

Continuation of voluntary sworn statement of [REDACTED]

on May 29, 2006

dead bodies, and since I strongly dislike the guys in 1st Squad, I did not have any interest in listening to them talk about their kill. The members of 1st Squad who we met up with were: [REDACTED], [REDACTED], (rank unknown) [REDACTED] (rank unknown) [REDACTED] (rank unknown) [REDACTED] and [REDACTED]

From where I was sitting, I could not see the dead body; also I could not see the Marines surrounding the dead body. I stayed in my front passenger side of the vehicle for approximately 30-40 minutes. I finally left my vehicle to find out what was going on, and why everything was taking so long. I walked up to the body to tell people let's go, and [REDACTED] and [REDACTED] were standing near the body. When I walked up toward the dead body, I noticed that he was laying on his back. The people I saw around the body were telling a few of the people to look for brass casings. I think it was QRF members looking for the casings, but I am not sure. I remember that casings were found and collected, I just don't remember by whom, or what they did with them when they found them. The dead Iraqi was approximately 10-15 meters away from the IED hole. The hole that the dead Iraqi was near was an IED hole that had been around for a long time. The IED hole is approximately 1 meter deep and approximately 2 meters in diameter. [REDACTED]

Soon after I walked up to the guys to see what was going on, I told them they were stupid because they [REDACTED] nobody really said anything. I do remember [REDACTED] telling me that he was pretty shaken because rounds were flying over his head. [REDACTED] was with me in Fallujah last year, and he's taken contact before, so I really believed at the time that he was shot at. [REDACTED]

Shortly after I got up to the body, [REDACTED] picked up a shovel laying near the dead Iraqi. The shovel was a regular old Iraqi shovel, with a spade end; it was not a flat ended shovel. Once [REDACTED] picked up the shovel, he put it in the dead Iraqi's right hand. The Iraqi was laying on his back with his right arm extended. [REDACTED] put end of the shovel into the dead hand of the Iraqi. At approximately the same time [REDACTED] was putting the prints on the shovel, [REDACTED] picked up an AK-47 lying near the dead Iraqi, took out the magazine, and cleared the weapon of the remaining chambered round. I believe [REDACTED] and [REDACTED] were both wearing gloves, but I do not specifically recall. [REDACTED]

We were waiting around for the Iraqi Army to show up and take custody of the body, but after a while, they said they weren't coming, so [REDACTED] (I believe) radioed us and told us to take custody of the body. [REDACTED] and [REDACTED] then proceeded to place the dead Iraqi in a poleless litter. [REDACTED] told us to put the body in the body bags, but we don't have them, so that's why I'm pretty sure the body was put in a poleless litter. The body was put in the back of the second "high-back." I did not see anything else taken from the area. I do not know where the shovel or AK-47 were placed, other than they did not travel in my vehicle. [REDACTED]

Once the body was loaded in the vehicle, we all loaded ourselves in our vehicles, and then we drove to an Iraqi Police Station I believe. We dropped off the body, and believe the AK-47 and the shovel were turned over as well. Then we went back to P.B. Bushido, and I went to sleep. During the next few days, nobody spoke with me about the incident any further. I am not close with members of 1st Squad,

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Continuation of voluntary sworn statement

on May 29, 2006

and do not get involved in there business. While stationed aboard P.B. Bushido, I did not really socialize with those guys, and they never mentioned to me about any incident where they physically abused anyone

This statement, consisting of this page and 2 other page(s) was typed for me by as we discussed its contents. I have read and understand the above statement. I have been given the opportunity to make any changes or corrections I desire to make and have placed my initials over the changes or corrections. This statement is the truth to the best of my knowledge and belief.

Signature

Sworn to and subscribed before me this 29 day of MAY in the year 2006 at

NCIS Camp Fallujah, Iraq

Witnessed:

Investigative Service
NOTH: DERIVED FROM ARTICLE 136,
UCMJ (10 U.S.C. 936) AND 5 U.S.C. 303

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION

29MAY06

CONTROL: 12MAY06-MEJ-0360-7GMA

[REDACTED]

SKETCH PROVIDED BY [REDACTED]

1. On 29May06, Reporting Agent (RA) interviewed with [REDACTED] at NCIS Camp Fallujah, Iraq for the purpose of ascertaining a statement relevant to the 26Apr06 shooting death of V/AWAD.
2. During the interview [REDACTED] provided a sketch relating his perception of the scene he witnessed subsequent to coming upon the shooting victim during the early morning of 26Apr06, Enclosure (A) pertains. [REDACTED] notified RA the victim was approximately 10-15 meters from the Improvised Explosive Device (IED) hole, and lying adjacent to the body was a spade-shovel and an AK-47 machine gun with magazine intact. The deceased individual was lying in a prone position with his head closely abutting Route Penguins where he and the other members of the Quick Reaction Force (QRF) had parked en route to joining 1st Squad at their security position.
3. Further relevant details pertaining to the above incident were documented a sworn statement.

ENCLOSURE

(A) Sketch provided by [REDACTED] 9May06

BIOGRAPHICAL DATA

EMPLOYMENT: USMC, 1ST SQUAD, 2ND PLATOON, KILO COMPANY, 3RD BN, 5TH MARINES, 1MARDIV

SSN: [REDACTED]
DOB: [REDACTED]
POB: [REDACTED]

REPORTED BY: [REDACTED] Special Agent
OFFICE: Camp Fallujah, Iraq

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EXHIBIT (33)

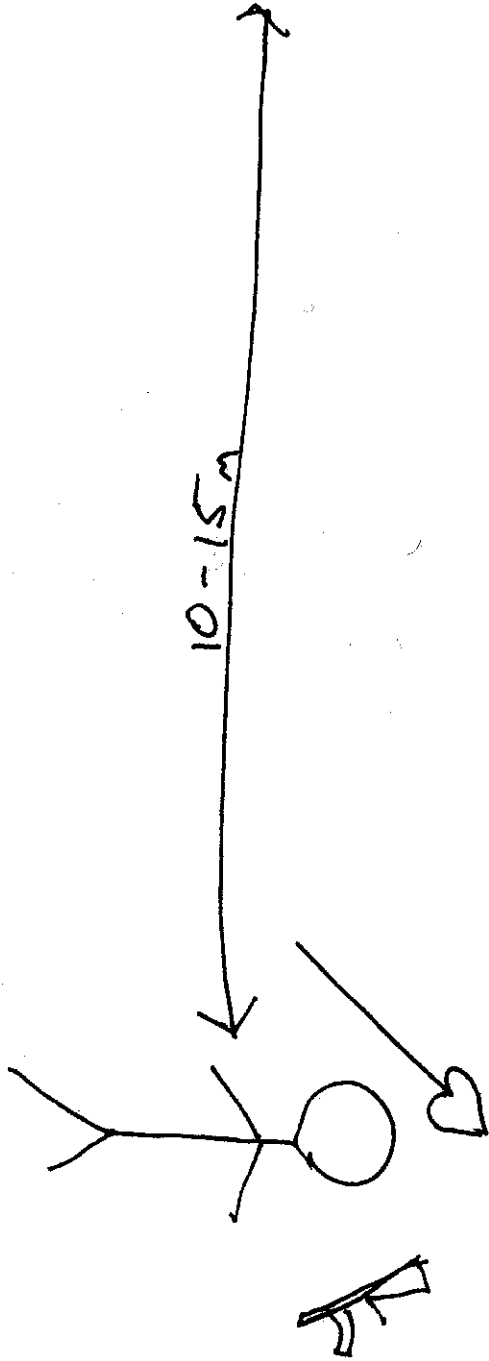
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Enclosure (A) to Exhibit (33)

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION

10MAY06

CONTROL: 08MAY06-MEJ-0357-7HMA

RESULTS OF KILO COMPANY 2ND PLATOON SCREENING INTERVIEWS/10MAY06

1. As background, this investigation was initiated on 04May06 after [REDACTED] Staff Judge Advocate (SJA), Regimental Combat Team Five (RCT-5), contacted NCIS Camp Fallujah, Iraq, concerning a complaint by [REDACTED] that [REDACTED] V/AWAD was taken from his home and killed by Marines during the early morning of 26Apr06. Subsequent investigation revealed on 26Apr06, members of 1st Squad [REDACTED] and [REDACTED], 2nd platoon, Kilo Company, 3rd Battalion, 5th Marine Regiment (3/5), Hamdania, Iraq, reported they had shot V/AWAD after witnessing him digging what they believed to be a hole in which to plant an Improvised Explosive Device (IED). The shooting occurred on a road known as route Penguins in Northern Hamdania, Iraq. On 10May06, screening interviews were conducted of 2nd Platoon members to determine if any members of the platoon had information pertinent to this investigation.

