

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

MAJ (b)(3),(b)(6) Not that he didn't want to read it, but that he wanted to wait for the GFC to come up on the net to report what was going on, on the ground. He certainly didn't discard it or disclaim it. But I know that the was waiting on CPT (b)(3),(b)(6) to come up on the net. Prior to making that a decision point I think, and this is me, just speaking openly. I think prior to making a decision on what was going to be reported or not. I think he wanted to hear from CPT (b)(3),(b)(6) and what had happened on the ground. And to our understanding once we came off the objective we had no CIVCAS from that report.

LTC (b)(3),(b)(6) But CPT (b)(3),(b)(6) makes a report initially from the strike site correct, 7 adult males being evacuated?

MAJ (b)(3),(b)(6) He may have to the SOTF; we didn't have anything coming up on SAT 102, which is usually how we are getting it. Again coming back to some reporting flaws that we have identified, some of the Iridium traffic the SAT phone that he came up on the net with, back to the SOTF it, didn't get populated in the mIRC for our reporting piece.

LTC (b)(3),(b)(6) You got a report that there were 7 WIA correct?

MAJ (b)(3),(b)(6) Somewhere along the line, because I put it in an OPS update. Whatever I have I put in an OPS update.

LTC (b)(3),(b)(6) And where did you get that information from?

MAJ (b)(3),(b)(6) I guess CPT (b)(3),(b)(6) I mean, we probably talked 50 times that day on the phone.

LTC (b)(3),(b)(6) Where did CPT (b)(3),(b)(6) get it from?

MAJ (b)(3),(b)(6) I assumed from the GFC through COMs with the (b)(1)1.4c.

LTC (b)(3),(b)(6) You assume then or now?

MAJ (b)(3),(b)(6) I assumed then too.

LTC (b)(3),(b)(6) So you have a report from the GFC correct, all adult males?

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

LTC (b)(3),(b)(6) Enemy wounded in action. And if they were a woman or a child they would not be listed as?

MAJ (b)(3),(b)(6) Absolutely not. They would EWIA, and I have a wounded woman and child, just like we had two other ODAs do the exact same thing early in the rotation.

LTC (b)(3),(b)(6) So when you get the TF (b)(1)1.4c report that suggests that there is a woman and child, it's not just wait for the GFC, you already got some word from the GFC, it contradicts the GFC, is that correct?

MAJ (b)(3),(b)(6) Yeah that report contradicts what we have from our GFC down there looking at things.

LTC (b)(3),(b)(6) What is it exactly you are waiting for at that point, to reengage with the GFC?

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MAJ [REDACTED] What am I personally waiting for?

LTC [REDACTED] Well you said the brigade commander or CJSOTF Commander's response was I want to wait for the GFC.

MAJ [REDACTED] We hadn't had that report when we got, I do remember we did not have TF [REDACTED] report when the GFC hadn't been on the ground with a report yet. He may have been on the ground at that time, but we had not had a report yet that said what was there and what wasn't there. But had no time did we ever receive a report that there was CIVCAS from the GFC.

LTC [REDACTED] So in your estimation you got a report from [REDACTED] before you got anything from the GFC as boots on the ground?

MAJ [REDACTED] Or right during boots on the BDA while it was being conducted.

LTC [REDACTED] How certain of you of that timeline?

MAJ [REDACTED] Very certain of that, otherwise, if that was the only thing that we had to go on, and like I said it came up on the net with MAJ [REDACTED] and we let him know verbal, hey here's what we got this is an initial report that has come in. This is what we do all the time; we come up on the net with that initial report and say hey these are the things that we are hearing. It wasn't anything out the ordinary that day for that.

MG: In your initial report what were you hearing?

MAJ [REDACTED] The one from [REDACTED] or the one from GFC sir?

MG: The one from [REDACTED]

MAJ [REDACTED] The one from [REDACTED] was what CPT [REDACTED] had relayed to me. They had said that there were CIVCAS on the objective.

