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1 [The R.M.C. 803 session was called to order at 1136,
2 28 January 2015.]

3 MJ [CAPT WAITS]: The commission will come to order. Let
4 the record reflect that all parties who were present when the
5 commission recessed are once again present.

6 I think the next prayer time, from my recollection,
7 from looking at the schedule the other day, is once again
8 around 1215, at around that time frame.

9 DDC [LtCol JASPER]: 1215, Your Honor, yes.

10 MJ [CAPT WAITS]: So I don't know if we're going to be
11 able to make it through this witness, through the open portion
12 of this witness' testimony, before 1215 or not, but I suppose
13 we should just press ahead and see how far we get. Is that
14 what you want to do?

15 ATC [MAJ LONG]: Yes, Your Honor. That would be fine.

16 MJ [CAPT WAITS]: All right. Very well. All right, then,
17 Trial Counsel, you may call your next witness.

18 ATC [MAJ LONG]: Yes, Your Honor. The government calls as
19 its next witness the witness testifying under pseudonym as the
20 Current Commander.

21 MJ [CAPT WAITS]: Very well. Current camp commander?

22 ATC [MAJ LONG]: The camp commander, yes, Your Honor.

23 CURRENT COMMANDER, U.S. Army, was called as a witness for the

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1 prosecution, was sworn, and testified as follows:

2 **DIRECT EXAMINATION**

3 **Questions by the Assistant Trial Counsel [MAJ LONG]:**

4 Q. I remind you, as per agreement of the parties and
5 approval by the military judge, that you are testifying under
6 the pseudonym of Current Commander. At no time will you be
7 asked any personally identifying information nor do you need
8 to divulge any personal identifying information.

9 I would also start by putting on the record that in
10 preparation for today's testimony that you had opportunity to
11 meet with the prosecutor, and at that time I provided you a
12 document that has been marked for this proceeding as AE 021U.
13 They were written guidelines by the court security officer as
14 to the security -- the classification parameters for today's
15 hearing, and do you recall reading that document?

16 A. I do.

17 Q. At that time, did you understand the parameters as to
18 classified and unclassified information in that document?

19 A. I did.

20 Q. And at that time, did you have any questions that
21 were unanswered by the prosecutor?

22 A. No, sir.

23 Q. Also I'd like to direct your attention to a

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1 declaration that is dated 14 January 2015 that the court has
2 previously marked for this proceeding as AE 021V. Do you
3 recall reviewing and the process of compiling that
4 declaration?

5 A. Yes, sir.

6 Q. And at this time do you formally adopt that
7 declaration, declare it to be true to the best of your
8 ability?

9 A. Yes, sir.

10 Q. At this time, do you adopt that declaration as your
11 testimony today?

12 A. I do, sir.

13 ATC [LTC LONG]: I would like to start by moving into some
14 of your background, understanding that there is background
15 information in the underlying declaration, but I'd ask the
16 court at this time for a small degree of latitude in just
17 providing some background on this particular witness, so that
18 his qualifications and experience are identified for the
19 record.

20 MJ [CAPT WAITS]: Okay. Before you do that, I want to see
21 if we have -- if I can get that declaration from the court
22 reporters.

23 We don't have it here? Okay. You may proceed, then.

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1 ATC [MAJ LONG]: Yes, Your Honor.

2 **Questions by the Assistant Trial Counsel [MAJ LONG]:**

3 Q. Just would you briefly describe for the military
4 judge your military training and experience, beginning with
5 your initial officer training?

6 A. Sir, I've been a commissioned military police officer
7 for over 16 years, all of that's been in the Colorado Army
8 National Guard. Specific as a military police officer, I've
9 had multiple peacekeeping and combat deployments to include
10 2008, where I served as a company commander at Camp Cropper,
11 Iraq, as a specialist in detainee operations where I oversaw
12 thousands of detainees as the in-processing, out-processing,
13 theater internment facility, the Iraqi AOR.

