

# 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 IN

(Appointing authority)

on 28 May, 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 FOB (Place) at 1000 (Time)

on 28 May, 2005 (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 1600 (Time) on 29 May, 2005 (Date)

and completed findings and recommendations at 1930 (Time) on 29 May, 2005 (Date)

## SECTION III - CHECKLIST FOR PROCEEDINGS

### A. COMPLETE IN ALL CASES

	YES	NO <sup>1)</sup>	NA <sup>2)</sup>
1 Inclosures (para 3-15, AR 15-6)			
Are the following inclosed and numbered consecutively with Roman numerals: (Attached in order listed)			
a. The letter of appointment or a summary of oral appointment data?	X		
b. Copy of notice to respondent, if any? (See item 9, below)			X
c. Other correspondence with respondent or counsel, if any?			X
d. All other written communications to or from the appointing authority?			X
e. Privacy Act Statements (Certificate, if statement provided orally)?			X
f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?			X
g. Information as to sessions of a formal board not included on page 1 of this report?			X
h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?	X		

FOOTNOTES: 1) Explain all negative answers on an attached sheet.

2) Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

		YES	NO <sup>1)</sup>	NA <sup>2)</sup>
2	Exhibits (para 3-16, AR 15-6)			
	a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?	X		
	b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	X		
	c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	X		
	d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?	X		
	e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?	X		
	f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?	X		
	g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)?			X
3	Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)?			X
<b>B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)</b>				
4	At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 5-3b, AR 15-6)?			
5	Was a quorum present at every session of the board (para 5-2b, AR 15-6)?			
6	Was each absence of any member properly excused (para 5-2a, AR 15-6)?			
7	Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)?			
8	If any members who voted on findings or recommendations were not present when the board received some evidence, does the inclosure describe how they familiarized themselves with that evidence (para 5-2d, AR 15-6)?			
<b>C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)</b>				
9	Notice to respondents (para 5-5, AR 15-6):			
	a. Is the method and date of delivery to the respondent indicated on each letter of notification?			
	b. Was the date of delivery at least five working days prior to the first session of the board?			
	c. Does each letter of notification indicate --			
	(1) the date, hour, and place of the first session of the board concerning that respondent?			
	(2) the matter to be investigated, including specific allegations against the respondent, if any?			
	(3) the respondent's rights with regard to counsel?			
	(4) the name and address of each witness expected to be called by the recorder?			
	(5) the respondent's rights to be present, present evidence, and call witnesses?			
	d. Was the respondent provided a copy of all unclassified documents in the case file?			
	e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?			
10	If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings):			
	a. Was he properly notified (para 5-5, AR 15-6)?			
	b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-4c, AR 15-6)?			
11	Counsel (para 5-6, AR 15-6):			
	a. Was each respondent represented by counsel?			
	Name and business address of counsel:			
	(If counsel is a lawyer, check here <input type="checkbox"/> )			
	b. Was respondent's counsel present at all open sessions of the board relating to that respondent?			
	c. If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the report (para 5-6b, AR 15-6)?			
12	If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6):			
	a. Was the challenge properly denied and by the appropriate officer?			
	b. Did each member successfully challenged cease to participate in the proceedings?			
13	Was the respondent given an opportunity to (para 5-8a, AR 15-6):			
	a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?			
	b. Examine and object to the introduction of real and documentary evidence, including written statements?			
	c. Object to the testimony of witnesses and cross-examine witnesses other than his own?			
	d. Call witnesses and otherwise introduce evidence?			
	e. Testify as a witness?			
	f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)?			
14	If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)?			
15	Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it (para 5-11, AR 15-6)?			
<b>FOOTNOTES:</b> 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:

- The soldiers of [REDACTED] were conducting a TCP vic intersection of Rte [REDACTED] and [REDACTED] at 280030MAY2005, when a blue Opal Omega approached from the north, going the wrong way in the northbound lane at a high rate of speed, after curfew.
- The speeding blue Opal Omega was brought to a very sudden stop by the use of warning lights and hand-and-arm signals by US and IAB soldiers.
- Upon stopping, three Iraqi nationals immediately dismounted, and behaved in a very unusual manner that immediately raised the suspicions of the US soldiers in the vicinity, SSG [REDACTED], and SPC [REDACTED]. The suspects' speech and body language conveyed anger, and confidence that was highly unusual for Iraqis pulled over after curfew. SSG [REDACTED] is quoted as saying "I've never seen a guy act like this before in 100 traffic stops. Their actions were noticeably different enough that I immediately sensed a potential threat."
- The suspect bolted around the front of the vehicle, and into a dark alley. IAB soldiers fired shots into the air, and ultimately fired between 20 and 30 shots into the air. At the time the suspect bolted, he was not carrying a weapon in his hands.
- At this point, both US personnel were aware of a similarity between this situation and TTPs exhibited in previous VCIED attacks, which involve the bomber running or walking away from the VCIED and remote detonating the explosives.
- Perceiving a potential threat, both SSG [REDACTED] and SPC [REDACTED] attempted to acquire the suspect in the sights of their weapons.
- Hearing shouting and the discharge of IAB weapons into the air, PFC [REDACTED] shined the searchlight from his vehicle into the alley.
- Both SSG [REDACTED] and SPC [REDACTED] at this time observed that the suspect had drawn a weapon, later discovered to be a 7.62mm handgun, and perceived hostile intent. Both Soldiers state that they are uncertain as to the exact body position and weapons posture of the suspect at the instant of the shooting, but both easily identified that the suspect had a handgun in his hand when he was briefly illuminated by the searchlight.
- Feeling that the suspect would not draw a weapon under these circumstances with anything but hostile intent, SSG [REDACTED] identified what he believed to be a lethal threat.
- Both SSG [REDACTED] and SPC [REDACTED] engaged the suspect with direct fire from their M4 weapon systems over iron sights, killing the suspect. It is uncertain exactly which soldier fired the rounds that killed the suspect. The suspect was about 50m away from SSG [REDACTED] and SPC [REDACTED] at the time of the shooting.
- It is estimated that between 15 and 20 seconds elapsed between the time the blue Opal Omega stopped and the suspect was killed.
- A search of the vehicle and the other suspects revealed a 9mm handgun, as well as Mahdi Militia propaganda, and X-spray came up positive on one of the two surviving suspects. All three are currently believed to be members of the Mahdi Militia.

