



REPLY TO
ATTENTION OF

**HEADQUARTERS
MULTI-NATIONAL CORPS - IRAQ
BAGHDAD, IRAQ
APO AE 09342**

FICI-JA-AL

23 May 2006

MEMORANDUM FOR LTG Peter W. Chiarelli, Commander, MNC-I, Camp Victory, Baghdad, Iraq, APO AE 09342

SUBJECT: Legal Review of AR 15-6 Investigation – EOF, 21st MP Company, 49th MP Brigade, 24 January 2006

1. Pursuant to AR 15-6, ¶2-3b, I reviewed the referenced investigation, directed on 6 February 2006, and completed on or about 22 May 2006. My legal opinion is as follows:

(b)(5)

3. Point of contact is the undersigned at either DSN or at email @iraq.centcom.mil.

CPT, JA
Administrative Law Attorney

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REPLY TO
ATTENTION OF

HEADQUARTERS
MULTI-NATIONAL CORPS - IRAQ
BAGHDAD, IRAQ
APO AE 09342

FICI-JA-AL

MEMORANDUM FOR RECORD

SUBJECT: AR 15-6 Investigation, 49th MP BDE, EOF

1. The findings of the Investigating Officer (IO) are approved. The AR 15-6 investigation will be forwarded to Commander, 49th MP Brigade, who will take corrective training measures and preventive measures consistent with the IO's recommendations.
2. As for the IO's recommendation that no adverse action be taken in this case, that decision is left solely to the discretion of the chain of command.
3. POC for this action is MAJ at @iraq.centcom.mil or at DSN


PETER W. CHIARELLI
Lieutenant General, USA
Commanding

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REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 49th MILITARY POLICE BRIGADE
APO AE 09342

MPBD-CJA

20 May 2006

MEMORANDUM FOR Commander, 49th Military Police Brigade, APO AE 09342

SUBJECT: AR 15-6 Investigation – EOF – 21st MP CO

1. This 15-6 was turned in to us today from the Investigating Officer – 1LT (b)(3), (b)(6) He addressed deficiencies that were noted in a previous legal review.

5. POC is the undersigned at VOIP (b)(2) or at (b)(3), (b)(6) [@iraq.centcom.smil.mil](mailto:iraq.centcom.smil.mil).

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

Encl
15-6 Investigation

MAJ, JA
Brigade Trial Counsel

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REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 49th MILITARY POLICE BRIGADE
APO AE 09342

MPBD-CJA

18 April 2006

MEMORANDUM FOR SJA, MNC-I, Camp Victory, Iraq APO AE 09342

SUBJECT: Request for Legal Review - Report of Proceedings by Investigating Officer

1. Enclosed is the original Report of Proceedings by Investigating Officer relative to the AR 15-6 investigation into the facts and circumstances surrounding the successive escalation of force incidents that occurred on 24 January 2006, in which one local national was killed and another was significantly injured. The investigation was conducted pursuant to the Appointment Memorandum dated 06 FEB 2006 from BG Donald M. Campbell, Jr., CoS, MNC-I.
2. The report was originally submitted on 09 February 2006, and after preliminary review, was returned for further investigation. It was re-submitted on or about 05 April 2006, and upon further review, was still deemed to be incomplete.
3. After significant additional effort by the IO, including obtaining sworn statements from Soldiers originally declining to provide same, this is now ready for legal review by your office as primary legal advisor to the Appointing authority.
3. Point of contact for this memorandum is the undersigned at DSN (b)(2)

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

Encl

LTC, JA
Command Judge Advocate

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DEPARTMENT OF THE ARMY
HEADQUARTERS, 49th MILITARY POLICE BRIGADE
APO AE 09342

REPLY TO
ATTENTION OF

MPBD-CJA

05 April 2006

MEMORANDUM FOR SJA, MNC-I, Camp Victory, Iraq APO AE 09342

SUBJECT: Request for Legal Review - Report of Proceedings by Investigating Officer

1. Enclosed is the original Report of Proceedings by Investigating Officer relative to the AR 15-6 investigation into the facts and circumstances surrounding the successive escalation of force incidents that occurred on 24 January 2006, in which one local national was killed and another was significantly injured. The investigation was conducted pursuant to the Appointment Memorandum dated 06 FEB 2006 from BG Donald M. Campbell, Jr., CoS, MNC-I.

2. The report was originally submitted on 09 February 2006, and after preliminary review, was returned for further investigation. After significant additional effort by the IO, as well as review and approval for submission by XO, 372nd Military Police Battalion, this is now ready for legal review by your office as primary legal advisor to the Appointing authority.

