

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.)

(Recorder)

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

(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)

APPROVING

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 approve/disapprove the findings of the investigating officer, MAJ (b)(3), (b)(6)

Recommendations

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

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

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

- f. Remand to the BCT Commander. (Agree) (Disagree) (Remand to BCT Cdr)
- g. Other:

I direct the BCT Commander to take the above action.

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

4 MAR 2008

JEFFREY W. HAMMOND, Major General, USA, Commanding

(2)H

(2)H

(b)(2)High

0450: ROUTE CLEARANCE TEAM AND SECONDARY IRF TEAM SP TO LOCATION TO CLEAR AREA OF PIED. PENDING RESULTS OF ROUTE CLEARANCE SWEEP, RCP WILL MOVE TO THE LOCATION OF THE SECURE AREAS THAT ATTEMPT TO IDENTIFICATION THROUGH HIIDE.

(b)(2)High

0610: IP'S TAKE CUSTODY OF UE REMAINS. THEY PLAN TO MOVE IT TO MINISTRY OF HEALTH BLDGS AT OLD MOD

SUMMARY:

1 X SNIPING
1 X UE KIA

2)H
//OPEN//

(b)(2)High

(b)(2)High

MND-B EVENT 23 (210642)

UNIT: 47 10 MTN

WHO: 3-89

EVENT TYPE: SNIPING

KIA:

TIMELINE:

0342: C... WALKING NW
ALONG ... CARRYING
WHAT APPEARED TO BE A LARGE
BAG. UE STOPPED AND SQUATED
BY ... DING APPROX 300'S OF RTE
2)H
HE REAPPEARED AND SQUATED
DOWN BETWEEN THE BUILDING
AND RTE PLUTO. UE STOOD UP
AND APPEARED TO HAVE LEFT A 3'
X 3' UNIDENTIFIED ITEM THAT
GAVE OFF A HEAT SIGNATURE ON
THE S SIDE OF ...
INDIV... EGAN WALKING NW
ALONG ... UE WAS OUT PAST
CURFF ... s. IN A KNOWN IED
2)H
ENGAGED UE.

0346: BDOC INFORMED THAT UE
WAS A CONFIRMED HIT AND
CRAWLING ACROSS THE MET ... 2)H
HEADING SOUTH DOWN RTE
SOUTH BOUND LANE, STOPPING
UNDER PLAM TREE, VIC ...
2)H
LOCATION UE STOPPED IS
APPROXIMATELY 100 M FROM THE
SITE OF POTENTIAL
EMPLACEMENT.

(b)(2)High

(b)(2)High

0425: EOD CALLED AND GIVEN
WARNO FOR UNKNOWN OBJECT
BELIEVED TO HAVE BEEN PLACED.

NTC

(b)(2)High

(2)Hi

(b)(2)High

(2)H

(2)High

(b)(2)High

(b)(2)High

b)(2)High

(b)(2)High

(b)(2)High

(2)L (2)Hi

b)(2)High

(b)(2)High

(b)(2)High

EX

(2)H

(b)(2)High

Nonresponsive, (b)(2)High

(b)(2)High

(b)(2)High



DEPARTMENT OF THE ARMY
HEADQUARTERS, BRIGADE SPECIAL TROOPS BATTALION
4TH BRIGADE COMBAT TEAM
10TH MOUNTAIN DIVISION
MULTI-NATIONAL DIVISION-BAGHDAD
CAMP LOYALTY, IRAQ APO AE 09390

JAN 28 2008

REPLY TO
ATTENTION OF:

AFZS-LP-E-CO

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

MEMORANDUM THRU Commander, 4th Brigade Combat Team, 10th Mountain Division,
Multi-National Division-Baghdad, FOB Loyalty, Iraq APO AE 09390

FOR Commander, Multi-National Division-Baghdad, FOB Liberty, Iraq APO AE 09390

SUBJECT: AR 15-6 Recommendation

1. Upon review of the investigation into in the facts and circumstances surrounding the events of 21 January 2008 invo^{(3), (b)} BSTB assets which resulted in the death of an Iraqi local national I recommend you approve disapprove the investigation.

