

CO (b) (6) Must some general questions first, and then we will move into the specifics regarding this event. Do you guys make the declaration of PID and hostile intent is that part of what you do as the screener?

SrA: We can assess, basically that everything is lining up. We can make PID of weapons that kind of thing on feed. We can never confirm hostile intent unless we actually see a group firing on a location.

CO (b) (6) How do you define hostile intent in your own words, when you are making these types of inputs?

SrA: I would say hostile intent would be anything observed as a threat to friendly forces.

CO (b) (6) You said PID of weapons, PID itself the identification not a threat force and determining that it is a threat force, do you do that?

SrA: The only way we can determine that a force is hostile, is when we observe them firing their weapons towards friendly forces.

CO (b) (6) When you are doing this job, in general, do you ever, or have you ever communicated with the JTAC on the ground?

SrA: In this specific job I have not. We are limited in communications occasionally. We may speak with the JTAC prior to him departing for the area. We have no way of knowing what the pilot of our aircraft is passing to the GFC.

CO (b) (6) What are you able to hear from your seat, what aren't you hearing or seeing from your seat?

SrA: The only communications that we can receive here on our end would be (b) (1) 1.4(a) if you are familiar with that. Essentially, the way I use it is for situational awareness. That's the only radio communications there that we could hear that day in regards to this mission.

CO (b) (6) When you are on the screen, how do you communicate to (b) (1) 1.4(a)?

SrA: On this specific mission, MIRC chat was the primary source of communication. I don't think this crew had access to (b) (1) 1.4(a) which is a system we use over radio. We relied heavily on MIRC.

CO (b) (6) When you are doing your job, who do you report to other than (b) (1) 1.4(a)?

SrA: For your standard missions we report to the ITCs or ISR tech. In this case it was SOTF (b) (1) 1.4c, (b) (1) 1.4d, he was the ITC. He was our primary customer; we do what is requested of us. Once it becomes a friendly force over watch, the JTAC is in the control of the asset, however we still take our direction from the SOTF (b) (1) 1.4a, (b) (1) 1.4b, (b) (1) 1.4c, (b) (1) 1.4d, ISR tech, or the pilot will relay to the MIC who will relay in chat what the JTAC intent is.

CO (b) (6) When you are tracking vehicles, what are you looking for to determine hostile intent?

SrA: The biggest factor would be the PID of weapons also if we see, I cannot remember the local time for this incident, but say 3 or 4 o'clock in the morning and we witness 3 vehicles traveling with 25 MAMs it seems suspicious.

CO (S), (b) (6) What beyond that kind of activity, are you making any kind of assessments to ground formations, or a type of movement they may be doing?

SrA: Yes sir. just putting all Intel aspects together, I believe the GFC was receiving information from another source that hostiles were moving towards their area and that they were going to meet up at some point. Based on that, and the information that we received, to us it appeared suspicious.

CO (S), (b) (6) In addition to the identification of weapons and the identification of tactical maneuvers, what is the broad category of assessment that you make. If you don't see bullets being fired is there any sets of activities that you would find yourself making an assessment of hostile intent or that this is an enemy force?

SrA: Yes sir, again on the receiving other types of Intel, having received that information, also seeing anything out of the ordinary. [REDACTED] (b)(1)1.4a, (b)(1)1.4c

[REDACTED] (b)(1)1.4a, (b)(1)1.4c

CO (S), (b) (6) Reference to the 21st, walk me through what your role in this?

SrA: My role was, I was brought over to the line once everything became hectic. We like to put multiple personnel on the line that is directly supporting a TIC situation.

MG: When was that about, when did that occur?

SrA: I arrived on the line, 2000 local time. I'm trying to translate that into your time sir.

CO (S), (b) (6) Use the mIRC chat timeline; was it along that timeline in the mIRC chat, where about did you plug in?

SrA: Approximately 0130.

MG: However many other people got involved in addition to you and your wife?

SrA: My wife was the primary screener at that time. She had been sitting there since the beginning of our shift. When I came in myself and I would say at least three other personnel had been moved to the line to aid anyway possible.

MG: You two, once you came on the two of you were on this from when you came on all the way through the end?

SrA: Yes sir. Just to clarify, to the end of our shift which would have been 0600?

CO (S), (b) (6) Who came on after you guys?

SrA: Another flight had an entire different group of individuals.

CO (S), (b) (6) What would 0600 be on this timeline?

SrA: That's your time sir, we come in at.

CO: (b)(6) Your time is east coast or central?

SrA: (b)(1)1.4(a) is central our shift runs from 1800 to 0600.

CO: (b)(6) When did you guys come off shift as it related to this event?

SrA: It would have been day time sir.

CO: (b)(6) But it was after the strike, okay good. When you guys are doing this, who supervises the mission, when you guys are doing your screening job?

SrA: It's in the actual crew itself that is analyzing this mission. The screener, Mrs. (b)(3), (b)(6), she is the immediate supervisor of the actual crew members. Then the mission commander, LT (b)(3), (b)(6) was one of the body's had moved to the line and is the ultimate supervisor the entire crew.

CO: (b)(6) These vehicles, what caused you to focus on these vehicles?

SrA: I was out of the office at the time when they had put eyes on these vehicles. I came in once they had initiated their prayer and washing ritual.

CO: (b)(6) Did you ever lose sight of these vehicles at any time during this event?

SrA: We would lose sight of one or two at a time. However we had at least one vehicle in view at all times.

CO: (b)(6) Did you identify weapons or possible weapons?

SrA: Yes sir there were possible weapons called out.

CO: (b)(6) What was the total count of weapons that you guys could identify?

SrA: I believe it was only one possible weapon called out at one time.

CO: (b)(6) Do you have an accurate assumption of what you think or what you saw of the assessment of MAMs?

SrA: Having set throughout the course of the mission, total member called out I would say three.

MG: You have been doing this for two years check?

SrA: Yes sir.

MG: How many MAMs did you assess were there, to your best guess?

SrA: Best guess, between 25 and 30 MAMs.

MG: 3 weapons and 25 to 30 MAMs, in your own mind was this an assessment of a hostile force?

SrA: I would say, when I first came in and set on the line, I had assessed personally it appeared hostile. As the mission continued it started looking more like a large group of people moving west out of the area. I believe that was called out by the screener, because they were moving west.

MG: Were these possible weapons or did you assess weapons?

SrA: Possible weapons sir.

COL (b)(3), (b)(6) Were you guys consistent with the word possible as you were communicating this to (b)(1)1.4(a)?

SrA: In past situations sometimes it, having called it out one time you won't use it necessarily every single time in order to get information out to all key players timely.

COL (b)(3), (b)(6) Did you spot any or identify any women and children during the movement?

SrA: I personally never identified women, however adolescent were observed around the SUV.

COL (b)(3), (b)(6) So your assessment was adolescent, there was an assessment of children; was that by the other screener?

SrA: Yes sir.

LTC (b)(3), (b)(6) When COL (b)(3), (b)(6) asked about possible weapons and you said that's what we start out saying, but if it is sped up or heated up you might call it something. When calling out weapons you might call out weapons and not possible weapons?

SrA: Yes sir. It is a continuation of what you previously call out.

LTC (b)(3), (b)(6) So initially you could say possible weapons and later call out just weapons?

SrA: Yes sir.

LTC (b)(3), (b)(6) What I am trying to understand that later if you call out weapons instead of possible can that be considered as fact?

SrA: I understand what you are saying; I guess it could be taken out of context.

LTC (b)(3), (b)(6) Back to the children versus adolescent, what does adolescent mean to you?

SrA: Based on my personal knowledge and training we receive is, I would say between the ages of 9 to 14.

LTC (b)(3), (b)(6) But what does that mean to you combatant, or noncombatant?

SrA: The way I make my call out sir, if I believe a person is a combatant I would not call out adolescent but would call out instead MAM.

COL (b)(3), (b)(6) Did you ever work a mIRC window during this event?

SrA: Only maybe for a second, to allow the primary to take a break.

COL (b) (6) Did you communicate to (b)(1)1.4(a) via MIRC that these were adolescent?

SrA: No sir I didn't type that in.

COL (b) (6) On the weapons do you still retain, it was still possible in your mind, what was the concern that prevented you from saying these were weapons?

SrA: Primary reasons we cannot say these are weapons whether its dusty outside, transitioning from darkness to daylight, altitudes on the aircraft, the sensor's inability to focus the sensor.

COL (b) (6) As it relates to the moment you came in, was PID already declared, and who declared it?

SrA: I don't believe it was ever declared. From my perspective, I asked the Intel analyst. If PID was declared it would have been on the fight crew and unfortunately we have no way of knowing what they say to the JTAC.

COL (b) (6) Are you aware of if the JTAC communicated PID?

SrA: I haven't had the opportunity to hear any of the voice recordings from the pilot to the JTAC. I heard the OH58 had PID the weapons, supposedly.

MG: Are the voice recordings taped?

SrA: That is my personal thought; I would think they are recorded. I cannot confirm that.

COL (b) (6) Going back to the children, what was your assessment of the number of children in the convoy?

SrA: At least two possible. Possibly a third adolescent.

COL (b) (6) So two or three, what was your assessment or women again?

SrA: I never personally observed women prior to the strike.

MG: What was your slant report?

SrA: Due to the large amount of people, we were going with a less formal, at least 20-25 observed. At least 2 adolescent were called out. I never had a formal slant.

MG: Are you supposed to have that or is that the responsibility of the primary screener?

SrA: It does vary, from situation to situation. It's easy to confirm the slant. However in this situation it was difficult to maintain a formal slant.

COL (b) (6) Do you have the 1.4(c) chat in front of you?

SrA: Yes sir.

COL (b) (6) Can you go to 10637?

SrA: 0010637?

COL (b) (6) I am looking at 010637. At least one child near the SUV, the child was assisting a MAM loading a vehicle. Two children were at the rear of the SUV. MAM assisted the child entering the rear of the SUV. Is this the same child assisting the MAM or two children?

SrA: To be honest with you, I wasn't sitting the seat at the time, I didn't make these call ups.

COL (b) (6) Do you remember this though?

SrA: The specifics. I wasn't there at the time; I came in a little later so I don't remember the specifics.

COL (b) (6) If you can go forward to 105031?

SrA: Roger.

COL (b) (6) It says adolescent at the rear of the SUV. So this adolescent, is this determination to the discussion that you guys had, is this when we went from child to adolescent?

SrA: I was sitting in the back row when this was called; I wasn't there when it was called out children. If we lose sight we don't keep that slant. It may have been updated when a better view was provided.

COL (b) (6) Go to 00305 for me. If we could look at it through 0411. It says what's the count of males, females in the group. No females observed. Just two children, haven't seen any children. As we are looking at this we don't know if it child versus adolescent or a different screener that had a different opinion. What is the slant at this time? Can you put this in context for us so we have a better appreciation?

SrA: My personal way of looking at it, because an adolescent is considered non-hostile, a child and adolescent would be in the same category.

COL (b) (6) Whoever this screener was, why did he say he hadn't seen any children, when there were two to three adolescents in the game?

SrA: I didn't personally type this stuff in. At 0407 (b) (1) 1.4 (6) screener called it out and input an asterisk in there correcting something that was previously called out. It was two children were assessed to be adolescent and they were last seen in a dark tone white top SUV. I don't know if it was ever corrected prior to this point in time.

COL (b) (6) That was a correction to an earlier one?

SrA: That would be considered a correction.

COL (b) (6) I think it is answering the previous line above that. My belief is when SOTF south came on to tell you what they saw and you confirmed what you saw. And that makes sense.

SrA: I believe I am tracking. Right here at 0305, the MC asked what is the count of males and females in the group and they say no females observed. The MC ask just two children and they say haven't seen any children. I have a feeling if we brought this back up we would be looking at a group individuals, and I was asked that question, my understanding would be what are looking at the exact moment.

CO (b) (6) Did your or the other screener convey to the JTAC directly?

SrA: No sir. I wish we did. But we don't have that ability not even for QC purposes.

CO (b) (6) At what point did you start to have reservations of discussions of hostile intent and PID that was in the MIRC?

SrA: The assessment of PID of weapons never changed for me. I will say that at 0240 I had a conversation with the primary screener and she and I collectively assessed were rather than moving south appeared to moving west out of the area.

CO (b) (6) Did you ever understand that the GFC had decided to strike the vehicles; were you ever aware of that?

SrA: I'm became aware when SOTF ISR dropped at 0405 into the ISR. The MC passed that the OH58 were cleared to engage the vehicles. We were all caught off guard.

CO (b) (6) So 0405 was when you got your first indicator that they were going kinetic?

SrA: Yes sir.

CO (b) (6) What were your instincts when you first saw that come up?

SrA: It seemed strange because we had called out that these vehicles were going west. I don't know how they determined these vehicles to be hostile.

CO (b) (6) Did you think that this was a bad hit, premature?

SrA: I thought it was a bad hit sir.

CO (b) (6) Is there a mechanism when you see something like that that allows you to communicate to convey that?

SrA: The quick pace it made it difficult. If (b)(1)1.4(a) would have been the ones to go kinetic we can talk to (b)(1)1.4(a) This one we were out of the loop. I brought up a whisper with the MC, I said are you sure, what are the time frames when will they be coming in, and the MC responded saying we don't know their ETA and at that moment the first vehicle blew up.

MG: The MC is (b)(1)1.4(a) or LT (b)(3), (b)(6)?

SrA: The MC is (b)(1)1.4(a). At 0405 the first talk of going kinetic. At this point we are aware, but not thinking anything specifically. Moving on down to, confirm that there were two children. 0410, the

mIRC called out OH58 are clear to engage these vehicles. At this point I brought up a whisper with the MC. I brought up the chat with the MC asking what the ETA target was; he responded he wasn't sure at that time. It was instantaneously, the first vehicle was exploding.

COL (b)(3), (b)(6) the dialog that you had with (b)(1)1.4(a) what did you communicate to (b)(1)1.4(a)? Do you believe they understood your assessment that this initially could have been hostile, and then soon became non hostile over time? Is there any doubt in your mind that, that was not communicated to (b)(1)1.4(a)

SrA: What I will say is that, they were very quick to disregard our assessments. Where we called out they appeared to be avoiding the area, the (b)(1)1.4(a) responds they may be trying to flank us. Again we drop within approximately 5 miles west of blue forces. The MC comes up and tries to convince us that this is hostile forces. Their desire to engage targets gets in their way of assessments.

COL (b)(3), (b)(6) After the strike went down, how many women and children did you assess then?

SrA: I believe it was three women. I can't remember how many children. I saw one woman carrying a child/

COL (b)(3), (b)(6) What do you guys do when you identify civilian casualties? Do you have a reporting requirement?

SrA: With this specific incident, as soon as that first vehicle was struck, having been sitting for a while my first response was to go get LT (b)(3), (b)(6) I grabbed him and said sir they just went kinetic on these vehicles. As I am talking to him we are moving back to the line. At that point I passed as much information as possible so he can go through the proper chains as well.

COL (b)(3), (b)(6) So you handed off to the mission commander in order for him to start reporting as required?

SrA: Yes sir.

MG: Knowing what you know, can I get your start to finish assessment of what you thought of this thing, what you saw develop, was this understandable or a bad thing?

SrA: I believed this entire incident to be a bad thing. What happened was unacceptable. My opinion this happened because of our inability to monitor what other players are passing forward. If we could hear what is being said across the board, the JTAC and pilot are not Intel analysts; but we are trying to get accurate information to the ground forces based on real-time Intel.

COL (b)(3), (b)(6) The GFC expressed the challenges that he was experiencing on the original target sight. Did you guys put any of your efforts on to that target sight as the GFC was dealing with what he believed to be dismantled forces in his immediate area?

SrA: Not that I am aware of, I was not a part of that, it happened before we came on shift.

LT (b)(3), (b)(6) Is adolescent a different call out then child or children?

SrA: I think it varies from screener to screener. One screener may be more comfortable with calling out adolescent. It is very difficult to tell. I personally believe an adolescent is child, an adolescent being a non hostile person.

LTC (b)(3), (b)(6) In your mind anyone younger than a MAM can be a child or children?

SrA: Yes sir.

MG: How old are you?

SrA: I am 25 YOA sir.

MG: SrA (b)(3), (b)(6) one last time, the follow-up. You have understood all of the questions asked of you today. You have made the statement freely, without hope or benefit of reward; without coercion or unlawful inducement.

MA (b)(3), (b)(6) And in accordance with the privacy act I will obtain your personal information. Tell me your SSN please?

SrA: (b)(6)

MA (b)(3), (b)(6) Spell your last name please?

SrA: (b)(3), (b)(6)

MG: SrA (b)(3), (b)(6) thank you very much for your testimony. I do not see anything that required a rights advisement I do not suspect you of any wrong doing. You cannot discuss the matter of this investigations and this questioning until the conclusion of this investigation. Understood?

SrA: Yes sir.

STATEMENT OF

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

TAKEN AT

DATED

STATEMENT (Continued)

STATEMENT ATTACHED

AFFIDAVIT

I, (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 12. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(Signature of Person Making Statement)

WITNESSES:

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

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 12 OF 12 PAGES

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

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

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

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

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

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|---|-----------------------------------|------------------------|----------------|
| 1. LOCATION (b)(1)1.4(a) | 2. DATE (YYYY/M/DD) 2010/02/28 | 3. TIME | 4. FILE NUMBER |
| 5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3), (b)(6) | 6. SSN (b)(6) | 7. GRADE/STATUS LTC | |
| 8. ORGANIZATION OR ADDRESS (b)(1)1.4(a) | | | |

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

STATEMENT ATTACHED

| | | |
|-------------|---|-------------------|
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT (b)(3), (b)(6) | PAGE 1 OF 7 PAGES |
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

(THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.)

LTC (b)(3), (b)(6) USAF
Commander
(b)(1)1.4(a)

Investigators:

MG MCHALE

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

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

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

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

(Sworn in and read Privacy Act Agreement by MAJ (b)(3), (b)(6), and agreed)

MG: How big is the squadron?

LTC (b)(3), (b)(6) We have just over 350 people operating out of the 3 locations in CONUS and about 40 forward in the theater.

MG: The incident that took place on 21 February, are you familiar with that?

LTC (b)(3), (b)(6) Yes sir. I believe you have our products from that. I came in and assisted on producing the power point brief associated with that and also typed the text answers to the EEI.

MG: Were you on the scene while any of this was going on?

LTC (b)(3), (b)(6) No sir, I was called in on Sunday noon time, (b)(1)1.4(a) time, which is about 1500Z on Sunday.

MG: But the two screeners next, one at a time, they were there on the scene correct.

LTC (b)(3), (b)(6) We have both screeners and the mission operations commander who worked the mission in real time. Just for background the investigation we did here which was forwarded to you were our PowerPoint slides and our text answers. It was done by a separate crew. The project you got came from a separate crew.

MG: The two screeners were they working at the same time?

LTC (b)(3), (b)(6) They were there at the same time that was unusual. The mission operations commander Lt (b)(3), (b)(6) the sheer number of people involved when we picked up the first vehicle, with that large number of folks he thought that the crew needed for augmentation so he moved a full motion analyst, and an extra screener to the mission, just to get some more eyes on the mission. That is very unusual. Right from the beginning it looked like it was going to be hard to follow. To follow more than 2 movements at a time, to follow that we will put more people on the mission.

MG: The mission operations commander is that Lt (b)(3), (b)(6) and if so what are his duties.

LTC (b)(3), (b)(6) Yes sir, Lt (b)(3), (b)(6) was the mission operations commander on this day. On a typical day he will have 3 to 4 missions in Afghanistan. He oversees the execution of all missions and ensures the crews are qualified.

Then during the mission he'll make real time adjustments to crew compositions to ensure they are working missions that have the most going on. He is responsible for quality checking all outgoing documents. He is responsible for all the operations particularly (b)(1)1.4(a). The mission we had going on at the time of this one, I cannot recall if they were just slow or what, but we were able to focus a lot of our attention on (b)(1)1.4(a). The missions' operations commander was in the bay where (b)(1)1.4(a) was being conducted.

LTC (b)(3), (b)(6) The screener is actually an upgraded position. Our full motion video analysts, that is an entry level crew position. After about nine months as a FMV's, you are upgraded to be a screener. All the screeners were fully certified full motion video analysts. Then they become screeners where they are in charge of the execution of a particular line. The screeners you are going to talk to were responsible for all of the extra crew positions for (b)(1)1.4(a) on that particular day. We have formatted text call up; our screeners will in real-time quality check that call up based on what they are observing. They will put that into chat and ensure it meets the command standard on what they want to hear from us. The screener interacts with the air crew typically via chat.

MG: When you say typically, is there another line of communication that the screener has with the plane or ground commander. I am not too familiar with the computer system.

LTC (b)(3), (b)(6) We can, when we work other missions we have a voice capability via a radio over IP technology.

CG (b)(3), (b)(6) In the past are there times where the screener or mission operator commander, when they see something that isn't right and the mIRC chat is not getting across the message are they empowered to pick an alternate means to communicate with the platform or GFC?

LTC (b)(3), (b)(6) Yes sir, we can call the Predator operations center at (b)(1)1.4(a), and we have various secure voice communications. And we can do the same with our ITC who is embedded with the GFC. I think it was Amn (b)(3), (b)(6). We can also go through Lt (b)(3), (b)(6) who is embedded in CJSOTF.

CG (b)(3), (b)(6) Have you seen the tape, I know you did the analysis and the post analysis. Did you go through all 14 hours of the tape?

