### **ESCALATION OF FORCE (EOF) INVESTIGATION REPORT**

101ST AIRBORNE DIVISION (AIR ASSAULT) TASK FORCE BAND OF BROTHERS

IN ACCORDANCE WITH FRAGO 132 TO OPERATIONS ORDER 01-06, THE FOLLOWING REPORT IS TO BE COMPLETED AND FORWARDED TO THE OFFICE OF THE STAFF JUDGE ADVOCATE OF TASK FORCE BAND OF BROTHERS NO LATER THAN 24 HOURS FOLLOWING COMPLETION OF ANY EOF INVESTIGATIONS.

UNIT:

A & B / 562D ENG / 2-1 IN

172D SBCT

ESCALATION OF FORCE DATE TIME GROUP\*: 160820MAR06

LOCATION OF ESCALATION OF FORCE INCIDENT:

TYPE OF INVESTIGATION:

**INFORMAL 15-6** 

FACTS AND FINDINGS OF INVESTIGATION:

FACTS: ENGINEER CONVOY TRAVELING SOUTH ON ROUTE THREE LN VEHICLES TRAVELING NORTH ON ROAD BEGAN TO APPROACH CONVOY, LEAD VEHICLE BEGAN TO USE PROPER EOF TO INCLUDE HONKING HORN, FLASHING LIGHTS, AND HAND AND ARM SIGNALS. THE FIRST TWO LN-VEHICLES PULLED OVER, WHILE THE THIRD CONTINUED TO APPROACH AT A HIGH RATE OF SPEED. UNIT CONTINUED USING PREVIOUS MEASURES, THEN FIRED A WARNING SHOT, FOLLOWED BY A DISABLING SHOTINTO THE GRILL OF THE VEHICLE. THE VEHICLE DID NOT SWERVE OR SLOW DOWN, SO LEAD VEHICLE FIRED TWO SHOTS INTO THE WINDSHIELD. UNIT WAS UNABLE TO IMMEDIATELY TURN AROUND DUE TO SIZE OF EQUIPMENT. ONCE BACK ON SCENE DISCOVERED THAT 4 YR OLD BOY HAD BEEN SHOT IN THE CHEST AND TAKEN TO THE HOSPITAL BY ANOTHER OCCUPANT OF THE VEHICLE.

FINDINGS PROPER IMPLEMENTATION OF ROCAND USE OF EOF. LOCAL NATIONAL BOY SUFFERED GUNSHOT WOUND TO CHEST.

1) NONE OF THE INDIVIDUALS INVOLVED IN THIS INCIDENT SHOULD RECEIVE PUNISHMENT. 2) ALL PERSONNEL CONDUCTING COMBAT PATROLS SHOULD REVIEW THE ROE REGULARLY AND IT SHOULD BE BRIEFED IN EVERY MISSION BRIEF PRIOR TO ROLLING OUT

3) ALL VEHICLES TRAVELING OUTSIDE THE FOR SHOULD BE EQUIPPED WITH AIR HORNS TO ALERT ONGOMING TRAFFIC

4) LOCAL GOVERNMENT SHOULD EDUCATE AMD ENCOURAGE LOCAL NATIONALS TO FOLLOW THE SAFETY GUIDELINES OF WHAT TO DO WHEN APPROACHING A MILITARY VEHICLE.

PREPARED BY:

NCOIC ADMIN LAW

DATE:

REVIEWED BY:

DATE:

\*THIS SHOULD BE THE SAME DTG THAT THE UNIT REPORTED TO DIVISION AND THUS WOULD BE IDENTIFIED IN THE DIV SIGACTS.

