



AFZB-KG-CO

4 March 2006

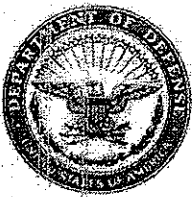
MEMORANDUM FOR Commander, Multi-National Division-Baghdad, Camp Liberty, Iraq
09344-3029

SUBJECT: AR 15-6 Investigation – Sniper Team Killing of two local nationals occurring on 15 January 2006, 3-67 Armor Regiment, Camp Rustamiyah, Iraq

1. I have reviewed the above-referenced investigation and recommend that the investigating officer's findings and recommendations be approved.
2. Point of contact for this memorandum is [REDACTED], Regimental Judge Advocate, at VOIP [REDACTED] or SIPR at [REDACTED]

COL, IN
Commanding

ALL ITEMS ARE
REDACTED UNDER
5 USC 552 (B) (6)
UNLESS OTHERWISE
NOTED



DEPARTMENT OF THE ARMY
HEADQUARTERS, 506TH REGIMENTAL COMBAT TEAM
101ST AIRBORNE DIVISION (AIR ASSAULT)
CAMP LOYALTY, IRAQ APO AE 09390



REPLY TO
ATTENTION OF

AFZB-KG-JA

4 March 2006

MEMORANDUM FOR Commander, 506th Regimental Combat Team, 101st Airborne Division
(Air Assault), Camp Loyalty, Iraq 09390

SUBJECT: Legal Review of AR 15-6 Investigation – Sniper Team Killing of two local nationals
occurring on 15 January 2006, 3-67 Armor Regiment, Camp Rustamiyah, Iraq

1. I have completed a legal review of the subject investigation and find it to be legally sufficient LAW AR 15-6, para. 2-3(b). While there are significant discrepancies in the witnesses' statements (e.g., whether the occupants of the homes fired a weapon, and whether the US Forces team engaged a male or female) the evidence indicates that US Forces acted as a result of a perceived hostile act.
2. Agree with the investigating officer that you request, to MND-B, guidance on the use of civilian homes, permissively or non-permissively, for military operations (OPs/FPs). Current MNC-I and MND-B ROE and Law of Armed Conflict concepts makes the practice of using civilian structures, and detaining local nationals in their homes, for military purposes questionable.
3. Among the discrepancies noted in the investigation are the following:
 - a. [REDACTED], [REDACTED], [REDACTED], and [REDACTED] all state that they heard "AK" fire coming from within the house. [REDACTED] statement mentions nothing about hearing any AK fire from inside the house. He states he saw the local national male insert a magazine, charge the weapon, and point the weapon in his direction from a large window, at which point [REDACTED] fired three rounds at the person (Exhibit I). The surviving occupants state that no weapons were fired from within the house (Exhibit K & L). In addition, the consequence management team found evidence of four bullet holes in the window and US Forces fired four rounds into the home through the same window (Exhibit V). The preponderance of the evidence indicates that there were no weapons fire originating from within the local nation's home.
 - b. [REDACTED] and [REDACTED] fired three shots at what he thought was a male with a weapon in one hand and a lantern in the other hand (Exhibit I). [REDACTED] also states that he fired one round at what he says was a male. However, local national occupant witness' statements say that the female (mother) was the one who was shot directly. In addition, the autopsy report (Exhibit Z) indicates that the mother was shot four times: two bullet entries in the front of the neck and exiting the back of the neck and front side of right shoulder; one near the lower side of the genitalia, exiting the left side of the stomach; and one shot entry in the right thigh and exit

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DEPARTMENT OF THE ARMY
HEADQUARTERS, BRIGADE TROOPS BATTALION
506TH REGIMENTAL COMBAT TEAM
101ST AIRBORNE DIVISION (AIR ASSAULT)
CAMP LOYALTY, IRAQ 09390



REPLY TO
ATTENTION OF

AFZB-KG-CO

20 January 2006

MEMORANDUM FOR [REDACTED], Headquarters and Headquarters Company, 801st Brigade Support Battalion, 506th Regimental Combat Team, 101st Airborne Division (Air Assault), Camp Rustamiyah, Iraq 09390

SUBJECT: Appointment as Investigating Officer

1. You are hereby appointed an investigating officer pursuant to AR 15-6 to conduct an informal investigation into the incident involving [REDACTED] of E Company, 3-67 Armor Battalion and NAVSOF personnel, that occurred on or about 15 January 2006, during which a local national was apparently shot and killed during insertion of an observer/sniper team. Your investigation will focus on the following areas:

- a. What were the facts and circumstances leading to the shooting?
- b. Did the shooting comply with the Rules of Engagement?
- c. What was the name and address of the local national?
- d. Is a CERP condolence payment to the local national's family appropriate?
- e. What, if any, corrective actions, training, or changes to procedures should be made in light of this incident? What lessons can be learned for future mission planning?
- f. Were there any other civilian casualties or property damage?