LTC (b)(3), (b)(6) I have been through our call outs. What I would do, we have the chat script. What my team highlighted to me was the key moments from the tape. I probably watched 14 hours of video, but only about 15 minutes of tape where we were calling out women and children or PID of weapons. I didn't watch it all the way through.

CG (b)(3), (b)(6) What are you sensing, not just the quality of the work, when you came in to look at it, that it made sense, or did it look like something other than what should have happened with the ground commander?

LTC (b)(3), (b)(6) Based on what I reviewed, it looked like hostile intent in the beginning. Looking at the totality of evidence, they were in a TIC situation. (b)(1)1.4a, (b)(1)1.4c

(b)(1)1.4a, (b)(1)1.4c
(b)(1)1.4a, (b)(1)1.4c At the point at which they turn west to travel, our guys became concerned that they were not coming towards the primary engagement at that point. They have since told me they don't think they got as close as 3 nautical miles to the troops.

The aircrew then felt they were trying to flank our guys, we felt like they were too far, so no. our guys in their minds, they didn't think they were hostile at that point. And they had called out the two children as being in the group. We were surprised when the first vehicle exploded in front of them. At that point they saw, by the way, the women in the convoy were not visible prior to the first vehicle strike, at least three women get out of the vehicles and start waving scarves which is very unusual in our experience. The reaction to the folks that were being engaged was different than is normal.

CO (b)(3), (b)(6) When you identified the children was that an upgrade to adolescents or was it children and adolescents, what does that mean to you?

LTC (b)(3), (b)(6) An adolescent for us is a noncombatant. A little person, a person is half the vertical size of an adult versus someone that is three quarters of the size of an adult.

CO (b)(3), (b)(6) When you guys send up possible was used a lot, and then saw possible got dropped off, is that a technical distinction or was that just an omission when you were referencing children and/or adolescents?

LTC (b)(3), (b)(6) Truthfully sir I don't know. I can go through and review, do you have a time stamped?

CO (b)(3), (b)(6) I am referencing the pre analysis of pictures that you did and post analysis and I compare them to the MIRC chat. Just for my own knowledge it is the team a technical distinction or is that how were really speak when doing this stuff?

LTC (b)(3), (b)(6) The possible children that I see on the Power Point slides were not found in real time. Those were called out after the mission. We had our folks; a new crew come in and goes all the way through the video.

CO (b)(3), (b)(6) There are two parts to this question. I saw possible in the pre and post analysis set of slides that are left from the MIRC. The post analyses continue with the term possible.

LTC (b)(3), (b)(6) Possible is a term in the intelligence community to state it is not certainty. An upgrade from possible would be probable to likely. By calling out possible in the course of how the word was used, that there is certain doubts within the analysts mind; a confirmed weapon or probable weapon.

LTC (b)(3), (b)(6) When your screeners, when the pilot uses the word possible is that an indicator of confirmation, if the pilot in his radio call dropped of the word possible would that be a mistake?

LTC (b)(3), (b)(6) There may be omissions, and that is a mistake, they should continue the possible tag until confirmation is provided.

CO (b)(3), (b)(6) When they are using whisper, are there procedures that prevent data from flowing?

LTC (b)(3), (b)(6) I did not know that was a whisper conversation until this morning. I believe it is logged so I will track that down and get back with you.

CO (b)(3), (b)(6) What is your assessment of what you know about hostile intent, imminent threat, and if these met the qualifications of PID?

LTC [REDACTED] We only knew of one blue force on that ground and that was the TIC. That did not appear to me to be a hostile force.

CO [REDACTED] How did the screener track previous reports during the mission?

LTC [REDACTED] This crew is on shift for 12 hours. So they are there for a long period of time, they develop their own situational awareness based on what they are seeing. We have a situational awareness display that keep track what has gone through. If we want to go back and look at something before they can bring that up and have a running log that is tagged by time stamp and key words.

CO [REDACTED] Obviously this mission was several hours long you make an observation and report a child in a vehicle at some point and then hours later how do you go back and verify when asked later, if in fact a child was in the vehicle?

LTC [REDACTED] We are required to keep slants. Our crew members are required to keep situational awareness on how many MAMs, women and children are in a vehicle or compound. If they have been observable within the full motion video. So we pass that in chat as like, if there were 6 adult males, no women and two children it would appear as 6/0/2. Everyone in the crew is responsible for keeping track of that, a screener has primary responsibility for it, but the full motion video analyst, there is a sheet of paper in front of us that allow us to write down the slants. Typically at least every 30 minutes we go over the time slants so everyone is synchronized on what we think. I don't remember seeing slants in this incident. I think they were called out here.

CO [REDACTED] The slant is the slanting of the diagonal once you get 300, 3/0/0, right?

LTC [REDACTED] That is correct. In our jargon we call that slants.

CO [REDACTED] Who types into the mIRC chat?

LTC [REDACTED] It is the screener; in this case I think it was [REDACTED] She was assisted by SrA [REDACTED] at the time. The only person allowed to type to the supported command is the screener.

CO [REDACTED] And that chat goes directly to whom?

LTC [REDACTED] It is primary a three point communication, there may well be other folks in the room. But it is intended for communication to the aircrew and the supported command. And from [REDACTED] the primary person typing is the mission intelligence coordinator. He has a headset that allows him to relay information to the aircrew, flying the aircraft, both the sensor operator and the pilot. Amn [REDACTED] responds to the GFC and back to us. That is how the GFC gets his information.

CO [REDACTED] With regards to all the information that information was given freely, without unlawful inducement, without promise of reward.

LTC [REDACTED] That is true.

MA [REDACTED] Sir please spell your last name.

LTC S: [REDACTED]

MAJ S: What is your SSN?

LTC S: [REDACTED]

MAJ [REDACTED] And you present location?

LTC [REDACTED] [REDACTED]

MG: This investigation is ongoing. Do not discuss the contents of this investigation or questioning in relation to this investigation until the closing of this investigation.

LTC [REDACTED] Yes sir.

STATEMENT OF (b)(3), (b)(6) TAKEN AT _____ DATED 2010/02/28

STATEMENT (Continued)

STATEMENT ATTACHED

AFFIDAVIT

I, (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 7. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL

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

WITNESSES:

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

(b)(1)1.4(a)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 23rd day of MARCH, 2010

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

Interview of MAJ (b)(3), (b)(6) Aircraft Commander

Introduction by COL (b)(3), (b)(6)

Privacy Act Notification/Recording Notification provided by LTC (b)(3), (b)(6)

COL (b)(3), (b)(6) Walk me through what you saw when you guys came on station, describe what you saw and your evolving assessment of the vehicles on the ground.

MAJ: Unfortunately there is a little time separated so I might not have the actual call times and stuff correct. Basically it started out like a standard mission. We showed up on station got in contact. Cannot remember if we were in contact with the ground force FSO or in contact with the actual JTAC, I know the JTAC was still at the FOB. We pushed down to the south to pick up the helicopter before the infill. Immediately after they took off we got (b)(1)1.4c from our DZO that they knew the helicopters were taking off and on their way. It's not normal to get (b)(1)1.4c that quickly. The helicopter took off and we were able to split the sensors. Another thing that was interesting we get a lot of (b)(1)1.4c (b)(1)1.4c that do not match what is going on, on the ground. When he made the call that the helicopter was on its way, things started to happen on the objective immediately. People started moving around. We started picking them up pretty soon after the helicopters took off. That was abnormal I must say. After that it really seemed pretty normal. The infill, I remember they didn't really have us, I cannot remember what we did with the squatters. I did remember the JTAC did not seem to be real concerned. The infill, we received a lot of (b)(1)1.4c throughout the night. The (b)(1)1.4c seemed to match what was going on, on the ground. They said they heard something and whatever was going on, on the ground matched it. Really, only thing I remember, we had via (b)(1)1.4c they said they had someone stuck in the objective area. There was a lot of (b)(1)1.4c saying get everyone together we are going to get them. It seemed pretty standard, up until the point they started the (b)(1)1.4c telling people to gather up and come that direction. That's when I as the aircraft commander, got the guys out of view. Soon after the (b)(1)1.4c, we saw three distinct headlights and start to move around. That's when I talked to the folks in the sensors office to see what they were. From my understanding it was just a headlight but looking through the sensors it appeared to be trucks full of hot spots. Then pretty quickly in the hour, we shifted to follow those trucks. They were pretty close together, one was a little further away, so we paid close attention to the two close together. The COMs that we all took note of in the aircraft, was the chatter rallying forces to head towards the objective, at that moment they all stopped what they were doing and start piling in the trucks. This time the (b)(1)1.4c was matching what was going on, on the ground, and that is normally not the case. From there, it was a pretty steady flow of COMS from us and the JTAC letting them what we had seen. We talked to Predator, we were trying to get them in the loop. They were helping us keep track of the objective and the vehicles. We don't have the capabilities of PID from the gunship, so we were trying to get as much information as possible. The JTAC was trying to get the Predator on it to get PID of weapons and such. We cannot answer that question because our sensors don't have the fidelity. The (b)(1)1.4(a) was having the same difficulties. We were basically trying to get the information to engage these folks. We never got the fire

authorization because JTAC couldn't get us what we needed. We didn't have successful PID. We stayed until we ran out of fuel and had to leave the area.

CO: (b)(3), (b)(6) What was your assessment of these vehicles, were they a threat, potential threat, or something else?

MAJ: Without the (b)(1)1.4c I would have not considered them a threat because they were so far from the friendly forces. Assuming the (b)(1)1.4c is accurate we have a heightened since of importance on these vehicles because of the given with the (b)(1)1.4c we were getting. The size of the convoy, and their suspicious movements, and constant stops and starts, and the (b)(1)1.4c based on that I considered them. They were not an obvious direct threat, but of enough threat I wanted to keep the sensors there.

CO: (b)(3), (b)(6) At anytime did you all communicate to the GFC that you thought it was a target and were ready to engage?

MAJ: I don't remember us telling them specifically that they were hostile and a target. I do remember the JTAC would say a lot of things that would lead up to a fire mission and then he would stop. Of course my crew was ready to go but we need a fire mission. I don't remember but am sure the NAF at some point said we need a fire mission.

CO: (b)(3), (b)(6) You've been doing this for a while, the JTAC what picture did he paint for you, what did he think was happening on the group. I don't know exactly what was happening, but he had the same understanding that we did. The (b)(1)1.4c their movements and actions, it seemed to jive that these were a threat. It wasn't an accident that they were doing what they were doing, that was our perception. Is that kind of characterizing the dialog that you all were having with (b)(1)1.4(a)?

MAJ: Yes sir. I don't want to put words in his mouth. My perception was that he was doing a lot of what we were doing. With the totality of information that we had, these guys were involved in the operation, and we were trying to get the information that we needed to make the PID, to declare hostile, to get the information to the jet, to the JTAC to get to the GFC to make the call.

CO: (b)(3), (b)(6) Did you extend on station to support this?

MAJ: We did. We received a BMNT waiver to take us all the way to low fuel to support the operation.

CO: (b)(3), (b)(6) How long before you left was (b)(1)1.4(a) the (b)(1)1.4(a) on station?

MAJ: I believe he was there the entire time.

CO: (b)(3), (b)(6) Can characterize the traffic between (b)(1)1.4(a) and the GFC and yall?

MAJ: I cannot speak for him or the GFC, a lot of that conversation does not go over the airways. As far as the JTAC didn't see nothing abnormal. The JTAC would ask a question, there is a lot of conversation, on do you see weapons that was a big question. The (b)(1)1.4(a) would answer; they couldn't tell if my

memory serves. If we couldn't get the information because of our sensors, he would ask us to (b)(1)1.4(c) or ask us to relay to (b)(1)1.4(a) to get the information he needed.

COL (b)(3), (b)(6) Are you able to go online with the (b)(1)1.4(a) ?

MAJ: Yes sir, it's not great, I mean its intermittent most of the time but we were able to talk to them.

COL (b)(3), (b)(6) Can you characterize that discussion?

MAJ: Honestly I don't remember a discussion necessarily, we were passing information. We typically don't hold discussion between the two, we simply pass information. The only time we talk to the (b)(1)1.4(a) is to hand off the target, advise them of what we are looking at, or pass information from the JTAC. I don't remember this night, and it doesn't typically happen on nights we are working together.

LTC (b)(3), (b)(6) Had you been given a fire mission that you felt comfortable to execute?

MAJ: Honestly sir, yes. I would have to say yes, the totality of the information, how these people were moving on the ground, I read what the JTAC specifically talked about the ROEs, he made a comment to the ROE that we would fall under, 421 and I can't remember the other one. But at the time we had discussion in the airplane made sure we knew what that was. There was a lot of (b)(1)1.4(c) about how they thought the friendly forces was a small force and that they could over run them and take them. That was a lot of that going on, and our concern was that they knew that the gunship was there and they would wait until it left before engaging the friendlies. Based on the fact that we knew that as soon as we left that they would be in greater danger, if the JTAC would have given us our mission we were ready to execute that.

[Unintelligible]

MAJ: I'm sorry sir you are coming in broken.

[Unintelligible]

COL (b)(3), (b)(6) You are coming in with an echo and broken up.

[Unintelligible]

COL (b)(3), (b)(6) No better, it is still screwed up.

LTC (b)(3), (b)(6) You said clear the rise?

MAJ: I said that?

LTC (b)(3), (b)(6) You said you had to clear the rise.

MAJ: Clear into the Rise, that is basically an admin function where whoever owns the airspace clears us to enter the airspace and typically gives us an update.

LTC (b)(3), (b)(6) You also said DSO?

MAJ: That's the direct support officer, that's SSgt (b)(3), (b)(6) her position in the aircraft.

COL (b)(3), (b)(6) You meant ROE not EOR correct?

MAJ: That's correct ROE.

COL (b)(3), (b)(6) Okay I will turn this back over to the JAG to close out. Hold on (b)(3), (b)(6)

LTC (b)(3), (b)(6) Just one thing it is an ongoing investigation. Don't discuss the questions and answers with anyone until it is over. Okay.

MAJ: Yes sir.

COL (b)(3), (b)(6) Thanks a lot.

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

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

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

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

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

| | | | |
|---|----------------------------------|-----------------------|----------------|
| 1. LOCATION | 2. DATE (YYYYMMDD) 2010/03/03 | 3. TIME | 4. FILE NUMBER |
| 5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3), (b)(6) | 6. SSN | 7. GRADE/STATUS O4 | |
| 8. ORGANIZATION OR ADDRESS | | | |

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

Statement begins on page 1, transcribed statement from pages 2-13

| | | |
|-------------|---|---------------------------|
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT | PAGE 1 OF <u>13</u> PAGES |
|-------------|---|---------------------------|

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

Interview of MAJ (b)(3), (b)(6), CJSOTF Surgeon, USA

Introduction provided MG McHale

Privacy Act Notification/Administration of Oath/Recording Notification provided by LTC (b)(3), (b)(6)

MG: If you could go back, the incident happened at about 0345 local. I'd like to talk in all times local, okay.

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

MG: Excuse me 0300 local z, excuse me the infiltration went in about 3 o'clock in the morning. What were you doing at that time?

MAJ (b)(3), (b)(6): I was sleeping.

MG: I would like you to walk us through the events of that day, walk us through that whole day.

MAJ (b)(3), (b)(6): I woke up, probably around 0700 local, came to my job, my duty position. I did my normal stuff. I went to my CUB, 1030 local. If I remember correctly, that was the first that I heard of what was going on there.

LTC (b)(3), (b)(6): At the CUB what was briefed about the incident?

MAJ (b)(3), (b)(6): If I remember correctly, I generally listen for casualties, when they are KIA. If I remember, they briefed that there were a number of KIA from the incident, but I don't remember necessarily if they mentioned how many?

LTC (b)(3), (b)(6): Was there any mention of wounded?

MAJ (b)(3), (b)(6): No, no there were not.

LTC (b)(3), (b)(6): Was there any mentioned of the KIAs, what their status was whether they were enemy or civilians?

MAJ (b)(3), (b)(6): If I member correctly they were briefed as enemy KIA.

LTC (b)(3), (b)(6): What did you do after the CUB?

MAJ (b)(3), (b)(6): I would have come back to my office, and start my normal day to day activities. Take care of patients, go by the hospital. I don't specifically remember what I was doing afterwards.

LTC (b)(3), (b)(6): Did you eat lunch that day?

MAJ (b)(3), (b)(6): Yes I did.

LTC (b)(3), (b)(6): Do you remember about what time?

MAJ (b)(3), (b)(6) It would have been around 1300 local.

LGT (b)(3), (b)(6) And what did you do after lunch?

MAJ (b)(3), (b)(6) I don't remember.

LGT (b)(3), (b)(6) What is the next event that you do remember?

MAJ (b)(3), (b)(6) In preparing for this interview, I did get an email at 4:30 local, from the SOTF south surgeon saying that they had six casualties at the USFST at the (b)(1), (b)(4)(a)

LGT (b)(3), (b)(6) And it was sent to you at 1430 local?

MAJ (b)(3), (b)(6) No sir, 4:30 PM, so 1630 local, that's when it was sent to me.

LGT (b)(3), (b)(6) Do you remember what time you remember it?

MAJ (b)(3), (b)(6) I don't, but I do remember that was when I first learned. It is sort of a gradual process over the next several hours to try to piece together where the casualties were coming from.

LGT (b)(3), (b)(6) Right now I want to focus on, when exactly you received that information. Do you remember at what time did you go to dinner?

MAJ (b)(3), (b)(6) I don't. Normally on Sundays I go around 1900 local.

LGT (b)(3), (b)(6) Did you receive this email prior to dinner?

MAJ (b)(3), (b)(6) I'm assuming I did before I went to dinner.

LGT (b)(3), (b)(6) As soon as you received the email what did you do with that information?

MAJ (b)(3), (b)(6) I can't remember if I tried to call the SOTF (b)(1), (b)(4)(c) surgeon, or if I just started going back through the MIRC chat, basically trying to figure out where those CIVCAS were coming from. Initially, it was six males, local nationals [unintelligible]. I was concerned to figure out what was going on, but it didn't raise a huge red flag initially.

LGT (b)(3), (b)(6) So that first email from the SOTF (b)(1), (b)(4)(c) surgeon did it mention women or children?

MAJ (b)(3), (b)(6) It did not, no it didn't.

LGT (b)(3), (b)(6) Did you forward that email to anyone?

MAJ (b)(3), (b)(6) I eventually did, it was then 6:57 PM local, I received a second email from him that mentioned that there were six additional casualties at the Dutch FST in (b)(1), (b)(4)(a) four males, one woman, and one child with injuries.

LGT (b)(3), (b)(6) How do you know that was at 6:57 PM?

MAJ (b)(3), (b)(6) Just from going back to my emails and looking at a record.

LGT (b)(3), (b)(6) And it was sent at 6:57 PM local?

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

LGT (b)(3), (b)(6) And how do know that is local time?

MAJ (b)(3), (b)(6) I think the emails are set up in local time.

LGT (b)(3), (b)(6) So if you sent an email are your emails stamped with local time?

MAJ (b)(3), (b)(6) I don't know, I can do an experiment right now if you like.

LGT (b)(3), (b)(6) Are you logged in right now?

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

LGT (b)(3), (b)(6) Well it is 1310 local; can you send an email to me?

MAJ (b)(3), (b)(6) Yes sir. What is your email sir?

LGT (b)(3), (b)(6) It is [redacted (b)(2), (b)(3), (b)(6)]

LGT (b)(3), (b)(6) This is SPIR correct?

MAJ (b)(3), (b)(6) Yes sir. Okay sir I just sent it.

LGT (b)(3), (b)(6) Now that you have sent the email, pull of the sent file and tell us what it is verbally please.

MAJ (b)(3), (b)(6) It is 1:12 PM.

LGT (b)(3), (b)(6) Thanks. Disregarding what it says on the email about what time it was sent to you, what time do you think you received the email that first indicated women and children?

MAJ (b)(3), (b)(6) I think it would have been around dinner, 1930, and 1945.

LGT (b)(3), (b)(6) How confident are you that you received that information after dinner?

MAJ (b)(3), (b)(6) I am not 100% confident, I don't honestly remember for sure.

LGT (b)(3), (b)(6) What based on your recollection would be the earliest that you could have received that information?

MAJ (b)(3), (b)(6) I could have received it right when it was sent, 6:57 PM local time.

LGT (b)(3), (b)(6) Do you recall sending out a mass email, including COL [redacted (b)(3), (b)(6)]

MAJ (b)(3), (b)(6) I sent that out at 8:15 PM and 2015 local.

LG (b)(3), (b)(6) How do you know it was 2015 local?

MAJ (b)(3), (b)(6) Same reason, it is stamped in my sent email.

LG (b)(3), (b)(6) Do you have a copy of that with that stamp?

MAJ (b)(3), (b)(6) Yes sir I am looking at it right now in my email.

LG (b)(3), (b)(6) Can you forward that to me?

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

LG (b)(3), (b)(6) I'm looking at a copy of the email that goes from you to all of those people, but the time stamp I have is 3:45 PM.

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

LG (b)(3), (b)(6) Do you know what email that would have been?

MAJ (b)(3), (b)(6) I think it is the same thing, except it is in Zulu time. It is a four and half hours from the time on the email that I have.

LG (b)(3), (b)(6) Why would one of your emails be stamped local and another stamped Zulu?