3. Point of contact for this memorandum is the undersigned at DSN (b)(2)

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

Encl

LTC, JA
Command Judge Advocate

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DEPARTMENT OF THE ARMY
HEADQUARTERS, MULTI-NATIONAL CORPS - IRAQ
BAGHDAD, IRAQ
APO AE 09342

FICI-JA-AL

08 FEB 2006

MEMORANDUM FOR 1LT (b)(3), (b)(6) 463rd MP CO

SUBJECT: Appointment as AR 15-6 Investigating Officer

1. You are appointed by the Commander, MNC-I, as an investigating officer to conduct an investigation IAW AR 15-6 into all of the facts and circumstances surrounding the successive escalation of force ("EOF") incidents that occurred on 24 January 2006, in which one local national was killed and another was significantly injured. In addition to the general facts and circumstances, your investigation will specifically address the following issues:
 - a. Whether the unit used proper EOF measures and followed its ROE and TTPs in this instance.
 - b. Were the EOF measures, ROE and unit TTPs sufficient? Identify any deficiencies in the execution of the TTPs, or in the TTPs themselves.
 - c. Whether the unit clearly marked its established perimeter.
 - d. What measures, if any, might have helped to prevent the EOF?
2. Your duties as an investigating officer will take priority over other duties. You will use the informal investigation procedures detailed in AR 15-6, paragraph 4-1 *et seq.* You will make specific findings of facts that are supported directly by the documented evidence or reasonably based upon circumstantial evidence. Based upon all factual findings and conclusions, you will make recommendations on all relevant issues you identify in the course of your investigation.
3. If during your investigation you suspect that persons you intend to interview may have violated any provision of the Uniform Code of Military Justice (UCMJ), or any other criminal law, you must advise them of their rights under Article 31, UCMJ. Rights warnings and waivers will be documented on DA Form 3881. If during an interview you begin to suspect criminal conduct on the part of the witness, you must stop the interview and advise the individual of his rights under Article 31, UCMJ.
4. Whenever possible, witness statements will be sworn and recorded on DA Form 2823. If you conduct any witness interviews telephonically, you will prepare a memorandum for record memorializing the interview. You will use DA Form 1574 to prepare your report. Include with your report all documentary evidence, sworn statements, and other information or evidence you considered as a basis for your findings and recommendations. Submit the original report to me

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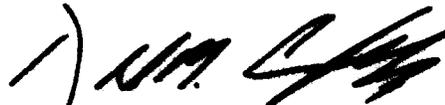
FICI-JA-AL

SUBJECT: Appointment as AR 15-6 Investigating Officer

no later than 14 days after your receipt of this memorandum. Any requests for extension must be in writing.

5. Before proceeding with the investigation, contact the MNC-I Office of the Staff Judge Advocate, Administrative Law Division, at DSN (b)(2) or your local Brigade Judge Advocate.

FOR THE COMMANDER:



DONALD M. CAMPBELL, JR.
Brigadier General, USA
Chief of Staff



DEPARTMENT OF THE ARMY
463RD MILITARY POLICE COMPANY
CAMP LIBERTY, IRAQ, AE 09344

IMNW-LNW-ESG

19 MAY 2006

MEMORANDUM FOR RECORD

SUBJECT: Exhibit Memo

1. The following is a list of exhibits regarding the 15-6 investigation conducted on the 21st MP Company.

Exhibit I: Sworn Statement of SGT [redacted] (b)(3), (b)(6)

Exhibit II: Sworn Statement of SGT [redacted] SGT (b)(3), (b)(6)

Exhibit III: Sworn Statement of SGT [redacted] (b)(3), (b)(6)

Exhibit IV: Sworn Statement of SPC [redacted] (b)(3), (b)(6)

Exhibit V: Sworn Statement of PFC [redacted] (b)(3), (b)(6)

Exhibit VI: Sworn Statement of SGT [redacted] (b)(3), (b)(6)

Exhibit VII: Sworn Statement of SPC [redacted] (b)(3), (b)(6)

Exhibit VIII: Sworn Statement of PFC [redacted] (b)(3), (b)(6)

Exhibit IX: Diagram of Scene drawn by [redacted] (b)(3), (b)(6)

Exhibit X: Diagram of Scene drawn by [redacted] (b)(3), (b)(6)

Exhibit XI: Diagram of Scene drawn by [redacted] (b)(3), (b)(6)

Exhibit XII: Diagram of Scene drawn by [redacted] (b)(3), (b)(6)

Exhibit XIII: Diagram of Scene drawn by [redacted]

Exhibit XIV: Diagram of Scene drawn by [redacted] (b)(3), (b)(6)

Exhibit XV: Diagram of Scene drawn by [redacted]

Exhibit XVI: Diagram of Scene drawn by [redacted]

Exhibit XVII: Diagram of Scene drawn by [redacted] (b)(3), (b)(6)

Exhibit XVIII: Escalation of Force Training [redacted] (b)(3), (b)(6)

Exhibit XIX: Power Point presentation of scene, broken down step by step

Exhibit XX: View of [redacted] (b)(2)High looking south

Exhibit XXI: View of [redacted] (b)(2)High looking north

Exhibit XXII: View of [redacted] (b)(2)High looking northwest

Exhibit XXIII: View of [redacted] (b)(2)High looking south

Exhibit XXIV: Copy of CIR#2564

Exhibit XXV: Copy of 21st MP Company SALUTE report

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Exhibit XXVI: Falcon View of incident area

Exhibit XXVII: Tahir Statement

Exhibit XXVIII: Fathe Statement

Exhibit XXIX: E-Mail Of (b)(3)(b)(6)

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

1LT, MP

Platoon Leader



DEPARTMENT OF THE ARMY
463RD MILITARY POLICE COMPANY
CAMP LIBERTY, IRAQ, AE 09344

IMNW-LNW-ESG

19 MAY 2006

MEMORANDUM FOR RECORD

SUBJECT: 15-6 Investigation on 3rd Squad, 4th Platoon, 21st MP Company

1. The following is a memorandum for record of the timeline for the 15-6 investigation into the 21st MP Company Escalation of Force:

