

Exhibit H

LAW OFFICES
WILLIAMS & CONNOLLY LLP

725 TWELFTH STREET, N.W.

WASHINGTON, D. C. 20005-5901

(202) 434-5000

FAX (202) 434-5029

AMY MASON SAHARIA
(202) 434-5847
asaharia@wc.com

EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

August 14, 2019

Via Email

Patrick Martin, Esq.
Fernando Campoamor-Sanchez, Esq.
Karen Seifert, Esq.
Alexandra Hughes, Esq.
United States Attorney's Office for the District of Columbia
555 Fourth St., NW
Washington, DC 20530

Re: United States v. Slatten, Crim. No. 14-107

Dear Counsel:

The defense received the document attached to this letter, a powerpoint presentation entitled "412 Incident 10 Sep 07," on Monday, August 12, 2019. We have no record of the government having produced this document in discovery. We have conferred with our predecessor counsel and the co-defendants' counsel, and they likewise have no record of having received this document in discovery.

Please confirm by no later than Friday, August 16, whether the government produced this document in discovery.

Sincerely,



Amy Mason Saharia

Encl.



412 Incident 10 Sep 07



Contents

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- Statements of Events
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- Imagery
- Analysis: Conclusions and Lessons learned



Recent Activity and Threats



Statements of Events



Timeline

- 0831-AIR 2 departs Landing Zone (LZ) Washington for Hillah.
- 1505-AIR 2 reports aircraft is down.
- 1524-AIR 2 RTB with 16 PAX; 2xWIA. RSO AIR on site, 412 appears unrecoverable.
- 1533- RSO AIR recovers sensitive items from US Army. RSO AIR to remain on station for personnel on route for equipment recovery.
- 1554-RSO AIR notified to not destroy aircraft until recovery ops complete. RSO AIR informs AIR OPS that they are out of fuel. RTB.
- 1623-AIR 2 leaving crash site; RTB.
- 1713- AIR/Ground call TOC for a situation report; First lift departing in 5 minutes. Personnel at crash site recover BFT.
- 1718-Military Unit at site receiving small arms fire.
- 1720-AIR (medium lifts) on route to site.
- 1730-AIR RTB; site is sanitized; US Military assets will destroy aircraft.
- 1736-AIR arrives at LZ Washington; all personnel accounted for; 1xWIA



On 10 September, 2007 a flight of two B-412 (Chalk 1- 126; Chalk 2- JH) were tasked with transporting personnel from LZ Washington - Hilla – Camp Echo (Diwaniyah) – Hilla – LZ Washington. On the return flight from Hilla enroute to LZ Washington, Chalk 2 (JH) was engaged at approximately 1500 hours in the vicinity of 38 S MB 590723 (10.8 NM, 308 bearing to LZ Washington). As Chalk 1, I the copilot was flying when I heard Chalk 2 announce “65 is going down”. I immediately turn to my rear to look for Chalk 2, and found aircraft lying on its side. Chalk 1 landed adjacent Chalk 2 (downed aircraft) to assess the next course of action.

Upon landing adjacent to Chalk 2, personnel were exiting from Chalk 2 and repositioning to Chalk 1 for personnel extraction. Meanwhile, “Viper” aircraft (AH-64) were notified of crash site location, and provided cover while we were loading all eight personnel from Chalk 2 on to Chalk 1. We informed “Viper” that there were no casualties and injuries involved that did not warrant MEDEVAC assistance. As we took off from the crash site, AH-64s on station provided security on down aircraft. Baghdad Radio and Raven Operations were notified of the situation while we were enroute to LZ Washington with a total of 16 personnel on board.

Chalk 1 returned to LZ Washington safely with all personnel and returned to parking for additional guidance. Upon landing Chalk 1 was tasked (with an additional 412) to extract equipment from down aircraft due to minimal threat at crash site. A new flight of two 412s (Chalk 1- A/C 126; Chalk 2- A/C 608) departed LZ Washington for crash site to insert security team first with a maintenance team to follow for recovery of sensitive items/aircraft equipment. Meanwhile, 2 MD 530s were providing cover during the equipment extraction process at the crash site. Once lead mechanic determined that most of downed aircraft equipment was recovered, both 412's returned mechanics and security team back to LZ Washington. We landed safely at LZ Washington at approximately 1700.

Anthony Acosta
Pilot of Lead 412 (AIR 2)



The following after action report reflects, in summary, Team 23's activities during a small arms engagement with hostile forces at the crash site of a RSO aircraft at grid 38SMB593720. This incident occurred on 10 September 2007 at approximately 1538 hours. The Team 23 personnel involved in this incident include the following: David Bynum (Team Leader/Medic), Nicholas Slatten (DDM), Tommy Vargas, Adam Frost, Freddie Ortiz, Jeremy Ridgeway, Evan Liberty, Mathew Murphy, Jeremy Kruger, Dean Wagler, Joe Baggott and Paul Slough.

