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DEPARTMENT OF THE ARMY
155TH BRIGADE COMBAT TEAM
FOB KALSU, IRAQ
APO AE 09325

310-5 APR 2
25 March 2005

155-BCT-CDR

MEMORANDUM FOR _____, HHT, 2/11 ACR, FOB Kalsu, Iraq

SUBJECT: Appointment of AR 15-6 Investigating Officer

1. You are appointed as an investigating officer to conduct an investigation into all the facts and circumstances surrounding the escalation of force by 3/E/2/11ACR on 25Mar2005. You will specifically address:

- a) SOP for TCP;
- b) Was the SOP followed;
- c) What procedures were used to warn approaching motorist of TCP;
- d) What escalation of force was used;
- e) Any and all other evidence considered.

A copy of the Spot Report is attached. You will conduct the investigation IAW AR 15-6.

2. Your duties as an investigating officer will take priority over other duties. You will use the informal investigation procedures detailed in AR 15-6, chapter 4. You will make specific finding of facts that are supported directly supported by the documented evidence or reasonably based upon circumstantial evidence. Based upon all factual findings and conclusions, you will make recommendations on all relevant issues you identify in the course of your investigation.

3. If, during your investigation, you suspect that persons you intend to interview may have violated any provision of the Uniform Code of Military Justice (UCMJ) or any other criminal law, you must advise them of their rights under Article 31, UCMJ. Rights warnings and waivers will be documented on DA Form 3881. If during an interview you begin to suspect criminal conduct on the part of the witness, you must stop the interview and advise the individual of his or her rights under Article 31, UCMJ.

4. Whenever possible, witness statements will be sworn and recorded on DA Form 2823. If you conduct any witness interviews telephonically, you will prepare a memorandum for record memorializing the interview. Prepare your report using DA Form 1574. Include with your report all documentary evidence, sworn statements, and other information or evidence you considered as a basis for your findings and recommendations. Submit the original report through command channels to Commander, 155th BCT(ATTN: SJA) no later than 10 days after your receipt of this memorandum. Any request for extension must be submitted in writing or by e-mail through your legal advisor to the SJA for approval.

5. Before proceeding with the investigation, contact _____, Administrative Law, 155th BCT OSJA. _____ will serve as your legal advisor for this investigation and will provide you with an initial briefing.

Encl
as

AR
Commanding

SPOT REPORT

155 BCT SPOTREP 05

At 241430MAR05, 2/11ACR reports 3/E/2-11ACR was conducting a TCP at vicinity grid MB 408 427 when a white 4 door sedan approached at a high rate of speed. Numerous attempts to signal the car to slow down failed. 3/E/2-11 fired warning shots into the air with 5.56mm. The vehicle still would not slow or stop. At that time 3/E/2/11ACR fired directly at the vehicle's engine area. One round impacted in the vicinity of the driver's side window and injured the driver. The IP were notified and once they arrived on the scene they loaded the driver of the vehicle and took him to a hospital in Iskandariyah.

Update: At 2223, 2/11ACR reports that Eskin PB reported that the individual that was taken to the hospital by the IPs died on the way to the hospital.

		YES	NO ^{1/}	NA ^{2/}
2	Exhibits (para 3-16, AR 15-6)			
	a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?	X		
	b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	X		
	c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?			X
	d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?	X		
	e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?	X		
	f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?	X		
	g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)?			X
3	Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)?			X
B. 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 5-2d, 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 N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

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

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

I have examined the enclosed evidence, and interviewed the soldiers involved. There were no photographs available for this engagement which occurred on 24 Mar 2005, by 3rd Platoon, E Troop, 2/11 ACR, 155 BCT, my findings show that:

- Vehicle in question established itself as suspicious by approaching at a high rate of speed. (See exhibit 1)
- Hand and Arm signals were used to stop the vehicle from passing the US patrol. (see exhibit 1 and 2)
- Warning shots were fired into the air. (see exhibit 1)
- Shots were fired into the grill of the vehicle. (see exhibit 1)

Given the tactical scenario, it is my opinion that the shooting was unavoidable and also unfortunate. I am not a forensic scientist, but it appears that the round that was fired into the grill of the vehicle bounced into the crew compartment of the vehicle. The soldiers involved took all appropriate levels of escalated response to protect themselves and the other soldiers in their combat patrol. The shooting was within the published Rules of Engagement, Multi-National Corp-Iraq policy and no further actions should be taken concerning this incident.