MAJ (b)(3), (b)(6) I don't know Sir, I don't know how that works. I assume, one thing I have noticed that at different computers the time is different based on the time that I receive emails or send emails based on the computer. I actually don't know about that.

LG (b)(3), (b)(6) Do you know what computer you sent this from?

MAJ (b)(3), (b)(6) I am confident that it is the one I am on now, or it could have been from the JOC. I 95% of the time I send emails from my office computer.

LG (b)(3), (b)(6) The other computer is in the JOC?

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

LG (b)(3), (b)(6) A particular computer in the JOC?

MAJ (b)(3), (b)(6) Yes sir. It would have been my, I have another computer in the JOC that I use.

LG (b)(3), (b)(6) If you would when we break, could you send me another email from that computer, and put in the subject line current local time. Just so we can see what it says as far as sent.

MAJ (b)(3), (b)(6) Yes sir. I just forwarded you the email I sent out that was stamped 8:15PM sent on the 21 February.

LG (b)(3), (b)(6) Once you sent that email out what other actions did you take?

MAJ (b)(3), (b)(6) Prior to sending that out I called the JOC Chief. MAJ (b)(3), (b)(6) I was trying to figure out what happens. I had got these two emails; one initially six casualties and another six casualties at the other FST there. I asked what is going on are these casualties from the earlier incident and he said yes, I think so. I said I have a rollup of the casualties do you have that, he said no I don't, can you send that to me. And so that is when I sent out this mass email.

LGT (b)(3), (b)(6) Do you remember what time that was?

MAJ (b)(3), (b)(6) I'm going based on the stamped time, but the 2015 local time.

LGT (b)(3), (b)(6) So just before you sent the email?

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

LGT (b)(3), (b)(6) Were you aware prior to a MEDEVAC report coming into the JOC concerning the incident?

MAJ (b)(3), (b)(6) No, not that I can recollect.

LGT (b)(3), (b)(6) Besides MAJ (b)(3), (b)(6) did you speak with anyone else about it?

MAJ (b)(3), (b)(6) I tried calling the SOTF 1.4(c) surgeon but I don't remember talking to them about it. I know we communicated via email, but I don't remember talking to them about it, and I didn't talk to anyone in our command about it.

LGT (b)(3), (b)(6) Do you know of a CCIR?

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

LGT (b)(3), (b)(6) What are they?

MAJ (b)(3), (b)(6) The Commanders Intelligence, I'm sure of the acronym, but they are things that the commanders need to know.

LGT (b)(3), (b)(6) Okay and for your command do you know what those things are?

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

LGT (b)(3), (b)(6) And are there any related to CIVCAS?

MAJ (b)(3), (b)(6) Yes sir, if there are CIVCAS then the command needs to know about it.

LGT (b)(3), (b)(6) Is that deaths or does it include wounded as well?

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

LGT (b)(3), (b)(6) So when you got the information was your obligation over once you informed the JOC or were you obligated to let your commander know as well?

MAJ (b)(3), (b)(6) No sir, when I sent the email COL (b)(3), (b)(6) was included in that as well. So I sent the email to the JOC chief and the commander.

LGT (b)(3), (b)(6) But you didn't feel the need to follow up with a phone call or meeting with COL (b)(3), (b)(6)?

MAJ (b)(3), (b)(6) No sir. I sent up the email and let the JOC Chief know, that's what I did sir.

LGT (b)(3), (b)(6) Did anyone respond to your email?

MAJ (b)(3), (b)(6) Hang on one second I will check.

LGT (b)(3), (b)(6) Did anyone respond?

MAJ T: No sir.

LGT (b)(3), (b)(6) Did anyone call you concerning it that you recall?

MAJ (b)(3), (b)(6) Not that I can recall sir.

LGT (b)(3), (b)(6) What's the next even that you recall, having to do with these civilian casualties?

MAJ (b)(3), (b)(6) I don't recall, I don't think that night. The next morning maybe, but I don't recall anything else from that night sir.

LGT (b)(3), (b)(6) You sent this email out, and then all was quiet for the remainder of the evening?

MAJ (b)(3), (b)(6) I wouldn't say all was quiet, I don't know what was going on at the command, and I didn't have any other actions with the command about that issue. I assumed the command and JOC Chief were aware of it and were working it.

LGT (b)(3), (b)(6) From your standpoint, you sent that email and then that was the last you heard of it that night?

MAJ (b)(3), (b)(6) Yes sir if I remember correctly.

LGT (b)(3), (b)(6) Next questions are coming from COL (b)(3), (b)(6)

COL (b)(3), (b)(6) I just want you to walk me through your responsibilities as the medical guy. Do you have a medical NCO or Officer on the JOC floor?

MAJ (b)(3), (b)(6) Sir we have a medical representative there anytime there are casualties but not 24/7.

COL (b)(3), (b)(6) This was about casualties and was ongoing, do you agree about that?

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

COL (b)(3), (b)(6) Are you the one responsible, or your sergeant or representative to follow up on the casualties?

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

COL (b)(3), (b)(6) You are the medical officer you have the responsibility of battle tracking the injured whether they are enemy, friendlies, civilians and maintain the status of these folks. Once you passed that email, your next engagement was the next day?

MAJ (b)(3), (b)(6) Well Sir, when it comes to casualty tracking normally you don't send updates or reports hourly. It was sent on a Sunday night and the next day was Monday morning, which is typical for casualties friendly or enemy.

COL (b)(3), (b)(6) And that's typical for CIVCAS in this theater is that what you believe?

MAJ (b)(3), (b)(6) I'm telling you the way we do business for casualties no matter their status; I send an update when I get them. I am not going to do hourly updates for 12 casualties. Most likely I will do so twice a day, and when I get them I sent them out.

COL (b)(3), (b)(6) No one in your chain of command came back to your or your representative to your knowledge of the JOC floor for updates or statuses of these casualties?

MAJ (b)(3), (b)(6) Not that I am aware of sir.

COL S: Okay thank you.

COL (b)(3), (b)(6) This is COL (b)(3), (b)(6) once we hang up would you please go down to the JOC directors computer station and also send an email to LTC (b)(3), (b)(6) and do the same with the subject the time check.

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

LTC (b)(3), (b)(6) How many Afghan nationals were injured in the incident?

MAJ (b)(3), (b)(6) I'm tracking 12.

LTC (b)(3), (b)(6) Do you know where in the vehicles or on the scene those individuals were during the incident?

MAJ (b)(3), (b)(6) I don't.

LTC (b)(3), (b)(6) Do you know what caused their injuries?

MAJ (b)(3), (b)(6) The indirect or direct cause? I know what I have been told. I was told the result of a hellfire missile that was the direct cause.

LTC (b)(3), (b)(6) Do you have a report that lists the extent of injuries?

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

LTC (b)(3), (b)(6) Can you send that to me?

MAJ (b)(3), (b)(6) I have been sending the led daily updates; would you like my most recent one?

LTC (b)(3), (b)(6) Yes. Would that have their original condition as well as their current one?

MAJ (b)(3), (b)(6) It has a list of all their significant injuries sir.

LTC (b)(3), (b)(6) Then that's fine, send me the most recent one that would be great.

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

LTC (b)(3), (b)(6) Does that also list whatever medical treatment that they were given?

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

LTC (b)(3), (b)(6) Do you have knowledge of the MEDEVAC procedures used?

MAJ (b)(3), (b)(6) No sir, I don't.

LTC (b)(3), (b)(6) So you can't verify the MEDEVAC procedures?

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

COL (b)(3), (b)(6) This is COL (b)(3), (b)(6) again, what is the responsibility of CJSOTF HQ as it pertains to MEDEVAC between units that are not under the same C2?

MAJ (b)(3), (b)(6) Please clarify that question sir.

COL (b)(3), (b)(6) What's the responsibility to your knowledge of CJSOTF HQ when they call MEDEVAC when those units are not under the same C2, that's the first part of the question?

MAJ (b)(3), (b)(6) Sir. Our job when it comes to MEDEVAC in general, the JOC Chief sends that MEDEVAC request to the appropriate authority.

COL (b)(3), (b)(6) What is your personal role or representative's role in that process?

MAJ (b)(3), (b)(6) We do the tracking of our MEDEVACs.

COL (b)(3), (b)(6) When were you aware of the MEDEVAC?

MAJ (b)(3), (b)(6) First became aware when I received the initial email. To tell the truth, I wasn't of how the patients had made it to the FST at (b)(1)1.4(a)

COL (b)(3), (b)(6) I'm with you but, you must bear with me here, because are looking to improve processes. You are the doctor you have someone on the JOC floor, the first time you became aware of it was something like 6:57 in the evening, is that correct?

MAJ (b)(3), (b)(6) No, It was 4:30 when I received the first email, of about six LN patents at the US FST (b)(1)1.4(a)

CO (b), (6) So 4:30 PM, and then the next one occurred at 1300 local. So then my question is what is the role of the CJSOTF JOC as it relates to MEDEVAC and the second part of that what is your role, if everything was done after and you and your guys because aware after the fact. I am just confused.

MA (b), (6) Normally, our job is tracking MEDEVACs, sir I have honestly not gone back and looked at the MEDEVAC tracker. I need to go back and look at that, I didn't know you were going to pursue that line of questioning. So I am just not sure about that.

CO (b), (6) I am a bit befuddled here; you really haven't done your own AR of what happened in your process etc?

MA (b), (6) We talked about mailing folks that's on our tracking of casualties and ensuring that when we do have CIVCAS that we, when we first learn that there are CIVCAS, command, JAG, and everyone is aware of what is going on and tracking these casualties.

CO (b), (6) How do you do that if you don't go to the start time of the MEDEVAC and figure out where the start time and when you were brought into the game?

MA (b), (6) I agree sir, I agree.

LTC (b), (6) Are you responsible, have you followed up with the patients care?

MA (b), (6) I have gotten at least daily updates and sent them to the SOTF surgeon and CJSTOF chain of command as well.

LTC (b), (6) Have you or the members of the command visited these patients?

MA (b), (6) I have not, and I am not sure of the chain of command. I know the SOTF at (b)(1)1.4 and (b)(1)1.4(a) have visited the patients quite of bit, the CJSOTF I am not aware of.

LTC (b), (6) Would you have any knowledge of whether any solatia or CERP payments have been made to the injured?

MA (b), (6) I have just heard second hand, but I cannot confirm that. I do know they have received excellent medical care and our FST at (b)(1)1.4 and SOTF (b)(1)1.4(a) have provided top of the like medical care, as well as at (b)(1)1.4(a)

MG: Dr (b)(3), (b)(6) when you arrived at work that day, can you say again what time that was?

MA (b), (6) I'm not sure, but I normally come in 0700, 0800 sometimes a little later on a Sunday.

MG: Did you go into the JOC at that time, when did you go into the JOC that day?

MA (b), (6) Just before 1030 local.

MG: Was there any discussion about any CIVCAS from (b)(1)1.4(a) feeds, women and children on the objective at the engagement sight, and did you hear any of that going on?

MAJ (b)(3), (b)(6) did not sir.

MG: Was one of your medical NCOs do you they pull JOC duty?

MAJ (b)(3), (b)(6) When there is an incident going on it is normally myself, but occasionally we have and NCO or someone in the JOC during a MEDEVAC or situation where they have CIVCAS.

LTC (b)(3), (b)(6) Were you called in this day?

MAJ (b)(3), (b)(6) was not.

LTC (b)(3), (b)(6) Do you know why?

MAJ (b)(3), (b)(6) We are not always called in; normally we would go in on our own. I don't know why, I'm not sure.

LTC (b)(3), (b)(6) How do you normally find out that there is a MEDEVAC incident going on?

MAJ (b)(3), (b)(6) We have MIRC chat in our medical operations center, so we track it here as well.

LTC (b)(3), (b)(6) So no one is watching the MIRC chat there is no one to information that a MEDEVAC situation is going on?

MAJ (b)(3), (b)(6) Sometimes the JOC Chief will call us sometimes they don't.

COL (b)(3), (b)(6) This is COL (b)(3), (b)(6) again. So you have 1.4(c) chat in your medical office, and on it, it was talking about civilians and injuries and stuff, and that was done around nine-ish, when they saw people moving or leaving the objective sight. Then the MEDEVAC occurred twelve-ish. Not only were you not notified before but no one monitoring the MIRC chats as well?

MAJ (b)(3), (b)(6) I'm not aware; normally we have someone monitoring it.

COL (b)(3), (b)(6) So the only way we lose visibility on is if everybody is challenged with their particular task assigned. We are trying to figure out at anytime who looked at the 1.4(c) chat, to start tracking this.

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

COL (b)(3), (b)(6) You were not aware, or your team did not report to you that when this stuff started hitting the MIRC that any of it was going on?

MAJ (b)(3), (b)(6) No sir that I am not aware of.

LTC (b)(3), (b)(6) Is there a particular chat room in the 1.4(c) that you monitor?

MAJ (b)(3), (b)(6) We monitor each of the SOTF's chat rooms and the RC East Med Ops chat room, and then the RC South Med Ops chat room as well.

LTC (b)(3), (b)(6) So when a MEDEVAC is actually called in that comes up under the MED Ops chat room if nowhere else?

No sir.

LTC (b)(3), (b)(6) Is there a backup system that notifies you of MEDEVAC if no one is watching the (b)(1.4(c)) chat at the moment?

MAJ (b)(3), (b)(6) Sometimes the JOC Chief will call us on some occasions, and normally the JOC Chief will involve us.

LTC (b)(3), (b)(6) But it would be up to the JOC chief to know if a MEDEVAC was going on.

CO (b)(3), (b)(6) Is there a formal battle drill when MEDEVAC is executed or requested, that the CFSOC JOC executes, I mean CJSOTF?

MAJ (b)(3), (b)(6) The CJSOTF does have a battle drill that we do for MEDEVACs.

LTC (b)(3), (b)(6) Does it involve calling you?

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

LTC (b)(3), (b)(6) Okay I think that is all we have. This is an ongoing investigation. Please don't discuss the contents of your testimony here with anyone else. If we need additional information we will contact.

MAJ (b)(3), (b)(6) Yes sir. I will send you the emails, and list of injuries as discussed.

LTC (b)(3), (b)(6) After you send us those call us back at this number and go to the email and tell us the what the daytime stamps are, we will be right here.

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

MAJ (b)(3), (b)(6) CALLS BACK WITH THE REQUESTED INFORMATION AT 10:37AM

MAJ (b)(3), (b)(6) I sent the message from my JOC commander and I had the JOC Chief c do the same thing and they are both stamped with the Zulu time. Mine was 9:16am and his was 9:19am.

MG: Okay great, perfect I think that is all we need.

STATEMENT OF

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

TAKEN AT

DATED 2010/03/03

STATEMENT (Continued)

AFFIDAVIT

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

HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 13. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(Signature of Person Making Statement)

WITNESSES.

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

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 13 OF 13 PAGES

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: The solicitation of personal information in conjunction with this investigation is authorized under Title 10 USC 3012.

PURPOSE: The purpose for collecting this information is to obtain facts and make recommendations to assist the Commander in determining what action to take with regard to CyberCAS Investigation

ROUTINE USES: Information obtained during the course of this investigation will be used to document relevant facts regarding the matters investigated. It will be used to determine the facts leading up to the matters investigated, establish individual responsibilities, negligence, and to make recommendations for corrective actions and/or appropriate administrative actions. Any information you provide may be disclosed to members of the Department of Defense who have a need for it in the performance of their duties.

DISCLOSURE MANDATORY OR VOLUNTARY AND THE EFFECT OF NOT PROVIDING INFORMATION: The private information you furnish is voluntary. There will be no adverse effect on you for not furnishing private information, other than that certain facts or information might not be otherwise available to the Commander for his decision in this matter. The other information you furnish is mandatory. Failure to provide the requested information could result in disciplinary or other adverse action against you under Article 134, UCMJ.

Having been advised of the provisions of the Privacy Act, I hereby agree to provide information concerning this investigation.

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

Printed Name/Rank

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

Signature

26 Feb 10
Date

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

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

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

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

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

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|-------------|----------------------------------|---------|----------------|
| 1. LOCATION | 2. DATE (YYYYMMDD) 2010/02/26 | 3. TIME | 4. FILE NUMBER |
|-------------|----------------------------------|---------|----------------|

| | | |
|---|--------------------------|------------------------|
| 5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3), (b)(6) | 6. SSN (b)(6), (b)(3) | 7. GRADE/STATUS CW3 |
|---|--------------------------|------------------------|

8. ORGANIZATION OR ADDRESS

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

STATEMENT ATTACHED

| | | |
|-------------|---|--------------------|
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT | PAGE 1 OF 11 PAGES |
|-------------|---|--------------------|

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF CW3 TORRES

CW3 (b)(3), (b)(6)
Kiowa Warrior

Interviewers:

MG McHale

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

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

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

(Privacy Act Notification/Oath Administered/Recording Notification provided by LTC (b)(3), (b)(6))

MG: How long have you been in the army?

CW3: 10 years sir.

MG: Were you prior enlisted?

CW3: Yes sir

MG: What did you do?

CW3: Track vehicle repair.

MG: What year did you graduate from flight school?

CW3: 2007.

MG: Kiowa Warrior?

CW3: Yes sir.

MG: Is this unit your first assignment?

CW3: Yes sir.

MG: How many hours do have flying Kiowa Warrior.?

CW3: Approximately 600 hours sir.

MG: You are pilot command?

CW3: Yes sir.

MG: For how long?

CW3: For the last three months.

MG: How long have you been in Afghanistan?

STATEMENT OF CW3 (b)(3), (b)(6)

CW3: Almost a year sir.

MG: What was your mission on 21 February?

CW3: Our mission was to respond to a TIC, in the vicinity of FOB (b)(1)1.4(a).

MG: Could you tell me if you were going into a briefing that morning?

CW3: Our briefing was at 0600. As soon as we arrived we learned there was a TIC in progress with (b)(1)1.4(b) (b)(1)1.4(a) in the vicinity of (b)(1)1.4(a) we got a grid, we got freaked; and ran to the air field at approximately 0615 we were ready to go and headed to (b)(1)1.4(a)

MG: So did you go to the formal ONI brief?

CW3: No sir, we got an abbreviated ONI brief.

MG: And you are in that when they briefed show time with LT (b)(3), (b)(6)?

CW3: Yes sir.

MG: While the other two pilots were doing what?

CW3: The others were getting the weights and balances for the aircraft so we could head out as soon as possible.

MG: And then you launched about what time?

CW3: 0615.

MG: So it was basically a 911 call.

CW3: Yes sir.

MG: You set up freq and grid coordinates while the other two are getting briefed in route?

CW3: We contacted (b)(1)1.4(a) and (b)(1)1.4(a) and (b)(1)1.4(a), while we are on the pad we got a brief update of what's going on. So we had an idea what they were looking at. Initially I thought it we had a kinetic TIC but it turned out not to be. Until we headed out there, we got more information that it was more of elements maneuvering on (b)(1)1.4(a) position.

MG: So walked me through from there, what happened?

CW3: I was trail bird. We broke off I stayed up (b)(1)1.4(a) to talk to (b)(1)1.4(a). We proceeded to (b)(1)1.4(a); (b)(1)1.4g (b)(1)1.4(a) (b)(1)1.4c, (b)(1)1.4a (b)(1)1.4c, (b)(1)1.4a At the time they had AC130 and (b)(1)1.4(a) overhead that were observing individuals in a vehicle that tactically maneuvering onto his position.

STATEMENT OF CW3 (b)(3), (b)(6)

MG: How many vehicles?

CW3: Three vehicle sir and approximate 21 MAMs. Our station time is pretty low to stay in the air, so we decided to land at (b)(1)1.4(a) and just monitor the radios, until it developed.

MG: Did they talk about weapons at all?

CW3: We were plotting the grids that (b)(1)1.4(a) was giving to (b)(1)1.4(a) and (b)(1)1.4(a) and heard that he had PID weapons. We continued to monitor.

MG: Could you show us on the map, walk us through what happened?

CW3: We picked up the vehicles around this area here. The vehicles were traveling south of this high ground. It looked to us as if they were traveling southwest to this wadi here. We ended up breaking station to refuel. When we returned they were already in the Sarka wadi traveling south, southwest.

MG: When you arrived on station, as you were monitoring, who was talking on the radio, the air mission commander?

CW3: Yes he was.

MG: And you were monitoring?

CW3: Yes sir, I was.

MG: Can you tell us what was some of those radio conversations?

CW3: When we got the SITREP from (b)(1)1.4(a), he was identifying 3 vehicles, approximately 25 MAMs, PID weapons and that they were maneuvering onto his position. He did not want us to push into the area.

(b)(1)1.4a, (b)(1)1.4c

in. We landed at (b)(1)1.4(a), we ended up retransmitting some communications between (b)(1)1.4(a) and (b)(1)1.4(a)

MG: What were (b)(1)1.4(a), and (b)(1)1.4(a) talking about?

CW3: A lot of it was just requests for (b)(1)1.4(a) to give (b)(1)1.4(a) a call on the radio.

MG: Did that happen often?

CW3: It happened a couple times sir.

MG: You had to leave station?

CW3: Yes sir, we had to go refuel. The situation was progressing more as vehicles were moving into the Sarka wadi. We came back landed at (b)(1)1.4(a) to conserve fuel. We were there for approximately 10 to 15 minutes before being called into the (b)(1)1.4(a) wadi for the engagement.

MG: So you were just monitoring the radio, what was LT (b)(3), (b)(6) doing?

