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1 [The R.M.C. 803 session was called to order at 1323,
2 9 December 2015.]

3 MJ [COL POHL]: Commission is called to record. All
4 parties are again present that were present when commission
5 recessed. Mr. Mohammad and Mr. al Hawsawi are not here. I
6 find that both have knowingly and voluntarily waived their
7 presence for this afternoon's session.

8 That being said, I believe our next witness is by
9 VTC. Is that correct, General Martins?

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

11 MJ [COL POHL]: Please call the witness.

12 CP [BG MARTINS]: If you could please bring up the witness
13 on the screen.

14 Major, can you hear me?

15 WIT: I hear you, sir.

16 CP [BG MARTINS]: Major, could you stand and raise your
17 right hand for the oath?

18 MAJOR PRIOR, U.S. Army, was called as a witness for the
19 defense, was sworn, and testified as follows:

20 **DIRECT EXAMINATION**

21 Questions by the Chief Prosecutor [BG MARTINS]:

22 Q. You will be known as Major Prior during this
23 testimony.

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1 A. Understood, sir.

2 MJ [COL POHL]: Mr. Nevin?

3 **Questions by the Learned Defense Counsel [MR. NEVIN]:**

4 Q. Major Prior, David Nevin. I'm one of the lawyers for
5 Mr. Mohammad. Are you able to hear me okay?

6 A. Yes, sir.

7 Q. There's a little bit of a lag because of using the
8 VTC, so we'll just work the best we can to make sure we don't
9 talk over each other, okay?

10 A. Okay.

11 Q. Sir, you are a -- we're referring to you as -- what
12 is it, Prior Major, is that what we're calling you? Major
13 Prior?

14 MJ [COL POHL]: Major Prior.

15 Q. We're referring to you as Major Prior; I take it that
16 is because you were a prior commander of Camp VII.

17 In any event, you were a previous commander of
18 Camp VII between December of '14 and August of 2015, right?

19 A. That is correct.

20 Q. And you have -- you're aware -- I assume you are
21 aware that we are here litigating, arguing about presenting
22 evidence on a question related to the problem of female guards
23 having physical contact with some of the male detainees. Are

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1 you aware of that?

2 A. I am, sir.

3 Q. I think you're also aware that that's an issue that
4 came up in another case and the detainee's name in that case
5 was Hadi al-Iraqi. And I believe it's true that you gave some
6 testimony in that case, correct?

7 A. I did testify in the Al Hadi al-Iraqi commission.

8 Q. And you have also prepared two declarations; is that
9 correct?

10 A. Yes, sir.

11 Q. And one of them is dated 14 January of 2015, correct?

12 A. Yes, sir.

13 Q. And then there was another declaration that you
14 prepared, a supplemental declaration, I believe it was called,
15 sometime later, I want to say in June of 2015. Do you
16 remember that as well?

17 A. I did, sir.

18 Q. Okay. So I'll tell you that a transcript has been
19 prepared of the testimony you gave in Mr. al-Iraqi's case.
20 And, of course, your declarations were typed up, they were
21 written declarations, and we have those as well. Do you have
22 those materials with you today?

23 A. I have some of them, yes.

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1 Q. Could you tell us what you have?

2 A. I have my supplemental, and I have my transcripts
3 from Al Hadi al-Iraqi.

4 Q. But I take it, then, you don't have the original
5 declaration with you?

6 A. I don't have that one with me, no. I have copies of
7 everything else.

8 Q. Is that declaration handy to you somewhere nearby or
9 not?

10 A. It's at an off-site location ----

11 Q. Okay.

12 A. ---- when I was en route over here.

13 Q. Okay. No worries. We can work around it.

14 A. I have reviewed it.

15 Q. Okay, good. So let me just quickly do some
16 preliminaries with you and then we can move on to the
17 substantive stuff.

18 You are a major in the Army National Guard, you have
19 16 years of service as a military police officer, and it's
20 correct that during 2008 you were a company commander of a
21 military police company at Camp Cropper in Iraq, and you -- at
22 the time of signing this declaration, you were the commander
23 of Camp VII here at JTF-GTMO. Is that all correct?

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1 A. That is correct.

2 Q. And you're with the Colorado Army National Guard?

3 A. I am.

4 Q. Did you answer that? I thought maybe I heard, but I
5 didn't see anything.

6 A. I am a member of the Colorado Army National Guard.

7 Q. Okay. Great. So are you -- do you have a civilian
8 job as well, or are you a full-time employee of the Army
9 National Guard?

10 A. I am a full-time soldier in the Colorado Army
11 National Guard.

12 Q. Now, your declaration says that, during the time you
13 were the commander of Camp VII, that you were responsible for
14 the safe, humane, legal, and transparent execution of U.S. law
15 of war detention operations for detainees at Camp VII.

16 First, do you remember that that's -- writing that in
17 your declaration, and was that correct?

18 A. Yes, sir.

19 Q. Yes to both questions, right?

20 MJ [COL POHL]: Mr. Nevin, can you ----

21 A. Yes.

22 MJ [COL POHL]: On the two declarations, what exhibits are
23 they in and what attachments are they? Just so everybody

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1 knows what you are reading from.

2 LDC [MR. NEVIN]: Your Honor, could I -- it's one of
3 the -- the original declaration is an exhibit to 254EE, and it
4 would take me a minute to find where the other one is an
5 exhibit. I can do it quickly, though. Would you like me to
6 do that?

7 MJ [COL POHL]: Yeah. Just so everybody knows, because
8 I'm not sure everybody is reading from the same page.

9 LDC [MR. NEVIN]: The supplemental declaration is
10 Attachment B to 254EE Government Supp., dated 22 June 2015.

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

12 TC [MR. SWANN]: Your Honor, I didn't hear what the
13 original declaration is a supplement to or part of.

14 LDC [MR. NEVIN]: The original declaration is Attachment B
15 to 254EE, dated 5 December 2014.

16 TC [MR. SWANN]: Mr. Nevin, are you sure about that?

17 MJ [COL POHL]: I thought that was the one we did
18 yesterday.

19 LDC [MR. NEVIN]: Reasonably sure.

20 [Pause.]

21 LDC [MR. NEVIN]: Possibly we've straightened it out. The
22 declaration that Major Prior signed dated 14 January of 2015
23 is apparently not in the record at the present time.

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1 MJ [COL POHL]: Okay.

2 LDC [MR. NEVIN]: I will make arrangements to put it into
3 the record.

4 MJ [COL POHL]: Okay.

5 LDC [MR. NEVIN]: And the other declaration?

6 MJ [COL POHL]: The other one is 254 Government Supp. of
7 June 2015, Attachment B. Got it.

8 LDC [MR. NEVIN]: Right.

9 MJ [COL POHL]: Okay. Got it. Fine. Thank you.

10 **Questions by the Learned Defense Counsel [MR. NEVIN]:**

11 Q. Sir, your declaration, referring again to your
12 declaration of 14 January 2015, the one that you apparently
13 don't have in front of you, do you recall that it says that
14 you are required to follow lawful orders and applicable
15 policy, practices, and procedures having to do with the
16 operation of Camp VII?

17 A. Yes, sir.

18 Q. And is it correct that your declaration of
19 January 2015 also states that, based on passed-down
20 information that was conveyed to you, male and female guard
21 force members have served off and on at Camp VII for years?
22 Do you recall seeing -- making that statement?

23 A. Yes, sir.

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1 Q. Did you actually make an inquiry into personnel
2 records or other records of Camp VII to determine whether that
3 was actually true?

4 A. The previous unit had females, and I was able to go
5 into the DIMS system, where I could see females also, when I
6 did some of this research.

7 Q. So you saw -- that would have been a camp commander
8 unit from Massachusetts, correct, that was there before you?

9 A. Correct. I mean, the commander was female.

10 Q. And the commander of that unit was female, and I'll
11 represent to you that she -- or a person I think is the one
12 you're referring to testified yesterday here in our
13 proceedings.

