MEMORANDUM FOR Captain [Redacted], Headquarters and Headquarters Company, 1st Brigade Combat Team, Multinational Division Baghdad, Iraq APO AE 09376

SUBJECT: Appointment as AR 15-6 Investigating Officer

1. This confirms your per voce appointment as an investigating officer, pursuant to AR 15-6, to conduct an informal investigation into the facts and circumstances surrounding an escalation of force resulting in the death of one local national.

2. You will:
   a. Make findings as to whether Soldiers from the BSTB complied with the Rules of Engagement and used proper escalation of force;
   b. Make findings as to the identity of the individual engaged by US forces;
   c. Make any other findings you deem appropriate in connection with the above matters.

3. You will make recommendations based upon your findings.

4. All witness statements will be sworn on DA Form 2823, if possible. If written statements cannot be obtained, you will summarize the content of any conversations and attach them to your report. If during the course of your investigation, you develop information suggesting a person has violated the Uniform Code of Military Justice, you will advise the person of his or her Article 31 UCMJ rights before questioning the person. Use DA Form 3881 to conduct any such rights advisement.

5. Use the informal procedures set out in AR 15-6 in your investigation. You will submit the findings and recommendations, original and two copies, of your report as exhibits to the Staff Judge Advocate on DA Form 1574 within ten days of receipt of this appointment. Any requests for extensions should be made through your legal advisor to me.
SUBJECT: Appointment as AR 15-6 Investigating Officer

6. This investigation takes priority over all other duties. You should contact MAJ [redacted] 1st Brigade Combat Team, for a procedural briefing prior to initiating your investigation. If you have any questions, MAJ [redacted] can be reached at the 1BCT TOC.
MEMORANDUM FOR COMMANDER, 1st Brigade Combat Team, Iraq
APO, AE 09376

SUBJECT: 15-6 Investigation, Escalation of Force, A/1st BSTB

1. I have read the report and concur with the findings of the Investigating Officer. The actions taken by the Soldiers of A/1st BSTB were within the procedures established by the Brigade, Battalion and Company and consistent with the Rules of Engagement (ROE).

2. POC for this memorandum is the undersigned at 242-4922.
<table>
<thead>
<tr>
<th></th>
<th>Exhibits (para 3-16, AR 15-6)</th>
<th>YES</th>
<th>NO</th>
<th>NA²</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>
<td>X.</td>
<td></td>
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<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>
<td>X.</td>
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<tr>
<td>c.</td>
<td>Has the testimony/statements of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?</td>
<td>X.</td>
<td></td>
<td></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>
<td>X.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e.</td>
<td>Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?</td>
<td>X.</td>
<td></td>
<td></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>
<td>X.</td>
<td></td>
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<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 3-16c, AR 15-6)?</td>
<td>X.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

|   | COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6) | X. |    |     |
|   | At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment? (para 3-3b, AR 15-6)? | X. |    |     |
|   | Was a quorum present at every session of the board? (para 3-2b, AR 15-6)? | X. |    |     |
|   | Was each absence of any member properly excused? (para 3-2a, AR 15-6)? | X. |    |     |
|   | Were members, witnesses, reporter, and interpreter sworn, if required? (para 3-1, AR 15-6)? | X. |    |     |
|   | If any members who voted on findings or recommendations were not present when the board rendered a decision, does the inclusion describe how they familiarized themselves with that evidence? (para 5-2d, AR 15-6)? | X. |    |     |

|   | COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6) | X. |    |     |
|   | Notice to respondents (para 3-5, AR 15-6): | X. |    |     |
|   | a. | Is the method and date of delivery to the respondent indicated on each letter of notification? | X. |    |     |
|   | b. | Was the date of delivery at least five working days prior to the first session of the board? | X. |    |     |
|   | c. | Does each letter of notification indicate: | X. |    |     |
|   | (1) | the date, hour, and place of the first session of the board concerning that respondent? | X. |    |     |
|   | (2) | the matter to be investigated, including specific allegations against the respondent, if any? | X. |    |     |
|   | (3) | the respondent’s rights with regard to counsel? | X. |    |     |
|   | (4) | the name and address of each witness expected to be called by the recorder? | X. |    |     |
|   | (5) | the respondent’s rights to be present, present evidence, and call witnesses? | X. |    |     |
|   | d. | Was the respondent provided a copy of all unclassified documents in the case file? | X. |    |     |
|   | e. | If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them? | X. |    |     |

|   | If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings): | X. |    |     |
|   | a. | Was he properly notified? (para 5-5, AR 15-6)? | X. |    |     |
|   | 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)? | X. |    |     |

|   | Counsel (para 3-5, AR 15-6): | X. |    |     |
|   | a. | Was each respondent represented by counsel? | X. |    |     |

|   | Name and business address of counsel: | X. |    |     |
|   | (If counsel is a lawyer, check here ☐) | X. |    |     |

|   | 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 5-6b, AR 15-6)? | X. |    |     |

