

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 [The R.M.C. 803 session was called to order at 1322,  
2 8 December 2015.]

3 MJ [COL POHL]: The commission is called to order. Except  
4 for Ms. Lachelier, All parties are again present that were  
5 present when commission recessed. Is that accurate?

6 And I get a bunch of head nods from everybody.

7 CP [BG MARTINS]: Yes, Your Honor.

8 MJ [COL POHL]: Okay. The witness is still on the stand.  
9 Major Schwartz.

10 **DIRECT EXAMINATION CONTINUED**

11 **Questions by the Detailed Defense Counsel [Maj SCHWARTZ]:**

12 Q. Good afternoon, ma'am. Ma'am, can you hear me?

13 A. Now I can, sir.

14 Q. My name is Michael Schwartz. I represent Walid  
15 Bin'Attash. Are you familiar with Mr. Bin'Attash?

16 A. Yes, sir.

17 Q. He was a detainee in Camp VII for the duration of  
18 your deployment to Guantanamo; is that correct?

19 A. That's correct.

20 Q. You and Mr. Nevin spoke about discussions that you  
21 had in Camp VII with detainees. I forget how you  
22 characterized it. You said they weren't conversations, but  
23 there was oral communication between you and detainees,

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 correct?

2 A. Yes.

3 Q. Did those communications include discussions with  
4 Mr. Bin'Attash?

5 A. Yes.

6 Q. Okay. I'm going to change topics completely now, and  
7 I just want to ask you a question about the conversation you  
8 had with state headquarters. It was something else that you  
9 discussed with Mr. Nevin.

10 You indicated that you made a communication or an  
11 inquiry to state headquarters regarding the gender stipulation  
12 in the manning document, correct?

13 A. Correct.

14 Q. What was the method of that inquiry? Was that an  
15 e-mail, a phone call?

16 A. I believe it was verbal during an in-process review.  
17 As you prepare for mobilization, you have coordination  
18 meetings between the battalion that was staffing it, the  
19 brigade that I worked at, and the state headquarters  
20 mobilization staff. As I recall, it was -- we had the  
21 conversation during one of those IPRs, in-process review,  
22 because we were having difficulty filling all of the billets  
23 in the manning document.

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 Q. When in the process did that take place?

2 A. I'm thinking about it. It's -- we're reaching back  
3 to 2013 now, so I would say it was probably in the July-August  
4 time frame of 2013.

5 Q. Okay. So in July or August of 2013, you had an oral  
6 conversation with somebody at state headquarters?

7 A. Yes, and I'm actually probably going to have to  
8 correct myself. It was probably closer to the spring, more  
9 like May or June, as I'm thinking through the process now.

10 Q. Okay.

11 A. But yes, the issue was raised during an IPR.

12 Q. And with whom were you speaking during this IPR?

13 A. It would have been staff assigned to the mobilization  
14 office, that what -- what they do is they coordinate --  
15 they're the conduit for reaching out to the mobilization  
16 station as well as National Guard Bureau for guidance.

17 Q. Staff being officers, civilians, NCOs, just to narrow  
18 it down? Trying to identify who you had this conversation  
19 with.

20 A. It was -- at the time, there was -- it would have  
21 been a major or a captain in charge and warrant officers and  
22 NCOs that worked for him.

23 Q. And they would have been assigned to -- just so I can

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 get the accurate title, the state headquarters for the  
2 Massachusetts National Guard?

3 A. They would be in the G-3, the operations section ----

4 Q. Okay.

5 A. ---- at the joint force headquarters in  
6 Massachusetts.

7 Q. Thank you, ma'am. Switch topics one more time  
8 completely.

9 You were speaking with Mr. Nevin about your review of  
10 the history of the demographics of Camp VII guards. You said  
11 that you had looked back at documents to determine whether and  
12 when there had been female guards in the past. Do you recall?

13 A. Yes.

14 Q. What's the name of the document that you would have  
15 accessed for that information?

16 A. What I reviewed was a list of names that were  
17 associated with the numbers that are assigned to individuals  
18 that work in the camps.

