

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

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

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

SECTION I - APPOINTMENT

ointed by Lieutenant General Ricardo S. Sanchez, U.S. Army, Commander, Multi-National Force-Iraq
(Appointing authority)

on 25 May 2004 (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 Victory, Baghdad, Iraq at 17:00
(Place) (Time)

on 27 May 2004 (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.)

N/A

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 17:00 on 26 Jun 04
(Time) (Date)

and completed findings and recommendations at Camp Victory, Baghdad, Iraq on 7 Jul 04
(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		
Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?		X	
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.

IV

	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		
Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	X		
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)?			X
7 Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)?			X
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)?			X
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?			
Was the respondent provided a copy of all unclassified documents in the case file?			
If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?			X
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)?			X
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)?			X
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?			X
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)?			X
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?			X
b. Did each member successfully challenged cease to participate in the proceedings?			X
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?			X
c. Object to the testimony of witnesses and cross-examine witnesses other than his own?			X
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 bringing for the presence of witnesses (para 5-8b, AR 15-6)?			X
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)?			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.

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

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

SEE ATTACHMENT, THIS BINDER.

("Continued from DA Form 1547 Section IV of 7 Jul 04")

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

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

SEE ATTACHMENT, THIS BINDER.

("Continued from DA Form 1547 Section IV of 7 Jul 04")

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.)

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

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

(b)(3), (b)(6), Jul 04

N/A

(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.)

N/A

(Member)

N/A

(Member)

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

Findings and recommendations of the (investigating officer) (board) are (approved) (disapproved) (approved with following exceptions/conditions). (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.)

Continued from DA Form 1574 Section IV of 7 Jul 04
(FINDINGS OF FACT)

Question Set # 1: What intelligence informed the decision maker to conduct the raid? For what purpose was the intelligence gathered? In the context of ongoing combat operations, how reliable was the intelligence for that purpose? (Note: italicized words have been added by the Investigating Officer (IO) and reflect personal knowledge gained during the course of the investigation.)

What intelligence informed the decision maker to conduct the raid?

The Investigating Officer, having carefully considered the evidence, finds:

1. That the decision maker personally reviewed and sighted a "variety of intelligence sources, including SIGINT and HUMINT," immediately prior to conducting the raid on 19 May 04. (Encl. (1).)
2. That "in the period leading up to the mission of 19 May," the decision maker was aware of "significant intelligence indicating that there would be a meeting between several terrorist support personnel" which, either 1st Marine Division, "or other U.S. Governmental agencies, had been tracking for some time." (Enclosures (1) and (2).)
3. That at approximately 2300 on 18 May 04, the 1st Marine Division, G-2 (LtCol(b)(3), (b)(6) (b)(3), (b)(6)USMC) and the Commander, AOB 540 (Maj. (b)(3), (b)(6) USA) approached the decision maker, Major General J. N. Mattis, USMC, with a written intelligence update (or brief) which "confirmed the confluence of several terrorist affiliated personnel at a remote, uninhabited desert location adjacent to the Syrian border." (Enclosures (1), (2) and (3).)
4. That, in arriving at his decision to conduct the raid, Major General Mattis also considered 'all relevant (intelligence) tracking details of 1st Marine Division and other US Governmental agencies with respect to the individuals in question, their value as targets, and the targets' status as declared hostile forces.' (Enclosures (1), (2) and (3).)
5. That the specific classified briefing documents, both Secret and Top Secret/SCI (albeit, with only reference cites to the Top Secret/SCI documents), that formed the basis of Major General Mattis' and LtCol(b)(3), (b)(6) knowledge concerning "relevant details of tracking efforts" have been summarized and compiled into "Exhibit A," which is attached hereto and incorporated herein by reference (Enclosures (1), (2) and Exhibit A.)
6. That the written update, or brief, Major General Mattis received from LtCol(b)(3), (b)(6) and Maj(b)(3), (b)(6) at approximately 2300 on 18 May 04, provided the following specific additional intelligence information:

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a. a night meeting was possible that evening (*for the night of 18/19 May*) 'between High Value Target (HVT) smugglers (b)(6) (GPS in Syria), (b)(6) (aka (b)(6)) and (b)(6) on the Syrian/Iraqi border;'

b. the possible 'night meeting was planned in reaction to the disappearance of drugs (and loss of profit from the same) and an "unusual" breakdown of the smuggling network;'

c. on 18 May 04, a U. S. Marine Corps, Light Armored Vehicle (LAR) patrol caused HVT (b)(6) and others to flee from the vicinity of Shab Al Hiri, Iraq;

(b)(6), (b)(1)1.4c

e. planning for the 18 May 04 smugglers' meeting occurred before the LAR patrol, so it was unknown whether the meeting was still scheduled or not;

f. a map section, with a precise grid co-ordinate for the possible 18/19 May night meeting, was provided, and;

g. imagery intelligence (IMINT) was provided on the location of the anticipated night meeting; showing a remote desert compound of approximately three (3) main buildings.

(Enclosures (1), (2), (3) and (4).)

7. That, moreover, at the same time (approximately 2300, 18 May 04), LtCol(b)(3), (b)(6) verbally briefed Major General Mattis on the following specific, updated, intelligence information, regarding the potential raid and site for the same:

(b)(6), (b)(1)1.4c

b. "The call diagrams that showed the linkages of all these individuals to the network."

c. "Imagery of the remote desert location along the primary smuggling route between Syria and Iraq."

d. "The linkage between this meeting and the raid of the 14th (May), which had successfully netted over 700 lbs. of narcotics."

e. "A plan to try to get P-3 coverage of the target area."

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f. "the basics of the planned CJSOTF mission."

(Enclosure (2).)

8. That "[b]ased on the overwhelming tactical evidence and the time sensitive nature of this meeting, the target association, the location of a suspected (*foreign fighter facilitator*) safehouse, and linkages with targeting operations that had occurred over the last month and a half, the CG (*Commanding General*) approved the mission. (Encl. (2).)

9. That the 1st Marine Division, G-3 (LtCol (b)(3), (b)(6) USMC) was also present at the said brief for Major General Mattis, at approximately 2300, 18 May 04. (Encl (5).)

10. That based on his attendance of the said brief, LtCol(b)(3), (b)(6) stated: "[t]he link analysis was presented clearly and convincingly. Other factors, such as remoteness of the area, the timing of the congregation and precipitating events (Saudi Border Raid, Attempted LAR Raid) left no doubt in my mind AMZ affiliates were on the target site and that the course of action selected was the right choice," (Note: "AMZ," is the military abbreviation for the "Zarqawi Terrorist Network") (Enclosures (2) and (5).).

(b)(6), (b)(1)1.4c

For what purpose was the intelligence gathered?

12. That the said intelligence briefed to the Major General Mattis, at approximately 2300, 18 May 04, concerning the planned meeting for the night of 18/19 May, was gathered in the course of ongoing multiple-source intelligence collection efforts in support of 1st Marine Division combat operations in its assigned Area of Operations (AO). (Enclosures (1), (2), (3), (4), (6) and (7) and Exhibit A.)

13. That the said intelligence was gathered over a period of months, and continually refined and re-assessed, for the purpose of prosecuting relevant targets, including smuggler and terrorist networks engaged in facilitating the introduction of foreign Mujahadeen fighters, and other anti-coalition forces and affiliates into the 1st Marine Division AO. (Enclosures (1), (2), (3), (4), (6), (7), and Exhibit A).

(b)(1)1.4a, (b)(1)1.4c

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15. That "[i]n developing the (*intelligence*) package for this specific mission" 1st Marine Division "had been tracking a known foreign fighter facilitator named (b)(6) for some time." (Encl. (7) and Exhibit A.)

(b)(6), (b)(1)1.4c

17. That "[p]revious raids in the month of May had shed new light on the network . . . and was providing growing intelligence on the movement, locations, and association of the network." (Encl. (7) and Exhibit A.)

18. That "[o]n 17 May intelligence reporting indicated that (b)(6) and several other known ACF (*Anti-Coalition Forces*) elements were meeting at a location in the western desert." (Encl (7) and Exhibit A.)

19. That, on 18 May 04, 'a 1st Marine Division, Light Armored Reconnaissance (LAR) element was given the mission of conducting a raid, on (b)(6) suspected location (derived from SIGINT) regarding the anticipated meeting.' (Enclosures (2), (3), (7) and Exhibit A.)

20. That the 18 May 04 LAR raid was not successful in capturing or killing the primary target, (b)(6) (Enclosures (2), (7) and Exhibit A.)

21. That 'follow-on intelligence from this raid indicated that the enemy forces at the location were 'spooked' by the sound of the (*LAR*) vehicles and escaped prior to commencement of the raid.' (Enclosures (2), (7) and Exhibit A.)

22. That subsequent to this 'failed attempt to capture (b)(6), he became active once again . . . and another target, (b)(6) also a known foreign fighter facilitator, who was also being tracked, became active.' (Encl. (2).)

23. That 'on 18 May 1st Marine Division also received intelligence information that another meeting was planned for 19 May to discuss recent problems incurred by the foreign fighter facilitator network.' (Enclosures (1), (2), (7) and Exhibit A.)

24. That based on this latest intelligence (i.e., received on 18 May), it was expected that (b)(6) and (b)(6) would attend the planned 19 May meeting. (Enclosures (2), (4), (7), and Exhibit A.)

(b)(6), (b)(1)1.4c

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26. That 'by the evening of the 18th, both (b)(6) and (b)(6), were located at the same remote location, near the Syrian border, on the primary smuggling route across the border.' (Encl. (2).)
27. That, subsequently, additional "SIGINT analysis revealed a total of ten active mujahadeen and terrorist-linked smugglers (including (b)(6) and (b)(6) (b)(6)) were located at the same remote spot." (Enclosures (2) and (7).)
28. That 'other intelligence reporting during this period indicated that a major meeting of Zarqawi lieutenants was scheduled for 21-22 May 04 in the Baghdad region . . . and that the 18/19 May night meeting was assessed by 1st Marine Division as being a "regional meeting;" being held prior to a larger meeting with Zarqawi, that would follow in several days.' (Encl (7).)
29. That "[c]oalition forces had conducted several significant raids during the month of May prior to this point and were making significant impact on the flow of money, weapons, drugs, and personnel to join the fight to kill U. S. forces." (Enclosures (2), (3), (4) and (7).)
30. That the planned meeting for 19 May 04 'was the largest gathering of known enemy forces that the 1st Marine Division had seen to date, and it followed previous intelligence patterns in regard to enemy trends, tactics, and procedures.' (Encl (7).)
31. That the ultimate purpose for which the intelligence was gathered, and presented to Major General Mattis, at approximately 2300 on 18 May 04, was to obtain his decision to conduct the raid against the 10 known foreign fighter facilitators, including (b)(6) (b)(6) and (b)(6) (all of whom had direct links to Zarqawi), in the early morning hours of 19 May 04. (Enclosures (1), (2), (3), (4), (5), (6), (7) and Exhibit A.)

In the context of ongoing combat operations, how reliable was the intelligence for that purpose?

(b)(1)1.4a, (b)(1)1.4c

(b)(1)1.4a, (b)(1)1.4c

Question Set # 2: Who made the decision to conduct the raid? To what extent was the decision maker informed of the available intelligence?

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Who made the decision to conduct the raid?

34. That Major General J. N. Mattis, USMC, made the decision to conduct the raid. (Enclosures (1), (2), (3) and (5).)

To what extent was the decision maker informed of the available intelligence?

35. Findings of Fact (FF) 1- 34, above, are responsive to this question and are, hereby, incorporated by reference regarding the same.

Question # 3: What is the chronology of relevant intelligence collection and resultant operations that led to this particular raid?

36. Findings of Fact 1-35, above, are responsive to this question and are, hereby, incorporated by reference regarding the same.

37. In addition to the information referred to in FF 36, above, the information contained in **enclosure (1)** (*3d Radio Battalion Operations Summary and Post-Mission Analysis*), *Tab A (AC/S, 1st MarDiv (Rein), FMF ltr 0200/g2msg of 24 May 04)* to **Exhibit A**, provides a synopsis of relevant intelligence collection and resultant operations that led to the 19 May 04 raid in question.

Question Set # 4: What evidence is there to suggest that the raid site consisted of or included a gathering for a wedding or similar civilian activity? To the extent that this can be determined, who was present?

What evidence is there to suggest that the raid site consisted of or included a gathering for a wedding or similar civilian activity?

38. That a May 20, 2004 article in the *New York Times* (entitled "Disputed Strike By U. S. Leaves at Least 40 Iraqis Dead") stated that "Iraqis interviewed by Associated Press (AP) Television said revelers had fired volleys of gunfire into the air in a **traditional wedding celebration** just before the American troop attack." (Emphasis added by IO.) (Encl. (8).)

39. That AP news confirmed, on or about 26 Jun 04, that no AP reporter ever went to the raid site nor did they film the same; additionally, (b)(6) a close neighbor and cousin of the of the owner of the alleged raid residence (b)(6) (b)(6), also, confirmed that no AP reporter ever visited the site; AP News, however, obtained a copy of the alleged wedding videotape "from someone supposedly at the scene." [*IO Comment: It is believed that the video attached hereto, as **Exhibit B**, which was obtained during the course of the investigation from a cousin of the (b)(6) family, is the same copy that was provided to AP news, and which was aired on television worldwide.*] (Enclosures (9) and (10).)

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40. That (b)(6), who was interviewed by the IO, on 5 Jun 04, at his house (located approximately three (3) kilometers to the North of the raid site), also indicated that the alleged wedding was a '**traditional Bedouin wedding**;' (Emphasis added by IO.) (Encl (10).)

41. That "traditional Bedouin weddings" have the following basic characteristics:

a. **Henna Ceremony.** Before the wedding for a day, or two, there is a "Henna Ceremony," where the bride to-be is surrounded by women only, mostly members of both families (Note: the "Henna Ceremony" involves wet mehendi [henna paint] being applied, in designs, to the hands and feet of the bride to-be by the women at the ceremony); the women sing and dance. During the Henna Ceremony, men from the bride and grooms side retire to a separate house or tent (not mere separate rooms). Food and drink are provided to both the men's and women's parties;

b. **Wedding Day Celebration.** There are large tents for the gathering of guests, one (1) tent for women and one (1) for men (again, segregated by gender); these gatherings "may be held at the bride's home," but her groom or family bears the costs. Sheep are slaughtered and food and rice are cooked in large pots (*this may occur in, or near, another tent*). "People of means" will bring singers and musicians (drums, rabbaba, violins, etc.). No invitations are sent for guests, as "the date of the wedding is well known from the time of the engagement."

c. **Marriage Ceremony.** Groom's family brings him (to the Bride's home) and bride arrives, escorted by elder female relations (mother, aunts, sisters). After they are pronounced "married" by a religious sheikh (or Imam), papers are signed regarding the terms of the groom's dower (which is a form of insurance in money, gold and gifts, held by the bride's father, for her future). The wedding ceremony takes place close to sunset, with the bride's male family members waiting a certain distance from the ceremony. After the ceremony, the bride and groom are left alone to consummate the wedding in a 'nuptial or wedding tent' (*the third or fourth tent, likely to be seen erected for the wedding*). The groom will then leave the wedding tent (or place of consummation) with a handkerchief stained with hymnal blood. Females from both sides, upon seeing the stained handkerchief, will then howl or ululate.

(Enclosures (10) and (11).)

42. That no pre-raid civilian or military intelligence, including SIGINT, HUMINT, and IMINT, indicated any signs of a traditional Bedouin wedding, or any similar civilian festivity, at the raid site at anytime prior to the raid. (Enclosures (2), (4), (6) and Exhibit A.)

43. That Mr. (b)(6) who was assigned as the IO's investigative team linguist, from the Office of the Staff Judge Advocate, Multi-National Corps-Iraq, interviewed a number

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of Iraqi individuals, who presented themselves at Al Qaim, Headquarters, 3d Battalion, 7th Marines, 1st Marine Division, on 4 Jun 04. (Enclosures (12), (15), (16) and (17).)

44. That one of the individuals who presented himself to Mr. (b)(6), on 4 Jun 04, identified himself as (b)(6) sheik of Makr al Deeb (*the village located nearest to the raid site, approximately eight (8) kilometers to the North.*). (Encl. (12).)

