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)

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

(Recorder) *(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)*

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)(6)

(Agree) (Disagree) (Remand to BCT Cdr)

d. That the unit maintain a dedicated interpreter at every manned entry point to COP Callahan.

(Agree) (Disagree) (Remand to BCT Cdr)

(b)(2)High

h. Remand to the BCT Commander. (Agree) (Disagree)

i. Other:

I direct the BCT Commander to take the above action.

(b)(3), b(6)

11 MAR 2008

JEFFREY W. HAMMOND, Major General, USA, Commanding

UNCLASSIFIED

22 1729 OCT 07 EVENT EOF (1 X LN WIA) ADHAMIYAH, BEIDA, M315, 2-325 AIR, 2-82 AB

SECRET // REL TO USA, MCFI // 20171022

(b)(2)High

SECRET // REL TO USA, MCFI // 20171022

UNCLASSIFIED

CENTCOM 012740

EOF_2-82ABN_2-325AIR_22OCT07

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

DA Form 1574, Sections IV/V, Findings/Recommendations Continuation Sheet (2-82 125 Part II)

Facts:

a. On 04 January 2008, I was appointed as an investigating officer (IO) pursuant to Army Regulation (AR) 15-6 (Procedures for Investigating Officers and Boards of Officers) to conduct an informal investigation as a more senior investigating officer into an escalation of force (EOF) incident that occurred on 22 October 2007, on (b)(2)High outside of Coalition Outpost (COP) Callahan, Baghdad, Iraq, and involved members of Foxtrot Company (F Co), 2nd Battalion, 325th Airborne Infantry Regiment (2-325th AIR), 2nd Brigade Combat Team, 82nd Airborne Division. Specifically, a member of the COP Callahan guard force used deadly force to stop a local national walking toward the COP Callahan Entry Control Point (ECP) after the local national failed to adhere to EOF procedures. The local national was shot one time with (b)(2)High and taken to 28th Combat Surgical Hospital, Baghdad, Iraq where he was pronounced dead on arrival. I included First Lieutenant (1LT) (b)(3), b(6) the original AR 15-6 Investigating Officer, findings and original investigation into this investigation (See Exhibits 11 and 12). My investigation is designed to expand upon 1LT (b)(3), b(6) findings and provide recommendations accordingly.

b. At approximately 1720 on 22 October 2007, a local national (LN) passed through a highly visible and appropriately marked boom gate or (b)(2)High that identifies a Coalition Force vehicular entry way into COP Callahan. The LN and the gate were clearly visible without the need for optics because the weather was clear and during that time of year it was still day time (Exhibit 13). At the time of the incident, signs were posted that clearly warned LNs in Arabic that the boom gate was an entrance to a Coalition Forces COP and that unauthorized individuals would be perceived as a threat (See Exhibit 3). Also, LNs had written in Arabic on some of the barriers around the entrance that LNs entering the (b)(2)High entry way would be shot. During the eight months prior to this incident, thousands of LNs were processed through the COP Callahan entry ways without incident (See Exhibit 3 and 11). However, very few LNs attempted to enter COP Callahan through the (b)(2)High entry, which seems to be due to previous EOF incidents along (b)(2)High, the fact that the entry way is clearly marked and used primarily by Coalition Force vehicles.

c. Prior to and during this EOF incident, COP Callahan was under a heightened threat level. In response to the increased threat to COP Callahan, (b)(2) High (b)(2) High incident on 22 October 2007 (b)(2)High which consisted of Sergeant (SGT) (b)(3)(b)(6) (b)(3)(b)(6) and SGT (b)(3)(b)(6) both assigned to Headquarters and Headquarters Company (HHC), 2-325th AIR), was tasked primarily with (b)(2)High (b)(2)High (See Exhibit 11). SGT (b)(3), b(6) was the first guard to see the LN pass the (b)(2)High boom gate and immediately assessed that the LN might pose an immediate threat to COP Callahan. Shortly after the LN crossed the boom gate, SGT (b)(3), b(6) told SGT (b)(3), b(6) to radio the situation to the Battalion's tactical operations center (TOC) while he started EOF procedures by (b)(2)High (b)(2)High (See Exhibit 11).

