

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

Appointed by LTC (b)(6) _____
(Appointing authority)

on 5 Oct 85 (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 (b)(6) _____ at _____ (Time)

on 5 Oct 85 (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.)

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

The (investigating officer) (board) finished gathering/hearing evidence at _____ (Time) on _____ (Date)

and completed findings and recommendations at _____ (Time) on _____ (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

	YES	NO ^{1/}	NA ^{2/}
1. Inclosures (para 3-15, AR 15-6)			
Are the following inclosed and numbered consecutively with Roman numerals: (Attached in order listed)			
a. The letter of appointment or a summary of oral appointment data?	X		
b. Copy of notice to respondent, if any? (See item 9, below)			X
c. Other correspondence with respondent or counsel, if any?			X
d. All other written communications to or from the appointing authority?			X
e. Privacy Act Statements (Certificate, if statement provided orally)?			X
f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?			X
g. Information as to sessions of a formal board not included on page 1 of this report?			X
h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?			X

FOOTNOTES: ^{1/} Explain all negative answers on an attached sheet.

^{2/} Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

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

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

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

See attached memorandum.

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

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

See attached memorandum.

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)(6)

(Recorder)

(Investigating Officer or Board)

(Member)

(Member)

(Member)

(Member)

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

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

(Member)

(Member)

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

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

(b)(6)

Page 5 redacted for the following reason:

(b)(1), (b)(2)Low, (b)(5), (b)(6)

DEPARTMENT OF THE ARMY
Headquarters and Headquarters Troop, 1st Squadron, 71st Cavalry Regiment
1st Brigade Combat Team, 10th Mountain Division (Light Infantry)
(b)(1) Iraq 09376

(b)(2)Low

5 October 2005

MEMORANDUM FOR Commander, 1st BCT, 10th MTN, (b)(1) Iraq

SUBJECT: AR 15-6 Informal Investigation Concerning the Fatal Shooting of a Local National (LN)

1. On 5 October 2005, I was appointed as the AR 15-6 Investigating Officer (IO) for the events surrounding the fatal shooting of a LN. I have conducted a thorough investigation of the circumstances surrounding this incident. My observations, conclusions, and recommendations are provided in the following format: facts, findings, and recommendations.

2. FACTS.

A. On 5 October 2005, Barrier Team 5 from 5-1 MiTT, A Troop, 1-71 CAV, lead by 1LT (b)(6), was conducting barrier emplacement in (b)(1) in support of the Division polling sites (b)(1). The patrol consisted of 2x M1114s, 1x PLS, 1x HEMMT, and 1x Iraqi Army (IA) patrol vehicle. 1LT (b)(6) was the OIC. SSG (b)(6) was the senior NCO. Additionally, one IA squad consisting of five personnel accompanied Barrier Team 5.

B. Team 5 emplaced barriers all morning in different locations around (b)(1). They moved from location to location dropping one barrier at a time. Individual barrier emplacements took 10 to 15 minutes. Therefore, Team 5 had conducted several short halts throughout the morning. In between each short halt, Team 5 would leap frog their vehicles and construct hasty blocking positions. Immediately prior to engaging the civilian vehicle, Team 5 had been stationary for only about 5 to 10 minutes. Supplementing the US blocking positions was the IA element with one Soldier manning a checkpoint to the North and an IA checkpoint to the South. US forces did not emplace any obstacles.

C. The incident occurred at approximately 051000LOCT05 (see enclosure A, BCT Blue-2 Report). A navy blue Peugeot bypassed an Iraqi checkpoint with a line of vehicles approximately four deep. The civilian vehicle had to drive onto the sidewalk in order to pass the stationary vehicles. It continued at a high rate of speed towards the US forces, some of whom were dismounted at the time. (See Story Book Presentation for distances at each event). The civilian vehicle traveled from North to South which placed him on a direct collision course with

(b)(2)Low

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A23, a U.S. M1114. SGT (b)(6) was the gunner of the vehicle in the path of the oncoming vehicle. His TC and driver, PFC (b)(6) were dismounted. The TC was working on downloading barriers while the driver was pulling security facing North. The vehicles, which the Peugeot passed, were turning left as directed by the IA checkpoint. SGT (b)(6) and PFC (b)(6) had a clear line of sight as the vehicle approached at a high rate (est. speed to have been 30 to 35 MPH). SGT (b)(6) and PFC (b)(6) used both hand and arm signals as well as paddles in an attempt to get the Peugeot to stop. The vehicle failed to adhere to their hand and arm signals, so both PFC (b)(6) and SGT (b)(6) independently fired warning shots in the air. The driver ignored the warning shots. SGT (b)(6) and PFC (b)(6) fired into the engine block; again this did not deter the oncoming vehicle. SGT (b)(6) made the decision then to use deadly force. The vehicle finally came to a stop five to ten meters from SGT (b)(6) vehicle. Between SGT (b)(6) and PFC (b)(6) they fired a total of fifteen rounds into the vehicle. (See Story Book Presentation).

D. Immediately after the vehicle came to a stop Iraqi Police (IP) and IA elements moved in on the scene. The IPs pulled the driver, a male, out of the vehicle at the same time that 1LT (b)(6) received a report of the engagement from SSG (b)(6). 1LT (b)(6) directed his medic, SPC (b)(6) to move forward to see if he could provide any assistance. The IPs said they wanted to take the driver to the (b)(1) Hospital. SPC (b)(6) was able to conduct a cursory observation of the body. He determined that the driver was more than likely deceased given his lack of breathing and severe wounds to the head.

