

UNCLASSIFIED

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)

(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)

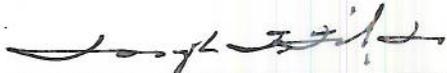
The findings and recommendations of the (investigating officer) (board) are (approved) (disapproved) (approved with following exceptions/substitutions): (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or corrective action, attach that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

I ratify the appointment of the investigating officer, 1LT (b)(3)(b)(6)

I approve the "Facts" and "Circumstances."

The recommendation concerning CERP condolence payments is (approved) (disapproved)
(remanded to the BCT Cdr).

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



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

16 AUG 2007



DEPARTMENT OF THE ARMY

2nd BCT, 2nd ID CFT Strike
FOB Loyalty, Iraq APO AE 09390

REPLY TO
ATTENTION OF:

AFVC-AA-H

12 July 07

MEMORANDUM FOR Commander, 2nd BCT, 2nd ID, MND-B, FOB
Loyalty, Iraq APO AE 09390

SUBJECT: Report of AR 15-6 Investigation involving the 08
July 2007 Escalation of Force by SGT (b)(3)(b)(6)
b)(3)(b)(6) of 2nd PLT B Company 1/504 PIR.

1. GENERAL.

On 09 July 2007, I was appointed to conduct a 15-6 investigation into the facts and circumstances surrounding the Escalation of Force by SGT (b)(3)(b)(6) of 2nd PLT B CO 1/504 PIR that resulted in the death of a local national. Outlined below are my findings, conclusions, and recommendations.

2. FINDINGS.

a. Facts:

During the day of 08 July, 2nd Platoon B Company 1/504 PIR had conducted mounted and dismounted patrols in zone 14E from 1400-1900 hours. After returning to FOB Loyalty, 2nd Platoon was told to be prepared to conduct a mission that evening

(b)(2)High
(b)(2)High 2-69 AR with the help of
ECTR had been (b)(2)High, (b)(6)

(b)(2)High, (b)(6) On the
night of 08 July 2007, 2-69 AR informed B CO 1/504 that
(b)(6), (b)(2)High

(b)(2)High Prior to the mission that afternoon, SSG Neal read the Rules of Engagement (ROE) and Escalation of Force (EOF) steps off of the MNC-I ROE card to the platoon. The concept of the operation was for 2nd Platoon to

(b)(2)High

(b)(2)High

(b)(2)High

However when 2nd Platoon set into their positions on (b)(2)High they received a call on the radio that the ECTR was not working. The platoon would still try to (b)(2)High

(b)(2)High

moving north. 2nd platoon set up a TCP on (b)(2)High just north of the overpass that crosses (b)(2)High. The platoon set up their first two vehicles about (b)(2)High apart; they were located on the north side of the overpass bridge. Vehicles 3 and 4 were located about (b)(2)High north of vehicles 1 and 2 on (b)(2)High. The platoon did not allow traffic on or off (b)(2)High but they allowed the traffic coming up (b)(2)High northbound lane to slowly stream past them. (b)(2)High

(b)(2)High Vehicle one had a red beacon on the vehicle and dismounted a soldier to waive his tac light at on coming traffic from the bridge so that they would slow down when passing the platoon's vehicles. (b)(2)High

(b)(2)High

The platoon set in the TCP from 2115 to 2135. The platoon quickly stopped one group of vehicles because one of the vehicles resembled a grey Opal. However, the patrol did not find anything and realized that the car was actually a Lancer. Therefore, the patrol let the group of cars go and continued their mission. After the time window had passed, the platoon (b)(2)High 1LT (b)(3)(b)(6) ordered the platoon to break down the TCP. For the TCP, 2nd platoon had earlier blocked off the on and off ramps with concertina wire and a red beacon on each ramp that were located between the stretch of (b)(2)High where 2nd

platoon conducted their TCP. To break down the TCP and retrieve the concertina wire and red beacon, SGT (b)(3)(b)(6) moved to the ramp that allows traffic from the north bound lane of (b)(2)High to get on the NW bound lane of (b)(2)High (b)(2)High PFC(b)(3)(b)(6) and SGT(b)(3)(b)(6) dismounted from vehicle 3 and moved down the other ramp that allows traffic from (b)(2)High (b)(2)High NW bound lane onto (b)(2)High north bound lane.

