

# DEPARTMENT OF THE ARMY Headquarters, 1st SQUADRON, 3d ARMORED CAVALRY REGIMENT Campage 1 liray APO AE 09379

REPLY TO ATTENTION OF

AFZC-R-I-SCO

20 April 2005

MEMORANDUM FOR	1LT	
Cavalry Regiment		

ADA Battery, 1st Squadron, 3d Armored

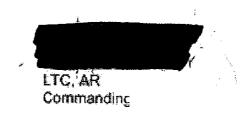
SUBJECT: Appointment as AR 15-6 Investigating Officer

- 1. You are hereby appointed as the investigating officer pursuant to AR 15-6 (Procedures for Investigating Officers and Boards of Officers) to conduct an investigation into the relevant facts and circumstances surrounding the shooting of an Iraqi national on 192330APR05 by SPC ADA, 1/3 ACR while conducting Operation
- 2. As the investigating officer, you are charged with the responsibilities and duties outlined in AR 15-6 and the Investigation Guide to Informal Investigations. Your investigation will include the following:
  - a. Complete a thorough and detailed investigation of the incident
- b. Research and provide the relevant facts, circumstances, and evidence surrounding the incident
- c. Provide your findings based solely on the facts and information collected during the investigation from incividuals directly involved and eye witness accounts
- d. Provice a report consistent with your findings in memorandum format to include a summary of the incident, chronology of facts, add tional facts or lack of training bearing on the incident, training recommendations, procedural liability and accountability for any lost or damaged property, and your conclusion of the investigation
- 3. During your collection of evidence surrounding the incident, you must certermine whether that gathered supports your findings either by a preponderance of evidence or beyond a reasonable doubt. You will base your findings upon the following:
- a. Whether proper procedures were followed when the unit encountered what they believed to be a hostile act or intent by the advancing party
  - b. Whether hand signals were used to warn the advancing party
  - c. Whether verbal warnings were issued to the advancing party

- d. Whether warning shots were issued to the advancing party
- e. Whether deadly force was authorized/ordered as a last resort under the circumstances
- f. Whether the unit followed proper procedures to secure the party and employ the 9-line MEDEVAC request
- 3. During your investigation, you may speak with any and all individuals that you believe have information pertaining to the incident. If, in the course of your investigation, you determine that completion thereof requires examining the conduct or performance of duty of, or may result in findings or recommendations adverse to, a person senior to yourself, you will obtain legal guidance from the Staff Judge Advocate.
- 4. All witness statements will be sworn if possible and submitted on DA Form 2823 (Sworn Statement) and you will obtain a Privacy Act Statement from all witnesses who complete a written statement. If circumstances preclude you from obtaining a sworn

statement, or if you obtain a statement telephonically, you will summarize the witness' statement in a Memorandum for Record and swear to the accuracy of your summary.

- 5. If, in the course of your investigation, you come to suspect that an individual may be criminally responsible, you will advise that individual of his or her rights under Article 31, UCMJ, or the Fifth Amendment as appropriate. You will record any rights advisement administered on DA Form 3881 (Rights Warning Procedure/Waiver Certificate).
- 6. Legal advice and assistance must be obtained from the Regimental Staff Judge Advocate (RSJA), before you take any action on this matter. Prior to beginning the investigation, you will familiarize yourself with the provisions of AR 15-6 and the Investigation Guide for Informal Investigations.
- 7. Your report, together with all evidence marked as exhibits, will be submitted to this office in two copies on DA Form 1574 (Report of Proceedings by Investigating Officer/Board of Officers) NLT 22 April 2005 for legal review. Submit any requests for delay, to include the reasons for the delay, to this office in memorandum format. You will obtain a written legal review prior to submitting the completed investigation.
- Point of contact for this memorandum is 1LT





## DEPARTMENT OF THE ARMY AIR DEFENSE ARTILLERY BATTERY, 3' ARMORED CAVALRY REGIMENT CAMP RAQ 09379

AFZC-R-I-AD

22-April-2005

MEMORANDUM FOR Commander, 1<sup>st</sup> Squadron, 3d Armored Cavalry Regiment, Camp (Large, APO AE 09379)

