Investigation Report of the Airstrike on the Médecins Sans Frontières / Doctors Without Borders Trauma Center in Kunduz, Afghanistan on 3 October 2015

Approved for Release

HEADQUARTERS
UNITED STATES FORCES-AFGHANISTAN
KABUL, AFGHANISTAN
APO AE 09356

USFOR-A CDR

21 November 2015

MEMORANDUM FOR RECORD

SUBJECT: Action by the Appointing Authority – Army Regulation 15-6 Report of Investigation (ROI) into the Airstrike on the Médecins Sans Frontiéres (MSF) / Doctors Without Borders Trauma Center, Kunduz City, Afghanistan, on 3 October 2015

1. I have considered the Report of Investigation by MG William Hickman, dated 11 November 2015, including the report's narrative, findings, recommendations, and the supporting evidence. I have also considered the Staff Judge Advocate's legal review.

2. After reviewing the materials noted above, I take the following action:

a. I approve the general findings at subsection D.1., paragraphs 102, 103, and 104, and the final sentences of paragraphs 99 and 101; the remaining general findings at subsection D.1 of the report are disapproved. The disapproved findings concern matters unrelated to the proximate cause of the strike on the MSF Trauma Center.

b. I approve the directed findings at subsection D.2 of the report.

c. I approve the substituted recommendations at Enclosure A; the remaining recommendations at subsection E of the report are disapproved. The disapproved recommendations concern matters unrelated to the proximate cause of the strike on the MSF Trauma Center. The substituted recommendations include several key considerations suggested by the Investigating Officer.

d. I neither approve nor disapprove a specific disposition in the matter of: (b)(6) (b)(3), (b)(6) (b)(3), (b)(6) I am forwarding a copy of the investigation to the Commander, United States Special Operations Command (SOCOM), for his consideration and use as appropriate.

3. My point of contact for this matter is the Staff Judge Advocate (b)(3), (b)(6) or SVOIP (b)(3), (b)(6)

Encls:

JOHN F. CAMPBELL
General, U.S. Army
Commanding

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ENCLOSURE A

SUBSTITUTED RECOMMENDATIONS

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E. RECOMMENDATIONS

1. (U) Substituted General Recommendations

a. (~~S//REL~~) Headquarters Resolute Support institutes an After Action Review process of all kinetic strikes (pre-planned and defensive) against buildings. The process ensures lessons learned are documented and disseminated across all commands.

b. (~~S//REL~~) Headquarters Resolute Support publishes a Targeting Standing Operating Procedure (TSOP) that explains how joint targeting doctrine will be implemented by Resolute Support and USFOR-A units. This investigation identified five critical areas for the targeting SOP. First, for response to an emerging crisis, the SOP must address the responsibilities of each level of command from the tactical to operational level. These responsibilities include both lethal and non-lethal targeting in response to the crisis. Second, the targeting SOP provides guidance on the implementation of COMRS Tactical Guidance and Delegation of Authorities for RESOLUTE SUPPORT. Third, the SOP provides guidance in attacking a regional Taliban and other insurgent networks, particularly by non-lethal means in the Resolute Support environment. Fourth, the SOP explains the use of the No Strike List. Finally, the SOP must address which intelligence system will be utilized, how these different intelligence systems will operate with each other and which command is responsible for key inputs and follow on analysis.

c. (~~U//FOUO~~) Operational Risk Assessments and Risk Mitigation. All commands must review their risk management process, ensure leaders understand their responsibilities and update the risk to mission as environmental factors change during a mission. A risk management process in line with joint risk management doctrine ensures each headquarters assumes the risk associated with their approval authority as opposed to retaining the authority and delegating the risk to subordinate units.

d. (~~S//REL~~) SOJTF-A, SOTF-A and CJSOAC-A must improve their processes to follow their units' tactical operations and anticipate requirements, specifically when authorities to conduct operations might require COMRS approval. Further, Resolute Support Joint Operations Center must be proactive in tracking tactical operations that might require immediate approval authorities for mission execution. During tactical execution, headquarters and staffs can still provide subordinate units freedom of maneuver while simultaneously generating options to enable success of the tactical operation in response to changing conditions.

e. (~~S//REL~~) Resolute Support subordinate commands establish SOPs for the use of mission command systems and a primary, alternate, contingency, and emergency (PACE) plan in the event systems fail during an operation. Additionally, eliminating unnecessary and parallel redundancy of mission command systems throughout the subordinate headquarters serves to develop an accurate joint common operating picture. While some redundancy or "stove-piping" of mission command systems can be

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attributed to the procurement processes of each service branch and Special Operations units, all headquarters possess enough shared mission command systems to develop a common operating picture in accordance with the proposed Resolute Support SOP and PACE Plan.

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2. (U) Substituted Command Action Recommendations

a. (U//~~FOUO~~) The USFOR-A Commander should determine, as warranted by the findings and the evidence, an appropriate administrative or disciplinary action for those involved in the strike on the MSF medical facility in Kunduz City, 3 October 2015. Alternatively, the Commander should refer the matter(s) to an appropriate commander for action as he deems appropriate. The Commander should specifically consider the conduct of the following named individuals:

(1)
(2)
(3)
(4)
(5) (b)(3), (b)(6)
(6)
(7)
(8)
(9)

(10)
(11)
(12)
(13) (b)(3), (b)(6)
(14)
(15)
(16)

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HEADQUARTERS
UNITED STATES FORCES-AFGHANISTAN
KABUL, AFGHANISTAN
APO AE 09356

USFOR-A SJA

20 November 2015

MEMORANDUM FOR Commander, United States Forces – Afghanistan, Kabul, Afghanistan 09356

SUBJECT: Legal Review – Army Regulation 15-6 Report of Investigation (ROI) into the Airstrike on the Médecins Sans Frontiéres (MSF) / Doctors Without Borders Trauma Center, Kunduz, Afghanistan, on 3 October 2015

1. I have reviewed the ROI and supporting documents provided by the Investigating Officer in the subject investigation. The investigation is legally sufficient, subject to the following. The investigation complies with the procedural requirements found in U.S. Army Regulation 15-6, *Procedures for Investigating Officers and Boards of Officers*:

a. The investigation was conducted in accordance with law and regulation.

b. Unless otherwise noted, the Investigating Officer's findings are supported by the greater weight of the evidence presented in the investigative record, are logical, reasonable and are legally sufficient.

c. Unless otherwise noted, the recommendations are consistent with the findings.

d. The investigation does not contain any errors that would affect the rights of any individual. To the extent there may be any errors, they are harmless and do not materially affect any individual's substantive rights.

2. Legal review of findings. The Investigating Officer's findings are legally sufficient, subject to the following.

(b)(5)

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USFOR-A SJA
SUBJECT: Legal Review – Army Regulation 15-6 Report of Investigation (ROI) into the Airstrike on the *Medecins Sans Frontieres* (MSF) / Doctors Without Borders Trauma Center, Kunduz, Afghanistan, on 3 October 2015

(b)(5)

3. Legal review of the recommendations. The recommendations are legally sufficient, subject to the following.

(b)(5)

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USFOR-A SJA
SUBJECT: Legal Review – Army Regulation 15-6 Report of Investigation (ROI) into the Airstrike on the *Medecins Sans Frontieres* (MSF) / Doctors Without Borders Trauma Center, Kunduz, Afghanistan, on 3 October 2015

(b)(5)

6. The point of contact is the undersigned at SVOIP (b)(6)
(b)(3), (b)(6)

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

Encl:

Staff Judge Advocate

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HEADQUARTERS
UNITED STATES FORCES – AFGHANISTAN
KABUL, AFGHANISTAN
APO AE 09356

ARCENT-DCG-O 11 November 2015

MEMORANDUM FOR Commander, United States Forces — Afghanistan (USFOR-A)

SUBJECT: Investigation Report of the Airstrike on the Médecins Sans Frontières / Doctors Without Borders Trauma Center in Kunduz, Afghanistan on 3 October 15 (U)

1. (U) References:

a. (U) Letter of Appointment, dated 17 October 2015, signed by General John F. Campbell, Commander, USFOR-A. ~~(S)~~.

b. (U) AR 15-6 Investigation Team Appointment Memorandum. (U).

c. (U) AR 15-6, Procedures for Investigating Officers and Boards of Officers, dated 2 October 2006.

d. (U) Complete Report of Investigating Officer into Civilian Casualty Incident in Kunduz City, Afghanistan, dated 11 November 2015. ~~(S)~~

2. (U) Please find enclosed the Findings and Recommendations of the AR 15-6 Investigation concerning a potential civilian casualty incident in Kunduz, Afghanistan.

3. (U) The list of appointed AR 15-6 Investigation Team Subject-Matter Experts and members, and respective duties is enclosed. (U).

4. (~~U//FOUO~~) The POC for this is (b)(3), (b)(6) Legal Advisor.

WILLIAM B. HICKMAN
Major General, U.S. Army
Investigating Officer

3 encl:
1. Findings and Recommendations
2. Appointment Memorandum
3. Investigation Team Appointment Memorandum

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REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form, see AR 15-6; the proponent agency is OTJAG.

IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

SECTION I - APPOINTMENT

Appointed by General John A. Campbell, Commander, U.S. Forces-Afghanistan
(Appointing authority)

on 17 October 2015 *(Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)*
(Date)

SECTION II - SESSIONS

The *(investigation)* ~~*(board)*~~ commenced at Camp Resolute Support, Afghanistan *(Place)* at 1730 *(Time)*

on 18 October 2015 *(Date)* *(If a formal board met for more than one session, check here* ☐ *. Indicate in an inclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.)* The following persons *(members, respondents, counsel)* were present: *(After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)*

N/A

The following persons *(members, respondents, counsel)* were absent: *(Include brief explanation of each absence.) (See paras 5-2 and 5-8a, AR 15-6.)*

N/A

The *(investigating officer)* ~~*(board)*~~ finished gathering/hearing evidence at 1200 hours *(Time)* on 10 November 2015 *(Date)*

and completed findings and recommendations at 1700 hours *(Time)* on 11 November 2015 *(Date)*

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES	YES	NO 1/	NA 2/
1 Inclosures *(para 3-15, AR 15-6)* Are the following inclosed and numbered consecutively with Roman numerals: *(Attached in order listed)*			
a. The letter of appointment or a summary of oral appointment data?	☒	☐	
b. Copy of notice to respondent, if any? *(See item 9, below)*	☐	☐	☒
c. Other correspondence with respondent or counsel, if any?	☐	☐	☒
d. All other written communications to or from the appointing authority?	☒	☐	☐
e. Privacy Act Statements *(Certificate, if statement provided orally)?*	☒	☐	☐
f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered *(e.g., absence of material witnesses)?*	☐	☐	☒
g. Information as to sessions of a formal board not included on page 1 of this report?	☐	☐	☒
h. Any other significant papers *(other than evidence)* relating to administrative aspects of the investigation or board?	☒	☐	☐

FOOTNOTES: 1/ *Explain all negative answers on an attached sheet.*
2/ *Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.*

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		YES	NO[1/]	NA[2/]
2	Exhibits *(para 3-16, AR 15-6)*			
	a. Are all items offered *(whether or not received)* or considered as evidence individually numbered or lettered as exhibits and attached to this report?	☒	☐	☐
	b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	☒	☐	☐
	c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	☒	☐	☐
	d. Are copies, descriptions, or depictions *(if substituted for real or documentary evidence)* properly authenticated and is the location of the original evidence indicated?	☒	☐	☐
	e. Are descriptions or diagrams included of locations visited by the investigating officer or board *(para 3-6b, AR 15-6)?*	☒	☐	☐
	f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?	☐	☐	☒
	g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit *(para 3-16d, AR 15-6)?*	☐	☐	☒
3	Was a quorum present when the board voted on findings and recommendations *(paras 4-1 and 5-2b, AR 15-6)?*	☐	☐	☒
B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS *(Chapter 5, AR 15-6)*				
4	At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment *(para 5-3b, AR 15-6)?*	☐	☐	
5	Was a quorum present at every session of the board *(para 5-2b, AR 15-6)?*	☐	☐	
6	Was each absence of any member properly excused *(para 5-2a, AR 15-6)?*	☐	☐	☒
7	Were members, witnesses, reporter, and interpreter sworn, if required *(para 3-1, AR 15-6)?*	☐	☐	☒
8	If any members who voted on findings or recommendations were not present when the board received some evidence, does the inclosure describe how they familiarized themselves with that evidence *(para 5-2d, AR 15-6)?*	☐	☐	☒
C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED *(Section II, Chapter 5, AR 15-6)*				
9	Notice to respondents *(para 5-5, AR 15-6)*:			
	a. Is the method and date of delivery to the respondent indicated on each letter of notification?	☐	☐	
	b. Was the date of delivery at least five working days prior to the first session of the board?	☐	☐	
	c. Does each letter of notification indicate –	☐	☐	
	(1) the date, hour, and place of the first session of the board concerning that respondent?	☐	☐	
	(2) the matter to be investigated, including specific allegations against the respondent, if any?	☐	☐	
	(3) the respondent's rights with regard to counsel?	☐	☐	
	(4) the name and address of each witness expected to be called by the recorder?	☐	☐	
	(5) the respondent's rights to be present, present evidence, and call witnesses?	☐	☐	
	d. Was the respondent provided a copy of all unclassified documents in the case file?	☐	☐	
	e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?	☐	☐	☒
10	If any respondent was designated after the proceedings began *(or otherwise was absent during part of the proceedings)*:			
	a. Was he properly notified *(para 5-5, AR 15-6)?*	☐	☐	☒
	b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel *(para 5-4c, AR 15-6)?*	☐	☐	☒
11	Counsel *(para 5-6, AR 15-6)*:			
	a. Was each respondent represented by counsel?	☐	☐	
	Name and business address of counsel:			
	(If counsel is a lawyer, check here ☐)			
	b. Was respondent's counsel present at all open sessions of the board relating to that respondent?	☐	☐	☒
	c. If military counsel was requested but not made available, is a copy *(or, if oral, a summary)* of the request and the action taken on it included in the report *(para 5-6b, AR 15-6)?*	☐	☐	☒
12	If the respondent challenged the legal advisor or any voting member for lack of impartiality *(para 5-7, AR 15-6)*:			
	a. Was the challenge properly denied and by the appropriate officer?	☐	☐	☒
	b. Did each member successfully challenged cease to participate in the proceedings?	☐	☐	☒
13	Was the respondent given an opportunity to *(para 5-8a, AR 15-6)*:			
	a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?	☐	☐	
	b. Examine and object to the introduction of real and documentary evidence, including written statements?	☐	☐	☒
	c. Object to the testimony of witnesses and cross-examine witnesses other than his own?	☐	☐	☒
	d. Call witnesses and otherwise introduce evidence?	☐	☐	
	e. Testify as a witness?	☐	☐	
	f. Make or have his counsel make a final statement or argument *(para 5-9, AR 15-6)?*	☐	☐	
14	If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses *(para 5-8b, AR 15-6)?*	☐	☐	☒
15	Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it *(para 5-11, AR 15-6)?*	☐	☐	☒

FOOTNOTES: 1/ *Explain all negative answers on an attached sheet.*
2/ *Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.*

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SECTION IV - FINDINGS *(para 3-10, AR 15-6)*

The *(investigating officer)* ~~*(board)*~~ , having carefully considered the evidence, finds:

Please see attached findings.

SECTION V - RECOMMENDATIONS *(para 3-11, AR 15-6)*

In view of the above findings, the*(investigating officer)* ~~*(board)*~~ recommends:

Please see attached recommendations.

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SECTION VI - AUTHENTICATION *(para 3-17, AR 15-6)*

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. *(If any voting member or the recorder fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)*

WILLIAM B. HICKMAN

~~(Recorder)~~	*(Investigating Officer)* ~~(President)~~
~~(Member)~~	~~(Member)~~
~~(Member)~~	~~(Member)~~

SECTION VII - MINORITY REPORT *(para 3-13, AR 15-6)*

To the extent indicated in Inclosure _____, the undersigned do(es) not concur in the findings and recommendations of the board.
(In the inclosure, identify by number each finding and/or recommendation in which the dissenting member(s) do(es) not concur. State the reasons for disagreement. Additional/substitute findings and/or recommendations may be included in the inclosure.)

~~(Member)~~	~~(Member)~~

SECTION VIII - ACTION BY APPOINTING AUTHORITY *(para 2-3, AR 15-6)*

The findings and recommendations of the *(investigating officer) (board)* are *(approved) (disapproved) (approved with following exceptions/ substitutions). (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or corrective action, attach that correspondence (or a summary, if oral) as a numbered inclosure.)*

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Investigation Report of the Airstrike on the Médecins Sans Frontières / Doctors Without Borders Trauma Center in Kunduz, Afghanistan on 3 October 2015

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C. **Interim Findings and Recommendations**

1. Interim Recommendations in accordance with the Investigation Pursuant to AR 15-6 Concerning the Potential Civilian Casualty Incident in Kunduz, dated 24 Oct 15
2. Response to Interim Recommendations, received 24 Oct 15
3. RS FRAGO 15-115_based on Interim Findings and Recommendations, dated 26 Oct 15
4. IPR of FRAGO 15-115 - email, dated 27 Oct 15 and attachments
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See TAB E

F. **Administrative**

1. See E. Index of Exhibits, Binder C (C.8)

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HEADQUARTERS
UNITED STATES FORCES – AFGHANISTAN
KABUL, AFGHANISTAN
APO AE 09356

S: 16 November 2015

USFOR-A CDR

17 October 2015

MEMORANDUM FOR MG William Hickman, Deputy Commanding General, U.S. Army Central, Camp Arifjan, Kuwait, APO AE 09306

SUBJECT: Appointment Order – Investigating Officer (IO) Pursuant to Army Regulation (AR) 15-6 Concerning a Potential Civilian Casualty Incident in Kunduz

1. Pursuant to AR 15-6, *Procedures for Investigating Officers and Board of Officers*, I hereby appoint you as the Investigating Officer to conduct an investigation into reports that U.S. Forces struck facilities and individuals at or near the Medecins Sans Frontieres (MSF) Trauma Center in Kunduz City, Afghanistan, on or about 3 October 2015.

2. I have appointed BG Sean Jenkins and Brig Gen Robert Armfield to support you as Assistant Investigating Officers.

3. The appointment supersedes the appointment of BG Richard Kim, same subject, 3 October 2015. You will consult with BG Kim prior to beginning your inquiry and thereafter as necessary. You will consider and may adopt the investigative efforts of BG Kim thus far, as you deem appropriate. You will also consider the report of findings by the NATO Resolute Support Combined CIVCAS Assessment Team (CCAT). You will conduct additional investigative efforts as you deem appropriate.

4. This investigation is your primary mission until I approve your final report and takes precedence over all other duties and assignments. Submit any request for extension in writing through your legal advisor. Unless I release you sooner, your appointment remains in effect until you complete the investigation and I determine that no further investigation is required.

5. Your investigation follows the procedures of AR 15-6, with no designated respondent. The scope is as broad as necessary to answer the questions provided and any other relevant matters you deem necessary to provide context and background. Your investigation will, at a minimum, specifically address the following matters:

a. Identify and describe the facts and circumstances surrounding the airstrike, including the Coalition Forces and Afghan unit(s), aircraft, and munitions involved in the incident. Identify and describe the process(es) and personnel who were involved in requesting and approving the combat enablers that were involved in the air strike.

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USFOR-A CDR
SUBJECT: Appointment Order – Investigating Officer (IO) Pursuant to Army Regulation (AR) 15-6 Concerning a Potential Civilian Casualty Incident in Kunduz

b. Identify the concept of the operation (CONOP) authorizing the NATO/ US mission that led to the MSF hospital strike, including: the purpose and intent of the CONOP; the individuals involved in the approval process including the legal review; the existence and consideration of a no-strike list; the circumstances surrounding the decision to authorize pre-planned close air support coverage for the operation; and whether any special instructions were relayed by the chain of command in connection with the approval.

c. Determine whether the MSF facility was identified as a hospital or no-strike site on maps maintained by NATO, US Forces including US CENTRAL Command, USFOR-A, NSOCC-A, and other subordinate commands. Identify which US Forces knew or had reason to believe the facility that was struck was a hospital, and the facts and circumstances of how the information (including grid coordinates) was communicated within NATO/US Forces from MSF to USFOR-A and subordinate commands. In particular, you will determine whether the MSF facility in Kunduz had previously been the subject of intelligence collection and/ or surveillance, and the sources and circumstances of such collection, including against specific individuals such as foreign government agents.

d. Determine whether the AOB-N Commander and/or AC 130 Aircraft Commander were aware or should have been aware that the facility was the MSF hospital prior to the strike on 3 October 2015. Did they have a duty to know the facility was a hospital? Identify whether the hospital was marked as a no-strike facility within the CONOP or other guidance provided to the AOB-N or AC 130 Aircraft Commander, and if so how, e.g. in what maps, guidance systems, or documents – digital or otherwise. Also determine whether the facility had any visible outward markings indicating its status as a hospital.

e. Describe the specific facts and circumstances surrounding the AOB-N Commanders' decision to call for close air support, including: the information passed to the AC 130 Aircraft Commander in connection with the call for close air support; the description and targeting criteria used to identify the MSF facility; and the reports or other communication from partnered Afghan forces leading to the targeting decision. This must address the particular source(s) and relevance of information he considered, including whether he deemed the situation in extremis, subject to hostile acts/hostile intent, etc. Detail the role played by the Joint Terminal Attack Controller (JTAC).

f. Identify whether intelligence existed assessing the presence at the MSF site of insurgents or persons considered hostile forces under USCENTCOM OPORD (b)(1)1.4a Describe the situation at the hospital as observed by the Aircraft Commander and Fire Control Officer, including data recorded by video feed and radio traffic. Was a higher headquarters unit or operations center able to monitor the strike in real time?

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USFOR-A CDR
SUBJECT: Appointment Order – Investigating Officer (IO) Pursuant to Army Regulation (AR) 15-6 Concerning a Potential Civilian Casualty Incident in Kunduz

g. Identify and describe the basis for the use of force for the strike against the facility. Include the specific operational authorities, including the applicable rules of engagement, under which combat enablers were authorized and the airstrike was conducted. Assess whether the combat enablers involved in the airstrike were authorized under the correct operational authorities, rules of engagement and tactical guidance. Determine at what point US Forces involved in the strike realized the site was a hospital, and the actions taken in response by US personnel including any call to ceasefire on the site.

h. Specifically identify the munitions utilized by the AC 130 Aircraft during the strike on the MSF facility, and the targeting methodology applied. What was the objective of the fires? Specific findings must be made regarding positive identification of the targets, their status as a lawful targets, expected collateral damage, and proportional use of force.

i. Determine whether the military force used in this case, particularly the use of close air support, complied with the Law of Armed Conflict (LOAC) and the governing NATO or OFS Rules of Engagement (ROE), including compliance with applicable NATO/ USFOR-A tactical guidance.

j. Indicate whether combatant and/or non-combatant personnel were killed or wounded. For all personnel killed or wounded, identify, whenever possible, the organization(s) who sponsored or employed these personnel, including, MSF. You will summarize the MSF and Afghan Government perspectives of the incident, including any readily available investigative reports.

k. Identify the tactics, techniques, and procedures used to de-conflict the battle space and obtain approval for the combat enablers involved in the air strike and the air strike itself. Specifically describe the procedures used to identify friendly forces or noncombatants in the area, and the process by which noncombatant and protected sites were received and disseminated by U.S. forces. Identify and describe all approvals received for the airstrike.

l. Provide detailed recommendations for any changes you deem appropriate to the NATO/ USFOR-A tactical guidance, subordinate unit procedures, or training which could have mitigated the incident on 3 October 2015.

6. Prepare an unclassified executive summary of your findings and recommendations memorandum that will stand-alone and detail the results of your investigation. Your investigation will include all relevant details to include dates, times, places, participants, and witnesses. You have the discretion to use, but are not limited to, any of the following methods of gathering evidence: examination of relevant documents and previous investigations, visiting relevant locations, evaluating procedures, conducting

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inventories, taking pictures, and interviewing witnesses. Your legal advisor may provide you with additional guidance.

7. All factual details contained in your memorandum must be supported by evidence and reference one or more exhibits. Your findings and recommendations must be based upon the evidence and facts. Your recommendations, to include any corrective actions, must be consistent with your findings. If conflicting evidence or testimony exists, identify the conflict and discuss how you reached your conclusion.

8. If, during your investigation, you suspect any person you intend to interview may have committed criminal misconduct, you must advise them of their rights under the UCMJ, Article 31 as documented on DA Form 3881. Witness statements should be sworn and recorded on DA Form 2823s. You should pursue any additional information regarding potential misconduct that is relevant and warrants investigation. Interview all witnesses in person, if practicable. If you do not use DA Form 2823, provide a Privacy Act statement before you solicit any personal information. Consult your legal advisor if you suspect someone of an offense or if you have questions regarding these procedures.

9. If, during your investigation, you discover your duties require you to examine the conduct or performance of duty of, or may result in findings or recommendations adverse to a person senior to you, report this fact to your legal advisor. You will inform the USFOR-A SJA of any individuals who, in the course of your investigation, you identify who could reasonably merit suspension from military duty, pending completion of the inquiry.

10. Prior to submitting your investigation, coordinate with your SSO or Foreign Disclosure Officer for a security classification review. **You will properly mark each paragraph of your findings and recommendations. Additionally, within your complete report, properly mark each page and all exhibits. Irrespective of overall classification, you will digitally submit your report to your legal adviser on SIPRNet.**

11. Prepare and submit your report through your legal advisor using DA Form 1574 and in compliance with AR 25-50. Do not use document protectors. Include with your report all documentary evidence, sworn statements, photos, and other information or evidence you considered in the following order:

a. Appointment memorandum;

b. Executive Summary

c. Findings and recommendations memorandum;

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USFOR-A CDR
SUBJECT: Appointment Order – Investigating Officer (IO) Pursuant to Army Regulation (AR) 15-6 Concerning a Potential Civilian Casualty Incident in Kunduz

d. DA Form 1574 (signed in Section VI);

e. Index of exhibits; and

f. All exhibits, separately identified by tabs. If your investigation includes photos or videos, submit digital originals on CD/DVD or otherwise transmit the digital files to your legal adviser.

12. Before beginning your investigation, you must receive a briefing from the USFOR-A SJA (b)(3), (b)(6). Your designated legal advisor is (b)(3), (b)(6) U.S. Army, at SVOIP: (b)(3), (b)(6) @centcom.smil.mil. You should work through him for any legal advice, or the USFOR-A SJA (b)(3), (b)(6) at SVOIP (b)(6). US Air Force (b)(3), (b)(6) a AC-130H/U pilot, is designated as a subject matter expert (SME) to assist you, as required.

13. This appointment authorizes Priority 1 travel status throughout the AOR in order to conduct the investigation.

14. If you require an extension to complete your investigation, submit a request to (b)(6) (b)(3), (b)(6) SJA, USFOR-A, detailing the reasons for an extension and the length required. The approval authority for any extension request is the undersigned.

JOHN F. CAMPBELL
General, U.S. Army
Commander
United States Forces-Afghanistan

cf:
BG Sean Jenkins
Brig Gen Robert Armfield

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HEADQUARTERS
UNITED STATES FORCES – AFGHANISTAN
KABUL, AFGHANISTAN
APO AE 09356

ADCG-O 21 October 2015

MEMORANDUM FOR RECORD

SUBJECT: Appointment Memorandum; Convening Investigation Team

1. The following personnel were appointed pursuant to Army Regulation 15-6 to investigate a potential civilian casualty incident in Kunduz City, Afghanistan:

Major General William B. Hickman, U.S. Army Central, Investigating Officer
Brigadier General Robert G. Armfield, USCENTCOM, Assistant Investigating Officer
Brigadier General Sean M. Jenkins, USCENTCOM, Assistant Investigating Officer
(b)(3), (b)(6) USCENTCOM, Legal Advisor

2. The following personnel were appointed by the Investigating Officer to assist the investigation with subject matter expertise throughout the investigation:

(b)(3), (b)(6) 18A, 1st Special Forces Group (Airborne); Special Operations SME;
(b)(3), (b)(6) 9th Air Expeditionary Task Force-Afghanistan; Intelligence Surveillance and Reconnaissance SME;
(b)(3), (b)(6) ACC 14, WPNS/DOKC; AC-130 Aircrew Operations SME;
(b)(3), (b)(6), Combined Joint Task Force 3; Joint Targeting SME;
(b)(3), (b)(6), Joint Terminal Attack Control (JTAC) Operations SME;

3. The following personnel assisted the Investigation Team:

(b)(3), (b)(6) Operation Center Operations;
(b)(3), (b)(6) Forensic Photography;
(b)(3), (b)(6) Information Technology Support;
(b)(3), (b)(6) Paralegal Support;
Administrative Support.

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4. (U//~~FOUO~~) The POC for this is (b)(3), (b)(6) Legal Advisor.

WILLIAM B. HICKMAN
Major General, U.S. Army
Investigating Officer

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A. INTRODUCTION AND METHODOLOGY

~~(S//REL)~~ This Army Regulation (AR) 15-6 investigation report provides an in-depth examination of the circumstances of the airstrike on the Medecins Sans Frontieres (MSF) / Doctors Without Borders Trauma Center, Kunduz Afghanistan, in order to understand leader decisions and unit actions, provide lessons learned in the conduct of operations in Afghanistan and recommendations on leader accountability. The event that led to this investigation occurred at 03 0208[1] Oct 2015, when the MSF Trauma Center was engaged by a United States Air Force AC-130U aircraft resulting in 30 fatalities, 37 wounded, and the destruction of the main hospital building.

~~(S//REL)~~ Specifically, the Commander United States Forces-Afghanistan directed the AR 15-6 investigation to address twelve questions plus any other relevant matters the investigation officer deems necessary to provide context and background. The investigation directive focus is divided into four broad areas. First, facts and circumstances surrounding the airstrike to include Coalition and Afghan forces, munitions involved, processes and personnel involved, concept of operations (CONOP) process, understanding and use of the No Strike List (NSL), targeting methodology, and tactics, techniques and procedures (TTP) used to de-conflict the battlespace. Second, situational awareness of key leaders and each command, to include knowledge of the NSL, whether the hospital had been the subject of prior intelligence collection, whether the ground force commander (GFC) and the aircraft commander should have known about the hospital and the NSL, if this information was included in the CONOP, and determine if prior intelligence existed assessing the presence of insurgents at the MSF Trauma Center. Third, legal issues to include describing the basis for the use of force against the facility and whether the military force used complied with the Law of Armed Conflict (LOAC) and governing NATO or Operation FREEDOM'S SENTINEL (OFS) Rules of Engagement (ROE). Finally, results and recommendations to include whether combatant and/or non-combatant personnel were killed or wounded and recommendations for any changes required to the NATO/USFOR-A tactical guidance, subordinate unit procedures, or training.

