



UNITED STATES CENTRAL COMMAND  
OFFICE OF THE COMMANDER IN CHIEF  
7115 SOUTH BOUNDARY BOULEVARD  
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

FEB 03 2004

CCJA

MEMORANDUM FOR

Commander, U.S. Central Command Air Forces, Shaw Air Force  
Base, South Carolina 29152-5000  
Commander, U.S. Army Forces Central Command, Fort  
McPherson, Georgia 30330-5000  
Commander, U.S. Naval Forces Central Command, FPO AE  
09501-6008  
Commander, U.S. Marine Forces Central Command, Camp H.M.  
Smith, Hawaii 96861-5001  
Commander, Special Operations Command Central, MacDill AFB,  
Florida 33621-5101

SUBJECT: Investigation of Suspected Friendly Fire Incident of  
Cpl Jason D. Mileo in Baghdad, Iraq, Operation IRAQI FREEDOM,  
14 April 2003

REF: DoD Instruction 6055.7, 03 Oct 00, Accident Investigation,  
Reporting, and Record Keeping

1. The Investigation Report and supplemental Investigation were prepared in compliance with the reference and are approved. The findings of fact, analysis, conclusions, and opinions as to the cause of the incident, and contributing factors are approved as modified herein.

2. The Investigating Officer recommended that the rules of engagement be changed. This recommendation was not accepted by the endorsing Commanders and I concur that no modification of the rules of engagement is necessary. Aside from this disapproved recommendation, the remaining recommendations are approved. The Report is forwarded for evaluation and action you deem appropriate to incorporate relevant lessons learned.

3. FOR COMUSMARCENT: The Investigating Officer recommended that the Sergeant leading Cpl Mileo's patrol be administered nonjudicial punishment for failing to direct Cpl Mileo to put on his flak jacket and helmet; and recommended that a company grade officer in Cpl Mileo's unit receive a non-punitive Letter of

CCJA

SUBJECT: Investigation of Suspected Friendly Fire Incident involving a Marine in Baghdad, Iraq, Operation Iraqi Freedom, 14 April 2003

Caution for failing to ensure that the Battalion Combat Operations Center was tracking the patrol. In regard to whether these or any other participants should receive counseling, reprimands or nonjudicial punishment, I defer to you and the appropriate Marine commanders.

4. USCENTCOM will post an unclassified summary of the report of investigation on the USCENTCOM Home Page. All requests concerning the report made pursuant to the Freedom of Information Act and/or Privacy Act should be forwarded to USCENTCOM, attention FOIA Officer.

5. All other inquiries concerning this investigation should be directed to Colonel [REDACTED], USCENTCOM Staff Judge Advocate, [REDACTED].



JOHN P. ABIZAID  
General, U.S. Army

Encl  
as

## Unclassified Executive Summary

On 14 April 2003, during Operation Iraqi Freedom, the Marines of the 3<sup>rd</sup> Battalion, 4th Marines (3/4) in Baghdad were performing their missions in a hostile combat environment. Cpl Jason D. Mileo, 3/4, was part of a six-man patrol sent out at dusk to ambush and apprehend suspected enemy Fedayeen reported to be periodically using a domed building approximately 140 yards away. A Marine "fire watch" observation team was on the roof of a nearby 3/4 Battalion Command Post (CP) building consisting of a Marine sniper and a spotter with the mission of protecting the CP and the Marines in the vicinity. The observation team was unaware that Cpl Mileo's patrol was operating in the area. There had been previous attacks on US personnel in the area and there was fighting in the immediate area at the time of the incident.

The domed building was referred to in the 3/4 as "the mosque" as a dome is a common feature of mosques. Contrary to the law of armed conflict, enemy forces at times used mosques as they were aware that the US properly considered them protected structures that were not subject to attack and the US would not utilize them to support combat operations. While the building turned out to be a community gathering place and not a mosque, the observation team believed it to be a mosque.

When Cpl Mileo's patrol arrived, the domed building was empty. Cpl Mileo climbed to the roof of the domed building. For reasons that are not clear, Cpl Mileo removed his protective flak jacket and helmet. The dome, approximately twelve feet in diameter and twelve feet high, was surrounded by a flat area several feet wide. The flat area was broad enough to allow Cpl Mileo to move about. Cpl Mileo located some sandbags and created a protected observation post in the flat area next to the dome. He proceeded to move about the roof, visually searching the nearby streets for Fedayeen. Because of the dome and the nearby buildings Cpl Mileo could not be seen by the other members of his patrol when he was at his sandbagged post.

The fire watch team saw an armed person on the roof of the "mosque" - a location US military personnel would not normally utilize. They observed him move, frequently shifting position from sitting to kneeling to prone. The armed person was actually Cpl Mileo, but as he had removed his flak jacket and helmet, he did not have the distinctive Marine silhouette. The team discussed the man's appearance, his actions and his weapon. Their observations convinced them that he was an Iraqi irregular standing on a mosque, ready and capable of using his weapon in

hostile action against the Marines. There was nothing to indicate that the man was a Marine and the observation team had no information that would cause them to question their conclusion. The Marine sniper shot the man, killing Cpl Mileo.

[REDACTED]

[REDACTED] Executive Summary

**Background:** On 14 April 2003, during Operation IRAQI FREEDOM, the Marines of the 3<sup>rd</sup> Battalion, 4th Marines (3/4) in Baghdad were performing their missions in a hostile combat environment. Cpl Jason D. Mileo, 3/4, was part of a six-man patrol sent out at dusk to ambush and apprehend suspected enemy Fedayeen reported to be periodically using a domed building near a 3/4 building in Baghdad. When the patrol arrived, the domed building was empty. Cpl Mileo climbed to the roof of the domed building, established a sandbag observation post, and moved about the roof visually searching the nearby streets for Fedayeen. Approximately 140 yards away, a Marine "fire watch" observation team was on the roof of a 3/4 battalion building.

[REDACTED] a Marine sniper, and [REDACTED] a spotter, were assigned to the 1<sup>st</sup> Force Reconnaissance Company and temporarily attached to the 3/4. They believed they saw an armed Iraqi irregular on the roof of the domed building. They agreed the Iraqi irregular posed a threat to the Marines in the vicinity of the BCP. While Cpl Mileo was scanning the streets for Fedayeen and Sergeants [REDACTED] and [REDACTED] were looking for enemy threats, a gunfight erupted on a street nearby. None of the Marines could see the gunfight, but all could hear it and it was clear that enemy forces were active in the immediate vicinity. Several minutes later [REDACTED] turned their attention back to the suspected Iraqi irregular. As he was armed and in their view represented a clear threat to Coalition forces, the Marine sniper shot and killed him. Unfortunately, the suspected armed Iraqi irregular was actually Cpl Mileo.

**Discussion:** Elements of the 3/4 had conducted many daylight patrols already that day. Intelligence sources provided information that Fedayeen were using a domed building in a densely built-up neighborhood near the BCP as a regular meeting and resting place. The individuals from 3/4 scheduled to patrol for the suspected Fedayeen were diverted on short notice to break up an on-going armed robbery and to guard a bank. A substitute six-man patrol, including Cpl Mileo, was constituted and sent out at dusk to the area of the domed building with orders to ambush and/or apprehend the Fedayeen. After arriving at the domed building and finding it empty the patrol was dispersed to individual locations to wait for the Fedayeen. Cpl Mileo climbed to the top of the domed building to look for the Fedayeen from the roof. For reasons that are not clear, Cpl Mileo removed his protective flak jacket and helmet. Cpl Mileo's Sergeant saw him without his flak jacket and helmet, but

[REDACTED]

did not yell at him to put them on for fear of compromising their planned ambush. Cpl Mileo did not have a radio so the Sergeant had no other way to tell Cpl Mileo to put on his flak jacket and helmet, nor could Cpl Mileo communicate with the other Marines in his patrol.

The night was clear and there was sufficient ambient light for Cpl Mileo to see the streets adjacent the domed building. The dome, approximately twelve feet in diameter and twelve feet high, was surrounded by a flat area several feet wide. The flat area was broad enough to allow Cpl Mileo to move about. Cpl Mileo located some sandbags and created a protected observation post in the flat area next to the dome. Because of the dome and the nearby buildings Cpl Mileo could not be seen by the other members of his patrol when he was at his observation post.

The [REDACTED] always included at least one school-trained sniper. On the night of 14 April 03, [REDACTED] the sniper, was armed with a M40A3 sniper rifle, a 10-power scope and a SIMRAD night scope. [REDACTED] was using a ANVPS-17C (4X) which combined magnification and night vision capability. They also had a laser range finder. Both Sergeants knew the threat from Iraqi irregulars as a few days earlier a 3/4 Marine was shot by an Iraqi; and the night before an Iraqi was killed while trying to climb the wall into their compound. Shortly after dark, [REDACTED] detected a man on the roof of a domed building approximately 140 yards away.

Because of the dome, the building was referred to in the 3/4 as "the mosque." The building was actually a community gathering place and not a mosque. Both [REDACTED] and [REDACTED] however, believed the domed building to be a mosque and were aware of the U.S. rules on the protection of religious sites that prohibited Marines from being in or on mosques except in cases where special authorization was obtained. They saw an armed person on the roof of the "mosque" and watched as he moved, frequently shifting position from sitting to kneeling to prone. The armed person was actually Cpl Mileo who, without his flak jacket and helmet, did not have the distinctive Marine silhouette. These factors, taken together, led the [REDACTED] team to conclude that the armed person was an Iraqi irregular and was a threat to coalition forces. Additionally, the sniper and his spotter both stated that they saw Cpl Mileo smoking cigarettes, another indicator that Cpl Mileo was an Iraqi irregular and not a Marine.

[REDACTED]

As [REDACTED] and [REDACTED] were trying to observe the unknown man on the domed building, a gunfight erupted on a nearby street, drawing their attention away from the domed building. Intervening trees prevented them from viewing the gunfight, but they could hear it and they knew it was close. Enemy forces were active in the local area. Immediately after the gunfight ceased, [REDACTED] and [REDACTED] returned their attention to the unknown armed man on the domed building. During this time period both Sergeants discussed the man's appearance, his actions and his weapon. Their observations convinced them that he was an Iraqi irregular standing on a mosque and ready and capable of using his weapon in hostile action against the Marines. There was nothing to indicate that the man was a Marine. [REDACTED] shot the man, killing Cpl Mileo.

There were some statements made by the sniper and spotter that could not be corroborated; or which were contradicted in part. For example, the members of Cpl Mileo's patrol denied that he was smoking cigarettes. They argued that even though they could not see him, they would have smelled the smoke. There is also a partially contradicted statement that involved the location of Cpl Mileo's rifle at the time he was shot. The Marine spotter stated that Cpl Mileo's weapon was pointed at the Marine building when he was shot. The Marine sniper stated Cpl Mileo's rifle was lying on the sandbags in front of Cpl Mileo. The first two Marines to respond to Cpl Mileo's aid stated that Cpl Mileo's rifle was leaning against the building approximately ten feet from where Cpl Mileo was found. Since he died almost instantly, Cpl Mileo could not have been holding the weapon when he was shot. Despite these discrepancies, there is uncontradicted evidence that Cpl Mileo was not wearing his flak jacket or helmet. There is no reason to question the conclusion of the Marine sniper that Cpl Mileo's behavior and silhouette were consistent with that of an armed Iraqi irregular preparing to attack the Marines; and there was no information available to the fire watch team that was inconsistent with their conclusion.

The report of investigation found that there were many lapses of communication within Cpl Mileo's company, and there was incomplete communication between various elements of the 3/4. For example, the Battalion Combat Operations Center did not know about the patrol that included Cpl Mileo. Cpl Mileo's presence in the area of the domed building was, therefore, not known to the [REDACTED] team on the roof of the BCP building. Exacerbating the confusion was the misunderstanding about

[REDACTED]

whether the domed building was a protected mosque where Marines would not normally establish an observation post.

The factual discrepancies between the various participants were thoroughly investigated and discussed in the supplemental investigation. Factual discrepancies aside, there is uncontradicted evidence that Cpl Mileo was not wearing his flak jacket or helmet. His activities and silhouette were consistent with that of an armed Iraqi irregular preparing to attack the Marines.

The Investigating Officer found that the [REDACTED] observation team shot Cpl Mileo because they reasonably believed him to be an armed enemy and a threat to the 3/4. The Investigating Officer found that even though Cpl Mileo was misidentified, the [REDACTED] team acted lawfully in accordance with their instructions and rules of engagement.



UNITED STATES MARINE CORPS  
U.S. MARINE CORPS FORCES, CENTRAL COMMAND  
2707 ZEMKE AVE  
MACDILL AIR FORCE BASE, FL 33621-5101

IN REPLY REFER TO:

5830

17/1

NOV 2003

THIRD ENDORSEMENT on Maj [REDACTED] Inv Rpt 5830 SJA/jal  
of 16 Oct 03

From: Commander, U.S. Marine Corps Forces, Central Command  
To: Commander, U.S. Central Command (CCJA)

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE  
CIRCUMSTANCES SURROUNDING THE FRIENDLY FIRE DEATH  
OF CORPORAL JASON D. MILEO U.S. MARINE CORPS

Ref: (a) USCENTCOM CoS memo (CCJA) of 11 Sep 03 (S)  
(b) Maj [REDACTED] JAGMAN Inv 5830 6A of 15 Apr 03  
(c) COMUSMARCENT 1<sup>st</sup> end 5830 17/1 of 19 Sep 03

1. Reference (a) directed further investigation into the facts and circumstances surrounding Corporal Mileo's tragic death.
2. The original battlefield investigation (reference [b]), conducted while Marine forces were still engaged in major combat operations, contained factual discrepancies warranting further review.
3. Reference (c) tasked Commanding General, I Marine Expeditionary Force with submitting a supplemental investigative report regarding the facts and circumstances associated with the mishap. In my opinion, the attached supplemental report completely satisfies all requirements of references (a) and (c). The final autopsy report and the statement of the battalion surgeon are included in the attached supplemental investigation.
4. I concur with the findings of fact, opinions and recommendations contained within the investigating officer's supplemental report. I find that further investigative action will not increase the understanding of the events surrounding this mishap. I recommend that this case be closed.
5. The chain of events leading to Corporal Mileo's death have now, upon supplemental investigation, been thoroughly documented. While inconsistencies remain between the recollection of the witnesses and certain facts discovered subsequent to the mishap, the supplemental opinions of the investigating officer adequately explain these inconsistencies.

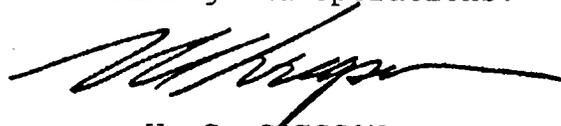
Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE  
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OF CORPORAL JASON D. MILEO U.S. MARINE CORPS

6. I find no evidence of animus or improper motive surrounding any aspect of this tragedy. Quite to the contrary, the motive for the action in this case was the perceived need to protect fellow Marines: this perception was reasonable based upon the facts known to the Marine snipers at the time.

7. Multiple contributing factors, along with breaches in standard infantry protocols, led to Corporal Mileo's improper identification as an enemy combatant. While these factors are unlikely to be repeated, that fact offers no comfort to Corporal Mileo's family or to his extended Marine family who are left with the loss of a young Marine with such a promising future.

8. I extend my deepest condolences to Corporal Mileo's family.

9. By copy of this endorsement, my subordinate Marine units are directed to incorporate the valuable lessons learned from this investigation into future training and operations.



W. C. GREGSON

Copy to:  
CFLCC-JA  
I MEF (SJA)  
1<sup>st</sup> MARDIV (SJA)



UNITED STATES MARINE CORPS

I MARINE EXPEDITIONARY FORCE, FMF  
BOX 555300  
CAMP PENDLETON, CALIFORNIA 92055-5300

IN REPLY REFER TO:  
5830  
SJA  
OCT 21 2003

SECOND ENDORSEMENT on Maj [REDACTED] InvestRpt 5830 SJA/jal of 16 Oct 03

From: Commanding General, I Marine Expeditionary Force  
To: Staff Judge Advocate, Marine Corps Forces Pacific

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO U.S.  
MARINE CORPS

1. Readdressed and forwarded.
2. The proceedings, findings of fact, opinions, and recommendations, of the investigating officer, as endorsed, are approved.

  
M. B. PULLIN  
By direction

Copy to:  
Files



## UNITED STATES MARINE CORPS

1ST MARINE DIVISION (REIN)  
BOX 555380

CAMP PENDLETON, CALIFORNIA 92055-5380

In reply refer to:

5830

SJA/pjb

17 Oct 03

FIRST ENDORSEMENT on Maj [REDACTED] Invst Rpt 5830 SJA/jal of 16 Oct 03

From: Commanding General, 1st Marine Division (Rein)  
To: Commanding General, I Marine Expeditionary Force

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

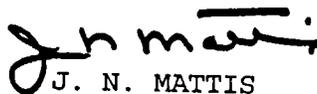
1. Readdressed and forwarded, concurring in the findings of fact, opinions and recommendations. I specifically find that Corporal Mileo's death occurred in the line of duty and not due to his own misconduct.
2. Although the previous investigation did not contain the completed autopsy results, the autopsy and subsequent investigation have not changed the critical facts or my opinion regarding the sniper's actions in this case. The tragic death of Corporal Mileo was the result of several significant breakdowns in discipline, coordination, and communication that set the stage for this horrific incident. Even though no one event or person was the catalyst for Corporal Mileo's death, one break in the chain of events may have spared his life. As noted in the original and subsequent investigations, the shortfalls began at the individual level, but continued through the small unit leader conducting the patrol, to the tank company directing the patrol, and ultimately to the battalion operations center responsible for monitoring friendly forces entering and departing friendly lines, as well as coordinating the protective fires provided by the Force Reconnaissance snipers posted on rooftop.
3. The uncoordinated occupation of the mosque, a protected place under the Law of War, was a critical factor in this tragic chain of events, since it was the foundation of the sniper team's assessment of Corporal Mileo as a hostile actor. Our pre-deployment Law of War training emphasized the importance of recognizing and respecting traditionally protected locations such as schools, mosques and hospitals. In fact, throughout the conflict, our adherence to the Law of War was in marked contrast to the enemy's callous disregard for innocent civilians and traditional safe havens like hospitals and religious buildings. On several occasions, our forces observed unarmed, military-age Iraqi males enter protected places, only to receive hostile fire from those locations a short time later. The Force Reconnaissance snipers had observed that specific location the

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U.S. MARINE CORPS

day prior, based on the same intelligence reports that prompted the Bravo Company Commander to send a patrol to ambush Fedayeen forces operating in the area. Additionally, the failure of the battalion combat operations center to properly report and record the patrol's departure from friendly lines, its objective, and subsequent arrival at the ambush location, denied the snipers critical situational awareness regarding Corporal Mileo's identity and intentions on the rooftop. Furthermore, even if the snipers had reported their initial observations to the battalion command post, this failure to report and record critical information would have prevented or at least significantly delayed the identification and recognition of friendly forces operating outside of the battalion's compound. Without more information about the location and intention of the patrol, and in light of past examples of the enemy's disregard for protected places, and friendly forces' strict adherence to the rules, the sniper team reasonably assessed Corporal Mileo as an enemy combatant.

4. Based on all of the facts and circumstances surrounding this incident, I find that Staff Sergeant [REDACTED] actions in defense of himself and others were justified under the Rules of Engagement, and that no further investigation is required.

5. The death of Corporal Mileo is a tragedy that touches many lives. On that day, a family lost a son and brother. Fellow Marines, professionals committed to defending our Nation and way of life, live with the burden of having killed another Marine. And, at the same time, this Division was deeply scarred by the knowledge that failure to coordinate and inattention to detail caused the death of one of our own. I deeply regret the unfortunate and untimely passing of this fine young warrior, and extend my heartfelt condolences to his family, friends and comrades for their loss.

