

DD FORM 457 "IO REPORT"
PURSUANT TO
ARTICLE 32 INVESTIGATION

012861

The Article 32 investigation was called to order at 0803 hours, 27 August 2003, at Camp Bucca, Iraq. The following is verbatim transcript of those proceedings:

IO: LTC [REDACTED] b(6)-2; b(7)(c)-2

IO: This is an Article 32 hearing. Before we get started for the record today, I'd like to summarize a meeting that all the defense Counsel and the Government was present for yesterday. The meeting was held on Tuesday, 26 August 2003 at 0900 hours. We discussed defense request for witnesses and discovery, and general procedures for the Article 32 hearing. Generally the Government will present its witnesses first, examine them, and then the Defense will ask, each in turn if necessary, and then the Investigating Officer will ask any questions. Defense Counsels were asked to avoid repetitive questions if possible. Defense requested to be able to designate certain Counsel to ask certain witnesses, and the Investigating Officer consented. All legal advice from my legal advisor will be requested with all Counsel present, and restated on the record. There will be a verbatim transcript made of the entire proceeding due to the potential of later witness availability. Evidence will be marked and cataloged individually by the recorder. I'll review the entire case packet prior to these proceedings. I will request as the convening officer, that copies of the final report will be forwarded to all Counsel and their clients. Witness and evidence availability were reviewed.

A follow up meeting was held at 1500 on 26 August 2003 to establish the final availability of EPW witnesses and the order of military witnesses. All of the EPW witnesses to be called by the Government are available, and 8 additional witnesses for the defense are available. Some US military witnesses and the Coalition Force service member were determined to be unavailable, and will be highlighted further in these proceedings. Other routine matters of procedure were discussed to facilitate the progress of the hearing.

This is a formal investigation into certain charges against MSG [REDACTED] SSG [REDACTED] b(6)-5
[REDACTED] SGT [REDACTED] and SPC Timothy Canjar. Ordered pursuant b(7)(c)-5
to Article 32B, UCMJ, by BG Janice Karpinski. On 24 July 2003, I informed you by
letter of your right to be represented by civilian Counsel at no expense to the United
States, military Counsel of your own selection, if reasonably available, or military
Counsel detailed by the Trial Defense Service. MSG [REDACTED] is represented by CPT
[REDACTED] SSG [REDACTED] by CPT [REDACTED], SGT [REDACTED] by CPT
[REDACTED] and SPC Canjar by MAJ [REDACTED] b(6)-5
The Government is b(7)(c)-5
represented by MAJ [REDACTED] and MAJ [REDACTED]. Let the record show that
each of the aforementioned Counsel are present here today.

b(6)-2
b(7)(c)-2

I want to remind you that my sole function as the Article 32 Investigating Officer in this case is to determine thoroughly, and impartially, all of the relevant facts of the case. To weigh and evaluate those facts, and determine the truth of the matters stated in the charges. I shall also consider the form of the charges and make a recommendation concerning the disposition of the charges that have been preferred against you. I will now read to you the charges, which I have been directed to investigate, unless your Counsel waives reading of the charges. Does any Counsel here so waive the reading of the charges against their client?

012862

CPT [redacted] Yes, Sir. b(6)-2
 CPT [redacted] Yes, Sir. b(7)(c)-2
 CPT [redacted] Yes, Sir
 MAJ [redacted] Yes, Sir.

IO: You all waive? Very good.

I advise each of you that you do not have to make any statement regarding the offenses of which you are accused, and that any statement you do make may be used as evidence against you in trial by court-martial. You have the right to remain silent concerning the offenses with which you are charged. You may however make a statement, either sworn or unsworn, and present anything you may desire, either in defense, extenuation or mitigation. If you do make a statement, whatever you say will be considered and weighed as evidence by me just like the testimony of other witnesses.

You have previously been given a copy of the investigation file that has been compiled in your case. It contains the following documents: The CID report of the investigation dated 8 June 2003, CID agent's reports of Special Agents [redacted]] b(6)-1, b(7)(c)-1
 [redacted] and [redacted]. Sworn statements from SPC [redacted]] b(6)-4, b(7)(c)-4
 [redacted] SSG [redacted], SPC [redacted], SPC Canjar, SGT [redacted], MSG [redacted]
 SGT [redacted], SSG [redacted], SPC [redacted], SSG [redacted], SGT [redacted], SPC [redacted]
 SGT [redacted] and SPC [redacted]. Medical reports, prescriptions and reports, an EPW release list dated 12 May 2003, the Article 15-6 report by MAJ [redacted], the CID crime scene report, and rights invocation statements from SFC [redacted], MSG [redacted], SSG [redacted]] b(6)-2, b(7)(c)-2
 [redacted] and SGT [redacted]] b(6)-5, b(7)(c)-5

It is my intent to call as witnesses in this investigation the following persons who have been identified by both the Government, and by the Defense: SPC [redacted] SPC [redacted]] b(6)-4; b(7)(c)
 [redacted] SPC [redacted], PFC [redacted], SPC [redacted], SPC [redacted], SSG [redacted], SGT [redacted] -4
 [redacted] SGT [redacted], SGT [redacted], SSG [redacted], SSG [redacted], SPC [redacted], SPC [redacted]
 SPC [redacted], SFC [redacted], SGT [redacted], SGT [redacted], MAJ [redacted], SPC [redacted], 1LT [redacted], SFC [redacted]
 [redacted] SGT [redacted], SGT [redacted], SGT [redacted] EPW's will include [redacted]
 [redacted]

and [redacted] and I will apologize if I have butchered any of those names. The witness list is not all-inclusive and the Investigating Officer recognizes that further witnesses can be called by the Defense or the Government.

After these witnesses have testified in response to questions, you or your Counsel have the right to examine them. You also have the right to call available witnesses for my examination to produce other evidence in your behalf. I have arranged for the appearance of those witnesses previously requested by you. If you desire additional witness, I will help to arrange for their appearance or for their production of any available evidence related to your case.

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b(6)-1; b(7)(c)-1

At this point, the following witnesses are in question with regard to their appearance: SA [redacted] who is on emergency leave, SA [redacted] who has PCSed, Investigator [redacted] who is also PCSed, CPT [redacted] who has left the theater, LTC [redacted] who has ETS'd back to his home country in Spain, LTC [redacted] who has also ETS'd from theater. It is noted that both SPC [redacted] and SPC [redacted] are on leave and will return on August 31, SPC [redacted] is on leave and is due to report back in on 30 August.

b(6)-2
b(7)(c)-2

Before proceeding further, I now ask you whether you have any questions concerning your right to remain silent, concerning the offenses which you have been accused, your right to make a statement either sworn or unsworn, the use that can be made of any statement you make, your right to cross-examine witnesses against you, or your right to present anything you may desire on your own behalf, and me examine available witnesses by you in defense, mitigation, or extenuation.

SPC Canjar: No, Sir.
MSG [redacted] No, Sir.
SSG [redacted] No, Sir.
SGT [redacted] No, Sir.

b(6)-5, b(7)(c)-5

IO: I'll ask you, do you want me to call any witnesses to testify in your defense or to testify in mitigation or extenuation on your behalf? You've already answered in the negative besides those we've already listed.

CPT [redacted]: None other than those already listed, Sir.

b(6)-2; b(7)(c)-2

IO: Correct. Which we understand is not an inclusive list. If you do wish for me to call other witnesses in this case for cross-examination, provide the names and organizations or addresses. If you are aware of any military records that you want me to consider, and that you have been unable to obtain, please provide a list of these documents as well.

Are there any further questions, or any other issues that we need to address before we get started?

MAJ [redacted] Sir, as we discussed last night, at some point before we start taking witnesses I'd like to conduct a short voir dire.

b(6)-2; b(7)(c)-2

IO: Why don't you go ahead?

MAJ [redacted] OK. Your current job is the S-5 of what unit?

b(6)-2; b(7)(c)-2

IO: [redacted]

b(3)-1

MAJ [redacted] Where do you work out of? Kuwait?

b(6)-2; b(7)(c)-2

IO: Camp Arifjan, Kuwait.

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b(6)-2; b(7)(c)-2

MAJ [REDACTED] And what are your duties in that job?

IO: S-5 is in charge of civil-military affairs for the Brigade.

MAJ [REDACTED] You've reviewed the packet. Do you have any prior dealings or personal familiarity with any of the accused?

IO: No, I don't.

MAJ [REDACTED] With any of the witnesses? Have you worked with any?

IO: No, I don't. No, I have not.

MAJ [REDACTED] You know this case has some press attention. Have you read any press articles or heard, or any press releases or discussions about anything in the press regarding this case?

IO: I've read two articles with regard to the case.

MAJ [REDACTED] Two articles? Which ones, Sir?

IO: There was one in the Stars and Stripes and one that was published in the LA times, I believe.

MAJ [REDACTED] And what, if anything, do you recall about them? Did they talk about the facts of the case?

IO: They talked about the basic circumstances of the case. Basically what was contained from what I had already gleaned from information from the case file.

MAJ [REDACTED] Did those articles, reach a conclusion, or tend to support one side over the other, in your opinion?

IO: I don't believe that they did.

MAJ [REDACTED] And have you seen any documents concerning this case that have not been provided to the defense Counsel. Sir?

IO: No I have not.

MAJ [REDACTED] Have you heard any conversations, I know that Arifjan is small, relatively speaking, have you heard any conversations of other people concerning this case?

IO: People have made general comments to me about it.

012865

b(6)-2, b(7)(c)-2

MAJ [REDACTED] Do you recall who, sir?

IO: Not right off the bat, I can't, but I'm sure I can if I give it some more thought. The comments have been general in nature. Just asking, expressing concern or just asking a question about the hearing and my position has always been to no comment on the case at all. Just to keep my thoughts and conversation to myself.

MAJ [REDACTED] The 220th, does your TOC share a TOC with the 800th MP Brigade?

IO: It does not share a TOC, but they are located right next to each other.

MAJ [REDACTED] And you haven't heard, there's been no discussions or nobody has approached you to talk about the case?

IO: From the 800th?

MAJ [REDACTED] Yes, Sir.

IO: No.

MAJ [REDACTED] There are 2 names-- the witness list that you sent out the first notification with a witness list. Was that the prosecution witness list? Did the prosecution help devise that witness list on your notification memo?

IO: Yes, that was their list.

MAJ [REDACTED] Sir, who appointed you as the 32 Officer?

IO: General Karpinski

MAJ [REDACTED] Did you ever meet in person, or was it all in writing.

IO: It was all in writing.

MAJ [REDACTED] And did anybody that works for her ever talk to you in person about your duties or deliver a memo or anything to you and discuss your duties as a 32 Officer?

IO: From the 800th I assume you mean.

MAJ [REDACTED] I'm sorry--

IO: From the 800th?

MAJ [REDACTED] Yes, Sir. From--

012866

IO: No there was occasions where I sent memorandums back to BG Karpinski just advising her of the status of the proceedings and getting the investigation under way, but no, I had no conversations with them.

MAJ [REDACTED]: Are you aware of any representatives from the Secretary of Defense's office taking an interest in this case?

IO: No.

MAJ [REDACTED]: If you determine after hearing all the testimony in this case that no punishment is warranted, do you feel that you can make that recommendation?

IO: I feel that I can make whatever recommendation is warranted by the evidence and the testimony that is presented.

MAJ [REDACTED]: Even if that is no punishment at all?

IO: Even if it would be no punishment.

MAJ [REDACTED]: And one more area I want to talk about. Have you ever been to Bucca, Camp Bucca before this?

IO: Yes, I have.

MAJ [REDACTED]: Were you here when the alleged crime scene was still in the condition it was? I understand it has been bulldozed; it's been taken down because the unit has moved. Have you ever seen that before it was taken down?

IO: It is hard to say because so much has changed here. It may have even changed when I had visited Camp Bucca before which was in late April. I know when I was here in late April I saw their processing area. I went inside the processing tent. That could or could not be the same configuration that they used on the date in question.

MAJ [REDACTED]: So you'll be able to put that aside and listen to the testimony here, and determine what the configuration actually was on the night of May 12th?

IO: Absolutely.

MAJ [REDACTED]: You won't bring that prior knowledge of the area in?

IO: No.

MAJ [REDACTED]: I have no further questions. Thank you very much, Sir.

IO: Does anybody else have any other questions that they'd like to add?

012867

CPT [REDACTED] No, Sir.

b(6)-2
b(7)(c)-2

MAJ [REDACTED] The Government has a request to clarify something. This is really for everyone. There was a question about something in reference to recommending no punishment or something. I'm not aware of punishment being an issue in this case. I thought this was an Article 32 investigation to determine whether the evidence merited going forward to a trial, and if so, what level. So to that end, was there some purpose in asking him about punishment?

MAJ [REDACTED] Maybe I used the wrong word. He has the um-- in your recommendation you may recommend court-martial or lesser forms of other dispositions such as Article 15, letters of reprimand, or that nothing occur.

IO: I made an assumption when she asked that whether, that she was talking about the charges and specifications being dropped and-- I assume that is what she meant--

MAJ [REDACTED] Yeah. Poorly worded. Sorry, Sir. But, yeah--

MAJ [REDACTED] I just wanted to clarify. Thank you, Sir.

IO: Thanks. Any further questions before we get started?

MAJ [REDACTED] No, Sir.

DIRECT EXAMINATION

b(6)-4; b(7)(c)-4

Staff Sergeant [REDACTED] U.S. Army National Guard, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial Counsel: Major [REDACTED] b(6)-2, b(7)(c)-2

Counsel: [REDACTED], were you stationed here with the 223rd on the 12th of May? b(6)-4; b(7)(c)-4

Witness: Yes, Sir, I was.

Counsel: Ok. What were your duties on the 12th of May or about that time frame?

Witness: The same as they are now for the 2d platoon, 2d squad.

Counsel: Ok. What were the missions of the 223d MP Company back on the 12th of May?

Witness: Primarily convoy security, EPW missions. We did some other security missions. Movement of personnel and things like that, but primarily EPW missions.

012868

Counsel: Alright, so you transported EPW's, is that what you did?

Witness: Yes, Sir. That is correct.

Counsel: Ok. Alright. Do you remember the 12th of May?

Witness: Yes, Sir.

Counsel: Alright. Did you go on a mission that day?

Witness: Yes, Sir, I did.

Counsel: Alright. What was the mission?

Witness: Uh, the mission was to go to Talil, which is the core holding area. The Air Force base up near An Nasiriyah to pick up some EPW's and bring them back here to the internment facility.

Counsel: Alright. Now were you the senior person from the 223d that was on this mission?

Witness: Correct, Sir.

Counsel: Ok. Who else was on this mission with you?

Witness: My personnel, Sir?

Counsel: Yes.

b(6)-4; b(7)(c)-4

Witness: I had SGT [REDACTED] which is my Alpha team leader. I had SGT [REDACTED] which is my Bravo team-leader; I had [REDACTED] PC [REDACTED] and SPC [REDACTED]

Counsel: Alright.

Witness: So five total.

Counsel: Was there another unit that went on this mission with you?

Witness: Yes there was, Sir.

Counsel: Alright. What unit was that?

Witness: The 320th MPs, Sir.

Counsel: Ok. Do you remember who, from that group went on that mission with you?

012869

Witness: I don't remember all of their names. I know that I was introduced to an E7 and I was introduced to MSG [REDACTED]--when we went over and made contact with them at their location. I don't know the names of all the individuals. I believe there was 10 of them, total.

b(6)-4
b(7)(c)-4

Counsel: Alright. When did you find out about this mission?

Witness: The night prior, on the 11th, about, uh-- I don't know the exact time, but it seemed like it was about 2100 or so.

Counsel: Alright. And how were you notified of this mission.

Witness: Through the standard procedures. Our TOC receives a mission briefing from the Brigade TOC. They pass it down through our Company operations. Our Company operations passes it down to the Platoon Sergeant. Our Platoon Sergeant assigns it to a squad. That day it was my turn to do the mission.

Counsel: Alright. And do you remember who told you about the mission?

(Same)

Witness: My Platoon Sergeant, SFC [REDACTED]

Counsel: Ok. Now, did you brief your people about the mission?

Witness: Yes I did.

Counsel: When did you do that?

Witness: The evening prior. I believe I briefed all five of the individuals. I told them who would be going, where we'd be going, what the mission was, and at that time I did not make any contact with the 320th personnel.

Counsel: Ok. This type of a mission to go up and pick up prisoners at Talil Air Base, have you done something like this before?

Witness: Yes, Sir.

Counsel: How many times had you done this type of mission?

Witness: Um, just a rough estimate, Sir, I would say anywhere from 15 to 20, maybe 25 times, up until that point.

Counsel: Ok. Now, when did you brief your people about this?

Witness: My people?

012870

Counsel: Yes.

Witness: As far as what the mission was?

Counsel: Um-- hum--

Witness: The night prior, on the 11th.

Counsel: Ok, and then you said you didn't brief the people from the 320th. Did you know the night before that they would be other soldiers from another unit going with you?

Witness: Yes I did, Sir.

Counsel: Alright. What-- When was the first time that you met with the soldiers from the 320th?

Witness: The original reason I didn't advise the 320th personnel was because the SP or the starting of the mission wasn't until later in the afternoon. Just off the top of my head, an estimate, I'd say around 1500. I figured that the morning after or the morning of the mission, on the 12th, that I would have time to go over and link up, make the necessary instruction, and coordinate whatever we needed to get done that morning.

Counsel: Ok. So it was that morning, then

Witness: Correct. And the mission-- it got changed from 1500-- they moved it up a couple hours. I believe it was until 1200, so I had to go over a little bit earlier and that's when I went over to their TOC, because they were originally supposed to meet us up at the Brigade TOC and just link up there and do our coordination and our safety briefs and everything there, but I had to go and advise them that the mission had been moved up, and make necessary arrangements for that.

Counsel: Alright. When you say that, you are talking about the soldiers from the 320th.

Witness: Correct.

Counsel: Alright. So, at what point did the soldiers from the 223d and the soldiers from the 320th get together to get ready to go on this mission?

Witness: The only-- I took myself and my Alpha team leader over to the 320th TOC that day. The time that our soldiers actually got together, other than my alpha team leader and myself and the lead 320th personnel was when we linked up over here at the Brigade TOC, and was conducting our safety briefing and getting staged to ride out of here.

Counsel: Alright. Now, who conducted the safety briefing?

012871

Witness: I did.

Counsel: Alright. And what was covered in the safety briefing?

Witness: Standard stuff. You know, the rules of engagement, reaction on contact, what happens if you get hit with sniper fire, ambushes, things like that. Go over convoy speeds. I advised everybody of the routes we'd be taking that day, alternate routes, rally points, what to happen if vehicles break down, things like that.

Counsel: Alright. Now, was it during that briefing that you talked about the actual mission and how to handle the prisoners that you were picking up?

Witness: The-- we talked about the actual mission and I explained the actual mission and gave them the run down during the safety briefing, yes.

Counsel: Alright. Now what did you tell them with regard to that? Handling the prisoners, I'm sorry.

Witness: We did not go over the handling of the prisoners.

Counsel: Ok.

Witness: We just told them that basically when we got on scene up there-- and I basically gave them the run down of what the mission was going to be once we got up there-- this was going to happen. 744, which is the MPs at the core holding area was primarily responsible. We're just transporting from A to B.

Counsel: Ok. Alright. Now do you know why the 320th was going on this mission with you?

Witness: Yes, Sir, I do.

Counsel: Ok, why?

Witness: I was advised through my operations that the 320th personnel were going to be conducting a right seat ride, which is basically a training mission. Primarily our command has designated that we take three vehicles for any movement north. That day, to alleviate some of the stress of the convoy and the volume of missions that we had been conducting up until this point, the 320th was going to start coming online and start taking some of these missions away from us. Make it easier for us.

Counsel: Ok. Do you know-- had any of these soldiers from the 320th ever been on this convoy, escort, pick up mission before?

012872

b(6)-5; b(7)(c)-5

Witness: Not with me, Sir. I have no idea. When I linked up with MSG [redacted] and her E7 I got the impression that they had never been. I gave them the run down before we left. I took them up the Brigade TOC. Showed them the ropes, so to speak. I showed them where to check out the tactical satellite phone, we showed them the routes on the map, showed them what to do in case of break down, what our point of contacts was, got the phone numbers for back here in case we had any altercations or if any vehicles break down.

(b)(6)-4; (b)(7)(c)-4

Counsel: Alright. Now, SSG [redacted] what time did you ultimately set off on your mission?

Witness: Without looking at my statement, Sir, I believe it was about 1300 or 1330. Right around that range.

Counsel: Ok. What was the configuration of the soldiers in vehicles on this mission?

Witness: In the lead element was myself, I was driving, my Bravo team leader was in that vehicle as well. His name is SGT [redacted] I had SPC [redacted] on the SAW gun. Behind me directly was the bus. I had SGT [redacted] and SPC [redacted] on the bus as bus security personnel, and then I was followed by two 320th vehicles.

b(6)-4; b(7)(c)-4

Counsel: Ok. Two HMMWVs from the 320th.

Witness: Correct.

Counsel: Ok, were there any 320th soldiers on board the bus as you traveled up to Talil?

Witness: I believe so, Sir.

Counsel: Ok. Do you know which ones were?

Witness: I know SGT [redacted] was and I do not know who else. I know that they probably had someone else on there. They were-- I advised my Alpha team leader, SGT [redacted] to give them the brief-- kind of run them through the ropes on the way up to Talil. To kind of show them what was expected once we got on ground up there.

b(6)-5; b(7)(c)-5
b(6)-4; b(7)(c)-4

Counsel: I'm sorry, you mentioned SGT [redacted] name. I don't think you mentioned her name earlier. Was she one of the ones from the 320th that went on this mission?

b(6)-5; b(7)(c)-5

A: Yes, Sir.

Counsel: Ok.

Witness: I identified her. She was not wearing a DCU top, but she had a Boonie cap on with her name stitched on the back of it.

012873

Counsel: Alright. Ok. So anything remarkable about your trip up to Talil that day?

Witness: Nothing remarkable. We stopped one time. The armor HMMWV's-- sometimes they run low on fuel depending on the weather, so we stopped one time and put fuel cans in there.

Counsel: Ok. Now, when you arrived at Talil, what did you do?

Witness: Initially when we arrived at Talil, they have a bullpen so to speak for the vehicles to pull in. It is a secure area inside the core holding area. We staged the vehicles inside there. I told the drivers and "A" drivers to go over and get fuel. There is a refuel point at Talil AFB. I told them to go over and get fuel. While we were waiting for fuel, we went in and made contact with the 744 TOC, advised them what we were there for, who we were, and who we'd be picking up.

Counsel: Ok. Were they expecting you?

Witness: Yes they were.

Counsel: Ok. Do you remember approximately what time it was the you arrived at Talil.

Witness: No I don't, Sir. It takes about 3 ½ hours to get up there, so I would say about 1630.

Counsel: So what did the Talil folks have for you to pick up that day?

Witness: We kind of went back and forth between 41 and 44 EPW's. The reason that they are unsure sometimes is the medical personnel have to assess the casualties on the ground or the EPW's casualties, and determine whether they're to come back to the internment facility, or if they need to stay at Talil and be seen by further medical treatment.

Counsel: Ok. So you went back and forth. Ultimately how many prisoners did you pick up that day?

Witness: Forty-four.

Counsel: Alright. And what did you do with them. How does that process work? What did you do to take custody of these prisoners?

012874

Witness: Ok. Primarily the process works-- we get on ground. We go hook up with their TOC, advise them, like I said we did. They print out an excel sheet. It's a spread sheet advising us of what prisoners we're taking, what they are accused of, they go ahead and gather any kind of medical documents that they have from their injuries that they sustained while being captured or wherever they got them from. We then take any kind of property that they have. We have to sign 4137's, which is evidence custody receipts; we have to sign 515's which is a prisoner manifest, 2708's which is the actual receipt for the prisoners. They give you any kind of low down if they have any kind of security threats, what the medical conditions are, and if they have any type of secret documents or any kind of Intel documents that need to come back here to the internment facility.

Counsel: Alright. So you signed these documents and you picked up whatever documents they had for you. Is that correct?

Witness: Correct.

Counsel: Alright. And how do you get the prisoners?

Witness: Inside this bullpen that I was talking about inside the core holding area, they have a row of concertina wire that actually leads to the holding facilities for the prisoners. They bring them out, 44 of them. They're in a seated position. Then what we'll do is probably 15 meters back from the exit to the bullpen, where they actually get on the bus, we bring them up 5 at a time for safety sake. At that time we go ahead and identify who our safety risks are, who our medical issues are, if we have any problems like that, and those are the people that we like to load in the front of the bus in case we need to get to them in a hurry or anything like that, or if they need any type of medical treatment while in route, we're able to provide that and not have to go all the way to the back of the bus to get to them.

Counsel: Alright. So then the prisoners are loaded on the bus, is that it?

Witness: Correct. I had-- there was 320th personnel on the bus. I don't know how many there was. They were responsible for the actual seating of the prisoners. I had my Alpha Team leader, SGT [REDACTED] stationed at the door. He was provided with an excel spreadsheet with the prisoners matching up with the manifest numbers on the capture tags. His responsibility at the door at that time is they come on the bus, he checks the actual capture tag ID number and then marks them off the list to make sure that we're getting who we're signing for.

b(6)-4
b(7)(c)-4

Counsel: Alright. Is that what happened that day?

Witness: Yes it is.

Counsel: What were you doing while this was going on?

012875

Witness: I was signing for the property. There was a substantial amount of property to go through. The 4137s, we had 44 prisoners which had 44 persons worth of gear. They had each individual clothes, money, personal items, toiletries, things of that nature. So I was busy going through that and signing for those.

Counsel: Alright. Now, at any time up there in Talil, was a briefing given to your soldiers or solders from the 320th about the return mission and the handling of the EPW's?

Witness: Yes there was, Sir. After I received the 4137s, got those signed for, I was having a couple of my E4s put the property on the belly of the bus, and I walked to the front of the bus to the rear of the 1st HMMWV between those, probably about 15-20 feet in front of the bus. I was standing there. I was reviewing the manifest of who we had, making sure that we was getting everyone that we were signed for, what they were accused of, and if I needed to prioritize. I think that day we had nine accused assassins on the bus, and I was determining-- making sure that they were getting seated right. Making sure that they weren't able to communicate.

Counsel: Ok. So you were doing that and this briefing, did you hear the briefing that was given to the soldiers? About the return trip and treatment of the EPW's?

Witness: The only person that I advised about the return trip if you can picture, Sir, I was the NCOIC for my 223d personnel while MSG ██████████ was the NCOIC for hers. So in all actuality, there was two chains of command at work that day.

(b(6) -5, b(7)(c) -5

Counsel: Understood.

Witness: When I was stationed at the front of the bus, the only contact that I was really having with the 320th personnel was through the E7 and through the MSG.

Counsel: Ok.

Witness: And then I would let her go back and advise her people on how to conduct their operations.

Counsel: Ok. So did you talk to MSG ██████████ up in Talil about the return trip and treatment of the prisoners?

(same)

Witness: Absolutely.

Counsel: What did you tell her?

012876

Witness: Ok. As I said before, I was standing about 15 feet in front of the bus. I was standing there reviewing the excel spreadsheet. I did receive a secret document folder that day. I was standing there reading that. Making sure we was getting all the information. When I was doing that, MSG ██████ walked up and we started talking, and I started explaining to her the process that we go through that I just explained about loading the prisoners on the bus for safety and medical issues and things like that. Who we had on the bus. What they were accused of. Where we were going, and anything else. I showed her the secret documents folder and told her how we prioritize the personnel.

b(6)-5
b(7)(c)-5

Counsel: Alright. Did she say anything to you?

Witness: Yes, she did.

Counsel: What did she say?

Witness: At that time there was something that came around about the respect the EPW's had been shown up until that point, and MSG ██████ referred to me, and she said, "Yeah, well that's the problem. They've been shown too much respect up until this point." I didn't really understand what she meant, and then she said something like, "Well, I don't want to make you uncomfortable. I don't want to make you upset, but do you guys get to do any interviews with the EPW's?" And I said no, that's usually reserved for the MI personnel once we arrive back here in Camp Bucca. And she said, "No I mean personal interviews." I knew right then what she meant. I said, no, we do not conduct any kind of operations like that, and she's like, "Well, do we ever stop the bus in route?" I said no unless there is a breakdown. She's like, "what if there is a problem on the bus?" I said we stop it and address it with the minimum force necessary. And she said she understood and that she would go and brief her troops.

(same)

Counsel: Ok. After that conversation with her, how did you feel?

Witness: At that time I kind of-- I thought that if something was going to happen, it was going to happen in route, and I knew that they had security personnel on the bus. I went to the bus, pulled SGT ██████ and SPO ██████ to the side, and I advised them on the conversation that I just had with the MSG. I explained to them that safety of the prisoners was our number one priority. The mission was number one safety of our prisoners and just going along with our Five S's and our T's which we're trained on for EPW care.

b(6)-4
b(7)(c)-4

Counsel: Ok. Let's talk about those for a second. The Five S's. What did you mean by that?

Witness: The Five S's are Speed, Safeguard, Segregate, Silence and-- well there is five of the S's, and basically all they are is a rundown on how to handle prisoners, and the T is for tag.

012877

Counsel: Ok. The T is for tag?

Witness: Tagging the prisoners.

Counsel: Right. I think you said safety, speed, safeguard, silence, there was one more.

Witness: Segregation. I'm sorry.

Counsel: The Five S's and tag. Do you know whether the soldiers from the 320th ever got a briefing on that?

Witness: Sir, I've been an MP for 11 years. I've been briefed that for 11 years. That's-- every part of every kind of training that I received in regards to EPW missions have been along those lines.

Counsel: So it is your experience as an MP that that is regular training that all MPs receive.

Witness: Yes. And that is additional to the training that we received in Fort Dix. Going over those same things. Handling EPW's. That is what we were taught there as well.

Counsel: Alright. So you talked to MSG [REDACTED] You relayed your conversation to MSG [REDACTED] to SPC [REDACTED] and SGT [REDACTED]

b(6)-5; b(7)(c)-5

b(6)-4, b(7)(c)-4

Witness: Correct. They were my security personnel on the bus.

Counsel: Alright. The prisoners got loaded on the bus?

Witness: Yes.

Counsel: Did anything happen before you took off, back for Camp Bucca?

Witness: Negative. At that time we had the uh-- the 320th personnel did not have SINGARS on their vehicles. We had little hand held radios. I had one so that we would have some type of communication with the vehicles. I did a radio check with all the vehicles, basically giving the thumbs up that we were ready to roll. The vehicles were refueled. The prisoners were signed for. They were on the bus. They were secure. All the property was signed for. We were ready to go.

Counsel: Alright. So do you remember what time you departed Talil and headed back for Bucca?

Witness: Roughly about 1830.

Counsel: Alright. Now, where were you riding?

012878

Witness: I was in the lead vehicle. I was driving the lead vehicle.

Counsel: Ok. Same position that you had been in when you came up to Talil.

Witness: Correct.

Counsel: Alright. What about-- pretty much all the vehicles were in the same configuration as when you left?

Witness: Yes, Sir.

Counsel: Ok. So did anything happen on the way back?

Witness: Yes, Sir. About--I think it's--I believe it's 36 kilometers Southeast of Talil is uh Cedar refuel point. It's not there anymore. But probably about 2 kilometers on the other side, on the Talil side of Cedar refuel point, we're going around the curve, and I'm probably 200 meters out in front of the convoy doing scout mission stuff like that. Periodically, about every 30 seconds or so I am checking my rear view mirror to make sure that the convoy is still with me. I've got my little hand held walkie-talkie that is sitting right on my dash where my air conditioner vent is. I look back. I see the convoy, everybody looks fine. I look back 30 seconds later. Maybe even--maybe not even 30 seconds later, and I don't see the convoy.

Counsel: Ok. What did you do?

Witness: At that time I just slowed down. Our convoy speed is usually about 45 mph. I think I knocked it down to about 20 to give them a chance if I ran off and left them for some reason to give them an opportunity to catch up. Once I realized that they were not going to catch up, I did a U-turn and started heading back northwest on Tampa.

Counsel: Ok. Did you find them?

Witness: Yes I did.

Counsel: What was going on when you found them?

Witness: First of all, the convoy was approximately ¼ mile back, just at the entrance to the curve. When I--I was headed northwest, so I passed the convoy. There was a 320th personnel vehicle in front of the bus at this time, the bus, and then the other HMWWV -- the trail vehicle. So in essence you had your bus and two HMMWV's. When they stopped and realized that I was gone, one of those HMMWV's just pulled around and staged in front of the bus.

Counsel: Ok.

012879

Witness: I went down past the convoy, did another u-turn and went back and staged back in front of the convoy in my original configuration with me being the lead-element.

Counsel: Alright, and then what did you do?

