp. The word was given for these individuals to get up. They stood up. The Iraqi Major with the crutches was first. He was told to move out. He started to move with his crutches. He was moving at a pace that was slow, in my opinion. As I looked back to the bus to see who the next people were coming down, I started to load my next five. I looked over and saw this individual pushed to the ground. Two individuals stood over the top of him and started to deliver blows to this individual on the ground.

Counsel:

Did you recognize the people that were doing this to the Iraqi on crutches?

Witness:

I recognize one for sure and there was another tall soldier there, also.

Counsel:

The one that you recognized, is that person in this hearing room today?

Witness:

Yes sir.

Counsel:

Would you point that person out please? Let the record reflect that the Witness is pointing to Master Sergeant [REDACTED]. You said that there was another person that you weren't sure about. Describe that other person that was involved with the Iraqi on crutches.

(b)(6) 5 - TC(5)

Witness:

It was a tall, thin soldier wearing a boonie cap, brown t-shirt.

012229

Counsel:  
What was the race of the soldier?

Witness:  
Caucasian sir.

Counsel:  
Do you know what rank that soldier was?

Witness:  
I could not see from my standpoint.

Counsel:  
What did you observe these people do to this Iraqi on crutches?

Witness:  
As the man got up to move, as he was told to, he got a little bit further away from where he started. Maybe twenty-five, thirty feet. He was pushed from behind on the shoulder blades. He hit the ground face-first. He fell off his crutches. He started to scream. As he hit the ground, there was a lot of yelling. That's when the two individuals started delivering blows to that man on the ground.

Counsel:  
Did you see who pushed him to the ground?

Witness:  
I don't recall at this time who pushed him to the ground. In my sworn statement, that I gave on the thirteenth of May might reflect that, as it was a lot clearer to me at that time and I have not been able to read through my statement.

Counsel:  
Do you think if you were to review your statement, it might help refresh your recollection?

Witness:  
It's quite possible sir.

Counsel:  
Is it true that you gave two statements, ultimately? One to CID and then another statement as well?

Witness:  
I gave one to the 530<sup>TH</sup> MP Battalion. The investigator there, I believe was a Sergeant (b)(6)1-  
Then the next day, on the fourteenth, I gave one to CID. (b)(6)1-  
(C)

C12230

Counsel:

Will both statements help refresh your recollection?

Witness:

Both statements should be one in the same sir.

Counsel:

I'm handing you what has been marked as exhibit one and two. I ask you to take a look at those.

Witness:

I have in my statement that this Iraqi Major on crutches was knocked to the ground approximately a hundred feet away from the bus by a female E-8 and unidentified guards.

Counsel:

Were there any other female E-8s on this mission other than Sergeant [REDACTED] (b)(6) 15-7615-

Witness:

Not that I was introduced or saw myself sir.

Counsel:

You observed the female E-8 push the Iraqi prisoner to the ground and then kicking him?

Witness:

From my recollection off the statement sir, they were yelling at him to get up. He did not. They were striking and kicking him while he was on the ground. From my vantage point I was unable to see the whole act. I was able to see the whole act, but not where the blows were connecting. At that point, the Major was grabbed off the ground under each arm by the E-8 and this unidentified soldier and dragged to the search area.

Counsel:

You can refresh your recollection with the statement as many times as you want to. It would be better, however, if you try to testify from your memory. If you need refreshing, we can give you your statement and you can refresh your recollection.

Witness:

That's fine sir.

Counsel:

I'll retrieve those from you. If you need them they're right here. You saw the two individuals kicking the prisoner, what happened after that?

Witness:

After he was being kicked, he was picked up under each arm with him screaming. His legs dragged behind him. He was dragged down to the search area, out of view.

C12231

Counsel:

Do you remember the scream that the Iraqi prisoner was making?

Witness:

Yes.

Counsel:

Can you describe it a little bit?

Witness:

No sir.

Counsel:

Why can't you describe it? I'm sorry.

Witness:

There's no description for it. There's no movie that can capture anybody screaming like that. There's nothing that I've heard that sounded anything like that.

Counsel:

Did it sound like he was in pain?

Witness:

Yes sir.

Counsel:

Did you have an opportunity to observe this Iraqi prisoner as he exited the bus, before he was kicked and knocked to the ground?

Witness:

Not that I observed him. I observed him before we loaded him on the bus in Talil, but as far as loading him off the bus, I was looking for the next prisoner that was coming off the bus.

Counsel:

So you would not be able to say whether he was resisting in any way, correct?

Witness:

He wasn't resisting me sir. I can tell you that. He didn't resist as I passed him off to someone else.

Counsel:

Never the less, from your training as an MP, have you ever been taught anything that would say that a resisting prisoner...that a proper technique to do to that prisoner is to push him down to the ground and kick him?

C12232

Witness:

Nothing in my training sir. Nothing in any manual that I've read shows that such a procedure is acceptable.

Counsel:

What about dragging a wounded prisoner across the ground, in the manner that you described?

Witness:

I don't recall any of that in my military police career or my training sir.

Counsel:

After you observed this, what happened next?

Witness:

After the Major was dragged away, we loaded up the next five. Five more stepped off the bus. They were brought to the same location, approximately fifty feet to the rear of the bus, at the beginning of the chute. Those individuals were put down on the ground. I'm trying to recall if it was the one individual who was grabbed so fast, he came out of his pants...I believe it was. There was one small, thin man. From my information, he was interpreter that was present during the interrogation of American POWs. As this individual was taken...I don't recall who took him away. He was taken away so fast that his pants went down around his ankles. He was being led away that is pants came down around his ankles. I do remember seeing that. He couldn't walk very well. He was lead down that way, fifty feet away from the back of the bus. I was looking back up on the bus. A crowd had gathered off the back of the bus in the area where they took this individual. My account would be that this individual slammed to the ground so hard that I could feel the earth under my feet, from fifty feet away. At that point, I heard screams. When I looked down at the back of the bus, I saw a group gathered around with a lot of dust kicking up. A lot of yelling and a lot of screaming.

Counsel:

The interpreter, that prisoner who was yanked up so fast that his pants came off, did you see the person that yanked him up?

Witness:

Sitting here now sir, I don't recall.

Counsel:

Do you think that you might have put that in your statements?

Witness:

It's possible sir.

Counsel:

Would that help your recollection?

012233

Witness:

Yes it would.

Counsel:

Let me hand you exhibits one and two, and ask you to look at those to see if the events regarding the interpreter are refreshed. Does that refresh your recollection?

Witness:

I don't have any recollection on the individuals that escorted him sir.

Counsel:

You're not sure who that soldier was?

Witness:

No.

Counsel:

What about with regard to the incident involving the prisoner where he was carried off and a cloud of dust appeared and he was surrounded?

Witness:

Yes sir. That was the second individual that I Witnessed. That would be the interpreter.

Counsel:

That was the same individual?

Witness:

Same individual sir.

Counsel:

Do you recall any of those people that were the prisoner? Who they were?

Witness:

No sir I don't recall.

Counsel:

Even a description of those soldiers?

Witness:

No sir I can't describe them at this time.

012234

Counsel:

What happened after that incident?

Witness:

The next individual that was sitting in front of me on the bus was an Iraqi Major. He was a police officer. This individual was wanted in a number of crimes...alleged murder and rape. As he sat in front of me...as I reached for this individual so he can come up on feet and move out, he was given a command to move. I handed him off to a Specialist who was not with my company. On his arm he had a tribal tattoo. He was wearing a short sleeve t-shirt. He accepted that prisoner and I heard someone make the comment, "is this the guy, is this the guy? Yea this is the guy. Get the females over here." My attention went to the top portion of the bus to get the next prisoner off the bus.

Counsel:

Did you see anything further with that prisoner that you just described?

Witness:

That prisoner was lead away. I don't believe he went to the same location as the others. Once again, that person was put on the ground with enough force that I can feel the ground under my feet. He was on the ground. There was a lot of confusion and screaming. I looked to see what was going on there. There was a cloud of dust and people surrounding this individual.

Counsel:

Did you have an opportunity to recognize any of the people, the soldiers, that were involved in surrounding that prisoner?

Witness:

Not at the standpoint that I had.

Counsel:

Where you able to observe the person who threw that person to the ground?

Witness:

No sir I cannot.

Counsel:

What happened after that?

012235

(b)(6)4 - 7C)4

Witness:

After the shock started to wear off that this was actually taking place...I don't know if it was immediately after that, but realizing that there was a problem right there, things started to slow down a little bit. There was a lot of confusion going on. Best I can recall, at one point when the prisoners were being taken off the bus and brought fifty feet behind the bus...that was not working. Someone broke the engineer tape that was marking one of the walls of the chute. I recall Specialist [REDACTED] who was one of our soldiers at the time, was escorting people from the bus to the chute, bypassing the front portion of the chute where these attacks were taking place. These people were going right into the chute and into the search area. That's how the rest of them were loaded on. Except for the last individual I that I saw...during that time the prisoners were not loaded off the bus five at a time. We were loading them off as fast as we could to get them away from the individuals that we thought were acting inappropriately. As we moved them into the chute through the broken tape area, I remember questioning a few people as they came off the bus. Their tags said civilians. The Intel that I had said they were possibly Republican Guard posing as civilians. I remember speaking with a couple of them that came off the bus, asking them if they were Republican Guard. They said no. I asked again. One told me yes he was Republican Guard. The information I make available to the people in the search area is information that I've always made available to the people in the search area or working on a mission. This information helps categorize these people as to where they're going to be segregated to. Two, what kind of people they actually are or accused of, so we know how to load the bus. The information I was giving out that night was clearly used to identify who these people were, in my opinion, beatings ensued. For what reasons, I still don't know. This information seemed to be used against the individuals.

Counsel:

You're standing at the base of the bus, right?

Witness:

Yes sir.

Counsel:

And as these prisoners come off, you're publishing to the escorts information about these prisoners so they are aware of who they're dealing with, right?

Witness:

Yes sir.

Counsel:

You said that was common practice for you?

Witness:

For me sir.

C12236

Counsel:

The purpose for doing that was what?

Witness:

The individuals who escort these people down to the search area, normally area in-processing personnel. In the past, the escort guard would stay by the bus, help unload the bus and maybe even help search one or two in the immediate area. They are always lead away by in-processing personnel. That night, I didn't see too many in-processing personnel. We got there at 2150. We waited a little while. There were a lot of MPs around. They helped with the escorting of these individuals. That's the way it went.

Counsel:

Do you recalled what happened with the prisoner that identified himself as Republican Guard, after you handed him off to escorts?

Witness:

He was lead away by an unidentified soldier. He was lead away in some kind of an arm bar. He was bent over the waist and lead away. The next individual was lead off in the same manner. The third individual caught on to what was going on. When I asked him if he was Republican Guard, he looked at me and said no.

Counsel:

With regard to the ones who identified themselves as Republican Guard, other than being led away in an arm bar, did you observe anything else happening to them as they were being led away?

Witness:

Not to those individuals sir.

Counsel:

Do you remember writing in your statement on the fourteenth of May, that you saw...one person identified himself as Republican Guard...the first two who admitted to being Republican Guard were led away in arm bar holds. There was an individual who came before me who allegedly had an intelligence officer for Uday Hussain, was handed to an escort. He was taken to the search area.

Halfway between the bus and the search area, I Witnessed the Master Sergeant and the unidentified escort, who was very tall, administer common strikes...knee to the leg, to his left and right thighs. Do you remember that?

Witness:

Yes sir.

Counsel:

Do you remember that statement?

C12237

Witness:

Yes sir.

Counsel:

Can you describe that observation?

Witness:

He was one of the last ones off, maybe within the last ten. As he was taken off the bus, it's my recount, that a person with such knowledge would be first in line to speak with MI in the in-processing area. This individual was identified by me as an intel officer reporting to Uday Hussain. As he was being escorted, I heard him yelling. He was in the chute, approximately fifty to seventy-five meters away. The chute itself had plenty of lights on it. At this point, I saw the E-8 and a tall escort that was delivering strikes to this individual while they had a good hold on him. He was screaming and yelling. You use that move to incapacitate somebody. You don't use that to motivate someone to walk or move faster. The strikes were delivered to the left and right thigh, yelling at the person to let's go. That's what I Witnessed.

Counsel:

Did the Iraqi prisoner who was being kneed in the legs, did he make any sounds?

Witness:

Yes. He was vocal about the pain he was in.

Counsel:

And you said that the E-8 was one of the people who led him away. When you refer to the E-8, who are you referring to?

Witness:

I'm referring to the soldier sitting at the end of this table, sir.

Counsel:

Let the record reflect that the Witness is pointing to Master Sergeant (b)(6) 5-7(c) 5. You said that there was another soldier, a tall soldier that was with her. Do you recognize that person in this room?

Witness:

I couldn't say who that soldier was sir. I don't hold myself a hundred percent sure on who that individual was sir.

Counsel:

Do you remember the sex?

Witness:

It was a male. It was the same individual who did the escorting with the Iraqi Major...the first incident that I Witnessed.

C12238

Counsel:

With regard to these prisoners that you observed being kicked and dragged, were any of them resisting their escorts?

Witness:

My opinion sir?

Counsel:

Yes.

Witness:

Again, I wasn't watching the actual procedure of how they were being escorted other than them being taken away from me in an arm bar. How they were escorted and what happened to them after they were taken from me...my focus was still on the bus. My standpoint was on the bus, unless I heard commotion. I would look and see what the problem was.

Counsel:

We talked about the Iraqi prisoner who had been wounded and you said you freed him of his restraints as he sat on the steps of the bus. What about the one that you identified as the interpreter, was that prisoner restrained when he was being escorted?

Witness:

I don't recall right now if he was restrained or not. Core-holding area personnel had been restraining individuals before they loaded them on the bus. It was welcomed. They would put tape across their hands. I know that first aid tape gets pulled off and put back on, on a three-hour ride. I did not tape him myself. I do not recall if he was taped before he got off that bus.

Counsel:

What about the one that you identified as the Iraqi Major who you heard voices say, "is this the guy, is this the guy", do you recall if he was bound?

Witness:

I believe he was bound. The only reason why I do know for sure that the Major was bound was I wanted him bound. He was the first person on the floor. The Intel I got was that he was a trainer for the Fedahyeen forces. I freed him before he could get off the bus so he could move with his crutches.

Counsel:

You said you witnessed the Master Sergeant and the tall soldier delivering the knee strikes to that soldier. Do you recall whether that prisoner was bound?

Witness:

I don't recall at this time.

012239

Counsel:

During the off-loading of this bus, do you recall whether Master Sergeant [REDACTED] made any statements that you heard?

(b)(6)5-7(c)5

Witness:

Towards the end of the process, one was taken off the bus. A tall man. He was wearing nice clothes. He might have been a car salesman. He had a lot of cash on him. He was one of the last individuals removed from the bus. The female E-8 was standing off to the side, outside of the chute. One of the soldiers, who took this individual, asked allowed if this one is the troublemaker; is this one a problem child. It was the E-8 who made the comment that if they're on that bus, they're all problem children. They're all troublemakers.

Counsel:

When you say E-8, you are referring to Sergeant [REDACTED]

(b)(6)5; 7(c)5

Witness:

Yes.

Counsel:

Do you recall during the process of traveling from Talil to Bucca, having a conversation with Sergeant [REDACTED] about any information he had received from Sergeant [REDACTED]

(b)(6)5 7(c)5

(b)(6)4 ) 7(c)4

Witness:

(b)(6)4-7(c)4 Sergeant [REDACTED] approached me in Talil. We always make sure we're ready to roll. He came up to me and told me that he was talking to that female E-8 over there, and she asked him if we do any personal interview time. He told me to watch yourself on the bus. I didn't think twice about it, but he had a look of concern on his face. We transport a lot of dangerous people. The look that he gave me was different from the look that we always get. I was concerned for a moment. I put it in the back of my mind.

Counsel:

How many missions have you been on, by twelve May, to pick up and transport prisoners?

Witness:

Prior to the incident on May twelve, I have logged twelve missions. Can I look in my log book sir, because I have those figures?

Counsel:

Yes.

CPT [REDACTED] (b)(6)2-7(c)2

Sir we'd ask that if the witness is going to refer to anything it needs to be marked and cataloged as evidence.

C12240

Witness:  
We'll its my log book ma'am, so I'll just go and wing it.

I/O:  
You didn't look at it?

Witness:  
No, sir.

I/O:  
Okay.

Witness:  
I'd say approximately thirteen hundred EPW's escorted up until that day.

Counsel:  
And you've done missions since then, correct?

Witness:  
Yes sir.

Counsel:  
In any of your missions that you've done before or after twelve May, have you ever seen U.S. soldiers conduct themselves in the manner which you observed these soldiers conduct themselves with regard to the treatment of prisoners?

Witness:  
No sir.

Counsel:  
Have you ever received training as an MP, with regard to handling of prisoners, that taught you that this type of behavior that was used was appropriate?

Witness:  
No sir.

Counsel:  
Thank you. I don't have any further questions.

#### **CROSS-EXAMINATION**

Questions by the defense counsel: CPT [REDACTED]

I/O:  
CPT [REDACTED]

(b)(6) 2 - 7(c) 2

012241

Counsel: (b)(6) 4-7(c)-4  
Sergeant [REDACTED], from the time that you arrived at Camp Bucca until today, you've never worked down in the internment facility, correct?

Witness:  
Correct.

Counsel:  
You've never worked as a compound guard?

Witness:  
Not here.

Counsel:  
Your primary duties have been as a convoy escort and dealing with the prisoners in that contact, right?

Witness:  
Yes ma'am.

Counsel:  
These escort missions, you said you've done twelve of them before, right?

Witness:  
Yes ma'am.

Counsel:  
And typically, this is a platoon level task, right?

Witness:  
Not always.

Counsel:  
Can you remember talking to me the last time I was here?

Witness:  
Yes ma'am.

Counsel:  
And we talked about how your Platoon Sergeant would make the determination as to who would go on these missions.

Witness:  
Yes ma'am.

012242

Counsel:  
It would come down from the platoon to you?

Witness:  
Yes ma'am. I thought you meant that the platoon would always go.

Counsel:  
No. The task would come from your Platoon Sergeant?

Witness:  
Yes ma'am.

Counsel:  
Often times, she'd come on the missions with you, right?

Witness:  
Yes ma'am.

Counsel:  
So he knew what was going on and what to expect?

Witness:  
Yes ma'am.

Counsel:  
And how you guys were doing, right?

Witness:  
Yes ma'am.

Counsel:  
You didn't have an SOP on how these missions were to be run, right?

Witness:  
Not that I was aware of on how they would be run, but we were graded on them in Fort Dix, when we went through our lanes, for those training exercises.

Counsel:  
But you didn't have an SOP, in writing, Company level, saying this is how we're going to do it every time, right?

C12243

Witness:

Escort guard has a mission that's posted. It talks about a mission statement. I have not seen an SOP that told me what I was to do when I got on the bus.

From my training at Fort Dix, it gave me a very clear outline on what our job was supposed to be. And you trained with the same people that you worked with from the 223<sup>RD</sup>, right?

Witness:

Yes ma'am. Up until that day I have.

Counsel:

You worked with these guys before?

Witness:

My soldiers yes ma'am.

Counsel:

And your soldiers were?

Witness:

SPC [REDACTED] was on the bus with me, SGT [REDACTED], SPC [REDACTED], SSG [REDACTED] ma'am.

Counsel:

So you knew how these missions were gonna work, because you'd worked with your company before and you guys had worked out the way that you were gonna handle the mission, right?

Witness:

That's fair to say, ma'am.

Counsel:

You know you'd figured out what was good what was bad and you went from there, right?

Witness:

Well we worked within the standards ma'am the guidelines that was set for us at Fort Dix when we went through the lanes and we got accredited to come over here.

Counsel:

Is there guidance on how many EPWs you can have per MP?

Witness:

Not that I'm aware of, no.

C12244

Counsel:

You know, if like for example if you've got 44 on the bus does that mean you have to have at least two, four, six--?

Witness:

We work as partners ourselves, ma'am. Myself and another individual could be on a bus with anywhere from 40 to 48 individuals on the bus at any given time. We're doing a right-seat ride ma'am so the extra personnel was good for experience as far as my thoughts were going. We're doing a right-seat ride and we wanted to get a few people on the bus, but it wasn't my call who the 320<sup>th</sup> put on that bus. I knew myself and SPC

66-4 [REDACTED] were more than capable and qualified to be on that bus to deal with 44 individuals.

Counsel:

I guess the question that I'm asking you is there guidance that says that you've got 44 people you have to have this many MPs to escort those 44 people?

Witness:

Not for the buses ma'am, we're stretched kind of thin.

Counsel:

So basically the limitation on the number of people you can put on the bus is the amount of space that you have, correct?

Witness:

We try to do with at least two ma'am, regardless of space we put at least two people on the bus. That's the way we've always done it.

Counsel:

Okay.

Witness:

We work as partners.

Counsel:

Okay, but the number of EPW's you're gonna put on the bus, the only limitation on that is the amount of space you've got on the bus, right?

Witness:

That'd be fair to say, ma'am.

Counsel:

And the buses could be mixed right?

Witness:

Mixed, ma'am?

012245

Counsel:

There are certain categories of EPWs you segregate, right?

Witness:

That's correct ma'am.

Counsel:

How do typically see EPWs segregated?

Witness:

To segregate them ma'am we just divide them into officers, enlisted, juveniles, uh...not transported any females, but that would be another category, uh--religious background uh we would go and segregate them to that effect if possible.

Counsel:

But it's okay to have all those categories of people on one bus?

Witness:

Uh...whether it's okay or not ma'am it's not my call it just happened, yes ma'am.

Counsel:

Okay, so sometimes it would happen that you'd have mixed buses?

Witness:

Oh, yes ma'am.

Counsel:

Now, is--was typical to put the high-risk people up front, correct?

Witness:

It wasn't typical ma'am it was just they way we did business.

Counsel:

If you had your preference you'd put those high-risk people up front where you could see them, right?

Witness:

Yes, ma'am.

Counsel:

Now, with regards to the rules of engagement, there's nothing in writing that tells you specifically these are the rules of engagement for escorting EPWs correct?

C12246

Witness:

The rules of engagement are published everyone's got a copy ma'am they're all over the base camp they're hanging by the TOC I have copies for my soldiers we have them all over.

Counsel:

Right, they're not specific to EPW escort correct?

Witness:

They specific theater wide as far as rules of engagement are concerned in any way shape or form ma'am.

Counsel:

So you don't have any more specific guidance other than the general ROE.

Witness:

General ROE, yes ma'am.

Counsel:

Now, you testified that this was a right-seat ride, correct?

Witness:

To my knowledge ma'am that's the information that I received.

Counsel:

You're pretty familiar with how the right-seat left-seat ride procedure works, right?

Witness:

Yes I am.

Counsel:

Okay--so if you're in the right-seat what are you doing?

Witness:

You're learning ma'am.

Counsel:

And who was in the right-seat on this mission?

Witness:

That was gonna be the 320<sup>th</sup> personnel which was my understanding.

Counsel:

And typically when you're do one of these right-seat left-seat rides somebody shadows you, right? Someone would shadow you SGT [REDACTED] and follow you around and you'd say hey this is what I'm doin' and this is how? (S)(b)(4) - 7(C)(4)

012247

Witness:

If I wanted to learn the job ma'am I would be with those people that were to train me, yes ma'am I would feel that I would be obligated to go and pay attention to what they were saying and what they were doing what they were trying to teach me.

Counsel:

Okay.

Witness:

But again with serious business going on and loading prisoners ma'am I didn't go look for anybody to say this is what I'm doing I was doing my job at the same time that I was trying to let people see what it was that I was doing and open myself to any questions at that time.

Counsel:

Okay, you're the trainer they're the shadower or they're the --they're the observers they're taking it in.

Witness:

Fair to say ma'am.

Counsel:

When you got to Talil you get an Intel briefing from the 744<sup>th</sup>, right?

Witness:

They don't brief me ma'am I just ask, "what's up? What have we got?"

Counsel:

Okay, 'cause you think it's pretty important to know who's on the bus, right?

Witness:

It is important to me yes ma'am.

Counsel:

And on this bus you thought to yourself wow this is quite a crew I've got tonight, right? On this particular bus struck you that there were so many people that were high-risk?

Witness:

Uh--no typical--I've had loads with less I've had loads with more ma'am, but yeah I figured there was a few individuals on there that uh--probably capable of being a security risk for my self from my standards.

Counsel:

You learned that you had nine potential assassins on the bus, right?

C12248

Witness:  
That is correct ma'am.

Counsel:  
You learned that you had two police officers who were accused of very serious crimes, such as murder, right?

Witness:  
And a rape ma'am.

Counsel:  
And rape? You learned that you had someone who reported to Uday Hussein-is his intelligence officer-on your bus, right?

Witness:  
That's correct ma'am.

Counsel:  
You learned that you had an Iraqi general potentially on the bus, right?

Witness:  
Major General yes ma'am.

Counsel:  
A Major General? Okay, so in total you though I've got 14 to 15 people that I've got to watch carefully, right?

Witness:  
I don't watch them any different than I watch the others I just keep those up front so they're closer to me so I can actually see them better than the others. I don't put a used car salesman up in front of the bus ma'am because he's in the back just wondering what's gonna happen to him I'm sure he's got other things going through his mind other than trying to jump through a window or jump on me with a 12 gauge shotgun. Nine assassins would definitely qualify in that rarity for me.

Counsel:  
So these are the guys you want up front, right?

Witness:  
Yes ma'am.

Counsel:  
Now they way the loading procedure works is that you're standing at the foot of the bus, right?

Witness:

C12249

Correct.

Counsel:

And you had one soldier on the bus, correct?

Witness:

Yes ma'am.

Counsel:

And that individual was from the 320<sup>th</sup>, right?

Witness:

To my knowledge ma'am he was.

Counsel:

And he was the one that was putting your EPWs in their seats, correct?

Witness:

That's correct ma'am.

Counsel:

Then you check off all the names then you get on the bus, right?

Witness:

After it was all said and done yes ma'am I did enter the bus.

Counsel:

Were any of the EPWs in the isle-way of the bus, or were they all in seats?

Witness:

They were in the isle-way ma'am--some.

Counsel:

Okay, if they're in the isle-way are they sitting or kneeling?

Witness:

They're sitting ma'am.

Counsel:

Sitting in the isle-way?

Witness:

Yes ma'am.

Counsel:

How many people can you fit in the isle-way?

C12250

Witness:

I don't recall ma'am how many people you can fit in the isle-way.

Counsel:

I'm thinking across--do you know how many people you...if you're looking across how many people are sitting in the isle-way?

Witness:

I'm not following what you're asking ma'am.

Counsel:

You're standing on the bus, and you look in front of you and you see a row of people, right?

Witness:

Correct--sitting in seats ma'am you're referring to?

Counsel:

Yeah--you got the people in the seats and then you've got some people in the isle-way?

Witness:

Yes ma'am.

Counsel:

In that first row how many people can you fit side-by-side in the isle-way?

Witness:

Side-by-side in the isle-way--just one ma'am in the isles just one person.

Counsel:

Okay, so there are people in the isle-way and people in their seats?

Witness:

That's correct.

Counsel:

And when you got on the bus the EPWs were pretty far back on the bus, correct?

Witness:

They were ma'am.

Counsel:

You thought to yourself, "Wow he's really got them packed in there," right?

Witness:

C12251

I made that comment ma'am.

Counsel:  
You left them the way they were, right?

Witness:  
I did ma'am.

Counsel:  
Okay, and then you guys drove on?

Witness:  
Yes ma'am.

Counsel:  
Now, you talked about um--what happened on the ride back--pulling the bus over, right?

Witness:  
Yes ma'am.

Counsel:  
You heard a noise? Right you heard a pop?

Witness:  
Air escaping yes ma'am.

Counsel:  
And you trained your weapon on the EPWs, correct? They were your focus?

Witness:  
Yes ma'am.

Counsel: (b)(6) 4 - 7014  
And then you started screaming back to [REDACTED] right?

Witness:  
Uh--it was in a loud commanding voice ma'am, but--

Counsel:  
Well did you turn around or yell over your shoulder "what the fuck is going on"?

Witness:  
Over my shoulder ma'am.

Counsel:  
Multiple times, right?

C12252

Witness:  
Quite often, yes ma'am.

Counsel:  
Okay, and at the same time you're yelling at SGT [REDACTED] too right?

(b)(6)5; 7(c)5

Witness:  
To make radio contact yes ma'am.

Counsel:  
'Cause you wanted them to know that you guys had had a problem on the bus, right?

Witness:  
That's correct.

Counsel: (b)(6)4; 7(c)4 (b)(6)5 - 7(c)5  
So you're yelling at [REDACTED] and you're yelling at [REDACTED] right?

Witness:  
Yes ma'am.

Counsel:  
Then the bus stops, correct?

Witness:  
Correct.

Counsel:  
And you're focus is on those EPWs, right?

Witness:  
Always ma'am.

Counsel:  
So you're not sure who got on the bus at the stop?

Witness:  
No ma'am.

Counsel:  
When you got to the in processing site...typically there's a team there to meet you, correct?

Witness:  
That's usually the way it went ma'am.

C12253

Counsel:

And on this night there was no team, right?

Witness:

I did not see one.

Counsel:

And they way the uh--concertina wire and the tents are set-up it's not the same every time, right?

Witness:

I can't tell you when it changed but I can actually remember that that night it was changed for whatever reason they changed it ma'am.

Counsel:

So it was different on this night?

Witness:

It was different on this night ma'am.

Counsel:

And it was different in that the shoot was really long, right?

Witness:

Yes ma'am.

Counsel:

The shoot was actually 200 to 250 yards long, would you say?

Witness:

If I had to give a guess ma'am I'd probably guess in the 200-meter range yes ma'am.

Counsel:

Okay, now you said that uh--well let me back up, the shoot itself was dark, correct?

Witness:

No ma'am.

Counsel:

Do you remember talking to me about two weeks ago?

Witness:

Yes ma'am.

Counsel:

Up here in the TOC?

C12254

Witness:  
Sure did ma'am.

Counsel:  
And we talked a little bit about lighting conditions, right?

Witness:  
Yes we did ma'am.

Counsel:  
And you told me then that the shoot was dark and you couldn't see very well, can you remember that?

Witness:  
I remember making a comment that it was minimal lighting in certain parts of it, but the shoot that we're talking about right now, ma'am, was well bathed in light.

Counsel:  
Do you remember telling me that "I couldn't read a book in that light"?

Witness:  
The light right next to the bus ma'am.

Counsel:  
Okay, so the area right next to the bus is minimally lit?

Witness:  
That's correct ma'am it's got lighting that comes at it--if that would be safe to say that if I made that statement ma'am it's accurate.

Counsel:  
Okay, and then the shoot you've got some shadows and----

Witness:  
The shoot that I'm speaking of ma'am is a small portion that goes from 50 feet to the back of the bus that they lead the EPWs and it had a little bit of a hook to it and then it opened up into a big wide area that big wide area that extended approximately 200 meters to the search area was well bathed in light on both sides whether they were small generators or actual posted lights I don't recall what they were but I do know from our discussion that the information that I provide you with on the actual lighting conditions were accurate that yes I could see the actual book in front of me over by the bus and I could know that it was a book, but would I stand there and read it, not with the amount of light that I had there by me not at that time.

Counsel:

C12255

Okay--let me just back up for a minute--other than the air hose popping on the bus you said that nothing unusual happened?

Witness:  
Correct ma'am.

Counsel:  
Can you remember the interpreter scrunching down in a spot where you couldn't see him?

Witness:  
No ma'am.

Counsel:  
Can you remember talking to me about that when I was here last time?

Witness:  
No ma'am.

Counsel:  
That you saw the interpreter scrunch down where...actually you didn't see it the one of the 320<sup>th</sup> soldiers on the bus saw the interpreter scrunch down and pointed it out to you on the bus?

Witness:  
I remember one of the 320<sup>th</sup> saying something--but if it was the individual, I don't recall at this time.

Counsel:  
What do you remember about the 320<sup>th</sup> person----

Witness:  
The individual that was sitting across from me, maybe a couple of seats up towards the front of the bus, he just kind of stood up over the top of the bus--what he said or heard at this point I don't recall.

Counsel:  
But it was his concern was he was starting to lose sight of one of the EPWs, right?

Witness:  
Whatever his concern was ma'am I don't recall at this time.

Counsel:  
You don't recall telling SPC [REDACTED] to make the correction?

Witness:

(S)(6) 4-704

C12256

No ma'am.

Counsel:

At any point on the bus--on the ride back, did SPC [REDACTED] or anyone on the bus assault any of the EPWs?

(b)(6)4-764

Witness:

I don't recall ma'am.

Counsel:

Did they or didn't they?

Witness:

I don't recall any incident taking place where anybody got assaulted on the bus ma'am.

Counsel:

You can't remember or it didn't happen, 'cause that's kind of two different things.

Witness:

Sitting here right now ma'am I don't recall...I don't remember anything like that happening at all.

Counsel:

So it's possible that SPC [REDACTED] could have hit one of the EPWs on the bus with a bottle?

(b)(6)4-764

Witness:

I couldn't say for sure ma'am...I couldn't say for sure what happened on that bus as much as I couldn't say who was the other person on the--stomping on the EPW ma'am--I'm not 100 percent sure. I don't guess. I don't recall at this time.

Counsel:

Okay, you were the NCOIC on the bus, right?

Witness:

Yes, ma'am.

Counsel:

So if you saw one of your soldiers hit an EPW over the head with a bottle you'd stop it right?

Witness:

Hit him in the head with a bottle ma'am?

Counsel:

Yeah a bottle. A plastic bottle.

C12257

Witness:  
Okay.

Counsel:  
Did you see anything like that happen on the bus?

Witness:  
No.

Counsel:  
You get to Bucca we talked about the set-up, right? Then it's time to unload, correct?

Witness:  
Yes ma'am.

Counsel:  
Who did you leave on the bus to unload? Can you remember?

Witness:  
He was a Spec-four ma'am but I don't recall at this time.

Counsel:  
Was he one of your guys or was he one of the 320<sup>th</sup>?

Witness:  
No ma'am he was not with my company.

Counsel:  
As that Specialist was unloading prisoners, was he pushing them in the back?

Witness:  
I couldn't see that far up on the bus ma'am. I was at the door and all I would see is an individual appear before me one-at-a-time was all.

Counsel:  
And you're the first person that that EPW comes to, right?

Witness:  
That's correct ma'am I'm at the bottom of the bus.

Counsel:  
So you can check his tag and move him out, right?

Witness:  
That's correct.

C12258

Counsel:

Did you at any time pull any of that those guys off the bus?

Witness:

Pull off the bus ma'am?

Counsel:

Yeah, pull any of the EPW's off the bus?

Witness: There was one individual that was seated. It was the Iraqi major. It was time for him to go. He was seated, and I reached down and held him by his shirt, hoisted him up, escorted him, get out of my sight kind of thing ma'am.

Counsel:

Did you use one hand or two?

Witness:

Just one ma'am.

Counsel:

Did you throw him on the ground?

Witness:

No ma'am.

Counsel:

Okay, any other prisoners you can remember physically grabbing and pulling off the bus?

Witness: No not physically grabbing ma'am I physically stopped a few of them because they did not understand the process and they would want to follow the person up in front of them. I remember straight on and a couple of them telling them to stop, and the major was one of them that's why I told him to have a seat on the bus steps.

Counsel:

And then you told him to get up and he wouldn't get up?

Witness:

I told him "let's go" and I guess he didn't understand what I was saying so I reached down by his shirt did one of those "now you understand" kind of deals.

Counsel:

Okay, you said you cut the tape on his hands, right?

Witness:

C12259

That would be the Iraqi major--the person that I took by the shirt was the Iraqi police major ma'am.

Counsel:

Oh okay, all right--I'm thinking that...so the one person that you grabbed was the Iraqi police major?

Witness:

Yes, ma'am.

Counsel:

All right, the Iraqi major with crutches--she was also sitting on the steps of the bus?

Witness:

Yes ma'am he got down on the bottom of the steps yes ma'am.

Counsel:

And did he get up when you told him to?

Witness:

No ma'am he was actually complaining about something--and uh--believe there was an interpreter that was present and--uh the interpreter was asked what's he saying and he said "he wants help."

Counsel:

Okay, and did you help him?

Witness:

No ma'am.

Counsel:

What did you do?

Witness:

Just stood there and told him to get up.

Counsel:

Okay, did he get up on his own?

Witness:

Yes ma'am he did.

Counsel:

All right, and he's the one you cut the tape for, right?

Witness:

C12260

Yes ma'am.

Counsel:  
How did you cut the tape?

Witness:  
With a big knife.

Counsel:  
Where did the knife come from?

Witness:  
My chest ma'am.

Counsel:  
Where...could you tell me where you had it on your chest?

Witness:  
Right here on my chest (indicating the chest).

Counsel:  
Oh okay...all right...about how big is the blade on the knife?

Witness:  
Approximately 12 inches long ma'am.

Counsel:  
Alright, so you just cut the tape and let him--

Witness:  
Yes ma'am.

Counsel:  
And let him go? Okay, ...now, ...you saw the major fall on the ground, correct?

Witness:  
Yes ma'am.

Counsel:  
This happened behind you, right?

Witness:  
Correct ma'am.

C12261

Counsel:

If you had to give me a direction this happened at your 7 o'clock, right?

Witness:

Be a good guess yes ma'am.

Counsel:

And the second EPW you talked about was the interpreter, right?

Witness:

Yes ma'am.

Counsel:

And you couldn't really see what was happening with him, right?

Witness:

No ma'am I could not see at that time not from my vantage point.

Counsel:

'Cause there were people standing in front of you and in between where you were trying to look?

Witness:

Yes ma'am.

Counsel:

What was the direction on that?

Witness:

I would probably...on that same...the door of the bus was 12 o'clock-that would be my 9 o'clock ma'am.

Counsel:

And the Iraqi major that was accused of rape, that happened behind you as well?

Witness:

Yes ma'am...more to my left side approximately 8 o'clock ma'am.

Counsel:

And that last EPW-the intelligence officer, right?

Witness:

Yes ma'am.

Counsel:

He got off the back of the bus, right?

C12262

Witness:  
No ma'am.

Counsel:  
The last EPW that you witnessed he didn't come off the back of bus?

Witness:  
There was only one instance of an exit off the bus is that what you're referring to ma'am?

Counsel:  
No, no, no...I'm sorry he was sitting in the back of the bus--

Witness:  
Oh yes ma'am.

Counsel:  
He was one of the last people off, right?

Witness:  
Yes ma'am.

Counsel:  
I'm sorry.

Witness:  
That's all right ma'am.

Counsel:  
That happened behind you as well?

Witness:  
That's correct ma'am.

Counsel:  
At probably your 6 o'clock, so directly behind you?

Witness:  
I give that a 6 o'clock and that was up in that well lit wide shoot there.

Counsel:  
About 200 feet behind you, right?

Witness:  
Maybe a little less than that ma'am.

C12263

Counsel:

After you saw the first EPW go down on the ground-did you say anything?

Witness:

Did I say anything?

Counsel:

Yeah, to try and stop what was going on?

Witness:

No ma'am.

Counsel:

Any reason why not?

Witness:

No ma'am no reason at all.

Counsel:

After you saw that first guy go down, did you consider leaving the EPWs on the bus?

Witness:

No ma'am.

Counsel:

Why not?

Witness:

I had no idea what was going on at that time.

Counsel:

With the uh...the prisoner that was accused of rape, ...you heard someone say "get the females over here", right?

Witness:

Yes ma'am I did.

Counsel:

You escorted people accused of rape before, correct?

Witness:

Not personally ma'am, but I've loaded them on my bus.

Counsel:

So you'd had them on the bus, right?

C12264

Witness:  
Yes ma'am.

Counsel:  
And it wouldn't be unusual for you to allow your female soldiers to escort someone that was accused of rape, right?

Witness:  
They're qualified MP soldiers just like myself, so it wouldn't be unusual at all.

Counsel:  
You saw as kind of ...err you would see it as kind of poetic justice to let the females walk the--

Witness:  
That would be a term that I've used in the past ma'am, yes ma'am.

Counsel: Thank you, I'll let the other counsel go ahead.

Questions by the defense counsel: MAJ [REDACTED] (S)(6) Z; 702

Counsel:  
Along uh...what we were just talking about uh--the somebody said "get the females over here", was that a male or female voice that said that?

Witness:  
It was a male voice ma'am.

Counsel:  
Do you know who said it?

Witness:  
No ma'am ...uh I stand corrected ma'am that was...it was a male voice that said "is this the guy?" ma'am, he said "is this the guy?"...Uh who yelled out "get the females over here" I don't recall knowing if that was a male or female voice ma'am I stand corrected on that.

Counsel:  
Thank you. And about how far away was this from you? That these statements were being made?

Witness:  
Between 8 and 10 feet ma'am.

012265

Counsel:

You also talked about there was some prisoners getting off that claimed to be civilians, you had Intel that they were Republican Guards and you would ask them as they got off "are you Republican Guard" and you said that the first one said yes, and he was dragged away under his arms; the second one said yes I'm Republican Guard-dragged away under the arms; and the third one had caught on you said by that point, and when he was asked if he was Republican Guard you said that he said no uh....they were brought to the door one-at-a-time, correct? To the bus door one at a time?

Witness:

Yes ma'am.

Counsel:

And the shades were down in the bus, correct?

Witness:

I couldn't account for what the shades were doing at that time ma'am on the bus.

Counsel:

The shades were down the whole time of the ride, correct?

Witness:

I wasn't watching the shades ma'am they peek out from time-to-time and you try and tell them not to.

Counsel:

But they were closed and your intention was for them to stay closed, correct?

Witness:

That would be my intention on the bus yes ma'am to keep them closed.

Counsel:

And when they did open them you told them to knock it off and to close the shades?

Witness:

Roger, if was apparent they were looking out the window we would tell them to stop looking out the window for obvious reasons of convoys in the area we didn't want anybody to draw attention to ourselves.

Counsel:

So you don't recall...you didn't open the shades when the bus pulled into Bucca?

Witness:

No ma'am.

Counsel:

C12266

And you don't recall anybody else opening all the shades, correct?

Witness:

No ma'am not at all.

Counsel:

And you were asking the question "are you Republican Guard?" while they were still on the steps of the bus, correct?

Witness:

That's correct ma'am.

Counsel:

So really they couldn't see much of what was going on in front of them 'cause they were brought one-at-a-time to the door, correct?

Witness:

I couldn't account for what they could and couldn't see ma'am.

Counsel:

But the shades were down ...they couldn't see through them, correct?

Witness:

No ma'am if the shades were in the proper working order and they were hanging in the windows as I suppose they were --no ma'am you can't see through those shade when they are hung in front of a window.

Counsel:

So what made you think that this third EPW denied being Republican Guard because he caught on to how he'd be treated?

Witness:

I couldn't tell why he said what he said ma'am it was just my opinion.

Counsel:

Just one moment please....and you said there was a um...back to this EPW where there was some talk about "get the females", you said there was a specialist with a tattoo that had taken him off the bus?

Witness:

That I handed him to ma'am.

Counsel:

You handed him to...so you didn't see that specialist hitting him did you?

C12267

Witness:

No ma'am ...not that I saw at that time, no I didn't see that specialist hit him at all I couldn't identify that specialist if he did or not, no.

Counsel:

Thank you. No further questions.

Witness:

Your welcome ma'am.

Questions by the defense counsel: CPT [REDACTED] (b)(6) 2; (b)(6) 2

Counsel: (b)(6) 4 (b)(6) 4

SGT [REDACTED] in uh--all these escort missions prior to the 12<sup>th</sup>, did you ever have an EPW resist in any way while being escorted?

Witness:

Not me, sir.

Counsel:

Have you ever witnessed anyone on any of these escort missions have an EPW or have you ever seen an EPW resist in any way?

Witness:

I've seen EPWs come off of that bus and be escorted by individuals that maybe the EPW felt a little uncomfortable or maybe it was because his pants were falling down around his ankles and couldn't keep up or it could appear that way, but as far as I would consider a resisting EPW-negative, sir.

Counsel:

Okay, and I'm not talking specifically about any of the things that you say ...that you testified you saw on the 12<sup>th</sup>...I'm talking at any point in some time in the missions that you did before that and all the prisoners that you escorted before that or since the 12<sup>th</sup>-did you ever seen any EPWs resist?

Witness:

No, sir I have not.

Counsel: (b)(6) 4 (b)(6) 4

You uh...SGT [REDACTED] you gave some sort of-not really briefings-but you gave some guidance on the bus, is that correct? to some of the 320<sup>th</sup> people?

Witness:

From my personal experience yes sir.

C12268

Counsel:

Right, and that was on the ride mostly on the ride up to Talil, is that correct?

Witness:

I don't recall...it must have been, sir on the ride up to, but I don't think I would have said it twice, sir.

Counsel:

Maybe I don't ...I'm not hearing or understanding what do you mean you wouldn't have said it twice?

Witness:

That same bit of information I --I believe I said it twice, but I don't recall when-if it was going to or from.

Counsel:

Okay, I understand...but at some point you did sort of an informal thing (inaudible)

Witness:

Oh, yes sir.

Counsel:

Okay, and you told, specifically, you said to the 320<sup>th</sup> that it was very important that they establish control on the bus, correct?

Witness:

It's always important to establish full control, sir.

Counsel:

And the reason for that is 'cause there's only two MPs, generally, there's only two MPs on the bus and possibly up to 40 to 44 EPWs, correct?

Witness:

That's correct ....but not all the time sir as far as the count goes.

Counsel:

Right, okay...that at a maximum--

Witness:

Capacity.

Counsel:

And there was--on the way back there was an incident with uh...the major was suspec...police major that was suspected of rape looking at SGT [REDACTED] correct?

Witness:

(S/6/5-7/5-5

012269

(b)(6)S-  
7C)S { Looking at SGT [REDACTED]? I believe I recall that now, sir.

Counsel:

And in fact you had to tell that Iraqi major to keep his eyes down and stop staring at SGT [REDACTED]?

Witness:

I do recall that sir yes sir I do.

Counsel:

Okay, ...the uh...the intelligence that you received on these EPWs um...to the extent that you could you shared that with the escorts as you were bringing those EPWs off the bus, correct?

Witness:

With the escorts that were up at the bus-yes, sir I was.

Counsel:

So if you had someone coming off the bus that was a FEDAHYEEN major you would say, "hey this guy's a FEDAHYEEN major"?

Witness:

That's correct.

Counsel:

And if you had someone that was coming off the bus that was assassin that was suspected of being an assassin you'd say "hey this guy's an assassin"?

Witness:

That's correct sir.

Counsel:

Okay, and that's so they knew what they were dealing with, for their own protection, and for protection of everyone else.

Witness:

Yes sir.

Counsel:

And that night do you remember taking a specific note to tell the uh...folks from the 320<sup>th</sup> that uh...that there were 14 or 15 high-profile bad guys?

Witness:

I believe I told a few of them, sir.

012270

Counsel:

Okay, and you wanted to make sure that these were not just your run-of-the-mill privates that they were dealing with, correct?

Witness:

That would be safe to assume that, sir that is usually my intention when you indulge that information to others in the patrol or in the convoy yes sir.

Counsel:

Okay, ...SGT [REDACTED] you haven't been uh...you haven't been read your rights with regards to this investigation have you?

Witness:

No sir I have not.

Counsel:

I don't have any more questions, sir.

I/O:

Major [REDACTED] do you want to redirect?

CPT [REDACTED]

I'm sorry sir, I have a few more questions.

Questions by the defense counsel: CPT [REDACTED]

Counsel:

SGT [REDACTED] you testified that these individuals had medical tape on their hands when they got on the bus?

Witness:

Some ma'am that I recall yes ma'am.

Counsel:

And you also testified that sometimes during a three-hour trip that medical tape could often come off, correct?

Witness:

Well if they don't take...they take it off ma'am. They work their wrists in as such a point where the tape actually rolls up and they can move their hands out so they can eat, be more comfortable, and do whatever it is that they do under the seat...they uh...can move that tape, but I've seen that before ma'am, yes ma'am.

Counsel:

And often times they will actually get out of that tape and than put it back on to make it appear as though their hands are still taped when they get off the bus?

C12271

Witness:

Well it's never in the same configuration as when it's put on so it's noted that they have had their hands out, but yes ma'am it has happened in the past.

Counsel:

Now, you stated that there were three individuals on the bus that were suspected of being Republican Guard, correct?

Witness:

No ma'am...13 ma'am.

Counsel:

13 individuals?

Witness:

Yes ma'am...okay you talked about offloading three individuals in a row that were suspected of being Republican Guard?

Witness:

Yes ma'am.

Counsel:

And you said you were questioning them as to whether or not they were Republican Guard?

Witness:

Yes ma'am--I just asked them if they were Republican Guard.

Counsel:

Did you ask them in that same tone of voice that you just used here in the hearing tent today?

Witness:

Was it the same tone of voice? No I was probably a lot louder, ma'am.

Counsel:

Now you stated that you were carrying a knife with a 12-inch blade that night?

Witness:

As I always do ma'am.

Counsel:

And you were wearing that on your flak vest across your chest?

012272

Witness:  
That's correct ma'am.

Counsel:  
Now, you stated you took that knife out when you cut the major's medical tape off his hands, correct?

Witness:  
That's correct ma'am.

Counsel:  
That's night the only time you took it out of sheath that night though, correct?

Witness:  
I don't recall any other time, ma'am.

Counsel:  
You actually took that knife out and were holding it to the prisoner's necks as they were getting off the bus.

Witness:  
No ma'am I don't recall that at all.

Counsel:  
You don't recall that or it didn't happen?

Witness:  
No ma'am that didn't happen and I don't recall any such activity on my behalf at all.

Counsel:  
Now, when...you uh...you said...you testified earlier that nothing happened with these three Republican Guard individuals originally when they got off the bus, but then MAJ [REDACTED] read to you a portion of your prior statement? Do you recall that happening in this hearing?

(b)(6) 2

7(c) 2

Witness:  
Three Republican Guard ma'am?

Counsel:  
You testified that there were three individuals you were questioning about being Republican Guard you were offloading off the bus, correct?

Witness:  
Correct ma'am.

012273

Counsel:

And you testified earlier in this hearing that nothing happened with them when they got off the bus, but then MAJ [REDACTED] read to you a portion of your prior sworn statement, correct?

(b)(6)2 - 7(c)2

Witness:

MAJ [REDACTED] read a portion of the statement yes ma'am.

Counsel:

Do you recall what happened to those individuals from your own memory or simply do you recall that it's in your sworn statement?

Witness:

Those three individuals ma'am that came off the bus is with the other individuals-the individuals that I did see --views in my opinion I wrote down that sequence of event that I witnessed. Anything else that happened-I would have put it-if I would've witnessed anything happen to anybody else ma'am.

Counsel:

Do you recall it personally today or do you just know that it's in your statement?

Witness:

I recall it personally ma'am.

Counsel: (b)(6)4 - 7(c)4

SPC [REDACTED] is a member of your squad, is that correct?

Witness:

Yes ma'am.

Counsel:

How long has she been a member of your squad?

Witness:

\* Since she was assigned to us back in Louisville Kentucky back in ....actually she was in the squad before I showed up ma'am...so she might have been in that squad for a time longer than I showed up.

Counsel:

At any point when she was in your squad did you have to discipline her for kicking EPWs?

Witness:

No ma'am.

C12274

Counsel:  
You never had to discipline her for kicking EPWs?

Witness:  
No ma'am.

Counsel:  
Now, has she had any other squad leaders?

Witness:  
Not that I'm aware of ma'am.

Counsel:  
So if she says that she was disciplined for kicking EPWs who would of done that?

Witness:  
That would be her squad leader ma'am or her team leader.

Counsel:  
And you are her squad leader?

Witness:  
Negative ma'am.

Counsel:  
You're her team leader?

Witness:  
Negative ma'am.

Counsel:  
You're not her team leader?

Witness:  
No ma'am.

Counsel:  
You said that your attention was focused on the bus and there is at different points some commotion behind you?

Witness:  
Yes ma'am.

Counsel:  
You didn't see how any of those commotions started, correct?

012275

Witness:

Um...the first individual that I saw that was pushed down I saw how that one started I just happened to look over when I heard him yelling "come on let's go let's go". He was the first individual off the bus and I saw him pushed in the back, between the shoulder blades, into the ground.

Counsel:

No idea what happened before you turned your head to look back over your shoulder?

Witness:

No ma'am.

Counsel:

Even after you heard these commotions you continued to hand soldiers off the bus at exactly the same rate as you had before? Correct?

Witness:

That wasn't it--no I wouldn't say that was true. not at the same rate ma'am. I didn't have a rate that I was taking individuals off the bus ma'am.

Counsel:

You continued to hand the soldiers off the bus as the escorts came up to escort the soldiers, correct?

Witness:

That is correct, ma'am.

Counsel:

And you never said a word to any of these soldiers, correct?

Witness:

I didn't know who they were ma'am...they were soldiers that were right there-qualified Military Police Officers, they were on the ground to do this escort to do these escorts over to this area they were searching them or the area that they were getting them down on the ground. Those are who I handed those EPWs off to ma'am.

Counsel:

(b)(6) 4 ; 7(c) 4  
And SGT [REDACTED] was this a right-seat ride?

Witness:

To my recollection ma'am it was.

