



# U.S. Army Forces Command



Directorate of Public Affairs, 4700 Knox Street, Fort Bragg, N.C. 28310

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**For Immediate Release**

## **U.S. Army Forces Command Announces Actions In Bergdahl Case**

The U.S. Army Forces Command has thoroughly reviewed the Army investigation surrounding Sgt. Robert Bowdrie ("Bowe") Bergdahl's 2009 disappearance in Afghanistan and formally charged Sgt. Bergdahl under the U.S. Armed Forces' Uniform Code of Military Justice on March 25, 2015, with "Desertion with Intent to Shirk Important or Hazardous Duty" and "Misbehavior Before The Enemy by Endangering the Safety of a Command, Unit or Place," and has referred the case to an Article 32 preliminary hearing.

Sgt. Bergdahl is charged under the Uniform Code of Military Justice with one count of Article 85, "Desertion with Intent to Shirk Important or Hazardous Duty," and one count of Article 99, "Misbehavior Before The Enemy by Endangering the Safety of a Command, Unit or Place." Army Sgt. Bergdahl disappeared June 30, 2009, from Combat Outpost Mest-Lalak in Paktika Province, Afghanistan, and was subsequently captured.

An Article 32 preliminary hearing is a legal procedure under the Uniform Code of Military Justice designed to determine whether there is sufficient evidence to merit a court-martial and is required before a case can be tried by a General Court-Martial. Legal experts often compare this to a civilian grand jury inquiry. The Article 32 hearing will take place at Fort Sam Houston, Texas. Specific scheduling details and procedures for news-media coverage of the hearing will be announced at a later date.

Following the Article 32 preliminary hearing and receipt of the Article 32 preliminary hearing officer's recommendations, the report will be forwarded to a General Court-Martial convening authority who may refer charges to a General Court-martial, refer the charges to a Special Court-martial, dismiss the charges, or take any other action deemed appropriate.

Article 85 of the Uniform Code of Military Justice, "Desertion with Intent to Shirk Important or Hazardous Duty," carries a maximum potential punishment of a dishonorable discharge, reduction to the rank of E-1, total forfeiture of all pay and allowances, and maximum confinement of five years. Article 99 of the Uniform Code of Military Justice, "Misbehavior Before The Enemy by Endangering the Safety of a Command, Unit or Place," carries a maximum potential penalty of dishonorable discharge, reduction to the rank of E-1, total forfeiture of all pay and allowances, and possible confinement for life.

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Under the Uniform Code of Military Justice, the specific legal elements for Article 85, “Desertion with Intent to Shirk Important or Hazardous Duty,” are: (1) “The accused quit his (or her) unit or place of duty,” (2) “The accused did so with the intent to avoid or shirk certain service,” (3) “The duty to be performed was hazardous or important,” (4) “The accused knew he (or she) was required for the duty or service,” and (5) “The accused remained absent until a certain date.”

The specific legal elements for Article 99, “Misbehavior Before The Enemy by Endangering the Safety of a Command, Unit or Place,” are: (1) “The accused has a duty to defend a unit or place,” (2) “The accused committed misconduct,” (3) “The accused thereby endangered the unit or place,” and (4) “The act occurred before the enemy.”

Forces Command officials associated with this legal case cannot discuss or disclose the findings of the 2014 investigation while legal actions are pending out of respect to the judicial process, the rights of the accused, and to ensure the proceeding’s fairness and impartiality. The Army’s 2014 investigation into the circumstances of the Soldier’s 2009 disappearance and capture in Afghanistan is currently being treated as potential evidence in the pending Article 32 preliminary hearing.

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*Media may direct questions to the U.S. Army Forces Command Public Affairs Office at Fort Bragg, N.C., at telephone 910-570-7200 or 910-570-7217, or by E-mail to [john.p.boyce2.civ@mail.mil](mailto:john.p.boyce2.civ@mail.mil) or [james.e.hinnant.civ@mail.mil](mailto:james.e.hinnant.civ@mail.mil).*