[The testimony began via VTC at 1110, 4 November 2009.]

LtGen Natonski: I am Lieutenant General Richard F. Natonski, United States Marine Corps and I have been appointed by the Commander of U.S. Central Command to conduct an investigation into the facts and circumstances surrounding the combat action at Wanat, Afghanistan, during July, 2008. Major General David Perkins, United States Army, has been assigned as the Deputy Investigating Officer. Lieutenant Colonel Beta (b)(3), (b)(6) and Lieutenant Colonel Sigma (b)(3), (b)(6) are Judge Advocates assigned to the investigation team.

The testimony you provide today will be recorded, transcribed, and included in our report of the investigation. Based on your testimony, we may also prepare a separate written statement for your review and signature.

Prior to coming on the record today, you signed a privacy act statement. Is that correct?

CPT Copper (b)(3), (b)(6) That's correct, sir.

LtGen Natonski: Okay leave the mic hot. Your testimony will be made under oath and you will now be sworn.

[The witness was sworn.]

LtCol Beta (b)(3), (b)(6) Would you please state your full name, spelling your last?

CPT Copper (b)(3), (b)(6) Copper (b)(3), (b)(6)

LtCol Beta (b)(3), (b)(6) What is your current unit and that unit's location?

CPT Copper (b)(3), (b)(6) HHC, 3-2 Striker Brigade Combat Team, FOB Warhorse, APO AE 09336.

LtCol Beta (b)(3), (b)(6) You are currently a Captain in the U.S. Army?

CPT Copper (b)(3), (b)(6) Correct, sir.

LtCol Beta (b)(3), (b)(6) In July of 2008, what was your unit and that unit's location?

CPT Copper (b)(3), (b)(6) Sir, I was in HHC, 2nd of the 503rd, stationed out of Camp Blessing, Konar Province, Afghanistan.

LtCol Beta (b)(3), (b)(6) What were your duties with 2nd of the 503rd last July?

LTC Sigma (b)(3), (b)(6) He was muted on that last one.

LtCol Beta (b)(3), (b)(6) You were muted on that last one. Could you repeat please?--Could you say again your last in response to the question what was--what your duties with the 2nd of the 503rd in July of 2008?

CPT Copper (b)(3), (b)(6) Sir, I was the Task Force Contracting Coordinator and the Battalion Pay Agent.

LtCol Beta (b)(3), (b)(6) Specifically, regarding the CONOP Operation Rock Move, what role did you play as the COR for the Battalion?

CPT Copper (b)(3), (b)(6): Sir, I didn't have an active role in the CONOP. Prior to, I worked with Chosen Company when they had their contract requests for the contracts they wanted for Wanat. During the actual CONOP, I didn't play an integral part. After the main attack, I helped coordinate the movement of trucks and heavy equipment to go to Wanat the day after the Battle, sir.

LtCol Beta (b)(3), (b)(6) Is part of the--when Chosen came to you initially, do you recall what items they requested to be contracted for?

CPT Copper (b)(3), (b)(6): Yes, sir. They wanted a range of contracts. Really everything that we had at our other bases, they wanted. So, for example, a labor contract, which would mean they had maybe about 25 to 30 individuals who would work on the Base everyday that would perform a myriad of tasks. I believe they wanted a water contract, which would be like when a water tanker truck would come fill water on base, and a well contract to dig a well, so they could have a fresh water source. I believe they had a wall contract--a contract to build a stone wall. And there may have been a HESCO filling contract also, sir. But, the type of contracts you would need to really just set up a base and get it going from the get go, sir.

LtCol Beta (b)(3), (b)(6) What would a Hesco filling contract normally consist of?

CPT Copper (b)(3), (b)(6) Sir, in the case of Wanat, I think there was a concern that there wouldn't be enough fill dirt to fill the Hescos. You know terrace, there was a terrace area--agricultural area. We wouldn't be making any friends, obviously, if we started ripping up people's--farmer's top soil and filling our HESCOS. So, I think, I think the thought was we will bring in fill dirt to fill Hescos so that we wouldn't make the local people angry and, but yet at the same time, fill HESCOS. Over.

LtCol Beta (b)(3), (b)(6) Did you personally enter into those contracts to have those items delivered?

