

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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AMERICAN CIVIL LIBERTIES UNION,  
CENTER FOR CONSTITUTIONAL RIGHTS,  
PHYSICIANS FOR HUMAN RIGHTS,  
VETERANS FOR COMMON SENSE AND  
VETERANS FOR PEACE,

ECF CASE

Plaintiffs,

No. 04 Civ. 4151 (AKH)

v.

DEPARTMENT OF DEFENSE, AND ITS  
COMPONENTS DEPARTMENT OF ARMY,  
DEPARTMENT OF NAVY, DEPARTMENT  
OF AIR FORCE, DEFENSE INTELLIGENCE  
AGENCY; DEPARTMENT OF HOMELAND  
SECURITY; DEPARTMENT OF JUSTICE,  
AND ITS COMPONENTS CIVIL RIGHTS  
DIVISION, CRIMINAL DIVISION, OFFICE  
OF INFORMATION AND PRIVACY, OFFICE  
OF INTELLIGENCE POLICY AND REVIEW,  
FEDERAL BUREAU OF INVESTIGATION;  
DEPARTMENT OF STATE; AND CENTRAL  
INTELLIGENCE AGENCY.

Defendants.

.....x  
**DECLARATION OF RICHARD B. MYERS**

Richard B. Myers, pursuant to 28 U.S.C. sec. 1746, declares as follows:

1. I am the Chairman of the Joint Chiefs of Staff. I serve as the senior military advisor to the President of the United States, the Secretary of Defense, and the National Security Council. I am the highest ranking uniformed officer in the United States Armed Forces. In performing my duties, I routinely confer with and obtain advice from combatant commanders regarding the operational requirements of their commands; I evaluate and synthesize this information; I advise and make recommendations to the Secretary of Defense with respect to these requirements; and, as appropriate, I

communicate the combatant commands' requirements to other elements of the Department of Defense.

2. Through the exercise of my official duties and as a result of my personal knowledge, I am familiar with this civil action and with Plaintiffs' requests for information under the Freedom of Information Act. Further, I have reviewed the 87 photographic and video images that are identified in paragraph 6 of the Third Declaration of Philip J. McGuire (collectively referred to as the "responsive Darby Photos"). For the reasons set forth in this declaration, I have concluded that the official release of the images further identified below, even if redacted to obscure identifying information and, where applicable, the genitalia of those depicted, could reasonably be expected to:

- a. Endanger the lives and physical safety of the soldiers, sailors, airmen, and marines in the United States Armed Forces presently serving in Iraq and Afghanistan, as well as other U.S. officials, Coalition Forces allied with the United States, and contractors serving with these forces;
- b. Endanger the lives and physical safety of Iraqi civilians at large, and police and military personnel of the democratic Iraqi Transitional Government working in coordination with the United States and Coalition Forces in support of Operation IRAQI FREEDOM;
- c. Endanger the lives and physical safety of Afghani civilians at large, and police and military personnel of the Government of Afghanistan working in coordination with the United States and Coalition Forces operating in support of Operation ENDURING FREEDOM, NATO-led operations, and contractors serving with these forces;

- d. Aid the recruitment efforts and other activities of insurgent elements; weaken the new democratic governments of Iraq and Afghanistan, and add radical pressures on several of our regional allies and friends; and
- e. Increase the likelihood of violence against United States interests, personnel, and citizens worldwide.

### **THE BASES FOR MY CONCLUSIONS**

3. My conclusions are based upon my years of service and experience in the United States military; the assessments and evaluations of the U.S. Central Commander, General John P. Abizaid, and his immediate subordinate commander of the Multi-National Forces-Iraq, General George Casey; and intelligence reports and the assessments of Department of Defense subject-matter experts on the Middle-Eastern region, Arab culture, and the tenets of the Islamic religion. In formulating the advice I provide to the President, the Secretary of Defense, and the National Security Council in the ordinary course of my duties, I routinely rely on the views of our combat commanders, intelligence synthesis and reports, and the assessments of subject matter experts. In formulating my conclusions concerning the Darby Photos, I have used the same approach, types of resources, information, and experts. In particular:

- a. I have served in the United States Armed Forces for 40 years at various levels of command and staff. I have served as the Chairman of the Joint Chiefs of Staff since October 1, 2001. I served as the Vice-Chairman from March 2000 through September 2001. I have been the President's principal military advisor since shortly after the attacks on the World Trade Center and the Pentagon, including throughout the inception, planning, and execution of Operation ENDURING

FREEDOM and Operation IRAQI FREEDOM. I have intimate, extensive knowledge of our military forces and their capabilities, as well as of the conventional and unconventional forces and capabilities of the enemies arrayed against us. I daily receive and review intelligence analyses of current regional conditions, acute situations, and trends in operations and conditions relating to Operation ENDURING FREEDOM and Operation IRAQI FREEDOM from the Joint Staff, the Department of Defense, as well as from other intelligence sources within the Executive Branch. I routinely travel to the countries within the U.S. Central Command critical to these ongoing missions. I meet, receive information from, and provide information to, the senior political, civilian, and military leaders of Iraq, Afghanistan, and our other regional allies. Our senior field commanders brief me, and I routinely inspect the environment, conditions, and equipment of our soldiers, sailors, airmen, and marines in the combat theaters of operation.

