

Unclassified

~~SECRET//X+(U)~~

Unclassified



# MULTI-NATIONAL CORPS IRAQ

<b>STAFF SUMMARY</b>		<b>CLASSIFICATION: <del>SECRET/NOFORN</del> (U)</b>		<b>DATE: 12 May 2007</b>							
Staff Section SJA	Section Log #:		SJS Log #:								
<b>TO: CofS</b>		<b>SUSPENSE:</b>		<b>FROM: Adlaw, SJA</b>							
<b>SUBJECT: AR 15-6 IO Appointment</b>				<b>Action Officer:</b>							
				LTC (b)(3), (b)(6)							
				(b)(2)High							
<b>ISSUE/PURPOSE: CofS, on CG's behalf, appoint IO to investigate an EOF incident in which a LN was killed.</b>											
<b>BACKGROUND: None</b>											
<b>ISSUE/CONCERNS: NSTR</b>											
<b>RECOMMENDATION: Sign Appointment Memo</b>											
<b>ATTACHED DOCUMENTS: SIGACT #2249 and Storyboard</b>											
<b>REMARKS: FRAGO 225 requires the CG to appoint an AR 15-6 IO for EOF incidents that result in death. You are permitted to appoint the IO on his behalf; however, CG must approve the final investigation.</b>											
<b>STAFF COORDINATION:</b>											
#	SECTION	C	NC	#	SECTION	C	NC	#	SECTION	C	NC
	CG				CSM				ASOC/TACP		
	XO				Admin				CHAP		
	Aide			4	SJS				ECC		
	Admin				Admin				EO		
	DCG (GBR)				C1				IG		
	Admin				C2				PAO		
	DCG (US)				C3				PMO		
	Admin				C4				RCD (Res/NG Aff)		
	DCG (ITA)				C5			1	SJA	(b)(3), (b)(6)	
	Admin				C6				SURG		
3	CofS				C7				HQ CMD		
	Admin				C8				POLAD		
2	DCofS (USA)	✓			C9						
<b>COMMENTS: C = CONCUR; NC = NONCONCUR</b>											

MNC-I Form 1222 Feb 05

Unclassified

~~DRV FM: NSA/CS 800201-2~~

~~Dated: 24 Feb 98~~

~~DECL ON: XI~~



REPLY TO  
ATTENTION OF

**HEADQUARTERS**  
MULTI-NATIONAL CORPS-IRAQ  
BAGHDAD, IRAQ  
APO AE 09342

**MAY 15 2007**

FICI-JA-AL

MEMORANDUM FOR 1LT (b)(3), (b)(6) HHD, 97<sup>th</sup> MP BN, 89<sup>th</sup> MP BDE, COB  
Speicher, APO AE 09393

SUBJECT: Appointment of AR 15-6 Investigating Officer – Escalation of Force Incident  
on 6 May 2007 (97<sup>th</sup> MP BN, 89<sup>th</sup> MP BDE)

1. **Appointment.** You are appointed as an investigating officer to conduct an informal investigation IAW AR 15-6 into all of the facts and circumstances surrounding a 6 May 2007 Escalation of Force (EOF) incident in which a local national was killed.
2. **Purpose.** This investigation is administrative in nature to gather facts. The investigation process is a commander's tool to assess the effectiveness of the Rules of Engagement (ROE) and Escalation of Force (EOF) in the particular engagement, to capture lessons learned for TTP analysis, and to preserve evidence of Law of Armed Conflict and ROE compliance and other procedures.
3. **Duty.** Your duty is to determine all facts and circumstances and to "ascertain and consider the evidence on all sides of each issue, thoroughly and impartially, and to make findings and recommendations that are warranted by the facts and that comply with these instructions." AR 15-6, para. 1-6.
4. **Standards.** Determine and reference all relevant standards, policies, procedures, and customs and practices, including "Appendix 20 to Annex C to MNC-I OPOD 06-04 (SOP) 4 NOV 06." Bear in mind that your report may be subject to release under the Freedom of Information Act, so to the greatest extent possible, prepare an unclassified report. If you must include classified information, identify and segregate any classified information in your report. Also, be sensitive to any Privacy Act issues that may arise during the course of your investigation and included in your report.
5. **Specific Areas of Concern.** In addition to addressing the general facts and circumstances and any matter you think relevant, your investigation must address the following issues:
  - a. Did the Soldier perceive a hostile act or a demonstration of hostile intent? If so, what specific events occurred that led the Soldier to perceive a hostile act or hostile intent? In light of the circumstances faced and the applicable ROE, were the Soldier's acts reasonable? Explain the basis for your determination (cite all supporting facts and explain your rationale).
  - b. Did the unit properly follow its EOF procedures, ROE, and TTPs?