CPT Copper (b)(3), (b)(6) Negative, sir. I helped with the crafting of packets and the approval process, so one, I make sure that I help the Company secure the funds, I facilitated the letting of those contracts. For example, there was a concern that because this was a contentious area, a Company from Jalalabad or Big Company from Kabul, may not be totally keyed on the real dynamics of the Valley. So I believe Chosen Company, you know they stressed and then I stressed to the Contracting Office, we need to hire Companies that understand what they are getting themselves into. They are going into a possibly non-permissive environment. So to answer your question, sir, what role, during the bid solicitation process the head contracting office would, you know, send an e-mail out to all their big Afghan vendors, or if vendors is the right term, contractors that they worked with and then I did the second thing on my level, putting the word out, as did Chosen Company, to local contractors that maybe they had used at Bella, that they'd want to use at Wanat. And so it was kind of like giving the guy on the ground a shot, sir, so they could submit their bid because they may not have e-mail. And then it helps, you know then we would help get those bids to the contracting office so that local vendors would be competitive. Once a contract was cut, sir, meaning you know the vendor signed off and the head contracting office signed off, then that vendor would liaison with Chosen Company for the execution. Over.

LtCol Beta (b)(3), (b)(6) Do you recall any issues regarding the contract for heavy construction equipment with Wanat? Over.

CPT Copper (b)(3), (b)(6): Sir, I believe it was a contract in place for heavy equipment. I think the purpose was to facilitate, not only the build up, but also just the normal day to day activities; for example, having a crane to move containers. Almost all of our larger bases had that. I remember that getting heavy equipment out to Wanat was one of my priorities after the Battle. So, heavy equipment may not have been present prior to. But, I don't remember the specifics of who the contractor was or when they were told to start work. Over.

LtCol Beta (b)(3), (b)(6) Who in the process would have told the contractors this is when you are supposed to be there and this is when you are to start work? Over.

CPT Copper (b)(3), (b)(6): Sir, they would have received that guidance in two forms. They would have received--when they signed the contract they received a statement of work and a statement of work would have the performance period. You know for example, if it is a 6 month or 12 month contract, you will begin work of July of 2007 and continue work until--to July 2008. But, they would also receive guidance from the contracting officer representative, which is the COR. In our Battalion, Company Executive Officers doubled as the CORs. COR has a duty to monitor that the contract as it is being executed, as per the statement of work. And really is kind of like the honest broker because the contracting office in Jalalabad cannot inspect, so the COR is the boots on the ground making sure the contract is getting fulfilled, and hence, the contractor should get paid. In the case for Chosen Company, Captain Papa (b)(3), (b)(6) was the Executive Officer, so he was the COR for the Wanat Contracts. Now, so again, that would have been the second place that received guidance. So, although work might have said start work on this date in July or this date in June, the COR would still provide additional guidance. For example, I was at Camp Blessing, and I believe we had a contract for someone to build 3 guard towers, but at one of the places, we had equipment there and I had to buy time and I told the contractor can you please start work on these two, I need you to hold fast on the third. So

there is a little guidance that the COR can provide for the exact time of execution. Over.

LtCol Beta (b)(3), (b)(6) So, is it fair to say, that your role as the Battalion COR was to work the funding and approval process for the contracts, but the COR responsibilities for the execution was down at the Company Executive Officer's? Over.

CPT Copper (b)(3), (b)(6) : Yes, sir. That is correct. As I was--I had been to the contracting officer representative training, but I was technically the Contracting Coordinator. I just enabled the Companies during the request approval process as you said, sir, and also just help them administer--help them with the administrative portions. Like for example, hey your water contract is going to run out in three months. We really need to resubmit paperwork and I helped them through that process. Over.

LtCol Beta (b)(3), (b)(6) Prior to the execution of Operation Rock Move, were there any contracted for services or equipment requested that the contracts hadn't been filled or hadn't been sourced? Over.

CPT Copper (b)(3), (b)(6) : Sir, based on my recollection, I know that we had contracts in place; whether all the contractors started work or not, I don't think so because some of them just wouldn't make sense. Water deliveries before the troops were even there? The only one that I really remember in detail, sir, or a little better detail is the Wall Contract. I believe the contractor did to get after it and started delivering material on site. And I think it's possible he started delivering the cement and the stone prior to the troop's arrival. But, other than that, sir, you know I wasn't really involved in the process--who would have been there before Captain Papa (b)(3), (b)(6) would have directed them for exactly when they should show up.

