

# 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 LTC (b)(6) \_\_\_\_\_  
(Appointing authority)

on 5 Oct 85 (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 Camp (b)(6) \_\_\_\_\_ at \_\_\_\_\_ (Time)

on 5 Oct 85 (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 \_\_\_\_\_ (Time) on \_\_\_\_\_ (Date)  
and completed findings and recommendations at \_\_\_\_\_ (Time) on \_\_\_\_\_ (Date)

## SECTION III - CHECKLIST FOR PROCEEDINGS

### A. COMPLETE IN ALL CASES

	YES	NO <sup>1/</sup>	NA <sup>2/</sup>
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	NA <sup>2</sup>
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>B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)</b>				
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)?			
<b>C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)</b>				
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.)

(b)(6)

\_\_\_\_\_  
(Recorder)

\_\_\_\_\_  
(Investigating Officer or Board)

\_\_\_\_\_  
(Member)

\_\_\_\_\_  
(Member)

\_\_\_\_\_  
(Member)

\_\_\_\_\_  
(Member)

**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.)

\_\_\_\_\_  
(Member)

\_\_\_\_\_  
(Member)

**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.)

(b)(6)

Page 5 redacted for the following reason:

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

DEPARTMENT OF THE ARMY  
Headquarters and Headquarters Troop, 1<sup>st</sup> Squadron, 71<sup>st</sup> Cavalry Regiment  
1<sup>st</sup> Brigade Combat Team, 10<sup>th</sup> Mountain Division (Light Infantry)  
(b)(1) Iraq 09376

(b)(2)Low

5 October 2005

MEMORANDUM FOR Commander, 1<sup>st</sup> BCT, 10<sup>th</sup> MTN, (b)(1) Iraq

SUBJECT: AR 15-6 Informal Investigation Concerning the Fatal Shooting of a Local National (LN)

1. On 5 October 2005, I was appointed as the AR 15-6 Investigating Officer (IO) for the events surrounding the fatal shooting of a LN. I have conducted a thorough investigation of the circumstances surrounding this incident. My observations, conclusions, and recommendations are provided in the following format: facts, findings, and recommendations.

2. FACTS.

A. On 5 October 2005, Barrier Team 5 from 5-1 MiTT, A Troop, 1-71 CAV, lead by 1LT (b)(6), was conducting barrier emplacement in (b)(1) in support of the Division polling sites (b)(1). The patrol consisted of 2x M1114s, 1x PLS, 1x HEMMT, and 1x Iraqi Army (IA) patrol vehicle. 1LT (b)(6) was the OIC. SSG (b)(6) was the senior NCO. Additionally, one IA squad consisting of five personnel accompanied Barrier Team 5.

B. Team 5 emplaced barriers all morning in different locations around (b)(1). They moved from location to location dropping one barrier at a time. Individual barrier emplacements took 10 to 15 minutes. Therefore, Team 5 had conducted several short halts throughout the morning. In between each short halt, Team 5 would leap frog their vehicles and construct hasty blocking positions. Immediately prior to engaging the civilian vehicle, Team 5 had been stationary for only about 5 to 10 minutes. Supplementing the US blocking positions was the IA element with one Soldier manning a checkpoint to the North and an IA checkpoint to the South. US forces did not emplace any obstacles.

C. The incident occurred at approximately 051000LOCT05 (see enclosure A, BCT Blue-2 Report). A navy blue Peugeot bypassed an Iraqi checkpoint with a line of vehicles approximately four deep. The civilian vehicle had to drive onto the sidewalk in order to pass the stationary vehicles. It continued at a high rate of speed towards the US forces, some of whom were dismounted at the time. (See Story Book Presentation for distances at each event). The civilian vehicle traveled from North to South which placed him on a direct collision course with

