

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form, see AR 15-6; the proponent agency is DTJAG.

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

SECTION I - APPOINTMENT

Appointed by COL [redacted] Commander, 3d BCT, 1st AD

(Appointing authority)

2 November 2005

(Date)

SECTION II - SESSIONS

The (investigation) (board) commenced at Camp [redacted] Iraq

(Place)

at 1300

(Time)

on 4 November 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.)

1. [redacted]

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 1400

(Time)

on 8 November 2005

(Date)

and completed findings and recommendations at 1300

(Time)

on

12 November 2005

(Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

	YES	NO ¹	NA ²
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 Respond to negative answers on an attached sheet.

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

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

FOOTNOTES:

1. Explain all negative answers on an attached sheet.

2. Use of the "NA" column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

SECTION IV - FINDINGS (para 2-10, AR 15-6)

he (investigating officer) (beard), having carefully considered the evidence, finds:

SEE ATTACHED MEMORANDUM

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

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

SEE ATTACHED MEMORANDUM



DEPARTMENT OF THE ARMY
HEADQUARTERS AND HEADQUARTER COMPANY
3RD BRIGADE, 1ST ARMOR DIVISION
CAMP [REDACTED] IRAQ APO AE 09378

REPLY TO
ATTENTION OF:

AFZN-BB-S2

10 November 2005

MEMORANDUM FOR Commander, 3RD Brigade, 1ST Armor Division, Camp [REDACTED] Iraq,
APO AE 09378

SUBJECT: Investigation of Escalation of Force Incident Occurring in the [REDACTED] Market
Area on 2 November 2005

1. I have conducted an investigation into the escalation of force incident involving A/1-320 FA that resulted in the shooting death of one local national. While conducting the investigation, I focused on the sequence of events that lead to the use of deadly force, and the command and control measures used by the patrol leader, 1LT [REDACTED].

Through investigation, I have determined that there was a reasonable certainty on behalf of the unit that the oncoming local national vehicle was indeed a military target. Escalation of force procedures were as graduated as the situation could allow, and the local national was given the opportunity to realize his mistake and show to the patrol that he was not a hostile element. Unfortunately, the local national reacted to escalation of force procedures in such a way that he presented himself to be hostile. The string of actions taken by the local national, though most likely not hostile, did portray an instant and increasing threat.

2. Specific Areas

A) Sequence of events

A patrol of M1114s from 1/A/1-320 had turned west onto RTE [REDACTED] from a north-south running road. The intersection was at the far west edge of [REDACTED] market. The lead vehicle had made the turn and was heading west when the vehicle in question, a black sedan with a single occupant, was first seen heading east in the middle of the road. The vehicle showed no signs of slowing and witness statements indicate that its speed was 40-50 miles per hour. Upon visual acquisition of the fast approaching vehicle the TC, 1LT [REDACTED] ordered that patrol to stop in order to increase and maintain stand off distance while allowing more time for positive identification of the threat. The lead gunner, SPC [REDACTED], began to use graduated measures of force beginning with waving his arms and shouting at the vehicle. The vehicle had not acknowledged the presence of the CF at this point, and continued its path without slowing. As the vehicle continued its approach, the likelihood that it had not identified the coalition patrol decreased, while the chance that it was suicide VBIED consistently increased. SPC [REDACTED] fired one warning shot into the shoulder of the road in front of the oncoming vehicle when it was approximately 40m away. This warning shot did obtain the attention of the local national driver, as he slammed on his brakes and deaccelerated to approximately 5mph behind. When the vehicle braked after the warning shot, it lost traction and skid from the middle of the two lane road to the east bound shoulder. At this point the vehicle had passed the lead vehicle and was oriented toward the second vehicle. 1LT [REDACTED] exited his vehicle to establish eye contact and attempted to clearly PID the driver of the vehicle as a hostile or non-hostile. 1LT [REDACTED] shouted in English along with his limited

