REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS
For use of this form, see AR 15-6; the proponent agency is OTJAG.

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

SECTION I - APPOINTMENT

Appointed by LTC

(Appointing authority)

on 5 March 2005

(Date)

(Attach inclusion 1: Letter of appointment or summary of oral appointment data.) (See para 5-15, AR 15-6.)

SECTION II - SESSIONS

The (investigating) (board) commenced at [Redacted], Route [Redacted] Baghdad, Iraq

(Place)

at 0028

(Time)

on 5 March 2005

(Date)

(If a formal board met for more than one session, check here ☐. Indicate in an inclusion 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.)

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 1500

(Time)

on 5 March 2005

(Date)

and completed findings and recommendations at 1600

(Time)

on 5 March 2005

(Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

1. Inclosures (para 5-15, 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)

☐ c. Other correspondence with respondent or counsel, if any?

☐ d. All other written communications to or from the appointing authority?

☐ e. Privacy Act Statements (Certificate, if statement provided orally)?

☐ f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?

☐ g. Information as to sessions of a formal board not included on page 1 of this report?

☐ h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?

FOOTNOTES: If explain all negative answers on an attached sheet.

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

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15683
1. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report? [X]
2. Is an index of all exhibits offered or considered by investigating officer or board attached before the first exhibit? [X]
3. Has the testimony/certified true copy of each witness been recorded verbatim or been reduced to written form as an exhibit? [X]
4. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated? [X]
5. Are descriptions or diagrams included of locations visited by the investigating officer or board? [X]
6. 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]
7. If official notice of an event is taken, is a statement of the matter of which official notice was taken attached as an exhibit? [X]
8. Was a quorum present when the board voted on findings and recommendations? (Para 5-1 and 5-2b, AR 15-6)? [X]
9. Notice to respondents (Para 5-5, AR 15-6): a. Was the method and date of delivery to the respondent indicated on each letter of notification? [X]
   b. Was the date of delivery at least five working days prior to the first session of the board? [X]
   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 right to present, present evidence, and call witnesses?
   d. Was the respondent provided a copy of all unclassified documents in the case file? [X]
   e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them? [X]
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 5-6, AR 15-6)? [X]
    b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel? (Para 5-6c, AR 15-6)? [X]
11. Counsel (Para 5-6, AR 15-6): a. Was each respondent represented by counsel? [X]
    b. Name and business address of counsel: [X] (If counsel is a lawyer, check here [ ])
    c. Was respondent's counsel present at all open sessions of the board relating to that respondent? [X]
    d. 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)? [X]
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? [X]
    b. Did each member successfully challenged cease to participate in the proceedings? [X]
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? [X]
    b. Examine and object to the introduction of real and documentary evidence, including written statements? [X]
    c. Object to testimony of witnesses and cross-examine witnesses other than his own? [X]
    d. Call witnesses and otherwise introduce evidence? [X]
    e. Testify as a witness? [X]
    f. Make or have his counsel make a final statement or argument (Para 5-9, AR 15-6)? [X]
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)? [X]
15. Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclusion or exhibit to it? (Para 5-11, AR 15-6)? [X]

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.
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-JJ, 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 3-13, 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, further proceedings or corrective action, attach that correspondence (or a summary, if oral) as a numbered Inclosure.)
MEMORANDUM FOR Commander, 1st Battalion, 69th Infantry Regiment, 2d Brigade Combat Team (10th Mountain Division (Light Infantry)), 3rd Infantry Division, Camp [redacted], Iraq

SUBJECT: AR 15-6 Informal Investigation Findings and Recommendations

1. Findings of Fact.

   a. Timeline.

      1. 1851 hours: VBIED BOLO #1 was issued. (See Exhibit T).

      2. 1853 hours: A Company received warning order to block westbound traffic on RTE [redacted] at 1930 hours to support the movement of a dignitary from the [redacted] to [redacted] (See Exhibits F and M). The A Company Commander relayed the warning order to his subordinates. (See Exhibit F).

      3. 1915 hours: [redacted] was temporarily secured by the A Company XO, in order to allow time for the assigned blocking force to occupy their positions. (See Exhibits F and M).

      4. 1916 hours: A Company received execution order to block westbound traffic on RTE [redacted] at 1930 hours to support the movement of a dignitary from the [redacted] to [redacted].

      5. 1925 hours: The 1st Platoon Leader relieved the A Company XO and occupied the position with two vehicles (the assigned blocking force). (See Exhibit M).

      6. 1925 to 1935 hours: The assigned blocking force cleared their positions, dismounted, and established the blocking position. (See Exhibit M). The unit utilized the existing serpentine jersey barrier obstacles. (See Exhibit F).

      7. 1938 hours: VBIED BOLO #2 was issued. (See Exhibit U).
AFZS-LF-JA
SUBJECT: AR 15-6 Investigation Findings and Recommendations

8. 2030 hours: A Company Commander requested permission to collapse the dignitary blocking obstacles and resume the normal patrol schedule. The TF 1-69 TOC informed A Company that no forces were to be moved off of their blocking positions until the dignitary convoy had passed. The TF 1-69 TOC further informed the A Company Commander that the dignitary convoy would be running RTE in approximately 20 minutes and would consist of 4X M1114s' and 1X Up-Armored Suburban. (See Exhibit F).

9. 1925 to 2045 hours: The crew of vehicle #A27 diverted 30 or more vehicles using a 3 million candle watt spotlight and green laser pointer without incident. Mr. [redacted] driving a gray Toyota Corolla, with Ms. [redacted] and Mr. [redacted] as passengers, heard small arms fire from an unspecified direction. He panicked and drove off RTE onto RTE at the on ramp at a high rate of speed. (See Exhibit I).

10. 2045 hours: Mr. [redacted] Toyota Corolla crossed the alert line at a high rate of speed (see Exhibits J, L, M, and O), triggering SPC to shine a 3 million candle watt spotlight on the vehicle as the first step of the graduated response. (See Exhibits J, M, Mc, and N). Simultaneously, SGT shined a green laser pointer on the vehicle to reinforce the non-lethal response. (See Exhibits L, M).

11. 2045 hours: Mr. [redacted] Toyota Corolla crossed the warning line. Mr. spotted the US vehicles and began waving so that he would be allowed to pass. (See Exhibit I). Because it was dark, Mr. [redacted] headlights prevented the Soldiers on the blocking position from observing the interior of the vehicle and seeing Mr. hand and arm signals. (See Exhibit Mc). SPC escalated his response by firing a 2-3 round warning burst as the vehicle crossed the warning line, which rounds impacted into the ground approximately 5 meters to the west of the vehicle, with negative results. (See Exhibits J and Mc). SPC then fired an 8-10 round burst at the vehicle in order to disable the vehicle. (See Exhibits J, L, M, Mc, and N). Six rounds struck the vehicle, disabling it. (See Exhibit D). The speed of the vehicle contributed to at least two (2) rounds from the disabling fire entering the passenger compartment of the vehicle, killing one person and wounding two other persons. (See Exhibit J, M).