  
J. N. MATTIS

Copy to:  
CO, 7thMar  
CO, 3dBn, 4thMar  
Maj Lore  
File



# UNITED STATES MARINE CORPS

OFFICE OF THE STAFF JUDGE ADVOCATE  
1ST MARINE DIVISION (REIN)  
BOX 555380  
CAMP PENDLETON, CALIFORNIA 92055-5380

In reply refer to:  
5830  
SJA/jal  
16 Oct 03

From: Major Joseph A. [REDACTED]  
To: Commanding General, 1st Marine Division (Rein)

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

Ref: (b) Maj J. M. [REDACTED] JAGMAN 5830 6A of 16 Apr 03 w/endorsements  
(c) Cdr USCENTCOM memo CCJA of 11 Sep 03  
(d) CJCSI 3121.01A (Standing Rules of Engagement for US Forces)  
of 15 Jan 2000

Encl: (16) Certified true statement of Lieutenant [REDACTED], US Navy  
(17) Summary of interview of Lieutenant [REDACTED] of 29 Sep 03  
(18) Autopsy report ICO Cpl Mileo of 3 Jun 03  
(19) Death Certificate ICO Cpl Mileo of 17 Apr 03  
(20) [REDACTED]  
(21) Electronic Mail message of Commander [REDACTED], US Navy  
(22) Summary of interview of Major [REDACTED] USMC of 29 Sep 03  
(23) Basic Individual Record/Basic Training Record ICO Cpl Mileo  
(24) Sworn statement of Corporal [REDACTED] of 30 Sep 03  
(25) Sworn statement of Corporal [REDACTED] of 30 Sep 03  
(26) Sworn statement of Sergeant [REDACTED] of 30 Sep 03  
(27) Summary of follow up interview with Cpl [REDACTED] of 6 Oct 03  
(28) Summary of follow up interview with Sgt [REDACTED] of 6 Oct 03  
(29) Statement of Captain [REDACTED] of 2 Oct 03  
(30) Sworn statement of Staff Sergeant [REDACTED] of 2 Oct 03  
(31) Service Schools/Special Skills record ICO SSgt [REDACTED]  
(32) Sworn statement of SSgt [REDACTED] of 6 Oct 03  
(33) Service Schools/Special Skills record ICO S Sgt [REDACTED]  
(34) Meteorological Data for Baghdad 14 Apr 03  
(35) Sworn statement of [REDACTED] of 8 Oct 03  
(36) Map of East Baghdad area  
(37) Baghdad City Graphic depicting Battalion Complex area  
(38) Digital Globe imagery of 27 Mar 03 depicting Battalion Complex  
area and incident location  
(39) Digital photo - alley and courtyard ambush site  
(40) Digital photo - courtyard ambush site and patrol hide sites  
(41) Digital photo - alleyway view toward Cpl [REDACTED] position  
(42) Digital photo - alleyway view from near Cpl Mileo's position  
(43) Digital photo - rear view of Cpl Mileo's hide site  
(44) Digital photo - Cpl Mileo's hide site - front view  
(45) Digital photo - green dome and City Hall  
(46) Digital photo - view toward Bn CP and sniper positions  
(47) Digital photo - alternate view toward Bn CP and sniper positions  
(48) M40A3 Sniper Rifle fact sheet  
(49) Investigating Officer's Statement to the Record

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

1. Per references (a) and (c), these supplemental materials and accompanying report are submitted. In the interests of clarity, the additional enclosures, Findings of Fact, Opinions, and Recommendations are numbered in successive order based on the original investigation, reference (b). For example, the newest enclosures begin with enclosure (16), Lieutenant [REDACTED] certified true statement. His original statement, enclosure (12), was not included in the investigation that was originally submitted to Division Headquarters in April 2003. Subsequent efforts to locate the original statement produced negative results.

2. No substantial difficulties were encountered during this subsequent investigation. However, due to the passage of time, the memories and recollection of the witnesses have faded. In addition, Captain [REDACTED], the Force Reconnaissance platoon commander, recalls submitting four written statements to members of the battalion following the incident; however, only the statements from Staff Sergeants [REDACTED] and [REDACTED] were included; the statements from Captain [REDACTED] and Sergeant [REDACTED] were not part of the original investigation, and members of 3d Battalion, 4th Marines have been unable to locate those statements. Captain [REDACTED] prepared a new statement for this investigation, and although Sergeant [REDACTED] recently departed the Marine Corps, he also provided a statement.

3. There continue to be discrepancies that were originally recorded but not fully explored in the original investigation, reference (b). Specifically, there is disparity between the snipers' recollection regarding the location of Cpl Mileo's weapon at the time of the shooting, and the first Marines who responded to Cpl Mileo's aid after he was shot. The snipers differ in their recollection (SSgt [REDACTED], the spotter, believes Cpl Mileo was holding the weapon when he was shot; SSgt [REDACTED], the sniper, recalls that Cpl Mileo was not holding the weapon at the time, but believes it was resting upon the sandbag barricade when he shot Cpl Mileo). Cpl [REDACTED] and Sgt [REDACTED], the first two Marines to respond to Cpl Mileo's aid, stated that they noticed his weapon was leaning against the green dome, approximately 10 to 12 feet from where he lay. All Marines seemed sincere in their recollection. Based on my investigation, I believe that Cpl Mileo was not holding his weapon at the instant he was shot, and in fact, that he had deliberately placed the weapon against the green dome moments before he was shot and killed by SSgt [REDACTED]. The angle of the bullet entrance wound and exit wound, coupled with the bullet fragment penetration of the adjacent wall, indicate that Cpl Mileo was obliqued to the sniper position, with his face to the green dome and left shoulder pointed in the direction of the snipers, turning his torso and partially crouching at the time he was shot.

4. At the time of the incident, the Standing Rules of Engagement, reference (d), and Operation Iraqi Freedom-specific Rules of Engagement, enclosure (3) were both in effect. The Standing Rules of Engagement (SROE) provide specific guidance for the use of force in defense of self and others in response to hostile actions and displays of hostile intent. A hostile act is an attack or other use of force by a foreign or terrorist unit against the United States, U.S. Forces, or other designated persons and property, or a use of force intended to preclude or impede the mission of U.S. forces. A hostile act triggers the right to use proportional force in self-defense to deter, neutralize, or destroy the threat. Hostile intent is the threat of imminent use of force by a foreign force or terrorist unit against the United States, U.S. Forces, or other designated persons and property. When hostile intent is present, the right exists to use proportional force in self-defense

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SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

to deter, neutralize or destroy the threat. The SROE concentrate on the conduct of the threat. In addition, the mission-specific ROE, promulgated by the Commander, Combined Forces Land Component (CFLCC) for Operation Iraqi Freedom, designated Iraqi military and paramilitary forces hostile at the onset of combat operations. Based upon this designation, Iraqi forces became targets based on their status as combatants. This rule authorized the engagement of recognized Iraqi military and paramilitary forces at any time and place, provided that (1) the target was positively identified as a legitimate military target and (2) that the target was not out of the battle due to surrender, or to being too sick or wounded to fight. The theater-specific ROE defined positive identification as "a reasonable certainty that the proposed target is a legitimate military target." Unlike the SROE, there was no requirement that Iraqi forces threaten US forces or endanger US operations. Their designation as a hostile force presupposed their hostile intentions against U.S. forces, and allowed our commanders and units to aggressively seek out and destroy enemy forces, often by capitalizing upon our superior night vision and communications technology. In this case, Captain [REDACTED] briefed SSgt [REDACTED] and SSgt [REDACTED] that following positive identification of the threat, they could use deadly force in response to hostile acts and hostile intentions directed toward them and the Marines in and around the battalion compound. Captain [REDACTED] direction, therefore, was more restrictive than the rules promulgated by CFLCC, since it would require even recognized Iraqi military and paramilitary forces to display hostile actions or hostile intent prior to engagement.

#### Findings of Fact

38. Captain [REDACTED] US Marine Corps, commanded 5th Platoon, 1st Force Reconnaissance Company at the time of the incident. [Encl (22), (29), (30), (32)]
39. Upon arrival in Baghdad, the platoon was attached to 3d Battalion, 4th Marines primarily as a reaction force. The platoon also augmented the battalion's defensive perimeter with a sniper/observation post atop the battalion command post. [Encl (22), (25), (29), (30), (32)]
40. The sniper post was manned nightly by a minimum of two Marines, one of which was required to be a school-trained sniper. There were a total of three trained snipers in the platoon: Staff Sergeant [REDACTED], Staff Sergeant [REDACTED], and Staff Sergeant [REDACTED]. [Encl (29), (30), (32)]
41. Three Marines manned the sniper post on the evening of the incident: Staff Sergeant [REDACTED] (sniper), Staff Sergeant [REDACTED] (spotter), and Sergeant [REDACTED]. [Encl (29), (30), (32), (35)]
42. Staff Sergeant [REDACTED] and Staff Sergeant [REDACTED] were two of the most experienced Marines in the Force Reconnaissance platoon. [Encl (29), (30), (31), (32), (33)]
43. During the daylight portion of 14 April, the Force Reconnaissance platoon conducted raids and reconnaissance-in-force operations in the battalion's area of operations. It was already dark when SSgt [REDACTED] and SSgt [REDACTED] assumed their post on the roof of the battalion command post building. [Encl (25), (29), (30), (32), (35)]

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

44. Prior to manning the post, Captain [REDACTED] briefed the Marines on the Rules of Engagement and other instructions. No special instructions were passed, and no information was passed regarding friendly patrols operating outside of the battalion perimeter. Captain [REDACTED] briefed the Marines that the Rules of Engagement remained the same, and that engagement criteria were positive identification, hostile act and hostile intent. [Encl (29), (30), (32), (35)]
45. The Force Reconnaissance snipers were not briefed on the specifics of any battalion patrols that evening, but based on the previous nights' activities, they were aware that friendly units would be operating outside of the battalion compound. [Encl (11), (15), (29), (30), (32)]
46. The Battalion's designated marksmen were not briefed on any friendly patrols operating outside of the battalion compound that evening. [Encl (25)]
47. Staff Sergeant [REDACTED] was manning an M-40A3 (7.62mm) sniper rifle with an Unertl scope and a SimRad night vision device mounted on top of the scope. The weapon had been zeroed during workups in Kuwait in January and February, and the optics were functioning properly. [Encl (25), (29), (30), (32), (48)]
48. Staff Sergeant [REDACTED] used an AN/VPS 17-C night vision device to observe from the rooftop. The AN/VPS 17-C is a night vision optic designed for mounting on heavy automatic weapons. In this case, he used it instead of binoculars, since it combined magnification with night-vision capability. [Encl (25), (29), (30), (32), (35)]
49. Sergeant [REDACTED] was not observing the location or manning a weapon or night vision goggles at this time. He was resting on a nearby couch, but could overhear the conversation between SSgt [REDACTED] and SSgt [REDACTED]. [Encl (30), (35)]
50. The sniper position was located on the rooftop of the battalion command post. The snipers made no efforts to obscure their positions and did not utilize a hide. They set up in plain view to deter hostile forces from attacking the command post and moving against the Marines. [Encl (25), (29), (30), (32), (35)]
51. Sunset was at 1532 Zulu (1832 local) on 14 April 2003. Illumination was 91% with nine (9) hours and ten (10) minutes of darkness. There was also a light breeze, approximately six to eight knots. [Encl (34)]
52. 3d Battalion, 4th Marines' Standing Operating Procedure (SOP) at the time required all Marines to wear flak jacket and Kevlar helmet at all times, even when behind friendly lines. These rules also applied to the attached Force Reconnaissance Marines. The only time Marines were authorized to remove these items was when they were inside a hardened headquarters building. [Encl (2), (30), (32)].
53. The snipers were responsible for providing 360 degrees of observation, but they focused on the built up area to the eastern side of the building, since this is where most of the enemy activity was observed and where the majority of hostile gun fire originated. [Encl (29), (30), (32)]

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

54. The battalion also had its own designated marksmen (members of the battalion) providing security from the floor located directly below the snipers. [Encl (25), (32)]
55. Lighting conditions were best from the eastern side of the building. Based on the illumination from the moon and stars, SSgt ██████ felt that their night vision optics were operating at 100% of their potential capability. [Encl (25), (30), (32)]
56. The day prior to this incident, Marines from 3dBn 4thMar shot an Iraqi male that was trying to climb the wall into the battalion compound. [Encl (29), (32)]
57. Prior to departing on the patrol, Sergeant ██████ had an argument with Cpl Mileo. Cpl Mileo was upset about the composition of the patrol, believing that only non-commissioned officers should be on the patrol. [Encl (26)]
58. Sergeant ██████ patrol occupied positions near a domed roof believed to be a mosque or prayer center. [Encl (2), (4), (24), (26), (30), (32), (35), (45)]
59. Marines were not supposed to occupy or use protected places like mosques. [Encl (4), (32)]
60. Sgt ██████ moved his men into position, in order to observe the nearby courtyard to watch for the suspected Fedayeen/Ba'ath party forces that were reportedly operating in the area. [Encl (24), (26)]
61. Sgt ██████ did not know that there were Force Reconnaissance snipers on the roof of the battalion command post, observing the area that he had led the patrol to. [Encl (26)]
62. Once on the rooftops, Corporal Mileo shimmied across a small concrete ledge, and moved into position near the green dome, opposite Cpl ██████ position surrounding the courtyard. [Encl (24), (26), (41)]
63. Cpl Mileo initially set up in a position on the northern side of the dome, near the courtyard, with his weapon oriented along the alleyway to the north/northwest, directly across from Cpl ██████ position. [Encl (24), (39), (41)]
64. After a period of time, Cpl Mileo changed his position, moving on the southern side of the dome, near the adjacent wall, approximately 35 yards from Cpl Horne's position. [Encl (24), (44), (45)]
65. Sgt ██████ noticed Cpl Mileo moving about the rooftop. He was not wearing his helmet or flak jacket, and appeared to be carrying sandbags. [Encl (26)]
66. Cpl Mileo did not have any radio equipment. [Encl (24), (26)]
67. Cpl Mileo was issued an extra-small flak jacket, and had been using extra-large SAPI plates, front and rear. [Encl (24), (26)]

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

68. Sgt [REDACTED] did not correct Cpl Mileo for deviating from Bn SOP by not wearing his helmet and flak jacket. [Encl (2), (24), (26)]
69. The overhead street lights and a string of light bulbs were lit and operating in the alleyway adjacent to the ambush patrol's location [Encl (24), (26), (41)]
70. The light from the alleyway rendered Cpl [REDACTED] and Sgt [REDACTED] night vision devices basically useless. [Encl (24), (26), (41)]
71. At least two Iraqi males were observed in the alleyway adjacent to the courtyard and green domed building, apparently repairing a car. [Encl (24), (26), (41), (42)]
72. Sgt [REDACTED] stated that he did not yell at Cpl Mileo or move to his position to correct him for being out of uniform, for fear of compromising the ambush patrol. [Encl (26)]
73. Cpl [REDACTED] could not see Cpl Mileo very well; he was only able to observe Cpl Mileo when he moved around. Cpl Mileo's position was very dark due to the adjacent wall. [Encl (24), (42), (43), (44)]
74. Cpl Mileo had taken up smoking once the unit arrived in Iraq. [Encl (24), (26)].
75. The green dome adjacent to Cpl Mileo's position was approximately 10 to 12 feet high, and approximately 12 feet wide at the base. [Encl (24), (26), (45)]
76. Cpl [REDACTED] and Sgt [REDACTED] did not see Cpl Mileo smoking cigarettes while he was near the green dome, nor did they smell smoke. [Encl (24), (26)]
77. SSgt [REDACTED] and SSgt [REDACTED] maintain that the individual that they observed was smoking. [Encl (30), (32)]
78. SSgt [REDACTED] stated that he recalls the individual smoking in place, essentially the same location as the individual's firing position. [Encl (30)]
- 
79. SSgt [REDACTED] recalls that he observed Cpl Mileo smoke a cigarette at least once during the entire period of time that he observed Cpl Mileo operating near the green dome. [Encl (32)]
80. The original investigating officer, Major [REDACTED] did not specifically look for cigarette butts when he inspected the incident scene on 15 April 2003. [Encl (22)]
81. Sgt [REDACTED] stated that he specifically looked for cigarette butts when they took Major [REDACTED] to the scene on 15 April 2003. Although he was uncertain about Cpl Mileo's exact position, he looked all over the area. He found some cigarette butts in the area, but all of the butts appeared old and seemed to have been lying in the area for some time. Sgt [REDACTED] noted several fallen palm tree boughs in the area where he found Cpl Mileo. [Encl (26), (43)]

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

82. Sgt [REDACTED] and Cpl [REDACTED] stated that when collecting Cpl Mileo's personal effects back at the battalion bivouac location, they found an Altoid can containing cigarettes. [Encl (24), (26)]
83. SSgt [REDACTED] and SSgt [REDACTED] were unable to see other members of Sgt [REDACTED] patrol. [Encl (30), (32), (40), (47)]
84. SSgt [REDACTED] initially spotted Cpl Mileo based on his movement. SSgt [REDACTED] observed Cpl Mileo, behind his weapon, pointed in the direction of the battalion command post and the sniper position on the rooftop. [Encl (30), (44)]
85. Cpl Mileo appeared to be prone or kneeling, definitely in a low-profile position. [Encl (30), (44)]
86. SSgt [REDACTED] brought Cpl Mileo's position and activities to SSgt [REDACTED] attention. [Encl (30), (32)]
87. Through their night vision goggles, the snipers observed Cpl Mileo smoking cigarettes. He was not wearing a helmet or flak jacket. He appeared to be wearing a flannel shirt. [Encl (30), (32)]
88. SSgt [REDACTED] observed Cpl Mileo push up his torso, look down the alleyway in both directions, and then sight back in with his weapon, essentially aiming in the direction of the battalion command post building. [Encl (30), (32)]
89. SSgt [REDACTED] recalls that Cpl Mileo was moving around, leaning over his gun, and then moving from the sitting, to the kneeling to the prone position. [Encl (32)].
90. SSgt [REDACTED] consulted with SSgt [REDACTED] and agreed that Cpl Mileo exhibited hostile intent toward them and the Marines occupying the battalion command post. [Encl (30), (32), (35)]
91. SSgt [REDACTED] was in the kneeling position. [Encl (32)]
- 
92. SSgt [REDACTED] and SSgt [REDACTED] did not report their observations to the battalion command post prior to the shooting. [Encl (30), (32)]
93. SSgt [REDACTED] decided to shoot at the target. Since Cpl Mileo was moving around so much, SSgt [REDACTED] aimed at his torso instead of his head, in order to have a higher probability of getting a hit on a moving target at night. [Encl (32)].
94. SSgt [REDACTED] recalls that Cpl Mileo was standing and turning as he sighted in and fired the sniper rifle. After the shot, SSgt [REDACTED] observed Cpl Mileo jump or dive rearward, as if he was startled. [Encl (32)]
95. SSgt [REDACTED] recalls that Cpl Mileo still held his weapon when he was shot, and does not recall Cpl Mileo setting down the weapon while under their observation. [Encl (30)]
96. SSgt [REDACTED] recalls that Cpl Mileo was not holding his weapon when he was shot. He believes the weapon was still lying on the sand bags. [Encl (32)]

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

97. SSgt [REDACTED] and SSgt [REDACTED] continued to observe the location after the shot, to determine whether a follow-up shot was required. Neither Marine could see Cpl Mileo at this point. [Encl (30), (32)]
98. At some point following the shot, Sgt [REDACTED] used the AN/VPS-17 night vision goggles to view the incident area. When he saw Cpl Mileo's body, it appeared that he was wearing a plaid shirt. He was not wearing a helmet or flak jacket. [Encl (35)]
99. Cpl [REDACTED] was the first Marine to arrive after Cpl Mileo was shot. [Encl (24), (26)].
100. Cpl [REDACTED] found Cpl Mileo lying on his right side, with his feet positioned closest to the alleyway. Cpl Mileo's rifle, and M-16A2 service rifle with attached M203 grenade launcher, and a mounted commercial AimPoint designating device, was leaning up against the green dome, approximately 10 feet behind Cpl Mileo's feet. [Encl (24)]
101. Cpl [REDACTED] could not recall which way the rifle magazine was facing (toward his position or opposite his position, toward the adjacent wall). He specifically recalled that there was no blood on the weapon, and that the weapon. In his diagram of 30 September 2003, he depicted the rifle positioned on the surface of the dome closest to the alleyway. [Encl (24), (27)]
102. Sgt [REDACTED] arrived a short time later. He did not notice Cpl Mileo's rifle until after they moved Cpl Mileo off of the rooftop to the medevac HMMWV. He went to retrieve the rifle, and found it neatly stacked against the dome of the roof, approximately 10 to 12 feet from the position where Cpl Mileo came to rest. [Encl (26)]
103. Sgt [REDACTED] recalled that the rifle was leaning against the dome, with the rifle was at a right angle to Cpl [REDACTED] position, with the magazine well facing towards the snipers' position. He noted no blood on the rifle. In his diagram of 30 September 2003, he depicted the rifle positioned on the surface of the dome closer to the adjacent wall than to the alleyway. [Encl (26), (28)]
- 
104. Cpl Mileo was wearing tri-color desert camouflage utilities, top and bottom. He was not wearing his helmet or flak jacket at the time he was found. His uniform sleeves were not rolled up, but may have been cuffed. [Encl (24), (26), (27), (28)].
105. The Force Reconnaissance snipers observed Cpl [REDACTED] Sgt [REDACTED] and other Marines moving on the rooftop and providing assistance to Cpl Mileo. The Marines they observed were instantly recognized as Marines based on their uniforms, specifically helmets, flak jackets and deuce gear. [Encl (30), (32), (35)]
106. Cpl Mileo was transported to the basement of the battalion command post building (a parking garage), where the Battalion Surgeon, Lieutenant [REDACTED] U.S. Navy, conducted his examination. Cpl Mileo was already dead when he arrived at the command post. [Encl (16), (17)]

