

Page 1 redacted for the following reason:

(b)(5)



REPLY TO
ATTENTION OF

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DEPARTMENT OF THE ARMY
HEADQUARTERS, COMBINED TASK FORCE BAYONET
COMBINED JOINT TASK FORCE-82
FORWARD OPERATING BASE FENTY
APO AE 09354

TF-BAYONET

26 September 2007

AR 15-6 TABLE OF CONTENTS

SUBJECT: AR 15-6 Investigation Concerning the Indirect Fire Mission on 27 AUG 07 that Resulted in the Death of a Non-Combatant Near Koshtowz, Afghanistan

1. This Packet contains the 15-6 Investigation in the circumstances surrounding the death of a Non-combatant in the vicinity of Koshtowz, Afghanistan on 27 AUG 07.
2. This Packet consists of the following content:
 - a. EXSUM
 - b. DA FORM 1574 [UNCLASSIFIED]
 - b. MEMO for RECORD [~~SECRET//REL TO USA, GCTF, ISAF, and NATO~~] (U)
 - c. APPOINTMENT MEMO [UNCLASSIFIED]
 - d. EXHIBITS (SWORN STATEMENTS OF ALL PERSONNEL INTERVIEWED):
 - A. PFC
 - B. SSG
 - C. SPC (b)(3), (b)(6)
 - D. SFC
 - E. CPT
 - e. ENCLOSURES:
 - I. SIR [SECRET//NOFORN] (U)
 - II. MAP [~~SECRET//REL TO USA, GCTF, ISAF, and NATO~~] (U)
 - III. RC EAST FRAGO 277 to OPOD 06-06 (REVISED EOF PROCEDURES) [SECRET//REL TO USA, GCTF, ISAF, and NATO] (U)
 - IV. 26 JUN 07 email from SFC (b)(3), (b)(6) TF Bayonet FSNCO, to CPT 91 CAV FSO, discussing use of White Phosphorous rounds [SECRET//FOUO] (b)(3), (b)(6) 1-
 - V. Photos of typical terrain in AO BULLDAWG

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SUBJECT: AR 15-6 Investigation Concerning the Indirect Fire Mission on 27 AUG 07 that Resulted in the Death of a Non-Combatant Near Koshtowz, Afghanistan

3. TIMELINE OF INVESTIGATION :

05 SEP – Appointed Investigating Officer

06 SEP – Received inbrief telephonically from MAJ (b)(3), (b)(6) Read AR 15-6

07 SEP – Collected and started studying ENCLOSURES I – VI

09 SEP – Took first available flight to FOB KEATING, B TRP 1-91 CAV's location

10 SEP – Read Witness Statements filled out for 1LT (b)(3), (b)(6) investigation (EXHIBITS B, C, D). Interviewed SSG (b)(3), (b)(6) SFC (b)(3), (b)(6) and SPC (b)(3), (b)(6) and had them re-swear on their Statements. Interviewed PFC (b)(3), (b)(6) and had him fill-out his Sworn Statement (EXHIBIT A).

12 SEP – Interviewed CPT (b)(3), (b)(6) and had him fill out a Sworn Statement (EXHIBIT E)

13 SEP – Took flight back to FOB NARAY. Started compiling 15-6 packet.

18 SEP – Finished 15-6 Packet.

19 SEP – Submitted packet for Legal Review.

23 SEP – Received feedback from Legal Office.

26 SEP – Resubmitted Packet.

4. The point of contact for this memorandum is CPT (b)(3), (b)(6) at DSN (b)(2)High or (b)(3), (b)(6) @afghan.swa.army.mil.

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

CPT, AR
Investigating Officer (b)(3), (b)(6)

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HEADQUARTERS, COMBINED TASK FORCE BAYONET
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TF-BAYONET

19 September 2007

EXSUM

SUBJECT: AR 15-6 Investigation Concerning the Indirect Fire Mission on 27 AUG 07 that Resulted in the Death of a Non-Combatant Near Koshtowz, Afghanistan

1. BLUF: I find that the use of 120mm mortar fires at OP Warheit on 27 August 2007 was a lawful use of force against a positively identified threat. I find that two local national non-combatants were in the vicinity of the contact as a result of the deliberate efforts of the enemy to lure them into harm's way. The non-combatants were not visible to the observers at OP Warheit. The indirect fires on the enemy one local national juvenile (female) was killed and her father was wounded.
2. RECOMMENDATION: That CJTF-82 should disseminate to Commanders the Enemy TTP of spreading reports of dead livestock to local villagers in order to lure them to sights of future attacks. Commanders can then pass this information along to Elders and they can come up with systems in their Areas of Operation to prevent the enemy from replicating the same effects.
3. The point of contact for this memorandum is CPT (b)(3), (b)(6) at DSN (b)(2)High or (b)(3), (b)(6) @afghan.swa.army.mil.

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

CPT, AR (b)(3), (b)(6)
Investigating Officer

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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 COL (b)(3), (b)(6) CJTF-82 Chief of Staff
 (Appointing authority)

on 05 SEP 07 (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 FOB Naray, Kamdesh District, Afghanistan at 0500Z
 (Place) (Time)

on 07 SEP 07 (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 1400Z on 12 SEP 07
 (Time) (Date)
 and completed findings and recommendations at 0400Z on 18 SEP 07
 (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?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b. Copy of notice to respondent, if any? (See item 9, below)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	c. Other correspondence with respondent or counsel, if any?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	d. All other written communications to or from the appointing authority?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	e. Privacy Act Statements (Certificate, if statement provided orally)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	g. Information as to sessions of a formal board not included on page 1 of this report?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3	Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	Was a quorum present at every session of the board (para 5-2b, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	Was each absence of any member properly excused (para 5-2a, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b. Was the date of delivery at least five working days prior to the first session of the board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	c. Does each letter of notification indicate —	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	(1) the date, hour, and place of the first session of the board concerning that respondent?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	(2) the matter to be investigated, including specific allegations against the respondent, if any?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	(3) the respondent's rights with regard to counsel?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	(4) the name and address of each witness expected to be called by the recorder?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	(5) the respondent's rights to be present, present evidence, and call witnesses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	d. Was the respondent provided a copy of all unclassified documents in the case file?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	Counsel (para 5-6, AR 15-6)			
	a. Was each respondent represented by counsel?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b. Did each member successfully challenged cease to participate in the proceedings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b. Examine and object to the introduction of real and documentary evidence, including written statements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	c. Object to the testimony of witnesses and cross-examine witnesses other than his own?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	d. Call witnesses and otherwise introduce evidence?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	e. Testify as a witness?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 dated 19 SEPTEMBER 2007

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

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

see attached memorandum dated 19 SEPTEMBER 2007

CENTCOM 009767

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SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. (If any voting member or the recorder fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)

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

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

(Recorder)

(Investigating Officer) (P)

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

(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.)

