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FOUO TABLE OF CONTENTS

	PAGE
A. <u>DA FORM 1574</u>	
B. <u>APPOINTMENT MEMO</u>	
C. <u>INTRODUCTION</u>	iii
Background and Organization	iii
Constraints and Limitations	iv
Process	vi
D. <u>EXECUTIVE SUMMARY</u>	1
Reporting	1
Training and Command Climate	19

**SECTION I
Reporting**

<u>Facts and Observations</u>	24
Reporting Requirements	24
Actual Reporting	27
<u>Analysis</u>	45
Timely, Accurate, and Complete Reporting	45
Appropriateness of Follow-on Action	47
Obstacles to Reporting and Appropriate Follow-on Action	55
<u>Findings</u>	61
<u>Recommendations</u>	65

UNCLASSIFIED
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i

15 June 2006 (Final) 000001

Bargewell Discovery
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FOUO

**SECTION II
Training and Command Climate**

	PAGE
<u>Analysis</u>	68
Question #1	68
Question #2	73
Question #3	76
Question #4	80
<u>Findings</u>	86
<u>Recommendations</u>	88

E. ENCLOSURES

A-J

UNCLASSIFIED

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ii

FOUO

15 June 2006 (Final)

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Bargewell Discovery

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UNCLASSIFIED

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INTRODUCTION

(U) Background and Organization

1. (U) On 19 March 2006, I was appointed by Lieutenant General Peter W. Chiarelli to conduct an informal Army Regulation (AR) 15-6 investigation into two areas related to the circumstances surrounding the patrol from Company K, 3d Battalion, 1st Marines that was subject to an Improvised Explosive Device (IED) and small arms fire (SAF) attack in Haditha, Iraq on 19 November 2005. First, I was to examine the **official reporting** of the events of 19 November 2005 at all levels of command up to MNC-I and resulting follow-on actions. Second, I was to review the **training** the Marines received in the rules of engagement (ROE), the law of armed conflict (LOAC), and examine whether the command climate encouraged the disciplined application of ROE and LOAC.

~~(U)~~ Summary of Investigations Undertaken:

- a. (U) On 14 February 2006, Lieutenant General Chiarelli directed Colonel G.A. Watt, USA, to conduct an AR 15-6 investigation [Watt investigation] into the underlying events surrounding the killing of noncombatants in Haditha, Iraq on 19 November 2005. My appointing order specified that I incorporate the basic factual account and findings of the Watt investigation into my investigation, but did not limit me to its findings.
- b. (U) On about 11 March 2006, after being briefed on the findings of the Watt investigation, Lieutenant General Chiarelli forwarded a copy of the investigation to Major General R.C. Zilmer, Commanding General, MNF-W, for review and disposition as appropriate based on Watt's recommendation for further criminal investigation.
- c. (U) On 12 March 2006, Major General Zilmer directed two independent, but concurrent, investigations at the MNF-W level involving different aspects of the Haditha incident. Major General Zilmer first directed the Naval Criminal Investigative Service (NCIS) to determine if any criminal misconduct had been committed. He also directed a separate administrative investigation under the Navy JAG Manual to examine and evaluate reporting from the squad level through and including MNF-W for accuracy, consistency and compliance with applicable regulations and policy.
- d. (U) When it became apparent that there would be some overlap between this investigation and the JAG Manual investigation that Major General Zilmer had appointed, Lieutenant General Chiarelli directed that the JAG Manual investigation on reporting be incorporated into this investigation. Because the JAG Manual investigation was underway when I was appointed, I directed the MNF-W investigators to continue with their interviews and evidence collection. At the same time, I directed another team of officers to begin interviews and evidence collection focused on the training of LOAC, ROE, and house clearing, and the command climate relative to the disciplined application of ROE and LOAC. While sharing

UNCLASSIFIED

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iii

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15 June 2006 (Final)

000003

Bargewell Discovery

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UNCLASSIFIED

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information throughout, the two investigative teams conducted their inquiries and analysis and drafted their portions of the report separately.

e. (U) As our investigation proceeded parallel to the NCIS investigation, it became apparent that NCIS had information relevant to our investigation. We acquired that information and incorporated it as necessary. More details addressing our interaction with NCIS are discussed below in the Limitations sections.

2. (U) In the interest of logical flow and clarity, I have divided this report into two sections that stand almost as separate reports. Section I addresses the reporting of the incident and follow-on actions. Section II addresses training on LOAC, ROE, house clearing, as well as command climate relative to the concepts of LOAC and ROE.

(U) Constraints and Limitations

1. (U) **Constraints.** Factors that impacted the complete collection of evidence and the effective and productive interrogation of witnesses included: (1) time elapsed since the date of the incident; (2) the location and availability of witnesses due to individual and unit redeployment; (3) the location and availability of documentary evidence due to intervening or imminent turnover of authority at virtually every level of command to include the complete elimination of one level of command (2d Marine Division) between the time of the incident and the time of the investigation;¹ (4) communications and data constraints associated with the deployed environment; (5) the fact that prior [see Enclosure (1)] and simultaneous investigations into the same incident had been or were being conducted; and (6) restrictions on my authority to interview the three star (former) MNC-I Commander based on a provision in AR 15-6 that prohibits investigating officers from investigating the conduct of senior officers.²

2. (U) **Limitations**

a. (U) At the outset of this investigation, the state of the evidence on the underlying events indicated that the Iraqi civilian casualties suffered near the intersection of Routes Chestnut and Viper in Haditha on 19 November 2005, were caused by a negligent or, at worst, reckless application of the ROE by Marines from Company K, 3/1. Our appointing order did not direct us to examine the killings themselves. The Watt investigation had made preliminary findings on those events and directly led to an NCIS investigation –which was in progress at the time of our inquiry [see enclosure (1)]. Therefore, we intentionally did not closely examine the events that had resulted in the deaths of the Iraqi civilians, except as those events impacted the issues we were directed to investigate.

¹On 31 January 2006, MNF-W completed a planned reorganization in anticipation of the 28 February 2006 Transfer of Authority (TOA) to I Marine Expeditionary Force (I MEF). The reorganization absorbed the 2d Marine Division headquarters staff into the MNF-W Command Element and, as a general rule, the 2d Marine Division staff assumed MNF-W principal staff billets with the original staff members of MNF-W redeploying to CONUS.

²As the investigation progressed, it became apparent that the higher echelon commanders, above MNF-W, needed to be interviewed to include the former MNC-I Commander. Once that became apparent, I determined our team would investigate through to the fullest permissible levels of command then recommend a senior ranking officer finish interviewing the remaining chain of command.

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b. (U) Nevertheless, logic dictated that we adopt some account of the underlying events at least as a starting point for our investigation. Moreover, as noted above, my appointing order specified that the investigation incorporate the basic factual account and findings of the Watt investigation, but did not limit us to its findings. Accordingly, the investigation teams proceeded to collect evidence and interview witnesses based on the presumption (rather than a firm assumption) that the underlying events had occurred essentially as they had been described in the Watt investigation. As our interviews proceeded, we found nothing that tended to significantly rebut the presumption with which we started. The witnesses we interviewed appeared credible and forthright and where their statements touched on the underlying event, they were consistent with Colonel Watt's findings.

c. (U) On or about 10 April 2006, upon our return to Iraq after concluding interviews in the United States, we began to receive information from NCIS indicating that the presumption about the underlying events which we proceeded on may have been inaccurate. The Watt investigation had found that noncombatants had not been deliberately targeted, engaged or killed. Forensic and testimonial evidence subsequently uncovered by NCIS, including incriminating statements from participants that were inconsistent with their prior statements, indicated that at least some of the killings may have been deliberate LOAC violations.

d. (U) NCIS provided other evidence that indicated that two participants in the killings talked with each other about fabricating their accounts of the incident. NCIS also confirmed the existence of photographs taken soon after the killings that we had tried, without success, to find during our evidence collection. Upon viewing some of the photographs, we were convinced that they were at least relevant to reporting and follow-on actions because we thought anyone viewing the pictures would be compelled to question the account of the killings that had been officially reported and conclude that further reporting and investigation was essential.

e. (U) When we first received this information from NCIS, we were forced to re-examine our investigative approach, our preliminary analysis, and our findings to determine whether they were flawed due to our working presumption about the underlying facts. We also had to evaluate the evidence of conspiracy to fabricate accounts of the killings at the squad level and incorporate the implications of the photographs into our analysis. In early June 2006 as our report was being finalized, we received the last of this new information from NCIS in the form of numerous statements and documents representing the evidence they had compiled from 13 March 2006 through about 5 June 2006. We continued to re-examine our analysis and findings in light of the evolving evidence.

f. (U) In the end, we concluded that our investigative process was not fatally flawed and found that the newly provided NCIS evidence did not tend to impeach our overall findings with respect to reporting and follow-on actions or with respect to training. In short, our investigation indicated that the reporting of the incident was untimely, inaccurate, and incomplete and that the follow-on actions were less than appropriate. We recognized from the outset that a possible inference was that the deficiencies in reporting and follow-on action were, at least in part, the result of a criminal attempt to cover-up the incident. Our interviews disclosed no evidence of a criminal cover-up. As noted, NCIS did uncover evidence that certain squad members coordinated false stories on specific aspects of the incident; however, the preponderance of the

v

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15 June 2006 (Final)

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evidence shows that the overall deficiencies in reporting and follow-on action –while sometimes perplexing –were not the result of an extensive and orchestrated criminal cover-up throughout the chain of command. We have incorporated evidence contained in NCIS witness statements into our report where appropriate.

(U) Process

1. (U) **Reporting.** Colonel Richard Connell made a preliminary visit to Haditha Dam from 14-16 March 2006. Colonel Connell and Colonel John Ewers returned to Haditha Dam from 18-20 March 2006 and continued interviews of 3/1 personnel at Al Asad on 20 March 2006. In addition, interviews were conducted by Colonel Connell, Colonel Ewers, and me at Camp Lejeune, North Carolina on 31 March 2006, 3 and 4 April 2006, at Quantico, Virginia on 5 April 2006 and at Fort Bragg, North Carolina on 4 and 6 April 2006. For the first few interviews, the process used was an interview, followed by a written statement produced by the witness, followed by written questions, as necessary, and answers, all submitted and sworn to by the witnesses. Beginning on 19 March 2006, the reporting team began to memorialize the witness statements by using court reporters to record and transcribe sworn interviews. Article 31, Uniform Code of Military Justice (UCMJ), warnings were given to witnesses if we deemed them warranted. Documentary evidence was collected from various sources: electronically through websites, emails and archive searches; witnesses and other sources provided hard copies of some documents.
2. (U) **Training.** Colonel Joel Himsel and Lieutenant Colonel Richard Grant went to Al Asad, Iraq on 24 March 2006 to conduct interviews of the personnel in 3d Battalion, 1st Marines (3/1) that were involved in the combat operations on 19 November 2005. Because of the on-going NCIS criminal investigation, we were asked not to interview certain personnel so as not to compromise their investigation. In the alternative, NCIS was provided a list of questions pertaining to training to ask these individuals. The investigation methodology was to look at ROE, LOAC, positive identification (PID) and Military Operations in Urbanized Terrain (MOUT) training at each level of the USMC training continuum. We reviewed the institutional level training for individual Marines, individual and collective training conducted at home station, specific pre-deployment training in preparation for deployment to Iraq, training conducted en-route to Iraq, and training while deployed in Iraq. Finally, we examined the command climate in the Battalion as it relates to encouraging the disciplined application of ROE and LOAC.

Eldon A. Bargewell
ELDON A. BARGEWELL
Major General, USA

UNCLASSIFIED FOUO

vi
SECRET//NOFORN

15 June 2006 (Final)

000006

Bargewell Discovery
00009

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EXECUTIVE SUMMARY

Reporting

(U) Timeline Summary

1. (U) At about 0716 local time, Saturday, 19 November 2005, a patrol from Company K, 3d Battalion, 1st Marines (3/1), mounted in High Mobility Multi-purpose Wheeled Vehicles (HMMWVs), was struck by an improvised explosive device (IED) and received some small arms fire (SAF) near the intersection of Routes Chestnut and Viper in Haditha, Iraq. The patrol suffered one Friendly Killed in Action (FKIA) and two Friendly Wounded in Action (FWIA) as a result of the IED attack. No Iraqi civilians were killed or injured by the IED attack. During the actions taken by the patrol in response to the attack, at least 24³ Iraqi civilians were killed near the IED site.⁴
2. (U) The attack at Chestnut and Viper was the start of a sequence of engagements, possibly representing coordinated insurgent attacks, which moved rapidly to other parts of the city.⁵ Company K was involved throughout that sequence and 19 November 2005 became the single largest engagement 3/1 experienced during their deployment.
3. (U) The Iraqi civilian deaths from Chestnut and Viper were first electronically reported by 3/1 Battalion Combat Operations Center (COC) journal entry (JEN) spot report submitted via email to Regimental Combat Team 2 (RCT-2) at approximately 2400 on 19 November 2005.⁶

³ There has been some uncertainty about the total number of Iraqi deaths resulting from this incident. At the Haditha hospital, Colonel Watt was provided 26 death certificates from 19 November 2005 which listed the cause of death as bullets wounds or a similar traumatic injury. He was able to match only 23 names from the death certificates to those reported killed at the Chestnut and Viper incident. See Enclosure (1): Colonel Watt AR 15-6 Investigation Report of 3/1 Marine 19 November 2005 Haditha Complex Attack of 3 Mar 2006 with enclosures, [hereinafter: Watt Investigation]. Based on Colonel Watt's number, and on the number reported to us by the Human Exploitation Team (HET) NCO, Sergeant Laughner, who had fully inspected and photographed the bodies, we initially used the number "23." Evidence uncovered in the subsequent NCIS investigation connected an additional name from the death certificates to the Chestnut and Viper incident. During the NCIS investigation, Sergeant Laughner, Human Exploitation Team NCO, upon reviewing the photographs stated that he had counted incorrectly and that there were 24 deaths. Thus, based on all the documents and evidence gathered as of 15 June 2006, it is our understanding that 24 Iraqis were killed on 19 November 2005 at the Chestnut and Viper incident. It is unknown if the remaining two decedents on the two outstanding death certificates are connected to this or any incident on 19 November 2005.

⁴ See Enclosure (1): Watt Investigation. Note that enclosures are generally numbered in the order in which they appear in the report. However, some of the documents from the on-going NCIS investigation cited as enclosures were not numbered in the sequence that they appear in the report. This departure from traditional practice was to distinguish documentation gathered by the investigative team from evidence received later from NCIS.

⁵ See Enclosure (1): Watt Investigation. Since early 2005, insurgent and foreign fighter cells, including AQIZ, had established the Triad area (Haditha, Barwana, Haqlaniyah) as a stopover and safe haven between the western Iraqi border and points east, such as Baghdad, Ramadi, and Mosul. Based on this situation, in October 2005, MNF-W conducted Operation River Gate which re-introduced a Coalition Forces (CF) presence into the three cities. Many insurgents fled to outlying areas, but simple and complex attacks within the Triad against CF continued.

⁶ See Enclosure (2): 3d Battalion, 1st Marines Journal Entries of 19-20 November 2005, [hereinafter: 3/1 JENs] and Enclosure (154): Statement to NCIS of Major S.H. Carrasco of 31 May 2006, [hereinafter: Carrasco NCIS Statement].

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RCT-2 forwarded the substance of the report, with some variation, to 2d Marine Division at 0101 local on 20 November 2005.⁷

4. (U) During the eight or so hours after the RCT-2 report was sent, a significant event (SIGEVENT) report of the incident including "15 Neutrals Killed in Action (NKIA)" was forwarded from 2d Marine Division to MNF-W; from MNF-W to Multi-National Corps-Iraq (MNC-I); and from MNC-I to Multi-National Force-Iraq (MNF-I). The report was posted on the MNF-I Automated Spot Report Data event tracker at about 0857 local on 20 November 2005.⁸

5. (U) At about 1015 on 20 November 2005, 2d Marine Division approved a press release stating: "A U.S. Marine and 15 Iraqi civilians were killed yesterday from the blast of a roadside bomb. Immediately following the bombing, gunmen attacked the convoy with small arms fire. Iraqi Army soldiers and Marines returned fire killing eight insurgents and wounding another."⁹

6. (U) On about 22 December 2005, a Commander's Emergency Response Program (CERP) condolence payment was paid to a lawyer representing the families of the fifteen dead Iraqis and two injured Iraqi children in the amount of \$38,000.00: \$2500.00 for each death and \$250.00 each for the two injured children.¹⁰ In addition, between 26 and 28 December 2005, a total of \$3000.00 was paid for damage to houses caused by the Marines' clearing operations.¹¹

7. (U) On 24 January 2006, Time Reporter Tim McGirk contacted the MNF-W Public Affairs Officer (PAO) and provided an email account of the 19 November 2005 Haditha incident containing allegations of deliberate and wrongful killings by the Marines. The email was forwarded to the 2d Marine Division PAO, who provided a hard copy of the email to the Division Chief of Staff (COS). McGirk and the 2d Marine Division staff tried unsuccessfully to arrange a visit that would embed McGirk with 3/1 to follow up on the allegations.¹²

⁷ See Enclosure (3): Regimental Combat Team-2 Daily Staff Journal of 19-20 November 2005, [hereinafter: RCT-2 JENs].

⁸ See Enclosure (4): 2d Marine Division Significant Events Journal Entry, [hereinafter: Division SIGEVENT]; Enclosure (5): Extract from MNF-W Significant Events Journal of 19 November 2005, [hereinafter: MNF-W SIGEVENT]; Enclosure (6): Fusion Net Entry posting of 19-11-2005 14:58, [hereinafter: MNC-I Fusion Net Entry]; Enclosure (7): MNF-I Spot Report (CIDNE) of 190430Z November 2005, [hereinafter: MNF-I Spot Report].

⁹ See Enclosure (8): 2d Marine Division Press Release #05-141 of 20 November 2005, [hereinafter: Press Release].

¹⁰ See Enclosure (9): Email traffic 20 Nov 05 to 21 Dec 05 between Major D. Hyatt, CAG Team Leader, Lieutenant Colonel J. Chessani, et al. [hereinafter: CERP Email String.]; Enclosure (10): Statement of Major D. Hyatt, Civil Affairs Group Team Leader, Haditha, [hereinafter: Hyatt Statement].

¹¹ See Enclosure (155): Statement to NCIS of Major D.G. Hyatt of 16 March 2006, [hereinafter: Hyatt NCIS Statement]. Enclosure (155): Hyatt NCIS Statement includes a government payment voucher indicating that \$2500.00 was paid on 26 December 2005 and \$500.00 was paid on 28 December 2005. Both payments were for property damage.

¹² See Enclosure (11): Email traffic 24 Jan 2006 between Major N.F. Murphy, MNF-W (II MEF (Fwd)) PAO, Captain J. Pool, 2d Marine Division PAO, and Mr. Tim McGirk Time Magazine, [hereinafter: Pool-McGirk Email Exchange]; Enclosure (12): Statement of Captain J.S. Pool, Public Affairs Officer, 2d Marine Division, [hereinafter: Pool Statement]; Enclosure (13): Statement of Colonel G. Sokoloski, Chief of Staff, 2d Marine Division, [hereinafter: Sokoloski Statement].

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8. (U) On 10 February 2006, Mr. McGirk presented his allegations to the MNC-I Command Public Information Center (CPIC) Director who reported the allegations to MNC-I.¹³ On 12 February 2006, the MNC-I Commander sent an email to the Division Commander (who had assumed authority as MNF-W Commander on 31 January 2006) inquiring as to the validity of Mr. McGirk's allegations.¹⁴ On 12 February 2006, the Division Commander forwarded to the MNC-I Commander an email from the 3/1 Commander (which addressed the allegations) and a 3/1 PowerPoint event rollup of 19 November 2005 events. The PowerPoint event rollup did not mention civilian casualties.¹⁵ The Division Commander advised the MNC-I Commander that the email response from the 3/1 Commander and the PowerPoint event rollup constituted the extent of the investigation conducted and advised that additional investigation was unnecessary.¹⁶

9. (U) On 14 February 2006, the MNC-I Commander directed Colonel G.A. Watt to conduct an AR 15-6 investigation into the incident.¹⁷ In his 3 March 2006 report, Colonel Watt concluded that there had been no intentional targeting of noncombatants; that overall, throughout the entire engagement, Marines had attempted to distinguish combatants from noncombatants; that the force used was proportional, and that the Marines provided adequate medical care to non-coalition force casualties. His investigation also determined that the insurgents had violated the LOAC essentially by using homes occupied by noncombatants to attack the Marines. Colonel Watt, however, did conclude that Marines had failed to comply with the ROE in that they had failed to positively identify (PID) targets as legitimate before engaging, resulting in the death of noncombatants. As a result, Colonel Watt recommended further investigation by the Criminal Investigations Division (CID) or NCIS.¹⁸

(U) Facts and Observations

1. (U) Reporting Requirements

a. (S) An MNF-I Commander's Critical Information Requirement (CCIR) required immediate reporting of events resulting in significant (at least three killed or seven injured) civilian casualties.¹⁹ MNC-I, MNF-W, and 2d Marine Division had corresponding CCIRs, though MNF-W and 2d Marine Division CCIRs were not entirely consistent with the MNF-I and MNC-I CCIRs.²⁰ Once the criteria for the CCIRs were met, units were required to submit

¹³ See Enclosure (14): LTC B.A. Johnson, CPIC Director, Memorandum for the Record (Subj: Allegations of Deliberate Civilian Casualties in Haditha, 19NOV05), [hereinafter: CPIC Memo].

¹⁴ See Enclosure (15): Email traffic between MajGen R.A. Huck, LTGEN P.W. Chiarelli, et al. 12 Feb 2006 - 14 Feb 2006, [hereinafter: Huck-Chiarelli Email Exchange].

¹⁵ See Enclosure (15): Huck-Chiarelli Email Exchange.

¹⁶ See Enclosure (15): Huck-Chiarelli Email Exchange and Enclosure (16): 3/1 Event Roll-up (slides) 19 November 2005, [hereinafter: Event Roll-up].

¹⁷ See Enclosure (15): Huck-Chiarelli Email Exchange.

¹⁸ See Enclosure (1): Watt Investigation.

¹⁹ See Enclosure (17): Tab A to Appendix 6 to Annex C of MNF-I Framework Operations Order of 1 November 2005, [hereinafter: MNF-I CCIRs].

²⁰ See Enclosure (17): MNF-I CCIRs; Enclosure (18): MNC-I FRAGO 192 [28 Jul 05 DTU] consolidated and updated MNC-I CCIRs, superseding information published in OpOrd 05-02 and FRAGO 050 to the MNC-I OpOrd 05-02, [hereinafter: MNC-I CCIRs]; Enclosure (19): MNF-W (II MEF) FRAGO 452-05 DTG 202100D AUG 05 (Revision to Commander's Standing Information Requirements and Commander's Standing Notification Events),

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immediate spot reports to higher headquarters by the most expeditious means possible.²¹ The required content was: who, what, how, when, and where. Reports were also to include the potential effect on current operations, continuing actions (being taken), and assistance required.²² Other reporting requirements were also mandated by this event: a CCIR for events that generated or might generate media interest and the requirement for a report (and investigation) of a possible, suspected or alleged LOAC violation.²³

b. (U) From the Battalion level through the MNF-I level there was also a daily reporting requirement that was satisfied by the submission of an Intentions Message (IM) (3/1, RCT-2, and 2d Marine Division level to MNF-W), a SITREP (MNF-W to MNC-I and MNC-I to MNF-I) and a Battle Update Assessment (MNC-I to MNF-I and MNF-I staff level). There was no specific requirement to include events which met CCIR criteria in any of these daily reports, but CCIR events were normally included in daily reporting.²⁴

2. (U) Actual Reporting

a. (U) Squad to Company level. The initial SITREPs, passed via tactical radio by 1st Squad, 3d Platoon to the Company K COC immediately following the attack, provided basic information. Thereafter, the source, content, and sequence of reporting, especially as it related to Battle Damage Assessment (BDA), including enemy KIA and noncombatant deaths, could not be determined.²⁵

[hereinafter: MNF-W CCIRs]; Enclosure (20): 2d Marine Division CCIRs of 14 Oct 2005, provided by the Division G-3, [hereinafter: Division CCIRs].

¶²¹ See Enclosure (20): Division CCIRs.

¶²² See Enclosure (30): 2d Marine Division FRAGO 0011-05, DTG 262243C Mar 2005 and attachment (2d Marine Division Significant Events (SIGEVENT) Reporting Standards, [hereinafter: Division Reporting Standards].

¶²³ See Enclosure (27): I MEF (Fwd) SJA Information Paper LOAC Violation Reporting, [hereinafter: SJA LOAC paper and attachments].

¶²⁴ See Enclosure (28): FRAGO 363 [10 MAR 05 DTU] to MNC-I OPORD 05-01. Task One, Revised Commander's SITREP for Daily Reports, [hereinafter: MNC-I Revised SITREP FRAGO] and Enclosure (29): MNF-W FRAGO 166-05 of 21 Apr 2005 (MNF-W Reports Matrix w/Attachment), [hereinafter: MNF-W Reports Matrix]. See, also, Enclosure (31): Maj R. Walker, MNF-I STRATOPS (CHOPS) Battle Major Email on 29 Apr 2006 (CCIR Roll-up compilation), [hereinafter: Walker email].

¶²⁵ See Enclosure (32): Statement of Lance Corporal T.A. Graviss, 1st Squad, 3d Platoon, K Company, [hereinafter: Graviss Statement]; Enclosure (33): Lance Corporal Graviss Statement extracted from Watt Investigation, [hereinafter: Graviss Watt Statement]; Enclosure (34): Statement of Corporal H.R. Salinas, 1st Squad, 3d Platoon, K Company, [hereinafter: Salinas Statement]; Enclosure (35): Statement of Staff Sergeant F.D. Wuterich, 1st Squad, 3d Platoon, K Company, [hereinafter: Wuterich Statement]; Enclosure (36): Sergeant Wuterich Statement extracted from Watt Investigation, [hereinafter: Wuterich Watt Statement]; Enclosure (37): Statement of 2d Lieutenant W.T. Kallop, 3d Platoon Commander, Company K, 3d Battalion, 1st Marines, [hereinafter: Kallop Statement]; Enclosure (38): 2d Lieutenant Kallop Statement extracted from Watt Investigation, [hereinafter: Kallop Watt Statement]; Enclosure (39): Statement of Corporal J.F. Sanchez, 3d Squad, 3d Platoon, Company K, 3d Battalion, 1st Marines, [hereinafter: Sanchez Statement]; Enclosure (40): Corporal J.F. Sanchez Statement extracted from Watt Investigation, [hereinafter: Sanchez Watt Statement]; Enclosure (41): Statement of Lance Corporal R. Rodriguez, 3d Squad, 3d Platoon, Company K, 3d Battalion, 1st Marines, [hereinafter: Rodriguez Statement]; Enclosure (42): Lance Corporal Rodriguez Statement extracted from Watt Investigation, [hereinafter: Rodriguez Watt Statement]; Statement to NCIS of Corporal P.E. Garcia of 1 June 2006, [hereinafter: Garcia NCIS Statement]; Enclosure (157): Statement to NCIS of Lance Corporal C.C. Bass of 25 May 2006, [hereinafter: Bass NCIS Statement]; Enclosure (162): Statement to NCIS of Corporal W.J. Andrae of 13 May 2006, [hereinafter: Andrae NCIS Statement]; Enclosure (163): Statement to NCIS of Lance Corporal S.A. Gyldenvand of 16 May 2006, [hereinafter: Gyldenvand

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b. (U) Company to Battalion. At an unknown time "eight (8) EKIA" were reported to the 3/1 COC, but the basis for that report could not be identified. The numbers "eight EKIA and seven NKIA" were also reported to 3/1. The Company COC was chaotic throughout the day. Evidence of command and control beyond maneuvering squad level elements was scant. There were indications of failure to adhere to basic standard reporting procedures. Documentation of reports received from the IED site or submitted to higher headquarters was non-existent. Company K's 19 November 2005 radio log showed no entries between the hours of 0633-1153 and there were no entries made in the watch log all day. Photographs taken by at least five individuals, which included two sets of official photographs, were not forwarded to the Battalion.²⁶ Archived chat records were unavailable. There was no record of accounting or verification of weapons reportedly seized or of the number of EKIA or civilians killed.²⁷ As a result, it could not be determined what information was passed from the Company to the Battalion as to a final count of the number of civilian casualties.

c. (S) Battalion to Regimental Combat Team-2 (RCT-2). Communications between 3/1 and RCT-2 were ongoing throughout the day, including several phone conversations between operations officers. Electronic reports in the form of Journal Entries (JENs) authored by the 3/1 Watch Officer communicated to RCT-2 the following information:

"At 190716C Nov 05, A K/3/1 mounted patrol was struck by a complex attack at the intersection of GRG Rt Chestnut and Viper at 38S KC 5844 7944. The IED struck the 4th vehicle in the convoy (a D1158 high back HMMWV Lvl II A MAK armor) immediately followed by SAF from the north and the south. There was (1) FKIA, (1) Urgent FWIA, (1) Priority FWIA, (5) EKIA and (1) EWIA from the ensuing TIC.

NCIS Statement]; Enclosure (161): Statement to NCIS of Lance Corporal Prentice of 12 May 2006, [hereinafter: Prentice NCIS Statement].

¶²⁶ Enclosure (43): Statement of Sergeant J.M. Laughner, Human Exploitation Team NCO, 3d Battalion, 1st Marines, [hereinafter: Laughner Statement]; Enclosure (180): Statement to NCIS of 1st Lt A. A. Grayson of 5 June 2006, [hereinafter: Grayson NCIS Statement]; Enclosure (44): Statement of Lance Corporal R.R. Briones, Company K, 3d Battalion, 1st Marines, [hereinafter: Briones Statement]; Enclosure (45): Lance Corporal Briones Statement extracted from Watt Investigation, [hereinafter: Briones Watt Statement]; Enclosure (46): Statement of Captain L.M. McConnell, Company K, 3d Battalion, 1st Marines, [hereinafter: McConnell Statement]; Enclosure (47): Captain McConnell Statement extracted from Watt Investigation, [hereinafter: McConnell Watt Statement]; Enclosure (48): Statement of Corporal G.A. Mefford, Company K, 3d Battalion, 1st Marines, [hereinafter: Mefford Statement]; Enclosure (49): Statement of 1st Lieutenant A.P. Mathes, Company K, 3d Battalion, 1st Marines, [hereinafter: Mathes Statement]; Enclosure (50): Statement of Staff Sergeant T.M. Fields, Watch Officer, Company K, 3d Battalion, 1st Marines, [hereinafter: Fields Statement]; Enclosure (51): Statement of 1st Lieutenant M.D. Frank, Company K, 3d Battalion, 1st Marines, [hereinafter: Frank Statement]; Enclosure (158): Statement to NCIS of Lance Corporal A.A. Wright of 22 March 2006, [hereinafter: Wright NCIS Statement]; Enclosure (159): Statement to NCIS of Staff Sergeant T.J. Diamond of 5 June 2006, [hereinafter: Diamond NCIS Statement]; Enclosure (160): Statement to NCIS of Staff Sergeant A.D. Lane of 5 June 2006, [hereinafter: Lane NCIS Statement].

¶²⁷ See Enclosure (37): Kallop Statement; Enclosure (46): McConnell Statement; Enclosure (49): Mathes Statement; Enclosure (50) Fields Statement; Enclosure (52): Statement of First Sergeant A.S. Espinosa, Company K, 3d Battalion, 1st Marines, [hereinafter: Espinosa Statement]; Enclosure (54): Extract from Company K's Radio Log, 18-21 November 2005, [hereinafter: Kilo Radio Log]; Enclosure (55): Extract from Company K's Watch Log 17-22 November 2005, [hereinafter: Kilo Watch Log]; Enclosure (53): EOD Task Report of 20 November 2005, [hereinafter: EOD Report]; Enclosure (164): Statement to NCIS of Gunnery Sergeant L.R. Dunlap of 19 May 2006, [hereinafter: Dunlap NCIS Statement]; Enclosure (179): Statement to NCIS of AOC B.C. Bunde of 2 June 2006, [hereinafter: Bunde NCIS Statement].

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Update: There was a total of (8) EKIA, (1) EWIA who was medevaced out, and (15) NKIA, and (2) NWIA medevaced. Post engagement assessment has determined that the combined 3/1 and 2-2-7 IA patrol was attacked as it was moving past a group of neutral IZs. The ensuing blast and TIC contributed to the number of NKIAs. AIF elements then engaged CF from within residential structures in the area further adding to NKIAs as a result of returned fire by CF. Commanding Officer 3/1 moved to the scene to conduct a command assessment of the events."

The update mentioning civilian casualties was not forwarded until about 2400 on 19 November 2005.²⁸ Neither the original electronic report nor the updates noted that the information reported met the criteria for any CCIR. Several items of information reported in JENs by 3/1 to RCT-2 cannot be traced to reports from the company level. The specific number of "15 NKIA," the reference to the patrol "moving past a group of neutral IZs," and the statement that "the ensuing blast and TIC contributed to the number of NKIAs" all appear to have originated at 3/1.²⁹ The Battalion COC attempted to get an accurate count numerous times during the day and the S-3 suspected that the numbers reported by the company were incorrect.³⁰ The 3/1 Battalion Commander provided the RCT-2 Commander an oral SITREP of the day's events, but neither he nor the RCT-2 Commander could recall what information he relayed or whether additional information was requested regarding the circumstances surrounding the NKIAs.³¹

u d. **(8) RCT-2 to 2d Marine Division.** Electronic reports in the form of numbered JENs were used by RCT-2 to communicate to 2d Marine Division the following information:

"At 190730C NOV 05, a 3/1 mounted patrol in Hadithah . . . was attacked with and [sic] IED. The blast resulted in (1) FKIA and (2) FWIA (1 urgent and 1 priority). Update: A joint 3/1 and 2-2-7 IA patrol also received SAF during the IED attack ... SAF was received from the north and south. K/3/1 returned fire and (8) EKIA and (1) EWIA was assessed. A group of neutral IZs passed as the patrol was attacked by the IED and SAF from enemy elements within residential structures. A total of (15) NKIA and (2) NWIA were assessed as a result of the IED blast and SAF

u ²⁸See Enclosure (154): Carrasco NCIS Statement.

u ²⁹See Enclosure: (1) Watt Investigation; Enclosure (21): Statement of Major S.H. Carrasco, Operations Officer, 3d Battalion, 1st Marines, [hereinafter: Carrasco Statement]; Enclosure (32): Graviss Statement; Enclosure (34): Salinas Statement; Enclosure (35): Wuterich Statement; Enclosure (39): Sanchez Statement; Enclosure (41): Rodriguez Statement; Enclosure (49): Mathes Statement; Enclosure (56): Statement of Captain J. Chames, Watch Officer, 3d Battalion 1st Marines, [hereinafter: Chames Statement]; Enclosure (154): Carrasco NCIS Statement.

u ³⁰See Enclosure (21): Carrasco Statement.

u ³¹See Enclosure (21): Carrasco Statement; Enclosure (22): Starling Statement; Enclosure (56): Chames Statement; Enclosure (2): 3/1 JENs; Enclosure (57): 3d Battalion, 1st Marines Intentions Message 19 November 2005; [hereinafter: 3/1 IM 19 Nov 05]; Enclosure (58): 3d Battalion, 1st Marines Intentions Message 20 November 2005; [hereinafter: 3/1 IM 20 Nov 05]; Enclosure (59): Statement of Major K.M. Gonzalez, Executive Officer, 3d Battalion, 1st Marines, [hereinafter: Gonzalez Statement]; Enclosure (60): Statement of Sergeant Major E.T. Sax, 3d Battalion, 1st Marines, [hereinafter: Sax Statement]; Enclosure (61): Statement of Lieutenant Colonel J.R. Chessani, Commanding Officer, 3d Battalion, 1st Marines, [hereinafter: Chessani Statement]; Enclosure (62): Statement of Lieutenant (USN) N. Park, Chaplain, 3d Battalion, 1st Marines, [hereinafter: Park Statement]; Enclosure (63): Statement of Captain R.W. Stone, Judge Advocate, 3d Battalion, 1st Marines, [hereinafter: Stone Statement]; Enclosure (64): Statement of Colonel S.W. Davis, Commanding Officer, Regimental Combat Team-2, [hereinafter: Davis Statement].

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engagements against CF by AIF. The (2) NWIA were ground MEDEVAC'd to the Dam. . . .

Update: The (2) NWIA were an 8 year old IZ girl, and a 7 year old IZ boy. The girl received shrapnel to the right leg, and the boy received shrapnel to the back. Both were classified as priority medevacs, and were transferred from Al Asad to Balad for further medical treatment at 191307C Nov 05. The wounds were incurred as a result of the IED blast which initiated the attack on 3/1. CAG has been notified and is working with the family."