2. On 10May06 at 1400, [REDACTED], SSN: [REDACTED] DOB: [REDACTED] male, was interviewed. This interview took place in an interview room located aboard Abu Ghurayb. [REDACTED] essentially stated that on the night and time in question his (2nd) Squad was part of the Quick Reaction Force (QRF) that responded to back up 1st Squad. [REDACTED] stated he was briefed that members of the Squad encountered an Arab male, later identified as V/AWAD, with a shovel and AK-47 on route Penguins digging IED holes. [REDACTED] stated he has not heard any information about 1st Squad forcing V/AWAD from his home and staging an IED dig on him. The interview with [REDACTED] concluded at 1417.

3. On 10May06 at 1421, [REDACTED], SSN: [REDACTED] DOB: [REDACTED] male, was interviewed. This interview took place in an interview room located aboard Abu Ghurayb. [REDACTED] stated that on the night and time in question his (2nd) Squad was part of the QRF that responded to back up 1st Squad. [REDACTED] related he was briefed that members of the 1st Squad encountered V/AWAD with a shovel and AK-47 on route Penguins digging IED holes. [REDACTED] stated upon arrival, he observed V/AWAD along side the road with apparent gunshot wounds to his body. [REDACTED] stated he observed V/AWAD lying on his back and that his brains were coming out of his head. [REDACTED] stated that within arms reach of V/AWAD was an AK47 but that he did not see a shovel. The interview with [REDACTED] concluded at 1436.

4. On 10May06 at 1438, [REDACTED], SSN: [REDACTED] DOB: [REDACTED] male, was interviewed. This interview took place in an interview room located aboard Abu Ghurayb. [REDACTED] related he is a member of 2nd Platoon, 3rd Squad. [REDACTED] related that

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SUBJ: [REDACTED]

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

on the night and time in question 3rd Squad was part of the QRF that responded to back up 1st Squad. [REDACTED] related he was briefed that members of 1st Squad encountered V/AWAD with a shovel and AK-47 on route Penguins digging IED holes. [REDACTED] stated that on arrival, he observed V/AWAD, who was apparently deceased, lying on his back and body riddled with gunshot wounds. [REDACTED] conveyed he observed a shovel in one of the two IED holes. [REDACTED] further related he heard [REDACTED] state, he had to put the shovel and AK-47 in V/AWAD'S hand for fingerprints and he saw him do so. [REDACTED] related he thought the statement made by [REDACTED] was odd because V/AWAD'S fingerprints should have already been on the gun and shovel if he was shooting at them and digging IED holes as 1st Squad alleged. [REDACTED] further related that [REDACTED] told him that when V/AWAD was down on the ground that [REDACTED] shot V/AWAD with the Squad Automatic Weapon (SAW) at close range. [REDACTED] added that he believes [REDACTED] or [REDACTED] photographed the scene on the night this incident occurred. The interview with [REDACTED] concluded at 1515.

5. On 10May06 at 1524, [REDACTED], SSN: [REDACTED] DOB: [REDACTED] male, was interviewed. This interview took place in an interview room located aboard Abu Ghurayb. [REDACTED] reported to 3/5 on June 2005 and was assigned to Kilo Company, 3rd Squad, 2nd Platoon. [REDACTED] related that on the night and time in question 3rd Squad was part of the QRF that responded to back up 1st Squad. [REDACTED] related that he was briefed that members of the 1st Squad encountered V/AWAD with a shovel and AK-47 on route Penguins digging IED holes. [REDACTED] stated that on arrival, he was appointed to provide [REDACTED] that he did observe V/AWAD lying on the ground from his position. [REDACTED] related he believed V/AWAD to be deceased from his vantage point. [REDACTED] further stated that he observed a shovel and AK-47 about two arm lengths in distance from the V/AWAD'S body. [REDACTED] as [REDACTED] recalls, told members of 1st Squad to make sure fingerprints were on the AK-47 rifle and shovel. [REDACTED] took this to mean [REDACTED] wanted 1st Squad members to collect the evidence properly so fingerprints could be collected off of the weapon. [REDACTED] has not heard any rumors that 1st Squad staged an IED digging to justify killing V/AWAD. The interview with [REDACTED] concluded at 1546. b2

6. On 10May06 at 1651, [REDACTED] SSN: [REDACTED] DOB: [REDACTED] male, was interviewed. This interview took place in an interview room located aboard Abu Ghurayb. [REDACTED] is currently assigned to 3/5 Kilo Co., 3rd Squad, 2nd Platoon. [REDACTED] related that he is a [REDACTED] of 3rd Squad. [REDACTED] stated that on the date and time in question he was part of the Quick Reaction Force that backed up 1st Squad after they informed patrol base that the squad had encountered V/AWAD with a shovel digging in IED holes. V/AWAD, once discovered by 1st Squad, engaged them with his AK-47 rifle. 1st Squad then engaged V/AWAD with their service rifles and killed him. [REDACTED] stated that once he arrived on scene he observed V/AWAD lying on the ground near two IED holes. [REDACTED] noted an AK-47 and shovel within arms reach of V/AWAD. [REDACTED] stated that information was passed on from superiors (NFI) to make sure V/AWAD'S fingerprints were on the shovel and AK 47. [REDACTED] related that he observed [REDACTED] actually place the rifle and shovel in V/AWAD'S b7c

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SUBJ: [REDACTED]

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hands insuring his fingerprints were on them. [REDACTED] added that [REDACTED] told him that he "[REDACTED] explained that a [REDACTED] is a procedure that is part of Marine training to [REDACTED] said [REDACTED]

The interview with [REDACTED] concluded at 1715.

REPORTED BY: [REDACTED] SPECIAL AGENT
OFFICE: NCIS CAMP FALLUJAH

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LAST [REDACTED] V2 LNY

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION

17MAY06

CONTROL: 08MAY06-MEBJ-0357-7HMA

RESULTS OF KILO COMPANY 2ND PLATOON SCREENING INTERVIEWS/14-16MAY06

1. As background, this investigation was initiated on 04May06 after [REDACTED] Staff Judge Advocate (SJA), Regimental Combat Team Five (RCT-5), contacted NCIS Camp Fallujah, Iraq, concerning a complaint by [REDACTED] that [REDACTED] V/AWAD was taken from his home and killed by Marines during the early morning hours of 26Apr06. Subsequent investigation revealed on 26Apr06, members of 1st Squad [REDACTED] and [REDACTED] 2nd Platoon, Kilo Company, 3rd Battalion, 5th Marine Regiment (3/5), Hamdania, Iraq, reported they had shot V/AWAD after witnessing him digging what they believed to be a hole in which to plant an Improvised Explosive Device (IED). The shooting occurred on a road known as route Penguins in Northern Hamdania, Iraq. Subsequent interviews of the members of 1st Squad, revealed V/AWAD had not been planting an IED, but the scene was staged to make it appear as if he was so 1st Squad could kill him. On 10May06, screening interviews were conducted of 2nd Platoon members to determine if any members of the platoon had information pertinent to this investigation.

2. On 14May06 at 1420, [REDACTED] SSN: [REDACTED] DOB: [REDACTED] male, was interviewed. This interview took place in a room located at Observation Post (OP) Bushido, Hamdania Iraq. [REDACTED] reported to 3/5 Marines, Kilo Co., 2nd Platoon during Apr04 and was assigned to 2nd Squad. [REDACTED] related that he shortly after this he met [REDACTED] and [REDACTED] stated that he considers them friends. [REDACTED] related that [REDACTED] disclosed to him that his squad engaged an Arab male who they observed digging IED holes off of route Penguins. [REDACTED] said [REDACTED] related after the 1st Squad engaged V/AWAD with their service rifles that he [REDACTED] (NFI). [REDACTED] related " [REDACTED] stated no one from 1st Squad disclosed to him that they had forced V/AWAD out of his house and staged an IED dig to justify killing V/AWAD. The interview with [REDACTED] concluded at 1439.