45. That (b)(6) (hereinafter (b)(6)) stated that he was a Bedouin shepherd and had been invited to two weddings around the time of the American bombing of the (b)(6) home; one of the weddings was at (b)(6) (b)(6) home, the other was at (b)(6) home, approximately three kilometers north of the alleged (b)(6) home (and raid site). (Encl. (12).)

46. Daham stated he attended the first wedding at (b)(6) home and, the next day, he attended the second wedding at (b)(6) home; he could not remember the dates of the weddings, but he did remember each wedding was only one day in duration each. (Encl. (12).)

47. That, at first, (b)(6) stated he went to the weddings in the day only, but later changed this to indicate he was at the second wedding (*at (b)(6) house; hereinafter, the (b)(6) residence*) until 10:00 PM. (Encl. (12).)

48. That (b)(6) also stated that 'we all left the wedding, about 10:00 PM, when we heard the airplanes;' *although he did not say where he stayed after he left, the closest building to the alleged wedding site was approximately 1000 meters to the north.* (Encl. (12).)

49. That (b)(6) also stated that the (b)(6) family had a Sudanese shepherd, who worked for them, and that the shepherd received about 150,000 Iraqi Dinars per month. (Encl. (12).)

50. That (b)(6) also stated that there were no foreign fighters or weapons at the wedding at the alleged (b)(6) residence (*raid site*) and that 'the bombers started to hit the house around 3 AM.' (Encl. (12).)

51. That (b)(6) also stated that, at around 5 AM, he saw Americans at the alleged (b)(6) residence (i.e., raid site), and that the (b)(6) house was destroyed; and the (b)(6) family was dead, lying next to their home; later he changed this to say that first he waited for the Americans to leave. (Encl. (12).)

52. That at 5 AM on 19 May 04 it was still dark, with 0.0% illumination from the sun and 0.0% illumination from the moon. (Encl. (13).)

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53. That the closest structure to the alleged (b)(6) family residence (or raid site), was observed to be a small structure (approximately 25' X 25'), approximately 1000 meters to the north of the same. (Encl (14) and Exhibit C.)

54. That, at 5 AM, it would have been near impossible for (b)(6) to see Americans or dead bodies at the (b)(6) residence given 0.0% illumination, if he was staying in the above-mentioned (*closest*) structure to the alleged (b)(6) residence (*even with night vision devices*). (Enclosures (12) and (13).)

55. That (b)(6) spoke with media, mostly foreign, once he was back in Ramadi; this occurred during the three (3) day period of 'condolences.' (Encl. (12).)

56. That (b)(6) stated that the name of the family tribal sheik, for (b)(6) (b)(6) was (b)(6), and that they (*the* (b)(6)) were from the Al-Fhdyawy tribe; a large tribe in the area, with some from Ar Ramadi and the surrounding area; and that none of the tribe were from Syria or Jordan (Encl. (12).)

57. That (b)(6) stated that, although, he was not present for the wedding ceremonies, an Imam, in the their Arab tradition, would hold the wedding before sunset, and that the Imam would ensure a witness would sign 'the wedding paper,' and would have 'a book for every one to sign.' (Encl (12).)

58. That (b)(6) stated 'I'm not a Imam, I'm not sure when they got married, I was not there to see what happened.' (Encl (12).)

59. That (b)(6) stated when he arrived at the site of the raid (*the* (b)(6) *residence*), after the Americans left, he saw many dead; and that they took the dead in a large truck to Ar Ramadi. (Encl (12).)

60. That (b)(6) stated one family had twenty seven (27) members killed, *and "one (1) more"* (i.e., **28 total from the** (b)(6) **family**); *and that five (5) others were killed from outside the Al-Fhdawy tribe (total of thirty three (33) dead)*. (Encl. (12).)

61. That (b)(6) stated that, **in addition to the thirty three (33) dead**, above, that **eight (8) musicians were killed**, with one musician surviving (**a total dead amount of forty one (41)**). (Encl. (12).)

62. That (b)(6) stated 'the Americans came and killed our family, why?' (Encl. (12).)

63. That (b)(6) stated 'I was in the second wedding.' (*at the* (b)(6) *residence*). (Encl. (12).)

64. That (b)(6) stated in the second wedding (*at the alleged* (b)(6) *house*) there were no foreigners present, from outside Iraq. (Encl. (12).)

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65. That (b)(6) stated that the shepherd was working at the time of the wedding, *and was not present*. (Encl. (12).)
66. That (b)(6) stated "we talk about sheep all the time." (Encl. (12).)
67. That (b)(6) stated that the victims (*injured survivors*) were taken to Al Qaim hospital. (Encl. (12).)
68. That (b)(6) also stated 'why did America do this to us(?), America is strong, why(?) . . . if you have an issue with us come and search the village for anything you want.' (Encl. (12).)
69. That (b)(6) finally stated 'in this wedding, not a single shot or bullet was used . . . because we were afraid of the Americans.' (Encl. (12).)
70. That (b)(6) changed his statement several times during the course on the interview, thereby, making his statement less credible. Specifically, he originally stated that he was at the weddings only in the day, but later said he left the second wedding (*at the (b)(6) house*) when the planes came around 10 PM. Moreover, he first stated that he was able to observe the Americans and bodies at the (b)(6) residence, at 5 AM, on 19 May (even though he had left the celebration and it was pitch black outside, with 0.0% illumination), however, later he indicated that he observed the same after the Americans left the (b)(6) house. (Encl. (12); Finding of Facts (FF) 47 and 48 (pertain).)
71. That (b)(6) assertion that he can not remember the dates of the weddings is not credible given the gravity of the events that unfolded the evening of 18/19 May, and his recall of other specific facts (e.g., the precise times the airplanes came, as well as how much salary the (b)(6) shepherd was paid) (Encl. (12); FF 47, 48 and 49.)
72. That (b)(6) statement that he is "not sure when they got married, I was not there to see what happened," seems to contradict his assertion that he was at the (b)(6) residence wedding, (the second wedding) until 10 P.M. (*the evening of 18 May 04*). (Encl (12); FF 47, 48 and 49.)
73. That (b)(6) statement tends to verify that traditional Bedouin weddings include written documentation of the wedding in the form of "wedding papers." (Encl.; FF 57)
74. That (b)(6) statement concerning 'not a single shot or bullet being fired' at the ((b)(6) residence wedding) contradicts the AP Television report, reported in the New York Times, on May 20, 2004, that "revelers had fired volleys of gunfire into the air in a traditional wedding celebration just before the troop attack." (Encl. (8), FF 38 and encl. (12), FF 69.)

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75. That, taken in its totality, it is reasonable to infer that (b)(6) statement lacks both clarity and credibility on key points concerning the wedding and subsequent events involving the raid. (Encl. (12).)

76. That (b)(6) statement is silent as to a "Henna Ceremony" and confirms that he did not witness the "marriage ceremony;" accordingly, based on his statement, two (2) of the three (3) basic characteristics of a traditional bedoion wedding cannot be confirmed by him. (Encl. (12).)

77. That Mr. (b)(6) also interviewed Mr. (b)(6) a purported cousin of the owner of the alleged (b)(6) family residence (' (b)(6) ', on 4 Jun 04, at the Headquarters of 3d Battalion, 7th Marines, Al Qaim, Iraq. (Encl. (15).)

78. That Mr. (b)(6) (hereinafter (b)(6)) stated, during the interview, that he "was invited" and that 'it was a wedding for family and friends . . . it was a celebration in Makr Al-Deeb for my cousins wedding, it was a normal wedding with a singer and musicians.'
(Encl. (15).)

79. That (b)(6) stated that there were no foreigners or firearms at the wedding. (Encl. (15).)

80. That (b)(6) stated that, at about 10 PM, all the visitors and guests were in place in a large tent; and that they were eating between 8 PM and 11 PM. (Encl. (15).)

81. That (b)(6) stated that while eating, around 10 PM, they heard the sound of airplanes, and that because of this they decided to leave and to go to his cousins . . . approximately 500 to 600 meters away. (Encl. (15).)

82. That the closest structure to the alleged (b)(6) family residence (or raid site), was observed to be a small structure (approximately 25' X 25'), approximately 1000 meters north of the same. (Encl. (14).)

83. That (b)(6) stated that 'around 6 AM we heard bombing.' (Encl. (15).)

84. That (b)(6) stated that 'before sunrise, the coalition forces started to bomb the (b)(6) house . . . the airplanes landed on the ground, by sunrise they were shooting everywhere, another five tanks came from the ground and they were shooting too.' (Encl. (15).) *[IO Comment: Enclosures (62) - (69), discussed more fully below, provided by the USMC LAR platoon that supported the raid, refute the assertion that any armored vehicles fired their weapons.]*

85. That (b)(6) stated that 'the airplanes came back and picked up the soldiers.'
(Encl. (15).)

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86. That (b)(6) stated that 'we did not fire on the Americans at all, we are all Bedoiuns, but we do carry weapons all the time to protect ourselves.' (Encl. (15).)
87. That (b)(6) next spoke about a June 18, 2003 claim against the Americans in the same area (*Makr al-Deeb*) and the situation at Abu Ghraib, USA policy with regard to Israel and the UN, etc.; subject matter not related to this investigation. (Encl. (15).)
88. That (b)(6) then returned to his discussion of the alleged wedding, at the request of Mr (b)(6) and stated 'we have a tradition and custom in the wedding . . . we bring singers.' (Encl. (15).)
89. That (b)(6) then stated, 'I was at my cousins house when they hit us around 3 AM (on 19 May 04) . . . women were running and carrying their kids . . . they came and took gold from the women, and shot and killed those that were still alive. (Encl. (15).)
90. That based on his own account, (b)(6) was not likely in a position (*when he heard bombing, at approximately 6 AM, or any other time*) to see women and children running, gold being taken from women, and those that were still alive being shot and killed, since he was at his cousins and, therefore, was simply conveying others' statements, or hearsay. (Encl. (15); FF 82, 83 and 89).
91. That (b)(6) also stated that: 'I heard the airplanes flying over us . . . they hit a large tent first, after that they hit the house . . . the Marines came and killed all women and children . . . I did not see shooting by the Marines, but I heard them . . . after the hit, it was about 7 AM . . . the Marines left around 7 to 8 AM. (Encl. (15).)
92. That (b)(6) statement, by his own admission, is based on hearsay. (Encl. (15); FF 82, 83 and 89.)
93. That (b)(6) stated, after the above actions of Marines on the ground, 'we went to see what happened. (Encl. (15).)
94. That, at this point in the interview, Mr (b)(6) asked the other alleged witnesses present (namely, (b)(6)) if they agreed that the time the Marines left was between 7 and 8 AM, and they all agreed. (Encl. (15).)
95. That (b)(6) then offered to provide Mr (b)(6) a copy of a DVD of the wedding and, also, pictures and information relating to the June 18, 2003 alleged American attack. (Encl. (15).)
96. That, when asked to provide more about the wedding by Mr. (b)(6) offered the following:
- a. there were three (3) weddings on this day (*but later changed "day" to mean 17 and 18 May; see below*);

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b. specifically, two (2) of (b)(6) (*hereinafter*, (b)(6) "the alleged owner of the residence on the raid site") daughters got married to two (2) of (b)(6) (hereinafter (b)(6)) sons; the third wedding was between (b)(6) son (' (b)(6) ") and (b)(6) daughter (' (b)(6) ");

c. on Monday, 17 May 04, the first two (2) weddings, above (*between the* (b)(6) *two daughters and* (b)(6) *two sons*), took place at (b)(6) residence (*approximately three (3) kilometers north of the alleged* (b)(6) *residence and raid site*);

d. on Tuesday, 18 May 04, the third wedding (*between the* (b)(6) *son, (b)(6) and* (b)(6) *daughter,* (b)(6)) took place at the (b)(6) alleged residence;

e. in a traditional Bedouin wedding, the groom will build a tent near the bride's home;

f. there was a tent, about 500-600 meters away from the (b)(6) alleged residence, which was used by (b)(6) and (b)(6) (*albeit, this was the groom's residence and not the bride's residence*);

g. there was, also, a "wedding contract" (or "dowry"), and;

h. the day of the wedding, an Imam did not fill out the wedding contract; they went to court two (2) days prior to the wedding, where it was signed, instead.

(Encl. (15).)

97. That based on the AC-130 gunship video, no wedding tent can be observed within a thousand (plus) meters from the alleged (b)(6) residence; the only tent that is observed is approximately 50 meters to the east of the alleged (b)(6) residence eastern most building. (Enclosure (49) and Exhibit C.)

98. That, overall, (b)(6) statement concerning details of the raid on 19 May 04 is based largely on hearsay and is, therefore, presumptively unreliable. (Encl. (15); FF 81, 83, 90, 91 and 92.)

99. That (b)(6) statement, again, confirms the requirement for a written "wedding contract" (or dowery agreement). (Encl. (15); FF 96.g)

100. That (b)(6) statement is completely silent on any "Henna Ceremony," as well as details regarding the separate men and women "wedding day celebrations." (Encl. (15).)

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101. That, on the same day (04 Jun 04), Mr. (b)(6) also interviewed Mr. (b)(6) (b)(6) the father of a nineteen year old (b)(6) (b)(6) allegedly killed during the raid. (Encl. (16).)
102. That (b)(6) (hereinafter " (b)(6) ") indicated that he was invited and participated in the wedding on Tuesday, 18 May 04. (Encl. (16).)
103. That (b)(6) stated that ((b)(6) and (b)(6)) the wedding was a traditional Arab wedding, before sunset, and that at about 3:30 PM 'we took the bride ((b)(6)) to her groom's house ((b)(6) (i.e., the alleged (b)(6) residence).' (Encl. (16).)
104. That (b)(6) stated, after that, 'we celebrated, ate . . . and danced at night.' (Encl. (16).)
105. That (b)(6) stated that 'while we were feeding the visitors dinner, we heard the airplanes around 9 to 10 PM . . . most of the people got frightened and left.' (Encl. (16).)
106. That (b)(6) stated that 'some who lived nearby left, others went in the house and slept because their homes were far away.' (Encl. (16).)
107. That (b)(6) stated that he left at about 12 AM, and slept at his cousins 300-400 meters away; *there are no dwellings within 300-400 meters of the alleged (b)(6) residence.* (Encl. (16) and Exhibit C.)
108. That, as above, the closest structure to the alleged (b)(6) family residence (or raid site), was observed to be a small structure (approximately 25' X 25'), approximately 1000 meters to the north of the same. (Enclosures (14) and (49); also see Exhibit C, specifically, tape # 1, at 26 minutes, 15 seconds.)
109. That (b)(6) stated that 'before the sun was up, I heard the firing from the Americans and sounds of bombs.' (Encl. (16).)
110. That (b)(6) stated that 'by the time the sun was up (*sunrise was at 06:15 AM*), American forces went to the groom's house . . . (*but*) I was in my cousin's house. (Encl. (16).)
111. That (b)(6) stated that 'we did not leave to go to (b)(6) house until after the American's left, around 7 AM. (Encl. (16).)
112. That (b)(6) stated that 'the injured were taken to the hospital in Al Qaim in the morning . . . the hospital was about 130 kilometers away, or one and a half hours' drive.' (Encl. (16).)
113. That (b)(6) next stated that the Americans left between 7 AM and 8AM. (Encl. (16).)

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114. That (b)(6) stated that the 'dead were taken to Ar Ramadi, in a big truck.' (Encl. (16).)

115. That (b)(6) stated that 'I heard the Americans only, I did not see them at all' . . . and that 'I do not know what happened exactly, but I heard them all.' (Encl. (16).)

116. That (b)(6) then stated 'my son was only nineteen (19) years old, I took his corpse to Ar Ramadi.' (Encl. (16).)

117. That (b)(6) added 'why would America do something like that to the women and the children . . . with America so advanced . . . why would they do something like that?'

118. That (b)(6) finally stated, that he 'talked with the newspapers to let them know what happened to us.' (Encl. (16).)

119. That (b)(6) statement is silent with regard to any "Henna Ceremony," and lacks specific detail relating to 'wedding day celebrations' and a 'ceremony.' (Encl. (16).)

120. That, the same day, 04 Jun 04, Mr. (b)(6) also interviewed (b)(6) (b)(6) (hereinafter " (b)(6) "), the alleged groom in the wedding of 18 May 04, and son of (b)(6) (*the (b)(6) family patriarch*). (Encl. (17).)