12. 2047 hours: Mr. vehicle was secured and the occupants were assessed for injuries. Although immediate medical aid was rendered to all three people (see Exhibits J, M, Mc, N, O, and P), Mr. died within minutes due to the severity of his wound.

13. 2055 hours: The A Company Commander arrived with additional medical aid. Ms. was treated by the medic from 2055 until 2110 hours.
b. The unit received rigorous formal ROE training during pre-deployment preparation at Ft Hood, TX and Ft Irwin, CA, and received additional training in Kuwait and Iraq. (See Exhibits J and K). Formal refresher training was conducted during the month prior to this engagement. (See Exhibits F, L, and Mc). The unit routinely conducted informal reinforcement of the ROE, to include incorporating ROE into patrol briefings. (See Exhibits F, N, O, and P).

c. The unit was trained in TCP operations at Ft Hood, TX; Ft Irwin, CA; in Kuwait; and in Iraq. (See Exhibits Mc and O).

d. Eyewitnesses estimated that Mr. [redacted] vehicle was traveling at approximately 60 to 70 mph as it approached the TCP. (See Exhibits K and O). In the absence of reliable evidence (e.g., radar, skid marks), I could not conclusively establish the speed at which Mr. [redacted] vehicle approached the TCP. I do find, however, that Mr. [redacted] vehicle was traveling at a high rate of speed at the time it approached the TCP. I further find that Mr. [redacted] vehicle did not reduce speed or stop in response to the non-lethal measures employed by the unit.

e. The incident took place during the hours of darkness.

f. SPC [redacted] was qualified on the M240B weapon. (See Exhibit V).

g. SPC [redacted] weapon was functioning correctly.

h. I find that the Soldiers manning the TCP responded appropriately to what they reasonably perceived to be a demonstration of hostile intent from the driver of the vehicle in question. The Soldiers determined that the vehicle was demonstrating hostile intent by objectively evaluating the driver’s responses to their actions. The Soldiers applied graduated force in accordance with their training in responding to the perceived demonstration of hostile intent, to wit: hand and arm signals, flashing bright lights (spotlight and laser pointer), and warning shots. Despite the application of these measures, the vehicle in question continued to move toward the TCP at a constant rate of speed. In accordance with the self defense provisions of the rules of engagement, the Soldiers resorted to the use of deadly force and engaged the vehicle with disabling fire. This disabling fire succeeded in disabling the vehicle, but also resulted in the driver and a passenger being wounded and the other passenger being killed.

i. I find that the proximate cause of the application of deadly force was the driver’s failure to stop or reduce speed in response to the non-lethal measures employed by the unit when the vehicle approached an authorized US checkpoint.

j. Contributing factors.
1. Failure to notify the unit of the approach and desired passage of a dignitary vehicle prevented the unit from adjusting its posture and receiving the vehicle.

2. The Battalion lost two soldiers KIA on RTE during the 48 hours prior to this incident. I find that the unit's recent combat deaths on RTE and current VBIED BOLOs contributed to a heightened state of alert within the unit. (See Exhibits L, M, N, and O).

2. Recommendations.

   a. Improve the coordination of movement of friendly forces through the battle-space of other units.

   b. I do not recommend any changes to the existing TF Baghdad Traffic Control Point (TCP) SOP. As the available warning signs are written in English and Arabic, it is not clear whether the presence of warning signs in this case would have had any impact, given that the evidence suggests that neither the driver nor the passengers understood English, and there is no evidence to suggest that the driver or either passenger understood Arabic.

4. POC for this legal review is the undersigned at army.mil, or by phone at VOIP

MAJ, IN
Investigating Officer
SHOOTING INCIDENT OF 4 MARCH 2005

A - Report of Findings
B - Appointment of Investigating Officer
C - Sketch of Scene of Incident
D - Photographs of Damaged Vehicle
E - Timeline of Incident
F - Sworn Statement #1, CPT
G - Sworn Statement #2, CPT
H - Sworn Statement #3, CPT
I - Sworn Statement, SFC
J - Sworn Statement #1, SPC
K - Sworn Statement #2, SPC
L - Sworn Statement, ILT
M - Sworn Statement, SGT
N - Sworn Statement, SSG
O - Sworn Statement, SGT
P - Sworn Statement, SPC
Q - Sworn Statement, SPC
R - Battalion Staff Journal, 1100-2300 hours 4 March 2005
S - Battalion Staff Journal, 2300-1100 hours 4-5 March 2005
T - VBIED BOLO, 1851 hours 4 March 2005
U - VBIED BOLO, 1938 hours 4 March 2005
V -
W -
XYZ -
REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

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

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

SECTION I: APPOINTMENT

Appointed by COL [Redacted] (Appointing authority)

on 5 March 2005 (Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

(Date)

SECTION II: SESSIONS

The investigation board commenced at [Redacted] Baghdad, Iraq at 0028 (Place) (Time)

on 5 March 2005 (If a formal board met for more than one session, check here [Redacted]. 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.)

[Blank space]

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

[Blank space]

The investigating officer (board) finished gathering/bearing evidence at 1500 on 5 March 2005 (Time) (Date)

and completed findings and recommendations at 1600 on 5 March 2005 (Time) (Date)

SECTION III: CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

<table>
<thead>
<tr>
<th>Inclosures (para 3-15, AR 15-6)</th>
<th>YES</th>
<th>NO</th>
<th>NA</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. The letter of appointment or summary of oral appointment data?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Copy of notice to respondent, if any? (See item 9, below)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. Other correspondence with respondent or counsel, if any?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D. All other written communications to or from the appointing authority?</td>
<td>X</td>
<td></td>
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<tr>
<td>E. Privacy Act Statements (Certificate, if statement provided orally)?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>F. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>G. Information as to sessions of a formal board not included on page 1 of this report?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>H. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

FOOTNOTES: Explain all negative answers on an attached sheet.
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.

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15692
2 Exhibits (para 3-19, AR 15-6)
   a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits 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 writing form and attached as an exhibit?
   X
   d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?
   X
   e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?
   X
   f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?
   X
   g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)?
   X

3 Was a quorum present when the board voted on findings and recommendations (para 4-1 and 5-2b, AR 15-6)?
   X

B. 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 5-2b, 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 enclosure 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 5-5, AR 15-6):
   a. Was 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 5-5c, AR 15-6)?