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

107. LT [REDACTED] conducted a hasty examination of Cpl Mileo, noting a one-centimeter gunshot wound on the medial aspect of the left shoulder blade, and a five centimeter by three centimeter exit wound on the right middle pectoral region. [REDACTED]

[REDACTED] There were large amounts of blood on Cpl Mileo's uniform. [Encl (16), (17)]

107. In LT [REDACTED] opinion, Cpl Mileo expired in less than five minutes from blood loss. [Encl (16)]

108. LT [REDACTED] then cleaned Cpl Mileo's body with gauze and water. He removed Cpl Mileo's blood-soaked uniform, packed the wounds with curelex (a type of gauze bandage), and then applied pressure dressings to the wounds, to staunch further blood loss. [Encl (16), (17)]

109. Cpl Mileo's body was transported to Combat Service Support Detachment 17, and ultimately to the Armed Forces Institute of Pathology in Maryland. [Encl (16), (17), (18)]

110. Colonel [REDACTED] US Army Medical Corps, and Captain [REDACTED] US Army Reserve Medical Corps, conducted Cpl Mileo's autopsy on 17 April 2003. [Encl (18)]

111. The autopsy lists the cause of death as "perforating gunshot wound of the upper back." [Encl (18), (19)]

112. The round entered Cpl Mileo's upper medial left back, entering his chest between posterior medial left ribs number seven (7) and eight (8). [Encl (18), (20)]

113. [REDACTED]

114. The round exited Cpl Mileo's right upper medial chest over the anterior medial aspect of right rib number three (3). Col [REDACTED] described the wound direction as follows: "with the body in the standard anatomic position, the wound direction is from the decedent's back to front, left to right, and somewhat upward." [Encl (18), (20)]

115. Commander [REDACTED] US Navy, a medical examiner with the Armed Forces Institute of Pathology, opined that Cpl Mileo would have expired from his injuries within seconds, and would not have moved after receiving such extensive injuries to vital organs. [Encl (21)]

#### Opinions

10. The Force Reconnaissance Marines and members of the Company and Battalion staff believed the green-domed building was a mosque.

11. Fedayeen and Ba'ath party insurgents were routinely using protected places like mosques, schools and hospitals as staging areas and weapons caches, in order to mislead coalition forces and to capitalize on the coalition's adherence and respect for the Law of War.

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

12. Cpl Mileo was pointing his weapon in various directions, mainly up and down the alleyway, observing for enemy forces.
13. Cpl Mileo did not remain stationary in his hide position.
14. At times, Cpl Mileo's weapon was pointed in the direction of the battalion command post and in the same principle direction as the snipers occupying the rooftop.
15. Cpl Mileo moved into the new hide position because it afforded him better cover and concealment from the expected enemy forces, and obscured him from Sgt [REDACTED]
16. Cpl Mileo smoked a cigarette while he was occupying the hide position.
17. Cpl Mileo shielded himself behind the dome in order to obscure his smoking from Cpl [REDACTED] and Sgt [REDACTED]
18. The extra-small flak jacket with extra-large SAPI plates would have been uncomfortable to wear in a prone position, because the plates would have ridden up into the wearer's face and chin, making it difficult to get comfortable and effectively employ the weapon.
19. Cpl Mileo's behavior, by smoking and removing his helmet and flak jacket on a combat patrol, was an uncharacteristic departure from his normal conduct, attitude and actions.
20. Sgt [REDACTED] believed that Cpl Mileo was experienced and trained enough to wear his designated protective equipment and set aside his professional differences regarding the composition of the patrol.
21. Sgt [REDACTED] and Cpl [REDACTED] are correct in that Cpl Mileo's rifle was resting against the green dome, but their recollections as to the actual location of the rifle (on the front side of the dome, or alongside of the dome nearest to the adjacent wall) differ. This difference is attributable to several factors, including: the incident occurred at night; Cpl [REDACTED] approached Cpl Mileo's position from behind the dome and noticed the weapon after he initially found Cpl Mileo, but Sgt [REDACTED] first noticed the weapon after Cpl Mileo had been transferred from the roof to the waiting medevac team; over five months lapsed from the date of the incident until the Marines were specifically questioned about the location of the weapon; and the horrific effect of finding the mortally wounded Cpl Mileo. Furthermore, Cpl [REDACTED] and Sgt [REDACTED] have no motive to lie about the position of the weapon, since neither of them shot at Cpl Mileo, and their primary focus in moving toward his position was to find him and then render aid.
22. The snipers are incorrect regarding their recollection of where Cpl Mileo's rifle was located when he was shot. SSgt [REDACTED] recollection is inaccurate, since the slope of the green dome, the absence of blood on the weapon, and the devastating injuries to Cpl Mileo's vital organs would have made it physically impossible for Cpl Mileo to have been holding the weapon when he was shot, and then deliberately stack it 10 to 12 feet behind the spot where he lay mortally wounded. SSgt [REDACTED] recollection is also incorrect, because it is just as impossible for the rifle to have been resting on the sandbag barricade, and then for Cpl Mileo to move the rifle and stack it against the green dome. For the same reasons, Cpl Mileo's

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

substantial blood loss, the absence of blood on the weapon, the slope of the roof, and Cpl Mileo's ultimate resting place, at least 10 feet behind him, make it impossible for him to have stacked the weapon against the green dome.

24. Although the snipers have a motive to lie about their observations, the discrepancies between their recollections regarding the weapon's location and the actual location of the weapon are due to the five months which have lapsed since the incident first happened, and the remorse the snipers feel for having killed a fellow Marine.

25. Cpl Mileo turned to deliberately set his rifle against the dome prior to being shot by SSgt [REDACTED]

26. Cpl Mileo set his rifle down and began to rise up from his prone position behind the sandbags, in order to move back into the space between the dome and the wall, most likely to adjust the sandbags or move some of the palm boughs. After placing the rifle up against the dome, he was facing the dome with his left shoulder pointed towards the sniper position. SSgt [REDACTED] shot him as he began to stand. The round struck Cpl Mileo, and he pitched forward into the shadows created by the wall and the green dome.

27. SSgt [REDACTED] personally felt threatened by Cpl Mileo's actions of pointing his weapon down the alleyway and toward the battalion command post.

28. SSgt [REDACTED] felt that Cpl Mileo posed a threat to Marines in the vicinity of the battalion command post.

29. Cpl Mileo displayed hostile intent. As part of Sgt [REDACTED] ambush patrol, he was moving about the rooftop tactically, vigilantly observing the nearby alleyway, keeping a careful watch for the expected enemy forces. He established a covered and concealed position that allowed him to observe the alleyway. He used sandbags to create a stable firing platform and afford him some cover from enemy fire and concealment from observation. If enemy forces had arrived, I am confident that he would have taken action against them, in accordance with the ROE and intent of the ambush patrol. The only thing the snipers were mistaken about was who Cpl Mileo's hostile intentions were directed toward. Based on Cpl Mileo's appearance as a lone gunman, occupation of what appeared to be a mosque, the orientation of the weapon, the appearance of his shirt, and the lack of recognizable uniform items, the snipers were reasonably certain that Cpl Mileo was an enemy combatant who intended to engage either the sniper position (SSgt [REDACTED] perspective) or Marines operating within the battalion compound (SSgt [REDACTED] perspective).

30. Although Cpl Mileo was not holding his weapon at the precise moment he was shot, the snipers reasonably believed his presence and actions presented an imminent threat to the snipers and friendly forces operating within the battalion compound. Based on all of these facts, the snipers actions were in consonance with the ROE.

Subj: SUPPLEMENTAL INVESTIGATIVE REPORT INTO THE CIRCUMSTANCES  
SURROUNDING THE FRIENDLY FIRE DEATH OF CORPORAL JASON D. MILEO  
U.S. MARINE CORPS

Recommendations

6. That no adverse administrative or punitive action be initiated against SSgt [REDACTED] or SSgt [REDACTED] for their actions.
7. That Cpl Mileo receive the Purple Heart medal.
8. That this case be officially closed.

[REDACTED]

Medical Statement Regarding CPL Mileo, J. D. ¼ India Company

CPL Mielo was brought to the Forward Aid Station at approximately 1850Z on 14APR03. He was dead on arrival. Neither heart sounds, nor breath sounds were auscultated on exam. Patient was pronounced dead at 1850Z.

The Aid Station was alerted via radio reports that a marine had been injured and had no pulse on the scene at approximately 1830Z. We continued to monitor the radio and prepared to treat an urgent casualty. When the patient arrived on the scene he was already dead. The body was transported underground to be cleaned and prepared for transfer. On detailed exam of the body, the only wounds found were a 1 cm entrance wound from a gunshot on the medial aspect of the left shoulder blade and a 5 cm x 3 cm exit wound on the right middle pectoral region. [REDACTED] exit wound and a fractured right 4<sup>th</sup> rib, caused by the round. There were large amounts of blood on the patient's uniform, consistent with an estimated blood loss of 1.5 liters and a large hole in the uniform over the right chest. No other wounds were found on exam. The patient's body was cleaned, the wounds were dressed, the patient's head was wrapped and the body placed in a body bag to be made ready for transfer. The patient was transferred to CSSG 117 for transport to the United States.

Cause of death was exsanguination from a gunshot wound to the chest, which likely transected the aorta and great vessels.

Patient likely died in less than 5 minutes.

A question was raised as to whether or not the patient had his flak on his body at the time of injury. Examination of the flak revealed only minor blood smears likely from hands of people who had touched the patient. There were no bullet holes in the flak. Given the blood loss from the patient and the nature of the injury, it is my professional opinion that it would have been impossible for this patient to be wearing his flak on his body at time of injury. Whether or not the patient would have survived if he were wearing his flak is unknown. However, given the location of the injury, I believe that it is possible that the patient could have survived the incident if he was wearing his flak.

This concludes my statement as to the medical care provided to CPL Mielo on 14APR03. If there are any questions, concerns or comments as to the contents of this statement, please direct them to LT [REDACTED] MD, Battalion Surgeon, 3<sup>rd</sup> Battalion, 4<sup>th</sup> Marines.

I certify that this copy is accurate & an identical copy of the statement I released in Iraq, in April 13, 2003

Sworn to before me this  
29<sup>th</sup> Day of September, 2003 at 29 Palms, California.

[REDACTED]  
Major, USAF  
Deputy Staff Judge Advocate  
1st Marine Division (Rein)

[REDACTED]  
LT. MC USNR [REDACTED] ENCLOSURE (16)

Summary of interview of  
Lieutenant [REDACTED] US Navy  
29 September 2003, Marine Corps Base, 29 Palms California

I met with Lieutenant [REDACTED] at the Regimental Aid Station at 29 Palms. First we discussed the statement that he provided to Major [REDACTED] in April, in relation to his treatment and observations of Corporal Mileo. Lieutenant [REDACTED] stated that the electronic copy of his one page statement was identical to the statement that he prepared at the time of the investigation. He reviewed it in my presence, and then swore that it was a true and accurate representation of the statement he provided earlier.

Next, we briefly discussed his qualifications and experience. He stated that he spent approximately one year as the Battalion Surgeon for 3d Battalion, 4<sup>th</sup> Marines. Prior to that he served at the Naval Hospital. This period of service included some experience in emergency medicine.

During the battalion's deployment in support of Operation Iraqi Freedom, Lieutenant [REDACTED] recalled approximately five fatalities, including Cpl Mileo. He handled the body of a Marine that died when a HMMWV rolled over into a canal, as well as Corporal [REDACTED], a Marine that was shot in the back by an Iraqi terrorist. He also treated a Marine who was shot by an Iraqi sniper, was medically evacuated, and later died as a result of his wounds.

Over all, Lieutenant [REDACTED] recalls treating over 150 people during the deployment, essentially taking on "all-comers". The wounds ranged from gun shot wounds (GSW) to shrapnel wounds, and included the treatment of Marines and Sailors, as well as Iraqi civilians and enemy prisoners of war (EPWs).

In the case of Corporal Mileo, it was pretty clear that he was already deceased by the time he arrived at the battalion command post. Lieutenant [REDACTED] directed the Marines to the parking garage/basement of the command post building, where he planned to conduct his examination. He selected the location for its privacy and seclusion. Once the body was delivered to him, he dismissed the nearby Marines. He recalls at least one corpsman being present at the time of his examination. At one point, the Battalion Commander, Lieutenant Colonel [REDACTED] was on hand, and Captain [REDACTED] may have been there at one point also.

Lieutenant [REDACTED] and the corpsman began to examine Corporal Mileo and concurred that he was in fact, dead. They then began to completely strip him of his clothing (which was [REDACTED]), he recalls cutting off some of the uniform. Any personal items were placed into a separate bag, to keep them from getting soiled. The first exam was a hasty look at the body, to identify wounds and injuries. They then carefully cleaned the body with gauze and water, to locate other possible wounds or injuries, and prepare the body for transportation to the shock trauma platoon (STP) and ultimately mortuary affairs.

Lieutenant [REDACTED] cleaned the wounds and packed the wounds with curelex, a gauze bandage similar to an Ace bandage. His intent was to keep the wounds clean, and staunch and further bleeding. He then applied a pressure dressing on top of the bandage. He had limited gauze and materials available, but recalled using gauze to wrap his head. The completely naked body was then placed into the bag. Uniform items were bagged separately, and along with the personal effects, were transported with the body.

The First Force Service Support Group's (1<sup>st</sup> FSSG) shock trauma platoon (STP) sent an ambulance and transported Corporal Mileo's body to mortuary affairs.

Lieutenant [REDACTED] said that no specific procedures were briefed for handling and processing the remains of deceased Marines. Thorough exams are standing operating procedures for hospitals, where in his experience personnel will remove all tubes and intravenous connections prior to viewing by the next of kin.

Lieutenant [REDACTED] recalls observing Corporal Mileo's flak jacket, which he was not wearing at the time the body arrived at the battalion location. Based on the wounds he observed, the condition of the flak jacket, and the absence of any holes in the jacket, it is his opinion that Cpl Mileo was not wearing the flak jacket when he was shot.

Finally, Lieutenant [REDACTED] recalls receiving some reflective tape prior to crossing the line of departure. The tape was in the form of a "butterfly" that could be easily attached to the holes in the camouflage helmet covers. He does not recall receiving other material or tape for application to the uniform. At this point in operations, the Marines were no longer wearing their chemical suits.



**ARMED FORCES INSTITUTE OF PATHOLOGY**  
**Office of the Armed Forces Medical Examiner**  
1413 Research Blvd., Bldg. 102  
Rockville, MD 20850  
1-800-944-7912



**FINAL AUTOPSY REPORT**

Name: Mileo, Jason D.

SSAN: [REDACTED]

Date of Birth: [REDACTED]

Date of Death: 20030414 @ 1830 hrs

Date of Autopsy: 20030417

Autopsy No.: [REDACTED]

AFIP No.: [REDACTED]

Rank: Corporal, US Marine Corps

Place of Death: Iraq

Place of Autopsy: Port Mortuary  
Dover AFB, DE

Date of Report: 20030603

**Circumstances of Death:** Decedent sustained a gunshot wound of the upper back while at a "halt" and after taking off helmet and vest during combat operations in support of operation Iraqi Freedom. Initial reports indicate the possibility of friendly fire.

**Authorization for Autopsy:** Office of the Armed Forces Medical Examiner, IAW 10 US Code 1471

**Identification:** Positive identification is established by comparison of antemortem and postmortem fingerprints (FBI), dental comparisons, and DNA comparisons.

**CAUSE OF DEATH:** Perforating gunshot wound of the upper back.

**MANNER OF DEATH:** Combat Related.

ENCLOSURE (16)

1420

# Enclosure 18

Pages 1 and 6 enclosed

Pages 2-5 withheld  
under the Privacy Act  
exemption 6

AUTOPSY REPORT ME [REDACTED]  
MELEO, J.D.

6

- Personal effects are released to the appropriate mortuary operations representatives.

MICROSCOPIC EXAMINATION

[REDACTED]

OPINION

This 20-year-old white male, Corporal, US Marine Corps, died as a result of a perforating gunshot wound of the back. The manner of death is combat related.

[REDACTED]  
[REDACTED] MD, JD  
Captain, US Army Reserve, Medical Corps  
Associate Medical Examiner  
Armed Forces Medical Examiner System

[REDACTED]  
[REDACTED] MD  
Colonel, US Army Medical Corps  
Regional Medical Examiner  
Armed Forces Medical Examiner System

[REDACTED]

ENCLOSURE (13)

626

**CERTIFICATE OF DEATH (OVERSEAS)**  
Acte de décès (D'Outre-Mer)

NAME OF DECEASED (Last, First, Middle) Nom du décédé (Nom et prénoms) Mileo, Jason, D		GRADE Grade E-4	BRANCH OF SERVICE Arme Marines	SOCIAL SECURITY NUMBER Numéro de l'Assurance Sociale [REDACTED]
ORGANIZATION Organisation 3rd Bn, 4th MAR, 1st MAR Div		NATION (e.g., United States) Pays USA	DATE OF BIRTH Date de naissance [REDACTED]	SEX Sexe <input checked="" type="checkbox"/> MALE Masculin <input type="checkbox"/> FEMALE Féminin
RACE Race		MARITAL STATUS État Civil		RELIGION Culte
<input checked="" type="checkbox"/> CAUCASOID Caucasique	<input checked="" type="checkbox"/> SINGLE Célibataire	DIVORCED Divorcé	PROTESTANT Protestant	OTHER (Specify) Autre (Spécifier)
<input type="checkbox"/> NEGROID Nègre	MARRIED Marié	SEPARATED Séparé	<input checked="" type="checkbox"/> CATHOLIC Catholique	
OTHER (Specify) Autre (Spécifier)	WIDOWED Veuf		JEWISH Juif	
NAME OF NEXT OF KIN Nom du plus proche parent [REDACTED]		RELATIONSHIP TO DECEASED Parenté du décédé avec le susdit Parents		
STREET ADDRESS Domicile à (Rue) [REDACTED]		CITY OR TOWN AND STATE (Include ZIP Code) Ville (Code postal compris) [REDACTED]		

**MEDICAL STATEMENT Déclaration médicale**

CAUSE OF DEATH (Enter only once cause per line) Cause du décès (N'indiquer qu'une cause par ligne)		INTERVAL BETWEEN ONSET AND DEATH Intervalle entre l'attaque et le décès
DISEASE OR CONDITION DIRECTLY LEADING TO DEATH <sup>1</sup> Maladie ou condition directement responsable de la mort. Perforating gunshot wound of upper back		Seconds
ANTECEDENT CAUSES Symptômes précursseurs de la mort.	MORBID CONDITION, IF ANY, LEADING TO PRIMARY CAUSE Condition morbide, s'il y a lieu, menant à la cause primaire	
	UNDERLYING CAUSE, IF ANY, GIVING RISE TO PRIMARY CAUSE Raison fondamentale, s'il y a lieu, ayant suscité la cause primaire	
OTHER SIGNIFICANT CONDITIONS <sup>2</sup> Autres conditions significatives <sup>2</sup>		
MODE OF DEATH Condition de décès	AUTOPSY PERFORMED Autopsie effectuée <input checked="" type="checkbox"/> YES Oui <input type="checkbox"/> NO Non	CIRCUMSTANCES SURROUNDING DEATH-DUE TO EXTERNAL CAUSES Circonstances de la mort suscitée par des causes extérieures Mode of Death: Combat-Related
NATURAL Mort naturelle	MAJOR FINDINGS OF AUTOPSY Conclusions principales de l'autopsie	
ACCIDENT Mort accidentelle		
SUICIDE Suicide	NAME OF PATHOLOGIST Nom du pathologiste [REDACTED] CPT, MC, USAR	
HOMICIDE Homicide	SIGNATURE Signature [REDACTED]	DATE Date 17 Apr 2003
		AVIATION ACCIDENT Accident à Avion <input type="checkbox"/> YES Oui <input checked="" type="checkbox"/> NO Non

DATE OF DEATH (Hour, day, month, year) / Date de décès (Heure, le jour, le mois, l'année)  
1830, 14 Apr 2003

PLACE OF DEATH Lieu de décès  
Iraq

I HAVE VIEWED THE REMAINS OF THE DECEASED AND DEATH OCCURRED AT THE TIME INDICATED AND FROM THE CAUSES AS STATED ABOVE.  
J'ai examiné les restes mortels du défunt je conclus que le décès est survenu à l'heure indiquée et à, la suite des causes énumérées ci-dessus.