19 Q. And how did you access that list?

20 A. I don't know that it has a specific name.

21 I accessed that list because it was in the files in  
22 the operations section at the facility.

23 Q. And to the best of your knowledge, there are such

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 lists dating back to the beginning of Camp VII?

2 A. There are lists. The data in them differs a little  
3 bit. Some had full names, some did not have full names.

4 DDC [Maj SCHWARTZ]: May I have a moment, Your Honor?

5 MJ [COL POHL]: Yes, go ahead.

6 [Pause.]

7 **Questions by the Detailed Defense Counsel [Maj SCHWARTZ]:**

8 Q. Ma'am, other than the oral communication you had with  
9 state headquarters, was your concern about the gender  
10 stipulation in the manning document ever memorialized in  
11 writing anywhere?

12 A. It's a fluid process. It may have been in a -- you  
13 know, in a situation update that we sent up.

14 To be clear, at the time that I raised the issue, I  
15 was actually not assigned as the person who was going to be  
16 the commander. There was a different lieutenant colonel in  
17 charge, so I was at the brigade headquarters, he was at the  
18 battalion. So it was a -- it wasn't an issue that just as an  
19 individual I raised, it was on behalf of the battalion at the  
20 time.

21 Q. Okay. What is a situation update?

22 A. A short report, usually we brief off some PowerPoint  
23 slides during the IPR. Not -- you know, they're -- it happens

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 periodically, so they're updated. So it just would have been  
2 a bullet point on a slide.

3 Q. And my question about the Camp VII documents was  
4 inartful. I said "the beginning of Camp VII."

5 What's your understanding of the beginning of  
6 Camp VII, when I put it that way? When did Camp VII begin  
7 detaining detainees?

8 TC [MR. RYAN]: Objection, Your Honor.

9 MJ [COL POHL]: Basis?

10 TC [MR. RYAN]: Relevance as to going back to 2007  
11 concerning an issue that occurs in 2014.

12 MJ [COL POHL]: Sustained.

13 DDC [Maj SCHWARTZ]: Your Honor, the history of the  
14 demographics in the camp are relevant. I guess I can rephrase  
15 to the dates during which ----

16 MJ [COL POHL]: Hasn't she already testified that she went  
17 back to about '08 -- '07, '08?

18 DDC [Maj SCHWARTZ]: I think that's when she went back to.  
19 But I want to make sure we identify are there documents  
20 covering the length of Mr. Bin'Attash's detention in Camp VII,  
21 so a slightly different question.

22 MJ [COL POHL]: Okay. I'll let you ask that. Go ahead.

23 Questions by the Detailed Defense Counsel [Maj SCHWARTZ]:

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 Q. Ma'am, are there documents containing the  
2 demographics, the gender breakdown in Camp VII covering the  
3 entire period of time during which Mr. Bin'Attash has been  
4 detained in Camp VII?

5 A. Sir, the only records I found were related to the  
6 time frame that I was able to go back, so that was 2007, 2008,  
7 to the best of my recollection, when the Navy took over the  
8 mission, sir.

9 Q. Okay. Who had the mission before the Navy?

10 MJ [COL POHL]: Somebody else.

11 TC [MR. RYAN]: Objection, Judge.

12 A. I don't know.

13 MJ [COL POHL]: Okay. Go ahead.

14 DDC [Maj SCHWARTZ]: Okay. Your Honor, based on what we  
15 raised yesterday in the 505, the pending AE 392, the rest of  
16 my lines of questioning will all be informed by further  
17 discovery process, and so I don't have anything else for this  
18 witness today.

19 MJ [COL POHL]: Okay. Thank you.

20 Mr. Harrington?

21 **DIRECT EXAMINATION**

22 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

23 Q. Lieutenant Colonel, my name is Jim Harrington. I

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 represent Ramzi Binalshibh. You know who Mr. Binalshibh is,  
2 do you not?