3. On 14May06 at 1440, [REDACTED] SSN: [REDACTED] DOB: [REDACTED] male, was interviewed. This interview took place in a room located at Observation Post (OP) Bushido, Hamdania, Iraq. [REDACTED] reported to 3/5 Marines during May03 and was assigned to Kilo Co., 2nd Platoon. [REDACTED] later met [REDACTED] of the same platoon but are assigned to 1st Squad. [REDACTED] related that circa sometime during May06, [REDACTED] and [REDACTED] told him of an encounter that 1st Squad had with V/AWAD. The two related that V/AWAD was observed digging IED holes along route Penguins while the Squad was on ambush patrol. The squad requested and received

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Exhibit (35) 1409

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SUBJ: [REDACTED]

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permission to engage V/AWAD once he started firing at the squad with an AK-47. The squad engaged V/AWAD with their service rifles and killed him. [REDACTED] related that he was part of the Quick Reaction Force (QRF) that responded to back up 1st Squad on the night in question. On a separate occasion and prior to this incident, [REDACTED] disclosed to [REDACTED] that he and members of 1st Squad had beaten up a High Valued Individual (HVI) by the name of [REDACTED]. [REDACTED] related that [REDACTED] was vague as to particulars about the incident and did not provide specific names as to who was involved in beating [REDACTED]. [REDACTED] related that [REDACTED] did state that [REDACTED] family was placed in one room and he and the rest of the squad beat [REDACTED] in different room. [REDACTED] failed to provide a date and time as to when this incident occurred. [REDACTED] stated [REDACTED] waited in the HUMMERS while the rest of the Squad beat [REDACTED]. The interview with [REDACTED] concluded at 1457 hours.

4. On 14May06 at 1515, T [REDACTED] SSN: [REDACTED] DOB: [REDACTED] male, was interviewed. This interview took place in a room located at Observation Post (OP) Bushido, Hamdania, Iraq. [REDACTED] reported to 3/5 Marines, Kilo Co., on 07Oct05 and was assigned to 2nd Platoon, 2nd Squad. [REDACTED] related that he attended School of Infantry with [REDACTED] and [REDACTED] of 1st Squad. According to [REDACTED] is especially close with [REDACTED] of 1st Squad. [REDACTED] related that no one from 1st Squad disclosed to him that an IED digging was staged on V/AWAD to justify killing him. [REDACTED] said that the members of 1st Squad all told him that they observed V/AWAD on route Penguin digging IED holes. [REDACTED] stated that about two months ago after 1st Squad returned from patrol he asked [REDACTED] what the squad got into. [REDACTED] related that [REDACTED] told him that the squad went to a High Valued Individual's house and roughed him up (nfi). According to [REDACTED] related that the HVI attempted to flee but somebody from the squad apprehended him. [REDACTED] also conveyed to [REDACTED] that the purpose for going to the HVI house was to rough him up to get information regarding insurgent activity. The interview with [REDACTED] concluded at 1535.

5. [REDACTED] DOB: [REDACTED] SSN: [REDACTED] male, was interviewed. This interview took place in a room located at Observation Post (OP) Bushido, Hamdania, Iraq. [REDACTED] related that he reported to 3/5 Marines on 17Oct05 and was assigned to 2nd Platoon. [REDACTED] had no pertinent information regarding this investigation.

6. [REDACTED] DOB: [REDACTED] SSN: [REDACTED] male was interviewed. This interview took place in a room located at Observation Post (OP) Bushido, Hamdania, Iraq. [REDACTED] disclosed that [REDACTED] told him that on the day and time in question 1st Squad came in contact with V/AWAD. He was digging IED holes and armed with an AK-47. The Squad requested and permission was granted for the squad to engage V/AWAD with their service rifles. [REDACTED] related that the squad opened fire on V/AWAD and that the squad maneuvered up to V/AWAD'S position. [REDACTED] disclosed to [REDACTED] that he and the entire squad fired their weapon at V/AWAD. About two months ago, [REDACTED] disclosed to [REDACTED] that 1st Squad

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SUBJ: [REDACTED]

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had beaten up a fake Sheikh. The fake Sheikh was considered a HVI and supported the insurgency. [REDACTED] identified [REDACTED] and [REDACTED] as participants in the beating. [REDACTED] disclosed that when the Squad went to the fake Sheikh's house he attempted to run out the door but he ([REDACTED]) apprehend him and forced him back in to the residence. [REDACTED] and other members (nfi) of 1st Squad then beat the fake Sheikh. [REDACTED] did not disclose where [REDACTED] was during this incident. [REDACTED] has not heard any rumors that 1st Squad kidnapped V/AWAD from his house and staged an IED dig to justify killing him. The interview with [REDACTED] commenced at 1545 and concluded at 1605.

7. On 15May06, [REDACTED] DOB: [REDACTED] was interviewed. This interview took place in an interview room located at Abu Ghurayb, Iraq. [REDACTED] related that on the date and time of the shooting incident involving 1st Squad he was on radio watch at the command center. At or about 0200 hours, the radio operator (nfi) for 1st Squad called in and said that the squad observed an Arab male later identified as V/AWAD, digging an IED hole on route Penguin. At this time, [REDACTED] related that [REDACTED] who was the watch officer, took over primary communication with 1st Squad. It was at this time, that 1st Squad related V/AWAD was firing at the squad. [REDACTED] asked where the rounds were coming from. [REDACTED] then heard [REDACTED] on the radio telling 1st Squad to engage V/AWAD after they started taking incoming fire. [REDACTED] was asked if any one from the platoon and/or squad disclosed to him that 1st Squad had staged an IED dig on V/AWAD to justify shooting him. [REDACTED] related that he has not heard of such an allegation. [REDACTED] had no information regarding an assault of the fake Sheikh circa two months ago. The interview with [REDACTED] commenced at 0939 and concluded at 0955 hours.

8. On 15May06, [REDACTED] DOB: [REDACTED] SSN [REDACTED] was interviewed. This interview took place in an interview room located at Abu Ghurayb, Iraq. [REDACTED] reported to 3/5 Kilo on 31Mar05. His Military Occupational Skill is Infantry Unit Leader/0369. [REDACTED] related that on the day and time of the shooting incident involving 1st Squad he was at the command center and assigned to be the watch officer. Part of [REDACTED] duties is to monitor radio traffic while the platoons conduct their mission. [REDACTED] recalled the night 1st Squad was on ambush patrol. [REDACTED] related that at or about 0200, members of 1st Squad (nfi) contacted the command center to report that the squad observed V/AWAD on route Penguin digging IED holes. V/AWAD was allegedly armed with an AK 47 because the squad then reported that they were receiving incoming fire. [REDACTED] who was positioned at Operation Post (OP) Bushido during the engagement with V/AWAD, took over primary radio transmission with 1st Squad at this time. After 1st Squad reported that they were being fired upon, [REDACTED] gave the squad permission to engage the target. Subsequent to this event, [REDACTED] related that [REDACTED] 1st Squad platoon sergeant completed an inventory of the rounds expended by the squad. Initially, [REDACTED] related that [REDACTED] reported that the squad expended thirty rounds during the engagement later however [REDACTED] reported an excess of one hundred rounds had been expended. [REDACTED] reported that he previously provided Special

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SUBJ: [REDACTED]

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

Agent [REDACTED] with copies of the expenditure reports completed by [REDACTED]. The interview with [REDACTED] commenced at 1000 and concluded at 1013 hours.

9. On 16May06, [REDACTED] DOB: [REDACTED], [REDACTED] was interviewed. This interview took place in an interview room located at Abu Ghurayb, Iraq. [REDACTED] reported to 3/5 Marines, Kilo Co., on 6/2003. [REDACTED] Military Occupation Skill is 0311/Rifle Team leader. [REDACTED] related that when he first reported to Kilo Co., he was assigned to 1st Squad after to Iraq he is temporarily assigned to Headquarters. [REDACTED] related that he maintains an amicable relationship with 1st Squad with the exception of [REDACTED]. [REDACTED] stated that he is especially close with [REDACTED]. [REDACTED] described [REDACTED] as evil and hot tempered. [REDACTED] related that once he left 1st Squad things changed. [REDACTED] related that he was the voice of reason on the squad and believes that the squad would not be in trouble now if he had still been there. [REDACTED] related that during a conversation with [REDACTED] and [REDACTED] they disclosed to him that [REDACTED] directed them to beat a High Valued Individual (HVI) because he had eluded prosecution by the Iraqi court. This frustrated [REDACTED] and so he ordered [REDACTED] and [REDACTED] to beat the HVI. Neither [REDACTED] nor [REDACTED] disclosed if [REDACTED] was actually involved in beating the HVI. Regarding the shooting incident with V/AWAD, [REDACTED] stated that [REDACTED] told him that he was on duty at Operation Post Bushido when the Squad snatched up V/AWAD out of his house, staged an IED dig and shot him. [REDACTED] related that [REDACTED] had to get this information from [REDACTED] or [REDACTED]. [REDACTED] added that after NCIS initiated an investigation into the shooting of V/AWAD, that he had lunch with [REDACTED] and [REDACTED]. [REDACTED] related that [REDACTED] told [REDACTED] if NCIS questioned him about the shooting incident to remember exactly what you said and to stick to your original story. [REDACTED] related that he had called his mother who told him that he should get lawyer. [REDACTED] stated neither [REDACTED] or [REDACTED] made any statements to the effect that they had kidnapped V/AWAD from his home and staged an IED dig on him to justify killing him. The interview with [REDACTED] commenced at 0955 and concluded at 1155.

