

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)	1LT (Investigator)	
_____	_____	
(Member)	(Member)	
_____	_____	
(Member)	(Member)	

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

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

_____	_____
(Member)	(Member)

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

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

ACTION BY APPROVAL AUTHORITY:

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

I approve the "Summary" and "Findings."

The recommendation that:

-[7b] A condolence payment of at least \$5,000 be paid to the victims family is (approved)

(disapproved) remanded to the BCT Cdr (b)(3), (b)(6)

-[7c] C/2-12IN reinforces the use of EOF procedures is (approved) (disapproved) remanded to the BCT

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

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

(b)(3), (b)(6)	24 AUG 2007
----------------	--------------------

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

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

AUG 19 2007

COL (b)(3), (b)(6) 4-IBCT Commander



DEPARTMENT OF THE ARMY
HEADQUARTERS, 2D BATTALION, 12TH INFANTRY REGIMENT,
2D BRIGADE COMBAT TEAM, 2D INFANTRY DIVISION
FOB FALCON, IRAQ APO AE 09361

REPLY TO
ATTENTION OF:

AFZC-B-I-HHC

1 AUG 2007

MEMORANDUM FOR Commander, 4th IBCT, 1st Infantry Division, Baghdad, Iraq APO AE 09361

SUBJECT: Investigative AR 15-6 Report – RE: Escalation of Force and shooting of Iraqi Local National Citizens, C/2-12 IN on 16 July 2007

1. Purpose. The purpose of this document is to report the investigating officer's findings and recommendations concerning the Escalation of Force and shooting of Iraqi Local National Citizens incident that occurred on 16 July 2007.

2. Summary.

a. On 16 July 2007, (b)(2)High (attached to Destroyer company) was conducting a presence patrol in (b)(2)High. The patrol was traveling north on 23rd street at a slow rate of speed. (See Exhibit D, Statement of SSG (b)(3), (b)(6)). At approximately 1845, a white 4-door Opel with what appeared to be a single male driver, (See Exhibit H, Statement of SGT (b)(3), (b)(6)) was traveling west on 16th street, made a right hand turn onto 23rd street, and continued to drive north in front of the convoy. The driver (b)(6) father of the two girls) of the white vehicle drove north for about 50 meters, came to a quick stop, then started to drive backwards towards the convoy at a high rate of speed. (See Exhibit E, SGT (b)(3), (b)(6)). The gunner of the lead vehicle (PFC (b)(3), (b)(6)) took a warning shot and the vehicle eventually came to a halt. The driver of the vehicle exited and pulled out two young females who had been hit. The gunner of the lead vehicle (PFC (b)(3), (b)(6)) asked to take a warning shot and his TC (SGT (b)(3), (b)(6)) said yes. The vehicle was about (b)(2)High away from the convoy when PFC (b)(3), (b)(6) took the shot. The vehicle continued to roll backwards for approximately five more meters then came to a halt.

b. SPC (b)(3), (b)(6) began an immediate assessment and started to treat the most critically wounded female first. She had a bullet hole in her shoulder and abdomen. The other girl had a bullet hole in her right buttocks. (See Exhibit F, Statement of SPC (b)(3), (b)(6))

c. The patrol loaded up the two casualties and drove to the CSH. The girl with the wound to the abdomen was pronounced DOA and the girl with the wound to the buttocks was kept overnight.

c. OPTEMPO was not an issue in this matter. Each Soldier interviewed said they had well over 8 hours of sleep prior to the mission. They had not been on a previous mission for approximately 20 hours.

AFZC-B-I-A

SUBJECT: Investigative AR 15-6 Report – RE: Escalation of Force and shooting of Iraqi Local National Citizens, C/2-12 IN on 17 July 2007.

3. Applicable Laws & Regulations.

(b)(2)High

4. Investigative Procedures. I conducted my investigation by gathering sworn statements and interviewing those Soldiers that were involved in this incident. Additionally, I spoke with LTC (b)(3), (b)(6) who was the doctor at the CSH.

5. Witnesses & Evidence. The witness interviews all seemed to portray the same things and aspects of what actually happened on that day. The evidence clearly points out that the civilian displayed hostile intent by changing direction of travel and moving towards convoy at a high rate of speed.