**SIGN
HERE**

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



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**DEPARTMENT OF THE ARMY
HEADQUARTERS, COMBINED TASK FORCE BAYONET
COMBINED JOINT TASK FORCE-82
FORWARD OPERATING BASE FENTY
APO AE 09354**

TF-BAYONET

19 September 2007

MEMORANDUM FOR COL (b)(3), (b)(6) CJTF-82 Chief of Staff

SUBJECT: AR 15-6 Investigation Concerning the Indirect Fire Mission on 27 AUG 07 that Resulted in the Death of a Non-Combatant Near Koshtowz, Afghanistan

1. On 05 September 2007, I was appointed as the AR 15-6 Investigating Officer (IO) for the indirect fire mission on 27 August 2007 that resulted in the death of (b)(6) a non-combatant female minor from the village of Kamdesh. I have conducted a thorough investigation of the circumstances surrounding this accident. My observations, conclusions, and recommendations are provided in the following format: facts, findings, and recommendations.

2. **FACTS.** On 27 August 2007, PFC (b)(3), (b)(6) while pulling guard duty on OP WARHEIT (b)(2)High spotted personnel near the abandoned village of Koshtowz (b)(2)High (b)(2)High while using a (b)(2)High OP WARHEIT had been attacked from that same location the day prior by enemy wearing the same uniform as those 4-5 individuals then in the area. PFC (b)(3), (b)(6) notified his Squad Leader, SSG (b)(3), (b)(6) and the Forward Observer at WARHEIT, SPC (b)(3), (b)(6) (b)(3), (b)(6), of the sighting and the three of them positively identified the individuals at (b)(2)High (b)(2)High as being armed and digging in. They also did not see any non-combatants in the area, or any indicators (b)(1)1.4a) that would suggest non-combatants were present. SFC (b)(3), (b)(6) NCOIC of OP WARHEIT obtained permission to fire the 120 MM Mortar on OP WARHEIT at the enemy combatants at approximately 0700z from CPT (b)(3), (b)(6) B TRP 1-91 CAV Commander. The mortar crew fired 10 rounds of HE and 1 of WP and the rounds were observed hitting within 10 meters of the enemy by SPC (b)(3), (b)(6) wounding 4 of them. (b)(1)1.4a

(b)(1)1.4a

[EXHIBITS A-D,

ENCLOSURES IV-V]

a. The village of Koshtowz is one that has been long-abandoned due to a past tribal feud. The only remaining structures are foundations of old buildings and the area is mined. None of the witnesses that were interviewed by the IO had ever seen livestock or non-combatants in the area (b)(2)High

b. At 1100Z (b)(6) an interpreter at WARHEIT, informed SFC (b)(3), (b)(6) that a non-combatant had been reported killed by the indirect fire. No one on OP WARHEIT had

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SUBJECT: AR 15-6 Investigation Concerning the Indirect Fire Mission on 27 AUG 07 that Resulted in the Death of a Non-Combatant Near Koshtowz, Afghanistan

seen any non-combatants in the vicinity of the fire mission before, during, or after the engagement. No coalition member ever saw the remains of the dead girl or her father, who locals reported was wounded by the indirect fire. SFC (b)(3), (b)(6) relayed to CPT (b)(3), (b)(6) what the interpreter and local nationals who live near OP WARHEIT reported to him and CPT (b)(3), (b)(6) reported the information to TF SABER TOC at 271500ZAUG07. [EXHIBIT D-E]

c. Having no physical evidence or visual confirmation that one non-combatant was killed due to the indirect fire and another was wounded (b)(6), CPT (b)(3), (b)(6) and SFC (b)(3), (b)(6) had to establish the facts by interviewing elders from Kamdesh Village. One of these elders is the Mullah for the mosque located in Camp Keating, who is related to the injured man and the deceased girl. He informed CPT (b)(3), (b)(6) that (b)(3), (b)(6) had been informed that some of his cows were killed by indirect fire during the TIC on 26 AUG and had gone to the area with his daughter to salvage some of the meat before it spoiled. The Mullah claims that the girl was killed, and the father was wounded, by shrapnel from the indirect fire attack. The elders of Kamdesh believe that the enemy combatants spread the story about the cows to draw non-combatants to the area of the 26 AUG TIC so that they could be placed in danger when the enemy initiated contact on OP WARHEIT on 27 AUG. [EXHIBIT E]

d. Based on the positive relationship that B TRP has with the Kamdesh Elders, especially with the Mullah who works on FOB KEATING, CPT (b)(3), (b)(6) decided to believe their report that (b)(6) was killed during the indirect fire attack from OP WARHEIT on 27 AUG 07. Once it was concluded that a death to a non-combatant due to 1-91 Cavalry Operations had occurred, the Squadron submitted an official Serious Incident Report on 020935ZSEP07 and assigned an Investigating Officer to Conduct a 15-6 Investigation.

e. Due to the fact that the indirect fire had been approved by CPT (b)(3), (b)(6) the original IO, 1LT (b)(3), (b)(6) was disqualified from conducting the investigation because he was outranked by someone involved in the accident. After receiving my appointment as the IO, I received my inbrief from MAJ (b)(3), (b)(6) on 06 SEP telephonically and then read RC EAST FRAGO 277 to OPORD 06-06 (Revised EOF Procedures) [ENCLOSURE III], ISAF TACTICAL DIRECTIVE 28 JUN 07 [ENCLOSURE IV], RC EAST FRAGO 509 to OPORD 04-05 (Employment of Joint Fires) [ENCLOSURE V], CENTCOM Guidance for U.S. Forces Operating in Afghanistan 04 AUG 07 [ENCLOSURE VI] in order to clarify what the current ROE is for employment of indirect fires. I took the next available flight out to B TRP's AO on 19 SEP and collected the Sworn Statements from the previous IO. After reading through the Statements of SFC (b)(3), (b)(6) SSG (b)(3), (b)(6) and SPC (b)(3), (b)(6) reinterviewed them and had them re-swear to the truth of the statements. I then interviewed PFC (b)(3), (b)(6) and CPT (b)(3), (b)(6) and had them fill out sworn statements. I