Witness: The first thing that I did was talk to my gunner and my team leaders, and I advised them to watch the radios. I set up sectors of fire for my gunners. It was dark at that time. I believe that we left about 1830. This was probably 30-45 minutes into the trip so it was already dark outside. I told them to pull out their NVG's, make sure those were working, and that I was going to go back to find out what was going on.

Counsel: Alright, and did you in fact do that?

Witness: Yes I did.

Counsel: What did you find?

Witness: When I was approaching the bus, like I said before, one of the 320th HMMWV's at this time was now in front of the bus. There was a female, white E5, I do not know her name. Short haired. She was standing-- I'm assuming she was driving the HMMWV. She was the only one that was standing next to that HMMWV. I asked her what was going on. She said there was a problem on the bus. Right then, with what I had heard up there at Talil, I knew something had happened. I knew something went wrong.

Counsel: Ok. So when you got that information from the female Sergeant from the 320th, what did you do?

Witness: At that time I went to the bus. The first thing that I noticed that the lights on the bus were on. The interior lights of the bus-- there was a bunch of people standing on the bus. I walked to the bus steps. Walked up to the bus steps. I couldn't even get all the way to the top flight of steps. I barely got to the top of the platform for the bus. I seen SPC [REDACTED] and then there was, I'm going to guess, anywhere from six to eight 320th personnel, and on the other side of them I seen SGT [REDACTED]

b(6)-4
b(7)(C)-4

Counsel: Alright. Was anybody saying anything at that point.

Witness: Yes. As soon as I got on the bus, I said, "What's the problem. What's going on?" I was advised that there was a mechanical issue on the bus, the hydraulic hose had been broken or come loose, and that the driver had already made the necessary repairs, and that we were ready to roll.

Counsel: Ok. Do you remember who told you that?

Witness: SPC [REDACTED]

(Same)

012880

Counsel: Alright, and he is a member of your unit, right?

Witness: Correct, and I confirmed that with the bus driver as well.

Counsel: Ok. So at that point, did you do anything?

Witness: I was-- all I said was if the bus is repaired and everything-- the prisoners are fine, let's roll. And basically told everybody to get off the bus, and let's resume our mission. I was -- since I was the last one on the bus, I was the first one off the bus. After I said that, there was probably about a 10 second pause of people just kind of standing there, and then everybody-- it just clicked what I had said, and I got off the bus. I walked off, and I did not see who got off the bus behind me, but I looked back and just the silhouette, because of the bus headlights, I seen some of the 320th personnel start to come off the bus.

Counsel: Ok. So did everybody eventually get back in the vehicles?

Witness: Yes they did.

Counsel: Alright. Did you head back for Camp Bucca?

Witness: We got a commo check with the little hand held, and then we headed back to Camp Bucca.

Counsel: Ok. Any more incidents along the way back to Camp Bucca?

Witness: No. Before we left, when the bus was stopped before we left, I went ahead and advised my drivers. They had the 998's or the 1025's, the lightweight HMMWV's. Those get a ton better fuel mileage, so I dumped 5 gallons of fuel in my vehicle and that was it. We rolled out.

Counsel: Alright. And no more incidents until you got back to Camp Bucca?

Witness: Negative.

Counsel: Ok. What time did you arrive at Camp Bucca that night?

Witness: Rough estimate again, obviously Sir, I'd say about 2200.

Counsel: And where did you go when you got onto Camp Bucca.

012881

Witness: When you come into Camp Bucca the way they had it set up at the time, there is an in-processing team that comes out to meet you, and there is like an IHA or an initial holding area. That's basically where you get the person off the bus. It's where the in-processing team accepts the prisoners. They give them their blankets; they do their searches, things like that. Things that they're going to need when they go into the pens back here.

Counsel: Ok, and so did you take the bus of prisoners to that location.

Witness: Correct. It was probably, when you come in the gate, it was probably 50-75 meters on the right hand side, away from the gate.

Counsel: Alright. Now, where did the bus pull up with the prisoners in relation to that in-processing center?

Witness: They have a bullpen going up-- the actual CONEX's which formed the in-processing area was probably about 75 meters up away from the road. They had a bullpen of concertina wire, a chute that you use. Once you pull prisoners off the bus, you search them right there. If you go into the bullpen area, you can take a left -- there is an IHA over there. If there is an overflow up there at the in-processing area, you can put the prisoners in a secure environment over in the initial holding area. You pull them off the bus. Usually nine times out of ten, I've never, up until that day and since that day, I've never had an in-processing team not to meet me there and accept the prisoners.

Counsel: Alright. Let me ask you a question about the prisoners, first. When you transport these prisoners, are they in any way restrained?

Witness: Any type of security threats that we have, they are restrained with flexi-cuffs, or I think that the 744 that evening, they were short on flexi-cuffs, so they used some type of medical tape on their hands. And those are just for the prisoners that are security threats, that are not medical issues. Any type of medical issues we do not put their hands together like that.

Counsel: Ok. So medical issue prisoners were not restrained. Their hands were not restrained, but others were.

Witness: Correct. And that was done by the 744th personnel.

Counsel: Alright. So the bus rolled up, and you said something about, you've never been to the in-processing center before where there wasn't a unit there to meet you. Was that the situation that night?

Witness: Yes it was.

Counsel: There was or was not a unit there to meet you?

012882

Witness: Was not.

Counsel: Oh, Ok. So this was the first time that it happened?

Witness: Correct.

Counsel: Do you know why the unit was not there waiting to meet you?

Witness: I have no idea. I was told by the-- when I-- later on, when I got off the bus, or when I got out of the HMMWV, I walked up to the tent to get a team together, and I was told by the person at the desk that they were not advised that we were coming. They didn't know that we were in route. So if that is true, I do not know.

Counsel: So what is the unit, what was the unit that supposed to be at the processing tent?

Witness: I don't know.

Counsel: Ok. So you arrived at the tent, there was no unit there to meet you, so what did you do at that point?

Witness: At that point, I walked to the bus. I told-- there was some of the 320th personnel already walking up to the bus area. I told them to start bringing the prisoners off the bus, getting them searched, and staged, and ready to be accepted by the team, and that I was going to go to the team, get an in-processing team together, and link up, and go down there and plus I had the secret documents folder that I had to turn over to a Commissioned Officer.

Counsel: Ok. So, did you do that?

Witness: Yes I did.

Counsel: How long did that take for you to do that?

Witness: Before I left, they were starting to get the first five prisoners-- typically what we do for security personnel, we had 44 EPW's that night. Instead of bringing them all off the bus at the same time, the same fashion that we get them up at the core holding area, we take them off the bus five at a time. We started bringing the first five off the bus. The thing that I noticed right off the bat before I left, we were conducting the searches, they were staged five in a row, ready to go up to the bullpen area, up to the in-processing area. The first one to get off the bus was, I believe he was an Iraqi Major, Fedahyeen Major, I'm not positive on that. He wasn't identified, but he had hospital attire on, and he was on crutches.

Counsel: Ok. So the first person off the bus was a man on crutches.

01288J

Witness: Correct.

Counsel: Alright. You said that-- Did you notice anything about that man, or something that happened to that man?

Witness: In regards to--

Counsel: I'm Sorry--

Witness: That evening, you mean?

Counsel: Yes, that evening.

Witness: Ok. When we got back here, the first five were off the bus at this time. Now, they were in a seated position. I wasn't looking at the prisoners the whole time, so I'm not going to testify about how they were seated. From the exit to the bus to where we had them staged at was probably only about 10 feet. They were in the seated position. The Iraqi Major-- they were told to get up. All five of them get up. They started escorting them back to the in-processing area. The Iraqi Major, naturally, that was on crutches--

Counsel: Ok, so it was the man on crutches? Ok. Go ahead, I'm sorry.

Witness: He was the slowest one. I believe that when he was taken into custody, or at some point, he had been shot in the leg a couple of times. So he was moving pretty slow.

Counsel: Ok.

Witness: When he was moving pretty slow, I seen a person that I identified as the E6, the only way I identified him was tall, he was the biggest guy in the group, a bald headed guy, and he had an E4 on the other side of him, and they were on his right and left sides, yelling in his ear, telling him that he was not, he was faking it, pretty much. That he wasn't as hurt as bad as he was, and that he was faking, and that he was just trying to hold up the progress and stuff like that.

Counsel: Ok, and then did anything else happen?

Witness: Yes. At that time, when they were yelling at them, they were entering the bullpen chute taking him up to the area, MSG [REDACTED] walked up behind the first prisoner, uh--was yelling at him.

b(6)-5
b(7)(c)-5

Counsel: I'm sorry, when you're saying the first prisoner, are we talking about the same person, them man on Crutches?

Witness: Correct. The man on crutches.

012884

Counsel: I'm sorry, go ahead.

Witness: Ok. Walked up behind him, was yelling at him, and they were verbally abusing him. They were verbally abusing him. And they were telling him that he was full of shit, and that he was just faking it, and he's not hurt as bad, and he needs to move faster-- stuff like that. The guy was scared because he's got like 3 MP's, you know just probably inches from his face just yelling at him at the top of their lungs. He's scared. At some point--

Counsel: Let me stop you for a second. Are those 3 MP,s that you observed doing this to the Major, are they here?

Witness: Yes, they are.

Counsel: Could you identify them, please?

Witness: MSG [REDACTED] SSG [REDACTED] and the SPC right there.

b(6)-5, b(7)(c)-5

The witness identified MSG [REDACTED], SSG [REDACTED], and SPC Canjar by pointing to them.

Counsel: What happened next?

Witness: Ok. At that time, again, like I said, as far as how the prisoner got on the ground, I have no idea. I heard a loud thud. I turned around. The prisoner was down on the ground. All three of them were over top of him yelling. Telling him to get up, he better get up, he better move. All this stuff like that. At that time, the E6 and the E4 scooped him up underneath his arms. This is what I seen. They scooped him up underneath his arms like that, and started lifting him up off the ground and just started dragging him. When he dropped down on the ground, this guy was terrified. When he dropped down on the ground, and uh-- he was screaming. I'm going to tell you right now, if you've never heard that kind of scream before, it's-- you won't forget it.

Counsel: What was it like?

Witness: Uh--

Counsel: The scream?

Witness: In my opinion, he was scared. He was scared for his life.

Counsel: Was it high pitched? Was it low pitched? I mean was it-- can you kind of describe it a little bit more?

012885

Witness: I can't really describe it, Sir. I mean its-- its-- it was at the top of his lungs. It was as loud as he could scream. He was hollering something in Arabic. I don't know. I don't speak Arabic. He was hollering something in Arabic, and they were just on top of him yelling at him.

Counsel: Alright. Now, you said that they picked him up?

Witness: Yes.

Counsel: And what did they do?

Witness: Um-- they basically started-- he was in an erect position. They had their arms up under his armpits like that so they had him picked up like this on either side, and they just started walking real fast. Of course, he could not walk that way because he had been shot in the leg and was on crutches. But uh, they were just-- they were yelling at him the while way up the bullpen. And uh--

Counsel: So he couldn't walk that fast. What was he doing?

Witness: The prisoner?

Counsel: Yes.

Witness: The prisoner was just-- he was dragging his feet on the ground. The tops of his feet was dragging against the ground.

Counsel: Ok, and you said-- was he screaming while this was going on, too?

Witness: Absolutely. All the way to where I lost sight of him. If you see the-- where the area is, like I said before it's like 75 meters from the road, and its well lit up from a bunch of lights and stuff around that area. It is actually focused on that area, where they actually take them for the . . . But at the same time, what those lights do is they silhouette as they get so far up the bullpen, I couldn't see because the lights were blinding pretty much.

Counsel: Alright. Now, did you see-- this-- you said you saw this before you took the documents up to the TOC?

Witness: Correct.

Counsel: Alright. Did you see anything else before you tool the documents up to the TOC?

Witness: No.

Counsel: Alright, what did you do after you saw this?

012886

Witness: At that point, I said, I don't remember what I said-- but I said that I needed to go and turn these documents in and get an in-processing team down here to accept these prisoners. At that point, I didn't know how the prisoner got on the ground other than a verbal abuse, I didn't see any assaults up until that point. So I turned and went to the in-processing tent.

Counsel: Alright, and what was going through you mind when you were up in the area?

Witness: To get an in-processing team down there as quickly as possible.

Counsel: Why?

Witness: Not only to take the prisoners from my guys, and the 320th personnel, but because. I mean it had been a long day up until that point, and once you get to the point of turning them over, that is your last little thing that you had to do for the day, and I was concerned about getting my guys back and getting them some rest.

Counsel: Ok. Were you concerned about what was going on?

Witness: At that point, I was thinking, well they're being a little aggressive, but like I said before, I had not seen any type of physical contact up until that point. When you're on the ground like that, then you have a MSG and an E7 and an E6, and you have all these professional people that wear the same brassard that I do and the same uniform that I do on the ground, you don't anticipate anything like that is going to happen. You don't expect anything like that to happen.

Counsel: Ok. So, you went up the to TOC, right, to deliver the documents and get an in-processing team?

Witness: The TOC and the in-processing team and the secret documents was two different stops.

Counsel: Ok.

Witness: I first went to the in-processing tent, met up with the duty there. That's where I was advised that they did not know-- they weren't aware that we were coming. I was told that we were there with 44 EPW's from the core holding area. They needed to get an in-processing team down. She said, "Let me let you talk to my NCOIC," and at that time I was introduced to SSG [REDACTED]

Counsel: Ok, and what did you tell SSG [REDACTED]

b(6)-4; b(7)(c)-4

012887

b(6)-4,
b(7)(c)-4

Witness: The same thing that I had just told the individual at the desk – that we were there from the core holding area. That we had 44 EPW's and I need an in-processing team with the property personnel down there to accept the EPW's.

Counsel: Ok. So what unit was SSG [redacted] with?

Witness: I don't know.

Counsel: Alright. Did he indicate that he'd get all that for you?

Witness: Yes.

Counsel: Ok. So what did you do next?

Witness: At that time I went back to the desk where I initially entered the TOC at. I told the SPC that I needed a Commissioned Officer to sign for, not sign for, but turn over to the Commissioned Officer the secret documents folder. She said that the only one on that they had on duty that evening was MAJ [redacted] and that she was at the Brigade TOC, which was probably about another 300 meters that way. South I guess it would be from the in-processing tent.

Counsel: Ok.

Witness: At that time I made contact via landline with MAJ [redacted] I told her the circumstances. She said, "Sure, no problem. Just bring it on up here." At that time I left on foot and walked up to the Brigade TOC.

Counsel: Ok, and did you deliver the documents at that point?

Witness: Yes.

Counsel: Alright, and then what did you do?

Witness: At that time-- first of all I spent probably, in the in-processing area, I probably spent 20-25 minutes. If you picture from the, where we drop-- where we stop the bus to where the Brigade TOC is, you're talking about maybe 500 meters. So it is a nice little walk. I walked to the in-processing tent, and spent about 20-25 minutes there, and then walked another 300 meters to the Brigade TOC for a total of about 500 meters. I then made contact with MAJ [redacted] Told her that we needed a processing team. I had already spoke to SSG [redacted] and that I had this folder for her. She took it and secured it.

Counsel: Alright. What did you do after that?

Witness: After that, I left the Brigade TOC. I was walking back down to the area where the EPW's were. When I was walking past the in-processing tent, I met up with SSG [redacted] and his team which were coming out of the in-processing tent, and we just all kind of linked up and walked down to the EPW's together.

012888

Counsel: Ok. Now what was going on when you got down there?

Witness: Ok. When I got down there, uh-- at that point they had switched. It went from five coming off the bus at a time to, they were bringing them off individually. When I got down there, there was, the property personnel hadn't shown up, yet. I did see another guy-- I don't know his rank, but he was in hospital attire, again. They were-- one of the 320th personnel, it was the E6 and the E4 again, I believe. I know for sure that it was the E6. I had the E6 and the prisoner standing between me. I was on the left side of the prisoner, probably about 15 meters, 20 meters away. They took the-- custody of the individual, put him in a gooseneck or an arm bar behind his back, and started escorting him up the chute to the in-processing area.

Counsel: Alright. I'm sorry. That was the E6 and the E4?

Witness: Correct?

Counsel: Same individuals you identified earlier?

Witness: Yes.

b(6)-5; b(7)(c)-5

Counsel: Alright. That would be SSG [REDACTED] and SPC Canjar.

Witness: Correct.

Counsel: Alright. And they took this person and they put him in a, I think you said a gooseneck?

Witness: Yes.

Counsel: What is a gooseneck?

Witness: Basically what it is-- his left arm-- what they did-- they wrenched it up behind his back, it was in this position here if you picture it being behind his back. They had control of his hand here. Had one hand on the back of his neck, and they were escorting him up the chute.

Counsel: Alright, now, what was this prisoner doing while this was going on?

Witness: Screaming.

Counsel: Alright. What kind of a scream was he issuing?

Witness: Pain.

Counsel: And, have you ever seen this techniques used to escort prisoners before?

012889

Witness: Noncompliant prisoners.

Counsel: Alright. Did you observe this EPW's behavior?

Witness: Yes I did.

Counsel: How was he behaving?

Witness: Compliant.

Counsel: And in what way was he compliant?

Witness: They-- we-- up until that point, we were advised at the core holding area that they had had them in custody for 3 weeks. They did not have one incident. Not one.

Counsel: That was the briefing you got from the 744th?

Witness: Correct.

Counsel: Ok.

Witness: When we got on the whole escort, the whole trip down, 3 ½ hours back, probably a little bit more because the bus broke down, no problems. They never gave this guy a chance to be compliant.

Counsel: Ok. So, did you observe this person from the time he got off the bus to the time he was--

Witness: Until I lost sight of him. Like I said before, once they got up to a certain point of the bullpen, the lights were too much and you couldn't see up in that area.

Counsel: Alright. Did you notice anything about the medical condition of this prisoner.

Witness: Yes, I did. The prisoner was wearing-- again, he was wearing a hospital attire. When they wrenched his arm-- when they goose necked his arm up behind him, his sleeve fell down kind of like mine is now. He had a bandage on his arm right here, and I'd identified him as one of our medical personnel that were identified to us at 744. I can't recall at this time, but it was something along the lines of some sort of dislocation, whether it be in the hand, the elbow or the shoulder, I'm not sure.

Counsel: Ok. Alright. So he had some kind of a bandage on the arm that they were twisting?

Witness: Yes.

012890

Counsel: Alright. How long did this person scream?

Witness: They escorted him-- they walked with him like that up into the bullpen for about, I'm going to say probably 15 meters. At that time, the guy was just screaming at the top of his lungs and just fell on the ground. He just collapsed on the ground. At that time I observed the SSG and E4 get down beside him. The SSG, if the prisoner was facing this way, he was facing this way and has his knee against the back of his shoulder. I observed him take a fist, or a hand, which I believed to be a closed fist, and hit him at least three times to the left side of the body.

Counsel: Alright. Did you say anything at this point?

Witness: Yes I did.

Counsel: What did you say?

Witness: I walked over, like I said I was probably 15-20 meters away. I walked over. They were inside the concertina wire, in the bullpen. I was outside the concertina wire. I walked over to the concertina wire. I was probably 10 feet at the most away from the SSG and the altercation going on. I said, "Hey you, cut that shit out right now. That is not how we do business."

Counsel: Alright. Did anybody respond to that?

Witness: Yes, he said, "well he's resisting."

Counsel: Who said that?

Witness: The SSG.

Counsel: Alright. He said, "He's resisting."

Witness: Yes.

Counsel: Ok. Did you respond to that?

Witness: Yes I did.

Counsel: What did you say?

Witness: I said, "of course he's resisting. He has a dislocated arm or shoulder or whatever it was, and you have it wrenched up in a gooseneck. He's screaming out in pain. If you'll pick him up, and escort him the right way, then he'll be compliant and walk with you."

Counsel: Alright, and what did they do at that point?

012891

Witness: At that time, the E4 and the SSG scooped him up again underneath the arm, and just started dragging him, and this guy was just screaming. He was terrified.

Counsel: Alright. Anything happen after that, SSG [REDACTED] b(6)-4, b(7)(c)-y

Witness: The-- in-processing team was on the ground, like I said I linked up with them at the in-processing tent. We walked back down together. Which I identified as SSG [REDACTED] and I believe SSG [REDACTED] which was a black E6. They were on the ground at that time. Up until that point I had not seen MSG [REDACTED] on the ground. Once we got back to the in-processing area, other than when we first walked up and I saw them take the first five off the bus. I seen her at that point, but I hadn't seen her up until then. There was some conflict with 4137's, there was clerical errors on the paperwork, pretty much. It boiled down to they were saying that I signed for something that I didn't, and we went back and forth on that. So I was told that the property personnel-- I started to walk back up the in-processing area to find the property personnel because they weren't there. I probably got to the lead HMWWV and the processing personnel drove past me. I turned around and went back to the bus and started working on the property.

} (same)
b(6)-5
b(7)(c)-5

Counsel: Alright. Now were you concerned at all about the way these prisoners were being treated?

Witness: When... after I addressed the issue with the E6, now this, up until that point I made a conscious decision that there is something going on and you know, well-- ok now the in-processing team is here. Again I have an E8 and an E7, although I had not seen it, I was advised an E6, but what he's doing was wrong, and I've told him to cut it out. So I figured from that point that everything was going to be ok. That the treatment of the prisoners would improve.

Counsel: Ok. What happened after that?

Witness: Like I said before, we were-- I was working on the property issues. Any type of major property issues like I told before that you need to sign for specifically. I believe in that case there was a bunch of money that the prisoners had actually taken. I think it was like \$8,000 dollars in Dinar, just off the top of my head, but anyway, what it boiled down to was the 4137 and the evidence custody technician property personnel said that I had signed for this money when in fact I hadn't. So at that time, to clear up this error, I had-- I needed to go back to the Brigade TOC which was the only DSN line available to contact the 744 personnel and work out this problem.

Counsel: Alright. Did you go do that?

Witness: Yes I did.

Counsel: How long did that take?

012892

Witness: This time it was a lot quicker. Like I said before I had stopped at the in-processing tent for 25 minutes. This time it was just a direct route right to the Brigade TOC, so how long that took, I don't know. I'd say anywhere from 15-20 minutes. I went to the Brigade TOC. I told MAJ [REDACTED] of the situation.

b(6)-4
b(7)(c)-4

Counsel: What situation did you tell MAJ [REDACTED] of?

Witness: Of the property issues.

Counsel: Of the property issues?

Witness: Yes.

Counsel: Did you discuss with her the treatment of the EPW's at that point?

Witness: Not at that time.

Counsel: Ok.

Witness: I got on the DSN. I called 744th, I had negative contact with them. I told MAJ [REDACTED] that we had property issues. She advised me at that time to just go ahead and finish the 2708's and the 515's, which are the forms for dealing with the prisoners. Just go ahead and get them signed over, and then gather up all the property and bring it up there. It was dark, like I said. I don't know what time it was. We arrived at 2200 so you guys can do the time line, but she told me to gather up all the property and bring it up to the Brigade TOC where we could actually sit down and get it in the light and go through it.

b(6)-4
b(7)(c)-4

Counsel: Ok. Now, did you go back at all to where the prisoners were being taken off the bus?

Witness: Yes.

Counsel: Ok. What happened when you got back down there.

(b)(6)-4
(b)(7)(c)-7

Witness: When I got back down there, they were still doing the-- I seen SPC [REDACTED] escorting one of the prisoners up the bullpen, which was-- I didn't think it was odd at time, but I never have any of my guys do that. They are not responsible for that part of it. Plus the in-processing team was there on the ground.

Counsel: By that you mean you don't usually have your team do the escorting?

Witness: Correct.

Counsel: Because there's somebody else that is supposed to do that?

012893

Witness: Exactly.

b(6)-4, b(7)(C)-4

Counsel: Ok. So you thought it was unusual to see SPC [REDACTED] escorting the prisoners.

Witness: Typically, all we do is when we bring them out, and we're staging them in our five at a time, I have my MPs stand around and provide additional security for any kind of threats that may happen while they're escorting the prisoners up, or while they're being searched.

Counsel: Ok. But you saw SPC [REDACTED] escorting somebody.

(same)

Witness: Yes.

Counsel: Did you see anything else?

Witness: At that time I seen MSG [REDACTED] She was standing at the door of the bus. Just by going on what I had seen the E6 do earlier, and what I had seen initially, I told her at that time, "Hey MSG, you need to wave your people in right now." She said, "I know."

(same)

Counsel: She said that to you?

Witness: Yes.

Counsel: Alright. Now, did you ever talk to SSG [REDACTED] about what you were observing?

(same)

Witness: Yes.

Counsel: What did you talk about? What did you say to him?

Witness: When I seen the SSG assault the prisoner, and I made the correction, which I felt like was an on the spot correction, that wouldn't be a further issue. Once I seen that, I walked over to SSG [REDACTED] and I said this is, something to the effect of this is ridiculous. This shit needs to cut out right now.

(same)

Counsel: Alright.

Witness: And he said, "I know."

Counsel: SSG [REDACTED] said that?

(same)

Witness: Yes.

Counsel: Ok.

Witness: And at that time with his in-processing team, like I said before, I don't know how many personnel he had on the ground. I did not count them. But I assumed, when I

012894

b(6)-4
b(7)(c)-4 (all)

left the second time to go to the Brigade TOC that they were going to be the ones responsible for taking over the escorts of the prisoners up to the in-processing area.

Counsel: Ok. Now, did you observe any more remarkable behavior that evening?

Witness: The only, like I said, after I talked to the MSG, that was one of the, if not the last prisoner to come off the bus. They escorted him up. I don't know if the MSG, I don't know who escorted them up. At that time, once I talked to her I turned and told SGT [REDACTED] and SPC [REDACTED], who I'd put in charge of counting the property and getting it accounted for when I left, that what we were going to do-- What MAJ [REDACTED] had advised me to do was bring it up to the Brigade TOC. I told them what we were going to do, and [REDACTED] at that point, pointed out the clerical error on the form, and I said, "Ok, well it's ok," and then we went ahead and got everything together at that point. Like I said it was the last prisoner off the bus. We got the paperwork signed off, and the 4137's were still not signed. I took that to property, the 4137's along with the evidence custody technicians up to the Brigade TOC, and went through it with them up there. But the 2708's and the 515's were done at that time.

Counsel: Ok, and after that, what did you do?

Witness: After that, I believe one of the 320th vehicles would not start, so SGT [REDACTED] vehicle pulled back there, he slaved him or jump-started his vehicle. We gathered up the property. They left. Their two HMMWV's. I don't know where they went, refuel, wherever. I took my HMWWV along with the property and went up to the Brigade TOC.

Counsel: And what was the purpose for going up to the Brigade TOC?

Witness: The purpose for going up to the Brigade TOC at that point-- on the way up to the Brigade TOC, just talking to some of my guys, they were telling me specifics about what they had seen up until that time. They were telling me "Hey, they were-- them guys were a little rough" and "what the fuck was going on out there and stuff like that," and then at that point I put that together with what I'd seen and along with the property issues I went up to the Brigade TOC with the intention to tell MAJ [REDACTED] or whoever was on duty about what had happened.

Counsel: Alright. Did you report that night to someone about what you observed in regard to the treatment of the prisoners.

Witness: Yes I did.

Counsel: Do you remember who you reported it to?

A: Originally I reported to MSG [REDACTED] and then I basically told him that they were real rough with the prisoners, and that they didn't need to be doing any type of convoy security missions with the prisoners, because in the future-- at that point I was worried that if they-- we were there, and to be honest with you, my guys did, in my opinion they

012895

did everything they could. And as many prisoners that were probably hurt out there that night, there was probably a lot more that could have been. A lot more if my guys hadn't been there doing what they did.

b(6)-4
b(7)(C)-4
(all)

Counsel: Ok.

Witness: But-- So I told MSG [REDACTED] that they-- hey they were a little rough with the prisoners, that they didn't need to be doing convoy security, they need to be pulled off these type of missions, because I was worried that if they went out there solo, by themselves, what might happen.

Counsel: Ok. So you communicated all this to MSG [REDACTED] Did you tell anybody else about it that night?

Witness: Yes I did. When I advised MSG [REDACTED] about it, at that time, he called MAJ [REDACTED] out and said, "MAJ [REDACTED] you need to hear this," and she came outside and I told her the exact same thing.

Counsel: Ok. Alright. Did you report to anybody else about this that night?

Witness: That night, no.

Counsel: Ok. Did you subsequently file a report with anybody else about this?

Witness: Yes.

Counsel: Who did you file a report with?

Witness: When we left the Brigade TOC after we got the property issue straightened out, we left the Brigade TOC. I went ahead and sent all my E4s back to get the vehicles unloaded, to get them refueled, and told them to meet me over at the motor pool area. I said that they were tired, they were wore out. They'd been up since 0500 in the morning.

Counsel: By now, how late was it?

Witness: It was probably about 2330.

Counsel: Alright, so it had been a long day.

Witness: It had been a long day. So I sent them back to get the vehicles squared away, trying to get them some chow, or get them back where they could take a shower, get to bed. I stayed there with my E5s, squared away the property. We was walking back over. When I got to the motor pool area, my guys were hanging out waiting for me, and they were in a group and they were just kind of sitting there talking about some of the things that they had seen, and then that's when I started seeing the whole picture. Before, up until that point, like I said, all I'd seen is what I had seen. My little piece of the puzzle,

012896

and when I started hearing some of the other things that they had done, or what they had seen, I told them that day, I said, you know we do the right thing irregardless. And so that next morning, it was late by that point. My Commander was already in bed. That next morning I went up and reported it to my Commander.

Counsel: Alright. So the very next morning you reported it to 1LT [REDACTED]

b(6)-4
b(7)(c)-4

Witness: CPT [REDACTED] my Commander.

Counsel: CPT [REDACTED].

Witness: Yes, my Company Commander.

Counsel: I'm sorry, I-- different commander. You reported to CPT [REDACTED] the incident. Then, were you subsequently asked to make some statements about these matters in writing?

Witness: The next day, which was that same day that I reported to CPT [REDACTED] I believe that was the 13th, the 530th personnel came over and, I don't know in what capacity, PMI, or CID, I don't know what capacity they were working, but I had a SGT, an E5 take a statement from me.

Counsel: Alright. I'm just going to hand you, defense Counsel have all been provided copies of this document. I'm going to hand you this document. We probably need to get this marked.

There was an objection from Defense Counsel to considering this sworn statement. After consulting with the Legal Advisor, Major [REDACTED], the IO overruled the objection by the Defense Counsel.

b(6)-2
b(7)(c)-2

Counsel: SSG [REDACTED], you indicated that you provided-- You were asked to provide a statement shortly after the incident. Were you also interviewed by CID agents?

Witness: Yes I was.

Counsel: Were you asked to provide a statement at that time?

Witness: Yes I was.

Counsel: Alright. Do you remember telling those CID agents in your statement that you made to them that you also observed the tall NCO and a SPC with the tattoo administered knee strikes to the EPW?

Witness: Yes, yes I do.

Counsel: Do you remember that?

012897

Witness: Yes, I do. After the individual had fell to the ground-- this was the same altercation with the guy that had his arm wrenched up behind him and fell to the ground uh...when he fell to the ground and they scooped him up underneath his arms as they was walking him up the bullpen I seen him administer probably three to four on either side. The left and right side a common coronal knee strike is basically a dead-leg or uh--

Counsel: And that term dead-leg or knee strike what did you actually observe them do to this soldier's to this prisoner's leg?

Witness: Uh...they were taking their knees and driving it into the side of his leg on either side as they were escorting him--they'd walk three or four steps they had him scooped up...they'd turn and hit him and walk a little bit more and turn and hit him-I observed that three to four times.

Counsel: Okay--and when they did that did the prisoner respond?

Witness: Yes--I mean he was--.the same thing that he'd been doing since they got him off the bus--he was screaming.

Counsel: Did you observe how this prisoner was behaving himself when they were doing this to him?

Witness: Yes.

Counsel: What was he doing?

Witness: He was terrified.

Counsel: How was he with regard to his uh...cooperation with SSG [REDACTED] and SPC Canjar?

Witness: From the time they got him off the bus up and to the point 'til they got him off the bus, he had not been any type of anything other than compliant. They never gave him an opportunity to be compliant, never. If they would have him off the bus and walked him--this guy he was able to walk but they never gave him that opportunity. He was walking when they had him wrenched up in an arm-bar just fine he was screaming out in pain. There's two different types that you apply for compliant and non-compliant, until someone is non-compliant and you don't assume right off the bat that they are non-compliant

Counsel: You seem to be familiar with this common coronal knee strike technique-is that a proper, from your training, is that a proper technique for MPs to use.

b(6)-5, b(7)(c)-5

012898

Witness: It is something that we're taught, yes.

Counsel: Okay...and when do use that technique?

