

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)	_____	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)
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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 the findings and recommendations.

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

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

ACTING

Brigadier General, US Army
Assistant Division Commander (Maneuver)



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BRIGADE COMBAT TEAM
CAMP LIBERTY, IRAQ APO AE 09376

AFZS-LI-Z

30 March 2006

MEMORANDUM FOR Assistant Division Commander (Maneuver), 4th Infantry Division, Camp Liberty, Iraq, APO AE 09344

SUBJECT: Recommendation – 15-6 Investigation Escalation of Force (16 MAR 06)

1. I concur with the findings and recommendations. While this incident is unfortunate, the Marine's actions are consistent with the Rules of Engagement. With the exception of making a condolence payment for the deaths of the local nationals involved, I recommend that this investigation be closed with no further action.

2. POC is the undersigned at (b)(3), (b)(6)

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

Commanding

004480



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1st BRIGADE COMBAT TEAM
CAMP LIBERTY, IRAQ APO AE 09376

REPLY TO
ATTENTION OF:

AFZS-LI-Z-JA

25 March 2006

MEMORANDUM THRU Deputy Commander, 1st Brigade Combat Team, 10th Mountain Division
(Light Infantry), Camp Liberty, Iraq APO AE 09376

FOR Commander, 1st Brigade Combat Team, 10th Mountain Division (Light Infantry) Camp
Liberty, Iraq, APO AE 09376

SUBJECT: Legal Review – 15-6 Investigation (Escalation of Force – 16 MAR 06)

1. Upon your request, I reviewed the enclosed 15-6 Investigation.

(b)(5)

(b)(5)

2.

(b)(5)

First, the Marine used a visual signaling device to warn the driver to slow down. When the visual signal failed, the Marine (b)(2)High Although the .50 caliber machine gun may not have been the most ideal choice for a weapon, the Marine did consider using both nonlethal rounds and a smaller caliber weapon. However, the Marine made a determination that there was insufficient time given the rate of speed of the oncoming vehicle to use any weapon other than the .50 caliber machine gun.

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

4. POC is the undersigned at

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

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

MAJ, JA
Brigade Judge Advocate

004481

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) Commander 1/1 Marines
(Appointing authority)

on 16 Mar 06 (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 FOB Abu Ghraib (Place) at 1700 (Time)

on 16 Mar 06 (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 1000 (Time) on 23 Mar 06 (Date)
and completed findings and recommendations at 1500 (Time) on 24 Mar 06 (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?	X		
	b. Copy of notice to respondent, if any? (See item 9, below)			X
	c. Other correspondence with respondent or counsel, if any?			X
	d. All other written communications to or from the appointing authority?			X
	e. Privacy Act Statements (Certificate, if statement provided orally)?			X
	f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?			X
	g. Information as to sessions of a formal board not included on page 1 of this report?			X
	h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?			X

FOOTNOTES: ^{1/} Explain all negative answers on an attached sheet.
^{2/} Use of the NA 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?	X		
b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	X		
c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	X		
d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?			X
e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?	X		
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?			X
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)?			X
3 Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)?	X		
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 NA column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.			

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

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

See attached memorandum.

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

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

See attached memorandum.



UNITED STATES MARINE CORPS
1ST BATTALION, 1ST MARINES,
RCT 5, I MEF FWD
UNIT 40155
FPO AP 96426-0155

5800
Legal
22 Mar 06

FIRST ENDORSEMENT on Captain (b)(3), (b)(6) PrelimInq 5800 dated 20 Mar 06

From: Commanding Officer
To: Commanding General, Multi-National Corps-Iraq
Via: Commanding Officer, Regimental Combat Team-5
Commanding General, Multi-National Forces-West

Subj: PRELIMINARY INQUIRY INTO THE ESCALATION OF FORCE INCIDENT THAT OCCURRED IN THE VICINITY OF (b)(2)High ON 16 MARCH 2006, INVOLVING MARINES OF MOBILE ASSASULT PLATOON-2 WEAPONS COMPANY, 1ST BATTALION, 1ST MARINES

1. I concur with the Findings of Fact and Opinions, and Recommendations of the Investigating Officer.
2. Although PFC (b)(3), (b)(6) failed to strictly adhere to the EOF procedures, I believe that due to the fact that there has been an increase in SVBIED attacks in (b)(3)(b)(6) the high rate of speed of the vehicle and the failure of the driver to respond like all other drivers, PFC (b)(3)(b)(6) actions were appropriate under the circumstances.
3. Task Force 1/1 is attacking this as a training issue to educate Marines on proper EOF procedures. We have already incorporated these recommendations into all Task Force 1/1 re-set training, to include proper training (ROC drills of potential EOF scenarios) of turret gunners, and TTP's that ensure multiple personnel are utilized for the different levels of EOF (1 for flag waving, one as a designated marksman, and one to fire the pop-up) all under the control of the vehicle commander.
4. At the earliest opportunity, the Investigating Officer shall account for the injuries and identities of all of the passengers and the identities of the KIA involved in the EOF incident.
5. No further investigative action is required.

