

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)

APPROVAL

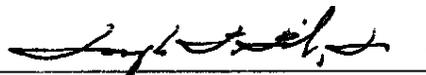
SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-3, AR 15-6)

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.)~~

IN THE INVESTIGATION OF THE EOF INCIDENT INVOLVING 8-10 CAV, 4/4 ID, CONCLUDING ON 6 NOV 06:

I ratify the appointment of the investigating officer and approve his findings and recommendations.

I remand case to BCT Commander to direct the additional training at the tactical level as requested.



JOSEPH F. FIL, JR  
Major General, USA  
Commanding

1 DEC 2006

CENTCOM 007595

**EXECUTIVE SUMMARY**

EOF w/fatality  
A/8-10 CAV, 4/4 ID  
04 1600 Nov 06

1. An American patrol in Ameriyah was about to cross (b)(2)High when a white Kia van sped toward the patrol's vehicles. The van had a single male occupant, and the Soldiers perceived the van to be a VBIED. The van did not stop after the patrol (b)(2) High. The (b)(2)High gunner for the patrol's lead (b)(2)High then opened fire, killing the van's driver. The van crashed into the patrol, but no VBIED detonated or was found.

(b)(2)High, (b)(5)

(b)(5)



**DEPARTMENT OF THE ARMY**  
4<sup>TH</sup> BRIGADE COMBAT TEAM, 4TH INFANTRY DIVISION  
FOB PROSPERITY, BAGHDAD, IRAQ  
APO AE 09348

REPLY TO  
ATTENTION OF:

AFYB-UA-CDR

14 November 2006

MEMORANDUM FOR Commander, Multi-National Division - Baghdad, Camp Liberty, APO  
AE 09352

SUBJECT: Recommendations – AR 15-6 Investigation Re: A/8-10CAV Lethal EOF 6 Nov 06

1. I have reviewed the above described investigation and recommend approval of the findings and recommendations.

(b)(2)High, (b)(5)

4. My POC for this action is CPT (b)(3)(b)(6), (b)(2)High

(b)(3)(b)(6)

COL, IN  
Commanding

CENTCOM 007597

MEMORANDUM FOR Commander, 4<sup>th</sup> Brigade Combat Team, 4<sup>th</sup> Infantry Division  
(Mechanized), FOB Prosperity, APO AE 09348

SUBJECT: Legal Review - AR 15-6 Investigation Re: 8-10CAV Lethal EOF 6 Nov 06

1. I have reviewed the above described investigation and find it legally sufficient. The proceedings comply with legal requirements, and sufficient evidence supports the findings.
2. As a procedural matter, the investigating officer should have left the block in Section II blank, because this was an informal 15-6 investigation, and, therefore, does not require other person's presence.

(b)(2)High, (b)(5)

4. Please contact me or CPT (b)(3), (b)(6) with any questions or concerns.

(b)(3)(b)(6)

CPT, JA  
Brigade Operational Law Attorney

**TABLE OF CONTENTS FOR 15-6 FOR LETHAL  
ESCALATION OF FORCE**

- I. Letter of Appointment as Investigating Officer for 15-6
- II. DA 1574
- III. Exhibit A: DA 2823 from SSG [REDACTED]
- IV. Exhibit B: DA 2823 from SSG [REDACTED]
- V. Exhibit C: DA 2823 from SGT [REDACTED]
- VI. Exhibit D: DA 2823 from SPC [REDACTED]
- VII. Exhibit E: Power Point storyboard of events from LEOF
- VIII. Exhibit F: DA 3881 from SSG [REDACTED]
- IX. Exhibit G: DA 3881 from SSC [REDACTED]
- X. Exhibit H: DA 3881 from SGT [REDACTED]
- XI. Exhibit I: DA 3881 from SPC [REDACTED]

(b)(3)(b)(6)

(b)(3)(b)(6)



**DEPARTMENT OF THE ARMY**

Alpha Troop, 8<sup>th</sup> Squadron, 10<sup>th</sup> Cavalry Regiment  
4<sup>th</sup> Brigade Combat Team, 4<sup>th</sup> Infantry Division (Mechanized)  
Baghdad, Iraq, APO AE 09348

AFYB-UA-UAA-A

04 November 2006

MEMORANDUM FOR 1LT (b)(3)(b)(6) A Troop, 8<sup>th</sup> SQDN, 10<sup>th</sup>  
CAV, 4ID(M), Baghdad, Iraq, APO AE 09348

**SUBJECT: Duty Appointment**

1. You are hereby appointed as an investigating officer pursuant to AR 15-6 to investigate the circumstances surrounding a lethal Escalation of Force (EOF) which occurred 041613CNOV06 at (b)(2)High IVO (b)(2)High in Ameriyah. Include a copy of statements concerning this incident in your findings. Specifically, you will investigate whether negligent actions were taken in conjunction with this incident, and recommend any necessary corrective, punitive, or future preventative actions.
2. Your investigation will use the informal procedures under the provisions of AR 15-6. All witness statements will be sworn when possible, and you will obtain Privacy Act Statements from all witnesses who complete a written statement. If circumstances preclude obtaining a sworn statement, you will summarize the witness' statements in a Memorandum for Record and swear to the accuracy of your summary. If, in the course of your investigation you suspect that an individual may have committed criminal acts, you will advise that individual of his rights under Article 31, UCMJ, or the Fifth Amendment, as appropriate.
3. Legal advice and assistance must be obtained from the Administrative and Civil Law Division, Office of the Staff Judge Advocate before you take any other action on this matter. Prior to beginning the investigation, you will familiarize yourself with the provisions of AR 15-6.
4. Your report of investigation, findings and recommendations, and evidence marked as exhibits will be submitted to this office in two copies on a DA form 1574 no later than 07 NOV 06. You will obtain a written legal review from the Administrative and Civil Law Division prior to submitting the completed investigation.

(b)(3)(b)(6)

/ Commanding

CENTCOM 007600

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

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

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

SECTION I - APPOINTMENT

Appointed by LTC (b)(3)(b)(6), COMMANDER, 8-10 CAVALRY, 4BCT, 4ID, CAMP LIBERTY, APO AE 09344 (Appointing authority)

on 06NOV06 (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 CAMP LIBERTY, IRAQ (Place) at 1300 (Time)

on 06NOV06 (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.)

- 1LT (b)(3)(b)(6) INVESTIGATING OFFICER.
SSG (b)(3)(b)(6) L, PATROL LEADER AND (b)(2)High TRUCK COMMANDER OF A12 DURING ESCALATION OF FORCE ENGAGEMENT.
SSG (b)(3)(b)(6) (b)(2)High TRUCK COMMANDER OF A13 DURING ESCALATION OF FORCE ENGAGEMENT.
SGT (b)(3)(b)(6) (b)(2)High GUNNER OF A13 DURING ESCALATION OF FORCE ENGAGEMENT.
SPC (b)(3)(b)(6) OF A13 DURING ESCALATION OF FORCE ENGAGEMENT.

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 1400 (Time) on 06NOV06 (Date)

and completed findings and recommendations at 1600 (Time) on 06NOV06 (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

YES NO 1/ NA 2/

- 1 Inclosures (para 3-15, 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?

(b)(2)High

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.

