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INVESTIGATION INTO THE INCIDENT IN VICINITY OF
THE SALALA CHECKPOINT ON THE NIGHT OF 25 – 26 NOV 2011



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EXECUTIVE SUMMARY

1. On the night of 25-26 November 2011, an Afghan National Army Commando (ANA CDO) company, partnered by US Army Special Forces, landed near Maya Village, Khas Konar District, within an area of operations assigned by NATO's International Security Assistance Force (ISAF) to its Regional Command-East (RC-E). The ground forces (GF) which landed near Maya Village were executing Operation SAYAQA which was approved by HQ, ISAF Joint Command (HQ IJC). As they moved towards their objectives, the GF came under effective fire from positions on a ridge near the Afghanistan-Pakistan border. Using the allocated air support, in self-defense, they engaged the ridgeline positions from which the continuing fire originated. After the air engagement ended (approximately 45 minutes of fire during a 90 minute period) and fire from the positions near the ridge had stopped, it became clear from various information exchanges that those engaged at the ridge were Pakistan Military (PAKMIL) personnel. In the early hours of 26 November 2011, the supporting aircraft pulled back from the border area and Pakistani authorities reinforced their border positions and reportedly removed 24 dead and 13 wounded. The GF continued and successfully completed Operation SAYAQA. The GF left the area shortly after midnight on 27 November 2011, arriving back at their base later that morning.

2. A U.S. Central Command (USCENTCOM) led Investigation Team, led by U.S. Air Force Brigadier General Stephen Clark, and an Investigation Team from NATO's Allied Joint Force Command (JFC) Brunssum, led by Canadian Army Brigadier-General Michael Jorgensen carried out investigations into this incident during the period 2-16 December 2011. The teams worked in parallel, closely cooperating and collaborating throughout to produce essentially a single UNCLASSIFIED report for public consumption and a classified report for internal use. The teams visited North Kabul International Airport, Bagram Airfield, Jalalabad Airfield and Forward Operating Base Joyce, to conduct interviews and review video and documentary evidence.

3. A number of critical findings are made within this Report of Investigation as follows:

- Operation SAYAQA was conducted in support of the ISAF Campaign Objectives although the issue of Operation Enduring Freedom (OEF) and OEF Rules of Engagement (ROE) within/beside an ISAF Campaign continues to cause some confusion and friction amongst Coalition partners;
- the international Law Of Armed Conflict (LOAC) was respected and ROE were appropriately and legally applied;
- the catalyst for the engagement was the opening of fire by PAKMIL forces;
- continued fire from Pakistani Forces exacerbated the situation;
- border area cooperation and coordination was hampered by a climate of mutual distrust;

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- ISAF and OEF orders, Standard Operating Procedures (SOPs) and directives related to border area/cross-border operations lacked clarity and precision, and were not followed;
- time-sensitive senior Command override measures for border area incidents are lacking;
- pre-mission near-border coordination for this operation was inadequate;
- a series of miscommunications within the chain of command – but especially in the area of the border coordination nexus delayed confirmation of the identity of the Pakistani Forces; and,

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4. A number of recommendations are made within the Report:

- initiate an immediate program of confidence-building measures to foster a climate of trust;
- review and harmonize all directives related to near-border operations;
- train and practice procedures for cross-border and near-border operations including time-sensitive procedures;
- initiate a more aggressive system of senior leadership visits to critical coordination nodes to create the right level of engagement at all key locations;
- insist all mission preparation for near-border area operations include detailed reconnaissance of the area and Intelligence, Surveillance and Reconnaissance (ISR) sweeps prior to the operation and make it a critical criterion of Concept of Operations (CONOP) approval;
- implement a program of comprehensive and complete transparency of border installations and garrisoning on both sides of the border;
- have the key stakeholders collaborate to design a system of recognition measures and signals to enhance communications and mutual understanding;
- harmonize the OEF with the ISAF Campaign (with exceptions) to adopt a single set of ROE; and,
- set the conditions for effective cooperation and coordination amongst all stakeholders along the border by initiating high-level consultations to resolve the long-standing border disputes.

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References:

- A. Memo from Commander USCENTCOM to Brig Gen Clark dated 28 Nov 11
- B. JFC Brunssum 1061.11.A/JBLEGAL/0129/11 dated 1 Dec 11
- C. FRAGO 1206 to CJTF-101 OPORD 10-01
- D. International Security Assistance Force (ISAF) Operational Plan 38302 Revision 5
- E. USFOR-A OPORD 08-01 Establishment of USFOR-A CJOA Afghanistan
- F. MC 362/1 NATO Rules of Engagement
- G. CJCSI 312101B Jun 09: Standing Rules of Engagement
- H. SACEUR OPLAN 10302 (Revise 2) 21 Oct 10
- I. JFCBS OPLAN 30302 Revision 5, dated 27 Feb 10
- J. COM IJC OP OMID 1390 001-2010, dated 9 Oct 10
- K. USFOR-A FRAGO 11-287 clarifies USFOR-A National Command Element Authorities and Responsibilities, DTG 071613Z NOV 11.
- L. SOP 309 dated 1 Oct 10: Coordination, de-confliction and authorization of deliberate operations within the ISAF Area of Operations

INTRODUCTION

1. On the night of 25 – 26 November 2011, an engagement between Coalition Forces and Pakistan Military (PAKMIL) forces ended with reports of 24 PAKMIL dead and 13 PAKMIL injured.¹ Two teams were formed to investigate: a U.S. Central Command (USCENTCOM) team led by U.S. Air Force Brigadier General Stephen Clark and a team from NATO's Joint Force Command (JFC) Brunssum led by Canadian Army Brigadier General Michael Jorgensen. The teams' respective terms of reference (TOR) are at Annexes A and B. They worked in parallel as an integrated team to produce separate but coordinated USCENTCOM and JFC Brunssum reports of investigation. They were assisted by an Afghan delegation of senior Afghan Border Police and Afghan National Army officers. The investigation was conducted 2 - 16 December 2011. The USCENTCOM goal was to determine the facts and circumstances surrounding the 25 – 26 November 2011 engagement near the Salala Checkpoint, Khas Kunar Province, Afghanistan in the vicinity of the Pakistan border. The JFC Brunssum goal was to conduct an operationally focused fact-finding investigation into the circumstances surrounding the engagement between friendly forces and PAKMIL near the Salala Checkpoint, Khas Konar Province, Afghanistan in the vicinity of the Pakistan border on or around 25 – 26 November 2011. The conduct of the investigation, including a roster of the investigation teams is detailed at Annex C. In the interest of brevity, the incident under investigation shall be hereafter referred to as "the incident."

¹ Casualty figures as reported by Government of Pakistan and PAKMIL authorities.

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2. **Aim.** This report aims to establish the facts and circumstances of the engagement involving Coalition Forces and PAKMIL in the vicinity of the Salala Checkpoint, Khas Kunar Province, Afghanistan during the night 25 – 26 November 2011, in order to arrive at relevant findings to help determine why these events occurred and to make recommendations for preventing similar incidents in the future.

3. **Objectives.**

- a. Compile all documentary evidence and interview all possible witnesses as achievable.²
- b. Determine the facts and circumstances surrounding the incident to include time duration and command and control arrangements.
- c. Establish a chronology of events based upon fact and evidence.
- d. Determine all US, International Security Assistance Force (ISAF), Afghan and Pakistani elements involved, before, during and after the incident.
- e. Determine what units, both ground and air, did or did not cross the border and under what conditions and authority lethal force was applied.
- f. Determine Command and Control (C2) functions (*e.g.*, de-confliction, authorization, approval).
- g. Determine what coordination was made before, during and after the incident between the units involved.
- h. Conduct a battle damage assessment (BDA) and determine to any extent possible, the cause of death and injuries.
- i. Evaluate whether ISAF's Rules of Engagement (ROE), Standard Operating Procedures (SOPs) and any other applicable directives or procedures were applied.
- j. Make recommendations concerning improvements to tactics, techniques and procedures (TTP) and general procedures in order to improve near-border operations.
- k. Address any other matter pertaining to this incident that may be pertinent.