STATEMENT OF CW3 (b)(3), (b)(6)

CW3: Lt (b)(3), (b)(6) did everything for the ground forces. As I was talking with (b)(1)1.4(a) talk.

MG: What went on that made the engagement happen?

CW3: (b)(1)1.4(a) initially came over the radio. He wanted us to push into the (b)(1)1.4(a) wadi and contact (b)(1)1.4(a) (b)(1)1.4(a) for a talk onto the 3 vehicle traveling southwest into the wadi.

MG: (b)(1)1.4(a), LT (b)(3), (b)(6) was talking and you were monitoring?

CW3: Yes sir I was.

MG: What did (b)(1)1.4(a) say?

CW3: We did a visual talk on with the vehicle. He gave us the grid. We flew to that grid and indentified the vehicles as one white high lex pick up and two SUVs traveling in a tight formation in the wadi (b)(1)1.4(a) (b)(1)1.4(a) came up and told us that was the right target. LT (b)(3), (b)(6) asked him to reiterate what he had seen, what was the composition of the people in the vehicles. (b)(1)1.4(a) verified that they were all MAMs that he had PID weapons, and it that we had the correct target sir.

MG: So then what happens?

CW3: Once we received that clarification. We had them in our sensors, LT (b)(3), (b)(6) called (b)(1)1.4(a). They asked the same questions we had asked (b)(1)1.4(a) shortly after that he cleared us to engage.

COL (b)(3), (b)(6) Who cleared you to engage?

CW3: (b)(1)1.4(a).

COL (b)(3), (b)(6) LT (b)(3), (b)(6) read back the video, we watched your gun tape videos; imminent threat, PID of weapons, (b)(1)1.4c indicating tactical maneuvering. What does imminent threat mean to you?

CW3: That they, in this situation, that they were moving tactically to out flank (b)(1)1.4(a) position. Earlier they were receiving a lot of (b)(1)1.4c that they were being spotted from the north, east and south. Due to the fact that all the sensors he had were tracking the three vehicles at that point those three vehicles were traveling to engage our guys from the rear.

COL (b)(3), (b)(6) Have you ever been on a mission in the last 10 months where you directed to engage by a GFC and you didn't?

CW3: Not that I can remember. I have been on a few where we have seen spotters and we sent that information up to (b)(1)1.4(a) talk and it has been denied.

COL (b)(3), (b)(6) What are spotters?

CW3: Spotters are people that sit on plateaus and use radio or mirrors to signal when aircraft are climbing over the plateau as an early warning network for their guys to signal we are coming.

STATEMENT OF CW3 (b)(3), (b)(6)

COL (b)(3), (b)(6) Did you hear any discussion about adolescents?

CW3: No sir. The SITREP that we received only mentioned 25 MAMs, and the PID of weapons.

COL (b)(3), (b)(6) Describe the overall terrain.

CW3: On the wadi here, the (b)(1)1.4(a) wadi, if you follow this straight down to the south it parallels with (b)(1)1.4(a) River. There is multiple road and route lines that these personnel could follow it down, cross it to the east and came south of friendly forces, or continue south to (b)(1)1.4(a) or any of the smaller patrol bases on the river. This area here is where our guys were really open. It is very hard to maneuver with regular trucks. You have to travel the route lines or main roads.

COL (b)(3), (b)(6) Where they were in the engagement area, how long would it have taken them to get to friendly forces?

CW3: I'm not really sure sir. I'm guessing about 3 hours give or take.

COL (b)(3), (b)(6) Talk me through your weapon engagement?

CW3: We talked about the engagement. Once we picked up the vehicles they were traveling in a tight convoy. (b)(1)1.4a

(b)(1)1.4a

(b)(1)1.4a Once they entered an open area lead engaged the first vehicle with one hellfire missile, I engaged the trail vehicle, and at that time I tried searching for the middle but was too close we had to break left and reacquire the middle vehicle. Once I did that I picked up people moving east and to the rear. When the dust cleared for me to reacquire the vehicle, I shot the second hellfire to disable the second vehicle. Once complete, the lead came over the radio and reported multiple squatters leaving the area. We were planning to engage with rockets. Lead fired one rocket west of the road. We came back and shot at the rear vehicle to the left front. I heard lead come over the radio say he witnessed two guys in the rear had weapons.

COL (b)(3), (b)(6) Did you see weapons?

CW3: I saw two at the rear of a vehicle.

COL (b)(3), (b)(6) Was that prior to the engagement?

CW3: No it was during the engagement.

COL (b)(3), (b)(6) Rear vehicle stops, people get out, and then they get hit with the hellfire?

CW3: Yes sir.

COL (b)(3), (b)(6) And then after that we see people with guns after that?

STATEMENT OF CW3 (b)(3), (b)(6)

CW3: Yes sir. After the hellfire struck that vehicle. (b)(1)1.4g

(b)(1)1.4g

COL (b)(3), (b)(6) Once you saw the weapons what was the next thing you saw?

CW3: We were going too fast, which caused us to overfly the target. For good reason, I assume, we saw coming back around brightly colored clothing.

COL (b)(3), (b)(6) But you didn't call it over your radio?

CW3: No sir. It was something I was still trying to process. We climbed up, got the area in our sights. It is hard to make out women in our videos because it is all green and black. The lead aircraft saw the same thing. We got radio contact with (b)(1)1.4(a) and (b)(1)1.4(a) informing them of women in the area. (b)(1)1.4(a) put his sensors on that area trying to clarify if they were women and adolescents.

COL (b)(3), (b)(6) While you were there did you see people running from the scene?

CW3: When we broke the scene, we had to for fuel; we passed that information to the (b)(1)1.4(a). We have been made to believe that (b)(1)1.4(a) have awesome sights and can see it all. So we relayed what we had seen to (b)(1)1.4(a). When we were breaking station they were telling us that there were individuals to the south and to the north of the middle vehicle there was a group that turned out to be women sir.

LTC (b)(3), (b)(6) Prior to the time that you engaged did you hear anyone refer to a HVI?

CW3: I didn't sir.

LTC (b)(3), (b)(6) Did you hear anyone state that the vehicles were attempting to evade or escape out of the area?

CW3: I heard a combination of either they were trying to flank us or heading south to link up with more fighters.

COL (b)(3), (b)(6) No one ever stated it appeared they were leaving all together?

CW3: No sir.

COL (b)(3), (b)(6) After you saw, when you saw women did you report that information up higher?

CW3: Yes sir. (b)(1)1.4(a) talk I initially gave them a SITREP that we had engaged 3 vehicles. After (b)(1)1.4(a) confirmed more information I called back and provided and update to the SITREP on the situation.

[Unintelligible]

CW3: We were trying to coordinate that with (b)(1)1.4(a) to (b)(1)1.4 the site, but that took more than 3 hours.

MG: When you arrived on the scene the second time to engage the target, who was talking to your crews?

STATEMENT OF CW3 (b)(3), (b)(6)

CW3: When were at (b)(1)1.4(a) we were called onto the scene by (b)(1)1.4(a). While in route (b)(1)1.4(a) told us to contact (b)(1)1.4(a) on his freq to clarify and get PID on the three trucks.

MG: So you got, who called up (b)(1)1.4(a)?

CW3: It was AMC sir.

MG: What transpired on the radio?

CW3: Pretty much it was a visual talk on. We told him what we had what he saw, and he confirmed that was what he had.

MG: For engagement?

CW3: I believe (b)(1)1.4(a) had eyes on vehicles during the engagement.

MG: What was discussed to verify PID?

CW3: We basically, asked (b)(1)1.4(a) if those were the 3 vehicles that he had PID weapons and had 25 MAMs. And he verified yes.

MG: We will show a video here, if you can walk us through it.

CW3: Is this lead or trail?

MG: This is trail.

CW3: Oh okay, then this is my vehicle. This was originally when we picked up the vehicles. We were talking about how we were going to do the engagement on the vehicles. This is well after we had talked to (b)(1)1.4(a) (b)(3), (b)(6) he had gone on the west side.

MG: (b)(3), (b)(6) had a couple of misfires did you know that?

CW3: Yes sir. He's quite the, he's something else. I was in the left seat in my aircraft operating site.

MG: You didn't have battle track on?

CW3: No sir. At about that time, you can see in the bottom right, 2.9 seconds pretty much not enough time, so my right seater decided to do a left go around and get set up for another engagement on the middle vehicle. I believe sir, (b)(1)1.4g

(b)(1)1.4g

COL (b)(3), (b)(6) After they are ejected is when you saw them with rifles but you didn't have the opportunity to re-engage?

CW3: Yes sir.

STATEMENT OF CW3 (b)(3), (b)(6)

CW3: So as far as we know they got out of the area alive?

CW3: Yes sir. This is when I re-enquired the area. As you can see it is really hard to make body compositions of the people.

CW3: Why in here don't we see the people with weapons?

CW3: In the video sir, it doesn't come out. I physically fixed my sight forward. I am usually outside looking for his way out. Being the PC of the aircraft I decided to fix the sight forward. People tend to get target fixated. That is why we ended up overflying the target.

MG: Tell us about your ID of the weapons?

(b)(1)1.4g

MG: Did lead report seeing any weapons?

CW3: Yes sir, I believe you can hear (b)(3), (b)(6) declaring weapons.

MG: After the engagement, you are on your way back home, what went on from there?

CW3: When we were climbing up over towards (b)(1)1.4(a). We talked to (b)(1)1.4(a), we got engaged and to have (b)(1)1.4(a) put eyes on the target. That's the time that I heard they were getting (b)(1)1.4c on two Taliban commanders that had come off (b)(1)1.4c they could hear other guys trying to call them. I believe you can hear it at the end of the tape sir.

MG: (b)(6) do those ring a bell?

CW3: I believe so sir, I am horrible with names.

MG: Then you took some photos of the scene?

CW3: Lead took some photos, they were high altitude photos. On the way back I talked to (b)(3), (b)(6) I believe the folks on our right were women.

MG: Did you see any children?

CW3: I could not tell that there were any children in the area.

MG: What did you think when you confirmed that there were women?

CW3: I felt really bad. I have been on several engagements. (b)(1)1.4c

(b)(1)1.4c Had we had known that we would not have engaged. I felt like shit after that.

STATEMENT OF CW3 (b)(3), (b)(6)

MG: What can we learn from this?

CW3: Not to trust birds, and I say that honestly sir, in our community we have been brought up to believe we can rely on the Preds and ISR platforms for good Intel. They have the time and the resources to get good information. We usually get only about an hour to develop and situation. From (b)(1)1.4(a) (b)(1)1.4(a) (b)(1)1.4(a) was really confident in what they had, their information appeared reliable. We thought our guys would be out flanked and in deep shit.

MG: So besides that what else can we learn from this?

CW3: Besides that sir. In my heart I think we did the right thing. The only thing maybe is to get more Intel allow things to develop further. It was a good engagement. Things happen for a reason.

MG: When you did that engagement how much fuel did you have?

CW3: I believe it was around 815 when we left (b)(1)1.4(a). Once we got on target and transferred PID from (b)(1)1.4(a) it was thirty minutes later (b)(1)1.4(a) gave us clearance to engage. We engaged around 0900, we had about 5 to 10 minutes of fuel time to relay and then we returned to (b)(1)1.4(a)

MG: Mr. (b)(3), (b)(6) thanks for your testimony. That is all we have. Before you go please be cautioned this investigation is ongoing you cannot discuss it with anyone until its conclusion.

STATEMENT OF

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

TAKEN AT

DATED 2010/02/26

STATEMENT (Continued)

STATEMENT ATTACHED

AFFIDAVIT

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

I, _____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 11. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(Signature of Person Making Statement)

WITNESSES:

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

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE 11 OF 11 PAGES

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

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

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

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

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

| | | | |
|---|--------------------|-------------------------|----------------|
| 1. LOCATION | 2. DATE (YYYYMMDD) | 3. TIME | 4. FILE NUMBER |
| 5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3), (b)(6) | 6. SSN | 7. GRADE/STATUS CAPT | |
| 8. ORGANIZATION OR ADDRESS | | | |

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

STATEMENT ATTACHED

| | | |
|-------------|---|---------------------------|
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT | PAGE 1 OF <u>14</u> PAGES |
|-------------|---|---------------------------|

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

Capt [redacted] USAF
Safety Observer
Flight Commander/Pilot
[redacted]

Interviewers:

MG McHale

COL [redacted]

COL [redacted]

LTC [redacted]

Introduction provided by COL [redacted]

(Privacy Act Notification/Recording Notification provided by LTC [redacted])

COL [redacted] Please explain your roles and responsibilities.

CPT [redacted] The Safety Observer position is to quality command and control, any sort of dynamic engagement. It is filled by an instructor pilot, or senior pilot in the squadron or flight. In that capacity we send the Safety Observer if we think one our lines is going to strike the target, or perhaps if there is something highly dynamic, i.e. weather. I would back up the pilot with anything ROE related. The flying part of it, we make sure they are getting the aircraft within the engagement zone, run all their settings and checklists. Generally making sure no one doing something unsafe during the engagement.

COL [redacted] You're talking lament on this side of the phone. What are your specific responsibilities as it relates to, when the pilot informs his subordinates that they might and will go kinetic?

CPT [redacted] I wouldn't be out there at that point. The pilot will call the operations supervisor which was also me for the first four hours for that particular ship in question. The OPS supervisor will find an off duty pilot and send them out to the ground control station in order to perform the safety observer duties.

COL [redacted] A pilot arrival to join the team, what specifically are you doing as it relates to the firing sequence. What are you doing as it relates to the release of ordines from the Predator?

CPT [redacted] Make sure the ROE has been met. Sometimes you don't get there in time and the pilot will back brief you. You are there to make sure they don't mess up, or miss anything. At that point they are talking with the JTAC, the crew, and on MIRC chat. We have a lot of LTs are directly out of pilot training flying these missions. It is basically a safety mechanism to ensure they are performing safely and to provide a sanity check before employing the missiles. It isn't required however, due the manning. We don't always get on into the GCS at times. Some situations happen so find there is no time to get them there in time. On the day in question, I made the decision to go out because the ops supervisor and I felt I needed to go out, but however it is not required. The ops supervisor makes the decision to send someone out and who it will be.

CO (3), (b) (6) If the screener makes a call an assessment of a description of a target, are the pilots or the sensors operators allowed to overrule or change that assessment?

CP (3), (b) (6) That is a grey area, but yes if you know for certain something is wrong. In reality that almost never happens because the screener has the capabilities. The screener has about 4 to 5 people watching the screens. So we usually don't do that, although it is possible to.

CO (3), (b) (6) Is there any job description for screeners; is there an SOP or document that we can reference as part of this investigation?

CP (3), (b) (6) For what screeners do?

CO (3), (b) (6) For what everyone does? Is there a prescription of what the duties and responsibilities are in writing either from the Squadron SOP or some kind of doctoral publication?

CP (3), (b) (6) That is a good question sir; I don't think there is a single document that describes all of it. But our training syllabi for the pilot sensor MC, crew positions outlines it for each crew member, as far as the screener I don't know if there is one. I would assume however they have a similar document. As far as the safety observer, in our in flight guide there is a page donated to instructing the safety observer. However, there is no overall document.

CO (3), (b) (6) Moving on, what is PID mean to you?

CP (3), (b) (6) Positive identification. A reasonable certainty, whatever you think it to or what you calling it out to be and you continue to maintain PID.

CO (3), (b) (6) Where did you get that definition from?

CP (3), (b) (6) That is actually written down sir.

CO (3), (b) (6) We'll come back to that. I'd like you to pull it up and actually read it because we have inconsistencies throughout the commands. Hostile intent, what do you believe that to be?

CP (3), (b) (6) An intent to commit a hostile act against either friendly forces or incident civilians.

CO (3), (b) (6) Imminent threat, what do you understand that to be?

CP (3), (b) (6) An imminent threat to commit a hostile act, such that none stop would lead to the death or destruction of lives, civilian property or lives.

CO (3), (b) (6) TIC?

CP (3), (b) (6) It's a troops in contact event. Anytime friendly forces are in direct contact with the enemy or imminent in contact with the enemy, usually called by the unit we are supporting?

CO (3), (b) (6) Child?

CBT (b)(3), (b)(6) A noncombatant, a person not able to bear arms against friendly forces.

CO (b)(3), (b)(6) Adolescent?

CBT (b)(3), (b)(6) A teenager basically, I really cannot tell you.

CO (b)(3), (b)(6) What do you believe an adolescent to be?

CBT (b)(3), (b)(6) A pubescent boy, that's about all I have.

CO (b)(3), (b)(6) Is it a threat, combatant?

CBT (b)(3), (b)(6) An adolescent definitely could be.

CO (b)(3), (b)(6) What would you need to confirm to say an adolescent is a combatant?

CBT (b)(3), (b)(6) PID of imminent threat, has weapons, is planning to attack the forces.

CO (b)(3), (b)(6) We will come back to that at the very end. Fast forward yourself to when you were called on and walk me through, what you thought to be true.

CBT (b)(3), (b)(6) When first becoming aware of the situation, during this time the OPS supervisor has all of our feeds of our lines up on a screen. The OPS supervisor and the Snake our senior Intel person for the shift. We were watching all the feeds, and monitor both the MIRC chats as well. Someone informed us that (b)(1)1.4(a) may be following a convoy that was suspect to be insurgents. During the course of that we started monitoring their chat and video a little aggressively more than we do, when all five lines are doing more than normal ops. During one of the stops we saw someone that appeared to be an adolescent on the screen, and called out a PID, and talked to the JTAC and made sure they knew there were kids there. They came back and said they were adolescent; I wasn't sure we all liked that answer but went along with what the screeners stated. At that point, probably ten minutes before the (b)(1)1.4(a) (b)(1)1.4(a) actually attacked the target. I went out to GCS ten minutes before they struck the target. I asked the pilot to confirmed what the JTAC PID. The pilot stated that they had had a long conversation with the JTAC confirming adolescent, based off what we knew (b)(1)1.4c and JTAC and screeners had told us throughout the night I was sure they were attacking a convoy of Taliban militants that were headed towards a flanking position. They came and instructed, first thing that struck me as odd, after the first two vehicles were hit the passengers exited the middle vehicle and did not run away. From what I've seen, people run when getting shot at. In the chat log there were a couple people saying that's strange. The sensor said they were trying to sender. Very quickly after that the third strike came in and attacked them, and some of them got away and went east of the hill. That's when we were, the whole crew moved in closer to get a better look. It started to dawn on us that there were women and children. The pilot tried calling the JTAC to let them know. The pilot was unable to get into contact with the JTAC because they had switched frequencies.

CO (b)(3), (b)(6) It was determined, who determined that the adolescents were MAMs enemy combatants?

CBT (b)(3), (b)(7) The screener called out that they were adolescents.

CO (b)(3), (b)(7) You may not have been aware of this but when the screeners called out adolescents they presumed they were as young as 7 and as old as 13 and noncombatants.

CBT (b)(3), (b)(7) I wasn't aware of that sir.

CO (b)(3), (b)(7) My question is who made the determination that those adolescents were either of MAM age or be a combatant or perceived combatant.

CBT (b)(3), (b)(7) I don't know for sure sir, I can only speculate.

CO (b)(3), (b)(7) I would like you to characterize the discussion that you shared, that (b)(1)1.4(a) and the pilot shared with you reference that topic.

CBT (b)(3), (b)(7) Well, the conversation went; I asked have you told the JTAC, what did they say about this whole thing about the adolescent. He said well they are old enough to shoot back at us or something like that. I took that at face value.

CO (b)(3), (b)(7) Are you aware of anytime that the screeners had said these adolescent were carrying arms of type, a bag, anything of any type?

CBT (b)(3), (b)(7) No sir I wasn't.

CO (b)(3), (b)(7) Did the pilot ever communicate to you that the adolescents in fact had demonstrated some kind of act, carrying an arm, a weapon, anything that would put them in the category of a potential threat?

CBT (b)(3), (b)(7) The only other thing I seen throughout the night was that he was helping load a truck or something like that, I think the first vehicle, other than that I don't know.

CO (b)(3), (b)(7) I will read you something, and we will fast forward, I just want to explain to me what some of it means. From the pilot at 0406 on the MIRC chat. As far as a weapons, we are going to probably going to chase dudes scrambling in the open. When it goes down don't worry about any guidance from me or (b)(1)1.4(a). Just follow what makes the most sense to you. Stay with whoever you think gives us the best chance to shoot at them. And I am with you on that. So I will brief you on the launch profile. We will hit a weapons attack brief when we know what we are going to shoot. Then we will get our nine line JTAC road clearance and then we are good to go. Is that the proper guidance to give to the sensor operator and the guys that are going to be pulling the trigger?

CBT (b)(3), (b)(7) Sir, I can probably shed some light on that. That isn't the best PC or professionally way to say. What the pilot is possibly saying there. When we have a dynamic engagement people run, scatter into smaller groups. The sensor has to be autonomous on what we will attack. He must be able to make split second decisions on which group do we track for possible follow-on strike, and this all the while believes that you are attacking enemy combatants. He is basically giving his pre-weapons brief to the

sensor. I understand that is not the most professional way to say, but that is what that pilot was talking about.

CO (b)(3), (b)(6) Would the receiver read it that way? What I am aware of, is very precise instructions of you guys to do a proper release of ordinance. We are struggling with that set of guidance and the climate that may have existed on striking.