(b)(2)Low

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A23, a U.S. M1114. SGT (b)(6) was the gunner of the vehicle in the path of the oncoming vehicle. His TC and driver, PFC (b)(6) were dismounted. The TC was working on downloading barriers while the driver was pulling security facing North. The vehicles, which the Peugeot passed, were turning left as directed by the IA checkpoint. SGT (b)(6) and PFC (b)(6) had a clear line of sight as the vehicle approached at a high rate (est. speed to have been 30 to 35 MPH). SGT (b)(6) and PFC (b)(6) used both hand and arm signals as well as paddles in an attempt to get the Peugeot to stop. The vehicle failed to adhere to their hand and arm signals, so both PFC (b)(6) and SGT (b)(6) independently fired warning shots in the air. The driver ignored the warning shots. SGT (b)(6) and PFC (b)(6) fired into the engine block; again this did not deter the oncoming vehicle. SGT (b)(6) made the decision then to use deadly force. The vehicle finally came to a stop five to ten meters from SGT (b)(6) vehicle. Between SGT (b)(6) and PFC (b)(6) they fired a total of fifteen rounds into the vehicle. (See Story Book Presentation).

D. Immediately after the vehicle came to a stop Iraqi Police (IP) and IA elements moved in on the scene. The IPs pulled the driver, a male, out of the vehicle at the same time that 1LT (b)(6) received a report of the engagement from SSG (b)(6). 1LT (b)(6) directed his medic, SPC (b)(6) to move forward to see if he could provide any assistance. The IPs said they wanted to take the driver to the (b)(1) Hospital. SPC (b)(6) was able to conduct a cursory observation of the body. He determined that the driver was more than likely deceased given his lack of breathing and severe wounds to the head.

E. The IA became irate and started to become aggressive towards 1LT (b)(6) and his men. The engagement occurred within 200 meters of the Peugeot driver's home. His family was also moving onto the scene. Considering the IA's increasingly aggressive demeanor and the distraught family members who were quickly approaching his position, 1LT (b)(6) decided to leave. When he arrived at this decision, he had already completed his barrier emplacement mission. However, this decision meant that he left without taking pictures or inspecting the vehicle.

3. FINDINGS. I find that the engagement and killing of the local national was in accordance with the current Theater Rules of Engagement (ROE), as stated in APPENDIX 1 (CONSOLIDATED ROE) TO ANNEX E (RULES OF ENGAGEMENT) TO (b)(2)Low TO (b)(2)Low SGT (b)(6) and PFC (b)(6) identified a hostile act and responded with an escalation of force to eliminate the threat. The driver of the vehicle, for undetermined reasons, chose to ignore all warnings given.

(b)(2)Low

SUBJECT: AR 15-6 Informal Investigation Concerning the Fatal Shooting of a Local National (LN)

4. RECOMMENDATIONS. The following recommendations are put into Issue, Discussion and Recommendation format:

**Issue:** Establishing blocking positions during barrier emplacement.

**Discussion:** The barrier emplacement teams make 5 to 10 halts while emplacing barriers. Downloading each barrier takes on average 10 to 15 minutes. Upon coming to a halt, M1114s assume blocking positions in the road approximately 50m to the front and rear of the cargo trucks due to all the side streets and alleyways. In this case, A23 established a blocking position in the southbound lane approximately 100 meters from the IA blocking position to the North. The team had a clear view of the southbound lane. The teams had not been putting out obstacles or warning signs in front due to the fact they kept moving all morning long.

(b)(5)

**Issue:** Taking digital pictures of the incident site and conducting vehicle inspections.

**Discussion:** Although the platoon took digital pictures it was after they had departed and returned. Upon return to the site the patrol had to locate the vehicle as it had been removed from the scene to a local junk lot. The issue at the time was the IA were getting agitated towards 1LT (b)(6) and his men. The executive officer of the IA company also lost his composure as an officer by yelling at 1LT (b)(6) and his men therefore

(b)(2)Low

SUBJECT: AR 15-6 Informal Investigation Concerning the Fatal Shooting of a Local National (LN)

inciting his men and the populous to do the same. It went as far as one of the Iraqi Soldiers taking his gear off and yelling at 1LT (b)(6) that he had enough and that his men had shot an innocent man. All of this compounded into 1LT (b)(6) making a decision to leave the scene because he felt his mission was done and the IPs and IAs were taking control of the situation and his presence may have incited the gathering crowd to violence.

