

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 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: TOC, 4-23 IN
2. DATE (YYYYMMDD): 20061005
3. TIME: 1930
4. FILE NUMBER:
5. LAST NAME, FIRST NAME, MIDDLE NAME: (b)(3), (b)(6)
6. SSN: (b)(3), (b)(6)
7. GRADE/STATUS: 0-31 Company Commander

8. ORGANIZATION OR ADDRESS: B/4-23 IN, 17d SBCT, CAMP STRIKER, IRAQ APO AE 09322

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

Q: WHAT VEHICLE WERE YOU IN? OOM? (b)(3), (b)(6)

A: 1st ICV in OOM, B13

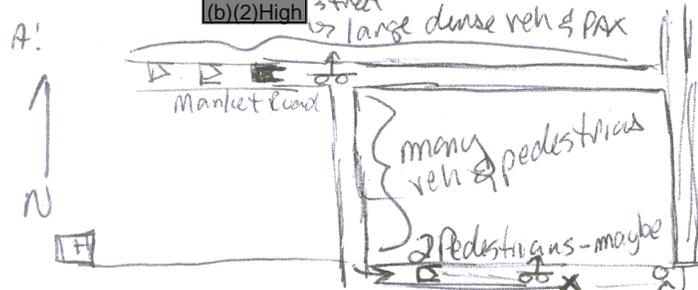
Q: WHERE WAS THE AM-17 BEFORE THE DRIVER PLACED IT IN THE PASSENGER SEAT? (b)(3), (b)(6)

A: I did not see the original static location but I would conclude it was near his right calf/high or right side of seat in van.

Q: WHY DID YOU TURN DOWN THE ROAD BEHIND THE VAN? (b)(3), (b)(6)

A: The van driver clearly had a weapon. I requested/shouted & showed my hand for him to stop & he didn't. He sped off @ a very high rate of speed. This area was reported as having a high level of ATF/EJK activity. The van, weapon, speeding away, & high # of EJK murders & ATF activity persuaded me to pursue.

Q: HOW MUCH PEDESTRIAN AND VEHICLE TRAFFIC WERE THERE IN THE AREA OF THE CHASE? (b)(3), (b)(6)



10. EXHIBIT:
11. INITIALS: (b)(3), (b)(6)
PAGE 1 OF 3 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF [NAME] TAKEN AT [LOCATION] DATED [DATE]"

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

005329

STATEMENT OF CPT [REDACTED] (b)(3), (b)(6) KEN AT 1930 DATED 20061005

9. STATEMENT (Continued)

Q: HOW LONG (TIME) AND FAR (DISTANCE) DID THE CHASE LAST BEFORE YOU ATTEMPTED TO DISABLE THE VEHICLE?

A: 45 sec+ (TIME) 700m+ (Distance) (3-4 blocks)

Q: HOW FAR FROM THE VAN WERE YOU WHEN YOU ATTEMPTED TO DISABLE THE VEHICLE?

A: ± 50m & the van was "pulling away" IOW's... picking up speed & distance.

Q: HOW FAST WERE YOU MOVING WHEN YOU ATTEMPTED TO DISABLE THE VAN?

A: 20 mph is best recollection. we had to be slower b/c of cars parked on side of street @ odd angles. ~~(b)(3), (b)(6)~~ We had just turned a curb & were headed east.

Q: WHAT IS YOUR UNDERSTANDING OF THE ROE CONCERNING FLEEING SUSPECTS OR VEHICLES?

A: "We are not to engage personnel fleeing." I ~~(b)(3), (b)(6)~~ do not & did not recall @ the time if we were allowed to disable a fleeing vehicle. I engaged to disable, not to kill. I felt I was acting responsibly given our AO, my mission, the environment, & the conditions @ the time.

Q: DO YOU HAVE ANY FURTHER TO ADD PERTAINING TO THE INCIDENT?

A: I returned w/ my TAC five min after the incident @ the report of an EJK body dump. Upon arrival I realized the reported body was actually the injured ~~(b)(6)~~. The neighbors had just rushed him to Yarmook Hospital. I spoke w/ other residents & his uncle @ the site. I offered to take his uncle w/ me to Yarmook Hospital & he accepted. We arrived the hospital & assessed his condition. He was stable but not enough to transport to the CSH. I spoke w/ his father @ length about the likelihood this was ~~(b)(3), (b)(6)~~ responsibility. His father tried to assure me he ~~(b)(3), (b)(6)~~ heard we were chasing bad men. He cried & placed his head on me. I returned the following day & brought the family lamb & bread from a butcher. We arranged for IP to bring body to home. (cont)

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

PAGE 2 OF 3 PAGES

9. STATEMENT (Continued)

(cont...) for family. The father said he died in surgery @ Yarmock hospital b/c of a problem w/ blood. I told his father I believed it was may bullet through the vans tire that ricocheted off the street & into his son. We spoke for 45min & I left w/ my TAC. I am currently in contact w/ the family.