2. Comments:

Very thorough investigation. Good shoot. Recommendations speak to improvements in systems & coordination ~~but~~ ^{that} ~~are~~ only serve to improve upon the solid process we already have in place.

3. The point of contact for this memorandum is CPT (b)(3), b(6) at VOIP (b)(2)High

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

LTC, SF
Commanding



DEPARTMENT OF THE ARMY
 HEADQUARTERS, 3-89TH CAVALRY REGIMENT
 4TH BRIGADE COMBAT TEAM
 10TH MOUNTAIN DIVISION (LIGHT INFANTRY)
 MULTI-NATIONAL DIVISION-BAGHDAD
 FOB LOYALTY, IRAQ APO AE 09390

JAN 28 2008

REPLY TO
 ATTENTION OF:

AFZS-LP-C-SCO

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

MEMORANDUM THRU ~~Commander, 4th Brigade Combat Team, 10th Mountain Division,
 Multi-National Division-Baghdad, FOB Loyalty, Iraq APO AE 09390~~

FOR Commander, Multi-National Division-Baghdad, FOB Liberty, Iraq APO AE 09390

SUBJECT: AR 15-6 Recommendation

1. Upon review of the investigation into in the facts and circumstances surrounding the events of 21 January 2008 involving BSTB assets which resulted in the death of an Iraqi local national I recommend you approve disapprove the investigation.

2. Comments:

3. The point of contact for this memorandum is SGT ~~(b)(3), (b)(6)~~at VOIP (b)(2)High

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

LTJ, IN
 Commanding



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, 4TH BRIGADE COMBAT TEAM
10TH MOUNTAIN DIVISION
MULTI-NATIONAL DIVISION-BAGHDAD
FOB LOYALTY, IRAQ APO AE 09390

JAN 28 2008

AFZS-LP-Z-CO

MEMORANDUM THRU FOR Commander, Multi-National Division-Baghdad, FOB Liberty,
Iraq APO AE 09390

SUBJECT: AR 15-6 Recommendation

1. Upon review of the investigation into in the facts and circumstances surrounding the events of
21 January 2008 involving BSTB assets which resulted in the death of an Iraqi local national, I
recommend you approve / disapprove the investigation.

2. Comments:

(b)(2)High OPERATED WITHIN THE ROE. THE PROCEDURES & SYSTEMS FOR
THE SNIPER TEAM & BDOC WERE NOT PROPERLY INTEGRATED. PROCEDURES HAVE
NOW BEEN PUT IN PLACE TO ENHANCE (b)(2)High ENGAGEMENT
CRITERIA.

3. The point of contact for this memorandum is CPT (b)(3), (b)(6) at VOIP (b)(2)High

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

COL, IN
Commanding



DEPARTMENT OF THE ARMY
Headquarters, 4th Infantry Brigade Combat Team
10th Mountain Division (Light Infantry)
Fort Polk, Louisiana 71459

AFZS-LP-Z-HHC

25 January 2008

MEMORANDUM FOR Commander, 4th IBCT, 10th Mountain Division (Light Infantry)

SUBJECT: AR 15-6 informal Investigation into the facts and circumstances surrounding the operation conducted by HHC, BSTB, 4th BCT, and attached elements which resulted in the death of an Iraqi local national on 21 January 2008.

1. Purpose: This memorandum documents the results of the informal AR 15-6 investigation into the circumstances related to the operation conducted by HHC, BSTB, 4th BCT, and attached elements which resulted in the death of an Iraqi local national on 21 January 2008, in Baghdad, Iraq. I was assigned as the investigating officer on 21 January 2008. The memorandum appointing the investigating officer directed four areas in which to make findings and recommendations based on the facts surrounding the operation conducted by HHC, BSTB on 21 January 2008:

A. Assess the use of force with respect to the Rules of Engagement and the Law of Armed Conflict. Identify the procedures in place at the time of the incident to authorize use of force.

