

UNCLASSIFIED



DEPARTMENT OF THE ARMY  
HEADQUARTERS, 2D BRIGADE COMBAT TEAM  
10TH MOUNTAIN DIVISION (LIGHT INFANTRY)  
CAMP STRIKER, IRAQ 09322

REPLY TO  
ATTENTION OF

AFZS-LF-Z

MEMORANDUM FOR Commander, Multi-National Division - Center, Camp Liberty, Iraq APO AE 09342

SUBJECT: Request for Jurisdiction – 1LT (b)(3), (b)(6) D Company, 4th Battalion, 31st Infantry Regiment, 2d Brigade Combat Team, 10th Mountain Division (Light Infantry), Camp Striker, Iraq, APO AE 09322

1. I respectfully request that disposition authority over 1LT (b)(3), (b)(6) D Company, 4th Battalion, 31st Infantry Regiment, 2d Brigade Combat Team, 10th Mountain Division (Light Infantry), Camp Striker, Iraq, APO AE 09322
2. This request is made in conjunction with Battalion Inquiry #07-122 that is attached with this request.
3. POC for this memorandum is MAJ (b)(3), (b)(6) the Brigade Judge Advocate, at VOIP (b)(2) (b)(2) or via SIPR at: (b)(3), (b)(6), (b)(2)High@2bct.10mtn.army.smil.mil.

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

COL, IN  
Commanding

008955



DEPARTMENT OF THE ARMY  
HEADQUARTERS, 2D BRIGADE COMBAT TEAM  
10TH MOUNTAIN DIVISION (LIGHT INFANTRY)  
CAMP STRIKER, IRAQ APO AE 09322

REPLY TO  
ATTENTION OF

AFZS-LF-Z

MEMORANDUM FOR RECORD

SUBJECT: Battalion Inquiry #07-122 for Death of a Local National

1. I have reviewed thoroughly the aforementioned investigation conducted by CPT (b)(3), (b)(6) (b)(3), (b)(6) and forwarded with recommendations by LTC (b)(3), (b)(6)

2. I ratify and approve the appointment of the investigating officer.

3. The findings and recommendations of the investigating officer are:

approved.

disapproved.

approved with the following exceptions / substitutions: \_\_\_\_\_

4. After considering the recommendations of the investigating officer and the Chain-of-Command, I hereby direct the following:

that this matter be released to the Battalion Commander for any and all appropriate actions.

that this matter be closed with no further action.

BCT LOR for LT (b)(3), (b)(6). Remaining actions remanded to BN Cdr.

5. POC for this memorandum is MAJ (b)(3), (b)(6) Brigade Judge Advocate, at VOIP 242-4921.

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

COL, IN  
Commanding



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
HEADQUARTERS, 2D BRIGADE COMBAT TEAM  
10TH MOUNTAIN DIVISION (LIGHT INFANTRY)  
CAMP STRIKER, IRAQ APO AE 09322

AFZS-LF-JA

5 Aug 2007

MEMORANDUM FOR Commander, 2d Brigade Combat Team, 10th Mountain Division (Light Infantry), Camp Striker, Iraq APO AE 09322

SUBJECT: Legal Review of AR 15-6 Investigation #07-122, Death of a Local National

1. I have reviewed the aforementioned investigation conducted by CPT (b)(3), (b)(6) (b)(3), (b)(6) and find it legally sufficient.

- a. The investigation contains no procedural errors which materially prejudice any party involved in the investigation.
- b. The evidence supports the investigating officer's findings.
- c. The recommendations are consistent with the findings and evidence.

(b)(5), (b)(3), (b)(6)

3. The point of contact for this memorandum is the undersigned at VOIP (b)(2) and (b)(3), (b)(6), (b)(2)High@2bct.10mntn.army.smil.mil.