Neither the original electronic report nor the updates noted that the information reported met the criteria for any CCIR. The RCT-2 S-3's understanding, from conversations with the 3/1 S-3, was that civilian casualties were high and were the result of both the IED and clearing operations. The RCT-2 S-3 stated that he notified the RCT-2 Commander that the criteria for the CCIR for significant civilian casualties had been met. RCT-2 JENs submitted to 2d Marine Division added information not cited in Battalion JENs, including an RCT-2 JEN update containing erroneous information not preceded by a corresponding 3/1 JEN update. The addition of incorrect information may indicate an effort by the RCT-2 staff to complete a picture for 2d Marine Division based on assumptions rather than facts. No action with respect to the civilian casualties was initiated by RCT-2 (other than reporting).³²

e. (U) **2d Marine Division to MNF-W.** 2d Marine Division recorded the original report of the incident as meeting the criteria for a CCIR, but did not specify which CCIR. The update, which mentioned civilian casualties, did not indicate that another CCIR had been triggered. Both the original report and the update were reported in SIGEVENT entries to MNF-W.³³ However, content and facts reported by RCT-2 were forwarded by Division without delay and with only minor changes to sentence structure in two of five entries.³⁴ The 2d Marine Division G-3 did not recall the incident, but indicated that as a general rule he briefed the Division Commander whenever an event met the criteria of a CCIR.³⁵ The 2d Marine Division's IM for 19 November 2005 mentioned friendly casualties from the incident but did not mention EKIA, EWIA, or civilian casualties. There was no further reference to the incident in later 2d Marine Division IMs.³⁶ On 20 November 2005, 2d Marine Division published a press release stating: "A U.S. Marine and 15 Iraqi civilians were killed yesterday from the blast of a roadside bomb in Haditha. Immediately following the bombing, gunmen attacked the convoy with small arms fire. Iraqi

▀³² See Enclosure (3): RCT-2 JENs; Enclosure (22): Starling Statement; Enclosure (64): Davis Statement; Enclosure (65): Regimental Combat Team-2 Intentions Message of 19 November 2005, [hereinafter: RCT-2 IM 19 Nov 05]; Enclosure (66): Regimental Combat Team-2 Intentions Message of 20 November 2005, [hereinafter: RCT-2 IM 20 Nov 05]; Enclosure (67): Statement of Major W. J. Collins, Judge Advocate, Regimental Combat Team-2, [hereinafter: Collins Statement]; Enclosure (68): Major C. Connelly, Deputy Judge Advocate, Regimental Combat Team-2, [hereinafter: Connelly Statement].

▀³³ See Enclosure (4): Division SIGEVENT; Enclosure (19): MNF-W CCIRs; Enclosure (20): Division CCIRs.

▀³⁴ Compare enclosure (3): RCT-2 JENs with Enclosure (4): Division SIGEVENT.

▀³⁵ See Enclosure (69): Statement of Colonel J. Holden, G-3, 2d Marine Division, [hereinafter: Holden Statement].

▀³⁶ See Enclosure (70): 2d Marine Division Intentions Message of 19 November 2005, [hereinafter: Division 19 Nov 05 IM]; Enclosure (71): 2d Marine Division Intentions Message of 20 November 2005, [hereinafter: Division 20 Nov 05 IM].

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Army soldiers and Marines returned fire killing eight insurgents and wounding another.³⁷ The 2d Marine Division PAO and COS (who released the message) felt that the press release was fundamentally accurate even though it was inconsistent with the information set forth in the official report of the incident.³⁸

f. (U) **Multi-National Force-West (MNF-W)**. MNF-W recorded the original report of the incident and updates as a SIGEVENT and reported the original report and updates to MNC-I.³⁹ The MNF-W SIGEVENT entry and updates were identical to the 2d Marine Division immediate reports. The MNF-W SIGEVENT entry identifies the incident as meeting the criteria for an MNF-W Commander's Significant Notification Event (CSNE #5) and an MNC-I CCIR (#6) (Friendly Fire Information Requirement (FFIR)-military or civilian casualties). However, the update did not highlight that the civilian casualties also met the criteria for the same CCIR⁴⁰ MNF-W's daily situation reports for 19 and 20 November 2005 provided no information regarding civilian casualties.⁴¹ While the event was classified as a CSNE, no follow-up actions regarding the civilian casualties were deemed necessary by the senior leadership of MNF-W.⁴²

g. (U) **Multi-National Corps-Iraq (MNC-I)**. The events of 19 November 2005 were recorded (initial report and updates) in Fusion Net and reflected information identical to MNF-W's significant events entries.⁴³ The Fusion Net entry indicated that the event met the criteria for a CCIR but did not specify which CCIR and did not highlight the fact that a new CCIR was triggered by the civilian casualties. The updates contained all the information relative to NKIAs, but a storyboard (PowerPoint slide) developed by the MNC-I staff listed only the friendly casualties because the civilian casualty information came in after the slide was created.⁴⁴ No questions or follow-on actions resulted from immediate reports recorded by MNC-I.⁴⁵ The

³⁷ See Enclosure (8): Press Release.

³⁸ See Enclosure (12): Pool Statement and Enclosure (13): Sokoloski Statement.

³⁹ See Enclosure (5): MNF-W SIGEVENT.

⁴⁰ Compare Enclosure (4): Division SIGEVENT with Enclosure (5): MNF-W SIGEVENT.

⁴¹ See Enclosure (72): MNF-W Daily Situation Report of 19 November 2005, [hereinafter: MNF-W 19 Nov 05 SITREP] and Enclosure (73): MNF-W Daily Situation Report of 20 November 2005, [hereinafter: MNF-W 20 Nov 05 SITREP]. There was a reference in the AO Denver Economic Section of the 20 November MNF-W SITREP to Civil Affairs assisting with the transportation of dead bodies, civilian and enemy, to the Haditha hospital.

⁴² See Enclosure (74): Statement of Colonel J. Ledoux, Chief of Staff, MNF-W, [hereinafter: Ledoux Statement]; Enclosure (75): Statement of Colonel T. Cariker, G3, MNF-W, [hereinafter: Cariker Statement]; Enclosure (76): Statement of Colonel R.G. Kelly, Staff Judge Advocate, MNF-W, [hereinafter: Kelly Statement]; Enclosure (77): Statement of Lieutenant Colonel J.J. Ball, Current Operations Officer, MNF-W, [hereinafter: Ball Statement]; Enclosure (78): Statement of Chief Warrant Officer 5 K.R. Norwood, Ground Watch Officer, MNF-W, [hereinafter: Norwood Statement]; Enclosure (79): Statement of Major General S. Johnson, Commanding General, MNF-W, [hereinafter: Johnson Statement].

⁴³ Compare Enclosure (5): MNF-W SIGEVENT with Enclosure (6): MNC-I Fusion Net Entry.

⁴⁴ See Enclosure (7): MNF-I Spot Report; Enclosure (80): MNC-I Story Board of 191429C November 2005, [hereinafter: 19 Nov 05 MNC-I Story Board]; Enclosure (81): MNC-I Story Board of 200450C November 2005, [hereinafter: 20 Nov 05 MNC-I Story Board].

⁴⁵ See Enclosure (23): Stephenson Statement; Enclosure (24): Hodges Statement; Enclosure (25): Kauffman Statement; Enclosure (82): Statement of Colonel R. Gade, Staff Judge Advocate, MNC-I, [hereinafter: Gade Statement]; Enclosure (83): Statement of Brigadier General Huggins, Chief of Staff, MNC-I, [hereinafter: Huggins Statement].

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MNC-I daily SITREPs and BUAs for 19 and 20 November 2005, and the MNC-I slides for the MNF-I morning BUA on 20 and 21 November contained no reference to civilian casualties.⁴⁶

Analysis

1. (U) Timeliness, Accuracy and Completeness of Reporting

a. (U) The immediate reports from Company K and its subordinate units were untimely, inaccurate, and incomplete. They were also conflicting, poorly vetted, and forgotten once transmitted to 3/1. It could not be determined how or when a final count of civilian casualties was reported by the Company to 3/1. After the day's combat actions had ceased, there was little or no apparent effort by Company K to evaluate or clarify to higher headquarters the details of the incident. Discussions of the event were aimed almost exclusively at helping Marines cope with the loss of a Marine and the overall impact of the incident on the Company's morale, not at reviewing the combat actions that took place.⁴⁷

b. (U) 3/1's deficiencies in timeliness, accuracy and completeness were driven in part by Company K's reporting. The Battalion's reporting failures were magnified by the apparent attempt by COC personnel at 3/1 and RCT-2 to fill in missing information in written reporting based on assumptions or by surmise rather than by obtaining facts. In doing so, they neglected a reporting responsibility and, by effectively hiding the defects in the Company reports, reduced the likelihood that higher headquarters would recognize and correct the errors. Further, the 3/1 and RCT-2 written reports did not highlight the fact that the event met the criteria for at least two different CCIRs.

c. (U) 2d Marine Division, MNF-W, and MNC-I forwarded inaccurate and incomplete immediate reports they received to higher without further delay and without significant factual change.⁴⁸ The SIGEVENT entries made at these levels did not clearly highlight that the CCIR for civilian casualties had been triggered.⁴⁹

¶⁴⁶ See Enclosure (84): MNC-I Battle Update Assessment of 19 November 2005, [hereinafter: 19 Nov 05 MNC-I BUA]; Enclosure (85): MNC-I Battle Update Assessment of 20 November 2005, [hereinafter: 20 Nov 05 MNC-I BUA]; and Enclosure (86): MNC-I Battle Update Assessment of 21 November 2005, [hereinafter: 21 Nov 05 MNC-I BUA]. See also Enclosure (152): MNC-I SITREPs 182100 Nov 05-192100 Nov 05; 192100 Nov 05-202100 Nov 05; 202100 Nov 05-212100 Nov 05; 212100 Nov 05-222100 Nov 05; and 222100 Nov 05-232100 Nov 05, [hereinafter: MNC-I SITREPs].

¶⁴⁷ See Enclosure (46): McConnell Statement; Enclosure (158): Statement to NCIS of Lance Corporal A.A. Wright of 22 March 2006, [hereinafter Wright NCIS Statement]; Enclosure (172): Zuniga NCIS Statement; Enclosure (188): Statement to NCIS of Lance Corporal J.M. Roldan of 11 May 2006, [hereinafter: Roldan NCIS Statement]; Enclosure (189): Statement to NCIS of Lance Corporal D.K. Choi of 3 May 2006, [hereinafter Choi NCIS Statement].

¶⁴⁸ See Enclosure (21): Carrasco Statement; Enclosure (56): Chames Statement; Enclosure (2): 3/1 JENs; Enclosure (3): RCT-2 JENs; Enclosure (4): Division SIGEVENT; Enclosure (5): MNF-W SIGEVENT; Enclosure (6): MNC-I Fusion Net Entry; Enclosure (7): MNF-I Spot Report.

¶⁴⁹ Enclosure (4): Division SIGEVENT; Enclosure (5): MNF-W SIGEVENT; Enclosure (6): MNC-I Fusion Net Entry; Enclosure (7): MNF-I Spot Report.

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d. (U) Daily reporting, however, was deficient at the RCT level based on the omission of "15 NKIA" from the RCT-2 daily IMs. Intentions Messages, SITREPs and Battle Update Assessments above that level also omitted mention of civilian casualties. Similarly, 2d Marine Division's reporting of the event in a press release was even more misleading than internal official reports.⁵⁰

2. (U) **Appropriateness of Follow-on Action.** Virtually no inquiry at any level of command was conducted into the circumstances surrounding the deaths. There were, however, a number of opportunities to inquire and indications (red flags) that further inquiry was advisable:

a. (U) From the inception of the incident, the 3/1 S-3 suspected that they were receiving erroneous reporting.⁵¹

b. (U) The Platoon Commander, Company Commander and HET NCO each conducted an inspection of the scene almost immediately after the killings. Only the HET NCO did a complete inspection of the scene.⁵²

c. (U) More than a few Marines observed the scene soon after the shootings and before the bodies had been significantly disturbed. At least five individuals took photographs of some or all of the bodies. The photographs received virtually no official review but were widely disseminated among the junior Marines in the Company. Knowledge of the killing of women and children and the nature of their injuries was known throughout the Company and was addressed by the Company leadership as a morale issue.⁵³

d. (U) A number of Marines, including the Executive Officer, the Battalion Judge Advocate (JA), Intelligence Officer, and the Civil Affairs Group (CAG) Team Leader thought that an investigation was likely or was inevitable.⁵⁴

e. (U) The Battalion Commander was briefed by the Company Commander soon after the incident and was near the scene on 19 November. On the night of the incident, the Battalion Executive Officer raised the possibility of an investigation with the Battalion Commander. The

¶⁵⁰ See Enclosures (57), (58), (65), (66), (70), (71), (72), (73), (84), (85), (86), and (152) - IMs, SITREPS, and BUAs. See, also, Enclosure (8): Press Release.

¶⁵¹ See Enclosure (21): Carrasco Statement and Enclosure (154): Carrasco NCIS Statement.

¶⁵² See Enclosures (37): Kallop Statement; Enclosure (43): Laughner Statement; Enclosure (46): McConnell Statement.

¶⁵³ See Enclosure (43): Laughner Statement; Enclosure (46): McConnell Statement; Enclosure (44): Briones Statement; Enclosure (45): Briones Watt Statement; Enclosure (48): Mefford Statement; Enclosure (46): McConnell Statement; Enclosure (47): McConnell Watt Statement; Enclosure (49): Mathes Statement; Enclosure (50): Fields Statement; Enclosure (51): Frank Statement; Enclosure (158): Wright NCIS Statement; Enclosure (159): Diamond NCIS Statement; Enclosure (160): Lane NCIS Statement; Enclosure (164): Dunlap Statement; Enclosure (174): Statement to NCIS of C.T. Narey of 13 May 2006, [hereinafter: Narey NCIS Statement]; Enclosure (175): Statement to NCIS of Lance Corporal T.M. Woods of 5 June 2006, [hereinafter: Woods NCIS Statement]; Enclosure (170): DeLeon NCIS Statement; Enclosure (176): Statement to NCIS of Corporal J.H. Leach of 12 May 2006, [hereinafter: Leach NCIS Statement].

¶⁵⁴ See Enclosure (59): Gonzalez Statement; Enclosure (63): Stone Statement; Enclosure (10): Hyatt Statement; Enclosure (168): Statement to NCIS of Captain J.S. Dinsmore of 2 June 2006, [hereinafter: Dinsmore NCIS Statement].

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15 June 2006 (Final)

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Battalion Commander visited the scene of the incident the following day with the Battalion Executive Officer.⁵⁵

f. (U) The bodies of 24 dead Iraqi citizens were collected from the scene and delivered by Company K personnel to the Haditha hospital morgue via the Kilo Firm Base. During this process, there were several attempts to distinguish, both in number and identity, EKIA from noncombatants killed. There was no accounting of weapons recovered during the incident.⁵⁶

g. (U) On the night of the incident, the RCT-2 Effects Coordinator contacted the 3/1 Information Operations (IO) Officer in an attempt to obtain pictures of the dead civilians⁵⁷ for possible use in an IO campaign. Just six days later another red flag appeared. On 26 November 2005, a Company K patrol found flyers posted by insurgents stating: "victims... innocent we will avenge you...be patient...with us---signed the fighters." The flyers were identified in a HET report.⁵⁸

h. (U) On 20 November 2005, two local Haditha residents communicated allegations of wrongful killing of civilians by 3/1 Marines to the Battalion IO Officer.⁵⁹

i. (U) The Battalion was required to provide a situation report in their daily IM to RCT-2. The 3/1 IM for 20 November 2005 merely repeats erroneous verbiage from the JENs that previously had been submitted.⁶⁰

j. (U) By 0857 on 20 November 2005, an update to a SIGEVENT report stating that the incident had resulted in "15 NKIA (and 8 KIA)" had been received at every level of command through MNF-I.⁶¹ The update entry, as it was forwarded from 3/1, through the chain of command, did not highlight the fact that this information met the criteria for another CCIR. Command procedures for highlighting and evaluating CCIR reports did not capture the "15 NKIA" reported in the update.⁶²

k. (U) On about 22 December 2005, a \$38,000.00 CERP condolence payment was made to a lawyer representing the families of some of the deceased Iraqi civilians. The lawyer's demands for payment included a request that the Marines admit wrongdoing. On 26 and 28 December 2005, an additional, \$3,000.00 CERP condolence payment was made for property damage from

¶⁵⁵ See Enclosure (46): McConnell Statement; Enclosure (59): Gonzalez Statement; Enclosure (61): Chessani Statement; Enclosure (154): Carrasco NCIS Statement; Enclosure (167): Statement to NCIS of Major K.M. Gonzalez of 24 May 2006, [hereinafter: Gonzalez NCIS Statement].

¶⁵⁶ See Enclosure (10): Hyatt Statement; Enclosure (37): Kallop Statement; Enclosure (46): McConnell, Statement; Enclosure (49): Mathes Statement; Enclosure (51): Frank Statement.

¶⁵⁷ See Enclosure (98): Email traffic between Lieutenant Colonel S. B. Clontz, RCT-2 Effects Cell Coordinator and Captain James C. Haynie, 3/1 HQ IO Officer, 19 and 20 Nov 05, [hereinafter: Clontz email].

¶⁵⁸ See Enclosure (92): HET DIIJ.

¶⁵⁹ See Enclosure (177): Statement to NCIS of Captain J.C. Haynie, 3/1 IO Officer and H&S Company Commander, of 1 June 2006, [hereinafter: Haynie NCIS Statement].

¶⁶⁰ Compare Enclosure (58): 3/1 20 Nov 05 IM with Enclosure (2): 3/1 JENs.

¶⁶¹ See Enclosure (3): RCT-2 JEN; Enclosure (4): Division SIGEVENT; Enclosure (5): MNF-W SIGEVENT; Enclosure (6): MNC-I Fusion Net Entry and Enclosure (7): MNF-I Spot Report

¶⁶² See Enclosure (25): Kauffman Statement; Enclosure (78): Norwood Statement.

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the same incident. The CERP payment process involved an unusually high amount, went on for over 30 days, and was monitored by the Battalion Commander.⁶³

1. (U) On 27 December 2005, the 2d Marine Division Comptroller notified the Division SJA of the incident because he thought it might require reporting. Based on that notification, the SJA sent an email inquiry to the Battalion JA via the RCT-2 JA, asking for information on the deaths. The Battalion JA's response was an account pieced together from the immediate reporting that had previously been submitted. The Division SJA did not forward any report of the incident to higher headquarters.⁶⁴

m. (U) On 24 January 2006, a Time Reporter contacted the 2d Marine Division PAO via the MNF-W PAO and provided an account of the incident containing allegations of deliberate and wrongful killing of noncombatants by Marines. The 2d Marine Division PAO, notified the 2d Marine Division COS and the RCT-2 Commander. The SJA was not notified.⁶⁵

n. (U) When 3/1 learned of the Time reporter's allegations, the Battalion Executive Officer and the S-3 together recommended an investigation to the Battalion Commander.⁶⁶

o. (U) On 12 February 2006, having been advised of the Time allegations by the MNC-I CPIC Director, the MNC-I Commander emailed the 2d Marine Division Commander asking about the incident and whether it had been investigated. On 12 February, the Division Commander replied with a PowerPoint event rollup and email from the Battalion Commander regarding the incident and Time's allegations. He stated that was the only inquiry, and opined that he did not think further investigation was necessary. On 14 February 2006, the MNC-I Commander ordered an investigation.⁶⁷

3. (U) **Obstacles to Proper Reporting and Appropriate Follow-on Action.** There is evidence that two Marines conspired to fabricate accounts intended to make the killings appear legitimate.⁶⁸ Such a conspiracy to fabricate at the source inevitably impeded accurate reporting and follow-on action. However, another immediate and more significant obstacle was the unwillingness by Marines and sailors who witnessed the events or the aftermath to come forward with the appropriate information or an appropriate level of concern. There was no other direct evidence uncovered showing an affirmative or coordinated effort among Marines to cover-up the incident. Furthermore, there was no evidence of an orchestrated cover-up by the chain of

u⁶³ See Enclosure (9): CERP Email String; Enclosure (10): Hyatt Statement; Enclosure (88): MNF-W [I MEF (Fwd)] SJA Information Paper (CERP-C) of 27 Mar 06, [hereinafter: MNF-W SJA CERP-C Paper]; Enclosure (155): Hyatt NCIS Statement.

u⁶⁴ See Enclosure (89): Email traffic 27 Dec 05 to 29 Dec 05 between Major T.F. Osterhoudt, 2d Marine Division Comptroller, LtCol K. Keith, Division SJA, Capt R. Stone, 3/1 JA, et al. [hereinafter: Osterhoudt email string].

u⁶⁵ See Enclosure (12): Pool Statement; Enclosure (13): Sokoloski Statement; Enclosure (11): Pool-McGirk Email Exchange; Enclosure (14): CPIC Memo Enclosure (90): 2d Marine Division (COS, SJA, and PAO) Timeline, provided to investigating officers at Camp Lejeune, NC, by Division CoS, 31 Mar 06, [hereinafter: Division Timeline].

u⁶⁶ Enclosure (154): Carrasco NCIS Statement and Enclosure (167): Gonzalez NCIS Statement.

u⁶⁷ See Enclosure (15): Huck-Chiarelli Email Exchange and Enclosure (90): Division Timeline.

u⁶⁸ See Enclosure (178): Statements to NCIS of Lance Corporal Dela Cruz of 2 April, 9 May and 16 May 2006, [hereinafter: Dela Cruz NCIS Statements].

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command at any point after the incident. In fact, the evidence indicates that the chain of command encouraged their Marines to cooperate and be truthful, at least once the media and the various investigation teams began to inquire. This is not to say that the chain of command acted appropriately, simply that there was not a concerted effort, above the squad level, to conspire to withhold the truth. In addition, a number of other factors likely contributed to the deficiencies in reporting and follow-on action.

a. (U) On 19 November 2005, Company K and 3/1 were occupied with several consecutive operations, delaying their opportunity to assess and ascertain the details of this incident and adding to information to be collected, assessed and reported. Battalion (and higher) personnel tended to view the day's events as a single, continuous engagement, interfering with their ability and willingness to isolate parts of the sequence for detailed fact verification and evaluation. Initial erroneous reporting obscured the need for further inquiry and evaluation.⁶⁹

b. (U) No one person was in charge of the scene throughout the day or was assigned overall responsibility for bringing the incident to a close. This led to a disjointed view of the incident and a lack of accountability for items and information relevant to reporting and follow-on action: photographs, weapons, and casualty identification.⁷⁰

c. (U) All levels of command tended to view civilian casualties, even in significant numbers, as routine and as the natural and intended result of insurgent tactics.⁷¹

d. (U) There was evidence of an attitude within RCT-2 to presume all Iraqis to be the enemy or supporters of the enemy, or at least to insist that noncombatants were not necessarily innocents.⁷² Such an attitude could have contributed to reporting deficiencies and failure to take appropriate follow-on action by causing report recipients to discount the number of noncombatants killed, based on the assumption that dead insurgents were likely to be mistaken for noncombatants. Report recipients might also be more willing to accept reports that otherwise would appear dubious.

e. ~~(S)~~ A command view of the Iraqi people and culture may also have led to an operational analysis of the event that impeded more accurate reporting and more appropriate follow-on action. Coalition mission objectives demand that indiscriminate killing be addressed swiftly and effectively as an operational matter--rather than as a legal or moral matter -- in order to avoid eroding the link between coalition force presence and Iraqi safety and security.⁷³ The RCT-2

U⁶⁹ See Enclosure (21): Carrasco Statement; Enclosure (46): McConnell Statement; Enclosure (2): 3/1 JENs; Enclosure (61): Chessani Statement; Enclosure (16): Event Roll-up.

U⁷⁰ See Enclosure (43): Laughner Statement; Enclosure (44): Briones Statement; Enclosure (46): McConnell Statement; Enclosure (49): Mathes Statement; Enclosure (51): Frank Statement.

U⁷¹ See Enclosure (21): Carrasco Statement; Enclosure (37): Kallop Statement; Enclosure (49): Mathes Statement; Enclosure (61): Chessani Statement; Enclosure (64): Davis Statement; Enclosure (83): Huggins Statement; Enclosure (79): Johnson Statement. See, also, Enclosures (84): 19 Nov 05 MNC-I BUA and Enclosure (85): 20 Nov 05 MNC-I BUA.

U⁷² See, e.g., Enclosure (64): Davis Statement.

U⁷³ See Enclosure (91): 2d Lieutenant Groza, 3/1 IO Officer, Email Draft 11/21/05 (Subj: IO Flyer: CF is here to stay), [hereinafter: 3/1 IO Flyer]. See, also, Enclosure (92): DIIR MNF-W HET03 0203 06 of 2 Dec 05 (from MNF-W TFC webpage), [hereinafter: HET DIIR].

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Commander, however, appeared only mildly concerned over the potential negative ramifications of indiscriminate killing based on his stated view that the Iraqis and insurgents respect strength and power over righteousness.⁷⁴

f. (U) There was an observed preoccupation with friendly casualties. Understandable and laudable, but it contributed to a thought process in which the loss of a Marine eclipsed other reportable and actionable details. The most significant event to most readers of the reports of this incident was the FKIA, despite the fact that noncombatant losses were 20 times higher.⁷⁵

g. (U) Misalignment of information requirements existed within MNC-I both between different levels of command and within commands. Within MNF-W, the use of different terminology for information requirements may have created confusion. 2d Marine Division had a CCIR which was at once broader and narrower than the CCIRs of its higher headquarters. At MNF-W, there were two differently stated CCIRs for civilian casualties. There was an observed tendency of subordinate commands to focus on reporting to higher rather than acting on reports received.⁷⁶

h. (U) The terminology used to communicate the occurrence of civilian casualties was inapt. Use of the terms "NKIA" and "NWIA" for civilians killed or injured likely obscures the fact of civilian casualties. If civilians are killed or wounded in action, they are, by definition, not noncombatants. Similarly, the common understanding and usage by Marines was that the term "NKIA" referred to "neutral" rather than "noncombatant."⁷⁷

i. (U) Among operations personnel, past or passing events quickly become irrelevant unless they have an immediate demonstrable impact on the current fight or future operations. There was also an inclination to focus exclusively on tactical issues. Operational, strategic, legal, and administrative issues tended to be deemed ancillary. Civil Affairs and legal personnel were not fully integrated into operations.

j. (U) The Division was slow to grasp the strategic importance of ascertaining whether the civilian casualties were in fact legitimate collateral damage even after allegations challenging initial, uninvestigated reports were brought to light. The Division leadership realized they were the subject of propaganda," i.e., that the insurgency was using the allegations in the Time story to make the coalition look bad or to force them out of Haditha. However, the Division appeared to believe that "giving in" and conducting an investigation into the allegations represented an IO victory for the enemy. The Division's continuing inability to separate the insurgent's use of the incident from its factual validity, that is, to entertain the possibility that they had the facts wrong

⁷⁴ Compare Enclosures (64) and (61): Davis and Chessani Statements with Enclosure (91): 3/1 IO Flyer.

⁷⁵ See e.g., Enclosure (64): Davis Statement and Enclosure (79): Johnson Statement. See also Enclosure (192): Statements to NCIS of 1st Lieutenant M.D. Frank of 3 May and 5 May 2006, [hereinafter: Frank NCIS Statements].

⁷⁶ See Enclosure (17): MNF-I CCIRs; Enclosure (18): MNC-I CCIRs; Enclosure (19): MNF-W CCIRs; Enclosure (20): Division CCIRs; Enclosure (64): Davis Statement; Enclosure (69): Holden Statement.

⁷⁷ See Enclosure (17): MNF-I CCIRs; Enclosure (18): MNC-I CCIRs; Enclosure (19): MNF-W CCIRs; Enclosure (20): Division CCIRs; Enclosure (64) Davis Statement.

UNCLASSIFIED

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Bargewell Discovery

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—despite having no indication that the facts had been definitively ascertained in the first place
—reflected, a short sighted view of IO issues and their implications.⁷⁸

Findings

1. (U) I found that deaths of at least 15 Iraqi civilians met the criteria for three independent CCIRs which required immediate reporting at every level of command through MNF-I.
 - a. ^U (S) CCIR for an event resulting in significant civilian casualties;
 - b. ^U (S) CCIR for an event likely to generate media interest;
 - c. ^U (S) Requirement to report possible, alleged, or suspected LOAC violation.
2. ^U (S) I found that an electronic report including a reference to 15 “NKIAs” was initiated by 3/1 and forwarded to every level of command up through MNF-I as an update to a previously submitted CCIR reporting friendly casualties. The update did not highlight the fact that the criteria for an additional CCIR (for significant civilian casualties, media interest, or a possible LOAC violation) had been met.
3. (U) I found that immediate reporting up to and including the RCT-2 level was untimely, inaccurate, and incomplete.
 - a. (U) I found that Company K and 3d Battalion, 1st Marines failed to adequately review or reliably report combat actions associated with this incident. This failure was largely attributable to inattention and negligence, in certain cases willful negligence. There is evidence of intentional false reporting on the part of two individuals involved in the killings. Intentional false reporting or non-reporting on the part of other individuals can not be ruled out, particularly in view of the questionable candor displayed by numerous individuals during the investigations of this incident.
 - b. (U) I found that 3d Battalion, 1st Marines and RCT-2 failed to adequately scrutinize information reported by Company K that was untimely and incomplete and of obvious questionable accuracy. In forwarding this information, the Battalion and RCT-2 staffs also added unverified information to give their reports a misleading appearance of completeness. The Battalion and RCT-2 Commanders effectively ratified these misleading reports.
4. (U) I found that all commands from the Battalion to the MNF-I level effectively validated inaccurate information in immediate reports by failing to make adequate attempts to verify the untimely and incomplete reports originating from Company K.

^U ⁷⁸ See Enclosure (13): Sokoloski Statement; Enclosure (64): Davis Statement; and Enclosure (87): Huck Statement. See, also, Enclosure (11): Pool - McGirk Email Exchange; Enclosure (91): 3/1 IO Flyer; Enclosure (92): HET DIIR 3/1 IO Flyer.

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5. (U) Although no order specifically directs the inclusion of CCIRs in daily reporting, I have determined that this incident should have been included in daily SITREPs.

6. (U) I found that daily reporting failed at the RCT-2 level when the reference to 15 civilian casualties in 3/1's Intentions Message was omitted from the RCT-2 IM. In addition, despite having mentioned the civilian deaths in immediate reports, 2d Marine Division, MNF-W, and MNC-I, did not mention the civilian deaths, in their daily SITREPS. However, there is no evidence that these omissions were the result of any intent to cover-up misconduct.

7. (U) I found that the 2d Marine Division press release was more misleading than other official reports. I find, however, that this was not the result of any intent to conceal misconduct, but was the result of an overly simplistic view of IO requirements.

8. (U) I found that Company K, 3d Battalion, 1st Marines, RCT-2, and 2d Marine Division failed to take any follow on action that could be called appropriate or adequate. Despite many indications that inquiry was warranted and opportunities to conduct further inquiry, no individual accepted the responsibility to investigate the potentially unlawful killing of noncombatants.

9. (U) I found that MNF-W, MNC-I, and MNF-I failed to initiate any investigation or inquiry despite having received a report that included information, albeit un-highlighted and obscured, indicating that 15 noncombatants had been killed.

10. (U) I found that at the squad level, there was evidence of individuals attempting to prevent discovery of their own criminal conduct.

11. (U) I found no direct evidence of any orchestrated effort or any effort on the part of any individual above the squad level to cover up this incident. I did find that individuals above the squad level were complicit, whether intentionally or unintentionally, in attempts to hide criminal conduct. Leaders from the platoon through the 2d Marine Division level, particularly at the Company and Battalion level, exhibited a determination to ignore indications of serious misconduct, perhaps to avoid conducting an inquiry that could prove adverse to themselves or their Marines.

12. (U) I found that there were several obvious indicators from 19 November 2005 to 12 February 2006 that, at a minimum, should have triggered the professional curiosity and duty to pursue an investigation by the officers and senior enlisted leadership. Examples include:

a. (U) suspicion by the Battalion S-3 that they were receiving erroneous reporting during the incident;

b. (U) independent inspections of the scene almost immediately after the killings by the Platoon Commander, Company Commander and HET NCO;

c. (U) photographs of the scene taken by the HET NCO and shown to the Company Commander who had been on the scene as well as other photographs circulating within the

UNCLASSIFIED

16
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15 June 2006 (Final)

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Bargewell Discovery

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Company that contributed to widespread awareness of the civilian deaths and their questionable circumstances;

d. (U) the recovery by Marines of 24 dead Iraqi civilians including women and children as well as unsuccessful attempts by Marines to distinguish, both in number and identity, EKIA from noncombatants killed.

e. (U) a CERP condolence payment of \$38,000.00 for death and injury and \$3,000.00 for property damage based on a demand made by a lawyer representing the families of the deceased;

f. (U) the discovery of a flyer posted by the insurgents threatening revenge against the coalition for the 19 November Haditha deaths.

g. (U) a Time Reporter raised allegations of deliberate and wrongful killing of noncombatants by Marines.

13. (U) I found that there is evidence from which one could draw the inference that Marine commanders and staff members were guilty of dereliction of duty in failing to request, recommend, or direct that an inquiry into the incident be conducted.

a. (U) I found that beginning almost immediately after the incident the Platoon, Company, and Battalion Commanders had information that warranted additional inquiry to review Company K squad actions that took place in the area of Viper and Chestnut in Haditha, Iraq.

b. (U) I found that upon being advised of the allegations raised by Time Magazine, the 2d Marine Division Commander, Division Chief of Staff, the RCT-2 Commander, and others had sufficient knowledge and a duty to report and investigate a LOAC violation, but did not.

c. (U) I found that the duty to inquire further was so obvious in this case that a reasonable person with knowledge of these events would have certainly made further inquiries. I also found some unusual and suggestive circumstances, notably, the 12-16 hour time elapsed between the beginning of the incident and the Battalion report, the handling and apparent disappearance of two sets of official photographs, the questionable candor of the HET Marines during the investigations, the CERP condolence payment process, and the command's apparent disregard of insurgent flyers threatening revenge for the 19 November killings.

d. (U) I found further that a case of willful dereliction of duty could be made out against some of these individuals. This is not to suggest that any individual willfully covered up misconduct, but that they may have willfully failed to inquire more closely because they were afraid of the truth which might be harmful to their unit, their career, or to their personal standing.

14. (U) I found the following systemic factors and command views as challenges to appropriate follow-on action based on the reporting that did occur.

a. (U) Information requirements were not adequately aligned between MNC-I and its subordinate commands.

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- b. (U) All levels of command through MNC-I tended to view civilian casualties, even in significant numbers, as routine and as the natural and intended result of insurgent tactics.
- c. (U) There was evidence of an attitude within RCT-2 that portrayed noncombatants as not necessarily innocents which may have fostered a willingness to accept reported circumstances that might otherwise appear dubious.
- d. (U) There was an observable preoccupation with friendly casualties, despite the fact that in this case noncombatant losses were 20 times higher.
- e. (U) There was an observed tendency of subordinate commands to focus on meeting reporting requirements rather than acting on information reported pursuant to higher CCIRs.
- f. (U) Inapt terminology was used to communicate the occurrence of civilian casualties such as "NKIA" and "NWIA" and terminology was used that blurs the distinction between combatants and noncombatants such as referring to military aged males as "MAMs."
- g. (U) 2d Marine Division had a myopic and overly simplistic view of Information Operations that produced a tendency to judge the credibility of allegations based on the apparent source of those allegations rather than on facts.

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EXECUTIVE SUMMARY

Training and Command Climate

1. (U) **Question One:** Was the training and preparation of the Marines (Company K, 3d Battalion, 1st Marines) in the areas of rules of engagement (ROE) and the law of armed conflict (LOAC) adequate to prepare them for the combat operations experienced during a firefight with insurgents amidst several houses in Haditha, Iraq, on 19 November 2005?

a. (U) **Finding.** I determined that the training and preparation of the Marines in the areas of ROE and LOAC was adequate to prepare them for combat operations and met the Marine Corps standard for that training.

b. (U) **Discussion**

(1) (U) Training of a Marine is a continuum of vertically nested skill sets arranged in increasing levels of competency.⁷⁹ The Marine Corps Pre-deployment Training Program begins at the two Recruit Depots⁸⁰ and Officer Candidate School and continues through formal Military Occupational Specialty (MOS) schools and at home station prior to deployment.

(2) (U) In the summer of 2005, when 3d Battalion, 1st Marines (3/1) was conducting training prior to its departure for Iraq, the pre-deployment phase of training consisted of home station training, a Revised Combined Arms Exercise (RCAX), and Security and Stability Operations (SASO) training for infantry units.⁸¹ Building on home station training in basic urban skills, ground units, like 3/1, deployed to the Marine Air Ground Task Force Training Center at 29 Palms, California, for RCAX, and also attended Security and Stability Operations (SASO) training at March Air Force Base. These training exercises prepared Marines to deal with the current operating environment found in Iraq by conducting mission-oriented, scenario driven training on Military Operations on Urbanized Terrain (MOUT), entry control points, vehicle check points, counter-improvised explosive devices, and application of the ROE/LOAC.⁸²

2. (U) **Question Two:** Did the Marines Receive ROE and LOAC training in accordance with applicable training regulations or requirements prior to the 19 November 2005 engagement?

79 See Enclosure (132): CG, USMC Training and Education Command ltr. 5800 C 46 Subj: Training and Education Command (TECOM) response to MNF-I Investigating Officer's Request for Information regarding Predeployment Training in Areas of Rules of Engagement and Law of Armed Conflict of 7 Apr 2006 [hereinafter: CG TECOM ltr].

