

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 [redacted], COL, AR, Commanding

(Appointing authority)

on 16 OCT 05  
(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 2-70 AR Maintenance Office

(Place)

at 1000  
(Time)

on 22 October 2005

(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.)

CPT [redacted], Investigating Officer

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

0900  
(Time)

on 8 November 2005  
(Date)

had completed findings and recommendations at

1500  
(Time)

on 14 November 2005  
(Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

|                                                                                                                                                                                | YES | NO | NA |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|----|
| 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?                                                                                                            |     |    |    |
| 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 | N/A |
|---------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|-----|
| 2                                                                                     | <b>Exhibits (para 3-16, AR 15-6)</b>                                                                                                                                                                                  |     |    |     |
| 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 (para 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 3-3b, 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.                                                                                    | <b>Notice to respondents (para 5-5, AR 15-6):</b>                                                                                                                                                                     |     |    |     |
| 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                                                                                    | <b>Counsel (para 5-6, AR 15-6):</b>                                                                                                                                                                                   |     |    |     |
| a.                                                                                    | Was each respondent represented by counsel?                                                                                                                                                                           |     |    |     |
| Name and business address of counsel:                                                 |                                                                                                                                                                                                                       |     |    |     |
| (If counsel is a lawyer, check here <input type="checkbox"/> )                        |                                                                                                                                                                                                                       |     |    |     |
| b.                                                                                    | Was respondent's counsel present at all open sessions of the board relating to that respondent?                                                                                                                       |     |    |     |
| c.                                                                                    | If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the report (para 5-6b, AR 15-6)?                                   |     |    |     |
| 12                                                                                    | If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6):                                                                                                     |     |    |     |
| a.                                                                                    | Was the challenge properly denied and by the appropriate officer?                                                                                                                                                     |     |    |     |
| b.                                                                                    | Did each member successfully challenged cease to participate in the proceedings?                                                                                                                                      |     |    |     |
| 13                                                                                    | Was the respondent given an opportunity to (para 5-8a, AR 15-6):                                                                                                                                                      |     |    |     |
| a.                                                                                    | Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?                                                                                              |     |    |     |
| b.                                                                                    | Examine and object to the introduction of real and documentary evidence, including written statements?                                                                                                                |     |    |     |
| c.                                                                                    | Object to the testimony of witnesses and cross-examine witnesses other than his own?                                                                                                                                  |     |    |     |
| d.                                                                                    | Call witnesses and otherwise introduce evidence?                                                                                                                                                                      |     |    |     |
| e.                                                                                    | Testify as a witness?                                                                                                                                                                                                 |     |    |     |
| f.                                                                                    | Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)?                                                                                                                                      |     |    |     |
| 14                                                                                    | If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)?                                       |     |    |     |
| 15                                                                                    | Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it (para 5-11, AR 15-6)?                                                |     |    |     |

**FOOTNOTES:**

1. Explain all negative answers on an attached sheet.
2. Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

## SECTION IV - FINDINGS (para 3-10, AR 15-6)

The (investigating officer) (b)(6), having carefully considered the evidence, finds:

On 16 October 2005, at approximately 0400, two M2A2 Bradley Fighting Vehicles from 1st Platoon, A Company, 1-41 IN were travelling west on RTE [REDACTED] enroute to the 2-70 AR TAC. The lead Bradley, bumper number AV12, was commanded by SSG [REDACTED] and the trail Bradley, bumper number AV11, was commanded by LT [REDACTED]. The two Bradleys were approximately 300m apart on the road and were actively scanning for activity in the surrounding farmland. As they were driving vic. [REDACTED], LT [REDACTED] spotted an unidentified object in a cove of trees approximately 300m south of his Bradley. Upon spotting the object, SGT [REDACTED] notified LT [REDACTED] and LT [REDACTED] in turn notified SSG [REDACTED]. Both LT [REDACTED] and SSG [REDACTED] stopped their Bradleys in order to give SGT [REDACTED] time to identify the object in the field. Based on the size of the thermal signature, SGT [REDACTED] and LT [REDACTED] assumed the object was in fact a human being in a crouched position and they began scanning the area for clues as to the identity of the individual. There were no houses, animals, vehicles or other obvious signs of human habitation in the vicinity of the individual, so LT [REDACTED] decided to investigate further. SSG [REDACTED] was separated from the surrounding farmland by a large dirt canal that ran parallel to the RTE on the south side of the road. LT [REDACTED] directed SSG [REDACTED] to move back to the east on [REDACTED] in order to find a suitable site to cross the large canal. LT [REDACTED] directed across, SSG [REDACTED] was to maneuver on the suspect individual and detain him for questioning. SSG [REDACTED] acknowledged the order and began his movement back toward the east. As the AV12 Bradley started his move, the suspect individual visibly turned toward the sound of the moving vehicle and began reaching toward the ground. As soon as the individual began grabbing things from the ground, LT [REDACTED] called his PSG, SFC [REDACTED], in order to verify their location and clear for fires to the south.

As he was receiving verification from his B section on their location, SGT [REDACTED] lost visual contact with the individual. He had moved behind a small concrete canal that was just in front of his position and that ran from his initial position to the west, parallel to RTE [REDACTED]. LT [REDACTED] had his driver move the Bradley approximately 3m to the east, and which point his gunner re-acquired the suspect individual. As soon as his gunner re-acquired, LT [REDACTED] gave the order to fire. SGT [REDACTED] fired a 5-7 round burst from his coax and the individual once again disappeared from his thermal sight. SGT [REDACTED] continued to engage the target area with 2-3 additional bursts and then LT [REDACTED] ordered the cease-fire.