On 10 September 2007 at approximately 1500 hours, Team 23 received word an RSO air asset had crashed, and an element of Team 23 would be performing a Downed Aircraft Recovery Team (DART) mission. DART team leader David Bynum conducted a pre-mission brief at the LZ Washington hanger/staging area. The mission brief included rules of engagement, firearms policy, escalation of force, and actions on contact in the event the team was attacked. The briefing also included threat intelligence, from the Red Detail imbedded intelligence analyst, to include sniper activity, recent small arms attacks and explosive attacks throughout the area of operation.

All of the aforementioned DART team members were flown to the crash site on two 412 medium lift helicopters. Once at the site, the team formed a 360 degree outer perimeter around the crashed aircraft to allow mechanics and air personnel to sanitize the downed aircraft. Also located at the site were several US Army personnel in HMMWV's, a Bradley Armored Fighting Vehicle, and Army Attack Helicopters circling above assisting with site security. Army personnel advised the team to watch for suspicious activity occurring in the tree line located on the southwest side of the site.

Two clusters of buildings were observed in the immediate vicinity of the crash site. The first set was approximately 550 yards to the southwest of the site and the second was over 1200 yards to the west from the site. A tree line separated the two clusters of buildings. Shortly after arriving on location Army assets were observed in a firefight around the buildings located over 120 yards to the west of the crash site. An Army Captain advised the DART element that several armed subjects in civilian clothing were seen running toward the buildings located to the southwest. The Captain stated Army attack helicopters engaged the subjects, however, they believed several of the armed subjects made it through to the buildings located at the southwest.



After several minutes on the ground, DDM Nicholas Slatten observed, through his scoped SR-25 rifle, several armed men in civilian clothing enter the buildings located toward the southwest. Slatten observed one of the men enter a building and appear in a window with what appeared to be a scoped rifle. Slatten advised all of the team members of his observations while closely watching the subject with the scoped rifle in the window. Slatten observed the subject present the scoped weapon pointing it in the direction of the team apparently about to fire. Fearing for the lives of himself and his team, Slatten fired his Department of State SR-25 rifle at the suspect at which time the hostile suspect dropped out of site and did not appear again.

Almost simultaneously, the team began receiving small arms fire from windows and rooftops of the buildings to the southwest, at ground level in a grassy area, and from the tree line. All DART personnel repositioned in a line on the southwest except for PSS Kruger who remained to cover the rear with an Army HMMWV and a MRAB Mine sweeping vehicle. Additionally, the little birds and medium lifts were landed a distance away to the northeast. DART and Army personnel continued to receive small arms fire from the above mentioned locations. Fearing for their lives and the lives of the team, all team members except Krueger returned accurate fire at visible threats using their Department of State issued M240 Machine guns, M249 machine guns and SR-25 scoped rifle. Additionally, the Army engaged the same targets with their Bradley 25mm main gun and .50 caliber machine guns. A US Army Captain met with DART personnel and advised he was calling in an air strike. A short time later, the Army attack helicopters attacked the enemy firing positions stopping the threat.

Team Leader Bynum accounted for all DART members and no injuries were reported. Upon sanitizing the aircraft, the air mechanics and crew members were returned to LZ Washington via 412 medium lift helicopters. Approximately ten (10) minutes later, the 412 medium lift helicopters returned to the crash site and picked up the entire DART element returning to LZ Washington. All team members and equipment were accounted for. No injuries or damage were reported. All Command members were later apprised of the complete details of the incident.///END///

