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 Stewart + Peterbeard
(Appointing authority)

on 4 August 2005
(Date)

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

SECTION II - SESSIONS

The Investigation (board) commenced at 2-121 IN TOC Camp Iraq at 1000
(Place) (Time)

on 4 August 2005
(Date)

(if a formal board met for more than one session, check here □. Indicate in an inclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.) The following persons (members, respondents, counsel) were present: (after each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)

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 2100 on 4 August 2005
(Time) (Date)

and completed findings and recommendations at 2100 on 5 August 2005
(Time) (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

1. Inclusions (para 3-15, AR 15-6)
   Are the following included and numbered consecutively with Roman numerals: (Attached in order listed)
   YES □ NO □ NA □
   a. The letter of appointment or summary of oral appointment data?
   X
   b. Copy of notice to respondent, if any? (See item 9, below)
   X
   c. Other correspondence with respondent or counsel, if any?
   X
   d. All other written communications to or from the appointing authority?
   X
   e. Privacy Act Statements (Certificates, if statement provided orally)?
   X
   f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witness)?
   X
   g. Information as to sessions of a formal board not included on page 1 of this report?
   X
   h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?
   X

FOOTNOTES: □ If any negative answers on an attached sheet.
□ Use of the NA column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

16868
<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
<th>NA</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Exhibits (para 3-15, AR 15-6)</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Is there a list of exhibits offered to or considered by investigating officer or board attached before the first exhibit?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c. Has the testimony/statements of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and in the location of the original evidence indicated?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-60, AR 15-6)?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>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?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>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)?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3. Was a quorum present when the board voted on findings and recommendations (para 4-1 and 5-2b, AR 15-6)?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 5-3b, AR 15-6)?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Was a quorum present at every session of the board (para 5-2b, AR 15-6)?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Was each absence of any member properly excused (para 5-2a, AR 15-6)?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. If any members who voted on findings or recommendations were not present when the board received some evidence, does the inclusion describe how they familiarized themselves with the evidence (para 5-2d, AR 15-6)?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Notice to respondents (para 5-5, AR 15-6):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Is the method and date of delivery to the respondent indicated on each letter of notification?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Was the date of delivery at least five working days prior to the first session of the board?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Does each letter of notification indicate:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) the date, hour, and place of the first session of the board concerning that respondent?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) the matter to be investigated, including specific allegations against the respondent, if any?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) the respondent's rights with regard to counsel?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4) the name and address of each witness expected to be called by the recorder?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(5) the respondent's rights to be present, present evidence, and call witnesses?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Was the respondent provided a copy of all unclassified documents in the case file?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Was the respondent properly notified (para 5-5, AR 15-6)?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-4c, AR 15-6)?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Counsel (para 5-6, AR 15-6):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Was each respondent represented by counsel?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Name and business address of counsel:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(If counsel is a lawyer, check here □)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Was respondent's counsel present at all open sessions of the board relating to that respondent?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>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)?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12. If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Was the challenge properly denied and by the appropriate officer?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Did each member successfully challenge cease to participate in the proceedings?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13. Was the respondent given an opportunity to (para 5-8a, AR 15-6):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Examine and object to the introduction of real and documentary evidence, including written statements?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Object to the testimony of witnesses and cross-examine witnesses other than his own?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Call witnesses and otherwise introduce evidence?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. Testify as a witness?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>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 5-3e, AR 15-6)?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>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)?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

FOOTNOTES: 1) Enter all negative answers on an attached sheet.
2) Use of the NA column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or related.
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)

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

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

(Member)

(Member)

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

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

STEWART RODEHEAVER

BG, LINE, USA
Commanding
MEMORANDUM FOR RECORD


I. Summary of Facts (Section IV – Findings)

The following facts are based on the sworn statements and interviews with the eyewitnesses. At approximately 0900 on the 4th of August, 2005[redacted] Infantry tactical operations center (TOC) received message traffic over FM advising them about a potential VBIED attack. The BN TOC passed this info to the company CP where it was then sent out to the patrol on the ground. The patrol was told to interdict two vehicles traveling in their AO. The vehicles described were a silver 4 door sedan and a white 4 door sedan traveling together. At approximately 0915, two cars matching the description given over the radio were seen traveling south east on Route Aeros heading toward CP 34A. The cars were about 30 meters apart. The cars came to the intersection of[redacted] and[redacted], and turned south on[redacted]. This intersection has a large berm in the middle. The gray car made a normal right turn, in front of the berm, at the intersection, while the white vehicle drove in an erratic fashion almost a full circle around the berm and continued to follow the gray car. SSG[redacted], SPC[redacted], SPC[redacted], SPC[redacted] began waving their hands and shouting at the vehicle to stop. The interpreter for the group also shouted in Arabic.

SSG[redacted] then pointed his weapon at the vehicle and it continued perpendicular to[redacted]. SSG[redacted] fired 3 warning shots. The first shot landed 50 – 75 feet in front of the lead vehicle. The second shot was fired 3-5 seconds later at the same spot on the ground. The cars continued without hesitation. The final warning shot was fired at the same area kicking up dirt near the front tire. After the third warning shot, the gray vehicle stopped and the driver put his hands out the window.

All of the occupants of the gray car exited the vehicle and began shouting at the white car to stop. The white car continued toward the gray vehicle and another warning shot was fired. The white car then stopped and began to travel in reverse away from the check point. SSG[redacted], SPC[redacted] and SPC[redacted] all fired warning shots to the front and rear of the vehicle. The car continued to move away from the check point. Shots were fired at the rear quarter panel, tires and engine block. The car slowed down and the cease fire order was given by SSG[redacted] All firing stopped. The car continued to back into the berm it had erratically drove around earlier. The driver exited the vehicle and fell to the ground. The passenger also exited the vehicle on the far side. He remained next to the vehicle. A local national was sent to investigate the status of the passenger. The passenger was wounded. LT[redacted] arrived on the scene and began to search the gray
vehicle. Nothing of significance was found. They questioned the passengers and decided they were not a threat. The gray car was allowed to leave the scene. The squad then moved to search the white vehicle and provide medical care to the wounded. Nothing of significance was found in the white vehicle. The passenger was taken to TMC to be treated. Lt contacted the IP to take the body of the driver and his vehicle.

