

AFZP-VE-C

16 November 2005

MEMORANDUM FOR THE RECORD

SUBJECT: AR 15-6 Investigation into Local National Shooting, L Troop, 3-3 ACR, 3 November 2005

1. I approve the findings of the investigating officer and the following recommendations:
 - a. A General Officer Memorandum of Reprimand for SPC [REDACTED] for failing to follow the Rules of Engagement when he engaged the local national.
 - b. SPC [REDACTED] be removed from the Sniper Team.
 - c. Counseling by the L Troop Commander and 1SG for SSG [REDACTED] regarding responsibility for soldier weapon discipline, fire control and situational awareness.
 - d. 3/3 ACR adopt an SOP that reinforces the first line supervisor leadership role in target engagements. The responsibility to supervise weapons discipline is at the NCO level.
 - e. Retain this investigation for possible claim filed by the wounded individual and the family of the dead local national.
2. The POC for this memorandum is CPT [REDACTED] Trial Counsel, at [REDACTED]

[REDACTED]
[REDACTED]
COL, EN
Commanding

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 Commander, 3d Squadron, 3d Armored Cavalry Regiment, APO AE 09361
(Appointing authority)

on 3 November 2005 (Date) (Attach inclosure 1: Letter of appointment or summary of oral appointment data) (See para 3-15, AR 15-6.)

SECTION II: SESSIONS

The (investigation) (board) commenced at Forward Operating Base [redacted] Iraq at 2000 hours
(Time) (Date)
on 3 November 2005 (Date) (If a formal board met for more than one session, check here. Indicate in an inclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.) The following persons (members, respondents, counsel) were present: (After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)
CPT [redacted] Investigating Officer

The following persons (members, respondents, counsel) were absent: (Include brief explanation of each absence.) (See paras 3-2 and 5-8a, AR 15-6.)
N/A

The (investigating officer) (board) finished gathering/hearing evidence at 1000 hours on 4 November 2005
(Time) (Date)
and completed findings and recommendations at 1900 hours on 6 November 2005
(Time) (Date)

SECTION III: CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

- Inclosures (para 3-15, AR 15-6)
Are the following inclosed and numbered consecutively with Roman numerals: (Attached in order listed)
- The letter of appointment or a summary of oral appointment data?
- Copy of notice to respondent, if any? (See item 9, below)
- Other correspondence with respondent or counsel, if any?
- All other written communications to or from the appointing authority?
- Privacy Act Statement* (Certificate, if statement provided orally)?
- Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?
- Information as to sessions of a formal board not included on page 1 of this report?
- Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?

YES	NO	NA
X		
	X	
		X
	X	
		X
X		
		X
X		

FOOTNOTES: 1. Explain all negative answers on an attached sheet.
2. Use of the Not 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
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.	In 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 3-66, 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. 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)?			
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 5-3d, AR 15-6)?			
C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)				
9.	Notice to respondents (para 5-3, 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 5-3, AR 15-6)?			
b.	Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-4e, 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)			
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 adviser 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 5-8i, 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 3-10, AR 15-6)

The (investigating officer) (board), 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) (board) recommends:

See attached memorandum

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 3-18, AR 15-6)

To the extent indicated in Inclosure, the undersigned does 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) does 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 2-1, AR 15-6)

The findings and recommendations of the investigating officer (board) are approved, disapproved, approved with following exceptions, substituted. (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or action, attach that correspondence (or a summary, if oral) as a numbered inclosure.)

I believe the facts outlined in this investigation would ordinarily support Specialist [redacted] being charged for Negligent Homicide (AR 154) in that he violated the Rules of Engagement (ROE) and killed a local National. However, there exists in my mind sufficient ambiguity surrounding the tragedy that I believe Specialist [redacted] should be given a Field Grade AR 15 by me and that he should be charged from the Army (supra 144). Although he believes that the individual he killed is an insurgent, given his training and experience he should not have fired his weapon. For this reason, Specialist [redacted] demonstrates such poor judgement that I do not see any potential for further service. [redacted]

LTC Commanding



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
3d SQUADRON, 3d ARMORED CAVALRY REGIMENT
FOB [REDACTED], IRAQ
APO AE [REDACTED]



AFZC-R-K-D

4 November 2005

MEMORANDUM FOR: Commander, 3d Squadron, 3d Armored Cavalry Regiment
FOB [REDACTED] Z APO AE 09361

SUBJECT: Army Regulation (AR) 15-6 Report of Investigation

1. Purpose. To provide the facts, findings and recommendations regarding the wounding of one and killing another local Iraqi national with a single shot from an M24 Sniper Rifle on 3 November 2005 along MSR [REDACTED] vicinity [REDACTED].