B. Identify all individuals wounded or killed. Determine whether wounded or killed 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, death or damages to property.

D. Identify any other relevant matters that you discover in the course of your investigation.

2. Findings:

A. As directed to assess the use of force with respect to the Rules of Engagement and the Law Armed Conflict: I find that SSC (b)(3), (b)(6) and (b)(2)High operated IAW the MNF-I Rules of Engagement and used the appropriate leave of force.

1. PFC (b)(3), (b)(6) observed a L/N at approximately 21 0345 JAN 08 (Exhibit C) through thermal sites walking in the median of (b)(2)High after curfew in a known IED hot-spot, (b)(2)High had a total 77 total IED events-53 x IED detonations, 20 x IED finds, and 2 x IED hoaxes-between 1 DEC 06-21 JAN 08, (Exhibit E and F). PFC (b)(3), (b)(6) immediately informed SGT (b)(3), (b)(6) and SSG (b)(3), (b)(6) (Exhibit

V). SGT (b)(3), (b)(6) then began to observe the L/N as he continued to walk westbound in the median of Route (b)(2)High. This L/N was carrying a bag that appeared to be the size of a duffel bag which was emitting a heat signature, (Exhibits I, II, III, and IV). The L/N walked approximately (b)(2)High further west and stopped in front of a generator shack, (Exhibit III). The L/N then squatted down in front of the shack and remained in this position for approximately 60 seconds, (Exhibit III). The L/N then stood up and began walking westbound, leaving behind the bag which was emitting a heat signature, (Exhibits I, II, and III). SGT (b)(3), (b)(6) witnessed the L/N leave behind an object, appearing to implant it as he moved away. (Exhibit IV). SGT (b)(3), (b)(6) observed the L/N through (b)(2)High and believed that he was emplacing or camouflaging an IED, Pipe Bomb, or EFP, (Exhibit II). SSG (b)(3), (b)(6) then reconfirmed by personally looking through the thermal site and verifying the heat signature coming from the bag that had been left behind, (Exhibit I). SSG (b)(3), (b)(6) then conferred with SGT (b)(3), (b)(6), SGT (b)(3), (b)(6), and SGT (b)(3), (b)(6) and they all agreed that the L/N had left an object behind in some kind of a bag that was emitting a heat signature, thus creating a threat to US and Coalition Forces, (Exhibits I, II, III, and IV). All four NCO's believed that the L/N's actions were consistent with that of someone exhibiting hostile intent against coalition forces, (Exhibits I, II, III, and IV). All 4 NCO's on the roof of the (b)(2)Lo witnessed the L/N break curfew and transport a large bag which was emitting a heat signature to the side of the road in a known IED hot spot, squat down, and walk away, (Exhibits I, II, III, and IV). The heat signature in the bag caused SGT (b)(3), (b)(6) and SGT (b)(3), (b)(6) to think that a PIED could be inside, (Exhibits II and III). The heat signature in the bag caused SSG (b)(3), (b)(6) to believe that an EFP was inside the bag, (Exhibit I). All four NCO's believed that the L/N committed behavior that was consistent with someone who was trying to implant or camouflage an IED, (Exhibits I, II, III, and IV). Thus, they believed that the L/N had Hostile Intent as defined by CFLCC Rules for use of Force, (Exhibit M) and had constituted a threat to Coalition Forces, (Exhibits I, II, III, and IV).

