

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)

(b)(3), (b)(6) MAJ MC USA
(Investigating 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)

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

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

I (approve) (disapprove) the finding that MAJ (b)(3), (b)(6) fatal shooting of a local national man on 22 April 2007 (b)(3)(b)(6)

(b)(2)High

(b)(2)High

I (~~retain jurisdiction over MAJ (b)(3), (b)(6)~~) (release jurisdiction over MAJ (b)(3), (b)(6) to the BCT Cdr), (b)(3), (b)(6)

I remand the matter to the BCT Cdr for further appropriate action, including (b)(2)High, (b)(5)

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

26 MAY 2007

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

JOSEPH F. FIL, JR
Major General, USA
Commanding

EXECUTIVE SUMMARY
EOF w/Local National Death
1-325 AIR, 2/1 ID
22 APR 07

1. Situation: On 22 2015 April 2007, as a patrol from A/1-325 AIR was traveling though (b)(2)High, MAJ (b)(3), (b)(6) the company commander, believed that he saw (b)(6), a Bn HV I. (b)(6) is believed to be a JAM Cdr and is wanted by CE/ISF for robbery, kidnappings, extra-judicial killings and supplying/emplacing IEDs. (b)(2)High (b)(6)

(b)(6) (b)(2)High (b)(3), (b)(6) MAJ (3), (b) ordered the convoy to halt and stepped from the vehicle. As MAJ (3), (b) made eye contact with the civilian man, the man immediately turned and ran.

a. Threat: At the time of the shooting, the civilian man posed no threat. The area in which the short chase and shooting occurred, however, is extremely volatile.

b. EOF procedures: MAJ (3), (b) followed EOF procedures in an attempt to make the man stop his flight.

(1) MAJ (3), (b) and his interpreter pursued the civilian man on foot for a short distance and shouted several times, in both English and Arabic, for the man to stop.

(2) As the man entered an alley, MAJ (3), (b) fired (b)(2)High warning shots into the air.

(3) When the man did not stop, MAJ (3), (b) fired four shots into the man's back.

c. Results: The man fell over. Security was quickly established by the patrol. The man died while being evacuated to a hospital in the IZ. No weapons or contraband were found on the man or in the area of the shooting. The man was not (b)(6)

2. Findings:

a. The IO found that MAJ (3), (b) followed correct EOF procedures and that, under the circumstances, the use of deadly force was justified.

b. A legal review by CPT (b)(3), (b)(6) opined that (b)(2)High, (b)(5) (3), (b)(6)

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

3. Recommendations:

a. The IO recommended that no actions be taken against MAJ (3), (b) and tha (b)(5), (b)(2)High

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

a. BN CDR: Recommended approval of IO's findings and recommendations. The Cdr noted that MAJ Shaw reasonably believed that he had positive ID of (b)(6)

b. BCT CDR: Recommended approval of IO's findings and recommendations. (b)(5), (b)(2)High

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

Page 3 redacted for the following reason:

Non-Responsive, (b)(6), (b)(3)(b)(6)

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

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

Upon reading the sworn statements provided by the individuals who were at the scene from Alpha Company: I find that MAJ (b)(3), (b)(6), (b)(2)High (b)(2)High

According to the sworn statements, MAJ (b)(3), (b)(6), (b)(2)High MAJ3, (b saw that the suspect was potentially a Battalion High value target (b)(6) (b)(6) . immediately upon making eye contact with the individual the man ran from the scene. MAJ3, (b with his interpreter: first called out for the suspect to stop(in Arabic and English). then tried to physically detain him, but were unable to catch up to him, and after that fired warning shots. only at that time after the suspect did not stop did he fire directly at the suspect. The man was treated on the scene, but did succumb from his wounds upon arrival at the 28th CSH.

Not included in the sworn statements but prefaced by multiple SOLDIERS from Alpha Company. is that tho(2)High area has been very volatile over the past 2 months. They endure almost daily small arms fire while on patrol, including one Platoon leader being hit in the head by a sniper. They have also been the target of multiple IED/HFPs in their area of operation. There has also been a heightened awareness level since reports have come out that the JAM are wanting to kidnap American Soldiers. I feel that this played a role in the above encounter as the suspect was being chased down a blind/unknown alley with only MAJ3, (b and his interpreter. The potential for a baited ambush or other hostile action is always present.

