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INVESTIGATION CHRONOLOGY

26 May 2006: Received appointment letter. Met with the CID commander, LTC (b)(3), (b)(6) the legal advisor, LTC (b)(3), (b)(6) for an initial briefing. Reviewed background materials and began planning investigation.

27 May 2006: Met with SA (b)(3), (b)(6) and LTC (b)(3), (b)(6) to compile a list of witnesses and questions.

27 May 2006: Requested that 101 AA coordinate the interviews of 3-320 FA witnesses at FOB Remagen. Requested information on Operation Iron Triangle from 101 AA and 3-320 FA. Moved to FOB Remagen with PSD, SA (b)(3), (b)(6) LTC (b)(3), (b)(6) and SSG (b)(3), (b)(6) (court reporter).

27 May 2006: Given a copy of an on-going AR 15-6 investigation being conducted by the 3-320 FA XO, MAJ (b)(3), (b)(6) The focus of MAJ (b)(3), (b)(6) inquiry was the death of three detainees during Operation Iron Triangle.

28 May 2006: Interviewed and took sworn testimony from MAJ (b)(3), (b)(6) SPC (b)(3), (b)(6) 1LT (b)(3), (b)(6) PFC (b)(3), (b)(6) SFC (b)(3), (b)(6) 1SG (b)(3), (b)(6) SGT (b)(3), (b)(6) CSM (b)(3), (b)(6) LTC (b)(3), (b)(6) and PVT (b)(3), (b)(6) These interviews were documented as verbatim transcripts.

28 May 2006: Requested that 101 AA coordinate the interviews of 3rd Brigade witnesses at Speicher. Moved to Speicher with investigative team.

29 May 2006: Interviewed and took sworn testimony from MAJ (b)(3), (b)(6) TSG (b)(3), (b)(6) MAJ (b)(3), (b)(6) CW3 (b)(3), (b)(6) PFC (b)(3), (b)(6) CPT (b)(3), (b)(6) MAJ (b)(3), (b)(6) MAJ (b)(3), (b)(6) and CPT (b)(3), (b)(6) These interviews were documented as verbatim transcripts.

29 May 2006: Moved to Victory Base Complex with PSD, LTC (b)(3), (b)(6) and SSG (b)(3), (b)(6) Left CID agents at Speicher to continue with their independent criminal investigation into the deaths of Iraqis during Operation Iron Triangle.

31 May 2006: Met with LTC (b)(3), (b)(6) to review interview transcripts, consider calling additional witnesses and draft questions for COL (b)(3), (b)(6)

31 May 2006: Received a Legal Opinion from MAJ (b)(3), (b)(6) ref. theatre-specific ROE for status based kill/capture determinations for designated terrorist organizations.

01 June 2006: Received a copy of the completed 3BCT 15-6, dtd 21 May 2006, and legal review of the 15-6, dtd 01 June 2006 from MAJ (b)(3), (b)(6)

03 June 2006: Moved to FOB Speicher. Interviewed and took sworn testimony from COL (b)(3), (b)(6)

04 June 2006: Met with LTC (b)(3), (b)(6) to draft findings and recommendations.

XX June 2006: Completed findings and recommendations.

SECTION IV, FINDINGS:

Summary:

COL (b)(3), (b)(6) did not condone or attempt to cover up detainee deaths that occurred during Operation Iron Triangle. The facts and circumstances surrounding the deaths of three detainees, who were reported to have broken their restraints and assaulted their guards, continues to be the subject of an on-going criminal investigation.[1]

The allegation that on or about 9 May 2006 COL (b)(3), (b)(6) posed for pictures with dead detainees; maltreated dead bodies; cut the blindfold and zip tie off of a dead detainee, and stated, "I guess we'll have to say these guys tried to escape" or words to that effect; complimented, endorsed or encouraged the mistreatment of detainees by saying "good job but we need more bodies" or words to that effect; and failed to report the death of detainees to higher headquarters, has been thoroughly investigated.