(b)(5)

5. POC for this memorandum is the undersigned at (b)(2)Low

(b)(6)

CPT, AD  
Commanding

Enclosures:

- A. BCT Blue-2 Report
- B. DA Form 2823 – Sworn statement from PFC (b)(6)
- C. DA Form 2823 – Sworn statement from 1LT (b)(6)
- D. DA Form 2823 – Sworn statement from SGT (b)(6)
- E. DA Form 2823 – Sworn statement from SSG (b)(6)
- F. DA Form 2823 – Sworn statement SSG (b)(6)
- G. Storybook presentation

Enclosure A

**1/10 BCT BLUE-2 [COMMANDER'S INCIDENT REPORT]**

**PURPOSE:** TO REPORT CRITICAL AND TIME SENSITIVE EVENTS TO THE COMMANDING GENERAL [CG].

**SCOPE:** THIS TAB APPLIES TO ALL UNITS ASSIGNED OR TASK ORGANIZED TO 3ID (M).

**PROCEDURES:** COMMANDER'S INCIDENT REPORT [CIR] IS INTENDED TO PROVIDE THE CG WITH IMMEDIATE NOTIFICATION OF AN INCIDENT INVOLVING 3ID (M) SOLDIERS AND/OR EQUIPMENT. AS MUCH INFORMATION AS POSSIBLE SHOULD BE INCLUDED IN THE INITIAL REPORT BUT IMMEDIATE NOTIFICATION SHOULD NOT BE DELAYED UNNECESSARILY. ADDITIONAL INFORMATION SHOULD BE PROVIDED AS SOON AS POSSIBLE.

**\*\* A COMPLETE REPORT ON THE INCIDENT WILL BE FORWARDED TO 1/10 MTN \*\***

**LINE 1: UNIT REPORTING:**

1-71 CAV, (b)(2)Low TM

**LINE 2: INCIDENT:**

LN KILLED FOR ENDANGERING US AND IRAQI FORCES

**LINE 3: DATE/TIME GROUP [DTG] INCIDENT OCCURRED:**

05 1000 OCT 05

**LINE 4: LOCATION OF INCIDENT:**

(b)(1)

**LINE 5: PERSONNEL INVOLVED:**

NAME	RANK	UNIT	SSN	SEX	AGE	RACE
(b)(6)	SGT	A TRP, 1-71 CAV	(b)(6)	M		(b)(6)
(b)(6)	1LT	A TRP, 1-71 CAV	(b)(6)	M		(b)(6)

**LINE 6: SUMMARY OF INCIDENT:**

While providing security for barrier emplacement at polling sites in the (b)(1), a civilian vehicle approached their position at a fast rate of speed. SGT (b)(6) A TRP, 1-71 CAV attempted to signal to the driver using hand and arm gestures, shouting, and signaling paddles. The driver did not respond and SGT (b)(6) shot a warning shot into the air and a second into the hood of the car. When the driver failed to respond SGT (b)(6) and 1LT (b)(6) shot seven rounds (5.56) into the windshield. A US Medic assessed the driver dead at 05 1010 OCT 05 and the Iraqi Police took the body the (b)(1) Hospital at 05 1012 OCT 05.

Simultaneously, at 05 1002 OCT 05, a Local National appeared on the roof of a building with an AK-47. Snipers in overwatch engaged the LN and the individual broke contact. They were unable to reengage or locate the individual.

**TIMELINE: 05 OCT 05**

1000- 1-71 CAV, Shadow 16 element engages vehicle  
1002- Snipers engage LN on roof with AK-47  
1010- US Medic determines the driver dead  
1012- IPs take custody of the body and vehicle

**LINE 7: DAMAGE TO GOVERNMENT AND/OR CIVILIAN PROPERTY:**

NONE

**LINE 8: COMMANDER REPORTING:**

TF 1-71 CAV (b)(2)Low BATTLE CPT

SIPR:

VOIP: (b)(2)Low, (b)(6)

# SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

## PRIVACY ACT STATEMENT

**AUTHORITY:** Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 /SSN/.

**PRINCIPAL PURPOSE:** To provide commanders and law enforcement officials with means by which information may be accurately identified.

