

DEPARTMENT OF THE ARMY
HHC, 1st Battalion, 64th Armor Regiment
2d Brigade, 3d Infantry Division
APO AE 09380

AFZP-VBL-HC

6 MAR 05

MEMORANDUM FOR RECORD

SUBJECT: Exhibit List, AR 15-6 Investigation, D Co, 1-64 Armor

1. The following exhibits are attached to this investigation:

- a. MFR dated 5 MAR 2005, Informal investigation summary and results, CPT [REDACTED], D Co, 1-64 Armor.
- b. Sketch of incident site provided as Enclosure 1 to CPT [REDACTED]'s informal investigation.
- c. Picture of damaged civilian vehicle and deceased driver [REDACTED] and [REDACTED], provided as Enclosure 2 to CPT [REDACTED]'s informal investigation, 9 pages.
- d. DA 2823, Sworn Statement provided by SFC [REDACTED], Platoon Sergeant, 1st PLT, A Co, 1-64 Armor (cross attached to D Co, 1-64 Armor).
- e. DA 2823, Sworn Statement provided by PFC [REDACTED], driver for D-41, and one of two soldiers who fired at an Iraqi civilian vehicle on 4 MAR 2005.
- f. DA 2823, Sworn Statement provided by SPC [REDACTED], M240 gunner for D-41, and one of two soldiers who fired at an Iraqi civilian vehicle on 4 MAR 2005.
- g. DA 2823, Sworn Statement provided by PFC [REDACTED], a Soldier assigned to monitor the radios in D-41.
- h. DA 2823, Sworn Statement provided by SPC [REDACTED], driver of D-44.
- i. DA 2823, Sworn Statement provided by SSG [REDACTED], Weapons Squad Leader, 1st PLT, A Co, 1-64 Armor (cross attached to D Co, 1-64 Armor).
- j. DA 2823, Sworn Statement provided by SFC [REDACTED], A Team Leader, 1st Squad, 1st PLT, A Co, 1-64 Armor (cross attached to D Co, 1-64 Armor).
- k. Patrol Checklist / order employed by 1st Platoon for the 4 MAR 2005 patrol.

2. POC is the undersigned at (VQIP) [REDACTED]



DEPARTMENT OF THE ARMY
HHC, 1st Battalion, 64th Armor Regiment
2d Brigade, 3d Infantry Division
APO AE 09380

AFZP-VBI-HC

6 MAR 05

MEMORANDUM FOR Commander, 1st Battalion, 64th Armor Regiment

SUBJECT: Findings and Recommendations of AR 15-6 Investigating Officer
(Continuation of Section IV, DA 1574)

- I. The investigating officer, having carefully considered the evidence, finds
- a. An unarmed Iraqi civilian, driving a Suzuki sport-utility vehicle, died of gunshot wounds at approximately 2300 local time on 4 March 2005, immediately after PFC [REDACTED] and SPC [REDACTED], both of D Company, 1-64 Armor, fired on his vehicle with a rifle and M-240B machine gun. Two civilian passengers in the vehicle were injured and evacuated to Camp [REDACTED] for treatment. An additional civilian passenger was unhurt. The incident happened at [REDACTED], in [REDACTED] of Eastern Baghdad (See Exhibits A, B).
 - b. The proximate cause of the above-mentioned fatality and injuries was the Iraqi driver's failure to heed visual signals and warning shots issued by PFC [REDACTED] and SPC [REDACTED]. Bottom line, the driver experienced a situational awareness failure. As indicated in Exhibit E, PFC [REDACTED] was an M1114 driver whose vehicle was securing an intersection in conjunction with another M1114, during a mounted and dismounted patrol conducted by 1st Platoon, A Company, 1-64 Armor (cross attached to D Company). PFC [REDACTED] was dismounted from his HMMWV, D-41, at the time of the incident. He identified the Iraqi vehicle approaching his position from the North, and flashed a (weapon-mounted) TAC-light at it. The vehicle, 75-100 meters away, continued to approach his position. PFC [REDACTED] then escalated his response and fired 3 warning shots with his rifle, aiming at the ground in front of the vehicle. At that point, as indicated in Exhibits E and F, SPC [REDACTED] (the vehicle's M240 gunner) traversed his weapon toward the Iraqi vehicle, now 65-70 meters away, and also fired into the ground. The Iraqi vehicle continued forward without slowing. The two Soldiers escalated their response once again, and (according to their statements) simultaneously fired on the vehicle, aiming at its hood and headlights. In the course of this action, several bullets penetrated the vehicle's windshield and caused the injuries described above. The vehicle pulled over in a controlled manner and came to a stop 25-35 meters from the two Soldiers. The driver turned off the vehicle's headlights, and died from his wounds. Soldiers from 1st Platoon searched the vehicle and performed first aid but were unable to revive the driver.