Witness: Uh--when --if--I've been told to use it if you're in some type of fight with an EPW, or if the EPW is just being out of control or you need to put him to the ground

Counsel: What is the purpose of striking someone in the leg with your knee like that? What effect does that have on a person?

Witness: Uh--basically what it is a common coronal is a group of nerves that run down on either side of the thigh right here (indicating the outer thigh) when you hit that with your knee it jolts that and it buckles your knee, so when you do that basically you're gonna--if you hit somebody in the right spot you don't have to apply much force they're gonna go down on the ground.

Counsel: So by applying those strikes your training is that that would cause a person to fall to the ground?

Witness: Absolutely.

Counsel: Is that why you call it a dead-leg?

Witness: Yes.

Counsel: 'Cause it makes your leg "go dead" is that right?

Witness: Correct.

Counsel: So if one was trying to get a prisoner to walk from the bus to the in-processing center that would not be an appropriate technique to use to get them to walk would it be?

Witness: No it would not.

Counsel: Just one second, sir. SSG [REDACTED] thank you I don't have any further questions, but please answer any questions that anybody else might have.

b(6)-4
b(7)(c)-4

[The witness was duly warned, dismissed and left the room.]

012899

CROSS-EXAMINATION

Questions by the defense Counsel: CPT [REDACTED]

b(6)-2
b(7)(c)-2

Counsel: SSG [REDACTED] you are a Reservist correct?

b(6)-4
b(7)(c)-4

Witness: National Guard

Counsel: National Guard?

Witness: Yes.

Counsel: And in your civilian life your civilian life you are a plumber, correct?

Witness: Correct.

Counsel: You are not a police officer?

Witness: No, I'm not.

Counsel: Now you testified that SGT [REDACTED] is a member of your squad? (same)

Witness: Yes he is.

Counsel: And you've known him for many years, correct?

Witness: Yes.

Counsel: He actually was your sponsor when you first arrived in the unit?

Witness: Correct.

Counsel: And that was back in 1997?

Witness: March of '97.

Counsel: So you've known him for quite some time?

Witness: I have.

Counsel: And you also testified that SGT [REDACTED] SPC [REDACTED] and SPC [REDACTED] are (same) also in your squad?

Witness: Yes they are.

012900

Counsel: You have a very tight knit group in your squad correct?

Witness: Yes I would say that.

Counsel: Now on the 12th of May that was the first time that you ever had any interaction with the 320th soldiers, correct?

Witness: That's correct.

Counsel: You'd never met any of them before?

Witness: Never.

Counsel: And you've never done any escort missions with them before.

Witness: Me, no--someone in my company may have, but I hadn't 'til that point.

Counsel: It was actually your understanding today that this was this particular group's first escort mission, correct?

Witness: That's what I assumed--that's what I assumed like I said before when we were going through the procedures and the ropes up their Brigade TOC I asked 'em if they knew the route and they said they didn't know the route so I was assuming that if they didn't know the route then they'd never been there before, yes.

Counsel: And you were told that this was actually gonna be a right-seat ride, correct?

Witness: Correct.

Counsel: And that means that you're to train them on how to do these missions?

Witness: Train them on the procedures to do the missions.

Counsel: Correct you're training them on the procedures to do the missions.

Witness: Yes.

Counsel: You are the trainer they are the trainees, correct?

Witness: To a point, I mean everyone there is an MP everyone there has a basic--been through MP school--uh was trained at Fort Dix--everyone there has a basic knowledge of how to handle EPW's--how to do their job. I was just apprising them of the proper procedures to conduct the convoy security missions.

012901

Counsel: Now you testified that you had done 15-20 maybe even 25-escort missions up to this point, correct?

Witness: I would say closer to 15-20, not 25.

Counsel: And the 320th, you're aware, that their mission is to guard the compounds, correct?

Witness: I was not aware of that.

Counsel: Okay--um was it your understanding that prior to that date the 320th was also a group that was doing escort missions on a routine basis?

Witness: I was not aware of that .

Counsel: Okay, because you guys were the ones that were doing the escort missions up to that point?

Witness: Correct.

Counsel: So you're kind of the subject-matter expert on doing these escort missions, correct?

Witness: I wouldn't say that.

Counsel: You're not a subject-matter expert?

Witness: No--I know enough to bring my people back successfully, but to say that I'm an expert on it, no--anything can happen at anytime, so--.

Counsel: Now, by doing escort missions your unit transports EPW's from point A to point B, correct?

Witness: Yes.

Counsel: And you have no interaction with the EPW's in the compounds, correct?

Witness: No.

Counsel: So your sole experience with them is transporting them from point A to point B, correct?

Witness: Yes.

Counsel: Now, you received notice of this mission the night before-you testified?

012902

Witness: The 11th of May.

Counsel: And you were told that the 320th was coming with you, correct?

Witness: Yes.

Counsel: You did not make any interaction with them that night?

Witness: No.

Counsel: You briefed your people on the mission, correct?

Witness: Yes.

Counsel: But it was late in the evening, so you didn't make any contact with the 320th ?

Witness: Correct.

Counsel: You figured you had plenty of time to do it in the morning because the mission wasn't supposed to go off until the next afternoon?

Witness: Originally, I believe, it was not slated to go off until like 1500, so if that's--if I remember correctly, yes.

Counsel: But when it got to the next morning they actually moved up the mission, correct?

Witness: Yes.

Counsel: And you only got about an hour suspense on leaving on the mission, correct?

Witness: About--about an hour. Hour and a half.

Counsel: And at that point you had to PMCS the vehicles--there was a lot to do to get ready to go, correct?

Witness: I charged that to my team leaders.

Counsel: And when you charged it to the team leaders that's when you went to the 320th TOC to round up the 320th, correct?

Witness: Yes.

Counsel: And that was the first time you'd ever had any interaction with the 320th, correct?

012903

Witness: That's correct.

Counsel: Now you met up with MSG [REDACTED] outside at the TOC?

b(6)-5, b(7)(c)-5

Witness: Originally, I went to the TOC and I explained to them who I was, what I was there for and what our mission was told them that the mission had been moved up, and she made a call, or the person at the desk made a call, I was told to just hang out that they'd be up in a few minutes.

Counsel: And then you went outside and you linked up with MSG [REDACTED] correct?

(Same)

Witness: Correct.

Counsel: And you explained to her that this was going to be a right-seat ride?

Witness: Yes.

Counsel: And therefore you started from ground zero with them, correct?

Witness: Correct.

Counsel: Like any good trainer would--so you explained to them everything about the mission at that point?

Witness: At that point, no--I told them that uh--when I went into the TOC I told the personnel at the desk that the mission had been moved up, I believe it was moved up from 1500 to 1300--uh so it got moved up by two hours--I told them that uh--that uh--just to she's already advised of that by the personnel at the desk apparently uh they were already on the HMMWV's getting their stuff in the HMMWV's getting ready to go. I told her that I was going to go back and finalize some last issues with my guys and that I would link up with them here at the Brigade TOC

Counsel: So there wasn't a lot of time before you left?

Witness: You make time--to do the right thing--you make time.

Counsel: You talked to her about where to go, correct?

Witness: I'm sorry?

Counsel: You talked to her about her about how to get to Talil?

Witness: Yes.

Counsel: She didn't know how to get to Talil, correct?

012904

Witness: No.

Counsel: So you took her into the TOC and you showed her a map?

Witness: I showed her a map on the routes to get up there I showed her check points rally points possible ambush sites I showed where to check out a satellite phone the phone numbers for the TOC I was showing her the ropes.

Counsel: And you never gave her a strip-map, did you?

Witness: No.

Counsel: You didn't give any of the drivers that day a strip-map, correct?

Witness: No.

Counsel: You kept that for yourself.

Witness: I did not have a strip-map.

Counsel: You just knew the way?

Witness: Yes--we have maps but I didn't have a strip-map.

Counsel: Now before you left you pulled everyone together for a briefing, correct?

Witness: Yes.

Counsel: You discussed safety issues, correct? An ROE?

Witness: Yes.

Counsel: You never discussed handling of the EPW's at that point?

Witness: No.

Counsel: Now you arrived at Talil a few hours later?

Witness: Three --and-a-half hours later.

Counsel: And on the way you had to make a fuel stop, correct?

Witness: Yes.

Counsel: And the area where the fuel stop was a big dust bowl, correct?

012905

Witness: I wouldn't say that--this whole country is a dust bowl--I wouldn't say that--there was visibility, yes.

Counsel: You actually lost your trailing vehicle at that dust bowl, correct?

Witness: No.

Counsel: You never lost them--they never lost contact with you?

Witness: Lost contact with me?--visual or radio?

Counsel: Visual contact?

Witness: No.

Counsel: You never lost visual contact?

Witness: No, 'cause we pulled up underneath a I believe it was an overpass, is where we refueled at.

Counsel: So after that refuel stop you proceeded on to Talil and you got there a couple of hours after the fuel stop, correct?--and you were briefed when you got there about all of the EPW's?

Witness: Yes.

Counsel: And you were told what they were all suspected of?

Witness: Yes.

Counsel: And this was for your own safety, correct?

Witness: Safety of everyone, yes.

Counsel: Because you wanted to know what you were dealing with, correct?

Witness: Yes.

Counsel: Now you only had a few other people on the bus and 44 EPW's, correct?

Witness: Yes--I don't know how many I know there was one maybe two of the 320th and there was two of my guys.

Counsel: You were informed that one of the individuals on the bus was a Major involved with the Fedahyeen?

012906

Witness: Yes.

Counsel: And you were notified there was nine assassins among this group, correct?

Witness: Among others, yes.

Counsel: And there was several murderers among this group, correct?

Witness: Yes.

Counsel: And there were several kidnappers?

Witness: Suspected.

Counsel: And there was someone suspected of having interrogated [REDACTED] correct?

b(6)-3
b(7)(c)-3

Witness: I believe so, yes.

Counsel: And these EPW's--

IO: Excuse me? Are we discussing classified information at this point?

Counsel: No, sir.

IO: Go ahead.

Counsel: And these EPW's were segregated out from the rest, correct?

Witness: Uh--I don't know how many there was total, but uh--we typically put them-- like I said before in a separate line and load them toward the front of the bus for security purposes, yes.

Counsel: So you segregate those individuals out so that they can be loaded in an appropriate manner?

Witness: Yes.

Counsel: And that's for the safety of the individuals involved on the bus?

Witness: Yes, and on the whole--for everybody. The whole convoy.

Counsel: 'Cause you wanna keep an eye on them, correct?

Witness: That's right.

012907

Counsel: Now, you spoke to MSG [REDACTED] also at Talil, correct?

b(6)-5
b(7)(c)-5

Witness: Yes.

Counsel: And you informed her about what you had learned about all these individuals, correct?

Witness: Yes I did.

Counsel: Because you wanted her to know everything that was going on in this mission, correct?

Witness: Yes.

Counsel: 'Cause you thought it was very important for everybody's safety that they understand what you're dealing with?

Witness: Not only their safety, but to ensure that they knew the proper procedures once they got to Talil for future missions that they might run.

Counsel: Now, you said that you were discussing this and something came around regarding respect of these EPW's that was your testimony? Now the something that came around was your comment that you had some "real shit heads" on the bus, correct?

Witness: I wouldn't say that--I don't recall saying that.

Counsel: Do you recall sitting down with the four defense Counsel and being interviewed yesterday?

Witness: Yes I do.

Counsel: Do you recall telling us that you said to her we have some "real shit heads" on the bus?

Witness: Yes, but I was also not allowed to review my statement when I sat down with the four defense lawyers, so what I said verbatim I would've remembered it better the day after when I wrote my statement--than four months later.

Counsel: So you remembered yesterday that you said there were some "real shit heads" on the bus.

Witness: I said something similar to that.

Counsel: So reading your statement now refreshes your recollection better about what happened that night?

012908

Witness: Uh--there's two separate statements I read half of the one.

Counsel: So your memory is a little bit weaker at this point shall we say?

Witness: It's four months later or five months later.

Counsel: Now, you said that uh--she made this comment about a personal interview and you knew what she meant, correct?

Witness: Yes.

Counsel: You'd never met MSG [REDACTED] before, correct?

b(6)-5
b(7)(c)-5

Witness: No.

Counsel: You didn't ask her what she meant by that, correct?

Witness: No.

Counsel: And you told her that you just escort people from point A to point B and use the minimum force necessary if anything happens, correct?

Witness: Yes.

Counsel: You've often heard people say things just to blow off steam, correct?

Witness: What type of things?

Counsel: Comments such as this just to blow off steam.

Witness: Comments such as what?

Counsel: Such as this personal interview comment.

Witness: No.

Counsel: Never heard anybody say anything like that to blow off steam?

Witness: No.

Counsel: Do you recall sitting down with the four defense Counsel and being interviewed yesterday?

Witness: Yes.

012909

Counsel: Do you recall telling us that you'd heard people make comments like this to blow off steam?

Witness: I told you that they--that I had not heard my people make comments like that. That is what I told you yesterday, ma'am.

Counsel: But you said you'd heard other people make comments like that?

Witness: No I did not.

Counsel: So we're just mistaken about that comment?

Witness: Apparently.

Counsel: Now after you left Talil you said that uh--about thirty minutes into the convoy you'd lost track of the bus?

Witness: Yes.

Counsel: Now, one other thing----

Witness: ----it's 36 kilometers, so probably anywhere from 30 to 45 minutes.

Counsel: Now you said that one of the things that you briefed the individuals on at Talil was the fact that if there was an emergency on the bus, the bus was supposed to turn on its flashers and pull over, correct?

Witness: Yes.

Counsel: Now, you said that you were watching in your rearview mirror for the bus?

Witness: Yes.

Counsel: And--you never saw the flashers go on, on the bus?

Witness: No--the addition to the flashers on the bus was a means of communication uh--is we did have a personnel on the bus with a uh--one of those handheld walkie-talkies that I talked about prior.

Counsel: You're not sure whether or not they called you on the walkie-talkie, correct?

Witness: No I'm not.

Counsel: It was awfully loud in your truck and they might've tried to call and you just didn't hear it?

012910

Witness: I will not testify that they did not call me.

Counsel: Now, you said that once you realized the bus was not behind you anymore you slowed down, correct?

Witness: Yes.

Counsel: And you drove a little ways at 20 miles an hour?

Witness: Probably a hundred meters, hundred-and-fifty meters.

Counsel: And then you made a U-turn and you came around back?

Witness: Yes.

Counsel: Now, you said that when you arrived there's was about six to eight 320th MPs on the bus?

Witness: Just an estimate--like I said there was--the only person of the 320th that I had seen that was not on the bus at that time-and I'm not saying that there wasn't anyone with the trail vehicle, I don't know, but the only one that I seen at that time was the E5 that I spoke to while I was en-route to the bus.

Counsel: So there could've been personnel still in the rear vehicle behind the bus?

Witness: There could have been uh--there was ten 320th personnel total and I seen one of them, so there was nine unaccounted for at that point.

Counsel: Now, you said you actually got onto the bus, correct?

Witness: Yes.

Counsel: And none of the MP personnel were back towards where the EPW's were at on the bus, correct?

Witness: Uh--SGT [REDACTED] was standing between them and the EPW's, yes.

b(6)-4
b(7)(c)-4

Counsel: So they were all in the very front entryway of the bus?

Witness: Uh--the they were probably about two rows-two or three rows back, I mean I cannot recall at this time-uh--they were a little bit back. I know that when [REDACTED] was on the uh--front side of the bus when I-as soon as I got on the bus I could barely fit on the bus, and me and [REDACTED] was pretty close quarters, yes. And I had the discussion about the vehicle breaking down.

(same)

012911

Counsel: And you found out that an air hose had broken on the bus?

Witness: Hydraulic hose.

Counsel: And that was fixed a few moments after you arrived?

Witness: Yes, by the driver--actually it was fixed already before--before I had even gotten there.

Counsel: So by the time you got back to the bus they had diagnosed the problem, repaired it-- fixed it were ready to head back on the road?

Witness: What I found out later on uh--all it was-- was a hose clamp had come loose on one of the hydraulic hoses and the driver needed nothing more that to grab a flat head screwdriver and put it back on there and tighten it back down. The repair was that simple.

Counsel: So you got back on the road and about two hours later you arrived back in Camp Bucca?

Witness: I don't know if it was two hours--it was about 2200 when we arrived back here.

Counsel: The in-processing team was not here when you arrived.

Witness: That is correct.

Counsel: And normally they are the ones that actually search and escort the EPW's?

Witness: Yes.

Counsel: But there was some problem that night and they just weren't there?

Witness: Uh--yes.

Counsel: Now you told SGT [REDACTED] to start getting the first five off the bus, correct?

b(6)-4
b(7)(c)-4

Witness: Yes.

Counsel: And you told him to get them staged out in front of the bus--I'm sorry you have to say it verbally for the record.

Witness: Yes--yes that's what I said.

Counsel: And you told them to search those EPW's, correct?

012912

Witness: I told them to get 'em ready for the in-processing team, and normally, yes, that does include a search. That's typically the procedure when we take them off the bus--uh typically-like I said prior-the in-processing team does that, but to expedite matters-like I said before my guys had been up for so long, you know, to expedite matters we was just getting them off and getting 'em ready for the in-processing team to just take 'em and take 'em up to the in-processing area.

Counsel: And then you began to leave to go get paperwork squared away at the TOC?

Witness: First, I seen the first incident with the individual on the crutches at that time, and then I left.

Counsel: You were actually walking away, towards the TOC, when you witnessed this incident, correct?

Witness: No I was not--I was standing there.

Counsel: You were standing right there when it happened?

Witness: About 20 meters away.

Counsel: So you saw these three MPs yelling at this major?

Witness: I did.

Counsel: And you classified that as verbal abuse, you testified?

Witness: Yes.

Counsel: And by verbal abuse you mean yelling at him to move faster?

Witness: About two inches away from him--if you have three individuals who are responsible for your custody, and are about two inches away from your ear on either side and you have another one right up on your back and they're yelling at you at the top of their lungs--then yes I would assume that would be verbal abuse.

Counsel: Now, this individual was the same major that you were told at Talil was suspected to be Fedahyeen?

Witness: I believe so--I'm not quite sure on that.

Counsel: Now, you testified that they told you at Talil that they had had these individuals in custody for three week and not had any problems wit them, correct?

Witness: That's correct.

012913

Counsel: They also told you that the Marines had had these individuals in custody the prior three weeks and that they had had problems with these individuals?

Witness: No I did not say that?

Counsel: Did you have a meeting with all the defense Counsel in this case yesterday?

Witness: I did.

Counsel: Do you recall telling us that the Marines had had custody of these individuals the prior three weeks and that they had had problems with them?

Witness: I told you that the Marines dropped them off to the 744th and that the 744th had custody of them for three weeks I do not know how long the Marines had custody.

Counsel: Do recall telling us that the Marines had problems with these individuals?

Witness: The Marines were the ones that took them into custody, I doubt seriously that they would hold on to them for three weeks. uh things were moving--.

Counsel: Excuse me could you speak up I can't hear you.

Witness: Okay. uh--the Marines were--I don't know how long they had them in custody. uh--like I said before--the 744th, I know that I was told by these seven on the ground up there that they had them in custody for three weeks.

Counsel: SSG [REDACTED] do you recall saying that they had problems with these individuals prior to getting them at Talil?

b(6)-4
b(7)(c)-4

Witness: Who did?

Counsel: The Marines.

Witness: They were the ones that took them into custody. I am assuming they had problems because they were the ones that the individual that was on crutches I believe he had two gunshot wounds to his leg, so yes I would classify that as being having problems.

Counsel: And do you remember actually making that comment yesterday "well obviously, because he was shot in the leg"?

Witness: Yes, but I did not say anything about how long they had him in custody, because I wasn't advised of that, nor did I know, so--.

Counsel: Were you also told by the 744th personnel that its major had a habit of throwing himself on the ground?

012914

Witness: I don't recall that, no.

Counsel: You don't recall it now or you didn't recall it then?

Witness: I don't recall being told that.

Counsel: Now, you said they were yelling at him and you were standing right there while this was going on.

Witness: About 20 meters away.

Counsel: This is a right-seat ride, correct?

Witness: Yes.

Counsel: You were the trainer that day?

Witness: I was a trainer for an E8 and an E7--I do not at that point--if it's verbal abuse--that's a long way, in my opinion--from physical abuse.

Counsel: You didn't step in at that point and say anything like, "Hey quit yelling at that guy!"

Witness: "Quit yelling at that guy?" No, I did not.

Counsel: Okay. Now, you said that he then went to the ground and you don't know how he got there?

Witness: Yes.

Counsel: Now, do you remember-- recall yesterday saying he just fell on the ground?

Witness: No.

Counsel: You don't recall saying that at all?

Witness: No.

Counsel: And then you testified that they had picked him up under the arms and just drug him?

Witness: The tops of his feet were on the ground. They had him lifted up where he was like on his tippy toes and his feet just kind of laid over and were dragging him off, yes.

Counsel: You didn't walk up at that point and intervene, correct?

012915

Witness: No.

Counsel: You didn't go up and say that's not the proper way to escort an EPW?

Witness: If he fell on the ground, and I don't know the reason he fell on the ground, at that point--other than the verbal abuse--and he's on crutches, they're just, in my opinion, they were doing what they had to do to expedite movement at that time, but I did witness the verbal abuse

Counsel: So then you proceeded off to the TOC to get your paperwork squared away?

Witness: Yes.

Counsel: And you stopped at the 314th tent along the way?

Witness: I don't know the unit.

Counsel: The in-processing tent?

Witness: Yes.

Counsel: And you spent about ten minutes there talking to SSG [REDACTED]

b(6)-4

Witness: I spent about 20 or 25 minutes there.

b(7)(c)-4

Counsel: Okay, and you proceeded to go on to the TOC and talk to MAJ [REDACTED]

Witness: Where I spent about ten minutes.

Counsel: Okay, so you returned back at the bus area about 45-50 minutes later?

Witness: I'd say that's right.

Counsel: Now, during that entire 45-50 minutes that you were gone you never said anything to SSG [REDACTED] about what you had just witnessed?

(Same)

Witness: I talked to SSG [REDACTED] at the in-processing tent for probably about three minutes uh--I did not advise him of what I had seen at that point uh--I did not link back up with him until I had left the Brigade TOC and was walking back down and uh--from the initial holding area to the in-processing tents are probably about a hundred or a hundred fifty meters and uh--we just--I basically gave him a run down on the situation--we got 44 EPW's--we need property personnel here, and I didn't account for how many personnel he had with him at that point, no.

(Same)

012916

Counsel: When you were up in the TOC, speaking to MAJ [REDACTED] you never mentioned anything to her about what you had seen, correct?

Witness: Up until that point I observed them being a little rough with the EPW's, but I hadn't seen any type of physical assaults at that point, no.

Counsel: You didn't advise her anything about this personal interview comment, correct?

Witness: No.

Counsel: So you returned back to the bus about 45 or 50 minutes later and that's when you saw them escorting this individual in arm-bar?

Witness: Yes--that's the individual they got off the bus when I came back down the second time and soon as they came off the bus uh--I believe it was the E6, uh--ducked his head down, took his arm up behind him, and put him in an arm-bar and started escorting up the shoot.

Counsel: And an arm-bar is a technique that MPs are taught for escorting non-compliant EPW's?

Witness: That's not what I was taught, no--we have a compliant and non-compliant escort position. and that's not what I was taught. That's part of unarmed self-defense, but that's not a technique I was taught for escorting prisoners, no.

Counsel: It is a technique that is taught to the MP's in personal self-defense for escorting non-compliant EPW's.

Witness: I was not taught that--when I went through my training at Fort Dix in preparation for this I was taught a compliant and non-compliant EPW escort position and that was not either one of them.

Counsel: Do you remember testifying on direct that you'd seen this technique for non-compliant prisoners?

Witness: I've seen it, but I haven't been taught it, no.

Counsel: Now, you said that you then saw the tall E6 punch him several times?

Witness: The individual went to the ground, uh--screamed--he was screaming in pain when they were starting to escort him up the uh--the bullpen they probably got 15 to 20 meters up the shoot--to the in-processing area--uh--this guy's screaming the whole way, he fell on the ground, uh and just went face first into the ground, they kneeled over him and applied the-- I seen the E6 apply three--it looked like--closed handed blows when they went up in the air to the left side of the body --the upper left side of the body.

C12917

Counsel: So you never actually saw the hand make the contact with the body? You're just assuming it was a closed hand blow, correct?

Witness: I'm assuming that he wouldn't hit the ground--yes. I'm assuming he hit the EPW, yes.

Counsel: So you were standing about 20 meters away witnessing this?

Witness: Yes.

Counsel: And you said--you went over to them and you said "Cut that out"?

Witness: I said "Cut that shit out."

Counsel: You saw an MP punching an EPW and you said "Cut that shit out"?

Witness: Yes.

Counsel: You did not step in at that point, and ----

Witness: I was on the other side of the concertina wire.

Counsel: You're an E6. Could have said stop right now----

Witness: That's what I did. I said "Cut that shit out"--that means stop. That's not how we do business. That's what that means.

Counsel: Could you have put new escorts on that EPW?

Witness: He was already inside the shoot escorting him up there when I told him that he said "he's resisting". I said "he's not resisting. The reason why he's resisting is because you have his arm in an arm-bar" and I said "he has some type of injury--dislocation to his shoulder, or some part of his arm" I said "now pick him up and walk with him he will walk."

Counsel: This was a right-seat ride, correct?

Witness: Yes.

Counsel: You did not immediately call any authorities at that point, correct?

Witness: No.

Counsel: You didn't head back up to the TOC to report what you had seen?

C12918

Witness: No.

Counsel: You didn't go try to get any medical personnel to help this EPW?

Witness: Medical personnel were part of the in-processing team-- they're typically part of the in-processing team--when we arrive on the ground and turn over our 515's and our medical records there's a medical person over there to accept them.

Counsel: Did you walk up to any medical personnel and say I just saw that man punched three times in the side. I believe he needs to be looked at?

Witness: No.

Counsel: You went to handle some problems with the property, correct?

Witness: Yes.

Counsel: There were some clerical errors with the 4137's?

Witness: Yes.

Counsel: And you chose to go handle those after you'd just seen an MP supposedly hit an EPW?

Witness: Okay--Okay, now, it's easy for everybody in this room to sit here and four or five months later break it down the way that it happened, but if you're up there on the ground, and like I said earlier, you have two chains of command that were up there, you have an in-processing team there, okay, you have an E8 on the ground you have an E7, E6--these are professionals these are people that I would assume to be professional----

Counsel: SSG [REDACTED] this was a right-seat ride correct?

b(6)-4 ; b(7)(c)-4

Witness: I understand that, and like I said it was a right-seat right to show little techniques that we use to pick up the EPW's.

Counsel: So you went back and you tried to fix these clerical errors with the 4137's?

Witness: Yes, I did.

Counsel: Because there was some property that wasn't accounted for that you had signed for, correct?

Witness: Yes, money.

Counsel: And you didn't want to get stuck holding the bag for that?

012919

Witness: I wasn't the--the biggest thing that was in my mind was to ex--the EPW's, the in-processing team was on the ground that part of it was already working I needed to start getting the property issues working. The biggest part of what was on my mind was getting my back-- for my guys back because they had had such a long day.

Counsel: After everything was over with the mission you met with your squad in the motor pool that night?

Witness: I did.

Counsel: And you decided that you were gonna sleep on everything for the night and make a decision in the morning, correct?

Witness: Uh--at that point I had already made my decision, but yes that's what I said.

Counsel: Have you ever been read your rights during this investigation?

Witness: I don't recall.

Counsel: Ever been read your rights for dereliction of duty?

Witness: No.

Counsel: Are you currently charged with dereliction of duty?

Witness: No, I'm not.

Counsel: No further questions.

IO: Does anyone else have any questions on the defense?

Questions from the defense counsel: MAJ [REDACTED]

b(6)-2
b(7)(C)-2

Counsel: The man on crutches how tall is he?

Witness: I don't know.

Counsel: I'm sorry; I'm having trouble hearing because there is noise behind me.

Witness: I have no idea.

Counsel: None at all?

Witness: No idea how tall he was.

Counsel: Do you have any idea how tall the man on crutches was?

012920

Witness: I'd say six feet. Just an estimate. I have no idea.

Counsel: How--do you know how much he weighed? Was he hefty, skinny?

Witness: No, he was medium build. Average size I would say.

Counsel: Moving to the prisoner that had supposedly something wrong with his arm. You mentioned earlier something about a dislocated shoulder?

Witness: I don't recall if it was his shoulder an elbow--I don't it was some type of dislocation in his arm

Counsel: And how did you know that?

Witness: I was briefed on that by the 744th and the medical personnel up there. When I received the records when we got on the ground up there we were advised----

Counsel: So you had that man's medical records, and you read them and you knew exactly what his injury was at the time?

Witness: I did not read his medical records--uh--we were told uh--we were basically just given a run down by the 744th about um--who we had and what type of injuries they had.

Counsel: Now, on direct didn't you testify that he had some hospital type clothes on or loose shirt that you demonstrated with your own shirt that it was loose and when his arm was put back the sleeve went up and that's when you saw a bandage around his forearm?

Witness: Had a hospital gown, yes.

Counsel: But did you see--that's when you saw the bandage on his forearm, correct?

Witness: Yes.

Counsel: So that was the first time you realized that he had something wrong with his arm----

Witness: Yes.

Counsel: ---- that that was the prisoner that had something wrong with his arm?

Witness: Yes.

Counsel: And that wasn't until his arm was put back, correct?

012921

Witness: When he --when they put his arm back and were starting to walk off and it fell down that's when I noticed, yes.

Counsel: His back was to you? Is that correct? The prisoner's back he was being walked away from your direction?

Witness: Uh--he was being walked at an angle away from my direction I guess you would say.

Counsel: And you were more to his left side, correct?

Witness: I would say his left--yes.

Counsel: Left rear?

Witness: I don't know if--it's I mean it's probably--the angle that I was at was probably 45 degrees away from the prisoner.

Counsel: Forty-five degrees away from where?

Witness: The prisoner.

Counsel: To the left or the right?

Witness: To the left.

Counsel: Now, the E6 that you said pulled his arm back and pushed his head down in this gooseneck position? He was on the left side of that prisoner, correct?

Witness: That's correct.

Counsel: And the other escort was on the right side of the prisoner?

Witness: Yes.

Counsel: And you weren't able to--you weren't sure who that other escort was were you?

Witness: Uh--the uh--uh--I knew who it was--I mean you could identify him he had a --I had seen him earlier in the day uh--sitting on top of the HMMWV with his soft Boonie cap on SPC rank and he has a tribal band tattoo on his left arm I believe.

Counsel: And you didn't see that tattoo when he was escorting this prisoner, correct?

Witness: No he was on the other side of the--.

012922

Counsel: And do you recall talking to the four defense attorneys yesterday?

Witness: Yes I do.

Counsel: And do you recall saying "no, I'm really not sure I can't really identify exactly who it was on the other side?"

Witness: That's what I just said, yes.

Counsel: No further questions.

IO: Captain [REDACTED]

b(6)-2, b(7)(c)-2

Questions from the defense counsel: CPT [REDACTED]

Counsel: You testified that there was a change in the start time for the mission, right?

Witness: Correct.

Counsel: And so you were scrambling to put things together, right?

Witness: Uh--I wouldn't say scrambling--we were advised probably an hour and hour-an-a-half out that the mission had been moved up.

Counsel: And at that point in time the 12th of May things were still pretty hot outside the front gate, right?

Witness: I would say, yes.

Counsel: You thought it'd be a good idea to have the SAT phone, right?

Witness: It's SOP that you take a SAT phone if you move north, yes uh--I know that after May 1st that the end of the major hostilities had been declared, but uh--as of May 12th--as of today, I believe-- it is still standard procedures that if you move north from this position that you're required to have a satellite phone in case of break downs or type of emergencies or anything like that.

Counsel: Okay, and your plan for communications was that you had a SINGARs radio in your vehicle, correct?

Witness: We had SINGARs radios for MEDEVAC frequencies-- they uh--we have a frequency for 744th in case uh--we get--the SINGARs was good for certain range, once you get out of this area--there's a black area--between here and Talil, and if you need any type of communications or any type if anything happens then you have the satellite phone to utilize.

012923

Counsel: Did you coordinate to make sure that the 320th had SINCGARs in their vehicle as well so you could talk to them?

Witness: They did not have vehicles --uh-- SINGARs in their vehicles.

Counsel: They had brought the Motorola's right?

Witness: Yes.

Counsel: Had they not brought the Motorola's you wouldn't have been able to communicate with the people on the bus, right?

Witness: But they did, yes.

Counsel: Had they not brought the Motorola's you wouldn't have been able to communicate with--

Witness: If they had not brought the Motorola's and we would not have had comms then we wouldn't have rolled.

Counsel: You talked about the loading of the bus, you said you had the medical personnel correct?