² Ideally, the team would have interviewed PAKMIL personnel and local villagers; this was not possible. The Government of Pakistan unfortunately declined offers to participate in this investigation. Security concerns did not allow the investigating teams to safely travel to the villages on either side of the Afghanistan – Pakistan border that were near the area of the incident.

CONTEXT

4. **Afghan – Pakistan Border.** Pakistan and Afghanistan are in dispute about certain sections of their border, known as the Durand Line.³ The siting of border control posts has led to tension between the two sides. There are 50 major passes along the Regional Command-East (RC-E) section of the border and an unknown number of minor trails. The Afghan Border Police (ABP) Zone 1 region encompasses Konar, Nuristan and Nangahar Provinces, and is policed by six Battalions who man Afghan border posts. Pakistan border control posts are predominantly manned by the PAKMIL's Frontier Corps. At the ground level, Border Coordination Centers (BCC) were established in 2010 to facilitate information sharing and improved communications across the border (Reference C). The BCC for this area is the Nawa BCC (NBCC), located at Forward Operating Base (FOB) Joyce, with an ISAF team, an Afghan National Security Forces (ANSF) team and a PAKMIL Liaison Officer (LNO). Above the NBCC is RC-E, where a Border Cell brings together ISAF staff and a PAKMIL LNO. At the next level, the ISAF Coordination Element Pakistan (ICEPAK) is comprised of ISAF LNOs with PAKMIL in Islamabad; this includes LNOs with the PAKMIL's corps that face the border. At the highest level, the US Office of the Defense Representative Pakistan (ODRP) in Islamabad has direct links to the Pakistan Chief of Defense's personal staff through the Pakistan Director General Military Operations (DGMO) who is responsible for operations and border area operations and related issues.

5. **Intelligence Picture.** Successful Counter Insurgency (COIN) operations in west and central Konar Province have pushed insurgents (INS) closer to the Pakistan border; the valleys leading from the border passes have become an INS support zone due to the lack of Coalition Forces or ANSF in those areas. Subjugation of villages to support INS groups has become common. Reports have indicated INS have been wearing PAKMIL uniforms in order to move freely across the border. The ABP report indiscriminate shooting incidents against civilians and their livestock in the Maya Valley from the border. There has never been a response from the authorities to these incidents.

6. **Nature of Operations.** There are two missions within Afghanistan: NATO's ISAF mission (covered under Reference D) and the United States' Operation Enduring Freedom (OEF) (covered under Reference E). In addition to fully supporting the ISAF mission, OEF also includes counter-terrorism operations. Operation SAYAQA was a COIN operation in direct support of the ISAF mission and lines of operation (Reference C).⁴ In particular, this was a shaping operation in support of Village Stability Operations (VSO), where Afghan National Army (ANA) Commandos (CDO), partnered by Special Operations Forces (SOF) seeks to insulate traditional tribal leaders from Taliban or other INS groups. By allowing local leaders to reassert their authority, the local

³ The Durand Line Agreement was signed by Britain and Afghanistan in 1893 to mark the northern border of British India.

⁴ ISAF and ANSF relentlessly attack INS networks. ISAF conducts area security operations to neutralize INS elements; interdict and disrupt INS lines of communication; deny INS safe havens; identify, isolate and eliminate INS leadership.

*shura*⁵ may be established, which in turn will link the district *shuras* and thereby enable effective governance in the area. The provision of security not only allows Afghan Local Police (ALP) to be selected and trained, it is a step in bringing in development agencies such as the US Agency for International Development (USAID). VSO, therefore, fully supports the Transition process.

7. **Background to the Operation.** The incident occurred during Operation SAYAQA, which was conducted by A Company, 1st Battalion Commando, 3rd Commando Brigade (3/1 CDO), partnered by Operational Detachment Alpha (ODA) 3313, a unit of the United States' Special Operations Task Force East (SOTF-E); this grouping of ANA CDO and U.S. ODA 3313 is referred to in this report as ground forces (GF). The operation was supported by air assets: 2 x CH-47/ CHINOOK heavy lift utility helicopters (for GF insertion and extraction only); 2 x AH-64D/ LONGBOW attack helicopters; 1 x AC-130H/ SPECTRE gunship; 2 x F-15E/ STRIKE EAGLE multi-purpose fighter aircraft; and, 1 x MC-12/ LIBERTY turbo-propeller Intelligence, Surveillance and Reconnaissance (ISR) aircraft. A full Task Organization (TASKORG) is at Annex E, it also depicts the associated Chain of Command.

8. **Concept of Operations (CONOP).** Operation SAYAQA was a shaping operation in support of RC-E's objective of neutralizing the INS capability to freely operate within the Maya Valley. Key to this was Maya Village and the surrounding area (known as Objective OCTAGON for purposes of this operation). Pertinent details of the operation are:

a. **Mission.** 3/1 CDO, combat partnered by ODA 3313, clears Objective OCTAGON in vicinity of Maya village, Maya Sar Valley, Khas Konar District, Konar Province, Afghanistan at 2130 hours, 25 November 2011 in order to deny INS safe haven by destroying the enemy training camp and increasing white space⁶ for ODA 3313's related Village Stability Operations (VSO) expansion.

b. **Key Tasks.** The following key tasks were listed for the operation:

- (1) Clear Objective OCTAGON.
- (2) Disrupt INS Command and Control (C2).
- (3) Conduct thorough sensitive site exploitation (SSE) to find weapons/ other items that could be used in INS and to gain intelligence.
- (4) ANA CDOs to operate with minimal assistance from the ODA.
- (5) ANA CDOs to conduct key leader engagement (KLE) with local officials.

⁵ *Shura*: Arabic for consultation; it is a decision making body normally comprising elders and leaders and can feature at several levels of decision making hierarchy.

⁶ "White space" refers to the amount of geographic area or space around a military unit or geographic location (e.g., a village) in which the population generally supports the GfRoA and/or coalition forces.

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c. **Intelligence and Threat to GF.** Reliable intelligence and previous operations indicated that MAYA village was a C2 node, logistics hub and training camp for a specifically identified Taliban subgroup and its local leader. There was also an indication that the civilian population was being driven out or oppressed for their goods and services. An estimated 25 – 30 INS had a persistent presence in the village with an unknown number of INS in transit or training at any given time. An incident on 5 October 2011 when four Rocket Propelled Grenades (RPG) were fired at a CH-47 about to land 675 meters to the south of MAYA village, reinforced the assessment that there would be a threat to the GF of small arms or RPG fire. There had been no governance or development activity in Maya Village since 5 October 2011 because of an absence of ANA or coalition military presence.

d. **CONOP Level.** Three levels of CONOP review for deliberate operations dictate to level of command the CONOP is passed to for awareness and approval:

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e. **Rules of Engagement.** Rules of Engagement (ROE) are directions given to military forces that define the conditions, degree and manner in which force may be used. They are determined by a legal framework and dictate what forms of military activity are appropriate and what evidence is required to support an action or decision. Within Afghanistan, there are separate ISAF ROE (within the context of NATO ROE, Reference F) and OEF ROE (Reference G). The subordination of the units in question is decides what mandate (ISAF or OEF) applies to their military operations. ODA 3313 was an OEF unit essentially using OEF ROE. There was one exception: the AH-64Ds in support of Operation SAYAQA were ISAF assets operating under ISAF ROE. The mandate under which the AH-64Ds operated does not change because of the mere fact that support is delivered to an OEF unit. It is worth noting that nothing in any ROE limits the inherent right of self-defense. The inherent right of self-defense is defined in international and U.S. national law.

9. **Timeline.** A detailed incident timeline is at Annex D. It was made using documentary evidence, witness testimony and air platform video tapes⁷, using as much corroborating / cross-referencing detail as possible. All timings below are given in local Afghanistan time (Delta, which is Zulu time⁸ plus 4 hours 30 minutes, and which is 30 minutes behind Pakistan time (Echo)).

