

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)

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

1LT, FA
(Recd)

(Recorder)

(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) (disapproved). If the appointing authority returns the proceedings to the investigating officer or board for further proceedings on a specific point, attach that correspondence (or a summary, if oral) as a numbered inclosure.

I ratify the appointment of the Investigating Officer, 1LT (b)(3)(b)(6)

I approve the findings.

The recommendation that CERP condolence payments should not be made in this case is (approved) (disapproved) (remanded to the BCT Cdr)

I remand the matter to the BCT Cdr for appropriate action.

2 SEP 2007

JOSEPH F. FILL, JR. Major General, USA, Commanding

Page 2 redacted for the following reason:

Already Reviewed and Redacted for Release



DEPARTMENT OF THE ARMY
HEADQUARTERS, 2ND BATTALION, 16TH INFANTRY REGIMENT
2ND INFANTRY BRIGADE COMBAT TEAM, 2ND INFANTRY DIVISION
FOB RUSTAMIYAH, IRAQ, APO AE 09390

REPLY TO
ATTENTION OF:

AFZN-BCB

15 August 2007

MEMORANDUM FOR Commander, 2ND IBCT, MND-B, FOB Loyalty, Iraq, APO AE 09390

SUBJECT: Investigative AR 15-6 – 6 August 2007 EOF Event, (b)(2)High 2-16 IN,
2-2 ID.

1. Purpose. The purpose of this document is to report the investigating officer's findings and recommendations concerning 1st Platoon, Company A, 2-16 IN's EOF incident on 6 August 2007.

2. Summary. COP Cajimat, Company A's outpost in (b)(2)High received small arms fire from approximately (b)(2)High and promptly deployed 1st Platoon to clear the houses surrounding the suspected point of origin to search for the shooter. During the search, a vehicle, with two local nationals in it, traveling at a high rate of speed from the vicinity of the small arms fire approached a blocking position. The gunner for the vehicle initiated EOF procedures, ultimately killing the passenger. The driver fled the scene. Specific findings will cover the circumstances surrounding how the event took place.

3. Applicable Laws and Regulations.

(b)(2)High

4. Investigative Procedures. On the morning of 9 August 2007, I was notified of my selection as Investigating Officer. I immediately collected the event storyboard, Ranger Intelligence Debrief with pictures of the vehicle, MNC-I Policy Letter #15 regarding the use of EOF, the 2-16 IN EOF SOP, and requested that PFC (b)(3)(b)(6), the gunner, and 1LT (b)(3)(b)(6) 1st Platoon Leader, write Sworn Statements regarding the incident.

a. Both Sworn Statements were written individually under the supervision of CPT (b)(3)(b)(6) b)(3)(b)(6) Commander, Company A, at COP Cajimat.

b. I did not visit the incident location because the tactical risk outweighed the benefit, which would have been marginal since the scene had already been cleared.

5. Witnesses and Evidence.

a. Witnesses.

1). 1LT (b)(3)(b)(6) 1st Platoon Leader, Company A. The following is a summary of his statement: The platoon was deployed from COP Cajimat to respond to reported small arms fire. They were directed to clear six houses directly to the north of their COP in an attempt to find the shooter, however, to no avail. They platoon set up blocking positions to isolate the objective for only a short period of time so they did not employ their EOF kits. During the search two male local nationals in a white car was spotted coming from the suspected point of origin of the small arms fire. The vehicle traveled toward the blocking position at a high rate of speed

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

(b)(2) High

(b)(2) High

killed the passenger and

stopped the vehicle. The gunner did not use (b)(2) High because he felt there was not enough time. The driver fled the scene but was not pursued due to lack of sufficient combat power. After searching for the shooter in the buildings, the platoon searched the body and the vehicle and found no identification, cell phones, weapons, or any illegal items. The platoon flagged down a National Police patrol and the NP took control of the vehicle and the body.

2). PFC (b)(3)(b)(6) gunner involved in the EOF, 1st Platoon, Company A. The following is a summary of his statement: His platoon was sent on an operation in response to reported small arms fire.

(b)(2)High

(b)(2)High He was emplaced in his blocking position when a car coming from the suspected origin of the small arms fire was spotted. PFC (b)(3)(b)(6) initiated EOF procedures by using

(b)(2)High

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

(b)(2)High

killed the passenger and stopped the vehicle.

