

DEPARTMENT OF DEFENSE INSPECTOR GENERAL

OFFICE OF ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS

DEFENSE CRIMINAL INVESTIGATIVE SERVICE MID-ATLANTIC FIELD OFFICE 1111 JEFFERSON DAVIS HIGHWAY ARLINGTON, VA 22202

REPORT OF INVESTIGATION

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April 30, 2004

PROJECT: MILCOM

DISTRIBUTION

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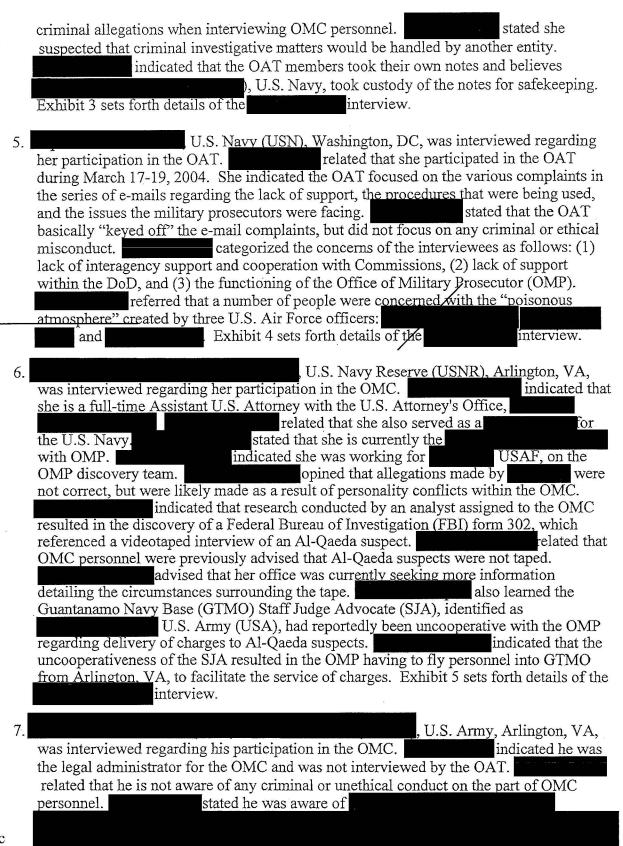
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NARRATIVE

- 1. This project was initiated to investigate allegations of potential criminal conduct by members of the Office of the Chief Prosecutor (OCP), Department of Defense (DoD) Military Commissions. The Military Commissions were established to prosecute individuals subject to the President's Military Order dated November 13, 2001. Department of Defense Military Order No. 1, dated March 21, 2002, establishes the procedures for trials by Military Commissions of certain non-United States citizens in the war against terrorism. The allegations of potential criminal conduct included: false statements, suppression or destruction/disappearance of evidence, dereliction of duty, and conduct unbecoming an officer. Exhibit 1 is the case initiation.
- 2. A DCIS investigative team was formed to investigate reports of potential violations of the Uniform Code of Military Justice (UCMJ) in the OCP as initially detailed in e-mails written by three U.S. Air Force (USAF) judge advocates assigned to the OCP. The investigative team consisted of six DCIS special agents (and a manager (Assistant Special Agent in Charge and a manager (Assistant Special Agent in Charge and Assessment Team (OAT) and the Office of the Military Commissions (OMC), and other individuals with pertinent information as developed during the course of the investigation. Team members were also instructed to document potential unethical (not necessarily criminal) conduct and to report any non-criminal investigative findings and issues that might assist the OMC.
- 3. U.S. Marine Corps (USMC), Washington, DC, was interviewed regarding his participation in the OAT task to examine the structure and process of the Office of the Chief Prosecutor of the OMC. indicated that Mr. William Haynes, General Counsel of the DoD, appointed him. stated that the OAT conducted interviews of OMC personnel in Crystal City, USAF, at the Pentagon. related that interviewees VA, and of were allowed to read the OAT appointment letter to help them understand the scope and purpose of the interviews. advised that the OAT strictly focused on the issues of the structure and process of the OCP and not criminal allegations or ethical conduct when interviewing OMC personnel. related that OAT members , USAF, recorded the proceedings. Exhibit 2 took their own notes and sets forth details of the interview.
- 4. USAF, Washington, DC, was interviewed regarding her participation in the OAT. related that she was the recorder for the OAT. stated the OAT conducted interviews of OMC personnel in Crystal City. indicated that all interviews were completed in one day. advised that prior to each interview, Brigadier General (BG) Black (Black), U.S. Army, greeted each interviewee and allowed them to read the OAT appointment letter to help them understand the scope and purpose of the interview. related that the OAT strictly focused on issues of structure and not

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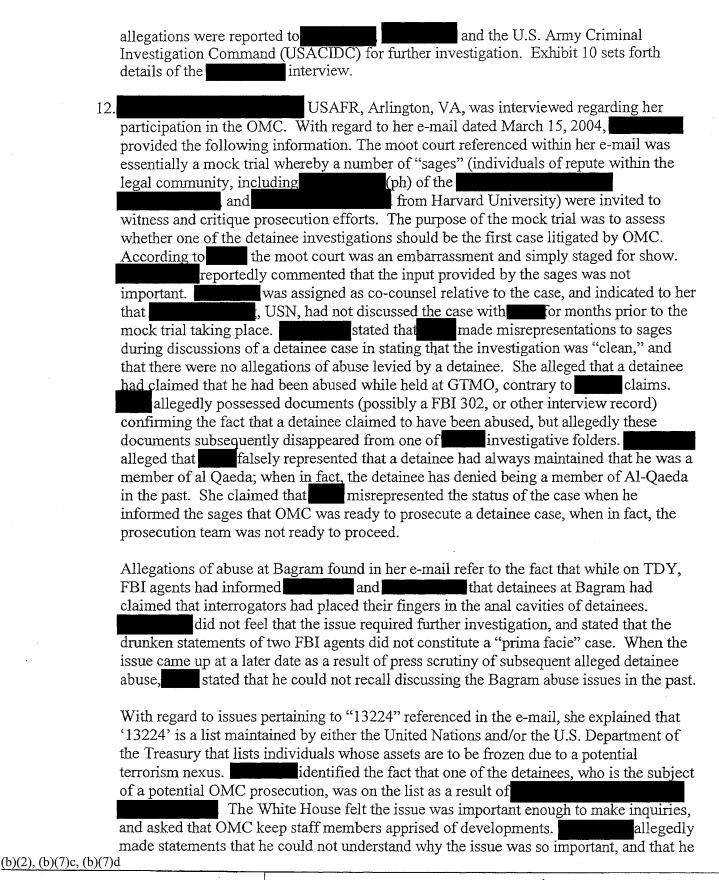
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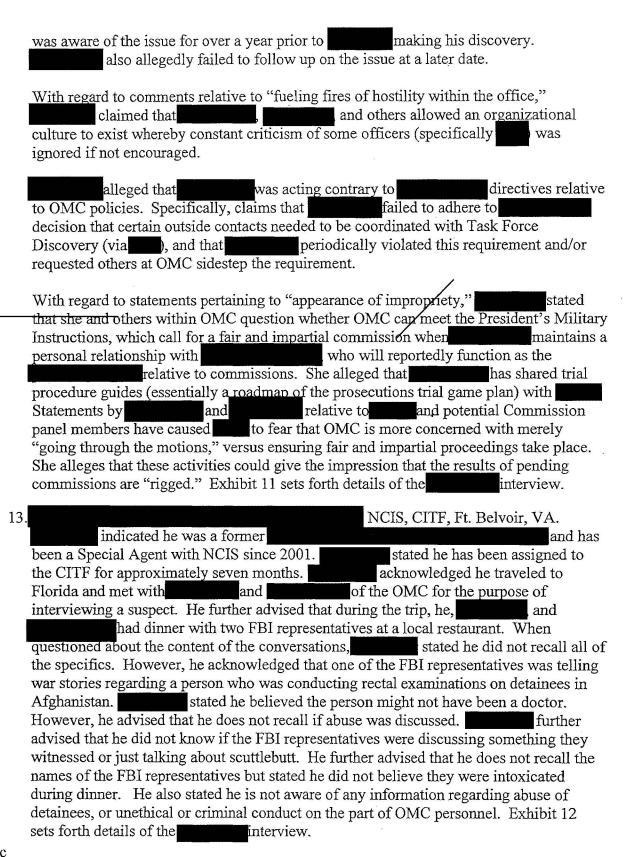