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

In view of the above findings, the (investigating officer) (board) recommends:

- This shooting was within the boundaries of the current Rules of Engagement, but could possibly have been avoided with a more detailed and in-depth decision making process by SSG [REDACTED] and SPC [REDACTED].
- The investigating officer, CPT [REDACTED], recommends that no adverse action be taken against either SSG [REDACTED] or SPC [REDACTED].
- The investigating officer, CPT [REDACTED], recommends that increased ROE vignette training and detailed situation analysis training be implemented for all subordinate units, in order to increase junior leaders' and Soldiers' ability to better assess and react in very rapid, stressful, and potentially hostile situations. This may prevent rapid escalation of force to the lethal level, when less-than-lethal means might be able to resolve the situation.
- The investigating officer, CPT [REDACTED], recommends the development of flow drills to train Soldiers to seek cover and/or concealment in potentially hostile situations. By reducing their own exposure, Soldiers might raise the threshold of potentially lethal hostile intent and prevent killings of local nationals.

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.)

AGREE WITH INVESTIGATING OFFICER'S FINDINGS - THOUGH I BELIEVE THE UNIT HAD OTHER OPTIONS AVAILABLE TO NEUTRALIZE THE SITUATION OR TO MITIGATE USE OF LETHAL FORCE.

FIRST IF WE WOULD HAVE PROPERLY ISOLATED THE VEHICLE IMMEDIATELY AFTER IT CAME TO A STOP; SUBJECTS WOULD HAVE BEEN UNABLE TO FLEE FROM VEHICLE; BY DOMINATING THE AREA + CONTROLLING MOVEMENT.

RECOMMEND TASK FORCE USES INCIDENT AS A CASE STUDY + PRESENTS INCIDENT IN THE FORM OF AN OPD TO EG'S + ABOVE HIGHLIGHTING A NUMBER OF ALTERNATIVE OPTIONS THAT COULD HAVE BEEN EXERCISED NOT PREVENT UNINTENDED/UNDESIRABLE CONSEQUENCES

3 JUN 05

**DEPARTMENT OF THE ARMY**  
Headquarters, 3<sup>rd</sup> Battalion, 15<sup>th</sup> Infantry Regiment  
2 BCT, 3d Infantry Division  
APO AE 09380

AFZP-VBK-C

28 May 2005

MEMORANDUM FOR CPT [REDACTED] HHC, 3-15 IN, 3d Infantry Division, APO AE 09380

SUBJECT: Appointment of Investigating Officer

1. You are hereby appointed as an investigating officer pursuant to Army Regulation (AR) 15-6, Procedure for Investigating Officers and Boards of Officers, to conduct an informal investigation to determine the facts and circumstances surrounding the vehicle shooting incident involving B Co, 3-15 IN on 28 May of 2005.
2. You will conduct a thorough investigation of the matter to determine the circumstances surrounding the incident. Your investigation should focus on, but not necessarily be limited to, the following:
  - a. Causes of the incident and any contributing factors.
  - b. Extent of damage to property and or injury to personnel.
  - c. Provide findings in bulleted format and make recommendations as to any corrective action that should be taken by the unit.
3. Prior to the beginning of your investigation, you must contact the Administrative Law Division of the Staff Judge Advocate's Office [REDACTED] POC is CPT [REDACTED]
4. In your investigation, all witness statements will 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.
5. You will compile a daily chronology of all investigative activities and are encouraged to consult with a legal advisor whenever and as often as necessary. In the case of any alleged criminal misconduct, you must consult a legal advisor.
6. Submit your findings and recommendations to the Commander, 3-15 IN within 5 working days of receipt of this appointment order.

[REDACTED]  
LTC, INF  
Commanding

# CHARLIE/MARYLAND SHOOTING INVESTIGATION

## INDEX

- I -Orders appointing CPT [REDACTED], as investigating officer.
- II -DA Form 1574 - Report of Proceedings by Investigating Officer
- III -Chronology of Activities of the Investigating Officer

### EXHIBITS:

- A- UAV Slides: Positions and actions of personnel and vehicles at the time of the incident.
- B- Photos of the weapons confiscated from the suspects.
- C- 3-15 IN incident summary and timeline as of 280900MAY05.
- D- Sworn Statement -SSG [REDACTED] (Squad Leader)
- E- Sworn Statement- SPC [REDACTED]
- F- Sworn Statement- 2LT [REDACTED] (Platoon Leader)
- G- Sworn Statement- SGT [REDACTED]
- H- Sworn Statement- SGT [REDACTED]
- I- Sworn Statement- PFC [REDACTED]
- J- Sworn Statement- SSG [REDACTED]
- K- Sworn Statement- PFC [REDACTED]
- L- Sworn Statement- SGT [REDACTED]
- M- Sworn Statement- PFC [REDACTED]
- N- Sworn Statement- SGT [REDACTED]
- O- Sworn Statement- PFC [REDACTED]
- P- Debrief of 3/2 IAB patrol leader onsite during incident
- Q- Directives for statements given to all members of 1/B/3-15 IN.