Arabic also using Arabic hand and arm signals, to the driver to dismount his vehicle. The vehicle would not come to a complete halt and was moving back on the road oriented directly at the second vehicle. The vehicle began to re-accelerate, 1LT [REDACTED] issued the order to "engage." The gunner from the second vehicle, PFC [REDACTED] engaged the vehicle with a disabling shot along with 1LT [REDACTED]. Once the disabling shot was fired, the driver attempted to quickly accelerate making his vehicle appear to be a current and certain threat to the patrol. One of these warning shots may have injured the driver, but the vehicle continued to accelerate toward the second M1114. It was with this last acceleration surge toward the second vehicle that the driver was directly engaged and killed by both 1LT [REDACTED] and PFC [REDACTED]. (See EXHIBIT C for site sketch)

B) Command and control measures

1LT [REDACTED] had clear command of his patrol throughout the event. By ordering his lead vehicle, and subsequently the entire patrol, to stop, he both created the extra stand off distance that would aid in positive identification, and focused his soldiers' attention on the oncoming vehicle and growing threat. The first warning shot was fired by SPC [REDACTED] and caused the local national driver to acknowledge the patrol and slow down. 1LT [REDACTED] further gained control of the situation by dismounting his vehicle and attempting to make verbal and visual contact with the LN driver. As the LN driver continued movement and was moving towards the second vehicle, 1LT [REDACTED] then issued the order to engage the vehicle to PFC [REDACTED] (second vehicle gunner). By maintain control of the situation, 1LT [REDACTED] clearly showed his soldiers that the vehicle approaching the patrol could reasonably be considered a threat. The presence of a leader who visually and audibly is doing all he can to have the local national stop his car and dismount aided his soldiers in recognizing the sequence of events that contributed to the threat posed by this vehicle.

C) Rules of engagement (ROE) compliance

ROE 1b dictates that individuals may be engaged if they are exhibiting hostile intent to Coalition Forces (CF). The time of the incident falls in line with peak suicide VBIED attack hours throughout MND-B, and this specific area of Taji Market was the site of a suicide VBIED attack on 18 September 2005, not two months prior. With the unwavering speed of the vehicle, the drivers lack of reaction to hand and arm, other visual signals, and his driving pattern of using the middle of the road rather than his own lane all contributed to the reasonable certainty that the vehicle was a VBIED. When the vehicle slowed after the initial warning shot, it was unclear to the patrol what the driver was thinking. This is when 1LT [REDACTED] attempted to have the driver to stop his vehicle and dismount. In hindsight, it may seem obvious that the LN driver felt that after he slowed reacting to the initial warning shot, he would then be permitted to continue moving. As Iraq has been a a nation living with Coalition patrols on their roads for near three years, nearly the entire population is familiar with how to behave in a vehicle around a coalition forces. Sadly, this driver did not seem to be aware that any moving vehicle (especially one that had already demonstrated itself to be a threat) would be considered an immediate threat. Under the current rules of engagement, deadly force was authorized as the vehicle displayed the indications of being a VBIED including: 1) a single male driver 2) speeding upon a coalition patrol at a chokepoint (the intersection would, and did, delay visual acquisition time for the patrol) 3) erratic driving 4) non-compliance with commands.

D.) Lessons Learned

1. De-escalation of force is an important aspect to identifying neutral and enemy elements on the Iraqi battlefield. The issue of dealing with oncoming threat vehicles is especially difficult to handle because of how rapidly a decision must be made as to how and when to escalate force. Once force is escalated, the reactions of the element in question must be instantly reassessed by all coalition forces involved, but the ultimate estimation lies on the leader. If a neutral element reacts appropriately to force escalation and changes its behavior so as to CLEARLY remove hostile intent from the perception of the coalition, then all is well. However, the local national element does not react in a way that completely erases doubt, then it continues to be a threat. At this point, every action taken by the local national will be perceived as a part of a hostile plan. Once the initial warning shot was fired in this case, the local national vehicle almost removed doubt. The driver immediately slammed on the brakes. However, he never came to a stop. When reacting to the second warning shots by aggressively accelerating, he displayed a clear hostile intent in the minds of the soldiers who had already designated him as a potential VBIED. Soldiers must be prepared to de-escalate force as quickly as they are trained to escalate. This constant reassessing and reevaluation of the situation lies at the leader level so that soldiers can respond appropriately cause to their actions.

