

APR 22 2002

MEMORANDUM FOR Colonel David Burford, United States Army Special Forces Command (Airborne), Fort Bragg, North Carolina 28310

SUBJECT: Appointment as Investigating Officer

1. You are hereby appointed as Investigating Officer pursuant to AR 15-6 to conduct an informal investigation into the allegations that personnel of 5<sup>th</sup> Special Forces Group (Airborne) did knowingly withhold requested documentation and photographic evidence from the Department of Justice in the U.S. v. John Walker Lindh prosecution. As initial guidance, you are directed to investigate the following:

a. When, where, and why the photograph depicting Mr. Lindh bound, and with the word "shithead" written across his blindfold or headband, was taken.

b. When, where, and under who's orders the photograph in question was removed, deleted, or otherwise destroyed by Team [REDACTED] - b(2)-2

c. When, where, and by whom the photograph was next discovered by members of 5<sup>th</sup> Special Forces Group (Airborne).

d. When, where, by whom, and to whom the photograph has been distributed. Distribution includes such modes as email, hardcopy, accessing via a digital camera or computer screen.

e. What training program was in effect prior to or during 5<sup>th</sup> Special Forces Group (Airborne) deployment into Afghanistan as regards status and/or treatment of Prisoners of War and Detainees.

f. What training was actually received by [REDACTED] prior to or during its contact with Mr. Lindh. b2-2

g. What status individual members of [REDACTED] believed Mr. Lindh to have while in their custody. b2-2

h. What rules individual members of [REDACTED] believed to be in operation during their contact with Mr. Lindh. b2-2

013595

40

b2-2  
i. When were individual members of [redacted] interviewed by any member of the Department of Justice or Federal Bureau of Investigation.

b2-2  
j. Were the individual members of [redacted] questioned by DOJ or FBI concerning the existence of photographic evidence of Mr. Lindh.

b2-2  
k. Did the individual members of [redacted] reveal to the DOJ or FBI representatives the existence of the photograph of Mr. Lindh now in question.

l. Was any other member of the 5<sup>th</sup> Special Forces Group (Airborne), identified in your investigation as having knowledge of the photograph of Mr. Lindh now in question, interviewed by DOJ or FBI?

m. Were these members of 5<sup>th</sup> SFG(A) questioned by DOJ or FBI concerning the existence of photographic evidence of Mr. Lindh.

n. Did these members of 5<sup>th</sup> SFG(A) reveal to the DOJ or FBI the existence of the photograph of Mr. Lindh now in question.

o. Were efforts taken by any member of 5<sup>th</sup> SFG(A) to conceal or attempt to conceal the existence of the photograph of Mr. Lindh now in question.

p. What efforts have been taken by the leadership of 5<sup>th</sup> SFG(A) to ensure all documentation and/or photographic evidence of Mr. Lindh is disclosed in accordance with requests from the DOJ or FBI.

2. This list of questions is not all inclusive. Use your best judgment and the evidence you ascertain to guide you concerning other lines of questioning you may require to complete your investigation. In addition, you are directed to obtain a copy of the final report of the AR 15-6 Investigation conducted by MAJ [redacted] regarding the initial allegations of the taking of unauthorized photographs of Mr. Lindh. You may use any portion of this Report you deem appropriate, and need not duplicate MAJ [redacted] efforts if he has already developed information useful to your investigation.

3. You will make findings and recommendation(s) based upon your investigation. You will obtain sworn statements from witnesses; however, if a witness refuses to make a sworn statement, an

013536


41

unsworn statement will suffice. In the event that you come to suspect that a soldier may have committed a criminal offense punishable under the Uniform Code of Military Justice, that person will be advised of his or her rights under Article 31, UCMJ, prior to questioning or obtaining a sworn statement from that witness. Complete DA Form 3881 before interviewing.

4. Your findings and recommendations will be submitted to this headquarters on DA Form 1574 by 22 May 2002. Requests for additional time must be in writing and approved by me.

5. Your legal advisor for this matter will be MAJ [REDACTED] b6-2  
[REDACTED], 432 [REDACTED] Contact her for a preliminary legal briefing before you begin your investigation.

b6-2

  
GEOFFREY C. LAMBERT  
Major General, USA  
Commanding General

013597

42