Lights? How was VCP marked

This was no VCP vehicles were moving -

TRASH BURNING Detail.

Body was in vehicle, vehicle that shot individual did not stop & check out kept going. Body found LATER. 15-6 does NOT address ACTIONS TAKEN THE DAY of shooting. We did not follow TTP's OR MTP's. PROPER ESCALATION OF FORCE NOT USED -

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

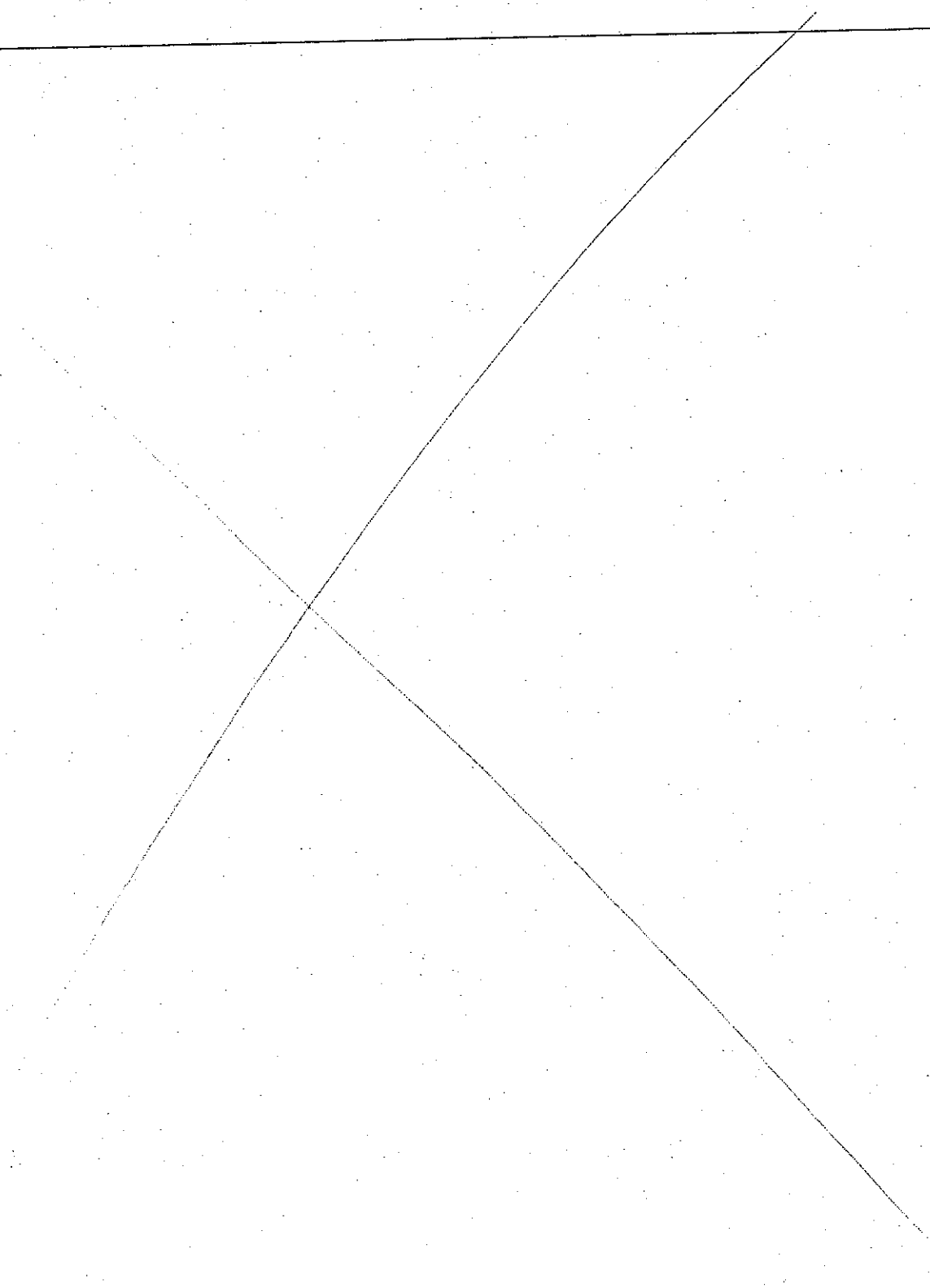
In view of the above findings, the (investigating officer) (board) recommends:

Continue to reinforce ROE training, standardize TF 2/11 BCT combat patrols and convoy operations.