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TF-BAYONET

SUBJECT: AR 15-6 Investigation Concerning the Indirect Fire Mission on 27 AUG 07 that Resulted in the Death of a Non-Combatant Near Koshtowz, Afghanistan

remained at FOB Keating until 13 SEP 07 due to lack of available aircraft and then returned to FOB Naray. While I was in the Kamdesh area, there were two incidents where Local villagers became involved in small-arms battles with enemy combatants. These incidents, combined with the atmospherics of the area, indicate that the Coalition forces operating out of FOB Keating and OP WARHEIT maintain the support of the Afghan People in the area.

3. FINDINGS:

a. I find that the B TRP indirect fire engagement in the vicinity of OP WARHEIT on 27 AUG 07 falls under the Self Defense (Troops In Contact) category [ENCLOSURE III, line 3.D.8.J]. OP WARHEIT had been engaged by RPG from vicinity (b)(2)High by enemy personnel the previous day so that, when armed personnel appeared in the same vicinity in the same uniform the next day, any reasonable person would realize that they were about to be attacked again. By using indirect fire on the enemy combatants in a timely manner, the B TRP Soldiers saved themselves from having to endure incoming rounds.

b. I find that the B TRP Soldiers on OP WARHEIT complied with RC EAST FRAGO 509 to OPORD 07-03 COMSEF TACTICAL DIRECTIVE ON EMPLOYMENT OF JOINT FIRES 230745ZJUL07 [ENCLOSURE III] for Troops In Contact. TIC situations require PID and Adherence to LOAC. The B TRP Soldiers had a reasonable certainty; through the use of (b)(2)High, (b) binoculars, and a spotting scope; that the target being fired upon was a legitimate Military Target and so had Positive Identification (PID) through the entire engagement. The engagement also complies with the fundamental LOAC principles of Military Necessity, Proportionality, and Distinction. The presence of armed personnel in enemy uniforms at the sight of a previous attack made it a military necessity to prevent those personnel from initiating an engagement. The use of only 10 rounds of HE mortar and 1 of WP in the cave infested terrain is enough to ensure that the enemy would not be able to survive the initial burst, hide from subsequent rounds, and return later to engage friendly personnel on OP WARHEIT. No non-Enemy personnel were identified before, during, or after the indirect fire engagement and The Patterns Of Life (POL) for the abandoned Koshtowz Village area indicated that it was completely free of non-combatant presence, making the collateral damage risk extremely low. The B TRP Soldiers on OP WARHEIT reacted to the threat posed by enemy combatants exactly as they should have.

c. I find that the actions of B TRP during the month of August, specifically on 26 and 27 AUG 07, are approved of by the local community.

4. RECOMMENDATIONS:

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TF-BAYONET

SUBJECT: AR 15-6 Investigation Concerning the Indirect Fire Mission on 27 AUG 07 that Resulted in the Death of a Non-Combatant Near Koshtowz, Afghanistan

a. Due to the fact that B TRP and the Kamdesh Village Elders have a positive working relationship, they should convene a Shura where a plan can be worked out to ensure non-combatants stay out of areas where they normally do not go, and that the enemy routinely use for their activities. At the least, Village Elders should stress to their people that any non-usual activity should be reported to Coalition forces so they can ensure the people stay protected.

b. A Solatia Payment should be made for Bebe Aisha. Such a payment is not admission of wrong-doing, but shows that Coalition forces are sympathetic to the tragedy that has befallen the family of the dead girl caused by the actions of the enemy.

5. The point of contact for this memorandum is CPT (b)(3), (b)(6) at DSN (b)(2)High
b)(2)Highlor (b)(3), (b)(6) @afghan.swa.army.mil.

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

CPT, AR
Investigating Officer (b)(3), (b)(6)

4

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REPLY TO
ATTENTION OF

DEPARTMENT OF DEFENSE
HEADQUARTERS, COMBINED/JOINT TASK FORCE (CJTF)-82
BAGRAM AIRFIELD, AFGHANISTAN
APO AE 09354

05 SEP 2007

CJTF-82-CS

MEMORANDUM FOR CPT (b)(3), (b)(6) Headquarters and Headquarters Troop, 1st Squadron, 91st Cavalry Regiment, 173rd Airborne Brigade Combat Team, Task Force Bayonet, Jalalabad, Afghanistan

SUBJECT: Appointment as AR 15-6 Informal Investigating Officer

1. You are hereby appointed as an investigating officer to conduct an informal investigation IAW AR 15-6 into the indirect fire mission on 27 August 2007 that resulted in the death of a local national near Koshtowz, Afghanistan.
2. The scope of the investigation should include the following:
 - a. The facts and circumstances surrounding the indirect fire mission on 27 August 2007 near Koshtowz, Afghanistan;
 - b. The intended targets at the time of the fire mission;
 - c. Whether the fire mission was fired in self defense or whether the fire mission was an offensive use of force;
 - d. If the fire mission was an offensive use of force, whether any ISAF required approvals were obtained to authorize the fires;
 - e. Whether the mission complied with the applicable Rules of Engagement; and
 - f. The identity of any local nationals injured as a result of the fires and the extent and cause of those injuries.
3. This will be an informal AR 15-6 investigation. This will be your primary duty until completed and takes precedence over all other duties and assignments. All statements will be in written form and sworn, using DA Form 2823. If witnesses have redeployed, seek to conduct telephonic interviews of them at their home station.
4. If, during the course of the investigation, you suspect that anyone involved has violated any criminal laws, you should advise that person of their Article 31 Rights, prior to questioning. If anyone attempts to interfere with or obstruct your investigation, notify the appointing authority immediately.

