

(1) *Voluntary manslaughter.*

(a) *Nature of offense.* An unlawful killing, although done with an intent to kill or inflict great bodily harm, is not murder but voluntary manslaughter if committed in the heat of sudden passion caused by adequate provocation. Heat of passion may result from fear or rage. A person may be provoked to such an extent that in the heat of sudden passion caused by the provocation, although not in necessary defense of life or to prevent bodily harm, a fatal blow may be struck before self-control has returned. Although adequate provocation does not excuse the homicide, it does preclude conviction of murder.

(b) *Nature of provocation.* The provocation must be adequate to excite uncontrollable passion in a reasonable person, and the act of killing must be committed under and because of the passion. However, the provocation must not be sought or induced as an excuse for killing or doing harm. If, judged by the standard of a reasonable person, sufficient cooling time elapses between the provocation and the killing, the offense is murder, even if the accused's passion persists. Examples of acts which may, depending on the circumstances, constitute adequate provocation are the unlawful infliction of great bodily harm, unlawful imprisonment, and the sight by one spouse of an act of adultery committed by the other spouse. Insulting or abusive words or gestures, a slight blow with the hand or fist, and trespass or other injury to property are not, standing alone, adequate provocation.

(2) *Involuntary manslaughter.*(a) *Culpable negligence.*

(i) *Nature of culpable negligence.* Culpable negligence is a degree of carelessness greater than simple negligence. It is a negligent act or omission accompanied by a culpable disregard for the foreseeable consequences to others of that act or omission. Thus, the basis of a charge of involuntary manslaughter may be a negligent act or omission which, when viewed in the light of human experience, might foreseeably result in the death of another, even though death would not necessarily be a natural and probable consequence of the act or omission. Acts which may amount to culpable negligence include negligently conducting target practice so that the bullets go in the direction of an inhabited house within range; pointing a pistol in jest at another and

pulling the trigger, believing, but without taking reasonable precautions to ascertain, that it would not be dangerous; and carelessly leaving poisons or dangerous drugs where they may endanger life.

(ii) *Legal duty required.* When there is no legal duty to act there can be no neglect. Thus, when a stranger makes no effort to save a drowning person, or a person allows a beggar to freeze or starve to death, no crime is committed.

(b) *Offense directly affecting the person.* An "offense directly affecting the person" means one affecting some particular person as distinguished from an offense affecting society in general. Among offenses directly affecting the person are the various types of assault, battery, false imprisonment, voluntary engagement in an affray, and maiming.

d. *Lesser included offenses.*(1) *Voluntary manslaughter.*

(a) Article 119—involuntary manslaughter

(b) Article 128—assault; assault consummated by a battery; aggravated assault

(c) Article 134—assault with intent to commit voluntary manslaughter

(d) Article 134—negligent homicide

(e) Article 80—attempts

(2) *Involuntary manslaughter.*

(a) Article 128—assault; assault consummated by a battery

(b) Article 134—negligent homicide

e. *Maximum punishment.*

(1) *Voluntary manslaughter.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years.

(2) *Involuntary manslaughter.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 10 years.

f. *Sample specifications.*(1) *Voluntary manslaughter.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 20_____, willfully and unlawfully kill _____ by _____ him/her (in) (on) the _____ with a _____

(2) *Involuntary manslaughter.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter

tions, directives, or orders may be punishable under Article 92. *See* paragraph 16.

d. *Lesser included offense.* Article 80—attempts

e. *Maximum punishment.* Dismissal, forfeiture of all pay and allowances, and confinement for 2 years.

f. *Sample specification.*

In that _____ (personal jurisdiction data), did, (at/on board—location), on or about _____, 20_____, knowingly fraternize with _____, an enlisted person, on terms of military equality, to wit: _____, in violation of the custom of (the Naval Service of the United States) (the United States Army) (the United States Air Force) (the United States Coast Guard) that officers shall not fraternize with enlisted persons on terms of military equality.

84. Article 134—(Gambling with subordinate)

a. *Text.* *See* paragraph 60.

b. *Elements.*

(1) That the accused gambled with a certain servicemember;

(2) That the accused was then a noncommissioned or petty officer;

(3) That the servicemember was not then a noncommissioned or petty officer and was subordinate to the accused;

(4) That the accused knew that the servicemember was not then a noncommissioned or petty officer and was subordinate to the accused; and

(5) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.* This offense can only be committed by a noncommissioned or petty officer gambling with an enlisted person of less than noncommissioned or petty officer rank. Gambling by an officer with an enlisted person may be a violation of Article 133. *See also* paragraph 83.

d. *Lesser included offense.* Article 80—attempts

e. *Maximum punishment.* Confinement for 3 months and forfeiture of two-thirds pay per month for 3 months.

f. *Sample specification.*

In that _____ (personal jurisdiction data), did (at/on board—location) (subject-

IV-110

matter jurisdiction data, if required), on or about _____ 20_____, gamble with _____, then knowing that the said _____ was not a noncommissioned or petty officer and was subordinate to the said _____.

85. Article 134—(Homicide, negligent)

a. *Text.* *See* paragraph 60.

b. *Elements.*

(1) That a certain person is dead;

(2) That this death resulted from the act or failure to act of the accused;

(3) That the killing by the accused was unlawful;

(4) That the act or failure to act of the accused which caused the death amounted to simple negligence; and

(5) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) *Nature of offense.* Negligent homicide is any unlawful homicide which is the result of simple negligence. An intent to kill or injure is not required.