SUMMARY OF THE INCIDENT

10. **Structure of the Summary.** For ease of reference, this summary is divided into three sections as depicted at Figure 1:

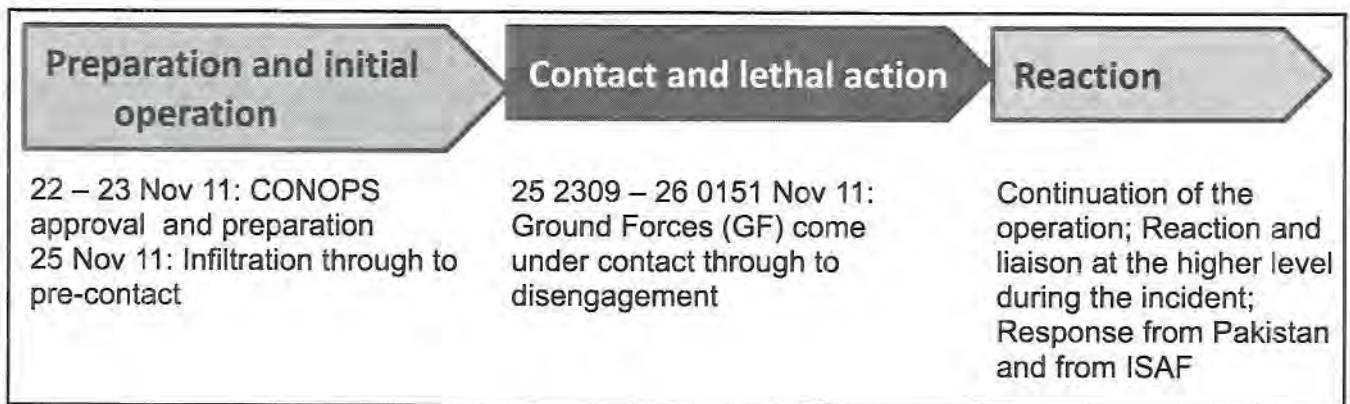


Figure 1: Structure of the Incident Summary

11. Preparation and Initial Operation.

a. **CONOP Briefing and Approval.** The initial CONOP proposed insertion at a Helicopter Landing Zone (HLZ), which was within 1km of the Pakistan (PAK) border. This planned proximity to the border (and because it would an ANA Company sized unit), initially caused the CONOP to be set at Level 2. Accordingly, it was briefed to the IJC's DCOS JOPS, U.S. Marine Corps Major General (MajGen) James Laster on 22 November 2011. He made two demands: move the HLZ further away from the border, effectively reducing this to a Level 1 CONOP; and, confirm the location of Pakistan's border checkpoints. The CONOP was rebriefed to him on 23 November 2011 with a HLZ (known as HLZ HOLDEM) 1.3km to the north of the objective and 2.3km from the Pakistan border, and a map produced showing the known PAK border checkpoints. The map did not show checkpoints in the area where the engagements took place. The CONOP was then approved by MajGen Laster in his separate capacity as USFOR-A DCOS Interoperability.

⁷ Air platform videotapes, commonly known as 'gun tapes' record what is seen by the crew using imaging devices; these tapes record exact position (latitude/longitude) and Global Positioning System (GPS) time in ZULU hrs. They sometimes record the radio transmissions and communication between the crew.

⁸ ZULU time is Greenwich Mean Time (GMT).

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b. **Preparation for the Operation.** GF were briefed on the CONOP on 24 November 2011. Task Force (TF) SABER briefed an air specific CONOP on 24 November 2011 to the rotary wing (helicopter) assets. Other air assets also received the CONOP and were briefed. The NBCC was not provided with a copy of the CONOP through official channels but received a “back channel” copy from an interested third party. The NBCC was unable to clarify the status of the CONOP with RC-E; furthermore, there was some uncertainty as to the PAKMIL releasable slide included in the CONOP that contained the caveat ‘no release date/ time before 25 2130D Nov 11. ICEPAK was not provided with a copy of the CONOP.

c. **Initial Stages of the Operation.** Figure 2 is a graphic representation of Operation SAYAQA. GF were complete at HLZ HOLDEM by 2206 hours and then proceeded to their objective.



Figure 2:
Graphic of Operation SAYAQA

12. **Contact and Lethal Action.** GF came under fire from a heavy machine gun (HMG) at 2309 hours; the firing point of origin (POO) was positively identified by the GF Team Leader (GFTL) and AC-130H and MC-12 crews as a position on the eastern ridgeline [Engagement Area 1 (EA-1) for purposes of this report]. This location was understood to be in the vicinity of the Pakistan border. Within a few more minutes GF came under accurate mortar fire. The Joint Terminal Attack Controller (JTAC)⁹ requested a “show of force”¹⁰ from the F-15E element. At 2320 hours, the lead F-15E flew near EA-1 at high speed and at low altitude dispensing flares; this triggered flares to be automatically dispensed from the AC-130H. However, the GFTL could not extract his troops due to continuing accurate fire (attempts by the GF to move away from their positions at that time would

⁹ JTAC advises the GFTL and is his means to communicate with, and control, air support.

¹⁰ Show of force: an often effective means to protect forces on the ground that is used, when appropriate, to demonstrate a credible military presence.

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have increased the GF exposure to, and risk from, the fires they were receiving). The GFTL then decided to request clearance to engage and received agreement from SOTF-E to do so. At 2324 hours, the AC-130H engaged targets inside EA-1 to be followed by AH-64D. GF remained under fire, with mortar rounds impacting as close as 50m. Knowing the vicinity of the PAK border, the GFTL called his superior to verify that the fire was not coming from PAKMIL positions. Shortly after, he received notification that there were no PAKMIL in the area. At 0039 hours, an AH-64D engaged an identified tripod weapon inside a bunker in EA-1 and destroyed it with a HELLFIRE missile. At 0054 hours a third engagement took place at EA-2. Both an AH-64D and the AC-130H fired at a bi-pod weapon system and at hostile personnel. At 0055 hours, RC-E received word from HQ IJC that PAKMIL were reporting that they are being engaged in this area. RC-E verified the information they have received and passed it to the GFTL at about 0104 hours (this is *after* the GFTL had called for the last airstrike that ultimately hit PAKMIL positions/ personnel). Further requests for engagement are denied permission after 0104 hours. The PAKMIL presence was further confirmed at 0151 hours and having received this information, the JTAC notified all air assets and ordered them to fully disengage from the area.

13. **Continuation of the Operation.** At 0154 hours, the GF continued with their operation to clear Objective OCTAGON. As they cleared through the objective, significant weapons and ammunition caches were found that indicated that this was an INS training facility, C2 node and logistic hub. Items recovered included improvised explosive device (IED) equipment, rifles, significant amounts of ammunition and RPGs. Sporadic opposing fire continued throughout the night. At daylight, the GFTL and ANA CDO initiated key leader engagements with the village elders who were "happy to see ANSF" (Afghanistan National Security Forces) in the area. At 1930 hours, as GF began to move to HLZ BLACK and were informed by SOTF-E of a new HLZ location that was moved 4km from the PAK border by direction of higher HQ.¹¹ The extraction time was delayed to 2330 hours. By 0350 hours the following morning (27 November 2011) all GF were back in base.

14. **Reaction and Liaison at the Higher Level during the Incident.** Shortly after coming under fire, the GF requested verification through SOTF-E, that there were no PAKMIL in their area. As RC-E attempted to gain information from NBCC, RC-E informed SOTF-E that TF BRONCO was attempting to confirm that PAKMIL were not in the area and that RC-E were "not tracking any PAKMIL posts on CPOF¹² in that area." This was taken by SOTF-E to actually mean that there were no PAKMIL in the area and this was entered onto MIRC¹³ at 2327 hours; this in turn was read by RC-E who believed that verification had been gained by SOTF-E and therefore relayed the information. At around 2340 hours a PAKMIL LNO at RC-E reported to the RC-E CJ3 Borders

¹¹ Annex A-23 to IJC FRAGO 731-2011

¹² CPOF: Command Post of the Future, a computer mapping data system

¹³ Military Internet Realtime Chat – an instant messaging system with multiple channels. The SOTF-E MIRC entry read: "PAK MIL has been notified and confirmed no positions in area."