121. That, initially, (b)(6) indicated to Mr. (b)(6) that he had nothing to add to the above statements; despite this, he provided the following information:

a. he has been a shepherd since the age of five (5) and is twenty one (21) years old; his entire family, including his father, makes its living shepherding;

b. in the summer time, because the land becomes dry and the grass, weeds and herbs die, he usually takes his sheep north to feed;

c. his father, (b)(6), had survived the raid and was in Ar Ramadi;

d. it was his wedding, specifically, a "meeting with my father and all my brothers to celebrate my wedding until the airplanes came."

(Encl. (17).)

122. That (b)(6), when asked by Mr. (b)(6) about his wedding, stated that "I do not want to talk about my wedding, nor the procedures of my wedding and what took place." (Encl. (17).)

123. That (b)(6) also added the following:

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- a. they have only one person working as a shepherd for them, whose name is (b)(6)
- b. he could not remember (b)(6) last name, but he was not in the wedding, he was with his sheep;
- c. the shepherd was 20 or 30 kilometers from the village (Makr al-Deeb) at the time of wedding;
- d. the owners of the sheep usually go everyday with the truck to the location of the shepherd to bring him food and give the sheep water;
- e. the shepherd remains away from the home, he sleeps with the sheep, and that he's paid 75,000 Iraqi Dinars per month;
- f. the owner holds the shepherd's money with him at all times, but after about three (3) or four (4) months, the shepherd takes some time off;
- g. the owner will go and check on the shepherd all the time, as needed.

(Encl. (17).)

124. That (b)(6) , then stated, 'why did they do something like this to us?' (Encl. (17).)

125. That (b)(6) next stated that "I ran with my wife away from the place and we did not get back home until after morning, around 7 to 8 AM." (Encl. (17).)

126. That the AC-130 gunship video shows that no individuals on the ground in the raid site, successfully fled the area. (Exhibit C.)

127. That (b)(6) stated that the survivor-victims were taken to the Al Qaim hospital, and the dead were taken to Ar Ramadi. (Encl. (17).)

128. That (b)(6) stated that there were approximately 200-250 guests and visitors at the wedding. (Encl. (17).)

129. That, finally, (b)(6) returned to the subject of shepherding and stated the following:

- a. the price of sheep in Iraq is about 100,000 Iraqi Dinars for a male and about 50,000 for a female, almost the same price throughout Iraq;

- b. the price of a white camel is about 8,000,000 Iraqi Dinars, and the Iraqi sheep are more valuable than Syrian sheep.

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(Encl. (17).)

130. That (b)(6) statement reflects his reluctance to talk about any details of his alleged wedding. (Encl (17); FF 121 and 122.)

131. That (b)(6) statement reflects his desire to speak primarily about the shepherd business, which is allegedly the family business (Encl. (17); FF 121, 123 and 129.)

132. That (b)(6) understood that Mr. (b)(6) was primarily interested in learning about the details of his wedding, but he generally was evasive and unresponsive. (Encl. (17).)

133. That (b)(6) statement was silent as to any "Henna Ceremony," a "wedding day celebration," and the "marriage ceremony." (Encl. (17).)

134. That three (3) other Iraqi individuals, who presented themselves to Mr. (b)(6) in Al Qaim (along with (b)(6)), on 4 Jun 04, choose not to give statements to Mr. (b)(6); the individuals who were present but remained silent were: (b)(6) (groom and son of (b)(6)), (b)(6) ((b)(6) cousin) and (b)(6) (also, (b)(6) cousin). (Encl. (17).)

135. That at the end of the interview sessions (with (b)(6) and (b)(6)) in Al Qaim, on 4 Jun 04, and during a subsequent telephone conversation on 7 Jun 04, (b)(6) offered to provide Mr. (b)(6) with the following documents, at a future meeting:

- a. a DVD of the June 18, 2003 claim for damage, due to an alleged earlier American attack in the vicinity;
- b. a DVD of the wedding that occurred on 18/19 May 04;
- c. a DVD of the burial in Ar-Ramadi;
- d. death certificates of all deceased as a result of 19 May 04 raid;
- e. documentation for the 18 May 04 wedding/marriage (e.g., "wedding contract," and 'witness signatures.').

(Encl. (15).)

136. That on, 3 Jun 04, the day prior to the above interviews (of (b)(6) and (b)(6)), Mr (b)(6) also interviewed, and took a sworn statement from, Dr. (b)(6), Pediatrician and Director of the Al Qaim (or Al-Qaem) General Hospital, located in Al Qaim, Iraq. (Encl. (18).)

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137. That Dr. (b)(6) stated that at 08:10 a group of people arrived at his hospital with a number of wounded; 'most of them were intensive casualties and some were simple, like head, stomach, chest and fingers;' *see attached medical records and synopsis of same also attached at enclosure (18).* (Encl. (18).)

138. That Dr. (b)(6) stated the wounded were provided "with succor (*relief*) first aids and we had some operations . . . [t]hey were confused and freighted (*sic*); they told us there were many dead victims under the destroyed building." (Encl. (18).)

139. That Dr. (b)(6) was told by these individuals that the Americans planes dropped bombs in the Maqer Al-Deep (also, spelled Makr al-Deeb) area, which is about 100 kilometers southwest from Al Qaim. (Encl. (18).)

140. That Dr. (b)(6) said these same individuals 'did not know how many victims there were . . . all the information they had from the eyewitnesses was that some of them were in a wedding on the day of the accident.' (Encl. (18).)

141. That Dr. (b)(6) stated that "we were told about (40) forty dead; we told them the hospital cannot handle this large number, we have only refrigerator for (3) three corpses only . . . we advised them to go to Al-Ramady (*also spelled Ar Ramadi*) General Hospital. (Encl. (18).)

142. That Dr. (b)(6) stated that "[w]e treated all our victims and we completed all necessary medical procedures and we sent them to Al-Ramady General Hospital as they requested to us to do." (Encl. (18).)

143. That Dr. (b)(6) also stated "[r]egarding the death, we did not visit the site and we did not issued (*sic*) any death certificate to anyone, it is not our duty to do that." (Encl. (18).)

144. That, finally, Dr. (b)(6) stated that "[y]ou can go to Al-Ramady General Hospital for the death certificates." (Encl. (18).)

145. That Dr. (b)(6) statement confirms the precise arrival time of the victims at the Al Qaim General Hospital; further, **it highlights that the alleged witnesses' statements, cited above herein, (i.e., (b)(6), regarding the departure time of 'the Marines' from the raid site, of between 7 AM and 8 AM, cannot be accurate given the time it would have taken to travel the 100-130 kilometers to the hospital from Makr Al Deeb.** (Encl. (18); FF 94.)

146. That Dr. (b)(6) has been reported through human intelligence sources, of unknown reliability, as a Fedayeen supporter, providing funding to Fedayeen in Husaybah, Iraq; specifically, he provides medical treatment and supplies Fedayeen with funds, weapons, and materials to construct explosives, and plans attacks to be carried out by the Fedayeen. (Encl. (19).)

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147. That on 5 Jun 04, the IO, Mr. (b)(6) (Linguist), LtCol (b)(3), (b)(6) USMCR (19 May 04, raid Sensitive Site Exploitation (SSE), Team Leader), Maj (b)(3), (b)(6) (b)(3), (b)(6) USA (19 May 04, Raid Commander), Master Sergeant (b)(3), (b)(6) USMCR (Investigative Team Assistant), a detachment from Weapons Company, 3rd Battalion, 7th Marines and USSF personnel visited the raid site of 19 May 04, and the neighboring area in the vicinity of the village of Makr al Deeb; the purpose of the visit was to physically inspect the raid site, a cluster of buildings at 37S FT 110616, as well as interview possible witnesses in the vicinity; both Mr. (b)(6) and Maj (b)(6), (b)(3) acted as interpreters, as appropriate. (Encl. (10).)

148. That, as the site inspection was underway, two individuals approached the raid site in a white pickup truck; contact was initiated with these individuals and appropriate interviews were requested concerning their knowledge of events in the area, to include the alleged wedding, on 18 and 19 May 04. (Encl (10).)

149. That the driver of the pickup identified himself to the IO, Mr. (b)(6) and LtCol (b)(3), (b)(6) as (b)(6), the son of (b)(6) (FF 40 pertains); he further indicated that he was eighteen (18) years of age and that the other individual with him was his cousin, (b)(6), age sixteen (16) years. (Encl. (10).)

150. That the IO explained, through Mr. (b)(6) (hereinafter, the IO and Mr. (b)(6) will be referred to as "we"), that we were from Baghdad and that we were there to find out the truth concerning what happened on May 19th. (Encl. (10).)

151. That (b)(6) responded "what May 19th?" (Encl. (10).)

152. That we told (b)(6) and (b)(6) that we were interested in the reports of a wedding at the location of the buildings (*which were about 300 meters to the north of us, and visible*); they agreed to tell us what they saw and heard regarding the wedding (Encl. (10).)

153. That the following is a summary of the (joint) interview with (b)(6) and (b)(6) :

a. (b)(6) stated he was not at the wedding, because he was not invited and he was feeding and watering the family's sheep somewhere (*gesturing to the west*);

b. he then changed the way he phrased his words and explained that he actually saw the 'strike';

c. at this point, (b)(6) interrupted and stated that he saw the "slaughter" of women and children; in response, (b)(6) elbowed him and indicated not to talk about a slaughter;

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d. under direct questioning, (b)(6) eventually admitted that he did not see the strike personally because he was at his home that was over a kilometer away (*we later determined this distance to be approximately three (3) kilometers to the north*);

e. (b)(6) then stated that the only person that he knew, who actually saw the raid, was a woman named (b)(6) (also spelled (b)(6) or (b)(6)); (b)(6) *was later determined by Mr. (b)(6) to be a member of the al-Busoda (or Albu Sota) tribe from Sofia, a neighborhood of Ar Ramadi*;

f. (b)(6) also stated that he saw a nine year old boy, named (b)(6) , survive uninjured, and that he heard that (b)(6) one and half year old sister, (b)(6) had been taken to the hospital in Ar Ramadi;

g. (b)(6) stated that he received injured people from the raid at his house (*actually his father's house*); he said that four (4) women and one (1) man were injured, and two (2) men survived uninjured;

h. he said the injured man's name was (b)(6) , and that he had made it to (b)(6) house on his own;

i. (b)(6) also indicated that people from nearby residences also brought other injured to his residence;

j. We then asked him to clarify if there was only one wedding on 18 May; he initially confirmed there was only one wedding, but then changed his comments to reflect that there had been two (2) weddings prior to this; specifically, he stated that two (2) sisters, (b)(6) and (b)(6) (also spelled (b)(6) , had married his ((b)(6) two (2) brothers (*he did not name them at this point*); and, that on Tuesday, May 18th, the two (2) sisters' brother, (b)(6) (or (b)(6)), had married his sister, (b)(6) (or (b)(6));

k. (b)(6) indicated that it was (b)(6) and (b)(6) wedding, which had occurred on Tuesday 18, May 04, and that the newlywed couple had survived the raid (and were currently in Ar Ramadi);

l. he also estimated that there were between 100 and 150 people at the wedding celebration on 18 May 04 (*in significant contrast to the groom's (b)(6) estimate of 200-250 guests; FF 128*); when asked, again he confirmed that (b)(6) and (b)(6) wedding was the only wedding on the Tuesday, the 18th of May;

m. when asked if (b)(6) and (b)(6) wedding was three (3) days long, he stated that there were two (2) other weddings which occurred before this; at this point, (b)(6) nudged (b)(6) as if to caution him as to what he was saying;

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n. next, it appeared that (b)(6) modified what he was saying to indicate that these two (2) other weddings had been in the days (immediately) prior to the May 18th wedding;

o. he explained (*as above*) that in the two earlier weddings, the two (2) sons of (b)(6) brothers), married the two daughters of (b)(6) that is, the two grooms, (b)(6) and (b)(6) married (b)(6) and (b)(6)

p. at this point, a water truck appeared and approached us . . . (b)(6) suddenly added that there had been a fourth wedding, as well, involving the driver of the truck;

q. under direction questioning he confirmed, however, that the alleged residence at the raid site (i.e., the (b)(6) residence) had hosted only one wedding, that of (b)(6) and (b)(6)

r. (b)(6) explained that the driver of the water truck was also a brother of his, named (b)(6) ;

s. when asked how many guests stayed at the raid site alleged residence, on the night of 18 May, (b)(6) stated "50 to 51;" he indicated the guests stayed because they lived in Ar Ramadi, and it was too far for them to drive at that late hour [*IO Comment: later, and discussed more fully below, post raid intelligence reporting indicated that 51 foreign fighters, who had just entered Iraq from Syria, were at the raid site on 18/19 May 04 attending a "celebratory dinner" given on their behalf (FF373, below, and enclosure (78) pertain)*];

t. (b)(6) then stated the guests left because they heard an airplane fly over; when questioned whether it was a helicopter, jet or propeller aircraft, Nissen said it was "a large white plane that took pictures;" he said the plane also flew over in the morning, after the raid;

u. both (b)(6) and (b)(6) adamantly denied that there was any gunfire, at any of the weddings;

v. we then asked if he could produce any physical evidence (such as flowers, ribbons, etc.), at the site, that there had been a traditional Bedouin wedding, or if he could walk us through the area (*to point out significant locations of wedding tents, etc.*), he evaded responding to these questions several times; eventually, he stated that he had a "clock" that was a wedding gift, in a box, that would be physical proof of the wedding; he claimed that the box was at his home and that he would go get it;

w. we offered to go to his home with him, but he did not want to us go, saying he could go first and we could follow later (*we declined this offer for security/force*

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protection reasons); we asked (b)(6) and his cousin, (b)(6) to wait with us until we were done interviewing (b)(6) brother), they agreed.

(Encl. (10).)

154. That (b)(6) and (b)(6) statements were silent as to any "Henna Ceremony" for any of the four (4) alleged weddings, as well as the details of "wedding day celebrations" and "wedding ceremonies." (Encl (10), FF 153.)

155. That (b)(6) statement(s) lacks credibility for the following reasons: (1) he purposefully attempted to convey hearsay knowledge as personal knowledge; (2) he could not recall the significance of date of the alleged wedding/raid; (3) his story regarding the number of weddings on or around 18 May 04, evolved from one (1) wedding to four (4) weddings (4) he was unwilling to walk the ground of the raid site to show us the location of the wedding tents (*a traditional Bedouin wedding normally has a total of three or four tents, i.e., men's celebration tent, women's celebration tent, a nuptial or wedding tent, and, possibly, a cooking tent*), and (5) as the brother of the bride (b)(6), he would have likely attended the wedding (*as did his brother, (b)(6) discussed below*).