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

|   | The respondent given an opportunity to (para 3-8a, AR 15-6): | X. |    |     |
|   | a. | Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent? | X. |    |     |
|   | b. | Examine and object to the introduction of real and documentary evidence, including written statements? | X. |    |     |
|   | c. | Object to the testimony of witnesses and cross-examine witnesses other than his own? | X. |    |     |
|   | d. | Call witnesses and otherwise introduce evidence? | X. |    |     |
|   | e. | Testify as a witness? | X. |    |     |

|   | 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)? | X. |    |     |

|   | 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)? | X. |    |     |

**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 questions did not occur in this investigation or board.
See attached memorandum.

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

See attached memorandum.
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)                                                               

__________________________  __________________________
 (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 2-3, AR 15-6)

The findings and recommendations of the (investigating officer (board) ) ____________________________ , approved/disapproved/approved with following exceptions/supplements. (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or corrective action, attach this correspondence (or a summary, if oral) as a numbered inclosure.)

__________________________  __________________________
 (Member)                                                               

__________________________  __________________________
 (Member)
DEPARTMENT OF THE ARMY
HQ, 1ST BRIGADE COMBAT TEAM, 10TH MOUNTAIN DIVISION (LI)
IRAQ APO AE 09376

15 October 2005

MEMORANDUM FOR RECORD

SUBJECT: A/1BSTB, Escalation of Force, 15-6 Investigation (13 October 2005)

1. PURPOSE. The purpose of this memorandum is to document my findings and present recommendations regarding my investigation of an escalation of force incident involving A/1BSTB on 13 October 2005.

2. FINDING. I find that the actions taken by soldiers of A/1BSTB on the afternoon of 13 October 2005 at the intersection of Routes [redacted] were commensurate with established and published brigade, battalion, and company guidelines.

3. FACTS.
   A. While on site, attempting to disable an IED located at [redacted] a L/N approached the [redacted] team via an alleyway, traveling from East to West (see diagram; Buffalo is vehicle number 5).
   B. Upon identification of the L/N, all personnel located in vicinity of vehicles 1, 2, and 3 (see diagram) began signaling - using vehicle horns, shouting, and waving - to stop the L/N’s advance.
   C. The L/N continued to advance and SPC [redacted] fired a warning shot.
   D. The L/N acknowledged the warning by stopping, turning around, and moving back East along the alleyway.
   E. Approximately 10-20 minutes later, the same L/N approached the Buffalo vehicle, this time approaching from North to South (see diagram “L/N Final Approach”).
   F. Upon identification of the L/N, all personnel, again, began signaling; the L/N continued to approach.
   G. Both SGT [redacted] (located to the west of vehicle number 1) and SGT [redacted] (located between vehicles 1 and 2) fired warning shots at the L/N.
   H. The L/N stopped, acknowledged both warning shots, and continued advancing toward the Buffalo vehicle.
   I. At approximately 30m from his location in the turret of vehicle number 3, SPC [redacted] fired one, short burst of 3 to 5 rounds from his M249, wounding the L/N.
   J. SGT [redacted], SPC [redacted], and PFC [redacted] immediately approached the L/N - who was, at this point, lying on the ground and bleeding – and moved him back to a safe location between vehicles 2 and 4.
   K. PFC [redacted] unit medic, began administering aid to the L/N.
SUBJECT: A/1BSTB, Escalation of Force, 15-6 Investigation (13 October 2005)

4. DISCUSSION.

A. The facts previously listed were gleaned from sworn statements provided by soldiers involved in the incident (see Exhibits C thru T) and interviews held with soldiers on the evening of 14 October 2005. I believe the L/N demonstrated hostile intent by acknowledging the warning shots and continuing to advance. The L/N's actions, eerily, resemble those of reported suicide bombers, and further support my position of hostile intent.

B. As of the authoring of this document, final disposition of the wounded L/N is still unknown. MAJ [redacted] 42nd MP Brigade S3, has his MP units contacting local Iraqi Police to gather further information on this incident.

6. POC for this document is the undersigned at VOIP [redacted].
1. PURPOSE. To report critical and time sensitive events to the Commanding General (CG).

2. SCOPE. This tab applies to all units assigned or task organized to 3d IN Div (Mech).

3. PROCEDURES. Commander's Incident Report (CIR) is intended to provide the CG with immediate notification of an incident involving 3d IN Div (Mech) 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.

