

**GENERAL COURT-MARTIAL  
NAVY-MARINE CORPS TRIAL JUDICIARY  
WESTERN JUDICIAL CIRCUIT**

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UNITED STATES	)	GENERAL COURT-MARTIAL
	)	
v.	)	GOVERNMENT PROPOSED VOIR DIRE
	)	
FRANK D. WUTERICH	)	
XXX XX 3221	)	
Staff Sergeant	)	
U.S. Marine Corps	)	19 July 2010
	)	

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The Government requests to ask the following questions of panel members during Voir Dire:

1. Has any member ever given a brief or class on the Law of Armed Conflict/Law of War?
2. Has any member ever given a brief or class on Rules of Engagement (ROE) in Iraq?
3. Has any member ever talked to Marines about Rules of Engagement (ROE) in Iraq?
4. Has any member ever given a brief or class on enemy tactics, techniques and procedures (TTPs) in Iraq?
5. Based on your experience, do you believe that generally all Marines deploying to Iraq are trained on the Rules of Engagement and the Law of Armed Conflict/Law of War?
6. Has any member ever worked with or consulted with a judge advocate (attorney) on Rules of Engagement (ROE) or the Law of Armed Conflict/Law of War issues?
7. Is anyone familiar with the term "basic principles of the law of war"?
8. Has anyone ever had formal instruction on Rules of Engagement (ROE) or the Law of Armed Conflict/Law of War at a resident course such as the Sergeant's Course, SNCO Career Course for Staff Sergeants, Staff NCO Advanced Course for Gunnery Sergeants, Expeditionary Warfare School, Command and Staff, or the Naval War College?
9. Is any member familiar with MCO 3300.4, the Marine Corps Law of War Program?
10. Based on your experience, do you believe that we generally teach deploying Marines that military operations in Iraq will require them to operate among Iraqi civilians?

11. Has anyone been involved in military operations in Iraq where you had to distinguish, or identify, enemy insurgents from civilian noncombatants?
12. Has any member been involved in military operations in Iraq where you had to engage with deadly force?
13. Does everyone understand that the UCMJ applies to Marines, even when deployed to a combat zone such as Iraq?
14. Has any member ever given a brief or class on counterinsurgency operations in Iraq?
15. Based on your experience, do you believe that we generally train Marines to know and obey the Rules of Engagement (ROE)?
16. Has any member personally participated in house clearing operations in Iraq or another military mission?
17. Has any member personally participated in cordon and search operations in Iraq or another military mission?
18. Has any member ever been involved in an IED attack?
19. Has any member lost someone close to them because of combat action in Iraq?
20. Has anyone lost a member of their immediate command or unit because of combat action in Iraq?
21. Does anyone believe that suspected crimes that take place in Iraq are different than suspected crimes that occur in the United States?
22. You may hear from witnesses who are experts in pathology, wound dynamics, bloodstain pattern analysis, and crime scene reconstruction. Has anyone ever consulted or worked with an expert in any of these areas?
23. Does anyone regularly read books or watch television shows with characters who are experts in pathology or crime scene analysis or reconstruction?
24. Does anyone regularly watch reality television shows with experts in pathology or crime scene analysis or reconstruction?
25. You may hear from witnesses who work for law enforcement agencies such as the Naval Criminal Investigative Service. Has any member ever worked closely with law enforcement agencies like NCIS before?
26. Has anyone had any unpleasant or negative experiences with the police or law enforcement?

27. The Iraqi witnesses may be unavailable to testify at this court-martial. However, their testimony may be presented to you in the form of a sworn, videotaped deposition. Is there anyone unwilling to consider this type of evidence?
28. Has anyone had any unpleasant or negative experiences with Iraqi civilians?
29. Based on your experience, is anyone biased for or against an Iraqi witness?
30. Does anyone think an Iraqi citizen is more inclined to lie than a Marine?
31. Based solely on the fact that a person is a Marine, do you believe that the Marine is more likely to be truthful than an Iraqi?
32. Has any member ever been assigned as an Investigating Officer?
33. Has anyone ever conducted a preliminary inquiry?
34. Has any member ever directed or convened an investigation for a rules of engagement violation or an escalation of force incident?
35. Has any member ever been briefed on a rules of engagement violation or an escalation of force incident?
36. Has any member ever been interviewed as part of an investigation for a rules of engagement violation or an escalation of force incident?
37. Has any member ever advised on or consulted on a rules of engagement violation or an escalation of force incident?
38. Has any member ever been questioned by law enforcement as part of an investigation?
39. Some Marines have an emotional reaction concerning allegations of misconduct against Marines that happened while deployed to Iraq. Do you have any such feelings about sitting as a member in this case?
40. Having read the Charges against SSgt Wuterich. Does anyone feel uncomfortable or reluctant to sit as a member in this case?
41. Do you think you might have difficulty judging a Marine accused of a crime involving Iraqi civilians?
42. Will you be able to evaluate a Marine's actions against the rules of engagement and determine if he responded appropriately, or if he overreacted?

43. Does the fact that SSgt Wuterich is a Marine make you think he cannot possibly commit a crime?
44. Even if it made you feel uncomfortable or uneasy, would you be able to determine that a Marine acted wrongly, if you found the facts supported that conclusion?
45. If you have heard about the Haditha cases, how many of you have discussed it with other Marines, family or friends?
46. Has everyone had the occasion to evaluate the truthfulness of someone's version of events?
47. Will anyone require the United States (Government) to show a video tape of the alleged offenses in order to prove that they occurred?
48. The military judge will instruct you that your duty is to hear the evidence and to determine whether the accused is guilty or not guilty, and if you find him guilty of any offense to adjudge an appropriate sentence. Does each member understand there are potentially two separate and distinct phases of a court-martial, a findings hearing and, if necessary, a sentencing hearing?
49. If you find Staff Sergeant Wuterich guilty of any offense, as members you will deliberate and vote on an appropriate sentence. At that time, the military judge will instruct you to consider the full range of punishment from no punishment to the maximum the law permits. Do each of you agree to keep an open mind and consider the full range of punishments?
50. There will be media coverage of this case. Does anyone have any reservations about sitting as a member because of such publicity? . . . Or believe that a certain finding is required?
51. The crimes for which Staff Sergeant Wuterich has been charged allegedly took place nearly five years ago in November of 2005. Does anyone have any reservations about sitting as a member because the alleged misconduct took place nearly five years ago?

 19 JULY 2010  
N. L. Gannon

N. L. GANNON  
Major, USMC  
Trial Counsel