CB (b)(3), (b)(6) That isn't the clearance to release ordinance or to lay the target. It's just a post strike track plan for who the pilot should be tracking. Honestly sir the crews COMs are sometimes not professional. You are flying with the same guys for four months or so, you will talk to your crew on more of a brotherly level, than professional level. He's basically giving them a track plan, post strike I want you to follow squatters. He's asking them to follow the best target, not necessarily for a follow-on strike in case, but in case it is needed. It's basically just a pre-brief.

CO (b)(3), (b)(6) Two minutes later, I'll share with you another discussion. Here goes. This is 0408 from the MC; you have the time to confirm which vehicle has the kids in it over the adolescents in it. Pilot, who is? SOTF south is screener is talking about it right now. Pilot, okay. MC, the JTAC said, well they can grab a gun. Sensor, you know that the Mujahedeen are 13 YOA. Pilot, that is what we are talking on. I was talking to the JTAC and they said the same exact thing. They called them an adolescent. We called it more like double digits age range. He was like old enough to be dangerous. I'm trying to figure out what the pilots are supposed to be doing. This looks like to me that we have taken a report from the screener we have expanded the assessment from the screener and now tie it with intent despite not seeing any intent. To confirm that this is a legitimate target. I am struggling with ROE with the elements of engagement, with enhancing the screener's assessment, and I will highlight the particular piece and seek your guidance on this. Explain to me, I'm either mischaracterizing, may have not been the most appropriate assessment provided.

CB (b)(3), (b)(6) Well I'm not sure of the whole conversation provided between the pilot and the JTAC. That's what established the intent things the JTAC was telling the pilot and therefore I don't think he decided the intent on his own. That is definitely not our job.

CO (b)(3), (b)(6) How does the pilot say this then, we called it most likely double digits, where does that come from if the screener didn't offer that?

CB (b)(3), (b)(6) I'm not sure sir. I thought it was from what the screener said earlier that they had PID him as an adolescent, I don't know if the pilot is referring to we as the screener or all the blue forces involved, because he is not going to make that decision on his own.

CO (b)(3), (b)(6) Does that dialog concern you at all?

CB (b)(3), (b)(6) The whole situation concerns me but I'm not sure what he is talking about, I would have to look at that point, and the chat log to figure out who the we is. I don't know if he just said that, as everyone had already called him adolescents or what.

CO (b) (3), (b) (6) The term adolescents had different meaning to different people throughout this whole process. That's something we will need to clear up at the end of this investigation.

CO (b) (3), (b) (6) Honestly sir that is the huge draw back. I wish in hindsight I wish we would have made a bigger deal about it. I knew they weren't toddlers; over ten would have been my best guess.

CO (b) (3), (b) (6) I will fast-forward a couple minutes. Now we will move to the handoff between Predator and (b) (1) 1.4(a). (b) (1) 1.4(a) asked you guys to do a handoff with (b) (1) 1.4(a) because he was having COMs with (b) (1) 1.4(a). You still weren't called forward yet. Did you monitor this handoff at all?

CO (b) (3), (b) (6) No I wasn't on a headset; I was monitoring (b) (1) 1.4(c) chat and calling the crew from time to time, just to see what was going on.

CO (b) (3), (b) (6) When you have been asked to handoff the target, what are the elements that are supposed to be handed off from the Predator to the unit that are handing off to?

CO (b) (3), (b) (6) Usually, there is not a set, it's not a like a fighter effect brief before it is formalized. Because usually the JTAC is giving that to the other aircrafts. For a handoff you confirm they are on the same target, through your COMS.

CO (b) (3), (b) (6) Could you explain to me, explain in detail the target?

CO (b) (3), (b) (6) On that one I would say, they were looking at that IR and didn't know the color of vehicle. I would say, what do you see, they would say we've got three vehicles moving north, south, east or west running round. There is mountain to the left. The lead vehicle is a pickup, the two following are SUVs. With those specifics we would be confident that is what we are looking at as well.

CO (b) (3), (b) (6) Should they hand up the composition of the target, make up, who's in it?

CO (b) (3), (b) (6) Usually it the attacking aircraft in contact with the JTAC, if the attacking aircraft is in contact with the JTAC, that is usually the JTAC's job and we don't pass any information. We don't pass any information because we don't know ourselves. we are looking through a soda straw at it.

CO (b) (3), (b) (6) Did the JTAC call you because he didn't have contact with them then, and asked you guys to handoff the target and you said roger.

CO (b) (3), (b) (6) If that was the case I would probably pass everything I knew about it.

CO (b) (3), (b) (6) Here is what the pilot passed. That's a good copy, you have three vehicles be advised we have about 25 MAMs about three rifles so far PIDs in a group and these are your three. Anything in there that kind of jumps out at you now?

CO (b) (3), (b) (6) Well he didn't talk about the adolescent, but I am not sure, if I thought at the time that it was an enemy combatant, I might not have included it, but in hindsight it is something that should have been mentioned.

COL (a), (b) (6) Would you be surprised to know that all four pilots, if they had known it was an adolescent would not have engaged?

CPT (a), (b) (6) I guess no.

COL (a), (b) (6) They got their procedures as well, and again this is just leveling the bubbles and getting information passed right. We have to continue to work on our communication.

CPT (a), (b) (6) Yes sir.

COL (a), (b) (6) I will fast-forward, bear with me.

CPT (a), (b) (6) Okay.

COL (a), (b) (6) At 0414 this is after the pilot says he is going to engage, he typed I am going to spin our missiles up as well. Roger that, recommend IR, the discussion between him and the sensor. Then they say, you may want a call from the safety observer. They call for you and continue the discussion. I need to know the technical terms for this. 0415 remember Kill chain, from the sensor to the MC. Will do. Sensor kill chain, MC will do will do will do. Sensor the only things that get briefed in the shot brief.

CPT (a), (b) (6) I can explain that sir. I know exactly what he means by that. the crew in question that day the MC was one of younger airmen, not anyone un-qual by any means, by the sensor was fairly experienced and giving him crap to remember to put, whenever there is a dynamic situation they keep unwanted stuff from going into the (b) (6) room, they type kill chain. That keeps the screener to only typing mission related info and anyone else in the (b) (6) room, it should a clue to everyone not to jump in and possibly distract or put impertinent information and leave pertinent information not on the screen. The MC was just, because he was taking crap from an older sensor. From our last 20 shots that we have taken in the last year or so, when the MCs forget that they get harped on pretty badly.

COL (a), (b) (6) I will take you to after the strike now. There is a dialog, you are now in the game you are sharing your thoughts of what you are looking at. Discussions with you and the pilot. The sensor going back and forth clarifying what was on the ground. That's pretty clear. At 0419, this is now 7 minutes after we saw the first reference to adolescents. 0419z, this is from the MC, we did call, we did tell them there were adolescents in the second vehicle. I thought that was the reason they didn't shoot the second vehicle. You responded no. How did you know that?

CPT (a), (b) (6) I think at the moment there, I didn't hear of the calls, so I didn't know what they were talking about. At that moment I think I was saying no, I didn't know that happened.

COL (a), (b) (6) Just so you know you were right on both counts. They were told about adolescents, or that there were adolescents in the second vehicle.

CPT (a), (b) (6) The thing was I didn't know what vehicle the adolescent was in at that point. I didn't know that someone had called to say they were in the second vehicle. That just kind of rolled out of my mouth.

The strike happened and surprised us a little bit. We wondered why the second vehicle didn't blow and people were just standing there. There is a little bit of pandemonium.

CO (b)(3), (b)(6) will read to you this next one. At 0421 from the pilot. As far as the weapons at their feet about one cross hair with, in front of them because it's going to be people out in the open. Everything else we briefed. It will be a shoot and press. (b)(1)1.4(a) leave off the left hand side, LOAL high, in pretty sure time a flight about 13 seconds which we talked about. Everything else we still have to confirm with (b)(1)1.4(a) Is that preparation to release ordinance?

CBT (b)(3), (b)(6) Yes sir, he has got to get the proper ROE nine line cleared hot or cleared to engage. Once again he is setting up with the sensor this is how we would attack it. And that is something we teach to new pilots coming in here, and to the whole crew. You are always ready to shoot if needed. He's basically setting up where they will attack if they attack. The (b)(1)1.4(a) is the only type of hellfire we usually carry, coming off of the left wing. I think they only had one.

CO (b)(3), (b)(6) Well this is in relationship to squatters. And so my question maybe wasn't clear enough. Is this intent, ready to release ordinates?

CBT (b)(3), (b)(6) It was to be ready to, if we were told to by the JTAC.

CO (b)(3), (b)(6) Was your assessment that the aircrew was inclined to employ ordinance in and around this target sight?

CBT (b)(3), (b)(6) I think they were inclined to if it was cleared.

CO (b)(3), (b)(6) Would it surprise if I told you the pilot said no, he didn't feel he had the elements to do it?

CBT (b)(3), (b)(6) No, I think at the time we were off headset discussing that. No it doesn't surprise. It's kind of standard that we set up for a shot, because it takes 5 to 10 minutes to be on the winds in position to fire the missile at any given target. At that point we still felt these were still hostiles.

CO (b)(3), (b)(6) You came on station 0417, you see got something shiny on the one on the right. A minute later you say there is one more to the left of the screen. What do you think you were looking at this time?

CBT (b)(3), (b)(6) I thought it might have been a PAX or person with a weapon. From my experience has been either a weapon or piece of metal of some sort like a shovel or something. We were trying to determine if they were doing anything hostile towards (b)(1)1.4(a) We all just really didn't know at that point.

CO (b)(3), (b)(6) Within that same moment you ask, are there women in burkaks. The sensor says that is what it looks like. The pilot says they were all PID as males no females in the group. The sensor says that guy looks like he is wearing jewelry like a girl, if he is a girl he is a big one. By the way you guys participate in the PID early on. Are we misreading this?

CBT (b)(3), (b)(6) No sir, I think that's probably accurate. Up until the time we thought they were MAMs because to my knowledge that what had been PID the whole night. Keep in mind it is not like you are staring

from me to you across the room, I can give a detail description. They had been following them all night and IRR, it is black and white and hot and cold.

CO (b) (3), (b) (6) When we read this, it is clear that you thought that this may be something else. Your comments in here clearly indicate in a relatively brief period of time when you saw something with fresh eyes that it might not have been what it appeared. That is not my question. I will read this again. You ask, are there women in burkaks? The sensor says that is what it looks like. The pilot says they were all PID as males no females in the group. Again your pilot participated in the initial PID. The sensor says that guy looks like he is wearing jewelry like a girl, if he is a girl he is a big one. How receptive do you think your guys are to their earlier assessments, that the facts they are seeing now aren't the facts?

CBT (b) (3), (b) (6) I'm not sure how to answer, other than to say, they were looking it for four hours. I would think they were sure what they were looking at the whole time. It was like watching a chain wreck you are like holly shit this is happening and this is not what we thought it was. The first clue was when people didn't run after the first strike.

CO (b) (3), (b) (6) This is what we are struggling with. The pilot called them out along with the sensor operators. You are the one that said this looks weird, is that a burkakh, this isn't adding up. My question is what was the climate in the crew as it related to the desire to release ordnates?

CBT (b) (3), (b) (6) Well, to be honest sir, everyone around here, it's like Top Gun, everyone has the desire to do our job; employ weapons against the enemy. The entire time they thought this was a group of enemies, they were thinking hell yeah we want to help out and be a part of this. I don't think they were blood thirsty had they known that these were women and children. I think they definitely think they would have reacted differently.

CO (b) (3), (b) (6) GEN McChrystal has issued a tactical directive. You as the safety officer responsible for the application of ROE, I'm assuming you've got your hands on that thing, or your command does?

CBT (b) (3), (b) (6) Yes sir, we have read it we have a copy on the computer here.

CO (b) (3), (b) (6) Share with me in a couple sentences what do you think the intent of that tactical directive is?

CBT (b) (3), (b) (6) It is to not kill civilians to make the Afghan people realize that we are not there [interrupted]

CO (b) (3), (b) (6) Recognize the tactical directive is not ROE but as the guy that is responsible of ROE there is pieces of information that go into the cycle for consideration. Would you share with me your thoughts on the understanding that the tactical directive with the pilots and sensor operators. What do they understand it to be?

CBT (b) (3), (b) (6) I think everyone here understands it to be, that we don't want to hurt or kill incident people, or civilians, anyone that is not trying to hurt us. Because we want to build relations with people.

LTC (b) (3), (b) (6) What kind of training do you do on ROE?

CP (b)(3), (b)(6) You get briefed on it during your initial spin up here, when you go to the initial Predator update course you are told about it, although you don't study the actual ROEs for the theater. Whenever we have a spins change we study that?

LTC (b)(3), (b)(6) What's a spins change?

CP (b)(3), (b)(6) The specials instructions, it's put out by the CAOC for OIF and OEF because we operate both theaters. We are responsible for reading it and any changes before we go fly. We do that via computer program called PIC.

LTC (b)(3), (b)(6) Do you guys do any VINYET training for unique or different ROEs for those that are not yet in place?

CP (b)(3), (b)(6) No sir, there is no weapons training like that. Usually everything here is combat mission. Basically we don't outside of the school house you don't go through too many scenarios.

LTC (b)(3), (b)(6) When you are flying over Afghanistan what ROE are you operating under?

CP (b)(3), (b)(6) It can be under ISAF or OEF ROE, depending on the supported unit.

LTC (b)(3), (b)(6) You yourself, what ROE governs you, do you know?

CP (b)(3), (b)(6) I am not, the OEF/ISAF ROE, to the best of my knowledge.

LTC (b)(3), (b)(6) You said earlier that you didn't think you had enough to engage the targets when COL (b)(3), (b)(6) was asking you about lining up the target. What do you think you were missing at that time, before the strike?

CP (b)(3), (b)(6) We didn't have clearance to fire. The JTAC hadn't clearance to fire. at that point it was my idea that we had PID and had hostile intent.

LTC (b)(3), (b)(6) What else do you need to engage?

CP (b)(3), (b)(6) We have to have PID, the ROEs are met, and we have to be clear hot or to engage by the JTAC. The only other way without JTAC is with a joint targeting message from the CAOC directing a smack.

LTC (b)(3), (b)(6) If a JTAC tells you he wants you to take out a vehicle, what information to you need before execution?

CP (b)(3), (b)(6) I'd ask what ROE does this fall under, self-defense, hostile intent, hostile act, or is this a time sensitive target. If he couldn't answer adequately then I wouldn't be clear to attack it.

LTC (b)(3), (b)(6) What do need if it is a self defense target?

CP (b)(3), (b)(6) I have to be cleared by the JTAC that it's self defense.

LTC (b)(3), (b)(6) If the JTAC says its self defense, then its self defense?

CPT (b)(3), (b)(6) There is some grey area, if I had knowledge that it's a vehicle of noncombatants and I knew that somehow I would not strike it. If he declared it hostile, and I believed the PID is legitimate, because they were being engaged by the enemy forces, then we I would engage it.

LTC (b)(3), (b)(6) Do you know what imminent threat is?

CPT (b)(3), (b)(6) It would be a threat of hostile act or intent towards friendly forces.

LTC (b)(3), (b)(6) Is that a part of the self defense analysis?

CPT (b)(3), (b)(6) No sir that would be different, that would be something the JTAC would have to call out. I cannot make that call; JTAC would need to make that call.

LTC (b)(3), (b)(6) What is it that the JTAC has, or knows about this target, before you able to engage it in a self defense situation?

CPT (b)(3), (b)(6) He would basically have to say, roger this is a self defense situation, nine lined and cleared hot. We would need an appropriately nine line in order to strike.

COL (b)(3), (b)(6) Once the strike is over, and you discuss internally, and PID of women and children, what sort of reporting requirements do you then have as a crew following an engagement that we know there are civilians where we struck?

CPT (b)(3), (b)(6) We don't have much of a formal one. For every mission we put out a INREP the MC puts out an INREP up the chain of command within an hour of the engagement. At the end of the mission they complete a MISREP that goes through the same channels.

COL (b)(3), (b)(6) We would get a copy of the mission report of this particular mission.

CPT (b)(3), (b)(6) I can work on that for you sir.

CPT (b)(3), (b)(6) The MISREP goes to the (b)(1)1.4(a), it is an Intel function.

COL (b)(3), (b)(6) Just let COL (b)(3), (b)(6) know and we will talk to him about getting one.

COL (b)(3), (b)(6) As we read the post strike COMs discussion of women, children and/or adolescent. I am personally wondering when a third vehicle joins the convoy, what is the role of the Predator and the screener team to represent the composition of the vehicle to the GFC. Because the questions you are asking now are awesome questions just why did it happen after the kinetic instead of prior to it?

CPT (b)(3), (b)(6) The pilot and crew are there to get the best imagery for the Intel guys to analyze. I haven't been to a DGS I have had it described to me so I have some idea of what they do, but I don't know what tools that they use to do so. [interrupted]

CO (b) (3), (b) (6) understand that, that is not your job, but if you are going to make an assessment then you have to the responsibility to ask those things that contribute to those assessments. Explain to me what overriding authorities you have over the screeners.

CBT (b) (3), (b) (6) To be honest sir, it has worked both ways for me sir. We all thought hey that looks like a pick up the truck and the screener says, that's not your job stay out of it in a nutshell. As I said earlier there is always a grey area, if I know for a fact that something is not what the screeners are calling out, and it has only happened once or twice, I have seen it closer up, at different angles, or the screeners have just swapped out, I would chime in and to say I disagree with them. The pilot and sensor operate all the equipment so I don't spend a lot of time staring at the heads up display. So that barely happens.

CO (b) (3), (b) (6) Would you be surprised if your pilot did it three times during this mission?

CBT (b) (3), (b) (6) Yes I would be. When I asked him about, he satisfied my initial thought of adolescents in the convoy.

LT (b) (3), (b) (6) Do you have a JA on site to consult during these engagements; you don't have an operational law attorney?

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

MG: Thanks a lot. The purpose is to understand what happened, what recommendations to the community to prevent this from happening again in the future.

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

STATEMENT (Continued)

STATEMENT ATTACHED.

AFFIDAVIT

I, (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 14. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(Signature of Person Making Statement)

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

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE 14 OF 14 PAGES

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: The solicitation of personal information in conjunction with this investigation is authorized under Title 10 USC 3012.

PURPOSE: The purpose for collecting this information is to obtain facts and make recommendations to assist the Commander in determining what action to take with regard

to 21 Feb 2010 air to ground engagement which resulted in civilian casualties

ROUTINE USES: Information obtained during the course of this investigation will be used to document relevant facts regarding the matters investigated. It will be used to determine the facts leading up to the matters investigated, establish individual responsibilities, negligence, and to make recommendations for corrective actions and/or appropriate administrative actions. Any information you provide may be disclosed to members of the Department of Defense who have a need for it in the performance of their duties.

DISCLOSURE MANDATORY OR VOLUNTARY AND THE EFFECT OF NOT PROVIDING INFORMATION: The private information you furnish is voluntary. There will be no adverse effect on you for not furnishing private information, other than that certain facts or information might not be otherwise available to the Commander for his decision in this matter. The other information you furnish is mandatory. Failure to provide the requested information could result in disciplinary or other adverse action against you under Article 134, UCMJ.

Having been advised of the provisions of the Privacy Act, I hereby agree to provide information concerning this investigation.

| | |
|-------------------|----------------|
| | (b)(3), (b)(6) |
| Printed Name/Rank | Signature |

3 MAR 10
Date

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

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

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

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

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

| | | | |
|---|----------------------------------|-----------------------|----------------|
| 1. LOCATION | 2. DATE (YYYYMMDD) 2010/03/03 | 3. TIME | 4. FILE NUMBER |
| 5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3), (b)(6) | 6. SSN (b)(6) | 7. GRADE/STATUS O4 | |

8. ORGANIZATION OR ADDRESS

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

Statement begins on page 1, transcribed statement from pages 2-20

| | | |
|-------------|---|--------------------|
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT | PAGE 1 OF 20 PAGES |
|-------------|---|--------------------|

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

Interviewee: MAJ (b)(3), (b)(6) Night JOC Chief CJ-SOTF,
 (b)(3), (b)(6)
 (b)(3), (b)(6)

Interviewers:

MG McHale

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

MG: What kind of training went on when you got here?

MAJ: Sept/Oct we did a train up in (b)(1)1.4(a) when I got here I worked under the Night JOC Chief 7th group for a week and then I took over from there.

COL (b)(3), (b)(6): What is the role/responsibility of the Night JOC Chief?

MAJ: Keep the Commander informed of what is going on, keeping up with data and information, running of the operations.

COL (b)(3), (b)(6): Do you have wake up criteria for the Commander?

MAJ: Yes Sir; Significant TIC, loss of Aircraft, loss of any CJ-SOTF personnel, anybody injured.

COL (b)(3), (b)(6): What do you mean by significant TIC?

MAJ: If it's involved in *casualties*. I think that's something the Commander should be aware of.

COL: What is AIR-TIC?

MAJ: When air support is called just to get over the target, doesn't necessarily mean they're going to make a hit, used as a show of force.

COL: Does AIR-TIC require Troops in Contact?

MAJ: No Sir

COL: What is PID?

MAJ: Positive ID, aircraft or personnel saying they have PID on the target there going after, or PID on weapons.

COL: What happens when a TIC is declared in the JOC?

MAJ: Depending on what kind it is we start tracking the weather, ISR, what cast is up, and we'll get the CONOPS and start tracking where they are at.