II. Findings of Facts (Section IV – Findings)

1. This investigation required careful examination of the facts surrounding the shooting. The ROE clearly states that a hostile intent must be conveyed before action is taken. The vehicles were reported over FM to be possible VBIEDs. The assumption that the vehicles were possibly VBIEDs coupled with their erratic driving and the failure of the vehicles to heed to the escalation of force conveyed a hostile intent.

2. The soldiers were given the command to stop the vehicles. The soldiers were able to stop one vehicle without loss of life or damage to property. Regrettably the second vehicle did not respond to any of the non-lethal gestures.

3. Given that the soldiers were told the vehicles were a potential VBIED, it is clear that they used the necessary level of force to protect themselves, civilians and other potential VBIED victims.

4. Answers to Questions raised in the appointment letter:

   a. Exact Chronology of event – see section I of this memorandum.

   b. Training - All soldiers involved received the proper training on traffic control, patrolling and rules of engagement (ROE). This training was conducted at Ft. Stewart, GA; the National Training Center, CA; and at Camp Buehring, Kuwait.

   c. ROE - The group used the appropriate escalation of force as explained in the CFLCC Rules for Use of Force. The soldiers shouted at the vehicle and used proper hand and arm signals. Then they showed their weapons in a manner that demonstrated intent to fire. Next warning shots were fired at a safe area, starting a reasonable distance from the vehicles. The patrol was able to stop the first vehicle without injury. This demonstrates that the patrol maintained the proper level of discipline while only engaging the target that still posed a threat.
DEPARTMENT OF THE ARMY
TASK FORCE 2-121, 48TH BCT, 3ID
APO AE 09372

d. The civilians had identification.

e. The civilians in the gray vehicle (Tag [redacted]) were [redacted] and [redacted]. Both individuals in the white vehicle (Tag [redacted]) were from Baghdad. The name of the deceased person was [redacted]. The passenger's name is [redacted].

f. The civilians had no weapons.

g. All civilians and vehicles were searched thoroughly.

h. The entire incident was reported over FM transmission in a timely and accurate manner. An 8 line CIR was also sent in to the 48 BCT in a timely manner.

i. The 48 BCT SOP does not discuss patrolling and traffic stops. Refer to section C-1-1 for information pertaining to tactical road marches; however, this section does not bare much relevance to this incident. The only point that may pertain to this scenario is the section on search refusal. In this case the vehicle refused to stop and thus refused to allow a search. A graduated escalation of force was used.

III. Recommendations (Section V)

Based upon all the evidence, my individual discussions with the witnesses who supplied sworn statements, and my findings of facts, I recommend the following:

1. The soldiers all followed ROE regarding escalation of force. Thus, I do not recommend any type of disciplinary, administrative or UCMJ action.

2. While the 3ID SOP provides guidance for setting up a TCP it does not clearly outline how to react to a possible threat turning to flee. The soldier on the ground needs clearer guidelines with regards stopping fleeing vehicles. When is it appropriate to use lethal force to stop a potential threat from escaping?

3. All of the soldiers involved should be counseled and retrained on the engagement criteria for fleeing vehicles, so they further learn from this event.
4. The appropriate claims officers should be notified of potential claims arising from this incident.

2LT, MI, USA
TACTICAL INTEL OFFICER
MEMORANDUM FOR 2LT [REDACTED], HHO [REDACTED] BN

SUBJECT: Appointment as 15-6 Investigating Officer

1. You are hereby appointed as an investigating officer to conduct an investigation pursuant to AR 15-6, paragraph 2-1(a)(3) into investigate the facts and circumstances of the alleged shooting of a civilian on 040915 AUG 05, involving SSG [REDACTED] SPC [REDACTED] and SPC [REDACTED], Company A, 1/121 IN BN. You are to make specific findings and recommendations concerning the causes of the incident. Until the investigation is completed, this will be your primary duty responsibility.

2. Your investigations and findings will include, but not be limited to the following:
   a. The exact chronology of events;
   b. Did the person(s) involved have proper training on traffic control, patrolling and Rules of Engagement;
   c. Were the Rules of Engagement followed;
   d. Did the civilian have identification;
   e. What was his/her name;
   f. Did the civilian have a weapon;
   g. Was the civilian searched after the shooting;
   h. Was the incident reported correctly; and
   i. What is the 48BCT SOP for dealing with patrolling and traffic stops?

3. You will use informal procedures under AR 15-6, Chapter 4. If, during your investigation, you suspect that persons you intend to interview may have violated any provision of the Uniform Code of Military Justice (UCMJ) or any other criminal law, you must advise them of their rights under the UCMJ, Article 31 as documented on DA Form 3881. Witness statements should be sworn and recorded on DA Form 2823.

4. Prepare the report of proceedings on DA Form 1574 and submit the original to me by the above suspense. You must submit any requests for delay to me in writing. Include
GAHQ-SJA  
SUBJECT: Appointment as 15-6 Investigating Officer

with your report all documentary evidence, sworn statements, and other information or evidence you considered.

5. Before proceeding with the investigation you must contact CPT [REDACTED] at the Brigade TOC for an initial legal briefing. CPT [REDACTED] will serve as your primary legal advisor.