156. That we then proceeded to interview (b)(6) brother, (b)(6) (b)(6) (*who arrived driving the water truck*); he offered the following during his interview:

a. (b)(6) stated that his job for the past three (3) years was to drive the water truck to the sheep, once in the morning and once in the afternoon, each day;

b. (b)(6) stated that he had been at the wedding that had gone into 19 May; when pressed, however, for more detail concerning the wedding, he stated he was actually at his wedding tent, at the raid site location with his new bride, (b)(6);

c. when, again, asked for more details about the wedding, he changed his statement to say that his tent was actually located 500 meters from his house, which he indicated was a kilometer and one half to the north (*again, he was referring to his father's house, the closest residence to the raid site that we observed, which we later determined to be approximately three (3) kilometers to the north*);

d. we all observed, upon further questioning, that his manner became very evasive, and that his answers were contradictory; despite repeated attempts, we were unable to get him to commit to any substantive detail concerning the wedding (of the 18/19 May); he lead us into a discussion concerning the location of where his house was, relative to his father's, and where his and his brothers' nuptial/wedding tents had been located; he described the colors of the tents at length;

e. (b)(6) also stated that an airplane flew over at about 10:00 PM, on 18 May;

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f. when asked if it was a helicopter, jet or propeller driven aircraft, he stated that it was a big white plane that took pictures; he, also, indicated this airplane returned in the morning;

g. (b)(6) stated that when the shooting started, he ran into the tall green grass to hide; when asked what his bride did, he amended his statement to say that his bride also ran into the grass with him [*IO Comment: There was no tall green grass observed anywhere in the area on the day we were there, 5 Jun 04; there was short brown grass observed near some residences, approximately four (4) inches tall, in Makr al Deeb; no grass was observed for kilometers, in all directions, around the raid site.*];

h. (b)(6) indicated that after hiding, he and his bride walked around until about 8 AM, then went home;

i. (b)(6) then stated that tanks arrived around 8 AM, and they shot all the survivors as they lay on the ground; first he offered to show us the imprints of tank tracks, but then changed his recollection to indicate that the vehicles had eight (8) wheels, four (4) on each side, and were dark green in color (*this latter description generally matches the description of USMC LAVs*);

j. (b)(6) pointed to the west and said that the LAVs took up a position several kilometers (*to the west*) away from the raid site (alleged (b)(6) residence); (*during the course of the investigation it was determined that LAVs appeared at the raid site, at approximately 06:30, however, generally, they stood-off from the site about one (1) kilometer to the south-southeast*);

k. We asked (b)(6) , if he actually saw the LAVs to the West; in response, he made a sudden and alarmed looking facial expression, and abruptly stepped back, away from Mr. (b)(6) we collectively interpreted this overt body language as if he had been caught in a lie;

l. With repeated questioning, he finally admitted that he did not see the LAVs, and that the only person he knew of, who actually saw the LAVs, was (b)(6)

m. (b)(6) than admitted that he did not see any of the things he had described, but had only heard of them;

n. (b)(6) than stated that **all four (4) weddings had, in fact, occurred, but none of them were at the raid site location (the alleged (b)(6) residence)**;

o. (b)(6) adamantly stated that there was absolutely no celebratory gunfire during any of the weddings; when asked why a sheikh in Al Qaim claimed that there was gunfire to the media (*to which the Americans returned fire*), he stated that this was absolutely false, and there was no sheikh (*present*) at the wedding;

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p. (b)(6) then stated "the videotape in Ramadi shows everything;"

(Encl. (10).)

157. That (b)(6) statement was silent as to any "Henna Ceremony," details of any "wedding day celebrations," and "wedding ceremonies." (Encl. (10).)

158. That (b)(6) statement lacks credibility due to the following specifics: (1) he attempted to convey hearsay knowledge as personal knowledge (FF 156.l), and (2) his story that he, and then his bride, ran into tall grass once the shooting started is not believable, since there was very likely no tall grass in the area on or about 18 May 04. (Encl. (10).)

159. That (b)(6) statement emphasizes the importance of the alleged wedding videotape, in Ramadi, that "shows everything" (with regard to the alleged 18 May 04 wedding of (b)(6) and (b)(6)). (Encl. (10).)

160. That it is reasonable to infer that (b)(6) statement, regarding all four weddings not being at the raid site, 'as truthful, since this statement was made immediately after we apparently caught him caught lying, with regard to the location/placement of the LAVs. (Encl. (10); FF 156.l and FF158.m.)

161. That, after these interviews, we followed (b)(6) and (b)(6) to (b)(6) fathers house ((b)(6)) in their white pick up; (b)(6) also drove his water truck to his father's house, driving much faster and arriving at the father's house minutes ahead of us (*despite our best efforts to avoid alerting the residents of the house that we were coming, due to our security/force protection concerns*). (Encl. (10).)

162. That by the time we reached the house (*approximately three (3) kilometers to the north*), food was laid out on the north-facing porch, and the residents were awaiting our arrival. (Encl. (10).)

163. That some of the men present at the house were also present, on 4 Jun 04, when Mr. (b)(6) conducted his interviews at Headquarters Battalion, 3rd Battalion, 7th Marines, Al Qiam, Iraq; *specifically*, (b)(6) *and*, (b)(6) (Encl. (10).)

164. That the head of the house was (b)(6) the father of three of the alleged grooms ((b)(6) *and* (b)(6)) and one of the brides ((b)(6)). (Encl. (10).)

165. That (b)(6) (hereinafter, ' (b)(6) ') had a (b)(6) (b)(6) tattoo on his right wrist that he attempted to conceal from us, by frequently re-positioning his wrist watch over it; he also had another tattoo consisting of three (3) dots on his knuckle. (Encl. (10).)

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166. That four (4) other men were present, one of whom was (b)(6) son of (b)(6) , and one of the alleged grooms. (Encl (10).)
167. That all the men wore expensive looking watches and two (2) of them had cross shaped tattoos on their hands; with the exception of the oldest looking man, their dress did not appear to be Bedouin. (Enclosures (10), (20) and (24).)
168. That the oldest man later revealed to Maj (b)(6) that he was not from Sofia (*an area/neighborhood in Ar Ramadi*), like (b)(6) and the other men. (Enclosures (10) and (24).)
169. That, after introductions, we explained that we were gathering facts about the events of 19 May 04, and the bombing of a wedding. (Encl. (10).)
170. That the IO and Mr. (b)(6) sat with the men under the north porch and ate the prepared food, as we continued to discuss matters. (Encl. (10).)
171. That the IO began by asking the Iraqi men to explain to us how we would know a traditional Bedouin wedding; that is, we asked them to explain what identifiable signs, traditions or distinguishing features (or indicia) it would have to distinguish it from a Christian, Jewish, Hindu or Buddhist wedding. (Encl. (10).)
172. That they indicated they understood this question: nevertheless, (b)(6) responded that a traditional wedding will have a videotape associated with it; he indicated that such a tape existed for the wedding celebration of the 18 May 04, but that the only copy of it was in Ar Ramdi in the possession of (b)(6) (*discussed above, beginning with FF 78*). (Encl. (10).)
173. That we asked if the videotape would have a date on it, indicating that it had been filmed on May 18th, 2004; they responded affirmatively that it had a date on it. (Encl. (10).)
174. That we asked if there would be documentation of the wedding (such as a wedding license or marriage certificate) and (b)(6) responded "that everybody knew the tradition of the wedding" and there **was no such documentation**. (Encl. (10).)
175. That we asked if there would be wedding invitations that we could see, (b)(6) responded that guests were not invited with written invitations. (Encl. (10).)
176. That, at this point, the IO pressed for further information regarding showing us some evidence, or explaining to us, traditional signs (or indicia) of a Bedouin wedding; (b)(6) responded that there was a "nuptial tent," a "wedding bedroom," and that gifts of gold were exchanged. (Encl. (10).)

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177. That, next, at their invitation, we entered the house to see (*their evidence of a traditional Bedouin wedding*) a "wedding bedroom" and "gifts of gold;" we viewed one nicely furnished bedroom (*apparently (b)(6) bedroom*) with heart shape decorations on an ornate white bedspread; there were two table clocks in this room, one still appeared to be in its original box. (Enclosures (10) and (20).)

178. That it was not clear how the bedroom related to a traditional "nuptial tent;" nor why other bedrooms we observed in the house lacked furnishings and had only mattresses on the floors (*i.e., there was only one wedding bedroom shown to us, yet there were allegedly three (3) or four (4) weddings*). (Encl. (10).)

179. That we were shown golden bracelets and necklaces by the grooms ((b)(6) and (b)(6)), who posed for pictures with the same; they indicated these, along with the table clocks, were wedding gifts. (Enclosures (10) and (20).)

180. That (b)(6) retrieved a wedding gown from another room (*not his bedroom*) that he said his bride wore; while the men were displaying these items in the "wedding bedroom," a woman came out of another room with stacked bedding (mattresses and blankets) and threw a bag of henna at the feet of one of the Marines accompanying the IO and Mr. (b)(6) (Encl. (10).)

181. That, after observing their proof of a traditional Bedouin wedding, the IO asked them a series of direct questions concerning their knowledge of the (b)(6) residence. (Encl. (10).)

182. That, specifically, the IO asked if somebody had been sick (or stricken with a debilitating disease) in the (b)(6) residence, since there had been so many hypodermic needles and drugs there; (b)(6) responded that his cousin, (b)(6) (the owner of the alleged residence), had prostate cancer and that he ((b)(6)) gave him shots for the cancer. (Enclosures (10) and (21).)

183. That the IO then asked about the white powdery substance found in a plastic bag (that was next to the syringes); (b)(6) initially denied any knowledge concerning the white powder; one of the other men stated it was for asthma, subsequently, all the men agreed (including (b)(6)). (Enclosures (10) and (21).)

184. That when we asked again precisely what the white powdery substance was, the men talked over each other, and attempted to change the subject. (Encl. (10).)

185. That, afterwards, upon further questioning, (b)(6) stated that he mixed the white powder with water for the shots he administered to (b)(6) another man corrected (b)(6) saying, (b)(6) meant to say he mixed the powder with benzolene; and, subsequently, (b)(6) agreed. (Encl. (10).)

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186. That, then, (b)(6) went into a long, but confusing, explanation of how he mixed and administered the shots into the buttocks of (b)(6) all the Iraqi men again spoke over each other; we believed they were attempting to form a single coherent story regarding the purpose, use and administration of the syringes and white powdery substance [IO Comment: Lt Col (b)(6), (b)(3) USMCR, who is an experienced Drug Enforcement Agency, Special Agent, believed the white substance, based on photographs taken by the SSE team, to be heroin.] (Enclosures (10) and (21).)

187. That the IO next asked about the purpose and use of approximately 200 sets of pre-packaged men's clothing (*discovered at the (b)(6) residence during the raid*); (b)(6) asked if we saw the clothes before or after the wedding . . . *which made no sense to us, since we would have no way of knowing what was present at the raid site before the raid.* (Encl. (10).)

188. That (b)(6) then stated that the pre-packaged clothing was for the bride; we responded that it was men's clothing, with men's pants and shirts, not women's clothing; at this point there was silence, with the four men looking to each other; (b)(6) then, suddenly, offered that the clothing was for the singers in the band (*we interpreted him to mean the wedding band members; which we later determined to be a nine (9) member band.*) (Encl. (10).)

189. That then the IO asked (b)(6) where the "broken and burned" musical instruments were from the wedding band; (b)(6) seem to express surprise at this question, and indicated that none had been broken or burned, and that because they had been rented, they had been returned to Ar Ramadi, where they had been rented; we asked why he would return "broken and burned" instruments as reported by the AP news media; he then responded the damage to them was only minor. (Encl (10).)

190. That the IO asked if the AP news reporter came to the raid site (alleged (b)(6) residence); initially the men choose to ignore this question. (Encl. (10).)

191. That the IO then asked if 'we could agree that many of the reports in the newspaper and media had been wrong;' (b)(6) then stated that the journalist(s) never came to Makr al-Deeb and that all the interviews were given in Ramadi. (Encl. (10).)

192. That (b)(6) next brought up the issue of a claim he believed he had (from June 2003) against the American government for another house; this claim was allegedly caused by another US attack against the village of Makr al-Deeb; we advised him that he could file a claim through our claims process . . . he advised us that he would do this and hired a lawyer for the same. (Encl. (10).)

193. That (b)(6) statements immediately emphasized the importance of the alleged wedding video as the best proof of the 18/19 May 04 wedding celebration; his son, (b)(6), also offered the alleged wedding video as the best proof, stating, "it shows everything." (Encl. (10).)

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194. That (b)(6) statement that there is 'no documentation for a traditional Bedouin wedding' is not credible in light of both (b)(6) and (b)(6) statements to the contrary and independent research regarding the same. (Encl (10), (11), (12) and (15).)
195. That (b)(6) explanations regarding the use of the pre-packaged men's clothing and use of the white powdery substance appeared to be wholly unreasonable, manufactured and untruthful. (Encl. (10).)
196. That, without exception, the seven (7) Iraqi adult males (named, above, herein; excluding (b)(6)) interviewed on 4 and 5 Jun 04, concerning their knowledge of the alleged 'wedding bombing,' failed to described a traditional Bedouin "Henna Ceremony," for any wedding on or about 17 or 18 May 04. (Enclosures (10), (12), (15), (16) and (17).)
197. That, without exception, these same individuals failed to provide adequate, specific and detailed information to confirm the existence of a traditional Bedouin "wedding day celebrations" for any of the weddings that allegedly occurred on or about 17 or 18 May 04. (c.g., the number, uses and locations of wedding day tents, details of the wedding day meal, or cooking). (Enclosures (10), (12), (15), (16) and (17).)
198. That, without exception, these same individuals failed to provide adequate, specific and detailed information to confirm the existence of a traditional "wedding ceremony" on or about 17 or 18 May 04. (Enclosures (10), (12), (15), (16) and (17).)
199. That, despite the confirmation of written "wedding documentation," none of these same individuals offered to provide us with proof of the same; *however, (b)(6) later agreed to provide "wedding documentation," after it was requested of him, albeit he failed to deliver the same.* (Enclosures (10), (12), (16) and (17).)
200. That rather than provide us written wedding documentation regarding the same, (b)(6) and his son (b)(6) , indicated that the best proof of the wedding celebration, on 18/19 May, would be the "wedding videotape." ((b)(6) and (b)(6) both agreed to ensure that we were provided with a copy of the videotape.) (Enclosures (10) and (15); FF 95, 156.p, 172, 193.).
201. That virtually all seven (7) Iraqi witnesses' statements, referred to above, appear to be not credible, and are, therefore, unreliable. (Enclosures (10), (12), (15), (16) and (17); FF 75, 98, 107, 132, 155, 158, 194, 195.)
202. That (b)(6) and (b)(6) all indicated that either a "plane" or "planes" could be heard at approximately, 10 PM on 18 May 04, and that the presence of the planes caused the wedding celebration at the alleged (b)(6) residence to break up; (b)(6) and (b)(6) implied that either they, or others, had seen

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the plane, since they claimed 'it was a large white plane.' (Enclosures (10), (12), (15), (16) and (17); FF: 48, 81, 105, 121.d, 153.t, 156.e.)

(b)(1)1.4a, (b)(1)1.4c

(b)(1)1.4a, (b)(1)1.4c, (b)(1)1.4g

205. That it would have been virtually impossible to identify the color of the aircraft on the night in question at 25,500 feet with 0.0% illumination. (Encl (13) and (23).)

206. That at approximately 10 PM, when the plane(s) were allegedly first heard, the alleged wedding guests were 'eating and dancing' (*to music from the band*); and the P-3 was not in the raid site area yet. (Encl. (16).)

207. That, given its location, altitude, standoff distance and ground noise level, it would have been impossible for the alleged wedding party participants to hear the P-3, at 10:00 or 10:31 PM, or very likely at any other time thereafter (unless "ambient ground noise level would have been 0.") (Enclosures (16) and (23).)

208. That during the review of the "wedding bedroom," and subsequent discussion in (b)(6) house (FF 177 through 192 above), Mr. (b)(3), (b)(6) engaged in separate dialogue with the oldest, Bedouin looking gentlemen (referred to in FF 167 and 168 above), who remained outside the house. (Encl. (24).)

209. That the older Bedouin looking man (hereinafter the "Bedouin") had looked markedly disturbed (or "disgusted") when we sat under the porch, eating, and engaged in dialogue with (b)(6) , he did not offer any comments or make any statements while under the porch. (Enclosures (10) and (24).)

210. That after the other men, the IO, and Mr. (b)(6) departed to go into the house, the Bedouin made some "small talk" with Mr. (b)(6), (b)(3) and invited him to join him for a cigarette and some water at the outdoor "diwaniya," thereafter, he "expressed contempt" for the other Iraqi men that we had met under the porch. (Encl. (24).)

(b)(6), (b)(1)1.4a, (b)(1)1.4c, (b)(3)

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(b)(6), (b)(1)1.4a, (b)(1)1.4c, (b)(3)

212. That he took Maj (b)(3), (b)(6) around (b)(6) house, along with the weapons company platoon commander (*from 3rd Battalion, 7th Marines*) to point out two (2) or three (3) large homes (*near (b)(6)*) to show how they were "inconsistent with his home or other obvious bedou (*Bedouin*) dwellings in the area, that had been bombed/destroyed by what would appear (*to be*) coalition aerial bomb attacks;" he indicated that the attacks had occurred last summer/fall (i.e., 2003). (Encl. (24).)

213. That the platoon commander from 3rd Battalion, 7th Marines, signaled for his interpreter to approach Maj (b)(3), (b)(6) for additional clarification of what the Bedouin was saying. (Encl. (24).)