CENTCOM 009773

CJTF-82-CS

SUBJECT: Appointment as AR 15-6 Informal Investigating Officer

5. Use AR 15-6 to guide the investigation. Consider any evidence in the investigation that you determine to be relevant and material to the incident. You should make appropriate findings and recommendations based on the facts gathered during the investigation. The completed investigation should include:

- a. This letter of appointment;
- b. A completed DA Form 1574;
- c. A memorandum for record with your findings and recommendations. Your findings are to be based on the facts you gather and your recommendations should include whether any adverse action is appropriate;
- d. An executive summary;
- e. An index of exhibits;
- f. A chronology of your investigation;
- g. All exhibits labeled in successive order;
- h. A list of all persons interviewed and those from who no statement was taken; and
- i. Proper classification markings.

6. If Afghanistan National Security Forces (ANSF) were involved in this incident, your findings and recommendations are to include any lessons learned you discover during the course of your investigation that may benefit the ANSF.

7. You may consider any evidence in your investigation that you determine to be relevant and material to the above areas. This investigation is your primary duty until completed and takes precedence over all other duties and assignments.

8. No military or civilian witnesses can be ordered to give testimony that may incriminate them. However, you can direct a military or civilian witness to provide testimony if you believe they have relevant information that is not incriminating.

9. MAJ (b)(3), (b)(6) has been designated as your legal advisor. He will assist you with any legal issues that may arise during your investigation. He may be contacted at DSN (b)(2)High or (b)(3), (b)(6) @afghan.swa.army.mil.

CJTF-82-CS

SUBJECT: Appointment as AR 15-6 Informal Investigating Officer

10. Submit your completed report no later than 19 September 2007 to MAJ (b)(3), (b)(6) for legal review. If any circumstances prevent a timely completion of your report, submit requests for delay to me for approval.

11. The point of contact for this memorandum is CPT (b)(3), (b)(6) CJTF-82, Chief of Administrative Law at DSN (b)(2)High

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

COL, GS
Chief of Staff

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF (b)(3), (b)(6) TAKEN AT _____ DATED 2007 09 10

9. STATEMENT (Continued)

them, the started to run downhill to the west. I then lost them in the woodline and some one else took over the
(b)(2)High Later that day some locals came up to us and claimed we killed some local farmers. No one bought their story because there never are any farmers in that area. Then they told us that's because they had to go there to bury dead cows up there. This is all I can remember.

nothing further

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

PAGE 2 OF 3 PAGES

Exhibit A

CENTCOM 009777

STATEMENT OF _____

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

TAKEN AT _____

DATED 2007 09 10

9. STATEMENT (Continued)

Nothing Further

AFFIDAVIT

I, _____ (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 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

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

WITNESSES:

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

 ORGANIZATION OR ADDRESS

 ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, _____ at _____

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

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

PAGE 3 OF 3 PAGES

Exhibit A

CENTCOM 009778

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, USC Section 301; Title 5, USC Section 2951; E.O. 9397 Social Security Number (SSN).

PRINCIPAL PURPOSE: To document potential criminal activity involving the U.S. Army, and to allow Army officials to maintain discipline, law and order through investigation of complaints and incidents.

ROUTINE USES: Information provided may be further disclosed to federal, state, local, and foreign government law enforcement agencies, prosecutors, courts, child protective services, victims, witnesses, the Department of Veterans Affairs, and the Office of Personnel Management. Information provided may be used for determinations regarding judicial or non-judicial punishment, other administrative disciplinary actions, security clearances, recruitment, retention, placement, and other personnel actions.

DISCLOSURE: Disclosure of your SSN and other information is voluntary.

1. LOCATION Camp Keating, Afghanistan	2. DATE (YYYYMMDD) 2007/09/02	3. TIME 0700z	4. FILE NUMBER
------------------------------------------	----------------------------------	------------------	----------------

5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3), (b)(6)	6. SSN (b)(6)	7. GRADE/STATUS E-6
---------------------------------------------------------	------------------	------------------------

8. ORGANIZATION OR ADDRESS

B I-91 ABN CAV

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

On August 26, 2007, an RPG hit 20-25 meters outside the TOC building at OP Warheit. At 1430 hrs I, SSG(3), (b) went up to the (b)(2)High where PFC (b)(3), (b)(6) was scanning the area where it came from, which was (b)(2)High I continued to observe with the (b)(2)High to confirm PFC (b)(3), (b)(6) spot reports, which was 15-20 ACM armed with AK-47's and RPG's. Once the enemy was positively identified by PFC (b)(3), (b)(6) and myself we started to engage the enemy with the 240B, M249 and the MK 19 to fix and destroy the enemy. During the same time the Mortar team consisting of SPC (3), (b) and SPC (b)(3), (b)(6) who also identified the enemy location started to engage with 120mm Mortars. At approx. 1500 hrs we received support by A10's Aircraft who scanned the area and identified ACM moving towards south. due to procedures of the 9 line for authorization for the pilots to engage, the A10 lost visual on the enemy.

On 27 August 2007 at 0700 hrs, SPC (3), (b) called me outside the TOC to inform me that PFC (b)(3), (b) spotted 4-5 personnel, dressed in green uniforms, with AK-47's in the same area (b)(2)High where we received the attack just one day prior. After I, SSG (3), (b) and SPC (3), (b) confirmed that initial report given by PFC (b)(3), (b) (SPC (3), (b) send the report to higher and requested a fire mission for the 120mm Mortar system. Once approved by Bulldawg TOC, we engaged with 10 HE and 1 WP mortar. The rounds were observed and fire mission was completed within 20 minutes. At approx. 1100 hrs (b)(6) the Interpreter at Warheit reported that a little girl was killed from our engagement. He stated that the girl was with her father at the site to collect the cattle meat from the cattle that died the day prior due to our fire mission. At no time on 26 or 27 August we spotted any cattle in the area. The grid that we shot our fire mission at, were scanned by the FO SPC (3), (b), the Mortar team, PFC (b)(3), (b) (on the (b)(2)High and cleared to fire by myself.

Nothing Follows

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

10. EXHIBIT B	11. INITIALS (b)(3), (b)(6)	MAKING STATEMENT	PAGE 1 OF 1 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)(3), (b)(6)

TAKEN AT Camp Keating

DATED 2007/09/02

9. STATEMENT (Continued)

Nothing Follows

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

AFFIDAVIT

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

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

(Signature)

WITNESSES

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

Subscribed and sworn to before me, a person authorized by law to administer oaths, this ____ day of _____, at _____

B Troop, 1-91 Cav
ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

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

PAGE 2 OF 2 PAGES

Exhibit B

CENTCOM 009780

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, USC Section 301; Title 5, USC Section 2951; E.O. 9397 Social Security Number (SSN).