80 Marine Corps Recruit Depot, Parris Island, and Marine Corps Recruit Depot, San Diego.

81 See Enclosure (132): CG TECOM ltr; Enclosure (110): Statement (Training) of Lieutenant Colonel Jeffrey R. Chessani of 26 Mar 2006 [hereinafter: Chessani (Training) Statement].

82 See Enclosure (138): 3d Bn, 1st MAR SASO Training Schedule for 20-29 Jul 2005 [hereinafter: SASO training schedule].

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a. (U) **Finding.** I determined that the Marines of 3/1 did receive the required training in the law of war and ROE in accordance with MCO 3300.4.

b. (U) **Discussion**

(1) (U) All newly accessing enlisted Marines received required LOAC entry-level training at the School of Infantry.⁸³ Officers also received the required entry-level training at The Basic School.⁸⁴ As an operational unit, 3/1 was required to have LOAC training on the topics required by Marine Corps Order (MCO) 3300.4 (principles of: necessity, distinction and discrimination, unnecessary suffering or humanity, proportionality; protections accorded civilians, reprisals, reasons and obligations to comply with the law of war, and rules of engagement) prior to deployment. The SASO exercise attended by 3/1 used scenarios to train ROE/LOAC concepts.⁸⁵

(2) (U) Department of Defense Directive (DoDD) 5100.77, (Subj: DoD Law of War Program), requires that an effective program to prevent violations of the law of war be implemented by the DoD Components.⁸⁶ Prior to December 2005, the Navy implemented DoDD 5100.77 through SECNAVINST 3300.1A, (Subj: Law of Armed Conflict (Law of War) Program to Ensure Compliance by the Naval Establishment).⁸⁷ This instruction directs that all persons in the Department of the Navy, commensurate with their duties and responsibilities, receive, through appropriate publications, instructions or training programs, adequate training and education in the LOAC.

(3) (U) The Marine Corps implements DoDD 5100.77 and SECNAVINST 3300.1A through MCO 3300.4, (Subj: Marine Corps Law of War Program).⁸⁸ All Marines are required to receive law of war or operational law training as outlined in the MCO at entry into the USMC and during follow-on training. Marines attending Marine Corps formal or unit-run schools (not including entry-level schools), operational units prior to deployment, and Marines with certain military occupational specialties are required to receive follow-on law of war training as outlined in MCO 3300.4.⁸⁹ Follow-on law of war training was incorporated into realistic mission-oriented scenarios, as required by MCO 3300.4, at the SASO exercise conducted by 3/1 at March Air Force Base from 20 to 28 July 2005.⁹⁰

3. (U) **Question Three:** Whether house clearing and room clearing techniques were adequately trained and followed by the Marines in accordance with controlling doctrine?

83 See Enclosure (134): SOI-E Response to TECOM RFI with Enclosures [hereinafter: SOI-E]; (135): SOI-W Response to TECOM RFI with Enclosures [hereinafter: SOI-W].

84 See Enclosure (144): The Basic School Training Materials [hereinafter: TBS training material].

85 See Enclosure (148): E-mails from LtCol Klein [hereinafter: Klein e-mails].

86 See Enclosure (122): DoDD 5100.77 Subj: DoD Law of War Program [hereinafter: DoDD 5100.77].

87 See Enclosure (123): SecNavInst 3300.1A Subj: Law of Armed Conflict (Law of War) Program to ensure Compliance by the Naval Establishment [hereinafter: SECNAVINST 3300.1A].

88 See Enclosure (125): MCO 3300.4 Subj: Marine Corps Law of War Program [hereinafter: MCO 3300.4].

89 See Enclosure (125): MCO 3300.4.

90 See Enclosure (148): Klein e-mails.

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Bargewell Discovery

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a. (U) **Finding.** I determined that house clearing and room clearing techniques were adequately trained by the Marines in accordance with controlling doctrine; however, some of the Marines did not follow proper house and room clearing techniques by failing to positively identify (PID)⁹¹ combatants.

b. (U) **Discussion**

(1) (U) The Marines received extensive training in MOUT and house clearing operations during the home station and pre-deployment training phase. This training occurred primarily at the SASO exercise but was also taught at the home station MOUT facility at Camp Pendleton, California.⁹²

(2) (U) Some of the Marines' statements indicate confusion over whether proper house and room clearing techniques were trained. Specifically, some of the Marines said that if you are receiving SAF from an area or house, it can be deemed a "hostile house"⁹³ and everyone engaged and killed. The discrepancies are probably best explained by Corporal Tatum. He noted that these Marines knew that mistakes were made on 19 November 2005, "but he and all of them are putting it off on training, (and) not (taking) personal responsibility" for their actions.⁹⁴

4. (U) **Question Four:** Did the command climate within 3d Battalion, 1st Marines encourage disciplined application of the ROE and LOAC?

a. (U) **Findings.** I determined that the comments made by the leadership to the investigating officers from the Commanding General MNF-W down the chain of command, through the 3d Platoon Commander, reflect a mindset and philosophy that are incompatible with a counter-insurgency (COIN) environment. The philosophy and mindset reflected in these comments may have set the tone for a command climate that, when and if communicated to the lowest levels, would discourage the disciplined application of ROE and LOAC, whether this result was intended or not. Based on available information, it can not be determined whether this mindset and philosophy was communicated down the chain of command to the lowest levels.

▲⁹¹ See Enclosure (130): 2d Marine Division ROE Card. Positive identification (PID) is a reasonable certainty that the target you are engaging is exhibiting hostile intent or committing a hostile act. Once you have PID, you may use escalated force, up to and including deadly force, to eliminate the threat.

▲⁹² See Enclosure (36): Wuterich Statement; Enclosure (37): Kallop Statement; Enclosure (38): Kallop Statement; Enclosure (100): Statement to NCIS of Corporal Hector R. Salinas of 18 Mar 06 [hereinafter: Salinas NCIS Statement (18 Mar 06)]; Enclosure (103): Statement to NCIS of Lance Corporal Stephen B. Tatum of 24 Mar 06 [hereinafter: Tatum NCIS Statement (24 Mar 06)]; Enclosure (104): Statement to NCIS of Lance Corporal Stephen B. Tatum of 19 Mar 2006 [hereinafter: Tatum NCIS Statement (19 Mar 06)]; Enclosure (106): Statement to NCIS of Lance Corporal Justin L. Sharratt of 19 Mar 06 [hereinafter: Sharratt NCIS Statement (19 Mar 06)]; Enclosure (108): Statement to NCIS of Corporal Sanick P. Dela Cruz of 18 Mar 06 [hereinafter: Dela Cruz NCIS Statement (18 Mar 06)].

▲⁹³ The term "hostile house" appears to be jargon created by the Marines to describe the house from which they were allegedly receiving hostile fire. In a 13 Jun 06 telephone conversation, the RCT-7 JA confirmed that "hostile house" is not doctrinal terminology in the Regiment's SOP or official vocabulary. The Deputy Director for Current Operations, Tactical Training and Exercise Group, MAGTF-TC stated that the term "hostile house" was not used in the SASO Training exercise; the term "objective" is the proper terminology.

▲⁹⁴ See Enclosure (193): Statement to NCIS of Lance Corporal Stephen B. Tatum of 17 May 06 [hereinafter: Tatum NCIS Statement].

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b. (U) Discussion

(1) (U) There are indications, as derived from the statements of the Commanding General MNF-W,⁹⁵ Commanding Officer RCT-2,⁹⁶ Battalion Commander 3/1,⁹⁷ Platoon Commander 3/1,⁹⁸ and the RCT-2 JA,⁹⁹ that the command climate may not have consistently or professionally encouraged the disciplined application of the ROE and LOAC. Statements made by the chain of command during interviews for this investigation, taken as a whole, suggest that Iraqi civilian lives are not as important as US lives, their deaths are just the cost of doing business, and that the Marines need to get "the job done" no matter what it takes. These comments had the potential to desensitize the Marines to concern for the Iraqi populace and portray them all as the enemy even if they are noncombatants. Throughout some of these Marines' statements, there seemed to be a suggestion that insurgent tactics relieved Marines of the responsibility to apply ROE – and the responsibility to assume the tactical risk associated with that application.¹⁰⁰

(2) (U) These types of comments and attitude contain a mixed message of intent by the leadership and had the potential to set a command climate that may not have encouraged the disciplined application of ROE and LOAC. Such comments and attitude can engender a perception, if not a reality, that disciplined application of ROE and LOAC, though taught in classes and incorporated in training exercises within the command, is not expected or encouraged. However, there is no evidence that the mindset or philosophy reflected in these statements was representative of a command philosophy or was communicated down to the lowest level.

(3) (U) The fact that the leadership of 3/1, RCT-2 , 2d Marine Division or MNF-W did not deem the deaths of this number of noncombatants by itself significant enough to warrant more than a cursory inquiry into the facts of this incident indicates that the prevailing command climate may not have encouraged the disciplined application of ROE and LOAC. There is nothing to indicate that the chain of command intended that noncombatants not be treated appropriately in accordance with LOAC and ROE; however, as stated in US Army FM 22-100, all organizational and direct leaders establish their organization's climate, whether purposefully or unwittingly.¹⁰¹ A potential consequence of such comments, if disseminated throughout the command, is to set an unintended command climate.¹⁰²

U⁹⁵ See Enclosure (79): Johnson Statement.

U⁹⁶ See Enclosure (64): Davis Statement.

U⁹⁷ See Enclosure (61): Chessani Statement.

U⁹⁸ See Enclosure (37): Kallop Statement.

U⁹⁹ See Enclosure (67): Collins Statement.

U¹⁰⁰ See Enclosure (79): Johnson Statement; Enclosure (61): Chessani Statement; Enclosure (37): Kallop Statement.

U¹⁰¹ See Enclosure (147): Excerpt from FM 22-100.

U¹⁰² See Enclosure (151): Report of Alleged LOAC Violation, 24 Apr 06.

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Bargewell Discovery

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FULL REPORT

Reporting

23

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15 June 2006 (Final)

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Bargewell Discovery

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SECTION I - Reporting

Facts and Observations

Reporting Requirements

1. (U) **Immediate Reporting.** The primary immediate reporting requirement triggered by the death of at least 15 civilians, in Haditha on 19 November 2005, is a significant event report based on a MNF-I Commander's Critical Information Requirement (CCIR).¹⁰³

a. (S) MNF-I CCIR #6 required reporting of any "action or incident resulting in significant military/civilian casualties."¹⁰⁴ Similarly, MNC-I Friendly Force Information Requirement (FFIR) #6 required reporting of any "action or incident resulting in significant military or civilian casualties....this includes non-combat related incidents . . . [i]ncludes 1 X Killed or 3 X Casualties for coalition CF . . . [i]ncludes 3 X Killed or 7 X Casualties for ISF and Civilians."¹⁰⁵

b. (S) MNF-W had a CCIR in the form of a Commander's Standing Notification Event (CSNE) which included a required report of "any action or incident that results in significant civilian or military casualties (1 KIA or 3 WIA for coalition forces; 3 KIA or 7 WIA for ISF and civilians)."¹⁰⁶ The 2d Marine Division CCIRs (Influence) included an FFIR for: (1) "CF or ISF actions resulting in civilian death or serious injury." This item was also listed as a CSNE requiring "immediate notification to Commanding General via most expeditious means (voice or email)."¹⁰⁷

c. (S) For all 2d Marine Division CCIRs, subordinate units, were required to submit immediate voice spot reports with hourly updates as well as written spot reports within two hours.¹⁰⁸ The minimum content requirements for written spots reports were: "(1) Who (unit

✓¹⁰³ As a point of clarification, if an event occurs that qualifies as a CCIR, Commander's Standing Notification Event (CSNE) or Friendly Force Information Requirement (FFIR) as defined by the Commander, that event is not contingent on whether someone recognizes it as a CCIR, CSNE or FFIR. Therefore, the events at Haditha on 19 November 2005 did "trigger" the CCIRs, CSNEs and/or FFIRs whether it was recognized by individuals within the chain of command or not.

✓¹⁰⁴ See Enclosure (17): MNF-I CCIRs. Tab A included a document labeled as an enclosure (included as Enclosure (17): MNF-I CCIRs to this report) which defines significant as "Injured: (≥ 7) and / or Killed: (≥ 3)."

✓¹⁰⁵ See Enclosure (18): MNC-I CCIRs. FFIR #6 was included without change.

✓¹⁰⁶ See Enclosure (19): MNF-W CCIRs.

✓¹⁰⁷ See Enclosure (20): Division CCIRs. At the MNF-W level there is no apparent distinction in notification intended between a CCIR and a CSNE, while at the Division the notification requirements for CSNEs were more demanding than for CCIRs in general.

✓¹⁰⁸ There is similar guidance at other levels of command on timeliness of spot reports, but anecdotal evidence indicates that it is as often honored in the breach as the observance. Thus, while one can cite a general rule for electronic notification as two hours from the time of the event, in practice this notification may occur anywhere from two to 24 hours after the event. Views of various officers in the reporting chain illustrate the vague nature (or understanding) of reporting requirements. The 3/1 Operations Officer stated that spot reports involving CCIRs were required to be reported from the Battalion to RCT-2 by voice immediately and by electronic journal entry (JEN) within two hours of an event; see Enclosure (21): Carrasco Statement. The RCT-2 Operations Officer stated that

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sending report); (2) What (description of incident, to include enemy Tactics, Techniques, and Procedures (TTPs) for emplacement of mines and IEDs, type of ammunition, where/how laid, etc.); (3) When; (4) Where; (5) Potential effect on current operations; (6) Continuing actions and assistance required; (7) For IED events whether ECM (ICE or WARLOCK) was being used.”¹⁰⁹

d. (8) At subordinate commands, there were some variations on MNF-I CCIR #6 for significant civilian casualties - notably, the 2d Marine Division version which is: (1) broader than the others in that it omits the “significant” threshold, thereby applying to any single casualty, killed or seriously injured, and (2) more narrow in that it arguably required a prior determination that the civilian death or injury resulted from CF or ISF action.¹¹⁰ Despite these variations, there is little doubt that an incident involving at least 15 civilian deaths met the requirement for immediate spot reporting –from the squad level through the MNF-I level.

e. (8) There were other reporting requirements relevant to an event resulting in at least 15 civilian deaths. MNF-I CCIR #5 for “events that may elicit political, media, or international reaction” had an identical counterpart in the MNC-I CCIRs. As one of its “media” CSNEs, MNF-W had a requirement to report “contact resulting in significant civilian casualties (3 KIA or 7 WIA),” but did not have a CCIR for events generally that may have elicited media or international interest.¹¹¹ The 2d Marine Division CCIR on media interest required reporting of “any event that generates¹¹² international media coverage or diplomatic interest” but the 2d Marine Division also had a CCIR for “significant negative Iraqi reaction as a result of MNF/ISF operations.”¹¹³

f. (8) Another requirement that warrants discussion is the requirement to report LOAC violations. Under the Department of Defense Law of War Program Directive, all members of the armed forces are required to report “possible, suspected, or alleged” LOAC violations.¹¹⁴ This requirement was fully identified in the applicable MNF-I and MNC-I orders on reporting LOAC violations.¹¹⁵ The procedure generally contemplated in these orders is reporting by individuals

there were no specific time limits beyond “notify as soon as possible and update as necessary;” see Enclosure (22): Starling Statement. MNC-I Joint Operations Center (JOC) personnel indicated that there is no prescribed timeline for reporting CCIRs other than ASAP, as mission or situation allows; see Enclosure (23): Stephenson Statement; Enclosure (24): Hodges Statement; Enclosure (25): Kauffman Statement. Guidance passed informally suggests that two hours from the company level to MNC-I, but JOC experience is that CCIRs reports are received from two hours to 24 hours from the time of the event; see Enclosure (26): Le Gaux email.

¹⁰⁹ See Enclosure (30): Division Reporting Standards. The attachment was posted on the Division COC website.

¹¹⁰ Compare Enclosure (17): MNF-I CCIRs and Enclosure (18): MNC-I CCIRs to Enclosure (20): Division CCIRs.

¹¹¹ See Enclosure (19): MNF-W CCIRs. Thus, MNF-W had two distinct CCIRs on significant casualties, one which required reporting any event or incident involving significant civilian casualties and one requiring reporting only if contact resulted in significant civilian casualties. It is not known if this difference created any reporting issues in fact, but it likely helps explain, in part, the more dramatically different Division CCIR on civilian casualties.

¹¹² See Enclosure (20): Division CCIRs. The Division Media CCIR, which is not a CSNE, is narrower than the MNF-I and MNC-I CCIR in that reporting was not required until there was some indication that interest had been generated.

¹¹³ See Enclosure (20): Division CCIRs.

¹¹⁴ See Enclosure (27): SJA LOAC paper and attachments. DoD Directive 5100.77, DoD Law of War Program, 9 Dec 98, is attachment (27A) to Enclosure (27).

¹¹⁵ See Enclosure (27): SJA LOAC Paper and attachments. Attachment (27B) is MNF-I FRAGO 048 [Reporting of Suspected LOAC Violations] dated 16 Jun 04; Attachment (27C) is MNC-I FRAGO_242 [Reporting of Suspected

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to someone in a position of authority within the command and command notification to higher, via the SJA.¹¹⁶ Accordingly, those orders also provide a format for commanders to report through the SJA.¹¹⁷ This facilitates the corresponding requirements that commanders consult with the SJA and conduct an appropriate investigation into possible, suspected, or alleged LOAC violations. The applicable MNF-W and 2d Marine Division orders also contained provisions, procedures, and forms for reporting, through the SJA, and investigation of LOAC violations; however, those orders referred almost exclusively to the requirement to report “suspected” LOAC violations.¹¹⁸ Strictly speaking, the 19 November incident triggered a requirement to report a possible, suspected, or alleged LOAC violation. Properly reported, the corresponding requirement to investigate would also have been triggered, raising the question of when reporting became a command responsibility at the company or battalion level. It is apparent that several individuals had enough information to trigger the individual reporting requirement almost immediately following the incident.¹¹⁹ From this one can infer that, at some point after the incident, the command had indications sufficient to trigger the command reporting, consultation, and investigation requirements. There is no record or indication that any individual within the command reported the incident as a possible, suspected or alleged LOAC violation.

g. (S) It is also noted that the subsequent events that resulted in the civilian casualties, started with an IED attack that caused one FKIA which in turn met the criteria of a separate CCIR.¹²⁰ The mere fact of contact and the use of an IED also required spot reporting to the 2d Marine Division level though not based on a CCIR and not immediate.¹²¹

2. (U) **Daily Reporting.** In addition to Spot Reporting, there was a requirement at each level of command from 3/1 through MNF-I to submit a daily SITREP. Such reports took different forms at different levels of command.

a. (U) 3/1, RCT-2, and 2d Marine Division each submitted a daily Intentions Message, the format of which included a situation report as a lead-in to intentions, to their respective higher headquarters to satisfy SITREP requirements. The 3/1 Intentions Message formed the basis for the RCT-2 Intentions Message, which in turn, formed the basis for the 2d Marine Division Intentions Message. The 2d Marine Division Intentions Message was submitted to MNF-W to

LOAC Violations] dated 26 Jun 04. Note also that MNF-I FRAGO 048 is made applicable by Annex P of the MNF-I Framework OpOrd of 22 Mar 05 contained at Attachment (27F) to Enclosure (27).

u ¹¹⁶ See Enclosure (27): SJA LOAC Paper, and attachments.

u ¹¹⁷ See Enclosure (27): SJA LOAC Paper, and attachments.

u ¹¹⁸ See Enclosure (27): SJA LOAC Paper, and attachments. Without a lengthy discussion, it is sufficient to state that the requirement to report a “possible, suspected, or alleged” LOAC violation is more demanding than the requirement to report only a “suspected” violation. “CF or ISF involvement in LOAC or ROE violations” is also a MNF-I CCIR, see Enclosure (17): MNF-I CCIRs, but that wording suggests that the CCIR reporting requirement applied only to substantiated or adjudicated LOAC violations, making its applicability to these facts more remote than the “legal” based requirement. Similarly, MNF-W had a CCIR for “reported Coalition or ISF....law of armed conflict violations.” (emphasis added). See Enclosure (19): MNF-W CCIRs.

u ¹¹⁹ See, e.g., Enclosure (37): Kallop Statement and Enclosure (43): Laughner Statement. 2d Lieutenant Kallop had immediate questions about five men killed outside a car and Sergeant Laughner took the HET pictures. Arguably, each of these individuals had a duty to report a “possible, suspected or alleged” LOAC violation.

u ¹²⁰ See Enclosures (17) – (20): MNF-I, MNC-I, MNF-W, and Division CCIRs respectfully.

u ¹²¹ The significant events entry that eventually included, by update, reporting of 15 NKIA contained a report of an independent triggering of a CCIR and contained other priority information.

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satisfy the MNF-W requirement for a daily SITREP. MNF-W produced a daily Commander's SITREP submitted to meet the requirement of MNC-I, which in turn produced a daily Battle Update Assessment (BUA) for the MNC-I Commander and for submission to MNF-I.¹²²

U b. (S) There was no requirement in any of these SITREPs, however, to include significant events. The MNC-I SITREP guidance directed reporting of enemy situation and assessment, and assessment of area of responsibility by lines of operations. The commander's assessment was intended to include trends, initiatives, force flow, "planned future operations," friction and issues, personnel, battle losses, combat power, supply, IA (Iraqi Army) issues and detainment status.¹²³ There are places within this format where it would have been appropriate to cite CCIRs triggered in the previous 24 hours but reference to those CCIRs was not mandated. In practice, however, significant event reporting from the previous 24 hours was normally included in both Intentions Messages and SITREPS at all levels.¹²⁴

Actual Reporting

1. (U) 1st Squad, 3d Platoon

a. (U) Summary of Events. On 19 November 2005, members of 1st Squad, 3d Platoon were returning to Kilo Company firm base in a four vehicle convoy after delivering chow, posting Iraqi Army (IA) relief and conducting cryptographic change at the Traffic Control Point (TCP) located in the Bani Dahir area. At approximately 0716 in the vicinity of the intersection of Routes Chestnut and Viper they were subject to a complex attack initiated by an IED followed by SAF. The IED resulted in the following casualties:¹²⁵

- One Friendly Killed In Action (FKIA)
- Two Friendly Wounded in Action (FWIA)

U ¹²² The timelines for these reports were as follows:

Command	SITREP / IM due
Bn to RCT	1000
RCT to Division	1600
Division to MNF-W	2100
MNF-W to MNC-I	2300
MNC-I to MNF-I	0300

U ¹²³ See Enclosure (28): MNC-I Revised SITREP FRAGO.

U ¹²⁴ See Enclosure (29): MNF-W Reports Matrix. The MNF-W reports matrix provided a link to a template for the Intentions Message submitted to MNF-W from its MSCs. As guidance for SITREPs submitted to MNC-I, the matrix provided a link to MNC-I FRAGO 363-05. A survey of the MSC template and the MNF-W SITREPs submitted indicates that significant events figured prominently in the daily report of activity in the AOR. Note also that the MNF-I morning BUA included a roll-up of all CCIRs triggered. This rollup is compiled primarily from significant event reporting through CIDNE and Fusion Net rather than from subordinate BUAs or SITREP input.

See Enclosure (31): Walker email.

U ¹²⁵ See Enclosure (1): Watt Investigation.

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The squad's ensuing response resulted in the following casualties:¹²⁶

- 24 Iraqi civilians dead: Eventually reported as eight Enemy Killed in Action (EKIA) and 15 Noncombatants Killed in Action (NKIA)
- Three Iraqis injured: Eventually reported as one Enemy Wounded in Action (EWIA) and two Noncombatants Wounded in Action (NWIA)

b. (U) Reporting

(1) (U) The SITREPs passed via tactical radio by 1st Squad, 3d Platoon to the Company K COC immediately following the attack provided initial and basic information. The attack was identified as an **IED explosion that destroyed a HMMWV resulting in two (2) FWIA, one (1) FKIA** and the reporting indicated that the squad was receiving **SAF from the south at the intersection of Chestnut and Viper**. The content and accuracy of these initial reports was substantiated by numerous witnesses.¹²⁷

(2) (U) Once this initial information was passed, it becomes difficult to piece together the content and sequence of SITREPs provided to the Company K COC, especially as they relate to EKIA and NKIA.

(3) (U) Sergeant Wuterich, 3/1 Squad Leader, claims to have provided partial BDA at some point during the day but could not recall when or how many KIAs he reported.¹²⁸ 2nd Lieutenant Kallop remembers calling in **two NWIA (one girl and one boy** he found while conducting BDA of the houses that were cleared), and requesting a **Casualty Evacuation (CASEVAC)**. He also remembers reporting some level of additional casualties which he believes to have been **ten KIA**, based on the numerous Iraqis he found in the first house he inspected who had been killed during the clearing operation. 2d Lieutenant Kallop's BDA was interrupted by hearing SAF just after he saw a dead body at the front entrance of the doorway of another house. He did not return to complete his BDA and did not call in any further BDA.¹²⁹

c. (U) Summary and Observations

(1) (U) While it is clear that some BDA reporting at the squad level took place, the source, exact content and sequence of those reports could not be determined. Witnesses interviewed were unable to substantiate, agree on, or corroborate how the BDA eventually reported was derived. This could be as a result of elapsed time between the incident and the interviews, because the BDA was never fully determined at this level of command, or because

▲¹²⁶ See Enclosure (1): Watt Investigation.

▲¹²⁷ See Enclosure (32): Graviss Statement; Enclosure (33): Graviss Watt Statement; Enclosure (34): Salinas Statement; Enclosure (35): Wuterich Statement; Enclosure (36): Wuterich Watt Statement; Enclosure (156): Garcia NCIS Statement; Enclosure (157): Bass NCIS Statement.

▲¹²⁸ See Enclosure (35): Wuterich Statement.

▲¹²⁹ See Enclosure (37): Kallop Statement; Enclosure (38): Kallop Watt Statement; Enclosure (181): Kallop NCIS Statement.

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witnesses were not truthful or were reluctant to volunteer information not specifically asked for in recounting the events.¹³⁰

2. (U) Company K, 3d Battalion, 1st Marines

a. (U) Reporting

(1) (U) The IED explosion was heard in Company K's COC as the 0700 shift change continued between the watch officers - 2nd Lieutenant Kallop (outgoing) and Staff Sergeant Fields (incoming). Almost immediately, the initial SITREP was received reporting the **IED attack** and that there were **casualties**.¹³¹ The next two SITREPs provided triage for the CASEVAC of **one (1) priority FWIA, one (1) routine FWIA and one (1) FKIA** and identified the Marines wounded and killed. During these early SITREPs, Staff Sergeant Fields, as well as others, stated they heard **SAF**.¹³²

(2) (U) Captain McConnell immediately departed with 3d Platoon, 2d Squad as a dismounted Quick Reaction Force (QRF) to the IED site. 1st Lieutenant Mathes, Executive Officer, Company K, assumed control of the COC shortly after the IED detonated. He stated he received a SITREP reporting that there were **eight KIA**, but no indication whether they were enemy or noncombatants.¹³³ He requested confirmation, but the response from the IED site was that they were continuing to assess the situation.¹³⁴

(3) (U) 1st Lieutenant Mathes indicates he received various SITREPs reporting more casualties throughout the day but could not remember any specifics. At some point he reported **eight EKIA** to the 3/1 COC but could not confirm when he sent the SITREP or the basis for determining whether they were enemy or noncombatant.¹³⁵

(4) (U) 1st Lieutenant Mathes recalls the number of **15 civilian KIA**, but does not remember the source or timeframe.¹³⁶

(5) (U) At some point he reported to 3/1 **eight EKIA and seven NKIA** which corresponds to the number "15" he recalls hearing sometime during the day.¹³⁷

¶¹³⁰ See Enclosure (32): Graviss Statement; Enclosure (33): Graviss Watt Statement; Enclosure (35): Wuterich Statement; (36): Wuterich Watt Statement; Enclosure (37): Kallop Statement; Enclosure (38): Kallop Watt Statement; Enclosure (39): Sanchez Statement; Enclosure (40): Sanchez Watt Statement; Enclosure (41): Rodriguez Statement; Enclosure (42): Rodriguez Watt Statement.

¶¹³¹ All SITREPs received from the IED site to Company K COC were via tactical radio.

¶¹³² See Enclosure (37): Kallop Statement; Enclosure (49): Mathes Statement; Enclosure (50): Fields Statement. Numerous witnesses who were either in the immediate vicinity of Chestnut and Viper, or were monitoring the tactical radio net also confirmed hearing SAF (both AK-47s and M16) following the IED detonation, e.g., See Enclosure (156): Garcia NCIS Statement; Enclosure (161): Prentice NCIS Statement; Enclosure (162): Andrae NCIS Statement; Enclosure (163): Gyldenvand NCIS Statement.

¶¹³³ 1st Lieutenant Mathes confirmed the SITREP was received from someone at the IED site but he did not know who sent it or what time he received the report. See Enclosure (49): Mathes Statement.

¶¹³⁴ See Enclosure (46): McConnell Statement and Enclosure (49): Mathes Statement.

¶¹³⁵ See Enclosure (49): Mathes Statement.

¶¹³⁶ See Enclosure (49): Mathes Statement.

¶¹³⁷ See Enclosure (49): Mathes Statement.

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(6) (U) When the bodies were retrieved from the site and brought to Company K firm base, 1st Lieutenant Mathes was surprised when he was told how high the body count was. Regarding the distinction between EKIA and noncombatants killed, he assumed that was determined by the number of AK-47s that were reported to have been found.¹³⁸ However, instructions given to Gunnery Sergeant Dunlap, Company K Gunnery Sergeant, was to unload all the bodies and separate casualties by putting the civilians, defined as women and children, in 2 HMMWVs and the enemy, defined as fighting aged males, in one HMMWV.¹³⁹ Captain McConnell also indicated the body count of **23 Iraqis KIA [eight EKIA and 15 NKIA]** were retrieved from the scene and subsequently taken to the Haditha hospital.¹⁴⁰

b. (U) Summary and Observations

(1) (U) How, when, and by whom the final count of civilian casualties was passed from Company K to 3/1 could not be determined.

(2) (U) Reporting by Company K to 3/1 was via tactical radio and chat. Company K's radio log shows no entries between the hours of 0633-1153 on 19 November 2005.¹⁴¹ Efforts to find and retrieve archived chat records proved unsuccessful.

(3) (U) There are no entries made in the watch log for 19 November 2005. When Staff Sergeant Fields and 1st Lieutenant Mathes were questioned about the lack of entries they both stated that there was too much going on and they did not have time to make entries throughout the day. When questioned by 1st Sergeant Espinosa on why the watch log was not being kept as it relates to casualties, Staff Sergeant Fields indicated he was keeping scratch notes and that he would use these notes to update the log. It is apparent this update did not take place and the notes were subsequently destroyed.¹⁴² Captain McConnell was unaware of the lack of watch log entries.¹⁴³

¶¹³⁸ See Enclosure (37): Kallop Statement; Enclosure (46): McConnell Statement; and Enclosure (49): Mathes Statement. Both 1st Lieutenant Mathes and Captain McConnell indicated that eight AK-47s were found and therefore, of the 23 Iraqi civilians killed, it was determined that eight were EKIA and the remaining 15 were civilians killed. Neither of them claim to have actually seen the weapons and no other witnesses could recall recovering or disposing of the AK-47s. 2d Lieutenant Kallop indicated he thought Explosive Ordnance Disposal (EOD) team would have picked up the weapons, but the EOD team's report makes no mention of retrieving weapons from the scene. See Enclosure (53): EOD Report. See, also, Enclosure (179): Bunde NCIS Statement.

¶¹³⁹ While both Captain McConnell and 1st Lieutenant Mathes stated they did not remember how the number of 8 EKIA was derived (assuming it was by weapons retrieved at the scene), it appears Captain McConnell's method to distinguish noncombatants from enemy once the bodies arrived at Company K firm base was to instruct Gunnery Sergeant Dunlap to separate the women and children from military aged males. Even though the 3/1 Operations Officer (Major Carrasco) had been requesting verification of EKIA throughout the day, neither Captain McConnell nor 1st Lieutenant Mathes instructed Gunnery Sergeant Dunlap to verify EKIA or NKIA counts when he separated the bodies. See Enclosure (46): McConnell Statement; Enclosure (49): Mathes Statement; Enclosure (164): Dunlap NCIS Statement.

¶¹⁴⁰ At the Company level, no written document could be found and no witnesses were able to identify the method used to distinguish noncombatants and EKIA.

¶¹⁴¹ See Enclosure (54): Kilo Radio Log.

¶¹⁴² Compare Enclosure (50): Fields Statement with Enclosure (165): Statement to NCIS of 1st Sergeant A.S. Espinosa of 5 May 2006, [hereinafter: Espinosa NCIS Statement].

¶¹⁴³ See Enclosure (46): McConnell Statement; Enclosure (49): Mathes Statement; Enclosure (50): Fields Statement; Enclosure (55): Kilo Watch Log.

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(4) (U) Written documentation of any type to substantiate or clarify what was reported by the Marines at the IED site or what was reported to higher headquarters was non-existent at the Company level.¹⁴⁴

(5) (U) Interviews conducted at the Company level and below portray a chaotic Company COC throughout the day. While the COC was able to effectively maneuver squad level elements in support of the engagement, it is evident that all other forms of command and control were largely left unattended.¹⁴⁵

(6) (U) Photographs. At least five different individuals took still photographs of the victims at the scene. One set of photographs was taken by Sergeant Laughner, part of the Human Exploitation Team (HET) attached to Company K, in the performance of his intelligence gathering duties. The photographs that Sergeant Laughner took were reviewed by Captain McConnell, Company K Commander. The pictures apparently were not forwarded beyond these individuals and were subsequently deleted from Sergeant Laughner's camera. Photographs of all victims were also taken by Lance Corporal Briones, who stated that he and Lance Corporal Wright were ordered to take the photographs. Lance Corporal Wright also took some photographs of the victims on a different camera during this process. Staff Sergeant Diamond, the Battalion Motor Transport Chief, stated that he took photographs of five Iraqis who were killed next to a car at the IED site because he thought that the account he had received of their deaths was inconsistent with what he observed at the scene. Staff Sergeant Lane took pictures pursuant to his EOD duties that may also have included photos of the victims near the car. The taking and use of these photographs as they relate to reporting and follow-on action is discussed further in the analysis section.¹⁴⁶

(7) (U) On the evening of 19 November 2005, a meeting was conducted by Captain McConnell with members of the platoon involved in the incident attack. Statements indicate that the debrief was oriented almost exclusively toward coping with the loss of Lance Corporal Terazzas, the Marine killed by the IED attack.¹⁴⁷ Although this meeting was not a debrief of combat actions, Captain McConnell and other Company leaders may have stated that, despite the number of noncombatant casualties, the Marines had done "the right thing" and accomplished

U¹⁴⁴ See Enclosure (46): McConnell Statement; Enclosure (49): Mathes Statement; Enclosure (50): Fields Statement; Enclosure (54): Kilo Radio Log; Enclosure (55): Kilo Watch Log.

U¹⁴⁵ See Enclosure (37): Kallop Statement; Enclosure (39): Sanchez Statement; Enclosure (44): Briones Statement; Enclosure (46): McConnell Statement; Enclosure (49): Mathes Statement; Enclosure (50): Fields Statement; Enclosure (52): Espinosa Statement; Enclosure (164): Dunlap NCIS Statement. Note that in his first statement given on 19 March 06, First Sergeant Espinosa hastily claimed to know little about the incident beyond his role in preparing casualty documentation. His claim of ignorance about any of the actions surrounding the largest engagement that Company K had experienced at that time was perplexing, considering his office was less than 15 feet from the Company COC. On 5 May 06, he made a statement to NCIS that included a fairly lengthy account of the days events. See Enclosure (165): Espinosa NCIS Statement.

U¹⁴⁶ Enclosure (43): Laughner Statement; Enclosure (44): Briones Statement; Enclosure (45): Briones Watt Statement; Enclosure (46): McConnell Statement; Enclosure (47): McConnell Watt Statement. Lance Corporal Wright had redeployed back to CONUS and was not available for interview by the Bargewell AR 15-6 team. He later admitted to NCIS that he had also taken his own photographs of the bodies. See Enclosure (158): Wright NCIS Statement; Enclosure (159): Diamond NCIS Statement; Enclosure (160): Lane NCIS Statement.

W¹⁴⁷ See Enclosure (41): Rodriguez Statement; Enclosure (44): Briones Statement; Enclosure (46): McConnell Statement.

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the mission.¹⁴⁸ Other than this meeting there is little evidence of an attempt on the part of Company K to develop a complete picture of the incident. Although some witnesses cite debriefs or discussions of the incident, these do not appear to have been intended to or to have resulted in an organized account of the incident.¹⁴⁹

(8) (U) Confused, disjointed and inaccurate reporting to higher headquarters, no log entries, and a complete lack of attention to detail as combat actions were completed, all demonstrate failure to adhere to basic standard reporting procedures.