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

MAJ, JA  
Brigade Judge Advocate

008957



DEPARTMENT OF THE ARMY  
Headquarters, 4-31 Infantry Regiment  
2d Brigade Combat Team  
10th Mountain Division (Light Infantry)  
FOB Yusufiyah, Iraq APO AE 09322

REPLY TO  
ATTENTION OF

AFZS-LF-B

31 July 2007

MEMORANDUM FOR Commander, 2d Brigade Combat Team, 10th Mountain Division (LI) Camp Striker,  
Iraq APO AE 09322

SUBJECT: Recommendation for AR 15-6 Investigation #07-122, Death of a Local National (2/D/4-31  
IN)

1. I have reviewed thoroughly the aforementioned investigation conducted by CPT (b)(3), (b)(6)  
(b)(3), (b)(6)

2. I recommend that the findings and recommendations of the investigating officer be:

approved.

disapproved.

~~NE~~ approved with the following exceptions/substitutions: ADDITIONS

(b)(5), (b)(3), (b)(6)

4. Commander's Comments/Remarks:

(b)(5), (b)(3), (b)(6)

5. POC for this memorandum is CPT (b)(3), (b)(6) VOIP (b)(2)

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

LTC, IN  
Commanding

008958



**DEPARTMENT OF THE ARMY**  
Headquarters, 4-31 Infantry Regiment  
2d Brigade Combat Team  
10th Mountain Division (Light Infantry)  
Fob Yusufiyah, Iraq Apo Ae 09322

REPLY TO  
ATTENTION OF

AFZS-LF-B

29 July 2007

MEMORANDUM FOR CPT [REDACTED] (b)(3), (b)(6) A Company, 4-31 Infantry Regiment, 2d Brigade Combat Team, 10th Mountain Division (Light Infantry), FOB Yusufiyah, Iraq, APO AE 09322

SUBJECT: Appointment as 15-6 Investigating Officer (#07-122, Death of a Local National, 2/D//4-31 IN)

1. You are hereby appointed as an investigating officer to conduct an investigation pursuant to AR 15-6, into the facts and circumstances of the death of a local national by 2/D//4-31 IN on or about 29 July 2007. You are to make specific findings and recommendations concerning the causes of the incident. Until the investigation is completed, this will be your primary duty responsibility.
2. You will use informal procedures under AR 15-6, Chapter 4. If, during your investigation, you suspect that persons you intend to interview may have violated any provision of the Uniform Code of Military Justice (UCMJ) or any other criminal law, you must advise them of their rights under the UCMJ, Article 31 as documented on DA Form 3881. Witness statements should be sworn and recorded on DA Form 2823.
3. Prepare the report of proceedings on DA Form 1574 and submit the original to me by the above suspense. You must submit any requests for delay to me in writing. Include with your report all documentary and physical evidence you considered.
4. Before proceeding with the investigation you must contact the 2d Brigade Operational Law Team (BOLT) for an initial legal briefing. A BOLT attorney will serve as your primary legal advisor and can be reached at VOIP [REDACTED] (b)(2)
5. By virtue of your appointment, you may direct the assistance of personnel with special technical knowledge to assist or advise you during your investigation. Requests should be coordinated through your legal advisor.
6. If during the course of your investigation you discover systemic training deficiencies that potentially caused or contributed to the incident under investigation, you will immediately contact your legal advisor for further guidance.

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

CPT, AG  
Adjutant

008959



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
HEADQUARTERS, 4<sup>TH</sup> BATTALION 31<sup>ST</sup> INFANTRY  
10TH MOUNTAIN DIVISION (LIGHT INFANTRY)  
PATROL BASE YUSUFYAH, IRAQ APO AE 09322

AFZS-LF-B

29 July 2007

MEMORANDUM FOR RECORD

SUBJECT: Findings and Recommendations for Investigation #07-122, Death of a Local National (2/D/4-31 IN)

1. On 29 July 2007 at 0431 hours 2/D/4-31 INF fired 10 warning shots at a local national male, (b)(6). One of the warning shots struck the LN in the head, which subsequently resulted in his death.

