

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.)

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

(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)

APPROVAL

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.)

I ratify the appointment of the Investigating Officer, MAJ (b)(3)(b)(6)

I approve the facts and the findings (with the following exceptions).

I direct that this matter be referred to Army CID for criminal investigation.

5 JUN 20

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

JOSEPH F. FIL, JR
Major General, USA
Commanding

1. FACTS.

a. On 6 April 2007, I was appointed as the AR 15-6 Investigating Officer (IO) to conduct an informal investigation into an escalation of force (EOF) incident on 1 January 2007, involving 1st Platoon (1st Plt.), Alpha Company (A Co.), 1st Battalion, 26th Infantry Regiment (1/26th IN), 2nd Brigade Combat Team (BCT), 1st Infantry Division (now attached to 2nd BCT, 82nd Airborne Division). Specifically, coalition forces engaged a civilian vehicle, which resulted in the death of the local national male driver. After conducting a thorough investigation, I find that 1st Plt., A Co, 1/26th IN was involved in an EOF incident on 1 January 2007. which they failed to report. (b)(2)High (b)(3)(b)(6)

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

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

(b)(2)High, (b)(3)(b)(6), (b)(5)

b. Four vehicles from 1st Plt, A Co, 1/26th IN conducted (b)(2)High (b)(2)High on 1 January 2007. These four vehicles consisted of two (b)(2)High (b)(2)High (numbered A26 and A25) and two M1151 Highly Mobile Multipurpose Wheeled Vehicles (HMMWVs) (Numbered A124 and A125). While conducting these (b)(2)High the platoon responded to the noise of a firefight on (b)(2)High in the following order of march: A25, A124, A125 and A26. The four vehicles turned north on (b)(2)High after traveling east on (b)(2)High from their (b)(2)High in zone 307. As the vehicles maneuvered into a box formation BFV A25 immediately received small arms fire and moved into the southbound lane and oriented to the north, while (b)(2)High A26 remained almost adjacent to A25 in the northbound lane of (b)(2)High and oriented north. The two (b)(2)High remained (b)(2)High with A124 positioned opposite of A25 in the southbound lane oriented south and A125 positioned opposite of A26 in the northbound lane orientated south and opposite of A26.

c. During the firefight, individuals from a nearby Iraqi Police (IP) checkpoint approached A124 and pointed to an area northeast of their location which they believed was where the small arms fire was coming from and a possible sniper position. The (b)(2)High Commander of A25, First Lieutenant (1LT) (b)(3)(b)(6) ordered his vehicle and A124 to the location identified by the IPs. The two vehicles traveled (b)(2)High and entered a field, where 1LT (b)(3)(b)(6) ordered SGT (b)(3)(b)(6) to dismount with his squad and clear the area of any enemy forces. After approximately 5 minutes the dismounted patrol completed their sweep of the area, got back into their vehicles and returned to an area near their original positions and orientations o (b)(2)High

d. Approximately 5-10 minutes after the cessation of hostilities, a white SUV or truck proceeded in the southbound lane on (b)(2)High towards the patrol (See Exhibits B, C, E, H, I, J, and O.). Specifically, the white vehicle was driving toward (b)(2)High A25, which was crewed by Staff Sergeant (SSG) (b)(3)(b)(6), (b)(2)High SGT (b)(3)(b)(6) gunner, and Private (E2) (PV2) (b)(3)(b)(6) (b)(3)(b)(6) driver (See Exhibits K, D, L). The gunner and (b)(2)High (b)(2)High A25 did not immediately notice the white vehicle because their turret was traversed to the 9 o'clock position. (See Exhibit D) However, the white vehicle was spotted by (b)(2)High A26, which was crewed by 1LT (b)(3)(b)(6) (BC), SGT (b)(3)(b)(6) (Gunner) and Private First Class (PFC) (b)(3)(b)(6) (Driver). When the vehicle first came into view of the patrol it was approximately (b)(2)High meters from away. SGT (b)(3)(b)(6) without notice or authorization from his (b)(2)High engaged the white vehicle using (b)(2)High almost immediately after first spotting the vehicle from a distance of between (b)(2)High. See Exhibits C, I, J, L, N, and O). The vehicle was disabled approximately (b)(3)(b)(6) meters from the patrol and it appeared that the driver had been killed since he fell out of the driver's side door onto the pavement and exhibited no movement (See Exhibits B, C, D, E, G, I, and R). Shortly after disabling the civilian vehicle, the patrol left the area and returned to its earlie (b)(2)High without investigating the disabled civilian vehicle to determine if it actually posed a threat to the patrol or the status of the driver (See Exhibits A, B, C, G, H, J,