- 02 February 2006-Received verbal and written orders for 15-6 Investigation.
- 02 February 2006-Met with MAJ (b)(3), (b)(6) XO, 372nd MP BN.
- 03 February 2006-Met with LTC (b)(3), (b)(6) SJA, 49th MP BDE.
- 03 February 2006-Talked, via phone, with CPT (b)(3), (b)(6) CDR 21st MP CO, and established a time that I could meet with the Soldiers involved.
- 04 February 2006-Departed Camp Victory for FOB Falcon to conduct investigation.
- 04 February 2006-Contact made with Soldiers involved. SP'd FOB Falcon to go to site of incident. SP time 1012
- 04 February 2006-Established ourselves at the site of the incident at 1032 and proceeded to take photos.
- 04 February 2006-RP from site of the incident at 1040.
- 04 February 2006-RP Fob Falcon at 1050
- 04 February 2006-Conducted interviews of Soldiers involved from 1050-1330.
- 04 February 2006-SP 1402 FOB Falcon en route back to Camp Victory.
- 04 February 2006-RP 1432 Camp Victory.
- 05 February 2006-Investigation presentation completed and e-mailed to MAJ (b)(3), (b)(6)
- 06 February 2006-Met with MAJ (b)(3), (b)(6) about disposition of the case.
- 06 February 2006-Turned investigation findings into LTC (b)(3), (b)(6) CJA, 49th MP BDE.
- 13 February 2006-Investigation returned to me with request of more statements. Contact number given for MAJ (b)(3), (b)(6) SJA, Corps
- 14 February 2006-Contact made with CPT (b)(3), (b)(6) SJA, Corps who related to me that a Memorandum for Record would be acceptable for verbal statements given by parties involved.
- 15 February 2006-Begin Memorandum for Record for verbal statements given by parties involved.
- 16 February 2006-Continue work on Memorandum for Record of verbal statements.
- 17 February 2006-Continue work on Memorandum for Record of verbal statements.
- 18 February 2006-Continue work on Memorandum for Record of verbal statements.
- 19 February 2006-Continue work on Memorandum for Record of verbal statements.

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20 February 2006-Continue work on Memorandum for Record of verbal statements.
21 February 2006-Continue work on Memorandum for Record of verbal statements.
25 February 2006-Statements complete.
27 February 2006-Investigation findings handed over to LTC (b)(3), (b)(6) CJA, 49th MP BDE.
20 March 2006-Notified, while on mission, to return to Camp Liberty in regards to meeting with MAJ Fulford, XO, 372nd MP Battalion about the disposition of the investigation. Contact was made and it was discovered that LTC (b)(3), (b)(6) was attempting to get in touch with me regarding the case. Contact was made with LTC (b)(3), (b)(6) whom stated that the investigation needed sworn statements from the individuals involved. LTC (b)(3), (b)(6) also stated that he had been attempting to get a hold of me for some time, but was unsuccessful at doing so. Case returned to 1LT (b)(3), (b)(6) Phone call was made to 21st MP Company requesting that they have the Soldiers involved write sworn statements, and that 1LT (b)(3), (b)(6) would be down to swear them to them later in the week.
21 March 2006-Revision of investigation presentation (break down step by step).
22 March 2006-Revision of investigation presentation (break down step by step).
24 March 2006-Contact made with 21st MP Company notifying them that I would be down on 25 March 2006 to retrieve the sworn statements. SFC (b)(3), (b)(6) stated that they had no statements to give and that they had sought council from 4BCT SJA, MAJ (b)(3), (b)(6) and CPT (b)(3), (b)(6) (b)(2) LTC (b)(3), (b)(6) notified that they would not be making any sworn statements, whereupon he advised to finish the investigation and turn it in with a Memorandum for Record that the individuals involved refused to make a statement.
26 March 2006-Investigation submitted to MAJ (b)(3), (b)(6) XO, 372nd MP Battalion for review.
28 March 2006-Investigation resubmitted with changes to LTC (b)(3), (b)(6) CJA, 49th MP BDE.
06 April 2006-Investigation reviewed by LTC (b)(3), (b)(6) CJA, 49th MP BDE and CPT (b)(3), (b)(6) SJA, Corps SJA and returned with recommendations.
07 April 2006-Met with CPT (b)(3), (b)(6) SJA, Corps SJA and was given recommendations and ideas on how to obtain written statements from the Soldiers involved.
08 April 2006-Coordination was conducted with 21st MP Company on getting Soldiers available for re-interviews and interviews. In addition to obtaining the interviews, obtaining written statements and diagrams of personnel placement at the scene from the night in question.
13 April 2006-Interviews conducted on the 21st MP Company at FOB Falcon, Baghdad, Iraq.
14 April 2006-Interviews reviewed for content. 1574 and all relevant paperwork prepared for resubmission to LTC (b)(3), (b)(6) CJA, 49th MP BDE.
15 April 2006-Interviews reviewed for content. 1574 and all relevant paperwork prepared for resubmission to LTC (b)(3), (b)(6) CJA, 49th MP BDE.
16 April 2006-Interviews reviewed for content. 1574 and all relevant paperwork prepared for resubmission to LTC (b)(3), (b)(6) CJA, 49th MP BDE.