The driver fled the scene but was not pursued. He did not use (b)(2)High to attempt to stop the vehicle because he felt there was not enough time; the entire incident occurred over the span of a couple seconds. Once the clearance of the buildings was complete, the vehicle and body were searched yielding no identification, weapons, or cell phones. The National Police then took control of the body and the platoon continued its mission.

b. Evidence. The only evidence consists of two printed photographs of the incident scene which depicts the vehicle, impacts on the windshield, and the dead passenger (still in the vehicle).

6. Exhibits.

a. Exhibit A: Event storyboard.

b. Exhibit B: Patrol Intel Debrief with pictures of the vehicle.

c. Exhibits C and D: Sworn Statements by 1LT (b)(3)(b)(6) and PFC (b)(3)(b)(6)

d. Exhibit E:

e. Exhibit F:

f. Exhibit G:

(b)(2)High

g. Exhibit H:

7. Findings.

a. The Local National driver operated his vehicle in a manner reasonably perceived as hostile. Both individuals describing the incident describe the vehicle's action as traveling at a high rate of speed toward the blocking position (Exhibits C and D). Given that Coalition Forces have been conducting similar operations in Baghdad and throughout Iraq for the last four years, it is reasonable to expect that the driver knew not to approach CF in this manner.

b. PFC (b)(3)(b)(6) acted in accordance with EOF procedures although the gunner did not
(b)(2)High (b)(3)(b)(6)
used only (b)(2)High to stop the vehicle (Exhibits C and D), however, according to the statements of both witnesses, there was not enough time to use all possible means of (b)(2)High deterrent, justifying the lethal force initiated to protect the platoon from the perceived hostile threat (Exhibits C and D).

c. PFC (b)(3)(b)(6) fired one warning shot, one disabling shot aimed at the vehicle's engine block, and ultimately fired lethal shots which killed the passenger and stopped the vehicle, all within the span of a few seconds (Exhibits C and D). Given the short period of time, PFC (b)(3)(b)(6) was justified in using lethal shots to stop the perceived threat.

d. The platoon made all reasonable efforts to identify the Local Nationals involved. After completing their clearance operation, the vehicle and remaining body were searched but yielded no identification, cell phones, weapons, or illegal items of any kind. The car and body was then left in the control of the National Police (Exhibits C and D). Although neither weapons nor illegal items were found, the actions of the driver was reasonably perceived as threatening enough to justify lethal force.

e. Although of no significance to the EOF in question, while reviewing the evidence the

(b)(2)High

8. Recommendations.

a. No compensation is required; the Local Nationals acted in a manner that was reasonably perceived as hostile.

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

1LT, FA
Investigating Officer

UNCLASSIFIED

UNCLASSIFIED

06AUG07, EVENT SAF, 1 X KIA AIF

1/A/2-16 IN, 2/2 ID

INCIDENT: SAF

RESULTS: NO BDA 1 X AIF WIA

SIGACT ID: MND-B EVENT

DATE/TIME GROUP: 06 AUG 07

UNIT: 1/A/2-16 IN

LOCATION: (2)Hi

MISSION OF UNITS:

(2)H
(b)(2)High

TIMELINE OF EVENTS:

1517: A/2-16 IN RECEIVES SAF FROM COP. SAF ORIGINATES FROM BUILDING COMPANY A RETURNS FIRE. CDR/A/2-16 IN WITH 1/A/2-16 IN MOVES TO CLEAR LOCATION AND SETS BLOCKING POSITIONS IN PREPARATION TO CLEAR BUILDING
1528: WHILE ASSAULT ELEMENTS MOVE TO BUILDING THEY HAD RECEIVED SAF FROM A/2-16 IN SPOTS A ORANGE AND WHITE TOYOTA FLEEING FROM ORIGIN OF FIRE BUILDING AT A HIGH RATE OF SPEED. 1/A/2-16 IN GUNNER THEN FIRES WARNING SHOTS, APPROACHING VEHICLE DOES NOT RESPOND TO WARNINGS. 1/A/2-16 IN GUNNER FIRES DISABLING SHOTS AT VEHICLE RESULTING IN 1X LN KIA, 1 X LN SQUIRTER EVADED CAPTURE AND 1 X VEHICLE WAS DISABLED.
1533: NPs ARRIVE ON SCENE. COMPANY A CONDUCTING SSE ON VEHICLE. CDR/A/2-16 IN CONDUCTS HASTY SEARCH OF TARGET BUILDING WITH NOTHING SIGNIFICANT TO REPORT
1548: NPs WILL TAKE CARE OF THE VEHICLE AND 1 X KIA. NO WEAPONS FOUND IN VEHICLE.
ISR ASSESSMENT: NONE