4. CIR will be submitted in following format:

LINE 1: Unit reporting: 1 BSTB

LINE 2: Incident: EOF

LINE 3: Date/time group (DTG) incident occurred: 131424OCT05

LINE 4: Location of incident: [Redacted]

LINE 5: Personnel involved

<table>
<thead>
<tr>
<th>Name</th>
<th>Rank</th>
<th>Unit</th>
<th>SSN</th>
<th>Sex</th>
<th>Age</th>
<th>Race</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Redacted]</td>
<td>2LT</td>
<td>A/1BSTB</td>
<td>[Redacted]</td>
<td>M</td>
<td>[Redacted]</td>
<td>[Redacted]</td>
</tr>
</tbody>
</table>

LINE 6: Summary of incident: 131424OCT05; LT is the OSC for EOD escort. EOD arrived on an IED site via 1-87 (outer cordon) reported that fired a warning shot at a vehicle that did not stop and was approaching the IED. LT is responsible for setting the inner cordon. Reportedly, the round ricocheted off the ground and struck the LN driving the vehicle through the abdomen. A/1BSTB is continuing mission and LN is being medevaced.

LINE 7: Damage to government and/or civilian property. 1x LN wounded.

LINE 8: Commander reporting: 1BSTB BTL CPT, 1LT

On Scene Commander will provide full details after mission complete.
AMENDED BASED ON DEBRIEF

1. **PURPOSE.** To report critical and time sensitive events to the Commanding General (CG).

2. **SCOPE.** This tab applies to all units assigned or task organized to 3d IN Div (Mech).

3. **PROCEDURES.** Commander's Incident Report (CIR) is intended to provide the CG with immediate notification of an incident involving 3d IN Div (Mech) 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.

4. **CIR will be submitted in following format:**

   **LINE 1:** Unit reporting: 2nd Platoon, A Co, 1st BSTB

   **LINE 2:** Incident: Escalation of force, gunshot wounds local national

   **LINE 3:** 131420UTC05

   **LINE 4:** Location of incident: 00100000

   **LINE 5:** Personnel involved (based on initial report):

<table>
<thead>
<tr>
<th>LAST NAME</th>
<th>FIRST NAME</th>
<th>RANK</th>
<th>UNIT</th>
<th>STN</th>
<th>SEX</th>
<th>DOB</th>
<th>AGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>LT</td>
<td></td>
<td></td>
<td>2/A/1BSTB</td>
<td>M</td>
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<tr>
<td>SPC</td>
<td></td>
<td>2/A/1BSTB</td>
<td>M</td>
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<td>PFC</td>
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<td>2/A/1BSTB</td>
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<td>PFC</td>
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<td>2/A/1BSTB</td>
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<tr>
<td>SGT</td>
<td></td>
<td>2/A/1BSTB</td>
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<td>PFC</td>
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<td>2/A/1BSTB</td>
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</tbody>
</table>

   **LINE 6:** Summary of incident: During an EOD escort mission, 2nd platoon was located when a local national on foot entered the exit ramp from the residential area to the east of the IED, and upon entering the exit ramp he was inside of the outer cordon. When the security detail saw the local national they immediately began shouting and waving to the local national to get him to clear the area, however he continued to walk towards the EOD element. SGT [Name] fired one warning shot when the LN was approximately 30m away. The LN did not flinch or change course when the shot was fired, and PFC [Name] fired 2 shots in one burst with the M249 mounted on one of the turrets. The first round was aimed at the feet of the LN, and the second round rose and hit him in the head. 2 personnel were immediately sent to bring the LN back to the inner cordon, and the medics attached to both

---

*Exhibit B*
EOD escort and [redacted] treated him at that time. After treatment, IPs picked up the LN to transport him to the hospital.

LINE 7: Damage to government and/or civilian property: One LN wounded.

LINE 8: Commander reporting: [redacted] A Co CDR

AMENDED BASED ON DEBRIEF
SWORN STATEMENT

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

PRIVACY ACT STATEMENT

AUTHORITY:
10 USC Section 301; 5 USC Section 2991; E.O. 9397 dated November 22, 1943; 5 USC.