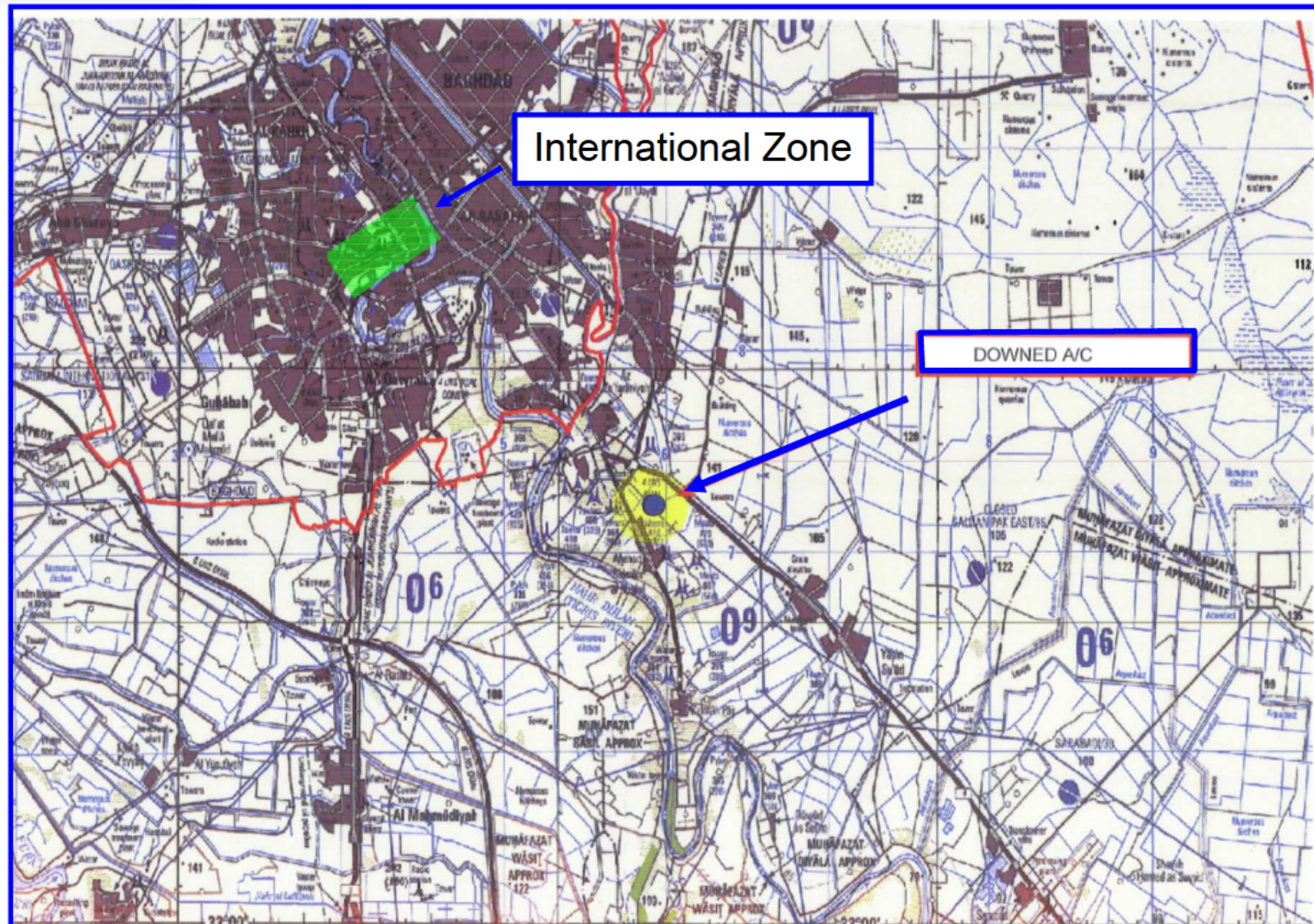
David Bynum
Team Leader, Downed Aircraft Recovery Team (DART)



