

STATEMENT OF MAJ (b)(3), (b)(6) DATED 02 MARCH 2010

CO (3), (b)(6) If civilians, noncombatants, women, children, noncombatant males, have been identified at a target site what is the action associated with that?

MA (3), (b)(6) For the ground force commander there is, for us we just continue to battle track.

CO (3), (b)(6) Are there sharing of that information within the JOC?

MA (3), (b)(6) Absolutely sit.

CO (3), (b)(6) If civilians are identified during TIC what activities does that generate?

MA (3), (b)(6) Nothing different from what we normally do sir. We wait for the ground force commander to identify the required assets sir. If it is reported it is reported to the CJSOTF.

CO (3), (b)(6) MG McHale with follow-up shortly. The JOC is observing an emerging target, women and children have been identified, TIC has been declared by the ground commander and your activity is nothing?

MA (3), (b)(6) If the ground force commander is calling it up, there's nothing we can do, we continue to advise the commander.

CO (3), (b)(6) Let me ask again, the TIC was declared, you guys via mIRC chat, identify potential women and children at that target site, what are your actions your responsibility?

MA (3), (b)(6) WE identify that ourselves, we get that information through the chain, down to the ground commander. If it coming from the ground commander I notify CJSOTF commander that the ground force commander has a threat and has identified civilian present. But generally speaking we continue to monitor on the JOC floor. If they ask for an asset they are going to get an asset. The ground force commander has the responsibility to determine the use of that asset.

CO (3), (b)(6) Get the point about getting the commander into the fight, makes sense to me. Why would you get the commander into the fight?

MA (3), (b)(6) The CJSOTF commander sir?

CO (3), (b)(6) Yes.

MA (3), (b)(6) Because the sensitivity of the possibility of civilians on the target.

CO (3), (b)(6) Is it implied that there may be a follow-on action of notification to the commander?

MA (3), (b)(6) If we are talking to the point of all we have is the report of, there are civilians on the target, and there has been no further action, I don't want to hypothesize on what the CJSOTF commander does from there. I would think that is a situational awareness issue at that point, there is no decision point. I don't think the CJSOTF commander would reach down to the ODA commander. If he reports it then he is doing the right thing.

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CO: Who would you reach down to?

MA: The SOTF sir.

CO: Upon the identification of civilians can you think of a time that wouldn't report that information?

MA: There is no reason why not to. expect if that the ground force commander is trained for those things so is SOTF, if I had to call down every single time that that happened for the 27-30 operations that happen a day and remind them all that would be 27-30 phone calls a day to say hey we don't kill civilians or targets with civilians. They are trained on that and they know that. We have confidence in the guy on the ground that he will make those decisions in accordance with ISAF, IJC, CFSOC, CJSOTF directives that that guys has down on the ground as well.

CO: How well do you think these directives are understood, as they are being implemented on the ground?

MA: In light of recent events, I would perceive not. My sense is that it is understood at the ODA for sure and the SOTF level they are very versed in it as well. We have these discussions often. I don't have any push back on it sir.

CO: Will fast forward a little bit. When you came on duty, what was the discussion you had with the night JOC director?

MA: He gave me the rundown of the events; I was watching the ISR feed. The ground force commander called a couple times. The call I particularly remember, he talked about waiting on the element to move closer to the objective. He had waved off an AIRTIC, in order to determine if the enemy was going to come closer to the target. Monitoring the enemy's movement and possible striking.

CO: Were you aware of potential of non-combatants, particularly women and children?

MA: Yes sir, I was briefed that they were possibility seen loading and unloading.

CO: Who briefed you that?

MA: [REDACTED]

CO: MAJ [REDACTED]

MA: I believe so.

MG: I need you to be sure; did IMAJ [REDACTED] brief you regarding the composition of the vehicles?

MA: We had a discussion on the floor sir.

MG: What was the discussion on the floor, be specific.

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MAJ (b)(3), (b)(6) Just they had seen, had the report from (b)(1)1.4 and it was in the mIRC clear as day. The J2 OPS guys, I actually read the mIRC that stated that they were securing the perimeters, loading and unloading, possible women and children. That is not an unusual report from an ISR platform.

CO (b)(3), (b)(6) When you were told that, what was your thought about the target emerging threat?

