

DEPARTMENT OF THE ARMY  
TORT AND SPECIAL CLAIMS APPLICATION  
CLAIM SUMMARY SHEET

06IO6T317- [REDACTED]

**Claimant's Assertion**

Son was driving home near x-military camp when he was shot & killed by CF

**Claimant Information**

Claimant Name: [REDACTED]  
Claimant SSN:  
Claimant DOB:  
Insured or Deceased: Son  
Deceased SSN:  
Deceased DOB:  
Claimant Phone:  
Claimant Address: [REDACTED]  
Claimant Representation:  
Pro Se  
Claimed Amount: \$2,620.00  
Property Damage: \$120.00  
Personal Injury: \$0.00  
Wrongful Death: \$2,500.00

**Claim Information**

ClaimID: 06IO6T317  
Companion(s):  
Incident Location: Kirkuk, Iraq on 31-Oct-05  
Incident Date: 31-Oct-05  
Date Filed: 06-Mar-06  
Filing Office: IO6-FCC IO6 1BCT 101 ABN DIV (AASLT) (In  
Current Office: HQZ-USARCS Claim Retirement Processing  
Chapters:  
Chapter 10 - Foreign Claims Act  
Damage Code:  
UNKNOWN  
Basis Code: UNKNOWN  
Incident Source: OTHER

**Army Team**

Field Office Investigator: [REDACTED]  
Field Office Attorney:  
USARCS Area Action Officer:  
USARCS Investigator:  
USARCS Paralegal:

**Final Disposition**

Action	Date	Amount
Claim Denied	12-Mar-06	\$0.00
Uploaded Documents		
Document	Date	Who
Claim Retirement Information		
Shipment Number	Date	Box

000439



DEPARTMENT OF THE ARMY  
Office of the Command Judge Advocate  
1<sup>st</sup> Brigade Combat Team, 101<sup>st</sup> Airborne Division (AASLT)  
FOB Warrior, Kirkuk, Iraq, APO AE 09335

REPLY TO  
ATTENTION OF:

AFZB-KA-CJA

12 March 2006

MEMORANDUM OF OPINION

APR 24 2006

SUBJECT: Claim of [REDACTED], 06-IO6-T0317

1. Claimants name and address: [REDACTED] Kirkuk, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 31 October 2005 in Kirkuk, Iraq.
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$2,620.00 on 6 March 2006.
4. Chapter the claim was considered under and a brief description of the incident or of the issues raised by the claimant on reconsideration: Foreign Claims Act and Chapter 10, AR 27-20; claim filed for damages to vehicle and wrongful death.
5. Facts:
  - a. [REDACTED] claims that on 31 October 2005, Coalition Forces (CF) shot and killed his son Yousif.
  - b. There was a police report, witness statements, photographs, medical reports, death certificate and estimates included in the submitted claim. CF provided a 15-6 and purchase order-invoice-voucher.
  - c. A condolence payment has already been given to the wife (Gone Saed Hussein).
6. Opinion:
  - a. In order to form a basis for a claim under the FCA, the incident in question must have arisen outside the United States. In addition, the incident must be caused by either non-combat activities of the United States Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.

000440

AFZB-KA-CJA

SUBJECT: Claim of [REDACTED] 06-IO6-T0317

- b. There is insufficient evidence to suggest that this incident arose out of the negligence and/or wrongful acts of the United States Armed Forces. This incident is a result of combat related activities.
7. Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$2,620.00 is denied.

[REDACTED]  
MAJ, JA  
Foreign Claims Commissioner

## **CLAIM FOR DAMAGE OR INJURY DEATH**

~~INSTRUCTION: Please read carefully the instruction on the reverse side and supply information requested on both sides of this form. Use additional sheets (s)~~

person,  
From  
approve  
MBC

SARKIS	SITE OF THE ACCIDENT <i>x - Military camp.</i>	2.-Name of claimants & Address <i>Kirkuk - QADSIA D6 - I06 - T0317</i>		
GENDER <i>Male</i>	4.DATE OF BIRTH <i>1939</i>	5MARITAL STATUS. <i>Married</i>	6.DATE & DAY OF ACCIDENT <i>31<sup>st</sup> Oct. 05</i>	TIME: <i>5:30 PM</i>

His son Yousef was driving back home along with his wife & kids. Near the x-military camp, a convoy of CF's came next to him, one of the soldiers open fire to the driver. one bullet hit him in the chest and killed him at once.

