

STATEMENT OF MAJ [REDACTED] DATED 02 MARCH 2010

CO [REDACTED] need to go back to this. Going back to the storyboards, at any time did you speak with the battle captain instructing him to not to put on a storyboard of any report of women and children until it could be confirmed?

MAJ [REDACTED] Absolutely not.

LT [REDACTED] At anytime did you tell them not to submit a particular report?

MAJ [REDACTED] Absolutely not, that's not true. The TF [REDACTED] FIR, when we understood that they would send it up, I went CJSOTF commander and said the KWs are submitting a FIR at this time. That the aircraft was submitting this, that I had no other reporting at other than from a battle captain that this document was being produced. I told the CJSOTF commander, he said "We don't need it. Our ground force commander has gone to the ground and he has made the determination that it was 12 enemy forces WIA and no CIVCAS."

CO [REDACTED] appreciate you clarifying that, but when you walked out of here I asked you that question. Did you instruct them not to submit the first impressions report because you had another report?

MAJ [REDACTED] wasn't our own report sir, and maybe that's confusing. I did not instruct them not to report what was going on.

CO [REDACTED] Did you instruct the battle captain in SOTF [REDACTED] not to submit the first impressions report because you had another report?

MAJ [REDACTED] No, I told them we did not need TF [REDACTED] FIR.

LT [REDACTED] You did not need that coming from who?

MAJ [REDACTED] That was coming from the CJSOTF commander.

CO [REDACTED] Is there any way that he could have interpret it being to not to submit his FIR because you had that FIR?

MAJ [REDACTED] Not based on the conversation we had sir.

CO [REDACTED] How would you rate CPT [REDACTED] competency as a battle captain?

MAJ [REDACTED] would rate him as a good one sir.

CO [REDACTED] Would you be surprised that what his discussion to be he had with you?

MAJ [REDACTED] am surprised sir.

CO [REDACTED] What was the discussions you had with the CJSOTF commander or leadership team, your J3, from the BDA to the notification of civilian casualties at 1534Z?

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MAJ [REDACTED] Standard once I send up the first report of EKIA. I went down and let him know. When we received information that CPT [REDACTED] was splitting his force, that he had aircraft, that they had boots on the ground; the information I got from the battle captain from SOTF south was that they had boots on the ground and MEDEVAC had occurred. Which we were not tracking at all.

CO [REDACTED] 1545Z, there was a VTC at 1845Z that included GEN McChrystal, how many queries did you get prior to that time about CIVCAS from CFSOC-A about civilian casualties?

MAJ [REDACTED] I don't remember a particular query about CIVCAS. Me and the JOC Chief there, we have very open dialog, it was an informal inquiry. It was a, hey do we know of other civilian casualties. I reported no because I was unclear. [interrupted]

CO [REDACTED] How many times did CFSOC-A query to you at anytime about CIVCAS or the potential of CIVCAS, the clarifications of CIVCAS or any category, prior to 1545Z?

MAJ [REDACTED] Two or three sir to me personally.

CO [REDACTED] What did you report?

MAJ [REDACTED] I told them what the ground force commander reported, at this time we don't have any CIVCAS.

CO [REDACTED] Did you call back down to SOTF [REDACTED] for follow-up?

MAJ [REDACTED] I had asked CRT [REDACTED] and [REDACTED] what was the status on the casualties but did not specifically say civilian casualties, I would just say casualties. That was a continuing question all day long. We were in were in complete dark regarding the MEDEVAC. It didn't appear in any of our reports or screens. I had no report of CIVCAS.

CO [REDACTED] You are a great guy, you clearly are. I am struggling with this. Women and children were reported at the handoff, shortly after there was strike. After that there were civilians around the strike site. Your HQ was getting squeezed by your HQ. Your information has been inconsistent; you first reported none, then a couple. I ask you what did you do with that information and your responses have been nonchalant. I don't understand your interest. If you were missing some watts, I'd understand, but you are not. I'm not understanding your answer, I am missing something I need you get there?

MAJ [REDACTED] I wasn't trying to not get information or block reporting whatsoever sir. If they were civilians from the start, absolutely. At the time of the strike based on the information I received, and that's the GFC's decision, I backed him 100%. There was rotary ring, ISR, [REDACTED] that verified what these vehicles were doing and they made the strike. It was everyone's decision what these guys were doing I did not have any information from anyone. Had I, I would bring it up with the commander especially after the GFC went there we still didn't receive a report. I am speaking for me. I never received a clear report. If it was civilians from the get go and we saw it clear as day sir, absolutely.

