



DEPARTMENT OF THE ARMY
Headquarters, 3rd Heavy Brigade Combat Team
4th Infantry Division (Mech)
FOB WARHORSE, IRAQ
APO AE 09336



REPLY TO
ATTENTION OF

AFZC-FC-CO

24 March 2006

MEMORANDUM FOR 1LT [REDACTED] 1-68 CAB, FOB Gabe, Iraq

SUBJECT: Appointment as Investigating Officer UP AR 15-6

1. You are hereby appointed as an investigating officer pursuant to AR 15-6, to conduct an informal investigation into a suspected escalation of force incident involving elements of 1-68 CAB. See the attached SIGACT for more information regarding this incident.
2. In your investigation, all witness statements will be sworn using DA Form 2823. If you suspect someone of having committed a violation of the UCMJ, you will first read them their rights and fill out DA Form 3881. If they still wish to make a statement they may. Contact the Brigade Judge Advocate, CPT [REDACTED] for any necessary legal advice.
3. Submit your findings and recommendations on DA Form 1574 to this headquarters, NLT 281700MAR06.

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

COL, IN
Commanding

006422

At 211033MAR2006, TF 1-68 AR reports an EOF in the Diyala Province, west of Ba'quba (b)(2)High
(b)(2)High EOF was initiated by D/1-68 AR during a joint raid with the IA (Operation Arkan's Claw) Element
1,136 EOF 3/21/2006 15:26 (b)(2)High Shots killed individual in car. UPDATE: Prior to
(b)(2)High hand and arm signals were used. PSG shows 9mm pistol and demonstrates intent to use
it (b)(2)High after driver re-entered vehicle and began movement. All available
means were used prior to initiation of (b)(2)High NFTR CLOSED: 211558MAR2006, 1169



DEPARTMENT OF THE ARMY
BRAVO COMPANY, 1ST BATTALION, 1-68 CAB
3D BRIGADE, 4TH INFANTRY DIVISION (MECHANIZED)
FOB WARHORSE, IRAQ APO AE 09336-1505

AFZC-FC-B

1 April 2006

MEMORANDUM FOR RECORD

SUBJECT: Letter of Lateness

1. This is a letter of lateness for the report of proceedings by investigating officer of the SIGACT report 1,136 EOF 3/21/2006. Due to the operational tempo I was unable to interview the service members SFC (b)(3), (b)(6) and 1LT (b)(3), (b)(6) until the 30 MARCH 2006.
2. POC for this memo is the undersigned.



1LT, IN
Investigating Officer

006424



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

3D HEAVY BRIGADE COMBAT TEAM
4th INFANTRY DIVISION (MECHANIZED)
FOB WARHORSE, IRAQ 09336

AFZC-FC-JA

16 April 2006

MEMORANDUM FOR Commander, 3d Heavy Brigade Combat Team, 4th Infantry Division
(Mechanized), FOB Warhorse, Iraq 09336

SUBJECT: Legal Review of AR 15-6 Investigation, Fatal Shooting of Local National

1. I have reviewed the AR 15-6 Investigation regarding the fatal shooting of a male local national, (b)(6) (hereafter "LN") on or about 21 March 2006 at 1020 hours, Grid Location (b)(2)High by SGT (b)(3), (b)(6) and SPC (b)(3), (b)(6) at the direction of SFC (b)(3), (b)(6) 1-68 Combined Arms Battalion.

2. The LN drove past SFC (b)(3), (b)(6) and SGT (b)(3), (b)(6) tank twice at a slow rate of speed going opposite directions each time. Since December 2005 to March 2006, there have been 6 IED attacks and 4 SA attacks on (b)(2)High. See Exhibit M. The LN stopped, raised the hood, and exited his vehicle. SFC (b)(3), (b)(6) maneuvered his tank and attempted to search the vehicle. The tank crew did not have an interpreter with them. The LN attempted to get back into his car when he was approached. SFC (b)(3), (b)(6) attempted with oral commands and hand signals to get the LN to move away from the vehicle. The LN spoke back to him in Arabic but continued to get back into his vehicle. SFC (b)(3), (b)(6) aimed his pistol at the LN and continued with gestures and oral commands to try and get him to move away from the vehicle. The vehicle began to drive off, whereupon, SFC (b)(3), (b)(6) (b)(2)High at the left rear tire. The vehicle sped up and the tank gave chase. The vehicle pulled away from the tank by about 200 meters. SFC (b)(3), (b)(6) instructed SGT (b)(3), (b)(6) and SPC (b)(3), (b)(6) to target the tires with their M240s. The LN's vehicle continued to pull away reaching a distance from the tank of approximately 300 meters. At this point, the vehicle was approaching a 1-68 D Company blocking position approximately 0.72 miles up the road. See Exhibit K. The tankers estimated the vehicle at this point was traveling approximately 35-40 miles per hour. See Exhibits H and I. At that speed, the vehicle would have reached the blocking position in scarcely over 60 seconds. See Exhibit J. SFC (b)(3), (b)(6) based on the fact that the driver had acted suspiciously, failed to respond to graduated measures to get him to stop, and was about to make contact with a blocking position in approximately 1 minute if it was not neutralized, instructed SGT (b)(3), (b)(6) and SPC (b)(3), (b)(6) to shoot to kill, whereupon SGT (b)(3), (b)(6) targeted the cab of the vehicle and fatally shot the LN inside. No weapons or other contraband was found either in the LN's vehicle or on his person.

3. The available evidence collected by the IO suggests that the totality of circumstances led SFC (b)(3), (b)(6) to believe that the LN in the vehicle was committing a hostile act and could not be stopped short of using lethal force before he reached the blocking position. Had lethal force not

006425

been used and the LN actually had been a VBIED, the lives of the soldiers at the blocking position would have been placed in jeopardy.

4. The investigation was conducted in accordance with AR 15-6, *Procedure for Investigating Officers and Boards of Officers*, and is legally sufficient. The evidence supports the findings and conclusions of the Investigating Officer and the recommendations are consistent with the findings.

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

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

CPT, JA
Judge Advocate

EXHIBIT INDEX

1. Exhibit A: SFC [Redacted]
2. Exhibit B: SGT [Redacted]
3. Exhibit C: SPC [Redacted]
4. Exhibit D: 1LT [Redacted]
5. Exhibit E: PFC [Redacted]
6. Exhibit F: SPC [Redacted]
7. Exhibit G: 1LT [Redacted] (Investigating Officer)
8. Exhibit H: SFC [Redacted]
9. Exhibit I: PFC [Redacted] (b)(3), (b)(6)
10. Exhibit J: Time Analysis (Submitted by the Investigating Officer)
11. Exhibit K: Graphics (Disabled Vehicle to the Blocking Position)
(Submitted by the Investigating Officer)
12. Exhibit L: Graphics (Start Point to the Disabled Vehicle)
(Submitted by the Investigating Officer)
13. Exhibit M: [Redacted] (b)(2)High Attack History
(Submitted by 1-68th AR BN S-2)
14. Exhibit N: Escalation of Force for 21 March 2006
(Submitted by 1-68th AR BN S-2)
15. Not Used: PFC [Redacted] (b)(3), (b)(6) (Sworn Statement 21 MARCH 2006)
16. Not Used: SPC [Redacted] (b)(3), (b)(6) (Sworn Statement 21 MARCH 2006)