2. In your investigation, all witness statements will be taken on paper and sworn using DA Form 2823. If you discover any suspected criminal misconduct you must first read the individual their Article 31, UCMJ Rights, prior to taking their statement. From the evidence, you will make findings as to whether any criminal laws or Army regulations have been violated. In addition to your findings, you will make recommendations for any appropriate action to be taken. These recommendations may include but are not limited to: UCMJ or administrative actions concerning one or more individuals, additional training, policy changes, etc. Conduct your investigation pursuant to AR 15-6. Additionally, seek advice from RCT Legal prior to commencing your investigation (VOP [REDACTED]).

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AFZB-KG-CO

SUBJECT: Appointment as Investigating Officer

3. Record your findings and recommendations utilizing DA Form 1574. Submit your investigation packet to this headquarters NLT 1700 27 January 2006. Any requests for an extension should be made to me verbally or in writing.

[REDACTED]

COL, IN
Commanding

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DEPARTMENT OF THE ARMY
HEADQUARTERS, BRIGADE TROOPS BATTALION
506TH REGIMENTAL COMBAT TEAM
101ST AIRBORNE DIVISION (AIR ASSAULT)
CAMP LOYALTY, IRAQ 09390



REPLY TO
ATTENTION OF

AFZB-KG-CO

18 January 2006

MEMORANDUM FOR [REDACTED], F Company, 3rd Battalion, 67th Armor Regiment, 4th Infantry Division, Camp Rustamiyah, Iraq 09390

SUBJECT: Appointment as Investigating Officer

1. You are hereby appointed an investigating officer pursuant to AR 15-6 to conduct an informal investigation into the incident involving [REDACTED] of E Company, 3-67 Armor Battalion, that occurred on or about 15 January 2006, during which a local national was shot and killed during insertion of an observer/sniper team. Your investigation will focus on the following areas:

- a. What were the facts and circumstances leading to the shooting?
- b. Did the shooting comply with the Rules of Engagement?
- c. What was the name and address of the local national?
- d. Is a CERP condolence payment to the local national's family appropriate?
- e. What, if any, corrective actions, training, or changes to procedures should be made in light of this incident? What lessons can be learned for future mission planning?
- f. Was there any other damage to civilian personnel or property? If so, were claims cards distributed to the civilian personnel?

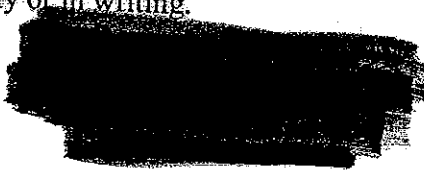
2. In your investigation, all witness statements will be taken on paper and sworn using DA Form 2823. If you discover any suspected criminal misconduct you must first read the individual their Article 31, UCMJ Rights, prior to taking their statement. From the evidence, you will make findings as to whether any criminal laws or Army regulations have been violated. In addition to your findings, you will make recommendations for any appropriate action to be taken. These recommendations may include but are not limited to: UCMJ or administrative actions concerning one or more individuals, additional training, policy changes, etc. Conduct your investigation pursuant to AR 15-6. Additionally, seek advice from RCT Legal prior to commencing your investigation (VOIP [REDACTED]).

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AFZB-KG-CO

SUBJECT: Appointment as Investigating Officer

3. Record your findings and recommendations utilizing DA Form 1574. Submit your investigation packet to this headquarters NLT 1700 21 January 2006. Any requests for an extension should be made to me verbally or in writing.



COL, IN
Commanding

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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 506th Regimental Combat Team
(Appointing authority)

on 20 JAN 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 FOB Rustamiyah, Baghdad, Iraq at 2000
(Place) (Time)
on 20 JAN 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.)

