

Pages 1 through 2 redacted for the following reasons:

(b)(1), (b)(2)Low, (b)(5), (b)(6)

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form, see AR 15-6; the proponent agency is OTJAG.

IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

SECTION I - APPOINTMENT

Appointed by Major (b)(6) (Appointing authority)

on 13 May 06 (Date) (Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - SESSIONS

The (investigation) (board) commenced at (b)(1) at 0900 (Time)

on 13 May 06 (Date) (If a formal board met for more than one session, check here ☐. Indicate in an inclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.) The following persons (members, respondents, counsel) were present: (After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)

The following persons (members, respondents, counsel) were absent: (Include brief explanation of each absence.) (See paras 5-2 and 5-8a, AR 15-6.)

The (investigating officer) (board) finished gathering/hearing evidence at 1200 (Time) on 13 May 06 (Date)

and completed findings and recommendations at 1800 (Time) on 15 May 06 (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

YES NO¹⁾ NA²⁾

1	Inclosures (para 3-15, AR 15-6)			
	Are the following inclosed and numbered consecutively with Roman numerals: (Attached in order listed)			
a.	The letter of appointment or a summary of oral appointment data?	X		
b.	Copy of notice to respondent, if any? (See item 9, below)			X
c.	Other correspondence with respondent or counsel, if any?			X
d.	All other written communications to or from the appointing authority?			X
e.	Privacy Act Statements (Certificate, if statement provided orally)?			X
f.	Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?			X
g.	Information as to sessions of a formal board not included on page 1 of this report?			X
h.	Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?			X

FOOTNOTES: 1) Explain all negative answers on an attached sheet.

2) Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

	YES	NO ^{1/}	NA ^{2/}
2 Exhibits (para 3-16, AR 15-6)			
a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?	X		
b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	X		
c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	X		
d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?			X
e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?			X
f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?			X
g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)?			X
3 Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)?			X
B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)			
4 At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 5-3b, AR 15-6)?			
5 Was a quorum present at every session of the board (para 5-2b, AR 15-6)?			
6 Was each absence of any member properly excused (para 5-2a, AR 15-6)?			
7 Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)?			
8 If any members who voted on findings or recommendations were not present when the board received some evidence, does the inclosure describe how they familiarized themselves with that evidence (para 5-2d, AR 15-6)?			
C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)			
9 Notice to respondents (para 5-5, AR 15-6):			
a. Is the method and date of delivery to the respondent indicated on each letter of notification?			
b. Was the date of delivery at least five working days prior to the first session of the board?			
c. Does each letter of notification indicate —			
(1) the date, hour, and place of the first session of the board concerning that respondent?			
(2) the matter to be investigated, including specific allegations against the respondent, if any?			
(3) the respondent's rights with regard to counsel?			
(4) the name and address of each witness expected to be called by the recorder?			
(5) the respondent's rights to be present, present evidence, and call witnesses?			
d. Was the respondent provided a copy of all unclassified documents in the case file?			
e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?			
10 If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings):			
a. Was he properly notified (para 5-5, AR 15-6)?			
b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-4c, AR 15-6)?			
11 Counsel (para 5-6, AR 15-6):			
a. Was each respondent represented by counsel?			
Name and business address of counsel:			
(If counsel is a lawyer, check here <input type="checkbox"/>)			
b. Was respondent's counsel present at all open sessions of the board relating to that respondent?			
c. If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the report (para 5-6b, AR 15-6)?			
12 If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6):			
a. Was the challenge properly denied and by the appropriate officer?			
b. Did each member successfully challenged cease to participate in the proceedings?			
13 Was the respondent given an opportunity to (para 5-8a, AR 15-6):			
a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?			
b. Examine and object to the introduction of real and documentary evidence, including written statements?			
c. Object to the testimony of witnesses and cross-examine witnesses other than his own?			
d. Call witnesses and otherwise introduce evidence?			
e. Testify as a witness?			
f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)?			
14 If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)?			
15 Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it (para 5-11, AR 15-6)?			
FOOTNOTES: ^{1/} Explain all negative answers on an attached sheet. ^{2/} Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.			

SECTION IV - FINDINGS (para 3-10, AR 15-6)

The (investigating officer) (board), having carefully considered the evidence, finds:

See attached memorandum.

SECTION V - RECOMMENDATIONS (para 3-11, AR 15-6)

In view of the above findings, the (investigating officer) (board), recommends:

See attached memorandum.

SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. (If any voting member or the recorder fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)

<p>_____</p> <p>(Recorder)</p>	<p>_____</p> <p>(b)(6)</p>
<p>_____</p> <p>(Member)</p>	<p>_____</p> <p>(Member)</p>
<p>_____</p> <p>(Member)</p>	<p>_____</p> <p>(Member)</p>

SECTION VII - MINORITY REPORT (para 3-13, AR 15-6)

To the extent indicated in Inclosure _____, the undersigned do(es) not concur in the findings and recommendations of the board. (In the inclosure, identify by number each finding and/or recommendation in which the dissenting member(s) do(es) not concur. State the reasons for disagreement. Additional/substitute findings and/or recommendations may be included in the inclosure.)

<p>_____</p> <p>(Member)</p>	<p>_____</p> <p>(Member)</p>
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SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-3, AR 15-6)

The findings and recommendations of the (investigating officer) (board) are (approved) (disapproved) (approved with following exceptions/substitutions). (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or corrective action, attach that correspondence (or a summary, if oral) as a numbered inclosure.)

I approve the Findings and Recommendations and return this investigation to the Brigade Commander to take action as he deems appropriate.

<p>_____</p> <p>(b)(6)</p>	<p>_____</p> <p>(b)(6)</p>
<p>Brigadier General, US Army Assistant Division Commander (Maneuver)</p>	

Pages 7 through 8 redacted for the following reasons:

(b)(1), (b)(2)Low, (b)(5), (b)(6)
(b)(1), (b)(5), (b)(6)

Section IV - Findings

The investigating officer, having carefully considered the evidence, finds:

1. At approximately 1000 on 12 May 06, 4th Platoon, Charlie Company was conducting a vehicle checkpoint on (b)(1) at grid (b)(1).
2. The on scene commander was 2nd Lt. (b)(6).
3. At 1005 Lt. (b)(6) ordered his Platoon Sergeant, Staff Sergeant (b)(6) to pull onto the westbound lane of MSR (b)(1) in order to establish a western blocking position.
4. Lt. (b)(6) pulled onto MSR (b)(1) 300 meters to the east of SSgt (b)(6) position in order to search civilian vehicles between his vehicle and SSgt (b)(6) vehicle.
5. Both eastbound and westbound traffic was stopped on MSR (b)(1) for this VCP.
6. Corporal (b)(6) vehicle had established a position on the eastbound lanes of MSR (b)(1).
7. Corporal (b)(6) vehicle was oriented west but he oriented his .50 caliber machine gun facing east.
8. Westbound traffic had stopped 800 meters to the east of Lt. (b)(6) position.
9. Approximately 20 cars were stopped at the position 800 meters to the east of Lt. (b)(6) position.
10. One minute after Lt. (b)(6) pulled his vehicle onto MSR (b)(1) he noticed a vehicle go past the 20 cars stopped 800 meters to the east.
11. The car was moving rapidly toward Lt. (b)(6) position.
12. Lt. (b)(6) platoon had not emplaced any traffic control devices as they had been in position only one minute.
13. The vehicle did not respond when LCpl (b)(6) and Cpl (b)(6) waived red flags.

Findings (cont.)

14. LCpl (b)(6) and Cpl (b)(6) continued to wave flags as the vehicle moved from 300 meters to within 150 meters of the Marine's position.

15. When the vehicle approached 150 meters, LCpl (b)(6) fired a pen flare at the vehicle.

16. The vehicle did not respond to the pen flare.

17. When the vehicle came to within 100 meters of the Marines, Lt. (b)(6) fired one 5.56 tracer round from his M-4 into the deck in front of the vehicle.

18. When the vehicle did not stop, Lt. (b)(6) fired 3 shots at the passenger side wheels of the vehicle.

19. Both passenger side wheels were punctured by the rounds.

20. When the vehicle came to within 75 meters of the Marines, LCpl (b)(6) fired one 5-8 round burst into the grill of the vehicle with a M-240G.

21. As the vehicle continued westbound, Cpl (b)(6) engaged the vehicle with 14 rounds of .50 caliber machine gun fire as the vehicle came to within 50 meters of the Marines.

22. The vehicle came to a stop approximately 20 meters in front of the Marines.

23. The corpsman, HM3 (b)(6) was sent to the vehicle to assess injuries.

24. They found one male civilian KIA and one female civilian, unhurt.

25. When asked, the civilian female stated that she and her husband were returning from their son's funeral.

26. The civilian female, now identified as (b)(6) said that she and her husband, (b)(6) (b)(6), were returning from their son's funeral.

Findings (cont.)

27. (b)(6) stated that she did not know why her husband did not respond to the Marines' actions and stop the car.

28. (b)(6) stated that her husband had bad eyesight.