~~(S//REL)~~ The investigation team followed the military decision making process to define the problem (mission analysis), develop an approach to the investigation (course of action), analyze the approach (war gaming), and produce a plan to investigate the event IAW the appointment memorandum. This report is the result of following this approach, which included extensive interviews with leaders from multiple Resolute Support (RS) and United States Forces-Afghanistan (USFOR-A) commands, Afghan military leaders, MSF leaders and multiple examinations of the AC-130U video and audio narrative. The investigation team also visited several key areas in Kunduz to include the airfield, Camp Pamir, the Provincial Chief of Police (PCOP) compound, the National Directorate for Security (NDS) Facility (2-3 Oct Afghan Special Security Forces target objective), and the MSF Trauma Center. In addition to the interviews and site visits, the investigation team studied applicable US Army, US Air Force, and Joint manuals, policies, and

[1] Note: All times in this report are local.

regulations, as well as US Central Command (CENTCOM) and RS plans, policies and directives.

~~(S//REL)~~ This report is written in a chronological, narrative format that summarizes the actions of each command involved: RS HQ / USFOR-A, Special Operations Joint Task Force-Afghanistan (SOJTF-A), Special Operations Task Force-Afghanistan (SOTF-A), Advanced Operating Base-North (AOB-N), Operational Detachment-Alpha (ODA - (b)(1)1.4a), the Combined Joint Special Operations Air Component-Afghanistan (CJSOAC-A), and Afghan Special Security Forces (ASSF).

~~(S//REL)~~ For ease of presentation, the narrative is divided into four time periods. The first section describes the security situation in Kunduz Province and City the weeks prior to the Taliban attack until it fell under Taliban control on 28 Sep. This section also includes the pre-deployment preparation, mission expectations, and posture of Special Operations Forces (SOF) in Afghanistan. The second section, 27 Sep to 2 Oct 1800, examines leader decisions and unit actions across multiple commands. During this period, the AOB-N Commander (CDR) was ordered to move into Kunduz. The AOB-N, with enablers and Afghan SOF support, reentered Kunduz, secured the PCOP, and defeated multiple Taliban attempts to overrun their strongpoint defense. The third section, 2 to 3 Oct, continues the examination of the leaders' decisions and unit actions, which includes the 3 Oct civilian casualty (CIVCAS) incident in Kunduz. The fourth section describes the aftermath of the strike and the immediate actions taken by each command. For the information and analysis that does not fit neatly into the time period discussion, a separate additional findings section and summary is provided.

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B. EXECUTIVE SUMMARY

1. (U) Unclassified Executive Summary

(U) On 3 Oct 15, the aircrew of an AC-130U Gunship, in support of a US Special Forces ground force, misidentified and mistakenly struck the Médecins Sans Frontières / Doctors Without Borders Trauma Center in Kunduz, Afghanistan. All members of both the ground force and the AC-130U aircrew were completely unaware the aircrew was firing on a hospital throughout the course of the engagement.

(U) In total, the aircrew observed the Trauma Center and the personnel around it for sixty-eight minutes prior to firing 211 rounds, which consisted of (b)(1)1.4a (b)(1)1.4a munitions. The aircrew fired for 30 minutes, 8 seconds, causing 30 non-combatant fatalities, 37 non-combatant wounded, and the destruction of the main hospital building.

(U) The incident was the result of leadership failures at many levels across the days, hours and minutes preceding the first round being fired, but no US or Resolute Support Leadership became aware of the strike until after the aircrew had destroyed the Trauma Center.

(U) During the Period of Darkness (POD) 27 / 28 Sep 15, Taliban forces initiated a large-scale attack on Kunduz City (Kunduz), a city of 300,000 and the capital of Kunduz Province. The Taliban moved into Kunduz in force and by the evening of 28 Sep, had taken over key locations within the city. All levels of US and Afghan commands were surprised at the speed and scope of the attack. After the initial fighting, a majority of the Afghan National Defense Security Forces (ANDSF) stationed in Kunduz fled to the Kunduz Airfield south of the city, where one US Special Forces (USSF) Operation Detachment-Alpha (ODA) team was headquartered.

(U) On 28 Sep, US and Afghan Special Operations Forces (SOF) were planning a major operation in another part of the country. The Taliban takeover of Kunduz caused SOF to quickly shift planning efforts and resources to support ANDSF operations to re-take the city. The US Special Operations Task Force ordered two additional ODA teams, under the direction of a (b)(6) to travel to Kunduz to reinforce the ODA team at the Kunduz Airfield. The next day, a combined element of USSF and ANDSF prevented the Taliban from overrunning the airfield.

(U) During the POD 30 Sep / 1 Oct, USSF, along with multiple Afghan Special Security Forces (ASSF) units, fought their way from the airfield into the city. The forces ultimately established a strong point defense in the Kunduz Provincial Chief of Police (PCOP) compound. From 30 Sep until the early evening hours of 2 Oct, the USSF and ASSF at the PCOP compound repelled multiple enemy attacks against their strongpoint. USSF expected to stay at the strongpoint for 24 hours, but due to operational exigencies, remained through 3 Oct.

(U) As conditions deteriorated in Kunduz, the MSF leadership contacted multiple US and ANDSF commands, providing the locations of MSF facilities in Kunduz, to include the Trauma Center. Multiple individuals at all levels of command were notified of the MSF Trauma Center's location via MSF or through the US chain-of-command. The MSF Trauma Center was also identified as a hospital in Department of Defense databases since Oct 14.

(U) On the night of 2 Oct, ASSF leadership notified the USSF ground forces of a pending ASSF operation into the city and provided the location of the ASSF's objective, an Afghan Government compound. The ASSF objective compound was 500 meters away from the USSF ground force position at the PCOP compound, and could not be seen from that loction.

(U) That same night, an AC-130U Gunship flew from Bagram Airfield to support the USSF operations in Kunduz. The aircrew was alerted and launched 69 minutes early, due to a request made by USSF leadership. Due to the early launch, the aircrew did not have the typical information it would have on a mission. While enroute to Kunduz, one of the aircraft's critical communications systems failed, resulting in the aircraft's inability to receive and transmit certain critical information to multiple command headquarters. While loitering over Kunduz, the aircraft avoided a significant surface to air threat. In response, the Aircraft Commander took defensive measures that decreased the aircrew's ability to precisely locate targets on the ground.

(U) At (b)(1)1.4a 3 Oct 15, the Ground Force Commander (GFC), through a Joint Terminal Attack Controller (JTAC), provided a grid coordinate of the ASSF's objective to the aircrew. The aircrew plotted the grid and identified the middle of a field as the grid location. The aircrew searched for a complex near the grid and identified a compound approximately 300 meters to the south of the field.

(U) At (b)(1)1.4a 3 Oct, the aircrew navigator notified the JTAC that the grid plotted to a field, and the aircrew identified a large complex 300 meters southwest from the JTAC provided grid location provided. The navigator requested ground force confirmation that this was the ASSF objective. The JTAC conferred with the GFC, who conferred with the Afghans, who confirmed that the compound was the correct objective. The JTAC replied 15 seconds later that the large compound was the ASSF objective. The aircrew did not realize they were observing the MSF Trauma Center, but failed to pass the grid location of the compound to anyone at this time, and failed to compare the grid location to a no-strike list of protected locations.

(U) The aircrew saw nine personnel walking around the compound. The aircrew internally discussed the shape of the main building and the pattern of life of the personnel in the compound. At (b)(1)1.4a one of the aircrew stated he was unable to discern whether any of the individuals observed walking around the building were carrying anything.

(U) At (b)(1)1.4a the navigator told the JTAC that the aircrew could see nine adult males in the compound. The ground force was unable to see the compound from the ground force location. However, the JTAC immediately informed the AC-130U that the "compound is currently under the control of TB [Taliban], so those 9 PAX [personnel] are hostile." The determination was in direct violation of Resolute Support Tactical Guidance. One minute later, the JTAC provided the aircrew with the GFC's intent, which equated to a call for offensive fires. The GFC's intent was inconsistent with collective self-defense Rules of Engagement (ROE), and unauthorized under operational authorities.

(U) At (b)(1)1.4a the aircraft repositioned directly over the city, which made the aircrew's sensors more accurate. A crew member reentered the grid coordinate and observed another compound approximately 400 meters to the northeast of the MSF Trauma Center. Given the identification of the compound via the re-check, the navigator requested a further target description of the objective location from the GFC.

(U) At (b)(1)1.4a the JTAC described the ASSF objective as a compound with an outer perimeter wall, with multiple buildings inside of it. He also stated that the compound had an arched-shaped gate. The aircraft asked the GFC to confirm the cardinal direction of the arch-shaped gate's location. A few seconds later, the JTAC responded that the arched-shape gate was located along the north side of the compound.

(U) The physical layout of the MSF Trauma Center generally matched the vague description provided by the JTAC, and the aircrew believed that the compound they initially observed, the MSF Trauma Center, was the ASSF objective, although it did not match the coordinates previously given by the JTAC. At this point, the aircraft never requested further clarification of the objective, to include whether the GFC could actually see the objective, and did not notify any higher level of command of the actual target grid coordinates or description until seconds prior to engagement.

(U) At (b)(1)1.4a the JTAC requested that the aircrew "soften the target for partner forces," an unauthorized use of offenseive fires. The aircrew seemed internally confused by the request and asked the JTAC for clarification. The JTAC replied that the GFC's intent was to, "destroy targets of all opportunity that may impede partner forces' success." The aircrew acknowledged the clarification.

(U) One of the aircrew expressed concern regarding the vagueness of the ground force's target description and intent. The aircrew (b)(1)1.4a (b)(1)1.4a they did not observe what could be perceived as hostile acts or hostile intent from anyone at the MSF Trauma Center.

(U) After approximately 25 minutes, the JTAC contacted the aircraft again, stating "enemy PAX at objective target building, GFC requests we prosecute those targets." The JTAC passed the GFC's initials, indicating the GFC was authorizing the strike. The aircraft confirmed message receipt and asked for the specific ROE authorizing the

engagement. The JTAC responded the engagement was authorized under collective self-defense ROE.

(U) After the aircrew requested clarification of the engagement strategy, the JTAC stated that the GFC wanted the aircraft to prosecute the building and then the personnel. The aircrew acknowledged the GFC guidance and continued preparing for the engagement.

(U) At (b)(1)1.4a the aircrew again sought clarification on the engagement strategy from the GFC, requesting the GFC confirm that the target objective was a T-shaped building. Neither the GFC nor the JTAC had seen the ASSF objective, and again relied on the ASSF description of the compound as a T-shaped building. The JTAC confirmed the shape of the building and cleared the aircrew to engage.

(U) The Aircraft Commander authorized the strike at (b)(1)1.4a and the aircrew fired the first rounds at 0208. Beginning at 0219, multiple MSF personnel and UNOCHA notified multiple commands that the Trauma Center was being engaged. It took those commands almost twenty minutes to realize the aircrew was targeting the Trauma Center, and by that time, it was too late.

(U) This investigation determined that multiple commands failed to set conditions for success, maintain situational awareness, apply the ROE, and adhere to COMRS Tactical Guidance when conducting operations in Kunduz during the POD of 2-3 Oct 2015. The Investigating Officer provided recommendations to improve the conduct of operations in Afghanistan and hold leaders accountable.

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2. (U) Classified Executive Summary

~~(S//REL)~~ *Due to several leaders' decisions or failures to act, an AC-130U Gunship circled over the Kunduz City Médecins Sans Frontières (MSF) Trauma Center with its guns oriented on the main hospital building; the wrong target. At* (b)(1)1.4a *3 Oct, the Ground Force Commander (GFC) through* (b)(1)1.4a, (b)(3), (b)(6) *an Army Joint Terminal Attack Controller (JTAC), radioed the AC-130U navigator and stated "**enemy PAX at the objective target building, GFC requests we prosecute those targets. GFC's initials are** (b)(6) **how copy?**" In accordance with the GFC request, the AC-130U initiated its fires at 0208 3 Oct on the target building with* (b)(1)1.4a (b)(1)1.4a *rounds.* ***The ground force and aircrew were unaware the aircrew was firing on a hospital throughout the course of the engagement.***

~~(S//REL)~~ According to RS HQ / USFOR-A and other commands engaged against hostile forces in Northern Afghanistan, this summer was more kinetic than the previous. While the primary threat remains the Taliban, criminal groups are also prevalent. Due to increased threat reporting out of SOJTF-A, senior RS leaders asked the Train, Advise, Assist Command-North (TAAC-N) Deputy Commander to encourage the (b)(1)1.4d CDR, responsible for the security situation of this region, to conduct additional clearing operations in Kunduz City and the surrounding districts. While some operations were conducted, the (b)(1)1.4d main effort was planned for October, which ultimately proved too late to stop the Taliban's seizure of Kunduz City.

~~(S//REL)~~ According to RS and SOJTF-A senior intelligence officers, there were no (b)(1)1.4c, (b)(1)1.4d, (b)(1)1.4g, up to 28 Sep 15. Further, all commands were surprised at the speed and scope of the Taliban attack (b)(1)1.4d (b)(1)1.4d) in the initial stages of Kunduz's defense.

~~(S//REL)~~ During the period of darkness (POD) of 27-28 Sep 15, the Taliban moved into Kunduz in force and by the afternoon of 28 Sep, Kunduz had fallen to the Taliban. The (b)(1)1.4d escape the Taliban. ODA (b)(1)1.4a commanded by (b)(3), (b)(6) and stationed at Camp (b)(1)1.4a monitored the situation throughout the night.

~~(S//REL)~~ As hostilities raged in Kunduz, SOJTF-A and SOTF-A were focused on an operation in Bahram Chah to interdict Taliban movements in Southern Helmand Province. During the final Go/No-Go briefing, SOJTF-A received a directive to stop the (b)(1)1.4a operation and shift all efforts and resources to support the fight in Kunduz. In quick order, requested assets were redirected and United States Special Forces (USSF) moved to (b)(1)1.4a Kunduz, Afghanistan.

~~(S//REL)~~ On the evening of 28 Sep 15, (b)(3), (b)(6) ordered (b)(6) (b)(3), (b)(6) to take command of the situation in Kunduz. He arrived at (b)(1)1.4a at approximately 1930 on 29 Sep. ODAs (b)(1)1.4a

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arrived at (b)(1)1.4a to reinforce ODA (b)(1)1.4a On 29 Sep, the first Kunduz CONOP to conduct partnered operations in Kunduz was approved by SOJTF-A. By the time (b)(6) (b)(3), (b)(6) arrived, the situation had deteriorated to the point the CONOP wasn't executable. As the (b)(1)1.4d USSF moved forward, established defensive positions at the airfield, and repelled the Taliban attacks. Emboldened by the USSF assertive and quick actions, select (b)(1)1.4d units returned to (b)(1)1.4d and helped reestablish the airfield's defenses. The USSF maintained defensive positions on the airfield throughout the POD of 29-30 Sep.

(~~S//REL~~) On 30 Sep, senior ANDSF leadership decided on a strategy to retake Kunduz by securing key infrastructure, to include the General Command of Police Special Unit-Kunduz (PSU-K) HQ, the NDS prison, and the Provincial Governor (PGOV) compound. At (b)(1)1.4a USSF developed and submitted an updated CONOP to support the ASSF operation, which the (b)(3), (b)(6) approved. On the afternoon of 30 Sep, Commander RESOLUTE SUPPORT (COMRS) conducted a VTC with (b)(1)1.4d, (b)(6) (b)(3), (b)(6) attended with (b)(6) (b)(3), (b)(6) the (b)(3), (b)(6), participated from his headquarters. The VTC focused on the need for the ANDSF to move back into the city as quickly as possible.

(~~S//REL~~) On the evening of 30 Sep, USSF, along with multiple ASSF units, moved into Kunduz City. The forces cleared the PSU-K HQ, the NDS prison, and ultimately arrived at the PCOP compound and established a strongpoint defense. Throughout the evening of 30 Sep until early evening 2 Oct, the USSF and ASSF at the PCOP repelled relentless enemy attacks and conducted multiple defensive and kinetic strikes in Kunduz.

(~~S//REL~~) As operations were ongoing in Kunduz, MSF leadership reached out to RS HQ, SOTF-A, TAAC-N, the Afghan Ministry of Defense (MoD) and other organizations, providing the locations (LAT/LONG) of four MSF facilities in Kunduz to include the Trauma Center. MSF representatives also contacted the SOTF-A Civil Affairs officer to discuss the status of the Trauma Center and to establish initial coordination if MSF staff needed to be evacuated. Based on my investigation it is clear that the RS, SOJTF-A, SOTF-A, CJSOAC-A and TAAC-N HQs were all notified of the MSF Trauma Center's location via MSF or the chain-of-command. Also, each command previously received high confidence intelligence reports identifying the location of the MSF Trauma Center. In addition, on 28 Oct 14, the MSF Trauma Center was listed as a protected site in the CENTCOM NSL database.

(~~S//REL~~) After successful operations from 30 Sep to 2 Oct 15, USSF remained at the PCOP compound with a growing number of ANDSF. The USSF had to remain at the compound through 3 Oct, longer than anticipated, (b)(1)1.4d (b)(1)1.4d

(~~S//REL~~) As the USSF entered the POD of 2-3 Oct, they had been fighting with little rest for almost four days. According to (b)(1)1.4a, (b)(3), (b)(6) a (b)(1)1.4b (b)(1)1.4b passed grid references to an NDS facility and a Taliban command and control

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node, the planned targets for a (b)(1)1.4d clearance operation, on the evening of 2-3 Oct. (b)(3), (b)(6) passed the grids to (b)(1)1.4a, (b)(3), (b)(6) and instructed him to observe the grids with available ISR platforms. Separately from (b)(3), (b)(6) on 2 Oct, (b)(3), (b)(6) stated a (b)(1)1.4d leader provided him the grid to the NDS facility, which was located approximately one block west of the PCOP compound. According to (b)(3), (b)(6) the (b)(1)1.4d representative requested Close Air Support (CAS) in support of the (b)(1)1.4d unit as they cleared the facility. (b)(3), (b)(6) agreed, as long as the support was part of the overall defense of the forces.

(~~S//REL~~) On the evening of 2 Oct, an AC-130U, callsign (b)(1)1.4a, (b)(3), (b)(6) was allocated to support USSF operations in Kunduz. The crew was alerted and launched 69 minutes early due to an open troops-in-contact (TIC) and without the benefit of a mission crew brief or any current products. The missed crew brief was the first of several actions that increased the risk to mission accomplishment. The aircraft flew to Kunduz, refueling enroute. (b)(1)1.4g (b)(1)1.4g (b)(1)1.4g This was the second event that increased risk to mission accomplishment. The third action that increased risk to mission accomplishment was a (b)(1)1.4a at (b)(1)1.4a, (b)(3), (b)(6) on 2 Oct at 2220. (b)(1)1.4a, (b)(1)1.4g position, critically impacted its ability to precisely locate a grid coordinate.

(~~S//REL~~) At (b)(1)1.4a 3 Oct 15 (b)(1)1.4a, (b)(3), (b)(6) passed (b)(1)1.4a the grid to the NDS facility (b)(1)1.4a, the target for a planned (b)(1)1.4d clearance operation. The TV Sensor Operator immediately (b)(1)1.4a and identified the middle of a field as the location. The AC-130U sensor operators then started searching for a complex near the grid and identified a compound 300 meters to the south.

(~~S//REL~~) At (b)(1)1.4a 3 Oct (b)(1)1.4a, (b)(3), (b)(6) notified (b)(1)1.4a, (b)(3), (b)(6) they identified a large complex 300 meters southwest from the grid location and asked for confirmation that this was the NDS facility. (b)(1)1.4a, (b)(3), (b)(6) replied approximately 15 seconds later that the large complex was the correct compound. For the next 10 minutes, the AC-130U (b)(1)1.4g (b)(1)1.4g and internally discussed the main building (T-shaped) and the number of personnel identified (9). At (b)(1)1.4a the TV Sensor operator stated he was (b)(1)1.4g (b)(1)1.4g

(~~S//REL~~) At (b)(1)1.4a the AC-130U provided (b)(1)1.4a, (b)(3), (b)(6) with a (b)(1)1.4a, (b)(3), (b)(6) instantly informed the AC-130U that the "*compound is currently under the control of TB [Taliban], so those 9 PAX are hostile.*"

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(~~S//REL~~) At (b)(1)1.4a, (b)(3), (b)(6) notified (b)(1)1.4a, (b)(3), (b)(6) "*GFC intent is to exploit any possible [Not Audible]. Break. To lighten the load for partner forces infil.*"

(~~S//REL~~) Over the next few minutes (b)(1)1.4a, (b)(3), (b)(6) repositioned to an overhead orbit. The TV sensor re-slaved to the provided grid and identified a "*hardened structure that looks very large and could also be like more like a county prison with cells.*" The TV Sensor Operator was observing the actual NDS facility that was the target of the (b)(1)1.4a clearance operation. Prior to this observation, the AC-130U crew was observing the MSF Trauma Center, unaware that it was a hospital.

(~~S//REL~~) Given the identification and observation of the second compound via re-slaving, the AC-130U crew requested a target description of the objective location from (b)(1)1.4a, (b)(3), (b)(6)

(~~S//REL~~) At (b)(1)1.4a, (b)(3), (b)(6) described the objective as a compound with an "*outer perimeter wall, with multiple buildings inside of it. Also, on the main gate, I don't know if you will be able to pick this up, but it's also arch-shaped gate.*" (b)(1)1.4a, (b)(3), (b)(6) asked (b)(1)1.4a, (b)(3), (b)(6) to confirm the cardinal direction of the arch-shaped gate's location. A few seconds later (b)(1)1.4a, (b)(3), (b)(6) responded that the arched gate was located along the north side of the compound.

(~~S//REL~~) The physical layout of the MSF Trauma Center matched the vague description provided by (b)(1)1.4a, (b)(3), (b)(6) The AC-130U crew believed they were observing the NDS facility.

(~~S//REL~~) At (b)(1)1.4a, (b)(3), (b)(6) requested that (b)(1)1.4a, (b)(3), (b)(6) "*soften[ing] the target for partner forces.*" The aircrew seemed internally confused by this request and asked for clarification, to which (b)(1)1.4a, (b)(3), (b)(6) replied "*destroy targets of all opportunity that may impede partner forces' success.*" The aircrew acknowledged (b)(1)1.4a, (b)(3), (b)(6) clarification.

(~~S//REL~~) At (b)(1)1.4a the TV Sensor Operator expressed concern regarding communications with (b)(1)1.4a, (b)(3), (b)(6) stating, "*He is being very vague, and I'm not sure if that's going to be people with weapons or just anybody, so we will stay neutral as far as that goes.*"

(~~S//REL~~) At (b)(1)1.4a, (b)(3), (b)(6) contacted (b)(1)1.4a, (b)(3), (b)(6) again, stating "*enemy PAX at objective target building, GFC requests we prosecute those targets. GFC's initials* (b)(3), (b)(6) (b)(3), (b)(6) *how copy?*" (b)(1)1.4a, (b)(3), (b)(6) via the navigator, confirmed message receipt and asked for the specific ROE authorizing the engagement. (b)(1)1.4a, (b)(3), (b)(6) responded that the engagement was authorized under RS ROE (b)(1)1.4a

(~~S//REL~~) After (b)(1)1.4a, (b)(3), (b)(6) requested clarification on the engagement strategy, (b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a, (b)(3), (b)(6) stated that "*the GFC wants you to prosecute the objective building first,* (b)(1)1.4a *secondary.*" (b)(1)1.4a, (b)(3), (b)(6) acknowledged the GFC guidance and continued preparing for the engagement.

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(S//REL) At (b)(1)1.4a, (b)(3), (b)(6) once again sought clarification on the engagement strategy from (b)(1)1.4a, (b)(3), (b)(6) stating "*looking again for clarification on the last. Break. Also looking for clarification on the building to be struck. Confirm it is the T-shaped building.*" (b)(1)1.4a, (b)(3), (b)(6) replied, "(b)(1)1.4a, (b)(3), (b)(6) *you are clear to engage.*"

(S//REL) At (b)(1)1.4a the (b)(6) provided consent and (b)(1)1.4a, (b)(3), (b)(6) fired the first rounds at 0208. In total, (b)(1)1.4a, (b)(3), (b)(6) fired 211 rounds: (b)(1)1.4a and (b)(1)1.4a (b)(1)1.4a, (b)(3), (b)(6) continued to engage the building and personnel until 0238.

(S//REL) Before the impact of (b)(1)1.4a, (b)(3), (b)(6) final round on the MSF Trauma Center, several echelons of command were aware that the wrong compound was engaged, resulting in civilian deaths and the destruction of the main Trauma Center building.

(S//REL) This investigation determined multiple commands failed to apply the ROE, the COMRS Tactical Guidance, and/or the Law of Armed Conflict when conducting operations in Kunduz on the POD of 2-3 Oct 2015. This report will explain the circumstance and decisions made that drove the Investigating Officer to this determination. The report also provides lessons learned that can be studied by appropriate commands and leaders that, when implemented, could prevent future incidents and produce better-planned operations. Lessons learned cover key areas, such as risk management, mission command, and situational awareness. The Investigating Officer recommends each command involved conduct an internal after-action review of their operations centers' standard operating procedures (SOP), communications capabilities, and planning capabilities. While some information is provided in these additional areas, the investigation team was not charged with studying these specific operational requirements.

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C. NARRATIVE

1. (~~S//REL~~) The Road to Kunduz's Fall

A. (~~S//REL~~) Security Situation in Northern Afghanistan – Summer 2015

1. (U) Kunduz City is Afghanistan's fifth largest city and has habitual ties to the Taliban movement.[2] The brief capture of the city by the Taliban in Oct 15 represented the most significant achievement by the insurgents to gain control of a major population center in 15 years.[3]

2. (~~S//REL~~) During the summer of 2015, Coalition intelligence identified southern Afghanistan as the Taliban's strategic focus. Attacks in the north, to include Kunduz, remained supporting efforts. The purpose of these supporting efforts was to divert ANDSF attention and to stretch their focus and resources across the country. However, the Taliban's announcement in July of the death of Mullah Omar and the ascendency of Mullah Mansour and Siraj Haqqani into the Taliban's top two positions, combined with the death of the Kunduz-based Islamic Movement of Uzbekistan (IMU) leader, created an insurgent power vacuum in northeast Afghanistan. In order to fill this leadership void, restore insurgent and illicit trade facilitation routes caused by the loss of the IMU leader, and to bolster the legitimacy of the new Taliban leadership, the Haqqani, Taliban, and Lashkar e' Taiba networks launched the attack against Kunduz City. The diagram below illustrates RS HQ's assessment of the Taliban's summer 2015 strategy.[4]

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

(~~U//FOUO~~) Four Fronts of the Taliban Fight

[2] Kunduz was the last major city the Taliban surrendered in 2001. (~~U//FOUO~~)

[3] Briefing, SOJTF-A J2, 22 Oct 15

[4] "Four Fronts of the Taliban Fight" Presentation, RS HQ DCOS INT, 22 Oct 15

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3. (U) MSF is a Nobel Peace Prize-winning Non-Government Organization (NGO). MSF's mission is to provide "impartial, neutral, and independent free medical care to those in need."[5]

(U) Médecins Sans Frontières (MSF) Trauma Center Kunduz[6]

4. (U) In August 2011, the MSF Trauma Center opened in Kunduz. According to MSF, the hospital was the only Trauma Center of its kind in Northern Afghanistan. The MSF staff, made up of expatriates and local Afghans, provided surgical care to victims of conflict as well as to patients with other serious injuries.[7] Before the Trauma Center opened, Northern Afghans' main option for treatment required travel to Pakistan.[8]

(U) Entrance to the Kunduz MSF Trauma Center[9]

[5] Derived from: http://www.msf.ca/en/neutral-independent-impartial. The MSF *[They] go where people's medical needs are greatest. In an MSF hospital, you might find wounded civilians alongside injured soldiers from opposing sides, hostilities and weapons have to be left at the gate*.

[6] Derived from: http://www.msf.ca/en/article/msf-opens-surgical-hospital-kunduz

[7] Report, "Attack on Kunduz Trauma Centre," MSF, 4 Nov 15

[8] Derived from publicly available information on the Medecins Sans Frontieres web site, http://www.doctorswithoutborders.org/our-work (last reviewed 27 Oct 2015).

[9] Derived from publicly available information on the Medecins Sans Frontieres web site, http://www.doctorswithoutborders.org/our-work (last reviewed 27 Oct 2015).

5. (U) Since opening, the Trauma Center treated an average of 350 patients per month. Patients came from surrounding provinces, such as Baghlan, Takhar, and Badakhshan.[10] MSF facilities have a no-weapons policy to reduce chances of attack and to ensure patient safety and security. The policy at the Trauma Center was enforced by unarmed guards stationed at the facility's gates.[11]

(U) MSF Trauma Center, Kunduz (sign on left in Dari)[12]

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

[10] Report, "Attack on Kunduz Trauma Centre," MSF, 4 Nov 15

[11] Derived from: http://www.msf.ca/en/article/msf-opens-surgical-hospital-kunduz; MFR, Interview of (b)(3) 10 USC 130c (b)(3) 10 USC 130c, 26 Oct 15

[12] Derived from: http://www.msf.ca/en/article/msf-opens-surgical-hospital-kunduz

[13] Briefing, SOJTF-A J2, 22 Oct 15

[14] MFR, Interview of SOJTF-A DCG, 26 Oct 15

[15] Evidence provided to the investigation team supports the MSF internal initial report's characterization that their no-weapons policy was adhered to with rare exceptions. (~~S//REL~~)

[16] Briefing, 11th IS, 03 Oct 15

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(b)(1)1.4a, (b)(1)1.4g

B. (~~S//REL~~) US and Afghanistan Forces Involved in the Incident

9. (~~S//REL~~) SOJTF-A conducted operations in Kunduz from 30 Sep to 5 Oct[18] through its subordinate command, SOTF-A. Operations were tactically executed by AOB-N using two Special Forces ODAs: ODA (b)(1)1.4a and elements from a third ODA, (b)(1)1.4a, (b)(3), (b)(6) was tasked from the (b)(1)1.4a, (b)(3) (b)(1)1.4a, (b)(3), assigned to SOJTF-A's air component, CJSOAC-A, an O-6 level command.[20] Three JTACs (b)(1)1.4a, (b)(3), (b)(6) from the (b)(1)1.4a, (b)(3) (b)(1)1.4a, (b)(3) and one USSF (b)(1)1.4a, (b)(3), (b)(6) provided control of fires assets.