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d. SGT (b)(3), b(6) the Roof Guard Force NCOIC at the time of the incident, immediately moved to the west side of the roof of COP Callahan after seeing Guard Position 3 (b)(2)High See Exhibit 2 and 11). Upon reaching the edge of the roof, SGT (b)(3), b(6) saw the LN walking north on (b)(2)High within the entry way and immediately attempted to get the LN's attention by yelling at him and using hand and arm signals (See Exhibits 2 and 11). The LN disregarded these EOF measures and used his hand to (b)(2)High as he continued to walk through the ECP. Also, the LN moved closer to the concrete barriers in an effort to shield himself from (b)(2)High and Coalition Forces. When the LN walked next to the concrete barriers he was concealed from (b)(2)High and other roof top guards, which prompted SGT (b)(3), b(6) to fire two warning shots to the front of the LN into a HESCO barrier (See Exhibits 2, 11 and 12). The LN did not stop his advance or turn around; instead he continued north towards (b)(2)High staying close to the barrier wall. Due to the 12' height of the wall, and the angle of the Roof Guard's line of sight, much of the LN was not visible until he reached (b)(2)High (See Exhibits 2, 3, 11 and 12).

e. When the LN reached (b)(2)High he proceeded east, at which point the Roof Guards regained sight of him and immediately implemented EOF measures (b)(2)High (b)(2)High See Exhibits 2, 3, 5, 11, 12 and 13). Although the LN acknowledged the efforts of the guards by looking toward their positions, he failed to modify his course and continued unabated east on (b)(2)High After continuing east on (b)(2)High for approximately (b)(2)High meters the LN stopped in the section of the ECP that is closest to the main building on COP Callahan, turned toward COP Callahan and raised his right arm (See Exhibits 2, 11, 12, and 13). At this point, only the LN's upper torso and raised right arm were visible to SGT (b)(3), b(6) (See Exhibit 2 and 12). The LN stood across from a row of portable latrines located just inside the barrier wall which separated him from the COP. Although it is unknown whether the LN knew that he was on the opposite side of the barriers from the latrines, he would have known that he was standing in the section of the ECP closest to the main building on COP Callahan. While the LN remained stationary, SGT (b)(3), b(6) of his own volition and without guidance from the TOC, fired one shot into the LN's torso (See Exhibits 2, 3, 5, 11 and 12). SGT (b)(3), b(6) stated that he believed the LN was an imminent threat because of the LN's actions, the heightened threat, the LN's disregard for every EOF measure employed against him, his briefing by the Sergeant of the Guard (SOG), the SOPs being enforced, and the close proximity of the latrines to the LN (See Exhibits 2 and 12).

Findings:

a. Immediately after I received my appointment orders, I watched the Raid Tower Video of the shooting (See Exhibit 13). My initial reaction to the video was that the shooting was not authorized (b)(2)High (b)(2)High However, after thoroughly analyzing the initial investigation, visiting COP Callahan and talking with the Soldiers involved in this incident I find that the EOF measures, to include SGT (b)(3), b(6) use of deadly force, were appropriate (b)(2)High (b)(2)High The main reasons for this finding are as follows: 1. The LN walked

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past a clearly identified and marked entry point that has successfully deterred LNs from entering COP Callahan from (b)(2)High for approximately eight months; 2. The LN ignored and attempted to avoid all EOF measures, including two warning shots; 3. COP Callahan is located in a highly volatile area of Adhamiyah and has been attacked numerous times; 4. At the time of the incident, COP Callahan was under a heightened state of alert; 5. The LN walked deliberately up (b)(2)High turned on (b)(2)High nd then stopped when he was at the closest point to COP Callahan, which happened to be just outside of the wall from the COP's latrines; and 6. Every roof top guard that physically had eyes on the LN perceived that he posed an imminent threat to COP Callahan and felt that SGT (b)(3), b(6) actions were appropriate (I have excluded from this assessment the opinions of the individuals watching the incident on the Raid Tower camera because their vantage point, being approximatel(b)(2)Higfeet above the highest roof top guard, and their perception were different than that of the guards). Based upon these facts I find that SGT (b)(3), b(6) in his role as the Roof Guard NCOIC, was justified in his use of a lethal shot : (b)(2)High