MG: And that time was about what time local.

MAJ [REDACTED] It had to be sometime before lunch sir, I say between 1130 and noon maybe. To the best of my recollection somewhere around there.

MG: So we have an official report, a FIR report from [REDACTED] we got a verbal. What do we do with that information, that there might be, it's a possibility what out there, who does that go to, who makes a decision on what to do with that?

MAJ [REDACTED] Commander would make the decision on what to do it. I know that I verbalized it with the CFSOC JOC Chief.

MG: What did the commander; he got that before noon time, tell me how he got it, what went on and what decisions were made?



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MAJ (b)(3),(b)(6) I have no idea what decisions were made from his end sir based on that piece of information sir.

MG: How did he get that information?

MAJ (b)(3),(b)(6) Me, LTC (b)(3),(b)(6), and the JAG walked into his office and told him sir.

MG: Okay before noontime, around noontime.

MAJ (b)(3),(b)(6) Yes sir.

MG: Walk me through what transpired there and the decision making process, clearly there is something laid out there is some dialog and the decision was made to what?

MAJ (b)(3),(b)(6) To wait on the final report from the GFC.

MG: Walk me through it. Walk me through it, who handed him the paper?

MAJ (b)(3),(b)(6) There was no paper in hand, we hadn't had the report yes sir, it was all verbal from CPT (b)(3),(b)(6) and to my knowledge, verbal from MAJ (b)(3),(b)(6) to LTC (b)(3),(b)(6). The three of us went in and gave a verbal update to the commander.

MG: Three was the?

MAJ (b)(3),(b)(6) JAG, myself, and LTC (b)(3),(b)(6). We give a verbal update just as I have described here, "We have a TF Pegasus that is the (b)(1)1.4c OH58 element is putting up a FIR to RC. Okay got it. What further the reporting do we need to do," that is what came out of LTC (b)(3),(b)(6) mouth I believe. Because it started to get confused as to, what are we doing next, and COL (b)(3),(b)(6) said, let's wait until CPT (b)(3),(b)(6) comes up on the net and gives us what the GFC assessment is on the ground. My automatic drill is to go back and verbalize at least to MAJ (b)(3),(b)(6). I told the (b)(1)1.4 that I was going to verbalize to MAJ (b)(3),(b)(6). Just kind of let him know that that report is out. Does it hurt, supposed to that's exactly what it is suppose to do, because again that is something that could come back on us. And then in the follow-on GFC reports that we received at CJSTOF, I received at CJSOTF, I don't want to speak for the commander, is we have no CIVCAS on the ground. Everything was listed as EWIA and KIA. CPT (b)(3),(b)(6) was well aware that the TF (b)(1)1.4c report was coming up because he is the one that gave it to me. I probably never told you will get up on the net and tell CPT (b)(3),(b)(6) that this report is there. So I can't speak on CPT (b)(3),(b)(6) unless he relayed that to CPT (b)(3),(b)(6) when he was on the ground. It would be something that I would not tell him to go do, because it would have been an assumption if the commander came up and said there were 7 by EWIA or 12 EWIA, simply listing EWIA there are no CIVCAS.

MG: what did the lawyer say in this conversation, not a word?

MAJ (b)(3),(b)(6) Nothing sir.

MG: So the point is we knew of possible CIVCAS around noon time, before or shortly after?

MAJ (b)(3),(b)(6) Yes sir.

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MG: But the decision was made by COL (b)(3), (b)(6) to hold off until boots on the ground verify?

MAJ (b)(3), (b)(6): To hold off in actually filling out an FIR sir, because the rest of the verbal reporting still continued and what we are waiting on is the no-kidding end of the (b)(1)1.4 report, okay this is what we got. That would have been the final decision maker on we will now direct a SOTF to fill out an FIR, we will begin that process, or we just met our objectives, we have done the (b)(1)1.4 and there are no CIVCAS. Now there are other reporting that go with that. The SWs for CAS engagement, what is your follow-on to engage the local village. That's my understanding, that's the way I interpret that.

