



DEPARTMENT OF THE ARMY  
HEADQUARTERS, TF 4<sup>TH</sup> BATTALION, 64<sup>TH</sup> ARMOR  
3D INFANTRY DIVISION (MECHANIZED)  
FOB [REDACTED], APO AE [REDACTED]

AFZB-VBA-T

23 July 2005

MEMORANDUM FOR RECORD

SUBJECT: AR 15-6 Investigation on Shooting at 191235D JUL05 on [REDACTED] Road

1. PURPOSE:

This memorandum lists the circumstances surrounding an Escalation of Force incident occurring on or about 191235 JUL05, involving elements of 1<sup>st</sup> Platoon, Alpha Company, 4<sup>th</sup> Battalion, 64<sup>th</sup> Armor Regiment, resulting in one local national KIA, and one local national WIA, in Baghdad, Iraq.

2. FACTS:

On or about 191235 JUL05, two M1114s (bumper numbers A11 and A12) from 1<sup>st</sup> Platoon, Alpha Company, 4<sup>th</sup> Battalion, 64<sup>th</sup> Armor Regiment, were traveling from the Ministry of Foreign Affairs ([REDACTED]) to the [REDACTED] Hotel ([REDACTED]), in order to change guards on permanent observation posts (OP) atop the buildings. While traveling Eastbound on [REDACTED] Road (Vic [REDACTED]), a route the unit frequently travels, a large volume of traffic formed in the front of the convoy (approximately 40 vehicles), at the intersection of [REDACTED] Road and [REDACTED] Street. The lead M1114 (A12) stopped short of the traffic, approximately 35 meters; the trail M1114 (A11) stopped approximately 15-20 meters behind A12, and the rest of the traffic, on [REDACTED] Road remained approximately 100-150 meters behind A11.

While the convoy was stopped, a white 1981 Toyota Corolla ([REDACTED]), with only one other, Iraqi-looking male driving in the vehicle, turned right from an apartment complex parking lot behind the convoy. The vehicle then, traveled around traffic, and approached A11 from the rear, in the left lane (which was open), passing all the cars which were stopped behind the convoy. Once the vehicle passed all the stopped vehicles, traveling approximately 25-30 mph, the gunner in the rear M1114 (PFC [REDACTED]) began to shout at the white vehicle loud enough for the passengers in the M1114 to hear him, and use hand and arm signals in attempts to stop the vehicle. The vehicle continued to approach the convoy, not appearing to slow down. Once the vehicle was approximately 60 to 65 meters behind the convoy, PFC [REDACTED] pointed the M240B machine gun, mounted on A11 at the approaching vehicle, not making an attempt to fire the weapon. PFC [REDACTED] also had his individual weapon, a M249, in the vehicle. The vehicle appeared to maintain a constant speed, continuing to approach the convoy. When the vehicle was approximately 40 to 50 meters away, PFC [REDACTED] fired a 3-5 round burst into the ground in front of the vehicle, from the M240B. The vehicle did not appear to attempt to stop. Approximately 2-5 seconds later, when the approaching vehicle was about 20 to 25 meters away, PFC [REDACTED] fired a second burst of approximately 5-10 rounds into the bumper of the vehicle, walking the way up the hood, into the driver-side windshield, striking the driver multiple times in the head, chest, and arm. Multiple rounds fired by PFC [REDACTED] traveled through the front windshield and exited through the rear of the vehicle striking a least one other vehicle stopped in traffic, behind the convoy.

Once PFC [REDACTED] completed firing, he dropped down in the turret of the vehicle, and directed the driver to move forward quickly. PFC [REDACTED] stated he believed the vehicle behind them was a Vehicle Born Improvised Explosive Device (VBIED), and it was continuing to approach. The lead M1114 moved approximately 15 meters forward, and the trail M1114 moved up to approximately 2 to 3 meters behind the lead. The suspect vehicle continued to roll forward, coming to rest at the rear right-hand side of A11. The Iraqi Police (IP) officers controlling traffic at the [REDACTED] Road - [REDACTED] Street intersection, then cleared