c. With respect to this matter, I solicited the assessments and recommendations of the U.S. Central Commander, General John P. Abizaid, and the Multi-National Forces-Iraq Commander, General George Casey concerning their views of the military implications of release of the responsive Darby Photos. Both of them, by dint of their positions and responsibilities, have highly informed opinions that I have considered in this matter. General Abizaid is constantly engaged with senior political and civic leaders in the region. Moreover, General Abizaid has specialized knowledge of the Middle East: he is fluent in the Arabic language; he holds a Masters Degree in Middle Eastern Studies from Harvard University; he

was a Hoover Institution, Stanford University Fellow studying Middle Eastern affairs; and he was an Olmsted Scholar at the University of Jordan at Amman. Before his service as the Commander, U.S. Central Command, General Abizaid served under General Tommy Franks as his Deputy Commander (Forward) during Operation IRAQI FREEDOM. After the first Gulf War, he served in the Kurdish region of northern Iraq in Operation NORTHERN WATCH. During the course of his military career, he has served in other positions in the Middle East as well as in positions involving ethnic Muslim minorities in the Balkans. His staff assignments have included tours with the United Nations as operations officer for the Observer Group Lebanon, and he has also served on the Joint Staff as the Director of Strategic Plans and Policy.

d. As the Commander of Multi-National Forces – Iraq, General George Casey is constantly engaged with the senior political and civic leaders in Iraq. He travels extensively throughout the country, and regularly confers with commanders and service personnel at all levels of command and operations. In addition to his numerous Army command assignments, General Casey most recently served as the Vice-Chief of Staff of the Army; immediately before that he served under me, first as the Director of Strategic Plans and Policy, and then as the Director of the Joint Staff. His graduate and post-graduate degrees are in International Relations. General Casey has also served as a Senior Fellow on The Atlantic Council.

e. Both General Abizaid and General Casey agree with and support my conclusions.

f. As I indicated above, I have also considered and relied upon the analysis and assessments of DOD resident subject-matter experts on the Middle-Eastern region, the Arab culture, and the tenets of the Islamic religion.

#### **THE STATUS OF OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM**

4. Following the attacks on the United States of September 11, 2001, the United States military, with the support of a worldwide coalition, launched Operation ENDURING FREEDOM to drive the oppressive Taliban regime – which provided comfort and support to al-Qaeda terrorists – from Afghanistan. As a result of that successful effort, the Taliban was removed from power, and on October 9, 2004, the Afghan people for the first time ever selected their head of state, the president of Afghanistan, by democratic vote. Similarly, Operation IRAQI FREEDOM was launched, again with the support of a worldwide coalition, to remove the dictatorial and murderous regime of Saddam Hussein from power, and succeeded in toppling that dictator and bringing freedom to Iraq. Following a brief period when Iraq was led by a Coalition Provisional Authority, sovereignty of Iraq was transferred to an interim government, and democratically elected representatives of the Iraqi people are in the process of completing work on a national constitution. There is, however, more work to do. Insurgent elements in both Afghanistan and Iraq continue to attack the process of democratic transition in those countries by mounting violent and deadly assaults against the multinational forces that remain posted in the region in order to protect and defend those countries as they take their steps toward freedom. As part of the multinational commitment to strengthening and defending these emerging democracies, more than 19,000 U.S. troops

remain on the ground in Afghanistan and over 140,000 U.S. troops are part of the ongoing mission in Iraq.

5. The situation on the ground in Iraq is dynamic and dangerous, in Baghdad and several other parts of the country. It changes from day to day, and it varies from region to region. With that in mind (and the caveat that numbers alone do not tell the complete story), I offer the following observations to provide the Court with some in-country context for the conclusion that official disclosure of the responsive Darby Photos described further below reasonably can be expected to endanger, in wartime, the lives and physical safety of U.S. military and other personnel, as well as the general public in Iraq and Afghanistan and elsewhere.

6. As General Abizaid testified to the Senate Armed Services Committee on June 23, 2005, the overall strength of the insurgency is about the same as it was six months ago, although he noted his belief that "there are more foreign fighters coming into Iraq than there were six months ago." Current estimates of the number of insurgents are in the range of 16,000 with perhaps 1,000 of that number being foreign fighters.

7. The number of insurgent attacks per day is approximately 70. As I have publicly stated, our assessments indicate that the lethality of the attacks is on average increasing.

8. Among the goals of the insurgency are to use violence against innocent civilians to undercut the mission of the U.S. and Coalition forces, as well as the Iraqi Transitional Government, and to stop the transition to democracy in that country. The insurgents will use any means necessary to incite violence and, specifically, will focus on perceived U.S. or Coalition mistreatment of Iraqi civilians and detainees as a propaganda and recruiting tool to aid their cause.

- a. Thus, for example, we have documented situations in which insurgents have falsely claimed that U.S. actions in Iraq, rather than their own terrorist attacks, have caused death and suffering. One organization, the Global Islamic Media Front, specializes in producing flash videos which typically feature dozens of images of women and children whose suffering is attributed to U.S. actions in Iraq as opposed to the acts of sabotage and violence perpetrated by the insurgents.
- b. Similarly, the insurgents rely on doctored photos and images to support their calls to violence. Last year DOD experts noted doctored images and videos that purported to document the rape of Iraqi women by U.S. soldiers – but which actually originated on a Hungarian pornography site – and that were distributed and presented on pro-Islamist and Arabic news web sites as actual examples of U.S. “barbarism.” In conducting Internet discussions regarding these images/videos on her websites, [Iraq Patrol](#) and [Iraq Tunnel](#), Iraqi novelist and Middle East expert, Buthaina Al-Nasiri, noted, “You cannot imagine the kind of angry messages I receive every day from young Arab men vowing to avenge the Iraqi girls. . . .”
- c. Specific references to the so-called rape photos surfaced in subsequent Muslim sermons throughout the Middle East along with calls for retaliatory violence. For example, in response to similarly doctored rape images, purporting to depict the alleged rape of three Iraqi women at British-run prisons in Iraq, Sheik Abdul-Sattar al-Bahadli of Basra called for Jihad and offered \$350 for anyone capturing a British soldier, \$150 for killing one, and stated that “Any Iraqi who takes a female soldier (foreign) can keep her as a slave or gift to himself.”



d. We have noted other instances of insurgent attacks after the disclosure of images depicting alleged abuse of detainees. On January 21, 2005, three days after 22 photos of detainees in British custody were made public, an Iraqi insurgent suicide car bomber drove his vehicle toward the gate of a British base in southern Iraq. His vehicle detonated just as it was intercepted before reaching the gate, but the explosion still resulted in numerous, very serious British injuries. Al Qaeda leader Abu Musab al-Zarqawi described the attack as a “response to the harm inflicted by British occupation forces on our brothers in prison.”