17 April 2006-Interviews reviewed for content. 1574 and all relevant paperwork prepared for resubmission to LTC (b)(3), (b)(6) CJA, 49th MP BDE.
18 April 2006-15-6 Investigation submitted to LTC (b)(3), (b)(6) CJA, 49th MP BDE.
19 April 2006-Recommendations submitted to me from CPT (b)(3), (b)(6) SJA, Corps
24 April 2006-Guidance sought from CPT (b)(3), (b)(6) SJA, Corps on issues of the investigation
26 April 2006-Revisions e-mailed to CPT (b)(3), (b)(6) SJA, Corps for review
28 April 2006-Recommendations returned to me, with packet
02 May 2006-Packet resubmitted
04 May 2006-Packet returned with recommendations
11 May 2006-Attempts to get in contact with SGT (b)(3), (b)(6) fail
15 May 2006-E-mail correspondence between SGT (b)(3), (b)(6) complete
19 May 2006-Packet submitted to MAJ (b)(3), (b)(6) SJA, 49th MP BDE

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

1LT, MP
Platoon Leader

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DEPARTMENT OF THE ARMY
463RD MILITARY POLICE COMPANY
CAMP LIBERTY, IRAQ, AE 09344

IMNW-LNW-ESG

19 MAY 2006

MEMORANDUM FOR Lieutenant General Peter W. Chiarelli, Commander, MNC-I

SUBJECT: 15-6 Investigation delay

1. The following is a memorandum regarding the 15-6 Investigation conducted by 1LT (b)(3), (b)(6) and consequential delays that have occurred.
2. Due to the reluctance of the Soldiers involved to write sworn statements, the investigative process has been hindered dramatically. Upon initial receipt of the investigation, the investigator, 1LT (b)(3), (b)(6) attempted to find all pertinent and relative information regarding the investigation. This included traveling to FOB Falcon to conduct interviews of the Soldiers involved in the incident. Only 1 Soldier wrote a statement, while all others declined to do so, at which time 1LT (b)(3), (b)(6) submitted the one written statement from SGT (b)(3), (b)(6) and his findings on the investigation to LTC (b)(3), (b)(6) CJA, 49th BDE on 06 February 2006.
3. The investigation was returned to 1LT (b)(3), (b)(6) on 13 February 2006 for clarification of statements. During this time 1LT (b)(3), (b)(6) attempted to gather Sworn Statements from the Soldiers involved, who declined again to provide them. CPT (b)(3), (b)(6) SJA, Corps, stated that Memorandum for Records on their statements would be acceptable. The investigation was once again handed over to LTC (b)(3), (b)(6) CJA, 49th BDE on the 27 of February 2006.
4. While on mission, on 20 March 2006, 1LT (b)(3), (b)(6) was notified to return to Camp Liberty and make contact with LTC (b)(3), (b)(6). Contact was made with LTC (b)(3), (b)(6) whom stated that he had been trying to get in contact with 1LT (b)(3), (b)(6) utilizing e-mails to MAJ (b)(3), (b)(6) XO, 372nd BN for 3 weeks, but all attempts had met with negative results. LTC (b)(3), (b)(6) gave guidance and instruction to 1LT (b)(3), (b)(6) to get Sworn Statements from the Soldiers involved.
5. When contacting the 21st MP Company about getting statements from the Soldiers involved in the shooting, 21st MP Company consulted 4BCT SJA whom advised them not to give statements. All attempts by investigator 1LT (b)(3), (b)(6) to acquire the statements failed. When consulting with LTC (b)(3), (b)(6) about the situation, he stated to just submit the record as was and to see if a Memorandum for Record would suffice for their declining to write statements. The investigation was turned back over to LTC (b)(3), (b)(6) on 28 March 2006.

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6. On 06 April 2006 the investigation was returned to investigator 1LT (b)(3), (b)(6) in the hopes that sworn statements could be retrieved from the Soldiers involved in the shooting. The statements were finally written by the Soldiers and the investigation was turned in on 18 April 2006. On 19 April 2006 the investigation was returned to 1LT (b)(3), (b)(6) for minor corrections. The investigation has been rewritten and resubmitted for review on 27 April 2006.

7. The 15-6 Investigation was returned to 1LT Anderson on 28 April 2006, with recommendations provided by CPT (b)(3), (b)(6) SJA, Corps. Unfortunately, one individual whom was needed to talk to again had been transferred back to his unit in the United States. Contact was finally made with him on 11 May 2006 and e-mail correspondence was received on 15 May 2006. The investigation has been resubmitted to MAJ (b)(3), (b)(6) SJA, 49th BDE on 19 May 2006.

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

1LT, MP
Platoon Leader

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 LIEUTENANT GENERAL PETER W. CHIARELLI, COMMANDER, MNC-I
(Appointing authority)

on 02 February 2006 (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 463rd TOC, Camp Liberty, Iraq at 1700
(Place) (Time)

on 02 February 2006 (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.)