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

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)



INITIALS OF PERSON MAKING STATEMENT

PAGE OF PAGES

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.)

IN
Squadron Executive Officer

(Recorder)

(Investigating Officer) (President)

(Member)

(Member)

(Member)

(Member)

SECTION VII - MINORITY REPORT (para 3-13, AR 15-6)

To the extent indicated in Inclosure _____, the undersigned do(es) not concur in the findings and recommendations of the board. (In the inclosure, identify by number each finding and/or recommendation in which the dissenting member(s) do(es) not concur. State the reasons for disagreement. Additional/substitute findings and/or recommendations may be included in the inclosure.)

(Member)

(Member)

SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-3, AR 15-6)

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

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

(This section is crossed out with a large X)

AFFIDAVIT

I, _____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 6. 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 27 day of MARCH, 05 at FOB KALSU

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

E. T. R. 2/11/05

ORGANIZATION OR ADDRESS

E. T. R. 2/11/05

ORGANIZATION OR ADDRESS

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 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 KALSO TRAO, 2. DATE (YYYYMMDD): 2005-03-27, 3. TIME: 15:50, 4. FILE NUMBER, 5. LAST NAME, FIRST NAME, MIDDLE NAME, 6. SSN, 7. GRADE/STATUS, 8. ORGANIZATION OR ADDRESS: E Troop 2/11 ACR

9. I, [Signature], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
ON MARCH 24, 2005, 3RD PLATOON 3RD SQUAD, ASSIGNED AS A QRF SQUAD, IN THE WAY TO THE DROP OFF TRASH POINT, LOCATED AT THE NORTH SIDE OF MSR JACKSON COULDE HUNDRED METERS OF CHECKPOINT 5, I HEARD ON THE WAY THAT 3RD PLATOON, 4TH SQUAD BLOCKED OFF THE ROAD, BECAUSE THEY SPOTTED A VEHICLE PARK OFF THE ROAD WITH A MALE PERSONNEL LYING ON THE GROUND, I TURNED MY VEHICLE AROUND AND WENT TO CHECKPOINT 5 TO REQUEST TWO MORE PERSONNEL (EMG), I BROUGHT THEM BACK, WITH ME, AS SOON AS WE GOT TO THE SCENE, APPROACHED THE VEHICLE, AND SAW THE GUY LYING ON THE GROUND BLEEDING TO DEATH, I CALLED THE MEDIC, HE PROVIDED IMMEDIATE CARE, AND LOADED HIM IN HIS OWN VEHICLE, WE SCORTED THE VEHICLE TO CHECKPOINT 5, FROM THERE HE WAS TAKEN TO THE HOSPITAL BY THE MEDIC PERSONNEL.

10. EXHIBIT, 11. INITIALS OF PERSON MAKING STATEMENT, PAGE 1 OF 01 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ 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.

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DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: MSR JACKSON
2. DATE (YYYYMMDD): 20050324
3. TIME: 1400
4. FILE NUMBER:
5. LAST NAME, FIRST NAME, MIDDLE NAME:
6. SSN:
7. GRADE/STATUS: E-4
8. ORGANIZATION OR ADDRESS: E 211 ACR