CO [REDACTED] Was it the first second or third query from CFSOC-A? Anyone of those started raising your concern?

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MAJ [REDACTED] Every time we drop a bomb, TIC, an engagement; it's the first question everyone asks. CFSOC calls down with those questions every single engagement we have. It is what it is, I expect the question.

LTC [REDACTED] Do you believe if you ask questions down the chain, it will get people up the chain spun up because there is more of a possibility of CIVCAS?

MAJ [REDACTED] Not at all, if the Special Ops TF at the BTN level is not asking those questions already and taking care of that, then what good are they. Junior Major, day JOC Chief, I understand the responsibilities I take them very seriously, but I don't call ODAs, AOBs that is not my lane. The SOTF had it covered as far as I was concerned. But the information that came to me, I didn't have a reason I found to question what was going on. At that time I was comfortable with information as it was. That changed, at 1545Z that is when I got CPT [REDACTED] report of a female with a 5 YOA child was wounded in the attack that is when everything changed.

COL [REDACTED] At 1845 local when Gen McChrystal had his VTC via IJC and he expressed his concern of CIVCAS, did that come up into the JOC?

MAJ [REDACTED] No sir. I wasn't in the VTC sir.

LTC [REDACTED] Did you know the VTC was occurring?

MAJ [REDACTED] Yes sir I did.

LTC [REDACTED] By that time you had rejected the TF [REDACTED] FIR?

MAJ [REDACTED] Roger, sir.

LTC [REDACTED] Take it back to handover; you said you receive a report of women and children getting on and off a vehicle?

MAJ [REDACTED] Yes sir.

LTC [REDACTED] Do you remember a specific of the number of women and children assessed to be in the vehicles?

MAJ [REDACTED] Not that I know of sir. It might be in some of the reporting. I may have been told sir; I don't remember what they were.

LTC [REDACTED] Were you told that they were possible or confirmed?

MAJ [REDACTED] Possible, same thing I was told on weapons as well, possible, from the ISR.

LTC [REDACTED] And you got that from the other MAJ or the mIRC chat?

MAJ [REDACTED] I got it from the floor, I don't remember who from, just that there were possible weapons in the vehicle.

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MG: Who is in charge on the JOC floor of making sure we are tracking, understanding, and directing the mIRC chat?

MAJ [REDACTED] Generally sir, our NCOIC, or JOC assistant NCOIC. But we all have it open on our computers sir, anyone can access it. But generally they are tracking it.

MG: We have here on the Predator's screener reports that a child was seen helping the MAMs load their vehicle. Pred screener reports that two children were seen at the rear of the SUV, none seen in the truck. Pred screener says one man was seen assisting a child enter the truck. How would you interpret that if you saw that?

MAJ [REDACTED] Would I assume women and children were getting out the truck sir?

MG: Loading onto the truck.

MAJ [REDACTED] would interpret that as children being loading on the truck sir.

MG: What actions would you take if you saw that? If you were on duty and that happen, hypothetically?

MAJ [REDACTED] would take full responsibility of that and make sure the CJSOTF commander knew about that.

MG: At 0740, KIRK gets a query from [REDACTED] regarding chat about the focus on the vehicles, you have established PID repeat the rest. [REDACTED] replies that's affirmative; from the weapons we identified the demographics of the individuals, plus the [REDACTED] replies good copy on that we are with you. Our screener updated only one adolescent. Pre-screener reports at least one adolescent near vehicle. What does adolescent mean to you?

MAJ [REDACTED] Early teenage sir.

MG: Combatant or noncombatant?

MAJ [REDACTED] would assume at that time noncombatant, but I have seen a team shot at plenty by adolescents.

MG: When do we go from monitoring to taking direct action at this level? When do things change?

MAJ [REDACTED] If there was more levels on this, everyone on the JOC floor would agree, we were surprised when they launched. Based on what the GFC had come with, bringing these guys closer to the target [interrupted]

MG: Where in the future, with leaders in commander and we us commands for C2. This is a command and control center. In a JOC we use commanders to make decisions. Where do we get involved?

MAJ [REDACTED] The floor mission is to keep the CJSOTF commander in hold and fully aware of everything that is going on in order to make decisions. So when we have information of potential civilians; if the GFC is making the right and important decisions we don't need to step in to do that. We have stepped in

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before, if necessary if the information does not match the GFC's decisions. We definitely have the indicators there, and the hopefully the experience on the floor to determine when we need to bring the commander on board. We didn't have any indication that day, to believe that this would progress the way it did, until it did. I cannot confirm that the GFC had the information regarding the information of potential women and children in or around the target. Nothing said that hey we need to stop this.

