

FOIA_06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-41

From: (b)(3), (b)(6) LTC MNC-I SJA Chief Military Justice
Sent: Tuesday, July 25, 2006 3:08 PM
To: (b)(3), (b)(6) LTC MNC-I SJA TDS Regional Defense Counsel
Cc: (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Subject: RE: [U] (b)(3), (b)(6) Case

Categories: ~~FOR OFFICIAL USE ONLY, FOR OFFICIAL USE ONLY, FOR OFFICIAL USE ONLY, FOR OFFICIAL USE ONLY, FOR OFFICIAL USE ONLY, UNCLASSIFIED, FOR OFFICIAL USE ONLY~~
Attachments: RE U 15-6.msg
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

(b)(3), (b)(6) as outlined in my 20 July 2006 response to you (attached), COL (b)(3), (b)(6) request for an unclassified version of the 15-6 cannot be approved by my office. COL (b)(3), (b)(6) FOIA request, dated 17 July 2006, has been forwarded to CENTCOM. The due date for response to the GOMOR remains 1 August 2006. This is a GOMOR, not a court-martial. As such, administrative due process rules apply. COL (b)(3), (b)(6) is not entitled to the assistance of counsel, although soldiers routinely do seek legal advice when preparing GOMOR rebuttals. In this case COL (b)(3), (b)(6) has the assistance of a very capable attorney, the RDC, who along with COL (b)(3), (b)(6) has the clearance to review the entire report. V/r (b)(3), (b)(6)

LTC (b)(3), (b)(6)
Chief of Military Justice
Multi-National Corps-Iraq
VOIP (b)(6)

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From: (b)(3), (b)(6) LTC MNC-I SJA TDS Regional Defense Counsel
Sent: Sunday, July 23, 2006 1:26 PM
To: (b)(3), (b)(6) LTC MNC-I SJA Chief Military Justice
Cc: (b)(3), (b)(6) @us.army.mil
Subject: (b)(3), (b)(6) Case

LTC (b)(3), (b)(6)

Colonel (b)(3), (b)(6) through counsel, requests an immediate declassification of the AR 15-6 and the Criminal Investigation Division Investigations that served as the basis for his memorandum of reprimand.

Immediate declassification is required for COL (b)(3), (b)(6) to adequately prepare his rebuttal that may be filed in his Official Military Personnel File along with the memorandum. Failure to declassify the investigation will result in a diluted rebuttal that will negatively impact his due process rights.

Respectfully request a response within 48 hours.

v/r

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

FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-42
From: [redacted] LTC MNC-I SJA TDS Regional Defense Counsel
Sent: Wednesday, August 02, 2006 10:08 PM
To: [redacted] COL MNC-I SJA Staff Judge Advocate
Subject: [redacted]

Categories: ~~FOR OFFICIAL USE ONLY, FOR OFFICIAL USE ONLY, UNCLASSIFIED, FOR OFFICIAL USE ONLY~~

Ma'am,

Reliable sources tell me that the "leak" is coming from Corps.

Hope the conference went well. I'm bummed that I couldn't make it.

v/r

[redacted]

FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-43

From: [redacted] (b)(3), (b)(6) LTC MNC-I SJA Chief of Operations
Sent: Saturday, July 15, 2006 2:58 PM
To: [redacted] (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Subject: [U] 101 slides

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~
Attachments: CG Brief to 101st.ppt
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

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From: (b)(3), (b)(6) MAJ MNC-I CG Initiatives
Sent: Friday, July 28, 2006 8:33 AM
To: (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate; (b)(3), (b)(6) LTC
MNC-I V CORPS PAO
Subject: [U] 3/101 case

Importance: High

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

COL (b)(3), (b)(6) LTC (b)(3), (b)(6)

Did you see this article about the 3/101 case today and know this level of detail was in the public domain? Do you think the Boss needs to be informed? I bolded a couple of points that seem to stand out.

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

July 28, 2006

Sergeant Tells of Plot to Kill Iraqi Detainees
By ROBERT F. WORTH

For more than a month after the killings, Sgt. (b)(3), (b)(6) stuck to his story.

"Proper escalation of force was used," he told an investigator, describing how members of his unit shot and killed three Iraqi prisoners who had lashed out at their captors and tried to escape after a raid northwest of Baghdad on May 9.

Then, on June 15, Sergeant (b)(3), (b)(6) offered a new and much darker account.

In a lengthy sworn statement, he said he had witnessed a deliberate plot by his fellow soldiers to kill the three handcuffed Iraqis and a cover-up in which one soldier cut another to bolster their story. The squad leader threatened to kill anyone who talked. Later, one guilt-stricken soldier complained of nightmares and "couldn't stop talking" about what happened, Sergeant (b)(3), (b)(6) said.

As with similar cases being investigated in Iraq, Sergeant (b)(3), (b)(6) narrative has raised questions about the rules under which American troops operate and the possible culpability of commanders. Four soldiers have been charged with premeditated murder in the case. Lawyers for two of them, who dispute Sergeant (b)(3), (b)(6) account, say the soldiers were given an order by a decorated colonel on the day in question to "kill all military-age men" they encountered.

Many questions remain about the case, which is scheduled for an Article 32 hearing on Tuesday in Iraq. But whatever the truth about that day, Sergeant (b)(3), (b)(6) sworn statement - which was obtained by The New York Times - provides an extraordinary window into the pressures American soldiers face in Iraq, where wartime chaos and the imperative of loyalty often complicate questions of right and wrong.

when investigators asked why he did not try to stop the other soldiers from carrying out the killings, Sergeant (b)(3), (b)(6) who has not been charged in the case – said simply that he was afraid of being called a coward. He stayed quiet, he said, because of “peer pressure, and I have to be loyal to the squad.”

The mission that led to the killings started at dawn on May 9, when soldiers with the Third Brigade Combat Team of the 101st Airborne Division landed in a remote area near a former chemical plant not far from Samarra, according to legal documents and lawyers for the accused soldiers. It was the site of a suspected insurgent training camp and was considered extremely dangerous.

Just before leaving, the soldiers had been given an order to “kill all military-age men” at the site by a colonel and a captain, said Paul Bergrin and Michael Waddington, the lawyers who are disputing Sergeant (b)(3), (b)(6) account. Military officials in Baghdad have declined to comment on whether such an order, which would have been a violation of the law of war, might have been given.

The colonel, (b)(3), (b)(6) is the brigade commander. He led the 1993 mission in Somalia made famous by the book and movie “Black Hawk Down.”

The two lawyers say Colonel (b)(3), (b)(6) has indicated that he will not testify at the Article 32 hearing – the military equivalent of a grand jury hearing – or answer any questions about the case. Calls and e-mail messages to a civilian lawyer said to be representing Colonel (b)(3), (b)(6) were not returned.

It is very rare for any commanding officer to refuse to testify at any stage of a court-martial proceeding, said Gary D. Solis, a former military judge and prosecutor who teaches the law of war at Georgetown University.

During the raid, the soldiers discovered three Iraqi men hiding in a house, who were using women and children to shield themselves, Sergeant (b)(3), (b)(6) said in his statement. The soldiers separated out the men, blindfolded them and bound their hands with plastic “zip ties,” restraints that are not as strong as the plastic flex cuffs often used in Iraq.