(9) (U) Even when considering the loss of a Marine and given that this was the largest engagement Company K had experienced, the lack of follow-up and attention to detail by platoon and company leadership is considerable. Failure to verify the number of EKIA and distinguish that number from noncombatants killed, failure to verify weapons seized, and failure to systematically question and evaluate actions taken in the clearing operation resulting in the death of 24 Iraqi civilians all demonstrate a lack of awareness or unwillingness to confront what had happened within the battlespace and the command.

3. (U) 3d Battalion, 1st Marines (3/1)

a. (U) Reporting

(1) (U) Once the report of SAF was received, Major Carrasco, 3/1 Operations Officer, declared a Troops in Contact (TIC) and assumed control of the COC. Captain Chames who was the watch officer at the time began to assimilate the numerous SITREPs being called in, supervised the input to the radio log, and developed JENs to be forwarded to RCT-2.¹⁵⁰

(2) (U) As part of their SOP, 3/1 maintained a log of radio transmissions by all companies within the battalion. These entries are initially recorded on communication books (referred to as "yellow canaries") and then transcribed to the log. The following provides times and basic content of what the Battalion received from Company K on 19 November 2005:¹⁵¹

¶¹⁴⁸ See, e.g., Enclosure (188): Statement to NCIS of Lance Corporal J.M. Roldan of 11 May 2006, [hereinafter: Roldan NCIS Statement]. Roldan could not remember the date of the meeting and thought that it was a couple days later. It is apparent from all of the witness statements that one or more meetings of this type were held and that the message was essentially the same. See, also, Enclosure (158): Wright NCIS Statement; Enclosure (172): Zuniga NCIS Statement; Enclosure (189): Statement to NCIS of Lance Corporal D.K. Choi of 3 May 2006 [hereinafter: Choi NCIS Statement].

¶¹⁴⁹ See, e.g., Enclosure (190): Statement to NCIS of Corporal M. S. Richard of 8 May 2006, [hereinafter: Richard Statement]. Corporal Richard, an Intelligence Marine attached to Company K, told NCIS that he debriefed both 2d Lieutenant Kallop and Sergeant Wuterich upon their return to the firm base on 19 November, yet, neither 2d Lieutenant Kallop nor Sergeant Wuterich indicated that they were debriefed by Corporal Richard. Corporal Richard recalled that there was nothing remarkable about the debrief and that he sent the resulting report along to the Battalion S-2 by SIPR (classified internet). No other witness interviewed by the investigating team or NCIS mentioned the debrief or the reports.

¶¹⁵⁰ See Enclosure (21): Carrasco Statement; Enclosure (56): Chames Statement; Enclosure (154): Carrasco NCIS Statement; Enclosure (166): Statement to NCIS of Captain J. Chames of 1 June 2006, [hereinafter: Chames NCIS Statement]; Enclosure (167): Gonzalez NCIS Statement.

¶¹⁵¹ As a matter of SOP, yellow canaries were destroyed every 30 days and were not available for review.

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15 June 2006 (Final)

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Time	Entry
0716	Spartan 3-1 hit an IED at Chestnut and Viper
0728	CASEVAC 9 Line reporting 2 urgent listing the injuries (paraphrased)
0729	Area cordoned assessing situation and EOD requested
0805	Requested a wrecker to the IED site to recover HMMWV (paraphrased)
0814	Reports 1 FKIA who was driver of HMMWV that was hit by IED (paraphrased)
0915	When IED hit at Chestnut and River 3-1 was engaged by SAF from North and South from the engagement they had a possible of 5 EKIA and they found a map and \$2000 US cash on one of the bodies
1143	Sit Rep S6 is located at W100 Spartan sent 2 FWIA, 1 EWIA on the bird also with 1 Marine as a guard on the bird with 2 children that were wounded also on the bird when they left the target house they noticed there were 4 NKIA with possible EKIA
1310	A woman was found to be hiding her husband's US dollars and 19 Jordanian passports and the woman was being detained (paraphrased) ¹⁵²

(3) ~~(S)~~ JEN 19-008, JEN 19-019 and JEN 20-007 were the written reports submitted by the Battalion to RCT-2.¹⁵³ These JENs were all authored by Captain Chames and approved for release.¹⁵⁴ They read as follows:

(a) ~~(S)~~ JEN 19-008: At 190716C Nov 05, A K/3/1 mounted patrol was struck by a complex attack at the intersection of GRG Rt Chestnut and Viper at 38S KC 5844 7944. The IED struck the 4th vehicle in the convoy (a D1158 high back HMMWV Lvl II A MAK armor) immediately followed by SAF from the north and the south. There was (1) FKIA, (1) Urgent FWIA, (1) Priority FWIA, (5) EKIA and (1) EWIA from the ensuing TIC. One of the EKIA was found carrying (1) Map, and (\$2000) US Currency, EOD PBA determined that the IED was a propane tank which was remotely detonated.

(b) ~~(S)~~ JEN 19-019 Update to ref 19-008: The IED was a propane tank which was remotely detonated. The vehicle involved in the attack was a D1158 Highback

¹⁵² See Enclosure (93): 3d Battalion, 1st Marines Radio Log of 19 November 2005, [hereinafter: 3/1 Radio Log].

¹⁵³ A JEN is assigned a unique number at the RCT level. When 3/1 submitted a JEN, it would initially go in as 19-XXX (the first number indicating the date the entry was created). When RCT-2 received the Battalion's JEN it assigned the JEN a number. A copy of the JEN, as modified by RCT-2 and submitted to the Division, would be returned (by email copy) to 3/1 with the specific JEN number for easy reference and/or identification if updates were required. Where Battalion JENs are identified in this report by JEN number, that number represents the number assigned by the RCT.

¹⁵⁴ See Enclosure (21): Carrasco Statement; Enclosure (56): Chames Statement; Enclosure (167): Gonzalez NCIS Statement. All JENs required approval by the Battalion Commander, Executive Officer or Operations Officer before being released, see Enclosure (166): Chames NCIS Statement. Initially, we were unable to determine the exact times that 3/1 submitted these journal entries to RCT-2 and neither Major Carrasco nor Captain Chames could remember. Attempts to retrieve JEN emails from 3/1 archived electronic data proved unsuccessful. However, the NCIS statement taken from Major Carrasco on 31 May 2006, indicates that he released the first JEN that contained information pertaining to 15 NKIA about 2400 on 19 November 2006. He also indicated that the Battalion Commander personally reviewed that particular JEN, see Enclosure (154): Carrasco NCIS Statement. RCT-2 JEN submission times to 2d Marine Division are as follows: 1247C on 19 Nov for JEN 19-008; 1931C on 19 Nov for JEN 19-019; and 0101C on 20 Nov for JEN 20-007.

UNCLASSIFIED

FOUO

15 June 2006 (Final)

000039

UNCLASSIFIED

~~SECRET//NOFORN~~

FOUO

HMMWV with Level IIA MAK armor. The vehicle sustained major damage to the front of the vehicle and is considered to be destroyed. No ECMs were in use.

(c) (S) JEN 20-007 Update to ref 19-019: There was a total of (8) EKIA, (1) EWIA who was medevaced out, and (15) NKIA, and (2) NWIA medevaced. Post engagement assessment has determined that the combined 3/1 and 2-2-7 IA patrol was attacked as it was moving past a group of neutral IZs. The ensuing blast and TIC contributed to the number of NKIAs. AIF elements then engage CF from within residential structures in the area further adding to NKIAs as a result of returned fire by CF. Commanding Officer 3/1 moved to the scene to conduct a command assessment of the events.¹⁵⁵

(4) (U) The cut-off time for the 3/1 Intentions Message was 1000 each day and therefore, the 19 November 2005 message did not contain any information on the IED and the ensuing incident. The 20 November 2005 3/1 Intentions Message reflected the same information regarding the 15 NKIA as was contained in the JEN, including references to the circumstances of their deaths (essentially killed by IED blast and in ensuing TIC).¹⁵⁶

b. (U) Summary and Observations

(1) (U) 3/1 electronically reported "15 NKIA" at about 2400 local on 19 November 2005 in an update to a JEN of a significant event. The update did not highlight the fact that the reported civilian casualties met the criteria for any CCIR.

(2) (U) Although specific instances could not be recalled by either Major Carrasco or Captain Chames, they both indicated communications between RCT-2 and 3/1 were ongoing throughout the day in the form of chat and land line communications.¹⁵⁷

(3) (S) Several additions to reported information appear for the first time in JEN #20-007 that cannot be traced back to being reported at the squad, platoon or company level as far as source documentation.¹⁵⁸ Specifically:

(a) (S) "Fifteen (15) NKIA." While mentioned previously by 1st Lieutenant Mathes as a number he remembers, it was never in any previous SITREPs nor does he recall reporting this to 3/1. Intuitively, it is possible that once the total KIA was determined as 23, simple math was applied based on the report by 1st Lieutenant Mathes of eight EKIA – that is, 23 KIA minus 8 EKIA equals 15 civilians killed ("NKIA"). This may have been the logic

¹⁵⁵ See Enclosure (2): 3/1 JENs. As explained earlier, when 3/1 submitted their JENs for 19 November 2005, it was submitted as "19-XXX." RCT-2 would then assign a number to the JEN. In reviewing Enclosure (2), the gaps in numbered 3/1 JENs are a result of other battalions within RCT-2 submitting JENs. Enclosure (2) contains all JENs from 19-20 November 2005 submitted by 3/1.

¹⁵⁶ See Enclosure (22): Starling Statement; Enclosure (57): 3/1 IM 19 Nov 05; Enclosure (58): 3/1 IM 20 Nov 05.

¹⁵⁷ See Enclosure (21): Carrasco Statement; Enclosure (56): Chames Statement.

¹⁵⁸ See Enclosure (2): 3/1 JENs.

UNCLASSIFIED

UNCLASSIFIED

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applied in constructing the JEN, but it cannot be substantiated by documentation or statements taken during the investigation.¹⁵⁹

(b) (8) "Moving past a group of neutral IZs" .. "The ensuing blast and TIC contributed to the number of NKIAs." No Marine interviewed who was at the site when the IED was detonated indicated that there were any neutral Iraqi citizens present when the IED was detonated. Neither Major Carrasco nor Captain Chames can remember where this information was obtained. Captain Chames stated that this was "his understanding" of what happened, but could point to no other specific documentation.¹⁶⁰

(4) (U) As Major Carrasco began to receive intermittent radio traffic he immediately suspected the number of EKIAs was inaccurate. His rationale was based on known intelligence of the enemies' overall strength. Numerous times throughout the day he attempted to get an accurate count.¹⁶¹

(5) (U) No other witnesses interviewed who were in the COC that day can recall specifically when or how information was received regarding the civilian deaths.¹⁶²

(6) (U) The witnesses' inability to state where the new information originated could be attributed to the length of time between the incident and this investigation.

(7) (U) Lieutenant Colonel Chessani, 3/1 Battalion Commander, remembers calling Colonel Davis, RCT-2 Commander, late on the evening 19 November 2005 to provide an oral SITREP of the days events. However, he could not recall exactly what he told Colonel Davis nor could he remember if Colonel Davis requested additional information regarding the civilian deaths or the actions that took place during the clearing operations.¹⁶³

u¹⁵⁹ See Enclosure (49): Mathes Statement.

u¹⁶⁰ A review of the interviews conducted and contained in the Enclosure (1): Watt Investigation clearly indicated that no eyewitness alluded or mentioned that Iraqi citizens were moving past the site when the IED was detonated. Interviews conducted with 3/1 Battalion staff all point to an "assumption" that at least in part, the IED detonation caused some of the noncombatants casualties "moving past" and the ensuing cross-fire "contributed" to the deaths of the Iraqis "moving past" see Enclosure (21): Carrasco Statement; Enclosure (32): Graviss Statement; Enclosure (34): Salinas Statement; Enclosure (35): Wuterich Statement; Enclosure (39): Sanchez Statement; Enclosure (41): Rodriguez Statement; Enclosure (49): Mathes Statement; Enclosure (56): Chames Statement; Enclosure (154): Carrasco NCIS Statement; Enclosure (167): Gonzalez NCIS Statement.

u¹⁶¹ See Enclosure (21): Carrasco Statement; Enclosure (49): Mathes Statement; and Enclosure (56): Chames Statement. Major Carrasco remembered a report of 25 EKIAs and based on consultation with the S-2 concluded that the insurgents could not muster this many for an attack. Thus, he discounted the report as erroneous. The S-2, Captain Dinsmore did not mention this conversation in his statement to NCIS. He did mention a conversation that took place after 19 November 2005 when he and Major Carrasco tried to distinguish between civilian casualties and EKIA for the Powerpoint Event Rollup - which did not mention Iraqi civilian casualties. See Enclosure (168): Dinsmore NCIS Statement.

u¹⁶² See Enclosure (59): Gonzalez Statement; Enclosure (60): Sax Statement; Enclosure (61): Chessani Statement; Enclosure (62): Park Statement; Enclosure (63): Stone Statement.

u¹⁶³ See Enclosure (61): Chessani Statement; Enclosure (64): Davis statement; Enclosure (167): Gonzalez NCIS Statement.

UNCLASSIFIED

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FOUO

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(8) (8) Within 3/1, there appears to have been a preoccupation with a new capability that was reportedly employed in 3/1's area of operations (AO) for the first time that day. Scan Eagle, an Unmanned Aerial Vehicle (UAV), was being utilized by the Battalion and the COC was able to watch events unfold real time and direct maneuver. It is believed that this preoccupation with Scan Eagle tended to distract the Battalion from its responsibility to provide a broader perspective to its subordinate units by placing proper emphasis on other aspects of the battlespace, i.e., actions that resulted in 24 Iraqi civilian deaths.¹⁶⁴

(9) (U) Based on witnesses interviewed at the Battalion level, the overall atmospherics of the COC that day can be characterized as excitable, if not nervous, based on the various engagements in which the Battalion was involved, though the information flow from Company K was slow coming in.¹⁶⁵ Moreover, there are indications of an overzealous attitude to paint a complete picture of what was happening to higher headquarters, regardless of whether the picture was completely accurate.¹⁶⁶

4. (U) Regimental Combat Team-2 (RCT-2)

a. (U) Reporting

(1) (U) RCT-2 Standing Operating Procedures (SOP) for receiving and sending JENs to 2d Marine Division was for the Senior Watch Officer (SWO) to assign a number,¹⁶⁷ review for content --making minor grammatical changes as required, and request clarifying information if necessary. The JEN would be then passed to the Operations Officer for review or if he was not available, the SWO would release that JEN. RCT-2 could also originate a JEN based on chat, email, or phone conversations.¹⁶⁸

U

(2) (8) The following JENs were submitted to 2d Marine Division:

U

(a) (8) JEN 19-008: At 190730C NOV 05, a 3/1 mounted patrol in Hadithah IVO (38S KC 5844 7944) was attacked with and [sic] IED. The blast resulted in (1) FKIA and (2) FWIA (1 urgent and 1 priority). The (2) FWIA were air MEDEVAC'd to Al Asad at 0809C. Vehicle type and damage has not been reported ATT.

U

(b) (8) JEN 19-019 Update to ref 19-008: The IED was a propane tank which was remotely detonated. The vehicle involved in the attack was a D1158 Highback HMMWV with Level II A MAK armor. The vehicle sustained major damage to the front of the vehicle and is considered to be destroyed. No ECMs were in use.

U ¹⁶⁴ See Enclosure (21): Carrasco Statement; Enclosure (22): Starling Statement; Enclosure (56): Chames Statement; Enclosure (64): Davis Statement. Davis could not remember the details of the discussion either.

U ¹⁶⁵ See Enclosure (168): Dinsmore NCIS Statement.

U ¹⁶⁶ See Enclosure (21): Carrasco Statement; Enclosure (49): Mathes Statement; Enclosure (56): Chames Statement.

U ¹⁶⁷ See Enclosure (21): Carrasco Statement; Enclosure (22): Starling Statement; Enclosure (56): Chames Statement; Enclosure (64): Davis Statement.

U ¹⁶⁸ See Enclosure (22): Starling Statement and Enclosure (64): Davis Statement.

UNCLASSIFIED

UNCLASSIFIED

~~SECRET//NOFORN~~

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(c) (S) JEN 20-007 Update to ref 19-008: A joint 3/1 and 2-2-7 IA patrol also received SAF during the IED attack at the intersection of Rt Chestnut and Viper. When the IED struck the 4th vehicle, SAF was received from the north and south. K/3/1 returned fire and (8) EKIA and (1) EWIA was assessed. (1) EKIA was found to have (1) map and (\$2000) USD in his possession. The EWIA was ground MEDEVAC'd to the Dam. A group of neutral IZs passed as the patrol was attacked by the IED and SAF from enemy elements within residential structures. A total of (15) NKIA and (2) NWIA were assessed as a result of the IED blast and SAF engagements against CF by AIF. The (2) NWIA were ground MEDEVAC'd to the Dam.

(d) (S) JEN 20-019 Update to Ref 19-008: The (2) NWIA were an 8 year old IZ girl, and a 7 year old IZ boy. The girl received shrapnel to the right leg, and the boy received shrapnel to the back. Both were classified as priority medevacs, and were transferred from Al Asad to Balad for further medical treatment at 191307C Nov 05. The wounds were incurred as a result of the IED blast which initiated the attack on 3/1. CAG has been notified and is working with the family.¹⁶⁹

(3) (S) Despite receiving the above JENs, neither of RCT-2's Intention Messages of 19 November or 20 November 2005 makes any reference to NKIA (or other terminology relating civilian deaths). The 19 November Intentions Message notes the IED attack and friendly casualties. The omission of NKIA information from the 19 November 2005 Intention Messages is consistent with the fact that the RCT-2's Intentions Message was due at 2d Marine Division at 1600 each day. The 20 November RCT-2 Intentions Message states: "TF 3/1 had several small arms engagements over the course of the day [referring to the previous 24 hours] (3) caches and (3) IEDs were found. The total casualties in Haditha over the last 24 hours are: (1) FKIA, (8) FWIA, (12) EKIA and (5) EWIA. There was (1) additional EKIA in Barwana." The core of the RCT-2 language is virtually identical to language contained in the summary paragraph of the 3/1 intentions message of 20 November. Although each details the numbers of friendly and enemy casualties, neither the casualty roll-up in the 3/1 summary paragraph nor the corresponding roll-up in the RCT-2 Intentions message includes NKIA or NWIA numbers or other references to civilian casualties.¹⁷⁰

b. Summary and Observations

(1) (U) RCT-2 electronically reported "15 NKIA" in a JEN update at 0101 local on 20 November 2005. The update did not highlight the fact that the civilian casualties met the criteria for a CCIR.

(2) (U) Lieutenant Colonel Starling, RCT-2 Operations Officer, indicated he had numerous conversations with Major Carrasco regarding the IED and subsequent attacks. He

¹⁶⁹ See Enclosure (3): RCT-2 JENs.

¹⁷⁰ See Enclosure (58): 3/1 20 Nov 05 IM; Enclosure (65): RCT-2 IM 19 Nov 05; Enclosure (66): RCT-2 IM 20 Nov 05. Note that although the 3/1 IM summary paragraph counts 12 EKIA, the total of the numbers reported in the following more detailed reports adds up to only nine.

UNCLASSIFIED

15 June 2006 (Final)

FOUO

000043
Bargewell Discovery
00046

UNCLASSIFIED

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FOUO

recalled that Major Carrasco informed him of civilian casualties and that the number of civilian casualties was high.¹⁷¹

(3) (U) Based on his discussions with Major Carrasco, Lieutenant Colonel Starling understood that civilian casualties were the result of both the IED and clearing operations.¹⁷²

(4) (S) Lieutenant Colonel Starling recalled updating Colonel Davis and the G-3 of 2d Marine Division when it was established that more than five civilians had been killed in combat actions because it met the criteria of a CCIR.¹⁷³

(5) (U) Comparison indicates that the JENs submitted by RCT-2 to 2d Marine Division are different from the JENs submitted by 3/1. Differences include changes in prose, changes in content, addition of information not previously cited in written reporting, and omissions. For this incident, a JEN (20-019) was submitted that was not preceded by a corresponding JEN from 3/1. This means that it was created solely by RCT-2, presumably based on information received via email, chat or phone conversations.

(6) (S) Overall discrepancies between 3/1 JENs and RCT-2 JENS are as follows:

(a) (S) JEN 19-008:

3/1 (sent to RCT-2)	RCT-2 (sent to 2d Marine Division, 1247, 19 Nov 05)
At 190716C Nov 05, A K/3/1 mounted patrol was struck by a complex attack at the intersection of GRG Rt Chestnut and Viper at 38S KC 5844 7944. The IED struck the 4 th vehicle in the convoy (a D1158 high back HMMWV Lvl IIA MAK armor) immediately followed by SAF from the north and the south. There was (1) FKIA, (1) Urgent FWIA, (1) Priority FWIA, (5) EKIA and (1) EWIA from the ensuing TIC. One of the EKIA was found carrying (1) Map, and (\$2000) US Currency, EOD PBA determined that the IED was a propane tank which was remotely detonated. ¹⁷⁴	At 190730C NOV 05, a 3/1 mounted patrol in Hadithah IVO (38S KC 5844 7944) was attacked with and IED. The blast resulted in (1) FKIA and (2) FWIA (1 urgent and 1 priority). The (2) FWIA were air MEDEVAC'd to Al Asad at 0809C. Vehicle type and damage has not been reported ATT. ¹⁷⁵

¹⁷¹ See Enclosure (22): Starling Statement.

¹⁷² See Enclosure (22): Starling Statement.

¹⁷³ See Enclosure (22): Starling Statement.

¹⁷⁴ See Enclosure (2): 3/1 JENs.

¹⁷⁵ See Enclosure (3): RCT-2 JENs.

FOUO

000044
Bargewell Discovery
00047

UNCLASSIFIED

UNCLASSIFIED

FOUO

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When the two are compared as shown below, they are notably different in length and level of detail. The most obvious discrepancy is the 14 minute time difference as to when the incident occurred.¹⁷⁶

- (b) ^u ~~(8)~~ JEN 19-019 is the same for 3/1 and RCT-2.¹⁷⁷
- (c) ^u ~~(8)~~ JEN 20-007:

3/1 (sent to RCT-2, 2400, 19 Nov 05)	RCT-2 (sent to 2d Marine Division, 0101, 20 Nov 05)
Update to ref 19-019 Update to ref 19-08: There was a total of (8) EKIA, (1) EWIA who was medevaced out, and (15) NKIA, and (2) NWIA medevaced. Post engagement assessment has determined that the combined 3/1 and 2-2-7 IA patrol was attacked as it was moving past a group of neutral IZs. The ensuing blast and TIC contributed to the number of NKIAs. AIF elements then engaged CF from within residential structures in the area further adding to NKIAs as a result of returned fire by CF. Commanding Officer 3/1 moved to the scene to conduct a command assessment of the events. ¹⁷⁸	Update to ref 19-008: A joint 3/1 and 2-2-7 IA patrol also received SAF during the IED attack at the intersection of Rt Chestnut and Viper. When the IED struck the 4 th vehicle, SAF was received from the north and south. K/3/1 returned fire and (8) EKIA and (1) EWIA was assessed. (1) EKIA was found to have (1) map and (\$2000) USD in his possession. The EWIA was ground MEDEVAC'd to the Dam. A group of neutral IZs passed as the patrol was attacked by the IED and SAF from enemy elements within residential structures. A total of (15) NKIA and (2) NWIA were assessed as a result of the IED blast and SAF engagements against CF by AIF. The (2) NWIA were ground MEDEVAC'd to the Dam. ¹⁷⁹

Prose and content are different but the information is essentially the same with RCT-2's JEN 19-008 providing information that was reported in 3/1's JEN. In RCT-2's version, they add that the EWIA and the two NWIA were evacuated via ground to the dam, which was incorrect. The wounded were evacuated via air to Al Asad.¹⁸⁰

- (d) ^u ~~(8)~~ JEN 20-019 (Update to Ref 19-008) was reported solely by RCT-2 and contains amplifying information about the two NWIA but states incorrectly that the wounds were incurred as a result of the IED blast.¹⁸¹

u¹⁷⁶ Compare Enclosure (2): 3/1 JENs with Enclosure (3): RCT-2 JENs.

u¹⁷⁷ Compare Enclosure (2): 3/1 JENs with Enclosure (3): RCT-2 JENs.

u¹⁷⁸ See Enclosure (2): 3/1 JENs. The time at which this 3/1 update was submitted was provided by the Battalion S-3. See Enclosure (154): Carrasco NCIS Statement.

u¹⁷⁹ See Enclosure (3): RCT-2 JENs.

u¹⁸⁰ Compare Enclosure (2): 3/1 JENs with Enclosure (3): RCT-2 JENs. See, also, Enclosure (37): Kallop Statement; Enclosure (46): McConnell Statement; Enclosure (49): Mathes Statement

u¹⁸¹ See Enclosure (3): RCT-2 JENs and Enclosure (37): Kallop Statement.

UNCLASSIFIED

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(7) (U) As noted previously, the times that 3/1 submitted their JENs could not be verified. Therefore, the differences between the JENs could be attributed to RCT-2 taking information via chat, email and/or phone conversations, in addition to the information that they received in the 3/1 JENs. It is also possible that RCT-2 constructed an initial JEN to 2d Marine Division based on information received via other media, and perhaps, adjusted once they received the actual JEN from 3/1. Lieutenant Colonel Starling stated that this procedure was used occasionally when a battalion did not submit timely JENs although no witness indicated this procedure was used in this instance.¹⁸²

(8) (U) The incorrect information that the NWIAs and EWIA were being evacuated via ground to the dam is unexplained and may be an indication of an effort by RCT-2 to complete the picture for 2d Marine Division based on assumptions rather than facts.

(9) (S) Even though the civilian casualties met the criteria for a CCIR, it is apparent that no additional action (other than reporting to 2d Marine Division) was initiated by the senior leadership of RCT-2.¹⁸³ Furthermore, there was no evidence in the witness statements of further thought given to questioning or investigating the high number of civilian casualties.¹⁸⁴

5. (U) 2d Marine Division

a. (U) Reporting

(1) (S) 2d Marine Division recorded the original report of the incident as meeting the criteria for a CCIR, but did not specify which CCIR. The update, which mentioned civilian casualties, did not indicate that another CCIR had been triggered. Both the original report and the update were reported in SIGEVENT entries to MNF-W.¹⁸⁵

(2) (U) 2d Marine Division entries in the SIGEVENT Journal indicate timely reporting as information was received from RCT-2 via JENs as shown in paragraph 5.a.(3) below.¹⁸⁶

(3) (U) When comparing RCT-2's JENs to what was entered by 2d Marine Division in the SIGEVENT Journal, content and facts remain consistent with only minor changes to some sentence structure in two of the five entries. A side-by-side comparison is provided below and differences between the RCT-2 submission and 2d Marine Division's entries are bolded.

u¹⁸² See Enclosure (22): Starling Statement.

u¹⁸³ See Enclosures (17) – (20): MNF-I, MNC-I, MNF-W, and Division CCIRs respectfully.

u¹⁸⁴ See Enclosure (22): Starling Statement; Enclosure (64): Davis Statement; Enclosure (67): Collins Statement; and Enclosure (68): Connelly Statement.

u¹⁸⁵ See Enclosure (4): Division SIGEVENT.

u¹⁸⁶ Compare Enclosure (3): RCT-2 JENs with Enclosure (4): Division SIGEVENT.

UNCLASSIFIED

FOUO

000046
Bargewell Discovery
00049

UNCLASSIFIED

FOUO

SECRET//NOFORN

(a) ^u (S) G3WNCO-191328C CCIR SECURITY:

RCT-2 (sent to 2d Marine Division)	2d Marine Division
JEN 19-008 (1247C): At 190730C NOV 05, a 3/1 mounted patrol in Hadithah IVO (38S KC 5844 7944) was attacked with an IED. The blast resulted in (1) FKIA and (2) FWIA (1 urgent and 1 priority). The (2) FWIA were air MEDEVAC'd to Al Asad at 0809C. Vehicle type and damage has not been reported ATT ¹⁸⁷	G3WNCO-191328C-CCIR SECURITY: At 190730C NOV 05, a 3/1 mounted patrol was attacked with an IED in Hadithah IVO (38S KC 5844 7944). The blast resulted in (1) FKIA and (2) FWIA: (1) Urgent and (1) Priority. The (2) FWIA were air MEDEVAC'd to Al Asad at 0809C. Vehicle type and damage has not been reported ATT ¹⁸⁸

(b) (U) Update # 1 G3WNCO-191942C: No difference between the corresponding JEN.¹⁸⁹(c) ^u (S) Update # 2 G3WNCO-200124C:

RCT-2 (sent to 2d Marine Division)	2d Marine Division
Update to ref 19-008 (0101C): A joint 3/1 and 2-2-7 IA patrol also received SAF during the IED attack at the intersection of Rt Chestnut and Viper. When the IED struck the 4 th vehicle, SAF was received from the north and south. K/3/1 returned fire and (8) EKIA and (1) EWIA was assessed. (1) EKIA was found to have (1) map and (\$2000) USD in his possession. The EWIA was ground MEDEVAC'd to the Dam. A group of neutral IZs passed as the patrol was attacked by the IED and SAF from enemy elements within residential structures. A total of (15) NKIA and (2) NWIA were assessed as a result of the IED blast and SAF engagements against CF by AIF. The (2) NWIA were ground MEDEVAC'd to the Dam. ¹⁹⁰	A combined 3/1 and 2-2-7 IA patrol was also attacked with SAF during the IED attack at the intersection of Rt Chestnut and Viper. When the IED struck the 4 th vehicle, SAF came from the north and south. K/3/1 returned fire and (8) EKIA and (1) EWIA was assessed. (1) EKIA was found to have (1) map and (\$2000) USD in his possession. The EWIA was ground MEDEVAC'd to the Dam. A group of neutral IZs passed as the patrol was attacked by the IED and SAF from enemy elements within residential structures. A total of (15) NKIA and (2) NWIA were assessed as a result of the IED blast and SAF engagements against CF by AIF. The (2) NWIA were ground MEDEVAC'd to the Dam. ¹⁹¹

(d) (U) Update # 3 G3 WO-201201C: No difference between the corresponding JEN.¹⁹²

^u ¹⁸⁷ See Enclosure (3): RCT-2 JENs.

^u ¹⁸⁸ See Enclosure (4): Division SIGEVENT.

^u ¹⁸⁹ Compare Enclosure (3): RCT-2 JENs with Enclosure (4): Division SIGEVENT.

^u ¹⁹⁰ See Enclosure (3): RCT-2 JENs.

^u ¹⁹¹ See Enclosure (4): Division SIGEVENT.

^u ¹⁹² Compare Enclosure (3): RCT-2 JENs with Enclosure (4): Division SIGEVENT.

UNCLASSIFIED

15 June 2006 (Final)

FOUO

000047

Bargewell Discovery

00050

UNCLASSIFIED

~~SECRET//NOFORN~~

FOUO

(e) (U) Update # 4 G3WNCO-201226C: There is no corresponding JEN for this entry. With only minor word changes it is the same entry as Update #3.¹⁹³

(4) (U) On 20 November 2005, 2d Marine Division released the following press release (#05-141): "**Camp Blue Diamond, AR Ramadi, Iraq – A U.S. Marine and 15 Iraqi civilians were killed yesterday from the blast of a roadside bomb in Haditha.** Immediately following the bombing, gunmen attacked the convoy with small arms fire. Iraqi Army soldiers and Marines returned fire killing eight insurgents and wounding another. In early October, Iraqi Army soldiers and Marines conducted Operation Rivergate in Haditha, Barwana and Haqlaniyah to establish bases to maintain a long term security presence."¹⁹⁴

(5) (U) 2d Marine Division's Intentions Message for 19 November 2005 covered the one FKIA and the two FWIA but did not mention EKIA, EWIA, NKIA or NWIA. No additional information on the incident was provided in 2d Marine Division's 20 November 2005 Intentions Message.¹⁹⁵

b. (U) Summary and Observations

(1) (U) It is clear that the information contained in written immediate reports remained relatively consistent from the time the reports reached 2d Marine Division.

(2) (S) While the original SIGEVENT highlighted that a CCIR was triggered, Colonel Holden, 2d Marine Division G-3 could not recall the specific incident.¹⁹⁶ Colonel Holden did indicate that as a general rule he briefed Major General Huck, the 2d Marine Division Commander, whenever the criteria for a CCIR was met.¹⁹⁷ The updates to the Division SIGEVENT which included "15 NKIA" did not highlight the fact that the criteria for another CCIR had been met.

(3) (U) With the exception of Captain Pool, the 2d Marine Division PAO, no other 2d Marine Division witnesses interviewed could recall with clarity or specificity the events of 19 November 2005.¹⁹⁸

(4) (U) Press Release

(a) (U) Standard practice for Captain Pool was to draft a press release, have it reviewed by the G-3 and then take it to the COS for final approval to release. He stated that

u¹⁹³ See Enclosure (3): RCT-2 JENs and Enclosure (4): Division SIGEVENT.

u¹⁹⁴ See Enclosure (8): Press Release.

u¹⁹⁵ See Enclosure (70): Division 19 Nov 05 IM and Enclosure (71): Division 20 Nov 05 IM.

u¹⁹⁶ See Enclosure (20): Division CCIRs.

u¹⁹⁷ See Enclosure (69): Holden Statement.

u¹⁹⁸ See Enclosure (69): Holden Statement; Enclosure (94): Statement of Lieutenant Colonel K. Keith, Staff Judge Advocate, 2d Marine Division, [hereinafter: Keith Statement]; Enclosure (12): Pool Statement; Enclosure (13): Sokoloski Statement; Enclosure (95): Statement of Lieutenant Colonel McCarthy, Current Operations Officer, 2d Marine Division, [hereinafter: McCarthy Statement]; Enclosure (96): Statement of Colonel G. Denning, Effects Officer, 2d Marine Division, [hereinafter: Denning Statement].

UNCLASSIFIED

15 June 2006 (Final)

FOUO

000048
Bargewell Discovery
00051

UNCLASSIFIED

SECRET//NOFORN

FOUO

rarely did something he drafted stay in its original form after being reviewed by the G-3 and/or COS.¹⁹⁹

(b) (U) Captain Pool did not preserve his original draft of the press release, having routinely disposed of it.²⁰⁰

(c) (U) The rationale Captain Pool provided as to why the press release cited only the IED as the cause of the 15 Iraqi civilian deaths was that his goal was to get information out before the enemy could and that exact details of how the civilians were killed was not deemed important. What was important, in his view, was getting the information out quickly to show the treachery of the enemy. He added that including too much detail about the cause of death might offend families or friends of the deceased.²⁰¹

(d) (U) Colonel Sokoloski, COS, 2d Marine Division and Captain Pool stated at the time of their interviews by the investigation team that they believed that the press release was fundamentally accurate. They reached this conclusion and maintained this position even though the press release was inconsistent with the information set forth in the official report of the incident --the press release omitted the small arms fire that had been reported as one cause of the civilian deaths.²⁰²

(5) (U) No follow-on actions based on the high number of civilian casualties were deemed appropriate by 2d Marine Division personnel.²⁰³

6. (U) Multi-National Force-West (MNF-W)

a. (U) Reporting

(1) (S) MNF-W recorded the initial report of the incident and updates as a SIGEVENT and forwarded the initial report and updates to MNC-I.²⁰⁴ The MNF-W SIGEVENT entry identified the incident as meeting the criteria for an MNF-W Commander's Significant Notification Event (CSNE #5) and an MNC-I CCIR (#6) (friendly military or civilian casualties).

U¹⁹⁹ See Enclosure (12): Pool Statement; Enclosure: (13): Sokoloski Statement; Enclosure (69): Holden Statement; Enclosure (96): Denning Statement.

U²⁰⁰ See Enclosure (12): Pool Statement.

U²⁰¹ See Enclosure (12): Pool Statement.

U²⁰² See Enclosure (12): Pool Statement and Enclosure (13): Sokoloski Statement. In contrast, the Marines from 3/1 who read the press release in the paper, immediately recognized its inaccuracies. See Enclosure (154): Carrasco NCIS Statement; Enclosure (167): Gonzalez NCIS Statement; Enclosure (168): Dinsmore NCIS Statement; Enclosure (173): Statement to NCIS of Major D.G. Hyatt of 25 May 2006, [hereinafter: Hyatt NCIS Statement]. Some even wondered if there was an attempt to cover up the incident. See Enclosure (163): Gyldendand NCIS Statement and Enclosure (169): Statement to NCIS of Lance Corporal M.T. Harper of 2 June 2006, [hereinafter: Harper NCIS Statement].

U²⁰³ See Enclosure (13): Sokoloski Statement; Enclosure (87): Huck Statement; Enclosure (69): Holden Statement; Enclosure (94): Keith Statement; Enclosure (95): McCarthy Statement; Enclosure (96): Denning Statement.

U²⁰⁴ See Enclosure (5): MNF-W SIGEVENT.