NAME OF MEDICAL OFFICER Nom du médecin militaire ou du médecin sanitaire [REDACTED]		TITLE OR DEGREE Titre ou diplôme Regional Medical Examiner
GRADE Grade COL	INSTALLATION OR ADDRESS Installation ou adresse Dover AFB, DE 19902	
DATE Date 17 Apr 03	SIGNATURE Signature [REDACTED]	

<sup>1</sup> State disease, injury or complication which caused death, but not mode of dying such as heart failure, etc.  
<sup>2</sup> State conditions contributing to the death, but not related to the disease or condition causing death.  
1 Préciser la nature de la maladie, de la blessure ou de la complication qui a contribué à la mort, mais non la manière de mourir, telle qu'un arrêt du cœur, etc.  
2 Préciser la condition qui a contribué à la mort, mais n'ayant aucun rapport avec la maladie ou à la condition qui a provoqué la mort.

Enclosure 20 (5 pages)  
withheld under Privacy  
Act/FOIA exemption 6

[REDACTED] Maj [REDACTED]

---

**From:** [REDACTED] CDR [REDACTED]  
**Sent:** Monday, October 06, 2003 3:59 AM  
**To:** [REDACTED]  
**Subject:** RE: autopsy materials

Answers:

- 1 - The only personnel effects are in the last photograph.
- 2 - The injury would have dropped his blood pressure to zero almost instantly. He may have had 5-10 seconds of oxygen remaining in the brain and there are anecdotal cases of movement after an injury like this one. In the vast majority of cases there is no movement after such an injury.

R/

[REDACTED]  
CDR, MC, USN  
Armed Forces Medical Examiner  
[REDACTED]  
Rockville, MD 20850  
[REDACTED]  
[REDACTED]

-----Original Message-----

**From:** [REDACTED]  
**Sent:** Wednesday, October 01, 2003 7:26 PM  
**To:** [REDACTED]  
**Subject:** autopsy materials

Sir,

the CD arrived here yesterday, thanks for sending it out. It was helpful to see the wounds (much easier than trying to understand where they were just based on the measurements in the written report).

In addition, I have two questions that you may be able to answer:

- (1) The autopsy report (page three) lists "clothing and personal effects" and states that the effects case was not inventoried at autopsy. What items were contained in the effects case, and where are those items presently?
- (2) Can you render an opinion about whether he would have been able to move after the injury? The nature of the wounds indicate he lost a large volume of blood in a short amount of time, and the damage to the heart and lungs were extensive.

V/r,

[REDACTED]

ENCLOSURE (2)

Summary of interview with Major [REDACTED]  
Former Executive Officer, 3d Battalion, 4th Marines  
Conducted at Marine Corps Base, 29 Palms California on  
29 September 2003

I met with Major [REDACTED] on Monday afternoon, 29 September 2003 to discuss aspects of the investigation into the death of Cpl Mileo.

During operations in Iraq, Major [REDACTED] served as the Battalion Executive Officer, a position he held for approximately two years.

Major [REDACTED] recalled that the Force Reconnaissance platoon joined the battalion around April 10<sup>th</sup>, a few days before the incident. They were not initially with the battalion when they crossed the line departure in March.

The Force Recon platoon was assigned by MEF to Division, to Regimental Combat Team-7, and then assigned to the battalion. The platoon was there to augment and flesh out the battalion for operations within Baghdad. While assigned to the battalion, the Force Recon platoon was collecting intelligence for the battalion, as well as conducting raids and other direct action missions. They consisted of a total platoon, approximately 28 Marines. They brought about seven to eight HMMWVs. Captain [REDACTED] was their platoon commander.

The Battalion Operations Officer (S-3) was responsible for coordinating the snipers' operations. At the time the battalion had moved from the Palestine Hotel near the western portion of the Division's Area of Operations. At the time of the incident, the battalion occupied five separate battle positions, including the "ministries complex".

Bravo Company, 1<sup>st</sup> Tanks Battalion was attached to the battalion at the start of the war. In turn, an infantry platoon from India Company, 3d Bn 4<sup>th</sup> Marines was attached to the tank company. Their headquarters were set up in the Ministry of Water building. The battalion field trains were located in the larger complex area, along with the Battalion's Main Command post. Security for the complex was the responsibility of the Camp Commandant, but overall responsibility for security and operations belonged to the Battalion Commander.

The Battalion Command post was located at the base of the Ministry of Tax building; the Force Recon snipers occupied a position on the top deck of this building. I am not sure about what type of weapons and optics they were employing the night of the incident. I believe they were using M40A3 sniper rifles.

There was no electricity flowing to our complex of buildings at the time of the incident. All of the power for our buildings and systems came from generators that our Marines operated and maintained.

The Ministry of Water building had some intermittent electrical power. The local Iraqis had jury-rigged their own lines and tapped into the generator. When the generator would start, we could see the lights in some nearby houses come on, and then go back out when the generator became overloaded.

Major [REDACTED] recalled personally interviewing Sgt [REDACTED] the patrol leader, during the course of the investigation. He also recalled meeting with the snipers briefly. He did not conduct many of the interviews for the investigation; rather he had First Lieutenant [REDACTED] the Battalion Adjutant, collect the statements from the Marines involved, while he collected other information, and visited the incident scene. Major [REDACTED] recalls walking around the area that Cpl Mileo occupied and where he was recovered from, but did not specifically look for evidence that Cpl Mileo had been smoking while in the position.

Major [REDACTED] also recalled that immediately after the shooting, the snipers came down from the roof to talk to the Battalion Commander. The snipers were totally in denial and disbelief that they could have shot Cpl Mileo. They repeatedly requested to be allowed to leave the compound and patrol to the location where they had observed the target that was wearing what appeared to be a flannel shirt. Later, the snipers appeared remorseful and upset. He stated that the entire Force Recon platoon attended Cpl Mileo's memorial service in Baghdad, and that the platoon continued to work for the battalion for about another week.

Major [REDACTED] also drew a diagram of the incident scene, depicting the 55-gallon drum that the Marines in Sgt [REDACTED] patrol used to get on the building rooftop, as well as the location of the dome and Cpl Mileo's approximate position on the roof.

# Enclosure 23

MCRFS Basic  
Individual Record  
(15 pages)

withheld under Privacy  
Act/FOIA exemption 6

Interview of Corporal [REDACTED]  
30 Sept 2003  
MCB 29 Palms, California

My name is Corporal [REDACTED] originally from [REDACTED] Georgia. I was born on [REDACTED], and graduated from high school in [REDACTED]. I joined the Marine Corps on January 2d, 2000, and was later assigned to assigned to 3d Bn, 4<sup>th</sup> Marines in July 2000. I was assigned to 2d platoon, India Company where I served as a rifleman.

I deployed with the battalion to Okinawa Feb to Aug 2002; upon return I was assigned to 3d platoon. I was promoted to corporal January 2003.

I first met Cpl Mileo about six months after I checked in. Cpl Mileo was assigned to 3d platoon. I got to know him by working around him every day; get to know everyone in the company that way. When the battalion returned from Okinawa, Cpl Mileo was transferred from 3d Platoon to Weapons Platoon. We both lived in the barracks, and I would socialize with Cpl Mileo. Prior to deploying to Iraq, we did not spend too much time together, since Cpl Mileo was assigned to weapons platoon. However, we became much closer and better friends during our time in Iraq.

I deployed to Kuwait with the battalion's advanced party around January 15<sup>th</sup>; Cpl Mileo deployed with the main body and arrived at the end of the month, around the 29<sup>th</sup> or 30<sup>th</sup>. I didn't spend much time with Cpl Mileo while we were still in Kuwait, since we were still in different platoons and had different sleeping tents. About two weeks prior to crossing the line of departure, Cpl Mileo was assigned to 3d platoon where Cpl Mileo was assigned as a fire team leader within 1<sup>st</sup> squad (lead by Sgt [REDACTED]).

While I Iraq, Cpl Mileo and I spent a lot of time together in the back of the amtrac, 24 hours a day, seven days per week. Cpl Mileo and I got along with Sgt [REDACTED] very well.

Shortly after crossing the bridge into Baghdad, Marines were able to remove chemical suits. I recall applying chemical detection tape to the outside of chemical suits but I don't remember doesn't recall receiving glint tape for helmets or uniform sleeves. On 14 April 2003 the squad was wearing camouflage utilities. I believe I was wearing digital pattern cammies; Cpl Mileo was wearing tri-color pattern (the kind issued by the TAP warehouse)

Overall, we spent about three weeks in Baghdad. The first week we were at the Palestine Hotel, and then we moved to the water treatment facility building (as a part of Bravo Company, 1<sup>st</sup> Tanks). The Battalion HQ occupied a different building nearby in two different buildings (things like the camp guard and enemy prisoner of war detention facility were located in these other buildings)

I know we conducted many patrols during the war and our time in Baghdad, but I can't recall how many. We conducted patrols at least every other night, and since we were part of the same squad Cpl Mileo and I went out each time. Sometimes we stopped bank robberies.

Early the afternoon of the 14<sup>th</sup>, Sgt ██████ briefed that they would be patrolling that evening. The other Marines and I were at the water treatment facility where we would post security during the day. The initial information was sketchy (almost like a rumor), nothing set in stone. Sgt ██████ mentioned there might be a patrol later that evening near a mosque. We did not have much discussion at that point. Later that afternoon Sgt ██████ pulled the Marines aside and discussed the assignment. At around 4:30 or 5:00, he told them they were going to patrol the Green Mosque. Cpl ██████ had been to the location before, he was going to serve as the pointman. I didn't know where the location was beforehand, but did observe a rough sketch drawn in the dirt. Sgt ██████ told the Marines to pay attention to the surroundings and how to get back to the command post

This was pretty typical for patrols. Often we Marines did not have much time to prepare or go over details, not like during training. I thought there would be more information provided since these patrols were "the real deal". At times it seemed like things were rushed, and I expected there would be more detailed warning orders provided. I was happy to go out on the patrol since Sgt ██████ selected me as one of the only six members for the patrol.

We left the CP around 6:30 or 7:00, just as the sun was starting to go down. Everyone was wearing flak jacket, Kevlar helmet, no deuce gear, and a camel back. I don't remember if we had gas masks. We also carried an emergency MRE. I was carrying an M-16. Cpl Mileo had an M-16 with an attached M203 grenade launcher; flak jacket, Kevlar helmet, no deuce gear, camel back and emergency MRE. Cpl Mileo had a civilian AimPoint scope mounted on the rail of his M-16. It was attached to the rifle when they left the CP. The device is similar to what is attached to the new M16-A4s, does not have an magnification; only works in the day time.

All of the Marines on the patrol had night vision goggles. Cpl Mileo and I both had e had ANPVS 14D; a few others had ANPVS 7B.

It took about 15-20 minutes to patrol from the CP to the ambush site. Once at the location we were supposed to get on the roof and set up. We were supposed to keep a look out for Ba'ath party members that were firing on our patrols. The actual location was a spot that these men were reportedly returning to at 2100 at night. Our patrol's mission was to ambush/kill these men if we spotted them carrying weapons. We also planned to use the courtyard as a "kill zone".

Cpl Mileo and I were the first two to get onto the rooftops. Once up top, we talked about where to position ourselves. It took about five minutes to get on the roof. Cpl Mileo shimmied across a small ledge and took up a position near the green dome, while I took up a position on the opposite end, directly across from him. I took Cpl Mileo a few minutes to get across the ledge and into position. Once he was set up, he was about 35 meters away from my position. I was only able to see Cpl Mileo when he moved around; couldn't tell what he was doing. Cpl Mileo was supposed to be covering the alleyway back toward my direction, while I was going to observe the alleyway toward Cpl Mileo's location.

Cpl Mileo's position was very dark; the adjacent wall cast dark shadows on the green dome as well. I remember there was some moon light (not a full moon). The moon was positioned behind Cpl Mileo's location (on the other side of the wall), but I don't remember if there were any clouds.

The alleyway below our position was lit by some street lights. The alley was dark down the alleyway behind him; however, the house across from the courtyard they were observing was lit, at least two Iraqi males were outside working on one of their vehicles. The light from the alleyway made Cpl [REDACTED] NVGs useless.

The squad had three personal role radios (PRR) and one PRC-119. The radio had one PRR; I had one, and Sgt [REDACTED] had the other PRR.

From my position, I never saw Cpl Mileo smoking. In fact, Cpl Mileo never smoke prior to arriving in Iraq, then he would smoke occasionally. I know for a fact he was not smoking that night, since I found his cigarettes were back with his gear at the water treatment facility. He also knew better than to smoke on a night patrol; this was something we had practiced for three years. It was very dark where he was positioned, so I would have seen the light from the match/lighter and cigarette, and I also would have smelled the smoke. I also don't recall recall a noticeable breeze that evening.

The green dome near Cpl Mileo's position was not very tall, about 8 to 10 feet high; about 12 feet wide. We were in place for about an hour and a half to two hours; I heard a gunshot, then heard someone yell and gasp for air. About the same time, the people in the alleyway scattered. At first I figured that Cpl Mileo took a shot, because I knew that I did not fire and that Sgt [REDACTED] and the Marines adjacent to me (on my left) did not fire. However, I did not see a muzzle flash from Cpl Mileo's position. There was some message traffic over the PRR initially, with Sgt [REDACTED] asking who fired the shot. Then Sgt [REDACTED] told us to keep our heads down, so we stayed in place about two to three minutes.

Then the radio operator said that Force Recon snipers had taken a shot and reported that enemy were all over our position and that we should keep our heads down.

I started to worry about Cpl Mileo. I spoke to Sgt [REDACTED] and said "that shot couldn't have hit Mileo, could it?" Then Sgt [REDACTED] let me maneuver around to Cpl Mileo's position. I approached from the adjacent rooftop behind the dome (not the ledge the Mileo shimmied across). It was kind of a shaky, tin roof that I had to pick my way across. It was too far to jump across. As I approached, the courtyard was to my right side, the dome was on the left. When I came around the dome (parallel with the alleyway) I noticed Cpl Mileo's rifle leaning against the dome. I still could not see Cpl Mileo at this point. I found Cpl Mileo lying on his right shoulder with his right arm extended, in the space between the green dome and the adjacent wall. Cpl Mileo was only wearing cammies. Cpl Mileo was not wearing his helmet or flak jacket. His feet were positioned closest to the alleyway. I checked for a pulse and found nothing, and then notified Sgt [REDACTED] over the PRR. The rifle was behind Cpl Mileo, approximately 10 feet from where Cpl Mileo was lying.

Sgt [REDACTED] then arrived, traveling the same way that I did (across the adjacent roof top). He ordered me to provide security. Sgt [REDACTED] was upset at first, checked Cpl Mileo's pulse. Then he reported over the PRR that we have on KIA. Lance Corporal [REDACTED] the radio operator, called for the medevac.

I provided security, pointing my weapon outboard. I also set out a blue chemical light to mark our friendly position, and then oriented my weapon out towards the alley.

Sgt [REDACTED] took Cpl Mileo's body to the ledge and lowered it down into the alley when the Humvee arrived. One of the corpsman from Bravo Company, 1<sup>st</sup> Tanks may have climbed onto the roof to confirm that Cpl Mileo was dead, then helped to lower the body down.

I may have carried some of Cpl Mileo's gear back (weapon, helmet and flak) but I don't really recall. After Cpl Mileo was loaded into the Humvee, the rest of the patrol members patrolled back to the water treatment facility. Once back at the CP, we told the platoon what happened. We did not go back out on patrol that night, everyone was pretty shaken up by what happened.

Sometime that night, the other Marines and I went to the Bn headquarters building, where an officer had all of us sit down and write statements and answer some questions. Then we returned to the water treatment facility.

The next morning the whole squad went back out to the scene so Major [REDACTED] could take pictures of the location. Sgt [REDACTED] and Major [REDACTED] went up on to the roof to take the pictures; a crowd of Iraqis gathered in the alleyway below, which kept the rest of the squad occupied. Once Major [REDACTED] finished taking pictures, the patrol returned to the water treatment facility.

I am not sure what happened to all of Cpl Mielo's personal gear. The company gunny and police sergeant were collecting up those items. I believe that the Aimpoint was given to Cpl [REDACTED]. There was also miscellaneous items in a box (cigarettes, candy, care package items) that were in the amtrac, not sure what happened to those things. Every Marines' pack was attached to the outside of the amtrac. Cpl Mileo's sleeping bag and ISO mat were still in the berthing areas in the water treatment facility area; this is where I found the pack of cigarettes.

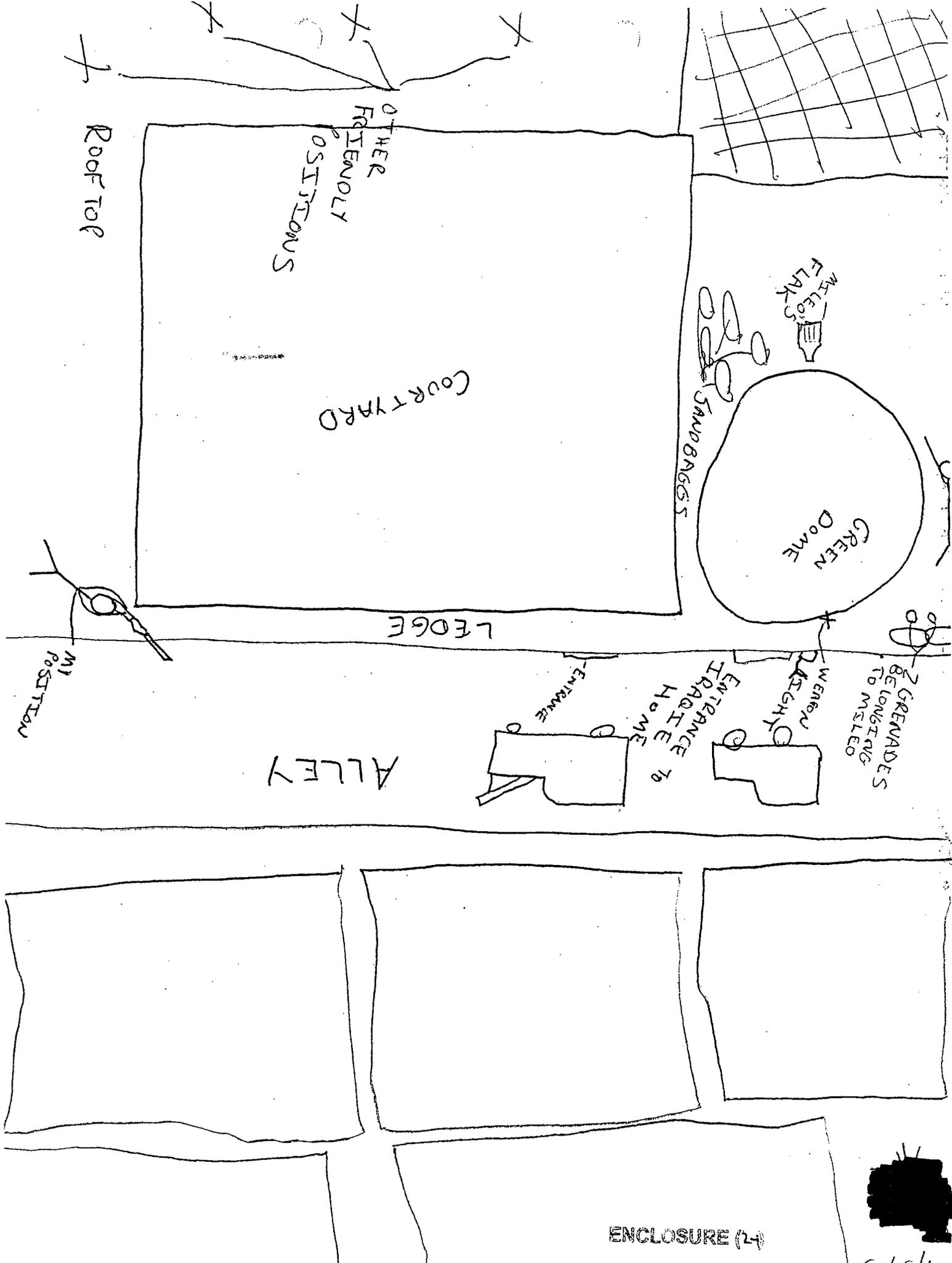
I, Corporal [REDACTED] certify that this statement, consisting of five pages, and the attached diagram are true and accurate to the best of my knowledge.