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

ACTING

004485



UNITED STATES MARINE CORPS
1ST BATTALION, 1ST MARINES
RCT 5, I MEF FORWARD
UNIT 40155
FPO AP 96426-0155

IN REPLY REFER TO:
5800
Legal
20 Mar 06

From: Captain [redacted] (b)(3), (b)(6)
To: Commanding Officer
Subj: PRELIMINARY INQUIRY INTO THE ESCALATION OF FORCE INCIDENT
THAT OCCURRED IN THE VICINITY OF [redacted] (b)(2)High ON
16 MARCH 2006, INVOLVING MARINES OF MOBILE ASSAULT
PLATOON-2, WEAPONS COMPANY, 1ST BATTALION, 1ST MARINES

Ref: (a) JAGINST 5800.7C (JAGMAN)
(b) FRAGO_183 [23 JUL 05 DTU] TO MNC-1 OPORD 05-02
(c) FRAGO 388 [10 Nov 05 DTU] TO MNC-1 OPORD 05-02
(d) MNF-W FRAGO 379-05 [Reporting and Investigation
Requirements for Escalation of Force]

Encl: (1) Appointing Order
(2) SIGACT 16 1700C MAR 06
(3) SIGACT Storyboard 16 1700C MAR 06
(4) Diagram of EOF Incident
(5) Photo of Scene of EOF Incident Facing Eastbound on [redacted] (b)(2)High
[redacted] (b)(2)High
(6) Photo of Driver's Side of Vehicle
(7) Photo of Passenger's Side of Vehicle
(8) Photo of Passenger Compartment of Vehicle
(9) Photo of Rear of Vehicle
(10) Sworn Statement of 1stLt [redacted] (b)(3), (b)(6)
(11) Sworn Statement of PFC [redacted] (b)(3), (b)(6)
(12) Sworn Statement of Sgt [redacted] (b)(3), (b)(6)
(13) Sworn Statement of Sgt [redacted] (b)(3), (b)(6)
(14) Sworn Statement of PFC [redacted] (b)(3), (b)(6)
(15) Sworn Statement of LCpl [redacted] (b)(3), (b)(6)
(16) Sworn Statement of SGT [redacted] (b)(3), (b)(6)
(17) Sworn Statement of [redacted] (b)(3), (b)(6)
(18) Sworn Statement of Pvt [redacted] (b)(3), (b)(6)
(19) Sworn Statement of LCpl [redacted] (b)(3), (b)(6)

1. In accordance with references (a) through (d) and enclosure 1, I was appointed to conduct a Preliminary Inquiry into the facts and circumstances surrounding the escalation of force (EOF) incident that occurred vicinity of [redacted] (b)(2)High on 16 March 2006, involving Marines of Mobile Assault Platoon-2 (MAP-2), Weapons Company, 1st Battalion, 1st Marines and resulting in serious injury up to 10 civilians and the death of 3 Iraqi civilians.

004486

Subj: PRELIMINARY INQUIRY INTO THE ESCALATION OF FORCE INCIDENT THAT OCCURRED IN THE VICINITY OF (b)(2)High ON 16 MARCH 2006, INVOLVING MARINES OF MOBILE ASSAULT PLATOON-2, WEAPONS COMPANY, 1ST BATTALION, 1ST MARINES

