



Task Force Band of Brothers Public Affairs Guidance

REFERENCES:

Army Regulation 27-10, Military Justice, 11 November 2005.

Army Regulation 360-1, The Army Public Affairs Program, 15 September 2000.

MNC-I Public Affairs Guidance, Investigation Procedures Queries, 14 June 2006.

1. **PURPOSE.** This PAG provides general public affairs guidance concerning the alleged misconduct of U.S. Army personnel assigned to the 101st Airborne Division/Task Force Band of Brothers.

2. **BACKGROUND (NOT FOR RELEASE).**

2.A. 1-502d Case.

On 240030JUN06 the 1-502d BN CDR, LTC Kunk received a phone call from CPT John Goodwin, B CO, 1-502d IN BN, indicating a possible CF involvement in the deaths of four L/N at a residence vicinity TCP 2 on or about 12 March 2006. CID was notified, the platoon was brought to FOB Mahmudiyah North to begin the interview process with CID. The alleged events took place in the vicinity of TCP 2 – Yusufyah / Rushdi Mulla on or about 12 March 2006 between 1300 and 1500 hours.

Allegedly SGT Paul CORTEZ, SPC James BARKER, PFC Steven GREEN, and PFC Jesse SPIELMAN, were playing cards and drinking alcohol. The Soldiers are alleged to have gone to the house of an Iraqi Family nearby. They then allegedly raped a young woman who lived at the residence and set her on fire. They are also thought to have murdered her family. To include a 5-year-old child who lived at the house.

PFC Steven Green was released from the service. He received an administrative discharge under AR 635-200 for a personality disorder. He was discharged from the Army on 12 May 06. He was arrested in the United States (Kentucky) on or about 3 July 2006 and charged by the U.S. Government with murder and rape.

CID arrived at FOB Mahmudiyah North on Sunday 25 June 2006 and began their investigation. The case is still officially under investigation at this time.

2.B. 3-187th Case.

Four Soldiers from 3rd Battalion, 187th Infantry are accused of murdering three Iraqi detainees on 9 May 2006 during Operation Iron Triangle (Iron Triangle was a series of air assault raids conducted 9-12 May in the Muthana Chemical Complex south of Samarra near Lake Thar Thar).

On the day the alleged murders occurred and after visiting the scene of the incident, the 3rd BCT Commander ordered an AR 15-6 investigation to determine the circumstances surrounding the deaths of the three detainees. The investigating officer's initial findings – along with the preliminary indications from the subsequent CID investigation – did not specify a crime had been committed.

Additional information from Soldiers in the unit led to further CID investigation and has resulted in the four Soldiers being charged with attempted premeditated murder, premeditated murder and conspiracy to commit premeditated murder. Three of the Soldiers were additionally accused of communicating a threat and obstructing justice. Those three accused Soldiers are at Camp Arifjan, Kuwait in pre-trial confinement.

The fourth Soldier is still with his unit under the supervision of his chain of command.

3. PUBLIC AFFAIRS POSTURE.

3.A. Public Affairs posture is **passive**; response to query.

3.B. Inquiries into the case of Steven Green should be referred to the Department of the Army Public Affairs and the Department of Justice.

3.C. Questions beyond the scope of this PAG should be referred to MNC-I Public Affairs.

4. THEMES/MESSAGES:

4.A.1. THEME – All Soldiers are presumed innocent unless and until proven guilty in a court-martial or court of law.

- Allegations are not charges: the appropriate action will be taken based on the results of the investigation being conducted by CID.

- All Soldiers are presumed innocent unless and until proven guilty in a trial/court-martial.

- We will make absolutely certain that these Soldiers receive the support they're entitled to throughout the process

4.A.2. THEME: The 101st Airborne Division/Task Force Band of Brothers neither supports nor condones the commission of crimes by U.S. service members.

- The commission of any crimes or actions prohibited by law or the Geneva Convention is prohibited by U.S. Army regulation and is punishable under the UCMJ.

- Soldiers who engage in the commission of crimes will be held accountable.

- Soldiers who violate the Uniform Code of Military Justice may be tried by court-martial and/or also face other adverse action.

- U.S. Soldiers are expected to show and maintain dignity and respect of their fellow soldiers as well as coalition force members, and the Iraqi people.

- We will continue to investigate these alleged crimes and take appropriate legal action while ensuring the Soldiers' involved receive the support they're entitled to.

4.A.3. THEME - All soldiers are expected to live up to the seven Army Core Values.