### CHRONOLOGY OF MY ACTIVITIES

281000MAY05 Informed by the BN S1, CPT [REDACTED] that I was being appointed Investigating Officer for the Informal Article 15-6 regarding the shooting death of a suspect earlier that morning

281000MAY05 Received appointment orders.

281030MAY05 Began reviewing recent INTSUMs, and the patrol debrief to familiarize myself with the basic events of the morning.

281300MAY05 Received the debriefing statements of the 3/2 IAB soldiers who were present at the site of the incident.

282000MAY05 Attempted to begin taking sworn statements from all Soldiers present on the patrol in question, but they were already on patrol.

290800MAY05 Attempted to begin taking sworn statements from all Soldiers present on the patrol in question, but they were already on patrol.

291400MAY05 Began taking sworn statements from members of the platoon, 1/B/3-15 IN.

291730MAY05 Finished taking sworn statements from members of 1/B/3-15 IN.

291800MAY05 Began tactical analysis of the circumstances surrounding the incident.

291900MAY05 Assessed the materials before me and drafted findings and recommendations.

292000MAY05 Consulted with the 3-15 IN Battalion Commander, LTC [REDACTED], on the current status of my investigation.

292100MAY05 Submitted my initial draft of the completed 15-6 investigation.

312200MAY05 Received the initial draft of the 15-6 investigation, with corrections and recommendations.

011900JUN05 Submitted Article 15-6 investigation to the 3-15 IN XO, MAJ [REDACTED]

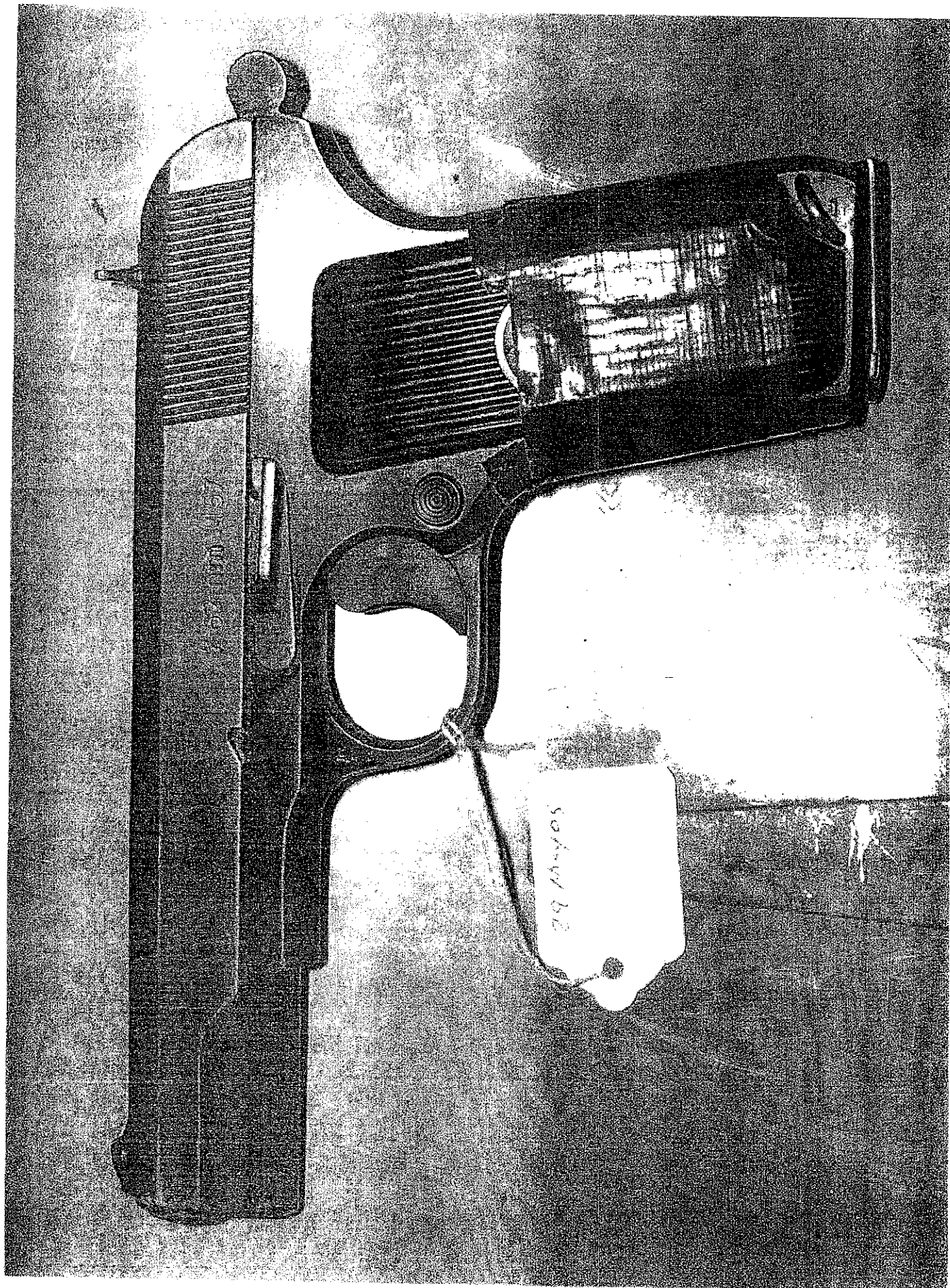
020900JUN05 Consulted with LTC [REDACTED] and MAJ [REDACTED] on further avenues of inquiry.