2. On 16 March 2006, MAP-2 was ordered to escort a recovery vehicle to the vicinity of (b)(2)High. MAP-2 left FOB Abu Ghraib (AG) at approximately 1650. At approximately 1700 the convoy turned west onto (b)(2)High in the vicinity of (b)(2)High. In a field to the south of (b)(2)High (b)(2)High MAP-2 located the Charlie Company 7-ton truck that was the focus of the recovery effort. The lead vehicle (vehicle #1) of the convoy, commanded by Sgt (b)(3), (b)(6) and containing PFC (b)(3), (b)(6) LCpl (b)(3), (b)(6) PFC (b)(3), (b)(6) and LCpl (b)(3), (b)(6) halted to determine the best location at which to place a blocking position. No vehicle control devices were yet in place as the MAP-2 platoon commander, 1stLt (b)(3), (b)(6) decided where to place his vehicles. At this time, the .50 caliber machine gunner in vehicle #1, PFC (b)(3), (b)(6) noticed a civilian van, heading eastbound, approaching the convoy on (b)(2)High. The vehicle was traveling at approximately 60-70 mph. Neither at this time, nor at any time during the incident, could PFC (b)(3), (b)(6) see how many passengers were in the vehicle. When the vehicle approached to within (b)(2)High (b)(2)High of the convoy, PFC (b)(3), (b)(6) began to waive a red flag, signaling the civilian vehicle to stop. The vehicle did not stop or change course in any way, but continued toward the convoy at approximately 60-70 mph. EOF procedures require that if a vehicle fails to respond to the flag, a pop-up flare must be used in an attempt to signal the vehicle to stop. As the vehicle came to within (b)(2)High of the convoy, PFC (b)(3), (b)(6) made the decision not to fire the pop-up flare because he believed that he did not have time to do so. (At 60-70 mph, a vehicle will travel approximately 300 meters in 7-8 seconds.) Instead of firing the pop-up flare, PFC (b)(3), (b)(6) (b)(2)High (b)(2)High with the .50 caliber machine gun. EOF procedures required PFC (b)(3), (b)(6) to (b)(2)High with his M-16A4 rifle. However, PFC (b)(3), (b)(6) made the decision to (b)(2)High with the .50 caliber machine gun because he did not believe that he had sufficient time to (b)(2)High with the M-16A4 and then transition to the .50 caliber machine gun if required. The vehicle did not respond (b)(2)High and continued toward vehicle #1 at approximately 60-70mph. For enclosure 12, the occupants of the civilian vehicle noticed the MAP-2 convoy ahead on (b)(2)High and requested the driver to stop. The passengers stated that the driver ignored their pleas and sped up. As the vehicle came to within (b)(2)High of vehicle #1, PFC (b)(3), (b)(6) (b)(2)High (b)(2)High

The vehicle did not stop or alter its course in any way, but continued eastbound toward vehicle #1 at approximately 60-70

Subj: PRELIMINARY INQUIRY INTO THE ESCALATION OF FORCE INCIDENT THAT OCCURRED IN THE VICINITY OF GRID (b)(2)High ON 16 MARCH 2006, INVOLVING MARINES OF MOBILE ASSAULT PLATOON-2, WEAPONS COMPANY, 1ST BATTALION, 1ST MARINES

(b)(2)High, PFC (b)(3), (b)(6) fired two-6 round bursts at the windshield of the civilian vehicle when it came to within (b)(2)High of vehicle #1. The rounds hit the vehicle and it veered southbound off of (b)(2)High as it came to within (b)(2)High of vehicle #1. The civilian vehicle came to a stop in the field south of (b)(2)High. Prior to arriving in (b)(2)High elements of Task Force 1/1 had experienced 4 VBIEDs within several days in (b)(2)High (b)(2)High. As a result, the MAP-2 waited to approach the civilian vehicle, believing that the vehicle may have been a VBIED. At about this time Marines of MAP-2 witnessed muzzle flashes and heard AK-47 gunfire approximately 700 meters to the west of their position. MAP-2 did not establish PID and did not return fire. It is unclear who fired the shots, or if the shots were intended for MAP-2. Eventually it was determined that the vehicle would not explode and MAP-2 and Charlie Company Marines approached the vehicle. The vehicle contained approximately 12 people although it is unclear exactly how many passengers were in the vehicle. Approximately 9 passengers were injured and 3 passengers were KIA. As corpsmen on the scene treated the injured Iraqis, a group of Iraqi Police (IP) and a platoon of Iraqi Army (IA) arrived at the scene. The IPs and IA began to load the wounded civilians into an ambulance. The injured were transported to AG, and the IPs took custody of the 3 civilian KIA and the vehicle.

3. MAP-2 was tasked with escorting a recovery vehicle to a field where a Charlie Company 7-ton truck was stuck in the mud. MAP-2 was responsible for providing security for the recovery effort.