		YES	NO <sup>1</sup>	NA <sup>2</sup>
2	Exhibits ( <i>para 3-16, AR 15-6</i> )			
	a. Are all items offered ( <i>whether or not received</i> ) or considered as evidence individually numbered or lettered as exhibits and attached to this report?			
	b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?			
	c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?			
	d. Are copies, descriptions, or depictions ( <i>if substituted for real or documentary evidence</i> ) properly authenticated and is the location of the original evidence indicated?			
	e. Are descriptions or diagrams included of locations visited by the investigating officer or board ( <i>para 3-6b, AR 15-6</i> )?			
	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?			
	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 ( <i>para 3-16d, AR 15-6</i> )?			
3	Was a quorum present when the board voted on findings and recommendations ( <i>paras 4-1 and 5-2b, AR 15-6</i> )?			
4	<b>H. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (<i>Chapter 5, AR 15-6</i>)</b>			
4	At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment ( <i>para 5-3b, AR 15-6</i> )?			
5	Was a quorum present at every session of the board ( <i>para 5-2b, AR 15-6</i> )?			
6	Was each absence of any member properly excused ( <i>para 5-2a, AR 15-6</i> )?			
7	Were members, witnesses, reporter, and interpreter sworn, if required ( <i>para 3-1, AR 15-6</i> )?			
8	If any members who voted on findings or recommendations were not present when the board received some evidence, does the inclosure describe how they familiarized themselves with that evidence ( <i>para 5-2d, AR 15-6</i> )?			
9	<b>C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (<i>Section II, Chapter 5, AR 15-6</i>)</b>			
9	Notice to respondents ( <i>para 5-5, AR 15-6</i> ):			
	a. Is the method and date of delivery to the respondent indicated on each letter of notification?			
	b. Was the date of delivery at least five working days prior to the first session of the board?			
	c. Does each letter of notification indicate –			
	(1) the date, hour, and place of the first session of the board concerning that respondent?			
	(2) the matter to be investigated, including specific allegations against the respondent, if any?			
	(3) the respondent's rights with regard to counsel?			
	(4) the name and address of each witness expected to be called by the recorder?			
	(5) the respondent's rights to be present, present evidence, and call witnesses?			
	d. Was the respondent provided a copy of all unclassified documents in the case file?			
	e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?			
10	If any respondent was designated after the proceedings began ( <i>or otherwise was absent during part of the proceedings</i> ):			
	a. Was he properly notified ( <i>para 5-5, AR 15-6</i> )?			
	b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel ( <i>para 5-4c, AR 15-6</i> )?			
11	Counsel ( <i>para 5-6, AR 15-6</i> ):			
	a. Was each respondent represented by counsel?			
	Name and business address of counsel:			
	( <i>If counsel is a lawyer, check here <input type="checkbox"/> </i> )			
	b. Was respondent's counsel present at all open sessions of the board relating to that respondent?			
	c. If military counsel was requested but not made available, is a copy ( <i>or, if oral, a summary</i> ) of the request and the action taken on it included in the report ( <i>para 5-6b, AR 15-6</i> )?			
12	If the respondent challenged the legal advisor or any voting member for lack of impartiality ( <i>para 5-7, AR 15-6</i> ):			
	a. Was the challenge properly denied and by the appropriate officer?			
	b. Did each member successfully challenged cease to participate in the proceedings?			
13	Was the respondent given an opportunity to ( <i>para 5-8a, AR 15-6</i> ):			
	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 ( <i>para 5-9, AR 15-6</i> )?			
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 ( <i>para 5-8b, AR 15-6</i> )?			
15	Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it ( <i>para 5-11, AR 15-6</i> )?			
<b>FOOTNOTES:</b> <sup>1</sup> Explain all negative answers on an attached sheet. <sup>2</sup> 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.				

(b)(2)High

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

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

That SSG (b)(3)(b)(6), SSG (b)(3)(b)(6), SGT (b)(3)(b)(6), and SPC (b)(3)(b)(6) took all necessary measures to use a graduated response of Escalation Of Force that resulted in one Iraqi local national killed.

On 04NOV06, SGT (b)(3)(b)(6) did engage a white Kia van travelling at a high rate of speed with his (b)(2)High machine gun (exhibit A, B, C, & D). SSG (b)(3)(b)(6) was the vehicle commander of A13, the lead vehicle of the patrol that day (exhibit A, B, & C). As the patrol was about to cross onto Route Cedar, SPC (b)(3)(b)(6) (the driver) "inched" the vehicle onto the route, giving cars time to react to the patrol and stop (exhibit A, B, C, & D). SGT (b)(3)(b)(6) gave the common Iraqi hand gesture to stop traffic to allow the patrol to cross onto (b)(2)High (exhibit A, B, & C). The two vehicles travelling south on (b)(2)High near the patrol's crossing point saw SGT (b)(3)(b)(6) hand gestures and came to a stop (exhibit A & C).

Once traffic had stopped, the lead vehicle began to move onto (b)(2)High at the order of SSG (b)(3)(b)(6) (exhibit B, C, & D). At the moment the patrol crossed onto (b)(2)High a white Kia van moved around the stopped vehicles and headed right at the lead vehicle of the patrol (exhibit A, B, C, & D). SSG (b)(3)(b)(6) saw the van at the same time as SGT (b)(3)(b)(6) and only had time to alert the crew using an expletive phrase (exhibit B & C). SGT (b)(3)(b)(6) continued his hand gestures to signal to stop and then rotated his gun turret towards the speeding vehicle (exhibit A, B, & C).

(b)(2)High (b)(2)High (b)(2)High (exhibit A, B, & C), SGT (b)(3)(b)(6) engaged the vehicle with (b)(2)High from his (b)(2)High (exhibit A, B, C, & D). The van continued to travel and crashed into the driver side of the lead (b)(2)High at a high rate of speed (exhibit B, C, & D). SGT (b)(3)(b)(6) had to respond to a perceived threat in the time it took the van to travel (2)High meters while travelling at a speed of approximately (2)High m.p.h. (exhibit A, B, & C).

The patrol leader (SSG (b)(3)(b)(6)) and the truck commander of A13 (SSG (b)(3)(b)(6)) emphasized (b)(2)High before the patrol left Camp Liberty (exhibit A, B, & D). The pre-patrol INTSUM from 8-10 Cavalry S-2 showed VBIED threats in our area of operations (exhibit A, B, & C). SGT (b)(3)(b)(6) gave (b)(2)High to stop traffic, but the van did not heed to those signals while other vehicles complied with them (exhibit A, B, & C). Once SSG (b)(3)(b)(6) alerted SGT (b)(3)(b)(6) to the speeding van (exhibit B & C), there were approximately (2)High seconds for SGT (b)(3)(b)(6) to react and make the decision whether or not to fire his (b)(2)High.

The evidence supports the finding that SSG (b)(3)(b)(6), SSG (b)(3)(b)(6), SGT (b)(3)(b)(6), and SPC (b)(3)(b)(6) took all necessary steps to avoid a lethal Escalation Of Force with an Iraqi local national exhibiting a perceived hostile act towards the Soldiers in the patrol.

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

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

(b)(2)High

(b)(2)High, (b)(5)

I cannot find any evidence to indicate Soldier negligence in this incident. I recommend that the Soldiers be placed back on patrol. Continue EOF training at all levels and use this situation as a valuable training scenario for Soldiers and leaders.

SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

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\_\_\_\_\_  
(Recorder)

\_\_\_\_\_  
(Member)

(b)(3)(b)(6)

(b)(3)(b)(6)

ILT, AR

ILT, AR

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

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

\_\_\_\_\_  
(Member)

\_\_\_\_\_  
(Member)

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

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

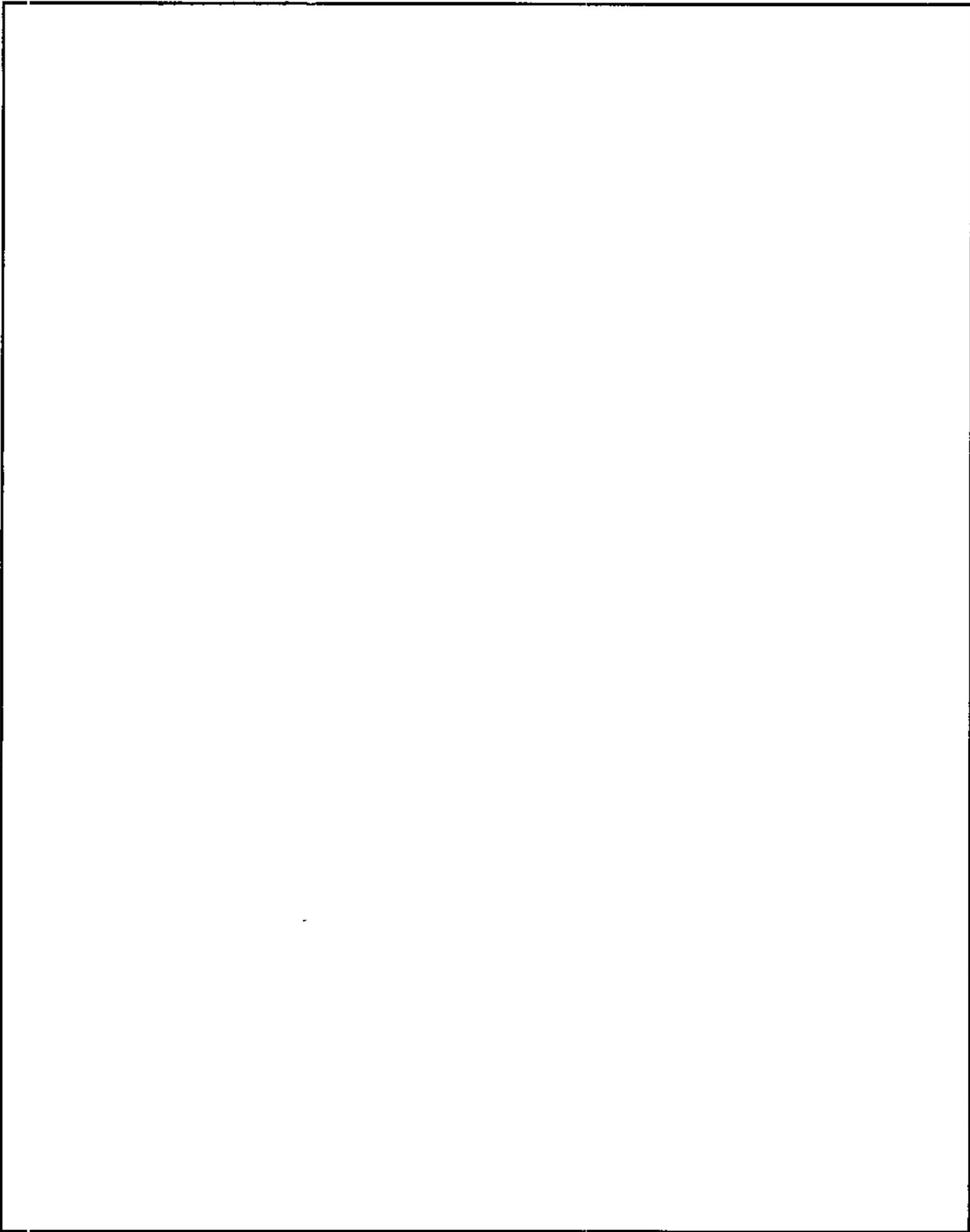
I agree with the IO's findings.

(b)(2)High, (b)(5)

(b)(2)High, (b)(5)

(b)(3)(b)(6)

LTC, AA, Commanding



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

1. LOCATION FOB LIBERTY BAGHDAD TRAC	2. DATE (YYYYMMDD) 20061105	3. TIME 1852	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3)(b)(6)	6. SSN (b)(3)(b)(6)	7. GRADE/STATUS E-6 / ACTIVE	
8. 1ST PLT A TRP S ILO CAL 4BCT 4ID			

9. I, (b)(3)(b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:  
 ON NOVEMBER 4<sup>TH</sup> 2006, APPROXIMATELY (b)(2)High HOURS LOCAL TIME, AT (b)(2)High, A WHITE MINIVAN SMASHED INTO THE LEAD VEHICLE OF PATROL 110409. (b)(2)High TARGET HOUSE RECONNAISSANCE. THE LEAD VEHICLE WAS COMMANDED BY SSG (b)(3)(b)(6) AND THE GUNNER WAS SGT (b)(3)(b)(6). THE LEAD VEHICLE WAS TRYING TO GET OUT ONTO (b)(2)High AT THE SAID GRID TO CONTINUE ITS MOVEMENT EAST. THE LEAD VEHICLE INCHED FORWARD THE GUNNER PUT HIS HANDS UP IN THE IRAQI WAY TO SAY STOP. ALL THE VEHICLES STOPPED EXCEPT A WHITE MINIVAN THAT WAS MOVING AT A HIGH RATE OF SPEED. A CAR IN FRONT OF THE MINIVAN STOPPED AND THE MINIVAN CONTINUED AROUND ON A COLLISION COURSE WITH THE LEAD VEHICLE. THE GUNNER TURNED HIS TURRET AND THE VEHICLE CONTINUED, HE AIMED HIS WEAPON AND AT THAT POINT THE VEHICLE SWERVED FROM THE FAR EAST SIDE OF THE (b)(2)High TO THE WEST SIDE WHERE THE LEAD VEHICLE WAS AT. THE VEHICLE DIDNT STOP AND WAS ABOUT TO COLLIDE WITH THE LEAD VEHICLE. THE GUNNER SENT APPROXIMATELY (b)(2)High INTO THE VEHICLE AND KILLED THE DRIVER JUST BEFORE THE MINIVAN SMASHED INTO THE U.S. VEHICLE. THE (b)(2)High

(b)(2)High THE DISTANCE FROM THE 2 VEHICLES AT THE TIME THE MINIVAN EXECUTED ITS CRASH COURSE WAS MORE THAN (b)(2)High. AT THE TIME OF THE EVENT I, SSG (b)(3)(b)(6) WAS IN THE SECOND VEHICLE IN A 2<sup>ND</sup> VEHICLE COMPANY. END STATEMENT  
 NOTHING FOLLOWS (b)(3)(b)(6)

10. EXHIBIT A	11. INITIALS OF PERSON MAKING STATEMENT (b)(3)(b)(6)	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"  
 THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE BE INDICATED.

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

STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_

9. STATEMENT (Continued)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 3 PAGES

9. STATEMENT (Continued)

AFFIDAVIT

I, (b)(3)(b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 1. 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.

WITNESSES  
(b)(3)(b)(6)

A Top 8-13 OAV  
Camp Liberty, APO AG 09374  
ORGANIZATION OR ADDRESS

(b)(3)(b)(6)  
ORGANIZATION OR ADDRESS

(b)(3)(b)(6)

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

(b)(3)(b)(6)

PAGE 3 OF 3 PAGES

**SWORN STATEMENT**

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

1. LOCATION Camp Liberty	2. DATE (YYYYMMDD) 2006/11/06	3. TIME 1321	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3)(b)(6)	6. SSN (b)(3)(b)(6)	7. GRADE/STATUS E6	
8. ORGANIZATION OR ADDRESS A/8-10 Cavalry, 4BCT, 4ID, APO AE 09344			

9. I, SSG (b)(3)(b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q = 1LT (b)(3)(b)(6)  
A = SSG (b)(3)(b)(6)

Q: Did you go over the ROE & EOF steps during your PCC/PCI prior to going on the patrol?  
A: (b)(2)High

Q: Had other vehicles that day been stopping when your patrol was approaching intersections?  
A: Yes

Q: How long had your patrol been in sector up until that moment?  
A: 3 1/2 hours.

Q: Did the S-2 intsum regard any VBIEDS in sector? How many?  
A: Yes. At least 4.