E. The IA became irate and started to become aggressive towards 1LT (b)(6) and his men. The engagement occurred within 200 meters of the Peugeot driver's home. His family was also moving onto the scene. Considering the IA's increasingly aggressive demeanor and the distraught family members who were quickly approaching his position, 1LT (b)(6) decided to leave. When he arrived at this decision, he had already completed his barrier emplacement mission. However, this decision meant that he left without taking pictures or inspecting the vehicle.

3. FINDINGS: I find that the engagement and killing of the local national was in accordance with the current Theater Rules of Engagement (ROE), as stated in APPENDIX I (CONSOLIDATED ROE) TO ANNEX E (RULES OF ENGAGEMENT) TO (b)(2)Low TO

(b)(2)Low SGT (b)(6) and PFC (b)(6) identified a hostile act and responded with an escalation of force to eliminate the threat. The driver of the vehicle, for undetermined reasons, chose to ignore all warnings given.

(b)(2)Low

SUBJECT: AR 15-6 Informal Investigation Concerning the Fatal Shooting of a Local National (LN)

4. RECOMMENDATIONS. The following recommendations are put into Issue, Discussion and Recommendation format:

Issue: Establishing blocking positions during barrier emplacement.

Discussion: The barrier emplacement teams make 5 to 10 halts while emplacing barriers. Downloading each barrier takes on average 10 to 15 minutes. Upon coming to a halt, M1114s assume blocking positions in the road approximately 50m to the front and rear of the cargo trucks due to all the side streets and alleyways. In this case, A23 established a blocking position in the southbound lane approximately 100 meters from the IA blocking position to the North. The team had a clear view of the southbound lane. The teams had not been putting out obstacles or warning signs in front due to the fact they kept moving all morning long.

(b)(5)

Issue: Taking digital pictures of the incident site and conducting vehicle inspections.

Discussion: Although the platoon took digital pictures it was after they had departed and returned. Upon return to the site the patrol had to locate the vehicle as it had been removed from the scene to a local junk lot. The issue at the time was the IA were getting agitated towards 1LT (b)(6) and his men. The executive officer of the IA company also lost his composure as an officer by yelling at 1LT (b)(6) and his men therefore

(b)(2)Low

SUBJECT: AR 15-6 Informal Investigation Concerning the Fatal Shooting of a Local National (LN)

inciting his men and the populous to do the same. It went as far as one of the Iraqi Soldiers taking his gear off and yelling at 1LT (b)(6) that he had enough and that his men had shot an innocent man. All of this compounded into 1LT (b)(6) making a decision to leave the scene because he felt his mission was done and the IPs and IAs were taking control of the situation and his presence may have incited the gathering crowd to violence.

(b)(5)

5. POC for this memorandum is the undersigned at (b)(2)Low

(b)(6)

CPT, AD
Commanding

Enclosures:

- A. BCT Blue-2 Report
- B. DA Form 2823 – Sworn statement from PFC (b)(6)
- C. DA Form 2823 – Sworn statement from 1LT (b)(6)
- D. DA Form 2823 – Sworn statement from SGT (b)(6)
- E. DA Form 2823 – Sworn statement from SSG (b)(6)
- F. DA Form 2823 – Sworn statement SSG (b)(6)
- G. Storybook presentation

Enclosure A

1/10 BCT BLUE-2 [COMMANDER'S INCIDENT REPORT]

PURPOSE: TO REPORT CRITICAL AND TIME SENSITIVE EVENTS TO THE COMMANDING GENERAL [CG].

SCOPE: THIS TAB APPLIES TO ALL UNITS ASSIGNED OR TASK ORGANIZED TO 3ID (M).

PROCEDURES: COMMANDER'S INCIDENT REPORT [CIR] IS INTENDED TO PROVIDE THE CG WITH IMMEDIATE NOTIFICATION OF AN INCIDENT INVOLVING 3ID (M) SOLDIERS AND/OR EQUIPMENT. AS MUCH INFORMATION AS POSSIBLE SHOULD BE INCLUDED IN THE INITIAL REPORT BUT IMMEDIATE NOTIFICATION SHOULD NOT BE DELAYED UNNECESSARILY. ADDITIONAL INFORMATION SHOULD BE PROVIDED AS SOON AS POSSIBLE.

**** A COMPLETE REPORT ON THE INCIDENT WILL BE FORWARDED TO 1/10 MTN ****

LINE 1: UNIT REPORTING:

1-71 CAV, (b)(2)Low TM

LINE 2: INCIDENT:

LN KILLED FOR ENDANGERING US AND IRAQI FORCES

LINE 3: DATE/TIME GROUP [DTG] INCIDENT OCCURRED:

05 1000 OCT 05

LINE 4: LOCATION OF INCIDENT:

(b)(1)

LINE 5: PERSONNEL INVOLVED:

NAME	RANK	UNIT	SSN	SEX	AGE	RACE
(b)(6)	SGT	A TRP, 1-71 CAV	(b)(6)	M		(b)(6)
(b)(6)	1LT	A TRP, 1-71 CAV	(b)(6)	M		(b)(6)

LINE 6: SUMMARY OF INCIDENT:

While providing security for barrier emplacement at polling sites in the (b)(1), a civilian vehicle approached their position at a fast rate of speed. SGT (b)(6) A TRP, 1-71 CAV attempted to signal to the driver using hand and arm gestures, shouting, and signaling paddles. The driver did not respond and SGT (b)(6) shot a warning shot into the air and a second into the hood of the car. When the driver failed to respond SGT (b)(6) and 1LT (b)(6) shot seven rounds (5.56) into the windshield. A US Medic assessed the driver dead at 05 1010 OCT 05 and the Iraqi Police took the body the (b)(1) Hospital at 05 1012 OCT 05.