4. The Marines of MAP-2 received extensive ROE and EOF training prior to deployment. MAP-2 received training at Mojave Viper in November and December 2005. Map-2 also received ROK and EOF training during a SASO package at March Air Force Base prior to deployment. Further, the Marines of MAP-2 attended at least 2 Battalion lectures on ROE and EOF prior to deployment. Prior to every mission, including the mission on 16 March 06, MAP-2 receives instructions and orders on ROE and EOF.

5. Three Iraqi males were killed as a result of the EOF incident (b)(6) and 2 unknown individuals). The known KIA was verified by his wife, also a passenger, (b)(6) (b)(6). There are some discrepancies concerning which passengers were killed. (b)(6) reports that the driver was killed, but MAP-2 reported that the driver was treated and taken to AG. There are also some discrepancies between the witnesses

Subj: PRELIMINARY INQUIRY INTO THE ESCALATION OF FORCE INCIDENT THAT OCCURRED IN THE VICINITY OF GRID (b)(2)High ON 16 MARCH 2006, INVOLVING MARINES OF MOBILE ASSAULT PLATOON-2, WEAPONS COMPANY, 1ST BATTALION, 1ST MARINES

concerning the number of wounded civilians. The Marines of MAP-2 believe that there were 9 Iraqi civilians injured (total of 12 passengers). The passenger (b)(6) stated that there were 11 total passengers in the vehicle. However, the hospital released the names of 10 injured Iraqi civilians (total of 13 passengers). Per enclosure 12, the names, sex and ages of the individuals on the hospital's list are: (b)(6) male, (b)(6); (b)(6) female, (b)(6); (b)(6) male, (b)(6); (b)(6) male, (b)(6); (b)(6) female, (b)(6); (b)(6) female, (b)(6); (b)(6) male, (b)(6); (b)(6) female, (b)(6) months. HET-07 is currently attempting to verify the passenger list and determine the names of the KIA and the number of injured passengers.

6. The Investigating Officer believes that MAP-2 and PFC (b)(3), (b)(6) responded appropriately during the EOF incident. The Marines of MAP-2 were aware of the recent increase of SVBIED attacks in AO Raleigh, and recognized that the civilian vehicle as a possible SVBIED. Further, at the speed the vehicle was traveling, PFC (b)(3), (b)(6) had only 7-8 seconds to react to the vehicle and employ all EOF measures before it would have reached vehicle #1. Although PFC (b)(3), (b)(6) did not use a pop-up flare and (b)(2)High with the .50 caliber machine gun rather than his M-16A4, his actions were reasonable considering the limited time he had to respond to the threat.

7. In future incidents, MAP-2 must be prepared to immediately employ the full range of EOF measures. One Marine cannot be solely responsible for employing each of the measures. Any single EOF action (flag, pop-up flare, (b)(2)High kill shot) should be assigned to individual Marines. This allows a unit to progress through the EOF procedures rapidly, and ensures that each of the measures are used. In the case at hand, the pop-up flare and the M16A4 (b)(2)High may have been employed if Marines other than PFC (b)(3), (b)(6) were responsible for those actions. MAP-2 received reset training on this topic on 17 March 06. The Battalion will continue to instruct the respective platoons on this topic during all reset training events. Although the driver of the vehicle is yet unidentified, statements from passengers of the vehicle show that the driver was unresponsive to not only the EOF procedures, but to the demands of the passengers of the vehicle. The passengers gave no insight into the reasons the driver failed to stop the vehicle.

Subj: PRELIMINARY INQUIRY INTO THE ESCALATION OF FORCE INCIDENT THAT OCCURRED IN THE VICINITY OF GRID (b)(2)High ON 16 MARCH 2006, INVOLVING MARINES OF MOBILE ASSAULT PLATOON-2, WEAPONS COMPANY, 1ST BATTALION, 1ST MARINES

8. CERP condolence payments will be made to the injured and to the families of the deceased. Those payments will be made once the Investigating Officer is able to verify the identities of the injured and the deceased. The POC for Task Force 1/1 CERP condolence payments is Captain (b)(3), (b)(6) at 3686-119, Camp Fallujah, Iraq.

9. The Investigating Officer is of the opinion that the ultimate cause of this EOF incident was the actions of the driver of the civilian vehicle. The speed of the vehicle and the driver's refusal to react to any of the EOF measures required PFC (b)(3)(b)(6) to fire killing shots at the vehicle in defense of himself and his unit.

10. The Investigating Officer is of the opinion that no further investigation of this EOF incident is required. The Investigating Officer will continue to work with HET-07 in an attempt to properly identify the civilian KIA and the injured passengers.

