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**From:** [REDACTED] (OGC)(FBI)  
**Sent:** Monday, January 24, 2005 11:38 AM  
**To:** [REDACTED] (OGC) (FBI)  
**Cc:** [REDACTED] (OGC)(FBI)  
**Subject:** DOJ IG Review of Detainee Issues

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A military defense investigator, Army Staff Sergeant [redacted] called Counterterrorism Division on 12/27/04, asking about FBI emails about detainee abuse. CTD apparently referred this matter to OGC, and I have a copy of an email from [redacted] to Julie Thomas dated 12/28/04, in which [redacted] asks Julie to handle the matter. Julie asked me to do some research on court-martial discovery rules (reflected in 2 of the attachments), and then asked me to call [redacted] (reflected in the other 3 attachments.). since I'd been and am still a Marine JAG.

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The long and short of it was that [redacted] was working for the defense team for Army Specialist [redacted] recently convicted at Ft. Hood, TX. The defense attorneys had asked him to look into FBI emails. I told him to tell them to make a proper discovery request through the trial counsel (prosecutor). I didn't know at the time when the court-martial was to begin, but we now know it began shortly thereafter. No one from the prosecution or defense ever contacted me again about this matter. I assume this discovery issue became for [redacted] defense team an item they didn't have time to pursue, or didn't feel it worthwhile to pursue, in the limited amount of time before trial began.

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Please confirm whether you need from me a paper copy of [REDACTED] 12/28/04 email to Julie Thomas. Perhaps others have already provided it to you.

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Thanks

FIGURE 1

~~SENSITIVE BUT UNCLASSIFIED~~

FBI007357OGC

FB/3102005#10

FBI-0000061

ACLU-RDI p.1

DOJOIG 006287

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 07-02-2009 BY 65179 DMH/MJS

[redacted] (OGC)(FBI)

From: [redacted] (OGC) (FBI)  
Sent: Monday, January 10, 2005 11:32 AM  
To: [redacted] (OGC)(FBI)  
Subject: RE: Specialis [redacted]

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~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

Ok.

-----Original Message-----

From: [redacted] (OGC)(FBI)  
Sent: Monday, January 10, 2005 8:57 AM  
To: THOMAS, JULIE F. (OGC) (FBI)  
Subject: Specialist [redacted]

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~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

Julie,

This [redacted] court-martial began on Friday w/ voir dire and empanelling members. I assume opening statements are today. If we haven't heard anything more from the trial or defense counsel about producing e-mails by now, I suspect we won't be hearing from them at all.

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[redacted]

-----Original Message-----

From: [redacted] (OGC)(FBI)  
Sent: Tuesday, December 28, 2004 3:32 PM  
To: THOMAS, JULIE F. (OGC) (FBI)  
Subject: Investigator [redacted]

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~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

Julie,

I spoke w/ Inv [redacted] at [redacted] (the email you gave me had two digits transposed) after first calling [redacted] to check on his identity. That second number turned out to be the 221st MP Co., US Army, at Ft. Eustis, VA. The investigator who answered there identified [redacted] as an active duty Staff Sergeant, and possibly one who'd been selected for promotion to Sergeant First Class, and said that [redacted] duties allowed him to travel to Iraq and elsewhere as he saw fit to interview witnesses.

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[redacted] stated that he'd been appointed to work on the defense team for Specialist [redacted] one of the Abu Ghraib prison guards facing trial who's been in the news. The military defense counsel, Captain [redacted] and civilian defense counsel [redacted] had apparently encouraged him to call the FBI asking about emails. I recognized [redacted] name from the news and the Marine Corps legal community. I believe he's a retired or Reserve Marine, and among the small cottage industry of regular civilian defense counsels in high profile courts-martial.

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FBI-0000062

[ ] acknowledge [ ]'s inexperience in court-martial procedure. [ ] said this was only the second or third time he was aware of that an Army accused had been appointed a defense investigator (I doubt that - but it definitely sounds like [ ] first time). I explained my OGC position to him, and that I myself had been both a trial counsel and defense counsel in the Marine Corps. I told him I couldn't comment on whether the FBI had any emails or documents responsive to his phone call of yesterday to CTD, and that while the FBI "didn't have a dog in the fight" in [ ] court-martial, we would insist that his defense team follow proper procedures to request documents. Therefore, he needed to tell his defense counsel bosses to make a formal written discovery request to the trial counsel handling the case. He understood that, and said it was his impression that the FBI was only interested in justice.

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He asked whether his defense counsel could call me, and I said of course they could, but I'd only tell them the same thing - to make a formal request through the trial counsel. Someone had already given him Valerie Caproni's name as the GC, and as the person to write to to request documents, but I reminded him again not to write her directly, but to go through the TC.

FYI: the general court-martial is now being held at Ft. Hood, TX, as [ ] command has rotated home, and the CG of III Corps, LTG [ ] is the convening authority.

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[ ]

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DATE 07-02-2009 BY 65179 DMH/MJS

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[REDACTED] (OGC)(FBI)

From: [REDACTED] (OGC)(FBI)  
Sent: Monday, January 10, 2005 8:57 AM  
To: THOMAS, JULIE F. (OGC) (FBI)  
Subject: Specialist [REDACTED]

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~~NON-RECORD~~

Julie,

This [REDACTED] court-martial began on Friday w/ voir dire and empanelling members. I assume opening statements are today. If we haven't heard anything more from the trial or defense counsel about producing e-mails by now, I suspect we won't be hearing from them at all.