Then, Sergeant (b)(3), (b)(6) told investigators, his squad leader, Staff Sgt. (b)(3), (b)(6) (b)(3), (b)(6) was told by another sergeant over the radio, “The detainees should have been killed.”

The man accused of making that remark, First Sgt. (b)(3), (b)(6) has denied it. In his own sworn statement, he told an investigator that during the radio call, “I was wondering why they did not kill the enemy during contact.” But he added, “At no point did I ever try to put any idea into those soldiers’ heads to execute or do any harm to the detainees.”

Sergeant (b)(3), (b)(6) gave investigators the following account of what happened next: About 10 minutes later, the squad leader gathered Sergeant (b)(3), (b)(6) and three other soldiers in a house nearby, telling them to “bring it in close” so he could talk quietly to them. Sergeant (b)(3), (b)(6) spoke in a “low-toned voice” and “talked with his hands,” making clear he was going to kill the three Iraqis.

“I didn’t like the idea, so I walked toward the door,” Sergeant (b)(3), (b)(6) said in his statement. “He looked around at everyone and asked if anyone else had an issue or a problem.” No one spoke.

Soon afterward, Sergeant (b)(3), (b)(6) recounted, he was standing near the landing zone when he heard shouts and bursts of gunfire. He saw the detainees running and then falling to the ground. He walked back to the scene and asked Sergeant (b)(3), (b)(6) what happened.

“But he couldn’t answer,” Sergeant (b)(3), (b)(6) said. “He just looked at the bodies and had this frozen look on his face. I asked him where my guys were, and he stuttered that they were in the building,” getting first aid.

Sergeant (b)(3), (b)(6) has been charged with premeditated murder, a capital offense, as have three other soldiers: Specialist (b)(3), (b)(6), Pfc. (b)(3), (b)(6) and Specialist (b)(3), (b)(6). Private (b)(3), (b)(6) are accused of actually shooting the prisoners.

Mr. Bergrin, the lawyer who represents Private (b)(3), (b)(6) and Mr. Waddington, who represents Specialist (b)(3), (b)(6) dispute Sergeant (b)(3), (b)(6) account. They say the prisoners broke free as two soldiers were fixing the zip ties, which were coming loose. They say the prisoners stabbed Specialist (b)(3), (b)(6) and punched Private (b)(3), (b)(6) before trying to flee.

But in his statement, Sergeant (b)(3), (b)(6) said he heard from the accused soldiers that it was Sergeant (b)(3), (b)(6) who cut Specialist (b)(3), (b)(6) in an effort to make the stabbing story sound plausible. He believed it, Sergeant (b)(3), (b)(6) said, because "they both have Ranger school backgrounds and they are pretty close friends," and he added, "They would always talk about the French Foreign Legion and renegade mercenaries running around from country to country."

Three days later, Private (b)(3), (b)(6) "told me he couldn't stop thinking about it," Sergeant (b)(3), (b)(6) recalled. The private asked how Sergeant (b)(3), (b)(6) had responded to seeing dead bodies and shooting the enemy during his time in Iraq.

"I told him it was all right that he felt like that," Sergeant (b)(3), (b)(6) said. "He was really stressed because when he slept the few hours he did, he dreamed about it over and over."

Two initial investigations of the killings by commanders found no wrongdoing. It is not clear who eventually came forward to tell commanders that there was another version of what happened on May 9.

At one point, Sergeant (b)(3), (b)(6) said in his statement, Sergeant (b)(3), (b)(6) gathered the men who had been present before the killing and told them "to be loyal and not to go bragging or spreading rumors" about what had happened. Sergeant (b)(3), (b)(6) added that "if he found out who told anything about it he would find that person after he got out of jail and kill him or her."

Sergeant (b)(3), (b)(6) said he laughed off the threat at the time. But there may have been other threats. In addition to murder, the four accused soldiers are charged with threatening to kill Pfc. (b)(3), (b)(6), one of the men in the squad, if he told what he knew about the shootings.

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FOIA_06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-45

From: (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Sent: Sunday, September 03, 2006 11:17 AM
To: Campbell Donald BG MNC-I Chief of Staff; Chiarelli Peter W LTG MNC-I CG
Cc: (b)(3), (b)(6) COL MNC-I Deputy Chief of Staff; (b)(3), (b)(6) LTC MNC-I V
CORPS PAO; (b)(3), (b)(6) COL MNF-I SJA Staff Judge Advocate; (b)(3), (b)(6) LTC MNC-I
SJA Deputy Staff Judge Advocate; (b)(3), (b)(6) LTC MNC-I OSJA Chief of
Justice; (b)(3), (b)(6) CPT MNF-I SJA International Law Attorney; (b)(3), (b)(6) MAJ
MNC-I SJA Chief Operational Law
Subject: [U] Article 32 -- OIT detainee murders CLOSE HOLD

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

Sir, all: the Article 32 investigation into the detainee murders at Thar Thar canal is complete. The IO has recommended capital referral. EXSUM and more details to follow today. v/r, (b)(3), (b)(6)

All: pls keep this close hold until we have the 32 report.

COL (b)(3), (b)(6)
MNC-I Staff Judge Advocate
DSN: (b)(6)
VOIP: (b)(6)
NIPR: (b)(3), (b)(6)@iraq.centcom.mil
SIPR: (b)(3), (b)(6)@iraq.centcom.smil.mil

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FOIA_06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-46

From: (b)(3), (b)(6) MAJ MNC-I CG Initiatives

Sent: Saturday, July 22, 2006 7:01 AM

To: Chiarelli Peter W LTG MNC-I CG

Cc: (b)(3), (b)(6) Col MNC-I CG XO; (b)(3), (b)(6) CPT MNC-I CG AIDE DE CAMP; (b)(3), (b)(6)

(b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate; (b)(3), (b)(6) MAJ MNC-I V CORPS PAO

DEPUTY

Subject: [U] Articles of Interest

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~

Classification Caveat: ~~FOR OFFICIAL USE ONLY~~

Classification Classification: UNCLASSIFIED

Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

Sir,

I just saw this reported for the first time this morning. Also, below, the NYT reports GEN Abizaid discussing the reinforcement of Baghdad.

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

Accused troops: We were under orders to kill

soldiers say officers commanded them to 'kill all military age males' in Iraq

The Associated Press

Updated: 4:56 p.m. ET July 21, 2006

EL PASO, Texas - Four U.S. soldiers accused of murdering suspected insurgents during a raid in Iraq said they were under orders to "kill all military age males," according to sworn statements obtained by The Associated Press.

The soldiers first took some of the men into custody because they were using two women and a toddler as human shields. They shot three of the men after the women and child were safe and say the men attacked them.

"The ROE (rule of engagement) was to kill all military age males on Objective Murray," Staff Sgt. (b)(3), (b)(6) told investigators, referring to the target by its code name.

That target, an island on a canal in the northern Salhuddin province, was believed to be an al-Qaida training camp. The soldiers said officers in their chain of command gave them the order and explained that special forces had tried before to target the island and had come under fire from insurgents.