14 Q. Prior to that deployment to Iraq -- and I remind you
15 to not give or disclose, divulge any unit identifying
16 information, thank you -- was there a deployment or any
17 military experience overseas prior to that?

18 A. Sir, I've served in '99-2000 in support of Operation
19 Joint Forge in the Balkans along with 2003-2004 in support of
20 OIF1, in specific -- 8 Combat in specific support and MP
21 support role.

22 Q. And then fast-forwarding your role as company
23 commander in Camp Cropper, where was that in Iraq.

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1 A. It was in the vicinity of Baghdad.

2 Q. And as company commander, what were your duties and
3 responsibilities?

4 A. I oversaw the care, custody and control of detainees
5 at the Camp Cropper Theater Interment Facility. My role was a
6 safekeeping of the detainees assigned to specific areas of the
7 camp that I oversaw. Of note, we -- I oversaw the movement of
8 truly tens of thousands of detainees in a gender-neutral
9 capacity.

10 Q. How large was your company at that time in Iraq?

11 A. It was roughly 140 soldiers assigned under my
12 command.

13 Q. And what percentage of that company were female
14 military police soldiers?

15 A. Much like today, I'd say right around 20 percent.

16 Q. Could you describe a little further some of the
17 duties of your company and the soldiers and detention
18 operations at Camp Cropper?

19 A. Their duties and responsibilities were starting at
20 the private level all the way up to the platoon level
21 leadership. I had a platoon leader that was a female, a
22 lieutenant. Specifically, the movement of detainees, the
23 overseeing of special detainee work-type programs, the

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1 day-to-day care, custody and control of detainees, whether it
2 was moving them, searches, the feeding, the housing, just the
3 day-to-day detainee operations of all detainees that processed
4 through that facility in a non -- gender-neutral fashion.

5 Q. When you say a "gender-neutral fashion," so there was
6 no distinction in all those duties you just described from
7 your male or female military police soldiers?

8 A. That is correct. All military policemen, male and
9 female, were trained and validated as military police
10 soldiers, without any sort of preclusion to gender-specific
11 roles or responsibilities.

12 Q. You had mentioned a number as to detainees during
13 your time at Camp Cropper. Would you say somewhere in the
14 neighborhood of 10,000, less than 10,000?

15 A. I would say truly thousands of detainees were -- we
16 oversaw. That number fluctuated based on the surge in Iraq
17 from the low 3,000s to the high 12,000s.

18 Q. During that time, did you have the occasion to learn
19 of the religion of these thousands?

20 A. That's correct. To include validation training on
21 cultural awareness of the Islam religion.

22 Q. I'm sorry, I wasn't more precise. Did you have
23 occasion to learn the religion of the detainees?

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1 A. Yes, sir. As part of the vetting process, we were
2 always told what their religion was based on some of the --
3 i.e., Sunni and Shia.

4 Q. What was that religion?

5 A. Islam, Muslim. We also had some Christians that were
6 a special population based on why they were detained.

7 Q. What percentage of those thousands was Muslim?

8 A. Over 99 percent.

9 Q. Did you have occasion in processing these thousands
10 of detainees to learn of their nationalities?

11 A. Yes, sir. For the most part, they were of Iraqi
12 descent.

13 Q. Were there other nationalities represented?

14 A. If I was to take that 1 percent, which were your
15 third country nationals, freedom fighters from other areas of
16 the world, but the bulk of that tens of thousands were of
17 Iraqi descent.

18 Q. In all of your time as company commander at
19 Camp Cropper with a company of 20 percent female, did you ever
20 hear of a complaint by a Muslim detainee regarding your female
21 guards touching them?

22 A. Never, sir. And we -- like I said, truly thousands
23 of movements, and never once an issue or a complaint

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1 officially filed or unofficially filed.

2 Q. And is your experience at Camp Cropper as far as the
3 use of female military police soldiers consistent with your
4 16 years as a military police officer?