b. During the course of my investigation, I found no specific wrong doing or negligence on the part of SGT (b)(3), b(6) or any other member of the Roof Guards. However, some concerning allegations regarding SGT (b)(3), b(6) character came to light and require further discussion. During the initial investigation Specialist (SPC) (b)(3), b(6) (b)(3), b(6)and SPC (b)(3), b(6) stated that SGT (b)(3), b(6) had a history of voicing his dislike for Iraq and Iraqis in both a serious and joking manner; most notably a few months prior to the shooting SGT (b)(3), b(6) stated that "he wanted to kill Iraqis" (See Exhibit 12). Both Soldiers provided this information because they felt the comments were relevant and may have played a part in SGT (b)(3), b(6) decision making process on 22 October 2007 (See Exhibits 8, 9 and 12). While it is possible that SGT (b)(3), b(6) has a genuine dislike for Iraq and Iraqis, I could find no evidence to find that these negative beliefs influenced SGT (b)(3), b(6) decision to employ deadly force against the LN on 22 October 2007.

c. During a post incident After Action Review (AAR), SGT (b)(3), b(6) conveyed that he thought the unit was too lenient on LN's around the COP. Additionally, a comment was made to me that SGT (b)(3), b(6) was bragging about the shooting to Sergeant First Class (b)(3)(b)(6) HHC, 407th Brigade Support Battalion, 2-82 ABN, during a visit to COP Callahan. On 5 February 2008, SFC(b)(3), b(6) in a sworn statement, stated that he spoke with SGT (b)(3), b(6) about the shooting, but at no time did he feel that SGT (b)(3), b(6) was bragging about the incident (See Exhibit 14). Although there is some evidence that SGT (b)(3), b(6) is vocal in his dislike for Iraq and Iraqis, this evidence is not sufficient to find that these morally questionable beliefs were a factor on 22 October 2007. Instead, the evidence shows that SGT (b)(3), b(6) used deadly force against a local national who disregarded a variety of EOF procedures and appeared to pose an imminent threat to a military installation located in a highly volatile area of Baghdad, Iraq.

d. In the storyboard for this EOF incident it states that the Mayor was notified as was a family member of the deceased LN. No confirmation to these acts was presented, specifically that a family member was contacted as stated on the Battalion released

storyboard. To date, the unit has not been contacted by a family member regarding the deceased LN and no claim has been submitted.

Recommendations:

Also, as a result of my investigation I make the following recommendations:

(b)(3), b(6)

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

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

DEPARTMENT OF THE ARMY
2ND BRIGADE COMBAT TEAM
82ND AIRBORNE DIVISION
CAMP TAJI, IRAQ
APO AE 09378

REPLY TO
ATTENTION OF

AFVC-B-JA

7 February 2008

MEMORANDUM FOR Commander, 2nd Brigade Combat Team, 82nd Airborne Division, Camp Taji, Iraq, APO AE 09378

SUBJECT: Legal Review of EOF AR 15-6 Investigation (2/82-125 Part II)

1. In accordance with Army Regulation (AR) 15-6, paragraph 2-3, I have reviewed the additional AR 15-6 investigation into an escalation of force (EOF) incident that occurred on 22 October 2007, on (b)(2)High outside of Combat Outpost (COP) Callahan, Baghdad, Iraq, and involved members of 2nd Battalion, 325th Airborne Infantry Regiment (2-325th AIR), 2nd Brigade Combat Team, 82nd Airborne Division (2-82 ABN). Specifically, a member of the COP Callahan guard force used deadly force to stop a local national walking toward the COP Callahan Entry Control Point (ECP) after the local national failed to adhere to EOF procedures. The local national was shot one time with an (b)(2)Hig and taken to a local hospital where he died of his wound.

2. On 28 December 2007, I provided a written legal review of the original AR 15-6 investigation, which detailed some concerns regarding some of the investigating officers findings. Specifically, the evidence did not support the original investigating officer's finding that the local national was engaging in a hostile act or exhibiting hostile intent at the time he was shot. Part of this assessment was based upon allegations raised, but not thoroughly investigated, regarding Sergeant (SGT) (b)(3), b(6) the roof top guard that shot the local national, motivation for shooting the local national. After thoroughly reviewing all of the evidence uncovered during both investigations, I have modified my initial stance and make the following determinations:

a. The proceedings comply with the legal requirements of AR 15-6.

b. Errors in the proceedings, if any, do not have a material adverse effect on any individual's substantial rights as related to an informal AR 15-6 investigation.

c. Sufficient evidence supports the findings for an informal AR 15-6 investigation.

d. The recommendations are consistent with the findings.