PRINCIPAL PURPOSE: To document potential criminal activity involving the U.S. Army, and to allow Army officials to maintain discipline, law and order through investigation of complaints and incidents.

ROUTINE USES: Information provided may be further disclosed to federal, state, local, and foreign government law enforcement agencies, prosecutors, courts, child protective services, victims, witnesses, the Department of Veterans Affairs, and the Office of Personnel Management. Information provided may be used for determinations regarding judicial or non-judicial punishment, other administrative disciplinary actions, security clearances, recruitment, retention, placement, and other personnel actions.

DISCLOSURE: Disclosure of your SSN and other information is voluntary.

1. LOCATION Camp Keating, Afghanistan	2. DATE (YYYYMMDD) 2007/09/02	3. TIME 0700z	4. FILE NUMBER
5. LAST NAME FIRST NAME, MIDDLE NAME (b)(3), (b)(6)	6. SSN (b)(6)	7. GRADE/STATUS E-4	
8. ORGANIZATION OR ADDRESS B 1-91 ABN CAV			

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

On August 27, 2007, PFC (3), (b) observed with the (b)(2) High 5 personal one of whom had an A.K. 47 at (b)(2) High I was called from the talk with SSG (3), (b) to also observe the packs. I was observing threw the (b)(2) High and my binos with eyes on. SPC (b)(3), (b)(6) had eyes on with a spotter scope and observed they were wearing olive drab uniforms. On August 26, 2007 around 1430z we took contact from multiple packs from (b)(2) High I engaged with 120mm at that grid. I stopped fire mission for the A10s. The pilot spotted the packs at (b)(2) High however by the time the 9 line was sent he lost contact and no ordnance were dropped. On August 27, 2007 at 0700z the approval was sent to fire on the 5 packs at (b)(2) High I observed 4 male packs hit by 120mm rounds 10 meters and less from them. In all 10 HE and 1 WP were fired. Later that day around 1100z the interpreter informed us that a little girl was killed in the strike. SPC (b)(3), (b)(6) and I that day into the next observed Keating, however all we saw was one adult Male who seemed to be dead carried in. I cannot recall the time we saw the body carried in.

Nothing follows

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

10. EXHIBIT C	11. INITIALS OF PERSON MAKING STATEMENT (b)(3), (b)(6)	PAGE 1 OF <u>3</u> PAGES
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.		

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

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

TAKEN AT Camp Keating

DATED 2007/09/02

3. STATEMENT (Continued)

Nothing Follows
b)(3), (b)(6)

INITIALS OF PERSON MAKING STATEMENT

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

PAGE 2 OF 3 PAGES

DA FORM 2823, NOV 2006

APD PE v1.00

Exhibit C

CENTCOM 009782

30608

STATEMENT OF

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

TAKEN AT Camp Keating

DATED 2007/09/02

2. STATEMENT (Continued)

Nothing Follows
(b)(3), (b)(6)

AFFIDAVIT

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

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

WITNESSES:

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

B Troop, 1-91 CV
ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____ at _____

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

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

PAGE 3 OF 3 PAGES

Exhibit C

CENTCOM 009783

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN) .
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 Camp Keating, Afghanistan	2. DATE (YYYYMMDD) 2007/09/02	3. TIME 1300	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3), (b)(6)	6. SSN (b)(6)	7. GRADE/STATUS E-7	

8. ORGANIZATION OR ADDRESS
B 1-91 ABN CAV

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

On 26 August at 1430, OP Warheit was hit by an RPG. The RPG hit inside OP Warheit close about 20 to 25 meter from the TOC. PFC(3), (b)(2)High and spotted the heat source from (b)(2)High PFC(3), (b)(2)High also observed 15-20 ACMs with AK47s and RPGs. SSG(3), (b)(2)High and SPC(3), (b)(2)High went to the (b)(2)High and also observed the 15-20 ACMs with AK47s and RPGs. OP Warheit engaged with 240B, 249 SAW, MK19, 120mm rounds that were HE and WP. Approximately 1500 there were A10 on station and reported that there were enemy personnel running to the south. The A10 did not engage they were waiting for authorization to fire. 10 minutes later the A10 were authorized to fire but could not observe the enemy. On 27 August at 0700, PFC(3), (b)(2)High observed 4 to 5 personnel at (b)(2)High SSG(3), (b)(2)High and SPC(3), (b)(2)High who were in the TOC went the (b)(2)High were PFC(3), (b)(2)High was located and observed 4 to 5 personnel in uniform with an AK 47. SPC(3), (b)(2)High at the 240 position and using a spotter scope observe 4 to 5 personnel in uniform and one AK 47 at (b)(2)High I reported what was observed to Bulldawg TOC and waited for authorization to use the 120mm. The fire mission was approved the 120mm fired 10 HE and 1WP. Once the fire mission was completed, SSG(3), (b)(2)High and SPC(3), (b)(2)High were observing through the (b)(2)High and reported targets destroyed. Approximately 1100 the interpreter report to me that there was a little girl killed in the fire mission. The interrupter informed me that she was with her father collecting meat from the cattle that were killed the day prior. I ask SSG(3), (b)(2)High and SPC(3), (b)(2)High did they observe any cattle on either one of the days and they said they observed no cattle.

*NOTHING
FOLLOWS*

10. EXHIBIT D	11. INITIALS C MAKING STATEMENT (b)(3), (b)(6)	PAGE 1 OF <u>3</u> PAGES
-------------------------	---------------------------------------------------	--------------------------

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.