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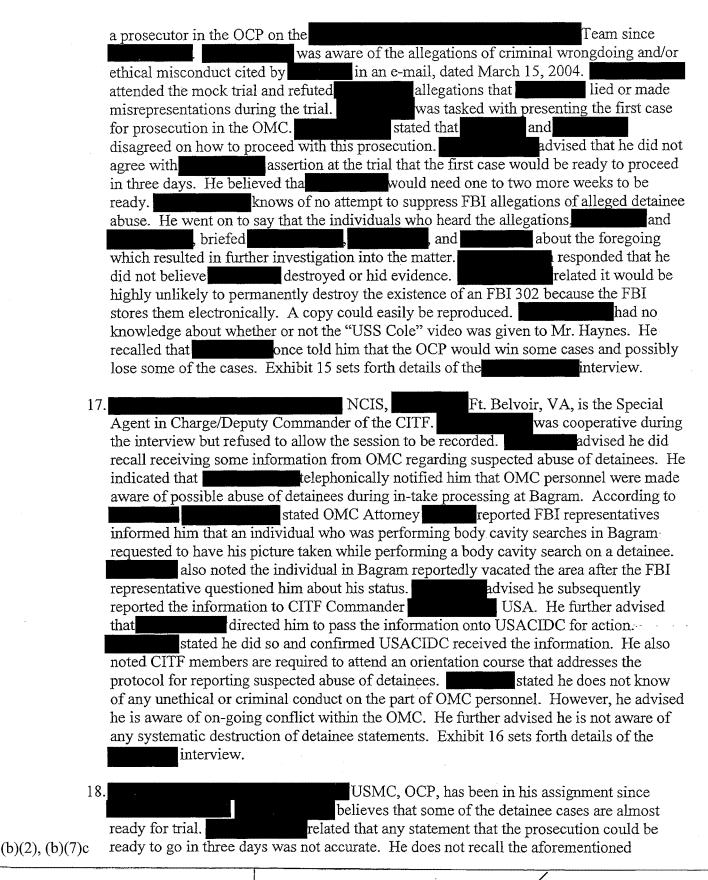
	stated that he referred DPS to , USN, who had and subsequently handled the problem. related that he was not aware if any classified information at the time of the alarm activation. indicated that subsequent to the alarm activation; the OMC implemented a policy that only allowed field grade officers to Exhibit 6 sets forth details of the interview.
8.	regarding his participation in the OMC. related that during January 2004 he traveled to Panama City, Florida, accompanied by OMC, and Naval Criminal Investigative Service (NCIS), to interview a suspect. Officers (TFO) New York City Detective, and
	(ph), FBI, to facilitate the interview. It is stated that his group had dinner with the TFO and noted that both TFO consumed generous amounts of wine during dinner. Indicated he was informed by TFO regarding their observations while in Bagram during the early part of the conflict in 2002. It related that was deployed to Bagram and witnessed the processing of detainees. It was informed by regarding the witnessing of body cavity searches conducted by an unknown individual (UI), who may not been part of the process. It was advised that UI wanted to take a picture of him conducting an anal body cavity search of a detainee. In related that the reportedly refused to take the picture, but noted that the UI vacated the area after stating he was not a doctor. In indicated that observed detainees departing the area with feces running down their legs and appearing to be in pain. It is stated that he and reported the mentioned observations of the next day to the next day to the process of mentioned observations are completely false. Exhibit 7 sets forth details of the interview.
9.	USAF Reserve (USAFR), Arlington, VA, was interviewed regarding his participation in the OMC and allegations made by

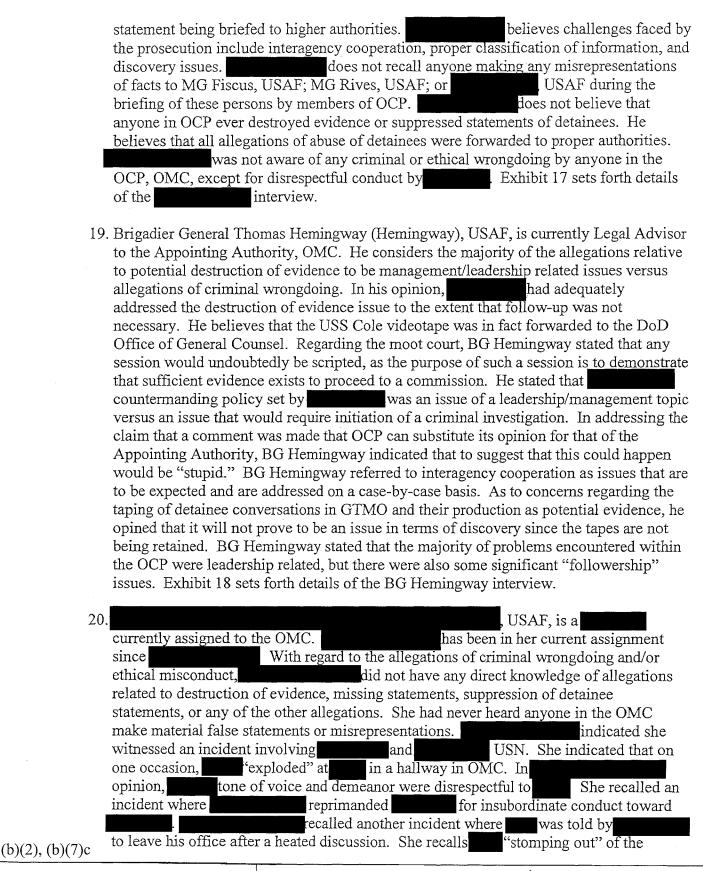
	representative NCIS. referred that he had no knowledge of unethical or criminal conduct committed by OMC personnel. mentioned that actions might be viewed as unethical if he had sent blind copies of allegations via e-mail messages outside OMC channels. opined that was off base and seems to be angry because his opinions and ideas are not being accepted or implemented by senior personnel assigned to OMC. Exhibit 8 sets forth details of the interview.
10	In January 2002, was assigned as a special advisor to the DoD General Counsel, working for Mr. Haynes, General Counsel, and Mr. Paul W. (Whit) Cobb, Deputy General Counsel. was tasked with drafting the rules for military commissions in preparation for trials of subjects captured in the war on terrorism. organized an inter-service working group, and basically set up the OMC. He played a role in "hiring" or selecting the original prosecutors assigned to the OMC, by
	identifying and recommending military prosecutors from the military services. Initially, was designated as the acting a position he held until approximately when replaced him. In did not have any direct interaction or association with the OMC or its members, except for occasional social events and periodic phone calls or e-mails with a recipient of the e-mails authored by and nor did he actually know that they wrote them; however, he became aware of the general content of the e-mails from Mr. Cobb, (Public Affairs Officer, DOD-OGC), and MG John Altenburg (recently designated as Appointing Authority, OMC). In did not have any knowledge of the specific allegations brought up in the e-mails. In November 2003, as a highly optimistic individual who often "shoots from the hip." In November 2003, as served as an observer to the mock trial that was conducted by OMC. In provided substantive critiques to the process. In has no knowledge of any destruction of evidence involving OMC, nor can he see any motivation to do so. Regarding the status of the trials, believed that one or more of the detainees should have been tried by now, although he acknowledges that many external factors have caused delays and lack of focus. Exhibit 9 sets forth details of the interview.
(b)(2), (b)(7)c	interviewed regarding his participation in the OMC. Preported to the OCP in August 2003. In described the most daunting challenge facing the OCP with respect to prosecuting terror suspects is the lack of interagency cooperation. Provided numerous examples where the OCP requested information relevant to their prosecution effort from the FBI, CIA, DOJ, and Defense Intelligence Agencies, and the requests were either unanswered or were not addressed in a timely manner. Prefuted the assertion in the e-mail that alleged suppression of FBI allegations of abuse of detainees at the Bagram Detention Facility. Permail related that FBI Agents in Panama City, Florida, had told two members of the OCP that detainees in the Bagram Detention Facility had allegedly been abused, and that the two OCP members "couldn't report (to provided e-mails and documentation that illustrated the abuse provided e-mails and documentation that illustrated the abuse