(b)(2)High
(b)(2)High the concertina wire and red flashing beacon had been set up approximately (b)(2)High down the ramp from (b)(2)High and the patrol's vehicles in order to keep traffic from (b)(2)High (b)(2)High from coming on to (b)(2)High PFC(b)(3)(b)(6) was responsible for grabbing the C-wire, and SGT (b)(3)(b)(6) was to grab the red beacon. SGT(b)(3)(b)(6) had the red beacon in his hand and PFC had pulled the C-wire back halfway across the ramp, when a car began coming towards them on the ramp at a high rate of speed.

SGT (b)(3)(b)(6) began to wave the red beacon in his hand and shout at the approaching vehicle in order to get its attention. PFC (b)(3)(b)(6) shouted and waved his hands for the vehicle to stop, but he did not have a tac light to flash at the vehicle. SGT (b)(3)(b)(6) then pointed his tac light and (b)(2)High at the vehicle as he continued to shout for the vehicle to stop. The two soldiers were blocking the ramp, shouting, and trying to get the attention of the vehicle with arm motions and SGT (b)(3)(b)(6)'s tac light and red beacon. At this time, SGT (b)(3)(b)(6) and PFC (b)(3)(b)(6) could only see that it was a white car approaching them at a high rate of speed. Despite their efforts, the car continued to come towards the two soldiers. SGT (b)(3)(b)(6) then fired a warning shot at the vehicle that struck the vehicle's front right headlight. At this time the vehicle came to a stop approximately (b)(2)High from PFC (b)(3)(b)(6) and SGT (b)(3)(b)(6). The two soldiers also now noticed that the vehicle was a white Daewoo with numerous military aged males inside. The

(b)(2)High

After the white Daewoo came to a stop, it only remained still for a brief moment. PFC (b)(3)(b)(6) and SGT (b)(3)(b)(6) continued to shout for the occupants of the car to get out as they motioned to them with their hands. The driver

moved the car back and then the car moved forward. PFC (b)(3)(b)(6) and SGT (b)(3)(b)(6) were not sure if the vehicle was trying to get away or would try to run them over. Once the car came back towards the two soldiers, SGT (b)(3)(b)(6) fired another shot from his weapon. This shot was supposed to disable the vehicle and deter the driver from continuing to move his vehicle. The shot impacted in the middle of the front windshield. Because SGT (b)(3)(b)(6) still had the red beacon in his hand, he was not able to get a firm grip on the barrel of the weapon. The shot was more a reactionary movement than a precision shot. SGT (b)(3)(b)(6) has said that at the time he fired the second shot he felt threatened because the (b)(2)High and the occupants were all military aged males. SGT (b)(3)(b)(6) also said that his main concern was looking to see if one of the occupants would pull out a firearm or if the car would pull forward and hit the two soldiers.

After the second shot, the white Daewoo came to a stop. SGT (b)(3)(b)(6) who had come running to the scene when he heard the first shot fired, arrived at the scene at this time. PFC (b)(3)(b)(6) SGT (b)(3)(b)(6), and SGT (b)(3)(b)(6) pulled security on the local nationals as they exited the vehicle. Five local nationals exited the vehicle; they were put on the ground outside the vehicle. SGT (b)(2)Low went to clear the vehicle after the five car passengers were on the ground. When SGT (b)(3)(b)(6) looked into the back seat of the car he saw a sixth car passenger that was hunched over. SGT (b)(3)(b)(6) called an update to the platoon on the situation and requested a medic. The local national in the back seat had been shot in the chin/ lower face area. The local national was shaking and appeared to be going into shock. PFC (b)(3)(b)(6) the platoon medic, performed first aid on the local national until an Iraqi Police patrol came and took the local national to the Al Kinei Hospital. The patrol was later informed that the local national died of his wounds. The name of the local national that died due to a gun shot wound to the face was (b)(6) From searching the vehicle, SGT (b)(3)(b)(6) found liquor bottles and open beer cans. The passengers of the vehicle smelled of alcohol. The driver of the vehicle had also been injured by glass shrapnel from the second shot passing through the front windshield. PFC (b)(3)(b)(6) treated the driver by removing pieces of glass from the driver's neck. The wounds to the driver were only flesh wounds and not serious. The driver also appeared to be the most intoxicated occupant of the vehicle. Both PFC (b)(3)(b)(6) and

SGT (b)(3)(b)(6) remarked at how heavily intoxicated the driver was.