Once the squad determined the vehicle was clear of explosives, an IP brought another local national man to SSG [REDACTED] and informed him, his car was struck by rockets or stray rounds, and one passenger was injured. The IPs stated they also took the other individual to [REDACTED] Hospital. SSG [REDACTED] gave the local an Iraqi Claims Card, and filled all pertinent data out. He instructed the individual to bring the Iraqi Claims Card to the Iraqi Convention Center (ICC), and the Coalition Forces would reimburse him for the damages to his car. [REDACTED] then call SSG [REDACTED] informing him, another squad would come to relieve him of the site security and take pictures of the scene. Upon arrival of the other unit, SSG [REDACTED] gave a brief description of the incident and then left the scene with his squad. They complete dropping off guards at [REDACTED] Hotel, and was then directed to the battalion S-2 shop to conduct debriefings.

16650

10415-0000 Conducted PFC's PCH and blank

10415-0000

10415-0415 Wake up, prep and stage vehicles for mission

10415-0600 Move to [redacted] area, establish and maintain [redacted] inner corridor

10415-0600 [redacted] to [redacted] area, at [redacted] area

10415-0915 Transition vehicles to PCH [redacted] and [redacted] of [redacted]

10415-1150 Rent and down time

10415-1225 [redacted] of [redacted] change [redacted]

10415-1235 [redacted] of [redacted] [redacted]

3) In general, gunners in vehicles will take commands from their vehicle commander when to escalate force, but leaders will trust the judgment of their subordinates, knowing the gunner has a better view of the surroundings. PFC [redacted] ensuring his convoy's safe, used each step in the escalation of force. He stated that he took upon his own accord firing the warning and disabling shots towards the oncoming vehicle. However, the choice of weapons to fire was an issue. PFC [redacted] had a M240B Machine Gun, mounted on the turret of the M1114 and had his individual weapon, a M249 Squad Automatic Weapon, also with him in the turret. Due to the large volume of traffic to the convoy's front and rear, the use of either weapon could cause excess collateral damage in the AO. By using the M240B, PFC [redacted] disabled the potential threat, but also injured and partially damaged an innocent bystander's vehicle while he was waiting in traffic.

4) Using the proper Escalation of Force is the most important key for vehicle gunners to know and understand. PFC [redacted] stated during his interview, warning shots are fired into the ground in front of the vehicle, in order to minimize collateral damage, while also ensuring the driver is able to see and hear the rounds fired. When interviewing PFC [redacted] (lead vehicle's gunner), he stated warning shots are fired into the air, not the ground. By firing warning shots into the air, specifically into a highly dense area, as [redacted] Street, excess damages and more injuries could occur. Even though, PFC [redacted] was yelling and fired warning shots in front of the vehicle, the driver of the white car may not have heard anything, because when the IPs removed the victim from his car, a hearing aid fell off the driver into the car (Enclosure G, [redacted]).

5) The investigating officer has interviewed all necessary individuals involved and has determined although the result of the incident was tragic, PFC [redacted] acted in accordance with the correct Rules of Engagement, in effect, and used proper judgment in eliminating the potential threat. However, his decision in choice of weapons is questionable, if he had used the M249 (his individual weapon) due to the highly dense area of traffic, collateral damage could have been minimized.

#### 4. RECOMMENDATIONS:

A. In view of all the evidence presented, PFC [redacted] and all other individuals' actions were justified and in accordance with the MNC, ROE, and no adverse action should result of this investigation. However, a few training and equipment issues must be addressed.

B. While interviewing all necessary individuals involved, although each soldier's understanding in the use of Escalation of Force (EOF) stem from a similar basis, each soldier gave a variation of EOF. Unit commanders need to reemphasize the use of EOF, and train soldiers on when and where warning shots are fired, and how to properly eliminate a threat, while still attempting to minimize collateral damage. Soldiers must remain cognizant of their surroundings and understand the consequences of stray rounds.