[REDACTED]

Sworn to before me this 30<sup>th</sup> day of September, 2003 at Marine Corps Base, 29 Palms California.

[REDACTED]

Major, USMC  
Deputy Staff Judge Advocate  
1<sup>st</sup> Marine Division (Rein)



ENCLOSURE (2)

1994

Interview of Corporal [REDACTED]  
30 Sept 2003  
MCB 29 Palms, California

My name is Corporal [REDACTED]. I am a Marine Corps rifleman currently assigned to the Battalion logistics (S-4) section. I was born on [REDACTED] in [REDACTED]. I attended high school in Point Loma (near San Diego) and graduated in June [REDACTED]. I attended college at the Citadel for about a year and a half, and then joined the Marine Corps in January [REDACTED]. After completing the School of Infantry, I was assigned to India Company, 3d Platoon with 3d Battalion, 4<sup>th</sup> Marines.

I spent approximately four months with India Company, and then I was transferred to Headquarters Platoon in October 2000, to serve as a Fire Support Team Radio Operator and Company Clerk.

I have been overseas with the battalion as part of a unit deployment program (UDP) in 2001. After that I was transferred to the battalion S-4 shop, where I served as head of the transportation clerks.

In January 2003 I deployed to Kuwait in preparation for operations in Iraq. I knew Cpl Mileo since he arrived at the battalion, when I was still with India Company. We were friends. He lived above me in the barracks, and I had taken him down to San Diego to stay with my brother. We saw each other pretty much every week while we were in garrison.

In Iraq, I would see Cpl Mileo at least once a day, he seemed to be in good spirits. He was comfortable with his unit, doing well taking on board some newly joined Marines.

While I was with India Company, I served as a radio operator. When I moved to H&S company, I carried the radio on hikes.

Once we got to Iraq, I was permanently assigned as a radio operator for the Battalion Gunner, CWO-2 [REDACTED]. I was responsible for maintaining/operating his MK-145 radios in his vehicle.

In addition, I served as part of the battalion guard/security forces known as "Archangel Guard Force". This was a group of battalion Marines hand-picked by Lieutenant Colonel [REDACTED] to protect our Marines. We served as designated marksmen, providing security for our forces in the area. Our regular post was located on the second highest floor of the Ministry of Information building (the same place the Bn HQ was located). The Force Recon Snipers (callsign: [REDACTED]) were located on the floor just above us.

Sgt [REDACTED] was on duty with me that night. It was supposed to be a four hour post, which we assumed about an hour after nightfall. There was a battalion radio watch manning the battalion's tactical networks, also located on the same floor we occupied.

During the previous days, some of the other designated marksmen and I spoke to some of the Force Recon snipers. At least one of them had previously served with 3d Battalion, 4<sup>th</sup> Marines.

According to the Recon Commander, a Captain, his Marines had been briefed that there was a friendly patrol operating outside the battalion positions. After the incident, the snipers denied having this information.

The day after the incident, I went up to the roof. I noticed two M-40 sniper rifles. I believe that the weapon that killed Cpl Mileo had some sort of scope mounted on it that looked almost like a flashlight. I looked like a civilian product from a civilian company, not military issue items. I think the snipers also had NVGs (17 Bravos, as well as ANVPS 7 charlies), and M-4s as personal weapons. I am not sure what type of equipment the spotter had.

That night as I walked my post, I noticed that the moon was out. It was not a full moon and not a new moon, but the lighting conditions were decent. There was ambient light from the stars and moon. I could make out the buildings where the patrol was operating, but could not see there were friendly forces operating there. I did not know the patrol was out in that location.

Despite the lighting, I thought that my NVGs worked very well. As I patrolled the roof, I could over hear the snipers talking just above me. He was talking about seeing a possible target and called his spotter over, and they talked. Then another sniper came over, and confirmed what the first sniper observed. The second sniper asked me to relay information to the battalion command post, so I went inside the building and got the PRC-119 radio and brought it outside. I would say approximately seven to ten minutes elapsed from when the snipers began talking until he fired the shot. In the meantime, I was talking to the battalion radio watch, relaying a rough SALUTE report, mainly azimuth, distance, troop size and activity to the Bn CP.

Right after the sniper took his shot, the radio traffic picked up. The Bn COC kept asking whether I had shot at anything, and I reported no but [REDACTED] did.

The next day, I really noticed how close our building was to the incident scene. It is so close you could hit it with a baseball. Based on the lighting conditions, I would expect you would be able to see people on the roof, even without NVGs. I also find that tri-color camouflage uniforms "glow" when observed with NVGs.

I, Corporal [REDACTED] certify that this statement, consisting of two pages<sup>de</sup> are true and accurate to the best of my knowledge.

Sworn to before me this 30<sup>th</sup> day of September, 2003 at Marine Corps Base, 29 Palms California.

\*THE SECOND SNIPER DID NOT  
RELAY ANY INFORMATION  
UNTIL AFTER [REDACTED]  
TOOK THE SHOT.

IR

[REDACTED]  
Major, USMC  
Deputy Staff Judge Advocate  
1<sup>st</sup> Marine Division (Rein)

2

ENCLOSURE (2)

Interview of Sergeant [REDACTED]

30 Sept 2003

MCB 29 Palms, California

My name is Sergeant [REDACTED]. I was born on [REDACTED] in [REDACTED], [REDACTED] and joined the Marine Corps on [REDACTED]. I left the Marine Corps in June [REDACTED], and then re-entered on [REDACTED]. I worked as a logger and took some college classes in between the years I was out of the Marine Corps.

I checked into 3dBn 4thMar on 29 March 2001, where I served as a squad leader with 3d platoon, India Company.

I got promoted to Sgt on 1 May 2001. I went UDP with the battalion in August, 2001.

I first met Corporal Mileo in April, 2001. He was a private at the time. I found him to be an extremely stellar performer, strong desire to do well, displaying a real Gung-Ho attitude. He received meritorious promotions to Private First Class and Lance Corporal, and was quickly promoted to Corporal.

Once he got promoted to corporal, myself and Sergeant [REDACTED] took Corporal Mileo in because he was still young and needed some help in learning how to lead his former peer group of lance corporals. We helped him with ways to lead these Marines and stay within the limits of his authority.

We had an outstanding working relationship. He exercised lots of initiative. All you had to do was put the idea in his head, and he would get it done. When he couldn't, he would ask for guidance and then take care of it.

He was transferred to weapons platoon, but when we got to Iraq I was able to have him rejoin our platoon and my squad. He didn't want to be in the mortars platoon in the first place, so he was happy to be back in a line platoon. I had many NCOs at the time, so I kind of created a position for him, handling things like the Enemy Prisoner of War collection point, as sort of an assistant squad leader. I was glad to have him back with us.

Once in Baghdad, we were routinely conducting day time and night time patrols. There were two squads in the platoon, so one served as a reaction force while the other squad patrolled. In addition, we supported the Force Recon platoon, serving as a security force while they conducted raids. We also conducted mechanized patrols from the amtracs, establishing a "show of force" presence in the city.

I felt comfortable patrolling with his Marines, Cpl Mileo was not as comfortable, since he had only recently come over from the mortars section and did not know the Marines as well.

The night before the patrol, I had an idea there would be a patrol. Around noon of the 14<sup>th</sup> of April, I had confirmation that I would conduct the patrol. Originally the patrol was supposed to be an urban patrol, with a six-man team being dropped off. However, due to the bank robbery situation, the rest of the squad was pulled off to provide security for the bank, and I was ordered to take my six-man team out to conduct the ambush at the green dome location. We drew sketches of the area, but it was confusing. I was getting concerned and picked Corporal [REDACTED], since he had been in the area previously. We

conducted rehearsals and talked our way through entering the area. I even tried to get an assault ladder from Recon, but they did not have one. They told us there was a barrel near the wall that we could use. I wasn't sure how I would position the Marines once we arrived and said I would take their suggestions on how to arrange our forces once there. We continued to prepare, draw ammo, chow, and water prior to departing.

We left about 45 minutes after sunset, so there was no illumination. Temperature was in the 80 degrees, and you could see stars. There are no lights near the CP, but as we entered the streets I could see some streetlights, but there were still plenty of shadows.

It took between 30 and 45 minutes for us to arrive at the location, we got turned around and finally found the location. Once we arrived, we noticed two large swing gates near the courtyard and then cleared the adjoining buildings. There was no furniture, and the buildings were trashed. We exited through a back door, and used the barrel to reach the roof. I believe I was the second one up on the roof, and started to place the Marines. We arrived about three hours prior to the time that intel said the target was due to arrive in the area. The mission was to locate and capture or kill three Iraqi militants who had been terrorizing the locals living in the area. I recall that the mission drop-dead time was 2400Z (about two to three hours before sunrise).

We had a PRC-119 that allowed us to talk back to the battalion command post (Black-6), as well as four personal role radios. Mileo would have had a PRR but the lieutenant took it away from him prior to the patrol.

Once on the roof, I positioned the radio operator as rear security. In the meantime, Cpl Mileo shimmied across the top of the gates of the courtyard, there was no way that I was going to make it across that ledge (I weigh 220 pounds). It was a good position, so I decided to leave him there.

From my location, I could see everyone. If I turned around, I could see the radio operator. I was concentrating on the light coming from the gates, in order to initiate the ambush. It was about at this point that I saw Cpl Mileo up walking around the dome. I wasn't sure what he was carrying (I know<sup>now</sup> it wasn't his gear), but later I realized it was probably one of the flour-sack sized sand bags that were on the rooftop. I asked Cpl [REDACTED] what Mileo was doing, and whether he could see him. He said that Cpl Mileo had taken up a position oriented back down the alleyway toward Cpl [REDACTED] position, tucked in behind the dome and between the adjacent wall. It was Cpl Mileo, and I knew he was smart enough to put his gear back on, and that there was no way I could shimmy across the ledge, so I just left him where he was. I also didn't think I could get across the adjacent tin roof top, and was concerned that any effort to contact or correct Cpl Mileo would be noticed by some of the Iraqi males moving around in the alley way below. The green dome was approximately 12 feet high and about 12 feet wide. I only saw Cpl Mileo pickup and move this one time, after that, I didn't see him move again.

We wore flak jackets on patrol, along with Kevlar helmets and our assigned weapons. We didn't need load-bearing vests because you can attach gear to the flak jacket. We also left our gas masks behind. We didn't bring packs or any other gear. This was pretty much our fighting load, which was pretty substantial at that point. Everyone had night vision goggles. Cpl Mileo was armed with his M-16 with M203 grenade launcher and his personal Aimpoint spotting device mounted on the rails, making the weapon appear pretty thick.

When we went out on patrol, I had no idea that there were snipers supporting us or providing overwatch. I also knew that the company reaction force was already committed to the bank robbery situation, because the radio operator was relaying this information over the PRR as he heard it on the battalion tactical net. As I understand, the snipers could not see any of us except Cpl Mileo when he got up and moved around.

I estimate we spent about two and half hours in the location prior to Cpl Mileo getting up and repositioning himself. After that, I estimate we were in place about another 45 minutes before he got shot. Based on the lighting from the alleyway and the moonlight, NVGs were pretty much washed out, so I did not use them at all. I would estimate that illumination was about 80%.

I heard a gunshot and a yelp, wondering where it came from. At first I thought it was a shot directed at the men working on a car out in the alleyway. The Iraqis in the street scattered. I contacted Cpl [REDACTED] and asked if Cpl Mileo took a shot. Then we were told over the radio that there were enemy on the rooftop and to keep our heads down. Then Bn told us to get a headcount. A few moments later, Cpl [REDACTED] said that Cpl Mileo had not shot his weapon, but did I think Cpl Mileo had been shot? I told him to get over there and check him out.

Cpl [REDACTED] started out across the ledge that Cpl Mileo had shimmied across earlier, then came back, ran in front of my position and crossed over from the adjacent tin roof. Once there, Cpl [REDACTED] said out loud "he's hit, he's hit". I told Cpl [REDACTED] to stay where he was, I told LCpl [REDACTED] to request a medevac, and I ran across the broken glass and jumped across some of the roofs.

Cpl [REDACTED] was pretty shaken up and was not doing much, so I told him to provide security. Cpl [REDACTED] said he had checked pulse and didn't hear or feel anything.

I turned to Cpl Mileo and noticed that he was laying on his side, with his arm across his face. His legs were scissored [REDACTED], his [REDACTED]. I tried to pick him up by the belt, but realized it wasn't there. I then reached down and [REDACTED]. Then I set him down and [REDACTED] onto the adjacent roof. I set his head in his helmet, which was lying on the ground, upside down. [REDACTED]. He had been chewing pink gum, which was stuck to his glasses. I took his glasses and put them in my cargo pocket, which later were shipped with his personal effects. Based on my training I realized he was not in good shape. The corpsman arrived in about sixty seconds, coming up from the backside of our position. It was actually a corpsman and staff sergeant from the tank company. I gave them a flashlight. Corpsman assessed the casualty and said Cpl Mileo had lost too much blood. The staff sergeant carried Cpl Mileo fireman carry style to the ledge nearest the courtyard, and lowered him down to another Marine standing near the humvee. I picked up Cpl Mileo's flak jacket that was lying near his original position near the courtyard, and his grenade and handed the flak jacket down to a Marine on the street, and he put it in the humvee. I asked about the rifle and realized that no one had it, so I went back to Cpl Mileo's position on the roof to retrieve it. That's when I noticed that the rifle was stacked neatly against the dome, approximately 10 to 12 feet from where his feet came to rest. From what I could see, his sandbagged position would have been lit. Then I looked off to the right and could tell

that there was a Marine position on one of our buildings, and I knew what had happened. Based on the slope of the dome, I believe he would have had to deliberately place the weapon there; otherwise the weapon would have just slid down.

I jumped back across the rooftops and injured my ankle trying to get across. Once on the ground, the corpsman helped me out. Eventually we patrolled back into the company CP.

Once back at the CP, we were there for about an hour and then I was called to the Bn CP. I spoke to the commanding officer, and then returned to the company CP. I picked up Cpl Mileo's personal effects, his ammo and other items. At the ambulance I took his magazines, grenades and M203 rounds. There was a lot, so I had a hard time carrying.

The next day there was a box of items and items collected up from his bivouac spot in the billeting areas. Some of his items were redistributed to other Marines (like his maglite and his knife). Some other items (souvenirs) were left behind in the building when we vacated it (things like Iraqi money and a bayonet, for example). I think Cpl [REDACTED] has his Aimpoint and tactical sling.

The next day, I returned to the scene with Major [REDACTED]. When we first arrived, there were about 20 Iraqis there. By the time we left there were 200 plus people there that made it difficult to move around the area. They were happy to have us there, but it was distracting for the rest of the squad.

Major [REDACTED] had a tough time getting up on the roof to the location (the roofs were tough to get across) but we got him there and he started taking pictures. I was focused on finding evidence of cigarette butts, since I had heard that the snipers had witnessed Cpl Mileo smoking on the roof. I'm not certain about the actual position he occupied on the roof, but I looked all over the area. Although I found cigarette butts in the area, it seemed pretty clear that these were old and had been lying there for some time. In addition, Cpl Mileo was not a real heavy smoker, so I don't think that he would have been smoking out there. While on the roof I noticed the impacts from the round that struck him (there were three holes in the wall, two pretty substantial and some blood). I could tell that he crawled a little ways after being struck. I also noticed that the roof was covered with palm boughs, which were stacked up and had soaked up much of his blood.

We didn't have very much personal space, so Marines worked hard to take care of the things that they did have. Cpl Mileo kept his cigarettes in an Altoid tin. We found the tin containing his cigarettes near his bivouac spot in our billeting areas, along with his diary and sleeping gear (sleeping bag, ISO mat etc).

Before arriving in Baghdad, I had some words with Cpl Mileo. He was upset after crossing a pretty nasty stream (it was littered with dead bodies). This was the first time that I had noticed that he expressed his frustration with things. It was one of the few times when he appealed to me based on our friendship. It took me by surprise, because I knew he had started out with Recon Bn and had washed out of the Basic Reconnaissance Course due to an injury, a broken shoulder or collarbone. He had been hazed pretty hard while there, so nothing we did really seemed to faze him or bother him.

Prior to going out on the patrol, I had some words with Cpl Mileo about the composition of the patrol. His behavior was uncharacteristic, but we had not been getting much sleep for the past two weeks. He was upset about some of the Marines I was bringing along,

including Cpl [REDACTED]. He was upset about LCpl [REDACTED] and really wanted this to be an "all NCO" patrol. I told him that this was still a mission and that I had to task organize. Prior to stepping off, I considered replacing him with Cpl [REDACTED]. Cpl [REDACTED] was just too hyper and too excited to be any good on the patrol. If I had to rate Cpl Mileo, he was one of 13. He was the best Marine in the squad, and I figured taking him out with me was the best way to get his head back in the game. I believe he was in zone to be promoted to Sgt, maybe 1 April or 1 May and was surprised that he hadn't been promoted already. He seemed to settle down about a half hour before we went out, but just before we left, Cpl Mileo turned to me and said, "these guys are going to get me killed tonight". I just shrugged this off and stepped off.

I don't know if he was smoking while he was in his position. I think he is more disciplined than that, but I also thought he knew better than to take off his gear. I know he had an extra small flak jacket with extra large SAPI plates and the attached neck collar, which made it hard for him get into the prone position.

I miss Cpl Mileo. I think if he had promoted to sergeant, we would have been best friends. He is one of the few people I would trust with my four-year-old daughter, and my 32 year-old wife practically adopted him as one of her children. She has taken his death pretty hard, and can't see photo albums with his pictures with getting upset.

