

HQ, MNF-I
EMBASSY ANNEX, IRAQ
111645DAUG05
ROUTINE (GREEN)

(U) MNF-I FRAGO 05-231 [REPORTING AND INVESTIGATING INCIDENTS INVOLVING CONTRACTORS FIRING WEAPONS]

(U) SUBJECT: POLICY FOR REPORTING AND INVESTIGATING INCIDENTS INVOLVING CONTRACTORS FIRING WEAPONS

(U) REFERENCES:

A. (U) MNF-I FRAMEWORK OPORD, 01 Jun 05

B. (U) CPA Order Number 17 (Revised), Status of the Coalition Provisional Authority, MNF-Iraq, Certain Missions and Personnel in Iraq, 27 Jun 04.

C. (U) CPA Memorandum Number 17, Registration Requirements for Private Security Companies (PSC), 26 Jun 04.

D. (U) TAB E to APPENDIX 5 to ANNEX to MNF-I FRAMEWORK OPORD, 22 MAR 05

(U) TIME ZONE USED THROUGHOUT THIS ORDER: Delta

1. (U) SITUATION. **Change.**

1.A. (U//~~FOUO~~) The reporting and investigation requirements of this order apply to Private Security Companies (PSC) and to Contractors who have armed employees, who carry weapons solely for their personal protection.

1.B. (U//~~FOUO~~) Private Security Companies provide essential personal security services, as described in Paragraph 1.C.1, below. Absent these contractor-provided security services, the burden to provide security for these parties would fall on MNF-I. During April and May 2005, some Private Security Companies, while providing security services to Coalition entities, employed Rules for the Use of Force (RUF) measures that resulted in harm to civilians. Rules for the Use of Force are described in references C, and D. Some incidents regarding contractor use of force, resulting in civilian death and casualties, have not been investigated and no corrective action has been taken. Such incidents damage Coalition credibility, detract from the public's confidence in the Iraqi government's ability to provide rule of law, safety, and security, and pose risk to Iraqi civilians, Iraqi Security Forces (ISF), the MNF-I, and other Coalition personnel.

1. C. (U//~~FOUO~~) Currently, CPA Regulations, Orders, and Memorandums, that comprise Iraqi Law govern contractors engaged in security functions, or who possess weapons

1.C.1. (U//~~FOUO~~) CPA Memorandum 17, Section 2(1) requires all PSCs operating in Iraq be registered and licensed. Further CPA Order 17, Section 4(2) mandates that all PSCs and their employees comply with all CPA Orders, Regulations, Memoranda, and any implementing instructions or regulations governing the existence and activities of PSCs in Iraq, including registration and licensing of weapons and firearms.

1.C.2. (U//~~FOUO~~) CPA Memorandum 17, Annex A, sets forth the Rules for the Use of Force by contractors in Iraq. Contractor personnel may use necessary force, up to and including deadly force, against persons in self-defense; in defense of persons specified in their contract; and to prevent life threatening offenses against civilians. More importantly, under paragraph 4(3) of CPA Memorandum 17, Annex A, contractors must immediately report whenever contractor personnel fire their weapons. The contractor reporting procedure is outlined in paragraph 3.C.1.C. below.

1.C.3. (U//~~FOUO~~ U) CPA Order 17, Section 4(3), renders Coalition or Sending State contractors and their employees immune from the Iraqi legal process for acts performed pursuant to the terms and

conditions of their contracts. Immunity from Iraqi legal process is not for the benefit of any individual concerned. However, pursuant to Section 5, the Sending States may waive immunity and allow the contractor or employee to be subject to the Iraqi legal process. This would permit prosecution or civil suits.

2. (U) **MISSION.** No Change.

3. (U) **EXECUTION.** No Change.

3.A. (U) **COMMANDER'S INTENT.** No Change.

3.B. (U//~~FOUO~~) **CONCEPT OF OPERATIONS.** **Change.** MNF-I will regulate, record, and mitigate effects of contractor practices applying RUF. Activities utilizing contractors to provide security will issue quarterly notices to supporting contractors. MNF-I, in coordination with U.S. Mission Baghdad requires timely and accurate reporting when weapons are fired by contractors. MNF-I will establish a preliminary inquiry mechanism to determine if further investigation is required; direct MNF-I units, upon becoming aware of incidents of weapons being fired, to render a situation report on each incident; and include detailed reporting and investigating requirements in all current and future contracts in order to ensure good order and discipline in contractor operations and improve Iraqi public perception of non-Iraqi contractors.