2. Summary of Incident. On 3 November 2005, L Troop, 3/3 ACR infiltrated four dismounted teams along MSR [REDACTED] at approximately 0300 hours. At approximately 1305, SPC [REDACTED] first observed a black sedan moving slowly along MSR [REDACTED] vicinity [REDACTED] and then along the frontage road that runs parallel to the east of MSR [REDACTED]. There were reports of enemy activity in the area throughout the day including the enemy's use of dark colored sedans. The black sedan stopped approximately 15 meters to the front of SPC [REDACTED] and he observed the vehicle for 10 minutes while the occupants allegedly made hand gestures toward previous IED holes along the road and talked on a cell phone. SPC [REDACTED] then engaged the driver of the vehicle wounding the driver and killing the passenger with a lethal shot to the head. The team leader, SSG [REDACTED], called in a MEDEVAC for the driver, who was evacuated to 10th CSH at 1316 hours.

3. Chronology of Facts.

a. Mission. L Troop establishes dismounted ambush positions along Tier 1 sites vicinity [REDACTED] and [REDACTED] in order to kill or capture IED emacers (Exhibit C).

b. Actions before the incident. The four [REDACTED] teams were emplaced in ambush sites along MSR [REDACTED] at 030300NOV05 by vehicles from L Troop, 3/3 ACR. The location of Team 1, led by SSG [REDACTED], was the northern most Observation Point (OP) vicinity [REDACTED] (see map in Exhibit C). SSG [REDACTED] team included his radio-telephone operator, PFC [REDACTED], his [REDACTED], SPC [REDACTED], and the [REDACTED] PFC [REDACTED]. Team 4, led by SSG [REDACTED], was the southern most OP vicinity [REDACTED]. At approximately 0730 hours, SSG [REDACTED] reported enemy contact with four dark colored sedans stopping traffic on MSR [REDACTED] vicinity [REDACTED] and emplacing an IED. Team 4 opened fire on the Anti-Coalition Forces (ACF) when they observed them taking IEDs out of their trunks. Although they engaged the enemy killing three and wounding others, the vehicles were able to displace before mounted elements from L Troop reached the site (Exhibit R). SSG [REDACTED] did not report any enemy

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SUBJECT: Army Regulation (AR) 15-6 Report of Investigation

activity in Team 1's sector throughout the morning. Both SSG [REDACTED] and SPC [REDACTED] heard small arms fire to their West, but did not believe it was directed at their location (Exhibit G, K). At approximately 1200 hours, Team 2, led by SGT [REDACTED], observed a dark colored sedan in their sector just prior to an IED attack along [REDACTED] vicinity [REDACTED]. The IED detonated less than 2km south of Team 1's location. SGT [REDACTED] could not confirm or deny the vehicle's involvement in the attack based on his observations alone, but the vehicle was moving slowly and the driver appeared to be searching for something. He reported to SSG [REDACTED] that he had observed a dark "grey" sedan with a single male occupant in their sector, and he noted that all of the windows were down. He recommended that if they saw the vehicle again to detain the driver for questioning (Exhibit E). SSG [REDACTED] received this transmission and relayed the information to SPC [REDACTED] and his team at approximately 1230 hours. Since they saw several dark colored sedans in their sector at that time, SSG [REDACTED] instructed SPC [REDACTED] to continue to scan the sector and watch for a suspicious "black" sedan (Exhibit F).