6. By virtue of your appointment, you may direct the assistance of personnel with special technical knowledge to assist or advise you during your investigation. Requests should be coordinated through your legal advisor.

7. If during the course of your investigation you discover systemic training deficiencies that potentially caused or contributed to the incident under investigation, you will immediately contact your legal advisor for further guidance.

Stewart Redebeaver
BG, LINE, USA  
Commanding
MEMORANDUM FOR 2LT [Redacted], HHC [Redacted] IN

SUBJECT: Appointment as 15-6 Investigating Officer

1. You are appointed as an investigating officer to conduct an investigation pursuant to AR 735-5 and AR 15-6, paragraph 2-1(a)(3) to investigate the facts and circumstances of the shooting occurred in grid [Redacted]. You are to make specific findings and recommendations concerning the causes of the incident and the status of the above mentioned items. Until the investigation is completed, this will be your primary duty responsibility and must be completed within 24 hours.

2. You will use informal procedures under AR 15-6, Chapter 4. If, during your investigation, you suspect that persons you intend to interview may have violated any provision of the Uniform Code of Military Justice (UCMJ) or any other criminal law, you must advise them of their rights under the UCMJ, Article 31 as documented on DA Form 3881. Witness statements should be sworn and recorded on DA Form 2823.

4. Prepare the report of proceedings on DA Form 1574 and submit the original to me by 1200 29 June 2005. You must submit any requests for delay to me in writing. Include with your report all documentary evidence, sworn statements, and other information or evidence considered.

5. By virtue of your appointment, you may direct the assistance of personnel with special technical knowledge to assist or advise you during your investigation. Requests should be coordinated through your legal advisor.

6. If during the course of your investigation you discover systemic training, maintenance, and/or storage deficiencies that potentially caused or contributed to the incident under investigation, you will immediately contact your legal advisor for further guidance.

7. Provide the completed investigation paperwork to the undersigned.

MAJ, IN
BN XO
EXHIBIT INDEX

A. CIR and updated CIR
B. Map of incident
C. DA 2823-Sworn Statement from SSG dated 04 August 2005
D. DA 2823-Sworn Statement from SPC dated 04 August 2005
E. DA 2823-Sworn Statement from LT dated 04 August 2005
F. DA 2823-Sworn Statement from SPC dated 04 August 2005
G. DA 2823-Sworn Statement from SPC dated 04 August 2005
H. DA 2823-Sworn Statement from LT dated 04 August 2005
I. Report Analysis Sheet from
J. DA 4137-Evidence/Property Custody Document from LT dated 04 August 2005
Exhibit A
2-121 IN CIR

LINE 1: Unit reporting: A/1-121 IN(M)

LINE 2: Incident: SHOOTING OF TWO POSSIBLE AIF

LINE 3: Date/time group (DTG) incident occurred: 040915AUG05

LINE 4: Location of incident: 

LINE 5: Personnel involved:

<table>
<thead>
<tr>
<th>Name</th>
<th>Rank</th>
<th>Unit</th>
<th>SSN</th>
<th>Sex</th>
<th>Age</th>
<th>Race</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SSG</td>
<td></td>
<td></td>
<td>M</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>SPC</td>
<td></td>
<td></td>
<td>M</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>SPC</td>
<td></td>
<td></td>
<td>M</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

LINE 6: Summary of incident: AT APPROXIMATELY 0900 A TRANSMISSION WAS SENT TO *** FROM THE *** STATING THAT THEY NEEDED TO BE ON THE LOOKOUT FOR TWO VEHICLES TRAVELLING TOGETHER, SILVER FOUR DOOR SEDAN AND A WHITE TWO DOOR SEDAN. THE TWO VEHICLES WERE SPOTTED BE *** AT 0915 AND WERE STOPPED BY FIRING WARNING SHOTS. THE LEAD VEHICLE STOPPED WITHOUT INCIDENT. THE TRAIL VEHICLE ATTEMPTED TO FLEE AND WAS ENGAGED BY THE CHECKPOINT.

LINE 7: ONE POSSIBLE AIF KIA, ONE POSSIBLE AIF WOUNDED, DAMAGE TO WHITE TWO DOOR SEDAN

LINE 8: 1LT ***
**2-121 IN CIR**

LINE 1: Unit reporting: A/1-121 IN(M)

LINE 2: Incident: SHOOTING OF TWO POSSIBLE AIF

LINE 3: Date/time group (DTG) incident occurred: 040915AUG05

LINE 4: Location of incident: VICINITY

LINE 5: Personnel involved:

<table>
<thead>
<tr>
<th>Name</th>
<th>Rank</th>
<th>Unit</th>
<th>SSN</th>
<th>Sex</th>
<th>Age</th>
<th>Race</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SSG</td>
<td></td>
<td>M</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>SPC</td>
<td></td>
<td>M</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>SPC</td>
<td></td>
<td>M</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

LINE 6: Summary of incident: AT APPROXIMATELY 0900 HOURS A RADIO TRANSMISSION WAS BROADCASTED TO THE ELEMENTS AT THE BROADCAST WAS A WARNING TO BE AWARE AND OBSERVANT OF TWO VEHICLES TRAVELING TOGETHER APPROACHING THEIR STATIC POSITION. THE TWO VEHICLES WERE DESCRIBED AS: A SILVER COLORED FOUR DOOR SEDAN AND A WHITE COLORED TWO DOOR SEDAN. THE TWO VEHICLES WERE OBSERVED IN THE AREA OF AT 0915 HOURS BY MEMBERS OF A/1-121 IN (M). THE ABOVE MEMBERS, WHO WERE AT , DID OBSERVE THE VEHICLES APPROACHING THE AND NOT STOPPING. THE MEMBERS BEGAN TO VERBALLY ORDER THE DRIVERS, OF BOTH VEHICLES, TO STOP. AS A FURTHER PRECAUTION THE MEMBERS OF A/1-121 CONTINUED WITH HAND AND ARM SIGNALS ORDERING THE DRIVERS TO STOP. THE DRIVERS CONTINUED TO APPROACH THE CHECKPOINT DISREGARDING BOTH VERBAL AND VISUAL SIGNALS TO STOP. IMMEDIATELY FOLLOWING THESE ACTIONS WARNING SHOTS WERE FIRED. THE LEAD VEHICLE CAME TO A COMPLETE STOP WHILE THE TRAIL VEHICLE ATTEMPTED TO DRIVE AWAY AND FLEE FROM THE SCENE. THE VEHICLE WAS ENGAGED NEAR THE CHECKPOINT.