11. The POC for this matter is Captain (b)(3), (b)(6) at (b)(2)High or (b)(3), (b)(6)

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



UNITED STATES MARINE CORPS

1ST BATTALION, 1ST MARINES
RCT 5, 1 MEF FWD
UNIT 40155
FPO AP 96426-0155

IN REPLY REFER TO:
5830
S-1
16 Mar 06

From: Commanding Officer, 1st Battalion, 1st Marines
To: Captain [REDACTED] (b)(3), (b)(6)

Subj: PRELIMINARY INQUIRY INTO THE ESCALATION OF FORCE INCIDENT INVOLVING MAP
2, WEAPONS COMPANY, ON 15 MARCH 2006

Ref: (a) JAGINST 5800.7C (JAGMAN)

1. This appoints you, per Chapter II, Part A of the reference, to conduct a preliminary inquiry into the facts and circumstances surrounding the Escalation of Force (EOF) incident involving elements of Mobile Assault Platoon 2, Weapons Company, on 16 March 06.
2. Investigate any fault, neglect or responsibility therefore, and recommend appropriate administrative or disciplinary action. Report your findings of fact, opinions, and recommendations in letterform by 1630, 19 Mar 2006, unless you request in writing and are granted an extension. You may also recommend that a command investigation take place if necessary to conduct further investigation. If you have not previously done so, read chapter II of the reference in its entirety before beginning your investigation.
3. Ensure that personnel are fully identified, the first time they are mentioned in the final report; i.e., rank, full name (first, middle initial, last, SSN, MOS) armed forces component, complete unit and address.
4. You are encouraged to seek advice from the Battalion Adjutant or Regimental Staff Judge Advocate during the course of your investigation.
5. This inquiry is your primary duty until all the requirements of paragraph 2, above, have been met.

[REDACTED]
(b)(3), (b)(6)

Copy to:
Legal Officer
Files

004491

Section IV - Findings

The investigating officer, having carefully considered the evidence, finds:

1. On 16 March 2006, Mobile Assault Platoon-2 (MAP-2) was ordered to escort a recovery vehicle to the vicinity of
(b)(2)High
2. MAP-2 left FOB Abu Ghraib (AG) at approximately 1650.
3. At approximately 1700 the convoy turned west onto (b)(2)High
(b)(2)High
4. In the field to the south of (b)(2)High MAP-2 located the Charlie Company 7-ton truck that was the focus of the recovery effort.
5. Sgt. (b)(3), (b)(6) commanded the lead vehicle (vehicle #1) of the convoy which contained PFC (b)(3), (b)(6) ICpl (b)(3), (b)(6) PFC (b)(3), (b)(6) and ICpl (b)(3), (b)(6), halted to determine the best location at which to place a blocking position.
6. No vehicle control devices were yet in place as the MAP-2 platoon commander, 1st Lt (b)(3), (b)(6) was deciding where to place his vehicles.
7. At this time, the .50 caliber machine gunner in vehicle #1, PFC (b)(3), (b)(6) noticed a civilian van, heading eastbound, approaching the convoy on (b)(2)High
8. The vehicle was traveling at approximately 60-70 mph. Neither at this time, nor at no time during the incident, could PFC (b)(3), (b)(6) see how many passengers were in the vehicle.
9. When the vehicle approached to within (b)(2)High of the convoy, PFC (b)(3), (b)(6) began to waive a red flag, signaling the civilian vehicle to stop.
10. The vehicle did not stop or change course in any way, but continued toward the convoy at approximately (b)(2)High
11. As the vehicle came to within (b)(2)High of the convoy, PFC (b)(3), (b)(6) made the decision not to fire the pop-up flare because he believed that he did not have time to do

Findings (cont.)

10. [A] (b)(2)High a vehicle will travel approximately (b)(2)High (b)(2)High

12. Instead of firing the pop-up flare, PFC (b)(3), (b)(6) (b)(2)High one (b)(2)High into the ground in front of the civilian vehicle with the .50 caliber machine gun.

13. EOP procedures required PFC (b)(3), (b)(6) to (b)(2)High (b)(2)High with his M-16A4 rifle. However, PFC (b)(3), (b)(6) made the decision to (b)(2)High with the .50 caliber machine gun because he did not believe that he had sufficient time to (b)(2)High with the M-16A4 and then transition to the .50 caliber machine gun if required.