And, sir, just something to note, whether they show up or not, obviously different contractors have different--you know, how you want it, if I say I'm going to show, I am going to show up on this date. And so it's not always a black and white issue when you are dealing with those vendors, sir. Over.

LtCol Beta (b)(3), (b)(6) Was the Rock Wall vendor someone different than the barrier filling vendor? Do you recollect?

CPT Copper (b)(3), (b)(6) : Sir, I don't know. I can't recall, sir.

LtCol Beta (b)(3), (b)(6) At any time after Operation Rock Move was underway, did Captain Papa (b)(3), (b)(6) or anyone from Chosen Company, come to you saying they were having problems with Contractors? Either for Heavy Equipment? Ground Transportation of supplies? Or any other issues? Over.

CPT : Sir, I can't remember the details of such conversation. But, I can just say, I remember after Copper (b)(3), (b)(6) the fact, trying to get trucks and equipment there was very difficult. Really because it was after a Battle and none of the vendors wanted to go into that area. So, it wouldn't be an out of normal possibility that there was difficult in getting contractors there, but I can't remember any specific discussion, sir. Over.

LtCol Beta (b)(3), (b)(6) Why after the Battle did you have a more active role in moving vendors up to Wanat than you did prior to the Battle? Over.

CPT : Well, sir. As I said, once the contract is cut, the COR provides guidance and direction to the vendor, Copper (b)(3), (b)(6) to the contractor. So, once the contract is up, it is up for--it is up to Captain Papa (b)(3), (b)(6) and or Chosen Company to tell that vendor when they are supposed to start work and provide that work. I only--I only become privy to it when the COR says, you know, hey Captain Copper (b)(3), (b)(6) this vendor has not covered the job, he is not doing the work. We need to get a new contract. We need to terminate his contract. Or we need to fine him. And that authority doesn't rely--rest with me. But I engage the contracting officer. So there were, in such occasions in the past, you know, a contractor would have been deducted a certain amount of pay if he did not provide the services in the contract and there are certain times where a contractor just never came through and had to be terminated. Long answer, but in summary sir, I don't direct, and I didn't direct the contractors to show to Wanat on a certain date. That would have been handled at the Company Level, sir.

LtCol Beta (b)(3), (b)(6) But, after the Battle you pushed resources--or you worked with contractors to get resources up to Wanat. Did you do that under someone's direction? Were you surging previously contracted for assets or did you have to get new contracts to push that equipment up? Over.

CPT Copper (b)(3), (b)(6) : Sir, after the Battle, I was told that we needed--you know by the Battalion leadership, we need trucks and heavy equipment at Wanat, now, as soon as possible. I didn't draft an emergency contract or anything. We had heavy equipment assets on base. We had previous relationships with contractors who provide trucks for us. And so I just called these vendors, or talked to them face-to-face if they were on Camp Blessing and I just kind of set it up ad-hoc so that we could get trucks and heavy equipment. It wasn't through the contracting process, sir. It was outside of that process. You know, just asking them to really, you know, help us out after the fact. Over.

LtCol Beta (b)(3), (b)(6) Who directed you from the Battalion leadership? And then a second question, what heavy equipment assets did you have at Blessing that you were able to push up after the Battle? Over.

CPT Copper (b)(3), (b)(6) : Sir, my boss was Major Red (b)(3), (b)(6), the Brigade Executive Officer. So, you know, I don't remember the exact words, but he would have told me that we needed to get those trucks and equipment there and then we executed. I forgot the second part of the question, sir. Over.

LtCol Beta (b)(3), (b)(6) What heavy equipment and what trucks did you have on Blessing that you were able to get your hands on to move up to Wanat after the Battle?