REPORTED BY: [REDACTED] SPECIAL AGENT
OFFICE: NCIS CAMP FALLUJAH

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INVESTIGATIVE ACTION

30MAY06

CONTROL: 08MAY06-MEBJ-0357-7HMA

RESULTS OF 2ND PLATOON SCREENING INTERVIEWS

1. As background, this investigation was initiated on 04May06 after [REDACTED] Staff Judge Advocate (SJA), Regimental Combat Team Five (RCT-5), contacted NCIS Camp Fallujah, Iraq, concerning a complaint by [REDACTED] that [REDACTED] V/AWAD was taken from his home and killed by Marines during the early morning hours of 26Apr06. Subsequent investigation revealed on 26Apr06, members of 1st Squad ([REDACTED] and [REDACTED] 2nd Platoon, Kilo Company, 3rd Battalion, 5th Marine Regiment (3/5), Hamdania, Iraq, reported they had shot V/AWAD after witnessing him digging what they believed to be a hole in which to plant an Improvised Explosive Device (IED). The shooting occurred on a road known as route Penguins in Northern Hamdania, Iraq. Subsequent interviews of the members of 1st Squad, revealed V/AWAD had not been planting an IED, but the scene was staged to make it appear as if he was so 1st Squad could kill him.

2. On 14May06, Reporting Agent (RA) interviewed members of 2nd Platoon, Kilo Co, 3/5, at patrol base Bushido, located in the Hamdania area of Iraq. Platoon members were interviewed regarding any information related to the events of 25-26Apr06, involving 1st Squad; if they could provide any information related to threats made against [REDACTED] or whether 2nd Platoon members had any information related to 1st Squad's activities during their current deployment. The results of these interviews are located below.

3. RA interviewed [REDACTED] who related he had little or minimal contact with members of 1st Squad while stationed at patrol base Bushido. [REDACTED] stated he only knew about the events that took place on 25-26Apr06, after hearing them from other members of 2nd platoon. [REDACTED] heard from other platoon members, who he was unable to identify specifically, that 1st Squad had shot a guy while he was digging an IED hole. [REDACTED] further related he had not talked about the incident with any member of 1st Squad. [REDACTED] also related he had no idea who would have placed a threatening note on [REDACTED] bed, or if anyone from 1st Squad, or 2nd platoon would do such a thing. No other pertinent information was obtained.

4. RA interviewed [REDACTED] who related he did not have any further information about the events involving 1st Squad on the 26Apr06, other than what he had initially heard, which was 1st Squad had shot and killed a guy who was trying to dig an IED hole on route Penguins. [REDACTED] stated he had never heard of 1st Squad beating up any Iraqi

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EXHIBIT (36)

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18763

SUBJ: [REDACTED]

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

civilians, or coming up with a plan to kill Iraqi HVI's. [REDACTED] also had no information related to the threats made against [REDACTED]. No other pertinent information was obtained.

5. RA interviewed [REDACTED] pursuant to information on the events involving 1st Squad on 25-26Apr06. [REDACTED] stated he did not know exact details of the incident, but he had heard that 1st Squad had killed a guy who was digging and IED hole on route Penguins. [REDACTED] further related he did not know of any incidents in which 1st Squad members had beaten Iraqi civilians. [REDACTED] also related he was shocked when he found out from [REDACTED] that a threat had been made against [REDACTED] and that he had no idea who could have placed the threat on [REDACTED]'s rack. No other pertinent information was obtained.

6. RA interviewed [REDACTED]. [REDACTED] stated he did not know any other information other than what he had heard about 1st Squad shooting an Iraqi digging an IED hole on route Penguins. [REDACTED] was also unable to provide information related to the threats made against [REDACTED] or whether 1st Squad had assaulted Iraqi civilians. No other pertinent information was obtained.

7. RA interviewed [REDACTED]. [REDACTED] related he originally heard that 1st Squad had killed an Iraqi after witnessing him digging an IED hole on the side of route Penguins. [REDACTED] also mentioned since an investigation had been initiated into the shooting, rumors began as to whether 1st Squad had legitimately killed the Iraqi. [REDACTED] was not able to relate who specifically started these rumors. [REDACTED] did not provide any other information related to whether 1st Squad had ever assaulted Iraqi civilians, or where the threats against [REDACTED] originated. No other information was obtained.

8. RA interviewed [REDACTED], [REDACTED] who related, he had been on Quick Reaction Force (QRF) the night of 25/26Apr06, and responded after 1st Squad reported they had taken fire. [REDACTED] stated he helped "police up" brass that had been scattered about the area during the alleged firefight. [REDACTED] also mentioned unknown members of the QRF took photographs of the dead Iraqi and the scene of the incident. [REDACTED] went on to further relate, he thought it was odd that [REDACTED] seemed to be overly interested in making sure the Iraqi's fingerprints were placed on the AK-47 and shovel that were at the scene of the shooting. According to [REDACTED] this did not seem like normal behavior. [REDACTED] also disclosed that he had heard of an incident in which members of 1st Squad, particularly [REDACTED] and [REDACTED] had beaten up an Iraqi civilian. [REDACTED] was not able to provide any information as to who had placed a threatening note on [REDACTED] rack. RA asked [REDACTED] if he would be willing to provide a sworn statement regarding this information, to which [REDACTED] agreed. No other information was obtained.

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9. RA interviewed [REDACTED] who related he did not have any information to provide

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18768

SUBJ: [REDACTED]

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

regarding allegations that 1st Squad had beaten up Iraqi civilians. [REDACTED] did relate he had seen tracer rounds in the area that 1st Squad had reported they took fire from. [REDACTED] stated he was on the roof of patrol base Bushido, when he witnessed the tracer fire. [REDACTED] reported the story he had heard regarding the night of 25-26Apr06, was 1st Squad had fired upon an Iraqi male who was digging an IED hole. [REDACTED] was also unable to provide any information regarding threats made against [REDACTED]. No other information was obtained.

10. RA interviewed [REDACTED] who related he had no information to provide regarding whether or not he had ever seen or heard of members of 1st Squad assaulting Iraqi civilians, or if [REDACTED] had any information regarding threats made against [REDACTED]. [REDACTED] did relate the information he heard concerning 25/26Apr06 was 1st Squad had killed an Iraqi male attempting to plant an IED on route Penguins. No other pertinent information was obtained.

11 RA interviewed [REDACTED] who related he had heard 1st Squad had killed an Iraqi who was attempting to dig an IED hole on route Penguins. [REDACTED] also related he did not know who threatened [REDACTED] and he had not heard of 1st Squad assaulting Iraqi civilians. No other pertinent information was obtained.

12. RA interviewed [REDACTED] who related he did not know who had threatened [REDACTED] and had not heard of 1st Squad members assaulting Iraqi civilians. [REDACTED] stated he had heard from unknown members of 2nd Platoon, that 1st Squad had shot and killed an Iraqi male while he was attempting to dig an IED hole on route Penguins. No other info was obtained.

13. RA interviewed [REDACTED] who related [REDACTED] of 1st Squad had related to him they had shot an Iraqi male, attempting to dig an IED hole while on patrol. When asked by RA about allegations of 1st Squad members assaulting Iraqi civilians, [REDACTED] seemed surprised and mentioned that [REDACTED] was a friend of his and a "funny guy". [REDACTED] stated he had not heard of 1st Squad ever assaulting Iraqi's. [REDACTED] also did not provide any information regarding the threatening note placed on [REDACTED]'s rack. No other information was obtained.

14. RA interviewed [REDACTED] who related he did not know of any instances in which 1st squad members, beating Iraqi citizens. [REDACTED] stated he had heard through talk amongst 2nd Platoon, that 1st Squad had killed an Iraqi male, while he was attempting to dig an IED hole. No other pertinent information was obtained.

15. RA interviewed [REDACTED] who related he was on QRF the night of the 25-26Apr06, and responded once 1st Squad had reported they had taken contact. [REDACTED] did not disclose any other info related to this incident other than what he heard on his radio, that 1st Squad had shot an Iraqi male digging an IED hole on route Penguins. [REDACTED]

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SUBJ: [REDACTED]

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

stated he had not heard of 1st Squad assaulting Iraqi citizens.

16. RA interviewed [REDACTED],
[REDACTED] who related he had heard 1st Squad had killed an Iraqi
digging an IED hole on route Penguins. [REDACTED] also related he
had not heard anything about whether 1st Squad members assaulted
civilians, or conducted any other questionable activities during
their deployment. No other pertinent info was obtained.