Witness: Yes.

Counsel: You had two concerns when the bus was being loaded, right? Your medical personnel? Right? You were concerned about their placement on the bus?

Witness: Yes.

Counsel: And you were also concerned about the high-risk EPW's that you had, correct?

Witness: Yes.

Counsel: And your preference is to put the medical people up front, right?

Witness: Yes.

Counsel: Now, your team leader, SGT [REDACTED] was actually in charge of loading the bus, right?

Witness: That's correct.

Counsel: SGT [REDACTED] is a pretty assertive guy, isn't he?

Witness: Uh--yes I would say so.

b(6)-4
b(7)(c)-5

(same)

012924

Counsel: He's been doing this a long time, right?

Witness: To say he's assertive I mean, I can't say that he's assertive, but he knows what he's doing.

Counsel: You had confidence that he could properly load the bus, right?

Witness: Yes.

Counsel: He could figure out where the MEDs should go, and where the high-risk people should go, correct?

Witness: Absolutely.

Counsel: And you left that task to him?

Witness: Yes.

Counsel: You never went back and checked on him? You had confidence that he would square it away, right?

Witness: Yes.

Counsel: The common coronal strikes that you Witnessed with that second EPW --let me back up a little bit. Initially you said that the escort had him in an arm-bar, right?

Witness: Yes.

Counsel: Okay--then he fell on the ground, right?

Witness: Correct.

Counsel: When they picked him up they didn't put back in an arm-bar hold, right?

Witness: No.

Counsel: They were walking next to him?

Witness: They had him scooped up underneath his arms here and were walking.

Counsel: So the two escorts were walking with the prisoner sandwiched in between them, right? With their hands underneath his arms?

Witness: Yes.

012925

Counsel: Standing--how close would you say? Touching?

Witness: They were touching, yes.

Counsel: And they're walking away from you as this is happening?

Witness: Yes they were the prisoner's facing this way they had him on either side--they were walking with their probably their legs were rubbing together that's why I would mean by touching.

Counsel: So the prisoner was upright and dragging his feet?

Witness: Yes--when he was able to walk yes.

Counsel: He wasn't walking along with the escorts, correct?

Witness: No.

Counsel: And it was at that point that you saw this strikes to the legs, right?

Witness: Yes.

Counsel: And you testified that these strikes were the technique that you'd seen used with non-compliant prisoners before, correct?

Witness: Non-compliant ones.

Counsel: Thanks, that's all.

I/O: CPT [REDACTED] any questions?

CPT [REDACTED] No sir.

I/O: MAJ [REDACTED] would you like to re-direct?

MAJ [REDACTED] Yes sir, thank you.

] b(6)-2
b(7)(c)-2

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED] (Same)

Counsel: Sergeant [REDACTED] I just want to clarify something. You have seen the dead leg knee strikes used before, correct?

- b(6)-4; b(7)(c)-4

Witness: Yes I have.

012926

Counsel: You've never seen them used on someone to try to get them to walk, right?

Witness: No.

Counsel: Because it makes their leg go dead, right?

Witness: That's correct.

Counsel: There was a question asked of you, I believe it was by CPT [REDACTED] she asked if you were a subject matter expert. That's kind of a legal term, and you said that you didn't think you were a subject matter expert, but at the time that you did this mission on the twelfth of May, you've done about how many missions have you done up there?

b(6)-2
b(7)(c)-2

Witness: Roughly about fifteen or twenty.

Counsel: So at the time that you have done this, would it be fair to say that you knew more about doing these convoy missions up to Talil than the average soldier?

Witness: Yes.

Counsel: You certainly knew more about doing these convoys missions than anybody sitting at these tables that are questioning you today, right?

Witness: That's why I was the one responsible for training them.

Counsel: Right, and so you were in a position where you could then offer training to someone who hadn't done the mission before?

Witness: Yes.

Counsel: Okay. Would it be fair to say your recollection of the events that occurred on the twelfth of May was somewhat more fresh in your mind on the fourteenth and fifteenth of May than it is today, would that be fair to say?

Witness: Absolutely.

Counsel: And so on the date that you rendered those statements, your recollection of the events of the twelfth of May was better than it is today?

Witness: Yes.

Counsel: You testified that you weren't allowed to see those statements before you talked to the defense Counsel yesterday?

012927

Witness: That's correct. And in fact I did ask to see them and I was told that it wasn't necessary.

Counsel: Okay. Thank you. I don't have any further questions.

I/O: Any further questions from the defense? Sergeant [REDACTED], I just have a couple of questions I need to clarify for myself.

b(6)-2; b(7)(c)-2

Witness: Yes sir.

Questions by the Investigating Officer: LTC [REDACTED] (Same)

I/O: It's my understanding that prior to your leaving for this mission...well let me just ask you. Did at any point, did you really sit down and talk with Master Sergeant [REDACTED] or any member of the 320TH about what your specific roles and responsibilities were going to be? You said you had two different chains-of-command going there. Did you ever sit down and say Sergeant [REDACTED], you and the 320TH will be responsible for this and myself and my people are going to be responsible for these aspects of the mission?

b(6)-2

b(6)-2
b(7)(c)-2

Witness: Negative sir. I told her that if she wanted to put a couple of her personnel on the bus to kind of get a handle on what the procedures were on the bus, then that would be okay. They were primarily responsible for...they had two HMMWVs...they were responsible for the force pro and the convoy security of the mission.

I/O: Otherwise they were just, I guess kind of there observing, more or less.

Witness: Yes.

I/O: Okay. The information that you received about the EPW's on the bus, where did you receive that from?

Witness: From the 744 personnel.

I/O: From the 744TH?

Witness: Correct.

I/O: Then you in-turn shared that with Master Sergeant [REDACTED] and another E-7 from the 320TH contingent?

(Same)

Witness: They were the ones...from my standpoint, I was training the trainers. The E-8 and E-7 on the ground that day, they were the trainers for the 320TH personnel. They had never been on any type of missions like this before so I did not brief their entire crew, I briefed their E-7 and E-8 on who we had and left it to them to advise their personnel.

012928

I/O: Did you receive any specific instructions from your Company or Battalion with regard to your responsibilities to train the 320TH?

Witness: Negative. I was just told to basically just show them the ropes, show them what our responsibilities were. The routes, how we get custody of the prisoners, what the paperwork was, and things like that.

I/O: You specifically saw two incidents, which caused concern in your mind, about the treatment of EPW's, is that correct?

Witness: Yes.

I/O: The first incident, and this is just to clarify in my mind, involved an Iraqi prisoner who is on crutches.

Witness: Correct. He was the first one taken off the bus.

I/O:

And you said you didn't see him hit the ground, but that you did observe Staff Sergeant [REDACTED] and Specialist Canjar scoop him up under his arms and start to drag him down the chute, is that correct?

Witness:
Yes.

b(6)-5
b(7)(c)-5

I/O:
Okay.

Witness:

When they first took him and started escorting, he was walking but he was being real slow. That's when they got up beside him and started yelling in his ear, and then that's when the Master Sergeant came up from behind him and was yelling at him. After a short distance, he fell to the ground. They got down and was yelling at him and then they scooped him up and took off.

I/O:

And then the second incident was with another EPW who you saw them put him in a, I believe you called it a gooseneck hold, is that the same thing as an arm-bar hold?

Witness:

Yes sir. It's where they take their hands, it's behind their back, and just twist it and control this part of the arm.

I/O:

You said the EPW was screaming...now is this the same EPW who you say saw him being hit on the left side of his body?

012929

Witness:
That's correct.

I/O:
And what about the three or four knee strikes that you talked about?

Witness:
Same guy.

I/O:
Second incident?

Witness:
Yes.

I/O:
I was confirming that this was the same EPW that received the three or four knee strikes.
How many times did you see Major [REDACTED] that evening, during the course of your
coming back?

Witness:
Twice.

b(6)-4
b(7)(c)-4

I/O:
Okay.

Witness:
I saw her the first time when I went up there. I'd seen the verbal abuse of the EPW.
Then when I came back, that next time, is when I seen her for the final time that evening.
I told her that...actually I saw her again when I went up there to call the 744, and I saw
her a third time when we went up there for property and I told her about the incident.

I/O:
You saw her three times?

Witness:
Correct.

I/O:
Okay. And was it during the third time that you also saw this Master Sergeant [REDACTED]
(sic)?

Witness:
Yes.

b(6)-4
b(7)(c)-4

012930

I/O:

Okay. Then you talked to him and then you both talked to MAJ [REDACTED] is that correct?

Witness:

Yes sir.

b(6)-5
b(7)(c)-5

b(6)-4
b(7)(c)-4

I/O:

Okay. Was Master Sergeant [REDACTED] expecting you on the morning before the mission took place?

Witness:

I'm sure that she wasn't expecting me to come over to their Company area. The mission was originally slated to go out at fifteen hundred. It got moved up by two hours. I assumed that she was intending on linking up with me at the Brigade TOC and not in her Company area.

I/O:

Did she indicate to you that she made any preparations or briefed her people prior to your arriving there, or done anything to try to prepare for the mission herself?

Witness:

No.

I/O:

You didn't have any indication?

Witness:

Not at that time. I just told her that the mission had been moved up and she got the information through their TOC. They were getting their people ready to go. I told her I was going to finalize a few things with my guys and that we would link them over here at Brigade.

I/O:

Okay. When did you find out about the Marines, and their role with the EPW's?

Witness:

When the medical personnel and the 744 personnel...when I was receiving my brief from them, they told me that we got a guy that was shot twice and the Marines brought him in.

I/O:

Was it just that one individual or more than that?

Witness:

That's the only one that I recall sir.

012931

I/O:

That's the only one they talked to you about, specifically, with regard to the Marines?

Witness:

They said they brought him in because they were talking about his injuries.

I/O:

This was the EPW on crutches, is that correct?

Witness:

Yes sir.

I/O:

Okay. I don't have any more questions.

Questions by the defense counsel: CPT [REDACTED]

b(6)-2
b(7)(c)-2

Counsel:

Sergeant [REDACTED] were his hands bound or unbound?

b(6)-4
b(7)(c)-4

Witness:

Unbound.

Counsel:

As were all the medicals?

Witness:

When they came off the bus, yes.

I/O:

Anyone else?

[The witness was duly warned, dismissed and left the room.]

I/O:

MAJ [REDACTED], call your next Witness.

b(6)-2
b(7)(c)-2

MAJ [REDACTED]

Yes sir. Before I begin, I would like to note for the record that the reporter, Sergeant [REDACTED] has been previously sworn. I didn't know if you needed that for the record. I would like that noted for the record. The next Witness that I would call is Sergeant [REDACTED]

b(6)-2
b(7)(c)-2

b(6)-4
b(7)(c)-4

012932

DIRECT EXAMINATION

Staff Sergeant [REDACTED], U.S. Army National Guard, was called as a witness for the Government, was sworn and testified as follows:

b(6)-4
b(7)(c)-4

Questions by the trial Counsel: Major [REDACTED]

b(6)-2
b(7)(c)-2

Counsel:

For the record, you are [REDACTED] is that correct?

b(6)-4
b(7)(c)-4

Witness:

That's correct sir.

Counsel:

And you spell [REDACTED] with a [REDACTED]?

(same)

Witness:

Yes.

Counsel:

And you are with the 223RD MP Company?

Witness:

Correct sir.

Counsel:

And you are currently serving here at Camp Bucca, correct?

Witness:

Correct.

Counsel:

Sergeant [REDACTED], we had heard some testimony previously from Sergeant [REDACTED] so picking up from there...you were a member of the 223RD MP Company that went on this mission on the twelfth of May to Talil to pick up prisoners, is that correct?

(same)

Witness:

Yes sir and I still am.

Counsel:

Right, you're still a member of the 223RD Company.

Witness:

Yes sir.

012933

Counsel:

And on the twelfth of May, you were on that mission with the other 223RD members, of which Sergeant [REDACTED] was the NCOIC, correct?

b(6)-4
b(7)(c)-4

Witness:

That's correct.

Counsel:

I would like to pick up from the point when you arrived at Talil and have you relay your memory of the events that occurred after you arrived at Talil and picked up the prisoners. Okay?

Witness:

Yes sir.

Counsel:

Okay, if you would just tell us about from Talil forward.

Witness:

We arrive at Talil at eighteen hundred hours. We pulled up into the core holding area. We exited the bus and the vehicles. The bus and vehicles went to go get fuel. That's usually the way we conduct ourselves. We get fuel first. Sergeant [REDACTED] was on the ground to make contact with the NCOIC up at the core holding area. He made contact with them and let them know that we were there to do the pick up. At first we heard there was thirty-eight. It ended up being forty-four EPW's that we picked up. After the vehicles came back, they were staged in order that we would be pulling out in. We started loading prisoners.

(Same)

Counsel:

Okay, before you started loading up prisoners, where were you stationed for this mission?

Witness:

I was stationed at the front of the bus, recording the numbers of the personnel that went on, with one of the NCOs that was up there at the core holding area. I checked my numbers with his. We made sure that our count was good.

Counsel:

We you Bravo team leader?

Witness:

Alpha team leader.

012934

Counsel:

Had, at any point during this day, before you started loading up the prisoners, had you provided briefings to any of the other soldiers that were on this mission, prior to receiving these prisoners?

Witness:

What kind of briefings sir?

Counsel:

Briefings with regard to the mission or the handling of the prisoners, or SOP on how to conduct the mission that day?

Witness:

I wouldn't call it a briefing sir. Briefings were taken care of by the NCOIC, as far as safety briefs and actions on contact. That's Sergeant [REDACTED] lane when we go on missions. As far as my part, I was NCOIC on the bus. It was to my knowledge that we were doing a right seat ride, which meant that we were training people to do our jobs. On the bus, I gave a few blocks of instruction on searching a bus. It was pretty informal, but just going over some of the things that I look for in a bus prior to loading EPW's on it. I also remember making the statement that some of the people that we're picking up are accused of some pretty horrible things. As much as I would want to go and take action against them in my own way, it's not what we do. I also explained that there were a couple of times that we did some high-profile individuals where I felt like I wanted to go back to the in-processing area and punch a hole through their chest. But, I didn't do that. I don't do that. That's not what we do.

b(6)-4
b(7)(c)-4

Counsel:

And you explained this to those people on the bus?

Witness:

I believe I said it a couple of times sir.

Counsel:

Let's talk about how the prisoners were loaded into the bus. How did that process work that day?

Witness:

There was one Specialist on the bus that was not in my Company. That individual is on the bus. I asked him if he can handle loading the bus as I put the EPW's on the bus one at a time. He said he could handle it. The process went, pretty much, one at a time would come up to the bus. The number would be checked. I checked the tag on them. The person would get up on the bus. The Specialist on the bus would seat them, starting at the back of the bus, moving towards the front.

Counsel:

Sergeant [REDACTED] do you remember who that Specialist was?

(Same)

012935

Witness:

I don't know his name sir.

Counsel:

Was he a member of the 320TH?

Witness:

I would have to assume so, sir.

Counsel:

So he wasn't a member of the 223RD? The 320TH was the only other company that was with you on the mission?

Witness:

The people that I was told that was with us was the 320TH.

Counsel:

This Specialist then loaded the bus as you handed him the prisoners one at a time?

Witness:

That's correct.

Counsel:

Any problems with loading the bus?

Witness:

Not a one sir.

Counsel:

Any of the prisoners act up or misbehave during this process?

Witness:

Not a one sir.

Counsel:

The bus was loaded, and did you take off immediately after that?

Witness:

Not immediately, sir, there was property that we had to go and get. We had to make sure the camp count was good before we proceeded out of the gate.

C12936

Counsel:

By that you mean you had to square away the number with the Talil Air Base with your numbers, and make sure that everyone agreed that you had what they thought you had?

Witness:

That's correct sir. We take care of that right at the bus. The record of the number that I take and the charts that they have of people to be sent...those numbers have to match, but they also have to do another count of their base camp. Take the people that are still in the base camp and subtract the number that we are taking...make sure that's the number that they are supposed to have.

Counsel:

Did anything else have to happen before the convoy departed?

Witness:

Negative.

Counsel:

Did you get on the road after that?

Witness:

Yes.

Counsel:

On the bus, who were the soldiers from your unit and the other unit?

Witness:

I remember Specialist [REDACTED] He was with me. There were three other individuals from the other company that were there.

b(6)-4
b(7)(c)-4

Counsel:

Do you recognize any of those individuals in the room today?

Witness:

I recognize Sergeant [REDACTED]

b(6)-5
b(7)(c)-5

Counsel:

She was on the bus with you?

Witness:

Yes.

Counsel:

You left Talil. Let's talk about what happened after that. Just go ahead.

012937

Witness:

b(6)-5
b(7)(c)-5

We drove down the road. We were coming back eastbound on Tampa. It wasn't long after we got on route Tampa that the bus experienced some kind of a problem. I heard an air hose pop. I got up in the aisle way, facing the EPW's with a loaded 12-gauge shotgun. I called over Specialist [REDACTED] to find out what was going on with the bus. Sergeant [REDACTED] was on the bus and she had radio communication with handhelds to the personnel that she was with. The first thing I asked was to get radio communication with wolf-2, who was Sergeant [REDACTED]. To my knowledge, he had a handheld also. To let him know that the bus will be stopping for unknown reasons. The call was made by Sergeant [REDACTED] to wolf-2. I heard radio traffic of other individuals calling for wolf-2. There was no reply.

b(6)-4
b(7)(c)-4

At the same time, the bus pulled over. As the bus pulled over, I had Specialist [REDACTED] trying to assess the situation with the bus. I was facing the EPW's with the shotgun. [REDACTED] let me know that it was an air hose that he will try to fix. I heard some commotion in the front of the bus. As I turned around, there were other personnel on the bus that were not assigned to the bus, starting to move down the aisle.

Counsel:

Did you recognize any of those individuals?

Witness:

No sir.

Counsel:

They were not part of the 223RD?

Witness:

No.

Counsel:

What happened next?

Witness:

These personnel started to move down the aisle. I heard individuals say who's the problem child. Somebody was behind me. I couldn't identify who it was. I was watching forty-four EPW's. I asked [REDACTED] what was going on. He said it was an air hose and the bus is fixed. I looked down the steps of the bus in front and I saw Staff Sergeant [REDACTED] enter the bus. He looked around. I knew he was there and then faced the EPW's. I heard him ask what's going on. [REDACTED] said that the bus was fixed and we were ready to roll. He said let's get out of here.

Counsel:

Did everyone who wasn't supposed to be on the bus, get off the bus?

Witness:

I still had the five personnel that I started with.

012938

Counsel:
Did you continue back to Camp Bucca?

Witness:
Roger sir.

Counsel:
Any more incidents along the way?

Witness:
No sir.

Counsel:
When you arrived at Camp Bucca, what happened there?

Witness:
We arrived at...I call it the east gate. We arrived at the east gate, which is the gate we normally use when we bring in EPW's. It's right by the in-processing area. We arrived at the in-processing area at 2150 hours. That's my official RP time in my logbook. We waited a few minutes. There wasn't anybody at the in-processing area. We stayed on the bus. The bus drops down into the sand a little bit, to get the EPW'S right into the in-processing area. It was after that that I asked one of the personnel if he could step off the bus and stand right in front of the storage compartment of the bus. There were items on that bus that needed to be secured and I asked him to take care of it until he was relieved by Sergeant [REDACTED]. The other person on the bus was the Specialist who loaded the bus. I asked him if he wanted to stay on the bus and unload the bus. He said he would. Sergeant [REDACTED] exited the bus. I don't know where she went.

Counsel:
What did you do at that point?

Witness:
I stepped off the bus to see what was going on? I was gonna start making my adjustments to get these people off-loaded.

Counsel:
And did that eventually occur?

Witness:
Yes.

Counsel:
When you started off-loading, how did that whole process go?

012939

Witness:

It went pretty awful. That's my recollection.

Counsel:

Specifically, if you can describe what happened that night.

Witness:

As we unloaded the EPW's...we take them off in groups of five. Five come off at a time. Sometimes we have done as many as ten. This night, we did five at a time. The first five had an Iraqi Major who was on crutches. His hands were bound on the bus with tape. He was moving fairly slowly with his crutches. As he got to the bottom of the bus, he sat on the step. I freed his hands so he could use the crutches. He was the first one off the bus, with four others behind him. The first five got down and were walking one at a time, with an MP one-on-one. As they got about fifty feet behind the bus, there's the beginning of the chute. It's an area where they kneel on the ground and waited to be escorted up the chute to the holding area. For some reason, on this day, it was all the way down the backside of the base camp. The word was given for these individuals to get up. They stood up. The Iraqi Major with the crutches was first. He was told to move out. He started to move with his crutches. He was moving at a pace that was slow, in my opinion. As I looked back to the bus to see who the next people were coming down, I started to load my next five. I looked over and saw this individual pushed to the ground. Two individuals stood over the top of him and started to deliver blows to this individual on the ground.

Counsel:

Did you recognize the people that were doing this to the Iraqi on crutches?

Witness:

I recognize one for sure and there was another tall soldier there, also.

Counsel:

The one that you recognized, is that person in this hearing room today?

Witness:

Yes sir.

Counsel:

Would you point that person out please? Let the record reflect that the Witness is pointing to Master Sergeant [REDACTED] You said that there was another person that you weren't sure about. Describe that other person that was involved with the Iraqi on crutches.

Witness:

It was a tall, thin soldier wearing a boonie cap, brown t-shirt.

012940

Counsel:
What was the race of the soldier?

Witness:
Caucasian sir.

Counsel:
Do you know what rank that soldier was?

Witness:
I could not see from my standpoint.

Counsel:
What did you observe these people do to this Iraqi on crutches?

Witness:
As the man got up to move, as he was told to, he got a little bit further away from where he started. Maybe twenty-five, thirty feet. He was pushed from behind on the shoulder blades. He hit the ground face-first. He fell off his crutches. He started to scream. As he hit the ground, there was a lot of yelling. That's when the two individuals started delivering blows to that man on the ground.

Counsel:
Did you see who pushed him to the ground?

Witness:
I don't recall at this time who pushed him to the ground. In my sworn statement, that I gave on the thirteenth of May might reflect that, as it was a lot clearer to me at that time and I have not been able to read through my statement.

Counsel:
Do you think if you were to review your statement, it might help refresh your recollection?

Witness:
It's quite possible sir.

Counsel:
Is it true that you gave two statements, ultimately? One to CID and then another statement as well?

Witness:
I gave one to the 530TH MP Battalion. The investigator there, I believe was a Sergeant [REDACTED] Then the next day, on the fourteenth, I gave one to CID.

b(6)-1, b(7)(c)-1

C12941

Counsel:
Will both statements help refresh your recollection?

Witness:
Both statements should be one in the same sir.

Counsel:
I'm handing you what has been marked as exhibit one and two. I ask you to take a look at those.

Witness:
I have in my statement that this Iraqi Major on crutches was knocked to the ground approximately a hundred feet away from the bus by a female E-8 and unidentified guards.

Counsel:
Were there any other female E-8s on this mission other than Sergeant [REDACTED]?

Witness:
Not that I was introduced or saw myself sir.

b(6)-5
b(7)(c)-5

Counsel:
You observed the female E-8 push the Iraqi prisoner to the ground and then kicking him?

Witness:
From my recollection off the statement sir, they were yelling at him to get up. He did not. They were striking and kicking him while he was on the ground. From my vantage point I was unable to see the whole act. I was able to see the whole act, but not where the blows were connecting. At that point, the Major was grabbed off the ground under each arm by the E-8 and this unidentified soldier and dragged to the search area.

Counsel:
You can refresh your recollection with the statement as many times as you want to. It would be better, however, if you try to testify from your memory. If you need refreshing, we can give you your statement and you can refresh your recollection.

Witness:
That's fine sir.

Counsel:
I'll retrieve those from you. If you need them they're right here. You saw the two individuals kicking the prisoner, what happened after that?

Witness:
After he was being kicked, he was picked up under each arm with him screaming. His legs dragged behind him. He was dragged down to the search area, out of view.

012942

Counsel:
Do you remember the scream that the Iraqi prisoner was making?

Witness:
Yes.

Counsel:
Can you describe it a little bit?

Witness:
No sir.

Counsel:
Why can't you describe it? I'm sorry.

Witness:
There's no description for it. There's no movie that can capture anybody screaming like that. There's nothing that I've heard that sounded anything like that.

Counsel:
Did it sound like he was in pain?

Witness:
Yes sir.

Counsel:
Did you have an opportunity to observe this Iraqi prisoner as he exited the bus, before he was kicked and knocked to the ground?

Witness:
Not that I observed him. I observed him before we loaded him on the bus in Talil, but as far as loading him off the bus, I was looking for the next prisoner that was coming off the bus.

Counsel:
So you would not be able to say whether he was resisting in any way, correct?

Witness:
He wasn't resisting me sir. I can tell you that. He didn't resist as I passed him off to someone else.

Counsel:
Never the less, from your training as an MP, have you ever been taught anything that would say that a resisting prisoner...that a proper technique to do to that prisoner is to push him down to the ground and kick him?

012943

Witness:

Nothing in my training sir. Nothing in any manual that I've read shows that such a procedure is acceptable.

Counsel:

What about dragging a wounded prisoner across the ground, in the manner that you described?

Witness:

I don't recall any of that in my military police career or my training sir.

Counsel:

After you observed this, what happened next?

Witness:

After the Major was dragged away, we loaded up the next five. Five more stepped off the bus. They were brought to the same location, approximately fifty feet to the rear of the bus, at the beginning of the chute. Those individuals were put down on the ground. I'm trying to recall if it was the one individual who was grabbed so fast, he came out of his pants...I believe it was. There was one small, thin man. From my information, he was interpreter that was present during the interrogation of American POWs. As this individual was taken...I don't recall who took him away. He was taken away so fast that his pants went down around his ankles. He was being led away that is pants came down around his ankles. I do remember seeing that. He couldn't walk very well. He was lead down that way, fifty feet away from the back of the bus. I was looking back up on the bus. A crowd had gathered off the back of the bus in the area where they took this individual. My account would be that this individual slammed to the ground so hard that I could feel the earth under my feet, from fifty feet away. At that point, I heard screams. When I looked down at the back of the bus, I saw a group gathered around with a lot of dust kicking up. A lot of yelling and a lot of screaming.

Counsel:

The interpreter, that prisoner who was yanked up so fast that his pants came off, did you see the person that yanked him up?

Witness:

Sitting here now sir, I don't recall.

Counsel:

Do you think that you might have put that in your statements?

Witness:

It's possible sir.

Counsel:

Would that help your recollection?

C12944

Witness:
Yes it would.

Counsel:
Let me hand you exhibits one and two, and ask you to look at those to see if the events regarding the interpreter are refreshed. Does that refresh your recollection?

Witness:
I don't have any recollection on the individuals that escorted him sir.

Counsel:
You're not sure who that soldier was?

Witness:
No.

Counsel:
What about with regard to the incident involving the prisoner where he was carried off and a cloud of dust appeared and he was surrounded?

Witness:
Yes sir. That was the second individual that I Witnessed. That would be the interpreter.

Counsel:
That was the same individual?

Witness:
Same individual sir.

Counsel:
Do you recall any of those people that were the prisoner? Who they were?

Witness:
No sir I don't recall.

Counsel:
Even a description of those soldiers?

Witness:
No sir I can't describe them at this time.

012945

Counsel:

What happened after that incident?

Witness:

The next individual that was sitting in front of me on the bus was an Iraqi Major. He was a police officer. This individual was wanted in a number of crimes...alleged murder and rape. As he sat in front of me...as I reached for this individual so he can come up on feet and move out, he was given a command to move. I handed him off to a Specialist who was not with my company. On his arm he had a tribal tattoo. He was wearing a short sleeve t-shirt. He accepted that prisoner and I heard someone make the comment, "is this the guy, is this the guy? Yea this is the guy. Get the females over here." My attention went to the top portion of the bus to get the next prisoner off the bus.

Counsel:

Did you see anything further with that prisoner that you just described?

Witness:

That prisoner was lead away. I don't believe he went to the same location as the others. Once again, that person was put on the ground with enough force that I can feel the ground under my feet. He was on the ground. There was a lot of confusion and screaming. I looked to see what was going on there. There was a cloud of dust and people surrounding this individual.

Counsel:

Did you have an opportunity to recognize any of the people, the soldiers, that were involved in surrounding that prisoner?

Witness:

Not at the standpoint that I had.

Counsel:

Where you able to observe the person who threw that person to the ground?

Witness:

No sir I cannot.

Counsel:

What happened after that?

012946

Witness:

After the shock started to wear off that this was actually taking place...I don't know if it was immediately after that, but realizing that there was a problem right there, things started to slow down a little bit. There was a lot of confusion going on. Best I can recall, at one point when the prisoners were being taken off the bus and brought fifty feet behind the bus...that was not working. Someone broke the engineer tape that was marking one of the walls of the chute. I recall Specialist [REDACTED] who was one of our soldiers at the time, was escorting people from the bus to the chute, bypassing the front portion of the chute where these attacks were taking place. These people were going right into the chute and into the search area. That's how the rest of them were loaded on. Except for the last individual I that I saw...during that time the prisoners were not loaded off the bus five at a time. We were loading them off as fast as we could to get them away from the individuals that we thought were acting inappropriately. As we moved them into the chute through the broken tape area, I remember questioning a few people as they came off the bus. Their tags said civilians. The Intel that I had said they were possibly Republican Guard posing as civilians. I remember speaking with a couple of them that came off the bus, asking them if they were Republican Guard. They said no. I asked again. One told me yes he was Republican Guard. The information I make available to the people in the search area is information that I've always made available to the people in the search area or working on a mission. This information helps categorize these people as to where they're going to be segregated to. Two, what kind of people they actually are or accused of, so we know how to load the bus. The information I was giving out that night was clearly used to identify who these people were, in my opinion, beatings ensued. For what reasons, I still don't know. This information seemed to be used against the individuals.

b(6)-4
b(7)(C)-4

Counsel:

You're standing at the base of the bus, right?

Witness:

Yes sir.

Counsel:

And as these prisoners come off, you're publishing to the escorts information about these prisoners so they are aware of who they're dealing with, right?

Witness:

Yes sir.

Counsel:

You said that was common practice for you?

Witness:

For me sir.

012947

Counsel:
The purpose for doing that was what?

Witness:
The individuals who escort these people down to the search area, normally area in-processing personnel. In the past, the escort guard would stay by the bus, help unload the bus and maybe even help search one or two in the immediate area. They are always lead away by in-processing personnel. That night, I didn't see too many in-processing personnel. We got there at 2150. We waited a little while. There were a lot of MPs around. They helped with the escorting of these individuals. That's the way it went.

Counsel:
Do you recalled what happened with the prisoner that identified himself as Republican Guard, after you handed him off to escorts?

Witness:
He was lead away by an unidentified soldier. He was lead away in some kind of an arm bar. He was bent over the waist and lead away. The next individual was lead off in the same manner. The third individual caught on to what was going on. When I asked him if he was Republican Guard, he looked at me and said no.

Counsel:
With regard to the ones who identified themselves as Republican Guard, other than being led away in an arm bar, did you observe anything else happening to them as they were being led away?

Witness:
Not to those individuals sir.

Counsel:
Do you remember writing in your statement on the fourteenth of May, that you saw...one person identified himself as Republican Guard...the first two who admitted to being Republican Guard were led away in arm bar holds. There was an individual who came before me who allegedly had an intelligence officer for [REDACTED] was handed to an escort. He was taken to the search area.
Halfway between the bus and the search area, I Witnessed the Master Sergeant and the unidentified escort, who was very tall, administer common strikes...knee to the leg, to his left and right thighs. Do you remember that?

Witness:
Yes sir.

Counsel:
Do you remember that statement?

b(1)-7
b(7)(c)-7

C12948

Witness:

Yes sir.

Counsel:

Can you describe that observation?

Witness:

He was one of the last ones off, maybe within the last ten. As he was taken off the bus, it's my recount, that a person with such knowledge would be first in line to speak with MI in the in-processing area. This individual was identified by me as an intel officer reporting to [REDACTED]. As he was being escorted, I heard him yelling. He was in the chute, approximately fifty to seventy-five meters away. The chute itself had plenty of lights on it. At this point, I saw the E-8 and a tall escort that was delivering strikes to this individual while they had a good hold on him. He was screaming and yelling. You use that move to incapacitate somebody. You don't use that to motivate someone to walk or move faster. The strikes were delivered to the left and right thigh, yelling at the person to let's go. That's what I Witnessed.

b(6)-7
b(7)(c)-7

Counsel:

Did the Iraqi prisoner who was being kned in the legs, did he make any sounds?

Witness:

Yes. He was vocal about the pain he was in.

Counsel:

And you said that the E-8 was one of the people who led him away. When you refer to the E-8, who are you referring to?