11 Counsel (para 5-6, AR 15-6):
   a. Was each respondent represented by counsel?
   b. Name and business address of counsel:
   (If counsel is a lawyer, check here )
   c. Was respondent’s counsel present at all open sessions of the board relating to that respondent?
   d. 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(s)?
   b. Did each member successfully challenge 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)?
   a. Are all of the respondent’s requests and objections which were denied indicated in the report of proceedings or in an enclosure 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:

A physical barrier would likely have prevented the fatal shooting. Poor communication between diplomatic and military staffs created a dangerous situation.

The sequence of events follows:

At 1853 hours the unit received the warning order to block westbound traffic on RT ___ at 1930 hours to support the movement of a dignitary from ___ to ___ (Exhibits F, M). The company commander relayed the warning order to his subordinates. At 1915 hours CP 541 was temporarily secured by the A Company XO, in order to allow time for the assigned blocking force to occupy their positions. At 1925 hours ___ and ___, the assigned blocking force occupied their positions and relieved the A Company XO (Exhibit M).

The unit was at a heightened state of alert as two VBIED warnings had been issued within 40 minutes of occupying their positions (Exhibits J, T, U). In addition, the death of two Task Force soldiers and serious wounding of one within the last 48 hours on RT ___ and the reports of digging and an UXO discovered in the area that same day, contributed to the heightened state of alert within the unit (Exhibits L, M, N, O).

The unit cleared their area dismounted (Exhibit M), and occupied the blocking position. The unit did not place barrier material as they believed the blocking positions would last 15 minutes or less, as previous blocking positions in support of moves had (Exhibit F). After approximately one hour with no dignitary traffic, the company commander requested to stand down the blocking positions and resume regular patrols (Exhibit F). The company was directed to maintain the blocking positions, and to prepare for a VIP convoy consisting of 4 X M1114s and 1 X SUV (Exhibit F). There was no information related to the anticipated passage of a lone vehicle, an Italian delegation, or any attempt to enter RT ___ through ___ while RT ___ was blocked. While blocking ___ the crew of A27 diverted 30 or more vehicles using a 3 million candle watt spotlight and green laser pointer.

As Andrea Capani, the driver of the Italian diplomatic vehicle, was enroute to ___ with his passengers, he heard gunfire from an unspecified direction (Exhibit I). He panicked, increased speed, and exited off RT ___ toward RT ___ and ___ in an attempt to get to ___ quickly (Exhibit I). He drove down the on ramp at a high rate of speed (Exhibits I, J, L, M, O). He spotted the US vehicles and attempted to wave at the soldiers to let him through, without decreasing speed (Exhibit I). My informal estimate places his rate of speed between 40-50 mph through the ramp. Because it was dark, he could not see the soldiers due to the rising sun. He fired warning shots at approximately 8-12 round burst, with the intent to disable the vehicle (Exhibit J, L, M, N). Unfortunately, the speed of the vehicle contributed to at least two rounds from the disabling fire entering the crew compartment of the vehicle, killing one and wounding two.

After the vehicle rolled to a stop, the soldiers immediately secured, then assessed the occupants. Immediate medical aid was rendered to all three people (Exhibits J, M, N, O, P), although Mr ___ died within minutes due to his severe wound. Additional medical aid was brought forward, and both wounded people were evacuated to the CSH (Exhibit F, I, L, Q). While awaiting CASEVAC, Mr ___ discussed his actions with SFC ___ (Exhibits H, I). CPT ___ reported the situation and rated the arrival of the investigation teams (Exhibit F).

There was an effective ROE training program that included formal training at Ft Hood, Ft Irwin, Kuwait, and Iraq (Exhibits J, K). Formal refresher training had been received within one month (Exhibits F, L, M). Informal reinforcement of ROE occurred regularly, to include patrol briefings (Exhibits F, N, O, P).

(Continued on page 5)

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

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

Barrier material be required for all checkpoints or blocking positions. A channel of communication be established between foreign diplomatic and US military to allow deconfliction of RT ___ movement.
SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. (If any voting member or the recorder fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)

(Recorder)  

(Investigating Officer) (President)

(Member)  

(Member)

(Member)  

(Member)

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

To the extent indicated in Inclosure __________, the undersigned do(es) not concur in the findings and recommendations of the board.

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

(Member)  

(Member)

SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-5, 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.)
The unit was trained in TCP operations at Ft Hood, Ft Irwin, Kuwait, Taji, Iraq, and Baghdad, Iraq (Exhibits Mc, O). Blocking material was not used during the Left Seat Ride / Ride Seat Ride (Exhibit G). The unit both observed and conducted blocking missions of a short duration (15 minutes or less), and did not employ blocking material on the short duration missions.

The unit was equipped with concertina wire and there were some signs available in unit storage (Exhibit G). The soldiers responded to what they perceived to be hostile intent on the part of the driver of the vehicle in question. The soldiers determined hostile intent by gauging the reactions of the driver to their actions. The soldiers used graduated force measures in order to determine hostile intent: hand and arm signals, flashing bright lights and warning shots. Notwithstanding all of these measures, the vehicle in question continued toward the TCP at a high rate of speed. Acting under the self defense provisions of the Rules of Engagement, the soldiers engaged the vehicle with disabling fire which ultimately disabled the vehicle, wounded the driver and a passenger and killed the other passenger.
MEMORANDUM FOR Major Charles T. Crosby, Executive Officer, 1st Battalion, 69th Infantry Regiment, 2nd Brigade Combat Team (10th Mountain Division (Light Infantry)), 3rd Infantry Division, Camp [redacted], Iraq.

SUBJECT: Appointment of Informal 15-6 Investigating Officer

1. You are hereby appointed an investigating officer pursuant to AR 15-6, to conduct an informal investigation into the circumstances surrounding the use of deadly force against a civilian non-tactical vehicle (NTV) by 1-69 IN Soldiers operating a traffic control point (TCP) on Route [redacted] on 5 March 2005, which use of force resulted in the death of one civilian and the wounding of another.

2. In your investigation, all witness statements will be written and sworn on DA Form 2823. If written sworn statements cannot be obtained, you will summarize the content of any conversations in a memorandum for record and attach the memorandum to your report as an exhibit. If any physical evidence is obtained during the investigation, include the evidence, or a photograph of the physical evidence, in your report as an exhibit. If, during the course of your investigation, you develop information which causes you to suspect that any person you are questioning has violated the Uniform Code of Military Justice, you will immediately cease questioning that person and advise him or her in accordance with Article 31, UCMJ. Use DA Form 3881 to conduct rights advisement and to record the witness’ waiver of those rights if that person is willing to render a statement after being so advised.