REPORTED BY: [REDACTED] Special Agent
OFFICE: Camp Fallujah, Iraq

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION

30MAY06

CONTROL: 08MAY06-MEJ-0357-7HMA

[REDACTED]

RESULTS OF SCREENING INTERVIEWS: KILO COMPANY, 2ND PLATOON/14MAY06

1. As background, this investigation was initiated on 04May06 after [REDACTED] Staff Judge Advocate (SJA), Regimental Combat Team Five (RCT-5), contacted NCIS Camp Fallujah, Iraq, concerning a complaint by [REDACTED] that [REDACTED] V/AWAD was taken from his home and killed by Marines during the early morning of 26Apr06. Subsequent investigation revealed on 26Apr06, members of 1st Squad [REDACTED] and [REDACTED], 2nd platoon, Kilo Company, 3rd Battalion, 5th Marine Regiment (3/5), Hamdania, Iraq, reported they had shot V/AWAD after witnessing him digging what they believed to be a hole in which to plant an Improvised Explosive Device (IED). The shooting occurred on a road known as route Penguins in Northern Hamdania, Iraq. Subsequent interviews of members of 1st Squad, revealed V/AWAD had not been planting an IED, but the scene was staged to make it appear as if he was so 1st Squad could kill V/AWAD. On 14May06, screening interviews were conducted of 2nd Platoon members to determine if any members of the platoon had information pertinent to this investigation.

2. On 14May06, [REDACTED] C, Weapons Platoon, SSN: [REDACTED], DOB [REDACTED], male, was interviewed. This interview took place at 2nd Platoon, Kilo Company, 3/5's Forward Operating Base (FOB). [REDACTED] essentially stated that during the night in question, he was manning Post 1 from 0000 to 0200. He stated he saw/heard a burst from a Squad Automatic Weapon (SAW), he then heard approximately 3 to 4 rounds from an AK-47, finally hearing a second burst of fire from a Squad Automatic Weapon (SAW) along with one shot from an M16. [REDACTED] stated that he was told by [REDACTED] 1st Squad had shot somebody.

3. On 14May06 [REDACTED] Weapons Platoon, SSN: [REDACTED], DOB: [REDACTED], male, was interviewed. This interview took place at 2nd Platoon, Kilo Company, 3/5's Forward Operating Base (FOB). [REDACTED] stated that all he heard from the night in question was hearsay regarding the shooting.

4. On 14May06 [REDACTED] SSN: [REDACTED], DOB: [REDACTED], male, was interviewed. This interview took place at 2nd Platoon, Kilo Company, 3/5's Forward Operating Base (FOB). [REDACTED] stated during the night in question he was sleeping. His squad was not on duty this evening. [REDACTED] stated he did not know [REDACTED] that well because he had just reported to 3/5 in Aug05. [REDACTED] had heard later that [REDACTED]'s squad saw a Military Aged Male (MAM) digging a hole and shot him.

5. On 14May06 [REDACTED] SSN: [REDACTED], DOB: [REDACTED], male, was interviewed. This interview took place at 2nd

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EXHIBIT (57)

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18771

SUBJ: [REDACTED]

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

Platoon, Kilo Company, 3/5's Forward Operating Base (FOB). [REDACTED] stated that during the night in question he was manning Post 2 from approximately 2300 to 0300. [REDACTED] went on to say that he had heard some shooting and saw the Quick Reaction Force (QRF) head towards the area of the shooting, but at the end of the evening all he heard was that they patrol had made contact.

6. On 14May06 [REDACTED], Weapons Platoon, SSN: [REDACTED] DOB: [REDACTED], [REDACTED] male, was interviewed. This interview took place at 2nd Platoon, Kilo Company, 3/5's Forward Operating Base (FOB). [REDACTED] stated during the night in question he was on a [REDACTED] then went to bed.

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7. On 14May06 [REDACTED] SSN: [REDACTED], DOB: [REDACTED] male, was interviewed. This interview took place at 2nd Platoon, Kilo Company, 3/5's Forward Operating Base (FOB). [REDACTED] stated during the night in question he was sleeping and wearing earplugs. [REDACTED] stated he was awakened by [REDACTED] to report for duty as the Corporal of the guard. [REDACTED] stated he thought something had happened because [REDACTED] was passing information regarding the Quick Reaction Force (QRF), and information concerning a patrol which had made contact. [REDACTED] stated he only heard second hand information regarding the shooting. [REDACTED] stated he knew about [REDACTED] but did not associate with him.

8. On 14May06 [REDACTED] SSN: [REDACTED], DOB: [REDACTED] male, was interviewed. This interview took place at 2nd Platoon, Kilo Company, 3/5's Forward Operating Base (FOB). [REDACTED] stated during the night in question he was in 2nd Platoons Forward Operating Base (FOB) command post, manning the radio. [REDACTED] stated he received a radio call from [REDACTED] advising 1st Squad was taking fire and was requesting permission to engage. [REDACTED] stated [REDACTED] gave the authorization to engage. [REDACTED] also stated he personally responded with the Quick Reaction Force (QRF), and once at the scene, he observed the body. [REDACTED] stated the body was approximately 50 to 75 meters from the IED hole. [REDACTED] went on to say that he cordoned off the area and notified the Iraqi Police. The Iraqi police stated they would not take the body. [REDACTED] had his Marines place the body in a body bag and transported it back to the FOB area.

REPORTED BY: [REDACTED]
OFFICE: CID Camp Fallujah

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STATEMENT

Place : NCISRA Camp Fallujah

Date : May 28, 2006

[redacted] make the following free and voluntary statement to Special Agent [redacted] whom I know to be a Representative of the United States Naval Criminal Investigative Service. I make this statement of my own free will and without any threats made to me or promises extended. I fully understand that this statement is given concerning my knowledge of Assault of High value individual, Iraqi National, and Shooting on 26 April 2006 [redacted]

For Identification purpose, I am a [redacted] male, born on [redacted], in [redacted]. I have [redacted] hair and [redacted] eyes, am [redacted] inches tall, weigh [redacted] and my social security number is [redacted]. I am currently assigned to 3rd Battalion 5th Marines based out of Camp Pendleton CA. My home address is [redacted]

I first came to 3/5 back in October of 2003, and I was initially assigned to 1st Squad, 2nd Platoon, Kilo Company, for this deployment, but moved once we left the Zaidon area, and went to Abu Guhrayb. Have known most of 1st squad for quite a long time and I am particularly close friends with [redacted] and [redacted]. So needless t say I was shocked to hear about all the problems 1st squad had since I left.

About two or three weeks ago, I walked over to the Mirage, the berthing area, where 3/5 stays at Abu Guhrayb, to talk with some of the guys from first squad about everything that happened. It had been about a week or so after the investigation into the shooting had broke, and 1st squad had been sent back to Abu Guhrayb to kind of get their head straight. I saw [redacted] and [redacted] over at the Mirage, and asked them what happened. The three of them told me that since I had left everything on the squad had fallen apart, morale was low, and there was a lot of tension amongst everyone [redacted]

[redacted] and [redacted] told me about some of the crazy things that 1st squad had done, particularly [redacted] and [redacted] mentioned they had beaten up a High Value Individual (HVI), one night while on a mounted patrol. [redacted] and [redacted] both said that 1st squad, including [redacted] had gone to the home of this HVI, (I do not remember the name of the HVI) where [redacted] told them to hit the HVI. [redacted], told me that he hit the HVI first and [redacted] also said that [redacted] told him to hit the HVI.

I couldn't believe what had happened to [redacted] and [redacted] and why they would do this, because they were good guys. I asked them if the story behind the shooting on the 26th of April was true also. I was told by [redacted] that on the night of the shooting, 1st squad was out [redacted] off of route Penguins. [redacted] was told by one of his guys, [redacted] that [redacted] had seen a guy on the road digging. [redacted] told me that at first he did not believe [redacted] and told [redacted] he was just seeing things. [redacted] told me that he went over to [redacted] position and he also saw the guy digging, so he called back to [redacted] to request permission to fire. [redacted] told me that [redacted] told him to wait so he could call back to higher. [redacted] then told me that he fired anyway because he could see that the guy had an AK-47.

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Continuation of voluntary sworn statement of

on May 28, 2006

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said that when he fired on the guy, the guy shot back with his AK. said, this was when and the rest of the squad moved around flanking the guy and killed him. The last thing that mentioned was that

I thought that this was kind of strange, because first I didn't believe that the Iraq would be walking around with an AK. I was not surprised by the though because I had seen them done before in combat, but I just didn't believe the story had happened the way had told me

asked and if this story was true and what they thought. All three of them were agreed that this could not have been the case, and that the rumors that and the rest of first squad, had kidnapped this guy and taken him out and killed him, could have been true.