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section that PAKMIL border positions were being engaged by fires coming from Afghanistan. There was some confusion within the RC-E CJ3 Borders section and this report could not be immediately confirmed. Just after midnight, a general location (for security reasons) was passed to the PAKMIL LNO at the NBCC who confirmed that there were no PAKMIL in the general location he was provided by the NBCC. It was later discovered that a misconfigured electronic CPOF map overlay was used by the NBCC, this caused the NBCC to refer the NBCC's PAKMIL LNO to a "general location" that was 14km to the north of the actual engagement area. The NBCC's PAKMIL LNO's answer was therefore based on the incorrect general location he was given by the NBCC. Shortly afterwards, RC-E's LNO (a U.S. officer) to the PAKMIL's 11 Corps contacted HQ RC-E and briefed them that 11 Corps was reporting an attack against Border Post "Volcano" in the Mohmand Agency within the Federally Administered Tribal Areas (FATA) of Pakistan. Although no grid references were given, 11 Corps and the American LNO could verify near border operations in the vicinity of Konar/ Mohmand Agency. Soon after, the United States' Office of the Defense Representative, Pakistan (ODRP) learned of the incident and contacted HQ IJC. At 0055 hours, RC-E received a call from HQ IJC informing them that it was PAKMIL in their area; meanwhile GF called requesting permission to engage a further target, which was denied, as the chain of command had been apprised of the situation. IJC called RC-E to confirm that PAKMIL had been engaged in the area, which was then relayed to all elements via MIRC.

15. Role of higher HQs and the Office of the Defense Representative in Pakistan (ODRP). The Chief, ODRP is U.S. Army Lieutenant General (LTG) Ken Keen. LTG Keen was first notified by the ISAF LNO to ODRP, at about 1:20 a.m. (this was after the actual engagements had ended). The ODRP usually receives near-border CONOPs in advance; however, the CONOP for Operation SAYAQA had not been sent to the ODRP. The ISAF LNO to ODRP stated that the first calls from PAKMIL authorities were received just after the first air to ground engagements had ended (and about the time the subsequent ones were in progress). The ISAF LNO to ODRP informed the Night Director of IJC's Combined Joint Operations Center (IJC CJOC DIR Night)) at 0035 hours of the incident. At 0120 hours, the IJC CJOC DIR Night updated MajGen Laster and U.S. Army Brigadier General (BG) Gary Volesky (Deputy Commander (DCOM)-Maneuver at HQ RC-E).

16. MajGen Laster contacted RC-E and directed them to de-escalate the situation immediately. He further contacted LTG Keen and asked for the ISAF LNO to ODRP to put him in contact with Major General Ishfaq Nadeem, the PAK Director General Military Operations (DGMO), also in an attempt to defuse the situation. BG Volesky had followed the events of the evening but was still under the impression that PAKMIL were not involved. Once it became clear that PAKMIL were involved, he contacted U.S. Army Major General (MG) Daniel Allyn (COM RC-E) at approximately 0200 hours, to update him on the situation. At 0230 hours, MajGen Laster informed U.S. Army Lieutenant General (LTG) Curtis Scaparrotti (COMIJC) of the incident. The Commander ISAF, U.S.

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Marine Corps General John Allen, was visiting Pakistan on the night of this incident; he was first informed en route to the Islamabad airport. A brief update was sent to him at 0550 hours.

17. **Response from Pakistan.** The principal sources of Government of Pakistan and PAKMIL reaction were through Pakistan media.

EVIDENCE

18. **Ground Operations.** The GF comprised a team of 14 U.S. Special Operations Forces (SOF), including a JTAC to provide advice on and liaison to supporting air assets, and an ANA CDO Company (100 men). This was a standard, well-rehearsed shaping operation in support of VSO, and would last 24 hours. The GF were aware of the heightened threat as Coalition Forces had experienced several contacts (coming under fire) in this area, the last being 5 October 2011. Intelligence had indicated that Maya village and the surrounding area was a C2 node, logistics hub and training camp for a specifically identified Taliban subgroup and its local leader may be in residence. There was also indication that the civilian population was being driven out or oppressed. There were expectations that an estimated 25 – 30 INS would have a persistent presence with an unknown number in transit or training at any given time. There was a strong chance that there would be a threat from small arms fire or Rocket Propelled grenades (RPG). Furthermore, there had been neither Coalition nor ANSF presence in the area for some time.

19. At 2144 hours, the first CH-47 lift delivered half of the force (Main Element (ME) 1 and ME2) to the Helicopter Landing Zone (HLZ HOLDEM), securing it for the second lift that would bring the remainder of the force (Support Element (SE 1 and 2). In the twenty minutes that elapsed, troops rapidly dispersed to secure the immediate area over pitch black rocky terrain. The familiar and distinctive noise of the heavy lift CH-47 helicopters in the dead of night would have left no doubt in the minds of anyone within several miles that Coalition Forces were in the area.

20. At 2206 hours, all elements were "boots on the ground" at HLZ HOLDEM. The GFTL noted that it was uncharacteristically quiet. As the special operators adjusted to their environment they looked up at a dark gray moonless sky and fixed their eyes upon the rocky ridgeline as a reference because it was the only contrasting image that they could see; they were aware that this was the border with Pakistan. The ambient light was minimal. At this time, the commanders checked and reported that they were ready to begin the cautious single file movement down a steep rocky goat trail towards the valley floor and Maya Village. As planned the force split into two groups; one headed in an easterly direction and the other took a westerly route into the valley. SOF personnel were equipped with signaling devices and every ANA CDO had an additional signaling device in his pocket that would be seen by the aircrew as a measure to avoid accidental targeting from the air. It was so dark that the GFTL requested the use of infra-red flares from the supporting AH-64D,

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which allowed them to covertly view the valley with their own night vision devices. The valley appeared deserted.

21. All elements moved to clear Named Areas of Interest (NAI 1 and NAI 2) where there were buildings numbered in series for ease of reference. SE1 moved directly to the 100 series buildings; ME1 continued southeast to NAI2 (Building 312). SE2 and ME2 provided local support by fire positions to enable SE1 and ME1 to move to their Objectives. SE1 reported that during the clearing of Building 101 they discovered an AK-47 assault rifle and three persons known to the Intelligence community; the CDOs questioned them to get the atmospherics of OBJ OCTAGON.

22. At 2309 hours the GF came under heavy machine gun fire, the tracer rounds indicating that it came from the eastern ridgeline near the border. The sonic "crack" of the rounds going just overhead forced everyone to take what cover they could find. The fire concentrated on Buildings 312, 311, 310, 304 and 306. At this time, the lead element was in the vicinity of Building 312. ME1 immediately gained a foothold in Building 312 and remained there for cover. The accuracy of the fire led the GFTL to believe that the only way they could have been seen from the ridgeline was through night vision equipment.

23. Following the initial contact of heavy machine gun fire, the rest of the ME and SE1 were engaged by effective mortar fire; the familiar flash from the mortar barrel being identified as coming from a point on the ridge. The first round landed close to HLZ HOLDEM and was only 150m from the trail element of SE1 and ME2. After the first mortar round, the heavy machine gun concentrated its fire on ME2. ME2 immediately found a position from where they could provide support. The GFTL called his superiors via radio to inform them of the situation and to get clearance to engage the point of fire. He also relayed his concern that the fire may be coming from PAKMIL elements. In addition, he asked his JTAC to request a show of force with the air assets. This displays to the enemy that we have air superiority and is designed to prevent an escalation. At 2320 hours, the noise of gunfire was drowned out by the deafening roar of a jet flying low overhead; the valley briefly turned to day as flares dropped from the sky.

24. However, the machine gun fire did not stop but increased and a second mortar round, which landed only 50m from the group, divided the force. Fire was also identified as coming from another position close to the first and a second position further along the ridgeline. The increasing accuracy of the fire led the GFTL to conclude that he could not safely withdraw his troops to any safer position; he then decided more decisive action was needed and requested the JTAC engage the firing position with the AC-130H.