LINE 7: Damage to government and/or civilian property: ONE POSSIBLE AIF KIA, ONE POSSIBLE AIF WOUNDED. UNKNOWN DAMAGE TO THE WHITE SEDAN.

LINE 8: Commander reporting: LTC

16882
Exhibit B
Exhibit C
SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 13007 dated November 22, 1994 (SSW).

PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.

ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.

DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION

2. DATE (MMDDYY)

3. TIME

4. FILE NUMBER

5. LAST NAME, FIRST NAME, MIDDLE NAME

6. SSN

7. GRADE/STATUS

8. ORGANIZATION OR ADDRESS

A 1/121 1N (M)

I WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Call came over radio all elements be advised you're looking for silver four door sedan following on being followed by white four door sedan. They are seen driving erratically or speeding at checkpoints on TCP weapons free. Possible sighting checkpoint earlier. Approximately 09/15 silver four door sedan followed 300m behind by a white four door car. I observed traveling southwest to southeast. The two cars were seen splitting up as the white car went on the north side of the surf in the road while the silver car went on the south side. The silver car continued to travel towards when SPC began waving their hands to stop the cars. Hollering at the cars to stop, they were joined by the interpreter who began yelling in Arabic to them to stop. I began raising the weapon's barrel up and down pointing at the car and the silver car continued towards. I fired three rounds warning shots at the silver car. The first shot was 50-75ft in front of the silver car. Three to five seconds later a second shot in the same vicinity as the car continued toward. Another three seconds passed and I fired a warning shot that kicked up dirt at the right front tire. The passenger stuck his hands out the window and left began hollering at the silver car who had sped up towards him. Closing the gap to 1km. When the occupants of the silver car exited the vehicle the white car's reversed direction of travel. At the same time that the white car began to speed in reverse, SPC on my left and on my right began to fire warning shots in front of the grey silver car. The car continued speeding to the rear opening the gap between the two cars to 200-250 meters. The warning shots going unheeded several well placed shots were placed in the rear left quarter panel of the white...
8. STATEMENT (Continued)

... The car began to back at a slight angle still at a high rate of speed. When they began to change the direction of the car to the left and then barreled into the dirt barrier in the road he had earlier gone around. Immediately I called for a cease fire and the shots ceased. The driver exited the vehicle under his own will and laid down in the road beside the car. I ordered my three soldiers to continue to watch him. At this point Bradley came on the scene and said there was a second person on the passenger side of the car. No shots were fired at the car at this time as I had already called for a cease fire. He bagged the driver and took the passenger to the TMC.

Nothing follows.
<table>
<thead>
<tr>
<th><strong>STATEMENT OF</strong></th>
<th><strong>TAKEN AT</strong></th>
<th><strong>DATED</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>11th Camp</strong></td>
<td><strong>4 Aug 05</strong></td>
</tr>
</tbody>
</table>

**B. STATEMENT (Continued)**

---

**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:

[Signatures of Witnesses]

[Blank lines for Witnesses'] Information]

**ORGANIZATION OR ADDRESS**

[Blank lines for Organization Information]

---

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _______ day of _______ at _______.

[Signature of Person Administering Oath]

[Typed Name of Person Administering Oath]

[Authority To Administer Oaths]

---

INITIALS OF PERSON MAKING STATEMENT

[Initials]

PAGE 3, DA FORM 2023, DEC 1998
SWORN STATEMENT

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

PRIVACY ACT STATEMENT

1. LOCATION
2. DATE, YYYY/MM/DD
3. TIME
4. FILE NUMBER

5. LAST NAME, FIRST NAME, MIDDLE NAME
6. SSN
7. GRADE/STATUS
8. ORGANIZATION OR ADDRESS

I, ________________, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On the morning of __________, at __________ (approx.) and came over our singare at __________. The call stated that we were too keep eyes open and stop--weapon fire from a white car. A Ford Caden and a silver Caden(inside) traveling together. If they approached, they would fire and escape rapidly. At that time a silver car followed by a white car traveled in close proximity with each other towards __________ on __________. When the silver car reached the head to head southeast on a road, the white car made a move. The silver car reached roughly fifty to sixty meters away from the head, the white car came to a head. At that time, the white car proceeded to the hard in the road and suddenly to split the either one time with the silver car, SSG __________ then fired a warning shot in front of the drivers side bumper of the silver car. The white car proceeded to turn back into direction of travel of the silver, and closed the gap between the two. Another warning shot was fired in front of the white car and it stopped. As the people in the silver car exited the vehicle with hands high, the white car started closer to the silver. Another warning shot was fired in front of the white and it then stopped. Almost simultaneously all civilians in the silver car at stood on the north side of the vehicle hands high the whole vehicle then went into reverse and sped up opened the gap between the two. I then fired a burst (approx.) to the rear of the vehicle or warning to stop. It speed up with civilians from silver car holding to stop, and as they fired at the time, rear quarter panel, and engine block of the vehicle. At that time, the crew closed down, approaching the island in the road with the rear of the car. SSG __________ then called for a car chase. Moments after the vehicle then hit the island, stopped, and the driver opened the door and fell. I then made certain that the eyewitness were coming and to measure and.