The bulk of the allegation has proven to be completely false. It is true that COL (b)(3), (b)(6) supervised the photographing of four bodies, and did cut a blindfold from one body. This, however, was done in order to take official photographs for use in positively identifying the bodies.[2] COL (b)(3), (b)(6) did intentionally delay reporting the deaths, but his intent was to gather facts from eye witnesses prior to notifying his higher headquarters. COL (b)(3), (b)(6) intent is clearly documented by the fact that a commander's inquiry was initiated almost immediately and was followed, within 48 hours, by an AR 15-6 investigation initiated by COL (b)(3), (b)(6)

Background:

On 9-11 May 2006, units from 3d Brigade Combat Team, 101st Airborne Division (3-187 IN, 3-320 FA, 2-9 IN) and 4th Iraqi Army Division participated in Operation Iron Triangle in the vicinity of Muthana, Iraq.[4]

On the first day of the operation seven Iraqis were killed. Three individuals in a boat in vicinity of OBJ Murray were engaged by fires from a helicopter. Their bodies fell into fast moving water and were not recovered. SSG (b)(3), (b)(6) a Charlie Company, 3-187 IN, shot and killed a man through a window on objective Murray. CPL (b)(3), (b)(6) and PFC (b)(3), (b)(6) members of SSG (b)(3), (b)(6) squad, shot and killed three detainees on objective Murray. These four bodies were collected and transported to the 3-320 FA TAC.[5]

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[1] See exhibit 24.
[2] See exhibit 17, 22 and 25.
[3] See exhibit 4, 21, 23 and 25.
[4] See exhibit 2.
[5] See exhibit 23.

At dawn on 9 May 2006, the 3d Brigade Commander, COL (b)(3), (b)(6) was with Charlie Company 3-187 IN as it moved into objective Murray. Objective Murray is an island and consisted of multiple small objectives. COL (b)(3), (b)(6) was on the southern most objective, while SSG (b)(3), (b)(6) CPL (b)(3), (b)(6) and PFC (b)(3), (b)(6) were at the northern objective. At about 0730 hours, COL (b)(3), (b)(6) and members of his Brigade staff moved by Blackhawk helicopter to the 3-320 FA TAC. While there they learned of the enemy KIA and saw the first of four dead bodies. At the direction of COL (b)(3), (b)(6) MAJ (b)(3), (b)(6) took three photos of the man shot through the window. About 45 minutes later three more bodies were delivered to the TAC. COL (b)(3), (b)(6) noticed the blindfolds. Other witnesses report that these later three bodies all had blindfolds and zip ties on them. At the direction of COL (b)(3), (b)(6) MAJ (b)(3), (b)(6) took four photos of the bodies.[6]

On 9 May 2006, the Commander of C Company, 3-187 IN, CPT (b)(3), (b)(6) initiated a commander's inquiry into the deaths of the three detainees killed on OBJ Murray. CPT (b)(3), (b)(6) completed his inquiry on 11 May 2006 and concluded that his two Soldiers, CPL (b)(3), (b)(6) and PFC (b)(3), (b)(6) shot and killed the three detainees after being attacked by them.[7] The facts and circumstances surrounding the deaths of these three men is the subject of an on-going CID investigation.[8]

The 3d Brigade Commander, COL (b)(3), (b)(6) was aware of the preliminary commander's inquiry that CPT (b)(3), (b)(6) conducted at the direction of LTC (b)(3), (b)(6). On 11 May 2006, COL (b)(3), (b)(6) appointed MAJ (b)(3), (b)(6) the XO of 3-320 FA, to conduct an AR 15-6 investigation into the deaths of the three men. MAJ (b)(3), (b)(6) gave sworn testimony and has provided his completed report to this investigation.[9] COL (b)(3), (b)(6) went on previously scheduled environmental leave after reviewing MAJ (b)(3), (b)(6) preliminary findings and determining that it did not appear that a LOAC violation had occurred. COL (b)(3), (b)(6) told his staff that the investigation was to remain in-house until he returned from leave on or about 1 June 2006.[10] COL (b)(3), (b)(6) directive to his staff was based on his intention to personally brief his division commander once back from leave.[11]

On 15 May 05, PVT (b)(3), (b)(6) a medic assigned to HHB, 3-320 FA, sent an email to his recruiter, SFC (b)(3), (b)(6) in CONUS. PVT (b)(3), (b)(6) alleged that during Operation Iron Triangle:

- Unknown soldiers from 3-187 Infantry shot four detainees while blindfolded and zip-tied.