14 You're saying that she told you that in her guard
15 force there were women who were serving, correct?

16 A. I observed that also during our relief-in-place.

17 Q. Okay. But Camp VII has been there for a while, going
18 back, I believe the testimony was, to sometime in 2007 or
19 2008. Did you attempt to research the composition of the
20 guard forces going all the way back to 2007-2008?

21 A. To the best of my ability, yes. Some of those, the
22 data wasn't available, but through my inquiries I was able to
23 identify previous rotations that had females.

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1 Q. And were you able to determine what the females in
2 those rotations did?

3 A. Yeah. They were Navy guards, yes.

4 Q. Okay.

5 A. They did work at the -- at Camp VII.

6 Q. I believe you also wrote in paragraph 11 of your
7 declaration of January 2015 that your entire guard force,
8 regardless of gender, trains on all guard force techniques.
9 Do you remember writing that?

10 A. Yes, sir.

11 Q. And was that true?

12 A. Yes.

13 Q. All right. Thank you, sir.

14 The -- I want to ask you about the first of those
15 statements that was contained in your declaration, the one
16 about humane treatment. You do -- and I will say others have
17 said this before you, so it's familiar to us, but you are
18 responsible for providing humane treatment to the detainees,
19 correct?

20 A. That is correct.

21 Q. And that means, among other things, that they not
22 be -- that they not suffer any physical harm while they're in
23 your custody, correct?

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1 A. Sure.

2 Q. And this -- this extends as well to mental health, so
3 that you're responsible -- I think one quote would be for
4 their mental health or well-being as well, correct?

5 A. Okay.

6 Q. And you are -- you are -- excuse me.

7 You're also responsible for taking steps to make sure
8 that if they have particular vulnerabilities, that those are
9 not -- that you don't impose those kinds of -- that kind of
10 suffering or threats to them inadvertently, correct?

11 A. I think in an operational constraint, yes, depending
12 on what you felt those threats were operationally, if I could
13 support that, I would be able to work. If not -- but
14 everything would be based on SOPs and policies and procedures
15 that were already applied.

16 Q. Right. The SOPs that the other statement from your
17 declaration indicates you are required to follow, correct?

18 A. That is correct.

19 Q. And so if a detainee has a particular vulnerability,
20 you're not allowed just to ignore that. So, for example, if a
21 detainee has an allergy to a particular food and you know
22 about that, you're not allowed to just force him or only make
23 that food available to him, correct?

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1 A. That is correct.

2 Q. Yeah. And a detainee who -- such as one of the
3 detainees in this case, who has a problem sitting because of
4 injuries, you're required to provide him something that allows
5 him to sit, notwithstanding that problem, correct?

6 A. Correct.

7 Q. And the same really applies to the mental health side
8 of that. If you know that a person has a particular
9 vulnerability, you take that into account in your dealing with
10 him, correct?

11 A. I would have to know what those vulnerabilities were.
12 When we talk -- I'm not a psychologist, I'm a military police
13 officer, so I would defer something of that nature probably to
14 a psychologist.

15 Q. Right.

16 A. But I may get guidance from him.

17 Q. And so -- but you do make an inquiry on that score if
18 you think there's something going on that causes them to have
19 a particular vulnerability, you would look into that and try
20 to work around that, correct?

21 A. Within the guidelines of the SOPs, policies, and
22 procedures that I was charged with upholding.

23 Q. Right. And because that's -- the SOPs are what guide

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1 your operation -- ultimately what guide your operation of the
2 camp, correct?

3 A. Those SOPs and any DoD, JTF, or GTMO-specific
4 policies or procedures that are excluded from those SOPs.

5 Q. And you made -- you knew, I take it, given -- if I
6 understand, you began -- you took command of Camp VII in
7 December of 2014. That was about the time that the Senate
8 Select Committee on Intelligence's report on the CIA's RDI
9 program came out. I believe that came out December 9 of 2014,
10 about -- well, maybe exactly a year ago today. Did you read
11 that report at any time?

12 A. I did review some of it.

13 Q. Okay. And do you remember when that was, sir?

14 A. Like you said, about a year ago this time.

15 Q. So, in other words, about the time you were taking
16 over?

17 A. On or about a year ago this time.

18 Q. All right. And did you see that that report
19 contained indications that some of these detainees who are at
20 Camp VII were subjected to torture that involved forced
21 nudity, for example?

22 A. I don't recall that, sir. Again, I reviewed it about
23 a year ago.

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1 Q. And do you recall that, in the case of some of these
2 detainees, they were required to be naked in front of females?

3 A. I don't recall that, sir.

4 Q. Do you recall that there was a practice used called
5 rectal rehydration in which there were -- in which items were
6 placed into the rectal area ----

7 TC [MR. SWANN]: Objection, Your Honor. The issue here
8 is, of course, the female guards.

9 MJ [COL POHL]: Any allegation that that was done by
10 females?

11 LDC [MR. NEVIN]: Well, I -- I believe yes. I believe
12 that there were -- there was female involvement in the ----

13 MJ [COL POHL]: Okay. If you limit -- that's the issue
14 before me.

15 LDC [MR. NEVIN]: Yes, sir.

16 MJ [COL POHL]: So the objection is overruled with that
17 stipulation that ----

18 LDC [MR. NEVIN]: Yes.

19 **Questions by the Learned Defense Counsel [MR. NEVIN]:**

20 Q. I'm asking to the -- to what extent you may have been
21 aware that there was -- that that report indicated that female
22 interrogators or handlers were involved in imposing that kind
23 of torture on some of these detainees.

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1 A. I'm aware of that, those actions. As to whether it
2 was a male or female, I'm unsure of.

3 Q. All right. I take it you -- you said before that
4 these were matters that you took up with a psychologist who
5 was an advisor of some kind who was available to you, but --
6 well, let me ask: Are these the kinds of things that you took
7 up with this -- with the expert psychologist you referred to
8 previously?

9 A. They weren't taken up. I kind of dealt with them on
10 a case-by-case basis. If you would get into some of the
11 specifics versus generalities, I could probably speak a little
12 more in depth on it.

13 Q. Well, let me just then return to the question of why
14 we're here; namely, this issue of female guards. I know that
15 some of the detainees expressed objection to you about being
16 touched by female guards, physically touched by female guards.

17 Did you make an effort to determine whether what --
18 whether they might have some unusual sensitivity to that kind
19 of touching, given their past experience in the -- in the
20 CIA's torture program?

21 A. I had conversations with multiple detainees regarding
22 the touching of females. I don't believe any of them
23 responded back based on what you talked about with that

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1 report. Most of them said it was more of a religious reason
2 and not based on previous actions.

3 Q. Right. Thank you.

4 They were indicating to you that the objection to
5 being touched was based in the tenets of Islam, their
6 religion; is that correct?

7 A. That's correct.

8 Q. And did you -- did you understand that, in the course
9 of their treatment in the CIA's torture program, that their
10 religion was demeaned in various ways? Had you heard that?

11 A. I'm not aware of that, sir. You know, my time, like
12 we stated, was from December of last year until August.
13 That's really where my focus was at, and I could speak better
14 on that than previous actions of other organizations.

15 Q. Okay. And I've asked you about both the matter of
16 forced nakedness in front of women, women participating
17 in ----

18 TC [MR. SWANN]: Objection, Your Honor, asked and
19 answered. He has already indicated that he has answered the
20 question.

21 MJ [COL POHL]: Let him complete the question.

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

23 Q. So I've asked you about forced nudity as a form of

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1 torture and about being forced to be naked in front of women.
2 And I've spoken to you also about desecration of the religion
3 as part of the torture program. But I just want to be sure --
4 be clear that what you're saying is that when you spoke to the
5 detainees, they didn't tell you about that. They just told
6 you that their religion required that they not be touched by
7 females; is that correct?

8 A. That is correct.

9 Q. Okay. Now, I take it that what you're saying is that
10 because the detainees spoke to you in that way about it, you
11 didn't go -- you didn't take this up with your -- the
12 psychologist whom you had access to; is that correct?

