CONSERVE PAPER
REUSE THIS LABEL

FOR

OFFICIAL USE

ONLY

When used for Inspector General reports, dissemination is prohibited except as authorized by AR 20-1.

Criminal statutes and regulations provide penalties for unauthorized removal or disclosure of safeguarded records.

Use to safeguard unclassified information exempted from disclosure to the public under the Freedom of Information Act in accordance with AR 25-55.

This cover sheet will be removed when documents are destroyed, filed, mailed, or when protective markings are removed. By itself, this cover sheet requires no protection.

DA LABEL 87
APR 82

EDITION OF FEB 73 WILL BE USED UNTIL EXHAUSTED.
MEMORANDUM FOR HHT, 2/11 ACR, FOB Kalsu, Iraq

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 escalation of force by 3/E/2/11 ACR on 25Mar2005. You will specifically address:
   a) SOP for TCP;
   b) Was the SOP followed;
   c) What procedures were used to warn approaching motorist of TCP;
   d) What escalation of force was used;
   e) Any and all other evidence considered.

   A copy of the Spot Report is attached. 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, 155th BCT (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.

5. Before proceeding with the investigation, contact Administrative Law, 155th BCT (SJA) will serve as your legal advisor for this investigation and will provide you with an initial briefing.

Encl

as

AR

Commanding

Printed on 9-4-5
SPOT REPORT

155 BCT SPOTREP 05

At 241430MAR05, 2/11ACR reports 3/E/2-11ACR was conducting a TCP at vicinity grid MB 408 427 when a white 4 door sedan approached at a high rate of speed. Numerous attempts to signal the car to slow down failed. 3/E/2-11 fired warning shots into the air with 5.56mm. The vehicle still would not slow or stop. At that time 3/E/2/11ACR fired directly at the vehicle’s engine area. One round impacted in the vicinity of the driver’s side window and injured the driver. The IP were notified and once they arrived on the scene they loaded the driver of the vehicle and took him to a hospital in Iskandariyah.

Update: At 2223, 2/11ACR reports that Eskan PB reported that the individual that was taken to the hospital by the IPs died on the way to the hospital.
REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS
For use of this form, see AR 15-6; the proponent agency is DTJAG.

IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

SECTION I - APPOINTMENT

Appointed by ________ Commander 155 BCT, FOB Kalsu, Iraq
(Appointing authority)

on _______ 05 April 05 _______ (Date)

(Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - SESSIONS

The (investigating officer) (board) commenced at FOB Kalsu, Iraq (Place) at 18:00 hrs (Time)
on _______ 05 April 2005 _______ (Date) (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 paras 5-2 and 5-3a, AR 15-6.)

The (investigating officer) (board) finished gathering/hearing evidence at 12:00 hrs on 05 April 2005 (Time) (Date)

and completed findings and recommendations at 18:00 hrs on 05 April 2005 (Time) (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

YES ☐ NO ☐ NA ☐

1. Inclosures (para 3-15, AR 15-6)

A. The letter of appointment or a summary of oral appointment data?
☐

b. Copy of notice to respondent, if any? (See item 9, below)
☐

c. Other correspondence with respondent or counsel, if any?
☐

d. All other written communications to or from the appointing authority?
☐

e. Privacy Act Statements (Certificate, if statement provided orally)?
☐

f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?
☐

g. Information as to sessions of a formal board not included on page 1 of this report?
☐

h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?
☐

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.
<table>
<thead>
<tr>
<th>7</th>
<th>Exhibits (para 3-16, AR 15-6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?</td>
</tr>
<tr>
<td>b.</td>
<td>Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?</td>
</tr>
<tr>
<td>c.</td>
<td>Has the testimony of all exhibits been recorded verbatim or been reduced to written form and attached as an exhibit?</td>
</tr>
<tr>
<td>d.</td>
<td>Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?</td>
</tr>
<tr>
<td>e.</td>
<td>Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-5b, AR 15-6)?</td>
</tr>
<tr>
<td>f.</td>
<td>Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?</td>
</tr>
<tr>
<td>g.</td>
<td>If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)?</td>
</tr>
</tbody>
</table>

| 3 | Was a quorum present when the board voted on findings and recommendations (para 4-1 and 5-2b, AR 15-6)? | X |

| 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 inclosure 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 5-4c, 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 report (para 5-5b, 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 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 inclosure or exhibit to it (para 5-11, AR 15-6)? | |