Simultaneously, at 05 1002 OCT 05, a Local National appeared on the roof of a building with an AK-47. Snipers in overwatch engaged the LN and the individual broke contact. They were unable to reengage or locate the individual.

TIMELINE: 05 OCT 05

1000- 1-71 CAV, Shadow 16 element engages vehicle

1002- Snipers engage LN on roof with AK-47

1010- US Medic determines the driver dead

1012- IPs take custody of the body and vehicle

LINE 7: DAMAGE TO GOVERNMENT AND/OR CIVILIAN PROPERTY:

NONE

LINE 8: COMMANDER REPORTING:

TF 1-71 CAV (b)(2)Low BATTLE CPT

SIPR:

VOIP: (b)(2)Low, (b)(6)

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION	2. DATE (YYYYMMDD) 2005 10 05	3. TIME	4. FILE NUMBER
5. 1 (b)(6)	6. 1 (b)(6)	7. GRADE/STATUS E3	
8. ORGANIZATION OR ADDRESS AFRP 1-71CAV			

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

While in a position to pull security on two roads, I had just finished putting a bandage on a child's foot when I heard sergeant (b)(6) yell a warning. I turned to see a vehicle moving at a high rate of speed at us. I heard a shot, I raised my weapon to stop the vehicle. The vehicle was passed the only road it would have been able to take. Sgt (b)(6) engaged the vehicle. I engaged the vehicle and moved to our vehicle to move away from it because of the proximity to ours. I began to pull security while the IN6 got a vehicle, to remove the man and give medical attention. The IN6 and civilians were upset. One man (IN6) took off his uniform, (weapon, vest, top) and walked away. The IN6 were yelling at us and hostile. We were told to mount up and leave to go to go. B justice.

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

TAKEN AT DATED

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

STATEMENT OF

(b)(6)

TAKEN AT

16:15

DATED

2005 10 05

9. STATEMENT (Continued)

Questions

1. we were in position for approximately 45 minutes, maybe more.
2. There was wire in the road, we moved it to allow us freedom to maneuver.
3. Measures used - shout, show of force, warning shots.
4. Number of shots fired unknown.
5. Continue mission as instructed by chain of command.
6. unknown if pictures were taken
7. vehicle was approaching very fast
8. Refer to #2
9. yes i can draw picture of scene
10. vehicle was black or dark grey sedan
11. yes I have received ROE brief

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

PAGE

2

OF

3

PAGES

STATEMENT OF

(b)(6)

TAKEN AT

1615

DATED

2005, 10 05

9. STATEMENT (Continued)

Nothing Follows

AFFIDAVIT

I, (b)(6)

WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. I HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(b)(6)

(signature of person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 5 day of October, 2005

at (b)(1)

(b)(6)

ORGANIZATION OR ADDRESS

(b)(6)

(signature of person administering oath)

IS-6 OFFICER

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE 3 OF 3 PAGES

SWORN STATEMENT

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

1. LOCATION (b)(1) <u>LEAO</u>	2. DATE (YYYYMMDD) <u>20051005</u>	3. TIME <u>1505</u>	4. FILE NUMBER
5. LAST NAME FIRST NAME MIDDLE NAME (b)(6)	6. SSN (b)(6)	7. GRADE/STATUS <u>O2</u>	
8. IDENTIFICATION OR ADDRESS <u>A TRP 1-71 CAV</u>			

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

ON 05OCT05 A TRP CONDUCTED A PATROL IN ORDER TO EMPLACE BARRIERS PRIOR TO THE REFERENDUM. THE PATROL CONSISTED OF ^{(b)(6)} TWO VEHICLES FROM A TRP, TWO PLS TRUCKS FROM DTRP AND AN IA VEH. WITH APPX. 10 SOLDIERS. THE PATROL BEGAN EMPLACING BARRIERS AT APPX 0830, MOVING UP A N-S AVE OF APPROACH, BLOCKING TRAFFIC AS WE MOVED. AT THE SOUTHERNMOST POINT OF THE PATROL, AN IA TRUCK WAS ACTING TO BLOCK TRAFFIC, WHILE A US VEHICLE BLOCKED TRAFFIC TO THE NORTH. THE PLS TRUCKS WERE EMPLACING BARRIERS ON E-W SIDE STREETS THAT PROVIDED ACCESS TO THE MAIN AVE. OF APPROACH. AT APPX. 1000, THE US TRUCK THAT WAS BLOCKING N-S TRAFFIC ENGAGED A CIVILIAN VEHICLE MOVING SOUTH. I WAS IN MY TRUCK AT THIS TIME, ATTEMPTING TO PLAN OUR ROUTE BACK TO ^{(b)(1)} USING THE ^{(b)(2)Low} WHEN THE SHOTS WERE FIRED, I IMMEDIATELY RAN TO THE LEAD (NORTHERNMOST) VEHICLE TO GET A SITREP. I WAS TOLD, BY SSG ^{(b)(6)} THAT SGT ^{(b)(6)} HAD ENGAGED A CIVILIAN VEHICLE. I ASKED FOR A STATUS ON THE DRIVER AND WAS TOLD, BY SSG ^{(b)(6)} THAT HE HAD BEEN HIT. AT THIS TIME, I CALLED FOR THE MEDIC (SPC ^{(b)(6)}) WHO ARRIVED SHORTLY AFTER.