(2) *Simple negligence.* Simple negligence is the absence of due care, that is, an act or omission of a person who is under a duty to use due care which exhibits a lack of that degree of care of the safety of others which a reasonably careful person would have exercised under the same or similar circumstances. Simple negligence is a lesser degree of carelessness than culpable negligence. *See* paragraph 44c(2)(a).

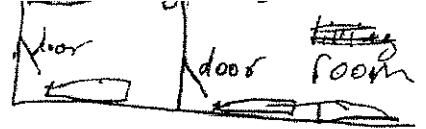
d. *Lesser included offenses.* None

e. *Maximum punishment.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 3 years.

f. *Sample specification.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 20_____, unlawfully kill _____, (by negligently _____ the said _____ (in) (on) the _____ with a _____) (by driving a (motor vehicle) _____)

C
R

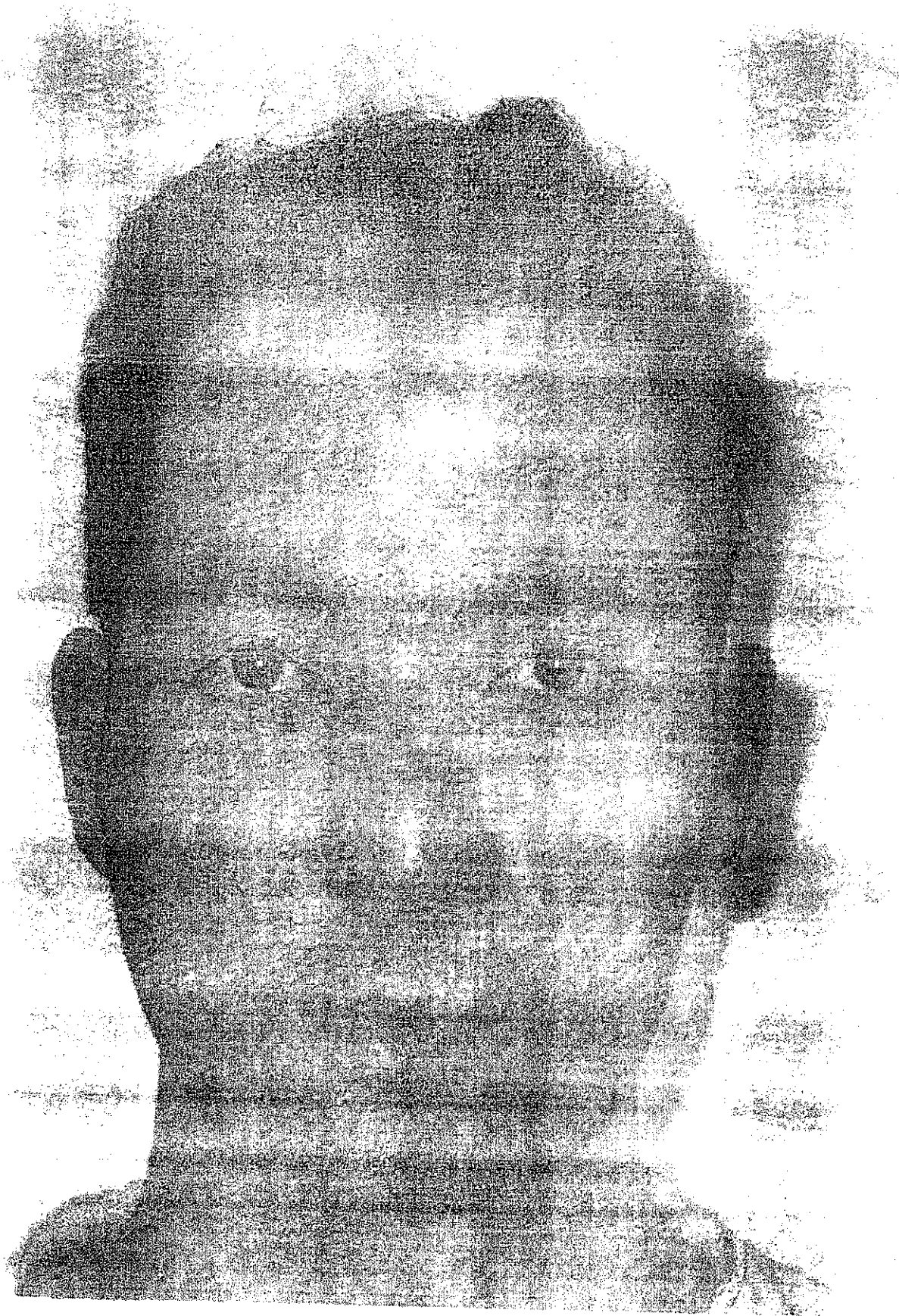


Gate

another stack ~~PH~~ CLPHN

1 - humvee

[REDACTED]