Counsel:

Thank you. No further questions.

IO: Major [REDACTED]

(b)(6) 2 - 7(c) 2

012276

## REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6) 2-7612

Counsel: (b)(6) 4-7614

SGT [REDACTED] did there come a time in this process where you were reading out and publishing to the escorting soldiers uh...what these prisoners were suspected-did there come a time when you stopped doing that?

Witness:

I wasn't making it as loud, because it was my opinion that the information that I was giving out was being used against the individuals that were coming off the bus. uh...at that point that's when shoot opened up behind me when the tape was broken off and it wasn't five at-a-time five at-a-time you know five at-a-time and wait. It was more one with one MP coming up and getting him, going through the shoot, and that was it. At that individual that come up and got those people from me I might've said "this is major general he's an officer you take him on down there" and one individual stands out in my mind he said he was a student and started to cry...uh...and I told that individual that it would be okay, and he said he'd never see his mom again, and I told no you will you'll be alright just do what they ask you to do and you'll be okay. And that individual I handed to I don't know what rank he was, he was a young soldier I'd never seen before, and I said you take him on down that way ...uh...but I was still giving the information to the people but not in such a manner as in you know...it was just more of a one-on-one where before-hand it was probably louder as in this is what we got because coming past me and there was a line of MPs waiting to pick-up who they wanted.

Counsel:

With regard to these prisoners as they were when you were observing the things that were happening to them when they were being kicked and punched um...you testified that they were many of them were screaming in pain, right?.

Witness:

Yes sir.

Counsel:

Was the screaming loud?

Witness:

Yes sir.

Counsel:

Do you think it was possible that people or that prisoners on the bus could've heard that screaming?

C12277

Witness:

I was, my recollection, fifty feet away-I even heard the one man screaming all the way up in the shoot was almost 200 feet away. It would be quite possible that the individuals on the bus might have heard that with the door open.

Counsel:

Thank you.

#### RECROSS-EXAMINATION

Questions by the defense counsel: MAJ [REDACTED] (b)(6)2 - 7C12

Counsel:

Back to this Iraqi major on crutches that you had to cut his tape with the knife, he had asked he said he couldn't move uh--he wanted help, and you didn't help him, correct?

Witness:

That's correct ma'am.

Counsel:

And...why didn't you help him?

Witness:

Because I was only one that was standing in front of him.

Counsel:

Did you give him his crutches?

Witness:

Yes ma'am.

Counsel:

Did you think he was acting?

Witness:

I don't recall if he was acting or not ma'am I just went with what I had at that moment and I wasn't going to get any closer to that individual who was a major identified to me as a trainer of FEDAHYEEN soldiers with all kinds of tactics, unarmed self defense to my best recollection I wasn't getting any closer to him than I needed to, so therefore I got him his crutches after I freed his hand and let him go ahead and pull himself up and move himself off to the area he was told to move to ma'am.

Counsel:

He was dangerous enough that you didn't even want be near him?

012278

Witness:

It's not that I didn't want to be near him ma'am, but I tell if there was no reason for me to go over there and help him I've seen other people come off the buses with missing limbs and they do just fine ma'am.

Counsel:

Now, do you recall in you statement to CID on 13 May that you said, "the first man the crutches the major acted as if he could not move well"?

Witness:

If that's in my statement ma'am I said that yes ma'am.

Counsel:

Thank you. I have no more questions.

I/O:

Anyone else?

**Questions by the defense counsel: CPT [REDACTED] (b)(6) 2 - 7(c) 2**

Counsel: (b)(6) 1 - 7(c) 1

SGT [REDACTED], as these guys are getting ready to come on the bus, at Talil, right? Did your guys search them before they got on the bus?

Witness:

No ma'am.

Counsel:

Did your guys bring any kind of restraints with them, Flexi-Cuffs or hand-cuffs, even?

Witness:

We carry an abundance of those, ma'am, I do carry two pair of them 100 hand irons on my flak vest ma'am.

Counsel:

Did you use any of those that night?

Witness:

No ma'am.

Counsel:

Either the flex-cuffs or hand-cuffs?

Witness:

No ma'am.

012279

Counsel:  
Thanks, no further questions

I/O:  
CPT [REDACTED], did you have a questions

CPT [REDACTED]. Yes, sir

Questions by the defense counsel: CPT [REDACTED]

Counsel:  
SGT [REDACTED], now, you talked a little bit earlier about um...some of the things you were telling the 320<sup>th</sup> uh...soldiers on the way up to Talil, do you remember that?

Witness:  
Yes sir.

Counsel:  
Do you remember one of the things that you told them was that ...EPWs they are...these people are animals and that you have to resist the urge to be the judge and jury even though you'd like to be the judge and jury?

Witness:  
I made a statement close to that, sir yes sir.

Counsel:  
Okay, um--moving to another point and time, you talked about these different times you heard screams and I think MAJ [REDACTED] asked if you mentioned or you said that you really couldn't describe these screams no description or movie could sort of replicate how awful the scream was, is that correct?

Witness:  
That's correct.

Counsel:  
At any point in time did you try to determine if he received any medical treatment?

Witness:  
No, sir.

Counsel:  
Did you try determine if any of these other people that you saw being mishandled and mistreated received any medical treatment?

C12280

Witness:

Well they have medics down at the searching area they have their own medics that's usually been the SOP. the people that we did have on the bus were cleared through the medical people at the Corps holding area and they were processed down to Bucca with their medical files with them and there's usually medics on scene when we get down there. That's the way it's always been in the past, sir there's always been medics around.

Counsel:

But despite these awful screams, none of the screams were serious enough that you thought you'd make sure they got medical attention right away, is that correct?

Witness:

I didn't know what the cause of the screams were at the time sir.

Okay, thank you SGT [REDACTED] (b)(6)4-7(c)4

I/O:

Anything else Major [REDACTED]

Major [REDACTED]

No, sir.

(b)(6)2-7(c)2

Questions by the Investigating Officer: LTC [REDACTED]

(b)(6)2-7(c)2

I/O: SGT [REDACTED] I just have a couple of questions I need to ask you. When the bus broke down, on the way back from Talil, you never did see who came on the bus from the outside-who wasn't already on the bus when you left?

Witness:

Just SSG [REDACTED], sir.

I/O:

Just SSG [REDACTED]:

Witness:

Yes sir.

I/O:

So the people who came on and between that time when the bus broke down and SSG [REDACTED] came on you're not sure who those people were?

Witness:

No not at all, sir.

C12281

I/O:

When the uh--first Iraqi major who left the bus, could you tell how he was being hit?

Witness:

No, sir the strikes that I saw I couldn't see where they were landing but they were being hit with fists--or hands and also with feet, sir.

I/O:

when the second individual that you say was being hit could you see the blows or any of the hitting that was taking place?

Witness:

No sir I could not at that time from my vantage point.

I/O:

How...do you recall how late that you've ever delivered EPWs to the uh...to the uh...here at Camp Bucca?

Witness:

I do know that, sir, that one was 2150...uh I don't recall right now, without checking my log book, on SP times and things like that and to that nature on what times we did come in with EPWs, so right now sir I don't recall any later times than the 2150 that I am sure of, sir.

I/O:

Okay, but you're ...but maybe you do recall that all the previous times, up to that point, there were in processing personnel ready and available to greet the EPWs as they arrived?

Witness:

Yes, sir.

I/O:

One individual, who you identified as a former Republican Guard member, you said was bent forward and led away?

Witness:

Yes, sir.

I/O:

Can you describe for me what you mean by being bent forward?

012282

Witness:

He was put in an arm-bar, sir uh...when you take a hold of an individual you put your arm up across their shoulder up through their back and the arm that's already behind them and you can go and put your hand up there...what you're doing, sir, is you're bending them forward so that you have total control over that person that person isn't going to move anywhere other than where you're leading them to go sir.

I/O:

Is that for resisting or non-resisting EPWs, or is that just a matter of normal procedure?

Witness:

Sir I don't use it on non-resisting EPWs, myself, um...I've never put anybody in an arm-bar, in that manner, I've had people detained when you just lead them away as for our training uh...with just a simple hand on the arm, one on the wrist to that effect that way you can feel if they're gonna become resistant, but uh...no I have not use any maneuvers like that, but that's pretty much what it would be bent at the hips forward.

I/O:

Did SSG [REDACTED] at any time, brief you on any specific training that he wanted to see take place for the 320<sup>th</sup> personnel?

Witness:

Not anything specific, sir, uh...again on a right-seat ride it's show 'em what you do, and uh...tell 'em what's going on. We didn't have an outline as-we did not know, until we got up there and got the brief-just a few-, I forget when I got the brief on that mission, sir, but uh...we went up there and met these people for the first time, no they didn't have training on line, sir.

I/O:

Okay.

[The witness was duly warned, dismissed and left the room.]

### DIRECT EXAMINATION

SPC [REDACTED] U.S. Army National Guard, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED] (S)(6)Z - 7EJ Z

Counsel:

SPC [REDACTED] you were stationed here at Camp Bucca back in May, were you not?

Witness:

That is correct.

C12283

Counsel:

We've had some testimony on this--you went on the May 12<sup>th</sup> mission to Camp, er pardon me, to Talil airbase in Iraq to get EPWs, is that correct?

Witness:

Yes sir.

Counsel:

And you rode on the bus for that trip, is that right?

Witness:

Correct, sir.

Counsel:

Um...who were the soldiers that were on the bus with you for that mission?

Witness:

For which trip, the way up there?

Counsel:

Well, let's go for the way up first.

Witness:

For the way up it was SGT (b)(6)4-7(c)4, SGT (b)(6)4-7(c)4 myself and SPC (b)(6)4-7(c)4

Witness:

Alright, and when you say SGT (b)(6)4-7(c)4 are you talking about the accused SGT (b)(6)4-7(c)4

Witness:

Yes sir.

Counsel:

Okay, now what about on the trip back?

Witness:

On the trip back there was one addition SPC (b)(6)4-7(c)4

Counsel:

SPC (b)(6)4-7(c)4 another soldier from the 320<sup>th</sup>? (b)(6)4-7(c)4

Witness:

Yes, sir.

Counsel:

C12284

(664-7604)  
SPC [REDACTED], was he from the 320<sup>th</sup> as well?

Witness:  
I'm assuming so sir, yes...he was...

Counsel:  
He wasn't with the 223<sup>rd</sup>?

Witness:  
No he was not.

Counsel:  
And the only two companies that went on the mission were soldiers from the 320<sup>th</sup> and the 223<sup>rd</sup>?

Witness:  
That is correct.

Counsel:  
Um...let's talk about when you got up to Talil, let's not go through the whole mission of getting up there, let's talk about when you got up to Talil. Um...what happened once you arrived at the airbase in Talil?

Witness:  
Once we arrived at the airbase, uh...pulled into the processing area, uh...I exited the bus to go down to the staging area, where they stage the EPWs.

Counsel:  
Alright.

Witness:  
My assignment at that time was to pull security until all the EPWs were placed onto the bus and then I was to get back onto the bus.

Counsel:  
Okay, and now uh...was that what you did?

Witness:  
That's what I did.

Counsel:  
Okay, um...were there any briefings or um...instructions given to you or to any of the soldiers that were on this mission about picking up the EPWs or treating the EPWs?

Witness:  
We give an initial briefing, before we leave Camp Bucca.

012285

Counsel:  
Okay.

(516)4-704

Witness:  
SSG [REDACTED] gave a convoy briefing, which basically includes like speed of the convoy, what to do in case of an ambush, things like that. SGT [REDACTED] gave a rules of engagement briefing.

Counsel:  
Alright.

Witness:  
You know as far as how we would...if we had EPWs try to escape, what the rules of engagement were on that, what the level of force was to be used.

Counsel:  
Alright, do you remember what he said about that?

Witness:  
Pretty much if they try to escape, from our custody, once they break the last uh...line of security, our rules of engagement at that time was to shoot them.

Counsel:  
To use lethal force if they broke through, if they were escaping, and they broke through you last line of security?

Witness:  
That's correct.

Counsel:  
Prior to breaking through your last line of security, what force were you to use?

Witness:  
Uh...we could use anything from in our rules, are to shout, shove, show, and shoot, which is basically verbal, physical, show of deadly force, and use of deadly force.

Counsel:  
And those levels of force seem to escalate as you go up, is that right?

Witness:  
That's correct.

Counsel:  
So, for each situation what amount of force are you supposed to use?

Witness:

012286

If they're, for example-trying to get off the bus-uh...we could first of all say hey you know stop your actions. you need to do what you...you need to get back in here. Kind of hard to use physical, because some of them maybe on the back of the bus, so we'd have to climb over 35 of them to get to one. and then once they break that plane of the door they're considered out of our custody.

Counsel:

Are you supposed to use...are supposed to start at the lowest level or the highest level?

Witness:

Lowest level.

Counsel:

So, are you familiar with the term use the least amount of force necessary to control the situation?

Witness:

That is correct...yes, sir.

Counsel:

Is that what was briefed or do you recall?

Witness:

Uh...to be honest with you I don't recall, sir.

Counsel:

So, once you got up to Talil um...did you meet with any of the soldiers from the 744<sup>th</sup> that were turning over these prisoners?

Witness:

I did not meet with anybody, no sir.

Counsel:

All right, did the bus get loaded up with prisoners?

Witness:

Yes it did.

Counsel:

Were there any incidents in getting the prisoners onto the bus that you recall?

Witness:

Not that I was aware of.

012287

Counsel:  
Did you observe the prisoners as they got on the bus?

Witness:  
Yes I did.

Counsel:  
All right, what was their demeanor?

Witness:  
Uh...subdued, uh...you know we had to tell a few of them you know "stop talking", but as far as being aggressive-being physical-there was no signs of that.

Counsel:  
So some talking but nothing otherwise?

Witness:  
Pretty much.

Counsel:  
Alright, um...they loaded up...you set off on your return trip?

Witness:  
Yes.

Counsel:  
Do you remember what time that was?

Witness:  
Not off hand, no.

Counsel:  
Alright, um...did anything happen on the way back to Camp Bucca?

Witness:  
Yes there was one incident.

Counsel:  
Okay, what happened?

Witness:  
We were on the way back, and um...we heard a popping noise, like an air leak, subsequent to that. I moved to the forward of the bus to find out what was going on. The bus driver told me, or signaled, that there was something that broke to his left. I told him, at that time, to go ahead and turn his flashers on, to notify the vehicles in front of us that there was a problem. At that time I requested SGT [REDACTED] to get on the radio and

(b)(6) 5-7615

012288

(b)(6) 4-764

contact her higher up to get a hold of SSG [REDACTED] who was at the lead of they convoy, so that we could all get pulled over together.

Counsel:

Did she do that?

Witness:

Yes she did get on the radio and try to call um...I also requested them to get off of the bus and set-up a 360 security.

Counsel:

Okay, so the bus pulled over and stopped.

Witness:

Yes.

Counsel:

You had people get out-pull security...

Witness:

Negative.

Counsel:

No?

Witness:

No sir.

Counsel:

What happened?

Witness:

At this time, one we pulled the bus over, the driver was getting up to get off the bus. I walked up to see what the problem was. Moved the curtain out saw that the hose is broken. He opens the door--and uh...to get off and as I turned around there was some 320<sup>th</sup> personnel standing at the door.

Counsel:

Do you remember who was standing at the door, specifically?

Witness:

I remember SSG <sup>McKenzie</sup> [REDACTED], and a SFC, but I don't recall the last name. I remember him being there.

Counsel:

Now when you said.

012289

Witness:

There were several other people.

Counsel:

When you said SSG McKenzie are you referring to the SSG McKenzie who is the accused?

Witness:

Yes sir.

Counsel:

Alright, go ahead.

Witness:

At this time I notified them that it's okay, that there's not an EPW problem that we just had a mechanical problem with the bus. The bus driver was offloading to go get some tools, as soon as he gets back on the bus and fixes it we'll be on the way.

Counsel:

What happened?

Witness:

I turned around to try to figure out...turned around to try to figure out what's going on and try to fix it myself. As I do they on loaded onto the bus.

Counsel:

They being?

Witness:

The staff that was outside...320<sup>th</sup> staff that was outside of the bus.

Counsel:

Okay, do you remember which person...which people loaded the bus?

Witness:

(b)(6)5-705  
I remember MSG ██████████ SSG McKenzie, uh...and the other person I would not recognize.

Counsel:

But you remember those two?

Witness:

Yes sir.

012290

Counsel:

And when you say MSG (b)(6)5-7E)5 are you referring to the accused?

Witness:

Yes sir.

Counsel:

Alright, if you need water just let us know...go ahead.

Witness:

(b)(6)4-7C)4  
The reason I remember that is 'cause I remember that she stated that uh...something to the effect of, "let me get on here and see these people", and I remember someone stating that uh, "who the hell on here is causing the bus--" or something like that. I said "there's not a problem with an EPW. We have a mechanical problem", and at this time SGT [REDACTED] turned around and said, you know, what's going on up there. As I explained it to SGT [REDACTED] that we had busted air hose, as soon as we got it fixed we'd be on the move, uh--and he said "what are all these people doing on my bus?". I said I don't know. At this time SSG [REDACTED] walks up to the doorway of the bus uh...he says what's going on, I said we got an air hose broke. Bus driver's fixing it, we're ready to go. and he looked at me and said well get these people off the bus so we can get the hell out of here.

Counsel:

(b)(6)4-7C)4  
SSG [REDACTED] said this. okay, so did that happen? did the people get off the bus?

Witness:

At that time that did happen...

Counsel:

Alright, and you continued on to Camp Bucca?

Witness:

Yes sir.

Counsel:

Anything else happen en route?

Witness:

No.

Counsel:

Okay, uh...what were the prisoners like on the route down to uh...Camp Bucca?

Witness:

There was one incident where an interpreter went-and we have two doors on the bus, one incident where the interpreter got down into the stair well. um...SGT [REDACTED] gave

b6-4  
7C-4

012291

verbal commands to stop pointed his weapon towards him, told him get back in the aisle way, he got back up, sat in the aisle way.

Counsel:

Uh...when you say the interpreter you are referring one of the prisoners?

Witness:

That is one of the prisoners, yes sir.

Counsel:

Okay, he got down into the well of where the door is on the side of the bus?

Witness:

Yes sir.

Counsel:

And SGT (b)(6) 4-76) 4 had to order him to get back?

Witness:

Yes sir.

Counsel:

Did he get back?

Witness:

Yes sir.

Counsel:

Okay, any thing else?

Witness:

Pretty much that was all the events we had with EPWs.

Counsel:

Was there an incident where somebody was looking at SGT (b)(6) 5-76) 5? Do you remember anything about that?

Witness:

No I don't.

Counsel:

Okay, um...so then do you recall what time it was when you arrived at Camp Bucca?

Witness:

It was late in the evening it was dark, I want to say possibly around nine-nine-thirty.

012292

Counsel:

Alright, and um...where did the bus go when it got to Camp Bucca?

Witness:

When it got to Camp Bucca, we pulled over on this main road here we pulled over to the right of the roadway, uh...next to the shoot.

Counsel:

And when you say the shoot what do mean by that?

Witness:

That's the walkway that goes back to the holding area for the processing people.

Counsel:

And that all has been moved now hasn't it or torn down?

Witness:

Yes sir.

Counsel:

But uh...you got to the shoot uh--and did the bus come to a stop?

Witness:

Yes sir.

Counsel:

What happened at that point?

Witness:

(b)(6) 4-7604  
At that point we were looking for the reception people...ther's pretty much nobody there. SGT [REDACTED] said uh, lets kinda hold of, he said I'm gonna go get a couple of people to come back and help us out...uh...he looked at me specifically and said "I need you to get here and watch this box"-we had a box, supoosedly, a substantial amount of US and Iraqi currency...uh he had told me "I don't care what goes on you stay by this box, you watch this box", and so I offloaded at that time.

Counsel:

And did you ever look inside that box and see what was in there?

Witness:

No I did not.

Counsel:

So you got down you were guarding the box...did you need any...what else happened?

012293

Witness:

Uh--at that time I guess there were a couple of people that came over, SSG [REDACTED] had not come back with them but they had come over to us to assist. Uh...SGT [REDACTED] started offloading some people, and uh--I moved I was in a blind-spot. They had the "money box" directly next to the bus, so either where they staged or where SGT [REDACTED] was at a blind spot for me. So what I did was removed myself the box to the edge of the bus to where I could see the box, and both areas without having any trouble.

(b)(6)4-  
7C4

Counsel:

So you were in a position where you could see prisoners coming off the bus?

Witness:

That's correct.

Counsel:

And you were also able to keep your eye on the box?

Witness:

Yes sir.

Counsel:

How far did you go from the box?

Witness:

Probably 20 feet.

Counsel:

20 feet, and then how far away were you from the uh...area where the prisoners were coming off the bus?

Witness:

Uh...from SGT [REDACTED] I was probably 15 feet.

(b)(6)4-7C4

Counsel:

Okay, the area where all this was going on was there lighting in the area?

Witness:

There was a light-all unit that was around I think it was on the other side of the shoot uh...opposite of where I was standing. And it was towards the front of the shoot there. I couldn't tell you which direction the light-all unit was facing.

Counsel:

012294

Were you able to make out people and faces?

Witness:

A few of them yes sir.

Counsel:

Okay, all right, so what happened after you positioned yourself in between the box and SGT [REDACTED]?

Witness:

Uh...was just basically standing there monitoring everything SGT [REDACTED] was identifying the EPWs, for segregation purposes, we always do this...handing them off to personnel.

Counsel:

Tell me how SGT [REDACTED] did that, how did he, how would that work-when the prisoner would get off the bus what was he doing that night?

Witness:

Okay, SGT [REDACTED] would stand at the very front of the bus, without allowing any room for anybody to get off unless he told them to step down, uh...he would take the person look at the escort, and say "here is your FEDAHYEEN soldier" or "your Iraqi general" or whatever, and that way we could take the person from that area to the staging area and segregate them from let's say a civilian or a lower enlisted Iraqi.

Counsel:

And if it was a lower ...if it was an Iraqi enlisted soldier he would say, "here's your Iraqi enlisted soldier"?

Witness:

Exactly.

Counsel:

If it was a civilian he'd say, "here's your civilian"

Witness:

Yes.

Counsel:

Okay, um...now did he...what level was his voice? was he loud?

Witness:

A couple of times he got loud, sir. I remember one time, specifically, the interpreter came down uh...and wouldn't talk my attention was that he had yelled, "hey that's your interpreter, be careful with that guy"

012295

Counsel:

All right, so what did you observe about the escorting of these prisoners that night?

Witness:

I observed they were being handled very roughly, sir.

COUNSEL:

All right, specifically, tell us what you saw.

Okay. I saw a Major who we had information was accused of multiple rapes.

Counsel:

Okay, this was an Iraqi prisoner.

Witness:

That is correct. We had information on an Iraqi police Major who was accused of multiple rapes. I witnessed that individual being held on the ground in a prone position. I saw MSG [REDACTED] kick the individual several times in the groin.

Counsel:

Did you see how that person got to the point of being on the ground?

Witness:

No I did not.

Counsel:

Okay, so you observed this person on the ground. And, how was this person on the ground?

Witness:

He was being held at the ankles.

Counsel:

All right he was being held at the ankles?

Witness:

That is correct.

Counsel:

Who was holding him?

Witness:

I put in my statement SSG McKenzie and Sergeant First Class, and again I don't know the name, I just.....at that time that's who I recall was holding the other leg.

Counsel:

012296

When you say SSG McKenzie, you are referring to the accused?

Witness:

Yes.

Counsel:

And this prisoner that you said was identified as a Major, how was he on the ground?  
Was he on his stomach, was he on his back?

Witness:

He was on his stomach, and his legs were spread.

Counsel:

What about his hands?

Witness:

I couldn't tell about his hands, sir. There was a group of people around him. There was four or five people there. So, but I did, you know, I saw the lower extremities of him, and he was on his stomach. I could tell by the position of his feet and they were holding his ankles.

Counsel:

Sergeant [REDACTED], how was she positioned?

Witness:

Sergeant [REDACTED] was standing in between the individual's legs at the time that I looked over.

Counsel:

Okay, what was she doing?

Witness:

She was delivering several blows to the groin of this Major.

Counsel:

How many blows?

Witness:

I probably observed about three of them.

Counsel:

How.....what force was she using to deliver these blows?

Witness:

Pretty, pretty....I would say she was kicking about as hard as she could kick.

012297

Counsel:

Did you, did this Iraqi prisoner say anything?

Witness:

Yea. Well he yelled out. I don't know what he was saying. He may have been speaking Arabic. May have been just, just screaming or whatever. But, he did roll over onto his side, you know, in pain. Then she stepped out and walked around him and kicked him back over. And....

Counsel:

How did she kick him? Where did she do that?

Witness:

She delivered a blow to the back. I guess it would be at this point, because he rolled to his right and I think she walked around behind him and kicked him back over.

Counsel:

Kicked him back over onto his stomach?

Witness:

That is correct.

Counsel:

And then what did Sergeant [REDACTED] do?

Witness:

I think at this time Sergeant [REDACTED] came into between the legs and kicked him and he started yelling out again. And Master Sergeant [REDACTED] either kicked him in the head or put her foot on his head, telling him to shut the fuck up. You know.

Counsel:

Were those her words?

Witness:

Yes.

Counsel:

All right. Now, Sergeant [REDACTED]. How many times did you observe her kick this man in the groin?

Witness:

I saw, probably a couple kicks. They were hesitant. She kinda looked around. That's the one thing I remember about it. And probably, that I saw, a couple blows.

Counsel:

Two?

012298

Witness:

Two.

Counsel:

All right. Did you see what happened to that man after that?

Witness:

No I did not.

Counsel:

Okay, why? Did you turn your attention away?

Witness:

There were other things going on, yes.

Counsel:

What else was going on?

Witness:

Staff Sergeant McKenzie had off-loaded some of the EPWs. The first one that he off-loaded, he walked towards the staging area, I think was the first one he took. And he did a front leg sweep, nearly a hip toss. I couldn't tell which, but the individual came up into the air Staff Sergeant McKenzie drove him into the ground headfirst.

Counsel:

All right, now when you say he did a leg sweep, how does one do that?

Witness:

By taking your legs in front of the EPW and using backwards force with your leg and front force with your arms and taking them down to the ground.

Counsel:

Okay, did you see this prisoner before Sergeant McKenzie flipped him?

Witness:

I'm not sure I can identify the prisoner.

Counsel:

I understand. But did you see what this prisoner was doing before he got flipped?

Witness:

No I did not.

Counsel:

Okay. So you don't know if he was resisting?

012299

Witness:

At this point in time, no.

Counsel:

Now you just testified a few minutes ago that Sergeant McKenzie was one of the soldiers who was holding the legs apart of the prisoner who was being kicked in the groin.

Witness:

That's correct.

Counsel:

So when did this other incident that you just described happen?

Witness:

This happened several times throughout the process.

Counsel:

The leg sweeping?

Witness:

The leg sweeping, yes. I, you know, there were several things going on around us and, you know, like I said Staff Sergeant McKenzie did it near the staging area and other times he would take'em over to the area where there was a hole cut in the chute. So there were multiple areas where this stuff was occurring, as well as, stuff going on inside the chute.

Counsel:

All right. Did you observe...well let's go on. You said you didn't see that Iraqi prisoner before he got swept to the ground, correct?

Witness:

No.

Counsel:

All right. Did you see any other conduct to cause you concern?

Witness:

Yes I did. I noticed that this first individual that Staff Sergeant McKenzie took to the ground, I gave him the benefit of the doubt as being a trained Military Policeman.

Counsel:

What do you mean by that, giving him the benefit of the doubt?

012300

Witness:

That this individual was resisting. I heard him yell stop resisting, stop resisting. I assumed this individual was resisting. Using the verbal level of the use-force continuum.

Counsel:

Which would be at the lower level.

Witness:

The lower level. If he continues to resist, then you go to physical. So assuming that's what the case was, I felt, well, you know, he's following what he should be following at this point. So further on it went and the more people he got, he would begin yelling stop resisting as soon as he took them from Sergeant [REDACTED] People who were two seconds previously sitting on the steps, not saying a word, not doing anything. So it just caused speculation at that point with me whether these people were actually resisting or not.

(b)(6)-4;  
(7)(C)4

Counsel:

Okay. So did you actually observe any of these prisoners, that Sergeant McKenzie was escorting, resist?

Witness:

It's hard to say whether they were resisting or not. I mean, a least little tug could be just fighters resisting in someone's mind. Irregardless whether someone was resisting or not. You know, driving someone's head into the ground is not a level of force that's used at any time.

Counsel:

All right. Is that because of your training, you've learned that?

Witness:

That's correct.

Counsel:

All right. You don't throw someone down to the ground head first?

Witness:

Right. Because that's a very vulnerable area of their body and could cause more damage than what's needed to control the situation.

Counsel:

How many times did you observe Sergeant McKenzie perform this leg sweep?

Witness:

About three or four times.

012301

Counsel:  
To the ground head first?

Witness:  
Head first. And I mean enough to where the ground shook.

Counsel:  
You actually felt the ground shake?

Witness:  
Yes I did.

Counsel:  
Now when this would happen, how would the prisoners respond?

Witness:  
They'd be screaming. And like I said, I don't know what they were saying. Most of them didn't speak English. They would ball up on the ground.

Counsel:  
Did you see any other behavior?

Witness:  
I observed Staff Sergeant, I'm sorry, correction Sergeant (b)(6)-5, 7C5 walking behind an EPW down the chute. Two individuals were escorting the EPW and I observed her going behind the EPW kicking and trying to trip him up and trying to get him to fall.

Counsel:  
All right now. You observed this-- did you observe the EPW?

Witness:  
No I did not. He was going down the chute at this time.

Counsel:  
Could you see the.....

Witness:  
I could see the EPW's body, I could not identify the EPW.

Counsel:  
Was his body resisting?

Witness:  
Not that I'm aware of. Like I said, I don't know. It's hard to visually see whether someone is resisting or not.

012302

Counsel: (b)(6)-5; 765  
But Sergeant [REDACTED] was not escorting this prisoner?

Witness:  
No she was not.

Counsel:  
She just walked up behind this prisoner?

Witness:  
That's correct.

Counsel:  
And how did she, you said she kicked at his legs?

Witness:  
As his feet were walking, she would kick his trail foot to the side so as to trip him up when he took the next step.

Counsel:  
All right. Did the prisoner trip?

Witness:  
I don't recall, sir.

Counsel:  
Do you recall giving a statement to the CID agents?

Witness:  
That's correct.

Counsel:  
That statement you gave to CID agents was right around the time of this incident.

Witness:  
That is correct.

Counsel:  
Would it be fair to say that that statement that you gave to the CID at that time represented your recollection of the events on or about the time that they had occurred?

Witness:  
Yes sir.

012303

Counsel:

You just testified that you don't recall whether she knocked the prisoner down. Do you recall saying to the--writing in your statement "she did this enough times that she did finally succeeded and the EPW fell onto the ground with his hands tied in front of him.

Witness:

If that's my statement, sir, I trust that recollection.

Counsel:

Okay, well let me do this. Let me just show you.....okay I'm gonna have this marked.....what I'm referring to is the fourteen May statement.....marked three please. If I can just get you to look at page three, lower third of the page.

Witness:

Yes sir.

Counsel:

Just read that to yourself.

Witness:

Yes sir.

Counsel:

Okay, you read it?

Witness:

Yes sir.

Counsel:

Did it refresh your recollection?

Witness:

Yes sir, it did.

Counsel:

Okay did Sergeant (b)(6)-5; 7(c)(5) succeed in knocking that prisoner down by doing that?

Witness:

Yes sir.

Counsel:

Okay. Let me retrieve that from you. If you need to refer to your statement, just tell me that you need to refresh your recollection. We'll let you look at your statement, but I prefer that you testify from your memory of the events.

Witness:

012304

Absolutely.

Counsel:

Did you ever.....do you recall a prisoner that I think has been commonly referred to as the interpreter?

Witness:

Yes sir.

Counsel:

Do you recall anything happening to him getting off the bus?

Witness:

Yes sir.

Counsel:

What do you recall?

Witness:

(b)(6)4-  
76141  
I remember...I believe I was talking to Sergeant [REDACTED] or I was having a discussion with someone and I remember Sergeant [REDACTED] saying "hey that's your interpreter, you need to be careful with that guy" or "you need to take care of that guy" or something to that effect. I turned around and saw the interpreter being dragged across the ground with his pants down to his ankles.

Counsel:

Do you recall who it was who was dragging him across the ground?

Witness:

If you'd let me refer to my statement.

Counsel:

Let me just hand you this statement. I think the bottom part of page three.

Witness:

Yes sir.

Counsel:

Okay. Do you recall which soldier it was that was dragging that interpreter.

Witness:

Yes sir.

012305

Counsel:

Let me go ahead and take that back from you.

Witness:

I identified the individual at that time as a short stocky male with the--kind of a tribal band tattoo around one of his arms.

Counsel:

You know what rank he was.

Witness:

Specialist, I believe.

Counsel:

Do you recognize him in this hearing room today?

Witness:

That individual right there.

Counsel:

Let the record reflect that the....excuse me, where is he seated?

Witness:

In the corner of the table.

Counsel:

Let the record reflect that the witness has identified Specialist (b)(6)5 - 7(c)5 Did you see what led up to the interpreter being dragged across the ground with his pants down.

Witness:

No I did not, sir.

Counsel:

Can you describe that? What exactly did you observe?

Witness:

Basically, at the point where I turned around, the interpreter was about, probably about fifteen feet equal distance as myself from Sergeant (b)(6)4 - 7(c)4 going towards the staging area. As I turned around, he was already on the ground. So, I don't know what precipitated that event.

Counsel:

I understand. He was on the ground. Was he on his.....

Witness:

He was on his stomach, being drug with his legs out behind him.

012306

Counsel:

And how was Specialist [REDACTED], I mean, was Specialist [REDACTED] holding his legs? (b)(6)-5; 7(c)5

Witness:

I think he had him by the arms. Like his hands were up tied. He had him by the elbows and was dragging him towards the staging area.

Counsel:

Did that person, the interpreter, was he making any sounds?

Witness:

Yes, he was screaming very loud.

Counsel:

Did...at any time do you recall Sergeant [REDACTED] saying anything to you or anyone? (b)(6)-5; 7(c)5

Witness:

I recall at one point there was a statement made about.....I think someone said "is this guy a problem," or something like that. Then she had said "if they're on the bus, they're already a problem". So, and that's...

Counsel:

Did Staff Sergeant [REDACTED] have a conversation with you. (b)(6)-4; (b)(7)(C)-4

Witness:

Yes he did.

Counsel:

Okay. What did he tell you?

Witness:

We had a conversation at Talil Air Base prior to me getting back onto the bus with the EPWs. He pulled me aside. He had stated that Master Sergeant [REDACTED] had made a statement that concerned him. He wasn't quite sure what it meant, but it was enough to make him alerted to it. He said that she had for some personal interview time on the way back. He informed me at that time that we were not to pull the bus over for any reason other than the obvious, mechanical breakdown, things like that. That we were going to maintain our professionalism and that I was to inform Sergeant [REDACTED] the same. (b)(6)-5; 7(c)-5 (b)(6)-4; 7(c)-4

Counsel:

Now, how many missions have you been on prior to that mission you went on.....on the twelfth.

C12307

Witness:

Our Company has escorted over seven thousand EPWs. I gonna guess that we have, as a squad, taken about two thousand to twenty-five thousand, or I'm sorry, two thousand to twenty-five hundred EPWs out of those seven thousand.

Counsel:

Okay, and that's all total, right?

Witness:

That's correct.

Counsel:

Since you started doing this?

Witness:

Yes sir.

Counsel:

Okay.

Witness:

Actually, I'm sorry sir. That's up to that point.

Counsel:

So that was up to that point?

Witness:

Yes sir.

Counsel:

Okay so up to that point on the twelfth of May?

Witness:

Yes sir.

Counsel:

Okay. And have you ever had instances where your Iraqi prisoners had resisted you.

Witness:

We had had maybe one or two instances, me personally, where they've tried to pull away or something and we basically prone them out and put a security guard on them.

Counsel:

Okay, and when you say you pruned them out, what do you mean by that?

C12308

Witness:

We place them on the ground, face first. We spread their legs, spread their hands out, rotate their hands face up. We place a MP within our squad on that individual with a weapon. And, basically segregate them until such time we can get adequate personnel over there to escort the individual back to the holding area.

Counsel:

Okay. Now how is that, what you just described, different from what you were observing Sergeant McKenzie doing?

Witness:

Staff Sergeant McKenzie, as a result of his action, these people were being thrown into the air. You know, we may do a front leg sweep, but it's basically to get them off balance and to lay them down on the ground.

Counsel:

Okay so when you say you lay them on the ground, you actually carry their body all the way to the ground?

Witness:

Exactly.

Counsel:

And was that what Sergeant McKenzie was doing?

Witness:

No, absolutely not.

Counsel:

So what was Sergeant McKenzie doing? What was different?

Witness:

What was different was they were in the air and as they came down, the.....the angle of their body was such that their head hit the ground first.

Counsel:

And you said, and again I'm just trying to... you said you put'em down face first?

Witness:

Yes sir.

Counsel:

Is that different from what Sergeant McKenzie was doing?

Witness:

Yes sir, that is different.

012309

Counsel:  
How is it different?

Witness:  
Basically, we lay them on the ground so as to not hit their head. But, they are face first when they are on the ground so that they can't quickly get up and begin to fight.

Counsel:  
Now I know you had other things going on that night. I know you're trying to guard that box, and I know you were trying to do other stuff.

Witness:  
Yes sir.

But, did you have an opportunity at different points in time to observe these prisoners getting off the bus?

Witness:  
Yes sir.

Counsel:  
Did you observe any of these prisoners, did you personally observe any of these prisoners resisting or in any way becoming violent to any of their escorts.

Witness:  
No sir.

Counsel:  
Can you give me one minute?

Witness:  
Yes sir.

Counsel:  
Specialist [REDACTED] thank you. (S)(6)-4; (7)(C)-4  
I don't have any further questions for you but please answer questions that anybody else may have.

C12310

**CROSS-EXAMINATION**

**Questions by the defense counsel:** CPT [REDACTED] (b)(6)-2; 7(c)-2

**Counsel:** (b)(6)-4; 7(c)-4

**Specialist** [REDACTED], you're a pretty close-knit squad. Is that correct?

**Witness:**

Yes sir.

**Counsel:**

You've been on a lot of escort missions together?

**Witness:**

Yes sir.

**Counsel:**

How many escort missions your squad has done?

**Witness:**

Sir, we've done anywhere between two thousand and twenty-five hundred EPWs. I'm gonna say an average EPW escorts a hundred to two hundred at that time, probably fifteen.

**Counsel:**

Okay so, before that time, before the twelfth, you had done about fifteen missions, your squad, escorting EPWs?

**Witness:**

Yes sir.

**Counsel:**

There were certain procedures and things that you just followed because that's how things worked?

**Witness:**

Yes sir.

**Counsel:**

There was no written SOP from your Company, correct?

**Witness:**

Yes sir. From our Company, no.

**012311**

Counsel:

And there was nothing specific about escorting EPWs from Battalion or anyone else, that was written down, correct?

Witness:

There was an SOP that was written by the 724<sup>th</sup> Battalion, but it was mainly concerning the IF.

Counsel:

It was mainly concerning the IF?

Witness:

There was some generic information about the escort process. We were trained at Fort Dix on how we would be doing things.

Counsel:

The SOP didn't say anything specific about how you would, as you described a moment ago, put someone down in the prone position, correct?

Witness:

No sir, that's provided in our training.

Counsel:

Okay. And prior to the twelfth of May, you didn't know anyone from the 320<sup>th</sup> at all, correct?

Witness:

No sir.

Counsel:

You never met a single soldier?

Witness:

No sir.

Counsel:

You never worked with them before on an EPW mission or any other mission?

Witness:

Not that I was aware of.

Counsel:

And the mission on the twelfth of May, that was a 223<sup>rd</sup> mission, correct?

Witness:

Yes sir.

012312

Counsel:

That was a mission that was given to your squad just like every other escort mission you were on?

Witness:

Yes sir.

Counsel:

With the one exception that this was a right seat ride?

Witness:

Yes sir.

Counsel:

What is the purpose of a right seat ride?

Witness:

The purpose of that is to basically get the other Company familiar with the routes they're taking. Put them in contact with any POCs at the destination. And get them familiar with the procedures of accepting and turning over EPWs.

Counsel:

During one of those right seat rides, your unit would still be responsible for the mission?

Witness:

That is our mission, sir.

Counsel:

Okay. The assignment that was given to you came from Sergeant First Class [REDACTED]

Witness:

Negative, it came from Staff Sergeant [REDACTED]

(b)(6)-4(7)(c)(4)

Counsel:

Okay, do you know where he got his guidance from?

Witness:

Basically he got his guidance from the people that signed over the property to us. They informed him there was a substantial amount of money...U.S. as well as Iraqi currency, well into the millions. He.....we never at any point in time looked inside that box but he said that.....

012313

Counsel:

Okay, I'm not talking specifically talking about the box, or your responsibilities with regard to safeguarding the box. I'm talking about the mission to go...the escort mission.

Witness:

Yes sir.

Counsel:

Okay that came down from who?

Witness:

That would be Sergeant First Class [REDACTED] (b)(6)-4, (7)(C)4

Counsel:

Okay that's what I was trying to get at, I'm sorry. And so the NCOs from 223, they were in-charge of the missions?

Witness:

Yes sir.

Counsel:

And Staff Sergeant [REDACTED] (b)(6)-4; (7)(C)4 was sort of the chief, the convoy commander?

Witness:

He was the squad leader, sir.

Counsel:

Okay. And then on the bus, Sergeant [REDACTED] (b)(6)-4-(7)(C)-4 was the NCOIC on the bus, correct?

Witness:

Yes sir.

Counsel:

The role of the 320<sup>th</sup> was essentially to watch, learn, train.

Witness:

Exactly.

Counsel:

And just among yourselves, the fact that you were getting a rightsy leftsy, you believe that might mean that you were going to be going home soon, correct?

Witness:

Yes sir.

012314

Counsel:

And you knew at the very least that you where not going to be having to do as many of these missions in the future because hopefully someone else would be getting the load, correct?

Witness:

Yes sir.

Counsel:

And you talked a little bit with some of the 320<sup>th</sup> personnel on the bus, on the trip up there?

Witness:

Yes sir.

Counsel:

You talked to Sergeant [REDACTED] (b)(6)-5, (7)(C)-5

Witness:

Yes sir.

Counsel:

You didn't specifically say anything to her about procedures for escorting or procedures for seating people in the bus or anything, correct?

Witness:

We spoke of the five S's. Which is....now I'm going to forget them now that I'm under pressure.

Search, segregate, speed, safeguard and silence.....which is basically the rules, guidelines for MPs when your escorting EPWs. It basically gives us a order of occurrence and order of priority. We had discussed that. We had discussed the ROEs again, talking about, you know, your gonna have people that may try to escape if the bus stops, you know, as we're taking off, whatever. You may have people try to assault the bus from the outside areas of the bus, and that's what your security teams are for. Just going over everything, once again to ensure...

Counsel:

But you didn't show her or anybody else from the 320<sup>th</sup> on the bus, you didn't do any demonstrations about putting someone down in the prone position if they resisted, correct?

Witness:

It would be kind of difficult on the bus, sir.

Counsel:

Right. But you didn't do that before you got on the bus or any other time?

012315

Witness:

No sir.

Counsel:

And from talking to Sergeant [REDACTED], you learned that they didn't have any experience escorting EPWs, correct? (b)(6)-5; (7)(C)-5

Witness:

That's correct.

Counsel:

You knew that they had been working the IF?

Witness:

Yes sir.

Counsel:

Okay. Had you ever done any duty guarding prisoners in the IF?

Witness:

Negative sir. Other than doing the temporary security at their staging, but that's it.

Counsel:

Okay. What kind of communications did you have for this mission?

Witness:

The communications that we had....we had a field phone on the bus as I recall and that got us in-touch with Master Sergeant [REDACTED]'s vehicle and the other 320<sup>th</sup> vehicles. Between the 320<sup>th</sup> personnel and Staff Sergeant [REDACTED]'s truck, I believe they were using the 2-way radios. The little hand-held... (b)(6)-5; (7)(C)-5  
(b)(6)-4; 7(c)-4

Counsel:

And were those comms reliable so that everybody in the convoy could talk to each other?

Witness:

I wasn't in a HMMWV so I don't know how reliable they were.

Counsel:

Okay, let me ask you. Who would be responsible for making sure there was communication between all the vehicles in the convoy?

Witness:

I believe that would Staff Sergeant [REDACTED] sir. (b)(6)-4; 7(c) 4

Counsel:

012316

There was one stop on the way to Talil, correct?

Witness:

On the way to Talil?

Counsel:

Right. One stop to fuel up or something like that.

Witness:

Yes sir.

Counsel:

Okay. Did anyone get lost? Did anyone get left behind after that stop? You had to go back and circle back for anyone?

Witness:

I don't recall sir.

Counsel:

Is it possible that that happened?

Witness:

May have, I don't recall.

Counsel:

And then when you got to Talil, you refueled right away?

Witness:

I think the HMMWVs went to refuel. I stayed with the bus.

Counsel:

Right, I'm sorry, you didn't take the bus, you didn't go to refuel, the HMMWVs did?

Witness:

I believe so.

Counsel:

How long did you say it was until you actually started loading EPWs?

Witness:

Maybe thirty minutes.

Counsel:

Thirty minutes, okay. And who was responsible for seating the EPWs on the bus?

012317

Witness:

We had done this enough times that Staff Sergeant [REDACTED] entrusted Sergeant [REDACTED] to ensure it was done. (b)(6)-4; 7(c)4

Counsel:

Okay, but who was actually...did Sergeant [REDACTED] then take each individual and sit them down on the bus?

Witness:

Negative.

Counsel:

Okay. Who did that?

Witness:

That was Specialist [REDACTED], sir. (b)(6)-4; 7(c)4

Counsel:

And Specialist [REDACTED] is with the 320<sup>th</sup>, correct?

Witness:

Yes sir. (b)(6)-4; 7(c)4

Counsel:

Did you see how he seated all the soldiers on the back, or not the soldiers, how he seated all the EPWs on the back of the bus?

Witness:

Yes sir.

Counsel:

And how, can you just describe how they were placed in the back of the bus?

Witness:

There were several rows between our equipment, ourselves and the EPWs. Maybe six rows, I'm guessing. Four to six. It was unusually large space than what we were used to.

Counsel:

You said the buffer was actually too big, correct?

Witness:

I never said it was too big, I said it was larger than what we were used to.

Counsel:

012318

Do you remember having a previous conversation a couple weeks ago with myself and with the other counsel?

Witness:

Yes.

Counsel:

You remember at that time making the comment that you thought the buffer was too large?

Witness:

From what I was used to, yes. It was too large. I don't think that...I mean as big a buffer zone as you can get, I mean, safety is the utmost importance, that's fine, that's why we never changed it.

Counsel:

But It's true that one of the other considerations you have is to make sure that anybody that is a high-profile or potentially dangerous EPW, you want them in the front so you can keep an eye on them, correct?

Witness:

Yes sir.

Counsel:

And if the farther the back they are the more difficult it is to keep an eye on them, correct?

Witness:

Correct.

Counsel:

Now, as far as the EPWs actually boarding the bus, you were not actually able to observe them being loaded onto the bus?

Witness:

No I was not.

Counsel:

Okay because you.....

Witness:

Once they stepped onto the bus, I was out of sight from them.

Counsel:

Okay. You said, or, you were pulling security in the pit, is that correct?

Witness:

012319

Yes sir.

Counsel:

Okay, what exactly does that mean?

Witness:

There's a roadway that you pull up to the Talil processing area. You can walk down a slight incline, which is maybe a four-foot incline, or decline as it were, as you're going into it. The bus stays up onto the roadway. The EPWs come out from, which they have a very wide chute that they come out. They come out and come up the hill and they load onto the bus.

Counsel:

Okay. So during that time when you're pulling security, are you watching the EPWs as they get onto the bus?

Witness:

I'm watching the EPWs as they are exiting the staging area and going over to the bus.

Counsel:

Okay, but you don't see how they are being loaded onto the bus?

Witness:

No.

Counsel:

With regard to how the prisoners were, the EPWs were seated on the bus, Specialist (b)(6)-4; [REDACTED] had never seated EPWs onto the bus before, correct?

Witness:

That's correct. As far as I had any knowledge.

Counsel:

Okay. But you made a decision not to pull'em all off and re-seat everyone?

Witness:

That is correct because we had several medicals. We had, at that time they did not want us traveling in dark so we were trying to get back as early as possible. We knew it was going to be dark, but the earlier the better. We had a lot of medicals on the bus, I think as I recall there were about fifteen or sixteen, and they made, someone made the decision that we'll just leave it like this and we'll get back.

Counsel:

And at that point you probably spent an hour or better at Talil, right?

Witness:

012320

Witness:

Yes sir.

Counsel:

And the reason you wanted to keep them toward the front was you didn't want them talking or conspiring, or whatever, between each other?

Witness:

That's correct sir.

Counsel:

And do you remember, either before you left, while you were in-route back to Bucca, Sergeant [REDACTED] telling the 320<sup>th</sup> folks on the bus "hey these are some high-level bad guys, these are not just a bunch of privates", or something to that affect?

(b)(6)-4; (7)(C)-4

Witness:

On the way back, yes sir.

Counsel:

Okay. And....so basically what was put out was these were potentially dangerous EPWs?

Witness:

Absolutely sir.

Counsel:

(b)(6)-4; (7)(C)-4

At some point actually Sergeant [REDACTED] said either on the way up or on the way back, words to the effect that "these people are animals and I have to resist the urge to be judge and jury against them", he said that?

Witness:

Yes sir.

Counsel:

And as far as you can tell, all the MPs on the bus heard him say that?

Witness:

As far as I can tell, yes sir.

Counsel:

(b)(6)-4; (7)(C)-4

And Sergeant [REDACTED] also explained that, to the 320<sup>th</sup> MPs, that generally there are two people on the bus, correct?

Witness:

That is correct?

C12323

Counsel:

And he said that it's very important to make sure that you establish authority?

Witness:

Yes sir.

Counsel:

And you've got to establish and maintain positive control at all times, correct?

Witness:

Yes sir.

Counsel:

And there were weapons being carried on the bus, correct?

Witness:

That is correct sir.

Counsel:

And you remember him carrying what weapon?

Witness: (S)(b)-4, (D)(C)-4

Sergeant [REDACTED] had a shotgun. He had an M16 203, and he also had a 9MM. I was carrying a 9MM, M16, and as far as I knew, the other soldiers were carrying their basic combat load, which is M16, 9MM; and NCOs with a 203.

Counsel:

Okay. And when the EPWs boarded the bus, you sort of laid down the law and told them the rules, correct?

Witness:

Yes sir.

Counsel:

You said that there's no talking, no passing notes, no smoking, no looking out the windows?

Witness: \*

Yes sir.

Counsel:

Okay. And you told them if they tried to escape, they were going to be shot?

Witness:

That is correct sir.

012324

I would say so, yes sir.

Counsel:

And by that time it was dark or almost dark, correct?

Witness:

It was in the evening, about, gosh I can't remember what time but it was in the afternoon, late afternoon.

Counsel:

Okay. What time do you think you left?

Witness:

I want to say we left about seventeen hundred, sixteen or I'm sorry, seventeen or eighteen hundred, somewhere around there.

Counsel:

Okay. So if it was eighteen hundred, it would certainly be dark by then, right? Or just about.

Witness:

Just about.

Counsel:

And when you were at Talil, you received some information or some Intel about the prisoners you were receiving, correct?

Witness:

Yes sir.

Counsel:

Okay. And that information was that there was a police Major that was suspected of rape....

Witness:

Yes sir.

Counsel:

And there was a police Captain that was suspected of murder...

Witness:

Yes sir.

Counsel:

And a Major from the Fedahyeen academy...

012321

Witness:  
Yes sir.

Counsel:  
And also Uday Hussein's Intel officer...

Witness:  
That's the information I've been given, sir.

And that there was also a General...

Witness:  
Yes sir.

Counsel:  
And also that the, there was an interpreter interrogator that may have been involved in interrogating some American soldiers, correct?

Witness:  
Yes sir.

Counsel:  
And was all that information given verbally or was that the manifest that was given to your unit?

Witness:  
There was a memo that was given, that I saw, that had the information about the policeman Major that was accused of rape. About the police Captain who was accused of murder. The other information I got from my higher ups that was passed on to them.

Counsel:  
Okay. So there was, or it was transmitted to you verbally?

Witness:  
Correct.

Counsel:  
And we talked about before, the plan was to keep the high risk people, the high profile people toward the front, is that correct?

Witness:  
Yes sir.

Counsel:  
And did that happen?

012322

Counsel:

And you told them if they try to do anything to hurt an MP or to try to come after an MP, that they were going to be dealt with appropriately, correct?

Witness:

Yes sir.

Counsel:

And you did all of that through the one English-speaking guy that was considered the interpreter, right?

Witness:

Yes sir.

Counsel:

He was also an EPW?

Witness:

Yes sir.

CPT [REDACTED] (b)(6)-2, (b)(7)(c)-2

I'm sorry we didn't hear the last question that was asked?