Not Applicable

The following persons (members, respondents, counsel) were absent: (Include brief explanation of each absence.) (See paras 5-2 and 5-8a, AR 15-6.)
N/A

The (investigating officer) (board) finished gathering/hearing evidence at 1800 on 13 April 2006
(Time) (Date)
and completed findings and recommendations at 1900 on 18 April 2006
(Time) (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?	X		
	b. Copy of notice to respondent, if any? (See item 9, below)			X
	c. Other correspondence with respondent or counsel, if any?			X
	d. All other written communications to or from the appointing authority?			X
	e. Privacy Act Statements (Certificate, if statement provided orally)?			X
	f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?			X
	g. Information as to sessions of a formal board not included on page 1 of this report?			X
	h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?			X

FOOTNOTES: ^{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.

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	YES	NO ^{1/}	NA ^{2/}
2 Exhibits (para 3-16, AR 15-6)			
a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?	X		
b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	X		
c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	X		
d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?	X		
e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?	X		
f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?			X
g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)?			X
3 Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)?			X
B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)			
4 At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 5-3b, AR 15-6)?			
5 Was a quorum present at every session of the board (para 5-2b, AR 15-6)?			
6 Was each absence of any member properly excused (para 5-2a, AR 15-6)?			
7 Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)?			
8 If any members who voted on findings or recommendations were not present when the board received some evidence, does the inclosure describe how they familiarized themselves with that evidence (para 5-2d, AR 15-6)?			
C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)			
9 Notice to respondents (para 5-5, AR 15-6):			
a. 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 (or otherwise was absent during part of the proceedings):			
a. Was he properly notified (para 5-5, AR 15-6)?			
b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-4c, AR 15-6)?			
11 Counsel (para 5-6, AR 15-6):			
a. Was each respondent represented by counsel?			
Name and business address of counsel:			
(If counsel is a lawyer, check here <input type="checkbox"/>)			
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 (or, if oral, a summary) of the request and the action taken on it included in the report (para 5-6b, AR 15-6)?			
12 If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6):			
a. Was the challenge properly denied and by the appropriate officer?			
b. Did each member successfully challenged cease to participate in the proceedings?			
13 Was the respondent given an opportunity to (para 5-8a, AR 15-6):			
a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?			
b. Examine and object to the introduction of real and documentary evidence, including written statements?			
c. Object to the testimony of witnesses and cross-examine witnesses other than his own?			
d. Call witnesses and otherwise introduce evidence?			
e. Testify as a witness?			
f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)?			
14 If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)?			
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 (para 5-11, AR 15-6)?			

FOOTNOTES: ^{1/} Explain all negative answers on an attached sheet.
^{2/} Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

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

The *(investigating officer) (board)*, having carefully considered the evidence, finds:
See attached memorandum for record

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

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

I recommend that no adverse action be taken upon the 21st MP CO element involved in the shooting.

The 21st MP Company element was attempting to establish their perimeter when the whole situation took place.

Due to the speed at which it happened, all available resources were utilized to warn off the perceived threat.

All ROE, EOF, and TTP measures had been thoroughly rehearsed and trained on, before the night in question, and it is my opinion that they were executed to the fullest extent possible.

I recommend the following changes the unit TTP's, ROE, and EOF measures:

(b)(5)

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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)

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

(Investigating Officer) (President)

(Member)

(Member)

(Member)

(Member)

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

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

(Member)

(Member)

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

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

PETER W. CHIARELLI
LIEUTENANT GENERAL, USA
COMMANDING

007103



DEPARTMENT OF THE ARMY
463RD MILITARY POLICE COMPANY
CAMP LIBERTY, IRAQ, APO AE 09344

IMNW-LNW-ESG

19 MAY 2006

MEMORANDUM FOR RECORD

SUBJECT: 15-6 Investigation on 3rd Squad, 4th Platoon, 21st MP Company

1. The following is a memorandum for record into the 15-6 Investigation conducted by 1LT (b)(3), (b)(6) into the matter of a shooting conducted by the 21st MP Company.
2. Investigation into this matter has established, in my opinion, that the shooting was within the rules of engagement and followed along the escalation of force continuum.
3. Background: On the night of 24 January 2006, at approximately 1956, an element of the 21st MP Company, Jumpmaster 4/3, was in route to FOB Falcon after having conducted P3 operations. During the course of their travel back to FOB Falcon, utilizing Route Irish, Jumpmaster 4/3 encountered an unknown EOD Rough Rider X-Ray element. The Rough Rider element made contact with Jumpmaster 4/3 and requested that they set up a cordon for rear area security (Exhibit while the Rough Rider element inspected a possible IED).
4. Perimeter: The rear of the EOD Rough Rider element had already established a northern perimeter by marking it with chem lights, according to PFC (b)(3), (b)(6) (Exhibit VIII and XX), but the northern perimeter was not established. SGT (b)(3), (b)(6) had retrieved cones from his vehicle but had not put them into place yet (Exhibits II and XXIII).
5. First Vehicle Incident: At the same time as SGT (b)(3), (b)(6) was attempting to establish the northern perimeter of Jumpmaster 4/3 with cones, he spotted a white in color Prism sedan approaching their perimeter. The vehicle, which was traveling at an unknown high rate of speed, appeared to be attempting to breach the security perimeter which was in the process of being established by SGT (b)(3), (b)(6).
 - (a) EOF, ROE, and TTP measures: All EOF, ROE, and TTP measures, hand and arm signals, go lights, spot lights and lasers (Exhibits II and XXIII), available were used in an attempt to stop and warn off the vehicle. All ROE, EOF, and TTP measures were used in the proper synchronization with no deficiencies noted.
 - (1) All EOF, ROE, and TTP measures met with negative results. As the vehicle was approaching, SGT (b)(3), (b)(6) (b)(2)High The vehicle failed to follow any of the commands (b)(2)High and kept on its course,

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at which point SGT (b)(3), (b)(6) (b)(2)High which also failed to stop the vehicle. SGT (b)(3), (b)(6) then fired 2 more rounds into the passenger side of the front windshield and then 2 rounds into the driver side of the front windshield which ultimately caused the vehicle to stop.