MG: What does COL (b)(3), (b)(6) guidance on the CCIR, what type of reporting and guidance does it say when there is a CIVCAS?

MAJ (b)(3), (b)(6): For CIVCAS, it must be reported.

MG: Must be reported immediately?

MAJ (b)(3), (b)(6): Yes sir.

MG: So it says confirmed I believe or allege?

MAJ (b)(3), (b)(6): Yes sir.

MG: At this point what we say we had from our SOTF element, is getting data with someone who is in the fight, the (b)(1)1.4c element or the aviation is pushing forward FIR, its an impression, not a, you know. Would that be a possible alleged in our system?

MAJ (b)(3), (b)(6): Yes sir.

MG: Would it be prudent, we had another body, formation fighting with us, is saying is women and children. There is a report going on out there, I would see that, or how would you see that in the threshold of the CJSTF guidance of confirmed or alleged CIVCAS, where does that fall in?

MAJ (b)(3), (b)(6): That needs to be reported sir.

MG: Was it reported or not reported?

MAJ (b)(3), (b)(6): It was verbally reported by at least me to MAJ (b)(3), (b)(6) sir. With the rest of the channels what was reported whether it was commander to commander, to CFSOC or J3 to J3 from here to CFSOC, I can't tell you if that was done or not. I gave the verbal to MAJ (b)(3), (b)(6) as I said before, that this report is out there and that we do have alleged CIVCAS from TF (b)(1)1.4c. I still continued to follow-up, with we are waiting for the GFC to come back up on the net to let us know if we had CIVCAS.

LTC (b)(3), (b)(6): When in your mind did the GFC come up on the net? To your knowledge when did the GFC report whether or not there were CIVCAS?



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MAJ [REDACTED] know when the birds first lifted and got them to the ground we had no COMS and neither did the SOTF. And when he finally came up on the [REDACTED], they gave him a time limit every 15 or 20 minutes you need to come up on Iridium to give us an update. So somewhere after that, whatever we determined in that time limit, somewhere between the strike and four hours, I'm assuming he came up on the net with the SOTF.

LT [REDACTED] Did CPT [REDACTED] come back to you and say alright the GFC is on the ground and that he is saying that there are no CIVCAS?

MAJ [REDACTED] Roger sir, he came up and said, first he let me know once the split element, once the guys put boots on the ground. We have confirmation that GFC is there on the ground at the strike site. Okay got it, that was just battle tracking purposes. Maybe one or two other calls once he actually got information from the GFC, because we trying to determine much more than the CIVCAS, if there were CIVCAS or not, what is the EVAC plan for these guys, what's the security like down there, do they have a QRF that can go with them if we end up with two elements at Khod. There are several other moving parts going on besides just that. so there are a lot of other questions going on as well, that he wasn't able to give the answer to because he just didn't have COMs with him, with CPT [REDACTED]. The final report once they got to back to the Noble Justice Village of Khod, the final report from there, when COMs were back up with that SOTF, and I can't remember if it was [REDACTED] or if he called on [REDACTED] and gave it a final report; his final report back there was it was all EWIA and EKIA, and there was no CIVCAS mentioned.

LT [REDACTED] The reason why we keep going over this is because your timelines are different from what the SOTF is telling us. The SOTF told us the GFC hits the ground, gives an initial report, that does not include any civilian casualties and then they get word that TF Pegasus has an FIR. SO we are just trying to figure out how these get inverted in your timeline. But, you are sure that TF [REDACTED] has an FIR before there is actually boots on the ground?

MAJ [REDACTED] I am sure from that day sir. That is the way I remember it. At the end of the day, it wasn't that I wasn't getting information from those guys; it's just that it was hard for them to get COMs from the GFC. It wasn't that anyone was trying to keep something from me or I was keeping something from anyone else. From my perspective I have no reason to believe that.