3 A. Yes, sir.

4 Q. And had you had personal contact with Mr. Binalshibh  
5 when you were here as the camp commander?

6 A. I spoke with him multiple times, yes, sir.

7 Q. And can you -- you described for Mr. Nevin the fact  
8 that you had never been in charge of a detention facility  
9 before this assignment, correct?

10 A. Yes, sir.

11 Q. And what training did you get to take over as the  
12 head of a detention facility?

13 A. Sir, the basics of what's required for military  
14 police for running a detention facility is incorporated into  
15 your professional military education. Along with that, there  
16 was pre-mobilization training at Fort Bliss that dealt with  
17 more of the specifics of how the detention facilities were run  
18 and the types of SOPs; not specific SOPs, but some of the  
19 basic, general protocols that are used.

20 Following that, when we arrived at Guantanamo, there  
21 was a 30-day transition period where we were trained and  
22 reviewed and became familiar with all of the very specific  
23 SOPs for the facility.

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 Q. And you indicated before that -- to Mr. Schwartz a  
2 minute ago that you initially were not the person from the  
3 Massachusetts unit that was going to have this position; is  
4 that correct?

5 A. That's correct, sir.

6 Q. When did you learn that you were going to have this  
7 position?

8 A. November of 2013.

9 Q. And did you know that you were going to be in charge  
10 of Camp VII at Guantanamo?

11 A. I did not know that at that time, sir.

12 Q. When did you learn you would be in charge of  
13 Camp VII?

14 A. In December of 2013, I went down there for a brief  
15 pre-deployment site visit, and that's when I found out the  
16 specifics of the facility.

17 Q. And did you receive a tour of Camp VII?

18 A. No, sir.

19 Q. Did you speak to other people who worked in Camp VII?

20 A. Yes, sir.

21 Q. All right. Did you speak with the camp commander who  
22 was in charge then?

23 A. Yes, sir.

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 Q. Were you given information about Camp VII at that  
2 time?

3 A. Some information at that time.

4 Q. All right. Did you learn that there were 14  
5 detainees at Camp VII at that time?

6 A. Yes, sir.

7 Q. And 14 detainees in any correctional or detainee  
8 facility is a small number of people, correct?

9 Did you hear my question?

10 A. Sir, if that was a question, yes.

11 Q. Okay. And were you told who was in Camp VII then?

12 A. Yes, sir. We had a brief review. No in-depth  
13 information, just a brief review.

14 Q. Were you told that the men in Camp VII were, what has  
15 been called over the years, high-value detainees?

16 A. Sir, we were given limited background information on  
17 the detainees, as well as an overview of the entire operation  
18 and the broader JTF and JDG operation.

19 Q. What limited information were you given about the  
20 detainees in Camp VII at that time?

21 TC [MR. RYAN]: Objection, Judge, relevance.

22 MJ [COL POHL]: What's the relevance, Mr. Harrington?

23 LDC [MR. HARRINGTON]: I think it will become relevant,

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 Judge, in a few minutes.

2 TC [MR. RYAN]: That's ----

3 MJ [COL POHL]: No, that ----

4 TC [MR. RYAN]: I appreciate the promise, Judge, but my  
5 objection stands.

6 MJ [COL POHL]: I've got a need to know now how it's going  
7 to be relevant. I mean, I understand what you are saying, and  
8 I know it's done in good faith, but under that standard, I  
9 would never sustain an objection for relevance until I heard  
10 all of the questions.

11 LDC [MR. HARRINGTON]: I'll do it a different way, Judge.

12 MJ [COL POHL]: Okay. Objection sustained.

13 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

14 Q. You learned, did you not, that the five men who are  
15 accused in this particular proceeding were in Camp VII at that  
16 time?

17 A. Yes, sir.

18 Q. Okay. And were those men's names given to you?

19 A. They were quickly reviewed, yes, sir.

20 Q. And in addition to those five men, you learned that  
21 the other men who were detained here were people who were  
22 either charged with or potentially could be charged with very  
23 serious offenses; is that right?

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 A. Yes, sir.