5 A. Yes, sir. Consistent as a military police -- as part
6 of the military police corps across DoD.

7 Q. I'd like to direct your attention next to -- well,
8 before we get into that, since -- you are a National Guard
9 soldier; is that correct?

10 A. I am.

11 Q. But your capacity is actually one of active guard; is
12 that true?

13 A. I am. I have served as a traditional
14 one-weekend-a-month soldier, but I've also served as a
15 military technician as a GS, and I currently serve as an
16 active guard reserve Title 32 officer where my -- basically,
17 my Monday-through-Friday job, I wear this uniform, as I do
18 today.

19 Q. Would you describe, without -- again, without getting
20 into specifics of the unit, would you describe the majority of
21 your National Guard unit like yourself, full-time or part-time
22 citizen soldier?

23 A. Ninety percent of the formation is your traditional

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1 all-volunteer force.

2 Q. I want to move beyond the deployment -- your prior
3 deployments to this deployment.

4 Did you have any involvement as a full-time guardsman
5 in the compilation of the force that was to deploy to
6 Guantanamo Bay, Cuba?

7 A. I did, sir. One of the unique things about this
8 deployment was the security classification that we needed to
9 bring. Your standard military police -- police officer
10 doesn't carry a TS/SCI. We had to increase that, which
11 brought in additional constraints, taking an all-volunteer
12 force and preparing them to deploy. One of the things that we
13 have to look at, administrative, medical, psychological-type
14 requirements, and if they cannot meet those requirements, they
15 were disqualified. So you took a very small force and made it
16 even smaller.

17 Unique to my organization is the minimal amount of
18 military police, that pool, what it looked like, pulling from
19 just a very select group. So based on that, we -- Colorado,
20 we did a large -- basically a large all-volunteer callout
21 throughout the state saying if you would like to deploy and
22 you are already an MP or choose to go to the military police
23 qualification courses, and had the ability to get a TS/SCI

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1 security clearance, you were put on our deployment roster.
2 And that was based truly just on that. There was no
3 gender-specific positions of sort.

4 Q. So in order to fill the manning requirements, you
5 testified there was an all-state callout looking for
6 volunteers?

7 A. Yes, sir. That was just based on those requirements
8 I just stated.

9 Q. That was in part because the unit that had received
10 the mission did not have sufficient people and needed to
11 expand their reach as to filling the requirement; isn't that
12 true?

13 A. That is correct. The notice of sourcing that came
14 down from battalion headquarters didn't have enough military
15 police soldiers to fill it. They went into an additional
16 military police unit. Based on that, there was a need to call
17 for additional people to volunteer for this deployment. And
18 again, an all-volunteer force, so volunteers came from
19 throughout the state.

20 Does that answer your question?

21 Q. It does.

22 Approximately how long did it take to fill the
23 manning requirement?

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1 A. The manning requirement started approximately
2 September of 2013, when the notice of sourcing ----

3 Q. I'm sorry to interrupt. Perhaps if -- it is my fault
4 for not being more precise. Rather than giving exact dates,
5 maybe just a period of months, if that would be okay.

6 A. Approximately 15 months to basically create this
7 mobile -- this troop to task mobilization of where we are
8 today of getting all of those soldiers to where we're at.

9 Q. So not only was this an Army National Guard
10 mission -- and you also testified you were looking for
11 military police soldiers within the Army National Guard or
12 those who could volunteer to be trained as military police
13 soldiers; is that true?

14 A. Yes, sir. All soldiers that work in capacity of
15 detainee operations are a 31 series military police. We do
16 have our administrative and logistical, but they do not work
17 specifically with detainees.

18 Q. And then considering further those National Guard,
19 90-plus percent citizen soldiers who are military police or
20 able to be military police trained, then they had to go
21 through a further screening. And could you describe the
22 further screening process you just said as to obtain a TS
23 clearances, top secret clearances, and other requirements?

