

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) CDR, 1st Squadron, 71st Cavalry
(Appointing authority)

on 18 OCT 2005 (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 (Place) at (Time)

on (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 2000 on 23 OCT 05
(Time) (Date)

and completed findings and recommendations at 0900 on 24 OCT 05
(Time) (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

	YES	NO ¹	NA ²
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 for Record.

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

In view of the above findings, the (investigating officer) (board) recommends:
See Attached Memorandum for Record

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.)

_____	_____
(Recorder)	(Investigating Officer) (President)
_____	_____
(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)

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

(b)(2)Low

23 October 2005

MEMORANDUM THRU Commander, 1st Squadron, 71st Cavalry, 1st BCT, 10th MTN DIV,
Camp Liberty, Iraq

FOR Commander, 1st BCT, 10th MTN DIV. (b)(1) Iraq

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

1. On 18 October 2005, I was appointed as the AR 15-6 Investigating Officer (IO) for the events surrounding the shooting of a LN which resulted in the death of one LN. I have conducted a thorough investigation of the circumstances surrounding this incident. My observations, conclusions are provided in the following format: facts, findings, and recommendations.

2. FACTS.

a. The following paragraph is a summation of the sequence of events as stated by CPL (b)(6) in Enclosures E, F and G. On 16 October 2005, (b)(6) an off duty Iraqi Soldier with 1st BN, 1st BDE, 6th IAD was traveling on (b)(1) in the (b)(1) area dinner with his fiancé, traveling in a white 1994 Toyota Corolla. The incident occurred at approximately 161750OCT05 (see enclosure A, Commander's Incident Report). CPL (b)(6) was on pass from the IA following 18 days of straight duty. He was accompanied by his fiancé, (b)(6). CPL (b)(6) was parked outside of the (b)(1) Restaurant on (b)(1). (b)(1) After purchasing food to go, CPL (b)(6) returned to his car, initiating his directional lights. As he began to pull forward onto the road, a single shot was fired. A single round entered into the trunk of the car on the passenger side. The round continued through the trunk, entering into the passenger compartment of the vehicle, passing through the rear seat, fragmenting as it entered the front passenger side seat. The round entered the lower left portion of (b)(6) striking the windshield before stopping. Immediately after the shot, CPL (b)(6) stated two HMMWVs passed him, shining a bright light into the car as they did so. The only detail he could identify on the vehicles was two traffic cones on the back of the vehicle. The vehicles made no attempt to stop. After the HMMWVs were 50 meters further down the road, CPL (b)(6) began moving again to take the victim to the hospital. His route kept him in sight of the HMMWVs until they turned into the Gate to (b)(1). CPL (b)(6) then proceeded to (b)(1) Hospital where (b)(6) was pronounced dead at 161830OCT05.

(b)(2)Low

SUBJECT: 15-6 Informal Investigation Concerning the Shooting and Death of a Local National

b. Throughout the questioning and review of the sworn statement, it is clear CPL (b)(6) through working with the US Forces, had a clear understanding of US vehicles, ROE, and procedures for escalation of force. At no time did CPL (b)(6) receive any indication of an American's intent to fire. There were no identified audio or visual warnings prior to the shot being fired.

c. CPL (b)(6) brought the car to (b)(1) where it was brought to the attention of B TRP, 1-71 CAV, who are tasked as the 1st BN, 1st BDE, 6th IAD MiTT Advisors. 1LT (b)(6) was the officer on site, taking photographs and initial statements. In the process of taking statements and photos (Enclosure B), an Iraqi Soldier found the fragmented front half of what appears to be a US .50 Caliber Round. (Enclosure C). The initial entry point of the round and trajectory as shown in Enclosure B clearly indicates a direct fired shot from an elevated position.

d. Upon initial report of the incident, the (b)(2)Low began preliminary inquiries, identifying and contacting units operating and traveling in vicinity of (b)(1). The Investigating Officer contacted all identified elements and solicited Sworn Statements in reference to movements in vicinity of the incident. No identified unit reported any discharges of weapons, either intentional or negligent on 16 OCT. (Enclosures J-W)

e. On 22 OCT the Investigating Officer along with a Category I OSD Level interpreter, questioned restaurant owners and employees along (b)(1) which consists of a collection of open air establishments. No one interviewed was aware of any incident occurring on (b)(1) on the 16th of OCT or any other time since the arrival of coalition forces. (Enclosure H)

