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

REPLY TO
ATTENTION OF

S: 24 September 2009

CJTF-82-CS

9 September 2009

MEMORANDUM FOR MAJ (b)(3), (b)(6) ANSF OIC, Task Force Mountain Warrior, Afghanistan

SUBJECT: Appointment as Investigating Officer

1. You are hereby appointed as an investigating officer to conduct an informal investigation IAW AR 15-6 into the small arms fire attack on an Embedded Training Team (ETT) and Afghan National Army (ANA) Soldiers in the vicinity of FOB Joyce, Konar Province, Afghanistan on 8 September 2009. The attack resulted in four US Servicemembers killed in action and two US Servicemembers wounded in action. In addition, the attack resulted in the death and injury to numerous ANA Soldiers.

2. Your investigation will address the following matters using a question and answer format in your findings and recommendations:

a. What are the facts and circumstances surrounding the attack on the ETT and ANA Soldiers? (5Ws) Describe the nature of the attack and the response from the ETT and ANA forces. Was terrain a factor in the attack? What was the size of the enemy element?

b. Identify the US Servicemembers killed or wounded in the attack and/or any subsequent engagement. Describe what the US Servicemembers were doing at the time they were killed or wounded. For the wounded US Servicemembers, provide the current status of their injuries and their prognosis for recovery.

c. Initial reports indicate that United States Marines were killed in action during this engagement. If so, who had operational control of these Marines? What was the mission of these Marines?

d. What personal protective equipment was worn by the US Servicemembers at the time of the incident?

e. What, if any, medical treatment was provided to the injured US Servicemembers and any other individuals treated? Were the MEDEVAC procedures timely and appropriate under the circumstances? Provide a detailed timeline of the medical procedures and treatment provided to the US Servicemembers.

f. Initial reports indicate that a number of US Servicemembers and ANA Soldiers may have been missing and unaccounted for during the engagement. Provide detailed findings regarding

whether any US Servicemembers were unaccounted for and what factors attributed to that status. How long were the US Servicemembers unaccounted for?

g. Were any non-combatant Afghan Nationals killed or injured as a result of the engagement? If so, where were they located during the engagement, how were they injured or killed, and by whom? If there were civilian casualties, you are to attempt to conduct a joint investigation with appropriate Afghan officials.

h. Initial reports also indicate an ASV rolled over at some point during the engagement. Describe the facts and circumstances surrounding the rollover and determine if any US Servicemembers were injured or killed in the rollover.

i. What recommendations concerning improvements, if any, to coalition force tactics, techniques, and procedures will help avoid this type of incident in the future?

j. 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. Consider any evidence in the investigation that you determine to be relevant and material to the incident. If there are any contemporaneous investigations by Marine forces or ANA forces you should seek to obtain relevant information from those investigations. You should make appropriate findings and recommendations based on the facts gathered during the investigation. The completed investigation will include:

a. This memorandum of appointment;

b. A transmittal memorandum from the Task Force Commander that indicates any recommendations or comments regarding the investigation;

c. A memorandum for record with your findings and recommendations. Your findings are to be based on the facts you gather and your recommendations should include how to avoid or to mitigate the effects of this type of incident in the future;

d. An executive summary;

e. An index of exhibits;

f. A chronology of your investigation;

g. All exhibits labeled in successive order;

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

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

j. A memorandum detailing your efforts to conduct a joint investigation (if applicable); and

k. A power point slide (maximum of two slides) listing lessons learned from the incident that can be disseminated to the entire Combined Joint Operations Area-Afghanistan.

5. During your investigation you will be required to interview and/or question numerous witnesses as well as obtain sworn statements and other documentary evidence. You are directed to obtain sworn statements from all witnesses memorialized on a DA Form 2823, Sworn Statement, unless impracticable or otherwise directed by your legal advisor. In the event that 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. As for documentary evidence, you should obtain original documents whenever possible. If originals are unavailable, ensure that accurate, legible copies are provided along with an MFR documenting where the original is maintained 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 witnesses present at the location of the incident who may have witnessed the incident or the events leading up to the incident.

c. Any other relevant witness.

7. If, prior to or during any interview, you suspect an individual subject to the UCMJ of committing a UCMJ offense, you are required to advise that individual of his or her Article 31, UCMJ, rights, both orally and in writing, before any interview or questioning may commence and/or continue. A DA Form 3881, Rights Warning Procedure/Waiver Certificate should be used to accomplish this. If the individual being interviewed is a DA or Federal civilian employee, you must first consult your legal advisor prior to interviewing this witness in order to ensure any union or collective bargaining rights are protected. Consult your legal advisor if confronted with a witness you suspect of misconduct.

8. MAJ (b)(3), (b)(6) Brigade Judge Advocate, TF Mountain Warrior, 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 **22 September 2009**, to the TF Mountain Warrior Legal Office for review and the investigation will be forwarded to CPT (b)(3), (b)(6) CJTF-82 Office of the Staff Judge Advocate, for legal review no later than **24 September 2009**. 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 CPT (b)(3), (b)(6) CJTF-82, Chief of Administrative Law at DSN (b)(6)

FOR THE COMMANDER:

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

Colonel, GS
Chief of Staff