**ROUTINE USES:** 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) 2005 10 05	3. TIME	4. FILE NUMBER
5. 1 (b)(6)	6. 1 (b)(6)	7. GRADE/STATUS E3	
8. ORGANIZATION OR ADDRESS A ERP 1-71600			

9. I, PFC (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

While in a position to put security on two roads, I had just finished putting a bandage on a child's foot when I heard sergeant (b)(6) yell a warning. I turned to see a vehicle moving at a high rate of speed at us. I heard a shot, I raised my weapon to stop the vehicle. The vehicle was passed the only road it would have been able to take. Sgt (b)(6) engaged the vehicle. I engaged the vehicle and moved to our vehicle to move away from it because of the proximity to ours. I began to put security while the IN6 got a vehicle, to remove the man and give medical attention. The IN6 and civilians were upset. One man (IN6) took off his uniform, (weapon, vest, top) and walked away. The IN6 were yelling at us and hostile. We were told to mount up and leave to go to go. B justice.

10. EXHIBIT B	11. INITIALS OF PERSON MAKING STATEMENT (b)(6)	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"

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

16115

DATED

2005 10 05

9. STATEMENT (Continued)

Questions

1. We were in position for approximately 45 minutes, maybe more.
2. There was wire in the road, we moved it to allow us freedom to maneuver.
3. Measures used - shout, show of force, warning shots.
4. Number of shots fired unknown.
5. Continue mission as instructed by chain of command.
6. Unknown if pictures were taken.
7. Vehicle was approaching very fast.
8. Refer to #2.
9. Yes I can draw picture of scene.
10. Vehicle was black or dark grey sedan.
11. Yes I have received ROE brief.

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

PAGE 2 OF 3 PAGES

STATEMENT OF

(b)(6)

TAKEN AT

1615

DATED

2005, 10 05

9. STATEMENT (Continued)

Nothing Follows

AFFIDAVIT

I, (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(b)(6)

(signature of person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 5 day of October, 2005 at (b)(1)

(b)(6)

ORGANIZATION OR ADDRESS

(b)(6)

ORGANIZATION OR ADDRESS

IS-6 OFFICER

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 3 OF 3 PAGES

# SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

## PRIVACY ACT STATEMENT

**AUTHORITY:** Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 8397 dated November 22, 1943 (SSN).  
**PRINCIPAL PURPOSE:** To provide commanders and law enforcement officials with means by which information may be accurately identified.  
**ROUTINE USES:** 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 (b)(1) IRAQ	2. DATE (YYYYMMDD) 20051005	3. TIME 1505	4. FILE NUMBER
5. LAST NAME FIRST NAME MIDDLE NAME (b)(6)	6. SSN (b)(6)	7. GRADE/STATUS O2	

8. DISSEMINATION OF INFORMATION  
A TRP I-71 CAN

9. I, (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

ON 0500T05 A TRP CONDUCTED A PATROL IN ORDER TO EMPLACE BARRIERS PRIOR TO THE REFERENDUM. THE PATROL CONSISTED OF TWO VEHICLES FROM A TRP, TWO PLS TRUCKS FROM DTRP AND AN IA VEH. WITH APPX. 10 SOLDIERS. THE PATROL BEGAN EMPLACING BARRIERS AT APPX 0830, MOVING UP A N-S AVE OF APPROACH, BLOCKING TRAFFIC AS WE MOVED. AT THE SOUTHERNMOST POINT OF THE PATROL, AN IA TRUCK WAS ACTING TO BLOCK TRAFFIC, WHILE A US VEHICLE BLOCKED TRAFFIC TO THE NORTH. THE PLS TRUCKS WERE EMPLACING BARRIERS ON E-W SIDE STREETS THAT PROVIDED ACCESS TO THE MAIN AVE OF APPROACH. AT APPX. 1000, THE US TRUCK THAT WAS BLOCKING N-S TRAFFIC ENGAGED A CIVILIAN VEHICLE MOVING SOUTH. I WAS IN MY TRUCK AT THIS TIME, ATTEMPTING TO PLAN OUR ROUTE BACK TO (b)(1) USING THE (b)(2)LOW WHEN THE SHOTS WERE FIRED, I IMMEDIATELY RAN TO THE LEAD (NORTHERNMOST) VEHICLE TO GET A SITREP. I WAS TOLD, BY SSG (b)(6) THAT SGT (b)(6) HAD ENGAGED A CIVILIAN VEHICLE. I ASKED FOR A STATUS ON THE DRIVER AND WAS TOLD, BY SSG (b)(6) THAT HE HAD BEEN HIT. AT THIS TIME, I CALLED FOR THE MEDIC (SPC (b)(6)) WHO ARRIVED SHORTLY AFTER.