c. Actions during the Incident. SPC [REDACTED] observed a "black" sedan driving back and forth through his sector for approximately 30 minutes. The vehicle SPC [REDACTED] observed had two visible male occupants in the front seats; he could not see in the back windows because they were closed and tinted. SPC [REDACTED] observed the vehicle move off of [REDACTED] and onto the frontage road that runs parallel to [REDACTED] to the east where it stopped within 15 meters of his concealed position (Exhibit K). SPC [REDACTED] heard the driver and the passenger talking on a cell phone and allegedly pointing towards previous IED holes along [REDACTED]. He continued to observe their actions for approximately 10 minutes. According to SPC [REDACTED], he believed that this vehicle was involved in the IED attack south of his position one hour prior. He also believed the men in the vehicle were planning another IED attack and that they were reconnoitering the area. SPC [REDACTED] determined they were a threat to Coalition Forces by their gestures toward IED holes and suspected involvement in the prior IED attack, and at 1305, he engaged the driver with his rifle, wounding the driver and killing the passenger (Exhibit J).

4. Additional Facts Bearing on the Incident.

- a. [REDACTED]
- b. SPC [REDACTED] was present for the ROE briefing given by the CJA while in theater. He has also received numerous ROE briefings from his Commander and Patrol Leaders prior to every mission in Howitzer Battery IAW SOP. He has received training in the Law of War during his attendance at the Army [REDACTED] School in April 2005 and while assigned to Howitzer Battery, 3/3 ACR (Exhibit P, S).
- c. There was a Rules of Engagement (ROE) briefing given by the L Troop Commander, CPT [REDACTED], during his OPORD brief 021000NOV05. CPT [REDACTED] included in his ROE brief several scenarios to assist his teams in determining whether or not the use of deadly force is authorized (Exhibit D).

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SUBJECT: Army Regulation (AR) 15-6 Report of Investigation

d. SPC [REDACTED] has operated on over 100 patrols with Howitzer Battery since May 2005. He has also taken part in over 6 [REDACTED] operations when the Squadron consolidated the [REDACTED] at their level (Exhibit P).

e. SPC [REDACTED] did not clear his engagement through his Team Leader, SSG [REDACTED] (Exhibit J).

f. Upon inspecting the site of the incident, the IED holes SPC [REDACTED] claimed he could see along MSR [REDACTED] were not clearly identifiable from the location where the black sedan had stopped (Exhibit T).

5. Summary of Findings.

a. SPC [REDACTED] violated the ROE. No factual evidence exists to support the use of deadly force against the local Iraqi nationals in the sedan. The killed and wounded Iraqi national were not posing an imminent threat to SPC [REDACTED] or his team nor did they show any indication of hostile intent toward Coalition Forces. SPC [REDACTED] was incorrect in believing that the black sedan in front of his position was involved with the IED attack to their south. SPC [REDACTED] actions cannot be justified as reasonable or in accordance with the ROE.

b. This violation, however, cannot be analyzed in isolation. The collective events leading up to the fatal shot contributed in part to SPC [REDACTED] fallible reasoning. After the [REDACTED] teams were infiltrated early in the morning, there was an attack at [REDACTED], possible vehicle probing throughout the morning, small arms fire, and an IED attack along MSR [REDACTED] 2km from SPC [REDACTED] position. The intelligence report rendered by SGT [REDACTED] from Team 2 that was relayed to SPC [REDACTED] by SSG [REDACTED] was either misunderstood or not clearly relayed; the information SPC [REDACTED] believed to be true did not mirror the report rendered by SGT [REDACTED].

6. Recommendations.

a. I recommend that the Squadron adopt an SOP that reinforces the first-line leadership role in target engagements. It is clear that the Team Leader did not give permission to SPC [REDACTED] to engage the target. The responsibility of weapon discipline is at the NCO level, and every unit will benefit by reinforcing it.

b. I recommend that SPC [REDACTED] be given a GOMOR, and that he be removed from the [REDACTED] team until revalidation of the ROE vignettes and approved by Chain of Command.

c. I recommend counseling by the L Troop Commander and ISG for SSG [REDACTED] regarding responsibility for soldier weapon discipline, fire control, and situational awareness.