6. After stopping, the vehicle was positioned outside the perimeter, approximately 20 meters from the nearest Jumpmaster 4/3 M1114. SGT (b)(3), (b)(6) and SPC (b)(3), (b)(6) began to approach the vehicle to ascertain whether anyone had been injured in the process of getting the vehicle to stop (Exhibit IV). At approximately that same time, the Jumpmaster 4/3 element began to take small arms fire from a nearby roof top on the northeast side of their position, as related by SGT (b)(3), (b)(6) (Exhibit VI) and from a dark in color 4 door sedan made a loop onto (b)(2)High from (b)(2)High (Exhibit II, XI, and XXI), approximately 100 meters away, and began to engage the Jumpmaster 4/3 element with small arms fire. Jumpmaster 4/3 elements began to return fire at both locations and the small arms fire that they had been receiving ceased. The dark colored sedan sped off, while the element that was firing from the roof top left the scene.

7. After the SAF engagement had ceased, contact was made with the driver of the Prism, (b)(6) and he was brought to one of the Jumpmaster 4/3 vehicles for questioning by SPC (b)(3), (b)(6) (Exhibit IV). SPC (b)(3), (b)(6) stated that (b)(6) during questioning, related to him that he had not seen the cordon due to not having his glasses on, and had not seen the Jumpmaster 4/3 elements attempting to stop his vehicle (Exhibit XXVII). During this time, the Rough Rider element called Jumpmaster 4/3 and stated that the IED was a hoax and they were clearing mission. Jumpmaster 4/3 was remaining on scene due to the shots being fired and the collection of information was needed.

8. Second Vehicle ROE Incident: As all information was being collected on Mr. (b)(6) PFC Trapp (Exhibit V) noticed a vehicle approaching from the north and called it out to SGT Torres (Exhibit I). Due to there not being an established visual perimeter at the time that the vehicle was approaching, Jumpmaster 4/3 elements resorted to attempting to stop the vehicle according to their ROE, EOF, and TTP measures.

(a) EOF, ROE, and TTP measures Utilizing the lowest form of force that they had, hand and arm signals, flashing lights, verbal commands, flash lights, go lights, and red laser pointers (Statements of Torres Exhibit I, Bohlander Exhibit III, Sward Exhibit IV, Trapp Exhibit V, and Gregory Exhibit VI) the Jumpmaster 4/3 element attempted to stop the vehicle. All ROE, EOF, and TTP measures were used in proper synchronization with no perceived deficiencies in escalation.

(1) The oncoming vehicle failed to stop at these measures which then forced Jumpmaster 4/3 to escalate their level of force. Utilizing the training that they had received in Kuwait (a training roster has been provided labeled Exhibit XVIII), and daily rehearsals in ROE and EOF measures during mission briefs (Exhibits II, III, V, and VI), Jumpmaster 4/3 elements escalated to (b)(2)High (Exhibit XII). SGT (b)(3), (b)(6) written statement and diagram of the scene (Exhibit III and XIX) point

to the fact that he

(b)(2)High

(b)(2)High

(2) After SGT (b)(3), (b)(6) had (b)(2)High the vehicle did not alter course or speed. Following all ROE, EOF and TTP measures, SGT (b)(3), (b)(6) escalated to the next level of EOF and (b)(2)High in an attempt to get it to stop, which met with negative results (Exhibit III). (b)(2)High were then fired by SGT (b)(3), (b)(6) (Exhibit II, XI and XIX) who was (b)(2)High (b)(2)High in an attempt to get the vehicle to stop. After receiving both rounds to the hood, the vehicle failed to slow down or stop and continued toward the Jumpmaster 4/3 element.

(b) Deadly Shots Fired: The vehicle was still proceeding at an unknown high rate of speed, at which time SPC (b)(3), (b)(6) (b)(2)High into the driver's side window of the vehicle in an attempt to stop the vehicle (Exhibit IV and XII).

(1) The vehicle finally began to slow down after receiving the rounds fired by SPC (b)(3), (b)(6) and it finally came to a stop along side the road (Exhibits I, II, III, IV, V, VII and XXII). Jumpmaster 4/3 elements then cleared the first local national from the scene, (b)(6) and called up Jumpmaster Base to let them know that they had a second escalation of force incident. SGT (b)(3), (b)(6) SGT (b)(3), (b)(6) and SPC (b)(3), (b)(6) all proceeded to the white Daewoo to provide first aid and security of the scene (Exhibit II) and discovered that the two rounds had killed the driver, (b)(6) and that flying glass had superficially injured his friend, (b)(6) with glass lacerations to his head (Exhibit IV).