3. Pursuant to Multi-National Division – Baghdad (MND-B) Policy the DCG (M) is the approving authority for this action. Recommend you concur with the Investigating Officer's findings and recommendations by signing the attached memorandum and forward to MND-B, DCG (M).

4. The POC is the undersigned at SVOIP 242-6896 and (b)(3), b(6), (b)(2)High
(b)(2)High

(b)(3), b(6)

MAJ, JA
Brigade Judge Advocate

CENTCOM 012746

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

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2ND BRIGADE COMBAT TEAM
82ND AIRBORNE DIVISION, CAMP TAJI, IRAQ
APO AE 09378

REPLY TO ATTENTION OF:
AFVC-B

FEB 08 2008

MEMORANDUM FOR Commander, Multi-National Division-Baghdad (ATTN: DCG (M)), Camp Liberty, Iraq, APO AE 09344

SUBJECT: Brigade Combat Team Commander Transmittal (2/82 125 Part II)

1. On 23 October 2007, I appointed First Lieutenant (1LT) (b)(3), b(6), as an Investigating Officer pursuant to Army Regulation (AR) 15-6 to conduct an informal investigation into an escalation of force (EOF) incident that occurred on 22 October 2007, or (b)(2)High outside of Combat Outpost (COP) Callahan, Baghdad, Iraq, and involved members of Foxtrot Company, 2nd Battalion, 325th Airborne Infantry Regiment, 2nd Brigade Combat Team, 82nd Airborne Division. Specifically, a member of the COP Callahan guard force used deadly force to stop a local national walking toward the COP Callahan Entry Control Point after the local national failed to adhere to EOF procedures. The local national was shot one time with b)(2)High and taken to a local hospital where he died of his wound. On 1 January 2008, I disapproved 1LT (b)(3), b(6) findings and recommendations in order to appoint a more senior investigating officer. On 4 January 2008, I appointed Major (b)(3), b(6) to continue and complete the investigation.

2. After reviewing the Investigating Officer's Findings I recommend:

(b)(3), b(6) Approval.

_____ Approval with the following changes/recommendations:_____
_____
_____

_____ Disapproval.

3. After reviewing the Investigating Officer's Recommendations I recommend:

b)(3), b(6 Approval.

_____ Approval with the following changes/recommendations:_____
_____
_____

_____ Disapproval.

(b)(3), b(6)

3 Encls
1. EXSUM 2/82-125 Part II
2. Legal Review
3. AR 15-6 Investigation

COL, IN
Commanding

CENTCOM 012747

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 Colonel (b)(3), b(6) Commander 2nd Brigade Combat Team, 82nd Airborne Division
(Appointing authority)

on 4 January 2008 *(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 Camp Taji, Iraq *(Place)* at 1431 *(Time)*

on 4 January 2008 *(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 1138 *(Time)* on 24 January 2008 *(Date)*

and completed findings and recommendations at 1731 *(Time)* on 30 January 2008 *(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 investigation 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 Continuation Sheet (2-82 125 Part II)

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

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

See Continuation Sheet (2-82 125 Part II)

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2ND BRIGADE COMBAT TEAM
82ND AIRBORNE DIVISION, CAMP TAJI, IRAQ
APO AE 09378

REPLY TO
ATTENTION OF:

S: 18 January 2008

AFVC-B 4 January 2008

MEMORANDUM FOR Major (b)(3), b(6), Headquarters and Headquarters Company, 2nd Brigade Combat Team, 82nd Airborne Division, Combat Outpost Callahan, Iraq APO AE 09378

SUBJECT: Appointment as AR 15-6 Investigating Officer (2-82 125 Part II)

