Any Classified Document Downgraded in this packet is done so under the Memorandum for Record, dated 28 February 2007, Subject: Declassification Guidance for Operation Iraqi Freedom (OIF) 05-07 issued by the 4th Infantry Division G2
MEMORANDUM FOR Office of the Staff Judge Advocate (Attn: Chief, Adlaw), Camp Liberty, Iraq

SUBJECT: AR 15-6 Investigation; Death of a Local National / BOF Incidents x 3 (1/4-064)

1. The attached 15-6 investigation is forwarded for action by the Commander, MND-B.

2. LTC [BLANK], Commander, 1-66 AR Bn, concurred with the findings and recommendations and added that brigade and battalion staffs need to prepare detailed staff comparisons of AOs for subordinate units on attachment. In this case, 1-66 AR relayed known data about the 1-66 AR AO to B/1-33, but did not provide a comparison of that AO with B/1-33's old AO.

3. COL [BLANK] Commander, IBCT, concurred.

4. POC is the undersigned at [BLANK] or at [BLANK].

MAJ, JA
Brigade Judge Advocate
MEMORANDUM FOR Investigating Officer (CPT [REDACTED]), HQ, 1-66 AR, 1st BCT, 4th ID (M), FOB Taji, Iraq APO AE 09378

SUBJECT: Appointment as AR 15-6 Investigating Officer (1/4-064)

1. You are hereby appointed as an investigating officer pursuant to AR 15-6 (Procedures for Investigating Officers and Boards of Officers) to conduct an informal investigation into the death of a local national by elements of B/1-53 and the 3rd escalation of force incidents by the unit on 4 May 06. In addition to determining the facts and circumstances of the three incidents, focus your efforts on unit policies, procedures, and training that may have impacted on these incidents. This is your primary duty until properly relieved.

2. You may speak with any and all individuals you believe have information pertinent to your investigation. You will obtain a legal briefing from the Brigade Judge Advocate prior to conducting your investigation. You should also familiarize yourself with the provisions of AR 15-6 and the Guide for Informal Investigations. Once your investigation is complete, you will make recommendations consistent with your findings.

3. All witness statements will be sworn if possible and recorded on DA Form 2823. If circumstances preclude you from obtaining a sworn statement, you will summarize the witness’ testimony in a memorandum and attest to the accuracy of your summary.

4. If, in the course of your investigation, you come to suspect that an individual may be criminally responsible, you will advise that individual of his or her rights under Article 31 of the UCML, or the 5th Amendment, as appropriate, using DA Form 3881.

5. Submit your report, together with all evidence marked as exhibits, to the Brigade Judge Advocate on DA Form 1574 for legal review no later than 12 May 06. Requests for extensions will be submitted to the undersigned through the BJA in writing.

6. POC for this memorandum is [REDACTED] of the BCT TOC.

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FOOTNOTES:

- [Footnote 1](Note 1)
- [Footnote 2](Note 2)
- [Footnote 3](Note 3)

**Table Notes:**

- Column A notes
- Column B notes
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**Exhibit:**

- Page 1 of 4
- Page 2 of 4
SECTION IV - FINDINGS (para. 3-II, AR 15-6)

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

See attached memorandum

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

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

See attached memorandum
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 - MAJORITY REPORT (para 3:13, AR 15-6)

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

(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 inclusion.)

ALL ITEMS ARE REDACTED UNDER 5 USC 552(B)(6) UNLESS OTHERWISE NOTED
MEMORANDUM THRU Commander, 1-66 AR BN, 1st Brigade Combat Team, Camp Taji, Iraq APO AE 09378

FOR Commander, 1st Brigade Combat Team, Camp Taji, Iraq APO AE 09378

SUBJECT: AR 15-6 Investigation concerning three EOFs on 4 MAY 2006 for B/1-33 CAV (1/4-064)

1. On 5 May 06, I was appointed as the AR 15-6 Investigating Officer (IO) for three escalation of force (EOF) incidents that occurred with Soldiers from B/1-33 CAV on MSR Tamba on 4 May 2006. I have conducted a thorough investigation of the circumstances surrounding the three EOF incidents, the latter of which resulted in one KIA. My observations, conclusions, and recommendations are provided in the following format: facts, findings, and recommendations.