COL [REDACTED] Let me go back to your briefing with CJSOTF commander, if I understood what you shared with MG McHale, somewhere around noon you gave him a verbal. When do you remember the hard FIR coming in from Pegasus?

MAJ [REDACTED] don't sir, because like I said I never saw it until the next day.

COL [REDACTED] It has a stamped time of 1425Z on it, 1425 I don't know if that was local or Zulu.

MAJ [REDACTED] That's Zulu sir.

COL [REDACTED] It was about that time, we understand from other testimony that it got to COL [REDACTED], that the hard copy. So you are telling us that COL [REDACTED] knew the potential for CIVCAS somewhere around



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noon, compared to getting that hard copy is not the first time he was aware of CIVCAS, it was when you went in there to the office, up to 2 ½ hours earlier. And it was crystal clear in your mind that you were telling him that there is a potential, or report of civilian injured?

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

MG: You told us before, but I need to understand, that COL (b)(3),(b)(6) said I got it we'll wait until the commander on the ground, boots on the ground. Was there any direction from COL (b)(3),(b)(6) directing any of the staff to go follow this up reconcile it, call the originator of it, to see what was going on. Get the doctors involved. What went on? Any kind of direction other than I got it, I want to wait until my boots get on the ground.

MAJ (b)(3),(b)(6) That was his direction sir.

MG: On this, his report from (b)(3),(b)(6) when you wrote this one, what time local did you write that, for the record?

MAJ (b)(3),(b)(6) 0700, 1226z.

MG: So at 1700 you wrote this, you've already read it here, this interests me here, that the ODA commander, if you read this on.

MAJ (b)(3),(b)(6) ODA commander reports he is already coordinating a follow-up KLE Shura within the next 24 hours to clear up any misconceptions related to strike earlier.

MG: What would be the misconceptions had that Shura that is a pretty strong word. It's a pretty definitive to go have the KLE Shura and sort through the misconception. So 1700 afternoon when this was going on there was some knowledge base in this, why he had to talk to the KLE Shura. Would he go talk to the KLE Shura to clear up misconceptions if it were all Taliban? What does that mean?

MAJ (b)(3),(b)(6) I think if you go back and looked at any of my ops updates on any strikes that we have done that we could not immediately do boots on the ground. And I think we all agreed that these, that this was a far target to hit, that the boots on the ground, immediate BDA, finding out what was going on directly after, was the reason we had so many questions. It's not the first time, and unfortunately probably won't be the last time that in thereat that we see that and this happens daily. The misconception that I am referring to is more of the JEC lane, the IO misconception that the Taliban can turn anything that we have when we are not there to do it ourselves. and one of the things that CPT (b)(3),(b)(6) came up on the net with, which we thought was a really good thing, when he got to the site, was allow the Afghans to do everything on the site. Let them get the story, let them see it all, let them touch the Muslim bodies, because we won't do that, we shouldn't do that and that was what I was referring to. Is to go there sit and have the KLE let those village elders and the Shura understand why we would hit a target, why we would strike a target. Maybe they didn't know that the village of Khod had other soldiers on it and this was a threat to them and that, that's why this was struck. And so that is what that sentence refers to. Certainly at that point not a misconception that we shot someone that we shouldn't have. At that time

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it was a misconception in my mind, and I knew and I think everyone in the CJSOTF would agree, because of that lapse in boots on the ground, BDA, and that reporting that we are getting from the GFC, that this has the potential to turn into our worst nightmare, regardless of what the target is valid, invalid, it would not matter. This can turn into something really ugly quick. So we want to make sure the GFC is going to make a plan to go back out and reengage that village. KLE Shura, bring it to the firebase, or whatever the case is. We do that for every single ODA that gets into a TIC, every single ODA that drops CAS anything like that sir.

MG: So that is a boiler plate report? You just put it on for everything you do misconceptions, we are going to do this or?