Page 12 redacted for the following reason:

(b)(5)



UNITED STATES MARINE CORPS
1ST BATTALION, 1ST MARINES

(b)(1)

FPO AP 96426-0155

TO WHOM IT MAY CONCERN:

(b)(2) Low

Legal

12 May 06

From: Commanding Officer

To: Captain (b)(6), USMC, (b)(6)

Subj: INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING THE
TASK FORCE 1/1, CHARLIE COMPANY ESCALATION OF FORCE
INCIDENT ON 12 MAY 2006

Ref: (a) AR 15-6

1. This appoints you, per chapter III of the reference, to inquire into the facts and circumstances surrounding Charlie Company escalation of force (EOF) incident that occurred on 12 May 2006.
2. Investigate the cause of the EOF, resulting injuries and damages, and any fault, neglect, or responsibility therefor, and recommend appropriate administrative or disciplinary action if warranted. Report your findings of fact and recommendations in the proper format by 14 May 06, unless an extension of time is granted. If you have not previously done so, read chapter III of the reference in its entirety before beginning your investigation.
3. You may seek legal and procedural advice from Major (b)(6) 1-10 SJA, during the course of your investigation.

(b)(6)

Acting

Annex C

SWORN STATEMENT			
For use of this form, see AR 190-45; the proponent agency is ODCSOPS			
AUTHORITY:		PRIVACY ACT STATEMENT	
PRINCIPAL PURPOSE:		Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN)	
ROUTINE USES:		To provide commanders and law enforcement officials with means by which information may accurately. Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.	
DISCLOSURE:		Disclosure of your social security number is voluntary.	
1. LOCATION	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
(b)(1)	2008 05 13	1000	
5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS	
(b)(6)		0-1/active	
8. ORGANIZATION OR ADDRESS			
Fourth Platoon, Charlie Company, (b)(2) Low			
9. I, (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH. THIS STATEMENT IS MADE TO SUPPLEMENT MY EARLIER SWORN STATEMENT TO 1ST LT (b)(6) ON 12 MAY 2008.			
<p>After the escalation of force incident, I questioned the passenger in the car, (b)(6) age 53. She stated that she and her husband, the deceased (b)(6) were returning from their son's funeral when they came upon the Marine checkpoint. (b)(6) stated that she did not know why her husband did not stop the vehicle before he was killed. She did state that (b)(6) had very bad vision and that this may have been the reason that he did not stop. We then issued (b)(6) a claims card.</p>			
10. EXHIBIT	11. INITIALS	ON MAKING STATEMENT	PAGE 1 OF 2 PAGES
	(b)(6)		

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF (b)(6) TAKEN AT 1000 DATED 13 May 08
9. STATEMENT (Continued)

NO ENTRIES ON
THIS PAGE

(b)(6)

INITIALS

AFFIDAVIT

I, (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS ACCURATE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 13 day of May, 2008, at Abu Ghraib

(b)(6)

(b)(6)

(b)(6) Captain USMC

(Typed Name of Person Administering Oath)
UCMJ Article 136(a)(1)
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

PAGE 2 OF 2 PAGES

VOLUNTARY SWORN STATEMENT

Date: 12/5/2006
(DD/M/YYYY)

I, Second Lieutenant (b)(6), do hereby make the following
(PRINT RANK, FIRST NAME, MI, LAST NAME)

statement free and voluntarily to:

First Lieutenant (b)(6)
(PRINT RANK, FIRST NAME, MI, LAST NAME)

whom I know to be the Investigating Officer.

My current billet is: Platoon Commander

My current unit address is: _____
(FULL UNIT ADDRESS)

My rotation date is _____.

My duty phone number: _____ (duty phone number)

At 1000 on 12 May 2006 I gave the order to my platoon sergeant to establish a snap vehicle checkpoint (SVCP) EVO of grid (b)(1) on (b)(1). This ASR is in (b)(1) in Iraq. I gave the order to my driver, LCpl (b)(6) at 1005 to move on to (b)(1) to trap the vehicles between my platoon sergeant's vehicle and my own. I was in place 300m to the east of the western blocking position established by my Plt Sgt. I orientated east. I had my dis mounts do their 5m and 25m checks around the vehicle. While this was happening Cpl (b)(6) vehicle was doing the same 15-20m behind me in the eastbound lane facing the west. His turret gunner, Cpl (b)(6) was orientated east. I was in the westbound lane.