G. Even though PFC [redacted] could have minimized the damage on the bystander's vehicle by using the M249, versus the M240B, gunners should have a M16/M4 readily available in order to fire needed warning shots. The M240B and M249 machine guns have a rapid rate of fire, and soldiers can accidentally fire excess rounds, causing additional damage not required. Commanders should review their weapon distribution plan and consider issuing rifles to gunners, instead of M249s. A gunner already has a machine gun readily available if additional fire power is required.



**DECLARATION OF INTEREST** The authors have nothing to disclose.

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**Tabs A-H**

**CLF4**

Investigating Officer

## A Appointment Orders

**B. MFR Subject Statement Adoption Certificate**

Rights Waiver Certificate, PFC

211530JUL05

Rights Waiver Certificate, 656

132F10105

Rights Waiver Certificate SGT

271418JUL05

Rights Waiver Certificate, PFC

11457 JUL 30 5

### Sworn Statement

19123014105

### Sworn Statement

201610JUL05

3C7 Civil Information Report 19/235/1/1/1

3d ID DPOF Significant Act, 101230JUL05

1997

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1995

Sworn Statement, SAC

191230301905

**Sworn Statement, SSG**

211360 JUL 65

Sworn Statement, SGT

191230 JUL 05

**Sworn Statement, SGT**

211418 JUL 05

Sworn Statement, PFC

1972 JUL 05

**Suorn Statement PFC**

211601 JUL 05

Sworn Statement, SSG

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Sworn Statement, PFC

1230 JUL 93

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19723041125

**Sworn Statement, PFC**

191230JUL68



DEPARTMENT OF THE ARMY  
4<sup>TH</sup> BRIGADE COMBAT TEAM, 3D INFANTRY DIVISION  
FOB [REDACTED], BAGHDAD, IRAQ  
APO AL [REDACTED]

REF ID:  
ATTN: [REDACTED]

MEMORANDUM FOR Record

SUBJECT: Commander's Action regarding the shooting and wounding of two local nationals on 19 Jul 05 by A Co, 4-64 AR

1. I have reviewed the AR 15-6 Investigation and the evidence supporting the investigation. The findings and recommendations of the Investigating Officer are approved. Additionally, coordinate for condolence payments.

2. POC is CPT [REDACTED], CIA, 4BCI, at [REDACTED]

[REDACTED]  
COL EN  
Commanding

In addition,

- Retrain gun truck crews on escalation of force with proper weapons
- Determine if heat seekers were available, if not, place on order
- Consider Replacety Pfc [REDACTED] as a gunner until recertified.
- Establish training program to ensure gunners are trained and certified in COI

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APR 15-6 Report of Proceedings by Investigating Officer

APR 15-6 Investigation on Shooting at 191230 JUL 05 [REDACTED] Road

Appointment Orders

APR 15-6 Statement Adoption Certificate

Rights Waiver Certificate, PFC [REDACTED]

211430 JUL 05

Rights Waiver Certificate, SSG [REDACTED]

211325 JUL 05

Rights Waiver Certificate, SGT [REDACTED]

211418 JUL 05

Rights Waiver Certificate, PFC [REDACTED]

11457001 05

C. Sworn Statement, PFC [REDACTED] 191230 JUL 05

Sworn Statement, PFC [REDACTED] 201610 JUL 05

D. 4<sup>th</sup> BCT Critical Information Report, 191235 JUL 05

3d ID CPOF Significant Act, 191230 JUL 05

E. [REDACTED]

F. [REDACTED]

G. [REDACTED]

H. Sworn Statement, SSG [REDACTED] 191230 JUL 05

Sworn Statement, SSG [REDACTED] 211330 JUL 05

Sworn Statement, SGT [REDACTED] 191230 JUL 05

Sworn Statement, SGT [REDACTED] 211418 JUL 05

Sworn Statement, PFC [REDACTED] 191230 JUL 05

Sworn Statement, PFC [REDACTED] 211501 JUL 05

Sworn Statement, SSG [REDACTED] 191230 JUL 05

Sworn Statement, PFC [REDACTED] 191230 JUL 05

Sworn Statement, PFC [REDACTED] 191230 JUL 05

Sworn Statement, PFC [REDACTED] 191230 JUL 05

TAB A