c. PFC [REDACTED] and SPC [REDACTED] employed the Rules of Engagement properly. Specifically, they carried out a graduated response to the potential threat posed by an approaching Iraqi vehicle. The first action, taken by PFC [REDACTED], was to warn the vehicle by employing a hand-held, weapon-mounted flashlight. In their sworn statements, three separate Soldiers discussed their own usage of TAC-lights, and indicated that the lights are effective at warning away personnel and vehicles. The Soldiers are PFC [REDACTED], SPC [REDACTED] (the driver of D-44, a HMMWV adjacent to D-41), and SSG [REDACTED] (Platoon's Weapons Squad Leader, and the IC of another HMMWV that took part in the 4 MAR 2005 patrol). In fact, SPC [REDACTED] and SSG [REDACTED] stated that they employed TAC-lights that very night to successfully "wave off" other personnel and vehicles. PFC [REDACTED] further stated that he had used his TAC-light successfully many times in the past. It therefore appears that TAC-lights are a mostly effective method of visually signaling approaching vehicles to stop. The next step in the escalation of force was PFC [REDACTED] and later SPC [REDACTED]'s usage of warning shots. The two Soldiers' statements are quite descriptive as to the manner and timing of the shots into the ground, then into the vehicle's front end. While it is impossible to be absolutely certain as to which Soldier fired at which area of the Iraqi vehicle, Exhibit C appears to indicate that there are only two bullet-holes in the windshield, considerably less than one would expect to find if the Soldiers had deliberately targeted the vehicle's occupants. Therefore it is a reasonable conclusion that the Soldiers fired their weapons in the manner that they described in their Sworn Statements, thus the finding that PFC [REDACTED] and SPC [REDACTED] acted within the Rules of Engagement.

d. 1st Platoon, A Company, 1-64 Armor (cross-attached to D Company) employed technically and tactically sound patrolling methods on the night of 4 MAR 2005. Specifically, the platoon's employment of bounding overwatch on the part of mounted and dismounted maneuver elements appears to have been fully appropriate, based on METT-TC. SPC [REDACTED] assessed the area and knew it to be generally hostile, based on his own and his unit's previous experience. (See Exhibit D.) He specifically selected the area in which to conduct a combined mounted and dismounted patrol. He designated two M1114 Humvees to serve as rear security, then formed and personally led a 10-man dismounted element, and designated the remaining two Humvees as a lead security element. Once dismounted, the patrol maneuvered from West to East along a road with numerous intersecting alleyways and side streets, along with a sewage trench running parallel along its Northern edge. SPC [REDACTED] rotated Patrol Leader duties between himself and his Platoon Leader, who was not present on the night of the incident. He maneuvered the forward and rear security elements in conjunctions with his dismounted squad, bounding the platoon's Humvees as appropriate to provide adequate overwatch and supporting fires at all times. Nothing about the way the platoon maneuvered on the night of 4 MAR 2005 indicates improper application of doctrine, or failure on the part of Soldiers and leaders to maintain vigilance or alertness with respect to civilian traffic. The Soldiers who served in the overwatch / security elements were not surprised by the appearance or presence of civilian traffic, in fact they responded proactively each time they encountered it. (See Exhibits II and I.) It is also worth noting

e. Class IV (barrier material, signs, and light sets, or other equipment) normally employed at a TCP, would not have been appropriate given the mission that 1st Platoon was conducting. The Humvees from D Co. 1-64 that took part in the 4 MAR 2003 patrol were not employed in a TCP or static site security role. Members of the patrol were very clear about that point. (See Exhibits F, G, and H.) In SPW [REDACTED] words, "We were constantly moving. Every time the dismounts caught up with us we moved." And to quote PFC [REDACTED], "there wasn't time [to establish a TCP] we were constantly moving and setting." Based on that fact, it would have been impractical to attempt employment of materials and equipment typically seen, and directed for use, at a TCP. The platoon's scheme of maneuver would have been significantly disrupted, and it is possible that Humvee crewmen would have been diverted from the safe performance of their duties (namely, overwatch and support by fire) by the need to repeatedly establish and ~~gear~~^{gear} down obstacles. As to the question of whether the presence of barrier materials and signs would have influenced the Iraqi vehicle's driver to slow or stop, it is difficult to speculate or form an answer, apart from noting the fact that he disregarded visual signals that were effective against other vehicles during the same timeframe, at the same site.

2. In view of the above findings, the investigating officer recommends:

a. Units that conduct frequent mounted or dismounted patrols should immediately purchase any and all additional equipment that could assist in alerting noncombatants to the presence of US forces. Since the incident under investigation was caused by a situational awareness failure on the part of the Iraqi driver, the best way to prevent future, similar incidents is for US forces to ensure maximum effectiveness of our signaling efforts. New equipment could include any combination of the following: whistles, strobe / spotlights, red laser pointers, or megaphones. The correct tools vary depending on the time of day. Notably, while weapon-mounted TAC-lights appear to be effective in many or even most cases, they clearly do not stop every approaching vehicle. On the other hand, red lasers produce a universally recognized signal and are effective over distances of hundreds of meters. Numerous anecdotal reports, on the part of individual Soldiers and key leaders, amply testify to the instantaneous and decisive effects produced by "lasing" rapidly-approaching vehicles or personnel. Obviously, Soldiers would need to carefully avoid blinding approaching personnel, and weapon-mounted lasers would be preferable to handheld ones, in order to ensure the most rapid transition to lethal force if it proves necessary. Off-the-shelf, weapon-compatible equipment such as [REDACTED] or [REDACTED] would appear to be ideal. Hand-held spotlights are effective as well, but do not support as rapid a transition to lethal effects due to the need to put them down and pick up a weapon. And with respect to daylight operations, a combination of whistles, megaphone/sirens, and other sonic devices would appear to be ideal, in addition to strobe lights (if they were powerful enough to be seen in direct sunlight). Bottom line, any new signaling equipment must be small, easy to manipulate, and portable. It is critical to note that in many cases, including the patrol under investigation, it is simply not practical to cease operations and emplace a