3. FINDINGS. Upon review of duty logs and sworn statements by units operating in the (b)(1) area on 16 OCT 05, I find the incident did not involve a 1-71 CAV Soldier. I do not believe that any 1/10 Patrol was involved, based on sworn statements by 1-87 IN, and that the known 1-87 IN patrols did not mount .50 Caliber weapons. Based on the round fragment found in the vehicle and the testimony of CPL (b)(6) it is conclusive that the death of (b)(6) was caused by a US weapon system, yet the multitude of units passing through (b)(1) without coordination on a daily basis makes it impossible to conclusively determine the responsible party at this time.

4. RECOMMENDATIONS:

(b)(5)

(b)(2)Low

SUBJECT: 15-6 Informal Investigation Concerning the Shooting and Death of a Local National

(b)(5)

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

(b)(6)

CPT, IN
Investigating Officer

Enclosures:

- A. 1-10 BCT Blue 2 (Commander's Incident Report)
- B. Vehicle Damage and Ballistics Presentation
- C. Projectile Comparison Presentation
- D. Death Certificate with wallet photo and copy of identification card
- E. Transcript of CPL (b)(6) Interview
- F. Cassette Recording of CPL (b)(6) Interview
- G. DA Form 2823- Sworn Statement from CPL (b)(6)
- H. DA Form 2823- Sworn Statement from (b)(6)
- I. DA Form 2823- Sworn Statement from 1LT
- J. DA Form 2823- Sworn Statement from SFC
- K. DA Form 2823- Sworn Statement from SSG
- L. DA Form 2823- Sworn Statement from SGT
- M. DA Form 2823- Sworn Statement from 1LT
- N. DA Form 2823- Sworn Statement from SSG
- O. DA Form 2823- Sworn Statement from SSG
- P. DA Form 2823- Sworn Statement from SSG
- Q. DA Form 2823- Sworn Statement from (b)(6)
- R. DA Form 2823- Sworn Statement from (b)(6)
- S. DA Form 2823- Sworn Statement from CPT
- T. DA Form 2823- Sworn Statement from 2LT
- U. DA Form 2823- Sworn Statement from SGT
- V. DA Form 2823- Sworn Statement from SGT
- W. DA Form 2823- Sworn Statement from CSM
- X. (b)(1) Duty Log
- Y. 1-71 CAV SQN Duty Log
- Z. A TRP 1-71 CAV SQN Duty Log
- AA. 860th MP CO Duty Log
- BB. 50 Caliber Round Fragment



DEPARTMENT OF THE ARMY
1ST SQUADRON, 71ST CAVALRY
10TH MOUNTAIN DIVISION (LI)
APO AE 09323

REPLY TO
ATTENTION OF

(b)(2)Low

18 October 2005

MEMORANDUM FOR CPT

(b)(6)

SUBJECT: Appointment of Investigating Officer

1. You are hereby appointed an investigating officer pursuant to AR 15-6 and AR 210-7, paragraph 4-3, to conduct an investigation into the killing of an Iraqi civilian on 16 October 2005.
2. In your investigation, all witness statements will be sworn. From the evidence you will make findings into the liability of United States Army Soldier's in the death of an Iraqi civilian on 16 October 2005.
3. Submit your findings and recommendations in four copies on DA Form 1574 to the undersigned within 7 days.

(b)(6)

LTC, IN
Commanding

Page 9 redacted for the following reason:

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

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 WTN **

LINE 1: UNIT REPORTING:

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

LINE 2: INCIDENT:

LN KILLED IN AN APPARENT ESCALATION OF FORCE INCIDENT FROM AN UNKNOWN UNIT

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

16 1750 OCT 05

LINE 4: LOCATION OF INCIDENT:

(b)(1)

LINE 5: PERSONNEL INVOLVED:

NAME	RANK	UNIT	SSN	SEX	AGE	RACE
(b)(2)Low	PVT	1/6 IA	N/A	M	UNK	LN

LINE 6: SUMMARY OF INCIDENT: (See attached slide)

The 1/6 IA INITIAL SIGACTS LOG reads: "At 1800 the American forces killed the wife of the IA security element of 1st BN 1st BDE (b)(6) after he left the restaurant driving his 1994 Corolla heading to his house with his wife, the wife received 1x US machine gun round, died and taken to (b)(1) Hospital."

