

Pages 1 through 2 redacted for the following reasons:

(b)(1), (b)(2)Low, (b)(5), (b)(6)



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BRIGADE COMBAT TEAM
[REDACTED] IRAQ APO AE 09376

REPLY TO
ATTENTION OF

[REDACTED]

24 May 2006

MEMORANDUM FOR Commanding General, 4th Infantry Division, [REDACTED] Iraq, APO AE 09344

SUBJECT: Recommendation - 15-6 Investigation Escalation of Force (12 MAY 06)

1. I concur with the findings and recommendations. I believe that the Marine's actions are consistent with the Rules of Engagement. Furthermore, I concur that a condolence payment is appropriate in this case. I will continue to monitor this matter to ensure that the local national is compensated for his injuries.

2. POC is the undersigned at [REDACTED]

[REDACTED]

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form, see AR 15-6; the proponent agency is OTJAG.

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

SECTION I - APPOINTMENT

Appointed by Major (b)(6) (Appointing authority)

on 13 May 06 (Date) (Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - SESSIONS

The (investigation) (board) commenced at (b)(1) at 0900 (Time)

on 13 May 06 (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 5-8a, AR 15-6.)

The (investigating officer) (board) finished gathering/hearing evidence at 1200 (Time) on 15 May 06 (Date)

and completed findings and recommendations at 1800 (Time) on 15 May 06 (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES		YES	NO ¹⁾	NA ²⁾
1	Inclosures (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 (Certify 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 or board.

		YES	NO ^{1/}	NA ^{2/}
2	Exhibits (para 3-16, AR 15-6)			
	a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?	X		
	b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	X		
	c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	X		
	d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?			X
	e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?			X
	f. 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?			X
	g. 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)?			X
3	Was a quorum present when the board voted on findings and recommendations (paras 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 <input type="checkbox"/>)			
	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 5-6b, 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 inclosure or exhibit to it (para 5-11, AR 15-6)?			
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.				

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 3-17, 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)	(b)(6)
_____	_____
(Member)	(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 2-5, AR 15-6)

The findings and recommendations of the (investigating officer) (board) are (approved) (disapproved) (approved with following exceptional circumstances). (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.)

I approve the Findings and Recommendations and return this investigation to the Brigade Commander to take action as he deems appropriate.

_____	_____
(b)(6)	(b)(6)
→ Thomas C. Maffey	
Brigadier General, US Army	
Assistant Division Commander (Maneuver)	

Pages 7 through 8 redacted for the following reasons:

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Section IV - Findings

The investigating officer, having carefully considered the evidence, finds:

1. At approximately 1000 on 12 May 06, 4th Platoon, Charlie Company was conducting a vehicle checkpoint on (b)(1) at grid (b)(1).
2. The on scene commander was 2nd Lt. (b)(6).
3. At 1005 Lt. (b)(6) ordered his Platoon Sergeant, Staff Sergeant (b)(6) to pull onto the westbound lane of MSR (b)(1) in order to establish a western blocking position.
4. Lt. (b)(6) pulled onto MSR (b)(1) 300 meters to the east of SSgt (b)(6) position in order to search civilian vehicles between his vehicle and SSgt (b)(6) vehicle.
5. Both eastbound and westbound traffic was stopped on MSR (b)(1) for this VCP.
6. Corporal (b)(6) vehicle had established a position on the eastbound lanes of MSR (b)(1).
7. Corporal (b)(6) vehicle was oriented west but he oriented his .50 caliber machine gun facing east.
8. Westbound traffic had stopped 800 meters to the east of Lt. (b)(6) position.
9. Approximately 20 cars were stopped at the position 800 meters to the east of Lt. (b)(6) position.
10. One minute after Lt. (b)(6) pulled his vehicle onto MSR (b)(1) he noticed a vehicle go past the 20 cars stopped 800 meters to the east.
11. The car was moving rapidly toward Lt. (b)(6) position.
12. Lt. (b)(6) platoon had not emplaced any traffic control devices as they had been in position only one minute.
13. The vehicle did not respond when LCpl (b)(6) and Cpl (b)(6) waived red flags.

Findings (cont.)

14. LCpl (b)(6) and Cpl (b)(6) continued to wave flags as the vehicle moved from 300 meters to within 150 meters of the Marine's position.

15. When the vehicle approached 150 meters, LCpl (b)(6) fired a pen flare at the vehicle.

16. The vehicle did not respond to the pen flare.

17. When the vehicle came to within 100 meters of the Marines, Lt. (b)(6) fired one 5.56 tracer round from his M-4 into the deck in front of the vehicle.

18. When the vehicle did not stop, Lt. (b)(6) fired 3 shots at the passenger side wheels of the vehicle.

19. Both passenger side wheels were punctured by the rounds.

20. When the vehicle came to within 75 meters of the Marines, LCpl (b)(6) fired one 5-8 round burst into the grill of the vehicle with a M-240G.

21. As the vehicle continued westbound, Cpl (b)(6) engaged the vehicle with 14 rounds of .50 caliber machine gun fire as the vehicle came to within 50 meters of the Marines.

22. The vehicle came to a stop approximately 20 meters in front of the Marines.

23. The corpsman, HM3 (b)(6) was sent to the vehicle to assess injuries.

24. They found one male civilian KIA and one female civilian, unhurt.

25. When asked, the civilian female stated that she and her husband were returning from their son's funeral.

26. The civilian female, now identified as (b)(6) said that she and her husband, (b)(6) (b)(6), were returning from their son's funeral.