(b)(3), (b)(6), Spc. (b)(3), (b)(6), Pfc. (b)(3), (b)(6), and Spc. (b)(3), (b)(6) are charged with murder and other offenses in the shooting deaths of three of the men during the May 9 raid.

(b)(3), (b)(6) are also charged with obstruction of justice for allegedly threatening to kill another soldier if he told authorities what happened.

'They did it admirably'
In sworn statements obtained this week by the AP, [redacted] (b)(3), (b)(6) and a witness, Sgt. [redacted] (b)(3), (b)(6) told Army investigators they were ordered to attack an island in northern Salahuddin province on May 9 and kill anti-Iraqi fighters with ties to al-Qaida.

All four soldiers charged are members of the Fort Campbell, Ky.-based 3rd Battalion, 187th Infantry Regiment, 101st Airborne Division. They have been jailed in Kuwait since their June arrests. Their first hearing is Aug. 1 near Tikrit, Iraq.

Michael Waddington, [redacted] (b)(3), (b)(6) civilian lawyer, said his client followed orders and killed the detainees in self-defense after he and [redacted] (b)(3), (b)(6) were attacked.

"They did (their job) honorably, they did it admirably," said Paul Bergrin, [redacted] (b)(3), (b)(6) civilian attorney. "If they did want to kill these men, they could have and been within the rules of engagement."

Officers from their unit initially cleared the soldiers of wrongdoing. Charges were filed when witnesses changed their testimony after repeated interviews with Army investigators, Bergrin said.

Military declines to comment
Reached by e-mail in Iraq, [redacted] (b)(3), (b)(6) Army lawyer, Capt. [redacted] (b)(3), (b)(6) declined to comment because the investigation was continuing.

An Army prosecutor, also deployed to Iraq, did not respond to an e-mail request for comment.

Army spokesman [redacted] (b)(6) asked that a request for comment be e-mailed to him in Virginia. He did not immediately respond.

Military officials have released few details of the case.

But statements from [redacted] (b)(3), (b)(6) describe a tense early morning scene, with soldiers immediately opening fire on buildings.

[redacted] (b)(3), (b)(6) told investigators he expected he and his comrades would immediately be attacked when they landed on the island. Intelligence officials had warned that at least 20 al-Qaida operatives were hiding there.

But it was only once the men moved to the northern half of the island that they found anyone, [redacted] (b)(3), (b)(6) said. He said he and others shot and killed a man they spied in a window in one building and then rushed into a house where they found three other men hiding behind two women.

A fifth man, holding a 2-year-old girl in front of him, later came out of another building, [redacted] (b)(3), (b)(6) told investigators.

'struck on the face'
[redacted] (b)(3), (b)(6) said the four surviving men were not immediately killed because of the human shields. Once the women and child were moved to safety, he told investigators, the men did not appear to pose a threat and the soldiers took them into custody.

But [redacted] (b)(3), (b)(6) said three of the men then attacked him and [redacted] (b)(3), (b)(6) as the soldiers were trying to bind the men's hands with heavy-duty plastic ties.

"I had felt this action necessary for they had tried to use deadly force on me and my comrade," [redacted] (b)(3), (b)(6) wrote about the shooting.

[redacted] (b)(3), (b)(6) told investigators he was stabbed. [redacted] (b)(3), (b)(6) said he was "struck on the face with a fist or something."

(b)(3), (b)(6) who only saw the men fall to the ground, told investigators he thought the killings were justified.

"Proper escalation of force was used when the detainee became hostile and armed himself with a weapon and wounded one soldier and struck another," (b)(3), (b)(6) said. "Our actions ... were in accordance to the ROE (rule of engagement) briefed to us prior to our mission and moments before our air assault was conducted."

'Telling the truth'

(b)(3), (b)(6) said he did not see the shooting either but was immediately told what happened.

"I think they are telling the truth," (b)(3), (b)(6) statement said. "If it would have happened another way they would have told me and the story has been the same the whole time."

(b)(3), (b)(6) and (b)(3), (b)(6) also told investigators they found AK-47 assault rifles, ammunition and gun parts after the men were killed.

Bergrin said the weapons and other evidence not mentioned in the statements were proof that the Iraqi men were a threat.

Several other service members face similar charges in unrelated cases involving the deaths of civilians in Iraq.

According to the Uniform Code of Military Justice, the maximum penalty for murder is death, but it was unclear if the government will seek the death penalty in any of the pending cases.

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July 22, 2006

More Troops to Be Deployed in Baghdad, General Says
By MICHAEL R. GORDON

CAMP FALLUJA, Iraq, July 21 - The top American commander for the Middle East said Friday that the escalating sectarian violence in Baghdad had become a greater worry than the insurgency and that plans were being drawn up to move additional forces to the Iraqi capital.

"The situation with sectarian violence in Baghdad is very serious," Gen. John P. Abizaid of the Army, the head of the United States Central Command, said in an interview on Friday. "The country can deal with the insurgency better than it can with the sectarian violence, and it needs to move decisively against the sectarian violence now."

The new Iraqi government announced last month that it was stepping up security efforts in Baghdad. The killing of Abu Musab al-Zarqawi, the Jordanian militant who led Al Qaeda in Mesopotamia, also prompted hopes that the tide of violence might subside.

But an intensifying cycle of sectarian attacks and revenge killings by Sunni and Shiite groups have engulfed the city. Many residents have been fleeing the capital.

Two months after the new Iraq government took office, the security gains that "we had hoped for have not been achieved," General Abizaid acknowledged.

General Abizaid flew to Camp Falluja to meet with Marine commanders who oversee the vast Sunni-dominated Anbar region in western Iraq. The region is one of the most violent in the country. Insurgents' attacks here seem to be as numerous as ever. But the prospect that sectarian strife could set off a broader civil war that would overwhelm Iraq's capital has been a greater worry for top American commanders.

Gen. George W. Casey Jr., the senior American commander in Iraq, had been meeting with Iraq's defense minister, Abdel Kader Jassem al-Obeidi, to hammer out a plan to improve security. The plan includes more troops in the Baghdad area, Iraqi as well as American.

"There is a very serious effort to make sure that it is not just weighted with additional U.S. capability, but also additional Iraqi capability," General Abizaid said. "Clearly, it will require that we move whatever combat power that the commanders on the ground there think is appropriate, whether Iraqi or American. And I think it will be a combination of both."

The shifting of additional forces to the Baghdad area is expected to come at the expense of troop levels in other parts of the country. It is not yet clear whether the increased violence will prompt American commanders to modify their longer-term plans for troop reductions.

General Casey developed a plan that called for cutting the number of American combat brigades in Iraq to 12, from the current level of 14, by September. He also envisioned potentially shrinking the number of combat brigades to 10 this year. But that plan hinged on progress in the security situation.

Not all the steps to improve security are military. General Abizaid said that political steps were also needed, including a plan for national reconciliation, the disarming of militias and reform of the police.

"Definitely one of the things that is not going well is the national police and police reform, and it needs to be carefully looked at," he said. "You can't allow sectarian politics to influence the ministries."