He is asking to compensate his son's death.

### Property damage

## INJURY

The Son ( [REDACTED] ) was dead

## WITNESSES

NAME	ADDRESS

**Amount of claim (IN Dollars)**

12A PROPERTY <u>\$120</u>	12b PERSONAL INJURY <u>1</u>	12c WRONGFUL DEATH <u>✓ 2500</u>	12A <del>\$2620</del> <u>\$120</u>
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I CERTIFY THAT AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURY CAUSED BY THE ACCIDENT  
ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS  
CLAIM

13a. SIGNATURE OF CLAIMANT 	13b. Phone number of signatory 	14c. Date of claim 28 <sup>th</sup> Feb. - 06
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS
0004		



1st Brigade Combat Team  
101<sup>st</sup> Airborne Division (Air Assault)  
Forward Operating Base Warrior  
Kirkuk, Iraq



AFZB-KA-H

31 October 2005

MEMORANDUM FOR Commanding Officer 1st Brigade Combat Team, 101<sup>st</sup> Airborne Division (Air Assault), FOB Warrior, Kirkuk Iraq.

SUBJECT: Request for monies from the 2-327 IN CERP Commander's Condolence Fund.

1. The purpose of this memorandum is to request a Condolence Payment be made to [REDACTED] wife of the deceased, in order to express sympathy for Coalition Forces caused death of an Iraqi citizen that occurred on 31 October 2005 in Kirkuk.
2. Description of the incident predicating this payment request: On 31 OCT 05 at 1740hrs C/2-327 reported that while driving on RTE Dodge, C16 convoy observed a vehicle in the opposite lane pull out from a line of stopped vehicles and accelerated towards the convoy. The gunner (SPC [REDACTED]) waved a chemical light at the vehicle and then threw the chemical light towards the vehicle in an effort to alert the driver. When the driver still did not stop, the gunner fired one .50 cal round at the vehicle, which entered the windshield and grazed the driver ([REDACTED]) in the right shoulder. The medic then treated the driver, who suffered a 6-inch laceration, and IP took the driver to Kirkuk General Hospital. 2-327 PA was dispatched to KGH to assess the condition of the driver. At 1925hrs [REDACTED] reported the driver died of his wounds. Contact has been made with the driver's nephew (Najeb) to facilitate payment of \$2,500 as a sign of condolence to the family.

3. List the specific items or services requested in the table below:

ITEM #	ITEM TO BE PURCHASED OR SERVICE RENDERED	Unit Price	Quantity	TOTAL
1	Condolence Payment	\$2,500.00		\$2,500.00

4. POC for this action is [REDACTED] VOIP 672-6402.

I approve / disapprove this Condolence Payment.

[REDACTED]  
LTC, IN  
Commander

I recommend approval / disapproval of this Condolence Payment.

- LN was negligent in his actions. It is up to the command whether payment should be made.

- may be a later claim for car damage.

I approve / disapprove this Condolence Payment.