Counsel:

If...you gave instructions that if anyone touched an MP, they were going to be dealt with appropriately, correct?

Witness:

Not necessarily if they touched them, but if they came after an MP.

Counsel:

Correct, right. Now on the way back to Camp Bucca, there were some minor incidents with the EPWs, correct?

Witness:

Not that I recall sir.

Counsel:

Okay. You don't remember any instances where some of them were talking amongst themselves and had to be yelled at to keep quiet?

Witness:

012325

Sir that happens nearly every time we have to bring EPWs back. So specifically, no I don't recall that.

Counsel:

Okay. You didn't have any problems with any of them not following instructions?

Witness:

Not that I recall sir.

Counsel:

You don't remember the interpreter getting down in the wheel well?

Witness:

Yes sir, the interpreter, I'm sorry.

Counsel:

Okay. And there was also an incident where one of the, before the stop, one of the EPWs, actually the one that was suspected of rape, was staring at or leering at Sergeant

(b)(6)-5; 7(c) 5

Witness:

I don't recall that sir. I do recall once we made the stop, someone said, "who's causing all the problems on here", and I looked back and I saw Specialist (b)(6)-4-7(c) 4 pointing someone out. I was up at the driver's seat at that time trying to get the hose fixed, so I don't know specifically what was said about who was causing the problem or why they were causing problems.

Counsel:

So based on that it certainly is possible that there was an incident with this suspected rapist leering at Sergeant (b)(6)-5 - 7(c) 5

Witness:

It's possible.

Counsel:

Now this incident with the interpreter, he wasn't following instructions, correct?

Witness:

He was moving towards the door.

Counsel:

Okay. And Sergeant (b)(6)-4-7(c) 4 actually had to get up and point his weapon at him and scream at him to get back into his seat.

012326

Witness:

Yes sir. We were going at a slow rate of speed at that time. It was either...I think it was after we had pulled off from the stop and so, I mean, he could have theoretically gotten out the door without hurting himself.

Counsel:

And there was also another incident? Wasn't there? Where an EPW was refusing to follow instructions and you had thrown a water bottle that hit him in the head?

Witness:

I don't recall that.

Counsel:

You don't recall that?

Witness:

No sir.

Counsel:

Okay, so it didn't happen or you just don't remember?

Witness:

I don't remember.

Counsel:

At the time that you had the stop, there was this busted hose, correct?

Witness:

Yes sir.

Counsel:

But you didn't realize what it was until you got out and looked, right?

Witness:

Well until I got up to the front of the bus. Yes sir.

Counsel:

Okay.

Witness:

The hose break was right next to the driver's seat on the left side. So you didn't have to actually exit the bus to see what the problem was.

Counsel:

Okay so you never had to exit the bus?

012327

Witness:  
No sir.

Counsel:  
At this point it's completely dark outside, correct?

Witness:  
At this point, it's about dusk. There's a little bit of light left outside, but not much.

Counsel:  
Okay. And the procedure that the bus driver followed was to slow down and pullover and turn on the flashing headlights?

Witness:  
Yes sir.

Counsel:  
And that's the same procedure that would be followed if there were some sort of incident on the bus with EPWs or something, correct?

Witness:  
That's correct.

Counsel:  
Even though he flashed his lights, the bus driver flashed his lights at the lead vehicle in the convoy, Staff Sergeant [REDACTED] didn't slow down, right?

Witness:  
He did not slow down.

(b)(6) - 4 - 7c(4)

Counsel: . . .  
He kept going?

Witness:  
Yes sir.

Counsel:  
And it took him a while to circle around and come back, correct?

Witness:  
That's correct sir.

Counsel:  
Probably took at least five minutes?

012328

Witness:  
I would say so, yes sir.

Counsel:  
At least long enough for the driver to identify the problem with the bus and fix it, correct?

Witness:  
Yes sir.

Counsel:  
And you said that you told Sergeant [REDACTED] (b)(6)-5 j 7(c) 5 to go ahead and call Staff Sergeant [REDACTED] to call someone and make sure that Sergeant [REDACTED] was informed that he needed to get back there? (b)(6)-4 j 7(c) 4

Witness:  
Right.

Counsel:  
And you said that there were other 320<sup>th</sup> personnel that came up to the bus to see what was happening?

Witness:  
Yes sir.

Counsel:  
As far as you know, at this point you didn't realize or you hadn't transmitted to anyone what the problem was with the bus, correct?

Witness:  
That is correct.

Counsel:  
You hadn't put out, "hey we've got a leak in an air hose or an air hose that popped off", right?

Witness:  
That is correct.

Counsel:  
And you said that once the problem had been identified, basically everyone got back into their vehicles and got going again, correct?

Witness:  
That's correct.

012329

Counsel:

And back, when you arrived at Camp Bucca, it was kind of like a ghost town, correct?

Witness:

Yes sir.

Counsel:

Not nearly as many people as you were used to being able to see there.

Witness:

No sir.

Counsel:

Not nearly as many in-processing people to help.

Witness:

No sir.

Counsel:

(b)(6)-4; 7e-4  
And Staff Sergeant [REDACTED] actually went out to find out about getting some help from the in-processing place, right?

Witness:

Yes sir.

Counsel:

You didn't actually help unload any EPWs?

Witness:

No sir, I did not.

Counsel:

Because you were charged with protecting the property.

Witness:

That is correct.

Counsel:

And initially you were in one spot, but then you had to move.

Witness:

Yes sir.

Counsel:

And that was because your, part of your field of vision was blocked.

012330

Witness:  
That is correct.

Counsel:  
What exactly was the property you were guarding?

Witness:  
It was reported to us that it was a bunch of money. It was later found out that there was just money here and there. The original property that they had reported to us, that was in that box, they had assigned to someone else already. But they told us that it was with that property. So there was a very confusing mix-up over what happened to the money, where the money was and who had had it. At this time, we were under the understanding that the money was in our possession. That was my priority at that time.

Counsel:  
And in terms of how the EPWs were being unloaded, Staff Sergeant [REDACTED] was standing right outside the bus door, correct?

(b)(6) - 4, (7)(C) 4

Witness:  
Yes sir.

Counsel:  
And he was sort of pulling them off the bus, or guiding them off the bus, how ever you want to put it.

Witness:  
Yes sir.

Counsel:  
And when he did that, he was letting everyone know what kind of guy he had that was coming off the bus, correct?

Witness:  
That is correct.

Counsel:  
He would identify them and say look this is the suspected police Major rapist.

Witness:  
Yes sir.

012331

Counsel:

The first one off the buss was the Fedahyeen Major. Is that right?

Witness:

Yes sir.

Counsel:

Okay, and you've been told by the 744<sup>th</sup> that he had a legitimate injury and that he often tried to milk it or tried to, kind of play it up?

Witness:

Yes sir.

Counsel:

Okay. Which you would assume would mean trying to ask for help or pretending that he couldn't walk, pretending he was more hurt than he was?

Witness:

Right sir, and trying to interrupt operations.

Counsel:

And in fact, when he was getting off the bus, he was moving especially slow, correct?

Witness:

Yes sir he was.

Counsel:

And actually Sergeant (b)(6)-4, 7(c)-4 had to yell at him to come on.

Witness:

Yes I assume so sir. I didn't hear him say that.

Counsel:

Okay. But from what you could tell he did not want to get up and move, the Fedayeen Major?

Witness:

No sir. I do recall them having difficulty getting him to step off of the bus.

Counsel:

Sergeant (b)(6)-4, 7(c)-4 actually pulled him up and got him on his crutches, correct?

Witness:

Yes sir.

012332

Counsel:

Even at that point, when he was on his crutches, he was moving very slowly.

Witness:

Yes sir.

Counsel:

Basically, doing just exactly what the 744<sup>th</sup> told you he would do, correct?

Witness:

Yes sir.

Counsel:

And you said you saw him fall down, right?

Witness:

That's correct, sir.

Counsel:

And you saw that he had to be picked up and had to be carried.

Witness:

Sir, at this point in time, the incident, as it occurred was, I heard Master Sergeant [REDACTED] state "hurry the fuck up or come on get it moving". Basically telling him to get on the ball with it. As I turned around she pushed him in the back and he fell forward.

(b)(6)-(b)(7)(C)(S)

Counsel:

Okay. And at that point he did not get up on his own, correct?

Witness:

At this time I don't recall. I would have to refer to my statement to refresh my memory. If you don't mind?

Counsel:

You don't remember if he had to be carried or picked up and carried at that point.

Witness:

I don't recall at this time, sir.

Counsel:

Okay. And you said that you saw Staff Sergeant McKenzie escorting a few EPWs?

Witness:

Yes sir.

012333

Counsel:

And you said that he used like a leg sweep to put an EPW on the ground more than once.

Witness:

Yes sir.

Counsel:

And actually you testified earlier that actually putting someone on the ground is one of the techniques used if someone, if an EPW is resisting, correct?

Witness:

Yes sir.

Counsel:

And you describe in sort of detail that someone is supposed to be put down in the face first position and their legs spread apart and their hands spread apart, correct?

Witness:

Yes sir.

Counsel:

But that, there was no briefing no demonstration of that technique done before this mission, was there?

Witness:

Sir, that training was provided prior to our arrival in-country.

Counsel:

Okay. But to the members of the 320<sup>th</sup>, there was no briefing, no demonstration of that?

Witness:

No sir.

Counsel:

And you have no idea whether they ever received that kind of training that you received, in regards to that technique, correct?

Witness:

I'm assuming if they were certified to come to a combat zone, sir, yes they did receive that training.

Counsel:

Okay. But you don't have any idea whether they did or not?

012334

Witness:  
No I don't.

Counsel:  
And the purpose for putting someone down on the ground, that's to regain positive control, correct?

Witness:  
Yes sir.

Counsel:  
And you actually heard Sergeant McKenzie, when he did these leg sweeps, when he put the EPW on the ground, each time you heard him say "stop resisting"?

Witness:  
That's correct, sir.

Counsel:  
And not a single one of those times did you actually see, or did you actually tell if that EPW was or was not resisting.

Witness:  
That is correct.

Counsel:  
And specifically, the first time, you said that what you saw and what you thought that he did seemed perfectly acceptable and seemed perfectly legal.

Witness:  
I didn't say that. I assumed the first time that the EPW was resisting.

Counsel:  
And if someone is resisting, that's a perfectly reasonable, perfectly acceptable thing to do, put him on the ground, correct?

Witness:  
No I did not say that.

Counsel:  
But you agree that if someone was resisting, or an EPW was resisting, the perfectly acceptable thing to do would be to put them on the ground?

Witness:  
To put them on the ground, yes sir.

Counsel:

**012335**

(b)(6)-5; (7)(C) 5

Okay. In regards to this incident with Sergeant [REDACTED], regarding this tripping incident, you saw her escorting an EPW?

Witness:  
No sir.

Counsel:  
She was not escorting an EPW?

Witness:  
No sir.

Counsel:  
You said that you saw her try to trip this EPW.

Witness:  
I saw her kicking the feet out from behind this EPW.

Counsel:  
Okay. And he didn't fall down?

Witness:  
According to my statement, sir, he fell down and then he was picked up by two other MPs who then took him back to the chute.

Counsel:  
That's according to your statement, but you don't have a personal recollection of that, correct?

Witness:  
At this time, sir, that's...I would rather trust what my statement says than what I recall at this time.

Counsel:  
You remember a couple of weeks ago when you talked to one of the other defense attorneys and myself?

Witness:  
Yes sir.

Counsel:  
And at that time you didn't actually remember this EPW falling down at that time either, correct?

Witness:  
That's correct sir.

012336

Counsel:  
Again you looked at your statement.

Witness:  
Yes sir.

Counsel:  
And you don't have any idea whether this particular EPW, that you saw tripped, you don't have any idea if he was an assassin or a high-profile EPW, correct?

Witness:  
I don't recall which one it was, no sir.

Counsel:  
But you know that he fell and was picked up.

Witness:  
Yes sir. According to my statement, that's what happened.

Counsel:  
You didn't see any injuries on him whatsoever?

Witness:  
Sir, at this time I was about, I want to say about thirty meters from where he was at.

Counsel:  
From that distance, you couldn't see any visible injuries?

Witness:  
No sir.

Counsel:  
You didn't see him having any.....At that time you did hear the escort say that he was resisting, correct?

Witness:  
I heard him yelling at him. I don't recall exactly what they said.

Counsel:  
They were saying stop resisting, does that sound right?

Witness:  
I don't recall that, no.

Counsel:

012337

You don't have any whether that EPW that you saw had any sort of history of faking injuries or falling down, or anything like that?

Witness:  
No sir.

Counsel:  
Let's talk about the interpreter. This person you identified as the interpreter or interrogator was possibly involved with the [REDACTED] case, correct?

(b)(6)-3; 7C-3

Witness:  
That's what we had heard, sir, yes sir.

Counsel:  
And you said that he was drug with his shorts down around his ankles.

Witness:  
His pants were down around his ankles, yes sir.

Counsel:  
You didn't see anything happen prior to that, correct?

Witness:  
No I did not, sir.

Counsel:  
And you have no idea whether he had a pattern of refusing to walk or of sitting down, or anything like that?

Witness:  
I have no idea what his issue was, sir.

Counsel:  
In regard to the Major that was charged with rape, you specifically remember Sergeant [REDACTED] calling attention to the fact that this guy was a police Major believed to have raped someone, correct?

(b)(6)-4; 7C-4

Witness:  
I just know that that's Sergeant [REDACTED] proper procedure. He always does that. Whenever I have accepted an EPW from him being a high-ranking Iraqi civilian, lower enlisted, he will tell me this is what this person is, take him over to the staging area.

Counsel:  
And you believe he did that in this case as well?

Witness:

012338

I believe he did that in this case.

Counsel:

Okay. And in regards to what you actually saw, with this alleged rapist, you said you saw him get kicked on a couple of different occasions, correct?

Witness:

Yes sir.

Counsel:

And at the time that you saw this, you were about twenty-five meters away?

Witness:

Yes sir.

Counsel:

And even though there are lights, you can't see the holding area from where you were, correct?

Witness:

The holding area sir?

Counsel:

Correct.

Witness:

The holding area is in the very back, over the top of the hill, that's correct?

Counsel:

And you saw this kicking where?

Witness:

I saw this kicking in the staging area which is at the beginning of the chute.

Counsel:

Right? About twenty-five meters from where you are.

Witness:

Yes sir.

Counsel:

It's safe to say that, even though it's lit, there are shadows and it's difficult to see in places back there?

Witness:

Yes sir.

**012339**

Counsel:  
And you said you saw him get kicked?

Witness:  
Yes sir.

Counsel:  
And then you said that there was a pause or there was a stop for a significant amount of time?

Witness:  
For some amount of time, yes sir.

Counsel:  
For some amount. And then you saw him get kicked again.

Witness:  
Yes sir.

Counsel:  
And you saw a couple of people holding his legs.

Witness:  
Yes sir.

Counsel:  
And do you remember having a conversation, the same conversation I referred to with one of the other defense counsel and myself a couple of weeks ago?

Witness:  
Yes sir.

Counsel:  
And at that time do you remember saying "I really couldn't tell who was holding his legs"?

Witness:  
I remember stating that it was Staff Sergeant McKenzie, and then I remember stating that it was the Sergeant First Class. But I do remember stating that there was a "light-all" unit, and there was, it was like a, it was mainly lighting up the chute area and then there was an area where the shadows trailed off at the beginning of the chute.

Counsel:

012340

Do you remember saying that, because of the lighting and the distance, it made it difficult to identify who that was?

Witness:  
Yes sir.

Counsel:  
And you remember saying that the two people that you saw, actually had their back to you?

Witness:  
Which two people, sir?

Counsel:  
The two people you saw holding the legs, they had their backs to you?

Witness:  
The one individual had their back to me. The other individual was off into the shadows.

Counsel:  
Okay. So basically you couldn't see either one of them well?

Witness:  
That's correct sir. I saw them as they were going down to hold the ankles. I identified one as Staff Sergeant McKenzie because he was the tallest one there. The other one I believe to be the Sergeant First Class.

Counsel:  
You never sought any medical treatment or tried to make sure that any of these people that you saw being abused or assaulted, you never tried to make sure that they got medical treatment?

Witness:  
These people were taken back to the processing area and I reported the incident to Staff Sergeant [REDACTED] as soon as I saw him next.

Counsel: (b)(6)-4; 7(c)-4  
Okay, you reported it to Staff Sergeant [REDACTED] when?

Witness:  
As soon as he came back from the 800's Brigade TOC.

Counsel:  
Okay. You have a pretty good feel. You're probably two hundred pounds or so?

012341

Witness:  
About two-thirty, sir.

Counsel:  
About two-thirty, okay. And you're probably about the same shape now as you were back then, would you say?

Witness:  
Yes sir.

Counsel:  
You never stepped in to stop any of the kicking or tripping or dragging.

Witness:  
No sir.

Counsel:  
But you certainly think that you have the physical strength to do that if you wanted to, correct?

Witness:  
If I had to, yes sir.

Counsel:  
After, at the end of this evening, you got together with the other people in your team?

Witness:  
Yes sir.

Witness:  
Yes sir.

Counsel:  
Okay. Was it just the people in your team or the people in your squad that were there?

Witness:  
I believe it was the people in the squad, sir.

Counsel:  
And you talked about what each of you had seen?

Witness:  
I don't recall what we had talked about. We didn't talk a very lengthy discussion. I just remember hearing that there were going to be sworn statements that were going to have to be made.

**012342**

Counsel:

Staff Sergeant [REDACTED] said you were going to have to make a sworn statement?

Witness:

Yes sir.

Counsel:

He said that to everyone?

Witness:

Yes sir.

Counsel:

There ever been any complaints of abuse against EPWs made against your squad or your company?

Witness:

Not that I'm aware of sir.

Counsel:

Specialist [REDACTED] have you been read your rights at any point in this investigation?

[Objection by the trial counsel: MAJ [REDACTED]]

Objection. I'm sorry, this line of questioning is starting to irritate me. This is an implied effort to try to impugn the character of these witnesses. These witnesses aren't being charged with anything. This isn't relevant to the issue of whether the soldiers who have been charged, committed an offense. And it's just a dirty trick to try to make these out, the soldiers who are testifying, to be criminals, when they aren't. And I would object to that question being repeatedly asked. That's the third time that question's been asked.

CPT [REDACTED]

Sir, can I be heard? My client--some of the other accused are charged with dereliction of duty for not stepping in, not reporting these alleged incidents. The fact that other people who claimed to have seen these acts, were not charged, were not advised of their rights, and basically have not undergone any sort of investigation for, basically, exactly the same thing that each of these soldiers are being charged with, is relevant. It's absolutely relevant.

MAJ [REDACTED]

Sir, the very reason why we're here is because these soldiers stood up and reported this incident the very next morning, actually that night, and then came back and reported it to their chain-of-command. The reason why we're here today is because these soldiers did

012343

their duty, and some how impugn their character to say they didn't do their job by failing to report this is simply flying in the face of the truth.

I/O:

Your objection will be noted in the report. Go ahead and ask the question.

Counsel:

Thank you sir. Have you been advised of your rights for dereliction of duty?

Witness:

No sir.

Counsel:

Okay. And you have not been charged with dereliction of duty?

Witness:

No sir.

Counsel:

You have not been charged with anything surrounding the events on twelve May?

Witness:

No sir.

Counsel:

Thank you Specialist [REDACTED] (b)(6)-4, (7)(E)-4

I/O:

Other questions from the defense?

Questions by the defense counsel: [REDACTED] (b)(6)-4; (7)(C)-4

Counsel: (b)(6)-4; (7)(E)-4

Specialist [REDACTED] you said that during the briefing that you initially had at Camp Bucca, you were discussing some of the S's that included shout, shove, show and shoot?

Witness:

Negative, ma'am. The five S's are search, segregate, safeguard, I can't recall at this time. There's a separate list of five S's that basically is a guideline for the EPW escort process.

Counsel:

Do you recall at the beginning of your testimony today using the S's of shout, shove, show and shoot?

Witness:

Yes ma'am. Those are use of force guidelines. There's a distinction.

012344

Counsel:

And those use of force guidelines were discussed at the initial briefing at Camp Bucca, correct?

Witness:

I'm not sure ma'am. I know that Staff Sergeant [REDACTED] gives the convoy briefing. Staff Sergeant [REDACTED] gives the ROE briefing. When they gave that briefing to the 320<sup>th</sup>'s staff, and the drivers to our trucks, I was not present at that meeting.

Counsel:

So you were not present during any of the initial briefings that occurred?

Witness:

No ma'am.

Counsel:

You're not sure exactly what was said during this initial briefing?

Witness:

No ma'am.

Counsel:

Your mission is to escort the EPWs from point A to point B, correct?

Witness:

That's correct.

Counsel:

And it's to safeguard those EPWs as you're transporting them, correct?

Witness:

Yes ma'am.

Counsel:

How long have you been a military police officer?

Witness:

Since August of last year, ma'am.

Counsel:

And what is your civilian occupation?

Witness:

I am a police officer recruit in Lexington, Kentucky.

012345

Counsel:  
How long have you been a police officer in your civilian life?

Witness:  
I am not a police officer ma'am. I am a police officer recruit.

Counsel:  
I'm sorry.

Witness:  
I am not a police officer in my civilian job, ma'am...I'm a police officer recruit there's a distinction.

Counsel:  
You're a police office recruit?

Witness:  
That is correct.

Counsel:  
So you're still in training?

Witness:  
Yes ma'am.

Counsel:  
Okay, so...as part of your training you're taught about crime prevention I assume, correct?

Witness:  
Yes ma'am.

Counsel:  
And about if you see a crime in progress you supposed to intervene, correct?

Witness:  
Yes ma'am.

Counsel:  
Now, your testimony before this hearing today is that you witnessed these individuals kicking this EPW and you stood your post?

Witness:  
Yes ma'am.

Counsel: Thank you, no further questions.

012346

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; 7(c)-2

Counsel:

When you guys got to Camp Bucca...you described it as a "ghost town", right?

Witness:

Yes ma'am.

Counsel:

Then later on, some soldiers from the in processing, I guess, unit came over to help you out, right?

Witness:

Yes ma'am.

Counsel:

And at one point there were about ten people running around escorting soldiers, right?

Witness:

That is correct.

Counsel:

And there weren't even putting these guys down in one staging area, right?

Witness:

That is correct.

Counsel:

So you had two separate staging areas, right?

Witness:

Yes ma'am.

Counsel:

And at least ten escorts running around with EPWs as well, right?

Witness:

Yes ma'am.

Counsel:

Okay, did you know any of those guys that came from the other unit?

Witness:

No I did not ma'am.

012347

Counsel:

Now, you testified today that SSG McKenzie...you testified that he was involved in some of this this rough handling, right?

Witness:

Yes ma'am.

Counsel:

You actually used his name

Witness:

Yes ma'am.

Counsel:

You also testified that your sworn statement is probably more accurate because it was taken closer in time to the events, right?

Witness:

Yes ma'am.

Counsel:

You didn't identify SSG McKenzie by name in your sworn statement, right?

Witness:

That's correct ma'am.

Counsel:

You said some SSG out there, right?

Witness:

Yes ma'am.

Counsel:

Before the uh...EPWs were loaded on the bus you were working in the pit, right?

Witness:

That's correct.

Counsel:

Did you guys search them before you put them on the bus?

012348

Witness:

Don't recall ma'am.... I don't know if they were searched on the other side of the bus...I know that typically, since we take them from a secured facility into our custody and into a secure facility uh which is ABC which they go...uh-- I don't think that the search is a common practice, because they're already in a secured area.

Counsel:

The secured area being.... much like they've got down here, right?

Witness:

Yes ma'am.

Witness:

Constantina wires.

Witness:

Yes ma'am.

Counsel:

Sand?

Witness:

Exactly.

Counsel:

Okay, you didn't search them in the pit?

Witness:

No I did not ma'am.

Counsel:

Did you put flex-cuffs on any of them or handcuffs?

Witness:

No ma'am.

Counsel:

Did you, from you vantage point, did you ever see SGT [REDACTED] uh...throw EPWs off the bus?

(b)(6) - 24; 7(c) 4

012349

Witness:  
No ma'am.

Counsel:  
Did you ever see him head-butt an EPW as he's taking him off the bus?

Witness:  
No ma'am.

Counsel:  
When you talked about these leg sweeps, SSG McKenzie was standing directly next to the EPW that he was escorting, correct?

Witness:  
That is correct.

Counsel:  
They were hip-to-hip?

Witness:  
Pretty much ma'am.

Counsel:  
And his back was to you as this was happening?

Witness:  
That's correct.

Counsel:  
And the times that you've put people in the prone, you talked about that talked about putting people in the prone, you had other people there to assist you, correct?

Witness:  
Yes ma'am.

Counsel: Thanks Specialist (b)(6)-4; 7(c) 4

I/O: Major?

Questions by the defense counsel: (b)(6)-2; 7(c) 2

Counsel:  
I have a few questions about this interpreter, I'll start with him, on the bus, do you recall what he was wearing?

012350

Witness:

As I recall it was a pair of brown pants, and a like a yellow wide-wing 70s shirt, I mean it was pretty ...pretty good clash (laughs).

Counsel:

Okay, thank you...and when he went down into the stairwell (b)(6)-4, 7(c)-4 yelled for him to come back up, right? Or shouted something at him?

Witness:

Yes ma'am.

Counsel:

And he didn't come back up right away, did he?

Witness:

I recall him coming back up, ma'am-I'm that sure.

Counsel:

You don't?

Witness:

I do.

Counsel:

You do...but um... (b)(6)4; 7(c)-4 had to train his gun on him?

Witness:

Yes ma'am.

Counsel:

And that's the shotgun?

Witness:

Yes ma'am.

Counsel:

But how close was the weapon to the EPW?

Witness:

Um...probably 8 feet, 9 feet.

Counsel:

So he had to use the weapon to make him come back up?

012351

Witness:

Yes ma'am because he was not...he was...there were other EPWs in his way, so he could not go over there and physically bring him back up into the bus.

Counsel:

So it did take the weapon to motivate this man to come back.

Witness:

Apparently ma'am, you'd have to ask [REDACTED]

(b)(6)-4; 7(c)4

Counsel:

Well you were on the bus? And witnessed this?

Witness:

Yes ma'am.

Counsel:

And the EP...the interpreter that you said was dragged and his pants fell down...is that the same interpreter we're talking about?

Witness:

I believe so ma'am, yes.

Counsel:

And when you saw him being dragged...could explain again how the uh...escort was holding him?

Witness:

I believe the uh...he was bound, I think, he was bound by the wrist, but I know that the person that was escorting him was on the left arm, he had him by the elbow, the interpreter's left elbow was up like this, I can't remember if he was bound or not. He had him by the left elbow and the individual was dragging him towards the staging area.

Counsel:

Was the interpreter's entire body on the ground? Or were his feet kind of just dragging?

Witness:

Uh...probably from about mid-chest down was on the ground.

Counsel:

And he wasn't walking because his pants fell down?

Witness:

He wasn't walking because he was being dragged across the ground ma'am.

012352

Counsel:

And you don't...you didn't see what happened before that to...

Witness:

No I did not.

Counsel:

Did you notice this interpreter back up at Talil when he was boarding the bus?

Witness:

I noticed him only once I got on the bus and identified our English speaker.

Counsel:

Do you recall him pulling his pants up constantly during the bus ride?

Witness:

No I do not.

Counsel:

You all got together and discussed uh...what happened that night after all the EPWs were downloaded, your squad got together and talked a bit, right?

Witness:

Yes ma'am.

Counsel:

And who was there?

Witness:

(b)(6)-4; 7(c)4 I believe it would've been SGT [REDACTED] SPC [REDACTED] SGT [REDACTED] myself, and SSG [REDACTED]

Counsel:

What was discussed?

Witness:

(b)(6)-4; 7(c)4 We were just telling SSG [REDACTED] (b)(6)-4-7(c)-4 what we had seen uh...so he could have a full report to MAJ [REDACTED] (b)(6)-1-7(c)1 h...he had said that we were gonna do some sworn statements, there were gonna have to be done probably the next day-it was late. Get up and do them in the morning and we broke and went to bed.

Counsel:

And have you talked to anybody in your squad about the events of that night after that meeting?

012353

Witness:

I may have ma'am I'm not sure.

Counsel:

Did you talked to anybody here at Bucca since you've been here to testify um..before you testified about ...the events that...happened....that you....that night?

Witness:

No ma'am.

Counsel:

When was the last conversation you had with your squad, anybody in your squad, about this?

Witness:

Other than the newspaper article, if we're talking specifically about the case and what happened that night, I can't tell you ma'am. I mean, something may have been brought up here and there but there's never been full-out detailed discussions of ...why this happened or what should have been...we talked about, you know, some we wish we would've done something. We wish we should've done something that night, instead of waiting the next morning to do the uh...sworn statement. Unfortunately, it's easy to armchair quarterback.

Counsel:

Okay, I have no further questions. Thank you.

I/O:

Major (b)(6)-2, (7)(c)-2

#### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ (b)(6)-2, (7)(c)-2

Counsel: (b)(6)-4; 7(c)4

SPC (b)(6)-4 st a couple...when you got together with your squad that night, after you had finished with the mission, um...and you discussed this matter; had you ever seen MPs treat prisoners this way before?

Witness:

No I had not.

Counsel:

Did that have any effect on your decision to report it?

Witness:

Yes.

012354

Counsel:  
What effect did that have?

Witness:  
Uh...we pretty much had to report it.

Counsel: (b)(6)(7)(c)-2  
Now, I think you were being asked by CPT [REDACTED] if a prisoner is resisting then I think the words that he used were, "the perfectly acceptable thing to do is to put the EPW to the ground".

Witness:  
Right.  
Counsel:  
And you said that that was true?

Witness:  
To place them on the ground, yes, sir.

Counsel:  
Is the manner in which SSG McKenzie was doing that, the "perfectly acceptable thing to do"?

Witness:  
Absolutely not, sir.

Counsel:  
And why is that?

Witness:  
Because they're was very susceptible to injury in the neck and the head.

Counsel:  
And that's because of the way he was doing it?

Witness:  
Yes sir.

Counsel:  
And how was he doing it?

Witness:  
He was almost hip-tossing them up into the air and driving their head into the ground.

Counsel:

012355

Now, there were some questions about the different status of some of these prisoners; to your knowledge, is it acceptable to abuse prisoners because of their status?

Witness:

No sir.

Counsel:

Because no matter what a prisoner's status, whether they're a suspected war criminal or a foot soldier from the enemy forces, you treat them the same, right?

Witness:

Yes sir.

Counsel:

Based on their status? I mean if they conduct themselves in ....

Witness:

We treated them the same based on our professionalism, sir.

Counsel:

If they act differently, then they...

Witness:

Yes sir.

Counsel:

But, just because of who they are...

Witness:

No.

Counsel:

There's no basis to treat them differently is there?

Witness:

That's correct sir.

Witness:

Counsel:

Now, let's go to that person that you saw being...the prisoner that you call the interpreter that was being drug across the ground, you have identified the person that you saw dragging him across the ground?

Witness:

That is correct.

**012356**

Counsel:  
And that was SPC [REDACTED] (b)6-5 ; (7)(c)-5

Witness:  
Yes sir.

Counsel:  
Alright, now...if, from your training, if a prisoner won't get up, is it proper procedure to drag the prisoner across the ground?

Witness:  
No sir.

Counsel:  
Is it proper procedure to drag him across the ground with their pants around their ankles?

Witness:  
No sir.

Counsel:  
Um...you mentioned that...when you were asked some questions about whether you had identified this SSG by his name in your statement, and you did not identify SSG McKenzie in this statement, did you?

Witness:  
That is correct.

Counsel:  
But on your mission that night there were the 220<sup>th</sup>-the 223<sup>rd</sup>, excuse me-and the 320<sup>th</sup>, right?

Witness:  
That's correct sir.

Counsel:  
And there were two SSGs total, correct? SSG [REDACTED] (b)(6)4 ; 7(c)4

Witness:  
That's correct.

Counsel:  
And SSG McKenzie?

Witness:  
That's correct.

012357

Counsel:  
Were there any other SSGs?

Witness:  
Not that I was aware of.

Counsel: (b)(6)-4; (7)(c) 4  
And did you see SSG [REDACTED] throwing prisoners to the ground?

Witness:  
No sir he was at the Bucca TOC.

Counsel:  
Did you see him pulling anybody's leg apart while somebody kicked him in the groin?

Witness:  
No sir.

Counsel:  
Okay, so...but you're sure that it was the other SSG that was doing this?

Witness:  
Yes sir.

Counsel:  
All right. Thank you, I don't have any further questions for you.

I/O:  
Anything from the defense?

[The witness was duly warned, dismissed and left the room.]

[Comment for the record by defense counsel: CPT [REDACTED] (b)(6)-2, (7)(c)-2

Before we get started, I just wanted to take up something about one of the dialogues that happened earlier. The Trial Counsel said that the Defense was "pulling some sort of dirty trick in an attempt to impugn the character of witnesses" by asking them if they had been read their rights or charged, and it is my understanding is even people that are read their rights and charged are innocent until proven guilty, so I hope that there is no implication here that because our clients are charged that they're somehow guilty or bad people or something like that. So I just wanted to state for the record that hopefully that's not anybody's understanding of the comments that were made. Thank you.

I/O:  
Okay, that's not my understanding.

012358

**DIRECT EXAMINATION**

(b)(6)4-(7)(c)-4  
SGT [REDACTED], U.S. Army, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED] (b)(6)2-7(c)2

Counsel:

You were on the mission on the 12<sup>th</sup> of May to go pick-up prisoners at Talil airbase, is that correct?

Witness:

Yes sir.

Counsel:

All right, um...and uh...what was your...what were your duties for that mission?

Witness:

b6-4  
b7C-4  
Uh...I'm a team leader, sir. My driver was SSG [REDACTED] (b)(6)4-7(c)(4), um...and my gunner was SPC [REDACTED]. We were lead vehicle on the way up there and on the way back. I did more convoy security than directly working with the EPWs themselves, when we got up there. On the..When we got back here, I did...I was in charge of the property detail and then also, I had to go jump one of the 320<sup>th</sup> vehicles, too.

Counsel:

All right um...lets just go straight to the trip back ..um..the uh... during the ride back from Talil to um...Bucca, did uh...was there an incident that happened with the bus?

Witness:

Roger.

Counsel:

What happened?

Witness:

I think we were about halfway back and...uh we were lead vehicle, radio communication was not good, because one the didn't have radios-they had some handheld's, but they didn't always work in the I think the batteries were low, at that time, too. We looked back we noticed that the bus had slowed down or stopping and the rest of the convoy, so we uh..we were probably 500 to 600 meters away by then when we noticed and uh...we turned around, came back, and uh...got back with the rest of the convoy. Once we were back in the lead vehicle we had turned around probably 2 or 3 minutes past, if that, and uh...we noticed that there was only one personnel uh...outside the vehicles in front of the bus, which was directly behind us in the convoy. And uh...and everybody else had gone up inside the bus. So I immediately got out of the vehicle to figure out what was going

012359

(b)(6)-4; 7(c)-4 { on, went to the bus, stood outside the bus with the door open, and uh....either I asked SGT [REDACTED] or SPC [REDACTED] I have it written in my statement-it's been four months now-or uh..SGT [REDACTED] or SPC [REDACTED] and uh...asked them what was going on. They said "nothing" except for the bus had blown an air hose and the drivers had got out and they were immediately working on it right there. So he said we'd be back up in 15 minutes.

Counsel:

Okay, did you actually board the bus?

Witness:

Negative.

Counsel:

So you just stayed outside?

Witness:

Roger.

Counsel:

So the bus and the vehicles escorting the bus got back underway after this with the air hose situation was corrected?

Witness:

Roger. Uh..I did witness, I don't know who, it wasn't one of our personnel because I didn't recognize the voices, on e of the 320<sup>th</sup> personnel say, "hey who's the troublemaker on the bus" and there was, I did look up into the bus, and I saw approximately 3 to 4 personnel in the aisle towards the front of the bus kinda looking at the EPWs trying to figure out what was going on.

Counsel:

okay, now...once you got back her to Camp Bucca...what happened then?

Witness:

(b)(6)4; 7(c)-4 { Once we got back to Bucca uh...they weren't ready for us, nobody in the whoever was controlling the in processing was not ready for us, so we probably had to wait about 45 minutes for them to get the property personnel, whoever was in charge of basically signing over the EPWs for them. So uh...that took about 45 minutes uh...me and SSG [REDACTED] both had left to try and round up people to try and get them out there so we could hurry up and get this over with because by that time I think it was ...oh it was like 2130 or something like that...um...and so it had been a long day and uh.... They finally get everybody there. SGT [REDACTED] stood at the front of the bus, and he proceeded to uh, we'd take about five personnel off the bus at-a -time, they line up, get down to the bottom of the steps, SGT [REDACTED] would check their ID, the wristband, and then shout out the name and he would also ask them, you know, if they were civilian, Republican Guard, you know, and etcetera, just so they would know how to segregate them once they

012360

put them into the holding are. Um...immediately, I'd say it was with the first couple of 'em, he noticed when they were being taken off uh...and they were taken over, what they'd do is they'd take them off the bus, take them about 15 feet away, line them up in a line of five, and from there-after they got the five out there-they would take them to the holding are. Um...it was either the first person or the second person in the group ... It was either the first person or the second person on the bus was the ...uh...EPW with crutches and uh...that person was being taken over from the bus to just where they would set them down and he was basically being tripped up while he was being carried over there. And was kinda just like, kinda if you did the right leg in front of his left leg and threw him to the ground.

Counsel:

Did you see who did that to him?

Witness:

Uh...negative, I just remember seeing it kind of out of the corner of my eye type of thing.

Counsel:

So you don't have any idea who it was that?

Witness:

Negative.

Counsel:

So you don't know if it was a 223<sup>rd</sup> soldier or a 320<sup>th</sup> soldier?

Witness:

Uh...negative, at that time, if I remember right, I don't think any of our personnel were actually escorting over that part of the ...I could not answer that question to the best of my knowledge.

Counsel:

Now, after this was over with you made a ...you gave a written statement to the uh..CID, did you not?

Witness:

Roger.

Counsel:

Um...and that was on the 14<sup>th</sup> of May?

Witness:

Roger.

Counsel:

012361

Do you remember telling them, in that statement, or writing in that statement that it was a 320<sup>th</sup> MP that had tripped the prisoner on crutches?

Witness:

Um...I do remember saying that, sir, and uh...that being two days from the time of the moment that would be the correct statement.

Counsel:

You're willing to..., because it was closer in time to the events?

Witness:

Right, it's not something that I necessarily want to think about over these past four months, so...what's written in my statement would be the correct answer.

Counsel:

Now, but besides seeing that it was a 320<sup>th</sup> soldier, you're not sure which one it was?

Witness:

Correct.

Counsel:

So then what happened after that did...with regard to that Iraqi prisoner who was on crutches...he was tripped up?

Witness:

Yes sir.

Counsel:

What happened to him?

Witness:

Sir I think it would be best probably if I did review my statement at this time.

Counsel:

You need to refresh your recollection?

The Government marked the witnesses statement as Exhibit 4 for identification and was allowed to review it for recollection.

Counsel: Does that refresh your recollection SGT [REDACTED] (b)(6)(4) - (7)(e) - 4

Witness:

Yes it does sir.

012362

Counsel:

Okay, I think we were talking about the Iraqi prisoner on crutches?

Witness:

Roger.

Counsel:

What did you observe after he was tripped up?

Witness:

After I...he was tripped up I didn't immediately see anything happen with him. um...I saw approximately two to three EPWs after that taken out off the bus and I saw them thrown to the ground using a leg-sweeping move. That's basically where you use your right leg and it's swung back, and the way they were transporting them is they're putting their arm kinda through the front of their arm in between the arm and the body, and to the back and over the shoulder. So basically, to me, that's almost the perfect way as if you want to throw somebody to the ground all you have to do is rotate your body and they would immediately get thrown to the ground.

Counsel:

And when you say they, who do you mean, SGT [REDACTED] (b)(6) 4 - 7(c) 4

Witness:

Well, that's not how 223<sup>rd</sup> escorts personnel, so the 320<sup>th</sup>.

Counsel:

You remember specifically anyone in the 320<sup>th</sup> that you observed doing this?

Witness:

I don't know the name it was...uh white male, 5'5", specialist-if I remember right, a dog-tag, a tattoo on his arm..

Counsel:

Do you remember what kind of a tattoo it was?

Witness:

It was long, that's all I can remember.

Counsel:

It was long?

012363

Witness:

Yes, or actually 8 inches or so, immediately after this incident you could kinda hear like some wailing slash crying from the EPW and it wasn't something I wanted to see and so and I immediately then also got put on the property detail and so I was ...the property person never showed up. So actually I had to end up trying to track him down, too.

Counsel:

Let's talk a little bit about the um...soldier from the 320<sup>th</sup> that you saw that you just described. What was that soldier doing? The one that you described that had the tattoo that was...

Witness:

He was escorting them from the bus to the group of five, where I would be

Counsel:

When he was escorting the prisoners from the bus, what was he doing with the prisoners?

Witness:

He was handling them roughly, we hadn't been having any problems with EPWs at all, besides them talking and we'd tell them not to and they'd stop. But uh...basically one time, when he threw him to the ground, he kinda put like one leg on one foot on his back and kinda crouch down like this and put the knee like at the top of the back top...lower neck area. And that was the most that I saw from that situation right there.

Counsel:

Okay, you say he threw that prisoner to the ground first?

Witness:

Roger, using that same move I just...

Counsel:

With having his arm woven up into their back with their arms behind their back?

Witness:

Roger.

Counsel:

And what were these prisoners...what was the situation with their hands. Were their hands free?

Witness:

I couldn't say for all of them I know, obviously the guy on crutches, he couldn't have been on crutches if he had his hands bound, but uh...if I recollect correctly some of them were bound with medical tape.

012364

Counsel:

What about the one that you observed the specialist threw into the ground and put his knee in his back?

Witness:

The ones that you really couldn't necessarily do the move unless their hands were bound, so those three EPWs arms were bound.

Counsel:

Their arms were bound?

Witness:

Yes.

Counsel:

Okay, and...he did that with three different EPWs?

Witness:

Roger.

Counsel:

Were they...did you observe these EPWs?

Witness:

I mean, I observed the situation and it happening I didn't try to remember who they...which EPWs they were.

Counsel:

I understand...did you see them resisting?

Witness:

No sir I didn't see any resisting...the most resisting I saw was at Talil, and that was basically the same guy that was on crutches, he fell down and didn't want to get back up. But he was just picked back up off the ground and everything was fine.

Counsel:

Now, when he was...let's go to that, when he was picked back up from the ground do you remember who picked him up?

Witness:

If I remember correctly it was an E8 from 744, and basically they were all lined up and ready to be put on the bus, and he was last one on the line and he was leaning kinda on the guy in front of him. And you don't know if he's necessarily resting or is he just whispering in the guy's ear, so he went back there to just move him back, just pull him back like you know a foot.

012365

Counsel:

And this was the E8 from the 744<sup>th</sup> that went back there to move him?

Witness:

Roger.

Counsel:

Okay, so he went back there to move him...I'm sorry go ahead...

Witness:

And he pulled him back, and he walked away, after he moved him back he was about five feet away, and the guy just, either lost his balance on purpose or just lost his balance, and he fell back and he started crying. An he comes walks back and the guy really wasn't like trying to get himself up by himself and he got him back up. And right at that time, I was standing approximately 20 feet away, I was with the vehicles, we were lined up like this, all the vehicles lined up like this, EPWs right there, and we had our two vehicles right here and I was standing with two 320<sup>th</sup> personnel, and one of them made a comment of you know next time he falls let us take a crack at him. And that was a female E5, 5'6" about 150 pounds.

Counsel:

Is that person in the hearing room today?

Witness:

No.

Counsel:

Now, SGT [REDACTED] b6-4 b7C-4, going back to the three prisoners that you observed the specialist from the 320<sup>th</sup> with the tattoo throw to the ground. Did those prisoners say anything or make any noise when they were thrown to the ground?

Witness:

Yeah like a...more like a yell, like a shriek or scream, but I mean, they made noise I couldn't necessarily describe it per se.

Counsel:

Did it appear that they were in pain, or was it some other kind of scream?

Witness:

When they got on the ground it seemed like they were all in pain, I would definitely agree so.

Counsel:

The um...prisoner that was on the crutches, you said you saw that prisoner knocked to the ground, then you said your attention...you don't remember what happened to that prisoner after that?

012366

Witness:  
Correct.

Counsel:  
Do you remember writing in your statement back in May that you then saw that person "half-dragged to the holding area"?

Witness:  
Correct...that was after they got the group of five, so it wasn't immediately like the incident right when he was taken off the bus, so uh....he was on crutches, he wasn't walking fast enough, and so uh...personnel on each side of the EPW on crutches basically half dragged-carried him over there because he wasn't going fast enough for their speed.

Counsel:  
Did you hear that man, that Iraqi prisoner, did he say anything or make any sounds?

Witness:  
He made the same crying noise he made the time before and he also uh...cried a little at Talil when he fell, too.

Counsel:  
And you indicated that at some point you had to go jump-start a vehicle?

Witness:  
Roger.

Counsel:  
Let's talk about that for a second. When did that happen?

Witness:  
That happened about the same time. I was doing the property. I started off trying to round up that personnel. That person was supposedly come back, so I went back they needed a jump, so I drove my vehicle all the way around to the back of the bus where that vehicle was, and got out my slat cables and proceeded to jump-start that vehicle.

Counsel:  
And when you did that were you away from the site where they were escorting the prisoners?

Witness:  
I was only about fifty feet away, but I wasn't directly involved with anything else after that.

**012367**

Counsel: (b)(6)-4; (7)(c) 4  
Sergeant [REDACTED] Thank you. I don't have any further questions for you please answer any questions that anyone else may have for you.

I/O:  
Questions from the defense? CPT [REDACTED] (b)(6)-2; (7)(c)-2

### CROSS- EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(c)-2

Counsel:  
You've been with the 223<sup>rd</sup> since 1999?

Witness:  
Yes sir.

Counsel: (b)(6)-4; (7)(c) 4  
And you've known SGT [REDACTED] since you got there?

Witness:  
Roger.

Counsel:  
And he was initially your team leader?

Witness:  
Roger, we were deployed to Bosnia and he was my team leader for that.

Counsel:  
So you got a chance to know the people in your squad pretty well?

Witness:  
Roger.

Counsel:  
And you're a pretty tight-knit-group?

Witness:  
Roger.

Counsel:  
You've been on several of these escort missions before the 12<sup>th</sup> of May?

Witness:

012368

Yes sir.

Counsel:

So you pretty much have the routine down you know what you want to have done, and you know what works for you, right?

Witness:

Roger.

Counsel:

There's no set ratio though of MPs per number of EPWs, correct?

Witness:

Roger, it's more set on what type of transportation is being used.

Counsel:

And in your case whenever you went on an escort mission you would have two MPs on the bus for however many EPWs you were picking up?

Witness:

Roger, usually two MPs and sometimes even the driver of the bus is an MP.

Counsel:

So sometimes you had a driver and one other MP?

Witness:

No, it was always two security, but sometime you had three MPs on there one being the driver.

Counsel:

But that wasn't written in stone anywhere that you had to have that many?

Witness:

To my knowledge at this time no.

Counsel:

(b)(6)4-(7)(c)-4  
And on this mission SSG [REDACTED] told you this was going to be a right-seat left-seat ride?

Witness:

Roger.

Counsel:

And what does that mean to you?

012369

Witness:

Basically it means we're there to basically show them how it's done type thing. At the main time you're kinda hoping someone else is gonna be learning your job so they can take over so you can go home.

Counsel:

Did you think that was possible that that might be what happened and you might be able to get to go home soon?

Witness:

It was a possibility, but it wasn't something, you know it's early May, so it's just a thing in the back of your mind kinda hoping. That's what you did for Bosnia, when you got there you did a right-seat ride, and when your leaving the group came in you did a right-seat ride with them.

Counsel:

And...so this was essentially still the 223 mission, correct? A 223 escort mission?

Witness:

Roger, except for we they had the majority of the people. We only had...we had our my truck and them we had personnel on the bus that were up in the back.

Counsel:

But your NCOs were in charge of the escort, the convoy, and in charge of the bus, correct?

Witness:

We were uh...for the most part, roger....we did not have the ranking personnel out there.

Counsel:

But SSG [REDACTED] was the convoy chief or the convoy commander, correct?

Witness:

(b)(6)4(7)(C)-4 To the best of my knowledge, yes.

Counsel:

And SGT [REDACTED] was NCOIC on the bus, correct?

Witness:

Roger.

Counsel:

You hadn't met anybody from the 320<sup>th</sup> before, correct?

012370

Witness:  
Correct.

Counsel:  
You just heard the name of the unit, right?

Witness:  
Roger

Counsel:  
And there weren't any 320<sup>th</sup> personnel in your vehicle on the mission?

Witness:  
Correct.

Counsel:  
What was the communications like on the mission?

Witness:  
As far as commo wise it was not good. we used to always two SINGARs in each truck, so not only can we monitor our frequency, but if we have somebody else with us we can monitor their frequency on the other radios, too. 320<sup>th</sup> provided some handhelds, but they didn't work that well

Counsel:  
So on this particular convoy not all the vehicles had...

Witness:  
They all had commo, but it was not good communication, correct.

Counsel:  
And you were given a briefing before you left, correct? By SSG [REDACTED] (b)(6)4-7(c)4

Witness:  
Roger.

Counsel:  
And that was a briefing to your squad?

Witness:  
Roger and the group was briefed also.

Counsel:  
Everybody in the 320<sup>th</sup> was there?

012371

Witness:  
Roger

Counsel:  
And it was covering things like convoy distance and speed?

Witness:  
Roger, ROE

Counsel:  
ROE?

Witness:  
Roger

Counsel: (b)(6)4-(7)(c)-4  
And then when you got to Talil SSG [REDACTED] briefed you on the personnel you were picking up or that the EPWs were?

Witness:  
Roger

Counsel:  
And that included some Republican Guard, a translator or an interrogator?

Witness:  
Roger

Counsel:  
A general and you said that at Talil you said you saw someone on crutches?

Witness:  
Roger

Counsel:  
Do you know who he was?

Witness:  
No

Counsel:  
Could he have been a FEDAYEEN major?

Witness:  
I wouldn't want to answer that cause I don't really know....obviously he could have been, but I wouldn't know

012372

Counsel:

You don't remember at all...you would not identify who he was, right?

Witness:

Not that I recollect, sir

Counsel:

At that time you remember him trying to whisper to another one of the EPWs? ....or looked like he could have been trying to whisper to one of the EPWs?

Witness:

Roger, he was just more up there leaning on somebody else's shoulder, facing away from us though, so either he was resting on his crutches or he could have been resting on him.. All kinds of possibilities, sir

Counsel:

And to make sure he wasn't whispering or conspiring or whatever there was an E8 from the 744<sup>th</sup> that pulled him away. And when he pulled him away, as far as you could tell the E8 from the 744<sup>th</sup> didn't throw him down, correct?

Witness:

No, correct

Counsel:

The guy just fell down?

Witness:

Roger.

Counsel:

Lost his balance or whatever?

Witness:

Roger.

Counsel:

And he laid on the ground and he whined and cried, right?

Witness:

Roger.

Counsel:

And he didn't want to get up?

012373

Witness:

Roger, he didn't want to help himself up, sir.

Counsel:

And you weren't involved in all the loading, correct?

Witness:

Correct.

Counsel:

What were you doing at the time the bus was being loaded?

Witness:

I was doing more of the vehicle security at that time.

Counsel:

And you weren't watching the loading of the EPWs?

Witness:

Not real close, correct.

Counsel:

(b)(6)9-(7)(E) 4  
I know SGT [REDACTED] was at the front of the bus...loading them up and I remember how they were being set-up and everything.

Counsel:

And you said when you got back to Camp Bucca it took about 45 minutes before you even started unloading prisoners, right?

Witness:

Roger.

Counsel:

So you were just kind of sitting there waiting for 45 minutes?

Witness:

Roger.

Counsel:

Nothing was happening at all.

Witness:

Negative, just trying to get the people out there.

Counsel:

012374

So there was no in processing personnel or certainly not sufficient in processing personnel to help?

Witness:

Roger, so everybody just stayed on the bus.

Counsel:

As these people were taken off you said SGT (b)(6) 4 - (7)(C) 4 would shout out who they were in terms of what they were suspected of?

Witness:

Not what they did it's more like if they were an officer or enlisted, civilian, Republican Guard, etcetera.

Counsel:

So whatever Intel he had on them that was what he was telling the escort, right?

Witness:

Roger, just more just so they know how to segregate them in the holding are.

Counsel:

And you said the first one you saw was this individual on crutches?

Witness:

Roger.

Counsel:

And that's the same individual you saw in Talil?

Witness:

Roger.

Counsel:

The same one that you saw in Talil fall down on the ground?

Counsel:

And when he fell down on the ground he was crying and wailing?

Witness:

Roger, I wouldn't say to the same extent, but...

Counsel:

Okay,.....didn't want to get up didn't want to move in Talil, correct? ...Didn't want to help himself up?