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1 A. Right. Additionally, our DMD required a specific
2 amount of TS/SCI clearances. Unfortunately, the requirement
3 is more in-depth of a screen from a secret to a TS/SCI, so we
4 did have soldiers that were disqualified in there. Just like
5 many units, you had administrative requirements that wouldn't
6 allow a solder to deploy to include medical to include medical
7 and other issues of that nature, so that they couldn't -- so
8 that pool that was already very small was even compressed into
9 a smaller pool. Hence, the statewide callout for additional
10 soldiers to become military policemen for this deployment.

11 ATC [LTC LONG]: Very good. And, Current Commander, I
12 apologize. I have been handed a note where the technical
13 staff has asked for two things. One, if you would be able
14 to -- I'm know it's just your natural position, if you would
15 back off the mic just a little bit. I don't know what that's
16 doing in the back, but I imagine that that would help them.
17 And the second would be just to slow down. I didn't see
18 anything from the interpreters as to doing so. So I'm under
19 the same constraints, so I appreciate it.

20 MJ [CAPT WAITS]: That microphone obviously does amplify,
21 so just be close enough to it so you can hear your voice out
22 there, but not so close that it distorts.

23 WIT: Understood, sir.

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1 MJ [CAPT WAITS]: Thank you.

2 **Questions by the Assistant Trial Counsel [MAJ LONG]:**

3 Q. In the process of identifying and selecting, going
4 through this 15-month process to fill the manning requirement
5 within the state, did you have occasion as the incoming
6 commander to make selections as to the people within your
7 unit?

8 A. I did. I was able to really shape that formation for
9 what it looks like. I wanted to take soldiers and put them in
10 the right positions based on their leadership qualities, their
11 background, their detainee operation experience, and so forth.
12 I wanted to put strong leaders, balance that with weaker
13 soldiers to get that balance across the force.

14 And where we are today, you see females as watch
15 commander, you see males as watch commanders, you see males
16 and females at the guard level, with no discrimination towards
17 gender in any of those positions. It was truly based on their
18 leadership characteristics, their previous deployment
19 experience, potentially as a national guard soldier, potential
20 correctional experience, getting that right fit for the right
21 job.

22 Q. As I understand your testimony, it was a statewide
23 callout, gender neutral, in order to fill the manning

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1 document, then it was a gender-neutral merit-based selection
2 that you made from those volunteers to fill your unit roster,
3 notably the leadership, as you've testified; is that correct?

4 A. Yes, sir. Everything was gender neutral from my
5 lowest private to myself as the camp commander.

6 Q. Is that consistent with your 16 years as a military
7 police officer?

8 A. It is, sir. I have never held the position nor have
9 I seen any positions that I've worked in the capacity where
10 there was a gender requirement.

11 Q. In preparation for the deployment to Guantanamo Bay,
12 could you describe the training that the -- that your company
13 and the soldiers, without giving specifics as to location, but
14 just generally the training that the soldiers had to undergo
15 in order to validate for the deployment?

16 A. The training that we over -- that we had to complete
17 was a SOUTHCOM requirement, an NXT. That included a training
18 from the individual level to the basically company collective
19 training on detainee operations to include online courses, but
20 specifically to detainee operations, arrest control
21 techniques, movement techniques. We did that at our home
22 station and were validated by our TAG or our Adjutant General.

23 Further, when we assumed the Title X role as an

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1 active duty soldier, we would go to a military base where we
2 were again validated and trained on the specific tactics,
3 techniques, and procedures that we would utilize here at
4 Guantanamo Bay, specifically to Camp VII.

5 Q. So after the 15-month process of selection, and after
6 you've placed soldiers within that manning roster and the
7 leadership in place, you then have two separate training
8 validations for your unit as an entity, one in-state and then
9 one in an active component location?

10 A. Yes, sir. Both were validated with the culminating
11 training exercise, to simulate detention operations specific
12 to Camp VII.