(b)(3)(b)(6)

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT (b)(3)(b)(6)	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"

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

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

STATEMENT OF

(b)(3)(b)(6)

TAKEN AT

CAMP LIBERTY

DATED

6 NOV 06

9. STATEMENT (Continued)

NOTHING FOLLOWS

(b)(3)(b)(6)

(b)(3)(b)(6)

(b)(3)(b)(6)

(b)(3)(b)(6)

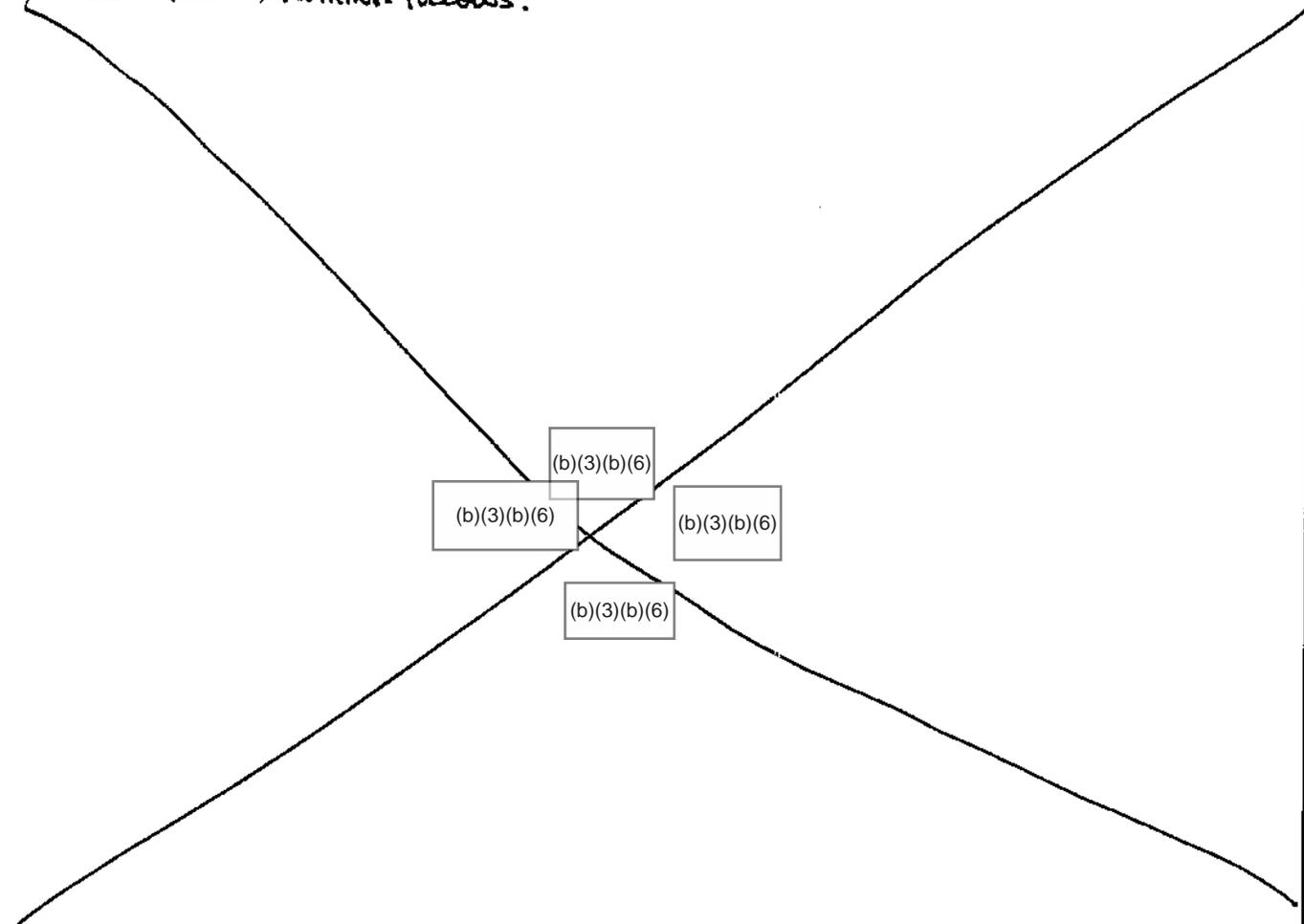
INITIALS OF PERSON MAKING STATEMENT

(b)(3)(b)(6)

PAGE 2 OF 3 PAGES

STATEMENT OF (b)(3)(b)(6) TAKEN AT CAMP LIBERTY DATED 6 NOV 06

9. STATEMENT (Continued) NOTHING FOLLOWS.



(b)(3)(b)(6)  
(b)(3)(b)(6) (b)(3)(b)(6)  
(b)(3)(b)(6)

**AFFIDAVIT**

I, (b)(3)(b)(6), 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.

(b)(3)(b)(6)

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

**WITNESSES:**

(b)(3)(b)(6)

RTRY, 8-KO CAV, 410, 48CT  
ORGANIZATION OR ADDRESS

(b)(3)(b)(6)

CAMP LIBERTY, IRAQ, 09344  
ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

INIT (b)(3)(b)(6) MAKING STATEMENT

PAGE 3 OF 3 PAGES

**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 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 <i>Camp Liberty, Baghdad, Iraq</i>	2. DATE (YYYYMMDD) <i>20061205</i>	3. TIME <i>1858</i>	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME <i>(b)(3)(b)(6)</i>	6. SSN <i>(b)(3)(b)(6)</i>	7. GRADE/STATUS <i>E6/ACTIVE</i>	
8. ORGANIZATION OR ADDRESS <i>A TRP 8-10 CAU 4BDE 4FD</i>			

9. I, *(b)(3)(b)(6)*, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

ON *4NOV06* at approximately *(b)(2)High* while traveling EAST BOUND AT Grid *(b)(2)High*  
*(b)(2)High* A LOCAL NATIONAL MINI BUS traveling south bound on *(b)(2)High* swerved wildly and erratically then crashed into the drivers side of the lead *(b)(2)High* in the patrol. The BUS was suspected to BE a SUBIED by myself. A13 crew was in the lead vehicle and I was the TC. We approached the corner at a slow rate of SPEED *(b)(2)High* our vehicle came to the intersection and momentarily halted I scanned RIGHT to ensure the intersection was clear, it was. As I turned my head to the left I noticed a light grey mini bus beginning to steer sharply sharply towards our truck at approximately *(b)(2)High* THE truck was traveling at what appeared to be a high rate of speed. My gunner SPC *(b)(3)(b)(6)* observed that the bus was on a collision course towards our truck & traversed *(b)(2)High* weapon towards the truck and made a slow down gesture (Iraqi hand gesture) with his hand in an attempt to warn the bus driver. The bus continued towards our truck. At approximately *(b)(2)High* my gunner fired *(b)(2)High* killing the driver. still thinking it was a SUBIED that failed to detonate I directed my driver to *(b)(2)High*  
*(b)(2)High* when we determined that it was safe we moved back *(b)(2)High* to the bus secured it & began to assess injuries of the driver & inspect THE bus for explosives. There were no signs of explosives and we determined that although the driver was mortally wounded we requested medevac & moved the patrol north towards FOB Hawk. enroute to Hawk the driver succumbed to his injuries & died. we then maneuvered to the KUADRA police station to drop off the body. *Nothing Follows*

10. EXHIBIT <i>B</i>	11. INITIALS OF PERSON MAKING STATEMENT <i>(b)(3)(b)(6)</i>	PAGE 1 OF <i>3</i> PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"

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

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

STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_

9. STATEMENT (Continued)

(b)(3)(b)(6)

(b)(3)(b)(6)

INITIALS OF PERSON MAKING STATEMENT

(b)(3)(b)(6)

PAGE 2 OF 3 PAGES

9. STATEMENT (Continued)

(b)(3)(b)(6)

(b)(3)(b)(6)

**AFFIDAVIT**

I, \_\_\_\_\_ (b)(3)(b)(6) \_\_\_\_\_, 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 UN

(b)(3)(b)(6)

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)

(b)(3)(b)(6)