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FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-47

From: (b)(3), (b)(6) LTC MNC-I SJA Chief Military Justice
Sent: Thursday, July 06, 2006 9:55 AM
To: (b)(3), (b)(6) LTC MNC-I SJA Chief of Operations
Cc: (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate; (b)(6)
Subject: [U] C 3-187 IN

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~
Attachments: (b)(3), (b)(6) -statement2-0086-06.PDF; Ram-Hart.doc
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
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(b)(3), (b)(6) these statements shed some light, too. The 1SG talks about the radio call, "why are they still alive?" v/r, (b)(3), (b)(5)

LTC (b)(3), (b)(6)

Chief of Military Justice

Multi-National Corps-Iraq

VOIP (b)(6)

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FOIA_06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-48

From: (b)(3), (b)(6) CW3 MNC-I SJA Legal Administrator
Sent: Tuesday, July 11, 2006 9:44 PM
To: (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Subject: [U] CID Stmt

Categories: UNCLASSIFIED
Attachments: CID_Stmt.pdf
Classification Classification: UNCLASSIFIED

Classification: UNCLASSIFIED

COL (b)(3), (b)(6)

You now have the statement on NIPR and SIPR.

V/R

CW3 (b)(3), (b)(6)
Legal Administrator
MNC-I OSJA
DSN: (b)(6)
NIPR: (b)(6)@iraq.centcom.mil
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Classification: UNCLASSIFIED

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FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-49

From: (b)(3), (b)(6) LTC MNC-I SJA TDS Regional Defense Counsel
Sent: Tuesday, July 18, 2006 3:23 PM
To: (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Subject: [U] command tour

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~
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Ma'am:

p.s. Please let me know when you'll have a few minutes to take me on the command introduction tour. I can set things up on my own if you're too busy.

As always, thanks!

V/R

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

LTC (b)(3), (b)(6)
USA Trial Defense Service
Camp Victory, Baghdad, Iraq
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(b)(6)@us.army.mil

Defending Those who Defend America!

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Page 1

FOIA_06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-49

Directive 5230.9, "Clearance of DoD Information for Public Release", and DoD Instruction 5230.29, "Security and Policy Review of DoD Information for Public Release" apply.

FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-50
From: [redacted] (b)(3), (b)(6) LTC MNC-I OSJA Chief of Justice
Sent: Thursday, August 03, 2006 9:52 PM
To: [redacted] (b)(3), (b)(6) COL MNF-I SJA Staff Judge Advocate
Cc: [redacted] (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Subject: [U] FOIA Request

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~
Attachments: CENTCOM packet.pdf
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification Classification: UNCLASSIFIED

Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

Sir:

Attached is the FOIA packet sent to CENTCOM.

Also, LTG Chiarelli approved COL [redacted] (b)(3), (b)(6) request for an extension to submit matters. Deadline is now 8 August.

vr
[redacted] (b)(3), (b)(6)

The message is ready to be sent with the following file or link attachments:
CENTCOM packet

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FOIA 06-268 05.1-Responsive_Docs-EMAIL-UNREDACTED-51

From: [redacted] (b)(3), (b)(6) LTC MNC-I V CORPS PAO
Sent: Monday, July 31, 2006 9:35 AM
To: [redacted] (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Subject: [U] FW: ABC News Article

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~
Attachments: ABC News Soldier in Iraq Alleges Ongoing Competition for Kill Rates.doc; Card for [redacted] (b)(6)@us.army.mil>
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification Classification: UNCLASSIFIED

Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

Ma'am,

FYI.

v/r.

[redacted] (b)(3), (b)(6)

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

From: [redacted] (b)(6)@us.army.mil [mailto:[redacted] (b)(6)@us.army.mil]
Sent: Monday, July 31, 2006 8:28 AM
To: [redacted] (b)(6)@us.army.mil; [redacted] (b)(6)@us.army.mil;
[redacted] (b)(6)@us.army.mil
Subject: ABC News Article

This interview is supposed to air on Nightline late Monday night in the U.S.

MAJ [redacted] (b)(6), (b)(3)
Public Affairs Plans Officer
101st Airborne Division (Air Assault)

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FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-52
From: [redacted] (b)(3), (b)(6) LTC MNC-I V CORPS PAO
Sent: Thursday, August 03, 2006 1:59 PM
To: [redacted] (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Subject: [U] FW: ABC News report

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~
Attachments: Statement on COL (b)(3), (b)(6) Final.doc
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

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From: [redacted] (b)(3), (b)(6) @us.army.mil [mailto:[redacted] (b)(6) @us.army.mil]
Sent: Wednesday, August 02, 2006 7:43 PM
To: [redacted] (b)(6), (b)(3) LTC MNC-I V CORPS PAO
Cc: [redacted] (b)(3), (b)(6) MAJ MNC-I V CORPS PAO DEPUTY; [redacted] (b)(6) @us.army.mil; [redacted] (b)(6), (b)(3) CPIC
[redacted] (b)(6) @us.army.mil; [redacted] (b)(6) @us.army.mil; [redacted] (b)(6), (b)(3) DIRECTOR; [redacted] (b)(6)
Subject: ABC News report

Ma'am,

Attached is a statement with the approval of our command group for release by MNC-I. We ask that you format and release this statement as a Corps product.

v/r,

Major [redacted] (b)(3), (b)(6)
Deputy Public Affairs Officer
101st Airborne Division (Air Assault)
FOB Speicher(Tikrit, Iraq)
DSN [redacted]
VOIP [redacted] (b)(6)

The printing press is the greatest weapon in the armoury of the modern commander...
[redacted] (b)(3), (b)(6)

FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-53

From: (b)(6), (b)(3) LTC MNC-I 10TH MP BN Commander
Sent: Sunday, July 09, 2006 7:55 PM
To: Campbell Donald BG MNC-I Chief of Staff
Cc: (b)(3), (b)(6) COL MNC-I Provost Marshal; (b)(3), (b)(6) COL MNC-I SJA
Staff Judge Advocate
Subject: [U] FW: BC

Categories: UNCLASSIFIED, ~~LIMDIS~~
Classification Caveat: ~~LIMDIS~~
Classification Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~LIMDIS~~

Sir;

Short update below on interview with the Bn Cdr, LTC (b)(3), (b)(6) (still ongoing.)
This contradicts our earlier interpretation that he may have been negligent/derelect
in reporting.

ATW!

v/r,

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

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

LTC, MP

Commander, 10th MP Bn (CID) (ABN)

Camp Victory, Baghdad, Iraq

APO AE 09342

Classification: UNCLASSIFIED//~~LIMDIS~~
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Directive 5230.9, "Clearance of DoD Information for Public Release", and DoD
Instruction 5230.29, "Security and Policy Review of DoD Information for Public
Release" apply.

From: (b)(6), (b)(3) [mailto:(b)(6)@us.army.mil]
Sent: Sunday, July 09, 2006 7:24 PM
To: (b)(3), (b)(6) CW4 MNCI 10th MP BN Criminal Intell Coordinator
Cc: (b)(3), (b)(6) LTC MNC-I 10TH MP BN Commander
Subject: BC

(b)(3), (b)(6) r,

Please check my fire on LTC (b)(3), (b)(6) knowledge of the LOAC being possibly negligence.