SGT [REDACTED] did not re-acquire visual contact with the individual following his engagement. In order to aid in the search for the individual, LT [REDACTED] held his position on RTE [REDACTED] and he instructed his wing Bradley to maneuver down to the location where they engaged while SGT [REDACTED] walked them on to the target area. SSG [REDACTED] continued to move down RTE [REDACTED] to the east, eventually returning to RTE [REDACTED] where he moved south to a position where he could cut back to the east and the last known position of the suspect individual. While SSG [REDACTED] was moving, LT [REDACTED] sent his dismount infantrymen across a small fording point on the large dirt canal parallel to RTE [REDACTED], and they began the search for the individual. They were joined by SSG [REDACTED] dismounts after approximately 20 minutes. By approximately 0430, the dismounts had found the body in a small dirt canal that ran south from the small concrete canal the individual had first been seen behind. The medic with the dismount squad, SGT [REDACTED] verified that the individual had been killed in the initial engagement.

After the dismounts found the body, they continued to search the surrounding area. They searched for approximately two hours and found a shovel, which was located under the body in the canal, and a few stacked sandbags near where they had initially identified the individual at the eastern edge of the little concrete canal. Additionally, SGT [REDACTED] in AV11 searched along RTE [REDACTED] for any possible IEDs. No weapons, IEDs or IED initiating materials were found. They tested the body using [REDACTED] and the individual tested positive for [REDACTED] and [REDACTED] though no explosives were found at the site. (CONTINUED ON PAGE 5)

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

In view of the above findings, the (investigating officer) (b)(6) recommends:

That no action be taken against LT [REDACTED] or his section and that the details of this incident be distributed as an ROE vignette for discussion in the BDE.

[CONTINUED FROM PAGE 3]

During the search of the area, LT [REDACTED] identified a small house approximately 500m south of the site, and he sent his dismount to investigate. While moving toward the house, a man approached from that direction. The dismounts detained him and brought him back to LT [REDACTED] for questioning. The man identified himself as [REDACTED] and he further identified the slain man as [REDACTED] a local farmer with no known insurgent ties. Mr. [REDACTED] said that Mr. [REDACTED] often came to this field in order to activate the irrigation systems for his village, which lay several kilometers to the west. He usually opened the canals around midnight, and he usually brought his son with him. Mr. [REDACTED] did not know why he was in the field as late as he was on the day in question.

Hassan Abbas Shikha Shikha

Shikha

The evidence in this investigation proves that the shooting of Mr. [REDACTED] was justified and was the result of reasonable assumptions on LT [REDACTED] part and a proper escalation of force. LT [REDACTED] and his section began movement down RTE [REDACTED] knowing that there had been at least one IED attack on that RTE just three days earlier (as can be seen in Exhibit 14) and that sections of the RTE had been previously identified as probable locations for future IED attacks by the Task Force 2-70 AR S-2 (as seen in Exhibit 15). LT [REDACTED] and his section believed that attack by IED was the most likely form of contact he would encounter in sector and this fact is crucial in understanding LT [REDACTED] decision making process during this incident.

The CFLCC Rules for the Use of Force card authorizes individuals to "engage persons who... show hostile intent with the minimum force necessary to counter the... demonstrated hostile intent and to protect US Forces." Hostile intent is further defined as "The threat of imminent use of force against US Forces." From his perspective, LT [REDACTED] was in a known IED target area, and he was observing possible human crouching behind partial cover and concealment with excellent observation of RTE [REDACTED]. When he started maneuvering his wing Bradley back toward his position, the crouching individual reached for something on the ground- possibly an IED initiating device. At that moment, and under those circumstances, LT [REDACTED] saw Mr. [REDACTED] hostile actor with hostile intent. If he had held his fire, and Mr. [REDACTED] had been an IED triggerman, SSC [REDACTED] track could have been destroyed. LT [REDACTED] acted on the information he had at the time and made the call to engage Mr. [REDACTED]. He took only enough time to clear his fires to the south, 10-15 seconds by sworn accounts, and then fired. LT [REDACTED] made an appropriate tactical decision based on what he knew at the time.

Shikha

Shikha

Shikha

Knowing what we now know, after-the-fact, it is reasonable to believe that Mr. [REDACTED] was not an IED triggerman. No IED or triggering device was found at the scene. Mr. [REDACTED] was known to move about in the fields after dark to open irrigation channels. The position his body was found in suggests that he was trying to escape the situation. However, none of this information was available to LT [REDACTED] when he felt that his section was in danger and he had to make his decision to engage or not engage. Further, even now there are some good reasons to believe that Mr. [REDACTED] may have been an IED triggerman. Mr. [REDACTED] had 10-15 seconds to hide or lose the initiator, some of which are as small as key chains and cellular phones. He was in the fields many hours outside of his usual routine, and he did not bring his son as he usually did. The movement of the second Bradley caused him to attempt to flee the area and he tested positive for two types of explosives. We can never know for sure if Mr. [REDACTED] was an IED triggerman, but there were several indicators leading LT [REDACTED] to believe he was when he decided to engage.

Shikha

A Company, 1-41 IN, does have an appropriate TTP for dealing with suspicious local nationals that is well understood by the officers and soldiers of the company. They also have a good understanding of the CFLCC ROE and the CFLCC Rules for the Use of Force- both cards were referenced by the soldiers during their interviews.

After reviewing all material associated with this investigation, I find that LT [REDACTED] had sufficient evidence, at the time he engaged, to identify Mr. [REDACTED] as a hostile actor with hostile intent. In addition, I can find no contributing factors that, if changed, could have altered the outcome of this event.

Shikha

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 for a summary, if oral) as a numbered inclosure.)