– There are tremendous demands on all soldiers. We all have been given sufficient training to deal with those demands.

–The Army strategy on training raises the individual to the Army's standard; it does not lower the Army standards for the individual.

4.A.4. THEME – The overwhelming majority of 101st Airborne Division Soldiers have performed exceptionally well throughout the last year, and continue to perform well every day.

- We are taking the proper measures to deal with the alleged crimes head on; the alleged actions of this very few, however, cannot be allowed to taint the tremendous sacrifices our Soldiers are making.

- We are extremely proud of the job our troops are doing, and they know without a doubt that the entire chain of command is completely supportive of them.

- These incidents cast a negative shadow on our operations, but it's important to remember that more than 20,000 young Americans are making the right choices day in and day out in the toughest conditions.

5. THE FOLLOWING QUESTIONS AND ANSWERS ARE PROVIDED FOR USE IN RESPONSE TO QUERY:

Q1. What are the Soldiers being accused of?

A1. (1-502d) The following charges have been preferred:

(1) Sergeant Paul E. Cortez is charged with:

- 1 specification of rape
- 4 specifications of premeditated murder
- 1 specification of conspiracy to commit rape and murder
- 1 specification of obstruction of justice
- 1 wrongfully consuming alcohol
- 1 specification of housebreaking
- 1 specification of arson

(2) Specialist James P. Baker is charged with:

- 1 specification of rape
- 4 specifications of premeditated murder
- 1 specification of conspiracy to commit rape and murder
- 1 specification of obstruction of justice

- 1 wrongfully consuming alcohol
- 1 specification of housebreaking
- 1 specification of arson

(3) Private First Class Jesse V. Spielman is charged with:

- 1 specification of rape
- 4 specifications of premeditated murder
- 1 specification of conspiracy to commit rape and murder
- 1 specification of obstruction of justice
- 1 wrongfully consuming alcohol
- 1 specification of housebreaking
- 1 specification of arson

(4) Private First Class Bryan L. Howard is charged with:

- 1 specification of rape
- 4 specifications of premeditated murder
- 1 specification of conspiracy to commit rape and murder
- 1 specification of obstruction of justice
- 1 wrongfully consuming alcohol
- 1 specification of housebreaking
- 1 specification of arson

(5) Sergeant Anthony W. Yribe is charged with:

- 1 specification of failure to report the rape and murders

As for Steven Green, he is now a civilian and has been charged with murder and rape by Federal prosecutors. He will be tried in a civilian court of law.

(3-187th) The following charges have been preferred:

(1) Staff Sergeant Raymond L. Girouard is charged with:

- 3 specifications of attempted premeditated murder
- 1 specification of conspiracy to commit premeditated murder
- 2 specifications of premeditated murder
- 3 specifications of communicating a threat
- 3 specifications of obstructing justice

(2) Specialist William B. Hunsaker is charged with:

- 1 specification of attempted premeditated murder
- 1 specification of conspiracy to commit premeditated murder
- 2 specifications of premeditated murder
- 2 specifications of communicating a threat
- 2 specifications of obstructing justice

(3) Private First Class Corey R. Clagett is charged with:

- 1 specification of attempted premeditated murder
- 1 specification of conspiracy to commit premeditated murder
- 2 specifications of premeditated murder

- 1 specifications of communicating a threat
- 1 specifications of obstructing justice

(4) Specialist Justin R. Graber is charged with:

- 1 specification of premeditated murder
- 1 specification of conspiracy to commit premeditated murder
- 1 specification of attempted premeditated murder
- 1 specification of making a false official statement

Q2. Will the accused Soldiers be punished for these crimes?

A2. (1-502d) Again, the Soldiers in question have not been charged with any crimes at this time. The allegations are currently under investigation. As a policy we do not comment on ongoing investigations in order not to compromise the rights of the parties involved. The appropriate actions will be taken upon completion of the investigation.

(3-187th) The investigation into these alleged crimes is continuing, and there are prescribed steps in the legal process that we'll follow. No one will be punished unless or until found guilty of a crime.

Q3. Does a Soldier who is accused of a crime have any rights under the UCMJ?