10. (~~S//REL~~) Charged primarily with a Train, Advise, Assist (TAA) mission for ASSF, ODA (b)(1)1.4a was forward deployed to (b)(1)1.4a, located 12 km south of the Kunduz City center. ODA (b)(1)1.4a had not executed any movements within Kunduz, which resulted in their lack of familiarity with the city. The ASSF partner units assigned to the mission were also unfamiliar with Kunduz.[21]

11. (~~S//REL~~) SOJTF-A forces habitually partner with ASSF. During the planned operation to retake Kunduz, USSF partnered with (b)(1)1.4d (b)(1)1.4d (b)(1)1.4d (b)(1)1.4d (b)(1)1.4d (b)(1)1.4d The graphic below illustrates the US forces relationship with Afghan units involved in the operation:

[17] Intelligence Report, SOJTF-A J2 , 22 Oct 15

[18] SOJTF-A is the HQ for USSF and dual-hatted as the NATO Special Operations Component Command – Afghanistan (NSOCC-A). This is the same construct as USFOR-A/HQ Resolute Support. (~~U//FOUO~~)

[19] SOTF-A is comprised of HQ elements and units from (b)(1)1.4a, (b)(3); ODA (b)(1)1.4a was assigned to Kunduz (Statement, (b)(1)1.4a, (b)(3), (b)(6) 15 Oct 15). (~~S//NF~~)

[20] MFR, Interview of (b)(3), (b)(6), 26 Oct 15

[21] Statement, (b)(3), (b)(6) 16 Oct 15

[22] MFR, (b)(6) 22 Oct 15

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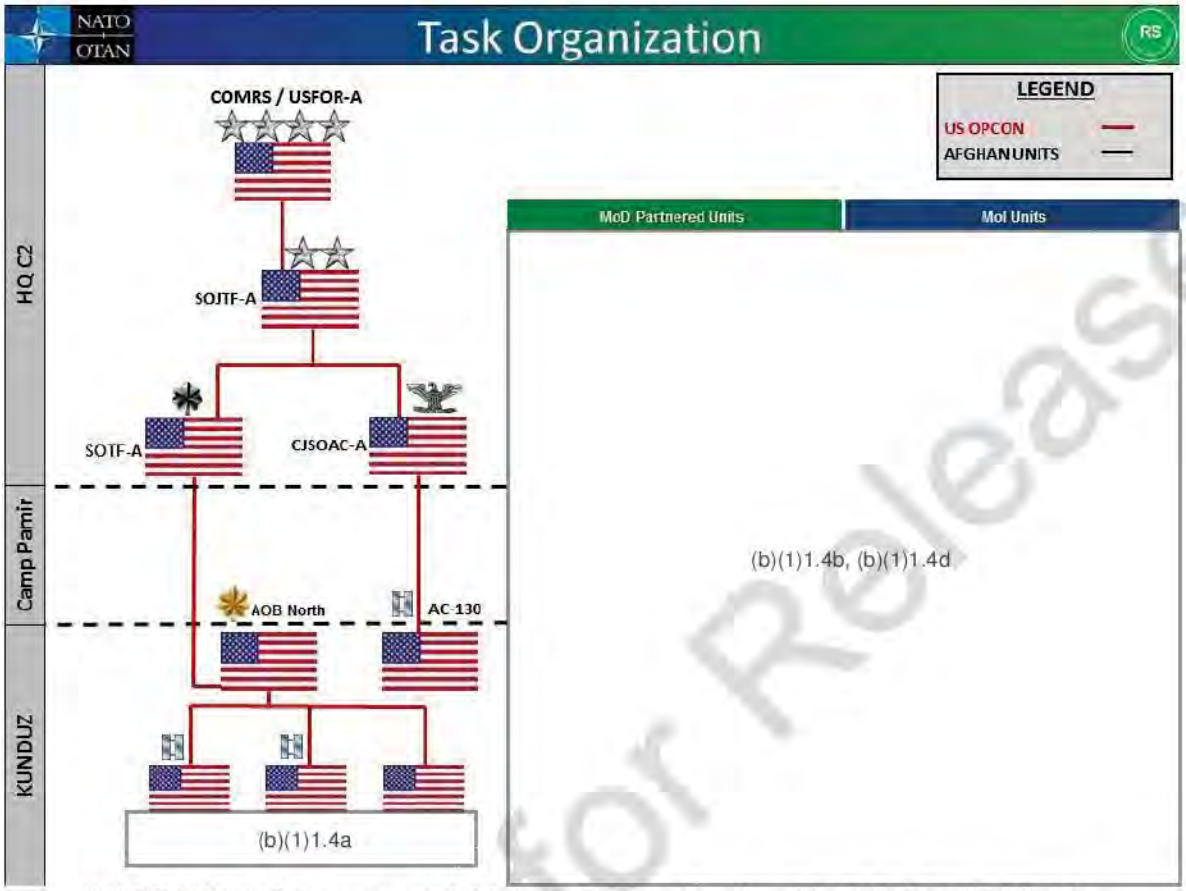

(~~U//FOUO~~) US Forces and Afghan Forces Involved in 2-3 Oct 15 Mission

C. (~~S//REL~~) US Unit Pre-deployment Preparation

12. (~~S//REL~~) (b)(1)1.4a, (b)(3) assumed responsibility on 30 Aug 15.[23] The (b)(1)1.4a, (b)(3), (b) crew (b)(1)1.4a, (b)(3) arrived in country between the end of July and the end of August.[24] The following paragraphs provide a general overview of the pre-deployment/pre-mission training each tactical unit (b)(1)1.4a, (b)(3) conducted prior to arrival in-country. Each unit within SOTF-A and CJSOAC-A also received separate in-theater training encompassing ROE, current COMRS Tactical Guidance, and other theater-specific briefings.

13. (~~S//REL~~) ODB (b)(1)1.4a (operationally assigned as AOB-N), along with ODAs (b)(1)1.4a (b)(1)1.4a each conducted pre-mission training (PMT) profiles comprised of several events in the months leading up to deployment. These units completed the appropriate level of training from small unit to large-force exercises.[25] (b)(1)1.4a, (b)(3) PMT also consisted of SOCOM-directed team leader/team sergeant CAS training which included the integration of CAS into ground operations. The SOTF-A staff conducted

[23] Memorandum, TOA (b)(1)1.4a, (b)(3) 9 Nov 15
[24] Memorandum, AFSOC/A3, 3 Nov 15
[25] PMT Plan (b)(1)1.4a, (b)(3) received on 30 Oct 15

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battalion-level PMT including a Command Post Exercise (CPX), Mission Readiness Exercises (MRX), Culmination Exercise (CULEX), and battle staff drills.

14. (S//REL) The (b)(1)1.4a, (b)(3) is on a (b)(1)1.4a deployment schedule. In addition to several team-specific PMT events, regular full mission profile (FMP), advanced medical, and advanced small arms training courses comprise the majority of STS unit training. Specific training events consisted of C4ISR training, tactical mobility training, and several scenario-based CAS FMPs.[26]

15. (S//REL) (b)(1)1.4a, (b)(3) aircrew members conducted individual pre-mission training consisting of both air and ground-based events, encompassing a variety of combat-focused training sorties and ancillary training events.[27] These events are conducted in accordance with the Air Force Special Operations Command (AFSOC) Ready Aircrew Program (RAP) tasking memorandum, published semiannually, which shapes unit training to ensure AFSOC flying units maintain combat mission ready (CMR) aircrews. Combat flying training events include regular, theater-specific, scenario-based live- and dry-fire flying continuation training (CT), unilaterally within the unit or multilaterally with other units in an exercise setting. Because of the continuous deployment schedule and in-garrison alert posture, (b)(1)1.4a (b)(1)1.4a[28] Rather, members complete training requirements individually and combat crews are assembled shortly prior to deployment with no command-directed set crew training requirements.[29]

16. (S//REL) The headquarters units which supported the Kunduz operation conducted varying degrees of staff PMT. SOJTF-A conducted a Staff MRX, commander's intent and country orientation seminars, combat skills training, and other pre-deployment events both at Ft. Bragg and MacDill AFB over the course of several weeks. The CJSOAC-A has no mandatory staff pre-deployment training.[30]

17. (S//REL) Three of the (b)(1)1.4a JTACs involved in this mission were trained and certified per USFOR-A requirements. ODA (b)(1)1.4a, (b)(3), (b)(5), was current and qualified but did not receive a Theater Verification and Indoctrination (TVI) briefing covering ROE and Special Instructions (SPINS); however, he passed the TVI test prior to deployment.[31]

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[26] IJC Theater Verification and Indoctrination Checklist, (b)(1)1.4a, (b)(3), (b)(6), 23 Aug 15; The AF JTACs (b)(1)1.4a, (b)(3), and (b)(6) those using callsign (b)(1)1.4a, (b)(3), (b)(6) belong to (b)(1)1.4a, (b)(3)

[27] Memorandum, (b)(3), (b)(6), 4 Nov 15; (b)(1)1.4a, (b)(3), (b)(6) of (b)(1)1.4a, (b)(3), (b)(6) were the (b)(3), (b)(6) (b)(3), (b)(6) (b)(3), (b)(6)

[28] Memorandum, AFSOC/A3 from (b)(3), (b)(6) 3 Nov 15

[29] (b)(1)1.4a, (b)(3), (b)(6) personnel records provided by (b)(6) The (b)(1)1.4a, (b)(3), (b)(6) (b)(3), (b)(6) (b)(3), (b)(6) (U//FOUO)

[30] Summary of Special Operations Joint Task Force – Fort Bragg Pre-Mission Training.docx, 30 Oct 15

[31] IJC Theater Verification Indoctrination Checklist (b)(1)1.4a, (b)(3), (b)(6) 6 Aug 15 (U//FOUO)

18. (~~S//REL~~) All (b)(1)1.4a JTACs assigned to the ODAs had limited operational experience controlling CAS. Each JTAC was on his first JTAC deployment. The SOTF-A JTAC (b)(1)1.4a, (b)(3), (b)(6) located at the unit's Operations Center at Bagram Airfield (BAF), had five years' experience and four deployments as a JTAC.

(b)(1)1.4a, (b)(3), (b)(6)

(~~S//REL~~) Experience of JTACs Involved in 2-3 Oct 15 Mission[32]

19. (~~S//REL~~) Although originally intended as a limited TAA mission, SOJTF-A conducted more independent operations in Aug-Oct than in the previous seven months combined. See chart below:

(b)(1)1.4d

(~~S//REL~~) SOJTF-A OPTEMPO Overview[33]

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[32] Information derived from JTAC training records (provided in Index of Exhibits by name) (~~U//FOUO~~)
[33] Briefing, SOJTF-A J2, 22 Oct 15

2. (~~U//FOUO~~) Taliban Takeover of Kunduz

A. (U) 27 to 28 September 2015

20. (~~S//REL~~) On 27 Sep 15, the ODA (b)(1)1.4a received intelligence that a large insurgent force (INS) was preparing to attack Kunduz. ODA (b)(1)1.4a was headquartered at (b)(1)1.4a adjacent to the Kunduz Airfield.[34] The ODA (b)(1)1.4a notified the (b)(3), (b)(6) (b)(3), (b)(6) of the likely attack. During the POD, 27-28 Sep 15, ODA (b)(1)1.4a began contingency planning for the possibility of an INS attack.[35]

21. (~~U//FOUO~~) At 0300 28 Sep, INS attacked Kunduz.[36] The attack precipitated a

(b)(1)1.4d

22. (~~S//REL~~) By 1700 28 Sep, INS forces controlled the city, capturing the NDS HQ, the Kunduz Police HQ, and the PGOV / PCOP compound. The INS also released an estimated 700 prisoners from Kunduz central prison. INS forces captured weapons, ammunition, and numerous (b)(1)1.4d [38]

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

(~~S//REL~~) Kunduz SITEMP, 29 Sep 15, SOJTF-A

[34] Kunduz Airfield is approximately 12 kilometers due south of Kunduz City center; Despite being headquartered at (b)(1)1.4a the ODA (b)(1)1.4a members had never been in Kunduz City prior to 30 Sep. Statement, ODA (b)(1)1.4a, (b)(3), (b)(6) Oct 15.

[35] Statement, (b)(3), (b)(6) 16 Oct 15

[36] Statement, 29 Sep 15

[37] Statement, 16 Oct 15

[38] Statement, 29 Sep 15.

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23. (~~U//FOUO~~) In response to the attack, ANDSF began planning operations to re-secure the city. Multiple ANDSF senior leaders deployed to (b)(1)1.4d to support operations.[39]

24. (~~U//FOUO~~) At approximately 1700 28 Sep, CDR SOTF-A, located at BAF, notified the (b)(3), (b)(6) to deploy to (b)(1)1.4a to command USSF elements. (b)(3), (b)(6) (b)(3), (b)(6) commanded ODA (b)(1)1.4a ODA (b)(1)1.4a forward deployed from BAF, and four members of ODA (b)(1)1.4a[40] ODAs (b)(1)1.4a joined ODA (b)(1)1.4a at (b)(1)1.4a during the early morning hours of 28 Sep.

25. (~~U//FOUO~~) Doctrinally, an AOB HQ's staff consists of (b)(3), (b)(6), including (b)(3), (b)(6)[41] The (b)(3), (b)(6) however, deployed to (b)(1)1.4a without his staff.

B. (U) 29 to 30 September 2015

26. (~~U//FOUO~~) On 29 Sep, insurgent forces remained in control of the city.[42] Primary INS locations included a Provincial Special Unit (PSU) facility, the city's central traffic circle, NDS prison, the Kunduz Provincial Hospital, and the NDS HQ building. US forces conducted six airstrikes against INS targets in and around Kunduz, to include a US F-16 engagement against an INS-captured tank.

27. (~~U//FOUO~~) On 29 Sep, the MSF sent a memorandum to the RS HQ, listing its four locations within Kunduz.[43] The memorandum listed the names, locations (lat/long), and a brief description of each location, including the Trauma Center.[44] The purpose of the memo was "to make sure all actors involved in the conflict have a precise understanding of the medical structures…where MSF operates in Kunduz province."[45]

28. (~~U//FOUO~~) That same day, a United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) representative stationed in Kunduz sent an email to the RS HQ Combined Joint Operations Center (CJOC) Director to share the MSF

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[39] Priority and Framework Operations Update, SOJTF-A, 2000D 28 Sep 15. Afghan National Army Special Operations Command (ANASOC) deployed (b)(6) to command MoD forces. MoI deployed (b)(6) (b)(6) to command MoI forces. An additional 450 ground forces deployed to Kunduz Airfield to bolster security. (Email, SOJTF-A A3)(~~S//REL~~)

[40] Statement, (b)(3), (b)(6) 16 Oct 15

[41] Army Doctrine Publication 3-05, 31 Aug 12

[42] Statement, (b)(6), (b)(3) 4 Nov 15

[43] The memorandum was signed by MSF's country representative, (b)(6) (~~U//FOUO~~)

[44] Memorandum, Medencins Sans Frontieres, 29 Sep 15

[45] Memorandum, Medencins Sans Frontieres, 29 Sep 15

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locations with Coalition forces.[46] The email substantially contained the same information on MSF facility locations as the 29 Sep memorandum.[47]

(S//REL) Timeline, 28 Sep – 2 Oct 15, Kunduz

29. (U//FOUO) On 29 Sep 15, the SOTF-A (b)(3), (b)(6) added the Trauma Center to a (b)(1)1.4a who forwarded it to the Fires Officer at the CJSOAC-A on 30 Sep and 1 Oct.[48] Information about the Trauma Center was disseminated by RS HQ through multiple command and operations channels starting 30 Sep.[49]

30. (S//REL) On the morning of 29 Sep 15, ODA (b)(1)1.4a submitted a level-2C CONOP (b)(1)1.4a 09-001) to assist ANDSF in establishing a foothold in Kunduz.[50] The CONOP, scheduled to be executed that afternoon, listed the city's prison and the Kunduz Provincial Hospital (not the MSF Trauma Center) as objectives to secure and hold. The CONOP was staffed and legally reviewed at SOTF-A, forwarded to SOJTF-A for legal review and approval, and forwarded to RS HQ for situational awareness. The NSL was not considered in the CONOP development or approval process.[51]

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[46] The representative's purpose in contacting the CJOC was to share the MSF locations with Coalition forces, so the locations could be shared, "with your military partners so they can be factored into any impending plans for military operations as identification of an NGO Medical Asset." (U//FOUO)

[47] Email, (b)(3), (b)(6), 29 Sep 15

[48] (b)(1)1.4a file showing MSF facility on 29 Sep 15, received from CJSOAC-A Fires Officer.

[49] Exhibit, email distro of MSF information prior to 3 Oct. The MSF Trauma Center was identified on the NSL on 28 Oct 14. The other locations were not added to the NSL until 23 Oct 15, after the date of the incident. (Email, CENTCOM (b)(6), 22 Oct 15.)

[50] CONOP (b)(1)1.4a 09-01, see Annex E-A.7

[51] Information derived from multiple interviews at CJSOAC-A and SOTF-A.

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31. (~~U//FOUO~~) At 1930, 29 Sep 15, the (b)(3), (b)(6) arrived at (b)(1)1.4a to lead USSF counter-INS operations, and immediately began planning operations with the ANDSF leadership to retake Kunduz.[52]

32. (~~U//FOUO~~) Ninety minutes later, ANP, ALP, and ANDSF forces located at Kunduz Airfield reported receiving heavy fire from the north and northwest. USSF and ASSF forces moved from (b)(1)1.4d to the airfield to prevent it from being overrun by INS forces. At 2324, USSF received effective ZPU fire from 4 x INS HMMWVs. In response, US F-16s conducted strikes against the vehicles, destroying the ZPU and HMMWVs.[53]

33. (~~S//REL~~) INS fires against the combined USSF and ASSF elements continued throughout the night, preventing the teams from returning to (b)(1)1.4d and executing CONOP (b)(1)1.4a 09-001. During the POD, USSF remained at the airfield directing airstrikes against INS forces. By 0200 30 Sep, ANP moved to the airfield, allowing USSF to return to (b)(1)1.4d at dawn to prepare for follow-on operations.[54] Throughout the night, USSF controlled four additional airstrikes.[55]

34. (~~U//FOUO~~) The (b)(3), (b)(6) did not participate in the fighting during POD 29/30 Sep. On the morning of 30 Sep, the (b)(3), (b)(6), with ANDSF leadership, developed a plan to secure the eastern side of Kunduz City.[56]

35. (~~S//REL~~) At approximately 1530, the USSF submitted a level-1C CONOP (b)(1)1.4a 09-002) to SOTF-A.[57] The CONOP scheme of maneuver included clearing and securing the city's PSU HQ, the NDS prison, and the PCOP / PGOV compound, where they would eventually establish a strongpoint. SOTF-A and SOJTF-A staffed and legally reviewed the CONOP; the NSL was not referenced in the CONOP development or approval process. SOJTF-A approved the CONOP via vocal orders (VOCO) at approximately 1830.[58]

36. (~~S//REL~~) During this time period, the (b)(3), (b)(6) requested Persons with Designated Special Status (PDSS) for certain ASSF units. On 2 Oct 15, RS Deputy Chief of Staff for Operations (DCOS OPS) approved conditional PDSS for multiple ASSF units in the vicinity of Kunduz.[59] The (b)(3), (b)(6) understood PDSS as, *"[a] list*

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[52] Statement, (b)(1)1.4a, (b)(3), (b)(6) 31 Oct 15

[53] SOTF-A AR 15-6 Kunduz Overview (Kinetic Strikes in Kunduz, 29 Sep – 5 Oct) , 23 Oct 15

[54] Statement, (b)(1)1.4a, (b)(3), (b)(6) 31 Oct 15

[55] Briefing, "Operation FOOTHOLD (Kunduz) Overview," SOTF-A, 23 Oct 15. The airstrikes resulted in 26 x EKIA. (~~S//REL~~)

[56] ANDSF also included ANA (b)(1)1.4d leadership and ASSF. (~~S//REL~~)

[57] CONOP (b)(1)1.4a 09-002, see Appendix E-A.8

[58] Statements, (b)(3), (b)(6) 3 Nov 15. The CONOP came back from SOJTF-A as a FRAGO to the original CONOP. Otherwise, it would have had to go to RS HQ due to its approval level. (~~S//REL~~)

[59] PDSS MEMO, HQ RS DCOS-OPS, 2 Oct 15. The specific units were (b)(1)1.4d (b)(1)1.4d The condition was time, space, and physically partnered. (~~S//REL~~)

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of partnered forces for this period of time, then that means if I see a hostile act, directed at them, then I can defend them. Hostile intent, I may be wrong, but I was under the assumption, or I believed that hostile intent is not sufficient for me to engage under PDSS, or I may be wrong, but again, better to err on the side of caution."[60]

37. (S//REL) On the afternoon of 30 Sep, COMRS conducted a VTC with (b)(6) (b)(1)1.4d The (b)(3), (b)(6) participated in the VTC with (b)(6) from (b)(1)1.4a The (b)(3), (b)(6) monitored the VTC from his office at Camp Integrity. COMRS was very pointed in his questions to (b)(6), and asked what (b)(6) was doing to retake the city.[61] COMRS did not provide direct guidance to the (b)(3), (b)(6) (b)(3), (b)(6) However, the (b)(3), (b)(6) left the VTC believing that the operation to retake Kunduz was vital, had to happen as soon as possible, and that failure was not an option.[62]

38. (S//REL) At approximately 2230 30 Sep, USSF initiated movement from (b)(1)1.4a (b)(1)1.4a into Kunduz with partnered ASSF elements. The (b)(3), (b)(6) was the GFC of USSF Forces.[63] USSF personnel had twelve hours to prepare, having started detailed planning at approximately 1130.[64]

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[60] Transcript, Interview of 28 Oct 15

[61] Transcript, Interview of (b)(3), (b)(6) 28 Oct 15

[62] Transcript, Interview of 28 Oct 15

[63] Statement, (b)(3), (b)(6), 16 Oct 15. The ASSF units included (b)(1)1.4a, (b)(1)1.4d (b)(1)1.4a, (b)(1)1.4d (S//REL)

[64] Statement, (b)(3), (b)(6), 31 Oct 15. SOTF-A was also conducting HVI targeting operations in Kunduz around the same time the USSF began movement. (S//REL)

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(b)(1)1.4a, (b)(1)1.4g

(~~S//REL~~) Scheme of Maneuver from CONOP (b)(1)1.4a 09-002

C. (U) 30 September to 2 October 2015

39. (~~S//REL~~) Initially, USSF utilized a single 1:50,000 map to plan and conduct operations in Kunduz City. Technological issues at (b)(1)1.4a prevented the production of further graphics prior to SP.[65] SOTF-A headquarters provided some products to the USSF which focused on insurgent leadership in the Province.[66]

40. (~~S//REL~~) Throughout their movement from north of the airfield to the PCOP compound, the Ground Assault Force (GAF) received enemy fire. Between 0012 and 0328 on 1 Oct, US aircraft conducted five CAS missions in support of the movement.[67]

41. (~~S//REL~~) By 0430, the GAF cleared the PSU HQ, Kunduz prison, and secured the PCOP compound at the PGOV Complex.[68] After securing the PCOP compound,

[65] Transcript, Interview of (b)(3), (b)(6) 28 Oct 15
[66] Transcript, Interview of (b)(3), (b)(6) 28 Oct 15
[67] Briefing, "Operation FOOTHOLD (Kunduz) Overview," SOTF-A, 23 Oct 15. The airstrikes on the movement to the airfield resulted in an estimated 40 x EKIA. (~~S//REL~~)

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the GAF received heavy small arms fire (SAF) and rocket-propelled grenade (RPG) attacks.[69] Throughout the day, USSF employed CAS nine times in response to enemy activity.[70]

(b)(1)1.4a

43. (~~U//FOUO~~) On the evening of 1 Oct, the GFC instituted a rest plan for his forces.[75] The GFC expected that 500 ANDSF would relieve USSF on 2 Oct, a plan agreed upon by Afghan leadership at (b)(1)1.4a prior to the operation. This force never arrived.[76] At 2100, the AOB reported to SOTF-A HQ that they were low (b)(1)1.4a, (b)(1)1.4g on ammunition ((b)(1)1.4a, (b)(1)1.4g, water, MREs, and batteries.[77] On 1 Oct, the team discovered a comprehensive 1:10,000 scaled Provincial Reconstruction Team

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[68] The GAF turned over security of the PSU HQ and Kunduz prison to follow-on ANDSF forces. The PCOP compound is part of a greater government complex. The greater complex is referred to as the PGOV complex, but many witnesses to the operations in Kunduz refer to the PCOP Compound as the PGOV. (Confirmed by Investigation Team site visit to Kunduz, 28 Oct 15). (~~S//REL~~)

[69] Statement, (b)(1)1.4a, (b)(3), (b)(6) 26 Oct 15

[70] SOTF-A AR 15-6 Kunduz Overview, (b)(3), (b)(6) 23 Oct 15

[71]

[72]

(b)(1) 1.4a, (b)(3), (b)(6)

[75] At this point, the USSF had gone without sleep for more than 60 hours, having participated in the fight at the airfield and the movement to the PCOP. (~~S//REL~~)

[76] MFR, Interview of (b)(1)1.4a, (b)(3), (b)(6) 26 Oct 15

[77] MFR, Interview of (b)(3), (b)(6) 28 Oct 15

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(b)(1)1.4a

44. (U//FOUO) On the morning of 2 Oct 15, additional ANDSF forces arrived at the PCOP complex. ANDSF leadership stated if the US element departed the location, the ANDSF would also depart. The GFC agreed to stay in order to maintain the position they had secured.[79]

45. (U//FOUO) Beginning 28 Sep, the MSF Trauma Center leadership initiated a mass casualty plan due to an increase in individuals seeking treatment. Many of the staff were unable to return home due to security, and were staying at the hospital.[80] Some patients' family members were unable to return and were also staying at the hospital. According to an email sent by the MSF country director to the (b)(3), (b)(6) at 0403 2 Oct, the organization planned to conduct a resupply via taxis. At 1318, a

(b)(3) 10 USC 130b & 130c, (b)(6)

46. (S//REL) INS forces conducted some of their most significant attacks against the PCOP compound throughout the afternoon and early evening on 2 Oct, including a complex coordinated attack against the strongpoint from both the northeast and southwest.[82] The CAS platform supporting the USSF expended all of its ammunition during this time, which caused a request for SOJTF-A to launch the AC-130 (b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a, (b)(3), (b)(6) 60 minutes prior to its scheduled takeoff.[83]

47. (S//REL) SOTF-A and the GFC directed 22 CAS strikes in the vicinity of Kunduz City in support of ground force operations between 29 Sep and the evening of 2 Oct. SOTF-A directed 9 strikes under OFS authorities using ROE (b)(1)1.4a against targets that were effectively and substantially contributing to insurgent ability to conduct operations against Coalition forces located in Kunduz City. The ground force conducted 13 strikes under RS authorities using self-defense ROE, specifically (b)(1)1.4a for themselves and their partner forces. These strikes were conducted against insurgent troops, vehicles, command and control nodes, and buildings and is indicative of the level of contact the ground force was engaged in during this time period.[84]

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[78] MFR, Interview of (b)(1)1.4a, (b)(3), (b)(6) 26 Oct. The (b)(3), (b)(6) recalls the discovery of the map differently. He stated to the Investigation Team that the map was discovered on 4 October, the day after the strike in question. However, the investigation team believes that the two ODA CDRs' explanation of the discovery of the map is more likely. (S//REL)

[79] MFR, Interview of (b)(1)1.4a, (b)(3), (b)(6) 26 Oct 15. USSF agreed that if they left, they would likely have to turn around and resecure the area that they had already secured. (S//REL)

[80] MFR, Interview of (b)(3) 10 USC 130c, (b)(6) 2 Nov; Report, "Attack on Kunduz Trauma Centre," MSF, 4 Nov 15

[81] (b)(3), (b)(6)

[82] Strike Log, SOTF-A, 23 Oct 15. Statement, (b)(1)1.4a, (b)(3), (b)(6) 31 Oct 15. Between 1125 and 1830, US aircraft conducted CAS in support of forces at the strongpoint resulting in an assessed 22 x EKIA. (S//REL)

[83] Statement, SOJTF-A DCG, 26 Oct 15

[84] Strike Log, SOTF-A, 23 Oct 15

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(b)(1)1.4a, (b)(1)1.4g

(~~S//REL~~) CAS Engagements Conducted in Support of AOB-N (30 Sep – 2 Oct 15)[85]

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[85] Strike Log, SOTF-A, 23 Oct 15; The MSF facility, the PCOP, and the NDS facility are noted on the map for reference only.

3. (U//FOUO) Period of Darkness 2 – 3 October 2015

A. (S//REL) (b)(1)1.4a, (b)(3), (b)(6) launches to Kunduz

48. (S//REL) (b)(1)1.4a, (b)(3), (b)(6) launched 69 minutes early resulting in the aircrew only receiving the USSF grid location, call sign, and contact frequency.[86] The aircrew did not receive any printed current operational graphics showing the planned operating area and specifically did not have any charts that showed no strike targets or the location of the MSF Trauma Center.[87] Additionally, none of the CONOP or AOB-N products, or information loaded into the AC-130 guidance systems contained NSL data for the Kunduz area.[88] (b)(1)1.4a, (b)(3), (b)(6) departed BAF at (b)(1)1.4a refueled, and proceeded to its operating area. (b)(1)1.4a, (b)(3), (b)(6) assigned mission was to provide CAS for USSF TIC.[89]

49. (S//REL) The CJSOAC-A Fires Officer emailed updated mission products at 1847, including a (b)(1)1.4a identifying the location of the MSF Trauma Center, to the Electronic Warfare Officer (EWO).[90] Following (b)(1)1.4g (b)(1)1.4g making it impossible to send or receive email. Additionally, the aircraft did not receive the e-mail with the (b)(1)1.4a prior to the (b)(1)1.4g failure.[91] The CJSOAC-A JOC did not confirm the aircraft's receipt of the email containing the (b)(1)1.4a (b)(1)1.4a and did not attempt to pass information via alternate or contingency methods such as (b)(1)1.4a, (b)(1)1.4a radio or relay through another platform.[92]

50. (S//REL) The (b)(1)1.4g is the primary data communication link for the aircraft. The crew could not use (b)(1)1.4a, (b)(1)1.4g (b)(1)1.4a, (b)(1)1.4g from the aircraft's sensors. These (b)(1)1.4g communication systems are the primary means for the SOJTF-A, CJSOAC-A, and SOTF-A to monitor aircraft activity in real-time. The aircrew did have (b)(1)1.4a, (b)(1)1.4a and passed five voice situation reports, including passing the target grid coordinates at 0207, less than one minute prior to engaging the hospital at 0208. The EWO used incorrect radio communication protocol and (b)(1)1.4a, (b)(3), (b)(6) Fires Officer) did not acknowledge the 0207 transmission.[93]

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[86] Briefing, (b)(3), (b)(6), 22 Oct 15

[87] Multiple interviews and statements from (b)(1)1.4a, (b)(3), (b)(6) and CJSOAC-A staff; Doctrinally, there are no minimum requirements for mission products to launch an AC-130 in support of a mission. However, AFTTP 3-1.AC-130 states "Alert launches are operations that require a great deal of forethought and general planning to be successful." Additionally, "deployed mission commanders must ensure both aircraft and aircrew are optimally postured for alert taskings when required." (U//FOUO)

[88] MFR, Verification by AC-130 SME, 30 Oct 15

[89] Statement, SOJTF-A DCG, 26 Oct 15

[90] Email, (b)(3), (b)(6) Fires Officer, 23 Oct 15

[91] MFR, Verification by AC-130 SME, 30 Oct 15

[92] MFR, Interview of (b)(1)1.4a, (b)(3), (b)(6) 23 Sep 15

[93] BDA Transcript Recorder, 213756Z (020756L); Although the transcript originally shows this transmission from the (b)(1)1.4a, (b)(3), (b)(6) the investigation team reviewed the garbled audio recording and determined the radio call was from the (b)(1)1.4a, (b)(3), (b)(6).

