42nd ID Foreign Claims Cover Sheet

File #: 5 IA3 1361

Name: (b)(6)

POA/ATT

Date Received: 12 JUN 05 Date of Incident: 11 MAR 05

Claim Amount: $26,950.00 Location: Eshaki

Translation:
All documents done 1470 (b)(6)

Further Investigation:
Must go to 3-member Commission

Contact S-2 ☐ Check Sigacts ☐

☐ Approved: ☒ Denied: 22 July 05 3 member Com C/E
3 member Commission
Sigact conf

(b)(6)

No GWP

☒ Goodwill Payment recommende
☐ Approved ☐ Denied

☐ Further investigation for GWP needed

CENTCOM 008199

Page 2 redacted for the following reason:
- - - - - - - - - - - - - - - - - - - -
Foreign Language Text, (b)(6)

DEPARTMENT OF THE ARMY
HEADQUARTERS, 42nd INFANTRY DIVISION
OFFICE OF THE STAFF JUDGE ADVOCATE
FORWARD OPERATING BASE DANGER, IRAQ APO AE 09392

REPLY TO
ATTENTION OF:

23 July 2005

(b)(6)

05-IA3-1361
Esharki, Iraq

Dear Mr. (b)(6)

I am writing in response to your claim against the United States Government. Your claim has been reviewed by a three member Foreign Claims Commission under the Foreign Claims Act, Title 10 United States Code 2734, as implemented by Army Regulation 27-20, Chapter 10. I regret to inform you that your claim has been denied.

The Foreign Claims Act prohibits this office from paying your claim. Specifically, this act prohibits paying claims that arise out of combat. As your claim arose out of combat, i.e., U.S. Forces involved in security operations, it cannot be paid.

I understand that you may disagree with this decision. You may appeal this decision. Your appeal must be in writing and submitted to this office within 30 days of receipt of this letter.

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

Captain, US Army
Claims Judge Advocate

DEPARTMENT OF THE ARMY
HEADQUARTERS, 42d INFANTRY DIVISION (Mechanized)
OPERATION IRAQI FREEDOM (FOB LIBERTY)
APO AE 09308

DHFT-JA 24 June 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6) 05-IA3-1361

1. **Identifying Data:** (b)(6) Eshaki, Iraq

2. **Date and place the incident occurred giving rise to the claim**: The claim occurred on 11 March 2005, in Eshaki, Iraq.

3. **Amount of claim and date it was filed:** Claimant filed a claim for $25,950 on 12 June 2005.

4. **Jurisdiction:** This request is presented for consideration under the provisions of the Foreign Claims Act, 10 USC Section 2734, as implemented by Chapter 10, Army Regulation 27-20. This claim was filed in a timely manner.

5. **Facts:** Claimant alleges that his son was killed, when U.S. Forces shot at him from a checkpoint. A review of sigacts reveals that the claimant's son was driving a vehicle towards a checkpoint at a high rate of speed. He ignored signals to stop his vehicle, so soldiers at the checkpoint opened fire, killing him. The claimant provided corroborating witness statements, photographs, medical reports, a death certificate and a police report with a scene sketch.

6. **Opinion:** There is sufficient evidence to indicate that U.S. Forces killed the claimant's son. Unfortunately, those forces were involved in security operations at the time. Therefore, this case falls within the combat exception.

7. **Recommendation:** The claim should be denied.

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

CPT, JA
Chief, Claims

THREE MEMBER COMMISSION DECISION

(b)(6)

CLAIM # 5-IA3-1361

After reviewing the claim of (b)(6), the 3 Member Commission has decided to:

Approve: _____

Deny: X 22 July 05

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

Recommend Goodwill payment.

Claims Form

To: United States Army Foreign Claims Commission
From: Name: (b)(6)
Address: Iraq — ESHAKI city (b)(6)

I am

a. A citizen and national of: Iraqi
b. A permanent resident of :
c. Employed by:
d. Check one ( ) An insurer ( ) Not an insurer
e. Check one ( ) A subrogee ( ) Not a subrogee

I hereby make a claim against the United States Government for damages or injuries caused by: (Name, Organization, Military Department, Address, Telephone Number)

The U.S forces in ESHAKI

The property damaged is owned by: (If the claim is made as an agent, parent, or guardian, attach a power of attorney or other evidence of authority and fill in the form below for party sustaining the damage or injuries.)