**FOOTNOTES:**

1. If any 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.

*Page 2 of 4 pages, DA Form 1574, Mar 83*
The (investigating officer) (board), having carefully considered the evidence, finds:

I have examined the enclosed evidence, and interviewed the soldiers involved. They were no photographs available for this engagement which occurred on 24 Mar 2005, by 3rd Platoon, B Troop, 2/11 ACR, 155 BCT, my findings show that:

- Vehicle in question established itself as suspicious by approaching at a high rate of speed. (See exhibit 1)
- Hand and Arm signals were used to stop the vehicle from passing the US patrol. (see exhibit 1 and 2)
- Warning shots were fired into the air. (see exhibit 1)
- Shots were fired into the grill of the vehicle. (see exhibit 1)

Given the tactical scenario, it is my opinion that the shooting was unavoidable and also unfortunate. I am not a forensic scientist, but it appears that the round that was fired into the grill of the vehicle bounced into the crew compartment of the vehicle. The soldiers involved took all appropriate levels of escalated response to protect themselves and the other soldiers in their combat patrol. 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, standardize TF 2/11 BCT combat patrols and convoy operations.
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.)

[Signatures]

Squadron Executive Officer

(Member)

Investigating Officer (President)

(Member)

(Member)

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

To the extent indicated in Inclosure [number], the undersigned do(es) not concur in the findings and recommendations of the board. (In the inclosure, 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 inclosure.)

(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 inclosure.)
STATEMENT OF ___________________________ TAKEN AT ______________________ DATED ______________________

S. STATEMENT (Continued)

AFFIDAVIT

I, ____________________________________________, have read or have had read to me this statement which begins on page 1, and ends on page _____, 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:

[Signature]

[Organization or Address]

[Signature]

[Organization or Address]

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 27 day of March, 2005, at Fort Kalsu.

[Signature of Person Administering Oath]

[Typed Name of Person Administering Oath]

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT ___________________________ PAGE __ OF __ PAGES ___________________________
SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2851; E.O. 9397 dated November 22, 1943 (ISSU). PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.

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. OATH STATUS

8. ORGANIZATION OR ADDRESS

9. [TEXT]

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE Indicated.

DA FORM 2823, DEC 1998

DA FORM 2823, JUL 72, IS OBSOLETE
SWORN STATEMENT
For use of this form, see AR 190-46; the proponent agency is ODOSPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
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
MR. JACKSON

2. DATE /DDMMYY/
2005/03/24

3. TIME
1900

4. FILE NUMBER

5. LAST NAME, FIRST NAME, MIDDLE NAME

6. SSN

7. GRADE/STATUS
E-4

8. ORGANIZATION OR ADDRESS

9. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

ON MARCH 24, 2005 I WAS DRIVING THE 113. I WAS DRIVING AWAY FROM THE TRASH
BURN SITE ON MY WAY BACK TO PICK UP MORE TRASH. WHILE I WAS DRIVING SOUTH
ON NCR JACKSON A RED KIA WAS APPROACHING AT A HIGH RATE OF SPEED. I TURNED
TO LOOK AT MY TC
WHO WAS FRANTICALLY WAVING TO STOP
AND WAS SHOWING THEM HIS WEAPON. THEY THEN PROCEEDED W/O SLOWING
DOWN. THEN FIRED A THREE ROUND BOLT IN THE AIR
AS A WARNING SHOT. THE VEHICLE NEITHER SLOWED NOR ACKNOWLEDGED
THE VEHICLE WAS WITHIN 60 M AND STILL DRIVING FAST.
THEN FIRED A SINGLE ROUND INTO THE GROUND IN FRONT
OF THE CAR. THE CAR THEN TOOK A WILD TURN OFF THE ROAD AND
CAME TO A STOP; WE THEN CONTINUED ON TO THE TRASH SITEahan
THE OBJECTIVE HAD JUST STOPPED.