3. From the evidence, you will make findings answering the following questions:

   a. Who was responsible for establishing and operating the TCP on RTE [redacted] (i.e., identify the unit (platoon, company) and leader(s) responsible (patrol leader))?

   b. What information or command guidance, if any, was provided to the responsible unit regarding the nature and purpose of the TCP?

   c. Where and when did the responsible unit establish the TCP on RTE [redacted]?

   d. How was the TCP established (e.g., what measures were employed to restrict movement of civilian traffic, how were vehicles and personnel positioned, what non-lethal measures were employed to warn approaching traffic of the presence of the TCP, etc.)?

   e. Did the responsible unit rely upon any established TTPs or SOPs in establishing and operating the TCP, and, if so, what was the source or authority for the TTP or SOP?
f. Were all personnel responsible for operation of the TCP trained on the rules of engagement (ROE), and in particular the ROE regarding the use of deadly force?

g. Did the personnel responsible for the operation of the TCP understand the ROE, and in particular the ROE regarding the use of deadly force?

h. What non-lethal measures, if any, were employed by personnel responsible for the operation of the TCP against the civilian NTV prior to the application of deadly force?

i. Who authorized the use of deadly force by personnel responsible for the operation of the TCP against the civilian NTV?

j. Which persons engaged the civilian NTV, and with what weapon systems?

k. What actions were taken by the personnel responsible for the operation of the TCP after engaging the civilian NTV with deadly force (e.g., medical care, etc.)?

l. When was this engagement reported, by whom was it reported, to whom was it reported, and what information was reported?

m. Did any other vehicles approach the TCP during the period that the TCP was in operation?

n. Did the personnel responsible for the operation of the TCP employ warning shots or deadly force against any of the other vehicles that approached the TCP while it was in operation?