My claim arose at: Farhatya (Town) ESHAKI (City) Iraq (Country)

My claim arose on: Mar (Month) 11 (Day) 05 (Year)

Give a brief statement of the accident or incident on which the claim for damages to property or for personal injury is based. (Use back of this sheet if necessary.)

The U.S forces Killed my Son when he was drive his car by random fire of U.S Coalition forces this led to large damages for his family and his car (destroyed Parts of it) shown in expert report

Describe nature and extent of property damage or personal injury sustained as a result of the above incident.

Large damages

List in detail the amount of property damage and itemized expenses resulting from the property damage or personal injury: (Attach bills and receipts, if applicable.)

Item	Amount
As shown in expert report	$1950
for car	
Killed my Son	$25000

Total: $1950 + $25000 = $26950

I was insured to the following extent against the damage or injuries I have sustained:

The name and address of my insurer (if any) is:

(Name) (Address)

I claim as damages: (Indicate amount in U.S. dollars and local currency)

$ 1950 + 25000 = $26950 local 3500000 I.D + 37000000 = 40500000 I.D

(b)(6)

(Signature of Claimant)

Subscribed before me this 21 day of April, 2005.

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

(Signature)

عريضة المطالبات
(للعطل والضرر)

الى: لجنة المطالبات للاجانب تقدم للسلاح الجوي الاميركي
من: الاسم الرباعي الكامل: _____ foreign language text

العنوان: _____ foreign language text

انا
مواطن و احد رعايا: _____ foreign language text _____

مقيم دائم في: _____

موظف في شركة: _____

اضع اشارة واحدة امام: ( ) شركة تأمين ( ) لست شركة تأمين

اضع اشارة واحدة امام: ( ) من حلّ محل الغير و أتحمل المسؤلية ( ) لست من حلّ محل الغير و لا اتحمل المسؤلية

انا, و بناء عليه, أدوّ (الاسم, المنظمة, الدائرة العسكرية, العنوان, رقم الهاتف.)
_____
_____ foreign language text

الملك المتضرر يملكه : (اذا كانت المطالبة تدوّن من قبل عميل, والد او والدة, او وصيّ, ارفق توكيل رسمي او بيّنة تفويض, وأملئ العريضة ادناه للطرف الذي يعاني او يتكبّد العطل والاضرار.)

مطالبتي وقعت في: اسم البلدة ___ foreign language text اسم المدينة ___ foreign language text
اسم البلاد ___

مطالبتي وقعت بتاريخ : الشهر ___ foreign language text اليوم ___ langua ___ السنة ___ ign language

دوّن تقرير مختصر عن الحادث الطارئ او الحدث العرضي الذي كان الاساس للمطالبة بالعطل والضرر او اذى شخصي. (اذا لزم الامر استعمل ظهر الصفحة)
___
___
___ foreign language text
___
___
___

أصف انت, طبيعة و مدى عطل الممتلك الخاص او الاذى الشخصي الذي تعاني منها نتيجة للحدث العرضي
_____
_____ foreign language text
_____

أضع قائمة بالتفصيل عن مقدار و كمية عطل الممتلك و أضع جدولا عن المصاريف الناتجة عن عطل الممتلك او الاذى الشخصي. (ارفق الفواتير والايصالات اذا كان ملائما.)
بند

المبلغ او المقدار foreign language text

$ ١٩٥٠

foreign language text $ ٢٥٠٠٠

المجموع: $ ١٩٥٠ + $ ٢٥٠٠٠

انا مؤمّن للمدى التالي ضد الضرر و الاذى الذي عانيت منها: $ ٢٦٩٥٠

اسم و عنوان المؤمّن (شركة التأمين) اذا كان لديك شركة تأمين هو:

الاسم :

العنوان:

اطالب كضرر او اضرار : (اذكر المقدار بالدولارات الا [illegible] المحلية .)