A3. Any service member charged with an offense under the UCMJ is entitled to the following:

- To a presumption of innocence until proven guilty in court by competent evidence beyond a reasonable doubt.
- The burden of proof is on the government.
- The service member has the right against self incrimination and to remain silent.
- He or she has the right to be served with a written copy of the charges in advance of the trial.
- An independent military defense counsel is provided free of charge regardless of the ability of the accused to pay.
- The service member has the right to discovery of whatever evidence the government has under the charges.
- The service member has the right to have the government compel the attendance of relevant witnesses, including civilians, in the service member's defense at a court-martial.
- The service member has the right to have relevant expert witnesses for the defense appointed at government expense regardless of the member's ability to pay.

Q4. What makes up the military system of justice?

A4. The military justice system provides rights and due process very similar to the rights provided an accused in civilian criminal courts. The military justice system is composed of the Uniform Code of Military Justice (UCMJ), as enacted by Congress, the Manual for Courts-Martial (MCM), as implemented by the President, the decisions of the appellate courts and the regulations of the military services.

Q5. What is the purpose of the UCMJ?

A5. The purpose of military law is to promote justice, to assist in maintaining good order and discipline in the armed forces, to promote efficiency and effectiveness in the military establishment, and thereby to strengthen the national security of the United States.

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Q6. We heard that the Soldiers may be charged after an Article 32 investigation. What is that?

A6. The Fifth-Amendment constitutional right to grand jury indictment is expressly inapplicable to the Armed Forces. In its absence, Article 32 of the Uniform Code of Military Justice (Section 832 of Title 10, United States Code), requires a thorough and impartial investigation of charges and specifications before they may be referred to a general court-martial (the most serious level of courts-martial). The purpose of this pretrial investigation is to inquire into the truth of the matter set forth in the charges, to consider the form of the charges, and to secure information to determine what disposition should be made of the case in the interest of justice and discipline. The investigation also serves as a means of pretrial discovery for the accused and defense counsel in that copies of the criminal investigation and witness statements are provided and witnesses who testify may be cross-examined.

Q7. Does this Article 32 investigation determine if the Soldiers actually committed a crime?

A7. Article 32 hearings do not determine guilt or innocence. Upon completion of the hearing, the investigating officer submits a written report of the investigation to the commander who directed the investigation. The report includes:

- Names and organizations or addresses of defense counsel and whether they were present throughout the taking of evidence, or if not, why not.
- The substance of any witness testimony taken.
- Any other statements, documents, or matters considered by the investigating officer.
- A statement of any reasonable grounds for belief that the accused was not mentally responsible for the offense, or was not competent to participate in the defense during the investigation, or there is a question of the competency of the accused to stand trial.
- A statement whether the essential witnesses will be available at the time anticipated for trial or a statement why any essential witness may not then be available.
- An explanation of any delays in the investigation.
- The investigating officer's conclusion whether reasonable grounds exist to believe that the accused committed the offenses alleged.
- The recommendations of the investigating officer, including disposition of the charges to the commander.

Q8. Who conducts the investigation?

A8. The Appointing Authority (usually the Brigade Commander) appoints an Investigating Officer to conduct the investigation. He will assign the person he thinks is most capable of handling the investigation.

Q9. What if the Investigating Officer cannot determine the cause of the incident?

A9. In the case that the Investigating Officer cannot reach a determination, he would give his recommendation(s) to the Appointing Authority, who would then determine whether to appoint another Investigating Officer or conclude the investigation.

Q10. What does the Appointing Authority do when he gets the complete investigation turned into him?

A10. The Appointing Authority can approve the findings in whole, or substitute or add his own findings based upon evidence in the report. The Appointing Authority could send the report back to the Investigating Officer with questions or request more information. At times, the Appointing Authority may make recommendations that require action by a higher headquarters.

6. KEY AUDIENCES.

Target Audiences: Population of Iraq, United States and the coalition forces.

US Audiences

1. Soldiers and family members in the affected units
2. The larger Ft. Campbell / Clarksville / Hopkinsville / Nashville community
3. Senior military officials/commanders, governmental officials at the national level, senior DoD leaders

Iraq Audiences

1. Local villagers in the town (1-502)
2. Provincial and GOI leaders
3. "Arab Street" -- needs to include regional / neighboring audiences

Coalition forces

1. Other forces in Iraq

7. POINTS OF CONTACT:

7.A. 101st Airborne Division Public Affairs Officer: LTC Loomis, VOIP 672-1190.

7.B. 101st Airborne Division Deputy Public Affairs Officer, MAJ Jeff Allen, VOIP 672-1190.

7.C. 101st Airborne Division Public Affairs Plans Officer, MAJ Mary Constantino, VOIP 672-1190.