25. The AC-130H positively identified and engaged a fighting position on the ridgeline at 2324 hours. The GFTL had called his superior for approval, having assessed there were no civilians in the area and that collateral damage would be minimal. As he received clearance he also was given

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confirmation that there were no PAKMIL in the area. The explosions of the AC-130H engagement reverberated around the valleys.

26. Despite the effectiveness of the engagement, the GF continued to be engaged by mortars and machine guns. The JTAC received an accurate description of the positions, noting fortification as well as mounted weapon systems. Again the GFTL called his superior for approval to engage, and having given the necessary reassurances, he received permission. The engagement lasted from 0039 - 0105 hours. The JTAC was aware of reports from the air that armed personnel were moving between the two ridgeline positions and not retreating. Sometime between 0104 - 0110 hours, the GFTL learned that the positions on the ridgeline had been PAKMIL. Despite this news, he was in no doubt that he had done the right thing; his team and the village had come under fire and he had called in fire to protect them. Once he was sure he could safely move his troops, the GFTL ordered the mission to continue and all elements moved to their objectives.

27. Having refueled a second time, AH-64D assets were providing overwatch in the area about 1km west of Building 308. At 0146 hours, one AH-64D saw a flash and the other AH-64D heard and felt a nearby aerial explosion, the signature of an RPG round. The GF could not locate where the RPG came from and did not return fire; however, it reinforced the point that all ANA and U.S. forces had to remain alert. By 0238 hours, SE1 had cleared all 100 series buildings, and they had begun moving towards NAI 1. ME, ME2 and SE2 continued to move through NAI 2. At 0327 hours, the ME found a significant cache in Building 301 with various Improvised Explosive Device (IED) making materials, comprising 2 x pressure plates, initiating wires, a Taliban Flag, 1 x grenade and 6 x RPG boosters. At 0334 hours, the GFTL reported that NAI 2 was clear. SE1 conducted movement to clear NAI 1, and discovered a large weapons cache that included 2 x PKM machine guns, 12 x AK-47s, 1 x video camera and 1 x RPG launcher. At 0340 hours, the GFTL confirmed SE1 had cleared NAI 1 and the GFTL reported Objective OCTAGON clear. Only a few minutes later, GF saw a large explosion to their north. The AC-130H, also providing over-watch, identified a firing position about 3km north of Building 308 on the Pakistan border that had a recoilless rifle with six rounds. Two more rounds were fired but were ineffective; the GFTL decided to take no action.

28. From 0750 hours, once it was light and the village started to go about its daily business, the GF started to conduct patrols, noting that many buildings had been fortified. The patrols found multiple caches located around several buildings. The total amount of cache materials recovered that day were 2,000 x DshK (a Soviet Union heavy machine gun) rounds, 9000 x PKM (a Soviet Union medium machine gun) rounds, 3000 x PAKMIL rifle rounds in bandoleers, 27 x mortar fuses, 12 x RPG rounds with boosters, 2 x PAKMIL issue Binoculars, multiple sets of *salwar kameez* (traditional styled dress) made from PAKMIL uniforms, 2 x AK-47s and 3000 x AK-47 rounds. The cache material was documented and photographed. The bulk of the cache material was destroyed on site, but the ANA CDOs did recover some select items for additional exploitation. The GF also

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detained a suspected insurgent known to the Intelligence community, he was identified as an up and coming Taliban leader within the Shalay Valley.

29. Throughout the remainder of the day, all GF elements conducted KLE with the local elders of Maya Village, who stated they were extremely happy to see the GIRoA in their village. They had been telling GIRoA officials that they have been regularly attacked in their houses with mortar fire and heavy machine gun fire. They were happy to see that someone else had witnessed this act. The local elders had been conducting a funeral on the day of infiltration where a young girl had been killed by machine gun fire from the ridgeline. Another young girl, the daughter of a village Mullah, is still in hospital having been shot the week before. The story was the same across the whole village. They confirmed what the GF had encountered the night before. Testimony from village elders was documented with supporting photographs and video.

30. At 1930 hours, the GF started to move to HLZ BLACK for their extraction. Upon arrival the GFTL was notified that they had to move 4km away from the border in order to be extracted.

31. GF arrived at the HLZ at 0000 hours; by 0400 hours they were back at their base with no casualties.

32. **Air Operations.** All crews received a theater indoctrination briefing upon arrival in Combined Joint Operations Area – Afghanistan (CJOA-A) that provided a general overview of the ISAF and OEF missions, their specific role during operations, and, the overall Intelligence situation. All crews received a detailed ROE brief that included the ISAF/ USFOR-A Tactical Directives and applicable Standard Operating Procedures (SOPs). Prior to Operation SAYAQA, all aircrews received the CONOP with enough time to prepare for their specific role in the operation, including details on the expected high-threat environment. For all aircrews, operations in close proximity to the border were discussed, but the details focused solely on airspace and their mission in support of the Operation SAYAQA GF. The air assets did not expect to encounter border posts. All crews were qualified to perform the assigned mission. The Air report is at Annex G. Capability by asset is as follows:

a. The MC-12, which provided ISR was on station and recorded both engagements on EA-1. The third and final engagement was not recorded due to sensor direction on GF. Despite previous mission experience, they had no prior experience in identifying PAKMIL border posts. MC-12 is an OEF asset.

b. The F-15Es were tasked to provide airborne Close Air Support (CAS). The lead F-15E conducted the show of force requested by the GFTL. Their sensor data was recorded throughout the flight and includes audio of the internal crew communication and external radio transmissions. Neither F-15E employed weapons or ever crossed into Pakistan's airspace. One F-15E crew acted

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under ISAF ROE and the other under OEF ROE. The F-15E is an OEF asset, voluntarily adhering to ISAF ROE.

c. The AC-130H was tasked to provide airborne CAS. Crew error led to no video being available. The AC-130H crossed into Pakistan airspace up to two nautical miles in order to engage, based on the weapon system requirements. The AC-130H is an OEF asset.

d. The AH-64Ds were tasked to perform reconnaissance, security and Close Combat Attack (CCA) throughout the operation. They recorded video of their sensors along with audio, to include internal crew communication and external radio transmissions. Both crews were highly proficient and experienced. Neither AH-64D crossed into Pakistan's airspace. The AH-64D is an ISAF asset.

33. **Operational Command, Control and Communications.** ISAF and OEF C2 structures are shown in Annex E since both ISAF and OEF units were involved in Operation SAYAQA.

a. **ISAF.** Annex B of Reference H shows that Supreme Allied Commander Europe (SACEUR) designated Commander JFC Brunssum as overall operational commander to COMISAF. COMISAF is the in-theatre Commander. COMISAF is dual-hatted as COM USFOR-A and is responsible for the de-confliction of ISAF and OEF operations. COMISAF has command responsibility over COMIJC. COMIJC commands ISAF's tactical operations in AFG. Reference I acknowledged and established that forces will, at minimum, be Operational Control (OPCON) to COMISAF through SACEUR and JFC Brunssum at Transfer of Authority, unless otherwise directed. At Reference J (particularly Appendix 2 to Annex B) the dual-hatted command relationship of COMISAF/COM USFOR-A is further clarified. COM IJC is also the DCOM of COMUSFOR-A. Through Reference K, COMIJC established the command structure for the regional commands OPCON to IJC. RC-E, as one of ISAF's regional commands, has NATO Tactical Command (TACOM) over organic units (to include the units that replace these). Organic units are units that are originally subordinate to RC-E. All units that are under temporary C2 of RC-E or a subordinate commander thereof, maintain a NATO Tactical Control (TACON) relationship (Annex B to RC-E CJTF-1 Organization as of 22 Nov 11). As depicted in Annex E, there are three ISAF units subordinate to RC-E that were involved in support of Operation SAYAQA. These units also maintain a US C2 (US OPCON) relationship with RC-E, which is called Combined Joint Task Force 1 (CJTF-1), in terms of USFOR-A, as mentioned in USFOR-A FRAGO 10-299.¹⁴ The three above mentioned ISAF units are:

¹⁴ (Annex C USFOR-A FRAGO 10-299 and 11-287, Clarifies USFOR-A National Command Authorities and National Support Element Responsibilities). US OPCON for forces deployed under USFOR-A briefly means that COM USFOR-A is responsible for providing national support (medical, logistic etc.) for all US forces in AFG. The NATO C2 relationships for US Forces in CJOA-AFG are set out separately in USCENCOM message DTG 052150ZMAR10 Subject: CENTCOM TOA.