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

STATEMENT OF _____ (b)(6) TAKEN AT _____ (b)(1) ~~DATE~~ DATED 05 OCT 65

9. STATEMENT (Continued)

I ASKED DOC (b)(6) TO CHECK ON THE DRIVER, WHILE I SENT A CONTACT REPORT TO THE TOC. ONCE THIS (b)(6) WAS COMPLETE, I CHECKED BACK WITH DOC WHO TOLD ME THE DRIVER WAS KIA. AT THIS TIME, THE IA BECAME AGGRESSIVE AND DEMANDED TO LEAVE. THE IP'S, WHO HAD A CHECKPOINT SOUTH OF OUR POSITION, SAID THAT THEY WANTED TO TAKE THE BODY TO THE (b)(1) HOSPITAL TO SEE IF HE COULD BE TREATED. I LET THEM. SINCE WE HAD DROPPED ALL OF OUR FIRST LOAD OF BARRIERS, I INSTRUCTED ALL PERSONNEL TO LOAD UP AND MOVE BACK TO (b)(1) TO PICK UP A SECOND LOAD.

QUESTIONS:

- ① HOW LONG WERE YOU IN POSITION: APPX. 90 min.
- ② WERE THERE WIRES OR CONES SET OUT: NO, THE IA HAD A SEMI-FUNCTIONING CHECKPOINT AT THE NORTH AND SOUTH END OF THE ROAD, BUT THERE WAS NO US OBSTACLES
- ③ WHAT OTHER MEASURES WERE USED PRIOR TO DEADLY FORCE: SHOUTING, WAVING STOP PADDLE, WARNING SHOT IN AIR, WARNING SHOT IN HOOD OF CAR.
- ④ HOW MANY ROUNDS WERE FIRED: APPX. 6-8
- ⑤ WHY DID YOU LEAVE THE SCENE: WE WERE OUT OF BARRIERS AND HAD TO RETURN (b)(6) TO GET A SECOND LOAD.
- ⑥ DID ANYONE TAKE PICTURES? YES. ONCE WE RETURNED WITH THE SECOND LOAD, I LOCATED THE VEHICLE AND TOOK PICTURES.
- ⑦ HOW FAST WAS THE VEHICLE APPROACHING: I COULD NOT SEE IT APPROACH.

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

PAGE 2 OF 3 PAGES

STATEMENT OF

(b)(6)

TAKEN AT

(b)(1)

DATED

05 OCT 05

9. STATEMENT (Continued)

⑧ IF THERE WERE NO OBSTACLES, WHY? SINCE THE IA HAD A CHECKPOINT AT THE ENDS OF THE ROAD, AND OUR FORMATION WAS MOVING, I DID NOT THINK IT WAS NECESSARY

⑨ CAN YOU DRAW A PICTURE OF THE SCENE? YES.

⑩ WHAT TYPE OF VEHICLE WAS IT? A DARK (BLUE OR BLACK) PEUGEOT 4-DOOR.

⑪ HAVE YOU RECEIVED AN ROE BRIEF? YES, I WAS GIVEN ONE IN KUWAIT BY JAG AND ONE IN IRAQ BY CPT

(b)(6)

AFFIDAVIT

I, (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS (b)(6) 3 I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(b)(6)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 5 day of October, 2005 at (b)(1)

(b)(6)

ORGANIZATION OR ADDRESS

(b)(6)

ORGANIZATION OR ADDRESS

15-6 Officer

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

PAGE

3 OF 3

PAGES

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
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ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION	2. DATE (YYYYMMDD) 2005 10 05	3. TIME 1504	4. FILE NUMBER
5. (b)(6)	6. SSN (b)(6)	7. GRADE/STATUS E-5	

8. AIRP 1-71 car

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

On 05 OCT 05 while ~~re~~implacing barriers around a local school, we had set up security on both sides of the HMMT's. when the HMMT moved to another st we moved also. around 1000 hrs a blue grey colored sedan bypassed the line of cars (4 Deep) that was stopped ~~about~~ 1 block (approx 100m) away, ~~being~~ waiting to turn left. The car was moving very fast and had driven up on the curb to pass the line. I ~~was~~ was the gunner on A23 and yelled for the car to stop and held up my hand, the car continued toward us, as I was lowering my M4 I fired a warning shot in the air, I could see my driver who was to the right of me lower his weapon ^{tell stop and they} ~~and~~ fire as shot also. ~~The~~ The driver ~~continued~~ continued toward us. Immeadiatly I fired a shot center mass of the head of the vehicle, the shot missed and hit center and low ~~on~~ the windshield, at this time the vehicle was 20m from my position. I then fired 6-7 shots with my M4 into the vehicle, the vehicle continued toward us and finally stopped 5-10 ft from our vehicle. I Then yelled ~~at~~ at my driver and told him to move up away from the vehicle. The ING's and IP's immeadiatly ran to the ~~car~~ car and checked the driver, they then wanted ~~our~~ medic ^{BPC} (b)(6) to

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

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

STATEMENT OF

(b)(6)

TAKEN AT

1504

DATED

2005 10 05

9. STATEMENT (Continued)

move up to help, as SPC (b)(6) ran up an IP pickups pulled up and took the driver to the Hospital, ~~we then~~ The ING's and IP's began yelling and shouting and 1LT (b)(6) and SSG (b)(6) spoke to them, I was unaware of what they discussed, we then continued our mission and returned to ~~the~~ (b)(1) to pick up more barriers.