4. Submit your written findings and recommendations on a DA Form 1574 to me not later than 1700 hours on 5 March 2005.

LTC, IN, USA
Commanding
<table>
<thead>
<tr>
<th>Time</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1843</td>
<td>TF 176 calls to ask how quickly they can block off all roads to They say they will need the road blocked at 1930 for a High Priority Mission.</td>
</tr>
<tr>
<td>1848</td>
<td>Issues warning order for all elements to occupy blocking positions NLT 1920.</td>
</tr>
<tr>
<td>1915</td>
<td>Occupies blocking position at .</td>
</tr>
<tr>
<td>1916</td>
<td>TF 176 Calls to have all elements report to their blocking positions for the dignitary.</td>
</tr>
<tr>
<td>1925</td>
<td>Blocking position occupied vicinity by A27 and .</td>
</tr>
<tr>
<td>1925-</td>
<td>Blocking position cleared dismantled for IEDs.</td>
</tr>
<tr>
<td>1935</td>
<td>Approximately 30 vehicles attempt to turn westbound onto RT from RT . All are turned back with spotlight and laser light.</td>
</tr>
<tr>
<td>1935</td>
<td>Departs for blocking position at .</td>
</tr>
<tr>
<td>1939</td>
<td>Reports an LMVT from a different unit flipped northbound on RTE .</td>
</tr>
<tr>
<td>1950</td>
<td>Checks on .</td>
</tr>
<tr>
<td>2000</td>
<td>Departs .</td>
</tr>
<tr>
<td>2030</td>
<td>Is told that personnel forces may be moved off their blocking positions until the convoy has passed. The convoy will be running Irish in approx. 20 minutes and will consist of 4XM1114s and 1X UA Suburban.</td>
</tr>
<tr>
<td>2045</td>
<td>Grey sedan crosses the alert line. 3 million candle watt spotlight and laser light used to attempt stop of vehicle, to no effect.</td>
</tr>
<tr>
<td>2045</td>
<td>Grey sedan crosses the warning line. 2-4 warning shots fired to no effect. 8-12 disabling shots are fired, stopping vehicle.</td>
</tr>
<tr>
<td>2047</td>
<td>Search team approaches disabled vehicle.</td>
</tr>
<tr>
<td>2048</td>
<td>Sedan driver steps out and identifies himself as an Italian citizen.</td>
</tr>
<tr>
<td>2053</td>
<td>Reports of engaging vehicle on westbound onramp of vicinity . No possible LN injuries.</td>
</tr>
<tr>
<td>2053</td>
<td>Injured Italian citizens identified. Medical aid sent forward.</td>
</tr>
<tr>
<td>2055</td>
<td>Reports that 2XM1114s were in blocking positions at westbound off ramp of when a vehicle was engaged. 3x Italian Nationals wounded from the engagement requesting wheeled ambulance.</td>
</tr>
<tr>
<td>2055-2123</td>
<td>Injured journalist treated.</td>
</tr>
<tr>
<td>2059</td>
<td>Reports the condition of the 3x Italian Nationals: 1x Male KIA 1x Female wounded shots in the shoulder and 1x Male with grazing wounds to arm.</td>
</tr>
<tr>
<td>2104</td>
<td>Reports the engaged vehicle is a 4 door silver sedan with headlights on.</td>
</tr>
<tr>
<td>2105</td>
<td>Requesting information of which direction the engaged vehicle was traveling.</td>
</tr>
<tr>
<td>2106</td>
<td>Reports that vehicle was traveling approximately 70MPH towards blocking positions at when a high powered flood light direct laser light was used to signal vehicle to stop. When vehicle continued without slowing down a burst from the .</td>
</tr>
<tr>
<td>Line</td>
<td>Text</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>2106</td>
<td>reports that the female that was wounded to her shoulder was a former hostage held by insurgents, she was on her way to BIAP.</td>
</tr>
<tr>
<td>2110</td>
<td>is moving an element to bring the 2x WIA to the CSH, the ground evacuation element will evacuate the 1x KIA. The female WIA was transported to the CSH by a two wheel section and the male WIA initially stated he wanted to go to BIAP to catch his plane.</td>
</tr>
<tr>
<td>2120</td>
<td>departed Camp Liberty to pick up the KIA.</td>
</tr>
<tr>
<td>2120</td>
<td>notified that Jersey barriers were use in conjunction with the HUMMVs to block the on ramp. Shotes were fired at the vehicle from a distance of 50-70 meters away.</td>
</tr>
<tr>
<td>2123</td>
<td>Female casualty evacuated to CSH, male on scene is a WIA with a grazing wound to his upper right arm.</td>
</tr>
<tr>
<td>2129</td>
<td>calls and requests info on all events that have taken place. stated the info needs to be accurate and provided quickly because the news has already hit CNN and is at the 3 and 4 star level.</td>
</tr>
<tr>
<td>2132</td>
<td>convoy SP, patrol # 169-3-044, with ambulance that is needed at .</td>
</tr>
<tr>
<td>2133</td>
<td>calls to say that SSG was immediate supervisor and that 2LT was the highest ranking officer in the area. CPT was the Commander in the field. However, he was not at when the incident occurred.</td>
</tr>
<tr>
<td>2138</td>
<td>calls to report that female WIA is in route to the CSH and will arrive shortly.</td>
</tr>
<tr>
<td>2145</td>
<td>calls and instructs Assassin 6 to take photos and get grids for positions of all vehicles involved and locations of Jersey barriers.</td>
</tr>
<tr>
<td>2148</td>
<td>reports the male WIA remained back at scene and said that he wanted to catch a plane at and try to go home.</td>
</tr>
<tr>
<td>2150</td>
<td>calls to report the male WIA was instructed via cellular telephone to follow the female WIA to the CSH. Unknown individual speaking with male WIA on cellular telephone directed him to follow female WIA.</td>
</tr>
<tr>
<td>2151</td>
<td>calls to give names of KIA and WIAs. KIA name is . M: WIA with grazing wound to arm is . Female WIA that has shoulder wound was . Female WIA is a reporter and appears to be the journalist that was just released from AIF captivity. is ordered to ascertain if the last WIA is in fact the recently released journalist by .</td>
</tr>
<tr>
<td>2155</td>
<td>KIA is reported to be the assistant to the Italian General at the Italian Embassy. His identification card showed his civilian equivalent rank of Major General. is reported to be the equivalent rank of a Lieutenant Colonel. Individuals are not in the Italian Military; however they are referred to as such on their MNCI Identification cards.</td>
</tr>
<tr>
<td>2158</td>
<td>called the CSH, however, administrators refused to release anyone on the civilians that were brought in. Wolfhound 3 attempted to gain contact with the transporting Assassin elements without success.</td>
</tr>
<tr>
<td>2205</td>
<td>called requesting if the blocking positions on westbound Route were still needed.</td>
</tr>
<tr>
<td>Time</td>
<td>Text</td>
</tr>
<tr>
<td>-------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>2206</td>
<td>TC RTO sent info to SSG [name] at [name] over MIRC per request.</td>
</tr>
<tr>
<td>2207</td>
<td>[name] orders blocking positions to stay emplaced.</td>
</tr>
<tr>
<td>2208</td>
<td>[name] informed Wolfhound TOC the blocking positions can be moved as the</td>
</tr>
<tr>
<td></td>
<td>dignitary flew to BIAF.</td>
</tr>
<tr>
<td>2211</td>
<td>[name] and [name] SP from [name] Gate on trip ticket # 169-3-037.</td>
</tr>
<tr>
<td>2214</td>
<td>[name] orders all Wolfhound elements to stop recovery and treat the area as</td>
</tr>
<tr>
<td></td>
<td>crime scene.</td>
</tr>
<tr>
<td>2215</td>
<td>[name] orders [name] blocking position back in place on westbound Route</td>
</tr>
<tr>
<td>2225</td>
<td>[name] reported [name] arrived at the scene.</td>
</tr>
<tr>
<td>2226</td>
<td>[name] directed Wolfhound TOC to escort CID to scene. NETCALL on</td>
</tr>
<tr>
<td></td>
<td>main directed all battalions to pick up the new fill for FM radios.</td>
</tr>
<tr>
<td>2235</td>
<td>[name] reported lead vehicle did not emplace concertina wire. Instead, vehicle crew used Jersey barriers and HUMMs to block on ramp. The engaged vehicle was speeding, vehicle crews first engaged the speeding vehicle with white light and laser light with no effect. The lead vehicle gunner then fired 2-4 warning shots to the right side of the speeding vehicle with no effect. The lead vehicle gunner then fired 8-12 rounds in front of the speeding vehicle. However, due to the vehicles speed, the approaching vehicle drove into the line of fire striking the engine and passenger compartments. [name] requested further guidance from Commando 11. [name] informed [name] that a CID team will be escorted to the scene and informed him to keep the KIA at scene. [name] acknowledged.</td>
</tr>
<tr>
<td>2241</td>
<td>[name] confirmed the Male WIA was successfully delivered to the CSH in the</td>
</tr>
<tr>
<td></td>
<td>[name]</td>
</tr>
<tr>
<td>2243</td>
<td>[name] reported both WIAs have been successfully delivered to the CSH in the</td>
</tr>
<tr>
<td></td>
<td>[name]</td>
</tr>
<tr>
<td>2247</td>
<td>[name] inform [name] that three ten-digit grids will be needed:</td>
</tr>
<tr>
<td></td>
<td>1. Location of the spot light on the HUMMV</td>
</tr>
<tr>
<td></td>
<td>2. Location from were warning shots were fired</td>
</tr>
<tr>
<td></td>
<td>3. Location where the speeding vehicle came to rest</td>
</tr>
<tr>
<td>2258</td>
<td>[name] is en-route to site with an ETA of 15 minutes. [name] directed no</td>
</tr>
<tr>
<td></td>
<td>outside agencies are allowed to enter the incident location.</td>
</tr>
<tr>
<td>2300</td>
<td>[name] advised his vehicle is approaching the site from the north with white lights on.</td>
</tr>
<tr>
<td>2311</td>
<td>[name] requested a 100% accountability of all personnel.</td>
</tr>
<tr>
<td>2315</td>
<td>[name] has just designated [name] as the 15-6 investigating officer.</td>
</tr>
<tr>
<td>2328</td>
<td>Conflicting reports are coming out from news channels including Al-Jazeera regarding the incident. [name] stated on [name] main the soldiers at the blocking position did the right thing and the soldiers followed the ROE.</td>
</tr>
<tr>
<td>2333</td>
<td>[name] directs all elements that were part of the patrol need to be standing by at the front of the TOC as soon as [name] returns.</td>
</tr>
<tr>
<td>2340</td>
<td>[name] reported the [name] has RP at ECP 1.</td>
</tr>
<tr>
<td>2359</td>
<td>[name] reported SP from [name] Gate.</td>
</tr>
<tr>
<td>0011</td>
<td>[name] requested the ROE class attendance roster from [name] elements.</td>
</tr>
<tr>
<td>0028</td>
<td>[name] reported &quot;Investigation is being initiated at this time.&quot;</td>
</tr>
<tr>
<td>0030</td>
<td>spoke to [name] Battle Captain who stated no one to leave the scene until approved through Division. When the CID investigation is complete,</td>
</tr>
<tr>
<td>Time</td>
<td>Event Description</td>
</tr>
<tr>
<td>-------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>0046</td>
<td>Advises the incident scene is starting to break up.</td>
</tr>
<tr>
<td>0113</td>
<td>Requests to retrieve imagery of the incident site.</td>
</tr>
<tr>
<td>0120</td>
<td>TOC advises elements at the site are to stay on location until released by Division.</td>
</tr>
<tr>
<td>0121</td>
<td>1-76 FA called to report SP in 10 minutes.</td>
</tr>
<tr>
<td>0123</td>
<td>Advised TOC that Division gave the authorization to remove the KIA remains at this time.</td>
</tr>
<tr>
<td>0123</td>
<td>Directs TOC to inform elements finished the force protection piece and they will move the KIA remains momentarily.</td>
</tr>
<tr>
<td>1041</td>
<td>Reports the is at</td>
</tr>
<tr>
<td>0144</td>
<td>Departed with the KIA remains traveling to the CSH in the</td>
</tr>
<tr>
<td>0151</td>
<td>and have RP at</td>
</tr>
<tr>
<td>0231</td>
<td>Reports the recovery team is finished and requests permission to continue mission from</td>
</tr>
<tr>
<td>0233</td>
<td>Advises CID just departed the incident site and are in-route back to Camp</td>
</tr>
<tr>
<td>0300</td>
<td>and has RP back at Camp</td>
</tr>
<tr>
<td>0324</td>
<td>Advised Division granted permission for elements to continue mission and depart from the incident scene.</td>
</tr>
<tr>
<td>0333</td>
<td>Advised all elements have departed the incident site and are in-route back to Camp</td>
</tr>
<tr>
<td>0350</td>
<td>Requests to know where to bring the civilian vehicle involved in the incident.</td>
</tr>
<tr>
<td>0355</td>
<td>Advised Division had no guidance on where to secure the civilian vehicle involved in the incident. Advised the civilian vehicle will be secure in the battalion motor pool area.</td>
</tr>
</tbody>
</table>
On the evening of March 5, 2006, I requested elements of my company to block the westbound off ramps to Route 28 for a dignitary that was enroute from the Capitol to the airport at 2000. We received this mission at roughly 1800 hours. I ordered my elements to close off the westbound off ramps by 1930 hours.