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(1) 3/25 TF BRONCO, NATO TACOM / US OPCON to RC-E resp. CJTF-1, as Battle Space Owner (BSO).

(2) 82 Combat Aviation Brigade (CAB) TF POSEIDON TO TACOM / US OPCON to RC-E / CJTF-1, which is supported ("General Support," *i.e.*, support given to a force as a whole, rather than to particular unit thereof) by:

a) 3-82 TF TALON, delivering the CH-47/ CHINOOK helicopters, used for the in/exfiltration of the Ground Forces into the area of Operations.

b) 1-82 Aviation Battalion, delivering the Attack Weapons Team (AWT) consisting of two AH-64/LONGBOW attack helicopters.

Note: Both the CH-47 and AH-64 helicopters were assigned to Operation SAYAQA by an Air Mission Request to TF POSEIDON (Annex C-27).

(3) The Nawa Border Coordination Centre (NBCC), NATO TACOM / US OPCON to RC-E, resp. CJTF-1 that was involved in coordination with PAKMIL.

b. **OEI.** All C2 relationships of USFOR-A are described in Reference E. The involved units were:

(1) ODA 3313, which provided the GF in a partnering role with ANA 3/1 CDO. The ODA is a part of Special Operations Task Force-East (SOTF-E). SOTF-E is US OPCON to Combined Joint Special Operations Task Force-Afghanistan (CJSOTF-A). CJSOTF-A is US OPCON to Combined Forces Special Operations Component Command-Afghanistan (CFSOCC-A) (Reference K, para 3.C.10.A). CFSOCC-A is US OPCON to USFOR-A (Reference K, para 3.C.1.A.23).

(2) 16 Special Operations Squadron (SOS) which provided the AC-130H is US OPCON to Combined Joint Special Operations Air Detachment (CJSOAD), who directly support CJSOTF-A (Reference K, Att. 1, Annex A, p 5).

(3) TF Observe Detect Identify Neutralize (ODIN) provided the MC-12 (ISR) that is US OPCON to USFOR-A (Reference K para 3.C.1.A.12).

(4) 455 Air Expeditionary Wing (AEW) provided the F-15Es that were tasked to perform CAS. 455 AEW is US OPCON to the 9th Air Expeditionary Task Force-Afghanistan (9 AETF-A), which is US OPCON to Allied Forces Central Europe (AFCENT), (Reference K Annex E, att 1 page 23). AETF-A is in direct support to USFOR-A.

Note: Assignment of the air assets is based on standing agreements the investigation teams did not review.

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34. **Cross-Border Coordination.** There are several elements to cross-border coordination contained in Reference L; in essence:

a. **CONOP Routing Procedure.** The accepted routing procedure for CONOP approval is as follows:

(1) The GF (SOTF-E) builds the CONOP, determines what information is releasable to PAKMIL, and when the information should be released. The GF then forwards the CONOP to RC-E.

(2) For Level 2 CONOP (high risk), IJC retains approval authority.

(3) RC-E evaluates the CONOP, concurs or adjusts what information is releasable to PAKMIL, and tasks the GF with providing any additional required clarification. Once the GF accomplishes all requirements, RC-E and COMIJC approves the CONOP and forwards it to the BSO (TF BRONCO), the NBCC, and ODRP.

(4) RC-E CJ3 Borders is responsible to ensure NBCC has the correct release instructions.

(5) The BSO does not alter the CONOP, to include the coordination procedures.

(6) The NBCC releases the "Releasable PAKMIL (REL-PAKMIL)" CONOP information to their PAKMIL LNO at the appropriate time.

b. **The Routing of this CONOP.** The CONOP for Operation SAYAQA was routed as follows:

(1) SOTF-E forwarded the CONOP with a REL-PAKMIL slide through RC-E to HQ IJC.

(2) MajGen Laster directed: a change to move the infiltration HLZ away from the border in order to reduce the CONOP to Level 1; and, verification of known border post locations.

(3) SOTF-E moved the HLZ further from the border, RC-E CJ3 Borders gave the nearest border posts. MajGen Laster then approved the CONOP subject to approval from COM RC-E.

(4) The SOTF-E LNO to RC-E sent the CONOP to TF BRONCO on 23 November 2011 and discussed it during a video teleconference. RC-E did not forward the CONOP to NBCC or ODRP.

(5) The NBCC, however, received information of an upcoming operation from an outside source that did not contain any REL-PAKMIL information. The NBCC e-mailed RC-E CJ3 for more information. RC-E CJ3 Borders did not reply to the e-mail. The NBCC did not follow up on their request for information, and did not track Operation SAYAQA or conduct any pre-mission coordination with the NBCC's PAKMIL LNO.

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(6) SOTF-E and TF BRONCO battle-tracked Operation SAYAQA, but did not conduct or confirm any PAKMIL coordination.

c. **Time-sensitive Incident Procedures.** Notification from any source must be forwarded to RC-E, who forwards to the NBCC and ODRP. If NBCC receives information from another source, they confirm the information with RC-E. Due to conflicting statements and products, it is unclear what processes were actually used during Operation SAYAQA.

d. **The Control and Coordination of this Incident.** At 2309 hours, the GF began to take effective fire from the ridgeline. Handling then unfolded as follows:

(1) At 2322 hours, the GF C2 element (SOTF-E) reported the event to RC-E, who reported it to the BSO (TF BRONCO), but not to the NBCC or ODRP.

(2) At 2325 hours, SOTF-E request update from RC-E and are informed that they do not have PAKMIL locations on their CPOF. SOTF-E understands this as confirmation of no PAKMIL in the area and enters this into MIRC. At 2328 hours, this same MIRC entry is read by RC-E and is believed to be affirmative confirmation from SOTF-E that there was no PAKMIL in the area.

(3) The BSO (TF BRONCO), then called the NBCC to report the GF was being engaged. Per RC-E instructions, the BSO passed the exact grid location of the source of hostile fire to the NBCC but informed the NBCC to only pass a general location to the NBCC's PAKMIL LNO as part of the NBCC's effort to have the NBCC's PAKMIL LNO confirm whether or not PAKMIL were at the location of the hostile fire.

(4) The NBCC then passed a general location to their PAKMIL LNO using GIRoA district borders as a geographic reference. However, the PAKMIL LNO's map showed a different location for the district borders than that the CPOF system (which was mistaken as to the district border locations) used by the NBCC. The PAKMIL LNO told the NBCC that there were no PAKMIL forces in the area pointed out to him by the NBCC. The NBCC and PAKMIL LNO never referred to any shared mapping system to confirm they were each referencing the same geographic coordinates (*vice* the location of the regional border as shown on their separate mapping systems). The NBCC then notified the BSO shortly before 2327 hours that there were no PAKMIL forces in the area. Meanwhile, RC-E checked for PAKMIL locations listed in CPOF. It did not find any and confirmed to the GF C2 element (SOTF-E) that there were no PAKMIL in the area of Operation SAYAQA.

(5) At 2324 hours, the AC-130H/ SPECTRE fired the first air to ground munitions. At 2327 hours, the GF C2 element (SOTF-E) entered the "no PAKMIL in the area" message into MIRC that led all tactical players to conclude that the ridgeline fires were from enemy forces.

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(6) At 2350 hours, the PAKMIL LNO to RC-E received notification from PAKMIL sources that helicopters were firing on PAKMIL forces on the border, he passed that information to RC-E CJ3 Borders. RC-E CJ3 Borders passed the information to the NBCC but not to ODRP.