021400JUN05 Asked additional questions of SSG [REDACTED] and SPC [REDACTED]

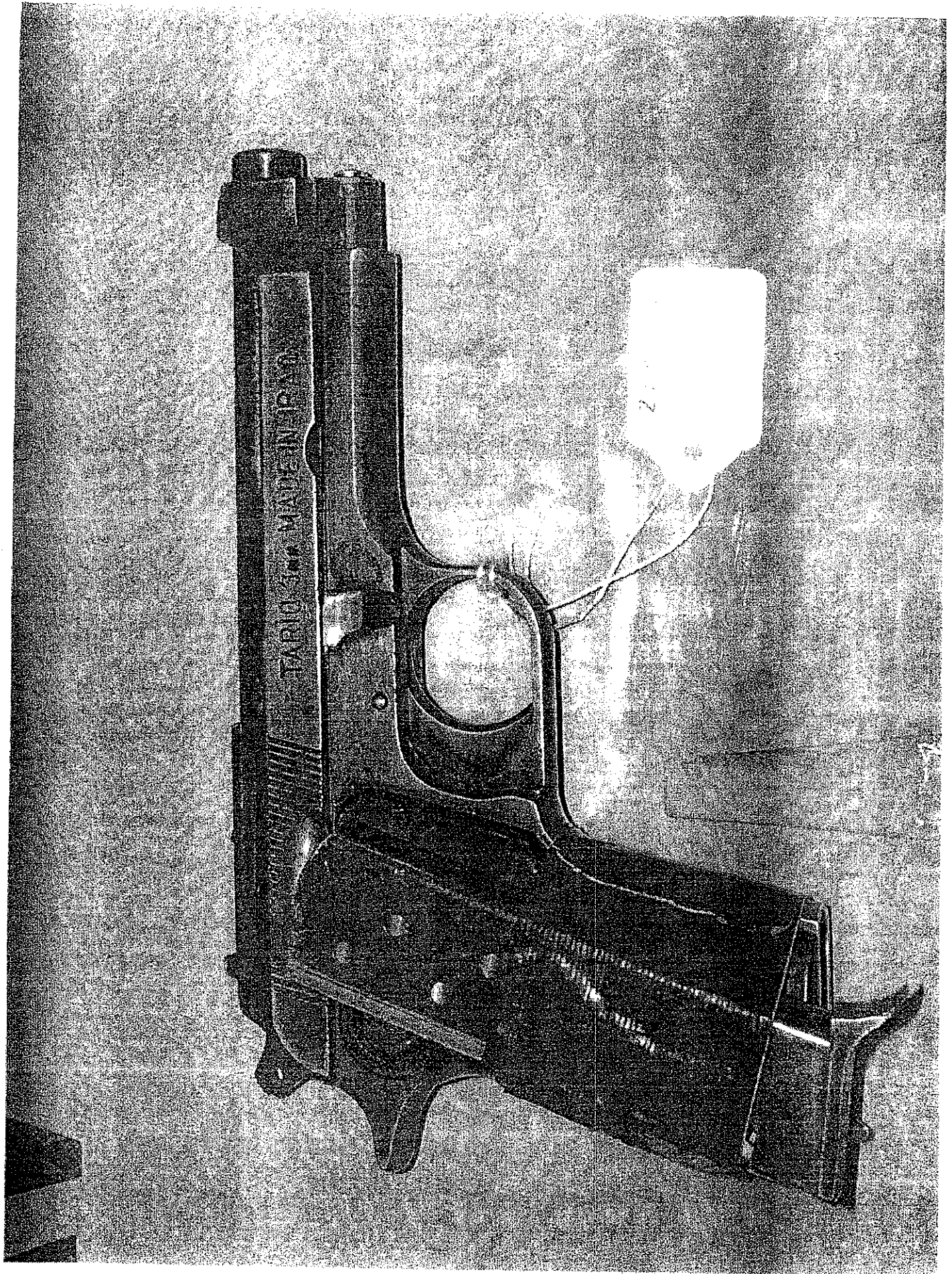
021800JUN05 Began to review again the findings of my investigation.

031130JUN05 Resubmitted Article 15-6 investigation to the 3-15 IN XO, MAJ  
[REDACTED]





16273



16274

# SWORN STATEMENT

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

## PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).  
 PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately  
 ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.  
 DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION FOB [REDACTED]	2. DATE (YYYYMMDD) 20050529	3. TIME	4. FILE NUMBER
5. LAST NAME FIRST NAME MIDDLE NAME [REDACTED]	6. SSN [REDACTED]	7. GRADE/STATUS E-6	
8. ORGANIZATION OR ADDRESS Bco 3-15 Infantry			

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

On 28 MAY 05 at approximately 0030 I was at the end of our convoy which had just stopped a vehicle for Curfew violation. While standing outside of B48 I noticed a vehicle moving at a high rate of speed in the opposite lane heading our way. I moved to the median and put my taillight on it to stop it. The vehicle braked hard stopping approximately fifteen feet away from me. Three men got out quickly. One man got out and started shouting at me in arabic. With my weapon pointed at him and numerous IAB soldiers approaching he still decided to run. I didn't notice what the other two men did because all of my attention went to the man who ran. The IAB yelled at him and fired numerous warning shots (10 to 20 rounds). While the man was approximately twenty five meters away I noticed a pistol in his hand after the B48 gunner pointed a spot light at him. When the man ran away he didn't seem scared.