[REDACTED]  
MAJ, JA  
Command Judge Advocate

[REDACTED]  
COL, IN  
Commanding

000443

U.S. GOVERNMENT

## PURCHASE ORDER-INVOC-E-VOUCHER

DATE OF ORDER	ORDER NO.																				
5-Nov-05	CPFAAS63060014																				
PRINT NAME AND ADDRESS OF SELLER (Number, Street, City, and State)*																					
PAYEE Kirkuk, Iraq																					
FURNISH SUPPLIES OR SERVICES TO (Name and Address)* Payment to [REDACTED] for death of her husband [REDACTED] who was shot and killed by coalition forces on 31-Oct-05 in Kirkuk, Iraq.																					
<table border="1"> <thead> <tr> <th>SUPPLIES OR SERVICES</th> <th>QUANTITY</th> <th>UNIT PRICE</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>Condolence payment to wife</td> <td>1</td> <td>\$2,500</td> <td>\$2,500.00</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		SUPPLIES OR SERVICES	QUANTITY	UNIT PRICE	AMOUNT	Condolence payment to wife	1	\$2,500	\$2,500.00												
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<table border="1"> <thead> <tr> <th>AGENCY NAME AND BILLING ADDRESS*</th> <th>TOTAL</th> </tr> </thead> <tbody> <tr> <td>217th Finance Detachment 40th Finance Battalion Kirkuk, Iraq</td> <td>\$2,500.00</td> </tr> <tr> <td></td> <td>DISCOUNT TERMS</td> </tr> <tr> <td></td> <td>0.00%</td> <td>0</td> <td>DAYS</td> </tr> <tr> <td></td> <td colspan="3">DATE INVOICE RECEIVED</td> </tr> <tr> <td></td> <td colspan="3">5-Nov-05</td> </tr> </tbody> </table>		AGENCY NAME AND BILLING ADDRESS*	TOTAL	217th Finance Detachment 40th Finance Battalion Kirkuk, Iraq	\$2,500.00		DISCOUNT TERMS		0.00%	0	DAYS		DATE INVOICE RECEIVED				5-Nov-05				
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	DISCOUNT TERMS																				
	0.00%	0	DAYS																		
	DATE INVOICE RECEIVED																				
	5-Nov-05																				
ORDERED BY (Signature and Title)																					
CPT [REDACTED], 2-327 PPO [REDACTED]																					
PURPOSE AND ACCOUNTING DATA																					
216 2020.0000076-2084 P136198.00000 26EB 83 G3NC 83 CPFAAS63060014 G3NC 83 S09076																					
PURCHASER - To sign below for over-the-counter delivery of items																					
RECEIVED BY [REDACTED]																					
TITLE [REDACTED]																					
C Company Project Officer [REDACTED] 5-Nov-05																					
SELLER - Please read instructions to the right of this electronic form																					
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NO FURTHER INVOICE NEED BE SUBMITTED																					
SELLER BY [REDACTED]																					
(Signature) [REDACTED] 5-Nov-05																					
I certify that this account is correct and proper for payment in the amount of \$2,500.00																					
<table border="1"> <tr> <td>DIFFERENCES</td> <td>\$0.00</td> </tr> <tr> <td></td> <td>\$0.00</td> </tr> <tr> <td>ACCOUNT VERIFIED:</td> <td>\$2,500.00</td> </tr> <tr> <td></td> <td>CORRECT FOR</td> </tr> </table>		DIFFERENCES	\$0.00		\$0.00	ACCOUNT VERIFIED:	\$2,500.00		CORRECT FOR												
DIFFERENCES	\$0.00																				
	\$0.00																				
ACCOUNT VERIFIED:	\$2,500.00																				
	CORRECT FOR																				
(Authorized certifying officer)																					
PAID BY <input checked="" type="checkbox"/> CASH																					
DATE PAID 5-Nov-05																					
VOUCHER NO. CPFAAS63060014																					

000444

### ACCEPTANCE BY CLAIMANT

(Note: This form should be not signed by the claimant if another release is signed by the claimant is attached.)

I, the claimant, do hereby accept the within stated award, compromise, or settlement as final and conclusive on my heirs, executors, administrators or assigns, and agree that said acceptance constitutes a complete release by me, my heirs, executors, administrators or assigns of any and all claims, demands, rights and causes of action of whatsoever kind and nature, arising now or in the future from, and by reason of any and all known and unknown, foreseen and unforeseen bodily and personal injuries (including wrongful death), damages to property, breaches of contract or law, and any other acts or omissions, and the consequences therefore resulting, and to result, from the same subject matter that gave rise to the claim for which I or my heirs, executors, administrators or assigns, and each of them, now have or may hereafter acquire against the United States and against the employee(s) of the Government whose acts or omissions gave rise to the claims by reason of the same subject matter. I further agree to reimburse, indemnify and hold harmless the United States, its agents, servants and employees from any and all claims or causes of action, including wrongful deaths, that arise or may arise from the acts or omissions that gave rise to the claim(s) by reason of the same subject matter.

\_\_\_\_\_

\_\_\_\_\_

### AGENCY CERTIFYING OFFICER:

Pursuant to authority vested in me, I certify that this payment is correct and property.

