Sir:

15-4 investigation into EDF by 741 while emplacing barriers which resulted in the death of 1 LN. Good investigation by CPR.

Yr.

I have reviewed. I concur with findings and your assessment above.
Page 2 redacted for the following reason:

(b)(1), (b)(2), (b)(5), (b)(6)
REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form, see AR 19-15. The appointing agency is OTAG.

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

SECTION I - APPOINTMENT

Appointed by: [Name]
(Appointing authority)

on [Date] (Attach inclosure I: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - SESSIONS

The (investigation) (board) commenced at [Time] at [Place] on [Date].

If the board met for more than one session, check here ☐. Indicate in an inclosure the time, 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 5-4a, AR 15-6.)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

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

   a. The list 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 witness)?
   ☒
   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 N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

DA FORM 1574, MAR 83 EDITION OF NOV 77 IS OBSOLETE.
<table>
<thead>
<tr>
<th>2</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 or statement of each witness 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 photographs 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 3-16, 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 3-10, AR 15-6)?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3</th>
<th>COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section 5, Chapter 5, AR 15-6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Notice to respondents (para 5-5, AR 15-6):</td>
</tr>
<tr>
<td>a.</td>
<td>Is the method and date of delivery to the respondent indicated on each letter of notification?</td>
</tr>
<tr>
<td>b.</td>
<td>Was the date of delivery at least five working days prior to the first session of the board?</td>
</tr>
<tr>
<td>c.</td>
<td>Does each letter of notification indicate —</td>
</tr>
<tr>
<td></td>
<td>(1) the date, hour, and place of the first session of the board concerning that respondent?</td>
</tr>
<tr>
<td></td>
<td>(2) the matter to be investigated, including specific allegations against the respondent, if any?</td>
</tr>
<tr>
<td></td>
<td>(3) the respondent's rights with regard to counsel?</td>
</tr>
<tr>
<td></td>
<td>(4) the name and address of each witness expected to be called by the respondent?</td>
</tr>
<tr>
<td></td>
<td>(5) the respondent's rights to present, present evidence, and call witnesses?</td>
</tr>
<tr>
<td>d.</td>
<td>Was the respondent provided a copy of all unclassified documents in the case file?</td>
</tr>
<tr>
<td>e.</td>
<td>If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?</td>
</tr>
<tr>
<td>5</td>
<td>Was any respondent designated after the proceedings began? (or otherwise was absent during part of the proceedings):</td>
</tr>
<tr>
<td>a.</td>
<td>Was he properly notified (para 5-5, AR 15-6)?</td>
</tr>
<tr>
<td>b.</td>
<td>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)?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>11</th>
<th>Counsel (para 5-6, AR 15-6):</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>Was each respondent represented by counsel?</td>
</tr>
<tr>
<td>b.</td>
<td>Name and business address of counsel:</td>
</tr>
<tr>
<td>(If counsel is a lawyer, check here ☐)</td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td>Was respondent's counsel present at all open sessions of the board relating to that respondent?</td>
</tr>
<tr>
<td>d.</td>
<td>If 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 5-6b, AR 15-6)?</td>
</tr>
</tbody>
</table>

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

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

| 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 5-6b, 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 exhibit or attached to it (para 5-11, AR 15-6)? |

**FOOTNOTES:**
- Use of the Y column constitutes a positive representation that the circumstances described in the question did not occur in this investigation.
SECTION IV - FINDINGS  (para 3-10, AR 15-6)

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

See attached memorandum.

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

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

See attached memorandum.
SECTION VI - AUTHENTICATION (para 3-12, 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)

(Member)

(Member)

(Member)

SECTION VII - MINORITY REPORT (para 3-13, AR 15-6)
To the extent indicated in Inclosure ______, 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 3-3, AR 15-6)
The findings and recommendations of the (investigating officer) board are approved (disapproved) (approved with following exceptions/substitutions). (If the appointing authority requires 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.)