BN S2 ASSESSMENT:

(b)(2)High

FILE NAME: 06AUG07, EVENT SAF, 1 X KIA AIF

1/A/2-16 IN, 2/2 ID

(2)H

TCOM 01

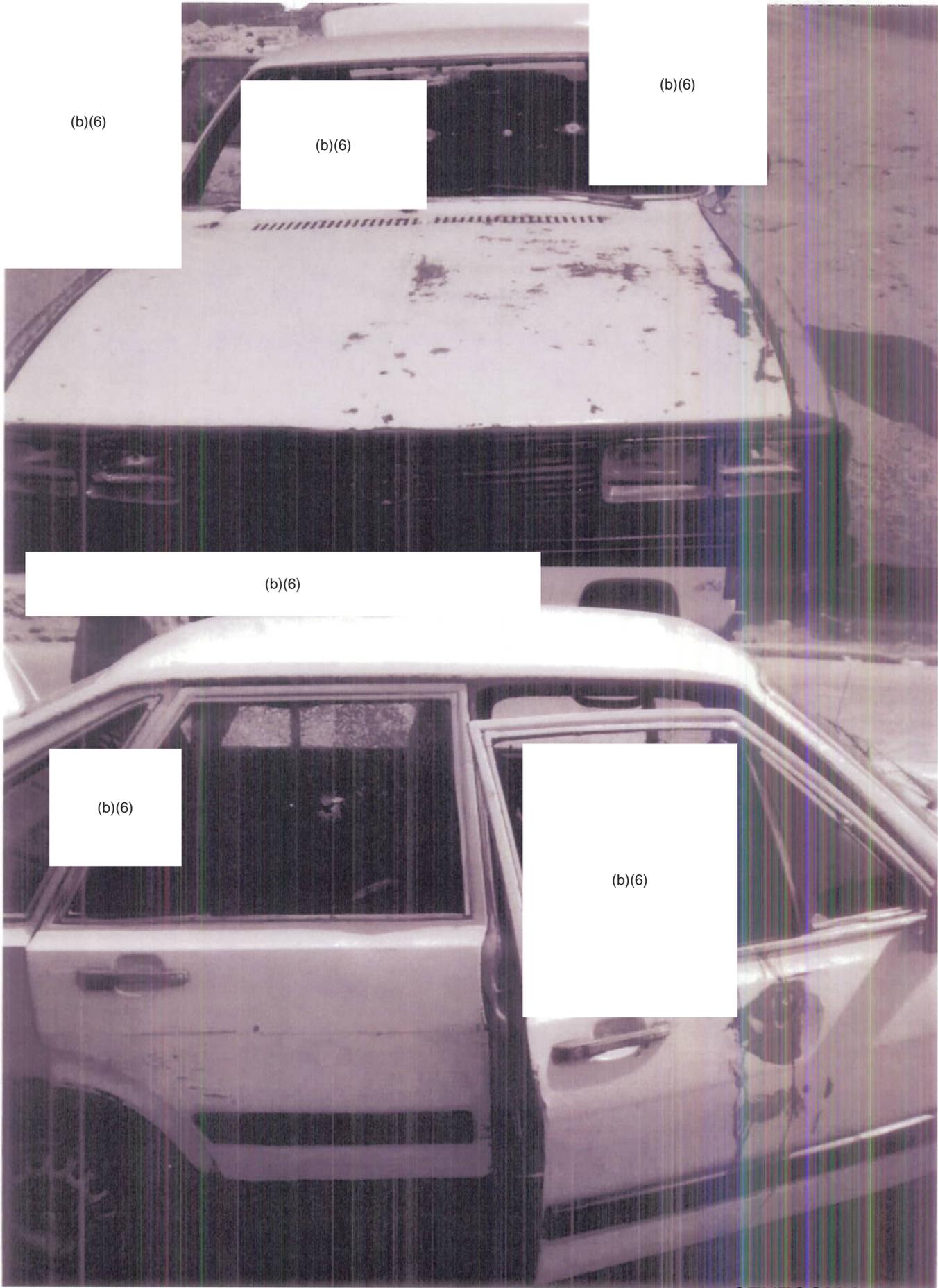
(b)(3)(b)(6)



(2)Hi

(2)Hi

INITIAL



(b)(6)