13 A. That's correct.

14 Q. All right. And did you attempt on your own to place
15 the question of being touched by women against their will --
16 did you attempt to place that in the context of or understand
17 it in the context of the torture report?

18 A. No, sir.

19 Q. All right. And you would agree with me that it would
20 be useful -- in terms of understanding their response to
21 touching, that it would be useful to understand what they were
22 put through in that torture program if it related to these
23 kinds of issues?

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1 A. Again, I was charged with, you know, the care,
2 custody, control, and humane treatment of these detainees. I
3 understand things happened to them prior to when I was there
4 and so forth, but again, I was charged with the current
5 operations. It would be the same thing if we were to reverse
6 it, these actions that you speak of were males, are we saying
7 now males can't touch them because of these actions? Just to
8 kind of flip it a little bit.

9 But, you know, when I did speak with them, they -- it
10 was -- they did not want to be touched by females because of
11 their religion.

12 Q. Okay. And they were very clear with you about
13 that ----

14 A. I had multiple conversations -- they were. And I had
15 multiple conversations with the leadership in Guantanamo Bay
16 about this.

17 Q. Okay. Who did you talk to in the leadership about
18 this?

19 A. The Joint Detention Group Commander and the JTF
20 Commander. I had conversations in staffings about this --
21 this order and the no-touch.

22 Q. The Joint Detention Group Commander would have been
23 Colonel Heath?

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1 A. That is correct.

2 Q. And when you refer to the JTF Commander, who are you
3 speaking of there?

4 A. Admiral Cozad.

5 Q. And were there other persons that you had
6 communications with, conversations with about this?

7 A. There was multiple -- I'd see the SJA team at GTMO
8 within the JTF to get their guidance also on the legality of
9 what I can and cannot do.

10 Q. Okay. But you also, in the process of providing
11 humane treatment, recognized that what might be humane for one
12 person might be very inhumane for another based on their prior
13 experiences, right?

14 A. Again, I didn't have a lot of information on their
15 prior experiences. I had very little information. You know,
16 other than a quick bio of who they were and what they were
17 accused of, I didn't have a lot of information of pre -- you
18 know, pre-activity actions and so forth.

19 Q. Yes, sir. I was really more just meaning to ask you
20 about the concept.

21 If you have a child that you've held up a book
22 repeatedly over years and then struck the child with the book,
23 you might come along and hold the book up in front of the

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1 child and scare the child half to death as a result of doing
2 that, whereas another child might just say, "Oh, a book."

3 How people respond to stimulus depends on their prior
4 experiences, that was really what I was getting at, right?

5 A. I would agree with that statement.

6 Q. Okay. Sorry. There is random noise on this feed we
7 have, and sometimes I think you're speaking when you're not,
8 so I apologize for that.

9 You are from Colorado. Was the rest of your unit
10 there at Camp VII from Colorado?

11 A. The guard force, yes, it was, sir.

12 Q. Are there other -- oh, so other than the guard force,
13 you mean -- what did you mean by that?

14 A. For instance, the Detainee Socialization Management
15 Program was Air Force. Like some of the medical staff, the
16 doctor, the psychiatrist, they were not organic to the
17 Colorado Army National Guard.

18 Q. I see.

19 Were there other people in your guard force who were
20 not originally from the Colorado National Guard? I believe we
21 had testimony from one, an NCOIC in the escort program, who
22 testified that she was from a different unit but attached to
23 your unit after you arrived. Does that sound correct?

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1 A. I think you got that backward. I believe the NCO
2 you're referencing ----

3 Q. Yes.

4 A. ---- is from Colorado and now assigned to the
5 current -- [VTC transmission interrupted]

6 Q. Right.

7 A. I had no soldiers under my watch that were from other
8 units that stayed longer and so forth.

9 Q. Okay. Yeah. You're right. I remember that now. I
10 apologize.

11 You knew that you would be the commander of Camp VII
12 before you came here, correct?

13 A. That is correct.

14 Q. And you trained for that purpose, correct?

15 A. We did, sir.

16 Q. But you did not make the decision that your National
17 Guard unit would be the one that would come here to Guantanamo
18 to serve this duty, correct?

19 A. Can you say that question one more time?

20 Q. Yeah. I'm sorry.

21 I guess my point is: Someone else directed that
22 the -- that your Army National Guard unit would deploy to
23 Guantanamo, that was not a decision you made, right?

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1 A. That's correct. It came from echelons above us, yes.

2 Q. Right.

3 A. Probably NGB to FORSCOM.

4 Q. But were you the one who filled out a deployment
5 manning document that selected various people from the
6 Colorado National Guard unit to come to Guantanamo?

7 A. I was part of that planning process in which we took
8 military police -- Colorado has a small population of MPs --
9 and based on the security requirements, we had to fill from
10 not only the organic unit that came but from subsequential
11 units to fill this manning document. And that included an
12 all-volunteer call-out to find soldiers that wanted to reclass
13 as military police and that were able to get the proper
14 security clearances to join this deployment.

15 Q. And did that call-out go only to soldiers in the
16 Colorado National Guard unit or did that go to other units?

17 A. Throughout the Colorado Army National Guard. There's
18 a separate process if you want to go out through the state
19 through National Guard drill. This was kept within the
20 compounds of the Colorado National Guard.

21 Q. All right. So how many people changed over from
22 other specialties and were trained on the military police
23 specialty in order to fulfill this manning requirement?

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1 A. I would estimate between 10 and 15 percent.

2 Q. Uh-huh. Can you tell us roughly how many people that
3 would be?

4 MJ [COL POHL]: Now ----

5 LDC [MR. NEVIN]: Yeah, before you answer that ----

6 MJ [COL POHL]: Major, this is the judge. When we talk
7 about numbers here, we only want approximates and ranges. I
8 do not want exact numbers. Do you understand that?

9 WIT: I do, sir.

10 MJ [COL POHL]: Okay. Approximately how many -- within a
11 range, about how many -- let's just talk about your whole
12 deployment with the National Guard that went to Camp VII,
13 approximately. Give me within 20 or 30, 10 to 50, 40 to 60,
14 what?

15 WIT: Ten to 50, sir.

16 MJ [COL POHL]: Okay. And of that, that was the
17 percentage that you said 10 to 20 percent were reclassified?

18 WIT: Yes, sir.

19 MJ [COL POHL]: Mr. Nevin.

20 LDC [MR. NEVIN]: Thank you, Your Honor.

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

22 Q. I want to ask you if you have had occasion to review
23 Joint Detention Group SOP Number 39, "Religious Support of

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1 Detainees." Are you familiar with that one?

2 A. I have read that and reviewed that. It's been a few
3 months, obviously. I'm not on Guantanamo anymore.

4 Q. Right.

5 MJ [COL POHL]: Mr. Nevin, let me make sure that I can
6 understand where this is going.

7 LDC [MR. NEVIN]: Yes, sir.

8 MJ [COL POHL]: The last witness testified for her time
9 here when there was no order out there.

10 LDC [MR. NEVIN]: Right.

11 MJ [COL POHL]: Okay. As I see it, the Hadi order had
12 already been issued, but he has about a three-week period from
13 mid December until 7 January where, if you want to use the
14 term, he had the discretion about the use of the gender.

15 LDC [MR. NEVIN]: Yeah.

16 MJ [COL POHL]: Because on 7 January, the interim order
17 came out. Is that your understanding?

18 LDC [MR. NEVIN]: Yes.

19 MJ [COL POHL]: So I understand where are you going on
20 this, but I'm just simply saying would we not be focused on
21 that window where he had that discretion? Do you understand
22 what I'm saying? Because after that, it was no longer his
23 call.

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1 LDC [MR. NEVIN]: Right.

2 MJ [COL POHL]: Okay. So go ahead and ask your question.
3 I just want to -- I think we need to focus on a narrower
4 window rather than the whole time.