6. Findings.

a. I find that SGT (b)(3), (b)(6) SGT (b)(3), (b)(6), SSC (b)(3), (b)(6) SPC (b)(3), (b)(6) and PFC (b)(3), (b)(6) all complied with the ROE. The Soldiers were forced to act quickly due to the high rate of speed of the vehicle moving towards the patrol. The Soldiers did not have time to demonstrate other EOF measures such as flashing headlights or using the loud speaker.

b. According to SGT (b)(3), (b)(6) the driver of the vehicle had made eye contact with him prior to turning onto 23rd street. SGT (b)(3), (b)(6) did not see other passengers in the vehicle, only the driver. (See Exhibit H, Statement of SGT (b)(3), (b)(6))

AFZC-B-I-A

SUBJECT: Investigative AR 15-6 Report – RE: Escalation of Force and shooting of Iraqi Local National Citizens, C/2-12 IN on 17 July 2007.

c. PFC (b)(3), (b)(6) states he aimed (b)(2)High over the left side of the vehicle and engaged the car when it was approximately (b)(2)High way from the convoy. He also stated that he was aiming towards a palm grove north of his position. (See Exhibit G, Statement of PFC (b)(3), (b)(6)) The impact of the round was in the left rear tail light and traveled through the trunk, back seat, and body of first girl before coming to a rest in the buttocks of the second girl. (See Exhibit, I, Pictures of Vehicle and Casualty.) This implies that the warning shot missed or the gunner shot into the tail light.

d. I had the bullet which was extracted from the girl with the wound to the buttocks compared to an AK-47 round by SFC (b)(3), (b)(6) White, 4-11N Brigade ISF NCOIC. They determined that the round matched the characteristics of a (b)(2)High round. This comparison was not a scientific process, but I was able to see the differences in the (b)(2)High round and an AK-47 round.

e. Because the vehicle was speeding toward the convoy, this displayed positive hostile intent that could threaten the Soldiers. The Soldiers were properly acting in self-defense.

f. Additionally, the medical treatment gave by SPC (b)(3), (b)(6) followed the MNC-I MROE. He

(b)(2)High

(b)(2)High

(See Exhibit F, Statement of SPC (b)(3), (b)(6))

g. SSG (b)(3), (b)(6) ordered the civilian to position his car between the (b)(2)High vehicles of the patrol so that they could escort the casualties to the CSH. The LN left the scene for approximately ten minutes before returning with the casualties. At this time, SSG (b)(3), (b)(6) decided to transport the casualties and the father to the CSH inside the patrol vehicles, rather than in their own vehicle to save time. It should be noted that when the LN returned to the scene, the bandages that (b)(3), (b)(6) had put on the casualty were inside the trunk of the car. (See Exhibit D, Statement of SSG (b)(3), (b)(6))

h. SSG (b)(3), (b)(6) took pictures of the car immediately after the incident and upon returning from the CSH. The first pictures taken do not indicate a bullet hole in the car from the left rear tail light but the second set of pictures, taken later that evening, clearly shows the bullet hole. (See Exhibit I, Pictures of vehicle and casualties)

i. I spoke with LTC (b)(3), (b)(6) the doctor treating the casualty at the Combat Support Hospital, IZ, and he determined that the round entered the front lower area of the abdomen and exited high on the back. He also determined that the wound could have been inflicted by an AK-47 round or (b)(2)High the casualty would have to have been lying down facing the backseat in order for the round fired from PFC (b)(3), (b)(6) to hit her in this nature.

AFZC-B-I-A

SUBJECT: Investigative AR 15-6 Report – RE: Escalation of Force and shooting of Iraqi Local National Citizens, C/2-12 IN on 17 July 2007.

7. Recommendations.

a. I recommend that the approving authority close this investigation and direct no further action in this case.

b. I recommend a condolence payment of \$2,500 per incident for a total of \$5,000 be paid to the victim's family.

c. I also recommend that the company reinforces the use of escalation of force measures.

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

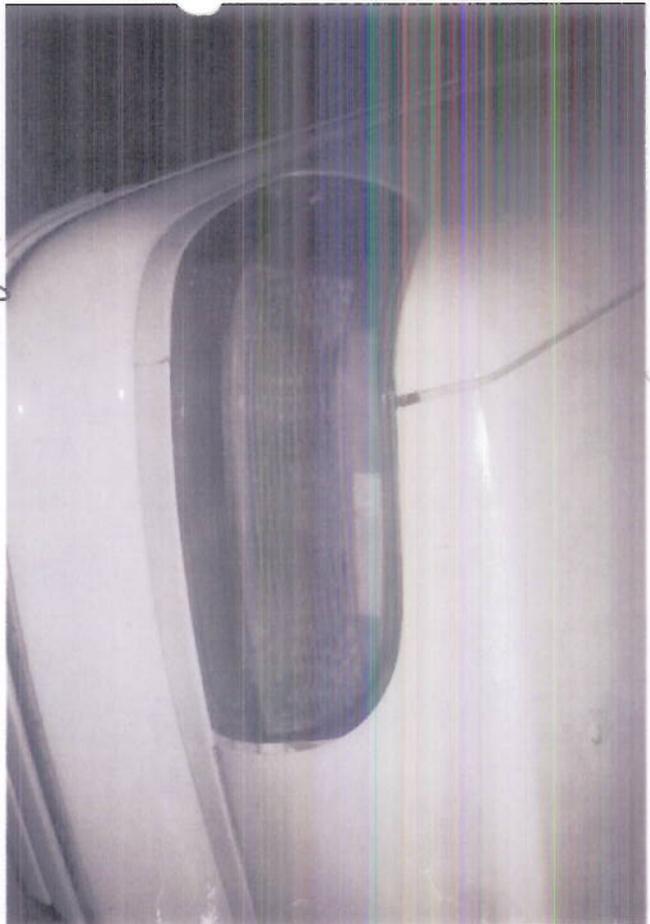
8. If you have any further questions or concerns, please contact the undersigned at 777-2007 or