008262

- c. Were all military vehicles clearly marked?
  - d. Were the EOF measures and equipment, ROE, and unit TTPs sufficient? Were there any deficiencies in the utility or execution of the TTPs or in the TTPs themselves under the circumstances?
  - e. When did the unit last receive EOF training? If possible, provide a copy of any training materials as an enclosure to your investigation.
  - f. Did any other factors contribute to the incident (e.g., training, experience, equipment, mission requirements, etc.)?
  - g. Did the unit provide timely and adequate medical assistance?
  - h. Could any individual, unit, or systemic measures have prevented this incident?
6. **Primary Responsibility.** Your duties as an investigating officer take priority over other duties.
7. **Suspense.** Submit the original report and one copy of the original to the 89<sup>th</sup> Military Police Brigade Office of the Staff Judge Advocate (OSJA) no later than 14 days after your receipt of this memorandum. Any requests for extension must be in writing through the OSJA.
8. **Procedures.** Follow the informal investigative procedures of AR 15-6. Whenever possible, witness statements will be sworn and recorded on DA Form 2823. All persons will complete a Privacy Act statement. If you conduct any witness interviews telephonically, prepare a memorandum of record memorializing the interview. Use DA Form 1574 to prepare your report. Include with your report all documentary evidence, photographs, diagrams, sworn statements, and all other information or evidence you considered as a basis for your findings and recommendations.
9. **Subject Matter Experts.** Consult and associate any subject matter experts during the course of your investigation.
10. **Administrative Support.** With local command approval, an assistant may be assigned to assist you; e.g., to gather documents, to participate with you during interviews, to help organize and prepare the report, etc. You must, however, personally conduct all interviews of witnesses with personal knowledge of the incident ("fact witnesses").

FICI-JA-AL

SUBJECT: Appointment of AR 15-6 Investigating Officer – Escalation of Force Incident of 6 May 2007 (97<sup>th</sup> MP BN, 89<sup>th</sup> MP BDE)

11. **Chronology of Investigation.** Maintain a detailed chronology of your investigative activities and include it as an exhibit to your report.

12. **Possible Criminal Conduct.** If at any time during your investigation you suspect the person you are interviewing or you intend to interview of any misconduct, which may violate any provision of the Uniform Code of Military Justice (UCMJ) or any other criminal law or policy, you must advise them of their rights under Article 31, UCMJ, before continuing with further questioning. Document rights warnings and waivers on DA Form 3881.

13. **Legal Advice.** Before proceeding with the investigation, and as necessary during the course of the investigation, coordinate with CPT [redacted] (b)(3), (b)(6) at 89<sup>th</sup> MP BDE, at DSN [redacted] (b)(2)

FOR THE COMMANDER:

[redacted] (b)(3), (b)(6)  
[redacted] (b)(3), (b)(6) JOSEPH ANDERSON *Col, IN*  
Brigadier General, USA *DLOS*  
Chief of Staff

061129MAY07, EOF (1 X LN KIA) 97 MP BN, 89 MP BDE SIGACT: 2249 (1 OF 2)

SUMMARY: EOF

INJURIES: 1 LN KIA

BDA: LN TRUCK WITH A BROKEN WINDSHIELD

DATE/TIME GROUP: 061129MAY07

LOCATION: (b)(2) High

SIGACT ID# 2249

UNIT/SIGN: 97/128 MP WARHORSE 3, 97 MP BN

MISSION OF UNITS:

(b)(2) High

CREW: 3 X DUKES

CONVOY: (b)(2) High

TIME LINE OF EVENTS: ON 061129MAY07, (b)(2) High  
(2) (b)(2) High (b)(2) High  
AN EOF OCCURRED AS THE PATROL WAS LEAVING THE CHECK POINT HEADQUARTERS AND APPROACHING (b)(2) High A GREEN NISSAN PICKUP AND A BLUE BONGO TRUCK CAME AROUND THE LINE OF STOPPED TRAFFIC AT A HIGH RATE OF SPEED TOWARDS THE CONVOY. THE FLAG WAVING STARTED AT (b)(2) High METERS BEFORE REACHING THE INTERSECTION OF (b)(2) High AND THE CHECK POINT (b)(2) High FOUR VEHICLES HAD COME TO A COMPLETE STOP WELL BEFORE THE CONVOY REACHED THE INTERSECTION. AS THE CONVOY PULLED OUT INTO THE INTERSECTION WITH THE FLAG STILL WAVING, TWO VEHICLES CAME AROUND THE LINE OF FOUR STOPPED VEHICLES. THE GUNNER (b)(2) High (VEHICLE #3) SHOWED HIS (b)(2) High AT (b)(2) High METERS. THE PAIR OF VEHICLES ACCELERATED AND DID NOT YIELD TO THE FLAG WAVING OR WEAPON BEING SHOWN (b)(2) High AT (b)(2) High APPROXIMATELY (b)(2) High METERS. THE GUNNER (VEHICLE #3) DROPPED HIS (b)(2) High AND WENT TO THE (b)(2) High THIS RESULTED IN FIRING TWO, THREE ROUND BURSTS THAT HIT THE LEAD VEHICLE (GREEN NISSAN TRUCK) IN THE WINDSHIELD. THIS CAUSED THE VEHICLE TO 'VEER' OFF THE ROAD ONTO THE SIDEWALK AND UP ONTO A CONCRETE PLANTER WHERE IT CAME TO A STOP APPROXIMATELY 100 METERS PAST THE CONVOY.

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



1. UNIT REPORTING: 89 MP BDE. POC IS THE BATTLE CAPTAIN/NCO, VOIP (b)(2)

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

2. INCIDENT: EOF

SIGACTS # 2249

3. DTG: 061129MAY07

4. LOCATION OF INCIDENT: (b)(2) BUSINESS 1, TIKRIT, IRAQ

5. PERSONNEL INVOLVED

VEHICLE #1 M1114, P207, DUKE (ON)

(b)(3), (b)(6) SGT, 3/1/128 MP, 97 MP, (b)(3), (b)(6) M, 23, C, TL

(b)(3), (b)(6) SPC, 3/1/128 MP, 97 MP, (b)(3), (b)(6) M, 26, C, D

(b)(3), (b)(6) PFC, 3/1/128 MP, 97 MP, (b)(3), (b)(6) M, 19, C, G

(b)(6) INTERPRETER, M, PAX

(b)(3), (b)(6) IPLO, M, PAX

VEHICLE #2, M1114, P231, DUKE (ON)

(b)(3), (b)(6) SSG, 3/1/128 MP, 97 MP, (b)(3), (b)(6) M, 37, C, SL

(b)(3), (b)(6) SPC, HQ/128 MP, 97 MP, (b)(3), (b)(6) M, 21, C, D

(b)(3), (b)(6) SPC, 1/1/128 MP, 97 MP, (b)(3), (b)(6) M, 20, B, G

VEHICLE #3, M1114, P232, DUKE (ON)