1. I am not for certain how long we were in position, possibly 1-1½ hrs.
2. we had no cones or wine set up due to the fact that we moved ~~up~~ down the st every 10 min.
3. measures taken prior to using deadly force ~~is~~ were, the paddle/sign that says "stop" in english and arabic was displayed, I and my driver both yelled stop and held up our hands, I fired a warning shot over the vehicle, and I attempted to disable the vehicle before firing at the driver.
4. I fired ~~approx~~ 6-7 rnds plus 1 warning shot, ~~I am~~ I do not know for sure how many my driver fired.
5. we left the scene to continue the mission.
6. Nobody took pictures that I am aware of.
7. There were no obstacles because we had a kind of "floating" security set up that moved every 10-15 min.
7. the car was traveling very fast, 40-45 mph on a 2 lane st.

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

PAGE 2 OF 3 PAGES

STATEMENT OF

(b)(6)

TAKEN AT

B 1504

DATED

2009 10 05

9. STATEMENT (Continued)

new
per
A

A23

vehicle
stoppedengaged warning
vehicle shotyelled
stop

Path of car

barrier
HMMT

Driver

vehicles
turning

10. the vehicle was a blue grey colored sedan.

11. I have had 3 RDE briefs, 1 in Kuwait, one at
by 1LT (b)(6) and 1 including (b)(6) by SFC (b)(6) at

(b)(1)

(b)(1)

Nothing Follows

AFFIDAVIT

I, (b)(6)

HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT

WHICH BEGINS

(b)(6)

FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE

BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS

STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(b)(6)

Statement

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to

administer oaths, this

day of

October, 2009

at

(b)(1)

(b)(6)

ORGANIZATION OR ADDRESS

(b)(6)

ORGANIZATION OR ADDRESS

15-6 OFFICER

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

PAGE

3

OF

3

PAGES

SWORN STATEMENT

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1. LOCAT (b)(1)	2. DATE (YYYYMMDD) 20051005	3. TIME	4. FILE NUMBER
5. LAS (b)(6)	6. SS (b)(6)	7. GRADE/STATUS SSG	
8. ORC A T2P 1-71 LAV			

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

THAT ON THE DAY OF 20051005 ON OR AROUND 1100 HRS WHERE SETTING UP BARRIER VIC OF A SCHOOL IN PREPARATION FOR THE COMING ELECTIONS. WHERE WORKING IN A TIE OF ROLL GOING FROM ONE CORNER OF THE STREET THEN FLEW TO THE NEXT. WE WERE SPRED OUT IN TOTAL OF ABOUT 4 BLOCKS IN THE BACK, NORTH PART OF THE STREET WAS AN IA VEHICLE WHIT PERSONEL PROVIDING BLOCKING + SECURITY. THE NEXT VEHICLE WAS A-13 AND WE WERE PROVIDING SECURITY WHIT MY GUNNER PFC VOUNG IN THE CREW SERVE AND ME PROVIDING GROUND SECURITY NEXT AND AROUND THE (b)(2)Low

THE NEXT BLOCK IS 2 PLS TRUCK PLUS THE CREW WORKING TO SET THE BARRIER ON THE GROUND ALSO SEVERAL IA PERSONEL WHERE HELPING TO KEEP THE PEOPLE AWAY AND PROVIDE SECURITY AROUND THE PLS TRUCKS. AT THE SAME TIME THE 23 ELEMENT SSG (b)(6) WAS SUPPORTING SECURITY AND 1LT (b)(6) DOING COMMAND AND CONTROL ON THE GROUND IN COMPANY OF A T2P. NEXT BLOCK OVER WAS THE A-23 VICTOR WHIT SGT (b)(6) ON THE CREW SERVE (240 B WEPNI) AND HIS M4 OVER WATCHING THE MAIN AVENUE OF APPROACH IN COMPANY OF PFC (b)(6) ON THE GROUND PROVIDING SECURITY AND PEOPLE CONTROL THAT WOULD NOT BOTHER AROUND (b)(2)Low. FROM ONE MOMENT TO ANOTHER I HEARD SMALL ARM FIRE COMING FROM THE A23 (b)(2)Low I TURNED AND SAW THAT THE PERSONEL WERE ENGAGING DOWN TOWARDS THE MAIN AVENUE. I DID NOT REALIZE WHAT THE WERE ENGAGING BUT MY RESPOND WAS TO MY FINDER TO MAINTAIN SECTOR, AND STAY LOW. AFTER IT WAS OVER THE IA FLEW FORWARD TO FIND OUT WHAT HAPPEN AS WELL AS SSG (b)(6) AND 1LT (b)(6) BEGAN REPORTING HIGHER. WE REQUESTED FOR A MEDIC TO BE BROUGHT UP FROM THE OTHER TBN WORKING ON THE OTHER SIDE OF THE SCHOOL. UPON ARRIVAL THE MEDIC

10. EXHIBIT E	11. INITIAL (b)(6)	I MAKING STATEMENT	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF

TAKEN AT DATED

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STATEMENT OF SSB (b)(6) TAKEN AT S-1 TALK DATED 20051005

9. STATEMENT (Continued)

SPL (b)(6) MOVED FORWARD AND PRONOUNCED THE CIVILIAN KIA TWO OTHER IA TRUCKS ARRIVED IN CENEN AS WELL AS IF PERSONNEL AND LATERLY THE BODY TO THE (b)(1) HOSPITAL EVEN THOUGH IT WAS TO LATE. OUR RESPONSE WAS SHOCKING BUT WE CONTINE MISSION, AND AFTER THE IA SECURED THE AREA, AND EVERYTHING WAS UNDER CONTROL WE REPORTED BACK TO THE FOB AND MADE PREPERATIONS TO GO BACK OUT.

Q1. HOW LONG WERE YOU IN POSITION?
A. IN THAT SPECIFIC CORNER WHERE THERE ABOUT 15 MINUTES BUT IN THE AREA THE ENTIRE MORNING SINCE 0840.