2. VBIEDs are one of the most dangerous methods of attack that the enemy can employ in this theater. When recognizing a vehicle as a possible VBIED, soldiers need to take care to ensure that they do not put themselves at unnecessary risk. 1LT [REDACTED] actions by dismounting produced positive results in that his soldiers could clearly see their leader's involvements and understand his order, but could have been disastrous would this vehicle have actually been a VBIED. M1114 gunners are the primary escalators of force, based on their command guidance. They must be the experts in recognizing a threat, knowing when to escalate, and knowing when to de-escalate. A leader that has faith in his gunner's reactions will gain the greater safety of his patrol, as well as bringing greater safety to the locals.

E.) Conclusion

It is my finding that there is no fault or violations on the part of the soldiers involved in the incident. The vehicle clearly exhibited signs of a possible VBIED by approaching at location (intersection while the patrol was executing a turn) where the patrol was vulnerable, and by not reacting appropriately to escalation of force procedures. While the driver's braking of his vehicle after the first warning shot is a sign that he understood what danger he was in, it could also have been construed as a suicide driver avoiding lethal shots before he could reach his target. This unit and all units need to ensure that all leaders and soldiers understand how to escalate force and what factors to take into consideration for de-escalating force.

4. POC is the undersigned at VOIP [REDACTED]

[REDACTED]
[REDACTED]
2LT, MI
Investigating Officer

Investigation into the shooting death of a local national

Table of Contents

Appointment order

DA Form 1574

Exhibit A: Serious Incident Report provided by 1-320FA

Exhibit B: Sworn Statements

1. 1LT [REDACTED] (Patrol leader)
2. SSG [REDACTED] (Platoon Sergeant)
3. PFC [REDACTED] (2nd vehicle gunner)
4. SPC [REDACTED] (Lead vehicle gunner)

Exhibit C: Site sketch

Exhibit D: MNC-I rules of engagement



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, 3RD BRIGADE, 1ST ARMOR DIVISION
CAMP [REDACTED] IRAQ
APO AE 09378

AFZN-BB-CO

2 November 2005

MEMORANDUM FOR 1LT [REDACTED], HHC, 3d Bde, 1st AD, 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 a Local National by elements of 1/320 FA in [REDACTED] Market on 2 November 2005.
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. In your investigation, you need to 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 patrol have Positive Identification (were they reasonably certain that the local national was a legitimate military target) before engaging?
 - d. Was deadly force authorized?
 - e. Were there any Law of War violations?
 - f. Are there any operational lessons that should be captured and disseminated?
 - g. 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

AFZN-BB-CO

SUBJECT: Appointment as Investigating Officer

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 10 November 2005.

[REDACTED]
[REDACTED]
COL, AR
Commanding

COMMANDER'S INCIDENT REPORT:

LINE 1: Unit reporting: A/1-320 FAR

LINE 2: Incident: Warning Shot/Escalation of Force/Death of LN

LINE 3: Date/time group (DTG) incident occurred: 020730NOV05

LINE 4: Location of incident: MC 2910 0800

Name	Rank	Unit	SSN	Sex	Age	Race
[REDACTED]	1LT	A/1-320 FA	[REDACTED]	M	27	CAUC
[REDACTED]	SSG	A/1-320 FA	[REDACTED]	M	26	BL
[REDACTED]	PFC	A/1-320 FA	[REDACTED]	M	21	CAUC
[REDACTED]	SPC	A/1-320 FA	[REDACTED]	M	25	HISP