2 Q. And you also knew that when you came here with a  
3 guard force that came from your unit in Massachusetts, you  
4 would be concerned about their welfare and their safety; is  
5 that right?

6 A. Yes, sir.

7 Q. And after you came here and found out who was in  
8 Camp VII, you did not undertake any personal investigation to  
9 find out anything about the background of the 14 men who were  
10 in this facility?

11 A. Sir, I used the background information that was  
12 available at the facility and focused on the operations as  
13 they were when I got there and maintaining them in a safe and  
14 secure manner.

15 Q. My question is directed toward your investigation  
16 about the men whom you were going to be in charge of  
17 supervising, not ----

18 TC [MR. RYAN]: Objection, asked and answered, Your Honor.

19 MJ [COL POHL]: Overruled.

20 Questions by the Learned Defense Counsel [MR. HARRINGTON]:

21 Q. ---- not the guards but the detainees.

22 MJ [COL POHL]: Please ask your question again,  
23 Mr. Harrington, because I think it may have been lost.

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

2 Q. My question is: Were you not concerned about every  
3 detail that you could have about men accused of or could be  
4 accused of extraordinarily serious crimes and the personal  
5 safety of the guards who would be taking care of them before  
6 you came?

7 A. Sir, my focus as far as the detainees and their  
8 background was how they had been behaving in the facility, not  
9 their crimes, which the commissions will handle.

10 So whether or not they had attacked guards or  
11 threatened to, yes, I looked into that; but I did not look  
12 into their -- the history of their charges or the allegations  
13 against them.

14 Q. So you didn't look into whether they had any past  
15 history of violence at all?

16 A. I did. That was in the records at the camp, sir. I  
17 focused on their behavior while detained.

18 Q. Prior to their behavior -- I'm sorry.

19 Prior to their detention, did you look into any  
20 history about their previous violence, if any?

21 TC [MR. RYAN]: Asked and answered, Your Honor.

22 Objection.

23 MJ [COL POHL]: Overruled. You may answer the question.

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1           A.    Sir, I did not do an in-depth look into their  
2 background.  Open-source information about what they were  
3 charged about, certainly I looked into that; but I had no  
4 access to any in-depth background that may have become evident  
5 later.

6 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

7           Q.    You mentioned that you did look into their behavior  
8 while they had been detained; is that correct?

9           A.    Yes.

10          Q.    All right.  And what did you look at?

11          A.    I looked at disciplinary records, whether or not they  
12 had been compliant, whether or not they had attacked guards,  
13 threatened to attack guards.  That information is maintained  
14 in the records there.

15          Q.    And did you read DIMS reports?

16          A.    I'm sorry, sir, you cut out in the middle of that  
17 question.

18          Q.    I said:  Did you read DIMS?

19          A.    Yes, sir.  That's the primary recordkeeping system.

20          Q.    Okay.  There were thousands and thousands of pages of  
21 DIMS regarding these detainees, were there not?

22          A.    Well, you can sort the information by detainee.  And  
23 the most relevant information is how they were acting over the

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 last few years prior to my arrival, sir. So I went by that  
2 and by the input that we had from the unit we relieved.

3 Q. And did you review information about each of these 14  
4 men?

5 A. Yes, sir.

6 Q. Did you review information about Mr. Binalshibh?

7 A. Yes, sir.

8 Q. Now, you indicated that when you were working on the  
9 deployment manning for your Massachusetts unit, right, that an  
10 inquiry was made with respect to a document that you had that  
11 indicated this mission was going -- could only be manned by  
12 men; is that correct?

13 A. Correct. That was on the deployment manning  
14 document.

15 Q. Are you the one that initiated this inquiry?

16 A. I pushed the inquiry up. It was based on the  
17 difficulty the battalion was having staffing the mission, sir.

18 Q. You say you pushed it up. Are you the first person  
19 that made inquiry about this, as far as you know?

20 A. I submitted the inquiry -- as far as I know, I  
21 submitted the inquiry to our state headquarters because the  
22 battalion was having an issue staffing it, yes, sir. So the  
23 first ----

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 Q. Was -- I'm sorry.