Witness:

012375

Roger, sir he just picked him back up and then there was no problem...but I wouldn't...

Counsel:

And he's the first one you saw get off the bus?

Witness:

Correct, he was either number one or number two he was the first one that I witnessed.

Counsel:

And your responsibility at Camp Bucca was not to escort prisoners off the bus, correct?

Witness:

We usually did help with processing people to get them out there to expedite the situation.

Counsel:

On the night of 12 May, though, your responsibility was to help out with the property, correct?

Witness:

Roger I thought you meant like unit wise.

Counsel:

You on the night of 12 May you were responsible for helping out (b)(6)4-(b)(7)(C)-4 with the property, is that right?

Witness:

Roger.

Counsel:

And there wasn't anybody there from property there to take over the property to help out as usual?

Witness:

Roger, roger.

Counsel:

You were worried about that issue and that was your main concern?

Witness:

Roger, we had a large sum of money that we were hoping (laughs) that we were ready to put in somebody else's hands.

Counsel:

You were more worried about getting rid of that property?

012376

Witness:  
Roger.

Counsel:  
At no time did you ever see any EPW get struck or kicked by anyone, correct?

Witness:  
I personally did not.

Counsel:  
And you said that you saw a couple of EPWs get their legs swept out from under them?  
Put on the ground?

Witness:  
Roger.

Counsel:  
And you couldn't tell whether they had resisted at any point before that, though, could you?

Witness:  
Before that? as in a few seconds? no I couldn't, but we didn't have a problem all the way on the way back, but then there's no problem with the EPWs.

Counsel:  
Not on the bus, but bottom line is you couldn't tell as they were getting off the bus whether there was any problems with resistance?

Witness:  
As far as I could see there were no problems when they were getting off the bus.

Counsel:  
But you did not see before the leg sweep, you did not see whether there was resistance?

Witness:  
I did not see any resistance, sir.

Counsel:  
Okay, earlier you said you couldn't tell or you couldn't see whether there was any resistance, is that correct?

Witness:  
Roger, which would be along the same lines.

012377

Counsel:

And when you saw this when you saw a couple of different people you said that got their legs swept out and put on the ground. Where was SSG [REDACTED] (b)(6)4-(7)(C)-4

Witness:

He was moving around for a while there, he was talking on the SAT phone, I forget what he was trying to get a hold of somebody on, but he's everything from I think he was right up by the bus to I think the majority of the time he was approximately about 30 feet away trying to work some other issue out.

Counsel:

Three feet away from where?

Witness:

About 30 feet away from the bus.

Counsel:

Thrity feet away from the bus?

Witness:

Roger.

Counsel:

And probably he was about 15 meters from these people you saw being leg swept?

Witness:

Roger, the bus was right here, my vehicle was right here, we came in the gate, so I was about at this area at the time, I'm thinking where he was. He was about right there and he had the walkway going to into the (inaudible) in between like Constantine wire .

Counsel:

So he was first 15 meters away from when you saw?

Witness:

Roger, approximately.

Counsel:

And during the course of the evening as you were talking about the property and that you were worried about this property issue, after you saw these leg sweeps, did you have any conversations at all with SSG [REDACTED] about reporting these legs sweeps that you saw?

(b)(6)4-(7)(C)-4

Witness:

After...it either before or during property when he was over there talking about, after he got off the phone, I mentioned to him, "hey this doesn't seem right" "I'm not seeing any type of resisting and it looked like they were being handled pretty roughly"

012378

Counsel:

Did you remember having a conversation with myself and one of the other defense counsel a couple of weeks ago?

Witness:

Roger.

Counsel:

Up at the TOC?

Witness:

Roger.

Counsel:

Did you remember at that time saying that you didn't have any discussions with SSG (b)(6) 4-7(c)-4 [REDACTED] about the treatment of EPWs?

Witness:

I didn't mention anything specific to him, no...I don't remember talking about it then, no I don't remember that being brought up.

Counsel:

So you don't recall saying "I didn't have any conversation with SSG (b)(6) 4-7(c)-4 [REDACTED] about the treatment of EPWs"?

Witness:

Oh no I'm positive I mentioned that, because immediately after I was done doing property I checked in with my gunner to see if anything happened while I was gone, and then she had mentioned what she saw which I wrote in my sworn statement and I brought that up to SSG [REDACTED] And then he said he witnessed some stuff and he immediately from there went, I actually went with him, up to Brigade to report it.

Counsel:

So you were just mistaken a couple of weeks ago, is that correct?

Witness:

If I left it out, correct.

Counsel:

Okay, SGT [REDACTED], I don't have any more questions for you right now.

012379

Questions by the defense counsel: CPT [REDACTED] (b)(6) - 2 - 7(c) - 2

Counsel:

SGT [REDACTED] you said that you saw the Iraqi on the crutches get tripped up, correct?

(b)(6) - 4 ; (7)(e) - 4

Witness:

Roger.

Counsel:

And you said you saw him get tripped up, but you don't know by who?

Witness:

Correct.

Counsel:

After he got tripped up he was on the ground, correct?

Witness:

Roger.

Counsel:

And that was similar to how he was on the ground up in Talil, correct?

Witness:

Negative, he wasn't on his--he fell back in Talil, he was on his face and everything sprawled out at uh...here at Bucca.

Counsel:

After you saw him on the ground you did not see anyone go over and begin to kick and punch him, correct?

Witness:

I didn't watch the situation after that, correct. And so I didn't see anything-- I just didn't watch the situation anymore.

Counsel:

At no time during your duties that night did you ever see any EPWs with any injuries, correct?

Witness:

I saw some EPWs had medical uniforms on, but I didn't see any injuries myself that happened that night, correct.

Counsel:

They had medical uniforms on from up in Talil? But you did not see anybody sustain any injuries that night?

012380

Witness:

Right.

Counsel:

Thank you, SGT [REDACTED] (b)(6)-4, (7)(C)-4

I/O:

Major [REDACTED] any questions?

Major [REDACTED]

No, sir.

I/O:

Major [REDACTED] any redirect?

Major [REDACTED]

No, sir.

**Questions by the Investigating Officer: LTC [REDACTED]**

I/O:

SGT [REDACTED] when you said uh...you said you saw this Iraqi major who was on crutches uh...half dragged half carried away after he was taken to the ground. Can you kinda describe that a little bit further for me in more detail?

Witness:

That was, it could've been about 5 minutes later, it was after they got the group of five and he was being taken to the "CHAD"s or not the "CHAD" but the holding area right there, so uh...it was more of a he was walking...they immediately they were escorting him and then they got to the point, instead of just holding him and escorting him there, as more of just um...half like dragging and carrying him, you know. When you're trying to hold somebody by their arms and everything it's they're gonna kinda get dragged ...there was a person on each side. I couldn't see any thing anything specifically happen to him while he was being taken over there, but it was not a smooth movement from the group of five over to the holding area.

I/O:

I guess what I'm trying to ascertain is whether the dragging or the carrying, that you're describing, seemed abusive or to you or whether it was just an attempt to try and help him get--

Witness:

It appear that way...It did not appear like it was being used as a way of let's just try to help this guy move from one end point A to point B.

012381

I/O:  
It did not appear like that?

Witness:  
Roger.

I/O: (b)(6)-2 - (7)(E)-2  
You said to CPT [REDACTED] question that you didn't watch the situation after the Iraqi major was brought to the ground?

Witness:  
Roger.

I/O:  
But you saw him dragged away?

Witness:  
Roger, which was not within that same incident.

I/O:  
What caused you not to watch the situation any more?

Witness:  
It's probably more that I don't enjoy people get hurt and it's just not something I enjoy seeing, so I just more looked away. I mean, that's a lot of the reason I didn't see, I mean besides having my other duties to do, it was just not something...I knew, you could tell excessive force was being used and it's not something that I wanted to see and remember.

I/O:  
And your responsibility was to assist SSC [REDACTED] with the property, is that correct?

(b)(6)-4; (7)(E)-4

Witness:  
Roger.

I/O:  
Tell me a little bit more about what that was specifically.

Witness:  
It's all the EPWs' property that we received from Talil...

I/O:  
Right.

012382

Witness:

And uh...it's all in boxes or in bags or in maybe like a luggage thing .

I/O:

Underneath the bus?

Witness:

Roger, and I was in charge of getting, whoever the property person was, to take that stuff, go through it and then sign for it, so we couldn't SSG [REDACTED] at the time was signed for it. So we were just basically, it's part of the handing over process that needs to be done, so you know so we can complete the mission.

(b)(6)4;(7)(C)4

I/O:

Does anybody else have any questions?

CPT [REDACTED]

I just have a couple sir.

(b)(6)2;(7)(C)-2

Questions by the defense counsel: CPT [REDACTED]

Counsel:

SGT [REDACTED] how long have you been in the Army?

Witness:

Five years.

(b)(6)-4;(7)(C)-4

Counsel:

And how long have you been an NCO?

Witness:

NCO--a little over a year.

Counsel:

Have you been a military police officer the entire time?

Witness:

Yes, ma'am.

Counsel:

And you're saying that you just looked away 'cause you don't like seeing people get hurt? That's your testimony?

Witness:

That would be one of the reasons, yes ma'am.

012383

Counsel:

Thanks SGT [REDACTED] (S)(b) 4; (7)(c) 4

[The witness was warned, dismissed and left the room.]

# DIRECT EXAMINATION

(b)(6) 4-(7)(c) 4

SPC [REDACTED], U.S. Army, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED] (b)(6) -2; (7)(c) -2

Counsel:

You are with the 320<sup>th</sup> MP Company?

Witness:

MP Battalion 1<sup>st</sup> Platoon.

Counsel:

And you are currently stationed in Baghdad?

Witness:

Abu Garab which is right outside the airport.

Counsel: (b)(6) -4; (7)(c) -4

SPC [REDACTED] I think you know why we're here this involves some alleged misconduct that allegedly occurred on or about the 12<sup>th</sup> of May of this year. Do you know SGT

(b)(6) -5; (7)(c) -5 [REDACTED] ne of the accused in this matter?

Witness:

Yes I do.

Counsel:

Okay, how do you know her?

Witness:

She and I met when I got involuntarily transferred to the unit, when we became battle buddies while at Fort Dix.

Counsel:

And Fort Dix was your mobilization station?

Witness:

012384

Yes it was.

Counsel:

(b)(6)5-(7)(c)-5

After the 12<sup>th</sup> of May did you and SGT [REDACTED] happen to have a conversation about what happened that night?

Witness:

On or about, yes we did.

Counsel:

What did she tell you?

Witness:

She told me that they had had an escort mission up to Talil to pick-up some EPWs, and while there they had an altercation of sorts with one of the EPWs that was supposedly accused of rape.

Counsel:

What did she tell you happened?

(b)(6)-5-(7)(c)-5

(b)(6)-4-(7)(c)-4

Witness:

She told me that her and MSG [REDACTED] and I believe SGT [REDACTED] were involved in teaching the EPW a lesson about his conduct towards females.

Counsel:

I see...did she tell you what she did?

Witness:

That's where it gets kinda blurry...I don't remember the whole entire conversation verbatim, but I do remember she said that there were ..they did physically harm him.

Counsel:

What was her mood like when she told you this?

Witness:

What respect, what do you mean?

Counsel:

I mean, was she sad, was she happy, see what I'm saying? What was her mood like?

Witness:

She wasn't jumping for joy if that's what you're asking me, but she wasn't all upset about it either.

Counsel:

Did she say why they did that?

012385

Witness:

Like I said it was to teach the EPW a lesson about how to treat a female. Because he was supposedly charged with rape.

Counsel:

Do you remember roughly when you had this conversation with her?

Witness:

It was either the night they got back or the next day, I can't remember exactly.

Counsel:

So it was around the 12<sup>th</sup> of May?

Witness:

Uh hmm [witnessed responded in the affirmative.]

Counsel:

SPC [REDACTED] thank you I don't have any further questions, but please answer any questions that anyone else may have.

(b)(6)4; (7)(c)-4

### CROSS- EXAMINATION

Questions by the defense counsel: MAJ [REDACTED] (b)(6)2; (7)(c)-2

Counsel:

Hello SPC [REDACTED] I'm Major [REDACTED] and I have a few questions for you.

(b)(6)4; 7(c)-4 (b)(6)-2; (7)(c)-2

Witness:

Yes, ma'am.

Counsel:

You and um...SPC [REDACTED] I mean SGT [REDACTED] met at Fort Dix when?

Witness:

We met before Fort Dix, we exactly up in Ashley, Pennsylvania. I arrived on the 16<sup>th</sup> I met her, of February,

Counsel:

What year?

012386

Witness:

This year, I met her on the 17<sup>th</sup>

Counsel:

And you were pretty close for a while, while you were working together over in the theater this theater, correct?

Witness:

For a while, correct.

Counsel:

Now, isn't it true that she told you that uh, originally she told you that that she and two other female soldiers took the prisoners onto the bus closed the curtains and taught them a lesson about how to treat a female?

Witness:

Yes.

Counsel:

Now, you knew her pretty well, when you were battle buddies, did SGT [REDACTED] ever talk tough to try to gain acceptance from her coworkers?

(b)(6)-5; (7)(c)-5

Witness:

Numerously, she was always trying to prove herself to the guys in the platoon that she was able to handle herself as a female being in an MP position.

Counsel:

And as her friend you reassured her that she was a good MP, correct?

Witness:

Yes.

Counsel:

Now, your job is to keep 201 files on each EPW? Well your job back then?

Witness:

It varies per mission that we were on...at that point in time I was an actual RTO for the 800<sup>th</sup> Brigade.

Counsel:

And what kind of record did you keep on the EPWs?

Witness:

At that point in time I wasn't keeping any, we weren't on any compounds.

Counsel:

012387

Was there a point in time in this theater during this operation that you did keep dossiers, medical record, photos, and photo armbands?

Witness:

During this...when we were here in Bucca the last month? Yes, I did keep dossiers on each of the prisoners that were in the compound that I...that my platoon was in charge of, and when we moved up to Abu Garab I've been keeping the actual 201 files on the prisoners.

Counsel:

And at some point you switched from the numbered wristbands to photo armbands, right? to the EPWs?

Witness:

While at FREDY, the British armbands, were just numbered, and they just had the numbers on them. And as the Americans took over the processing they became the photo armbands, correct.

Counsel:

And isn't one of the reasons for that switch is that the EPWs would switch the numbers on their numbered arm uh...wristbands?

Witness:

No, the actual reason for that switch was the difference in control over who had control of the compound. It went from a British rule to American rule, and our system was using NDRS, which used the picture ID armbands.

Counsel:

And that makes it easier to identify the actual person with the number, correct?

Witness:

Correct.

Counsel:

Correct?

Witness:

Yes.

Counsel:

I have no further questions at this time.

I/O:

Any further questions from defense counsel?

Defense counsel: No, sir.

012388

I/O:

Major [REDACTED]

Major [REDACTED]

Yes, sir.

(b)(6)-2; (7)(c)-2

### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED]

Counsel: (b)(6)-4; (7)(c)-4

(b)(6)-2; (7)(c)-2

SPC [REDACTED] in answering questions for MAJ [REDACTED] believe you said, she asked she said she originally told you that she had put them on the bus. Did she tell you this more than once this story?

Witness:

No, we only had the conversation about what happened once, because the next time it was brought up was when she said they were placed under a gag order 'cause they were under investigation

Counsel:

So, originally there was only one conversation?

Witness:

Correct there was one conversation concerning the actions that occurred on that day

Counsel:

Okay, thank you.

I/O:

Any further questions?

Defense Counsel:

No, sir.

Questions by the Investigating Officer: LTC [REDACTED]

(b)(6)-2; (7)(c)-2

I/O:

(b)(6)-4; (7)(c)-4

So let me see if I have this straight: SPC [REDACTED] first told you that the lesson that she spoke of was administered on the bus with the curtains pulled, is that correct?

Witness:

SGT [REDACTED] told me that.

(b)(6)-5; (7)(c)-5

012389

I/O:

SGT [REDACTED] told you that. Okay, was there any other further versions you discussed, either during that conversation, or any other subsequent conversations?

Witness:

With SGT [REDACTED] any of the accused? (b)(2)-5; (7)(c)-5

I/O:

Yes, SGT [REDACTED]

Witness:

No.

I/O:

Did you have any other further conversations with any of the other further accused about what happened that evening?

Witness:

Not with what actually happened on that day, no.

I/O:

That implies there was something else discussed, what was that?

Witness:

(b)(6)-5,  
(7)(c)-5  
There was one other conversation that I had with SGT [REDACTED], regarding...she came back from a meeting with MSG [REDACTED] and the other accused, or the other people that were under investigation, concerning what they were going to do in regards to how they were going to handle the investigation.

I/O:

Okay, how...who was handle what?

Witness:

The ten. The ten that were involved.

I/O:

(b)(6)-5; (7)(c)-5  
Are you saying that this was a meeting among just the 320<sup>th</sup> people, from what you understood from what SGT [REDACTED] told you, that there was a meeting between the ten 320<sup>th</sup> personnel about how they were going to handle the situation on 12 May?

Witness:

Yes, sir.

012390

I/O:

Okay, and were there any further details discussed between you and SGT [REDACTED] about that meeting?

(b)(6)-5, (7)(C)-5

Witness:

Several of the personnel were going to "take the hit" for everything. They were going to accept the responsibility and everybody else was going to supposedly not have any repercussions from this.

I/O:

And who were the individuals who were going to "take the hit" so to speak?

Witness:

MSG [REDACTED] SPC [REDACTED] and SSG McKenzie.

I/O:

And was SGT [REDACTED] identified, did she identify herself as one of those who was going to "take the hit"?

(b)(6)-5, (7)(C)-5

Witness:

No.

I/O:

And did they say why those three individuals in particular were the ones chosen or they volunteered?

Witness:

No sir, we didn't go into that discussion. I didn't ask.

I/O:

Did she volunteer this information to you?

Witness:

She had said, before she left, she said that "I had a meeting with MSG [REDACTED] meaning SGT [REDACTED] had the meeting with MSG [REDACTED] and the other ones. When she came back I said so what happened, and that's when she told me.

(b)(6)-5, (7)(C)-5

I/O:

So she told you beforehand that the meeting was going to take place and then afterwards she gave you these details about that particular meeting?

Witness:

Yes.

I/O:

And when did that meeting take place, on or about?

012391

Witness:

To be honest, sir, I could not tell you because I don't know if you've been in the desert very long, but time comes kind of one big time span and I couldn't tell you dates.

I/O:

Estimation, within a week, or a few days, or a month?

Witness:

Probably a couple days after they were informed that they were under investigation...um....within a day, either before or after they actually... they had... their stuff was searched.

I/O:

Any other subsequent meeting, that you're aware of, that took place?

Witness:

None that I know of--And none that I was actually given any details about, so if there were I wasn't informed of them.

I/O:

(b)(6)-4; (b)(7)(C) 4  
SPC [REDACTED] are you aware of any discussions between any of the accused and any other individuals, either about this meeting, or about any of the details alleged on 12 May?

Witness:

(b)(6)-5; (b)(7)(C)-5  
No I don't um...those were the only basic two conversations I had with SGT [REDACTED]  
I actually started to try to distance myself from the whole thing, after they were accused and it looked like it was going even further.

I/O:

Any idea where this meeting took place?

Witness:

Probably somewhere around--no.

I/O:

Was it here on Camp Bucca?

Witness:

Yes, was probably somewhere around Fourth platoon's tent, but I can't be sure for that.

I/O:

And when you say that this took place within a few days after they were notified that there was going to be an investigation, do you mean an investigation by CID or

012392

notification from me that this investigation was going to take place, or these proceedings were going to place? Are you aware of that?

Witness:

When the CID started their investigation.

I/O:

When CID started their investigation?

Witness:

Yes, sir.

I/O:

I don't have any further questions. Major [REDACTED] (b)(6)-2, (7)(C)-2

### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2, (7)(C)-2

Counsel: (b)(6)-5, 7(c)(5)

Did SGT [REDACTED] say, specifically, who was at this meeting?

Witness:

No, she just said that it was between the CID ten, so...

Counsel:

Not where, I'm sorry who?

Witness:

That's what I'm saying; she just said it was involving the CID ten, so.

Counsel:

Oh, the CID ten I'm sorry I thought you said the tent.

Witness:

Yeah, CID ten.

Counsel:

And do you know does anyone else have knowledge of this meeting that occurred besides you?

Witness:

Not that I know of.

012393

Counsel:

You were the only person that you know that she told this to?

Witness:

Yes, sir.

Counsel:

Thank you, nothing further.

I/O:

Defense?

Defense counsel: No

[The witness was duly warned, dismissed and left the room.]

**The Government requested to put the Defense on notice that this investigation will encompass the possibility of an additional charge of Conspiracy to Obstruct Justice, Article 80, UCMJ and Obstruction of Justice, Article 134, UCMJ by the accused based on the testimony of SPC [REDACTED] - b65 b7(c)-5**

**The Investigating Officer acceded to the Government's request with an objection from the Defense.**

**The Investigating Officer added that he would allow any opportunity to Government and Defense counsels to call or interview additional witnesses, in light of the Governments intent to amend the charges.**

Counsel:

Before I begin questioning this witness, I don't see any other way other than I need to read this witness his Article 31(b) rights. Does anybody disagree with that?

CPT Ausprung:

For what offense?

Counsel:

This witness was read his Article 31(b) rights previously which resulted in a sworn statement being rendered which I've given copies to the defense. And if the defense doesn't see a need for reading the rights at this juncture until we get further into the questioning, then the government won't read them. But I don't really see--I think at this juncture I think he has to be read his rights.

I/O:

Go ahead and read him his rights.

Counsel:

012394

(b)(6)-4; 7(c)-4

SPC [REDACTED] earlier you recall you were read your rights by Major [REDACTED] up in Baghdad?

(b)(6)2 - (7)(c) - 2

Witness:  
Yes.

Counsel:

I'm going to remind you of those. First, you are suspected of possibly committing adultery, and making false statements. Before you go any further you need to understand that you do not have to answer any questions or say anything. Anything you do say can be used as evidence against you in a criminal trial. You have the right to talk to a lawyer before during or after any questioning, and to have a lawyer present with you during questioning. This lawyer can be a civilian attorney which you can arrange for at no expense to the government. Or a military lawyer detailed at no expense to you, or both.

Are you now willing to testify at this time?

Witness:  
Sure.

[The witness was reminded by the Investigating Officer that he was addressing a Commissioned Officer, and that he responses should reflect that. The witness stated he understood.]

#### DIRECT EXAMINATION

(b)(6)-4; (7)(c)4

SPC [REDACTED] U.S. Army, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; (7)(c) - 2

Counsel: (b)(6)-4; (7)(c) - 4  
You are SPC [REDACTED] and you are a member of the 320<sup>th</sup> MP Battalion, currently stationed in Baghdad, is that right?

Witness:  
Yes, sir.

Counsel: (b)(6)-5; (7)(c) - 5  
SPC [REDACTED] do you know SGT [REDACTED]

Witness: (b)(6)4; (7)(c) - 4  
Yes, sir.

012395

Counsel: •  
How do you know her?

Witness:  
We were having sexual relations.

Counsel:  
All right, so she was your girlfriend?

Defense Counsel Interjected: I'm sorry I couldn't hear the response.

Witness:  
We were having a sexual relationships.

Counsel:  
So she was your girlfriend?

Witness:  
Yes, right.

Counsel:  
Are you seeing SGT [REDACTED] at this time?

Witness:  
No

(b)(6)(5)-(b)(6)-5

Counsel: (b)(6)-4; (b)(6)-4  
SPC [REDACTED] during the period of time that you were seeing SGT [REDACTED], did she ever talk to you about the events surrounding the incident that occurred on the 12<sup>th</sup> of May with some prisoners?

Witness:  
A little bit.

Counsel:  
What did she tell you?

Witness:  
Just that she had kicked a prisoner.

Counsel: † † †  
She told you that she had kicked a prisoner?

Witness:  
Yes, sir.

012396

Counsel:

Did she tell you anything about the prisoner that she kicked?

Witness:

She just told me there was a couple people on the bus, that's about it.

Counsel:

Did she say anything about the reason why she did it?

Witness:

Basically because the rest of them were doing it.

I/O:

You have to speak up Specialist.

Witness:

Basically because the rest of them were doing it.

Counsel:

Is this difficult for you to talk about?

Witness:

A little bit.

Counsel:

Why is this difficult to talk about?

Witness:

Because I feel like a rat, it's weird ..I don't know.

Counsel:

When did SGT (b)(6)5 - (7)(c)5 tell you about kicking a prisoner?

Witness:

Probably two weeks after the incident had happened.

Counsel:

So somewhere around the first of June?

Witness:

I believe so.

Counsel:

Did she say where she kicked this person?

012397

Witness:  
In the testicles.

Counsel:  
And, did she mention anything about rapists?

Witness:  
She said there was the General that raped little girls, on the bus, and that the female soldier that was raped, she said that one of the rapists was on the bus also.

I/O:  
Could you repeat that for me, please? That last part?

Witness:  
There was, the female that was raped-the female soldier, they said one of the rapists was on the bus.

Counsel:  
The female specialist, are you talking about the female specialist in the 507<sup>th</sup> transportation?

Witness:  
That's [REDACTED] (b)(6)-3; (7)(c)-3  
Counsel:  
[REDACTED]

Witness:  
Yes.

Counsel:  
Did she say whether the person that she kicked was the person that had raped her?

Witness:  
No.

Counsel: (b)(6)-4; (7)(c)-4  
SPC [REDACTED] I don't have any further questions for you. If you would answer any questions that defense counsel may have for you.

#### CROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(c)-2

Counsel:  
SPC [REDACTED] you're not an MP, correct?

(b)(6)-4; (7)(c)-4

012398

Witness:  
No ma'am.

Counsel:  
You're actually an R&U, repair and utilities guy?

Witness:  
Yes I am.

Counsel:  
You never actually did any MP work, correct?

Witness:  
No ma'am.

Counsel:  
Now all the R&U people they pretty much stay to themselves, correct?

Witness:  
Yes ma'am.

Counsel:  
So you never really had any interaction with the MPs in your unit 'til after the 12<sup>th</sup> of May, correct?

Witness:  
Yes ma'am.

Counsel:  
Now, this is not the first time that you've spoken about this case, correct?

Witness:  
No ma'am.

Counsel:  
Somebody actually came up to Baghdad to interview you a while ago, correct?

Witness:  
A couple lawyers have come and spoke to me ma'am.

Counsel:  
And you told them that SGT (b)(6)-5; (b)(7)-5 had never said anything to you, correct?

Witness:  
Not the lawyers that I saw in Baghdad, ma'am....the lawyers that I saw in Bucca, I saw that I did not hear anything from her. The lawyers in Baghdad I told them that I did hear things from her.

012399

Counsel:

Okay, let's back up the timeline then. You went ...the people that came to talk to you at Camp Bucca, way back a long time ago, around May. You told them SGT [REDACTED] never said anything to you?

(b)(6)-5,  
(7)(C)-5

Witness:

Yes ma'am.

Counsel:

And then myself and MAJ [REDACTED] actually came up to interview you, in Camp Bucca, or I'm sorry, in Baghdad, earlier this month, correct?

(b)(6)-2; (7)(C)-2

Witness:

Yes ma'am.

Counsel:

And we met in your uh...

Witness:

CP?

Counsel:

Exactly, and it was late at night and we had a long discussion, remember?

Witness:

Yes ma'am.

Counsel:

And you were out playing Playstation, or something like that, and we called you in to come have a discussion?

Witness:

Yes ma'am.

Counsel:

And during that meeting we asked you, "Why do you think the Government is calling you to testify?", correct?

Witness:

Yes ma'am.

Counsel:

And you said you had no idea?

Witness:

012400

Okay, you're correct ma'am, I guess I did say that.

Counsel:

And you actually, you said, we asked you about SGT (b)(6)-5; (7)(c)-5 correct?

Witness:

Yes ma'am.

Counsel:

And you said to us "I swear to God she never told me anything", correct?

Witness:

Yes ma'am.

Counsel:

So now you're telling us that that was a lie?

Witness:

Yes ma'am.

Counsel:

We also asked you if you dated SGT (b)(6)-5; 7(c)-5 correct?

Witness:

Yes ma'am.

Counsel:

And you told us, "Nope, never dated her", correct?

Witness:

No ma'am I said that you really consider it dating.

Counsel:

Do you remember saying that "she's married so I did not date her"?

Witness:

Okay, yes ma'am.

Counsel:

So a couple of weeks ago you swore to God that she never told you anything, correct?

Witness:

Yes, ma'am.

Counsel:

012401

Now you made a statement, I guess, up at Baghdad a couple of days ago?

Witness:

Yes ma'am.

Counsel:

And you said that she had actually made a statement to you?

Witness:

Yes ma'am.

Counsel:

Were you threatened in any way with being brought up on charges, if you didn't make this statement?

Witness:

No ma'am.

Counsel:

You were never threatened to being brought up on charges?

Witness:

No ma'am.

Counsel:

You never said to anybody, here at Camp Bucca today, that you only made this statement because you were threatened with being brought up on charges?

Witness:

No ma'am.

Counsel:

Now you just got swore in by the prosecutor, correct?

Witness:

Yes ma'am.

Counsel:

And you swore to God that time also.

Witness:

Yes ma'am.

Counsel:

And you swore to God back up in Baghdad a few weeks ago, correct?

012402

Witness:  
Yes ma'am.

Counsel:  
Thank you SPC [REDACTED] (b)(6) 4 (7)(C)-4

I/O:  
Anyone else on the defense?

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; 7(C) 2

Counsel: (b)(6) 4 (7)(C) 4  
SPC [REDACTED] have you been promised any leniency or promised that you won't have charges brought against you by anyone on the government?

Witness:  
No ma'am, or no sir.

Counsel:  
What is your understanding about what's going to happen to you in regards to these offenses that you're suspected of?

Witness:  
I don't have any understanding, sir. Right now it's in the air. They haven't said they were or they haven't said they were not going to charge me.

Counsel:  
Do you hope to benefit y cooperating in this investigation?

Witness:  
Honestly, yes sir.

Counsel:  
And have you been told that you may benefit in the outcome of your case if you cooperate today?

Witness:  
No sir.

Counsel:  
You've not been told by anyone that they would speak on your behalf to your command about this case?

Witness:

012403

The major I just spoke to in Baghdad said he would give me a reference, but he didn't say that it was going to do any good. So he really isn't any benefit to it

Counsel:

Okay, but he told you he would talk to your command about trying to get you----

Witness:

Not to my command he said he would give a reference to somebody, but I don't remember who. He said it really didn't matter which way it went.

Counsel:

Thank you. I don't have anything further.

I/O:

Major [REDACTED] (b)(6)-2; (7)(C)-2

Major [REDACTED]

No, sir.

Questions by the Investigating Officer: LTC [REDACTED] (b)(6)-2; (7)(C)-2

I/O:

SPC [REDACTED] who was the individual that interviewed you in Baghdad?

(b)(6)-4; (7)(C)-4

Witness:

I don't remember his name I'm horrible with names.

I/O:

It wasn't either of the two attorneys for the government here was it?

Witness:

No, sir.

I/O:

And this individual said that he would give you a reference, but you're not sure to whom?

Witness:

Yes, sir I'm not sure who the reference was going to go to. And the gentleman also said that it wasn't really up to his reference how it would go, it was more upon the other individual.

I/O: (b)(6)-5; (7)(C)-5

Did SGT [REDACTED] reveal to you this information voluntarily, or did you ask her about it?

Witness:

012404

The first time, I honestly asked about it, and the last time she told me on her own.

I/O:

I'm sorry?

Witness:

The last time she told me it was on her own.

I/O:

So did you talk about it more than this on this one occasion?

Witness:

Probably two or three times, sir.

I/O:

Any additional information that she gave you about the night in question?

Witness:

Not really sir.

I/O:

Now I'm to understand that she told you that she kicked a prisoner?

Witness:

Yes, sir.

I/O:

(b)(6)-5; 7C-5 She did it because everybody else did it? You said that according to what SGT [REDACTED] told you that she kicked the individual in the testicles and it was a General who had raped little girls?

Witness:

No, sir I don't know who the individual was that was kicked.

I/O:

But the General that had allegedly raped little girls and the person who had potentially raped [REDACTED] were among the prisoners that who were present that night?

Witness:

(b)(6)-3; 7C-3

012405

That's what I was informed of sir.

I/O:

That's what she told you?

Witness:

Yes sir.

**Questions by the defense counsel:** MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Counsel:

The person that interviewed you in Baghdad, was it..Do you remember the rank of the person?

Witness:

I believe a Major, ma'am.

Counsel:

Was it a JAG officer, or CID type?

Witness:

I believe a JAG. Possibly from CFLCC, I'm not sure

Counsel: (b)(6)-2; (7)(C)-2  
Does the name [REDACTED]-COL [REDACTED] ring a bell?

Witness:

No ma'am I'm really horrible with names I'm better with faces than anything.

Counsel:

What did he look like?

Witness:

Long face, crew cut, brown hair, no mustache.

Counsel:

How tall?

Witness:

Probably about 6 foot.

Counsel:

Thank you.

I/O:

Major [REDACTED] (b)(6)-2; (7)(C)-2

012406

### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; (7)(c)-2

Counsel: (b)(6)-4; (7)(c)-4

SPC [REDACTED] did the person who interviewed you sign the sworn statement with you?

Witness:

Yes sir.

Counsel:

You put your statement in writing, did you not?

Witness:

Yes, sir.

(b)(6)-4 - (7)(c)-4

SPC [REDACTED] was given Exhibit 5, his sworn statement, and was asked to look at second page and verified that the person that interviewed him did sign in that space.

Counsel:

And it appears that person's name is [REDACTED] (b)(6)-2; (7)(c)-2, is that correct?

Witness:

Yes sir.

Witness: (b)(6)-4 - (7)(c)-4

(b)(6)-5; (7)(c)-5

SPC [REDACTED] when you had conversations with SGT [REDACTED] about this matter, did she ever tell you about any meetings that she might have had with other people who were on that mission with her?

Witness:

No sir she did not.

### CROSS- EXAMINATION

Questions by the defense counsel: MAJ [REDACTED] (b)(6)-2; (7)(c)-2

Counsel: (b)(6)-4 - (7)(c)-4

SPC [REDACTED] could you read what is next to the name of [REDACTED] Some letters and numbers...

Witness:

C...J...T...F... dash 7 and the letters S..J..A

012407

Counsel:  
Thank you.

I/O:  
Anything else?

[The witness was duly warned, dismissed and left the room.]

**DIRECT EXAMINATION**

(b)(6)-4; (7)(C)4  
SPC [REDACTED] U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED] (b)(6)2; (7)(C)2

Counsel: (b)(6)-4; (7)(C)4  
SPC [REDACTED] you are in the 744<sup>th</sup> MP Battalion and currently you are stationed up in Talil, is that correct?

Witness:  
Yes, sir.

Counsel:  
Okay. Thanks

**CROSS-EXAMINATION**

Questions by the defense counsel: CPT [REDACTED] (b)(6)2; (7)(C)2

Counsel: (b)(6)-4; (7)(C)4  
SPC [REDACTED] have some questions for you.

Witness:  
Alright.

Counsel:  
What is your MOS?

Witness:  
I'm a 95B, Military Police.

Counsel:  
How long have you been that?

Witness:  
I've been that my whole duration in the military, three years.

012408

Counsel:  
Three years?

Witness:  
Yes.

Counsel:  
And have your whole three years been in this unit?

Witness:  
Yes it has.

Counsel:  
Have you done escort missions before in Iraq?

Witness:  
Yes I have.

Counsel:  
EPW escort missions?

Witness:  
Yes.

Counsel:  
About how many?

Witness:  
I can't remember off hand, about a dozen or so.

Counsel:  
And the buses you use for that, that your unit uses for that, do they have physical barriers between the prisoners and yourself?

Witness:  
Yes four of them do two do not.

Counsel:  
Can you describe what those barriers are like?

Witness:  
It's a one structure between the first two seats, and the rest of the bus is trimmed with barbed wire, and the first two seats are turned around so that you can see the back of the bus.

012409

Counsel:  
And the purpose of those?

Witness:  
To keep prisoners from coming up to the front.

Counsel:  
And if you're on a bus without those what's the method for keeping secure from your prisoners?

Witness:  
Usually we keep seats empty between ourselves and our prisoners.

Counsel:  
And the more space the safer one might feel?

Witness:  
That's correct.

Counsel:  
Correct?

Witness:  
That's correct.

Counsel:  
Is there an SOP for how many seats to keep vacant?

Witness:  
No there's not.

Counsel:  
Is there an SOP for when you can put an prisoner face down on the ground?

Witness:  
There's a level of force matrix that we use, that all depends on the situation.

Counsel:  
For instance, if you were carrying, escorting , escorting an EPW as opposed to somebody much larger than you, would you be quicker to putting that person on the ground if they were resisting?

Witness:  
Yes I probably would.

Counsel:  
And why is that?

012410

Witness:

Because it'd be harder for me to control the situation without having them on the ground.

Counsel:

I direct your attention to 12 May of this year, was there a lot...did you have an escort come up to pick up prisoners from Talil airbase?

Witness:

Yes we did.

Counsel:

And about how many prisoners did you have to ship out that day?

Witness:

I believe it was about 40.

Counsel:

Could you describe the scene?

Witness:

They came and pulled into our transport area, where we load and unload the prisoners...

Counsel:

Are you talking about the escorts that came to get them?

Witness:

Yes, and we just loaded the prisoners on the bus it was within one hour. It wasn't anything exceptional.

Counsel:

Did you search them before you put them on the bus?

Witness:

No I did not personally.

They might have searched them before they put them on the bus, but that's usually up to the escort company whether they search them before or after they put them on the bus.

Counsel:

So they should be searched either before or after they get on the bus?

Witness:

Yes.

Counsel:

012411

And the escort company is responsible for that?

Witness:

Yes.

Counsel:

And how about their hands...were they bound?

Witness:

Yes, we bound them with medical tape at the time because we didn't have zip-ties.

Counsel:

Now that day there was about 40 EPWs, is that a relatively large group?

Witness:

Usually no, that's an actual smaller group it's one bus.

Counsel:

Right, but they all went on one bus, correct?

Witness:

Yes that's correct.

Counsel:

And was there an English speaker among the EPWs?

Witness:

Yes there was.

Counsel:

And who was this man?

Witness:

He was, all that I know, is he was a teacher that was supposedly associated with the 504<sup>th</sup> incident? I think it was, he was either an interrogator or an interpreter for the Iraqis who had the American POWs.

Counsel:

The transportation company that got ambushed, is what you're talking about?

Witness:

That's correct, yes.

Counsel:

And about how tall was he?

012412

Witness:  
He was probably about my height, maybe a little shorter.

Counsel:  
And how tall are you?

Witness:  
I'm 5'9".

Counsel:  
Say again.

Witness:  
5'9".

Counsel:  
Was he a hefty guy, small, build?

Witness:  
He wasn't too hefty, no.

Counsel:  
Describe his build.

Witness:  
About my build, couldn't be more than maybe 140.

Counsel:  
And do you recall how he was dressed?

Witness:  
No I don't recall.

Counsel:  
And what was his attitude while he was in your custody? Did he complain a lot?

Witness:  
He was usually cooperative with us if we needed him for a, you know, for interpretation, but he was also the one that came to us with the complaints from all the other prisoners and told us.

Counsel:  
Did he call that he wanted more room or more cigarettes, things like that?

Witness:  
Yes he could have, not to me personally, that I remember.

012413

Questions by the defense counsel: CPT [REDACTED] (b)(6)2-7(c)-2

Counsel: (b)(6)2-7(c)-2  
SPC [REDACTED] you were present when they were on loading the bus at Talil that evening?

Witness:  
Yes I was.

Counsel:  
And you observed...did you observe the individual from the escort mission that was loading the individuals on the bus? And E6?

Witness:  
Yes one of them caught my because of the knife he had, but I didn't really talk to him at all.

Counsel:  
Can you describe the knife that he had?

Witness:  
It was a Jungle Tool, really large, at least a nine-inch blade. It was like a monster.

Counsel:  
And where did he have that knife?

Witness:  
It was strapped on his flak vest.

Counsel:  
Was there anything else that you noticed about this individual, about he was conducting himself on loading the bus?

Witness:  
He was the taller was a lot more vocal than the rest of them, but nothing out of the ordinary other than that.

Counsel:  
Would you describe him as having sort of a drill sergeant attitude?

Witness:  
You could say that, yes.

Counsel:  
Now you've seen a lot of units come up and drop off and load up prisoners, correct?

012414

Witness:

Yes.

Counsel:

And have you seen other units come up and get out of line?

Witness:

There have been other units that use the same approach he does every unit's different, how it's done.

Counsel:

So the approach that he used you would classify as out of line?

Major ~~(b)(6)~~ 2 - (b)(6) - 2

Objection, she's trying to put words in his mouth. He didn't say that.

Counsel:

That's why I was trying to ask and clarify it for him.

I/O:

Can you restate the question?

Counsel:

~~(b)(6)~~ 4 - 7(c) - 4  
I sure can. Okay, SPC ~~(b)(6)~~ you said that he had a drill sergeant type attitude

Witness:

Yeah, he was very vocal.

Counsel:

Now, tell me again about the other units that you've seen come up there.

Witness:

A lot of them they all have different methods that they use. There's some people that are as vocal as he was. Other units have a more relaxed method about it. It varies.

Counsel:

Did you ever see anybody push and shove prisoners?

Witness:

A couple of times for prisoners if they weren't cooperating they kind of gave them a nudge but I don't know.

Counsel:

Who were the units that usually did that type of thing?

012415

Witness:

There were, I remember a couple of Marine units, in the beginning when we first got here. Were real pushy-shovey, but for the most part I can't remember what units exactly.

Counsel:

Do you recall the other day describing that as sort of a drill sergeant thing?

Witness:

Yes it was.

Counsel:

Thank you.

I/O:

Major [REDACTED] (b)(6) - 2; (7)(c) - 2

### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6) - 2; (7)(c) 2

Counsel:

Would you characterize SGT [REDACTED] loud voice as out of line?

Witness:

Compared to other people, no I would not.

Counsel:

Was the 223<sup>rd</sup>, and SGT [REDACTED] were they out of line when they picked up these prisoners?

Witness:

Not that I know of.

Counsel:

That's all I have, thank you.

Questions by the Investigating Officer: LTC [REDACTED] (b)(6) - 2; (7)(c) - 2

I/O: (b)(6) - 4; (7)(c) - 4.

So SPO [REDACTED] in to understand that the description, the events that you just described relate to the boarding of the EPWs onto the bus there at Talil?

Witness:

That's correct, sir.

012416

I/O:

And those were your observations, is that correct?

Witness:

That's correct.

[The witness was duly warned, dismissed and left the room].

### DIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Counsel:

You are in the 744<sup>th</sup> Military Police Battalion?

Witness:

Yes, sir

Counsel:

And you are currently stationed at Talil Air base?

Witness:

That's correct.

Counsel:

Okay, thank you.

### CROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)-2; (7)(C)-2

SFC [REDACTED] what are your duties up at Talil?

Witness:

A compound NCOIC for the EPW trans/shipping point.

Counsel:

Were you performing those duties on May 12<sup>th</sup> of this past year?

Witness:

Yes.

Counsel:

Do your duties include preparing EPWs for transport?

012417

Witness:  
Yes they do.

Counsel:  
In the course of preparing these EPWs for transport, do you prepare manifests?

Witness:  
Yes we do.

Counsel:  
For the escort, for the units that are receiving?

Witness:  
That's correct.

[The witness was handed a document that was marked as Exhibit 36.]

Counsel:  
I'm handing you a document. Does that look like your manifest, or is that the manifest that you prepared on the 12<sup>th</sup> of May?

Witness:  
It appears to be a manifest that was prepared on the 12<sup>th</sup> of May from Camp "Witford", which is the TSP. I may not have personally prepared this, but we have soldiers assigned that do prepare this.

Counsel:  
Do you know how to read it?

Witness:  
Yes I do.

Counsel:  
Can you explain it to us a little bit? Can we ask you some questions?

Witness:  
Sure, certainly.

Counsel:  
It's actually the exhibit 36 on the CID report.

Witness:  
Would you like me to go into what each line represents, ma'am.

012418

Counsel:  
Yes we would.

012419

Witness:

The first line is the capture tag number, the next line is the status and these read "Released", the code...you'll see "CD" "AP" those are essentially folks that are to be assigned to the EPW and tag numbers, so that we can retrieve their property. The EPWs, on the back of their tags, are marked, again this is two-letter code. Eventually we started out with alpha, bravo, charlie, delta, and then after we got so many prisoners in each group id assigned letter codes that way we can keep all their evidence, I'm sorry I meant property in one are and then retrieve that at what time they're sent to a different location. The next line is the location and as it has one and room 13 eight, the one then the eight then the six those are representative of the compound numbers that we have and also the rooms, we do segregate people into rooms that are adjacent to the buildings that we use for Tactical Operations Center as well as our break from and it's all in a horseshoe shaped building, if you will. We do hold people separately for various reasons general officers, people of special interest, or if the people that interview them request that they be segregated or separated, sometimes we'll put them in the separate rooms for that reason. The next is self explanatory it's the name that'll be the Internee's or EPW's name, the class is officer, or civilian is the next line. The capturing unit...be the capturing unit or the unit that bring them to us at the TSP. Rank, again self explanatory here it list captain, couple lieutenants, we have a major general. And received and release dates and those would be the EPWs or CIs are receive and also the date that they're released or turned over to another unit.

Counsel:

Your practice was to try and pick people off, then get them out as quickly as possible, right?

Witness:

That's correct.

Counsel:

'Cause your facility up at Talil is a temporary facility, right?

Witness:

Essentially we're trans/shipping point, if you will we're just kind of a way station. Prisoners come down from Baghdad on their way to Bucca. They come up from Bucca on their way to Baghdad and pretty much we fed them, water them, take care of medical needs while they're in transit, if you will.

Counsel:

And as I'm looking at the class of prisoner on this particular bus you had a mix, right?

Witness:

Yes.

Counsel:

Of officers, civilians?

012420

Witness:  
Yes.

Counsel:  
Enlisted soldiers, right?

Witness:  
That's correct. We have some FIF, those are the Free Iraqi Forces, I guess some of them are accused of looting.

Counsel:  
Now, many of these prisoners were not immediately received and turned over for shipment, correct?

Witness:  
It would indicate on the received and released dated, some of them had been there for a little while.

Counsel:  
Let's take the interpreter for example, how long had he been there?

Witness:  
According to this we received him on the 21<sup>st</sup> ...and we'd had him, it looks like about 13 days.

Counsel:  
He was kept in segregation, right?

Witness:  
That's correct.

Counsel:  
Do you remember being given specific instructions about why he needed to be kept in segregation?

Witness:  
I think the Marine headquarters had to ask that he be segregated they had indicated that he had some knowledge, or some dealings, with 507<sup>th</sup> ambush incident. We were told that he had either acted as an interpreter, or translator, or interrogator of US soldiers that were captured in that incident.

Counsel:  
And you were also instructed not to let the interpreter talk to the other EPWs, right?

**012421**

Witness:

Well essentially we tried not to let the interpreter, at that time we had an Iraqi interpreter that we wouldn't allow, or tried not to allow him to talk to any of the people other than that translate for us. And apparently he had known this individual they were both teachers and as a matter of fact he said at one time to me, he said "he's a good man" I said he accused of doing some not so good things, so you cannot talk to him.

Counsel:

You had some other notables on this particular bus as well, right?

Witness:

Yes, here on, in the rank area, we also list, sometimes, what they're accused of. Again at the beginning the paperwork, the paper trail we didn't have a closer tighter rein on what exactly they may have been in for, later on we'd get more information, and that. More recently we've had more accurate information as people would come in, and that. There's more paperwork that follows it indicates one of the people is an interpreter, had a BAATH member, major general, MI had some interest in some of these folks, another interpreter, two lieutenants, a captain and that are indicated under the rank.

Counsel:

So where is says rank MI ATT, that means that MI was holding those people to question them?

Witness:

I believe so; I recall that that would seem a good possibility...

Counsel:

And looking at the last two entries, those two prisoners have an entry of "Memo"?

Witness:

Yeah, there may have been an attached memorandum that came in with them. Sometimes we do get paperwork other times we do not that would indicate to me that we had some kind of memorandum of what they did.

Counsel:

Can you remember, from looking at the names and the numbers, what these two memos might have referred to?

Witness:

To be honest with you, no I don't

Counsel:

Do you walk through this manifest with the receiving unit?

012422

Witness:

Yeah, actually we try to indicate to the folks that are picking them up. A lot of these folks were in fairly quickly, as indicated. They came in the same day and they left the same day, so there's not a whole lot of time to gain familiarity with the folks in that case. But we do like to point out different people that are accused of different thing, so if somebody's a trouble maker or is going to potentially offer them problems as well as people of high interest, if you will, that they should be pointed out.

Counsel:

Did you go over the manifest on the 12<sup>th</sup> of May?

Witness:

I believe I did.

Counsel:

Were those individuals, or any of the individuals of note, searched before they were placed on the 223 bus?

Witness:

I don't recall.

Counsel:

Who would be responsible for searching them before they got on the bus?

Witness:

Usually the receiving unit, it's up to them. It's a concern obviously to them to search the individuals, because they are the ones that are going to be at risk.

Counsel:

How about the binding of the hands? Who determines whether or not that's necessary?

Witness:

We ask the units, and that, sometimes we do assist them, if they don't have enough people to do searches or binding and that we'll help accommodate them. If they request them to be bound and that we use flexi cuffs or sometimes if we run out of flexi cuffs we use medical tape.

Counsel:

Thanks.

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(C) -2

012423

Counsel: (b)(6)4-(7)(c)4  
SFC [REDACTED] do you recall the individuals from the escort mission that were loading the bus that day?

Witness: (b)(6)4-(7)(c)-4  
I remember one SGT [REDACTED] seems to stick out in my head, just because I talked with him we were standing in close proximity. He's about my height; he's a larger man. I do remember that he had a large knife attached to his vest, and that. That's why I remember a set of Ray Ban sunglasses on him, or similar teardrop aviator style sunglasses on. I do recall him from that day.

Counsel:  
Can you describe his demeanor as he was on loading the bus?

Witness:  
As he was loading the bus he has more of a command presence like a drill instructor. He raised his voice to direct the prisoners of what he wants done. "Get on the bus" you know "hurry up, get in there" and that. I think that everybody has their own way of dealing with the prisoner and whatever works for them. But again, a command presence loud voice.

Counsel:  
Thank you SGT [REDACTED] (b)(6)-4-(7)(c)-4

I/O:  
Major [REDACTED] (b)(6)-2; (7)(c)-2

#### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)2-(7)(c)-2

Counsel: (b)(6)-4; (7)(c)-4  
SFC [REDACTED] so you were involved in moving this group of prisoners from their holding cells to the bus?

Witness:  
Yes.

Counsel:  
How would you characterize the behavior of this group of EPWs?

012424

Witness:

To be honest I don't recall any marked problems getting them to the bus or on the bus. I don't recall anybody being belligerent. No major problems, I don't think we've ever had, really, any major problems at our facility with getting prisoners onto the bus. Prisoners are usually pretty willing to get on the bus, 'cause they associate moving I think with leaving.

Counsel:

Would you characterize them as cooperative as you moved them?

Witness:

I would believe so, again I recall any major issues or problems.

Counsel:

And then with SGT [REDACTED] beyond his loud controlling voice, did you notice anything inappropriate in the 223<sup>rd</sup>? (b)(6) - 4, (7)(C) - 4

Witness:

No I did not sir.

Counsel:

And also, I believe last night when we talked, you'd heard of MSG [REDACTED] before? (b)(6) 5, (7)(C) - 5

Witness:

Yes, I have some familiarity with MSG [REDACTED] name in that she's also a State Trooper as well as I am in the state of Pennsylvania. And that my wife, I believe, worked with her at Camp Cadet. And again, my familiarity with her name I saw her briefly at Fort Dix when we were preparing to move...our train-up. I didn't get an opportunity to talk to her then, and then briefly when I was at Camp Arifjan on R&R I did see her and I did say hello to her. (b)(6) 5, (7)(C) 5

Counsel:

Sir, the government has nothing else.

I/O:

Anything further defense?

### RECROSS-EXAMINATION

Questions by the defense counsel: MAJ [REDACTED] (b)(6) 2; (7)(C) - 2

Counsel:

When we talked you mentioned that in your compound you had prisoners that sometimes cried when they weren't hurt. You described on ...described on uh...I believe...that ...describe a prisoner who was crying when he actually wasn't hurt. Can you describe that for the investigating officer?

012425

Witness:

Yes, I believe that uh...you asked about having problems in the compound and I relayed it that uh...we had very recently an individual that uh...was acting out he was throwing items at our guards uh...at what time the guards went in uh...grabbed him, took him to the ground, and removed him from the compound and placed him in a separate compound. At which time he began balling and again he was not injured. And that..We were told by the other prisoners and that they make motions that he was mentally defective in some way one prisoner spoke English said his parents had been killed and after that he hasn't been right since. They separated him put him in his own compound uh..At what time he felt it necessary to open the compound gate and run out into the runway in between the compounds uh...our guards chased him and he ran into another empty compound at which time they again took him to the ground uh..Where he started balling again uh...and then they picked him up and carried him out to the uh...separation er uh..Isolation cell area that we have placed him in there 'til he calmed down. The next shift came on and within about an hour they put him into uh...another compound.