As we established our position, traffic stopped 800m to our east, creating a large jam in the road numbering in excess of 20 vehicles. Before my Marines could establish trigger lines and warning signs on the road, a single vehicle, a gray, 4-door Audi, passed the traffic jam and approached my vehicle at a high rate of speed. The vehicle was closing the distance between the stopped traffic 800m to my east and myself very rapidly. As the car got closer, LCpl (b)(6) my turret gunner, and Cpl (b)(6) began waving

Initials: (b)(6)

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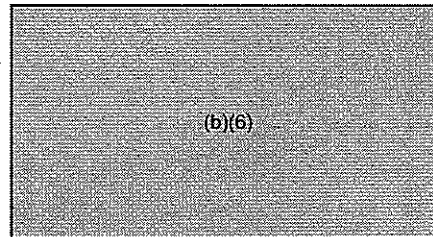
VOLUNTARY SWORN STATEMENT (continuation page)

Date: 12/5/2006
(DD/M/YYYY)Name: Second Lieutenant (b)(6)
(PRINT RANK, FIRST NAME, MI, LAST NAME)

red flags. These flags are an early warning device for oncoming traffic used to give civilians a warning to stop. The flags were waved from 300m east of our position until 150m line where LCpl (b)(6) shot a pen flame at the vehicle. It did not stop. At that point I exited my vehicle and presented my weapon to the vehicle. It did not stop. At 100m I fired 1 tracer at the road in front of the vehicle, then 3 more at the tires on the passenger side. Both tires were hit and deflated. The vehicle continued toward me. At 75m (b)(6) ordered LCpl (b)(6) to fire his M240G machine gun at the vehicle's engine. A 5-8 round burst at the vehicle hit the hood. The vehicle continued toward us. At 50m Cpl (b)(6) engaged the vehicle with his M2 .50 caliber machine gun. He shot 14 rounds at the driver's compartment. The vehicle stopped 20m in front of my vehicle.

As soon as it stopped I had the company's line Corporal, HM3 (b)(6) LCpl (b)(6) and LCpl (b)(6) approach the vehicle to search it and assess casualties. On scene the corporal reported one civilian KIA and his wife, who was not harmed. The vehicle had no suspicious contents. After the scene was secure I called the COC and submitted my EOF report, requested IP/IA assistance and waited for further guidance.

I had my reinforced squad hold a tight cordon around the incident site while the IP showed up on scene. This occurred at 1230. By 1245 they had taken possession of the civilian casualty, his widow and their vehicle. At 1300 we broke down the cordon and headed to (b)(1) to link up with the remainder of my platoon.



20060512

Initials: (b)(6)

Page 2 of 2

VOLUNTARY SWORN STATEMENT

Date: 12/05/2006
(DD/MM/YYYY)

I, Corporal (b)(6) do hereby make the following

statement from

(b)(6)

(PRINT NAME, FIRST NAME, MI, LAST NAME)

whom I know to be the Investigating Officer.

My current billet is: Armory Custodian / turret gunner

My current unit address is: _____
(FULL UNIT ADDRESS)

My rotation date is _____.

My duty phone number: _____ (duty phone number)

Around 1010 we set up in a snap VCP. I was in the turret of one of two vehicles on the Eastern cordon. Approx. 800m vehicles had seen us and stopped. As the dismounts jumped out and did the 5 and 25m checks I noticed a car moving toward our position at about 60mph. After myself and Lt. (b)(6) waved our flags to slow the vehicle down, it wasn't showing any signs of slowing down. When the vehicle was at 150m, from our position, Lt. (b)(6) shot up a popup. After the popup went off and the car wasn't slowing down, I made the .50 cal condition 1 and Lt. (b)(6) jumped out of his vehicle. His vehicle was about 15m North East of the vehicle I was in. When the suspected VBIED vehicle was at 100m Lt. (b)(6) shot 4 M16 tracer rds at it. At 75m Lt. (b)(6) opened up with the M240 in his turret. When the car still wasn't slowing down,

Initials: (b)(6)

Page 1 of 2

VOLUNTARY SWORN STATEMENT (continuation page)

Date: 12 5 2006
(DD/M/YYYY)

Name: Corporal (b)(6)
(PRINT NAME)

I opened up with the .50 cal, with 14 rds until the car stopped. When the car stopped Lt. (b)(6) signaled cease fire. When all firing stopped Doc (b)(6) ran up to the car to assess the casualties. Then the high back moved up to the car to search and help with the casualties. Approximately 5 minutes my vehicle pushed East of the high back to provide security. We waited for the IFS until 1230 when they arrived. Then at 1300 we pushed back to (b)(1)

(b)(6)

1205 2006

Initials: (b)(6)

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Pages 20 through 21 redacted for the following reasons:

(b)(1), (b)(2)Low, (b)(6)