b. It is the Investigating Officer's judgment that additional amendments or changes to the ROE may be of diminishing value in preventing future incidents. Soldiers, leaders, and units have trained on the Rules of Engagement for many weeks and months. During a D Co. 1-64 Armor patrol order that I observed while conducting this investigation, a Platoon Leader devoted almost 14 minutes to a detailed and relevant discussion of the ROE as it applied to his mission. Soldiers [redacted] during the investigation grasped the specific requirements imposed upon them, even in the face of frequent amendment and clarification. Separate FRAGOs issued on 3, 4, and 5 March contain ROE updates, revisions, and directed training totaling 22 typed pages and 43 Powerpoint slides. While every opportunity to rehearse and reinforce the ROE is welcome, it is the Investigating Officer's judgment that the incident under investigation was not caused by a failure to comply with the Rules of Engagement, therefore ROE-focused remedies may be of limited (or diminishing) value in preventing future incidents.

3. POC is the undersigned at (VOIP) [redacted]

A large rectangular area of the document has been completely redacted with black ink.

CPT, AR
Commanding

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form see AR 15-6. This document superseded 101-26.

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

SECTION I - APPOINTMENT

Appointed by **Commander, 1st Battalion, 16th Armor Regiment, APC, AF (U) 80**

Investigating authority

on **6 MAR 2005**

Attn: **Investigating Officer** / Letter of appointment issued **6 MAR 2005** at appointment date. See para 1 of AR 15-6.

SECTION II - SESSIONS

The investigating board(s) commenced at **Camp [REDACTED], Iraq**

at **1130**
Time:

on **6 MAR 2005**

at a formal board meeting for more than one session. Check here indicate in an "X" where the time each session began and ended, the place, persons present and absent, and explanation of absence if any. The following persons (members, respondents, witnesses) were present after each name, initials, rank, & grade, President, Vice-President, Member, Legal Advisor.

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

The investigating officer(s) (board) conducted gathering/questioning evidence at

NIN

on **6 MAR 2005**

and completed findings and recommendations at

TEN

on **6 MAR 2005**

Time:

(Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

Inclosures (para 3-15, AR 15-6)

YES NO NA

Are the following included and submitted consecutively with this report? (Marked in order listed)

a. The letter of appointment or a summary of oral appointment date

X

b. Copy of notice to respondent, if any. (See para 9, Article)

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 Statement (Complete, if statement provided under)

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 seating of a formal board not included on page 1 of this report.

X

h. Any other significant papers, other than evidence, relating to administrative case of the investigation in question.

X

REMARKS: 1. Explain all negative answers on the reverse side.

2. If any of the 4 columns contains a question representation has the question been answered in the preceding column or in a later section?

Exhibits (para 3-16, AR 15-6)

YES NO NA

- Are all items offered, admitted or not admitted as evidence duly and clearly numbered or lettered as exhibits and attached to this report?
- Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?
- Has the testimony statement of each witness been transcribed verbatim or been reduced to written form and attached as an exhibit?
- Are copies, descriptions, or depictions of substituted for visual documentation evidence? (prints, photographs, diagrams, and so on) the location of the original evidence indicated?
- Are descriptions or diagrams attached of locations visited by the investigating officer or board? (para 3-16, AR 15-6)
- Is each witness stipulation attached as an exhibit and is each oral stipulation either reduced to writing and reduced to exhibit or recorded in a verbatim report?
- If verbal notice of any matter was taken over the objection of a respondent or if any part of a transcript of the matter of which official notice was taken attached as an exhibit (para 3-16, AR 15-6)
- Was a quorum present when the board voted on findings and recommendations (para 3-11 and 3-28, AR 15-6)?

B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 3, AR 15-6)

- At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 3-30, AR 15-6)?
- Was a quorum present at every session of the board (para 3-28, AR 15-6)?
- Was each absence of any member properly excused (para 3-28, AR 15-6)?
- Were members, witnesses, reporters and interpreters sworn, if required (para 3-1, AR 15-6)?
- If any members who voted on findings or recommendations were not present when the board received some evidence, does the enclosure describe how they familiarized themselves with that evidence (para 3-32, AR 15-6)?