While enroute to one of the blocking positions my 2 HMMWV section observed a LMTV flip over on the east side of route 28 just north of 38. The LMTV was part of a small Special Forces element and we stopped to provide assistance and security for approximately 30 minutes. I arrived at 2000 with 2 vehicles at approximately 2016 hours. I was concerned that many of my forces had been tied up with securing these static positions and I planned on resuming my patrol. I spoke with LT (redacted) and told him I was resuming patrol. I saw that he had his vehicles spaced out and was using the existing jersey barriers at the location to augment his vehicle blocking positions. I did not take note of any wire or signs at that time and as I was anxious to resume patrolling I departed the area. I requested an update on the location of the VIP and was told not to move off of the blocking positions. We were told to look for a convoy of 4 HMMWVs and an SUV vehicle.

At 2050 I received a report of a vehicle that was engaged by my blocking position at [redacted]. I immediately moved to that location to assist and to bring the medic to the scene. Upon arrival I observed one male KIA on the pavement on the passenger side of the vehicle, a female with a bullet wound to the shoulder, and one male with a grazing wound to his arm sitting on the curb by his vehicle talking on a cell phone. The female was being treated by a CLS on site. The medic SPC (redacted) assisted him in treating the female reporter. I ordered my driver SGT (redacted) to take pictures of the scene. I was informed that the passengers of the vehicles were Italian nationals and that the female was a reporter that had recently been released by AIF forces. I passed all available information up to [redacted]. I ordered the casualties to be evacuated to the CASH and requested a wheeled ambulance to remove the body of the KIA.

I was informed by SSG (redacted) and SPC (redacted) that the vehicle was moving at a high rate of speed, and that a hand held light, green laser pointer and warning shots were used as part of the escalation of force. SPC (redacted) also stated that the vehicle kept moving and he aimed for the engine block to disable the vehicle. They also stated that the driver exited the vehicle with the cell phone in his hand and said that he was on the phone with the embassy.

Q: What VIP were you briefed on?
A: I wasn't briefed on who it was but we were blocking the off ramps that led onto Route 28. The VIP was supposed to be moving west along Route 28 from the (redacted) to (redacted). I was told later by FM that the VIP may have been the US Ambassador.

Q: Were you present at the scene when the incident happened?
A: No
9. STATEMENT (Continued)

Q: What were you told had happened when you arrived at the checkpoint?
A: That a vehicle approached at a high rate of speed and did not stop after being warned with a light and a warning shot, so the vehicle was engaged in an attempt to disable it.

Q: When was the last time that your soldiers were trained in ROE?
A: Approximately one month ago

Q: Were your soldiers trained on what to do if a vehicle does not stop at a checkpoint?
A: Yes during almost every ROE briefing we have had

Q: In your opinion is there any way this situation could have been prevented?
A: Only if the driver had yielded to the warnings.

No further additions to this statement.
All HMMWVs in Alpha Company are required to carry 2 rolls of concertina wire on their vehicles. Throughout our left seat right seat ride process I never saw elements from the 4/5 ADA emplace wire on any of their blocking positions or TCPs. The signs we were issued up in stated Coalition Checkpoint Ahead. The other signs we had on the back of our vehicles had to be altered to remove the lines "or you will be shot." The Coalition Checkpoint Ahead signs were not used up in due to the ease in which vehicles could avoid these checkpoints. I believe that all the signs were collected up and stored in the conex during our move from to and have not been redistributed.

The usual procedure for the Routen blocking positions that I had seen executed several times on the left seat right seat rides involved one vehicle at the last barrier of the off ramp. I never saw them emplace signs or barriers at these positions. I assumed that by having 2 vehicles at each of the blocking positions I believed that I was meeting the intent of blocking the oncoming traffic. 2LT who was recently attached to me for this mission is a Bradley platoon leader that was the TC of one of the HMMWVs at the 541 blocking position. The lieutenant was using an extra company HMMWV for the day that was not outfitted with all the necessary equipment. His parent company operates differently from us and I believe that my asking him on short notice to crew a HMMWV with a wheeled section that he has not worked with may have contributed to confusion at the scene. I accept responsibility for any failures in barrier/sign allocation and emplacement within Alpha Company.
STATEMENT OF ____________________________ TAKEN AT ___________________ DATED ____________________________

9. STATEMENT (Continued)

AFFIDAVIT

I, ____________________________ , have read or have had read to me this statement which begins on page ________________, 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)

Witness:

______________________________

Organizing or address:

Subscribed and sworn before me, a person authorized by law to administer oath, this ________________, day of ________________, _________________.