10. EXHIBIT C	11. INITIALS OF PERSON MAKING STATEMENT (b)(6)	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF" \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_  
 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

(b)(1)

DATE

05 OCT 65

## 9. STATEMENT (Continued)

I ASKED DOC (b)(6) TO CHECK ON THE DRIVER, WHILE I SENT A CONTACT REPORT TO THE TCC. ONCE THIS (b)(6) WAS COMPLETE, I CHECKED BACK WITH DOC WHO TOLD ME THE DRIVER WAS KIA. AT THIS TIME, THE IA BECAME AGGRESSIVE AND DEMANDED TO LEAVE. THE IP'S, WHO HAD A CHECKPOINT SOUTH OF OUR POSITION, SAID THAT THEY WANTED TO TAKE THE BODY TO THE (b)(1) HOSPITAL TO SEE IF HE COULD BE TREATED. I LET THEM. SINCE WE HAD DROPPED ALL OF OUR FIRST LOAD OF BARRIERS, I INSTRUCTED ALL PERSONNEL TO LOAD UP AND MOVE BACK TO (b)(1) TO PICK UP A SECOND LOAD.

## QUESTIONS:

- ① HOW LONG WERE YOU IN POSITION: APPX. 90 min.
- ② WERE THERE WIRES OR CONES SET OUT: NO, THE IA HAD A SEMI-FUNCTIONING CHECKPOINT AT THE NORTH AND SOUTH END OF THE ROAD, BUT THERE WAS NO US OBSTACLES
- ③ WHAT OTHER MEASURES WERE USED PRIOR TO DEADLY FORCE: SHOUTING, WAVING STOP PADDLE, WARNING SHOT IN AIR, WARNING SHOT IN HOOD OF CAR.
- ④ HOW MANY ROUNDS WERE FIRED: APPX. 6-8
- ⑤ WHY DID YOU LEAVE THE SCENE: WE WERE OUT OF BARRIERS AND HAD TO RETURN (b)(6) TO GET A SECOND LOAD.
- ⑥ DID ANYONE TAKE PICTURES? YES. ONCE WE RETURNED WITH THE SECOND LOAD, I LOCATED THE VEHICLE AND TOOK PICTURES.
- ⑦ HOW FAST WAS THE VEHICLE APPROACHING: I COULD NOT SEE IT APPROACH

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

PAGE

2

OF

3

PAGES

STATEMENT OF \_\_\_\_\_ (b)(6) TAKEN AT \_\_\_\_\_ (b)(1) DATED 05 OCT 05

9. STATEMENT (Continued)

- ⑧ IF THERE WERE NO OBSTACLES, WHY? SINCE THE IA HAD A CHECKPOINT AT THE ENDS OF THE ROAD, AND OUR FORMATION WAS MOVING, I DID NOT THINK IT WAS NECESSARY
- ⑨ CAN YOU DRAW A PICTURE OF THE SCENE? YES
- ⑩ WHAT TYPE OF VEHICLE WAS IT? A DARK (BLUE OR BLACK) PEUGOT 4-DOOR
- ⑪ HAVE YOU RECEIVED AN ROE BRIEF? YES, I WAS GIVEN ONE IN KUWAIT BY JAG AND ONE IN IRAQ BY CPT (b)(6)

AFFIDAVIT

I, \_\_\_\_\_ (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS \_\_\_\_\_ 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 5 day of October, 2005 at \_\_\_\_\_ (b)(1)

ORGANIZATION OR ADDRESS

(b)(6)

ORGANIZATION OR ADDRESS

(b)(6)

(If you are a person administering oaths)

15-6 Officer

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

PAGE 3 OF 3 PAGES

# SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

## PRIVACY ACT STATEMENT

**AUTHORITY:** Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 /SSN/  
**PRINCIPAL PURPOSE:** To provide commanders and law enforcement officials with means by which information may be accurately identified.  
**ROUTINE USES:** 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) 2609 10 05	3. TIME 1504	4. FILE NUMBER
5. (b)(6)	6. SSN (b)(6)	7. GRADE/STATUS E-5	