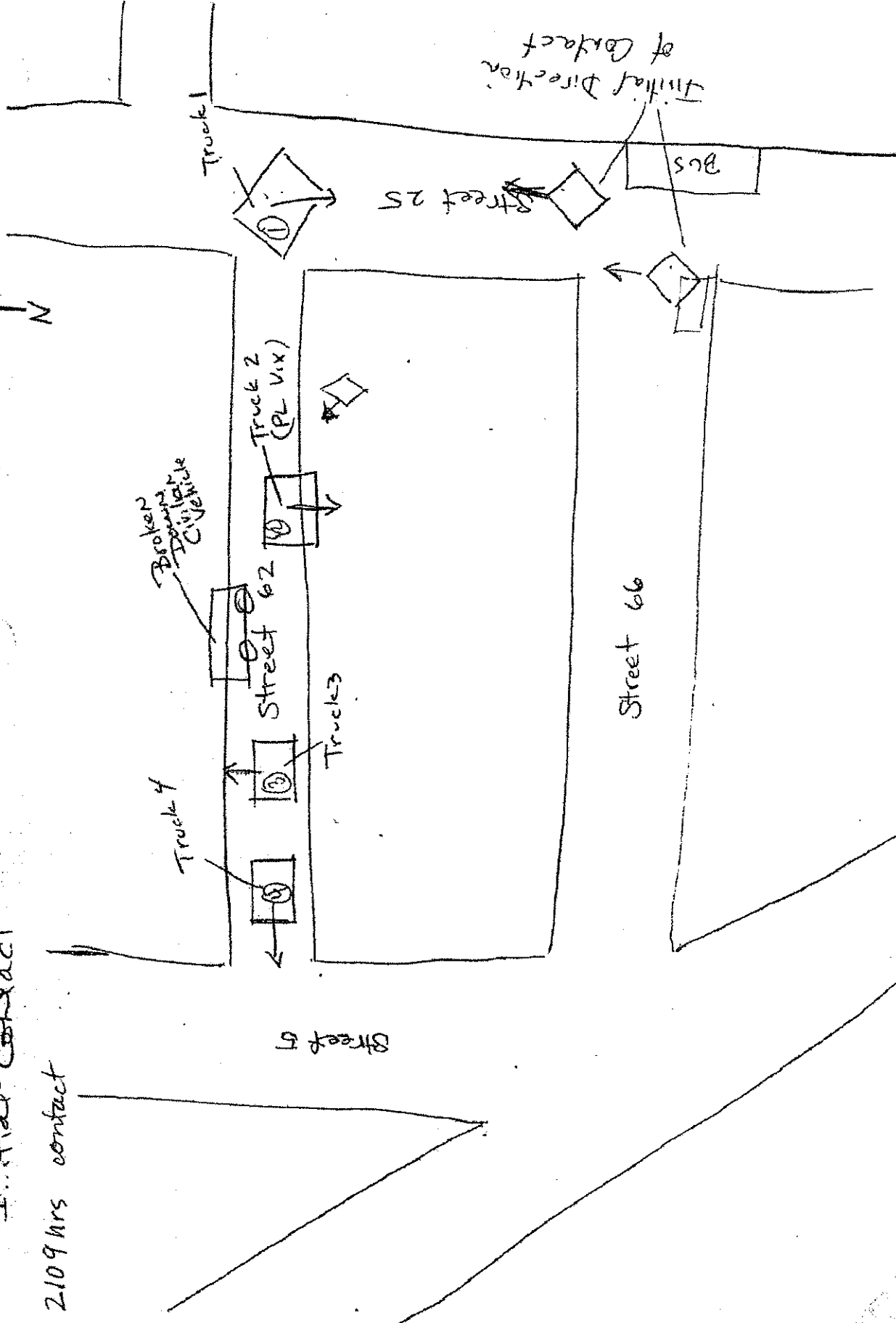


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