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51. (S//REL) At approximately 1800, the (b)(1)1.4d, (b)(6)[94] passed the grid reference to the GFC. The grid references was the objective of the (b)(1)1.4d planned operation for that evening, the National Directorate of Security (NDS) facility ((b)(1)1.4a).[95]

52. (S//REL) (b)(1)1.4a, (b)(3), (b)(6) arrived on-station at (b)(1)1.4a and established communication with USSF through (b)(1)1.4a, (b)(3), (b)(6). At (b)(1)1.4a, (b)(3), (b)(6)[96] by an (b)(1)1.4a[97] The aircraft maneuvered away from the area,[98] established an (b)(1)1.4a, (b)(1)1.4g in accordance with threat avoidance TTP.[99] This orbit placed (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6) from the planned (b)(1)1.4d objective (NDS facility),[100] compared to the (b)(1)1.4a, (b)(1)1.4g overhead orbit.

(S//REL) 2/3 Oct Timeline, Kunduz

[94] 1 (b)(6) (S//REL)

[95] PCOP HQ to MSF Trauma Center is 222 degrees at 928 meters. PCOP HQ to NDS HQ is 211 degrees at 506 meters. (U//FOUO)

[96] Assessed (b)(1)1.4a, (b)(1)1.4g (S//REL)

(b)(1)1.4a, (b)(1)1.4g

[98] BDA Recorder Transcript, 2 Oct 15

[99] AFTTP 3-1.AC-130, 6.7.7 and 12.6.4, 5 Mar 15

[100] Statement, (b)(1)1.4a, (b)(3), (b)(6) 25 Oct 15

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B. (S//REL) Target Misidentification

53. (S//REL) Upon returning from a second air-refueling at (b)(1)1.4a, (b)(3), (b)(6) navigator established communications with (b)(1)1.4a, (b)(3), (b)(6) who assumed primary JTAC duties for the ground force.[102] (b)(1)1.4a, (b)(3), (b)(6) operated from a USSF HMMWV and communicated with the aircraft via (b)(1)1.4a, (b)(1)1.4g radios. At (b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a, (b) requested the aircraft to "*pick up a defensive scan of the AO*" and provided a location of interest for the aircraft,[103] (b)(1)1.4a " acknowledged by the navigator with a correct read back. This location, the objective for the (b)(1)1.4a ground assault, was the NDS facility located 506 meters southwest of the PCOP compound.[104]

54. (S//REL) The GFC and (b)(1)1.4a, (b)(3), (b)(6) could not see the NDS compound from their location.[105] (b)(1)1.4a, (b)(3), (b)(6) failed to advise (b)(1)1.4a, (b)(3), (b)(6) of this fact and that they were relying on (b)(1)1.4d grid coordinates and physical descriptions.[106] Additionally, no (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6)[107] Finally, (b)(1)1.4a, (b)(3), (b)(6) line-of-sight (b)(1)1.4a, (b)(1)1.4g (b)(1)1.4a, (b)(1)1.4g was inoperable due to a critical shortage of batteries[108].

55. (S//REL) From the (b)(1)1.4a, (b)(1)1.4g position, the TV Sensor Operator moved the sensor to the grid coordinates provided, and the sensor identified a location in an open field 329 meters west of the NDS facility. Although the crew was trained to recognize

(b)(1)1.4g

56. (S//REL) The TV Sensor Operator initiated a scan of the surrounding area and located a compound he believed more closely matched the intended objective. The navigator questioned the disparity between the first observed location, an open field, and the newly acquired large compound. The navigator requested the distance between the open field and the observed compound, which was assessed as 300 meters. Despite the 300 meter distance, the FCO updated the fire control system target location to the position of the large compound, later known to be the MSF Trauma Center. This exchange is illustrated in the communication reference below:

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[101] (b)(1)1.4a, (b)(3), (b)(6) departed for A/R at (b)(1)1.4a (S//REL)

[102] There are (b)(1)1.4a JTACs supporting AOB-N and its 2+ ODAs: (b)(1)1.4a, (b)(3), (b)(6) The (b)(1)1.4a JTACs are all co-located and work in approximately (b)(1)1.4a shifts. (S//REL)

[103] IR does the defensive scan (S//REL)

[104] BDA Recorder Transcript, 2 Oct 15

[105] The view from PCOP HQ to both the NDS HQ and the MSF Trauma Center is completely obscured (based on investigation team site visit on 26 Oct 15). (S//REL)

[106] MFR, Interview of (b)(3), (b)(6) 24 Oct 15

[107] (b)(1)1.4a, (b)(3), (b)(6) was overhead Kunduz, assigned to SOTF-A, but was monitoring another area. (S//REL)

[108] Statement, ODA (b)(1)1.4a, (b)(3), (b)(6) 28 Oct 15

[109] AFTTP 3-3.AC-130, 26 July 2012, 11.7.8 (AC-130 navigator target confirmation responsibilities: "Target (b)(1)1.4g "); Memorandum, Formal Training of (b)(1)1.4a, (b)(1)1.4g 6 Nov 15 (S//REL)

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TV Operator:	*"Well, unless the grids are off, this is the only large complex in the area; they have the busses on the west side."*
FCO:	*"I've got* (b)(1)1.4a *"*
TV Operator:	*"That's what I copied too, but it just* (b)(1)1.4a *you into the middle of this field with a bunch of small buildings."*
FCO:	*"Roger."*
Navigator:	*"How far off is that larger complex from the grids?"*
TV Operator:	*"About 300 meters."*
Navigator:	*"300 meters southwest?"*
TV Operator:	*"Affirm."*
Navigator:	*"Copy."*
FCO:	*"TV, I'm just going to update that off of you, since that's most likely what it is, so if you can just track there."*[110]

[110] BDA Recorder Transcript, (b)(1)1.4a

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~~(S)~~ Initial (b)(1)1.4a Position in Relation to Target

57. (~~S//REL~~) After observing the compound to the southwest (MSF Trauma Center) for eight minutes and assessing the pattern of life (POL), (b)(1)1.4a, (b)(3), (b)(6) passed a (b)(1)1.4a – a count of (b)(1)1.4a observed in the area – (b)(1)1.4a.[111] Less than one minute after receiving this report, (b)(1)1.4a, (b)(3), (b)(6) advised (b)(1)1.4a, (b)(3), (b)(6) the compound was under Taliban control and that the nine personnel observed were hostile.[112]

58. (~~S//REL~~) At (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6) radius orbit over Kunduz and continued observing the compound (Trauma Center). During this time, the TV Sensor Operator questioned if the observed compound (MSF Trauma Center) was the correct target. He understood the (b)(1)1.4g (b)(1)1.4g would be inaccurate. He (b)(1)1.4a for the NDS facility (b)(1)1.4a). Upon identifying the buildings at that location, the TV Sensor Operator[113] provided the crew a description of what he was observing (the NDS facility). He stated the grid coordinates passed by (b)(1)1.4a, (b)(3), (b)(6) placed his sensor on this location (the NDS facility), not the previous compound upon which the crew was

[111] BDA Recorder Transcript, (b)(1)1.4a
[112] BDA Recorder Transcript, (b)(1)1.4a
[113] Both (b)(3), (b)(6). (~~U//FOUO~~)

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currently focused (MSF Trauma Center).[114] Despite this critical realization by the TV Sensor Operator, the navigator answered with "*Copy*" and there was no response by the pilot.[115] After this point, the crew relied solely upon target description from (b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a, (b)(3), (b)(6) which was the (b)(1)1.4d, (b)(6) description to the GFC by way of an interpreter.[116]

59. (~~S//REL~~) The TV Sensor Operator also voiced his concern to the aircrew about declaring personnel hostile without fully confirming the target compound, and he requested that the navigator query (b)(1)1.4a, (b)(3), (b)(6) for additional clarification and a more detailed target description.

60. (~~S//REL~~) At (b)(1)1.4a, (b)(3), (b)(6) told (b)(1)1.4a, (b)(3), (b)(6) that he has "*great confidence in the grids passed.*"[117] The navigator then inaccurately told (b)(1)1.4a, (b)(3), (b)(6) that the grid coordinates he passed "*sent them to an open field.*"[118] However, the navigator referenced the observation of the grid from when the AC-130 was in an (b)(1)1.4g (b)(1)1.4g not the observation of the grid from the (b)(1)1.4g After re-assessing the grid from the overhead orbit, the TV Sensor Operator clearly stated to the crew that the grid position placed his sensor directly on top of a different compound (the NDS facility), not in the open field or the MSF Trauma Center. The navigator never passed this information to (b)(1)1.4a, (b)(3), (b)(6) for clarification.[119]

61. (~~S//REL~~) The navigator passed the TV Sensor Operator's query for an additional description of the compound of interest to (b)(1)1.4a, (b)(3), (b)(6)[120]

(b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a, (b)(3), (b)(6)

"*[I] have updated description of the compound of interest.*"

"*Ready.*"

"*Roger, GFC says there is an outer perimeter wall, with multiple buildings inside of it. Break. Also, on the main gate, I don't know if you're going to be able to pick this up, but it's also an arch-shaped gate. How copy?*"

62. (~~S//REL~~) The navigator copied the description, and after the TV Sensor Operator queried, the navigator requested that (b)(1)1.4a, (b)(3), (b)(6) confirm which side of the compound wall the arch-shaped gate is located; (b)(1)1.4a, (b)(3), (b)(6) replied that the gate was on the north side. The crew immediately identified a vehicle entry gate with a covered overhang on

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[114] BDA Recorder Transcript, (b)(3), (b)(6) TV: "Alright, Is there any way we can get some additional confirmation as far as, 'cause I (b)(1)1.4a to the cords now that we are closer and even though that compound [is] the only one that's limited and has activity, if you look in the TV's screen, you can see this hardened structure that looks very large could also be more like a county prison with cells. So I just want to verify that before we start declaring people hostile, that we are 100% sure that this is the correct compound." Nav: "Copy") (~~S//REL~~)

[115] This conversation occurred on the P2 internal communication net which was monitored by the pilot. (~~S//REL~~)

[116] Statement, (b)(1)1.4a, (b)(3), (b)(6) 28 Oct 15

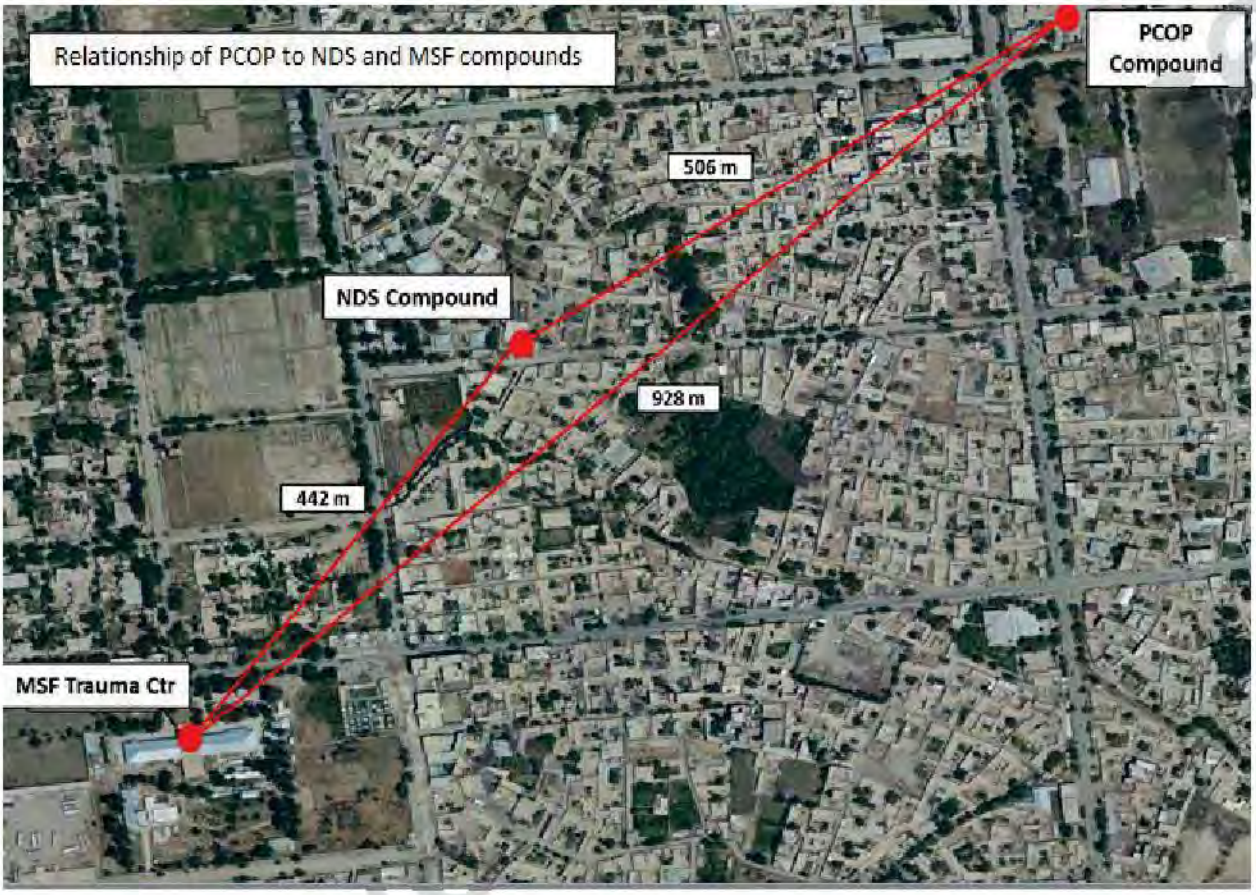
[117] BDA Recorder Transcript, (b)(1)1.4a

[118] BDA Recorder Transcript, (Transcription of NAV's query: (b)(1)1.4a, (b)(3), (b)(6) the grids passed sent us to an open field, the nearest large compound is 300m from that posit.") (~~S//REL~~)

[119] Ibid

[120] Description matched typical Afghan urban area. (~~S//REL~~)

the north side of the MSF compound, but only a vehicle entry gate on the south side of the NDS facility.[121] After further discussion at (b)(1)1.4a of whether the covered overhang is arch-shaped, or perhaps whether it could be interpreted as such, the crew collectively determined the target description matched the MSF Trauma Center as opposed to the actual target building, the NDS facility.[122]



(~~S//REL~~) MSF Trauma Center and NDS HQ in Relation to the PCOP compound

C. (~~S//REL~~) The Decision to Strike

63. (~~S//REL~~) While (b)(1)1.4a, (b)(3), (b)(6) observed the first compound (MSF Trauma Center), the (b)(1)1.4a staged at (b)(1)1.4d with a 14 vehicle GAF. The convoy planned to travel a 12 km route to their objective (the NDS facility), estimating to complete the movement in 60 minutes. The (b)(1)1.4d mission was to secure the NDS facility that the GFC believed

[121] BDA transcript Recorder, (b)(1)1.4a

[122] From the (b)(3), (b)(6) written statement: "*The JTAC went through his description of the objective compound, he focused on the main gate which he said had an arch over it and when asked which gate was the main gate, he said that the northern gate, which matched exactly what the TV was looking at. From the information the JTAC passed, we knew with 100% certainty that the TV was looking at the objective compound and that I [IR] was not looking at the objective compound, which was very apparent due to the lack of any northern gate on the compound now known as the NDS compound.*" (~~S//REL~~)

(b)(1)1.4a, (b)(3), (b)(6) observed. At (b)(1)1.4a, (b)(3), (b)(6) located the (b)(1)1.4a GAF at the north end of Kunduz Airfield, approximately 9 km from their objective (NDS facility).[123]

64. (S//REL) Concurrently, the SOTF-A Operations Center was unaware that the (b)(1)1.4a planned to secure the NDS facility or that (b)(1)1.4a, (b)(3), (b)(6) received the coordinates of the objective (NDS facility). SOTF-A believed the intended (b)(1)1.4a target was the NDS prison located in Southern Kunduz.[124] SOTF-A tasked the MQ-1 Predator (b)(1)1.4a, (b)(3), (b)(6) to monitor the prison (b)(1)1.4g until they shifted the sensor over the MSF Trauma Center toward the end of (b)(1)1.4a, (b)(3), (b)(6) fire mission at (b)(1)1.4a

65. (S//REL) At (b)(1)1.4a, (b)(3), (b)(6) passed to (b)(1)1.4a, (b)(3), (b)(6) *"GFC's intent is to exploit any possible [inaudible] BREAK to lighten the load for partner force's infil."* The navigator acknowledged (b)(1)1.4a, (b)(3), (b)(6) *copies, wilco.*"[125] The GFC later clarified during an interview that his greatest concern was self-defense for both USSF and partner forces and that air to ground fires would focus on enemy heavy weapon emplacements and strongpoint positions.[126] However (b)(1)1.4a, (b)(3), (b)(6) did not relay the GFC's complete intent to (b)(1)1.4a, (b)(3), (b)(6)

66. (S//REL) Twenty-two minutes later (b)(1)1.4a, (b)(3), (b)(6) passed to (b)(1)1.4a, (b)(3), (b)(6) that the (b)(1)1.4a planned to clear a second compound after the NDS facility (b)(1)1.4a, (b)(3), (b)(6) added to this update by stating: "*and we will also be doing the same thing of softening the target for partner forces.*"[127] An internal discussion ensued in the AC-130U:

FCO:	*"So he wants us to shoot?"*
Navigator:	*"Yeah, I'm not positive what softening means?"*
Pilot:	*"Ask him."*
Navigator:	*"Copy."*

67. (S//REL) Following this internal conversation, the navigator sought clarification from the GFC through (b)(1)1.4a, (b)(3), (b)(6) regarding his intent to "soften the target."

(b)(1)1.4a, (b)(3), (b)(6) *"(b)(1)1.4a, (b)(3), (b)(6) Looking for clarification on softening the target."*

68. (S//REL) (b)(1)1.4a, (b)(3), (b)(6) (answers after a 30 second pause): *"GFC's intent is to destroy targets of all opportunity that may impede partner forces' success. How copy?"*

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[123] 9 km route of travel (U//FOUO)
[124] (b)(1)1.4g (U//FOUO)
[125] BDA Recorder Transcript, (b)(1)1.4a
[126] MFR, Interview of (b)(3), (b)(6), 28 Oct 15
[127] BDA Recorder Transcript, (b)(1)1.4a

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(b)(1)1.4a, (b)(3), (b)(6) *copies all; we will continue to monitor the prison complex."*[128]

69. (S//REL) The following key comments occurred on the crew's internal communication net regarding engaging the intended facility:

TV Operator: *"I know that he is being very vague, and I'm not sure if that's going to be people with weapons or just anybody, so we'll stay neutral as far as that goes."*[129]

Navigator: *"Yeah, I'll just keep painting the picture for this complex for him when he asks."*

TV Operator: *"Affirm."*

FCO: *"And just confirm, you guys don't see anyone carrying anything that you can tell?"*

TV Operator: *"Not that we can tell but a lot of them are up underneath the overhangs and they are walking just from building to building."*

FCO: *"Pilot, FCO, if we were to engage this complex and not damage the building, I would recommend* (b)(1)1.4a *"*

Pilot: *"Copy."*[130]

70. (S//REL) At this point, the crew requested clarification on the GFC's intent to "soften the target," and observed that no personnel at the observed facility (MSF Trauma Center) appeared to be (b)(1)1.4g which was never passed to the GFC. The crew discussed a basic weaponeering solution to engage personnel without destroying buildings. The navigator and the FCO discussed their interpretation of the GFC's intent:

FCO: *"See that's the thing I don't get is that, you see, yeah, targets of opportunity, stop anyone that might impede us, well there's a big enemy C2 complex that you know of…"*[131]

Navigator: *"And you've already confirmed that this prison complex is hostile."*[132]

FCO: *"Yeah, so I don't want to tell you how to do your job but…"*[133]

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[128] BDA Recorder Transcript,
[129] BDA Recorder Transcript,
[130] BDA Recorder Transcript,
[131] BDA Recorder Transcript,
[132] BDA Recorder Transcript,
[133] BDA Recorder Transcript,

(b)(1)1.4a

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Navigator: *"Only slightly confusing."*[134]

Navigator: *"I feel like – let's get on the same page for what target of opportunity means to you, and what target of opportunity means to me."*[135]

FCO: *"I mean when I'm hearing target of opportunity like that, I'm thinking* (b)(1)1.4a *– you're going out, you find bad things and you shoot them."*[137]

71. (S//REL) Following this internal aircrew conversation, approximately nine minutes passed before the targeting conversation resumed with (b)(1)1.4a, (b)(3), (b)(6).[138] During this time, the aircrew discussed coordination for two (b)(1)1.4a helicopters to conduct a resupply into (b)(1)1.4a, (b)(3), (b)(6) was assigned as the Air Warden for (b)(1)1.4a[139] and needed to deconflict fires with the helicopters' ingress and egress. The TV and IR Sensor Operators continued to discuss the compound (MSF facility) during this time.

72. (S//REL) In addition to the Kunduz mission, the (b)(3), (b)(6) and his battle staff supported two additional missions: a USSF operation in (b)(1)1.4a and coordinating a resupply into the PCOP compound.[140]

73. (S//REL) The GFC believed everything west of the main north-south running highway (Highway 3, Route (b)(1)1.4a was "*swarming with insurgents," as "confirmed over the previous 48 hours by numerous aerial platforms*."[141] The GFC believed the majority of threat to his location originated from the western half of the city. Several coordinated attacks originated from this area, to include squad-sized enemy elements maneuvering with heavy weapons to the west of the PCOP compound.[142]

74. (S//REL) In the 41 minutes leading up to clearance of fires for (b)(1)1.4a, (b)(3), (b)(6) the GFC received target building descriptions for the NDS facility from the (b)(1)1.4d, (b)(6) co-located at the PCOP Compound.[143] The GFC believed the target and POL descriptions provided by the (b)(1)1.4d, (b)(6) appeared to match the information provided by (b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a, (b)(3), (b)(6).[144] Based on the GFC perception of the (b)(1)1.4 convoy's location as displayed (b)(1)1.4g (b)(1)1.4d, (b)(1)1.4g and the simultaneous sound

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[134] BDA Recorder Transcript,
[135] BDA Recorder Transcript, (b)(1)1.4a
[136] Multi Service Tactics Techniques and Procedures (MTTP) (b)(1)1.4a (b)(1)1.4a
[137] BDA Recorder Transcript,
[138] BDA Recorder Transcript, (b)(1)1.4a
[139] (b)(1)1.4a in the vicinity of Kunduz. (S//REL)
[140] Statement, (b)(3), (b)(6), 5 Nov, 15; SITREP, SOTF-A, 010000D*Oct15 – 012359D*Oct15
[141] Transcript, Interview of (b)(3), (b)(6), 28 Oct 15; a review of multiple ISR platforms indicates that although there were several insurgents engaging the PCOP Compound from the west during 1 Oct – 3 Oct, the streets were empty.
[142] Transcript, Interview of (b)(3), (b)(6) 28 Oct 15
[143] Transcript, Interview of (b)(3), (b)(6) 28 Oct 15
[144] Transcript, Interview of (b)(3), (b)(6) 28 Oct 15; MFR, Interview of (b)(3), (b)(6) 28 Oct 15

of automatic gunfire coming from the east-west road near the NDS facility, the GFC assessed enemy fire pinned down the (b)(1)1.4d convoy, which constituted PID of hostile intent and a hostile act.[145] The (b)(1)1.4d, (b)(6) also received a call from the (b)(1)1.4d, (b)(6) with the request, "*strike now*."[146] Based on this incorrect assessment, the GFC decided to prosecute the NDS facility target he believed (b)(1)1.4a, (b)(3), (b)(6) was observing[147].

75. (~~S//REL~~) At (b)(1)1.4a, (b)(3), (b)(6) resumed the targeting conversation leading to (b)(1)1.4a, (b)(3), (b)(6) fire mission on the MSF Trauma Center:

(b)(1)1.4a, (b)(3), (b)(6) *"Roger (b)(1)1.4a, (b)(3), (b)(6) Did you copy last – enemy PAX at OBJ target building, GFC requests we prosecute those targets. GFC initials* (b)(3), (b)(6) *how copy?"*[148]

76. (~~S//REL~~) At this point, the IR sensor stopped tracking the convoy and moved his sensor to the MSF Facility.[149] The (b)(1)1.4d, (b)(6) data indicated that the (b)(1)1.4d GAF convoy was located at the north end of the airfield, approximately 9 km from their objective (the NDS facility) not near the NDS facility.[150] They were not receiving fire. The GFC authorized firing on the compound.

(~~S//NF~~) Screenshot from (b)(1)1.4a, (b)(3), (b)(6) *3 Oct 15*[151]

[145] Transcript, Interview of (b)(3), (b)(6) 28 Oct 15
[146] Transcript, Interview of (b)(3), (b)(6) 28 Oct 15; MFR, Interview of (b)(1)1.4d, (b)(6) 8 Nov 15
[147] MFR, Interview (b)(1)1.4d Program Manager, 2 Nov
[148] BDA Recorder Transcript, (b)(1)1.4a
[149] BDA Recorder Video, (b)(1)1.4a
[150] MFR, Interview (b)(1)1.4d Program Manager, 2 Nov
[151] IR BDA Recorder Video, (b)(1)1.4a

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(b)(1)1.4a, (b)(3), (b)(6)

(b)(1)1.4a, (b)(3), (b)(6) *copies, GFC requesting that we prosecute at objective,* (b)(3), (b)(6) *Confirm which ROEs we will be operating under?"*[152]

"ROE (b)(1)1.4a *how copy?"*[153][154]

(b)(1)1.4a, (b)(3), (b)(6) *copies, Resolute Support* (b)(1)1.4a *confirm?"*

"Affirm, and (b)(1)1.4a *also applies."*[155]

(b)(1)1.4a, (b)(3), (b)(6) *copies* (b)(1)1.4a *Confirm intentions on striking compound and* (b)(1)1.4a *?"*[156]

"Good copy."[157]

(b)(1)1.4a, (b)(3), (b)(6) then passes clarification to (b)(1)1.4a, (b)(3), (b)(6) about engaging the building.]

(b)(1)1.4a, (b)(3), (b)(6) *GFC wants you to prosecute objective building first,* (b)(1)1.4a *secondary, *suppressing* (*inaudible)* (b)(1)1.4a *"*[158]

(b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a, (b)(3), (b)(6) *copies, objective building first followed by followed by* (b)(1)1.4a *confirm* (b)(1)1.4a *"*

[internal to aircraft]: *"I'd like to keep that our discretion,* (b)(1)1.4a *"*

77. (~~S//REL~~) The GFC's intent, as originally relayed to (b)(1)1.4a, (b)(3), (b)(6) by (b)(1)1.4a, (b)(3), (b)(6) was to *"destroy targets of all opportunity."*[159] At (b)(1)1.4a, (b)(3), (b)(6) stated *"enemy PAX at objective target building, GFC requests we prosecute those targets."*[160] After confirming the ROE for the fire mission, the navigator asked (b)(1)1.4a, (b)(3), (b)(6) to *"confirm intentions on striking compound and* (b)(1)1.4a *"*[161] (b)(1)1.4a, (b)(3), (b)(6) replied, *"GFC wants you to prosecute objective building first,* (b)(1)1.4a *secondary."*[162] After this transmission, the navigator's discussion with (b)(1)1.4a, (b)(3), (b)(6) focused on how to strike the building without further clarification of the GFC's intent. Despite (b)(1)1.4a, (b)(3), (b)(6) specifying (b)(1)1.4a[163] which the navigator acknowledged, the navigator sought confirmation to utilize (b)(1)1.4a rounds directly on the building. (b)(1)1.4a, (b)(3), (b)(6) responded to these confirmations with verbiage such as "good copy,"[164]

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[152] BDA Recorder Transcript,
[153] BDA Recorder Transcript,
[154] ROE (b)(1)1.4a (~~NATO//RS SECRET~~)
[155] ROE (b)(1)1.4a ~~ATO//RS SECRET~~)
[156] BDA Recorder Transcript,
[157] BDA Recorder Transcript,
[158] BDA Recorder Transcript,
[159] BDA Recorder Transcript,
[160] BDA Recorder Transcript,
[161] BDA Recorder Transcript,
[162] BDA Recorder Transcript,
[163] BDA Recorder Transcript,
[164] BDA Recorder Transcript,

(b)(1)1.4a

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"*cleared to engage*,"[165] "*copy*,"[166] and "*you are clear to engage*."[167] (b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a, (b)(3), (b)(6) never passed an explicit, affirmative clearance for (b)(1)1.4a directly on the building. Despite this ambiguity, the pilot decided to directly engage the building with (b)(1)1.4a.[168]

78. (~~S//REL~~) The (b)(3), (b)(6) recommended keeping munitions selection at the discretion of the aircrew, in accordance with published AC-130 TTP, which specifies (b)(1)1.4a as the correct weaponeering solution for buildings:[169]

(b)(1)1.4a, (b)(3), (b)(6) *copies all waiting on your clearance to continue"*

(b)(3), (b)(6) *"Can I get first round* (b)(1)1.4a*"*

(b)(1)1.4a, (b)(3), (b)(6) *cleared to engage."*

(b)(1)1.4a, (b)(3), (b)(6) *copies, standby rounds."*

(b)(3), (b)(6) *"All players, all players* (b)(1)1.4a, (b)(3), (b)(6) *is going hot* (b)(1)1.4a*"*

(b)(1)1.4a, (b)(3), (b)(6)

79. (~~S//REL~~) At this point, six minutes prior to engaging the target, the crew configured the aircraft for weapons employment when (b)(1)1.4a, (b)(3), (b)(6) called to clarify the engagement:

Navigator: *"Go for* (b)(1)1.4a, (b)(3), (b)(6)*"*[170]

(b)(1)1.4a, (b)(3), (b)(6) *"Roger, be advised to do a PAX cocktail."*

[Non-standard terminology]

Navigator: *"What did he just say?"*

UNKNOWN: *"Something about confirming PAX cocktail."*

Navigator: *"PAX cocktail?"*

UNKNOWN: *"I assume he's referring to MAMs; get a confirmation and as well, while you're at it, get a building that he actually wants to strike, confirm that it's a t-shaped building in the center of the compound."*[171]

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[165] BDA Recorder Transcript, (b)(1)1.4a
[166] BDA Recorder Transcript, (b)(1)1.4a
[167] BDA Recorder Transcript, (b)(1)1.4a
[168] BDA Recorder Transcript, (b)(1)1.4a
[169] AFTTP 3-3.AC-130, pp. (b)(1)1.4a
[170] BDA Recorder Transcript, (b)(1)1.4a
[171] BDA Recorder Transcript, (b)(1)1.4a

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Navigator: *"Copy."*

(b)(1)1.4a, (b)(3), (b)(6) *looking again for clarification on the last. Break. Also looking for clarification on the building to be struck - confirm it is the t-shaped building."*

(b)(1)1.4a, (b)(3), (b)(6) *"Copy."*

[Communications from (b)(1)1.4a, (b)(3), (b)(6) begin breaking up]

Navigator: *"Ok he is breaking up. We are going to get confirmation."*

(b)(1)1.4a, (b)(3), (b)(6) *say again."*

(b)(1)1.4a, (b)(3), (b)(6) *request* (b)(1)1.4a *on* (b)(1)1.4a *how copy."*

Navigator: (b)(1)1.4a, (b)(3), (b)(6) *copies,* (b)(1)1.4a *Break. Looking for confirmation on which building to strike - confirm it is the large t-shape building… in the center of the compound."*

(b)(1)1.4a, (b)(3), (b)(6) *"Affirm* (b)(1)1.4a, (b)(3), (b)(6)*"*

Navigator: (b)(1)1.4a, (b)(3), (b)(6) *copies, looking to strike the large t-shape building in the center of the compound ensuring we are clear with* (b)(1)1.4a (b)(1)1.4a *on the building."*

(b)(1)1.4a, (b)(3), (b)(6) *you are clear to engage."*[172]

Navigator: (b)(1)1.4a, (b)(3), (b)(6) *copies, standby rounds."*

80. (~~S//REL~~) While (b)(1)1.4a, (b)(3), (b)(6) advised (b)(1)1.4a, (b)(3), (b)(6) of the GFC's intent to prosecute both the objective building and personnel,[173] engaging with (b)(1)1.4a [174] is a weaponeering solution for personnel targets. Thinking they were cleared on the building itself, (b)(1)1.4a, (b)(3), (b)(6) chose to engage with (b)(1)1.4a in accordance with AC-130 TTP.[175] (b)(1)1.4a, (b)(3), (b)(6) continued to clarify the GFC's intent within two minutes of engaging the target:

Pilot: *"Hey confirm that we are cleared on people in this compound and not just* (b)(1)1.4a *this building."*[176]

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[172] BDA Recorder Transcript, (b)(1)1.4a

[173] BDA Recorder Transcript, (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6)

[175] AFTTP 3-3.AC-130, (b)(1)1.4a

[176] BDA Recorder Transcript, (b)(1)1.4a

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(b)(1)1.4a, (b)(3), (b)(6) *confirm we are cleared* (b)(1)1.4a *in the compound and* (b)(1)1.4a *from the t-shaped building."*

(b)(1)1.4a, (b)(3), (b)(6) *affirm."*

(b)(1)1.4a, (b)(3), (b)(6) *copies."*

Pilot: *"You've got consent."*

(b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6)

EWO [on SAT]: *"[garbled]* (b)(1)1.4a, (b)(3), (b)(6) *engagement grids 42 sierra victor fox* (b)(1)1.4a *rounds away."*[178]

82. (~~S//REL~~) (b)(1)1.4a, (b)(3), (b)(6) did not acknowledge the transmission on (b)(1)1.4a, (b)(1)1.4g or read back the coordinates.