K, L, N, O, Q, and S). The patrol concluded its (b)(2)High and returned to Combat Outpost (COP) Old MoD. The engagement with the local national vehicle was not reported by the patrol (See Exhibits A, S, T, and U).

2. FINDINGS.

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

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

(b)(2)High

(b)(2)High

(b)(2)High

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

(b)(3)(b)(6)
(b)(2)High

(b)(2)High, (b)(5), (b)(3)(b)(6)

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

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

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

(b)(2)High

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

c. Through this investigation I found that SGT (b)(3)(b)(6)s belief that the white vehicle posed a threat to him and the patrol to be highly unrealistic. PV2 (b)(3)(b)(6) stated that at the time SGT (b)(3)(b)(6) engaged the white car, the white car was slowing down (See Exhibit E). I find that PFC (b)(3)(b)(6) had a clear view of the incident and is most likely telling the truth. Additionally, PFC (b)(3)(b)(6) the gunner for A 25, stated that at the time of the engagement the white SUV did not appear to pose a threat to the patrol and was traveling at approximately 10-15 miles per hour (See Exhibit O). PFC (b)(6) also corroborates these facts and states in his personal interview that, "as soon as he came around the corner SGT (b)(3)(b)(6) engaged it (See Exhibit C)."

d. Through my investigation I have determined that SGT (b)(3)(b)(6) most likely killed (b)(2)High (b)(2)High an unarmed civilian driving a vehicle. I find that SGT (b)(3)(b)(6)s claim that after the vehicle had become disabled, he continued engaged the driver because he viewed the driver as an offensive threat at a distance of (b)(3)(b)(6) meters to be false and unsupported (See Exhibit B). SGT (b)(3)(b)(6) stated that he saw the driver get out of the disabled vehicle and continue towards his position in a threatening manner, which caused him to continue to engage the local national with his (b)(2)High until the he was neutralized (See Exhibits B and I). However, this assertion is not corroborated by any other witness statements. Instead other witnesses state that they saw the driver slumped in the car or immediately

adjacent or outside the white SUV and at no time did they see him exit the vehicle and walk toward the patrol (See Exhibits C, E and G).

e. I find that 1LT (b)(3)(b)(6) and other members of the platoon have covered up this incident since it occurred. In his personal interview with me on 7 April 2007, PFC (b)(3)(b)(6) admits that someone asked over the radio if they should go check it out and someone said no. Also, during my interview with PFC (b)(3)(b)(6) he informed me that he remembers someone stating over the radio "Oh Shit" right after SGT (b)(3)(b)(6) engaged the vehicle, which leads me to believe that someone who witnessed the shooting did not perceive the shooting to be justified. PFC (b)(3)(b)(6) offered in his personal interview with me on 7 April 2007 that he remembers hearing SSG (b)(3)(b)(6) the most senior NCO present and the (2)Hiof A25, ask over the radio "What in the hell did he shoot it for?" right after SGT (b)(3)(b)(6) engaged the white SUV.

f. I find that 1LT (b)(3)(b)(6) did not report this incident to his company tactical operations center (TOC) during his patrol because there is no record of the engagement with a civilian vehicle in the TOC's log (See Exhibit U). 1LT (b)(3)(b)(6) states he was not aware he had to do this because he was in the heat of battle (See Exhibit A). I find that 1LT (b)(3)(b)(6) did not report this incident upon return to COP Old MoD during the patrol debrief he emailed later that night to Captain (b)(3)(b)(6) Alpha Company Commander (See Exhibit T). I further find that no one reported this incident in a timely manner to the chain of command as a desire not to report this incident to the chain of command and to hide the actions of all involved. On 9 April 2007, I attempted to obtain a sworn statement from 1LT (b)(3)(b)(6) regarding his actions and recollections of this event, but he declined the offer (See Exhibit S)