9. [SEALED] [REDACTED] **Redacted** [REDACTED] documented near-term increases in the assassination of Iraqi government officials (52 in the three-month period ending June 27, 2005), as well as a recent uptick in insurgent attacks on senior diplomatic officials from regional neighbors of Iraq: the Egyptian envoy was abducted on July 4, 2005, and murdered; and, in separate incidents, the Bahrainian and Pakistani ambassadors’ vehicle convoys were attacked on July 6, 2005 (the Bahrainian ambassador was wounded in the hand by automatic weapons fire; the Pakistani ambassador was uninjured, but has been ordered by his government out of the country as a temporary security measure).

10. While I believe that the overall trends in Iraq indicate improvement, attacks on the economic infrastructure in Iraq remain a constant problem, are significantly difficult to defend against (because of generally decrepit conditions and the nature of defending large facilities in diverse geographical locations), and present acute hardships, particularly to Baghdad residents during the summer season. Water, electrical, and oil infrastructure are the main insurgent targets.

11. The situation on the ground in Afghanistan also remains volatile, particularly as the Taliban-led insurgency attempts to derail the political process by increasing attacks in the run-up to the September 18<sup>th</sup> National Assembly elections. Violence has steadily risen since May, and levels of Taliban, al-Qaida, and Hezb-e Islami Gulbuddin (HIG) attacks against our military forces in June were the second highest in a single month since the Taliban fell in late 2001.

12. [SEALED]

**Redacted**

13. Insurgents in Afghanistan have a relatively sophisticated and aggressive information operations campaign. Taliban spokesmen respond quickly to claim credit when insurgents conduct successful attacks against Coalition or Afghan forces, and even claim tactical successes for incidents not related to the insurgency. The Taliban are also quick to spread disinformation about culturally sensitive issues such as the Coalition treatment of Afghan women as a means of turning public opinion against the United States and other Western countries.

14. While the Taliban is struggling to maintain popular support among Afghans, there are indications that their aggressive information operations campaign, combined with growing discontent with the Afghan government, could be fueling localized dissatisfaction with the continuing presence of Coalition and NATO forces. For example, the Taliban were quick to capitalize on the May 11-14 protests against the alleged desecration of the Koran at Guantanamo Bay (discussed in more detail below) and described the protests as, "...a firm reaction of the people of Afghanistan against the presence of U.S. forces ...and inhumane treatment with prisoners at detention centers .... showing disrespect to the Muslims' faith" in a 13 May press statement. Protests, some of which turned violent and deadly, occurred in 14 of the 34 provinces.

**RIOTING AND VIOLENCE FOLLOWING THE NEWSWEEK REPORT OF ALLEGED U.S. DESECRATIONS OF THE KORAN AT GUANTANAMO BAY**

15. On April 30, 2005, Newsweek reported that an unnamed U.S. official had seen a government report documenting desecration of the Koran at the U.S. facility at Guantanamo Bay, Cuba. On May 16, 2005, Newsweek retracted a statement in the article that the abuse had been uncovered in an "internal military investigation" after its source was unable to confirm where he had seen the purported information. Newsweek also offered further qualifications on the story in its May 23, 2005, issue.

16. The Koran's alleged desecration, as reported by Newsweek, was perceived as such an affront to the Islamic faith that massive anti-U.S. demonstrations quickly erupted in the Palestinian territories, Egypt, Sudan, Bangladesh, Pakistan, and Indonesia. Our intelligence assessments indicate that the volatile public sentiments in these Muslim countries were exploited by organized, anti-American extremists who succeeded in fomenting violent and deadly demonstrations.

17. In Afghanistan, in particular, where over 19,000 U.S. troops are currently serving in Operation ENDURING FREEDOM, violence erupted as a result of the Newsweek report. Demonstrations began in the eastern provinces and spread to the capital, Kabul. The United Nations, as a precautionary measure, withdrew its entire foreign staff from Jalalabad, where two of its guesthouses were attacked, government buildings and shops were targeted, and the offices of two international aid groups were destroyed. At least 17 deaths in Afghanistan were attributed to the reaction to the Koran story.

18. [SEALED] Despite Newsweek's published retraction, press reports [REDACTED] [REDACTED] **Redacted** [REDACTED] indicate that Muslims believe that U.S. personnel continue to desecrate the Koran in an effort to humiliate Muslims. For example, Al-Basaa'ir, the website of the Iraqi Sunni Clergymen Council, asserts that desecration of the Koran is a daily occurrence in Iraq under U.S. occupation and posted numerous photos of another alleged such incident. According to the website: "To humiliate the Koran in Iraq is a well-known tactic of the occupation and allied forces. The Koran has been desecrated by the Crusaders and the Jews. The latest incident of this happened when American soldiers raided the Al-Quds Mosque in . . . Al-Ramadi. . . The soldiers searched the entire mosque, tore the Koran, and beat the worshippers during the morning prayers."

19. The riots and violence that followed the Newsweek story had a significant impact on U.S. Central Command operations and intelligence assessments of conditions throughout both combat theaters, as well as regionally and beyond. Our intelligence and operations analysts evaluated the Koran incident in order to provide assessments and "lessons-learned" both to the combatant commanders and the Department of Defense. While I received and reviewed these assessments, my attention was first brought fully to

bear in the context of this case on June 17, 2005. On that day I was informed that disclosure of the Darby Photos could occur as early as June 30, 2005. In light of the nature of the photos, and the riots and violence that occurred after the Newsweek article, I contacted General Abizaid (who in turn contacted General Casey), apprised him of the situation, and asked for General Abizaid's military assessment of the implications of the release of the Darby Photos. General Abizaid and General Casey provided their assessments to me on June 20, 2005. They agreed with my determination that disclosure of the Darby Photos created the significant risks discussed in this declaration.