C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 3, AR 15-6)

- Name of respondent (para 3-1, AR 15-6)
 - In the method and date of delivery to the respondent indicated on each letter, if any, (date).
 - Was the date of delivery at least five working days prior to the first hearing?
- From each letter of notification indicate
 - The date, hour, and place of the first session of the board concerning that respondent.
 - The matter to be investigated, including specific allegations against the respondent.
 - The respondent's rights with regard to counsel.
 - The name and address of each witness expected to be called by the recorder.
 - The respondent's rights to be present, present evidence, and call witnesses.
- Was the respondent provided a copy of all classified documents in the case file?
- If there were relevant classified materials, were the respondent and his counsel given access and the opportunity to examine them?
- If any respondent was designated after the proceedings began, or otherwise was absent during part of the proceedings
 - Was he properly notified (para 3-3, AR 15-6)?
 - Was record of proceedings and evidence received in his absence made available to him by him and his counsel (para 3-4, AR 15-6)?

11. Counsel (para 3-4, AR 15-6)

- Was each respondent represented by counsel?

Name and business address of counsel:

(If required to be listed, check here [])

- Was respondent's counsel present at all open sessions of the board relating to that respondent?
- If military counsel was respondent but not made available in a timely manner, if any, or necessary, of the respondent and the action taken on it included in the report (para 3-6, AR 15-6)?

12. If the respondent challenged the legal adviser or key voting member for lack of impartiality (para 3-7, AR 15-6)

- Was the challenge properly denied and by the appropriate officer?
- Did each member successfully challenge cause to participate in the proceedings?

13. Was the respondent given an opportunity on (para 3-8a, AR 15-6)

- To present with his counsel at all open sessions of the board which deal with any issue which concerns that respondent?
- Examine and object to the introduction of real and documentary evidence, including written statements?
- Object to the testimony of witnesses and cross-examine witnesses other than his own?
- Call witnesses and otherwise introduce evidence?
- Testify as a witness?
- Make or have his counsel make a final statement or argument (para 3-9, AR 15-6)?

14. If requested, did the recorder assist the respondent in obtaining evidence in preparation of the Government and in arranging for the presence of witnesses (para 3-10, AR 15-6)?

- Give all of the respondent's requests and objections which were specifically indicated in the report of proceedings or in an enclosure or exhibit to it (para 3-11, AR 15-6)?

FOOTNOTES

- Reportant means anyone in the Army and AFSC
- One of the AFSC codes constitutes a military representation of the other branches of the service and vice versa in their usual practice

SECTION IV FINDINGS (page 7 of AR 15-6)

The investigating officer (herein), having carefully considered the evidence, finds
SEE CONTINUATION SHEET

SECTION V RECOMMENDATIONS (page 7 of AR 15-6)

In view of the above findings, the investigating officer (herein) recommends
SEE CONTINUATION SHEET

SECTION VI: AUTHENTICATION (page 1 of 48 pages)
THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. (If any member dissenting from the findings fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)

(Signature)

[Redacted] CPT, AF
Investigating Officer or President

(Signature)

Members

(Signature)

Members

SECTION VII: MINORITY REPORT (page 1 of 48 pages)

To the extent indicated in Inclosure [Redacted] the undersigned dissenting member(s) dissent from the findings and recommendations of the board. (In the inclosure, identify the number each finding and its recommendation as which the dissenting member(s) dissent from it. State the reasons for dissenting. Additional substance findings and/or recommendations may be included in the inclosure.)

(Signature)

Members

SECTION VIII: ACTION BY APPOINTING AUTHORITY (page 2 of 48 pages)

The findings and recommendations of the investigating officer(s) board(s) are [Redacted] (disapproved) (disapproved with following exceptions) (recommendations). If the appointing authority refers the proceedings to the investigating officer or board for further proceedings or corrective action, attach that correspondence (or a summary, if need) as a numbered no longer.)

SAC

I concur with CPT [Redacted], findings.

[Redacted] CPT, AF



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BATTALION, 64TH ARMOR REGIMENT
2D BRIGADE, 3D INFANTRY DIVISION
CAMP ██████████, IRAQ
APO AE 09380

REPLY TO
ATTENTION OF
AFZP-VBL-C

6 MAR 2005

MEMORANDUM FOR CPT ██████████, Headquarters and Headquarters Company, 1-64 AR, 2d Brigade, 3d Infantry Division, Camp ██████████, Iraq.