LINE 6: SUMMARY: A 1/A/1-320 FAR Patrol was moving West on RTE [REDACTED] and identified a Black sedan traveling East on RTE [REDACTED] toward them. The black sedan did not pull off to the side of the road or stop. The Gunner in the lead vehicle, SPC [REDACTED] stood up and waved his red STOP paddle at the on coming vehicle. The vehicle continued to travel toward the patrol at a high rate of speed. The gunner identified the driver as the only occupant and reported him as military age and clean-shaven and unresponsive to his commands. The gunner continued to wave his arms and the STOP sign at the vehicle. The vehicle did not stop or pull over and the gunner in the lead vehicle raised his M-4 and pointed and jabbed it at the on coming vehicle. The on coming vehicle closed to approximately 50 meters of the patrol and the gunner fired a warning shot off to his left front into the ground. The lead vehicle of the patrol stopped and the on coming vehicle deliberately drove around the lead vehicle to the left nearly hitting the front of the lead vehicle. The lead vehicle TC, 1LT [REDACTED] and rear TC side passenger, SSG [REDACTED] dismounted and approached the oncoming vehicle which had slowed down as it went around. 1LT [REDACTED] ran to the on coming vehicle driver and gestured and yelled for the vehicle to stop. The on coming vehicle accelerated back onto the road oriented directly to the second vehicle in the patrol. The two dismounts, 1LT [REDACTED] and SSG [REDACTED] from the lead vehicle each fired 3 rounds from their M-4s to stop the vehicle. The vehicle increased speed and SPC [REDACTED], who had dismounted from the second vehicle, fired at the on coming vehicle with his M-4 and the vehicle stopped. The patrol believed the vehicle to be a possible VBIED and requested EOD. EOD arrived and inspected the disabled vehicle. EOD reported wires in the driver compartment of the vehicle and informed the patrol not to attempt to remove the driver, who appeared to be deceased at this time. EOD executed a small "boot" charge on the trunk to inspect the trunk for explosives. When this charge detonated, it ignited the car's fuel tank and caused it to burn. 4-1 FA then took control of the scene. An AR 15-6 investigating officer has been appointed by the 3/1 AD Commander. The 3/1 AD Commander has also directed that a condolence payment be made to the family at 030930NOV05 by the 4-1 FA Commander, who is responsible for this AO.

LINE 7: Injuries or damage to government and/or civilian property: The on-coming vehicle was destroyed and the driver was killed.

LINE 8: Commander Reporting:

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
 2. DATE (YYYYMMDD) 2005-11-01
 3. TIME
 4. FILE NUMBER
 5. LAST NAME, FIRST NAME, MIDDLE NAME
 6. SSN
 7. GRADE/STATUS OR/IC

8. ORGANIZATION OR ADDRESS

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

On 2 November, at or around 0100, I led my platoon of 4 M1114 HMWVs and 14 soldiers out of Camp [REDACTED] to relieve a platoon of A/1-320 who had been on a 48 hour TCP mission. I had just turned west onto route [REDACTED] when I spotted a car speeding east towards my convoy. Almost immediately after, my gunner and driver see the vehicle. The driver comes to a stop and my gunner began to shout and wave off the vehicle (due to the position of the sun I could see the shadow of my gunner). The vehicle was travelling east at a high rate of speed and right about the distance that 100 meter buffer was broken and the car had not slowed at all I ordered my gunner to fire a shot. Almost immediately [REDACTED] put one shot into the shoulder of the road in front of the vehicle. By this time the vehicle was within 50 meters and slammed on his brakes. The car swerved to the right (our left) and had slowed to 5-10 mph when I exited my truck. By the time I got behind my truck the car was already past (on the shoulder) and still moving. I yelled at the driver and pointed my weapon and by signals with my left hand I ordered him to stop and exit. The driver

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF _____ 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.

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

did not stop so I fired a round into the front of the vehicle. By this time SSG [REDACTED] was beside me and I saw that the car was not stopping and ~~was~~ instead moved back onto the road and started to accelerate. At that instant I determined that the vehicle was re-engaging my platoon because he was heading right toward my second truck in the convoy. I ordered SSG [REDACTED] to engage and yelled at the second truck to engage. I fired two more rounds at the vehicle and driver and my gunner in the second vehicle and SSG [REDACTED] engaged at my command. I know SSG [REDACTED] engaged first and the vehicle was on the road again and accelerating. After I gave the command to engage, my soldiers eliminated the threat by first shooting the engine then when the car kept moving targeted the driver. Once the driver was directly engaged the car stopped. I suspected the car of being a potential VBIED when it broke the 100 meter buffer and was still travelling at least 45 mph. The actions taken subsequently by the driver only increased my suspicions. I take full responsibility for my and my soldiers' actions.