Summary of the Facts. On 29 July 2007, 2/D/4-31 was tasked to set up an ambush position vicinity grid (b)(2)High in order to prevent AIF from leaving OBJ (b)(2)High (Exhibit A). The platoon leader, 1LT (b)(3), (b)(6) set his platoon into a linear ambush located on the North side of the Bridge at (b)(2)High. 1LT (b)(3), (b)(6) was on the East side of the ambush with 1<sup>st</sup> Squad and SFC (b)(3), (b)(6) was on the West side with 2<sup>nd</sup> Squad. (Exhibit B) At approximately 0430 hours three LN males,

(b)(6)  
and (b)(6), attempted to cross the bridge located at (b)(2)High (b)(2)High from South to North. (Exhibit B, C, I, J) Once the three LN males crossed the bridge they began heading West towards 2<sup>nd</sup> Squad and PFC (b)(3), (b)(6) PFC (b)(3), (b)(6) along with several other members of the platoon observed one of the LN males carrying a bag in his hand. (Exhibit B, C, F, H, G)

Once the LN males got close enough to PFC (b)(3), (b)(6) position, PFC (b)(3), (b)(6) yelled out to them to "Stop" in Arabic. All members of the platoon state that they heard PFC (b)(3), (b)(6) repeatedly say "Stop" in Arabic over the course of the incident. (b)(6) (b)(6) and (b)(6) both state that they heard PFC (b)(3), (b)(6) say "Stop" in Arabic and English and understood what he meant. (Exhibit B, C, E, F, G, H, I, J)

(b)(6) both told (b)(6) (b)(6) to stop and not to move. However, (b)(6) ignored their warning and ran back across the bridge. (b)(6) and (b)(6) believed (b)(6) was extremely scared and that is why he ran South back across the bridge. (Exhibit I, J)

PFC (b)(3), (b)(6) continued to tell (b)(6) to "Stop" and then observed (b)(6) throw the bag he was carrying into the canal. As (b)(6) reached the bridge, 1LT (b)(3), (b)(6) fired one warning shot in (b)(6) direction in an attempt to deter (b)(6) from running. Upon hearing the first warning shot fired, PFC (b)(3), (b)(6) began firing warning shots in order to likewise deter (b)(6) from running away. (Exhibit B, C) A total of 10 warning shots were fired. One of the warning shots struck (b)(6)

008960

AFZS-LF-B

SUBJECT: Findings and Recommendations for Investigation #07-122, Death of a Local National (2/D/4-31 IN)

in the head, critically wounding him. At no time did PFC (b)(3), (b)(6) or 1LT (b)(3), (b)(6) use their IR lasers on their weapons when firing their warning shots. (Exhibit B, C)

As 1LT (b)(3), (b)(6) and SFC (b)(3), (b)(6) ensured that (b)(6) and (b)(6) were searched and detained, they heard a moaning sound from across the canal. 1LT (b)(3), (b)(6) sent a squad across the bridge to investigate the noise. It was at this time that they discovered (b)(6) lying down on the ground with a bullet wound to the head. 1LT (b)(3), (b)(6) immediately called the medic forward and the medic, SPC (b)(3), (b)(6) began to treat (b)(6). 1LT (b)(3), (b)(6) called for a 9-Line Medevac to the 4-31 TOC. (b)(6) was flown from the incident site to the Camp Cropper 31<sup>st</sup> CSH, where he subsequently died of wounds at 0800 that morning. 1LT (b)(3), (b)(6) continued to hold his position at the bridge and returned to FOB Yusufiyah at the end of the mission with two detainees, (b)(6) and (b)(6) (Exhibit B, C, D, E, F, G, H, I, J)

1LT (b)(3), (b)(6) and PFC (b)(3), (b)(6) are both qualified on their weapons and received a ROE refresher course on 30 May 2007, based off of the 2-10 ROE handout. (Exhibit K, L, M, N, Q)

2. Findings. After carefully considering the evidence, I find that:

a. 1LT (b)(3), (b)(6) and PFC (b)(3), (b)(6) violated the MNC-I Rules of Engagement as of 27 March 2007, MND-C ROE, and 2-10 ROE. ROE clearly states that warning shots are only permitted when deadly force is authorized. The three LN males did not show hostile intent nor were they engaging in a hostile act. Therefore, deadly force was not authorized. (Exhibit O, P, Q)

(b)(5), (b)(3), (b)(6)

(b)(5), (b)(3), (b)(6)

3. Recommendations. In view of the above findings, I recommend:

(b)(5), (b)(3), (b)(6)

(b)(5), (b)(6)

AFZS-LF-B

SUBJECT: Findings and Recommendations for Investigation #07-122, Death of a Local National (2/D/4-31 IN)

(b)(5), (b)(3), (b)(6)

(b)(5), (b)(3), (b)(6)

4. The point of contact for this memorandum is the undersigned at VOIP (b)(2), and (b)(3), (b)(6), (b)(2)High @us.army.smil.mil.