الدولارات: foreign language text

العملة المحلية: $ ١٩٥٠ + $ ٢٥٠٠٠ = $ ٢٦٩٥٠

$ ٢٦٩٥٠ = $ ٢٥٠٠٠ + ف

(b)(6)

امضاء ال

موقع بحضوري في تاريخ : اليوم: 21 الشهر: April السنة: 2005

الاسم :

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

ء:

CENTCOM 008207

DEPARTMENT OF THE ARMY
HEADQUARTERS, 5th BATTALION, 7TH CAVALRY
1st BRIGADE COMBAT TEAM, 3rd INFANTRY DIVISION
FOB PALIWODA, BALAD, IRAQ
APO AE 09391

REPLY TO
ATTENTION OF

AFTV-VVB

11 May 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6)

1. Claimant's name and address: (b)(6) Isahki, Balad, Iraq.

2. Date and Place the incident occurred giving rise to the claim: Incident occurred on 11 March 2005, Isahki, Balad, Iraq.

3. Amount of Claim and the date it was filed: Claimant filed the claim in the amount of $26,950.00, 21 April 2005.

4. Chapter(s) the claim was considered under, and a brief description of the incident or of the issues raised by the claimant on reconsideration: Foreign Claims Act and Chapter 10, AR 27-20; claim filed for compensation for damage to vehicle and death of son.

5. Facts:

a. On 11 March 2005, claimant's son, (b)(6) was killed by US forces at a checkpoint vic (b)(2)High A review of the SigActs reveals claimant's son was driving a vehicle towards the checkpoint when he ignored visual and auditory instructions to halt. Claimant's son acted in a hostile manner and US forces fired upon his vehicle, killing him.

6. Opinion:

a. In my opinion, this claim should be denied. Claimant's son acted in a hostile manner when US forces fired upon his vehicle.

7. Recommended action: This claim should be denied.

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

2LT, AD
BN Claims Officer

REPORT OF CLAIMS OFFICER

For use of this form, see AR 27-20; the proponent agency is the Office of The Judge Advocate General.

DATE OF REPORT
11 MAY 05

INSTRUCTIONS: Submit original only unless otherwise required by regulation.
Use additional sheets, if necessary, and number to correspond with item numbers.

HEADQUARTERS *(Organization, Installation, Unit, etc.)*	LOCATION
HHT/5-7 CAV	FOB PALIWODA

1. ACCIDENT OR INCIDENT

DATE	HOUR	PLACE
11 MAR 05		Isahki, Balad, Iraq

2. CLAIMANTS *(Real or potential)*

NAME	ADDRESS	DATE CLAIM FILED	AMOUNT CLAIMED
(b)(6)	Isahki, Balad, Iraq	21 APR 05	26,950.00

ALL CLAIMANTS WHO FILED CLAIMS WERE PERSONALLY INTERVIEWED ☒ YES ☐ NO *(Specify)*

3. PROPERTY AND PERSONNEL INVOLVED

A. GOVERNMENT PROPERTY *(Describe all property--make, type, model, U.S. number, previous condition, present location, and show whether moving or stationary)*	PERSONNEL *(Name, grade, service number, address and organization, etc.; and if motor vehicle or other equipment was involved, identify operator and show his previous condition, location of occupants, etc.)*

B. PRIVATE PROPERTY *(Describe all property--make, type, model, previous condition, present location, and show whether moving or stationary)*	PERSONS *(Name, address and relation to incident, e.g., owner, driver, passenger, pedestrian, bailee, tenant, lessee, licensee, trespasser, etc.; and if a motor vehicle or other equipment was involved, show previous condition of operator, location of occupants, etc.)*
Damaged vehicle	(b)(6) – Claimant's son

4.	SCOPE OF EMPLOYMENT
WAS GOVERNMENT PERSONNEL ACTING WITHIN THE SCOPE OF EMPLOYMENT *(Check applicable box)* ☒ YES ☐ NO SEE EXHIBIT(S)--	