Q2. WAS THERE CONVENTIONAL WIRE, OR CONES OR ANYTHING PRESENT?
A. THERE WAS SOME LAYING AROUND, BUT THE GUNNERS HAVE PADLES THE FORM OF A STOP SIGN, BRIGHT RED ALSO IN IN IRAQI LANEWAYS, AS WELL AS WHISTLES, AND SIRENS, AND THE US ARMY TRUCK IN THE STREET BLOCKING THE AVENUE OF APPROACH.

Q3. WHAT MEASURES WERE USED BEFORE DEADLY FORCE?
A. WE USE THE 5 S's, SHOUT, SHOW, SHOVE, SHOT WARNING SHOTS, THEN SHOOT TO KILL.

Q4. HOW MANY ROUNDS WHEN FIRE?
A. I DO NOT KNOW EXACTLY, BUT IT WAS AROUND 10 OR SO.

Q5. WHY DID YOU LEAVE THE SCENE?
A. WE LEFT THE SCENE BECAUSE THE SITUATION WAS UNDER CONTROL AND WE NEEDED TO GO ON WITH THE MISSION.

Q6. DID YOU TAKE ANY PICTURES?
A. UPON RETURN TO AREA WHO STOPED IN GARAGE AND ACQUIRED PICTURES, ALSO THE IA PERSONNEL ALSO TOOK PICTURES.

Q7. HOW FAST WAS THE VEHICLE MOVING?
A. I DO NOT KNOW

Q8. NO OBSTACLES WHY?
A. BECAUSE WE WERE OPERATING IN A ROLL MISSION, OUR

(b)(2) Low

INITIALS OF PERSON MAKING STATEMENT

(b)(6)

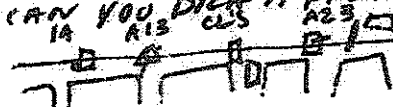
PAGE 2 OF 3 PAGES

STATEMENT OF SSG (b)(6) TAKEN AT 31 TOLK DATED 20051005

9. STATEMENT (Continued)

WERE BLOCKING POSITIONS.

Q9. CAN YOU DRAW A PICTURE OF THE SCENE?

A. 

Q10. WHAT TYPE OF VEHICLE WAS IT?

A. A BLACK VAN IT LOOKS LIKE AN OPEL.

Q11. HAVE YOU RECEIVED AN ROE BRIEF?

A. SEVERAL TIMES, THE LAST TIME WAS BY CPT (b)(6)

END OF STATEMENT

AFFIDAVIT

I, SSG (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

Subscribed and sworn to before me, a person authorized by law to

administer oaths: this

5

day of

Oct

2005

at

(b)(1)

(b)(6)

(b)(6)

(I type name of person administering oath)

15-6 OFFICER

(Authority To Administer Oaths)

PAGE

3

OF

3

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1. LOCATION (b)(1) 5/1 MZTI 10AM TOL	2. DATE (YYYYMMDD) 20051005	3. TIME 1508	4. FILE NUMBER
5. (b)(6)	6. (b)(6)	7. GRADE/STATUS E-6	
8. ORGANIZATION OR ADDRESS 2nd PIT ATRP 1-71 CAU			

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

AT ABOUT 1000 I WAS GUARDING SOLDIERS DOWN LOADING BARRIERS. WE HAD BEEN ON LOCATION 2 HOURS. I HEARD 1-2 ROUNDS AND MOVED AROUND THE CORNER TO MY TRUCK. AS I CAME AROUND THE CORNER THE CAR WAS STILL MOVING AND SGT (b)(6) SHOT 6-8 ROUNDS INTO THE CAR. I YELLED FOR HIM TO STOP FIRING WHICH HE DID. I CALLED FOR IN6 TO CHECK THE DRIVER AND AT TIME IP'S MOVED FORWARD AND REMOVED THE DRIVER FROM THE CAR. A CALL WENT OUT ON THE ICOM FOR OUR MEDIC. BY THE TIME HE ARRIVED THE IP'S WERE LOADING THE DRIVER INTO THEIR TRUCK TO MOVE HIM TO THE HOSPITAL. LT (b)(6) AND I TALKED TO THE IN6 AND THEY TOLD US TO LEAVE. WE HAD FINISHED DOWN LOADING BARRIERS SO LT (b)(6) CALLED NIGHT AND TOLD THEM WE WERE LEAVING AND GAVE THEM A SITREP. I MOVED SGT (b)(6) TO THE DRIVING POSITION AND PFC (b)(6) TO THE GUNNER POSITION AND THEN STARTED OUR MOVE BACK TO BASE.

QUESTIONS.

1. WE WERE ON LOCATION ABOUT 2 HOURS
2. WE DID NOT USE WIRES OR BARRIERS TO BLOCK THE STREET BECAUSE WE WERE MOVING IN AND OUT TO MUCH. SO WE USED SOLDIERS AND TRUCKS.
3. THE GUNNERS USED STOP SIGN VERBAL AND WARNING SHOTS BEFORE DEADLY FORCE
4. THERE WERE 2 SHOTS THAN 6-8 SHOTS BUT I AM NOT SURE
5. WE MOVED FROM THE AREA BECAUSE THE IN6 SOLDIERS WERE YELLING AND ASKED US TO LEAVE. ALSO BECAUSE WE HAD FINISHED MISSION AND NEEDED TO RETURN

10. EXHIBIT F	(b)(6)	WITTING STATEMENT	PAGE 1 OF 2 PAGES
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STATEMENT OF

(b)(6)