2 A. The first question of it being a problem came from  
3 the battalion, but I'm the one who pushed it up the chain of  
4 command.

5 Q. Was that before or after you knew you were going to  
6 be in charge of Camp VII?

7 A. That was before, sir.

8 Q. Okay. Now, you indicated to Mr. Nevin that your  
9 obligation is to provide safe, humane, and legal custody for  
10 the detainees; is that correct?

11 A. Correct.

12 Q. And you made reference to the law of war earlier that  
13 requires you to accommodate certain things on behalf of the  
14 detainees, including religion; is that right?

15 A. I believe that came up with a review of my  
16 declaration, sir, yes, and it's in my declaration.

17 Q. And you knew that the law of war applied to these  
18 detainees; is that right?

19 A. Well, there's a number of things that apply to them.  
20 We follow the guidance in the -- in international protocol,  
21 policy, and legal guidance.

22 Q. And have you studied each of those?

23 A. I did at the time.

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 Q. At what time?

2 A. As I -- when I was in the role down there at  
3 Guantanamo, sir ----

4 Q. All right.

5 A. ---- when I was camp commander down there.

6 Q. And under the law of war, did these detainees have  
7 any rights?

8 TC [MR. RYAN]: Objection, Judge.

9 MJ [COL POHL]: Basis?

10 TC [MR. RYAN]: Relevance, calls for a legal conclusion by  
11 the witness.

12 MJ [COL POHL]: The question as framed, the answer -- the  
13 objection is sustained.

14 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

15 Q. With respect to the law of war indicating that you're  
16 required to accommodate the detainees' religion, do you  
17 consider that to be a right of the detainees?

18 TC [MR. RYAN]: Objection, Judge.

19 MJ [COL POHL]: Overruled. You can answer that one.

20 A. Sir, the accommodations that are made, as I've stated  
21 before, are based specifically on an SOP. If the SOPs don't  
22 cover what the detainee is asking for, then that is staffed  
23 with the chain of command. I don't make an independent

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 decision on that.

2 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

3 Q. So if an SOP, in your opinion, is contrary to the law  
4 of war, you just enforce the SOP; is that right?

5 A. SOPs are staffed and they're to include a staff by  
6 the -- a staffing process through the SJA in order to ensure  
7 that we are following all of the legal and policy directives,  
8 sir.

9 Q. Well, you indicated to Mr. Nevin earlier ----

10 A. I saw something that I ----

11 Q. I'm sorry. I'm sorry. I interrupted you.

12 A. I paused.

13 The -- if I saw something that I questioned, I would  
14 certainly bring it to the attention of the chain of command  
15 and the SJA.

16 Q. Well, Mr. Nevin showed you the SOPs that relate to  
17 religion at Camp VII earlier. Do you recall that?

18 A. Yes, that was his review of SOP 39.

19 Q. Based upon what you've just said, that would be a  
20 recognition by the camp here that what is spelled out in that  
21 SOP is something that the inmates have -- or the detainees  
22 have a right to; is that correct?

23 A. I'm only hesitating on using the word "right," sir.

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 It's a practice. If there was a reason that we could not  
2 follow the SOP for a security or operational reason, I would  
3 have to make an on-the-spot call and then refer it to the  
4 chain of command.

5 If you have something specific from that SOP that  
6 you're referring to, then we could discuss it specifically;  
7 but in general, I wouldn't lock into everything there that  
8 way.

9 Q. You indicated earlier that the inmates are given what  
10 the rules of the camp are; is that right?

11 A. The detainees are advised of the expected behavior,  
12 yes, sir, and in order to make sure that they understand what  
13 is required for compliance.

14 Q. And in addition to the rules, are they given any  
15 information that -- from the SOPs that does not relate to camp  
16 procedure or guard procedure, but relates to something like  
17 the SOP concerning religion? Are they given that in writing  
18 or orally at any time?