1. You are hereby appointed as an investigating officer pursuant to Army Regulation (AR) 15-6 (Procedures for Investigating Officers and Boards of Officers) to conduct an informal investigation into an escalation of force (EOF) incident that occurred on 22 October 2007, on (b)(2)High outside of Combat Outpost (COP) Callahan, Baghdad, Iraq, and involved members of Foxtrot Company (F Co), 2nd Battalion, 325th Airborne Infantry Regiment (2-325th AIR), 2nd Brigade Combat Team, 82nd Airborne Division. Specifically, a member of the COP Callahan guard force used deadly force to stop a local national walking toward the COP Callahan Entry Control Point after the local national failed to adhere to EOF procedures. The local national was shot one time with (b)(2)High and taken to a local hospital where he died of his wound. On 23 October 2007, I appointed First Lieutenant (b)(3), b(6) to conduct an informal investigation into this matter. On 1 January 2008, I disapproved 1LT (b)(3), b(6) findings and recommendations in order to appoint a more senior investigating officer. This is your primary duty until properly relieved. You are required to expand upon the initial investigation and provide specific findings on the following:

a. Provide a detailed analysis of the facts and circumstances of the incident.

b. Describe the events leading up to the escalation of force (EOF) incident. Include a description of the specific EOF measures employed, if any, prior to the use of warning shots or lethal force. Additionally, include as much information as possible about the local national that was killed as a result of the use of EOF procedures and any property damaged during the use of EOF procedures.

c. Since deadly force was used by Coalition Forces, describe in as much detail as is readily available why Sergeant (SGT (b)(3), b(6) F Co, 2-325th AIR, engaged the local national with deadly force. Specifically, what did the local national do or fail to do that prompted SGT (b)(3), b(6) to believe that the local national was engaging in a hostile act and/or demonstrating hostile intent? For instance, since the individual was not visibly carrying a weapon and was traveling on foot, what imminent threat did SGT (b)(3), b(6) believe the individual posed?

d. Several members of the COP Callahan Guard Force stated in the original investigation that they believed the individual displayed hostile intent or was engaging in a hostile act. Given that the local national was not visibly carrying a weapon and was traveling on foot, what imminent threat did they believe the local national posed? Then determine why they did not engage the local national with deadly force in order to neutralize the imminent threat.

e. From the angle at which SGT (b)(3), b(6) was located on the roof, determine how much of the local national he could see and for how long prior to shooting him?

f. The raid tower video shows that after EOF measures were used, but just prior to being shot, the local nation stopped, faced COP Callahan and raised a hand. To what extent was this action visible to those Paratroopers on the roof, including SGT (b)(3), b(6) and what was the interpretation of that action?

g. Was this incident being viewed in the Battalion TOC as it occurred? If so, determine what, if any direction or oversight they provided to the rooftop guards?

h. Determine what, if any, effort was made by the Battalion to detain the local national. If no effort was made, determine why.

i. Were any efforts made to communicate with the local national using an interpreter? If not, why not?

j. In the original AR 15-6 investigation two Troopers mentioned in their sworn statements that SGT (b)(3), b(6) hates Iraqis and wants to kill them. Why did they feel compelled to mention this? Determine whether these statements were made by SGT (b)(3), b(6) and in what context and determine what, if any, bearing these sentiments had on this incident.

k. What additional EOF measures, if any, should have been attempted prior to engaging the local national?

l. Include any other facts or findings that the command should be aware of to assist Troopers with handling similar incidents in the future.

2. You will speak with any and all individuals you believe have information pertinent to your investigation. You will obtain a legal briefing from the Brigade Judge Advocate prior to conducting your investigation. You should also familiarize yourself with the provisions of AR 15-6 and the Guide for Informal Investigations. Once your investigation is complete, you will make recommendations consistent with your findings.

3. All witness statements will be sworn if possible and recorded on DA Form 2823. If circumstances preclude you from obtaining a sworn statement, you will summarize the testimony in a memorandum and attest to the accuracy of your summary.

4. If, in the course of your investigation, you come to suspect that an individual may be criminally responsible, you will advise that individual of his or her rights under Article 31 of the UCMJ using DA Form 3881.