214. That the interpreter, a native of Baghdad, stated he had a difficult time understanding the Bedouin man, due to his heavy "bedou" accent. (Encl. (24).)

215. That, the Bedouin man stated, thereafter, that he was a simple Bedouin and all he wanted to do was raise sheep and be left alone. (Encl. (24).)

216. That the Bedouin explained that all of the Bedouin in the area were tired of the rich men from Sofia (*in Ar Ramadi*) and Rutbah (*a town/city about 100 kilometers to the southwest*) coming to the western desert and building beautiful houses, which drew the attention of American forces and caused the US to bomb their homes. (Encl. (24).)

217. That the Bedouin further stated ". . . the rich men from the cities come here for their gatherings and the Bedou suffer for it." (Encl. (24).)

218. That Maj (b)(3), (b)(6) believed that the Bedouin was visibly irritated by the presence of the other Iraqi men (b)(6) *and his sons*) and "appeared put out by them." (Encl. (24).)

219. That, on 9 Jun 04, separate videotapes of the alleged wedding day celebration and property damage, from the alleged June 2003 coalition attacks, were provided by (b)(6) (referred to above only as ' (b)(6) ' see enclosure (15)), through intermediaries from the Office of the Inspector General, Coalition Provisional Authority (CPA), to the IO; (b)(6) failed to provide documentation concerning proof of the alleged 18 May 04 wedding, as well as the death certificates he had previously promised to deliver. (Encl. (25).)

220. That, subsequently on 23 Jun 04, after a meeting was again arranged with (b)(6) for the delivery of the said 18 May 04 wedding documents and death certificates, he failed to show up, or deliver the same; additionally, he did not communicate regarding his failure to meet on this occasion, nor attempt to set-up another meeting. (Encl. (26).)

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221. That (b)(6) through his repeated failure to deliver the said wedding documentation and death certificates, demonstrated an intention not to deliver the same. (Encl. (15), (25) and (26); FF: 219 and 220.)

222. That, as above, the videotape of the alleged wedding was offered to the IO, as the **'best evidence'** of the traditional Bedouin wedding, which allegedly occurred at the raid site (alleged (b)(6) residence), on 18 May 04, and into the early morning hours of 19 May 04. (Encl. (10); FF 193.)

(b)(6), (b)(1)1.4c

224. That the said videotape was recorded, and or re-recorded, on a "Region 1" software format, only normally available and utilized in the USA and Canada; the standard video software format in Iraq (and in the Southwest Asia region) is either "Region 2" (West Europe, Japan, South Africa) or "Region 3" (Southeast Asia). (Encl. (27).)

225. That the said videotape was also recorded on "NTSC," which runs off of a 110 volt power source; this is also not consistent with video devices sold in the Iraq (and the Southwest Asia region). (In the Southwest Asia/Iraq region all electronics are "PAL, which is a 220 volt system;" further, PAL and NTSC are not interchangeable.) (Encl. (27).)

226. That (b)(6) affirmation that the said videotape would have a date on it to confirm the actual date of the wedding was false. (Encl. (10); FF 173.)

227. That by not providing the IO with the said wedding documents, and/or a date on the said videotape, (b)(6) and (b)(6) failed to provide for an independent means to date the alleged wedding of 18 May 04. (Enclosures (10); FF 221, 223 and 226).

(b)(1)1.4c

229. That despite the said alteration and editing, the video itself contains scenes of an apparent Arabic wedding at a remote desert location (*the images it contains are the same as those that were aired worldwide on television, which AP news, apparently, first obtained; FF39*). (Exhibit B.)

230. That, on 5 Jun 04, the IO, and his investigative team, visited the raid site and, unexpectedly and without invitation, also visited (b)(6) residence (*as referred to above*), and photographed the same. (Enclosure (10); FF 153 and 161.)

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231. That upon multiple, thorough and detailed reviews of the alleged wedding videotape by the investigative team (*provided by* (b)(6) *on 9 Jun 04*), and their personal knowledge of (b)(6) residence, it became immediately evident that the scenes in the video were of (b)(6) house, and not the alleged (b)(6) residence (raid site). (*Photo comparisons of the "still photos" taken of* (b)(6) *house by the investigative team, on 5 Jun 04, and the alleged wedding video are appended and marked in detail in Enclosure (28); see also Exhibit B.*)

232. That the alleged wedding videotape contains the following specific images with respect to the physical appearance of (b)(6) residence:

- a. the front of his house (facing north) has a porch with a distinct and ornately curved portico design;
- b. in the front of his house is a "solid grassy area," enclosed by a low fence with separate, distinct, sculpted vertical columns (or posts);
- c. in the rear of the house is a water holding tank, which is parallel to the back of the house;
- d. an outside mounted air conditioning unit under the front porch.

(Encl (28).)

233. That the still photos, taken by the investigative team on 5 Jun 04, at the raid site (alleged (b)(6) residence), show the following dissimilarities with respect to the same:

- a. the front of the alleged (b)(6) residence (facing east) has a porch with distinctly straightline features and design (vice the "ornately curved" design, above):
- b. in the front of the house there is no grassy area (*in fact, there is no "solid grassy area," around the residence*); however, there is a dirt/sand area, enclosed by a low solid brick-like fence (vice separate and "distinct, sculpted vertical columns," or posts, above);
- c. in the rear of the house is a water holding tank, which is perpendicular to the back of the house (vice "parallel," above);
- d. an inside window mounted air conditioning unit under front porch (vice "outside mounted," above).

(Encl. (28).)

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234. That the above-stated distinctions show, beyond any doubt, that the location of the alleged, undated, wedding video (provided by (b)(6) is at (b)(6) house, not the (b)(6) residence. (Enclosure (28).)

235. That the 'best evidence' offered by the alleged wedding families (i.e., the (b)(6) and (b)(6)) proves, beyond any doubt, that there was no wedding at the raid site on 18/19 May 04. (Enclosures (10), (15) and (28).)

236. That the discovery of the true location, depicted in the alleged wedding video (undated), tends to show that **the following witnesses conspired to lie about the location and date of an alleged 18/19 May 04 wedding at the (b)(6) residence:**

(b)(6)
(Enclosures (10), (12), (15), (16) (17); FF 231 and 234.)

237. That no credible evidence has been offered by the alleged wedding families to show that there was a wedding, or any "similar civilian festivity", at the (b)(6) residence on or about 18 May 04. (Enclosures (10), (12), (15), (16) and (17).)

238. That, further, no evidence of a wedding, or similar civilian festivity/celebration, was discovered by any of the raid force service members on the ground, either in or around any of the buildings, during the conduct of the raid on 19 May 04; with the possible exception of a single tent (*which could have been used for a variety of purpose, including overflow for visiting foreign fighters, etc.*). (Enclosures (3), (29), (30), (31), (32), (33), (34), (35), (36), (37) (38), and Exhibit A.)

239. That all evidence discovered on the site, and thoroughly assessed afterwards by the Sensitive Site Exploitation (SSE) Team, indicated that on 19 May 04 the site (alleged (b)(6) residence) was being used solely as a foreign fighter way station, by smugglers involved in facilitating the flow of the foreign fighters and/or anti-coalition forces into Iraq from Syria. (Encl. (39).)

240. That, despite the said assessed use as a foreign fighter way station, for undetermined reasons, there were a number of woman and children at the raid site (alleged (b)(6) residence), in the early morning hours of 19 May 04. (Enclosures (29), (32), (37) and (38).)

To that the extent that this can be determined, who was present?

IO Comment: This question pre-supposes the occurrence of a wedding, or similar civilian festivity/celebration, on 18/19 May 04 at the raid site; no such wedding or celebration, however, has been determined to have occurred at the site on this date. The below finding of fact (FF 241), however, identifies those individuals who became known to us during the course of the investigation, who are seen in the said alleged wedding video (undated), which, again, clearly takes place at (b)(6) house.

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241. That the following individuals appear in the alleged wedding video, provided to the IO on 9 Jun 04, by (b)(6) which was filmed at (b)(6) house on an unknown date: (1) (b)(6) (Groom); (2) (b)(6) (3) (b)(6) and (4) (b)(6) **also, note well that the identified groom is (b)(6) , not (b)(6) further indicating that the individuals named in FF 236 conspired to lie.**

(Encl. (40) and Exhibit B.)

Question # 5: Was the raid executed within the constraints of the Rules of Engagement (e.g., was there positive identification of a legitimate military)?

242. That the '19 May 04 raid on the terrorist safe safehouse was in fact authorized under 1003V rules of engagement (ROE), as a deliberate attack on targets previously declared hostile' by competent authority. (Encl. (41).)

243. That under "the 1003V ROE, declared hostile forces include former regime forces and certain terrorist groups, like Al Qaida (AQ)." (Encl. (41).)

244. That, in addition, "a individual does not have to be an overt member of an enumerated terrorist cell or group to qualify as a declared hostile 'terrorist' for the purposes of an ROE analysis." (Encl. (41).)

245. That "[s]pecifically, the 1003V definition of a 'terrorist' is '[a] person providing support to a member of any of the listed terrorist organizations, or any groups/cells/facilities associated with those terrorist groups." (Encl. (41).)

246. That in the said 19 May raid, 'the individuals targeted at the safehouse near the Syrian border, were affiliates and personnel in direct support of AQ, a listed terrorist organization that has been declared hostile. (Encl. (41).)

247. That 'in the days leading up to 19 May 04, there was considerable intelligence, presented to Major General Mattis, that indicated that there was going to be a meeting between terrorists and facilitators affiliated with the Zarqawi network (AMZ).' (Enclosures (1) and (41).)

248. That 'Zarqawi is the senior AQ figure in Iraq, and his network (AMZ) represents a significant portion of AQ's presence in Iraq.' (Enclosures (2), (41) and Exhibit A.)

249. That "[t]he remainder of targets present at the 19 May target location were a mixture of foreign fighter facilitators (FFF) and smuggler personalities." (Enclosures (2), (41) and Exhibit A.)

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250. That "[a]ll intelligence indicated that the individuals present at the time of the 19 May raid were either directly engaged in ACF activities (*anti-coalition force*) or in direct support of ACF activities." (Encl. (41).)

251. That "[t]he core target group composed a cross-section of the very network that facilitates, enables, and executes attacks on Coalition forces and innocent Iraqis." (Encl. (41).)

(b)(1)1.4a, (b)(1)1.4c

253. That the "attack on, and destruction of, the remote terrorist meeting and logistics compound in a virtually uninhabited portion of the desert near the Syrian border was clearly authorized by and comported with 1003V ROE." (Encl. (41).)

254. That Major General Mattis, based on the aforesaid intelligence, target package and his thirty (30) plus years experience and judgment, "positively identified" the targeted personnel as AQ and AMZ terrorists and affiliates, at approximately 2300, 18 May 04; *as is required in all cases where deadly force is authorized.* (Enclosures (1) and (41).)

255. That "[p]ositive identification is defined as the reasonable certainty, as opposed to absolute certainty, that the object of the attack is a legitimate military target in accordance with governing ROE." (*The "governing ROE" are cited and discussed more fully in enclosure (41); references cited in enclosure (41) are also attached thereto, except for reference b.*) (Encl. (41).)

256. That 'by requiring that a target be positively identified before it may be destroyed, the 1003V ROE incorporates the "Law of War" (LOW) principal of "distinction/discrimination" into a formal, binding rule on U. S. forces' employment of deadly force.' (Encl. (41).)

257. That, here, Major General Mattis, 'was presented with intelligence, in the form of reliable SIGINT and HUMINT that enabled him to reasonably believe that the individuals affiliated with AQ and AMZ, and related terrorist and ACF support and smuggling activities, were present at the raid site (or 'smugglers safehouse/compound') at the time the mission was executed. (Enclosures (1), (2), (3), (4), (5), (6), (7), (41) and Exhibit A.)

258. That the 'location and nature of the target compound further bolstered Major General Mattis' identification of the target, in that the area is isolated, near the Syrian border, and sits directly astride a traditional smuggling route.' (Enclosures (2), (3), (41) and Exhibit A.)

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259. That the "positive identification of this target was accomplished in accordance with the requirements of the said ROE." (Enclosures (1), (2), (3), (4), (5) and (41).)

260. That the effects of "collateral damage" were also properly considered, by Major General Mattis, prior to authorizing the raid of 19 May 04, as follows:

[IO Comment: collateral damage can be defined as 'unintended damage done to persons, property or structures attendant to a lawful use of force;' 'which can range from minimal to significant damage'];

a. Major General Mattis considered the possibility that collateral damage could result from the 19 May raid, specifically, the 'potential for (*unintended damage*) to possibly innocent people in the area;' and determined that the likelihood of such damage was minimal;

b. Major General Mattis "based his decision on all available intelligence leading up to the 19 May raid;" he specifically considered that the compound was located in a "remote, uninhabited desert location adjacent to the Syrian border;"

c. based on its remote uninhabited desert location, 'even an errant round that landed hundreds of meters away from the said target compound, would simply have impacted in the open virtually uninhabited desert;'

d. moreover, the intelligence indicated there were no known innocent civilians at the target compound;

e. finally, because intelligence indicated that the use of the compound was exclusively for the facilitation and smuggling of foreign fighters and ACF, there was no reason to believe that any non-combatants personnel would be residing at the compound.

(Enclosures (1) and (41).)

261. That Major General Mattis' decision to authorize the attack on the said compound (against terrorist affiliates, foreign fighter facilitators and ACF personnel) was completely lawful and in accordance with published ROE. (Encl. (41).)

262. That Major General Mattis' decision to authorize the said raid immediately (12:02 AM local, 19 May 04) resulted in an air support request, by AOB 540 (the special forces unit that M~~(b)~~(6), (b)(3) commanded during the raid), for an AC-130U aircraft to fly a close air support (CAS)-armed reconnaissance (or "RECCE")-intelligence surveillance reconnaissance (ISR) mission in support of a "direct action operation" on the same. (Encl. (42).)

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263. That the said air support request ((b)(1)1.4a) correctly identified the **target location** as grid (b)(1)1.4a with a **target description** as follows: "3-4 buildings in open desert, approximately **10-15 personnel**." (Encl. (42).)

264. That the said air support request ((b)(1)1.4a) stated the following with regard to **mission timing**: (*Quote*) Ground team launch via helo at 2100Z (01:00 AM local, 19 May 04). AC-130 engages target from 23:00Z-23:15Z (03:00-03:15 AM local, 19 May 04) - Major General Mattis, Mar Div Commander, has approved AC-130 to engage this target. There are no friendly forces in proximity to it. Ground team ingress target at 23:30Z (03:30AM local, 19, May 04). AC-130 remains on station to provide ISR coverage and possible precision fires for ground team maneuvers. (*Unquote*) (Encl. (42).)

265. That the said air support request ((b)(1)1.4a) **restrictions** stated: "No 105 MM on buildings." (Encl. (42).)

266. That the said air support request ((b)(1)1.4a) also stated, a **friendly**: "Ground force comprised of approximately 20 personnel will infil via CH-46 helos with AH-1 (*Cobra*) escort. Helos will remain in target area to cover ground forces. DD1972 submitted for fast mover (*F-15E aircraft*) support also. Ground forces will be marked with (b)(1)1.4a (b)(1)1.4a " (Encl. (42).)

(b)(1)1.4a, (b)(3), (b)(6)

268. That the intent "we received and transmitted to (b)(1)1.4a was Major General Mattis, MAR DIV, Commander, Designated (*sic*) all personnel combatants (*i.e., declared hostile*) and to preserve the buildings as much as possible for SSE . . . (Encl. (43).)

269. That Colonel (b)(3), (b)(6) then contacted the Combined Air Operations Center (CAOC) LtCol (b)(3), (b)(6) Judge Advocate General, who confirmed that ground force component commander (Major General Mattis) was the approval authority for the mission. (Encl. (43).)

270. That because these were to be "pre-assault fires," Colonel (b)(3), (b)(6) contacted the Combined Forces Special Operations Command, Commander (CSFOCC) for permission to shoot; with the approval and designation by Major General Mattis, Capt (b)(3), (b)(6) USN, CSFOCC, concurred with the mission; which was a high priority time sensitive target (TST). (Enclosures (43) and (44).)