9. I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
ON MARCH 24, 2005 I WAS DRIVING THE 113. I WAS DRIVING AWAY FROM THE TRASH BURN SITE ON MY WAY BACK TO PICK UP MORE TRASH. WHILE I WAS DRIVING SOUTH ON MSR JACKSON A RED KIA WAS APPROACHING AT A HIGH RATE OF SPEED. I TURNED TO LOOK AT MY TC WHO WAS FRANTICALLY WAVING TO STOP AND WAS SHOWING THEM HIS WEAPON. THEY STILL PROCEEDED W/O SLOWING DOWN. THEN FIRED A THREE ROUND BURST INTO THE AIR AS A WARNING SHOT. THE VEHICLE NEITHER SLOWED NOR ACKNOWLEDGED. THE VEHICLE WAS WITHIN 60 M AND STILL COMING FAST. THEN FIRED A SINGLE ROUND INTO THE GROUND IN FRONT OF THE CAR. THE CAR THEN TOOK A WILD TURN OFF THE ROAD AND CAME TO A STOP. WE THEN CONTINUED ON TO THE TRASH POINT THINKING THE VEHICLE HAD JUST STOPPED.

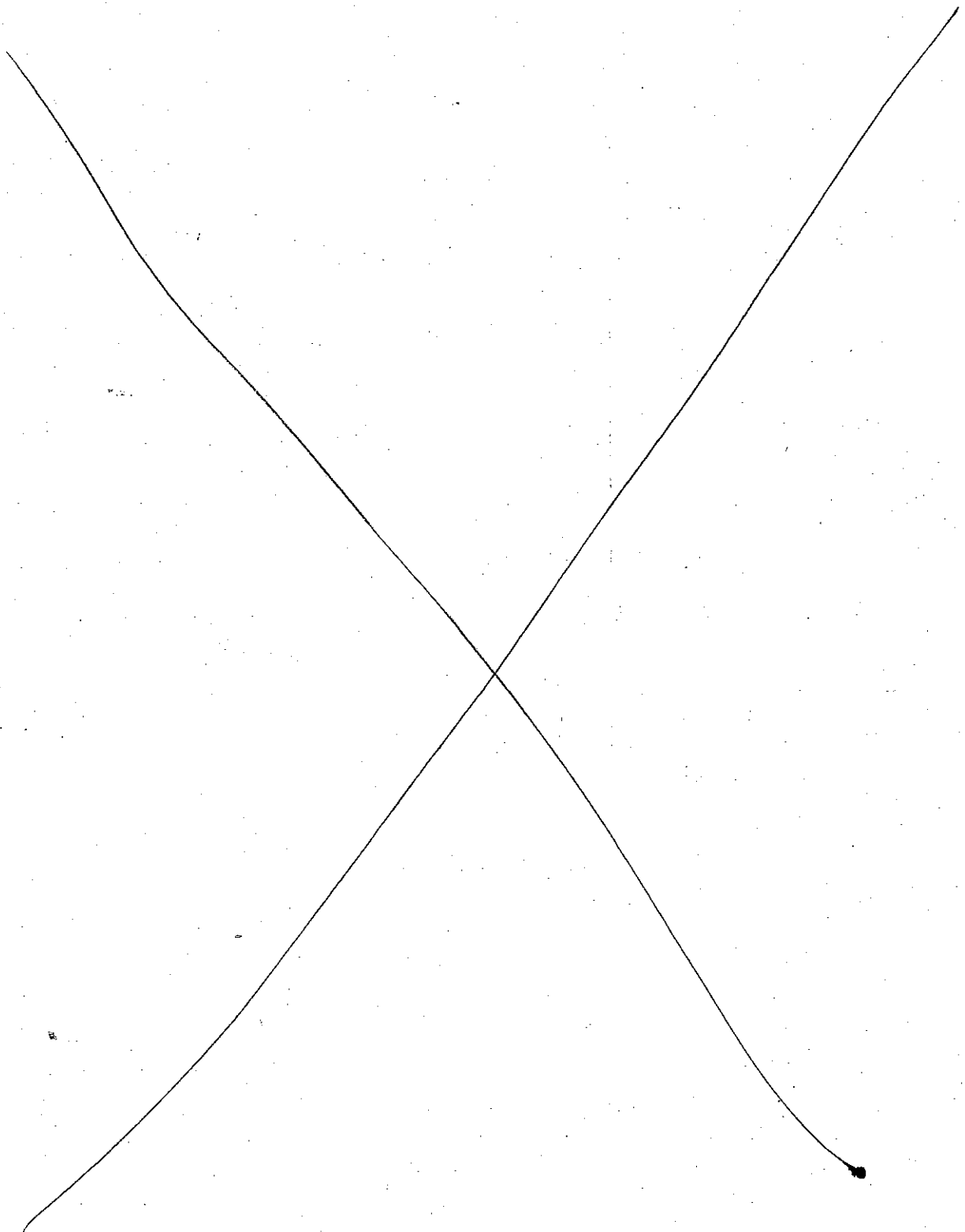
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PAGE 1 OF 1 PAGES