Witness:

I'm referring to the soldier sitting at the end of this table, sir.

b(6)-5
b(7)(c)-5

Counsel:

Let the record reflect that the Witness is pointing to Master Sergeant [REDACTED]. You said that there was another soldier, a tall soldier that was with her. Do you recognize that person in this room?

Witness:

I couldn't say who that soldier was sir. I don't hold myself a hundred percent sure on who that individual was sir.

Counsel:

Do you remember the sex?

Witness:

It was a male. It was the same individual who did the escorting with the Iraqi Major...the first incident that I Witnessed.

012949

Counsel:

With regard to these prisoners that you observed being kicked and dragged, were any of them resisting their escorts?

Witness:

My opinion sir?

Counsel:

Yes.

Witness:

Again, I wasn't watching the actual procedure of how they were being escorted other than them being taken away from me in an arm bar. How they were escorted and what happened to them after they were taken from me...my focus was still on the bus. My standpoint was on the bus, unless I heard commotion. I would look and see what the problem was.

Counsel:

We talked about the Iraqi prisoner who had been wounded and you said you freed him of his restraints as he sat on the steps of the bus. What about the one that you identified as the interpreter, was that prisoner restrained when he was being escorted?

Witness:

I don't recall right now if he was restrained or not. Core-holding area personnel had been restraining individuals before they loaded them on the bus. It was welcomed. They would put tape across their hands. I know that first aid tape gets pulled off and put back on, on a three-hour ride. I did not tape him myself. I do not recall if he was taped before he got off that bus.

Counsel:

What about the one that you identified as the Iraqi Major who you heard voices say, "is this the guy, is this the guy", do you recall if he was bound?

Witness:

I believe he was bound. The only reason why I do know for sure that the Major was bound was I wanted him bound. He was the first person on the floor. The Intel I got was that he was a trainer for the Fedahyeen forces. I freed him before he could get off the bus so he could move with his crutches.

Counsel:

You said you witnessed the Master Sergeant and the tall soldier delivering the knee strikes to that soldier. Do you recall whether that prisoner was bound?

Witness:

I don't recall at this time.

C12950

Counsel:

During the off-loading of this bus, do you recall whether Master Sergeant [REDACTED] made any statements that you heard?

b(6)-5
b(7)(c)-5

Witness:

Towards the end of the process, one was taken off the bus. A tall man. He was wearing nice clothes. He might have been a car salesman. He had a lot of cash on him. He was one of the last individuals removed from the bus. The female E-8 was standing off to the side, outside of the chute. One of the soldiers, who took this individual, asked allowed if this one is the troublemaker; is this one a problem child. It was the E-8 who made the comment that if they're on that bus, they're all problem children. They're all troublemakers.

Counsel:

When you say E-8, you are referring to Sergeant [REDACTED]?

b(6)-5
b(7)(c)-5

Witness:

Yes.

Counsel:

Do you recall during the process of traveling from Talil to Bucca, having a conversation with Sergeant [REDACTED] about any information he had received from Sergeant [REDACTED]?

b(6)-4; b(7)(c)-4

b(6)-5; b(7)(c)-5

Witness:

Sergeant [REDACTED] approached me in Talil. We always make sure we're ready to roll. He came up to me and told me that he was talking to that female E-8 over there, and she asked him if we do any personal interview time. He told me to watch yourself on the bus. I didn't think twice about it, but he had a look of concern on his face. We transport a lot of dangerous people. The look that he gave me was different from the look that we always get. I was concerned for a moment. I put it in the back of my mind.

b(6)-4, b(7)(c)-4

Counsel:

How many missions have you been on, by twelve May, to pick up and transport prisoners?

Witness:

Prior to the incident on May twelve, I have logged twelve missions. Can I look in my log book sir, because I have those figures?

Counsel:

Yes.

b(6)-2; b(7)(c)-2

CPT [REDACTED]

Sir we'd ask that if the witness is going to refer to anything it needs to be marked and cataloged as evidence.

012951

Witness:
We'll its my log book ma'am, so I'll just go and wing it.

I/O:
You didn't look at it?

Witness:
No, sir.

I/O:
Okay.

Witness:
I'd say approximately thirteen hundred EPW's escorted up until that day.

Counsel:
And you've done missions since then, correct?

Witness:
Yes sir.

Counsel:
In any of your missions that you've done before or after twelve May, have you ever seen U.S. soldiers conduct themselves in the manner which you observed these soldiers conduct themselves with regard to the treatment of prisoners?

Witness:
No sir.

Counsel:
Have you ever received training as an MP, with regard to handling of prisoners, that taught you that this type of behavior that was used was appropriate?

Witness:
No sir.

Counsel:
Thank you. I don't have any further questions.

CROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED]

b(6)-2
b(7)(c)-2

I/O:

CPT [REDACTED]

C12952

b(6)-4
b(7)(c)-4

Counsel:
Sergeant [REDACTED] from the time that you arrived at Camp Bucca until today, you've never worked down in the internment facility, correct?

Witness:
Correct.

Counsel:
You've never worked as a compound guard?

Witness:
Not here.

Counsel:
Your primary duties have been as a convoy escort and dealing with the prisoners in that contact, right?

Witness:
Yes ma'am.

Counsel:
These escort missions, you said you've done twelve of them before, right?

Witness:
Yes ma'am.

Counsel:
And typically, this is a platoon level task, right?

Witness:
Not always.

Counsel:
Can you remember talking to me the last time I was here?

Witness:
Yes ma'am.

Counsel:
And we talked about how your Platoon Sergeant would make the determination as to who would go on these missions.

Witness:
Yes ma'am.

012953

Counsel:
It would come down from the platoon to you?

Witness:
Yes ma'am. I thought you meant that the platoon would always go.

Counsel:
No. The task would come from your Platoon Sergeant?

Witness:
Yes ma'am.

Counsel:
Often times, she'd come on the missions with you, right?

Witness:
Yes ma'am.

Counsel:
So he knew what was going on and what to expect?

Witness:
Yes ma'am.

Counsel:
And how you guys were doing, right?

Witness:
Yes ma'am.

Counsel:
You didn't have an SOP on how these missions were to be run, right?

Witness:
Not that I was aware of on how they would be run, but we were graded on them in Fort Dix, when we went through our lanes, for those training exercises.

Counsel:
But you didn't have an SOP, in writing, Company level, saying this is how we're going to do it every time, right?

C12954

Witness:

Escort guard has a mission that's posted. It talks about a mission statement. I have not seen an SOP that told me what I was to do when I got on the bus.

From my training at Fort Dix, it gave me a very clear outline on what our job was supposed to be. And you trained with the same people that you worked with from the 223RD, right?

Witness:

Yes ma'am. Up until that day I have.

Counsel:

You worked with these guys before?

Witness:

My soldiers yes ma'am.

Counsel:

And your soldiers were?

b(6)-4
b(7)(C)-4

Witness:

SPC [REDACTED] was on the bus with me, SGT [REDACTED] SPC [REDACTED] SSG [REDACTED] ma'am.

Counsel:

So you knew how these missions were gonna work, because you'd worked with your company before and you guys had worked out the way that you were gonna handle the mission, right?

Witness:

That's fair to say, ma'am.

Counsel:

You know you'd figured out what was good what was bad and you went from there, right?

Witness:

Well we worked within the standards ma'am the guidelines that was set for us at Fort Dix when we went through the lanes and we got accredited to come over here.

Counsel:

Is there guidance on how many EPWs you can have per MP?

Witness:

Not that I'm aware of, no.

012955

Counsel:

You know, if like for example if you've got 44 on the bus does that mean you have to have at least two, four, six--?

Witness:

We work as partners ourselves, ma'am. Myself and another individual could be on a bus with anywhere from 40 to 48 individuals on the bus at any given time. We're doing a right-seat ride ma'am so the extra personnel was good for experience as far as my thoughts were going. We're doing a right-seat ride and we wanted to get a few people on the bus, but it wasn't my call who the 320th put on that bus. I knew myself and SPC [REDACTED] were more than capable and qualified to be on that bus to deal with 44 individuals.

b(6)-4; b(7)(c)-4

Counsel:

I guess the question that I'm asking you is there guidance that says that you've got 44 people you have to have this many MPs to escort those 44 people?

Witness:

Not for the buses ma'am, we're stretched kind of thin.

Counsel:

So basically the limitation on the number of people you can put on the bus is the amount of space that you have, correct?

Witness:

We try to do with at least two ma'am, regardless of space we put at least two people on the bus. That's the way we've always done it.

Counsel:

Okay.

Witness:

We work as partners.

Counsel:

Okay, but the number of EPW's you're gonna put on the bus, the only limitation on that is the amount of space you've got on the bus, right?

Witness:

That'd be fair to say, ma'am.

Counsel:

And the buses could be mixed right?

Witness:

Mixed, ma'am?

012956

Counsel:
There are certain categories of EPWs you segregate, right?

Witness:
That's correct ma'am.

Counsel:
How do typically see EPWs segregated?

Witness:
To segregate tern ma'am we just divide them into officers, enlisted, juveniles, uh...not transported any females, but that would be another category, uh--religious background uh we would go and segregate them to that effect if possible.

Counsel:
But it's okay to have all those categories of people on one bus?

Witness:
Uh...whether it's okay or not ma'am it's not my call it just happened, yes ma'am.

Counsel:
Okay, so sometimes it would happen that you'd have mixed buses?

Witness:
Oh, yes ma'am.

Counsel:
Now, is--was typical to put the high-risk people up front, correct?

Witness:
It wasn't typical ma'am it was just they way we did business.

Counsel:
If you had your preference you'd put those high-risk people up front where you could see them, right?

Witness:
Yes, ma'am.

Counsel:
Now, with regards to the rules of engagement, there's nothing in writing that tells you specifically these are the rules of engagement for escorting EPWs correct?

012957

Witness:

The rules of engagement are published everyone's got a copy ma'am they're all over the base camp they're hanging by the TOC I have copies for my soldiers we have them all over.

Counsel:

Right, they're not specific to EPW escort correct?

Witness:

They specific theater wide as far as rules of engagement are concerned in any way shape or form ma'am.

Counsel:

So you don't have any more specific guidance other than the general ROE.

Witness:

General ROE, yes ma'am.

Counsel:

Now, you testified that this was a right-seat ride, correct?

Witness:

To my knowledge ma'am that's the information that I received.

Counsel:

You're pretty familiar with how the right-seat left-seat ride procedure works, right?

Witness:

Yes I am.

Counsel:

Okay--so if you're in the right-seat what are you doing?

Witness:

You're learning ma'am.

Counsel:

And who was in the right-seat on this mission?

Witness:

That was gonna be the 320th personnel which was my understanding.

Counsel:

And typically when you're do one of these right-seat left-seat rides somebody shadows you, right? Someone would shadow you SGT [REDACTED] and follow you around and you'd say hey this is what I'm doin' and this is how?

b(6)-4
b(7)(C)-4

012958

Witness:

If I wanted to learn the job ma'am I would be with those people that were to train me, yes ma'am I would feel that I would be obligated to go and pay attention to what they were saying and what they were doing what they were trying to teach me.

Counsel:

Okay.

Witness:

But again with serious business going on and loading prisoners ma'am I didn't go look for anybody to say this is what I'm doing I was doing my job at the same time that I was trying to let people see what it was that I was doing and open myself to any questions at that time.

Counsel:

Okay, you're the trainer they're the shadower or they're the --they're the observers they're taking it in.

Witness:

Fair to say ma'am.

Counsel:

When you got to Talil you get an Intel briefing from the 744th, right?

Witness:

They don't brief me ma'am I just ask, "what's up? What have we got?"

Counsel:

Okay, 'cause you think it's pretty important to know who's on the bus, right?

Witness:

It is important to me yes ma'am.

Counsel:

And on this bus you thought to yourself wow this is quite a crew I've got tonight, right? On this particular bus struck you that there were so many people that were high-risk?

Witness:

Uh--no typical--I've had loads with less I've had loads with more ma'am, but yeah I figured there was a few individuals on there that uh--probably capable of being a security risk for my self from my standards.

Counsel:

You learned that you had nine potential assassins on the bus, right?

012959

Witness:
That is correct ma'am.

Counsel:
You learned that you had two police officers who were accused of very serious crimes, such as murder, right?

Witness:
And a rape ma'am.

Counsel:
And rape? You learned that you had someone who reported to [REDACTED] is his intelligence officer-on your bus, right?

Witness:
That's correct ma'am.

b(6)-7
b(7)(c)-7

Counsel:
You learned that you had an Iraqi general potentially on the bus, right?

Witness:
Major General yes ma'am.

Counsel:
A Major General? Okay, so in total you though I've got 14 to 15 people that I've got to watch carefully, right?

Witness:
I don't watch them any different than I watch the others I just keep those up front so they're closer to me so I can actually see them better than the others. I don't put a used car salesman up in front of the bus ma'am because he's in the back just wondering what's gonna happen to him I'm sure he's got other things going through his mind other than trying to jump through a window or jump on me with a 12 gauge shotgun. Nine assassins would definitely qualify in that rarity for me.

Counsel:
So these are the guys you want up front, right?

Witness:
Yes ma'am.

Counsel:
Now they way the loading procedure works is that you're standing at the foot of the bus, right?

Witness:

012960

Correct.

Counsel:

And you had one soldier on the bus, correct?

Witness:

Yes ma'am.

Counsel:

And that individual was from the 320th, right?

Witness:

To my knowledge ma'am he was.

Counsel:

And he was the one that was putting your EPWs in their seats, correct?

Witness:

That's correct ma'am.

Counsel:

Then you check off all the names then you get on the bus, right?

Witness:

After it was all said and done yes ma'am I did enter the bus.

Counsel:

Were any of the EPWs in the isle-way of the bus, or were they all in seats?

Witness:

They were in the isle-way ma'am--some.

Counsel:

Okay, if they're in the isle-way are they sitting or kneeling?

Witness:

They're sitting ma'am.

Counsel:

Sitting in the isle-way?

Witness:

Yes ma'am.

Counsel:

How many people can you fit in the isle-way?

012961

Witness:

I don't recall ma'am how many people you can fit in the isle-way.

Counsel:

I'm thinking across--do you know how many people you...if you're looking across how many people are sitting in the isle-way?

Witness:

I'm not following what you're asking ma'am.

Counsel:

You're standing on the bus, and you look in front of you and you see a row of people, right?

Witness:

Correct--sitting in seats ma'am you're referring to?

Counsel:

Yeah--you got the people in the seats and then you've got some people in the isle-way?

Witness:

Yes ma'am.

Counsel:

In that first row how many people can you fit side-by-side in the isle-way?

Witness:

Side-by-side in the isle-way--just one ma'am in the isles just one person.

Counsel:

Okay, so there are people in the isle-way and people in their seats?

Witness:

That's correct.

Counsel:

And when you got on the bus the EPWs were pretty far back on the bus, correct?

Witness:

They were ma'am.

Counsel:

You thought to yourself, "Wow he's really got them packed in there," right?

Witness:

012962

I made that comment ma'am.

Counsel:

You left them the way they were, right?

Witness:

I did ma'am.

Counsel:

Okay, and then you guys drove on?

Witness:

Yes ma'am.

Counsel:

Now, you talked about um--what happened on the ride back--pulling the bus over, right?

Witness:

Yes ma'am.

Counsel:

You heard a noise? Right you heard a pop?

Witness:

Air escaping yes ma'am.

Counsel:

And you trained your weapon on the EPWs, correct? They were your focus?

Witness:

Yes ma'am.

Counsel:

And then you started screaming back to [REDACTED] right?

Witness:

Uh--it was in a loud commanding voice ma'am, but--

Counsel:

Well did you turn around or yell over your shoulder "what the fuck is going on"?

Witness:

Over my shoulder ma'am.

Counsel:

Multiple times, right?

012963

Witness:
Quite often, yes ma'am.

Counsel:
Okay, and at the same time you're yelling at SGT [REDACTED] too right?

b(6)-5
b(7)(c)-5

Witness:
To make radio contact yes ma'am.

Counsel:
'Cause you wanted them to know that you guys had had a problem on the bus, right?

Witness:
That's correct.

Counsel:
So you're yelling at [REDACTED] and you're yelling at [REDACTED] right?

b(6)-4
b(7)(c)-4
b(6)-5
b(7)(c)-5

Witness:
Yes ma'am.

Counsel:
Then the bus stops, correct?

Witness:
Correct.

Counsel:
And your focus is on those EPWs, right?

Witness:
Always ma'am.

Counsel:
So you're not sure who got on the bus at the stop?

Witness:
No ma'am.

Counsel:
When you got to the in processing site...typically there's a team there to meet you, correct?

Witness:
That's usually the way it went ma'am.

012964

Counsel:
And on this night there was no team, right?

Witness:
I did not see one.

Counsel:
And they way the uh--concertina wire and the tents are set-up it's not the same every time, right?

Witness:
I can't tell you when it changed but I can actually remember that that night it was changed for whatever reason they changed it ma'am.

Counsel:
So it was different on this night?

Witness:
It was different on this night ma'am.

Counsel:
And it was different in that the shoot was really long, right?

Witness:
Yes ma'am.

Counsel:
The shoot was actually 200 to 250 yards long, would you say?

Witness:
If I had to give a guess ma'am I'd probably guess in the 200-meter range yes ma'am.

Counsel:
Okay, now you said that uh--well let me back up, the shoot itself was dark, correct?

Witness:
No ma'am.

Counsel:
Do you remember talking to me about two weeks ago?

Witness:
Yes ma'am.

Counsel:
Up here in the TOC?

012965

Witness:
Sure did ma'am.

Counsel:
And we talked a little bit about lighting conditions, right?

Witness:
Yes we did ma'am.

Counsel:
And you told me then that the shoot was dark and you couldn't see very well, can you remember that?

Witness:
I remember making a comment that it was minimal lighting in certain parts of it, but the shoot that we're talking about right now, ma'am, was well bathed in light.

Counsel:
Do you remember telling me that "I couldn't read a book in that light"?

Witness:
The light right next to the bus ma'am.

Counsel:
Okay, so the area right next to the bus is minimally lit?

Witness:
That's correct ma'am it's got lighting that comes at it--if that would be safe to say that if I made that statement ma'am it's accurate.

Counsel:
Okay, and then the shoot you've got some shadows and----

Witness:
The shoot that I'm speaking of ma'am is a small portion that goes from 50 feet to the back of the bus that they lead the EPWs and it had a little bit of a hook to it and then it opened up into a big wide area that big wide area that extended approximately 200 meters to the search area was well bathed in light on both sides whether they were small generators or actual posted lights I don't recall what they were but I do know from our discussion that the information that I provide you with on the actual lighting conditions were accurate that yes I could see the actual book in front of me over by the bus and I could know that it was a book, but would I stand there and read it, not with the amount of light that I had there by me not at that time.

Counsel:

012966

Okay--let me just back up for a minute--other than the air hose popping on the bus you said that nothing unusual happened?

Witness:
Correct ma'am.

Counsel:
Can you remember the interpreter scrunching down in a spot where you couldn't see him?

Witness:
No ma'am.

Counsel:
Can you remember talking to me about that when I was here last time?

Witness:
No ma'am.

Counsel:
That you saw the interpreter scrunch down where... actually you didn't see it the one of the 320th soldiers on the bus saw the interpreter scrunch down and pointed it out to you on the bus?

Witness:
I remember one of the 320th saying something--but if it was the individual, I don't recall at this time.

Counsel:
What do you remember about the 320th person----

Witness:
The individual that was sitting across from me, maybe a couple of seats up towards the front of the bus, he just kind of stood up over the top of the bus--what he said or heard at this point I don't recall.

Counsel:
But it was his concern was he was starting to lose sight of one of the EPWs, right?

Witness:
Whatever his concern was ma'am I don't recall at this time.

Counsel:
You don't recall telling SPC [REDACTED] to make the correction?

b(6)-4
b(7)(c)-4

Witness:

012967

No ma'am.

Counsel:

At any point on the bus--on the ride back, did SPC [REDACTED] or anyone on the bus assault any of the EPWs?

b(6)-4
b(7)(c)-4

Witness:

I don't recall ma'am.

Counsel:

Did they or didn't they?

Witness:

I don't recall any incident taking place where anybody got assaulted on the bus ma'am.

Counsel:

You can't remember or it didn't happen, 'cause that's kind of two different things.

Witness:

Sitting here right now ma'am I don't recall...I don't remember anything like that happening at all.

b(6)-4; b(7)(c)-4

Counsel:

So it's possible that SPC [REDACTED] could have hit one of the EPWs on the bus with a bottle?

Witness:

I couldn't say for sure ma'am...I couldn't say for sure what happened on that bus as much as I couldn't say who was the other person on the--stomping on the EPW ma'am--I'm not 100 percent sure. I don't guess. I don't recall at this time.

Counsel:

Okay, you were the NCOIC on the bus, right?

Witness:

Yes, ma'am.

Counsel:

So if you saw one of your soldiers hit an EPW over the head with a bottle you'd stop it right?

Witness:

Hit him in the head with a bottle ma'am?

Counsel:

Yeah a bottle. A plastic bottle.

012968

Witness:
Okay.

Counsel:
Did you see anything like that happen on the bus?

Witness:
No.

Counsel:
You get to Bucca we talked about the set-up, right? Then it's time to unload, correct?

Witness:
Yes ma'am.

Counsel:
Who did you leave on the bus to unload? Can you remember?

Witness:
He was a Spec-four ma'am but I don't recall at this time.

Counsel:
Was he one of your guys or was he one of the 320th?

Witness:
No ma'am he was not with my company.

Counsel:
As that Specialist was unloading prisoners, was he pushing them in the back?

Witness:
I couldn't see that far up on the bus ma'am. I was at the door and all I would see is an individual appear before me one-at-a-time was all.

Counsel:
And you're the first person that that EPW comes to, right?

Witness:
That's correct ma'am I'm at the bottom of the bus.

Counsel:
So you can check his tag and move him out, right?

Witness:
That's correct.

012969

Counsel:
Did you at any time pull any of that those guys off the bus?

Witness:
Pull off the bus ma'am?

Counsel:
Yeah, pull any of the EPW's off the bus?

Witness: There was one individual that was seated. It was the Iraqi major. It was time for him to go. He was seated, and I reached down and held him by his shirt, hoisted him up, escorted him, get out of my sight kind of thing ma'am.

Counsel:
Did you use one hand or two?

Witness:
Just one ma'am.

Counsel:
Did you throw him on the ground?

Witness:
No ma'am.

Counsel:
Okay, any other prisoners you can remember physically grabbing and pulling off the bus?

Witness: No not physically grabbing ma'am I physically stopped a few of them because they did not understand the process and they would want to follow the person up in front of them. I remember straight on and a couple of them telling them to stop, and the major was one of them that's why I told him to have a seat on the bus steps.

Counsel:
And then you told him to get up and he wouldn't get up?

Witness:
I told him "let's go" and I guess he didn't understand what I was saying so I reached down by his shirt did one of those "now you understand" kind of deals.

Counsel:
Okay, you said you cut the tape on his hands, right?

Witness:

012970

That would be the Iraqi major--the person that I took by the shirt was the Iraqi police major ma'am.

Counsel:

Oh okay, all right--I'm thinking that...so the one person that you grabbed was the Iraqi police major?

Witness:

Yes, ma'am.

Counsel:

All right, the Iraqi major with crutches--she was also sitting on the steps of the bus?

Witness:

Yes ma'am he got down on the bottom of the steps yes ma'am.

Counsel:

And did he get up when you told him to?

Witness:

No ma'am he was actually complaining about something--and uh--believe there was an interpreter that was present and--uh the interpreter was asked what's he saying and he said "he wants help."

Counsel:

Okay, and did you help him?

Witness:

No ma'am.

Counsel:

What did you do?

Witness:

Just stood there and told him to get up.

Counsel:

Okay, did he get up on his own?

Witness:

Yes ma'am he did.

Counsel:

All right, and he's the one you cut the tape for, right?

Witness:

012971

Yes ma'am.

Counsel:
How did you cut the tape?

Witness:
With a big knife.

Counsel:
Where did the knife come from?

Witness:
My chest ma'am.

Counsel:
Where...could you tell me where you had it on your chest?

Witness:
Right here on my chest (indicating the chest).

Counsel:
Oh okay...all right...about how big is the blade on the knife?

Witness:
Approximately 12 inches long ma'am.

Counsel:
Alright, so you just cut the tape and let him--

Witness:
Yes ma'am.

Counsel:
And let him go? Okay, ...now, ...you saw the major fall on the ground, correct?

Witness:
Yes ma'am.

Counsel:
This happened behind you, right?

Witness:
Correct ma'am.

012972

Counsel:
If you had to give me a direction this happened at your 7 o'clock, right?

Witness:
Be a good guess yes ma'am.

Counsel:
And the second EPW you talked about was the interpreter, right?

Witness:
Yes ma'am.

Counsel:
And you couldn't really see what was happening with him, right?

Witness:
No ma'am I could not see at that time not from my vantage point.

Counsel:
'Cause there were people standing in front of you and in between where you were trying to look?

Witness:
Yes ma'am.

Counsel:
What was the direction on that?

Witness:
I would probably...on that same...the door of the bus was 12 o'clock-that would be my 9 o'clock ma'am.

Counsel:
And the Iraqi major that was accused of rape, that happened behind you as well?

Witness:
Yes ma'am...more to my left side approximately 8 o'clock ma'am.

Counsel:
And that last EPW-the intelligence officer, right?

Witness:
Yes ma'am.

Counsel:
He got off the back of the bus, right?

012973

Witness:
No ma'am.

Counsel:
The last EPW that you witnessed he didn't come off the back of bus?

Witness:
There was only one instance of an exit off the bus is that what you're referring to ma'am?

Counsel:
No, no, no...I'm sorry he was sitting in the back of the bus--

Witness:
Oh yes ma'am.

Counsel:
He was one of the last people off, right?

Witness:
Yes ma'am.

Counsel:
I'm sorry.

Witness:
That's all right ma'am.

Counsel:
That happened behind you as well?

Witness:
That's correct ma'am.

Counsel:
At probably your 6 o'clock, so directly behind you?

Witness:
I give that a 6 o'clock and that was up in that well lit wide shoot there.

Counsel:
About 200 feet behind you, right?

Witness:
Maybe a little less than that ma'am.

012974

Counsel:

After you saw the first EPW go down on the ground-did you say anything?

Witness:

Did I say anything?

Counsel:

Yeah, to try and stop what was going on?

Witness:

No ma'am.

Counsel:

Any reason why not?

Witness:

No ma'am no reason at all.

Counsel:

After you saw that first guy go down, did you consider leaving the EPWs on the bus?

Witness:

No ma'am.

Counsel:

Why not?

Witness:

I had no idea what was going on at that time.

Counsel:

With the uh...the prisoner that was accused of rape, ...you heard someone say "get the females over here", right?

Witness:

Yes ma'am I did.

Counsel:

You escorted people accused of rape before, correct?

Witness:

Not personally ma'am, but I've loaded them on my bus.

Counsel:

So you'd had them on the bus, right?

012975

Witness:
Yes ma'am.

Counsel:
And it wouldn't be unusual for you to allow your female soldiers to escort someone that was accused of rape, right?

Witness:
They're qualified MP soldiers just like myself, so it wouldn't be unusual at all.

Counsel:
You saw as kind of ...err you would see it as kind of poetic justice to let the females walk the--

Witness:
That would be a term that I've used in the past ma'am, yes ma'am.

Counsel: Thank you, I'll let the other counsel go ahead.

Questions by the defense counsel: MAJ [REDACTED]

b(6)-2
b(7)(c)-2

Counsel:
Along uh...what we were just talking about uh--the somebody said "get the females over here", was that a male or female voice that said that?

Witness:
It was a male voice ma'am.

Counsel:
Do you know who said it?

Witness:
No ma'am ...uh I stand corrected ma'am that was...it was a male voice that said "is this the guy?" ma'am, he said "is this the guy?"...Uh who yelled out "get the females over here" I don't recall knowing if that was a male or female voice ma'am I stand corrected on that.

Counsel:
Thank you. And about how far away was this from you? That these statements were being made?

Witness:
Between 8 and 10 feet ma'am.

012976

Counsel:

You also talked about there was some prisoners getting off that claimed to be civilians, you had Intel that they were Republican Guards and you would ask them as they got off "are you Republican Guard" and you said that the first one said yes, and he was dragged away under his arms; the second one said yes I'm Republican Guard-dragged away under the arms; and the third one had caught on you said by that point, and when he was asked if he was Republican Guard you said that he said no uh....they were brought to the door one-at-a-time, correct? To the bus door one at a time?

Witness:

Yes ma'am.

Counsel:

And the shades were down in the bus, correct?

Witness:

I couldn't account for what the shades were doing at that time ma'am on the bus.

Counsel:

The shades were down the whole time of the ride, correct?

Witness:

I wasn't watching the shades ma'am they peek out from time-to-time and you try and tell them not to.

Counsel:

But they were closed and your intention was for them to stay closed, correct?

Witness:

That would be my intention on the bus yes ma'am to keep them closed.

Counsel:

And when they did open them you told them to knock it off and to close the shades?

Witness:

Roger, if was apparent they were looking out the window we would tell them to stop looking out the window for obvious reasons of convoys in the area we didn't want anybody to draw attention to ourselves.

Counsel:

So you don't recall...you didn't' open the shades when the bus pulled into Bucca?

Witness:

No ma'am.

Counsel:

012977

And you don't recall anybody else opening all the shades, correct?

Witness:

No ma'am not at all.

Counsel:

And you were asking the question "are you Republican Guard?" while they were still on the steps of the bus, correct?

Witness:

That's correct ma'am.

Counsel:

So really they couldn't see much of what was going on in front of them 'cause they were brought one-at-a-time to the door, correct?

Witness:

I couldn't account for what they could and couldn't see ma'am.

Counsel:

But the shades were down ...they couldn't see through them, correct?

Witness:

No ma'am if the shades were in the proper working order and they were hanging in the windows as I suppose they were --no ma'am you can't see through those shade when they are hung in front of a window.

Counsel:

So what made you think that this third EPW denied being Republican Guard because he caught on to how he'd be treated?

Witness: ...

I couldn't tell why he said what he said ma'am it was just my opinion.

Counsel:

Just one moment please....and you said there was a um...back to this EPW where there was some talk about "get the females", you said there was a specialist with a tattoo that had taken him off the bus?

Witness:

That I handed him to ma'am.

Counsel:

You handed him to...so you didn't see that specialist hitting him did you?

012978

Witness:

No ma'am ... not that I saw at that time, no I didn't see that specialist hit him at all I couldn't identify that specialist if he did or not, no.

Counsel:

Thank you. No further questions.

Witness:

Your welcome ma'am.

Questions by the defense counsel: CPT [REDACTED]

b(6)-2

b(7)(c)-2

Counsel: b(6)-4; b(7)(c)-4

SGT [REDACTED] in uh--all these escort missions prior to the 12th, did you ever have an EPW resist in any way while being escorted?

Witness:

Not me, sir.

Counsel:

Have you ever witnessed anyone on any of these escort missions have an EPW or have you ever seen an EPW resist in any way?

Witness:

I've seen EPWs come off of that bus and be escorted by individuals that maybe the EPW felt a little uncomfortable or maybe it was because his pants were falling down around his ankles and couldn't keep up or it could appear that way, but as far as I would consider a resisting EPW-negative, sir.

Counsel:

Okay, and I'm not talking specifically about any of the things that you say ... that you testified you saw on the 12th ... I'm talking at any point in some time in the missions that you did before that and all the prisoners that you escorted before that or since the 12th-did you ever see any EPWs resist?

Witness:

No, sir I have not.

Counsel:

(Same)

You uh...SGT [REDACTED] you gave some sort of-not really briefings-but you gave some guidance on the bus, is that correct? to some of the 320th people?

Witness:

From my personal experience yes sir.

012979

Counsel:

Right, and that was on the ride mostly on the ride up to Talil, is that correct?

Witness:

I don't recall...it must have been, sir on the ride up to, but I don't think I would have said it twice, sir.

Counsel:

Maybe I don't...I'm not hearing or understanding what do you mean you wouldn't have said it twice?

Witness:

That same bit of information I --I believe I said it twice, but I don't recall when-if it was going to or from.

Counsel:

Okay, I understand...but at some point you did sort of an informal thing (inaudible)

Witness:

Oh, yes sir.

Counsel:

Okay, and you told, specifically, you said to the 320th that it was very important that they establish control on the bus, correct?

Witness:

It's always important to establish full control, sir.

Counsel:

And the reason for that is 'cause there's only two MPs, generally, there's only two MPs on the bus and possibly up to 40 to 44 EPWs, correct?

Witness:

That's correct...but not all the time sir as far as the count goes.

Counsel:

Right, okay...that at a maximum--

Witness:

Capacity.