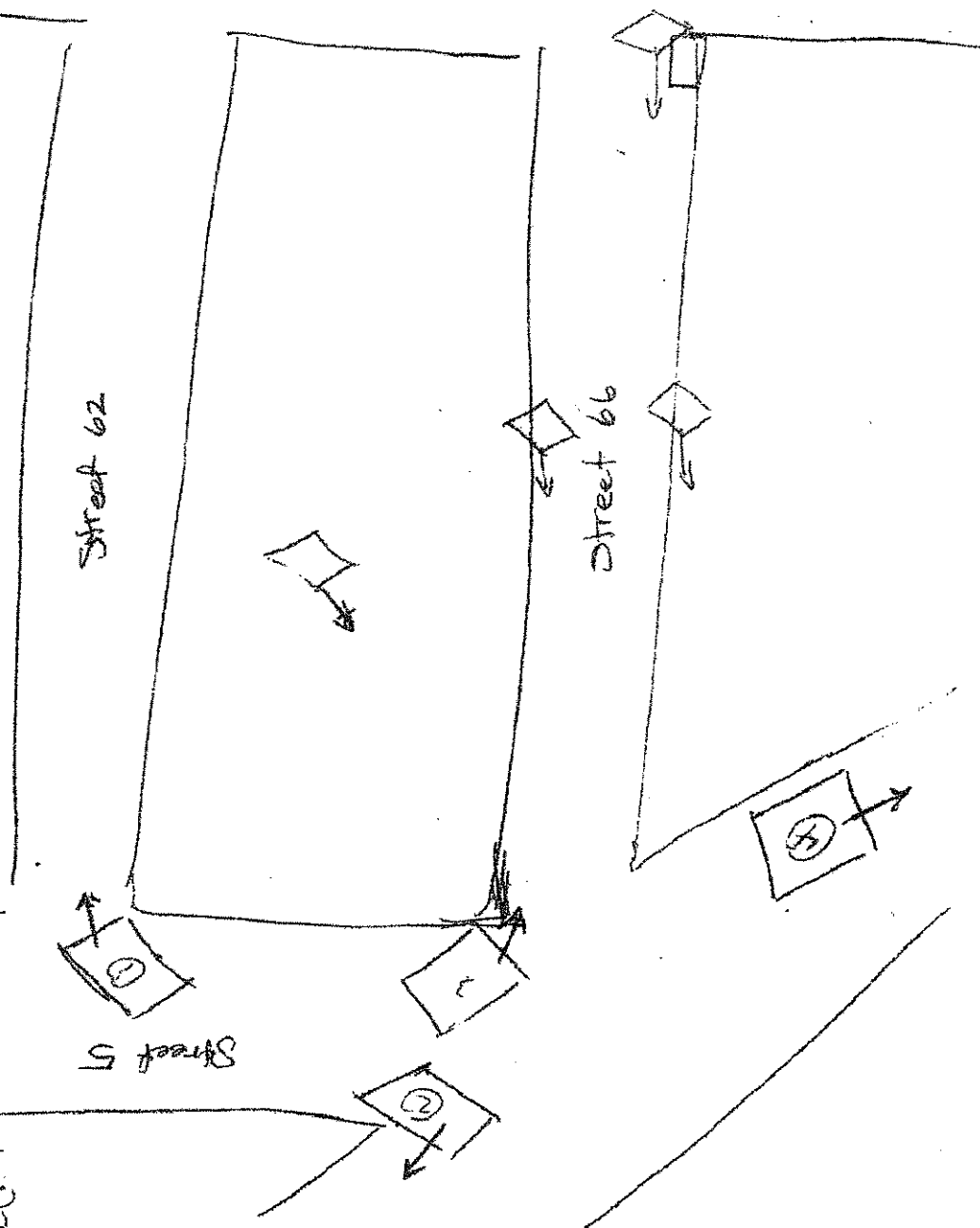
- If going grid for broken down, x
- Initial Contact