2. FACTS.

a. On 29 April 2006 B/1-33 CAV was detached from their squadron at FOB Rustamiyah South of Baghdad and attached to 1-66 AR Battalion ISO operations vicinity of Musha, Iraq. On 1 May 2006 B/1-33 CAV arrived on FOB Taji and began preparing their equipment and personnel to assume this mission. B/1-33 CAV had a 72 hour period to perform pre-mission checks. On the evening of 3 May 2006 all units received thorough mission briefs from their leadership to include rehearsals, ROE and refreshers on scenario training. B/1-33 CAV assumed mission on the morning of 4 May 2006. (Exhibit M)

b. While the 1-66 S2 gave a threat brief given to B/1-33 leaders, there was insufficient time to disseminate all of this information to the lowest level. The right seat rides that took place were for a short duration and did not include all key leaders. Although 1A soldiers would be working with B/1-33 CAV, no inbrief or leader orientation was conducted with any unit from 1/9 1A. (Exhibit M) Enemy ITPs as well as traffic patterns and civilian scenarios that the troop had encountered during their tenure at FOB Rustamiyah were significantly different than in AO Raider North. The area surrounding Rustamiyah is mainly farmland with less congested traffic patterns and a smaller population than in areas North of Baghdad. (Exhibit G)

c. EOF 1. On 04/29/06, 2 x M2A2 IFVs were returning to FOB Taji due to internal crew communication problems. B11, commanded by (redacted) pulled off to the side of the road in order to wait for the other vehicle to move out. While
AFYB-IN-HHC
SUBJECT: AR 15-6 Investigation concerning three E0Fs on 4 MAY 2006 for B/1-33 CAV (14-064)

pulling security near ECP 1 on MSR Tampa conducted an EOF which resulted in firing 10-15 rounds of 7.62 CoAX from his M2A3. Ordered his gunner to shoot into the dirt at a safe angle away from the traffic into the median. (Exhibit B) A single car disobeyed his hand and arm signals as well as verbal warnings and violent turret movement in an attempt to halt the vehicle. (Exhibit C). The Platoons Leader in the convoy, witnessed from his position IA soldiers operating in the vicinity of the same ECP. He saw conflicting hand and arm signals issued by the IA soldiers. This confused civilian ears whether or not vehicle traffic was allowed to pass. could not see the IA Soldiers from his position and was unaware of the conflicting orders. (Exhibit A) After the gunner fired, the vehicle returned to the normal traffic pattern without damage to personnel or equipment. (Exhibit C)

d. EOF 2. On 040844MAY06 at ECP 1, a Soldier fired one round of non-lethal shotgun ammunition as a warning shot for a gathering crowd on the outside of an IED cordon. The crew of an M1114 from HQ/B/1-33 CAV was conducting dismounted support to ECP 1 to prevent AIF from emplacing IEDs in congested traffic. The dismounted personnel were also protecting the Soldiers at the ECP from AIF that might be using the mass of vehicles to conduct attacks and his M1114 crew occupied a blocking position for EOD to action an IED in the vicinity of ECP 1. (Exhibit D). While the traffic was stopped a crowd of about 30-40 civilians formed from people getting out of their vehicles at a distance of approximately 150 meters. Upon seeing the forming crowd returned to his M1114 to retrieve his shotgun with non-lethal rounds. In the back of the crowd, the Soldier observed a man with a bucket moving suspiciously in and out of the crowd. At one point, the man crouched down out of sight. The crowd continued to approach to within 40 meters and did not respond to repeated hand and arm signals, verbal warnings or the showing of the shotgun. could no longer see the man with the bucket fired one round of non-lethal ammunition into the dirt 5 meters from his feet and at a safe angle away from the crowd. The crowd dispersed without incident. (Exhibit E M)

