DEPARTMENT OF DEFENSE
HEADQUARTERS, COMBINED/JOINT TASK FORCE (CJTF)-82
BAGRAM AIRFIELD, AFGHANISTAN
APO AE 09354

REPLY TO
ATTENTION OF

S: 25 November 2009

CJTF-82-CG

4 November 2009

MEMORANDUM FOR COL (b)(3), (b)(6) CAG, CJTF-82, Afghanistan

SUBJECT: Appointment as Investigating Officer

1. On 8 September 2009, Afghan National Security Forces (ANSF) and a US Embedded Training Team (ETT) conducted an operation near Ganjgal village, Konar Province, which resulted in the deaths of 1stLt Michael E. Johnson, GySgt Edwin W. Johnson, SSgt Aaron M. Kenefick, HM3 James R. Layton, SFC Kenneth W. Westbrook and two Afghan National Army Soldiers. On 17 October 2009, I approved in part an initial investigation into the incident and directed a supplemental investigation. You are hereby appointed as an investigating officer to conduct an informal investigation into the incident, IAW AR 15-6. You will be assisted in the investigation by Col (b)(3), (b)(6) who was provided by the Commanding General, MARCENT.

2. Your investigation will address the following matters:

a. You will examine the involvement of Task Force (b)(2)High , TF Mountain Warrior, and ETT leadership in the planning and execution of this operation. To what extent were these leaders involved in or aware of the operation? Describe the pre-mission planning and coordination conducted for this operation. What information was known by the primary planners for this operation and what information was briefed to the leadership prior to execution? Were the actions of the leadership at each level appropriate?

b. You will examine the Concept of Operations (CONOPS) approval process regarding this operation. What process was required and was it properly followed? If not, why?

c. You will examine the performance of personnel in the (b)(2)High to include Battle Captains, during this operation. Did they perform to the standards expected of Soldiers in their positions? Were they adequately experienced, qualified, and trained for the responsibilities they held?

d. What were the actions and reactions of the command posts involved in this operation? Were they appropriate?

e. Did the command and support relationships between the ETT and the battle space owner adversely affect the planning and execution of this operation?

f. You will examine the perception held by some US participants that the Quick Reaction Force and other responding (b)(2)High ground elements did not adequately support the mission. Were these perceptions accurate?

g. Were air-to-ground and indirect fires employed consistent with the ISAF Tactical Directive, dated 1 July 2009?

h. What recommendations concerning coalition force tactics, techniques, and procedures will help avoid similar incidents in the future?

i. Any other matters pertaining to this incident that you deem relevant.

3. This investigation is your primary duty until completed and takes precedence over all other duties and assignments.

4. Use AR 15-6 to guide your investigation. You may consider any evidence that you determine to be relevant and material to the incident. You should obtain MAJ(b)(3), (b)(6) AR 15-6 investigation and review it thoroughly before beginning your investigation. You may use his investigation or any part of it as an exhibit for your investigation. Your completed investigation will include:

a. This memorandum of appointment;

b. A memorandum thoroughly documenting your findings and recommendations. Your findings are to be based on the facts you gather, and your recommendations should include how to avoid or mitigate the effects of this type of incident in the future;

c. An executive summary of your findings and recommendations;

d. An index of exhibits;

e. A chronology of your investigation;

f. All exhibits labeled in sequential order;

g. A list of all persons interviewed and those from whom no statement was taken;

h. Proper classification markings for each paragraph, page, and exhibit; and

i. A power point presentation (maximum of two slides) listing lessons learned from the incident suitable for dissemination to units in Combined Joint Operations Area-Afghanistan.

5. During your investigation, you will be required to interview and/or question numerous witnesses, obtain sworn statements, and gather other documentary evidence. You will obtain

sworn statements from witnesses using DA Form 2823, Sworn Statement, unless impracticable or otherwise directed by your legal advisor. If you are unable to obtain a sworn statement from a witness, you will prepare a detailed Memorandum For Record (MFR) memorializing the witness interview and explaining why a sworn statement was not obtained. You should obtain original documents whenever possible. If originals are unavailable, ensure that accurate, legible copies are provided along with an MFR documenting the location of the original and why it was not obtained.

6. You must interview or arrange for a sworn statement from:

a. Any individual who may have relevant and non-cumulative first-hand knowledge of facts surrounding the incident.

b. Any civilian or military person present at the scene who may have witnessed the incident or the events leading up to the incident.

c. Any other relevant witness.

7. Before or during any interview, if you suspect a person subject to the UCMJ of committing an offense under the UCMJ, you will advise that person of his or her Article 31 rights, using DA Form 3881, Rights Warning Procedure/Waiver, before continuing with any interview or questioning. If the person is a DA or Federal civilian employee, consult your legal advisor before the interview. Consult your legal advisor if confronted with a witness you suspect of misconduct.

8. CPT (b)(3), (b)(6) OSJA, CJTF-82, has been designated as your legal advisor. He will assist you with any legal issues that may arise during your investigation. He may be contacted at DSN (b)(6) or (b)(3), (b)(6) @afghan.swa.army.mil.

9. Submit your completed report with all enclosures no later than **25 November 2009** to the CJTF-82 Legal Office for review. If any circumstances prevent a timely completion of your report, submit extension requests through CPT (b)(3), (b)(6) to me for approval.

10. The point of contact for this memorandum is LTC (b)(3), (b)(6) Staff Judge Advocate, CJTF-82, at DSN (b)(6)

CURTIS M. SCAPARROTTI
Major General, USA
Commanding