Navigator [on Fires]: *"Rounds away, rounds away, rounds away."*[179]

83. (~~S//REL~~) At 0208, the initial round fired from (b)(1)1.4a, (b)(3), (b)(6) was a (b)(1)1.4a round into the courtyard north of the main building followed immediately by a (b)(1)1.4a round into the roof of the MSF Trauma Center. The below graphic represents the impact location of all 211 rounds fired, consisting (b)(1)1.4a

(b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6)

[178] BDA Transcript Recorder, (b)(1)1.4a; Although the transcript originally shows this transmission from the (b)(1) 1.4a, (b)(3), (b)(6) the investigation team reviewed the garbled audio recording and determined the radio call was from the (b)(1) 1.4a, (b)(3), (b)(6).

[179] BDA Recorder Transcript, (b)(1)1.4a; At the "rounds away" call, the (b)(1)1.4g AF is approximately 5 km away from the NDS compound. (~~S//REL~~)

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(b)(1)1.4a, (b)(1)1.4g

(S//REL) (b)(1)1.4a, (b)(3), (b)(6) Impact Locations on MSF Trauma Center

84. (S//REL) The SOTF-A (b)(3), (b)(6) stated that by 0219, twelve minutes into the engagement, the MSF Country Representative called him via cell phone and stated that the Trauma Center in Kunduz was being hit by an airstrike.[180] The SOTF-A (b)(3), (b)(6) informed the SOTF-A JOC Battle Captain. At (b)(1)1.4a, (b)(3), (b)(6)[181] called (b)(1)1.4a, (b)(3), (b)(6) via (b)(1)1.4a, (b)(1)1.4g and asked for the grids of the target they were engaging which (b)(1)1.4a, (b)(3), (b)(6) TWO provided. Two minutes later, (b)(1)1.4a, (b)(3), (b)(6) asked (b)(1)1.4a, (b)(3), (b)(6) if they were having any weapons effects on a major compound south of their engagement area. The following details from the transcript highlight the communications between (b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a, (b)(1)1.4g throughout the engagement:

> (b)(1)1.4a, (b)(3), (b)(6) *that facility, the Kunduz Trauma Center to the south, we're just trying to verify that were no effects on the building itself, just on the armed PAX to the north."*[182]

> (b)(1)1.4a, (b)(3), (b)(6) *that's a negative, all effects in and around the T-shaped building or in that compound."*[183]

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[180] Interview, (b)(3), (b)(6) 23 Oct 15

[181] Appendix, IJC TVI Checklist, (b)(1)1.4a, (b)(3), (b)(6) (b)(3), (b)(6) to SOTF-A. The senior officer at the SOTF-JOC was the (b)(3), (b)(6)) (S//REL)

[182] BDA Transcript, (b)(1)1.4a

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(b)(1)1.4a, (b)(3), (b)(6)

"(b)(1)1.4a, (b)(3), (b)(6) copies you need to run…[comms cutoff]"[184]

"…large secondaries on the building."[185]

"Copy direct effects on building, large secondaries."

"(b)(1)1.4a, (b)(3), (b)(6) looking for compounding information of lead up to attack, uhh was this position a reported position or actively engaging friendly forces?"[186]

(b)(1)1.4a, (b)(3), (b)(6) position was called out by (b)(1)1.4a, (b)(3), (b)(6) as under Taliban control. Currently have the (b)(1)1.4a convoy trucking into their location, to the target. How copy?"

"Copy situation (b)(1)1.4a, (b)(3)." (b)(6)

"(b)(1)1.4a, (b)(3), (b)(6) that original (b)(1)1.4a including guards posted at the front gate throughout the engagement possibly 40-50 (b)(1)1.4a total."

"Copies all."

85. (~~S//REL~~) At (b)(1)1.4a, (b)(3), (b)(6) advised the pilot that the (b)(1)1.4a gun reached its maximum firing rate. At 0237, (b)(1)1.4a, (b)(3), (b)(6) fired its last round at the MSF Trauma Center. One minute later, (b)(1)1.4a, (b)(3), (b)(6) called (b)(1)1.4a, (b)(3), (b)(6)

(b)(1)1.4a, (b)(3), (b)(6) *"Roger (b)(1)1.4a, (b)(3), (b)(6) if we can cease fire mission on objective. Break [unreadable]."*

86. (~~S//REL~~) After the SOTF-A (b)(3), (b)(6) informed the (b)(3), (b)(6) he then called the country director back to confirm the grid location. After this call, he returned to the operations center at 0233 and stated, "*You're hitting the Trauma Center.*" The coordinates correlated with the MSF Trauma Center on SOTF-A's common operating picture.[187]

87. (~~S//REL~~) During this sequence of events, the SOTF-A (b)(3), (b)(6) called the GFC on (b)(1)1.4a, (b)(1)1.4g and requested he contact the operations center on the (b)(1)1.4a, (b)(1)1.4g. The (b)(3), (b)(6) informed the GFC that the MSF Trauma Center was under aerial attack. After this phone call, (b)(1)1.4a, (b)(3), (b)(6) radioed (b)(1)1.4a, (b)(3), (b)(6) and stated, *"if we can cease fire mission on objective. BREAK [garbled]."*[188]

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[183] BDA Transcript, (b)(1)1.4a
[184] BDA Transcript, (b)(1)1.4a
[185] BDA Transcript, (b)(1)1.4a
[186] BDA Transcript, (b)(1)1.4a (Update to original transcript based on closer analysis of voice communications.)
[187] MFR, Interview of (b)(3), (b)(6) 6 Nov, 15; Common Operating System used was (b)(1)1.4a, (b)(1)1.4g (b)(1)1.4a, (b)(1)1.4g
[188] BDA Recorder Transcript, (b)(3), (b)(6)

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- SOTF-A asks (b)(1)1.4a, (b)(3), (b)(6) to zoom out and look for impact sites from (b)(1)1.4a, (b)(3), (b)(6)
- SOTF-A asks (b)(1)1.4a, (b)(3), (b)(6) to track (b)(1)1.4a
- SOTF-A continues to deconflict resupply with (b)(1)1.4a, (b)(3), (b)(6)
- SOTF-A believes (b)(1)1.4a, (b)(3), (b)(6) is striking SW of the NDS facility
- (b)(1)1.4a SOTF-A (b)(3), (b)(6) receives a call from MSF stating they have been hit in an airstrike
- – SOTF-A (b)(3), (b)(6) notifies (b)(3), (b)(6) of MSF Trauma Center being under attack from the air
- (b)(1)1.4a, (b)(3), (b)(6) identifies strike and passes grid to the location (MSF trauma facility)
- (b)(1)1.4a, (b)(3), (b)(6) asks (b)(1)1.4a, (b)(3), (b)(6) for grid to engagement (b)(1)1.4a, (b)(3), (b)(6) passes correct grid to MSF
- – The (b)(1)1.4a, (b)(3), (b)(6) calls SOTF-A (b)(1)1.4a, (b)(3), (b)(6) to report good effects from the (b)(1)1.4a, (b)(3), (b)(6) engagement; SOTF-A asks the (b)(1)1.4a, (b)(3), (b)(6) to call back on (b)(1)1.4g
- – SOTF-A notifies the (b)(1)1.4a, (b)(3), (b)(6) has struck the MSF Trauma Center
- (b)(1)1.4a, (b)(3), (b)(6) receives initial BDA from (b)(1)1.4a, (b)(3), (b)(6) – SOTF-A never calls "check fire" or "cease fire"
- (b)(1)1.4a (b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a, (b)(3), (b)(6) to cease fire
- – SOTF-A (b)(3), (b)(6) receives SMS from MSF in Kabul informing that one staff was confirmed dead and many unaccounted for
- (b)(1)1.4a SOTF-A (b)(3), (b)(6) sends SMS to MSF in Kabul "I'm sorry to hear that, I still don't know what happened"

(~~S//REL~~) SOTF-A Post-Strike Action Timeline

88. (~~S//REL~~) After completing the fire mission on the compound, a single (b)(1)1.4a round remained in the gun after a hot gun malfunction. Initially, (b)(1)1.4a, (b)(3), (b)(6) authorized (b)(1)1.4a, (b)(3), (b)(6) to fire the remaining round into the objective. He then stopped (b)(1)1.4a, (b)(3), (b)(6) calling "cease fire." At (b)(1)1.4a, (b)(3), (b)(6) fired the round into an open field in a zero collateral damage area outside of 2km from the engagement site.[189] (b)(1)1.4a, (b)(3), (b)(6) remained overhead until (b)(1)1.4a and landed at BAF at (b)(1)1.4a

89. (~~S//REL~~) At 0303, a United Nations Assistance Mission-Afghanistan representative called the RS HQ CJOC Director, reporting that the MSF Trauma Center had been bombed from the air. The CJOC notified RS DCOS OPS and started the RS HQ CIVCAS battle drill.[190]

90. (~~S//REL~~) At 0425, the (b)(1)1.4a, (b)(3), (b)(6) called the CJSOAC-A (b)(1)1.4a, (b)(3) Operations desk and advised them of a possible CIVCAS incident. The (b)(3), (b)(6) conducted a review of the BDA recorder with his SJA and believed the strike was procedurally correct in terms of ROE, confirming the target and acquiring GFC intent and authorization.[191]

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[189] BDA Recorder Video (IR), 2 Oct 15

[190] MFR, Interview of DCOS OPS, 21 Oct 15

[191] Email, (b)(3), (b)(6) 3 Nov 15; Just prior to (b)(3), (b)(6) sent the following email to SOJTF-A CG: "Sir, per our conversation, here's some preliminary data from the gunship crew: There was a known enemy (b)(1)1.4a The target was identified as an enemy structure controlled by enemy forces with all personnel in/around structure characterized as enemy. (b)(1)1.4a, (b)(3), (b)(6) cleared the gunship on the enemy structure and associated personnel. There was approx. 10 minutes of dialogue prior to the engagement regarding target confirmation and exact location of the building/compound. Perhaps the only issue I see with the shoot, was that ROE (b)(1)1.4a was cited. (b)(1)1.4a, (b)(1)1.4c (b)(1)1.4a, (b)(1)1.4c (b)(1)1.4a, (b)(1)1.4c" (~~S//NF~~)

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4. (~~U//FOUO~~) Aftermath - Morning of 3 October 2015

91. (~~S//REL~~) The investigation team interviewed [(b)(3) 10 USC 130c] present at the Trauma Center on the evening of 2-3 Oct. Their stories describe the attack on the Trauma Center, the deaths of several employees and patients, and the wounding of many others.[192]

(~~U//FOUO~~) The MSF Trauma Center in Kunduz following the Airstrike

92. (~~S//REL~~) As the Trauma Center burned, surviving staff transported wounded patients to an office building and a cooking facility for medical treatment. Throughout the early morning, MSF staff treated their wounded patients and colleagues. At first light, Afghan Security Forces arrived and offered limited assistance in relocating some patients to the Kunduz Provincial Hospital.[193]

93. (~~S//REL~~) When the AC-130U completed its mission and returned to BAF, the [(b)(3), (b)(6)] were debriefed by the [(b)(3), (b)(6)] and then released.[194]

94. (~~S//REL~~) Based on the MSF report[195] and interviews[196] with MSF personnel, the investigation team believes there were at least 30 fatalities (13 MSF employees, 10 patients, and 7 others yet to be identified) and approximately 37 wounded.

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[192] MFR, Interview of [(b)(3) 10 USC 130c], 2 Nov 15
[193] MFR, Interview of [(b)(3) 10 USC 130c], 2 Nov 15
[194] Email, [(b)(3), (b)(6)] 3 Nov 15

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95. (~~S//REL~~) 3 Oct 15, RS DCOS OPS appointed BG Rich Kim to lead a Civilian Casualty Assessment Team, and as Acting CDR USFOR—A, appointed BG Kim to conduct an AR 15-6 Investigation into the events on 3 Oct. On 17 Oct, CDR USFOR-A released BG Kim as a new team was appointed.[197]

96. (U) On 5 Nov 15, MSF conducted its own internal investigation into the strike. According to the report,[198] the Trauma Center experienced a significant increase in patients on 28 Sep due to the conflict.[199] On the afternoon of 2 Oct, employees placed two MSF flags on the roof of the main building. The report indicates that at the time the strike began, between 0200 and 0208, 105 patients were in the facility.[200] MSF states that that the strike lasted approximately one hour, resulting in the deaths of at least 30 individuals (10 x known patients, 13 x staff members, 7 x others still being identified).

97. (U) The government of Afghanistan also issued a report on the fall of Kunduz, which covered activities from 5 May to 28 Sep 15.[201] According to the report, insurgents emplaced fighters into the houses of Taliban-associated individuals prior to attacking Kunduz during the Eid-ul-Adha holiday. The report also states that a possible goal of the attack against Kunduz was to strengthen the public profile of the Taliban's new leader, Mullah Mansour. It also claims that 38 ANDSF were killed in the fighting.

98. (U) The United Nations Assistance Mission in Afghanistan (UNAMA) also released a report on the situation in Kunduz between 28 Sep and 13 Oct 15.[202] The report attributes the violence in Kunduz to "insufficient defensive measures" and states that it resulted in 846 civilian casualties (298 deaths and 548 injured). It also notes that 67 casualties (30 deaths and 37 wounded) were the result of the airstrike against the MSF Trauma Center. According to the report, the strike continued for 30 minutes after MSF personnel first informed US and Afghan military officials that the Trauma Center was under attack. It also states that it is not known if the attack was intentionally directed against the Trauma Center or was the result of a "breakdown of communications within the military chain of command and/or in the proper application of the relevant target identification and engagement protocols." The report states that the strike "significantly impacted the overall availability of health services" throughout the region and "may amount to a war crime."

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[195] Report, "Attack on Kunduz Trauma Centre," MSF, 4 Nov 15

[196] MFR, Interview of (b)(3) 10 USC 130b 2 Nov 15

[197] AR 15-6 Investigation Appointment Memo, 17 Oct 15

[198] Report, "Attack on Kunduz Trauma Centre," MSF, 4 Nov 15

[199] As of 30 Sep, 65 of the 130 patients in the Trauma Center were Taliban combatants. Despite the presence of patients from both sides of the conflict, the MSF report states that patients and guests in the Trauma Center observed MSF's "no weapons" policy. (Report, "Attack on Kunduz Trauma Centre," MSF, 4 Nov 15) (U)

[200] As of 2200 on 2 Oct, more than 100 staff and caretakers were sleeping in the Trauma Center basement, as MSF had prepared it as a "safe dormitory" for employees during times of crisis. (Report, "Attack on Kunduz Trauma Centre," MSF, 4 Nov 15) (U)

[201] Report, "Kunduz Tragic Incidents Fact Finding Delegation Report," 2015

[202] Afghanistan Human Rights and Protection of Civilians in Armed Conflict: Special Report on Kunduz Province, United Nations Assistance Mission in Afghanistan, Nov 15

D. FINDINGS

1. (U) General Findings

99. (~~S//REL~~) (b)(1)1.4a, (b)(5) (b)(5) (b)(5) Neither SOJTF-A, CJSOAC-A, SOTF-A nor AOB-N executed an effective Risk Management process that identified initial and emerging hazards before and during the mission to retake Kunduz, or developed and implemented controls for these hazards over the several days of mission execution.[203]

100. (~~U//FOUO~~) (b)(5) (b)(5)

101. (~~S//REL~~) (b)(5) (b)(1)1.4a, (b)(5) (b)(5) In summary, the Kunduz planning process was one-dimensional with minimal staff effort from SOJTF-A and SOTF-A, as each headquarters relied upon the CONOP provided by AOB-N with some additional staff action.[205]

102. (~~S//REL~~) The increase in US SOF OPTEMPO across the CJOA-A requires a re-look of the SOJTF-A/NSOCC-A manning at all levels. Previous OPTEMPO assumptions may have underestimated the actual manning requirement for 24/7 operations. (b)(1)1.4g (b)(1)1.4g

103. (~~S//REL~~) Throughout the investigation, it became clear that many commands have difficulty articulating an understanding of the Tactical Guidance, RS and OFS ROE, and the basic fundamentals regarding the use of force. Commanders and individual service members at each level acknowledged that they received training on these areas before and upon arriving in theater. Judge Advocates at every command confirmed that they had provided training. Each unit provided training products which attempted to simplify what is recognized as an exceptionally complex authorities environment. However, the investigation also discovered multiple instances of lack of understanding of the authorities. The most acute examples were the fact that the tactical commander was unsure of the authorities he was operating under on the night of 3 October, and a review of the multiple airstrikes in Kunduz leading up to the 3 October airstrike on the hospital. Therefore, recommend the RESOLUTE SUPPORT

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[203] Risk Management Finding, See Annex 1

[204] (b)(5)

[205] Situational Awareness Finding, See Annex 3

[206] (b)(1)1.4g ~~U//FOUO~~

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Tactical Guidance be revised in a BLUF Format that focuses the reader on priority points of emphasis within the Guidance.

104. (~~S//REL~~) The AC-130U (b)(1)1.4g contains vital mission information and capabilities (b)(1)1.4g (b)(1)1.4g. This limitation creates a data sharing choke point. Although back up processes such a voice (b)(1)1.4a, (b)(1)1.4g were available, the (b)(1)1.4g (b)(1)1.4g was the sole potential source for information such as NSL data. The AC-130U (b)(1)1.4g (b)(1)1.4g

105. (~~U//FOUO~~) (b)(5)

(b)(5)

2. (U) Directed Findings.

106. (~~S//REL~~) QUESTION 1. Identify and describe the facts and circumstances surrounding the airstrike, including the Coalition Forces and Afghan unit(s),

(b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(5), (b)(6)

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aircraft, and munitions involved in the incident. Identify and describe the process(es) and personnel who were involved in requesting and approving the combat enablers that were involved in the air strike.

a. (S//REL) General Finding. On 3 October 2015, an AC-130U, callsign (b)(1)1.4a, (b)(3), (b)(6) piloted by (b)(3), (b)(6) misidentified the intended objective of the (b)(1)1.4d counter-terrorism unit, and mistakenly engaged the MSF Trauma Center and personnel at the facility based on an improper reliance on (b)(1)1.4d violations of ROE and the COM RS Tactical Guidance, and technical failures which could have alerted US Forces to the building's protected status. For 30 minutes,[210] the aircraft fired (b)(1)1.4a (b)(1)1.4a rounds into the Trauma Center's main building and at individuals around the main building.[211] The engagement was requested and authorized by the (b)(3), (b)(6) (b)(3), (b)(6) based on intelligence provided by an (b)(1)1.4d. US personnel directly involved in the strike did not know the building was a hospital.

(1) (U//FOUO) Specific Finding. (b)(1)1.4a, (b)(3), (b)(6) alert-launched to provide CAS for US Special Forces in a Troops in Contact situation (TIC). The early launch decreased the mission preparation time for the aircrew. As a result, the aircrew did not have adequate mission products, contributing to a lack of mission planning and increased risk to mission.[212]

(2) (S//REL) **Specific Finding. The GFC provided and received all communications to the aircraft through his JTAC, (b)(3), (b)(6) The JTAC was inexperienced and used non-standard, non-doctrinal fires terminology, such as, "soften the target," and "PAX cocktail" that contributed to the misidentification of the target. (b)(1)1.4a, (b)(3), (b)(6) communicated with USSF ground force through the navigator. The navigator used non-standard, leading communication that also contributed to the misidentification of the target.[213] Non-standard communication prevented the mutual understanding of targeting data and commander's intent.[214]**

(3) (S//REL) Specific Finding. The GFC did not inform (b)(1)1.4a, (b)(3), (b)(6) that the (b)(1)1.4d objective grid or compound description came from (b)(1)1.4d and that neither he nor his JTAC could see the intended target. The JTAC used the phrase "…that your sensor is on right now," which created the impression that the JTAC could see the target through (b)(1)1.4a, (b)(1)1.4g Because theater (b)(1)1.4a

[210] 0208 to 0238 local time

[211] See Round Impacts Sheet (S//REL).

[212] The aircraft alert launched approximately 69 minutes early.

[213] Of note, the (b)(1)1.4a, (b)(3), (b)(6) (b)(3), (b)(6)

[214] MFR, Mission Analysis, 9 Nov 15

(b)(1)1.4d, (b)(3), (b)(6)

(4) (S//REL) Specific Finding. **Nothing observed by** (b)(1)1.4a, (b)(3), (b)(6) **indicated a hostile act or demonstrated hostile intent. The GFC's authorization to strike the compound in order to "destroy targets of all opportunity that may impede partner forces' success" was in violation of both ORS ROE** (b)(1)1.4a **and OFS ROE.**[216] (b)(1)1.4a, (b)(3), (b)(6) **observation and subsequent engagement of personnel without weapons or any indication of hostile intent was also in violation of ORS ROE** (b)(1)1.4a (b)(1)1.4a **and OFS ROE. The Aircraft Commander failed to positively identify a threat to USSF or ASSF, consistent with defense of others under ORS or OFS ROE.**[217] **AC-130 crews are specifically trained to** (b)(1)1.4a (b)(1)1.4a[218] **Additionally, the GFC's direction to strike, which resulted in the destruction of the compound's main building, was in violation of both ROE and COMRS Tactical Guidance for** (b)(1)1.4a[219]

(5) (U//FOUO) Specific Finding. **When the GFC approved the target engagement, the** (b)(1)1.4a **Ground Assault Force (GAF) was 9km from their objective and was not facing any hostile act or demonstration of hostile intent.**[220]

(6) (S//REL) Specific Finding. After observing both the target and friendly forces for 68 minutes, from 0100 to 0208 and not identifying any hostile act or demonstrated hostile intent against protected forces, the Aircraft Commander approved (b)(1)1.4a, (b)(3), (b)(6) engagement, in violation of ROE (b)(1)1.4a

(7) (U//FOUO) Specific Finding. Neither SOJTF-A, SOTF-A, or CJSOAC-A utilized the proper risk management process during planning to identify risks to mission or during execution to identify emerging risks.[221] Failure to follow proper procedures contributed to the lack of situational understanding and ultimately the strike on the Trauma Center.[222]

(8) (S//REL) Specific Finding. **Neither the GFC nor the Aircraft Commander exercised the principle of distinction. Neither commander distinguished between**

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[215] Investigation team line of sight observations during visit to PCOP compound and AC-130 communication transcript.

[216] The GFC believed he was operating under ORS ROE. Therefore, he provided ROE (b)(1)1.4a

[217] See Question 7 for analysis of ROE violations, and lack of PID.

[218] AFTTP 3-3 AC-130.

(b)(1)1.4a

[220] Convoy was under observation from AC-130 9km from objective when GFC ordered strike

[221] CONOP (b)(1)1.4a 09-001, 29 Sept 15 only provides a short reference to risk. Nowhere are specific mission hazards identified or controls defined.

[222] JP 3-0, ADP 5-19, AFPAM 90-803 11 Feb 13

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combatants and civilians nor a military objective and protected property. Each commander had a duty to know, and available resources to know that the targeted compound was protected property.[223]

(9) (~~S//REL~~) Specific Finding. Even though the Navigator, (b)(3), (b)(6) didn't fully describe the actions of the nine people, this mistake doesn't exonerate the GFC from authorizing an engagement of the compound that resulted in 211 rounds fired, the destruction of the main building and deaths of 30 people.[224] The GFC and the Aircraft Commander failed to exercise the principle of proportionality in relation to the direct military advantage. The (b)(1)1.4a, (b)(3), (b)(6) aircrew observed nine personnel walking around and sleeping, and the Navigator told the JTAC that nine personnel were observed at the compound.[225]

107. (~~S//REL~~) QUESTION 2. Identify the concept of the operation (CONOP) authorizing the NATO / US mission that led to the MSF hospital strike, including: the purpose and intent of the CONOP; the individuals involved in the approval process including the legal review; the existence and consideration of a no-strike list; the circumstances surrounding the decision to authorize pre-planned close air support coverage for the operation; and whether any special instructions were relayed by the chain of command in connection with the approval.

a. (~~U//FOUO~~) General Finding. The RS CONOP process is defined at the RS HQ level and understood by the subordinate commands, SOJTF-A, CJSOAC-A, SOTF-A and AOB-N's leaders interviewed.[226] In its current form, the CONOP process lacks the requirement to consult the No-Strike List or (b)(1)1.4c NSL database); lacks the requirement to submit NSL overlays with the CONOP; lacks the requirement for a Grid Reference Graphics (GRG) submission; and is not responsive for time-sensitive targets or missions.[227]

(1) (~~S//REL~~) Specific Finding. On 29 Sep, the USSF was operating underneath the authorities and CONOP (b)(1)1.4a 09-001, whose purpose was to establish a foothold in Kunduz. On 30 Sep, there was a specific Fragmentary Order (FRAGO) (CONOP (b)(1)1.4a 09-002) approved through SOJTF-A for execution of operations. No specific CONOP or FRAGO covered POD 2-3 Oct 15.[228]

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[223] Also, it is important to restate, while (b)(1)1.4a, (b)(3), (b)(6) observing what they thought was the objective, no hostile intent or hostile act was observed, but the GFC and Aircraft Commander made the decision to engage.

(b)(1)1.4a

[225] AC-130U mission video

[226] RS HQ CONOP SOP

[227] As of 25 Oct, RS HQ has implemented changes to the CONOP process for the inclusion of the NSL. As of 28 Oct, SOJTF-A implemented changes to the CONOP process for the inclusion of the NSL.

[228] CONOP Process Slide.

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(2) (~~S//REL~~) Specific Finding. CONOP (b)(1)1.4a 09-002 was a bottom-up plan developed and submitted by the GFC through SOTF-A to SOJTF-A.[229] The CONOP was fully staffed and legally reviewed. The NSL was available but not considered.

(3) (~~S//REL~~) Specific Finding. Theater Special Instructions (SPINS) were in effect, but no additional SPINS were issued for the operation on 2-3 October.[230] The

(b)(1)1.4a, (b)(3), (b)(5), (b)(6)

(c) (~~S//REL~~) The Aircraft Commander had a duty to clarify when the GFC's intent clearly suggested an unauthorized use of fires.

108. (~~S//REL~~) QUESTION 3. Determine whether the MSF facility was identified as a hospital or no-strike site on maps maintained by NATO, US Forces including US CENTRAL Command, USFOR-A, NSOCC-A, and other subordinate commands. Identify which US Forces knew or had reason to believe the facility that was struck was a hospital, and the facts and circumstances of how the information (including grid coordinates) was communicated within NATO/US Forces from MSF to USFOR-A and subordinate commands. In particular, you will determine whether the MSF facility in Kunduz had previously been the subject of intelligence collection and/ or surveillance, and the sources and circumstances of such collection, including against specific individuals such as foreign government agents.

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[229] CONOP (b)(1)1.4a 09-002.

(b)(1)1.4a

[231] AFCENT Special Instructions (SPINS) v7.0, 28 JUL 15.

[232] AFCENT Special Instructions (SPINS) v7.0, 28 JUL 15.

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a. (~~U//FOUO~~) General Finding. The MSF Trauma Center was identified as a hospital in multiple mission command systems which were accessible to leaders at all levels of command. However, on 3 Oct, due to several commanders' failure to gain and maintain situational awareness, those commands did not realize the Trauma Center was being observed and targeted. When select commands were notified that the Trauma Center was being engaged with AC-130U fires, on-shift leaders took insufficient steps that could have minimally mitigated damage to personnel at the Trauma Center.

(b)(1)1.4d, (b)(1)1.4g

(1) (~~S//REL~~) Specific Finding. **On 28 Oct 14, the Trauma Center was added to the No-Strike List (NSL) within the official Department of Defense database.**[233]

(2) (~~U//FOUO~~) Specific Finding. **The No-Strike List (NSL) was available for review by subordinate units operating within the CENTCOM Area of Responsibility (AOR), to include RS HQ / USFOR-A, SOJTF-A, CJSOAC-A, and SOTF-A.** A variety of tools and applications, to include (b)(1)1.4c can display the NSL from (b)(1)1.4a, (b)(1)1.4g[234,235]

(3) (~~S//REL~~) Specific Finding. **Prior to the 3 Oct 2015 strike, personnel at all level of Command from RS HQ / USFOR-A, SOJTF-A, SOTF-A, CJSOAC-A, AOB-N, and ODA (b)(1)1.4a either knew, or should have known of the MSF Trauma Center's location.**[236] The MSF Trauma Center coordinates were disseminated via email to at

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[233] Email from (b)(3), (b)(6) USCENTCOM J2 Targets to (b)(3), (b)(6) Investigation Team, 3 Nov 15. No-strike entities are those designated by the appropriate authority upon which kinetic or non-kinetic operations are prohibited to avoid violating international law, conventions, or agreements, damaged relations with coalition partners and indigenous populations. CJCSI 3160.01, 12 Oct 2012. The MSF Hospital was identified in (b)(1)1.4a (b)(1)1.4a as KONDOZ HOSPITAL (KONDOZ) SPINZAR. (~~S//REL~~)

[234] The NSL is maintained in the (b)(1)1.4a NPW by a team of No Strike managers. USCENTCOM, as a DoD Agency responsible for maintaining a NSL for its AOR, utilizes (b)(1)1.4a for this function as prescribed in CJCSI 3160.01. USCENTCOM does not use (b)(1)1.4c for updating the NSL but either a user or administrator can import the NSL to (b)(1)1.4d A wide variety of tools and applications (b)(1)1.4a can pull the NSL from (b)(1)1.4a to display at a moment's notice.