CPT Copper (b)(3), (b)(6) : Sir, I believe we had two small dump trucks. When I say Dump Trucks, about the size of a pickup truck, but just sturdier. For some reason I want to say ten large trucks that we were able to secure. Maybe. I don't know why that number pops up. I think one or two maybe from Blessing. And I think we were able to get some from a contractor named (b)(6) . And then heavy equipment wise, sir, I can vividly remember a crane driving up that road north; a very large crane. It might have been the crane that was

stationed at Camp Blessing. So, I might have called that contractor and asked, hey, do you mind if we take your crane up to Wanat. And I think that was another piece of heavy equipment, you know one like a crane or a backhoe and then the second one like an earth-mover. And then approximately 10 trucks, as I said, sir. Over.

LtCol Beta (b)(3), (b)(6) From the time you said the XO told you we need this equipment up there until you were able to marshal those trucks and equipment and get them underway, do you recall that time frame how long it took? Over.

CPT Copper (b)(3), (b)(6): Sir, I don't recollect the exact date. I don't think it was the day directly after Battle. I think it may have been the next day and if it was the day after the Battle, it was that afternoon. It might have been that afternoon before nightfall, sir. But, I can't say with certainty. Over

LtCol Beta (b)(3), (b)(6) Do you recall what was on the trucks that you had contracted for that went up to Wanat at that point? What supplies? Over.

CPT Copper (b)(3), (b)(6): No, sir. I can't. Over.

LtCol Beta (b)(3), (b)(6) Taking you back to the planning itself for the operation, did you attend any meetings at the--with the Battalion staff to discuss the move to Wanat and the status of contracts and supplies? Over.

CPT Copper (b)(3), (b)(6): Sir, there were meetings about Wanat. I remember once we met over Adobe Breeze with Major November (b)(3), (b)(6) the Brigade Engineer, and then also, you know, that's one meeting I can think in particular. But, I also talked with Captain Papa (b)(3), (b)(6) beforehand as he submitted, you know, the types of contracts he wanted. So I talked to Captain Papa (b)(3), (b)(6) about that. Over.

LtCol Beta (b)(3), (b)(6) How about discussions within the Battalion itself with the S-4, the XO, the CO, or the S-3 regarding the status of contracts for Wanat? Over.

CPT Copper (b)(3), (b)(6): Sir, I was providing them with updates of how the contracts flowed through the process. You know, when we submitted to Brigade. From Brigade it goes to an approval board, to the resource manager for funding.

So, I was constantly providing them all with updates, sir. And probably the venue would have just been the daily update meetings, which we were either having with the XO, or with the S-3 out of nightly meetings, sir. So, I was providing them updates on how those contracts were progressing. Over.

LtCol Beta (b)(3), (b)(6) To the best of your recollection, from the time the approval was given to execute the operation or the planning for the operation and the contracting bit, what is the time between Chosen coming to you saying we need this service or this equipment and then a contract actually being entered into? Over.

CPT Copper (b)(3), (b)(6) : Sir, I think Chosen Company submitted their contracts to us in the correct timely fashion. I don't remember exact dates the contracts were signed off on, officially let, but I think that the contracts had gone through all the wickets and we'd have to check the dates, sir, but you know, I believe most the contracts were at the contracting office, either ready to be signed or had been signed. Over.

LtCol Beta (b)(3), (b)(6) Was it a timeframe of a couple of weeks, a month, 2 months from the time that you push in the request for the service, until the contract is ready to go? Over.

CPT Copper (b)(3), (b)(6) : Sir, based on my memory, we submitted approximately ninety days out. And I am pretty sure we were on that timeline for submitting those contracts for Wanat. Over.

LtCol Beta (b)(3), (b)(6) Do you recall any delays or potential delays in any contracted for service impacting operations? Specifically, was there an issue with contracting for heavy equipment that may have impacted the execution of the operation? Over.

CPT Copper (b)(3), (b)(6) : Sir, I can't recall the details of that contract. As I said, it is possible sometimes for a contractor to say he will show up on a certain day with such equipment and not actually show up. I can't remember if that was the case for Wanat, sir. But, it has happened numerous times in the past and that could have been the case, sir. Over.

LtCol Beta (b)(3), (b)(6) If, for example, a contract with Heavy Equipment was supposed to show up on 3 July and didn't, how would you know about that as the Battalion's COR? Over.