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However, it did not highlight the fact that the civilian casualties mentioned in the update also met the criteria for the same CCIR²⁰⁵

(2) (U) The content of the initial MNF-W entry and subsequent updates was identical to what was reported by 2d Marine Division.²⁰⁶

(3) (U) MNF-W's daily SITREP for 19 November 2005 reported the attack listing the friendly casualties and no other information regarding EKIA, EWIA, or civilian casualties: "NKIA" or "NWIA." No additional information on the underlying event was provided in the 20 November MNF-W SITREP; however, buried in the CMO portion of that MNF-W SITREP, (for one of the MNF-W AOs) was a reference to civil affairs personnel assisting in "transportation of dead bodies, both civilian and enemy to the Haditha hospital."²⁰⁷

b. (U) Summary and Observations

(1) (S) MNF-W SIGEVENT entries did not highlight the fact that the civilian casualties met the criteria for a CCIR. Witnesses interviewed at the MNF-W level recalled the events of 19 November 2005 but no specifics.²⁰⁸

(2) (S) No follow-on action based on the number civilian casualties was deemed necessary by the senior leadership of MNF-W.²⁰⁹

7. (U) Multi-National Corps-Iraq

a. (U) Reporting

(1) (U) The events of 19 November 2005 were recorded (both original report and updates) on the Fusion Net and reflected the same information as provided in the significant events entries submitted by MNF-W.²¹⁰ The Fusion Net entry does not contain any notation highlighting that either the military casualties or the civilian casualties met the criteria for a CCIR.

(2) (U) The event was captured in a Spot Report and an associated storyboard (PowerPoint slide) was developed concerning the friendly casualty. It is apparent from the time and date on the storyboard that it was produced prior to the SIGEVENT update which included NKIA. Thus, while the Spot Report updates contained all the information relative to NKIA, the PowerPoint slide listed only the friendly casualties.²¹¹

U²⁰⁵ See Enclosure (5): MNF-W SIGEVENT.

U²⁰⁶ Compare Enclosure (4): Division SIGEVENT with Enclosure (5): MNF-W SIGEVENT.

U²⁰⁷ See Enclosure (72): MNF-W 19 Nov 05 SITREP and Enclosure (73): MNF-W 20 Nov 05 SITREP.

U²⁰⁸ See Enclosure (74): Ledoux Statement; Enclosure (75): Cariker Statement; Enclosure (76): Kelly Statement; Enclosure (77): Ball Statement; Enclosure (78): Norwood Statement.

U²⁰⁹ See Enclosure (74): Ledoux Statement; Enclosure (75): Cariker Statement; Enclosure (76): Kelly Statement; Enclosure (77): Ball Statement; Enclosure (78): Norwood Statement; Enclosure (79): Johnson Statement.

U²¹⁰ Compare Enclosure (5): MNF-W SIGEVENT with Enclosure (6): MNC-I Fusion Net Entry.

U²¹¹ See Enclosure (7): MNF-I Spot Report; Enclosure (80): 19 Nov 05 MNC-I Story Board; Enclosure (81): 20 Nov 05 MNC-I Story Board.

UNCLASSIFIED

15 June 2006 (Final)
FOUO

000050

Bargewell Discovery

00053

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(3) (U) The MNC-I BUA for 19 or 20 November did not contain any reference to civilian casualties ("NKIAs").²¹²

(4) (U) The MNC-I SITREP for 20 November included the MNF-W reference to civil affairs assisting in "transportation of dead bodies, both civilian and enemy to the Haditha hospital."²¹³

b. (U) Summary and Observations

(1) (U) No one interviewed at this level of command recalled the incident of 19 November 2005.²¹⁴

(2) ~~(S)~~ While the incident was reported and met the criteria for a CCIR, due to friendly and civilian casualties, no witnesses could recall any questions or follow-on actions that resulted.²¹⁵

(3) (U) The MNC-I 1730 (local) Battle Update Assessments (BUAs) for 19 and 20 November 2005 contain no reference to the NKIAs.²¹⁶

Analysis

1. (U) Timely, Accurate and Complete Reporting

a. (U) The spot reports for Company K and its subordinate units during the 19 November 2005 attack were untimely,²¹⁷ inaccurate, and incomplete. With the exception of the spot reports immediately following the IED detonation, those identifying friendly casualties and requesting CASEVAC, reports were untimely, conflicting, rarely verified and never corrected if erroneously

▲ ²¹² See Enclosure (84): 19 Nov 05 MNC-I BUA; and Enclosure (85): 20 Nov 05 MNC-I BUA. See, also, Enclosure (152): MNC-I SITREPs.

▲ ²¹³ See Enclosure (153): 19 Nov 05 MNC-I SITREP; 20 Nov 05 MNC-I SITREP; 21 Nov 05 MNC-I SITREP, [hereinafter: MNC-I SITREP].

▲ ²¹⁴ See Enclosure (23): Stephenson Statement; Enclosure (24): Hodges Statement; Enclosure (25): Kauffman Statement; Enclosure (82): Gade Statement; Enclosure (83): Huggins Statement.

▲ ²¹⁵ See Enclosure (18): MNC-I CCIRs; Enclosure (23): Stephenson Statement; Enclosure (24): Hodges Statement; Enclosure (25): Kauffman Statement; Enclosure (82): Gade Statement; Enclosure (83): Huggins Statement.

▲ ²¹⁶ See Enclosure (84): 19 Nov 05 MNC-I BUA; Enclosure (85): 20 Nov 05 MNC-I BUA; Enclosure (86): 21 Nov 05 MNC-I BUA. In contrast with the MNC-I BUA, the MNF-I morning (0730 local) BUA includes a roll-up of all triggered MNF-I CCIRs. This roll-up is created at the MNF-I level primarily from significant event reports rather than from MNC-I and below BUA submissions. See Enclosure (31): Walker Email; Enclosure (84): 19 Nov 05 MNC-I BUA; Enclosure (85): 20 Nov 05 MNC-I BUA; Enclosure (86): 21 Nov 05 MNC-I BUA. See, also, Enclosure (152): MNC-I SITREPs 182100 Nov 05-192100 Nov 05; 192100 Nov 05-202100 Nov 05; 202100 Nov 05-212100 Nov 05; 212100 Nov 05-22210 Nov 05; and 222100 Nov 05-232100 Nov 05. Having likely been submitted too late for the 20 November MNF-I morning BUA, the 15 NKIA report should logically have been included on the 21 November CCIR roll-up; however, it was not included in that BUA CCIR roll-up.

▲ ²¹⁷ It is worth noting that timeliness requirements, as a practical matter, may pose an obstacle to accurate and complete reporting. The combination of notoriously sketchy (and often mistaken) contemporaneous spot reporting, on the one hand, and the demand of higher headquarters for more specific and explanatory information, on the other, puts actors in the chain of command and reporting chain in the position of filling in the blanks in a hurry.

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submitted to 3/1. When repeatedly asked for clarifying information by the 3/1 COC, the Company was remarkably slow to provide definitive updates and how and when the final report of civilian casualties was made can not be determined. Moreover, after the day's combat actions had ceased, there was little or no apparent effort by Company K to evaluate or clarify to higher headquarters what took place at Chestnut and Viper.

b. (U) Company K failed to clarify or correct the erroneous information reported by 3/1 that Iraqis were killed as a result of the IED and crossfire between Coalition Forces (CF) and insurgents.²¹⁸ A basic and complete debrief of the squad members to ensure accuracy as to what happened would have identified this reporting error. While meetings on the incident did take place, they were aimed almost exclusively at helping Marines cope with the loss of Lance Corporal Terazzas and the overall impact of the incident on the Company's morale, not at reviewing the combat actions that took place.²¹⁹

c. (U) It is also apparent that Company K failed to reasonably distinguish enemy from noncombatants killed during the engagement. It was obvious that there was uncertainty about the numbers, which continued even after the bodies were delivered to the morgue casting doubt on the numbers eventually reported by the Battalion.²²⁰ Because this uncertainty was clear at the Company level, the leadership of the Company should have systematically reviewed with the Marines who participated in the action their counts based on PID. This information then could have been passed to 3/1. One of two things would have resulted from this clarification –either 3/1 would have accepted the numbers of EKIA and civilian casualties as reported or questioned the validity of the count which could have resulted in an investigation.

d. (U) 3/1's deficiencies in timeliness, accuracy and completeness —their JENs to RCT-2 were hours late and contained incorrect information —were driven in part by Company K's reporting. The 3/1 staff's additions to information received from the Company, based on apparent assumptions as to what took place (e.g., a "group of Iraqis was passing by"), rather than facts obtained, further clouded the picture received at higher headquarters and may have obscured the high number of and questionable circumstances surrounding noncombatant casualties.²²¹ The tendency to add details to reported information based on assumptions apparently continued as the reports were forwarded from level to level as well. For example, the erroneous detail that two injured civilians ("NWIA") were ground transported to the Dam²²² was likely added at the RCT level since the Battalion COC, having requested the CASEVAC, would have known they were evacuated by air. The likelihood of correcting such inaccurate

u²¹⁸ See Enclosure (2): 3/1 JENs; Enclosure (21): Carrasco Statement; Enclosure (56): Chames Statement.

u²¹⁹ See, e.g., Enclosure (46): McConnell Statement; Enclosure (158): Wright NCIS Statement; Enclosure (188): Roldan NCIS Statement; Enclosure (172): Zuniga NCIS Statement; Enclosure (189): Choi NCIS Statement.

u²²⁰ See, e.g., Enclosure (10): Hyatt Statement; Enclosure (49): Mathes Statement; Enclosure (164): Dunlap NCIS Statement.

u²²¹ See, e.g., Enclosure (22): Starling Statement. See, also, Enclosure (166): Statement to NCIS of Captain J.J. Chames of 1 June 2006, [hereinafter: Chames NCIS Statement]. Captain Chames' statement, in which he mentions that he assumed without knowing for certain that the Battalion Commander had gone to visit the scene of the incident, is illustrative of a tendency to fill in the blanks in reporting. A statement to this effect, which turned out to be incorrect, was included in a 3/1 JEN and not corrected.

u²²² See Enclosure (3): RCT-2 JEN.

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information also diminishes as it goes forward since no practice was identified by which subordinate units would routinely review reports submitted by higher headquarters.²²³

e. (U) Due to delays and inaccuracies at the Company, Battalion, and to a lesser extent, RCT level, one might conclude that no level of command reported in a timely, accurate or complete manner. However, once the source information (which was incorrect and incomplete) reached the 2d Marine Division level, immediate reporting was accomplished without significant factual change and without further delay. Yet none of the (electronic) immediate reports submitted or entries posted from 3/1 to MNF-I highlighted the fact that the "15 NKIA" reported in an update met the criteria for a CCIR. Daily reporting was deficient at the RCT level and above based on the omission of "15 NKIA" from Intentions Messages, SITREPs, and Battle Update Assessments. Although not a specific requirement, common sense and practice favor including significant events in daily reports. Similarly, to the extent that a press release constitutes reporting, 2d Marine Division's reporting of the event was untimely (this time perhaps too early rather than too late) and more inaccurate than the official reporting. The report that 15 Iraqi civilians were killed solely by an IED blast was clearly inaccurate in light of the facts understood by the 2d Marine Division at the time, i.e., it was inconsistent with the SIGEVENT reports. The fact that it omitted information that might have suggested Marine responsibility for the civilian deaths –in a report intended for public consumption –also makes its release more suspect.²²⁴

2. (U) Appropriateness of Follow-on Action

a. (S) The most remarkable aspect of follow-on action with regard to the civilian casualties from the 19 November 2005 Haditha incident was the absence of virtually any kind of inquiry at any level of command into the circumstances surrounding the deaths. There is no indication that the "15 NKIA" reported in spot reports even registered or caused hesitation with anyone from the MNF-W level and above.²²⁵ This may be attributed to the circumstances and character of the reports received at those levels of command.²²⁶ Moreover, although there was a notation indicating "15 NKIA" in a significant event report received and posted at each level, the reference did not highlight the fact that this information met the criteria for a CCIR, and the reference was buried in an update received as long as 24 hours after the incident took place.

u²²³ There are mechanisms for such review. In addition to websites on which significant events are posted, RCT-2 for example copied the Battalion when their JENs were forwarded by email to the Division. See Enclosure (97): GCE RCT-2 S-3 JC Emails of 19 Nov 05 RCT-2 (JENs on Haditha incident).

u²²⁴ A number of Marines, upon reading the release in the paper or hearing of its contents, immediately noted that it was inaccurate in that it was inconsistent with the "official" account of events, and some wondered whether the release represented a cover-up. This demonstrates the potentially harmful nature of the release and is an interesting contrast with the position maintained by the Division COS and PAO that the release was fundamentally accurate. Compare Enclosure (12): Pool Statement and Enclosure (13): Sokoloski Statement with Enclosure (163): Gyldenvand NCIS Statement; Enclosure (169): Statement to NCIS of Lance Corporal M.T. Harper of 2 June 2006, [hereinafter: Harper Statement]; Enclosure (170): Statement to NCIS of Lance Corporal C.A. DeLeon of 18 May 2006, [hereinafter: DeLeon Statement].

u²²⁵ See, e.g., Enclosure (75): Cariker Statement; Enclosure (77): Ball Statement; Enclosure (79): Johnson Statement; Enclosure (83): Huggins Statement.

u²²⁶ For example, the BUAs for 19 and 20 Nov 05 reported total civilian casualties of: 80 killed, 134 injured (24 hour period) and 17 killed and 40 injured (12 hour period); respectively. See Enclosure (84): 19 Nov 05 MNC-I BUA and Enclosure (85): 20 Nov 05 MNC-I BUA.

UNCLASSIFIED

15 June 2006 (Final)

FOUO

000053

Bargewell Discovery

00056

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Similarly, the update was to a report of an FKIA, (meeting the same CCIR criteria at some levels), which could have obscured the fact that another CCIR was contained in the remaining text.²²⁷

b. (U) Similarly, little or no action that can be described as appropriate, including anything meaningful in the form of further inquiry into the circumstances surrounding the killings, was taken or directed by 2d Marine Division, RCT-2, or 3/1. In evaluating the appropriateness of follow-on actions or the lack thereof throughout the chain of command but particularly within 2d Marine Division, it is worth examining apparent opportunities to inquire further and indications ("red flags") that further inquiry was advisable. These are as follows:

(1) (U) The Battalion S-3 suspected that they were receiving erroneous reporting from the beginning of incident. For example, according to the S-3, the COC received a report before 1100 that there were 23 or 25 EKIA from the incident. Believing that the local insurgents could not muster that many fighters, the COC directed that the Company count the weapons recovered and made further attempts to clarify the numbers reported.²²⁸ Yet the later reports that broke down the dead into 8 EKIA and 15 NKIA were accepted without further questioning of the Company.

(2) (U) The Platoon Commander, Company K Commander, and a HET NCO each conducted an inspection of the scene almost immediately after the killings.²²⁹ The Platoon Commander and Company Commander did not do a complete inspection of the scene, but they had an opportunity to do so. The Platoon Commander questioned what had happened immediately upon seeing five men dead beside a car. Despite being given an account which provided a questionably lawful basis for killing these individuals and despite later inspecting the first house in which there were at least six dead and two wounded children, 2d Lieutenant Kallop did not raise any further questions about or propose any inquiry into the circumstances of any of the killings.²³⁰

(3) (U) More than a few Marines observed the scene soon after the shootings and before the bodies had been significantly disturbed including the squad involved in the killings, the QRF, and EOD personnel. At least five individuals took photographs of some or all of the bodies. These two facts, considered in light of the scene that the photographs portrayed including the apparent manner of death of the civilian casualties, should have prompted additional inquiry into the killings.

¶²²⁷ See Enclosure (5): MNF-W SIGEVENT; Enclosure (6): MNC-I Fusion Net Entry; Enclosure (7): MNF-I Spot Report. Nevertheless, there is a presumption that reports and updates received are read. It is apparent that the individual who posted the MNF-I update entered "N/A" in the block asking which CCIR was triggered. This suggests that inadequate attention was paid to the facts being reported. In any event, no action, including an investigation or a request for information, was taken or directed at the MNF-W, MNC-I, or MNF-I level.

¶²²⁸ See Enclosure (21): Carrasco Statement and Enclosure (154) Carrasco NCIS Statement.

¶²²⁹ See Enclosures (37): Kallop Statement; Enclosure (43): Laughner Statement; Enclosure (46): McConnell Statement.

¶²³⁰ See Enclosure (37): Kallop Statement; Enclosure (172): Statement to NCIS of Lance Corporal R. Zuniga of 13 May 2006, [hereinafter: Zuniga NCIS Statement]. Lance Corporal Zuniga recounts that in response to 2d Lieutenant Kallop's question, Corporal Salinas stated that the MAMs got out of the car and ran and everybody "lit them up," or words to that effect.

UNCLASSIFIED

FOUO

15 June 2006 (Final)

000054

Bargewell Discovery

00057

UNCLASSIFIED

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(a) (U) In addition to the photographs taken by Sergeant Laughner, the HET NCO, that were shown to the Company Commander (who had been on the scene),²³¹ Lance Corporal Briones and Lance Corporal Wright were also ordered to take photographs. Briones indicated that Lance Corporal Wright and he numbered the victims when they took the photographs, and that he turned his camera in to the COC. He could not state for certain whether anyone in the COC pulled the photographs off his camera, but he retrieved the camera and stated that he later deleted the photographs from his camera. Eventually, NCIS retrieved the photographs from the memory chip of his camera. It could not be determined who, if anyone, received the photographs or what, if any official action was taken to collect, review, and preserve the photographs.²³² Lance Corporal Wright also took some photographs of the victims on his own camera during this process but there is no indication whether any effort was made by him or anyone else to get those photographs into official channels. When this investigation team conducted its interviews at Haditha on 18 to 20 March 2003, virtually all of the Company and Battalion leaders interviewed indicated that they were unaware of any official photographs having been taken.²³³

(b)

(b) Staff Sergeant Diamond, the Battalion Motor Transport Chief, stated that he took photographs of the five Iraqis who were killed next to the car at the IED site because he thought that the account he had received of their deaths was inconsistent with what he observed at the scene. Staff Sergeant Lane took pictures pursuant to his EOD duties that may also have included photos of the victims near the car since he also expressed suspicion of their killings.²³⁴ Neither Staff Sergeant Diamond nor Staff Sergeant Lane came forward to express any concerns to the chain of command.

(c) (U) Photographs of the Chestnut and Viper civilian casualties were widely circulated among the junior Marines of Company K soon after the incident. In spite of a prohibition on taking, possessing, or distributing photographs of casualties- that should have been known to anyone familiar with policies widely discussed during Operation Iraqi Freedom- the evidence suggests that Company K's Marines were avid casualty photographers and casualty photograph collectors.²³⁵ Whatever this might say about the discipline and junior NCO

231 See Enclosure (43): Laughner Statement and Enclosure (46): McConnell Statement.

232 See Enclosure (44): Briones Statement; Enclosure (45): Briones Watt Statement; Enclosure (46): McConnell Statement; Enclosure (47): McConnell Watt Statement; Enclosure (48): Mefford Statement; Enclosure (49): Mathes Statement; Enclosure (50): Fields Statement; Enclosure (51): Frank Statement.

233 Enclosure (43): Laughner Statement; Enclosure (44): Briones Statement; Enclosure (45): Briones Watt Statement; Enclosure (46): McConnell Statement; Enclosure (47): McConnell Watt Statement. Lance Corporal Wright redeployed back to CONUS and was not available for interview by the Bargewell AR 15-6 team. He later admitted to NCIS that he had also taken his own photographs of the bodies. See Enclosure (158): Wright NCIS Statement.

234 See Enclosure (159): Diamond NCIS Statement and Enclosure (160): Lane NCIS Statement.

235 In addition to the brisk trade in photographs of the bodies from the scene at Chestnut and Viper, there are other examples of Company K personnel taking and sharing still photos and video. See, e.g., Enclosure (164): Dunlap Statement; Enclosure (170): DeLeon NCIS Statement; Enclosure (174): Statement to NCIS of C.T. Narey of 13 May 2006, [hereinafter: Narey NCIS Statement]; Enclosure (175): Statement to NCIS of Lance Corporal T.M. Woods of 5 June 2006, [hereinafter: Woods NCIS Statement].

UNCLASSIFIED

FOUO

15 June 2006 (Final)

000055
Bargewell Discovery
00058

UNCLASSIFIED

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leadership in the Company, it indicates that knowledge of the killings of women and children and, to some extent, the nature of their injuries was not confined to a small group of Marines.²³⁶

(d) In fact, the killing of a large number of Iraqis, including women and children, appears to have weighed heavily on the Company in the days following the incident. The Company leadership, including the Commanding Officer, evidently was aware of this. At least one meeting was held at which company personnel were assured that, although civilians were killed, the Marines had done the right thing and accomplished the mission.²³⁷ It is hard to believe that given this general knowledge no report of a possible, alleged or suspected LOAC violation or request or recommendation for an investigation found its way directly or indirectly into official channels²³⁸

(4)(U) A number of Marines from the Battalion, including the Executive Officer, the Battalion Judge Advocate, the Intelligence Officer, and the Civil Affairs Group (CAG) Team Leader stated that they thought that an investigation either was likely to be or would inevitably be directed by the Battalion Commander or higher headquarters.²³⁹ No Marine from 3/1 directed further inquiry.²⁴⁰ No higher headquarters directed any investigation until the MNC-I Commander did so in February 2006.

(5) (U) The Battalion Commander was in contact with and was briefed by the Company Commander soon after the incident and went down to Haditha and to the Kilo Company Firm Base on 19 November 2005, not far from the scene. (A fair reading of an update to the 3/1 JENs suggests that he was there to inspect the scene based at least in part on the high number of civilian casualties.)²⁴¹ The Battalion Executive Officer also told NCIS that he recommended an

U ²³⁶ See, e.g., Enclosure (176): Statement to NCIS of Corporal J.H. Leach of 12 May 2006, [hereinafter: Leach NCIS Statement]; Enclosure (191): Statement to NCIS of Lance Corporal S.L. Parker of 5 May 2006, [hereinafter Parker NCIS Statement].

U ²³⁷ See, e.g., Enclosure (158): Wright NCIS Statement and Enclosure (188): Roldan NCIS Statement.

U ²³⁸ The assurances from the Company leadership were not based on their having ascertained that the Marines had in fact done the right thing and accomplished the mission. Instead, the impression one gets is that Kilo Company's leaders were trying to move past the incident without looking too closely. Their assurances may have been as much to convince themselves, as much as their Marines, that nothing untoward happened. Whether intended or not, this message may have discouraged Marines who otherwise might have come forward and raised the alarm about the incident.

U ²³⁹ See Enclosure (10): Hyatt Statement; Enclosure (59): Gonzalez Statement; Enclosure (63): Stone Statement. See, also, Enclosure (168): Dinsmore NCIS Statement.

U ²⁴⁰ Note that during our interview with the Battalion Executive Officer (XO), he mentioned a discussion between him and the Battalion Commander on the night of the incident in which they discussed the possible need for an investigation. As related to us, the XO's comments during this discussion fell short of a recommendation to the Battalion Commander that an inquiry be conducted though we probed somewhat pointedly on the subject. When the XO spoke to NCIS, he indicated that he did, in fact, recommend an investigation. Moreover, Major Carrasco, the Operations Officer also told NCIS that the XO had told him he had recommended an investigation that night. Major Carrasco had not mentioned this to us either. It is entirely likely that the XO's reticence (and perhaps the Operations Officer's) with us was based on loyalty to the Battalion Commander, that had apparently diminished by the time they had talked to NCIS. Compare Enclosure (59): Gonzalez Statement and Enclosure (21): Carrasco Statement with Enclosure (167): Gonzalez NCIS Statement and Enclosure (154): Carrasco NCIS Statement.

U ²⁴¹ See Enclosure (46): McConnell Statement; Enclosure (61): Chessani Statement; Enclosure (171): Statement to NCIS of Sergeant Major E.T. Sax, 3/1, [hereinafter: Sax NCIS Statement]. See, also, Enclosure (2): 3/1 JENs. Captain Chames the author of the JENs told NCIS that he was not aware of where the Battalion Commander went

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investigation into incident on the night of 19 November, but that after a phone conversation with the RCT Commander, the Battalion Commander decided that the incident was a bona fide combat action and no investigation was required.²⁴² When he visited the scene the next day with the Executive Officer, the Battalion Commander examined only the site of the IED blast.²⁴³

(6) (U) On the afternoon and night of 19 November, 24 dead Iraqi civilians were collected from the scene of the incident and delivered by Company K personnel to the Haditha hospital morgue. The bodies were delivered via the Kilo Firm Base in Haditha. During this process, at the scene, at the Firm Base, and again at the morgue, there were attempts to distinguish, for various reasons, both in number and identity, civilian casualties from EKIA.²⁴⁴ Despite reported confusion and frustration by the Marines attempting unsuccessfully to make these determinations and the lack of virtually any accounting of weapons recovered from the scene,²⁴⁵ there was no further inquiry at the Company level. As a result, there was no apparent rational basis for the distinction made in Battalion reports between civilian casualties and EKIA.

(7) (U) At about 2128 local on 19 November 2005, the RCT-2 Effects Coordinator contacted the 3/1 IO Officer by email and asked if he could obtain the pictures of the dead civilians for possible use in an IO campaign, "especially if you ascertain the insurgents murdered them." It is not known what became of this initiative (the 3/1 IO Officer told the Effects Coordinator that there were no pictures), but this provided another opportunity to inquire further into the killings.²⁴⁶

(8) (U) Captain Haynie, the Battalion Headquarters Company Commander (and IO Officer), told NCIS that two Engineers from Haditha approached him on 20 November 2005. The first engineer told him that he had heard civilians had been pulled from their houses and shot. Captain Haynie told him this was a lie. The second engineer told Captain Haynie that four college students had been shot. Captain Haynie promised both engineers that he would look into their allegations. He did not report these allegations. He talked to Captain McConnell about a week later and was told that the students were wearing chest rigs and had weapons and grenades. (McConnell was presumably referring to individuals killed at a later 19 November Haditha engagement involving Company K). Captain Haynie stated that he passed this information to the

but assumed that he was going to the site of the Chestnut and Viper incident. See Enclosure (166): Chames NCIS Statement. Sergeant Major Sax told NCIS that the Battalion Commander was at the scene of another 3/1 engagement in Haditha and that it got too late for him to visit the Chestnut and Viper site, so instead, they went to the Kilo Firm Base for a couple of hours. See Enclosure (171): Sax NCIS Statement.

u²⁴² Note again the discrepancy between the Executive Officer's and Operations Officer's statements on this matter. Compare Enclosure (59): Gonzalez Statement and Enclosure (21): Carrasco Statement with Enclosure (167): Gonzalez NCIS Statement and Enclosure (154): Carrasco NCIS Statement. Captain Dinsmore, the Battalion S-2, also told NCIS that the Battalion Executive Officer called the RCT Executive Officer and recommended an investigation within a week of the 19 November incident. No other witness, including the Battalion XO, mentioned the call. The RCT-2 Executive Officer has not been interviewed by the investigation team or NCIS.

u²⁴³ See Enclosure (61): Chessani Statement and Enclosure (171): Sax NCIS Statement
u²⁴⁴ See Enclosure (10): Hyatt Statement; Enclosure (49): Mathes Statement; Enclosure (51): Frank Statement. Note that mention of the Civil Affairs efforts to collect and deliver the bodies found its way into the MNF-W SITREP, though buried in the Economics section of the AO Denver portion of the report. See Enclosure (73): MNF-W 20 Nov 05 SITREP.

u²⁴⁵ See Enclosure (37): Kallop Statement and Enclosure (46): McConnell Statement.

u²⁴⁶ See Enclosure (98): Clontz email.

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Battalion XO or S-3. He did not further pursue an investigation though in his same NCIS statement he noted that the officers had had discussions about the absence of an investigation.²⁴⁷

(9) (U) Conceding for the sake of argument that the operations tempo within 3/1 was busy throughout the afternoon by Battalion standards, the Commander and his staff were still required to provide a situation report in their daily Intentions Message (IM) to RCT-2. The civilian deaths of 19 November were discussed in the 20 November IM, which merely repeated verbiage from the JENs that had been previously submitted to report the significant event, including a comment that "post engagement assessment had determined" some of the facts contained in the spot report.²⁴⁸ In fact, the development and submission of the IM provided an opportunity to actually conduct a post engagement assessment that would have identified gaps and inconsistencies in the spot reporting that, in turn, might have reasonably led to appropriate action in the form of further inquiry.²⁴⁹

(10) (U) Despite marginal timeliness, inaccuracy and incompleteness, an update to a significant event report stating that an incident in Haditha had resulted in "15 NKIA" (and 8 EKIA) was received at every level of command through MNF-I by 0857, 20 November 2005.²⁵⁰ Whether the information appeared in the reports as prominently as it ought to have appeared and whether or not it was highlighted, any number of commanders and operations personnel had an opportunity to dissect and evaluate the report. Consistent with practices and procedures, the initial reports of the event were broken out in PowerPoint slides and storyboards at multiple levels of command for presentation to commanders,²⁵¹ however, this process was not applied to updates to the original report and the process produced no further inquiry originating from any level of command.

(11) (U) One affirmative and mostly appropriate follow-on action that was taken in response to the 19 November incident was a \$38,000.00 CERP condolence payment made on about 22 December 2005 to a lawyer representing the families of the 15 deceased Iraqis and two injured Iraqi children.²⁵² The efforts to make these payments began as early as the day after the incident and accelerated when the families' lawyer made contact with the CAG Team Leader. Simultaneous with the lawyer's demands for payment, was a request that the Marines admit wrongdoing.²⁵³ CERP condolence payments are intended as a gesture to express condolence for

u²⁴⁷ See Enclosure (177): Haynie NCIS Statement.

u²⁴⁸ Compare Enclosure (2): 3/1 JENs with Enclosure (58): 3/1 20 Nov 05 IM. It is not clear what prompted the inclusion of this phrase in the spot report. Its inclusion could have contributed to a false impression at higher headquarters that the circumstances surrounding the incident had been appropriately scrutinized.

u²⁴⁹ Captain Dinsmore told NCIS that he did an assessment on the night of 19 November in an effort to put together a rollup of all 19 November 2005 Haditha engagements. He indicated that he used various means to distinguish EKIA from civilian casualties (and that he came up with 15 NKIA and 8 EKIA from Chestnut and Viper –though elsewhere in his statement he notes that the total number of dead reported by Company K was 24). Curiously, the rollup produced did not mention civilian casualties. See Enclosure (168): Dinsmore NCIS Statement.

u²⁵⁰ See Enclosures (3), (4), (6), and (7): RCT-2 JEN, Division SIGEVENT, MNF-W SIGEVENT, MNC-I Fusion Net Entry and MNF-I Spot Report, respectively.

u²⁵¹ See e.g. Enclosure (25): Kauffman Statement and Enclosure (78): Norwood Statement.

u²⁵² See Enclosure (9): CERP Email String and Enclosure (10): Hyatt Statement. As indicated in the enclosures, the payment was \$2500.00 per each of the 15 deceased and \$250.00 each for injuries to two children. A payment was also made in the amount of \$3,000.00 for property damage. See Enclosure (173): Hyatt NCIS Statement.

u²⁵³ See Enclosure (9): CERP Email String.

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a loss of life, injury or property damage and guidelines prohibit payment for losses caused by insurgent actions. There is no investigation required, however, before CERP condolence payments are made and in practice commanders have enough latitude to pay without much in the way of proof as to the circumstances of the death, injury, or property damage. Condolence payments do not constitute an admission of wrongdoing.²⁵⁴ Nevertheless, in this instance the CERP payment process involved an amount unusually high for a Battalion CAG Team Leader and the process went on for over 35 days from the date of the incident, monitored by the Battalion Commander (who apparently determined very quickly, without any evidence of an inquiry, that the claim should be paid).²⁵⁵ During the process, the CAG Team Leader also had to write a brief account of the events giving rise to the claim on the payment voucher. The CERP condolence payment process did not produce meaningful scrutiny of the circumstances surrounding the claim.²⁵⁶

(12) (U) The CERP condolence payment process, however, did produce the only apparent inquiry inside of MNF-W as to whether further reporting was required. On 27 December 2005, the 2d Marine Division Comptroller, upon being advised that \$38,000 had been paid out for deaths, sent an email to the CAG Detachment Commander and Executive Officer asking whether the circumstances were reported as a CCIR when it happened.²⁵⁷ He also advised that the incident should be referred to the SJA for review, presumably as a possible LOAC violation. After being advised that the Battalion Commander and Battalion Judge Advocate had reviewed and approved the payment, the Comptroller notified the 2d Marine Division SJA of the incident himself, stating that he was not sure if further reporting was required. On 28 December 2005, the SJA sent an email inquiry to the Battalion JA via the RCT-2 JA, asking for the "5 W's" on the deaths of 15 Iraqis. The Battalion JA responded with an account that was apparently pieced together from the significant event reporting that had initially been submitted.²⁵⁸ There is no further evidence of investigation or reporting.

(13) (U) On 24 January 2006, Time Reporter, Mr. Tim McGirk contacted the MNF-W Public Affairs Officer (PAO) by email and provided an account of the 19 November Haditha incident. Mr. McGirk's account contained allegations of deliberate and wrongful killing of noncombatants by Marines.

u ²⁵⁴ See Enclosure (88): MNF-W SJA CERP-C Paper.

u ²⁵⁵ See Enclosure (9): CERP Email String. See, also Enclosure (155): Hyatt NCIS Statement. Major Hyatt told NCIS that Lieutenant Colonel Chessani asked him which casualties he should pay for and which he should not. Major Hyatt stated he advised Lieutenant Colonel Chessani to pay for innocents who might have been caught in the middle but not to pay for anyone if he thought they were terrorists or were harboring or helping terrorists in any way.

u ²⁵⁶ See Enclosure (9): CERP Email String. This was in spite of the fact that Major Hyatt, the CAG Team leader knew perhaps as much about the circumstances of the killings as anyone save Sergeant Wuterich and knew also of the reporting of the casualties. He helped deliver the bodies to the morgue, he toured the houses in which the killings occurred, he spoke to the lawyer representing the families of the deceased (who demanded an admission of wrongful death), he commented on the inaccuracy of the press release, he had occasion to read at least some of the official reports. See, also, Enclosure (10): Hyatt Statement; Enclosure (155): Hyatt NCIS Statement. Major Hyatt also reportedly told another officer he was troubled by the incident on more than one occasion. See Enclosure (180): Statement to NCIS of Major M.H. Coffman of 1 June 2006, [hereinafter: Coffman NCIS Statement].

u ²⁵⁷ See Enclosure (89): Osterhoudt Email String.

u ²⁵⁸ See Enclosure (89): Osterhoudt Email String.

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(u) (a) The MNF-W PAO forwarded the email to the 2d Marine Division PAO.²⁵⁹

The 2d Marine Division PAO provided a hard copy of the email containing the allegations to the 2d Marine Division Chief of Staff and apparently provided an electronic copy to the RCT-2 Commanding Officer. The SJA was not notified.²⁶⁰

(u) (b) On 10 February 2006, after attempting unsuccessfully to accommodate Mr. McGirk's request to visit Haditha and get the "Marines' version," the 2d Marine Division (then MNF-W PAO) suggested that Mr. McGirk present his allegations and evidence to the MNC-I PAO.²⁶¹ After the meeting, the MNC-I PAO reported the allegations through MNC-I channels and recommended an investigation.²⁶²

(c) (U) There is some evidence that when the Time allegations reached the Battalion level and the Battalion learned that Mr. McGirk might be coming to Haditha to look into the incident, the Executive Officer and S-3 went to the Battalion Commander together and recommended an investigation into the incident. According to the Executive Officer and the S-3, Lieutenant Colonel Chessani rejected the recommendation out of hand, saying, "My Marines are not murderers," or words to that effect, and dismissed both officers without permitting further discussion.²⁶³ If this incident occurred, it represents another opportunity, if untimely, to investigate the incident. It also suggests an unwillingness, bordering on denial, on the part of the Battalion Commander to examine an incident that might prove harmful to him and his Marines.

(14) (U) On 12 February 2006, the 2d Marine Division/MNF-W SJA was first notified of the allegations.²⁶⁴ Major General Huck, 2d Marine Division/MNF-W Commander, responded to an inquiry on the incident from Lieutenant General Chiarelli, the MNC-I Commander.²⁶⁵ In support of his response, Major General Huck provided a 29 January 2006 email from the 3/1 Commander to the RCT-2 Commander which included responses to some of Mr. McGirk's allegations and a PowerPoint event roll-up of the incident that had been created by 3/1 on 20 November 2005. Major General Huck stated that the roll-up—which did not mention civilian casualties—and the 3/1 Commander's email were the extent of the investigation that had been done and stated his opinion that no further investigation was warranted.²⁶⁶ On 14 February 2006, Lieutenant General Chiarelli ordered an investigation into the incident.²⁶⁷

259 See Enclosure (11): Pool-McGirk Email Exchange.

260 See Enclosure (12): Pool Statement and Enclosure (90): Division Timeline.

261 See Enclosure (12): Pool Statement; Enclosure (13): Sokoloski Statement; Enclosure (90): Division Timeline.

262 See Enclosure (14): CPIC Memo.

263 See Enclosure (154): Carrasco NCIS Statement and Enclosure (167): Gonzalez NCIS Statement. But see, also, Enclosure (21): Carrasco Statement and Enclosure (59): Gonzalez Statement. The XO and the Operations Officer first mention this conversation when interviewed by NCIS in late May 2006. Major Gonzalez said that Lieutenant Colonel Chessani referred to his "Marines." Major Carrasco said he referred to his "men." Note that neither Major Gonzalez nor Major Carrasco mentioned this conversation when interviewed by the investigation team in March, but the account has the ring of authenticity. They may have failed to mention it earlier based on a desire not to be disloyal to their Battalion Commander.