SUBJECT: Appointment of Investigating Officer

1. You are hereby appointed as an investigating officer pursuant to Army Regulation (AR) 15-6 Procedures for Investigating Officers and Boards of Officers. To conduct an informal investigation to determine the facts and circumstances surrounding the events that occurred on 04 MAR 05 within D Co 1-64 AR, resulting in the death of an unknown Iraqi citizen and the wounding of two of his passengers.
2. You will conduct a thorough investigation of the matter to determine the circumstances surrounding the negligent discharge. Your investigation should focus on, but not necessarily be limited to, the following:
 - a. Was the ROE used properly?
 - b. What was the cause of the circumstances?
 - c. Recommendations for changes to operations that would prevent these circumstance from being repeated?
1. Any lessons Learned
3. Prior to the beginning of your investigation you must contact CPT ██████████ the Command Judge Advocate (VOIP ██████████). CPT ██████████ will be your legal advisor
4. In conducting your investigation, use informal procedures under AR 15-6. Make specific findings as to the questions above. The evidence you gather should support your findings. Make recommendations consistent with your findings to address any perceived or actual improper or criminal conduct.
5. In your investigation, all witness statements must be sworn and written on DA Form 2823 Sworn Statement. If, in the course of your investigation, you come to suspect that any individuals have committed a criminal offense, then use DA Form 3881 Rights Warning/Procedure Waiver Certificate to advise them of their rights under Article 31 Uniform Code of Military Justice, or the Fifth Amendment (if interviewing a civilian), as appropriate. In addition, provide witnesses with a Privacy Act Statement before you interview them (See AR 15-6, Appendix B)
6. I direct you to keep a daily chronology of all investigative activities and encourage you to consult with your legal advisor whenever and as often as necessary. In the case of any alleged criminal misconduct you must consult with your legal advisor

AFZP-VBL-C

SUBJECT: Appointment of Investigating Officer

7. Submit your findings and recommendations to me on DA Form 1574 not later than 36 hours from your appointment. Should you require additional time, coordinate with me through CPT [REDACTED]

[REDACTED]
[REDACTED]
LTC, AR
Commanding

Enclosure I

DEPARTMENT OF THE ARMY
HHC, 1st Battalion, 64th Armor Regiment
2d Brigade, 3d Infantry Division
APO AE 09380

AFZP-VBL-HC

6 MAR 05

MEMORANDUM FOR RECORD

SUBJECT: Privacy Act Statements issued in the conduct of AR 15-6 investigation

1. The purpose of this memorandum is to certify that I informed the witnesses I interviewed in the course of my investigation, of their rights under the Privacy Act. Specifically I informed them of the following:
 - a. My name, rank, and duty position, and the fact that I was interviewing them under the provisions of 10 USC 1012 and AR 15-6.
 - b. The principal purpose for soliciting information was to obtain facts and make recommendations to assist the Battalion Commander in determining what actions to take with regard to a shooting incident that took place on the night of 4 March 2005.
 - c. Any information they provided is disclosable to members of the Department of Defense who have a need for the information in the performance of their duties. In addition, the information may be disclosed to Government agencies outside the Department of Defense.
 - d. Providing the information was voluntary. There will be no adverse effect for not furnishing the information other than that certain information might not otherwise be available to the Battalion Commander for his decision in this matter.
2. No witnesses expressed any reservations, doubts, or any other concerns with respect to providing me the information I required in the performance of my duties.
3. POC is the undersigned at [REDACTED]

[REDACTED]
CPT, AR
Commanding



DEPARTMENT OF THE ARMY
D Company, 1st Battalion, 64th Armor Regiment
3rd Brigade, Unit of Action, 3rd Infantry Division
Camp [REDACTED], Iraq AFQ AE 09380

REPLY TO
ATTENTION OF
OF

AFFP-VIRL-D

15 MAY 2003

MEMORANDUM FOR RECORD

SUBJECT: 04 MARCH 03 Engagement that Lead to the Death of unknown vehicle driver

1. The purpose of this memorandum is an outline my informal investigation into the events that occurred on 04 MAR 03 resulting in the death of an unknown Iraqi citizen and the wounding of two of his passengers

2. On 04 MAR 03 at approximately 2300, 1st Platoon, D Company, while on patrol in the company AOR, came in contact with a dark green Suzuki SUV occupied by an unknown driver and his three passengers. [REDACTED], and [REDACTED]. The vehicle approached the US patrol's vehicles while they were conducting a security patrol with two vehicles in the lead followed by a dismounted element followed by two vehicles in trail vicinity [REDACTED]. As the vehicle approached the soldiers verbally warned and motioned for the vehicle to stop with its lights. When the vehicle would not stop at approximately 75 meters, SPC [REDACTED] with an M16 and SPC [REDACTED] with an M240B fired warning shots aimed initially 5 meters in front of the vehicle and subsequently sweeping through the front door and eventually the cab. The vehicle then stopped and cut off its lights approximately 25 meters from the US column. The soldiers then advanced on the vehicle and began simultaneously searching the vehicle and treated the wounded. The driver, approximately age 23-30, expired after a brief attempt at CPR while 2 of the 3 occupants were treated for gun shot wounds. [REDACTED], a 23-30 year old male, was treated for a gun shot wound to the knee and evacuated to FOB [REDACTED]. [REDACTED], a 12 year old boy, was treated for a gun shot wound to the hand and also evacuated to Camp [REDACTED]. [REDACTED], a 10 year old boy, was not injured during the incident but remained with these patients. The patients were subsequently evacuated to the [REDACTED] to receive further treatment. The unknown driver was searched for identification and taken to the IP station for further processing.