COL: Is that in a SOP?

MAJ: No, it's in a Battle Drill

COL: Is the Lawyer/JAG part of that battle drill?

MAJ: Depending on the situation, if there's a significant event, a drop on a compound, a mosque, a lot of the restricted area or a hospital.

COL: Your definition of Hostile Intent?

MAJ: GFC under the perception that the enemy is going to attack them at some point.

COL: So what is imminent threat?

MAJ: Pretty much the same thing.

COL: So Hostile Intent and Imminent threat are the same?

MAJ: Hostile Intent is probably someone actually pointing the weapon at you and Imminent Threat is when (b)(1)1.4c picks up that someone is moving in closer, predicting something's going to happen. It's called an Imminent TIC; it's not a TIC yet

COL: what sensors are you monitoring?

MAJ: e-mail and MIRC, from all 3 SOTF's

COL: On a normal night how many different teams are you monitoring?

MAJ: Each night is different, (b)(1)1.4(a) Teams

COL: what's your normal shift?

MAJ: 1630 Zulu to 0430 Zulu

MG: when there's (b)(1)1.4(a) what's the span of control that you can handle up here?

MAJ: Were monitoring everything, so if one of the teams gets a TIC we make sure they have assets they need. We can monitor all (b)(1)1.4 depending on what assets they need and what's going on in each one.

MG: The 21st of Feb, can you walk us through when you first focused in on this particular mission with ODA?

MAJ: If we have a Big Operation Level 1 or Level 2 we come in at 1630 we did the CUB before the Battle Handover, the battle handover for the operation that went on later that evening. Sometimes it runs into the next day the day crew will stay over to do the battle hand over too. We got the Battle Handover that night from the operation that started that evening.

COL: At what point did the JOC begin focusing on the Operation.

MAJ: We had ISR for this one, we had an (b)(1)1.4(a) up, if we have those assets we would have a feed and watch it. The big issue was that one the (b)(1)1.4(a) was coming up for that night so they were talking about losing the ISR.

COL: Was TIC declared during this particular mission?

MAJ: Yes, Sir

COL: What conditions declared that TIC and who declared it?

MAJ: The GFC declares the TIC; it's not up to the JOC. As soon as they got on the ground they started to receive the ICOM chatter, from the enemy, the enemy didn't want them there the enemy said they had to force them out of the area where they will lose support of the locals.

COL: TIC was declared, what actions were done by the JOC?

MAJ: I don't know if it was declared right when they went in but we already had the assets up an ISR and AC130 so they had support already.

COL: Were you monitoring the (b)(1)1.4(c) chat once TIC was declared?

MAJ: Yes Sir, I check that frequently

COL: Any (b)(1)1.4(c) entrees that caught your attention prior to the engagement?

MAJ: NO, the team went in about 2100z...Bought 2300z I think the big thing was (b)(1)1.4(b) or (b)(1)1.4(a) was reporting that there was 43-55 personnel in 3 vehicles. I think that was a big thing because we have about 70 guys in that area, so that is basically 1-1. Also we were getting feedback that we were going to lose the ISR feed because the weather, so the predator would have to come down, and around that time the (b)(1)1.4(a) comes of station.

(b)(3), (b)(6) You indicated earlier that if it's big enough we generate activities, 43-55 from a Bde Commander is pretty big, and did that generate a Battle Drill from the JOC?

MAJ: They still had the ISR and AC130, when that report came in at about 2300z at that time I called COL (b)(3), (b)(6)

(b)(3), (b)(6) But that's the only thing, there wasn't no Identification or battle drill for the PID from the JOC?

MAJ: We don't Identify the TIC the GFC declare the TIC

(b)(3), (b)(6) Once the TIC was declared that didn't create a Battle Drill from the JOC?

MAJ: When a TIC is declared we start a drill by, always checking the weather, we check the cast; maybe we can pull from someone else if we have to.

(b)(3), (b)(6) Just so you understand the questioning this is not blame or a fault issue. We are trying to prevent these things from not happening so we can enhance our situation. So we need to understand, is there a drill?

MAJ: Did we pull out a check list, NO. We just did what we needed to do from our heads.

(b)(3), (b)(6) How do you know it was done if you guys did the Battle Drill from the head?

MAJ: It's pretty standard, we check the weather, aircraft...we don't have a print out of a checklist.

(b)(3), (b)(6) Did the JOC do a certain set of activities close to a Battle Drill?

MAJ: Yes Sir.

COL: Did you monitor MIRC chatter entries, stating that referenced children in those 3 videos?

MAJ: No Sir, that was the (b)(1)1.4(a) and I didn't have that up at my station.

COL: Does anyone within the JOC have it up at their station?

MAJ: I think the J2 OPS does Sir

COL: Could it be a reasonable expectation that if there was noted children that you were tracking as a potential target that you would be notified?

MAJ: Yes Sir

(b)(3), (b)(6) Did the J2 OPS and TV screen up to the right, his recollection is he posted the information he was getting up on the screen, would you notice that?

MAJ: If it's something important usually they say attention on the JOC. I don't remember anyone saying anything about women and children but what I do recall is a PID on weapons for the vehicles

COL: How many weapons?

MAJ: I don't know, all I heard was a PID on weapons, I'm sure that's all they said.

COL: What other attention of the JOCs do you remember that night?

MAJ: I think that was it Sir, basically we were watching the feeding. We were watching the vehicles drive around picking up people they would stop and pull security measure so basically we were monitoring it.

COL: When you say monitoring, are you monitoring the Predator or the MIRC?

MAJ: Both Sir, the (b)(1)1.4(a) feed was up all night, the MIRC will gives us feed/updates from the guys on the ground.

COL: Was there anything that you monitored that caused you to wake up the Brigade Cdr?

MAJ: I woke up COL (b)(3), (b)(6) with the report of 43-55 people in the vehicles at around 2300z

COL: His reaction to that?

MAJ: Got it let me know if anything changes,
From 2300-0400 when he walked in nothing really changed, they would drive and then stop pick up some more people, and just keeping driving around

COL: What time did COL (b)(3), (b)(6) come in?

MAJ: was around 0400z about 0930 Local

COL: when he arrived what happened?

MAJ: He asked for an update, and I told him nothing changed and they just kept driving about the same number in vehicle.

COL: Then what did he say?

MAJ: Thank you and I believe he went down to the office

COL: Do you know of any phone conversations between him and the SOTF/commander?

MAJ: No, He came we briefed him and went back to the office; he usually goes to the gym at 0500, so he would call if anything changed both ways, we send operational updates if anything changes.

COL: Was Legal present?

MAJ: There wasn't any reason for him to be involved; we were just monitoring what was going on at the time

COL: Was there any discussions of potential actions of these vehicles?

MAJ: No, that's up to the GFC to determine that issue.

COL: Can you monitor any radio traffic or MIRC chat traffic reference actions against those 3 vehicles?

MAJ: I know the GFC was watching it, trying to make sure they got in close enough. There was a

(b)(1)1.4(a) element which is OH58 up; when (b)(1)1.4a, (b)(1)1.4c

(b)(1)1.4a, (b)(1)1.4c I believe that's all in the MIRC's, called in Air TIC (b)(1)1.4c as they (b)(1)1.4a, (b)(1)1.4c
(b)(1)1.4a, (b)(1)1.4c

COL: At any point leading up prior to the engagement. Did you or anyone have communication with the SOTF?

MAJ: Sir I was talking to the Battle CPT several times to make sure we were tracking the same thing.

MG: Who is the Battle CPT?

MAJ:CPT (b)(3), (b)(6) he's usually the night one, he must have been there that night.

MG: What kind of dialog did you have with the battle CPT?

MAJ: Making sure he's tracking and that everyone is getting what they need that night, nothing unusual that night than any other night, we still had the 58s up, still had the ISR up, by that time the (b)(1)1.4(a) was probably down, but the cast was still up

COL: When did you know that they were going to engage those vehicles?

MAJ: We assumed that were going to because it looked they were getting close to them if you plot it, but we didn't know they were going to do it

COL: Why did you assume they were trying to get close to them?

MAJ: If you look at the plot between the (b)(1)1.4c and watching them, (b)(1)1.4c stated that they were trying to get enough insurgents to attack the Team that was on the ground. It looked like they came from the North going south, then went west and back south. So it looks like they were going around the team. When they stopped they would get out in pull security, so it looked like they were insurgents trying to attack the team.

COL: When did you become aware that the GFC commander was going to attack those targets?

MAJ: The first vehicle blew up; we didn't hear anything over the radio, we thought it hit an IED. Then the 3rd or 2nd vehicle blew up and we knew that the GFC engaged the vehicles.

COL: Your actions as a JOC director once you see these vehicles being engaged?

MAJ: Let the boss know, not sure if it was myself or MAJ (b)(3), (b)(6) he came down at shift change at 0430, Sunday we don't have a shift change as a whole, but a shift change brief so we had to be present and he was coming on after we were leaving.

COL: How long did you stay in the JOC after that shift change?

MAJ: about 10 to 15 minutes.

COL: After shift change, so 0440z?

MAJ: Yes Sir

COL: Within that time, from the vehicles exploding on the predator feed until your departure did you hear anything about women and children in the objective area?

MAJ: No, not until the next day when I came on shift that they said we had a ^{OWCAS} CIECAF incident. After going back and reading the MIRC I see that there were women and children present. But during the whole night we never knew that that was the case. When we left we thought everything was good and it was all full of insurgents.

COL: If in fact your tapes with the OPS NCO that there were women and children in this vehicle being reported what would your actions have been?

MAJ: I would probably wake up the COL and bring in the Lawyer.

(b)(3), (b)(6) How do you define TIC?

MAJ: Troops in contact, that's called out by the GFC, depending upon the team they call out something different.

(b)(3), (b)(6) I'm asking you how you define TIC?

MAJ: Troops in contact

(b)(3), (b)(6) and what is that mean?

MAJ: Taking fire

(b)(3), (b)(6) When TIC was declared what all do you remember, what was declared?

MAJ: I don't remember what time Sir

(b)(3), (b)(6) When TIC was declared what was the TIC?

MAJ: They were not taking fire Sir.

(b)(3), (b)(6) So when TIC is declared and it's not a TIC, does the Headquarters have any responsibility?

MAJ: The GFC puts out the TIC based on what he perceives, we don't question it. If it's open for a while and nothing happens will ask "Hey, do we need this still open"? The GFC goes in there and he is under the impression that he needs the air access because they think they're going to need an attack...

(b)(3), (b)(6) So I'm going to ask you the question again and I think you got it right, what is a TIC?

MAJ: I would say being shot at, but the GFC will call an Imminent Tic based on (b)(1)1.4c that there going to get attacked, or call the TIC but usually when shots are fired.

(b)(3), (b)(6) If were using TIC when it's not TIC to get air assets, do we have infinite number of air assets to support ground contact?

MAJ: No Sir

(b)(3), (b)(6) Is something fundamentally wrong in your mind to declare TIC when there's not one to get air assets committed to a site that could be used at another site that is a TIC?

MAJ: My opinion GFC thinks he's in danger and he wants those assets depending were they are and it takes a while, no Sir.

(b)(3), (b)(6) So let me say this out loud to make this clear, a force that is not in ground contact declares a Tic to get assets vs. a force that is in ground contact but can't get that same asset because there already committed and your okay with that?

MAJ: If that GFC believes that he's going to be attacked and depending upon the timeline, yes Sir.

(b)(3), (b)(6) Yes Sir what?

MAJ: The GFC, it's all in the GFC perception...

(b)(3), (b)(6) That's not what I'm asking you, I'm asking you as a senior leader, let me make it closer to home. I got 2 CJ SOTF assets 2 OED assets one in the South and one in the West. The one in the south declares a TIC when he's not in contact, western guy declares a TIC because he is in contact. That air asset so he can gain control of it got deployed to the South. If that scenario arises are you okay with that?

MAJ: No Sir if that scenario arises we would have to take that asset in the south and move it to the west to help out the people in contact if we could move it that far.

(b)(3), (b)(6) So going back to what I asked you, look back at that procedure on Air TIC and rational since we don't have infinite numbers of assets that are dedicated, not just to CJ-SOTF but to the entire theatre.

MAJ: Okay Sir

(b)(3), (b)(6) You were unaware of the potential possibility of women and children in this operation?

MAJ: Yes Sir

(b)(3), (b)(6) Would you be surprised to know that the J2 OPS Team feels like they communicated that information in an appropriate manner upon notification in an appropriate window, and on the TV screen that went up there?

MAJ: I would be Sir because I do not remember seeing that, the J2 OPS from my monitors the (b)(1.4(c)) with the ISR on their computer screen. The (b)(1.4(c)) that's up on our board is the SOTF MIRC.

(b)(2)High (b)(1)1.4 Did the SOTF Battle CPT ever contact the JOC; not you necessarily, other than (b)(1)1.4(c) to provide an update of the activity?

MAJ: I'm sure either between the J2 OPS, the fires and myself.

(b)(3), (b)(6) Did you and the fires ever discuss or did the fires ever share with you the possibility of civilians, women and children or non-combatants, anything in that realm?

MAJ: No Sir

(b)(3), (b)(6) Educate me on this; you're the night director correct?

MAJ: Yes Sir

(b)(3), (b)(6) MAJ (b)(3), (b)(6) explained to me that its only two guys that know everything going on in the JOC. You and the SGM. How could you not know the potential of women, children or non-combatants that have been reported on the common window of the (b)(1)1.4(c)?

MAJ: That's not a common one sir?

How could that be missed?

MAJ: I'm not sure sir. After reading it, that was after the fact.

(b)(3), (b)(6) Has there been any instructions to the JOC since the incident, since you've read the log, conduct retraining?

MAJ: We did the safety stand-down, addressed all the directives again sir, but if you are looking at who's monitoring the (b)(1)1.4(c) channel no sir.

(b)(3), (b)(6) Has there been training, particular to wakeup criteria. Has there been retraining to the identification or notification that would generate the wakeup criteria?

MAJ: No sir.

(b)(3), (b)(6) I ask that you do that before you start the night OPS of that piece.

MAJ: Yes sir.

(b)(3), (b)(6) I want to go over the scheme of maneuver.

MAJ: Yes sir.

(b)(3), (b)(6) What did you think that the scheme of this convoy you were monitoring.

MAJ: We believe that they were going toward the ODA.

(b)(3), (b)(6) What was the general scheme of maneuver?

MAJ: They came from the north, curved west and at the end south, sir.

(b)(3), (b)(6) Bout how far were they when they started from the north to the best of your recollection from the north?

MAJ: Roughly sir, I don't know. When the strike happened they were about 10 kilometers from the ODA

(b)(3), (b)(6) Were they closure or further from the ODA, which one were they further from, when they started or where they were?

MAJ: I believe from where they started.

(b)(3), (b)(6) It doesn't jump out at you. It's hard for me to stay in my seat. It's about 5 ½ kilometers when they start in the north and 15 kilometers when they got struck. As the night OPS director, what's the responsibility of the OPS director with situational awareness and understanding?

MAJ: We were plotting sir; I just don't recall how far it was.

(b)(3), (b)(6) How many other TICs were ongoing at this time?

MAJ: Maybe one other one sir.

(b)(3), (b)(6) So, are there any other distractions, calls from CFSOC-A command, anything pulling you away?

MAJ: We get calls all the time from CFSOC-A for updates sir?

(b)(3), (b)(6) How about any other commands?

MAJ: If not CFSOC we get calls from 82d all the time sir.

(b)(3), (b)(6) When you did the shift change, who is generally there at shift change?

MAJ: On Sunday morning, we conduct them at the standard time, because of all the reports we have to prepare at night time. The actually PUB is done at 0600Z.
So 1030?

MAJ: Yes sir.

(b)(3), (b)(6) Shift change, dose the Deputy Commander attend?

MAJ: On Sunday's sir, it's a battle handover between the two of us so, I and MAJ (b)(3), (b)(6) get together and the LNO staff gets together. Other days we do a CUB at 0630 which the commander and everybody attends. The one at nighttime, 1630 the DCO attends that one and COL (b)(3), (b)(6) comes to that. Can you recall anytime, that this level of command reached down and stopped a strike, of an ODA?

MAJ: No sir.

MAJ: Yes sir.

LTC (b)(3), (b)(6) When speaking with CPT (b)(3), (b)(6) did you discuss the ground force commander's intent to engage?

MAJ: No sir.

LTC (b)(3), (b)(6) Would you have expected him to report his plans to CPT (b)(3), (b)(6) ?

MAJ: Depend on what's going on the ground, depends of the types of report coming out. He had dismounted personnel, and vehicles traveling in. Based on the (b)(1)1.4c he's worried about many things.

LTC (b)(3), (b)(6) If he had the time and capabilities do you suspect he would report up to his chain on of command?

LTC (b)(3), (b)(6) They usually do, sir. Depending on whets going on operations on the ground. It is not our place to second guess the ground commander's assessment.

LTC (b)(3), (b)(6) Why bring your attorney and commander in, if it not your place to say.

MAJ: If we know that there are civilians Sir, we make sure COL (b)(3), (b)(6) is informed of that. Then the lawyer will advice legally, if they are authorized to do it.

LTC (b)(3), (b)(6) If there are no civilians in the target is it possible it is illegal for the ground force commander to engage?

MAJ: No sir.

LTC (b)(3), (b)(6) What if it's a high valued person, you know he is Taliban. You asses he is passing through the area, does the ground force commander have authority to engage that target?

MAJ: He has the PID on him sir.

LTC (b)(3), (b)(6) He is PID as high valued, Taliban, but has no plans to engage the ground force commander.

MAJ: Yes sir.

LTC (b)(3), (b)(6) Ground force commander can engage?

MAJ: He's got PID, yes sir.

LTC (b)(3), (b)(6) So he doesn't need to have hostile intent towards the ground force commander, he is good to go?

MAJ: If he is on the JPEL and he has PID on him, yes sir.

LTC (b)(3), (b)(6) What if he is not on the JPEL and you have PID there armed, but are leaving the area?

MAJ: Then nothing sir.

MCH: You had battle discussion with battalion commander and SOTF (b)(1), (b)(4) How many discussion did you have with them that not?

MAJ: About one or two sir, I really can't remember sir.

MCH: Can you characterize the discussions?

MAJ: I was making sure the teams had what they had everything that they needed?

MCH: You said you woke COL (b)(3), (b)(6) how many times did you wake me?

MAJ: 2300 hours sir, once that night.

MCH: 2300 local or Zulu?

MAJ: 2300z, which is 0330 sir.

MCH: Who briefed him did you brief him?

MAJ: Yes sir.

MCH: What did you brief him?

MAJ: That was 43-55 MAMs in three vehicles headed towards the ODA?

MCH: And his discussion with you?

MAJ: He said to inform him if anything changes. And then about 0400z and is when he came into the JOC sir.

MCH: Did you have any other discussion with the CJDOTF battle captain?

MAJ: No sir.

MCH: Are you familiar with the tactical directive?

MAJ: Yes sir.

MCH: Have you read it?

MAJ: Yes sir.

MCH: Since it came out, how often do you train on ROE, PID hostile intent, imminent threat?

MAJ: Depending on the night, we will pull stuff and go through it. Some nights are very slow others are not.

MCH: You said many times you monitor, explain monitor?

MAJ: I keep tracks of operations and the level, the ISR, if that is an AC130, we keep track of the information gathering, and we'll send operational updates out every night to update everyone else.

MCH: As you are monitoring you are doing so in a passive since?

MAJ: If something comes up, if it CAS, the fires actually see what's up, they go over there.

MCH: The MIRC chat, how many people are monitoring in the JOC?

MAJ: That one is posted on the big screen; we keep the three JSOTFs on the screen. The battle NCO has it, I have it and the assisted JOC has it sir.

MCH: Different 1.4(c) chat channels talked about women and children in the vehicles?

MAJ: In the (b)(1)1.4(a) one sir.

MCH: How come no one noticed that?

MAJ: We don't have that one sir.

MCH: The LNOs have their individual SOTFs on their screens?

MAJ: So it said in different chats, mentioning women and children, no one brought that up to you. No sir.

MCH: What kind of post mortem what has been done to internally when you did your stand down?

MAJ: Don't know if we ever got a number. After I read (b)(1)1.4(a) is when I learned it was reported there was women and children.

MCH: You said you are not second guessing the commander on the ground. At what point are we providing overhead when there is something that happens that concerns us? If everything is okay its okay, if something is going wrong we can intervene. At what point do we do that?

MAJ: It depends on the mission. I think we do it all the time. If I had been aware women and children had been involved I would made sure leadership would have been awakened.

(b)(3), (b)(6) When you do a battle drill, TIC battle drill, does it not result in an up and down discussion. Are the subordinate also brought in on the drill? The answer's yes, I think that is because it's the oversight that you provide as higher HQs.

MAJ: Yes Sir.

(b)(3), (b)(6) So when you say second guess several times, why the terms second guess? I'm concern that saying that sounds like micromanaging telling the subordinate what to do when he has a better picture. Is it's a culture that exists here, or is that your term you use?

MAJ: That's just a term I use sir. That's not the culture or anything. The person on the ground has a better idea of what's going on. He's reporting something and we are seeing everything else sir.

(b)(3), (b)(6) I honestly do not translate second guessing, I do translate oversight.

MAJ: I believe we do oversight, maybe it's a better word to use.

LTC (b)(3), (b)(6) What does the Tactical directive require?