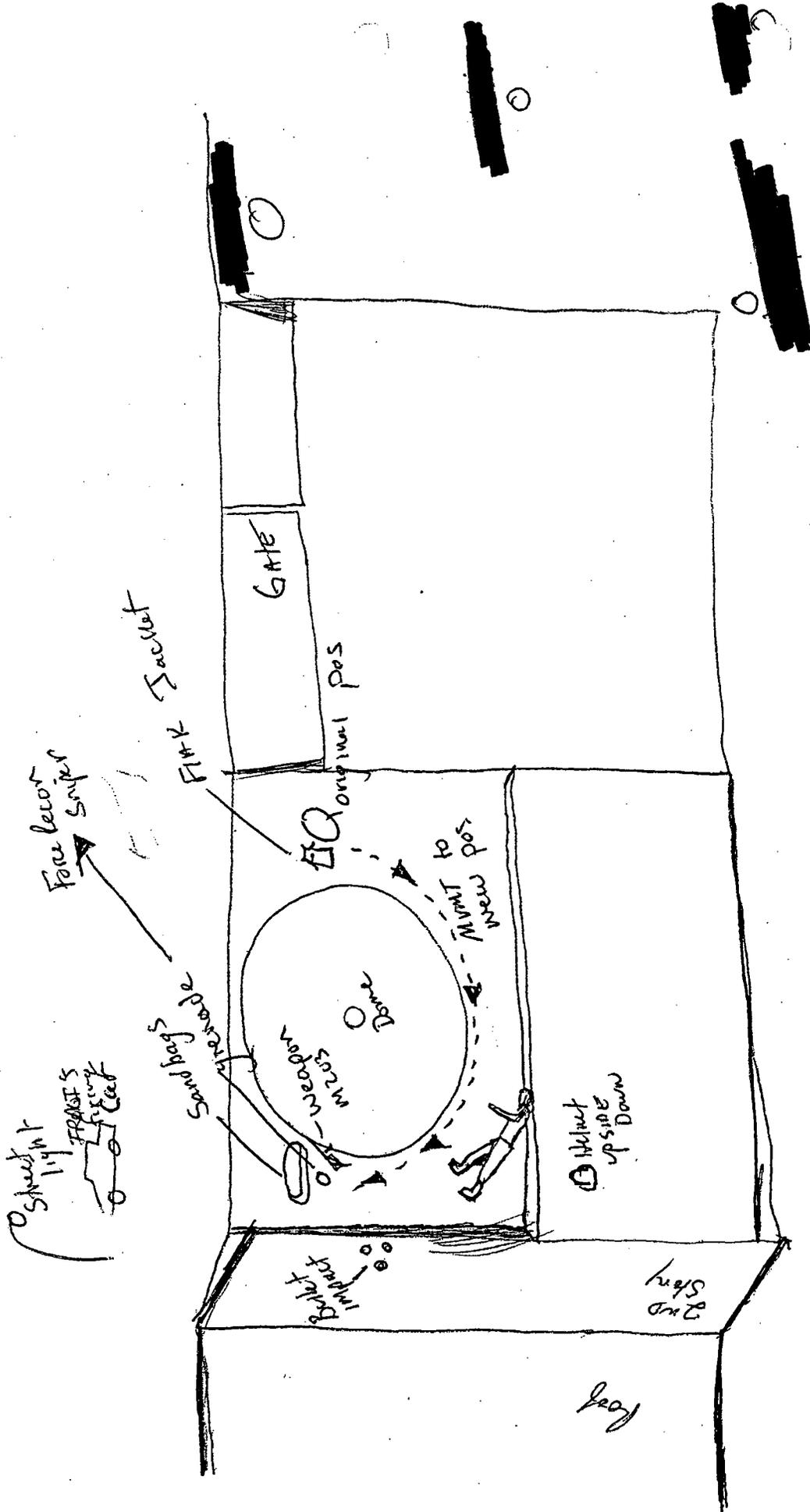
I, [REDACTED] certify that this statement, consisting of five pages, and the attached diagram are true and accurate to the best of my knowledge.

[REDACTED]

Sworn to before me this 30<sup>th</sup> day of September, 2003 at Marine Corps Base, 29 Palms California.

[REDACTED]

Major, USMC  
Deputy Staff Judge Advocate  
1<sup>st</sup> Marine Division (Rein)



ENCLOSURE (26)

Drawn By

[Redacted]

030930

Summary of interview with Corporal [REDACTED]  
Of 6 October 2003

I initially interviewed Cpl [REDACTED] on 30 Sep 03. Based on later interviews, the following additional questions were posed to him:

(1) did Cpl Mileo have his blouse on when you found him?

Yes, he did.

(2) what were the conditions of the sleeves? (all the way down? rolled up? cuffed?)

His sleeves were all the way down, not rolled down or cuffed.

(3) at any point did you remove his blouse? why?

Sergeant [REDACTED] and I did not remove his blouse.

(4) when you saw/found his rifle, which way was the magazine well facing? (toward your position or away from it?)

I remember that the rifle was leaning against the green dome, but I do not recall which way the magazine well was facing.

(5) did you notice any blood on the rifle? if so, where?

I specifically recall that there was no blood on Cpl Mileo's rifle.

Summary of interview with Sgt [REDACTED]  
Of 6 October 2003

I initially interviewed Sgt [REDACTED] on 30 Sep 03. Based on later interviews, the following additional questions were posed to him:

(1) did Cpl Mileo have his blouse on when you found him?

Yes, he did.

(2) what were the conditions of the sleeves? (all the way down? rolled up? cuffed?)

His sleeves were down, but I am not sure if they were cuffed.

(3) at any point did you remove his blouse? why?

Corporal [REDACTED] and I did not remove his blouse. I remember the blouse was on Cpl Mileo's body because we used it to [REDACTED].

(4) when you saw/found his rifle, which way was the magazine well facing? (toward Cpl [REDACTED] position or away from it?)

The rifle was at a right angle to Cpl [REDACTED] position with the magazine well facing towards the snipers position.

(5) did you notice any blood on the rifle? if so, where?

There was no blood on the rifle, but there was blood on Cpl Mileo's glasses.



## UNITED STATES MARINE CORPS

MARINE CORPS SOCOM DETACHMENT ONE  
Box 555301  
Camp Pendleton, California 92055-5301

IN REPLY REFER TO:

1000

S-3/svf

02 Oct 03

From: Captain [REDACTED] 0302, Former 5th Platoon Commander, 1st Force  
Reconnaissance Company, 1st Marine Expeditionary Force

To: Investigating Officer

Subj: STATEMENT CONCERNING THE SNIPER SHOOTING IN BAGHDAD, IRAQ, 14  
APRIL 2003

1. The following statement is submitted to provide background information in regards to the circumstances of the platoon's operations while attached to 3rd Battalion, 4th Marines during the evening of 14 April 2003.
2. Fifth Platoon, 1st Force Reconnaissance Company, had been together for well over two years at the time of the incident. The platoon had conducted a six-month individual schools phase, a six-month reconnaissance skills phase, a six-month Marine Expeditionary Unit (MEU) workup, and a six-month U.S. Western Pacific/Central Command deployment with the 11th MEU (SOC) prior to deploying to Kuwait in support of Operation Enduring/Iraqi Freedom. The Marines were exceptionally well trained, and were operating with solid Standard Operating Procedures (SOPs) that had been established during the long workup periods. Fifth Platoon was the senior platoon in the company. The platoon had conducted a heliborne direct action raid on Safwan Hill, Iraq, at the inception of the war, and had conducted several reconnaissance-in-force and interdiction patrols in support of the 1st Marine Division prior to arriving in Baghdad. Upon arrival in Baghdad, 5th Platoon was attached to Regimental Combat Team 7, who further attached the platoon to 3rd Battalion, 4th Marines for combat operations in the city of Baghdad.
3. The role of the Force Reconnaissance Platoon attached to 3/4 was clearly defined by the Battalion Commander, LtCol. [REDACTED]. His concept of employment was to use the platoon primarily as a reaction force, which would conduct clears of buildings and structures that were cordoned off and secured by elements of the battalion. The infantry companies provided external security as the Force platoon cleared the objective. The platoon had conducted several of these types of raids while attached to 3/4. The platoon also conducted mobile reconnaissance-in-force patrols in order to augment the battalion's efforts to stabilize the city. The platoon was also tasked with augmenting the battalion's defensive perimeter with a sniper/observation post atop the Battalion (BN) Command Post (CP). The purpose of this post was to provide observation and direct fire support (sniper fires) of the battalion defense. The special instructions for the post were clearly defined: provide observation of the area surrounding the BN CP, and engage targets that displayed hostile act or hostile intent in accordance with the standing rules of engagement. The post was instructed to maintain continuous VHF communications with the BN on their

ENCLOSURE (1)

144

Subj: STATEMENT CONCERNING THE SNIPER SHOOTING IN BAGHDAD, IRAQ, 14  
APRIL 2003

tactical radio net (BN TAC). The post stood up nightly upon the platoon's return from the day's operations. I required the post to be maintained by a minimum of two Marines, one of which was required to be a school-trained sniper. The platoon had three resident school trained snipers: Staff Sergeant [REDACTED], Staff Sergeant [REDACTED] and Staff Sergeant [REDACTED]. On the night of 14 April 2003, SSgt [REDACTED], SSgt [REDACTED] and Sgt [REDACTED] were manning the sniper post.

4. Staff Sergeants [REDACTED] and [REDACTED] were both Team Leaders in 5th Platoon, and had been serving in this capacity since the platoon's establishment. Sergeant [REDACTED] was a scout in SSgt [REDACTED] team. Staff Sergeant [REDACTED] performance during the entire time he served with 5th Platoon can be characterized as nothing less than exceptional. He had proven himself to be an absolute master of his profession, a calm, and rational leader of Marines. He served as the Alpha Element Leader during all direct action raids, and was instrumental in the planning, execution, and supervision of all platoon operations. Staff Sergeant [REDACTED] was also a Team Leader within 5th Platoon. His performance during his entire tour with the platoon was equally impressive, and he was a constant source of motivation and drive for the Marines. His personal and professional aptitudes distinguished him as a solid performer in all regards. Sergeant [REDACTED] had been with the platoon for the duration, and his performance was unquestionably reliable. He was a tactical and technical expert, and was also considered a master of his trade. On the night of 14 April 2003, SSgt [REDACTED] was performing duties as the sniper, SSgt [REDACTED] was performing as the spotter, and Sgt [REDACTED] was assisting the two Staff Sergeants.

5. Staff Sgt [REDACTED] was manning an M-40A3 (7.62mm) sniper rifle with a Unertl scope and a SimRad Night vision device mounted on top of the scope. The weapon was zeroed, and all optics were functioning properly. Staff Sgt [REDACTED] was using a myriad of optics and night vision devices to assist SSgt [REDACTED]. I am not certain as to which optic SSgt [REDACTED] was using, but he had an AN/PVS-17B, an AN/PVS-14, an M-40 spotter's scope, and a Viper laser range finder at his disposal. All Marines were equipped with AN/PRC-148 radios for communication, and were also carrying their personal M-4s for security. Sergeant [REDACTED] was monitoring the net (BN TAC) for the sniper/spotter team. VHF communications were clear, as the BN CP was in the same building, and the antenna farm for the CP was adjacent to the sniper/observation post on the rooftop.

6. On the night of 14 April 2003, the platoon was returning from a day of raids and reconnaissance-in-force patrols in the city. I do not recall the specific time; however, I do recall that it was already dark. The BN CP was active, and there was a great deal of activity in the courtyard of the CP area. This was the norm for this battalion, as operations were continuous with multiple friendly patrols and convoys entering and exiting the BN area. As the platoon disembarked the vehicles and began moving to the top floor of the CP building to rest for the night, I gave direction, per the guidance issued by the Commanding Officer of 3rd Bn, 4th Marines, to the Platoon Sergeant, and all Team Leaders to occupy the sniper/observation post and establish communications with the BN CP on BN TAC. The Team Leaders were directed to establish the watch rotation, and they were told that the instructions for the post remained the same: the Rules of Engagement (ROE) remained the same; engagement criteria was positive

ENCLOSURE (11)

264

Subj: STATEMENT CONCERNING THE SNIPER SHOOTING IN BAGHDAD, IRAQ, 14  
APRIL 2003

identification, hostile act, and hostile intent; communications with the BN were to be continuous; and I informed them that I would be located out on the balcony once I completed my coordination with the Bn. These were the last instructions I gave to the Marines occupying the sniper/observation position. I proceeded to meet with the Weapons Company Commander, Captain [REDACTED] as I did each night, to debrief the events of the day, and to coordinate future operations. We discussed operations, and I told him that we would be manning the sniper/observation post and that we would be monitoring BN TAC. We agreed to meet again in the morning to plan out the events of the next day. That was my last contact with the BN prior to the incident. I moved to the top floor, ate some chow and reviewed my maps for a short period. I conferred with the Platoon Sergeant, Gunnery Sergeant [REDACTED] about the sniper/observation post. He informed me that it was established, and that the Team Leaders had established a watch rotation. I had just lain down to get some rest when I was awoken by Sgt [REDACTED] and informed that SSgt [REDACTED] had taken a shot on a target on a rooftop. I immediately moved to the sniper position, and asked the Marines to brief me on the situation. Staff Sgt [REDACTED] was still behind his rifle, looking through his sights. Staff Sgt [REDACTED] was also observing the target area. Staff Sgt [REDACTED] told me that he had taken a single shot on a "Tango" (short verbiage for enemy). He described the target as an Iraqi wearing a flannel type shirt, with the sleeves partially rolled up, manning a weapon on a rooftop approximately 160 meters away. I asked him if he had positive identification, and he said yes, that he had been observing this target for a while, and took the shot when he confirmed the target was carrying a weapon, which he believed was an AK-47, and was a legitimate target. He stated that the target was lying in the shadows of the rooftop of a mosque, had been observing the CP area, was smoking cigarettes, and was sighting in his weapon towards the friendly position. Staff Sgt [REDACTED] confirmed all. The actions of the individual were all painting him as a target. The target was on top of what the Marines believed to be a mosque due to the greenish/blue dome on the roof. Marines did not go into, or on top of mosques without a significant reason. The target was alone. Marines operate, and move in buddy pairs, especially in static type posts. The target was not wearing a flack jacket, a helmet, or any 782 gear, all pieces of equipment that Marines are required to wear at all times, and clearly distinguish Marines from everything else on the battlefield. The target was smoking, an indicative Iraqi trait. The target was manning a weapon that was oriented towards friendly lines. In the minds of this experienced sniper/spotter team, this individual was a legitimate target, and was posing a definite threat to their safety, and to the safety of the Marines they were tasked to defend. In the minds of the sniper/spotter, the engagement criteria had been met, and this target fell well within the parameters of the ROE. Based on the information they had, and their perspective at the time of the incident, these Marines believed their actions were completely justified, and they had no idea that they had just engaged a fellow Marine, a brother. I asked SSgt [REDACTED] if he had contacted Battalion about the shot, he said yes. At this point, the VHF BN TAC net became very active, and Sgt [REDACTED] who was monitoring the net, said that a friendly member of a security patrol had been wounded. I asked SSgts [REDACTED] and [REDACTED] if they had seen any friendly patrols in the area, and they both replied no. They both reported having heard some exchange of what they believed to be small arms fire some distance from the area where they had taken the shot. At this point, the battalion Combat Operations Center (COC) contacted the battalion sniper/observation post, 1 floor below, and the force platoon post on BN TAC, and ordered the posts to cease all fires. Staff Sgt [REDACTED] immediately made his weapon safe, and all Marines on the post observed the rooftop. Approximately 20 minutes after the shot

ENCLOSURE (4)

32-1

Subj: STATEMENT CONCERNING THE SNIPER SHOOTING IN BAGHDAD, IRAQ, 14  
APRIL 2003

was taken, I cannot recall specific times, we observed Marines moving around the target. The Marines were wearing helmets, flack jackets, and 782 gear. Despite the darkness, they were easily distinguished as Marines through night vision. Once the Marines began moving around the target, it become apparent that something was drastically wrong.

7. Upon realizing that the Marines had possibly engaged a fellow Marine, I immediately started moving down towards the BN COC. Captain [REDACTED] met me at the top of the stairs. He stated that there was a possible fratricide incident. I brought him to the post, and had SSgts [REDACTED] describe exactly what had transpired. Shortly after, the battalion Gunner sequestered statements from all involved. The Marines on the post were isolated, and conferred with each other on the specifics of the engagement in order to present accurate facts. I compiled their statements, and mine, and gave all of then to the battalion Gunner. The battalion Executive Officer, Major [REDACTED] immediately began an investigation of the incident.

8. The Marines of the platoon were mortified, especially SSgt [REDACTED]. I was seriously concerned about his mental well being, as this incident had a devastating effect upon him. He was traumatized by the thought of his actions resulting in the death of a fellow Marine. The battalion Commander shared my concern, and we both felt the best remedy would be to immediately begin operating again. After speaking with the Battalion Commander the next morning, the platoon immediately resumed combat operations. Staff Sgt [REDACTED] performed like a true professional, never allowing his haunting conscience to detract from his ability to fight and lead Marines in combat. He was; however, severely troubled and remorseful about the entire incident, as we all are to this day.

9. The events of the night of 14 April 2003 resulted in the death of a fellow warrior. There is no greater pain than the thought of your actions killing a brother in arms. Staff Sgt [REDACTED] and all of us in 5th platoon, have re-lived the events of this tragic night every minute since, to include up to the present day. We have tried to find every possible way to prevent this type of tragedy from ever happening on our watch again. I believe that SSgt [REDACTED], SSgt [REDACTED], and Sgt [REDACTED] did the right thing that night. I believe that the actions they observed on the rooftop, and the methodical manner in which they conducted themselves displays that they were taking all appropriate measures to ensure that they were following the engagement criteria and ROE. I do not believe that this tragedy is a result of any negligence on their part. These Marines made a tactical decision based on the information at hand, and the guidance in the issued ROE. They believed that they were acting in defense of their own lives, and the lives of the Marines in the battalion command post below them. Despite my great sadness and remorse for the Marine that was killed, his family and loved ones, I stand by my Marines. I do not feel they should be punished for their actions. We have all learned a great deal from this, and only hope that what we have learned can save lives in the future.

[REDACTED]

ENCLOSURE (21)

424

\* ALL STATEMENTS WERE HAND WRITTEN. I COLLECTED ALL STATEMENTS FROM SSgt [REDACTED], SSgt [REDACTED], Sgt [REDACTED], AND MY OWN STATEMENT, AND TURNED THEM ALL IN TO THE BATTALION. I HAVE

Interview of Staff Sergeant [REDACTED]  
2 October 2003,  
Marine Corps Air Station, Yuma, Arizona

I am Staff Sergeant [REDACTED] U.S. Marine Corps. I am currently assigned to the Military Free Fall School at the Yuma Proving Grounds, serving as a military free fall instructor. Prior to this assignment I was a Team Leader with 5<sup>th</sup> Platoon, 1<sup>st</sup> Force Reconnaissance Company. This was the billet I held during operations in Iraq during March, April and May of 2003.

My date of birth is [REDACTED], in [REDACTED], [REDACTED]. I graduated from high school in [REDACTED] in [REDACTED]. I enlisted in the Marine Corps in October [REDACTED], and served in 3d Battalion, 4<sup>th</sup> Marines sniper platoon. I attended the basic sniper course in July 1996. I have extensive training and experience in Military Operations in Urban Terrain (MOUT). I have participated in several extensive, urban sniper packages taught aboard Camp Pendleton throughout my career. The most recent one was in 1998. In 2002, the last sniper-specific training I conducted was in Djibouti, Africa where SSgt [REDACTED] and I instructed my platoon and team in sniper techniques and tactics, with approximately 2000 7.62 rounds and approximately 750 .50 cal fired by students. SSgt [REDACTED] and I were the only two trained snipers in the platoon, so during the deployment we gave classes in angle shooting, range estimation, selecting and establishing hides in MOUT environments. Sniper fundamentals are an integral part of training within First Force Reconnaissance Company.

I joined First Force Reconnaissance Company in April 1998, and remained with the unit through August 2003. I spent my entire tour with 5<sup>th</sup> platoon. I participated in two full deployments, including one tour with 11<sup>th</sup> MEU that ended in December 2002, and then turned around and deployed to Kuwait on 10 January 2003 to prepare for operations in Iraq. I have known SSgt [REDACTED] since 1998, as he has been with the Company his entire career. In 2001 he was assigned to 5<sup>th</sup> platoon, and I would say that he is one of my best friends.

During our time in Kuwait, we conducted training, primarily zeroing weapons to include all sniper systems, as well as conducting rehearsals, as well as firing on ranges. Our platoon was training for a direct action mission to take down observation posts located on Safwan Hill during the early stages of the initial assault into Iraq. Safwan Hill was a critical piece of terrain, that gave Iraqi forces the ability to see deep into Kuwait, and would have provided them with early warning of any US offensive operations. My specific role as a sniper was to participate in the direct action portion of the mission, engaging enemy targets on the hill, and then establish an observation post on the hill. In order to do this, I was to fast-rope into position with a .50 caliber sniper rifle (M82A1A S.A.S.R. – special application scoped rifle, manufactured by Barrett in Murfreesboro, TN). The post was supposed to last for at least 48 hours, but due to the rapid advance of Division forces, the OP was only active for about 30 hours. Following this mission, we returned to Kuwait, cleaned our gear and then prepared to re-locate with the forward headquarters.