TAKEN AT 1508

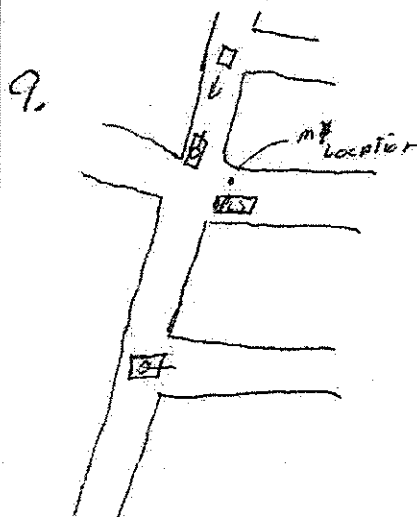
DATED 2445 1095

9. STATEMENT (Continued)

6. When I First Seen The CAR it WAS moving Between 5 And 10 mph And it STOP About 5 Feet From my TRUCK

7. We did not use OBSTACLES because We were using The STREET To move From place To place.

8. No Pictures were Taken because The Irb Sealed The CAR And we did NOT WANT TO move Around The CAR



10. Four Door Sedan, Black

11. I have had TWO And I have given Three or Four

(b)(6)

(b)(6)

(b)(6)

(b)(6)

INITIALS OF PERSON MAKING ST

(b)(6)

PAGE 2 OF PAGES

STATEMENT OF

(b)(6)

TAKEN AT

1508

DATED

20051005

9. STATEMENT (Continued)

Nothing Follows

AFFIDAVIT

(b)(6)

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(b)(6)

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to

administer

5

Oct

2005

at

(b)(1)

(b)(6)

(Signature of Person Administering Oath)

(b)(6)

(Typed Name of Person Administering Oath)

15-6 OFFICER

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE

3

OF

3

PAGES

Enclosure G

Story Book Presentation

LN Shooting 5 October 2005

Involving A TRP, 1-71 CAV, 1st BCT 10th MTN

This slide depicts the LN bypassing traffic by swerving into the opposite lane on a collision course with A23 (SGT (b)(6) and PFC (b)(6) I. At this point the LN actually drives on the sidewalk to pass the traffic so he could continue southbound. Distance from I N to A23: 200m

(b)(1)

At this point A23 uses "STOP" paddles and hand and arm signals to include yelling in attempt to stop the LN Driver. The LN Driver ignores and continues south.

Distance from LN to A23: 150m to 100m

(b)(1)

SGT (b)(6) and PFC (b)(6) fire warning shots in an attempt to force the vehicle to stop. A few seconds go by and the LN is still moving towards them. SGT (b)(6) and PFC (b)(6) fire a few disabling shots into the engine. LN still continues at a high rate of speed toward A23.

Distance from LN to A23: 75m warning Shots; 50m shots into engine block

(b)(1)

SGT (b)(6) makes decision to use deadly force as a last resort to stop threat to his personnel and equipment.

Distance from LN to A23: 30m to 40m deadly force; vehicle comes to a stop 5m to 10m from A23

(b)(1)

View looking South (direction of travel of LN Driver) at SGT

(b)(6)

position.

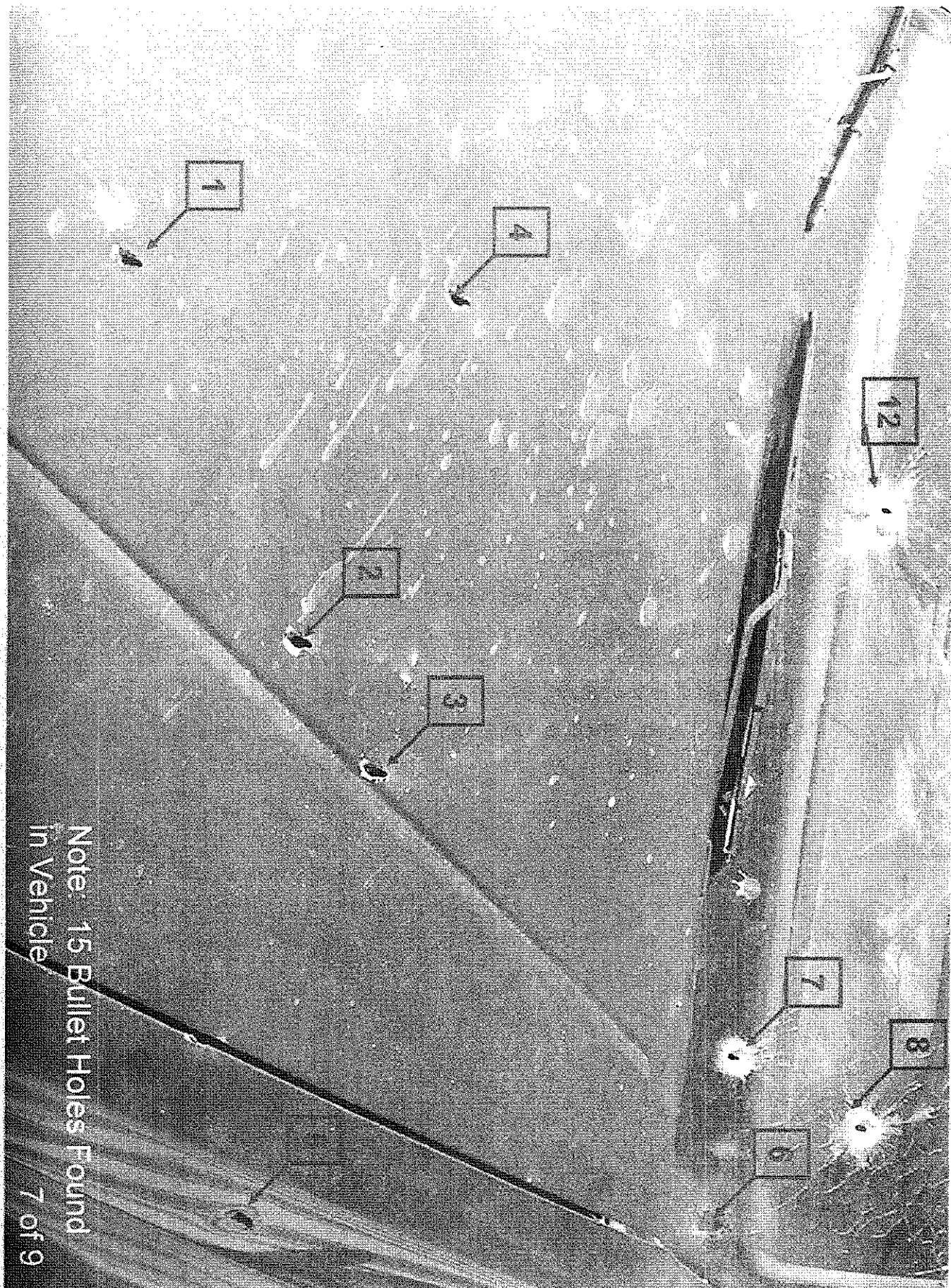
Photo taken day after the incident.