Counsel:

Thank you.

I/O:

Any further questions?

### REDIRECT EXAMINATION

Questions by the trial counsel: MA [REDACTED] (b)(6)2, (7)(C)2

Counsel:

You just said that very recently happened to him like this?

Witness:

Yes.

Counsel:

Okay...when?

Witness:

Within the last week or so.

Counsel:

So that was not one of these...uh...one of the 44 prisoners that were on the bus that night.

Witness:

No it was not

012426

CPT [REDACTED] (b)(6) - 2 ; (7)(C) - 2  
No I didn't mean to imply that it was.

Counsel:  
Okay I just wanted to clear that up.

### RECROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6) - 2 ; (7)(C) - 2

Counsel:  
It was a prisoner in your compound, right?

Witness:  
Yes that's correct, ma'am

Questions by the Investigating Officer: LTC [REDACTED] (b)(6) - 2 ; (7)(C) - 2

I/O: (b)(6) - 4 ; (7)(C) - 4  
Sergeant [REDACTED] said uh...describing this last incident that uh...you had to take that EPW to the ground? Could you describe that for me?

Witness:  
Uh...there were two soldiers uh...we didn't we didn't call for the QRF at that quickly ...we deal with a small volume of prisoners uh...when this individual was throwing stuff at our guards uh we had uh quite a few guards out in the uh runway including myself uh we essentially were uh just getting prisoners and placing them in their respective compounds issuing them uh...uh their comfort items their blankets, the water and that and at what time he started acting out uh..uh..one of my guards uh..A male that would've been SPC [REDACTED] and a female uh...SPC [REDACTED] then went into the compound and grabbed the individual uh and he started flailing a little bit they took him to the ground then....by his arms grabbed him, stood him up and walked him over to the other compound uh at what time then he began to flail around again they put him to the ground and uh...then he started crying and they released him and just let him in there by himself he's laying on the ground wailing and crying...

(b)(6) - 4 ; (7)(C) - 4  
I/O:  
Let me narrow that focus...just a little bit, describe to me, if you saw it take place...did you see did you see that take place?

Witness:  
I didn't I didn't see the initial uh...take down, sir ...but when they separated and put him in the other compound I did see them place him in the compound and then put him to the ground...

012427

I/O: ...  
Okay...how did they do that the second time?

Witness:

Uh...I think it was more by sheer physical force they just pulled down on his arms and put him to the ground..

I/O: (b)(6)4; (7)(C)-4  
Okay...that's all I needed to know okay...anybody have any further questions? Okay, sergeant, [REDACTED] for being here today please do not discuss your testimony with any other witnesses or potential witnesses and just to put you on notice you may be recalled later in these proceedings...

Witness:

How's that, sir? Uh...are we uh...myself and my soldiers after we testify today, sir should we wait here or should we go back to Talil?

I/O:

We'll uh...we'll discuss that here in just a little bit and let you know...thank you.

[The witness was duly warned, dismissed and left the room.]

[The Article 32 Hearing recessed at 1730.]

[The Article 32 Hearing reconvened at 1845.]

(b)(6)-4; (7)(C)-4 **DIRECT EXAMINATION**

SGT [REDACTED] U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)-4; (7)(C)-4  
For the record you are SGT [REDACTED] and you are with the 744<sup>th</sup> Military Police Battalion, Headquarters and Headquarters Company, currently stationed in Talil, Iraq?

**CROSS-EXAMINATION**

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)4-7(c)-4  
SGT [REDACTED] you are actually a medic with the 744<sup>th</sup>?

Witness:

Yes, ma'am.

012428

Counsel:

Now, were you serving as a medic with the 744<sup>th</sup> on the night of the 12<sup>th</sup> of May?

Witness:

Yes, ma'am.

Counsel:

Do you recall a unit coming up to pick up a group of EPWs to escort them back to Camp Bucca?

Witness:

Yes ma'am I do.

Counsel:

Okay. I wanted to talk to you a little about your recollection of some of the EPWs that were involved in that transport. What is your job there as a medic at Talil?

Witness:

At Talil my job is when prisoners come in to...physically look at them to see if they're injured, wounded uh...any major medical problems or any signs of abuse.

Counsel:

Do you recall the 44 EPWs that were involved in the transport mission that night?

Witness:

Yes ma'am.

Counsel:

Okay, I wanna draw your attention to one...do you remember if there was one on there that was a suspected rapist?

Witness:

Yes ma'am.

Counsel:

Did he have any medical conditions?

Witness:

Uh...he suffered from anxiety attacks uh...if he was pushed you know whether verbally or just if he got upset he would just freeze up on ya go somewhat catatonic just...just freeze then hyperventilate himself.

Counsel:

Did you actually observe him doing that?

012429

Witness:  
Yes ma'am.

Counsel:  
If he was confronted with somebody who had sort of a drill sergeant attitude...would he do something like that?

Witness:  
Uh...possibly ma'am I only had him in my care for three days so I could not do a complete work up on him...we have no labs anything of that nature um...he could have with some of the confrontations my MPs had with him he froze up so with someone like that may or may not have triggered an event.

Counsel:  
Okay...are the MPs in your unit pretty mellow.

Witness:  
Yes ma'am they strive to be.

Counsel:  
And on even under those mellow environment sometimes he would seize up and have one of these anxiety attacks?

Witness:  
Um...that particular individual when we were moving from our old site which is now the PX on Talil...to our new site when they built our camp outside of the perimeter when we went to transport him he had an anxiety attack ..And uh...was...whenever he got like moved he was scared of where he was at what he was doing.

Counsel:  
And you said when he'd get an anxiety attack he'd get kinda catatonic?

Witness:  
Yeah he'd freeze up he'd hyperventilate himself ... uh rigid muscles and eventually just pass out due to hyperventilation.

Counsel:  
Now, do you also remember somebody in this uh transport that was a major who was on crutches?

Witness:  
Yes ma'am.

Counsel:  
Did he have any particular habits that you observed?

012430

Witness:

Uh...he was a he was a baby...he lost his left leg... he came from the comfort to us he had crutches he refused to use 'em um... wanted to get picked on by a litter you know from place to place um I pretty much put an stop to that they drug him up on a litter to my aid station and through my translator I explained to him that sir your leg is not going to come back you must learn how to use crutches...then he went back out to the yard...and he was pretty much of a ... just a mammas boy. He felt sorry for himself.

Counsel:

Did he ever do anything would he ever throw himself to the ground?

Witness:

Yes he did he'd throw a tantrum compared to my seven year old.

Counsel:

What would he do when he would do this tantrum?

Witness:

He'd just lay down not move freeze just holler a little.

Counsel:

What do you mean by holler?

Witness:

Just like get agitated just holler a little nothing we'd just let him be he'd get over himself.

Counsel:

Do you recall the crew that was actually loading the bus that night?

Witness:

Uh...by person? No ma'am...it was uh...during that time frame we were busy there were troops in and out in and out all day-long every day so.

Counsel:

Did you remember the individual that was standing by the door loading them onto the bus can you describe him?

Witness:

Vaguely, about six foot tall male uh...big knife on his LBE.

Counsel:

What was his demeanor like when he was loading the bus?

Witness:

Uh...Drill Sergeant he was pretty forceful with the prisoners.

012431

Counsel:

Thank you SG [REDACTED] (b)(6)-4, (7)(C)-4

I/O:

Other counselors?

**Questions by the defense counsel:** CPT [REDACTED] (b)(6)2; (7)(C)-2

Counsel:

Was it unusual to have people come in to have EPWs brought to you that were previously injured that had been previously injured?

Witness:

That was quite usual ma'am... at that point in time the U.S.S. Comfort was...getting rid of their prisoners cause they were getting ready to leave so we did get a big influx of uh...I called them pajama boys they were green or blue scrubs showing up identified from Comfort the Comfort.

Counsel:

Did you document their injuries and send them along with them?

Witness:

Yes ma'am any records that came from the Comfort went along with the property.

Counsel:

Can you remember if you sent any records along with this group?

Witness:

Yes ma'am I know I did.

Counsel:

Would those be your notes? Or...

Witness:

No ma'am those would be the Comfort notes uh...we normally due to the volume what we majorly did there was just general sick call in the morning and bandage changing just changing their bandage out and at the rate we were doing is just we do 60-70 bandage changes in a day frame annotating a bandage change is just not that...

Counsel:

If they hadn't come from the Comfort hadn't come from shift-- ship are they tagged in any way?

Witness:

Uh...medical?

012432

Counsel:  
Yeah.

Witness:  
No ma'am.

Counsel:  
Do they get some kind of medical tag so the escorts know hey this guy was injured before?

Witness:  
No ma'am...uh...nine out of ten times you would actually see a visible bandage uh...I always briefed the medic on the convoy all my medics were instructed to whenever a convoy was leaving and we had medicals to brief...the medic on the convoy that you have this, you have this, you have this, it's a standard practice in EMS.

Counsel:  
If I'm looking at the guy and he doesn't have hospital gown or he doesn't have a bandage there's no way of knowing whether or not he's injured previously injured, right?

Witness:  
Uh...not unless you're informed.

Counsel:  
Thanks SGT [REDACTED] (b)(6)-4; (7)(C)-4

#### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6) 2 - (7)(C) - 2

Counsel: (b)(6)-4; (7)(C)-4  
SGT [REDACTED], the uh...one-legged major on crutches he would have one of these tantrums how did you respond to tantrums?

Witness:  
When he when he had a tantrum the MPs would call me out to the yard it was a medical issue 'cause of his amputation we would just let him sit and look talk to him "Hey this isn't getting you nowhere it's not gonna get you anywhere."

Counsel:  
And then what would uh...what would be the outcome of one of these tantrums?

Witness:  
He would sit out in the yard and eventually just realize that it's not going to get him anywhere...comply with the instructions given to him.

012433

Counsel:  
So he was compliant then?

Witness:  
Yes.

Counsel:  
The loud drill instructor MP uh...that came from the 223<sup>rd</sup> did you see anything inappropriate in the manner of the treatment of the EPWs?

Witness:  
While loading the bus that looked like they were in a hurry they were grabbing them and "get back there get back there" but nothing--I wouldn't say nothing too over extravagant.

Counsel:  
And finally the uh...the physical condition of this group when they left you care how would you describe that?

Witness:  
On our scale good. So far no one injured which were known... the ones I pointed out to the medic...the rest of the group was in good condition.

Counsel:  
Any uh...any fresh wounds?

Witness:  
No all the wounds that were on that convoy were old.

Counsel:  
Thank you...that's all from the government, sir.

[The witness was duly warned, dismissed and left the room.]

**[The Article 32 Hearing recessed at 1905 hours 26 August 2003.]**

**[The Article 32 Hearing reconvened at 0800 hours 27 August 2003.]**

012434

**DIRECT EXAMINATION**

(b)(6)-4, (7)(C) 4  
SSG [REDACTED] U.S. Army, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Counsel:

For the record you are SSG [REDACTED] 314<sup>th</sup> Military Police Battalion, currently stationed in Baghdad, Iraq? (b)(6)-4, (7)(C)-4

Witness:

Yes, sir. That is correct.

Counsel:

On the 14<sup>th</sup>-pardon me-on the 12<sup>th</sup> of May you were stationed here at Camp Bucca, is that correct?

Witness:

That is correct, sir.

Counsel:

Okay, what were the duties of the uh...314<sup>th</sup> back around that time frame the 12<sup>th</sup> of May?

Witness:

At that time we were charged with the security of the processing center.

Counsel:

Alright and (clears throat) the processing center that was in place at that time it doesn't exist anymore, right.

Witness:

No, sir there are a few remaining tents sitting over here that's that's sort of like three tents left and that's it.

Counsel:

Okay...now, when prisoners were brought in from various locations in the theater to Camp Bucca...would your unit be one of the first units that would see these prisoners when they got here?

Witness:

That would have who's been normally running the processing center had their own personnel this was the night in question was the first time I personally handled incoming prisoners--

012435

Counsel:

Okay...alright uh...Do you remember that night the 12<sup>th</sup> of May?

Witness: Yes, I do, sir.

Counsel:

Okay can you tell the hearing officer about what happened that night?

Witness:

That night about right about 9 o'clock 9:15 local...the we were informed the load of 44 prisoners was was on site was the first we'd known about it was when they arrived the none of the processing center for all intents and purposes was closed down that night already none of the personnel were on site none of the property or document officers supply none nobody was on site at the time immediately link up at the like the processing center I don't recall the individuals that were there I took them down got them hooked up with the processing center and then went back and started trying to locate the property and supply personnel we need to process them...uh at the time I assigned SSG [REDACTED] CP [REDACTED], and SPC [REDACTED] assist with the offloading and check security of the prisoners...I immediately started firing up light sets at this point we like I was saying we had no indication that anybody was inbound we had none of the lights were on nothing for that area so I started firing that up and getting trying to get the appropriate personnel on the ground ...uh in the mean time the commenced unloading while I was doing this I was involved maybe 25-30 minutes and ...trying to get all trying to get everything in place 'cause we were having to wake people up and everything.

Counsel:

Roger.

Witness:

At this point when I got back there they were well into probably the bus probably been about half unloaded by the time I got back to the actual site and they were escorting prisoners up there were a few of the prisoners appeared to be less that cooperative.

Counsel:

Let's stop for a second what do you mean by that?

Witness:

Uh...apparently someone I don't know it was because they didn't understand what was expected of them or did not want to comply that's I don't know someone appeared to be stiffening up and resisting a little bit and were had to be forcefully escorted to accomplish the mission.

Counsel:

Okay...and when you say forcefully escorted to accomplish the mission what do you mean by that?

012436

Witness:

Uh...use of control holds such as the wrist lock or gooseneck come on to gain compliance of the subject to of the EPW to make them to force them to do what you want them to do to make them move appropriately preferably without causing any injury to them but you have to make sure you maintain control for your safety and theirs.

Counsel:

Okay so what happened then?

Witness:

Uh...at that point I ..It was brought to my I watch I saw no uncoersed actions another individual I do not have the individual name I probably couldn't recognize them at this point was a individual I recc...I remember him because he had had the conf some confidential documents that we were trying to get somebody to sign for, but he came over and said "hey you need to calm these this down there's some stuff going on something going on you guys need to calm it down" I looked at one point about probably about halfway up the processing center I saw a pair of personnel escorting a soldier or excuse me escorting an EPW two soldiers two female soldiers escorting an EPW the EPW was thrown to the ground and what appeared to be a punch at this point I'm probably one hundred to one hundred fifty feet away so my actual view of it is was extremely narrow at this point I had no idea what led to it or anything it was an action that to the best of my knowledge was not extremely grievous again 'cause I do not know what led up to it.

Counsel:

But it was a punch?

Witness:

It appeared to be yes, sir.

Counsel:

And you wrote that in your statement back on the fourteenth....

Witness:

Yes, sir I did.

Counsel:

I mean it was something that stuck in your mind, right.

Witness:

Yes, sir it did, but at the same time that is ...if the person isn't...effectively resisting you again you must be you must maintain compliance and you must maintain control.

Counsel:

Alright.

Witness:

012437

Of that individual.

Counsel:

To include punching the individual?

Witness:

If the person is actively resisting you you'd have the right to defend yourself.

Counsel:

If the person is resisting you or if the person is attacking you?

Witness:

In the case of the EPWs we've got weapons on our person if they were resisting we have to consider that we must maintain control to defend ourselves from that person having access to our weapons.

Counsel:

Punching them is an acceptable you're taught that in military police school that punching EPWs is an acceptable method to maintain control over EPWs?

Witness:

Only as a last resort, sir.

Counsel:

Are there all kinds of other...what's the rule as far as use of force with controlling EPWs?

Witness:

What is minimum reasonable and necessary.

Counsel:

Minimum force reasonably necessary, okay um...alright please go ahead SSG [REDACTED]

(b)(6) - 4; (7)(C) - 4

Witness:

At this point uh...because the individual had brought something to my attention -I hadn't noticed anything up to that point-I started watching a little closer. At that point I saw uh...one individual was brought off the bus very controlled manner brought off the bus to me he appeared to passively resist he stiffened up didn't want to comply with when he was instructed when they attempted to push him onto the push him down to the ground to get him to get him into a sitting or kneeling position he was like just passively resisting stiffened up to the point where he was not gonna do it his attitude showed that he did not want to comply he was then, by the use of a hip-throw, was thrown to the ground and placed in the prone position uh...I saw no....no....no serious injuries or anything to comply with that it was a controlled movement that accomplished what had to be done. From there another one came off the bus uh...was....it was similarly through hip throw was tossed to the ground and placed face down on the ground.

012438

Counsel:

What was that --what did that EPW do to deserve that?

Witness:

Nothing that I saw, sir.

Counsel:

Okay, what went through your mind when you saw that?

Witness:

I was like...at that point I made a general comment to everybody in the area "we need to ease up a little bit"...because it looked like people's tension was a little high ...we...the what we had been told was that people were that these were some individuals who were involved in a number of serious incidents prior to this...the tension level that night was relatively high people were a little tense so I just my goal was to just ease it up a little bit ...but again I saw no serious injury I didn't see it as a major issue where it was need to immediate intercession.

Counsel:

Okay, what was your tone of voice when you told them to ease it up?

Witness:

Not...I wasn't screaming or anything it was a just a normal tone of voice loud enough that it could be heard over the general noise of the area.

Counsel:

Okay...all right then what else happened?

Witness:

Uh...there was a third EPW that was brought off the bus and...again was thrown down at this point I was like I was a little concerned again not having actual physical hands on the individual I had no way of knowing if the person was pulling trying to pull away or what the situation was that was the final incident though that I witnessed of any thing that was at all questionable. Everything else up to that point and after that point went very much according to normal procedures.

IO:

Excuse me I didn't get what the third EPW what the situation was with the third EPW.

Witness:

He was same situation he was escorting when they brought him off the bus he was being placed on the ground uh..I do not know if he resisted or what the situation was to my from my point of view I did not see any active resistance he was by use of a hip throw was again tossed to the ground and was place in the prone face down position on the ground waiting for an escort team.

012439

Counsel: (b)(6)-4; (7)(C) -4

You know SSG [REDACTED] you gave a statement to CID agents uh when this investigation first began did you not?

Witness:

Yes, sir I did.

Counsel:

And you remember making that statement?

Witness:

Yes, sir I do.

Counsel:

Um... SSG [REDACTED] (b)(6)-4; (7)(C) -4

[Exhibit 7, a sworn statement of SSG [REDACTED] was marked for identification.]

Counsel:

SSG [REDACTED] I'd like to ask you to take a look at that do you recognize that?

Witness:

Yes, sir I do.

Counsel:

Is that your statement?

Witness:

Yes, sir it is.

Counsel:

What I'd like for you to do is I'd like for you to start reading your statement from where it says right there where it says "I observed..."

Witness:

(b)(6)-5, (7)(C) -5  
( Reading) I observed one EPW exit the bus appeared to resist was told to sit down and was then thrown to the ground and told to stay there after seeing this I watched this soldier extremely close. As the next EPW exited the bus I overheard the soldier's supervisor, MSG [REDACTED] say, "He said fuck you I heard him" to the soldier at which time he used a hip throw to toss the EPW to the ground I saw no sign of resistance on the part of the EPW the same actions followed with the next EPW at which time I said we needed to ease up a little I also saw an escort pair then throw an EPW down further up the way towards the holding area and appeared to throw at least one punch. The escort team consisted of two people whom cannot identify.

012440

Counsel:

(b)(6)-4, (7)(C)-4  
Alright let me stop you there....so SSG [REDACTED] was three EPWs in a row that you saw this person hip toss to the ground right.

Witness:

Yes, sir it was.

Counsel:

And only the first one appeared to offer any resistance.

Witness:

From the advantage point I was at yes, sir.

Counsel:

(b)(6)-5, (7)(C)-5  
And MSG [REDACTED] told him with regard to the told this person that was hip tossing these people "he said fuck you I heard him"

Witness:

Yes, sir.

Counsel:

Uh...did you just forget that when you were testifying?

Witness:

Yes, sir I did and as far as the order on the statement as far as the course of events is more accurate due to the fact that it was written very close to the time of the events.

Counsel:

Do you remember what that person who was hip tossing these EPWs to the ground what he looked like.

Witness:

At the time it was dimly lit was tall taller than I am I would estimate probably about 210-220, well over 6 foot, very slender, light colored hair none of us nobody was wearing blouses or anything so I didn't catch any names or even decent descriptions at the time.

Counsel:

(b)(6)-4, (7)(C)-4  
Okay...now, SSG [REDACTED] you testified that um..When you said eventually that everybody needed to ease up um..You said you said that in a normal tone of voice.

Witness:

Yes I did.

Counsel:

Do you remember writing in the statement that you said you were vocal and you felt emotions were running a little high?

012441

Witness:

Yes, sir I did I when I say normal tone of voice it's for me it a tone of voice that is very clearly understood it's not I didn't use it in a command voice I didn't use it in a way that was shouted or as a directive it was just kinda of to kind of break the ease up have everybody ease up a little bit and just try to cool the situation.

Counsel:

Okay, do you know any of the accused soldiers?

Witness:

I just in passing we worked the worked the well we worked the before that we had worked the security for the old the old EPW camp and they worked the internal so we had contact there did not have I did not know them personally.

Counsel:

Now other than non-compliance with commands did you observe any other resistance by any of the EPWs...?

Witness:

No, sir I did not.

Counsel:

So there was no they didn't attack any of the MPs?

Witness:

Not to my knowledge I could not see actions on the bus itself.

Counsel:

And so at most that you saw prisoner not moving when they were ordered to move stiffening up.

Witness:

That's correct, sir.

Counsel:

Now from your training as an MP if an EPW is simply just not moving would that authorize an MP to strike them.

Witness:

No, sir.

Counsel:

To kick them.

012442

Witness:

No sir.

Counsel:

To kick them in the groin.

Witness:

No sir.

Counsel:

To stomp on their head?

Witness:

No, sir.

Counsel:

To throw them face first into the sand.

Witness:

That would depend on the level of if they were refusing to move...to throw them face first in the sand, no I to take them down and at which time if the person is stiffening up and failing to resist if it may possibly look like they were thrown down yes but to take them down to the ground if that's necessary to gain compliance yes to throw, no.

Counsel:

But there are ways of taking that prisoner down.

Witness:

That's correct.

Counsel:

Throwing them to the ground is that proper.

Witness:

No sir.

(b)(6)-4; (b)(6)-4

Counsel: Okay, hold on one second SSG [REDACTED] SSG [REDACTED] thank you I don't have any further questions for you but please answer any questions anyone else might have.

I/O:

Defense?

012443

## CROSS- EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6) 2 - (7)(c) - 2

Counsel: (b)(6)-4; (7)(c)-4  
SSG [REDACTED] you've been in the Reserves for three years now, right?

Witness:  
Yes, ma'am.

Counsel:  
And all that time spent as a 95B?

Witness:  
That is correct.

Counsel:  
And prior to that you served eight years on active duty?

Witness:  
That is correct.

Counsel:  
Same MOS 95B military police officer?

Witness:  
Yes, ma'am.

Counsel:  
Could you talk to me a little bit about the typical procedure how things were supposed to work at the in processing in processing center?

Witness:  
Again this was the first night I had actually been involved with the reception of prisoners at the in processing prior to that I had worked with JFIS and then the external security on the site normally the way it would work is they would be brought off the bus be checked against the manifest uh...to ensure that we have the right number of prisoners and we actually have the ones that were supposed to be accepting ...they will then be searched, segregated and then placed in a holding area for safety until they can be further processed by the processing center at which time they will be assigned a by based on their status they'll be assigned where they go in the holding cells down in the IF.

Counsel:  
And these actions-checking the manifest, searching, segregating-those are the responsibility of the in processing team?

012444

Witness:  
That is correct.

Counsel:  
So you would expect that an escorting unit would hold EPWs on the bus until the in processing people got there.

Witness:  
That's correct.

Counsel:  
And you weren't expecting a shipment that night, right?

Witness:  
No, ma'am we were not.

Counsel:  
And at that time there was no SOP for coordination with escort units?

Witness:  
Not that I knew of no nothing that I had seen.

Counsel:  
So nobody called you when this team rolled out the gate at Bucca and said, "Hey, we'll be back in eight hours with some EPWs"?

Witness:  
No ma'am we had no contact until they arrived on site.

Counsel:  
And the TOC never called you that evening and said, "hey these guys are two hours out get ready to go"?

Witness:  
No ma'am.

Counsel:  
They came in very late that night, right?

Witness:  
Yes ma'am to the best of my knowledge it was between 9:00 and 9:30 somewhere in the range between 9:00 and 9:30 pm local time.

Counsel:  
You said everything was pretty much shut down, right?

**012445**

Witness: yes ma'am the processing site we had uh..Three to five medical holds were the only prisoners we had that we expected to be watching that night.

Counsel:

And you talked a little bit about the lighting conditions, right?

Witness:

They were very poor I had only four working light sets that all covered that area two were on the holding tent and two were at least fifty to the sides of us with the lighting was not directed to that area.

Counsel:

The lighting was directed to the shoot that the prisoners walked up?

Witness:

No ma'am.

Counsel:

And the generator you needed to turn those on, right?

Witness:

Yes ma'am I did.

Counsel:

So they weren't turned on when the bus pulled up, correct?

Witness:

No they were not.

Counsel:

Now you were notified when a soldier came down to the processing area to get you, right?

Witness:

That is correct.

Counsel:

You didn't talk to that soldier, right?

Witness:

Just in passing to try and link them up with the processing center to get somebody up there to handle the manifest, and also to get the necessary personnel over to property documents and supply in processing for us.

012446

Counsel:

That soldier was not the same individual you talked to later with the classified documents, right?

Witness:

I cannot I could not honestly tell you I do not I never got a name and in the rush of everything I don't even know if I would recognize the individual.

Counsel:

Okay, so you said come down to the bus, right?

Witness:

I as soon as he said that I linked him up with the processing center I went down to the bus to see where they were at and to get an idea of what we had going on just so I could better prepare for it.

Counsel:

When you got down to the bus had any of the prisoners been unloaded yet?

Witness:

No ma'am they had not.

Counsel:

And you talked to the individual with the classified documents down at the bus, right?

Witness:

Yes ma'am they wanted me to sign for the documents and property...I did not...I'm not... my job was security of the site I didn't want it becoming in a link of the documents and stuff and just have that many more links so I was trying to find the appropriate people for the documents and property.

Counsel:

So you sent the guy with the documents and property up to the in processing folks, right?

Witness:

Yes, ma'am.

Counsel:

And at that point nobody had been taken off the bus, right?

Witness:

No.

Counsel:

Now before you came down to the bus you told your guys hey we need to be ready to go, right?

012447

Witness:

I told them to go ahead and grab their stuff and head up or go ahead head up that area to be prepared to start receiving prisoners, yes.

Counsel:

And the people you notified were [REDACTED] and [REDACTED] (b)(6)4-(7)(C)-4

Witness:

That is correct.

Counsel:

When talked to that individual with the classified documents at the bus he told you that you had some pretty bad guys on the bus, right?

Witness:

That is correct we were told we had some serious cases of individuals that had hurt or caused severe damage to the U.S. soldiers that's the only other reason I felt tensions were a little higher than normal.

Counsel:

Okay, could you describe the bus to me when you walked up to it?

Witness:

It was a looks like an older tour bus it has baggage compartments underneath it was either white or silver in color there just a regular passenger bus from what I could tell.

Counsel:

Were the curtains up or down on the bus?

Witness:

They were down the curtains were pulled were drawn on all windows.

Counsel:

Did you see a soldier standing on the bus?

Witness:

Yes, ma'am I saw there was a soldier standing at the door of the bus and there was another soldier that I could see standing approximately where the driver's seat is on the bus I did not could not see any further into the bus to see if there were additional soldiers inside--

Counsel:

Okay, and at this point no unloading had taken place at all?

012448

Witness:  
No ma'am.

Counsel:  
Okay, ...then your guys showed up and that's when the unloading started, right?

Witness:  
At that...by the time...when my guys showed up I was already had already left the area was attempting to locate the proper personnel to help assist with the process.

Counsel:  
And when you returned you saw people being escorted off the bus?

Witness:  
Yes, ma'am.

Counsel:  
You still saw a soldier on the bus, right?

Witness:  
Yes, ma'am there was a soldier on the bus at the same place next to the driver's area there was one directly at the door of the bus and there was a third that was actually placing the individuals on the ground pending the escorts team coming up.

Counsel:  
Okay, so you've got soldier one on the bus, soldier two at the door, and soldier three moving them back and forth.

Witness:  
That's correct.

Counsel:  
From the door to the staging area?

Witness:  
Yes, ma'am.

Counsel:  
And then you had escorts that would pick them up from the staging area, right?

Witness:  
That's correct.

Counsel:  
Okay, ...they were being-the EPWs-were being escorted off the bus one-at-a-time, right?

012449

Witness:  
That's correct.

Counsel:  
Did you think that one was enough? Did you think that one guy on each EPW was enough?

Witness:  
In that area, yes. There were additional personnel standing in close proximity if something were to happen...based also the both personnel standing right at the door and the one that was placed at the ground were both individuals my height or taller both at least 200 or better well, a solid size if something were to happen they had positive control over the EPWs at that point.

Counsel:  
And searches are typically conducted as soon as you take someone off the bus, right?

Witness:  
That is correct, ma'am.

Counsel:  
But you didn't do that this night right?

Witness:  
No ma'am due to the lighting we waited until they were actually up into the holding area or just outside the holding area before they were actually searched.

Counsel:  
And you didn't think that the area next to the bus was a secure place to do searches either did you?

Witness:  
No, ma'am-not at all.

Counsel:  
The guy standing right at the door-what can you remember about what he looked like?

Witness:  
He's uh...individual's extremely short cropped hair ...medium brown hair, at least 6' 3" - 6' 2" - 6' 3" or better, relatively heavyset I would guess maybe 220...230 in weight, Caucasian male other than that I never did get a name or anything I've seen the person around but did not know the name or recognize the individual as specifically.

Counsel:  
And soldier number three is the one that was taking people from the door to the staging area, right?

012450

Witness:  
Yes ma'am.

Counsel:  
He was slender?

Witness:  
A little...slighter build uh...maybe an inch maybe an inch shorter than the individual at the door, but still over 200-I would estimate- over 200 lbs and at least probably 6' 2" to 6' 3" as well.

Counsel:  
And he had blonde hair?

Witness:  
Light brown to blondish hair, again very shortly cropped hard to tell the color that was due to the lighting.

Counsel:  
What you first saw was the soldier standing at the door handing prisoners to the third soldier and that soldier was placing them at the staging area, right?

Witness:  
That's correct.

Counsel:  
He was sitting them down?

Witness:  
He was placing them on their knees or if they were unable to do that he was placing them in the prone position.

Counsel:  
Some of them would sit....

Witness:  
Some of them had injuries that would preclude them from kneeling effectively, or would make that really an impossibility...or for whatever reason they were unable to be kneeled down they were placed prone.

Counsel:  
Okay, so some of these EPWs were placed in the prone at the staging area...?

Witness:  
Yes, ma'am they were.

**012451**

Counsel:

You talked about control holds, why would you use a control hold?

Witness:

It's better if you wanna maintain positive control of anybody you're escorting to prevent further injury to them or yourself, because...as long as you maintain control they will not try anything stupid or anything dangerous therefore you place them in a position of disadvantage, off-balance to where if necessary you can cause slight amount of pain or gain compliance so they cannot cause further ruckus or further problems.

Counsel:

So wristlock is a control hold, right?

Witness:

Wrist-lock-yes ma'am.

Counsel:

An arm-bar is a control hold, right?

Witness:

Yes, ma'am.

Counsel:

You described a gooseneck, that's a control hold right?

Witness:

Yes ma'am.

Counsel:

And what's a shoulder-lock?

Witness:

A shoulder-lock is coming up underneath the individual's arm itself basically forcing their arm up locking down you grab a hold of the trapezium muscle and just basically place the pressure there works well if you're taller than the subject you place them off-balance and without causing pain you have positive control you can also feel their movement if they try to pull away from you or whatever you have them locked right tight to your body.

Counsel:

What determines what hold is appropriate for?

012452

Witness:

Personal preference and what works for you is based on the size of the individual you are escorting size of the person escorting whether you have more than one person escorting at the time.

Counsel:

Are all those holds you just described trained...things that you've been trained on?

Witness:

Yes, ma'am.

Counsel:

Acceptable in the law enforcement community?

Witness:

Yes ma'am.

Counsel:

Are those holds always comfortable to the people being escorted?

Witness:

No ma'am they aren't designed to be.

Counsel:

Why are they still used?

Witness: because they gain compliance without causing injury to the person you're escorting.

Counsel:

Looking at a person being escorted can you always tell if someone's resisting?

Witness:

No ma'am uh...you feel it before you'd ever see it.

Counsel:

So if you're the person doing the escorting...

Witness:

If you've physically got a hold of them you will feel if they resist before you'd ever see the motion.

Counsel:

From the most part what you saw that night was professional handling of EPWs, right?

Witness: Yes ma'am.

012453

Counsel: you talked about these two small females, right?

Witness:

Yes ma'am.

Counsel:

The guy they were escorting was much larger than they were, wasn't he?

Witness:

To my...it's my recollection he was I would have to estimate 5' 10" to 6 foot, probably a good 200, he was a large, for an Iraqi male, for an EPW he's what I consider relatively large individual uh...therefore they had two people on him working with him but at that point they were both...he was significantly taller significantly heavier than either one of them.

Counsel:

(b)(6)-5 (7)(C) 5  
And MSG [REDACTED] wasn't one of the individuals escorting...

Witness:

No ma'am she was standing directly to my right slightly forward to my right at that point was observing the process.

Counsel:

You talked about these hip-throws-that was the third soldier...

Witness:

Yes ma'am.

Counsel:

That was conducting the hip-throws, right? ...The guy that was in charge from the bus to the staging area.

Witness:

Of placing them in the staging area, yes.

Counsel:

You talk throwing someone to the ground and using a controlled movement to put them on the ground?

Witness:

That's correct.

Counsel:

Were these controlled movements to put the EPW on the ground?

012454

Witness:

To my... in my opinion yes they were, they were not uh...the individual maintained a hold on the individual at all times which allows-even though it may look, from a distance, it may look like they aren't controlled-you still are supporting a great deal of the person's weight and controlling them so they fall in a controlled manner.

Counsel:

You have your hands on them as all the way down to the ground?

Witness:

Yes you do.

Counsel:

Is that what you're describing?

Witness:

Yes you do.

Counsel:

That first EPW was refusing to move from what you could see, right?

Witness:

Yes ma'am.

Counsel:

He was refusing to listen to directions.

Witness:

To my... from my vantage point, yes.

Counsel:

Once that EPW was on the ground did you see anybody hit him?

Witness:

Not that I saw no ma'am.

Counsel:

Did you see anybody kick him?

Witness:

No ma'am.

Counsel:

Same thing with the second hip-throw that you described did you see anybody hit that EPW once he was on the ground?

**012455**

Witness:  
No, ma'am I did not.

Counsel:  
Did you see anybody kick him?

Witness:  
No.

Counsel:  
And same for the third?

Witness:  
No...at that location I saw no punches or kicks of any type it was strictly a forceful movement to place the individual where they needed to be.

Counsel:  
You said you saw no injuries on those particular EPWs, correct?

Witness:  
Nothing that had not already been there were some bandages on one or two of them from previous I do not know the injuries there were some bandages but no additional injuries that I saw.

Counsel:  
You went up to the holding area later, right?

Witness:  
Yes I did.

Counsel:  
And you saw no serious medical issues in the holding area?

Witness:  
Not that I recognized at that time, no.

Counsel:  
In the whole course of that evening-either when you were standing there, or when you were moving in between the processing tent and the um...and the staging area-did you hear any yelling?

012456

Witness:

I ...just...um...soldiers raising their voice to make themselves understood ...the individuals may not understand what's said to them, but they will understand tone of voice and body language enough to get the point across to what you want them to do and that's all I...I heard a very rarely you hear an EPW say anything but for the most part they were completely silent and I did not hear anything that brought alarm to me.

Counsel:

Did you hear any screaming?

Witness:

No ma'am.

Counsel:

Any screaming out in pain?

Witness:

Not that I recall no ma'am.

Counsel:

Blood curdling screams?

Witness:

No ma'am.

Counsel:

Thank you, SSG [REDACTED] (b)(6)-4; (7)(C)-4

I/O:

No further questions.

Defense counsel: No, sir.

I/O:

Major [REDACTED] (b)(6)-2; (7)(C)-2

#### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)4-(7)(C)-4

Um...SSG [REDACTED] was a little bit confused about something you just said, you said that when you were observing the movements of the soldier who was hip-throwing the prisoners to the ground you said those were controlled movements?

012457

Witness:

It is a controlled movement it is a rapid movement but it is still controlled that person is not one that if done properly is not one that causes injury it's a routine it's an acceptable practice within law enforcement to put somebody on the ground from a position of advantage.

Counsel:

So did you think that this was appropriate behavior that you were observing?

Witness:

The first one yes the other two I did not see a cause for it...but it was not something that caused me great alarm 'cause it was not causing injury to the individual.

Counsel:

But it caused you enough alarm to go over and tell this person to ease up, right?

Witness:

Just because I thought..I did not want to see things escalate beyond that point and things can tend to escalate if unless it's necessary if I don't see a reason for it I don't feel it's necessarily necessary and it's preferred to just use the something a lot less aggressive.

Counsel:

Because if it's not necessary to hip-throw a prisoner to the ground to maintain control of that prisoner then that's improper conduct, correct? ...If you're just hip-throwing a prisoner to the ground for no reason that's not proper, right?

Witness:

That's correct yes, sir.

Counsel:

You're taught that, right?

Witness:

Yes, sir.

Counsel:

Minimum amount of force necessary.

Witness:

That's correct, sir.

Counsel:

Um...now...you said there were some of the um...soldiers were calling out commands to the prisoners?

012458

Witness:

Yes, sir.

Counsel:

What language was being used?

Witness:

Combination of both English and some Arabic was what few commands we had learned at that point in Arabic were being used as a much as possible.

Counsel:

Now some of prisoners had what appeared to be prior injuries?

Witness:

That's correct, sir.

Counsel:

And some of those injuries precluded them from being able to kneel down like they were supposed to do?

Witness:

In my from what I saw, sir.

Counsel:

From what you saw I understand that's... just I'm just asking...from your vantage point, alright...now during the course of this um...evening you were...fair to say it was it was an unexpected arrival of prisoners.

Witness:

That is correct, sir.

Counsel:

And...you had a lot to do in a very short period of time to get this site ready for these prisoners to be offloaded, right?

Witness:

That's correct, sir.

Counsel:

And so you were moving around trying to get all that done, right.

Witness:

Yes, sir I was.

Counsel:

012459

And isn't it also true you weren't really paying attention to what was going on with the treatment of the prisoners until that sergeant walked up to you and said, "hey this has got to calm down" or whatever he said...?

Witness:

That's correct I was busy with other things and I had I had not seen or heard anything that really attracted my attention to the point where I felt I needed to become involved.

Counsel:

(b)(6), (7)(C) - 2

Now the last thing I had a little bit of confusion at one point when you were answering some questions from CPT [REDACTED] you said something about um.. These moves that you were describing the gooseneck hold and some of the other things you were describing are moves that are designed not to cause a prisoner.. To maintain control of a prisoner without causing the prisoner pain and then later you said without causing the prisoner injury...uh.. Is there a difference or are they both the same.

Witness:

They cause to say it does not cause pain...it causes discomfort...and pain depending on the level of resistance it can cause pain it will not cause-if they're done correctly-will not cause injury to the individual or long term pain...as soon as the person has released off 'em the pain goes away...that's the idea of the pain-compliance ...when it's applied the person feels discomfort and to a point at some point pain as soon as the person is released the pain stops.

Counsel:

Okay, ...did you...if the prisoner has injuries, say for example if a prisoner has a previously injured leg or previously injured arm, is it appropriate for an MP to take those injuries into account when considering what control measures to use...?

Witness:

Yes, sir it is.

Counsel:

And why is that?

Witness:

Uh...for two things, uh...otherwise applying the hold would not be effective because that part may already be in pain and you are not changing the situation.. The other thing being you do not want to cause further injury to that existing injury and on another part of it if an individual has blood on him the last thing you wanna do is get that all over you for your own safety and for their...you don't wanna aggravate the situation. If the person has a problem with a wrist you'll use a...either an arm-bar or shoulder-lock, if they have a problem with a leg either way with a leg it's limited all you can do is basically assist them and move at a slower rate we don't-unless it's absolutely necessary-we don't carry prisoners again that would be placing ourselves at risk or the and in jeopardy.

012460

Counsel:  
Thank you, no further questions.

I/O:  
Defense, any further questions?

Defense counsel: No, sir.

Questions by the Investigating Officer: LTC [REDACTED]

(b)(6)2; (7)(C)(2)

I/O: (b)(6)4-(7)(E)-4  
SSG [REDACTED] just a couple of points I wanna clarify.

Witness:  
Yes, sir.

I/O:  
Do you know...who usually alerts you that there are EPWs in bound?

Witness:  
Ideally there should be a system to where we know ahead of time when they have coming in bound we to my...in all... I'd say I received three buses in the time we worked at the processing center and only once did we receive any advance warning of them inbound and that came from the TOC.

I/O:  
From the Battalion TOC?

Witness:  
From the battalion...from the 320<sup>th</sup> Battalion TOC at which time I had called down and said hey do you have anybody coming in tonight? And they informed me yes they did have.

I/O:  
So you actually asked them and then they replied?

Witness:  
Yes, sir...uh I know they must...they had to track missions but if they were pushing it up to the processing center which I do not know it wasn't getting to my people down at my level.

I/O:  
Okay...you said previously that you saw two females escorting the EPW...

Witness:  
That's correct.

012461

I/O:

And...you witnessed what you thought were punches.

Witness:

I saw what I felt was at least one punch that was thrown by the female that was would've been on the left side of the EPW closest to me...I saw this at a great distance, so what I saw appeared to be a punch...

I/O:

No description of the escort?

Witness:

They were Caucasian females...5' 6" 5' 8" maybe, they were relatively short.... medium build it's hard to describe at a distance, and I wouldn't be able to ID them, sir.

I/O:

Couldn't identify them today?

Witness:

No, sir I doubt I could -even if I was looking right at them- I wouldn't be able to identify them at this point, sir.

I/O:

From you vantage point...see any resistance that would've caused them to do this?

Witness:

Not from my vantage point no, sir...but again I was at a great distance, sir.

I/O:

Okay...describe for me what you're saying is a hip-throw?

Witness:

Hip-throw is you grab a person usually...basically your arm is looped around their neck using your body and your hips and lower back as leverage, pull the person across lifting the off the ground-pull them across and, so the person ends up going from standing to usually on their back or on their side directly- virtually directly in front of you...using your back.

I/O:

Nearly over your shoulder?

012462

Witness:

Actually comes over your lower over your hips and lower back as leverage and you just using your legs as leverage depending on the size of the person pull them over and drop down as you go down with them 'cause you're still controlling their upper body 'cause your arm is around now the back of their neck so their head doesn't hit the ground you...from a distance or even close up it goes fairly quickly you may hear the person "thump" when they hit the ground a little bit that's them when they land it still they do not land hard enough to cause, as long as you maintain a hold of them, they do not land hard enough to cause any injury.

I/O:

I wasn't clear, and I guess I need you to clarify this for me, when you arrived at the in processing center for the first initially.

Witness:

Yes, sir.

I/O:

Were the EPWs being offloaded, or were they still on the bus?

Witness:

No sir, when I first went up to the bus they were still on the bus...no EPWs had been removed from the bus at that time.

I/O:

Okay, and then you mentioned uh...you said later that at the holding area you didn't see any serious injuries?

Witness:

No, sir I didn't...not that I not to my not from what I noted I saw nothing that was serious that needed immediate medical attention.

I/O:

Did you see any injuries at all?

Witness:

I saw what appeared to be some blood on a face I do not know if it was from previous or not I had no knowledge of that.

I/O:

Blood on a face like where?

Witness:

Just uh...possibly somebody had had a bloody nose or something

012463

I/O:  
Fresh blood?

Witness:  
At that point by that point not really fresh no it was could have been probably within the couple of hours.

I/O:  
Really not qualified to say that are you?

Witness:  
It was dried on it was dry on the person's face.

I/O:  
Dried blood.

Witness:  
It was not was not currently bleeding at that point.

I/O:  
Got it, okay, thanks. Does anybody else have any questions?

Defense counsel: No, sir,

[The witness was duly warned, dismissed and left the room.]

**DIRECT EXAMINATION**

(b)(6)-4, (7)(c)-4  
SSG [REDACTED] U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MA [REDACTED] (b)(6)-2; (7)(c)-2

Counsel:  
You are a SSG with the 314<sup>th</sup> MP Company, currently stationed in Baghdad.

Witness:  
Yes, sir

Counsel:  
Thank you very much.

012464

**CROSS-EXAMINATION**

**Questions by the defense counsel:** CPT [REDACTED] (b)(6) 2 - (7)(C) - 2

**Counsel:**

Good morning SSG [REDACTED] (b)(6) - 4; (7)(C) - 4

**Witness:**

Good morning, sir.

**Counsel:**

Where were you assigned on 12 May 2003?

**Witness:**

Here at Camp Bucca.

**Counsel:**

And you remember what you were doing that night...that day?

**Witness:**

Yeah we were uh...basically gonna run the in processing center for the EPWs just a portion of where we were to um...get 'em off the bus, give them food, water, blankets basically that's all we do.

**Counsel:**

Okay ...and can you tell a little bit about your background, did you spend any time on active duty?

**Witness:**

Seven years.

**Counsel:**

Okay...and what do you do on the civilian side?

**Witness:**

I'm a correctional Sergeant with the California Department of Corrections.

**Counsel:**

And how long have you done that?

**Witness:**

Twenty years.

**Counsel:**

On the 12<sup>th</sup> of May, do you know anyone from the 320<sup>th</sup>?

**012465**

Witness:

Did I know them..I recognized at least one um...but I don't know them.

Counsel:

Okay...did you know anyone by name?

Witness:

Uh...I believe there was a MSG (b)(6)-1; (b)(7)(C)1 [REDACTED] at's it that's the only one I recognize. (b)(6)-5; (b)(7)(C)5

Counsel:

Okay...um....and when did you arrive here in Theater?

Witness:

Uh...I believe it was March 25<sup>th</sup> I believe it was.

Counsel:

And then when did you come to Camp Bucca?

Witness:

Sometime in April...no it ...we spent about two and a half weeks...about the first of April I believe it was.

Counsel:

Okay...and how long did you spend at the in processing center before the 12<sup>th</sup> of May?

Witness:

I think we were there a couple of weeks.

Counsel:

Okay....and what is you MOS?

Witness:

95B.

Counsel:

And you've had that MOS how long?

Witness:

Going on two years.

Counsel:

Why don't you describe for me what you remember happening on the 12<sup>th</sup> of May

012466

Witness:

Um...well let's see we got word that some prisoners were here and we had to go and get 'em off the bus so I took myself and SPC [REDACTED] and SPC [REDACTED] we um...met some soldiers at the bus they told us they had about fifty and somebody said they had some problem children so we'll get those off first the brought them off the bus--

Counsel:

What do you mean-I'm sorry SSG [REDACTED] what do you mean "problem children"?

Witness:

Some people that were gave them some problems.

Counsel:

Okay.

Witness:

Okay...um...I asked them to get those people off the bus first...they got them off...uh...

Counsel:

SSG [REDACTED] I'm sorry-when you arrived down there..Er...when you went down to the offloading area were there any prisoners that are already been unloaded off the bus?

Witness:

Uh...I don't believe so, no...no.

Counsel:

Do you remember seeing the first the first EPWs come off the bus?

Witness:

Well I saw at least, yeah, it wasn't exactly the first one, but yeah. At least the first five because we took them in groups of five in the beginning.

Counsel:

Okay. And describe exactly what you did then.

Witness:

Well, after I got the off the bus, my soldiers and I escorted them in groups of five down to the holding area. And at the first five, I told Specialist [REDACTED] stay there with the EPWs and [REDACTED] and myself, we escorted another ten. And I think on our way back, one of the soldiers asked if they could help us and I appreciate the help, yea. And then we started escorting them one at a time or two at a time.

Counsel:

012467

And how many MPs did you have per EPW that you were escorting?

Witness:

Either one per EPW or two, which is two soldiers per EPW. It's depending if they're having a problem with the guy or not, or if the guy needed help.

Counsel:

Okay. And explain exactly where you were taking them from.

Witness:

Well from the bus area. The bus area was right across this road here, from that bus down to the pen, which is parked a little over a hundred meters away.

Counsel:

Okay. And during that time, did you see anything that caused you alarm or anything that you thought was inappropriate?

Witness:

No.

Counsel:

Did anyone come up to you and say anything about there being anything inappropriate, or any mistreatment?

Witness:

(b)(6)-4)  
(7)(C)-4  
Yes, it was, I don't know the individual's name. For some reason I believe he's a Staff Sergeant. Anyway he was standing off to the side and as I came back he, I believe he and [REDACTED] Sergeant [REDACTED] approached me and said that these guys are kind of rough. And when he said this, I looked at the people coming off the bus and I turned over my shoulder looked at those that were escorting them to the pen. I didn't see anything. And I said to him what the hell are you talking about? I continued on. I'll just continue on. Okay. Escorting.

Counsel:

Okay, and prior to that time had you heard screaming, whaling or yelling?

Witness:

I didn't hear any whaling or anything. Some of the guys were, I guess you could call moaning or whimpering when they got off the bus, and some were while we were escorting them, but other than hollering or anything like that, no.

Counsel:

Okay. And then after that time did you hear any screaming or crying out or anything like that?

012468

Witness:

Crying out? No, there was one guy who supposedly had bullet wounds in his legs. Now he was whimpering and crying out. He had to be carried down to them. Other than that, no.

Counsel:

Okay. And how long were you actually present for the EPWs being escorted?

Witness:

I would say from the beginning to the end. I didn't escort the last person back, but through the whole process from beginning to end.

Counsel:

Can you estimate how many EPWs you personally escorted up to the holding area?

Witness:

I'm gonna say about twenty because counting the fifteen that Specialist [REDACTED] and [REDACTED] (b)(6)-4, and I...that we all took together. We took five in a group until we got about fifteen, so (7)(c)-4 I'm gonna say I...about twenty, counting those guys.

Counsel:

Okay. During the course of escorting, or seeing prisoners taken off the bus, did you see any of the EPWs resist?

Witness:

I don't really recall seeing them resist. I do know that when we were escorting a lot of them, at least the ones that I escorting, they seem hesitant to move, like they were going to the death chamber, or something. Sometimes we had to push them to make them move.

Counsel:

Okay. And do you remember any one in particular that refused to move or would not comply?

Witness:

Well, the one that I escorted, one of the guys I escorted, he was really hesitant to move, you know, I had to kind of push him a little bit and he actually just dropped to the ground...dropped on his own power. And I had to get him up and a soldier came and assisted me to escort him down there and as we went further he became a little less resistant.

Counsel:

Okay. Sergeant [REDACTED] if you had seen anything that you deem inappropriate, what would you have done? (b)(6)-4 - (7)(c)-4

012469

Witness:

I would have stopped it, or at least said something.

Counsel:

(b)(6)4-(7)(C)-4  
Okay thank you Sergeant [REDACTED] don't have any more questions for you right now.

I/O:

Anyone else? Major [REDACTED] (b)(6)2-(7)(C) 2

### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)2-7(c)-2

Counsel: (b)(6)4-7(c)-4

Sergeant [REDACTED] you did see a prisoner, you essentially saw two prisoners that had blood on their faces, didn't you?

Witness:

Yes. This was after their escort was complete.

Counsel:

I understand. And you escorted approximately twenty prisoners yourself?

Witness:

Well no. When we started, we started escorting about five at a time. We started out all three of my soldiers. My two soldiers and myself escorted the first five and I told Specialist [REDACTED] to stay at the pen with them. And then [REDACTED] and myself escorted (b)(6)4-7(c)-4 another ten. Five at a time. So I counted those.

Counsel:

And you didn't see any prisoner getting punched by anyone?

Witness:

No.

Counsel:

You didn't see any prisoner getting kicked between the legs while he was on the ground?

Witness:

No. Kicked, pummeled, pinch or anything, no.

Counsel:

You didn't see any of that kind of contact?

Witness:

No.

012470

Counsel:

But you did have an NCO walk up to you and say that that was going on, didn't you?

Witness:

No. Here's what he said to me. He said these guys are kind of rough. Now [REDACTED] and I were standing...as I was coming back he came up [REDACTED] believe [REDACTED] and him came to me and said these guys are kind of rough. Now when he said that I looked at the guys being escorted off the bus, where they were escorting them and sitting them down, and I looked across my shoulder at those being escorted. There might have been about four or five that were being escorted up to the pen. I didn't see anything and if he saw something, he should have said something. I can't imagine an NCO--

(b)(6) 4; (7)(C) - 4

Counsel:

You mean other than to you?

Witness:

Yea, he could have went to the individuals and told them to sit down, stop doing what you're doing, if they were doing something.