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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 1700 on 27 JAN 06
(Time) (Date)
and completed findings and recommendations at 1900 on 27 JAN 06
(Time) (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

	YES	NO ^{1/}	NA ^{2/}
I 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)

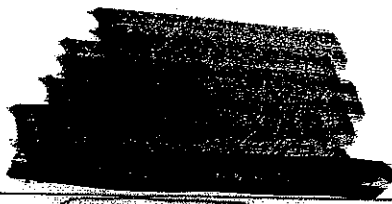
The ~~(investigating officer)~~ ~~(board)~~, having carefully considered the evidence, finds:
See Attached Findings Sheets 1-4

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

In view of the above findings, the ~~(investigating officer)~~ ~~(board)~~ recommends:
See Attached Recommendations Sheets 1-4

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.)

JAMES D. THURMAN, MG, USA, Commanding General

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Section IV - Findings

What were the facts and circumstances leading to the shooting?

This incident occurred during a joint operation between Navy Special Operations Forces (NAVSOFF) and 3-67 AR Battalion Forces. NAVSOFF forces had command and control of this operation. Additional security, infiltration, and exfiltration operations were conducted by 3-67 AR Battalion personnel and equipment. The incident was executed as an extension of Operation Mousetrap. (See Exhibit X) The task for this operation was to covertly insert sniper teams into Observation Posts (OPs) around CP 515. The purpose was to conduct overwatch operations of CP 515 to deny AIF the ability to emplace EFP IEDs and to provide coalition forces the freedom of movement along MSR Pluto. (See Exhibit B)

On the afternoon of 14 JAN 06, NAVSOFF personnel conducted a ground reconnaissance of a residential home (the objective) at grid [REDACTED] 5 USC 552(B)(1). This reconnaissance consisted of driving by the home, shooting digital video footage, and still digital photographs (See Exhibit P) of the objective. According to [REDACTED] (See Exhibit I), the house appeared to be unoccupied in the video footage, and photographs. According to NAVSOFF personnel who were briefed by CP, the 3-67 AR S-2, that there was a 50/50 chance that homes in the overwatch area would be receptive to emplacing OPs within their residences (See Exhibit A).

After the reconnaissance was conducted NAVSOFF and 3-67 personnel continued with execution of their Troop Leading Procedures for the operation. An OPORD brief was given, rehearsals were conducted (rock drill), and ROE briefs were conducted. (See Exhibits A through J)

The operation started at approximately 15 0030 JAN 05 with the patrol exiting FOB Rustamiyah in M2A2 Bradleys and M1114 UAHs. The vehicles proceeded to the release point (RP) and NAVSOFF and 3-67 personnel dismounted. Personnel then conducted approximately a 300 - 500m foot patrol from the RP to the objective (Residential home at [REDACTED]). (See Exhibits A through J) 5 USC 552(B)(1)

At approximately 15 0145 JAN 05 NAVSOFF and 3-67 personnel began to set up security at the objective. While security was being emplaced a LN woman began screaming (in Arabic) from inside the residence. The Patrol Leader, Intelligence Specialist [REDACTED], and the interpreter began trying to get permissive access to the home. They [REDACTED] and the Interpreter) did this by knocking on an exterior door several times and yelling (See Exhibit E) that they were American Forces and that they meant them (the occupants of the residence) no harm. According to the interpreter, He did not think that the occupants of the house could hear them because there was too much screaming (See Exhibit J). Concurrently, Hospital Corpsman [REDACTED] breached another exterior door (See Exhibit F), and he and Gunner's Mate [REDACTED] gained access to a foyer-type area that led to 3 interior doors (See Exhibits F, G, and O). He then began to try and gain access into the left interior door.

(See Exhibit G). Concurrently, the interpreter reported that the LN woman screamed "get the AK" in Arabic. Soon after, [REDACTED] (3-67 AR) from his position outside the house saw a man approach the window with an AK. He then yelled "AK" from position (See Exhibit F, I). [REDACTED] states that he observed a LN man load a magazine into the AK and charge the weapon. [REDACTED] then states that the man then pointed the weapon directly at him through the window (See Exhibit I). He states that he fired his weapon at the LN male with the AK (See Exhibit I). [REDACTED] (NAVSOF) stated that he heard "AK" yelled and ceased attempting to breach the interior door. [REDACTED] states that he then saw muzzle flash from inside the house. He then fired one shot from his SR-25 at the LN male armed with an AK (See Exhibit F). Other NAVSOF Personnel [REDACTED], [REDACTED], and Operations Specialist [REDACTED] stated that they heard AK fire. (See Exhibits E, G, and H). After the shots were fired [REDACTED] ordered a cease fire, and ordered the team to exfiltrate the objective. (See Exhibit F)

The Iraqi Police report (See Exhibit M) and death certificates (See Exhibits R and T) obtained from LN family members during a consequence management visit to the residence confirm that a LN male and LN female died as a direct result of this incident.