**[SEALED] THE REDACTED RESPONSIVE DARBY PHOTOS GRAPHICALLY  
DEPICT DETAINEE ABUSE AND MISTREATMENT<sup>1</sup>**

20. [SEALED] I have personally reviewed the 87 responsive photographic and 4 video images that are identified in paragraph 6 of the Third Declaration of Philip J. McGuire.

[SEALED]

Redacted

21. [SEALED]

Redacted

22. [SEALED]

Redacted

<sup>1</sup> The Department of Defense continues to believe that all of the Darby Photos are subject to Exemptions 6 and 7c

Redacted

**Redacted**

23. [SEALED]

[SEALED]

24. [SEALED]

[SEALED] **CONCLUSIONS AFTER REVIEWING THE RESPONSIVE DARBY**

**PHOTOS**

25. [SEALED] While I have said this previously in countless forums, I condemn in the strongest terms the misconduct and abuse depicted in these images. It was illegal, immoral, and contrary to American values and character. The Department of Defense has spared no effort and will continue to press the investigation of, and full accountability for, these criminal acts. Based on my review, I believe that official release of the responsive Darby Photos described in paragraphs 21-24 will pose a clear and grave risk of inciting violence and riots against American troops and coalition forces. I also believe that release of the responsive Darby Photos will expose innocent Iraqi, Afghani, and American civilians to harm as a result of the insurgency's reaction, which will likely involve violence and rioting. It is probable that Al-Qaeda and other groups will seize upon these images and videos as grist for their propaganda mill which, will result in, besides violent attacks, increased terrorist recruitment, continued financial support, and exacerbation of tensions between the Iraqi and Afghani populaces and U.S. and Coalition Forces.

26. [SEALED] The recent vitriolic and violent reaction to Newsweek's Koran report described above – even following its retraction – made it clear that U.S. and allied troops and personnel and civilians in the Middle East will be subject to a likely, serious, and grave risk if the responsive Darby Photos described in paragraphs 21-24 are publicly released. Release of these images will be portrayed as part and parcel of the alleged, continuing effort of the United States to humiliate Muslims and, given the patterns of

violence observed there, will be used by the insurgents as propaganda to increase calls for violence against U.S. and Coalition personnel. I believe that if the responsive Darby Photos are released, riots, violence, and attacks by insurgents will result.

27. [SEALED]

**Redacted**

[SEALED]

**Redacted**

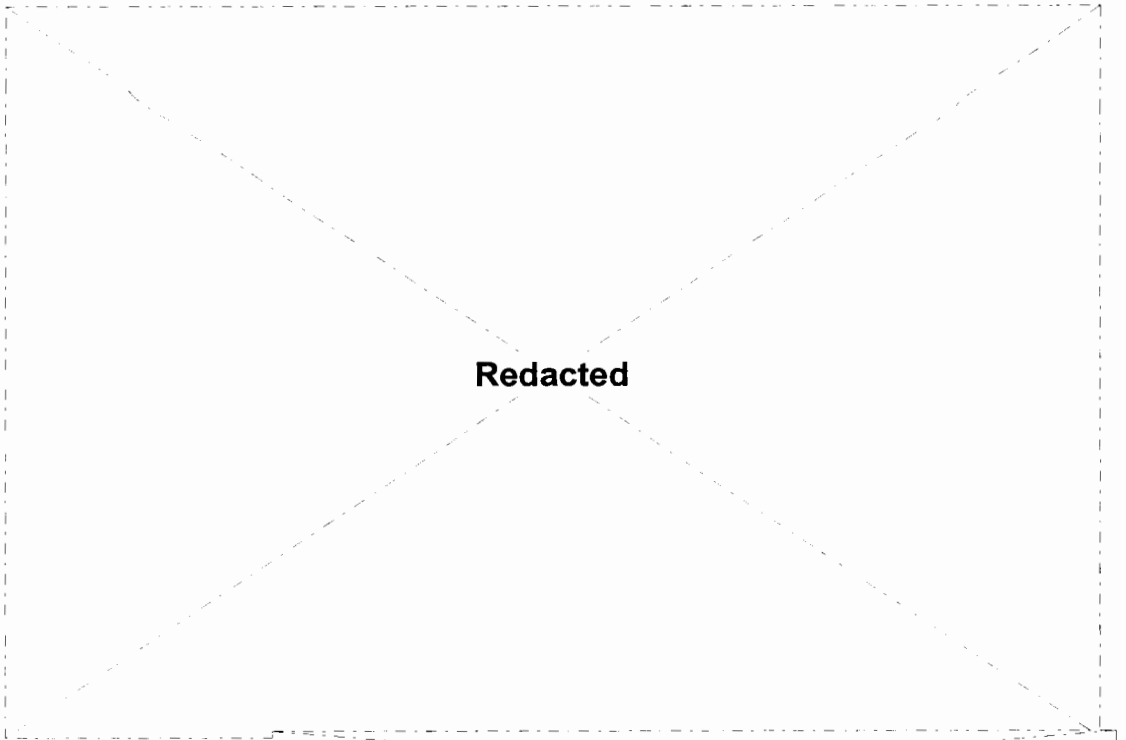
28. [SEALED]