SUBJECT: Army regulation (AR) 15-6 Report of Investigation

1. Purpose. The purpose of this memorandum is to provide the facts, findings, and recommendations regarding the shooting of an Iraqi National by SPC of D Co, 1/3 ACR(currently attached to ADA 1/3 ACR), during a combat movement north on MSR

#### 2. Summary of Incident.

Shot an Iraqi National during a combat
movement northbound on MSR Throw them the state of the st
了。"
The Gunner is SCT
and the Driver is PVT and Class. They were on the way to an LRP that
(1SG Prior to their movement from the control of th
the gunner observed three individuals moving around the mosque vic. As D24
began their movement north in the south bound lane of MSR
sight of the individuals is and assured the supplier of the individuals is and assured the
sight of the individuals in and around the mosque. As D24 approached a male
Iraqi stepped into the road from the median and began walking directly at the tank. The
TC instructed the driver to stop and back up. As they were backing up the Iraqi
continued to walk toward the tank. SPC seems used his hands and tried to direct the
way to the side of the load, and then velled at him to get out of the way. At this noint
SPC Screamed as loud as he could "AWGOFFI AWGOFFI TARA
AKMEEK!. The Iraqi did not respond, and continued to move toward the tentral river.
was still moving backwards. SPC stands informed the TC that he was going to fire a
warning snot. He lifed one warning shot, and then another. The Irani continued to
move toward the tank. All four occupants of the tank say that the transiwas walking with
his right fist clenched, thumb raised, and his arm was bent in a position across his
chest. At some point the gunner yelled that he is throwing something. SPC
observed the tradi pulling his hand back as though he was getting ready to throw
something. SPC admitted aimed and fired three shots. The Iraqi took a few more
steps and collapsed. At this time the TC called for support from and then
called a passed in on to
The Medavas picked up the training details and details and the training
The Medevac picked up the traqi and departed. The traqi National died shortly
after he arrived to the hospital.

#### 3. Chronology of Facts.

- a. SPC was the loader on D24 during a combat movement from a blocking position four( ) vic to an local began movement from around 2330. to an LRP vic
- c. During the movement north on MSR the gunner observed three personnel moving around the Mosque in that area vic
- d. As they moved further north the gunner lost sight of the three men that were near the mosque.
- e. A few moments after the gunner lost sight of the three men the loader, TC and the gunner observed a male Iraqi on the side of the road, the TC stopped the M1A2.
- f. The Iraqi moved into the middle of the MSR and began to walk toward D24. The TC instructed the driver to move put the tank in reverse and move backwards.
- g. Now D24 was moving in reverse down the MSR, and the Iraqi continued to walk toward D24, f
- h. At this point SPC began yelling at the Iraqi to stop. He yelled "AWGOFF! AWGOFF! TARA ARMEEK!". The Iraqi continued to move toward D24.
- i. When the Iraqi did not stop SPC service, fired two warning shots form his M4, and the Iraqi continued to move toward D24
- j. The gunner velled that Iradi is throwing something, and SPC states that he saw the Iraqi pull his hand back as if he was going to throw something.
- k. SPC fired three shots at the traqi from his M4.
- I. The Iraqi was nit by one of the three shots from the M4. The bullet entered the center of his chest, and exited out his back.

#### 4. Additional Facts Bearing on the Incident.

The TC, Gunner, and the Loader are all veterans of OIF I giving them all the experience and patience to use all other options possible, before deadly force was necessary

#### 5. Summary of Findings.

After reviewing the swom statements of the crew on D24 and the soldiers who were the first to respond to give first aid to the Iraqi, I have come to the conclusion that SPC maintained positive situational awareness and used deadly force only as a last resort

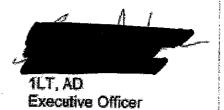
#### 6. Recommendations.

- a. I have come to the conclusion that SPC followed the ROE, and used deadly force only as a last resort.
- b. All leaders need to continue to play an active role in briefing their soldiers on ROE. Leaders must ensure that soldiers not only know the ROE, but understand the ROF.

and of operations order brief

### 7. Conclusion of the investigation.

Based on my investigation SPC and the crew of D24 maintained positive situational awareness, and used deadly force only as a last resort. They followed of the ROE.