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

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

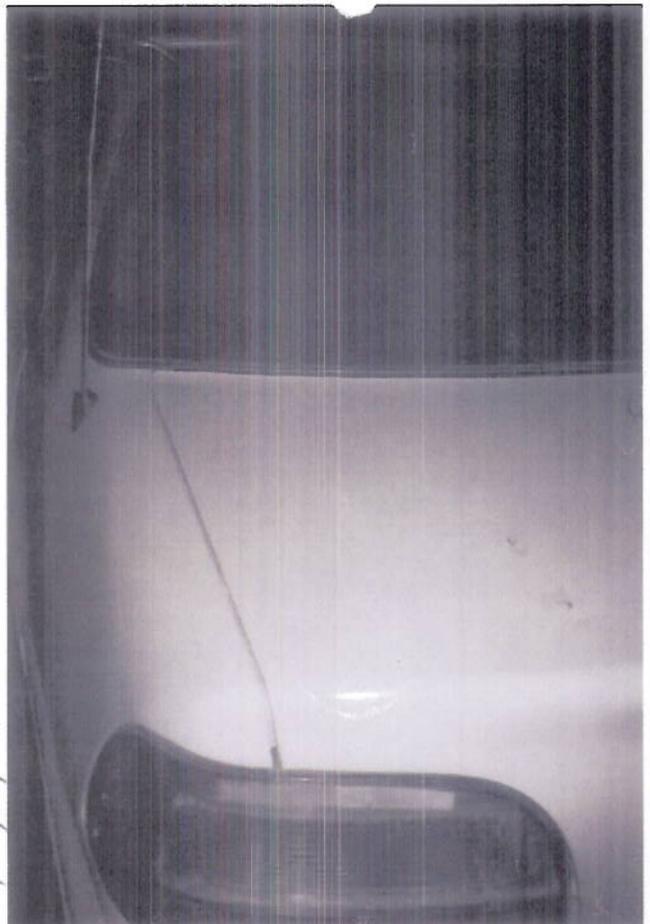
MLT, MS

Investigating Officer

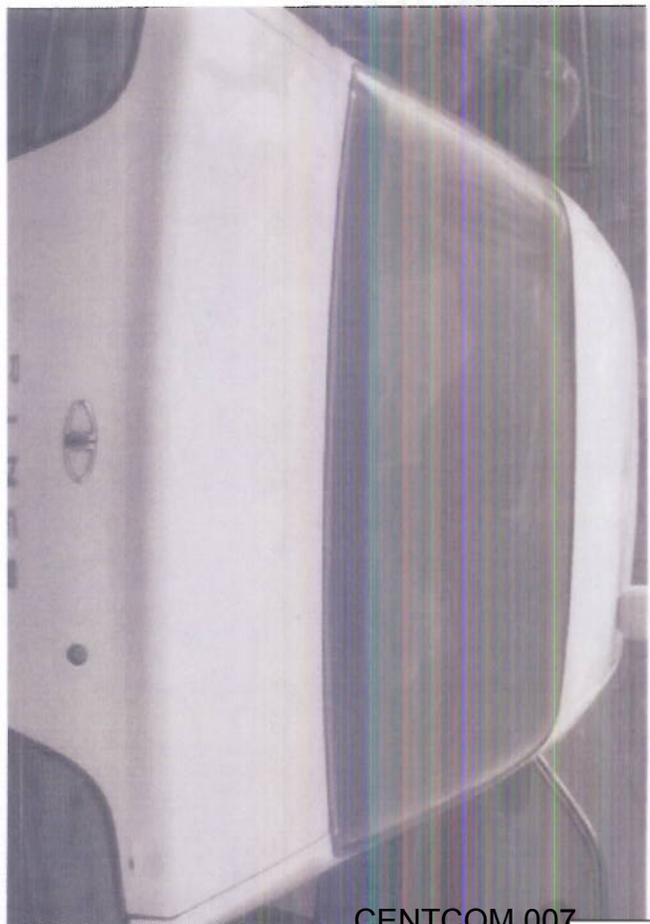


Right → view (5)