5 LDC [MR. NEVIN]: I appreciate that, Your Honor. I
6 appreciate that.

7 MJ [COL POHL]: Go ahead.

8 **Questions by the Learned Defense Counsel [MR. NEVIN]:**

9 Q. So let me just direct your attention, okay, sir: You
10 arrive sometime and take over sometime in mid December of
11 2014. And then after that, several weeks after that in early
12 January of 2015, Judge Pohl, who is the presiding judge in our
13 case here, issues an order that directs that female guards
14 will not have hands-on contact with male detainees when they
15 are being moved to legal visits or being moved to commission
16 hearings.

17 Is all of the stuff that I just said correct?

18 A. It is.

19 Q. All right. So I'd like to just ask you a couple of
20 questions about the period of time before Judge Pohl issued
21 that order, between the time you arrived and like the first
22 week in January of 2015, okay?

23 A. Okay. That three-week window?

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1 Q. Yes, sir. Are you with me?

2 A. I'm here, yes.

3 Q. Okay.

4 A. So I believe in that three-week window, there was no
5 legal meetings the first two weeks due to the Christmas
6 holiday.

7 Q. Okay. So -- and there were no commission hearings --
8 or let me back up.

9 There were commission hearings that occurred shortly
10 before Christmas of 2014, correct?

11 A. I -- I don't recall.

12 MJ [COL POHL]: Mr. Nevin, to be precise ----

13 A. I'm sure. I don't know.

14 MJ [COL POHL]: ---- we had two ----

15 LDC [MR. NEVIN]: It was the 20th.

16 MJ [COL POHL]: We had two 802s, but because this issue
17 was still pending, I do not believe there was any detainee
18 movements, because I remember it hadn't been fully briefed. I
19 just wanted to make sure we're tracking. He may think, when
20 you say commission hearings, that we moved detainees here.

21 LDC [MR. NEVIN]: Yes, sir.

22 MJ [COL POHL]: And as I recall, it was because the issue
23 was still out there, we did not move detainees here. Is that

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1 the recollection of it? It's the same recollection. That's
2 my recollection. We did not have a hearing with detainees
3 here in December because this issue was still pending.

4 LDC [MR. NEVIN]: Okay.

5 MJ [COL POHL]: We met with two -- we had two 802s, which
6 I think is what you are referring to, without the detainees.

7 LDC [MR. NEVIN]: Okay.

8 **Questions by the Learned Defense Counsel [MR. NEVIN]:**

9 Q. Sir, I don't know -- Major Prior, I don't know if you
10 can -- were able to follow all of that, but we're just trying
11 to get at how many moves there were, legal moves and moves to
12 military commissions, between the time of your arrival and the
13 time when Judge Pohl's order went into effect the first week
14 in January.

15 Do you have a recollection of that?

16 A. I don't recall how many moves were -- external moves
17 with the 9/11 Five there were, I don't know.

18 Q. So let's talk about the period after that order was
19 entered. Of course, once the order was entered, you followed
20 that order, and -- because it was a commission order, of
21 course, correct?

22 A. That is correct. I followed that order.

23 Q. Yeah. Now, in filling out the -- in dealing with

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1 the -- let me just back up a little bit and ask: I take it in
2 dealing with the detainees at Camp VII, you were aware of JDG
3 SOP 39 regarding religious support of detainees and the
4 principles that are contained in it. I recognize maybe you
5 didn't memorize them, and so you can't, like, recite it from
6 chapter and verse as you sit there, but you're generally aware
7 of it, right?

8 A. That is correct.

9 Q. And you would have reviewed that before you came on
10 duty at Camp VII, correct?

11 A. That is correct. I am sure I reviewed it multiple
12 times just in dealing with my day-to-day operations at
13 Camp VII.

14 Q. And so you would remember generally that -- that this
15 SOP lists a number of cultural considerations that have to do
16 with the relationship between women and men, at least adult
17 women and men who are not married to each other. For example,
18 that you're not supposed to ask a detainee about female
19 members of his family, that that would be culturally
20 inappropriate, including asking their names. Do you remember
21 that?

22 A. That is true. I advised all of my guard force to
23 have minimal conversations, especially casual conversations

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1 with any detainees. There was really no small talk
2 authorized. It was pretty much business, did the detainee
3 need something or that type of nature, the guards would
4 fulfill that and so forth. But casual conversation was not
5 authorized with the guard force to the detainees.

6 Q. Yeah. And the -- there also is an SOP that provides
7 or that indicates that close contact with unrelated females is
8 culturally inappropriate, and you were familiar with that as
9 well, correct?

10 A. That is correct.

11 Q. And so I'm sure that when it came to your attention
12 that some detainees objected to being touched by females, that
13 didn't come as a surprise to you because you were aware of
14 that as a general matter, anyway, because it appears in your
15 SOPs; would that be correct?

16 A. Yes, sir.

17 Q. And after you -- after Judge Pohl issues the order,
18 you, of course, follow it, and you followed it successfully, I
19 believe; would that be correct?

20 A. There was strains throughout my deployment on making
21 sure that we could uphold that order. It was an operational
22 strain and an operational constraint.

23 Q. Yeah. And yet you succeeded, correct?

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1 A. I guess how you define succeed -- did we uphold the
2 judge's ruling? Yes. Did it affect the overall readiness,
3 the morale, you know, cohesion of the force that was there?
4 It affected that.

5 Q. Yeah. And yet the security of the institution --
6 referring to Camp VII, the security was never in question, was
7 it?

8 A. I would disagree with that statement. I ran a highly
9 sophisticated counter-elicitation program in which I moved
10 guards around throughout the day, throughout the week,
11 et cetera, so that they wouldn't be elicited, nor would the
12 guards develop relationships with the detainees. So with that
13 said, I had to alter that elicitation program based on the
14 movements that were made.

15 Q. Did any detainees escape?

16 A. No detainees escaped on my watch.

17 Q. And did any detainees succeed in getting important
18 information from some of your guards?

19 A. Not that I'm aware of. Again, it increased the
20 overall risk. When I have a trained and validated MP that
21 can't do his or her job, that increases that overall risk. I
22 mean, we have, you know, unpredictable detainees within that
23 facility, so, you know, at the end of the day, you know, it's

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1 paramount that my guards, you know, go home, and, you know,
2 thankfully everyone had a successful deployment, was able to
3 come home. But it did increase that overall risk when dealing
4 with the detainees.

5 Q. And yet I think you stated under oath that -- that
6 the entire guard force, regardless of gender, trains on all
7 guard force techniques, correct?

8 A. That is correct, specifically based on their rank;
9 i.e., a private wouldn't train on the -- what I trained on,
10 for instance, as a major. But when we -- military police
11 functions, yes.

12 Q. Okay. So everybody on the escort ----

13 A. So what happens when I ----

14 Q. Sorry. Excuse me. I talked over you inadvertently.
15 Finish your answer, please.

16 A. I was going to explain that the -- like the military
17 police soldier skills, i.e., handcuffing, escorts, forced cell
18 extraction, et cetera, were all trained basically without any
19 sort of rank differential. But a private wouldn't be trained
20 as a watch commander.

21 Q. Right. And nobody, presumably, trained to be the
22 camp commander except you.

23 A. That is correct.

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1 Q. Right. But everybody on the detainee escort teams,
2 for example, trained to the same standard, correct?

3 A. Yes, sir.

4 Q. And what percentage of your detainee escort guards --
5 what was the percentage of the entire group that was in
6 Camp VII that was assigned to escort duties?

7 TC [MR. SWANN]: Objection, Your Honor.

8 LDC [MR. NEVIN]: "Approximate," is that the issue?

9 TC [MR. SWANN]: Yes.

10 **Questions by the Learned Defense Counsel [MR. NEVIN]:**

11 Q. Approximately what was the percentage? In other
12 words, here's what I'm getting at: You have an entire guard
13 force and some of you are in operations, some of you are
14 serving on the tier, and some of you are in escort duties.
15 And I'm getting at an approximate breakdown of where -- of how
16 large each of those groups is.

17 TC [MR. SWANN]: And what's the relevance to this,
18 Your Honor?

19 MJ [COL POHL]: Objection overruled. You may answer the
20 question.

21 A. The approximate female force on escorts was at or
22 under ten percent. The bulk of my females worked at the camp
23 specifically on tier.