g. I find that it is extremely likely that 1LT (b)(3)(b)(6) brought all participants from this incident together once back at Old MoD and directly ordered everyone to not discuss the incident and told them as he had before on other occasions that the things that occur in sector remain in sector (See Exhibits U and X). This is corroborated by Specialist (SPC) (b)(3)(b)(6) who acknowledged during his interview with me on 7 April 2007, that 1LT (b)(3)(b)(6) stated that what happens in sector stays in sector and PFC (b)(3)(b)(6) who informed me that he remembers 1LT (b)(3)(b)(6) making this statement before, but he was unsure if it included the night of the incident (See Exhibit X).

h. I find that the other two non-commissioned officers present in (2)Hiof A25, SSG (b)(3)(b)(6) and SGT (b)(3)(b)(6) most likely refused to acknowledge any of these findings during verbal questioning because they are also currently being investigated for other allegations and they believe they have no ability to recover from the errors in this incident or the other matters that they are concurrently being investigated. Neither NCO, SSG (b)(3)(b)(6) nor SGT (b)(3)(b)(6) has been helpful as a result during my investigation. SGT (b)(3)(b)(6) acknowledged this to me in his personal interview on 7 April 2007 that he pretty much does not remember anything whatsoever of this incident, which is quite surprising.

3. RECOMMENDATION.

Pursuant to my investigation I make the following recommendation:

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

(b)(2)High, (b)(3)(b)(6), (b)(5)

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



DEPARTMENT OF THE ARMY
HEADQUARTERS, 2ND BRIGADE COMBAT TEAM
82ND AIRBORNE DIVISION, CAMP TAJI, IRAQ
APO AE 09378

REPLY TO
ATTENTION OF:

MAY 11 2007

AFVC-B

MEMORANDUM FOR Commander, Multi-National Division-Baghdad (ATTN: DCG (M)), Camp Liberty, Iraq, APO AE 09344

SUBJECT: Brigade Combat Team Commander Transmittal (2/82 036)

1. On 6 April 2007, Colonel B. Don Farris, Commander, 2nd Brigade Combat Team, 82nd Airborne Division, appointed Major (b)(3)(b)(6) as an Investigating Officer pursuant to Army Regulation (AR) 15-6 to conduct an informal investigation into an escalation of force incident on 1 January 2007, involving a patrol from 1st Platoon, Alpha Company, 1st Battalion, 26th Infantry Regiment, 2nd Brigade Combat Team (BCT), 1st Infantry Division (Attached to 2nd BCT, 82nd Airborne Division). Specifically, coalition forces engaged a civilian vehicle, which resulted in the death of the local national male driver. On 3 May 2007, Colonel (b)(3)(b)(6) was wounded in action and I assumed command of 2nd Brigade Combat Team, 82nd Airborne Division (Assumption of Command Orders Attached).

2. After reviewing the Investigating Officer's Findings I recommend:

(b)(3)(b)(6) Approval.

_____ Approval with the following changes/recommendations: _____

_____ Disapproval.

3. After reviewing the Investigating Officer's Recommendations I recommend:

(b)(3)(b)(6) Approval.

_____ Approval with the following changes/recommendations: _____

_____ Disapproval.

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

4 Encls

- 1. EXSUM (b)(2)High
- 2. Assumption of Command Orders
- 3. Legal Review
- 4. AR 15-6 Investigation

Commanding

(b)(2)High

IO (b)(3)(b)(6)
CENTC



DEPARTMENT OF THE ARMY
HEADQUARTERS, 2D BRIGADE COMBAT TEAM
82D AIRBORNE DIVISION
CAMP TAJI, IRAQ, APO AE 09378

AFVC-B

3 May 2007

MEMORANDUM FOR RECORD

SUBJECT: Request for Assumption of Command

1. Effective 3 May 2007 the undersigned assumes command of the 2nd Brigade Combat Team, Camp Taji, Iraq, APO AE 09378.
2. Authority: AR 600-20, para 2-5
3. Period: Until properly relieved.
4. Purpose: To assume duties as the BCT Commander.
5. POC for this action is CPT(b)(3)(b)(6) at 242-6841.