Counsel:

And there was--on the way back there was an incident with uh...the major was suspec...police major that was suspected of rape looking at SGT [REDACTED] correct?

Witness:

b(6)-5

b(7)(c)-5

012980

b(6)-5; b(7)(c)-5

Looking at SGT [REDACTED]? I believe I recall that now, sir.

Counsel:

And in fact you had to tell that Iraqi major to keep his eyes down and stop staring at SGT [REDACTED]? b(6)-5; b(7)(c)-5

Witness:

I do recall that sir yes sir I do.

Counsel:

Okay, ...the uh...the intelligence that you received on these EPWs um...to the extent that you could you shared that with the escorts as you were bringing those EPWs off the bus, correct?

Witness:

With the escorts that were up at the bus-yes, sir I was.

Counsel:

So if you had someone coming off the bus that was a FEDAHYEEN major you would say, "hey this guy's a FEDAHYEEN major"?

Witness:

That's correct.

Counsel:

And if you had someone that was coming off the bus that was assassin that was suspected of being an assassin you'd say "hey this guy's an assassin"?

Witness:

That's correct sir.

Counsel:

Okay, and that's so they knew what they were dealing with, for their own protection, and for protection of everyone else.

Witness:

Yes sir.

Counsel:

And that night do you remember taking a specific note to tell the uh...folks from the 320th that uh...that there were 14 or 15 high-profile bad guys?

Witness:

I believe I told a few of them, sir.

012981

Counsel:

Okay, and you wanted to make sure that these were not just your run-of-the-mill privates that they were dealing with, correct?

Witness:

That would be safe to assume that, sir that is usually my intention when you indulge that information to others in the patrol or in the convoy yes sir.

Counsel:

Okay, ...SGT [REDACTED] you haven't been uh...you haven't been read your rights with regards to this investigation have you?

b(6)-4
b(7)(c)-4

Witness:

No sir I have not.

Counsel:

I don't have any more questions, sir.

I/O:

Major [REDACTED] do you want to redirect?

b(6)-2
b(7)(c)-2

CPT [REDACTED]

I'm sorry sir, I have a few more questions.

Questions by the defense counsel: CPT [REDACTED] (same)

Counsel:

SGT [REDACTED] you testified that these individuals had medical tape on their hands when they got on the bus?

b(6)-4, b(7)(c)-4

Witness:

Some ma'am that I recall yes ma'am.

Counsel:

And you also testified that sometimes during a three-hour trip that medical tape could often come off, correct?

Witness:

Well if they don't take...they take it off ma'am. They work their wrists in as such a point where the tape actually rolls up and they can move their hands out so they can eat, be more comfortable, and do whatever it is that they do under the seat...they uh...can move that tape, but I've seen that before ma'am, yes ma'am.

Counsel:

And often times they will actually get out of that tape and than put it back on to make it appear as though their hands are still taped when they get off the bus?

012982

Witness:

Well it's never in the same configuration as when it's put on so it's noted that they have had their hands out, but yes ma'am it has happened in the past.

Counsel:

Now, you stated that there were three individuals on the bus that were suspected of being Republican Guard, correct?

Witness:

No ma'am...13 ma'am.

Counsel:

13 individuals?

Witness:

Yes ma'am...okay you talked about offloading three individuals in a row that were suspected of being Republican Guard?

Witness:

Yes ma'am .

Counsel:

And you said you were questioning them as to whether or not they were Republican Guard?

Witness:

Yes ma'am--I just asked them if they were Republican Guard.

Counsel:

Did you ask them in that same tone of voice that you just used here in the hearing tent today?

Witness:

Was it the same tone of voice? No I was probably a lot louder, ma'am.

Counsel:

Now you stated that you were carrying a knife with a 12-inch blade that night?

Witness:

As I always do ma'am.

Counsel:

And you were wearing that on your flak vest across your chest?

012983

Witness:
That's correct ma'am.

Counsel:
Now, you stated you took that knife out when you cut the major's medical tape off his hands, correct?

Witness:
That's correct ma'am.

Counsel:
That's night the only time you took it out of sheath that night though, correct?

Witness:
I don't recall any other time, ma'am.

Counsel:
You actually took that knife out and were holding it to the prisoner's necks as they were getting off the bus.

Witness:
No ma'am I don't recall that at all.

Counsel:
You don't recall that or it didn't happen?

Witness:
No ma'am that didn't happen and I don't recall any such activity on my behalf at all.

Counsel:
Now, when...you uh...you said...you testified earlier that nothing happened with these three Republican Guard individuals originally when they got off the bus, but then MAJ [REDACTED] read to you a portion of your prior statement? Do you recall that happening in this hearing? b(6)-2; b(7)(c)-2

Witness:
Three Republican Guard ma'am?

Counsel:
You testified that there were three individuals you were questioning about being Republican Guard you were offloading off the bus, correct?

Witness:
Correct ma'am.

012984

Counsel:

And you testified earlier in this hearing that nothing happened with them when they got off the bus, but then MAJ [REDACTED] read to you a portion of your prior sworn statement, correct?

b(6)-2, b(7)(c)-2

Witness:

MAJ [REDACTED] did read a portion of the statement yes ma'am.

b(6)-2; b(7)(c)-2

Counsel:

Do you recall what happened to those individuals from your own memory or simply do you recall that it's in your sworn statement?

Witness:

Those three individuals ma'am that came off the bus is with the other individuals-the individuals that I did see --views in my opinion I wrote down that sequence of event that I witnessed. Anything else that happened-I would have put it-if I would've witnessed anything happen to anybody else ma'am.

Counsel:

Do you recall it personally today or do you just know that it's in your statement?

Witness:

I recall it personally ma'am.

Counsel:

SPC [REDACTED] is a member of your squad, is that correct?

b(6)-4; b(7)(c)-4

Witness:

Yes ma'am.

Counsel:

How long has she been a member of your squad?

Witness:

Since she was assigned to us back in Louisville Kentucky back inactually she was in the squad before I showed up ma'am...so she might have been in that squad for a time longer than I showed up.

Counsel:

At any point when she was in your squad did you have to discipline her for kicking EPWs?

Witness:

No ma'am.

012985

Counsel:
You never had to discipline her for kicking EPWs?

Witness:
No ma'am.

Counsel:
Now, has she had any other squad leaders?

Witness:
Not that I'm aware of ma'am.

Counsel:
So if she says that she was disciplined for kicking EPWs who would of done that?

Witness:
That would be her squad leader ma'am or her team leader.

Counsel:
And you are her squad leader?

Witness:
Negative ma'am.

Counsel:
You're her team leader?

Witness:
Negative ma'am.

Counsel:
You're not her team leader?

Witness:
No ma'am.

Counsel:
You said that your attention was focused on the bus and there is at different points some commotion behind you?

Witness:
Yes ma'am.

Counsel:
You didn't see how any of those commotions started, correct?

012986

Witness:

Um...the first individual that I saw that was pushed down I saw how that one started I just happened to look over when I heard him yelling "come on let's go let's go". He was the first individual off the bus and I saw him pushed in the back, between the shoulder blades, into the ground.

Counsel:

No idea what happened before you turned your head to look back over your shoulder?

Witness:

No ma'am.

Counsel:

Even after you heard these commotions you continued to hand soldiers off the bus at exactly the same rate as you had before? Correct?

Witness:

That wasn't it--no I wouldn't say that was true. not at the same rate ma'am. I didn't have a rate that I was taking individuals off the bus ma'am.

Counsel:

You continued to hand the soldiers off the bus as the escorts came up to escort the soldiers, correct?

Witness:

That is correct, ma'am.

Counsel:

And you never said a word to any of these soldiers, correct?

Witness:

I didn't know who they were ma'am...they were soldiers that were right there-qualified Military Police Officers, they were on the ground to do this escort to do these escorts over to this area they were searching them or the area that they were getting them down on the ground. Those are who I handed those EPWs off to ma'am.

Counsel:

And SGT [REDACTED] was this a right-seat ride? b(6)-4

b(7)(c)-4

Witness:

To my recollection ma'am it was.

Counsel:

Thank you. No further questions.

IO: Major [REDACTED]

b(6)-2

b(7)(c)-2

012987

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED]

b(6)-2
b(7)(c)-2

Counsel:

b(6)-1; b(7)(c)-4

SGT [REDACTED] did there come a time in this process where you were reading out and publishing to the escorting soldiers uh...what these prisoners were suspected-did there come a time when you stopped doing that?

Witness:

I wasn't making it as loud, because it was my opinion that the information that I was giving out was being used against the individuals that were coming off the bus. uh...at that point that's when shoot opened up behind me when the tape was broken off and it wasn't five at-a-time five at-a-time you know five at-a-time and wait. It was more one with one MP coming up and getting him, going through the shoot, and that was it. At that individual that come up and got those people from me I might've said "this is major general he's an officer you take him on down there" and one individual stands out in my mind he said he was a student and started to cry...uh...and I told that individual that it would be okay, and he said he'd never see his mom again, and I told no you will you'll be alright just do what they ask you to do and you'll be okay. And that individual I handed to I don't know what rank he was, he was a young soldier I'd never seen before, and I said you take him on down that way ...uh...but I was still giving the information to the people but not in such a manner as in you know...it was just more of a one-on-one where before-hand it was probably louder as in this is what we got because coming past me and there was a line of MPs waiting to pick-up who they wanted.

Counsel:

With regard to these prisoners as they were when you were observing the things that were happening to them when they were being kicked and punched um...you testified that they were many of them were screaming in pain, right?

Witness:

Yes sir.

Counsel:

Was the screaming loud?

Witness:

Yes sir.

Counsel:

Do you think it was possible that people or that prisoners on the bus could've heard that screaming?

012988

Witness:

I was, my recollection, fifty feet away-I even heard the one man screaming all the way up in the shoot was almost 200 feet away. It would be quite possible that the individuals on the bus might have heard that with the door open.

Counsel:

Thank you.

RECROSS-EXAMINATION

Questions by the defense counsel: MAJ [REDACTED]

b(6)-2
b(7)(c)-2

Counsel:

Back to this Iraqi major on crutches that you had to cut his tape with the knife, he had asked he said he couldn't move uh--he wanted help, and you didn't help him, correct?

Witness:

That's correct ma'am.

Counsel:

And...why didn't you help him?

Witness:

Because I was only one that was standing in front of him.

Counsel:

Did you give him his crutches?

Witness:

Yes ma'am.

Counsel:

Did you think he was acting?

Witness:

I don't recall if he was acting or not ma'am I just went with what I had at that moment and I wasn't going to get any closer to that individual who was a major identified to me as a trainer of FEDAHYEEN soldiers with all kinds of tactics, unarmed self defense to my best recollection I wasn't getting any closer to him than I needed to, so therefore I got him his crutches after I freed his hand and let him go ahead and pull himself up and move himself off to the area he was told to move to ma'am.

Counsel:

He was dangerous enough that you didn't even want be near him?

012989

Witness:

It's not that I didn't want to be near him ma'am, but I tell if there was no reason for me to go over there and help him I've seen other people come off the buses with missing limbs and they do just fine ma'am.

Counsel:

Now, do you recall in you statement to CID on 13 May that you said, "the first man the crutches the major acted as if he could not move well"?

Witness:

If that's in my statement ma'am I said that yes ma'am.

Counsel:

Thank you. I have no more questions.

I/O:

Anyone else?

Questions by the defense counsel: CPT [REDACTED]

b(6)-2
b(7)(c)-2

Counsel:

b(6)-4; b(7)(c)-4

SGT [REDACTED] as these guys are getting ready to come on the bus, at Talil, right? Did your guys search them before they got on the bus?

Witness:

No ma'am.

Counsel:

Did your guys bring any kind of restraints with them, Flexi-Cuffs or hand-cuffs, even?

Witness:

We carry an abundance of those, ma'am, I do carry two pair of them 100 hand irons on my flak vest ma'am.

Counsel:

Did you use any of those that night?

Witness:

No ma'am.

Counsel:

Either the flex-cuffs or hand-cuffs?

Witness:

No ma'am.

012990

Counsel:
Thanks, no further questions

I/O:
CPT [REDACTED] did you have a questions

b(6)-2

CPT [REDACTED] Yes, sir

b(7)(c)-2

Questions by the defense counsel: CPT [REDACTED]

Counsel:
SGT [REDACTED] now, you talked a little bit earlier about um...some of the things you were telling the 320th uh...soldiers on the way up to Talil, do you remember that?

b(6)-4
b(7)(c)-4

Witness:
Yes sir.

Counsel:
Do you remember one of the things that you told them was that ...EPWs they are...these people are animals and that you have to resist the urge to be the judge and jury even though you'd like to be the judge and jury?

Witness:
I made a statement close to that, sir yes sir.

Counsel:
Okay, um--moving to another point and time, you talked about these different times you heard screams and I think MAJ [REDACTED] asked if you mentioned or you said that you really couldn't describe these screams no description or movie could sort of replicate how awful the scream was, is that correct?

b(6)-2; b(7)(c)-2

Witness:
That's correct.

Counsel:
At any point in time did you try to determine if he received any medical treatment?

Witness:
No, sir.

Counsel:
Did you try determine if any of these other people that you saw being mishandled and mistreated received any medical treatment?

012991

Witness:

Well they have medics down at the searching area they have their own medics that's usually been the SOP. the people that we did have on the bus were cleared through the medical people at the Corps holding area and they were processed down to Bucca with their medical files with them and there's usually medics on scene when we get down there. That's the way it's always been in the past, sir there's always been medics around.

Counsel:

But despite these awful screams, none of the screams were serious enough that you thought you'd make sure they got medical attention right away, is that correct?

Witness:

I didn't know what the cause of the screams were at the time sir.

Okay, thank you SGT [REDACTED] b(6)-4; b(7)(E)-4

I/O:

Anything else Major [REDACTED] b(6)-2; b(7)(c)-2

Major [REDACTED]
No, sir.

(Same)

Questions by the Investigating Officer: LTC [REDACTED] (Same)

I/O: SGT [REDACTED] I just have a couple of questions I need to ask you. When the bus broke down, on the way back from Talil, you never did see who came on the bus from the outside-who wasn't already on the bus when you left?

Witness:
Just SSG [REDACTED] sir.

b(6)-4; b(7)(c)-4
(Same)

I/O:
Just SSG [REDACTED]

(Same)

Witness:
Yes sir.

I/O:

So the people who came on and between that time when the bus broke down and SSG [REDACTED] came on you're not sure who those people were?

(Same)

Witness:
No not at all, sir.

012992

I/O:

When the uh--first Iraqi major who left the bus, could you tell how he was being hit?

Witness:

No, sir the strikes that I saw I couldn't see where they were landing but they were being hit with fists--or hands and also with feet, sir.

I/O:

when the second individual that you say was being hit could you see the blows or any of the hitting that was taking place?

Witness:

No sir I could not at that time from my vantage point.

I/O:

How...do you recall how late that you've ever delivered EPWs to the uh...to the uh...here at Camp Bucca?

Witness:

I do know that, sir, that one was 2150...uh I don't recall right now, without checking my log book, on SP times and things like that and to that nature on what times we did come in with EPWs, so right now sir I don't recall any later times than the 2150 that I am sure of, sir.

I/O:

Okay, but you're ...but maybe you do recall that all the previous times, up to that point, there were in processing personnel ready and available to greet the EPWs as they arrived?

Witness:

Yes, sir.

I/O:

One individual, who you identified as a former Republican Guard member, you said was bent forward and led away?

Witness:

Yes, sir.

I/O:

Can you describe for me what you mean by being bent forward?

012993

Witness:

He was put in an arm-bar, sir uh...when you take a hold of an individual you put your arm up across their shoulder up through their back and the arm that's already behind them and you can go and put your hand up there...what you're doing, sir, is you're bending them forward so that you have total control over that person that person isn't going to move anywhere other than where you're leading them to go sir.

I/O:

Is that for resisting or non-resisting EPWs, or is that just a matter of normal procedure?

Witness:

Sir I don't use it on non-resisting EPWs, myself, um...I've never put anybody in an arm-bar, in that manner, I've had people detained when you just lead them away as for our training uh...with just a simple hand on the arm, one on the wrist to that effect that way you can feel if they're gonna become resistant, but uh...no I have not use any maneuvers like that, but that's pretty much what it would be bent at the hips forward.

I/O:

Did SSG [REDACTED], at any time, brief you on any specific training that he wanted to see take place for the 320th personnel?

Witness:

Not anything specific, sir, uh...again on a right-seat ride it's show 'em what you do, and uh...tell 'em what's going on. We didn't have an outline as-we did not know, until we got up there and got the brief-just a few-, I forget when I got the brief on that mission, sir, but uh...we went up there and met these people for the first time, no they didn't have training on line, sir.

I/O:

Okay.

[The witness was duly warned, dismissed and left the room.]

b(6)-4; b(7)(c)-4

DIRECT EXAMINATION

SPC [REDACTED] U.S. Army National Guard, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED]

b(6)-2; b(7)(c)-2

Counsel:

SPC [REDACTED] you were stationed here at Camp Bucca back in May, were you not?

Witness:

That is correct.

b(6)-4; b(7)(c)-4

012994

Counsel:

We've had some testimony on this--you went on the May 12th mission to Camp, er pardon me, to Talil airbase in Iraq to get EPWs, is that correct?

Witness:

Yes sir.

Counsel:

And you rode on the bus for that trip, is that right?

Witness:

Correct, sir.

Counsel:

Um...who were the soldiers that were on the bus with you for that mission?

Witness:

For which trip, the way up there?

Counsel:

Well, let's go for the way up first.

Witness:

For the way up it was SGT [REDACTED] SGT [REDACTED] myself and SPC [REDACTED]

b(6)-4; b(7)(c)-4 b(6)-5; b(7)(c)-5 b(6)-4; b(7)(c)-4

Witness:

Alright, and when you say SGT [REDACTED] are you talking about the accused SGT [REDACTED]?

b(6)-5; b(7)(c)-5

Witness:

Yes sir.

Counsel:

Okay, now what about on the trip back?

Witness:

On the trip back there was one addition SPC [REDACTED]

b(6)-4; b(7)(c)-4

Counsel:

SPC [REDACTED] another soldier from the 320th?

Witness:

Yes, sir.

Counsel:

012995

b(6)-4; b(7)(c)-4

SPC [REDACTED] was he from the 320th as well?

Witness:

I'm assuming so sir, yes...he was...

Counsel:

He wasn't with the 223rd?

Witness:

No he was not.

Counsel:

And the only two companies that went on the mission were soldiers from the 320th and the 223rd?

Witness:

That is correct.

Counsel:

Um...let's talk about when you got up to Talil, let's not go through the whole mission of getting up there, let's talk about when you got up to Talil. Um...what happened once you arrived at the airbase in Talil?

Witness:

Once we arrived at the airbase, uh...pulled into the processing area, uh...I exited the bus to go down to the staging area, where they stage the EPWs.

Counsel:

Alright.

Witness:

My assignment at that time was to pull security until all the EPWs were placed onto the bus and then I was to get back onto the bus.

Counsel:

Okay, and now uh...was that what you did?

Witness:

That's what I did.

Counsel:

Okay, um...were there any briefings or um...instructions given to you or to any of the soldiers that were on this mission about picking up the EPWs or treating the EPWs?

Witness:

We give an initial briefing, before we leave Camp Bucca.

012996

Counsel:

Okay.

b(6)-4; b(7)(c)-4

Witness:

SSG [REDACTED] gave a convoy briefing, which basically includes like speed of the convoy, what to do in case of an ambush, things like that. SGT [REDACTED] gave a rules of engagement briefing.

(Same)

Counsel:

Alright.

Witness:

You know as far as how we would...if we had EPWs try to escape, what the rules of engagement were on that, what the level of force was to be used.

Counsel:

Alright, do you remember what he said about that?

Witness:

Pretty much if they try to escape, from our custody, once they break the last uh...line of security, our rules of engagement at that time was to shoot them.

Counsel:

To use lethal force if they broke through, if they were escaping, and they broke through you last line of security?

Witness:

That's correct.

Counsel:

Prior to breaking through your last line of security, what force were you to use?

Witness:

Uh...we could use anything from in our rules, are to shout, shove, show, and shoot, which is basically verbal, physical, show of deadly force, and use of deadly force.

Counsel:

And those levels of force seem to escalate as you go up, is that right?

Witness:

That's correct.

Counsel:

So, for each situation what amount of force are you supposed to use?

Witness:

012997

If they're, for example-trying to get off the bus-uh...we could first of all say hey you know stop your actions. you need to do what you...you need to get back in here. Kind of hard to use physical, because some of them maybe on the back of the bus, so we'd have to climb over 35 of them to get to one. and then once they break that plane of the door they're considered out of our custody.

Counsel:

Are you supposed to use...are supposed to start at the lowest level or the highest level?

Witness:

Lowest level.

Counsel:

So, are you familiar with the term use the least amount of force necessary to control the situation?

Witness:

That is correct...yes, sir.

Counsel:

Is that what was briefed or do you recall?

Witness:

Uh...to be honest with you I don't recall, sir.

Counsel:

So, once you got up to Talil um...did you meet with any of the soldiers from the 744th that were turning over these prisoners?

Witness:

I did not meet with anybody, no sir.

Counsel:

All right, did the bus get loaded up with prisoners?

Witness:

Yes it did.

Counsel:

Were there any incidents in getting the prisoners onto the bus that you recall?

Witness:

Not that I was aware of.

012998

Counsel:
Did you observe the prisoners as they got on the bus?

Witness:
Yes I did.

Counsel:
All right, what was their demeanor?

Witness:
Uh...subdued, uh...you know we had to tell a few of them you know "stop talking", but as far as being aggressive-being physical-there was no signs of that.

Counsel:
So some talking but nothing otherwise?

Witness:
Pretty much.

Counsel:
Alright, um...they loaded up...you set off on you return trip?

Witness:
Yes.

Counsel:
Do you remember what time that was?

Witness:
Not off hand, no.

Counsel:
Alright, um...did anything happen on the way back to Camp Bucca?

Witness:
Yes there was one incident.

Counsel:
Okay, what happened?

Witness:
We were on the way back, and um...we heard a popping noise, like an air leak, subsequent to that. I moved to the forward of the bus to find out what was going on. The bus driver told me, or signaled, that there was something that broke to his left. I told him, at that time, to go ahead and turn his flashers on, to notify the vehicles in front of us that there was a problem. At that time I requested SGT [REDACTED] to get on the radio and

b(6)-5, b(7)(c)-5

012999

b(6)-4, b(7)(c)-4

contact her higher up to get a hold of SSG [REDACTED]-who was at the lead of they convoy, so that we could all get pulled over together.

Counsel:
Did she do that?

Witness:
Yes she did get on the radio and try to call um...I also requested them to get off of the bus and set-up a 360 security.

Counsel:
Okay, so the bus pulled over and stopped.

Witness:
Yes.

Counsel:
You had people get out-pull security...

Witness:
Negative.

Counsel:
No?

Witness:
No sir.

Counsel:
What happened?

Witness:
At this time, one we pulled the bus over, the driver was getting up to get off the bus. I walked up to see what the problem was. Moved the curtain out saw that the hose is broken. He opens the door--and uh...to get off and as I turned around there was some 320th personnel standing at the door.

Counsel:
Do you remember who was standing at the door, specifically?

Witness:
I remember SSG [REDACTED] and a SFC, but I don't recall the last name. I remember him being there.

b(6)-5; b(7)(c)-5

Counsel:
Now when you said.

013000

Witness:

There were several other people.

Counsel:

When you said SSG [REDACTED] are you referring to the SSG [REDACTED] who is the accused?

b(6)-5, b(7)(c)-5

(Same)

Witness:

Yes sir.

Counsel:

Alright, go ahead.

Witness:

At this time I notified them that it's okay, that there's not an EPW problem that we just had a mechanical problem with the bus. The bus driver was offloading to go get some tools, as soon as he gets back on the bus and fixes it we'll be on the way.

Counsel:

What happened?

Witness:

I turned around to try to figure out...turned around to try to figure out what's going on and try to fix it myself. As I do they on loaded onto the bus.

Counsel:

They being?

Witness:

The staff that was outside...320th staff that was outside of the bus.

Counsel:

Okay, do you remember which person...which people loaded the bus?

Witness:

I remember MSG [REDACTED], SSG [REDACTED] uh...and the other person I would not recognize.

b(6)-5, (b)(7)(C)-5

(Same)

Counsel:

But you remember those two?

Witness:

Yes sir.

013001

Counsel:

And when you say MSG [REDACTED] are you referring to the accused?

Witness:

Yes sir.

b(6)-5; b(7)(c)-5

Counsel:

Alright, if you need water just let us know...go ahead.

Witness:

The reason I remember that is 'cause I remember that she stated that uh...something to the effect of, "let me get on here and see these people", and I remember someone stating that uh, "who the hell on here is causing the bus--" or something like that. I said "there's not a problem with an EPW. We have a mechanical problem", and at this time SGT [REDACTED] turned around and said, you know, what's going on up there. As I explained it to SGT [REDACTED] that we had busted air hose, as soon as we got it fixed we'd be on the move, uh--and he said "what are all these people doing on my bus?". I said I don't know. At this time SSG [REDACTED] walks up to the doorway of the bus uh...he says what's going on, I said we got an air hose broke. Bus driver's fixing it, we're ready to go. and he looked at me and said well get these people off the bus so we can get the hell out of here.

Counsel:

SSG [REDACTED] said this. okay, so did that happen? did the people get off the bus?

b(6)-4; b(7)(c)-4

Witness:

At that time that did happen...

Counsel:

Alright, and you continued on to Camp Bucca?

Witness:

Yes sir.

Counsel:

Anything else happen en route?

Witness:

No.

Counsel:

Okay, uh...what were the prisoners like on the route down to uh...Camp Bucca?

Witness:

There was one incident where an interpreter went-and we have two doors on the bus, one incident where the interpreter got down into the stair well. um...SGT [REDACTED] gave

(same)

013002

verbal commands to stop pointed his weapon towards him, told him get back in the aisle way, he got back up, sat in the aisle way.

Counsel:

Uh...when you say the interpreter you are referring one of the prisoners?

Witness:

That is one of the prisoners, yes sir.

Counsel:

Okay, he got down into the well of where the door is on the side of the bus?

Witness:

Yes sir.

Counsel:

And SGT [REDACTED] had to order him to get back?

Witness:

Yes sir.

b(6)-4; b(7)(c)-4

Counsel:

Did he get back?

Witness:

Yes sir.

Counsel:

Okay, any thing else?

Witness:

Pretty much that was all the events we had with EPWs.

Counsel:

Was there an incident where somebody was looking at SGT [REDACTED]? Do you remember anything about that?

Witness:

No I don't.

b(6)-5; b(7)(c)-5

Counsel:

Okay, um...so then do you recall what time it was when you arrived at Camp Bucca?

Witness:

It was late in the evening it was dark, I want to say possibly around nine-nine-thirty.

013003

Counsel:

Alright, and um...where did the bus go when it got to Camp Bucca?

Witness:

When it got to Camp Bucca, we pulled over on this main road here we pulled over to the right of the roadway, uh...next to the shoot.

Counsel:

And when you say the shoot what do mean by that?

Witness:

That's the walkway that goes back to the holding area for the processing people.

Counsel:

And that all has been moved now hasn't it or torn down?

Witness:

Yes sir.

Counsel:

But uh...you got to the shoot uh--and did the bus come to a stop?

Witness:

Yes sir.

Counsel:

What happened at that point?

Witness:

At that point we were looking for the reception people...ther's pretty much nobody there. SGT: [REDACTED] said uh, lets kinda hold of, he said I'm gonna go get a couple of people to come back and help us out...uh...he looked at me specifically and said "I need you to get here and watch this box"-we had a box, supoosedly, a substantial amount of US and Iraqi currency...uh he had told me "I don't care what goes on you stay by this box, you watch this box", and so I offloaded at that time.

Counsel:

And did you ever look inside that box and see what was in there?

Witness:

No I did not.

Counsel:

So you got down you were guarding the box...did you need any...what else happened?

013004

b(6)-4; b(7)(c)-4

Witness:

Uh--at that time I guess there were a couple of people that came over, SSG [REDACTED] had not come back with them but they had come over to us to assist. Uh...SGT [REDACTED] started offloading some people, and uh--I moved I was in a blind-spot. They had the "money box" directly next to the bus, so either where they staged or where SGT [REDACTED] was at a blind spot for me. So what I did was removed myself the box to the edge of the bus to where I could see the box, and both areas without having any trouble.

Counsel:

So you were in a position where you could see prisoners coming off the bus?

Witness:

That's correct.

Counsel:

And you were also able to keep your eye on the box?

Witness:

Yes sir.

Counsel:

How far did you go from the box?

Witness:

Probably 20 feet.

Counsel:

20 feet, and then how far away were you from the uh...area where the prisoners were coming off the bus?

Witness:

Uh...from SGT [REDACTED] I was probably 15 feet.

Counsel:

Okay, the area where all this was going on was there lighting in the area?

Witness:

There was a light-all unit that was around I think it was on the other side of the shoot uh...opposite of where I was standing. And it was towards the front of the shoot there. I couldn't tell you which direction the light-all unit was facing.

Counsel:

013005

Were you able to make out people and faces?

Witness:

A few of them yes sir.

b(6)-4; b(7)(c)-4 (all)

Counsel:

Okay, all right, so what happened after you positioned yourself in between the box and SGT [REDACTED]?

Witness:

Uh...was just basically standing there monitoring everything SGT [REDACTED] was identifying the EPWs, for segregation purposes, we always do this...handing them off to personnel.

Counsel:

Tell me how SGT [REDACTED] did that, how did he, how would that work-when the prisoner would get off the bus what was he doing that night?

Witness:

Okay, SGT [REDACTED] would stand at the very front of the bus, without allowing any room for anybody to get off unless he told them to step down, uh...he would take the person look at the escort, and say "here is your FEDAHYEEN soldier" or "your Iraqi general" or whatever, and that way we could take the person from that area to the staging area and segregate them from let's say a civilian or a lower enlisted Iraqi.

Counsel:

And if it was a lower ...if it was an Iraqi enlisted soldier he would say, "here's your Iraqi enlisted soldier"?

Witness:

Exactly.

Counsel:

If it was a civilian he'd say, "here's your civilian"

Witness:

Yes.

Counsel:

Okay, um...now did he...what level was his voice? was he loud?

Witness:

A couple of times he got loud, sir. I remember one time, specifically, the interpreter came down uh...and wouldn't talk my attention was that he had yelled, "hey that's your interpreter, be careful with that guy"

013006

Counsel:

All right, so what did you observe about the escorting of these prisoners that night?

Witness:

I observed they were being handled very roughly, sir.

COUNSEL:

All right, specifically, tell us what you saw.

Okay. I saw a Major who we had information was accused of multiple rapes.

Counsel:

Okay, this was an Iraqi prisoner.

Witness:

b(6)-5; b(7)(c)-5
That is correct. We had information on an Iraqi police Major who was accused of multiple rapes. I witnessed that individual being held on the ground in a prone position. I saw MSG [REDACTED] kick the individual several times in the groin.

Counsel:

Did you see how that person got to the point of being on the ground?

Witness:

No I did not.

Counsel:

Okay, so you observed this person on the ground. And, how was this person on the ground?

Witness:

He was being held at the ankles.

Counsel:

All right he was being held at the ankles?

Witness:

That is correct.

Counsel:

Who was holding him?

Witness:

b(6)-5; b(7)(c)-5
I put in my statement SSG [REDACTED] and Sergeant First Class, and again I don't know the name, I just.....at that time that's who I recall was holding the other leg.

Counsel:

013007

b(6)-5; b(7)(c)-5

When you say SSG [REDACTED] you are referring to the accused?

Witness:
Yes.

Counsel:
And this prisoner that you said was identified as a Major, how was he on the ground?
Was he on his stomach, was he on his back?

Witness:
He was on his stomach, and his legs were spread.

Counsel:
What about his hands?

Witness:
I couldn't tell about his hands, sir. There was a group of people around him. There was four or five people there. So, but I did, you know, I saw the lower extremities of him, and he was on his stomach. I could tell by the position of his feet and they were holding his ankles.

Counsel: (same)
Sergeant [REDACTED] how was she positioned?

Witness: (same)
Sergeant [REDACTED] was standing in between the individual's legs at the time that I looked over.

Counsel:
Okay, what was she doing?

Witness:
She was delivering several blows to the groin of this Major.

Counsel:
How many blows?

Witness:
I probably observed about three of them.

Counsel:
How.....what force was she using to deliver these blows?

Witness:
Pretty, pretty....I would say she was kicking about as hard as she could kick.

013008

Counsel:
Did you, did this Iraqi prisoner say anything?

Witness:
Yea. Well he yelled out. I don't know what he was saying. He may have been speaking Arabic. May have been just, just screaming or whatever. But, he did roll over onto his side, you know, in pain. Then she stepped out and walked around him and kicked him back over. And....