**Redacted**

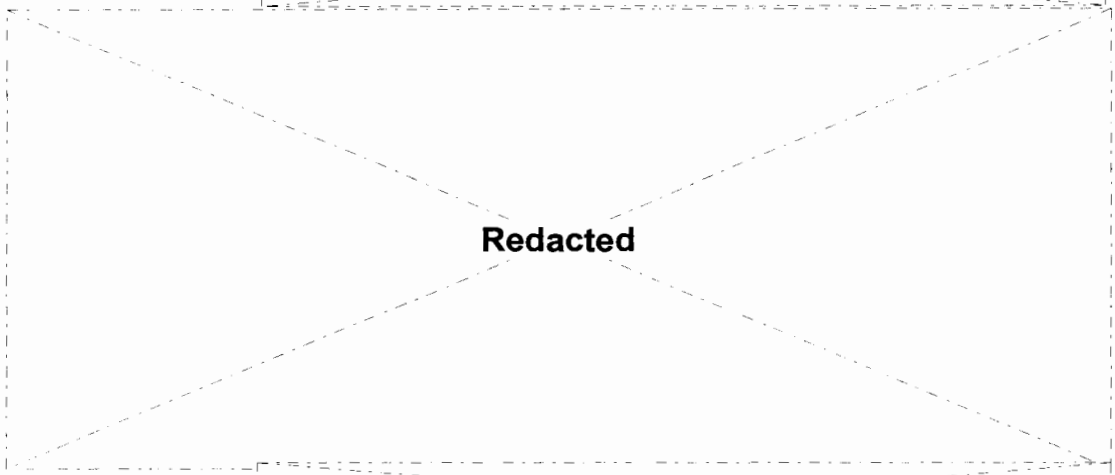
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2A separate addendum is attached that delineates the current status of disciplinary actions taken against those personnel who were involved in the abuse and misconduct depicted in the Darby Photos.



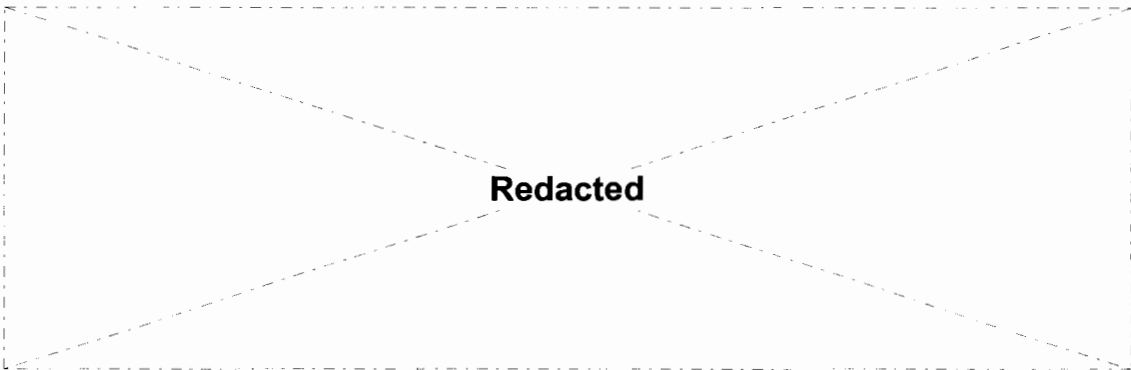
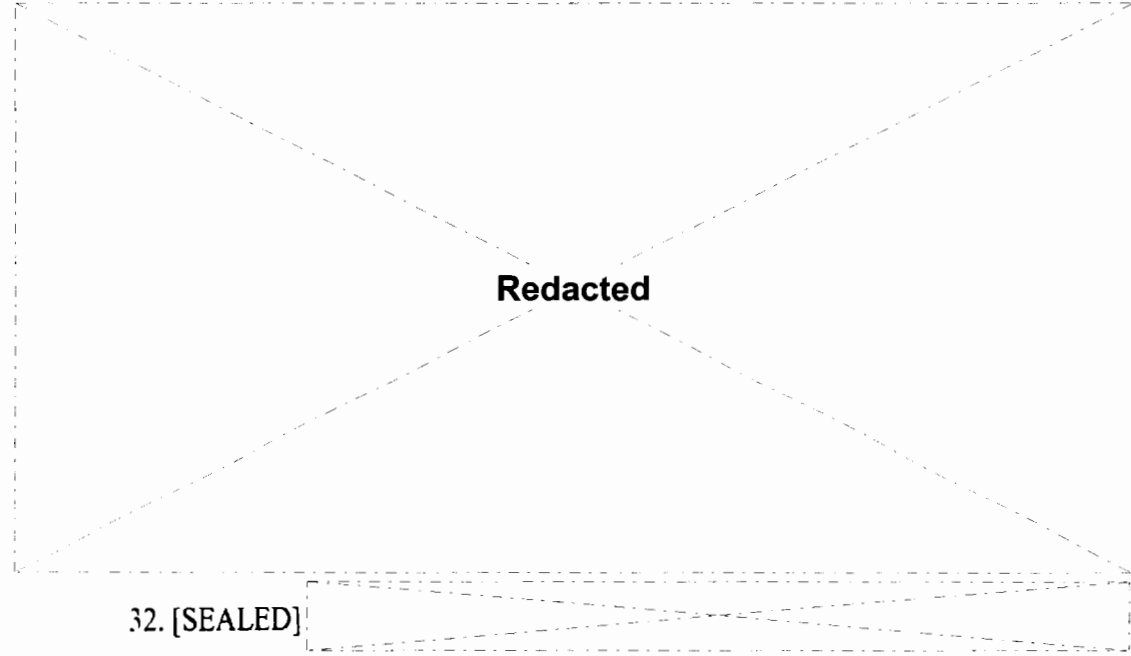
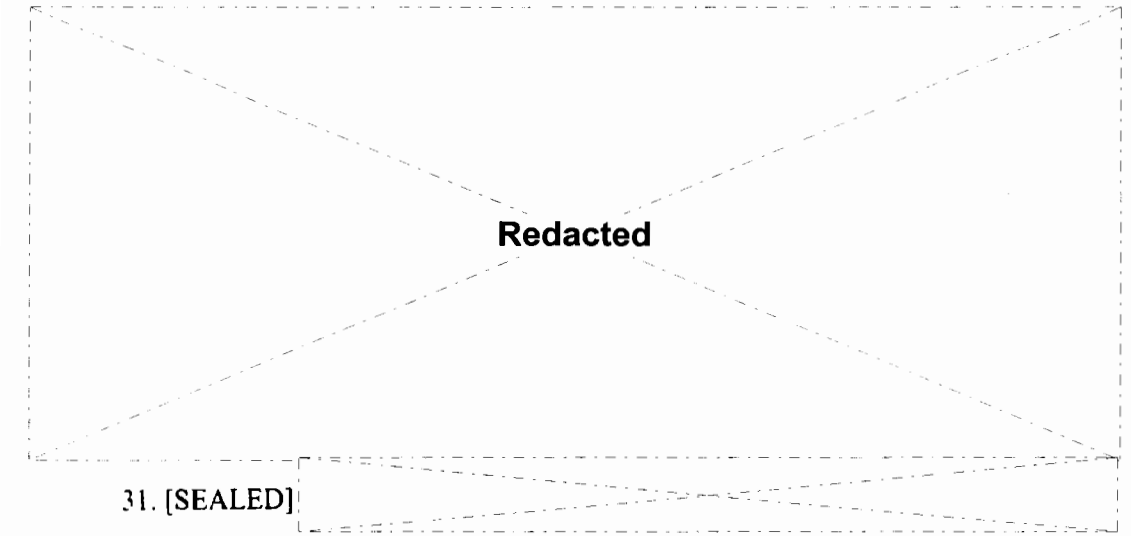