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

LTC, MI
Commanding

(b)(2)High

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CENTC

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



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2ND BRIGADE COMBAT TEAM
82ND AIRBORNE DIVISION, CAMP TAJI, IRAQ
APO AE 09378

S: 13 April 2007

AFVC-B

6 April 2007

MEMORANDUM FOR Major (b)(3)(b)(6) Headquarters and Headquarters
Company, 2nd Brigade Special Troops Battalion, 2nd Brigade Combat Team, 82nd Airborne
Division, Camp Taji, Iraq APO AE 09378

SUBJECT: Appointment as AR 15-6 Investigating Officer (2/82-036)

1. You are hereby appointed as an investigating officer pursuant to Army Regulation (AR) 15-6 (Procedures for Investigating Officers and Boards of Officers) to conduct an informal investigation into an escalation of force incident on 1 January 2007, involving a patrol from 1st Platoon, Alpha Company, 1st Battalion, 26th Infantry Regiment, 2nd Brigade Combat Team (BCT), 1st Infantry Division (Attached to 2nd BCT, 82nd Airborne Division). Specifically, coalition forces engaged a vehicle driven by a local national driver, which resulted in the death of the local national male driver. This is your primary duty until properly relieved. You are required to provide specific findings on the following:

- a. Provide a detailed analysis of the facts and circumstances of the incident?
- b. What was the composition and location of the friendly element at the time of the incident? Include number of Troopers, types of weapons, vehicles, and a sketch or diagram of the Troopers in relation to the individual engaged.
- c. Describe where the incident occurred. (b)(2)High Use maps to highlight the location and provide graphics/pictures to depict EOF incident.
- d. Describe the events leading up to the escalation of force (EOF). Include a description of the specific EOF measures employed, if any, prior to the use of warning shots or lethal force. Additionally, include as much information as possible about the individuals that were killed and wounded as a result of the use of EOF procedures and any property damaged during the use of EOF procedures.
- e. Describe in as much detail as is readily available, what the Troopers perceived as a hostile act and/or demonstration of hostile intent.
- f. What additional EOF measures, if any, should have been attempted prior to engaging the vehicle?
- g. Describe each vehicle involved in these incidents, including any damage sustained to each vehicle and what items were found in each vehicle.

(b)(2)High

101 (b)(3)(b)(6)
CENTC

ENC I

AFVC-B

SUBJECT: Appointment as AR 15-6 Investigating Officer (2/82-036)

h. Determine whether this incident was properly reported to higher headquarters and if not, why not?

i. Identify any actions taken, tactics, techniques, or procedures the unit should sustain.

j. Identify any lessons learned from the incident that the unit may use to improve existing tactics, techniques, or procedures.

k. Were claims cards issued and claims procedures initiated? If not, why not?

l. Include any other facts or findings that the command should be aware of to assist Troopers with handling similar incidents in the future.

2. You will speak with any and all individuals you believe have information pertinent to your investigation. You will obtain a legal briefing from the Brigade Judge Advocate prior to conducting your investigation. You should also familiarize yourself with the provisions of AR 15-6 and the Guide for Informal Investigations. Once your investigation is complete, you will make recommendations consistent with your findings.

3. All witness statements will be sworn if possible and recorded on DA Form 2823. If circumstances preclude you from obtaining a sworn statement, you will summarize the testimony in a memorandum and attest to the accuracy of your summary.

4. If, in the course of your investigation, you come to suspect that an individual may be criminally responsible, you will advise that individual of his or her rights under Article 31 of the UCMJ using DA Form 3881.

5. Copies of all relevant regulations and forms can be found on the 2BCT PORTAL in the SJA section.

6. Submit your report, together with all evidence marked as exhibits, to the Brigade Judge Advocate on DA Form 1574 for legal review no later than 13 April 2007. Requests for extensions will be submitted to the undersigned through the Brigade Judge Advocate in writing.