(Signature of Person Administering Oath)

(Type Name of Person Administering Oath)

Investigating Officer

(Authority To Administer Oath)

INITIAL OF PERSON MAKING STATEMENT ____________________________ PAGE 2 OF 2 PAGES

15708
I saw SFC____ engage Mr.____ in a conversation in Spanish at the scene of the shooting at approximately 2100 hours. I do not understand Spanish and did not understand the substance of the conversation.____ was transported to the CASH by SFC____ and his crew.
AFFIDAVIT

1. I ... HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND CONCLUDES ON PAGE 7. 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)

WITNESS:

CPT 

(Signature of Person Administering Oath)

FJ05 TE 1-69 25G RG

(Title Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIAL 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. 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 (YYYY/MM/DD)**   3. **TIME**   4. **FILE NUMBER**
   CAMP [REDACTED]    2005/03/05    1308

5. **LAST NAME, FIRST NAME, MIDDLE NAME**   6. **SSN**   7. **GRADE/STATUS**
   [REDACTED]    [REDACTED]

8. **ORGANIZATION OR ADDRESS**
   ACO, 1-69

9. **WILLING TO MAKE THE FOLLOWING STATEMENT UNDER OATH:**

   On 4 March 05 at approximately 2100 while providing security assistance at the site of a vehicle roll over, at [REDACTED], CPT [REDACTED] received a radio call from SSG [REDACTED] who reported that his element had just engaged a vehicle at [REDACTED] and took casualties.

   We mounted up in our vehicles and proceeded to [REDACTED], West Bound on RTE [REDACTED]. When we arrived at the scene, I observed one male KIA lying on the ground next to a silver car, our Medic, Spc [REDACTED] administering medical aid to an injured female, while another male sitting on the curb, speaking on a cellphone. The individual did not speak fluent English and asked if I spoke Spanish. I discovered that his name was Mr [REDACTED]. He explained to me that all three passengers are Italian, the female was a reporter who had been kidnapped by Insurgents and had just been released, and that they were on their way to [REDACTED] Airport. He stated that while they were driving they heard shots coming from somewhere, he panicked and started speeding, trying to get to the airport as quickly as possible. He continued to speed down the ramp and saw the US Military vehicle, waved to indicate to them that they were friendly and heard shots.

   The female was evacuated to the hospital in the [REDACTED] by two humvees, shortly after another element from our patrol arrived and transported the male to the same hospital. 

10. **EXHIBIT**

11. **INITIALS OF PERSON MAKING STATEMENT**

   **PAGE 1 OF 3 PAGES**

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

**THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE INDICATED, AND PAGE NUMBER MUST BE INDICATED.**

DA FORM 2823, DEC 1998

DA FORM 2823, JUL 72, IS OBSOLETE

USAPA V1.00
9. STATEMENT (Continued)

...THIS PAGE INTENTIONALLY LEFT BLANK...
STATEMENT OF ____________ TAKEN AT ____________ DATED __05__

9. STATEMENT (Continued)

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AFFIDAVIT

I, ____________, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE __3___. 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.

SFC
(Signature of Person Making Statement)

WITNESSES

ORGANIZATION OR ADDRESS

ACO,1-69

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this __5__ day of __March__ __2005__ at ____________.

(Signature of Person Administering Oath)

[Typed Name of Person Administering Oath]

[Authority To Administer Oath]
My duty position is gunner on vehicle A-27. My acting Platoon Sergeant was SSG [redacted]. I was guarding a blocking position at [redacted], Grid [redacted] when a vehicle approached the position at a high rate of speed (est. 70mph). I flashed the vehicle with a high power spotlight at approximately 120 meters. At approximately 80 meters out I fired a warning three round burst to the right of the vehicle into a grassy area. The vehicle continued to move forward at a high rate of speed with no sign of slowing down. At approximately 2 meters I aimed at the ground in front of the vehicle to try to disable it. My intention was to disable the engine, I fired an 8 round burst. The vehicle was traveling at a high rate of speed that it traveled into my rounds. The rounds impacted into the bottomed disabling the driver side front tire, one round hit the passenger side head light. The third and fourth round went thru the windshield on passenger and drivers side. One of those rounds hit the rear passenger on the passenger's side of the vehicle killing him instantly. The other round on the drivers side hit the driver in the right shoulder passing thru and striking the drivers side passenger in the left shoulder. The vehicle came to a stop 30 meters in front of me. The rest of the squad went into action to clear the vehicle. At this time I maintain a light on the vehicle for them to see. The driver of the vehicle had exited with his hands up and identified himself. They then began to access and treat the wounded with CLS bags. I was then asked to call on the radio to [redacted] who the Company Commander, CPT [redacted] I was then removed from duty position to await an investigation team.

The following questions were asked:

**Q:** How many vehicles were there?

**A:** Only one vehicle was approaching.

**Q:** What time was it and what was the visibility like?

**A:** Time was about 2200 hrs and it was limited visibility?

**Q:** What do you mean by limited visibility?

**A:** It was dark and the headlights made it so I could not see who was in the car or how many.

**Q:** How many shots did you fire?

**A:** I fire a burst of 3 rounds and then a second burst of 10 to 12 rounds.

**Q:** Time between warning shots and disabling shots?

**A:** Between two and three seconds.
Q: How was the check point marked?
A: We had Jersey barriers and the HMMV's.

Q: How do you normally slow vehicles down at check points?
A: Depends on the time of day. During the day we give hand signals and use stop signs. At night we use spot lights and sirens.

Q: Why and when do you stop shooting?
A: Stop when vehicle is stopped and or threat is over or minimal.

Q: Were you trained the rules of engagement?
A: Yes at Fort Hood, Fort Erwin, Kuwait and Camp Cooke.

Q: Did you feel threatened?
A: Absolutely

Q: What did you think was happening when the vehicle was approaching?
A: I was thinking VBIED.

Q: Was there a threat in the area?
A: Yes about an hour before information came out about a possible VBIED in the area, and previous trouble with Coalition Forces in this sector.

Q: Were you briefed on how to react and rules of engagement?
A: We are briefed every day before we go out of the FOB on patrol.

Q: What happened to the people in the car?
A: One male passenger suffered head wounds; one male suffered minor wound to the right shoulder; one female suffered a left shoulder wound.

Q: Did you shoot with the intent to kill?
A: No.

Q: Have other cars done this before and what happened?
A: Normally with escalation of force vehicles stop at the warning shots or have stopped before that.