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

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

(b)(2)High

(b)(2)High In this case, both SGT (b)(3), (b)(6) and SGT (b)(3), (b)(6) were able to use

(b)(2)High

to PID the L/N. (Exhibits II and III). The spotters were able to PID the L/N with the use of (Exhibits, I, II, and III). After having PID'd the L/N who left behind a bag which was emitting a heat signature near the side of the road on (b)(2)High and witnessing actions contestant with someone who had exhibited hostile intent, SSG (b)(3), (b)(6) appropriately authorized the use of deadly force and gave the order to engage the L/N. (Exhibit I, II, III, and IV).

(b)(2)High

(b)(2)High

(b)(2)High

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

SGT (b)(3), (b)(6), SGT (b)(3), (b)(6) and SGT (b)(3), (b)(6) all believed that the L/N's actions were consistent with someone who was exhibiting hostile intent, (Exhibits I, II, III, and IV).

(b)(2)High

SSG (b)(3), (b)(6) then authorized SGT (b)(3), (b)(6) and SGT

) (3), (b) (6) to engaged the L/N with simultaneous fires, each NCO firing 5 rounds at the L/N, (Exhibits I, II, and III).

3. As directed to identify the procedures in place at the time of the incident to authorize use of force, I find that SSG (b) (3), (b) (6) and the SKT used the appropriate level of force provided by the procedures already in place, IAW MNF-I Escalation of Force procedure's and the MNF-I Rules of Engagement.

(b)(2)High

M). SSG (b) (3), (b) (6) only authorized the use of deadly force after he and all three of his NCO's witnessed what they believed to be hostile intent, by the actions of the L/N who had violated curfew and emplaced a bag on the side of RTE (b)(2)High which was emitting a heat signature, constituting a PIED, (Exhibits I, II, III, and IV). The L/N's actions having been consistent with those of someone harboring hostile intent toward coalition forces, SSC (b) (3), (b) (6) viewed these actions as a threat to coalition forces and gave his subordinates the order to engage the L/N, (Exhibit I). (b)(2)High

(b)(2)High

(b)(2)High

All four NCO's having

witnessed the L/N carry and leave behind a bag that was emitting a heat signature near the side of the road on (b)(2)High (Exhibits I, II, III, and IV). Thus all four NCO's reasoned that an IED had been left behind with the intent of attacking coalition forces, (Exhibits I, II, III, and IV). To SSG (b) (3), (b) (6) this constituted a threat to US forces and (b)(2)High SSG (b) (3), (b) (6) acted properly and authorized the use of deadly force. (b)(2)High

(b)(2)High

(b)(2)High In this situation, the circumstances did not allow for SSG (b) (3), (b) (6) to use EOF. He and his team had witnessed what they perceived to be hostile intent, when the L/N left a bag by the side of the road which was emitting a heat signature, which they believe to be a threat to Coalition Forces in the form of a PIED, (Exhibits I, II, III, and IV), thus constituting obvious hostile intent, SSG (b) (3), (b) (6) appropriately authorized the use of deadly force. (b)(2)High

(b)(2)High

(b)(2)High

) (3), (b) (6)

b. In this situation, time and circumstances did not permit the use of EOF measures. SSG (b) (3), (b) (6) had been ordered by his chain of command not to fire warning shots, (Exhibit I). In addition, perceiving that a PIED was on a heavily trafficked MSR used by Coalition Forces, (Exhibits I, II, III, and IV) and observing the L/N walk away from the bag that was emitting a heat signature, there was not enough time for implementing EOF measures. Although previously stated in section b, it is critical to mention as it pertains to the measures in place at the time of the incident to authorize deadly force (b)(2)High

(b)(2)High

(b)(2)High

4 -AFZS-LP-Z SUBJECT: AR 15-6 Formal Investigation, Death of Iraqi National on 21 JAN 08

(b)(2)High (Exhibit N). In this case, both SGT (b)(3), (b)(6) and SGT (b)(3), (b)(6) were able to use (b)(2)High

to PID the L/N. (Exhibits II and III). The spotters were able to PID the L/N with the use of (b)(2)High (Exhibits I, II, and III). After having PID'd the L/N who left behind a bag which was emitting a heat signature near the side of the road on (b)(2)High and witnessing actions constant with someone who had exhibited hostile intent, SSG (b)(3), (b)(6) appropriately authorized the use of deadly force and gave the order to engage the L/N, (Exhibit I, II, III, and IV). Therefore, the procedures authorized by the MNC-I ROE Card, already in place at the time of the shooting, allowed SSG (b)(3), (b)(6) to authorize the use of deadly force.