We relocated into Iraq with the MEF forward, and then were attached to 1<sup>st</sup> Marine Division headquarters, essentially conducting security patrols for about one week. We were subsequently returned to MEF, and then a short time later assigned back to

1<sup>st</sup> Marine Division, then to 7<sup>th</sup> Marine Regiment, and ultimately to 3d Battalion 4<sup>th</sup> Marines. At the time, 3d Battalion 4<sup>th</sup> Marines was conducting operations in Baghdad. I estimate that we were with the battalion for about a week and a half prior to the incident. At this point the battalion occupied three different multi-story buildings that included the Ministry of Water and the Ministry of Finance. Our platoon took up a position on the same building as the battalion command post.

3d Battalion, 4<sup>th</sup> Marines had the platoon conducting Quick Reaction Force (QRF) and direct action missions during the day time and sniper positions during the night time. During the day, the platoon would patrol from eight humvees, tasked out by the battalion commander to assist in clearing areas of the city. We cleared the underground tunnel system below the hospital, approximately one dozen banks, a Ba'ath party headquarters, and a house suspected of enemy activity. At one point we were authorized to enter a mosque, where we located a large weapons cache. The mosque location was similar to the place where the shooting involving Cpl Mileo occurred. The mosque we entered and were given permission to enter also contained a large cache of uniforms.

We also conducted patrols at nights. Sometimes the battalion's patrols required assistance in clearing buildings or areas that exceeded the capabilities of their forces and weapons systems, and we would provide that support.

At this point there were three trained snipers in the platoon; SSgt [REDACTED] SSgt [REDACTED] and myself. We would set up a fire watch rotation (that included all members of the platoon) to provide observation from the rooftop, with one sniper always on call and sleeping nearby on the rooftop. On the night of the incident, it just so happened that SSgt [REDACTED] and I were both awake.

The platoon maintained bivouac positions on the sixth floor of the building occupied by the battalion command post (located to the northeast portion of the compound). The observation post was located just above this floor. There was a ladder on one corner of the building that provided access to the observation post level. Observation was 360 degrees, but at least 50% of our time was spent observing the buildings and areas to the east, since our building was located on the eastern side of the complex. If there were activity or enemy fire to the north, then we would turn our attention in that direction. Our primary responsibility was to protect 3d Battalion, 4<sup>th</sup> Marines.

On the night of the incident SSgt [REDACTED] was armed with an M40A3 sniper rifle that is capable of holding a minute of angle at 100 yards, meaning that it can shoot a one inch group at one hundred yards, a three inch group at 300 yards, a five inch group at 500 yards etc. The M40A3 fires a 7.62mm round and has its own scope that provides 10-power magnification. It was also equipped a SIMRAD night scope, which attaches directly to the scope and basically turns night into day. As the spotter, I used an ANVPS 17-C night vision device. This is a very powerful night vision scope, designed for mounting on heavy automatic weapons. Instead, we used it in place of binoculars, since it combined magnification and night-vision capability. We also had a laser range finder, which we used to take measurements between our position and possible targets and areas under observation. I recall that the range to the target we observed that night was 145 yards, with an azimuth of 62 degrees. Sgt [REDACTED] was also on the rooftop at the time, but I believe he was sleeping on a couch there at the time.

Under the rules of engagement in effect at the time, if we felt threatened, then we could engage. In addition, I understood that nothing could negate our right to protect ourselves and our Marines. Specifically, hostile actions or hostile intent, things like someone pointing a weapon toward me or shooting at me; using any type of munition towards me. In this particular case, I observed the weapon and it was pointed directly back toward our position on the rooftop; I feared for myself and the Marines in our building. I distinctly observed him getting in and out of his sights, essentially aiming in our direction.

From the best of my knowledge, we spent the day clearing banks. Those operations concluded early in the afternoon. We had some time to rest and get food before assuming the observation post at around 1730 Zulu. I recall speaking to one of the battalion's designated marksman who was occupying the same side of our building. He only mentioned enemy activity, with nothing mentioned about friendly patrols. Previously we had been briefed on specific patrols, but that did not occur on this evening.

Communications were via VHF radio with the battalion command post located below us in the building. We conducted hourly radio checks with the Bn as per SOP. I shared the responsibility for manning the radio. There were no problems communicating with the battalion operations center, and in fact our position was co-located with the battalion antennae farm.

Lighting conditions were best on the east side of the building (the side of the building we were on) because it was closest to the residential areas. I would say that visibility was unlimited. Our position was out in the open, using the wall as cover; we did not have any other cover or concealment. I don't recall if there were shadows cast on our position. We were not making efforts to obscure our position, and in fact, our presence served as a deterrent at times. I don't recall if there was moonlight, but I would say that our night vision optics were operating at 100% of their potential capability.

I picked up on the unknown target initially based on movement. The first time I laid eyes on him he was behind his weapon, pointed in the direction of our building and position. He must have moved into position without my knowledge. At nighttime, most of the people on the streets were bad guys. I picked him up and observed him for a long time. He was occupying a position on a mosque. A day prior we had observed the same location, due to suspected enemy activity. At this point he appeared to be prone or kneeling, definitely in a low-profile position. I don't recall whether there were shadows on him or his position, but with our night vision devices we could periodically view him from his waist up. It appeared that he had a flannel shirt on, and with sleeves partially rolled up. During this time I watched him over a period of 20 to 25 minutes, going in and out of his sights, and intermittently smoking cigarettes. I observed him smoking in his position, and recalled observing the cigarette through the night vision goggles. The cigarette would appear to glow brighter and return to its normal level of glow, which seemed to correspond with the inhalation of smoke. At times he would push up his torso, and look down the alleyway in both directions, which gave me a chance to see more of his torso and upper body. I was also able to identify the full barrel of a weapon, which was pointed head on in my direction. I observed this unknown more than SSGt [REDACTED] did. I had the more powerfull night vision scope

We did not notify the battalion of our observations, because we were not required to. If we reported on everything we observed, we would have been on the radio the entire time. Enemy was now ranging from uniformed Iraqis to extremist dressed as civilians wanting to kill Americans.

Once I observed the possible target, I told SSgt [REDACTED] what I had witnessed. At night you are looking for movement, observing everything. From my perspective, it appeared that the target was using a prepared, stable position with what looked like sandbags. SSgt [REDACTED] was already oriented to the east, observing the area through the scope on his rifle.

Through our conversations, we both agreed that this was an unknown, behind a weapon, demonstrating hostile action and intent back toward our position and the buildings occupied by our Marines.

Sometime during this observation, there was a firefight off to the southeast of our position that drew our attention. Firefights like that were common and normal. The thought crossed my mind that the person on the rooftop may have been part of that firefight. We could not totally observe the firefight because of the trees in front of our position.

I returned to observe the unknown on the roof near the mosque. I do not recall whether I maintained constant observation of him during this time, or if my attention was diverted away between the time of the firefight and when SSgt [REDACTED] engaged the target. Due to his shifting his position, by slight angle shifts we could confirm that he was indeed, holding a firearm pointed in our direction. I could not tell from that distance through the optics whether it was an M-16 or an AK-47. Up until that point, it was all an assumption that he had a weapon. In order for us to take a shot, we need 100% confirmation that he was armed. Once he turned the weapon and began to stand, we both agreed that he was armed and a threat to us, so SSgt [REDACTED] shot him. As I recall, he was still facing toward us when he was shot, he didn't have a chance to move and was very much in his original position. I don't recall where the weapon was located when the shot was taken. SSgt [REDACTED] fired one shot from the rifle.

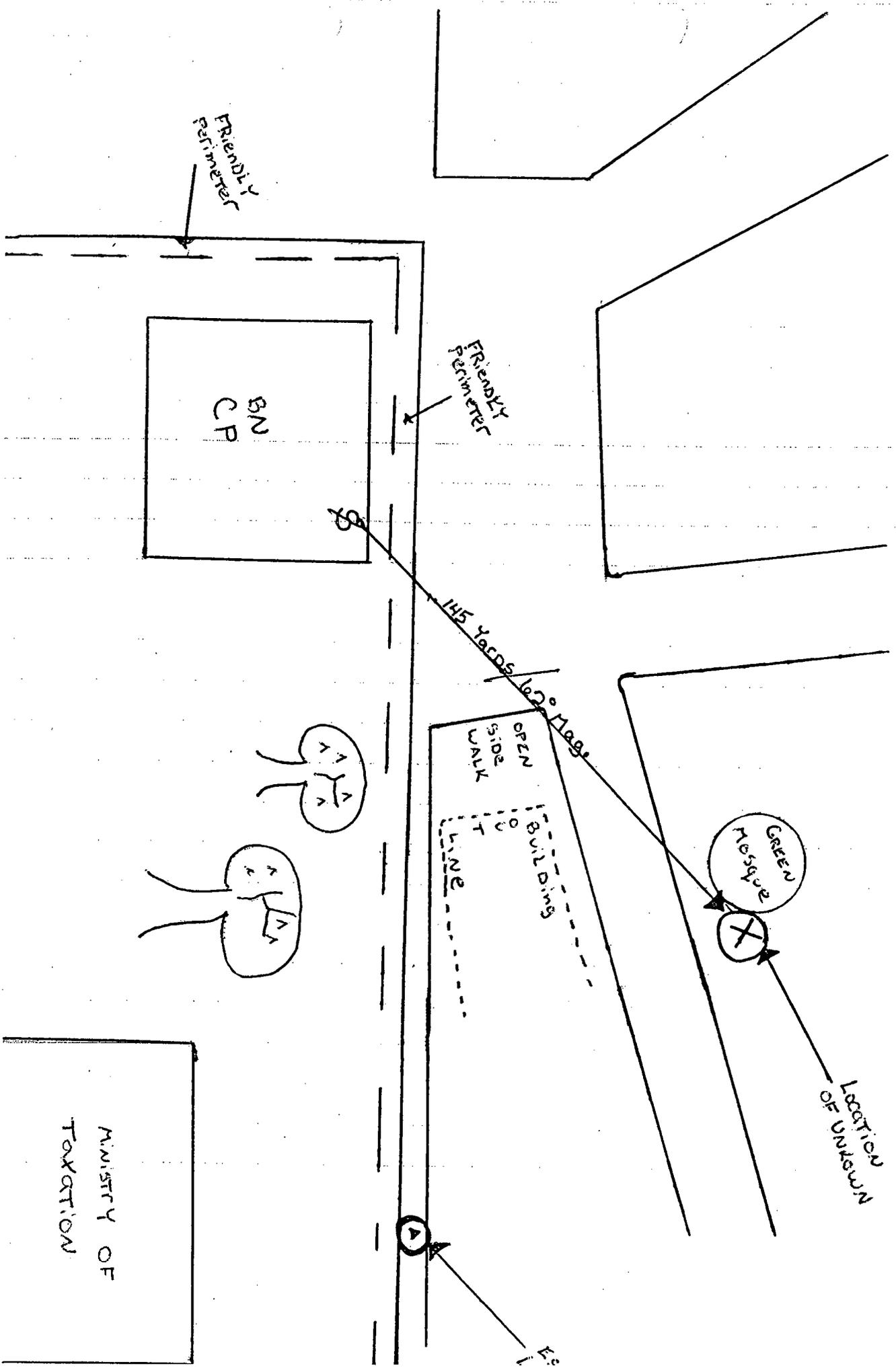
The Bn policy as passed directly from the Bn Sgt Major was that no Marine would be out of his flak jacket and Kevlar. This was to be the uniform even behind friendly lines. The ONLY time a Marine was to remove his flak jacket and Kevlar was indoors behind safed guarded walls within friendly lines. Those rules were enforced to all, including the Force Reconnaissance Marines. No one was exempt. This rule was strictly enforced to all Marines, daily.

The unknown that I observed was in enemy territory clearly not wearing any type of U.S. military gear. He was not wearing a Kevlar (which can easily be identified through the 17-C at 145 yards). He was not wearing a flak jacket (which can easily be identified through the 17-C at 145 yards). He appeared to have the sleeves rolled up once or twice on his shirt.

Right after the shot, I continued to observe the location but saw no sign of the target. He was no longer in sight. I was observing for any sign of motion or any indications that a follow-through shot would be required. I believe we informed our platoon commander, Captain [REDACTED] that we took the shot. We heard radio traffic that a friendly had been



SSgt [REDACTED] OCT 21 2003



Friendly Perimeter

Friendly Perimeter

BN CP

145 YARDS 162° MAG

OPEN SIDE WALK

BUILDING LINE

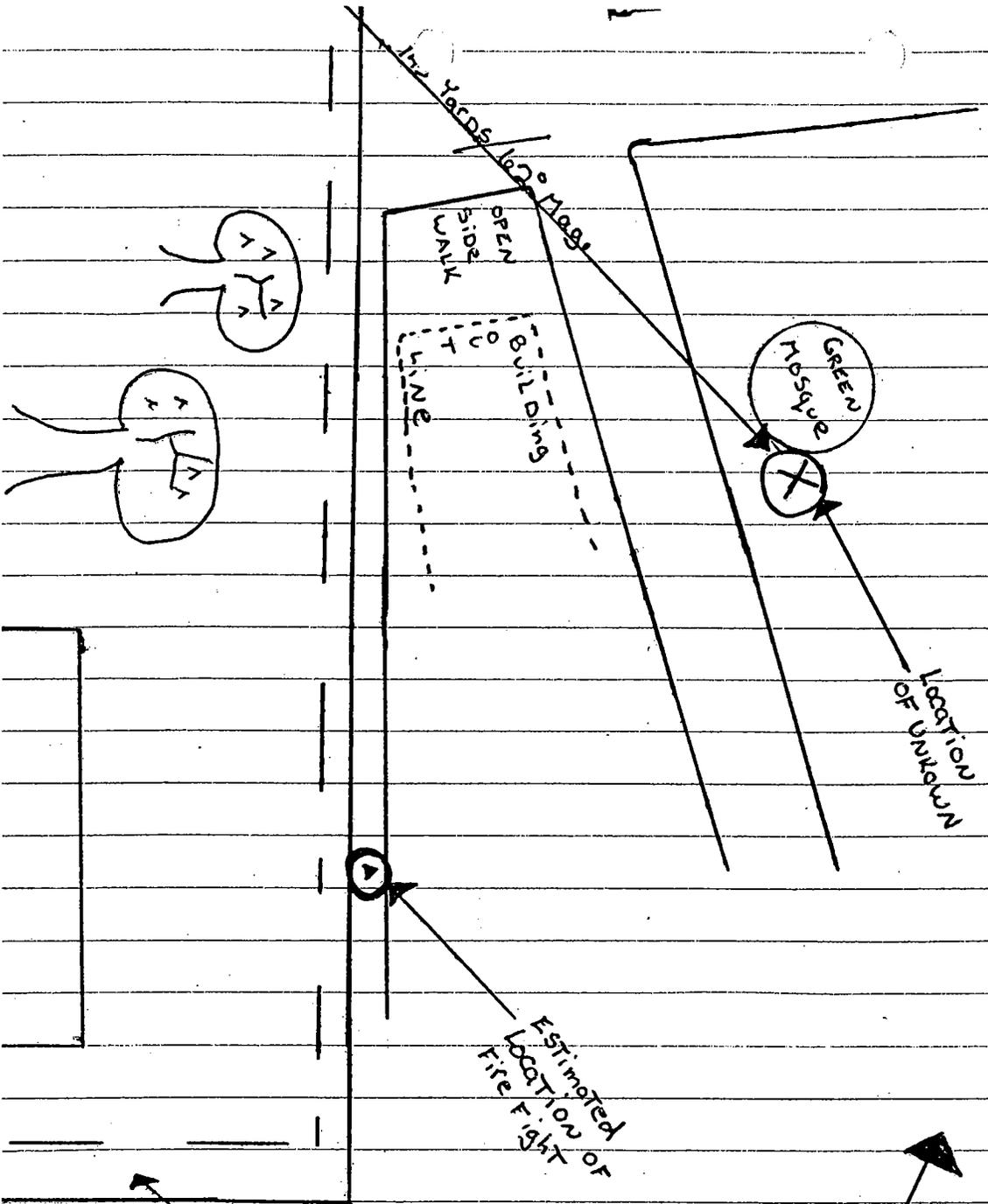
GREEN MESSAGE

LOCATION OF CURSE

MINISTRY OF TAXATION

1 E

OCT 21 2003



FRIENDLY PERIMETER

ENCLOSURE (3)

# Enclosure 31

Individual's Service  
School/Special Skills  
Record

(1 page)

withheld under Privacy  
Act/FOIA exemption 6

Interview of Staff Sergeant [REDACTED]  
3 & 6 October 2003, Camp Pendleton, California

I, Staff Sergeant [REDACTED] graduated high school in [REDACTED] from [REDACTED] HS in [REDACTED]. My birth date is [REDACTED]. I joined the Marine Corps in February [REDACTED]. I went to boot camp at MCRD, San Diego; Infantry Training School at Camp Pendleton; I graduated as an 0351 from ITS. I was stationed in Hawaii with "G" company, 2d Battalion 3d Marines (2/3), weapons platoon. I took the "A" company, 3d Recon battalion indoctrination course in the summer of 1988. While at A Co, 3d Recon Battalion I went to Amphibious Recon School and Navy Dive School. Just before the Gulf War I received orders to 1st Force Reconnaissance Company in 1990, went to jump school, then to war with 8th Platoon, 1st Force Recon Company.

After coming back from the Gulf War, I went to the Division's Sniper School in 1991. After sniper school I was put in 6th Platoon, 1st Force Recon Company and started my first Special Operations Training Group (SOTG) shooting package. I also attended the SOTG Reconnaissance and Surveillance package, the urban sniper package and explosive breacher package, all before our next West Pac deployment in 1992. I also went to military freefall school with 6th platoon. I did the West Pac deployment, and then went from 6th platoon to 2nd platoon, where I picked up my first team. While with 2nd platoon I went to the static line jump master course. I also completed another series of SOTG courses, including the shooting package, urban sniper, and breacher courses prior to conducting another West Pac in 1994 off the coast of Somalia.

Upon returning from the West Pac, I went to the Drill Field from 1995-1997. After the tour on the drill field, I went back to 1st Force Recon Company, went through a divorce and ended up working in the Dive Locker for two years. In 2000 I finally got back into a platoon. While assigned to 5th platoon I went to military freefall jumpmaster school, high risk personnel course (HRP), Survive, Evade, Resist and Escape (S.E.R.E.) school, and another SOTG shooting package. My job was once again the freefall team leader and the "A" element team leader for 5th platoon direct action missions. I deployed with 5th platoon on West Pac in 2002, returning in December 2002, and deployed with 5th platoon to Kuwait in January 2003 for the Iraq war. Upon returning from the war, I received orders to I MEF, SOTG where I am currently working.

I first joined 5th platoon late in 2000. I was designated as the freefall team leader. I attended the High Risk Personnel training school, dive supervisor and SERE school during the individual training cycle. From the individual training cycle we went into the 1st Force Recon Company "company training cycle". We conducted an advanced communications package, advanced airborne package, patrolling package, High Altitude High Opening parachute package, and weapons and tactics package. My issued weapons included the MEUSOC .45 pistol, Colt M-4 carbine, and M40A1 and M40A3 sniper rifles, M-203 and M-79. After the Company workup we started the SOTG close quarter battle (CQB) package, consisting of surgical shooting with the M-4 carbine and MEUSOC .45. During the shooting package I shot the M40A3 sniper rifle every chance I got. After the shooting package we conducted Inter-operations training with the 11th MEU, then TRUE training (Training in Real Urban Environment), and at sea missions including Visit, Board Search and Seizure of ships (VBSS) and Gas & Oil Platform (GOPLAT) takedowns. Finally, the MEU SOC certification exercise with the 11th MEU. I was the "A" element leader for all of the Direct Action missions. During this time

frame of the company and SOTG training I conducted approximately 30 freefall jumps all with combat equipment, 20 static line jumps with combat equipment, to include jumps into unmarked drop zones. I also conducted approximate 25 to 30 closed circuit dive operations, five-three day recon patrols, to include mountain, desert and urban patrols, as well as one swim insert with the M40A3 sniper rifle. I have also patrolled with the M40A3 and M40A1 rifles on several patrols throughout the company and SOTG work ups. During the Company and SOTG workups, I fired approximately 10,000 rounds of 5.56, 1000 rounds of .45, and at least 200 to 300 sniper rounds prior to going out on float. I also shot at civilian long-range tactical matches on the weekends during the workup. After all of the work ups were complete, I went on float in June 2002. During the float I gave my team and others in the platoon classes on the sniper systems, to include how to zero and maintain the weapon, as well as the ballistics of the 7.62mm (.308) round. 5th platoon spent several months in Djibouti, Africa. During that time my team spent a week on our own conducting team training, to include two days of sniper rifle shooting. I shot approximately 200 rounds through the M40A3, firing on targets out to 1200 yards in the day and 400 yards at night. We also shot the M82A3 .50 cal Special Application Scoped Rifle (SASR). During this time we cross-trained with Army Special Forces shooters (ODA-513) to include live fire immediate action drills.