[235] Email, (b)(3), (b)(6) 3 Nov 15. NSEs are under the purview of (b)(1)1.4a as the responsible producer (RESPROD) in (b)(1)1.4a USCENTCOM has a local policy whereby all NSE's that are identified in the Target Development or CDE process are nominated in (b)(1)1.4a for inclusion into (b)(1)1.4a To accomplish this

(b)(1)1.4a

variety of platforms, such as (b)(1)1.4a, (b)(1)1.4g See also MSF slide/ (b)(1)1.4d (~~S//REL~~)

[236] The MSF provided a memorandum through UN Office of Coordination of Humanitarian Affairs (UNOCHA) to RS HQ on 29 Sep15. (b)(1)1.4a

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least 35 separate individuals prior to 3 Oct.[237] On 22 November 2012, the Trauma Center was identified as a hospital in the (b)(1)1.4c server.[238] [239]

(4) (U//FOUO) Specific Finding. **Prior to 3 Oct, CJSOAC-A HQ and SOTF-A HQ knew the grid coordinates of the MSF Trauma Center.** (b)(1)1.4a (b)(1)1.4a, (b)(3), (b)(6) (b)(1)1.4a[240] CJSOAC-A HQ emailed the MSF Trauma Center location to the aircraft's EWO prior to the aircraft's launch. (b)(1)1.4g (b)(1)1.4g the EWO did not receive the emailed files prior to the engagement on 3 Oct.[241] CJSOAC HQ did not confirm receipt of the emailed file, nor any NSL or protected target information with the aircrew. CJSOAC-A HQ did not provide hard copy operational graphics or products to the aircrew prior to launch.[242]

(5) (S//REL) Specific Finding. At least one of the (b)(1)1.4a, (b)(3), (b)(6) crew members had observed the pattern of life at the facility on a previous mission but was still unaware that it was a medical facility.[243]

(6) (U//FOUO) Specific Finding. By omitting key objective observations, (b)(1)1.4a, (b)(3), (b)(6) failed to adequately assist the GFC in gaining situational awareness. For example, neither (b)(1)1.4a, (b)(3), (b)(6) NAV passed the grid location to the compound they were observing to the GFC which could have alerted the GFC that the observed grid and target grid locations were different.[244] The EWO passed this grid to the CJSOAC-A OPCENTER via (b)(1)1.4a, (b)(1)1.4g without acknowledgment one minute before engaging. Also,

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[237] Multiple members of the HQRS/USFOR-A Joint Staff received notification of the MSF memo via email on or about 1 October 2015. HQRS, (b)(3), (b)(6) emailed the MSF's information to 9 separate staff members. Additionally, the (b)(3), (b)(6) emailed the information to six separate directors and the (b)(3), (b)(6) SOJTF-A. The (b)(3), (b)(6) emailed the information to multiple commands, to include the (b)(3), (b)(6) Train Advise and Assist Command – North. The (b)(3), (b)(6) emailed the (b)(3), (b)(6) the information as well. In total, a minimum of 35 individuals received information regarding the location of the MSF Hospital prior to its engagement on 3 October. See MSF Slide for more details.

[238] See Exhibit: (b)(1)1.4c screen shots; TIR OM (b)(1)1.4a

[239] See Exhibit: (b)(1)1.4c screen shots;

(b)(1)1.4a, (b)(3), (b)(6)

[241] A review of the (b)(3), (b)(6) computer was conducted by (b)(3), (b)(6), Investigation Team member, on 30 Oct, at the CJSOAC HQ. The Date Time Stamp on the email showed receipt on 4 Oct 1526.

(b)(1)1.4a, (b)(1)1.4g

[243] BDA transcript (b)(1)1.4a, 02 Oct.

(b)(1)1.4a, (b)(1)1.4g

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(b)(1)1.4a, (b)(3), (b)(6) never described the actions of the nine individuals they observed at the compound to the GFC, or the OPCENTER.[245]

(7) **(U//FOUO) Specific Finding. From 0100 until 0207 (one minute prior to engagement), the aircrew were the only individuals who knew the grid location of the aircraft's target.[246]**

(8) (S//REL) Specific Finding. SOTF-A had insufficient situational awareness of the subordinate unit's tactical operation. Due to this fact, (b)(1)1.4a, (b)(1)1.4g (b)(1)1.4a, (b)(1)1.4g

(9) (S//REL) Specific Finding. **Commands did not take adequate steps to halt the engagement when they had information to believe that the MSF Trauma Center was being engaged.** The SOTF-A and CJSOAC-A OPCENTERs did not acknowledge the grids that were transmitted by the EWO.[248] The SOTF-A (b)(3), (b)(6) received a phone call from an MSF employee who told him that the MSF Trauma Center was being bombed. The SOTF-A (b)(3), (b)(6) informed the OPCENTER. The OPSCENTER called the aircraft and inquired about the target, but did not direct a cease fire. The engagement continued for an additional eight minutes before the aircraft ceased firing.

(10) (S//NF) Specific Finding. Prior to the engagement, the (b)(1)1.4a, (b)(1)1.4c (b)(1)1.4a, (b)(1)1.4c (b)(1)1.4a, (b)(1)1.4c reporting confirmed that as many as 65 Taliban had recently received care at the facility, and that unarmed Taliban were present at the time of the strike. (b)(1)1.4c

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[245] The phone call and the FIPR message passed by the (b)(3), (b)(6) to the (b)(3), (b)(6) The (b)(3), (b)(6) acknowledgement of the call.

[246] The aircraft passed the target grids to the (b)(3), (b)(6) in the (b)(3), (b)(6) The (b)(3), (b)(6) not capture the passage of the grids, did not conduct a read back, and did not plot the grid coordinates. The aircrew engaged the target one minute later. Due to the (b)(1)1.4g (b)(1)1.4a, (b)(1)1.4g (b)(1)1.4a, (b)(1)1.4g

[248] AC-130U BDA transcript (b)(1)1.4a AC-130U BDA transcript (b)(1)1.4a ; Statement, SOTF-A (b)(3), (b)(6) 5 Oct (Upon review of the mission audio (b)(1)1.4a, (b)(1)1.4g gs, there is no indication anyone within the SOTF-A OPCENTER had the grid coordinate to the Trauma Center prior to receipt fro (b)(1)1.4a, (b)(3), (b)(6)

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confirmed that two senior Taliban officials had recently visited the hospital. No foreign persons of interest were observed at the Trauma Center.[249]

109. (S//REL) QUESTION 4. Determine whether the GFC and/or AC-130U Aircraft Commander were aware or should have been aware that the facility was the MSF hospital prior to the strike on 3 October 2015. Did they have a duty to know the facility was a hospital? Identify whether the hospital was marked as a no-strike facility within the CONOP or other guidance provided to the AOB-N or AC-130 Aircraft Commander, and if so how, e.g. in what maps, guidance systems, or documents – digital or otherwise. Also determine whether the facility had any visible outward markings indicating its status as a hospital.

a. (S//REL) General Finding. The Aircraft Commander and GFC failed to maintain situational awareness of their operating area contributing to the mistaken strike on the MSF Trauma Center. Before the strike occurred, the GFC and Aircraft Commander had resources available to determine the location of the MSF Trauma Center. Also, SOTF-A and CJSOAC-A had the mission command systems available but failed to maintain situational awareness of their subordinate units' operations to include which compound the AC-130U was observing and ultimately engaged. The lack of situational awareness by these HQs contributed to the GFC's and Aircraft Commander's mistaken strike on the MSF Trauma Center.

(1) (S//REL) Specific Finding. The GFC failed to maintain adequate situational awareness of his operating area, contributing to the mistaken targeting. The GFC did not know, but should have been aware of the MSF Trauma Center's location. USSF under the GFC command were provided with the location of the MSF Trauma Center prior to the GFC's decision to engage.[250] This would have alerted the GFC and the JTAC of the proximity and description of the hospital in relation to the NDS Compound, the intended (b)(1)1.4a GAF objective, mitigating the risk of confusion.

(2) (S//REL) Specific Finding. The (b)(1)1.4a, (b)(3), (b)(6) Aircraft Commander failed to gain and maintain situational awareness of his operating area contributing to the mistaken targeting of the MSF Trauma Center. The (b)(1)1.4a, (b)(3), (b)(6) crew members should have known the MSF Facility was on the NSL. With the failure of their (b)(1)1.4g and lack of pre-mission brief, the aircrew should have contacted the CJSOAC-A OPCENTER to attain the critical NSL information.

(3) (S//REL) Specific Finding. The aircraft launched without adequate mission products (b)(1)1.4g) that were emailed with no confirmation of receipt. (b)(1)1.4a

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

[250] Statement, (b)(1)1.4a, (b)(3), (b)(6) Statement, (b)(1)1.4a, (b)(3), (b)(6) Interview, SOTF-A (b)(3), (b)(6)

(b)(1)1.4a

(b)(1)1.4a [1] The CJSOAC Command failed to ensure the aircraft was prepared at launch and failed to maintain situational awareness of the ongoing operation, contributing to the mistaken targeting of the MSF Trauma Center.[252]

(4) (S//REL) Specific Finding. The controlling CONOP failed to annotate NSL locations, to include the MSF Trauma Center. The NSL was not considered for the CONOP production / approval process.[253]

(5) (S//REL) Specific Finding. The center roof of the MSF Trauma Center was marked with two rectangular MSF flags. When utilizing the AC-130U (b)(1)1.4g (b)(1)1.4g. The front and sides of the MSF hospital were marked from the street view and a MSF flag flew in the courtyard.[254] The MSF Trauma Center was not marked with any internationally recognized symbols such as a red cross, red crescent, or a red "H." If it had been marked with these symbols, it is possible the Trauma Center would not have been engaged.[255]

110. (S//REL) QUESTION 5. Describe the specific facts and circumstances surrounding the (b)(3), (b)(6) Commander's decision to call for close air support, including: the information passed to the AC-130 Aircraft Commander in connection with the call for close air support; the description and targeting criteria used to identify the MSF facility; and the reports or other communication from partnered Afghan forces leading to the targeting decision. This must address the particular source(s) and relevance of information he considered, including whether he deemed the situation in extremis, subject to hostile acts/hostile intent, etc. Detail the role played by the Joint Terminal Attack Controller (JTAC).

a. General Finding (S//REL). The GFC authorized an engagement of a compound in direct violation of COMRS Tactical Guidance and ROE (b)(1)1.4a The GFC violated the RS Tactical Guidance and OFS ROE when he relied on (b)(1)1.4d reporting to include objective description, grid, and current situation on the objective. The GFC failed to maintain situational awareness of the

[251] AFTTP 3-1.AC-130.

[252] The CJSOAC-A HQ Fires Officer received the no-strike list data, to include the MSF Trauma Center location, on 1 Oct from SOTF-A HQ. The information including a NSL identifying the MSF Trauma Center's location. CJSOAC-A HQ emailed updated graphics with the MSF Trauma Center's location included to the EWO at 1847 through the (b)(1)1.4g (b)(1)1.4g The email never made it to the EWO's computer prior to the (b)(1)1.4g failure at 2109. The CJSOAC-A HQ JOC did not confirm (b)(1)1.4a receipt of the email containing the NSL, and did not attempt to pass information via alternate or contingency methods such as (b)(1)1.4a, (b)(1)1.4g or relay through another platform.

[253] Statement, (b)(3), (b)(6) 22 Oct 15

[254] MFR, Kunduz site visit; MFR, Interview with (b)(3) 10 USC 130c, (b)(6) 3 Nov 2015.

[255] GC I (1949). Civilian Hospitals shall be marked by means of the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Wounded and Sick of Armed Forces in the Field, but only if so authorized by the state.

(b)(1)1.4d convoy location, failed to determine the source of audible gunfire, and the actual compound (b)(1)1.4a, (b)(3), (b) was observing.

(1) (S//REL) Specific Finding. The GFC reasonably believed that the western area of the city contained the greatest concentration of INS forces.[256] In the 48 hours preceding the actions on POD of 2 / 3 Oct, (b)(1)1.4a, (b)(1)1.4g observed multiple insurgents, at times as large as a squad, manned with heavy weapons, firing and maneuvering on the USSF at the PCOP Compound. A majority of these insurgent attacks originated from the west.

(2) (S//REL) Specific Finding. The GFC violated the RS Tactical Guidance and OPORD (b)(1)1.4 ROE by utilizing (b)(1)1.4d to declare a target hostile. Based on his decision, the GFC informed (b)(1)1.4a, (b)(3), (b)(6) that the TB controlled the planned objective (NDS Facility) and the GFC declared the nine personnel identified by (b)(1)1.4a, (b)(3), (b) as hostile.[257] The GFC received grid coordinates and target descriptions for the (b)(1)1.4 planned objective (NDS facility) from the (b)(1)1.4d, (b)(6) co-located with his command post element at the PCOP compound. He provided this information (via (b)(1)1.4a, (b)(3), (b)(6) without declaring that the intelligence originated only from (b)(1)1.4d with no PID, and that he could not see the objective from his location nor through (b)(1)1.4a, (b)(1)1.4g.[258]

(3) (S//REL) Specific Finding. The GFC failed to use available resources to PID a threat. Immediately prior to authorizing the engagement, the GFC believed there was a threat to the (b)(1)1.4d GAF originating from an east/west running road, in the vicinity of the NDS facility.[259] Based on this perceived threat and instead of using the (b)(1)1.4a, (b)(1)1.4g (b)(1)1.4a, (b)(1)1.4g to identify where the fire was coming from, the GFC authorized (b)(1)1.4a, (b)(3), (b) to engage a compound.[260] It is important to restate, the GFC had lost situational awareness; the (b)(1)1.4d convoy was at the north end of the airfield approximately 9km from the planned objective (NDS compound). No (b)(1)1.4d unit was in contact; no USSF unit was in contact.[261]

(4) (S//REL) Specific Finding. The aircraft video, radio transcript, and force tracking data are inconsistent with the GFC's statement that he located the (b)(1)1.4d GAF convoy at the time he authorized the strike.[262]

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[256] CENTCOM OPORD (b)(1)1.4 reserves authority to declare groups hostile to the Commander, USCENTCOM.

[257] RS Tactical Guidance; The GFC could not see the NDS facility from the PCOP compound.

[258] Accordingly, the GFC never obtained PID of the target IAW US targeting rules and ROE.

[259] RS HQ Tactical Guidance, 18.e

[260] The target turned out not to be the NDS compound but the MSF Trauma Center.

[261] MFR, Interview of (b)(6), 8 Nov 15; Statement, (b)(3), (b)(6) 28 Oct 15.

[262] The GFC was unable to observe demonstrated hostile intent or the commission of a hostile act against the (b)(1)1.4d convoy. The GFC CDR believed that he knew of the (b)(1)1.4d convoy's location as displayed by (b)(1)1.4g / (b)(1)1.4d He believed he heard the sound of a heavy volume of automatic gunfire coming from the west of his location. He was not in contact with the (b)(1)1.4d GAF convoy. The (b)(1)1.4d, (b)(6) was not in contact with the (b)(1)1.4d convoy at that moment. The GFC CDR assessed that the (b)(1)1.4d convoy was halted and pinned down by enemy fire. The GFC did not attempt to determine where the perceived threat originated. Instead, the GFC CDR authorized the aircraft

(5) (S//REL) Specific Finding. The crew of (b)(1)1.4a, (b)(3), (b)(6) was confused by the unclear communication from the GFC regarding targeting intent. This contributed to a disproportional response to a threat that did not exist and led to the destruction of the Trauma Center main building and 30 fatalities.[263]

(6) (S//REL) Specific Finding. The target description was provided by the (b)(1)1.4d, (b)(6) (b)(6) thru the (b)(6) co-located with the GFC. The GFC stated he believed the enemy fired upon the (b)(1)1.4d from the objective and based the targeting decision off self-defense.

(7) (S//REL) Specific Finding. The (b)(1)1.4d, (b)(6) utilizing a (b)(1)1.4a and through his (b)(6) told the GFC to "strike now."[264] The GFC did not further validate the (b)(1)1.4d strike criteria before directing (b)(1)1.4a, (b)(3), (b)(6) to engage the objective with ADM as (b)(1)1.4a

(8) (S//REL) Specific Finding. It was unreasonable for the GFC to determine that the ground situation was in-extremis, or that the decision to engage the intended target was in response to either the USSF or the (b)(1)1.4d GAF being subject to hostile acts or intent from the intended target. The GFC could neither see the target, the (b)(1)1.4d GAF that was allegedly under fire or the perceived source of enemy fire.

(9) (S//REL) Specific Finding. The JTAC did not use prescribed doctrine, SOPs or approved TTP to conduct the fire mission.[265] This contributed to the misidentification and mistaken targeting of the MSF Trauma Center.

111. (S//REL) QUESTION 6. Identify whether intelligence existed assessing the presence at the MSF site of insurgents or persons considered hostile forces under USCENTCOM OPORD (b)(1)1.4a Describe the situation at the hospital as observed by the Aircraft Commander and Fire Control Officer, including data recorded by video feed and radio traffic. (b)(1)1.4g (b)(1)1.4g **?**

a. (S/NF) General Finding. Intelligence assessed that insurgents and potentially high value individuals were at or had visited the MSF Trauma Center.

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to engage the objective, in essence to conduct pre-assault fires. The GFC requested the aircraft keep a sensor on the (b)(1)1.4d GAF convoy. The GFC requested periodic updates of the GAF's position. The GFC requested that the aircraft engage when the convoy got to a certain location. The aircraft could observe the convoy on its sensors. The aircraft provided periodic updates of the convoy's location to the GFC.

[263] The GFC passed (b)(1)1.4a, (b)(3), (b)(6) that he wanted to prosecute the target, under ROE (b)(1)1.4a focusing on the building first, (b)(1)1.4a second, using a PAX cocktail (b)(1)1.4a on the building and (b)(1)1.4a on the (b)(1)1.4a. (What specific information did the GFC pass to the (b)(1)1.4a, (b)(3), (b)(6) in connection with the call for fire?)

[264] MFR, Interview of (b)(3), (b)(6), 8 Nov 15; After multiple interviews of ANDSF members who were present in Kunduz, the investigation could not determine which specific (b)(1)1.4c, (b)(1)1.4d (b)(1)1.4c, (b)(1)1.4d to the GFC.

[265] For example, the JTAC provided no CAS brief or Call For Fire to the aircraft. JP 3-09.3 and MTTP 3-09.32 (JFIRE) contain the doctrine for CAS execution. AFTTP(I) 3-2.6 is the Air Force JFIRE. Additionally, RS SOP 369 provides guidance on proper execution of CAS.

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There are no specific intelligence reports that confirm insurgents were using the MSF Trauma Center as an operational C2 node, weapons cache or base of operations.[266]

(1) (~~S/NF~~) **Specific Finding.** (b)(1)1.4a, (b)(3), (b)(6) **observations of unarmed individuals walking around, sitting in chairs, is inconsistent with a description of a hostile act or demonstrated hostile intent.** Overall crew mission competency contributed to misinterpretation of objective area dynamics.[267] (b)(1)1.4g

(b)(1)1.4g

(2) (~~U//FOUO~~) Specific Finding. (b)(1)1.4g[269] **failure prevented the SOJTF-A and SOTF-A from receiving** (b)(1)1.4g **from** (b)(1)1.4a, (b)(3), (b)(6) **Failure to properly utilize** (b)(1)1.4a, (b)(1)1.4g **command net and failure to re-task additional ISR assets prevented SOTF-A, CJSOAC-A, and SOJTF-A from** (b)(1)1.4g (b)(1)1.4g[270]

112. (~~S//NF~~) QUESTION 7. Identify and describe the basis for the use of force for the strike against the facility. Include the specific operational authorities, including the applicable rules of engagement, under which combat enablers were authorized and the airstrike was conducted. Assess whether the combat enablers involved in the airstrike were authorized under the correct operational authorities, rules of engagement and tactical guidance. Determine at what point US Forces involved in the strike realized the site was a hospital, and the actions taken in response by US personnel including any call to ceasefire on the site.

a. (~~U//FOUO~~) GENERAL FINDING. The employment of CAS to destroy a building and engage associated personnel was unauthorized in this instance.

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[266] US intelligence assessed that insurgents were present at the Trauma Center at the time of the strike and that insurgents frequented the facility. The MSF was not witting or coerced into allowing insurgents to use the Trauma Center as an operational headquarters or to cache weapons. The MSF acknowledged treating insurgents. Insurgent meetings may have occurred within the facility. None of this was known to the aircrew

(b)(1)1.4a, (b)(1)1.4g

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The GFC's decision to provide pre-assault fires and the aircraft's employment of fires in a deliberate, nondiscriminatory, and offensive manner without positive identification (PID) of a threat resulted in substantial civilian casualties, significant collateral damage to the MSF Trauma Center, and operational failure.

(1) (U//FOUO) Specific Finding. (b)(3), (b)(6) willfully violated the ROE and tactical guidance by improperly authorizing offensive operations. The GFC understood he had the operational authority to employ fires in self-defense of the PDSS elements[271] against a *hostile act* under RS ROE (b)(1)1.4a and abused that authority to engage the (b)(1)1.4d GAF target objective with pre-assault fires.

(a) (U//FOUO) Specific Finding. (b)(3), (b)(6) could not have reasonably believed that a hostile act warranting engagement under RS ROE (b)(1)1.4a existed. The (b)(1)1.4d GAF's location at the time the engagement was authorized is crucial to determining if applicable ROE and Tactical Guidance were applied appropriately. The (b)(3), (b)(6) version of events surrounding his decision to authorize the strike is internally inconsistent, implausible, and contradicted by other available sources of credible information.

i. (S//REL) GFC. The GFC claims he believed the (b)(1)1.4d GAF halted at an intersection approximately 600m east of its intended target when the (b)(1)1.4d requested immediate strike of the NDS compound.[272] The GFC claims his understanding of the GAF location was confirmed by (b)(1)1.4d[273] and his observation of a (b)(1)1.4d at the intersection.[274] The GFC stated hearing a significant volume of fire coming from the west at the same time the (b)(1)1.4d, (b)(6) requested the strike. The GFC agreed to strike the building, believing that "our [the USSF's] integrated defense was in danger."[275] (b)(1)1.4a, (b)(3), (b)(6) then contacted (b)(1)1.4a, (b)(3), (b)(6) and gave them clearance to engage the (b)(1)1.4d GAF target objective. Accordingly, (b)(3), (b)(6) statements are internally inconsistent with regard to the location of the (b)(1)1.4d GAF and the legal justification proffered for the strike.

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[271] It is arguable whether the (b)(1)1.4d GAF was PDSS for their executed mission on 3 Oct. The PDSS designation was for specific forces, including the (b)(1)1.4d accompanying US forces. However, the (b)(1)1.4d GAF's mission was Afghan planned; the (b)(1)1.4d GAF had not been at the PCOP compound for approximately 24 hours; the (b)(1)1.4d GAF departed from (b)(1)1.4d (b)(1)1.4d the (b)(1)1.4d GAF target was an Afghan objective; the (b)(1)1.4d GAF did not provide nor did USSF provide a CONOP or other respective SA; and no US personnel physically accompanied the (b)(1)1.4d GAF. However, whether the (b)(1)1.4d GAF was PDSS had no bearing on the GFC's unauthorized engagement, because the (b)(1)1.4d were facing no threat at the time of authorization.

[272] Transcript, Interview of (b)(3), (b)(6), 28 Oct 15; MFR, Interview of (b)(3), (b)(6), 28 Oct 15.

[273] MFR, Interview (b)(1)1.4d Program Manager, 2 Nov (b)(1)1.4d places the (b)(1)1.4d GAF 7.4 km away from the NDS compound, in the vicinity of the Kunduz Airfield, when the GFC ordered the engagement. (b)(1)1.4b (S//REL)

[274] The GFC was located at the PCOP compound and did not have line of sight (LOS) with the (b)(1)1.4d GAF or the NDS compound prior to or at the moment he authorized the ADM strike. As a result, it is impossible for the GFC to have witnessed the (b)(1)1.4d as alleged. PCOP compound site visit MFR, Brig Gen Armfield.

[275] Statement from (b)(3), (b)(6) 28 Oct 15.

ii. (S//REL) (b)(1)1.4a, (b)(3), (b)(6) Sensor Footage. The GFC requested through the JTAC that (b)(1)1.4a, (b)(3), (b)(6) monitor the progress of the (b)(1)1.4d GAF and notify him when it was within 1km of its target objective.[276] The aircrew monitored the (b)(1)1.4d GAF's progress until approximately 0202, when the GFC's intent to engage was passed. At that moment, the lead vehicle of the (b)(1)1.4d GAF was passing the northern limit of the Kunduz Airfield, approximately 9 km from the intersection where the GFC claims the (b)(1)1.4d GAF was located.[277] As a result, the aircrew was aware that the (b)(1)1.4d GAF was not in the vicinity of the observed compound (MSF Trauma Center), was not under fire or any other threat, and was not subject to Hostile Act or Demonstrated Hostile Intent at the moment the engagement was authorized.

iii. (S//REL) (b)(1)1.4d confirms that the (b)(1)1.4d GAF was still in the vicinity of the Kunduz airfield when the GFC passed authorization to engage.[278] (b)(3), (b)(6), therefore should have known the (b)(1)1.4d GAF was not halted at an intersection under fire as claimed if he had properly interpreted the (b)(1)1.4d

iv. (S//REL) Hostile Act Analysis. (b)(3), (b)(6) could not have reasonably believed that a hostile act warranting engagement under RS ROE (b)(1)1.4a existed. The GFC's version of events is inconsistent upon thorough review of the (b)(1)1.4a, (b)(3), (b)(6) sensor footage, (b)(1)1.4d, investigative team site visit, and GFC guidance to (b)(1)1.4a, (b)(3), (b)(6) regarding the eventual engagement.

(b) (U//FOUO) **GFC PID.**

i. (S//REL) PID of Individuals. Assuming the GFC reasonably believed that a hostile act was being committed against the (b)(1)1.4d GAF, the GFC was responsible for establishing PID.[279] The GFC relied solely on (b)(1)1.4d that the NDS compound was under Taliban control. The GFC declared all observed personnel as hostile immediately after receiving a (b)(1)1.4a designation from (b)(1)1.4a, (b)(3), (b)(6) The GFC's communications with (b)(1)1.4a, (b)(3), (b)(6) proceeded to express a targeting rationale and intent of pre-assault fires, which was inconsistent with self-defense.[280]

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[276] Final transcript, (b)(1)1.4a

[277] This determination of the (b)(1)1.4d GAF's location is supported by the air crew's observations, who also confirm that there were no friendly forces in the vicinity of the target as ascertained from the (b)(1)1.4a, (b)(3), (b)(6) Image.

[278] MFR, Interview (b)(1)1.4d Program Manager, 2 Nov (b)(1)1.4b (b)(1)1.4b

(b)(1)1.4a, (b)(1)1.4g

[280] BDA Recorder Transcript, (b)(1)1.4a; Lighten the Load; BDA Recorder Transcript, (b)(1)1.4a Soften the Target; BDA Recorder Transcript, (b)(1)1.4a; Destroy targets of all opportunity

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(c) (U//FOUO) Specific Finding. (b)(3), (b)(6) authorized the engagement as pre-assault fire support meant to "soften the target" and "lighten the load" for (b)(1)1.4d GAF. The GFC's communications through (b)(1)1.4a, (b)(3), (b)(6) with the aircrew contain indications of offensive use of fires but make no mention of hostile acts. At (b)(1)1.4a the GFC immediately determines that "those PAX are hostile" upon receipt of (b)(1)1.4a the GFC's intent that (b)(1)1.4a, (b)(3), (b)(6) "lighten the load for partner forces" is relayed. At (b)(1)1.4a, The navigator is informed "we'll also be doing the same thing of softening the target for partner forces" when notified of a potential follow-on mission. At (b)(1)1.4a, the navigator is notified that GFC intends to "destroy targets of all opportunities that may impede forces". At (b)(1)1.4a the navigator is told "...enemy PAX at objective building, GFC requests we prosecute those targets" under RS ROE (b)(1)1.4a despite the absence of a HA warranting self-defense. Accordingly, it is clear the GFC intended pre-assault fire support to the (b)(1)1.4d GAF upon ordering the engagement.

(2) (U//FOUO) Specific Finding. (b)(3), (b)(6) decision to authorize the strike under RS ROE (b)(1)1.4a was unreasonable. The Aircraft Commander reasonably believed that he could employ fires in self-defense of groups that commit or directly contribute to a hostile act (not constituting an actual attack) against PDSS individuals.[283] The transcript indicates he was not aware of any PDSS designation.[284] The Aircraft Commander could see the situation on the ground, to include observation of the (b)(1)1.4d GAF he was acting to protect under self-defense. The aircrew's observations were inconsistent with the JTAC-provided descriptions and intent. The (b)(3), (b)(6) is responsible for knowing the GFC's authority to (b)(1)1.4a, (b)(1)1.4g

(b)(1)1.4a, (b)(1)1.4g

(b)(1)1.4a, (b)(1)1.4g The Aircraft Commander knew the location of the (b)(1)1.4d GAF and had not observed any hostile acts committed against the (b)(1)1.4d GAF when the GFC authorized engagement under a self-defense ROE. Nevertheless, (b)(3), (b)(6) employed 211 total rounds in order to destroy a building and engage associated personnel.[286]

(a) (U//FOUO) **Hostile Act**.

i. (S//REL) The aircrew observed four critical groups or locations - the USSF at the PCOP compound, the (b)(1)1.4d GAF movement, the first identified compound (MSF Trauma Center), and the second identified compound (NDS compound). The

[283] RS ROE (b)(1)1.4a

[284] BDA Recorder Transcript, (b)(1)1.4a

(b)(1)1.4a, (b)(1)1.4d, (b)(1)1.4g

[286] Employed munitions were (b)(1)1.4a

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(b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6) shows observation of the (b)(1)1.4a GAF over a significant period of time on 3 Oct. No hostile act is observed against the (b)(1)1.4a GAF during this period. (b)(1)1.4a, (b)(3), (b)(6) only momentarily observes the USSF at the PCOP Compound, but the GFC at that location never informed (b)(1)1.4a, (b)(3), (b)(6) of any hostile acts against USSF. The (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6) shows the observation of both compounds, the MSF Trauma Center and NDS compound, for several minutes each.[287] No hostile act is observed at either compound. (b)(1)1.4a the navigator's providing of a (b)(1)1.4a was inappropriate because it inaccurately suggested a hostile force. The GFC immediately declared all observed personnel hostile after (b)(1)1.4a receipt.[288] Other than the (b)(1)1.4a no other observations of personnel were communicated to the GFC.

ii. (~~S//REL~~) **Analysis.** (b)(1)1.4a, (b)(3), (b)(6) never positively identified a hostile act originating from the MSF Trauma Center, nor did it positively identify a hostile act being committed against neither USSF at the PCOP compound or against the (b)(1)1.4a GAF, and no consideration was given for the potential for civilians in the compound. Therefore, the navigator's decision to provide a (b)(1)1.4a to the GFC after observation of nine individuals engaged in ordinary and innocuous activities was insufficient upon which to make a targeting decision. The provided (b)(1)1.4a was a critical factor that resulted in GFC making the hostile determination. The GFC should have solicited additional information from (b)(1)1.4a, (b)(3), (b)(6) given that the aircraft was the only asset with LOS. The (b)(3), (b)(6) failed to adequately communicate the aircrew's observations to the GFC for further development of his tactical situation awareness.