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF (b)(3), (b)(6) _____ TAKEN AT CAMP KEATING DATED 02 SEPT 07

9. STATEMENT (Continued)

NOTHING

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

FOLLOWS

INITIALS OF PERSON MAKING STATEMENT

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

PAGE 2 OF 3 PAGES

PAGE 2, DA FORM 2823, DEC 1998

APD PE v1 01

Exhibit D

CENTCOM 009785

30611

STATEMENT OF (b)(3), (b)(6) TAKEN AT CAMP KEATING DATED 02 SEPT 07

9. STATEMENT (Continued)

NOTED.
(b)(3), (b)(6) *FOLLOWS*

AFFIDAVIT

I, (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE _____. 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 THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

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

WITNESSES:

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

BPROP, 1-91 CAN
ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, _____ at _____

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

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

PAGE 3 OF 3 PAGES

Exhibit D

CENTCOM 009786

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF CPT (b)(3), (b)(6) _____ TAKEN AT 1030 DATED 2007/09/12

9. STATEMENT (Continued)

-----NOTHING FOLLOWS-----

INITIALS OF PERSON MAKING STATEMENT

(3), (b)

PAGE 2 OF 3 PAGES

PAGE 2, DA FORM 2823, DEC 1998

APD PE v1.01

Exhibit E

CENTCOM 009788

STATEMENT OF CPI (b)(3), (b)(6) TAKEN AT 1030 DATED 2007/09/12

9. STATEMENT (Continued)

NOTHING FOLLOWS

AFFIDAVIT

I, (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 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

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

WITNESSES:

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

B TROOP, 1-91 CAU
ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, at _____

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

(3), (b)

PAGE 3 OF 3 PAGES

Exhibit E

CENTCOM 009789

— UNCLASSIFIED —

* SECRET//NOFORN *

DTG: 020935Zsep07
FROM: B TRP 1-91 ABCT
TO: TF BAYONET
INFO:

- (U) SECRET
MSGID/GENADMIN/AFRD-PMO//
(U) SUBJECT: (S) SERIOUS INCIDENT REPORT
1. (S) CATEGORY: MILITARY
- (U) 2. (S) CATEGORY: MILITARY
- (U) (S) TYPE OF INCIDENT: DEATH OF LN
(U) 3. (S) DATE/TIME OF INCIDENT: 27AUG2007
- (U) 4. (S) LOCATION: Camp Keating
- (U) 5. (S) OTHER INFORMATION
(U) 5.A. (S) RACIAL:
(U) 5.B. (S) TRAINEE INVOLVEMENT:
- (U) 6. (S) PERSONNEL INVOLVED:
(U) 6.A. (S) SUBJECT:
(U) 6.A.1. (S) NAME: Bebe Aisha
(U) 6.A.2. (S) GRADE: n/a
(U) 6.A.3. (S) SSN: n/a
(U) 6.A.4. (S) RACE: Afghan
(U) 6.A.5. (S) SEX: Female
(U) 6.A.6. (S) AGE: UNK
(U) 6.A.7. (S) POSITION:
(U) 6.A.8. (S) SECURITY CLEARANCE:
(U) 6.A.9. (S) UNIT AND STATION OF ASSIGNMENT:
(U) 6.A.10. (S) DUTY STATUS: NON-US CIVILIAN
- (U) 6.B. (S) WITNESS
(U) 6.B.1. (S) NAME:
(U) 6.B.2. (S) GRADE:
(U) 6.B.3. (S) SSN:
(U) 6.B.4. (S) RACE:
(U) 6.B.5. (S) SEX:
(U) 6.B.6. (S) AGE:
(U) 6.B.7. (S) POSITION:
(U) 6.B.8. (S) SECURITY CLEARANCE:
(U) 6.B.9. (S) UNIT AND STATION OF ASSIGNMENT:
(U) 6.B.10. (S) DUTY STATUS: ACTIVE DUTY
- (U) 6.C. (S) WITNESS
(U) 6.C.1. (S) NAME:
(U) 6.C.2. (S) GRADE:
(U) 6.C.3. (S) SSN:

I

CENTCOM 009790

- (U) 6.C.4. (S) RACE:
- (U) 6.C.5. (S) SEX:
- (U) 6.C.6. (S) AGE:
- (U) 6.C.7. (S) POSITION:
- (U) 6.C.8. (S) SECURITY CLEARANCE:
- (U) 6.C.9. (S) UNIT AND STATION OF ASSIGNMENT:
- (U) 6.C.10. (S) DUTY STATUS: ACTIVE DUTY

(U) 7. (S) DETAILS, TIMES, ETC. This SIR is in regards to the death of a local national girl on 27AUG2007 as result of CF IDF. The IDF was fired in response to multiple days of enemy fire and enemy TTPs utilizing local nationals as cover from CF kinetic reactions. On night of 27AUG2007 enemy personnel were seen moving around the Koshtowz area (b)(2)High. The evening prior, incoming SAF and IDF came from that exact area. After acquiring PID, the CF at OP Warheit, (b)(2)High returned fire with 5 rounds of 120mm mortars in that area on the evening of the 27AUG2007. The enemy was seen using animals as cover to disguise their intent. CF/ANSF were alerted to the girl's death the following day.

(U) 8. (S) REMARKS: 1-91 CAV is conducting an AR 15-6 into the circumstances surrounding the LN girl's death. 1LT (b)(3), (b)(6) is the Investigating officer.

(U) 9. (S) PUBLICITY: N/A

(U) 10. (S) COMMANDER REPORTING: CPT (b)(3), (b)(6)

(U) 11. (S) POINT OF CONTACT: 1LT (b)(3), (b)(6)

12. DOWNGRADING INSTRUCTIONS:

 * ~~SECRET//NOFORN~~ *

UNCLASSIFIE

I

Pages 32 through 38 redacted for the following reasons:

(b)(1)1.4a and c, (b)(2) High, (b)(3) and (b)(6)

(b)(3), (b)(6) **USA CPT 1-91 CAV S4**

From: (b)(3), (b)(6) USA CPT 1-91 CAV FSO
Sent: Sunday, September 23, 2007 7:17 AM
To: (b)(3), (b)(6) USA CPT 1-91 CAV S4
Subject: Use of WP
Categories: SECRET, FOUO (U)
Classification Caveats: ~~FOUO~~
Classification Classification: SECRET (U)

Better one.

From: (b)(3), (b)(6)
Sent: Tuesday, June 26, 2007 5:34 AM
To: (b)(3), (b)(6) USA CPT 1-91 CAV FSO
Cc: (b)(3), (b)(6) ~~USA MAJ TF BAYONET~~
Subject: RE: Issues [SECRET / FOUO] (U)

Classification: SECRET / FOUO (U)
I think myself and SFC (b)(3), (b)(6) are straight with the report, sounds like there was a misunderstanding.