DA FORM 2823, DEC 1998
9. STATEMENT (Continued)

The white vehicle was suspicious from square one showing tinted windows in the rear and seeming to be frantic and belligerent in driving style. There is no doubt in my mind that an escalation of force in stopping the vehicle in question was without hesitation and done with consideration of our safety, as well as the safety of the civilians on the ground.

NOTHING FOLLOWED
Exhibit E
SWORN STATEMENT

For use of this form, see AR 190-45: the propounder agency is PMG.

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; DOD Directive 5200.25 dated November 22, 1943 (25CFR).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your social security number is used as an additional identifier means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION
   BN Toc 2/111

2. DATE (YYYYMMDD)
   2005 02 14

3. TIME
   1321

4. FILE NUMBER

5. LAST NAME FIRST NAME MIDDLE NAME

6. UNIT

7. GRADE STATUS
   0-2/PL

8. ORGANIZATION OR ADDRESS
   A Co 1/121

9. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH: At approximately 0900 hrs, I received a call to BOLO two vehicles. One white four door sedan, and one silver four door sedan traveling together in the ATO. A Section, Platoon, was instructed to initiate a stop T.C.P. in order to stop traffic and attempt to isolate the two vehicles. While establishing our T.C.P., I called on the radio and stated that they saw two vehicles that met the description traveling south on MSR and turning east on RT; so we started to move in the direction of and attempt to apprehend or interrupt the vehicles. While moving south called over the radio and stated that there was one vehicle fitting the description of the BOLO's were traveling on RT south of their position. Shortly after that SGT called over the radio stating that A-Section needed to get to the check point because the lighter was engaged. A-Section arrived approximately five minutes later and saw two vehicles. One silver four door sedan with 3 driver lying on the ground and the passenger sitting on the ground. SGT, , PC , the interpreter, and moved to the first vehicle and searched the area. The silver four door was with passengers, where we initiated a an off couple and their son who claimed to be on their way to the hospital. The vehicle was a Toyota Camry, Model 1981- Tan. The god the mother's name was . The son's name was . After searching the vehicle and to read the people on their way. This was after the engaged vehicle was searched and a recent mail was called up $10.

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEAD "STATEMENT OF ______________________________ TAKEN AT ______________ DATED ______________

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

DA FORM 2023, DEC 1999

DA FORM 2023, JUL 72, IS OBSOLETE

16894
After reaching the silver sedan, I moved to the white sedan with SAT. We were very concerned with clearing the white sedan because when warning shots were fired in an attempt to stop the vehicle, the vehicle quickly tried to U-turn and drive and the windows were tinted—a sign for VB160's. However, the vehicle was clear. At this point we called a mini bus medevac for the wounded national and bagged the KIA. After waiting for a medevac we decided to even back to the ROB. We secured the area and opened the KIA onto the white sedan. After securing the casualty back to ROB and returning back to the MSR, I linked up with the IP and coordinated for them to pick up the vehicle and the body. I gave the KIA's body to the IP along with the keys. I gave the wounded's ID to the TMC staff. The KIA's name was from Bagdad. His wife's name was from Bagdad. The wounded passenger was from Bagdad. The vehicle was a late model Lincoln Town Car.
**AFFIDAVIT**

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

(Signature of Person Making Statement)

Witnesses:

[Blank space for witnesses' names and addresses]

Organization or address

[Blank space for organization or address]

[Signature of Person Administering Oath]

(Typed Name of Person Administering Oath)

(Authority To Administer Oath)

Initials of Person Making Statement
SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2651; F.O. 3397 dated November 22, 1943 (SSN).

PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.

ROUTINE USES: Your social security number is used as an additional identification means of identification to facilitate filing and retrieval.

DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION
2. DATE (YYYYMMDD)
3. TIME
4. FILE NUMBER

5. LAST NAME, FIRST NAME, MIDDLE NAME
6. SSN
7. GRADE/STATUS

8. ORGANIZATION OR ADDRESS

A Co 11/21 2nd Bn

9. [Signature]

WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

At around 0900 [redacted] reached our check point informing us of two possible VBSEOs. The vehicles were described as a grey and white four-door sedans travelling together. [redacted] gave us a weapons free status to engage if the vehicles are seen. Shortly afterwards we spotted two vehicles matching that description traveling along a canal road about 200 meters southwest of [redacted] They turned towards the east heading towards MSR [redacted] The grey vehicle was in front followed by the white vehicle. SSG [redacted] yelled at the grey sedan to stop. The grey car didn't stop so SSG [redacted] shot 3 warning shots to stop the vehicle. The grey vehicle stopped and the driver put his hands out the window. The white vehicle continued forward until a warning shot was fired at it and it stopped. The driver of the white car began to slowly back up. SSG [redacted] yelled at the white car to stop, it didn't. Two warning shots at the white car as well as warning shots from SSG [redacted], SPC [redacted] and SPC [redacted]. The white vehicle sped up in reverse and all four of us began firing directly at the vehicle. The vehicle continued to speed up in reverse until it slammed into a berm.

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF"

TAKEN AT [redacted] DATED 09/25/2005

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE "STATEMENT OF " AND PAGE NUMBER MUST BE INDICATED.
After hitting the barrier, the driver opened his door and fell out of the vehicle. The driver stopped moving at that point because he had been shot in the firefight. SGT [redacted] called the incident up to [redacted] and [redacted] (LT [redacted]) requesting some assistance from our Bradley vehicles. [redacted] arrived on the scene shortly after and myself, SGT [redacted] and our interpreter loaded on the Bradley to go check out the vehicles. We rolled down and searched the grey vehicle, then moved to the white vehicle. I didn't realize until we had moved towards the white car that there was another passenger that was sitting outside the vehicle. We sent a local civilian to go check him out before we moved up. The civilian said the man was wounded and needed medical care. We moved up to the vehicle and searched it providing medical care to the wounded man. [redacted] called for medicac but we were informed afterwards that none would be coming. We loaded the wounded man in the back of [redacted] and they brought him in to get proper medical treatment. Then I returned to my post.