Upon returning home from West Pac in December 2002, 5th platoon redeployed to Kuwait with 1st Force Recon in January of 2003. Once in Kuwait we started training immediately. For the first month in country we conducted live-fire training with all weapons systems to include all the sniper rifles. We zeroed all the sniper rifles day and night, including the SIMRAD night vision for the M40A3s. The SIMRAD mounts onto the top of the existing scope. 5th platoon got the word we had a Reconnaissance mission, which turned out to be a Direct Action Counter-Reconnaissance raid, to be conducted eight hours before the MEF crossed the line of departure. We were to fast rope in and conduct the mission. We did approximately five to seven rehearsals with the CH-46 helicopters day and night, in full combat gear. When the war finally kicked off we conducted our raid. The first attempt was unsuccessful, the pilots could not land so we aborted and we went back to Kuwait. Our objective was Safwan Hill, the only hill on the Kuwait/Iraq border, approximately 400 feet high overlooking the I MEF staging area. General ██████ said go back, this time the pilots got us in. We were on the hill for approximately 30 hours, with no resistance. My job was to set all of the teams into the defense and clear the north side of the hill, the defense to include a sniper position, manned by SSgt ██████ with the M823A3. We extracted back to Commando Camp in Kuwait. The next day 1st Force Recon Company convoyed up to the MEF main in Iraq. Once into Iraq we linked up with MEF main and immediately started doing mobile Reconnaissance/security patrols along the main supply routes (MSRs) to interdict the attacks on our supply lines. After several days with the MEF we detached and were attached to the Division, located outside Ad Diwaniyah, where we conducted more of the recon/security patrols. After several days we were called back to the MEF, went back to Camp Chesty in An Numaniyah. From Camp Chesty we were reattached to the Division in Baghdad. 5th platoon was attached to Regimental Combat Team-7, then finally to 3d Battalion, 4th Marines in downtown Baghdad. 3/4 occupied a compound with three high-rise buildings encircled by an approximately 10-foot high block wall. 5th platoon set up a bivouac on the sixth floor.

While with 3/4, we had to follow their Standing Operating Procedures, which I believe was also the Division SOP. At no time were we to have facial hair as not to be confused

with the enemy, and Marines were to have all combat gear on their bodies at all times, to include helmet, flak jacket, deuce gear. The only time you could take it off was when you were in a hardened HQ building. No one was to enter or occupy a mosque. The ROE at the time was if any Marine felt he or others around him were in danger and the enemy showed hostile intent the target was to be engaged, positive identification (positive ID) had to be met.

While with 3/4 we were the Quick Reaction Force (QRF) during the day and overwatch at night. During the day in approximately seven to ten days we conducted several clearing missions to include tunnels under Hospital City, several banks, Ba'ath party headquarters, and made entry into a mosque courtyard. We did not enter the mosque, but in the courtyard we found an enemy weapons cache and mortar position. We found this mosque after clearing the Republican Guard headquarters, where we found their main map room. Upon entering the Republican Guard building an Iraqi man ran (rabbitted) out the back of the building and ran into the mosque, which is how we found the weapons cache. This is how we knew that the Iraqis were using mosques for hostile activity.

At night we occupied the sniper position on top of 3/4's building, on the eastern side of the roof. A couple of days prior to the shooting one of the 3/4 Marines was shot point-blank by an Iraqi man. The night before the shooting a Marine from 3/4 shot an Iraqi man who was trying to climb the wall into the compound. Every night there was gunfire all around us, with tracers being shot up in the air at least 50 meters in front of us. Some of the shots fired were from suppressed weapons, we could see the tracer's right in front of us, but could not hear the shots. Several of the buildings in the vicinity of the CP were on fire and there was smoke and ash in the air, one of the buildings on fire was a high rise right next to the CP Compound.

On the night of the shooting at approximately 1730Z, SSgt [REDACTED] and I occupied the sniper position on top of 3/4's CP. I was armed with my M40A3 sniper rifle with SIMRAD night vision. SSgt [REDACTED] the spotter had the PVS-17C (4X) night vision scope, and we had communications via a PRC-148 to the Battalion HQ on Battalion Tactical net.

Upon arriving at our pos we had been observing from for the past three nights, we met another observation team of designated marksmen. We had discussed the enemy situation in the AO, nothing was mentioned of any friendly patrols in the AO. At approximately 1830Z SSgt [REDACTED] spotted an unknown male on top of one of the buildings that was a mosque at 62 degrees and 145 yards from our position. We observed him for about 20 to 30 minutes; the unknown was wearing no military gear and was smoking. We observed him hiding behind a sand bag barricade with his upper torso showing. During this time the unknown kept on leaning over his gun and kept moving around, he would be sitting one minute the next minute he would be kneeling, then he would looking over the building he was on, leaning over the sandbags. At approximately 18:50Z a gunfight started in the alley in between the sniper position and the unknown, but the gunfight was obscured by some trees so no individuals could be seen clearly. The gunfight was approximately 100 yards from our position. Once the gunfight was over, we turned our attention back to the unknown on the mosque. We observed the unknown for approximately ten minutes more minutes before I took the shot. SSgt [REDACTED] and I confirmed with each other that he was showing hostile intent so I took the shot, as I was squeezing the trigger he started to move, so I decided not to take a head shot, but to take a

torso shot instead, with a better probability of getting a hit on a moving target at night. After I squeezed off the shot, he jumped or dove rearward, like he had been startled. He did not take his gun with him. I continued to observe for a follow up shot, but he never appeared again.

Major [REDACTED] provided the following typed questions (in bold); my answers are typed in all capital letters:

**Operations:**

- (1) **When did your platoon join the battalion?** 8/9 APRIL, NOT SURE OF THE EXACT DAY
- (2) **what was the battalion doing during this phase of the conflict?** ACTIVELY CONDUCTING COMBAT PATROLS, AND ENGAGING THE ENEMY.
- (3) **what was your platoon doing while assigned to the battalion?** WE WERE ACTING AS A QUICK REACTION FORCE DURING THE DAY. WHEN WE WEREN'T PATROLLING AT NIGHT WE MANNED A SNIPER OVERWATCH, OBSERVATION POST.
- (4) **What if anything did the platoon do that day?** 5TH PLATOON CONDUCTED A COMBAT PATROL AND RAID
- (5) **What did you do that day?** I WAS WITH MY PLATOON ACTING AS THE ALPHA ELEMENT LEADER
- (6) **How much sleep did you get the night before?** 5-6 HOURS
- (7) **What time did you assume the sniper post?** 17:30 ZULU TIME
- (8) **Describe the post:**
  - a. **What kind of cover and concealment did you have?** WE DID NOT SET A SNIPER HIDE, PART OF US BEING THERE WAS A DETERRENT
  - b. **What were the lighting conditions like on the roof?** NO LIGHT
  - c. **Did you make efforts to conceal your location and position?** NO, THERE WAS A 2-3 FOOT LEDGE ALL ALONG THE PERIMETER OF THE BUILDING THAT WE USED FOR COVER.
  - d. **Who else was on post with you that evening?** SSGT [REDACTED], SGT [REDACTED] AND A 3RD BN OBSERVATION TEAM WITH A DESIGNATED MARKSMEN
  - e. **What kind of equipment and weapons did you have on hand that night?**
    - i. Rifle; M40A3
    - ii. Optics; SIMRAD, PVS-17C
  - f. **Communications**
    - i. **What kind of radios did you have?** PRC-148
    - ii. **Who were you talking to on those radios?** BN TAC
  - g. **Describe your position and posture**
    - i. **Sitting, kneeling, standing, prone etc** KNEELING
- (9) **Rules of Engagement**
  - a. **What were your ROE that evening?** HOSTILE INTENT / HOSTILE ACT, POSITIVE ID
  - b. **Who briefed you on the ROE?** CAPT [REDACTED]

- c. **Were there any special instructions?** TO PROVIDE OVERWATCH AND ENGAGE IN ACCORDANCE WITH THE ROE. WE WERE ALSO TO MAINTAIN COMMS WITH BN HQ.
- (10) **What were the enemy and friendly situations that evening?** WE UNDERSTOOD THE GENERAL FRIENDLY SITUATION, BUT WE WERE NEVER BRIEFED ON THE SPECIFIC ACTIONS OR INTENTIONS OF THE LOCAL SECURITY PATROLS,
- a. **Were you briefed about any friendly operations prior to posting or while on post?** NO

Incident:

- (1) **How did you become aware of the individual?** THE SPOTTER FIRST SAW HIM
- (2) **What did you notice about him?**
  - a. **Activity?** HE WAS HIDING BEHIND A SANDBAG BARRICADE. AT ONE POINT HE WAS SMOKING
  - b. **Position (standing, kneeling, crawling, sitting, walking, running etc)** THE UNKNOWN AT THE TIME WAS A MOVING TARGET, HE WAS CONSTANTLY FIDGETING, FROM THE SITTING TO THE KNEELING, LEANING OVER THE SANDBAG BARRICADE LOOKING OVER THE EDGE OF THE BUILDING, BACK TO THE KNEELING, TURNING FROM SIDE TO SIDE.
  - c. **Weapon?** AT THE TIME, IT APPEARED TO BE AN AK-47.
  - d. **Clothing/uniform** HE HAD NO MILITARY GEAR ON. NO HELMET, FLACK JACKET, OR 782 GEAR. HIS SLEEVES WERE PARTLY ROLLED UP AND WERE A LIGHTER COLOR THAN THE REST OF HIS CLOTHS.
  - e. **Describe the position/location that he occupied**
    - i. **Buildings nearby?** THE BUILDINGS SEEMED TO ALL CONNECT TOGETHER IN GROUPS WITH ALLEYS SEPARATING THE GROUPS, SLUM TYPE OF NEIGHBORHOOD
    - ii. **Lighting of the area?** SOME OF THE BUILDINGS HAD AN OUTSIDE LIGHT, BUT NOT MANY; NO STREET LIGHTS.
    - iii. **Was he in the shadow? In the light? In the open? Partially hidden?** HE WAS IN THE SHADOWS, BEHIND A SANDBAG BARRICADE.
- (3) **What was he doing while you observed him?** MOVING AROUND AND OBSERVING THE AREA AND AIMING IN WITH HIS WEAPON.
- (4) **What was he doing with the weapon?**
  - a. **Where was the weapon pointed?** HE WAS POINTING HIS WEAPON TOWARD 3RD BN CP BUILDING AND SURROUNDING AREA.
  - b. **Were you concerned about his behavior?** HE WAS HIDING AND HE WAS BY HIMSELF, HE LOOKED LIKE AN IRAQI, WHERE HIS POSITION WAS HE HAD A CLEAR VANTAGE POINT OF WHERE THAT DAY AND DAYS PRIOR MARINES HAD BEEN PATROLLING, HE ALSO HAD A CLEAR VANTAGE POINT OF 3RD BN CP BUILDING, HE COULD HAVE SHOT MANY MARINES.

- c. **What were you worried/concerned about?** THAT HE WAS GOING TO SHOOT THE FIRST MARINE HE SAW, THE NIGHT BEFORE A MARINE FROM 3RD BN SHOT AN IRAQI TRYING TO CLIMB THE WALL AND GET INTO 3RD BN PERIMETER AND SEVERAL DAYS EARLIER A MARINE WAS SHOT BY AN IRAQI IN THE AO, I ACTED IN THE BEST INTEREST OF THE MARINES I WAS PROTECTING
- d. **Did you ever notice him set down the weapon**
- i. **If so, where did he put it?**
  - ii. **For how long?**
  - iii. **Why?**  
HE WAS CONSTANTLY MOVING HIS WEAPON, AT TIMES HE WOULD CARRY IT, SOMETIMES HE WOULD HAVE HIS WEAPON SET UP ON THE SANDBAGS AS IN A SHOOTING POSITION AND AIMING IN ON THE SURROUNDINGS , AT TIMES HE WOULD SET IT UP NEXT TO HIMSELF, SOMETIMES HE WOULD LAY ON HIS WEAPON AS IT WAS SET UP ON THE SANDBAGS.
- (5) **How long did you observe him for?** APPROXIMATELY 40 MINUTES
- (6) **What was he doing during this time?** CONSTANTLY FIDGETING
- (7) **Did he ever move out of that position/location?** HE SHIFTED CONSTANTLY, BUT DID NOT MOVE OUT OF THE GENERAL AREA DURING OUR OBSERVATION.
- a. **Did he ever stand up, crawl, walk, run from position etc?** HE WAS CONSTANTLY MOVING AROUND, HE WOULD MOVE FROM THE KNEELING TO THE SITTING, SITTING TO THE KNEELING; MOVE TO LOOK OVER THE EDGE OF THE BUILDING, TURN AND LOOK BEHIND HIM, LEAN OVER THE SANDBAGS. HE WAS A MOVING TARGET, HE NEVER SAT STILL ENOUGH TO TAKE A HEAD SHOT, THAT IS WHY I MADE A DECISION TO MAKE A TORSO SHOT.
  - b. **If so, where did he go?**
  - c. **What did he do?**
  - d. **What did he do with the weapon?**  
HE WAS CONSTANTLY MOVING HIS WEAPON, AT TIMES HE WOULD CARRY IT, SOMETIMES HE WOULD HAVE HIS WEAPON SET UP ON THE SANDBAGS, AS IN A SHOOING POSITION AND AIMING IN ON THE SURROUNDINGS , AT TIMES HE WOULD SET IT UP NEXT TO HIMSELF, SOMETIMES HE WOULD LAY ON HIS WEAPON AS IT WAS SET UP ON THE SANDBAGS.
- (8) **Did you observe him continuously, or did you divert your observation at all?** A FIRE FIGHT ERUPTED IT THE ALLY IN-BETWEEN THE UNKNOWN AND THE 3RD BN PERIMETER WALL.
- (9) **If you diverted your attention, why?**
- a. **What got your attention?** THE FIRE FIGHT

- b. **How long did you focus in the other area?** APPROXIMATELY 15 MINUTES, I COULD NOT SEE CLEARLY, AS THERE WAS A GROUP OF PALM TREES OBSTRUCTING MY VIEW. TRACERS WERE SHOT UP OVER OUR POSITION.
- (10) **What happened next?**
- a. **What was the individual doing?** AFTER THE FIRE FIGHT WAS OVER WE TURNED OUR ATTENTION BACK TO THE UNKNOWN AND HE WAS STILL HIDING BEHIND THE SANDBAGS, CONTINUING HIS SUSPICIOUS AND THREATENING BEHAVIOR.
- (11) **Did you ever notify the battalion, to tell them what you saw?** NOT UNTIL AFTER I TOOK THE SHOT.
- a. **Why or why not?** I FELT THAT THE TARGET MET THE ROE AND ENGAGEMENT CRITERIA, I NOTIFIED MY CHAIN OF COMMAND AS SOON AS I TOOK THE SHOT. I TOOK THE SHOT BECAUSE I FELT I WAS ACTING IN DEFENSE OF ALL THE MARINES IN THE CP AREA.
- (12) **Did you have any concerns about your safety?** YES, TRACERS WERE BEING SHOT AS CLOSE AS 50 METERS FROM OUR POSITION, AND THE UNKNOWN WAS AIMING HIS WEAPON TOWARDS THE FRIENDLY POSITION. I PERCEIVED HIM AS A DIRECT THREAT.
- (13) **Were you worried/concerned about anyone else's safety?** YES I WAS CONCERNED FOR ALL MARINES' SAFETY IN THE WHOLE AO, HE HAD A CLEAR VANTAGE POINT OF THE ALLEYS AROUND HIM AND THE 3RD BN CP BUILDING
- (14) **What was threatening about this individual?** HE LOOKED LIKE AN IRAQI AND THAT HE WAS WEARING NO MILITARY GEAR HIDING BEHIND A SANDBAG BARRAGE, AIMING HIS WEAPON TOWARD THE 3RD BN CP BUILDING.
- (15) **What did he do next?** CONTINUED HIS SUSPICIOUS AND THREATENING BEHAVIOR
- (16) **Why did you shoot?** SSGT ██████████ AND I BOTH AGREED THAT HE WAS SHOWING HOSTILE INTENT, WE BELIEVED HE WOULD SHOOT THE FIRST MARINE THAT HE SAW, SO HE WAS ENGAGED
- a. **When did you shoot?** WHEN I HAD A CLEAR TORSO SHOT. I DID NOT TAKE A HEAD SHOT BECAUSE HE WAS MOVING TOO MUCH.
- b. **What was he doing when you shot?** HE WAS TURNING, HE WAS A MOVING TARGET
- c. **How was he positioned when you shot?** HE WAS IN MOVEMENT, HE WAS TURNING.
- d. **What direction was he facing when you shot?** HE WAS TURNING AROUND; I SHOT HIM IN MID MOVEMENT.
- e. **Where was his weapon when you shot?** ON THE SANDBAG BARRICADE
- i. **Where was it facing/pointed?** AFTER THE SHOT HE KIND OF JUMPED OR DOVE BACK, BACK I'M NOT REALLY SURE WHAT HE DID, BUT I KNOW HE DID NOT TAKE HIS GUN WITH HIM.
- (17) **What happened after you shot him?** HE JUMPED OR DOVE BACKWARD

- a. What did you do? I KEPT EYES ON THE SCENE FOR A FOLLOW UP SHOT, HE NEVER APPEARED AGAIN.
- b. What did SSgt [REDACTED] do? KEPT OBSERVING THE AREA
- c. Did you notify anyone?
  - i. Who? SGT [REDACTED]
  - ii. Why? TO INFORM CAPT [REDACTED]
  - iii. What did you report? THAT WE HAD JUST ENGAGED AN ENEMY TARGET
- d. What else was going on around you? NOTHING FOR ABOUT 15 MINUTES, UNTIL WE HEARD THAT A FRIENDLY HAD BEEN SHOT, WE WERE STILL POSITIVE THAT I SHOT AN IRAQI.
- e. What was going on with the battalion? I'M NOT SURE WHAT THE BN WAS DOING

(18) What happened next? I WAS ASKED TO MAKE A STATEMENT

(19) When did you make a statement? SHORTLY AFTER THE INCIDENT

- a. Who asked for the statement? BN GUNNER
- b. Did you review anything or talk to anyone before making the statement? I DIDN'T SAY MUCH TO ANYONE AFTER I HEARD IT WAS A FRIENDLY, I FELT TO SICK.
- c. Who did you talk to? SSGT [REDACTED], SGT [REDACTED], CAPT [REDACTED] BN GUNNER
- d. What did you talk about? I COULDN'T BELIEVE THAT I SHOT A FRIENDLY.

(20) Is there anything else you would like to add? I STAND BEHIND MY ACTIONS, EVERYTHING THAT HE DID MADE HIMSELF LOOK LIKE A HOSTILE IRAQI, AND I WOULD HAVE TAKEN THE SHOT AGAIN. I STILL HAVE PROBLEMS SLEEPING OVER THE INCIDENT EVERY TIME I THINK OF THAT NIGHT I FEEL SICK, I SHOT A FRIENDLY AND I WILL NEVER GET OVER IT, THERE ISN'T A DAY I DON'T THINK ABOUT CPL MILEO AND HOW I WISH I COULD CHANGE WHAT HAPPENED.

I swear that the preceding 8 typed pages and diagram are true and accurate to the best of my knowledge. I had an opportunity to read the statement, making corrections, additions and subtractions prior to signing it.

[REDACTED]

Sworn to before me this 6th day of October, 2003 at Marine Corps Base, Camp Pendleton, California.

[REDACTED]

Major, USMC  
Deputy Staff Judge Advocate  
1st Marine Division (Rein)

SSgt

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