

MEMORANDUM THRU Staff Judge Advocate, 82d Airborne Division

22 December 2014

FOR Commanding General, Headquarters, 82<sup>nd</sup> Airborne Division

SUBJECT: *United States v. Lorange*, New Additional Information Linking Afghan Military-Aged-Males to Improvised Explosive Devices (IED) and IED Terror Cells

1. PURPOSE. The purpose of this memorandum in support of clemency is to present the Staff Judge Advocate and the Commanding General with additional newly-discovered information linking these military-aged males to dozens of IED emplacements, events, and IED cells throughout Kandahar province. And, of the seven military-aged-males the Criminal Investigation Division (CID) placed on the field that day, at least five are associated with terror. None of this information was disclosed previously to decision-makers when deciding to send this case to trial. Nor was it disclosed to defense counsel, the military judge, or the members of the jury. Because the Commanding General has this superior information that others previously did not, he may use his judgment to rightly grant clemency because neither the process of this trial, nor the results it produced, can be trusted as reliable.
2. BACKGROUND. On 30 November 2014, counsel for the defense presented newly-discovered evidence that the prosecution had in databases about Afghan military-aged-males involved in this court-martial. Central to the newly discovered evidence is that Mohammad RAHIM, Haji KARAMULLAH, and Abdul AHAD were involved with IED manufacture, emplacement, and detonations in the same district and province during the relevant timeframe. The defense showed that this evidence was not presented to the chain-of-command or the defense counsel. Instead, the prosecutor urged in his closing statement (R. 855) that there was not even a “suggestion” that the military-aged-males 1<sup>st</sup> Platoon engaged were associated with terror.
3. MOHAMMAD RAHIM. On a single patrol the morning of 02 July 2012, 1<sup>st</sup> Platoon engaged in two firefights. US paratroopers detained Mohammad RAHIM shortly after the second firefight. The platoon killed two Afghan military-aged-males operating ICOM radios. Intercepts of the radio transmissions confirmed they were scouting the platoon. RAHIM had a gunshot wound to his arm. Upon detention, RAHIM tested positive for homemade explosive residue (HME) on his hands. RAHIM was treated at Kandahar Medical facility. The Criminal Investigation Division (CID) seized his medical records. Before being released, RAHIM told the CID that he knew the third-rider who escaped was Haji KARAMULLAH.
4. MOHAMMAD RAHIM LINKED TO 28 OTHER IED EMPLACERS. RAHIM is associated with far more than a single scouting mission during which he was shot in the arm and a separate IED event. As previously reported on 30 November, 2014, his biometric ID B28JP-QWTY is linked to an IED event numbered 12-1797. This event occurred on 15 June 2012 in the Zharay District of Kandahar Province 41RQQ18963. What is newly presented is that 28 other individuals emplaced IEDs at the exact location as RAHIM. Of those 28 emplacements, 18 are unidentified, but 9 are known. Of the 9, two are known to be part of a major IED cell in Kandahar. They are Abdul BAQI and Mohammad AGHA. BAQI has 15 IED events biometrically (fingerprints and/or DNA) connected to him. AGHA has one event biometrically linked to him.
5. HAJI KARAMULLAH LINKED TO 14 OTHER IED EVENTS. As previously reported, his biometric ID B2JK4-G7D7 is linked to an IED event numbered 12/0156 which occurred in the Zharay District of Kandahar province on 31 August 2012. What is newly presented is that another individual is biometrically linked to that event. He is AIDULLAH, biometric ID B2JK3-P78K. In addition to his event with KARIMULLAH, AIDULLAH is biometrically linked to 14 other IED events. Before the CID released KARAMULLAH, he told the CID that he personally knew Mohammad RAHIM.

6. ABDUL AHAD LINKED TO RAHIM, KARAMULLAH, AND 4 IED EVENTS. After 1<sup>st</sup> Platoon's patrol, the CID interviewed Abdul AHAD. He stated that RAHIM (GSW from second firefight) was his brother-in-law and was shot in the arm by US forces. He also stated that KARAMULLAH was his uncle (escaped from the first firefight). Previously reported, Abdul AHAD was released on 31 March 2009 from the Detention Facility in Parwan. Biometric Number B28JM-UUYZ is associated with him. He is also associated with IED event, KAF-13-0248, which occurred in the Maiwand District of Kandahar Province on 11 February 2013. His prints were matched to the event on 18 March 2013. What is newly presented is that he is associated with three at least three other IED events in Kandahar province: case numbers 10/8472, 09/0520, and 110317-02.

7. SIGNIFICANCE. This information shows that RAHIM, KARIMULLAH, and AHAD were associated with each other and with terror networks spanning dozens of emplacements in the same district and province during the same timeframe in which 1<sup>st</sup> platoon operated. RAHIM and KARIMULLAH were on the field that day. They knew each other. Abdul AHAD told CID that RAHIM was with the ICOM scouts while KARIMULLAH was the third rider on a single motorcycle. It shows that the two other riders were on the motorcycle with a member of an IED cell. It shows that of the seven Afghan military-aged males on the field that day, five are tied to HME, IEDs, and terror networks.

8. UNKNOWN MALES. The two males which remain unknown to the defense are the two Clint stands convicted of murdering. Had the government not given the *Taskera* (identity card) retrieved from one of the riders back without verifying the identity on it, the first and second riders would likely have been identified. With those identities, simple database searches, like those which produced these findings, could have linked all Afghan military-aged-males that day to scouting and IED cells. Had the unit not twice forbade the CID from interviewing villagers, the identities and affiliations could have been established. What is critically important though, is that the prosecution and the CID had this information in their possession, custody, and control but neither developed it nor disclosed it. For these reasons alone, this court-martial cannot stand. And, the specifications alleging a male "of apparent Afghan descent" cannot be legally correct. A fair reading shows that Clint Lorange was charged with attempting to murder and murdering every male of apparent Afghan descent. This cannot satisfy the constitutional requirements of notice and the prevention of double jeopardy in criminal law.

9. MOTORCYCLES USED BY SCOUTS AND BOMBERS. The Interagency Threat Assessment and Coordination Group, the I&A Cyber, Infrastructure, and Science Division, the I&A Homeland Counterterrorism Division, the FBI Directorate of Intelligence, and the National Counterterrorism Center have regularly issued "Roll Call Releases." One is enclosed. These include one-page warnings generally and some particularly discuss the use of motorcycles in suicide attacks in Afghanistan. In June 2012, 21 people were killed and 22 were killed when a suicide bomber struck in a parking lot crowded with dozens of trucks supplying the NATO-run Kandahar Air Base. According to Abdul Razaq, a provincial police chief, an initial bomber on a motorcycle detonated his explosives near a restaurant in a Kandahar market. When a crowd gathered a second bomber blew up his explosives in the crowd, causing more casualties. These terrorist tactics were surely on Clint Lorange's mind when he led 1<sup>st</sup> Platoon as they patrolled that fateful morning.

10. APPEAL. Sir, if you were facing trial, you would have wanted all of this information disclosed to the officials deciding whether or not to court-martial you. You would want your attorney to use it and for the jury to hear it when deciding your fate. It rightly should have been disclosed. It was not. By granting clemency, you are not putting a murderer back on the street. You are showing the world that the United States, while striving to establish the rule of law in dangerous places across the globe, honors it at home.