13 Q. Upon your deployment arrival, would you just describe
14 generally, again understanding the parameters that we're
15 operating within with the security guidelines, your roles and
16 responsibilities as camp commander?

17 A. My roles and responsibilities as the camp commander
18 of Camp VII include the overall safety, care, custody, and
19 execution of all duties appropriate to Camp VII. That
20 includes movement of detainees, feeding of detainees,
21 execution of transparent movements and so forth. The care,
22 custody, and confinement of all detainees are under my care.
23 I can go into specifics, if you would like, or ----

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1 Q. No, that's sufficient unless the military judge might
2 ask further on details ----

3 A. I think it deals with the -- when I did arrive here,
4 there was a vetting process for all of my soldiers also. We
5 didn't just assume the roles and responsibilities at Camp VII.
6 There was a vetting process where soldiers had to test into
7 their positions as part of the relief in place transfer of
8 authority that was approximately two weeks. There was a
9 written test and, based on certain leadership positions, an
10 oral board. And again, those positions -- those assignments
11 had already been identified prior to coming to Guantanamo Bay.

12 Q. And that testing and selection process for specific
13 duties and assignments, was that a gender neutral or gender
14 specific?

15 A. That was a gender neutral. To be honest with you,
16 again, we had very little information of what the true duties
17 and responsibilities of what we were going to do at Camp VII.
18 I think it's part of the nature of this as a pseudo, I guess,
19 classified-type mission because of who we house.

20 So we had little to no information of what our roles
21 and responsibilities coming to Guantanamo were, other than we
22 had a high-value detainee mission. Other than that, it was
23 very little information.

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1 Q. Very good. And that based -- to the best of your
2 knowledge, is based on the sensitivity and the classification
3 surrounding some of the operations here?

4 A. Yes, sir.

5 Q. At some point after your arrival, did you become
6 aware that there was a restriction or a limitation on the use
7 of your female guards?

8 A. I became aware of the motion in late November. I
9 believe I was still at my active duty training post.

10 Q. And at some point after your arrival, did you become
11 aware of a second order that restricted the use of female
12 guards?

13 A. Yes, sir. I had already assumed the duties as the
14 camp OIC when the 9/11 Five order was pushed.

15 Q. In your responsibilities and duties as camp
16 commander, do you look at your camp policy or detainees
17 individually or do you look at them across the spectrum of
18 your responsibilities?

19 A. As the camp OIC, I assume all control of all
20 operations within the camp. I can't specifically look at one
21 detainee. I look at the entire general population when I make
22 decisions, initiate new procedures and so forth. It's across
23 the broad process of the entire camp. I don't make policies

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1 or procedures specific to one person or one detainee.

2 Q. Is that consistent with your experience previously in
3 detention operations?

4 A. It is, sir.

5 Q. I want to next discuss, if you could explain to the
6 military judge the significance of -- again, without getting
7 into internal or specific Camp VII operations, but just
8 generically the significance of guard team and guard force
9 rotation.

10 A. Sir, one of the processes that we utilize at camp is
11 a randomness of tier assignment. I have multiple tiers and I
12 move soldiers daily to keep a randomness. Part of it is
13 because of the counter elicitation.

14 Q. Could you explain further when you just said,
15 "counter elicitation"?

16 A. Counter elicitation. Again, some of the detainees
17 are -- I want to minimize those interactions and minimize
18 those interactions with detainees, and if I was to keep a
19 soldier, a guard on -- you know, assigned to one detainee all
20 the time, the increase of complacency, the increase of
21 developing and forming relationships with detainees would put
22 my mission at risk, that they start to form relations and so
23 forth.

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1 So part of this randomness where I move my guard
2 force around daily, and in a pure randomness way, it keeps the
3 detainees -- they don't know the force composition, nor do
4 they know that it's going to be the same guards watching them
5 day in and day out, so there's a randomness, operational
6 surprise or operational element that they do not know.

7 Q. And that policy of random rotation, countering this
8 elicitation, is that just for the detainees, or is that for
9 the detainees and the guards?

