**SECTION I - APPOINTMENT**

- **Appointed by**: [Signature]
- **Appointing authority**: [Signature]
- **Date**: April 05
- **(Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)**

**SECTION II - SESSIONS**

- **(Investigation) (board) commenced at**: [Signature]
- **Place**: [Signature]
- **Time**: 1700 hrs
- **Date**: April 05
- **(If a formal board met for more than one session, check here) **
- **Indicate in an inclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.) The following persons (members, respondents, counsel) were present: (After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)**

**The following persons (members, respondents, counsel) were absent: (Include brief explanation of each absence.) (See parar 5-2 and 5-8a, AR 15-6.)**

**SECTION III - CHECKLIST FOR PROCEEDINGS**

- **A. COMPLETE IN ALL CASES**
  - **Inclusions (para 3-15, AR 15-6)**
    - Are the following inclosed and numbered consecutively with Roman numerals: (Attached in order listed)
    - a. The letter of appointment or a summary of oral appointment data? [X]
    - b. Copy of notice to respondent, if any? (See item 9, below) [X]
    - c. Other correspondence with respondent or counsel, if any? [X]
    - d. All other written communications to or from the appointing authority? [X]
    - e. Privacy Act Statements (Certificate, if statement provided orally)? [X]
    - f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)? [X]
    - g. Information as to sessions of a formal board not included on page 1 of this report? [X]
    - h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board? [X]

**FOOTNOTES:**
1. Explain all negative answers on an attached sheet.
2. Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation.
B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)

4. At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 5-3b, AR 15-6)?

5. Was a quorum present at every session of the board (para 5-2b, AR 15-6)?

6. Was each absence of any member properly excused (para 5-2a, AR 15-6)?

7. Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)?

8. If any members who voted on findings or recommendations were not present when the board received some evidence, does the docket describe how they familiarized themselves with that evidence (para 5-2d, AR 15-6)?

C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)

9. Notice to respondents (para 5-5, AR 15-6):
   a. Is the method and date of delivery to the respondent indicated on each letter of notification?
   b. Was the date of delivery at least five working days prior to the first session of the board?
   c. Does each letter of notification 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 allegations against the respondent, if any?
      (3) the respondent’s rights with regard to counsel?
      (4) the name and address of each witness expected to be called by the recorder?
      (5) the respondent’s rights to be present, present evidence, and call witnesses?
   d. Was the respondent provided a copy of all unclassified documents in the case file?
   e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?

10. If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings):
   a. Was he properly notified (para 5-5, AR 15-6)?
   b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-6, AR 15-6)?

11. Counsel (para 5-6, AR 15-6):
   a. Was each respondent represented by counsel?

      Name and business address of counsel:

      (If counsel is a lawyer, check here □)

   b. Was respondent’s counsel present at all open sessions of the board relating to that respondent?
   c. If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the record (para 5-6b, AR 15-6)?

12. If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6):
   a. Was the challenge properly denied and by the appropriate officer?
   b. Did each member successfully challenged cease to participate in the proceedings?

13. Was the respondent given an opportunity to (para 5-8a, AR 15-6):
   a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?
   b. Examine and object to the introduction of real and documentary evidence, including written statements?
   c. Object to the testimony of witnesses and cross-examine witnesses other than his own?
   d. Call witnesses and otherwise introduce evidence?
   e. Testify as a witness?
   f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)?

14. If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)?

15. Are all of the respondent’s requests and objections which were denied indicated in the report of proceedings or in an inclusion or exhibit to it (para 5-11, AR 15-6)?

FOOTNOTES:
1. Explain all negative answers on an attached sheet.
2. Use of the NA column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.
SECTION IV - FINDINGS (para 3-10, AR 15-6)

The (investigating officer) (board), having carefully considered the evidence, finds:

I have examined the enclosed evidence and interviewed the soldiers involved. There were no photographs available for this engagement which occurred on 16 April 2005, by [redacted], [redacted], [redacted], my findings show that:

- Patrol was moving along [redacted] headed North and [redacted] observed what was initially identified as an IED. The Platoons actions follows:
  1) [redacted] ordered for all vehicles to cross over to the left hand side of the road and the vehicles began to scan their sector. (See exhibit 1, 2, and 3)
  2) Bradley 2 of [redacted] observed a LN out after curfew within line of site to possible IED, making suspicious hand movements. (See exhibit 1 and 2)
  3) With the proximity of the patrol to the possible IED and the LN out after curfew, having line of site to the PIED, and making suspicious hand movements, the BC and gunner of [redacted] had reasonable certainty that the LN posed an imminent threat to the patrol, and was showing signs of hostile intent of detonating the possible IED. (See exhibit 1 and 2)
  4) The LN was too far away and the Bradley engine too loud for SHOUT, it was too dark for SHOW, and the vehicle did not have a spotlight to warn the LN, and time didn't allow for escalation of force to follow step by step, so they proceeded to SHOOT (See exhibit 2)

Given the tactical scenario, it is my opinion that the shooting was unavoidable. The proximity of the possible IED to the patrol and the fact that the LN was showing hostile intent, with movement of his hands and arms and the inability to SHOUT or SHOW, the final step was to SHOOT. The shooting was within the published Rules of Engagement, Multi-National Corp-Iraq policy and no further actions should be taken concerning this incident.