(b)(2)High

Thanks for the help

SFC (b)(3), (b)(6)
TF Bayonet FSNCO
VOIP: (b)(6)

Classification: SECRET / FOUO (U)

From: (b)(3), (b)(6) USA CPT 1-91 CAV FSO
Sent: Tuesday, June 26, 2007 5:23 AM
To: (b)(3), (b)(6)
Cc: (b)(3), (b)(6)
Subject: RE: Issues [SECRET / FOUO] (U)

SFC (b)(3), (b)(6)
Let me look into this and see why we are not posting reports and what the deal is with the AFATDS.

v/r
CPT (b)(3), (b)(6)

From: (b)(3), (b)(6)

IV

9/26/2007

CENTCOM 009799

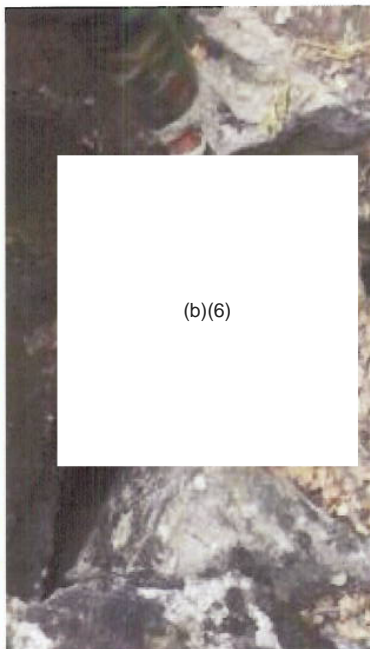
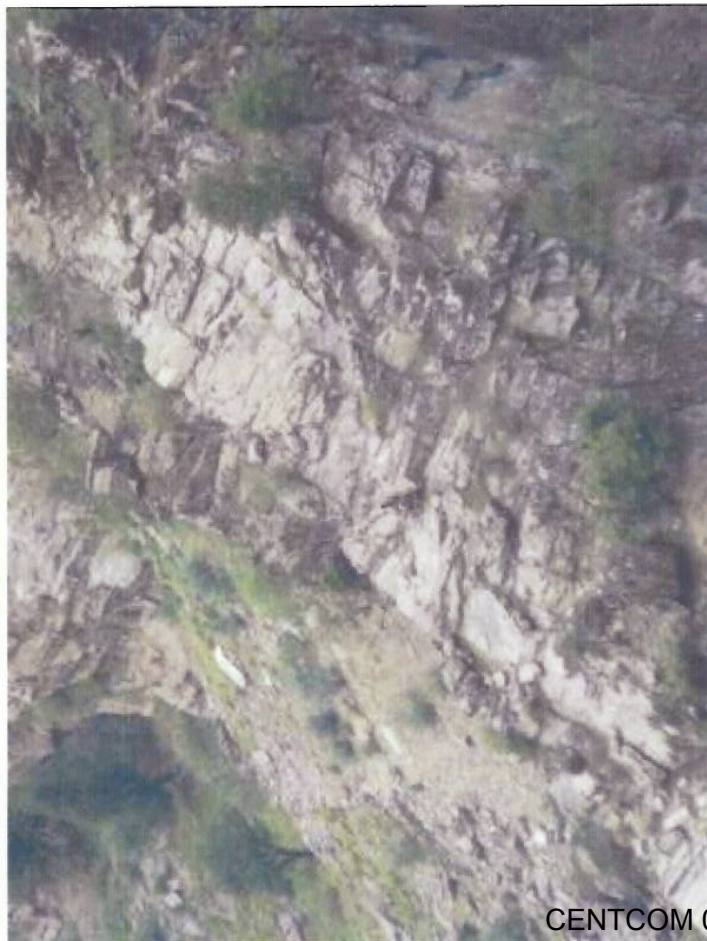


AO BULLDAWG

Though not the exact area of the 27 AUG 07 IDF incident, this is what the terrain surrounding FOB Keating and OP Warheit looks like.

(2)Hi

(b)(2)High



(b)(6)



V

CENTCOM 009800



REPLY TO
ATTENTION OF:

DEPARTMENT OF DEFENSE
HEADQUARTERS, COMBINED/JOINT TASK FORCE (CJTF)-82
BAGRAM AIRFIELD, AFGHANISTAN
APO AE 09354

05 SEP 2007

CJTF-82-CS

MEMORANDUM FOR CPT (b)(3), (b)(6) Headquarters and Headquarters Troop, 1st Squadron, 91st Cavalry Regiment, 173rd Airborne Brigade Combat Team, Task Force Bayonet, Jalalabad, Afghanistan

SUBJECT: Appointment as AR 15-6 Informal Investigating Officer

1. You are hereby appointed as an investigating officer to conduct an informal investigation IAW AR 15-6 into the indirect fire mission on 27 August 2007 that resulted in the death of a local national near Koshtowz, Afghanistan.
2. The scope of the investigation should include the following:
 - a. The facts and circumstances surrounding the indirect fire mission on 27 August 2007 near Koshtowz, Afghanistan;
 - b. The intended targets at the time of the fire mission;
 - c. Whether the fire mission was fired in self defense or whether the fire mission was an offensive use of force;
 - d. If the fire mission was an offensive use of force, whether any ISAF required approvals were obtained to authorize the fires;
 - e. Whether the mission complied with the applicable Rules of Engagement; and
 - f. The identity of any local nationals injured as a result of the fires and the extent and cause of those injuries.
3. This will be an informal AR 15-6 investigation. This will be your primary duty until completed and takes precedence over all other duties and assignments. All statements will be in written form and sworn, using DA Form 2823. If witnesses have redeployed, seek to conduct telephonic interviews of them at their home station.
4. If, during the course of the investigation, you suspect that anyone involved has violated any criminal laws, you should advise that person of their Article 31 Rights, prior to questioning. If anyone attempts to interfere with or obstruct your investigation, notify the appointing authority immediately.

CENTCOM 009801

CJTF-82-CS

SUBJECT: Appointment as AR 15-6 Informal Investigating Officer

5. Use AR 15-6 to guide the investigation. Consider any evidence in the investigation that you determine to be relevant and material to the incident. You should make appropriate findings and recommendations based on the facts gathered during the investigation. The completed investigation should include:

- a. This letter of appointment;
- b. A completed DA Form 1574;
- c. A memorandum for record with your findings and recommendations. Your findings are to be based on the facts you gather and your recommendations should include whether any adverse action is appropriate;
- d. An executive summary;
- e. An index of exhibits;
- f. A chronology of your investigation;
- g. All exhibits labeled in successive order;
- h. A list of all persons interviewed and those from who no statement was taken; and
- i. Proper classification markings.