INITIALS OF PERSON MAKING STATEMENT

PAGE _____ OF _____ PAGES

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

AFFIDAVIT

I, _____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE _____. 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 _____ day of _____ at _____

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE _____ OF _____ PAGES

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1. LOCATION Pod 3D 36B 2. DATE (YYYYMMDD) 2005-11-04 3. TIME 16:02 4. FILE NUMBER
 5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED] 6. SSN [REDACTED] 7. GRADE/STATUS E-6
 8. ORGANIZATION OR ADDRESS A 1325th FA
 9. [REDACTED]

WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On Nov 2nd 2005 as our convey was traveling to ward [REDACTED]
 Their was this car driving in the middle of the road traveling about
 45 to 50 mph directly toward our MH4. By the time my Gunner
 try to way the car off and fire a warning shoot the car
 was about 30 to 40 meter from us and my drive surge to the left
 the drive of the car went right and my drive slow down the MH4 by that
 time Lt [REDACTED] had got out which my foot got caught up by the base of the door
 which held me up for about 2 sec. I can see Lt [REDACTED] telling the driver
 to stop and get out of the car but he wouldn't. Then Lt shouted out engine
 Then he fire two or three [REDACTED] and the driver hit the gas to drive toward A34
 at the same time I fire one round and the Drive head stop to the
 side but because He had Hit the gas the car was still rolling toward
 A34 I told Lt He was Dead and I started yelling to A34 Don't shoot
 he Dead also I was waving my right but it was to late gun shoot
 was already coming from A34

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT
[REDACTED]

PAGE 1 OF 1 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
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 8. ORGANIZATION OR ADDRESS

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

I The Gunner on the second truck felt a jerk from my truck I looked up I heard a shot as soon as I heard that this car came fast fast the first vehicle I got at the High ready with my m-4 I saw LT [REDACTED] came out of his vehicle along with SSG [REDACTED] The car stopped put up Both hands put them back on the steering wheel and started to accelerate straight towards my vehicle (A34) I heard LT say "engage engage" SSG [REDACTED] a shot through the driver side window directly after SSG [REDACTED] I hit him in the radiator the engine the man was wounded and fell over he appeared Dead then I saw SSG [REDACTED] out of the corner of my eye waving his hands saying "stop" then he popped right back up put his hands on the steering wheel standing straight at my vehicle.

10. EXHIBIT
 11. INITIALS OF PERSON MAKING STATEMENT
 PAGE 1 OF _____ 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.

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

Then he hit the accelerator I heard a shot [REDACTED]
hit the back window from the LT [REDACTED] at the same
time I popped 2 more [REDACTED] at the base of the windshield
I shot I hit him in the mid section as soon as
I hit him he fell over in his seat dead not moving
at all. [REDACTED]

AFFIDAVIT

I, _____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE _____. 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 _____ day of _____ at _____

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE OF 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
 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. DATE (YYYYMMDD)
 3. TIME
 4. FILE NUMBER
 5. LAST NAME, FIRST NAME, MIDDLE NAME
 6. SSN
 7. GRADE/STATUS
 8. ORGANIZATION OR ADDRESS
 A 1/320TH FAR

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

THAT WHILE GUNNER OF THE FIRST HUMMVEE IN A CONVOY, SEEN A CAR TRAVELING ABOUT 40 TO 45 MPH IN THE MIDDLE OF THE ROAD. I SFC [REDACTED] TRIED TO MAKE HIM STOP AT THE SHOULDER OF THE ROAD BY USING HAND AND ARM SIGNALS. SEEING THAT HE WASN'T STOPPING, THE ONLY THING I HAD TIME TO REACH FOR WAS MY M4, AND BY THE TIME I GAVE HIM A WARNING SHOT HE WAS ABOUT 25 TO 30 METERS FROM THE HUMMVEE. THE SHOT LANDED ABOUT THREE FEET FROM THE CAR, HE SWERVED TO HIS RIGHT AS THE DRIVER FROM THE HUMMVEE SWERVED TO OUR RIGHT. I SEEN LT [REDACTED] AND SSG [REDACTED] DISMOUNT THE HUMMVEE, SO I JUMPED BACK TO MY M2 AND MADE SURE THERE WASN'T A SECOND VEHICLE.