	USAF, OMC, advised that he reported to the OCP of the OMC in September 2003. He related that he immediately raised numerous operational concerns to about how the OCP was preparing to go to trial. background and specialty is International Law. stated he was repeatedly told by and that the OCP was ready to go to trial on three days notice. This assertion was briefed repeatedly to various DoD decision and policy makers. refuted this assertion. He stated that the OCP is not currently prepared to adequately prosecute cases. According to a "due diligence" effort on part of the OCP had not been sufficiently pursued to locate all relevant evidence pertaining to the prosecution of the detainees. Regarding the statement in e-mail which read "Additionally, of the FBI related last week that he called to said that this did not raise any issues." advised that this statement did not imply that the OCP was destroying statements or evidence. Lastly, advised that the "USS Cole video" referenced in e-mail referenced a "propaganda video" used by al Qaeda to recruit new members. The video was eventually turned over to Mr. Haynes' office as requested. Exhibit 13 sets forth details of the interview.
	was interviewed regarding his participation in the OMC. indicated that he was detailed to the OMC in December 2003 from pursuant to a Presidential Order for other Government agencies to assist DoD in the military commissions. He continued in this detail until approximately when he was directed to return to until the problems within OMC were addressed and resolved. The related that prior to his assignment to OMC in the was present at the mock trial conducted by OMC in November 2003, where he acted as a "sage" for the purpose of observing and assessing the mock trial. The related that he has extensive experience as a criminal trial litigator, particularly in relation to international terrorism cases. He tried cases in the He is also a support of any member of OMC. He did not believe that any statements or actions on the part of any OMC member constituted false statements, dereliction of duty, or other criminal violations of the UCMJ. Rather, he believed that major disagreements on specific issues amongst the prosecutors were due to greatly differing interpretations of certain information and events. The did not believe that anyone willfully and knowingly misinterpreted anything. The believes that the problems within OMC which were outlined in the series of e-mails by and and stemmed from serious leadership failings by and the DoD General Counsel's Office. The leated that in particular, contributed to many of the frustrations experienced by some of the junior prosecutors in OMC, due to his inability to lead the OMC prosecutors as a cohesive team with a common goal. Exhibit 14 sets forth details of the interview.
16. (b)(2), (b)(7)c	USA, OMC, Arlington, VA, was interviewed regarding his participation in the OMC.



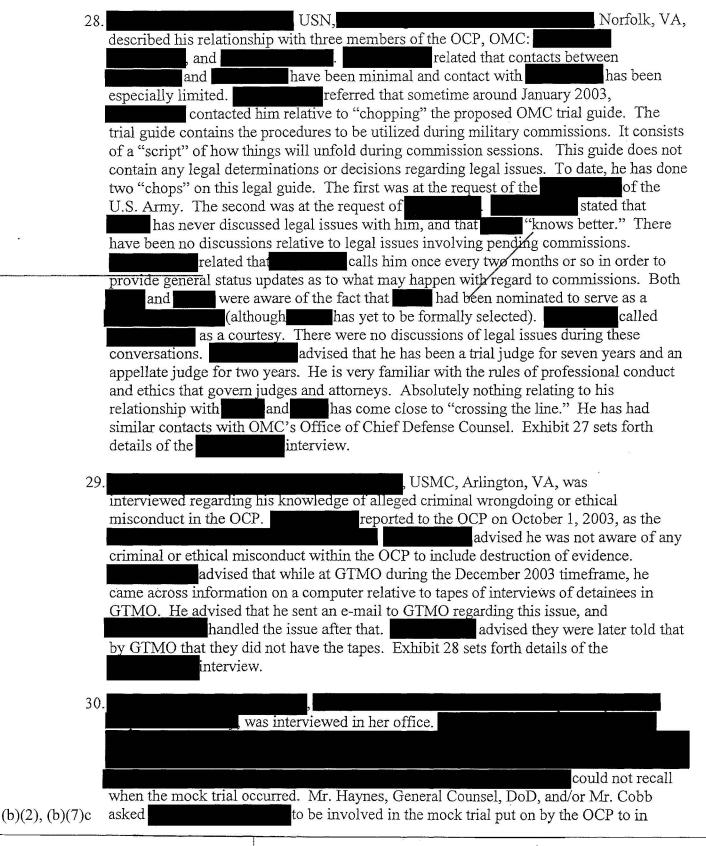


	office. from an aide to a Congressman or Senator who was calling to reschedule a luncheon date with She related that she took this message and placed the message on computer. stated that came to her and questioned her whether anyone else knew about the message. Upon responding that she had not told anyone about the message, told her to forget about it. Later, called her into his office and questioned her further as whether she had told anyone about this message as someone (unidentified) had mentioned this message to anyone. then asked her whether anyone had asked her to watch him, or words to that effect. Exhibit 19 sets forth details of the interview.
21	, USAFR, was interviewed at the
	United States Attorney's Office, regarding his
	knowledge of alleged criminal wrongdoing or ethical misconduct in the OCP, OMC. advised that from through through through he was activated to duty and detailed to the OCP. When asked specifically if he was aware of any criminal wrongdoing or ethical misconduct in the OCP replied in the negative. Regarding allegation of abuse of detainees, advised he recalled very vague discussions in the office on a few occasions about the potential abusive treatment of detainees, but was not able to recall who made the comments or the timeframe the comments were made. The related that he had heard some "rumblings" about the alleged mistreatment of detainees in another foreign country. He advised he did not have any knowledge of the alleged systematic destruction of detainees' statements nor did he witness any destruction of statements while detailed to the OCP. The noted he thought the prosecutors had done a very good job at assembling the evidence in their case in chief, but other steps in the case remained undone. He explained that a lot of things were going on in the office to which he was not privy because a lot of the information was classified and he did not have a need to know. When asked specifically if he was aware of any criminal wrongdoing or ethical misconduct in the OCP of the OMC, he replied in the negative. Exhibit 20 sets forth details of the interview.
22.	USAF, the Pentagon, is currently the
<i></i>	the USAF. has been in his
	present assignment since stated that any information that he had regarding any of the allegations came from other people, namely and
	He related that he, MG Fiscus, and MG Rives visited the OMC in the
	latter part of 2003. indicated that this visit was prompted by concerns raised by and about the operation of the OMC. He stated that
	and presented a public relations type of briefing on the status of the first
	detainee cases ready for prosecution. related that neither he nor MG Fiscus nor MG Rives asked any detailed questions of or concerning the cases. He
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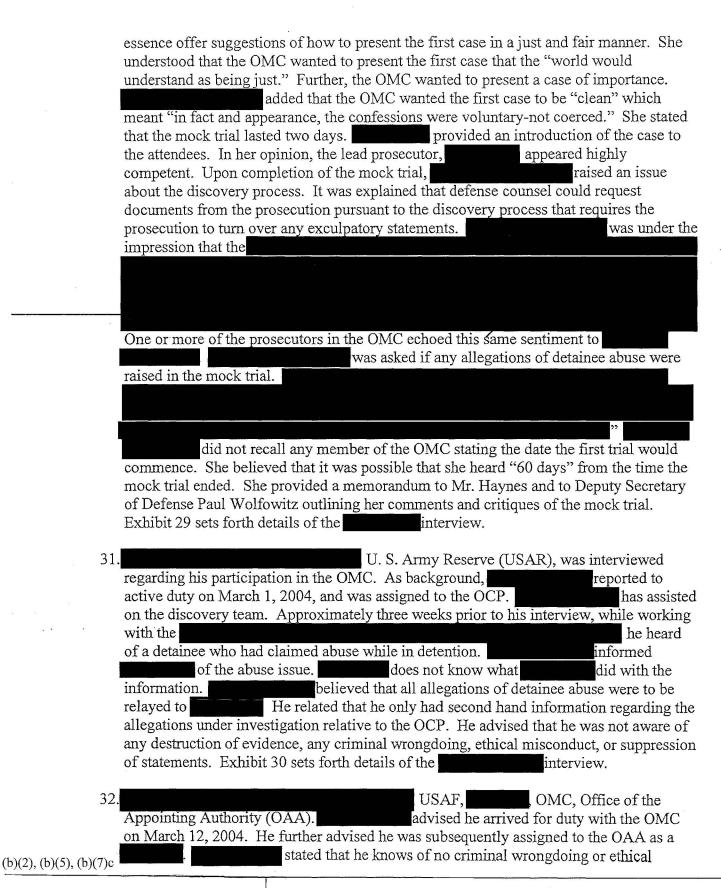
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	mentioned that a thorough analysis of the cases to include a review of the elements of the offenses, witnesses, and documentary evidence is a function for responded that he did not know if this type of detailed analysis of the cases had ever been done by anyone. He cited two shortcomings at the OMC. First, that lid not have a large enough staff. Secondly, that did not have the most experienced staff. He specifically referred to who was of the OCP mission. Stated that had never tried a case, and this appeared to be "a disconnect." Exhibit 21 sets forth details of the interview.
23.	, FBI, and is temporarily detailed to JTF GTMO. advised his first contact with OMC personnel was circa summer 2003. He also advised he has no knowledge of misconduct on the part of OMC personnel,
	advised he knows of no willful misrepresentations on the part of OMC personnel but noted OMC personnel did not appear to have a thorough understanding of their discovery obligations. believed that OMC prosecutors did not initially realize the full scope of information and data in the possession of other U.S. agencies that should be considered discoverable. Additionally, advised he has no knowledge of the systematic destruction of evidence or the suppression of information regarding abuse of detainees. Exhibit 22 sets forth details of the interview.
	Washington, DC, indicated he attended a mock trial held at OMC at the request of Deputy Assistant Attorney General David Nahmias. was the primary presenter. The mock trial consisted of a general presentation of what the military's case would be concerning an individual that is currently being detained at GTMO. related that the mock trial presentation fell somewhere between a true mock trial and a "dog and pony" show. Time issues limited the extent to which an actual mock trial could be conducted. It was not a true mock trial, since there was only a single presentation by the defense. stated he has been a prosecutor since 1989 and has tried over 50 cases. In his opinion, the OMC prosecutors were very reliant upon the statements of detainees,
(b)(2), (b)(5), (b)(7)c	Aside from this issue, OMC prosecutors were utilizing a decent theory for prosecution of the case. He referred that throughout the period that was detailed to OMC, never complained about being underutilized at OMC nor stated that he was being treated poorly. In the opinion of none of the interactions among officers that he observed during the mock trial presentation could be deemed as disrespectful. Nothing occurred that would have indicated that there were significant problems within OMC.