6. If Afghanistan National Security Forces (ANSF) were involved in this incident, your findings and recommendations are to include any lessons learned you discover during the course of your investigation that may benefit the ANSF.

7. You may consider any evidence in your investigation that you determine to be relevant and material to the above areas. This investigation is your primary duty until completed and takes precedence over all other duties and assignments.

8. No military or civilian witnesses can be ordered to give testimony that may incriminate them. However, you can direct a military or civilian witness to provide testimony if you believe they have relevant information that is not incriminating.

9. MAJ (b)(3), (b)(6) has been designated as your legal advisor. He will assist you with any legal issues that may arise during your investigation. He may be contacted at DSN (b)(2)High or (b)(3), (b)(6) @afghan.swa.army.mil.

CENTCOM 009802

CJTF-82-CS

SUBJECT: Appointment as AR 15-6 Informal Investigating Officer

10. Submit your completed report no later than 19 September 2007 to MAJ (b)(3), (b)(6) for legal review. If any circumstances prevent a timely completion of your report, submit requests for delay to me for approval.

11. The point of contact for this memorandum is CPT (b)(3), (b)(6) CJTF-82, Chief of Administrative Law at DSN (b)(2)High

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

COL, GS
Chief of Staff

STATEMENT OF CPT (b)(3), (b)(6) TAKEN AT Jalalabad Airfield DATED 2007/09/21

9. STATEMENT (Continued)

SECRET NOFORN (U)

Not Used

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

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

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

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

AFFIDAVIT

I, CPT (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUEN

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

v

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

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 21st day of September, 2007 at Jalalabad AF (Interviewer) & FOB Lonestar (Interviewee)

Co. 7508th PTK
ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

COL (b)(3), (b)(6)
(Type name of Person Administering Oath)

Investigating Officer/TF Bayonet DCO
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

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

PAGE 2 OF 2 PAGES

STATEMENT OF (b)(3), (b)(6) TAKEN AT COP Lonestar DATED 2007/09/14

9. STATEMENT (Continued)

-----Nothing Follows-----

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

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

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

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

AFFIDAVIT

I, (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUEN

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

WI

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 20 day of SEP, 2007 at FBI LONESTAR AF

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

ORGANIZATION OR ADDRESS

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

Oath

Oath

ORGANIZATION OR ADDRESS

1-50853
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

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

PAGE 2 OF 2 PAGES

INITIALS OF _____ STATEMENT

(9)(b), (3)(b)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

Investigating Officer/TF Bayonet DCO

(Typed name of Person Administering Oath)

COL

(9)(b), (3)(b)

ORGANIZATION OR ADDRESS

C LO. 1-508 m PIR

(Signature of Person Administering Oath)

Jalalabad AF (Interviewer) & FOB Lonestar (Interviewee)

administer oaths, this 21th day of September, 2007

(9)(b), (3)(b)

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

W

ment)

(9)(b), (3)(b)

I, SGT _____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR L

AFFIDAVIT

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

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

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

Not Used

SECRET NOFORN (U)

9. STATEMENT (Continued)

DATED 2007/09/21

TAKEN AT Jalalabad Airfield

STATEMENT OF SGT _____ (9)(b), (3)(b)

908600M

STATEMENT OF (b)(3), (b)(6) TAKEN AT Camp Wright DATED 2007/09/15

9. STATEMENT (Continued)

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

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

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

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

AFFIDAVIT

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

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

WIT

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

administer oaths. this 11 day of SEPTEMBER, 2007 at CAMP WRIGHT

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

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

PAGE 2 OF 2 PAGES

STATEMENT OF (b)(3), (b)(6) TAKEN AT 1107 DATED 2007/09/15

9. STATEMENT (Continued)

Nothing Follows

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

AFFIDAVIT

I, (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE OR UNLAWFUL INDUCEMENT

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

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 20 day of September, 2007 at Fort Leovig AB

(b)(3), (b)(6) ORGANIZATION OR ADDRESS C/O 1-508 PER ORGANIZATION OR ADDRESS

(b)(3), (b)(6) (Typed Name of Person Administering Oath) 1-508 53 (Authority To Administer Oaths)

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

PAGE OF PAGES



REPLY TO
ATTENTION OF:

DEPARTMENT OF DEFENSE
HEADQUARTERS, COMBINED/JOINT TASK FORCE (CJTF)-82
BAGRAM AIRFIELD, AFGHANISTAN
APO AE 09354

CJTF-82-CG

09 OCT 2007

MEMORANDUM FOR RECORD

SUBJECT: AR 15-6 Investigation into the indirect fire mission on 27 August 2007 that resulted in the death of a local national near Koshtowz, Afghanistan

1. I have reviewed the AR 15-6 investigation into the indirect fire (IDF) mission that occurred on 27 August 2007. The investigating officer (IO) found that the members of B Troop, 1st Squadron, 91st Cavalry Regiment acted in self-defense when they executed the IDF mission on 27 August 2007 and that their actions complied with current Rules of Engagement and Directives. The reports that a non-combatant was killed by the indirect fire could only be verified from the verbal accounts given by local villagers. No visible authentication of a death was made and no civilians were observed in the area at the time of the engagement.
2. I approve the IO's findings and recommendations with the following exception and substitution: the recommendations to conduct a Shura with the local village elders and to make a solatia payment to the family of the deceased local national are returned to the unit for appropriate action.
3. The IO's report contains evidence that enemy personnel used unlawful tactics to lure local villagers to the engagement area where they could be injured or killed. This demonstrates the enemy's continued disregard for the safety of the people of Afghanistan. Regardless of the enemy's attempts to cause harm and injury to innocent civilians, OEF and ISAF forces will continue to train on applicable Rules of Engagement and make every effort to minimize any damage or injury to the civilian population of Afghanistan.
4. The investigation is returned to the unit for appropriate action consistent with the Investigating Officer's findings and recommendations and my additional instructions above.

David M. Rodriguez
DAVID M. RODRIGUEZ
Major General, USA
Commanding

CENTCOM 009809

Page 50 redacted for the following reason:

(b)(5)