10. EXHIBIT D	11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]	PAGE 1 OF 5 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT DATED

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.



STATEMENT OF [REDACTED] TAKEN AT FOB [REDACTED] DATED 20050529

9. STATEMENT (Continued)

but he did seem nervous. My instinct was that the vehicle could have been a VBIED. I did not want the man to get away due to the possibility of remote detonation. I thought that I heard two shots coming from his direction but I had lost track of him for a couple of seconds. I then put the iron sight of my acog on him and fired two rounds. I am not sure if the IAB had fired at him or not. I remember seeing his silhouette but I can't remember what he was doing at the time that I had fired. After I fired I did not see him anymore and the spot light went off. The IAB ran down the alley and I ran behind them to investigate the area and to get away from the car. While moving down the alley one IAB soldier stopped and pointed at the ground. I put my taclight on the area and saw the man lying on his back. Spc [REDACTED] checked his pulse and I kicked a pistol away from his reach. Sgt [REDACTED] searched his body. When we went back to the road I noticed that B48 was moved away from the vehicles.

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 5 PAGES

STATEMENT OF [REDACTED] TAKEN AT FOB [REDACTED] DATED 20050529

9. STATEMENT (Continued) location. End of statement.

The following questions were asked by the investigating officer, CPT [REDACTED], after reading the statement of SSG [REDACTED]

Q (CPT [REDACTED]) - What was the demeanor and body language of the suspects when they got out of the car?

A (SSG [REDACTED]) - He had a sense of urgency on his face, posture suggested he was about to run or fight, and he had a sense of confidence in his tone and voice, it seemed like he was yelling at you. His posture was very aggressive.

Q - Was this reaction at all normal or typical of most Traffic stops?

A - I've never seen a guy act like this before in, like, 100 traffic stops. Their actions were noticeably different enough that I immediately sensed a potential threat.

Q - What was your thought process to perceive the suspect as a hostile threat?

A - He [REDACTED], and SGT [REDACTED] helped carry the casualties from 1-61 VBIED into the aid station. Seeing those guys really affected me, and I'm really paranoid about VBIEDs now. I've also heard that the VBIED that [REDACTED] wounded like 94 people, the guy got out and ran off, and then remote detonated the VBIED. So, when the guy ran, the first thought in my mind was that he would detonate a remote VBIED. I had my taillight on, so I'm not sure if the spotlight had already come on, and I saw that he had drawn a weapon, so I engaged.

Q - So the suspect physically drew a weapon during the time he was running?

A - Yes.

Q - Was the suspect facing toward or away from you when you engaged?

A - I honestly can't remember.

Q - Can you draw me a sketch of the area, including the position of personnel and distances? (attached)

Q - Is there anything you wish to add to this statement? A: No.

#### AFFIDAVIT

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

(Signature of Person Making Statement)

#### WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 29 day of May, 2005 at FOB [REDACTED]

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

Investigating Officer

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

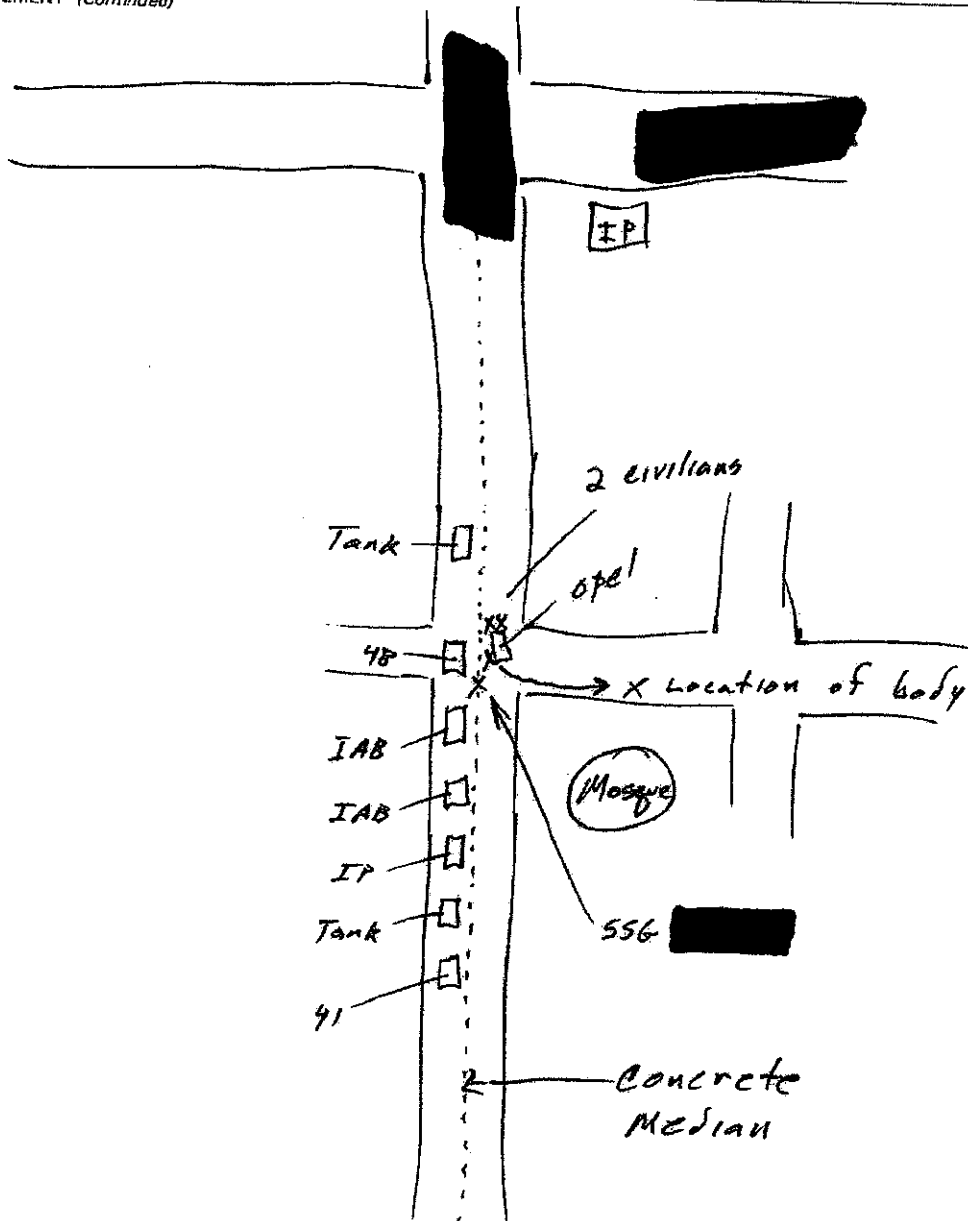
INITIALS OF PERSON MAKING STATEMENT

PAGE 3 OF 5 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_

9. STATEMENT (Continued)



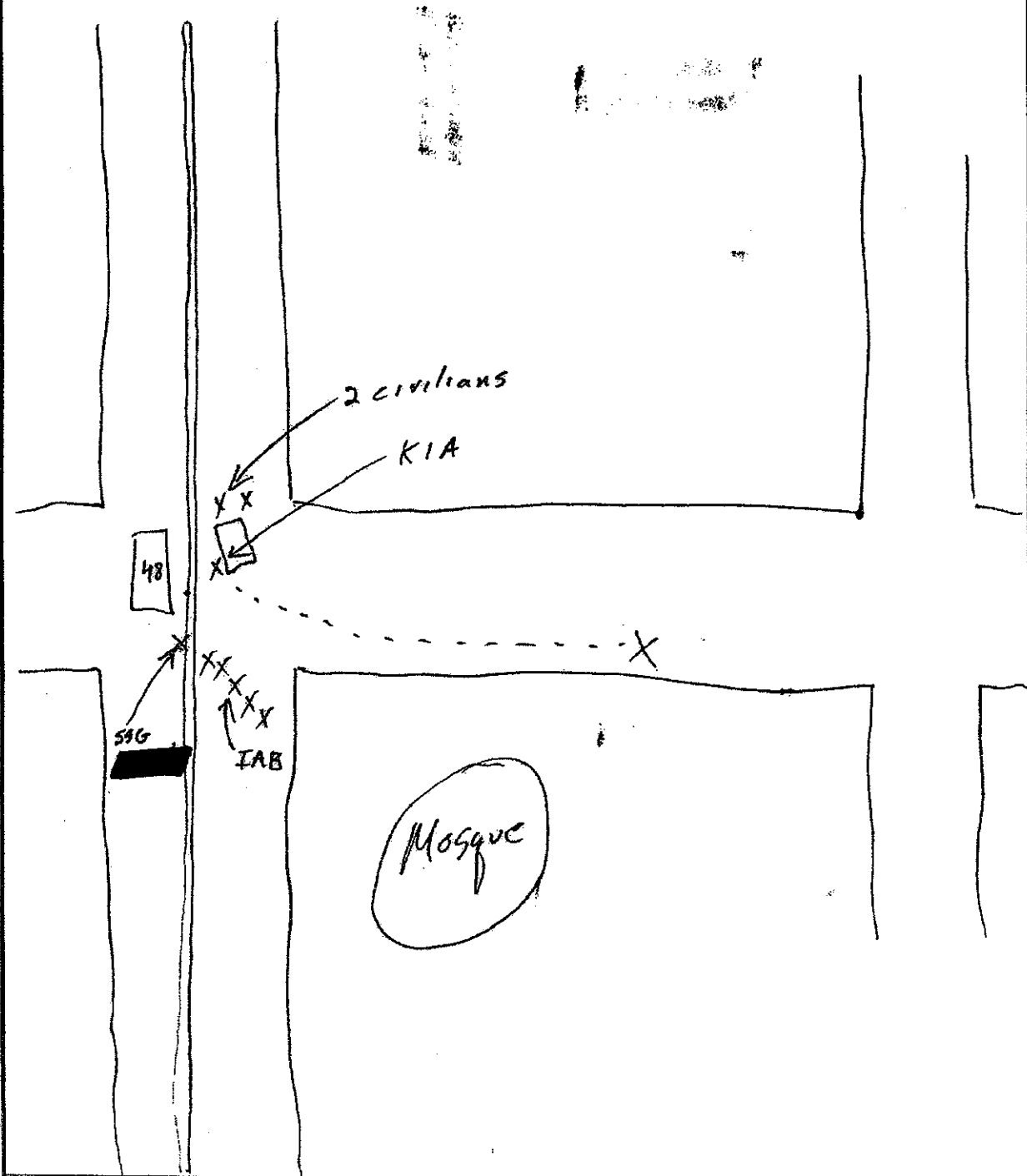
INITIALS OF PERSON MAKING STATEMENT

PAGE 4 OF 5 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_

9. STATEMENT (Continued)



INITIALS OF PERSON MAKING STATEMENT

PAGE 5 OF 5 PAGES

The following questions are an attachment to your sworn statement, which you filled out on 29 MAY 2005, regarding the incident on 28 MAY 2005. The oath which you swore on your statement applies to this document.

- Please state your understanding of the Rules of Engagement:

I have the right to defend my life if I perceive a threat with the ability and possible intent to commit a hostile act resulting in serious bodily injury or death to ~~me~~ coalition or civilian personnel.

- What were the subjects in the Blue Opal Omega doing on the night of the incident? Why did you pull them over, why did you think they were threatening?

They blew by a tank at over 40 MPH which I am sure that they must have seen. I pulled them over because we were stopping everyone due to a few violations. I believe that he was threatening because he ran when I and several IAB moved to surround the vehicle and he did not seem afraid. Later he drew his pistol after shots were fired indicating that he was.

During the time between the blue Opal Omega pulling over, and the suspect being killed, what were his actions that constituted a hostile act? Instead of pleading he was yelling at me which made me believe that he was confident. He had nothing in his hands at the time. He could have waited until he was out of sight, I and the IAB were completely exposed. I also thought that he fired two rounds but didn't actually see him shoot. He must have drawn the pistol while the warning shots were being fired from the IAB which were right next to him about twenty feet away.

- What action did the suspect take that constituted a Lethal threat?

Drawing a weapon while trying to run away from us. If I were trying to run away from someone I would wait until I was out of sight before I got rid of my weapon.

- What threat did the suspect represent to individuals in the patrol, and to the patrol as a whole?

He could have wounded or killed U.S. or IAB soldiers. At least 5 or 6 of us were completely exposed to the possibility of direct fire from him.

- If you could frame one instant or action from the incident that triggered your use of lethal force, what would it be?

Drawing the pistol after the warning shots were fired.



# SWORN STATEMENT

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

## PRIVACY ACT STATEMENT

**AUTHORITY:** Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).  
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**ROUTINE USES:** Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.  