CPT Copper (b)(3), (b)(6): Sir, Captain Papa (b)(3), (b)(6) would bring that up to me if he needed help on that and then what we would do is, I would gather the information for Captain Papa (b)(3), (b)(6) and then I would relay that to the Contracting Officer and based on discussions with Captain Papa (b)(3), (b)(6) or the COR, I would recommend to the Contracting Officer either we need to find a new contractor to fulfill the contract--Basically, we would say, sir, the contractor isn't showing. He's not fulfilling his duties. We would like to terminate him and hire a new contractor who will provide the equipment. And that's the process. Over.

LtCol Beta (b)(3), (b)(6) Did Captain Papa (b)(3), (b)(6) come to you with any issues regarding contracts for supplies, equipment, related for Wanat? And if he did, did you take any action? Over.

CPT Copper (b)(3), (b)(6): Sir, Captain Papa (b)(3), (b)(6) --I can't remember anything specifically that he came and asked me for help in regards to Wanat. He--Like I said, sir. All I can remember in detail is the wall contract because I remember him wanting to get after it and start construction and I think Captain Papa (b)(3), (b)(6) gave him some guidance on yes, you can start pre-positioning certain material. But, I can't remember Captain Papa (b)(3), (b)(6) coming to me and saying we need help with heavy equipment and getting it there. Over.

LtGen Natonski: Are you aware of a Hilux truck that was contracted to deliver Wanat--deliver water to Wanat during the construction of the COP? Over.

CPT Copper (b)(3), (b)(6): Sir, there was a contract, I believe, for 5 Hilux trucks to deliver water to Bella and I believe Captain Papa (b)(3), (b)(6) wanted to keep the contract for Wanat. So, I believe we worked with the Contracting Office--I think we talked to the Contracting Office about it and they told us, yeah, the vendor is okay with delivering to Wanat, which is a shorter distance, then we could just maintain that contract. So yes, sir, there was a

HILUX truck contract for water delivery to Bella that was shifted to Wanat. Over.

LtGen Natonski: And that contract, I would assume, would have been managed by Captain Papa (b)(3), (b)(6). Is that correct? Over.

CPT Copper (b)(3), (b)(6): Yes, sir. That's correct. My role would have been--every month, I would go back to JBB and draw money into the Battalion Pay Agent. So I would have helped get the money that would pay this contractor, but other than that, I didn't provide a contractor with any guidance or direction. Over.

LtGen Natonski: Were you privy to any of the discussions involving the closure of the COP at Wanat, with respect to the Pros and cons of staying or closing it down? You've already testified that you were involved in rounding up contractors to help with the disassembly. But, were you privy to any of the discussion that led to that decision? Over.

CPT Copper (b)(3), (b)(6): Negative, sir. I was not part of that discussion. Over.

LtGen Natonski: You mentioned, perhaps, a backhoe moving up there as well during the closure of the position. Do you know if that backhoe was part of the original construction contract to build the COP? Over.

CPT Copper (b)(3), (b)(6): No, sir. I am not sure if it was one we had at Blessing or was one for Wanat. I am not sure where that one came from, sir.

LtGen Natonski: Okay.

MG Perkins: So you said some of these contracts such as water or equipment. etcetera, you helped facilitate it. But, Captain Papa (b)(3), (b)(6) is the one that would have given specific instruction to contractors on when to show up and their scope of duties. Is that correct?

CPT Copper (b)(3), (b)(6): Yes, sir. That's correct. And this is how it would actually look is the contractor would be notified that they had the lowest bid. They would go to Jalalabad physically. Meet with the contracting office. Sign the contract. And then they would show

up to, in this case, Camp Blessing because Captain Papa (b)(3), (b)(6) was based there. Or they would have showed up to any base where the COR was at. They would have went right to the front gate and said I am the contractor for this, can I speak to the COR. So those contractors for the Wanat contracts would have come to Camp Blessing, asked for Captain Papa (b)(3), (b)(6) Captain Papa (b)(3), (b)(6) would speak with them and provide guidance. Correct, sir. Over.

MG Perkins: Okay. And then in your experience, and I am assuming the XOs did this for all the companies, at what point in time would those Company XOs ever come back to you? Would it be only if there was a major problem with the contract?

CPT Copper (b)(3), (b)(6): Yes, sir. That's correct, most of the time I wouldn't really get feedback because everything was going just fine. When there was negative stuff happening, then I would get feedback so that I could engage with the Contracting Office in Jalalabad. Over.