Unfortunately incident however the Broady review cited  
Idea RGE given the number of IFD egegnants  
in the area and the behavior of the [redacted]  
uncertain as to whether or not LW was actual AIF however it  
falls to the area to make a difficult judgment on it, which they did.



DEPARTMENT OF THE ARMY

2ND BATTALION, 70TH ARMOR  
1ST CAV DIVISION

REF: V TO  
ATTENTION OF

AFZN-BB-DA

8 November 05

MEMORANDUM FOR RECORD

SUBJECT: 15-6 Investigation Index of Exhibits for the A/1-41 IN Shooting on 16 OCT 05.

1. The following exhibits are included as a part of the investigating officer's report:

- Exhibit 1: Appointment Orders
- Exhibit 2: Statement by LT [REDACTED]
- Exhibit 3: Statement by SGT [REDACTED]
- Exhibit 4: Statement by SSG [REDACTED]
- Exhibit 5: Statement by SPC [REDACTED]
- Exhibit 6: Statement by SGT [REDACTED] (2<sup>nd</sup>)
- Exhibit 7: Statement by SSG [REDACTED] (2<sup>nd</sup>)
- Exhibit 8: DA FORM 3881 for LT [REDACTED]
- Exhibit 9: Commander's Incident Report
- Exhibit 10: Unsigned Statement by LT [REDACTED]
- Exhibit 11: Photographs of Site
- Exhibit 12: Site Diagram
- Exhibit 13: Statement by CPT [REDACTED]
- Exhibit 14: Analysis of IED Activity vic. RTE [REDACTED]
- Exhibit 15: TF 2-70 AR [REDACTED] Map

2. Point of contact for this memorandum is the undersigned.

[REDACTED]  
[REDACTED]  
CPT. AR  
Investigating Officer



REPLY TO:  
ATTENTION OF:

DEPARTMENT OF THE ARMY  
HEADQUARTERS  
3RD BRIGADE, 1ST ARMOR DIVISION  
CAMP [REDACTED] IRAQ

AFZN-BB-BL

16 October 2005

MEMORANDUM FOR CPT [REDACTED], HHC, 2nd Battalion, 70th Armor  
Regiment, 3rd Brigade, 1st Armored Division, APO AE 09378

SUBJECT: Appointment as Investigating Officer

1. Pursuant to AR 15-6, paragraph 2-1, you are hereby appointed as an investigating officer to investigate the shooting death of one local national on 16 October 2005 during a patrol conducted by 1/A/1-41 Infantry.

2. In your investigation, use procedures under AR 15-6, Chapter 4, for an informal board of officers. All witness statements will be sworn, and you will follow the procedures in AR 15-6, paragraph 3-7e for Privacy Act statements. If the person you are interviewing states that he/she does not know anything about the allegations, prepare a sworn statement to that effect for the witness to sign. If, in the course of your investigation, you suspect a soldier has committed an offense under the UCMJ, you must advise and read him/her their rights under the UCMJ, Article 31, or the Fifth Amendment, as appropriate, prior to conducting any interview.

3. During your investigation, answer the following questions:

- a. What was the sequence of events that led up to the incident?
- b. Did the soldiers involved properly escalate the use of force?
- c. Did the soldiers have Positive Identification (were they reasonable certain that the object of attack was a legitimate military target) before engaging the local national?
- d. Did the local national pose a threat by committing a hostile act or by demonstrating hostile intent?
- e. Did the On Scene Commander attempt to minimize collateral damage?
- f. What is the unit's Standard Operating Procedure (SOP) prior to engaging a Local National?
- g. Were there any Law of War violations?

AFZN-BB-CO

SUBJECT: Appointment as Investigating Officer

h. Are there any operational lessons that should be captured and disseminated?

i. Were there any other contributing factors that, if changed, could have altered the outcome?

4. If it becomes evident that there is possible misconduct outside the scope of your investigation, notify the appointing authority immediately. If during your investigation you become aware of information that needs command attention, immediately notify the appointing authority for guidance.

5. Contact the Command Judge Advocate, CPT [REDACTED], for legal guidance prior to starting your investigation. CPT [REDACTED] is located in Bldg 72 and his phone number is VOIP: [REDACTED]

6. Submit your findings and recommendations on DA Form 1574 to CPT [REDACTED] for legal review no later than 28 October 2005.

30

[REDACTED]  
[REDACTED]  
COL, AR  
Commanding

# SWORN STATEMENT

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

## PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2961; E.O. 9397 dated November 22, 1993 (SSA).  
 PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.  
 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  
 2-70 AR Maintenance Office  
 2. DATE (YYYYMMDD)  
 2005/10/22  
 3. TIME  
 1100  
 4. FILE NUMBER  
 5. LAST NAME, FIRST NAME, MIDDLE NAME  
 6. SSN  
 7. GRADE/STATUS  
 O-2  
 8. ORGANIZATION OR ADDRESS  
 A Co, 1-41 IN, Camp [REDACTED], Iraq, APO AE 09378