Counsel:

But you don't know whether he did that or not?

Witness:

I do not know.

Counsel:

Okay. Are you aware that Sergeant [REDACTED] actually saw something and went over and mentioned it to one of the escorts, are you aware of that?

(b)(6)-4, (7)(C) - 4

Witness:

No I was not.

Counsel:

You didn't know that?

Witness:

No.

Counsel:

Okay. I don't have any further questions.

I/O:

Any follow-ups?

Defense counsel: No, sir.

012471

(b)(6)4-70-4

### DIRECT EXAMINATION

SPC [REDACTED], U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; 7(c)-2

Counsel:

You are a SPC with the 314<sup>th</sup> MP Company, currently stationed in Baghdad.

Witness:

Yes, sir

Counsel:

Thank you very much.

### CROSS-EXAMINATION

Questions by the defense counsel: MAJ [REDACTED] (b)(6)-2; 7(c)-2

Counsel:

How long have you been with the 314<sup>th</sup>?

Witness:

About two and a half years now, ma'am.

Counsel:

And is that how long you've been in the Army?

Witness:

Correct.

Counsel:

And you've been a 95B the entire time?

Witness:

Yes.

Counsel:

When did you arrive at Camp Bucca?

Witness:

I arrived in Camp Bucca somewhere in the beginning of April.

012472

Counsel:  
And what were your main duties there?

Witness:  
I was to provide perimeter security for the installation...the EPW camp.

Counsel:  
And did you have any additional duties?

Witness:  
Later on in the mission, I was put on to provide security for the tribunal and for the in-processing area.

Counsel:  
And did you escort EPWs, in that mission, back and forth to the tribunal from the compound?

Witness:  
Correct ma'am.

Counsel:  
Now are you friends with, or do you know anybody in the 320<sup>th</sup> MPs or the 223 MPs?

Witness:  
Not really. I know a few, but not really friends with any of them.

Counsel:  
So you hung out mainly with the 314<sup>th</sup>?

Witness:  
Correct.

Counsel:  
I direct your attention to the night of twelve May of this year. Did you help unload a bus-load of EPWs?

Witness:  
Yes I did.

Counsel:  
And did you arrive at the...when you arrived at the bus to do this, had any EPWs been unloaded yet?

Witness:  
No.

012473

Counsel:  
So you were there for the beginning of the process?

Witness:  
Correct.

Counsel:  
And did you stay 'til the end?

Witness:  
Yes I did.

Counsel:  
When you arrived at the bus, was there someone standing at the door of the bus?

Witness:  
Yes. There was one MP. I don't know what Company he was with, either 223 or the 320<sup>th</sup>. He was standing outside the bus. He was in his DCUs. He had his FLAC vest on. I couldn't distinguish who he was. There was no nameplate, no rank. He was pretty much sitting right outside the bus waiting for the reception to come in.

Counsel:  
What'd he look like?

Witness:  
Tall gentleman. Tan skin. Had a six o'clock shadow. Tall. Some hair.

Counsel:  
How about weight? His build and weight.

Witness:  
He was a pretty big guy. I couldn't tell you what weight.

Counsel:  
And he began unloading the bus at some point, right?

Witness:  
Yes. We were told...we...I heard an order, I believe it was from Master Sergeant (b)(6)5-(7)(C)-5 [REDACTED] to start lining them up. So I started to do that and he started yelling to whoever was inside the bus to start bringing the EPWs out.

Counsel:  
Now were you the one, you said that you repeated an order, did you suggest to him that you start unloading the bus?

Witness Yes, I said okay let's start unloading the bus and take out five at a time.

012474

Counsel:  
And he...

Witness:  
...Proceeded to do that.

Counsel:  
Okay. So he was directing another MP on the bus to bring one at a time to the door?

Witness:  
Correct.

Counsel:  
And as they came off the bus, describe the procedure.

Witness:  
Well we would have two MPs escort the person to a line-up, where we had...I believe we were doing five at a time, lining them up. We had two MPs escorting them to that one staging area.

Counsel:  
About how far away from that bus is the staging area?

Witness:  
Maybe ten feet.

Counsel:  
And did the MP that was unloading directly at the door of the bus, did he tell you anything about the behavior of the prisoners on the bus ride?

Witness:  
Yes. He said the first twelve were causing trouble on the way down from the ride from wherever they were coming from.

Counsel:  
After you lined them up by fives, what happened next?

Witness:  
We proceeded to take them down to the holding area where we would put them until the in-processing needed them. We'd take them down, two MPs at a time, escort one EPW...take them all the way down to the holding area. Drop them off with the guard that was there, and the guard would segregate them from whatever they were...soldier, civilian, high-ranking official, whatever. Then we would just leave them there and come back and do the process over.

012475

Counsel:  
Who was down to accept them at that end?

Witness:

Specialist [REDACTED]

(b)(6)-4; (7)(C)-4

Counsel:

And about how long would you spend down there with Specialist [REDACTED] as you brought each EPW?

Witness:

Maybe five, ten seconds at the most. Drop them off, tell him what he was, and he'd segregate them. We'd walk back and make sure everything was okay.

Counsel:

And how long is the chute that you walked them down? When you say...describe what the chute means?

Witness:

The chute would be, kind of like an alleyway of concertina, basically what it was. An alleyway of concertina that we took the EPWs down. And maybe no more than a hundred yards.

Counsel:

So it's a lane that's defined by concertina wire?

Witness:

Yes.

Counsel:

Okay. Did you see any EPWs on crutches that night?

Witness:

Yes, I saw about three EPWs on crutches that night, wearing blue garments, medical garments...Something like that.

Counsel:

And where were they when you saw them?

Witness:

I saw one already on the staging line, one coming off the bus, one being escorted down the chute.

Counsel:

And did you see any EPWs on crutches get thrown to the ground?

012476

Witness:

No.

Counsel:

Did any of them get kicked?

Witness:

No ma'am.

Counsel:

Did you see any of them get punched?

Witness:

No ma'am.

Counsel:

Did you see any of them held down on the ground?

Witness:

No.

Counsel:

Kicked in the groin?

Witness:

No.

Counsel:

Yelled at?

Witness:

No.

Counsel:

Where they being told to hurry up at all?

Witness:

Not really, no. If they were like dragging purposely, we'll ask them to hurry up, you know, let's go, stop stalling.

Counsel:

I'm talking about...you didn't escort anybody on crutches?

Witness:

No.

012477

Counsel:

Okay. So you're talking about the other escorts when you're talking about these guys on crutches being escorted?

Witness:

Yes.

Counsel:

Did you see any MPs yelling at EPWs in general?

Witness:

Yelling? Giving commands, verbal commands...get up, stand up, let's go, stuff like that.

Counsel:

Did you see any...hang on a second. Did you see any EPWs resisting that night?

Witness:

Yes I saw...I had one individual resist, with myself and my escort. I saw, maybe, two or three others as well.

Counsel:

Can you describe the incident that happened to you, personally?

Witness:

Yes. We had one individual that was refusing to walk. He didn't want to walk. He was dragging his feet. I was escorting with another soldier, I don't know if he was in the 320<sup>th</sup> or 223, and we were going to the chute and he was just dragging his feet. So myself and my other soldier decided to put him up, grabbed him, raised him, try to put him on his feet but he fell straight to the ground. And doing so, we were helping the individual back up and he was grabbing onto my leg and he eventually put his hand on my pistol, my pistol holder. And I told him to stop, get your hand off my weapon. He wouldn't do so. he kept on holding it, got a little higher on it, coming close to the handle of my weapon so I put him down. I put him down until he stopped resisting.

Counsel:

Can you please describe what "putting someone down" means?

Witness:

The action that I took, ma'am?

Counsel:

Yes.

012478

Witness:

I pretty much just grabbed the gentleman by the shoulder, had him by the legs, took his feet out from underneath him and placed him on the floor, put him in a wristlock until he had stopped resisting.

Counsel:

And did he stop resisting right away?

\*

Witness:

No he squirmed around for maybe a minute or so, then he stopped. He got the clue.

Counsel:

What was your position in relation to him while he was squirming around?

Witness:

I was on top of him with a wristlock.

Counsel:

Were your knees on him?

Witness:

No, just my upper body.

Counsel:

So you were that close to him? You had your upper body on top of him to restrain him?

Witness:

Yes ma'am.

Counsel:

And you were holding one of his arms behind him in a wristlock?

Witness:

Yes ma'am.

Counsel:

And he squirmed for over a minute?

Witness:

Yes.

Counsel:

How many times did he touch your holster while he was resisting?

Witness: About three times.

012479

Counsel:

And was there a magazine with live rounds in your pistol?

Witness:

Yes ma'am.

Counsel:

Did he actually ever touch the pistol?

Witness:

Yes ma'am. He touched the handle, ma'am.

Counsel:

And you gave him verbal commands before putting him down?

Witness:

Yes ma'am.

Counsel:

Did he comply?

Witness:

No.

Counsel:

Describe the escort that was with you?

Witness:

Another tall individual, tan skin, had brown hair, had a six o'clock shadow on his face. He was in DCU pants, boots, brown t-shirt on, no over coat, no soft cap, no rank, no nameplate.

Counsel:

About how tall?

Witness:

Taller than me, about 6' 3", 6' 4".

Counsel:

What color hair?

Witness:

Black or brown.

Counsel: And did he do anything when you were putting this prisoner down?

012480

Witness:

No, he pretty much backed away and let me handle it.

Counsel:

Did you see any other EPWs resisting MP escorts that night?

Witness:

Yes I did, ma'am.

Counsel:

Can you please tell the investigating officer what you saw?

Witness:

Well sir, I saw one individual was being non-compliant with following verbal orders and being resistant, pretty much had to be dragged, not dragged but pushed along to go down the chute. And he started nudging two MPs. What I mean by that, he would take his elbows and his shoulders and he started squirming around, and knocking two of the MPs, and he put them down as well, until he would stop resisting.

Counsel:

Was that a graceful put down?

Witness:

Things never go gracefully, especially when someone's resisting you. You do what you can to put them on the ground without sustaining injury to yourself or much to the EPW, and we would have to hold them there until he would stop moving around.

Counsel:

Did the escort punch them or kick them?

Witness:

No ma'am.

Counsel:

You saw that as you were coming...where were you when you saw that?

Witness:

I was coming back from the holding area. I just dropped off an EPW. I was coming back. I was maybe fifteen yards away when I saw the whole thing.

Counsel:

Say that again? You were fifteen yards away?

Witness:

Yes.

012481

Counsel:  
And you were walking towards...

Witness:  
Towards the staging area where the EPWs were.

Counsel:  
So you were approaching the scene?

Witness:  
Yes.

Counsel:  
And when you arrived at that scene, where they had him on the ground, you had to walk right past them?

Witness:  
Yes ma'am.

Counsel:  
And what were they doing, if anything?

Witness:  
Restraining the individual until he would stop squirming.

Counsel:  
Was he still squirming around after he was put to the ground?

Witness:  
He was still kicking around.

Counsel:  
Did you hear any screaming on the part of the EPWs that night?

Witness:  
More like a crying, a whining. They sounded like a bunch of scared individuals.

Counsel:  
Did you hear any blood-curdling screams?

Witness:  
No screaming. Nothing real high-pitched.

Counsel:  
Would you remember that if you heard it?

**012482**

Witness:  
Yes.

Counsel:  
In your duties that night, between the holding area, the staging area and the bus, if there was such a scream, would you have heard it anywhere you were while you were conducting your escort duties that night?

Witness:  
Yes I'm pretty sure. It was only a hundred yards. If they were screaming bloody murder, you'd be able to hear it.

Counsel:  
And you said they were whining and making noises?

Witness:  
Yes ma'am.

Counsel:  
And why were they? Because they were scared?

Witness:  
I believe they would be scared. They don't know what's going to happen to them. They're just coming into a new place. They don't know what's going to happen.

Counsel:  
I have no further questions, but somebody else may.

I/O:  
Any questions defense?

Defense counsel: No, sir.

I/O:  
Major [REDACTED] (b)(6)-2 ; (7)(C) 2

#### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2 ; (7)(C) 2

Counsel: (b)(6)-4 ; (7)(C)-4  
Yes sir, thank you. SPC [REDACTED] you say you would have heard any kind of really loud scream?

012483

Witness:  
Yes sir.

Counsel:  
You think you would have heard that when you were trying to put that prisoner to the ground who had just tried to grab your weapon?

Witness:  
I'm pretty sure.

Counsel:  
You think you would have been listening for all that when some guy was grabbing for...

Witness:  
I would have been focusing on that individual, but I think if I heard somebody yelling and screaming, I think I would have been able to do that.

Counsel:  
You think you would have been able to do that?

Witness:  
Yes.

Counsel:  
Now, when you put these...another thing, you were...you jumped right in...you said you heard Master Sergeant [REDACTED] You seem to know her. Do you know her?

Witness:  
I've heard of her. I've seen her around camp before.

Counsel:  
So you knew her that night?

Witness:  
Yes I know what she looked like.

Counsel:  
And what do you mean, you've seen her around camp?

Witness:  
Around my camp area, the 320<sup>th</sup> and 314<sup>th</sup> bunks were right next to each other.

Counsel:  
Okay. So you practically lived together, right?

012484

Witness:

I wouldn't say lived together. We kind of kept our separate ways, but once we, you know, we worked together. We were perimeter security. They were the interior security. We passed by each other on a daily basis. We never really talked.

Counsel:

But you knew who she was?

Witness:

Yes I knew who she was.

Counsel:

Saw if you saw her that night, you'd know exactly who she was?

Witness:

Yes.

Counsel:

Okay. You escorted six prisoners that night, right?

Witness:

Six to ten, yes.

Counsel:

Okay, so you were pretty busy escorting prisoners. You say you saw three EPWs on crutches?

Witness:

Yes sir.

Counsel:

And you said...when you said you saw one on the staging line, tell me again...where did you see these...

Witness:

I saw one on the staging line, was already lined up in the row of five. I saw one coming off the bus and I saw one being escorted down the chute to the holding area, sir.

Counsel:

Okay. And that was when you first got there, right?

Witness:

No. When I first got there, there was nobody off the bus. This was during the escorts.

012485

Counsel:

Okay, so at some point you just happen to notice this configuration of people on crutches?

Witness:

Yes sir.

Counsel:

Do you know what happened to all those people on crutches?

Witness:

No.

Counsel:

Because you were busy escorting...

Witness:

I heard stories about why they were on crutches.

Counsel:

Did you see all these three on crutches get escorted to the holding area?

Witness:

I only saw one being escorted. And two over by the staging area.

Counsel:

I understand. And this EPW that resisted you, he put his hand on your holster?

Witness:

Yes sir.

Counsel:

And you first told him to stop.

Witness:

Yes sir.

Counsel:

And then you eventually had to put him to the ground.

Witness:

Correct.

Counsel:

And you described how you did that.

012486

Witness:

Yes.

Counsel:

You didn't throw him to the ground, correct?

Witness:

No sir, I did not.

Counsel:

And you didn't drop him on his head?

Witness:

No.

Counsel:

You didn't punch him?

Witness:

No sir.

Counsel:

You didn't kick him?

Witness:

No.

Counsel:

You didn't step on his head.

Witness:

No.

Counsel:

You didn't kick him between the legs?

Witness:

No.

Counsel:

You didn't drag him across the ground?

Witness:

No.

Counsel:

012487

You didn't body slam him?

Witness:

No sir.

Counsel:

Because those would not be proper techniques, would they?

Witness:

No. That would be going against what you should be doing.

Counsel:

Right. You have a duty to safeguard these prisoners, don't you?

Witness:

Correct.

Counsel:

You did notice at least one of these prisoners had dirt on his face and blood after they had been in the holding area, right?

Witness:

Correct. Dry blood.

Counsel:

And you said somebody told you...did the person that was standing at the base of the bus with the FLAC vest on, that told you that these prisoners had been causing trouble the whole way?

Witness:

Correct.

Counsel:

Do you know any of the soldiers from the 223<sup>rd</sup> like you know the soldiers from the 320<sup>th</sup>?

Witness:

No.

Counsel:

Okay. Thank you. I don't have any further questions.

I/O:

Any follow up defense counsel?

012488

Defense counsel:

Yes.

# RECROSS-EXAMINATION

Questions by the defense counsel: MAJ [REDACTED] - (b)(6)-2; (7)(C) - 2

Counsel:

MAJ [REDACTED] asked you if you know the soldiers from the 320<sup>th</sup>. Do you know if Master Sergeant [REDACTED] married? (b)(6)5; (7)(C) - 5

Witness:

No.

Counsel:

Do you know if she has children?

Witness:

No ma'am.

Counsel:

Do you know what town she's from?

Witness:

No ma'am.

Counsel:

Have you ever had dinner with her?

Witness:

No ma'am.

Counsel:

Have your units ever sat together in the chowhall?

Witness:

Not that I know of.

Counsel:

Have you ever sat down and had a conversation with her?

Witness:

No ma'am.

Counsel:

Have you ever sat down and had a conversation with anybody from the 320<sup>th</sup>?

012489

Witness:  
Yes ma'am.

Counsel:  
Who?

Witness: (b)(6) 4; 7(c) 4  
I've had conversations with Sergeant [REDACTED] and I forgot which other gentleman. He was an E-6.

Counsel:  
And what were those...were they about this case?

Witness:  
No ma'am. We were just bullshitting about everyday events.

Counsel:  
Of the people you see at this table...this person, this person, this person, and that person...are you friends with them?

Witness:  
No.

Counsel:  
Have you ever had conversations with them?

Witness:  
No.

Counsel:  
Thank you.

I/O:  
Any follow up?

#### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6) 2 - (7)(c) 2

Counsel: (b)(6) 4 - (7)(c) 4  
Yes sir, just one follow up. Specialist [REDACTED] when you were escorting who resisted you, and you had to put him to the ground, there was another soldier with you, right?

Witness:  
Correct.

Counsel:

012490

And you were the one who pretty much took control of the situation with that prisoner, right?

Witness:  
Yes.

Counsel:  
That soldier that was walking with you, was it any one of these soldiers sitting at that table there?

Witness:  
He looks familiar. Sergeant McKenzie looks familiar. I think he might have been the one with me.

Counsel:  
You think he might have been the one with you?

Witness:  
Yes.

Counsel:  
Okay.

I/O:  
Defense anything else?

Defense Counsel:  
No sir.

**Questions by the Investigating Officer:** LTC [REDACTED] (b)(6)-2; (7)(C) 2

I/O: (b)(6) -4; (7)(C) 4  
Specialist [REDACTED] when you said you saw the escorts giving verbal commands to the EPWs, describe for me the tone of voice and the inflection that they were using in those commands.

Witness:  
It was a firm tone of voice, letting them know that they were in-charge. They were just repeated once or twice. The individual would get the hint and start walking or get up or sit down, hurry up. Some individuals were just not cooperating and they just didn't want to go anywhere they were told, sir.

I/O:  
Did you hear any other commands or any other comments from any of the escorts besides the directives to the EPWs?

012491

Witness:

No.

I/O:

Were the verbal commands in English or Arabic?

Witness:

Some were in English. Some were in Arabic. There was a mix between the two.

I/O:

Okay. Did you recognize any of the Arabic commands?

Witness:

Yes. Stop, back up. Nothing much. Just simple words.

I/O:

And it's your testimony, under oath, that you had no...well let me just ask you. Have you had any contact or any meeting with any 320<sup>th</sup> person, soldier, member, any of the accused here since the incidents on May twelfth?

Witness:

Yes I have, sir.

I/O:

Describe those for me.

Witness:

The individuals sir?

I/O:

The individuals and the substance of your meeting.

Witness:

(b)(6)4-(7)(C)-4  
For some reason, there was three individuals from the 320<sup>th</sup> that were brought to our barracks in Camp Arifjan, where we were stationed at during force protection. And, I talked to a few of them. One was Sergeant [REDACTED] one was Specialist [REDACTED] and a Sergeant. I can't remember his last name, but he was one of the three. And pretty much it was just like hello, how's it going. I saw them in the PX and said hi. That's all the nature of the conversation was.

I/O:

Didn't discuss anything with regard to the incidents?

Witness:

No.

I/O: Okay. No other such contact other than that?

012492

Witness:  
No.

I/O:  
Okay. And you didn't have any substantive meetings with anybody else from the 320<sup>th</sup> prior to May twelfth?

Witness:  
No.

I/O:  
Or on the twelfth?

Witness:  
No.

I/O:  
Does anybody have any further questions?

All Counsel:  
No sir.

[The witness was duly warned, dismissed and left the room.]

(b)(6)-4; (7)(C)-4

#### DIRECT EXAMINATION

SSG [REDACTED] U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MA [REDACTED] (b)(6)-2, (7)(C)-2

Counsel:  
You are a SSG with the 314<sup>th</sup> MP Company, currently stationed in Baghdad.

Witness:  
Yes, sir

Counsel:  
Thank you very much.

#### CROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2, (7)(C)-2

012493

(b)(6)-4; (7)(C)-4

Counsel:

Morning Specialist [REDACTED] Specialist [REDACTED] you said you're with the 314<sup>th</sup> MP Company?

Witness:

Yes.

Counsel:

Were you with them back on the twelfth of May two thousand three?

Witness:

Yes.

Counsel:

What was your mission back on the twelfth of May?

Witness:

To work the perimeter security for the IF, the prison camp here at Bucca.

Counsel:

Were you also working the in processing?

Witness:

Yea, that and then we worked the in processing.

Counsel:

About how long before the twelfth of May did you start working in the in-processing center?

Witness:

I would say approximately a week.

Counsel:

Do you remember the bus-load of EPWs that came in on the twelfth of May?

Witness:

Yes.

Counsel:

Can you tell us what happened when they first came to get you?

Witness:

(b)(6)-4; (7)(C)-4 Sergeant [REDACTED] my NCOIC, came to me and said we needed somebody to go help escort off the bus. That's when I went over and escorted the first prisoner off the bus and moved out to the staging area.

012494

Counsel:

Okay. Let me take you back for a second. Now you said that Sergeant [REDACTED] came to get you and then you proceeded down to the bus?

(b)(6)-4; (7)(C)-4

Witness:

Right.

Counsel:

Were the prisoners still on the bus when you arrived there?

Witness:

Yes.

Counsel:

So no off-loaded had begun?

Witness:

No had off-loaded yet.

Counsel:

And you said that you escorted the first prisoner off the bus?

Witness:

Correct.

Counsel:

Can you describe what that prisoner was like?

Witness:

He was on crutches. I know he had gunshot wounds to his leg. I don't remember which leg. I believe it was his right leg. We off-loaded him real slow, on the crutches. Me and, I forget who... I don't know who helped me escort him. We picked him up under the arm and carried him to the staging area.

Counsel:

Okay. Who was originally with this prisoner when he was first getting off the bus?

Witness:

The MP?

Counsel:

Yes.

Witness:

I don't know. I know Sergeant [REDACTED] was there originally. And I don't know who the other MP was. I don't know name. I don't recognize'em.

(b)(6)-5; (7)(C)-5

012495

Counsel:

Okay. Not the MP that helped you, but the person who originally had him when he got off the bus. Master Sergeant [REDACTED] (b)(6)-5; (7)(C)-5

Witness:

Right.

Counsel:

Okay. Did she start having some problems with him?

Witness:

Yeah. He didn't want to...he was going real slow and he didn't want to...basically go to where we were telling him to go. We were pointing...We're going here, we're going here.

Counsel:

So what did you do?

Witness:

Then she grabbed his crutches and I held him underneath the arm and we carried him to the staging area.

Counsel:

You and another individual carried him to the staging area?

Witness:

Yes.

Counsel:

At any time during that process, did you see Master Sergeant [REDACTED] push him to the ground? (b)(6)-5; (7)(C)-5

Witness:

No.

Counsel:

Did he ever go down to the ground?

Witness:

His legs were giving out. He was basically acting limp. I'm sure he was in a great deal of pain with his gunshot wound, you know, he was favoring that leg. That's why we carried him.

Counsel:

Did you ever see him go down on the ground and anybody start punching or kicking him?

012496

Witness:

No.

Counsel:

Now you said that you and another escort escorted him to the staging line?

Witness:

Right, the staging area.

Counsel:

What happened from there.

Witness:

He was sat down and we had an interpreter there, and we told him...I told the interpreter that the prisoners were going to be coming in and this is where we were going to be staging them. I needed them to sit Indian style, with their heads down and not talk to each other. I remember because his leg had bandages and stuff all over it. He couldn't sit Indian style so he had his leg out straight.

Counsel:

What did you do with the prisoners in the staging area?

Witness:

After they were all there?

Counsel:

Yes.

Witness:

That's where they stayed and I was relieved.

Counsel:

Okay. So you're saying you escorted them all the way down the chute?

Witness:

(b)(6)F; (7)(C) -4  
No. I just escorted one and then Sergeant [REDACTED] had me stay there. And said okay this is where we're bringing the prisoners. I need you to stay here and guard the prisoners.

Counsel:

I'm sorry. I'm confused. Are you talking about the staging area right in front of the bus or the holding area down...

Witness:

No. The holding area.

012497

Counsel:  
Okay the holding area.

Witness:  
Yes. Yes. The holding area is the staging area. That's what I'm calling it.

Counsel:  
Okay. So you actually escorted him all the way down the lane?

Witness:  
Yes.

Counsel:  
And this was another soldier that you were with?

Witness:  
Yes.

Counsel:  
Do you know who that other soldier was?

Witness:  
No I don't know if he was...I know he was taller than me. That's the only time I saw him throughout the night.

Counsel:  
Do you know anybody from the 320<sup>th</sup> MP Company?

Witness:  
Just Master Sergeant (b)(6)-5, 7(c)-5 by face. I remember seeing her at her camp. I think when we were in country I recognized (b)(6)-5 think we went to basic AIT together.

Counsel:  
Did you ever talk to him in basic AIT?

Witness:  
No. He was in a different platoon. I may have. I don't know.

Counsel:  
Did you know any of these people like personally on a friendly basis or anything like that?

Witness:  
No. I knew they were in the 320<sup>th</sup>, that's all.

Counsel:

012498

Okay, so you said you escorted the very first prisoner of the evening. So was there anybody down in the holding area when you got there?

(b)(6) 4-(7)(C)-Y

Witness:

Not when I got down there. I was the first one. And that's when Sergeant [REDACTED] was behind me and said I need you to stay here and guard them.

Counsel:

So you remained in the holding area for the rest of the evening?

Witness:

Right.

Counsel:

So you remained in the holding area for the rest of the evening?

Witness:

Right.

Counsel:

So the escorts were bringing the prisoners to you?

Witness:

Right.

Counsel:

When they were bringing the prisoners in to you, did you ever see any of the EPWs noticeably injured?

Witness:

From wounds they already had from getting off the bus. They were bandaged.

Counsel:

Did you notice anybody holding their groin or limping or anything like that?

Witness:

A lot of them were injured already coming off the bus. That's the only injuries I noticed.

Counsel:

Did you see somebody with a little bit of blood underneath their nose?

Witness:

Yea, I saw one like it had been dried blood. It looked like it had been there for a while. I don't know if he had a bloody nose earlier.

Counsel:

When you were down in the holding area, did you have a translator down there?

012499

Witness:

Yes.

Counsel:

Did any of the EPWs ask you for medical attention or make any complaints to you?

Witness:

No. Not while I was down there.

Counsel:

What were the lighting conditions out there that night?

Witness:

(b)(6) 4; (7)(C) 4  
Poor. I even asked Sergeant [REDACTED] about getting more lights over there. You know, the generator lights. They can't be easily moved. I remember there was one light set that was kind of off to the distance. It was kind of pointing in our direction but it was still pretty poor.

Counsel:

What was your ability to see back down to the bus?

Witness:

I could barely see the bus.

Counsel:

Was it very noisy out there? Were you able to hear things pretty clearly?

Witness:

The bus is a far enough distance. I couldn't hear what they were saying down there. Once they started escorting them closer to me, I heard MP commands like walk, you know.

Counsel:

Did you hear anybody like screaming belittling any of the EPWs?

Witness:

No. Not where I was.

Counsel:

Did you hear any blood-curdling screams coming from anywhere?

Witness:

No.

Counsel: Do you think you would have noticed something like that?

**012500**

Witness:

If it was loud enough, probably.

Counsel:

During your escort down the lane, initially, and then when you were down at the holding area, did you ever see anything done to any EPW? Punching, kicking, anything of that nature.

Witness:

No. I didn't see any punching, kicking. No.

Counsel:

Now, a CID agent came to interview you back in May, is that correct?

Witness:

Yes.

Counsel:

Did they ask you to write a statement?

Witness:

No. He questioned me for a few minutes and said okay I'll get in contact with you later if I need anything else.

Counsel:

Thank you Specialist [REDACTED] (b)(6) -4 ; (7)(C) - 4

I/O:

Any further questions?

Defense counsel:

No, sir

I/O:

MAJ [REDACTED] (b)(6) -2 ; (7)(C) - 2

Major [REDACTED] (b)(6) -2 ; (7)(C) - 2  
Sir can I have a second?

I/O:

Sure.

Major [REDACTED]

No questions. Thank you sir.

012501

Questions by the Investigating Officer: LTC [REDACTED] (b)(6)-2; (7)(C)-2

I/O: (b)(6)-4, (7)(C)-4

Specialist [REDACTED] let me get this straight. You escorted the first EPW off the bus, took him to the holding area, and then you stayed at the holding area, basically for the rest of the period that night?

Witness:

Yes.

I/O:

In your estimation, how far was the holding area from the bus?

Witness:

Around fifty meters. I know I was getting tired carrying the guy. I'd say around fifty meters.

I/O:

And would you describe for me how you and the other escort assisted this EPW on crutches from the bus to the holding area?

Witness:

(b)(6)-5-7(C)-5  
After Master Sergeant [REDACTED] and the other escort, he was going real slow and then we tried to start carrying him and that's when Sergeant [REDACTED] grabbed his crutches and I grabbed his arm. He had his arms back like this...and then we had our arm under this and then wrapped around with his arm over my shoulder. Both of us, we carried him.

I/O:

And he was pretty passive?

Witness:

He wasn't really fighting us except for...he was telling us my leg, mister, my leg.

I/O:

Did somebody tell you he had gunshot wounds or was that obvious to you?

Witness:

I found out afterwards. They said that he had been shot in the leg.

I/O:

Have you had any previous contact or any meetings with any member of the 320<sup>th</sup> subsequent to twelve May?

Witness:

As far as like briefings with them or...?

012502

I/O:

Just any meetings or any contact. Has anybody approached you? Have you approached anybody in the 320<sup>th</sup>?

Witness:

I say hi, how you doing.

I/O:

Have you discussed anything about the incidents on twelve May with any member of the 320<sup>th</sup> since that time?

Witness:

Since that time there was a Sergeant [REDACTED] or E-5. (b)(6)-4; 7(c) 4

I/O:

Sergeant who?

Witness:

I don't know his name. He was down in Arifjan.

I/O:

Rice you think?

Witness:

Yes I think that's his name. An E-5. I'm not sure of his name.

I/O:

An E-5?

Witness:

Could be an E-5. I'm not sure if it's something else.

I/O:

Rice.

Witness:

That rings a bell. I'm not sure what his name is.

I/O:

Okay. Did you discuss anything with regard to what happened on twelve May?

Witness:

No.

I/O:

Okay. No other contact then?

012503

Witness:

No.

I/O:

Does anybody have any further questions?

Major [REDACTED]

I do.

(b)(6)(2); (7)(C) 2

**Questions by the trial counsel: MAJ [REDACTED]**

Counsel:

Specialist [REDACTED] have you discussed this matter with Sergeant [REDACTED] Sergeant [REDACTED] or Specialist [REDACTED]

(b)(6)(4); (7)(C) 4

Witness:

Yes. As far as...after May twelve?

Counsel:

Yes.

Witness:

Sure we talked.

Counsel:

About the incident?

Witness:

Just off-loading and Sergeant [REDACTED] said that...you know, mission accomplished.

(b)(6)(4)-(7)(C)-4

Counsel:

Anything else?

Witness:

No.

Counsel:

Did you talk about what you were going to say today?

Witness:

No. Basically we just keep to ourselves, you know. We don't talk about this stuff or--

Counsel:

No further questions, sir.

012504

Questions by the Investigating Officer: LTC [REDACTED] (b)(6) 2; 7(c) 2

I/O:

So it's my understanding that among Sergeant [REDACTED] (b) 6 - 4 - (7)(c) 4, Sergeant [REDACTED] and Specialist [REDACTED] you have or you haven't discussed the events of twelve May?

Witness:

We have not, No. But we knew that there was the hearing and everything and we just kinda as a group collectively decided not to talk about it. At least I have so--

I/O:

Decided not to talk to anybody?

Witness:

Not to talk to anybody about it.

I/O:

Or just not to talk about it, period.

Witness:

No.

I/O:

And you didn't discuss what your testimony, or what the testimony of any of the other members of the 314<sup>th</sup> that would be here today?

Witness:

No.

I/O:

Okay. Thank you.

[The witness was duly warned, dismissed and left the room.]

#### DIRECT EXAMINATION

(b)(6)-4 (7)(c)-4  
SPC [REDACTED] U.S. Army, was called as a witness for the Defense, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED] (b)(6) 2, (7)(c) - 2

Counsel:

You are a Specialist SG with the 320<sup>th</sup> MP Battalion, currently stationed in Baghdad.

Witness:

Yes.

012505

Counsel:  
Thank you.

### CROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6); 7(c) - 2

Counsel: (b)(6) - 4; (7)(c) - 4  
Specialist [REDACTED] you arrived at Camp Bucca around the last weekend of March, correct?

Witness:  
Yes.

Counsel:  
And you were working in the internment facility as a compound guard, initially?

Witness:  
Yes.

Counsel:  
How long did you perform those duties?

Witness:  
Two months.

Counsel:  
Couple months?

Witness:  
Yea.

Counsel:  
And the compound that you actually worked with was compound four, correct?

Witness:  
Yes.

Counsel:  
Your shifts were twelve hours on, twelve hours off?

Witness:  
Yes.

Counsel:  
So you had a good amount of interaction with the EPWs, right?

012506

Witness:

Yea.

Counsel:

In the two months that you worked down there, were there ever instances when EPWs complained about injuries that later turned out to be unfounded?

Witness:

Yea.

Counsel:

Could you describe some of that for me?

Witness:

There's a lot of pretending that they had seizures. Medics would come down and give them a shot of distilled water. They would be all right. A lot of times they would give them skittles. They would take the red skittles and go back. They were fine. They would complain about little bumps, scrapes and bruises. They wanted to go to the hospital for that when all that was needed was a band aid.

Counsel:

Could you tell the difference between a real complaint and something that was...?

Witness:

You got to know the people that complained too much that were usually faking, but usually if you didn't see somebody up there and they were complaining a lot then usually it was legitimate, but usually not.

Counsel:

Did you ever see an EPW scream and fall to the ground?

Witness:

Yea.

Counsel:

And later find out that that person was not injured at all?

Witness:

Yea.

Counsel:

You said you've seen seizures?

Witness:

Yea.

**012507**

Counsel:  
Did those turn out to be seizures?

Witness:  
No.

Counsel:  
Eventually you learned who the people were who would act, and you could kind of tell?

Witness:  
Yea.

Counsel:  
But until that point, what was your response?

Witness:  
I don't know what was going on. I wasn't a doctor so...

Counsel:  
So you called the medic?

Witness:  
Yea.

Counsel:  
You guarded the segregation unit down at the compound, right?

Counsel:  
Were you on guard about sixteen May, fifteen, sixteen May?

Witness:  
Yea.

Counsel:  
Who was in the segregation unit at that time?

Witness:  
They had some guys that were misbehaving from the regular compounds and then they had the two prisoners that were involved, I think, in this case.

Counsel:  
Why do you think there were two prisoners in segregation from the bus?

**012508**

Witness:

Because when I was guarding, CID came down and were asking them questions about the case.

Counsel:

Can you describe for me what the segregation unit is like down there?

Witness:

It consisted of CONEXs with, like, a wooden train in the front. The doors are taken off. There's a wooden train and then there's concertina wire nailed to the wooden frame so that you couldn't come through the door. It was like this big, with a little padlock and a chain.

Counsel:

So the front is concertina so you can see inside?

Witness:

Yes.

Counsel:

And these two prisoners were being held in the same CONEX together?

Witness:

Yes.

Counsel:

How did they look?

Witness:

They looked fine to me. They didn't have any visual injuries. They didn't complain of anything either.

Counsel:

No complaints to you at the time that you were...?

Witness:

No.

Counsel:

Any requests for medical treatment?

Witness:

No.

Counsel: Would it be typical for an EPW to ask a guard for medical treatment?

**012509**

Witness:

Yes, if they were hurt or if they were trying to get out of there?

Counsel:

Why pick a guard?

Witness:

We're the only ones who can talk to them.

Counsel:

You said that CID came down, right?

Witness:

Yes.

Counsel:

Can you remember who from CID came down?

Witness:

I can't remember their names. I know it was a Chief Warrant Officer, a Warrant Officer, I don't know what rank, and another agent. He looked a little Chinese. I don't remember their names.

Counsel:

Did they bring anybody else with them?

Witness:

Yes. They had another person. I don't think he was from CID. They were using him as an interpreter. I think he was from another unit.

Counsel:

Why do you think he was from another unit? How was he dressed?

Witness:

The CID lady came down in civilians, and the other guy came down, I think...he didn't have his blouse on. And this guy came down, he had a blouse on. I think he had some rank on.

Counsel:

The translator, you're talking about?

Witness:

Yes.

Counsel: Had a blouse on?

**012510**

Witness:  
Yes.

Counsel:  
Did they tell you why they came down to the CONEX?

Witness:  
They didn't tell me why. They just kinda walked in and said we're here to ask some questions, and that was it.

Counsel:  
Did you stand near the CONEX as they were asking questions?

Witness:  
Yes. I stood right there.

Counsel:  
To make sure that they weren't handing the prisoners any cigarettes or any reward because we're not supposed to.

Counsel:  
So did you hear the conversation that the agents had with the two guys that were in the CONEX?

Witness:  
Yes.

Counsel:  
What can you remember from the conversation?

Witness:  
I can remember them asking them what had happened. Where they had punched them. Where they had kicked them, specifically. She had said that she wanted to bring the MPs to justice that did this. Just specific questions about what had happened.

Counsel:  
When you say specifics, were they saying things like "were you kicked in this area; were you punched in this area"?

Witness:  
Yes.

Counsel:  
What was the dialogue back from the EPW?

**012511**

Witness:

They would kind of talk to each other about it first, and then one would say something to the interpreter. It would take the interpreter a little while to figure out what they were saying and then he would tell them what he had said.

Counsel:

Were they giving back lengthy answers or was it more a...?

Witness:

It was more of, kind of, short and choppy answers.

Counsel:

Did you see any of the agents take any notes?

Witness:

No.

Counsel:

Is there anything else that stands out in your mind about the dialogue that was going back and forth?

Witness:

No.

Counsel:

(b)(6)-4; (7)(c)-4  
[REDACTED] did you...did the agents ask them any open-ended questions to start, like do you remember what happened on the night you came in on the bus?

Witness:

No.

Counsel:

How did they start into the questioning?

Witness:

They came down and there was...she identified herself as CID and she just went right into questioning like "did they hurt you; did they...".  
Again, they started asking them specific questions about what had happened.

Counsel:

And you said by specifics, they were saying like...

Witness:

Where it had happened.

012512

Counsel:

So nobody ever asked them at any time...did this ever happen?

Witness:

No.

Counsel:

And the EPWs, were they agreeing with everything they said?

Witness:

More or less, yes. Some things they would say no to, but most of it was like, they would talk back and forth to each other. The one guy would go yea that's what happened.

Counsel:

Thank you Specialist (b)(6) 4- 7(c) -4

Questions by the defense counsel: MAJ (b)(6) 2 7(c) 2

Counsel: (b)(6) 2-7(c) 2

CPT (b)(6) asked you is it typical for an EPW to ask a guard for medical treatment, and your answer was yes, if they were hurt or if they wanted to get out of there. What do you mean by "if they wanted to get out of there"?

Witness:

Well, if they wanted the medical truck, they usually went to the hospital. In the hospital, they would get a bed to sleep on, air conditioned...it was like a little incentive for them to go on a little trip and get out of the compounds.

Counsel:

And with reference to the CID interview, you answered it would take the interpreter a little while to figure out what they were saying. What do you mean by that?

Witness:

I think he was Arabic, but I think the dialect was getting in the way. It would take him a little while to figure out what they were saying, and then he finally got it. He would tell the CID agents.

Counsel:

He got what he believed they were saying.

Witness:

Yea..

Counsel:

Thank you.

012513

**Questions by defense counsel: CPT [REDACTED]**

Counsel:

Specialist [REDACTED] have you ever seen this soldier/interpreter before?

(b)(6)-4; (7)(C) 4

Witness:

No I've never seen him before.

Counsel:

Have you seen other interviews with CID?

Witness:

No.

Counsel:

Okay. But you've seen other interpreters there in the IF?

Witness:

Yes, the ones that we use.

Counsel:

Okay. Thanks

**Questions by the defense counsel: CPT [REDACTED] (b)(6) 2; (7)(C) -2**

Counsel:

Follow-up on that. The ones that you normally use are who?

Witness:

Were other prisoners.

Counsel:

Okay. So they understood the language and the dialect?

Witness:

Yes.

Counsel:

Thank you.

I/O:

Anything else, CPT [REDACTED] (b)(6) 2; (7)(C) -2

Counsel:

No sir.

012514

I/O:  
MAJ [REDACTED] (b)(6) 2-7(c)(2)

# REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6) -2, (7)(C) 2

Counsel: (b)(6) -4 - (7)(C)(7)

[REDACTED], what was your job that day that you overheard this conversation?

Witness:

I was to guard the segregation unit.

Counsel:

And the reason you listened in on this conversation was why?

Witness:

I was standing there to make sure they didn't give the prisoners any cigarettes or any reward because they're not allowed to have anything like that.

Counsel:

And during that process you decided it was okay for you to listen to CID agents conducting interviews?

Witness:

Yes.

Counsel:

You thought that was okay?

Witness:

Yes.

Counsel:

And what you heard was...you said the CID agents would ask questions?

Witness:

Yes.

Counsel:

(b)(6) -2; (7)(C) 2  
And you said to CPT [REDACTED] that they weren't asking any open-ended questions, right?

Witness:

Yes.

012515

Counsel:

But your first question that came out of your mouth was you said that one of them said "did they hurt you", right?

Witness:

Yes.

Counsel:

And then there was some discussion, and there was an answer given, and then they said where did they hurt you?

Witness:

Yes.

Counsel:

The implication to that would be that the answer to the question "did they hurt you" would be yes.

Witness:

Yes.

Counsel:

Is that what they said, or do you not know?

Witness:

No, that's what they said, and then they went on asking specific questions.

Counsel:

So "did they hurt you" is kind of an open-ended question, isn't it?

Witness:

Yes.

Counsel:

Doesn't imply whether they were or were not, it just asks if somebody got hurt, right?

Witness:

Yes.

Counsel:

And wouldn't the logical questions for an investigator to ask, if after they were asked a question such as that, if after a question such as that was answered yes they hurt me, wouldn't the next question logically be where?

Witness: Yes.

012516

Counsel:  
And wasn't that the next question?

Witness:  
Yes.

Counsel:  
Okay. Thank you, no further questions.

I/O:  
Defense counsel, anything further?

### RECROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6)2 - (7)(c)2

Counsel: (b)(6)(4) - (7)(c)4  
SPC [REDACTED] did they just ask them "where were you hurt?" and then they just gave off a whole litany of everywhere where they hurt?

Witness:  
No.

Counsel:  
How did they do it?

Witness:  
They asked, after they asked them where they were hurt and they said, "yes we were hurt", they began saying well did they kick you here or did they punch you here, you know specific questions like that.

Counsel:  
Okay, thanks Specialist [REDACTED] (b)(6)4; (7)(c)4

I/O:  
Anything else from the defense?

Defense counsel: No, sir.

I/O:  
Government?  
(b)(6)2; (7)(c)2  
Major [REDACTED] No, sir.

[The witness was duly warned, dismissed and left the room.]

012517

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

[REDACTED] an interpreter, was sworn and interpreted the following witnesses testimony.

#### DIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2, (7)(C) 2  
(b)(6)-4, (7)(C) 4

[REDACTED] detainee at Camp Bucca, Iraq was called as a witness for the Government, was sworn and testified as follows:

Counsel:

Do you remember the night you came to Camp Bucca?

Witness:

Yes I do.

Counsel:

Were you on the bus that came from An Nasariyah on May the 12<sup>th</sup>?

Witness:

Yes, sir.

Counsel:

Please tell us what happened to you after you got off the bus at Camp Bucca.

Witness:

I was mistreated on the bus. The American soldier used bad words to us while we were getting on the bus. They were using words like "fuck your mother, fuck your sister" something like that. After that they tied our hands and used normal processing. We understand that there's no problem with security processing. They didn't let us drink any water. And from time to time they told us to shut up and not talk to each other. One soldier pointed his rifle in my face two times and I didn't do anything. While on the road the bus broke down and stopped for some mechanical reason.

They were fixing the bus and we didn't do anything. As we arrived at Um Quasar, the used they used fists to push us out. One soldier came to me and pushed me badly and they let me sit up on the stairs of the bus. Another MP said to me "fucking police" and hit me on my head. When we got on the bus at An Nasariyah they didn't let me sit on the seats. They said that this place was for dogs, and they made me sit in that place.

Counsel:

Did you sit on the floor of the bus?

012518

Witness:

Yes on the floor of the bus between the chairs. There was an empty chair, but they didn't let us sit there. We sat tied to each other, prisoners tied to each other. I had my lunch with me and he took it and threw it away. Three American soldiers came and pulled on me by force to the ground. Then 10 to 15 meters they pushed me to the floor again. One female soldier put her boot on my leg as I was laying on the floor.

I/O: Are we talking about incidents on the bus?

Counsel: I would like for you to tell me what happened to you after you got off the bus at Camp Bucca.

Witness:

Okay, they were pulling me on the floor for 15 meters, and after that they pushed me to lay the floor on the ground and they let my leg to get from each other and they put their boot on my leg. Another one he squeezed my head on the sand using his boot until my side face touches the sand. One American female beat me ten times on my ass with her boot.

Counsel:

Were these all American soldiers that did this to you?

Witness:

I don't know, it was night, but they were using English.

Counsel:

But you remember that one was female?

Witness:

Two females, I remember.

Counsel:

Did anyone else kick you, with their boot, between your legs?

Witness:

Yes, sir...around ten times.

Counsel:

Did it hurt to be kicked between the legs?

Witness:

Yes, it hurt.

Counsel:

Did you say anything when you were being kicked?

012519

Witness:

No they didn't answer me anything so I didn't speak.

Counsel:

Did you cry out in pain?

Witness:

I screamed.

Counsel:

Besides being kicked between the legs, did the soldiers touch you anywhere else?

Witness:

Only they pushed my face to the sand, and this we consider in Iraq as big criminal, insult me.

Counsel:

How did they push your face into the sand?

Witness:

I was laying on the sand after they pushed me on the sand they put their boot on the side the other side was on the sand. And then he pushed and squeezed it. Some sand blew inside my ear, and my mouth the doctor use sticks to take the sand from my ear.

Counsel:

Were your hands bound with tape or handcuffs?

Witness:

It was but when they pushed me it take off

Counsel:

Which direction were you facing when you were on the ground? Were you on your back or were you on your stomach?

Witness:

I was on my stomach.

Counsel:

Did anything else happen to you after you got off the bus?

Witness:

After they took me to the holding area one guy pulled me from my waist my stomach with tough hands he used expression "big American I'm in higher rank" after that the treatment started to be better they treat me in better way in holding area.

012520

Counsel:

Did you see any other prisoners when you got off the bus that night?

Witness:

Did I see any other prisoner they beat him?

Counsel:

Did you see any other prisoners being mistreated that night?

Witness:

I didn't see I only heard the screaming because they didn't allow me to raise my face. I only heard people suffering and screaming.

Counsel:

Did you resist the soldiers who were transporting you that night?

Witness:

Never, no.

Counsel:

Did you fight with the soldiers who were transporting you that night?

Witness:

No.

Counsel:

Did you obey the soldiers at all times?

Witness:

Yes.

Counsel:

Did anyone kick you in the stomach?

Witness:

No, how they kicked me in my stomach and my stomach directed to floor?

Counsel:

Did you talk to the lawyers that represent the soldiers yesterday?

Witness:

Yes.

Counsel:

Did they talk to you about going home?

012521

Witness:

The lawyer told him through Iraqi Major if you change your testimony we can release you tomorrow. The major informed that he did hear that directly from the lawyer and they inform him maybe we delay this trial two months. And we have been here four months and this holding, it seems to me, is way of making pressure on me to change my story or not telling the truth.

Counsel:

Are you telling the truth today?

Witness:

Yes.

Counsel:

Thank you, I don't have any more questions for you. Please answer any questions that anyone else might have.

Defense counsel: CPT [REDACTED] (b)(6) 2 - (7)(c) (2)

Sir I would like to ask for an immediate closed session of this hearing.

I/O:

Okay, what is it. I thought you meant that you wanted a side bar. No?

Defense counsel: CPT [REDACTED] (b)(6) 2 - (7)(c) (2)

I don't know if we can have a side bar out of the hearing of everybody, but I think we need to have a hearing out of the presence of the other-the spectators, the witnesses, the party.

I/O:

Okay.

I/O:

At this time due to the nature of the line of questioning for this particular individual, I'm going to order that all spectators and all members of the media please leave the hearing tent and we will have a ten minute recess to allow the defense to compare notes, and then we will resume with this individual.

I/O:

Defense counsel was concerned over perceived allegations of impropriety made by the government's question last question. At first we cleared the courtroom of both media and spectators, MAJ [REDACTED] PAO is advised that under the Freedom of Information Act since this is an open hearing the media does have access to the hearing and we will respect that and allow the media in on advice of the Legal Advisor. The spectators, because this is an open hearing, have the same standing as the media, so the hearing will continue to be open. Spectators and press will be allowed access and any remark Defense would like to add to that, you are invited to do so at this time.

012522

I/O:

Any remarks the defense would like to add to that you're invited to do at this time.

Defense counsel: No, sir.

I/O:

Government?

(b)(6)-2; (7)(C)-2

Major [REDACTED] No, sir.

### CROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)-4; (7)(C)-4

Mr. [REDACTED], when you were transported to Camp Bucca, you knew one of the other prisoners that was transported, correct?

Witness:

Yes I know one guy he is captain in Iraqi police.

Counsel:

And in the time that you have been here at Camp Bucca, you've come to know an Iraqi major named [REDACTED]:

Witness:

No.

Counsel:

EPW number [REDACTED] (b)(6)-4; (7)(C)-4

Witness:

His name [REDACTED], he is major in Iraqi army.

Counsel:

And his number is [REDACTED] (b)(6)-4; (7)(C)-4

Witness:

I do not recognize the number.

Counsel:

And this is the same major that told you that a translator told him that a defense attorney told him that he would be released if he changed his story, right?

012523

Witness:

Yes, in front of another witness in front of group of prisoners.

Counsel:

So he told the whole group of prisoners?

Witness:

He told the group of prisoners and I was listening. And then the major he thought that he is going to change his testimony ...

Counsel: (b)(6)4-7(c)4

Mr. [REDACTED], you've been interviewed several times in reference to this case, correct?

Witness:

Yes, I met CID, I met lawyer, I met--yes.

Counsel:

And the first time you were interviewed by CID, was when you were in segregation... you were in segregation area, correct?

Witness:

Yes, three days from arriving here.

Counsel:

And when they came to interview you what you wanted to talk to them about was about the conditions that you were living in at that time, correct?

Witness:

No, CID came and they told us that a group of American soldier has been witnessed that the bus arrived on 12<sup>th</sup> of May has been beaten-they beat them...

Counsel:

So at that time you did not say that, you did not complain about the fact that you were being held in a metal container surrounded by barbed wire?

Witness:

I didn't complain, but I explained to them how we lived. Even they checked me physical on my feet because I was walking in metal container, so they saw my feet, but I didn't complain just I was explain to them.

Counsel:

You told them that you needed to be released, correct?

Witness:

As I am police officer so I know the procedure, so I didn't ask them because they have to complete investigation.

012524

Counsel:

And you're being held right now because you're being investigated for war crimes, correct?

Witness:

I don't know and I'm not war criminal.

Counsel:

CID is investigating you for war crimes, correct?

Witness:

No, but only the who I am I am police officer and I worked with American one month and after five days I received salary from American side, but the reason for holding me is nonsense.

Counsel:

Mr. [REDACTED], you're not being held pending an investigation by CID for war crimes, is that your testimony?

Witness:

No I am not war criminal.

Counsel:

I did not ask if you're a war criminal. Mr. [REDACTED] I asked if you're being held here because you're being investigated for war crimes.

Witness:

Negative, no.

Counsel:

Mr. [REDACTED] before you boarded the bus in An Nasariyah to come to Camp Bucca, you were not given a medical examination, correct?

Witness:

No.

Counsel:

And you remember that when you boarded the bus there were soldiers on the bus, correct?

Witness:

Beside the driver standing?