Counsel:
How did she kick him? Where did she do that?

Witness:
She delivered a blow to the back. I guess it would be at this point, because he rolled to his right and I think she walked around behind him and kicked him back over.

Counsel:
Kicked him back over onto his stomach?

Witness:
That is correct.

Counsel:
And then what did Sergeant [REDACTED] do? b(1)-5; b(7)(c)-5

Witness:
I think at this time Sergeant [REDACTED] came into between the legs and kicked him and he started yelling out again. And Master Sergeant [REDACTED] either kicked him in the head or put her foot on his head, telling him to shut the fuck up. You know.

Counsel:
Were those her words?

Witness:
Yes. (same)

Counsel:
All right. Now, Sergeant [REDACTED]. How many times did you observe her kick this man in the groin?

Witness:
I saw, probably a couple kicks. They were hesitant. She kinda looked around. That's the one thing I remember about it. And probably, that I saw, a couple blows.

Counsel:
Two?

013009

Witness:

Two.

Counsel:

All right. Did you see what happened to that man after that?

Witness:

No I did not.

Counsel:

Okay, why? Did you turn your attention away?

Witness:

There were other things going on, yes.

Counsel:

What else was going on?

b(6)-5; b(7)(c)-5

Witness:

Staff Sergeant [REDACTED] had off-loaded some of the EPWs. The first one that he off-loaded, he walked towards the staging area, I think was the first one he took. And he did a front leg sweep, nearly a hip toss. I couldn't tell which, but the individual came up into the air Staff Sergeant [REDACTED] drove him into the ground headfirst.

Counsel:

All right, now when you say he did a leg sweep, how does one do that?

Witness:

By taking your legs in front of the EPW and using backwards force with your leg and front force with your arms and taking them down to the ground.

Counsel:

Okay, did you see this prisoner before Sergeant [REDACTED] flipped him?

(Same)

Witness:

I'm not sure I can identify the prisoner.

Counsel:

I understand. But did you see what this prisoner was doing before he got flipped?

Witness:

No I did not.

Counsel:

Okay. So you don't know if he was resisting?

013010

Witness:

At this point in time, no.

Counsel:

Now you just testified a few minutes ago that Sergeant [REDACTED] was one of the soldiers who was holding the legs apart of the prisoner who was being kicked in the groin.

b(6)-5, b(7)(c)-5

Witness:

That's correct.

Counsel:

So when did this other incident that you just described happen?

Witness:

This happened several times throughout the process.

Counsel:

The leg sweeping?

Witness:

The leg sweeping, yes. I, you know, there were several things going on around us and, you know, like I said Staff Sergeant [REDACTED] did it near the staging area and other times he would take'em over to the area where there was a hole cut in the chute. So there were multiple areas where this stuff was occurring, as well as, stuff going on inside the chute.

(same)

Counsel:

All right. Did you observe...well let's go on. You said you didn't see that Iraqi prisoner before he got swept to the ground, correct?

Witness:

No.

Counsel:

All right. Did you see any other conduct to cause you concern?

(same)

Witness:

Yes I did. I noticed that this first individual that Staff Sergeant [REDACTED] took to the ground, I gave him the benefit of the doubt as being a trained Military Policeman.

Counsel:

What do you mean by that, giving him the benefit of the doubt?

013011

Witness:

That this individual was resisting. I heard him yell stop resisting, stop resisting. I assumed this individual was resisting. Using the verbal level of the use-force continuum.

Counsel:

Which would be at the lower level.

b(6)-4; b(7)(c)-4

Witness:

The lower level. If he continues to resist, then you go to physical. So assuming that's what the case was, I felt, well, you know, he's following what he should be following at this point. So further on it went and the more people he got, he would begin yelling stop resisting as soon as he took them from Sergeant [REDACTED]. People who were two seconds previously sitting on the steps, not saying a word, not doing anything. So it just caused speculation at that point with me whether these people were actually resisting or not.

b(6)-5; b(7)(c)-5

Counsel:

Okay. So did you actually observe any of these prisoners, that Sergeant [REDACTED] was escorting, resist?

Witness:

It's hard to say whether they were resisting or not. I mean, a least little tug could be just fighters resisting in someone's mind. Irregardless whether someone was resisting or not. You know, driving someone's head into the ground is not a level of force that's used at any time.

Counsel:

All right. Is that because of your training, you've learned that?

Witness:

That's correct.

Counsel:

All right. You don't throw someone down to the ground head first?

Witness:

Right. Because that's a very vulnerable area of their body and could cause more damage than what's needed to control the situation.

(Same)

Counsel:

How many times did you observe Sergeant [REDACTED] perform this leg sweep?

Witness:

About three or four times.

013012

Counsel:
To the ground head first?

Witness:
Head first. And I mean enough to where the ground shook.

Counsel:
You actually felt the ground shake?

Witness:
Yes I did.

Counsel:
Now when this would happen, how would the prisoners respond?

Witness:
They'd be screaming. And like I said, I don't know what they were saying. Most of them didn't speak English. They would ball up on the ground.

Counsel:
Did you see any other behavior?

b(6)-5; b(7)(c)-5

Witness:
I observed Staff Sergeant, I'm sorry, correction Sergeant [REDACTED] walking behind an EPW down the chute. Two individuals were escorting the EPW and I observed her going behind the EPW kicking and trying to trip him up and trying to get him to fall.

Counsel:
All right now. You observed this-- did you observe the EPW?

Witness:
No I did not. He was going down the chute at this time.

Counsel:
Could you see the.....

Witness:
I could see the EPW's body, I could not identify the EPW.

Counsel:
Was his body resisting?

Witness:
Not that I'm aware of. Like I said, I don't know. It's hard to visually see whether someone is resisting or not.

013013

b(6)-5 ; b(7)(c)-5

Counsel:
But Sergeant [REDACTED] was not escorting this prisoner?

Witness:
No she was not.

Counsel:
She just walked up behind this prisoner?

Witness:
That's correct.

Counsel:
And how did she, you said she kicked at his legs?

Witness:
As his feet were walking, she would kick his trail foot to the side so as to trip him up when he took the next step.

Counsel:
All right. Did the prisoner trip?

Witness:
I don't recall, sir.

Counsel:
Do you recall giving a statement to the CID agents?

Witness:
That's correct.

Counsel:
That statement you gave to CID agents was right around the time of this incident.

Witness:
That is correct.

Counsel:
Would it be fair to say that that statement that you gave to the CID at that time represented your recollection of the events on or about the time that they had occurred?

Witness:
Yes sir.

013014

Counsel:

You just testified that you don't recall whether she knocked the prisoner down. Do you recall saying to the--writing in your statement "she did this enough times that she did finally succeeded and the EPW fell onto the ground with his hands tied in front of him.

Witness:

If that's my statement, sir, I trust that recollection.

Counsel:

Okay, well let me do this. Let me just show you.....okay I'm gonna have this marked.....what I'm referring to is the fourteen May statement.....marked three please. If I can just get you to look at page three, lower third of the page.

Witness:

Yes sir.

Counsel:

Just read that to yourself.

Witness:

Yes sir.

Counsel:

Okay, you read it?

Witness:

Yes sir.

Counsel:

Did it refresh your recollection?

Witness:

Yes sir, it did.

b(6)-5; b(7)(c)-5

Counsel:

Okay did Sergeant [REDACTED] succeed in knocking that prisoner down by doing that?

Witness:

Yes sir.

Counsel:

Okay. Let me retrieve that from you. If you need to refer to your statement, just tell me that you need to refresh your recollection. We'll let you look at your statement, but I prefer that you testify from your memory of the events.

Witness:

013015

Absolutely.

Counsel:

Did you ever.....do you recall a prisoner that I think has been commonly referred to as the interpreter?

Witness:

Yes sir.

Counsel:

Do you recall anything happening to him getting off the bus?

Witness:

Yes sir.

Counsel:

What do you recall?

b(6)-4; b(7)(c)-4

Witness:

I remember...I believe I was talking to Sergeant [REDACTED] or I was having a discussion with someone and I remember Sergeant [REDACTED] saying "hey that's your interpreter, you need to be careful with that guy" or "you need to take care of that guy" or something to that effect. I turned around and saw the interpreter being dragged across the ground with his pants down to his ankles.

Counsel:

Do you recall who it was who was dragging him across the ground?

Witness:

If you'd let me refer to my statement.

Counsel:

Let me just hand you this statement. I think the bottom part of page three.

Witness:

Yes sir.

Counsel:

Okay. Do you recall which soldier it was that was dragging that interpreter.

Witness:

Yes sir.

013016

Counsel:
Let me go ahead and take that back from you.

Witness:
I identified the individual at that time as a short stocky male with the--kind of a tribal band tattoo around one of his arms.

Counsel:
You know what rank he was.

Witness:
Specialist, I believe.

Counsel:
Do you recognize him in this hearing room today?

Witness:
That individual right there.

Counsel:
Let the record reflect that the...excuse me, where is he seated?

Witness:
In the corner of the table.

Counsel:
Let the record reflect that the witness has identified Specialist Canjar. Did you see what led up to the interpreter being dragged across the ground with his pants down.

Witness:
No I did not, sir.

Counsel:
Can you describe that? What exactly did you observe?

Witness:
Basically, at the point where I turned around, the interpreter was about, probably about fifteen feet equal distance as myself from Sergeant [REDACTED], going towards the staging area. As I turned around, he was already on the ground. So, I don't know what precipitated that event.

b(6)-4; b(7)(c)-4

Counsel:
I understand. He was on the ground. Was he on his.....

Witness:
He was on his stomach, being drug with his legs out behind him.

013017

Counsel:

And how was Specialist Canjar, I mean, was Specialist Canjar holding his legs?

Witness:

I think he had him by the arms. Like his hands were up tied. He had him by the elbows and was dragging him towards the staging area.

Counsel:

Did that person, the interpreter, was he making any sounds?

Witness:

Yes, he was screaming very loud.

b(6)-5; b(7)(c)-5

Counsel:

Did...at any time do you recall Sergeant [REDACTED] saying anything to you or anyone?

Witness:

I recall at one point there was a statement made about.....I think someone said "is this guy a problem," or something like that. Then she had said "if they're on the bus, they're already a problem". So, and that's...

Counsel:

Did Staff Sergeant [REDACTED] have a conversation with you.

b(6)-4; b(7)(c)-4

Witness:

Yes he did.

Counsel:

Okay. What did he tell you?

b(6)-5; b(7)(c)-5

Witness:

We had a conversation at Talil Air Base prior to me getting back onto the bus with the EPWs. He pulled me aside. He had stated that Master Sergeant [REDACTED] had made a statement that concerned him. He wasn't quite sure what it meant, but it was enough to make him alerted to it. He said that she had for some personal interview time on the way back. He informed me at that time that we were not to pull the bus over for any reason other than the obvious, mechanical breakdown, things like that. That we were going to maintain our professionalism and that I was to inform Sergeant [REDACTED] the same.

b(6)-4; b(7)(c)-4

Counsel:

Now, how many missions have you been on prior to that mission you went on.....on the twelfth.

013018

Witness:

Our Company has escorted over seven thousand EPWs. I gonna guess that we have, as a squad, taken about two thousand to twenty-five thousand, or I'm sorry, two thousand to twenty-five hundred EPWs out of those seven thousand.

Counsel:

Okay, and that's all total, right?

Witness:

That's correct.

Counsel:

Since you started doing this?

Witness:

Yes sir.

Counsel:

Okay.

Witness:

Actually, I'm sorry sir. That's up to that point.

Counsel:

So that was up to that point?

Witness:

Yes sir.

Counsel:

Okay so up to that point on the twelfth of May?

Witness:

Yes sir.

Counsel:

Okay. And have you ever had instances where your Iraqi prisoners had resisted you.

Witness:

We had had maybe one or two instances, me personally, where they've tried to pull away or something and we basically prone them out and put a security guard on them.

Counsel:

Okay, and when you say you proned them out, what do you mean by that?

013019

Witness:

We place them on the ground, face first. We spread their legs, spread their hands out, rotate their hands face up. We place a MP within our squad on that individual with a weapon. And, basically segregate them until such time we can get adequate personnel over there to escort the individual back to the holding area.

Counsel:

Okay. Now how is that, what you just described, different from what you were observing Sergeant [REDACTED] doing?

Witness:

Staff Sergeant [REDACTED] as a result of his action, these people were being thrown into the air. You know, we may do a front leg sweep, but it's basically to get them off balance and to lay them down on the ground.

Counsel:

Okay so when you say you lay them on the ground, you actually carry their body all the way to the ground?

Witness:

Exactly.

Counsel:

And was that what Sergeant [REDACTED] was doing?

Witness:

No, absolutely not.

Counsel:

So what was Sergeant [REDACTED] doing? What was different?

Witness:

What was different was they were in the air and as they came down, the.....the angle of their body was such that their head hit the ground first.

Counsel:

And you said, and again I'm just trying to... you said you put'em down face first?

Witness:

Yes sir.

Counsel:

Is that different from what Sergeant [REDACTED] was doing?

Witness:

Yes sir, that is different.

013020

Counsel:
How is it different?

Witness:
Basically, we lay them on the ground so as to not hit their head. But, they are face first when they are on the ground so that they can't quickly get up and begin to fight.

Counsel:
Now I know you had other things going on that night. I know you're trying to guard that box, and I know you were trying to do other stuff.

Witness:
Yes sir.

But, did you have an opportunity at different points in time to observe these prisoners getting off the bus?

Witness:
Yes sir.

Counsel:
Did you observe any of these prisoners, did you personally observe any of these prisoners resisting or in any way becoming violent to any of their escorts.

Witness:
No sir.

Counsel:
Can you give me one minute?

Witness:
Yes sir.

Counsel:
Specialist [REDACTED] thank you.
I don't have any further questions for you but please answer questions that anybody else may have.

b(6)-4; b(7)(c)-4

013021

CROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] b(6)-2; b(7)(c)-2

Counsel:

Specialist [REDACTED] you're a pretty close-knit squad. Is that correct?

Witness:

Yes sir.

Counsel:

You've been on a lot of escort missions together?

Witness:

Yes sir.

Counsel:

How many escort missions your squad has done?

Witness:

Sir, we've done anywhere between two thousand and twenty-five hundred EPWs. I'm gonna say an average EPW escorts a hundred to two hundred at that time, probably fifteen.

Counsel:

Okay so, before that time, before the twelfth, you had done about fifteen missions, your squad, escorting EPWs?

Witness:

Yes sir.

Counsel:

There were certain procedures and things that you just followed because that's how things worked?

Witness:

Yes sir.

Counsel:

There was no written SOP from your Company, correct?

Witness:

Yes sir. From our Company, no.

013022

Counsel:

And there was nothing specific about escorting EPWs from Battalion or anyone else, that was written down, correct?

Witness:

There was an SOP that was written by the 724th Battalion, but it was mainly concerning the IF.

Counsel:

It was mainly concerning the IF?

Witness:

There was some generic information about the escort process. We were trained at Fort Dix on how we would be doing things.

Counsel:

The SOP didn't say anything specific about how you would, as you described a moment ago, put someone down in the prone position, correct?

Witness:

No sir, that's provided in our training.

Counsel:

Okay. And prior to the twelfth of May, you didn't know anyone from the 320th at all, correct?

Witness:

No sir.

Counsel:

You never met a single soldier?

Witness:

No sir.

Counsel:

You never worked with them before on an EPW mission or any other mission?

Witness:

Not that I was aware of.

Counsel:

And the mission on the twelfth of May, that was a 223rd mission, correct?

Witness:

Yes sir.

013023

Counsel:

That was a mission that was given to your squad just like every other escort mission you were on?

Witness:

Yes sir.

Counsel:

With the one exception that this was a right seat ride?

Witness:

Yes sir.

Counsel:

What is the purpose of a right seat ride?

Witness:

The purpose of that is to basically get the other Company familiar with the routes they're taking. Put them in contact with any POCs at the destination. And get them familiar with the procedures of accepting and turning over EPWs.

Counsel:

During one of those right seat rides, your unit would still be responsible for the mission?

Witness:

That is our mission, sir.

Counsel:

Okay. The assignment that was given to you came from Sergeant First Class [REDACTED]

b(6)-4; b(7)(c)-4

Witness:

Negative, it came from Staff Sergeant [REDACTED] (same)

Counsel:

Okay, do you know where he got his guidance from?

Witness:

Basically he got his guidance from the people that signed over the property to us. They informed him there was a substantial amount of money...U.S. as well as Iraqi currency, well into the millions. He.....we never at any point in time looked inside that box but he said that.....

013024

Counsel:

Okay, I'm not talking specifically talking about the box, or your responsibilities with regard to safeguarding the box. I'm talking about the mission to go...the escort mission.

Witness:

Yes sir.

Counsel:

Okay that came down from who?

Witness:

That would be Sergeant First Class [REDACTED] b(6)-4; b(7)(c)-4

Counsel:

Okay that's what I was trying to get at, I'm sorry. And so the NCOs from 223, they were in-charge of the missions?

Witness:

Yes sir.

(same)

Counsel:

And Staff Sergeant [REDACTED] was sort of the chief, the convoy commander?

Witness:

He was the squad leader, sir.

(same)

Counsel:

Okay. And then on the bus, Sergeant [REDACTED] was the NCOIC on the bus, correct?

Witness:

Yes sir.

Counsel:

The role of the 320th was essentially to watch, learn, train.

Witness:

Exactly.

Counsel:

And just among yourselves, the fact that you were getting a rightsy leftsy, you believe that might mean that you were going to be going home soon, correct?

Witness:

Yes sir.

013025

Counsel:

And you knew at the very least that you were not going to be having to do as many of these missions in the future because hopefully someone else would be getting the load, correct?

Witness:

Yes sir.

Counsel:

And you talked a little bit with some of the 320th personnel on the bus, on the trip up there?

Witness:

Yes sir.

Counsel:

You talked to Sergeant [REDACTED] b(6)-5; b(7)(c)-5

Witness:

Yes sir.

Counsel:

You didn't specifically say anything to her about procedures for escorting or procedures for seating people in the bus or anything, correct?

Witness:

We spoke of the five S's. Which is....now I'm going to forget them now that I'm under pressure.

Search, segregate, speed, safeguard and silence....which is basically the rules, guidelines for MPs when your escorting EPWs. It basically gives us a order of occurrence and order of priority. We had discussed that. We had discussed the ROEs again, talking about, you know, your gonna have people that may try to escape if the bus stops, you know, as we're taking off, whatever. You may have people try to assault the bus from the outside areas of the bus, and that's what your security teams are for. Just going over everything, once again to ensure...

Counsel:

But you didn't show her or anybody else from the 320th on the bus, you didn't do any demonstrations about putting someone down in the prone position if they resisted, correct?

Witness:

It would be kind of difficult on the bus, sir.

Counsel:

Right. But you didn't do that before you got on the bus or any other time?

013026

Witness:
No sir.

b(6)-5, b(7)(c)-5

Counsel:
And from talking to Sergeant [REDACTED], you learned that they didn't have any experience escorting EPWs, correct?

Witness:
That's correct.

Counsel:
You knew that they had been working the IF?

Witness:
Yes sir.

Counsel:
Okay. Had you ever done any duty guarding prisoners in the IF?

Witness:
Negative sir. Other than doing the temporary security at their staging, but that's it.

Counsel:
Okay. What kind of communications did you have for this mission?

Witness:
The communications that we had...we had a field phone on the bus as I recall and that got us in-touch with Master Sergeant [REDACTED] vehicle and the other 320th vehicles. Between the 320th personnel and Staff Sergeant [REDACTED] truck, I believe they were using the 2-way radios. The little hand-held...

b(6)-5; b(7)(c)-5

b(6)-4; b(7)(c)-4

Counsel:
And were those comms reliable so that everybody in the convoy could talk to each other?

Witness:
I wasn't in a HMMWV so I don't know how reliable they were.

Counsel:
Okay, let me ask you. Who would be responsible for making sure there was communication between all the vehicles in the convoy?

Witness:
I believe that would Staff Sergeant [REDACTED] sir.

(same)

Counsel:

013027

There was one stop on the way to Talil, correct?

Witness:

On the way to Talil?

Counsel:

Right. One stop to fuel up or something like that.

Witness:

Yes sir.

Counsel:

Okay. Did anyone get lost? Did anyone get left behind after that stop? You had to go back and circle back for anyone?

Witness:

I don't recall sir.

Counsel:

Is it possible that that happened?

Witness:

May have, I don't recall.

Counsel:

And then when you got to Talil, you refueled right away?

Witness:

I think the HMMWVs went to refuel. I stayed with the bus.

Counsel:

Right, I'm sorry, you didn't take the bus, you didn't go to refuel, the HMMWVs did?

Witness:

I believe so.

Counsel:

How long did you say it was until you actually started loading EPWs?

Witness:

Maybe thirty minutes.

Counsel:

Thirty minutes, okay. And who was responsible for seating the EPWs on the bus?

013028

b(6)-4; b(7)(c)-4

Witness:

We had done this enough times that Staff Sergeant [REDACTED] entrusted Sergeant [REDACTED] to ensure it was done.

Counsel:

Okay, but who was actually...did Sergeant [REDACTED] then take each individual and sit them down on the bus?

(same)

Witness:

Negative.

Counsel:

Okay. Who did that?

Witness:

That was Specialist [REDACTED] sir. (same)

Counsel:

And Specialist [REDACTED] is with the 320th, correct? (same)

Witness:

Yes sir.

Counsel:

Did you see how he seated all the soldiers on the back, or not the soldiers, how he seated all the EPWs on the back of the bus?

Witness:

Yes sir.

Counsel:

And how, can you just describe how they were placed in the back of the bus?

Witness:

There were several rows between our equipment, ourselves and the EPWs. Maybe six rows, I'm guessing. Four to six. It was unusually large space than what we were used to.

Counsel:

You said the buffer was actually too big, correct?

Witness:

I never said it was too big, I said it was larger than what we were used to.

Counsel:

013029

Do you remember having a previous conversation a couple weeks ago with myself and with the other counsel?

Witness:

Yes.

Counsel:

You remember at that time making the comment that you thought the buffer was too large?

Witness:

From what I was used to, yes. It was too large. I don't think that...I mean as big a buffer zone as you can get, I mean, safety is the utmost importance, that's fine, that's why we never changed it.

Counsel:

But It's true that one of the other considerations you have is to make sure that anybody that is a high-profile or potentially dangerous EPW, you want them in the front so you can keep an eye on them, correct?

Witness:

Yes sir.

Counsel:

And if the farther the back they are the more difficult it is to keep an eye on them, correct?

Witness:

Correct.

Counsel:

Now, as far as the EPWs actually boarding the bus, you were not actually able to observe them being loaded onto the bus?

Witness:

No I was not.

Counsel:

Okay because you.....

Witness:

Once they stepped onto the bus, I was out of sight from them.

Counsel:

Okay. You said, or, you were pulling security in the pit, is that correct?

Witness:

013030

Yes sir.

Counsel:

Okay, what exactly does that mean?

Witness:

There's a roadway that you pull up to the Talil processing area. You can walk down a slight incline, which is maybe a four-foot incline, or decline as it were, as you're going into it. The bus stays up onto the roadway. The EPWs come out from, which they have a very wide chute that they come out. They come out and come up the hill and they load onto the bus.

Counsel:

Okay. So during that time when you're pulling security, are you watching the EPWs as they get onto the bus?

Witness:

I'm watching the EPWs as they are exiting the staging area and going over to the bus.

Counsel:

Okay, but you don't see how they are being loaded onto the bus?

Witness:

No.

Counsel:

With regard to how the prisoners were, the EPWs were seated on the bus, Specialist [REDACTED] had never seated EPWs onto the bus before, correct?

b(6)-4; b(7)(c)-4

Witness:

That's correct. As far as I had any knowledge.

Counsel:

Okay. But you made a decision not to pull'em all off and re-seat everyone?

Witness:

That is correct because we had several medicals. We had, at that time they did not want us traveling in dark so we were trying to get back as early as possible. We knew it was going to be dark, but the earlier the better. We had a lot of medicals on the bus, I think as I recall there were about fifteen or sixteen, and they made, someone made the decision that we'll just leave it like this and we'll get back.

Counsel:

And at that point you probably spent an hour or better at Talil, right?

Witness:

013031

I would say so, yes sir.

Counsel:

And by that time it was dark or almost dark, correct?

Witness:

It was in the evening, about, gosh I can't remember what time but it was in the afternoon, late afternoon.

Counsel:

Okay. What time do you think you left?

Witness:

I want to say we left about seventeen hundred, sixteen or I'm sorry, seventeen or eighteen hundred, somewhere around there.

Counsel:

Okay. So if it was eighteen hundred, it would certainly be dark by then, right? Or just about.

Witness:

Just about.

Counsel:

And when you were at Talil, you received some information or some Intel about the prisoners you were receiving, correct?

Witness:

Yes sir.

Counsel:

Okay. And that information was that there was a police Major that was suspected of rape....

Witness:

Yes sir.

Counsel:

And there was a police Captain that was suspected of murder...

Witness:

Yes sir.

Counsel:

And a Major from the Fedahyeen academy...

013032

Witness:
Yes sir.

Counsel:
And also Uday Hussein's Intel officer...

Witness:
That's the information I've been given, sir.

And that there was also a General...

Witness:
Yes sir.

Counsel:
And also that the, there was an interpreter interrogator that may have been involved in interrogating some American soldiers, correct?

Witness:
Yes sir.

Counsel:
And was all that information given verbally or was that the manifest that was given to your unit?

Witness:
There was a memo that was given, that I saw, that had the information about the policeman Major that was accused of rape. About the police Captain who was accused of murder. The other information I got from my higher ups that was passed on to them.

Counsel:
Okay. So there was, or it was transmitted to you verbally?

Witness:
Correct.

Counsel:
And we talked about before, the plan was to keep the high risk people, the high profile people toward the front, is that correct?

Witness:
Yes sir.

Counsel:
And did that happen?

013032a

Witness:

Yes sir.

Counsel:

And the reason you wanted to keep them toward the front was you didn't want them talking or conspiring, or whatever, between each other?

Witness:

That's correct sir.

Counsel:

b(6)-4; b(7)(c)-4
And do you remember, either before you left, while you were in-route back to Bucca, Sergeant [REDACTED] telling the 320th folks on the bus "hey these are some high-level bad guys, these are not just a bunch of privates", or something to that affect?

Witness:

On the way back, yes sir.

Counsel:

Okay. And....so basically what was put out was these were potentially dangerous EPWs?

Witness:

Absolutely sir.

Counsel:

(same)
At some point actually Sergeant [REDACTED] said either on the way up or on the way back, words to the effect that "these people are animals and I have to resist the urge to be judge and jury against them", he said that?

Witness:

Yes sir.

Counsel:

And as far as you can tell, all the MPs on the bus heard him say that?

Witness:

As far as I can tell, yes sir.

Counsel:

(same)
And Sergeant [REDACTED] also explained that, to the 320th MPs, that generally there are two people on the bus, correct?

Witness:

That is correct?

013033

Counsel:

And he said that it's very important to make sure that you establish authority?

Witness:

Yes sir.

Counsel:

And you've got to establish and maintain positive control at all times, correct?

Witness:

Yes sir.

Counsel:

And there were weapons being carried on the bus, correct?

Witness:

That is correct sir.

Counsel:

And you remember him carrying what weapon?

Witness:

Sergeant [REDACTED] b(6)-4 ; b(7)(c)-4 had a shotgun. He had an M16 203, and he also had a 9MM. I was carrying a 9MM, M16, and a as far as I knew, the other soldiers were carrying their basic combat load, which is M16, 9MM, and NCOs with a 203.

Counsel:

Okay. And when the EPWs boarded the bus, you sort of laid down the law and told them the rules, correct?

Witness:

Yes sir.

Counsel:

You said that there's no talking, no passing notes, no smoking, no looking out the windows?

Witness:

Yes sir.

Counsel:

Okay. And you told them if they tried to escape, they were going to be shot?

Witness:

That is correct sir.

013034

Counsel:

And you told them if they try to do anything to hurt an MP or to try to come after an MP, that they were going to be dealt with appropriately, correct?

Witness:

Yes sir.

Counsel:

And you did all of that through the one English-speaking guy that was considered the interpreter, right?

Witness:

Yes sir.

Counsel:

He was also an EPW?

Witness:

Yes sir.

CPT [REDACTED]

I'm sorry we didn't hear the last question that was asked?

b(6)-R; b(7)(c)-2

Counsel:

If...you gave instructions that if anyone touched an MP, they were going to be dealt with appropriately, correct?

Witness:

Not necessarily if they touched them, but if they came after an MP.

Counsel:

Correct, right. Now on the way back to Camp Bucca, there were some minor incidents with the EPWs, correct?

Witness:

Not that I recall sir.

Counsel:

Okay. You don't remember any instances where some of them were talking amongst themselves and had to be yelled at to keep quiet?

Witness:

013035

Sir that happens nearly every time we have to bring EPWs back. So specifically, no I don't recall that.

Counsel:

Okay. You didn't have any problems with any of them not following instructions?

Witness:

Not that I recall sir.

Counsel:

You don't remember the interpreter getting down in the wheel well?

Witness:

Yes sir, the interpreter, I'm sorry.

Counsel:

Okay. And there was also an incident where one of the, before the stop, one of the EPWs, actually the one that was suspected of rape, was staring at or leering at Sergeant [REDACTED]?

b(6)-4 ; b(7)(c)-4

Witness:

I don't recall that sir. I do recall once we made the stop, someone said, "who's causing all the problems on here", and I looked back and I saw Specialist [REDACTED] pointing someone out. I was up at the driver's seat at that time trying to get the hose fixed, so I don't know specifically what was said about who was causing the problem or why they were causing problems.

Counsel:

So based on that it certainly is possible that there was an incident with this suspected rapist leering at Sergeant [REDACTED]

b(6)-5; b(7)(c)-5

Witness:

It's possible.

Counsel:

Now this incident with the interpreter, he wasn't following instructions, correct?

Witness:

He was moving towards the door.

Counsel:

b(6)-4; b(7)(c)-4

Okay. And Sergeant [REDACTED] actually had to get up and point his weapon at him and scream at him to get back into his seat.

013036

Witness:

Yes sir. We were going at a slow rate of speed at that time. It was either...I think it was after we had pulled off from the stop and so, I mean, he could have theoretically gotten out the door without hurting himself.

Counsel:

And there was also another incident? Wasn't there? Where an EPW was refusing to follow instructions and you had thrown a water bottle that hit him in the head?

Witness:

I don't recall that.

Counsel:

You don't recall that?

Witness:

No sir.

Counsel:

Okay, so it didn't happen or you just don't remember?

Witness:

I don't remember.

Counsel:

At the time that you had the stop, there was this busted hose, correct?

Witness:

Yes sir.

Counsel:

But you didn't realize what it was until you got out and looked, right?

Witness:

Well until I got up to the front of the bus. Yes sir.

Counsel:

Okay.

Witness:

The hose break was right next to the driver's seat on the left side. So you didn't have to actually exit the bus to see what the problem was.

Counsel:

Okay so you never had to exit the bus?

013037

Witness:
No sir.

Counsel:
At this point it's completely dark outside, correct?

Witness:
At this point, it's about dusk. There's a little bit of light left outside, but not much.

Counsel:
Okay. And the procedure that the bus driver followed was to slow down and pullover and turn on the flashing headlights?

Witness:
Yes sir.

Counsel:
And that's the same procedure that would be followed if there were some sort of incident on the bus with EPWs or something, correct?

Witness:
That's correct.

Counsel:
Even though he flashed his lights, the bus driver flashed his lights at the lead vehicle in the convoy, Staff Sergeant [REDACTED] didn't slow down, right?

Witness:
He did not slow down.

b(6)-4; b(7)(c)-4

Counsel:
He kept going?

Witness:
Yes sir.

Counsel:
And it took him a while to circle around and come back, correct?

Witness:
That's correct sir.

Counsel:
Probably took at least five minutes?

013038

Witness:
I would say so, yes sir.

Counsel:
At least long enough for the driver to identify the problem with the bus and fix it, correct?

Witness:
Yes sir.

b(6)-4
b(7)(c)-4
Counsel: b(6)-5, b(7)-5
And you said that you told Sergeant [REDACTED] to go ahead and call Staff Sergeant [REDACTED] to call someone and make sure that Sergeant [REDACTED] was informed that he needed to get back there? b(6)-4, b(7)(c)-4

Witness:
Right.

Counsel:
And you said that there were other 320th personnel that came up to the bus to see what was happening?

Witness:
Yes sir.

Counsel:
As far as you know, at this point you didn't realize or you hadn't transmitted to anyone what the problem was with the bus, correct?

Witness:
That is correct.

