AFZC-B-CDR
SUBJECT: Appointment as Investigating Officer under AR 15-6

6. All witness statements will be sworn and, if possible, submitted on DA Form 2823. If circumstances preclude you from obtaining a sworn statement, or if you obtain a statement telephonically, you will summarize such a statement in a Memorandum for Record and swear to the accuracy of your summary.

7. Your report will be submitted to this office on DA Form 1574 together with all evidence marked as Exhibits, and an Index to said Exhibits. Your Findings must be based on the evidence you include as Exhibits and your Recommendations must be based on your Findings.

8. Your complete report will be submitted to this office no later than 12 August 2007. Requests for delays should be submitted to me in writing.

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

LTC, IN
Commanding

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 (b)(3)(b)(6) LTC, IN, Commanding
(Appointing authority)

on 7 August 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 FOB RUSTAMIYAH, Baghdad, Iraq *(Place)* at 1100 *(Time)*

on 9 August 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 2000 *(Time)* on 14 August 2007 *(Date)*

and completed findings and recommendations at 2200 *(Time)* on 14 August 2007 *(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.*

		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 inv or board.

(b)(2)High

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

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

See attached memorandum.

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

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

See attached memorandum.

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

REPLY TO
ATTENTION OF:

AFZC-B-CDR

AUG 1 8 2007

MEMORANDUM FOR Commander, Multi-National Division–Baghdad and 1st Cavalry Division, Camp Liberty, Iraq APO AE 09344

SUBJECT: Legal Review of AR 15-6 into the 6 August 2007 Killing of a Local National Citizen by Elements of 1st Platoon, A Company, 2-16 Infantry Regiment

I recommend approval of the investigating officer's findings and recommendations.

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

LTC, IN
Acting Commander

Sir,
within 11 minutes of SAF incident, this vehicle appeared speeding from the original site. Unfortunate but completely understandable

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

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

REPLY TO
ATTENTION OF:

AFZC-B-JA

17 August 2007

MEMORANDUM FOR Commander, 2nd Brigade, 2nd Infantry Division, Multi-National Division–Baghdad, FOB Loyalty, Iraq APO AE 09390

SUBJECT: Legal Review of AR 15-6 into the 6 August 2007 Killing of a Local National Citizen by Elements of 1st Platoon, A Company, 2-16 Infantry Regiment

1. I have reviewed the investigation into the facts and circumstances surrounding the shooting death of a local national citizen by members of 1/A/ 2-16 IN, that occurred on 6 August 2007. I make the following determinations:

a. The proceedings complied with the legal requirements of *AR 15-6, Procedures for Investigating Officers and Boards of Officers* (2 October 2006).

b. The investigation does not contain any material errors or errors of appointment, and did not violate any individual's substantial rights. There is a "no" block checked in Section III, "Privacy Act Statements?" No PA statements were used, however, this investigation will not be filed or be retrievable by any Soldier's name or identifying information, therefore the absence of PA statements is excusable.

c. Sufficient evidence supports the investigating officer's findings that the shooting of the local national citizen was proper (b)(2)High
(b)(2)High The evidence shows th.....

(1) The local national citizen that was shot was in a vehicle, fleeing an area or building where elements of the Soldiers' unit had received gunfire,

(2) The Soldiers had cordoned off the area in order to find the AIF forces that had engaged them,

(3) In broad daylight, the vehicle drove rapidly and directly at a CF vehicle,

(4) The civilian vehicle did not react to the CF vehicle, the presence of Soldiers, or the warning shots that were fired, and

(5) Under the circumstances, the people in the vehicle appeared to be responsible for a hostile act/gunfire attack on the CF unit, had engaged in a hostile act by speeding toward the CF vehicle, or both.

(6) The KIA (passenger) did not have any identification on him. The driver immediately ran away from CF Soldiers after his partner was shot. These facts attest to the reasonable belief that the two men were engaged in anti-coalition activities.

d. The investigating officer's recommendations are consistent with the findings.