ORGANIZATION OR ADDRESS

Comp. L. 10/11 APD AD 09394

(b)(3)(b)(6)

ORGANIZATION OR ADDRESS

A TRP 8-10 CAN 4805, 41D

INITIALS OF PERSON MAKING STATEMENT

(b)(3)(b)(6)

PAGE 3 OF 3 PAGES

**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 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 Camp Liberty	2. DATE (YYYYMMDD) 2006/11/06	3. TIME 1327	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3)(b)(6)	6. SSN (b)(3)(b)(6)	7. GRADE/STATUS E6	
8. ORGANIZATION OR ADDRESS A/8-10 Cavalry, 4BCT, 4ID, APO AE 09344			

9. I, SSG (b)(3), b(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

(b)(3)(b)(6) Q = 1LT (b)(3)(b)(6)  
A = SSG (b)(3)(b)(6)

(b)(3)(b)(6) Q: Did you go over the ROE/EOF steps with your crew before patrol?  
A: (b)(2)High

(b)(3)(b)(6) Q: Did the S-2 INTSUM regard any VBIEDs in sector? How many?  
A: Yes. 5 to 7 in Baghdad area. There were possible VBIEDs on pre brief.

(b)(3)(b)(6) Q: Had vehicles that day been obeying the gunner's commands to stop when approaching?  
A: Yes.

(b)(3)(b)(6) Q: Were you and your crew in danger of be harmed when you saw the vehicle moving towards your truck?  
A: Yes.

(b)(3)(b)(6) Q: What steps did the gunner take to avoid firing his weapon?  
A: (b)(2)High

10. EXHIBIT B	11. INITIALS OF PERSON MAKING STATEMENT X (b)(3)(b)(6)	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"

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

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

STATEMENT OF  (b)(3)(b)(6) TAKEN AT CAMP LIBERTY DATED 6 NOV 06

9. STATEMENT (Continued)

NOTHING FOLLOWS.

(b)(3)(b)(6)

(b)(3)(b)(6)

INITIALS OF PERSON MAKING STATEMENT

(b)(3)(b)(6)

PAGE 2 OF 3 PAGES

STATEMENT OF Y (b)(3)(b)(6) TAKEN AT CAMP LIBERTY DATED 6 Nov 06

9. STATEMENT (Continued) NOTHING FOLLOWS.

(b)(3)(b)(6)

I, (b)(3)(b)(6) **AFFIDAVIT**, 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

(b)(3)(b)(6)

**WITNESSES:**

(b)(3)(b)(6) \_\_\_\_\_

A/8-10 CAV, ABCT, 410(M)  
ORGANIZATION OR ADDRESS

(b)(4) 1LT, AR

A/8-10 CAV, ABCT, 410  
FAGLADAN, JTRAD APO AE 09344  
ORGANIZATION OR ADDRESS

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 (b)(3)(b)(6)

PAGE 3 OF 3 PAGES

**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 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 <b>CAMP LIBERTY, BAGHDAD, IRAQ</b>	2. DATE (YYYYMMDD) <b>20061205</b>	3. TIME <b>1912</b>	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME <b>(b)(3)(b)(6)</b>	6. SSN <b>(b)(3)(b)(6)</b>	7. GRADE/STATUS <b>ES/ACTIVE</b>	
8. ORGANIZATION OR ADDRESS <b>ATRP 8-10 CAV 4BDE 4ID</b>			

9. I, **(b)(3)(b)(6)**, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:  
 on **4 NOV 2006** at about **(b)(2)High** at **(b)(2)High** I was the gunner of Red 3 truck which was the lead truck of the patrol, we were heading east. We came up on the **(b)(2)High** which was **(b)(2)High**. We slowed down the closer we came up to the intersection. As we came to a stop I raised my hand signaling for the local national traffic to stop, we started to creep out onto the route. the first car I saw and that saw me came to a stop when he saw my hand was raised, I then saw a white van come from the stopped car, on its left side heading south, ~~it~~ did not stop, I traversed the turret towards the traffic and still the white van came speeding at our **(b)(2)High** it was about **(b)(2)High** away moving fast. I raised **(b)(2)High** and stood up, showing intent of using my weapon but I realised it wasn't stopping I heard my Driver and TC from inside saying "Oh shit" seeing the van come right at us. I feared it was a **VBIED** so I fired **(b)(2)High** at the direction of the driver ~~as the van was about~~ **(b)(3)(b)(6)** time the van struck our **(b)(2)High** I was jerked around by the collision

10. EXHIBIT <b>C</b>	11. INITIALS OF PERSON MAKING STATEMENT <b>(b)(3)(b)(6)</b>	PAGE 1 OF <b>3</b> PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"

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

STATEMENT OF X TAKEN AT CAMP LIBERTY DATED 6 Nov 06

9. STATEMENT (Continued)

My TC SSG (b)(3)(b)(6) told my driver SPC (b)(3)(b)(6) to "GO"  
 We moved out cause the ~~SSG~~ (b)(3)(b)(6) suspected VBIED had  
 not exploded, we headed south then went around the  
 turn around point heading back north via the north lane  
 on (b)(2)High, we were moving fast turned right on  
 ferris wheel heading east, when over the Radio the REDZ  
 SSG (b)(3)(b)(6) said it wasn't a VBIED and for us turn around  
 and go back the accident scene. ~~to~~ The patrol provided first  
 aid to the wounded Local National who was critically wounded  
 loaded him up and headed to FOB Hawk for medevac, he  
 died on the way there, we were told to go to Madra Police  
 Station to drop the body. nothing follows.

INITIALS OF PERSON MAKING STATEMENT

(b)(3)(b)(6)

PAGE 2 OF 3 PAGES

STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_

9. STATEMENT (Continued)

AFFIDAVIT

I, SGT (b)(3)(b)(6), 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,

(b)(3)(b)(6)  
Nov 2006

(Signature of Person Making Statement)

W (b)(3)(b)(6)

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

Camp Liberty APO AE 09747

OR (b)(3)(b)(6) ILT

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

A TRP 8-10 CAN, 4BCT, 4ID  
ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

(b)(3)(b)(6)

PAGE 3 OF 3 PAGES

**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 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 Camp Liberty	2. DATE (YYYYMMDD) 2006/11/06	3. TIME 1337	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3)(b)(6)	6. SSN X (b)(3)(b)(6)	7. GRADE/STATUS E5	
8. ORGANIZATION OR ADDRESS A/8-10 Cavalry, 4BCT, 4ID, APO AE 09344			

9. I, SGT Fernando Betancourt, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q = 1LT (b)(3)(b)(6), FO  
A = SGT (b)(3)(b)(6), GUNNER

(3)(b) Q: Did you and your crew feel your lives were in danger from the vehicle?  
A: Roger, sir. We said "oh shit".

(3)(b) Q: Had cars that day been slowing & stopping when you gave them the "slow down / stop" hand gesture?  
A: Roger Sir.

(3)(b) Q: How fast was the vehicle travelling when you first saw it?  
A: Probably (b)(2)Hig mph.

(3)(b) Q: Did the driver attempt at all to stop?  
A: He swerved towards us.

(3)(b) Q: Were VBIEDS in the S-2 pre patrol INTSUM? How many?  
A: Roger. IED, VBIED. 4 according to the brief.

END OF STMT (b)(3)(b)(6)

10. EXHIBIT C	11. INITIALS OF PERSON MAKING STATEMENT X (b)(3)(b)(6)	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"

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

STATEMENT OF XSGT

(b)(3)(b)(6)

TAKEN AT CAMP LIBERTY

DATED 6 Nov 06

9. STATEMENT (Continued)

Nothing Follows.