7. POC for this memorandum is MAJ (b)(3)(b)(6) at SVOIP 242-6820 or
(b)(3)(b)(6), (b)(2)High

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

COL, IN
Commanding

(b)(2)High

2

10 (b)(3)(b)(6)
CENTC

1

ENCL I



DEPARTMENT OF THE ARMY
2ND BRIGADE COMBAT TEAM
82ND AIRBORNE DIVISION
CAMP TAJI, IRAQ
APO AE 09378

REPLY TO
ATTENTION OF

AFVC-B-JA

29 April 2007

MEMORANDUM FOR Commander, 2nd Brigade Combat Team, 82nd Airborne Division,
Camp Taji, Iraq, APO AE 09378

SUBJECT: Legal Review of EOF AR 15-6 Investigation (2/82-036)

1. In accordance with Army Regulation (AR) 15-6, paragraph 2-3, I have reviewed the AR 15-6 investigation into an escalation of force incident on 1 January 2007, involving a patrol from 1st Platoon, Alpha Company, 1st Battalion, 26th Infantry Regiment, 2nd Brigade Combat Team (BCT), 1st Infantry Division (Attached to 2nd BCT, 82nd Airborne Division). Specifically, coalition forces engaged a vehicle driven by a local national driver, which resulted in the death of the local national male driver. I make the following determinations:

- a. The proceedings comply with the legal requirements of AR 15-6.
- b. Errors in the proceedings, if any, do not have a material adverse effect on any individual's substantial rights as related to an informal AR 15-6 investigation.
- c. Sufficient evidence supports the findings for an informal AR 15-6 investigation.
- d. The recommendations are consistent with the findings.

2. Pursuant to Multi-National Division – Baghdad (MND-B) Policy the DCG (M) is the approving authority for this action.

(b)(5)

3. The POC is the undersigned at SVOIP 242-6820 and (b)(3)(b)(6)

(b)(2)High

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

Brigade Judge Advocate

(b)(2)High

10 (b)(3)(b)(6)
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ENCL TL

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 COL (b)(3)(b)(6) _____
 (Appointing authority)

on 6 Apr 2007 (Date) (Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - SESSIONS

The (investigation) (board) commenced at Old Mod, Iraq at 0900
 (Place) (Time)

on 9 Apr 2007 (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.)

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

The (investigating officer) (board) finished gathering/hearing evidence at 1700 on 11 Apr 2007
 (Time) (Date)
 and completed findings and recommendations at 2100 on 14 Apr 2007
 (Time) (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? _____

(b)(2)High

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.

2	Exhibits (para 3-16, AR 15-6)	YES NO N/A
	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 5-1c, 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 <input type="checkbox"/>)	
	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 inclosure or board.		

(b)(2)High

(b)(2)High

IO (b)(3)(b)(6)
CENTC

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

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

SEE CONTINUATION SHEET

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

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

SEE CONTINUATION SHEET

INDEX

Label	Description
Enclosure I	Investigating Officer appointment Memorandum
Enclosure II	Chronology
Enclosure III	CPT ^{(b)(3)(b)(6)} Commander's Inquiry (Not cited in this investigation)
Exhibit A	DA Form 2823 Sworn Statement of 1LT dtd 28 Jan 07
Exhibit B	DA Form 2823 Sworn Statement of SGT ^{(b)(3)(b)(6)} , dtd 1 Mar 07
Exhibit C	DA Form 2823 Sworn Statement of PFC ^{(b)(3)(b)(6)} dtd 1 Mar 07
Exhibit D	DA Form 2823 Sworn Statement of SGT dtd 2 Mar 07
Exhibit E	DA Form 2823 Sworn Statement of PV2 ^{(b)(3)(b)(6)} dtd 2 Mar 07
Exhibit F	DA Form 2823 Sworn Statement of SPC ^{(b)(3)(b)(6)} dtd 1 Mar 07
Exhibit G	DA Form 2823 Sworn Statement of PFC dtd 2 Mar 07
Exhibit H	DA Form 2823 Sworn Statement of PFC ^{(b)(3)(b)(6)} dtd 2 Mar 07
Exhibit I	DA Form 2823 Sworn Statement of SGT ^{(b)(3)(b)(6)} dtd 8 Apr 07
Exhibit J	DA Form 2823 Sworn Statement of PFC ^{(b)(3)(b)(6)} dtd 8 Apr 07
Exhibit K	DA Form 2823 Sworn Statement of SGT ^{(b)(3)(b)(6)} dtd 8 Apr 07
Exhibit L	DA Form 2823 Sworn Statement of PFC dtd 8 Apr 07
Exhibit M	DA Form 3881 Rights Warning Certificate of SPC ^{(b)(3)(b)(6)} dtd 8 Apr 07
Exhibit N	DA Form 2823 Sworn Statement of PFC dtd 8 Apr 07
Exhibit O	DA Form 2823 Sworn Statement of PFC ^{(b)(3)(b)(6)} dtd 8 Apr 07
Exhibit P	DA Form 3881 Rights Warning Certificate of 1LT ^{(b)(3)(b)(6)} dtd 9 Apr 07
Exhibit Q	DA Form 2823 Sworn Statement of SGT ^{(b)(3)(b)(6)} dtd 12 Apr 07