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STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)



INITIALS OF PERSON MAKING STATEMENT

PAGE OF PAGES

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

(This section is crossed out with a large handwritten X.)

AFFIDAVIT

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(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 27 day of March, 2005 at FOB Kalsu, Iraq

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

E 2/11

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE _____ OF _____ PAGES

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1. LOCATION MSR JACKSON 2. DATE (YYYYMMDD) 2005 03 24 3. TIME 1400 4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME 6. SSN 7. GRADE/STATUS
8. ORGANIZATION OR ADDRESS E Corp 2/11 ACP

I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
on march 24, 2005 I was being the 113 we were driving away from the trash burn site on are way to pick up more trash well we were Drives South on MSR JACKSON a Red KIA was approaching are Rear at a high Rate of speed I started waving and showing my weapon at the car the car neather slowed or acknowledged fired a 3 Round Burst in the Air and the vehicle still continue at a High Rate of speed I then fire a Round in to the ground in front of the car as a last effort the car immediately come to the side of the Road we then proceeding to pick up trash at the trash points.

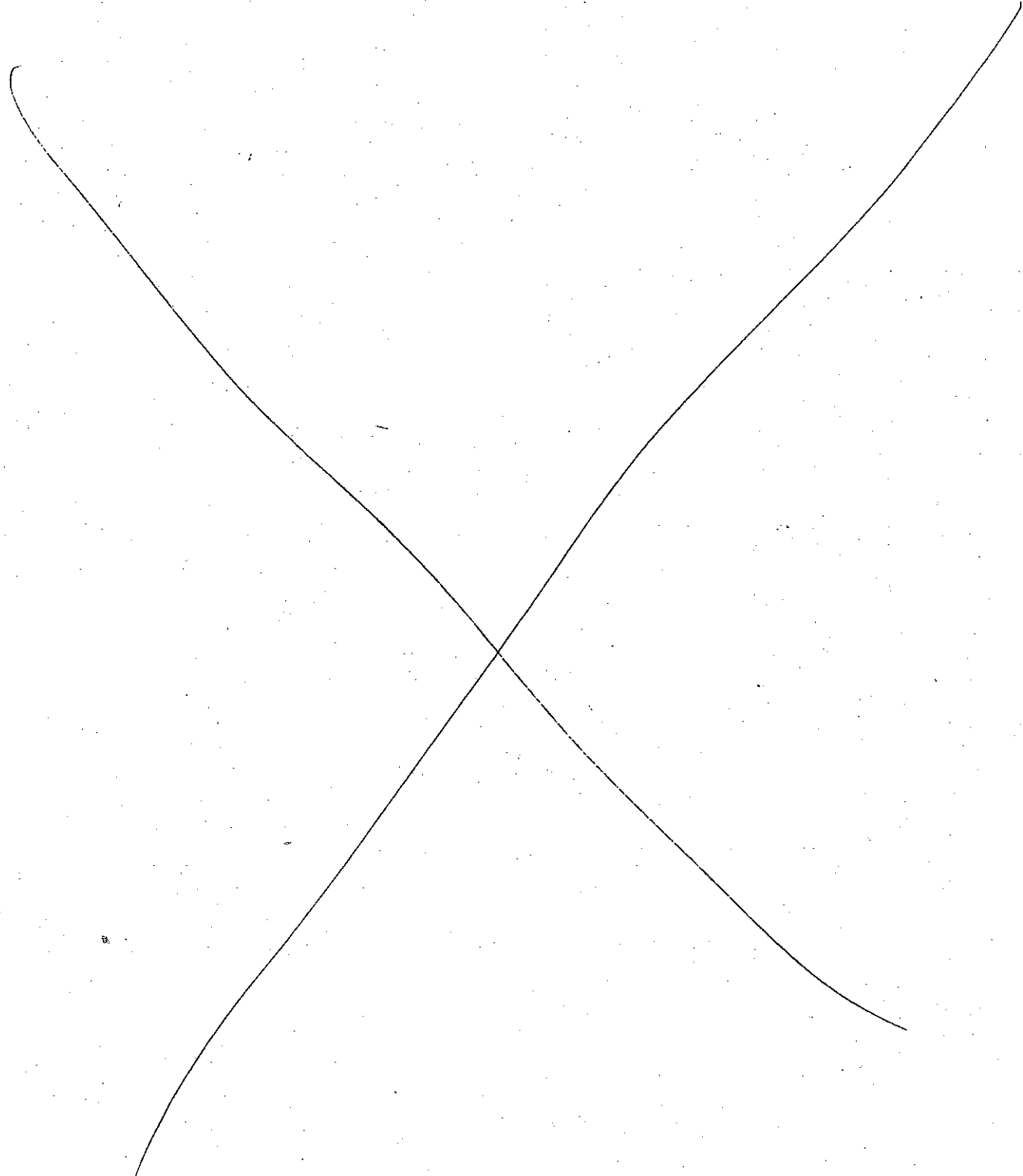
10. EXHIBIT 11. INITIALS OF PERSON MAKING STATEMENT PAGE 1 OF 1 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT _____ TAKEN AT _____ DATED _____
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STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT *(Continued)*