(b)(4)
DEPARTMENT OF THE ARMY
Headquarters and Headquarters Troop, 1st Squadron, 71st Cavalry Regiment
1st Brigade Combat Team, 10th Mountain Division (Light Infantry)
Iraq 09376

13 October 2005

MEMORANDUM FOR Commander, 1st BCT, 10th MTN, Iraq

SUBJECT: AR 15-6 Informal Investigation Concerning the Fatal Shooting of a Local National (LN)

1. On 12 October 2005, I was appointed as the AR 15-6 Investigating Officer (IO) for the events surrounding the shooting that lead to the death of one LN and injuries to other LN. I have conducted a thorough investigation of the circumstances surrounding this incident. My observations, conclusions, and recommendations are provided in the following format: facts, findings, and recommendations.

2. FACTS.

   A. On 12 October 2005, Barrier Teams A & C from 4-1 MiTT, A Troop, 1-71 CAV, lead by ISG was conducting barrier emplacement in support of the Division polling site. The patrol consisted of 2x M1114s, 1x HEMMT, eleven U.S. personnel and 1x Iraqi Army (IA) patrol vehicle. ISG was the NCOIC and informed the static IA checkpoint 300 meters west of the cordon, that Teams A and C were in the area. SSG was the senior NCO. Additionally, one IA squad consisting of 10 personnel accompanied Barrier Team A & C.

   B. Teams A & C emplaced barriers from 2000 to 2140 at vid. The barrier emplacement process took 10 to 15 minutes. Teams A & C set up "T" shaped security, emplacing two blocking positions consisting of one M1114 to the west and the other M1114 to the east. The HEMMT was located near the Iraqi Polling site on a side street within the cordon. Iraqi Army personnel were pulling security at the drop off point for the barriers. The IA also set up two TCP's at the eastern and western corners of the area, 300 meters from M1114s.

   C. The incident occurred at approximately 122115OCT05 (see enclosure A, BCT Blue-2 Report). Civilian traffic was being directed by the Iraqi Army to head the in opposite direction of the barrier emplacement onto the north/south road near the position. The white Volkswagen Passat bypassed the Iraqi Army checkpoint and headed east toward Team C, vehicle 5A-33. Team C's gunner used the laser pointer to warn the white Passat to stop. The vehicle turned off its headlights but continued to move towards Team C. Verbal orders in English and Arabic were issued to the white Passat over the Team C vehicle intercom, the
SUBJECT: AR 15-6 Informal Investigation Concerning the Fatal Shooting of a Local National (LN)

vehicle driver ignored these warnings. The first warning shot was fired by SSG [REDACTED] into the air. The vehicle then turned on its headlights and proceeded towards Team C. The second warning shot was fired in the direction of the vehicle on the ground. The white Passat continued and PFC [REDACTED] along with SSG [REDACTED] fired 5 shots total into the engine block and then into the windshield of the vehicle. The white Passat rolled to a stop, one local national (passenger) sustained a gunshot wound to his left arm and was taken to [REDACTED] hospital after being evaluated by PFC [REDACTED] (medic). The other local national (driver) was treated by Corporal [REDACTED] (medic) but eventually died of wounds to his face and chest. The dead body was put into a body bag and was turned over to Iraqi Police. Team C took pictures and documented the evidence of the encounter. The white Passat was turned over to the IPs. Team C then collapsed the cordon and moved to next polling site. Shortly after they arrived at the next polling site they were directed to return to [REDACTED] to write statements.

3. FINDINGS. I find that the engagement and killing of the local national was in accordance with the current Theater Rules of Engagement (ROE), as stated in APPENDIX 1 (CONSOLIDATED ROE) TO ANNEX E (RULES OF ENGAGEMENT) TO [REDACTED] SSG [REDACTED] SSG [REDACTED] and PFC [REDACTED] identified a hostile act and responded with an escalation of force to eliminate the threat. The driver of the vehicle, for undetermined reasons, chose to ignore all warnings given.