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 1 PAGES

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

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE MADE TO 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

11924
9. STATEMENT (Continued)

STATEMENT OF ________________________________ TAKEN AT ______________ DATE ______________

AFFIDAVIT

I ________________, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT which begins on page __________ and ends on page __________. 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

________________________________________________________________________

________________________________________________________________________

ORIGINATION OR ADDRESS

________________________________________________________________________

________________________________________________________________________

(Signed and sworn to before me, a person authorized by law to administer oaths, this __ day of__, 20__ at _____________.)

(Signature of Person Administering Oath)

(Authority To Administer Oath)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2
SWORN STATEMENT
For use of this form, see AR 190-46; 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 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
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 (YYYY/MM/DD)
3. TIME
4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME
6. SSN
7. GRADE/STATUS

8. ORGANIZATION OR ADDRESS
   E-4 OP 2/91 AGP

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

   On March 24, 2005 I was in my 113. We were driving away from the trash burn site on the way to pick up more trash. While we were driving south on MSR Jackson a red Kia was approaching at rear 90 mph. I felt threatened by the vehicle's speed and decided to take action. I immediately pulled over and attempted to stop the car. However, the car continued to approach at a high rate of speed. I then fired a round in the air to warn the driver to stop. The driver immediately made a hard left turn onto the road we were proceeding to collect trash at the trash points.

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT

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.

DA FORM 2823, DEC 1998
STATEMENT OF __________________________ TAKEN AT _______________ DATED __________

9. STATEMENT (Continued)
On 24 Mar 2005, my team and I were assigned to a trash burning point. 2 hours later, I noticed a red 4-door car on the side of Asa Jackson, 200 meters from our position. There was no one in the car and the doors and passengers' side doors were open. There was something hanging out of the passenger side. I looked through my Acog to identify the object. I noticed it was a body. I told my men to cordon off Asa Jackson 200m from each side of the vehicle and call QRF. The QRF stopped by checkpoint 5, picked up 2 ING personnel and returned on scene. The ING checked out the car and noticed the man was still breathing. I placed him on the back seat of the car and waited for our medevac. After checking out the casualty, the ING radioed to check point 5 and the casualty was on the back seat.
Alleged crimes or offenses committed by me have been or are being investigated by the FBI. This statement is made freely without hope of reward or immunity, and without threat of punishment, and is made under penalty of perjury, and is made before the undersigned, the authorized official.

27 day of

Place: 

Signature of Person Administering Oath

STATEMENT (Continued)

TAKEN AT

DOS

PAGE: 1 OF 1

Initials of Person Making Statement

Organizational or Address

Organizational or Address

Witnesses:

Signature of Person Administering Oath

 Summoned and sworn to before me, a person authorized by law to administer oaths, the

Affiant

I, the affiant, do hereby declare that the statement is true, have read the entire statement, and have attested to the truth and accuracy of the statement.

I have read or have had read to me the entire statement made by me.

I, the affiant, do hereby declare that the entire statement made by me is true, and that I have made the statement freely, without hope of reward or immunity, and without threat of punishment, and is made before the undersigned, the authorized official.

Signature of Person Administering Oath

Place:

Date: 

Page 2 of Form 2232 Dec 1988
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 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
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 (YYYY-MM-DD) 3. TIME 4. FILE NUMBER
ASR Jackson 2005-03-27 1510

5. FIRST NAME, MIDDLE NAME, LAST NAME
6. SSN

7. GRADE/STATUS

8. ORGANIZATION OR ADDRESS
4th SAB 3rd platoon E Troop 2/11 ASR

I, ________________, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On the 24th of March 05, I was monitoring a trash burning point when my attention was drawn to a red car parked on the side of ASR Jackson. After observing the car, I called the police. There was a body inside, and that we were to block traffic approximately 200m south of the vehicle. After 10 minutes, we arrived with two LNBs and inspected the body. They called me forward to treat an Iraqi male with a gunshot wound to the head above the right ear. There was no exit wound. The patient was unresponsive, with blood and cerebrospinal fluid draining from his nose. I bandaged his head with a roll of Kerlex and loaded him into the vehicle, which was driven away by both LNBs.

End Statement