MAJ (b)(3), (b)(6) I didn't have one, one way or the other. At that point we were monitoring. The last report I had, was the GFC was allowing the forces to move closer to the target.

CO (b)(3), (b)(6) MAJ (b)(3), (b)(6) stated if he was aware of women and children were present he would awakened the commander is that part of your battle drills as well?

MAJ (b)(3), (b)(6) He had woken the commander early on the developing situation. I don't know the extent of that.

CO (b)(3), (b)(6) But, when you were told of the possibility of women and children, that didn't register to inform the commander?

MAJ (b)(3), (b)(6) To my knowledge the commander knew, he had come to the floor prior to my arrival. It's not information that would have been withheld. The information was also there on the mIRC.

CO (b)(3), (b)(6) When you came to the JOC floor and had this discussion, who participated in this discussion?

MAJ (b)(3), (b)(6) Myself, MAJ (b)(3), (b)(6), SGT (b)(3), (b)(6) and SGT (b)(3), (b)(6), MAJ (b)(3), (b)(6) standard crew of guys. We handed off what had occurred and then focused on the present situation.

CO (b)(3), (b)(6) When did the target get hit?

MAJ (b)(3), (b)(6) On our clock in the JOC it was 0429Z.

CO (b)(3), (b)(6) What was your thoughts when that happened?

MAJ (b)(3), (b)(6) Wasn't sure who authorized, who let it go, I just knew weapons released.

CO (b)(3), (b)(6) What were your activities after that?

MAJ (b)(3), (b)(6) Immediately put up and OPS update. The first report that came up on (b)(1)1.4 was 18 EKIA and 6 WIA. Sent directly to the commander, and went to inform him, and he said he already knew.

CO (b)(3), (b)(6) What was your understanding the potential of women and children around the target?

MAJ (b)(3), (b)(6) My understanding at that point with (b)(1)1.4c, ISR, and rotary aircraft flying over the target, there were none sir.

CO (b)(3), (b)(6) You had been briefed before that what?

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MAJ [REDACTED] (b)(3), (b)(6) That there were possible women and children had loaded and unload the vehicles. I wasn't for me to assume whether they were there or not. I assumed with all the assets, and information it was a valid target. Weapons had been authorized, with that I assumed it was a good target.

LTC [REDACTED] (b)(3), (b)(6) Do you recognize that?

MAJ [REDACTED] (b)(3), (b)(6) Yes sir.

LTC [REDACTED] (b)(3), (b)(6) What is it?

MAJ [REDACTED] (b)(3), (b)(6) TIC storyboard.

LTC [REDACTED] (b)(3), (b)(6) That version, who wrote that?

MAJ [REDACTED] (b)(3), (b)(6) I did.

LTC [REDACTED] (b)(3), (b)(6) You did, and what did you do with that?

MAJ [REDACTED] (b)(3), (b)(6) First, I sent it to the SOTF, sometimes we help that those guys out, because they are in the tactical fight. That screen goes off sometimes. I volunteered down to CPT [REDACTED] (b)(3), (b)(6) offered to the write up, asked that he verify and make corrections.

LTC [REDACTED] (b)(3), (b)(6) Did he make corrections?

MAJ [REDACTED] (b)(3), (b)(6) He made one time frame correction to the [REDACTED] (b)(11.4c) engagement.

LTC [REDACTED] (b)(3), (b)(6) Is this the version he corrected?

MAJ [REDACTED] (b)(3), (b)(6) Yes sir.

LTC [REDACTED] (b)(3), (b)(6) Can you tell me if what in red he added?

MAJ [REDACTED] (b)(3), (b)(6) Yes sir.

LTC [REDACTED] (b)(3), (b)(6) Read it for us.

MAJ [REDACTED] (b)(3), (b)(6) MQ, that a [REDACTED] (b)(11.4c) is a MQ 1 Predator, good point we generally try to identify what kind of platform it is. 12 EWIA. This was an initial report everybody knows an initial report is usually wrong. This is not the final version I took to the commander.

LTC [REDACTED] (b)(3), (b)(6) What was the basis for the change from 7 to 12 LN?

MAJ [REDACTED] (b)(3), (b)(6) don't know sir.