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1 Q. So I want to make sure that I understand what you
2 just said. About ten percent of your entire group in Camp VII
3 were females, and the bulk of those or the majority of those
4 served on the tiers, correct?

5 A. Correct. Approximately 20 percent worked on the
6 tiers.

7 Q. Twenty percent of what were on the tiers?

8 A. Twenty percent of the guard force.

9 Q. Ah. Okay.

10 A. I would say of that guard force, ten percent were
11 escorts that were female, at or about ten percent.

12 Q. And roughly what percentage of the entire guard force
13 were escorts, male or female?

14 A. Maybe 25 to 30 percent.

15 Q. And approximately what percent of the entire guard
16 force, male and female, served on the tier -- on the tiers?

17 A. Probably that other 70 percent.

18 Q. Leaving a small number in operations, then?

19 A. That would be correct.

20 Q. Okay. All right. So did you break your -- did you
21 break the soldiers on the escort side up into teams, in escort
22 teams?

23 A. They were broken down -- prior to our arrival at

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1 Camp VII and even specifically Cuba, those soldiers were
2 already assigned as escort section.

3 Q. Right. And roughly how many teams were -- did you
4 create discrete teams; in other words, these people are always
5 on team number one or whatever you may have called it, and
6 these people are always on team number two, or did it not work
7 that way?

8 A. No, sir. It was -- we had a different program in
9 which basically a DA Form 6, whoever was the next five, they
10 would rotate into those positions. So it wasn't if you were
11 on alpha team on day one, you were on alpha team on day 300.
12 Those teams were always moved around.

13 Q. So the personnel ----

14 A. So specifically, if you worked in that escort -- if
15 you worked in escorts, you did not rotate for the most part
16 into any other sections within the Camp VII umbrella.

17 Q. Okay. And I didn't ask a very good question, so let
18 me try it again.

19 I'm talking now only soldiers who are serving on the
20 escort -- in the escort -- it's the escort platoon, I believe,
21 correct?

22 A. Yes, sir.

23 Q. So I just want to ask you about soldiers in the

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1 escort platoon. And you've told us that that makes up about
2 25 -- made up about 25 to 30 percent of your entire guard
3 force. And of those people who were in the escort platoon,
4 were those people assigned to individual detainee escort
5 teams?

6 A. Based on their rank, obviously. For instance, if I
7 had a sergeant first class, he wasn't part of a detainee
8 escort team. But based on their rank, all of the soldiers
9 rotated through the escort teams that were were assigned to
10 the escort platoon. It was a rotation.

11 Q. Okay. So on any given ----

12 A. And this goes back to the counter-elicitation
13 program.

14 Q. Right. So on any given day, you might have some
15 detainees who needed to be moved, escorted outside of
16 Camp VII, and you would assign -- somewhat by random, you
17 would select individual soldiers to be on the escort team
18 that's moving detainee number one or detainee number two, and
19 the next day there might be a different group of soldiers who
20 moved the same detainee; is that correct? You moved that
21 around from day to day.

22 A. That is correct.

23 Q. Okay. So you take your entire pool of 25 to 30

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1 percent of the guard force, all of those soldiers, and you
2 select from them and you put them on a team and you send them
3 off to escort detainee -- a particular detainee today,
4 correct?

5 A. Generally speaking.

6 Q. All right. And how long in advance would you make
7 that kind of an assignment?

8 A. It would be dependent upon, obviously, the detainee,
9 if they accepted their legal move that day. We all both know
10 that many of these detainees would refuse their -- to go to a
11 legal meeting, or we had additional legal meetings. So based
12 on that operational tempo, we would have to backwards-plan and
13 find out how many detainee escort teams we needed for a
14 movement for that specific day. I mean, it could be one, it
15 could be, you know, multiple.

16 Q. Sir, you left in August of 2015; is that correct?

17 A. That is correct.

18 Q. And have you -- have you continued to maintain
19 contact or familiarity with the operation of Camp VII going
20 forward from August of 2015, or do you just hand that off to
21 somebody else and go on about your life?

22 A. I did a three-week relief-in-process, a very in-depth
23 left-seat/right-seat ride to take the incoming commander so

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1 that he knew the policies and procedures of Camp VII and the
2 JTF task force. I have had minimal contact, really no contact
3 with any of the Camp VII personnel since I have left.

4 I have seen some things on the news reference
5 Guantanamo shutting down and potentially moving Guantanamo to
6 Colorado, but other than that, no contact with the Camp VII
7 personnel.

8 Q. Okay.

9 A. I have had informal conversations with some of those
10 soldiers that stayed behind, but more informal versus
11 work-related conversations.

12 Q. Okay. I understand. Thank you.

13 You -- during the time that you were the commander of
14 Camp VII, is it correct that there were -- that detainees were
15 moved for basically seven different purposes: Legal meetings,
16 commission hearings, DSMP, recreation, medical, media, and
17 cell searches; is that correct?

18 A. Those are some. I believe they could also see the
19 psychiatrist, which would have been an additional move.

20 Q. Okay. So for purposes of my next question, consider
21 the psychiatrist to be part of medical, okay?

22 A. Okay.

23 Q. Approximately what percentage of the total moves were

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1 moves other than to the commissions or to legal meetings?

2 A. Again, I oversaw the entire facility, not specific
3 five detainees, so when I speak of this, I'm going to speak in
4 general to all -- all detainees that were housed at Camp VII;
5 is that correct?

6 Q. Yes, sir.

7 A. Okay. Based on all detainees, going outside the
8 facility, for instance, to a legal meeting, I would say
9 probably 80 percent of those moves were internal to the
10 facility.

11 Q. Okay. So the moves to -- just by subtraction, then,
12 you're saying that about 20 percent of them involved moves to
13 the commissions or to legal meetings?

14 A. That would be correct.

15 LDC [MR. NEVIN]: May I have just a moment, Your Honor?

16 MJ [COL POHL]: Sure.

17 [Pause.]

18 LDC [MR. NEVIN]: That's all I have. Thank you, sir.

19 MJ [COL POHL]: Next. I understand that we go from front
20 to back. That's your guys' choice, not mine. So if somebody
21 else wants to go, it's whoever stands up.

22 Major Schwartz.

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

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1 Q. Good afternoon, sir. Major, can you hear me?

2 A. I hear you loud and clear.

3 Q. My name is Michael Schwartz. I represent Walid
4 Bin'Attash. Are you familiar with him?

5 A. I am.

6 Q. Okay. I just want to follow up on something
7 Mr. Nevin asked you. With respect to these moves and the
8 breakdown, the percentages of legal moves versus moves
9 elsewhere, is there a record of precisely the number of moves
10 that would have been for legal or commissions that we could
11 look up if we knew where to look?

12 A. Yes. I'm sure that that data is available, yes.

13 Q. Where would we look?

14 A. I would go to DIMS, and then I think you guys have
15 the dockets of when detainees are going to legal moves, so
16 I -- that's where I would start at. Start with the SJA and
17 then working with the SJA to get into DIMS.

18 Q. And what's DIMS?

19 A. It's the Detainee Information Management System.

20 Q. And you mentioned dockets for legal moves. What do
21 you mean by that?

22 A. When it would be the -- I guess the process -- if we
23 knew a detainee had a legal meeting through SJA, there's a

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1 process for that.

2 Q. Okay. And the SJA maintains the records?

3 A. But I -- I believe so. But I know DIMS is going to
4 give you all of your internal moves. External moves would be
5 in DIMS also.

6 Q. You mentioned having conversations with detainees at
7 various times. Conversations of the female guard issue, for
8 lack of a better term, did you have discussions with
9 Mr. Bin'Attash about that issue?