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[REDACTED]

-----Original Message-----

From: [REDACTED] (OGC)(FBI)  
Sent: Tuesday, December 28, 2004 3:32 PM  
To: THOMAS, JULIE F. (OGC) (FBI)  
Subject: Investigator [REDACTED]

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Julie,

I spoke w/ Inv. [REDACTED] at [REDACTED] (the email you gave me had two digits transposed) after first calling [REDACTED] to check on his identity. That second number turned out to be the 221st MP Co., US Army, at Ft. Eustis, VA. The investigator who answered there identified [REDACTED] as an active duty Staff Sergeant, and possibly one who'd been selected for promotion to Sergeant First Class, and said that [REDACTED] duties allowed him to travel to Iraq and elsewhere as he saw fit to interview witnesses.

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[REDACTED] stated that he'd been appointed to work on the defense team for Specialist [REDACTED] one of the Abu Ghraib prison guards facing trial who's been in the news. The military defense counsel, Captain [REDACTED] and civilian defense counsel, [REDACTED] had apparently encouraged him to call the FBI asking about emails. I recognized [REDACTED] name from the news and the Marine Corps legal community. I believe he's a retired or Reserve Marine, and among the small cottage industry of regular civilian defense counsels in high profile courts-martial.

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[REDACTED] acknowledged his inexperience in court-martial procedure, and said this was only the second or third time he was aware of that an Army accused had been appointed a defense investigator (I doubt that - but it definitely sounds like [REDACTED] first time). I explained my OGC position to him, and that I myself had been both a trial counsel and defense counsel in the Marine Corps. I told him I couldn't comment on whether the FBI had any emails or documents responsive to his phone call of yesterday to CTD, and that while the FBI "didn't have a dog in the fight" in [REDACTED] court-martial, we would insist that his defense team follow proper procedures to request documents. Therefore, he needed to tell his defense counsel bosses to make a formal written discovery request to the trial counsel handling the case. He understood that, and said it was his impression that the FBI was only interested in justice.

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He asked whether his defense counsel could call me, and I said of course they could, but I'd only tell them the same thing - to make a formal request through the trial counsel. Someone had already given him Valerie Caproni's name as the GC, and as the person to write to to request documents, but I reminded him

FBI-0000064

1/11/2005  
FBI OPLU#10

FBI007360OGC

ACLU-RDI p.4

DOJOIG-006290

again not to write her direct but to go through the TC.

FYI: the general court-martial is now being held at Ft. Hood, TX, as [redacted] command has rotated home, and the CG of III Corps, LTC [redacted] is the convening authority.

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[redacted]

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ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 07-02-2009 BY 65179 DMH/MJS

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[redacted] (OGC)(FBI)

From: [redacted] (OGC)(FBI)

Sent: Tuesday, December 28, 2004 3:32 PM

To: THOMAS, JULIE F. (OGC) (FBI)

Subject: Investigator [redacted]

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NON-RECORD

Julie,

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[redacted]

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FBI/DOJ #10

ACLU-RDI p.6

DOJOIG 006292

FBI-0000066

Message

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FBI007366OGC

FBI-0000070

FBI CIU#10  
ACLU-RDI p.7

DOJOIG 006293

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 07-02-2009 BY 65179 DMH/MJS

THOMAS, JULIE F. (OGC) (FBI)

From: [REDACTED] (OGC) (FBI)  
Sent: Tuesday, December 28, 2004 8:36 AM  
To: THOMAS, JULIE F. (OGC) (FBI); Caproni, Valerie E. (OGC) (FBI)  
Subject: FW: Call re: defense for detainees MP

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Julie: please review and take what ever action you believe appropriate. Thanks.

-----Original Message-----

From: [REDACTED] (CTD) (FBI)  
Sent: Monday, December 27, 2004 2:51 PM  
To: [REDACTED] (OGC) (FBI)  
Subject: FW: Call re: defense for detainees MP

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-----Original Message-----

From: [REDACTED] (CTD) (FBI)  
Sent: Monday, December 27, 2004 2:50 PM  
To: Caproni, Valerie E. (OGC) (FBI)  
Subject: FW: Call re: defense for detainees MP

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I just learned that Spike is out on leave so am forwarding the following information:

-----Original Message-----

From: [REDACTED] (CTD) (FBI)  
Sent: Monday, December 27, 2004 2:47 PM  
To: BOWMAN, MARION E. (OGC) (FBI)  
Cc: HARRINGTON, T J. (CTD) (FBI)  
Subject: Call re: defense for detainees MP

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NON-RECORD

Spike, we got a call today at CTD (had Gary Bald's name) from DoD Investigator [REDACTED] who said he is on the defense team for an MP prison guard. He asked about "FBI emails" regarding detainees in Iraq, wanting to know the contents of the emails. I of course would not comment and said that Mr Bald was not available and took his information so that someone could call him back. [REDACTED] told me is at home on leave and can be reached there. DAD Harrington suggested I pass this-info on to you to handle as appropriate.

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Investigator [REDACTED] home phone: [REDACTED]

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[REDACTED] said his creds can be verified by calling [REDACTED]

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FBI007367OGC

FBI12/28/0410

FBI-0000071



Message

Thanks...



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FBI007368OGC