8. A TRP 1-71 car

9. I, \_\_\_\_\_ (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 05 OCT 05 while ~~re~~implacing barriers around a local school, we had set up security on both sides of the HMMT's. when the HMMT moved to another st we moved also. around 1000 hrs a blue grey colored sedan bypassed the line of cars (4 Deep) that was stopped ~~at~~ 1 block (approx 100m) away, ~~turning~~ waiting to turn left. The car was moving very fast and had driven up on the curb to pass the line. I ~~was~~ was the gunner in A23 and yelled for the car to stop and held up my hand, the car continued toward us, as I was lowering my M4 I fired a warning shot in the air, I could see my driver who was to the right of me lower his weapon <sup>-yell stop and they</sup> ~~and they~~ fire at also. ~~The~~ The driver ~~continued~~ continued toward us. Immeadiatly I fired a shot center mass of the hood of the vehicle, the shot missed and hit center and low <sup>on</sup> the windshield, at this time the vehicle was 20m from my position. I then fired 6-7 shots with my M4 into the vehicle, the vehicle continued toward us and finally stopped 5-10 ft from our vehicle. I then yelled ~~at~~ at my driver and told him to move up away from the vehicle. The ING's and IP's immeadiatly ran to the ~~car~~ car and checked the driver, they then wanted our medic (b)(6) 2 to

10. EXHIBIT D	(b)(6) IF PERSON MAKING STATEMENT	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF

TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_

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

1504

DATED

2005 10 09

## 9. STATEMENT (Continued)

move up to help, as SPC (b)(6) ran up an IP pickups pulled up and took the driver to the Hospital. ~~we then~~ The ING's and IP's began yelling and shouting and 1LT (b)(6) and SSG (b)(6) spoke to them, I was unaware of what they discussed, we then continued our mission and returned to ~~the~~ (b)(1) to pick up more barriers.

1. I am not for certain How long we were in position, possibly 1-1½ hrs.
2. we had no cones or wire set up due to the fact that we moved ~~up~~ down the st every 10 min.
3. measures taken prior to using deadly force ~~is~~ were, the paddle/sign that says "stop" in english and arabic was displayed, I and my driver both yelled stop and held up our hands, I fired a warning shot over the vehicle, and I attempted to disable the vehicle before firing at the driver.
4. I fired ~~approx~~ 6-7 rnds plus 1 warning shot, ~~I am~~ I do not know for sure how many my driver fired.
5. we left the scene to continue the mission.
6. Nobody took pictures that I am aware of
7. There were no obstacles because we had a kind of "floating" security set up that moved every 10-15 min.
7. the car was traveling very fast, 40-45mph on a 2 lane st.

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

PAGE 2 OF 3 PAGES

STATEMENT OF

(b)(6)

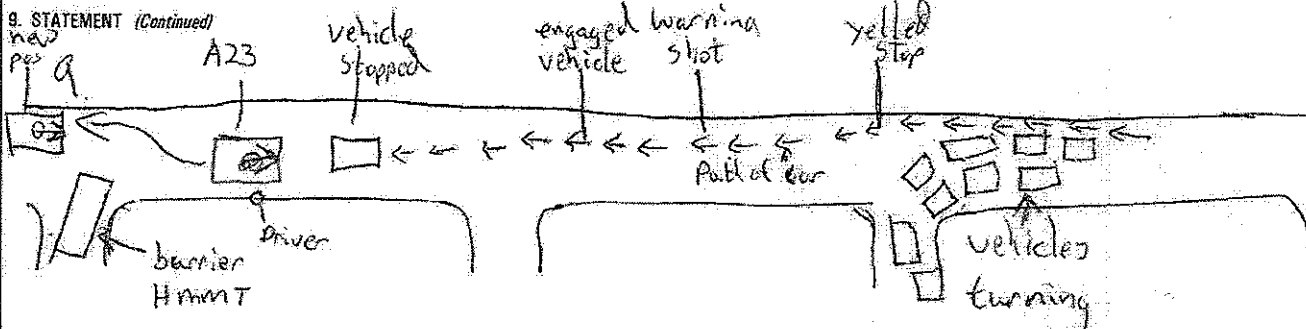
TAKEN AT

1504

DATED

2009 10 05

## 9. STATEMENT (Continued)



10. the vehicle was a blue grey colored sedan.