(7) HQ IJC (MajGen Laster) was notified at approximately 0115 hours that there was an incident ongoing. Coordination between HQ IJC, RC-E, and the PAKMIL continued throughout the night, with HQ IJC's main intent being the de-escalation of hostilities and movement of the aircraft away from the border, without compromising the GF's ability to defend itself.

(8) The BSO did not get any indications of PAKMIL involvement until 0530 hours.

e. **Responsibility for pre-mission de-confliction with PAKMIL.** The RC-E CJ3 Border cell director has primary responsibility for this task.

f. **Responsibility for Coordination and Control of Critical Incidents.** COM RC-E.

35. **Law of Armed Conflict (LOAC), Command Directives, ROE, and relevant authorities.** The use of force under ROE is constrained by the LOAC and, if applicable, the mandate as provided by the United Nations Security Council Resolution (UNSCR) 1368 of 2001. Commanders can further restrict the use of force as authorized by ROE and can issue guidance (*e.g.*, tactical directives) with respect to the use of force. Each level of command develops SOPs describing processes for a particular area. There were no violations of the LOAC during Operation SAYAQA. U.S. forces also follow national Standing ROE (SROE) provisions of self-defense that can override both ISAF and OEF ROE. This was the case during Operation SAYAQA – ultimately the U.S. SROE was relied upon for the self-defensive fires that occurred. Additionally, all applicable COMISAF and OEF Tactical Directives were adhered to during Operation SAYAQA. This is covered in detail at Annex H.

FINDINGS

36. Overall, a lack of confidence that sensitive mission related information will be protected, the lack of an agreed border, incompatible technical planning systems, and incomplete written coordination/deconfliction procedures inhibited precise and timely advance coordination, communication, and emergency border region deconfliction between Pakistan and Afghanistan. Based on the preceding totality of evidence and analysis, Brigadier General Jorgensen and I both made the following findings, including ten major critical findings which are expanded upon at Annex I, and a group of minor findings worthy of note.

37. **Critical Findings.**

a. Pre-operation border deconfliction was not accomplished.

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- b. Positive ID of all established Pakistani border posts was lacking, thus limiting precision in pre-mission planning and deconfliction.
- c. Results of a previous operation against this same objective, combined with available target intelligence, resulted in the expectation of hostile action on the objective.
- d. Machine gun and mortar fire against Coalition Forces and Afghan Commando forces from the border ridgeline was the catalyst for the engagement. The resulting aircraft fire was executed in self defense of the ground force.
- e. Miscommunication and imprecise terminology between the RC-E JOC and SOTF-E JOC resulted in a false understanding of there being no PAKMIL in the area immediately following the first engagement.
- f. Lack of detailed and understood coordination and emergency deconfliction procedures resulted in misidentification of the engagement area to the NBCC's PAKMIL LNO who then passed it to 11 Corps HQ, resulting in the "confirmation" of no PAKMIL in the area reply.
- g. Continued fire from the border ridgeline area exacerbated the engagement.
- h. The LOAC was respected and the ROE were applied correctly and legally.
- i. Coalition GF did not cross the border, but one aircraft briefly orbited up to 2 nautical miles into Pakistan's airspace as required by that aircraft's flight profile.
- j. Operation SAYAQA supported the overarching ISAF Campaign Plan.

38. **PAKMIL Questions Relayed from ODRP.** The investigation was also able to answer the following questions posed by PAKMIL through ODRP:

- a. Did ISAF pre-notify PAKMIL of this near-border operation?
 - (1) In short, no.
 - (2) SOTF-E requested that PAKMIL be notified upon the GF's infiltration. The coordination process broke down and a REL-PAK CONOP slide did not make it to the NBCC.
- b. Did ISAF provide incorrect coordinates of the engagement or from where it was taking fire?
 - (1) The TF BRONCO battle captain provided specific grid references to the ISAF LNO at NBCC with the stipulation that these specific coordinates were not to be provided to the NBCC's PAKMIL LNO and that only a general location was to be passed.

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(2) Due to a configuration error with the CPOF tool utilized by ISAF personnel, the CPOF system displayed an incorrect boundary line that was approximately 14km away from that displayed on the wall chart utilized by the PAKMIL LNO.

(3) The NBCC PAKMIL LNO then transmitted the misidentified area to his higher HQ.

c. Did the PAKMIL provide coordinates or incorrect coordinates for their border posts?

(1) Last reported update of border positions was indicated as Feb 2011.

(2) The chart that was posted in NBCC during Operation SAYAQA, as printed by the United States' National Geospatial-Intelligence Agency (NGA), was dated June 2011.

(3) The NBCC's ISAF LNO verbally provides latitude and longitude coordinates to the NBCC's PAKMIL LNO who in turn inputs them into his computer that uses the FALCON VIEW system (in coordination with his higher HQ) to determine if any PAKMIL border posts or personal are at the coordinates provided by the NBCC's ISAF LNO.

d. How did ISAF not know the border posts were there?

(1) PAKMIL did not provide information identifying these locations.

(2) Pre-mission planning did not identify any known border posts in the area of Operation SAYAQA.

(3) Pre-mission intelligence analysis indicated possible border posts north and south of the Operation SAYAQA target area as provided by the NBCC and/or RC-E Borders.

(4) Aircrew pre-mission planning packages did not include any data regarding "possible border posts" since they were data points outside the Operation SAYAQA area.

(5) Aircrew testified that the encampment areas seen on their sensors during the airstrikes did not resemble the PAKMIL border posts they had seen on previous missions.

e. If the first engagement was mistaken "friendly fire," explain the second and third engagements. Which engagements had the most casualties?

(1) The first engagement (identified by time range sequence) was precipitated by direct and indirect fire on the GF.

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(2) The second engagement (identified by time range sequence and in the same identified engagement area as engagement one) was precipitated by continued direct and indirect fire on the GF.

(3) The third engagement (identified by time range sequence in a second identified engagement area) was a reaction to hostile intent as direct and indirect fire was being received from that area as identified by the GF.

(4) As best can be determined by video evidence the first and third engagements had about the same number of casualties.

39. Findings Worthy of Discussion.

a. Strict adherence to complex C2 structure during Time Sensitive Incident Procedure precluded timely senior commander intervention.

b. Lack of clear understanding of battlespace coordination/de-confliction roles and processes hampered a proper sense of accountability/responsibility for dealing with this incident.

c. Inadequate resourced NBCC (equipment and trained/experienced personnel).

RECOMMENDATIONS

40. Fundamental to moving forward on a number of findings is the requirement to establish an environment of mutual trust amongst the stakeholders working in the border areas through a return to earlier envisaged confidence-building measures. These measures have been well articulated in earlier plans and include more frequent and routine Border Flag meetings.

41. A lack of clarity surrounding procedures, SOPs and directives for cross-border coordination and cooperation contributed negatively to the 25-26 November 2011 incident. It would be prudent to review of all SOPs, directives, and Fragmentary Orders with a view to aligning and harmonizing these in order to clarify authority and responsibilities as well as defining better procedures for Command, Control and Communication in near-border operations. Equally important, in order to address noted areas of unfamiliarity within the C3 structure with respect to cross-border coordination prior to and during near-border operations, it is advisable to consider formal individual training, collective training exercises and drills to practice and gain confidence with cross-border coordination and deconfliction. Senior leadership and unit visits to confirm training, empower subordinates and build confidence in junior staff unfamiliar with coordination of complex operations in complex environments would further enhance the capabilities of the BCC

Teams who currently receive a very limited handover/training package as part of their Relief in Place/Transfer of Authority processes.