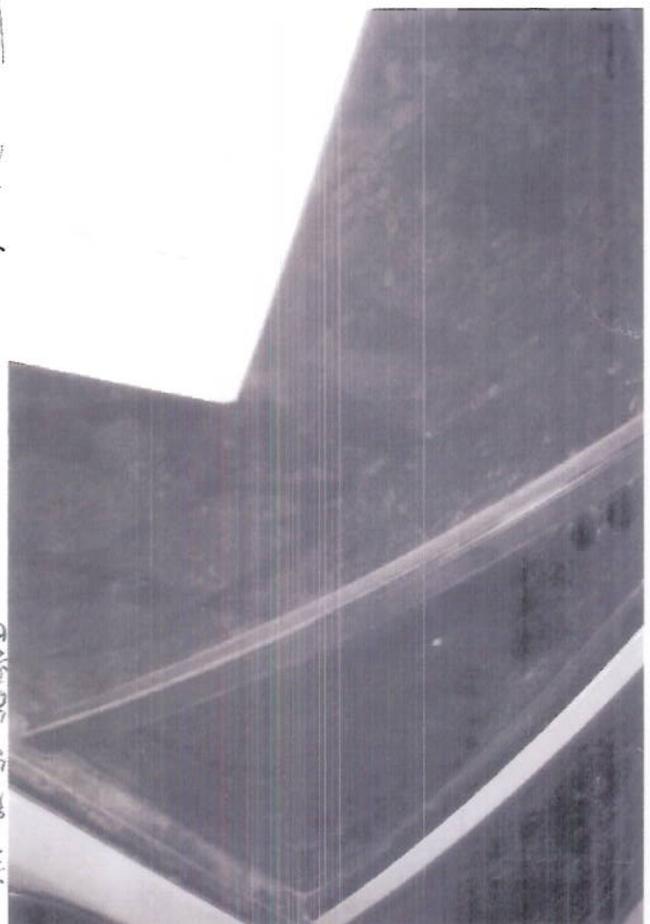
L. Rear



L. Rear

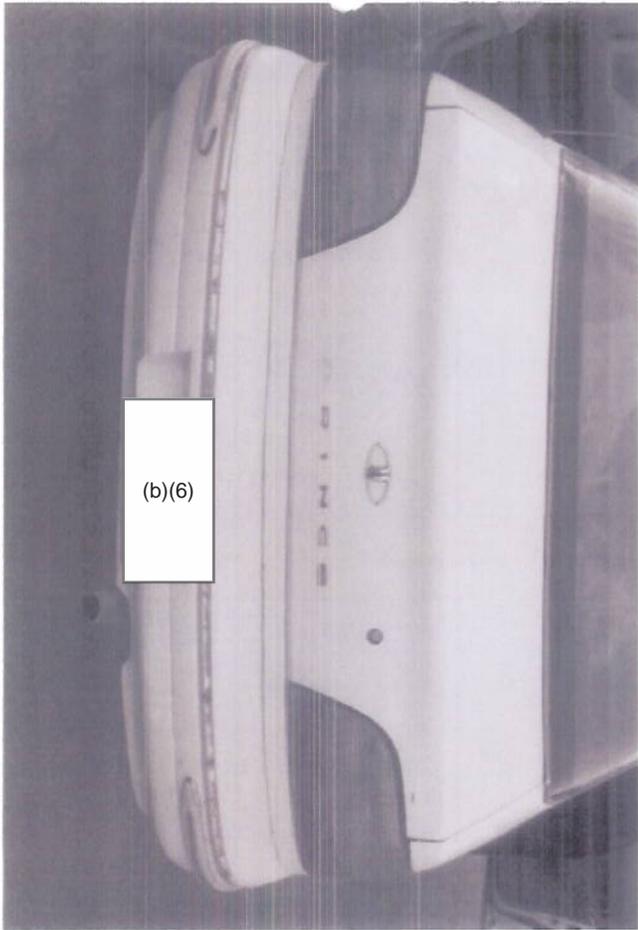


Front view

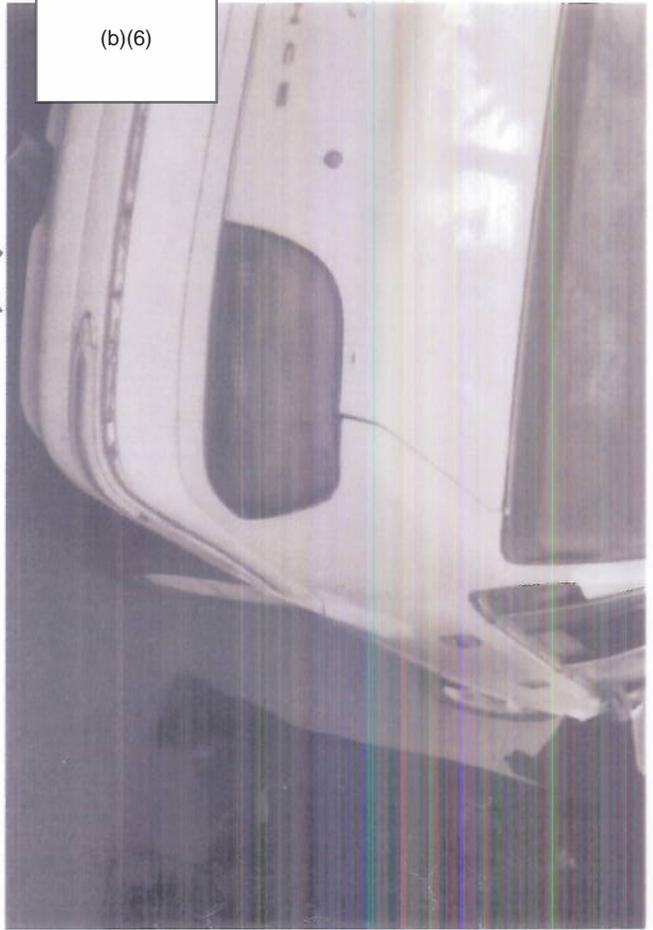