10 A. It's for both. Obviously, I want to -- I need to
11 move my soldiers around. They work extremely long hours, and
12 to keep those -- to keep them task oriented, mission oriented,
13 to reduce the complacency of the guards, I do move them around
14 for that reason.

15 They can't have the same job for their entire
16 duration. I need to keep them fresh, mission focused like I
17 spoke about. But also, as I move the guards around, it does
18 minimize those risk factors with developing relationships with
19 detainees.

20 Q. Without, again, getting into specifics of what the
21 move may involve, just generally, how many guard teams --
22 we'll say for an external move, how many guard teams might be
23 involved in every single detainee movement?

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1 A. You're looking at up to four separate teams for an
2 external move.

3 Q. And after learning of the restrictions placed on your
4 female guards specific to certain movements, how does that
5 impact on the rotation and the movement of detainees?

6 A. There's a number of effects that happen. Obviously,
7 if I have a female on that movement team, I need to remove
8 them and put a male. Where that becomes an operational issue
9 is if one of those females is part of the movement team, I now
10 have to remove them, and that's a position they've trained on
11 and validated on.

12 I have to pull them off that position and put a new
13 person. Potentially their supervisor is in that position.
14 Now, that supervisor who has been trained and validated and
15 understands all of the key components of that move now has to
16 assume an operational and a supervisor position, pulling
17 that -- potentially that female off and kind of basically
18 limiting the combat effectiveness of that movement team.

19 You know, I'm charged with, you know, obviously not
20 just the care and custody of detainees, but also the welfare
21 of my own guard force, and, you know, I don't want to put
22 them -- or increase the risks that they might have. So when I
23 put somebody in there that hasn't trained and validated, I am

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1 increasing my risk in doing so.

2 Additionally, as I pull females off, I am pulling
3 from other positions that they're assigned, and I am
4 increasing that -- the potential of increased interaction with
5 other detainees, so they're not getting that random movement
6 around. So it could be always pulling the same group, and,
7 again, that degrades my force within camp.

8 I am also charged with the morale, so when I have to
9 pull a female off who has been trained and validated as a
10 military police soldier, as a guard, they're not part of the
11 team anymore. I've got a lot of -- I have spoken to
12 specifically some females who said, "I wouldn't have
13 volunteered for this mission if I would have known I couldn't
14 be part of the team." You know, we have a concept: One team,
15 one fight. And now I have two teams; I have a male team and I
16 have a female team. And, you know, I have to be able to
17 manage that and go forward.

18 Q. Now, you described the process of having to shift
19 personnel, move females off of particular teams. When you
20 described earlier -- and testified to the randomness, so
21 there's no predictability of that based on the fact that the
22 detainees may or may not accept a certain move; isn't that
23 correct?

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1 A. Yes, sir.

2 Q. So when moving through that randomness, it's
3 impossible to predict by -- by virtue of -- by virtue of the
4 fact that this counter elicitation -- and by operating
5 procedures when that particular guard team will do one
6 particular move because of the constant flux; is that true?

7 A. That constant flux, I don't know truly how far in
8 advance what my moves look like. Those moves are always
9 changing for legal moves, moves to the commissions and so
10 forth. So we use a standard -- you know, we can't use a
11 standard DA 6 Form. It's -- with so many moves happening,
12 it's who's on tier and who's next. And I have to keep that
13 randomness going for that operational surprise.

14 Q. And could you speak to the long-term sustainability
15 on operational impact as you progress in your deployment of
16 the type of changes you're describing right now that you have
17 to make?

18 A. Right. So initially, you know, not only do I have to
19 create a schedule with multiple moves, with my entire guard
20 force, I have to take that schedule and break that out and
21 identify who on the guard force is a female and ensure they're
22 not on a specific move as we go forward.

23 There's things that I don't control at this time, you

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1 know, Red Cross messages, leave, and those increase that
2 variable and chance that my percentage of male to female is
3 going to go large and also decrease as we go forward.