Did the shooting comply with the rules of engagement?

Yes. Evidence shows all US forces acted in self defense. Statements from US forces involved (See Exhibits E, F, G, I), the interpreter (See Exhibit J), and statements from Local National sources through the THT (See Exhibits K and L) support this.

Evidence gathered from the investigation, both from US forces and LN sources, indicates that the scene at the objective was dark, ever changing, and chaotic. According to the interpreter, there was no electricity in the house. (See Exhibit J). The only light source from the interior of the house was a lantern (See Exhibits E and I). Although it was 100% illumination at 15 0145 JAN 05 there was not any street lights, exterior lights, or interior lights in the vicinity of the house. Team members approached the house using Night Vision Devices (NVDs), but went to flashlight once they lost the element of surprise (See Exhibit G). In the estimation of [REDACTED], [REDACTED], [REDACTED], and the interpreter, the time period of between the LN woman starting to scream and shots being fired was less than 30 seconds. In photographs taken by the consequence management team, the window has 4 visible bullet holes through the glass and bullet holes and bullet impact damage to the interior walls of the structure. (See Exhibit Q and V) Statements gathered from LN sources do not support the claim by US forces that the deceased LN male approached the window with an AK or that the AK was fired. However, LN sources do confirm that there was an AK in the house. Through this investigation, I conclude that regardless of whether or not the AK was physically pointed at [REDACTED] or fired at him; conditions existed at the scene that supports NAVSOF and [REDACTED] statements that they acted in accordance with the rules of engagement once they felt that a hostile act had been directed against them.

The evidence supports that while US forces were attempting to gain access to the LN residence, a woman inside the residence began screaming thinking that they were getting robbed. One son reported to a tactical human intelligence team (THT) member that his mother yelled "thieves, thieves" in Arabic (See Exhibit M). The interpreter then communicated to US Forces that she called for her husband to get the AK (See Exhibit J). Following that, [REDACTED] stated that he saw a LN male load and charge an AK inside the structure. Given the low light; the screaming; the interpreter translations of "Get the AK"; and the short time span that elapsed, conditions existed at the time of the incident that support hostile intent towards US forces. LN family thought they were getting robbed. The family tries to protect themselves. In the process US forces act in self defense.

The evidence found in Exhibit Z identifies several inconsistencies between coalition personnel sworn statements, and the autopsy results. Statements from coalition personnel indicate that the LN male pointed a loaded AK-47 at [REDACTED] and [REDACTED] state that they saw a LN male point a weapon at them from inside the house (See Exhibits F and I). However, autopsies performed by Dr. [REDACTED] and Dr. [REDACTED] indicate that the LN female died of direct gun shot wounds while the LN male died with injuries associated from bullet fragments (See Exhibit Z).

I conclude that [REDACTED] may have fired on the LN female as opposed to the LN male. I attribute these inconsistencies due to the low level of light, the observation of the LN with the AK-47 through a glass window, the short period of time in which these events occurred, and the chaotic environment that existed while coalition personnel attempted to gain entrance into the residence.

Given the evidence from all sources, I conclude that [REDACTED] fired his M-16 in self defense, and [REDACTED] fired his SR-25 in an effort to protect [REDACTED] from a LN located inside the residence. Both personnel thought that the LN posed an imminent threat to [REDACTED]

Autopsy results confirm that that bullets (or fragments of) from either [REDACTED] or [REDACTED] weapon struck and killed both Local Nationals inside the residence.

What is the name and address of the local nationals?

Names of Deceased:

Husband – Yassin Muhamad Nafawa (See Exhibits R and S)

Spouse Najat Hamed Nafawa (See Exhibits I and U)

Address:

Mahalla 711/ 5/ 17 (See Exhibit N)

8 digit grid: [REDACTED] 5 USC 552(b)(1)

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