The Indimong persons (populars, respondens, counsel) were absent: (Include brief explanation of each absence.) (See para 5-2 and 3-5e, AR 15-6.)  The Indimong persons (populars, respondens), counsel) were absent: (Include brief explanation of each absence.) (See para 5-2 and 3-5e, AR 15-6.)  The Indimong persons (populars, respondens, counsel) were absent: (Include brief explanation of each absence.) (See para 5-2 and 3-5e, AR 15-6.)  The Indimong persons (populars, respondens, counsel) were absent: (Include brief explanation of each absence.) (See para 5-2 and 3-5e, AR 15-6.)  The Indimong persons (populars, respondens, counsel) were absent: (Include brief explanation of each absence.) (See para 5-2 and 3-5e, AR 15-6.)  The Indimong persons (populars, respondens, counsel) were absent: (Include brief explanation of each absence.) (See para 5-2 and 3-5e, AR 15-6.)  The Indimong persons (populars, respondens, counsel) were absent: (Include brief explanation of each absence.) (See para 5-2 and 3-5e, AR 15-6.)  The Indimong persons (populars, respondens, counsel) were absent: (Include brief explanation of each absence.) (See para 5-2 and 3-5e, AR 15-6.)  The Indimong persons (populars, respondens, counsel) were absent: (Include brief explanation of each absence.) (See para 5-2 and 3-5e, AR 15-6.)  The Indimong persons (populars, respondens, counsel) were absent: (Include brief explanation of each absence.) (See para 5-2 and 3-5e, AR 15-6.)  The Indimong persons (populars, respondens, counsel) were absent. (Include brief explanation of each absence.) (See para 5-2 and 3-5e, AR 15-6.)  The Indianation of the Include absence and include absence and include absence and include and include absence and include absence and included on lease and included and included on lease 1 of the Explanation, or other publics.	REPORT OF PROCEE	e of this form, see AR 15-	-6; the proponent agency i	is OTJAG.		
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h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or hoard?  OTNOTES: 1 Explain all negative answers on an attached sheet.	OTNOTES: 1 restant papers (other than evidence) re	elating to administrative a	ispects of the investigation	n or hoard?		<del></del>

DA FORM 1574, MAR 83

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7	i Exhibits (pura 3-16, AR 15-6)	YES NOT NAT
~	a Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as	
	exhibits and attached to this report?	×
	•	
	. h. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	- i
	r Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit;	· ×
	d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is	
	the location of the original evidence indicated?	
	e Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?	* × 1
	$f_{\rm c}$ 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?	×
	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)?	×
	Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)?	
В.	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)?	
ð	Was each absence of any member properly excused (para 5-2a, AR 15-6)?	
7	Were members, witnesses, reporter, and interpreter sworn, if required (pura 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 II 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?	
	r. Does each letter of notification indicate	
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-	(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 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):	
	n Was he properly notified (pana 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, 4R 15-6)?	
	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 [   )	
	THE PARTY OF THE P	
	b. Was respondent's counsel present at all open sessions of the board relating to that respondent?	والمعامل والمناور والمناور والمناور والمناور والمارور
	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)?	1
!2	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?	i picata a
	c. Object to the testimony of witnesses and cross-examine witnesses other than his own?	
	J. Call microscop and otherwise introduce a pidanea?	
	The state of the s	
	e. Testify as a witness?	
	f. Make or have his counsel make a final statement or argument. (para 5-9, AR 15-6)?	
14	f. Make or have his counsel make a tinar statement or argument. <i>Quara 5-9, Art 19-07</i> If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses. <i>Quara 5-8b, AR 15-61?</i>	. i
	attending to the largest of the same of th	
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)?	
FC	DOTNOTES: V. Explain all negative answers on an actached sheet. 2: Use of the NoA column constitutes a positive representation that the circumstances described in the question did not occur in this investigation of the proof.	

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		SECTION SECTION	the evidence	5 <i>(para 3-10, AR</i> finds:				
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THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. (If any valing member or the recorder jails to sign here or hebew, indicate the reason in the space where his signature should appear.)  (Recorder)  (Recorde	Section V
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# DEPARTMENT OF THE ARMY HHC, 2<sup>ND</sup> BATTALION, 1<sup>ST</sup> INFANTRY REGIMENT 172<sup>ND</sup> STRYKER BRIGADE COMBAT TEAM FOB MAREZ, MOSUL, IRAQ

APVR-WLBC-A

24 March 2006

MEMORANDUM FOR RECORD

SUBJECT: Investigation of Circumstances involving a civilian injury

71. Facts: At approximately 0820 on 16 March 2006, elements from A and B platoon, 562 EN were traveling south on Route and Inducting a mounted movement to in 4-23 fNs sector. The patrol consisted of three M1114s and one M916 with trailer. The order of	Ğ	6
movement for the vehicles was EN 407 in the lead, with EN 43, the M916 with trailer following		
benind, and EN 401 and EN 403 in the rear. In the vicinity of LF 3972 0468 FN 407, the lead		>
MTT14 spotted three civilian vehicles traveling North toward the patrol on Route		_
was driving EN 407, with	- 3< 4	<b>~</b>
as the gumer. Upon seeing the three civilian vehicles approaching in the		
opposite lane, began to bonk his horn and flash his lights. At the same time	> <u>&gt;</u> (	
ised hand and arms signals to have the cars pull over. At this time, the first two civilian	~ (	P
venicles pulled to the side of the road and stopped. The third vehicle swerved around the first		
two and continued at a high rate of speed towards EN 407	= *	60
again tried to used hand and arm sounds. When they did	- ×	
not work, he pointed his weapon at the vehicle and waved for him to pull over again. When that		
did not work, Gred one warning shot with his M4 into a safe direction. With the car		
still coming, then fired one round into the grill of the vehicle, hitting the oil pan.		
The car did not swerve or slow down, and the same fired two shots into the windshield of		
the vehicle. The car then moved to the side of the road and came to a stop. Due to the size of the		
vehicles in the patrol, they were unable to turn around immediately. Once they found sufficient	•	
space to turn the M916 and trailer around, approximately 500 meters down the road, and		
returned to the scene, they learned that one of the passengers in the car had been wounded and		
taken to a hospital by another occupant of the vehicle. Four-year-old boy, Othman Saleh  Mohammed had been shot in the upper about hy many cold.		
Mohammed had been shot in the upper chest by one of the rounds shot into the vehicle. The site was secured, and 4-23 was called to provide further support. At that time, an IP unit was sent to		
assist. The boy was treated at the hospital and released. The family was paid 2,410 dollars in		
condolence money for the incident.		