	Interaction among officers did not "set off alarms." upon reading e-mails generated by members of OMC, became aware that there are likely problems within OMC. indicated that he would be disturbed should claims that OMC had suppressed evidence of potential abuse prove to be true. He vaguely recalled that someone at OMC may have represented that the office could be prepared to go to trial within a relatively short period of time. He did not recall the specific time frame referenced; however, he believed that it was "overly optimistic." In the opinion of OMC needed more time to prepare to counter a strong defense. The related that was the only individual that he could recall presenting evidence throughout the mock trial. He recalls a female (NFI) playing a minor role in the presentation, but functioned as the lead attorney. Exhibit 23 sets forth details of the interview.
25	Resident Agent in Charge, GYMO, related that while assigned as the in GTMO, he had occasion to meet with some time in March 2004.
	questioned him about certain issues related to potentially exculpatory and discoverable information in the hands of various agencies dealing with detainees in GTMO. indicated he agreed to assist OMC by reviewing certain case material in the control of CITF. Regarding other matters not under CITF control, and to GTMO. mentioned that and requested full access to Joint Detainee Information Management System (JDIMS), but were only allowed limited access by JTF. explained to and about the possible specific locations of potentially discoverable material produced or retained at GTMO. In opinion, and did not have a good idea of the process of information flow pertaining to detainees and did not understand the "big picture." Exhibit 24 sets forth details of the interview.
26	FBI-GTMO, is the of the at GTMO. related he met with on or about April 1, 2004, at GTMO. fully explained to and the details of the operation, its current limitations, and anticipated capabilities in the near future. Exhibit 25 sets forth details of the interview.
(b)(2), (b)(7)c	Navy Drive, Arlington, VA, regarding her knowledge of alleged criminal wrongdoing or ethical misconduct in the OCP. The related since the she worked on the Task Force Discovery as a substitute of the e-mail, but had no first hand knowledge of any criminal or ethical misconduct to include: false statements, destruction of evidence, allegations of missing notes from FBI 302, or suppression of statements of abuse. The advised that on several occasions in the daily 0900 OCP office meetings, and mentioned allegations of abuse of detainees in a foreign country. Exhibit 26 sets forth details of the interview.