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

On the morning of 16 OCT, we received word from [REDACTED] that we needed to pick-up a crew from 3rd PLT at the TAC and take them back to [REDACTED] so they could bring out a new Bradley to replace one of their broken vehicles. It was about 0400, while we were travelling west on RTE [REDACTED], my gunner, SGT [REDACTED] identified a hot spot. I told the driver to stop and we notified the 2 track that we had stopped our forward movement. The 2 was the lead track. The gunner and I continued to scan. I dropped down and scanned with him- trying to figure out what the hot spot was. There was no movement from the hot spot. Initially we couldn't even tell if it was a human or not. We tried to figure out what it was- it was a pretty big hot spot, so we figured it was a human in a crouched position, hiding. We checked the surrounding area for clues as to why there might be a person out there at this hour. We were looking for stuff like animals, a vehicle parked nearby or something that we would normally see. 95% of the time we see people out there we can usually determine what they're doing without investigating further. I don't remember if the guy was violating curfew, but it was close, and the curfew wasn't relevant to our investigating this guy. Iraqis are usually oblivious to the curfew anyway, so that wasn't a huge red flag. The red flag was that IEDs had increased on this route, it's a [REDACTED] and the terrain and where this hot spot is is typical of IED tactics- as far as observing a route that is well-driven by Coalition forces. He was in a covered and concealed position that also provided him with a covered and concealed egress route. So, it looked suspicious, so we continued to watch. Once my gunner and I had checked the area for any tell-tale signs of why this guy is out here, there was nothing that we saw that would eliminate him as a farmer, or a shepherd or something. That was when I decided we needed to investigate this; catch this person and check him out. So that was my first course of action- to begin maneuvering on him.

I called my 2 track up and said, "Hey, we need to check this out. Start moving back toward my position and start looking for a route that cuts south," because there was a canal that runs between RTE [REDACTED] and where the heat source was at. So we had to identify a way to get back there to him before we could drop dismounts. The canal that was parallel to the road limited the ability of dismounts. It was off for track, and dismounts would have to search the area and find a way to cross this canal. I stayed on the road, scanning with my gunner as the 2 track comes up. The individual is hunched over. He's in a crouched position or squatting position. He's overwatching [REDACTED]. I gave the 2 track guidance to maneuver back to look for a place to cross over. He's coming back east to our position and we observe in the reticle the individual in question looks over at the 2 track. We see him look in the direction of the 2 track. He turned and looked in the direction of the 2 track, and we knew it was a person then. What made me identify him as an immediate threat, and made me decide to engage this individual, is that when he looked at the 2 track, and he was in a crouched position, he immediately picked something off the ground and it was something small. He was doing something with his hands. That was when I stopped looking through the reticle. I jumped up and got on the net. My B section was about two kilometers away and I wanted to make sure that there were no OPs out. So I called to see if there were any OPs out, or if they were all co-located. They were co-located and they were to the west, out of the direction of fire. While I was clearing fires, my gunner told me the guy had ducked away and he could no longer see the individual. He had gone behind the little concrete canal. We moved the Bradley like 5-10 ft. to the east. The 2 was still on his way back. As soon as the gunner had found the guy again, I told him to engage. He let off one burst, and the guy disappeared. He let off a couple more bursts to suppress the area.

I talked the 2 track on. I was going to maintain overwatch since we knew where the guy was. So I talked the 2 track down into the area, because he was going to drop his dismounts to search the area. I dropped my dismounts also, and told them the vicinity and told them to find a good place to cross the canal and so they started doing that. It took us a while. The helicopters that came out never saw anything. We used a green laser to designate the area. The only thing they ever saw was a dog in the area. It took a while for our dismounts to get out there. It was maybe 20 minutes before they found him. As soon as they found him, the medic was with them, SGT [REDACTED] and he confirmed that the individual was, in fact, dead. We called the birds and told

10. EXHIBIT  
 2  
 11. INITIALS OF PERSON MAKING STATEMENT  
 [REDACTED]  
 PAGE 1 OF 3 PAGES

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.

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

STATEMENT OF [REDACTED]

TAKEN AT 2-70 AR Motor Pool

DATED 2005/10/22

9. STATEMENT (Continued)

them we didn't need them anymore, so they cut station. They didn't see anyone else in the area. They never did see the area where the body was. I think they couldn't see with their thermals because the guy had fallen into a canal, so his heat source was masked. After that we started to investigate and search for where the device was or whatever he had in his hands. Once we found the body, I had my LMG take me back to where the individual was so I could dismount or [REDACTED] the area. So I started taking pictures, and I told SGT [REDACTED] where to focus his search- from where we saw him initially, at the eastern edge of the little concrete canal to the body. I took pictures of the area- where he was at, how he could overwatch [REDACTED] his egress route. There was a house 500m south of where the individual was, so I figured that if he had a shady reason for being there, that house might be part of it. So I had my dismounts get the individual down by the house so I could question him. I talked to the individual. His name was [REDACTED]. He recognized the individual. I questioned him and asked if he knew if he had insurgent ties or any shady reasons for being there. The individual explained to me that the man who was killed, [REDACTED] came out there to open up water canals. He told me that he does this at midnight with his son, but he doesn't come out there in the mornings like when we found him. And he was alone this time- we never saw another individual.

We continued to search the area. We couldn't find what he was messing with. But he had 10-15 seconds where my gunner lost visual sight of him. He could have found a good hiding position or stuck it in the mud. We don't know. His body was 20-30m from where we saw him. It wasn't a great distance; he hadn't moved very far. The thing is, he used that water canal for cover. If he would have stood up and acted like a normal farmer, we wouldn't have had any trouble seeing him. But he was using the cover and concealment of the area to mask his movements. We couldn't even tell he had moved that far, if at all, from our position. From 300m away, a movement of 20-30m- we won't be able to see that.