42. A lack of transparency by all stakeholders contributed to a lack of information with regards to the presence/non-presence of border installations. This led to uncertainty as to whether PAKMIL forces were in the area. An immediate initiative aimed at implementing a program of full disclosure of all border area facilities and installations - including installations on both sides of the border - should be implemented. This program would include provisions for systematic updates based on a collaboratively designed data base and a common map, and incorporate periodic reciprocal coordination visits to confirm methods for indicating Border Posts and Checkpoints, and any other installation or forces.
43. An incomplete knowledge of Border Post and Border Checkpoint locations and PAKMIL garrisoning details prior to Operation SAYAQA contributed to uncertainty regarding the forces firing on the GF. It would be prudent to insist that all future Coalition units and formations contemplating near-border area operations be required to establish positive confirmation of all permanent/semi-permanent installations located on or in the immediate vicinity of both the border and the planned objective area prior to the conduct of any operations or approval of any CONOP being approved for execution. Measures to achieve this enhanced level of fidelity include the conduct of a full ISR sweep of the border area shortly before the execution of a CONOP.
44. The long-standing dispute as to the precise location of the Afghan-Pakistan border has contributed negatively to local attempts at implementing effective, efficient and confident border-area cooperation and coordination. Consultations at the highest levels should be initiated with a view to begin a process of resolving the border area disputes that have created the extremely difficult conditions within which the local border confidence-building measures have failed to make real progress. Indeed, a single internationally recognized border would provide a highly favorable foundation for cross-border cooperation and coordination of border-area operations in the mid-term and set the scene for long-term peace and stability along the border.
45. Since the use of force escalation measures such as a "show of force" may not be widely recognized by all forces operating in the border areas, it would be advisable to develop a set of commonly understood TTPs to share widely with all parties – including having these use of force procedures well understood by personnel manning Border Posts or Border Checkpoints. TTPs should incorporate the full range of show of force options available to all parties, including low-level/high-speed flight, overt flares, target indication, and so forth.
46. Persistent and growing levels of concern exist amongst the Coalition Partners and Allies and reflect some confusion arising from the "dual-hatted" role of senior NATO Commanders such as COM IJC (who also serves as DCOM USFOR-A), and the application of OEF ROE by US Forces

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serving in the ISAF Campaign. Consideration be given towards clarifying ISAF and OEF differences (in terms of mandates) while harmonizing ISAF and OEF ROE to promote clarity and transparency and enhance Coalition solidarity.

CONCLUDING COMMENTS

47. A system of command-initiated ISAF directives, Orders and SOPs governing a tri-partite process for coordinating cross-border or border-area operations should be implemented. In the case of Operation SAYAQA, a CONOP was proposed by US Forces aimed at conducting an operation in the Maya Valley. Using matching ISAF and OEF/USFOR-A SOPs, the CONOP was eventually submitted to HQ IJC for approval. After careful review and modification, the CONOP was approved at the appropriate level of command by a senior General Officer authorized to do so in accordance with OEF and ISAF orders, SOPs and directives. However, the precise location or state of manning of possible PAKMIL border installations had not been established, either by previous reconnaissance/surveillance or through the system of cross-border coordination in place between PAKMIL Forces, Coalition Forces and Afghan National Security Forces.

48. Once the CONOP had been approved, a heavily redacted copy of the CONOP suitable for release to the PAKMIL (described as a "REL PAK CONOP") via a system of LNOs was prepared by SOTF-E in accordance with SOP. However, for a number of reasons and contrary to SOP, a copy of the REL PAK CONOP was not released to the PAKMIL until Operation SAYAQA was well underway and after the engagement of the PAKMIL border positions had ended. In fact, a copy of the actual CONOP was also not provided to the NBCC or ODRP. The REL PAK CONOP was not released to the PAKMIL in a timely manner – contrary to SOPs, order and directives – because of a prevailing sense of mistrust amongst the three forces (PAKMIL, ANSF and Coalition Forces). This omission led ultimately to a critical delay in notifying PAKMIL authorities of the impending operation and created critical ambiguity overall with regard to the identification of forces on the border.

49. Once Operation SAYAQA was launched and the engagement began, PAKMIL authorities contacted HQ RC-E to determine if Coalition Forces were conducting an operation on the border, based upon reports of incoming fire they received from their forces. The GFTL in the vicinity of Maya Village also attempted to verify whether the fire the GF received might have originated from PAKMIL forces because he was aware of earlier information regarding possible but unconfirmed locations of PAKMIL Border Posts on the mountain ridge overlooking Maya Valley. Only later was the OEF unit in command of Operation SAYAQA ultimately informed that forces that had engaged the Coalition Forces from the area of the border – and had been engaged in return by Coalition aircraft – were PAKMIL forces.

50. During the same period of time, the NBCC tried to ascertain if the personnel at the border who were engaging Coalition Forces and who were being engaged by Coalition aircraft in return

were PAKMIL personnel. Rather than bringing clarity to the situation, however, the actions of the personnel at the NBCC created further confusion by failing in their efforts to establish the location of the area being targeted by Coalition aircraft in relation to the location of PAKMIL forces. The NBCC reports further exacerbated the sense of confusion dominating Operation SAYAQA at that point with respect to the identity of forces in contact at the border.

51. Ultimately, after firing had ceased from the border positions Coalition aircraft had ended their engagements, and also after it was confirmed that the forces at the border were PAKMIL, senior ISAF officers directed immediate de-escalation measures to prevent further loss of injury or loss of life, establish ground truth and complete notification to all senior levels of command, including COMISAF and PAKMIL General Headquarters in Islamabad, Pakistan. However, it had taken several critical hours for the situation to be finally clarified, highlighting the absence of a responsive emergency system of direct, high-level contacts and an equally agile hierarchy of controlling Headquarters armed with well-established and familiar orders, directives and SOPs.

52. In summary, while ISAF and OEF Orders (Fragmentation Orders), SOPs and Directives have been published to describe the borders coordination and confidence-building measures within the RC-E Area of Operations, they lack clarity and precision and failure to clearly establish emergency override measures to be taken in exactly the type of situation that unfolded on the night of 25 – 26 November 2011. Furthermore, a prevailing climate of distrust precluded the provision of prior notification to all coordination nodes of the impending operation in a timely and appropriate manner. Additionally, an unfortunate problem of miscommunications between PAKMIL and Coalition Forces personnel in the NBCC on the night of Operation SAYAQA led to the establishment of incorrect locations for the forces involved, and thereby hampered the identification of units and forces involved in a timely and effective manner. Finally, during the engagement, HQs and individuals did not respond correctly, quickly enough, or with the sense of urgency or initiative required given the gravity of the situation and the well-known sensitivity surrounding the Afghan-Pakistan border region in RC-E.

53. The totality of circumstances described above set the conditions for the death and injury of large number of PAKMIL personnel and the destruction of PAKMIL Border Post. However, the catalyst for this tragedy ultimately was the initial and continuing engagement by PAKMIL forces on Coalition Forces - who in turn responded accordingly and appropriately.

54. In the context of this tragedy, a way forward must be found to prevent similar occurrences in the future. Following careful analysis of this incident, the way forward in the short term is to be found in establishing an aggressive program of confidence-building measures, harmonizing and clarifying extant orders and procedures governing border-area operations and cross-border coordination. Achieving complete transparency in the locations of all border installations on both sides of the border, widely sharing critical signals and actions that indicate the imminent use or

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potential use of force, and deliberately and physically confirming the location of Border Posts prior to the execution of operations in the border areas is also necessary. Over the long term, the way to long-term peace and stability along the border is to be found in resolving the long-standing border disputes that perpetuate a state of uncertainty and mistrust within which local cooperation and coordination efforts are less likely to succeed. Within the ISAF structure, thought should also be given to harmonizing ISAF and OEF chains of command and ROE with a view to reducing the potential for friction and misunderstanding between the nations working together to achieve the objectives of the ISAF Campaign Plan.



STEPHEN A. CLARK

Brig Gen, USAF

Investigating Officer

Date: 18 December 2011

Annexes:

- A. USCENTCOM TOR
- B. JFC Brunssum TOR
- C. Conduct of the Investigation
- D. Detailed timeline for the incident
- E. Command and Control
- F. Ground Operations
- G. Air Operations
- H. LOAC, Command Directives, ROE, and Relevant Authorities
- I. Major Critical Findings
- J. Glossary