(b)(3), (b)(6) CPL, 3/1/128 MP, 97 MP, (b)(3), (b)(6) M, 29, C, TL

(b)(3), (b)(6) SPC, 3/1/128 MP, 97 MP, (b)(3), (b)(6) F, 19, B, D

(b)(3), (b)(6) SPC, 3/1/128 MP, 97 MP, (b)(3), (b)(6) M, 35, B, G

MISSION: PTT AT CHECK POINT HQ

6. SUMMARY OF INCIDENT: ON 061129MAY07, IVO (b)(2)High AN EOF OCCURRED AS THE PATROL WAS LEAVING THE CHECK POINT (b)(2)High AND APPROACHING (b)(2)High A GREEN NISSAN PICKUP AND A BLUE BONGO TRUCK CAME AROUND THE LINE OF STOPPED TRAFFIC AT A HIGH RATE OF SPEED TOWARDS THE CONVOY. THE FLAG WAVING STARTED AT (b)(2)High METERS BEFORE REACHING THE INTERSECTION OF (b)(2)High AND THE CHECK POINT (b)(2)High. FOUR VEHICLES HAD COME TO A COMPLETE STOP WELL BEFORE THE CONVOY REACHED THE INTERSECTION, AS THE CONVOY PULLED OUT INTO THE INTERSECTION WITH THE FLAG STILL WAVING, TWO VEHICLES CAME AROUND THE LINE OF FOUR STOPPED VEHICLES. THE GUNNER (b)(3), (b)(6) VEHICLE #3) SHOWED HIS (b)(2)High AT (b)(2)High METERS, THE PAIR OF VEHICLES ACCELERATED AND DID NOT YIELD TO THE FLAG WAVING OR WEAPON BEING SHOWN (b)(2)High AT APPROXIMATELY (b)(2)High METERS THE GUNNER (b)(3), (b)(6) VEHICLE #3) DROPPED HIS (b)(2)High AND WENT TO THE (b)(2)High THIS RESULTED IN FIRING TWO, THREE ROUND BURSTS THAT HIT THE LEAD VEHICLE (GREEN NISSAN TRUCK) IN THE WINDSHIELD. THIS CAUSED THE VEHICLE TO "VERE" OFF THE ROAD ONTO THE SIDEWALK AND UP ONTO A CONCRETE PLANTER WHERE IT CAME TO A STOP APPROXIMATELY 100 METERS PAST THE CONVOY. THE SECOND VEHICLE (BONGO TRUCK, BLUE) CONTINUED PAST THE CONVOY APPROXIMATELY 140 METERS BEFORE IT COULD STOP. THE SECOND VEHICLE HAD TWO OCCUPANTS (1 LN MALE AND 1 CHILD) THAT WERE QUICKLY SEARCHED AND SENT ON THEIR WAY. THEY COULD NOT BE QUESTIONED DUE TO THE INTERPRETER HELPING AT THE GREEN NISSAN TRUCK. THE GREEN TRUCK WAS SEARCHED AND THE TEAM LEADER VEHICLE # 1 (b)(3), (b)(6) CHECKED THE DRIVER WHO APPEARED TO BE KIA. THE AREA WAS CORDONED OFF. AN AMBULANCE CAME AND TOOK THE BODY TO THE TIKRIT HOSPITAL. THE SQUAD TOOK THE NAME OF THE KIA (b)(6). THE IP WHO ARRIVED

008267

WITH THE AMBULANCE FOUND A CELL PHONE IN THE TRUCK AND CONTACTED HIS BROTHER, [REDACTED (b)(6)] WHO ARRIVED SOON AFTER AND IDENTIFIED THE BODY. THE BROTHER GAVE THEIR ADDRESSES, PHONE NUMBERS, AND THE VEHICLE TAG NUMBER. BDA CONSISTED OF BULLET HOLES IN THE WINDSHIELD AND ONE LN KIA. ALL VEHICLES WERE EQUIPPED WITH [REDACTED (b)(2)High] ALL SOLDIERS WERE [REDACTED (b)(2)High]

7. DAMAGE TO GOVERNMENT AND/OR CIVILIAN PROPERTY: 1XLN KIA; 1X GREEN NISSAN TRUCK.

8. COMMANDER REPORTING: COL [REDACTED (b)(3), (b)(6)] BRIGADE COMMANDER.