19 A. If the detainees have a question about a practice and  
20 they believe that it's contrary to what they're entitled to,  
21 they can and they do request to speak to the tier supervisor,  
22 the watch commander, all the way up to the camp commander.  
23 And then we listen at the appropriate level, depending on

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 where it needs to be managed, listen to what they're saying,  
2 take a look at what we're doing and -- to ensure that a guard  
3 isn't making a mistake and not complying with an SOP.

4           So there's a -- there is a process for resolving any  
5 questions they have about a practice, sir.

6           Q. But there's no way that they know what the practice,  
7 right, whatever you want to call it, is, unless you give it to  
8 them; isn't that right?

9           A. In the course of being advised of what they can and  
10 cannot do, sir, they are told what they're entitled to, so  
11 they are -- they are told what they're entitled to, sir.

12          Q. And do you know for a fact that that has happened to  
13 Mr. Binalshibh?

14          A. Sir, I know that for all of the detainees who had  
15 questions, I had numerous conversations with them about  
16 different aspects of the SOPs. He's one of them.

17          Q. Can you tell me when Mr. Binalshibh was advised of  
18 what those rights or practices were with respect to his  
19 religious practice?

20          A. Sir, as I recall, that's included in the guidance  
21 they get for the rules of the camp, but you would have to  
22 double-check that with the camp.

23          Q. You ----

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 A. Exactly when he was told, I don't know.

2 Q. You did not do that; is that correct?

3 A. We did actually repost the rules of the camp for all  
4 of the detainees while I was there, sir. So at some point  
5 while I was there, and I'm trying -- I can't tell you when it  
6 happened. But I do recall we went through the process of  
7 posting the rules, ensuring that they were translated  
8 properly, and making sure they were posted on all of their  
9 cell doors, as was the practice.

10 Q. Those rules of the camp are things that they can and  
11 cannot do with respect to their personal behavior at the camp;  
12 is that correct?

13 A. It is, but they're also told what they're entitled to  
14 as far as prayer and the basic items that they get, that sort  
15 of thing. They are advised of that.

16 Q. And when this happened under your command, was that  
17 done to them in writing or orally?

18 A. Off the top of my head, sir, I'm trying to recall  
19 what's in the -- what's posted, and I'm not sure. Someone who  
20 works at the camp could tell you that at this point. I don't  
21 recall if that was specifically posted in writing or if they  
22 were verbally advised.

23 Q. Were you the one that directed that this be done?

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 A. That what be done, sir?

2 Q. That these rights and obligations be posted?

3 A. We updated them. The previous versions that were  
4 posted on their cells were well worn and in disrepair, so it  
5 was posted as a fresh copy from the SOPs, sir.

6 Q. And were any of those changed when they were  
7 reposted?

8 A. I don't recall if they had been updated before we  
9 posted them, sir. We did update -- review and update SOPs. I  
10 did -- do recall that I had the linguist go through to ensure  
11 that they were accurately translated.

12 Q. Was there anything in what was posted that related to  
13 female guards touching them?

14 A. No, sir, because the policy didn't -- well, there may  
15 have been something that they would not be searched, but I  
16 don't recall that -- as far as the searching that I spoke to  
17 earlier, as far as touching areas that would be considered  
18 private or watching them when they're disrobed in the shower.  
19 That may have been verbal or written, I'm not sure, but they  
20 knew that.

21 Q. You keep saying that they knew that. How do you know  
22 what they knew?

23 A. Sir, because they told me they had a right to that.

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 Q. Okay. When you say "they," did Mr. Binalshibh tell  
2 you that he had any rights to anything?

3 A. He did. I'm trying to think of specific -- specific  
4 examples, sir, but the detainees were very familiar with the  
5 SOPs.

6 Q. In your knowledge of the camps -- of the camp,  
7 Camp VII, before you became involved and after you became  
8 involved, did you learn at all what these men had been through  
9 before they came to the camp?