11. I have had 3 ROE briefs, 1 in Kuwait, ~~one~~ 1 at (b)(1)  
by 1LT (b)(6) and 1 including (b)(6) by SFC (b)(6) at  
(b)(1)

Nothing Follows

## AFFIDAVIT

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

## WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

(b)(6) Statement

Subscribed and sworn to before me, a person authorized by law to administer oaths, this (b)(6) day of October, 2009 at (b)(1)

(b)(6)

(b)(6)

15-6 OFFICER

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

PAGE

3 OF 3

PAGES

# SWORN STATEMENT

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1. LOCAL (b)(1) 2. DATE (YYYYMMDD) 20051005 3. TIME 4. FILE NUMBER  
 5. LAST (b)(6) 6. SSN (b)(6) 7. GRADE/STATUS SSG  
 8. ORG A TRP 1-71 LAV

9. I, SSG (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

THAT ON THE DAY OF 20051005 ON OR AROUND 1100 HRS WHERE  
 SETTING UP BARRIER VIC OF A SCHOOL IN PREPARATION FOR THE  
 COMING ELECTIONS. WE WERE WORKING IN A TIE OF ROLL' BOING  
 FROM ONE CORNER OF THE STREET THEN FLEW TO THE NEXT.  
 WE WERE SPRED OUT IN TITAL OF ABOUT 4 BLOCKS IN THE BACK, NORTH  
 PART OF THE STREET WAS AN IA VEHICLE WHIT PERSONEL PROVIDING  
 BLOCKING + SECURITY. THE NEXT VEHICLE WAS A-13 AND WE WERE  
 POLING SECURITY WHIT MY GUNNER PFC VOONG IN THE CREW SERVE  
 AND ME POLING GROUND SECURITY NEXT AND AROUND THE (b)(2)Low  
 THE NEXT BLOCK IS 2 PLS TRUCK PLUS THE CREW WORKING TO SET  
 THE BARRIER ON THE GROUND ALSO SEVERAL IA PERSONEL WHERE  
 HELPING TO KEEP THE PEOPLE AWAY AND PROVIDE SECURITY AROUND THE  
 THE PLS TRUCKS. AT THE SAME TIME THE 23 ELEMENT SSG (b)(6)  
 WAS SUPPORTING SECURITY AND 1LT (b)(6) DOING COMMAND AND CONTROL  
 ON THE GROUND IN COMPANY OF A TARP. NEXT BLOCK OVER WAS THE  
 A-23 VICTOR WHIT SET (b)(6) ON THE CREW SERVE (140B WEPOND)  
 WARD HIS M4 OVER WATCHING THE MAIN AVENUE OF APPROACH IN COMPANY  
 OF PFC (b)(6) ON THE GROUND PROVIDING SECURITY AND PEOPLE  
 CONTROL THAT WOULD BOTHER AROUND (b)(2)Low. FROM ONE MOMENT  
 TO ANOTHER I HEARD SMALL ARM FIRE COMING FROM THE 23 (b)(2)Low  
 I TURNED AND SAW THAT THE PERSONEL WERE ENGAGING DOWN TOWARDS  
 THE MAIN AVENUE, I DID NOT REALIZE WHAT THEY WERE ENGAGING BUT  
 MY RESPOND WAS TO MY TURNER TO MAINTAIN POSITION, AND STAY LOW.  
 AFTER IT WAS OVER THE IA FLEW FORWARD TO FIND OUT WHAT HAPPEN  
 AS WELL AS ISG (b)(6) AND 1LT (b)(6) BEGAN REPORTING HIGHLY  
 WERE REQUESTED FOR A MEDIC TO BE BROUGHT UP FROM THE OTHER TEN  
 WORKING ON THE OTHER SIDE OF THE SCHOOL, UPON ARRIVAL THE MEDIC

10. EXHIBIT E 11. INITIAL (b)(6) I MAKING STATEMENT PAGE 1 OF 3 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF

MAKING AT DATED

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