Nothing follows.
Exhibit G
**SWORN STATEMENT**

For use of this form, see AR 190-46; the proponent agency is PAG.

**PRIVACY ACT STATEMENT**

**AUTHORITY:** Title 10 USC Section 381; Title 5 USC Section 2551; E.O. 9387 dated November 22, 1943 /SSW.

**PRINCIPAL PURPOSE:** To provide commanders and law enforcement officials with means by which information may be accurately identified.

**ROUTINE USES:** Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.

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

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>DATE (MM/NN/YY)</th>
<th>TIME</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2005/08/04</td>
<td></td>
</tr>
</tbody>
</table>

**FILE NUMBER**

E-4

**OCCUPATION OR ADDRESS**

Hqo 1/12/1 Task Force 2/12/1

---

1. **WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:**

0900 call from [REDACTED] to all [REDACTED] Elements to look out for a silver 4 door sedan & a white 4 door sedan. The vehicles were traveling together and had bypassed a checkpoint. Direction of travel was not indicated. Were given instructions to stop vehicles if in area, but to approach with extreme caution. Weapons Free Status was given if vehicles acted irratically or ran to checkpoint at high rate of speed. 0910-0915 I spotted 2 vehicles that fit description south west of our position at [REDACTED]. The vehicles were traveling north and turned right onto route arrows traveling south east towards MSR [REDACTED]. We shouted and signaled to the vehicles to stop. One warning shot was fired at [REDACTED] lead vehicle (silver) in front of the car. Vehicle slowed down. We shouted and signaled one
more time. One more warning shot was fired in front of silver vehicle. Vehicle came to a complete stop. Driver put his hands outside window, and passengers began to exit vehicle as driver was exiting the vehicle, the trailing white car sped up towards the silver car. We all shouted and signaled to white car stop. The passengers of silver vehicle were also telling the white car to stop. A warning shot was fired in front of white vehicle & behind silver vehicle. After warning shot to white car, the vehicle put car in reverse and began to speed off. More warning shots were fired in front of and behind the white vehicle as he continued to back up. The car was then engaged. As the car slowed down cease fire order was given by ss gt [redacted]. The vehicle came to a stop by running up on a berm. The driver opened the door and fell out to the ground. The passengers exited the vehicle and stayed crouched down behind vehicle. Security was pulled until two
BFU's arrived from element to search vehides and personel.

Nothing follows.
Exhibit H
SWORN STATEMENT
For use of this form, see AR 190-45; the proponent agency is PMG.

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

1. LOCATION: [Redacted]
2. DATE (YYYYMMDD): 2005 08 04
3. TIME: 13:20 HRS
4. FILE NUMBER:

5. LAST NAME, FIRST NAME, MIDDLE NAME: [Redacted]
6. SSN: [Redacted]
7. GRADE/RANK: E-5

8. ORGANIZATION OR ADDRESS: APO AE 09372

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

I received a call from [Redacted] at approximately 0900 HRS. The call stated that we were to be on the lookout for a gray/silver 4-door sedan following or being followed by a white 4-door sedan. They were suspected of being up to no good. We were advised to use extreme caution. We were also told that if the vehicles acted erratically or drove at a high speed toward us, that weapons were free. After the transmission, I spotted two vehicles that fit the description. I called this info up to the both turned east heading south on [Redacted] I called this info up to while I was in the process of completing my transmission. Other soldiers spotted two cars other soldiers spotted two cars fitting the description to the west of our position traveling east towards the MSR. [Redacted] said that the vehicles were splitting up. Then he said that the white one had turned back to follow the white car. Everyone including our interpreter was waving and shouting for the vehicles.

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT: [Redacted]

PAGE 1 OF 3 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT [Redacted] TAKEN AT [Redacted] DATED [Redacted]

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE INDICATE THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.
B. STATEMENT (Continued)

They did not. Warning shots were fired in front of the gray car. The gray car stopped and three individuals got out. Our guys then shifted their attention to the individuals in the white car. They stayed in the car. Warning shots were fired at the white car. The car then started to go in reverse at a high rate of speed. The car then hit a berm and stopped. Both individuals tried to flee. The driver slumped to the ground. The other individual hid behind the car. I then called this info up to [REDACTED], who was in route to our location. I advised him that the vehicle had been engaged and that there were casualties. I also advised [REDACTED] of the best route to take to the location. [REDACTED], after viewing the situation, advised me to get a soldier an our interpreter, then picked us up. We moved to the location and searched the silver car. We found nothing. We then moved to the white car to find the driver dead and the passenger wounded. I then administered aid to the passenger. We called for our medic. I then assisted the medic.
IN TREATING THE WOUNDED INDIVIDUAL. OUR INTERPRETER GAC ADVISED US THAT AFTER QUESTIONING THE INDIVIDUALS FROM THE SILVER/GRAY CAR, THAT THOSE INDIVIDUALS YELLED TO THEM TO STOP. THEN ASKED THE PASSENGER WHY THEY TRIED TO FLEE. HIS TRANSACTION WAS THAT THEY WERE SLEEPY. I THEN HELPED GETT PUT THE DRIVER IN A BODY BAG. WE MEDIVACED THE PASSENGER IN THE BRADLEY AND SECURED THE DECEASED INDIVIDUAL IN THE CAR.
Exhibit I
TIME OF REPORT (DTG)