(2) Assistance Rendered by CLS: After conducting a search of the vehicle that led to negative results, (b)(6) was assisted by a combat lifesaver, SPC (b)(3), (b)(6) who applied pressure dressings to his head. SGT (b)(3), (b)(6) (Exhibit VI) stated that upon questioning of (b)(6) at the scene utilizing an interpreter, (b)(6) stated that he had not seen the attempts to stop (b)(6) vehicle. (b)(6) also stated that he had not seen the Soldiers in the street attempting to get the vehicle to stop. When SGT (b)(3), (b)(6) was questioned about statements (b)(3), (b)(6) had made, he replied that (b)(6) had stated to him that he had seen the attempts to stop the vehicle. (b)(6) further stated that he had sought cover on the floorboard of the vehicle after the first shots were fired (Exhibit XXVIII).

(a) The difference of statements given by both SGT (b)(3), (b)(6) and SGT (b)(3), (b)(6) could be explained by the confusion of the moment. In my own opinion, I think that the accurate account of the situation comes from SGT (b)(3), (b)(6). He had first contact with (b)(6) and had the ability to question (b)(6) before anyone else.

(3) (b)(6) was cleared from the scene and allowed to go to a friend's house, which was within walking distance, and returned with another local national who drove the vehicle to his house. The driver, (b)(6) was put into a body bag and transported by

Jumpmaster 4/3 to Al Dora IP Station where the Iraqi Police took possession of the body. Jumpmaster 4/3 then departed Al Dora IP Station en route to FOB Falcon.

9. Findings: All 21st MP CO elements properly employed all ROE, EOF, TTP measures before finally resorting to deadly force. The 21st MP CO element provided all available stop measures to the driver of the vehicle before ultimately eliminating the perceived threat. I believe that it is due to human error on the part of the local national driver that this tragic event happened, and not on a lack of knowledge, understanding, or training on the part of all Jumpmaster 4/3 Soldiers involved.

(a) All preventive ROE, EOF and TTP measures had been taken at the appropriate times, along with an attempt to establish their perimeter, but unfortunately the driver did not heed the warnings put out by the 21st MP CO element. I do believe, though, that the speed of the incident's on the night in question allowed the 21st MP CO elements to use all available measures allowed to them. My opinion on this matter is that it is a tragic, yet justifiable shooting, with inattention on the part of the driver possibly being the true culprit to the situation.

(b)(5)

10. A time line for the investigation has been provided.

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

Encl

1LT, MP
Platoon Leader

007107

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
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: 21st MP Co Tol FOS Falcon Baghdad Iraq
2. DATE (YYYYMM): 20060204
TIME: 1132
4. FILE NUMBER:
5. LAST NAME, FIRST NAME, MIDDLE NAME:
6. SSN:
7. GRADE/STATUS: E-5/AD

8. 21st Military Police Co (ASB)

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

At or about 2015hrs on 24 January 2006 my self along with my squad (JumpMaster-43) where providing rear security to another (b)(3), (b)(6). We had detained one LN (Local National) who had broken our security perimeter, and were about to release him. PFC (b)(3), (b)(6) yelled out "Vehicle from the front" (b)(3), (b)(6) was on the left side of the vehicle, he (b)(2)High in front the suspicious vehicle. The (b)(2)High time SGT (b)(3), (b)(6) and SPC (b)(3), (b)(6) (b)(2)High. The vehicle did not stop, at that time SGT (b)(3), (b)(6) disabled approximately 35 meters from (b)(3), (b)(6) on KIA of a Local National. The vehicle was to clear the first Local National from the scene. Once he was gone, I radio transmitted to Jump Master Base that we had a second escalation of force incident. Myself, SPC (b)(3), (b)(6) and SGT (b)(3), (b)(6) approached the suspect vehicle. Once their we found one LN injured, who was bleeding from the head, and one LN who was KIA. We notified Jump Master Base of the situation. We treated the wounded, and secured the KIA in a body bag (b)(3), (b)(6).

THE FOLLOWING QUESTIONS WERE ASKED BY IS-6 INVESTIGATOR 1 LT (b)(3), (b)(6)
Q: HAD YOU RECEIVED FIRE PRIOR TO THE INCIDENT? (b)(3), (b)(6)
A: YES (b)(3), (b)(6)
Q: WHERE DID IT COME FROM (WERE YOU ABLE TO ASCERTAIN)? (b)(3), (b)(6)
A: RECEIVED SAF FROM A VEHICLE IN THE INTERSECTION OF (b)(2)High ALSO FROM A ROOSTOP ON THE EAST SIDE OF (b)(2)High (b)(3), (b)(6)
Q: HOW LONG FROM THE ENDING OF SAF DID THE SECOND VEHICLE ATTEMPT TO BREAK YOUR PERIMETER? (b)(3), (b)(6)
A: BETWEEN 5-10 MINUTES (b)(3), (b)(6)
Q: DID YOU UTILIZE ALL RESOURCES TO GET THE SECOND VEHICLE TO STOP? (b)(3), (b)(6)
A: YES, WE USED HAND ARM SIGNALS, GO LIGHTS VEHICLE POWER SPARKERS AND A PAC 10 RED LASER (b)(3), (b)(6)
Q: HAVE ALL YOUR SOLDIERS BEEN TRAINED IN ESCALATION OF FORCE? (b)(3), (b)(6)
A: YES, THEY RECEIVED TRAINING IN KUNAIT PRIOR TO MOVING UP. (b)(3), (b)(6)

10. EXHIBIT: (b)(3), (b)(6)
11. INITIALS OF PERSON MAKING STATEMENT: (b)(3), (b)(6)
PAGE 1 OF 2 PAGES

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.