We continued to search the area. The dismounts found a shovel in the canal- in the water, close to the body. He could have very well been carrying it but at no time did my gunner or myself see him with a shovel. A shovel is a very distinct object that even in thermals you can pick it up. We never saw this guy with a shovel. The only thing we saw was that he was messing with something small in his hands. We were unable to find anything that matched that description. We searched for an hour, and then I told them to go back and search again. I had them search in near-by tall grass and whatnot, in case he had thrown it in there. We didn't have metal detectors with us. All we had was a wand, and we didn't use that. We definitely saw him with something, and that's why I recognized him as an immediate threat to my forces, and the reason why I used lethal force. I felt without a doubt in my mind that he was about to engage my 2 track heading back to my track. It appears, after the fact, that the guy was moving away from us when we shot him. But we didn't know that. We knew he was moving, but we didn't know he was fleeing the area. He was moving, but that doesn't mean that's he's trying to haul-ass out of there. I think that some of the reports may have gone up sounding like that, but it wasn't like the guy was packing up his stuff and hauling-ass away. At the moment we identified him as a valid target, we lost visual contact. I felt that he obviously recognized that we were maneuvering on him, that there was a track moving back. He was moving to a better position to recognize the 2 track and engage him with an IED. He could have been doing a lot of things, but my first thought was that he was re-positioning to initiate an IED. He was undercover the whole time, and it you couldn't tell exactly what his actions were.

The decision to engage the individual was made when I saw him physically look at the 2 track and then start doing something small with hands or on the ground. Every time we identify an IED trigger point, they usually have a supply stash- water bottles, various materials- because they plan on sitting there for a long time. Even when we've caught individuals red-handed, we've never been able to find a trigger device. They've been able to stash it or get rid of it. But everything this individual was doing pointed to him being an IED trigger man. But that's not why I engaged- that's why I was maneuvering. I was maneuvering because everything pointed to this guy being a bad guy. But we don't engage based on assumptions. We engaged because as the track started coming back, this guy started messing with something in his hands or on the ground. I would have engaged right then if I knew exactly where the B section was at. It would have been the exact moment that he went for the stuff on the ground. While I cleared for fire, the gunner lost him. So I told the driver to back-up so that we could see better along the little concrete canal. I figured the guy was moving a little ways down the canal for more cover and to engage. Maybe 10 seconds passed between when I decided to fire and when we fired. It was almost immediate.

In a generic situation like this, we recognize the individual and try to ascertain what the individual is doing. If there is some suspicion about the individual, we maneuver on him to detain and question him. If at any time you get positive identification of the individual as a valid target- they have an AK-47 or RPG- you engage. What we saw got us 95% of positive identification, but that's not got me to engage. It was the threat he posed to the 2 track moving back. We didn't know where the IED was. We never found an IED. But at that time, everything pointed to an imminent attack. In my opinion, if I had not engaged, it would have been gross neglect on my part. I would have been putting my forces at great risk had I not engaged. Looking back, there is nothing that we could have done differently to impact the outcome of the situation. If I was in the same situation again, I wouldn't do anything differently- I couldn't do anything differently.

NOTHING FOLLOWS

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 3 PAGES

STATEMENT OF [REDACTED]

TAKEN AT 2-70 AR Motor Pool

DATED 2005/10/22

9. STATEMENT (Continued)

THIS PAGE NOT USED. STATEMENT ENDS ON PAGE 2.  
[REDACTED]

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT 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 INDUCEMENT.

[REDACTED]  
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 22 day of October, 2005 at 2-70 AR Maintenance Office

[REDACTED]  
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

CPT [REDACTED]  
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

UCMJ Article 136  
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT  
[REDACTED]

PAGE 3 OF 3 PAGES

# 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 identified.  
 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  
 2-70 AR Maintenance Office  
 2. DATE (YYYYMMDD)  
 2005/10/22  
 3. TIME  
 1045  
 4. FILE NUMBER  
 5. GRADE/STATUS  
 E-5

6. ORGANIZATION OR ADDRESS  
 A, 1-41 IN, Camp [REDACTED] Iraq, APE AE 09378

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

At about 0430, A Section was rolling back to the TAC to pick-up a damaged Bradley and escort it back to Taji so we could continue operations in support of the polling sites. We were going down RTE [REDACTED] travelling west, A12 was in the lead and we were in the rear. Basically our standard when we're going down the road is the 2 vehicle scans the road looking for IEDs and the 1 vehicle scans the rear and the flanks looking for triggermen and stuff like that. We were about one kilometer east of RTE [REDACTED] and I was scanning to the south and I picked up a hot spot in a woodline. I told the driver to stop and the LT asked me what I had. I said I have a hot spot and that's all I know what it was but it was pretty large. The way the thermal contrast was working that night, the trees were coming up hotter and it blurred everything and I had a hard time determining what it was. The LT sat down and we started watching it. I was pretty sure it was a guy but I wasn't certain. He told 2 to stop, but I don't really pay attention to the radio. I was pretty sure it was a guy, so we started looking for a house nearby or anything that said this guy should be out here. It was in the middle of nowhere. I didn't see any surrounding structures or other people. I continued to scan the area, went back to the guy looking for movement to distinguish the guy. Then the LT call the 2 and the guy looks back toward the 2 track and starts gathering something up off the ground. That's when I had positive ID as a person, because I saw an arm come out. He was at the base of a tree at the end of a concrete canal. We could just see past the corner of the canal and see him sitting there. He started pulling stuff up off the ground, and there were a bunch of trees, and I told the LT that he went out of my sight- that he stood up and took off. So the LT started to call to clear fires to the south- we had a Bravo section down south and we weren't sure exactly where they were. I remember him calling to clear fires.