Q: Could this have been prevented?
A: If the driver had stopped at the visual signs or warning shots I feel this would not have happened.

Q: Is there anything you could have done to prevent this?

A: No.

Q: Could you see in the vehicle?

A: No.

Q: Describe training received on the check points.

A: When we get to the target area we establish 360 degree security, set up barriers to slow down traffic so we can check and inspect vehicles. We establish signs out front with soldiers to get motorists to stop. Depending on the situation and area deployed rules for engaging vehicles may vary for distance.

Nothing follows.

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**AFFIDAVIT**

I, [Redacted], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. 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 INDUCTION.

(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oath, this 5th day of March 2005 at Camp [Redacted].

(Signature of Person Administering Oath)

[Type Name of Person Administering Oath]

Investigating Officer

(Authority To Administer Oaths)
I, SPC [redacted], receive briefings on ROE every day before leaving the wire to do patrols, and during patrols. I've been highly trained in the procedures of Rules of Engagement. I'm a professional trained by professionals. I have qualified numerous times in the use of the M4, M16, M249 SAW, M240B and .50 Cal during my active duty and National Guard career. I keep my ROE card in my vest.
STATEMENT OF  
5 MAR 2005  
TAKEN AT 1245 HRS  
DATED  

9. STATEMENT (Continued)  

NOTHING Follows  

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)  

Witness:  

______________________________________  

Organization or Address  

______________________________________  

Organization or Address  

INITIAL OF PERSON MAKING STATEMENT  

PAGE 3 OF 5 PAGES  

15719
**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 2651; 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 filling and retrieval.

**DISCLOSURE:** Disclosure of your social security number is voluntary.

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<table>
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<th>1. LOCATION</th>
<th>2. DATE (YYYYMMDD)</th>
<th>3. TIME</th>
<th>4. FILE NUMBER</th>
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<td>2005-03-05</td>
<td>0419</td>
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<th>5. LAST NAME, FIRST NAME, MIDDLE NAME</th>
<th>6. SSN</th>
<th>7. GRADE/STATUS</th>
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<tbody>
<tr>
<td>B Co 2/155 TASK FORCE WOLFHOUND</td>
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<td>0-1</td>
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<tr>
<th>9.</th>
<th>WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:</th>
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<tbody>
<tr>
<td></td>
<td>On March 4, 2005 at approximately 1930 I relieved LT  from a blocking position at ___ on Route ___. My truck was positioned off of Route ___ to block traffic attempting to enter from the wrong direction. SSG ___ positioned his truck to the North East to prevent any traffic from entering off of Route ___ SSG truck was set behind the second serpentine on the off ramp about 50 meters from mine. These positions gave us enough stand off for an alert line and a warning line. High powered lights were used along with laser pointers to alert any traffic that the road was blocked. Until the incident took place we diverted a large number of cars off of our off ramp with no issues.</td>
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<td></td>
<td>I was standing by my truck along with SGT ___ and SSG ___ when the incident took place. Shots were fired and my attention was directed towards the car. When I saw the car he continued to move at a high rate of speed towards our blocking positions and the gunner attempted to disable the vehicle. The vehicle made it to the first barrier until it came to a complete stop. We shouted for the personnel to get out of the car. One male stepped out and shouted &quot;I am Italian and they killed.&quot; From that point SGT ___ SSG ___ and myself approached the vehicle with extreme caution and secured the male. Next SGT ___ and I walked to the car opened the back door on the passenger side. At the same time I called my gunner through my ICOM to contact CPT ___ and give a situation report and send an aid bag. SPC ___ showed up to the car immediately after with an aid bag. In the back seat there was one male with a severe gunshot wound to the head and one female who I could not asses at the time.</td>
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<td>SPC ___ and I pulled the male out of the car and started to administer first aid. Shortly after we had no pulse and he was presumed dead. Next I went to the drivers side of the car and SGT ___ along with SPC ___ had started first aid on the female. CPT ___ had arrived on the site soon after to assess the situation along with a medic. He gave me the word to evacuate the female to the HOSPITAL. We then loaded her into SSG ___ HMMWV and proceeded to the hospital. The Medic was in SSG ___ HMMWV to monitor the patient while we moved towards the hospital. Once we arrived at the hospital the female was able to walk, so we assisted her into the lobby. Medical personnel were on site to take over from there.</td>
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<td>I found a Glock pistol on the front passenger seat locked and loaded.</td>
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The following questions were asked:

<table>
<thead>
<tr>
<th>10.</th>
<th>11. INITIAL OR DOR MAKING STATEMENT</th>
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<tbody>
<tr>
<td>MAJ</td>
<td>Q: How fast did the vehicle approach?</td>
</tr>
<tr>
<td>LT</td>
<td>A: Definitely 50 + mph</td>
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<td></td>
<td>Q: How many vehicles approached?</td>
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<tr>
<td></td>
<td>A: One.</td>
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<td></td>
<td>Q: What time did the vehicle approach?</td>
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<td></td>
<td>A: I don't remember, about 2030-2100 hrs.</td>
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<td>Q: How many shots did you hear?</td>
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<td></td>
<td>A: About 10, at the most 15.</td>
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</table>

**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.**

DA FORM 2823, DEC 1998

DA FORM 2823, JUL 72, IS OBSOLETE

USAPA V1.30

15720
9. STATEMENT (Continued)

Q: Time between warning shots and disabling shots?
A: About 2 seconds.

Q: How was the checkpoint marked?
A: Lights, lasers pointer and jersey barriers.

Q: How do you typically slow vehicles down at a check point?
A: At night we use lights and jersey barriers.

Q: When the vehicle failed to stop did you feel threatened?
A: I did after the warning shots were fired and the vehicle failed to stop.

Q: How many rounds did you fire?
A: None.

Q: How many personnel fired at the vehicle?
A: Only one to my knowledge.

Q: What are the ROE for a vehicle that fails to stop at a check point?
A: It is a hostile act, so use of deadly force is authorized, using escalation.

Q: What did you think was happening when the vehicle failed to stop?
A: I thought it was possibly VBIED or that they intended on crashing into us.

Q: Was there a threat in that area at the time of the incident?
A: Yes. Earlier that morning we secured a UXO and there was report of a man digging on the side of Route with an angle iron and two days ago we lost two soldiers to an IED.

Q: Have you been briefed how to react to a vehicle that doesn't stop at a check point?
A: Yes. About the first week of Feb we were briefed again on ROE which included scenarios of vehicles that don't stop at a check point.

Q: Have other vehicles done this before?
A: Yes it happened to my platoon but not while I've been manning a checkpoint.

Q: What happened in those instances?
A: Warning shots were fired and the vehicles stopped.