Maps and Locations



Crash Site



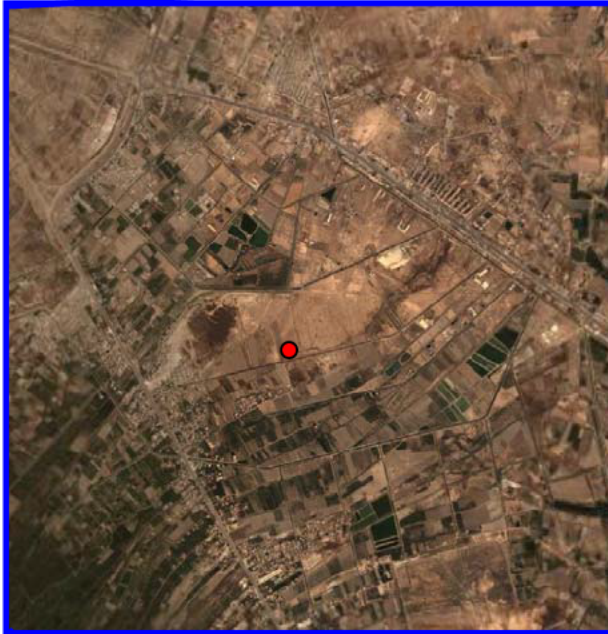


Crash Site



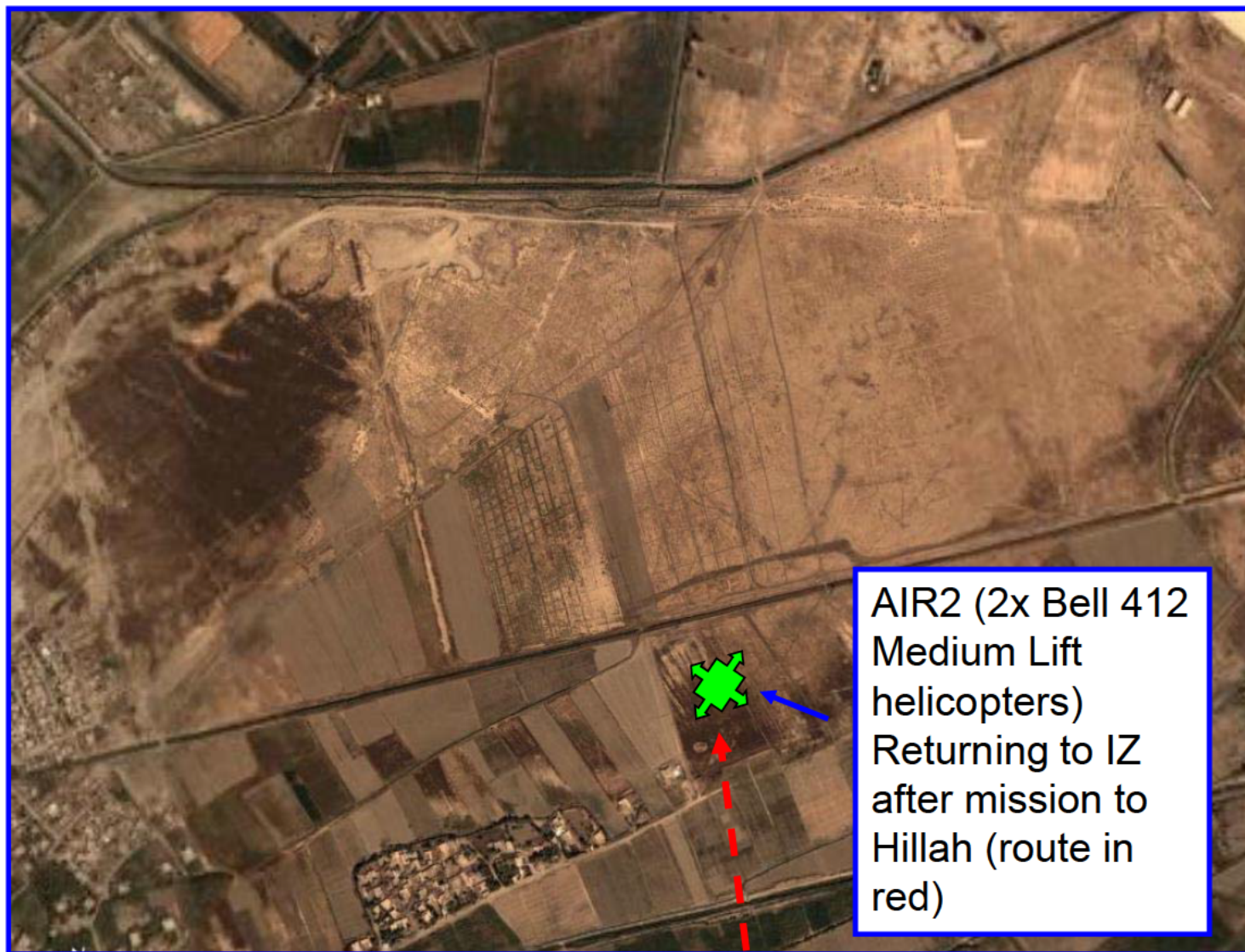


Crash Site





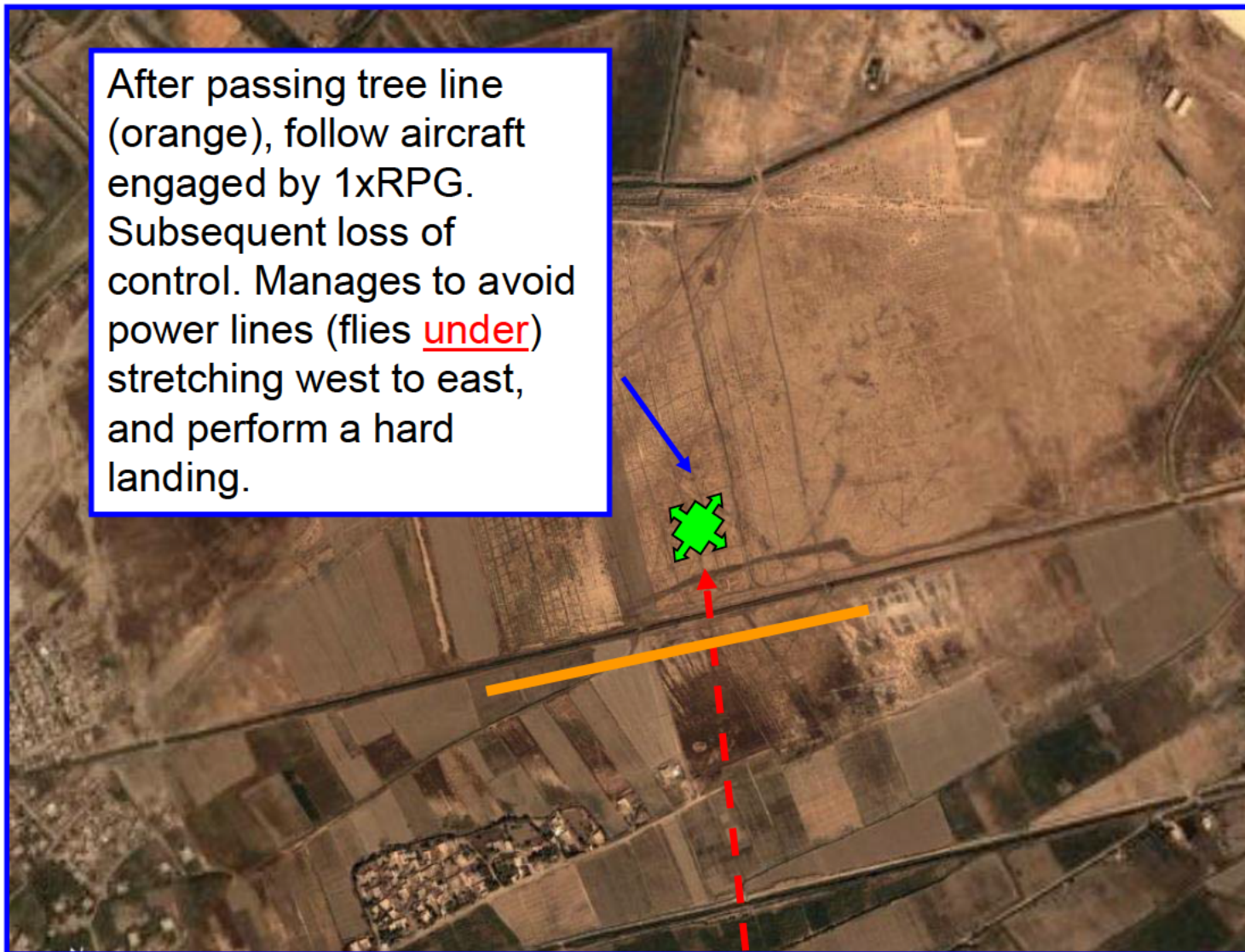
Crash Site-Sequence of Events





Crash Site-Sequence of Events

After passing tree line (orange), follow aircraft engaged by 1xRPG. Subsequent loss of control. Manages to avoid power lines (flies under) stretching west to east, and perform a hard landing.





Crash Site-Sequence of Events