#### Exhibits.

A.	Swom Statement with DA Form 3881 (SPC
В.	Sworn Statement with DA Form 3881 (SFC
C.	Sworn Statement with DA Form 3881 (SGT
D.	Swom Statement with DA Form 3881 (PVT
E.	Sworn Statement with DA Form 3881 (15G
F.	CFI CC Rules for use of Force and CEI CC BOT ON DO

REPORT OF PR	oceedings by investigating officer/board o	F OFFICERS	The second secon
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ce N/A (If a formal ended, the place, persons present and absent, aux present: After each name, indicate capacity, e.g.	board met for more than one tession, check here []. Indicave in an inclui- explanation of absences, if any.) The following persons members, response, President, Recorder, Member, Legal Advisor.)	suje the time each session authors, commet) were	n began and
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The following persons (measurers, respondents, or	numel) were absent: (builde brief explanation of each absence.) (See par	ns 5-2 and 5-8a, AR 15-	<b>Q</b> .1
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A. COMPLETE IN ALL CASES	SECTION II - CHECKLIST FOR PROCEEDINGS		
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	convery with Roman numerals: (Attached in order listed)		17.2462
a. The letter of appointment or a summary of a	esi seprimenti den.		
b. Copy of scales to respondent, if any? (See i.	from G. Balleni		X
c. Other correspondence with respondent or or	unsel. If any		LIX
d. All other written consumications to or from	The appointing outparter?		X
e. Privacy Act Statements (Certificate, If time	Heat atoridal acades?		<u> </u>
	cand of any unusus delays, difficulates, irregularities, or other problems		X
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	Assettl items offered freheiter or not received) or considered is evidence individually numbered or lenesed as exhibits and attached to this report?		X		
	b. Is an index of all exhibits offered to or considered by investigating officer or brand anached before the first exhibit?		X		
	c. Has the assimony/statement of each winners been recorded vertexing or been reduced to written from and meached as an exhibit?		X	****	
	d. Are copies, descriptions, or depictions of missibilities for real or documentary evidence) properly authenticated and in the location of the original evidence indicated?				×
	e. Are descriptions or diagrams included of locations visited by the investigating officer or beard (power 3-66, AR 13-6)?	į.			X
	f. Is each written stignilisten autsched as an exhibit and is each ord suppliation either sedeced to writing and made an			***************************************	
	exhibit or recorded in a verteain evened?				×
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3	Was a quartum present when the board would of fladings and recommendations (parces 4-1 and 5-2b, AR 15-6)?	1			X
Ē,	COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, 4R 15-6)	-	7		
4	At the mitial session, did the recorder resel, or desermine that all participants had read, the letter of appointment found 3-30	o, an 13-6)?	1040035460510	en your and you.	
5	Was a quarum present at every session of the board (pages 5-20, AR 15-6)?				7
ő	Was each absence of any nameder property excused (paper 5-20; AR 15-6)?	AND THE PARTY AND ADDRESS OF THE PARTY AND ADD	THE REAL PROPERTY.		25,125
7	Wese members, winnesses, reporter, and interpreter swore, if required (para 3-1. AP 15-6)?	į			
8	If any members with word on findings or recommendations were not present when the board received score evidence,		-		