10 A. I believe I have had multiple discussions with him
11 about it.

12 Q. And where did those conversations take place?

13 A. Probably -- at his cell. I was -- through his cell
14 door, through a little, like, opening.

15 Q. Did you have conversations with Mr. Bin'Attash
16 anywhere else?

17 A. I might have had conversations with him at rec, but I
18 believe the bulk, the majority were adjacent to his cell.

19 Q. Okay. And changing topics, back to something else
20 Mr. Nevin asked you about.

21 You had conversations with the SJA regarding the
22 legality of the use of female guards in contact roles; is that
23 correct?

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1 A. I wouldn't use the word "legality," but I did speak
2 with SJA regarding what the order meant. I believe it was the
3 first court order that we had to apply. I was making sure
4 that we were compliant and what the left and right limits of
5 that court order were.

6 Q. Okay. You said that you had conversations with the
7 JDG and the JTF commanders, correct?

8 A. That is correct.

9 Q. Is that about the application of the order or was
10 that preceding the order?

11 A. I'd say both.

12 Q. Okay.

13 A. I spoke with them, obviously, about the initial part,
14 and then the operational concern of how long we can sustain
15 and some of the fall-backs of continuing to maintain that
16 order.

17 Q. Okay. Your conversation with the SJA was only about
18 the application of the order. You didn't seek legal advice
19 before the order was in place?

20 A. We got the order -- it just came down, and so I
21 hadn't spoken with SJA prior to the order referencing the
22 female guards.

23 Q. Okay. And your conversations with the SJA or the

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1 legal advisor ----

2 A. Specific to the 9/11 Five, I'm sure I spoke to them
3 referencing that, because Hadi al-Iraqi was already in place
4 at the time.

5 Q. Okay. With respect to your conversations with the
6 SJA, what form of communication did that take?

7 A. Vocal -- verbal conversations, face-to-face
8 conversations.

9 Q. And e-mail conversations also, I think is that what
10 you were about to say?

11 A. No. I had very little e-mail traffic with SJA. I
12 was typically face to face. There might have been a couple of
13 e-mails. Obviously, I received the order via e-mail but, you
14 know, it was easier to have those discussions face to face. I
15 didn't have e-mail at my facility, so to have those
16 conversations would have been a bit difficult via e-mail.

17 Q. And the legal advice you received from the SJA was to
18 follow the judge's order, correct?

19 A. That is correct.

20 DDC [Maj SCHWARTZ]: One moment, Your Honor?

21 MJ [COL POHL]: Sure.

22 [Pause.]

23 DDC [Maj SCHWARTZ]: Your Honor, again, based on AE 392,

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1 we reserve the right to recall Mister -- the Major, please.

2 MJ [COL POHL]: Sure.

3 DDC [Maj SCHWARTZ]: That's all I have today, thank you.

4 MJ [COL POHL]: Mr. Harrington.

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

6 Q. Major, my name is Jim Harrington. I'm one of the
7 attorneys for Ramzi Binalshibh. Do you know Mr. Binalshibh?

8 A. Yes, I had multiple conversations and interactions
9 with him.

10 Q. And have you had any conversations with him regarding
11 the use of female guards to escort him to legal visits and
12 commissions hearings?

13 A. I have. I can tell you that RBS will -- he had
14 openly moved multiple times with females. Internal --
15 obviously with the order it was male-only, but within the
16 facility, he had moved -- I would say, you know, if not a
17 hundred, but a high percentage of times with females to
18 internal -- internally within the facility, i.e., to media, to
19 rec, et cetera.

20 Q. Do you recall the question I just asked you, Major?

21 MJ [COL POHL]: Ask it again, Mr. Harrington.

22 A. You can ask it again.

23 MJ [COL POHL]: Major -- just a minute. Major, please

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1 just focus your answer on the question that's being asked. I
2 know it's easy to get off topic, but it will go much faster if
3 you just respond to the exact question that's being asked. Do
4 you understand that?

5 WIT: Yes, sir.

6 MJ [COL POHL]: No problem. Go ahead, Mr. Harrington.

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

8 Q. Major, did you discuss with Mr. Binalshibh the issue
9 of female guards escorting him to legal and commission
10 hearings?

11 A. I believe I did speak to him about that. Again, I
12 spoke with many of the detainees, but specific, I would say
13 yes, that I did speak to him about it.

14 Q. Do you recall him objecting to that being done?

15 A. I don't recall that.

16 Q. Okay. When did you first speak with him about it?

17 A. I spoke with -- right after the order was issued, I
18 spoke with most of the detainees that day. If it wasn't that
19 day, the next morning.

20 Q. Okay. And at that particular time, there were no --
21 according to your earlier testimony, there were no legal
22 visits because of the holidays and there were no court
23 sessions at that time; is that correct?

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1 A. I believe so.

2 Q. And you indicated a few minutes ago that the order
3 did not apply to the internal movements within the camp,
4 correct?

5 A. That's correct.

6 Q. And Mr. Binalshibh and the other detainees could go
7 to the other escorts, such as to rec and DSMP, or not; that
8 was their choice, correct?

9 A. That is their choice, yes.

10 Q. And so if they were presented with a female guard as
11 an escort, they either had to decide not to go to that
12 particular activity or to go with a female guard, correct?

13 A. That is correct, if there was a female on that team.

14 Q. And Mr. Binalshibh indicated to you he did not want
15 female guards to escort him, did he not?

16 A. I don't recall that specific conversation, but I know
17 he had moved with females before and continued to.

18 Q. So is it your testimony that Mr. Binalshibh never
19 objected to you to the use of female guards to escort him?

20 A. I'm sure he did.

21 Q. Do you recall why it is that he did, what he told
22 you?

23 A. I'm sure he said that it was -- I'm sure he said that

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1 it was based on his religion.

2 Q. When you testified a bit earlier about the training
3 of the guards and the escort service, can you tell us, was
4 each of the guards trained with respect to each of the
5 functions that would be done in a move, if you understand my
6 question?

7 A. As a two-part, if you worked in escorts, you were
8 trained specifically to escorts, different types of moves, an
9 external move. But if you were trained internally, you were
10 trained on internal moves. On those, force packages were a
11 little bit different.

12 Q. My question is: If you assigned someone to do a
13 move, whether it's escort or internally, for each of those
14 persons, they are trained on each of the functions that occur
15 on a move; isn't that correct?

16 A. That's not correct. If you were in a supervisory
17 position, you were trained on all of them. But again, like I
18 spoke before, that that junior enlisted, that private, was not
19 trained on the supervisory role that was part of those moves.

20 Q. All right. Other than the function of the
21 supervisory role, there are multiple other roles that the
22 junior officers do; is that correct -- or junior soldiers do?

23 A. That is correct.

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1 Q. They were trained on each of those functions, are
2 they not -- or were they not?

3 A. They are.

4 LDC [MR. HARRINGTON]: Thank you. That's all I have.

5 A. They are.

6 MJ [COL POHL]: Thank you. Colonel Thomas?

7 DDC [Lt Col THOMAS]: No, Your Honor, we do not have any
8 questions for Major Prior.

9 MJ [COL POHL]: Mr. Ruiz?

10 LDC [MR. RUIZ]: If I may have a moment, Judge?

11 MJ [COL POHL]: Okay.

12 [Pause.]

13 LDC [MR. RUIZ]: Judge, one quick question. The SOP that
14 has been referred to a number of times, I think is JTF SOP 39,
15 I believe. Has that been admitted into evidence as an exhibit
16 or an AE? I'm not certain. Okay. All right. I just wanted
17 to know ----

18 MJ [COL POHL]: That -- I do not believe so.

19 LDC [MR. RUIZ]: All right.

20 MJ [COL POHL]: You understand ----

21 LDC [MR. RUIZ]: I wanted to know how to refer to it.

22 MJ [COL POHL]: ---- I'm not necessarily the best person
23 to ask how many attachments there are to 40 or 50 motions ----

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1 LDC [MR. RUIZ]: All of ----

2 MJ [COL POHL]: ---- collectively in here.

3 LDC [MR. RUIZ]: Yes.

4 MJ [COL POHL]: But, Mr. Ryan, you don't believe it's been
5 submitted?

6 TC [MR. RYAN]: I do not, Your Honor. It was referred to
7 yesterday several times on both sides. We don't have an
8 objection to it being put into evidence.