Lead aircraft sets down, and loads all personnel from the downed aircraft. Calls in US MIL aircraft (AH-64), which arrives within 5 minutes (already in the area). AIR 2 departs site, on route to IZ, leaving site secured by US MIL.





Crash Site-Sequence of Events

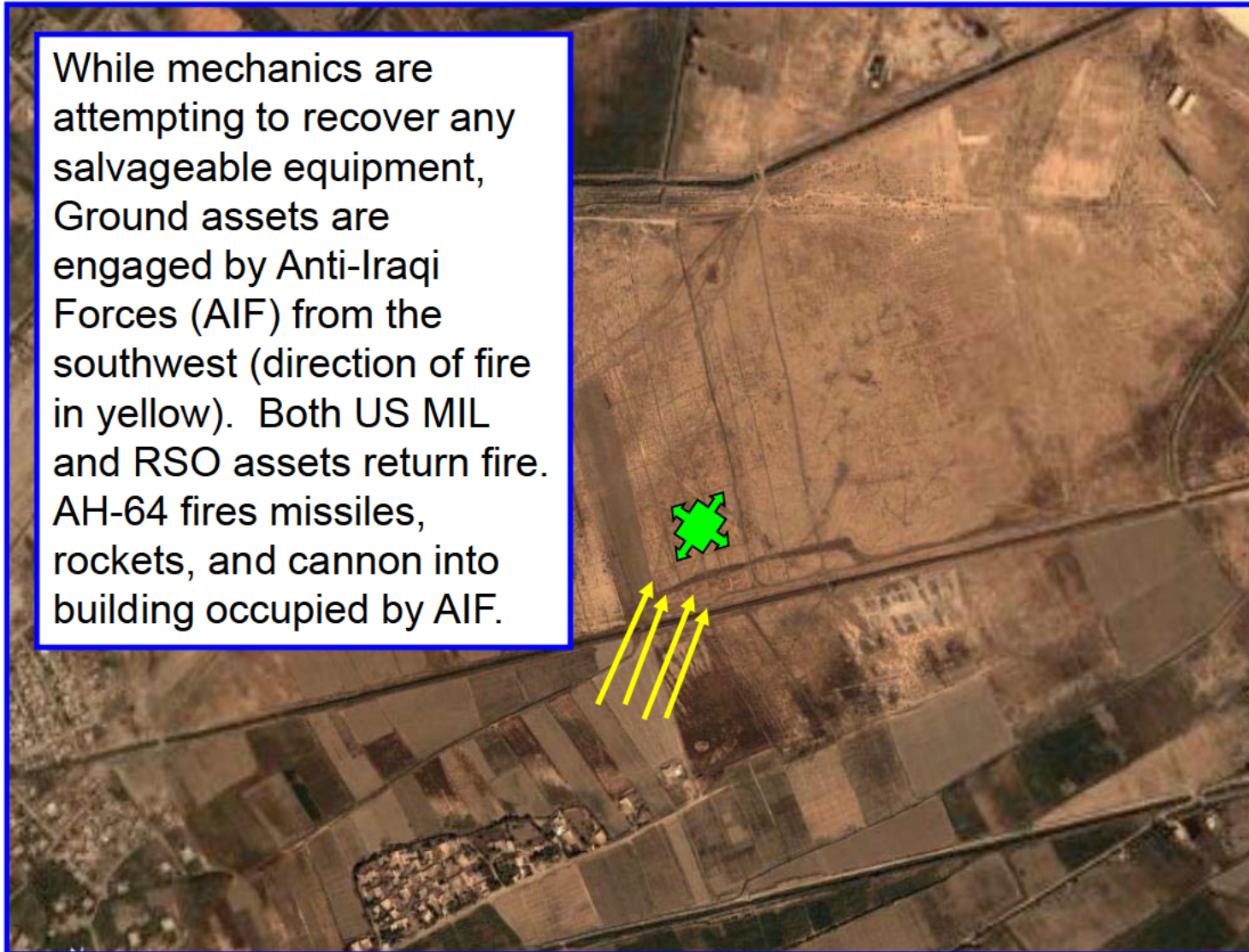
RSO AIR performs multiple trips, utilizing multiple aircraft (CAP, Security Team dropped on site, and Mechanics brought in). US MIL on site, attempting to prep aircraft for destruction.