Counsel:

After the bus was boarded with EPWs then soldiers got on the bus, correct?

012525

Witness:

Yes.

Counsel:

And those soldiers were on the bus for the trip to Camp Bucca?

Witness:

Yes.

Counsel:

And you were told to keep your head down, correct?

Witness:

Correct.

Counsel:

But from time-to-time you looked up at the soldiers, correct?

Witness:

Yes, it is difficult for three hours to keep your head for many hours down. Sometimes the prisoners ask for water he has to raise his head.

Counsel:

(b)(6)-4;(7)(C)-4  
Mr. [REDACTED] the times that you looked up you could tell that there were four male soldiers on the bus, is that correct?

Witness:

No, as I believe only one female and the rest are male.

Counsel:

So you noticed that there were four male soldiers on the bus and one female?

Witness:

Yes, the exact number I don't know but I remember one female and the rest male.

Counsel:

And one of the soldiers was a tall soldier with a shotgun, correct?

Witness:

Yes.

Counsel:

And from time-to-time, if EPWs looked up or did not follow instructions, then he would yell at the EPWs?

Witness:

Yes.

012526

Counsel:

And he pointed his weapon at the EPWs?

Witness:

Yes, he pointed his gun for me two times as soon as I raise my head.

Counsel:

And during the trip you were made to kneel down in the aisle, correct?

Witness:

Yes.

Counsel:

And while you were on the bus, soldiers yelled different things at you, obscenities at you?

Witness:

No.

Counsel:

That was before you got on the bus?

Witness:

Yes when we stand on the line he was yelling and using bad words at us.

Counsel:

And then when you arrived at Camp Bucca, the tall soldier with the shotgun was standing right outside the door of the bus, correct?

Witness:

Yes.

Counsel:

And when he picked you up and pulled you off the bus, he hit you with his head, correct?

Witness:

No, he let me sit down on the stair of the bus. There are these three stairs and he let me sit down until he take another prisoner to send him, and he yelled and using bad words.

Counsel:

And he said "fucking police"? And then he hit you in the head with his head?

Witness:

Yes he said "fucking police" and then he use his head, beat me by his head.

Counsel:

And that was the tall soldier with the shotgun, correct?

012527

Witness:

Yes.

Counsel:

The same soldier that was on the bus?

Witness:

Yes.

Counsel:

You said that later on when you got outside the bus that you were kicked, and you said that only one person kicked you, correct?

Witness:

Yes, correct.

Counsel:

And you don't know if it was a male or female, correct?

Witness:

Yes I don't know, but I recognize from her voice that she's female. And the other soldier he was putting his boot on my face.

Counsel:

And there was no one else was touching you from behind, correct?

Witness:

Only one...this female beat me ten times.

Counsel:

And the female was not the same female you saw on the bus, correct?

Witness:

Not the same.

Counsel:

And this kicking that happened, this happened all at one time, correct?

Witness:

Only one time, it happened one time.

Counsel:

When CID came to interview you, that was three days after you arrived at Camp Bucca, correct?

012528

Witness:  
Yes, correct.

Counsel:  
And at that time you did not seek any medical treatment, correct?

Witness:  
Correct, yes.

Counsel:  
And you didn't seek any medical treatment after you got off of the bus, the same night that you arrived at Camp Bucca?

Witness:  
Medical assistance no I didn't receive anything.

Counsel:  
And you didn't seek, when you talked to CID, you didn't seek any medical treatment because you were not injured, correct?

Witness:  
Correct, but no. I ask for a doctor to check my ear, and they send me doctor next day after interview by CID. The CID promise me they will send me doctor, and they did that next day.

Counsel:  
When you talked to CID you told them that you were beaten on more than one occasion, correct?

Witness:  
Yes, correct.

Counsel:  
You said the second time happened when you were being moved from the in processing area to the confinement compound, correct?

Witness:  
Yes correct.

Counsel:  
And you that during that second time that a loaded weapon was pointed at you head, correct?

Witness:  
Correct, yes.

012529

Counsel:

And you were told that you were going to be killed, correct?

Witness:

Yes correct.

Counsel:

And after you told CID that they never came back and questioned you about that incident again, did they?

Witness:

Yes correct.

Counsel:

That's correct they did not?

Witness:

Yes, but during the investigation they told me only speak about the bus accident only, so that's the reason I didn't open again the topic.

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)-4; 7E)-4

Mr. [REDACTED] do you remember speaking with me two weeks ago?

Witness:

Yes I remember.

Counsel:

And the first thing you said to me was "when am I going to be released", right?

Witness:

No.

Counsel:

You didn't ask me when you were going to be released?

Witness:

Yes, I did but your release is not related to us, but after the trial your release is not related to us we have to investigate another department like CID maybe they release you or no.

Counsel:

Right I said I have no control over whether or not you're going to be released, correct?

Witness:

Yes you and the lawyer also, you said that.

012530

Counsel:

Remember I showed you my hat I said, "I'm a captain I can't control those things"?

Witness:

Yes.

Counsel:

Because you haven't been cleared by CID yet, have you?

Witness:

I don't know.

Counsel:

On the bus, on the inside, you were picked up with captain (b)(6) 4; (7)(C)-4 correct?

Witness:

Yes.

Counsel:

And he was with you on the bus as well, right?

Witness:

Yes.

Counsel:

In fact he was sitting right in front of you on the bus, right?

Witness:

Yes, right.

Counsel:

And you said that you've met another major since you've been held here, correct?

Witness:

Yes.

Counsel:

Major (b)(6) 4 - (7)(C)-4

Witness:

Yes.

Counsel:

And right now all three of you are being held together in the same compound?

012531

Witness:

No, in separate compounds, the other two people with officer compound and me I am in another compound.

Counsel:

Okay so the captain and the major there together and you're separate?

Witness:

No, me and the captain in one compound and the major in another compound because as we are police we are civilian the major is in army.

Counsel:

In the military?

Witness:

Yes in the military.

Counsel:

After you talked to CID they moved you from segregation, right?

Witness:

Yes.

Counsel:

They took you out of the segregation cell?

Witness:

Yes two days after I speak to CID, as I believe maybe they are going to release me or they finish my talking as I thought.

**Questions by the defense counsel:** CPT [REDACTED] (b)(6)-2, (7)(C)-2

Counsel:

Do you recall talking to myself and the major last night?

Witness:

Yes.

Counsel:

And we asked you if you had been cleared for release?

Witness:

Yes but I answered you I don't know.

Counsel: And you told us you did not know, correct?

012532

Witness:  
Yes.

Counsel:  
And that was all we discussed about your release, correct?

Witness:  
Yes.

Counsel:  
Thank you.

Questions by the defense counsel: MAJ [REDACTED] (b)(6)2-7(c)-2

Counsel:  
Sir how were you captured and brought into custody?

Witness:  
I worked with Marines 45 days on Somawa...(the detainee was interrupted by Defense counsel and directed to answer the question) My commander police officer asked me "we have meeting and you have to report to police station" he informed me one day before I fought with my commander and he threaten me "I will make American arrested you and captured you tomorrow"...because me as police officer from the department of police officer I have more experience than my commander, because my commander is from fire department.

Counsel:  
So your commander is from the fire department, commander told you you have a meeting the following day and your commander is going to make you go to the Americans? Do I understand correct?

Witness:  
During a fight between me and my commander, he threatened me "I will let American arrest you".

Counsel:  
And then what happened?

Witness:  
After they informed us there is meeting on Marine's base I went to there... I left my home car on the main gate me and the captain [REDACTED] after we left our car beside main gate we arrive to the main gate to the American Marines stop us asked us to raise our hands capture us then transfer us directly to Nasariyah.

012533

Counsel:

And went you, let's going to move on to Camp Bucca now, when you arrived at Camp Bucca?

Witness:

Yes the same day.

Counsel:

You lived in a metal container when you first got here, correct?

Witness:

Yes.

Counsel:

With barbed wire around it, correct?

Witness:

Yes they hold us for one week, almost one week in this metal container yes they hold us for one week.

Counsel:

Who is "us"?

Witness:

Captain [REDACTED]

b6-4, b7C-4

Counsel:

Only you, from that bus load, only you and the captain were held in these metal containers?

Witness:

Yes.

Counsel:

And the other EPWs the other detainees from the bus, they went to the compound, correct?

Witness:

Yes.

Counsel:

And were you alone, in the metal container, or did you share it with the captain?

012534

Witness:

We stayed with them three days, after that they separate Captain [REDACTED] to another metal container. (b)(6)-4; (7)(C)-4

Counsel:

Now the other EPWs in the compound, they were allowed to roam freely around the compound, they had tents to go into out of the shade, correct?

Witness:

Yes.

Counsel:

He said he--just a moment please. I have no further questions.

IO: Major [REDACTED] (b)(6)-2; (7)(C) 2

### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6) 2 - (7)(C) -2

Counsel:

Sir, when the soldiers kicked you between the legs, your head was pressed into the sand, correct?

Witness:

Yes.

Counsel:

When your head was pressed into the sand, it was difficult to see wasn't it?

Witness:

Yes.

Counsel:

And it was--

Witness:

Yes, correct.

Counsel:

When your head was pressed into the sand, it was difficult to see, wasn't it?

Witness:

Yes, correct.

012535

Counsel:  
And it was impossible to see who was kicking you, right?

Witness:  
Yes. Right.

Counsel:  
And you recognized that it was a woman by the voice, correct?

Witness:  
Yes, correct.

Counsel:  
Now, you said that the person beat you between the legs with their boot, right?

Witness:  
Yes.

Counsel: (S)(b)2-7(c)-2  
And you were asked by CPT [REDACTED] if you had any injuries, is that right?

Witness:  
Yes, correct.

Counsel:  
Isn't it true that you urinated blood?

Witness:  
Yes I was bleeding for one or two days and then it stopped.

I/O:  
I'm sorry could you repeat that?

Witness:  
Yes I was bleeding for one or two days, and as I bleed it is internal injured.

Counsel:  
The last part was?

Witness:  
Internal. Inside injured.

Counsel:  
Internal injury.

012536

Witness:  
Yes.

Counsel:  
Did he bleed when he went to the bathroom?

Witness:  
Yes. Little drop and it stop.

I/O:  
Say that again please.

Witness:  
Little drop. I was bleeding little drop and it stop.

Counsel:  
Was he bleeding before he was kicked by the soldiers?

Witness:  
No.

Counsel:  
Did you have any bruises?

Witness:  
No, never.

Counsel:  
Thank you.

I/O:  
Anyone on the defense? Any questions?

#### RECROSS-EXAMINATION

Questions by the defense counsel: MAJ [REDACTED]

Counsel:  
Does he recall talking to CPT [REDACTED] and myself last night?

Witness:  
Yes.

Counsel:  
And does he recall saying that he did not ask for a doctor because he was not injured?

012537

Witness:  
Yes I told you that.

Counsel:  
Thank you. I have no more questions.

I/O:  
Anyone else?

Defense counsel:  
No sir.

I/O:  
Major [REDACTED] - (b)(6) - 2 ; (7)(C) 2

Major [REDACTED]  
No, sir.

[The witness was dismissed, and left the room.]

(b)(6) - 7 ; 7(C) 7  
[REDACTED] an interpreter, previously sworn and interpreted the following witnesses testimony.

#### DIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6) - 2 ; (7)(C) - 2

(b)(6) 4 - 7(C) - 4 [REDACTED] a detainee at Camp Bucca, Iraq was called as a witness for the Government, was sworn and testified as follows:

Counsel:  
Thank you. Sir, did you come to Camp Bucca on a bus from Nasiriyah?

Witness:  
Yes.

Counsel:  
Do you remember the day that you came?

Witness:  
Yes. Twelve of May.

Counsel:  
Sir, I would like you to tell us what happened after you got off the bus here at Camp Bucca.

012538

Witness:

One soldier push me. There was another soldier standing on the board, on the inside, soldier. He delivered me to the next soldier. In front of me was two prisoner. One of them, he was handicapped or using hand help.

Counsel:  
Crutches?

Witness:  
Yes.

Counsel:  
Did you see what happened to the man on the crutches?

Witness:  
Yes. Two soldier hold from his underarms and they were pulling him, and his leg was following on the sand. They did that around twenty to thirty meters. They holding his hand and ask him to keep his head down.

Counsel:  
Are you now talking about what they did to you, sir?

Witness:  
No I am not talking about what they did to me, but I am talking about what they did to the other man.

Counsel:  
The man on crutches?

Witness:  
Yes.

Counsel:  
Okay, I'm sorry. Continue.

Witness:  
Until we come close to the tent...and after that, they push him and let him lay on the floor. They order me to sit down. And then I sat down and put my head down.

Counsel:  
When the man on crutches was being pulled along and his feet were following in the sand, was he making any sound?

Witness:  
Yes. He was yelling.

012539

Counsel:  
He was yelling?

Witness: Yes.

Counsel:  
Did he appear to be in pain?

Witness:  
Yes.

Counsel:  
What happened to his crutches?

Witness:  
I don't remember. I don't remember.

Counsel:  
Did you resist any of the soldiers that were escorting you that night?

Witness:  
Never.

Counsel:  
Did you try to fight with any of the soldier that escorted you that night?

Witness:  
Never.

Counsel:  
Did you obey all of the orders that the soldiers gave you?

Witness:  
Yes.

Counsel:  
Did you see any other prisoners being escorted that night?

Witness:  
I saw only two people in front of me.

Counsel:  
And that was the man on the crutches and one other man?

Witness: Yes.

012540

Counsel:

Did you hear any of your fellow prisoners making any sounds that night besides the man on crutches?

Witness:

Yes.

Counsel:

And what were the other prisoners saying?

Witness:

I heard Yelling from pain. Prisoner object to soldier.

Counsel:

Yelling from pain?

Witness:

Yes.

Counsel:

The man that you saw that was on crutches, did he...did you see him resist the soldiers?

Witness:

No never.

Counsel:

Did he try to fight with the soldiers?

Witness:

No, he cannot walk. How he can fight?

Counsel:

Thank you sir. Please answer any questions that anyone else may have.

### **CROSS-EXAMINATION**

Questions by the defense counsel: CPI [REDACTED] (b)(6)-2 ; (7)(C)-2

Counsel:

You sat behind the Major on crutches on the bus from Tallil to Bucca, correct?

Witness:

Yes.

Counsel: And on that bus ride, no one was hit on the bus, correct?

012541

Witness:  
Yes, right.

Counsel:  
The Major on crutches was never hit on the bus, correct?

Witness:  
No one beat him.

Counsel:  
No one took a half empty water bottle and hit him about the head, did they?

Witness:  
No one beat him. The Major asked for water to drink, but the soldier, he said I will make pee pee in bottle and give it to you.

Counsel:  
Okay.

I/O:  
I'm sorry, repeat now. The last part...giving the water.

Witness:  
He asked for water to drink and the soldier answered him I will pee pee in bottle and give it to you to drink.

I/O:  
I will pee in the bottle and give it to you to drink?

Witness:  
Yes.

I/O:  
Okay.

Counsel:  
Okay. You were one of the first people escorted off the bus, correct?

Witness:  
I go first and then the Major, he come to the bus.

Counsel:  
Okay. So you were right behind the Major on crutches?

Witness:  
Yes.

012542

Counsel:

You did not see the Major on the crutches get kicked, correct?

Witness:

Correct.

Counsel:

You never saw him get hit, correct?

Witness:

Correct.

Counsel:

You just saw two soldiers helping him along with their hands under his arms, correct?

Witness:

Yes, right, but he was in pain.

Counsel:

Okay. No one hit you that night, correct?

Witness:

Right.

Counsel:

And no one kicked you that night, right?

Witness:

Right.

Counsel:

CID came to talk to you a couple days after this incident, correct?

Witness:

Yes.

Counsel:

And you told them that you were handled roughly when you went from in-processing to the compound the next day, correct?

Witness:

Yes, right.

Counsel:

But nothing happened to you when you got off the bus?

012543

Witness:  
Yes, right.

Counsel:  
Thank you.

I/O:  
Any further questions?

**Questions by the defense counsel:** MAJ [REDACTED] (b)(6)-2; (7)(C) -2

Counsel:  
When you were escorted off the bus, where was the final destination? Was it in the holding area by a tent?

Witness:  
Near by tent.

Counsel:  
So he was escorted from the bus through a lane that was lined with barbed-wire, and sat down by a tent?

Witness:  
Yes.

Counsel:  
And the Major on crutches was escorted right in front of you, correct?

Witness:  
Right.

Counsel:  
When he was escorted, there was nobody holding him under his arms, correct?

Witness:  
Correct.

Counsel:  
So he saw the Major, the Major on the crutches, he saw him from the time he got off the bus to the time he was brought to the holding area near the tent, right?

Witness:  
Yes, correct.

Counsel: Thank you.

012544

I/O:

Any other questions? Major [REDACTED] (b)(6) 2; (7)(C) - 2

**REDIRECT EXAMINATION**

**Questions by the trial counsel: MAJ [REDACTED]**

Counsel:

Yes sir, thank you. Sir were you told to keep your head down when you got off the bus?

Witness:

Yes.

Counsel:

The Major on crutches, was he being helped along or was he being dragged by the soldiers?

Witness:

I don't know if they were helping him or no, but what I know he was laying from pain.

Counsel:

I'm sorry.

Witness:

He was painning, but I don't know if they were helping him or only pulling him.

Counsel:

Thank you.

**RECROSS-EXAMINATION**

**Questions by the defense counsel: CPT [REDACTED] (b)(6) 2; (7)(C) - 2**

Counsel: (b)(6)-4; 7(c)-4

Mr. [REDACTED] the Major on the crutches was in front of you the whole way from the bus to the in-processing area, correct?

Witness:

Yes, correct.

Counsel:

And you walked in a group that entire way, correct?

Witness:

Yes, correct.

012545

Counsel:  
Thank you.

I/O:  
Any further questions? No? Just two questions.

Questions by the Investigating Officer: LTC [REDACTED] (b)(6)-2; (7)(c) 2

I/O:  
What was Mr. [REDACTED]'s occupation before he came into custody of coalition forces?

Witness: (b)(6)-4; (7)(c)-4  
Police officer.

I/O:  
Did he hold a specific rank in the police force?

Witness:  
Captain.

I/O:  
Where?

Witness:  
Samawa.

I/O:  
You stated that the man on crutches...that he observed...was pushed to the ground once he reached the holding area. Can he describe for me how he was pushed to the ground?

Witness:  
Can I stand and show you?

I/O:  
Sure.

Witness:  
Okay they were holding him from under his arm, then they let go him...then he fell down like this.

I/O:  
They just let go and he fell down?

Witness:  
Yes sir.

012546

I/O:

Okay. Any further questions? Please thank Mr. (b)(6)4 (b)(7)(C)4 for being here today and the MPs will escort him back to the area.

[The witness was dismissed, and left the room.]

(b)(6)7; (b)(7)(C)7  
[REDACTED] an interpreter, was sworn and interpreted the following witnesses testimony.

#### DIRECT EXAMINATION

Questions by the trial counsel: MA (b)(6)2 (b)(7)(C)2

(b)(6)4 (b)(7)(C)4 - 4  
[REDACTED], a detainee at Camp Bucca, Iraq was called as a witness for the Government, was sworn and testified as follows:

Counsel:

Thank you. Sir, did you come to Camp Bucca on a bus from An Nasiriyah?

Witness:

Yes.

Counsel:

And what day did you come here to Camp Bucca?

Witness:

He's not sure it was May twelfth.

Counsel:

Now, would you please tell us what happened after you got off the bus here at Camp Bucca?

Witness:

They beat me when I get out of the bus.

Counsel

All right.

I/O:

Sorry I didn't hear.

Witness:

They beat me when I get out of the bus.

012547

Counsel:  
How did they beat you?

Witness:  
One of the soldier, he carried me and throw me on the sand.

Counsel:  
How did the soldier throw you on the sand?

Witness:  
Some tall guy, he came and he carried me and he throw me on the ground.

Counsel:  
Could you please stand up a show how the soldier threw you to the ground.

Witness:  
I just came out from the bus. Another was talking to me in English. I didn't understand him. Then the tall guy came and he carried me. Somebody carried me like this.

Counsel:  
Let the record reflect that you are grabbing his right arm and his right thigh with your two hands.

Witness:  
Yes.

Counsel:  
And then what did he do?

Witness:  
He carried me and he throw me.

Counsel:  
He carried him and he threw him to the ground?

Witness:  
Yes.

Counsel:  
Please sit down sir.

Witness:  
What part of your body hit the ground first?

Witness:  
My hands. I yelled "ouch" and he beated me also.

012548

Counsel:  
How did he beat you after you yelled?

Witness:  
With his boot on my hand.

Counsel:  
He used his feet to step on his hands?

Witness:  
Yes. No he kicked me with his boot on my hand.

Counsel:  
He kicked him with his boot on his hand. How did that feel?

Witness:  
My hand was hurting me, but I didn't say any word after because I'm afraid he will beat me again.

Counsel:  
Now the man, the soldier that beat you, was he on the bus from the ride down from An Nasiriyah to Camp Bucca?

Witness:  
No.

Counsel:  
He was a different soldier?

Witness:  
Yes he wasn't inside the bus.

Counsel:  
Was your brother on this bus ride with you?

Witness:  
Yes.

Counsel:  
Did anything happen to your brother when you got to Camp Bucca?

Witness:  
Yes they beated him.

Counsel: Did you see your brother get beaten?

012549

Witness:

I didn't see them when they beat him, but I saw he took his t-shirt and some blood was coming from his nose.

Counsel:

How do you know that your brother was beaten?

Witness:

From the blood.

Counsel:

Did he see the soldiers that were around his brother?

Witness:

No I didn't see.

Counsel:

Did you see any other prisoners get beaten that night?

Witness:

No, only my brother.

Counsel:

And your brother's name is [REDACTED] (b)(6)-4; (7)(C)-4

Witness:

Yes.

Counsel:

Do you know your brother's ISN number?

Witness:

[REDACTED] (b)(6)-4; (7)(C)-4

Counsel:

The hand that the soldier kicked, which one was it?

Witness:

Right one.

Counsel:

Now, I noticed that your right arm appears to have an injury at the elbow, is that correct?

Witness:

Yes, this is the place I been beaten.

012550

Counsel:  
Was your arm injured earlier in that manner?

Witness:  
Yes it was broke.

Counsel:  
It was broken before?

Witness:  
Yes, before.

Counsel:  
When the soldier kicked you with his boot, what did that do to your arm?

Witness:  
It became hurting me.

Counsel:  
Did you scream in pain when the soldier beat you or threw you to the ground?

Witness:  
Yes, I yelled when he throw me and beated me as well.

Counsel:  
Did you resist any of the soldiers that escorted you that night?

Witness:  
No.

Counsel:  
Did you try to fight with any of the soldiers at Camp Bucca?

Witness:  
No. We were just sitting in the chairs and they were saying to us don't talk, don't eat.

Counsel:  
Did you obey all the orders all the soldiers on the night you came to Camp Bucca?

Witness:  
Yes I did.

Counsel:  
Thank you sir. I don't have any questions. Please answer any questions the other lawyers might have.

012551

I/O:  
Defense, go ahead.

**CROSS-EXAMINATION**

**Questions by the defense counsel:** CPT [REDACTED] (b)(6)-2, (7)(C)(2)

Counsel:  
You and your brother were picked up in Baghdad, correct?

Witness:  
We are three brothers.

Counsel:  
Okay. All three of you were picked up at the same time in Baghdad, right?

Witness:  
Yes.

Counsel: (b)(6)4-(7)(C)4  
And your brother, [REDACTED] was with you on the bus, right?

Witness:  
Yes.

Counsel:  
You were held for several days before you got on the bus, right?

Witness:  
Yes.

Counsel:  
To be questioned?

Witness:  
Yes they investigate us in Baghdad and in Nasiriyah also.

Counsel:  
In Baghdad and in Nasiriyah?

Witness:  
Yes.

Counsel:  
You were sitting near your brother on the bus, right?

012552

Witness:  
Yes.

Counsel:  
This injury to your arm that you talked about, that happened a long time ago, right?

Witness:  
Yes, in 1991.

Counsel:  
Back in 1991 is when you first hurt your arm?

Witness:  
Yes.

Counsel:  
And you didn't receive any medical care for your arm in Baghdad or in Nasiriyah, right?

Witness:  
Yes, correct.

Counsel:  
And before they put you on the bus, they put your hands in handcuffs, right?

Witness:  
Yes.

Counsel:  
In handcuffs in front of you like this?

Witness:  
No like this way.

Counsel:  
Just like all the other prisoners, right?

Witness:  
Yes, correct.

Counsel:  
Can you remember getting off the bus?

Witness:  
Yes.

012553

Counsel:  
And people were shouting at you in English?

Witness:  
They were shouting at the people who are sitting in the middle and they were saying shut up and fuck you.

Counsel:  
They were saying shut up and fuck you?

Witness:  
Yes.

Counsel:  
When you were getting off the bus, there was yelling too, right?

Witness:  
I didn't hear any shouting when I get out of the bus.

Counsel:  
People were talking to you in English, weren't they?

Witness:  
Yes.

Counsel:  
And you said back no, no, no.

Witness:  
I said yes.

Counsel:  
Do you remember talking to me two weeks ago?

Witness:  
Yes.

Counsel:  
And telling me when you got off the bus, you were saying no, no, no.

Witness:  
What I told you was the guy, he talk to me in English and I don't understand him and I said yes, yes, yes.

**012554**

Counsel:  
And when you got off the bus, you wanted to find your brother, right?

Witness:  
Yes.

Counsel:  
You wanted to wait for him?

Witness:  
Three of them were sitting in the same chair. I was the second one of my brothers getting off the bus.

Counsel:  
When you got off the bus, you were looking for your brother, right?

Witness:  
Yes.

Counsel:  
And when you were on the ground, the tall soldier put his hands on your legs, right?

Witness:  
No he put my legs with my back together.

Counsel:  
And put his hands on your leg, right?

Witness:  
No.

Counsel:  
Where were his hands?

Witness:  
He captured my legs and put them to my back.

Counsel:  
With his hands?

Witness:  
Yes.

Counsel:  
He was talking to you in English, correct?

012555

Witness:

Yes.

Counsel:

He was trying to talk to you in English?

Witness:

Yes, and I didn't understand what he saying.

Counsel:

And at the same time, your brother was laying there too, right?

Witness:

Yes he was near me.

Counsel:

You didn't actually see what happened to your brother, right?

Witness:

When we just get out from the bus, I didn't see him. I saw him after he was bleeding from his nose.

Counsel:

Right. But you didn't see how that happened?

Witness:

I saw them, they were beating him with the legs, but I didn't see the faces.

Counsel:

Do you remember talking to CID?

Witness:

Yes.

Counsel:

About three days after this happened?

Witness:

I did not talk after three days to the CID. I just talk on the first day to the interpreter.

Counsel:

So you never talked to CID?

Witness:

Yes they came and take us all to camp number six.

012556

Counsel:  
So you did talk to them, right?

Witness:  
Yes.

Counsel:  
And you told them that while all this was happening, your face was in the ground, right?

Witness:  
Yes.

Counsel:  
Thank you.

**Questions by the defense counsel: MAJ [REDACTED] (b)(6) 2, 7(c) 2**

Counsel:  
Sir, you said, when the prosecutor asked you...he said you obeyed every order that the soldiers gave you that night...you said yes. Is that correct?

Witness:  
Yes.

Counsel:  
But you don't speak English, do you?

Witness:  
No I don't understand English.

Counsel:  
So you really don't know if you were doing what the soldiers wanted you to do.

Witness:  
Yes.

Counsel:  
Thank you.

I/O: (b)(6) 2, 7(c) 2  
Anyone else? CPT [REDACTED], do you have any questions?

Counsel:  
No sir.

012557

I/O:

MAJ [REDACTED]

(b)(6)zj(7)(c)-2

**REDIRECT EXAMINATION**

**Questions by the trial counsel: MAJ [REDACTED]**

Counsel:

Yes sir, thank you. Were your arms handcuffed the entire time after you got off the bus 'til you went to the tent?

Witness:

Yes, until we get near the tent...they open it.

Counsel:

When the soldier threw you to the ground, did your face hit the ground?

Witness:

Yes it was in the sand.

Counsel:

How did it hit the ground?

Witness:

From the front of my face.

Counsel:

Face first into the sand?

Witness:

First my hand and then my face.

Counsel:

Okay. First your hand then your face, but your face hit the sand face...straight into the sand, is that right?

Witness:

Yes, and the sand entered into my mouth.

Counsel:

Thank you, no further questions.

I/O:

Any other questions from the defense?

**012558**

**RECROSS-EXAMINATION**

**Questions by the defense counsel:** MAJ [REDACTED] (b)(6)-2 ; 7(c)(2)

Counsel:

Can you please describe the soldier that threw you to the ground?

Witness:

He is tall, and he has...this one is big.

Counsel:

Pointing to your chin, correct?

Witness:

Yes, it's big.

Counsel:

Thank you.

I/O:

Anything else? Major [REDACTED]

Major [REDACTED] (b)(6)(2) - (7)(c) - 2  
No, sir.

**Questions by the Investigating Officer:** LTC [REDACTED] (b)(6)-2 ; (7)(c) - 2

I/O:

(b)(6)-4 ; (7)(c) 4  
Could you please ask Mr. [REDACTED] how many times he was kicked...his right hand was kicked when he hit the ground?

Witness:

Twice.

I/O:

And he said that he saw...he mentioned that when he saw his brother, he saw blood from his nose and he took off his t-shirt, did he see any obvious signs of injury to his brother's body when he took off his t-shirt?

Witness:

Only the blood on his nose.

I/O:

I don't have any further questions. Please thank [REDACTED] and he'll be escorted back to the holding area.

012559

[The witness was dismissed, and left the room.]

(b)(6)-7 - (7)(C)-7  
[REDACTED] an interpreter, was previously sworn and interpreted the following witnesses testimony.

### DIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2 - (7)(C)-2  
[REDACTED] (b)(6)-4; (7)(C)-4  
[REDACTED] at Camp Bucca, Iraq was called as a witness for the Government, was sworn and testified as follows:

Counsel:

Was that your brother that just testified earlier?

Witness:

Yes.

Counsel:

Were you on the bus with your brother when you came to Camp Bucca?

Witness:

Yes.

Would you please tell us what happened to you when the bus got to Camp Bucca?

Witness:

When I was inside the bus or outside the bus?

Counsel:

Please tell us what happened when you got outside the bus.

Witness:

We just get out of the bus, some tall soldier, he catch my hand and throw me on the ground.

Counsel:

And which hand did he catch?

Witness:

Both of them because I was captured.

Counsel:

Handcuffed?

012560

Witness:

\*Both of them.

Counsel:

His hands were tied together?

Witness:

Yes, they were tied.

Counsel:

The soldier that grabbed your hands and threw you, did he ride on the bus with you from Nasiriyah?

Witness:

He was in the vehicle which is coming guarding the bus, behind the bus.

Counsel:

So he was not riding in the bus? He was in a vehicle guarding the bus?

Witness:

Yes.

Counsel:

Would you please show us how the soldier grabbed your hand and threw you to the ground. Let the record reflect that the interpreter grabbed the hands of the witness, with both of his hands. That he stood immediately behind the witness. He placed his left leg in between the two legs of the witness and then in a pulling motion, pulled the witness backwards over the leg, over the upper-thigh of the interpreter. Thank you. When the soldier did this to you, how did your body hit the ground?

Witness:

I fell on my head.

Counsel:

How did that feel?

Witness:

I don't know what was my feeling because I am tired; what can I do?

Counsel:

Did you feel pain?

Witness:

Yes.

012561

Counsel:

Did any other soldiers do anything to you?

Witness:

Yes. One female...the female caught my hand and head and run away with me to the place where they check them there. But two guys who wait in the searching place, they beated me. They beated me while they were coming back.

Counsel:

Let's talk about the female soldier that grabbed your arm. How did she grab your arm? Let the record reflect that the interpreter has grabbed the two arms of the witness and pulled them to his right side with his right hand, and has taken his left hand and he has placed that on the top of the witness's head, pushing the witness's head down. Thank you. When the female soldier did this to you, did you feel pain?

Witness:

Yes there was pain.

Counsel:

Did she pull his hair?

Witness:

Yes.

Counsel:

How about his arms? Did pulling his arms back in that motion, did that cause you pain?

Witness:

No. There was no pain from this.

Counsel:

No pain from the arms?

Witness:

No.

Counsel:

Where was the pain coming from?

Witness:

Only my head.

Counsel:

You said the other soldiers beat you as you were moving to the tent?

Witness: Yes. Two of them.

**012562**

Counsel:  
How did they beat you?

Witness:  
They beat me on my leg using their legs.

Counsel:  
So they kicked him?

Witness:  
Yes.

Counsel:  
Did that hurt?

Witness:  
That time I couldn't feel the pain because all my body was paining me.

Counsel:  
Were you scared?

Witness:  
Yes.

Counsel:  
At any time after you got to Camp Bucca on the bus, did you ever resist any of the soldiers that were carrying you?

Witness:  
No.

Counsel:  
Did you ever try to fight with any of the soldiers?

Witness:  
No.

Counsel:  
Did you obey all of the soldiers orders?

Witness:  
Yes.

Counsel:  
Did you see any other prisoners that night being beaten?

012563

Witness:

I was putting my head down. I was hearing the voices.

Counsel:

What were you hearing the other prisoners saying?

Witness:

Ouch and no mister...things like this.

Counsel:

When they said ouch, were they saying it loudly?

Witness:

Yes.

Counsel:

Was it as if they were in pain?

Witness:

Yes.

Counsel:

Thank you very much. I don't have any further questions for you but please answer any questions that the other attorneys may have.

#### **CROSS- EXAMINATION**

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2 ; (7)(C)-2

Counsel:

Sir, you are from Baghdad?

Witness:

Yes.

Counsel:

And you claim that you sold make-up there?

Witness:

Yes.

Counsel:

Now you were captured by U.S. soldiers because there were weapons in your house, correct?

**012564**

Witness:

Yes, just one weapon.

Counsel:

And you spent five days in Baghdad being investigated, correct?

Witness:

Yes five days, but they investigate me for one time only.

Counsel:

And then you spent five days in Nasiriyah before you came here.

Witness:

Yes.

Counsel:

How tall are you?

Witness:

I don't know.

Counsel:

You have no idea how tall you are?

Witness:

No I don't. What kind of question you are asking?

Counsel:

Now, when you got off the bus from Nasiriyah, there was a large male soldier standing at the door of the bus, correct?

Witness:

Yes.

Counsel:

And this soldier was one of the soldiers that was actually on the bus, correct?

Witness:

No.

Counsel:

There was not one soldier from on the bus, standing at the door, and another soldier that was not on the bus, standing there that escorted you?

Witness: Yes there was one standing outside. He was with us in the bus.

**012565**

Counsel:  
And he spoke to you in English?

Witness:  
Yes.

Counsel:  
And you said to him no, no, no.

Witness:  
Yes.

Counsel:  
And then he raised his hand to punch you, correct?

Witness:  
Yes.

Counsel:  
And so you said yes.

Witness:  
Yes.

Counsel:  
And it was after that that the other soldier escorted you?

Witness:  
Yes.

Counsel:  
You did not want to have to make a statement about this today, correct?

Witness:  
No it was from the first day. They came to me. I agree to come here.

Counsel:  
Do you remember talking to me last night?

Witness: Yes.

Counsel:  
Do you remember telling me you did not want to talk about this, but the other EPWs told you that you had to?

**012566**

Witness:  
No I did not say that.

Counsel:  
Thank you.

I/O:  
Other questions? MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Major [REDACTED]  
No sir, thank you.

**Questions by the Investigating Officer: LTC [REDACTED]**

I/O:  
The two other soldiers that beat you on the leg as you moved to the tent, were they kicking you with their legs, or were they trying to trip you at any time?

Witness:  
They were kicking me.

I/O:  
Kicking him with their legs?

Witness:  
Yes.

I/O:  
Okay. Can he describe those soldiers?

Witness:  
My head was down. I didn't see the faces.

I/O:  
Could he tell if they were male or female?

Witness:  
From the voice, they are males.

I/O:  
Okay. Thank Mr. [REDACTED] (b)(6)-4; 7(c)-4 for his testimony and he'll be escorted back to the holding area.

[The witness was dismissed, and left the room.]

012567

(b)(6)7;(7)(C) 7

[REDACTED] an interpreter, was previously sworn and interpreted the following witnesses testimony.

### DIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)2;(7)(C)-2

[REDACTED] (b)(6)4;(7)(C)-4  
[REDACTED] detainee at Camp Bucca, Iraq was called as a witness for the Government, was sworn and testified as follows:

Counsel:

Did you come to Camp Bucca on a bus from Nasiriyah?

Witness:

Yes.

Counsel:

Did you come here on the twelfth of May?

Witness:

Yes.

Counsel:

Would you please tell us what happened after the bus got to Camp Bucca?

Witness:

When we arrived to Umm Qasr, they said you get out of the bus one by one. They were treating us very bad. When they get someone from the bus, they take him, pull him outside on the ground. They pull him. They don't throw him on the ground. They just pull him.

I was sitting in the middle of the bus on the ground. When it was my turn, he was looking at me and he told me sit down. I was one-meter far away from the bus and I sit down. After five minutes, I am hearing people yelling. After, a big soldier, he's tall man, and he catch me from behind and he let me sit down because I was sick and I just come from the hospital.

Counsel:

When you went to the hospital, what was wrong with him?

Witness:

In the beginning of the war, I was a soldier and an accident I was thrown out of the car.

Counsel:

So the big soldier...is that the person that took him off the bus?

012568

Witness:

Yes. After I get out of the bus, they order me to sit down. It was not before I get off the bus. After I get off the bus, they told me to sit down. And then the tall guy took me and...he catch my hand and was holding my hands and was running with me.

Counsel:

Did anything happen to him?

Witness:

And while we were running together he hit me in my leg and I came down on my face. I was yelling hey mister. You know, I cannot speak English. After, he called somebody else and he came...he who came look like Philippino or Japanese. So after he came they were both catching me. One from the left and one from the right.

Counsel:

Let the record reflect that the witness lifted both of his arms up in a crook fashion such that his elbows were up about the height of his shoulders, and his arms were pointing downward. Did that hurt when the soldiers did that to you?

Witness:

Yes it hurt and I was yelling from the pain.

Counsel:

When the soldier tripped him, did he fall down?

Witness:

Yes. After I fell down they carry me forward and they also throw me again on my face and you can see my face. This is my face when I came here. This is my face when I cam here. The blood was coming from my nose.

Counsel:

Was that caused from falling down?

Witness:

Yes.

Counsel:

And you fell down because you were tripped?

Witness:

This is not from the first time; it is from the second time. Both of them throw me. After the second time the blood was coming.

Counsel:

So this was after the two soldiers picked him up and threw him to the ground? That was when you got the bloody nose?

012569

Witness:  
Yes.

Counsel:  
Did he see any other prisoners being hurt that night?

Witness:  
I didn't see with my eyes but I was hearing about some people from pain.

Counsel:  
So where some of the other prisoners yelling because they were hurt?

Witness:  
I meet one of them. His name is [REDACTED] I saw his nose was bleeding so I ask him what happened. He told me that they beated him on his nose.

Counsel:  
So [REDACTED]'s nose was bleeding. Did [REDACTED] have a brother on the bus?

Witness:  
Yes. Two brothers.

ALL (b)(6)-4; (7)(C) 4

Counsel:  
Did you see what happened to [REDACTED]?

Witness:  
No.

Counsel:  
Did you resist any of the American soldiers that night?

Witness:  
No.

Counsel:  
Did you try to fight with any of the soldiers that night?

Witness:  
No. The last time they throw me on my face, I shouted at him and I was going to beat him, but I didn't.

Counsel:  
So you did not fight with any of the soldiers?

Witness:  
No.

012570

Counsel:

Did you obey the soldiers orders that night?

Witness:

Yes.

Counsel:

Thank you sir. I don't have any further questions but please answer the questions that these lawyers may have.

### **CROSS- EXAMINATION**

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Counsel:

You have something in your hand. Is that your wristband for identification?

Witness:

This is my number.

Counsel:

And your able to take it on and off, correct?

Witness:

Yes.

Counsel:

Now on the bus, were your hands taped?

Witness:

Yes, like this.

Counsel:

And when you got off the bus, your hands were no longer taped, correct?

Witness:

Yes. When I get off the bus, they cut it and put it in my hand.

Counsel:

Who did that?

Witness:

The soldier who looked like Japanese or Philippino.

Counsel: What did he use to cut it?

012571

Witness:  
He use a knife.

Counsel:  
Scissors or a knife, which one was it?

Witness:  
I don't know.

Counsel:  
He didn't take the tape off himself on the bus?

Witness:  
No, but it was not tight.

Counsel:  
You said at one point that you wanted to hit the soldier?

Witness:  
Yes.

Counsel:  
Can you show us what you did?

Witness:  
After they beated me and I was on the ground, he was holding my hand like this. I shouted at him and I get up to him.

Counsel:  
Let the record reflect that the witness made a fist with his right hand and drew his arm back as if to throw a punch. Thank you. You may sit down. Now the soldier who came after him the first time, what did he look like?

Witness:  
He is tall and he is big. He is wide. He was wearing the same clothes you are wearing.

Counsel:  
And the two soldiers that threw him, what did they look like? Was it the same tall soldier?

Witness:  
One short guy. He look like Philippino or Korean. The other one is the same guy in the first time.

Counsel:

012572

The one that looked Philippino, was he riding the bus?

Witness:

Yes he's the same guy.

Counsel:

He was on the bus ride?

Witness:

No he was not inside the bus.

Counsel:

And he only had a little bit of blood on his nose?

Witness:

No.

Counsel:

He said that he was thrown and that his nose bled, correct?

Witness:

Just a little blood.

Counsel:

How much blood did he notice on [REDACTED]'s nose? (b)(6)-4; (7)(C)-4

Witness:

I cannot say if it is a lot or it's a little, but I saw him he was catching his nose with his hand, and the blood in his hands.

Counsel:

Does he recall talking to myself and CPT [REDACTED] st night? (b)(6)-2, (7)(C)-2

Witness:

Yes I remember you.

Counsel:

Do you remember telling us there was only a little bit of blood on [REDACTED]'s nose? (b)(6)-2, (7)(C)-2

Witness:

Yes I said that.

Counsel:

You didn't receive medical attention that night?

Witness:

012573

No.

Counsel:

And at some point he went to the Spanish hospital later, right?

Witness:

Yes. It was after two or three days.

Counsel:

He did not ask them to look at his nose?

Witness:

No. I did not tell them because my nose was good at that time.

Counsel:

On the bus, when he left Tallil, had he been told at Tallil that he was going to Camp Bucca to be released?

Witness:

Yes. An Iraqi interpreter was there. He told us that we are going to Umm Quasar and we will stay for one or two days and the Red Cross will release us.

Counsel:

So all the EPWs on the bus believed that they were going to Bucca for a couple of days and then they were going to be released? \*

Witness:

We were about nine persons. He told us about this.

Counsel:

Who else did he tell? Do you know the names of the people who believed they were going to...?

Witness:

I know some guy, his name is [REDACTED]

Counsel:

Can you please spell that for me.

Witness:

[REDACTED]

(b)(6)4;(7)(C)(4)

Counsel:

And who else?

Witness:

012574

[REDACTED]  
b6-4, b7(c)4  
Counsel:

Did [REDACTED] have a last name?

Witness:

I don't know his family name.

Counsel:

Who else? Anybody else?

Witness:

[REDACTED] And a Warrant Officer [REDACTED]

(b)(6)4; (7)(C)-4

Counsel:

Anybody else?

Witness:

[REDACTED] The others, I just know the face. I don't know the name.

Counsel:

Thank you. The rough treatment on the bus surprised him?

Witness:

Yes. It was good in the hospital, but I didn't expect this kind of treatment here.

Counsel:

You say the hospital. Are you talking about the Comfort? The U.S. ship called the Comfort.

Witness:

Yes.

Counsel:

Okay, let's talk about how you got to the Comfort. You're originally from Basra, correct?

Witness:

Yes.

Counsel:

And you've been a soldier in the Iraqi Army since 1988, correct?

Witness:

Yes.

012575

Counsel:  
What was his highest rank?

Witness:  
Just a soldier.

Counsel:  
What were his duties in the Iraqi Army?

Witness:  
I was guarding inside the unit.

Counsel:  
Where?

Witness:  
Zubair. I was in the first Division. I was in Brigade number two.

Counsel:  
For his entire career, he was in this town called Zubair?

Witness:  
No. I've been around all Iraq. My last location was Zubair.

Counsel:  
Did he ever work in Baghdad?

Witness:  
No, but I worked north of Baghdad.

Counsel:  
And how did he come to be captured by the Coalition forces?

Witness:  
I was in a vehicle. There was a car accident and I fell down from the pick-up.

Counsel:  
Let's back up a little bit. Was he guarding oil fields in the south of Iraq?

Witness:  
Yes. We knew the U.S. Army was coming so we left the place and we go back.

Counsel:  
Where did he go?

Witness:

012576

We changed our clothes and we run away.

Counsel:

So you threw down your weapons and put on civilian clothes, got into civilian vehicles and drove to Basra?

Witness:

I was wearing a white t-shirt and white pants and I went to Basra.

Counsel:

He did not surrender to the Coalition forces?

Witness:

No I didn't surrender.

Counsel:

Where in Basra was he going? Who was he going to see?

Witness:

Going to my family.

Counsel:

And what happened in Basra?

Witness:

When the car get to Basra, the driver stopped the car suddenly because of the war. I was thrown from the pick-up truck. I was in a coma or something. I don't know what happened.

Counsel:

And when he woke up he was on the Comfort?

Witness:

Yes.

Counsel:

The treatment on the Comfort was very good, correct?

Witness:

Yes, very good.

Counsel:

Good place to be?

Witness:

Yes. I wish you would take me there now.

012577

Counsel:

You'd rather go there than home, correct?

Witness:

The hospital is better than the house. This will be a favor from you. I will never forget it. Never forget it if you do this to me.

Counsel:

I have no further questions.

I/O:

Anyone else?

Questions from the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(C)-2

Counsel:

Where were you sitting on the bus?

Witness:

In the middle of the bus.

Counsel:

Thank you.

I/O:

Any other questions?

Defense Counsel:

No sir.

I/O:

MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Major [REDACTED]

No sir, thank you.

I/O: (b)(6)-4; (7)(C)-4

Thank Mr. [REDACTED] and tell him he can return to the holding area with the MP.

[The witness was dismissed, and left the room.]

012578

(b)(6) 7 ; (7)(C) 7

[REDACTED] an interpreter, was previously sworn and interpreted the following witnesses testimony.

### DIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2 ; (7)(C)-2

(b)(6) 4 ; (7)(C)-4 [REDACTED] a detainee at Camp Bucca, Iraq was called as a witness for the Government, was sworn and testified as follows:

Counsel:

Sir do you remember the night that you came to Camp Bucca?

Witness:

Yes. Thirteenth of May.

Counsel:

Thirteenth of May?

Witness:

Yes. At night.

Counsel:

It was the night?

Witness:

Yes.

Counsel:

Did you come on the bus from An Nasiriyah?

Witness:

Yes.

Counsel:

Did you come with the other men who testified here today?

Witness:

Yes.

Counsel:

Now, can you tell us what happened when you got to Camp Bucca?

Witness:

012579

When we reach the camp?

Counsel:

Yes sir.

Witness:

We came to Bucca in the night. We didn't know what time it was. Our hands were tied. We were forty-four persons in the bus. Some people were sitting on the right and some on the left and some on the middle. I was with the people in the middle. I was the fifth in the middle. And I was the interpreter on the bus.

Counsel:

And you were the interpreter because you speak English?

Witness:

A few, not very good.

Counsel:

You speak some English?

Witness:

Yes some.

Counsel:

So when you got to Camp Bucca, what happened?

Witness:

They began to get us out of the bus one by one. And they began with the people that was sitting on the ground. And when somebody go out we were hearing yelling, but we don't see because the bus was closed.

Counsel:

Were people yelling like they were angry or were they yelling like they were in pain?

Witness:

From pain.

Counsel:

And when my turn came, I get out the bus. One soldier cut me from my right hand. He's taller than me. He has tall neck and beard. He does not have a beard, just tall.

Counsel:

Tall? No beard?

012580

Witness:

Yes. And another short soldier, he catch me from the ribs. And they began beating me when I get out from the bus. The one on the right, he beated me in this place.

Counsel:

How did he beat you?

Witness:

With his hands.

Counsel:

With a fist?

Witness:

Yes. The one to the left, he beated me on my eyes with his hands. And I became cannot see. While I am walking my pants came down. I wanted to take it off, but I was afraid they beat me again. So, I lift my pants and run away. They chase me and some woman kick me between my legs. I couldn't see her because my eyes was hurting me. They catch me and they throw me in the air and I fell down on my face. And somebody put his boot on my neck. After, I know from my friends that the female is the one who was putting her leg on my neck.

Counsel:

You said you were kicked between the legs?

Witness:

Yes.

Counsel:

Did you see the soldier that kick you between the legs?

Witness:

I didn't see her but I heard her voice that she is female. And she told him this is for [REDACTED] because I am from Nasiriyah.

Counsel:

You said that one soldier who punched you, who was on your right, was a tall soldier?

Witness:

Yes.

Counsel:

And the other soldier who was on your left, was short.

Witness:

Yes.

012581

Counsel:

Was there anything about the short soldier that you remember? What he looked like?

Witness:

He is shorter than me and he is young man, like twenty-five years old. He is not fat, not thin.

Counsel:

Now, you said that your pants fell down?

Witness:

Yes. I couldn't move because it came down. And I know that if I didn't throw it off me, they will beat me more. So I throw it outside.

Counsel:

You took off your pants?

Witness:

Yes.

Counsel:

And after you took off your pants, what happened?

Witness:

They took us inside the tent. There were about four persons in front of me. Some of them was yelling from pain. And then the others came to the tent.

Counsel:

Were you ever dragged across the ground?

Witness:

No. Only they pull me from the bus.

Counsel:

Were your hands tied together the whole time?

Witness:

Like this. From Nasiriyah until the next day.

Counsel:

Did you see any of the other prisoners getting off the bus?

Witness:

No I didn't see.

Counsel: Did you hear any of the prisoners?

**012582**

Witness:

Yes. When I found them inside the tent, some of them were yelling. Some of them are bleeding.

Counsel:

Some of them were bleeding?

Witness:

Yes, bloody nose.

Counsel:

Did you resist any of the soldiers at Camp Bucca?

Witness:

No.

Counsel:

Did you try to fight with any of them?

Witness:

No.

Counsel:

Did you obey all of their orders?

Witness:

Yes, all of them.

Counsel:

After you were thrown to the ground and kicked between your legs, what happened after that?

Defense counsel: MAJ [REDACTED] (b)(6)2; (b)(7)(C)-2

I'm sorry, did he actually say that he was thrown to the ground and kicked between the legs?

Counsel:

Strike that. Sir, how did you get to the ground?

Witness:

They throw me in the air and I fell down on my face.

Counsel:

Which soldiers threw you on your face?

012583

Witness:

The two guys. The tall one and the short one.

Counsel:

Once you got to the ground, what happened?

Witness:

The female, she put her boot on my head, and I hear my friends say come inside the tent. So I enter the tent.

Counsel:

When did you get kicked between the legs?

Witness:

Before they throw me in the air, she kick me.

Counsel:

When she kicked you between the legs, were you standing or were you on the ground?

Witness:

I am standing and walking.

Counsel:

And when she did this, was she in front of you or behind you?

Witness:

She was in front of me. My eye was hurting and I didn't see her very well.

Counsel:

Why was your eye hurting you?

Witness:

Because the short guy hit me on my eye.

Counsel:

Thank you sir. I don't have any further questions for you but please answer questions that the lawyers over at this table may have.

#### CROSS-EXAMINATION

Questions by the defense counsel: MAJ [REDACTED] (b)(6)-2 ; (b)(7)(C)-2

Counsel:

Sir, the tall soldier, was he wearing glasses?

Witness: Yes.

012584

Counsel:  
And they were not sunglasses?

Witness:  
Yes.

Counsel:  
Thank you, no further questions.

I/O:  
Any other questions from the defense?

Defense counsel:  
No sir.

I/O:  
CPT [REDACTED] do you have anything?

Counsel:  
Just one moment, sir. No sir, thank you.

I/O:  
Anything further MAJ [REDACTED]

Major [REDACTED]  
No sir, thank you.

(b)(6)-2; (7)(C) 2

**Questions by the Investigating Officer: LTC [REDACTED]**

I/O:  
I just want to make sure I have the sequence correct. He says he was grabbed off the bus

Witness:  
Yes.

I/O:  
There was a tall soldier on his right and a shorter soldier on his left who took control of him.

Witness:  
Yes, but the one who pull me out from the bus is different from those two.

I/O:  
Okay. He said that the soldier on his right struck him in his right side with his fist?

012585

Witness:

Yes.

I/O:

How many times? Does he know?

Witness:

Once.

I/O:

And the soldier on his left hit him in his eye?

Witness:

Right eye.

I/O:

How many times was he struck?

Witness:

One time.

I/O:

And at that point, his pants came down, is that correct?

Witness:

When the tall soldier beat me on the right, the pants come down. My pants was without belt.