e. EOF 3. EOF 3 occurred at 041910MAY06 and involved the use of warning shots from an M240B mounted on an M1114 in an attempt to stop a moving car from approaching the rear of a mounted patrol. Due to a ricochet of the warning shots this incident resulted in the death of a local national. IAW his mission planning and CDR's guidance, dismounted 9 of his 17 Soldiers IOT cover the lateral routes on MSR Tampa. He also had a mounted patrol consisting of 2 X M2A3 BFVs and 1 X M1114. IOT maximize dismounts he used a two man crew on the M1114. The gunner was the gunner and he had full confidence in his abilities. The platoon had conducted operations with this configuration previously without incident. The M1114 was the tail of the mounted convoy. (Exhibit G) As the
convoy moved North[redacted] noticed a vehicle that gained speed in an attempt to catch the convoy. After the vehicle failed to adhere to visual signals to back up and the posted 100m distance sign,[redacted] moved his weapon from an elevated position and pointed it at the oncoming vehicle. After another unsuccessful attempt to stop the vehicle with hand and arm signals,[redacted] fired a three round burst from his 7.62 M240B. (Exhibit J) He pointed the burst down and to the left of his vehicle in an apparent safe direction. The M1114 was on the shoulder of the road which caused the burst to impact on the pavement, not the shoulder. (Exhibit M). Shortly thereafter, a local national car rolled to a stop at the ECP. The driver had been shot in the head. The Soldiers at the ECP conducted first aid, but the local national died of his wounds. (Exhibit J)

3. FINDINGS,

a. General.

(1) I find that an insufficient RIP process was conducted to ensure the full understanding by B/1-33 CAV of the atmospherics and traffic patterns that occur in AO Raider North. The RIP process did not encompass all the key leaders in the troop and did not involve the ISF partnership units to include IA and IP. These ISF units working with B/1-33 CAV are critical to mission accomplishment along MSR Tampa.

(2) B/1-33 CAV did not receive an adequate mission analysis and historical pattern brief upon entering into the new AO. Enemy TTPs and civilian actions are both significantly different than in FOB Rustimiyah. The congestion and traffic jams alone are a factor that causes unique situations for patrols on MSR Tampa. The historical threat brief on VHEDs and Indirect Fire incidents would allow B/1-33 CAV to fully understand the enemy activity that they will be facing.

(3) I find that the soldiers of B/1-33 CAV are well trained and disciplined. Every leader that I spoke to acknowledged the amount of time spent on OPORD briefs, mission rehearsals and scenarios on EOF and ROE prior to assuming mission. The NCO's properly performed their PCC checks prior to mission and the platoons are capable of performing any task required of them.

b. EOF 1. It is my finding that[redacted] and[redacted] conducted an EOF procedure IAW the guidance from MNC-I on EOF and the use of warning shots. They used the proper techniques for signaling and verbal commands and resorted to the warning shots as an additional step.
AFYB-IN-HHC
SUBJECT: AR 15-6 Investigation concerning three EOFs on 4 MAY 2006 for B/1-33 CAV (1/4-064)

c. EOF 2. It is my findings that the soldiers involved in this incident followed the MNC-1 rules for use of graduated use of force. The Soldiers believed they identified hostile intent in that the crowd was menacing and ignoring directions and the man with the bucket could no longer be seen. Believing the man with the bucket was using the crowd to mask his movements and given the enemy TTP of emplacing secondary IEDs to attack first responders, this was a reasonable belief. Made a good decision to transition from 5.56 mm to non-lethal shotgun munitions due to the time available in the incident. Their decision not only protected the soldiers who were in close contact to their rear, but it also dispersed the hostile crowd without incident.