Crash Site-Sequence of Events

While mechanics are attempting to recover any salvageable equipment, Ground assets are engaged by Anti-Iraqi Forces (AIF) from the southwest (direction of fire in yellow). Both US MIL and RSO assets return fire. AH-64 fires missiles, rockets, and cannon into building occupied by AIF.





Crash Site-Sequence of Events

Ground assets finish recovery operations, board aircraft, and depart site. Downed Bell 412 destroyed by AH-64.

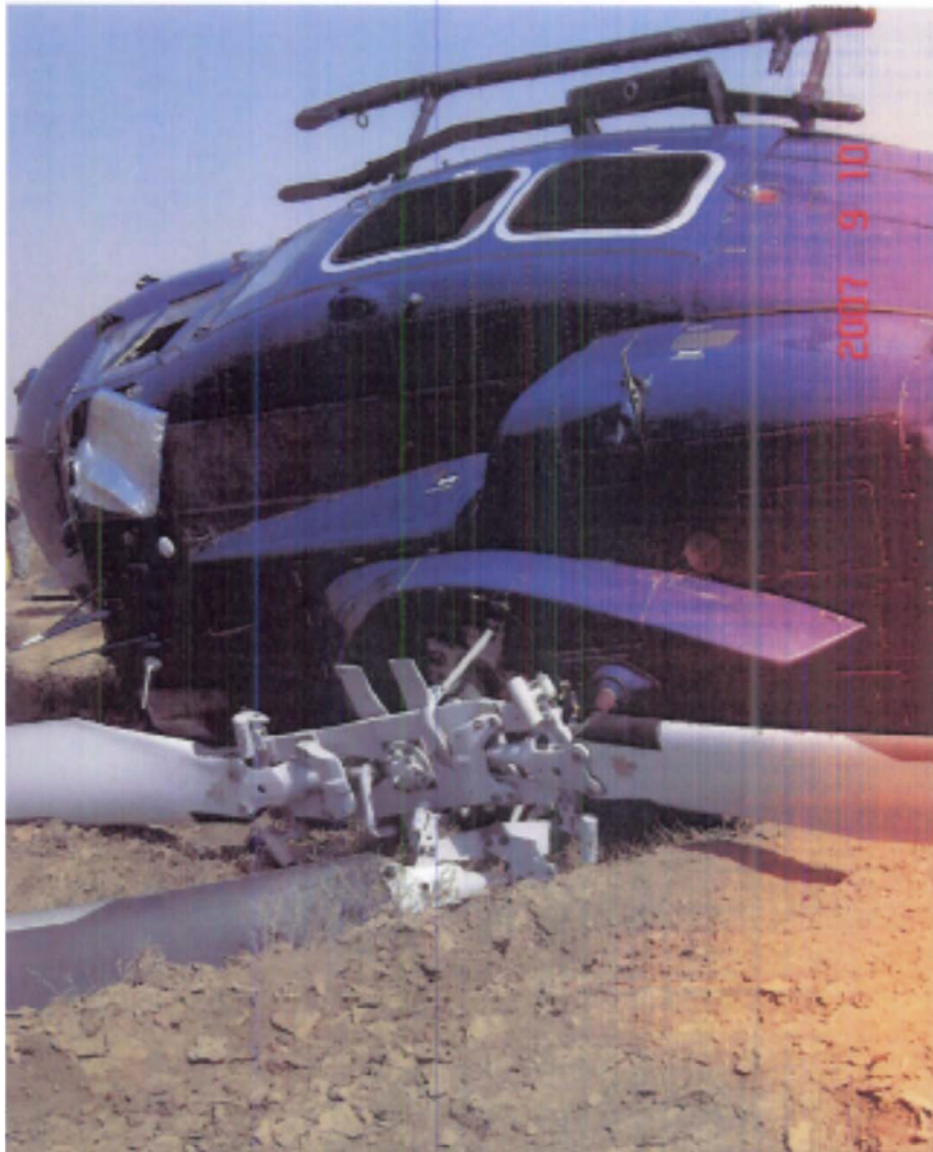




Imagery









Additional Statements



On the above date and time I was notified by the RTOC Commander Tony Sanganetti that one of our 412's had 'gone down' while returning from Hilla. He also said all our personnel had been recovered but there were injuries. I immediately called DPMO Matt Twigg and went to the RTOC. Once at the RTOC I had our Army LNO, SSGT. Joe Houston, contact the Brigade Combat Team (BCT) and Landowner to advise them of our situation and ask for security and recovery assistance.