10 TC [MR. RYAN]: Objection, Your Honor, asked and answered.

11 LDC [MR. HARRINGTON]: Just a preliminary question, Judge.

12 MJ [COL POHL]: I'll overrule it, but we don't need to  
13 repeat testimony we've already heard, okay? You may answer  
14 that question.

15 A. Sir, I did not learn of anything prior to their  
16 incarceration, their detention in the facility, until the  
17 unclassified report came out and was reported. I did not read  
18 through it, but I certainly heard some news reports on it.

19 I did not have access to that information, that  
20 classified information prior to that, sir.

21 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

22 Q. Did Mr. Binalshibh complain to you about the  
23 difficulties that he and/or any of the other men that were

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 with him had in accepting changes in SOPs or changes in the  
2 rules as they were enforced?

3 A. The detainee complained about some of the changes,  
4 but -- and offered his own opinions on it.

5 Q. You're talking about Mr. Binalshibh?

6 A. Yes, sir.

7 Q. And did Mr. Binalshibh indicate to you that these  
8 changes were extremely upsetting to him?

9 A. He was, as I recall, animated, sir.

10 Q. Mr. Binalshibh is not somebody who's afraid to  
11 express what his opinions are. Would you say that's accurate?

12 A. Yes, sir.

13 Q. And when changes were made, he would bring that to  
14 your attention, either directly or through the -- your  
15 subordinates; is that right?

16 A. Changes, among other things. When he disagreed with  
17 something, he made it clear, yes, sir.

18 Q. And some of the other detainees, including the other  
19 four men charged here, also voiced to you complaints about  
20 changes in SOPs or changes in the behaviors of the guards  
21 toward them, did they not?

22 A. There were times that they questioned whether or not  
23 the guards were doing what they were supposed to be doing.

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 They would question whether or not they would follow the SOP.  
2 If their answers were not resolved by the tier supervisor or  
3 the watch commander, then I spoke with them about it.

4 Sometimes if they complained about a violation of an  
5 SOP or someone wasn't following an SOP, I would look into it  
6 and see if, in fact, it had been -- if a mistake had been made  
7 or if they were incorrect, meaning the detainee.

8 Q. I take it that, based upon your testimony of what you  
9 learned about them before you went there and during the time  
10 you went there, that you knew nothing about what changes do to  
11 people who have been significantly traumatized in the past by  
12 abusive behavior; is that right?

13 A. Sir, I dealt with the detainees as I knew them in the  
14 detention facility and what I knew about them at that time, so  
15 that -- the other factors were not in my decision-making  
16 processes.

17 Q. So as you sit here now, you came as a camp commander  
18 to this facility, went all the way through until the senate  
19 report came out, and you did not know that Mr. Binalshibh had  
20 been tortured for three and a half years; is that right?

21 TC [MR. RYAN]: Objection, Judge.

22 MJ [COL POHL]: Basis?

23 TC [MR. RYAN]: Relevance to this proceeding.

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 MJ [COL POHL]: Overruled. You may answer the question.  
2 Although I believe she's answered it before. Answer it one  
3 more time.

4 A. Sir, I did not know the background of the detainees.

5 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

6 Q. Now, you indicated that after you got to Camp VII,  
7 that some practical manning problems arose; is that correct?

8 A. Correct.

9 Q. And it was at that time that you changed some of the  
10 personnel, which required several female guards to be trained  
11 for the escort detail; is that right?

12 A. Correct.

13 Q. Okay. And can you tell me, were those female guards  
14 trained at Fort Bliss to do escort duty?

15 A. No, sir. They had received some basic detention  
16 facility operations training, but since they were not planned  
17 to be part of the escort team, that training had to be  
18 conducted upon reassignment.

19 Q. And you indicated before to Mr. Nevin a certain  
20 percentage of the people that you had that worked doing escort  
21 duty for the camp; is that right?

22 A. Yes, sir.

23 Q. So it means approximately 70 percent of the other

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

*UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT*

1 people, other members of your unit, were available for what  
2 these women were -- the positions these women were put into;  
3 is that right? Let me rephrase the question.