5.	DAMAGE TO PROPERTY *(Nature and extent of damage, estimated cost of repairs or loss, loss of use and, if pertinent, value before and after damage, value of salvage, etc.)*	
A. GOVERNMENT PROPERTY		WAS PROPERTY PERSONALLY INSPECTED? ☐ YES ☐ NO
B. PRIVATE PROPERTY See attached Court Expert Report		WAS PROPERTY PERSONALLY INSPECTED? ☐ YES ☒ NO

6.	PERSONS INJURED OR KILLED *(Name, address, age, nature and extent of injuries, disability, medical aid rendered--where and by whom, hospital, attending physician, duty status, wages lost, etc.)*
A. GOVERNMENT PERSONNEL	
B. PRIVATE PERSONS (b)(6) – Killed – $25,000.00	

7.	WITNESSES *(Attach signed statements)*
NAME	STATION OR ADDRESS

8.	POLICE INVESTIGATION AND TRIAL
WAS POLICE INVESTIGATION MADE? ☒ YES ☐ NO *(If made, attach copy of report, or state why not obtainable)*	STATE FACTS AS TO ARRESTS OR CHARGES, AND RESULTS OF TRIALS BY CIVIL OR MILITARY COURTS, IF ANY

CENTCOM 008210

9.	FINDINGS

GIVE FULL DETAILS OF ACCIDENT OR INCIDENT IN NARRATIVE FORM, ILLUSTRATING RELEVANT PHYSICAL FACTS BY SKETCHES, DIAGRAM AND/OR PHOTOGRAPHS, WITH SPECIAL ATTENTION TO: *(a) IN TRAFFIC CASES:* DIRECTION OF TRAVEL, SPEED, OBSTRUCTIONS TO VIEW, ROAD WIDTH AND CONDITIONS, SKIDMARKS, TRAFFIC SIGNS AND SIGNALS, TRAFFIC AND WEATHER CONDITIONS. *(b) IN AIRCRAFT CASES:* NATURE AND AUTHORITY FOR FLIGHT, ALTITUDE, SPEED, DIRECTIONS, CONTROLS, WEATHER CONDITIONS, MECHANICAL CONDITION OF AIRCRAFT, AND CAUSE OF ACCIDENT OR INCIDENT. *(c) IN MAIL CASES:* REGISTRATION OR INSURANCE RECEIPT DATA, DECLARED VALUE, ACTUAL VALUE OF CONTENTS, FEE PAID, ORIGIN AND DESTINATION, TIME AND PLACE OF DELIVERY TO MILITARY AUTHORITIES, ADDRESSEE'S STATEMENT OF NON-DELIVERY. *(d) INSURANCE:* IN ALL CASES SHOW WHETHER THE LOSS IS COVERED IN WHOLE OR IN PART BY INSURANCE. IF SO, GIVE THE NAME AND ADDRESS OF INSURER; ALSO TYPE AND COVERAGE.

On 11 March 2005, claimant's son, (b)(6) was killed by US forces at a checkpoint vic (b)(2)High A review of the SigActs reveals claimant's son was driving a vehicle towards the checkpoint when he ignored visual and auditory instructions to halt. Claimant's son acted in a hostile manner and US forces fired upon his vehicle, killing him.

10.	EXHIBITS

LIST, MARK AND ATTACH PERTINENT EXHIBITS SUCH AS: THE CLAIM; OPERATOR'S REPORT; TRIP TICKET; FLIGHT ORDER; WEATHER REPORT; MAINTENANCE RECORDS; REPAIR BILLS AND ESTIMATES; HOSPITAL, MEDICAL AND BURIAL EXPENSE REPORTS AND ITEMIZED BILLS; ESTIMATES OF VALUE; DIAGRAMS; PHOTOGRAPHS *(Dated and identified);* COPY OF EXTRACT OF TRAFFIC OR FLYING REGULATIONS; LOCAL ORDINANCES, FEDERAL OR STATE LAWS VIOLATED; STATEMENTS OF PARTICIPANTS AND OTHER WITNESSES; COPIES OR EXTRACTS OF INSURANCE POLICIES, RECEIPTS OR AGREEMENTS; POLICE REPORT; AND ANY OTHER RELATED DATA.