REPORT ANALYSIS SHEET

1. UNIT: [Redacted] 2-121
2. RECEIVED BY: SPC [Redacted]
3. INITIAL REPORT:
   Size: 2x SUSPICIOUS VEHICLES
   Activity: TRACKED VIA UAV
   Location: [Redacted]
   Time of Incident (DTG): 040821AUG05
   Your (units) actions: ADVISED DEVIL TO STOP VEHICLES

Additional Information:


Follow Up Report:

0918: [Redacted] REPORTS THAT THEY HAVE STOPPED A WHITE CAR AND A SILVER CAR AT [Redacted] WHITE VEHICLE TRIED TO EVADE CP, RESULTING IN ESCALATION OF FORCE AND 1x LN WIA AND 1x LN KIA. BOTH CARS HAVE BEEN STOPPED AND ARE BEING SEARCHED.
Follow Up Report Cont.:  

1009: REPORTS NAMES OF INDIVIDUALS – KIA: Hassan Jaker

WIA: VEHICLES WERE SEARCHED, NOTHING FOUND. THE WIA WAS WOUNDED IN THE LOWER ABDOMEN AND IN HIS RIGHT HAND. JCC HAS BEEN CONTACTED FOR THE WIA AND KIA.

1029: INFORMED TO GROUND EVAC THE WIA TO THE TMC ON IP WILL RETRIEVE BODY AND VEHICLE, TIME TBD.

1033: REPORTED THAT THE FIRST VEHICLE (NOT SHOT) HAD 3 OCCUPANTS, ONE OF WHICH WAS SICK. VEHICLE WAS EN ROUTE TO THE HOSPITAL. THEY WERE ALLOWED TO PASS. SECOND VEHICLE TRIED TO EVADE THE TCP RESULTING IN THE SHOOTING.

1057: REPORTED THAT THEIR ELEMENT HAS LOADED THE WIA AND IS CURRENTLY EN ROUTE TO TMC HAS BEEN NOTIFIED.

1114: TMC HAS ADVISED THAT THE WIA LN HAS MADE IT TO THEIR LOCATION. INDIVIDUAL IS BEING ASSESSED AT THIS TIME.
### EVIDENCE/PROPERTY CUSTODY DOCUMENT

**RECEIVING ACTIVITY**

**LOCATION**

**NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED**

*ARO*

**ADDRESS (include zip code)**

*BAH10 AN*

**LOCATION FROM WHERE OBTAINED**

**REASON OBTAINED**

*FIELD AFTER WARRNSH SHOT*

**TIME/DATE OBTAINED**

*04 AUG 05*

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>QUANTITY</th>
<th>DESCRIPTION OF ARTICLES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>40</td>
<td>Danani (APRX 15 US)</td>
</tr>
<tr>
<td>2</td>
<td>1</td>
<td>Prescription Note (For Female)</td>
</tr>
<tr>
<td>3</td>
<td>1</td>
<td>ID - Copy of Deceased's Son's ID Card 1985</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>Various Iraqi notes in Arabic</td>
</tr>
<tr>
<td>5</td>
<td>2</td>
<td>KIA ID &amp; Driver's License</td>
</tr>
</tbody>
</table>

### CHAIN OF CUSTODY

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DATE</th>
<th>RELEASED BY</th>
<th>RECALLED BY</th>
<th>PURPOSE OF CHANGE OF CUSTODY</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALL</td>
<td>04 JUL 05</td>
<td>NAME, GRADE OR TITLE</td>
<td>NAME, GRADE OR TITLE</td>
<td></td>
</tr>
<tr>
<td>ITEM NO.</td>
<td>DATE</td>
<td>RELEASED BY</td>
<td>CHAIN OF CUSTODY (Continued)</td>
<td>RECEIVED BY</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
<td>-------------</td>
<td>-------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>SIGNATURE</td>
<td>SIGNATURE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NAME, GRADE OR TITLE</td>
<td>NAME, GRADE OR TITLE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>SIGNATURE</td>
<td>SIGNATURE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NAME, GRADE OR TITLE</td>
<td>NAME, GRADE OR TITLE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>SIGNATURE</td>
<td>SIGNATURE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NAME, GRADE OR TITLE</td>
<td>NAME, GRADE OR TITLE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>SIGNATURE</td>
<td>SIGNATURE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NAME, GRADE OR TITLE</td>
<td>NAME, GRADE OR TITLE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>SIGNATURE</td>
<td>SIGNATURE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NAME, GRADE OR TITLE</td>
<td>NAME, GRADE OR TITLE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>SIGNATURE</td>
<td>SIGNATURE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NAME, GRADE OR TITLE</td>
<td>NAME, GRADE OR TITLE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>SIGNATURE</td>
<td>SIGNATURE</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NAME, GRADE OR TITLE</td>
<td>NAME, GRADE OR TITLE</td>
<td></td>
</tr>
</tbody>
</table>

**FINAL DISPOSAL ACTION**

RELEASE TO OWNER OR OTHER (Name/Unit)
DESTROY
OTHER (Specify)

**FINAL DISPOSAL AUTHORITY**

ITEM(S) ON THIS DOCUMENT, PERTAINING TO THE INVESTIGATION INVOLVING (Grade)
(Due)
(Expires)
(Are no longer required)
(REQUIRED AS EVIDENCE AND MAY BE DISPOSED OF AS INDICATED ABOVE.
If article(s) must be retained, do not sign, but explain in separate correspondence.)

(Typed/Printed Name, Grade, Title) (Signature) (Date)

**WITNESS TO DESTRUCTION OF EVIDENCE**

THE ARTICLE(S) LISTED AT ITEM NUMBER(S) (Name/Unit) (Were) destroyed by the evidence
CUSTODIAN, IN MY PRESENCE, ON THE DATE INDICATED ABOVE.