After advising him, I've determined that considering the circumstances of him becoming aware (was on leave during OIT, came back, heard about the commander's inquiry, heard about the Brigade 15-6 (conducted by another Bn's officer, which was the On Scene Bn Ground Commander for OIT), heard about the CID investigation: he figured the issue was being investigated by somebody and it wasn't his lane to poke into the IO's or CID's business.) I don't believe there is dereliction or obstruction; he counseled LT (b)(3), (b)(6) as a senior leader, and assumed his belated knowledge of the sniper's statements was old news, and had already been conveyed to at least one of the three investigations.

He has mentioned "K/K" missions, which we have discussed the legality of with SJA.

Talking to Mr (b)(6) and his crew, LTC (b)(3), (b)(6) is the straightest of arrows, and his explanation is very credible to me.

I'm going back into the interview, but will try to call to discuss.

v/r

CW3 (b)(3), (b)(6)

FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-54

From: (b)(3), (b)(6) LTC MNC-I SJA Chief Military Justice
Sent: Sunday, July 16, 2006 3:42 PM
To: (b)(3), (b)(6) LTC MNC-I SJA TDS Regional Defense Counsel
Cc: (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Subject: [U] FW: Digital Sender Document

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~
Attachments: Digital_.pdf
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification Classification: UNCLASSIFIED

Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

(b)(3), (b)(6) the CG has extended the due date on COL (b)(3), (b)(6) matters to 1 August 2006 (see attached action). V/r (b)(3), (b)(6)

LTC (b)(3), (b)(6)
Chief of Military Justice
Multi-National Corps-Iraq
VOIP (b)(6)

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

From: (b)(3), (b)(6) [mailto:(b)(6)@iraq.centcom.mil]
Sent: Sunday, July 16, 2006 3:24 PM
To: (b)(3), (b)(6) LTC MNC-I SJA Chief Military Justice
Subject: Digital Sender Document

Please open the attached document.
This document was sent to you using an HP Digital Sender.

Sent by: (b)(3), (b)(6) (b)(6)@iraq.centcom.mil>
Number of pages: 2
Document type: B/W Document
Attachment File Format: Adobe PDF

To view this document you need to use the Adobe Acrobat Reader.
For free copy of the Acrobat reader please visit:

<http://www.adobe.com>

For more information on the HP Digital Sender please visit:

<http://www.digitalsender.hp.com>

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FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-55

From: (b)(3), (b)(6) LTC MNC-I 10TH MP BN Commander
Sent: Sunday, July 09, 2006 4:37 PM
To: Campbell Donald BG MNC-I Chief of Staff
Cc: (b)(3), (b)(6) COL MNC-I Provost Marshal; (b)(3), (b)(6) COL MNC-I SJA
Staff Judge Advocate
Subject: [U] FW: Statement of LTC (b)(3), (b)(6)

Importance: High

Categories: LIMDIS, UNCLASSIFIED, ~~LIMDIS~~
Classification Caveat: ~~LIMDIS~~
Classification Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~LIMDIS~~

Sir;

Short update on two interviews currently on-going:

CPT (b)(3), (b)(6), 1/327th, is being interviewed and the Bn Cdr, LTC (b)(3), (b)(6) is being interviewed; short summaries of their verbal statements are cut and pasted in below.

CPT (b)(3), (b)(6) has stated that the unit was using a KILL/KILL operations plan for HVTs, instead of a KILL/CAPTURE. He states the CO CDRs prepare target packages on HVTs and take them to the BN CDR, who approves the KILL/KILL plan. This is corroborated by SFC (b)(3), (b)(6) statement yesterday, in which he stated CPT (b)(3), (b)(6) has briefed them to kill HVTs before they have a chance to surrender.

LTC (b)(3), (b)(6) is typing his initial statement (slow typer). After his verbal admission about receiving the statements about the possible LOAC violation from a CPT in mid-June, he conducted his own informal inquiry, asking CPT (b)(3), (b)(6) about his commander's inquiry and discussing the sniper statements, and eventually counseling 1LT (b)(3), (b)(6) about the possible LOAC violation. He did NOT report the possible LOAC violation higher than his level. CPT (b)(3), (b)(6) denied ever briefing LTC (b)(3), (b)(6) and 1LT (b)(3), (b)(6) did not report being counseled by the BC (fell on their swords on that issue). It is unclear if LTC (b)(3), (b)(6) is falling on his sword as far as reporting higher.

I will advise him upon completion of his statement (with no incriminating Q&A), and ask about the "Kill/Kill" orders, other misconduct by C Co, and specifics about his knowledge of the LOAC violations during OIT.

We should complete their interviews today. I should be able to provide further details on their statements tonight or tomorrow, depending on how long they talk and how long it takes to type, review and complete - but wanted to go ahead and give the heads-up about this info.

ATW!

v/r,

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

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

LTC, MP

Commander, 10th MP Bn (CID) (ABN)

Camp Victory, Baghdad, Iraq

APO AE 09342

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FOIA_06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-56

From: (b)(3), (b)(6) LTC MNC-I SJA Chief Military Justice
Sent: Friday, July 07, 2006 9:20 PM
To: (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Cc: (b)(3), (b)(6) LTC MNC-I SJA Chief of Operations
Subject: [U] FW: Statements CPT (b)(3), (b)(6) 1LT (b)(3), (b)(6) 1SG (b)(3), (b)(6)

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~
Attachments: ss CPT (b)(3), (b)(6) Jul 06.pdf; ss (b)(3), (b)(6) Jul 06.pdf; horne.PDF
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

Ma'am, FYI. Each was sent to RAK 6, to be suspended, immediately after they were released by CID. V/r (b)(6), (b)(3)

LTC (b)(3), (b)(6)
Chief of Military Justice
Multi-National Corps-Iraq
VOIP (b)(6)

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From: (b)(6) [mailto:(b)(6)@us.army.mil]
Sent: Friday, July 07, 2006 8:27 PM
To: (b)(6)@us.army.mil; (b)(6)@us.army.mil
Cc: (b)(3), (b)(6) LTC MNC-I SJA Chief Military Justice
Subject: FW: Statements CPT (b)(3), (b)(6) 1LT (b)(3), (b)(6) 1SG (b)(3), (b)(6)

Statements CPT (b)(3), (b)(6) 1LT (b)(3), (b)(6) 1SG (b)(3), (b)(6)

1LT (b)(3), (b)(6) admits giving the unlawful order, and that he told CPT (b)(3), (b)(6)

CPT (b)(3), (b)(6) admits getting the sniper statements and not forwarding them. He denies that 1LT (b)(3), (b)(6) admitted the unlawful order to him.