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

NONE

LINE 8: COMMANDER REPORTING:

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

SIPR: (b)(6)

VOIP: (b)(2)Low

Vehicle Damage and Ballistics Presentation

Photographs by:

LT [REDACTED]

B TRP FSO, 1-71 CAV

With assistance from PFC [REDACTED]

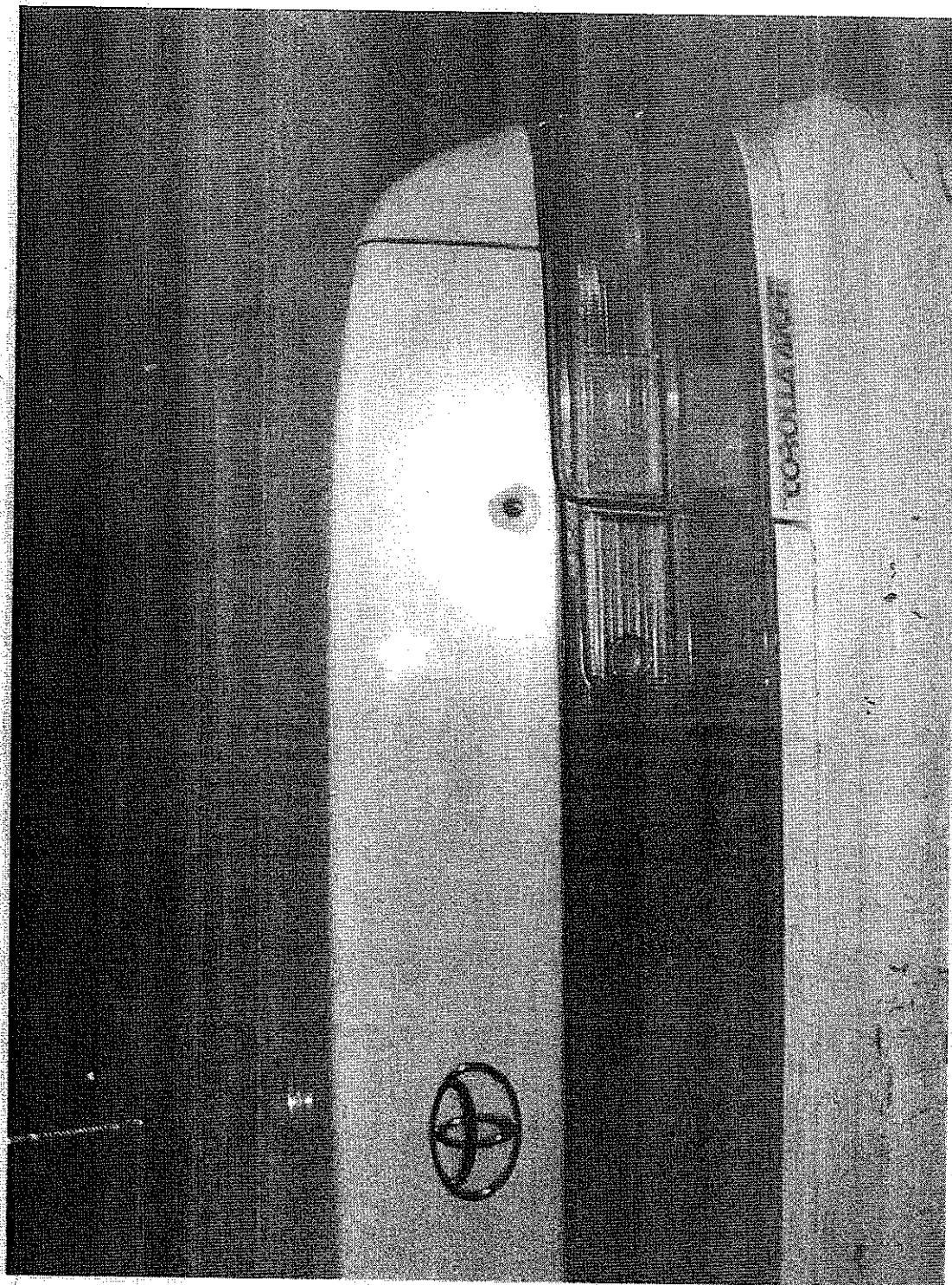
And [REDACTED]