4. RECOMMENDATIONS. The following recommendations are put into Issue, Discussion and Recommendation format:

**Issue:** Emplace barriers during non-curfew hours

**Discussion:** Emplacing barriers during daylight or non-curfew hours of the day adds to the complexity of the mission. The patrol leader of this mission needs to consider that civilian traffic will be an issue, especially when some of these barrier emplacements involve redirecting traffic or shutting down a lane of traffic.
SUBJECT: AR 15-6 Informal Investigation Concerning the Fatal Shooting of a Local National (LN)

5. POC for this memorandum is the undersigned at [Redacted].

CPT, AR
S-5

Enclosures:
A. BCT Blue-2 Report
B. DA Form 2823 – Sworn statement from SSG
C. DA Form 2823 – Sworn statement from SGT
D. DA Form 2823 – Sworn statement from PFC
E. DA Form 2823 – Sworn statement from SPC
F. DA Form 2823 – Sworn statement from SGT
G. DA Form 2823 – Sworn statement from PFC
H. DA Form 2823 – Sworn statement from 1SG
I. DA Form 2823 – Sworn statement from SSG
J. DA Form 2823 – Sworn statement from [Redacted]
K. Storybook presentation
1/10 BCT BLUE-2 [COMMANDER'S INCIDENT REPORT]

PURPOSE: TO REPORT CRITICAL AND TIME SENSITIVE EVENTS TO THE COMMANDING GENERAL [CG].

SCOPE: THIS TAB APPLIES TO ALL UNITS ASSIGNED OR TASK ORGANIZED TO 3ID (M).

PROCEDURES: COMMANDER'S INCIDENT REPORT [CIR] IS INTENDED TO PROVIDE THE CG WITH IMMEDIATE NOTIFICATION OF AN INCIDENT INVOLVING 3ID (M) SOLDIERS AND/OR EQUIPMENT. AS MUCH INFORMATION AS POSSIBLE SHOULD BE INCLUDED IN THE INITIAL REPORT BUT IMMEDIATE NOTIFICATION SHOULD NOT BE DELAYED UNNECESSARILY. ADDITIONAL INFORMATION SHOULD BE PROVIDED AS SOON AS POSSIBLE.

** A COMPLETE REPORT ON THE INCIDENT WILL BE FORWARD TO 1/10 MTH **

LINE 1: UNIT REPORTING:
1-71 CAV, [6/11] MITT TM

LINE 2: INCIDENT:
1x LN KILLED AND 1x WALKING WOUNDED FOR ENDANGERING US AND IRAQI FORCES

LINE 3: DATE/TIME GROUP [DTG] INCIDENT OCCURRED:
12 2111 OCT 05

LINE 4: LOCATION OF INCIDENT:

LINE 5: PERSONNEL INVOLVED:

<table>
<thead>
<tr>
<th>NAME</th>
<th>RANK</th>
<th>UNIT</th>
<th>SSN</th>
<th>AGE</th>
<th>SEX</th>
<th>RACE</th>
</tr>
</thead>
</table>

LINE 6: SUMMARY OF INCIDENT:
While providing security for barrier emplacement at polling sites in 5/1 IA AOR VIC [6/11] a civilian vehicle [White, VW - Passat] approached their position at a steady rate of speed. The above mentioned soldiers initially attempted to signal the vehicle operator to stop using voice/hand signals. The driver then turned off his lights and continued forward; at this point the soldiers used a green laser. The vehicle proceeded to advance and turned on its high-beams. At this point the soldiers fired two warning shots into the hood of the vehicle. After the vehicle refused to stop the soldiers used lethal force, firing six shots (5.56) into the windshield. After approaching the vehicle the soldiers found two wounded LN males age [6/11]. One LN was walking wounded the other critical urgent; the soldiers attempted to treat the critical urgent LN, but he died shortly after.

The patrol leader searched the dead LN then turned the body over to the IA for delivery to the [6/11] Hospital. Currently (122206CT05) the patrol leader is documenting the events with sworn statements and photographs. A complete search of the vehicle and individuals will be conducted prior to the release of the vehicle or wounded LN.

LINE 7: DAMAGE TO GOVERNMENT AND/OR CIVILIAN PROPERTY:
NONE

LINE 8: COMMANDER REPORTING:
TF 1-71 CAV [TF COBRA] BATTLE CPT
SIPR:
VOIP:

11947
SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORIZED: 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 identifier means of identification to facilitate filing and retrieval.

DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION
2. DATE (MMDDYY)
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:

Around 2100 at night myself along w/ my crew PFC and Sgt proceeded to the main Intersection made a left to block traffic while the wrecker went out to do a u turn to back into the polling site street to place barriers that was our last set to finish there was a IFATCP in front of my vehicle about 150m w/sides streets after it all the vehicles traffic was either turning to them or around I walked up to my vehicle to speak to SSG on and my driver they were in place 10m from my humvee that's when I saw a white vehicle pass the turning traffic and head towards our direction my lights were on I saw my gunner start lasing the vehicle w/his laser pointer the white car turn off his headlights put kept moving towards us I decided to shoot a warning shot that's when the car turn back on his lights and sped up I shot a second round in front of the vehicle towards the engine my driver shot the engine and SSG also aim at the engine and then shot at the Driver I imme-
diately called "cease fire" so my own wouldn't engage w/the mayor of the vehicle rolled to a stop 10 meter from my humvve I yelled for IfA's and a medic to assist I instructed my Interpreter to tell the passenger to get out of the vehicle since he was moving inside

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF"

DA FORM 2823, DEC 1998
DA FORM 2823, JUL 72, IS OBSOLETE

11948
When I approached the vehicle to take the passenger out than another IA to drag the driver out to the curve on the side away from the car CP treated the driver while the passenger was being watched by an IA. I got on the radio to call higher to inform them of the situation. At that time the other unit team arrive from the other side to assist PFC treated the passenger from my hummer. I was trying to talk to higher and kept assessing the situation on the ground making sure that I was documenting all the details of the event. The driver was pronounce dead and we were going to put him in an ambulance but there was already a patient in it than we got a IA truck ready to take him patient in it than we got a body bag and gave him to the but he was dead we got a body bag and gave him to the hospital that was close by when all this was accomplish including the pictures we mounted up and headed toward our next polling site.
I was in the turret of SSG M1114, a white Volkswagen Passat. Passed through a checkpoint. It proceeded past where all other vehicles either turned left to the left or right, or they turned around towards my location. After that point I started to make hand gestures to stop the vehicle while moving towards my location. I continued to use my laser pointer to the driver, but he continued to proceed towards my location. Around 100 m, SSG shot a warning shot and the driver flashed his head lights and continued at the same speed. SSG again shot another warning shot, and he continued towards my location, then PFC and SSG engaged to disable the vehicle and the driver was still proceeded, and I then seen impact through the windshield and the driver stopped to the side, and the passenger ducted down, and the vehicle stopped.
9. STATEMENT (Continued)

Someone called for the Medics. The passenger raised his head over the dashboard. An interpreter shouted at the 2 individuals to exit the vehicle. The Cpl then arrived at our location. The passenger of the vehicle got out of the vehicle and the Iraqi Army pushed him to the side. I visually scanned the vehicle and noticed fluid draining from the vehicle and the driver was not moving. At that time someone shouted to get the driver out and I believe Sgt had the Iraqi Army personnel drag the driver out of the vehicle to the sidewalk where Sgt and Cpl began giving aid to the driver. After a few minutes the other medic Pfc came to the location and started to give medical treatment to the passenger of the vehicle. After that I continued to pull security and nothing else follows.
SWORN STATEMENT
For use of this form, see AR 190-45; the proponent agency is GOCSSPS.

PRIVACY ACT STATEMENT

AUTHORITY:
Title 10 USC Section 301; Title 5 USC Section 2901; E.O. 9397 dated November 22, 1943 (GSW).

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 (MM/DD/YY)
3. TIME
4. FILE NUMBER

5. NAME OF PERSON MAKING STATEMENT

6. ORGANIZATION OR ADDRESS

7. GRADE/STATUS

8. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

B+D were told by to leave the area of where the barricades were being moved, we went to recover the next closest site, we were on our way back when Sgt asked the gunman did he hear gunfire, Spc said no he did not, then someone came over the i-Com said we needed to hurry up around the corner, we pulled up & I looked down the street & saw Cpl & Sgt working on the individual who got shot, I ran to them & my Aid bag & Cpl & Sgt were performing CPR on the guy, I put gloves on & scaled for the GSW to his chest & throat, about 1 minute later the patient was not breathing & he had no pulse. Then I ran across the street & the passenger of the car was sitting on the ground, He had a GSW to his

10. EXHIBIT

11954