1SG (b)(3), (b)(6) invoked when advised about the dead LN on the hood/assault of an LN with the dead LN.

v/r

CW3 (b)(3), (b)(6)

"Deterred by neither fear nor prejudice"

FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-57

From: (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Sent: Sunday, August 27, 2006 8:20 PM
To: (b)(3), (b)(6) LTC MNC-I OSJA Chief of Justice
Subject: [U] FW: (b)(3), (b)(6) addl statements

Importance: High

Categories: ~~FOR OFFICIAL USE ONLY, FOR OFFICIAL USE ONLY, FOR OFFICIAL USE ONLY,~~
UNCLASSIFIED ~~FOR OFFICIAL USE ONLY~~

Attachments: (b)(6), (b)(3) stmt 4 jul.pdf; (b)(3), (b)(6) stmt 4 jul.pdf; (b)(3), (b)(6) stmt 4 jul.pdf;
(b)(3), (b)(6) stmt 4 jul.pdf; (b)(3), (b)(6) stmt 4 jul.pdf; (b)(3), (b)(6) sketch 4 jul.pdf;
(b)(3), (b)(6) stmt 4 jul-2.pdf; (b)(3), (b)(6) stmt 4 jul.pdf; 0010-06 IG (b)(3), (b)(6).PDF; ss
CP (b)(3), (b)(6) Jul 06.pdf; ss (b)(3), (b)(6) / Jul 06.pdf; (b)(3), (b)(6) pdf

Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

(b)(3), (b)(6) this is what (b)(3), (b)(6) gave to (b)(3), (b)(6) that was considered in addition to the 15-6.
Now that I look at it, I don't know what COL (b)(3), (b)(6) was talking about when he said
that we sent him something called "Temp Relief." M3

COL (b)(3), (b)(6)
MNC-I Staff Judge Advocate
DSN: 318 822-2499
VOIP: 302 242-0796
NIPR: michele.miller@iraq.centcom.mil
SIPR: michele.miller@iraq.centcom.smil.mil

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From: (b)(3), (b)(6) LTC MNC-I SJA Chief Military Justice
Sent: Thursday, July 20, 2006 11:21 AM
To: (b)(3), (b)(6) LTC MNC-I SJA TDS Regional Defense Counsel
Subject: RE: [U] 15-6

Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

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

The document you are requesting does not exist. Short of release of a redacted copy under FOIA or compliance with MRE 505 at court-martial, I am not aware of a procedure for triggering the creation of an unclassified version for use by a civilian attorney. COL (b)(3), (b)(6) FOIA request, dated 17 July 2006, has been forwarded to CENTCOM. It is my best guess that exemption 7 will preclude disclosure at this time; however, that decision will be made at CENTCOM.

On 14 July 2006, in accordance with AR 600-37, para 3-4.b.(1)(a), you were provided
Page 1

two classified copies of the 15-6 that served as a basis for COL (b)(3), (b)(6) GOMOR; one copy was for you and one was for COL (b)(3), (b)(6). CID has continued to investigate allegations of misconduct during Operation Iron Triangle. I have attached sworn statements taken by CID after BG Maffey submitted his 15-6 findings and recommendations. LTG Chiarelli also has copies and will consider them when deciding upon an appropriate filing determination.

I regret that my office is unable to grant your request for an unclassified version of the 15-6. I am confident that administrative due process is being met by complying with the provisions of AR 600-37. I am not aware of any legal right to be represented by a civilian counsel when preparing a GOMOR rebuttal, but if I am mistaken, please provide me the legal authority that requires MNC-I to create an unclassified version of the 15-6 for use by COL (b)(3), (b)(6) civilian attorney. The due date for COL (b)(3), (b)(6) written submission remains 1 August 2006.

V/r, (b)(3), (b)(6)

LTC (b)(3), (b)(6)
Chief of Military Justice
Multi-National Corps-Iraq
VOIP (b)(6)

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From: (b)(3), (b)(6) LTC MNC-I SJA TDS Regional Defense Counsel
Sent: Wednesday, July 19, 2006 10:11 PM
To: (b)(3), (b)(6) LTC MNC-I SJA Chief Military Justice
Subject: [U] 15-6

Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

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

We need a declassified version of the 15-6 for civilian counsel. Can we just remove the ROE? What can we do to make that happen and does it require a C-2 blessing?

V/R

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

LTC [redacted] (b)(3), (b)(6)

USA Trial Defense Service

Camp Victory, Baghdad, Iraq

[redacted] (b)(6) DSN Office

[redacted] (b)(6) Mobile

[redacted] (b)(6), (b)(3) @us.army.mil

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FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-58

From: [redacted] LTC MNC-I SJA Chief Military Justice
Sent: Sunday, July 23, 2006 3:14 PM
To: [redacted] COL MNC-I SJA Staff Judge Advocate
Cc: [redacted] LTC MNC-I SJA Chief of Operations
Subject: [U] FW: [redacted] Case

Categories: ~~FOR OFFICIAL USE ONLY, FOR OFFICIAL USE ONLY, FOR OFFICIAL USE ONLY, FOR OFFICIAL USE ONLY, UNCLASSIFIED, FOR OFFICIAL USE ONLY~~
Attachments: RE U 15-6.msg
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

Ma'am, as outlined in my 20 July 2006 response to LTC [redacted] (attached), I recommend that COL [redacted] request for an unclassified version of the 15-6 be denied. I also recommend that the due date for his response to the GOMOR remain 1 August 2006. This is a GOMOR, not a court-martial. As such, administrative due process rules apply. COL [redacted] is not entitled to the assistance of counsel, although Soldiers routinely do seek legal advice when preparing rebuttals. In this case COL [redacted] has the assistance of the RDC, LTC [redacted] V/r [redacted]

LTC [redacted]
Chief of Military Justice
Multi-National Corps-Iraq
VOIP [redacted]

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From: [redacted] LTC MNC-I SJA TDS Regional Defense Counsel
Sent: Sunday, July 23, 2006 1:26 PM
To: [redacted] LTC MNC-I SJA Chief Military Justice
Cc: [redacted]@us.army.mil
Subject: [redacted] Case

LTC [redacted]

Colonel [redacted] through counsel, requests an immediate declassification of the AR 15-6 and the Criminal Investigation Division Investigations that served as the basis for his memorandum of reprimand.

Immediate declassification is required for COL [redacted] to adequately prepare his rebuttal that may be filed in his Official Military Personnel File along with the memorandum. Failure to declassify the investigation will result in a diluted rebuttal that will negatively impact his due process rights.

Respectfully request a response within 48 hours.

v/r

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

From: (b)(3), (b)(6) MAJ MNC-I V CORPS PAO DEPUTY
Sent: Thursday, July 20, 2006 1:39 PM
To: Chiarelli Peter W LTG MNC-I CG
Cc: (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate; (b)(3), (b)(6) LTC
MNC-I V CORPS PAO; (b)(3), (b)(6) GS-15 MNC-I CMD GRP POLAD; (b)(3), (b)(6) COL MNC-I
Deputy Chief of Staff
Subject: [U] Iron Triangle investigations - AKA Thar Thar - word is out in the media

Categories: UNCLASSIFIED, ~~1~~IMDIS
Classification Caveat: ~~1~~IMDIS
Classification Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~1~~IMDIS

Sir,

As we discussed in your office.

New developments on the 'Iron Triangle' investigations. As per coordination with JAG, I will be referring to this case from now on as "Thar Thar" after the canal in the same area.