4           You indicated that approximately 30 percent of the  
5 unit was used for escort detail, correct?

6           A. Yes, sir.

7           Q. Okay. And I take it part of the remainder were being  
8 used for the guard force part of your detail, correct?

9           A. A portion of it. There was also a unit headquarters  
10 element and a camp headquarters element, sir.

11          Q. And you could have selected people from the  
12 headquarters part of it to fill these particular positions,  
13 could you not?

14          A. No, sir. They were not military police. They're  
15 support personnel, administrative, logistics support, that  
16 sort of thing.

17          Q. All right. And where were the rest of the military  
18 police, either guards or escort?

19          A. The majority of the military police were guard or  
20 escort, and a small number in the camp headquarters, sir.

21          Q. And you could have used other guards to go into the  
22 escort detail, could you not?

23          A. No, sir, because then I would have run short in

*UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT*

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 staffing within the facility. In addition to that, that would  
2 require those guards to then be cross-trained in those SOPs.  
3 So we were not able to -- the staffing is not very robust, so  
4 we were not able to absorb the flux in the facility to do that  
5 on a wholesale basis.

6 Now, we were able to do it with a few individuals,  
7 and we did do that as we found ways to accommodate the  
8 increased requests for legal meetings, sir.

9 Q. And where did the women come from that you had  
10 trained to do the escort detail?

11 A. They came from the camp headquarters element, sir.

12 Q. So were there others in the camp headquarters element  
13 that could have filled in for them or exchanged for them?

14 A. No, sir, because if you're saying for -- to exchange  
15 males for females, no, because the males that moved into the  
16 headquarters element were needed for a different job that was  
17 more a full-time job in and of itself; and the other two  
18 females that worked in the camp headquarters would have had to  
19 go through cross-training and the same thing that I had  
20 already put the female NCOs through. There was no point.  
21 They were qualified for the job, and they did the job.

22 Q. But they had to get more training with respect to the  
23 escort detail, did they not, the ones that you put in?

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 A. They did, sir. They did.

2 Q. Now, you said that you initiated a search going back  
3 to the beginning of the camp of what the female portions of  
4 the guard forces that were assigned to Camp VII; is that  
5 right?

6 A. Yes, sir. As I worked on the declaration in response  
7 to the request to the -- that was made to the court, yes, I  
8 looked into that.

9 Q. So did you do this search for the females that were  
10 assigned to the previous guard forces -- did you do that  
11 before or after you took action with respect to putting  
12 females into the escort detail?

13 A. After, sir. I didn't make that -- do that research  
14 until I was preparing this declaration.

15 Q. Why did you do that research for this declaration?

16 A. Because I was curious. It just -- there was no  
17 policy within the JTF that there were no females. It just  
18 struck me as this couldn't be the first time there had been  
19 females there.

20 Additionally, and I don't remember which detainee,  
21 but a detainee brought up the fact that there had been female  
22 guards before, so I looked into it, and it required a bit of  
23 research in the paperwork.

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 Q. You indicated that there were different ways that the  
2 detainees could register a complaint about something in the  
3 camps; is that right?

4 A. Well, it would go through channels. They would make  
5 a request to speak with a tier supervisor or the watch  
6 commander. That would be how they would initiate the request.

7 Q. And do those complaints -- are they in writing or  
8 verbal?

9 A. The majority of the time, they were documented in  
10 DIMS by whichever guard took the request. That's a report  
11 that I reviewed at least on a daily basis. And they would  
12 also document if they wanted to speak with the camp commander.  
13 Certain times there were issues they wanted to raise directly  
14 to my level, and I would assess what it was and whether it was  
15 appropriate for my level or not.

16 Q. When they registered a complaint, is there a form  
17 that they could use to do it in writing?

18 A. No. The guards would enter it into DIMS, sir. We  
19 didn't have them fill out forms.

20 Q. So it would -- detainees such as Mr. Binalshibh would  
21 register a verbal complaint to a guard, and then the guard  
22 would write down whatever he interpreted the complaint to be;  
23 is that right?

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