2. Findings: When EN 407 approached the three oncoming civilian vehicles, the first two pulled over and stopped due to the hand and arm signals used by and the horn honking and light flashing of The third vehicle did not stop and continued to approach EN 407 presenting a danger to the occupants of EN 407 and the rest of the patrol. The third vehicle did not stop and continued to approach EN 407 presenting a danger to the occupants of EN 407 and the rest of the patrol. The third vehicle did not stop and continued to approach EN 407 presenting a danger to the occupants of EN 407 and the rest of the patrol. The third vehicle did not stop and continued to approach EN 407 presenting a danger to the occupants of EN 407 and the rest of the patrol. The third vehicle did not stop and continued to approach EN 407 presenting a danger to the occupants of EN 407 and the rest of the patrol. The third vehicle did not stop and continued to approach EN 407 presenting a danger to the occupants of EN 407 and the rest of the patrol. The third vehicle did not stop and continued to approach EN 407 presenting a danger to the occupants of EN 407 and the rest of the patrol.

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windshield in order to eliminate the threat. The boy, who was traveling inside of the vehicle, was injured by one of the shots fired at the vehicle. The boy and all occupants of EN 407 used the correct ROE when being approached by an oncoming car.



#### 3. Recommendations:

- a. None of the individuals involved in this incident should receive punishment.
- b. All personnel conducting combat patrols should review the Rules of Engagement regularly and it should be briefed in every mission brief prior to rolling out.
- c. All vehicles traveling outside the FOB should be equipped with air horns to alert oncoming traffic.
- d. Local government should educate and emphasize local nationals to follow the safety guidelines of what to do when approaching a military vehicle.

4. POC for this memorandum is the undersigned at 521-9526.





## DEPARTMENT OF THE ARMY HHC, 2<sup>ND</sup> BATTALION, 1<sup>ST</sup> INFANTRY REGIMENT 172<sup>ND</sup> STRYKER BRIGADE COMBAT TEAM FOB MAREZ, MOSUL, IRAQ

APVR-WLBC-H

24 March 2006

#### MEMORANDUM FOR RECORD

SUBJECT: Index of Exhibits for Evidence

- 1. The following is an index of the exhibits presented as evidence for the investigation of a shooting that resulted in a civilian injury.
  - a Exhibit A: Investigating Officer Appointment Orders
  - b. Exhibit B: Original SIR
  - c: Exhibit C: Sworn Statement
  - d: Exhibit D: Sworn Statement
  - e: Exhibit E: Sworn Statement
  - f: Exhibit F: Diagram and Timeline of events
  - g: Exhibit G: Pictures and details from scene
  - h: Exhibit H: Email from 4-23 Battle CPT to ENG CO day of incident
- 2. POC for this memorandum is the undersigned at 521-9526.



Ex 6



#### DEPARTMENT OF THE ARMY

2<sup>nd</sup> Battahon, 1<sup>st</sup> Infantry Regiment FOB Courage, Mosul, Iraq APO AF 09319



APVR-WLBC-CO

18 March 2006

66 MEMORANDEM FOR

HHC, Task Force 2-1 INF

SUBJECT. Appointment as Investigating Officer

1. <u>Appointment</u>. You are hereby appointed as an investigating officer pursuant to AR 15-6, paragraph 4-1 to conduct an informal investigation of the circumstances surrounding the escalation of force by while conducting a mounted movement along RTE that the wounding of a LN Child on 160820MAR06.