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 1 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.

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

AFFIDAVIT

I, _____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE _____. 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 _____ day of _____ at _____

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

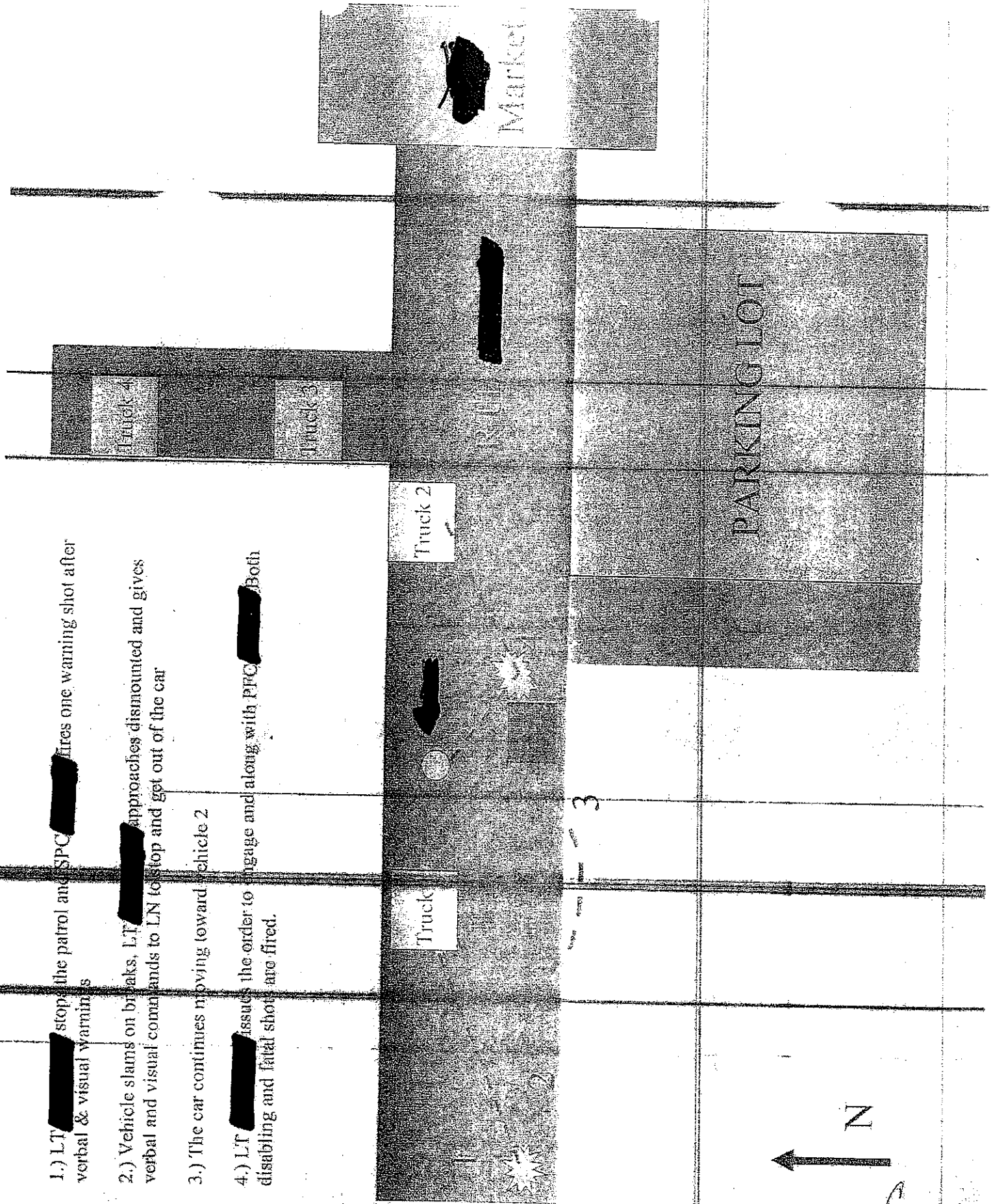
PAGE _____ OF _____ PAGES

1.) LT [redacted] stops the patrol and SPC [redacted] fires one warning shot after verbal & visual warnings

2.) Vehicle slams on breaks, LT [redacted] approaches dismounted and gives verbal and visual commands to LN to stop and get out of the car

3.) The car continues moving toward vehicle 2

4.) LT [redacted] issues the order to engage and along with PPC [redacted] Both disabling and fatal shots are fired.



MNC-1 ROE CARD

NOTHING ON THIS CARD PREVENTS YOU FROM USING NECESSARY AND PROPORTIONAL FORCE TO DEFEND YOURSELF

You may engage the following individuals based on their conduct:

- a. Persons who are committing hostile acts against CF.
- b. Persons who are exhibiting hostile intent towards CF.

These persons may be engaged subject to the following instructions:

a. ~~Positive Identification (PID) is required prior to engagement.~~ PID is a reasonable certainty that the proposed target is a legitimate military target. If no PID, contact your next higher commander for decision.

b. Use Graduated Measures of Force. When time and circumstance permit, use the following degrees of graduated force when responding to hostile act/intent: (1) shout verbal warnings to halt; (2) show your weapon and demonstrate intent to use it; (3) block access or detain; (4) fire a warning shot; (5) shoot to eliminate threat.

c. ~~Do not target or strike anyone who has surrendered or is out of combat due to sickness or wounds.~~

d. ~~Do not target or strike hospitals, mosques, churches, shrines, schools, museums, national monuments, and any other historical and cultural sites, civilian populated areas or buildings UNLESS the enemy is using them for military purposes or in necessary for your self-defense.~~