4 We go back to I'm taking people that are not
5 qualified or not validated and trained on specific positions
6 and moving them into other positions, again increasing that
7 risk of something happening.

8 Additionally, you know, there's that morale part that
9 we just discussed where I've got soldiers who feel they're not
10 part of this team and they're now doing another job while,
11 basically, you know, they're out of the game while somebody
12 else is there. As much as it might seem like it's a small
13 thing, when you have a, you know, close to a year-long
14 deployment here, we're looking at X amount of moves, you know,
15 i.e., a male conducted 500 moves and that female counterpart
16 only conducted 100 moves, you know, we start looking at
17 evaluation and awards. And we've all sat on boards where,
18 wow, this guy did 500, this guy did 100, somebody's getting a
19 higher marking there, whether it's an excellence or they're
20 getting the next higher award just based on what they did.
21 There's also that aspect right there.

22 Q. All right. When you talk about -- you're describing
23 the evaluation reports that they may receive, and the -- when

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1 you say X number of moves, so that is a bullet comment, and
2 there might be points assigned to that particular bullet
3 comment which would impact the overall evaluation of that NCO;
4 is that correct?

5 A. That is correct.

6 Q. And can I step back? You mentioned risk, and that is
7 risk more specifically to safety and security; isn't that
8 true?

9 A. It is, sir. It's the risk to my soldiers. You know,
10 I don't want to be the one that writes the letter back to
11 their parents that something happened to them based on putting
12 a soldier that was in a position they didn't train on or, you
13 know, into a position that -- potential overgrade or any
14 nonsupervisor position that they shouldn't have been in that
15 they trained and validated on. It would be unfortunate that I
16 had to write a letter back to a soldier's mom or dad that
17 something happened to them because of that.

18 Q. When you described the risk to safety and security,
19 the soldiers have all been trained in the proper -- to the
20 best of their ability, to make decisions that take into
21 account use of force; isn't that true?

22 A. Yes, sir. We've all been trained on use of force,
23 minimal -- minimum amount of force to defuse the situation.

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1 When you get into those supervisor positions, and that
2 supervisor is potentially dual-hatted as a guard and a
3 supervisor, you know, you've just got to think increase
4 faster, you know, talking about milliseconds, and he's got to
5 stop, step back, and think about what his next action is, you
6 know, we've increased that risk.

7 Additionally, if we have moved that female into a
8 nonsupervisor position and she might be acting as the escort
9 team leader, you know, she's not charged to make those
10 decisions. If she makes a decision that's incorrect or
11 improper, you know, those ramifications, we have to deal with.

12 Q. So in -- in those decisions that have to be made, and
13 you said in milliseconds, so you're taking soldiers, some
14 relatively young, who are making decisions as to the use of
15 force, and you're adding an added component, which is who can
16 touch, not just how; is that true?

17 A. That is correct, sir.

18 Q. And your safety and security risk in that moment is
19 that those soldiers will hesitate; is that true?

20 A. That is correct, thus increasing their risk.

21 MJ [CAPT WAITS]: Colonel Long, before you continue, I
22 want to get -- because we're approaching the next call to
23 prayer ----

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1 ATC [MAJ LONG]: Yes, Your Honor.

2 MJ [CAPT WAITS]: ---- I want to get an indication from
3 you of whether you think you're going to be able to conclude.
4 Since only the direct exam is going to be in an open
5 session ----

6 ATC [MAJ LONG]: Correct.

7 MJ [CAPT WAITS]: --- are we going to be able to make this
8 deadline, or do I need to call a recess?

9 ATC [MAJ LONG]: I believe I will be concluded by -- in
10 the next few minutes. I'm close to conclusion, but I don't
11 know whether or not the defense has ----

12 DDC [LtCol JASPER]: Your Honor, based on what I'm hearing
13 from the direct examination, a very small part of my cross
14 would be at this point classified. I think a lot of it will
15 be, based on what I'm hearing, in no violations of security.
16 I'm going to be probing into the same areas and I just won't
17 use percentages.