*Swanson*  
\_\_\_\_\_  
(Date)

\_\_\_\_\_  
/ / (Authorized Certifying Officer)

*Coff*  
\_\_\_\_\_  
(Title)

000445

**OFFICE OF THE COALITION PROVISIONAL AUTHORITY**  
**(OPCA) PROJECT WORKSHEET**

**TYPE OF OPCA PROJECT:** Regional Level Quick Impact Fund

**MILITARY UNIT COORDINATING PROJECT:** HHC/2d Bn/1<sup>st</sup> BCT/101<sup>st</sup> Abn Div, Judge Advocate

**MILITARY UNIT CONTACT INFO FOR PROJECT**

NAME: [REDACTED]

PHONE: VOA 072-6402

**NAME THE PROJECT:** Condolence Payment for death of [REDACTED]

**PROJECT LOCATION:** Kirkuk, Iraq

**PROJECT DESCRIPTION:** Condolence Payment to [REDACTED] for death of her husband [REDACTED]

**DESCRIBE DIRECT BENEFIT TO IRAQI POPULATION:** Condolence payments are cash payments to local nationals, or to their family members, who suffer death or injury or property damage caused by US forces in the performance of official duty. US forces make Condolence payments without reference to fault by either the local national or US forces, as an expression of sympathy and good will and in the best interest of the US Government.

**COST (U.S. Dollars) AND JUSTIFICATION:** \$2,500.00. [REDACTED] s car was fired upon by Coalition Forces, when he failed to stop as ordered, this resulted in his injury and subsequent death.

**NAME AND POSITION OF IRAQI WHO WILL ASSUME RESPONSIBILITY FOR THE COMPLETED PROJECT (Responsible Iraqi):** [REDACTED]

**ESTIMATED DAYS REQUIRED TO COMPLETE PROJECT:** 1

000446



DEPARTMENT OF THE ARMY  
Headquarters, 2d Battalion  
1st Brigade Combat Team  
101<sup>st</sup> Airborne Division (Air Assault)  
Forward Operating Base Warrior  
Kirkuk, Iraq



AFZB-KA-H

31 October 2005

MEMORANDUM FOR Commanding Officer 1st Brigade Combat Team, 101<sup>st</sup> Airborne Division (Air Assault), FOB Warrior, Kirkuk Iraq.

SUBJECT: Request for monies from the 2-327 IN CERP Commander's Battle Damage Fund.

1. The purpose of this memorandum is to request a Battle Damage Payment be made to [REDACTED] wife of the deceased, in order to express sympathy for Coalition Forces caused [REDACTED] damage to the property of an Iraqi Citizen that occurred on 31 October 2005 in Kirkuk.
2. Description of the incident predicated this payment request: On 31 OCT 05 at 1740hrs C/2-327 reported that while driving on RTE Dodge, C16 convoy observed a vehicle in the opposite lane pull out from a line of stopped vehicles and accelerated towards the convoy. The gunner [REDACTED] waved a chemical light at the vehicle and then threw the chemical light towards the vehicle in an effort to alert the driver. When the driver still did not stop, the gunner fired one .50 cal round at the vehicle, which entered the windshield and grazed the driver [REDACTED] in the right shoulder and caused damage to the windshield, front and rear upholstery. Contact has been made with the driver's nephew [REDACTED] to facilitate payment of \$300 as compensation to the wife of the owner of the vehicle. 2-327 IN utilized an interpreter to call a auto body shop to estimate repair costs for the windshield, front and rear upholstery and trunk of a 4 door, late 1990s model Opel.

3. List the specific items or services requested in the table below:

ITEM #	ITEM TO BE PURCHASED OR SERVICE RENDERED	Unit Price	Quantity	TOTAL
1	Front Windshield	\$100.00		\$100.00
2	Front and Rear Upholstry	\$100.00		\$100.00
3	Trunk Lid	\$100.00		\$100.00
	<b>TOTAL</b>			<b>\$300.00</b>

4. POC for this action is CPT Jeffrey McCoy, VOIP 672-6402.

I approve / disapprove this Battle Damage Payment.

I recommend approval / disapproval of this Battle Damage Payment.

- LN was negligent in his actions. It is up to the command whether payment is made.

I approve / disapprove this Battle Damage Payment.