INSIDE OF TRUCK

Exhibit I, Photos

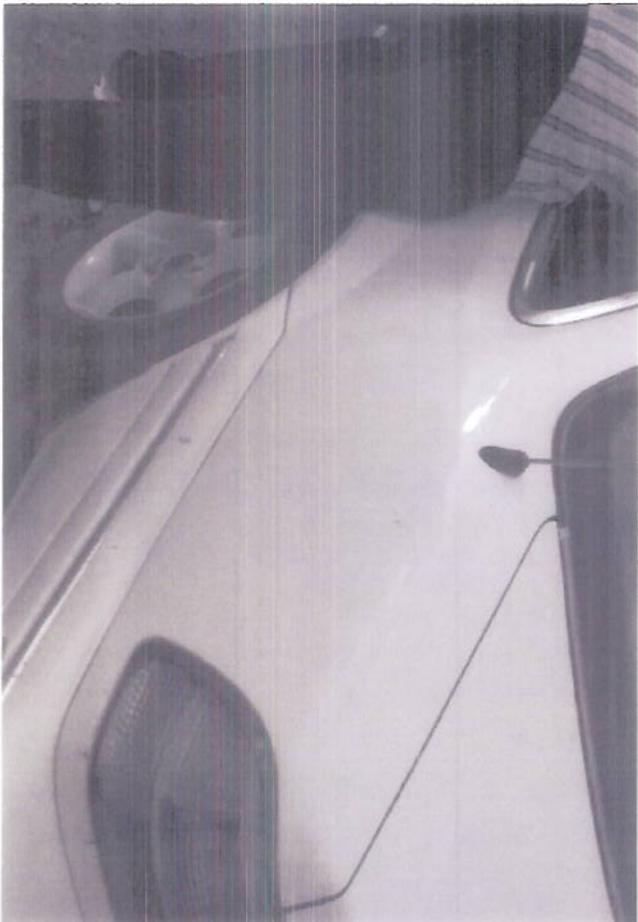


(b)(6)

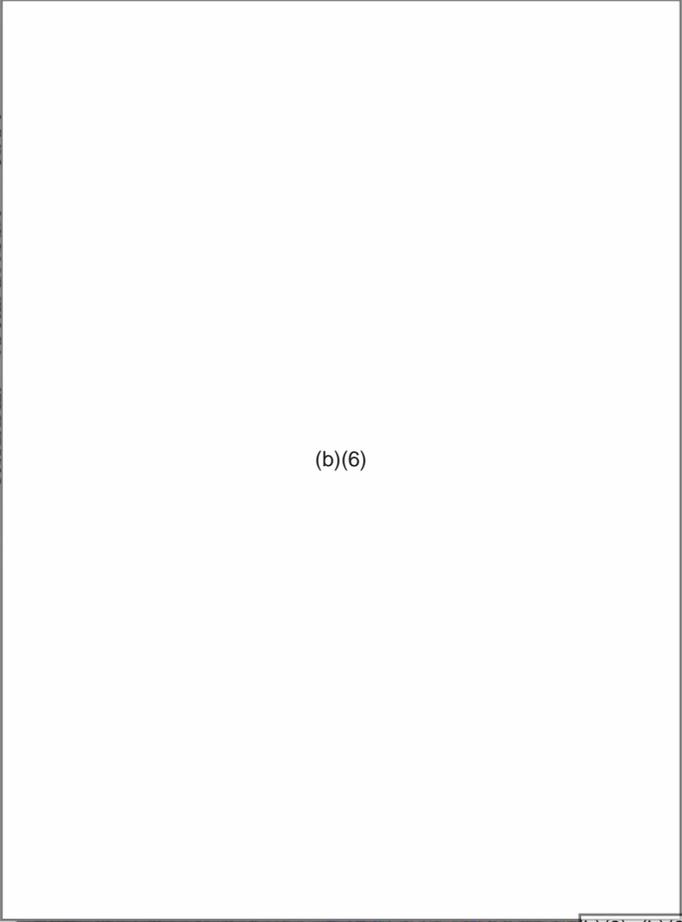


(b)(6)