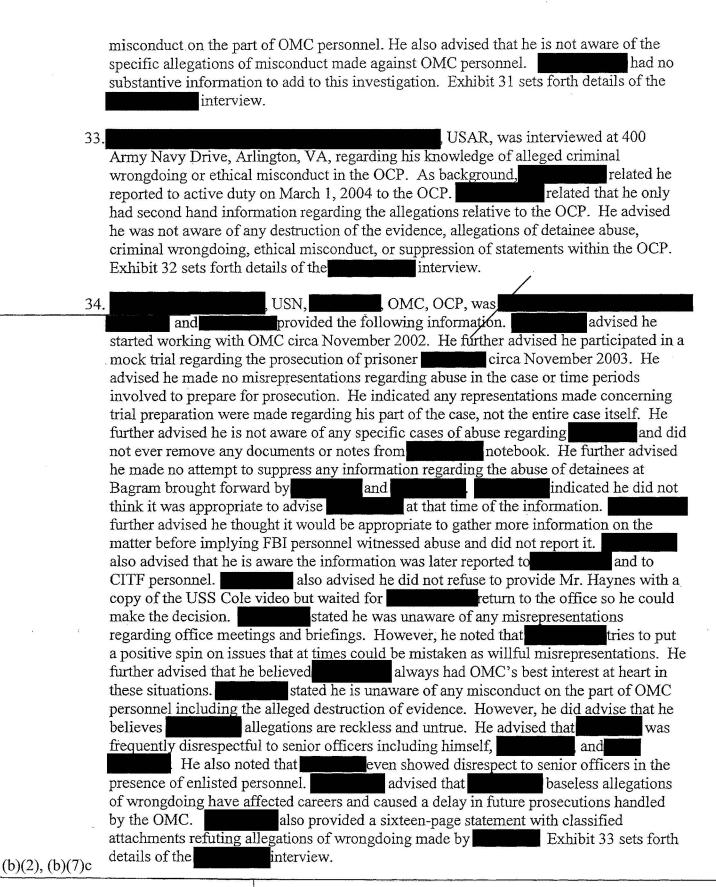


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3.	5. USNR, was interviewed regarding his
	knowledge of alleged criminal wrongdoing or ethical misconduct in the OCP. is assigned to as a but is
	currently "on loan" to the OCP:
	that be reassigned from the to the OMC to conduct research. The
	agreed, and worked at the OMC from February 2003 to June 2003. He
	initially did not have a clearance and therefore, did not have access to
	classified information. assisted in drafting rules and regulations for the OMC relative to administrative issues such as "use of interpreters." The CITF put 7 or 8 cases
	together and presented them to the OCP to determine prosecutive viability.
	looked at 2 or 3 of these cases and drafted some of the initial charges. He also worked
	with conducting research to determine how to prosecute Iraqis either in the
	OMC or in an International Tribunal. Initially, was the on the
AVAIN.	case. He had not heard of any allegations of abuse. queried information from the FBI and CITF contained on computer discs to retrieve
	statements. Upon reviewing the statements, did not find any reference to
	- abuse. did find statements indicating fair treatment by captors.
9	understood that would ultimately be the lead prosecutor on the
	case. Exhibit 34 sets forth details of the interview.
30	6. Major General (MG) Thomas J. Fiscus USAF was interviewed at his office in the
	Pentagon regarding his knowledge of alleged criminal wrongdoing or ethical misconduct
	in the OCP of the OMC. MG Fiscus recalled in early to mid February 2004, he attended
	a briefing at the OCP. He advised that this visit was prompted by the concerns of
	and regarding the preparation of the cases, their access to information, and whether the OCP leadership was accurately portraying the difficulties
	faced by the OCP staff. MG Fiscus believed that and had originally
e	surfaced some concerns in a memorandum, and he requested that they meet with him.
	MG Fiscus related that MG Jack Rives and possibly were at this meeting.
ē.	He stated that and and an area were very concerned that the two cases that had been identified for prosecution did not have sufficient evidence to go forward on the
	cases. MG Fiscus described the OCP briefing as a "happy face briefing." He advised
	that the briefing suggested that everything was in good shape and there was a lot of
	cooperation between the OMC and other agencies. After the briefing, he and MG Rives
d d	met privately with and questioned a little closer. MG Fiscus recalled
	that seemed to back off of a little bit from what he had said earlier in front of the broader group, which included the entire OCP staff. MG Fiscus opined that during the
	briefing, was speaking in terms designed to present a public view.
	According to MG Fiscus, provided a more candid assessment in the private
	meeting. Upon being questioned as to the OCP's state of readiness, MG Fiscus opined
	sensed a strong desire within the administration to move the cases forward.
	MG Fiscus recalled that there was some concern expressed by and and that was trying to put some sort of date on when they could move
(b)(2), (b)(7)c	forward with the cases, but was a ying to put some sort of date on when they could move
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unrealistic. MG Fiscus did not recall a statement being made to the effect that the cases could be ready with a three days notice.

MG Fiscus advised he had spoken with BG Hemingway based on his initial conversation and regarding the problems at OCP. MG Fiscus indicated that a couple days later BG Hemingway advised him that had been directed to spend full time at the OCP. MG Fiscus stated that about six weeks later, came back to him and advised the issues were just as serious as they thought they were in terms of the disconnects and status of the case. He advised this prompted the request for the visit to the OCP. MG Fiscus says that after the briefing things began to unravel. He added that in a staff meeting reportedly singled out the USAF members as not being team players and for calling his leadership into question. was later taken off the prosecution team of one of the MG Fiscus also noted cases. MG Fiscus believes he spoke with BG Hemingway again and suggested that he and regarding the issues at OCP. It is his understanding that talked to them and asked them to put their concerns in writing. Per MG Fiscus, they did so in an unfortunate manner in an é-mail. MG Fiscus said that reacted very negatively with a return e-mail that after the e-mail was sent, was broadcast to the entire staff. He says that on day of the e-mail exchange, came to his office and gave him a copy of the e-mail. MG Fiscus related after receiving a copy of the e-mail, he engaged the USAF General Counsel (Ms. Mary Walker) and Mr. Haynes. According to MG Fiscus, he briefed Mr. Haynes in the presence of Ms. Walker, a (phonetic), and MG Rives regarding the issues. MG Fiscus added that Mr. Haynes was sort of "prep-ed" because of a previous meeting with Fiscus. He noted that Mr. Haynes immediately called a meeting of the Judge Advocates General to advise him on how to proceed with this problem and then directed the creation of an operational assessment team to look into the issues. When asked whether he had any knowledge of anyone in the OCP making any material false statements or misrepresentations prior to the e-mail, MG Fiscus provided that he questioned various aspects of briefing such as timeframe and the nature of the interagency cooperation. He explained that given statements were made to "stakeholders," he would have expected greater candor because the USAF has contributed heavily to the effort. Exhibit 35 sets forth details of the MG Fiscus interview.

37. Major General Jack L. Rives, Deputy Judge Advocate General, USAF was interviewed at his office in the Pentagon, regarding his knowledge of alleged criminal wrongdoing or ethical misconduct in the OCP. MG Rives advised that in Fall 2003, relayed reports from and which indicated the OCP, was not functioning very effectively. He advised part of problem was organizational and part of it was the quality of people working there. MG Rives advised that he was getting the information second and third hand, and recalled on a couple of occasions, showed him some e-mails that he received. MG Rives related that he and MG Fiscus visited the OCP on February 24, 2004. MG Rives added that prior to visiting the OCP, he and MG Fiscus had spoken to BG Hemingway on a couple of occasions about the concerns they were hearing about the OCP. He related that immediately after the

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briefing, he and MG Fiscus asked questions of and his staff and this caused real concern. He went on to say if they had just listened to the briefing without asking questions, they would have left there feeling that OCP had great people who were enthused about what they were doing and the prosecution was in good shape. According to MG Rives, after asking question he did not receive any satisfactory answers. He provided that although briefed that the interagency process was working smoothly, it became apparent that OCP was not getting the cooperation they needed from the interagency process. He related that he had concerns about how they were organized, how they were preparing, and how the interagency process was working. Additionally, MG Rives stated that by the time of the briefing, it was clear that the OCP had first drafted charges and now they were trying to find the evidence to support the charges. He went on to say this was an absurd way for a prosecutor's office to operate. Another issue raised was repeated interrogations of prisoners and the prosecutors not capitalizing on getting the answers to questions that they need asked by the interrogators. MG Rives explained that the prisoners at GTMO can be questioned at any time and have been questioned repeatedly by a variety of investigators, who seemed to have compartmentalized the information and was not sharing the information effectively. MG Rives went on to say that he was aware that OCP had participated in a mock trial in Nov/December 2003. He related that he had been told that the trial was reportedly a façade and a "scripted show." He said the various experienced attendees did not realize the proceeding was scripted and thought they were getting honest answers. He was told
façade and a "scripted show." He said the various experienced attendees did not realize the proceeding was scripted and thought they were getting honest answers. He was told this secondhand by way of from information that had received from and

The private discussion he and MG Fiscus had with caused them to have some misgivings about OCP's level of preparation. He noted that seemed to be aware of how to do things more effectively, but was not doing those things. MG Rives related that he found it troubling that was having problems obtaining an item as basic as the final form statements from investigators (FBI 302s), but found a need to draft charges and announce the charges publicly. Another item that raised concerns to him indicated that he was aware of the individual who would likely be the Presiding Officer (PO) at one of the first two Military Commissions. He went on to say had been in personal contact with the individual, who had not been announced as the PO. MG Rives explained this raises some ethical issues about having ex parte conversations between the Office of the Chief Prosecutor and the individual, who was going to be the PO. MG Rives indicated he and MG Fiscus later discussed this matter with BG Hemingway, and BG Hemingway was sure that had only discussed procedural matters with the potential PO. He advised that he did not know how BG Hemingway would know this when he was not in on the conversations with He related that his discussions have been limited to the OCP, Office of Judge Advocate General channels, and BG Hemingway. He noted that MG Fiscus raised concerns to Ms. Mary Walker, USAF General Counsel, and also at a meeting MG Fiscus attended with the DoD General Counsel, Service General Counsels, and the Judge Advocate Generals regarding the lack of preparation by the OCP. When asked if any statements that were materially false to him, MG Rives said it was nothing that he