3.C. (U) **TASKS TO SUBORDINATE UNITS AND STAFF.**

3.C.1. (U) **ALL MSCS**

3.C.1.A. (U//~~FOUO~~) MNF-I Contracting officers shall incorporate provisions, see paragraph 3.C.1.C., below, into future MNF-I contracts, and negotiate into existing MNF-I contracts that do not already have such provisions, requirements for contractors to comply with all MNF-I Commander orders, directives, and instructions relating to the use of force which escalates to contractor personnel firing weapons. Failure to comply with reporting requirements, to conduct internal inquiries and investigations, and to fully cooperate with MNF-I investigations seriously impedes the public's confidence in the Iraqi Government's ability to provide law enforcement, safety and security, and poses a risk to Iraqi civilians and coalition members. This situation must not occur or be permitted to occur.

3.C.1.B. (U//~~FOUO~~) MNF-I Units that receive contracted security contractor services will ensure this FRAGO is forwarded to their supporting security contract contracting officer to incorporate the provision in paragraph 3.C.1.C. below, into applicable contracts. Contracting Officer's Representatives (CUR) will issue a quarterly notice to personal security contractors reminding contractors of their reporting responsibilities.

3.C.1.C. (U//~~FOUO~~) To ensure that contractors comply with these policies consistently, the following contract provision is required in all future MNF-I contracts and existing MNF-I contracts that do not already have such provisions, and shall require flow down to sub-contractors, at any tier. "All Contractors in the Multi-National Forces-Iraq (MNF-I) theater of operations shall comply with and shall ensure that their personnel supporting MNF-I forces are familiar with and comply with all applicable orders, directives, and instructions issued by the MNF-I Commander relating to force protection and

(b)(2)

(b)(2)

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3.C.1.D. (U//~~FOUO~~) The ROC will immediately notify the MNFI Watch Officer of all weapons firing incidents at DSN (b)(2)

3.C.1.E. (U//~~FOUO~~) The MNF-I unit or activity under Chief of Mission (COM) receiving the contracted security services shall conduct a preliminary inquiry of all incidents that involve contractors firing weapons. The MNF-I unit's responsibility to conduct an inquiry is in addition to the one required of contractors, under the preceding paragraph 3.C.1.C. MNF-I does not treat every firing incident by military forces as a criminal incident. Unit commanders should only involve criminal investigative authorities after conducting a preliminary inquiry or investigation that results in a finding of misconduct or violation of Rules for Use of Force (RUF). Likewise, MNF-I and COM should not automatically assume that every contractor utilizing RUF will result in a criminal investigation.

3.C.1.F. (U//~~FOUO~~) Regardless of the findings of a preliminary inquiry, MNF-I units observing, or becoming aware of, an incident of a contractor firing their weapon shall provide a complete situation report to their operational Chain of Command, including photographs and names if possible. Upon review of the report, if the unit commander believes that misconduct is involved (applying the same standards as for his/her own unit's actions), he/she will contact the appropriate investigative agency: CID for DoD civilians and contractors and Regional Security Officer (RSO) for contractors under COM authority.

3.C.1.G. (U//~~FOUO~~) (b)(2)
(b)(2)

3.D. (U) **COORDINATING INSTRUCTIONS.** Change

3.D.1. (U) This FRAGO contains enduring guidance and will be included in future drafts of the OPORD.

3.D.2. (U//~~FOUO~~) Contractors shall ensure personnel are provided refresher training, to include, RUF, as necessary. Frequent training will prevent recurrence of inappropriate use of force. Contractors are responsible to supervise their employees to ensure they use weapons in accordance with the RUF.

3.D.3 (U//~~FOUO~~) (b)(2)
(b)(2)

(b)(3)(b)(6) (b)(2) CENTRIXS:
(b)(2) (b)(2)

4. (U) **SERVICE SUPPORT.** No Change.

5. (U) **COMMAND AND SIGNAL.** No Change.

ACKNOWLEDGE:

CASEY
GEN

OFFICIAL:

MG BARGEWELL
DCS STRATOPS