Exhibit R DA Form 2823 Sworn Statement of SSG dtd 12 Apr 07
Exhibit S DA Form 2823 Sworn Statement of CPT^{b)(3)(b)(6)} dtd 6 Apr 07
Exhibit T Email of 1LT^{b)(3)(b)(6)} Patrol Brief, dtd 2 Jan 07
Exhibit U DA Form 1594 Company TOC Log, dtd 1 Jan 07
Exhibit V December Bolo List , dtd 30 Dec 06
Exhibit W Story Board
Exhibit X MFR (Re: Interview of SPC^{b)(3)(b)(6)} dtd 29 Apr 07)

CHRONOLOGY

DATE	EVENT
6 Apr 07	Received appointment order as 15-6 Investigating Officer
6 Apr 07	Received brief by BJA on 15-6 procedures
8 Apr 07	Traveled to Old Mod and interviewed SGT (b)(3)(b)(6) PFC (b)(3)(b)(6) , SGT (b)(3)(b)(6), PFC (b)(3)(b)(6) PFC (b)(3)(b)(6) PFC (b)(3)(b)(6) And SSG (b)(3)(b)(6)
9 Apr 07	Interviewed SPC (b)(3)(b)(6) at Taji
9 Apr 07	Attempted to interview 1LT (b)(3)(b)(6) who stated he was waiting for his lawyer to approve him answering any questions
11 Apr	Verified over phone call to CPT (b)(3)(b)(6) at VBC Trial Defense Services that 1LT (b)(3)(b)(6) will not answer any questions and Has invoked his rights
12 Apr 07	First draft of investigation to JAG Received SGT (b)(3)(b)(6) 's sworn statement
14 Apr 07	Second draft of investigation to JAG



REPLY TO ATTENTION OF:

DEPARTMENT OF THE ARMY
A Company, 1st Battalion, 26th Infantry
4/101 RCT (AASLT), 4ID (M)
APO AE 09390



AETV-BGS-G-A

29 April 2007

MEMORANDUM FOR RECORD

SUBJECT: Commanders Inquiry

PURPOSE: The purpose of the memorandum is to conduct a Commander's Inquiry to investigate accusations made by SGT (b)(3)(b)(6) about his chain of command and their involvement in misconduct and criminal acts while conducting patrols in sector.

GENERAL: Upon reading the letter written by SGT (b)(3)(b)(6) Exhibit 1) that implicated leaders in his chain of command of criminal acts and misconduct unbecoming of an NCO or Commissioned Officer, I have decided to conduct an informal inquiry to gather facts and understand the whole story. In the following paragraphs, I will attempt to clarify all accusations brought upon the 1st PLT leadership and identify what is truth and what is hearsay or an embellishment of the facts. I will use the sworn statements (Exhibit A-Q) collected from 1st PLT soldiers who were involved in some of the accusations or were a witness to the accusations presented by SGT (b)(3)(b)(6). Below are my findings and all documentation is provided in the attachments following this cover letter.