- 3. Procedures. You are to conduct this investigation using the informal procedures outlined in Chapter 4. AR 15-6. No individual has been named as a respondent at this time. You will thoroughly document all witness interviews in writing, preferably on DA Form 2823 (Sworn Statement). You will interview all witnesses in person, if practical. If, in the course of your investigation, you come to suspect any person may have committed criminal conduct, you must advise that person of their rights under Article 31, UCMJ, of the Fifth Amendment, as appropriate. Witness waivers of Article 31 or Fifth Amendment rights will be documented on a DA Form 3881 (Rights Waiver Procedure/Waiver Certificate). In addition, you may need to provide a witness with a Privacy Act statement before you sobeit information. You are to maintain a written chronology of your actions on this investigation. You are to consult one of your legal advisors if you have any questions regarding these procedures. During the course of your investigation you should address the following issues:
  - a. Detail the events surrounding the shooting, including chronology; identify those involved, including both civilian and military individuals and any relevant equipment/property, and the respective actions taken.
  - o. Assess whether the rules of engagement were understood and followed.
  - c. As needed, make any appropriate suggestions concerning ways to minimize occurrence of future incidents.

4. Suspense. This investigation takes priority over all other duties. Submit your findings and recommendations on DA Form 1574 through the Office of the Staff Judge Advocate to me no later than close of business 25 March 2006. Immediately submit any requests for modification of this suspense or the scope of your investigation to me.

FOR THE COMMANDER:

CPT. IN
Adjutant

Ex6

#### SERIOUS INCIDENT REPORT

FROM: CDR, 562<sup>nd</sup> EN CO TO: 172<sup>nd</sup> SBCT BTL CPT

SUBJECT: Serious Incident Report

- a. Category, 3
- b. Type of Incident. Escalation of Force incident: LN WIA
- c. DTG. 160820MAR06
- d. Location. Vicinity near Hammani Al Alil Ex Z
- c. Other Information, N/A
- f. Personnel Involved.
  - (1) Name.
  - (2) Rank. SGT
  - (3) SSN. (
  - (4) Location; Route
  - (5) Sex. Male
  - (6) Age. 27
  - (7) Position. Assault and Barrier Platoon, 4th Squad Leader
  - (8) Security Clearance. N/A
  - (9) Unit. 562<sup>nd</sup> ENG (A&B platoon)
- g. Summary of Incident: While conducting a mounted movement to 23 Infantry's AO. on route A&B platoon had three vehicles approach their patrol from the front. The patrol consisted of 3 x M1114s and a 916 w/ trailer moving south at approximately 40 mph. The lead vehicle, EN 407, used escalation of force, EN 407 blew the horn, the lead vehicle gunner, used hand and arm signals. Two of the oncoming vehicles pulled over and stopped but a third vehicle passed the stopped two and continued moving toward the patrol. fired a warning shot into the ground about 150 meters out. At about 50 meters a second shot was fired into the grill of the oncoming vehicle. The vehicle made no attempt to slow down but continued moving toward the patrol. The final two shots were fired by into the vehicles window at about 10 meters out, and the car pulled off the road and nearly stops as the EN 407 passes. The patrol continued moving about 500 meters and could not immediately stop and turn around due to the large equipment in the patrol. It took the patrol approximately 10 minutes to turn around and return to the shot vehicle, where they discovered that a child had been injured and was already evacuated. The wounded child was Othman Saleh Mohmmad, age 4, and he was evacuated by a LN to a hospital.

66

h. Commander Reporting	h.	(	omma	ınder	Reno	riiis
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**5**62nd EN Commander

i. Points of contact.

▶562<sup>nd</sup> EN Company XO

- j. Downgrading Instructions. Unknown.
- k. Report Originated By:
- L. Report Released By:
- m. Notification.
  - (1) Position.
  - (2) Name: ..
  - (3) Time.

Ex6

## 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, F.O. 9397 dated November 22, 1943 (SSM). PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be incorately identified ROUTINE USES: Your social security number is used as an additional/alternate means of identification to tacilitate filing and o topy of DISCLOSURE: Disclosure of your social security number is voluntary. 2 DATE (YYYYMMDD) 3 TIME 4 FILL NUMBER 7 GRADE/STATUS TO MAKE THE FOLLOWING STATEMENT UNDER OATH 10 1km - 11 1211 10 CXHIBIT 11 INITIA CAGE FOR PLOIS ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF TAKEN AT DAIEDTHE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT. AND PAGE NUMBER MUST BE BE INDICATED DA FORM 2823, DEC 1998 DA FORM 2823, JUL 72 IS OBSOLETA