Enclosed is a copy of the ROF/EOF guidelines published in the 1-325th AIR Base OPORD 07-01.

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

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

Due to the information gathered through sworn statements and face to face interviews. I recommend no action be taken against MAJ (b)(3), (b)(6) (b)(5), (b)(2)High



DEPARTMENT OF THE ARMY
 HEADQUARTERS, 2ND BRIGADE COMBAT TEAM
 1ST INFANTRY DIVISION (MECHANIZED)
 CAMP LIBERTY, IRAQ
 APO AE 09344



REPLY TO
 ATTENTION OF:

AETV-BGS-CDR

MEMORANDUM FOR Commander, 1st Cavalry Division, Multi-National Division- Baghdad,
 APO AE 09344

SUBJECT: Recommendation for 15-6 Investigation

1. I have reviewed the enclosed investigation regarding the facts and circumstances surrounding a suspected violation of the rules of engagement involving Alpha Company, 1st Battalion, 325th Airborne Infantry Regiment that occurred on 22 April 2007.

2. I (concur) / (do not concur) with the investigating officer's findings.

3. COMMENTS. MAJ (b)(3), (b)(6) ACTED ON HIS BELIEF THAT THE LN IN QUESTION (ULTIMATELY KILLED) WAS A BCT AVI. MAJ (b)(3), (b)(6) BELIEVED THAT THE LN WAS TRYING TO ESCAPE (LOOSE AFTER EDF HAD BEEN FOLLOWED. MAJ (b)(3), (b)(6) REVERSED ON THE BELIEF THAT (b)(6) WAS TO BE KILLED/KIND. THE STEPS LEADING UP TO THE DEATH OF THIS INDIVIDUAL MIRROR THE ACTIONS OF A DUBIOUSLY KNOWLEDGEABLE LEADER.

(b)(2)High

(b)(2)High

Rec. No Further Action.

4. Point of contact for this memorandum is

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

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

Encls

COL, IN
 Commanding



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1-325 AIR, 82nd AIRBORNE DIVISION
FORT BRAGG, NORTH CAROLINA 28310-5100



AFVC-BA-CDR

4 MAY 07

MEMORANDUM FOR Commander, 2nd Brigade, 1st Infantry Division, Camp Liberty, Iraq APO
AE 09344

SUBJECT: Transmittal for AR 15-6 Findings and Recommendations

1. On 22 APR 07, MAJ (b)(3), (b)(6) was appointed as the Investigation Officer pursuant to Army Regulation (AR) 15-6 to conduct an informal investigation into a report of an Escalation of Force by MAJ (b)(3), (b)(6), Alpha Company Commander, 1st Battalion, 325th Airborne Infantry Regiment, 82nd Airborne Division.

2. Having reviewed the Investigating Officer's Findings I recommend approval and provide the following insights for your consideration. Based upon the statements provided by MAJ (b)(3), (b)(6) Specialist (b)(3), (b)(6) and (b)(6) the Interpreter, I find that MAJ (b)(3), (b)(6) reasonably believed that he had positively identified the local national as (b)(6), a Brigade High Value Target (HVT) suspected of robbery, kidnappings, forced displacements of Sunni families, extrajudicial killings, and other terrorist activities. (b)(2)High (b)(6)

(b)(2)High was provided to MAJ (b)(3), (b)(6) and known by him at the time of the incident. In light of this information, I concur with the investigating officer and find that MAJ (b)(3), (b)(6) properly used deadly force to stop an individual that he reasonably believed was an extremely violent HVT that, if allowed to remain free, posed a threat to local Iraqi citizens, Coalition Forces and Iraqi Security Forces.

3. POC is the undersigned at SVOIP 242-6413.

Encl
AR 15-6 Investigation

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

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

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

(b)(6)

(b)(6)

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

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

(b)(6)

6. Point of contact is the undersigned at

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

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

CPT, JA
2BCT OPLAW and Trial Counsel

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

Page 8 redacted for the following reason:

Non-Responsive

———— UNCLASSIFIED

———— UNCLASSIFIED

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

on 22 APR 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 Hurriya JSS (Place) at 1300hrs (Time)

on 23 APR 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 1300hrs (Time) on 26 APR 07 (Date) and completed findings and recommendations at 1300hrs (Time) on 28 APR 07 (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

YES NO1 NA2

- 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.