DTG: 060900OCT05

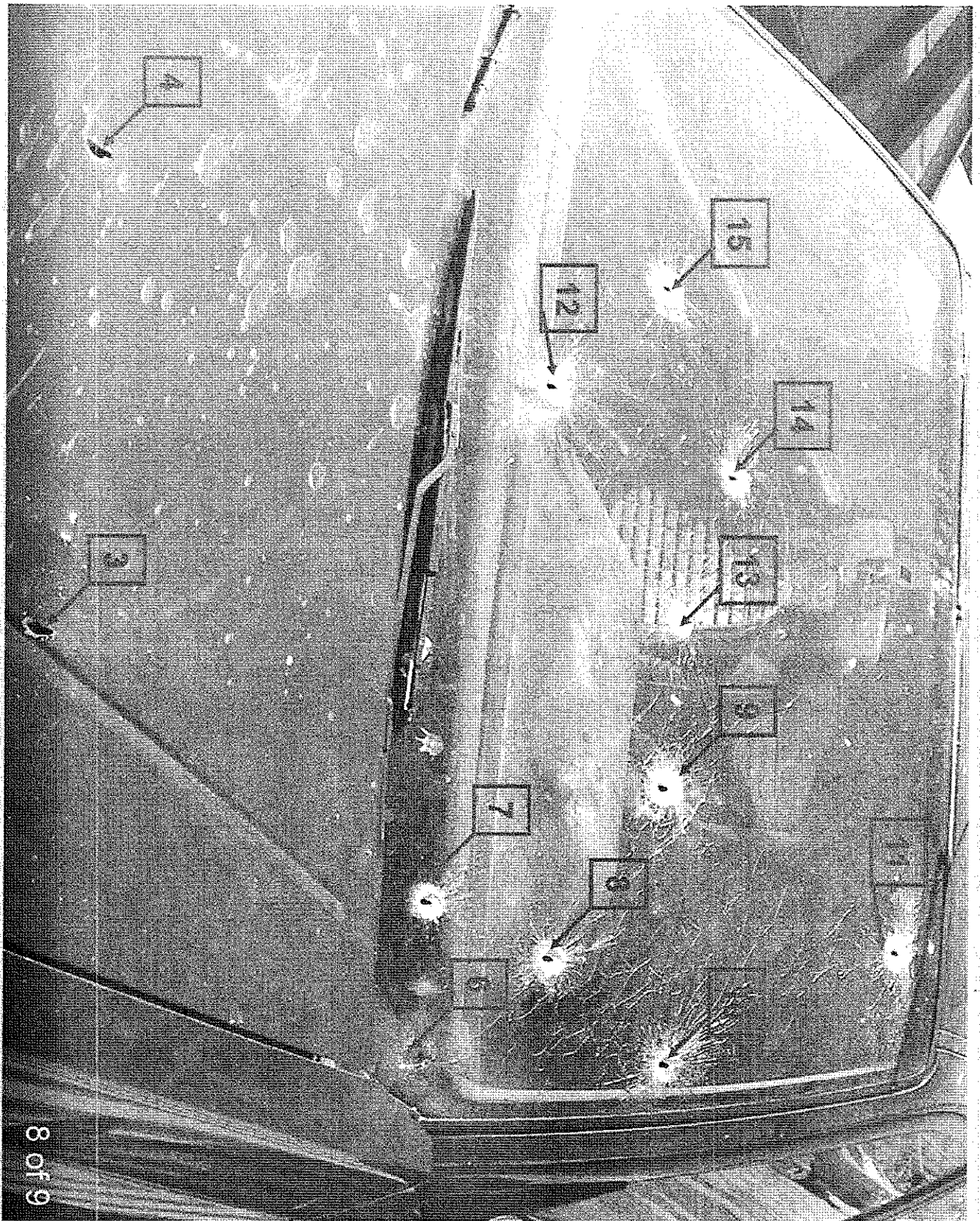
(b)(1)

View from SGT (b)(6) position towards the direction the LN was coming from. Wire was put up at the site by IP or IA afterwards. Photo taken day after the incident.
DTG: 060915OCT05

(b)(1)



Note: 15 Bullet Holes Found
in Vehicle
7 of 9



8 of 9