Ť	does the inclosure describe how they familiarized themselves with this evidence (pour 1-2d, AR 15-6)?				
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-	COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)				100
3"	Noting to respondences (pum 3-3, AR 15-4):				
	a. Is the method and date of delivery to the responders indicated on each letter of antification?				
į	b. Was the date of delivery at least five working days price to the first session of the board?				
	c. Does each letter of embleation 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 observations against the respondent, if any?				
	(3) the respondent's rights with regard we course?		***************************************		
	(4) the name and address of each witness expected to be called by the recorder?				
	(5) the respondent's rights to be protont, potent evidence, and call winnesser?		-		-
	of. Was the respondent provided a copy of all unclassified documents in the case file?	(194 <del>7))  </del>	***************************************		
	e. If there were relevant classified manerials, were the respondent and his eccursed given access and an exportisally to exam	lee thems?	-		
10	If any respondent was designated after the proceedings began (or wherede was obsert during pair of the proceedings):	win. principa.		2 H C 21	0.525
	a. Was the properly notified (para 5-5, AR 15-6)?				Service
	b. Was record of proceedings and evidence received in his absence made available for examination by him and his compact	The state of the s	<del>-</del>		
41	Created (pure 5-6, AR 15-6):	9008 5-30, AR 15-01?	CHILDRAN	ing a serious na	O to the second
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	d: Was each respondent represented by coursel?  Name and business address of coursel:				
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	b. Was respondent's council present at all open sessions of the board relating to that respondent?				
	c. If military created was requested but not made available, is a copy (or, if oral, a minimize) of the request and the notice taken on it included in the report (page 5-6b, AR 15-6))				
12	If the respondent challenged the logal advisor or any voting exember for lack of imperiality (pora 5-7, At 13-6):	A STATE OF THE PERSON OF THE P			
Į	a. Was the challenge properly denied and by the appropriate officer?		560 Million 10	27/1/2/2006	20440.5992
	b. Did such member successfully challenged crass to participate it the proceedings?				
[3	Was the respondent given in opportunity to (total 5-80, AR 15-6);	N. S. A. S. C. S.			
	a. Be nessm with his consist in all open sessions of the board which deal with any matter which concerns that respondent	*			
	b. Examine and object to be introduction of real and documentary evidence, including written statements?	t:			
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ŀ	c. Object to the treatmenty of winnesses and cross-examine winnesses other than its cross-	A SHEET OF THE SHE			
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14	If requested, did the recorder assist the responsent in obtaining evidence in possession of the Government and in			1	
	stranging for the presence of witnesses (para 5-86, Alt [3-6]?				-
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 (2010 5-11, AR 15-6)?				
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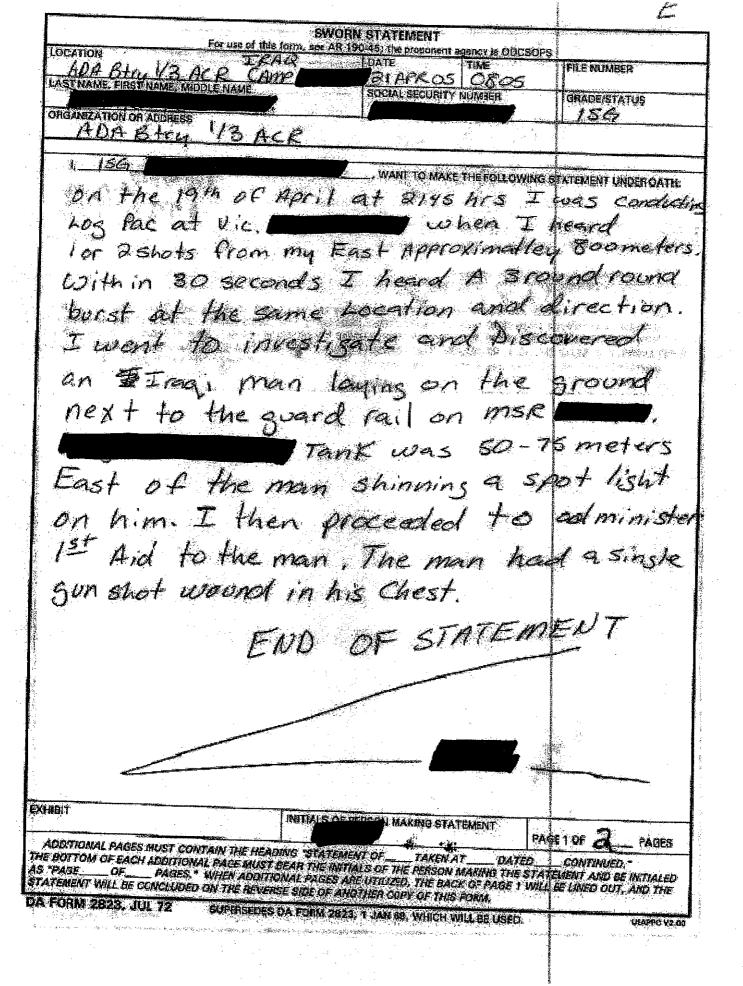
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SECTION V - RECOMMENDATIONS (page 3-11, At 15-6)	
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