2	Exhibits (para 3-16, AR 15-6)	YES	NO ^{1/}	NA ^{2/}
	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 <input type="checkbox"/>)			
	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 investigation or board.				

(b)(2)High

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

IC (b)(3), (b)(6)
CENTCOM 012656

INDEX

Label	Description
1- Index	
2- DA 1574	
A- Enclosure I	Investigating Officer Appointment Memorandum
B- Enclosure II	Chronology
C- Enclosure III	
D- Enclosure IV	(b)(2)High
E- Enclosure V	
F- Exhibit 1	Privacy Act Statements
G- Exhibit 2 (b)(3), b(6)	DA Form 3881 Rights Warning Procedure/Waiver Certificate MAJ
H- Exhibit 3 (b)(3), b(6)	DA Form 3881 Rights Warning Procedure/Waiver Certificate SPC
I- Exhibit 4 (b)(3), b(6)	DA Form 3881 Rights Warning Procedure/Waiver Certificate SPC
J- Exhibit 5 (b)(3), b(6)	DA Form 3881 Rights Warning Procedure/Waiver Certificate PFC
K- Exhibit 6 (b)(3), b(6)	DA Form 3881 Rights Warning Procedure/Waiver Certificate SSG
L- Exhibit 7 (b)(3), b(6)	DA Form 3881 Rights Warning Procedure/Waiver Certificate SFC
M- Exhibit 8 (b)(3), b(6)	DA Form 3881 Rights Warning Procedure/Waiver Certificate SPC
N- Exhibit 9 (b)(6)	DA Form 3881 Rights Warning Procedure/Waiver Certificate Interpreter
O- Exhibit 10 (b)(3), b(6)	DA Form 3881 Rights Warning Procedure/Waiver Certificate SPC

P- Exhibit 11	DA Form 2823 Sworn Statement MAJ		
Q- Exhibit 12	DA Form 2823 Sworn Statement SPC		
R- Exhibit 13	DA Form 2823 Sworn Statement SPC		
S- Exhibit 14	DA Form 2823 Sworn Statement PFC	(b)(3), b(6)	
T- Exhibit 15	DA Form 2823 Sworn Statement SSG		
U- Exhibit 16	DA Form 2823 Sworn Statement SFC		
V- Exhibit 17	DA Form 2823 Sworn Statement SPC		
W- Exhibit 18	DA Form 2823 Sworn Statement	(b)(6)	Interpreter
X- Exhibit 19	DA Form 2823 Sworn Statement SPC	(b)(3), b(6)	
Y- Exhibit 20			
Z- Exhibit 21		(b)(2)High	

CHRONOLOGY

DATE	EVENT
22 April 07 Investigating Officer	Received appointment order as 15-6
23 April 07 interviews, obtained sworn statements, DA3881, Privacy act statements	Arrived at Hurriya JSS, conducted
25 April 07	Obtained photographs of scene
26 April 07 Recommendations	Began compiling Facts, Findings, and
28 April 07 Recommendations	Completed Facts, Findings, and
29 April 07	Submitted report to SJA



DEPARTMENT OF THE ARMY
A COMPANY, 1ST BATTALION, 325TH AIRBORNE INFANTRY REGIMENT
FORT BRAGG, NORTH CAROLINA 28310

AFVC-BA-A

26 January 2007

MEMORANDUM FOR RECORD

(b)(2)High

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

IC(b)(3), (b)(6)
CENTCO 60

DEPARTMENT OF THE ARMY
A COMPANY, 1ST BATTALION, 325TH AIRBORNE INFANTRY REGIMENT
FORT BRAGG, NORTH CAROLINA 28310

AFVC-BA-A

26 January 2007

(b)(2)High

2. POC is the undersigned at

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

//ORIGINAL SIGNED//

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

MAJ, IN
Commanding

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

IC(b)(3), (b)(6)
CENTCO 61

Page 16 redacted for the following reason:

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

UNCLASSIFIED

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

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

IO (b)(3)(b)(6)
CENTCO 63

UNCLASSIFIED