d. EOF 3. It is my finding that followed IAW MNC-1 guidance for use of force and was justified in his warning shots against the approaching vehicle. He properly used hand and arm signals and verbal warnings. Showed his weapon by orienting it toward the approaching vehicle. He fired an aimed warning shot at the ground away from the vehicle. Due to the orientation of the vehicle being on the shoulder of the road the bullets ricocheted off of the pavement. No witnesses saw the bullets from the EOF incident impact the LN driving the vehicle approaching the ECP. However, it is more likely than not that these bullets caused the death of the LN. Although this EOF was IAW MNC-1 rules for use of force, it is my findings that the more appropriate place to have fired the warning shots would have been into the dirt median. It is also my belief that the use of the two man crew TTP used by 1LT Stroff’s platoon is not a valid TTP on a heavily congested road as MSR Tampa. The responsibility of manning the machine gun and trying to keep situational awareness of potential enemy threats may prove to be too much for one Soldier to handle.

4. RECOMMENDATIONS.

a. The Battalion Commander stood down B/1-33 to ensure they were properly trained. Following validation, I recommend they resume mission. It is apparent that the Soldiers of B/1-33 CAV are skilled combat veterans, however due to their frequent movement they have been unable to become familiar with one particular area. Their Soldiers are having difficulty trying to adjust TTPs from one AO into combat situations they encounter in a different sector of Iraq.

b. It is also my recommendation the Soldiers of B/1-33 CAV receive a minimum of a 72 hour right seat ride period with the current unit on MSR Tampa. This right seat ride should also include familiarization with the mission of the 139 IA and the 1BC 4 AO atmospherics.
AFYB-IN-HHC

SUBJECT: AR 15-6 Investigation concerning three EOFs on 4 MAY 2006 for B/1-33 CAV (14-4064)

c. B/1-33 CAV has a number of TTP’s that they have gathered while serving in different parts of Iraq. These are valuable to the Brigade and should be shared during the right and left seat ride periods. In particular, the TTP of using aggressive turret turning and gun tube elevation should be disseminated throughout the BCT as an additional graduated measure of force.

d. The TTP of the two Soldier M1114 as seen in EOF event three should be stopped and no longer used. The inability of a gunner to perform multiple rolls in an M1114 contributed to this finding.

e. Lastly, until B/1-33 receives proper training on non-lethal munitions from a certified instructor, they should not use non-lethal ammunition. Security concerns involving use of force and EOF incidents with this munition cause problems with its use.

f. I note that the Brigade staff is currently conducting consequence management. Any information learned about the family of the victim in EOF 3 should be turned over to the Brigade S9.

5. POC is the undersigned at [REDACTED].

CPT. IN
Investigating Officer

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INDEX OF EXHIBITS

A. DA Form 2823, dated 6 May 06
B. DA Form 2823, dated 5 May 06
C. DA Form 2823, dated 5 May 06
D. DA Form 2823, dated 5 May 06
E. DA Form 2823, dated 5 May 06
F. DA Form 2823, dated 5 May 06
G. DA Form 2823, dated 5 May 06
H. DA Form 2823, dated 5 May 06
I. DA Form 2823, dated 5 May 06
J. DA Form 2823, dated 5 May 06
K. DA Form 2823, dated 5 May 06
L. DA Form 2823, dated 5 May 06
M. Verbal Interview on 5-6 May conducted by CPT Colin Mahle, 10
N. 1-66 AR EOF SIR dated 041910MAY06
O. 1-66 AR Official CPOF SIGACT report for three EOF events on 4 MAY 06
P. 1-66 AR Official Storyboard for EOF SIGACT resulting in 1 X LN KIA 4 MAY 06
I can explain the abnormal behavior of a local national that led to an escalation of force VJC ECP1 on 4 May 2006 involving 1st Platoon, B Troop 1-33 AV, 556 Rقية, the Bradley commander of vehicle B17 ordered his gunner to fire at a civilian vehicle that drove toward his vehicle in a threatening manner. B17 was positioned on the shoulder of the southbound lane of and facing north in order to stop traffic moving south. Traffic on initially stopped approx 100 meters north of B17 because of the coalition presence on the shoulder of the road.