AFZC-R-K-D

SUBJECT: Army Regulation (AR) 15-6 Report of Investigation

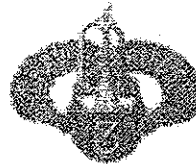
Encls

Exhibit A - AR 15-6 Investigating Officer Orders
Exhibit B - 4BCT SIR -031305NOV05
Exhibit C - L Troop OPORD for 03NOV05
Exhibit D - Sworn Statement by CPT [REDACTED] L/3/3 ACR, 3 Nov 05
Exhibit E - Sworn Statement by SGT [REDACTED] L/3/3 ACR, 3 Nov 05
Exhibit F - Sworn Statement by SSG [REDACTED] L/3/3 ACR, 4 Nov 05
Exhibit G - Sworn Statement by SSG [REDACTED] L/3/3 ACR, 3 Nov 05
Exhibit H - Sworn Statement by SSG [REDACTED] L/3/3 ACR, 3 Nov 05
Exhibit I - Sworn Statement by SSG [REDACTED] L/3/3 ACR, 3 Nov 05
Exhibit J - Sworn Statement by SPC [REDACTED] HWB/3/3 ACR, 3 Nov 05
Exhibit K - Sworn Statement by SPC [REDACTED] HWB/3/3 ACR, 3 Nov 05
Exhibit L - Sworn Statement by SPC [REDACTED] HWB/3/3 ACR, 3 Nov 05
Exhibit M - Sworn Statement by SSG [REDACTED] L/3/3 ACR, 3 Nov 05
Exhibit N - Sworn Statement by PFC [REDACTED] L/3/3 ACR, 3 Nov 05
Exhibit O - Sworn Statement by PFC [REDACTED] L/3/3 ACR, 3 Nov 05
Exhibit P - Sworn Statement by CPT [REDACTED] HWB/3/3 ACR, 3 Nov 05
Exhibit Q - [REDACTED]
Exhibit R - 3/3 ACR SIGACT Report, 030730NOV05
Exhibit S - ROE Briefing from JAG during OIF 04-06
Exhibit T - Pictures of IED holes along MSR [REDACTED] Team 1 location, 5 Nov 05

[REDACTED]
CPT, AR
Investigating Officer



DEPARTMENT OF THE ARMY
HEADQUARTERS, 3D SQUADRON
3D ARMORED CAVALRY REGIMENT
APO AE [REDACTED]



AFZC-R-K-SCO

3 November 2005

MEMORANDUM FOR Captain [REDACTED] Headquarters and Headquarters Troop,
3d Squadron, 3d Armored Cavalry Regiment, APO AE [REDACTED]

SUBJECT: Appointment of Investigating Officer

1. You are hereby appointed an investigating officer pursuant to AR 15-6 and AR 210-7, paragraph 4-3, to conduct an investigation into the shooting of a local Iraqi national that occurred on 3 November 2005. Details pertaining to the shooting are contained in the attached Blue 2 Report, dated 3 November 2005.
2. In your investigation, all witness statements will be sworn. From the evidence, you will make findings whether the Troopers involved were acting within their lines of duty and in accordance with doctrine. If not, then you will recommend the course of action that the chain of command should take.
3. Submit your findings and recommendations on DA Form 1574 to this headquarters, within 72 hours.
4. BRAVE RIFLES!

Encl
as

[REDACTED]
LTC. AR
Commanding

EXHIBIT A

4th Brigade VANGUARD TACSOP

907 - Blue 2 (Serious Incident Report)

PURPOSE: To report critical and time sensitive events to the BDE CP.

LINE 1: Unit reporting: LIGHTNING 3/3 ACR

LINE 2: Incident: Escalation of force in self defense

LINE 3: Date/time group incident occurred: 031305OCT05

LINE 4: Location of incident (Grid): [REDACTED]

LINE 5: Personnel involved:

Last, First, Middle Initial	Rank	Unit	SSN	Sex	Age	Race
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LINE 6: Summary of incident:

[REDACTED] TM 1 ENGAGED 2 AIF AT [REDACTED] ONE AIF WAS KIA AND ONE WAS WIA.