B. As directed to identify all individuals wounded or killed, I find that (b)(6) (b)(6) was shot and killed by SGT (b)(3), (b)(6) and SGT (b)(3), (b)(6) on 21 0350 JAN 08, (Exhibits G, H, I, J, and K). SGT (b)(3), (b)(6) and SGT (b)(3), (b)(6) admit that they fired 5 rounds each at the L/N, (Exhibits II and III). (b)(2)High was able to observe the location of the body until the IRF arrived on site to secure the area, (Exhibits I, XII). SSG (b)(3), (b)(6) (acting as the IRF squad leader), secured the location near the body at approximately 0500, (Exhibits VII and B). Once the location was secure, CBRN was tasked with conducting site exploitation and arrived at the location of the body at approximately 0540, (Exhibits IX and B). While conducting site exploitation, one wallet with a picture ID was recovered and interred as evidence, (Exhibits VIII and IX). The picture ID found in the wallet matched the L/N that was shot and killed (Exhibits G, H, I, J, and K). In addition, the BSTB S2 positively identified the body with the picture ID as that of (b)(6) (Exhibits VIII and G).

1. As directed to determine whether the wounded or killed local national was engaged in hostilities against Coalition Forces at the time of the incident, I find that (b)(6) was not engaged in hostilities against Coalition Forces. When the IRF arrived to secure the location of the body at approximately 21 0500 JAN 08, they were not able to find or locate an IED, (Exhibit VII). In addition, the IRF did not recover any weapons either near the body or on it when they arrived. (Exhibit VII). The only item recovered near the body was the bag that the L/N had been observed carrying by the SKT, (Exhibit VII). This was a burlap type bag that was filled only with metal cans, (Exhibits VII, J and K). The body remained under observation by (b)(2)High until the IRF secured the site so it was not possible for anyone to remove weapons from the location where the body was. (Exhibit I). CBRN conducted site exploitation and Mr. (b)(6) (b)(6) was not in the HIIDS system, (Exhibit IX).

C. As directed to determine whether local nationals involved in the incident should receive compensation for injuries, death or damages to property, I find that no one should be compensated for the death of (b)(6) WE breaking curfew in a known IED hot-spot which had a total (b)(2)High IED events, (b)(2)High IED detonations, (b)(2)High IED finds, and (b)(2)High IED hoaxes-between 1 DEC 06-21 JAN 08, (Exhibit E and F). In addition, his actions were consistent with that of someone who was emplacing or camouflaging a PIED, (exhibits I, II, III, and IV). The previous week the (b)(2)High had been involved in a similar incident in which they fired warning shots at a

suspect who had been committing similar acts. I admit that I am speculating, however, a reasonable person could assume that Mr. (b)(6) could have been paid by Anti-Coalition Forces to pick-up cans in that area in an effort (unknowingly) to get (b)(2)High to reveal its hide-site by firing at Mr. (b)(6). Thus, revealing themselves to enemy observation and putting themselves at undo risk. Mr. (b)(6) activities are questionable at the very least and if he had not been breaking curfew, he would not have been in the area at the time of the shooting.

3. Recommendations:

a. As directed to identify any other relevant matters that I might discover in the course of my investigation, I recommend the following:

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

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(b)(5)

3. Point of contact for this memorandum is the undersigned at SVOIP: (b)(2)High
or email: (b)(3), (b)(6), (b)(2)Hig@us.army.mil.

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

MAJ, AM
Investigating Officer