I told the driver to back up because I lost sight of him. I had a tough time getting a visual with all the grass and trees down by where the guy was at. So the driver backed up 10-15 ft. and I caught sight of him again through the trees- I'm not sure if he was running at 45 degrees or straight away. To me when he stood up and gathered his things, it looked like he was running but I'm not sure- there was so much stuff covering the way that it really got blurry. When he was sitting, he was in a pocket where I could really see him. When he stood up, I lost him. When we backed up, I stopped the vehicle, I got another visual of him and the LT said engage. I just fired off a burst- three to seven rounds of coax. I saw him fall, but I wasn't sure if he was hit or avoiding the fire, so I followed up with a Z-pattern. A few more short bursts after that to suppress the area and then the LT said cease fire and after that the 2 track had come up to us, but I can't be sure because I was in the sight. I kept my reticle on target to make sure that we didn't lose this guy in the terrain. I told the LT I was going to keep the visual in my sight and he dropped the dismounts and he told 2 to try and find a way to get down there. The dismounts circled around and I talked them into the area. They found a shallow area to cross the canal next to the road, and they got down there before the 2 track. SGT [REDACTED] was the dismount squad leader.

Once the 2 track had made it around, the LT wanted to get down on the ground. We went back toward [REDACTED] and found a place to move south over the canal and parked north of the small concrete canal the guy had been behind. After dropping the LT, they told me to come back up on the road and find any possible IED sites on the road. So the driver and I went back up to the engagement site and drove about 300m past the north-south concrete canal that tied into the east-west canal the guy was behind. because it looked like the perfect place for aiming an IED. The road was really soft and there could have been stuff anywhere but we didn't find anything. After that, they said come back so we drove back to assist with overwatch and security. I went to meet SFC [REDACTED] on [REDACTED] to get a body bag, and we scanned again a few times with my daysight and ACOG, but there was nothing conclusive- nothing to go on. They didn't find anything down by the canal that I knew of. I guess when the guy died and fell over, there was a shovel underneath him. When he was sitting, we didn't see anything like a shovel. I lost sight of him like 30 seconds before we engaged- maybe he picked it up on his way out, but we never saw anything like that in the AO or that he picked-up while he was sitting there that whole time. That's about the only thing they found underneath him.

10. EXHIBIT 3  
 11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 1 OF 3 PAGES

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.

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

STATEMENT OF [REDACTED]

TAKEN AT 2-70 AR Motor Pool

DATED 2005/10/22

9. STATEMENT (Continued)

He had a little plastic sand bag, the kind you sit on, set-up out there. It was like a little raised-up area behind the concrete canal where he could have been sitting. He gathered up a couple of things when 2 was coming back- he looked down the road real quick and that's when we saw him. He looked at 2, we were stationary- he had eyes on us the whole time- he was watching us. He looked over at 2, picked something off the ground and that's when I lost sight of him. I don't know if he ran or if he took a couple of steps out of the way or what. He looked to me like he was in a low crouch.

My understanding in the beginning was that we were going to try and have the 2 come around and drop dismounts and search the guy. That's the standard. We tried it once before on [REDACTED]. We had two guys out there that had something in their hands, and we were dropping dismounts and that's when they bolted. When they heard the ramp drop they took off running. So we were trying to get the 2 around, basically in a cut-off position. And the 2 was coming back, the guy reached for something on the ground, and I think that was the sign. I don't know if he was reaching for a trigger mechanism like he was getting ready to set off an IED or something. We hadn't reached the point where the concrete canal comes up to the road yet, and that was something I had seen (the canal coming up to the road) that looked like some kind of aiming marker for an IED. I like how sometimes they use things to signify on the side of a road as a marker to aim an IED.

I definitely had positive ID on this guy. The IED triggerman, in my opinion, is pretty crafty. They always use real good cover combined with a good exfiltration route. I surveyed the area real well while we were watching this guy, and everything marshaled. He had good cover and concealment, a good escape route, all that stuff. And normally when we stop to observe people out at night, they just continue on with whatever they were doing. They look over at you and continue what they're doing, or they stop, put their hands on their shovel or wave at you. I know they are working a lot at night because it's Ramadan, and I'm used to seeing people out, and that crossed my mind at the time- so I figured this guy was just out working. So I started to scan and look for houses and stuff, and nothing in the immediate area around him said that this guy lived in a local house and was just working in his garden or something. Basically, when I felt threatened was when he picked his stuff up and stood up and started taking off because we were maneuvering on him. I didn't engage when the guy first started moving because I hadn't been given the go and the LT was clearing fires. We didn't engage because we didn't know where the friendly forces were at the time. Otherwise we would have engaged at that time. I would have preferred to engage at that time. I've never seen anyone behave like that before.

In regard to a unit SOP for this type of situation, what we've done in the past is observe the individual and send a maneuver element around to check them out- which is basically what we did here. We get dismounts on the ground to go out and search the guy, see what he's doing out there. We've done this in the past, send dismounts up and most people, they just walk right up to and say "Hey, how's it going?" and the interpreter finds out what they're doing. Usually it's stuff like irrigating fields or digging up some potatoes or whatnot. When we're maneuvering on someone, and they get up and take off, to me that's guilt. That's not necessarily the SOP, but in my eyes that's it. But the SOP in this situation is to try and get hands-on to figure out what's going on. I've never heard anything that's been passed down that says, "This is what you must do", but basically, if they show hostile intent, engage. That's all that's ever been put down. And to me, when he was grabbing stuff up off the ground when 2 was coming back, he could have had something up there on the road. In our minds, that's what it was. It was an IED set-up- he was waiting for the second vehicle. He was going to blow it and get the hell out of there. The guy tested positive for [REDACTED] (SEMTEX and C4).

Looking back on it, he had a lot of time between when he picked-up whatever he had on the ground and when I caught sight of him again and engaged him. It was real muddy out there and he could have just stuffed it down or packed it in the dirt. To me, a guy that tested positive for C4 and was hanging out beside the road and evading US forces- there has to be something out there. We just missed it. There's something about it that doesn't add up- it wasn't right, the whole situation.