MAJ [REDACTED] wouldn't say boiler plate; obviously this had a little bit more implication because of the time it took to get there. Some of the visibility that it got up through your command and through USFOR-A just on the strike itself. Just take away the CIVCAS part and just the strike itself we were already under scrutiny for hitting targets with CAS platforms from day one. I wanted to make it clear for the people who were receiving this that the ODB Commander has a plan, and the SOTF and the CJSOTF were

[REDACTED] Then the follow on operations for these guys would be where it comes from.

LTC [REDACTED] At your approximately 1200 meeting with COL [REDACTED] to tell him that there was and FIR coming, who was tasked to get a hold of the FIR?

MAJ [REDACTED] No one was tasked to get it; LTC [REDACTED] said that he would run it to ground.

LTC [REDACTED] So was he also supposed to engage with TF [REDACTED] to get the SWs, for lack of a better term, as to the basis for the report?

MAJ [REDACTED] don't know.

LTC [REDACTED] Did you throughout that day hear any updates on that report?

MAJ [REDACTED] did not.

LTC [REDACTED] You told us last time and mentioned a couple of times today that you don't have two-way conversations with the CJSOTF Commander is that correct?

MAJ [REDACTED] That is correct. Not generally.

LTC [REDACTED] What do you mean by that?

MAJ [REDACTED] He is my Group Commander I don't usually sit and have conversations with him. My job as the JOC Chief is to update him on current operations with the information that I have at the time.

LTC [REDACTED] In your mind is that different than other commands that you have been in?

MAJ [REDACTED] No, not generally. I have been an infantry and SF guy, my commander is my commander.

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LTC [REDACTED] Are all of the conversations that you have with him essentially that you brief him and he responds with an, I got it?

MAJ [REDACTED] Sometimes we discuss what the tactics the guys are using or what are some other options that these guys can use other than maybe calling CAS, what do these have on ground, or some other options, but they are normally short and nothing earth shattering.

LTC [REDACTED] When the CJSOTF Commander came in that morning, based on information that we have gotten was that "why haven't we dropped that target?" In a situation like that if you feel that you have information that he needs to know or that he may not have considered, do you feel like you can provide that feedback to him?

MAJ [REDACTED] Absolutely, I have no doubt in my mind.

LTC [REDACTED] In your opinion does the Commander seek staff inputs?

MAJ [REDACTED] He does, absolutely. There are about 10 meetings a day for it.

LTC [REDACTED] So if he is lacking information you would put the fault on the staff or him?

MAJ [REDACTED] That falls on the staff, on any staff, if he is lacking information it is because we are failing to bring it to him. That is the way that I view my job. If he is in the JOC and he is trying to help make decisions that are simple day to day operations level O's, CRP's, and those basic things then I haven't done my job properly. If he is trying to battle track in the JOC then I haven't done my job. So that absolutely falls on the staff if he doesn't have the information that he needs to have.

LTC [REDACTED] Had you been on duty and the time, and the Commander came in and said "why haven't we dropped that target yet", but you knew that there were potentially children in the target; is that something that should have been brought to his attention at that point?

MAJ [REDACTED] would have been brought up. Like I said there was no build up to that strike, and I haven't had an ISR feed on that JOC floor that hasn't had a woman or child on it. So I would have briefed him on it and let him know for SA. I don't think it would have been a major thing at the time because like I said in the first interview, the GFC had just made it clear on [REDACTED] when I came in that he was waiting on that target to develop, and he was waiting on those guys to come closer to the target. So I think it was a surprise to all when the rounds went off.

LTC [REDACTED] So in the past you have had ISR feeds with women and children on the target.

MAJ [REDACTED] Every single target that we go to has women, children, and civilians listed at some point prior to going in. When I say target I mean when we do a cordon and search, a Level 1 daylight cordon and search, or a level 2 nighttime cordon and search with our Commandos or partnered ANA. The same thing happens with RCT7 in Marjah right now, they had all the exact same stuff on their targets that we did. Most of the 82D feed that we watch when SOTF East does an operation with them, or they report



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women and children are fleeing the area. That doesn't mean that every woman and child has left the village, but we get those reports on everything and that is not a new report.