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(b)(1)1.4a, (b)(3), (b)(6)

(b)(1)1.4a, (b)(3), (b)(6)

273. That the specific mission relayed via SATCOM to the aircraft commander (pilot) and crew was that the aircraft was 'to engage personnel and vehicles at the target location, while minimizing damage on the compound's site (*buildings*) for an (b)(1)1.4a (b)(1)1.4a " (Enclosures (44), (45), (46), (47) and (48).)

274. That at 23:15Z (0315 AM local, 19 May) (b)(1)1.4a requested permission to keep engaging targets because there were **more than 10-15 personnel**; after co-ordination with the ground force commander (*Mag*)(b)(3), (b)(6) through the CJSOAC, Liaison Officer (LNO), permission to continue firing was granted. (Enclosures (43), (44), (45), (49) and Exhibit C, the AC-130U gunship videotape.)

275. That a detailed review and analysis of the said AC-130U gunship video and sworn statements of the key aircrew (i.e., pilot/aircraft commander, plans officer/navigator, fire control officer and infrared detections operator) indicates that they had a thorough understanding of their mission, standing ROE, mission specific ROE constraints (*with regard to not firing on the buildings with 105MM*) and, situational specific, mission developments and adjustments. (Enclosures (45), (46), (47), (48) and Exhibit C.)

276. That throughout the said AC-130U gunship video, the pilot/aircraft commander, Major T. M.(b)(3), (b)(6) USAF, and his crew can be heard discussing proper identification of the target, mission specific ROE constraints and situational developments with regard to both declared combatant personnel on the ground, and the approaching raid assault element (*which was proceeding inbound to the raid site in CH-46 helicopters, as indicated above*). (Encl. (49) and Exhibit C.)

277. That all key aircrew had received relevant ROE and LOW training upon entering the theater and/or within the last year. (Encl. (45), (46), (47) and (48).)

278. That the said aircrew had flown together, as a crew, for the previous five (5) weeks (*approximately twenty (20) combat missions*) and had flown an average of 77.5 combat missions each, making them an exceptionally seasoned and experienced aircrew. (Encl. (45), (46), (47) and (48).)

279. That, after initially engaging the target, two (2) large groups, of declared combatant individuals were seen leaving a building and a tent. (Encl. (49) and Exhibit C.)

280. That after one declared combatant person, from the above groups, ran into a building, the aircrew makes the decision not to fire on the building, pursuant to their mission specific ROE. (Encl. (49) and Exhibit C.)
281. That, in accordance with their mission guidance, the crew can be heard repeatedly discussing the destruction of declared combatant personnel and vehicles only. (Encl. (49) and Exhibit C.)
282. That the aircrew identifies (IDs) a separate "compound," approximately one (1) kilometer to the north. (Encl. (49) and Exhibit C.)
283. That the aircrew can be heard discussing (b)(1)1.4a ' clearance to continue firing/engaging after the first fifteen (15) minutes of engagement. (Encl. (49) and Exhibit C.)
284. That the aircrew can be heard discussing the delay in the CH-46 borne inbound assault/raid force (*whose call sign is* ' (b)(1)1.4a '); first, they are informed and believe the assault/raid force will be delayed for about '1.5 hours;' later, they are informed and believed, that the assault/raid force is "45 mikes away" (*45 minutes away*). (Encl. (49) and Exhibit C.)
285. That the aircrew only observes one (1) tent in the compound, and can be heard discussing the same. (Encl. (49) and Exhibit C.)
286. That at fifty minutes into the mission the aircrew can be heard discussing the following: "I'd say a least 40 people . . . I wonder who these people are (?) . . . foreign fighters . . . how many vehicles(?) . . . looks like 7 vehicles." (Encl. (49) and Exhibit C.)
287. That, despite all the rounds fired on the declared combatant personnel, a survivor is observed walking in the area, approximately one (1) hour after firing commenced, and he is taken down, with approximately nine (9) to ten (10) rounds. (Encl. (49) and Exhibit C.)
288. That at approximately one (1) hour and nine (9) minutes after firing begins a crew member can be heard saying "I wish we could fire on the buildings," to which another crew member responds "[d]on't fire on the buildings. This enhances the SSE." (*that is, the crew is still reminding each other and discussing ROE restrictions/constraints*). (Encl. (49).)

(b)(1)1.4a

290. That, at approximately one (1) hour, twenty seven (27) minutes after (b)(1)1.4a commenced firing, Cobra gunship helicopters arrived, and are visible over the raid site. (Encl. (49) and Exhibit C.)

291. That, at a approximately one (1) hour, forty four minutes (44) minutes after (b)(1)1.4a (b)(1)1.4a commenced firing the, CH-46 helicopters insert the assault/raid force, near building # 3 on the raid site, on the northeast side of the compound (*insertion time of the raid force is approximately 04:44 AM, 19 May 04*).

292. That the (b)(1)1.4a aircrew believed, based on prior intelligence, and their in-flight mission briefings, that only declared hostile combatant men were present at the compound. (Encl. (49) and Exhibit C.)

293. That, at no time, can any member of the crew be heard referring to women or children on the raid site; the crew refers to all individual target personnel on the ground in the masculine gender only (i.e., "he," "him," "guy(s)'). (Encl. (49) and Exhibit C.)

294. That the based on the altitude that (b)(1)1.4a was operating at (b)(1)1.4a (b)(1)1.4a, and the resolution of its optical sights, the aircrew had no certain means to discriminate or distinguish men from women; and, certainly, on the video, there was no video/optic identification of children, or communication regarding the same. (Enclosures (45), (46), (47), (48), (49) and Exhibit C.)

295. That said key crewmembers all had prior experiences, on previous combat missions, where enemy personnel on the ground "played dead" and continued to be a threat to friendly personnel thereafter. (Enclosures (45), (46), (47), (48), (49) and Exhibit C.)

296. That based on their prior experiences, Major(b)(3), (b)(6)and Capt(b)(3), (b)(6)ensured all necessary measures were taken by the crew to completely neutralize all individuals on the raid site, for the purpose of eliminating any threat against the inbound CH-46 helicopters, and their fellow U. S. servicemen aboard the same. (Enclosures (45), (49) and Exhibit C.)

297. That none of the aircrew reported ground to air fire. (Enclosures (45), (46), (47) and (48).)

298. That the key aircrew swore under oath that they believed they were only engaging declared hostile combatant personnel, and did not observe women or children on the raid site. (Enclosures (45), (46), (47) and (48).)

299. That all aircrew members aboard (b)(1)1.4a, involved in the above-said mission, were fully compliant with all ROE requirements and constraints; and there were no LOW (*law of war*) violations committed by any of the same. (Enclosures (49) and Exhibit C.)

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300. That two sections (of two (2) aircraft each) of AH-1W Cobra helicopter gunships participated in support of the raid; the first section checked-in with (b)(1)1.4a at approximately 04:22 AM local, 19 May 04, and held north of the raid site, at approximately five (5) nautical miles, while (b)(1)1.4a finished engaging targets ((b)(1)1.4a finished engaging targets at approximately 04:20 AM local). (Enclosures (49) and (50).)

301. That the first section of Cobras (call sign ' (b)(1)1.4a ', from FOB, Al Qaim) was commanded by Capt (b)(3), (b)(6) USMC, who properly understood his mission to be on-call CAS and reconnaissance in support of the interdiction of High Value Targets (HVTs) and subsequent exploitation by follow on ground forces (*to be inserted by CH-46 helicopters*); he, also, effectively communicated this mission to the other pilots under his charge (1/L1 (b)(3), (b)(6) USMC, Capt (b)(3), (b)(6) USMC (aircraft commander in second aircraft), and Capt (b)(3), (b)(6) USMC). (*Said mission was passed from the Tactical Air Control Center (TACC) "Air Boss" at FOB, Al Qaim, after receipt of a Joint Tactical Air Request (JTAR)*). (Enclosures (50), (51), (53) and (54).)

302. That none of the video recording equipment, in any of the four (4) Cobra gunships (both sections), was operating during the mission due to chronic video recording equipment failure in theatre. (Enclosures (50), (51), (52), (53), (54), (55), (56) and (57).)

303. That, initially, Capt (b)(3), (b)(6) assumed terminal control of CAS, after the AC-130 aircraft (*Direct Air Support or DAS*) fires terminated. (Encl. (50).)

304. That after establishing communications with the raid force mission commander, M ((b)(3), (b)(6) call sign ' (b)(1)1.4a '), Capt (b)(3), (b)(6) passed terminal air control to (b)(1)1.4a (*the CH-46 helicopters, carrying the inbound raid force was, call-sign was ' (b)(1)1.4a '*). (Encl. (50).)

305. That, at approximately fifteen minutes earlier (i.e., prior to passing terminal air control to (b)(1)1.4a) a section of two (2) F-15Es had also checked in with Capt (b)(3), (b)(6); all pilots were on night vision goggles (NVGs) at this point. (Encl. (50).)

306. That, after (b)(1)1.4a ceased firing, (b)(1)1.4a 'pressed in for visual reconnaissance' of the target area/compound; (b)(1)1.4a eventually concurred with (b)(1)1.4a BDA report of approximately seven (7) burning vehicles and 40 enemy KIA. (Enclosures (50), (51) and (52).)

307. That all eight (8) Cobra pilots, from both sections, observed dead bodies on the ground, but could not distinguish gender or age (*from approximately 200 feet above ground level (AGL)*); the largest concentration of dead bodies was approximately 10 to 200 meters southwest of the largest building (building # 3, all the way to the East). (Enclosures (50), (51), (52), (53), (54), (55), (56) and (57).)

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308. That (b)(1)1.4a, the first section of Cobras maintained an "observation/overwatch" during the entire on-call CAS mission and did not engage any ground targets or fire their weapons. (Enclosures (50), (51), (52) and (53).)

309. That (b)(1)1.4a observed the insertion and initial actions of the raid force on the ground at approximately 04:44 AM local and, also, conducted a reconnaissance (*or screening*) of a building of interest approximately 1500-2000 meters to the north of the target buildings (Encl. (51).)

310. That (b)(1)1.4a was "relieved on station" by (b)(1)1.4a (from Korean Village) due to low fuel as the ground force proceeded from east to west clearing the three (3) target buildings; the ground force had cleared about half the buildings at this point. (Enclosures (51), (53) and (54).)

311. That the (b)(1)1.4a mission commander was Capt (b)(3), (b)(6) USMC. (Enclosures (54) and (55).)

312. That Capt (b)(3), (b)(6) understood his mission and effectively conveyed the same, as described above with respect to (b)(1)1.4a, to his pilots (1/Lt (b)(3), (b)(6), USMC, Capt (b)(3), (b)(6) and Capt (b)(3), (b)(6)). (Enclosures (54), (55), (56) and (57).)

313. That, upon relieving (b)(1)1.4a was immediately under the terminal control of Blacksmith. (Encl. (54).)

314. That, initially (b)(1)1.4a flew under NVGs but, "shortly after that BMNT (05:13 AM) passed and the effects of the rising sun crossed . . . [they] eventually de-goggled in the objective area pre-sunrise (06:15 AM local) just before checking off station." (Encl. (54).)

315. That (b)(1)1.4a requested that (b)(1)1.4a "screen to the North to recce" (*or reconnaissance*) some buildings, which they were concerned were not secure. (Encl. (54).)

316. That (b)(1)1.4a made "several passes and identified several small groupings of personnel moving between structures and tents that were set up;" this quote is from Capt (b)(3), (b)(6) who is the only one of the four (4) pilots who reports seeing tents, in addition to structures at this location (*the closest location to the north with multiple structures is (b)(6) residence*). (Enclosures (54), (55), (56) and (57).)

317. That, thereafter, (b)(1)1.4a identified a single person (suspected to be male) moving south towards the single building immediately north of the of the target building (*see enclosure (14); this building is approximately 1000 meters north of the raid site*). (Enclosures (54), (55) and (57).)

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318. That (b)(1)1.4a made a low pass to deter the individual moving south (*towards the raid site*) from continuing his movement, however, he was undeterred and continued moving south towards the raid site; at this point, (b)(1)1.4a requested clearance to engage this individual, and Blacksmith approved the request. (Enclosures (54) and (55).)

319. That (b)(1)1.4a made an east to west attack on the said individual (moving to the south); the first Cobra fired a 2-5 second burst of 20MM (effects of which hit to the south of the individual), and the second Cobra (wingman) fired 2-3, 2.75" rockets; the section of Cobras then pulled off to the south and on a subsequent "recce pass" could not find the individual "in the vicinity of the attack or the buildings." (Enclosures (54), (55) and (57).)

320. That (b)(1)1.4a (Maj)(3), (b)(6) properly authorized the Cobras to engage the above individual, since he had ceased to stop moving southward to the raid site after the first pass of (b)(1)1.4a and, therefore, appeared to be either a declared hostile combatant (*attempting to return to his comrades*) or an imminent threat to the raid force. (Encl. (41) and references cited therein, and enclosures (54), (55), (56) and (57).)

321. That all above-named pilots, from (b)(1)1.4a and (b)(1)1.4a properly understood and complied with both "standing theatre ROE" and mission specific ROE (do not engage buildings); *standing ROE are, essentially, before the aircraft can engage, there must be positive identification of an imminent or actual threat to the aircraft or American personnel, or the aircraft must be under positive control of a forward air controller (FAC)*. (Enclosures (50), (51), (52), and (54).)

322. That none of the above-named eight Cobra pilots observed any type of celebration on the ground or ground to air fire. (Enclosures (50), (51), (52), (53), (54), (55), (56) and (57).)

323. That just prior to (b)(1)1.4a checking off station (approximately 06:30 AM local) a section of two (2) USAF, F-15E's checked on station (call-sign ' (b)(1)1.4a ' and (b)(1)1.4a (b)(1)1.4a . . . (b)(1)1.4a requested that (b)(1)1.4a hold until ground mission was complete, and the F-15E's dropped Mk-82 bombs on the site; (b)(1)1.4a was also requested to talk the F-15E's onto the objective, at this point. (Enclosures (54) and (57).)

324. That, under control of (b)(1)1.4a (Maj)(3), (b)(6) while exfiltrating onboard (b)(1)1.4a (CH-46 helicopter), (b)(1)1.4a and (b)(1)1.4a each dropped two (2) GBU12 bombs (500 lbs.), on the east and west buildings at the raid site, at 06:33 AM local and 06:38 AM local, respectively; and, reported 50% leveled for each building. (Enclosures (3) and (58).)

325. That the F-15E strike on the above-described buildings was lawful, and consistent with the requirements of relevant ROE, because it was done under the positive terminal control of the raid force commander and because the target had been lawfully declared hostile by Major General Mattis. (Enclosures (3), (41) and (58); see also Exhibit C.)

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326. That allegations exist, from an apparent survivor of the raid, (b)(6) wife of (b)(6) (owner of alleged residence) that Law of War (LOW) violations occurred by U. S. raid ground forces, in that U.S. service members shot and killed innocent women and children survivors before exfiltrating from the raid site. (Encl. (59) and Exhibit D.)

327. That (b)(6) statement was recorded by video, translated by Mr. (b)(6) , on or about 25 Jun 04, and is summarized as follows:

- a. I am the wife of (b)(6) ;
- b. I was sleeping in a room when a rocket hit the house with three (3) children (*in it*);
- c. the first explosion woke me up, so I took (b)(6) (*son*) and ran out the door, when I fell down;
- d. they hit my sons (b)(6) and (b)(6) and a fragement hit me in my leg; I feel into the ground; I was creeping for a distance . . . I was creeping with (b)(6) in my hand;
- e. I hid in a hole and one of the girls who was injured came to me in the cavity;
- f. the bombing was going on until 6 AM; we were injured;
- g. the Americans came and one of them was looking at my leg with the wound;
- h. he was talking to an airplane by radio; the airplane shoot another rocket but it did not explode;
- i. our neighbor took us to the hospital; I don't not remember who took us to the hospital [*IO Comment: if she did not remember who took her to the hospital, than she must have been told by someone that a neighbor took her to the hospital*];
- j. I blacked out, I cannot remember how I got to the hospital;
- k. I was wondering about the victims, there were eight (8) of us;
- l. they killed whoever was alive; they went inside the house and bathroom [*IO Comment: this statement does not square with the above statement, FF 325.k, since if they killed "whoever was alive," there would not be eight (8) victims left, including (b)(6) to 'wonder about;' moreover, she could not have personal knowledge of where people went in the house, if she was hiding in a hole; the holes/crates referred to where approximately 300 meters away. (Enclosures (3 and (17).))*]

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- m. they shot them in the morning, some where children; one was alive, but they killed him in the morning;
- n. two (2) other girls who survived were (b)(6) and (b)(6) ;
- o. they continued to hit us by military airplane until 6AM;
- p. they came to check on us to see if we were still alive; they came and held my hand to see if I was still alive;
- q. they took the gold and jewelry from the dead women; they continued to finish to kill the people;
- r. the children (b)(6) and (b)(6) were alive in the morning; they killed and shot them too;
- s. my wounds are in my leg, my hand and my head.