9 MJ [COL POHL]: You don't necessarily need to do it right
10 now if you need to get a clean copy, because you -- yeah.

11 LDC [MR. RUIZ]: Judge, I'm just going to -- may I
12 approach?

13 MJ [COL POHL]: Sure. Okay. That will be 254IIII. Okay.
14 Four I's.

15 LDC [MR. RUIZ]: 254, sorry, what was it?

16 MJ [COL POHL]: Four I's.

17 LDC [MR. RUIZ]: Got it.

18 TC [MR. RYAN]: Your Honor, because the SOP was updated,
19 I'd like to know the date that's on that one, please. On the
20 top, sir.

21 MJ [COL POHL]: Yeah, I got it. 24 June '14. Well, on
22 10 -- one moment. I think you're referring to on the last
23 page it says semiannual review of 10 February '14, no new, you

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1 know, date. And then subsequently for -- just for reference
2 purposes, at the top of the first page it says 24 June 2014,
3 so we'll use that as the reference point.

4 LDC [MR. RUIZ]: Your Honor, thank you.

5 TC [MR. RYAN]: Your Honor, if it becomes necessary, I'm
6 not suggesting it right now, but we may seek introduction of
7 other SOPs, same number, just different dates.

8 MJ [COL POHL]: Okay. We'll make it a different exhibit
9 number, but I don't think we're going to resolve this issue
10 today, so there will be ample opportunity to introduce that.

11 Go ahead, Mr. Ruiz.

12 LDC [MR. RUIZ]: Thank you, Judge.

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

14 Q. Good afternoon, Major Prior.

15 Major, can you hear me?

16 A. I can hear you now.

17 Q. Very well. I said good afternoon.

18 A. Good afternoon.

19 Q. Major, is it an accurate statement to say you are not
20 an expert in Islamic -- in the Islamic religion?

21 A. That is correct.

22 Q. You are not an Islamic scholar, correct?

23 A. Sir, can you speak up a little bit? You're coming in

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1 a little bit broken.

2 Q. I said, you are not an Islamic scholar?

3 A. I am not.

4 Q. I do believe you indicated you had some cultural
5 validation training, correct?

6 A. That is correct.

7 Q. Can you provide just some details of what that
8 involved?

9 A. A lot of it was, like, just standard classes,
10 generalizations about Islam, obviously some of the cultural
11 awareness practices, some of the dress that maybe the females
12 might wear. Some of the things we spoke about, you know, food
13 considerations, et cetera, and how they pray five times a day.

14 Q. And that was training you received prior to your
15 assignment to Guantanamo as the camp commander?

16 A. That is correct. That is correct. I additionally
17 had some additional clarification and guidance as I was on
18 Guantanamo through our Joint Task Force cultural advisor.

19 Q. Do you know what the cultural advisor's competence
20 was for providing that information in terms of his basis for
21 expertise, or hers?

22 A. I think it -- it had to have been -- I'm going to
23 make the assumption it was very high. He was assigned as the

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1 Joint Task Force cultural advisor.

2 Q. I understand ----

3 A. He was able to answer all of my questions that I had
4 based on the Islamic religion.

5 Q. And can you share with us what some of those
6 questions you had were?

7 A. Sure. Specifically to Ramadan, the process of what
8 to expect for Ramadan, eat, additional prayers. I spoke on
9 that with him at great length. Additionally, some of the
10 foods that were going to be provided during Ramadan, if they
11 were going to be culturally sensitive.

12 Additionally, I know specifically I had an incidence
13 where I spoke with him regarding a type of potato chip that we
14 had in the facility to make sure that they were -- they were
15 halal.

16 Q. In regards to the relationships with women, did you
17 speak or seek advice from the cultural advisor?

18 A. No.

19 Q. And why not?

20 A. I had an understanding of that piece regarding
21 females. I also had a facility I had to run, and that
22 facility was equipped to be run with males and females.
23 Regardless of their gender, I used them.

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1 Q. When you refer to the "facility," you're referring to
2 Camp VII?

3 A. Yes, sir.

4 Q. When the issue of the objections or the concerns
5 raised by the man detained in Camp VII -- or some of the men
6 detained in Camp VII first became an issue that affected the
7 facility, potentially, you did not seek advice from your
8 cultural advisor; that's correct?

9 A. That's correct. I spoke ad nauseam with the JDG and
10 the JTF command teams.

11 Q. I'm sorry, did you say "ad nauseam"?

12 A. I did. I spoke with them, yes.

13 Q. Yes. And were either of those commanders experts in
14 the Islamic faith or the Islamic religion, to your knowledge?

15 A. To my knowledge, no.

16 Q. So you spoke ad nauseam with them about the female
17 guard issue; but the cultural advisor assigned by JTF, you did
18 not feel was necessary to seek his or her guidance?

19 A. I spoke to get guidance through my military chain of
20 command. The cultural advisor was a civilian.

21 Q. Okay. Major, you testified -- well, let me ask you
22 this question -- and I don't want to get into specific names
23 of reports or any sensitive information. I'm going to ask you

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1 about reporting requirements, but anything that is sensitive
2 or classified, obviously, don't refer to that.

3 But as part of your duties and responsibilities in
4 your assignment in Guantanamo in the facility, was it part of
5 your responsibility to assess the overall functioning of the
6 facility, the prison?

7 A. It was.

8 Q. And was this something that you would do on a daily
9 basis, weekly basis, monthly basis?

10 A. It was an ever -- a continuing -- a continuing
11 process. I always assessed the facility, everything that was
12 going on, from how the detainees were acting to guard force
13 interaction just to the facility itself. If I had a leak in
14 the roof, I had to oversee all of that. So there was always
15 assessments going on and so forth.

16 Q. Now, you indicated that you spoke to your chain of
17 command. Did you report to your chain of command either on a
18 daily, weekly, or monthly basis concerning the safety and
19 security of the facility?

20 A. I did.

21 Q. And some of those reports were verbal and some of
22 those reports were in writing, correct?

23 A. That is correct.

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1 Q. Now, in terms of the written reporting requirements,
2 how often would you submit those to your chain of command?
3 Whether -- and I'm referring to something that's as informal
4 as an e-mail communication or another reporting requirement.

5 A. Specifically, what type of reporting procedures are
6 you looking for? I mean, I had multiple conversations and
7 e-mail traffic with -- weekly roll-ups, I had multiple
8 commander's updates that I assessed and gave an overall
9 assessment of the detainee population in the facility.

10 Q. Well, you have me at a bit of a disadvantage on that,
11 because I don't know what mechanisms you used. I do know
12 that, for instance, in federal facilities or state facilities,
13 the people who run the safety and security of those prisons or
14 jails have documented reports that go to their chain of
15 command updating on the status of the facility and referencing
16 the security status of the prison. That's the type of
17 document I'm referring to. I don't know if you used that or
18 if it exists, so that's kind of what I'm looking for you to
19 share with us.

20 A. Some of those documents that you described were
21 created and pushed forward to the chain of command.

22 Q. I understand.

23 And when you say detainee command, that's the

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1 JDG Commander?

2 A. Yes, sir. He was my immediate supervisor.

3 Q. Okay. When did you first document for the
4 JDG Commander the security vulnerabilities that you have
5 testified about here in court today? What report did you
6 submit that in?

7 A. It was probably e-mail fashion or verbal
8 conversation.

9 Q. Okay. Certainly, if you felt that there was a
10 compromise of security in this type of facility for these men,
11 you would have put that in an official report and submitted it
12 to your chain of command, correct?

13 A. That is correct.

14 Q. Okay.

15 A. Again, I had limited e-mail at my facility, so a lot
16 of my processes were VOCO.

17 Q. I'm sorry?

18 A. I didn't have e-mail at my facility, so a lot of the
19 processes were VOCO. If there was any sort of like report
20 required, I did submit those to my higher headquarters.