1. (b)(3)(b)(6) (b)(3)(b)(6) b(3)(b)(6)
 (b)(3)(b)(6) (b)(3)(b)(6)
 (b)(3)(b)(6) Nonresponsive, (b)(6)
 (b)(3)(b)(6) (b)(3)(b)(6)
 (b)(3)(b)(6)
2. Accusation #2 – SGT (b)(3)(b)(6) refers to a fire fight on the 1st of January where 1LT (b)(3)(b)(6) is accused of engaging a truck with lethal force in violation of the rules of engagement and law of armed conflict. According to SGT (b)(3)(b)(6)'s statement (Exhibit E), he was the one that PIDed the vehicle and felt that it was a threat and engaged with lethal force. The driver of the (b)(2)High of that crew, PFC (b)(3)(b)(6) had also witnessed the incident (Exhibit F) and explained how the gunner shot a warning shot and disabling shots before using lethal shots to finally stop the vehicle.

(b)(2)High, (b)(5), (b)(3)(b)(6), Nonresponsive b(3)(b)(6)

(b)(2)High

IO (b)(3)(b)(6)
CENTC

ENCL III

(b)(2)High, (b)(5), Nonresponsive

3.

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

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

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

(b)(5), (b)(2)High, (b)(3)(b)(6), Nonresponsive

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

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

5.

) (3)(b)(6)

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(b)(2)High

IC

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

CENTC

ENCL 14

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

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

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

7.

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

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

(b)(2)High, (b)(5), (b)(3)(b)(6), Nonresponsive

8.

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

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

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

9.

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

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

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

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

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

SUMMATION:

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

(b)(5), Nonresponsive, (b)(6)

(b)(5), (b)(6), Nonresponsive

(b)(5), Nonresponsive, (b)(6)

In the event that there are any additional questions you can forward them to the undersigned at VOIP 242-0618.

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

**CPT, IN
Commanding**

(b)(2)High

CENTC

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

ENCL 14



REPLY TO ATTENTION OF:

DEPARTMENT OF THE ARMY
1st Battalion, 26th Infantry
Camp Taji, Baghdad, Iraq
APO AE 09378



Suspense: 04 1800 APR 07

AETV-BGS-G-S1

3 April 2007

MEMORANDUM FOR Commander, A Co, TF 1-26 IN, 1st ID

SUBJECT: Request for Sworn Statements for EOF Incident of 1 January 2007

1. COL (b)(3)(b)(6) 2-82nd Brigade Commander, has ordered a 15-6 informal investigation into an escalation of force incident which occurred on 1 January 2007 on (b)(2)High involving a combat patrol from A Co, TF 1-26 IN, 1st ID. Specifically, this particular combat patrol engaged a vehicle driven by a local national driver, resulting in the death of the local national male driver. Every member of this particular combat patrol must complete a typewritten DA 2823 Sworn Statement in order to provide the investigating officer as much factual information as possible in regards to the patrols actions before, during, and after the EOF incident on 1 January 2007. Any information considered hearsay or rumor will not be considered and should not be included on the Sworn Statement. Soldiers must also understand that the information they provide must be completely factual and truthful in nature. After Sworn Statements are reviewed by the IO, the Soldier will be required to swear under oath by phone or in person to the IO. The following information must be addressed in every Sworn Statement and if the information is not known by the Soldier making the statement a detailed response indicating such is a must:

- a. Provide a narrative containing all facts and circumstances of the EOF incident.
- b. Provide the composition and location of all friendly elements at the time of the incident? List all members of your vehicle crew by rank and name to include their duty position on the vehicle. Include type of vehicles by bumper numbers.
- c. Describe where the incident occurred, (b)(2)High and route names. Also describe orientation of vehicles and weapons systems, speed & direction of travel of friendly vehicles, and speed & direction of travel of the civilian vehicle.
- d. Describe the events leading up to the escalation of force (EOF). Include a description of the specific EOF measures employed, if any, prior to the use of warning shots or lethal force. Additionally, include as much information as possible about any individuals that were killed or wounded as a result of the use of EOF procedures and any property (vehicle) damaged and the extent of the damage during the use of EOF procedures. Specifically describe type of weapon systems used during EOF, the rate of fire of those weapon systems, and the length of machine gun bursts if applicable.

(b)(2)High

IO (b)(3)(b)(6)

CENTC

~~Exhibit III~~

ENCL III