14. The vehicle did not respond to the (b)(2)High and continued toward vehicle #1 at approximately 60-70mph.

15. Per enclosure 12, the occupants of the civilian vehicle noticed the MAIP-2 convoy ahead on (b)(2)High and requested the driver to stop.

16. The passengers stated that the driver ignored their pleas and sped up.

17. As the vehicle came to within (b)(2)High of vehicle #1, PFC (b)(3), (b)(6) (b)(2)High (b)(2)High

18. The vehicle did not stop or alter its course in any way, but continued eastbound toward vehicle #1 at approximately 60-70 mph.

19. PFC (b)(3), (b)(6) fired two 6 rounds bursts at the windshield of the civilian vehicle when it came to within (b)(2)High (b)(2)High of vehicle #1. The rounds hit the vehicle and it veered southbound off of (b)(2)High as it came to within (b)(2)High of vehicle #1.

20. The civilian vehicle came to a stop in the field south of (b)(2)High.

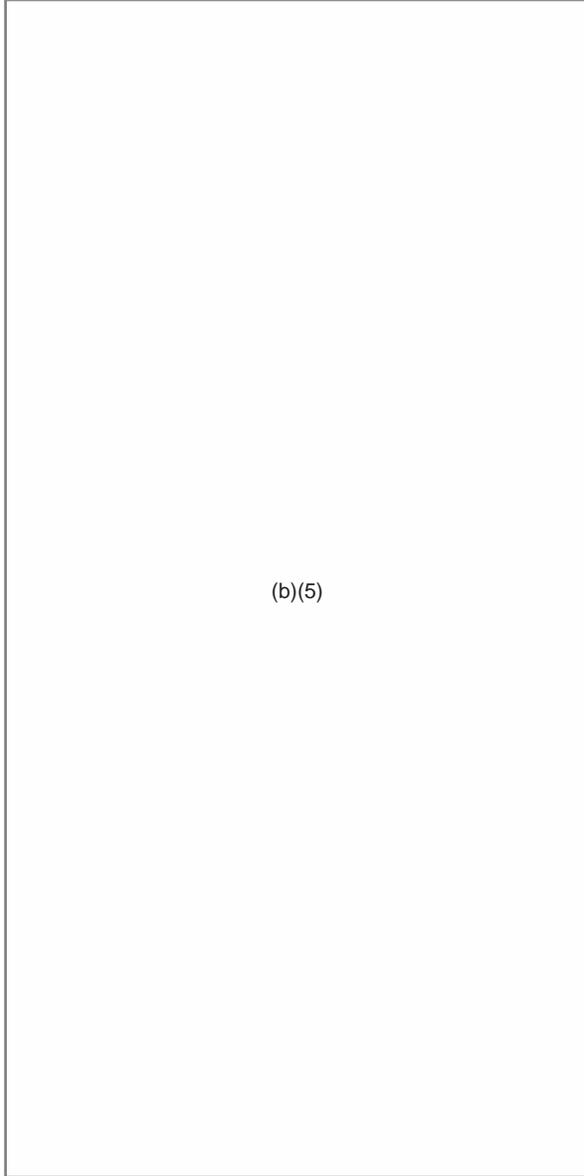
21. In the days prior to Task Force 1/1's arrival in (b)(2)High (b)(2)High 5 VBIEDS occurred in (b)(2)High 1 of which was aimed at elements of Task Force 1/1. As a result, MAIP-2 failed to approach the civilian vehicle, believing that the vehicle may have been a VBIED.

Findings (cont.)

22. At about 1315 Lime Marines of MAP-2 witnessed muzzle flashes and heard AK-47 gunfire approximately 700 meters to the west of their position.
23. MAP-2 did not establish PID and did not return fire.
24. Eventually it was determined that the vehicle would not explode and MAP-2 and Charlie Company Marines approached the vehicle.
25. As corpsmen on the scene treated the injured Iraqis, a group of Iraqi Police (IP) and a platoon of Iraqi Army (IA) arrived at the scene.
26. 3 more Iraqi civilians were KIA.
27. 10 injured Iraqi civilians were checked into the hospital at Abu Ghraib.
28. The IPs and IA began to load the wounded civilians into an ambulance.
29. The injured were transported to AG, and the IPs took custody of the 3 civilian KIA and the vehicle.

Section V – Recommendations

In view of the above findings, the investigating officer recommends:



(b)(5)

Page 18 redacted for the following reason:

(b)(2)High, (b)(1)1.4c, (b)(1)1.4a