I could see from my position (at this time) that a team of JA soldiers were using exaggerated hand and arm signals in order to wave traffic past B17 and through the checkpoint. These JA soldiers were located approx 150 m south of B17 directly to its rear. There is no way that B17 could have seen that the JA were giving conflicting signals to the civilian traffic.
In conclusion I believe that the escalation of force was caused by the fact that the local traffic was confused about what to do. It soldiers did not know that coalition forces were stopping traffic and signaled the civilians to drive unusually close to our formation. Better communication with the IAs and with the platoon intern may help to prevent such incidents in the future.

nothing follows

AFFIDAVIT

I, ________________, have read or have had read to me this statement which begins on page 1 and ends on page 2. I fully understand the contents of the entire statement made by me. The statement is true. I have initialed all corrections and have initialed the bottom of each page containing the statement. I have made this statement freely without hope of benefit or reward, without threat of punishment, and without coercion, unlawful influence, or unlawful inducement.

(Signature of Person Making Statement)

WITNESSES:

None.

ORGANIZATION OR ADDRESS

None.

ORGANIZATION OR ADDRESS

None.

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

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14221
SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2901; E.O. 9367 dated November 22, 1943 (I.S.W.)

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: Disclosures of your social security number is voluntary.

1. LOCATION

2. DATE (DD-MM-YYYY) 3. TIME 4. FICE NUMBER

B. LAST NAME, FIRST NAME, MIDDLE NAME REP. 2006 05 05 1723 REP

B. ORGANIZATION/ADDRESS B-Btn 133CAV 3 BDE 101 ARVN DIV

I. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Red Pk. (124 Pk.) have conducted numerous Escalation of Force procedures. We talked about it the night prior to the mission. Our mission was to pull security on (Hwy 1) and gather intelligence of the Nasser Factory. We SP at 0615hrs. Our two Bradleys patrolled up and down as our two gun trucks and TNT went into the Nasser Factory. Upon completing going North and South on (1), our PSTs at truck lost internal communications with the crew. We had made the decision of sitting at ECPI until the gun trucks were able to reach us at ECPI. They were to meet us at ECPI so that we could pull the PSTs track in the middle of the patrol so that the driver of the track had visual for turns because of no internal comms. We were bringing the tracks back and switching to horses. As we were having communication problems between ground guides and the driver of the track. I made the decision to pull on the shoulder of (Hwy 1) with my turret facing North. Traffic was stopped approximately between 150-200 meters. A red car drove past traffic on the Southbound traffic. He slowed down and was past the rest of traffic. When I saw this, I started waving my hands to give hand, I am signals to stop. As well as my gunner was covering the...
9. STATEMENT (Continued)

bent side to side by saying no. Then the came and said it seems and we my gunner fired at the east I/d. of c/o. The rounds landed about 250 ft of the car just to the right. They hit the ground and bounced into the dirt on the North bound side. There were no injuries to personal or property.

The area we are working in is different than our last AO. Not as much IEDs in our day or congested traffic. This was our first mission for the Taji AO. Only half the platoon got a right seat ride. This was due to mission prep and maintenance on our vehicles.

Nothing Follows

AFFIDAVIT

I HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. 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:

None

ORGANIZATION OR ADDRESS:

None

SIGNATURE OF PERSON ADMINISTERING OATH:

(Signature of Person Administering Oath)

CPT SD

(Read Name of Person Administering Oath)

AOT 1/2/21 98340

INITIALS OF PERSON MAKING STATEMENT:

PAGE 2 OF 2 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 2851; E.O. 3337 dated November 22, 1943
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
disclosed of your social security number is used as an additional means of identification to facilitate filing and retrieval.
ROUTINE USES: 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

9. ORGANIZATION OR ADDRESS
   Bunker Top, 1-53 Cav Regiment

9. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

In reference to an escalation of force on the morning of February 20th, 1989, we were in a position close to the ECP. We saw a vehicle which was stopped due to our platoon being shot halted. While scanning in a white long-tailed car, we noticed a white vehicle with radio and additional personnel. The car stopped and started to move forward while the driver made a hand gesture but the driver continued to drive forward. After all of our hand signals and weapon displays, the car continued to move forward and then started to drive without any warning. Before they could reach the ECP, I shot 2 rounds; the first of which was still not getting them to

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE INDICATED.