Word is starting to leak out on this. See the query from AP that came in this morning:

Good morning, sir. My name is Alicia Caldwell and I am an AP reporter based in El Paso, Texas. I am writing to request a comment about the above referenced case as I am writing a story about the incident that is scheduled to move on the wire sometime Thursday afternoon, MST.

Specifically, I am writing about the soldiers' claims that they were told prior to the May 9 assault on the island near the Muthana Chemical Complex that they were to "kill all military age males" in the area.

I can be reached at this e-mail address or either of the below telephone numbers day or night.

Thank you very much for your help with this request for comment.

As you can see, her information is pretty close. Additionally, the art. 32 on the four charged with killing the three detainees will have their Art. 32 hearing on 1 August. All four will go at once, so all the info on the case will come out then. Typically, these hearings are open to the media, as part of providing transparency to the military justice process.

I will discuss with MG Caldwell and am working with 101st to develop PAG on this, which will be reviewed by JAG before it goes out. In the meantime, our responses to questions on this will be that the investigation continues, and we don't want to talk about any details regarding it, as that could later prejudice the findings.

V/r,

MAJ [(b)(3), (b)(6)]

Deputy Public Affairs Officer

Multinational Corps-Iraq

Camp Victory, Baghdad

Office: DSN [(b)(6)] [From the U.S., [(b)(6)] then dial [(b)(6)]]

Iraqi Cell: [(b)(6)] [From the U.S, dial [(b)(6)]]

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FOIA_06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-60

From: (b)(3), (b)(6) MAJ MNC-I V CORPS PAO DEPUTY
Sent: Thursday, July 20, 2006 7:39 PM
To: Chiarelli Peter W LTG MNC-I CG
Cc: (b)(3), (b)(6) COL MNC-I Deputy Chief of Staff; (b)(3), (b)(6) GS-15 MNC-I CMD GRP
POLAD; (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Subject: [U] Iron Triangle update

Categories: UNCLASSIFIED, ~~LIMDIS~~
Classification Caveat: ~~LIMDIS~~
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Sir,

I spoke with MG Caldwell, brought him up to speed on the latest developments, and discussed the way ahead.

My read is that we can't discuss this with the media for two reasons. One, there are seven other CID investigations ongoing that our remarks could affect. Two, all the questions will center around ROE, which we have told the media on numerous occasions that we can't comment on.

I recommend that no new press release goes out. We should deal with media queries on a "respond to query" basis only, and then we'll repeat the release that went out preferring charges on the Soldiers involved with the case, and explain that we can't comment beyond that for the reasons stated above. We can even inform them of the upcoming Art. 32 hearing (1 Aug) but they will not be able to sit in on most of it because it will deal with specific ROE issues. We can re-look the strategy at that time based on what comes out of the Art. 32, and after the GOMOR response is in and your decision is made.

I checked on the GOMOR and LTC (b)(3), (b)(6) informed me that it is releasable, and we can use it if we need to - especially if the COL or the COL's attorney, Alan Dershowitz, begins spouting off to the press.

I discussed all of this with MG Caldwell and he was comfortable with this plan.

I heard you came by looking for an update. Would you still like to see me?

V/r,

MAJ (b)(3), (b)(6)

Deputy Public Affairs Officer

Multinational Corps-Iraq

Camp Victory, Baghdad

Office: DSN [(b)(6)] [From the U.S. [(b)(6)] then dial [(b)(6)]]
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FOIA 06-268.05.1-Responsive_Docs-EMAIL-UNREDACTED-61

From: (b)(3), (b)(6) LTC MNC-I SJA Chief Military Justice
Sent: Friday, July 28, 2006 8:43 PM
To: (b)(3), (b)(6) COL MNC-I SJA Staff Judge Advocate
Cc: (b)(3), (b)(6) MAJ MNC-I SJA Chief Operational Law
Subject: [U] NY Times OIT Article

Categories: UNCLASSIFIED
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Ma'am, FYI a NY Times article on OIT. The parts directly relating to COL (b)(3), (b)(6) are highlighted in red. v/r (b)(3), (b)(6)

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New York Times
July 28, 2006

Sergeant Tells of Plot To Kill Iraqi Detainees

By Robert F. Worth

For more than a month after the killings, Sgt. (b)(3), (b)(6) Lemus stuck to his story.

"Proper escalation of force was used," he told an investigator, describing how members of his unit shot and killed three Iraqi prisoners who had lashed out at their captors and tried to escape after a raid northwest of Baghdad on May 9.

Then, on June 15, Sergeant (b)(3), (b)(6) offered a new and much darker account.

In a lengthy sworn statement, he said he had witnessed a deliberate plot by his fellow soldiers to kill the three handcuffed Iraqis and a cover-up in which one soldier cut another to bolster their story. The squad leader threatened to kill anyone who talked. Later, one guilt-stricken soldier complained of nightmares and "couldn't stop talking" about what happened, Sergeant (b)(3), (b)(6) said.

As with similar cases being investigated in Iraq, Sergeant (b)(3), (b)(6) narrative has raised questions about the rules under which American troops operate and the possible culpability of commanders. Four soldiers have been charged with premeditated murder in the case. Lawyers for two of them, who dispute Sergeant (b)(3), (b)(6) account, say the soldiers were given an order by a decorated colonel on the day in question to "kill all military-age men" they encountered.

Many questions remain about the case, which is scheduled for an Article 32 hearing on Tuesday in Iraq. But whatever the truth about that day, Sergeant (b)(3), (b)(6) sworn statement - which was obtained by The New York Times - provides an extraordinary window into the pressures American soldiers face in Iraq, where wartime chaos and the imperative of loyalty often complicate questions of right and wrong.

When investigators asked why he did not try to stop the other soldiers from carrying out the killings, Sergeant (b)(3), (b)(6) - who has not been charged in the case - said simply that he was afraid of being called a coward. He stayed quiet, he said,

because of "peer pressure, and I have to be loyal to the squad."

The mission that led to the killings started at dawn on May 9, when soldiers with the Third Brigade Combat Team of the 101st Airborne Division landed in a remote area near a former chemical plant not far from Samarra, according to legal documents and lawyers for the accused soldiers. It was the site of a suspected insurgent training camp and was considered extremely dangerous.

Just before leaving, the soldiers had been given an order to "kill all military-age men" at the site by a colonel and a captain, said Paul Bergrin and Michael Waddington, the lawyers who are disputing Sergeant (b)(3), (b)(6) account. Military officials in Baghdad have declined to comment on whether such an order, which would have been a violation of the law of war, might have been given.

The colonel, (b)(3), (b)(6) is the brigade commander. He led the 1993 mission in Somalia made famous by the book and movie "Black Hawk Down."

The two lawyers say Colonel (b)(3), (b)(6) has indicated that he will not testify at the Article 32 hearing - the military equivalent of a grand jury hearing - or answer any questions about the case. Calls and e-mail messages to a civilian lawyer said to be representing Colonel (b)(3), (b)(6) were not returned.

It is very rare for any commanding officer to refuse to testify at any stage of a court-martial proceeding, said Gary D. Solis, a former military judge and prosecutor who teaches the law of war at Georgetown University.