(Interpreter)

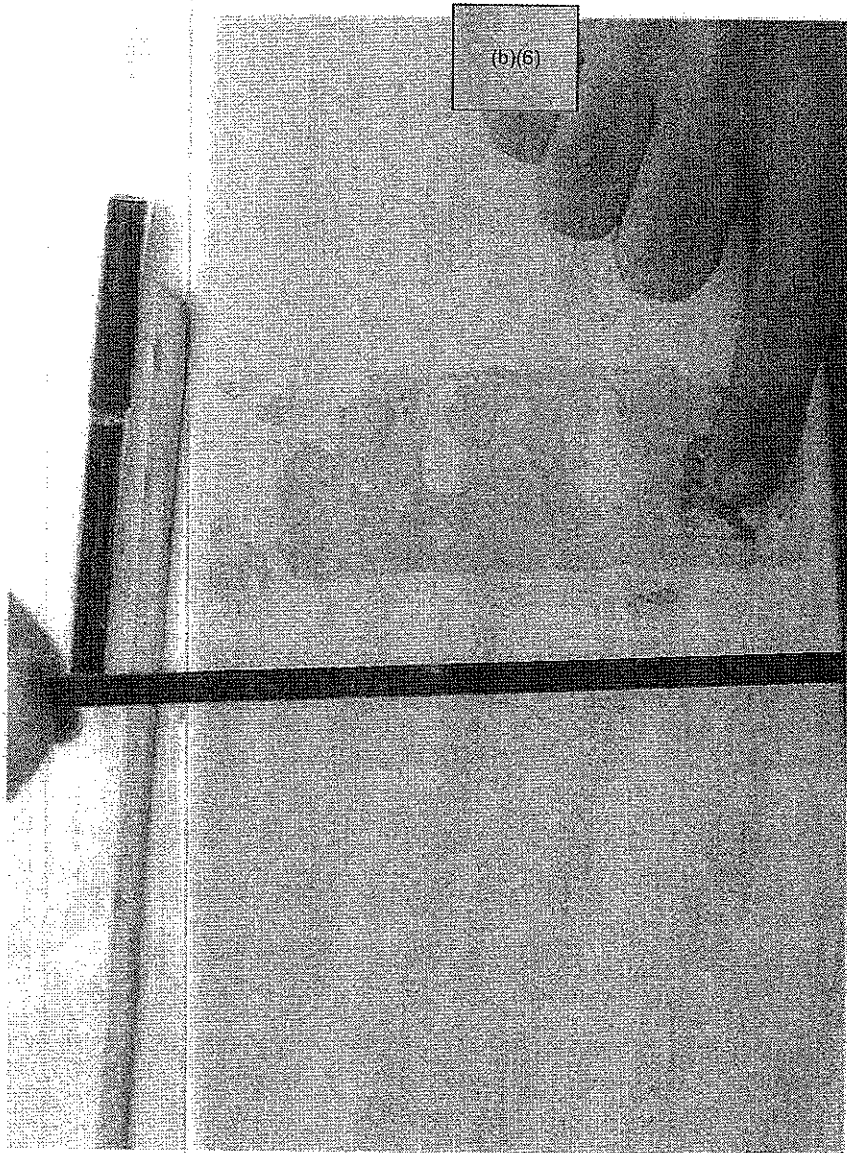
ENCLOSURE B to 15-6 Informal Investigation Concerning the Shooting and Death of a Local National (LN)

Pages 12 through 13 redacted for the following reasons:

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



The entry hole on the night of the incident.



The bullet hole was patched up since the initial picture taken on the night of the incident. The red dot indicates a height of 3 feet. The center of the hole is 2 feet 10 inches above the road surface and is located underneath the index finger in the photo.