SECTION V - RECOMMENDATIONS (para 3-11, AR 15-6)

In view of the above findings, the (investigating officer) (board) recommends:

- Continue to reinforce ROE training
- Order more spotlights for patrols, to allow for limited visibility warning signal
SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

This report of proceedings is complete and accurate. (If any voting member or the recorder fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)

(Recorder) 

(Investigating Officer) (President)

(Member) 

(Member) 

(Member) 

(Member)

SECTION VII - MINORITY REPORT (para 3-13, AR 15-6)

To the extent indicated in enclosure , the undersigned do(es) not concur in the findings and recommendations of the board. (In the enclosure, identify by number each finding and/or recommendation in which the dissenting member(s) do(es) not concur. State the reasons for disagreement. Additional/substitute findings and/or recommendations may be included in the enclosure.)

(Member) 

(Member)

SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-3, AR 15-6)

The findings and recommendations of the (investigating officer) (board) are (approved) (disapproved) (approved with following exceptions/substitutions). (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or corrective action, attach that correspondence (or a summary, if oral) as a numbered enclosure.)
MEMORANDUM FOR

SUBJECT: Appointment of AR 15-6 Investigating Officer

1. You are appointed as an investigating officer to conduct an investigation into all the facts and circumstances surrounding the shooting of an Iraqi National on (date) by members of (unit). You will specifically address the following questions:
   a. Was the soldier briefed on the threat situation in the patrol vicinity?
   b. Was the soldier briefed on the ROE, specifically hostile intent?
   c. What was the hostile intent/act observed by the service member?
   d. What, if any, escalation of force steps were taken?
   e. Were the proper procedures followed for the escalation of force?
   f. Any and all other facts and circumstance concerning the incident.

You will conduct the investigation IAW AR 15-6.

2. Your duties as an investigating officer will take priority over other duties. You will use the informal investigation procedures detailed in AR 15-6, chapter 4. You will make specific finding of facts that are supported directly supported by the documented evidence or reasonably based upon circumstantial evidence. Based upon all factual findings and conclusions, you will make recommendations on all relevant issues you identify in the course of your investigation.

3. If, during your investigation, you suspect that persons you intend to interview may have violated any provision of the Uniform Code of Military Justice (UCMJ) or any other criminal law, you must advise them of their rights under Article 31, UCMJ. Rights warnings and waivers will be documented on DA Form 3881. If during an interview you begin to suspect criminal conduct on the part of the witness, you must stop the interview and advise the individual of his or her rights under Article 31, UCMJ.

4. Whenever possible, witness statements will be sworn and recorded on DA Form 2823. If you conduct any witness interviews telephonically, you will prepare a memorandum for record memorializing the interview. Prepare your report using DA Form 1574. Include with your report all documentary evidence, sworn statements, and other information or evidence you considered as a basis for your findings and recommendations. Submit the original report through command channels to Commander, (ATTN: SJA) no later than 10 days after your receipt of this memorandum. Any request for extension must be submitted in writing or by e-mail through your legal advisor to the SJA for approval.
SUBJECT: Appointment of 15-6 Investigating Officer

5. Before proceeding with the investigation, contact [Redacted], Assistant Staff Judge Advocate, OSJA, FOB [Redacted] will serve as your legal advisor for this investigation and will provide you with an initial briefing.

[Redacted]

Commanding

Encl.
At 2314DAPR05 a 2/11 ACR patrol discovered a PIED at [redacted] on South of Haswah. There was a male IZ near the location of the PIED who appeared to be holding and pressing on an unknown device. Patrol open fire on the possible trigger man and he took off running. The patrol reports firing upon the suspected trigger man and killing him. The patrol conducted a secondary sweep of the area of the KIA and found a second possible trigger man. After questioning the second possible trigger man, he and the KIA were turned over to the IP. The PIED was not an IED. It was described as being a black bag with a centrically shape object next to it. No detonation devices were found. The IP has taken over the situation.