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[287] MSF Trauma Center observed from BDA Recorder Transcript, (b)(1)1.4a until engagement at (b)(1)1.4a (b)(1)1.4a except for 8 minutes when the NDS Complex was observed.

[288] Over that period of observation: BDA Recorder Transcript, (b)(1)1.4a (b)(3), (b)(6) stated "And contact I've got 1 (b)(1)1.4a SE corner of the compound heading southbound. (b)(1)1.4a, (b)(1)1.4c (b)(1)1.4a, (b)(1)1.4c (b)(1)1.4a, (b)(1)1.4c"; (b)(1)1.4a (b)(3), (b)(6) stated "Crew, we have movement on the compound passed from (b)(1)1.4a, (b)(3), (b)(6) that appears to be (b)(1)1.4a but we'll keep eyes on for that compound."; (b)(1)1.4a (b)(3), (b)(6) stated "Well it's (b)(1)1.4a for this compound, there's not normally people moving around in the city during this time but "we've (b)(1)1.4a in the same area all night since I've been here."; (b)(1)1.4a (b)(3), (b)(6) "Rog, yeah that's what I meant POL for the compound."; (b)(1)1.4a (b)(1)1.4a (b)(3), (b)(6) stated "Looks like 2 (b)(3), (b)(6), (b)(1)1.4a in the prison complex?) Affirm, it's actually from the NE corner and that you have your main entrance that I can see on the SW corner, but the (b)(1)1.4a, (b)(1)1.4c (b)(1)1.4a, (b)(1)1.4c so this might be a building of interest (b)(3), (b)(6) copy)." (b)(1)1.4a -FCO "TV, you can't tell if they're carrying anything can you? (TV-Negative, not at the moment) Thanks (NAV-Copy)"; (b)(1)1.4a -IR "Next to the T-shaped building you've got looks like 3 possible (b)(1)1.4c (FCO-Rog.)"; (b)(1)1.4a -TV "Alright showing 5 in the N side there now 2 here, 1 walked in between these 2 building, 2 in the front so a total of (b)(1)1.4a at the moment (b)(1)1.4a, (b)(3), (b)(6) -Copy I'll pass it) and actually it might be (b)(1)1.4a you have 2 more over next to this building, we'll just continue to monitor it before passing anything. (b)(3), (b)(6) Alright (b)(1)1.4a, (b)(3), (b)(6) you)."; (b)(1)1.4a (b)(3), (b)(6) stated in replied to JTAC request (b)(1)1.4a, (b)(3), (b)(6) contact (b)(1)1.4a appears to be (b)(1)1.4a for the compound."

(e) (~~S//REL~~) The GFC could not authorize pre-assault or preparatory fires. COMRS is the approval authority for such an engagement.[297]

(4) (~~U//FOUO~~) Specific Finding. SOTF-A realized the site was a hospital at 0225. The GFC gave the cease-fire order to (b)(1)1.4a, (b)(3), (b)(6) at 0238. The MSF Country Director notified the SOTF-A (b)(3), (b)(6) that the Kunduz MSF Trauma Center was being engaged via telephone at 0219.[298] (b)(3), (b)(6) immediately informed the (b)(3), (b)(6) (b)(3), (b)(6) who notified (b)(3), (b)(6) via (b)(1)1.4a, (b)(1)1.4g call.[299] (b)(6) (b)(3), (b)(6) immediately relayed a cease-fire order to (b)(1)1.4a, (b)(3), (b)(6) at 0238.[300]

113. (~~S//REL~~) QUESTION 8. Specifically identify the munitions utilized by the AC-130 Aircraft during the strike on the MSF facility, and the targeting methodology applied. What was the objective of the fires? Specific findings must be made regarding positive identification of the targets, their status as a lawful targets, expected collateral damage, and proportional use of force.

a. (~~S//REL~~) General Finding. The GFC and the aircrew's lack of situational awareness and judgement led to an engagement that was disproportional to the described or perceived threat.

b. (~~S//REL~~) Specific Finding. The crew of (b)(1)1.4a, (b)(3), (b)(6) fired 211 total rounds of ammunition into and at personnel around the MSF Trauma Center. The caliber of the rounds breaks down as follows: (b)(1)1.4a rounds fired); (b)(1)1.4a [301]

c. (~~S//REL~~) Specific Finding. (b)(1)1.4a, (b)(3), (b)(6) objective that evening was the NDS Compound, but (b)(6) fired on the misidentified target, MSF Trauma Center main building.

d. (~~S//REL~~) Specific Finding. Neither the GFC nor the aircrew had PID of any person or building either committing a hostile act or demonstrating hostile intent. See question 7 for analysis.

e. (~~S//REL~~) Specific Finding. The GFC had limited situational awareness of Kunduz beyond his LOS and what available aircraft relayed. The GFC had experienced a significant fighting for approximately 51 hours. His force had received most of their contact from west of his location. The GFC reasonably believed that the (b)(1)1.4a GAF could be threatened on their way to their objective, but his decision to authorize destruction of

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[297] COM RS Tactical Guidance, Para.18.e., 9 Sep 15 (2a CONOP level approval authorities).

[298] SOTF-A (b)(3), (b)(6) Sworn Statement 07 Nov 15.

[299] Statement, (b)(3), (b)(6) 6 Nov 15.

[300] Transcript, Interview of (b)(3), (b)(6) 28 Oct 15; MFR, Interview of (b)(3), (b)(6) 28 Oct 15.

[301] See Round Impacts Sheet Pg. 30 (~~S//REL~~).

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the building was not consistent with the perceived threat of fire at the convoy coming down east-west roads.

f. (~~S//REL~~) Specific Finding. During the POD 2-3 Oct, the GFC lacked appropriate situational awareness to authorize the destruction of the building. He acknowledged that he may have received the grid coordinates to the MSF Trauma Center from someone at the SOTF-A OPCENTER while the fight was ongoing.[302] He had resources available such as the (b)(1)1.4a, (b)(1)1.4g that would have confirmed the location of the Trauma Center had he known the location the aircraft was targeting. He called for fire based upon (b)(1)1.4d prior to receiving any target description or confirmation, and never requested the grid location that the aircrew was observing. He ordered the airstrike in support of the (b)(1)1.4d GAF, while they were enroute to the intended objective. He declared the individuals at the target site as hostile based on a (b)(1)1.4a without identifying hostile activity. He did not have LOS on the intended target. His intent as well as his authorization to engage the building was inconsistent with his perception of the threat because he believed the threat was from small arms fire coming from the east-west roads.

g. (~~U//FOUO~~) **Specific Finding. The strike authorized by the GFC and (b)(3), (b)(6) and executed by the aircrew, was disproportional to the observed threat. The critical issue with the strike is distinction and not proportionality, which relates to the measured use of force against legitimate military targets.**

(1) (~~U//FOUO~~) Specific Finding. Proportionality assumes that the target to be engaged is a lawful military objective. Therefore, any engagement of a target that is not a lawful military objective is facially disproportional. The MSF Trauma Center was not a lawful military objective. At the point of engagement, any use of force against it was disproportional.

(2) (~~U//FOUO~~) Specific Finding. The GFC and the Aircraft Commander failed to identify the MSF Trauma Center as a lawful target. Therefore, it should have been presumed to be a civilian compound. The GFC never positively identified that the intended target building did not contain civilians, and that the persons identified or the targeted building were committing a hostile act or demonstrating hostile intent. The aircrew never had positive identification.

(3) (~~U//FOUO~~) Specific Finding. Any use of force was disproportionate due to the non-existence of a threat. There were no legitimate circumstances requiring the crew members to make decisions to engage without clarifying or requesting more information.

[302] Statement, SOTF-A (b)(3), (b)(6) 5 Nov 15

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(4) (~~U//FOUO~~) Specific Finding. Assuming, however, that the GFC and the Aircraft Commander reasonably believed that they were authorizing an engagement of a lawful target, the expected military advantage to be gained from the engagement of the target must be weighed against the expected incidental harm to civilians.

(a) (~~U//FOUO~~) Specific Finding. The GFC believed that the NDS Compound was under INS control, but did not have LOS observation of either the intended target, or the (b)(1)1.4dGAF. He could not observe any fires from the NDS Compound. He relied on (b)(1)1.4d when he knew that he was not authorized to do so. He knew the (b)(1)1.4dGAF was not at the NDS site. Any response he requested should have been commensurate with his observations of a threat.

(b) (~~U//FOUO~~) Specific Finding. The GFC authorized pre-assault fires, despite providing a Self-Defense ROE. (See Question 7 for further analysis.) He authorized striking the building without confirming the lack of civilian presence. He authorized a deliberate strike without authority. He identified people as hostile based on (b)(1)1.4d intelligence, and no further description from the aircrew. He described the distinct military advantage to be achieved by the engagement of the NDS compound as destruction of any targets of opportunity that would impede partner force success.

(c) (~~U//FOUO~~) Specific Finding. The aircrew knew through their own observations of the target that the GFC's stated defense of others authority was inconsistent with the GFC's implied intent of pre-assault fires. They had observed no hostile act or hostile intent.

(d) (~~U//FOUO~~) Specific Finding. The crew members, to include (b)(3), (b)(6) (b)(3), (b)(6), could not confirm the target. They arbitrarily chose the building they engaged. There were several other buildings in the compound besides the main Trauma Center building. The aircrew assumed the T-shaped building was the prison based on the description provided by the JTAC. The prison, later referred to as a C2 node by the aircrew, could have been any of the buildings in the compound. However, the aircrew chose the largest building, after observing nine individuals, and making an assumption about the status of the MSF Trauma center as a lawful target with no further confirmation. The (b)(1)1.4a, (b)(6) (b)(1)1.4amade the determination of a threat, without inquiring what the threat was or from where it was coming.

(e) (~~U//FOUO~~). Specific Finding. The GFC and Aircraft Commander actions were not reasonable under the circumstances.

i. (~~U//FOUO~~). The aircrew was told by the GFC that the building was under Taliban control. They were told that the target was the NDS compound. They observed people around the compound at approximately 0200. They were provided a self-defense authority by the GFC, which was inconsistent with their own observations. They were told to soften the target, suggesting pre-assault fires, but provided a self-defense authority. They were told to strike without any positive identification of a threat.

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The commander's intent coupled with the defense of others ROE should have created doubt in their mind that the target was a lawful target. The transcript indicates that members of the aircrew were confused about the target, the commander's intent, and the positive identification of hostile act and demonstrated hostile intent, yet they never developed the situation or clarified these concerns with the GFC, in accordance with JP 3-09.3.

ii. (~~U//FOUO~~) **The totality of the crew's observations of the building was inconsistent with the GFC's assessment.** The aircraft observed nine people behaving normally.[303] They were told that, "all PAX are hostile." This was an unreasonable reliance on the GFC's assessment, to the exclusion of all other readily apparent information, to include their own direct observation of the MSF Trauma Center that should have raised questions. The Trauma Center building was well-lit, making it obvious despite the well-known fact that military aircraft were overhead; no one at the MSF Trauma Center was seen carrying weapons, despite the (b)(1)1.4d assessment that this was a Taliban-controlled C2 node in a hostile part of the city.[304]

iii. (~~U//FOUO~~) **Specific Finding. There were no exigent circumstances that caused the aircrew to clarify the target.** This was not a time-sensitive target. The aircraft knew the location of the (b)(1)1.4d GAF and could assess that there was no threat posed against the convoy. The aircraft had time to confirm the target through multiple commands. The aircrew had time to execute the deliberate targeting process prior to engagement. The aircraft was not low on fuel, as it had recently refueled prior to the engagement.

(f) (~~U//FOUO~~) Specific Finding. The aircrew failed to take feasible precautions to reduce the risk of harm to individuals they could not positively identify as combatants. The aircrew consistently engaged individuals that it did not positively identify as a threat for 30 minutes.

114. (~~S//REL~~) QUESTION 9. Determine whether the military force used in this case, particularly the use of close air support, complied with the Law of Armed Conflict (LOAC) and the governing NATO or OFS Rules of Engagement (ROE), including compliance with applicable NATO/ USFOR-A tactical guidance.

a. (~~U//FOUO~~) General Finding. The use of military force, including the employment of ADM in this engagement, failed to comply with the plain language of the applicable NATO/ USFOR-A tactical guidance, was a departure from the COMRS's Intent, and did not comply with either the governing NATO or OFS ROE.[305] The GFC and aircrew failed to comply with the LOAC.[306]

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[303] (b)(1)1.4a, (b)(3), (b)(6) BDA video.

[304] During the interview with the (b)(1)1.4a, (b)(3), (b)(6) he stated that, in his experience, when AC-130 aircraft fly over insurgents, they act normally, or try to stay normal. He stated that civilians will not try to be nonchalant when the aircraft is overhead.

[305] RS SOP (b)(1)1.4a

b. (~~U//FOUO~~) **Specific Finding. The employment of ADM on the MSF Trauma Center failed to comply with the plain language of current applicable tactical guidance and the Commander's stated intent.** The failure to properly apply this guidance, the inability to determine the presence of civilians, and the accompanying damage failed in terms of limiting or mitigating civilian casualties.[307]

c. **(~~U//FOUO~~) Specific Finding. The Navigator failed to obtain positive identification of a lawful military objective. The Navigator failed to transmit critical information about the aircraft's targeting process to the GFC; failed to seek clarification from the JTAC on critical target descriptions; failed to reconcile inconsistent targeting information and situational awareness; and ignored an accurate target grid location in favor of a vaguely described compound which was later determined to be the MSF Trauma Center.**

d. (~~U//FOUO~~) Specific Finding. The aircrew's failure to exercise judgement when their observations did not correspond with the GFC's description, intent, and ROE led to a LOAC violation.

e. (~~U//FOUO~~) Specific Finding. It was unreasonable for either the GFC or Aircraft Commander to believe either the NDS Compound or Trauma Center was a Lawful Military Objective.

f. (~~U//FOUO~~) Specific Finding. The aircraft's determination and communication of a (b)(1)1.4a was inconsistent with their own observations. The aircrew's reliance on the GFC's determination, "all PAX are hostile," was inconsistent with the aircrew's own observations and the GFC's representations suggesting pre-assault fires.

g. (~~U//FOUO~~) Specific Finding. Even if the aircraft commander reasonably relied on the GFC's determination of hostile intent, the aircrew fired on the building and personnel when they did not observe a threat against protected persons. The IR Sensor Operator was observing the (b)(1)1.4a GAF 9km from their objective, and the GFC indicated no threat to positions. Therefore, the strike could not be reasonable.

(1) (~~U/FOUO~~) Specific Finding. The GFC's proffered self-defense justification was inconsistent with pre-assault fires.

(2) (~~U//FOUO~~) Specific Finding. The Aircraft Commander was responsible for knowing the GFC was not the approval authority to conduct pre-assault fires.

(3) (~~U//FOUO~~) Specific Finding. The TV Sensor Operator raised doubt within the aircrew that they were not positively identifying a hostile act or hostile intent from the building. The TV Sensor Operator and IR Sensor Operator could see that they were not

[306] Additional Protocol I, para. 57(2)(a)ii(I)

[307] COM RS Tactical Guidance, 9 Sep 15; See analysis to Question 7.

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positively identifying a threat to the (b)(1)1.4a GAF. Up until the point of engagement at 0208, crew members had questions about the engagement, to include a description of the building, and questions about whether the persons should be engaged.[308]

(4) (~~S//REL~~) Specific Finding. The weaponeering solution proposed by the GFC, (b)(1)1.4a was consistent with a mission to engage personnel, not a structure. However, the aircrew's weaponeering solution was not consistent with a mission to engage personnel.

(5) (~~S//REL~~) Specific Finding. The GFC and the Aircraft Commander failed to make a proper determination that the target site was a lawful military objective.

(6) (~~U//FOUO~~) Specific Finding. The attack was disproportionate to the threat. See analysis in Question 8. The GFC and the aircrew did not attempt to distinguish between combatants and non-combatants. The aircrew took (b)(1)1.4a to observe the target prior to engaging it. The (b)(1)1.4a gave the aircrew ample time to determine the strike was unnecessary.

(7) (~~U//FOUO~~) Specific Finding. The TV and IR Sensor Operators were continued to to fire on individuals when it was no longer reasonable to do so.

115. (U) QUESTION 10. Indicate whether combatant and/or non-combatant personnel were killed or wounded. For all personnel killed or wounded, identify, whenever possible, the organization(s) who sponsored or employed these personnel, including, MSF. You will summarize the MSF and Afghan Government perspectives of the incident, including any readily available investigative reports.

a. (~~U//FOUO~~) General finding. The attack on POD 2 / 3 Oct resulted in 30 fatalities, 37 wounded, and the destruction of an active Trauma Center that was protected by the Law of Armed Conflict (LOAC).[309]

(1) (~~U//FOUO~~) Specific Finding. On the 3 Oct strike on the MSF Trauma Center, only non-combatant personnel were killed or wounded.

(2) (~~U//FOUO~~) Specific Finding. **No individuals were committing hostile acts or demonstrating hostile intent from the MSF Trauma Center.** The Trauma Center was treating insurgents who were not lawfully targetable.[310]

(3) (U) Specific Finding. The MSF Trauma Center was actively employing a combination of expatriate and Afghan medical personnel to provide medical

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[308] BDA Recorder Transcript, (b)(1)1.4a

[309] MSF Public Report and (b)(3) 10 USC 130c

[310] LOW manual, 5.10; Persons placed hors de combat include combatants who have been rendered unconscious or otherwise incapacitated due to wounds, and may not be made the object of an attack

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services in Northern Afghanistan. It was active during the fighting in Kunduz on 3 Oct.

(4) (S//REL) Specific Finding. GIROA military officials were aware the hospital was functioning and treating wounded Taliban members. The hospital was not the target of the 3 Oct (b)(1)1.4d mission.

116. (S//REL) QUESTION 11. Identify the tactics, techniques, and procedures used to de-conflict the battle space and obtain approval for the combat enablers involved in the air strike and the air strike itself. Specifically describe the procedures used to identify friendly forces or noncombatants in the area, and the process by which noncombatant and protected sites were received and disseminated by US forces. Identify and describe all approvals received for the airstrike.

a. (S//REL) General Finding. The GFC and the aircraft commander utilized acceptable TTPs to coordinate their efforts on mission execution. None of these TTPs focused on non-combatants.

(1) (S//REL) Specific Finding. The GFC routinely communicated with his partner forces and used (b)(1)1.4a to monitor friendly force locations. The GFC relied on (b)(1)1.4d for the initial grid location and observations from (b)(1)1.4a, (b)(3), (b)(6) to identify non-combatants in the area. He initially relied on (b)(1)1.4d intelligence and observations from (b)(1)1.4a, (b)(3), (b)(6) to identify non-combatants in the area.

(2) (S//REL) Specific Finding. The GFC coordinated with partner force leaders to identify ANDSF locations in person at (b)(1)1.4a prior to departure and via cellphone during the operation. The GFC used maneuver graphics and a 1:50,000 map of Kunduz city to de-conflict operations.

(b)(1)1.4a

(4) (S//REL) Specific Findings. (b)(1)1.4a, (b)(3), (b)(6) early alert was approved by SOJTF-A to ensure USSF had continuous CAS overhead. (b)(1)1.4a, (b)(3), (b)(6) was assigned as the airspace controller over Kunduz.

(5) (S//REL) Specific Finding. SOTF-A maintained a (b)(1)1.4a (b)(1)1.4a that identified some protected sites. The (b)(1)1.4a did not include a comprehensive list of no-strike targets and was primarily used to enhance the situational awareness of its users. SOTF-A sent the (b)(1)1.4a to the (b)(3), (b)(6) (b)(3), (b)(6) but the file was not successfully sent to (b)(1)1.4a, (b)(3), (b)(6). SOTF-A did send information to the GFC regarding the location of the MSF facilities in Kunduz via voice communication. The GFC did not bring information on non-combatants and protected sites to the PCOP compound.

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E. RECOMMENDATIONS

1. (U) General Recommendations

(b)(1)1.4a, (b)(1)1.4c, (b)(5)

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2. (U) Command Action Recommendations

(b)(3), (b)(5), (b)(6)

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Annex 1: Risk Management

Finding: Significant issues occurred in the exercise of Risk Management throughout the Military Decision Making Process and mission execution during the Kunduz operations 29 September – 3 October 2015.

1. ADP 5-19, *Risk Management*, describes the Army's Risk Management process as a persistent mechanism to be implemented by Commanders and staffs throughout all phases of the Operations Process, Military Decision Making Process and Troop Leading Procedures. Not an independent step or consideration, Risk Management is a pervasive command responsibility, designed so that Commanders accept no unnecessary risk and to ensure risk taken yields appropriate gains. Risk Management occurs both deliberately during mission planning and in real-time during mission execution. Consequently, the responsibilities of both Commanders and staffs for risk management extend beyond filling out a DD Form 2977 *Deliberate Risk Management Worksheet.*

Table 1-1. Risk assessment matrix

Risk Assessment Matrix		**Probability** *(expected frequency)*				
		Frequent: Continuous, regular, or inevitable occurrences	**Likely:** Several or numerous occurrences	**Occasional:** Sporadic or intermittent occurrences	**Seldom:** Infrequent occurrences	**Unlikely:** Possible occurrences but improbable
Severity *(expected consequence)*		A	B	C	D	E
Catastrophic: *Mission failure, unit readiness eliminated; death, unacceptable loss or damage*	I	EH	EH	H	H	M
Critical: *Significantly degraded unit readiness or mission capability; severe injury, illness, loss or damage*	II	EH	H	H	M	L
Moderate: *Somewhat degraded unit readiness or mission capability; minor injury, illness, loss, or damage*	III	H	M	M	L	L
Negligible: *Little or no impact to unit readiness or mission capability; minimal injury, loss, or damage*	IV	M	L	L	L	L
Legend: EH - Extremely High Risk H - High Risk M - Medium Risk L - Low Risk						

2. Within the Resolute Support *Tactical Guidance and Delegation of Approval Authorities for Resolute Support*, the CONOP approval process divides proposed operations into three levels, Level 2 (contact with a hostile force intended), Level 1 (contact with a hostile force is reasonably likely) and Level 0 (contact with a hostile force is not reasonably likely)[311]. Each CONOP level is further divided into three sub-levels A, B and C with regards to specific mission requirements. For example, "Strikes on Structures Capable of Containing Civilians- Including Air Delivered Munitions ISO ANDSF" is a Level 2A CONOP per the *Tactical Guidance*, requiring COM-RS approval. While the *Tactical Guidance* CONOP

[311] RS Tactical Guidance, 9 Sep 15

approval mechanisms may superficially imply Risk Management, the system inherently side-steps the Risk Management process as other members of the Chain of Command are capable of approving CONOPS of lesser classification than Level 2A.[312] Consequently, the process delegates the Commander's determination of risk tolerance to others within the chain of command, even for missions that may contain extremely high or high risk hazards.

3. Additionally, the CONOP mechanism throughout all levels of command in Resolute Support short-changes the Military Decision Making Process by accepting PowerPoint products as opposed to traditional Operations Orders. The below chart illustrates the MDMP steps that includes risk management steps.

Table 4-1. Risk management in the military decisionmaking process

	Risk management steps				
Military decisionmaking process steps	Identify the hazards	Assess the hazards	Develop controls and make risk decisions	Implement controls	Supervise and evaluate
Receipt of mission	X				
Mission analysis	X	X			
Course of action development	X	X	X		
Course of action analysis	X	X	X		
Course of action comparison			X		
Course of action approval			X		
Orders production, dissemination, and transition	X	X	X	X	X

4. CONOP (b)(1)1.4a-09-001 *Konduz City Foothold Establishment* is a Level 2C CONOP (contact with a hostile force is intended; risk to a No Strike Entity; remote TAA where contact with a hostile force is intended by any CF or ANDSF unit) requiring approval from COM-RS, DCOS-OPS, or COM-SOJTF-A. CONOP (b)(1)1.4a-09-001, essentially the operation to **retake the city of Kunduz from the Taliban**, was a multiple slide PowerPoint presentation which addressed mission risk **once**.[313] From slide 2 of CONOP (b)(1)1.4a-09-001, "The overall risk for this operation is MEDIUM. Insurgent contact is INTENDED. (b)(1)1.4d will conduct all actions on the OBJ; USSF will establish static OP positions to observe, report

[312] RS Tactical Guidance, 9 Sep 15
[313] CONOP (b)(1)1.4a-09-001, Konduz City Foothold Establishment, 29 Sep 15

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and advise the maneuver element and facilitate AGM de-confliction." Nowhere are specific mission hazards identified, assessed or controls defined. No staff products delivered to the 15-6 investigation team contained DD Form 2977s or staff running estimates pertaining to mission risk. Essentially, the CONOP approval authority for CONOP (b)(1)1.4a09-001, COM-SOJTF-A, approved an operation with strategic implications beyond the operation without evaluating risk, controls, residual risk or defining his own risk tolerance for the mission.

5. ADP 5-19 defines an extremely high risk hazard as one in which "the consequences could extend beyond the current operation." This definition applied to overall mission risk describes the strategic and operational result if CONOP (b)(1)1.4a09-001 failed, yet the existing CONOP system within Resolute Support and subordinate commands allowed this mission to be approved without demonstrated consideration of specific mission hazards and overall mission risk. By accepting PowerPoint products called CONOPS as opposed to doctrinal Operations Orders, Resolute Support permits its own staff as well as subordinate commands and staffs to side-step the Military Decision Making Process and the Risk Management process pervasive throughout MDMP. By avoiding the Risk Management process inherent to MDMP, each level of command simultaneously avoids determining risk tolerance for missions within the command while enabling subordinate commanders to assume risk with potential geo-political strategic implications, as demonstrated by the MSF hospital strike.

Table 1-2. Levels of severity and examples of consequences

Level	*Sample consequences*
I Catastrophic	• Complete mission failure or the loss of ability to accomplish a mission. • Death or permanent total disability. • Loss of major or mission-critical systems or equipment. • Major property or facility damage. • Severe environmental damage. • Unacceptable collateral damage.
II Critical	• Significantly degraded mission capability or unit readiness. • Permanent partial disability or hospitalization of at least 3 personnel. • Extensive major damage to equipment or systems. • Significant damage to property or the environment. • Significant collateral damage.
III Moderate	• Degraded mission capability or unit readiness. • Minor damage to equipment or systems, property, or the environment. • Lost days due to injury or illness.
IV Negligible	• Minimal injury or damage. • Little or no impact to mission or unit readiness. • First aid or minor medical treatment. • Little or no property or environmental damage.

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6. Based upon this doctrinal review of Risk Management as applied to CONOP (b)(1)1.4a-09-001, below is a summary of facts that support the finding. Neither RS, SOJTF-A, CJSOAC-A, SOTF-A nor AOB-N executed an effective Risk Management process that identified initial and emerging hazards before and during the mission to retake Kunduz, or developed and implemented controls for these hazards over the several days of mission execution.

Initial Hazards (30 Sep-1 Oct)

- ODA's limited partnering with (b)(1)1.4a forces.[314]
- ODAs operated in an unfamiliar urban environment without supporting city imagery or an established GRG throughout all levels of command.[315]
- Inexperienced aircrew with few previous missions together in training or operations.[316]
- New JTAC (b)(1)1.4a, (b)(3), (b)(6) with no previous mission experience, to include controlling AC-130 gunships in urban environments with no NSL locations.[317]
- Little intelligence indicating overall Taliban plan or actions during seizure of Kunduz.[318]
- Compressed planning and preparation timeline.
- Pressure to ensure success of ANDSF operations with limited resources.
- CJSOAC-A ORM complacency[319]

Emerging Hazards (2 Oct-3 Oct)

- AC-130 crew launched over an hour early on alert with no pre-mission brief. Consequently, the FCO utilized 1 Oct mission data.[320]
- Executing a CONOP originally approved for a 24-hour mission, extending into its fourth day.
- (b)(1)1.4a, (b)(1)1.4g failure and ground force's lack of batteries to view (b)(1)1.4a, (b)(1)1.4g (b)(1)1.4a, (b)(1)1.4g[321]
- (b)(1)1.4a of the AC-130, (b)(1)1.4g, (b)(6) (b)(1)1.4g
- Physical fatigue (sleep deprivation, prolonged exposure to direct fire engagements, stress induced from close combat). Over four days of almost continuous combat for ODAs with a partner force.

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[314] Statement, (b)(3), (b)(6) 28 Oct 15
[315] Statement, ODA (b)(1)1.4a 31 Oct 15
[316] (b)(1)1.4a, (b)(3), (b)(6) training records, provided by AFSOC 21 Oct 15
[317] Statement, (b)(1)1.4a, (b)(3), (b)(6) 28 Oct 15
[318] Mission Brief, SOJTF-A, 22 Oct 15
[319] Review of Sep - 2 Oct 15 (b)(1)1.4a, (b)(3) ORM sheets (of the 41 reviewed, 5 were medium, none were high – the 2 Oct mission was assessed as low); MFR, CJSOAC-A ORM
[320] Statement, (b)(1)1.4a, (b)(3), (b)(6) 23 Oct 15
[321] (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6) report, 2 Oct 15
[322] (b)(1)1.4g

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-
- (b)(1)1.4g
- Poor communication and coordination between CJSOAC, SOTF-A and AOB-N from 2-3 Oct.
- Support of an Afghan SOF planned operation based upon single-source (b)(1)1.4d without US confirmation or oversight.[324]
- Primary communication mechanism (b)(1)1.4a (b)(1)1.4a, (b)(1)1.4d, (b)(3), (b)(6)
- Increased risk of insider threat at the GFC location due to the arrival of non-vetted ANP.

7. Risk management is part of a unit's culture. Each level of command is responsible for identifying risk throughout the mission planning and execution and mitigating that risk to protect the force and protect the mission.