(Typed/Printed Name, Organization) (Signature)
MEMORANDUM FOR RECORD

5 August 2005


I. Summary of Facts (Section IV – Findings).

The following facts are based on the sworn statements and interviews with the eyewitnesses. At approximately 0900 on the 4th of August, 2005 the 2-121 Infantry tactical operations center (TOC) received message traffic over FM advising them about a potential VBIED attack. The BN TOC passed this info to the company CP where it was then sent out to the patrol on the ground. The patrol was told to interdict two vehicles traveling in their AO. The vehicles described were a silver 4 door sedan and a white 4 door sedan traveling together. At approximately 0915, two cars matching the description given over the radio were seen traveling south east on Route heading toward . The cars were about 30 meters apart. The cars came to the intersection of and turned south on . This intersection has a large berm in the middle. The gray car made a normal right turn, in front of the berm, at the intersection, while the white vehicle drove in an erratic fashion almost a full circle around the berm and continued to follow the gray car. SSG , SPC , SPC began waving their hands and shouting at the vehicle to stop. The interpreter for the group also shouted in Arabic.

SSG then pointed his weapon at the vehicle and it continued perpendicular to fired 3 warning shots. The first shot landed 50 – 75 feet in front of the lead vehicle. The second shot was fired 3-5 seconds later at the same spot on the ground. The cars continued without hesitation. The final warning shot was fired at the same area kicking up dirt near the front tire. After the third warning shot, the gray vehicle stopped and the driver put his hands out the window.

All of the occupants of the gray car exited the vehicle and began shouting at the white car to stop. The white car continued toward the gray vehicle and another warning shot was fired. The white car then stopped and began to travel in reverse away from the check point. SSG , SPC , SPC all fired warning shots to the front and rear of the vehicle. The car continued to move away from the check point. Shots were fired at the rear quarter panel, tires and engine block. The car slowed down and the cease fire order was given by SSG . All firing stopped. The car continued to back into the berm it had erratically drove around earlier. The driver exited the vehicle and fell to the ground. The passenger also exited the vehicle on the far side. He remained next to the vehicle. A local national was sent to investigate the status of the passenger. The passenger was wounded. LT arrived on the scene and began to search the gray
vehicle. Nothing of significance was found. They questioned the passengers and decided they were not a threat. The gray car was allowed to leave the scene. The squad then moved to search the white vehicle and provide medical care to the wounded. Nothing of significance was found in the white vehicle. The passenger was taken to Striker TMC to be treated. LT contacted the IP to take the body of the driver and his vehicle.

II. Findings of Facts (Section IV – Findings)

1. This investigation required careful examination of the facts surrounding the shooting. The vehicles were reported over FM to be possible VBIEDs. The assumption that the vehicles were possibly VBIEDs coupled with their erratic driving and the failure of the vehicles to heed to the escalation of force conveyed a hostile intent.

2. The soldiers were given the command to stop the vehicles. The soldiers were able to stop one vehicle without loss of life or damage to property. Regrettably the second vehicle did not respond to any of the non-lethal gestures.

3. Given that the soldiers were told the vehicles were a potential VBIED, it is clear that they used the necessary level of force to protect themselves, civilians and other potential VBIED victims.

4. Answers to Questions raised in the appointment letter:

   a. Exact Chronology of event – see section 1 of this memorandum.

   b. Training - All soldiers involved received the proper training on traffic control, patrolling and rules of engagement (ROE). This training was conducted at Ft. Stewart, GA; the National Training Center, CA; and at Camp Buehring, Kuwait.

   c. ROE - The group used the appropriate escalation of force. The soldiers shouted at the vehicle and used proper hand and arm signals. Then they showed their weapons in a manner that demonstrated intent to fire. Next warning shots were fired at a safe area, starting a reasonable distance from the vehicles. The patrol was able to stop the first vehicle without injury. This demonstrates that the patrol maintained the proper level of discipline while only engaging the target that still posed a threat.
d. The civilians had identification.

e. The civilians in the gray vehicle (Tag 263274) were [redacted] and [redacted]. Both individuals in the white vehicle (Tag 14170) were from Baghdad. The name of the deceased person was Hassan Negemish Jaber. The passenger’s name is [redacted].

f. The civilians had no weapons.

g. All civilians and vehicles were searched thoroughly.

h. The entire incident was reported over FM transmission in a timely and accurate manner. An 8 line CIR was also sent in to the 48 BCT in a timely manner.

i. The 48 BCT SOP does not discuss patrolling and traffic stops. Refer to section C-1-1 for information pertaining to tactical road marches; however, this section does not bare much relevance to this incident. The 3 ID FSOP discusses traffic control points (pg 2-32). The only point that may pertain to this scenario is the section on search refusal. The FSOP clearly states to use a graduated response if a search is refused. In this case the vehicle refused to stop and thus refused to allow a search. A graduated escalation of force was used.

III. Recommendations (Section V)

Based upon all the evidence, my individual discussions with the witnesses who supplied sworn statements, and my findings of facts, I recommend the following:

1. The soldiers all followed ROE regarding escalation of force. Thus, I do not recommend any type of disciplinary, administrative or UCMJ action.

2. While the 3ID SOP provides guidance for setting up a TCP it does not clearly outline how to react to a possible threat turning to flee. The soldier on the ground needs clearer guidelines with regards stopping fleeing vehicles. When is it appropriate to use lethal force to stop a potential threat from escaping?

3. All of the soldiers involved should be counseled and retrained on the engagement criteria for fleeing vehicles, so they further learn from this event.
4. The appropriate claims officers should be notified of potential claims arising from this incident.