A US Claim Form	H
B Arabic Claim Form	I
C Identification	J
D Court Reports	K
E IP Reports	L
F Photographs	M
G Death Certificate	N

CENTCOM 008211

11.	RECOMMENDATIONS

A. IT IS RECOMMENDED THAT: *(Check applicable space and strike out any inapplicable words)*

	THE CLAIM, IF FILED, BE APPROVED IN THE AMOUNT OF $
X	THE CLAIM, IF FILED, BE DISAPPROVED
	THE CLAIM, IF FILED, BE APPROVED IN AN AMOUNT THAT CAN BE REASONABLY SUBSTANTIATED BY THE CLAIMANT
	THE MILITARY PERSONNEL NAMED BELOW BE HELD RESPONSIBLE UNDER ARTICLE 139 UCMJ FOR THE AMOUNT SET OPPOSITE THEIR NAMES (AR 25-80)

NAME	AMOUNT	NAME	AMOUNT

B. REASONS FOR RECOMMENDATIONS

In my opinion, this claim should be denied. Claimant's son acted in a hostile manner when US forces fired upon his vehicle.

C. CLAIMS OFFICER *(See AR 27-20)*

DATE INVESTIGATION INITIATED	DATE CLAIM FILED
14 APR 05	14 APR 05
TYPED NAME AND GRADE OF CLAIMS OFFICER	SIGNATURE
(b)(3), (b)(6) , 2LT, AD, BN Claims Officer	(b)(3), (b)(6)

12. ACTION OF COMMANDING OFFICER OR STAFF JUDGE ADVOCATE *(See AR 27-20)*	REPORT *(Check applicable box)* ☐ APPROVED ☐ DISAPPROVED	DATE

REASONS FOR DISAPPROVAL *(or comment on action)*

TYPED NAME, GRADE AND TITLE	SIGNATURE

CENTCOM 008212

Page 15 redacted for the following reason:
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foreign language text, (b)(6)

To:Coalition forces
Subject/ Claim for compensation about killed person

About 5:15 P.M in the day of Friday of 11 Mar 05 the US forces killed my son (b)(6) as the follows :

Before many days the US forces killed my son when he was going to house of his sister , my son was in branch street in Eshaki city –near of check point of Eshaki by distance about (b)(2)High he was going to house of his sister with his car type of Pick up model (b)(6) which numbered (b)(6) at that time the US forces closed the street and they shooted their fire on the car of my son this led to killed him immidetly without any reason and we have witnesses about this attack they said also after that the American soldier openned the doors of this car and the American soldiers was down my son from his car and also these soldiers took pictures for him also the witnesses told us that the US forces searched his car and they do not found any thing inside this car bacause that the killing was without any reason for known he killed in branch street which led to house of his sister about (b)(2)High from public street.

We need quick respond to compensation us for his big poor family

Thank you

(b)(6)

Cliamant

(b)(6)

father of killed person his name

" (b)(6) "

COURT

Foreign Language Text

Foreign Language Text, (b)(6)

DEATH CERTIFICATE

NUMBER
DATE

NAME AND TRIBE (b)(6)	SEX: meal	CITIZENSHIP: iRaqi	RELIGION: Muslim	PROFESSION: handy ~~carpet~~ man
MARITAL STATUS: unmairried	DATE OF BIRTH: (b)(6)	PLACE OF BIRTH Balad		

ADDRESS: balad

DATE OF DEATH: 11 March 03

FATHER'S NAME: (b)(6)

MOTHER'S NAME: (b)(6)

PLACE OF DEATH
TOWN: balad EShakee
DISTRICT
VILLAGE
GOVERNORATE

PERSON NOTIFIED: RELATIOSHIP: ADDRESS

FORENSIC MEDICINE CERTIFICATE

I, Dr, (b)(6) ctor in solely certify that I performed the autopsy on the body of , sended to me in accordance to the form #
On / / /

SPECIAL INFORMATION RELATED WITH THE CIVIL AFFAIRS DIRECTORATE:

Page 19 redacted for the following reason:
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foreign language text, (b)(6)

Al farhateya Police directorate.
No. Date 3 / March / 05.