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	materially fabricated or outright lied about, but he engaged in a lot of "puffery" and wanted them to believe that they were in really good shape for the prosecutions. He related that when they followed up with questions did not give them satisfactory answers and noted that there was not a single answer that he handled well. He went on say that he would not be surprised if honestly believed that they were ready. He recounted that in late Fall 2003, he and MG Fiscus met with and regarding their concerns several times. He related that after the meetings these concerns were brought to BG Hemingway's attention, and he was advised that action needed to be taken.
	MG Rives believes the <i>ex parte</i> discussions between and a person potentially making the judicial decision in these cases () could be ethical misconduct. He added that questioning of and loyalty was not handled professionally. Exhibit 36 sets forth details of the MG Rives interview.
38.	a at OMC. The reported to OMC during the first week of March 2004. As a result of his brief tenure at OMC, which has no information of relevance to this investigation. He is unaware of specifics relative to allegations of criminal and/or ethical misconduct on the part of OMC members. Exhibit 37 sets forth details of the interview.
39.	On April 15, 2004, USAF, was interviewed regarding his knowledge of alleged criminal wrongdoing or ethical misconduct in the Office of the Chief Prosecutor of the Office of Military Commissions. was sworn, and voluntarily provided the following information.
	BACKGROUND
3455	was assigned to the OCP as an assistant prosecutor on and left that position on the Stated he was "shocked" at being assigned as a young to the OCP. He stated that he knew little about al-Qaeda other than what he had seen in the media. Prior to his arrival. OCP prosecutor. When he arrived at the OCP, he was surprised at how understaffed the office appeared. At the time of his arrival, he stated At the time of his arrival, he stated and were already assigned as prosecutors. For reference, is a prosecutor; is a prosecutor; was the Deputy Chief Prosecutor (in March 2004 when he was reassigned from that duty); is a prosecutor; and was the Chief Prosecutor. arrived for duty as a prosecutor at the OCP about two weeks after arrived. initial duties included "Al-Qaeda 101" (how Al-Qaeda was organized and functioned), a sentencing case, and drafting trial instructions. He was assigned as second
	chair to the case. It was the lead prosecutor. On December 22, 2003, the OCP was reorganized. Was reassigned to be in charge of Task Force (TF)

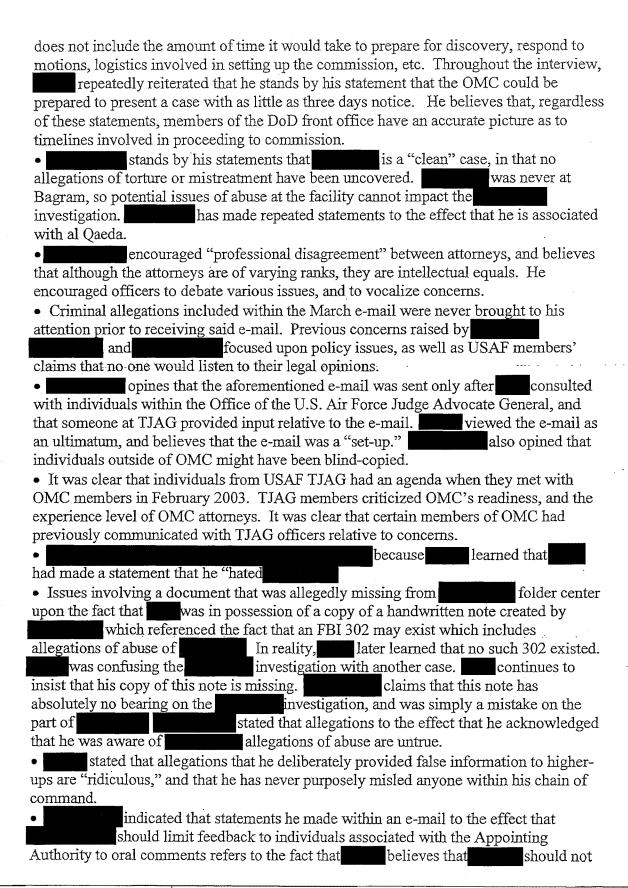
Discovery. He stated that he asked and received permission from to be
removed from the case in late January or early February 2004.
removal from the case was apparently not communicated to until
the first part of March 2004.
GENERAL OVERVIEW OF THE OFFICE
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In early as the Deputy Chief
Prosecutor, OCP. requested a March 11, 2004 meeting, via e-mail,
with and and to discuss the concerns had previously raised with her.
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continuously building the strength of an argument to that the OMC "is not the charge air and" on the first coast.
ready to go to trial" and the OMC "could not have the charges signed" on the first cases.
stated that if BG Hemingway signed the charges on the first two cases, that he
could not "walk into court and defend these actions" took
notes of the meeting. It appeared to that this meeting was a "speak now or forever hold your peace" meeting. believed that had orchestrated
this meeting to have and and present their concerns so could later say, "I asked these guys what their problems were, they said the following
three things, and I took care of them." essentially opined that was
attempting to lock and into specific positions so at a later date if
these issues were raised again, could state that the issues had already been
addressed. stated that he did not "feel comfortable with that." According to
was attempting to frame his (entire litary of issues as a
"personality clash within the office." implied that
as well as some other members of the office (OCP), "didn't
like" because he was negatively affecting the OCP. refuted this
notion to Rather, stated to that his concerns were about
some very fundamental issues of how the OCP was preparing the cases.
to that he was very concerned that the OCP was not acknowledging the correct
state of readiness of the cases and that particular information was not being briefed to the
DoD civilian leadership. Purportedly told I know we are
not ready on the cases, but the first thing Defense (counsel) is going to do is request a
three or four month delay. We are going to have time for all this."
had acknowledged that he was aware of the foregoing concerns, yet he typically
told "we'll worry about that later." strongly disagreed with this tactic.
was convinced that Mr. Haynes, Mr. Cobb, and (current Deputy
Counsel, OGC, DoD) were not aware of, nor would agree with
aforementioned strategy in preparing the cases for trial. further stated that he
observed attempts to manipulate the evidence and portray the cases as more than
they were. perceived a philosophy of "don't do anything which would
jeopardize our (OCP) continued progression as an office with the prosecution of these
cases" as an "overriding consideration" throughout his time at the OCP.
expressed dismay that the OCP was still attempting to put the first cases together after so
much time had passed with only a limited staff assigned. He envisioned the OCP needed