A partial recovery of sensitive items had been conducted from the down aircraft. However, other items remained to include weapons and the Blue Force Tracker (BFT) which was still transmitting at the site. The second of the two 412's arrived at LZ Washington and off loaded recovered items and all personnel, all personnel were screened by waiting medical staff.

Two MD530 'Little Birds' departed LZ Washington to pull security and over watch on the crash site. Two additional 412's were sent to the site with PSS and mechanics for security and an attempted recovery of as much equipment as possible. The arriving 530 pilots advised that the down aircraft was not recoverable and was in pieces.

I spoke to Maj. Schwartz, the Joint Operations Commander (JOC) in charge of the Battalion who owned the battle space and requested any available vehicle to assist in the recovery of the aircraft. He said the area was too 'hot' and didn't want his people sitting out there that long. He said the pilots that just left the site told his guys to 'blow the bird after they take off'. I made it clear to him at that time that the directive to destroy the aircraft was a last resort; we wanted to recover the bird and not to do anything unless he heard from the RSO TOC.



RSO Earl Miller arrived in the RTOC within minutes of the report; at that time I provided him with the most current accurate information acquired by all personnel involved. Maj. Schwartz called back and said his troops on the ground were 'taking IDF' and wanted to know what our plan of action was. I told him we were flying mechanics out to recover as much of the aircraft as possible; this may require a few trips. Once completed the RSO wanted the downed aircraft destroyed in place. He said he would need that order in writing and directly from the RSO. I agreed with his request and stated that I would call him when it was time.

A ground QRF/Recovery team was dispatched to the location as part of the recovery effort. Intelligence Analyst came to RTOC advising against a ground move due to a high EFP/IED threat along the route and high probability of hostile contact. RSO Miller recalled the QRF/DART back to the IZ. I was also told that the 412 was brought down by hostile fire, an RPG had hit the tail.

Maj. Schwartz called and advised that his troops and the RSO assets on the ground were taking small arms fire (SAF) from a nearby building and attack aircraft were engaging. He asked for an estimated completion time and I was told by the Air PM '4 more trips'. Meanwhile RSO Miller typed an e-mail asking for assistance destroying the aircraft and sent it to Maj. Schwartz. After the RSO heard the ground forces were being engaged he recalled all RSO/BW assets to the IZ and for the aircraft to be destroyed as soon as we were clear.

Kurt Scheuermann
Ops Chief



I, SSG Joseph M. Huston, was present for duty at the RSO TOC, Room N110E, at the United States Embassy, Baghdad, Iraq on 10 September 2007 from approximately 0930L hours that morning until approximately 2230L that evening. My duties include, but are not limited to, assisting the United States Department of State during any emergency that should befall any of their assets, whether it be military or otherwise, to the best of my ability.

At approximately 101505SEP07 "RAVEN BASE" was notified of a downed aircraft. The Blue Force Tracker team in coordination with "RAVEN BASE" pinpointed the downed aircrafts location and passed the MGRS grid to me so that I could contact the Battle Space owner to inform them of the situation in their area of responsibility and ask for assistance on behalf of the State Department. Initially I contacted 4th Brigade, 25th Infantry Division (SVOIP 771-2036) – 1511:27 to ask if they had the adjacent land owner's information. The phone line went down and we were cut off. I was attempting to redial when the phone rang and it was the Multi National Division Baghdad Battle Captain from the Command Information Center (SVOIP 678-0916) - 1512:07 who gave me the number for the Battle Space owner for the MGRS grid that I received from the Blue Force Tracker team. I then immediately hung up the phone and called the Battle Space owner 3ID G3 Battle Captain at (SVOIP 670-0033) - 1513:14. I explained the situation to him and asked on behalf of the Department of State if they would be able to offer any air assistance or ground support. He said he would see what he could do to assist in anyway possible and asked me to keep him posted if anything else developed. The G3 Battle Captain called back at 1514:37 to ask about personnel onboard the aircraft. I told him they had been evacuated to the Combat Support Hospital. I then received a call back from 4/25 ID's S-2 shop (SVOIP 771-2036) – 1517:46 asking what it was that I needed. I gave them a brief rundown of events and told them I had the information that I initially needed from them. I then placed another phone call to the G3 Battle Captain (SVOIP 670-0033) – 1530:31 telling him that the casualties and people on board the aircraft were at LZ Washington and asked him if he going to be able to send an element out towards the crash site. He stated that he was trying to work it out.

At 1532:35 I received a call from the Multi National Corps Iraq C-3 Joint Operations Center Officer in Charge, Major Schwartzman, asking me what the situation was. I explained that a Department of State Aircraft was down for unknown reasons and gave him the grid to the aircrafts location. He asked about injured passengers, and at the time we had been told there were two injuries and that everyone had been evacuated via the secondary aircraft that was with the downed aircraft to LZ Washington in the International Zone. He asked whether or not "Blackwater" wanted to recover the aircraft or "blow" it in place. I explained again that it was a Department of State aircraft and told him that I was unsure about their intentions and that I would find out more information and call him back.