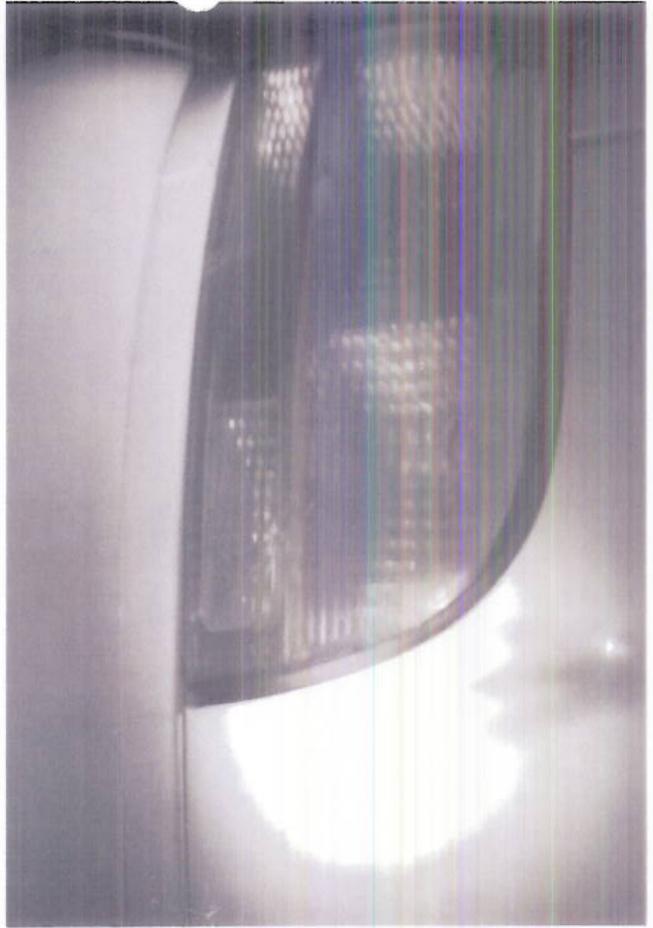
R. Pears



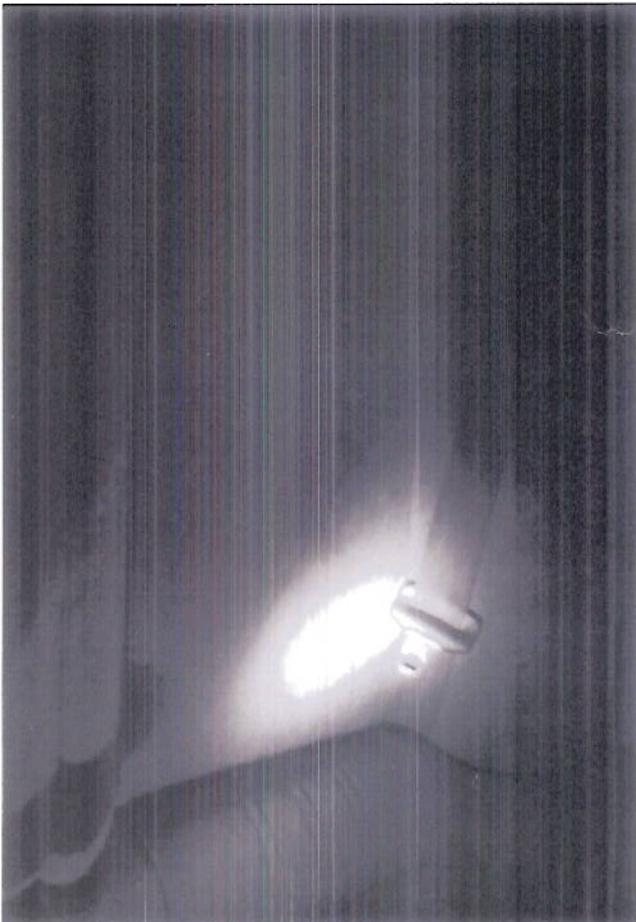
UPH 1



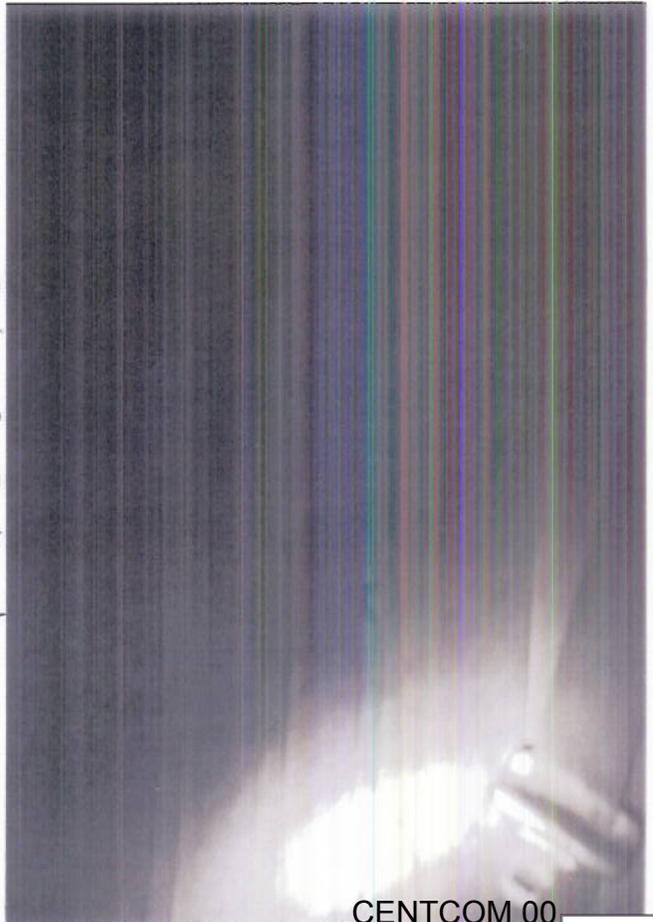
(b)(6)



Back of Back seat



Back of Backseat



CENTCOM 00



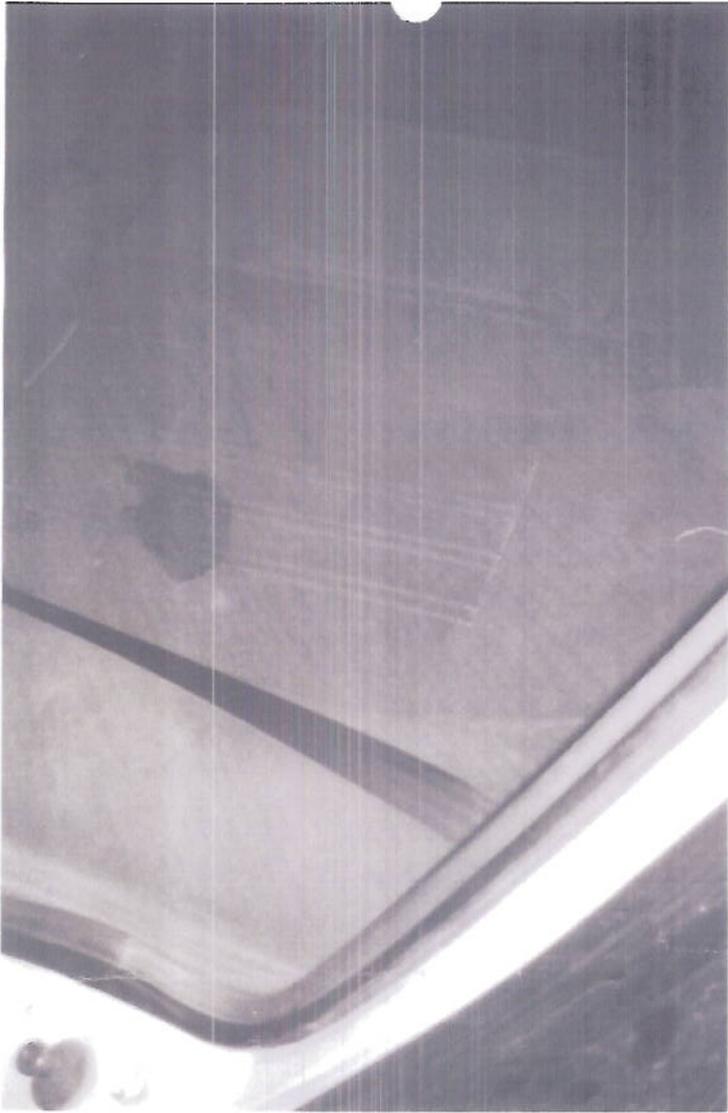
TRUNK



TRUNK



(b)(6)





DEPARTMENT OF THE ARMY
HEADQUARTERS, 2ND BATTALION, 12TH INFANTRY REGIMENT
4TH INFANTRY BRIGADE COMBAT TEAM
FOB FALCON, IRAQ APO AE 09361

REPLY TO
ATTENTION OF:

AFZC-B-I-CDR

AUG 19 2007

MEMORANDUM FOR Commander, 4th Infantry Brigade Combat Team, Multinational
Division-Baghdad, FOB Falcon, Baghdad, Iraq, APO AE 09361

SUBJECT: Battalion Commander's Recommendation - AR 15-6 Investigation (RE:
Escalation of Force, C/2-12 IN on 17 Jul 07.)