MAJ: Which part sir? The night one or the original?

(b)(3), (b)(6) The original.

MAJ: The original tactical directive talks of avoiding CIVCAS that's the biggest part I believe sir.

(b)(3), (b)(6) Are the mechanisms that this HQs has are to lesson to the likelihood of CIVCAS, and how is it implemented even if you know the ground commander is going to engage?

MAJ: I did not know that it was women and children involved sir.

(b)(3), (b)(6) This target passed various compounds correct?

MAJ: Yes Sir.

(b)(3), (b)(6) Would you have known if the ground commander elected on purpose or elected to engage at or near the convoy?

MAJ: When he decided to, we didn't know it until after we saw it.

(b)(3), (b)(6) Do you agree with the threat to the forces was not immediate?

MAJ: Looking back, maybe, but I wasn't there.

(b)(3), (b)(6) There term imminent, they were not within small arms fire, and there were no reports of weapons?

MAJ: We didn't know what type of weapons, so yes sir. At one point he must have perceived them as a threat.

(b)(3), (b)(6) I'm not challenging that it wasn't a threat. The question was, was it an immediate threat that you saw?

MAJ: He must have perceived it was sir. They may have got into the village, so it could have been even worse as far as for CIVCAS.

(b)(3), (b)(6) How long was the ground commander tracking?

MAJ: He was tracking all night with his JTAC.

(b)(3), (b)(6) For a couple hours?

MAJ: They went in around 2100, 2200 I think, he must have been tracking the whole time.

(b)(3), (b)(6) From 21 something?

MAJ: They got on the ground then. He was receiving the same information we were because we checked with the SOTF fire guys to make sure.

(b)(3), (b)(6) When he first started tracking can we assume he didn't consider it an immediate threat because he didn't engage?

MAJ: I guess so Sir, I don't know what he perceived to be an immediate threat.

(b)(3), (b)(6) Was there time for the ground force commander to have sent up what he knew about the target, during the time the target was being observed?

MAJ: I assume so Sir, he was also clearing an objective at the same time.

MCH: 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. 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. How do you interpret that?

MAJ: Limit that use of CAS as much as possible to reduce the number of potential casualties.

MCH: I expect leaders at all levels to scrutinize and limit the use of force like close air support. So we had a close air mission, do we just default to the ODA commander on the ground?

MAJ: Yes Sir.

MCH: We just default to him? I'm looking at a director that says commanders at all levels scrutinize.

MAJ: Unless there is a threat standing and glaring at them, yes sir.

MCH: We had a convoy we had been monitoring, and it was moving away from the force. Does that not spur something to ask some questions to scrutinize?

MAJ: In hind sight, yes Sir. Watching the way they were going, they were all over the place.

MCH: We watched the Predator for a while; did we see any heavy weapons, or long range artillery?

MAJ: No Sir. They called out weapons, there were roughly 50 guys.

MCH: They also called out women and children on the MIRC, there was some back and forth chatter before falling off. Do you think we're engaged at the level we needed to at this HQs. To understand all the feeds that we getting to understand what was going on in that situation?

MAJ: I would need to look at who's monitoring the ISR platform, had we had that up, probably I or my NCO would have saw it to take the appropriate action.

MCH: Did we have the ability to have that up?

MAJ: Yes Sir.

MCH: But we chose not to?

MAJ: I'm not sure that we chose not to or that was the system in place to have the three SOTFs up on that one?

MCH: GEN McChrystal goes on 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 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. So that's my concern. I think it captures a lot of his intent. It is to never back away from self defense, but what I have been hearing in this investigation, some did not know the targets were going to be struck. We are worrying about second guess, we have a duty to scrutinize, to challenge intellectually. What recommendations do you have on better ways to do operations here?

MAJ: To limit as best we can more ISR would be helpful. Quite often it's not supportive so we are left to rely on (b)(1)1.4(a) and what we get from ground force commanders.

MCH: Got it, got what you said. We need more ISR and assets. We had ISR and (b)(1)1.4(a) on this target all night.

MAJ: Yes Sir.

MCH: And it stayed on afterwards to. On this problem set what happened, what was missing in this operation?

MAJ: We never had actual knowledge of the ground force commander was going to do.

MCH: And how would we do that?

MAJ: We would have to report it up sir.

MCH: Well we that's one way or we reach down. Communication is a two way street. Alright thank you

MAJ (b)(3), (b)(6) You cannot discuss this investigation and our questions with anyone else. You are subject to recall.

STATEMENT OF (b)(3), (b)(6) TAKEN AT _____ DATED 2010/03/03

STATEMENT (Continued)

AFFIDAVIT

I, (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 20. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(Signature of Person Making Statement)

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

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE 20 OF 20 PAGES

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: The solicitation of personal information in conjunction with this investigation is authorized under Title 10 USC 3012.

PURPOSE: The purpose for collecting this information is to obtain facts and make recommendations to assist the Commander in determining what action to take with regards to: *The air to ground fire incident in the vicinity*

of (b)(1)1.4(a) *21 Feb 10*

ROUTINE USES: Information obtained during the course of this investigation will be used to document relevant facts regarding the matters investigated. It will be used to determine the facts leading up to the matters investigated, establish individual responsibilities, negligence, and to make recommendations for corrective actions and/or appropriate administrative actions. Any information you provide may be disclosed to members of the Department of Defense who have a need for it in the performance of their duties.

DISCLOSURE MANDATORY OR VOLUNTARY AND THE EFFECT OF NOT PROVIDING INFORMATION: The private information you furnish is voluntary. There will be no adverse effect on you for not furnishing private information, other than that certain facts or information might not be otherwise available to the Commander for his decision in this matter. The other information you furnish is mandatory. Failure to provide the requested information could result in disciplinary or other adverse action against you under Article 134, UCMJ.

Having been advised of the provisions of the Privacy Act, I hereby agree to provide information concerning this investigation.

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

20 FEB 10
Date

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

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

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

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

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

| | | | |
|-------------|----------------------------------|---------|----------------|
| 1. LOCATION | 2. DATE (YYYYMMDD) 2010/02/26 | 3. TIME | 4. FILE NUMBER |
|-------------|----------------------------------|---------|----------------|

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

8. ORGANIZATION OR ADDRESS

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

STATEMENT ATTACHED

| | | |
|-------------|---|--------------------|
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT | PAGE 1 OF 21 PAGES |
|-------------|---|--------------------|

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF TSGT (b)(3), (b)(6)

TSGT (b)(3), (b)(6)
JTAC

Interviewers:

MG McHale

COL
COL (b)(3), (b)(6)
LTC

(Privacy Act Advisement by LTC (b)(3), (b)(6))

MG: What was the mission and the purpose of this engagement?

TSGT: (b)(1)1.4a
area.

1.4(a)

(b)(1)1.4a

TSGT: (b)(1)1.4a, (b)(3), (b)(6)

MG: Are you familiar with COMISAFs tactical directive?

TSGT: Yes sir I am.

MG: You've had a chance to read it?

TSGT: Yes sir I have read it. I am reading the highlighted portions for the record.

MG: In the tactical directive 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. 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. 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 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

STATEMENT OF TSGT (b)(3), (b)(6)

junior soldiers. I expect leaders to ensure this clearly communicated and continually reinforced. I just read to you paragraphs f and g, how would you internalize that SGT (b)(3), (b)(6)?

TSGT: Well sir. I have read it as was being in-processed and periodically throughout my deployment. Before it was published this was something we were already practicing to prevent CIVCAS. In the past the standards were somewhat relaxed. Some years ago the standard of acceptable CIVCAS was up to 29. In this particular incident we spent a lot of time reviewing the ISR platform trying to ensure there weren't civilians on this convoy, we were watching. Unfortunately as a JTAC, I have to rely heavily of the information delivered by the aircraft that I can relay to the ground commander. I have to have a level of trust with the aircrew and the GFC that I support and all the troops providing security. In this particular instance once we saw people loading vehicles, we asked were there women and children. The (b)(1)1.4(a) on site, due to low loom, weather, they could not confirm that. That went on for hours. There was a possible children were seen in the vicinity. The discussion with the (b)(1)1.4(a) was, "define children or were they adolescents."

MG: Who asked that?

TSGT: I asked that because CIVCAS we have engaged in the past were adolescent men in the battle. We worked for hours trying to determine that.

MG: We're getting the audios with (b)(1)1.4(a), what is your definition of adolescent?

TSGT: My definition is someone that is 15 YOA, a young adult. We have ANA, ANP, and ASG that work with us, and they are teenagers. They are not 15 YOA by American standards. I've seen them be fairly cold blooded on the battle field and I know that the insurgent forces have a lot of young men working for them, supporting the Taliban.

MG: Before you left as you're planning this were you expecting to use air ground fire?

(b)(1)1.4a, (b)(1)1.4c

(b)(1)1.4a, (b)(1)1.4c Having said that, our operations we have not used as much CAS as expected. Ironically, 9 out of 10 we do not shoot, 9 out of 10 we don't achieve the level of PID needed to engage, or we cannot determine the number of noncombatants in the area. Two weeks ago, south of this same area, we were dismounted assessing the area of our northern most checkpoint. I had (b)(1)1.4(a) two, providing over watch of the dismounted movement. There was a lot of (b)(1)1.4c We had about 35-45 MAMs observed moving a mortar or two to engage our position. At that point we had PID, but they had moved close to a group of women and children, therefore we couldn't shoot and didn't. So it is always a concern we have and try to achieve, in obtaining definite PID and ensuring our actions don't result in significant CIVCAS.

MG: Do you plan for the possibility of using CAS, but you didn't think it would come to that in this situation?

STATEMENT OF TSGT (b)(3), (b)(6)

TSGT: That is correct sir.

MG: What enemy situation were you expecting when you hit the ground?

MG: Let the record reflect that the witness is referring to a slide label Operations code 22 Feb.

TSGT: We expected to fill this area right here just to the southeast of the Bazaar. My expectation, to be frank, I expected on en-fill to be RCIED after coming of the bird. We have had a significant level of RCIED attacks at FB (b)(1)1.4(a). I expected to be ambushed here. With that being my last mission, my level of anxiety was high. (b)(1)1.4c

(b)(1)1.4c

CO (b)(3), (b)(6) What does PID mean to you?

TSGT: It means the positive ID of weapons, I use it different contexts. Usually demographically it would mean to me to identify the target that we are looking at. We are always looking for MAMs and weapons. PID for me is identifying MAMs with a weapons or weapons system. When I discuss PID of demographics with the aircraft, I am referring to the women and children trying to confirm whether or not they are present.

CO (b)(3), (b)(6) At what age does MAM start at?

TSGT: MAM for me can be as young as 13 YOA. In my experience our forces have sometimes been engaged by teenage males. They ignite IED; plant them, the engage in combat. As I said previously, we have teenage males working with us as well.

CO (b)(3), (b)(6) How do you define hostile intent?

TSGT: I define hostile intent as the intent to commit a violent act and capabilities against us and coalition forces or the afghan government.

CO (b)(3), (b)(6) How do you define imminent threat?

TSGT: From what I know from the ROE, imminent threat does not mean instantaneous. In my experience, it comes from the GFC, in a lot instances we are attachments. From what we were seeing on the ground, the GFC and I believed we were facing a development. Imminent threat, we believed within hours we would be enveloped and engaged. In this incident we believe imminent threat existed. The (b)(1)1.4(a) present also believe the same.

CO (b)(3), (b)(6) Can you clarify gunship?

TSGT: The (b)(1)1.4(a) sir operating north of the (b)(1)1.4(a). They were watching enemy forces to the west of the river. The (b)(1)1.4(a) was viewing this area. The (b)(1)1.4(a) was viewing this area. We initially identified approximately 80 MAMs with weapons initially. Weapons were suspected, we weren't able to achieve

STATEMENT OF TSGT (b)(3), (b)(6)

PID of them. That is something we tried to do. This (b)(1)1.4(a) pushed 15 minutes beyond their end time before calling there HQs to request an extension to remain in the area, because they too felt we were in imminent threat. We chose not to do that, I held off the (b)(1)1.4(a) because we didn't have the level of PID that I felt comfortable with and that I felt supported the commander directive and ROEs. I relayed that to the GFC and he concurred.

CO (b)(3), (b)(6) You identified various places on the map. Would it be safe to say you identified approximately 80 MAMs between the box labeled (b)(1)1.4(a) and box (b)(1)1.4(a)?

TSGT: Yes sir that would be fairly accurate to say.

CO (b)(3), (b)(6) Were they all tied to the vehicles, please explain in detail.

TSGT: When we first arrived in the HLZ and immediately upon exit I talked to the (b)(1)1.4(a) and (b)(1)1.4(a). The (b)(1)1.4(a) was orbiting overhead at a lower altitude the (b)(1)1.4(a). They were both focused on the Bazaar. This was our near threat. Bazaar area is the blue box labeled, (b)(1)1.4(a) HLZ. This identifies the hilltop that we were landed on, and the Bazaar is far back, it is on an incline and is circular area of markets and shops. After in fill the (b)(1)1.4(a) identified people leaving the Bazaar area, about four to six. As we on the ground they were running to the south. They picked up two groups of males and they had been at (b)(1)1.4(a) and then linked up with additional ten males in the south. We could hear them linking up in the (b)(1)1.4c. Forces in the south had viewed flashing lights in the northeast. (b)(1)1.4c

(b)(1)1.4c stated forces were attempting to link up, we starting to believe they were linking up. The (b)(1)1.4c (b)(1)1.4c As soon as the birds lifted off the Mujahedeen started moving. The (b)(1)1.4(a) was picking up (b)(1)1.4c as was (b)(1)1.4(a). When we saw the lights, I believe the force down here was linking with this force right here to in order to lock us in and launch an attack. We were told there were 60-80 insurgent forces here. QRF forces were here.

CO (b)(3), (b)(6) 60 to 80 fighters in the vicinity of (b)(1)1.4(a)?

TSGT: I cannot identify the particular town. This area up here is under their influence. I moved the Predator to the northeast to identify the lights. They immediately identified the first truck. Initially they reported three MAMs and another that ran to the vehicle and mounted up. As this was going on we

(b)(1)1.4c (b)(1)1.4c As I tracked this vehicle, it moved west. We knew they were trying to cross the river, not sure of there destination. As they traveled they continued to pick up MAMs.

CO (b)(3), (b)(6) About 80 MAMs, I am just trying to understand the background of that?

TSGT: Initially we saw MAMs in that vehicle. It was fairly early and did not look like a threat at the time. But as it continued to move it linked up with the second vehicle. And they continued to do this for some time. It looked like they were gather forces to engage.

CO (b)(3), (b)(6) When did you and your commander assess this to be a threat force?

STATEMENT OF TSGT (b)(3), (b)(6)

TSGT: The potential threat, in that area the population is really poor. Most of the population are farmer and are relatively poor and do not own vehicles. From my experience there those with vehicles and are well off are supported by the Taliban or Taliban themselves.

COL (b)(3), (b)(6) When did you confirm this was a threat force?

TSGT: When I started identifying weapons, the (b)(1)1.4(a) platform (b)(1)1.4(a) PID weapons. When the vehicles started moving and we identified MAMs. I requested they confirm the presence weapons.

COL (b)(3), (b)(6) How many weapons did they PID?

TSGT: They did not identify a specific number of weapons, just the each time they PID weapons. My main concern was indirect fire systems. We know in this area they use a turret heavy mortar or turret power that the enemy uses. I was looking for that with vehicles.

COL (b)(3), (b)(6) How many weapons, did (b)(1)1.4(a) ever identify?

TSGT: From my recollection weapons were identify 6 times along the river side, picking up and handing off. Do the limitation of the ISR we cannot determine if the weapons were interchanged between different individuals.

COL (b)(3), (b)(6) When you receive these transmissions what did you tell the commander?

TSGT: I keep him updated. He is usually close by; I give him an exact play of what the aircraft is seeing.

COL (b)(3), (b)(6) How many weapons were potentially in that formation?

TSGT: I am not capable of making that assessment because they are difficult to see. It takes several analysts to identify weapons. I rely heavily on the ISR.

COL (b)(3), (b)(6) You have determined that this is now a threat, but unsure of how many are in the formation?

TSGT: It is my people as it crossed the river it increased the number of MAMs traveling and weapons. The ICOM chatter was this was an enemy force gaining in size and weapons headed toward our guys.

COL (b)(3), (b)(6) As the convoy moved from south to west, what did you assess?

TSGT: I was not sure of the actions they were taking, I informed the GFC of the convoys change in movement. He informed me that do the terrain in that direction, they would not be able to continue to travel in that direction. They would need to drive west to the wadi and get another road on the other side of the wadi and come back south. So we were tracking that. I directed the Predator to continue to give updates regarding additional PID, MAMs, or personnel and their position.

COL (b)(3), (b)(6) Do you remember a MIRC chat between the screeners about the vehicles going west meant?

STATEMENT OF TSGT (b)(3), (b)(6)

TSGT: No sir not from the radio traffic. The (b)(1) 1.4c chat doesn't reveal that it is a chat between the (b)(1) 1.4c and the pilots. We do not see the (b)(1) 1.4c chat on the ground, it only reflects the information put into the system by the operators, it does not reflect all radio transmissions. I know that it said it looks like it trying to flank you. Then they said it doesn't look like they are flanking as they continued to move west. Informed the GFC, he felt they were attempting to evade our forces and wrap around our forces.

CO (b)(3), (b)(6) 0240z (b)(1) 1.4c chat, these vehicles look like they are evading the area, that's from the screener. Then following that was a discussion between him and (b)(1) 1.4(a); copy, then replies might be flanking as well too soon to tell right now. Was that a discussion relayed to you from (b)(1) 1.4(a)?

TSGT: I don't believe I got the assessment that it was too early to tell. I recall them saying they may be trying to avoid our location. I notified the GFC that they were moving west. We were plotting their location as they traveled. We felt he would come to this area and try to gain from the rear. That was his initial assessment or that they would continue on around and down and link up here with a larger force.

CO (b)(3), (b)(6) Did you convey to the GFC that you had assessed that they may have been trying to evade?

TSGT: Yes sir I did. This is back and forth dialog.

CO (b)(3), (b)(6) Did you remember that the screener had assessed the convoy may have been trying to evade?

TSGT: No it was my assessment that they were trying to flank is how I remembered it. That they were trying to drive around to the south. Due to the (b)(1) 1.4c how early it was in the morning, the large number of MAMs, the possibility of weapons.

MG: You can or cannot monitor the MIRC chatter?

TSGT: I cannot not. This is a SPIR or internet filed phone, we cannot use this. (b)(1) 1.4a, (b)(1) 1.4g

(b)(1) 1.4a, (b)(1) 1.4g
(b)(1) 1.4a, (b)(1) 1.4g

MG: That document that you are reading is what?

TSGT: It is the document of the (b)(1) 1.4c chat.

MG: After the fact?

TSGT: I didn't see this until we were called into (b)(1) 1.4(a) so a lot of this was transparent to me. I didn't see it until after the fact.

MG: Who is providing you inputs via what communication?

STATEMENT OF TSGT (b)(3), (b)(6)

TSGT: The (b)(1)1.4(a) is talking to me on line of sight on FM of what he was seeing. The tactical maneuvering was what stood out the most. There vehicle movement appeared to be in a tactical manner.

MG: And the (b)(1)1.4(a) relayed that to you?

TSGT: Yes sir.

MG: What else was relaying to you?

TSGT: We have a Cat 1 interpreter on the ground who also stands by the GFC. The interpreter helps coordinate the activities of the ANP, but also there to listen to the ICOM chatter and interpret for the GFC what the enemy is saying. Additionally if I have an (b)(1)1.4(a) on station, they have a Cat 3 interpreter on board locates certain frequencies insurgents speak on. The (b)(1)1.4(a) will intercept and take care of those transmissions for me.

MG: Did you receive reports of children in these vehicles?

TSGT: We did not receive confirmed reports. Initially (b)(1)1.4(a) said they may have seen children near the vehicle. I asked them to confirm.

MG: You heard that over radio?

TSGT: Yes sir.

MG: Initially he reported he thought he saw three children near the vehicle?

TSGT: Yes sir. Normally his voice traffic if he doesn't have PID he uses the term it appears. I asked him to confirm in the children in the vehicle. We were not able to confirm they had gotten into the vehicle.

MG: Was the potential report of children was this relayed to the GFC CPT (b)(3), (b)(6)?

TSGT: Yes.

LT (b)(3), (b)(6) Your log said at 0829 local JAG requests additional confirmation that no woman slash children were in the convoy, can you explain that query?

TSGT: 0829, that is a typo sir, I meant no women slash children. I asked the pilot to get an assessment a number of times of who was in the vehicles. We believe they were not present by the number of times they stopped and everyone got out, we never observed the women and children outside the vehicle when they stopped. We never received confirmation leading up to the engagement.

LT (b)(3), (b)(6) When a report of possible weapons came in, is when it went from potential to threat on possible threat. Can explain to me the logic of possible children initially to not considering that in your assessment?

STATEMENT OF TSGT (b)(3), (b)(6)

TSGT: Well sir, I believe once the vehicle crossed the river the Predator reported it had picked up a weapon. He stated he PID a weapon. We wanted to continue to monitor in order to PID woman and children.

LTG (b)(3), (b)(6) When you guys determined a possible child it did not make it into your report, where's the logic in that?