At 1536:48 I received a call from the G3 Battle Major (SVOIP 670-1032) asking for all the information I had about the crash and I gave him as much as we knew at the time, and he informed me that he had personnel en-route to the crash site and that they may already be there.

1549:26 the MNC-I C3 JOC OIC, MAJ Schwartzman, (SVOIP 242-0331) called back asking for status on the intentions of "Blackwater" and their aircraft. I again attempted to stress that Blackwater did not own the aircraft and that it belonged to the Department of State, and that they were still discussing what they wanted to do. He stated that the contractors on the scene told his personnel to blow it up in place. I asked the Operations Chief, Mr. Kurt Scheuermann, if he had directed his guys to blow anything up or tell anyone else to blow it up and he said no. I put Mr. Scheuermann on the phone with MAJ Schwartzman so that they could cover the details of what the Department of State wanted to do. Mr. Scheuermann clearly stated that he would call MAJ Schwartzman when a conclusion was reached by the Regional Security Officer, Mr. Earl Miller.

At 1559:14 the G3 Battle Captain (SVOIP 670-0033) called to say that his units were on the scene. I told him that we were aware that Coalition Forces had arrived and had the area secured. I explained that they were trying to figure out what they wanted to do with the aircraft and that it sounded like they wanted to recover the aircraft but did not have the assets available to do it without Army support. Mr. Scheuermann stated that more than likely they were going to strip the aircraft and blow it in place but not to do anything until Mr. Miller, the RSO, gave the word to do so.

At 1603:22 the 3ID G3 Battle Major called (SVOIP 670-1032) to find out what they wanted to do with the aircraft. I explained that the Department of State was going to make multiple runs to strip the aircraft of all sensitive materials with other DoS aircraft and that they needed the Army to keep the site secure until they could get as much as possible.

At 1611:12 I called the MNC-I C3 JOC OIC (SVOIP 242-0331) back to update him on what the Department of State planned to do with the aircraft. He stated that he needed a document from "Blackwater" stating that he was authorized to blow the aircraft up. I again explained to him that it was not a Blackwater aircraft and that it belonged to the Department of State. He became belligerent saying that he did not care if it was the "Girl Scouts or Santa's elves" that he needed some type of documentation. I explained that the RSO had not fully made his decision as of yet but was leaning towards blowing it up after it was completely stripped. He asked to speak to Mr. Miller, and I said he was not in the office at the moment and that he could speak to Mr. Scheuermann. He and Mr. Scheuermann spoke, and Mr. Scheuermann again told him that he would call him back when they were ready to blow the aircraft up.



At 1630:46, 1653:51, and 1716:11 the MNC-I C3 JOC OIC (SVOIP 242-0331), MAJ Schwartzman called back to ask if they could blow it up yet, that it was getting dangerous for his men to be on the scene much longer and that there was confusion as to when they were supposed to blow it up. On the final call he spoke with Mr. Miller and told him that the plan was to blow the aircraft up after it was stripped. Mr. Miller also told him he would write him an email stating that he was authorizing the aircraft to be blown up after it was stripped.

During all of this the other DoS aircraft continued to make runs to and from the crash site stripping the downed aircraft of sensitive materials.

At 1723:25 I received a call from the MNC-I CHOPS (SVOIP 242-0005) requesting information about the men onboard the aircraft. I explained to the COL that I did not have that info and I wasn't sure if the Department of State was ready to release it yet. He explained that LG Odierno wanted the information. I again explained that I did not have it, but I would check to see if I could get it.

At 1737:13 I called the MNC-I C3 JOC OIC, MAJ Schwartzman (SVOIP 242-0031) and told him that the Department of State needed approximately 3x to 4x more runs to finish. There was an unidentified individual in the background swearing and saying, "Somebody up there needs to make a god damned decision now!" I explained that I do not make the calls up here and that I did not need my own people trying to bully me because they didn't feel it necessary to assist with something that was not their problem. I explained that I am only an L&O up here trying to coordinate things between the Army and the Department of State. I was then told to "Put the head fucking civilian on the phone then Sergeant!" I said roger and got Mr. Miller.

At 1759:06 the MNC-I C3 JOC OIC, MAJ Schwartzman called (SVOIP 242 0031) and said that his people were taking fire. I was asked by the RSO TOC Watch Officer if it was Small Arms or Indirect Fire, so I asked MAJ Schwartzman, and he said "I don't give a shit what kind of fire it is." I said roger Sir I understand and asked him to hold on. I passed the message on to the RSO TOC and Mr. Miller, the RSO. Mr. Miller took the phone and told them to go ahead and blow it and get out of the area. I sent the email message that Mr. Miller drafted up on my SIPR account to MAJ Schwartzman.

These statements are true to best of my knowledge. I have not been forced to say or write anything. These are my words and actions during the course of the events leading up to the destruction of the Department of State aircraft on 10 September 2007.

/// Original signed ///

SSG Joseph M. Huston
RSO TOC L&O
U.S. Army