After the EOF incident, the patrol received instructions from 2-69 AR to detain the five remaining occupants of the white Daewoo. A claims card was not initially given to the five local nationals concerning the passenger that was shot because the patrol was told to arrest the individuals. The platoon reconsolidated at JSS Karada and then took the five local nationals to the Detainee Holding Area (DHA) at FOB (b)(2)High. The names of the five individuals that were taken to the DHA are

(b)(6)

3. CONCLUSIONS:

SGT (b)(3)(b)(6) performed the proper Escalation of Force measures that were briefed to him prior to the mission from the MNC-I Rules of Engagement card. SGT (b)(3)(b)(6) shouted for the vehicle to stop. SGT (b)(3)(b)(6) waived the red beacon to get the attention of the white Daewoo as he stood on the access ramp in order to block access. He then continued to shout at the vehicle as he flashed the vehicle with his tac light and showed the passengers of the vehicle (b)(2)High by pointing it in their direction. After the vehicle refused to stop, SGT (b)(3)(b)(6) fired a warning shot. When the vehicle again began to move, SGT (b)(3)(b)(6) fired a second shot to disable the vehicle. This shot struck the white Daewoo's front windshield and struck a passenger in the back seat of the white Daewoo in the lower face. The white Daewoo

(b)(2)High

(b)(2)High therefore, this fact intensified SGT (b)(3)(b)(6) perceived threat by the vehicle's hostile intent. In terms of the actions from the white Daewoo and the perceived threat to Coalition Forces, SGT (b)(3)(b)(6) acted in compliance with the Escalation of Force steps and Rules of Engagement. SGT (b)(3)(b)(6) identified that the white Daewoo was exhibiting hostile intent by approaching at a high rate of speed. SGT (b)(3)(b)(6) actions were a graduated use of force that attempted to use the minimum force necessary to address a vehicle that showed hostile intent to CFs.

The white Daewoo was littered with liquor bottles and open beer cans. The passengers of the vehicle smelled of alcohol and the driver especially appeared to be intoxicated. The intoxication of the driver would explain the vehicles confused and non-compliant movements that

resulted in SGT (b)(3)(b)(6) firing two shots to stop the vehicle from moving. The local national that was killed as a result of the EOF incident was in a vehicle that appeared to have hostile intent towards Coalition Forces. However, the local national that was killed did not perform a hostile act or display any hostile intent towards Coalition Forces.

4. RECOMMENDATIONS:

I recommend the commander make a CERP condolence payment to the next of kin of (b)(6)

5. POC for this memorandum is the undersigned.

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

1LT, FA
Company FSO



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2D BRIGADE COMBAT TEAM
2D INFANTRY DIVISION
FOB LOYALTY, APO AE 09390-1500

AFZC-B-CDR

31 July 2007

MEMORANDUM FOR RECORD

SUBJECT: Assumption of Command By Authority of AR 600-8-2 Para 2-8(a)(2).

The undersigned assumes command of 2d Infantry Brigade Combat Team, 2d Infantry Division, (WJFAA), from 31 July 2007 to 27 August 2007.

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

LTC, CA
Commanding



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



AFZC-B-CDR

AUG 02 2007

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

SUBJECT: AR 15-6 Investigation Into 6 July 2007 Escalation of Force Incident, 1-504
Parachute Infantry Regiment.

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

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

LTC, CA
Acting Commander



2ND INFANTRY BRIGADE COMBAT TEAM
 DEPUTY BRIGADE COMMANDER
 LTC (b)(3)(b)(6)



HHC 2BCT 2ID
 UNIT# 41546
 FOB LOYALTY APO-AE 09390-1546

2 Aug
 DSN 318-843-2773
 VOIP 772-7008
 CELI (b)(2)High, (b)(6)

SIR,

Please note that the unit found numerous open containers of alcohol in the vehicle.