← release
levels + 3
levels > 2

3. My assessment is that the soldiers of 1st Platoon acted in accordance with the RUE and fired purely in self defense. I feel there was nothing the platoon could have done to mitigate this unfortunate incident

4. The POC for this memorandum is the undersigned at Camp [REDACTED] Iraq building [REDACTED]

[REDACTED]
CPT AR
Commanding

Enclosure

Enclosure 1 (Sketch) Exhibit A
Enclosure 2 (Photos) Exhibit C

Exhibit A

STATEMENT OF SFC

TAKEN AT D Co CP

DATED 2005 0305

3. STATEMENT (Continued)

Q: What is your duty position, and what was your mission on 4 APR?

A: Platoon Sergeant, 1st PLT A/1-64 (cross attached to D Co). Mission was to conduct a night security patrol in [REDACTED] Area 737, to enforce curfew and prevent weapons trafficking.

Q: What were your activities during the patrol? Where were you personally?

A: I was the patrol leader. I maneuvered the platoon (initially mounted) to a dismount point, and then led a 10-man dismounted squad on a patrol. I set 2 vehicles on rear security and sent 2 vehicles forward, on "bounding overwatch."

Q: How many times had you patrolled the same AO before 4 APR?

A: At least a dozen. It was well-known within the company as a trouble spot. Anti-American graffiti, etc.

Q: How did you prepare for the operation/mission?

A: 1930 - WARNO; 2030 - OPORD (OBG, Task/Purpose, RTB, Actions on OBI/ contact, Casevac), RAR, Backbrief; Final brief from BN S2/tac;

Q: Did you see the shooting/incident take place?

A: No. I was about 200 meters behind the vehicle in question.

AFFIDAVIT

SFC [REDACTED] HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND AND 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 CORRUPTION, UNLAWFUL INFLUENCE, OR COERCION.

[REDACTED]
Signature of Person Making Statement

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 6th day of March 2005
D Co CP Cpt [REDACTED]

ORGANIZATION OR ADDRESS

CPT, AR
Commanding (HHC 1-64 AR)
Printed Name of Person Administering Oath

ACT N. 136 UCMS
Authority to Administer Oath

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

STATEMENT OF

TAKEN AT D Co CP DATED 5 Mar 05

STATEMENT (Continued)

Q: What is your duty position, and what was your ^{function} on 4 MAR?

A: I am the driver for D41 (SFC [REDACTED] MILLY). On 4 MAR we conducted a curfew enforcement patrol. My truck and D44 (SPC [REDACTED]) were positioned in the front of the patrol. When the dismounted squad began its patrol, our two vehicles moved forward, and the other two vehicles provided rear security.

Q: How much traffic did you encounter after moving into position?

A: Very little. One vehicle approached D44, but it turned around when SPC [REDACTED] flashed his ^{Vehicle} lights and honked his horn at it.

Q: Describe the steps you took to stop the vehicle that approached you.

A: A gradual escalation. As soon as I saw the vehicle, I tried to stop it by flashing my TAC-lite. I have done this in the past and it worked mostly every time. The vehicle didn't stop. I then fired 3 shots into the ground. SPC [REDACTED] shot a burst into the ground. The vehicle still didn't stop. We both fired at the vehicle's hood (I aimed at the headlights). I was getting ready to shoot at the windshield when the vehicle stopped. The driver turned off his lights and briefly turned on his flashers. I helped search the vehicle and performed first aid on the casualties.

AFFIDAVIT

WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS 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 IMPUDIMENT.

[Signature of Person Making Statement]

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 6th day of March 2005
at D Co CP, Camp [REDACTED]

ORGANIZATION OR ADDRESS

CPT, AR
Commanding (NHL 1-4)
Article 13f UCMJ

(Authority to Administer Oaths)

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

GENPA V1.00

SWORN STATEMENT

For use of this form see AFM 1100-41, the prepared agency's FDCBRS.

PRIVACY ACT STATEMENT

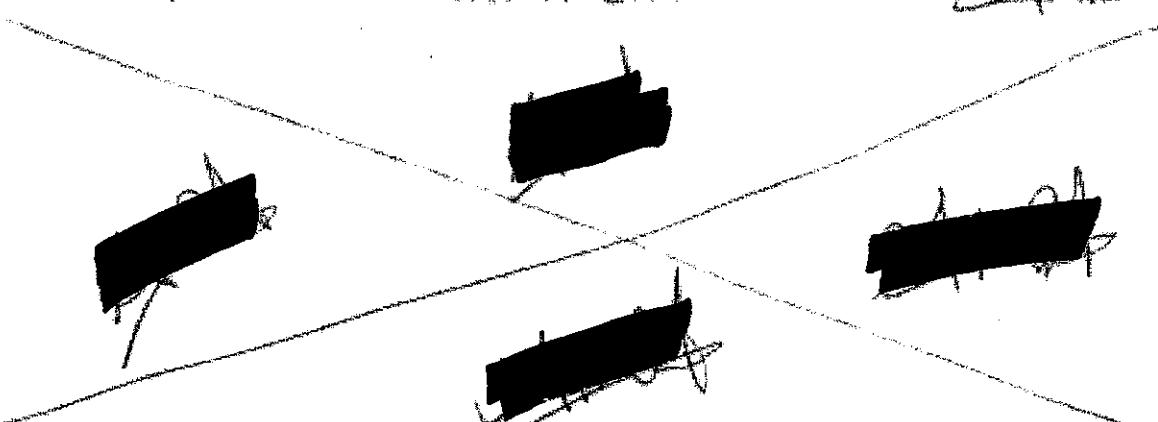
APPLICABILITY: Title 16 USC Section 102, Title 3 USC Section 701 - 1 & 3 USC Section Number 23, 36 USC 3601
PRINCIPAL PURPOSE: To provide commanders and their subordinates with means by which information may be accurately identified.
SECONDARY USES: This record security number is used as an administrative handle or identification in recordkeeping, file storage, filing and retrieval.
DISPOSITION: Destruction of your social security number is requested.