2. The Approval Authority for this investigation is the Commander, Multi-National Division–Baghdad.

3. Staff contact for this legal review is the undersigned at VOIP (b)(2)High or e-mail at (b)(3)(b)(6), (b)(2)High

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

CPT, JA
Brigade Trial Counsel

CENTCOM 0 (b)(3)(b)(6)

RANGER INTEL DEBRIEFING

UNIT: 1/A/2-16 IN
SECTOR PATROLLED w/grid: (b)(2)High
PATROL LEADER: 1LT (b)(3)(b)(6)
MISSION START/STOP DTG:061430AUG2007 to 062000AUG2007
MISSION TASK & PURPOSE: (b)(2)High

ATTITUDE TOWARDS COALITION FORCES: everyone was compliant

CHANGES IN THE ENVIRONMENT: none

(b)(2)High

Civilian Activity: The markets on (b)(2)High were filled with people shopping.

ISF Activity: NPs came and recovered a body from a truck that was shot by us as it drove at a blocking position. On the return trip NPs had setup a checkpoint in front of the COP a (b)(3)(b)(6)

Patrol Summary:
1st Platoon A Co departed the COP at 1430 heading (b)(2)High As we approached the DAC a white van was noticed, upon searching we discovered 8, fifty gallon drums that had contained gasoline. We detained these two individuals and returned the vehicle to the COP. Upon further searching we discovered pictures of coalition vehicles being hit with IEDs. We also found a name in his cell phone index titled (b)(6) One individual stated hat they were refueling a generator and the other individual stated they were visiting an uncle. The story constantly changed throughout the TQ process. 1st Platoon again left the COP and then immediately responded to PSAF reported by the rooftop guard. We cleared six houses directly North of the COP. No sign of a shooter was found. During this time one of my vehicles was emplaced in a blocking position along (b)(2)High when a car approached at a high rate of speed. The gunner used the Iraqi hand and arm signal to stop and then fired one round into the engine block; the vehicle continued approaching at a high rate of speed and then the gunner engaged the vehicle. The rounds impacted the vehicle killing the passenger and the driver ran off, due to limited combat power at that blocking position Coalition Forces were unable to detain the driver. We then flagged down a passing NP and he took over care of the body. The patrol continued mission moving to FOB Loyalty. On the return trip we ran into approximately seven Iraqis in green fatigues who had ID that identified them as PSD for an Iraqi Congressman. There was no incidents the rest of the patrol. We returned to COP Cajimat at 2000.

List any photos taken (include a simple description of each image taken):	
Pics 1 and 2: Images of the car engaged during patrol	
Pics 3 and 4: images of the van with oil drums and detainees	
Pics 5 and 6: images of the detainees	

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is PMG.

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
FOB Rustamiyah, Iraq	2007/08/09	1100	

5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS
(b)(3)(b)(6)		O-2

8. ORGANIZATION OR ADDRESS
2-16 Infantry

9.
I, (b)(3)(b)(6) _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On August 6th 1st Platoon A company left the COP in response to a PSAF attack reported by the rooftop guard. We cleared six houses directl (b)(2)Higl of the COP. No sign of the shooter was found. During this time one of my vehicles was emplaced in a blocking position along (b)(2)High when a car approached at a high rate of speed. My truck at the blocking position had not put out their escalation of force equipment because the platoon was conducting a react to contact drill and their purpose was to isolate the objective only long enough for us to kill or capture the enemy shooter. The vehicle was coming from a direction that was the same as the possible point of origin for the small arms fire that we had taken. The gunner used (b)(2)High with no response. The gunner did not use (b)(2)High because there was not enough time. The entire incident occured over a few seconds because of the speed at which the car was coming towards my platoons vehicle. The gunner then fired a warning shot in front of the vehicle. He then fired one round into the engine block to try and disable the vehicle; the vehicle continued approaching at a high rate of speed and then the gunner engaged the vehicle. The rounds impacted the vehicle killing the passenger. The driver ran off, due to limited combat power at that blocking position Coalition Forces were unable to detain the driver. The main effort of the platoon was still clearing houses on the objective. Once the houses were cleared the platoon searched the vehicle. No identification or cell phones were found either in the car or on the body. We also searched the entire car for any illegal items of which we found none. We then flagged down a passing NP and he took over care of the body. The National Police took the body and the vehicle away. We are unsure what they did with the car or the body after we left as we had a follow on mission and were unable to stay long enough to find out.