To : _____ police station .

Technician examination report.

According to your report no( ) in ____/__/_____.
Below the technician report about examination of the car
no__ (b)(6) e _____
Mode (b)(6) _, colored _____.
For notifying with respect.
Chasse No._____
Engine No._____
Police major

Damages
- glasses compeletly
- Dash pool
- back of the car
- mirrors
- gaps in right door
-
- the engine
-
-
-
-
-

The technician
Capt

(b)(6)

CENTCOM 008218

TIRAFAC.(b)?

Foreign Language Text

Foreign Language Text, (b)(6)

COURT

Foreign Language Text

Foreign Language Text, (b)(6)

Foreign Language Text, (b)(6)

total ? $1950

Langua

Foreign Language Text, (b)(6)

legal expert report

Foreign Language Text

COURT
Report
explain that the
police bring the
claimant and witthe.

Foreign Language Text

Foreign Language Text

Foreign Language Text

Witness statement

I'm signed below Mr./Ms _ (b)(6) itnessed that the plaintiff was exposed into:

The accident occurred in_____

At_____

The accident resulted in the following damages: -

1. on 17:15 of 11 March 05 usa forces
2. killed mr- (b)(6) he is my
3. Casion I saw them took his corpse from
4. the car
5.
6.
7.

The investigator The witness

Witness statement

I'm signed below Mr./Ms (b)(6) nessed that the plaintiff was exposed into.

The accident occurred in

_____

At

_____

The accident resulted in the following damages: -

1. I saw usa forces opend fire towards
2. mr. (b)(6) to
3.
4.
5.
6.
7.

The investigator The witness

Police station of.....

COUR'1

Foreign Language Text

Foreign Language Text

first witness

Foreign Language Text

Foreign Language Text, (b)(6)

personal right claimant

name: ~~?~~ (b)(6)

one tell me that usa forces killed my son when he was in his car ~~opel~~ toyota (b)(6)

p.r.c

(b)(6)

I.P

Foreign Language Text, (b)(6)

Foreign Language Text, (b)(6)

Personal right claiment Statment
Name: ftayem ((his mother))

Farhateya Police station.
23 / March / 05

Examination & scene sketch.

According to decision of the judge about examination the place of accident, we went to the place & found that:

- The place far about (6)km from our office .
-The place was near Rumialat bridge
broken glasses
blood spoots

- There was nothing help in realization.