WHILE IN POSITION AT [REDACTED] TEAM ONE OBSERVED A VEHICLE STOP IN FRONT OF THEIR POSITION. THE PASSENGER WAS TALKING ON A CELL PHONE. THE DRIVER AND THE PASSENGER MOTIONED TOWARDS PREVIOUS IED HOLES WITH THEIR HANDS WHILE TALKING LOUDLY. THE [REDACTED] TEAM RECEIVED A REPORT FROM OP TWO DESCRIBING A DARK SEDAN THAT WAS POSSIBLY LINKED TO AN IED ON MSR [REDACTED] AROUND 1200HRS. THE SNIPER OBSERVED THE INDIVIDUALS IN THE VEHICLE FOR APPROXIMATELY 10 MINUTES AND THEN ENGAGED THE INDIVIDUAL ON THE CELL PHONE. THE BULLET STRUCK THE DRIVER, PASSED THROUGH HIS JAW AND STRUCK THE PASSENGER IN THE HEAD. THE PASSENGER WAS KILLED INSTANTLY. THE DRIVER WAS EVACUATED TO 10TH CSH AT 1316 HRS.

[REDACTED] PULLED OUT OF POSITIONS AND RETURNED TO FOB [REDACTED]

A 15-6 INVESTIGATION IS CURRENTLY ONGOING.

LINE 7: Damage to government and/or civilian property:

LINE 8: Commander reporting: [REDACTED], BATTLE CAPTAIN

FORMAT IAW 4 BDE VANGUARD TACSOP, 01 JAN 05

EXHIBIT B

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

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

1. LOCATION FOB [REDACTED] Iraq	2. DATE (YYYYMMDD) 2005/11/03	3. TIME	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	6. SSN [REDACTED]	7. GRADE/STATUS O3/Commanding	
8. ORGANIZATION OR ADDRESS 1 Troop 3/3 ACR			

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

On 03 November 2005 I received a report from my command post that one of my sniper teams along MSR [REDACTED] had engaged a vehicle approximately 15 meters from their position killing one of the vehicle's occupants and seriously wounded another. Realizing that this team's position had been compromised I ordered my QRF to move to rally point one to extract team one.

Upon returning to FOB [REDACTED] I met with SSG [REDACTED], the team leader for team one. I questioned him on the facts behind the incident. SSG [REDACTED] told me throughout the day his team had heard random gun fire to his rear which sounded as if it had come from Route [REDACTED]. Earlier in the day his team had monitored traffic coming across the troop net as team four had engaged a squad sized element of AIF attempting to emplace an IED in vicinity of [REDACTED]. Furthermore, his team had heard an IED detonate approximately 400 meters south of his position and had observed as MEDEVAC helicopters came in on two separate occasions to evacuate wounded personnel from MSR [REDACTED]. All the events had unfolded prior to the time a vehicle came approximately 15 meters from his position and was engaged by SPC [REDACTED]. I asked SSG [REDACTED] if he had given the order for SPC [REDACTED] to engage the vehicle to which he replied, no. SSG [REDACTED] conveyed to me that at no time did SPC [REDACTED] notify either him or any of the rest of the team members that there was a suspicious car or did he ask for permission from or inform anyone that he was about to take the shot on the vehicle.

I later questioned SPC [REDACTED] on the incident and he conveyed to me that he felt threatened by the vehicle's presence. I asked SPC [REDACTED] if he saw anything which he thought was a weapon or if the occupants of the vehicle had done anything that made him think that they were about to emplace an IED. SPC [REDACTED] said no. I asked SPC [REDACTED] if he was clear about the ROE and if he understood the examples I used during the OPORD and during the leader's reconnaissance in regard to was constituted a compromised position and when deadly force was authorized. SPC [REDACTED] replied in the affirmative to these questions and conveyed that he felt that the OPORD was clear in regard to the use of deadly force.

In the coordinating instructions of the operations order it is stated, "Current ROE is in effect. [REDACTED]". This portion of the order was read out loud to all ambush team members. Furthermore at the OPORD I gave scenarios such as, "Just because a person gets out his car and open the trunk and pulls out an unidentifiable object near a previous IED hole does not justified the use of deadly force. We reviewed elements of the ROE and talked about situations when it would and would not be appropriate to use deadly force prior to the operation.

10. EXHIBIT D	11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT [REDACTED] DATED 04 NOV 05

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 CPT [REDACTED] TAKEN AT FOB [REDACTED] DATED 04 NOV 2005

9. STATEMENT (Continued)

Nothing Follows

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 3 PAGES

STATEMENT OF CPT [REDACTED] TAKEN AT FOR [REDACTED] DATED 04 Nov 2005

9. STATEMENT (Continued)

Nothing Follows

AFFIDAVIT

I, CPT [REDACTED], 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 INTERFERENCE.