(b)(3)(b)(6)

INITIALS OF PERSON MAKING STATEMENT

X (b)(3)(b)(6)

PAGE 2 OF 3 PAGES

STATEMENT OF XSGT

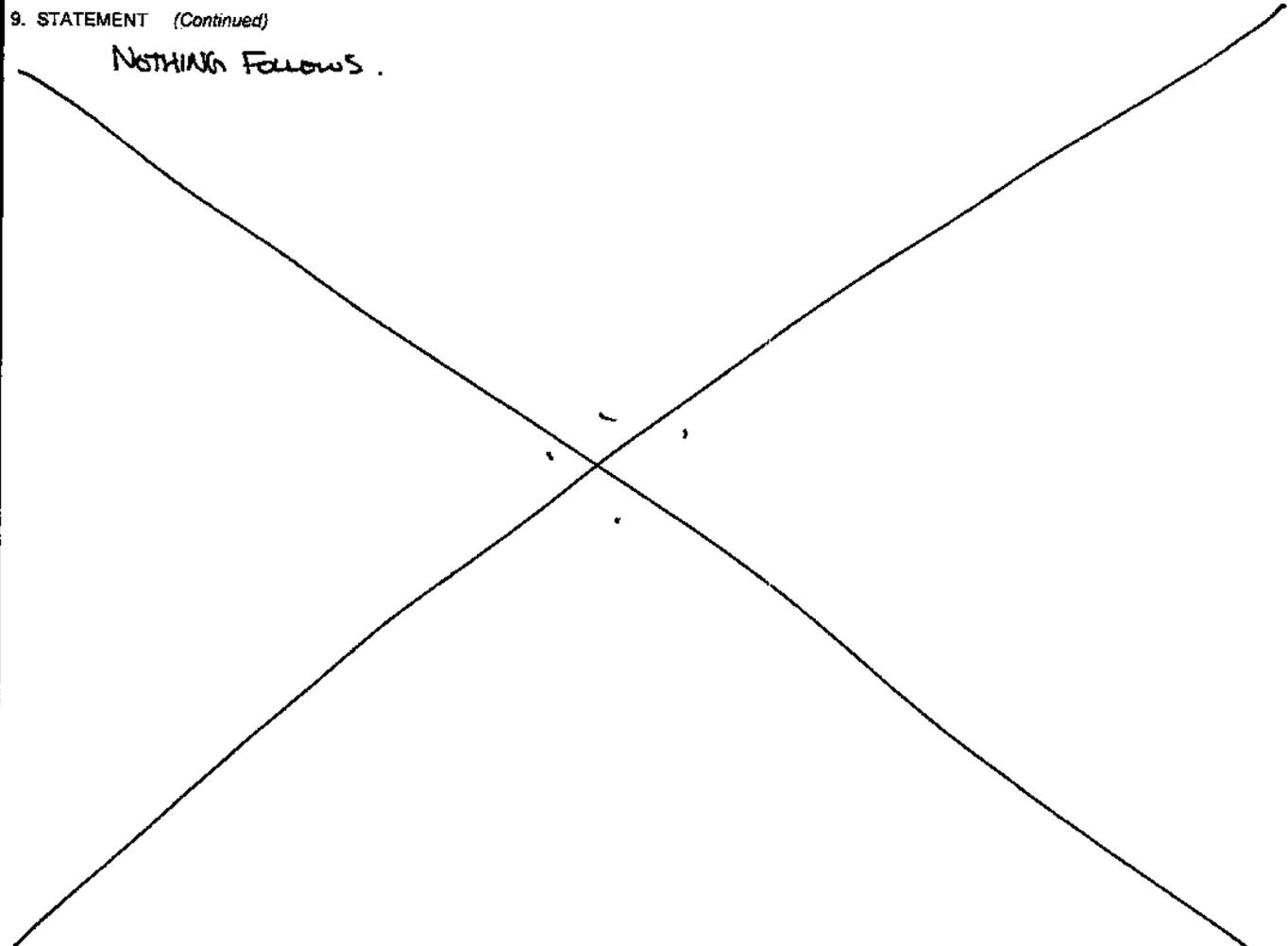
(b)(3)(b)(6)

TAKEN AT CAMP LIBERTY

DATED 6 NOV 06

9. STATEMENT (Continued)

NOTHING FOLLOWS.



AFFIDAVIT

XSGT

(b)(3)(b)(6)

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

X (b)(3)(b)(6) 6 NOV 06

WITNESSES:

(b)(3)(b)(6)  
4BCT, 410 (M)  
S  
(b)(3)(b)(6) ILT, AR  
A/8-10 CAV 4BCT, AID  
BAGHDAD, IRAQ, APO AE 09344  
ORGANIZATION OR ADDRESS

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

X (b)(3)(b)(6)

PAGE 3 OF 3 PAGES

**SWORN STATEMENT**

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**PRIVACY ACT STATEMENT**

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

1. LOCATION Fob liberty Baghdad IRAQ	2. DATE (YYYYMMDD) 20061106	3. TIME 1856	4. FILE NUMBER
5. LAST NAME FIRST NAME MIDDLE NAME (b)(3)(b)(6)	6. SSN (b)(3)(b)(6)	7. GRADE/STATUS E4	
8. ORGANIZATION OR ADDRESS A TROOP 8-10 CAV 4th BCT 4th ID			

9. I, (b)(3)(b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On or about 1550 HRS on 05 November I was the driver on the A13 vehicle we were traveling eastbound on the street just south of Ferriswheel Road I slowed down (b)(2)H meters to inch out ~~at~~ the intersection to (b)(2)High (b)(2)High The I saw a white van speeding excessively then the white started swerving towards the vehicle I was driving ~~then the white van~~ (b)(3)(b)(6) Then I heard (b)(2)High then the white van hit my vehicle on my door Nothing Follows

10. EXHIBIT D	11. INITIALS (b)(3)(b)(6)	KING STATEMENT	PAGE 1 OF <u>3</u> PAGES
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STATEMENT OF X TAKEN AT CAMP LIBERTY DATED 6 NOV 06

9. STATEMENT (Continued)

NOTHING Follows.