INITIALS OF PERSON MAKING STATEMENT

PAGE / OF / PAGES

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

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AFFIDAVIT

I, 1,3 _____, 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 27 day of March, 2005 at POB Kalsu, Iraq

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

E Top 2/11 ACI

(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 3011 ETRP ASR Jackson	2. DATE (YYYYMMDD) 20050327	3. TIME 1423	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS	

8. ORGANIZATION OR ADDRESS
4th SQD ~~RPH~~ ETRP 2/11 ACR

9. I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 24 Mar 2005 My Team and I were assigned to a trash burning point. 2 hours later I noticed a Red 4 door car on the side of ASR Jackson 200 meters from our position. There was no one in the car and the drivers side and passengers side doors were open. There was something hanging out of the passenger side. I looked through my ACOG to identify the object. I noticed it was a body. I told my men to cordon off ASR Jackson 200m out from each side of the vehicle and call up QRF. The QRF stopped by checkpoint 5, picked up 2 INGA Personnel and returned on scene. The INGA checked out the car and noticed the man was still breathing, loaded him into the backseat of the car, and waited for our medic. After checked out the casualty the INGA rushed off to checkpoint 5 in the casualty's car with the casualty in the backseat.

END statement

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF <u>1</u> PAGES
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9. STATEMENT (Continued)

[The main body of the statement is crossed out with a large handwritten 'X'.]

AFFIDAVIT

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(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 27 day of March, 2005 at FOB Kaka, Iraq

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE | OF | PAGES

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1. LOCATION ASR Jackson	2. DATE (YYYYMMDD) 20050327	3. TIME 1510	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS	

8. ORGANIZATION OR ADDRESS
4th squad 3rd platoon E troop 2/11 ACR

9. I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On the 24th of March 05, I was monitoring a trash burning point when my attention was drawn to a red car parked on the side of ASR Jackson. After observing the car, _____ told me there was a body inside, and that we were to block traffic approximately 200m South of the vehicle. After 10 minutes, _____ arrived with two INGs and inspected the body. They called me forward to treat an Iraqi male with a gunshot wound to the head above the right ear. There was no exit wound. The patient was unresponsive, with blood and cerebrospinal fluid draining from his nose. I bandaged his head with a roll of Kenlex and loaded him into the vehicle, which was driven away by both INGs.

End Statement

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF <u>1</u> PAGES
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STATEMENT OF _____

TAKEN AT _____

DATED _____

9. STATEMENT (Continued)

(This section is crossed out with a large X)

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(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 27 day of March, 2005 at FOB Kalsu, Iraq

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 1 OF 1 PAGES