The findings and recommendations of the investigating officer should be:

) Approved.

) Disapproved.

) Approved, with the following exceptions/substitutions: _____

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

MAJ, IN
Commanding



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2ND BATTALION, 12TH INFANTRY REGIMENT
2ND BRIGADE COMBAT TEAM, 2ND INFANTRY DIVISION
FOB FALCON, IRAQ APO AE 09361

AFZC-B-I-CDR

26 July 2007

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Assumption of Command by Authority of AR 600-20, paragraph 2-8

1. The Undersigned assumes command of 2nd Battalion, 12th Infantry Regiment (WAJJAA) FOB Falcon, Baghdad, Iraq effective 26 July 2007

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

MAJ, IN
Commanding

DISTRIBUTION:
CDR, HHC, 2-12TH INF REGT
CDR, A CO, 2-12TH INF REGT
CDR, B CO, 2-12TH INF REGT
CDR, C CO, 2-12TH INF REGT
CDR, D CO, 2-12TH INF REGT
CDR, F CO, 2-12TH INF REGT
FILE



DEPARTMENT OF THE ARMY
BRIGADE OPERATIONAL LAW TEAM
HEADQUARTERS, 4TH INFANTRY BRIGADE COMBAT TEAM
FOB FALCON, IRAQ APO AE 09361

REPLY TO
ATTENTION OF:

AFZN-BC-JA

15 August 2007

MEMORANDUM FOR COMMANDER, 4 IBCT, MND-B, FOB Falcon, Iraq APO AE
09361

SUBJECT: Legal Review of AR 15-6 Investigation Regarding an Escalation of Force
Incident Involving C/2-12 IN on 16 July 2007

1. Legal Review. In accordance with AR 15-6, paragraph 2-3(b), I have reviewed the AR 15-6 investigation into the facts and circumstances surrounding an Escalation of Force incident involving C/2-12 IN on 16 July 2007. The incident ended with the death of one local national minor female and the wounding of one local national minor female.
2. The proceedings complied with the requirements of AR 15-6. Errors in the proceedings, if any, did not have an adverse affect on anyone related to the proceedings. I found no errors in the proceedings.
3. The findings are supported by a preponderance of the evidence.
4. The recommendations are supported by the findings and evidence.
5. The BCT CDR approved a condolence payment for the family on 14 August 2007.
6. Approval Authority Action. In accordance with AR 15-6, paragraph 2-3(a), the approval authority is neither bound nor limited by the findings or recommendations of an investigation. Accordingly, the approval authority may take one of several actions in this case:
 - a. Adopt the findings and recommendations as they are and take action not inconsistent with the recommendations.
 - b. Require the investigating officer to conduct a further investigation and resubmit findings of fact and recommendations.
 - c. Substitute findings or recommendations as the appointing authority believes are supported by a preponderance of the evidence.
7. Recommendation. I recommend that you approve the findings and recommendations.

AFZN-BC-JA

SUBJECT: Legal Review of AR 15-6 Investigation Regarding an Escalation of Force Incident Involving C/2-12 IN on 16 July 2007

8. Approval Authority. The approval authority for this investigation is the CDR, MND-B.

9. The POC for this review is the undersigned at SVOIP: 777-1189 or

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

Please

call if there are any questions.

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

CPT, JA
Operational Law Attorney

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 24 JULY 07 (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 BLDG 1105, HHC CP, FOB FALCON, IRAQ at 1200 (Place) (Time)
 on 25 JULY 07 (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 (Time) on 29 July 07 (Date)
 and completed findings and recommendations at 1700 (Time) on 31 July 07 (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES YES NO ^{1/} NA ^{2/}

1 Inclosures (para 3-15, AR 15-6)	(b)(2)High
Are the following inclosed and numbered consecutively with Roman numerals: (Attached in order listed)	
a. The letter of appointment or a summary of oral appointment data?	
b. Copy of notice to respondent, if any?(See item 9, below)	
c. Other correspondence with respondent or counsel, if any?	
d. All other written communications to or from the appointing authority?	
e. Privacy Act Statements (Certificate, if statement provided orally)?	
f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?	
g. Information as to sessions of a formal board not included on page 1 of this report?	
h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?	

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