2109 hrs contact

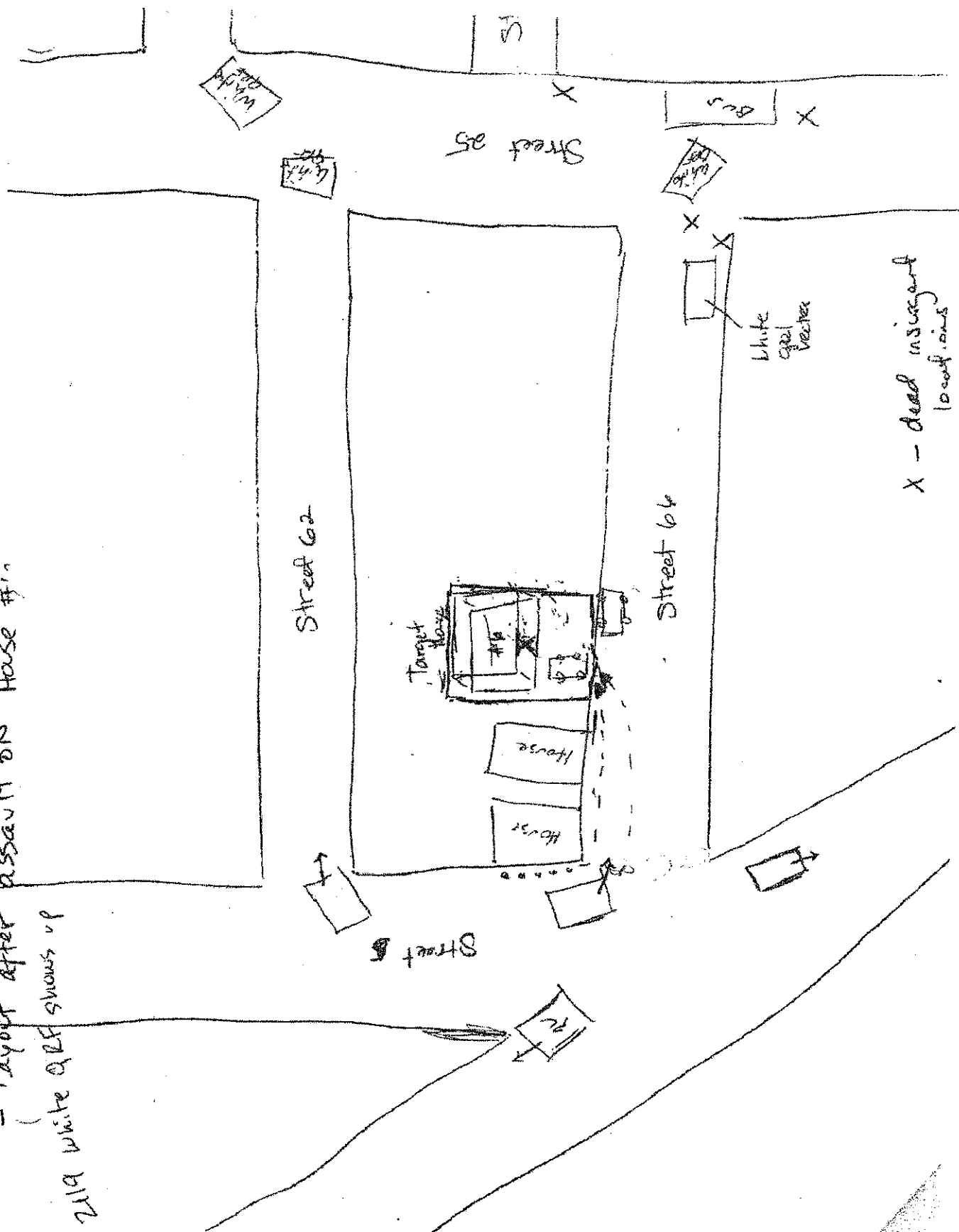
N
↑



- 1) R
- 1) Maneuver South & East onto St 66
- 2116 CAPS request
- 2119 White QRF 11
- 2112(?) IT'S ON SCENE



assault on House #1



PATROL TRACKER - 01 MARCH 05 -

Patrol #	Unit	Location	Vehicle bumper #'s	Pax	Time of departure	Time of return	Names/Remarks
0150	Blue 3	Power Plant	A31, A21, A11 C37, A26 5 #1114	24+1	0600	1136	[REDACTED]
0150	WHITE 5	[REDACTED]	A26, A14 HQ05 3 x 1114	11	1100 AP 1610 FIB H00	1135 AB 161308P	[REDACTED]
0170	Killer Blue 2	[REDACTED]	A21, A26, A13 C37, A11, A5 4 x 1114	19+1	1901	0615	[REDACTED]
0170	K6	[REDACTED]	A12, A13, A31, A22 A5 4 x 1114's	21	2230	0615	see manifest
	Red 1	[REDACTED]	A13 A21 A11 A5	22+1	0830		[REDACTED]

Photo Index: (158 photos, 4 page index) Street Diagram and photo labeling done by CPT Haviland, A Company Commander, 1-184 Infantry Battalion, 4 JUL 05

PHOTO DESCRIPTION

- 1 Shoes to Body 1, AK Shell, shoe in view of vehicle (facing west on St 66)
- 2 Magazine, shell AK, shoe (facing south)
- 3 Door of target house (north)
- 4 Entrance of target house / vehicle 3 in front of target house
- 5 Living room of target house
- 6 Target house kitchen
- 7 Target house entrance door
- 8 Entrance area, target house
- 9 Body 5 (KIA in house) wounds/ medical care
- 10 Body 5 (KIA in house) wounds/ medical care
- 11 Body 5 (KIA in house) wounds/ medical care
- 12 Body 5 (KIA in house) wounds/ medical care
- 13 Body 5 (KIA in house) wounds/ medical care
- 14 Body 5 (KIA in house) wounds/ medical care
- 15 Body 5 (KIA in house) wounds/ medical care
- 16 Body 5 (KIA in house) wounds/ medical care
- 17 Target house refrigerator
- 18 Target house refrigerator
- 19 Target house refrigerator
- 20 Target house refrigerator
- 21 Blast effect of handgrenade on target house window (front, north)
- 22 Bath
- 23 Blast effect of handgrenade on car at target house (veh 3) (West)
- 24 Blast effect of handgrenade on window of target house (north)
- 25 Top of target house, north, shows machine gun fire effects
- 26 Top of target house, shows machine gun fire effects
- 27 LIC plate of target house veh (veh 3)
- 28 Top of target house, north, shows machine gun fire effects
- 29 Blast effect of handgrenade on car at target house (west)
- 30 Top of target house, shows machine gun fire effects (north)
- 31 Blast effect of handgrenade on car at target house (veh 3) (north)
- 32 Inside veh 3 at target house
- 33 Vehicle 4 on street 66 (facing east)
- 34 Vehicle 4 on street 66 (east)
- 35 Front gate of target house (north) St 66
- 36 Vehicle 4 (east)
- 37 Field wire in bedroom at target house
- 38 ID in target house
- 39 Field wire in bedroom at target house
- 40 Pistol in bedroom at target house
- 41 Army Major photo in target house