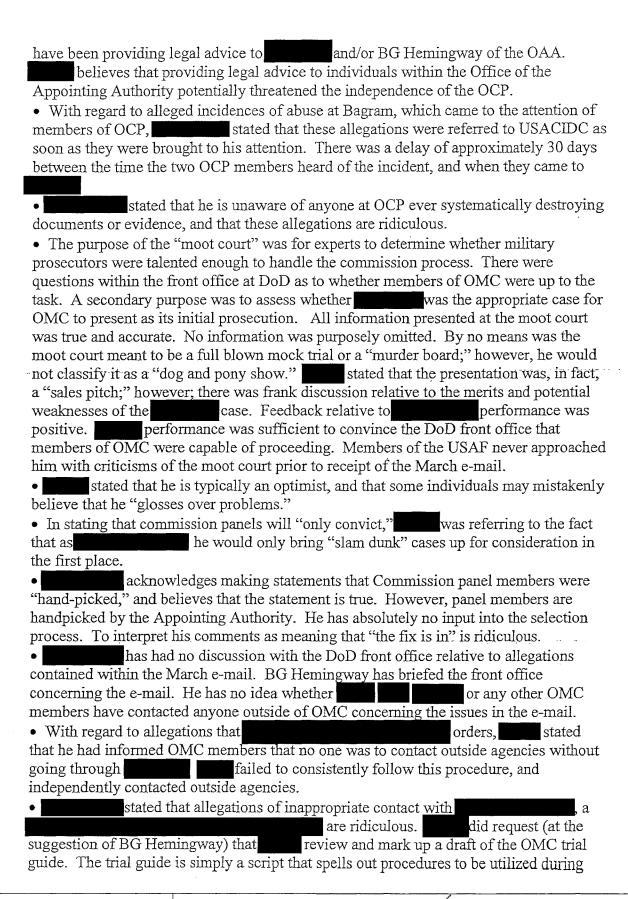
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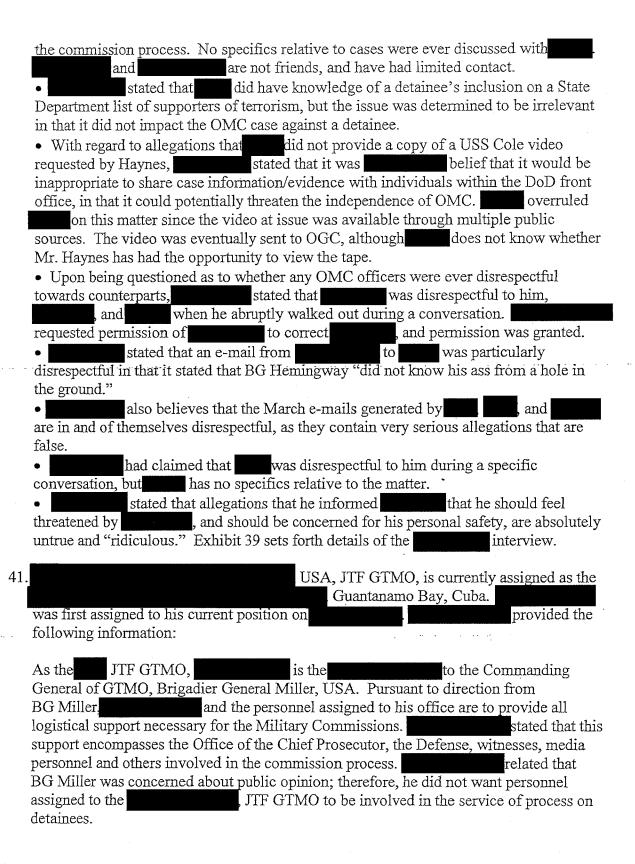
	about 30 more prosecutors to assist in furthering the cases. stated that made a statement to the media on February 9, 2004, to the effect that "Trials are imminent." According to made these types of "overblown" statements all too often. felt that inaccurate representations of the OMC's state of readiness constituted a dereliction of duty.
	felt that information pertaining to the cases was poorly disseminated within the office. He did not know the details of the cases. He felt this inhibited him from doing his job at TF Discovery. told that he (the did not need to know the details of all the cases.
	believed the CITF was set up to support the OCP. believed that the CITF has documents relevant to their cases that the OCP does not have. He cited further problems with inter-agency cooperation. He stated that it was difficult to obtain documents from various government agencies.
	E-MAIL DATED
	defined the email dated and sent the same day as "extremely important" to document his concerns. described the meeting on with and as the impetus to write the e-mail. He felt he needed to make a record of all the concerns he and raised because there was the potential that might contend the issues had been addressed when in fact they had not. Stated that after his email went out, called him and into his office and basically called them liars. Stated that he wrote the e-mail on in collaboration with and with some input from According to the e-mail was not intended to be the basis for a complaint to an Inspector General or to lodge formal allegations. It was intended to serve as running tally of issues that were not being addressed by asserts that other members of the OCP have acknowledged many of his concerns involving the shortcomings and lack of preparedness of the cases. He believed the following areas have continuously hindered the OCP's preparedness: (1) inexperienced litigators and (2) the shortcomings of the cases not being properly briefed up the chain of command.
Ì	addressed the following comments made in the e-mail.
	misrepresentations at the mock trial: The mock trial occurred on November 6, 2003. It told the members of the OCP beforehand that the trial was set up to convince "sages" who represented Deputy Secretary of Defense Wolfowitz that the OMC was ready to prosecute its first cases and ultimately convince Deputy Secretary Wolfowitz to sign off on the charges against the detainees. It was slotted to prosecute the first case against a detainee identified as "was aware that had alleged abuse while in the custody of a foreign country. It told the mock trial attendees that had made no allegations of abuse. It had seen notes referencing an FBI 302 that indicated

had alleged abuse. It thought should have addressed the foregoing during the trial to give the attendees an accurate picture of the case and to make preparations to rebut any potential issues a defense counsel could raise. It also stated that CITF, had not adequately researched allegations of abuse or interviewed all the relevant witnesses. Days after the trial, could not find notes about alleged abuse. Went to and advised him of misrepresentations at the mock trial and that notes were missing from notebook. purportedly told "For your own personal safety, do not bring this up to Let me do it."
case. For example, was aware that made 38 statements that are documented. However, represented that there were only 24 statements. Further, the theory of the case against ageneral conspiracy, and the elements of the crime were not adequately addressed. was also concerned that a proof
analysis was not done and provided to the sages. stated that the attendees were given notebooks full of documents containing limited useful information. All the
foregoing was not being briefed to the DoD Office of General Counsel or its representatives at the mock trial. If felt that the sages were misled about the actual state of readiness. He stated that they would be "shocked" to learn what steps had not been taken to prepare the cases. If the believed the possibility existed that the OMC would be shut down if the DoD civilian leadership knew of the foregoing. If the believed that he heard that the mock trial that the OCP would be ready for trial in three days. If thought that assertion was very inaccurate and generally not supported by other members of the OCP.
Suppressing FBI allegations of abuse at Bagram — According to prosecutors at the OCP, and were on a trip in Florida mid January 2004 when FBI agents purportedly told them in confidence about allegations of detainee abuse at the Bagram Detention Facility. The day returned from Florida he told about the allegations. purportedly told that he had advised of the allegations that same day. and purportedly told not to brief on this due to the fact that the FBI agents relayed the allegation in confidence. If raised this issue, the resulting action might be a degradation of the relationship between the OMC and the FBI.
Approximately one month later spoke to about the foregoing. purportedly instructed and that same day to report the allegations to the USACIDC.
Refusal to give Mr. Haynes the USS Cole video- reluctant to turn over this video because it was intended to be used as a centerpiece of the evidence against According to was aware that this video could be construed as a weak piece of evidence and if Mr. Haynes reviewed it, he would become aware of how little evidentiary value the tape offered. The disappearance/destruction of evidence reiterated that his copy of notes detailing the FBI 302 was missing from his notebook. According to was aware that this video reiterated that his copy of notes detailing the FBI 302 was missing from his notebook. According to was aware that this video did not notes detailing the FBI 302 was missing from his notebook.

•	The email was not meant to imply that anyone in the OCP was destroying evidence. "I've known about this for a year" - stated that this referred to knowledge of potentially useful information, a detainee on the UN 1267 list, which he failed to disseminate and investigate further. misrepresentations at the office overview of his case - This information is covered in misrepresentations at the mock trial" above.
	Deputy General Counsel, DoD, on March 3, 2004. He briefed them on his perceptions of the OCP. This included the state of the cases, the mock trial, the USS Cole video, detainee on the UN 1267 list, lack of inter-agency cooperation, use of the CITF, and other issues covered later in his March 15, 2004, e-mail. Ms. Mary Walker, USAF General Counsel, was present when discussed the foregoing with Mr. Haynes. stated that Mr. Haynes appeared surprised as if this were the first time he had heard these issues.
	oMC. was former supervisor. apparently passed the concerns on to MG Fiscus and MG Rives. On February 24, 2004, the OCP briefed MG Fiscus and MG Rives on the status of the cases. provided the majority of the overview of the cases. believed that misrepresented the state of readiness in terms of case preparation for trial. failed to raise the issue of alleged abuse. and the Generals met separately after the presentation. Exhibit 38 sets forth details of the interview.
40	Military Commissions. Office of and provided the following information.
v	 maintains that he has done nothing wrong, and that allegations claiming that he is guilty of unethical and/or criminal misconduct are "blatant lies." His recent is the result of General Altenburg's need to avoid controversy that may impact the OMC. decision to redistribute an e-mail received from and others was the result of his recognition of the seriousness of the allegations levied against and other members of OMC. believes that it was necessary to "shine light" upon these serious allegations in order to avoid the appearance of impropriety. believes that members of the USAF that levied complaints against him and other members of OMC do not believe in the military commission process, and feel that
	OMC does not have enough evidence to prosecute GTMO detainees. • acknowledges making statements that OMC was ready to proceed to prosecution with three days notice. However, he qualifies his statements by indicating that he is only referring to presentation of the "case in chief." The cases are relatively simple, and are based solely upon statements made by detainees. His three-day estimate