STATEMENT OF (b)(3), (b)(6) TAKEN AT 21ST MP CO JOC FOB FALCON DATED 04 FEB 2006
BAGHDAD IRAQ

9. STATEMENT (Continued)

Q HAVE YOU HAD ANY OTHER INCIDENTS LIKE THIS (b)(3), (b)(6)

A: NO (b)(3), (b)(6)

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

Q: HAS SP (b)(3)(b)(6) HAD THE NECESSARY TRAINING TO PREVENT INCIDENTS LIKE THIS (b)(3), (b)(6)

A: YES, HE'S TRAINED IN LIVE FIRE SHOOT HOUSE SHOOT/DONT SHOOT SCENARIOS + ESCALATION OF FORCE SCENARIOS IN KUWAIT (b)(3), (b)(6)

Q: DO YOU HAVE ANYTHING FURTHER TO ADD TO THIS STATEMENT (b)(3), (b)(6)

A: NO (b)(3), (b)(6)

END OF STATEMENT

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

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

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

NOT USED

(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 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

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

(Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 04 day of FEBRUARY, 2006 at 21ST MP CO JOC FOB FALCON BAGHDAD IRAQ

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

ORGANIZATION OR ADDRESS

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

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

ART 136 (4)(b) USMJ

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

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

PAGE 2 OF 2 PAGES

SWORN STATEMENT

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1. LOCATION 2. DATE (YYYYMMDD) 3. TIME 4. FILE NUMBER
5. LAST NAME FIRST NAME MIDDLE NAME 6. SSN 7. GRADE/STATUS
(b)(3), (b)(6) (b)(3), (b)(6) E5 / AD
8. ORGANIZATION OR ADDRESS
21st MP Co (ABN)

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

THAT ON 24 JAN 06 ON OUR WAY BACK TO BOB FALCON. JUST PASSING CPSTHS
HEADING SOUTH ON (b)(2)High OUR JM43 ELEMENT WAS STOPPED BY AN
UNKNOWN UNIT LATER FOUND OUT TO BE AN EOD UNIT. HAD THE AREA CORDON
OFF BECAUSE OF A PIED. THAT UNIT ASK US TO HELP WITH THERE CORDON.
JM43 ACTUAL THEN STARTED TO TELL US WHERE WE NEEDED TO GO. I STARTED
TO MOVE MY VEHICLE (JM43B) INTO POSITION. AFTER PUTTING THE VEHICLE INTO
PLACE I GOT OUT TO GRAB THE CONES THAT WERE ON FRONT OF THE TRUCK.
AS I WAS WALKING TOWARDS THE FRONT, I NOTICE A CAR COMING TOWARDS OUR
POSITION. USING THE EOF THE VEHICLE FINALLY CAME TO A STOP. I WAS THE
FIRST TO GIVE A (b)(2)High WHEN ALL OTHER MEANS FAILED, AND I
WAS THE FIRST TO (b)(2)High AND (b)(3), (b)(6).
TO ELIMINATE THE THREAT. AS SOON AFTER THAT HAPPENED ANOTHER
VEHICLE CAME FROM THE EAST TURNING SOUTH INTO OUR CORDON ENGAGED
US WITH SAF, WHERE AS AT ABOUT THE SAME TIME WE RECEIVED SAF FROM
A ROOFTOP. THE DIRECTION WHERE I THOUGHT IT CAME FROM WAS FROM THE
NORTH WEST. DURING ALL THE SAF I MADE MY WAY TO THE BACK OF THE
TRUCK FOR COVER. IN A MATTER OF SECONDS IT WAS ALL OVER AND
CONTINUED WITH THE GUY FROM THE FIRST VEHICLE TO GET HIS
INFORMATION, IS WHEN ANOTHER CAR TURNED FROM THE EAST, HEADING
SOUTH INTO OUR (b)(3), (b)(6) POSITION. AGAIN ALL EOF MEASURES WERE TAKEN.
THE END RESULT WAS THE VEHICLE DID COME TO A STOP WITH ONE
LOCAL NATIONAL KIA AND LOCAL NATIONAL KIA. NO BATTLE DAMAGE
OR INJURIES TO ANY OF THE JM43 ELEMENTS.

/// END OF STATEMENT ///

THE FOLLOWING QUESTIONS WERE ASKED BY IS-1 INVESTIGATING OFFICER LT (b)(3), (b)(6)
(b)(3)(b)(6) HOW MANY ROUNDS DID YOU FIRE AT THE FIRST + THEN THE SECOND VEHICLE (b)(3), (b)(6)
FOR THE FIRST VEHICLE 1 IN THE GROUND 3 IN THE HOOD + 2 IN THE PASSENGER SIDE + 2 IN THE DRIVER SIDE + IN THE
SECOND VEHICLE I FIRED 2 ROUNDS INTO THE HOOD TO DISABLE THE VEHICLE (b)(3), (b)(6) CONTINUED ON NEXT PAGE

10. EXHIBIT II 11. INITIALS OF PERSON MAKING STATEMENT (b)(3), (b)(6) PAGE 1 OF 2 PAGES

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