29. [SEALED]



30. [SEALED]





**Redacted**

33. [SEALED]

**Redacted**

According to Dr. Akbar Ahmed, the Chair of Islamic Studies and Professor of International Relations at American University, former High Commissioner of Pakistan to Great Britain, and advisor to Prince Charles, the release of genuine photos of detainee abuse would constitute a “recruiting poster” to incite radicals to attack the West.

[SEALED] Redaction of the Responsive Darby Photos Does Not Alter These Conclusions

34. [SEALED] Redaction of the responsive Darby Photos to obscure individuals’ faces and identifying information and, where necessary, genitalia, does not change my opinion. Release of the photographs and videos, even in redacted form, will very likely lead to riots and violence across the Middle East, posing grave risk to both military forces and civilians.

35. [SEALED] This is because the privacy concerns of the detainees are separate and distinct from the inflammatory nature and offensiveness of the conduct depicted in the responsive Darby Photos– and thus the risk of harm to our personnel – which remains apparent despite redaction. Even with the images redacted, the abuses will be apparent. The official release of these graphic photos and videos depicting this type of behavior and

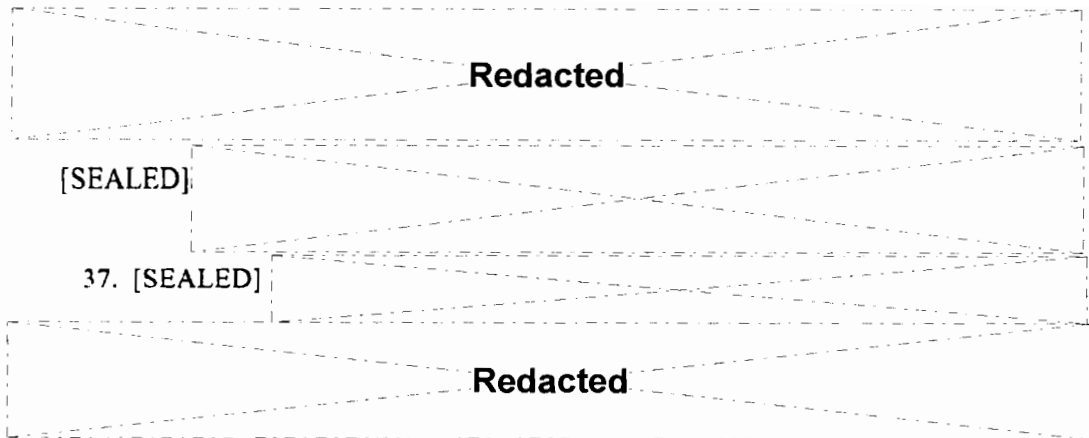
abuse by U.S. military personnel will very likely incite violence and result in casualties, and redaction of the photographs and videos will not alleviate or lessen this risk.

[SEALED]

**Redacted**

36. [SEALED]

**Redacted**



38. As an initial matter, the photographs that were previously leaked were not officially released. An official release by the United States Government lends an imprimatur – an official patina – that has never been attached to these photos.<sup>3</sup> As described above, many individuals in the Middle East will not understand that this official release is not an intentional effort to further ridicule and humiliate the individuals depicted, their culture, or their religion.

39. Before the Newsweek report of alleged Koran desecration, similar reports had been published by mainstream media publications. In particular, several media outlets previously reported that a Koran had allegedly been flushed down a toilet. Yet it was not until the Newsweek report cited a Government source, who appeared to confirm the reports, that the allegations touched off riots and death abroad. Similarly, official release of the responsive Darby Photos by the United States Government (even if some of the images had been leaked before to the press by unofficial sources) is bound to have a much different and more serious effect, different in kind from the prior unofficial release.

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<sup>3</sup> The United States Government has not previously released the responsive photos to the general public, but, as required by law, has provided relevant photos to civilian and military defense counsel in military courts-martial proceedings. Those disclosures have been subject to the requirements and proscriptions of the Military Rules of Evidence, the Rules for Courts-Martial, the Military Rules of Professional Conduct, and applicable military precedent.