MG Perkins: In your experience then throughout your time there, was it common that there'd be some initial issues with a contractor, whether it was what equipment he had or his time and everything and the Company XOs would sort of try to work it at their level for a period of time and then sort of once they had come to the end of their capability, they would then come to you? In other words, was it normal that there was always some little friction and the XO sort of worked it out for awhile on their own?

CPT Copper (b)(3), (b)(6): That's absolutely true, sir. They wouldn't just come to me at the drop of a hat. They would work with their contractors to overcome certain issues. For example, if a piece of heavy equipment goes down, you know, there is a clause in the contract that may say you must fix this piece of equipment in 72 hours or provide a replacement. But we're in Afghanistan; we're in the Konar Province. It takes longer than that sometimes to fix a piece of heavy equipment and the XOs would work with them on that. Part of the reason they would do that also, sir, is not just the relationship they established and the rapport, but also the contracting process is a very, or at that

time, a very long and drawn out process. So, we couldn't just terminate the contractor and hire another one the next day. The termination process would have taken time, maybe up to two weeks. And then before we would hire another contractor, we being the contracting office, they would have had to re-solicit bids, gather them, process them, and then re-let the contract. So, a Company XO or Executive Officer, COR or XO, in this case, it would behoove him to work with the contractor to fix those problems as opposed to going through the whole contracting process where he would not see that service for maybe 4, 6, 8 weeks. Over.

MG Perkins: Based on that then, would you say your experience was generally the XOs could work these things out? Has that been there experience? Or generally did they come to you? In other words, what was more frequent, they worked through the problem or they would have to come back to you?

CPT : Most often, sir, they would work through the problem. They would only come to me if they were at their wits end and they were ready to move on to the next contractor. Over.

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

MG Perkins: So, again, generally, when the XO came to you, that was sort of at the point where they are ready to terminate the contract and get somebody else. Which is as you just said they know now they are buying weeks of delay, correct?

CPT : Sir, in the case when Major Red (b)(3), (b)(6) came to me, I think he just--it wasn't so much about fixing the contract as opposed to just find a way to get equipment trucks there. So I did. Over.

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

MG Perkins: Did you handle Class Four contracts as well for Barrier materials, construction equipment--construction materials?

CPT : Negative, sir. I wasn't part of, you know, the HESCO or Force Pro plan or Class Four plan. Over.

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

MG Perkins: Did that go strictly through Engineers and the S-4 then?

CPT Copper (b)(3), (b)(6) : Yes, sir. I think Chosen Company would have communicated with the Engineer and the 4 of what kind of Class Four they needed. Only piece I would have linked in would be if they specifically needed that fill contract as I described earlier. You know, I think they did have a fill contract in place. That would have been my tie in their Class Four, sir. Over

MG Perkins: Okay. Thank you.

LtGen Natonski: Okay, Copper (b)(3), (b)(6) , you are ordered not to discuss the testimony you provided today with anyone other than members of the Investigation Team. You will not allow any witness in this investigation to talk to you about the testimony he has given or which he intends to give. If anyone should try to influence your testimony or attempt to discuss your testimony, you are instructed to notify Lieutenant Colonel Beta (b)(3), (b)(6) or Lieutenant Colonel Sigma (b)(3), (b)(6) . Do you understand that?

CPT Copper (b)(3), (b)(6) I do, sir.

LtGen Natonski: I'd just like to thank you for your service to our country, to the Army, and your continuing service here in Iraq. We appreciate your ability to connect with us this morning, or this afternoon, whichever applies in your case and thank you for your testimony.

[Investigation closed at 1151, 4 November 2009]

CERTIFICATION OF VERBATIM TRANSCRIPT

Subj: TESTIMONY OF CAPTAIN Copper (b)(3), (b)(6) , USA, GIVEN VIA VTC FROM FOB WARHORSE TO NORFOLK, VIGINIA, ON 4 NOVEMBER 2009

In accordance with section 0214 of JAGINST 5800.7E, I certify that the subject transcript is an accurate verbatim transcript.

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

Lieutenant Colonel, U.S. Army
Judge Advocate

18 NOV 09
DATE