INITIALS OF PERSON MAKING STATEMENT

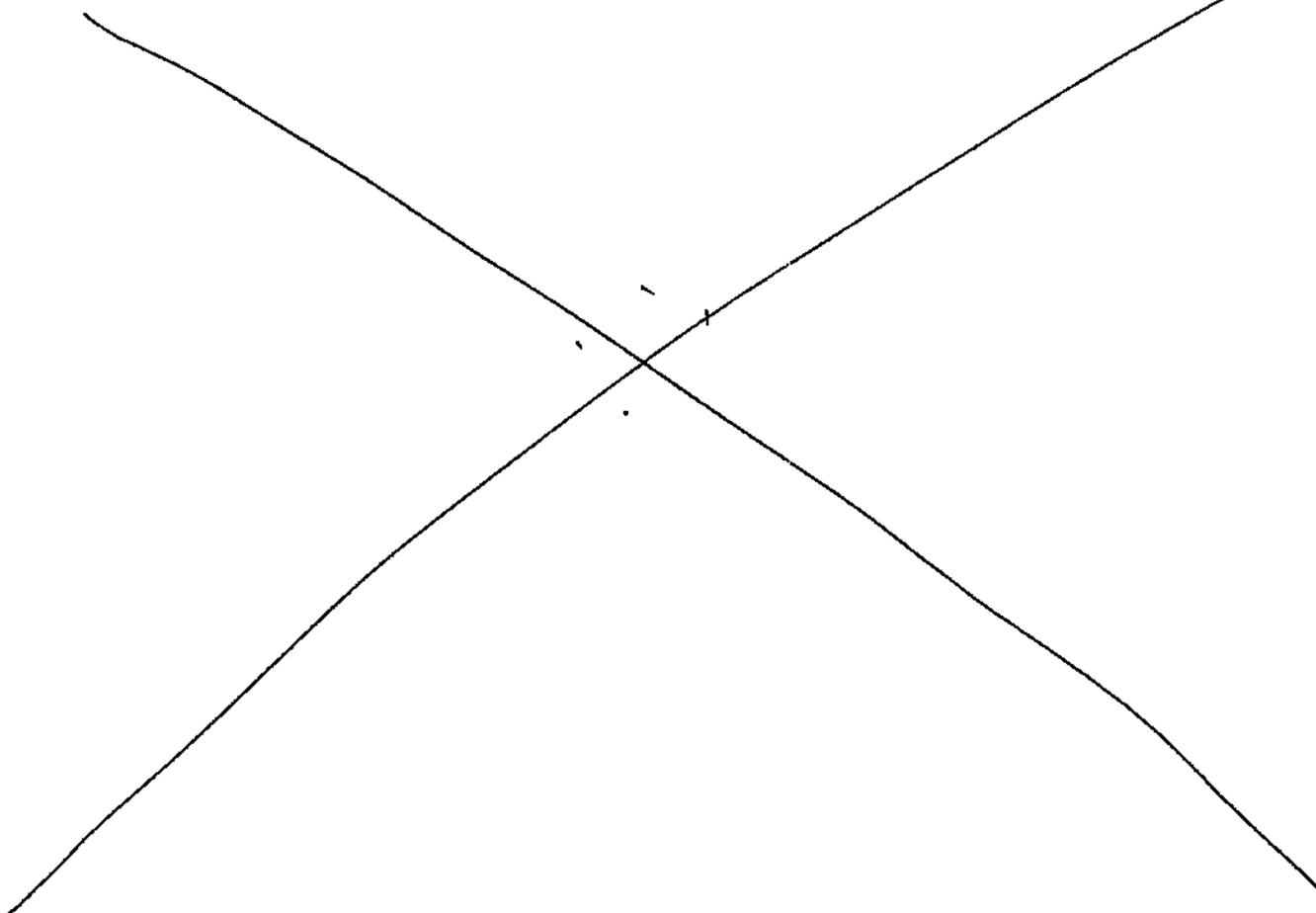
X

PAGE 2 OF 3 PAGES

STATEMENT OF X TAKEN AT CAMP LIBERTY DATED 10 NOV 06

9. STATEMENT (Continued)

NOTHING FOLLOWS.



**AFFIDAVIT**

I, (b)(3)(b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 1. 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.

(b)(3)(b)(6)  
Statement)

**WITNESSES:**

(b)(3)(b)(6)

Camp Liberty APO AE 09344  
ORGANIZATION OR ADDRESS

(b)(3)(b)(6)

A TEL. 8-10 CAV, 4841, 41D  
ORGANIZATION OR ADDRESS

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  
X

PAGE 3 OF 3 PAGES

**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 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 Camp Liberty	2. DATE (YYYYMMDD) 2006/11/06	3. TIME 1325	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3)(b)(6)	6. GRADE/STATUS (b)(3)(b)(6)		7. GRADE/STATUS E4
8. ORGANIZATION OR ADDRESS A/8-10 Cavalry, 4BCT, 4ID, APO AE 09344			

9. I, SPC John Hobby, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q= 1LT (b)(3)(b)(6), I.O.  
A= SPC (b)(3)(b)(6) Driver

Q: Did the patrol leader go over ROE/EOF steps prior to patrol?  
A: (b)(2)High

Q: Did you feel your & your crew's life was in danger from this oncoming vehicle?  
A: Yes.

Q: Did the vehicle make any attempt to stop once the gunner gave hand gestures?  
A: No. End of stmt (b)(3)(b)(6)

10. EXHIBIT D	(b)(3)(b)(6)	NAME OF PERSON MAKING STATEMENT	PAGE 1 OF <u>3</u> PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"

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STATEMENT OF

(b)(3)(b)(6)

TAKEN AT CAMP LIBERTY

DATED 6 Nov 06

9. STATEMENT (Continued)

Nothing Follows.

(b)(3)(b)(6)

INITIALS

(b)(3)(b)(6)

PERSON MAKING STATEMENT

PAGE 2 OF 3 PAGES

STATEMENT OF

(b)(3)(b)(6)

TAKEN AT CAMP LIBERTY

DATED 6 Nov 06

9. STATEMENT (Continued)

Nothing Follows

(b)(3)(b)(6)

**AFFIDAVIT**

(b)(3)(b)(6)

\_\_\_\_\_, 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 INFLU

(b)(3)(b)(6)

(Signature of Person Making Statement)

**WITNESSES:**

(b)(3)(b)(6)

# 112, 819 CAV, 4 BCT, 4111 (M)

ORGANIZATION OR ADDRESS

(b)(3)(b)(6)

1LT, AR

A/8-10 CAV 4 BCT, 4 FD

BAGHDAD, IRAQ, APO AE 09344

ORGANIZATION OR ADDRESS

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)

INIT

(b)(3)(b)(6)

PERSON MAKING STATEMENT

PAGE 3 OF 3 PAGES

**041613CNOV06 – AR2 patrol is moving East along the road south of Ferris Wheel Road.**

The patrol approached the intersection and “inched” forward to allow traffic to stop.

A white truck and another vehicle stopped allowing the patrol to move onto (b)(2)H

As A13 began to move onto (b)(2)H and turn south a white KIA van approached the lead vehicle at a high rate of speed.

A13G traversed the turret to attempt to initiate EOF procedures. (b)(2)H (b)(2)H the van, it swerved and proceeded directly for A13.

The gunner (b)(2)H into the drivers side of the van at approximately (b)(2)H (b)(2)H

The vehicle struck the A13 vehicle on the driver’s side. The A13 vehicle immediately moved along (b)(2)High

Once the site was secured, the patrol attempted to treat the driver of the van. The patrol conducted CASEVAC to FOB Hawk; the driver died while enroute.

(b)(2)High

EXHIBIT E

**RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE**

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

**DATA REQUIRED BY THE PRIVACY ACT**

**AUTHORITY:** Title 10, United States Code, Section 3012(g)  
**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 Camp Liberty, Iraq	2. DATE 06NOV06	3. TIME 1400	4. FILE NO.
5. NAME (Last, First, MI) (b)(3)(b)(6)	8. ORGANIZATION OR ADDRESS A/8-10 Cav 4BCT, 4ID APO AE 09344		
6. SSN (b)(3)(b)(6)	7. GRADE/STATUS E6		

**PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE**

**Section A. Rights**

The investigator whose name appears below told me that he/she is with the United States Army 8-10 Cav, 4BCT, 4ID and wanted to question me about the following offense(s) of which I am suspected/accused: Lethal Escalation of Force on 04NOV06

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

- I do not have to answer any question or say anything (b)(3)(b)(6)
- Anything I say or do can be used as evidence against me in a criminal trial. (b)(3)(b)(6)
- (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both. (b)(3)(b)(6)

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

- If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below. (b)(3)(b)(6)

5. COMMENTS (Continue on reverse side)

**Section B. Waiver**

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES (If available)		3.
1a. NAME (Type or Print)	(b)(3)(b)(6)	(b)(3)(b)(6), 1LT, AR
b. ORGANIZATION OR ADDRESS AND PHONE	(b)(3)(b)(6)	
2a. NAME (Type or Print)	(b)(3)(b)(6), 1LT, AR	6. ORGANIZATION OF INVESTIGATOR A TYP. 8-10 CAV, 4BCT, 4ID(M)
b. ORGANIZATION OR ADDRESS AND PHONE		

**Section C. Non-waiver**

- I do not want to give up my rights  
 I want a lawyer  I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