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

CPT, IN  
Investigating Officer

**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) \_\_\_\_\_  
 (Appointing authority)

on 29 July 2007 \_\_\_\_\_ (Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)  
 (Date)

**SECTION II - SESSIONS**

The (investigation) (board) commenced at FOB Yusufiyah \_\_\_\_\_ at 1200 \_\_\_\_\_  
 (Place) (Time)

on 30 July 2007 \_\_\_\_\_ (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 \_\_\_\_\_ 1200 \_\_\_\_\_ on 30 July 2007 \_\_\_\_\_  
 (Time) (Date)  
 and completed findings and recommendations at \_\_\_\_\_ 1700 \_\_\_\_\_ on 30 July 2007 \_\_\_\_\_  
 (Time) (Date)

**SECTION III - CHECKLIST FOR PROCEEDINGS**

**A. COMPLETE IN ALL CASES**

		YES	NO <sup>1/</sup>	NA <sup>2/</sup>
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?			
	b. Copy of notice to respondent, if any? (See item 9, below)			
	c. Other correspondence with respondent or counsel, if any?			
	d. All other written communications to or from the appointing authority?			
	e. Privacy Act Statements (Certificate, if statement provided orally)?			
	f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?			
	g. Information as to sessions of a formal board not included on page 1 of this report?			
	h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?			

(b)(2)High

FOOTNOTES: 1/ Explain all negative answers on an attached sheet.

2/ Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

**008963**

		YES	NO <sup>1/</sup>	NA <sup>2/</sup>
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?			
	b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?			
	c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?			
	d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?			
	e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?			
	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?			
	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)?			
3	Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)?			
<b>B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)</b>				
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)?			
<b>C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)</b>				
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)?			
<b>FOOTNOTES:</b> 1/ Explain all negative answers on an attached sheet. 2/ Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.				

(b)(2)High

**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

008965

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)	_____	(Investigating Officer) (President)
_____	(Member)	_____	(Member)
_____	(Member)	_____	(Member)

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

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)
-------	----------	-------	----------

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.)

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

LIST OF EXHIBITS

Investigation #07-122, Death of a Local National (2/D/4-31 IN)

<u>TAB</u>	<u>EXHIBIT</u>
A.....	4-31 OPORD 06-36
B.....	Sworn Statement of 1LT (b)(3), (b)(6)
C.....	Sworn Statement of PFC (b)(3), (b)(6)
D.....	Operation (b)(2)High Summary
E.....	Sworn Statement of SPC (b)(3), (b)(6)
F.....	Sworn Statement of SFC (b)(3), (b)(6)
G.....	Sworn Statement of SGT (b)(3), (b)(6)
H.....	Sworn Statement of SPC (b)(3), (b)(6)
I.....	Sworn Statement of (b)(6)
J.....	Sworn Statement of (b)(6)
K.....	12 April 2007 Memorandum for ROE Training
L.....	30 May 2007 Memorandum for ROE Training
M.....	DA-5790-R for 1LT (b)(3), (b)(6)
N.....	DA-5790-R for PFC (b)(3), (b)(6)
O.....	Appendix 7, Annex C, MNC-I OPORD 06-03
P.....	MND-C ROE Handout
Q.....	ROE and LOAC Refresher, 2-10 MTN DIV
R.....	Story Board
S.....	Chronology of Events
T.....	4-31 Radio Log of 29 July 2007

# EXHIBIT A

008968

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

(b)(2)High, (b)(3), (b)(6), (b)(1)1.4a

**UNCLASSIFIED**

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

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

**UNCLASSIFIED**

**UNCLASSIFIED**