I also spoke with and , myself about a week after the shooting while having lunch at Abu Guhrayb. NCIS had already talked to and about the shooting and the rest of 1st squad was back at Abu Guhrayb talking to NCIS also. At lunch, and , talked about what was going on and how it was wrong that they were getting second guessed. said that he talked to his mother and she said that he should not say anything else unless he talked to a lawyer. told that he was right and that he needed to stick to the original story, that he told, and they would go and talk to the 1st Sergeant right now

This statement, consisting of this page and 1 other page(s) was typed for me by as we discussed its contents. I have read and understand the above statement. I have been given the opportunity to make any changes or corrections and have placed my initials over the changes or corrections. This statement is the true knowledge and belief.

Signature: _____

Sworn to and subscribed before me this 28 day of May in the year 2006 at

1/39 Camp Falgha Iraq

Witnessed: _____

Representative, Naval Criminal Investigative Service
AUTH: DERIVED FROM ARTICLE 136,
UCMJ (10 U.S.C. 936) AND 5 U.S.C. 303

b7c

STATEMENT

Place : NCIS Fallujah, Iraq
Date : May 29, 2006

I, [REDACTED] make the following free and voluntary statement to [REDACTED] whom I know to be a Representative of the United States Naval Criminal Investigative Service. I make this statement of my own free will and without any threats made to me or promises extended. I fully understand that this statement is given concerning my knowledge of Marines attached to 1st Squad, 2nd Platoon, Kilo Company, 3rd Battalion, 5th Marine Regiment shooting an Iraqi civilian during the morning of 26Apr06 [REDACTED]

For the purposes of identification, I am a [REDACTED] pound [REDACTED] male with [REDACTED] hair and [REDACTED] eyes. I was born on the [REDACTED] in [REDACTED]. My social security number is: [REDACTED]. I am currently assigned to the 2nd Squad, 2nd Platoon, Kilo Company, 3rd Battalion, 5th Marine Regiment, 1st Marine Division located at Patrol Base (P.B.) Bushido [REDACTED]

During the evening of 25Apr06 I was in my room resting. My squad (2nd platoon) had just come back from a [REDACTED] and we were on our rest cycle. Our job is [REDACTED]. [REDACTED] 1st Squad had gone into their rotation and was on their [REDACTED]. 3rd Squad was at Abu Ghurayb for re-supply [REDACTED]

While I was resting, 3rd squad came in with mail and food and asked for a quick working party to help out with bringing in the supplies. It was me, [REDACTED], and [REDACTED]. While we were helping with bringing in the supplies, I heard everyone yelling that 1st squad saw someone digging a hole on the side of the road and that he had an AK-47. The marine that were yelling this out was monitoring the radio out of [REDACTED]'s room. It was like a chain reaction, everyone began to say that 1st squad had contact. There are two radios in [REDACTED]'s room. One of the radios is for Company tact and the other one is for Platoon. [REDACTED]'s room is also used as the COC, I'm not sure what COC stands for but that's where the squad leaders get their briefs and their assignments. The room has maps of the area and the two radios. [REDACTED] and [REDACTED] also sleep and spend most of their time in that room. As everyone began to yell that 1st squad had initial contact, QRF, which means Quick React Force, who happened to be 3rd squad, mounted onto their vehicles and drove to 1st squad's position. I stayed up for a while until I heard that no one hurt and then went to sleep [REDACTED]

I woke up the next day and heard that 1st Squad had shot the guy that was digging in and killed him. I don't know the name of the person who was shot and killed. I only refer to him as the guy. Everyone from my platoon was talking about it. That same morning, I ran into [REDACTED], and I asked him who shot and killed the guy. [REDACTED] told me that he didn't know exactly who shot and killed the guy. [REDACTED] told me he didn't know because everyone 1st Squad was shooting at the guy. After that, no really talked about it [REDACTED]

The next time I heard anything about the incident was about two weeks later, I'm not sure of the exact date, but it was the day that the investigators took the weapons away from 1st Squad. 2nd Squad had

Continuation of voluntary sworn statement of

on May 29, 2006

just got back from a patrol, and [redacted] told me that 1st Squad was not coming back because they were all under investigation. I asked [redacted] why they would be under investigation when everything they said and did seem right. The guy was digging a whole and had an AK-47, it seemed like 1st squad did what they had to do. [redacted] told me that what we were told may have not been what really happened. [redacted] told me he heard people from the village say the guy was taken out from his house by marines in 1st Squad and the AK-47 and shovel was also taken with them. [redacted] also told me he heard that the family contacted a patrol and began asking about the guy's whereabouts because they had not seen or heard from him [redacted]

Before the night of the shooting, maybe a week or two, [redacted] told me about the incident he had with the "Fake Sheik". He told me this at the Patrol Base. He told that 1st Squad [redacted] go to Fake Sheik's house and beat him. 1st Squad wanted to beat the Fake Sheik because he was going around the village telling people not to talk or say anything to the marines and they would have to let you go if you were detained. When 1st Squad arrived at the house, [redacted] went toward the back door while the other members of 1st squad entered the house through the front door. I know that [redacted], and everyone else from 1st Squad was there. [redacted] told me he was standing in back of the house just in case the Fake Sheik decided to escape out the back door. The Fake Sheik tried to run out the back door when the other members of 1st Squad entered the front. [redacted] grabbed the Fake Sheik and threw him back into the house. [redacted] told me after he threw the Fake Sheik back into the house every one began to beat him. [redacted]

I heard of another incident of a beating but I'm not sure where and when it happened, the only thing I heard was that 1st Squad was involved. [redacted] told me of the incident [redacted] told me that he didn't see anything either because he was outside security but that 1st Squad beat up another guy at that house. This incident occurred about two or three days before marines from the 1st Squad were detained [redacted]

This statement, consisting of this page and 1 other page(s) was typed for me by [redacted] as we discussed its contents. I have read and understand the above statement. I have been given the opportunity to make any changes or corrections I desire to make and have placed my initials over the changes or corrections. This statement is the truth to the best of my knowledge and belief.

Signature: [redacted]

Sworn to and subscribed before me this 29 day of MAY in the year 2006 at

NCIS CAMP FARUJAH, IRAQ

Witnessed: [redacted]

Representative, Naval Criminal Investigative Service
AUTH: DERIVED FROM ARTICLE 136,
UCMJ (10 U.S.C. 936) AND 5 U.S.C. 303

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION

13MAY06

CONTROL: 08MAY06-MEBJ-0357-7HMA

[REDACTED]

RESULTS OF INTERVIEW WITH [REDACTED] 10MAY06

1. As background, this investigation was initiated on 04May06 after [REDACTED] Staff Judge Advocate (SJA), Regimental Combat Team Five (RCT-5), contacted NCIS Camp Fallujah, Iraq, concerning a complaint by [REDACTED] that [REDACTED] V/AWAD was taken from his home and killed by Marines during the early morning hours of 26Apr06. Subsequent investigation revealed on 26Apr06, members of 1st Squad, 2nd platoon, Kilo Company, 3rd Battalion, 5th Marine Regiment (3/5), Hamdania, Iraq ([REDACTED], [REDACTED] and [REDACTED], reported they had shot V/AWAD after witnessing him digging what they believed to be a hole in which to plant an Improvised Explosive Device (IED).

2. On 10May06, [REDACTED] was interviewed. This interview took place in an interview room located aboard Abu Ghurayb, Iraq. [REDACTED] related he reported to unit 3/5 Marines, Kilo Company, and was assigned to 2nd Platoon, 3rd Squad. [REDACTED] stated his duty as a Corpsman is to provide medical care for the Marines in the event they are injured. [REDACTED] further related he stands security watch and goes out on [REDACTED] with the Squad as well. [REDACTED] however, related he does not have tactical authority.

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3. [REDACTED] related on the morning of 26pr06, he was stationed at Operation Post (OP) Bushido when 1st Squad reported they had encountered an Iraqi male, later identified as V/AWAD, on route Penguin with a shovel and AK 47. V/AWAD was allegedly digging holes for Improvised Explosive Device (IED) placement on route Penguins. [REDACTED] related 1st Squad is comprised of [REDACTED] and [REDACTED] and [REDACTED] are also members of 1st Squad; however, the two were not present when the squad encountered V/AWAD.

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4. [REDACTED] advised he was part of a team known as the Quick Reaction Force (QRF) that responded to back up 1st Squad. [REDACTED] explained the QRF is comprised of Marines from 2nd Platoon who are stationed at OP Bushido whose job is to back up members from the platoon should they encounter insurgents. [REDACTED] could not recall the names of the QRF Marines responded to route Penguins on the night in question. [REDACTED] related the QRF arrived on route Penguins within minutes of being notified 1st Squad was taking incoming fire.