5. Copies of all relevant regulations and forms can be found on the 2BCT PORTAL in the SJA section.

6. Submit your report, together with all evidence marked as exhibits, to the Brigade Judge Advocate on DA Form 1574 for legal review no later than 18 January 2007. Requests for extensions will be submitted to the undersigned through the Brigade Judge Advocate in writing. POC for this memorandum is Major (b)(3), b(6) Brigade Judge Advocate, at SVOIP 242-6895 or (b)(3), b(6), (b)(2)High

(b)(3), b(6)

COL, IN
Commanding

CENTCOM 012753

(b)(3), b(6)

(2-82 125 Part II) CHRONOLOGY

DATE	EVENT
04 Jan 08	Received appointment order as 15-6 Investigating Officer
05 Jan 08	Established AMR to begin investigations
07 Jan 08	Received brief, video, and statements from BJA
08 Jan 08	Attended EAB, AMR was not supported
08 Jan 08	Established another AMR
12 Jan 08	Sent 15-6 questions to 2-325 Soldiers to complete
13 Jan 08	Flew to COP Callahan and conducted interviews
15 Jan 08	Interviewed CPT Naz, 2-325 Surgeon who responded to EOF
16 Jan 08	Received statement, 1LT (b)(3)(b)(6) HHC 2-325 AIR
18 Jan 08	Received statement, 1SG (b)(3), b(6) :, 1SG F Co, 407th FSC
18 Jan 08	DA Form 1574 for 15-6 (125 Part II) submitted to 2-82 BJA
19 Jan 08	Received statement, CPT (b)(3), b(6) HHC, 407th BSB
20 Jan 08	DA Form 1574 for 15-6 (125 Part II) submitted to 2-82 BJA
21 Jan 08	Received statements, SPCs (b)(3), b(6) F Co, 407th FSC
23, 24 Jan 08	DA Form 1574 for 15-6 (125 Part II) submitted to 2-82 BJA

2/82 (125 Part II) INDEX

Label	Description
Enclosure I	Investigating Officer appointment Memorandum
Enclosure II	Chronology
Exhibit 1	Story board, 22 1729 Oct EOF (1 X LN WIA) Ad, M315
Exhibit 2	Sworn Statement SGT (b)(3), b(6) dtd 13 Jan 08
Exhibit 3	Sworn Statement MAJ (b)(3)(b)(6) dtd 13 Jan 08
Exhibit 4	Sworn Statement CP (b)(3)(b)(6) dtd 15 Jan 08
Exhibit 5	Sworn Statement 1LT (b)(3)(b)(6) dtd 16 Jan 08
Exhibit 6	Sworn Statement 1SG, (b)(3)(b)(6) dtd 18 Jan 08
Exhibit 7	Sworn Statement CPT (b)(3)(b)(6) dtd 19 Jan 08
Exhibit 8	Sworn Statement SPC d 21 Jan 08
Exhibit 9	Sworn Statement SPC (b)(3), b(6) dtd 21 Jan 08
Exhibit 10	Sworn Statement 1LT (b)(3), b(6) dtd 23 Jan 08
Exhibit 11	2/82 125 IO Packet
Exhibit 12	2/82 125 Soldier statements
Exhibit 13	2/82 125 EOF raid tower video
Exhibit 14	Sworn Statement SFC dtd 5 Feb 08

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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 Social Security Number (SSN).

PRINCIPAL PURPOSE: To document potential criminal activity involving the U.S. Army, and to allow Army officials to maintain discipline, law and order through investigation of complaints and incidents.

ROUTINE USES: Information provided may be further disclosed to federal, state, local, and foreign government law enforcement agencies, prosecutors, courts, child protective services, victims, witnesses, the Department of Veterans Affairs, and the Office of Personnel Management. Information provided may be used for determinations regarding judicial or non-judicial punishment, other administrative disciplinary actions, security clearances, recruitment, retention, placement, and other personnel actions.

DISCLOSURE: Disclosure of your SSN and other information is voluntary.

1. LOCATION	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
COP Callahan	2006 01 13	1516 HRS	2-82 125 Part II

5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS
(b)(3), b(6)	(b)(3), b(6)	E5/SGT.

8. ORGANIZATION OR ADDRESS
FCO 2/325 AIR

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

PART 1
(FACTS)

(b)(2)High

(b)(2)High

The incident happened in between shift change. Oncoming NCO walked out to my location. Yes we meet by going to one and other. If med attention was sooner he may have had a better chance. I dont know where the blunt force may have came from He may have been dropped on the way to the AID station yes more soldier go up on guard during an alert. the guard positions The roof guards

(b)(2)High

were enough at this time.