- 42 Gas tank in trunk of vehicle 3 in target house
- 43 Watch and photo in target house
- 44 Photo ID of KIA man in target house
- 45 Vehicle 3 trunk contents in front of target house
- 46 Blast effect of handgrenade on windows of target house (north)
- 47 Vehicle 3 trunk contents
- 48 Top of target house, shows machine gun fire effects (front)
- 49 Vehicle 4 facing north on 13th ST
- 50 Pistol holster found in target house
- 51 Inside vehicle 4
- 52 Vehicle 4 facing east
- 53 Vehicle 5, south, 13th street
- 54 Vehicle 5 on 13th street, south bound, crashed into pole
- 55 Vehicle 5, no plates, facing south 13th
- 56 Vehicle 5 on 13th St, south bound
- 57 Unknown HMMWV
- 58 Vehicle 5, no plates, facing south, 13th St
- 59 Vehicle 2, facing west on 66th
- 60 Unknown HMMWV
- 61 SGT Kruegger, Medic, worked on KIA male in house
- 62 Vehicle 1 (Bus) on 25th St facing South
- 63 Vehicle 2 facing west on 66 St.
- 64 HMMWV with turret gunner
- 65 Body 3 KIA effects of Iraqi army pineapple grenade
- 66 Sign in arabic
- 67 Body 2 KIA
- 68 Body 3 KIA
- 69 Body 2 KIA
- 70 Body 2 KIA
- 71 Northwest view of 25/13 ST corner, Arabic graffiti
- 72 Body 2 KIA
- 73 Wall across from vehicle 2, blood trails of suspected insurgent escape
- 74 Grenade spoon near vehicle 2
- 75 Wall across from vehicle 2
- 76 Shoes from Body 4 (suspected) KIA, same shoes as Body 2
- 77 Body 3 KIA, grenade effects
- 78 Body 3 KIA, grenade effects
- 79 Grenade pin to Iraqi army grenade near vehicle 2
- 80 9mm round flattened out near Body 3 KIA
- 81 Body 3 KIA
- 82 Body 3 KIA
- 83 Piece of Iraqi army fuse assembly for grenade
- 84 Body 3 KIA, positive X spray
- 85 Body 4 KIA, facing N, 25th ST, AK 47 casings, SGT Henniger checks positive X Spray results
- 86 9mm Bullet

- 87 Unknown
- 88 Grenade assembly pieces near vehicle 2
- 89 Random picture of AK casing
- 90 CPT Haviland inspects Body 4
- 91 Facing west, AK 47 casings on St 66/25
- 92 Unknown
- 93 Unknown
- 94 Vehicle 2, complete grenade under driver seat
- 95 Unknown
- 96 Vehicle 2, possible IED materials (electronics)
- 97 Vehicle 2, syringes, boxes of drugs
- 98 Vehicle 2, syringes, boxes of drugs
- 99 Body 3 KIA, x spray showing
- 100 Vehicle 2, syringes, boxes of drugs
- 101 Random AK shell casing
- 102 Vehicle 1 (bus), facing south
- 103 Body 4 KIA, facing east, 66/25 St, AK shell casing
- 104 AK 47 shell casing
- 105 Vehicle 1 (bus)
- 106 Vehicle 1 (bus)
- 107 Vehicle 1 (bus)
- 108 Vehicle 1 (bus)
- 109 Vehicle 1 (bus) facing South on 25th St.
- 110 Vehicle 1 (bus) facing South on 25th St.
- 111 Vehicle 1 (bus) facing South on 25th St.
- 112 Vehicle 1 (bus) facing South on 25th St.
- 113 Vehicle 1 (bus)
- 114 Vehicle 1 (bus)
- 115 Vehicle 1 (bus)
- 116 Vehicle 1 (bus)
- 117 Body 1 KIA
- 118 Vehicle 1 (bus)
- 119 Body 1 KIA
- 120 Body 1 KIA
- 121 Body 1 KIA wallet, ID looks like Body 3 KIA
- 122 Body 1 facing south on 25th St.
- 123 Photo ID from Body 1 wallet, looks like Body 3
- 124 Body 1 KIA facing south on 25th St.
- 125 Body 1 KIA
- 126 Body 3 KIA as he was found (face down)
- 127 Photo ID from Body 1, looks like Body 3
- 128 Body 3 KIA
- 129 Vehicle 2, grenade under seat
- 130 Body 3 KIA
- 131 Vehicle 2
- 132 Inside Vehicle 2, syringes and drugs on passenger floor



- 133 Vehicle 2
- 134 Vehicle 2
- 135 Vehicle 2, rear window blown out by frag grenade from AIF
- 136 Vehicle 2
- 137 Vehicle 2
- 138 Vehicle 2
- 139 Vehicle 2
- 140 Vehicle 2
- 141 Body 3 KIA
- 142 Body 3 KIA
- 143 Vehicle 2
- 144 Body 3 KIA
- 145 Body 3 KIA
- 146 Body 3 KIA grenade effects
- 147 Body 3 KIA x spray
- 148 Body 3 KIA
- 149 Body 4 KIA
- 150 Body 3 KIA
- 151 Body 4 KIA facing N on 25th St
- 152 Body 2 KIA and Body 3 KIA as found
- 153 Body 4 KIA
- 154 Body 4 KIA
- 155 Body 4 KIA
- 156 Body 4 KIA
- 157 Vehicle 2 facing west on 66th ST.
- 158 Vehicle 5, south on 13th St.