18 MJ [CAPT WAITS]: Okay. I mean, that still doesn't answer
19 the question of the breadth of your cross-examination and
20 whether we're going to be able to do that.

21 DDC [LtCol JASPER]: Yeah.

22 MJ [CAPT WAITS]: I would doubt we're going to be able to
23 do that by 1215.

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1 DDC [LtCol JASPER]: Yes, sir. But it may change the
2 complexion of whether it's open or closed on the next
3 proceeding. That's why I wanted to make mention of it.

4 MJ [CAPT WAITS]: Okay. Well, I appreciate that. Okay.
5 I'll let you finish your direct or I'll let you go for another
6 couple of minutes here and see if we can finish it. And
7 otherwise, if we're going to be in an open session anyway for
8 a while, then we'll just recess for lunch and then come back
9 to an open session.

10 ATC [MAJ LONG]: Very good, Your Honor. Thank you.

11 MJ [CAPT WAITS]: Go ahead.

12 **Questions by the Assistant Trial Counsel [MAJ LONG]:**

13 Q. We previously discussed that -- the impact on morale
14 and that certain female guards mentioned they would not have
15 volunteered had they known about this restriction to their
16 duties.

17 I want to ask you: Is there a personal challenge for
18 you as a 16-year military police officer between balancing
19 your experience and your understanding of gender neutrality
20 with the current restrictions that have been placed on your
21 unit?

22 A. In my 16 years as part of the United States Army, I
23 have never been part of a gender-specific order or mission

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1 like we're seeing with the motion today. It's hard to give
2 guidance and direction. Based on my experience with detainee
3 operations in other military police missions, I've had to give
4 that right guidance based on -- you know, I think the DoD's
5 gender neutral, and to go into something that's a little
6 bit -- it's out of the norm, it's extremely difficult because
7 I don't -- it's ground not taken before.

8 So as a leader, you know, I again -- you know, I did
9 tell my guard force, you know, be vigilant, be professional,
10 but there is a doubt in their mind. And I think the thing
11 they're most fearful of is the Pandora's box, the what's next
12 if it starts with this?

13 Again, we go back to, I don't just oversee one
14 detainee, I oversee the entire camp. And I have to assume,
15 you know, future operations and plan against things like this,
16 if this goes into the entire camp with restrictions based on
17 specific gender.

18 Q. And were the restrictions to continue, do you see
19 this getting easier over time or more difficult?

20 A. It would get extremely difficult. And, again, we are
21 increasing the -- somewhat the workload of those males and
22 those females continuing to feel like they're not part of that
23 team and their head's not going to be in the game. That's an

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1 operational requirement that, obviously, they're mission
2 focused at all times based on the sensitivity of this mission.

3 ATC [MAJ LONG]: One moment, Your Honor, if I could.

4 MJ [CAPT WAITS]: Very well.

5 ATC [MAJ LONG]: There's nothing from the government at
6 this time. I would just refer back to the government's
7 AE 021V, which is the underlying declaration. I'll certainly
8 bring that up to the ----

9 MJ [CAPT WAITS]: Very well. Okay. Will 1330 for
10 recommencement of the proceedings be enough time?

11 DDC [LtCol JASPER]: Yes, sir.

12 MJ [CAPT WAITS]: All right. Then the commission is in
13 recess until 1330.

14 Sir, please do not discuss your testimony in this
15 commission with counsel for either side. Since you're in the
16 middle of your testimony, do not discuss your testimony with
17 either the prosecutors or the defense counsel during this
18 lunch recess, and please make sure that you're available back
19 here at 1330 to continue your testimony in this commission.

20 WIT: Understood.

21 MJ [CAPT WAITS]: Thank you very much. This commission is
22 in recess until 1330.

23 [The R.M.C. 803 session recessed at 1218, 28 January 2015.]

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