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5. [REDACTED] conveyed upon QRF arrival, he noted 1st Squad was standing around V/AWAD with the exception of [REDACTED] was standing security on the squads gear at this time. [REDACTED] stated this was odd because normal procedure after an encounter such as this is to [REDACTED] related he observed V/AWAD'S body was riddled with gunshots and it was readily apparent he was

EXHIBIT (40)

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SUBJ: [REDACTED]

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deceased. [REDACTED] stated V/AWAD had apparent gunshot wounds to the head and torso area of his body. [REDACTED] recalled V/AWAD'S brains fell out of his head as he placed his remains in a body bag.

6. [REDACTED] stated when he arrived on scene the shovel and AK-47 had already been removed and were not in the vicinity of V/AWAD. [REDACTED] stated he later observed [REDACTED] place the shovel and AK-47 in V/AWAD'S hands for fingerprints. [REDACTED] thought this was odd because if V/AWAD was digging holes and shooting as first Squad as alleged his fingerprints should have already been on the rifle and shovel.

7. [REDACTED] related 26Apr06, shortly after the shooting the ORF and 1st Squad returned to OP Bushido. [REDACTED] related he and [REDACTED] talked about the shooting of V/AWAD. According to [REDACTED] told him 1st Squad had murdered V/AWAD and he was upset with [REDACTED] [REDACTED] stated [REDACTED] did not disclose to him the specifics about the shooting incident (i.e. each squad members role in the shooting) but only stated in "ten years I will tell you what happened". [REDACTED] further related [REDACTED] told him "we are not like these people and we are better then they are". [REDACTED] explained he took [REDACTED] statement to mean U.S. Navy Corpsman are not like Marine grunts who go around killing people for no reason.

8. [REDACTED] related about two weeks after the shooting incident involving V/AWAD he learned V/AWAD'S family reported 1st Squad, had taken V/AWAD from his home and shot and killed him. Upon learning this information, [REDACTED] stated he went to [REDACTED] and told him: "I now know what you had planned to tell me in ten years". [REDACTED] related to [REDACTED] what he had learned about 1st Squad taking V/AWAD out of his home and killing him. [REDACTED] then stated he was scared and did not know what to do. [REDACTED] added [REDACTED] did not provide specific details about the shooting incident, i.e., each squad members' role in the shooting. [REDACTED] related what he gleaned from his conversation with [REDACTED] was [REDACTED] was in fear for his safety. [REDACTED] stated [REDACTED] told him he did not participate in the shooting of V/AWAD and was strongly against it.

REPORTED BY: [REDACTED], SPECIAL AGENT
OFFICE: NCIS CAMP FALLUJAH

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Continuation of voluntary sworn statement of
[REDACTED]
on May 31, 2006

different times to dig the hole, they would always have an escape route, and they were never so obvious as to walk down the middle of the street holding an AK-47 and a shovel. They would be more careful while planting IEDs. [REDACTED]

We got a call from the COC instructing us to get all the evidence possible. I do not know who from the COC made the call because I heard the instruction come from someone by the HMMWVs. [REDACTED] kind of smarted off and said, "You want fingerprints, here's your fingerprints." [REDACTED] then used the dead man's hand to grab the shovel and the AK-47 to place prints on them. Now, I realize he was planting the prints, but at the time when I was still trying to figure out what was going on, I thought he was just being disrespectful to the dead. [REDACTED]

We waited at the scene of the shooting for about 15 minutes while we waited to get word if the Iraqi Police (IPs) were going to pick up the body, or if we needed to take care of the body. During that 15 minutes, everyone was excited and talking about how we "got" the guy planting the IED and that it was another bad guy off the street. [REDACTED]

After a while, the call came that the IPs were not going to pick up the body and we would have to transport it. That is when I got out of my HMMWV and saw [REDACTED], who had walked up from the ambush site. I said to him, "Hey [REDACTED], where have you been?" He said, "I was on gear watch." I asked what had happened and he said, "We shot this guy digging an IED hole." There was an awkward silence and then he said, "In ten years, I need to tell you something." I'm with [REDACTED] all the time, so I can read him well and we don't keep secrets. I knew that he meant he wanted to let something blow over for ten years before we could talk about it. At that point, I was not 100% sure, but I knew something was not right from [REDACTED] comment and my earlier observations. [REDACTED]

After that, more people started getting out of the HMMWVs because we had to move the body. Someone pointed out we did not have a body bag and our platoon sergeant [REDACTED] said there was one in the back of the HMMWV. A few of the Marines brought the body bag up and I proceeded to put the body in the body bag. When I lifted the body up, pieces of his brain poured out, and I discovered later that I had feces on my arm. It was obvious to me that there was no way to render aid to him. I remember seeing pinpoint holes on the front of his face, but the back of his head was blown out. [REDACTED]

It seemed as though rigor mortis had already begun to set in because the body was already stiff. Me and another Marine loaded him into the HMMWV. I do not remember who helped me load the body. After that, we drove back to our patrol base where 3rd Squad got off except for two drivers who I can not remember and either our Staff Sgt. or [REDACTED] got on the convoy to accompany the body. The drivers and 1st Squad took the body to the location to which it needed to be delivered. [REDACTED]

A couple of weeks went by and everyone was talking about the shooting, but they were relating the fake story instead of the real story. People really didn't start telling the truth until NCIS came to the base. It wasn't until then that it started to come out and everyone knew 1st Squad killed the man. While escorting NCIS around the village and the victim's house, [REDACTED] and I went outside for a smoke break and had a conversation about how we both felt 1st Squad had murdered the man. At that time, we still didn't know details. I remember [REDACTED] saying, "They messed up this time." We both

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Continuation of voluntary sworn statement of

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noticed [redacted] was very nervous and flipping out. He was smoking much more than usual. I didn't talk to [redacted] about the incident until the night after NCIS got there.

When we got back to house after escorting NCIS around, I grabbed [redacted] out of his room and told him I know what you wanted to tell me in ten years. He had been sleeping, so he was groggy, but we both went to the roof to talk. We made sure we were by ourselves. I asked him what happened and he said, "We murdered this guy." He was freaking out because of the investigation. We had a conversation about how it was going to be ok, but he had to be honest. He did not go into details about the murder, because NCIS was downstairs and he did not want anyone to hear the conversation, but he confirmed 1st Squad killed the man. After that conversation, it was difficult to talk about it because we were always around other people. The information I got from him came in brief conversations we had over the next week. The information below is what I learned from all of my conversations with him.

The night of 25/26APR06, 1st Squad consisted of [redacted], [redacted], and [redacted] told me 1st Squad was [redacted] that night and they went over to [redacted] house to look for him, but he wasn't there. They intended to kill [redacted] who was a known target on the High Value Individuals (HVI) list. He was to be captured, not killed. [redacted] did not say who, specifically, went to [redacted] house. He said [redacted] was not there, so they moved on to another house near [redacted] house to get the victim. [redacted] did not say why they decided to pick the victim. They went to get an AK-47 and shovel from another house in the same village and grabbed the victim out of his house. The house where they got the AK-47 and shovel was about 500 meters from the victim's house. It was not clear if they retrieved the AK-47 and shovel at the same time they got the victim or different times. They dragged the man to the IED hole that was already there and planted the shovel and AK-47. The [redacted] the victim at some point, but I do not know when. [redacted] had [redacted] take the AK-47 and the rest of the Marines got online 20-50 meters from the victim. [redacted] shot the AK-47 in the air to make it sound like they were being fired upon and the rest of the squad fired at the man. [redacted] and [redacted] went up to the body and did [redacted]. He did not say whether anyone else did [redacted]. After that, they called in the QRF and sent [redacted] back to the ambush site to watch the gear while they waited for the QRF to arrive. [redacted] said [redacted] had been reading books about murders and how to commit them. I do not know the titles of the books. He told me [redacted] had made the plan to kill [redacted] before 1st Squad left the base that night for the [redacted].

I do not know how long before the [redacted] the plan was made.

DID NOT KNOW ALL OF THESE DETAILS WHEN I TALKED TO SA [redacted]

When [redacted] told me about the plan, he said he never wanted anything to do with it. He questioned the squad while they were carrying out the plan. [redacted] told him to shoot the AK-47. [redacted] said he felt he had few options because he couldn't have walked away from the squad in the middle of Iraq and was also scared the Marines would kill him and say he was caught in the crossfire. [redacted] told me he did not feel he could tell the truth because he was scared of what would happen to him. I told him he needed to set things right and tell the truth. I knew he ultimately would tell the truth because he is a good guy. I felt that his involvement in the murder was minimal because he did not do much and he was reluctant to do the things he did.