[REDACTED]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 11th day of November, 2005 at FOR [REDACTED]

[REDACTED]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

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

ORGANIZATION OR ADDRESS

UCMJ
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 3 OF 3 PAGES

SWORN STATEMENT

For use of this form, see AR 10-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

For use of this form, see AR 10-45; the proponent agency is ODCSOPS

AUTHORITY: Title 10 USC Section 301; Title USC Section 2951; E.O. dated November 22, 1943 (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 FOB [REDACTED]	2. DATE (YYYYMMDD) 20051103	3. TIME 2800	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	6. SSN [REDACTED]	7. GRADE/STATUS E-5	
8. ORGANIZATION OR ADDRESS L-TRP 3/3 ACR			

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

ON 03 NOV 05 I WAS TEAM 2 TEAM LEADER FOR OVERWATCH / [REDACTED] OPERATIONS ALONG MSR [REDACTED] AND LOCATED AT [REDACTED]. AT OR AROUND 1200 HOURS AM IED DETONATED ON [REDACTED], IN THE NORTH BOUND LANE APPROXIMATELY 300 METERS FROM MY LOCATION. DUE TO SIGNIFICANT DEAD SPACE CREATED BY DENSE PALM COVERAGE IN FRONT OF MY POSITION NO ONE ON MY FOUR PERSON TEAM SAW THE ATTACK CLEARLY AND I COULD NOT SEE THE ACTUAL BLAST LOCATION AT ALL. PRIOR TO THE ATTACK MY TEAM OBSERVED SEVERAL VEHICLES PASS OUR LOCATION MULTIPLE TIMES DURING THE DAY. ONE VEHICLE IN PARTICULAR SEEMED TO PASS SLOWLY ENOUGH TIMES TO RAISE SUSPICION ON MY TEAM. ABOUT 10 MINUTES PRIOR TO THE ATTACK ONE OF MY OBSERVERS SAW THE VEHICLE TRAVELING NORTH ON MSR [REDACTED] AND NOTIFIED ME BEFORE IT DISAPPEARED FROM HIS VIEW INTO THE MENTIONED DEAD SPACE. AFTER WHAT SEEMED TO BE AN UNUSUALLY LONG PERIOD OF TIME I SAW THE VEHICLE EMERGE FROM BEHIND THE TREES AND IT APPEARED TO BE ACCELERATING FROM A SLOW SAID. IMMEDIATELY AFTER THE ATTACK I RADIOED THE FOLLOWING INFORMATION TO TEAM ONE, NORTH OF MY POSITION:

I DESCRIBED THE DARK GREY SEDAN, NOTED THE WINDOWS WERE DOWN AND HAD A SINGLE MALE OCCUPANT. WE SAW IT SEVERAL TIMES AND IT APPEARED THE DRIVER WAS PERHAPS LOOKING FOR SOMETHING. THE VEHICLE WAS MOVING SLOWLY AS IT PASSED OUR POSITION THE TIME IT TOOK TO PASS THROUGH THE DEAD SPACE MAY HAVE ALLOWED THE DRIVER TIME TO STOP. I REGARDED THE VEHICLE AS VERY SUSPICIOUS BY ITS BEHAVIOUR, ESPECIALLY DIRECTLY BEFORE THE IED ATTACK AND IF I SAW THE VEHICLE AGAIN AND IF IT CONTINUES TO ACT AS SUSPICIOUSLY I WAS CONSIDERING THE OPTION TO DISABLE THE VEHICLE WITH SNIPER FIRE IN THE INTEREST OF OBTAINING THE DRIVER.

THE VEHICLE WAS NOT OBSERVED BY MY TEAM AT ALL AFTER I SENT MY REPORT TO TEAM ONE. NOTHING FOLLOWS

10. EXHIBIT E	11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]	12. GRADE/STATUS E-5
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ADDITIONAL PAGES MUST CONTAIN THE HEADING OF "STATEMENT OF

TAKEN AT _____ DATED _____

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