264 See Enclosure (90): Division Timeline.

265 See Enclosure (15): Huck-Chiarelli Email Exchange.

266 See Enclosure (15): Huck-Chiarelli Email Exchange.

267 See Enclosure (15): Huck-Chiarelli Email Exchange.

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3. (U) **Obstacles to Proper Reporting and Appropriate Follow-on Action.** There is evidence that indicates two Marines conspired to fabricate accounts of the incident that would legitimize the killings or suggest someone else did them. Lance Corporal De la Cruz told NCIS investigators that he and Sergeant Wuterich on four separate occasions discussed lying about specific events related to their involvement in some of the killings.²⁶⁸ This logically would have impeded accurate initial reporting and follow-on action. However, another immediate and more significant obstacle was the unwillingness by Marines and sailors who witnessed the events or the aftermath, to come forward with the appropriate information or level of concern. There was no other direct evidence uncovered that showed an affirmative or coordinated effort among Marines to cover-up the incident. Furthermore, there was no evidence of an orchestrated cover-up by the chain of command at any point after the incident. In fact, the evidence indicates that the chain of command encouraged their Marines to cooperate and be truthful, at least once the media and various investigation teams began to inquire. This is not to say that the chain of command acted appropriately, simply that there was no evidence of a concerted effort, above the squad level, to conspire to withhold the truth. In addition, a number of factors likely contributed to the deficiencies to both the accurate reporting and follow-on action in this case.

a. (U) Company K and 3/1 were occupied with several consecutive operations on 19 November 2005 beginning with the IED attack near the intersection of Route Chestnut and Viper.²⁶⁹ These operations for Company K and the Battalion did not subside until the late afternoon, delaying the opportunity for the commanders and staff to assess and ascertain the details. Although the delay alone should not have prevented accurate and adequate evaluation and reporting, the number of reportable or noteworthy events, including a complex attack resulting in FKIA and FWIA, EKIA, EWIA and civilian casualties and detainees, and other incidents involving additional friendly and enemy casualties, fixed and rotor wing close air support, and Scan Eagle employment²⁷⁰ added to information to be collected, assessed and reported. Some of these events individually distracted the commanders' and staffs' attention. Moreover, there was a tendency at the Battalion level and above to view the entire sequence of events that occurred in Haditha that day as a single, continuous engagement.²⁷¹ This could have interfered with their ability and reduced their incentive to isolate parts of the sequence for detailed fact verification and evaluation. Similarly, the initial erroneous reporting took on a life of its own in that updates were interpreted based on the initial reports.

b. (U) At the scene of the incident, it is apparent that no one person was in charge throughout the day or was assigned or assumed overall responsibility for bringing the incident to a close.²⁷² The lack of unity of command contributed to a disjointed command view of the incident and, thus, to poor reporting. It also contributed to a lack of accountability for items and

↖²⁶⁸ See Enclosure (178): Statements to NCIS of Lance Corporal DelaCruz of 18 March, 2 April, 9 May and 16 May 2006, [hereinafter: De la Cruz NCIS Statements].

↖²⁶⁹ See Enclosure (2): 3/1 JENs; Enclosure (21): Carrasco Statement; Enclosure (46): McConnell Statement; Enclosure (61): Chessani Statement.

↖²⁷⁰ See Enclosure (16): Event Roll-up.

↖²⁷¹ See e.g. Enclosure (16): Event Roll-up. Note that the Battalion Roll-up does not mention civilian casualties. Still, it could have contributed to an impression above the battalion level (for those who otherwise knew of the casualties), that they were the result of a sequence of engagements which would reduce the inclination to question the number or how they were killed.

↖²⁷² See Enclosure (46): McConnell Statement; Enclosure (49): Mathes Statement; Enclosure (51): Frank Statement.

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information critical to reporting and follow-on action: a number of photographs were taken by various individuals, for both official and unofficial purposes. These photographs were shared widely for unofficial (and prohibited) reasons but were inadequately reviewed or preserved for proper, official reasons.²⁷³ The recovered weapons count was uncertain, the number of casualties was not definitively ascertained, and efforts to distinguish civilians killed from EKIA were of questionable reliability.²⁷⁴

c. (U) There was a tendency at all levels of command to view civilian casualties, even in significant numbers, as relatively routine by Iraq-wide standards and to view civilian casualties as the natural and intended result of insurgent tactics.²⁷⁵ Virtually every witness interviewed from the Company level to the MNC-I level stated or implied that there was nothing about the number of civilian casualties that, by itself, gave them any pause about the incident as it was reported.²⁷⁶ Most witnesses also noted that civilian casualties were to be expected because the insurgents intentionally hid among civilians, used them as shields and/or intentionally tried to provoke coalition responses that would produce civilian casualties. Although this proposition may accurately reflect insurgent tactics, the officers from Company K and 3/1 who were interviewed raised this point so uniformly in response to questions about the number of casualties that it almost appeared rehearsed.²⁷⁷

d. (S) There was also some indication of a related tendency, which was to presume all Iraqis to be the enemy or supporters of the enemy or, at a minimum, to insist that "noncombatant" does not mean "innocent."²⁷⁸ Similarly, there was evidence of a presumption, perhaps inadvertent,

▲²⁷³ See Enclosure (44): Briones Statement; Enclosure (45): Briones Watt Statement; Enclosure (158): Wright NCIS Statement; Enclosure (159): Diamond NCIS Statement; Enclosure (160): Lane NCIS Statement; Enclosure (43): Laughner Statement; Enclosure (180): Grayson NCIS Statement; Enclosure (168): Dinsmore NCIS Statement. Sergeant Laughner took photographs of all the civilian dead. Viewing of these photos would presumably have caused one to question the circumstances of the killings. Sergeant Laughner said he showed them to Captain McConnell immediately after the incident and to 1st Lieutenant Grayson at some time but said he could not remember when. 1st Lieutenant Grayson states that he did not review the Laughner photographs (on the camera and on a laptop) until he was preparing for the Watt investigation in mid-February but states that he directed Sergeant Laughner to destroy the pictures at that time because he had no further use for them. Captain Dinsmore told NCIS that 1st Lieutenant Grayson ordered the photos destroyed because that had no further intelligence value. 1st Lieutenant Grayson's account of the timing and rationale of the destruction (when an investigating officer might need them because they were no longer needed) is so incredible that one is tempted to assume that he has the timing wrong. However, 1st Lieutenant Grayson also provided the Watt investigation a statement regarding the events of 19 November without telling the Watt investigation team that the statement came from the recollection of Sergeant Laughner and that 1st Lieutenant Grayson had no first hand knowledge of the events. The statement he provided also omitted any reference to photographs. The Laughner photographs were eventually obtained by NCIS from the memory chip in Sergeant Laughner's camera.

▲²⁷⁴ See Enclosure (46): McConnell Statement; Enclosure (49): Mathes Statement; Enclosure (51): Frank Statement.

▲²⁷⁵ See, e.g., Enclosure (21): Carrasco Statement; Enclosure (37): Kallop Statement; Enclosure (49): Mathes Statement; Enclosure (61): Chessani Statement.

▲²⁷⁶ See, e.g., Enclosure (64): Davis Statement; Enclosure (79): Johnson Statement; Enclosure (83): Huggins Statement. As noted above, the BUAs for 19 and 20 Nov 05 reported total civilian casualties of: 80 killed, 134 injured (24 hour period) and 17 killed and 40 injured (12 hour period); respectively. See Enclosures (84) and (85): 19 Nov 05 MNC-I BUA and 20 Nov 05 MNC-I BUA.

▲²⁷⁷ Compare, e.g., Enclosure (21): Carrasco Statement; Enclosure (37): Kallop Statement; Enclosure (49): Mathes Statement; Enclosure (61): Chessani Statement.

▲²⁷⁸ See Enclosure (64): Davis Statement. The RCT-2 Commander took a hard stance about the difficult situation confronting his Marines working in an area in which they were at best unwelcome. Colonel Davis clearly intended

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15 June 2006 (Final)

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that every Military Age Male (MAM) is an insurgent.²⁷⁹ Whether or not this evidence reflects a representative or pervasive attitude that might have played a part in the underlying events of 19 November 2005, it could have contributed to inaccurate reporting and failure to take appropriate action after the event. Although 24 Iraqis were killed, of which 15 were reported as "NKIA," a "they're-all-bad-guys" mindset could have caused the recipient of reports to re-calculate the number of noncombatants killed. This re-calculation would be based on the logical notion that if the insurgents hide among the people and they are all suspect, the count was bound to have erroneously included some dead insurgents as civilians or noncombatants. This likely reduced the level of scrutiny applied to the incident and created a willingness to accept reported circumstances that might otherwise appear dubious.

e. (S) A command view of the Iraqi people and culture may also have led to an operational analysis of the event that impeded more accurate reporting and more appropriate follow-on action. Counter-insurgency doctrine and coalition mission objectives demand that indiscriminate killing be addressed swiftly and effectively as an operational matter--rather than as a legal or moral matter-- in order to avoid eroding the link between coalition forces and safety and security for the Iraqi people.²⁸⁰ The RCT-2 Commander, however, expressed only mild concern over the potential negative ramifications of indiscriminate killing based on his stated view that the Iraqis and insurgents respect strength and power over righteousness.²⁸¹

f. (U) Also contributing to faulty reporting and follow-on action was an observed and potentially distracting, tendency to focus on friendly casualties, particularly FKIA.²⁸² This is rooted in an understandable and laudable concern for Soldiers, Sailors and Marines, but may have contributed to a thought process, in which the loss of a Marine eclipses entirely other

that noncombatants be treated appropriately and afforded the protections due them. His comments overall, however, suggested the difficulty of separating out the various enemies faced in the counterinsurgency fight and separating each from the rest of the Iraqi people, most of whom do not like the American presence, and many of whom acquiesce to the murder and intimidation tactics of the insurgents even if they don't actively support the insurgency.

(S) There is some indication that in trying to segregate NKIA from EKIA after the incident, company personnel used MAM criteria. See, e.g., Enclosure (10): Hyatt Statement; Enclosure (49): Mathes Statement; Enclosure (51): Frank Statement. This is perhaps a reasonable starting point for Marines who have little other information or criteria and are confronted with multiple dead bodies of men, women and children; but troubling when it leads the Marines to throw up their hands once they've sorted through the women and children and assume that any remaining MAMs are insurgents. The even greater concern is that the MAM = insurgent equation is being applied when Marines are trying to PID lawful targets.

(S) In fact, 3/1 produced and planned to distribute a CF (Coalition Force) Flyer within a few days of the incident. Its message included: "Keeping you safe on the street, at your home, in alleys, at the bank, and everywhere you go." See Enclosure (91): 3/1 IO Flyer. In contrast, Company K found four different sets of insurgent flyers in Haditha on 26 November stating that the insurgents and the ghosts of the victims would avenge the deaths of Iraqis caused by coalition forces on 19 November. See Enclosure (92): HET DIIR.

(S) See, e.g., Enclosure (61): Chessani Statement and Enclosure (64): Davis Statement. The flyer contained in Enclosure (91) indicates 3/1's IO message was concerned with safety and security rather than strength.

(S) At higher levels, see, e.g., Enclosure (64): Davis Statement and Enclosure (79): Johnson Statement. At the Company level, 1st Lieutenant Frank's statement to NCIS is illuminating. He refers to a moment at the scene of the incident at which he had the opportunity and the inclination to ask some of the Marines about the killings in which they had participated. He states, however, that he did not think it appropriate to inquire at that time because they had lost a member of their squad. He did not ask the question at the time and apparently never raised it again. See Enclosure (192): Frank NCIS Statements.

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reportable and actionable details.²⁸³ Whether good or bad, there is little doubt that the most significant event to most readers of the reports of this incident was the FKIA, despite the fact that noncombatant losses were more than 15 times as high.

g. (S) In addition to the procedural reporting issues mentioned previously (regarding how CCIRs are highlighted in electronic reports), several potential obstacles to reporting and appropriate follow-on action that are inherent in the reporting requirements themselves. Although no single level of command had an unreasonably high number of CCIRs (and other information requirements), the potentially negative impact of the high total number is exacerbated by apparent misalignment of information requirements both between different levels of command and sometimes within commands. It is, of course, not surprising for different levels of command to have different information requirements (although the proliferation of terminology for the requirements, e.g., CSNE, could create confusion), but inconsistency can obviously lead to reporting problems. An example of inconsistency between commands is the CCIR at 2d Marine Division for civilian casualties, which is at once broader and narrower than the CCIRs of its higher headquarters.²⁸⁴ An example of inconsistency within a command is the two differently stated CCIRs for civilian casualties at MNF-W.²⁸⁵ Another obstacle inherent in the orders development process that produces CCIRs is the observed tendency of subordinate commands to focus on meeting reporting requirements rather than acting on information reported pursuant to higher CCIRs.²⁸⁶ The inclination of subordinate commands to view CCIRs as reporting occasions rather than as decision points may also lead the subordinate commander to anticipate being directed by higher to act on higher's triggered CCIRs, instead of acting on their own initiative (after all it's higher's CCIR). Conversely, higher headquarters would reasonably tend to assume that the subordinate command has completed necessary action on reported CCIRs, including adequate development of facts reported.²⁸⁷

U²⁸³ One gets the sense from the witness interviews that compliance with the ROE, including the requirement for Positive Identification (PID) before engaging, if not deemed less relevant or less important after casualties have been taken, is scrutinized less closely. The fact that casualties have been taken is apparently deemed sufficient to trigger and sustain the inherent right to self-defense (whether there is a continuing threat or not) which tends to swallow, in fact, other provisions of the ROE such as PID, discriminate use of force, and proportionality.

U²⁸⁴ Compare Enclosures (17)-(20): MNF-I, MNC-I, MNF-W, and Division CCIRs respectfully.

U²⁸⁵ See Enclosure (19): MNF-W CCIRs. Compare CSNE (Friendly) #5 with CSNE (Media Events) #4.

U²⁸⁶ See, e.g., Enclosure (69): Holden Statement. When asked twice what action the Division had taken based on the triggered CCIR, Col Holden responded by stating it had been reported. This may simply indicate that the question was not clearly asked or illustrate tendency, observed throughout the investigation, of subordinate commands to think of CCIRs as reporting occasions rather than decision points for action.

U²⁸⁷ See, e.g., Enclosure (64): Davis statement. The RCT-2 Commander assumed that 3/1 had verified the facts conveyed to RCT-2. The potential negative impact of this otherwise reasonable assumption becomes more insidious when one considers the corresponding tendency of subordinates to fill in the blanks in submitting reports to higher. See, also, Enclosure (37): Kallop Statement; Enclosure (46): McConnell Statement; Enclosure (49): Mathes Statement. Both 1st Lieutenant Mathes and Captain McConnell indicated that eight AK-47s were found and therefore of the 23 Iraqis killed, it was determined that eight were EKIA and the remaining 15 were civilians killed. Neither of them claims to have actually seen the weapons and no other witnesses could recall recovering or disposing of the AK-47s. 2nd Lieutenant Kallop indicated he thought Explosive Ordnance Disposal (EOD) team would have picked up the weapons, but the EOD team's report makes no mention of retrieving weapons from the scene. See Enclosure (53): EOD Report.

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h. (S) Another potential obstacle to effective reporting and appropriate follow-on action springs simply from the terminology used to communicate the occurrence of civilian casualties. The MNF-I CCIR guidance refers to civilians "killed" or "injured."²⁸⁸ The MNF-I CCIR refers to "killed" or "casualties" but applies the same standard to "ISF" (Iraqi Security Forces) and civilians.²⁸⁹ The short-hand use of the terms "NKIA" and "NWIA" for civilians killed or injured appears in the each of the MNF-W CCIRs/CSNEs that apply to civilian casualties.²⁹⁰ The 2d Marine Division CCIR refers to civilians killed or seriously injured.²⁹¹ It is likely that the use of the terms NKIA and NWIA were simply intended to briefly convey the fact of civilian casualties. But, the use of these initialisms is at best a misnomer. The common understanding and usage of those interviewed throughout this investigation, with few departures, was that NKIA refers to "neutral" rather than "noncombatant." Non-combatant is, of course, the applicable term in virtually every circumstance of collateral damage involving civilian casualties.²⁹² Similarly, the term "wounded" is customarily used to refer only to those wounded in action (in contrast with non-battle "injuries"). And, finally, the use of the term NKIA is logically improper because if an individual is killed "in action," that individual, by definition, is not a noncombatant. Whether or not this usage reflected an inability to distinguish noncombatants (and the protections they are due on the battlefield) that may have contributed to the infliction of the casualties, the terminology arguably makes it more likely that the event or its potential implications will be overlooked as it is reported up the chain.

i. (S) Many of the witnesses' statements also indicated a commander and staff outlook common in ongoing operations that reduced the likelihood that appropriate follow-on action would be taken based on the report of 15 NKIA, especially once the incident had passed the immediate reporting stage. A number of witnesses referred to a forward-looking operations mindset in which past or passing events quickly become ancient history unless they have an immediately demonstrable impact on the current fight or future operations (e.g., "actionable" intelligence, new friendly or enemy TTPs identified, or tactical decision points triggered).²⁹³ Not surprisingly, there was also evidence of a tendency for commanders and operations personnel at the tactical level to focus exclusively on tactical issues –and assume that someone else will look after other issues, e.g., operational, strategic, legal, and administrative issues. In this case for example, the civilian casualties were almost thoughtlessly deemed to have little impact on the continuing tactical fight,²⁹⁴ representing only some civil affairs matters to police up. Although the Battalion Judge Advocate might have raised legal issues, he had not been adequately integrated into the operations picture, and legal issues were, in any event, deemed ancillary to the operations focus.²⁹⁵

288 See Enclosure (17): MNF-I CCIRs.

289 See Enclosure (18): MNC-I CCIRs.

290 See Enclosure (19): MNF-W CCIRs.

291 See Enclosure (20): Division CCIRs.

292 Contrast with Enclosure (64) Davis statement. Col Davis was precise in referring to noncombatants, correcting himself more than once in attempting to accurately characterize noncombatants, and distinguishing them from insurgents, on one hand, and from innocents on the other.

293 See e.g., Enclosure (21): Carrasco Statement and Enclosure (74): Ledoux Statement.

294 See Enclosure (61): Chessani Statement.

295 See Enclosure (21): Carrasco Statement; Enclosure (61): Chessani Statement; Enclosure (63): Stone Statement; Enclosure (67): Collins Statement.

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j. (U) Finally, at the Division level, an overly simplistic command view of Information Operations and their implications impeded appropriate follow-on action. In spite of, or perhaps due to, higher CCIRs that identified significant civilian casualties as an important operational or strategic issue, the Division was slow to grasp the importance of ascertaining whether the Haditha civilian casualties were in fact legitimate collateral damage, even after allegations challenging initial, uninvestigated reports were brought to light.²⁹⁶ The Division leadership realized they were being "IO'd," i.e., that the insurgency was using the allegations in the Time story to make the coalition look bad or to force them out of Haditha.²⁹⁷ But they appeared to believe that conducting an investigation into the allegations represented an IO victory for the enemy.²⁹⁸ The Division's continuing inability to separate the insurgent's use of the incident from its factual validity, that is, to entertain the possibility that they had the facts wrong –despite having no indication that the facts had been definitively ascertained in the first place –reflected, a short sighted view of IO issues and their implications.²⁹⁹

4 ²⁹⁶ See e.g., Enclosure (13): Sokoloski Statement; Enclosures (64): Davis Statement; Enclosure (87): Huck Statement.

4 ²⁹⁷ See Enclosure (13): Sokoloski Statement; Enclosure (64): Davis Statement; Enclosure (87): Huck Statement. See also Enclosure (11): Pool- McGirk Email Exchange. The insurgents were in fact using the incident as part of an IO campaign; but ignoring what really happened wasn't going to win it. See Enclosure (92): HET DIIR and Enclosure (91): 3/1 IO Flyer for an illustration of both sides of the IO campaign.

4 ²⁹⁸ See Enclosure (13): Sokoloski Statement; Enclosure (64): Davis Statement; and Enclosure (87): Huck Statement. See also Enclosure (11): Pool- McGirk Email Exchange.

4 ²⁹⁹ The Division's apparent recalcitrance is further reflected in their apparent interpretation of the requirement to report and investigate "possible, suspected or alleged" LOAC violations, which was essentially that a (fairly high) burden of proof was on the person bringing allegations or on the proponent of an investigation to put forward some evidence sufficient to warrant inquiry. See e.g., Enclosure (13): Sokoloski Statement and Enclosure (64): Davis Statement. This is a questionable interpretation of the directives setting forth the requirement, and ignores the practical ramifications of using such an interpretation to avoid doing an investigation. See Enclosure (27): SJA LOAC paper and attachments. This report and the media frenzy awaiting it represent some of those practical ramifications.

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Findings

1. (U) I found that deaths of at least 15 Iraqi civilians met the criteria for three independent CCIRs which required immediate reporting at every level of command through MNF-I.
 - a. ~~(S)~~ CCIR for an event resulting in significant civilian casualties;
 - b. ~~(S)~~ CCIR for an event likely to generate media interest;
 - c. ~~(S)~~ Requirement to report possible, alleged, or suspected LOAC violation.
2. ~~(S)~~ I found that an electronic report including a reference to 15 "NKIAs" was initiated by 3/1 and forwarded to every level of command up through MNF-I as an update to a previously submitted CCIR reporting friendly casualties. The update did not highlight the fact that the criteria for an additional CCIR (for significant civilian casualties, media interest, or a possible LOAC violation) had been met.
3. (U) I found that immediate reporting up to and including the RCT-2 level was untimely, inaccurate, and incomplete.
 - a. (U) I found that Company K and 3d Battalion, 1st Marines failed to adequately review or reliably report combat actions associated with this incident. This failure was largely attributable to inattention and negligence, in certain cases willful negligence. There is evidence of intentional false reporting on the part of two individuals involved in the killings. Intentional false reporting or non-reporting on the part of other individuals can not be ruled out, particularly in view of the questionable candor displayed by numerous individuals during the investigations of this incident.
 - b. (U) I found that 3d Battalion, 1st Marines and RCT-2 failed to adequately scrutinize information reported by Company K that was untimely and incomplete and of obvious questionable accuracy. In forwarding this information, the Battalion and RCT-2 staffs also added unverified information to give their reports a misleading appearance of completeness. The Battalion and RCT-2 Commanders effectively ratified these misleading reports.
4. (U) I found that all commands from the Battalion to the MNF-I level effectively validated inaccurate information in immediate reports by failing to make adequate attempts to verify the untimely and incomplete reports originating from Company K.
5. (U) Although no order specifically directs the inclusion of CCIRs in daily reporting, I have determined that this incident should have been included in daily SITREPs.
6. (U) I found that daily reporting failed at the RCT-2 level when the reference to 15 civilian casualties in 3/1's Intentions Message was omitted from the RCT-2 IM. In addition, despite having mentioned the civilian deaths in immediate reports, 2d Marine Division, MNF-W, and

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MNC-I, did not mention the civilian deaths, in their daily SITREPS. However, there is no evidence that these omissions were the result of any intent to cover-up misconduct.

7. (U) I found that the 2d Marine Division press release was more misleading than other official reports. I find, however, that this was not the result of any intent to conceal misconduct, but was the result of an overly simplistic view of IO requirements.

8. (U) I found that Company K, 3d Battalion, 1st Marines, RCT-2, and 2d Marine Division failed to take any follow on action that could be called appropriate or adequate. Despite many indications that inquiry was warranted and opportunities to conduct further inquiry, no individual accepted the responsibility to investigate the potentially unlawful killing of noncombatants.

9. (U) I found that MNF-W, MNC-I, and MNF-I failed to initiate any investigation or inquiry despite having received a report that included information, albeit un-highlighted and obscured, indicating that 15 noncombatants had been killed.

10. (U) I found that at the squad level, there was evidence of individuals attempting to prevent discovery of their own criminal conduct.

11. (U) I found no direct evidence of any orchestrated effort or any effort on the part of any individual above the squad level to cover up this incident. I did find that individuals above the squad level were complicit, whether intentionally or unintentionally, in attempts to hide criminal conduct. Leaders from the platoon through the 2d Marine Division level, particularly at the Company and Battalion level, exhibited a determination to ignore indications of serious misconduct, perhaps to avoid conducting an inquiry that could prove adverse to themselves or their Marines.

12. (U) I found that there were several obvious indicators from 19 November 2005 to 12 February 2006 that, at a minimum, should have triggered the professional curiosity and duty to pursue an investigation by the officers and senior enlisted leadership. Examples include:

- a. (U) suspicion by the Battalion S-3 that they were receiving erroneous reporting during the incident;
- b. (U) independent inspections of the scene almost immediately after the killings by the Platoon Commander, Company Commander and HET NCO;
- c. (U) photographs of the scene taken by the HET NCO and shown to the Company Commander who had been on the scene as well as other photographs circulating within the Company that contributed to widespread awareness of the civilian deaths and their questionable circumstances;
- d. (U) the recovery by Marines of 24 dead Iraqi civilians including women and children as well as unsuccessful attempts by Marines to distinguish, both in number and identity, EKIA from noncombatants killed.

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e. (U) a CERP condolence payment of \$38,000.00 for death and injury and \$3,000.00 for property damage based on a demand made by a lawyer representing the families of the deceased;

f. (U) the discovery of a flyer posted by the insurgents threatening revenge against the coalition for the 19 November Haditha deaths.

g. (U) a Time Reporter raised allegations of deliberate and wrongful killing of noncombatants by Marines.

13. (U) I found that there is evidence from which one could draw the inference that Marine commanders and staff members were guilty of dereliction of duty in failing to request, recommend, or direct that an inquiry into the incident be conducted.

a. (U) I found that beginning almost immediately after the incident the Platoon, Company, and Battalion Commanders had information that warranted additional inquiry to review Company K squad actions that took place in the area of Viper and Chestnut in Haditha, Iraq.

b. (U) I found that upon being advised of the allegations raised by Time Magazine, the 2d Marine Division Commander, Division Chief of Staff, the RCT-2 Commander, and others had sufficient knowledge and a duty to report and investigate a LOAC violation, but did not.

c. (U) I found that the duty to inquire further was so obvious in this case that a reasonable person with knowledge of these events would have certainly made further inquiries. I also found some unusual and suggestive circumstances, notably, the 12-16 hour time elapsed between the beginning of the incident and the Battalion report, the handling and apparent disappearance of two sets of official photographs, the questionable candor of the HET Marines during the investigations, the CERP condolence payment process, and the command's apparent disregard of insurgent flyers threatening revenge for the 19 November killings.

d. (U) I found further that a case of willful dereliction of duty could be made out against some of these individuals. This is not to suggest that any individual willfully covered up misconduct, but that they may have willfully failed to inquire more closely because they were afraid of the truth which might be harmful to their unit, their career, or to their personal standing.

14. (U) I found the following systemic factors and command views as challenges to appropriate follow-on action based on the reporting that did occur.

a. (U) Information requirements were not adequately aligned between MNC-I and its subordinate commands.

b. (U) All levels of command through MNC-I tended to view civilian casualties, even in significant numbers, as routine and as the natural and intended result of insurgent tactics.

c. (U) There was evidence of an attitude within RCT-2 that portrayed noncombatants as not necessarily innocents which may have fostered a willingness to accept reported circumstances that might otherwise appear dubious.

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d. (U) There was an observable preoccupation with friendly casualties, despite the fact that in this case noncombatant losses were 20 times higher.

e. (U) There was an observed tendency of subordinate commands to focus on meeting reporting requirements rather than acting on information reported pursuant to higher CCIRs.

f. (U) Inapt terminology was used to communicate the occurrence of civilian casualties such as "NKIA" and "NWIA" and terminology was used that blurs the distinction between combatants and noncombatants such as referring to military aged males as "MAMs."

g. (U) 2d Marine Division had a myopic and overly simplistic view of Information Operations that produced a tendency to judge the credibility of allegations based on the apparent source of those allegations rather than on facts.

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Recommendations

1. (U) Given the constraints of this investigation, I recommend that the Commander, U.S. Central Command, consider whether additional review of reporting procedures is required at the MNC-I and MNF-I level. I further recommend that the CENTCOM Commander assume overall coordination responsibility for all pending or complete investigations into the events that occurred in Haditha on 19 November 2005, to include a comprehensive review to determine the adequacy of each investigation and the consistency of all investigations.³⁰⁰ This process should take place prior to any public release of the findings of any of the investigations and, if practicable, before any criminal action is initiated based on the findings. This recommendation is not intended to and should not, in fact, impede the ability of operational or service commanders to take or direct appropriate remedial action, whether operational, administrative, or judicial.
2. (U) In light of the possible obstacles to timely, accurate, and complete reporting at all levels of command identified in this report, I recommend that the MNC-I Commander direct a review and alignment of information requirements, down to the Battalion level. This review and alignment should be directed at promoting uniformity and consistency (both logical and MNC-I wide) in areas such as information requirements, including the purpose of those requirements, terminology, use of communications media, reporting standards, reporting timelines, and report archiving.³⁰¹
3. (U) I recommend a similar MNC-I-wide review and alignment of orders pertaining to the individual and command requirements to report and investigate "possible, suspected, or alleged" violations of the Law of Armed Conflict.
4. (U) I recommend follow-on reset training for all personnel based on the outcome of the reviews and alignments recommended in 2 and 3 above.
5. (U) I recommend that this investigation be used to inform the continuing development and improvement of ROE reset training and that it be used as a case study for training in staff procedures and reporting. The lessons are particularly applicable to ROE application in counter-insurgency operations against an unscrupulous enemy employing hit and run tactics designed to provoke indiscriminate, disproportionate, or simply misdirected responses from coalition forces. The lessons for staff procedures and reporting are basic, but the case study will illustrate how simple failures can lead to disastrous results.

300 This review should address the fact that I was unable to interview Lieutenant General Vines, former MNC-I Commander, based on AR 15-6 regulations and determine whether Lieutenant General Vines should be interviewed. Additionally, the review should examine the possibility that MNF-I personnel, to include the Commander, may need to be interviewed.

301 The review should include a look at how our information technology can support information requirements. For example, rather than manually entering CCIRs triggered in the Fusion Net, a program could presumably be developed that would automatically flag all CCIRs triggered by the facts entered.

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6. (U) I recommend the appropriate Marine Corps Commander review this report in conjunction with the NCIS investigation to determine the possibility that MNF-W commanders and staff down to Company K, 3d Battalion, 1st Marines were derelict in their duties and professional responsibilities. I also recommend the Marine Commander review the conduct and statements of individuals during the course of this and related investigations for the purpose of evaluating whether they met their professional and legal obligation of candor and cooperation.

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15 June 2006 (Final)

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FULL REPORT

Training and Command Climate

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15 June 2006 (Final)

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SECTION II – Training and Command Climate

Analysis

1. (U) **Question One:** Was the training and preparation of the Marines (Company K, 3d Battalion, 1st Marines) in the areas of rules of engagement (ROE) and the law of armed conflict (LOAC) adequate to prepare them for the combat operations experienced during a firefight with insurgents amidst several houses in Haditha, Iraq, on 19 November 2005?

a. (U) **Findings:** I determined that the training and preparation of the Marines in the areas of ROE and LOAC was adequate to prepare them for combat operations and met the Marine Corps standard for that training.

b. (U) **Discussion.** Training of a Marine is a continuum of vertically nested skill sets arranged in increasing levels of competency.³⁰² The Marine Corps Pre-deployment Training Program begins at the two Recruit Depots³⁰³ and Officer Candidate School and continues through formal Military Occupational Specialty (MOS) schools and at home station prior to deployment. The pre-deployment training is constantly evolving in response to developments in the theater.³⁰⁴ MOS schools adjust their curricula to ensure that the Marine Corps adapts its focus from fighting a conventional force to dealing with the challenges posed by irregular forces.³⁰⁵ In the summer of 2005, when 3d Battalion, 1st Marines (3/1) was conducting pre-deployment training prior to its departure for Iraq, the pre-deployment phase of training consisted of home station training, a Revised Combined Arms Exercise (RCAX), and Security and Stability Operations (SASO) training.³⁰⁶ Building on home station training in basic urban skills, ground units, like 3/1, deployed to the Marine Air Ground Task Force Training Center at 29 Palms, California, for RCAX, an in-depth training exercise in convoy operations, fire support, and small unit coordinated assaults.³⁰⁷ At that time, Marine units, to include 3/1, also attended SASO training at March Air Force Base which prepared Marines to deal with such current operating environment situations as Military Operations on Urbanized Terrain (MOUT), entry control points, vehicle check points, counter-improvised explosive devices and application of the ROE.³⁰⁸ Once 3/1 arrived in Iraq, ROE and LOAC were continually covered and emphasized in training on a weekly basis.³⁰⁹

u³⁰² See Enclosure (132): CG, TECOM ltr.

u³⁰³ Marine Corps Recruit Depot, Parris Island, and Marine Corps Recruit Depot, San Diego.

u³⁰⁴ See Enclosure (132): CG TECOM ltr; Enclosure (140): Small Unit Leadership in Future Security and Stability Operations By Col Michael S. Bohn, Marine Corps Gazette, November 2004, [hereinafter: Gazette Article].

u³⁰⁵ See Enclosure (132): CG TECOM ltr; Enclosure (140): Gazette Article.

u³⁰⁶ See Enclosure (132): CG, TECOM ltr.

u³⁰⁷ See Enclosure (136): RCAX 22-05 training schedule; Enclosure (137): CAT 22-05 Trends Brief for 3d Bn, 1st MAR, [hereinafter: Cat 22-05 Trends Brief]; Enclosure (141): Excerpt of Statement of Commandant of the Marine Corps Before the Senate Appropriations Subcommittee on Defense March 16, 2005, [hereinafter: Statement of CMC].

u³⁰⁸ See Enclosure (132): CG, TECOM ltr.

u³⁰⁹ See Enclosure (119): Statement (Training) of Staff Sergeant Travis M. Fields of 26 Mar 2006, [hereinafter: Fields (Training) Statement]; Enclosure (101): Statement to NCIS of Lance Corporal Humberto M. Mendoza of 24 Mar 2006, [hereinafter: Mendoza NCIS Statement (24 Mar 06)]; Enclosure (121): Summary of Interview of Corporal

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(1) (U) **Institutional Training.** The United States Marine Corps Training and Education Command, Quantico, Virginia, gathered and assembled materials on the subjects from its formal schools and provided them to the investigating officer with a cover letter from the CG, Training and Education Command.³¹⁰ ROE and LOAC are taught to some degree at both boot camp and at the School of Infantry.³¹¹ The training is introductory, but serves as a building block for Marines as they move on to their MOS schools and operational units. More in-depth ROE and LOAC are taught at The Basic School and Command and Staff.³¹² Once this training is completed, Marines join units in the operating forces where they continue to refine individual and collective training at home station and through other specialty courses.

(2) (U) **Home Station.** ROE and LOAC were taught in lecture and discussion format along with other mandatory training at 3/1's home station. 3/1 received specific training on ROE and LOAC in a classroom setting during home-station training on a monthly basis.³¹³ A representative description of home station training received from the Marines involved in the incident is:

- U "We have had training on ROE where the whole Company would go to an auditorium and officers and/or higher ranking personnel would get up front and give us a course on ROE, Laws of Armed Conflict, Area of Operations brief for Iraq, etc. We received this training monthly and what sometimes seemed like weekly."³¹⁴

The Marines continually received ROE and LOAC classes from their platoon sergeants and platoon commanders.³¹⁵ This training was integrated into pre-deployment training in the two-week SASO exercise and the RCAX.³¹⁶

(3) (U) **Security and Stability Operations (SASO) Training.** LOAC training is required for operational units prior to deploying. The Marine Corps mandates that this training be incorporated into realistic training exercises at all operational levels through the use of realistic mission-oriented scenarios.³¹⁷ A SASO Training Exercise was conducted at March

Ryan Hobrick of 25 Mar 2006, [hereinafter: Hobrick Statement]; Enclosure (105): Statement to NCIS of Lance Corporal Justin L. Sharratt of 24 Mar 2006, [hereinafter: Sharratt NCIS Statement (24 Mar 06)]; Enclosure (110): Chessani (Training) Statement; Enclosure (116): Statement (Training) of Captain Lucas M. McConnell of 26 Mar 2006, [hereinafter: McConnell (Training) Statement]; Enclosure (117): Statement (Training) of 1st Lieutenant Max D. Frank of 24 Mar 2006, [hereinafter: Frank (Training) Statement].

U³¹⁰ See Enclosure (132): CG, TECOM ltr.

U³¹¹ See Enclosure (134): SOI-E; Enclosure (135): SOI-W.

U³¹² See Enclosure (144): Basic School Training Material.

U³¹³ See Enclosure (99): Statement to NCIS of Corporal Hector R. Salinas of 24 Mar 2006, [hereinafter: Salinas NCIS Statement (24 Mar 06)]; Enclosure (101): Mendoza NCIS Statement (24 Mar 06); Enclosure (103): Tatum NCIS Statement(24 Mar 06); Enclosure (107): Statement to NCIS of Corporal Sanick P. Dela Cruz of 24 Mar 2006, [hereinafter: Dela Cruz NCIS Statement (24 Mar 06)]; Enclosure (115): Summary of Interview of Captain Arthur Houghtby of 25 Mar 2006, [hereinafter: Houghtby Statement].