[REDACTED]

NOTHING FOLLOWS

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 3 PAGES

STATEMENT OF [REDACTED] TAKEN AT 2-70 AR Motor Pool DATED 2005/10/22

9. STATEMENT (Continued)

THIS PAGE NOT USED. STATEMENT ENDS ON PAGE 2.  
[REDACTED]

AFFIDAVIT

I, Adam J. Schumann

HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT 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 INDUCEMENT.

[REDACTED]  
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 22 day of October, 2005 at 2-70 AR Maintenance Office

ORGANIZATION OR ADDRESS

[REDACTED]  
(Signature of Person Administering Oath)

CPT [REDACTED]

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

UCMJ Article 136

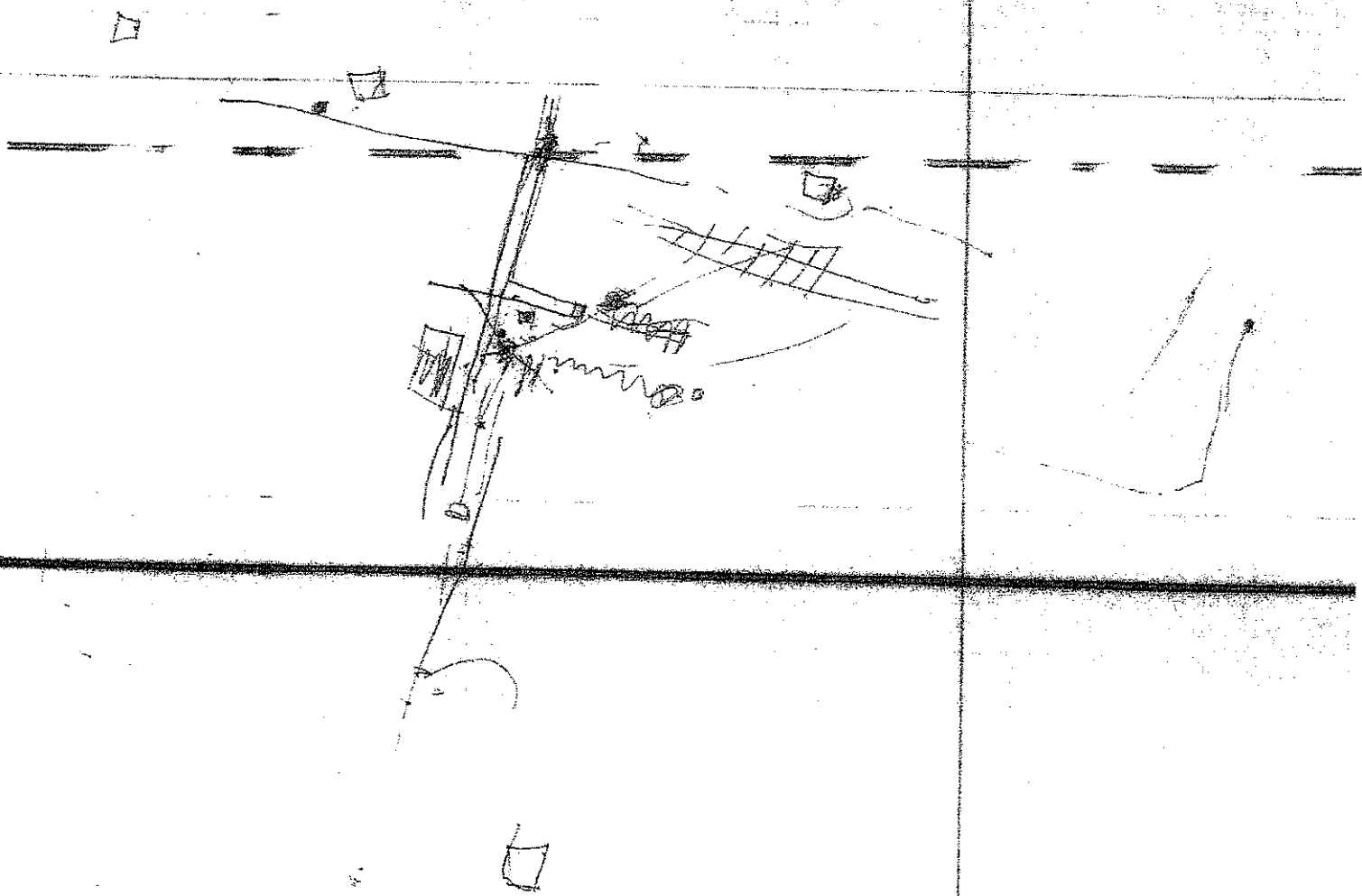
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 3 OF 3 PAGES

2

SGT



# 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 identified.  
 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  
 2-70 AR Maintenance Office  
 2. DATE (YYYYMMDD)  
 2005/10/22  
 3. TIME  
 1030  
 4. FILE NUMBER  
 5. LAST NAME, FIRST NAME, MIDDLE NAME  
 6. SSN  
 7. GRADE/STATUS  
 E-6  
 8. ORGANIZATION OR ADDRESS  
 A, 1-41 IN

WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

We were travelling west on RTE [REDACTED], which is one of the main routes in the middle of our sector that we use frequently. It's used by everybody that operates in sector. We were maneuvering west. Our vehicles were probably 150-300m apart. It was dark, and I'm guessing the time was between 3 and 4 AM. We were travelling to the west, and my gunner was scanning the road and about 10-15 ft. of each side of the road for IEDs. When I'm in the front, we tend to do 10 o'clock to 2 o'clock, and the LT will scan from the 6 o'clock, or from 9 o'clock to 3 o'clock.