(Encl. (59) and Exhibit D.)

328. That Mr. (b)(6) noted, after reviewing the recorded statement of (b)(6) the following:

She appeared to be in a bed in a house, not a hospital. She was in the company of several people as they and crying children could be heard (but not seen). Her statement was interrupted from time to time as people would enter the room to greet her. I heard what appeared to be suggested questions and answers, such as "You were hurt in the arm, right?" (b)(6) would then agree with the suggested answer. This did not happen all the time she spoke, but only when particular points were to be made.

(Encl. (59) and Exhibit D.)

329. That (b)(6) statement is problematic both on its face, as alluded to above in FF 325, and because she was clearly "coached" during the interview. (Encl. (59); FF 327 and 328.)

330. That (b)(6) statement lacks credibility because she was coached, and because it is contradictory on its face; the following specifics pertain:

- a. she claims she received her initial wound (in the leg) shortly after the first explosion occurred (approximately 03:00 AM), and that, thereafter, she vividly recalls details through, at least 6 AM . . . "[t]he bombing was still going on . . ." (*the last bombs actually fell at 06:38 AM, from " (b)(1)1.4a " one of the two (2), F-15Es*); yet, after three (3)

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hours of vivid recollections, she claims she "blacked out" and "cannot remember how she got to the hospital." [*IO Comment: Based on common experience, it seems doubtful she would have 'blacked out' from a leg wound, especially where the severity of the wound did not impede her memory, whatsoever, for a three (3) and a half hours prior to the period she claims to have blacked out. (In Exhibit D video interview of (b)(6) she does not appear to have a head wound, even though she is clearly coached to say that she does; see also, enclosure (59).)*];

b. she claims that an Americans came and that one of them was looking at her leg wound and talking on a radio to a plane, thereby, causing the plane to shoot 'another rocket, that did not explode,' (of course, (b)(6) could only speculate on who the American was talking to on the radio). [*IO Comment: This assertion does not comport with the only reported air to ground fire while the raid force was on the ground, that of the (b)(1)1.4a which occurred approximately one (1) kilometer to the north of where (b)(6) was likely laying in a "hole" or "crater" (which was approximately 300 meters south of the buildings on the raid site, on the reverse slope of a hill (see enclosures (37), (38) and (60).)). If she had been hiding in the hole, and playing dead, with her eyes closed, as she implies (since the survivors were killed if 'they were still alive'), she would have very likely not been in a position to see a rocket being fired, no less hear the sound of a dud rocket.]*

c. in her chronology, she claims that after she "blacked out" she was "wondering about the victims (survivors); we were (8) eight . . ." [*IO Comment: Aside from this patent non sequitor, this statement does not comport with her later statements that they: "killed whoever was alive," "then they killed us" and "they continued to finish and kill the people." Specifically, it is known that there were at least two (2) women and two (2) children who survived (see enclosure (37)). Additionally, seven (7) hospital records for alleged victims were obtained from Dr. (b)(6) in Al Qaim; however, he did not provide (b)(6) record, as requested. (b)(6) record would have brought the total number of medical records to eight (8), as she claims. With as many as eight (8) survivors, it is abundantly clear that the Americans DID NOT kill "whoever was alive."]*

d. she claims that an American 'held her hand to see if I was still alive.' [*IO Comment: Had an American taken her pulse, as she implies, he should have been able to determine that, in fact, she was alive (clearly, she would have to have been playing dead at this point, with her eyes closed).]*

e. For similar reasons, (b)(6) remaining, assertions, in her videoed statement, do not seem to make reasonable sense; namely, she claims that she was able to observe the Americans taking gold and jewelry from the dead women; yet, according to her, she must have been playing dead, in a crater/depression.

(Encl. (59).)

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331. That, additionally, (b)(6) statement is not credible because the wounds of the survivors treated at Al Qaim Genral Hospital, on 19 May 04, were "fragmentation" wounds, not bullet wounds as (b)(6) expressly states; i.e., "they shoot them in the morning." (Enclosures (18) and (59).)

332. That (b)(6) may have had two (2) of her children, or step-children, killed in the raid ((b)(6) (girl) and (b)(6) (boy), causing her to be unduly biased regarding the said events, or even causing her to have motive to lie. (Encl (71).)

333. That based on nineteen (19) sworn statements, only **five (5)** individuals from the raid ground force (including A0B 540 special forces, USMC/SSE, and USMC/LAV platoon personnel) fired any weapons, during the raid, as follows: **(1)** Maj (b)(3), (b)(6) USA **(2)** LtCol (b)(3), (b)(6) USMC, **(3)** MGySgt (b)(3), (b)(6) USMC, **(4)** (b)(3), (b)(6) (b)(3), (b)(6) USMC and **(5)** SGM (b)(3), (b)(6) USA (Enclosures (3), (29), (30), (31), (32), (33), (34), (35), (36), (37), (38), (62), (63), (64), (65), (66), (67), (68) and (69).)

334. That Maj (b)(3), (b)(6) LtCol (b)(3), (b)(6) Sgt (b)(3), (b)(6) and MGySgt (b)(3), (b)(6) fired their weapons, at four (4) declared hostile combatants (*who were in and around building # 3, on the east end of the raid site; one (1) had a pistol in his hand*), as follows:

a. Maj (b)(3), (b)(6) fired at, and killed, a man in a room (in building # 3) who had a pistol in his hand;

b. LtCol (b)(3), (b)(6) engaged two (2) men in a room (in building # 3), one (1) with his M-16, and the other his M9 pistol;

c. Sgt (b)(3), (b)(6) engaged, again, the second man that LtCol (b)(3), (b)(6) engaged, above (*with his pistol*): both men were killed;

d. MGySgt (b)(3), (b)(6) acting as rear security for his SSE team, shot and killed a man who suddenly popped up from the ground and started aggressing him; he had previously been checked and moved by others for signs of life and was apparently playing "possum."

(Enclosures (3), (35), (36) and (38).)

335. That the fifth individual who fired a weapon, SGM (b)(3), (b)(6) after hearing someone say "fire up that truck . . . (*and*) fired a few rounds towards the truck in order to test fire." (Encl. (29).)

336. That the Maj (b)(3), (b)(6) LtCol (b)(3), (b)(6) Sgt (b)(3), (b)(6) and MGysgt (b)(3), (b)(6) fired at and killed decared hostile combatants and, therefore, their actions were consistent with their mission specific ROE. (Enclosures (3), (35), (36) and (38).)

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337. That given the credibility and consistency of statements provide by US servicemen, who were on the ground at the raid site during execution, there is no reason to doubt their veracity. (Enclosures (3), (29), (30), (31), (32), (33), (34), (35), (36), (37) and (38).)

338. That (b)(6) statement with regard to the execution of innocent women and children at the raid site is not supported by her own statement, or any other evidence, and is untruthful. (Enclosures (3), (29)-(38) and (62)-(69).)

339. That the raid was executed within the constraints of the applicable ROE; and, therefore, there were no ROE (or LOW) violations committed by any US raid force personnel during the said 19 May 04 raid. (Encl. (41) all FF, above, relating to this question.)

Any other matters necessary for a complete understanding of what occurred shortly before, during or after the raid.

340. That Maj (b)(3), (b)(6) was overall responsible, as the raid mission commander, of all ground elements (including the command and control, SSE and building "clearing element"), coordination of air support (rotary and fixed wing CAS and transport/CH-46) and coordination with higher headquarters (1st MarDiv). (Encl. (3).)

341. That Maj (b)(3), (b)(6) provided, inter alia, the following (*non-verbatim*) in his sworn statement:

a. When I gave the order to exfil, based on rotary wing transport and CAS assets running low on fuel, inability to truly exploit the objective or find the handsets, indicators of a large column of vehicles approaching (a threat to our small ground element) from the south and the inability to get light armored reconnaissance (LAR, i.e., the USMC LAV platoon) quick reaction force (QRF) to our location in a timely fashion, I requested destruction of primary buildings by fixed wing CAS (*F-15Es*), had my JTAC (*joint tactical air controller*) clear the airspace, loaded helos (I was the last man on) and observed the target destruction from the back of the helo from approximately eight (8) miles out. We then proceeded to Al Asad to await helo transport to (b)(1)1.4a (*1st Marine Division Headquarters, where the raid force initially launched from the night before*);

b. the only individuals on the actual raid site (defined by building complex with three (3) hard structures and two (2) tents) were all males. (*See FF342 and 343, below, regarding number of tents on raid site.*) When we arrived the AC-130 reported 30-40 KIA on the objective. Following numerous de-briefs on the objective once the site was secure, a high number could only be reported of **24 EKIA - all males**. Based on this discrepancy, I felt it was my obligation to confirm/deny the initial report from the AC-130 and expanded the search. We had completed the minimal SSE we were able to do, had secured the objective and knew helos were inbound (10 minutes out) (*for exfiltration*). I sent a small team over the hill and they discovered approximately six (6)

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female KIA and two (2) wounded girls. We were unable to provide medical treatment and were precluded by rules in theatre, of exfiling the two (2) casualties with us; this was reported prior to exfil to MarDiv and my battalion headquarters. I did not actually see the neutral KIA/WIAs (*i.e., women and children*) but was told of them approximately 3-5 minutes prior to exfil when the expanded search team returned from looking over the hill. They were reported as being 300 meters from the objective area, on the reverse side of 'the hill,' in a defilade/hole position;

c. the individuals were dressed in a manner inconsistent with them being Bedou or desert dwellers (based on my experience of having worked in the Middle-East since 1995 w/Special Forces), they had either pants and shirts or dishdashas and all had nice quality watches. Photos from the raid/objective site show their manner of dress. (*See Enclosure (70) photos.*)

(Enclosures (3) and (70).)

342. That although both Maj(b)(3), (b)(6) and LtCol(b)(3), (b)(6) claim seeing two (2) tents on the raid site, five (5) other raid ground force members claim seeing only one (1) tent; also, the AC-130U videotape clearly depicts only one (1) tent on the raid site. (Enclosures (3), (29), (30), (31), (34), (35), (37) and (49); and Exhibit C.)

343. That there was only one tent (1) on the raid site. (Enclosures (29), (30), (31), (34), (37) and (49); and Exhibit C.)

344. That a total of **four (4) servicemen** (two (2) special forces soldiers and two (2) Marines) were included in the 'expanded search' for confirmation of KIAs reported by the AC-130, referred to in Maj(b)(3), (b)(6) statement, above, namely: **(1)** SGM (b)(3), (b)(6) USA' **(2)** SSG (b)(3), (b)(6) , USA; **(3)** Sgt (b)(3), (b)(6) USMC, and **(4)** Sgt (b)(3), (b)(6) USMC. (Enclosures (3), (29), (32), (37) and (38).)

345. That the above-named four (4) individuals were re-interviewed during the course of the investigation, and provided supplemental sworn statements and detailed diagrams, regarding where they discovered both survivors and dead women and children (*on and around "the hill" approximately 300 meters south of the raid site buildings; enclosure (17) photo was taken from the top of the hill looking north.*) (Enclosures (29), (32), (37) and (38).)

346. That SGM(b)(3), (b)(6) states (*in part; non-verbatim*) the following concerning his participation in the raid, and the expanded search for KIAs:

Myself and SSG(b)(3), (b)(6) were on a security sweep on the south side of the objective, there was a small hill or rise to our right. We moved up the hill to make sure there was no danger to the SSE operation from someone on the hill. When I crested the hill, I saw approximately eight (8) women and seven (7) children who were deceased. I walked within 2-4 feet of the bodies. The females looked to be wearing standard Arab female

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clothing of not bright but assorted colors (red, green, yellow), and all appeared dusty. My count is only an estimate as I did no specific count. I could only distinguish between adult and child by size, using the size of a two (2) year old as a guide to measure. We saw two (2) kids (between 18-24 months) at a distance of 8-10 feet, face up. Neither were moving - very still like baby dolls. I could not make out their genders. SSG(b)(3), (b)(6) said, "those are just dolls aren't they?" I said, "no, I think those are babies." I observed one child, I would guess to be between 8-10 years old; the child was decapitated. I then saw two (2) more children I would think to be between 8-10 years old based on their size. The female was dressed as such, colorful but dirty. The boy was face down, hiding behind a log. He had been injured in his lower body. I did not kick anyone to check for life; they all looked to have catastrophic injuries, such as the decapitated child, another person with 1/2 of a head, severed limbs - obvious signs of death. I was surprised by the lack of blood given the nature of the injuries. All of the children were in an area of a 150 foot radius. I did see two (2) other females, two (2) other children and one (1) male body further east by about 300-400 meters. While walking this area, SSG(b)(3), (b)(6) (and me) were about 15-20 meters apart.

(Encl. (29); see attached annotated map.)

347. That SSG(b)(3), (b)(6) states (*in part, non-verbatim*) the following concerning his participation in the raid, and the expanded search for the KIAs:

SGM(b)(3), (b)(6) and me were doing our security sweep through the objective as the sky was getting light. The sun was not up yet, but we had just removed our NVG/NOD (*approximately 05:45*). We looked up to our right and saw a hill. It wasn't very high but we went up to check it because it looked like there was a small berm on it. As we went to the top, we saw something organic in nature; from half way up we could ID dead bodies. We/I saw about nine (9) bodies, but I'm not sure if they were dead or alive. As we got closer, it was obvious they were hit with high explosives. I saw to my right a small boy of maybe seven (7) years old. He was wearing a white mandress. He looked like he was sleeping. I kicked him to see if he was alive . . . he wasn't. I could see women to the left. I saw a small girl, to my right, next to a woman. The girl was next to the fence; sitting next to the fence was an infant. SGM(b)(3), (b)(6) kicked the infant to see if it was alive . . . it wasn't. (I saw three (3) impact marks from the AC-130 firing, each impact was about one (1) foot across, had a blast mark about three (3) feet out, and each was about four (4) inches deep.) (*Some of the AC-130 105MM craters were much larger and deeper than this one.*) The woman was dressed in Maroon with a tan top, and a dress. Behind the hill (*to the south*) we were on a blind side; we were not able to see any other bodies. While we were checking the hill and the bodies, the SGM and I were a couple of meters distance from each other. I mentioned the three (3) impacts earlier . . . the reason I mentioned them was because I could see body parts for about three (3) more people, but I could not say if they were male, female, adult or child. The SGM was on my right and I did not see what he saw. From what I saw, there were no survivors. The body parts I saw - I could not identify further because I only got as close as 30-40 meters from them.

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((Encl. (32); see attached annotated map.)

348. That with the two (2) exceptions of the distance noted between the two (2) (as they walked the hill, observing the bodies and landscape for the enemy) and whether or not SGM(b)(3), (b)(6) kicked a body to determine if it was still alive, SGM(b)(3), (b)(6) and SSG(b)(3), (b)(6) describe essentially the same scene; with the preponderance of bodies being on top off or South of the hill (*i.e., reverse slope*). (Enclosures (29) and (32).)

349. That SGM(b)(3), (b)(6) recall and descriptions of the size, gender, approximate ages, clothing and other specific detail, plus his relative position during their "sweep" south, (*i.e., further to the south of SSG(b)(3), (b)(6)*), placing him in closer in proximity to the main cluster of bodies, gives his statement greater evidentiary weight than SSG (b)(3), (b)(6) statement. (Enclosures (29) and (32); see attached annotated maps.)