I recommend approval of IO's findings

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

LTC, IN
 DEPUTY BRIGADE COMMANDER



DEPARTMENT OF THE ARMY
 Headquarters, 2nd Battalion, 69th Armor Regiment
 2nd Brigade Combat Team (Strike Force)
 FOB Rustamiyah, Iraq APO AE 09390



AFZP-VIC-C

14 July 2007

MEMORANDUM FOR Commander, 2d Brigade Combat Team (Strike Force), FOB Rustamiyah, Iraq
 APO AE 09390

SUBJECT: Recommendations on AR 15-6 Investigation, ND, 08 July 2007 (B CO, 1-504 PIR)

1. I have reviewed thoroughly the aforementioned investigation conducted by 1LT (b)(3)(b)(6)

2. I recommend that the findings and recommendations of the investigating officer be:

approved

disapproved

approved with the following exceptions/substitutions:

3. Commander's Comments/Remarks:

4. Point of contact for this memorandum is CPT (b)(3)(b)(6) at VOID 772_2111

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

LTC, AR 14JUL07
 Commanding



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



AFZC-B-CDR

JUL 1 0 2007

MEMORANDUM FOR 1L: (b)(3)(b)(6) B Co, 1st Battalion, 504th Parachute Infantry
Regiment, Multi-National Division-Baghdad, Camp 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 8 July 2007 by B Company, 1/504 Parachute Infantry Regiment attached to 2/69 Combined Arms Battalion.
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. Identify whether a Claims card was provided and any other actions taken to compensate if appropriate.
 - d. Include diagrams, storyboards or photos as appropriate.
3. Your legal advisor is CPT (b)(3), b(6) 2nd Brigade Operational Law Team, VOIP 772-7052, 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.

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 16 July 2007. Requests for delays should be submitted to me in writing.

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

COL, IN
Commanding

UNCLASSIFIED

From: (b)(3)(b)(6) 1LT 1-504 PIR Effects Cell/FSO
Sent: Wednesday, August 01, 2007 3:07 PM
To: (b)(3)(b)(6) CPT 2-2ID Trial Counsel
Subject: RE: ~~[S]~~ finishing touches 15-6
(U) **UNCLASSIFIED**

Classification: ~~SECRET//REL TO USA AND MCFI~~

Sir:

I passed the request for an update on the condolence payments to the 2-69 AR S1 yesterday morning. I have not heard back from them yet, but they said they were taking care of it.

Respectfullv.

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

UNCLASSIFIED

Classification: ~~SECRET//REL TO USA AND MCFI~~

UNCLASSIFIED



DEPARTMENT OF THE ARMY
Headquarters, 2d Brigade Combat Team
2d Infantry Division (1st CAV DIV)
Forward Operating Base Loyalty, Baghdad, Iraq 09390



REPLY TO
ATTENTION OF

AFZC-B-JA

1 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 – 8 July 2007 Escalation of Force (EOF) Incident, 1-504
Parachute Infantry Regiment

1. I have reviewed the investigation into the facts and circumstances surrounding the 8 July 2007 EOF incident involving 1-504 PIR, which resulted in one killed local national civilian. 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.
- c. The evidence supports the investigating officer's findings.
- d. The investigating officer's recommendations are consistent with the findings.

2. Staff contact for this legal review is MAJ (b)(3)(b)(6) at VOIP 772-7012 or email at (b)(3)(b)(6), (b)(2)High

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

CPT, JA
Brigade Trial Counsel

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

on 09 July 2007 (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 FOB Loyalty at 1400
 (Place) (Time)

on 10 July 2007 (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.)

President: ILT Matthew Volior

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 on 10 July 2007
 (Time) (Date)
 and completed findings and recommendations at 1700 on 13 July 2007
 (Time) (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES YES NO N/A

- | | | | | |
|---|--|--|--|------------|
| 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? | | | (b)(2)High |
| | 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.