



REPLY TO
ATTENTION OF:

AFVA-1BDE-CDR

DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BRIGADE COMBAT TEAM
1ST CAVALRY DIVISION
FOB TAJI, IRAQ APO AE 09378

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5 April 2007

MEMORANDUM FOR Investigating Officer (LCDR (b)(3),(b)(6)), HHT, 1st Brigade
Combat Team, 1st Cavalry Division, FOB Taji, Iraq APO AE 09378

SUBJECT: Appointment as AR 15-6 Investigating Officer (1/1-095)

1. You are hereby appointed as an investigating officer pursuant to AR 15-6 (Procedures for Investigating Officers and Boards of Officers) to conduct an informal investigation of an incident on 29 March 2007 in which a local national was killed during an EOF incident involving Soldiers from the 1BSTB MP Platoon. In addition to determining the facts and circumstances of the incident, you will make specific findings on the following:

- a. What was the composition and location of the friendly element at the time of the incident? Include number of Soldiers, types of weapons, vehicles, and a sketch or diagram of the soldiers in relation to the civilian vehicle.
- b. What was the friendly element's task and purpose at the time of the incident?
- c. What was the enemy situation and threat in the area? Specifically, what was the VBIED threat in the area? What did the members of the involved patrol believe the threat to be in the area?
- d. Exactly what did the gunner see that led him to employ his direct fire weapon?
- e. What injuries did the local national suffer? How much time passed from the time of the incident until the LN passed away? If possible, make an assessment of the likelihood of surviving the wounds if the patrol would have stopped to render aid.
- f. What was the extent of damage to the local national's vehicle? If at all possible, take pictures of the damage to the LN's vehicle.
- g. If possible, determine what actions (i.e., pull over, drive on the shoulder, etc) a local national takes in the vicinity of the incident when approaching a mounted patrol.
- h. Did the Soldiers involved comply with the current ROE and EOF procedures?
- i. Any additional information that is relevant to this incident.

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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 1BCT CAVNET 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 11 April 2007. Requests for extensions will be submitted to the undersigned through the Brigade Judge Advocate in writing.

7. POC for this memorandum is MAJ (b)(3),(b)(6) at VOIP (b)(2)High or

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

FOR THE COMMANDER:

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

MAJ, AG
Adjutant



DEPARTMENT OF THE ARMY
1ST BRIGADE COMBAT TEAM, 1ST CAVALRY DIVISION
CAMP TAJI, IRAQ
APO AE 09378

REPLY TO
ATTENTION OF

AFVA-1BDE-CDR

7 May 2007

MEMORANDUM FOR Commanding General, Multi-National Division-Baghdad, Camp Liberty, Iraq APO AE 09344

SUBJECT: AR 15-6 Investigation – Escalation of Force with Local National Death (1/1 – 095)

1. I concur with the investigating officer's findings and recommendations 4.b., 4.c., 4.d., 4.e., 4.f., and 4.g. for the 29 March 2007 escalation of force (EOF) incident. I non-concur with recommendation 4.a., and request jurisdiction in order to issue letters of reprimand to SGT (b)(3),(b)(6) and SSG (b)(3),(b)(6). My reasoning for this follows.

2. The Enforcer 1A TC and gunner followed correct EOF procedures.

a. On the morning of the patrol, the patrol leader and vehicle commanders were briefed on the current threat in the area. This brief included two white vehicles that were on the "1BCT Recent BOLO List" as potential VBIEDs. The LN vehicle in question was a white sedan.

b. At the time of the incident, the crew of Enforcer 1A had traveled (b)(2)High a two-way road, over a hundred times, likely encountering over a thousand vehicles. The white sedan they engaged was the first vehicle on (b)(2)High that did not pull over to the right side of the road as Enforcer 1A approached.

c. The white sedan did not respond to the gunner's hand and arm signals, the honking horn, or the (b)(2)High to the lethal shot.

d. While the result here was tragic, the crew did what they were trained to do - - they considered the known threat, the actions of the LN vehicle, and utilized EOF measures to further develop the situation. When the EOF measures were ineffective, the TC ordered the gunner to fire a lethal shot.

3. SSG (b)(3),(b)(6) the patrol leader, and SGT (b)(3),(b)(6) the TC of Enforcer 1A, failed to take appropriate action after the EOF incident. Both NCOs were aware that an EOF incident had occurred. However, I believe SGT (b)(3),(b)(6) failed to adequately convey to SSG (b)(3),(b)(6) what had transpired. SSG (b)(3),(b)(6) while not having a complete picture of what had happened, was nevertheless negligent for failing to stop the patrol, investigate, and render aid. Had SSG (b)(3),(b)(6) halted the patrol, the local national would have received immediate, and potentially lifesaving first aid and medical care.

AFVA-1BDE-CDR

SUBJECT: AR 15-6 Investigation – Escalation of Force with Local National Death (1/1 – 095)

4. While I believe that the Soldiers followed correct EOF procedures, I have pushed out specific guidance to every IRONHORSE Soldier that mere failure of a vehicle to pull off to the side for an approaching convoy is not, by itself, indicative of hostile intent. I am confident that this message was received.

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

COL, AR
Commanding