21 Q. All right. So you testified here today under oath in
22 response to Mr. Nevin's questions, that in your assessment,
23 the security of the facility was at risk because you ran a

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1 highly sophisticated system where you moved personnel around
2 to prevent counter-elicitation.

3 My question to you, Major, is: Did you submit an
4 official report regarding the vulnerability of this facility
5 to your chain of command where you specifically referenced
6 these security vulnerabilities?

7 A. There was no specific formal report.

8 Q. In terms of any documented instances where the
9 facility security was, in fact, shown to have broken down
10 during your tenure, were there any documented or confirmed
11 instances where the security of the facility, in fact, was
12 compromised?

13 A. There was.

14 Q. Excuse me?

15 A. Yes.

16 Q. And was that due specifically to the female guard
17 issue?

18 A. No.

19 Q. Okay. Were there any documented breakdowns in the
20 security of the facility directly attributed to the female
21 guard issue?

22 A. Can you say your question one more time?

23 Q. Were there any specific breakdowns in the security of

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1 the facility that were attributed directly to the female guard
2 issue that we are discussing today?

3 A. There was not.

4 Q. And not only -- let me ask the second part of that
5 question which extends beyond the facility.

6 Were there any documented instances of breakdown in
7 security in the transportation of these men to and from legal
8 visits or to and from military commissions that you could
9 attribute to the female guard issue that we are discussing
10 today?

11 A. No.

12 Q. Circling back to your training on the Islamic
13 religion, I did not ask you how long that training was. Was
14 it a day-long training, was it an hour's worth of training?
15 Prior to your deployment, how much time did that take?

16 A. I believe it was just a few hours, maybe a half day.

17 Q. A few hours?

18 A. But I had had multiple training classes. I would say
19 about a half day for the unit. I have had multiple training
20 classes on the Islamic religion with other deployments and so
21 forth.

22 Q. Okay. Let's exclude things such as handling of food,
23 prayer times, and schedules. Just focusing on the

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1 relationships between males and females, how much and what
2 percentage of that training would you estimate focused on that
3 specific issue?

4 A. There was training specific to interactions with
5 females. I do recall that.

6 Q. And I'm asking you -- you said you had a couple of
7 hours' worth, but earlier you also said that involved things
8 such as prayer, food handling, general cultural awareness.
9 What I'm asking you now is to please narrow that in terms of
10 your scope of time to the female guard issue.

11 How much of your training, cultural and sensitivity,
12 how much time was devoted to this specific issue?

13 A. I would guess 30 to 60 minutes.

14 LDC [MR. RUIZ]: May I have a moment, Judge?

15 MJ [COL POHL]: Sure.

16 [Pause.]

17 LDC [MR. RUIZ]: Those are all the questions I have,
18 Judge. Thank you.

19 MJ [COL POHL]: Thank you.

20 Trial Counsel?

21 **CROSS-EXAMINATION**

22 **Questions by the Trial Counsel [MR. SWANN]:**

23 Q. Major, Mr. Ruiz asked you some questions about your

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1 training prior to deployment. I note that you had a
2 deployment as a camp commander to Camp Cropper in Iraq; is
3 that correct?

4 A. That is correct, 2008, sir.

5 Q. Okay. In 2008 when you were the camp commander, how
6 many -- how many individuals, detainees, were you responsible
7 at Camp Cropper for?

8 A. So we had an influx based on incoming and outgoing
9 detainees, so as low as 3,000 and as high as 12,000.

10 Q. All right. During that time, did you have occasion
11 to learn of the religion of these thousands of detainees?

12 A. I did, sir. Additionally, I had an Iraqi guard force
13 that I could speak a little more openly and freely with about
14 their religious aspects also.

15 Q. And did you receive validation training on the
16 cultural awareness of the Islamic religion?

17 A. Yes, sir.

18 Q. All right. Out of all the thousands and thousands of
19 detainees that you were responsible for at Camp Cropper --
20 first, did you have female guards as part of your force?

21 A. I did, sir, approximately 20 percent of my force,
22 just like I had in Guantanamo Bay.

23 Q. And in the processing of these detainees, did you use

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1 the female guards to process them?

2 A. We did, sir.

3 Q. Did you ever have any complaints from any of those
4 thousands of detainees?

5 A. No.

6 Q. Excuse me. Go ahead and ----

7 A. No, sir, we did not.

8 Q. All right. Now, let's just get to the heart of this
9 matter.

10 MJ [COL POHL]: Mr. Swann -- Mr. Swann, let's narrow that
11 last question down because I think he assumed what the
12 question is and gave an answer that's ----

13 TC [MR. SWANN]: Well, I'll ask the question again.

14 MJ [COL POHL]: Were there any complaints about female
15 guards. I suspect there was complaints about other stuff.

16 TC [MR. SWANN]: Okay.

17 **Questions by the Trial Counsel [MR. SWANN]:**

18 Q. In using your female guards, did they come in contact
19 with the detainees?

20 A. Yes, sir, I had female guards come in contact with
21 detainees.

22 Q. Okay. Now, how would they come in contact with the
23 detainees?

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1 A. Through escorts, pat-downs, just movement techniques,
2 as they in-processed them and out-processed them.

3 Q. The movement techniques ----

4 A. To clarify, more of a frisk than a pat-down.

5 Q. Movement techniques in this case, is that female
6 guards touch an individual on the shoulder, the arm, and on
7 the hand? Did I adequately describe the type of contact that
8 your female guards would have with the detainees at Camp VII?

9 A. That is correct, sir.

10 Q. And were those contacts with detainees at
11 Camp Cropper similar?

12 A. Very much so.

13 Q. And did any of the detainees object to being touched
14 on the arm, the shoulder, or the hand to maintain positive
15 control?

16 A. At Camp Cropper, no, sir.

17 Q. Okay. Now, what was the impact of the judge's order
18 on your mission during the eight months that you had to
19 operate under the order?

20 A. The impact hit us in different ways, sir. My
21 operational readiness was affected. Again, I wasn't able to
22 use all of my females as trained and validated MPs, so they
23 had to be pulled off, literally every day off of their tier to

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1 go to another tier, which adversely affected my
2 counter-elicitation program. I had to put the same soldiers
3 back with the same detainees over and over again. And on the
4 back side, those females that weren't authorized to move that
5 detainee spent more and more time with other detainees that
6 were not affected by this order.

7 Additionally, it really destroyed the morale for a
8 long time. These were trained and validated MPs that
9 volunteered for a deployment, you know, that left their kids,
10 their families for a year and now they can't perform the bulk
11 of their duties.

12 I had two teams, I had a male team and I had a female
13 team, and I had to balance that force day in and day out and
14 just that overall readiness, that morale. I can tell you
15 like, as of today, you know, here we are in late December, I
16 have soldiers, based on this deployment, that will be getting
17 out of the military because of this. That's an embarrassment
18 to our Armed Forces.

19 TC [MR. SWANN]: I have no further questions.

20 MJ [COL POHL]: Mr. Nevin, any questions based on that, on
21 Mr. Swann's?

22 LDC [MR. NEVIN]: Your Honor, I think -- [Microphone
23 button not pushed; no audio].

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1 MJ [COL POHL]: If you want to change orders, that's fine.

2 Mr. Ruiz?

3 DDC [Maj SCHWARTZ]: Sir, what time are you tracking for
4 prayer call?

5 MJ [COL POHL]: 3:00.

6 LDC [MR. RUIZ]: Did you say 3:00?

7 MJ [COL POHL]: 1500, yeah. No, I can see the clock on
8 the wall.

9 LDC [MR. RUIZ]: I'd prefer not to break it up, Judge.
10 There's going to be, I think, a little more.

11 MJ [COL POHL]: Based on those questions?

12 LDC [MR. RUIZ]: Based on the questions Mr. Swann asked
13 regarding Camp Cropper, I will have extensive examination on
14 that.

15 MJ [COL POHL]: Okay. What we'll do is we'll take a
16 25-minute recess. We will reconvene at 1520. Commission is
17 in recess.

18 [The R.M.C. 803 session recessed at 1457, 9 December 2015.]

19 [END OF PAGE]

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