So we were travelling that way, and the LT called me up telling me that he was stopping his vehicle because his gunner spotted somebody to the south of that route, about 200-300 m off the road. He saw someone out in this big farm field. By the time they picked this guy up, they were almost facing 9 o'clock. He told me they were stopping, and that they had positive ID on a guy in the bushes. I asked the LT if he wanted me to find a way to maneuver down there, because the way he was acting was pretty suspicious. My gunner scanned over that direction, but he couldn't see anything because there were some tall trees and stuff and he told me he couldn't see him. I turned our vehicle back to the east, and my gunner continued to try and find this guy, but he told me he still couldn't make him out. So I asked the LT if I should maneuver out there, and he said, "Yeah, roger." I couldn't find any good routes because there was a canal separating us from that field. So what I had to do was maneuver back around the LT. As I started to maneuver my vehicle, the last thing I heard them say was "Alright this guy is packing stuff up- he's running" and right there is the point where he decided to shoot. I was on my way back to his position, and we saw the engagement. Even then my gunner couldn't pick him up. There was a pause in communication, and then the LT called up that he had engaged him, and he wanted me to maneuver on him.

We had to travel back to RTE [REDACTED] to the east to move south. The air support sent out actually helped me find a way out there. The dismounts from the LTs track reached the site first. They went straight across the canal that was parallel to RTE [REDACTED]. When my track arrived, my dismounts linked up with his and they found the body after about twenty minutes. After they found him, I moved my track to provide overwatch to the squad and then the LT came down with his vehicle. He actually found a crossing before reaching RTE [REDACTED] that I couldn't see. The canal runs parallel to the road, and we went east to west through this field. We were on the south side of the canal where the suspected trigger man was, and the LT was just north of this little canal. Infantry guys didn't have any problems moving over the canal.

I stayed in overwatch of the dismount squad, and they were looking for stuff that he had- I had been reported that he was stuffing a bunch of stuff in a sack before he ran off, and that was the point where they thought that he was about to do something or had been about to do something. And that's the point for us where stuff is totally scary and unpredictable. The dismounts didn't find anything on the guy himself- they started looking for whatever he did have, because the LT told them that he had something like a sack or satchel. The place had little canals everywhere, and the place was real moist, and the guys were covered in mud by the time I got over there. I don't think they ended up finding anything. SGT [REDACTED] is the dismount squad leader for our section, and he led the dismounts in the search. They also identified the body.

About 200m south of the body was a house and that is where the civilian who identified the man who was shot came from. This civilian walked up, the dismounts searched him and then they had the interpreter talk to him. He said he knew who the guy was and the he was from a village to the west along RTE [REDACTED]. We've done sensing operations there and there's a lot of anti-Coalition propaganda and whatnot there. He said that he has seen that man and his son around midnight opening some of the irrigation flood gates. I was wondering why- this field was like two kilometers from the village this guy was from. So I didn't really understand that, why he was so far away. Even then, he said that usually his son was with him and they come at midnight, and this time he was alone and it was like 0500.

10. EXHIBIT  
 11. INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 3 PAGES

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

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

STATEMENT OF [REDACTED] TAKEN AT 2-70 AR Motor Pool DATED 2005/10/22

9. STATEMENT (Continued)

SGT [REDACTED] did an [REDACTED] swipe on the guy who was shot and it came up pink (positive for C4) so that was suspicious.

The foliage in the area was pretty thick - to where it would be hard to see a person during the day without binoculars. [REDACTED] had a clear shot at RTB [REDACTED] from the position the guy was in. Right where he was at was the edge of the heavy foliage, and it was real open from that position up to RTB [REDACTED]. In fact, [REDACTED] is elevated relative to where he was at. It sits up on a type of berm, and there was a canal separating the road from where he was at. I had to point all the way around in the east just to get down there.

The whole thing went down the way we normally operate. The actual escalation of force was me maneuvering my vehicle so I could get to the guy before they had to make the decision to shoot. As soon as I started to maneuver they said he started packing his stuff up and was getting ready to bolt.

We swept the road for IEDs as we came back toward the east, and after the sun came out I had the 1 gunner go back out there and sweep from where I stopped originally back to RTB [REDACTED]. I'm sure we did about a 300m block of the road and he said he didn't see anything. And they didn't find any other IED apparatus either, even after the daylight search.

We followed our SOP out there. If somebody spoils an individual and you can't decide right away that he's out there doing something or that he's not suspicious or if you think that this guy looks like he might be doing something shady, what we do is try to keep eyes on him and try to maneuver an element out there to catch the guy. If a guy isn't doing anything wrong, they'll just be out there until we can get dismounts on the ground and ask the guy some questions. We've been able to do this before and it's been successful. It's easier for everyone involved to do it like this. I think the way they handled this was the way it should be done. It's scary out there with all the IEDs and stuff.

/////////////////NOTHING FOLLOWS////////////////////////////////////

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 3 PAGES

STATEMENT OF [REDACTED] TAKEN AT 2-70 AR Motor Pool DATED 2005/10/22

9. STATEMENT (Continued)

THIS PAGE NOT USED. STATEMENT ENDS ON PAGE 2.  
[REDACTED]

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT 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 INDUCEMENT.

[REDACTED]  
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 22 day of October, 2005 at 2-70 AR Maintenance Office

ORGANIZATION OR ADDRESS

[REDACTED]  
(Signature of Person Administering Oath)

CPT [REDACTED]  
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

UCMJ Article 136  
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT  
[REDACTED]

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