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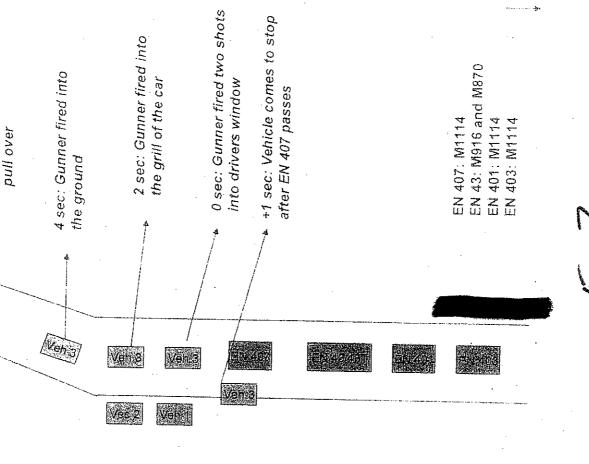
# Sequence of Events

Approximate Timeline

8 sec: Gunner showed

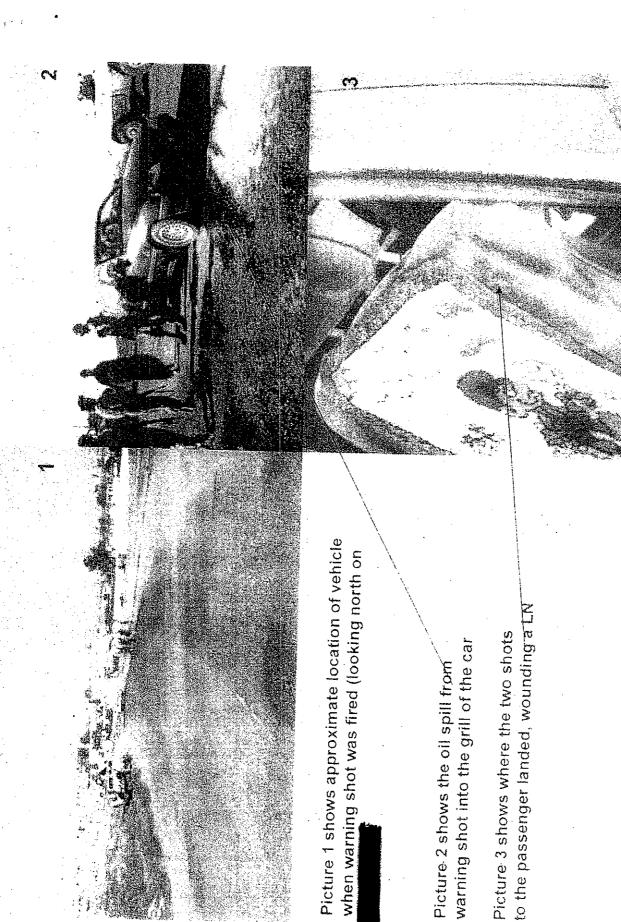
weapon/pointed to

- 1. 4/562 was driving towards Scorpion Base near vic.
- 2. EN 407 was lead vehicle motioning three vehicles approaching the convoy.
- 3. Vehicle 1 and Vehicle 2 stopped Vehicle 3 continued at high speed bypassing LN 1 and 2
- 4. The gunner in EN 407 (M1114), upon seeing the vehicle Used arm signals to stop vehicle. The vehicle continued at a high rate of speed to the convoy. The gunner showed weapon and fired warning shot into the ground. The vehicle continued forward bypassing the two parked vehicles (vec 1 and vec 2). The gunner then shot at the grill, then at the driver of veh 3. Vehicle 3 went past EN 407 and then stopped because of the disabling shots
  - 5. After the patrol found a turn around point for the M916 (tractor) and M870 (trailer), it was determined that an occupant of the vehicle was shot and was taken to a hospital.



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Table Co.



#### 52 ENG CO CDP.

Gle

From: 4-23 INF BTL CPT

Sent: Thursday, March 16, 2006 11:39 AM

To: PT562 ENG CO CDR; PT, 562nd XO

Subject: CONDOLENCE INFO

Classification: UMCLASMFIED

2.4

Here is the into on the Engineer shooting.

Ki

Father

Grand Father:

Mother

Phone #

Home:

Ctl

562<sup>nt</sup> EN engaged vehicle after warning shots they were towing a Low boy and had to find a spot to turn around, once they did they returned. It took about 5 min to turn around and by the time they had returned the Father and Grandfather took the son to the hospital. It do not no the end result of the child. The LT EN got info from the cousin and wrote down all the information. They are medical 0750.

Respectfully,

Gl

4-23 IN ISF LNO

4-23 IN BN BATTLE CPT "TOMAHAWK TOC" FOB MAREZ, MOSUL 521-3127 (PRIMARY) 522-3123 (ALTERNATE)

CH

3/21/2006