350. That Sgt (b)(3), (b)(6) states (*in part, non-verbatim*) the following concerning his participation in the raid, and the expanded search for the KIAs:

Sgt(b)(3), (b)(6) and I were performing our SSE mission on the objective. I glanced towards the hill (*to the south*) and saw a head move. It looked like a female. I saw the head from a distance of about 300 meters, and I think Sgt(b)(3), (b)(6) saw it also. We were moving (*east*) toward the command element (*Maj(b)(3), (b)(6) position*) so we went straight to Maj (b)(3), (b)(6) the commander, to tell him what I saw. Maj(b)(3), (b)(6) told us to check it out in case it was an ambush. It was getting light, but the sun was up not yet, but we had already removed our NVGs. We moved out to where I saw the head move. The hill rose up about 30-50 feet (a guess only). As we approached the top, I saw a hole or depression with a small mound of dirt on one side of it. I estimate the hole to be about five (5) feet wide and more than a foot and 1/2 deep. In the hole, I saw four (4) people who were alive: a female of maybe 20 years; a female of maybe 10 years; a female who's age I could not guess, but an adult; and a baby, that looked fat. All were alive, but the second female moved very slightly. The baby was crying as I approached, but stopped when it saw me. In fact, I even made eye contact with the first female (20 year old). While there, I also saw a dead female, but it was not near the hole. The dead female lost her legs below the knees, and her intestines were out side her body. I looked back at the hole; the 10 year old had blood on the left side of her face and was lying down; she had a white shirt on. One adult had a red gown, the other had a black dress, and wore some kind of head dress. We did not kick anyone to check for life as they were either obviously dead or obviously alive. We could see no more (to the south) because the actual crest (of the hill) masked us. Also, we were being recalled because the helos were coming and they were low on fuel. We reported back to Maj(b)(3), (b)(6) what we saw. The entire time spent walking up the hill, observing, and walking back was 2-3 minutes. We did see maybe two more bodies while walking, but could not say male/female, old/young, or dead or alive.

(Encl (37); see attached annotated map.)

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351. That Sgt (b)(3), (b)(6) states (*in part, non-verbatim*) the following concerning his participation in the raid, and the expanded search for the KIAs:

When I mention the objective, I mean the main buildings, out buildings, structures, and vehicles in the immediate proximity to each other. It does not include the hill. Sgt (b)(3), (b)(6) and I were conducting SSE southeast of building # 3, at a cooking area, smugglers and other bad guys are known to hide items in food prep and cooking areas. I happened to look toward the hill and saw a deceased female. It wasn't too far away, so I went to check. The female lost her legs at her knees and her intestines were outside her body. She was dead. It was getting light and I had already removed my NVGs, I then saw what looked like a females head moving from the top of the hill. Sgt (b)(3), (b)(6) and I went to Mt (b)(3), (b)(6) to report the pop-up of the female. I believed it was female due to hair length; there was no hair dress. (Hair for males on the objective was cut short; none was long.) Mt (b)(3), (b)(6) said "go with these guys," but we did not see who he referred to. Sgt (b)(3), (b)(6) and I went up the hill about 10-15 meters apart; I was on his left. As I crested the hill about 10-15 meters away, I went a bit further and scanned my sector (*directly to the south*); Sgt (b)(3), (b)(6) was still on the forward hillcrest (*north side of hill; closest to raid site buildings*). I then walked to the east a few steps and passed a dead female. The hilltop itself was to my right. I saw no other dead from my position (*while scanning south*). I looked towards Sgt (b)(3), (b)(6) and saw a depression or hole that had a mound of dirt. I was about 35-50 meters away (guessing distance) from the hole. It looked to be 2 1/2 - 3 feet deep, maybe 8-10 x 6 feet in size. I could see two (2) dark spots that in the past meant a body (*or two*). I could see two (2) bodies in the hole leaning against the dirt mound. I saw them twice, but only with a glance as I was scanning my sector (*to the south*) as a security measure. The closest I got to the hole was 15-20 meters. I was able to see a child with open eyes; of walking age or almost of walking age. The child was lying on its back against the dirt wall. I saw one female in the hole that looked dead, but I did not check further. She was dressed in something dark, but her body parts did not look to be in their normal positions (*i.e., perhaps indicating she was dead or disabled*). I viewed that scene for only 10 seconds. It is possible others were in the hole, but the hole was irregular in shape and I could not see it all. (b)(3), (b)(6) "rogered" my saying (*question*) "are you still there . . . we got to head back?" The scene affected me and I wanted to go back down the hill. All measurements are estimates only. I did not see any other bodies or body parts or survivors. I did not hear any of the people in the hole make any sounds. The only person I could really say was alive was the child/infant.

(Encl. (38).)

352. That with the exception of details of the hole itself and the number of individuals in it, Sgt (b)(3), (b)(6) and Sgt (b)(3), (b)(6) statements describe essentially the same scene (*albeit from different viewpoints; Sgt (b)(3), (b)(6) being the much closer of the two (2) to the hole, and on the north slope of the hill, further to the west, and somewhat lower*); that is a hole/depression with a live baby in it and, at least several bodies, at least one being a woman. (Enclosures (37) and (38).)

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353. That Sgt (b)(3), (b)(6) proximity to the hole (*close enough to look down inside it to determine its depth of approximately one (1) and half feet*) and descriptions of the size, gender, approximate ages, clothing and other specific detail, including making eye contact with the baby and 20 year old women, gives his statement greater evidentiary weight than Sgt (b)(3), (b)(6) statement. (Enclosures (37) and (38); see attached annotated maps.)

354. That based on detailed re-interviews of SGM(b)(3), (b)(6)SSG(b)(3), (b)(6) Sgt (b)(3), (b)(6) and Sgt(b)(3), (b)(6) and analysis of their written statements and map diagrams (as outlined above) that a total of approximately **nine (9) women and (7) children were killed** on or near the objective (*primarily on or near the hill approximately 300 meters to the south of the buildings*) and **four individuals survived (two (2) women and two (2) children)**. *[IO Comment: in arriving at these numbers, I weighted the statements and recollections of SGM(b)(3), (b)(6)(8 dead women and 7 dead children) and Sgt (b)(3), (b)(6) (4 survivors, 2 women and 2 children) most heavily, and added to SGM(b)(3), (b)(6) count of dead woman, the woman with her legs missing from the knee, encountered by both Sergeants (b)(3), (b)(6) and(b)(3), (b)(6) finally, the dead woman that Sgt(b)(3), (b)(6) identified after he crested the hill and walked to the east was assumed to be accounted in SGM number of dead women (8), based on the descriptions of her location and attached diagrams].* (Enclosures (29), (32), (37) and (38).)

355. That, based on the above (FF 341-354) the total number of dead on the raid site objective is **APPROXIMATELY forty (40)**, as follows: twenty four **(24) men**, nine **(9) women** and seven **(7) children**. (Enclosures (3), (29), (32), (37) and (38).)

356. That the total number of dead represented by (b)(6) to Mr. (b)(6) on 4 Jun 04 in Al Qaim, was **thirty nine (39) dead**; including **twenty four men (24) men and fifteen (15) women**; "children" were not identified and cannot be determined from the list provided by (b)(6), however, the number of children is embedded in the total number of men and women. (Enclosure (71).)

357. That **the ACTUAL number of total dead is thirty nine (39)**, since it is highly doubtful that the families of the deceased victims, through (b)(6), would have under-represented their numbers; similarly, **the actual number of dead women and children is believed to be eight (8) and seven (7), respectively** (*i.e., that SGM(b)(3), (b)(6) estimate, of dead women (nine (9)) was high by one (1)*). (Encl. (71).)

358. That while Dr. (b)(6) claimed he treated eight (8) victim-survivors from the 19 May raid, the medical records he provided show fragmentation wounds for only five (5); it has not been possible to ascertain with 100% certainty that there were more than four (4) survivors due to non-availability of alleged witness-survivors. (Enclosures (18) and (37).)

359. That, based on the above, there were **most likely four (4) or (5) five survivors**, but possibly up to eight (8). (Enclosures (18) and (37).)

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360. That number of Iraqi personnel reported killed and wounded by ~~Ma~~(b)(3), (b)(6) on OPSUM 40-006 (i.e., ~~SECRET~~ message, DTG 191800ZMAY04) was: thirty (30) males and six (6) females killed, and two (2) 10 year old girls wounded; these numbers were based on de-brief's held both on the objective and during movement back to 1st Marine Division Headquarters (Encl. (3) and (72).)

361. That, while raid de-briefs were conducted, more thorough de-briefing procedures could have discovered the numbers of dead women and children and survivors identified above, herein. (Enclosure (3); FF 342-352.)

362. That, after the raid, no identification of bodies was made from photographs obtained of the male victims on the site, including the following HVTs: (b)(6) (aka, (b)(6) and (b)(6) the reason for no identification being made is that there are no known photographs for these same individuals. (Encl. (73).)

363. That "post raid reporting confirms that (b)(6) survived the raid, and single-source reporting indicates that (b)(6) departed the meeting early and returned to Syria . . ." (Encl. (73).)

364. That, as of 7 Jun 04, 'there is no post raid reporting regarding (b)(6) and (b)(6) , which may indicate that they were killed in the raid.' (Encl. (73).)

365. That attempts to locate " (b)(6) the alleged owner of the raid site 'residence,' and 'patriarch of the (b)(6) family,' were not successful; enclosure (73) contains a series of e-mail attempting to confirm a rumor regarding his detention by US Special Forces. ((b)(6) and (b)(6) (son of (b)(6)) would only say that (b)(6) was "in Ar Ramadi," and that he, (b)(6) would represent (b)(6) : despite our efforts, we were not able to ascertain precisely where he lived or how to contact him.) (Enclosures (17) and (74).)

366. That all documents and evidence exploited by the SSE, the dress and appearance of the dead, and physical layout of the compound, suggest, beyond any doubt, that the raid site was an operational and ongoing foreign fighter way station, and not a living residence for the (b)(6) family (Enclosures (3), (35), (39) (70) and (75).)

367. That the initial mission report (MISREP; DTG SECRET 190350ZMAY04) published by the Air Force Special Operations Detachment (AFSOD) AP, regarding the AC-130U ((b)(1)1.4a) mission of 18/19 May 04, erroneously reported the following: "(b)(1)1.4a was called to fire by ground troops on 7-10X vehicles . . . after ground troops were taking fire from the personnel," (Encl. (76).)

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368. That this "INCORRECT MISREP" was "sent in error and immediately corrected the next day;" specifically, LtCol (b)(3), (b)(6) USAF (AFSOD AP, Mission Commander) states in his e-mail of 15 Jun 04 to the IO, "[i]t incorrectly reports that we were called in to support ground forces at the target location, and that the friendlies were fire upon." (Encl. (76).)

369. That a videotape seized in the raid of 19 May 04 shows an actual "traditional Bedouin wedding," which is markedly different than the edited tape (**Exhibit B**) provided to the IO by (b)(6) on 9 Jun 04; specifically, the seized wedding video shows:

- a. scenes at the alleged (b)(6) residence;
- b. male individuals wearing pistols and firing rifles and machineguns into the air;
- c. at least two (2) tents; including an apparent nuptial tent, set off in the distance;
- d. women & children celebrants co-mingled with men celebrants;
- e. traditional groom walk to nuptial tent, with men celebrants.

*[**IO Comment:** The absence of a mounted water tank behind the alleged (b)(6) residence indicates that this wedding video was filmed well prior to the 19 May 04 raid, since the water tank was present, but not yet mounted on its platform. Also, photographs of the bride and groom taken from the raid site, that match scenes in the wedding video (and, therefore, are of the same unknown earlier date) show how these same individuals gained weight over time (and apparently had a baby, as well).]*

(Encl. (77) and **Exhibit E**.)

(b)(6), (b)(1)1.4c

(b)(6), (b)(1)1.4c

372. That the report also indicates that the forty (40) reported killed were Mujahadeen. (Encl. (78).)

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373. That reliable post raid HUMINT reporting confirmed that it “. . . was not a wedding party, as reported in the open source, but involved a celebratory dinner for foreign fighters who had just entered Iraq from Syria. Fifty-one (51) personnel attended the dinner. *(This is the same number of individuals (b)(6) said remained at the wedding after the planes came; likely part of the same conspiracy to lie, referred to above in FF153.s.)* Nineteen (19) of the personnel killed were Syrian fighters.” (Encl. (78).)

374. That the platoon commander for the LAV platoon, which was designated to be the Quick Reaction Force (QRF) for the raid force, received his order verbally from ‘a Major in 2/7 who he believed to be the S-3 of the Battalion.’ (Encl. (62).)

375. That the LAV platoon was “to move north of our position (at “Korean Village,” Headquarters, 2d Battalion, 7th Marines) closer to the site about thirty (30) kilometers from the actual target and standby for possible link-up with ODA” (i.e., Special Forces). (Enclosures (3) and (64).)

376. That despite this, the LAV platoon moved to a “standoff” position “approximately 10 kilometers south of the raid site;” arriving in the dark at the standoff position site, at approximately 03:30 AM. (Enclosure (62).)

377. That as they approached the raid site, to within approximately fifteen (15) to twenty (20) kilometers, the LAV vehicles had their headlights on. (Enclosures (63), (64), (65), (66) and (67).)

378. That, it is possible, that the headlights were seen at the raid site from this distance (approximately 6-12 miles), and prior to the AC-130 fires, which may have caused some individuals, including the aforesaid named HVT’s to flee. (Enclosure (63), (64), (65), (66) and (67).)

379. That eventually, at approximately 06:30, after repeated communications problems with Maj(b)(3), (b)(6) command element, two (2) LAVs (including the platoon commander’s) attempted physical link-up with the SSE (whom they believed would be on the objective, “immediately following the raid,”). (Enclosure (62).)

380. That by the time the LAV platoon commander attempted physical link-up on the raid site with the SSE, they had already been extracted, along with the rest of the raid force, in the CH-46’s. (Enclosures (3) and (62).)

381. That during the attempted link-up with the SSE on the raid site, where a LAV vehicle got to within ‘15-30 feet of a house,’ the two F-15Es (“ (b)(1)1.4a ” and “ (b)(1)1.4a ”), released their bombs on the raid site buildings (building # 3 to the east and building # 1 to the west) (Encl (62), (63), (64), (65), (66), (67), (68) and (69).)

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382. That, as a likely result of misunderstanding his platoon's mission, and radio communication problems with Maj (b)(3), (b)(6) command element, a near fratricide situation occurred on the raid site at the time the F-15E's released their five hundred pound bombs. (Enclosures (3) and (62)-(69).)

383. That, on 9 Jun 04, an intelligence report was received by the IO, indicating that an attack was planned in Fallujah, within the next 24 to 48 hours, against an Inspector General (IG) Team, lead by a U. S. military officer, who arrived in Fallujah on 7 Jun 04; *we believe this planned attack was to be directed at our investigative team since we were the only IG team that arrived in Fallujah on 7 Jun 04; we had a meeting scheduled for 9 Jun 04, in Baghdad, which (b)(6) had set the time and place for; we changed the meeting based on the intelligence report.* (Encl. (79).)

[END INVESTIGATION FINDINGS OF FACT.]

RECOMMENDATIONS:

1. That the importance of thorough, detailed and timely operational de-briefs should immediately be re-emphasized throughout the force. This is especially important in complex operations such as the 19 May 04 raid, in the vicinity of Makr al-Deeb. Efforts should include, at a minimum, the overall mission commander's de-briefing with all elements of the assaulting force (including air and security/QRF elements), personnel interviews, use of maps, diagrams and similar devices, as necessary.
2. That the importance of mission confirmation briefings (or immediate mission "read-back") be immediately re-emphasized throughout the force to preclude mission inefficiencies (including, mission creep, as here), enhance mission effectiveness and to prevent a myriad of safety problems, including fratricide.
3. That upon proper proof of death (i.e., authentic and legitimate death certificates) and injury, claims against the United States Government (under the "Foreign Claims Act") for compensation to family members, for the woman and children killed in the 19 May 04 raid, be duly considered for payment;
4. That "Exhibit B," AC-130U videotape, for the 19 May 04 raid, not be de-classified and released to the public in any form.
5. That prior to the release of any photographs or videotape, herein, that due consideration be given to altering/digitizing faces, therein, to preclude the possibility of reprisal or retribution against perceived co-operating witnesses, and/or for military security purposes.

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6. That an unclassified "executive summary" be written and published, as necessary based on the findings and recommendations herein.