40. [SEALED]

**Redacted**

41. In many of the paragraphs of this Declaration, I have provided you my professional military assessments of country-specific, regional, and international conditions and trends. These are based both on my own experience, the assessments of our commanders, and the evaluations of Department of Defense subject matter experts. This information is very sensitive, is not the type we would voluntarily disclose due to its national security and intelligence value, and its disclosure could potentially have adverse diplomatic implications. For those reasons, I respectfully request the Court seal the following paragraphs: 9, 12, 18, (the captions above and) 20-37, 40.

42. In some of the paragraphs of this Declaration, I provide descriptions of the records that are the subject of this litigation. The disclosure of the descriptions could reasonably be expected to endanger the lives and physical safety of persons described in paragraph 2. above. For that reason, I respectfully request the Court seal the following paragraphs: (the captions above paragraphs and) 21-24.

CONCLUSION

In light of the knowledge and information described herein, and given the provocative and offensive nature of the Darby Photos, I believe that the Darby Photos that I have identified in this declaration must be withheld in order to protect the lives of: members of the United States Armed Forces, forces operating in cooperation with the United States, and contractors operating with those forces; U.S. officials; Iraqi and Afghani police and military personnel working in coordination with our government and military forces; as well to protect against the increased likelihood of violence against U.S. interests, personnel, and citizens world-wide.

I declare under penalty of perjury that the foregoing is true and correct.

  
RICHARD B. MYERS

Date: Washington, D.C.  
July 21, 2005

**Addendum to the Declaration of Richard B. Myers :**

**Current Status of Criminal Actions Taken Against Personnel Involved  
in the Abuse and Misconduct Depicted in the Darby Photos<sup>1</sup>**

**COURT-MARTIAL CASES**

**GENERAL AND SPECIAL COURTS-MARTIAL**

1. **SSG Ivan Fredrick**, 372<sup>nd</sup> Military Police Company

**Status:** Convicted, General Court-Martial

**Jurisdiction:** III Corps, Fort Hood, Texas

**Date of Incident:** October - November 2003

As a guard at the Baghdad Central Confinement Facility in Abu Ghraib, Iraq, SSG Frederick was the NCO in charge of the night shift when he conspired with several other guards to maltreat detainees at Abu Ghraib Prison and then photograph the misconduct. The abuse occurred in October and November 2003. Abusive acts included male detainees naked in the presence of female Soldiers; female detainees exposing themselves to male Soldiers; detainees performing indecent acts with each other in the presence of Soldiers; and photographs of Soldiers physically assaulting detainees while these Soldiers posed for the camera. SSG Frederick organized many of the acts of abuse and appeared in many of the photographs.

On 21 October 2004, SSG Frederick pled guilty at a General Court-Martial in Baghdad, Iraq to Conspiracy, Maltreatment, Simple Battery, and Indecent Acts. He was sentenced by the Military Judge to Reduction to E-1, Total Forfeitures, Confinement for 10 years, and a Dishonorable Discharge. His sentence will be capped at 8 years.

2. **SGT Javal Davis**, 372 Military Police Company

**Status:** Convicted, General Court-Martial

**Jurisdiction:** III Corps, Fort Hood, Texas

**Date of Incident:** October - November 2003

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<sup>1</sup> This addendum does not list the numerous adverse administrative actions and non-judicial punishments of the superiors and staff officers in the chain of command of the personnel listed here, e.g., the Commander of the 800<sup>th</sup> Military Police Brigade, the Commander of the 205<sup>th</sup> Military Intelligence Brigade, among several others.



Guards at the Baghdad Central Confinement Facility in Abu Ghraib, Iraq allegedly conspired to maltreat detainees at Abu Ghraib Prison and then photograph their misconduct. The abuse occurred in October and November 2003. SGT Davis was present on a night of detainee abuse and participated in the acts.

On 1 February 2005, SGT Davis pled guilty at a General Court-Martial at Fort Hood, Texas to Battery, Dereliction of Duty and False Official Statement. He was sentenced by a Court-Martial panel including enlisted members to Reduction to E-1, Confinement for 6 months and a Bad Conduct Discharge.

**3. SPC Charles Graner, Jr., 372d Military Police Company**

**Status:** Convicted, General Court-Martial

**Jurisdiction:** III Corps, Fort Hood, Texas

**Date of Incident:** October - November 2003

As a guard at the Baghdad Central Confinement Facility in Abu Ghraib, Iraq, CPL Graner conspired with several other guards to maltreat detainees at Abu Ghraib Prison and then photograph their misconduct. The abuse occurred in October and November 2003.

On 7 January 2005, SPC Graner was tried at a contested General Court-Martial at Fort Hood, Texas and found guilty of Conspiracy, Dereliction of Duty, Maltreatment, and Assault Consummated by Battery. He was sentenced by a 10 member Court-Martial panel including enlisted members to Reduction to E-1, Total Forfeitures, Confinement for 10 years, and a Dishonorable Discharge.

**4. SPC Sabrina Harman, 372nd Military Police Company**

**Status:** Convicted, General Court-Martial

**Jurisdiction:** III Corps, Fort Hood, Texas

**Date of Incident:** October - November 2003

As a guard at the Baghdad Central Confinement Facility in Abu Ghraib, Iraq, SPC Harman allegedly conspired with several other guards, to maltreat detainees at Abu Ghraib Prison and then photograph the misconduct. The abuse occurred in October and November 2003. SPC Harman engaged in several acts of abuse, took several photographs of the abuse, and appeared in several photographs.

On 13 May 2005, SPC Harman was convicted at a contested General Court-Martial at Fort Hood, Texas by a Court-Martial panel including enlisted members of several charges

including Assault and Maltreatment of detainees. She was sentenced to Reduction to E-1, Confinement for 6 months, and a Bad Conduct Discharge.