U³¹⁴ See Enclosure (105): Sharratt NCIS Statement (24 Mar 06).

U³¹⁵ See Enclosure (99): Salinas NCIS Statement (24 Mar 06); Enclosure (101): Mendoza NCIS Statement (24 Mar 06); Enclosure (103): Tatum NCIS Statement (24 Mar 06); Enclosure (107): Dela Cruz NCIS Statement (24 Mar 06); Enclosure (115): Houghtby Statement.

U³¹⁶ See Enclosure (116): McConnell (Training) Statement; Enclosure (117): Frank (Training) Statement.

U³¹⁷ See Enclosure (125): MCO 3300.4.

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AFB for 3/1 from 20 to 28 July 2005.³¹⁸ The SASO training was a field exercise designed to ensure the Marines were trained in the basic skills they would need to operate on a daily basis in Iraq.³¹⁹ The SASO exercise incorporated role players to serve as combatants and noncombatants with the goal of accurately depicting the current operational environment in Iraq using complex scenario driven events.³²⁰ The schedule for the SASO training³²¹ attended by 3/1 included one 50 minute block of training specifically on the topic of ROE that was attended by the Battalion staff.³²² ROE and LOAC were incorporated into most of the training scenarios³²³ that were used during the SASO exercise.³²⁴

(a) (U) 3/1 received pre-deployment training on combatant/noncombatant scenarios using role players.³²⁵ The Deputy Director for Current Operations, Tactical Training and Exercise Group, MAGTF TC, 29 Palms, California, who was on the training staff for the SASO exercise for 3/1, confirmed that the Marine Corps was using realistic training scenarios designed to prepare the Marines for the counter-insurgency (COIN) environment in Iraq. He stated:

U "The overall construct/intent for the role players was to be reflective of an average urban area where there lived a variety of friendly, neutral, and unfriendly locals, (as well as the hostile insurgent element, and small, ineffective police force and generally proficient Iraqi Army unit). These groups generally went about their daily business. This construct was to cause (and did cause) the Marine exercise force (EXFOR) to frequently interact with the locals in their search for information and actionable intel that would lead to insurgents, and to occasionally interact with them when the Marines were 'attacked' by the insurgents via SAF, SVBIED, IED, or IDF. There were 18 Iraqi Americans, fluent in Arabic, that played key roles and the remaining were Marine role players (RPs), mostly male but about 12 females too....The Marine RPs were on relaxed grooming standards, the majority had dish-dashes and headdresses, and went through cultural training and very basic language training so they would look and act like foreigners...NOT Marines. So, the end result is the EXFOR and 'locals' interacting in such a way where the EXFOR was constantly making shoot/no-shoot decisions based on PID of people demonstrating hostile intent and/or committing hostile acts, or just going about their daily business. There were many scenarios conducted to encourage these EXFOR actions and decision making processes."

(b) (U) The After Action Review (AAR) PowerPoint presentation for 3/1 SASO training states that 3/1 was an excellent unit that did many things well but needed to work on ROE and escalation of force.³²⁶ The AAR was intended for the unit to use to improve training in all areas including ROE and LOAC.

U ³¹⁸ See Enclosure (138): SASO training schedule.

U ³¹⁹ See Enclosure (110): Chessani (Training) Statement.

U ³²⁰ See Enclosure (148): Klein e-mails.

U ³²¹ See Enclosure (138): SASO Training schedule.

U ³²² See Enclosure (138): SASO Training schedule.

U ³²³ See Enclosure (148): Klein e-mails.

U ³²⁴ See Enclosure (101): Mendoza NCIS Statement (24 Mar 06); Enclosure (115): Houghtby Statement.

U ³²⁵ See Enclosure (100): Salinas NCIS Statement (18 Mar 06); Enclosure (107): Dela Cruz NCIS Statement (24 Mar 06); Enclosure (120): Statement (Training) of Lance Corporal Trent A. Graviss of 26 Mar 2006, [hereinafter: Graviss (Training) Statement]; Enclosure (121): Hobrick Statement; Enclosure (117): Frank (Training) Statement;

U ³²⁶ See Enclosure (119): Fields (Training) Statement.

U ³²⁶ See Enclosure (139): SASO Training Package, 3d Bn, 1st MAR After Action Review, [hereinafter: SASO AAR].

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(4) (U) **Revised Combined-Arms Exercise (RCAX).** The RCAX was conducted by 3/1 at Marine Air Ground Task Force Training Center at 29 Palms, California, as part of the pre-deployment training from 30 July 2005 through 10 August 2005.³²⁷ The RCAX includes in-depth training in convoy operations, fire support, and small unit coordinated assaults.³²⁸ There is nothing on the training schedule or Trends Brief (after action review) for 3/1's RCAX that shows any specific training on ROE or LOAC.³²⁹

(5) (U) **Training While Deployed.** ROE/LOAC training was provided to the Marines as the Battalion deployed to Iraq at Camp Victory, Kuwait; Camp Ripper, Al Asad, and during weekly reset training at Haditha Dam.³³⁰ It was continually emphasized by the Company Commander and reinforced regularly at the platoon level.³³¹ The 3d Platoon Commander stated that while in Kuwait, his Platoon received a formal class in ROE, that he conducted ROE and Escalation of Force training following their October 2005 move to Haditha, and that squad leaders went over the "Order" each time they went out on convoy or patrol.³³² A representative statement from the Marines is:

✓ "I received a lot of PID³³³ training out here in Iraq. We came out here to Haditha on R&R and received classes on PID, ROE, etc. We had 16 days of work and 3 days that we received R&R and during such rotations we would receive classes on PID, ROE, and Escalation of Force either every R&R or every other R&R period. Our platoon sergeant provided training in a verbal format but PowerPoint were used."³³⁴

(a) (U) In addition to training, ROE cards were issued to the Marines and they were directed to carry them.³³⁵ The ROE card, in bold and capital letters states: THESE RULES APPLY AT ALL TIMES, AND ON ALL OPERATIONS.³³⁶

✓ ³²⁷ See Enclosure (136): RCAX 22-05 Training Schedule; Enclosure (137): CAT 22-05 Trends Brief.

✓ ³²⁸ See Enclosure (136): RCAX 22-05 Training Schedule; Enclosure (137): CAT 22-05 Trends Brief; Enclosure (141): CMC Statement.

✓ ³²⁹ See Enclosure (136): RCAX 22-05 Training Schedule; Enclosure (137): CAT 22-05 Trends Brief.

✓ ³³⁰ See Enclosure (107): Dela Cruz NCIS Statement (24 Mar 06); Enclosure (110): Chessani (Training) Statement; Enclosure (114): Statement (Training) of Captain Randy W. Stone of 24 Mar 2006, [hereinafter: Stone (Training) Statement]; Enclosure (116): McConnell (Training) Statement; Enclosure (117): Frank (Training) Statement; Enclosure (118): Statement (Training) of 1st Lieutenant Adam P. Mathes of 26 Mar 2006, [hereinafter: Mathis (Training) Statement]; Enclosure (119): Fields (Training) Statement; Enclosure (127): 2D MARDIV FRAGO 0241-05, Subj: ROE Reset Training DTG 030851CSEP05, [hereinafter: FRAGO 0241-05]; Enclosure (128): RCT-2 Memo 3000 S-3 Subj: Regimental Combat Team-2 Policy for Reset Training, 9 Mar 2005, [hereinafter: RCT-2 memo reset]; Enclosure (129): 3d Bn, 1st MAR FRAGO 04-05 Subj: Reset Training DTG 11SEP1400U05, [hereinafter: FRAGO reset training].

✓ ³³¹ See Enclosure (180): Statement to NCIS of Captain L.M. McConnell of 16 March 2006, [hereinafter: McConnell NCIS Statement].

✓ ³³² See Enclosure (181): Statement to NCIS of 2d Lieutenant W.T. Kallop of 24 March 2006, [hereinafter: Kallop NCIS Statement]. As described by Kallop, the "Order" provided information on the current area of operations, what the mission was, where "friendlies" (noncombatants) were located, and EOF.

✓ ³³³ See Enclosure (130): 2d Marine Division ROE Card. Positive Identification (PID) is a reasonable certainty that the target you are engaging is exhibiting hostile intent or committing a hostile act. Once you have PID, you may use escalated force, up to and including deadly force, to eliminate the threat.

✓ ³³⁴ See Enclosure (105): Sharratt NCIS Statement (24 Mar 06).

✓ ³³⁵ See Enclosure (110): Chessani (Training) Statement; Enclosure (130): 2D MARDIV ROE Card Effective 15 Apr 2005, [hereinafter: ROE card].

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(b) (U) The Marine Corps assigned a Judge Advocate (JA) to 3/1; however, he did not arrive at 3/1 until a month after it had deployed (late September 2005).³³⁷ The Battalion conducted home station and pre-deployment training using available legal assets at Camp Pendleton, California, to assist with required LOAC and ROE training. The JA's late arrival, newness to the unit, and unit dispersion hindered his ability to integrate with the staff and establish his role in support of the Battalion's training needs. Once assigned to 3/1, based on unit requests, he provided approximately four LOAC/ROE classes prior to 19 November 2005 and provided a total of 42 classes while the unit was in Iraq.³³⁸

(6) (U) **ROE and LOAC Training Analysis.** ROE and LOAC were integrated into training as the Battalion prepared for its deployment and this training included combatant/noncombatant scenarios.³³⁹ The Marines had a basic, adequate, and satisfactory understanding of ROE concepts to include hostile act, hostile intent, and positive identification (PID). The following excerpts from statements indicate that the Marines understood ROE and LOAC concepts.

(a) ^U "...I am clear on the rules and the need to PID before engaging threats."³⁴⁰

(b) ^U *Can define PID/understood ROE:* "The rules of engagement is positive identification is required prior to engagement. PID is a reasonable certainty that the target you are engaging is exhibiting hostile intent or committing a hostile act. Once you have PID you may use escalated force up to and including deadly force to eliminate the threat."³⁴¹

(c) ^U *Understood basic concept of PID from training:* "Also during this training we practiced making positive identification of enemy individuals. We were told that positive identification of enemy was if you were taking fire, or if they had a weapon in their hands, or if you saw a muzzle flash. Basically we were to make sure we identified the person if possible before engaging them."³⁴²

(7) (U) The Marine Corps invested substantial resources in the SASO exercise to create realistic mission-oriented training scenarios that reflected the COIN environment in Iraq. The SASO exercise required Marines to constantly make shoot/no-shoot decisions based on PID of people demonstrating hostile intent and/or committing hostile acts or just going about their daily business.³⁴³

^U ³³⁶ See Enclosure (130): ROE card.

^U ³³⁷ See Enclosure (114): Stone (Training) Statement

^U ³³⁸ See Enclosure (114): Stone (Training) Statement.

^U ³³⁹ See Enclosure (100): Salinas NCIS Statement (18 Mar 06); Enclosure (107): Dela Cruz NCIS Statement (24 Mar 06); Enclosure (120): Graviss (Training) Statement; Enclosure (121): Hobrick Statement; Enclosure (117): Frank (Training) Statement; Enclosure (119): Fields (Training) Statement.

^U ³⁴⁰ See Enclosure (103): Tatum NCIS Statement (24 Mar 06).

^U ³⁴¹ See Enclosure (102): Statement to NCIS of Lance Corporal Humberto M. Mendoza of 18 Mar 06, [hereinafter: Mendoza NCIS Statement (18 Mar 06)].

^U ³⁴² See Enclosure (108): Dela Cruz NCIS Statement (18 Mar 06).

^U ³⁴³ See Enclosure (148): Klein emails.

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2. (U) **Question Two:** Did the Marines Receive ROE and LOAC training in accordance with applicable training regulations or requirements prior to the 19 November 2005 engagement?

a. (U) **Finding.** I determined that the Marines of 3/1 did receive the required training in the law of war and ROE in accordance with MCO 3300.4.

b. (U) **Discussion.** DoDD 5100.77, (Subj: DoD Law of War Program) requires that an effective program to prevent violations of the law of war be implemented by the DoD Components which includes law of war training.³⁴⁴ It further requires the Secretaries of the Military Departments to provide directives, publications, instructions, and training so that the principles and rules of law will be known to members of their respective Departments. The extent of such knowledge is to be commensurate with each individual's duties and responsibilities.³⁴⁵

(1) (U) The Navy implemented DoDD 5100.77 through SECNAVINST 3300.1A, (Subj: Law of Armed Conflict (Law of War) Program to Ensure Compliance by the Naval Establishment).³⁴⁶ SECNAVINST 3300.1A has subsequently been replaced by SECNAVINST 3300.1B.³⁴⁷ This instruction directs that all persons in the Department of the Navy, commensurate with their duties and responsibilities, receive, through appropriate publications, instructions or training programs, adequate training and education in the LOAC. The instruction requires that training emphasize rules governing the conduct of hostilities, including ROE. The instruction also states that it is expected that all personnel participating in armed conflict will receive sufficient training to comply with the LOAC in all situations reasonably contemplated by their assigned duties. Unit and combined unit training programs are required to contain realistic problems involving the LOAC that are incorporated in field and fleet exercises. This instruction tasks the Chief of Naval Operations and Commandant of the Marine Corps with implementing the training.³⁴⁸

(2) (U) The Marine Corps implemented DoDD 5100.77 and SECNAVINST 3300.1A through MCO 3300.4, (Subj: Marine Corps Law of War Program).³⁴⁹ All Marines are required to receive law of war or operational law training as outlined below.

(a) (U) **Entry Level Marines:**³⁵⁰ All newly accessing Marines must receive entry-level law of war training. The training must emphasize the compatibility of the law of war with the principles of war, tactical considerations, and good leadership. The training is directed to be provided at the entry level school deemed appropriate by the Commanding General (CG) Marine Corps Combat Development Command (MCCDC) to every newly accessed Marine, officer and enlisted. In addition, under no circumstances may law of war instruction be merged with any

U³⁴⁴ See Enclosure (122): DoDD 5100.77.

U³⁴⁵ See Enclosure (122): DoDD 5100.77.

U³⁴⁶ See Enclosure (123): SECNAVINST 3300.1A.

U³⁴⁷ See Enclosure (124): SecNavInst 3300.1B Subj: Law of Armed Conflict (Law of War) Program to ensure Compliance by the Naval Establishment, [hereinafter: SECNAVINST 3300.1B].

U³⁴⁸ See Enclosure (123): SECNAVINST 3300.1A.

U³⁴⁹ See Enclosure (125): MCO 3300.4.

U³⁵⁰ See Enclosure (125): MCO 3300.4.

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block or area of instruction that would have the effect of minimizing the importance of the law of war or placing in doubt the absoluteness of the principles. Entry level training is required to teach:

- Marines fight only enemy combatants;
- Marines do not harm enemy soldiers who surrender;
- Marines do not torture or kill Enemy Prisoners of War or detainees;
- Marines collect and care for the wounded whether friend or foe;
- Marines do not attack medical personnel, facilities, equipment or chaplains;
- Marines destroy no more than the mission requires;
- Marines treat all civilians humanely;
- Marines do not steal; they respect private property and possessions;
- Marines do their best to prevent violations of the law of war, and report all violations to their superiors.

(b) (U) Follow-On Training.³⁵¹ Marines attending Marine Corps formal or unit-run schools (not including entry-level schools), Marines serving in operational units prior to deployment, and Marines with certain MOSs are required to receive follow-on law of war training. Follow-on law of war training is required to be incorporated into realistic training exercises at all operational levels through the use of realistic mission-oriented scenarios. Follow-on training is intended to discuss and illustrate, among other topics, the:

- Principle of necessity;
- Principle of distinction and discrimination;
- Principle of unnecessary suffering or humanity;
- Principle of proportionality;
- Protections accorded civilians;
- Reprisals;
- Reasons and obligations to comply with the law of war (even if the enemy does not);
- Rules of engagement.

(3) (U) The Marines of 3/1 received ROE and LOAC training prior to and during their deployment in accordance with applicable training regulations or requirements and before the 19 November 2005 engagement.³⁵² Follow-on law of war training was incorporated into realistic mission-oriented scenarios, as required by MCO 3300.4, at the SASO exercise conducted by 3/1 at March Air Force Base from 20 to 28 July 2005. This training used role players to portray combatants and noncombatants to develop the skills of the Marines in integrating kinetic and non-kinetic effects in an urban, counter-insurgency environment.³⁵³ Training focused on collective tactics, techniques, and procedures for vehicle check points, urban assault, cordon and search, and tank/mech-infantry integration with constant teaching/mentoring and reinforcement

11 ³⁵¹ See Enclosure (125): MCO 3300.4.

11 ³⁵² See Enclosure (148): Klein e-mails; Enclosure (149): SASO training package; Enclosure (150): SASO ROE class; Enclosure (110): Chessani (Training) Statement.

11 ³⁵³ See Enclosure (148): Klein e-mails; Enclosure (149): SASO training package.

UNCLASSIFIED

FOUO

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Bargewell Discovery
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UNCLASSIFIED

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of IED awareness and defeat, and rules of engagement/escalation of force measures.³⁵⁴ The Marines also received ROE and LOAC training at home station and throughout the deployment.³⁵⁵ Higher headquarters directives mandated that training be conducted on ROE and LOAC while the unit was in Iraq.³⁵⁶ The Battalion included these training topics in written OPORDs and they were routinely covered as part of the mission brief prior to units going out on missions.³⁵⁷ Furthermore, the Battalion JA gave classes to the Marines of 3/1 while in Iraq that covered the follow-on requirements in addition to the basics, and used scenarios during those classes.³⁵⁸

(4) (S) During the unit deployment, ROE and LOAC were emphasized in operational orders and daily planning and mission execution. On 3 September 2005, 2d Marine Division published FRAGO 0241-05, (Subject: ROE Reset Training), regarding mandatory ROE reset training for all 2d Marine Division units to be completed no later than 12 October 2005.³⁵⁹ RCT-2 published Regimental Combat Team-2 Policy for Reset Training, dated 9 March 2005, which included a requirement to address ROE as part of reset training.³⁶⁰ 3/1 published FRAGO 04-05 (Reset Training) on 11 September 2005, that directed reset training on a weekly basis, including ROE, to be conducted at the platoon level with the objective of guarding against complacency.³⁶¹ ROE and LOAC guidance was included from RCT-2 in every OPORD.³⁶² ROE and EOF procedures were included in 3/1 Battalion operation orders. Specifically, as an example, the OPORD for Operation Sitting Bull describes the ROE and EOF procedures for that battalion operation.³⁶³

(5) (U) ROE cards were issued and required to be carried by every Marine.³⁶⁴ The 2d Marine Division ROE Card specified that it was to be carried by all personnel at all times.³⁶⁵

(6) (U) There was a continuous emphasis on training to enable the Marines to interact with the Iraqi people. Personnel of 3/1 received Reset Training on ROE and LOAC at Haditha Dam during rest and recuperation (R&R) rotations throughout their deployment.³⁶⁶ The members of 3/1 who were not stationed at Haditha Dam, went to the Dam for R&R and reset

U³⁵⁴ See Enclosure (149): SASO training package.

U³⁵⁵ See Enclosure (99): Salinas NCIS Statement (24 Mar 06); Enclosure (100): Salinas NCIS Statement (18 Mar 06); Enclosure (101): Mendoza NCIS Statement (24 Mar 06); Enclosure (102): Mendoza NCIS Statement (18 Mar 06); Enclosure (105): Sharratt NCIS Statement (24 Mar 06); Enclosure (107): Dela Cruz NCIS Statement (24 Mar 06); Enclosure (108): Dela Cruz NCIS Statement (18 Mar 06); Enclosure (120): Graviss (Training) Statement.

U³⁵⁶ See Enclosure (127): FRAGO 0241-05; Enclosure (128): RCT-2 memo.

U³⁵⁷ See Enclosure (110): Chessani (Training) Statement; Enclosure (111): Statement (Training) of Major Kevin M. Gonzalez of 26 Mar 2006, [hereinafter: Gonzalez (Training) Statement].

U³⁵⁸ See Enclosure (145): Law of War PowerPoint Presentation prepared by Capt Stone, [hereinafter: SJA PPT presentation]; Enclosure (146): 3/1 SJA training materials; Enclosure (114): Stone (Training) Statement.

U³⁵⁹ See Enclosure (127): FRAGO 0241-05.

U³⁶⁰ See Enclosure (128): RCT-2 memo.

U³⁶¹ See Enclosure (110): Chessani (Training) Statement; Enclosure (129): FRAGO reset training.

U³⁶² See Enclosure (111): Gonzalez (Training) Statement.

U³⁶³ See Enclosure (131): 3d Bn, 1st Marines, RCT-2, OPORD 21-05 (Operation Sitting Bull) DTG191000DOct05, p. 9, [hereinafter: OPORD 21-05].

U³⁶⁴ See Enclosure (110): Chessani (Training) Statement.

U³⁶⁵ See Enclosure (130): ROE card.

U³⁶⁶ See Enclosure (114): Stone (Training) Statement.

UNCLASSIFIED

15 June 2006 (Final)

FOUO

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Bargewell Discovery

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training.³⁶⁷ Members of 3/1 also received an in-brief on ROE, LOAC and EOF when they arrived at Camp Ripper. This ROE and LOAC training was done by the RCT-2 Judge Advocate,³⁶⁸ in conjunction with the RCT-2 Marine Gunner³⁶⁹ who provided training on Escalation of Force (EOF) procedures.³⁷⁰

3. (U) **Question Three:** Were house clearing and room clearing techniques adequately trained and followed by the Marines in accordance with controlling doctrine?

a. (U) **Findings**

(1) (U) I determined that house clearing and room clearing techniques were adequately trained by the Marines in accordance with controlling doctrine.

(2) (U) I determined that some of the Marines did not follow proper house and room clearing techniques by failing to PID³⁷¹ combatants.

b. (U) **Discussion.** The Marines received extensive training in Military Operations on Urbanized Terrain (MOUT) and house clearing operations during home station and pre-deployment training. This training occurred primarily at the SASO exercise but was also taught at the home station MOUT facility at Camp Pendleton, California.³⁷² Several of the Marines involved in the incident had combat experience and had participated in house clearing and MOUT operations during previous combat operations in Fallujah.³⁷³ Several also had received specialized training in MOUT operations.³⁷⁴

(1) (U) Marine Corps Warfighting Publication (MCWP) 3-35.3, (Military Operations on Urbanized Terrain (MOUT), dated 26 April 1998), provides doctrinal guidance and detailed information on tactics, techniques, and procedures (TTPs) to be employed in MOUT within the

u³⁶⁷ See Enclosure (117): Frank (Training) Statement; Enclosure (119): Fields (Training) Statement.

u³⁶⁸ See Enclosure (109): Statement of Lieutenant Colonel W.H. Ferrell of 26 Mar 2006, [hereinafter: Ferrell Statement]; Enclosure (117): Frank (Training) Statement; Enclosure (118): Mathis (Training) Statement.

u³⁶⁹ In the Marine Corps, a "Marine Gunner" is a Chief Warrant Officer 2 or higher with the military occupational specialty of 0306, infantry weapons officer who advises the commander on the tactical employment of weapons organic to infantry units. Additionally, they develop, coordinate, and monitor unit training programs in the tactical employment of weapons organic to infantry units.

u³⁷⁰ See Enclosure (114): Stone (Training) Statement.

u³⁷¹ See Enclosure (130): 2d Marine Division ROE Card. Positive Identification (PID) is a reasonable certainty that the target you are engaging is exhibiting hostile intent or committing a hostile act. Once you have PID, you may use escalated force, up to and including deadly force, to eliminate the threat.

u³⁷² See Enclosure (99): Salinas NCIS Statement (24 Mar 06); Enclosure (101): Mendoza NCIS Statement (24 Mar 06); Enclosure (102): Mendoza NCIS Statement (18 Mar 06); Enclosure (103): Tatum NCIS Statement (24 Mar 06); Enclosure (104): Tatum NCIS Statement (19 Mar 06); Enclosure (105): Sharratt NCIS Statement (24 Mar 06); Enclosure (106): Sharratt NCIS Statement (19 Mar 06); Enclosure (107): Dela Cruz NCIS Statement (24 Mar 06).

u³⁷³ See Enclosure (103): Tatum NCIS Statement (24 Mar 06); Enclosure (107): Dela Cruz NCIS Statement (24 Mar 06).

u³⁷⁴ See Enclosure (99): Salinas NCIS Statement (24 Mar 06); Enclosure (100): Salinas NCIS Statement (18 Mar 06); Enclosure (104): Tatum NCIS Statement (19 Mar 06).

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operating forces. The manual provides guidance for the organization, planning, and conduct of the full range of MOUT, including house clearing.³⁷⁵

(2) (U) The Company Commander clearly understood and articulated house clearing concepts ("positive identification (PID) is supposed to be made on each target, inside and outside, prior to engaging...Marines are...to assess their target, backstop, and beyond.").³⁷⁶ The point that "[t]his is a different ballgame," from Fallujah was also frequently emphasized.³⁷⁷ The platoon leadership stressed PIDing of a target before Marines engaged.³⁷⁸ Company K and the Battalion had specific ROE during the deployment and the rules never changed with respect to Company K. Each time Marines left the base, they were reminded of the ROE by their leadership, usually a squad leader.³⁷⁹

(3) (U) While the Marines received extensive MOUT training at home station and during pre-deployment training, an analysis of the statements and actions of some Marines who directly participated in the events of 19 November 2005, seems to cast doubt, or contradict a conclusion that proper house clearing techniques were trained. Some of the Marines' statements appear to indicate a level of confusion over ROE, to include PID, as it pertains to responding to the receipt of SAF from a house or building where there may also be noncombatants present. Specifically, some of the Marines said that if you are receiving SAF from an area or house, it can be deemed a "hostile house"³⁸⁰ and everyone engaged and killed. Excerpts of some of these statements include:

(a) (U) That if he is receiving fire from an area, that anyone in that area can be deemed an enemy and shot.³⁸¹

(b) (U) That he was taught that if they received fire from a structure or area, that they could consider that place as hostile and destroy it and any persons within.³⁸²

(c) (U) That because the area was deemed hostile, positive identification was not necessary and the house could be cleared room by room without positive identification of targets.³⁸³

U³⁷⁵ See Enclosure (126): Excerpt from Marine Corps Warfighting Publication 3-35.3, Military Operations on Urbanized Terrain (MOUT), [hereinafter: Excerpt from MCWFP 3-35.3].

U³⁷⁶ See Enclosure (180): McConnell NCIS Statement.

U³⁷⁷ See Enclosure (182): Statement to NCIS of Corporal W.V. Hughes of 24 May 2006, [hereinafter: Hughes NCIS Statement].

U³⁷⁸ See Enclosure (182): Hughes NCIS Statement.

U³⁷⁹ See Enclosure (183): Statement to NCIS of Lance Corporal C.C. Bass of 25 May 2006, [hereinafter: Bass NCIS Statement].

U³⁸⁰ The term "hostile house" appears to be jargon created by the Marines to describe the house from which they were allegedly receiving hostile fire. The RCT-7 JA confirmed that "hostile house" is not doctrinal terminology in the Regiment's SOP or official vocabulary. The Deputy Director for Current Operations, Tactical Training and Exercise Group, MAGTF-TC stated that the term "hostile house" was not used in the SASO Training exercise; the term "objective" is the proper terminology.

U³⁸¹ See Enclosure (99): Salinas NCIS Statement (24 Mar 06).

U³⁸² See Enclosure (99): Salinas NCIS Statement (24 Mar 06) and Enclosure (101): Mendoza NCIS Statement (24 Mar 06).

U³⁸³ See Enclosure (102): Mendoza NCIS Statement (18 Mar 06).

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(d) (U) That prior to clearing a house, they did not take fire from the house but were told to treat the house as hostile.³⁸⁴

(e) (U) That he did not positively identify targets in the houses because all occupants were considered hostile.³⁸⁵

(f) (U) That if a house is declared hostile, anyone in the house may be considered hostile and there is no requirement to positively identify once inside.³⁸⁶

(g) (U) That at the School of Infantry he was taught that if a house is declared hostile then everyone in that house is considered the enemy and that any male large enough to hold a weapon in the house are considered an enemy and will be shot even if they do not have a weapon.³⁸⁷

(h) (U) That because these were hostile houses, he did what the Marine Corps taught him which was to kill anything in a hostile house.³⁸⁸

(i) (U) The squad leader at the scene, stated that prior to entering the first house, he told his Marines to "...treat it as a hostile environment" and "...to shoot first, ask questions later."³⁸⁹

(j) (U) The squad leader stated "[a]s for PID, I didn't want my Marines to check if they had weapons first. I told them to shoot first and deal with it later."³⁹⁰

(4) (U) Although the above statements seem to reflect some confusion, a few of these same and other 3/1 Marines, made differing statements that would support the notion that they did receive adequate training in house clearing techniques³⁹¹ and understood the ROE and LOAC concepts as it pertained to house clearing. For example, note Corporal Salinas' 18 March 2006 statement:

"In my training, I learned that if you receive contact from a house, the entire house is considered "hostile intent" and you can kick in the door and "frag" it, *although you should still try to PID if possible. If no contact is received from a house, you should use normal building clearing procedures and PID anyone prior to engaging a target.* I was also trained that when PIDing a target, one should observe a weapon and be threatened (or another person) with that weapon

384 See Enclosure (104): Tatum NCIS Statement (19 Mar 06).

385 See Enclosure (102): Mendoza NCIS Statement (18 Mar 06).

386 See Enclosure (102): Mendoza NCIS Statement (18 Mar 06); Enclosure (104): Tatum NCIS Statement (19 Mar 06).

387 See Enclosure (102): Mendoza NCIS Statement (18 Mar 06).

388 See Enclosure (102): Mendoza NCIS Statement (18 Mar 06).

389 See Enclosure (36): Wuterich Watt Statement.

390 See Enclosure (36): Wuterich Watt Statement.

391 See Enclosure (99): Salinas NCIS Statement (24 Mar 06); Enclosure (101): Mendoza NCIS Statement (24 Mar 06); Enclosure (102): Mendoza NCIS Statement (18 Mar 06); Enclosure (103): Tatum NCIS Statement (24 Mar 06); Enclosure (104): Tatum NCIS Statement (19 Mar 06); Enclosure (105): Sharratt NCIS Statement (24 Mar 06); Enclosure (106) Sharratt NCIS Statement (19 Mar 06); Enclosure (107): Dela Cruz NCIS Statement (24 Mar 06).

UNCLASSIFIED

FOUO

15 June 2006 (Final)

000084

Bargewell Discovery

00087

UNCLASSIFIED

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before engaging the target. Just identifying a MAM is not sufficient to engage the person as a target and just being armed is also not a reason to engage a MAM. The MAM must present a threat to use deadly force. This has been my training here and in my past assignment...³⁹²
(Emphasis added)

(5) (U) Corporal Salinas' statement demonstrates a fairly clear understanding of PID. It also demonstrates an understanding of ROE/LOAC concepts as they relate to house clearing with combatants and noncombatants present. The statement does not espouse blanket authority to engage and kill everything in a house ("hostile house") simply because Marines received fire from it—a position Corporal Salinas seems to take in a statement made approximately one week later.³⁹³

(6) (U) Another indicator that these Marines had a good understanding of ROE concepts in a house clearing setting, and supports the conclusion that the training received was adequate, is found in the actions of Lance Corporals Graviss and Dela Cruz on 19 November 2005.³⁹⁴ After the IED explosion, one team headed south (led by Sergeant Wuterich), and Lance Corporals Graviss and Dela Cruz went north to clear houses. Lance Corporals Graviss and Dela Cruz encountered numerous noncombatants and military aged males (MAMs) while clearing houses at approximately the same time as Sergeant Wuterich and his men. Lance Corporals Dela Cruz and Graviss cleared at least seven houses, encountered numerous women and children, detained approximately 13 MAMs, and did not fire a single shot.³⁹⁵ Lance Corporals Graviss and Dela Cruz separated MAMs and women, found items of interest, and transported detainees. This action is in stark contrast to how Sergeant Wuterich and his team handled a similar situation.³⁹⁶

(7) (U) One way to reconcile the discrepancies is probably best explained by Corporal Tatum. He noted that these Marines knew that mistakes were made on 19 November 2005, "but he and all of them are putting it off on training, (and) not (taking) personal responsibility" for their actions.³⁹⁷ Lance Corporal Stephens stated it in even simpler terms: during his combat experience in the battle of Fallujah, he encountered several women, children, and even on one

u ³⁹² See Enclosure (100): Salinas NCIS Statement (18 Mar 06).

u ³⁹³ See Enclosure (99): Salinas NCIS Statement (24 Mar 06).

u ³⁹⁴ See Enclosure (108): Dela Cruz NCIS Statement (18 Mar 06). Although it does not take away from the example, NCIS reports indicate that Lance Corporal Dela Cruz engaged in a shooting incident prior to heading north. See, Enclosure (178): Dela Cruz NCIS Statements. (16 May 2006 Statement to NCIS).

u ³⁹⁵ It could be argued that the Marines who pushed south were heading into known gunfire coming from a designated area or house(s). As a result, their circumstances were possibly different than those Marines who pushed north. However, recent statements by these same Marines have downplayed the SAF being received from the south even undercutting the very premise of being able to use the "hostile house" theory. "We were not taking fire as we approached the house." See, Enclosure (100): Salinas NCIS Statement (18 Mar 06); "We were not taking fire as we approached the house." See, Enclosure (104): Tatum NCIS Statement (19 Mar 06). Furthermore, the ability of Sergeant Wuterich's team to maneuver from the IED strike location, across relatively open ground with little to no cover and concealment to the first house, indicates that at worst they were receiving ineffective fire.

u ³⁹⁶ See Enclosure (108): Dela Cruz NCIS Statement (18 Mar 06).

u ³⁹⁷ See Enclosure (193): Statement to NCIS of Lance Corporal Stephen B. Tatum of 17 May 2006, [hereinafter: Tatum NCIS Statement].

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occasion an old man inside hostile houses where he knew right from wrong and did not shoot innocent civilians who did not pose an imminent threat to him or other Marines.³⁹⁸

4. (U) **Question Four:** Did the command climate within 3d Battalion, 1st Marines encourage disciplined application of the ROE and LOAC?

a. (U) **Findings.**

(1) (U) I determined that comments made by the leadership to the investigating officers from the Commanding General, MNF-W down the chain of command, through the 3d Platoon Commander, reflect a mindset and philosophy that are incompatible with a counter-insurgency (COIN) environment. The philosophy and mindset reflected in these comments may have set the tone for a command climate that, when and if communicated to the lowest levels, would discourage the disciplined application of ROE and LOAC, whether this result was intended or not.

(2) (U) Based on available information, it can not be determined whether this mindset and philosophy was communicated down the chain of command to the lowest levels.

b. (U) **Discussion.** According to US Army Field Manual (FM) 22-100, "Climate refers to the environment of units and organizations. All organizational and direct leaders establish their organization's climate, whether purposefully or unwittingly...An organization's climate is the way its members feel about their organization. Climate comes from people's shared perceptions and attitudes, what they believe about the day-to-day functioning of their outfit...The members' collective sense of the organization—its organizational climate—is directly attributable to the leader's values, skills, and actions."³⁹⁹ In short, command climate is the atmosphere created by the chain of command within which the unit conducts its operations and training. In applying ROE and LOAC in counter-insurgency (COIN) operations, command climate is especially important because commanders must delegate to each Soldier in the unit the authority and responsibility to make instantaneous decisions on applying the appropriate level of force commensurate with the ROE in situations that could result in noncombatant casualties.

(1) (U) Command climate is extremely difficult to evaluate without going to the unit itself for a reasonable period of time to observe, listen, discuss with and question members of the unit. Due to the unit transitioning out of Iraq at the time of this investigation, moving from Haditha Dam and the Firm Bases to Al Asad and out of the country [See Constraints section above], a deliberate command climate survey was not feasible. However, the command climate and command philosophy within Multi-National Force-West down through the chain of command, as it pertains to encouraging disciplined application of the ROE and LOAC, can be at least partially discerned from some of the comments made by the leadership during the course of this investigation. What has not been discerned is whether these comments, that reflect a certain

U³⁹⁸ See Enclosure (184): Statement to NCIS of Lance Corporal D.M. Stephens of 25 May 2006, [hereinafter: Stephens NCIS Statement].

U³⁹⁹ See Enclosure (147): Excerpt from FM 22-100.

UNCLASSIFIED

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mindset, were part of the leadership and command philosophy that was communicated throughout the chain of command down to the lowest level.