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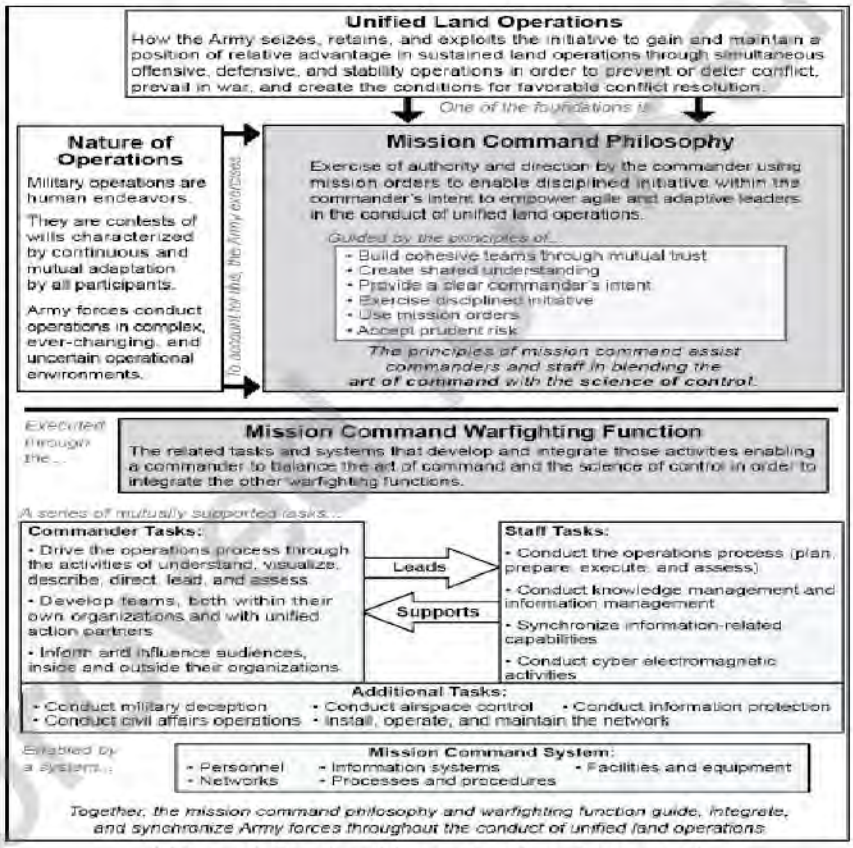
[323] Statement, (b)(1)1.4a, (b)(3), (b)(6) 31 Oct 15
[324] Statement, (b)(3), (b)(6) 28 Oct 15
[325] Statement, (b)(3), (b)(6) 31 Oct 15

Annex 2: Mission Command

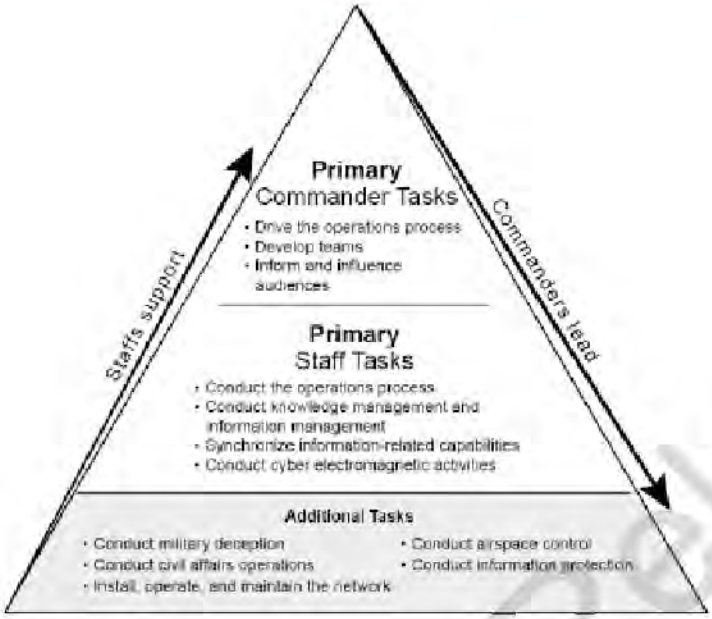
Finding: Significant issues in the exercise of the Mission Command warfighting function occurred during the Kunduz operations 29 Sep-3 Oct 15.

1. According to ADRP 6-0, *Mission Command*, the Mission Command Warfighting Function tasks for a commander are:
   - Drive the operations process through their activities of understanding, visualizing, describing, directing, leading and assessing operations.
   - Develop teams, both within their own organizations and with joint, interagency and multinational partners.
   - Inform and influence audiences, inside and outside of their organizations.



Δ Figure 1-1. Overview of the exercise of mission command

2. The Mission Command Warfighting Function tasks for a staff are:
   - Conduct the operations process: plan, prepare, execute and assess.
   - Conduct knowledge management and information management.
   - Synchronize information-related capabilities.
   - Conduct cyber electromagnetic activities.



Δ Figure 3-2. Mission command warfighting function tasks

3. In order to accomplish these tasks, Commanders establish a mission command system- the arrangement of personnel, networks, information systems, processes and procedures, and facilities and equipment that enable a Commander to conduct operations.

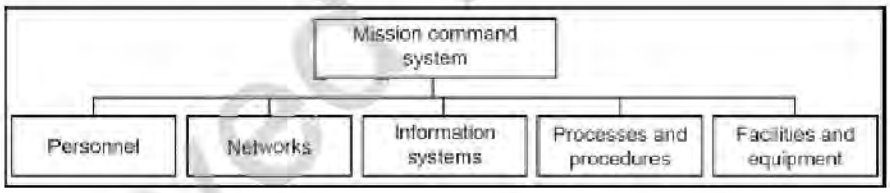


Figure 3-4. Components of a mission command system

4. Resolute Support and its subordinate commands and partner forces utilize numerous and redundant mission command systems, to include but not limited to

(b)(1)1.4a, (b)(1)1.4g

5. Directly contributing to SOJTF-A, CJSOAC-A, SOTF-A and AOB-N degraded Mission Command during operations on 2-3 Oct in Kunduz was the simultaneous failure of several of the aforementioned mission command systems, as well as the lack of executing a Primary, Alternate, Contingency and Emergency reporting channels for each level of command during an active operation. Tangential to

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the inadequate execution of Mission Command was the ineffective, hands-off approach of leaders and staff throughout the Operations Process, as personnel did not properly assess the mission or adjusted mission command systems in order to maintain situational awareness.

6. Mission command system failures during the period of 30 Sep-3 Oct 2015 include:
   - Resolute Support HQ does not utilize (b)(1)1.4c, while SOJTF-A, SOTF-A and AOB-N rely primarily upon (b)(1)1.4c.[326]
   - CJSOAC-A fails to provide (b)(1)1.4a, (b)(3), (b)(6) with pre-mission products prior to takeoff at (b)(1)1.4a 2 Oct 2015.[327]
   - (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6) outage beginning (b)(1)1.4a 2 Oct 15, preventing (b)(1)1.4a, (b)(3), (b)(6) from receiving CJSOAC pre-mission products, to include the NSL (b)(1)1.4a, (b)(1)1.4g.[328]
   - (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6) outage beginning (b)(1)1.4a 2 Oct 15, preventing commands from viewing (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6).[329]
   - (b)(1)1.4d personnel report target locations, descriptions and positions via (b)(1)1.4g to (b)(1)1.4d, (b)(6) co-located with (b)(3), (b)(6) (b)(3), (b)(6). All information then translated through an interpreter to the (b)(3), (b)(6).[330]
   - (b)(3), (b)(6) utilizes (b)(1)1.4g for critical mission communication; (b)(1)1.4g (b)(1)1.4g.[331]
   - (b)(3), (b)(6) relies upon possibly legacy vehicle position icons on (b)(1)1.4a to determine (b)(1)1.4d frontline trace.[332]
   - (b)(3), (b)(6) do not have enough batteries to power both (b)(1)1.4a, (b)(1)1.4g radio and the (b)(1)1.4a, (b)(1)1.4g choosing to utilize only (b)(1)1.4g.[333]
   - (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6) with the AC-130 aircraft, therefore preventing higher headquarters located at Bagram and Camp Integrity to monitor the situation.
   - (b)(1)1.4a, (b)(3), (b)(6) shifts sensor to MSF facility engagement at (b)(1)1.4a 3 Oct 15, (b)(1)1.4a minutes after initiation of strike. This ISR asset was looking at the wrong objective because SOTF-A leadership did not have situational understanding of that night's operations.[334]

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[326] MFR, (b)(1)1.4c, 10 Nov 15
[327] Statement, (b)(1)1.4a, (b)(3), (b)(6), 3 Oct 15
[328] (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6) connectivity report, 2 Oct 2015
[329] (b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6) connectivity report, 2 Oct 2015
[330] Statement, (b)(1)1.4a, (b)(3), (b)(6), 28 Oct 15
[331] Statement, (b)(1)1.4a, (b)(3), (b)(6), 28 Oct 15
[332] Statement, (b)(1)1.4a, (b)(3), (b)(6), 28 Oct 15
[333] Statement, (b)(1)1.4a, (b)(3), (b)(6), 28 Oct 15
[334] (b)(1)1.4a, (b)(1)1.4g, 3 Oct 15

- (b)(1) 1.4a, (b)(3), (b)(6) arrives over the MSF facility engagement at (b)(1)1.4a 3 Oct 15, (b)(1)1.4a minutes after initiation of strike.[335]
- (b)(1)1.4d, (b)(6) utilized (b)(1)1.4a, (b)(1)1.4g to periodically provide and receive updates from the GFC.[336]

7. The simultaneous failure of several of the aforementioned mission command systems occurred the night of 2-3 Oct 15. Resolute Support and its subordinate commands did not institute procedures to work through these issues, severely minimizing the situational awareness of each command. However systems are not the only focus on Mission Command. According to ADRP 6-0, "a Commander's mission command system begins with people. Soldiers and leaders exercise disciplined initiative and accomplish assigned missions in accordance with the commander's intent, **not technology**." As such, upon each failure of a mission command system, each level of command staffs should have exercised a battle drill to fill the gap created by a degraded mission command system in order to maintain situational awareness of the mission. No such contingency procedure was executed throughout the hierarchies of commands. This observation is best exemplified by the fact that when the AC-130U (b)(1)1.4a, (b)(1)1.4g (b)(1)1.4a, (b)(1)1.4g failed, (b)(1)1.4a, (b)(1)1.4g platforms such as (b)(1) 1.4a, (b)(3), (b)(6) were neither tasked to look at the planned objective nor to look at the facility the AC-130U crew observed.[337] If any other command, Resolute Support, SOJTF-A, SOTF-A or CJSOAC-A had observed what the AC-130U was observing, there is reasonable certainty a battle staff member could have determined the facility was the MSF Trauma Center, not the NDS compound.

8. The implementation of a Standing Operating Procedure for mission command systems throughout Resolute Support and its subordinate commands lessens the confusion and information gaps between headquarters in the future. For example, when time allows, an SOP mandating (b)(1)1.4a, (b)(1)1.4g clearances via (b)(1)1.4a, (b)(1)1.4g prior to weapons employment for future strikes would allow real-time monitoring of the Ground Force Commander's intent throughout SOTF-A, CJSOAC-A and SOJTF-A, while also developing the picture for Resolute Support, the command authority within which most AC-130 usages in an urban environment resides. It is important to remember the AC-130 crew observed the MSF Trauma Center for (b)(1)1.4a minutes before they engaged the main building.[338] This was ample time for other headquarters to provide critical oversight to the ground force.

9. While the mission command systems of the Mission Command Warfighting Function played an integral role in the events of 2-3 Oct 15, the philosophy of Mission Command also contributed to the communication breakdown, with

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[335] (b)(1)1.4a, (b)(1)1.4g 3 Oct 15
[336] Statement, [redacted] 4 Nov 15
[337] RSTA Annex, 2 Oct 15
[338] BDA Recorder Transcript, (b)(1)1.4a

particular respect to the SOJTF-A, CJSOAC-A and SOTF-A commands. According to ADRP 6-0, the Mission Command philosophy is guided by the principles of:

- Build cohesive teams through mutual trust
- Create shared understanding
- Provide a clear commander's intent
- Exercise disciplined initiative
- Use mission orders
- Accept prudent risk

10. Through the mission command philosophy the commander visualizes the process to achieve the desired end-state.

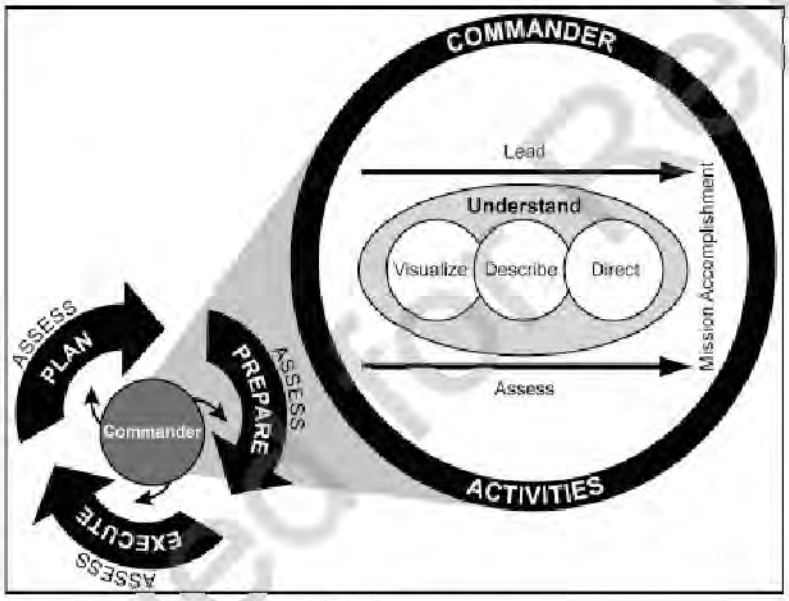

Figure 3-3. The operations process

11. For the operation to retake the provincial capital of Kunduz from Taliban control, SOJTF-A and SOTF-A did not provide clear mission orders or provide a clear commander's intent for the overall operation. Instead, the GFC and subordinate ODAs received verbal guidance via telephone calls and one Video Teleconference (VTC).[339] No mission order exists from SOJTF-A or SOTF-A to AOB-N; instead AOB-N submitted CONOP (b)(1)1.4a09-001 *Konduz City Foothold Establishment*, a multiple slide PowerPoint presentation as opposed to a doctrinal Operations Order.[340] Approved by SOJTF-A as a RS Level 2C CONOP, CONOP (b)(1)1.4a09-001 outlined a 24-hour mission that in actuality stretched for four days, with no documentation of staff assessment from SOJTF-A or SOTF-A during mission execution. Furthermore, SOJTF-A and SOTF-A did

[339] Statement, (b)(3), (b)(6) 28 Oct 15
[340] CONOP (b)(1)1.4a09-001, Konduz City Foothold Establishment, 29 Sep 15

not "build cohesive teams through mutual trust" by partnering AOB-N with the (b)(1)1.4d in Kunduz; the (b)(1)1.4d and AOB-N had no established Train, Advise and Assist relationship prior to the operation. SOJTF-A and SOTF-A accepted CONOP (b)(1)1.4d 09-001 as a MEDIUM risk operation, without incorporating the principles of ADP 5-19, *Risk Management* or re-evaluating the mission risk once it extended beyond its original 24-hour window.[341] Consequently, while the Commanders may have "accept[ed] prudent risk" during the onset of the operation, they did not subsequently re-evaluate the mission risk as the conditions changed.

12. CJSOAC-A also did not "build cohesive teams through mutual trust" or "accept prudent risk" by allocating the aircrew of (b)(1)1.4a, (b)(3), (b)(6) to the Kunduz mission. The flight crew of (b)(1)1.4a, (b)(3), (b)(6) flew only one previous combat mission together, thus demonstrating limited experience as a cohesive team.[342] Several aircrew members of (b)(1)1.4a, (b)(3), (b)(6) also struggled throughout training, as indicated by training records provided to this investigation.[343] As such, CJSOAC-A permitted an inexperienced flight crew with marginal training performance to support a highly delicate ODA/Afghan partner force mission to retake an urban provincial capital from Taliban control.

13. In conclusion, from 30 Sep 15 to 3 Oct 15 the commands of SOJTF-A, CJSOAC-A and SOTF-A experienced significant issues with the science of control due to mission command system failures, coupled with issues with the art of command due to deviations from the principles of Mission Command Philosophy.

[341] CONOP (b)(1)1.4d 09-001, Konduz City Foothold Establishment, 29 Sep 2015
[342] (b)(1)1.4a, (b)(3), (b)(6) crew training records, provided by AFSOC 21 Oct 2015
[343] (b)(1)1.4a, (b)(3), (b)(6) crew training records, provided by AFSOC 21 Oct 2015

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Annex 3: Situational Awareness

Finding: Significant issues in the planning process occurred during the Kunduz operations 29 Sep-3 Oct 15 resulting in inadequate situational awareness and mission support to the AOB-N command.

1. During the fact finding step of this investigation, several Special Forces leaders explained the long-standing, bottom-up planning approach that is utilized in Afghanistan. This planning approach starts with a general, normally verbal statement from a higher headquarters that is passed through the chain-of-command to an ODA. The ODA is then expected to develop a CONOP consisting of power point slides that can then be passed to the AOB, then SOTF and based on the risk will continue to SOJTF-A and for high risk mission to COMRS. Headquarters above the ODA review the power point brief, make corrections and add information as required.[344] When the CONOP is approved by the appropriate headquarters, the approval is passed down the chain-of-command as a verbal command. This bottom up planning process may be successful when resources are plentiful and risks are relatively low, but the process failed for the operation in Kunduz 29 Sep-3 Oct.

2. Planning, even accelerated crisis focus planning, must follow established procedures so that operations are planned, coordinated and synchronized IAW the commander's intent. Just because a planning effort is reacting to an unforeseen crisis doesn't support a higher headquarters advocating their responsibilities. An ODA in Afghanistan is normally (b)(1)1.4a, (b)(1)1.4g man organization, including the (b)(1)1.4a, (b)(1)1.4g Soldiers. In the current planning construct, this team is expected to plan, prepare, and execute the operation with little to no guidance with enablers provided by their higher headquarters. This process might be successful for less complex, shorter duration operations, but for the "fall" of Kunduz, a provincial capital, the planning process failed especially as the operations extended well past the briefed CONOP end-date.

3. The Army's planning approach includes conceptual and detailed planning. Conceptual planning approach includes mission analysis to examine the current situation as described by the current conditions. From their understanding of the current situation, mission, and desired end-state, commanders then conceptualize an operational approach to attain the end state which is defined by the desired future conditions. As conceptual planning is ongoing, the staff starts detailed planning utilizing the Military Decision Making Process (MDMP). The MDMP process helps leaders apply thoroughness, clarity, sound judgment, logic, and professional knowledge to understand situations, develop options to solve problems and reach decisions. Conceptual and detailed planning are executed through the Operations Process of understand, visualize, describe, and direct.

[344] Statement, (b)(3), (b)(6) 23 Oct 15

An operations process that focuses on three key areas. First, the process supports the leader's ability to identify friction points that will be encountered during planning and execution. Second, effective planning, integrating processes and resource allocations enable operations, and assist in executing mission accomplishment in accordance with commander's intent specifically the desired end state. Finally, the process supports synchronizing the operation that results in shared understanding and delineating the fights (responsibilities) of each level of command to include the units on the ground and in the air.

4. The Kunduz planning process was one dimensional. The (b)(3), (b)(6) with his ODAs, was told to assist the Afghan military to take back Kunduz. While ODA leaders developed detailed plans, higher headquarters provided little support beyond allocated Air Force CAS and (b)(1)1.4g ISR support. These headquarters did monitor the current situation and support in directing kinetic strikes in the city. But when most needed, these headquarters provided little support to monitoring current operations, providing a quality check to employment of AC-130U fires, and assisting in providing the one critical resupply need – batteries for the (b)(1)1.4a, (b)(1)1.4g These headquarters also failed to react to the events that significantly degraded the AC-130U's abilities to provide fires. They didn't quality check the aircrew and showed little interest in assisting them in their mission.

5. The Intelligence Warfighting Function is an example of the planning void by the AOB-N's higher headquarters. ATP 3-05.20, Special Operations Intelligence, explains how organic and nonorganic assets meet operational needs within the intelligence process in order to provide relevant, accurate, predictive, and timely intelligence and information that allow special operations to:[345]
   - Identify and develop targets
   - Develop and assess measures of effectiveness
   - Plan missions
   - Secure the element of surprise
   - Protect the force

6. The ATP goes on to state during the MDMP process the intelligence staff begins by pulling from available intelligence databases, both organic and nonorganic. The intelligence staff performs terrain, climate, and areas, structures, capabilities, organizations, people, and events (ASCOPE) analysis, and then contacts the supporting special operations weather team (SOWT) for target weather information. The intelligence staff also analyzes the threat, determines its capabilities and vulnerabilities, prepares a situation template, and hypothesizes likely threat COAs. This basic process is applicable to any mission assigned to ARSOF.[346]

[345] ATP 3-05.20 Special Operations Intelligence, p. vi
[346] ATP 3-05.20 Special Operations Intelligence, p. 1-6

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7. Basic Intelligence Preparation of the Battlefield was inadequately conducted at each level of command above the AOB-N. (b)(1)1.4a, (b)(1)1.4g (b)(1)1.4a, (b)(1)1.4g, was provided to the GFC. These standard products from either SOTF-A or SOJTF-A could have assisted the GFC in understanding the situation. It is important to understand that neither the GFC nor his ODAs had been in Kunduz City previously. Few, if any ASSF forces were familiar with Kunduz City.

8. The Legal Support to the Kunduz operations is the second example of the planning void by the AOB-N's higher headquarters. In accordance with FM 1-04, Legal Support To The Operational Army, "when planning operations or reviewing completed operation plans and orders, staff judge advocates carefully review all aspects of the plan that deals with the use of fires to ensure that it aligns with ROE and the law of war."[347]

9. From our fact finding efforts there clearly was a lack of understanding of the need to review the NSL by many leaders to include the SJA. While it is not only the SJA's responsibility to ensure NSLs are used, it is the responsibility for the SJA to ensure plans are executed IAW ROE and LOAC.

10. Besides the intelligence war fighting function and legal review, there are multiple areas that were overlooked in the planning process to include fire plans, resupply operations, mission command node requirements, decision support matrix, etc. The lack of a formal planning process driven by the commander at each level contributes to a lack of situation understanding by each level of command.

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[347] FM 1-04 Legal Support To The Operational Army, p. 2-5.

Annex 4: Médecins Sans Frontières: Kunduz Trauma Center

1. Founded in 1971, Médecins Sans Frontières (MSF) provides medical aid and assistance to victims of natural and man-made disasters and victims of armed conflict in over 70 countries worldwide. A private, international association of doctors and health sector workers, MSF earned the Nobel Peace Prize in 1999 for its work in war-torn regions and developing countries faced with disease crises. In 2015, over 30,000 doctors, nurses, medical professionals, logistical experts, water and sanitation engineers, and administrators volunteered their services at MSF facilities worldwide. MSF receives 80% of its funding from private philanthropists, with the remaining funding arriving from corporate donors.

2. MSF operations are guided by medical ethics and the principles of independence and impartiality. The MSF Charter embodies the principles of Medical Ethics, Independence, Impartiality and Neutrality, Bearing Witness, and Accountability. MSF offers assistance to people based on need alone, irrespective of race, religion, gender or political affiliation. As such, MSF frequently refuses to take sides or intervene according to the demands of governments or warring parties. In MSF's words, the organization exists to assist those who would otherwise have no access to medical care.

3. MSF resumed providing medical services to Afghanistan in 2009, opening four facilities across the country since that time. In 2011, MSF opened a one-of-a-

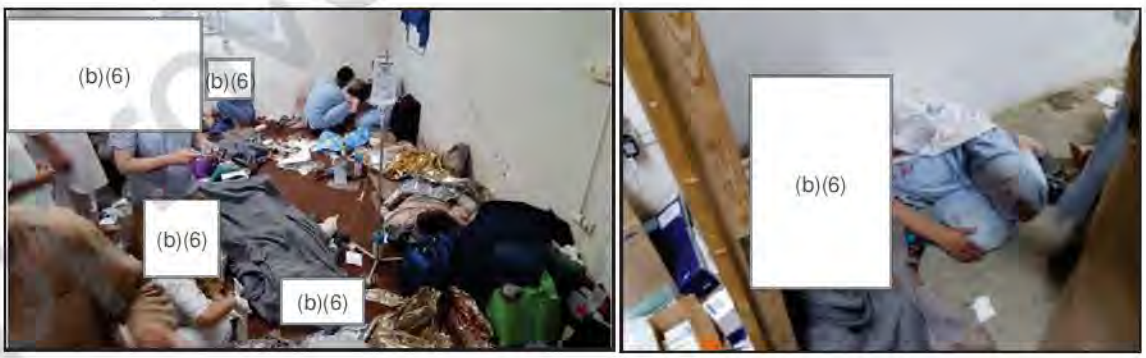
kind facility in the Kunduz province of northern Afghanistan, the MSF Kunduz Trauma Center. The Trauma Center provided free surgical-level care to those with conflict-related injuries, as well as to victims of general trauma such as traffic accidents and head injuries. As the only complete Trauma Center in northern Afghanistan, patients traveled from Baghlan, Takhar and Badakhshan provinces for treatment. Previously patients went without medical attention, or they chose to endure a long, expensive, possibly perilous journey across the Afghanistan/Pakistan border for aid.

4. The facility initially maintained 58 beds, increased in 2014 to 70 beds after extensive renovations to the intensive care unit. By September of 2015, the facility maintained 98 beds. In 2014, the MSF Kunduz Trauma Center staff treated 22,193 people and performed 5,962 surgeries. 54% of patients admitted in 2014 suffered conflict related injuries. The facility maintained an emergency room, two operating rooms, an intensive care unit, as well as X-ray and laboratory facilities. The facility contained three separate surgical wards for male and female patients, aided by the recovery and rehabilitation services of a full-time physiotherapist.

5. As an impartial, neutral medical facility in an active conflict zone, MSF Kunduz Trauma Center maintained a strict no-weapons policy for its premises, regardless of the affiliation of its patients. Security guards at the MSF Kunduz Trauma Center front gate enforced this policy, and continue to do so following the partial destruction of the facility. An MSF study from February 2014 indicated that more than one in five people in Kunduz waited over 12 hours before traveling to the

Trauma Center, primarily due to security concerns, active fighting, or unavailable transportation.

6. From 28 September to 3 October, the MSF Trauma Center treated 394 wounded people. During the strike, the Trauma Center contained 105 patients and more than 80 international and national MSF staff. At 0208 on 3 October 2015, the main hospital building erupted into chaos as an AC-130U gunship above rained 105 and 40mm munitions into the building. The MSF team desperately attempted to move wounded and ill patients from the main hospital building while establishing a makeshift operating theater in the undamaged basement. Within minutes of the first impacts, MSF staff phoned the SOTF-A headquarters, reporting the barrage on their facilities. While satellite buildings within the MSF compound suffered relatively minor damage, the main hospital building housing the emergency room, operating theaters and intensive care unit erupted into flames, a fire further fueled by oxygen tanks and medical chemicals. The staff and patients endured for thirty minutes of precision bombardment from above, as doctors and nurses rapidly attempted to treat surviving patients and their own wounded staff.



7. *"It was absolutely terrifying. I was sleeping in our safe room in the hospital. At around 2 AM I was woken up by the sound of a big explosion nearby. At first I didn't know what was going on. Over the past week we'd heard bombings and explosions before, but always further away. This one was different- close and loud. At first there was confusion and dust settling. As we were trying to work out what was happening, there was more bombing. After twenty or thirty minutes, I*

heard someone calling my name. It was one of the Emergency Room nurses. He staggered in with massive trauma to his arm. He was covered in blood, with wounds all over his body."

– (b)(6) MSF Nurse, Kunduz Trauma Center, 2-3 Oct 15

8. While the AC-130U strike lasted for thirty minutes in the early hours of 3 Oct 15, the fire raged in the hospital building for hours. According to MSF, there were thirty fatalities and thirty-seven wounded. The identities of several bodies recovered remain unknown.

(b)(6)

The destruction within the main hospital building rendered the Trauma Center inoperable, as the operating theaters, emergency room and intensive care facilities were destroyed. While MSF's plans for the future of its Kunduz facility remain unknown, the people of northern Afghanistan doubtlessly feel the loss of the Kunduz Trauma Center as they once again face long, expensive journeys to Kabul or Pakistan for future surgical care.

The information contained within this Annex derived from publicly available information on the Médecins Sans Frontières website, http://www.doctorswithoutborders.org (last reviewed 1 Nov 15).

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Appendix 5: Key Personnel List

POSITION (roles)	RANK	NAME	SERVICE	CALLSIGN
Resolute Support Headquarters (RS HQ)				
RS Deputy Chief of Staff of Operations	MG	Buchannan	USA	
Special Operations Joint Task Force- Afghanistan HQ (SOJTF-A)				
SOJTF- A Commander	MG	Swindell	USA	
Deputy Commanding General SOJTF-A	Brig Gen	Bauernfeind	USAF	
(b)(3), (b)(6)				
Combined Joint Special Operations Air Component- Afghanistan HQ (CJSOAC-A)				
(b)(1)1.4a, (b)(3), (b)(6)				
Special Operations Task Force- Afghanistan HQ(SOTF-A)				
(b)(1)1.4a, (b)(3), (b)(6)				
Advanced Operations Base- North (AOB-N) at PCOP in Kunduz				
(b)(1)1.4a, (b)(3), (b)(6)				
(b)(1)1.4a, (b)(3), (b)(6) **Air Crew**				
(b)(1)1.4a, (b)(1)1.4g, (b)(3), (b)(6)				
Of Note				
(b)(3), (b)(6)				

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REFERENCES

DOCTRINAL AND LAW REFERENCES

1. Army Doctrine Publication (ADP) 3-05, *Special Operations*, 31 Aug 12

2. ADP 3-09.32/MCRP 3-16.6A/NTTP 3-09.2/AFTTP(I) 3-2.6, *Multi Service Tactics Techniques and Procedures (MTTP) Joint Application of Firepower (JFIRE)*, 30 Nov 12

3. Army Doctrine Reference Publication (ADRP) 5-0, *The Operations Process*, 17 May 12

4. Army Techniques Publication (ATP) 5-19, *Risk Management*, 14 Apr 14

5. ADRP 6-0, *Mission Command*, 28 Mar 14

6. Air Force Central (AFCENT) *Special Instructions (SPINS)* (b)(1)1.4a

7. Air Force Pamphlet (AFPAM) 90-803, *Risk Management Guidelines and Tools*, 11 Feb 13

8. Air Force Tactics, Techniques and Procedures (AFTTP) 3-1.AC-130, *Tactical Employment-AC-130*, 5 Mar 15

9. AFTTP 3-3.AC-130, *Combat Fundamentals-AC-130*, 26 Jul 12

10. AFTTP 3-3 JTAC, *Combat Fundamentals-Joint Terminal Attack Controller*, 24 Oct 12

11. Army Regulation (AR) 15-6, *Procedures for Investigating Officers and Boards of Officers*, 2 Oct 06

12. AR 600-20, *Army Command Policy*, 6 Nov 14

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