MG: Did you have any discussion with COL [REDACTED] prior to the time you took over prior to, during and after the incident took place?

MAJ [REDACTED] I don't have discussions with the CJSTF commander I just go in give him any information that I have got.

MG: But back to my question prior to the time you took over during and after the incident took place did you talk with him at all?

MAJ [REDACTED] Only to report what was going on, on the ground sir.

MG: And what did you report to him?

MAJ [REDACTED] That from strike to the GFC [interrupted]

MG: I'm not making myself clear. When you signed, I believe you said you were with [REDACTED] up to that time to the strike. In that time you were on the JOC floor?

MAJ [REDACTED] Yes sir

MG: And did you talk to the CJSTF Commander?

MAJ [REDACTED] No I did not. He came to the floor prior to me entering. He left soon after, according to what I was told by MAJ [REDACTED].

MG: Did MAJ [REDACTED] share any discussions he had with COL [REDACTED] regarding this fight?

MAJ [REDACTED] No sir.

MG: Afterwards, you mentioned you briefed him; did you go to his office?

MAJ [REDACTED] First I sent the OPS update and I went down to make sure he knew about what went down. I reported the 18 EKIA from the strike sir. He confirmed that he knew the strike occurred.

MG: How did he know the strike occurred?

MAJ [REDACTED] I don't know sir, maybe the battalion commander told him.

MG: He had some [REDACTED] discussions with SOTF [REDACTED] were you privy to any of them?

MAJ [REDACTED] No sir.

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MG: How do achieve the goal, GEN McChrystal's initiative. How do we minimize this?

MAJ (b)(3), (b)(6) One of the big things that we discussed on the JOC floor, how we get down to the SOTF level to make sure this doesn't happen again. There is going to be CIVCAS in the future, that's what war is about. However, as a dismounted ground force a 12 kilos strike away from the objective was totally unfeasible to meet that tactical guidance of boots on the ground BDA. We didn't have eyes on, minus ISR platform; that we can all see, who watches what? All the discrepancies between who watches what. What I see may be different from what someone else might interpret on the ISR. We were relying on other assets, enabling assets to do that. This is all personal, I don't believe in that dynamic targeting process either. I think a Pred strike does the same thing that this does, it leaves a lot open for confusion and discussion. Taliban and the enemy have a talking point in the fight and they can manipulate information in their favor. 12 kilos away and no friendlies present to work with the ANA, ANP and the village elders to ensure we are on the same page with the local populace; we can't do it from that distance. It can't be done because it turns into this.

COL (b)(3), (b)(6) Did you understand that Pred remained on station after the strike for additional hours?

MAJ (b)(3), (b)(6) We extended it. Me personally, when I was an ODA commander, I did use ISR's eyes. ISR is not reliable; it is simply a video platform. I've cautioned the battle captains in the past; especially in this country and the enemy we face right now, you have to be in a shorter fight with them. The ground commanders make the decisions the best they can with the support and information they have available to them. I err on the same side of the ground commander. Whatever he thought is why he made that decision. But the second and third order of affects became a lot larger. He is a lesson learned for the entire CJSOTF. The unfortunate incidents that occurred afterwards definitely undermine everything we are trying to do.

MG: In the tactical directive, paragraph f, he says I expect leaders at all levels to scrutinize and limit the use of force like close air support against residential compounds and other locations likely to produce civilian casualties in accordance with guidance that follows. How do you see that, if you are monitoring the fight, at what level do we scrutinize?

MAJ (b)(3), (b)(6) At the top sir, to the top. Absolutely. The information had at the time, I am not a decision maker, I am an information manager. I understood the information that was being provided and I reported what I had up to the CJSOTF commander.

MG: He goes on It's my sense that tactical commanders rely heavily on CAS during engagements when small unit fire and maneuver or withdrawal will better accomplish the strategic and operational goals of this coalition, while achieving the tactical goal of engaging the enemy and protecting the force. Commanders must weigh the gain of using CAS against costs of civilian casualties, which in the long run makes mission success more difficult and turn the Afghan people against us.

GEN McChrystal goes on in Paragraph G. I cannot prescribe the appropriate use of force for every condition that a complex battlefield will produce. So I expect our force to internalize and operate in

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accordance with my intent. His intent is to minimize, not take away from the event, but to scrutinize before going after it. Following this intent requires a cultural shift within our forces and complete understanding at every level, down to the most junior soldiers. I expect leaders to ensure this clearly communicated and continually reinforced. Do you have any last minute comments that you would like to make.