DA FORM 2823, DEC 1998
DA FORM 2823, JUL 72, IS OBSOLETE

ALL ITEMS ARE
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18 USC 552(b)(6)
UNLESS OTHERWISE
NOTED

14224
STATEMENT OF  
TAKEN AT  
DATED  

5. STATEMENT (Continued)

Stop and then a second which finally sent the message. After checking we checked everything out, there were no injuries and no damage. The sounds hit into the dirt off the side of the road.

This accident is not anything new as from what I've seen after 22 months of being deployed in the country.

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTRIES 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 5th day of May, 2004.

[Signature of Person Administering Oath]

ORGANIZATION OR ADDRESS

None.

[Signature of Person Administering Oath]

[REDACTED]

ORGANIZATION OR ADDRESS

None.

INITIALS OF PERSON MAKING STATEMENT

[REDACTED]

PAGE 2 OF 2 PAGES

PAGE 3, DA FORM 2823, DEC 1998

ALL ITEMS ARE REDACTED UNDER 50 USC 552 (B) (6) UNLESS OTHERWISE NOTED

14225
WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 3 May 03 I received my mission brief that I was to conduct a raid on 0600. I came up with a plan and briefed my team that night at approx 2000. On 4 May 03 we set off at approx 0600 to set in our in our overwatch position at 0900. Once we arrived at our position I designated and cleared our position. After about 2 hours of sitting there a convoy passed us heading south and turned off the road about 300 m south of our position.Approximately an hour later blocking off the road an IED was thrown at 0600. Once the IED was blown people started getting out of their vehicles and walking around the vehicle side of the road. I noticed one individual get out of his truck and go into the low ground, and then retrieve the IED in his truck. At this point there were about 50-60 individuals on the ground and I told my team to prepare and drive to the incident site. The IED was thrown at 0600. Once the IED was thrown people started getting out of their vehicles and walking around the vehicle side of the road. The IED was thrown at 0600.

ATTACHMENTS

DA FORM 2823, DEC 1998
DA FORM 2823, JUL 72, IS OBSOLETE

ALL ITEMS ARE REDACTED UNDER 5USC552(3)(B)(5) UNLESS OTHERWISE NOTED

14226
SWORN STATEMENT

LOCATION: FOB Tel'i

DATE: 16/15

TIME: 05:45

FILE NUMBER:

LAST NAME, FIRST NAME, MIDDLE NAME:

SOCIAL SECURITY NUMBER:

GRADE/STATUS:

ORGANIZATION OR ADDRESS:

14228, 3rd BCT, 101 ABN

We left the FOB at 05:00, and headed down the TCP to the TCP. We arrived to the TCP, and started observing traffic, and the surrounding houses. Patrols were coming in, and traffic was blocked for a while. EOD came through, and started working on an IED, while traffic was blocked. A group of men gathered at the side of the road. One man was reportedly killed, and the rest of them grouped up near him, and I was dismounted, and allowed over the gunner. We walked over to a ditch, and yelled in English, and Arabic. For them to move. We got no response besides them looking at us and continuing what they were doing. We verbally told them again, and used hand gestures. They still did not move from the side of the road. The next thing we did was show our weapons, and gave another verbal warning. After that I yelled one more time for the crowd to disperse. Gunner fired once round at the ground, and the crowd moved off the side of the road. The night before our mission, by we were briefed on ROE, and mission brief at 0000.

Nothing Else Follows.

EXHIBIT

INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 2 PAGES


DA FORM 2823, JUL 72

SUPERSEDES DA FORM 2823, 1 JAN 68, WHICH WILL BE USED.

14228

ALL ITEMS ARE REDACTED UNDER 5 USC 552(b)(6) UNLESS OTHERWISE NOTED.
STATEMENT OF ___ TAKEN AT 05 MAY 06 DATED 05 MAY 06

9. STATEMENT (Continued)

[Signature of Person Making Statement]

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 WHOLE 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.