1. DATE FORM	2. DATE APPROVED	3. TIME	4. FILE NUMBER
[REDACTED]	2005-03-07	0036	[REDACTED]
5. LAST NAME FIRST NAME MIDDLE NAME	6. GRADE STATUS	7. [REDACTED]	
[REDACTED]	SFC	[REDACTED]	

5. ORGANIZATION OR ADDRESS

B-221-64-05

I [REDACTED] WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH On the night of March 04, 2005 at approximately 2300hrs, a vehicle approached our Z vehicles from the north. PFC [REDACTED] was dismounted and watching our sector to the north. I was watching our sector to the west. All of sudden I heard PFC [REDACTED] fire warning shots to the east. I sawing the Z40R I was manning to the north and fired warning shots at the oncoming vehicle. The vehicle kept coming and again PFC [REDACTED] and myself fired into the hood of the vehicle until it came to a stop about 25 meters in front of our vehicles. End of statement [REDACTED]



6. EXHIBIT

F

11. SIGNATURE OF PERSON MAKING STATEMENT

PAGE 1 OF

PAGES

ADMINISTRATIVE PAGE MUST CONTAIN THE HEADING "ADMINISTRATIVE"

TAKEN AT

DATE/TIME

THE SIGNATURE OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND PAGE NUMBER AND AN ID NUMBER.

STATEMENT OF [REDACTED]

TAKEN AT Delta Co CP DATED 5 Mar 2005

STATEMENT (Continued)

- Q: What is your duty position and what was your mission on 4 MAR?
- A: I am an M1B assigned to 1st PLT A Co (was attached to D Co). On 4 MAR I was the M240 gunner on SFC [REDACTED] Humvee, conducting a curfew enforcement patrol.
- Q: Was your vehicle part of a TCP or blocking position?
- A: No, we were securing intersections/danger areas ahead of the dismounted squad that was patrolling behind us.
- Q: How many times did your vehicle set in a static position?
- A: Twice. D44, another truck, moved with my vehicle.
- Q: How much traffic was present in your vicinity before the incident?
- A: None.
- Q: When did you first see [REDACTED] a civilian vehicle approach your position?
- A: I first saw it when I heard PFC [REDACTED] fire at it. I then traversed the turret in its direction. It was 65-70 meters away at that point.
- Q: What did you do next?
- A: I fired warning shots 5-10 feet in front of it. It kept coming towards my vehicle. I then fired at the hood. The [REDACTED] vehicle turned to its left and stopped, maybe 35 meters from my position.
- Q: Have you been trained or rehearsed in the ROE?
- A: Yes, at JRTC, Fort Stewart, and also Kuwait / Iraq.

AFFIDAVIT

WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE [REDACTED]. 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 THIS STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL ENCOURAGEMENT.

(Signature of Person Making Statement)

WITNESSES

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 6th day of March 2005
by D. [REDACTED], [REDACTED]

ORGANIZATION OR ADDRESS

OPT, AR

Commanding (HHC 1st)

Article 136 UCMJ

(Author, F. Authorizing Officer)

INITIALS OF PERSON MAKING STATEMENT

SWORN STATEMENT

For use of this form, see AF 100-45. The operator signs a DAF-SAS.

PROBITY ACT STATEMENT

AUTHORITY: Title 10 USC Section 107; Title 9 USC Section 2852; E.O. 13397 dated November 27, 1964 (NSWD)
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be exchanged concerning
CONTINGENT USES: Your record security number is used as an identification number or identifier in facilitating living and related
DISCLOSURE: Disclosure of your record security number is voluntary.