[REDACTED]  
(LTC) IN  
Commander

[REDACTED]  
MAJ, JA  
Command Judge Advocate

[REDACTED]  
COL, IN  
Commanding

000447

## PURCHASE ORDER-INVOC-E-VOUCHER

DATE OF ORDER	ORDER NO.		
5-Nov-05	CPFAAS63060015		
PRINT NAME AND ADDRESS OF SELLER (Number, Street, City, and State)*			
[REDACTED] PAYEE Kirkuk, Iraq			
FURNISH SUPPLIES OR SERVICES TO (Name and Address)* Payment to [REDACTED] for damage to the vehicle of her husband [REDACTED] caused by coalition forces 31-Oct-05			
SUPPLIES OR SERVICES		QUANTITY	UNIT PRICE
Battle damage payment to wife		1	\$300
			\$300.00
AGENCY NAME AND BILLING ADDRESS*		TOTAL \$300.00	
217th Finance Detachment 40th Finance Battalion Kirkuk, Iraq		DISCOUNT TERMS 0.00%	0 DAYS
		DATE INVOICE RECEIVED 4-Nov-05	
ORDERED BY (Signature and Title) CPT [REDACTED] 2-327 PPO [REDACTED]			
PURPOSE AND ACCOUNTING DATA			
216 2020.00000 76-2084 P136198.0000026EB 83 G3NC 83 CPFAAS63060015 G3NC 83 S09076			
PURCHASER - To sign below for over-the-counter delivery of items			
RECEIVED BY [REDACTED]			
TITLE [REDACTED] DATE [REDACTED] C Company Project Officer 5-Nov-05			
SELLER - Please read instructions to the right of this electronic form			
PAYMENT RECEIVED \$300.00		PAYMENT REQUESTED \$300.00	
NO FURTHER INVOICE NEED BE SUBMITTED			
SELLER BY [REDACTED]		DATE [REDACTED]	
(Signature)		5-Nov-05	
I certify that this account is correct and proper for payment in the amount of \$300.00		DIFFERENCES \$0.00	
		\$0.00	
2LT [REDACTED] e, Pay Agent		ACCOUNT VERIFIED: CORRECT FOR \$300.00	
(Authorized certifying officer)		BY	
PAID BY <input checked="" type="checkbox"/> CASH		DATE PAID 5-Nov-05	
OR (check No.)		VOUCHER NO. CPFAAS63060015	
* PLEASE INCLUDE ZIP CODE		1. SELLER'S INVOICE 2. SELLER'S COPY OF ORDER 3. RECEIVING REPORT 4. MEMORANDUM COPY (See instructions to right of this electronic form)	
STANDARD FORM 44A (Rev. 10-03) PRESCRIBED BY GSA FAR (48 CFR) 33.213 (c)			

000448

**OFFICE OF THE COALITION PROVISIONAL AUTHORITY**  
**(OPCA) PROJECT WORKSHEET**

**TYPE OF OPCA PROJECT:** Regional Level Quick Impact Fund

**MILITARY UNIT COORDINATING PROJECT:** HHC/2d Bn/1<sup>st</sup> BCT/101<sup>st</sup> Abn Div, Judge Advocate

**MILITARY UNIT CONTACT INFO FOR PROJECT**

NAME: [REDACTED]  
PHONE: VOIP 672-6402

**NAME THE PROJECT:** Condolence Payment for damage to the vehicle of [REDACTED]

**PROJECT LOCATION:** Kirkuk, Iraq

**PROJECT DESCRIPTION:** Ex Gratia Payment to [REDACTED] for damage to the vehicle of her husband [REDACTED]

**DESCRIBE DIRECT BENEFIT TO IRAQI POPULATION:** Condolence payments are cash payments to local nationals, or to their family members, who suffer death or injury or property damage caused by US forces in the performance of official duty. US forces make Condolence payments without reference to fault by either the local national or US forces, as an expression of sympathy and good will and in the best interest of the US Government.

**COST (U.S. Dollars) AND JUSTIFICATION:** \$300.00. [REDACTED] car was fired upon by Coalition Forces, when he failed to stop as ordered; this resulted in damage to his vehicle.

**NAME AND POSITION OF IRAQI WHO WILL ASSUME RESPONSIBILITY FOR THE COMPLETED PROJECT (Responsible Iraqi):** [REDACTED]

**ESTIMATED DAYS REQUIRED TO COMPLETE PROJECT:** 1

000449

### ACCEPTANCE BY CLAIMANT

(Note: This form should be not signed by the claimant if another release is signed by the claimant is attached.)