MAJ (b)(3), (b)(6) No sir.

MG: I must tell you that this concludes this session. You may not discuss this investigation and our questions with anyone else. You are subject to recall.

ADDITIONAL QUESTIONING RESUMED ON 17 MARCH 2010

LTC (b)(3), (b)(6) placed MAJ (b)(3), (b)(6) under rights advisement. MAJ (b)(3), (b)(6) waived his rights and agreed to make the following statement.

LTC (b)(3), (b)(6) When you first came on shift, what time did you come on shift?

MAJ (b)(3), (b)(6) approx. 30 min, about 0830L is about the time I came on to the JOC floor.

LTC (b)(3), (b)(6) Your shift change is at what time?

MAJ (b)(3), (b)(6) 0900L sir

LTC (b)(3), (b)(6) When you came on the shift floor at 0830L, who did you speak with, sir?

MAJ (b)(3), (b)(6) MAJ (b)(3) and (b)(6) first, that's who I usually go to.

LTC (b)(3), (b)(6) Is there a formal shift change briefing that occurs?

MAJ (b)(3), (b)(6) There's a small checklist we have. I think I said before, we have a white board up that list any significant activities and we have a JOC read file as well that will print of, any pertinent emails that need to be passed up that we can't do go into another email box that me and MAJ (b)(3), (b)(6) go over sir. The actual formal shift change is at 0900L that's the Commanders update brief, and that pretty much covers everything from the last 12hrs.

LTC (b)(3), (b)(6) Who's present for the upbrief?

MAJ (b)(3), (b)(6) The entire CJ-SOTF staff and Command team sir.

LTC (b)(3), (b)(6) That Sunday morning that would be as well?

MAJ (b)(3), (b)(6) Sunday it's at 0600Z, 1030L, and all the rest of the days are the same at 0900L. But we still do an internal shift change at 0830L on Sunday we don't shift that timeline.

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LTC (b)(3), (b)(6) When you do your internal shift change is it 1on 1 between you and the Battle CPT or are you bringing in the other people within that JOC?

MAJ (b)(3), (b)(6) We usually have... me and MAJ (b)(3), (b)(6) will go over the big wave type stuff or he'll get into the details or something specific that he thinks he needs to share with me that's happened in the last 12hrs, and I will bring the Battle CPT and the NCOIC up. It's more of a round table discussion with either an email printed off or our operational updates that we have. Sometimes I'll just print out my last OPCEN date...

CO (b)(3), (b)(6) Just to clarify you have 2 JOC directors and 2 Battle CPT's

MAJ (b)(3), (b)(6) Right, day and night sir. Myself and MAJ (b)(3), (b)(6) are the JOC chiefs/JOC Director and the 2 Battle CPT's is MAJ (b)(3), (b)(6) and CPT (b)(3), (b)(6) CPT (b)(3), (b)(6) just came and just swapped out with are other night guy CPT (b)(3), (b)(6)

LTC (b)(3), (b)(6) So on this Sunday morning you did have a meeting were the J2X guys would have briefed or the fires guy would have briefed?

MAJ (b)(3), (b)(6) Not between 0830 and 0900, no sir.

LTC (b)(3), (b)(6) That wouldn't have accord until 1030L?

MAJ (b)(3), (b)(6) Roger

LTC (b)(3), (b)(6) At 0830 when you came on before the strike actually occurs, what did MAJ (b)(3), (b)(6) brief you concerning these vehicles?

MAJ (b)(3), (b)(6) Concerning what sir?

LTC (b)(3), (b)(6) Concerning the vehicles, concerning ODA. . . ?

MAJ (b)(3), (b)(6) We didn't even touch the vehicles yet. As I recall the first thing we discussed was what was on the Predator feed which was the vehicles and then we went straight to the main objective of noble assist. The only thing that was mentioned was hey we're watching these vehicles of some guys that are possibly massing. We discuss for about 10-15 minutes everything that was found on the note. The actual objective itself from Noble Justice... which I can't think of the chain of the top of my head. The things that they have found on the reporting that was going on there, the highlights from INFILL and that was pretty much it.

LTC (b)(3), (b)(6) Prior to, you actually observed the missiles striking the vehicle on the Predator screen?

MAJ (b)(3), (b)(6) did.

LTC (b)(3), (b)(6) Prior to the firing of the missiles, were you aware that there had been reports of children or adolescences in the vehicles?

MAJ (b)(3), (b)(6) Right, in the first interview I said yes I was