TSGT: With the potential of MAMs moving on vehicles in this area are potential threats. With women and children we try to confirm that they are not present. We don't PID MAMs for engagement purposes until we are able to confirm they are in fact a threat. Which is why the gunship was not permitted to engage. They did not give me that comfort that they had enough information to engage. With the size of the MAMs, we were wanted to ensure women and children were not present.

MG: Walk me through the discussion you were having with the GFC regarding the movement maneuvers of the convoy.

TSGT: With PID and the large number of MAMs, he wanted engage, but was not ready to.

MG: Why was not ready to engage?

TSGT: He wanted them to continue to come together and enter into our location to successfully engage. He wanted to have a major impact on that fighting force. As they crossed the wadi he felt they would flank from the rear. They continued downward into the (b)(1)1.4(a) wadi, here they could travel at a higher rate of speed. It was believe the larger force was here in the area of (b)(1)1.4(a).

MG: Clarify the three locations that the GFC said the enemy may go down. Did he go down any of those routes?

TSGT: No he did not. Generally the GFC and I don't have the same assessment, I also thought there was another route in a town is called I believe (b)(1)1.4(a). There is another fighting force in that area. We discussed briefly. The GFC had his own thoughts regarding the movement. We do not have the same perspective. He was concerned with HVIs and flanking maneuvers. I was concerned with our platform would not be able to pick us up here where ODA (b)(1)1.4(a) was suppose to link up with us if we would have to walk out. As I sot the forces developing we saw fighters coming out of the Bazaar and moving to the south and there was activity seen by here our seven position. Believe they would come down here and block our position. With the bad weather coming in we would not be able to get backfield or CAS. That was my assessment.

COG (b)(3), (b)(6) When you talked about development and you saw the vehicle moving south you considered that a direct threat. As they started moving west you were putting the together based on (b)(1)1.4c that that was envelopment, is that correct?

TSGT: Yes sir that is correct.

STATEMENT OF TSGT (b)(3), (b)(6)

COL (b)(3), (b)(6) You also said you were concerned they were going to set up a blocking position to prevent the extraction.

TSGT: That was one of my concerns. As a JTAC I try to get a mental picture of what's going on, on the ground.

COL (b)(3), (b)(6) So when this maneuver was occurring, what were your thoughts on the decision to strike?

TSGT: That the imminent threat exists. The GFC felt the they were going to link up and strike. He directed me to bring in the aircraft. They were initially south I directed them to the west. Establish COMS with (b)(1)1.4(a), establish PID that you have the right vehicles and that PID still exists. We also talked about the demographics of the vehicles.

COL (b)(3), (b)(6) Who's assessment was it, that triggered that strike. You explained an involvements and potential repositioning, is that correct?

TSGT: Yes sir.

MG: So whose assessment was it that ordered that strike?

TSGT: The ground force commander sir.

MG: What was his assessment?

TSGT: He believed he had a large number of HVIs coming around or just getting out of the area. And at that point he believed he had a large number of PSD with him and ordered that strike.

MG: What was your assessment again?

TSGT: My assessment leaned more towards a repositioning. I believed there were going to come around and at some point come down to (b)(1)1.4(a)

MG: What event were you looking for before you both were comfortable to initial a strike?

TSGT: I wanted to engage earlier, the GFC did not agree with me. When we thought we had enough early on, the gunship thought we had the Predator thought we had it. In fact a FB (b)(1)1.4(a) he tried to arrest control of the predator from us because he had the feed, and he thought he had enough the strike.

MG: And who is that again?

TSGT: The GFC for ODA (b)(1)1.4(a) They contacted the CJSOTF, and they were investigating how they could take control of the (b)(1)1.4(a) and initiate the strike. I wasn't privy to exactly what was said. I know he spoke with the SOTF and CJSOTF commander and asked why haven't we hit yet?

STATEMENT OF TSGT (b)(3), (b)(6)

MG: You mentioned that you and the commander wanted to wait until you saw this formation connect with the larger formation. What changed that caused the strike to go forward?

TSGT: GFC is ultimately the man in charge on the ground. He had decided he had HVIs on the ground and he did not want them to get out of there or dismount.

LTC (b)(3), (b)(6) When you get a transmission from (b)(1)1.4(a), how do you relay that information?

TSGT: Usually verbatim sir.

LTC (b)(3), (b)(6) Are there times when you don't do that?

TSGT: The only time would be a geographically necessity. If he has moved and we no longer had COMS, which is rare, he usually monitors his COM on interteam. But I usually have him on the shoulder.

LTC (b)(3), (b)(6) Is there any time in this incident that you did not transmit verbatim with the GFC?

TSGT: I don't believe so but that is a possibility with so many things going on.

MG: What was (b)(1)1.4(a) assessment of the threat?

TSGT: It was that they were maneuvering and that they had PID weapons and that they were a threat.

MG: Did (b)(1)1.4(a) indicate to you that they would want to employ ammunition on the target.

TSGT: Generally not, they use key phraseology to indicate that the conditions exist to and they feel they can engage. It is not their position to express they would like to engage.

COL (b)(3), (b)(6) Were you aware it the (b)(1)1.4(a) had munitions?

TSGT: No I was not.

COL (b)(3), (b)(6) Did they ever indicate they wanted to employ weapons?

TSGT: No they did not sir.

COL (b)(3), (b)(6) Indirectly?

TSGT: When they identify weapons, and use the key phrase tactical maneuvering. The three things that must exist is MAMs, tactical maneuvering, and PID of weapons. If you have those three things the engagement is within the ROE then we engage. Unless there is confirmed noncombatants, protective structures.

COL (b)(3), (b)(6) Could you read what you typed your log regarding the women and children?

STATEMENT OF TSGT (b)(3), (b)(6)

TSGT: (b)(1)1.4(a) requests the additional confirmation that there no women/children are present. (b)(1)1.4(a) reports that the all packs are MAMs and children seen earlier were assessed to be teens. (b)(1)1.4(a) states that they will review the tapes to check.

CO (b)(3), (b)(6) Go down two lines 0638 local.

TSGT: They report that the only times that were observed was around the vehicles.

CO (b)(3), (b)(6) What did (b)(1)1.4(a) used for these initially?

TSGT: Children.

CO (b)(3), (b)(6) In this report did they say teens or adolescents?

TSGT: Adolescent sir.

CO (b)(3), (b)(6) Can you describe your discussion between you and (b)(1)1.4(a)?

TSGT: That discussion was to confirm the demographics; I said are you talking about children or teens. He said teens, teen males, not children, not females.

CO (b)(3), (b)(6) Did you have this same discussion with the GFC?

TSGT: I did sir. I relayed that (b)(1)1.4(a) had identified adolescents. He asked did we have PID. I stated we are working on it and a confirmation on who's exactly on these vehicles.

CO (b)(3), (b)(6) Help me understand. You couldn't determine the number weapons. You have a number reporting of women and children. You can't link the number of weapons but you can the number of women and children.

TSGT: Sir, I believe there is a positive and negative here. We were able to PID weapons but not able to determine if women and children were present in the convoy. It's a negative that we accurately if the children and women involved. In my mind it was important to late the situation envelope. With daylight would be able to determine if they were involved or not.

CO (b)(3), (b)(6) will come back to that. You had possible weapon sightings, but you don't know the number of weapons. You can't determine the number because they were separate and discrete. We have children and adolescent sightings that were separate and discrete also, but you can determine that they weren't children, they were adolescent. I don't get how you can positively identify them as adolescent.

(b)(1)1.4a, (b)(1)1.4c

impression was that we a gathering fighting force in the vicinity. I can't remember (b)(1)1.4(a) telling me if they were getting in or out of vehicles. I never observed that. The prayer stops, we never saw women and children getting out to pray; they all appeared to be MAMs. We were waiting for the situation to

STATEMENT OF TSGT (b)(3), (b)(6)

envelope. With the commander's intent and ROE we can't ever determine 100% that women and children won't be present. We just can't do that sir. With respect to weapons, it only requires one weapon is identified. With all the assets we have presence we do our best to ensure women and children are not hurt. In any situation I have been involved in, I have never been able to say women and children weren't affected.

CO (b)(3), (b)(6) Did you ask (b)(1)1.4(a) to confirm?

TSGT: They went back to their screeners and confirm they were children.

CO (b)(3), (b)(6) Did you ever confirm the number of weapons?

TSGT: I asked if he could give me a count and type. He could not, he had only PID weapons.

CO (b)(3), (b)(6) In your mind if you have a MAM with a weapon is he hostile?

TSGT: Not necessarily. If he is moving towards a military objective, he could be perceived as hostile. But if he were in his own compound with a weapon, but sitting with it not doing anything, no sir I would not consider that a threat.

CO (b)(3), (b)(6) Did the PID of a weapon trigger, yes this is a hostile force?

TSGT: The movements, (b)(1)1.4c, and vehicles were my assessment that this was a hostile force.

LTC (b)(3), (b)(6) Would you have engaged at that point?

TSGT: No, I would not, I would watch it. Other factors would still need to be present before engaging.

LTC (b)(3), (b)(6) Was there ever specific chatter about these vehicles?

TSGT: I don't know if I heard anything on the (b)(1)1.4c that spoke on the vehicles. Just gather up, gather the weapons, we have enough to kill the Americans.

LTC (b)(3), (b)(6) You had a lot of indicators, had they turned toward your force prior to you PID a weapon would you've been able to engage?

TSGT: No sir.

LTC (b)(3), (b)(6) Once you identified a weapon would you have been able to engage?

TSGT: Yes sir.

LTC (b)(3), (b)(6) You have a force on these vehicles moving towards you with PID of weapons would you been able to engage with hell fire missiles?

TSGT: If we believe they are MAMs, maneuvering towards our force, and PID of a weapon, yes. We heard on the (b)(1)1.4c hide your weapons. We knew we had enemies approaching. They had been

STATEMENT OF TSGT (b)(3), (b)(6)

observed adjusting backpacks, hiding weapons in the terrain. We were able to get that however, because the Predator was not feeding that to me. I asked for as much information as I could, in order to give that information to the GFC.

LTC (b)(3), (b)(6) You indicated you didn't get confirmation on those questions is that correct?

TSGT: No sir, we did get confirmation on PID of weapons. The confirmed the children were adolescents, all MAMs.

LTC (b)(3), (b)(6) Going back to the decision to hit, when the GFC told you of his logic what was that?

TSGT: His was HVI and an imminent threat. He articulated that to me.

LTC (b)(3), (b)(6) What was the comment about EGRES you made?

TSGT: The HVI, he assumed that there was a number of HVI on this vehicle based on what he was seeing and the (b)(1)1.4c

LTC (b)(3), (b)(6) Your understanding of ROE, with what he communicated to you, do you think we could hit that vehicle?

TSGT: He articulated to me imminent threat exists. He believed they were going to impact his ground force.

LTC (b)(3), (b)(6) On EGRES-ing he area?

TSGT: Yes sir I do believe ROE exist.

LTC (b)(3), (b)(6) If he is a high valued individual and he is leaving the area can we engage if he is egres-ing?

TSGT: No sir. He is not an imminent threat.

LTC (b)(3), (b)(6) If you have a high-valued individual that is not an imminent threat what can you do?

TSGT: We cannot hit him. If we have has PSD, weapons, a large group and tactical maneuvers, we would need to determine this exists.

LTC (b)(3), (b)(6) I understand the situation on the ground is never clear. I am just trying to ensure you understand ROE. If you have a high-valued individual that is not an imminent threat what can you do?

TSGT: There are processes that must occur before engaging. The GFC must make request for approval to engage if it is not imminent threat.

LTC (b)(3), (b)(6) So if CPT (b)(3), (b)(6) would have ordered you, solely based on it being HVI, to engage do you have a duty to disobey him?

TSGT: Not disobey but educate him. And if he insisted then I must refuse to engage.

STATEMENT OF TSGT (b)(3), (b)(6)

LTC (b)(3), (b)(6) Let's go back, did you believe other than that fact that he was an HVI to engage him?

TSGT: I believe he was in an imminent threat.

LTC (b)(3), (b)(6) How was he an imminent threat?

TSGT: I believe that the force was coming south to establish a blocking position to link up with the superior force and engage our forces.

LTC (b)(3), (b)(6) And do you know if he had turn to position 3, how long would it take him to get to (b)(1)1.4(a)?

TSGT: The terrain in this area is fairly good, he could have come around here fairly quickly and position himself here, in an offensive posture.

LTC (b)(3), (b)(6) How long would that take if he took that route?

TSGT: It would depend on how fast they are traveling and the intent.

LTC (b)(3), (b)(6) Did CPT (b)(3), (b)(6) make the decision to attack on HVI or imminent threat?

TSGT: I believe it was both sir.

LTC (b)(3), (b)(6) Can you go back about 20 minutes. Can you tell us where in this process of the battle?

TSGT: When I talked him on the phone, it was daylight. When he was on the iridium it would be at this point crossing this wadi. He was talking to the SOTF and CJSOTF in reference to the AIRTIC, he did not want the aircraft over this sight right here. I believe the first call was to get the aircraft out of this area. He canceled the AIRTIC in order to have the aircraft moved. He then called back and reinitiated it because he believed things were progressing.

COL (b)(3), (b)(6) Describe to me what happened on the strike sight? On the radio or on the ground?

TSGT: From the radio to the ground. Immediately after the strike, (b)(1)1.4(a) observed quarters leaving the vehicles. (b)(1)1.4(a) observed the brightly colored clothing. (b)(1)1.4(a) stated the figures in bright clothing left the vehicles and set down. Vehicle three they observed MAMs getting out. They observed MAMs standing outside the third vehicle. When they saw women were involved we stopped the assault and just go to monitoring. We knew at that time possible noncombatants were involved. We started looking for BDA to coordinate.

COL (b)(3), (b)(6) What would have jumped out to determine to not engage?

TSGT: If we had been able to identify women and children were involved. We would have then been able to inform the CPT of women and children being involved.

COL (b)(3), (b)(6) Is there anything this convoy could have done that would have prevented this engagement?

STATEMENT OF TSGT (b)(3), (b)(6)

TSGT: If they would have went to the (b)(1)1.4(a) or traveled north, I don't think there would have been a need to strike it.

COL (b)(3), (b)(6) If they would have went north and the GFC still stated imminent threat, what would have been your advice?

TSGT: I would have laughed. I would have said it's not a threat.

COL (b)(3), (b)(6) When the commander said HVI egress-ing in the south why do you strike?

TSGT: They had the opportunity, the means, and I had the (b)(1)1.4c backing up their intent.

COL (b)(3), (b)(6) So I will go back to my question I asked an hour ago. Who made the order to attack?

TSGT: The ground force commander sir.

COL (b)(3), (b)(6) After the strike when did you first discover there was women and children?

TSGT: Immediately after. As (b)(1)1.4(a) was coming around it was their intent to engage quarters. On the third time they circled they discovered women and children.

COL (b)(3), (b)(6) And what was your actions at that time?

TSGT: I contacted (b)(1)1.4(a) and said what is the BDA, what do you see, how many women and children. Once we realized civilians were involved the CPT was one the phone requesting airlift to go do BDA.

COL (b)(3), (b)(6) Who did the CPT get approval from to go do BDA?

TSGT: I believe he called the SOTF. Was working a number of aircrafts. I was concerned, it changed my whole day. It impacted me and the CPT. He wanted to get out there and get boots on the ground.

COL (b)(3), (b)(6) What did you find once you got on the ground?

TSGT: As we approached, there was (b)(1)1.4c chatter about being an ambushed, so we approach cautiously. We approached vehicle 3 there was several KIA in the vehicle. There as a survivor sitting on the ground by the vehicle. All eyes were on the women and children we wanted to make sure they were alright. I provided with the Medical personnel. We secured the area in order for the medics to provide care to the survivors.

COL (b)(3), (b)(6) How many KIA did you assess?

TSGT: I did not assess any KIA, I primary talked to aircraft and established security. I remember doing a nine- line call for the injured. The 18 deltas had provided medical assistance prior to the MEDEVAC arrived. There was initially seven then five with minor injuries were taken as well. CPT (b)(3), (b)(6) did not know about the additional five.

STATEMENT OF TSGT (b)(3), (b)(6)

CO (b)(3), (b)(6) To the best of your knowledge did CPT (b)(3), (b)(6) have COMS with HQ while at the strike sight? I know he was trying but his COMS may have been obstructed by the terrain. I know my COMS was being affected by the terrain.

MG: Did you find any weapons at the sight?

TSGT: No sir.

MG: Did the team find any weapons at the sight?

TSGT: Not to my knowledge sir.

LTC (b)(3), (b)(6) How many hours after the engagement did you arrive there with the SSE team?

TSGT: It was more than three and less than four so it was like three and a half hours.

LTC (b)(3), (b)(6) How many children did you observe at the strike sight?

TSGT: I observed three sitting with their mothers. Two were not injured. They were sitting in the laps of their mothers.

LTC (b)(3), (b)(6) How many women and children were medically evacuated?

TSGT: I'm not sure sir. I know one woman had a head injury, I know the two children sitting with the mothers had minor scratches and bruises.

LTC (b)(3), (b)(6) Just want to clear up a couple things. You mentioned white space area what does that mean?

TSGT: It is their area of influence that can travel without being attacked.

LTC (b)(3), (b)(6) You mentioned a CAT 1 and CAT 3 linguists can you explain the difference?

TSGT: (b)(1)1.4a

LTC (b)(3), (b)(6) And an HVI, is a high valued individual?

TSGT: Yes sir.

LTC (b)(3), (b)(6) And just a couple of admin things we should have done in the beginning. Can you give me your full name.

TSGT: It is (b)(3), (b)(6)

LTC (b)(3), (b)(6) Your rank.

TSGT: I am a Technical Sergeant, US Air Force.

LTC (b)(3), (b)(6) Your unit.

STATEMENT OF TSGT (b)(3), (b)(6)

TSGT: (b)(1)1.4(a)

LTC (b)(3), (b)(6) And what does (b)(1)1.4 stand for?

TSGT: (b)(1)1.4(a)

LTC (b)(3), (b)(6) And your position?

TSGT: I am the NCOIC, of (b)(1)1.4(a) at the (b)(1)1.4(a).

MG: And how long have you been in Afghanistan?

TSGT: Since September 15.

MG: How many combat tours do you have?

TSGT: I have four combat tours.

MG: And how many in Afghanistan?

TSGT: Three in Afghanistan.

MG: TSGT (b)(3), (b)(6) thanks today for your testimony, you were very informative. Do you have any last minute comments that you would like to make?

TSGT: 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.

TSGT: Sir, this was my last mission I was subject to redeploy. Should I stay here or am I safe to move to (b)(1)1.4(a)?

MG: We have about a week left in this investigation, so why don't you stay put and once we have determined we can release you we will do so okay.

TSGT: Okay sir.

ADDITIONAL QUESTIONING RESUMED ON 6 MAR 2010

COL (b)(3), (b)(6) If you would I want you focus on once the strike was completed, immediately following the strike, when you guys aware of the potential of women and or children on the objective strike sight?

TSGT: The first time we became aware of noncombatants being involved was shortly after (b)(1)1.4(a) engaged vehicles 1 and 3, actually they engaged all vehicles and observed brightly colored clothing. That could indicate females, at which point they pulled off target and established an orbit overhead. They had radioed to me what they had observed. At which point I asked them to determine if they were

STATEMENT OF TSGT (b)(3), (b)(6)

in fact women. I asked them to identify how many people had moved off the vehicles. I also contacted (b)(1)1.4(a) to do the best they could to get BDA and identify who had come out of those vehicles.

COL (b)(3), (b)(6) Following the briefing they gave you, what did you share with your commander?

TSGT: I told him exactly what (b)(1)1.4(a) had relayed to me, that they observed brightly colored clothing and they had pulled off target, and we were assessing and attempting to get BDA, and identify whether there were women and children involved.

COL (b)(3), (b)(6) Did your commander contact higher?

TSGT: Yes he did.

COL (b)(3), (b)(6) Do you remember what your commander shared with higher?

TSGT: He called immediately after I gave him the information on Iridium. I am not sure who he talked to, but I do recall that he said that there was a possibility of a problem, there may be civilian casualties as soon as the strike went down he repeated what the aircraft had said about brightly colored clothing. At that point we were trying to confirm if that were true or not.

LTJG (b)(3), (b)(6) Were you in earshot when he said that?

TSGT: Yes sir I was, I was standing next him on high ground just to the west of the main objective in (b)(1)1.4(a)

LTJG (b)(3), (b)(6) Is there any doubt in your mind that he mentioned women and children on the objective at that point?

TSGT: No sir there is none whatsoever. I know he was greatly concerned at that point and the first thing he did was pick up the phone and make that call.

COL (b)(3), (b)(6) Let me shift your gears. On the strike sight when you guys were doing your SSC and you guys had identified the condition on the objective. Did your commander call on the Iridium the SOTF (b)(1)1.4 to provide an update?

TSGT: Yes he did. I know he made several calls, we received communication from (b)(1)1.4(a) that directed us to call the SOTF. The GFC attempted to do that, he had trouble for a while getting a signal. I know eventually he got through, I don't know who he was talking to. I was pulling security, working the aircraft, and coordinate MEDEVAC of the injured personnel on the objective site.

COL (b)(3), (b)(6) Did you hear that discussion?

TSGT: No I did not; he was approximately 50 to 100 away from me at that time. I was on high ground; I was having problems with COMs with (b)(1)1.4(a) due to the line of sight issues.

COL (b)(3), (b)(6) Do you remember if he shared with you, what he shared with higher?