- PVT (b)(3), (b)(6) was told to cut off the zip ties and say the detainees had been killed as they tried to escape.

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[6] See exhibit 17, 22 and 25.
[7] See exhibit 23.
[8] See exhibit 24.
[9] See exhibit 4.
[10] See exhibit 4, 21 and 25.
[11] See exhibit 25.

- PVT (b)(3), (b)(6) indicated that this was the second time this has happened with same infantry company.[12]

On 16 May 2006, SFC (b)(3), (b)(6) went to CID at Fort Riley and gave a sworn statement.[13] CID at Fort Riley contacted CID in Baghdad. On 22 May 05, PVT (b)(3), (b)(6) gave a more detailed statement to CID agents at FOB Remagen, alleging the following:

- PVT (b)(3), (b)(6) worked during the operation at a jump aid station in the TAC providing care to about 100 detainees. He claimed that during the operation six bodies were brought into the area by Blackhawk. He said he saw only two bodies outside the bags; they were blind-folded with engineer tape and had their hands zipped-tied behind their backs. One body had two gunshot wounds to the chest and one to the head; the other had a severe head wound.

- PVT (b)(3), (b)(6) alleged that the 3d Brigade Commander, COL (b)(3), (b)(6) lifted the head of one dead body, dropped it, cut off one of the blind-folds and flex cuffs, put his boot on the head and posed for a picture saying words to the effect of "I guess we'll have to say these guys tried to escape." PVT (b)(3), (b)(6) stated that 2 to 3 photos were taken. About 10 people were standing around the bodies at the time. The bodies were then placed in a hole near the TAC.

- PVT (b)(3), (b)(6) says he tried to talk to several soldiers and NCOs about whether the detainees were shot after being detained and was told in so many words not to worry about it. The next day the battalion XO, MAJ (b)(3), (b)(6) came to the aid station looking for the photos. PVT (b)(3), (b)(6) said this happened after he heard something about a CID investigation being started.[14]

Unaware of the commander's inquiry and 15-6 investigation initiated within 3BCT, on 26 May 2006 MNC-I directed an informal AR 15-6 investigation into the facts and circumstances surrounding the conduct of COL (b)(3), (b)(6) with regard to persons detained during Operation Iron Triangle.

From 26 May – 03 June 2006, the investigating officer, BG Thomas Maffey, personally interviewed 18 witnesses and reviewed the sworn statements taken during the initial commander's inquiry and Brigade level AR 15-6 investigation. BG Maffey also reviewed documentary evidence to include operation orders, after action reviews, applicable rules of engagement and orders, and digital photos. Overwhelmingly, the investigation exonerated COL (b)(3), (b)(6) COL (b)(3), (b)(6) testimony was corroborated by documentary evidence and other witnesses' sworn testimony. PVT (b)(3), (b)(6) testimony was not credible; it was not only uncorroborated,[15] it was largely contradicted.[16] From

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[12] See exhibit 13a.

[13] See exhibit 14.

[14] See exhibit 13b.

[15] PVT (b)(3), (b)(6) was the only witness to claim that COL (b)(3), (b)(6) said, "I guess we'll have to say these guys tried to escape" or "good job but we need more bodies." He was also the only witness to claim that COL (b)(3), (b)(6) stepped on and disrespected the bodies. No other witness described heavy duty zip ties, or hands bound behind the detainees' backs.