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

I, (b)(3), (b)(6) CPT (b)(3), (b)(6) READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS PAGE (b)(3), (b)(6) 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)

(Person Making Statement)

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____ at _____
(b)(3), (b)(6)

(Signature of Person Administering Oath)

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

(Typed Name of Person Administering Oath)
INVESTIGATING OFFICER

(Authority To Administer Oaths)

INITIALS MAKING STATEMENT
(b)(3), (b)(6)

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).
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1. LOCATION FOB STRYKER, IRAQ APO AE 09322	2. DATE (YYYYMMDD) 2006/10/05	3. TIME 2105	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3), (b)(6)	6. SSN (b)(3), (b)(6)	7. GRADE/STATUS CPT	

8. ORGANIZATION OR ADDRESS
Blackhawk Company, 4th Battalion, 23d Infantry, 172d SBCT, FOB STRYKER, BIAP, IRAQ APO AE 09322

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

I submit the following statement to clarify the background, situational variables, and facts surrounding the engagement to disable the fleeing yellow/blue van in Al Bayaa.

The yellow/blue van was either AIF or criminal given the driver's possession of at least 1 x AK-47. No local national or non-uniformed ISF is authorized to carry an AK-47 outside of his/her home. I believed this established the driver as a law breaker whether criminal or AIF. Furthermore, the van sped away after being ordered to stop and continued to drive at a very high rate of speed through a market/residential area w/ complete disregard for vehicles and pedestrians.

In almost 14 months of patrolling I have personally pursued over 12 vehicles. One of the 12 vehicles, a white Oldsmobile Cutlass Sierra, fired on my TAC vic RTE (b)(2)High in eastern Mosul, Iraq. My TAC pursued the vehicle utilizing an alternate route which resulting in a face to face situation with the vehicle and its occupants. I had a 20m shot on the occupants in this instance but did not engage due to the number of pedestrians on RTE (b)(2)High. In the other 11 plus pursuits I've never fired on a vehicle BECAUSE NON OF THE VEHICLES WERE PID'D W/ WEAPONS OR HAVING COMMITTED A CRIMINAL ACT. They were guilty of "squirting" or egressing from a Cordoned Objected or a Flash TCP. It is not my company's nor my propentency/SOP to fire on fleeing vehicles because of the consequences realized by this incident w/ (b)(6).

ICVs can only "catch" fleeing AIF/criminals in technicals if the ICV's can cordon the adjacent streets rapidly, utilize a responsive AWT, or coordinate w/ ISF via cell phones as we did on occassion in Mosul. The ICV is often too wide and too slow to accelerate to catch/stop the egressor.

If I wanted to shoot just to shoot, I could have engaged the driver as soon as he brandished the AK-47 the second before he sped off. That wasn't hostile intent. When I engaged with the 1 x 5.56 rd, I could have shot the driver in the back of the head but I didn't. The purpose of the 1 x 5.56 was to DISABLE the van IOT CAPTURE the AIF/criminal.

The street on which the engagement occurred was mostly devoid of vehicles and pedestrians. The van was pulling away and heading for a major RTE running North and South. I considered it a small window of opportunity considering the previously trafficked streets and the unlikelihood of regaining contact.

I considered the duration and speed of the chase, the Area of Operations w/ regard to enemy activity and contact, the time of day in regards to body drops, and the mostly desolate street when I engaged the rear right tire of the van. I had a stable platform and a zero'd sight which impacted the tire. I did not see the bystander through the van via line of sight. Had I seen him, I would not have engaged.

My company and I have the least amount of EOF and AIF engagements. We were the first to establish the SOP of "falling into the Stryker at the possibility of a VBIED as a TTP to protect Soldier and civilian from injury and unnecessary death. This was initially met with resistance and is now a common TTP. I am not "gun happy" nor do I allow my Soldiers to engage at their whim. We drive in local national traffic and are very hesitant to use even our horn.

I submit all previous to better shape the understanding of who fired, circumstances surrounding the engagement, and why I chose to engage the tire. (b)(3), (b)(6)

NOTHING FOLLOWS (b)(3), (b)(6)

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

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

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

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

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

RIGHTS WAIVING 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.
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1. LOCATION 4-23 INW TOC, Camp Striker	2. DATE 20061005	3. TIME 1901	4. FILE NO.
5. [REDACTED] (b)(3), (b)(6)	8. ORGANIZATION OR ADDRESS B14-23 INW CAMP STRIKER APO AE 09322		
6. SSN [REDACTED] (b)(3), (b)(6)	7. GRADE/STATUS CPT/AD		

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 _____
MAS [REDACTED] (b)(3), (b)(6) and wanted to question me about the following offense(s) of which I am
 suspected/accused: **NOT SUSPECT OR BEING ACCUSED**

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:

1. I do not have to answer any question or say anything.
2. Anything I say or do can be used as evidence against me in a criminal trial.
3. (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.

(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.

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. [REDACTED] (b)(3), (b)(6)
1a. NAME (Type or Print)	4. SIGNATURE OF INVESTIGATOR [REDACTED] (b)(3), (b)(6)
b. ORGANIZATION OR ADDRESS AND PHONE	
2a. NAME (Type or Print)	5. TYPED NAME OF INVESTIGATOR MAS [REDACTED] (b)(3), (b)(6)
b. ORGANIZATION OR ADDRESS AND PHONE	6. ORGANIZATION OF INVESTIGATOR WIC / 4-23 IN, 172d S&CT

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