It did not surprise me that 1st Squad murdered a man because they had done a number of shady things before this. They had a big reputation for doing bad things. I had gone on patrol with them a few times when [redacted] wasn't available. They would go out for patrols and patrol for a while, but then sit

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Continuation of voluntary sworn statement of
[REDACTED]
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somewhere and continue to call in fake coordinates so headquarters would think they were going on a long patrol. This was all [REDACTED] idea. Second and 3rd squads do not cut corners like this. They complete the full patrol. When they were attacked before, it is because they were the weaker element and the insurgents know to set up on weaker squads. I know they used bad tactics while interrogating people, but I never witnessed them. [REDACTED] thought he was with the Human Exploitation Team (HET), but he wasn't. It was his job to catch people and give them to HET, but he took it upon himself to do interrogations that he was not supposed to. He would bring people back to the patrol base and [REDACTED] while [REDACTED]

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interrogated them. It was common knowledge they would do this. I think [REDACTED] was actually told by someone above him not to do the interrogations himself, but to turn people over to HET, but he continued to interrogate on his own. I do not know who told him not to do interrogations. I had heard of several incidents where they beat people to a pulp even when they didn't have facts to support that the person was bad. One time, they did it because a 14 year old source had been threatened. Instead of going through the chain of command and questioning the man who threatened the boy, they beat him up and sent him to the hospital. [REDACTED] related the man's eyes were swollen shut, he had blood running down his face, and he had broken teeth. The man had attempted to run out of the house and [REDACTED] caught him. [REDACTED] and [REDACTED] did the main beating. The man was sent to the hospital in Baghdad. I heard about approximately eight to ten people 1st Squad beat up either at our patrol base during interrogations or out in the field. [REDACTED] WITNESSED THIS THROUGH THE WINDOW [REDACTED]

[REDACTED] WITNESSED AT LEAST ONE OF THE INCIDENTS. [REDACTED] WOULD COME OUT AND BARK ABOUT HOW HE WOULD [REDACTED] DURING THE INTERROGATIONS THIS WOULD HAPPEN AT THE PATROL BASE I DO NOT REMEMBER UNLESS HEARD THIS OUT IT WAS SOMETHING ELSE OR PEOPLE COULD OF HEARD. [REDACTED]

This statement, consisting of this page and 3 other page(s) was typed for me by [REDACTED] as we discussed its contents. I have read and understand the above statement. I have been given the opportunity to make any changes or corrections I desire to make and have placed my initials over the changes or corrections. This statement is the truth to [REDACTED]

Signature [REDACTED]

Sworn to and subscribed before me this 31 day of May in the year 2006 at

NCIS CAMP FALLUJAH

Witnessed: /

Representative, Naval Criminal Investigative Service
AUTH: DERIVED FROM ARTICLE 136,
UCMJ (10 U.S.C. 936) AND 5 U.S.C. 303

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION

13MAY06

CONTROL: 08MAY06-MEBJ-0357-7HMA

RESULTS OF INTERVIEW WITH [REDACTED] 10MAY06

1. As background, this investigation was initiated on 04May06, after [REDACTED] Staff Judge Advocate (SJA), Regimental Combat Team Five (RCT-5), contacted NCIS Camp Fallujah, Iraq, concerning a complaint by [REDACTED] that [REDACTED] V/AWAD was taken from his home and killed by Marines during the early morning hours of 26Apr06. Subsequent investigation revealed on 26Apr06, members of 1st Squad, 2nd platoon, Kilo Company, 3rd Battalion, 5th Marine Regiment (3/5), Hamdania, Iraq ([REDACTED] and [REDACTED] reported they had shot V/AWAD after witnessing him digging what they believed to be a hole in which to plant an Improvised Explosive Device (IED).

2. On 10May06, [REDACTED] was interviewed. Participant [REDACTED] was present during the interview. This interview took place in an interview room located aboard Abu Ghurayb, Iraq. Reporting Agent (RA) asked [REDACTED] to recall the events as they occurred on 25Apr06 when 1st Squad encountered V/AWAD. [REDACTED] related that while 1st Squad ([REDACTED] and [REDACTED] was on [REDACTED] on route Penguins, Hamdania, Iraq, the squad encountered V/AWAD on route Penguins with a shovel and AK 47. V/AWAD, according to [REDACTED] was digging IED holes for IED placement. [REDACTED] related that [REDACTED] then contacted command center and requested permission to engage V/AWAD. [REDACTED] stated that he does not know if 1st Squad received permission or not to engage V/AWAD but on the order of [REDACTED] everyone on the squad fired with the exception of [REDACTED] and himself.

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3. RA then advised [REDACTED] that the shooting did not occur as he suggested and that he should be forthright. [REDACTED] stated that he wanted to be honest about the shooting but was in fear for his safety. [REDACTED] stated that he was concerned that members of 1st Squad would retaliate should he be truthful about the shooting of V/AWAD. [REDACTED] further related that he feared losing the respect of the Marines from 1st Squad.

4. [REDACTED] was then questioned regarding an incident wherein 1st Squad allegedly beat a High Valued Individual (HVI) circa Mar/April 2006. During this incident, [REDACTED] allegedly struck the HVI about the face with his knees. [REDACTED] related that he was not present during this incident as he, [REDACTED] and [REDACTED] remained with the vehicles while [REDACTED] and [REDACTED] went to the HVI's residence. After twenty minutes, the squad returned from the HVI's home. [REDACTED] related that he later spoke with [REDACTED] who told him what happened when the Squad went to the HVI's house. [REDACTED] told [REDACTED] that [REDACTED] and [REDACTED] had beaten

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Exhibit (42)

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SUBJ: [REDACTED]

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the HVI. [REDACTED] related that [REDACTED] told him that he did not participate in beating the HVI's family in another room.

5. [REDACTED] then provided details regarding the shooting of V/AWAD. [REDACTED] related that on the night and time in question 1st Squad was inserted near routes Penguins and North Star, Hamdania, Iraq, to conduct [REDACTED]. [REDACTED] related that the entire squad was there with the exception of [REDACTED] and [REDACTED] who were standing watch at Operation Post Bushido. While on [REDACTED] revealed what he labeled as his "master plan" to take [REDACTED] from his home, stage an IED dig on him and kill him [REDACTED]. According to [REDACTED] was a known insurgent who resided off of route Penguins. [REDACTED] related [REDACTED] directed him to go with [REDACTED] and [REDACTED] to find a shovel and an AK-47 to stage the IED dig. After that they were to go to [REDACTED] house where [REDACTED] and [REDACTED] were to go inside and get [REDACTED] and bring him to the IED holes. [REDACTED] related that he was ordered to go with [REDACTED] and [REDACTED] to provide medical support in the event one of the squad members was injured. [REDACTED] stated that he was not in agreement with [REDACTED] plan to take [REDACTED] from his home and kill him. [REDACTED] stated he was not in a position to stop him from going through with it.

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6. [REDACTED] related after midnight he, [REDACTED] and [REDACTED] set out on foot. A random house was chosen from which a shovel and rifle were gathered. [REDACTED] related that [REDACTED] and [REDACTED] went to the door while he and [REDACTED] stayed outside. [REDACTED] recalled that [REDACTED] got a shovel and shortly thereafter [REDACTED] and [REDACTED] returned from the house with an AK-47 rifle. The rifle and shovel were then staged near the intersection of routes Hurricanes and Penguins. The four of them then proceeded to [REDACTED] house, but an older woman compromised them. [REDACTED] stated that [REDACTED] and [REDACTED] then chose another random house from which to get a man. [REDACTED] and [REDACTED] went inside a house not far from [REDACTED] and returned with an Iraqi male later identified as V/AWAD.

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7. [REDACTED] then related that he, [REDACTED] and V/AWAD proceeded to the IED holes off route Penguin. During this time, [REDACTED] recalled [REDACTED]. [REDACTED] related that he told [REDACTED] and [REDACTED] that this was a bad idea and that they were going to get caught. [REDACTED] stated that [REDACTED], and [REDACTED] then hid with V/AWAD under a nearby market stand to avoid detection. [REDACTED] stated that once the [REDACTED] V/AWAD was taken to route Penguins. Once there, V/AWAD was restrained with [REDACTED] and left at the IED holes. [REDACTED] then directed the squad to form a firing line.

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8. [REDACTED] stated he told the squad it was a bad idea to shoot and kill V/AWAD and that they should let him go. [REDACTED] recalled [REDACTED] telling him to "shut up and stop being a pussy". [REDACTED] stated that at this point he knew he could not do anything to stop 1st Squad from going through with their plan to kill V/AWAD.

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