Investigator

COURT

Foreign Language Text

Foreign Language Text

Foreign Language Text

Foreign Language Text

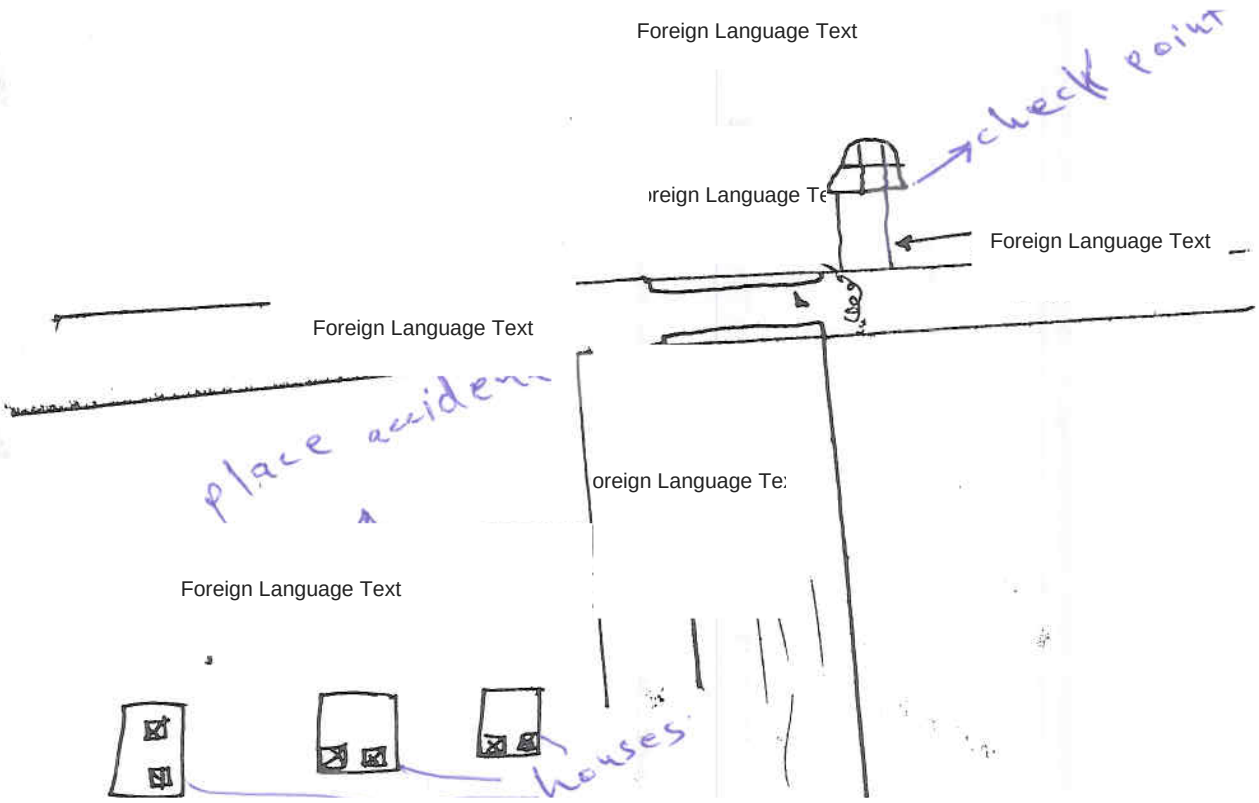
Foreign Language Text

Foreign Language Text

Foreign Language Text

Foreign Language Text

Foreign Language Text



Foreign Language Text

Foreign Language Text, (b)(6)

COURT

Foreign Language Text

Foreign Language Text

Police report

explain that they found a corpse in the hospital

Foreign Language Text

Foreign Language Text

008228

corpse exam

- N saw enterance of builts in the corpse
N saw outerance of builts in the corpse

(b)(6)

This corpse is belong to

(b)(6)

I,P

Foreign Language Text

Corpse exam

request to the Hosptial
to know The death cause

- The death cause ?
- ~~death~~ time of death ?
- Hawmany bullits caused the death ?
- any other things

Foreign Language Text, (b)(6)

Police report

plaintiff statement

(b)(6)

Name:

on 11 March 05 I know from peoples that my son killed by usa forces in my car they oper the fire towards him when they are in this area and his corpse still with them from 5:30 pM till the morning - I have wittnesses

plaintiff

investegator

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foreign language text, (b)(6)

Balad Court

No.: Without
Date: 2005

Subj. *Experience Report*

Claimant:

Based upon the decision of Balad investigation judge to elected me as expert to estimate the damages which happened by American Forces when they attacked the claimant's .

After my site visit to this [redacted] and my reading to the file of this claim and the statements of the witness I estimate the damages as clear in the following table:-

S	Details	Qua.	Price$	Amount $
1	Destroyed the glass of Car by Completely	whole	whole	550
2	Destroyed the Dashball of Car	1	300	300
3	Destroyed the back face behind the driver	whole	whole	150
4	Destroyed the back mirrors of driver	2	25	50
5	holes in the Side door of Car	1	100	100
6	Destroyed the machine of car by Completely	whole	whole	700
7				
8				

Total Prices = $1950

Expert

(b)(6)

COURT

Foreign Language Text

Second witness

Foreign Language Text, (b)(6)

Foreign Language Text