LTC [REDACTED] (b)(3), (b)(6) Did you have a discussion with CPT [REDACTED] (b)(3), (b)(6)?

MAJ [REDACTED] (b)(3), (b)(6) Expletives.

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LTC [REDACTED] About what?

MAJ [REDACTED] What the inquiry is for right now. With a change like that, it is a pretty significant change. They had a lot of spotty communications; the information was not flowing back up to us in order to get that SALT as we wanted.

LTC [REDACTED] Did he tell you that TF [REDACTED] was the source of difference in information?

MAJ [REDACTED] No sir.

LTC [REDACTED] Did he tell you that it was a MEDEVAC report?

MAJ [REDACTED] No sir. I didn't find out about the MEDEVAC report until after the GFC went back and did a split move and went to do boots on the ground.

LTC [REDACTED] Did you and CPT [REDACTED] have a discussion of wounded women and children?

MAJ [REDACTED] Negative.

CDC [REDACTED] Let me clarify one thing there. That storyboard was created after the split with ODA correct?

MAJ [REDACTED] Yes sir.

LTC [REDACTED] Was there a discussion of listing women and children with CPT [REDACTED]

MAJ [REDACTED] Not listing it no. The minute the strike occurred, on the video, you can see the women and children coming to the objective. We absolutely identified them on site after the strike. I can't make the determination if they were there prior to the strike. There was no discussion of women and children WIA. Had there been that would have been an immediate report to the commander.

LTC [REDACTED] Did CPT [REDACTED] suggest you should list, without WIA, but just the fact that there were women and children?

MAJ [REDACTED] Did he, sir. Nor did I in this. Now the CJSOTF commander knew that women and children were on the objective. That is something we advised him on.

LTC [REDACTED] Would it surprise you to learn that CPT [REDACTED] says that the 5 additional WIA came from a report from the MEDEVAC from TF Pegasus?

MAJ [REDACTED] No, that doesn't surprise me. Later on, that wasn't the initial report we got.

LTC [REDACTED] Between the times you created your storyboard and he made the correction, the reason he was able to correct was based on the MEDEVAC report.

MAJ [REDACTED] I did not know that.

LTC [REDACTED] Would it surprise you that MEDEVAC report listed women and children among the wounded?

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MAJ [REDACTED] (b) (6) If I knew what time I had this, when I got the medical report from DOC [REDACTED] (b) (6) at 1545z was the first time I personally heard of wounded civilians.

LT [REDACTED] (b) (6) What action did you take?

MAJ [REDACTED] (b) (6) Immediately informed the commander. He called down and directed we complete a SIR.

LT [REDACTED] (b) (6) Called down to whom?

MAJ [REDACTED] (b) (6) Assume the SOTF commander. We said the ground force commander had already been on the ground; we had no report at that time none of CIVCAS. We were surprise to hear two hours prior from receiving DOC [REDACTED] (b) (6) report, that TF [REDACTED] (b) (1) 1.4c generating an FIR reporting CIVCAS. We informed the commander immediately of this new information. We might need to go to my computer to compare the times I received notification by email.

MG: We can take a break and you go and get that.

MAJ [REDACTED] (b) (6) Yes sir.

COL [REDACTED] (b) (6) Before you go, take a look at the FIR.

MAJ [REDACTED] (b) (6) Wolfepack or CJSOTF?

COL [REDACTED] (b) (6) the very first one tabbed there. Where is CJSOTF'S, correction South [REDACTED] (b) (1) 1.4c FIR?

MAJ [REDACTED] (b) (6) That's this one sir.

COL [REDACTED] (b) (6) What date is that time?

MAJ [REDACTED] (b) (6) @ 112Z.

COL [REDACTED] (b) (6) Where did that first impression report go?

MAJ [REDACTED] (b) (6) To me.

COL [REDACTED] (b) (6) Was the battle captain instructed not to submit that first impression report by you or your SGM?

MAJ [REDACTED] (b) (6) Not by me.

[MAJ [REDACTED] (b) (3), (b) (6) departs to retrieve an email at MG McHale's request]

MAJ [REDACTED] (b) (6) Sir that's the one that came back to me.

MG: Is there a response from you?