Counsel:
You hadn't put out, "hey we've got a leak in an air hose or an air hose that popped off", right?

Witness:
That is correct.

Counsel:
And you said that once the problem had been identified, basically everyone got back into their vehicles and got going again, correct?

Witness:
That's correct.

013039

Counsel:

And back, when you arrived at Camp Bucca, it was kind of like a ghost town, correct?

Witness:

Yes sir.

Counsel:

Not nearly as many people as you were used to being able to see there.

Witness:

No sir.

Counsel:

Not nearly as many in-processing people to help.

Witness:

No sir.

b(6)-4; b(7)(c)-4

Counsel:

And Staff Sergeant [REDACTED] actually went out to find out about getting some help from the in-processing place, right?

Witness:

Yes sir.

Counsel:

You didn't actually help unload any EPWs?

Witness:

No sir, I did not.

Counsel:

Because you were charged with protecting the property.

Witness:

That is correct.

Counsel:

And initially you were in one spot, but then you had to move.

Witness:

Yes sir.

Counsel:

And that was because your, part of your field of vision was blocked.

013040

Witness:
That is correct.

Counsel:
What exactly was the property you were guarding?

Witness:
It was reported to us that it was a bunch of money. It was later found out that there was just money here and there. The original property that they had reported to us, that was in that box, they had assigned to someone else already. But they told us that it was with that property. So there was a very confusing mix-up over what happened to the money, where the money was and who had had it. At this time, we were under the understanding that the money was in our possession. That was my priority at that time.

Counsel:
And in terms of how the EPWs were being unloaded, Staff Sergeant [REDACTED] was standing right outside the bus door, correct?

b(6)-4; b(7)(C)-4

Witness:
Yes sir.

Counsel:
And he was sort of pulling them off the bus, or guiding them off the bus, how ever you want to put it.

Witness:
Yes sir.

Counsel:
And when he did that, he was letting everyone know what kind of guy he had that was coming off the bus, correct?

Witness:
That is correct.

Counsel:
He would identify them and say look this is the suspected police Major rapist.

Witness:
Yes sir.

013041

Counsel:

The first one off the buss was the Fedahyeen Major. Is that right?

Witness:

Yes sir.

Counsel:

Okay, and you've been told by the 744th that he had a legitimate injury and that he often tried to milk it or tried to, kind of play it up?

Witness:

Yes sir.

Counsel:

Okay. Which you would assume would mean trying to ask for help or pretending that he couldn't walk, pretending he was more hurt than he was?

Witness:

Right sir, and trying to interrupt operations.

Counsel:

And in fact, when he was getting off the bus, he was moving especially slow, correct?

Witness:

Yes sir he was.

b(6)-4; b(7)(c)-4

Counsel:

And actually Sergeant [REDACTED] had to yell at him to come on.

Witness:

Yes I assume so sir. I didn't hear him say that.

Counsel:

Okay. But from what you could tell he did not want to get up and move, the Fedayeen Major?

Witness:

No sir. I do recall them having difficulty getting him to step off of the bus.

Counsel:

Sergeant [REDACTED] (same) actually pulled him up and got him on his crutches, correct?

Witness:

Yes sir.

013042

Counsel:

Even at that point, when he was on his crutches, he was moving very slowly.

Witness:

Yes sir.

Counsel:

Basically, doing just exactly what the 744th told you he would do, correct?

Witness:

Yes sir.

Counsel:

And you said you saw him fall down, right?

Witness:

That's correct, sir.

Counsel:

And you saw that he had to be picked up and had to be carried.

b(6)-5; b(7)(c)-5

Witness:

Sir, at this point in time, the incident, as it occurred was, I heard Master Sergeant [REDACTED] state "hurry the fuck up or come on get it moving". Basically telling him to get on the ball with it. As I turned around she pushed him in the back and he fell forward.

Counsel:

Okay. And at that point he did not get up on his own, correct?

Witness:

At this time I don't recall. I would have to refer to my statement to refresh my memory. If you don't mind?

Counsel:

You don't remember if he had to be carried or picked up and carried at that point.

Witness:

I don't recall at this time, sir.

Counsel:

Okay. And you said that you saw Staff Sergeant [REDACTED] escorting a few EPWs?

(same)

Witness:

Yes sir.

013043

Counsel:

And you said that he used like a leg sweep to put an EPW on the ground more than once.

Witness:

Yes sir.

Counsel:

And actually you testified earlier that actually putting someone on the ground is one of the techniques used if someone, if an EPW is resisting, correct?

Witness:

Yes sir.

Counsel:

And you describe in sort of detail that someone is supposed to be put down in the face first position and their legs spread apart and their hands spread apart, correct?

Witness:

Yes sir.

Counsel:

But that, there was no briefing no demonstration of that technique done before this mission, was there?

Witness:

Sir, that training was provided prior to our arrival in-country.

Counsel:

Okay. But to the members of the 320th, there was no briefing, no demonstration of that?

Witness:

No sir.

Counsel:

And you have no idea whether they ever received that kind of training that you received, in regards to that technique, correct?

Witness:

I'm assuming if they were certified to come to a combat zone, sir, yes they did receive that training.

Counsel:

Okay. But you don't have any idea whether they did or not?

013044

Witness:
No I don't.

Counsel:
And the purpose for putting someone down on the ground, that's to regain positive control, correct?

Witness:
Yes sir.

Counsel:
And you actually heard Sergeant [REDACTED], when he did these leg sweeps, when he put the EPW on the ground, each time you heard him say "stop resisting"?

Witness:
That's correct, sir.

Counsel:
And not a single one of those times did you actually see, or did you actually tell if that EPW was or was not resisting.

Witness:
That is correct.

Counsel:
And specifically, the first time, you said that what you saw and what you thought that he did seemed perfectly acceptable and seemed perfectly legal.

Witness:
I didn't say that. I assumed the first time that the EPW was resisting.

Counsel:
And if someone is resisting, that's a perfectly reasonable, perfectly acceptable thing to do, put him on the ground, correct?

Witness:
No I did not say that.

Counsel:
But you agree that if someone was resisting, or an EPW was resisting, the perfectly acceptable thing to do would be to put them on the ground?

Witness:
To put them on the ground, yes sir.

Counsel:

013045

Okay. In regards to this incident with Sergeant [REDACTED], regarding this tripping incident, you saw her escorting an EPW?

b(6)-5; b(7)(c)-5.

Witness:

No sir.

Counsel:

She was not escorting an EPW?

Witness:

No sir.

Counsel:

You said that you saw her try to trip this EPW.

Witness:

I saw her kicking the feet out from behind this EPW.

Counsel:

Okay. And he didn't fall down?

Witness:

According to my statement, sir, he fell down and then he was picked up by two other MPs who then took him back to the chute.

Counsel:

That's according to your statement, but you don't have a personal recollection of that, correct?

Witness:

At this time, sir, that's...I would rather trust what my statement says than what I recall at this time.

Counsel:

You remember a couple of weeks ago when you talked to one of the other defense attorneys and myself?

Witness:

Yes sir.

Counsel:

And at that time you didn't actually remember this EPW falling down at that time either, correct?

Witness:

That's correct sir.

013046

Counsel:
Again you looked at your statement.

Witness:
Yes sir.

Counsel:
And you don't have any idea whether this particular EPW, that you saw tripped, you don't have any idea if he was an assassin or a high-profile EPW, correct?

Witness:
I don't recall which one it was, no sir.

Counsel:
But you know that he fell and was picked up.

Witness:
Yes sir. According to my statement, that's what happened.

Counsel:
You didn't see any injuries on him whatsoever?

Witness:
Sir, at this time I was about, I want to say about thirty meters from where he was at.

Counsel:
From that distance, you couldn't see any visible injuries?

Witness:
No sir.

Counsel:
You didn't see him having any.....At that time you did hear the escort say that he was resisting, correct?

Witness:
I heard him yelling at him. I don't recall exactly what they said.

Counsel:
They were saying stop resisting, does that sound right?

Witness:
I don't recall that, no.

Counsel:

013047

You don't have any whether that EPW that you saw had any sort of history of faking injuries or falling down, or anything like that?

Witness:
No sir.

Counsel:
Let's talk about the interpreter. This person you identified as the interpreter or interrogator was possibly involved with the [REDACTED] case, correct?

Witness: b(6)-3; b(7)(c)-3
That's what we had heard, sir, yes sir.

Counsel:
And you said that he was drug with his shorts down around his ankles.

Witness:
His pants were down around his ankles, yes sir.

Counsel:
You didn't see anything happen prior to that, correct?

Witness:
No I did not, sir.

Counsel:
And you have no idea whether he had a pattern of refusing to walk or of sitting down, or anything like that?

Witness:
I have no idea what his issue was, sir.

Counsel:
In regard to the Major that was charged with rape, you specifically remember Sergeant [REDACTED] calling attention to the fact that this guy was a police Major believed to have raped someone, correct?

Witness: b(6)-4; b(7)(c)-4 (Same)
I just know that that's Sergeant [REDACTED] proper procedure. He always does that. Whenever I have accepted an EPW from him being a high-ranking Iraqi civilian, lower enlisted, he will tell me this is what this person is, take him over to the staging area.

Counsel:
And you believe he did that in this case as well?

Witness:

013048

I believe he did that in this case.

Counsel:

Okay. And in regards to what you actually saw, with this alleged rapist, you said you saw him get kicked on a couple of different occasions, correct?

Witness:

Yes sir.

Counsel:

And at the time that you saw this, you were about twenty-five meters away?

Witness:

Yes sir.

Counsel:

And even though there are lights, you can't see the holding area from where you were, correct?

Witness:

The holding area sir?

Counsel:

Correct.

Witness:

The holding area is in the very back, over the top of the hill, that's correct?

Counsel:

And you saw this kicking where?

Witness:

I saw this kicking in the staging area which is at the beginning of the chute.

Counsel:

Right. About twenty-five meters from where you are.

Witness:

Yes sir.

Counsel:

It's safe to say that, even though it's lit, there are shadows and it's difficult to see in places back there?

Witness:

Yes sir.

013049

Counsel:
And you said you saw him get kicked?

Witness:
Yes sir.

Counsel:
And then you said that there was a pause or there was a stop for a significant amount of time?

Witness:
For some amount of time, yes sir.

Counsel:
For some amount. And then you saw him get kicked again.

Witness:
Yes sir.

Counsel:
And you saw a couple of people holding his legs.

Witness:
Yes sir.

Counsel:
And do you remember having a conversation, the same conversation I referred to with one of the other defense counsel and myself a couple of weeks ago?

Witness:
Yes sir.

Counsel:
And at that time do you remember saying "I really couldn't tell who was holding his legs"?

Witness:
I remember stating that it was Staff Sergeant [REDACTED], and then I remember stating that it was the Sergeant First Class. But I do remember stating that there was a "light-all" unit, and there was, it was like a, it was mainly lighting up the chute area and then there was an area where the shadows trailed off at the beginning of the chute.

Counsel:

b(6)-5; b(7)(c)-5

013050

Do you remember saying that, because of the lighting and the distance, it made it difficult to identify who that was?

Witness:
Yes sir.

Counsel:
And you remember saying that the two people that you saw, actually had their back to you?

Witness:
Which two people, sir?

Counsel:
The two people you saw holding the legs, they had their backs to you?

Witness:
The one individual had their back to me. The other individual was off into the shadows.

Counsel:
Okay. So basically you couldn't see either one of them well?

Witness:
That's correct sir. I saw them as they were going down to hold the ankles. I identified one as Staff Sergeant [REDACTED] ^{b(6)-5; b(7)(c)-5} because he was the tallest one there. The other one I believe to be the Sergeant First Class.

Counsel:
You never sought any medical treatment or tried to make sure that any of these people that you saw being abused or assaulted, you never tried to make sure that they got medical treatment?

Witness:
These people were taken back to the processing area and I reported the incident to Staff Sergeant [REDACTED] as soon as I saw him next.

Counsel:
Okay, you reported it to Staff Sergeant [REDACTED] ^{b(6)-4; b(7)(c)-4 (same)} when?

Witness:
As soon as he came back from the 800's Brigade TOC.

Counsel:
Okay. You have a pretty good feel. You're probably two hundred pounds or so?

013051

Witness:
About two-thirty, sir.

Counsel:
About two-thirty, okay. And you're probably about the same shape now as you were back then, would you say?

Witness:
Yes sir.

Counsel:
You never stepped in to stop any of the kicking or tripping or dragging.

Witness:
No sir.

Counsel:
But you certainly think that you have the physical strength to do that if you wanted to, correct?

Witness:
If I had to, yes sir.

Counsel:
After, at the end of this evening, you got together with the other people in your team?

Witness:
Yes sir.

Witness:
Yes sir.

Counsel:
Okay. Was it just the people in your team or the people in your squad that were there?

Witness:
I believe it was the people in the squad, sir.

Counsel:
And you talked about what each of you had seen?

Witness:
I don't recall what we had talked about. We didn't talk a very lengthy discussion. I just remember hearing that there were going to be sworn statements that were going to have to be made.

013052

b(6)-4; b(7)(c)-4

Counsel:

Staff Sergeant [REDACTED] said you were going to have to make a sworn statement?

Witness:

Yes sir.

Counsel:

He said that to everyone?

Witness:

Yes sir.

Counsel:

There ever been any complaints of abuse against EPWs made against your squad or your company?

Witness:

Not that I'm aware of sir.

Counsel:

Specialist [REDACTED] b(6)-4; b(7)(c)-4 have you been read your rights at any point in this investigation?

[Objection by the trial counsel: MAJ [REDACTED]]

Objection. I'm sorry, this line of questioning is starting to irritate me. This is an implied effort to try to impugn the character of these witnesses. These witnesses aren't being charged with anything. This isn't relevant to the issue of whether the soldiers who have been charged, committed an offense. And it's just a dirty trick to try to make these out, the soldiers who are testifying, to be criminals, when they aren't. And I would object to that question being repeatedly asked. That's the third time that question's been asked.

CPT [REDACTED]

b(6)-2; b(7)(c)-2

Sir, can I be heard? My client--some of the other accused are charged with dereliction of duty for not stepping in, not reporting these alleged incidents. The fact that other people who claimed to have seen these acts, were not charged, were not advised of their rights, and basically have not undergone any sort of investigation for, basically, exactly the same thing that each of these soldiers are being charged with, is relevant. It's absolutely relevant.

MAJ [REDACTED]

b(6)-2; b(7)(c)-2

Sir, the very reason why we're here is because these soldiers stood up and reported this incident the very next morning, actually that night, and then came back and reported it to their chain-of-command. The reason why we're here today is because these soldiers did

013053

their duty, and some how impugn their character to say they didn't do their job by failing to report this is simply flying in the face of the truth.

I/O:

Your objection will be noted in the report. Go ahead and ask the question.

Counsel:

Thank you sir. Have you been advised of your rights for dereliction of duty?

Witness:

No sir.

Counsel:

Okay. And you have not been charged with dereliction of duty?

Witness:

No sir.

Counsel:

You have not been charged with anything surrounding the events on twelve May?

Witness:

No sir.

Counsel:

Thank you Specialist [REDACTED] b(6)-4; b(7)(c)-4

I/O:

Other questions from the defense?

Questions by the defense counsel: CPT [REDACTED] b(6)-2; b(7)(c)-2

Counsel:

Specialist [REDACTED] b(6)-4; b(7)(c)-4 you said that during the briefing that you initially had at Camp Bucca, you were discussing some of the S's that included shout, shove, show and shoot?

Witness:

Negative, ma'am. The five S's are search, segregate, safeguard, I can't recall at this time. There's a separate list of five S's that basically is a guideline for the EPW escort process.

Counsel:

Do you recall at the beginning of your testimony today using the S's of shout, shove, show and shoot?

Witness:

Yes ma'am. Those are use of force guidelines. There's a distinction.

013054

Counsel:

And those use of force guidelines were discussed at the initial briefing at Camp Bucca, correct?

Witness:

b(6)-1; b(7)(c)-1

I'm not sure ma'am. I know that Staff Sergeant [REDACTED] gives the convoy briefing. Staff Sergeant [REDACTED] gives the ROE briefing. When they gave that briefing to the 320ths staff, and the drivers to our trucks, I was not present at that meeting.

Counsel:

So you were not present during any of the initial briefings that occurred?

Witness:

No ma'am.

Counsel:

You're not sure exactly what was said during this initial briefing?

Witness:

No ma'am.

Counsel:

Your mission is to escort the EPWs from point A to point B, correct?

Witness:

That's correct.

Counsel:

And it's to safeguard those EPWs as you're transporting them, correct?

Witness:

Yes ma'am.

Counsel:

How long have you been a military police officer?

Witness:

Since August of last year, ma'am.

Counsel:

And what is your civilian occupation?

Witness:

I am a police officer recruit in Lexington, Kentucky.

013055

Counsel:
How long have you been a police officer in your civilian life?

Witness:
I am not a police officer ma'am. I am a police officer recruit.

Counsel:
I'm sorry.

Witness:
I am not a police officer in my civilian job, ma'am...I'm a police officer recruit there's a distinction.

Counsel:
You're a police officer recruit?

Witness:
That is correct.

Counsel:
So you're still in training?

Witness:
Yes ma'am.

Counsel:
Okay, so...as part of your training you're taught about crime prevention I assume, correct?

Witness:
Yes ma'am.

Counsel:
And about if you see a crime in progress you supposed to intervene, correct?

Witness:
Yes ma'am.

Counsel:
Now, your testimony before this hearing today is that you witnessed these individuals kicking this EPW and you stood your post?

Witness:
Yes ma'am.

Counsel: Thank you, no further questions.

013056

Questions by the defense counsel: CPT [REDACTED]

b(6)-2; b(7)(c)-2

Counsel:

When you guys got to Camp Bucca...you described it as a "ghost town", right?

Witness:

Yes ma'am.

Counsel:

Then later on, some soldiers from the in processing, I guess, unit came over to help you out, right?

Witness:

Yes ma'am.

Counsel:

And at one point there were about ten people running around escorting soldiers, right?

Witness:

That is correct.

Counsel:

And there weren't even putting these guys down in one staging area, right?

Witness:

That is correct.

Counsel:

So you had two separate staging areas, right?

Witness:

Yes ma'am.

Counsel:

And at least ten escorts running around with EPWs as well, right?

Witness:

Yes ma'am.

Counsel:

Okay, did you know any of those guys that came from the other unit?

Witness:

No I did not ma'am.

013057

Counsel:

Now, you testified today that SSG [REDACTED] you testified that he was involved in some of this this rough handling, right?

b(6)-5; b(7)(c)-5

Witness:

Yes ma'am.

Counsel:

You actually used his name

Witness:

Yes ma'am.

Counsel:

You also testified that your sworn statement is probably more accurate because it was taken closer in time to the events, right?

Witness:

Yes ma'am.

(Same)

Counsel:

You didn't identify SSG [REDACTED] by name in your sworn statement, right?

Witness:

That's correct ma'am.

Counsel:

You said some SSG out there, right?

Witness:

Yes ma'am.

Counsel:

Before the uh...EPWs were loaded on the bus you were working in the pit, right?

Witness:

That's correct.

Counsel:

Did you guys search them before you put them on the bus?

013058

Witness:

Don't recall ma'am.... I don't know if they were searched on the other side of the bus...I know that typically, since we take them from a secured facility into our custody and into a secure facility uh which is ABC which they go...uh-- I don't think that the search is a common practice, because they're already in a secured area.

Counsel:

The secured area being... much like they've got down here, right?

Witness:

Yes ma'am.

Witness:

Constantina wires.

Witness:

Yes ma'am.

Counsel:

Sand?

Witness:

Exactly.

Counsel:

Okay, you didn't search them in the pit?

Witness:

No I did not ma'am.

Counsel:

Did you put flex-cuffs on any of them or handcuffs?

Witness:

No ma'am.

Counsel:

Did you, from your vantage point, did you ever see SGT [REDACTED] uh...throw EPWs off the bus?

b(6)-4; b(7)(c)-4

013059

Witness:
No ma'am.

Counsel:
Did you ever see him head-butt an EPW as he's taking him off the bus?

Witness:
No ma'am.

Counsel:
When you talked about these leg sweeps, SSG [REDACTED] was standing directly next to the EPW that he was escorting, correct?

b(6)-5, b(7)(c)-5

Witness:
That is correct.

Counsel:
They were hip-to-hip?

Witness:
Pretty much ma'am.

Counsel:
And his back was to you as this was happening?

Witness:
That's correct.

Counsel:
And the times that you've put people in the prone, you talked about that talked about putting people in the prone, you had other people there to assist you, correct?

Witness:
Yes ma'am.

Counsel: Thanks Specialist [REDACTED] b(6)-4; b(7)(c)-4

I/O: Major?

Questions by the defense counsel: MAJ [REDACTED] b(6)-2; b(7)(c)-2

Counsel:
I have a few questions about this interpreter, I'll start with him, on the bus, do you recall what he was wearing?

013060

Witness:

As I recall it was a pair of brown pants, and a like a yellow wide-wing 70s shirt, I mean it was pretty ...pretty good clash (laughs).

Counsel:

Okay, thank you...and when he went down into the stairwell SGT [REDACTED] yelled for him to come back up, right? Or shouted something at him?

b(6)-4; b(7)(c)-4

Witness:

Yes ma'am.

Counsel:

And he didn't come back up right away, did he?

Witness:

I recall him coming back up, ma'am-I'm that sure.

Counsel:

You don't?

Witness:

I do.

Counsel:

You do...but um...SGT [REDACTED] had to train his gun on him?

Witness:

(same)

Yes ma'am.

Counsel:

And that's the shotgun?

Witness:

Yes ma'am.

Counsel:

But how close was the weapon to the EPW?

Witness:

Um...probably 8 feet, 9 feet.

Counsel:

So he had to use the weapon to make him come back up?

013061

Witness:

Yes ma'am because he was not...he was...there were other EPWs in his way, so he could not go over there and physically bring him back up into the bus.

Counsel:

So it did take the weapon to motivate this man to come back.

Witness:

Apparently ma'am, you'd have to ask SGT [REDACTED]

Counsel:

Well you were on the bus? And witnessed this?

Witness:

Yes ma'am.

Counsel:

And the EP...the interpreter that you said was dragged and his pants fell down...is that the same interpreter we're talking about?

Witness:

I believe so ma'am, yes.

Counsel:

And when you saw him being dragged...could explain again how the uh...escort was holding him?

Witness:

I believe the uh...he was bound, I think, he was bound by the wrist, but I know that the person that was escorting him was on the left arm, he had him by the elbow, the interpreter's left elbow was up like this, I can't remember if he was bound or not. He had ~~him~~ by the left elbow and the individual was dragging him towards the staging area.

Counsel:

Was the interpreter's entire body on the ground? Or were his feet kind of just dragging?

Witness:

Uh...probably from about mid-chest down was on the ground.

Counsel:

And he wasn't walking because his pants fell down?

Witness:

He wasn't walking because he was being dragged across the ground ma'am.

013062

Counsel:

And you don't...you didn't see what happened before that to...

Witness:

No I did not.

Counsel:

Did you notice this interpreter back up at Talil when he was boarding the bus?

Witness:

I noticed him only once I got on the bus and identified our English speaker.

Counsel:

Do you recall him pulling his pants up constantly during the bus ride?

Witness:

No I do not.

Counsel:

You all got together and discussed uh...what happened that night after all the EPWs were downloaded, your squad got together and talked a bit, right?

Witness:

Yes ma'am.

Counsel:

And who was there?

b(6)-4; b(7)(c)-4

Witness:

I believe it would've been SGT [REDACTED], SPC [REDACTED], SGT [REDACTED], myself, and SSG [REDACTED]

Counsel:

What was discussed?

(same)

Witness:

We were just telling SSG [REDACTED] what we had seen uh...so he could have a full report to MAJ [REDACTED] uh...he had said that we were gonna do some sworn statements, there were gonna have to be done probably the next day-it was late. Get up and do them in the morning and we broke and went to bed.

Counsel:

And have you talked to anybody in your squad about the events of that night after that meeting?

013063

Witness:

I may have ma'am I'm not sure.

Counsel:

Did you talked to anybody here at Bucca since you've been here to testify um..before you testified about ...the events that...happened....that you....that night?

Witness:

No ma'am.

Counsel:

When was the last conversation you had with your squad, anybody in your squad, about this?

Witness:

Other than the newspaper article, if we're talking specifically about the case and what happened that night, I can't tell you ma'am. I mean, something may have been brought up here and there but there's never been full-out detailed discussions of ...why this happened or what should have been...we talked about, you know, some we wish we would've done something. We wish we should've done something that night, instead of waiting the next morning to do the uh...sworn statement. Unfortunately, it's easy to armchair quarterback.

Counsel:

Okay, I have no further questions. Thank you.

I/O:

Major [REDACTED]

b(6)-2; b(7)(c)-2

REDIRECT EXAMINATION

Questions by the trial counsel: MAJ [REDACTED]

b(6)-2; b(7)(c)-2

Counsel: b(6)-4; b(7)(c)-4

SPC [REDACTED] just a couple...when you got together with your squad that night, after you had finished with the mission, um...and you discussed this matter; had you ever seen MPs treat prisoners this way before?

Witness:

No I had not.

Counsel:

Did that have any effect on your decision to report it?

Witness:

Yes.

013064

Counsel:
What effect did that have?

Witness:
Uh...we pretty much had to report it.

b(6)-4; b(7)(c)-4

Counsel:
Now, I think you were being asked by CPT [REDACTED] if a prisoner is resisting then I think the words that he used were, "the perfectly acceptable thing to do is to put the EPW to the ground".

Witness:
Right.

Counsel:
And you said that that was true?

Witness:
To place them on the ground, yes, sir.

Counsel: (Same)
Is the manner in which SSG [REDACTED] was doing that, the "perfectly acceptable thing to do"?

Witness:
Absolutely not, sir.

Counsel:
And why is that?

Witness:
Because they're very susceptible to injury in the neck and the head.

Counsel:
And that's because of the way he was doing it?

Witness:
Yes sir.

Counsel:
And how was he doing it?

Witness:
He was almost hip-tossing them up into the air and driving their head into the ground.

Counsel:

013065

Now, there were some questions about the different status of some of these prisoners; to your knowledge, is it acceptable to abuse prisoners because of their status?

Witness:

No sir.

Counsel:

Because no matter what a prisoner's status, whether they're a suspected war criminal or a foot soldier from the enemy forces, you treat them the same, right?

Witness:

Yes sir.

Counsel:

Based on their status? I mean if they conduct themselves in

Witness:

We treated them the same based on our professionalism, sir.

Counsel:

If they act differently, then they...

Witness:

Yes sir.

Counsel:

But, just because of who they are...

Witness:

No.

Counsel:

There's no basis to treat them differently is there?

Witness:

That's correct sir.

Witness:

Counsel:

Now, let's go to that person that you saw being...the prisoner that you call the interpreter that was being drug across the ground, you have identified the person that you saw dragging him across the ground?

Witness:

That is correct.

013066

Counsel:
And that was SPC Canjar?

Witness:
Yes sir.

Counsel:
Alright, now...if, from your training, if a prisoner won't get up, is it proper procedure to drag the prisoner across the ground?

Witness:
No sir.

Counsel:
Is it proper procedure to drag him across the ground with their pants around their ankles?

Witness:
No sir.

Counsel:
Um...you mentioned that...when you were asked some questions about whether you had identified this SSG by his name in your statement, and you did not identify SSG [REDACTED] in this statement, did you?

Witness:
That is correct.

b(6)-5; b(7)(c)-5

Counsel:
But on your mission that night there were the 220th-the 223rd, excuse me-and the 320th, right?

Witness:
That's correct sir.

Counsel:
And there were two SSGs total, correct? SSG [REDACTED]

b(6)-4; b(7)(c)-4

Witness:
That's correct.

Counsel:
And SSG [REDACTED] (Same)

Witness:
That's correct.

013067

Counsel:
Were there any other SSGs?

Witness:
Not that I was aware of.

Counsel:
And did you see SSG [REDACTED] ^{b(6)-4; b(7)(c)-4} throwing prisoners to the ground?

Witness:
No sir he was at the Bucca TOC.

Counsel:
Did you see him pulling anybody's leg apart while somebody kicked him in the groin?

Witness:
No sir.

Counsel:
Okay, so...but you're sure that it was the other SSG that was doing this?

Witness:
Yes sir.

Counsel:
All right. Thank you, I don't have any further questions for you.

I/O:
Anything from the defense?

[The witness was duly warned, dismissed and left the room.]

[Comment for the record by defense counsel: CPT [REDACTED] ^{b(6)-2; b(7)(c)-2}

Before we get started, I just wanted to take up something about one of the dialogues that happened earlier. The Trial Counsel said that the Defense was "pulling some sort of dirty trick in an attempt to impugn the character of witnesses" by asking them if they had been read their rights or charged, and it is my understanding is even people that are read their rights and charged are innocent until proven guilty, so I hope that there is no implication here that because our clients are charged that they're somehow guilty or bad people or something like that. So I just wanted to state for the record that hopefully that's not anybody's understanding of the comments that were made. Thank you.

I/O:
Okay, that's not my understanding.

013068

DIRECT EXAMINATION

SGT [REDACTED] U.S. Army, was called as a witness for the Government, was sworn and testified as follows: b(6)-4; b(7)(c)-4

Questions by the trial counsel: MAJ [REDACTED] b(6)-2; b(7)(c)-2

Counsel:

You were on the mission on the 12th of May to go pick-up prisoners at Talil airbase, is that correct?

Witness:

Yes sir.

Counsel:

All right, um...and uh...what was your...what were your duties for that mission?

Witness:

Uh...I'm a team leader, sir. My driver was SSG [REDACTED] um...and my gunner was SPC [REDACTED]. We were lead vehicle on the way up there and on the way back. I did more convoy security than directly working with the EPWs themselves, when we got up there. On the..When we got back here, I did...I was in charge of the property detail and then also, I had to go jump one of the 320th vehicles, too. b(6)-2; b(7)(c)-2

Counsel:

All right um...lets just go straight to the trip back ..um..the uh... during the ride back from Talil to um...Bucca, did uh...was there an incident that happened with the bus?

Witness:

Roger.

Counsel:

What happened?

Witness:

I think we were about halfway back and...uh we were lead vehicle, radio communication was not good, because one the didn't have radios-they had some handheld's, but they didn't always work in the I think the batteries were low, at that time, too. We looked back we noticed that the bus had slowed down or stopping and the rest of the convoy, so we uh..we were probably 500 to 600 meters away by then when we noticed and uh...we turned around, came back, and uh...got back with the rest of the convoy. Once we were back in the lead vehicle we had turned around probably 2 or 3 minutes past, if that, and uh...we noticed that there was only one personnel uh...outside the vehicles in front of the bus, which was directly behind us in the convoy. And uh...and everybody else had gone up inside the bus. So I immediately got out of the vehicle to figure out what was going

013069

b(6)-4; b(7)(c)-4

on, went to the bus, stood outside the bus with the door open, and uh...either I asked SGT [REDACTED] or SPC [REDACTED] I have it written in my statement-it's been four months now-or uh..SGT [REDACTED] or SPC [REDACTED] and uh...asked them what was going on. They said "nothing" except for the bus had blown an air hose and the drivers had got out and they were immediately working on it right there. So he said we'd be back up in 15 minutes.

Counsel:

Okay, did you actually board the bus?

Witness:

Negative.

Counsel:

So you just stayed outside?

Witness:

Roger.

Counsel:

So the bus and the vehicles escorting the bus got back underway after this with the air hose situation was corrected?

Witness:

Roger. Uh..I did witness, I don't know who, it wasn't one of our personnel because I didn't recognize the voices, one of the 320th personnel say, "hey who's the troublemaker on the bus" and there was, I did look up into the bus, and I saw approximately 3 to 4 personnel in the aisle towards the front of the bus kinda looking at the EPWs trying to figure out what was going on.

Counsel:

okay, now...once you got back her to Camp Bucca...what happened then?

Witness:

b(6)-4; b(7)(c)-4 (all)

Once we got back to Bucca uh...they weren't ready for us, nobody in the whoever was controlling the in processing was not ready for us, so we probably had to wait about 45 minutes for them to get the property personnel, whoever was in charge of basically signing over the EPWs for them. So uh...that took about 45 minutes uh...me and SSG [REDACTED] both had left to try and round up people to try and get them out there so we could hurry up and get this over with because by that time I think it was ...oh it was like 2130 or something like that...um...and so it had been a long day and uh.... They finally get everybody there. SGT [REDACTED] stood at the front of the bus, and he proceeded to uh, we'd take about five personnel off the bus at-a-time, they line up, get down to the bottom of the steps, SGT [REDACTED] would check their ID, the wristband, and then shout out the name and he would also ask them, you know, if they were civilian, Republican Guard, you know, and etcetera, just so they would know how to segregate them once they

013070