During the raid, the soldiers discovered three Iraqi men hiding in a house, who were using women and children to shield themselves, Sergeant (b)(3), (b)(6) said in his statement. The soldiers separated out the men, blindfolded them and bound their hands with plastic "zip ties," restraints that are not as strong as the plastic flex cuffs often used in Iraq.

Then Sergeant (b)(3), (b)(6) told investigators, his squad leader, Staff Sgt. (b)(3), (b)(6) (b)(3), (b)(6), was told by another sergeant over the radio, "The detainees should have been killed."

The man accused of making that remark, First Sgt. (b)(3), (b)(6) has denied it. In his own sworn statement, he told an investigator that during the radio call, "I was wondering why they did not kill the enemy during contact." But he added, "At no point did I ever try to put any idea into those soldiers' heads to execute or do any harm to the detainees."

Sergeant (b)(3), (b)(6) gave investigators the following account of what happened next: About 10 minutes later, the squad leader gathered Sergeant (b)(3), (b)(6) and three other soldiers in a house nearby, telling them to "bring it in close" so he could talk quietly to them. Sergeant (b)(3), (b)(6) spoke in a "low-toned voice" and "talked with his hands," making clear he was going to kill the three Iraqis.

"I didn't like the idea, so I walked toward the door," Sergeant (b)(3), (b)(6) said in his statement. "He looked around at everyone and asked if anyone else had an issue or a problem." No one spoke.

Soon afterward, Sergeant (b)(3), (b)(6) recounted, he was standing near the landing zone when he heard shouts and bursts of gunfire. He saw the detainees running and then falling to the ground. He walked back to the scene and asked Sergeant (b)(3), (b)(6) what happened.

"But he couldn't answer," Sergeant (b)(3), (b)(6) said. "He just looked at the bodies and had this frozen look on his face. I asked him where my guys were, and he stuttered that they were in the building," getting first aid.

Sergeant (b)(3), (b)(6) has been charged with premeditated murder, a capital offense, as have three other soldiers: Specialist (b)(3), (b)(6) Pfc. (b)(3), (b)(6) and

Specialist (b)(3), (b)(6) Private (b)(3), (b)(6) and Specialist (b)(3), (b)(6) are accused of actually shooting the prisoners.

Mr. Bergrin, the lawyer who represents Private (b)(3), (b)(6) and Mr. Waddington, who represents Specialist (b)(3), (b)(6) dispute Sergeant (b)(3), (b)(6) account. They say the prisoners broke free as two soldiers were fixing the zip ties, which were coming loose. They say the prisoners stabbed Specialist (b)(3), (b)(6) and punched Private (b)(3), (b)(6) before trying to flee.

But in his statement, Sergeant (b)(3), (b)(6) said he heard from the accused soldiers that it was Sergeant (b)(3), (b)(6) who cut Specialist (b)(3), (b)(6) in an effort to make the stabbing story sound plausible. He believed it, Sergeant (b)(3), (b)(6) said, because "they both have Ranger school backgrounds and they are pretty close friends," and he added, "They would always talk about the French Foreign Legion and renegade mercenaries running around from country to country."

Three days later, Private (b)(3), (b)(6) "told me he couldn't stop thinking about it," Sergeant Lemus recalled. The private asked how Sergeant (b)(3), (b)(6) had responded to seeing dead bodies and shooting the enemy during his time in Iraq.

"I told him it was all right that he felt like that," Sergeant (b)(3), (b)(6) said. "He was really stressed because when he slept the few hours he did, he dreamed about it over and over."

Two initial investigations of the killings by commanders found no wrongdoing. It is not clear who eventually came forward to tell commanders that there was another version of what happened on May 9.

At one point, Sergeant (b)(3), (b)(6) said in his statement, Sergeant (b)(3), (b)(6) gathered the men who had been present before the killing and told them "to be loyal and not to go bragging or spreading rumors" about what had happened. Sergeant (b)(3), (b)(6) added that "if he found out who told anything about it he would find that person after he got out of jail and kill him or her."

Sergeant (b)(3), (b)(6) said he laughed off the threat at the time. But there may have been other threats. In addition to murder, the four accused soldiers are charged with threatening to kill Pfc. (b)(3), (b)(6) one of the men in the squad, if he told what he knew about the shootings.

From: (b)(3), (b)(6) R LTC MNC-I 10TH MP BN Commander
Sent: Wednesday, July 12, 2006 10:14 AM
To: Campbell Donald BG MNC-I Chief of Staff
Cc: (b)(3), (b)(6) L COL MNC-I Provost Marshal; (b)(3), (b)(6) COL MNC-I SJA
Staff Judge Advocate
Subject: [U] OIT update - additional ROIs

Categories: UNCLASSIFIED, ~~FOR OFFICIAL USE ONLY~~
Attachments: Status ROI486243.pdf; Initial ROI489341.pdf; Initial ROI Death of 7 yo Iraqi Girl (b)(6).pdf; ss (b)(3), (b)(6) 10jul06.PDF; Initial ROI - Alleged Detainee Assault by 1LT (b)(3), (b)(6).pdf
Classification Caveat: ~~FOR OFFICIAL USE ONLY~~
Classification Classification: UNCLASSIFIED
Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

Sir;

Over the last roughly 36-48 hours, our agents have conducted further interviews and published the attached status report (status ROI) along with the three initial ROIs on additional allegations.

The status report is an update on the original investigation. It adds the charge of Involuntary Manslaughter for SSG (b)(3), (b)(6) shooting of the "old man" in the house window on the initial objective. We also added charges of GO #1 violations for SSG (b)(3), (b)(6) posing for a photo with the remains of the first victim, and for possession of pornography which was found in his personal belongings during a magistrate-authorized search.

The next initial ROI documents the allegations of shooting Iraqis in a truck at a checkpoint, then conspiring afterwards to shoot the tires in an attempt to make the shooting appear justified and state the truck was approaching in a threatening manner and would not stop.

The initial ROI on alleged detainee assault documents the allegations that 1LT (b)(3), (b)(6) a PL in C Co, 3/187th, assaulted a detainee by striking him or throwing him to the ground, resulting in the detainee receiving a broken jaw. We do not have enough details or evidence at this point to list the 1LT as a subject; continuing to look into this further.

The initial ROI involving the death of a young girl involves C Co again. Specifically 1SG (b)(3), (b)(6) ordered his soldiers to shoot an unarmed, un-resisting Iraqi male when they were conducting a raid on the house. The young girl was allegedly caught in the crossfire during the shooting. The unit was operating under ROE instructions that were to kill any High Value Target (HVT) that was not "actively surrendering."

The attached sworn statement of SGT (b)(3), (b)(6) validates the ROE as the same given on other HVT raids. He also states he shot and killed an unarmed Iraqi male, sitting in his house with a child laying his head on the man's lap, based on the instructions that he was authorized to shoot to kill any HVT upon positive identification as long as he was not actively surrendering.

We also had an undetermined death of a DAC employee at Tikrit last night; will forward that info in separate email.

ATW!

v/r,

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

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

LTC, MP

Commander, 10th MP Bn (CID) (ABN)

Camp Victory, Baghdad, Iraq

APO AE 09342

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