**DISCLOSURE:** Disclosure of your social security number is voluntary.

1. LOCATION FOB [REDACTED]	2. DATE (YYYYMMDD) 20050529	3. TIME	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	6. SSN [REDACTED]	7. GRADE/STATUS E4	
8. ORGANIZATION OR ADDRESS B Co 3-15 In			

9. [REDACTED] WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On the 28<sup>th</sup> of May 2005 at 0030, our patrol stopped to question some local National on why they were out past curfew, we stopped on [REDACTED] just south of [REDACTED] Some of the street lights were on and it was pretty well lite area. As a stopped BUS all of the dismounts got out and headed to the front of the convoy. Then SSG [REDACTED] came over the Icon and asked [REDACTED] if we were stopping veh. on the opposite side of the Road. So I dismounted the truck to help SSG [REDACTED]. SSG raised his weapon at the veh with his tact light and the veh which was moving very fast. By this time I was still about 20ft from the veh, where I stopped to pull security for him. At the same time a Squad of IAB Soldiers were coming up from SSG [REDACTED] back side. Once the veh stopped all three passengers got out of the veh and were speaking in Arabic. Then all of a sudden one of the passengers took off down an Alley. East. I heard the IAB Soldier yelling at the man and then fired off several warning shots. As soon as the man took off I felt my life was endanger, I didnt know if the man was going to run down the Alley and shoot at us or blow his veh up as soon as he cleared it. So I raised

10. EXHIBIT E	11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT DATED

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF [REDACTED] TAKEN AT FOB [REDACTED] DATED 2005 05 29

9. STATEMENT (Continued)

My weapon up and looked through my M68 and then the Gunner on B48 put this spot light down the Alley and lit ~~the~~ the whole alley up. ~~That's when a saw a pistol in the mans hand. Through my won-~~ firing eye I saw two tracer rounds fly down the Alley as I shot my round. 2nd round of 4 after my 4th round the spot light turned off and SS6 ~~[REDACTED]~~ along with the Squad of IAB took off down the Alley. At the same time I jumped in the veh and moved it back about 50 meters from the parked opel. Then redismounted once I knew that the veh was safe I returned and began to search it for ~~[REDACTED]~~ PIR. I found several packs of pictures in the glove box. I also had the IAB Soldiers search and cuff the other two personal in the veh.

End of Statement.

The following questions were asked by the investigating officer, CAP ~~[REDACTED]~~, after reading JPC ~~[REDACTED]~~ statement.

Q- (CAP ~~[REDACTED]~~ what was the demeanor of the three men? Was it threatening and angry, or was it scared and confused?

A- They seemed to be acting nervous and guilty. We've stopped hundreds of vehicles and nobody has ever reacted like this, just jumping out and putting their hands up. I think we surprised them with our snap TP, too ~~[REDACTED]~~

Q- So their actions were noticeably different than the hundreds of innocent people you have stopped?