I, the claimant, do hereby accept the within stated award, compromise, or settlement as final and conclusive on my heirs, executors, administrators or assigns, and agree that said acceptance constitutes a complete release by me, my heirs, executors, administrators or assigns of any and all claims, demands, rights and causes of action of whatsoever kind and nature, arising now or in the future from, and by reason of any and all known and unknown, foreseen and unforeseen bodily and personal injuries (including wrongful death), damages to property, breaches of contract or law, and any other acts or omissions, and the consequences therefore resulting, and to result, from the same subject matter that gave rise to the claim for which I or my heirs, executors, administrators or assigns, and each of them, now have or may hereafter acquire against the United States and against the employee(s) of the Government whose acts or omissions gave rise to the claims by reason of the same subject matter. I further agree to reimburse, indemnify and hold harmless the United States, its agents, servants and employees from any and all claims or causes of action, including wrongful deaths, that arise or may arise from the acts or omissions that gave rise to the claim(s) by reason of the same subject matter.

[REDACTED]  
(Date)

[REDACTED]  
(Claimant Signature)

### AGENCY CERTIFYING OFFICER:

Pursuant to authority vested in me, I certify that this payment is correct and proper.

*6/20/01*  
(Date)

[REDACTED]  
(Authorized Certifying Officer)

*CPT*  
(Title)

000450



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
HEADQUARTERS, 1<sup>ST</sup> BRIGADE COMBAT TEAM  
101ST AIRBORNE DIVISION (AIR ASSAULT)  
KIRKUK, IRAQ 09335



AFZB-KA-CJA

15 November 2005

MEMORANDUM FOR COMMANDER, First Brigade Combat Team, 101<sup>ST</sup> Airborne Division (Air Assault), FOB Warrior, Kirkuk, Iraq APO AE 09335.

SUBJECT: Legal Sufficiency of AR 15-6 Investigation, Shooting of [REDACTED]

1. I find the investigation conducted by CPT [REDACTED] legally sufficient.
2. CPT [REDACTED] interviewed the pertinent parties, gathered the relevant facts, and made a supportable recommendation based upon those findings.
3. The proceedings complied with legal requirements. The findings were properly recorded on the DA Form 1574 and statements were taken on DA Forms 2823. In appropriate instances, DA Forms 3881 were used to notify the individuals interviewed of their rights.
4. The circumstances surrounding the escalation of force is addressed and the IO properly applied the law—namely the Rules of Engagement—to the facts.
3. The recommendation that no UCMJ action be taken against the shooter is supported by the findings. There is no evidence that the shooter acted with gross negligence or with an intent to harm an innocent individual. Retraining is appropriate under these circumstances.
4. POC for this memo is MAJ [REDACTED] at VOIP 242-2426, DSN 444-3009, or via e-mail at [REDACTED]@us.army.smil.mil.

[REDACTED]  
MAJ, JA  
Command Judge Advocate

000451

Encl 1  
Continuation of DA 1574  
2 November 2005

Findings

On 31 October 05, I was appointed as the AR 15-6 Investigating Officer responsible for investigating the circumstances surrounding the shooting of an Iraqi civilian on 31 October 05 in the city of Kirkuk by members of C Company, 2<sup>nd</sup> Battalion, 327<sup>th</sup> Infantry Regiment. I present these findings having interviewed the gunner who was directly responsible for the shooting, four soldiers from his platoon, and personally evaluating the incident site.

Prior to movement from FOB Warrior, [REDACTED] briefed the MNCI Rules of Engagement (ROE) to the convoy and [REDACTED] briefed the standards for Escalation of Force required for the upcoming patrol. [REDACTED] briefed the ROE in accordance with CFLCC/ MNCI smart cards. Prior to moving out, the patrol received an intelligence report stating to be on the lookout for a possible Suicide Vehicle Borne Improvised Explosive Device (SVBIED) in the form of a dark blue Opel. The convoy planned to travel to K1, meet with their IA counterpart company, and the return to FOB Warrior.

Upon completion of the mission at K1, the Charlie Company convoy began its movement back to FOB warrior at approximately 1645 traveling south along Route Dodge. The illumination was natural, given that there were no streetlights in the area. The vehicle in question, Bumper Number C14, was occupied with a crew from vehicle C16. Their vehicle was hit the previous day by an IED. It was the lead vehicle in the convoy. The crew of C16 consisted of the driver, SGT Mikell, the TC, [REDACTED], the gunner, [REDACTED], the Platoon RTO, [REDACTED], and their interpreter, [REDACTED].