(a) (U) The Commanding General MNF-W was interviewed during the course of this investigation. He made the following comments relative to the subject issue:⁴⁰⁰

- "I suspect that the way I looked at it was that they were killed as a result of this assault. Now, whether I was thinking because of an IED or because of the subsequent fire fight, I knew that the Marines had been attacked by people from other -- by the enemy from other locations. And so I think in my mind it was simply a cost of that battle because civilians had been caught in that. But I can't tell you for sure that I actually made that -- how I made that connection. But I can tell you that I didn't feel that it was something significant in the sense that I had doubts about the conduct of the Marines or that they had done -- that they had acted improperly."
- "But as I look back on it, I don't -- even though it was a significant event, I did not feel compelled -- I didn't feel I had information at that point in time that would cause me to go back and look at it. There were other--this was November, so we had been at it since March. And examples of many civilians being killed at a given time were precedent for that. It happened all the time, not necessarily in MNF-West all the time, but throughout the whole country."
- "But in--you know, in my way of thinking as the commander, at that point in our time in Iraq, 15 people killed as a result of an attack in a built-up area that involved IEDs and a coordinated attack, I still think that probably my reaction was, that's too bad, but they get caught somehow. I mean, now how we handled it, whether we handled it in a more expeditious manner because it was a lot of civilians or because it was a coordinated attack by enemy forces against ours or, you know, because it tripped some sort of a reporting requirement, I can't tell you for sure."
- "I think that the way this is laid out is that the impression that we were dealing with is that these folks were hit as a result of this coordinated attack that occurred there in Haditha, in that particular incident. That it was reported and that while it is regrettable, I think it was probably considered that at that time an element of the circumstances; and that our thought process would have been that, hey, if the enemy hadn't done it, those people wouldn't have got killed. That's how I would have -- how it shapes up in my mind. I mean we had a number of different things over the time that we were there that really brought us out of our seat as far as following up and asking questions and monitoring it closely. And the fact that this didn't do that is an indication to me that at least that I was looking at it as the cost of doing business there and that the enemy had tripped that in such a way as to endanger his own people and that's what happened."

(b) (U) The Commanding Officer of RCT-2 was interviewed during the course of this investigation. He made the following comments relative to the subject issue:⁴⁰¹

▲⁴⁰⁰ See Enclosure (79): Johnson Statement.

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- "Yeah. I mean, more particularly I want to know why my guy died, how he died. Okay. He died in an IED explosion. There is a complex attack after that. It was relayed to me is that they are getting hit from both sides of the road, fought their way out of that. There was obviously subsequent engagements. But not to diminish the importance of the incident, everything from my KIA to the noncombatant KIAs, but in an area of 30,000 square miles that we are covering out there, with at that time six independent battalions probably, if not more, these are not unusual occurrences. That you would have civilian deaths is not unusual. That you would have this many definitely grabbed attention. Okay. How did this happen? What are the circumstances? And that pings on us, okay. We need to look into this further."
- "So, yeah, I mean what triggers it is a complex ambush, that is the first thing that jumps your mind. You've -- I've got a KIA. I've got a complex ambush. Okay. Get back to me." That civilians are hit in that--I hate to--I mean, I am not trying to be cavalier or callous about this, this is not an uncommon occurrence when you get ambushes like that. Those type of numbers when you start seeing them, yeah, I mean, we paid attention."
- "And it is regrettable, and I mean it is truly and genuinely regrettable that these people are dying like this and they are dying by the dozens every day for any number of reasons, everything from health, impure water, things like that, right to acts of war, acts of terrorism, routinely. But, where clearly it would be nice to make that link if we didn't have to kill any of them, that's fine. They will respect strength, they will respect power, and that's how you start bringing security and stability to that AO. Now, we've got our rules of engagements that we've got to operate within, that is part of every (Reset) RESEP training. I was never uncomfortable with wondering whether or not our people were getting adequate training or whether they fully understood what the ROE is."
- "And the people are quite clearly caught in the cross-fire here. I don't know that there are any innocent people up there. But there are clearly people that we consider noncombatants and we respect them as such. But, no one is going to make a rational decision as you are suggesting, that, "Well, you come to my house and just kill people." That did not happen. People have been killed in houses when we went in, absolutely they do, but they know that there is a reason, set of rules that we do follow when they do that and nobody makes that logical decision, although, that is not uncommon thinking in our lexicon. You know... Where a noncombatant is killed, you know, well his two children are now going to become insurgents. Possible, but I would offer, they were going to become insurgents anyhow. You know, they don't want us there. That's okay. We understand that. At some point we will leave and they will have to deal with that."

(c) (U) The Commander, 3/1 was interviewed during the course of this investigation. He made the following comments relative to the subject issue.⁴⁰²

- "The initial reports were that they had taken an IED and then small arms fire. The

⁴⁰¹ See Enclosure (64): Davis Statement.

⁴⁰² See Enclosure (61): Chessani Statement.

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actions of the day, I believed the enemy picked the ground, where he wanted to attack us. They were -- they had set this up so that there would be collateral damage. They had fired from buildings at us, drawing fire back. So I did not have any reason to believe that this was anything other than combat action"

- "I saw it as a combat action. Enemy had picked the place; he had picked the time, and the location for a reason. I didn't know what his reasons were, but I believed he made a definite choice in where it was and thought that, you know, he wanted to make us look bad."

(d) (U) The 3d Platoon Commander of 3/1 was interviewed during the course of this investigation. He made the following comments relative to the subject issue:⁴⁰³

- "Yeah, I mean, the enemy--the enemy chooses places to engage us that, I mean, you know, Sir, that--where they can hide--where they can hide fast, they drop their weapon and be another person on the street. And unfortunately, that day I thought that the fire was coming from that house. I thought that that house was an enemy house; and when we started to clear it -- after it had been cleared, I was like, well, crap, either they're here or they got out back, but they used these civilians--they use these civilians to cover their movement or to--so we wouldn't engage them."

(e) (U) The Judge Advocate of RCT-2 was interviewed during the course of this investigation. He made the following comments relative to the subject issue:⁴⁰⁴

- "I don't know if you could say this was a symptom with my lack of visibility, the Colonel (RCT-2 CO) referred to the Regiment and their battalions as the Motorcycle Gang. Go into a town, you know, kick in doors, you know, make your presence known. And so at times, I felt, the 3 especially, was running with that and tried to take liberties to the extent that they could with the parameters that they are supposed to be working within."
- "...it was creating an environment that might allow for the pushing of an envelope....I guess I just took it as just kind of -- I was concerned, but not to the point of action. It was just, kind of, part of the grunt mentality. It was my first time serving with an infantry battalion, or regiment as it was."
- "That was right from Colonel Davis, "going to take Viking on the road, and get the motorcycle gang together we're going to go to these towns, we're going to clean them up and---." Basically that was kind of how he, kind of, described it."⁴⁰⁵

403 See Enclosure (37): Kallop Statement.

404 See Enclosure (67): Collins Statement. It should be noted that Col Davis relieved Major Collins of his duties as the RCT-2 JA. See Enclosure (64): Davis Statement.

405 "Viking" is the call sign for RCT-2.

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(2) (U) The types of comments and attitude exhibited in the preceding statements contain a mixed message of intent by the leadership and had the potential to set a command climate that may not have encouraged the disciplined application of ROE and LOAC. Such comments and attitude can set a command climate where there is a perception, if not a reality, that disciplined application of ROE and LOAC, though taught in classes and incorporated in training exercises within the command, is not expected or encouraged.

(3) (U) Taken as a whole, the comments suggest that Iraqi civilian lives are not as important as US lives, their deaths are just the cost of doing business, and that the Marines need to "get the job done" no matter what it takes. These comments, if communicated, had the potential to desensitize Marines' concern for the Iraqi populace and portray them as the enemy even if they are noncombatants. Furthermore, the tenor of a number of the comments was to blame the insurgents for what happened, and as a result of the insurgents' tactics, the Marines were relieved of the responsibility of applying the ROE.⁴⁰⁶ The RCT-2 JA even suggested that comments of the RCT-2 Commander, to his staff, were creating an environment that may allow for "pushing the envelope."

(4) (U) An example of this command climate can potentially be gleaned from the deliberations at the Battalion headquarters regarding the casualties and the actions that led them to determine that an investigation was unnecessary. On 19 November, the 3/1 Battalion Executive Officer (XO) asked the Battalion Commander if he wanted to investigate. The Battalion Commander replied that he "had it for action." Pressing the matter, the XO recommended that he inform the RCT-2 Commander. The Battalion Commander presumably called the RCT-2 Commander, and after a short conversation declared "that it was 'bona fide' combat action and that no investigation was necessary." Still feeling uneasy about the number of noncombatant casualties, the Battalion XO appealed to the Battalion and Company Commander in the days following the engagement and neither felt it necessary to look into the matter further. The Company Commander "was absolutely certain that his Marines had done the right thing," and the Battalion Commander stated "that the Marines were doing what they were supposed to be doing."⁴⁰⁷

406 It is indeterminable whether this mindset was part and parcel of the command philosophy that was communicated throughout the chain of command down to the lowest level. In order to reasonably determine if this philosophy actually reached the lowest levels in the unit, a deliberate command climate survey would have been required. This was not feasible at the time for the reasons enumerated in the Constraints section above. A review of some of the Marines' statements demonstrates that a few junior Marines may have had a similar mindset as its leadership – it is undetermined if they received it from their leadership. See, i.e., Enclosure (185): Jimenez NCIS Statement ("Iraqi people aren't nothing...I'd shoot everyone in that country if I could...I don't care about anyone over there, men, women or children."); See, also Enclosure (186): Casiday NCIS Statement ("This deployment sucked because we were held back from doing our jobs...When November 19th happened that was the excuse to do what [we do] kill shit."). However, it is our belief that these statements are not representative of the majority of Marines in 3/1. See, e.g., Enclosure (187): Statement to NCIS of Lance Corporal C.J. Samiec, Company K, 3d Battalion, 1st Marines, [hereinafter: Samiec NCIS Statement] ("I believe it is morally wrong to kill innocent civilians, especially women and children. I'm not speaking of cross fire or collateral damage but intentional killings of non-combatants."); Enclosure (103): Tatum NCIS Statement (24 Mar 06) ("...we are told to maintain an aggressive attitude so that people know you mean business, but on the other hand we want to show our kinder side and interact with the Iraqi people.")

407 See Enclosure (167): Gonzalez NCIS Statement.

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(5) (U) In late January 2006, when Time Magazine began its inquiry, the Battalion XO again suggested to the Battalion Commander that they needed to "shake everyone down... in case something was missed." When approached by both the XO and the S3, the Battalion Commander reiterated that "my Marines are not murderers" and that there was nothing to investigate.⁴⁰⁸ As the Battalion XO stated: "Everyone in the chain of command was properly informed of the incident via written correspondence and verbally. Everyone who could direct an investigation from my Commanding officer to his bosses' boss were cognizant of the events and did not direct an investigation."⁴⁰⁹

(6) (U) The fact that neither 3/1, RCT-2, 2d Marine Division or MNF-W deemed the deaths of this number of noncombatants alone, or under the circumstances reported, as significant enough to warrant more than a cursory inquiry into the facts might suggest that the command philosophy and the command climate did not encourage the disciplined application of ROE and LOAC. There is nothing to indicate that the chain of command did not intend that noncombatants be treated appropriately in accordance with LOAC and ROE. However, as stated in US Army FM 22-100, all organizational and direct leaders establish their organization's climate, whether purposefully or unwittingly. A potential consequence of such an attitude is to set an unintended command climate.⁴¹⁰

- ▲ ⁴⁰⁸ See Enclosure (167): Gonzalez NCIS Statement.
▲ ⁴⁰⁹ See Enclosure (167): Gonzalez NCIS Statement.
▲ ⁴¹⁰ See Enclosure (151): Report of Alleged LOAC Violation, 24 April 2006: Another indicator of command climate is other alleged violations of ROE/LOAC. Although the charter of this investigation is not to delve into any and all alleged violations in 3/1, an incident now being investigated by NCIS occurred almost one month after 19 November 2005 and involved an alleged LOAC violation. On 30 December 2005, a Marine shot and killed a 13 year old boy who was digging by the side of the road to allegedly fix a pipe. The boy had allegedly received permission from another group of Marines to perform this work near the road. This may be another indicator of 3/1's climate of not fostering a disciplined application of ROE. Incidentally, this event was not reported until 24 April 2006.

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Findings

1. (U) I determined that the training and preparation of the Marines in the areas of ROE and LOAC was adequate to prepare them for combat operations and met the Marine Corps standard for that training.
 - a. (U) Pre-deployment training consisted of home station, a Revised Combined Arms Exercise (RCAX), and Security and Stability Operations (SASO) Training.
 - b. (U) The SASO Training met the Marine Corps regulatory requirement for follow-on law of war training for operational units prior to deployment as outlined in MCO 3300.4.
 - c. (U) ROE and LOAC training was continually covered during the deployment to Iraq, prior to going out on patrols and emphasized during reset training on a weekly basis at Haditha Dam.
 - d. (U) ROE and LOAC guidance was included in OPORDs from the RCT and Battalion.
 - e. (U) All Marines were provided an ROE card that stated: "THESE RULES APPLY AT ALL TIMES, AND ON ALL OPERATIONS." "This card is to be carried by all personnel at all times."
2. (U) I found that the Marines did receive ROE and LOAC training in accordance with applicable training regulations or requirements.
 - a. (U) Enlisted Marines received required LOAC entry-level training at the School of Infantry, and officers received the required entry-level training at The Basic School.
 - b. (U) 3/1 received LOAC training required by MCO 3300.4.
 - c. (U) Combatant and noncombatant role players were used to conduct mission oriented, scenario based realistic training during the SASO training.
3. (U) I found that house clearing and room clearing techniques were adequately trained by the Marines in accordance with controlling doctrine.
 - a. (U) The Marines received training in MOUT and house clearing operations at the home station MOUT facility at Camp Pendleton, California and during the SASO pre-deployment training.
 - b. (U) I determined that some of the Marines did not follow proper house and room clearing techniques by failing to PID combatants.
4. (U) I determined that the comments made by the leadership to the investigating officers, from the Commanding General MNF-W down the chain of command, through the 3d Platoon

UNCLASSIFIED

16 June 2006 (Final)
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Bargewell Discovery

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Commander, reflect a mindset and philosophy that are incompatible with a counter-insurgency (COIN) environment. The philosophy and mindset reflected in these comments may have set the tone for a command climate that, when and if communicated to the lowest levels, would discourage the disciplined application of ROE and LOAC, whether this result was intended or not. Based on available information, it is indeterminable whether this mindset and philosophy was communicated down the chain of command to the lowest levels.

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15 June 2006 (Final)

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Recommendations

1. (U) That the USMC ensure that the training and command climate of RCT-2 and 3/1 promotes the disciplined application of ROE and LOAC in future deployments.
2. (U) That the Commander, MNC-I raise through command channels the recommendation that all combatant commands ensure that the training and command climate of its units promotes the disciplined application of ROE and LOAC in future deployments.
3. (U) That the training and command climate of all units in Iraq be assessed to ensure that it promotes the disciplined application of ROE and LOAC.
4. (U) That the USMC determine if the command climate and philosophy of RCT-2 and subordinate units could have been a contributing factor in the misapplication of tactical firepower during house clearing operations conducted by Company K Marines on 19 November 2005.
5. (U) That the Commander, MNC-I raise through command channels the recommendation that all Services ensure the use of multiple role players (combatants and noncombatants) in its pre-deployment training scenarios, during room and house clearing training, to ensure they portray accurately the urban environment found in COIN operations in Iraq.
6. (U) That Commander, MNC-I raise through command channels the recommendation to Service JAGs that Judge Advocates assigned to deploying battalions and brigades be assigned prior to deployment so they can be effectively integrated into the battalion and brigade staff.
7. (U) That the USMC, through the on-going NCIS investigation, determine why several Marines potentially failed to consider and comply with published ROE and the requirement for PID by engaging noncombatants or people not displaying hostile intent or threat.

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15 June 2006 (Final)
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Enclosures

- (1) (U) Colonel G.A. Watt AR 15-6 Investigation of 3/1 Marine 19 Nov 2005 Haditha Complex Attack of 3 Mar 06
- (2) (S) 3d Battalion, 1st Marines Journal Entry Numbers (JENs) of 19-20 November 2005
- (3) (S) Regimental Combat Team-2 Daily Staff Journal (JEN) of 19-20 November 2005
- (4) (S) 2d Marine Division Significant Events Journal
- (5) (S) Extract from MNF-W Significant Events Journal of 19 November 2005
- (6) (S) Fusion Net Extract posting of 19-11-2005 14:58
- (7) (S) MNF-I Spot Report of 190430Z November 2005
- (8) (S) 2d Marine Division Press Release #05-141 of 20 November 2005
- (9) (S) Email traffic 20 Nov 05 to 21 Dec 05 between Major D. Hyatt, CAG Team Leader, Lieutenant Colonel J. Chessani, et al.
- (10) (U) Statement of Major D. Hyatt, Civil Affairs Group Team Leader, Haditha, 19 March 2006
- (11) (U) Email traffic 24 Jan 06 between Major N.F. Murphy, MNF-W (II MEF (Fwd)) PAO, Captain J.S. Pool, 2d Marine Division PAO, and Mr. Tim McGirk Time Magazine
- (12) (U) Statement of Captain J.S. Pool, Public Affairs Officer, 2d Marine Division, 31 March 2006
- (13) (U) Statement of Colonel G. Sokoloski, Chief of Staff, 2d Marine Division, 31 March 2006
- (14) (U) LTC B.A. Johnson, CPIC Director, Memorandum for the Record (Subj: Allegations of Deliberate Civilian Casualties in Haditha, 19NOV05)
- (15) (S) Email traffic between MajGen R.A. Huck, LTGEN P.W. Chiarelli 12 Feb 06 - 14 Feb 06
- (16) (S) 3/1 Event Rollup 19 November 2005
- (17) (S) Tab A to Appendix 6 to Annex C of MNF-I Framework Operations Order of 1 November 2005

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15 June 2006 (Final)

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- (18) ~~(S)~~ MNC-I FRAGO 192 (28 Jul 05 DTU)
- (19) ~~(S)~~ MNF-W (II MEF) FRAGO 452-05 DTG 202100D AUG 05 (Revision to Commander's Standing Information Requirements and Commander's Standing Notification Events)
- (20) ~~(S)~~ 2d Marine Division CCIRs of 14 Oct 05
- (21) (U) Statement of Major S.A. Carrasco, Operations Officer, 3d Battalion, 1st Marines, 19 March 2006
- (22) (U) Statement of Lieutenant Colonel C. Starling, Operations Officer, RCT-2, 31 March 2006
- (23) (U) Statement of Colonel B.P. Stephenson, Director of Operations, C-3, MNC-I, 4 April 2006
- (24) (U) Statement of Colonel F.B. Hodges, C-3, MNC-I, 4 April 2006
- (25) (U) Statement of Major S. Kauffman, Operations OIC, MNC-I, 4 April 2006
- (26) ~~(S)~~ Ensign C. Le Gaux 18 April 2006 email on JOC comments on immediate reporting timelines
- (27) (U) MNF-W (I MEF (Fwd)) SJA Information Paper (LOAC Reporting) of 21 Apr 06
- (28) ~~(S)~~ FRAGO 363 [10 MAR 05 DTU] to MNC-I OPORD 05-01. (Task One: Revised Commander's SITREP for Daily Reports)
- (29) ~~(S)~~ MNF-W FRAGO 166-05 of Apr 05 (Reports Matrix)
- (30) ~~(S)~~ 2d Marine Division FRAGO 0011-05, DTG 262243C Mar 05
- (31) ~~(S)~~ Major R. Walker, MNF-I STRATOPS (CHOPs) Battle Major Email on 29 April 2006 (CCIR Roll up compilation)
- (32) (U) Statement of Lance Corporal T.A. Graviss, 1st Squad, 3d Platoon, Company K, 3d Battalion, 1st Marines, 19 March 2006
- (33) (U) Statement of Lance Corporal Graviss extracted from Colonel Watt AR 15-6 Investigation dated 3 March 2006
- (34) (U) Statement of Corporal H.R. Salinas, 1st Squad, 3d Platoon, Company K, 3d Battalion, 1st Marines, 19 March 2006

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15 June 2006 (Final)

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- (35) (U) Statement of Staff Sergeant F.D. Wuterich, 1st Squad, 3d Platoon, Company K, 3d Battalion, 1st Marines, 18 March 2006
- (36) (U) Statement of Staff Sergeant Wuterich extracted from Colonel Watt AR 15-6 Investigation dated 3 March 2006
- (37) (U) Statement of 2d Lieutenant W.T. Kallop, 3d Platoon Commander, Company K, 3d Battalion, 1st Marines, 19 March 2006
- (38) (U) Statement of 2d Lieutenant Kallop extracted from Colonel Watt AR 15-6 Investigation dated 3 March 2006
- (39) (U) Statement of Corporal J.F. Sanchez, 3d Squad, 3d Platoon, Company K, 3d Battalion, 1st Marines, 19 March 2006
- (40) (U) Statement of Corporal Sanchez extracted from Colonel Watt AR 15-6 Investigation dated 3 March 2006
- (41) (U) Statement of Lance Corporal R. Rodriguez, 3d Squad, 3d Platoon, Company K, 3d Battalion, 1st Marines, 19 March 2006
- (42) (U) Statement of Lance Corporal Rodriguez extracted from Colonel Watt AR 15-6 Investigation dated 3 March 2006
- (43) (U) Statement of Sergeant J.M. Laughner, Human Exploitation Team NCO, 3d Battalion, 1st Marines, 19 March 2006
- (44) (U) Statement of Lance Corporal R.R. Briones, Company K, 3d Battalion, 1st Marines, 19 March 2006
- (45) (U) Statement of Lance Corporal Briones extracted from Colonel Watt AR 15-6 Investigation dated 3 March 2006
- (46) (U) Statement of Captain L.M. McConnell, Company K Commander, 3d Battalion, 1st Marines, 19 March 2006
- (47) (U) Statement of Captain McConnell extracted from Colonel Watt AR 15-6 Investigation dated 3 March 2006
- (48) (U) Statement of Corporal G.A. Mefford, Company K, 3d Battalion, 1st Marines Statement, 20 March 2006
- (49) (U) Statement of 1st Lieutenant A.P. Mathes, Executive Officer, Company K, 3d Battalion, 1st Marines, 19 March 2006

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15 June 2006 (Final)

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Bargewell Discovery

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- (50) (U) Statement of Staff Sergeant T.M. Fields, Watch Officer, Company K, 3d Battalion, 1st Marines, 18 March 2006
- (51) (U) Statement of 1st Lieutenant M.D. Frank, Company K, 3d Battalion, 1st Marines, 20 March 2006
- (52) (U) Statement of 1st Sergeant A.S. Espinosa, Company K, 3d Battalion, 1st Marines, 19 March 2006
 ^
(53) (S) EOD Task Report of 20 November 2005
- (54) (U) Extract from Company K's Radio Log, 18-21 November 2005
- (55) (U) Extract from Company K's Watch Log 17-22 November 2005
- (56) (U) Statement of Captain J. Chames, Watch Officer 3d Battalion, 1st Marines, 3 April 2006
 ^
(57) (S) 3d Battalion, 1st Marines 19 November 2005 Intentions Message
 ^
(58) (S) 3d Battalion, 1st Marines 20 November 2005 Intentions Message
- (59) (U) Statement of Major K.M. Gonzalez, Executive Officer, 3d Battalion, 1st Marines, 19 March 2006
- (60) (U) Statement of Sergeant Major E.T. Sax, Sergeant Major, 3d Battalion, 1st Marines, 19 March 2006
- (61) (U) Statement of Lieutenant Colonel J.R. Chessani, Commander, 3d Battalion, 1st Marines, 19 March 2006
- (62) (U) Statement of Lieutenant (USN) N. Park, Chaplain, 3d Battalion, 1st Marines, 20 March 2006
- (63) (U) Statement of Captain R.W. Stone, Judge Advocate, 3d Battalion, 1st Marines, 20 March 2006
- (64) (U) Statement of Colonel S. Davis, Commanding Officer, Regimental Combat Team-2, 31 March 2006
 ^
(65) (S) Regimental Combat Team-2 Intentions Message of 19 November 2005
 ^
(66) (S) Regimental Combat Team-2 Intentions Message of 20 November 2005
- (67) (U) Statement of Major W. Collins, Judge Advocate, Regimental Combat Team-2, 31 March 2006

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15 June 2006 (Final)

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- (68) (U) Statement of Major C. Connelly Deputy Judge Advocate, Regimental Combat Team-2, 31 March 2006
- (69) (U) Statement of Colonel J. Holden, G3 2d Marine Division, 3 April 2006
- (70) ~~(S)~~ 2d Marine Division Intentions Message of 19 November 2005
- (71) ~~(S)~~ 2d Marine Division Intentions Message of 20 November 2005
- (72) ~~(S)~~ MNF-W Daily Situation Report of 19 November 2005
- (73) ~~(S)~~ MNF-W Daily Situation Report of 20 November 2005
- (74) (U) Statement of Colonel J. Ledoux, Chief of Staff, MNF-W, 31 March 2006
- (75) (U) Statement of Colonel T. Cariker, G3, MNF-W, 31 March 2006
- (76) (U) Statement of Colonel R.G. Kelly, Staff Judge Advocate, MNF-W, 31 March 2006
- (77) (U) Statement of Lieutenant Colonel Ball, Current Operations Officer, MNF-W, 31 March 2006
- (78) (U) Statement of Chief Warrant Officer 5 K.R. Norwood, Ground Watch Officer, MNF-W, 3 April 2006
- (79) (U) Statement of Major General S. Johnson, Commanding General, MNF-W, 5 April 2006
- (80) ~~(S)~~ MNC-I Story Board of 191429C November 2005
- (81) ~~(S)~~ MNC-I Story Board of 200450C November 2005
- (82) (U) Statement of Colonel R. Gade, Staff Judge Advocate, MNC-I, 4 April 2006
- (83) (U) Statement of Brigadier General Huggins, Chief of Staff, MNC-I, 6 April 2006
- (84) ~~(S)~~ MNC-I Battle Update Assessment of 19 November 2005
- (85) ~~(S)~~ MNC-I Battle Update Assessment of 20 November 2005
- (86) ~~(S)~~ MNC-I Battle Update Assessment of 21 November 2005
- (87) (U) Statement of Major General R.A. Huck, Commanding General, 2d Marine Division, 4 April 2006
- (88) ~~(S)~~ MNF-W (1 MEF (Fwd)) SJA Information Paper (CERP-C) of 27 Mar 06

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15 June 2006 (Final)

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- (89) ~~(S)~~ Email traffic 27 Dec 05 to 29 Dec 05 between Major T.F. Osterhoudt, 2d Marine Division Comptroller, LtCol K. Keith, 2d Marine Division SJA, Capt R. Stone, 3/1 JA, et al.
- (90) (U) 2d Marine Division (COS, SJA, and PAO) Timeline
- (91) (U) 2d Lieutenant Groza, 3/1 IO Officer Email Draft 11/21/05 (Subj: IO Flyer: CF is here to stay)
- (92) ~~(S)~~ DIIR MNF-W HET03 0203 06 of 2 Dec 05 (From MNF-W TFC webpage)
- (93) (U) 3d Battalion, 1st Marines Radio Log of 19 November 2005
- (94) (U) Statement of Lieutenant Colonel K. Keith, Staff Judge Advocate, 2d Marine Division, 31 March 2006
- (95) (U) Statement of Lieutenant Colonel McCarthy, Current Operations Officer, 2d Marine Division, 31 March 2006
- (96) (U) Statement of Colonel G. Denning, Effects Officer, 2d Marine Division, 3 April 2006
- (97) ~~(S)~~ RCT-2 S-3 JC Emails of 19 Nov 05 RCT-2 (JENs on Haditha incident)
- (98) ~~(S)~~ Email traffic between Lieutenant Colonel S. B. Clontz, RCT-2 Effects Cell Coordinator and Captain James C. Haynie, 3/1 HQ IO Officer, 19 and 20 Nov 05
- (99) (U) Statement to NCIS of Corporal Hector R. Salinas of 24 Mar 06
- (100) (U) Statement to NCIS of Corporal Hector R. Salinas of 18 Mar 06
- (101) (U) Statement to NCIS of Lance Corporal Humberto M. Mendoza of 24 Mar 06
- (102) (U) Statement to NCIS of Lance Corporal Humberto M. Mendoza of 18 Mar 06
- (103) (U) Statement to NCIS of Lance Corporal Stephen B. Tatum of 24 Mar 06
- (104) (U) Statement to NCIS of Lance Corporal Stephen B. Tatum of 19 Mar 06
- (105) (U) Statement to NCIS of Lance Corporal Justin L. Sharratt of 24 Mar 06
- (106) (U) Statement to NCIS of Lance Corporal Justin L. Sharratt of 19 Mar 06
- (107) (U) Statement to NCIS of Corporal Sanick P. Dela Cruz of 24 Mar 06
- (108) (U) Statement to NCIS of Corporal Sanick P. Dela Cruz of 18 Mar 06

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15 June 2006 (Final)

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- (109) (U) Statement of Lieutenant Colonel W.H. Ferrell of 26 Mar 06
- (110) (U) Statement (Training) of Lieutenant Colonel Jeffrey R. Chessani of 26 Mar 06
- (111) (U) Statement (Training) of Major Kevin M. Gonzalez of 26 Mar 06
- (112) (U) Statement (Training) of Major Samuel H. Carrasco of 26 Mar 06
- (113) (U) Statement (Training) of Captain Jeffrey S. Dinsmore of 26 Mar 06
- (114) (U) Statement (Training) of Captain Randy W. Stone of 24 Mar 06
- (115) (U) Summary of Interview of Captain Arthur Houghtby of 25 Mar 06
- (116) (U) Statement (Training) of Captain Lucas M. McConnell of 26 Mar 06
- (117) (U) Statement (Training) of 1st Lieutenant Max D. Frank of 24 Mar 06
- (118) (U) Statement (Training) of 1st Lieutenant Adam P. Mathes of 26 Mar 06
- (119) (U) Statement (Training) of Staff Sergeant Travis M. Fields of 26 Mar 06
- (120) (U) Statement (Training) of Lance Corporal Trent A. Graviss of 26 Mar 06
- (121) (U) Summary of Interview of Corporal Ryan Hobrick of 25 Mar 06
- (122) (U) DoDD 5100.77 Subj: DoD Law of War Program
- (123) (U) SecNavInst 3300.1A Subj: Law of Armed Conflict (Law of War) Program to ensure Compliance by the Naval Establishment
- (124) (U) SecNavInst 3300.1B Subj: Law of Armed Conflict (Law of War) Program to ensure Compliance by the Naval Establishment
- (125) (U) MCO 3300.4 Subj: Marine Corps Law of War Program
- (126) (U) Excerpt from Marine Corps Warfighting Publication 3-35.3, Military Operations on Urbanized Terrain (MOUT)
- (127) ~~(8)~~^U 2D MARDIV FRAGO 0241-05, Subj: ROE Reset Training DTG 030851CSEP05
- (128) (U) RCT-2 Memo 3000 S-3 Subj: Regimental Combat Team-2 Policy for Reset Training, 9 Mar 05
- (129) (U) 3d Bn, 1st MAR FRAGO 04-05 Subj: Reset Training DTG 11SEP1400U05

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15 June 2006 (Final)

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- (130) (U) 2D MARDIV ROE Card Effective 15 Apr 05
- (131) (A) 3d Bn, 1st Marines, RCT-2, OPORD 21-05 (operation Sitting Bull)
DTG191000DOct05
- (132) (U) CG, USMC Training and Education Command ltr 5800 C 46 Subj: Training and Education Command (TECOM) response to MNF-I Investigating Officer's Request for Information regarding Pre-deployment Training in Areas of Rules of Engagement and Law of Armed Conflict of 7 Apr 06
- (133) (U) First Endorsement on CG TECOM ltr 5800 C 46 of 7 Apr 06 of 11 Apr 06
- (134) (U) SOI-E Response to TECOM RFI with Enclosures
- (135) (U) SOI-W Response to TECOM RFI with Enclosures
- (136) (U) RCAX 22-05 Training Schedule
- (137) (U) CAT 22-05 Trends Brief for 3d Bn, 1st MAR
- (138) (U) 3d Bn, 1st MAR SASO Training Schedule for 20-29 Jul 05
- (139) (U) SASO Training Package, 3d Bn, 1st MAR After Action Review
- (140) (U) Small Unit Leadership in Future Security and Stability Operations By Col Michael S. Bohn, Marine Corps Gazette, Nov 2004
- (141) (U) Excerpt of Statement of Commandant of the Marine Corps Before the Senate Appropriations Subcommittee on Defense March 16, 2005
- (142) (U) TECOM Response to Request for Information About Mojave Viper
- (143) (U) Information About Mojave Viper from MCAGCC Website
- (144) (U) The Basic School Training Materials
- (145) (U) Law of War PowerPoint Presentation prepared by Capt Stone
- (146) (U) 3/1 SJA Training Materials
- (147) (U) Excerpt from FM 22-100
- (148) (U) E-mails from LtCol Klein
- (149) (U) SASO Training Package

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15 June 2006 (Final)

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Bargewell Discovery

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- (150) (U) SASO ROE Class
- (151) ~~(S)~~ Report of Alleged LOAC Violation, 24 April 06
- (152) ~~(S)~~ MNC-I SITREPs 182100 Nov 05-192100 Nov 05; 192100 Nov 05-202100 Nov 05; 202100 Nov 05-212100 Nov 05; 212100 Nov 05-222100 Nov 05; and 222100 Nov 05-232100 Nov 05
- (153) ~~(S)~~ MNC-I to MNF-I Operational Updates 20, 21, 22 November 2005
- (154) (U) Statement to NCIS of Major Samuel H. Carrasco of 31 May 06
- (155) (U) Statement to NCIS of Major Dana G. Hyatt of 16 Mar 06
- (156) (U) Statement to NCIS of Corporal Pedro E. Garcia of 1 June 06
- (157) (U) Statement to NCIS of Lance Corporal Christopher C. Bass of 25 May 06
- (158) (U) Statement to NCIS of Lance Corporal Andrew A. Wright of 22 Mar 06
- (159) (U) Statement to NCIS of Staff Sergeant Timothy J. Diamond of 5 June 06
- (160) (U) Statement to NCIS of Staff Sergeant Alan D. Lane of 5 June 06
- (161) (U) Statement to NCIS of Lance Corporal James L. Prentice of 12 May 06
- (162) (U) Statement to NCIS of Corporal Walter J. Andrae of 13 May 06
- (163) (U) Statement to NCIS of Lance Corporal Seth A. Gyldenvand of 16 May 06
- (164) (U) Statement to NCIS of Gunny Sergeant Larry R. Dunlap of 19 May 06
- (165) (U) Statement to NCIS of 1st Sergeant Albert S. Espinosa of 5 May 06
- (166) (U) Statement to NCIS of Captain JoJo Chames of 1 June 06
- (167) (U) Statement to NCIS of Major Kevin M. Gonzalez of 24 May 06
- (168) (U) Statement to NCIS of Captain Jeffery S. Dinsmore of 2 June 06
- (169) (U) Statement to NCIS of Matthew T. Harper of 2 June 06
- (170) (U) Statement to NCIS of Cesar A. Deleon of 18 May 06
- (171) (U) Statement to NCIS of Sergeant Major Edward T. Sax of 1 June 06

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15 June 2006 (Final)

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Bargewell Discovery

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- (172) (U) Statement to NCIS of Lance Corporal Rolando Zuniga of 13 May 06
- (173) (U) Statement to NCIS of Major Dana G. Hyatt of 25 May 06
- (174) (U) Statement to NCIS of Lance Corporal Clay T. Narey of 13 May 06
- (175) (U) Statement to NCIS of Lance Corporal Travis M. Woods of 5 June 06
- (176) (U) Statement to NCIS of Corporal James H. Leach of 12 May 06
- (177) (U) Statement to NCIS of Captain James C. Haynie of 1 June 06
- (178) (U) Statement to NCIS of Corporal Sanick P. Dela Cruz of 2 Apr 06; Statement to NCIS of Corporal Sanick P. Dela Cruz of 9 May 06; Statement to NCIS of Corporal Sanick P. Dela Cruz of 16 May 06
- (179) (U) Statement to NCIS of Aviation Ordnancemen Chief Bradley C. Bunde 2 June 06
- (180) (U) Statement to NCIS of Captain Lucas M. McConnell of 16 Mar 06
- (181) (U) Statement to NCIS of 2d Lieutenant William T. Kallop of 24 Mar 06
- (182) (U) Statement to NCIS of Corporal Wylie V. Hughes of 24 May 06
- (183) (U) Statement to NCIS of Lance Corporal Christopher C. Bass of 25 May 06
- (184) (U) Statement to NCIS of Lance Corporal Dennis M. Stephens of 25 May 06
- (185) (U) Statement to NCIS of Private First Class Adrian Jimenez of 18 May 06
- (186) (U) Statement to NCIS of Lance Corporal John B. Casiday of 12 May 06
- (187) (U) Statement to NCIS of Lance Corporal Chester J. Samiec of 16 May 06
- (188) (U) Statement to NCIS of Lance Corporal Jose M. Roland of 11 May 06
- (189) (U) Statement to NCIS of Lance Corporal Don K. Choi of 3 May 06
- (190) (U) Statement to NCIS of Corporal Michael S. Richard of 8 May 06
- (191) (U) Statement to NCIS of Lance Corporal S.L. Parker of 5 May 2006
- (192) (U) Statements to NCIS of 1st Lieutenant M.D. Frank of 3 May and 5 May 2006
- (193) (U) Statements to NCIS of Lance Corporal Stephen B. Tatum of 17 May 2006

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15 June 2006 (Final)

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