WITNESSES:

[Signature or Print, if required]

[Organizational or Address]

[Signature or Print, if required]

[Organizational or Address]

INITIALS OF PERSON MAKING STATEMENT

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On the night of the 3rd, at around 2300 hours, I received a mission brief for our patrol/overwatch of ECP I that would begin at 0600 the next morning. We rehearsed ROE procedures and the SOP for situations involving contact. On the morning of the 4th of May 2006, we left the FOB at around 0630 to set up our overwatch position near ECP I. Approx 0830 hours EOD blocked traffic on both north and southbound lanes due to an IED found alongside the southbound lane. During the time when traffic was at a standstill, a crowd of Iraqi nationals grouped on the roadside of the southbound lane. Our overwatch position was set in front of a building 15 meters from the road. The Iraqi nationals grouped along the roadside were approx 150 meters from our overwatch position. I took turns with the HQ PET STT and my truck's TC, operating the EOD while I was dismounted and continuing to provide security. While EOD secured the found IED, one person individually walked approx 10 meters further from the road with a green bucket and was squatting on the ground. I yelled at him and the crowd in English to return to their vehicles as well as hand motions to stay off the roadside. They looked at me and did not disperse. Our driver yelled "away" in Arabic and still they did not move. Concerned that the man with the bucket was placing an IED and knowing the need to disperse the crowd in that case.
I asked for the shotgun with the non-lethal rounds in the event that I had to shoot. The shotgun was given to me and I immediately walked 10-15 meters from the truck so I could make sure that the crowd saw and heard my warning. Again I yelled in English to get away from the roadside. They still did not disperse so I raised my shotgun to show the crowd, as we went over in our rehearsal on escalation of force. The crowd ignored me and continued to look in my direction. I then asked for permission to fire a non-lethal round so that there would be as little civilian injury with no confusion of getting my point across to the crowd. I then fired a non-lethal round at the ground 50 meters in front of the crowd. The crowd then dispersed and the trucks crew and I continued to provide security at ECP 1.

NOTHING FOLLOWS
I, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

We did the recon and myself conducted a mission brief on 3 May 2006 at 2000 hours. My plan for the next day was a dismounted area recon behind the enemy factory, followed up by observation posts in the area in the evening. In order to put maximum dismounts on the ground to support [REDACTED], I decided to move with 2 Bradleys and a humvee configuration. The dismounts' mission was to support the Bradley in pulling up security. The humvee was to follow the Bradley everywhere it went. The vehicles were manned like this because all routes on the west side of [REDACTED] are black thug limiting my operations. I knew that the vehicles could support each other if something was to happen. I briefed the platoon on shoot no shoot.
situations and ROE must be re-examined/escalation of force since we would be moving up and down tempo and would have ops in to ID IED emplacers. I again reduced clarification on ROE on the morning of 4 May 2006 and briefed it to the platoon before SP. I had no doubt in capability as the trucks TC because of his prior combat experience and service as my gunner during this deployment. Again I was limited by the fact that almost all the routes in my AO are restricted so I had to mass force on the ground.

The troops previous area of operations include Baiji, Rustamia and here. In Baiji Coalition forces were under constant threat from car bombings. I can think of 3 IED incidents where a entire truck was destroyed by a car bomb with 5 155mm. Another incident involved a local national ramming a humvee killing 2 soldiers inside. Also another IED threat continued in Rustamia where my three truck was almost rammed by a local national car.
My platoon area of operation outside of Rushtania consisted of mainly farm land and 2 lane roads. Cars in this area pulled over 200 to 300 meters ahead.

At the time of the incident I was in a source house and heard the shooting. I checked the TRP net and it appeared that the mortars section had it under control and said they had recommenced small arms fire. I moved up to the area of the incident 10 minutes later and questioned the mortar section on the ground and then [redacted] about the incident. Nothing further.

[Redacted]