Tasks to be completed:

Index of Exhibits to 15-6 of PLT, [Redacted]

1. Sworn Statement by [Redacted] (BC)
2. Sworn Statement by [Redacted] (Gunner)
3. Sworn Statement by [Redacted] (PSG)
SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSNI).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION

2. DATE (YYYYMMDD)

3. TIME

4. FILE NUMBER

5. LAST NAME, FIRST NAME, MIDDLE NAME

6. SSN

7. GRADE/STATUS

8. ORGANIZATION OR ADDRESS

9. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

In April 2005 around 2305hrs while convoying to Patrol Base  was scanning when he noticed a person moving around beating on something. I confirmed the target and also noticed something in his hands. Feeling threatened for my convoy I called it up on the radio and gave a SITREP. After doing so I then gave out the distance, direction and description then I gave the command to FIRE. After engaging I told to cease fire and continue to scan. A dismount team was sent out to sweep the area I guided them in where the rounds impact at. Once the dismounts was set they walked the area and found a male deceased. They continued to walk back and forth until they found another male hiding in some water unharmed. The decease was found at grid

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 3 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT TAKEN AT DATED"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE INDICATED.

DA FORM 2823, DFC 1998

DA FORM 2823, JUL 72, IS OBSOLETE
SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCOPS

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9. I WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 23 April at approximately 2300 hours, while conducting a movement with 3 Bradley fighting vehicles and 12 hummers to conduct relief in place at , I spotted what I believed was an IED on the right side of the road. I radioed for all vehicles to cross over to the left and set in the south-bound lanes. After crossing over, as I was checking behind me, the second Bradley in the order of movement, a white vehicle engaged something to the east with their coaxial machine gun. My hummers were disengaged and maneuvered on to the area where the vehicle had engaged personnel doing something suspicious in nature. The disengaged troops found one deceased individual in a canal about 5 feet from shore. The IPIs were dispatched to the scene and another individual was carried out of the water. This individual appeared to be suffering from an asphyxiation attack and had an indecipherable identification mark on his body. A thorough search of the area was conducted, no weapons, IEDs, or trigger devices were located. The IPIs transported

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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF_____ TAKEN AT____ DATE____

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

DA FORM 2823, DEC 1998

DA FORM 2823, JUL 72, IS OBSOLETE
STATEMENT OF _____________________________________________ TAKEN AT __________________________ DATED ________________ 3-10-05

9. STATEMENT (Continued)

AFFIDAVIT

I, ____________________________________________, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH beginS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(Signature of Person Making Statement)

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this ______ day of APRIL, 2005 at ________________________

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT __________________________

PAGE 3 OF 7 PAGES

PAGE 3, DA FORM 2823, DEC 1998

11910
SWORN STATEMENT
For use of this form, see AR 190-45; the proponent agency is ODCSOPS

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| 9. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH: |

On __ April 2005 at around 2220 enroute to __ we were on __ headed north when the lead vehicle "TC was __" radioed he had spotted a possible IED on the east side of the road. I was scanning to the east using Thermals when almost immediately I spotted what appeared to be an individual holding something, and trying to work whatever it was he was holding. Because I was looking through thermals I couldn't tell what it was exactly he was holding, but it was definitely warm enough to give a thermal signature. Then I asked my TC "__" for permission to engage, without delay he said yes. I immediately punched up my least lethal weapon system, co axis 7.62 mm, and engaged at 600 meters range setting and standard "1" pattern. Once I started firing the target began to move to the south, I continued to engage until the target was no longer visible in my sight. I believe I fired 10-12 6-9 round bursts all fired.

10. EXHIBIT #2

11. INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 3 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT __ TAKEN AT __ DATED __"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.
in "Z" pattern. Next a maneuver element consisting of a HUMVEE and BFV moved south and East of our location where they dropped dismounts to clear the area. While maintaining security, the dismounts moved north, and after some time of searching they found a trail of blood and followed it to the body of the first casualty. From what I was hearing on the radio, as the dismounts were removing the body of the casualty they stumbled upon a second person hiding in the water. This second person was given to the F.D.'s along with the body of the first. As for the possible IED I'm not sure if it was ever cleared or confirmed there was too much going on and this is the first time I've thought about it.

writings follows
STATEMENT OF

TAKEN AT $1.00

DATED

Page 3 of 3

[Handwritten text]

Signed and sworn to before me a person authorized by law to administer oaths, this 2 day of April, 2005.

Signature of Person Administering Oath

[Handwritten text]

Affidavit

I, the undersigned affiant, have not read or have read to me this statement which begins on page 1 and ends on page 3. I do fully understand the contents of the entire statement made by me. The statement is true. I have initialed all paragraphs and have initialed the bottom of each page. I have made this statement, without hope of benefit or reward, without threat of punishment, and without coercion, unlawful inducement, or inducement.

[Handwritten text]