During movement the convoy experienced some traffic vicinity of ME 4254926789. At this time responded in accordance with one of their established TTPs by slowing down, flashing their lights and honking their horn. Both the driver and gunner motioned for the vehicles to pull off to the sides of the road. The local vehicles adhered, and began to pull off onto the shoulders of the two lane road. The shoulders of the road are at least one vehicle wide, allowing for more than enough room for traffic to shift over.

Most of the vehicles in the oncoming lane pulled off on to the shoulder of the road. If they did not pull completely onto the shoulder, they at least stopped moving and turned on their blinkers. As vehicles were pulling off the road [REDACTED], [REDACTED], and [REDACTED] all observed a car attempting to bypass the others. While the bypassing car was four to five vehicles ahead of C16, they noticed that it was a dark colored Opel similar to the description given during the morning's intelligence report. At the same time, another white vehicle swerved back onto the road and attempted to continue driving. [REDACTED] and [REDACTED] again signaled for these vehicles to pull off the road. [REDACTED], while standing up in the turret, signaled for both vehicles to pull over using a chem light that he was waving and by shouting at the vehicle. The white vehicle adhered and pulled back off of the road in front of the dark Opel, but the dark Opel never pulled off. Rather he continued towards C16 in what appeared to be a collision course. None of the C16 crew members were able to see any of the occupants of the oncoming

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vehicle. As the Opel continued on towards him, [REDACTED] continued to yell and then threw his chem light in the direction of the vehicle's path. The Opel continued towards C16 and it was at this time that [REDACTED] charged his weapon and oriented at the vehicle's hood. The Opel still did not change its course and appeared to be accelerating. The vehicle continued closer and closer until finally [REDACTED] decided that the vehicle appeared to be getting too close and did not think it was going to stop. Though he had an M9 9mm pistol as an alternate weapon, did not use it. Instead, at approximately 20 meters away [REDACTED] fired a single round from his M2 at the dark Opel. It impacted high on the driver's side windshield and hit the driver in his right shoulder. Although 1LT Johnson had been communicating with the driver to continue to flash his lights and honk his horn and pull off to the side of the road, he never gave any command to the gunner regarding engaging the vehicle.

The driver's name was [REDACTED]; the other occupants of the car were his wife and two children. After engaging, C16 continued down the road for approximately two hundred meters when [REDACTED] called over his Icom radio to tell the convoy that they were turning around. When the HMMWV reached the now disabled vehicle, [REDACTED] had already been taken out of the vehicle and moved approximately 20 meters away. [REDACTED] was then taken to about 15m off the road to the 1/C/2-327 IN medic, [REDACTED] who administered First Aid. The bleeding was stopped, and at this time [REDACTED] still had a pulse. He was then placed into a white civilian vehicle and was taken to Kirkuk General Hospital. At approximately 1925, the 2-327<sup>th</sup> IN CP received notice from [REDACTED] that [REDACTED] had died as a result of his wounds.

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Encl 2  
Continuation of DA 1574  
2 November 2005

Recommendations

Given all of the information that I have attained since my investigation of the circumstances surrounding the shooting of an Iraqi civilian in the city of Kirkuk by the members of C Company, 2<sup>nd</sup> Battalion, 327<sup>th</sup> Infantry Regiment, I make the following recommendations.

I recommend that no punitive action be taken against either [REDACTED] or [REDACTED] since the vehicle driven by [REDACTED] acted in such a way as to be considered hostile. The vehicle also closely matched the description of a possible hostile vehicle that was in the C Company area of operations. [REDACTED] actions taken were within the MNC-I Rules of Engagement. Lines 1 and 1b on the MNC-I ROE card states: You may engage the following individuals based on their conduct: (b) Persons who are exhibiting hostile intent towards CF. He also adhered to lines 2 and 2b regarding the use of Graduated Measure of Force, as well as line 3 regarding the defense of himself, his unit and friendly forces.

I recommend that the family of the deceased receive condolence payment as soon as possible.

I recommend that the Battalion reviews, and if necessary revises its standards for engagement criteria to include lessons learned from this incident.

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