MAJ [REDACTED] (b) (6) No sir, I made the changes online and the next correspondence I had with him was by phone.

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LT (b)(3), (b)(6): If you had reports that women and children were present prior to the strike and after the strike and also seen getting out of vehicles?

MAJ (b)(3), (b)(6): I didn't say that. I said getting out the vehicles; there were women and children later after the strike out. We lost 5 minutes of feed, the pictures are never clear and I am not an analyst, I will say on the record that there were women and children present after the engagement, when they arrived and how long they had been there I cannot say.

MG: How far is the next village?

MAJ (b)(3), (b)(6): I looked on imagery and we use Google earth and Tiger system, to be 600-700 meters south. Which was why we wondered why the 58s engaged without PID. We knew they wouldn't be able to do boots on the ground effectively?

LT (b)(3), (b)(6): Did you ask any subordinate or (b)(1)1.4c where those women and children came from?

MAJ (b)(3), (b)(6): No sir. We weren't getting any reporting, it's different at the CJSTF level. There was no American on the ground to observe what they were doing. I didn't want to create a spin then what was going to come out of there already.

LT (b)(3), (b)(6): What do you mean by spin?

MAJ (b)(3), (b)(6): I didn't want to question them without getting a report first from the ground commander. That would have been mere speculation. Based on what we why the strike occurred and from the Pred we thought they had come from the village. I didn't want to create a spin. Prior to and after the strike.

COL (b)(3), (b)(6): You took over the fight. You were briefed that there were women and children. The strike occurs shortly after. It did not register with you or the JOC to confirm or enquire if there were women and children once the report came up? They weren't beamed up; Star Trek didn't come and get them. Did it not register to inquire, where would the women and children go?

MAJ (b)(3), (b)(6): The rotary wing stayed on station after the strike. They did another fly over of that area and no one reported up from there that there were women or children present on the strike.

MG: They did, the battle warriors did.

MAJ (b)(3), (b)(6): I wasn't aware of that sir.

MG: Your assumption of that village is not a valid assumption. After it was reported to you earlier, and you told us that you knew when you took over as the JOC chief that it was common knowledge in the group on your hand over that women and children were embedded in the convoy.

MAJ (b)(3), (b)(6): Early in the evening, yes sir.

MG: Correct. So we then have a strike and eyes on target, video tape and it shows women and children after the strike. What actions needed to be taken at that point?

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MAJ [REDACTED] With the smoke and everything that was happening, I couldn't determine if women and child on the site right at strike. It was soon afterwards we were able to make that determination. I was going back and forth with the commander on the ground. I was not withholding that information; we just had not received something from the 58th that had said that.

MG: Earlier questions when I asked you about reporting CCIRs and that your own CJSOTF operational guidance from your commander talks about immediate reporting confirmed or alleged civilian casualties were we wait for confirmed or alleged? When do we start reporting that there are civilians on the objective?

MAJ [REDACTED] As soon as civilians are identified on the objective we let him know.

MG: What did we tell the CJSOTF commander?

MAJ [REDACTED] [REDACTED] reported that there are civilians on the objective.

MG: What is the assumed right thing to do if we have an incident there? Wait until we have absolute confirmation, or alleged casualties, through deductive reasoning what is acceptable?

MAJ [REDACTED] We alert higher HQs.

MG: And we saw these on real live tape right shortly after strike, did CJSOTF did they alert higher HQ?

MAJ [REDACTED] You'd have to ask the CJSOTF that sir.

LTC [REDACTED] Were you watching the Predator feed during the strike?

MAJ [REDACTED] Yes.

LTC [REDACTED] The Kiowa warriors fire missiles at each vehicle?

MAJ [REDACTED] First two sir.

LTC [REDACTED] They only fired two missiles?

MAJ [REDACTED] There was more striking, I haven't looked at the video again. I saw the first two get struck. I saw a follow-on run with the secondary explosions just to the north. I believe that was the 2.75 they called in and then that was the end of the fight.

LTC [REDACTED] Do you know why the warriors stopped striking when they did?

MAJ [REDACTED] I do not, sir. I did not receive a report that it was anything other than a report that said it was a valid target throughout the day. I never received a report of CIVCAS. I did not personally have a report that came to me and said that we have CIVCAS even after boots on the ground.