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
   [Blank]

2. DATE (YYYY/MMD) 2005/10/15

3. TIME 13:40

4. FILE NUMBER

5. ACO 1ST BST B YJ0 MTN

6. PDT Rute

7. GRADE/STATUS O-3/1 CF

9. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 13 Oct 05, I accompanied my 1st platoon on a [Blank] operation. As we were conducting an interrogation along the north access ramp, the buffalo confirmed an IED. Two vehicles which were in front of the buffalo secured the North lanes to shut down vehicle traffic. The two trail vehicles, which were behind the buffalo, cordoned the intersections East and West. It was apparent that we did not have sufficient combat power to cordon the area, requested assistance from [Blank] for additional vehicles. 4 vehicles arrived from I-87 which were to secure the South lanes as well as the East. In my opinion, we still required additional forces to secure the site so we requested additional forces from Scout Plt. I believe 2 vehicles from the 2nd ACR arrived and were dispatched to reinforce the cordon to the West intersection. At this point, I felt comfortable with the Outer cordon and EOD's ability to conduct their mission without being in danger. EOD arrived on the scene and located their inner cordon directly behind the buffalo vehicles. They immediately conducted a 5m and 25m sweep of their area and began deploying the robot. I linked-up with it and started to discuss the situation. We were both located behind the two vehicles of the inner cordon when we heard the buffalo horn and several soldiers shouting stop, kiep, and the HMMWV blowing.

10. EXHIBITS
   O C

11. INITIALS (O) TAKING STATEMENT

PAGE 1 OF ___ PAGES

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

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE INDICATED.
their horn. I then heard two shots fired from M4s. I then heard a three-round burst from an M249. I asked LT to find out what was happening. He proceeded to move to back to his vehicle and talk to his NCOIC. I moved around to the front of the vehicles so I could see what happened. I observed a LN laying down on the road. LT then told me one of his soldiers had shot a LN who had refused to prior acknowledgment of three warnings. I was later told he had approached the LN earlier and had been told to move back, which he did. I was also later told SGT and SGT had fired warning shots which I acknowledged but ignored. I then ordered LT to send some soldiers out to recover the LN. The LN was recovered and brought back to the vicinity of FOB ITM. Our medics began to treat him and I directed LT to call for the IPs and an ambulance. At this point, I noticed BG Horst was on the scene and he walked up to my location and began asking what happened. I explained to him we had an IED and a LN had either tried to approach the IED or the EOD vehicles, I was unsure of that point. He asked who fired the shot. I replied I did not know yet. He replied that he wanted to talk to the gunner. I replied he was still pulling security and I didn't know who actually fired the shot. The IPs arrived and I asked them if they could evacuate the LN and take him to the hospital. The IPs responded that they would take him to the hospital and evacuate him using their pick-up.
9. STATEMENT (Continued)

Truck. The IEs then backed their pick-up to our location. BG (06) said we needed an Iraqi ambulance to evacuate the WIA. Freitag said we had called 1-87 and requested an ambulance but they could not guarantee it would arrive. BG (06) then directed me to load the WIA on the IF truck and send my medic with him to ensure he was kept stable. I asked him again if he wanted my medic to go and he said yes because he has an IV, your medic needs to go. I instructed LT (00) to prepare to escort the IF truck to the hospital. This also decreased the security of the site because the h relaxing vehicles were being used in the outer cordon. As LT (00) began pulling in his vehicles, F moved back to the LN. BG (06) said that I did not have to send my medic along because he had pulled his IV out. The IF's then loaded the LN and evacuated him. We then heard large volumes of small-arms fire as well as 30mm fire. It appeared to come from the outer cordon on North. F asked LT (00) for a sitrep and he said the Bradley was engaging AIF. Shortly after, SGT (06) and I received small-arms fire extremely close to our positions. We took cover behind LT (00) vehicle and obscured the buildings to our East and West. I also believe that vehicles from 1-87 were engaged but F could not confirm it at that time. SGT (06) got my attention and said there was a group of individuals over by the guard rail at the overpass. F moved over to see...
9. STATEMENT (Continued)

If therefore my soldiers and why they standing in the open. I saw
Bt sitting on the guard wall surrounded by his PSD. Lt
received air clearance and FOB detonated the IED. However, before the
detonation, Lt 3-7 called Lt and said BG
had instructed them to move Dorkha and they were breaking the cordon
Lt instructed them to remain in place. FOB had not detonated yet.
After returning back to the FOB, I then found out the LN had approached the
cordon before, he was approximately 10-20m in front of the Buffalos
and FOB had shot him. SSgt and Sgt said he used
a "text book" escalation of force. Also, the LN was dressed in all white,
no beard, had no F-10, and was carrying a large handful of money.
I thought he was a suicide bomber and I am sure my soldiers did
as well. I stand behind all of their actions and I believe
proper escalation of force was used.

I, ________________________________, have read or have had read to me this statement
which begins on page 1, and ends on page 4. 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 threat of benefit or reward, without
threat of punishment, and without coercion, unlawful influence.

WITNESSES:

DATE & TIME: 14 FEB 05

INITIALS OF PERSON STATEMENT

PAGE 4 OF 4 PAGES