1- Yes, Yes, Yes, Myself. Sgt. (b)(3), b(6) (Gate NCO) I think 9LT (b)(3), b(6) (TOC)

2- yes (we always look for suicide bombers + VBIED), yes, A (b)(2)High

(b)(2)High

3. NO, NO we have (b)(2)High but it is onth south east corner of the roof beside guard 1

4. As far as I know we it is not. I was not on guard. I do not know.

(b)(2)High

not me.

PARA C. I dont remember if it was closed or open. I dont know. The warning signs are in english + Arabic. I do not know. No pictures to my knowledge.

PARA E. I had just walked out on the lower roof. he put his hands in front of his eye and continued to walk in the ECP. Guard three lazed [illegible] I yelled and tried to guide the LN out of the ECP. GP3 ~~tried~~ used (b)(2)High to guide him out of the ECP but he continued to walk. I utilized EOF and radiod the

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 3 PAGES
	(b)(3), b(6)	

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 INDICATED.

DA FORM 2823, NOV 2006 DA FORM 2823, DEC 1998, IS OBSOLETE APD PE v1.00

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10 (b)(3), b(6) Ex 2

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF (b)(3), b(6) TAKEN AT 1516 HRS DATED 13 JAN 08

9. STATEMENT (Continued)

Situation to the CP + TOC.

PARA F. I had NO Bino's, and he ran behind the alaska barriers. LN wore a beige (b)(6) The LN was in my view GP4 could not see him. He began to pat his chest after I yelled ~~into~~ to leave and the LN's behind the barriers yelled to him as well. The area where he was patting his chest and walking towards was where our porta johns are. As he got closer to that area I tried to wave him off.

PARA G upon being shot at (warning shot) He ran behind the barriers on the outside of the cop. I Dont know. I was dealing with the situation I did not instruct the guards to do anything. Guard P4 could not see him when I asked them about it. No, No The LN aknowledged (b)(2)High

PARA H He looked at the source of (b)(2)High GP#3 the warning shots were fired into the Hesco's the right and in front of the LN. The second on was fired in the front of the LN, yes top of the hesco angled down. three shots were fired. It was after as he advanced toward the barriers on the other side of porta johns. waist pockets.

PARA I The LN continued to walk towards the barreirs which are where the porta johns are on the other side. The LN should acknowledge (b)(2)High or verbal warning and leave the area. NO the roof guard did not talk to the TOC until after the shooting. I talked the TOC + main gate to find out about the mayor to see what he was wearing. the gate told me a white robe. The TOC saw the situation developing. I got No guidance from the TOC.

PARA J yes he was (b)(2)High by GP#3. The LN upon being given warning shot ran to the bar... where he could NOT be seen by the roof guards + camera. GP#3 were not our roof guards they were (b)(2)High They were not briefed on our EOF. The LN proceeded to (b)(2)High side on his own. he walked beside the barrers and was not able to be seen.

PARA K possibly 10 min. They might have came from the gym prior to getting the call. I dont know.

PARA L No I continued to wave my arms for him to leave. the LN's yelled to him to leave. No they did not.

PARA N the LN was out of site after the second warning shot, he was behind the barriers. No because he acknowledge the laser. no they lazed the LN upon sight. Yes but there was No bullhorn in GP#3. No

PARA P

PART II The local National was shot due to his location. He was by the barriers which are closest to the porta johns. I could not ensure he had a vest on due to my location. He did a self pat and also went in his pockets while approaching the barreirs. ① the LN was a threat once he ran up against the barreirs. ~~when he was behind the barriers~~ which were on the other side of the porta johns were soldiers were. He continued in the ECP of cop + proceeded to walk towards to area where the ... ISC + commander that (b)(2)High

(b)(2)High

② None I reached to the situation. I was roving as the roof NCO.
③ I was not in position 3 (b)(2)High were in pos#3.
④ I was vacant 6 had PFC mingale in it I think. No one fire but me.
⑤ the fact the he possibly has a vest on or maybe grenades on his person. No yes when we have intell about them.

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

PAGE 2 OF 3 PAGES

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