1 LOCATION	2 DATE JFMJFMDD	3 TIME	4 FILE NUMBER
[REDACTED]	10050305	0025	
5 LAST NAME, FIRST NAME, MIDDLE NAME	6 SSN	7 GRADE/STATION	
D La F-64 AR		ECS	

8 [REDACTED] 9 [REDACTED] 10 WANT TO MAKE THE FOLLOWING STATEMENT: (TYPE OR PRINT)

I was putting security at a 4 way intersection outside the drivers side door on the 1114 Highway I was driving when I saw a vehicle approaching from the same side of the intersection as the highway, coming down the road that intersects the road I was on. As the vehicle approached at 70 miles, I flashed a tea light at it. When the vehicle didn't stop or slow down, I fired warning shots 5 meters in front of the vehicle. Right after I fired warning shots, I heard Spec [REDACTED] spin the turret around and fire warning shots in front of the vehicle. The vehicle failed to stop, so I fired two shots in the hood of the vehicle and the vehicle stopped and turned off its headlights. After I yelled back to Spec [REDACTED] that the vehicle stopped, someone yelled to search the vehicle. As I got [REDACTED] approached the vehicle, we could see that there were three bullet holes in the windshield of the vehicle. Sgt [REDACTED] and the interpreter were called to the vehicle and pulled the KIA out of the vehicle and began performing first aid on the casualties as [REDACTED] and I pulled security to the 12 of the rear of the vehicle.

11 EXHIBIT

E

11 INSTRUCTIONS FOR PERIODIC MARKING STATEMENT

PAGE 1 OF

PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "A" PERTAINING TO

MARCH 1987

201708

THE BOTTOM OF EACH ADDITIONAL PAGE MUST bear THE INITIALS OF THE PERSON WRITING THE STATEMENT AND PAGE NUMBER AND IT MUST BE DATED

SWORN STATEMENT

For use of the Form, see AF 190-4A, The Proprietary Agent of DISCLOSURE.

PRIVACY ACT STATEMENT

AUTHORITY: Title 17 USC Section 101; Title 18 USC Section 2314; 10 U.S.C. dated November 22, 1963, GMD
PRIVACY ACT PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified
ROUTINE USES: Your United States number is used as an automatic identifier means of identification to facilitate filing and retrieval
DISCLOSURE: Disclosure of your social security number or telephone

1 LOCATION	2 DATE APPROXIMATE	3 TIME	4 FILE NUMBER
BY PHONE, 1 PAGE	10/25/2003	0000	
1 LAST NAME FIRST NAME MIDDLE NAME	8:30A		
[REDACTED]			5-2168
2 ORGANIZATION OR ADDRESS			
[REDACTED] BY D.G. HOGAN			

I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH.

ON 4 NOV 03 AT APPROXIMATELY 2200HRS, I AM PNT 07 164 485 CONDUCTED
 DISMOUNTED PATROL DOWN BY [REDACTED]. I SAW A PERSON IN PURSUIT
 TO THE WEST OF BURGESS, I REACHED SWIFLY TO APPROX 100 FEET FROM THE
 BURGESS BOUNDARY VEHICLE AND DRIVER WERE APPROX 100 FEET
 FROM ME. THIS WAS MY POSITION I SHOT A ROUND, HIT THE [REDACTED]
 PERSON'S LEGS WHICH BROKE WITH FORCE AS THEY RAN TOWARD THE
 TREE LINE, AT THE END OF THE ROAD THEY TURNED TOWARDS THE
 SITUATION AND RAN WITH LOCAL ANIMALS AND I HIT THEM
 BOTH IN THE BACK OF THE HEAD. ONE WAS KILLED AND ONE WAS
 HOSPITAL. END OF STATEMENT

10 EXHIBIT

4. NUMBER OF DISCUSSION NUMBER STATEMENT

PAGE 1 OF

PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "EXHIBIT 10"

TAKEN BY

DRAFT

THE BOTTOM OF EACH ADDITIONAL PAGE MUST ALSO BE PRINTED BY THE PERSON MAKING THE STATEMENT AND PAGE NUMBER MUST BE INDICATED

STATEMENT OF [REDACTED]

TAKEN AT [REDACTED] ON [REDACTED] DATED [REDACTED], 05

2. STATEMENT (Continued)

Q: Were you positioned inside SFC [REDACTED]'s vehicle at the time of the incident?

A: Yes, I was in the back seat on the right side, with the door closed.

Q: Who else was with you in the vehicle?

A: PFC [REDACTED] (driver), who was dismounted, pulling security, and SPC [REDACTED] the M240 gunner, who was at the gunner's station, also pulling security.

Q: What was your mission on the night of 4 MAR 05?

A: I was the RTO in the FS6's M113, one of the platoon's two lead vehicles. Our two vehicles provided forward security for the dismounted squad that was conducting the patrol. We bounded ahead of the squad and set security, then the squad moved to our position, then we bounded forward (about 300 meters).

Q: How many [REDACTED] times had you bounded and set when the incident happened?

A: We had bounded and set two times.

Q: Did you think your mission was to conduct a TCP/Blocking position?

A: No, there wasn't time, we were constantly moving and setting.

Q: Did you see the incident take place?

A: No, I didn't see the vehicle until it stopped and turned off its lights.

Q: Do you have anything else to add?

A: No.

AFFIDAVIT

WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CONNECTIONS 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 CORRUPTION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[REDACTED]
INITIALS OF Person Making Statement

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 6th day of March 2005

by [REDACTED]

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

CPT, AR

Commanding (HHC 1-6)

(From Name of Person Administering Oath)

Article 136 UCMJ

Authority To Administer Oaths