**PART II - RIGHTS WARNING PROCEDURE**

**THE WARNING**

- |   |  |
|---|--|
| <p>1. <b>WARNING</b> - Inform the suspect/accused of:</p> <ul style="list-style-type: none"> <li>a. Your official position.</li> <li>b. Nature of offense(s).</li> <li>c. The fact that he/she is a suspect/accused.</li> </ul> <p>2. <b>RIGHTS</b> - Advise the suspect/accused of his/her rights as follows:<br/>         "Before I ask you any questions, you must understand your rights."<br/> <ul style="list-style-type: none"> <li>a. "You do not have to answer my questions or say anything."</li> <li>b. "Anything you say or do can be used as evidence against you in a criminal trial."</li> <li>c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer</li> </ul> </p> | <p>can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."<br/>         - or -<br/> <i>(For civilians not subject to the UCMJ)</i> You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."<br/> <ul style="list-style-type: none"> <li>d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."<br/>             Make certain the suspect/accused fully understands his/her rights.</li> </ul> </p> |
|---|--|

**THE WAIVER**

<p>"Do you understand your rights?"  <i>(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)</i></p> <p>"Have you ever requested a lawyer after being read your rights?"  <i>(If the suspect/accused says "yes," find out when and where. If the request was recent (i.e., fewer than 30 days ago), obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)</i></p>	<p>"Do you want a lawyer at this time?"  <i>(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)</i></p> <p>"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" <i>(If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)</i></p>
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**SPECIAL INSTRUCTIONS**

<p><b>WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE:</b> If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.</p> <p><b>IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY:</b> In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.</p> <p><b>PRIOR INCRIMINATING STATEMENTS:</b></p> <ul style="list-style-type: none"> <li>1. If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.</li> </ul>	<ul style="list-style-type: none"> <li>2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.</li> </ul> <p><b>NOTE:</b> If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.</p> <p><b>WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS:</b> If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")</p>
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**COMMENTS** *(Continued)*

**RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE**

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

**DATA REQUIRED BY THE PRIVACY ACT**

**AUTHORITY:** Title 10, United States Code, Section 3012(g)  
**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 Camp Liberty, Iraq	2. DATE 06NOV06	3. TIME 1400	4. FILE NO.
5. NAME (Last, First, MI) (b)(3)(b)(6)	8. ORGANIZATION OR ADDRESS A/8-10 Cav		
6. SSN	7. GRADE/STATUS E6	APO AE 09344	

**PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE**

**Section A. Rights**

The investigator whose name appears below told me that he/she is with the United States Army 8-10 Cav, 4BCT, 4ID and wanted to question me about the following offense(s) of which I am suspected/accused: Lethal Escalation of Force on 04NOV06

he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:  
 do not have to answer any question or say anything.

anything I say or do can be used as evidence against me in a criminal trial.

For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)

**Section B. Waiver**

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE
1a. NAME (Type or Print)		(b)(3)(b)(6)
b. ORGANIZATION OR ADDRESS AND PHONE		(b)(3)(b)(6) 1LT, AR
2a. NAME (Type or Print)		4. TYPED NAME OF INVESTIGATOR
		(b)(3)(b)(6) 1LT, AR
b. ORGANIZATION OR ADDRESS AND PHONE		5. ORGANIZATION OF INVESTIGATOR
		A TRP 8-10 CAV, 4BCT, 4ID(M)

**Section C. Non-waiver**

1. I do not want to give up my rights  
 I want a lawyer  I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

EXHIBIT "G"  
CENTCOM 007633

**RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE**

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

**DATA REQUIRED BY THE PRIVACY ACT**

**AUTHORITY:** Title 10, United States Code, Section 3012(g)  
**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 Camp Liberty, Iraq	2. DATE 06NOV06	3. TIME 1400	4. FILE NO.
5. NAME (Last, First, MI) (b)(3)(b)(6)	8. ORGANIZATION OR ADDRESS A/8-10 Cav 4BCT, 4ID APO AE 09344		
6. SSN	7. GRADE/STATUS E5		

**PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE**

**Section A. Rights**

The investigator whose name appears below told me that he/she is with the United States Army 8-10 Cav, 4BCT, 4ID and wanted to question me about the following offense(s) of which I am suspected/accused: Lethal Escalation of Force on 04NOV06

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

- I do not have to answer any question or say anything.  
 Anything I say or do can be used as evidence against me in a criminal trial.  
 (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)

**Section B. Waiver**

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES (If available)		
1a. NAME (Type or Print)	(b)(3)(b)(6)	6 NOV06
b. ORGANIZATION OR ADDRESS AND PHONE	(b)(3)(b)(6)	1LT, AR
2a. NAME (Type or Print)	(b)(3)(b)(6)	1LT, AR
b. ORGANIZATION OR ADDRESS AND PHONE	6. ORGANIZATION OF INVESTIGATOR A Trp 8-10 CAV, 4BCT, 4ID(M)	

**Section C. Non-waiver**

1. I do not want to give up my rights  
 I want a lawyer  I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

EXHIBIT "H"  
CENTCOM 007634

**RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE**

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

**DATA REQUIRED BY THE PRIVACY ACT**

**AUTHORITY:** Title 10, United States Code, Section 3012(g)  
**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 Camp Liberty, Iraq	2. DATE 06NOV06	3. TIME 1400	4. FILE NO.
5. NAME (Last, First, MI) (b)(3)(b)(6)	8. ORGANIZATION OR ADDRESS A/8-10 Cav 4BCT, 4ID APO AE 09344		
6. SSN	7. GRADE/STATUS E4		

**PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE**

**Section A. Rights**

The investigator whose name appears below told me that he/she is with the United States Army 8-10 Cav, 4BCT, 4ID and wanted to question me about the following offense(s) of which I am suspected/accused: Lethal Escalation of Force on 04NOV06

Before he/she asked me any questions about the offense(s) (b)(3)(b)(6), he/she made it clear to me that I have the following rights:

- I do not have to answer any question or say anything. (b)(3)(b)(6)
- Anything I say or do can be used as evidence against me in a criminal trial. (b)(3)(b)(6)
- (For personnel subject to the UCMJ) I have the right to talk privately to a (b)(3)(b)(6) during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below (b)(3)(b)(6)

5. COMMENTS (Continue on reverse side)

**Section B. Waiver**

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES (If available)

1a. NAME (Type or Print)	(b)(3)(b)(6)
b. ORGANIZATION OR ADDRESS AND PHONE	(b)(3)(b)(6)
2a. NAME (Type or Print)	(b)(3)(b)(6), 1LT, AR
b. ORGANIZATION OR ADDRESS AND PHONE	(b)(3)(b)(6), 1LT, AR
6. ORGANIZATION OF INVESTIGATOR	A TYP 8-10 CAV, 4BCT, 4ID (M)

**Section C. Non-waiver**

1. I do not want to give up my rights  
 I want a lawyer  
 I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

EXHIBIT "I"

**PART II - RIGHTS WARNING PROCEDURE**

**THE WARNING**

1. **WARNING** - Inform the suspect/accused of:
  - a. Your official position.
  - b. Nature of offense(s).
  - c. The fact that he/she is a suspect/accused.
2. **RIGHTS** - Advise the suspect/accused of his/her rights as follows:
 

"Before I ask you any questions, you must understand your rights."

  - a. "You do not have to answer my questions or say anything."
  - b. "Anything you say or do can be used as evidence against you in a criminal trial."
  - c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer

can be a civilian; you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."

- or -

*(For civilians not subject to the UCMJ)* You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."

- d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

**THE WAIVER**

"Do you understand your rights?"  
 (If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?"  
 (If the suspect/accused says "yes," find out when and where. If the request was recent (i.e., fewer than 30 days ago), obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

"Do you want a lawyer at this time?"

(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)

"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" *(If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)*

**SPECIAL INSTRUCTIONS**

**WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE:** If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

**IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY:** In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.

**PRIOR INCRIMINATING STATEMENTS:**

1. If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.

2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.

**NOTE:** If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.

**WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS:** If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "if you didn't do anything wrong, you shouldn't need an attorney.")

**COMMENTS** *(Continued)*