I/O:

And the escorts would not let him take his pants off?

Witness:

They were beating me so I couldn't stop. I got to go. I got to run. So I stay in the shorts. I throw it outside.

I/O:

And then after that point, was he thrown to the ground, or did the female soldier at that kick him between the legs?

Witness:

After the pants came down, the female kicked me and then the two guys they throw me.

I/O:

And then after he was thrown to the ground by the two soldiers, a female put her boot on his head?

012586

Witness:

I just feel some boot was on my neck, but after, my friends tell me that she's a female. Because I swear on the Holy Koran that I would tell the truth. I didn't see her, I didn't hear her voice but my friends told me that she is the female.

I/O:

Was there any further behavior like that between that point, and when he was taken to the processing tent?

Witness:

It was from here to the tent.

I/O:

When he was brought up from the ground, how was that done?

Witness:

I saw my friends, they were before me, and they shout come here, come here, come quickly inside the tent. The two soldiers left me inside this place and they went to bring another one.

I/O:

So he just got up and went to the tent on his own?

Witness:

Yes.

I/O:

Okay. I don't have any further questions. Does anyone else?

**Questions by the defense counsel:** CPT [REDACTED] (b)(6)-2; 7(c)(2)

Counsel:

When did your friends tell you that the female soldier was stepping on your neck?

Witness:

When I just enter the tent.

Counsel:

Just now when you entered the tent?

Witness:

When I entered the tent the same night.

Counsel:

The same night when you entered the tent, that's when your friends told you?

012587

Witness:  
Yes.

Counsel:  
So you spoke with your friends that night about what had happened?

Witness:  
Yes.

Counsel:  
Okay. Thank you.

Witness:  
They saw me in the shorts. They were asking me where's your pants.

I/O:  
Any other questions?

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Counsel:  
I have a couple sir. Do you remember telling me that one of the soldiers had a tattoo on his arm?

Witness:  
Yes. This is who was inside the car.

Counsel:  
Inside the car?

Witness:  
Yes, but he did not kick us.

Counsel:  
Now, your testimony here today, is it what happened to you or is it what people told...

Witness:  
This is who watch us inside the car, but he did not kick us

Counsel:  
Now your testimony here today is it what happened to you or is it what people told you what happened to you?

Witness:  
That's what happened to me and I swear it with the Holy Quran about it.

012588

Counsel:  
Thank you.

I/O:  
Any other questions?

Defense counsel:  
No, sir.

[The witness was dismissed, and withdrew from the room.]

(b)(6) 7 - (7)(C) - 7  
[REDACTED], an interpreter, was previously sworn and interpreted the following witnesses testimony.

#### DIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6) - 2; (7)(C) - 2  
[REDACTED] (b)(6) - 4, (7)(C) - 4  
[REDACTED] a detainee at Camp Bucca, Iraq was sworn and testified as follows:

Counsel:  
Sir, did you come to Camp Bucca on a bus from An Nasaria?

Witness:  
Yes.

Counsel:  
And did you come here on the 12<sup>th</sup> of May?

Witness:  
Yes.

Counsel:  
Sir, would you please tell us what happened when the bus got to Camp Bucca?

Witness:  
We arrived night, they let us get out of the bus one-by-one as we get down off the bus two soldier hold me one short guy the other one is tall guy and short female soldier white color and they hold both of my hand behind my back. I feel pain on my hand because they used to be broken and the is steel inside my hands and the female soldier she beat me by boots in my stomach by putting her boot or her leg in front of my leg and when she beat me on my leg I fell down to the floor on the sand...after that they pull me on the sand to holding area and I feel my blood pressure beat up because I used to complain from blood pressure.

012589

Counsel:

Now, sir, were you on crutches when you got to Camp Bucca?

Witness:

No, I didn't use myself.

Counsel:

The female soldier, what did she--do you remember what she looked like?

Witness:

She's short, white, now even if I saw her I wouldn't recognize her.

Counsel:

But she was short and white?

Witness:

Yes, sir

Counsel:

Do you remember anything about the soldiers that grabbed your arms?

Witness:

Only I remember one he was short the other one was tall because of my blood pressure I don't remember.

Counsel:

Now, you said that they hurt your arms?

Witness:

Yes.

Counsel:

How did they hurt your arms?

Witness:

By squeeze my arm and then put behind my back pushing it up and I was screaming.

Counsel:

You were screaming?

Witness:

Yes.

Counsel:

Why were you screaming?

012590

Witness:

Because of pain and I was afraid my hand was going to break.

Defense counsel: MAJ [REDACTED]

Excuse me I'd like to point out for the record, that the witness is touching his left arm not his hand. And the interpreter is saying hand I'd like some clarification on that.

Witness: On his upper arm.

(b)(6)(2) - (7)(C) - 2

Defense counsel: MAJ [REDACTED]

Let the record reflect that it is his upper right-upper left arm where his previous injury is.

Witness: Until now it is still painful.

Counsel: And it is still hurting you?

Witness:

Yes a little but, but almost good.

Counsel:

Did you ever resist the soldiers who were holding you?

Witness:

No, sir.

Counsel:

Did you ever try to fight the soldiers at Camp Bucca?

Witness:

No.

Counsel:

Did you obey all of the soldier's commands to you that night when you came to Camp Bucca?

Witness:

Yes, sir.

Counsel:

The short white female soldier how did she hit you in the stomach?

Witness:

By boxing.

Counsel: By boxing, with her hand?

012591

Witness:

Yeah, she hold me from my clothes from her and from other hand boxing me by her fist on my stomach.

Counsel: Let the record reflect that the witness grabbed the top of his shirt indicating she held him there. And then formed his hand into a fist and punched himself in the stomach indicating that's how she hit him.

Counsel: Did you see any of the other prisoners being hurt that evening?

Witness:

(b)(6)-4; (7)(C)-4

Yes, I saw major [REDACTED] he has been beaten and laying on the floor and paining.

Counsel:

Did you see the major being beaten?

Witness:

No I didn't see it by my eye but I heard him yelling and screaming.

Counsel:

Was he yelling and screaming because he was angry?

Witness:

No from pain.

Counsel:

Did you hear any of the other prisoners screaming that night?

Witness:

Yes I did.

Counsel:

Was there anything around your hands when you got to Camp Bucca?

Witness:

In Nasarya the tied my hands in plastic, but it was easy to release my hand from it. After I get down and they hold me it get out.

Counsel:

So, when the two male soldiers pulled your arms back were your hand free from the restraints?

Witness:

Yes, there was nothing in my hand.

012592

Counsel:

Thank you, sir I don't have further questions, but please answer any questions that the other lawyers may have for you.

### CROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2 ; (7)(C)-2

Counsel:

Mr. [REDACTED], the soldiers in Nasarya didn't tell you where you were being taken, did they? (b)(6)-4 ; (7)(C)-4

Witness:

No.

Counsel:

But you knew you were coming to Um Quasr, correct?

Witness:

Yes.

Counsel:

And most of the people up there knew that Um Quasr is an EPW camp, right?

Witness:

Yes.

Counsel:

When you got on the bus everybody was sitting pretty close together, right?

Witness:

Yes, the place taken two, three sit on it.

Counsel:

So where two should sit there were three?

Witness:

Yes, and they also on the passage floor.

Counsel:

And there were people sitting in the aisle way as well?

Witness:

Yes.

012593

Counsel:  
And the soldiers on the bus they were yelling, right?

Witness:  
Yes.

Counsel:  
And screaming, too?

Witness:  
Yes, and using bad word for us.

Counsel:  
They looked tense to you, didn't they?

Witness:  
No, I was felling sick I have blood pressure

Counsel:  
I'm sorry, they looked uptight--they looked tense?

Witness:  
Yes.

Counsel:  
The curtains were pulled down on the bus, right?

Witness:  
Yes.

Counsel:  
And they stayed down for the entire trip, right?

Witness:  
Yes.

Counsel:  
And when the bus stopped they were still down, right?

Witness:  
Yes everyone in his place.

Counsel:  
I am talking about the curtains on the bus...the curtains were closed, right?

Witness: Yes, you're right.

**012594**

Counsel:

When you got to Camp Bucca they weren't opened up were they?

Witness:

Yes.

Counsel:

Yes they weren't opened up or no they were closed?

Witness:

They were closed.

Counsel:

Now, your arm it was injured about four years ago, right?

Witness:

Yes, in the generator.

Counsel:

It was hurt by a generator?

Witness:

Yes.

Counsel:

Four years ago, right?

Witness:

Yes.

Counsel:

And before you got on the bus it would sometimes bother you, correct?

Witness:

No I was normal.

Counsel:

You don't get treatment for it, right?

Witness:

No I didn't get any treatment because I didn't complain from it.

Counsel:

And when you got on the bus you didn't have a bandage on your arm, right?

012595

Witness:

No.

Counsel:

You were wearing a white robe like you're wearing tonight, right?

Witness:

Yes, but almost yellow, not white.

Counsel:

So you can't see the scar through the robe, right?

Witness:

Yes.

Counsel:

After the bus ride, the 44 people from the bus were held together, right?

Witness:

Yes, in holding area.

Counsel:

In a holding area?

Witness:

Only one general they keep him on another tent.

Counsel:

But everybody else from the bus was staying together, correct?

Witness:

Yes.

Counsel:

The major that you talked about before, what was his name?

Witness:

[REDACTED]

(b)(6)-4 ; (7)(C)-4

Counsel:

Since that night, you've talked to Major [REDACTED] several times, right?

Witness:

You mean since this night until now?

Counsel: Yes.

012596

Witness:

Yes.

Counsel:

And you've talked about the bus ride several times, right?

Witness:

Normal talking.

Counsel:

You talked about what happened after you got off the bus, right?

Witness:

Yes.

Counsel: (b)(6) - 4, (7)(C) - 4

[REDACTED], the night that you got off of the bus, they took all of you, you said, to one holding area, correct?

Witness:

Yes.

Counsel:

And you stayed there until morning, correct?

Witness:

Yes correct.

Counsel:

And you all talked that night about what had happened when you got off the bus, correct?

Witness:

Yes, correct.

Counsel:

And you all told your stories, correct?

Witness:

Yes.

Counsel:

Thank you.

I/O:

Anyone else?

012597

**Questions by the defense counsel:** MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Counsel:

Was there a man on the bus with a rifle or a shotgun? Was there a man-a soldier-on the bus carrying a rifle or a shotgun?

Witness:

They have rifle I didn't notice a shotgun--I didn't notice..

Counsel:

Was it a large gun? Was it a long gun?

Witness:

The rifle was biggest.

Counsel:

And was he pointing it at the EPWs?

Witness:

Yes.

Counsel:

Thank you. I have no further questions, sir.

I/O:

Major [REDACTED] (b)(6)-2, (7)(C)-2

**REDIRECT EXAMINATION**

**Questions by the trial counsel:** MAJ [REDACTED]

Counsel:

Sir, what you have told us tonight is the truth, correct?

Witness:

Yes, correct.

Counsel:

And no one told this story to you, did they?

Witness:

Yes I swear.

Counsel:

**012598**

So when you talked to your other prisoners about what happened that didn't change your story did it?

Witness:

I did not change my story.

Counsel:

Thank you.

**Questions by the Investigating Officer:**

I/O:

Would you describe for me again where you were hit, when you were taken off the bus?

Witness:

After I get out of the bus two holding me one short on right side the tall man on the left side. They pulled my hand to my back I feel that my other arm that is jerk forth she tied my shirt and beating my stomach by boxing and she put her leg in front of my leg which cause me falling on sand after that the sand cover full my face then I stand up screaming and yelling. After that they pull me to holding area directly my blood pressure is up. When we go to holding are they let us sit down.

I/O:

About how many times were you hit in the stomach?

Witness:

Several times I don't remember the number but several times.

I/O:

Were you kicked?

Witness:

Yes, sir when I fell down.

I/O:

So the kick caused you to fall down?

Witness:

Yes sir confirmed.

I/O:

Any further questions?

Defense counsel:

No, sir

**012599**

Major [REDACTED] (b)(6)2-(7)(C)2  
No, sir.

[The witness was dismissed, and withdrew from the room.]

(b)(6)7; (7)(C)7  
[REDACTED] previously sworn and interpreted the following  
witnesses testimony.

#### DIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)(2); (7)(C)(2)  
[REDACTED] (b)(6)4-(7)(C)4  
[REDACTED] at Camp Bucca, was  
sworn and testified as follows:

Counsel:

Sir, did you come to Camp Bucca on a bus on the 12<sup>th</sup> of May?

Witness:

Yes.

Counsel:

And, did you come from An Nasaria?

Witness:

Yes.

Counsel:

Sir, would you please tell us what happened when the bus got to Camp Bucca?

Witness:

Yes, we arrived around 10 pm night to Camp Bucca around--I was sitting on the bus there was two people coming and taking the people handcuff--they taking them by pulling them off...and first also, but after they taking them out of the bus I don't see them--until my turn come...as I believe the soldiers be tired and my wit is heavy, so those soldier they take me out of the bus by gentle way it was very quiet leaving the bus for me it was very quiet and the best form--until I reach the floor one female soldier came holding me from my right arm and she deal with me very nice she asking me, "excuse me would you like to sit here" --after I sit down on the floor they ask me to put my head down. The female she was in front of me and the soldier beside me he kicked me by his boot it was not a very strong beating. After that they transferred me around one hundred meter by running.

Counsel: Okay, sir, when you were kicked by the soldier with his boot, what were you doing?

012600

Witness:

I was sit down on the floor and looking to the floor with my head down.

Counsel:

Was that because you were told to sit and look down on the floor?

Witness:

No, it was not the reason, I was sitting on the floor looking down because I was afraid.

Counsel:

The soldier that kicked you with his boot, did you see that soldier?

Witness:

No I didn't see his face--the soldier he was looking to the other side and he kicked me by the back of his boot.

Counsel:

So he kicked with the heel of his boot?

Witness:

Yes.

Counsel:

And where did he kick you?

Witness:

On my side here, on my side.

Counsel:

On your left side?

Witness:

Left side, because I was sitting like this direction, and he was near to the door of the bus.

Counsel:

The--now, you said that after that you were made to run a hundred meters?

Witness:

Yes, like running or walking very fast and they yelling to let us walk fast or running.

Counsel:

And did a soldier tell you to run fast?

Defense counsel: CPT [REDACTED] (b)(6)Z-(7)(C)-Z  
Objection, he said walking very fast.

012601

Interpreter:  
He said both ma'am.

Defense counsel: CPT [REDACTED] (b)(6) 2 - (7)(C) - 2  
He used both?

Interpreter:  
He said running or walking very fast he used both of those expressions.

Witness:  
No they did not order me to run.

Counsel:  
Why did you--move fast?

Witness:  
As they were pulling me and they were moving fast I was following them.

Counsel:  
So were the soldiers or the sol--how many soldiers were with you when you were moving fast?

Witness:  
Two soldiers.

Counsel:  
And were they moving fast?

Witness:  
No, they were not moving fast maybe because they were tired.

Counsel:  
So why were you moving fast?

Witness:  
As I said or as I believe because they wanted to move prisoner faster from bus to holding area.

Counsel:  
Did you see any of the other prisoners being kicked or hit that night?

Witness:  
After we arrived to holding area----

Counsel: I wonder if you saw any other prisoners that were with you on the bus, being kicked or hit that night?

012602

Witness:

As I witnessed no I did not see.

Counsel:

Did you hear other prisoners making noise or sounds that night?

Witness:

Yes I heard.

Counsel:

What kinds of sounds were they making?

Witness:

Begging they were begging, screaming from pain, and crying this is what I heard.

Counsel:

Now, when you were in the holding tent, after you got off the bus, did you see anyone that had blood on their face?

Witness:

Yes I saw.

Counsel:

Do you know the person that you saw?

Witness:

Yes I know.

Counsel:

Who was he?

Witness:

When I saw them I don't know their names, but after that I come to know their names like major [REDACTED] and another prisoner his name [REDACTED] and the third man I heard only I didn't see.

(S)(6)4; (7)(C)4

I/O:

What was the name again, please?

Witness:

[REDACTED] the third person--the other two person I am sure that I saw them by my own eye.

Counsel:

And the two people that you saw, what did you see about them?

012603

Witness:

All the night it was not allowed to raise your head up, so I didn't see them during the night until next morning when the light come I saw [REDACTED] laying on the floor, I saw [REDACTED] blood on his nose and it is looking as broken nose and scratching on front of his face. (b)(6) 4; (7)(E) 4

Counsel:

Did the major have any physical marks on his body?

Witness:

No, I saw him laying and his face on sand I thought he died already.

Counsel:

Were you surprised at the way you and your fellow prisoners were treated that night?

Witness:

Yes, I will tell you the truth it was shock.

I/O:

I'm sorry what was that?

Witness:

It was like shock it was surprised me.

Counsel:

Why?

Witness:

I expect from your side to deal with us as human being. I expect American side not to deal with us like ex BAATH Party. As the way they treat us it does not represent the standard of USA.

Counsel:

Sir, at any point in the evening did you resist any of the soldiers at Camp Bucca?

Witness:

No, and you can check with the soldier I didn't resist any soldier on this night.

Counsel:

Did you try to fight with any of the soldiers on this night?

Witness:

No.

Counsel:

Did you obey the soldiers this night?

012604

Witness:

Yes, I obeyed all order as I was afraid of getting beaten.

Counsel:

Thank you. I have no further questions for you, but please answer any questions from the other lawyers.

### CROSS- EXAMINATION

Questions by the defense counsel: CPT [REDACTED]

(b)(6)-2; (7)(C)-2

Counsel: (b)(6)-4; (7)(C)-4

Mr. [REDACTED] you believed that you were picked up by the Coalition forced because you were trying to contact your brother, right?

Witness:

Yes, right.

Counsel:

So you were trying to contact your brother and that's when you were apprehended?

Witness:

Yes I was trying to contact this woman to give her telephone number and address of my brother in USA.

Counsel:

This woman was an interpreter?

Witness:

Yes.

Counsel:

You weren't picked up because you're a member of the BAATH party?

Witness:

No.

Counsel:

You weren't held at Nasaria for three days because you're a member of the BAATH party?

Witness:

No.

Counsel: Many of the people on the bus with you were held at Nasaria, right?

012605

Witness:

From all states no only from An Nasaria, from many city and states.

Counsel:

Some of the people that were on the bus with you were held with you at Nasaria, too, right?

Witness:

Yes, correct.

Counsel:

And you knew you were coming to Um Quasr, right?

Witness:

Yes, right.

Counsel:

And you knew from other Iraqis that there was an EPW camp here, right?

Witness:

Yes.

Counsel:

Let's talk about the bus a little bit. The people on the bus were very close together, right?

Witness:

Yes.

Counsel:

So people tried to talk to each other, right?

Witness:

Yes a little talking like "can you move little bit give me space" some talking like that.

Counsel:

Even though talking was against the rules there was some talking going on the bus?

Witness:

Yes right.

Counsel:

And if someone talked a soldier would point a weapon at you and say "you talk I'm going to kill you"?

Witness:

012606

No, there's no threat I didn't hear threaten by kill from American soldier. No I didn't see point gun on head any prisoners.

Counsel:

I'm not saying that it was on your head, I'm just saying that those words were used, "if you talk I will kill you".

Witness:

No, I did not hear that.

Counsel:

Did you see anybody get hit on the bus?

Witness:

No, as my head down I didn't see anything.

Counsel:

You know major  (b)(6)4-(7)(c)-4 correct?

Witness:

No, I know him only from the bus.

Counsel:

You met him on the bus? Is that what you're saying?

Witness:

I met him on the bus.

Counsel:

You know who I'm talking about? You know who he is, right?

Witness:

Yes.

Counsel:

Did you see him get hit on the bus?

Witness:

No I did not see.

Counsel:

You were sitting in the middle of the bus, is that right?

Witness:

No I was sitting on chair.

012607

Counsel:  
In the middle of the people?

Witness:  
Yes in the middle of the people.

Counsel:  
And there was a short soldier who was taking prisoners off the bus, right?

Witness:  
Yes.

Counsel:  
And you saw him take the prisoners and run them down the aisle, right?

Witness:  
Yes.

Counsel:  
And then he got to you?

Witness:  
Yes, right.

Counsel:  
And you kind of sat back, right?

Witness:  
No.

Counsel:  
You put your weight back?

Witness:  
Yes, when he come to pick me I put my weight back.

Counsel:  
You wanted to make it difficult for him to move you, right?

Witness:  
Because I was afraid that he going to beat me.

Counsel:  
You made it difficult for him to move you with your weight, right?

Witness: No.

012608

Counsel:

By the time the soldier got to the end of the aisle you thought he was tired from trying to move you, didn't you?

Counsel:

Yes.

Counsel:

He was tired because he was trying to pull you down the aisle, right?

Witness:

He was tired because he already get 15 prisoner out of the bus before me.

Counsel:

When you were sitting down you talked about being kicked, right?

Witness:

Yes.

Counsel:

Off the bus? You're off the bus, right?

Witness:

Yes.

Counsel:

Sitting down?

Witness:

Yes, right.

Counsel:

And it was the soldier's heel that touched you, right?

Witness:

Correct.

Counsel:

It wasn't a hard kick, right?

Witness:

Right.

Counsel:

It was like a tap like he was trying to move you, right?

012609

Witness:

No it was strong kick, but I move my body away from it ...if I was sitting in same place it was going to hurt me.

Counsel:

Do you remember speaking with two attorneys last night? CPT [REDACTED] and MAJ [REDACTED]

(b)(6)-2;(7)(C) 2

Witness:

Yes.

Counsel:

You remember telling them that the soldier hit you with the side of his heel?

Witness:

No I said his back ...back of his boot not side of his boot.

Counsel:

Okay, back of his heel and that you were tapped, correct?

Witness:

Yes right.

Counsel:

So you didn't see Major [REDACTED] come off the bus, right? He was in front of you.

Witness:

No I didn't see him because my head was down.

(b)(6) 4, (7)(C) -4

Counsel:

And you didn't see [REDACTED] come off the bus either, did you?

Witness:

Correct I did not see him.

Counsel:

Thank you.

Questions by the defense counsel: MAJ [REDACTED]

(b)(6)-2; 7(C) 2

Counsel:

You said there was a short young soldier escorting the people off the bus. Taking from their seat to the door of the bus, correct?

Witness: Correct.

012610

Counsel:

And you watched him run these prisoners off of the bus?

Witness:

Yes.

Counsel:

You did not want to run off the bus, correct?

Witness:

No is not correct.

Counsel:

Do you recall talk--you remember talking to CPT (S)(6)-Z;(7)(C)(2) and myself last night, correct?

Witness:

Yes I remember you.

Counsel:

And do you remember saying that that soldier was very tired by the time he got to take you off the bus?

Witness:

Not very tired, but tired.

Counsel:

You said to us "and I am big, bigger than him so I--" and you put your arms up you flexed your shoulders back and made a motion as if you were grounding in and said you did that when he came to get you.

Witness:

Yes.

Counsel:

And when we asked you if you got beat, you said, "I don't get beat, I beat", is that correct?

Witness:

It was joke. I was joking with interpreter.

Counsel:

You did not know the major at the t--on the bus--but you did not know him by name but now you know him by name, correct?

012611

Witness:  
Correct.

Counsel:  
And you have talked to him since that night, correct?

Witness:  
Correct.

Counsel:  
Thank you, I have no further questions.

I/O: Major [REDACTED]

(b)(6) 2-7(c)-2

**REDIRECT EXAMINATION**

Questions by the trial counsel: MAJ. [REDACTED]

Counsel:  
Sir, have you told us the truth tonight?

Witness:  
Yes God willing I told you the truth.

Counsel:  
And just because you know this major, now, you haven't changed your story have you?

Witness:  
I told you the truth and I swear by Koran.

Counsel: Thank you, sir. I have no further questions.

[The witness was dismissed and withdrew from the room.]

(b)(6) 7; (b)(6) 7  
[REDACTED] interpreter, was previously sworn and interpreted the following witnesses testimony.

**DIRECT EXAMINATION**

(b)(6) 4-(c) 4

[REDACTED], a detainee at Camp Bucca, was sworn and testified as follows:

Questions by the trial counsel: MAJ. [REDACTED] (b)(6) 2-7(c) 2

Counsel:  
Sir, I noticed that you walk with a limp?

012612

Witness:

Yes, I've been hurt in the war.

Counsel:

Were you hurt in this war?

Witness:

Yes. It was April eight.

Counsel:

And how were you hurt?

Witness:

I was in Baghdad. I was in the Rasheed camp. I was going to the U.S. Army to give myself up. There was a checkpoint for the Fedahyeen Saddam. We didn't stop for them. We passed them. They open fire on us. Three of us were injured.

Counsel:

Were you shot with a gun?

Witness:

With a rifle.

Counsel:

Did you lose your leg?

Witness:

No. They left us after they fired. They thought we are dead. Before the car get explosion, we get out of it. The American troops came to us. The Fedahyeen run away. When the American soldiers came to us, I put my hand up to them and they carried us away from the car. They gave me first-aid because I was injured in my head.

Counsel:

You were injured in your head and in your right arm, and in your right leg, is that right?

Witness:

Right hand and my leg. And also my left leg.

Counsel:

In both of your legs, you were injured?

Witness:

Yes. A bullet here and a bullet here. And, even in my back.

Counsel: So your left foot, your right foot, your right knee, your back, your right arm and your head?

012613

Witness:  
Yes.

Counsel:  
But you still have both of your legs, right?

Witness:  
Yes.

Counsel:  
Did you come to Camp Bucca on the bus on the twelfth of May?

Witness:  
Yes.

Counsel:  
Please tell us what happened when you got here to Camp Bucca?

Witness:  
I was the first one sitting on the floor. A soldier ask me to go out. At that time I couldn't walk and I was on crutches. On that same day I just get out of the hospital to the Nasiriyah base. So I began moving on my ass, from the back of the bus to the door. When I came near the door, the soldier that was sitting in the back, he throw on me the crutches. My hands were tied. Another soldier was on the ground and near the door of the bus. I think what he said was he's telling me to get up. So I show him my hands were tied and I cannot stand up. He took a knife from his belt, and he told me to do like this.

Counsel:  
So you held up your hands in front of your face?

Witness:  
Yes.

Counsel:  
And what did the soldier do?

Witness:  
He cut the wire.

Counsel:  
Okay. He cut the wire and your hands were free?

Witness:  
Yes.

**012614**

Counsel:  
Then what happened?

Witness:  
There was an interpreter. He said to us to stay in one line. And we stand in one line near the fence. The two fence is like an arrow. I was the first one and I went in the open of the fence and I stand up. And the interpreter told me to get inside this narrow.

Counsel:  
And were you using your crutches to walk?

Witness:  
Yes. Even with the crutches, I was walking slowly.

Counsel:  
And is that because you have been wounded in so many places?

Witness:  
Yes. Here is the most pain.

Counsel:  
Your knee-wound was the most serious?

Witness:  
Yes. This one and my foot.

Counsel:  
Okay.

Witness:  
So I walked inside the narrow. I looked at the interpreter and I said please, my Arabic brother, I can't walk. He said I'm sorry, I am ordered not to talk to you or to help you. I began walking. Two American soldiers were behind me. They shouted at me go, go, go. I was walking slowly.

Counsel:  
Sir, were you moving as fast as you could?

Witness:  
Yes.

Counsel:  
What happened next?

012615

Witness:

After they were shouting at me, one of them push me with his hand on the ground. I am with my crutches and I come down on the ground on my face.

Counsel:

Did the soldier push you from behind?

Witness:

Yes., in my back.

Counsel:

How hard did the soldier push you?

Witness:

Hard.

Counsel:

Did you see the soldier that pushed you?

Witness:

No I didn't.

Counsel:

Then what happened?

Witness:

One of them put his hand on my hand and he put it this way. And the other one took my left hand.

Counsel:

Let the record reflect that the witness is holding his hands out, away from his body, with his arms pointed downward and moving his arms backward, as if his arms were being swept towards his back. What did the soldiers do next?

Witness:

I was laying down on the floor and after they did this to me, they were pulling me in front of me.

Counsel:

Were they pulling you by your arms?

Witness:

No from my hands.

Counsel:

They were pulling you by your hands?

012616

Witness:  
Yes.

Counsel:  
And your hands were behind your back?

Witness:  
Yes.

Counsel:  
Were you standing?

Witness:  
No I was on my face.

Counsel:  
Was your face touching the ground?

Witness:  
No my face was off the ground but this area and down was on the ground.

Counsel:  
Okay, from the waist down. And the soldiers held his hands behind his back?

Witness:  
Yes.

Counsel:  
Did that hurt?

Witness:  
Yes.

I/O:  
Excuse me. I'm having a hard time visualizing how he was on the ground. If he can kind of demonstrate?

Counsel:  
Let the record reflect that the witness is bending over and his arms are extended backwards to their full extent, moving up and away from his body, but going backwards. Did you see the soldiers that had a hold of your hands?

Witness:  
No, because it was dark and I was sick.

012617

Counsel:  
How far did they pull you along like this?

Witness:  
About a hundred meters.

Counsel:  
Did you say anything while this was happening?

Witness:  
Yes. Please mister, please.

Counsel:  
What happened to your crutches?

Witness:  
I don't know what happened to them, but later one soldier bring it to me.

Counsel:  
Did you resist the American soldiers that night?

Witness:  
No.

Counsel:  
Did you obey the orders of the American soldiers?

Witness:  
Yes.

Counsel:  
Did you try to fight with any of the soldiers?

Witness:  
No.

Counsel:  
You were a Major in the police force?

Witness:  
No I am Major in the military.

Counsel:  
In the military?

Witness: In the Iraqi Army.

012618

Counsel:

I don't have any further questions. Please answer any questions of these people.

**CROSS-EXAMINATION**

**Questions by the defense counsel: CPT [REDACTED] (b)(6)2-(7)(C)-2**

Counsel:

You said that you are a Major in the Iraqi Army?

Witness:

Yes.

Counsel:

And you've been in the Iraqi Army for eighteen years?

Witness:

Yes.

Counsel:

Eighteen years he's been in the Army?

Witness:

Yes.

Counsel:

The day that they loaded the bus at Nasiriyah, you were placed in two lines, correct?

Witness:

Yes.

Counsel:

And you started off in the line with everyone else, but then you had to be isolated, correct?

Witness:

He used crutches to get to the door, and then he tried to get in.

Counsel:

When you were standing in line, they removed you away from the other prisoners, correct?

Witness:

I was in the last four and some short soldier came and took me and put me the last one.

**012619**

Counsel:

So you were the forty-fourth person to get on the bus, correct?

Witness:

Yes.

Counsel:

And you sat in the aisle way of the bus, correct?

Witness:

I was the last one to get in the bus so I am in the beginning now.

Counsel:

So he was at the beginning of the bus in the aisle?

Witness:

Yes.

Counsel:

When they told you to sit in the aisle, you said I can't I have a back problem?

Witness:

I told him I am sick. This is the only word I know. He told me to sit down on the ground.

Counsel:

He actually pointed a shotgun at you and told you to sit down, correct?

Witness:

Yes.

Counsel:

And the soldier with the shotgun is big and has a red face, correct?

Witness:

Yes.

Counsel:

Now once the bus started moving, that soldier with the shotgun sat near you on the bus, correct?

Witness:

Yes, very near to me.

Counsel:

And you claim that he continued to point the gun at you?

**012620**

Witness:

Yes.

Counsel:

And you claimed that he continued to yell at you, correct?

Witness:

Yes.

Counsel:

You claim that he kicked you in the leg on the bus, correct?

Witness:

Yes. I cannot move my leg inside, so he kicked me on it.

Counsel:

That soldier left something inside you that you just can't forget, correct?

Witness:

Yes.

Counsel:

Then they switched the shotgun off to a small soldier, correct?

Witness:

Yes.

Counsel:

And you claim he said if anyone talks I'll hit you with a water bottle?

Witness:

No. Not that exactly. The short soldier has a water bottle he was drinking from and would say don't talk and was beating them like this.

Counsel:

Beating them with the water bottle?

Witness:

Yes.

Counsel:

And you claim he beat you ten times on the head with the water bottle, correct?

Witness:

Yes, about ten times.

**012621**

Counsel:

And that water bottle, you claim, was half full of water, correct?

Witness:

Yes.

Counsel:

You recall that the bus broke down on the way to Camp Bucca, correct?

Witness:

Yes. It was like a flat tire so the bus stop.

Counsel:

And the soldiers on the bus, they were terrified, correct?

Witness:

They were scared and they put the guns on us.

Counsel:

And they kept shouting at you to keep quiet?

Witness:

Yes they were shouting at us not to move, not to talk?

Counsel:

You were the first person off of the bus, correct?

Witness:

Yes.

Counsel:

And there was a group of five of you that were taken off the bus, correct?

Witness:

I don't know how many people came after me.

Counsel:

There was a couple of people behind you, correct?

Witness:

Yes I heard them.

Counsel:

You claim that two soldiers drug you across the ground?

012622

Witness:

Yes.

Counsel:

The prosecutor stopped you, but there's more to your claim, correct?

Witness:

Yes.

Counsel:

You claim that three different soldiers were kicking you that night, correct?

Witness:

No only two. The third one bring crutches to me and throw it on me.

Counsel:

And you claim another soldier was beating his gun into your chest, correct?

Witness:

Yes, the back of the rifle in this area.

Counsel:

Do you know prisoner [REDACTED]

(5)(6) 4-(7)(9)-4

Witness:

I want his full name.

Counsel:

[REDACTED] Prisoner number [REDACTED]

Witness:

There is a prisoner in the camp who is a Captain named [REDACTED] is that what you mean?

Counsel:

Yes.

Witness:

Yes I know him.

Counsel:

Two days after this happened; you were called in by CID, correct?

Witness:

Yes.

Counsel: And they asked you if you had been beaten.

012623

Witness:  
Yes and I told them no.

Counsel:  
No further questions.

I/O:  
Any other questions? Major [REDACTED] (b)(6) 2 - (7)(C) - 2

### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED]

Counsel:  
Why didn't you tell the CID about this story when they first talked to you?

Witness:  
Because I was sick and I know that this will get a lot of investigation and this will be a long time and I was wishing to go out of this camp.

Counsel:  
Are you telling us the truth tonight, Sir?

Witness:  
Yes. All the truth. And I swear on the Holy Koran.

Counsel:  
Thank you, sir.

### RECROSS-EXAMINATION

Questions by the defense counsel: MAJ [REDACTED] (b)(6)(2) - (7)(C)(2)

Counsel:  
When you gave your statement to CID, you had been cleared to leave Camp Bucca, to be released, correct?

Witness:  
Yes. The interrogator talk to me three times. The last time, he tell me that he does not need anything from me and I will write a report for my boss to release you in the end of June.

Counsel:  
It was after that when he came forward with his story about being hit.

012624

Witness:

It was before this. Like around June twenty, they bring the people of the bus and on that day I tell my story.

Counsel:

And he was told that other American soldiers saw these beatings and all he had to do was give a statement and did not have to stay for the trial, correct?

Witness:

Yes.

Counsel:

Thank you, no further questions.

I/O:

Any further questions?

Defense counsel: No, sir.

I/O:

Major [REDACTED] > (b)(6)2-(7)(c)2  
Major [REDACTED]  
No, sir.

I/O:

Okay, just a couple of things.

**Questions by the Investigating Officer:**

I/O:

Am I to understand that this individual was kicked on the leg while he was on the bus on the ride to Camp Bucca?

Witness:

Yes.

I/O:

And the circumstances for that kick was what, I was not clear on that?

Witness:

The soldier was ordering me to put my leg back, but I cannot because it was injured. That's why he kick me.

I/O:

Was this the larger soldier or the shorter one?

**012625**

Witness:  
The tall one.

I/O:  
The one who had the shotgun, or the large rifle originally?

Witness:  
Yes.

I/O:  
And is it also true that he was hit with the water bottle by the shorter soldier, approximately ten times, is that correct?

Witness:  
Yes.

I/O:  
And am I also to understand that after the bus arrived and he had been taken off the bus, that there was a third soldier who beat him with the butt of a gun, is that correct?

Witness:  
Only the two soldiers beated him, but the third one throw my crutches on me.

I/O:  
So there was no soldier that beat him with a gun?

Witness:  
I don't recognize who is the one that beated me on my chest with the back of the rifle.

I/O:  
But that did happen?

Witness:  
Yes.

I/O:  
Did you provide a description, other than tall and short, of the soldiers who drug him across the ground? Can you provide anymore of a description of the soldiers who drug him across the ground?

Witness:  
The tall one has a green eye and he has a tall face.  
The other one, his face look like Japanese or Philippi no. And the third one is American, but he is short. I don't know the people who dragged me, but I think it's one of those people that was on the bus.

012626

I/O:

Can he positively identify either of those two soldiers today?

Witness:

No because I was sick and I just get out of the hospital at that time.

I/O:

And what was his description of the third soldier who threw the crutches at him?

Witness:

I didn't see him.

I/O:

Was anything said to him when he was initially pushed to the ground?

Witness:

They were saying fucking and fuck you. I didn't understand what they were saying but later I know it was not a good word.

I/O:

Any further questions? Please thank him for his testimony. He'll be escorted back to the holding area.

[The witness was dismissed and withdrew from the room.]

(b)(6) - 4  
(7)(c) - 4  
[REDACTED] U.S. National Guard, was recalled as a witness for the government, was reminded of her previous oath, and testified as follows:

#### DIRECT EXAMINATION

Questions by the defense counsel: MAJ [REDACTED] (b)(6) 2; (7)(c) 2

Counsel:

SPC [REDACTED] you are the same SPC [REDACTED] that testified earlier in this hearing?

Witness:

Yes.

(b)(6) 4 - (7)(c) 4

Counsel:

I want to remind you that you are still under oath from your previous testimony, do you understand?

Witness:

Yes sir.

012627

Counsel: (b)(6)-4, (7)(C)-4

SPC [REDACTED] do you remember the day that the CID came and searched certain areas of the 320<sup>th</sup> Company's living quarters?

Witness:

I remember the day. I don't remember the date.

Counsel:

What were you doing when CID came that day.

Witness:

I was actually in the shower area taking a shower.

Counsel:

Where did you live at that time?

Witness:

1<sup>ST</sup> Platoon's tent, which was on the other side of the living compound.

Counsel:

Where did Sergeant [REDACTED] live? (b)(6)5-(7)(2)5

Witness:

In the same tent.

Counsel:

In relation to where your living area was, where was hers?

Witness:

We were side by side, probably four foot apart.

Counsel:

Now, you say you were at the shower trailer when CID came?

Witness:

At the showers, yes sir.

Counsel:

Did you come back from the showers?

Witness:

Yes. I was on my way back from the showers when I noticed that CID was in the area.

Counsel:

Okay. What did you do?

012628

Witness:

I continued on to my tent. They were...I had to walk passed 4<sup>TH</sup> Platoon's tent to go back to my tent. That's when I noticed CID was there. I didn't think anything of it. I kept on going. PFC [REDACTED] stopped me on the way in because I was going to head in. She said you can't go in there right now. She explained that CID was in there searching.

(b)(6)4 - 7(c)(4)

Counsel:

Okay. At any time during this period, did you see Sergeant [REDACTED]

(b)(6)5 - 7(c)5

Witness:

No, not until after the search had been completed.

Counsel:

Did you see her after the search had been completed?

Witness:

Yes. I went into the tent and she was in there.

Counsel:

What was she doing?

Witness:

Sitting on the floor crying.

Counsel:

Did she say anything?

Witness:

She said that she was really upset that they searched her stuff. She felt like a common criminal. And it wasn't fair.

Counsel:

Did she tell you anything?

Witness:

The exact conversation, I don't remember. She was voicing her concerns about what was going to happen and things like that. Then she started to pick up her stuff and put it back together. At that point in time is when she let me know that I had her journal in my stuff.

Counsel:

Do you remember specifically what she said to you?

Witness:

She told me that she put her journal on my bookshelf so that CID wouldn't get it because was worried about what they might find in it.

012629

Counsel:

All right. Did you give her permission to put her journal in your bookshelf?

Witness:

No.

Counsel:

Did you know that she was going to do that before she did it?

Witness:

No.

Counsel:

What did she do with the journal after CID left?

Witness:

She put it back in with her stuff.

Counsel:

Do you remember what the journal looked like?

Witness:

It was about that big.

Counsel:

About ten inches by...

Witness:

About that wide.

Counsel:

...six inches.

Witness:

Roughly. It was blue. It had line pages on the inside and it had a design on the cover, but I can't remember what the design was.

Counsel:

Okay. Did you ever see her writing in it?

Witness:

Yes.

Counsel:

How often did she write in it?

**012630**

Witness:

Quite frequently, but I can't say every single day.

Counsel:

Since the CID came and searched the tent and she put the journal in your bookshelf, have you seen that journal since then?

Witness:

Yes. I did see it before she moved out of the tent because...we had a table in between our two bunks. It had a little top-shelf to it and it would usually sit in the corner by her bed, on the top shelf.

Counsel:

Besides telling she didn't want CID to see what was in it, did she articulate anything more than that?

Witness:

No.

Counsel:

I don't have any further questions, thank you.

I/O:

Defense?

#### CROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED]

(b)(6)-2; (7)(9)-2

Counsel:

You don't know what CID was searching for on that day?

Witness:

I just know what we were told after they had left, and it was by what others had said.

Counsel:

So you don't know who gave the search authorization, correct?

Witness:

No I don't.

Counsel:

You don't know what the scope of the authorization was, correct?

Witness:

What do you mean by that, sir?

012631

Counsel:  
You don't know what CID was allowed to search for?

Witness:  
No.

Counsel:  
You don't know if they were allowed to look for anything and everything or if they were looking for something very specific?

Witness:  
All I know, sir, is that I was told that they were looking for...this is what I was told afterwards...  
any blood, in relation to clothing, and anything pertinent to the investigation.

Counsel:  
Who told you that?

Witness:  
To be honest with you, I don't know. Rumors fly around that unit. And it's been awhile.

Counsel:  
When you took this journal off your bookshelf, you didn't turn it in to CID, correct?

Witness:  
No, I gave it back to Sergeant [REDACTED] (b)(6)-5, 7(C)-5

Counsel:  
Were you concerned that there were things in that journal that pertained to you that might be incriminating to CID?

Witness:  
What do you mean by that, sir?

Counsel:  
She was one of your roommates, correct?

Witness:  
Correct.

Counsel:  
Were you least bit concerned that anything she had written in her journal would incriminate you in any way, if it was turned into CID?

Witness: Incriminate me in what way, sir? I wasn't under investigation.

012632

Counsel:

(b)(6)-4; 7(c)4  
I'm asking you Specialist [REDACTED], were you concerned that there was anything in her journal that might incriminate you?

Witness:

I still don't understand. In what respect are you asking?

Counsel:

You did not turn in the journal to CID?

Witness:

No I didn't.

Counsel:

(b)(6)-5; 7(c)-5  
When you came in, you said Sergeant [REDACTED] was upset and she was crying?

Witness:

Yes sir.

Counsel:

And you said that she felt that she'd been treated like a common criminal?

Witness:

Yes sir.

Counsel:

You said that she felt like privacy had been invaded?

Witness:

Yes sir.

Counsel:

(b)(6)-5, 7(c)-5  
You knew Sergeant [REDACTED] wrote personal things in her journal, correct?

Witness:

Yes sir.

Counsel:

She wrote things about her relationship with her husband?

Witness:

Yes sir.

Counsel: And she wrote other personal things that were private to her, correct?

012633

Witness:

Yes sir.

Counsel:

And you stated before that you had no idea what CID was allowed to search for, correct?

Witness:

No, that was above my rank.

Counsel:

And you have no idea if they were even authorized to search for documents, correct?

Witness:

It wasn't my concern, sir.

Counsel:

(b)(6)-4; (7)(c)-(4)  
Thank you Specialist [REDACTED]. I have no further questions.

I/O:

Any follow-ups Major [REDACTED]?

#### REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; 7(c)-2

Counsel: (b)(6)-4; (7)(c)-4

Yes sir. Specialist [REDACTED], why didn't you turn the journal over to CID?

Witness:

Sir, I didn't want to get involved in this. It wasn't my problem. I wasn't directly involved in it. It wasn't anything that concerned me and I just didn't want to get involved in it.

Counsel:

Thank you.

#### RECROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; 7(c)-2

Counsel:

(b)(6)-4; 7(c)-4  
I have one follow-up question, sir. You said, Specialist [REDACTED] that you did not want to get involved in this situation, and that's why you didn't turn it in?

Witness: At that point in time, no sir I didn't.

012634

Counsel:

But last night you sought out MAJ [REDACTED] (b)(6) 2 - (7)(c) - 2 and volunteered this information, correct?

Witness:

I asked him about it.

Counsel:

You told him this unsolicited, correct?

Witness:

Yes sir.

Counsel:

Nothing further sir.

I/O:

Anything Major [REDACTED] (b)(6) - 2 ; (7)(c) - 2

Counsel:

No sir, thank you. Actually I do have one more.

#### REDIRECT EXAMINATION

##### Questions by the trial counsel:

Counsel: (b)(6) - 2 ; (7)(c) - 2

Specialist [REDACTED], why did you come and talk to me last night?

Witness:

It's been a very hard time for me the past couple of months dealing with this, knowing that I had information that might help or hinder numerous people in my platoon and in my unit. It's been very hard for me and certain things I've had to just remember and it's been over the course of time. I thought I already mentioned it to you. That's why I sought you out with it.

Counsel:

Thank you, no further questions.

I/O:

Do you have anything, CPT [REDACTED] (b)(6) 2 - (7)(c) - 2

Counsel:

No sir.

##### Questions by the Investigating Officer:

012635

I/O: (b)(6)-2; (7)(E) 2

Specialist [REDACTED], is there anything contained in Sergeant [REDACTED] journal that would be incriminating or implicate you in this investigation?

(b)(6)-5; (7)(E) 5

Witness:

In this investigation? No I wasn't there. I don't have anything to do with it. I know everything that I know from what Sergeant [REDACTED] told me after the fact. After everything has occurred, that's is when I know about it.

I/O:

Are there other personal details in that journal that you would have preferred CID not to have known about?

Witness:

About me?

I/O:

Yes.

Witness:

Sir, if there is, if it needs to come out, it needs to come out. There might be there might not. I don't know what Sergeant [REDACTED] wrote in her journal. I know I've been through a very difficult time since I've come to the unit and been deployed to Iraq. And I've shared a lot of that with Sergeant [REDACTED]. And there have been instances in-country that have been personal in nature regarding me. If she wrote about them that's in there.

(b)(6)-5;  
(7)(E)-5

I/O:

Do you know the whereabouts of this journal now. Do you have any idea?

Witness:

If it's not in with her stuff, sir, I don't know where it would be.

I/O:

Is there anything else with regard to Sergeant [REDACTED] or the incidents in question from May the twelfth that you have knowledge of, that you should tell me with regard to the investigation?

Witness:

I think I've gone over everything sir, that I've mentioned in my sworn statement and that I've mentioned to you so far in this proceeding.

I/O:

Has anyone else, besides Sergeant [REDACTED], approached you with information with regard to this investigation or the incidents of twelve May?

012636

Witness:

No. Not out of anybody that had first hand knowledge. I've been asked questions by several people about what I know. And people have come up with rumors on what's been going on with the investigation, but as to pertinent information on what happened that day. I was given some details, but that was about it. And none of that is in any statement that I've given.

I/O:

(b)(6)(b)(7)(C) - 5

Any of the accused here today, aside from Sergeant [REDACTED] or any other members of the 320<sup>th</sup> who were present that night, have come to you with information or comments, or details with regard to what happened that evening?

Witness:

Meaning the ten that were involved in the escort mission on that day, sir?

I/O:

Yes.

Witness:

No.

I/O:

Any other questions?

Counsel:

No, sir.

I/O:

Thank you. You are dismissed.

[The witness was duly warned, dismissed and withdrew from the room.]

Do we have MAJ [REDACTED] here now?

(b)(6)(b)(7)(C) - 1

Counsel:

No sir we have CID.

I/O:

Okay, let's get started on CID.

012637

SA (b)(6)-1; (7)(C)-1 [REDACTED] U.S. Army, CID, was called as a witness for the government, was sworn and testified as follows:

**DIRECT EXAMINATION**

Questions by the defense counsel: MAJ (b)(6) 2; (7)(C) - 2

Counsel:  
You are (b)(6)-1; (7)(C)-1

Witness:  
Yes I am.

Counsel:  
And you are a Special Agent?

Witness:  
Yes I am.

Counsel:  
With the Criminal Investigation Division?

Witness:  
Yes sir.

Counsel:  
You're the Special Agent in-charge here at Camp Bucca?

Witness:  
Yes I am.

Counsel: (b)(6)-1; (7)(C) - 1  
Special Agent [REDACTED] did you participate in the investigation into the alleged abuse of prisoners on the twelfth of May, on the bus coming from Nasiriyah to Camp Bucca?

Witness:  
Yes I did.

Counsel:  
Did you conduct an interview of Master Sergeant (b)(6)-5; (7)(C) - 5

Witness:  
Yes I did.

012638

Counsel:

And as a result of that interview, did you obtain a sworn statement from her?

Witness:

Yes I did.

Counsel:

(b)(6)-1; (7)(C)-1 I'd like to have this exhibit marked as eight. Special Agent [REDACTED] let me hand you exhibit eight and ask you to take a look at it. Do you recognize that document?

Witness:

Yes I do.

Counsel:

Is that the statement you took from Master Sergeant [REDACTED] (b)(6)-5, 7(C)-5

Witness:

Yes it is.

Counsel:

(b)(6)-1; (7)(C)-1 Subject to any objection, I'd like to offer exhibit eight into evidence at this time. Special Agent [REDACTED] was this your first involvement with anything involving Master Sergeant [REDACTED] (b)(6)-5; 7(C)-5

Witness:

No it wasn't.

Defense Counsel: CPT [REDACTED] (b)(6)-2; (7)(C)-2

Objection. Sir, the prosecution is gonna try to go into things that are completely outside of the scope of this investigation. And that is completely not relevant.

I/O:

How do I know that without hearing the question?

Major [REDACTED] (b)(6)-2; (7)(C)-2

Would you like your legal advisor sir?

I/O:

I guess so. Let's go off the record.

[The I/O met with the legal advisor.]

012639

I/O:

Defense's objection was to a line of questioning by the government regarding incident previous to the investigation at hand. The government will confine their questioning to the investigation's charges and specifications we're dealing with here.

Counsel:

Thank you. I have no further questions.

I/O:

Questions from the defense?

### CROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (S)(b)(1);(7)(C) -2

Counsel:

Thank you sir. Mr. [REDACTED] (b)(6)-1 ; (7)(C) -1 you conducted interviews of some EPWs on fourteen May, correct?

Witness:

That's correct.

Counsel:

When you conducted those interviews, they had already been identified to you as victims that point, correct?

Witness:

The group had. That is correct. They had identified the whole bus load. I was going to do the screening interviews.

Counsel:

Okay. And you interviewed them in segregation, is that correct?

Witness:

Only four of them were in segregation at the time and the rest were in the general compound.

Counsel:

There were two EPWs that you interviewed together, is that correct?

Witness:

I believe so.

012640

Counsel:

And then there were...do you remember who those EPWs were that you interviewed together?

Witness:

There was four in segregation. I don't believe I interviewed them together but they said the same thing. Two were in [REDACTED] and [REDACTED]. I can't remember where the other two were.

Counsel:

And [REDACTED] and [REDACTED] that could be Mr. [REDACTED] and Mr. [REDACTED]

(b)(6)-4; (7)(e) -4 }

Witness:

That's sounds correct I'd have to look at my AIR if you have it available.

Counsel:

And you think that those were the ones that you interviewed together?

Witness:

Those are the ones that I interviewed separately, I'm sure of it.

Counsel:

Do you remember how you directed the conversation towards what it was that you wanted to talk to them about?

Witness:

I just explained who I was, what I was doing, and asked what had occurred the night prior... or actually it would have been two nights prior by that time.

Counsel:

And do you remember asking them if they had been kicked where they'd been kicked, things of that nature?

Witness:

I don't recall asking them specifically, but yes that would have been the line of questioning I used.

Counsel:

You don't recall how much leading you did or how much...how many open ended questions you asked?

Witness:

I don't ask leading questions of course open-ended questions is more what I would use.

012641

Counsel:

And you did tell them that you were there because you believed that they had been assaulted by MPs or that you had heard that they had been assaulted by MPs?

Witness:

That's correct.

Counsel:

Did you take notes at these interviews?

Witness:

I believe I did, yes.

Counsel:

Do you have those notes?

Witness:

Not available.

Counsel:

Are those noted in the CID file?

Witness:

No, they're not.

Counsel:

Of the people that you interviewed that day two of them complained that they were assaulted. Is that correct?

Witness:

That's correct.

Counsel:

One of those people was Mr. [REDACTED] (b)(6) 4 - (7)(c) 4

Witness:

If I could look at my AIR just to confirm the names, I know them by mostly numbers...

**[The witness was given what has been marked as Exhibit 9 to refresh his recollection and to confirm the names of the detainees.]**

Witness: Okay yes the two names are the ones I interviewed.

Counsel:

And Mr. [REDACTED] he is [REDACTED] correct? (b)(6) 4 - (7)(c) - 4

012642