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

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

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

10. EXHIBIT	11. INITIAL	RSON MAKING STATEMENT	PAGE 1 OF 2 PAGES
	)(3)(b)(		

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT O, _____ TAKEN AT _____ DATED _____

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE BE INDICATED.

STATEMENT OF (b)(3)(b)(6) TAKEN AT FOB Rustamiyah DATED 2007/08/09

9. STATEMENT *(Continued)*

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

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

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

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

AFFIDAVIT

(b)(3)(b)(6) _____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

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

(Signature of Person Making Statement)

WITNESS:

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

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

27AI2-16

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 09 day of August, 2007 at FOB Rustamiyah

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

Oath)

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

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

(Typed Name of Person Administering Oath)

ACO 2-16 IN

ORGANIZATION OR ADDRESS

Article 136 (B) (4)

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

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

PAGE 2 OF 2 PAGES

PAGE 3, DA FORM 2823, DEC 1998

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CENTCOM 01

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

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is PMG

PRIVACY ACT STATEMENT

AUTHORITY:	Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 *(SSN)*
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ROUTINE USES:	Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval
DISCLOSURE:	Disclosure of your social security number is voluntary.

1. LOCATION	2. DATE *(YYYYMMDD)*	3. TIME	4. FILE NUMBER
FOB Rustamiyah, Iraq	2007/08/09	1100	

5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS
(b)(3)(b)(6)		E3

8. ORGANIZATION OR ADDRESS

2-16 Infantry

9.

I, (b)(3)(b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On August 6 we were on a clearance operation in)(2)Hig because the COP was under attack from small arms fire. I was emplaced in a blocking postion when a car came withi b)(2)Higl of the vehicle. We did not put out our escelation of force equipment because we were conducting a react-to-contact in response to the direct fire attack against COP Cajimat. We only intended to stay in position long enough to isolate the objective and kill or capture the enemy combatant firing on the COP. The car was coming from a direction that we suspected the small arms fire may have originated from. I gave all the signals to stop, but he still came at the same speed. Next he turned toward my vehicle at abou b)(2)Hig away so i fired warning shots. He ignored the warning shots and sped up so I fired into the engine block trying to disable the vehicle. He still did not stop so I fired to kill because I beleived he was trying to attack us at that point. I never used (b)(2)High because i did not have time to use it, these events took place over the span of a couple seconds. When we checked out the car the passenger was dead. The driver survived and ran away. We did not have enough soldiers with us at the time to pursue the driver. Once the houses had been cleared more of the platoon moved to our position and searched the vehicle and the body. They did not find any weapons, identification, or cell phones. The National Police stayed with the car and the body while we continued our mission.

b)(3)(b)(6

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

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

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

10. EXHIBIT	11. INIT)(3)(b)(PERSON MAKING STATEMENT	PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE BE INDICATED

DA FORM 2823, DEC 1998 DA FORM 2823, JUL 72, IS OBSOLETE APD PE v1.01

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CENTCOM 01

TO SEPULVADO

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

STATEMENT OF (b)(3)(b)(6) TAKEN AT FOB Rustamiyah DATED 2007/08/07

9. STATEMENT *(Continued)*

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

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

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

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

AFFIDAVIT

I, (b)(3)(b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

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

(Signature of Person Making Statement)

WITNESSES:

1LT (b)(3)(b)(6)

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

2/1A 12-16

ORGANIZATION OR ADDRESS

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

ACO 2-16 IN

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 09 day of August, 2007 at FOB Rustamiyah

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

(Administering Oath)

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

(Administering Oath)

Article 136 (B) (4)

(Authority To Administer Oaths)

INITIALS OF (b)(3)(b)(6) MAKING STATEMENT

PAGE 2 OF 2 PAGES

PAGE 3, DA FORM 2823, DEC 1998

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CENTCOM 01

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

Pages 14 through 16 redacted for the following reasons:
- -
(b)(1)1.4a, (b)(2)High

(b)(1)1.4a, (b)(2)High

UNCLASSIFIED//FOUO

(b)(1)1.4a, (b)(2)High

(b)(1)1.4a, (b)(2)High

SECRET//REL TO USA, MCFI

SECRET//REL TO USA, MCFI

(b)(1)1.4a, (b)(2)High