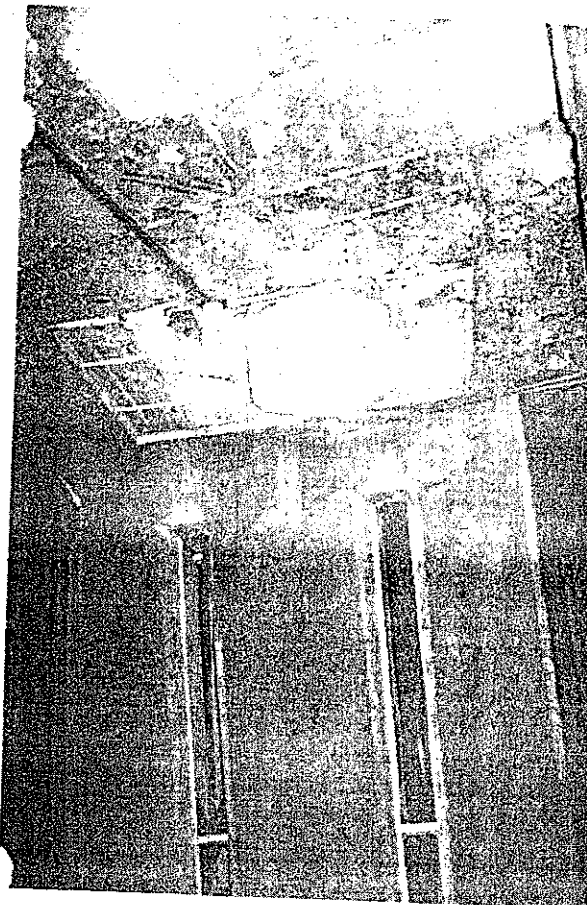
Shoes to Body #1



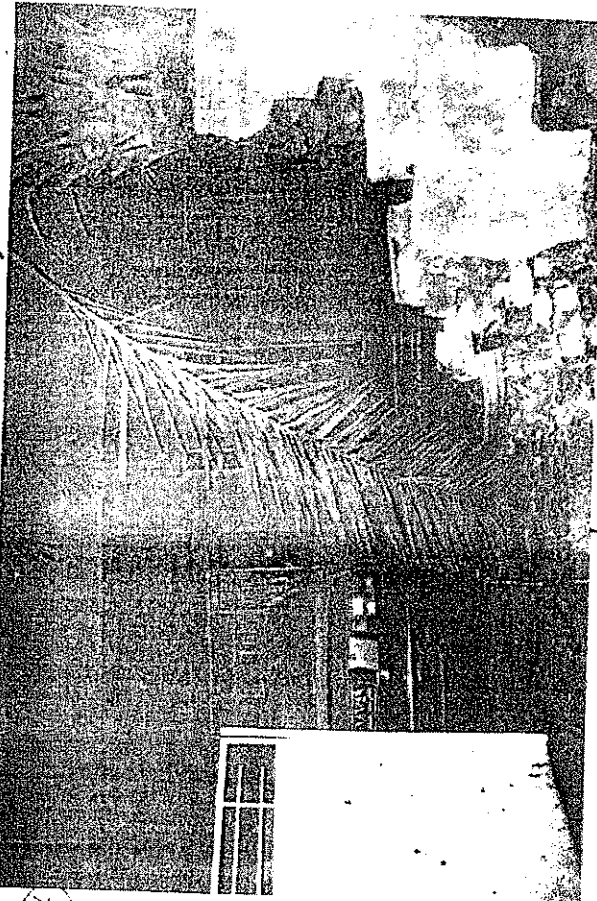
(3) KSHAW, Shoes in view of Vehicle # (Facing WEST) on ST 66



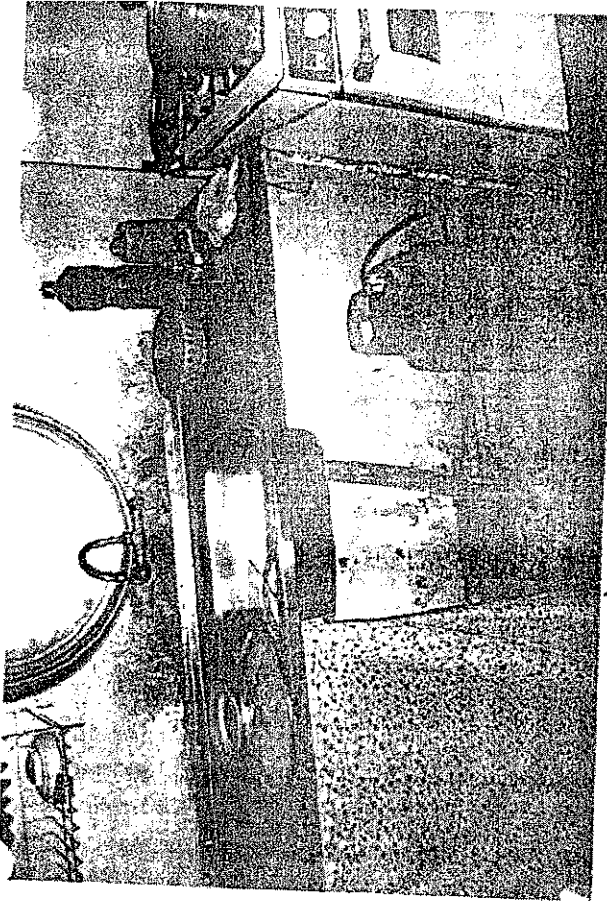
(4) MAGAZINE, SHOE (AK) SHOE (Facing South)