LTC [REDACTED] In the situations that you just described you are not talking about a kinetic strike that is going to kill or wound every person in that area correct?

MAJ [REDACTED] No.

LTC [REDACTED] A cordon and search you have to be careful of the women and children.

MAJ [REDACTED] I guess it would be if you correlated it to a dynamic strike from a predator and there was just four this week that I know that I cleared exclusion zones for. It is the same thing if women and children come up on that then it cuts that actual dynamic target strike.

LTC [REDACTED] How do you take "have we dropped the target yet"? What do you think the Commander mean by dropping the target?

MAJ [REDACTED] I don't know I was not there.

LTC [REDACTED] That term wouldn't mean anything to you?

MAJ [REDACTED] I am not going to speculate what the commander was trying to say when he first came in. If someone gave testimony of that is what he said then that is their testimony.

LTC [REDACTED] If the Commander says that he meant that he wanted to destroy the target, kinetically engage the target; if you knew that there were women and children on there would you interject at that point?

MAJ [REDACTED] Absolutely.

LTC [REDACTED] That is a little different from a cordon and search.

MAJ [REDACTED] Absolutely.

LTC [REDACTED] Whose job would it be to tell the BDE CDR that there are potentially women and children on a target that you are about to do a kinetic strike on?

MAJ [REDACTED] Anyone who knows it.

COL [REDACTED] You said last time when you found out there were civilians on the target that you immediately reported it to the CJSOTF Commander. Do you go tell the Commander when there are potential civilians on a developing target?

MAJ [REDACTED] Of that nature I would.

COL [REDACTED] What do you mean of that nature? You just said that it happens all the time.



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MAJ [REDACTED] Every single target we see civilians on the target. We do not do predatory fire, and if so I think they have to clear it all the way through COMIJC.

COL [REDACTED] You didn't answer the question so I will try to ask it correctly. You said a couple of times today that when you identify women and children on a target, developing target, or potential target... Is that wake up criteria? Is that an information reporting requirement to the CJSOTF Commander?

MAJ [REDACTED] On a dynamic target it would be.

COL [REDACTED] On any target.

MAJ [REDACTED] No. Every single target that we go to has civilians on it.

COL [REDACTED] But yet when you identify civilians at the back end of the target you immediately report it to the CJSOTF CDR.

MAJ [REDACTED] At the back end of the target...

COL [REDACTED] After the strike.

MAJ [REDACTED] Roger.

COL [REDACTED] Okay, I am just having trouble with the logic of this, so we have the potential for women and children in a developing target and we don't say poo, but we go ahead and report it to the CJSOTF commander after we execute a target and identify them? How does the CJSOTF Commander get to the target execution?

MAJ [REDACTED] As I understood it when I first came in was that there were possible women and children in the vehicles was prior to me coming in. We didn't have a PID of women and children in the vehicles and they had the different assets that were reporting down to the GFC had PID of enemy personnel in all of the vehicles, and everyone was clear on that, and when the KIOWAs did the fly over and did the PID of enemy personnel at the time I still didn't expect a strike. I personally did not expect a strike with what was going on at that time.

COL [REDACTED] I asked you a different question. You told us a couple of times today that there are civilians, women, and children on every target. You implied that it doesn't require any action. I then said that if you hit a target and then identify women and children were on the target that was just hit that you immediately report it to the Commander. I am looking for the logic here that we have women and children on potential targets that we are going to employ ordinance on possibly and we don't inform the Commander, but we bring him in after we have broken the glass. How do you let the Commander influence the target execution?

MAJ [REDACTED] I am not saying that he wasn't informed of that, I am just saying that I didn't inform him of that when he came in, and I didn't see that as a target at that time. It was not a target; there was not a line and build up to say that the GFC was getting ready at any moment to engage this target. I had no