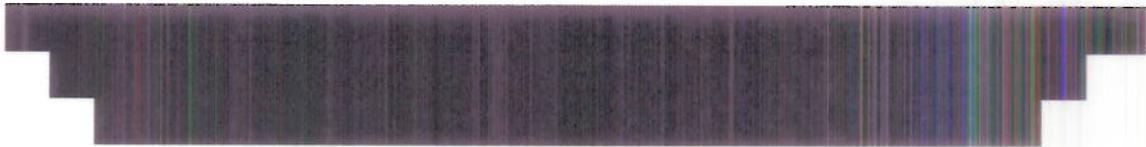
(b)(6)

(b)(6)

(b)(6)

(b)(6)

(b)(6)



PERSONAL IN NATURE

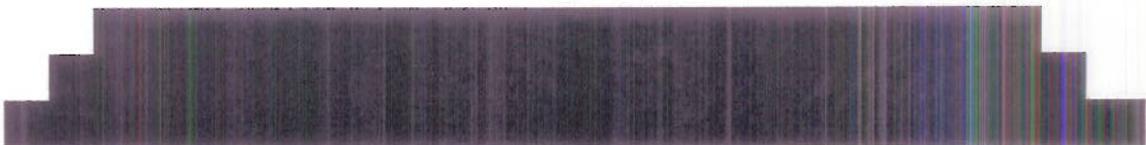
(USAREUR SUPPL 1, AR 310-1)



This Correspondence Will Receive

SPECIAL ATTENTION

To Preclude Delay in Processing and
Unauthorized Disclosure of Information



AR 1 Oct 77 Replaces AR Label 3-M, 23 OCT 74 WHICH MAY BE USED UNTIL STOCKS ARE EXHAUSTED

TABLE OF CONTENTS

INVESTIGATING OFFICER APPOINTMENT ORDERS

DA FORM 1574	REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER
EXHIBIT A	EVENT STORYBOARD (06 AUG 07)
EXHIBIT B	PATROL INTEL DEBRIEF WITH PICTURES OF VEHICLE
EXHIBIT C	DA FORM 2823, SWORN STATEMENT, 1LT
EXHIBIT D	DA FORM 2823, SWORN STATEMENT, PFC
EXHIBIT E	
EXHIBIT F	
EXHIBIT G	(b)(3), b(6)
EXHIBIT H	(b)(2)High

UNCLASSIFIED



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2ND BRIGADE COMBAT TEAM
2ND INFANTRY DIVISION
MULTI-NATIONAL DIVISION-BAGHDAD
CAMP LOYALTY, IRAQ APO AE 09390



AUG 07 2007

AFZC-B-CDR

MEMORANDUM FOR Investigating Officer, 1LT (b)(3)(b)(6), Task Force Ranger,
2nd Brigade, 2nd Infantry Division, Multi-National Division-Baghdad, FOB Loyalty, Iraq APO
AE 09390

SUBJECT: Appointment as Investigating Officer under AR 15-6

1. You are hereby appointed as an Investigating Officer pursuant to *AR 15-6, Procedures for Investigating Officers and Boards of Officers*, to conduct an investigation into the facts and circumstances surrounding the escalation of force that took place on 06 August 2007 by A Company, 2nd Battalion, 16th Infantry Regiment.
2. You will issue Findings and Recommendations that cover the following areas of inquiry:
 - a. Assess the use of force with respect to the Rules of Engagement and the Law of Armed Conflict.
 - b. Identify all individuals wounded/killed in the EOF. Determine whether wounded local nationals were engaged in hostilities against Coalition Forces at the time of the incident.
 - c. Determine whether local nationals involved in the incident should receive compensation for injuries and/or damages to their vehicle.
 - d. Identify any other relevant matters that you discover in the course of your investigation.
3. Your legal advisor is CPT (b)(3)(b)(6) 2nd Brigade Operational Law Team, VOIP (b)(2)High who will give you an in-brief before you begin your investigation and be available to assist you during the investigation.
4. You may speak with any and all individuals that you believe have information pertinent to your investigation. You will obtain guidance from your legal advisor if in the course of your investigation you determine that completion thereof requires examining the conduct or performance of, or may result in Findings and Recommendations adverse to, a person senior to yourself.
5. If during the course of your investigation you come to suspect that an individual you are questioning may have committed a crime, you will advise that individual of his or her rights under Article 31, UCMJ, or the Fifth Amendment as appropriate. You will administer and record such rights advisements on DA Form 3881.

UNCLASSIFIED