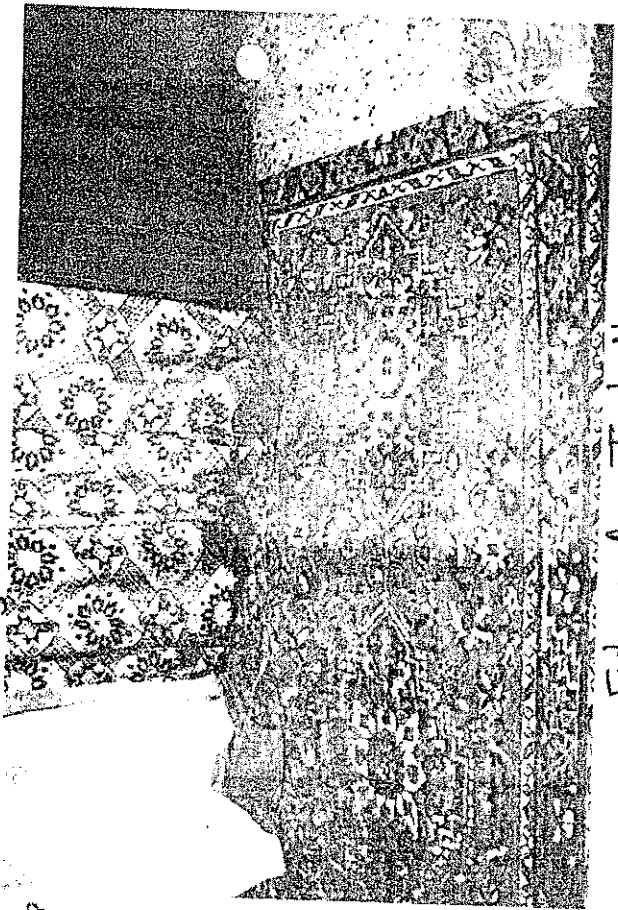
Door of Target House (North)



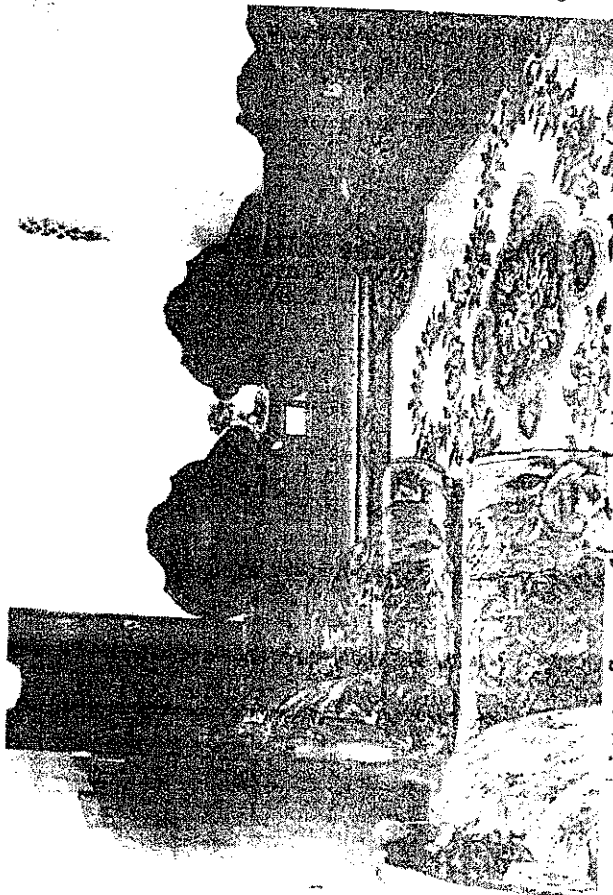
Entrance of Target House / Vehicle #3



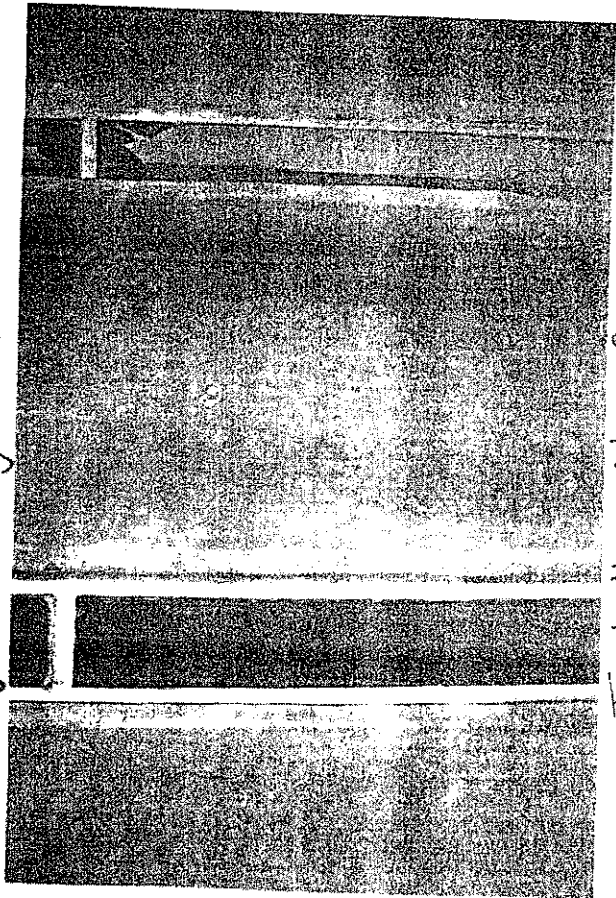
Target House Kitchen



Entrance Area Target House



Living Room of Target House



Target House Entrance Door