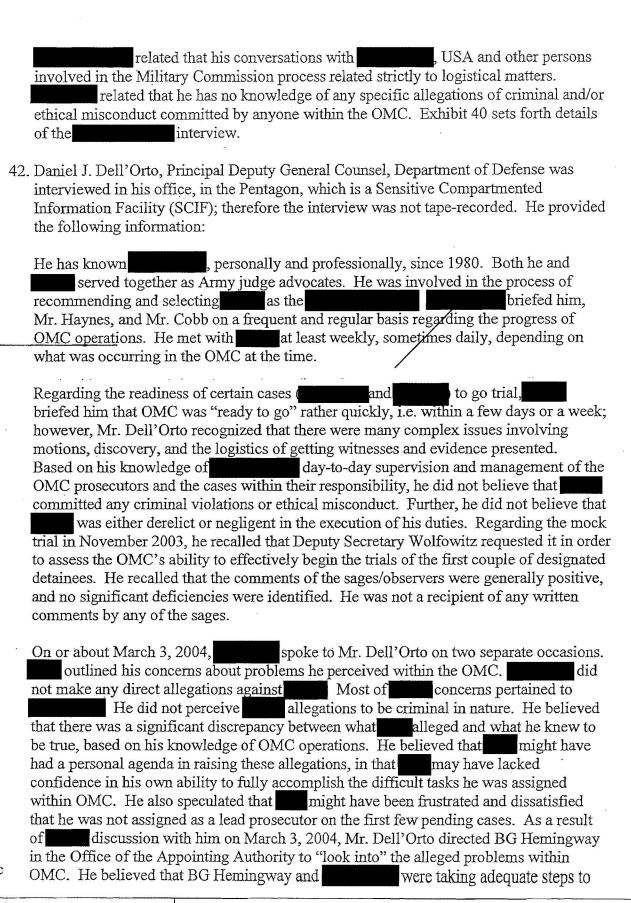




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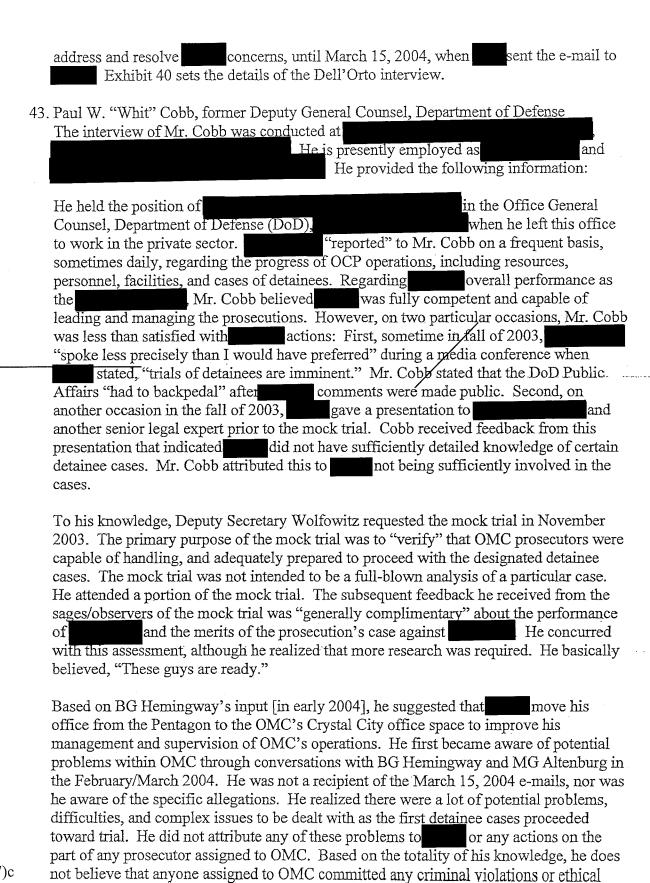
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misconduct. Further, he did not believe anyone was derelict or negligent in the performance of his/her duties. Exhibit 41 sets forth details of the Cobb interview.

44. The investigative team conducted forty-one interviews pertaining to possible criminal wrongdoing and/or ethical misconduct in the OCP of the OMC. The investigative team conducted interviews in the Washington DC metro area; Orlando, Florida; and Guantanamo Navy Base. The team interviewed the majority of the personnel assigned to the OMC, selected members of the Operational Assessment Team, and senior DoD leaders, as well as numerous peripheral witnesses to the matters at issue. The team also conducted a thorough review of relevant documents. The investigative team did not substantiate any of the explicit or implied criminal allegations contained in the e-mail traffic generated by three U.S. Air Force officers) to various members of the OMC. The referenced e-mail traffic addressed several issues pertaining to possible criminal and/or ethical misconduct. The most serious allegations referenced in the e-mail focused on the suppression of information regarding the abuse of detainees at Bagram and the disappearance/destruction of evidence. The investigation found no proof of suppression or disappearance/destruction of evidence. The other specific or implied allegations mentioned in the e-mail traffic (e.g., false statements, dereliction of duty, conduct unbecoming an officer) were also unfounded, as the evidence developed was either inclusive as to misconduct or countered the allegations of misconduct. For example, the investigation revealed that regularly and candidly briefed his superiors, including Messrs. Haynes, Dell'Orto, and Cobb, concerning the status of the OCP operations. Based on the information gathered during the investigation, however, it is recommended that

The visit to GTMO afforded members of the team an opportunity to view the handling of detainees first hand. During the course of conducting interviews certain relevant information was obtained, specifically, the need for a security officer with the OMC and that certain information collection responsibilities would be turned over to the DoD on April 30, 2004. These matters were communicated to MG Altenburg.

This project is closed as unfounded.

Exhibits (DCIS Forms 1 summarizing interviews), relevant documents, and audiotapes of interviews are available upon request to the Mid-Atlantic Field Office, DCIS. Contact ASAC at (703) 604-

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2 -	DCIS Form 1, Interview of March 30, 2004		
3 -	DCIS Form 1, Interview of April 1, 2004		
4 -	DCIS Form 1, Interview of March 31, 2004		
5 -	DCIS Form 1, Interview of April 2, 200		
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7 -	DCIS Form 1, Interview of April 3, 2004		
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10 -	DCIS Form 1, Interview of March 31, 2004	*	
11 -	DCIS Form 1, Interview of April 2, 2004		
12 -	DCIS Form 1, Interview of April 3, 2004		
13 -	DCIS Form 1, Interview of April 2, 2004		
14 -	DCIS Form 1, Interview of April 2, 2004		
15 -	DCIS Form 1, Interview of April 7, 2004		
16 -	DCIS Form 1, Interview of April 9, 2004		
17 -	7 27 7 1 1 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2	550	THE REPORT OF THE PERSON
18 -	DCIS Form 1, Interview of BG Hemingway, April 6, 2004		
19 -	DCIS Form 1, Interview of April 8, 200		
20 -	DCIS Form 1, Interview of April 7, 2004		
21 -	DCIS Form 1, Interview of April 6, 2004		
.22 -	DCIS Form 1, Interview of April 9, 2004		
23 -	DCIS Form 1, Interview of April 8, 2004		
24 -	DCIS Form 1, Interview of April 16, 2004		
25 -	DCIS Form 1, Interview of April 7, 2004		
26 -	DCIS Form 1, Interview of April 7, 2004		
27 -	DCIS Form 1, Interview of April 8, 2004		
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33 -	DCIS Form 1, Interview of April 15, 2004		
34 -	DCIS Form 1, Interview of April 14, 2004		
35 -	DCIS Form 1, Interview of MG Fiscus, April 14, 2004		
36 -	DCIS Form 1, Interview of MG Rives, April 16, 2004		
37 -	DCIS Form 1, Interview of April 15, 2004		
38 -	DCIS Form 1, Interview of April 16, 2004		
39 -	DCIS Form 1, Interview of April 19, 2004		
40 -	DCIS Form 1, Interview of April 21, 2004		E 00
41 -	DCIS Form 1, Interview of Mr. Dell'Orto, April 20, 2004	_	
42 -	DCIS Form 1, Interview of Mr. Cobb, April 22, 2004	s.	
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