

STAFF: SJA	CLASSIFICATION: Unclassified	DATE: 10 Feb 07
Section Log # NA	SJS Log # NA	
TO: CG	SUSPENSE: NA	FROM: Ad Law, SJA
SUBJECT: CG Review and Approval of EOF Investigation		Action Officers: 1LT (b)(3), (b)(6) LTC (b)(3), (b)(6) DSN 822-2581
PURPOSE: Obtain CG Approval and Signature on DA Form 1574		
BACKGROUND: Delay – The Investigation was mistakenly logged closed and filed without CG approval.		
ISSUE/CONCERNS: None		
RECOMMENDATION: CG approve findings and recommendations.		
ATTACHED DOCUMENTS: AR 15-6		
REMARKS:		
<p>Summary: On 20 November 2006, at about 0400, a CJOSTF element conducting a mounted and dismounted outer cordon for an assault force in (b)(6) followed EOF procedures and engaged a civilian vehicle, presumably killing the driver (the sole occupant).</p> <p>Hostile Act/Intent: The mounted gunner noticed an approaching car at (2)High moving at about 25-30 kmh toward his position. He signaled with a large Surefire flashlight and the gunner testified the car appeared to increase in speed. The gunner fired two (2)High warning shots in front of the vehicle at about (2)High, but the car continued to approach. He then engaged the vehicle and other CJSOTF Soldiers also fired. The car swerved away, rolled to a stop about 30m away, and the car burst into flames shortly thereafter. Because of the presence of a number of local nationals with unknown intent, the GFC determined the area was not safe to render aid or to search the target car (b)(2)High he claims). The GFC decided to move to a safer location without rendering aid to the victim or analyzing the target. The Soldiers conclude the driver most likely died.</p> <p>Investigation Problems and Missed Opportunities:</p> <ol style="list-style-type: none"> 1. The IO missed opportunities to confirm evidence supporting a finding of hostile act or intent, and to gather evidence of a possible enemy TTP, but the errors do not substantially and materially affect the findings in my opinion. <ol style="list-style-type: none"> a. The gunner stated he received SAF immediately before the car approached and then after the engagement he received a "heavy stream" of SAF. No other witness mentioned SAF on the position before or after the engagement and the IO failed to confirm or refute the gunner's assertion. b. No witness described the approaching vehicle with any detail. The IO failed to ask whether the car lights were on or off; and the IO did not have the witnesses describe the vehicle. c. The IO did not have the witnesses explain why the vehicle posed a threat. 		

NOTICE:	(b)(2)High	006570

2. The GFC stated he made a decision not to render aid and to move the cordon control element because of potentially hostile bystanders. The IO failed to elicit testimony about how the engagement, the gathering of bystanders, and movement of the control point affected the cordon mission and the assault mission.

3. The IO failed to analyze why the Soldiers (b)(2)High and he did not make a recommendation regarding fire safety and force protection.

LOAC, ROE, and EOF Compliance: Legally sufficient. The IO relied on only corroborated information in the fundamental analysis. The Soldiers complied with both the spirit and technical requirements of the ROE and EOF procedures. Circumstances did not permit the Soldiers to render aid as reasonably determined by the GFC.

Recommendation: Approve the Findings and, with modification regarding concern about (b)(2)High (b)(2)High and lost investigation opportunities, approve the Recommendations.

Action: Sign the DA Form 1574 and the memorandum at TAB A.

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Initials			C/NC			Date			Initials			C/NC			Date		
1	SJA				5	SJA			9	SJA							
2	C3 AT/FP	(b)(3), (b)(6)	C			DCoS											
			C			CoS											
3	Safety																
4	CSM				8	CG											

COMMENTS: C = CONCUR; NC = NONCONCUR

NOTICE:

(b)(2)High

Pages 3 through 22 redacted for the following reasons:

(b)(5) - duplicate; previously redacted and produced

(b)(5) - duplicate; previously redacted and produced

(b)(5) - duplicate; previously redacted and produced, (b)(2) Low - trivial internal document