e. ~~Do not target or strike Iraqi infrastructure (public works, commercial communication facilities, dams), Lines of Communication (roads, highways, tunnels, bridges, railways) and Economic Objects (commercial storage facilities, pipelines) UNLESS necessary for self-defense or if ordered by your commander. If you must fire on these objects, fire to disable and disrupt rather than destroy.~~

f. ALWAYS minimize incidental injury, loss of life, and collateral damage.

MNC-1 ROE CARD

3. The use of force, including deadly force, is authorized to protect the following:

- Yourself, your unit, and other friendly forces
- Detainees
- Civilians from crimes that are likely to cause death or serious bodily harm, such as murder or rape
- Personnel or property designated by the OSC when such actions are necessary to restore order and security

4. In general, ~~WARNING SHOTS~~ are authorized ONLY when the use of deadly force would be authorized in that particular situation.

5. Treat all civilians and their property with respect and dignity. Do not seize civilian property, including vehicles, unless the property presents a security threat. When possible, give a receipt to the property's owner.

6. You may DETAIN civilians based upon a reasonable belief that the person: (1) must be detained for purposes of self-defense; (2) is interfering with CF mission accomplishment; (3) is on a list of persons wanted for questioning, arrest or detention; (4) is or was engaged in criminal activity; or (5) must be detained for imperative reasons of security. Anyone you detain MUST be protected. Force, up to and including deadly force, is authorized to protect detainees in your custody. You MUST fill out a detainee apprehension card for EVERY person you detain.

7. ~~MNC-1 General Order No. 1 is in effect. Looting and the taking of war trophies are prohibited.~~

8. ALL personnel MUST report any suspected violations of the Law of War committed by any US, friendly, or enemy force. Notify your chain of command, Judge Advocate, IG, Chaplain, or appropriate service-related investigative branch (e.g. CID, NCIS).

THESE ROE IN EFFECT AS OF 22 MAY 05