A- Yes ~~[REDACTED]~~

Q- were the IAB shooting at the man or just shooting in the air?

A- I couldn't say for certain. There were about 10 shots of AK ~~[REDACTED]~~

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 3 PAGES

STATEMENT OF

TAKEN AT

TOP

DATED

10050529

9. STATEMENT (Continued)

Q- Walk me through your thought process of identifying the suspect as a hostile threat.

A- As soon as they got out of the vehicle, I noticed their different posture than anybody else we stopped. As soon as he bolted, the first thing that went through my head was URGED. Once I saw he had drawn a weapon, I thought he was about to fire on us.

Q- Could you draw me a sketch showing the scene of the incident, including the location of personnel involved, and approximate distances? (Attached)

Q- Did the suspect have a weapon in his hand when he bolted into the alley?

A- No.

Q- So the suspect physically drew a weapon once the JAB began shooting in the air?

A- Yes.

Q- Do you have anything to add to your statement?

A- No.

END OF QUESTIONS.

AFFIDAVIT

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

[REDACTED]  
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 29 day of May, 2005 at Fort [REDACTED]

ORGANIZATION OR ADDRESS

[REDACTED]  
(Signature of Person Administering Oath)

[REDACTED]  
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

Investigating Officer

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 3 OF 3 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

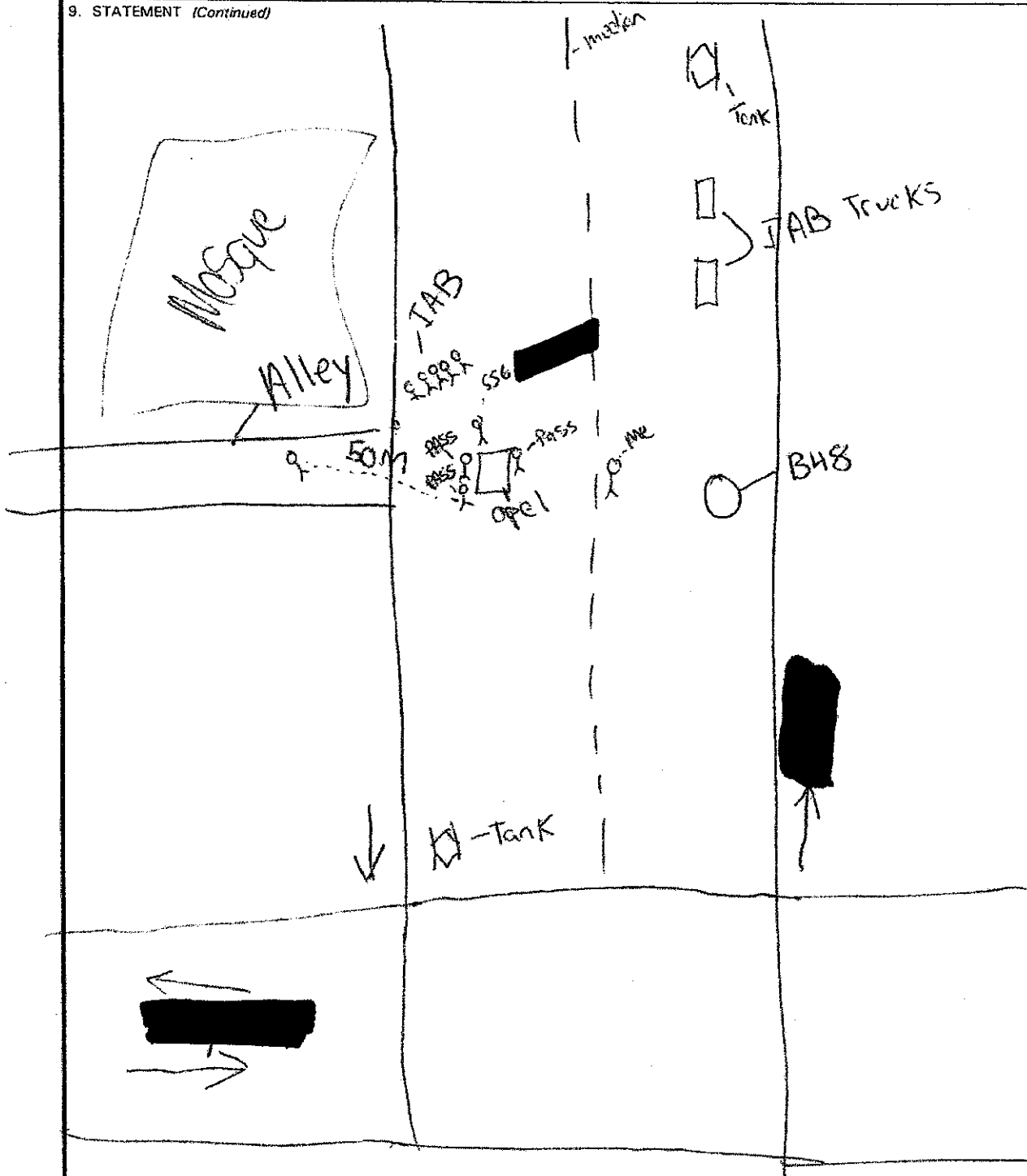
STATEMENT OF

TAKEN AT

FOB

DATED 29 May 05

9. STATEMENT (Continued)



INITIALS OF PERSON MAKING STATEMENT

PAGE 4 OF 4 PAGES