**5. SPC Roman Krol, 325<sup>th</sup> Military Intelligence Battalion**

**Status:** Convicted, General Court-Martial

**Jurisdiction:** III Corps, Fort Hood, Texas

**Date of Incident:** October - November 2003

Investigation at Abu Ghraib Prison in January 2004 revealed photographs of MP and MI Soldiers involved in abusive or degrading acts upon detainees. Investigation revealed several acts included two male detainees handcuffed together on the prison floor in front of other detainees. Investigation established that SPC Krol was present during the abuse and directed several abusive acts.

On 1 February 2005, SPC Krol pled guilty before a Military Judge to Conspiracy and Maltreatment. He was sentenced to Reduction to E-1, Confinement for 10 months, and a Bad Conduct Discharge.

**6. SPC Jeremy Sivits, 372<sup>nd</sup> Military Police Company**

**Status:** Convicted, Special Court-Martial

**Jurisdiction:** III Corps, Fort Hood, Texas

**Date of Incident:** October - November 2003

At the Baghdad Central Confinement Facility in Abu Ghraib, Iraq, SPC Sivits conspired with several other guards to maltreat detainees at Abu Ghraib Prison and then photograph the misconduct. The abuse occurred in October and November 2003. SPC Sivits photographed many of the acts of abuse.

On 19 May 2004, SPC Sivits pled guilty at a Special Court-Martial in Baghdad, Iraq to Conspiracy, Dereliction of Duty and Maltreatment. He was sentenced by the Military Judge to Reduction to E-1, Confinement for 12 months, and a Bad Conduct Discharge.

**7. SPC Armin Cruz, 325<sup>th</sup> Military Intelligence Battalion**

**Status:** Convicted, Special Court-Martial

**Jurisdiction:** III Corps, Fort Hood, Texas

**Date of Incident:** October - November 2003

Investigation at Abu Ghraib Prison revealed photographs of MP and MI Soldiers involved in abusive or degrading acts upon detainees. Several acts included two male detainees handcuffed together on the prison floor in front of other detainees.

Investigation established that SPC Cruz was present during this abuse and directed several abusive acts.

On 11 September 2004, SPC Cruz pled guilty at a Special Court-Martial in Baghdad, Iraq to Conspiracy and Maltreatment. He was sentenced by the Military Judge to Reduction to E-1, Confinement for 8 months, and a Bad Conduct Discharge.

8. **PFC Lynddie England**, 372<sup>nd</sup> Military Police Company

**Status:** Pending, General Court-Martial

**Jurisdiction:** III Corps, Fort Hood, Texas

**Date of Incident:** October - November 2003

As a Company clerk at the Baghdad Central Confinement Facility in Abu Ghraib, Iraq, PFC England allegedly conspired with several MP guards, to maltreat detainees at Abu Ghraib Prison and then photograph the misconduct. The abuse occurred in October and November 2003. It is alleged that PFC England took many of the photos and posed in several.

On 3 May 2005, PFC England entered a guilty plea at Fort Hood, Texas. A mistrial was ordered by the Military Judge when the Guilty Plea could not be accepted after testimony by PVT Graner in the presentencing was inconsistent with PFC England's plea. PFC England's case is now pending consideration of referral to a new Court-Martial at Fort Hood. PFC England is presumed by law to be innocent of the charges against her. She has been and will be afforded all rights under the Uniform Code of Military Justice (UCMJ).

9. **SGT Santos A. Cardona**, 42<sup>nd</sup> Military Police Detachment

**Status:** Pending, General Court-Martial

**Jurisdiction:** Military District of Washington, Fort McNair

**Date of Incident:** November 2003 - January 2004

As a military dog handler at the Baghdad Central Confinement Facility in Abu Ghraib, Iraq, SGT Cardona allegedly maltreated detainees through alleged inappropriate use of dogs to unlawfully threaten and harass the detainees.

Charges against SGT Cardona were preferred on 2 June 2005 at Fort McNair, Washington D.C. for Maltreatment, Conspiracy, Dereliction of Duty, Assault, and False Official Statement. SGT Cardona is pending a UCMJ Article 32 hearing. SGT Cardona is presumed by law to be innocent of the charges against him. He will be afforded all rights under the UCMJ.

10. **SGT Michael Smith**, 523rd Military Police Detachment

**Status:** Pending, General Court-Martial

**Jurisdiction:** Military District of Washington, Fort McNair

**Date of Incident:** November 2003 - January 2004

As a military dog handler at the Baghdad Central Confinement Facility in Abu Ghraib, Iraq, SGT Smith allegedly maltreated detainees through alleged inappropriate use of dogs to unlawfully threaten and harass the detainees.

Charges against SGT Smith were preferred on 2 June 2005 at Fort McNair, Washington D.C. for Maltreatment, Conspiracy, Dereliction of Duty, Assault, False Official Statement, and Indecent Acts. SGT Smith is pending a UCMJ Article 32 hearing. SGT Smith is presumed by law to be innocent of the charges against him. He will be afforded all rights under the UCMJ.

### **SUMMARY COURTS-MARTIAL**

The following case was tried by a Summary Court-Martial (SCM). The policy of the Department of Defense under the Freedom of Information Act is not to disclose publicly the names of individuals prosecuted at SCM.

11. [Redacted] 372d Military Police Company

[Redacted] engaged in acts of abuse of Iraqi detainees at Abu Ghraib Prison in Iraq.

On 30 Oct 04, she pleaded guilty at Summary Court-Martial to Dereliction of Duty. Charges of Maltreatment, Conspiracy and Indecent Acts were dismissed. She was sentenced to Reduction to E-2 and Forfeiture of 1/2 pay for one month. She was later discharged under Army Regulation 635-200, Chapter 14-12c for Commission of a Serious Offense. She received an Other than Honorable Discharge.